UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS
FIRST SESSION

VOLUME 141—PART 23

NOVEMBER 15, 1995 TO NOVEMBER 19, 1995

(PAGES 32511 TO 34038)

GENERAL SERVICES ADMINISTRATION
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99-059 O—97 Vol. 141 (Pt. 23) 1

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PROCEEDINGS AND DEBATES OF THE 104^{th} CONGRESS, FIRST SESSION

SENATE—*Wednesday, November 15, 1995*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, You have told us in the Scriptures that there are blessings You grant only when we care enough to pray for each other. We also know how our attitudes are changed when we do pray for each other. We listen better and conflicts are resolved. We discover answers to problems together because prayer has made it easier to work out solutions. Also, when we pray for each other, You affirm our mutual caring by releasing supernatural power. Added to this, working together becomes more pleasant and more productive.

Knowing all this, we make a renewed commitment to pray for the people around us, those with whom we disagree politically and those with whom we sometimes find it difficult to work. If we pledge that we are one nation under You, dear God, help us to exemplify to our Nation what it means to be a Senate family, affirming unity in our diversity, held together with the bonds of loyalty to You and our Nation, and drawing on Your power for each other through prayer. In the name of our Lord. Amen.

RECOGNITION OF SENATOR HELMS

The PRESIDENT pro tempore. The able Senator from North Carolina, Senator HELMS, is recognized.

Mr. HELMS. I thank the equally able Presiding Officer.

I ask unanimous consent I be permitted to defer to the distinguished Senator from Texas, after which I shall be recognized.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. If the Senator from Texas will suspend for a moment, under the previous order the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m. with Senators permitted to speak therein for not to exceed 5 minutes each. The Senator from Texas is recognized.

DISABLED VETERANS

Mrs. HUTCHISON. Mr. President, I am here today to question this administration and the scaring of our veterans in this country. I was in Amarillo, TX, last Saturday and I was talking to a disabled veteran who depends very much on his veterans pension for himself and his family. He said, "Are we going to be paid?" because the news media were saying no.

I said, "Of course you will be paid." There is no way that a veteran's pension is any different from a welfare recipient's stipend or a Medicare part B payment. There is no difference whatsoever. Yet, amazingly to me, the Veterans' Administration is telling people who call that, in fact, veterans benefits will not be paid.

Mr. President, I question a President who says if, in fact, this stalemate continues, which, of course, we hope it will not, but if it does, that he will prioritize the payment of welfare recipients over the payment of our veterans who have served our country. It is unthinkable.

However, just to make sure that this does not happen, I talked to Senator ALAN SIMPSON this morning, who is the chairman of the Veterans' Affairs Committee. He is going to cosponsor with me—it will be the Simpson-Hutchison bill—a bill that will, in fact, direct this administration to pay veterans benefits. We are going to direct this administration to put veterans in the same category as welfare recipients, Social Security recipients, hospitalization under Medicare recipients, and Medicare part B doctors payments as well. It should not even be a question.

Nevertheless, in order to make sure that this administration cannot play games with the veterans of this country, Senator SIMPSON and I are going to introduce a bill as soon as we can get it written, this afternoon, that will make sure that the veterans of this country will not have to worry if, in fact, this stalemate continues.

I wish the President of the United States would immediately say it is not necessary to pass this kind of law. I hope the President will be able to put out a little release this afternoon that says the veterans do not have to worry. The incoming cashflow is there and the President knows it. The head of the Veterans' Administration knows it. There is no reason to have these scare tactics used on the veterans of our country who have served our country and who deserve to be put in the highest of all categories. And, yet, this President is doing that. I call on him to say our bill, which is being readied right now, is not necessary and the veterans do not have to worry. He can do it with the stroke of a pen or a mere press release.

The priority is set. There is no question. I have consulted every congressional expert, every resource, every historical circumstance that I can find. Veterans have never been threatened. There is no reason for them to be threatened now.

Mr. President, Senator SIMPSON and I are going to introduce this legislation this afternoon. I hope it is not necessary, but we are going to make sure that games will not be played with the veterans of this country. I thank the Senator from North Carolina for yielding me this time for this very important subject.

I just want to say to the veterans of America, we will take care of you. We will make sure that our commitment to you is kept. It is the highest priority that I have.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, first I ask the distinguished Senator from Texas if she and Senator SIMPSON would add my name as a cosponsor.

Mrs. HUTCHISON. Certainly.

Mr. FEINGOLD. Mr. President, will the Senator from North Carolina yield

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

for a moment so I can propound a unanimous consent?

Mr. HELMS. I am sorry, I did not hear.

The PRESIDING OFFICER. The Senator from Wisconsin is asking if you will yield for a moment so he can offer a unanimous-consent request.

Mr. HELMS. Just so the time is not charged to me.

Mr. FEINGOLD. Mr. President, I ask unanimous consent I be recognized to speak after the Senator from North Carolina.

Mr. KYL. Reserving the right to object, the Senator from Wisconsin was here before I was, but I would like to add to that request that I be recognized following the Senator from Wisconsin.

Mrs. BOXER. I would like to add to that request that I be allowed to follow the Senator from Arizona and after that the Senator from North Dakota.

Mr. HELMS. Mr. President, I am going to have to object. Senator FAIRCLOTH is the cosponsor of the bill that I am about to introduce. I think he is entitled to be heard, too.

The PRESIDING OFFICER. There is objection to the request.

The Senator from North Carolina is recognized for 5 minutes.

MR. HELMS. I thank the Chair.

(The remarks of Mr. HELMS and Mr. FAIRCLOTH pertaining to the introduction of S. 1413 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President. I ask unanimous consent to be allowed to speak for up to 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIONS IN NIGERIA

Mr. FEINGOLD. Mr. President, last Friday nine leaders of the Movement for the Survival of the Ogoni People [MOSOP], including renowned playwright Ken Saro-Wiwa, were executed by the brutal Nigerian military regime. The human rights leaders and environmental activists were hanged after a blatantly unfair trial, and in the face of numerous international appeals to General Abacha to commute the death sentences. That Nigeria carried out these executions during the meeting of the Commonwealth countries in New Zealand, which they attended, is particularly chilling. What a failure of international policy toward Nigeria.

This latest gross human rights violation is convincing evidence that General Abacha, the military leader who seized control of Nigeria in 1993, has no interest in overseeing a 3-year transition to genuine democratic rule as he announced in his notorious October 1 proclamation. Instead, it appears he is seeking to obliterate—by killing—any opposition that could possibly challenge his authority.

The political situation in Nigeria is undoubtedly fragile and difficult. Since its independence from Britain in 1960, Nigeria has been held together by the military, and in fact it has enjoyed civilian rule for only short, punctuated periods in its entire history. Then, as the rest of Africa was sweeping toward democracy, Nigeria too held Presidential elections in 1993. They produced a major sea change in Nigerian politics when a Southern Yoruba, Moshood Abiola, was elected President, after years of domination of the political structure by northern Hausa/Fawlani. It was this shake-up that ultimately precipitated Abacha's takeover of the government in 1994.

Since then, he has ruled the Government with a corrupt hand. While much of Africa is producing good news, Abacha's Nigeria stands in stark contrast. Nigeria's 110 million people live under a totalitarian regime. National and State elected officials have been removed from office, political parties dissolved, newspapers shut down, labor unions disbanded, and thousands detained for their political opinions. This summer he commuted the death sentences of General Obasanjo and others, but his mercy extended only to life imprisonment.

Now Abacha has killed Ken Saro-Wiwa and some of the most well-known human rights and environmental activists, after a flagrantly unfair trial, and despite international pleas to retry the defendants. Some observers have said the executions last week were a function of a domestic military crisis where Abacha had to look strong, lest he face revolt from his own troops. While I could be sympathetic to Abacha's challenge of keeping his country together, this cannot justify nine executions: indeed, such abuse can only lead to further instability in Nigeria.

The environmental and human rights movement for which Ken Saro Wiwa lost his life goes back to 1990, when the first seeds of anger against foreign oil companies began surfacing in Ogoniland. The 6 million Ogonis living among the rich swamps, fertile farmland, and gorgeous rainforests of the Niger River delta has been poor forever. But as oil companies plundered their land, seeking resources, polluting their water, uprooting the soil—leaving the Ogonis with nothing but thousands of ugly oilwells and deteriorated pipelines—the indigenous population began protesting. At first, they were peaceful demonstrations, but then Shell Oil called out the notoriously brutal police force to massacre 80 people and destroy 495 homes. The communities held Shell responsible for choosing to contact the police rather than even to begin to negotiate with them.

That spawned a strong protest movement, and by 1992, when Shell still refused to engage the Ogonis, the police were once again called out, and shot 30 people.

This is when Ken Saro-Wiwa founded the Movement for the Survival of the Ogoni People. In its constitution, MOSOP called for compensation for loss of their resources to Shell. MOSOP also called for self-determination of Ogoniland, the demand that made Saro-Wiwa threatening to the government.

As the Ogonis were being tortured by arson, beatings, and forced resettlement by the Government, Shell Oil removed itself from responsibility and shoved the issue off as a domestic Nigerian problem, in which it could not engage.

When elections were held in 1993, the Ogonis split their vote: while older more conservative folks favored Abiola, Saro-Wiwa and younger activists supported a boycott of the elections as a farce. With this display of defiance, the Nigerian military government essentially moved into occupy Ogoniland. During a public discussion on whether the Ogonis would send representatives to Abacha's constitutional conference, four Ogoni chiefs were killed.

Saro-Wiwa and eight others were charged with the murder of the chiefs. Many believe Abacha used the deaths as a pretext to eliminate his most outspoken and effective opposition.

A military tribunal was established especially for this trial, a tribunal which, according to State Department and other observers of this case, was neither impartial nor independent. Further, the defendants were not permitted access to a lawyer of their choice, and there is even evidence that witnesses were paid off to testify against Saro-Wiwa. After all this, there was no right of appeal.

Predictably, the defendants were found guilty and sentenced to death. After a flurry of international activity, which included several phone calls and faxes to Nigerian officials from United States Senators, such as myself, which were never answered—the Provisional Ruling Council, headed by Abacha, confirmed the sentences. Once again, we called the U.N. Ambassador, appealed to our administration, wrote letters to Nigeria urging Abacha to commute the death sentences and re-try the defendants in accordance with internationally recognized human rights standards. To our shock, the executions were carried out 48 hours later.

This kind of behavior, this kind of brutality is unconscionable. It calls out for a tough international response. Later this week, I will be joining a bipartisan group of Senators in introducing sanctions legislation against Nigeria. While details are still be worked out, the bill is intended to ratchet up the pressure against General Abacha. His murderous regime must be stopped and isolated. The continued butchery of his country can only destabilize the region, harm international interests in the continent, and force suffering upon the 110 million people of Nigeria.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

THE PRESIDENT AND CONGRESS MUST WORK TOGETHER

Mr. KYL. Mr. President, this morning I was asked by a reporter from a radio station why the President and Congress cannot work out this budget impasse, why the Government has to shut down.

That is a good question, and it deserves an answer. Of course, the answer is we will work it out, but it is going to take a little time, and here is why.

Yesterday, my offices received about 600 telephone calls from constituents, and they were running about 10 to 1 in favor of the Congress staying the course to achieve a balanced budget in 7 years.

The letters and the phone calls, all had a common theme: Do not give in. Do this for our grandchildren. We need a balanced budget. We have to get the fiscal house in order. Do not cave in to the President.

Those were the general sentiments of the people who were calling my office yesterday, and today, just before I came to the floor, I noted the same general theme and the same relationship of numbers in these calls.

So many of us, particularly those of us who were elected in the last election and heard the message from the people that they want to stop business as usual in Washington, DC, and get the Federal budget balanced, are committed to achieving a balanced budget in 7 years. I do not understand why the President will not concede that point.

I think part of the reason why it is taking time is that the President is looking good in the polls and op-ed pieces, and so on. He is finally standing firm for something, and so he is getting a lot of press. So there is not a great deal of pressure on the President to concede anything at this point, and that is why we have the impasse. We feel the pressure from our constituents to stay the course and have a balanced budget and, on the other hand, the President is not willing to agree to a balanced budget.

The first thing the President said when he vetoed the bill which would allow the Government to keep on operating was that he did it because we had Medicare cuts in the legislation.

That is not true. The Medicare legislation which we included with the bill to keep the Government running, because we knew the President would veto it if it was part of our reconciliation bill, called the Balanced Budget Act of 1995, that bill provides for precisely the same percentage of premium payment for part B Medicare as you have today and you have had for the last 5 years. The President would like, he says, to reduce that to 25 percent of premium instead of 31 percent. But that is the difference between the two of us as to the percent. We are not increasing the percent of premium. It is at 31.5 percent today. It will be 31.5 percent under our bill, and so that is not true.

I submit, by the way, that in the end the President will have to agree with us that it is fair to ask the seniors who are paying voluntarily for part B Medicare benefits to pay 31 percent of it after our children and our grandchildren are paying the other 68 or 69 percent. I submit that it is an unfair burden to ask them to pay any more of the part B Medicare.

So the bottom line here is the balanced budget. The President has said he agrees with the balanced budget, but he just does not agree with the numbers we would use to calculate it. And yet the numbers are precisely the numbers he asked us to use in his State of the Union speech, the Congressional Budget Office numbers. He said those were more accurate.

We said, OK, we will use them. Now that we have used them, he said, no, he wants to use a different set of numbers. And some people have said it is the rosy scenario numbers which would enable us to get a balanced budget without making some of the tough decisions which we have tried to make.

Let me conclude by noting why it is so important for us to have a balanced budget. If we can achieve this balanced budget by the year 2002, we will have reduced interest rates by about 2 percent in this country, and that means that a family of four with a $75,000 home mortgage, for example, a $15,000 car loan, an $11,000 student loan, could save about $2,000 a year in interest costs. My grandson Jonathan was just born this year, and he immediately took a burden of $187,000 just to pay the interest on the national debt during his lifetime. That is unfair.

What this debate is all about is stopping the spending in Washington, DC, that creates this kind of liability for our children and grandchildren. It is time to stop handing the blank credit card to the big spenders in this city.

And so what this impasse between the President and the Congress is all about is getting to a balanced budget in the year 2002, reducing interest rates so that our citizens can enjoy the savings that are achieved as a result and stopping this additional spending which requires our children and grandchildren to continue to pay for our debts.

Mr. President, I find it ironic that at the very time we are trying to get to this balanced budget in the year 2002, the President is talking about committing an additional $2 billion to the quagmire in Bosnia without congressional authorization of any kind in direct violation of the principle that the Congress and the President should both consult before we commit United States troops to this kind of an operation.

And so I find it ironic that that is the action the President is taking at the same time that he shut the Government down by vetoing the legislation and refusing to agree with us to balance the budget in 7 years.

It is time to get serious about balancing the Federal budget.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

BUDGET PRIORITIES

Mr. DORGAN. Mr. President I have great respect for my friend from Arizona. It is interesting, and this is a good example of the differences in the way we approach things. He is talking about spending, and he is absolutely right. We need to cut spending. Everybody agrees with that. There is no disagreement about goals. We ought to have a balanced budget. Nobody disagrees with that. I happen to think we ought to spend money in education and other investments. The Senator from Arizona and I have had a debate on this floor about star wars. He thinks we ought to build star wars. We will have that debate again later, I guess, but everybody seems to have their own set of priorities. It is interesting to me; this whole disagreement is being recast as a question of whether some want to balance the budget. That is not the question. Everybody wants to balance the budget. The question is what plan to do you use to get there.

I say this to my colleagues, that the journey we are on at the moment, that is, the journey that leads to the shutdown of the Federal Government, is not a spur-of-the-moment trip.

It has been planned for and packed. Back in April, April 3, Speaker GINGRICH vowed to "create a titanic legislative standoff with [the President] by adding vetoed bills to must-pass legislation increasing the national debt ceiling."

September: "I don't care what the price is," Speaker GINGRICH says. "I don't care if we have no executive offices and no bonds for 30 days—not this time," he says. Speaker GINGRICH has said he would force the Government to miss interest and principal payments for the first time ever to force Democrat Clinton's administration to agree to his 7-year deficit reduction.

The point is, this is not an accident; this is a destination that has been long planned. There are some around here who now gloat about it, that they have caused a shutdown. They may well cause a debt default. It is my judgment there is no good reason for anybody to gloat. There is no credit in this set of circumstances. We need to solve these problems together.

I want to tell you what the problem is in the differences in priorities. The 7-year plan—and I have no problem with 7 years—the 7-year plan to balance the budget is a plan that is fundamentally unfair. Let me describe it this way: You take the poorest 20 percent of the people and you say to them, "We are going to burden you with 80 percent of all the spending cuts." To the poorest 20 percent of the American people, we are going to say, "We are going to burden you with 80 percent of the spending cuts."

Then you turn to the wealthiest 20 percent of the American people and say, "Guess what, get ready to smile. We are going to give you 80 percent of the tax cuts." The poorest 20 percent is burdened with most of the spending cuts, and the top 20 percent is rewarded with tax cuts.

Now, I do not know what school you attend to take a course in fairness that comes out that way, but it is a school that ought not be accredited. That is what this debate is about.

The other side says, "Well, we're for the middle class." I did not know what they meant until I saw one of our colleagues on the House side, a Congressman from Pennsylvania, and he said his salary of $133,000, plus a $50,000 pension that he also gets, "doesn't make me rich." He said, "That doesn't make me middle class. In my opinion, I'm lower middle class."

This Republican Congressman said, "When I see someone who is making from $300,000 to $750,000 a year, now, that's middle class." I guess now I understand what they mean when they say they are here to help the middle class—somebody making $600,000, $700,000 a year. Well, you know, there are a lot of folks that are not middle class making $600,000 or $700,000 a year in this country.

Ronald Reagan, when he proposed a budget plan, he said, "We're going to have a safety net for the most vulnerable Americans, and there will be seven things in the safety net. We're not going to cut them—Head Start, Medicare, Social Security, veterans, SSI, school lunches and summer jobs for youth."

Guess what? Six of these are under the budget knife. Six of what Ronald Reagan said was in the safety net over a dozen years ago are now under the budget knife of this crowd.

No, this is not about whether there should be a balanced budget. Of course there should. It is about the priorities. It is about describing $600,000-a-year people as middle income and saying, "By the way, we're helping the middle-income folks." What about the people that work all day, every day, for 8, 10 hours, work hard, come home, take care of their family, making $20,000, $30,000, $40,000, $50,000 a year, and then discover that much of what they rely on is gone, going to make it harder for them to send their kids to college, going to kick some of their kids off the Head Start Program—55,000 of those kids. Every one has a name. They are told, no Head Start Program; 600,000 summer youth do not get a job because we cannot afford it. But we are off building star wars and B-2 bombers.

No, these priorities are wrong. We ought to balance this budget and we ought to do it soon, but we ought to get the priorities squared away. Let us not talk about middle-income families as $600,000 a year and give them a big, fat tax break and say, "By the way, we're here to help the middle-income folks."

What a bunch of nonsense. There is no school in America that teaches us this is the definition of "middle income."

There is nothing wrong with someone making $600,000. God bless them. I wish everybody could do that. But there is something wrong to tell vulnerable people, kids, families who are struggling, that we cannot afford you, but we can build B-2 bombers and star wars because that is where our priorities are. Those are bad priorities, and we ought to change.

The PRESIDING OFFICER (Mr. FRIST). The Senator's time has expired.

Mr. DORGAN. I yield back the balance of my time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President.

CONGRESS IS STILL GETTING PAID

Mrs. BOXER. Mr. President, I want to certainly applaud the Senator from North Dakota for his words because they are right on target. This is day two of a partial shutdown of the Government of the United States of America. And, yes, we know it is not impacting too many Americans yet, but it is hurting some veterans, Social Security recipients, those who use our national parks, museums, and monuments, those who need to travel and need to get their passports for business who have already paid for their airline tickets and cannot get their passports.

There are environmental laws that are on the books that are not being enforced because they are not deemed "essential emergencies." That is dangerous. And I might say, there are hundreds of thousands of American workers staying home who chose to work for the Federal Government because they believe that is a proud place to work, and they do not know if they will get their pay. I think they are asking a very legitimate question, and that is: What about the pay of Members of Congress? What about that?

Well, unless the House acts as the Senate did and passes the no-budget, no-pay bill that I authored with Congressman DICK DURBIN, Members of Congress will get their pay—oh, yes, do not worry—while they send to the President debt extensions and continuing resolutions loaded down with political blackmail. They are getting their pay. They are getting their pay.

NEWT GINGRICH said in April, we are going to "create a titanic legislative standoff with President Clinton by adding vetoed bills to must-pass legislation increasing the national debt ceiling." And that is what he has done. But he has protected his own flock of supporters over there. And I hope people are ringing his phone off the hook, telling him to pass the no budget, no pay. It was supported here by Senator DOLE and Senator DASCHLE, and it passed here twice. Today, the House has a chance to join us because it is in the DC appropriations bill. It is in the conference, and it turns out that Senator JEFFORDS and Senator KOHL are going to push it. Congressman DURBIN is on that conference. All the Members of Congress have to do is vote to send the President a short-term continuing appropriations bill clean, not loaded down with the budget fights because those budget fights are coming.

Why have we not had them yet? Because this Republican Congress has not done its work. They have not finished the appropriations bills. They have not finished the reconciliation bill. When they do, it will be vetoed by this President because of its cruel cuts in Medicare, its cruel cuts in Medicare, its repeal of national standards for nursing homes, its deep cuts in environmental protection, its deep cuts in education.

This President and the Democrats in this body want to have a balanced budget, but we want to do it the right way, not the wrong way. We are not going to steal from Medicare and Medicaid and education and give a tax cut to those earning millions of dollars a year.

Under their plan, if you earn $350,000 a year you are going to get back $5,500 a year. Oh, but Members of Congress are getting paid while this standoff happens, while a million workers are wondering if they can pay their rent. And I can tell you, if not this, what is our job? If not to come together and keep the Government running, what is our job? This is not a ball game.

This is the greatest Nation in the world. When I was a stockbroker, I watched the financial markets, and they shivered when the President got sick or there was any threat of instability.

I am going to show you a quote. The Washington Post wrote on November 15: "Newt's Nightmare for America. Budget gridlock could send stock prices down as much as 20 percent and lead to higher interest rates and a weaker dollar."

Is this why we should be getting paid? We should not be getting paid.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FORD. Parliamentary inquiry, Mr. President. What is the timeframe now? We had morning business, I think, until 12:30, and then it was extended. I am not sure where we are.

The PRESIDING OFFICER. To recognize two remaining Senators, the Senator from Minnesota and the Senator from Montana, after which morning business will be closed.

Mr. FORD. I thought it was those Senators on the floor at the time.

The PRESIDING OFFICER. That is correct.

Mr. FORD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

EXTENSION OF MORNING BUSINESS

Mr. GRAMS. Mr. President, I ask unanimous consent that the period for the transaction of morning business be extended to the hour of 1:30 p.m. today, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

GREAT MYTHS: ELVIS LIVES—AND THE PRESIDENT SUPPORTS A BALANCED BUDGET

Mr. GRAMS. Mr. President, to the ancient Greek philosophers, the Earth was the centerpoint of the entire universe. We were fixed in one position, while the Sun, Moon and planets revolved around us.

It was, at the very least, an egotistical assumption.

But it held, for about a thousand years, in fact, until Copernicus came along in the 16th century with a radical idea of his own. This Polish monk who moonlighted as an astronomer decided that the Greeks had it completely backward—that the Sun, in fact, was the central heavenly object and that the Earth, Moon, and their planetary cousins orbited around it.

Even though he was dismissed as a heretic at the time, his revolutionary notion eventually changed the course of science forever.

Well, about 350 years have gone by and today, once again, some long-held beliefs about what actually revolves around what are being challenged. And this time, we are talking about the Federal Government.

Over the course of this century, the Federal Government has gradually developed the attitude that it rests at the center of the Nation's political power.

The people exist to service it.

The States exist to service it.

After 40 years of especially excessive growth, everything today seems to revolve around the Federal Government, and the Government has spent billions of dollars, building up trillions of dollars of debt, trying to justify its existence and all the money we have continually poured into it.

That is in spite of the Constitution, and the very protections built into it by the Founding Fathers to keep a bloated, arrogant, intrusive Federal Government from taking hold.

In 1995, this Congress has the revolutionary idea that things worked better back in the old days, that the Federal Government should revolve around the people and the States, not the other way around.

Our commitment to making that fundamental change is the driving force behind our plan to balance the budget by the year 2002. Unfortunately, trying to convince President Clinton that a balanced budget is worth fighting for is what this temporary Government shutdown is all about.

To Congress, a balanced budget within 7 years is nonnegotiable, as it should be. To President Clinton, it is a political poker chip. He promised during his 1992 campaign that he would eliminate the deficit in 5 years.

Since taking office, he has proposed goals ranging from 10 years down to 7, but in the two budget plans he has actually submitted to Congress, the budget never even comes close to balance.

And yet he strode into a news conference yesterday to announce that: "I proposed to Congress a balanced budget, but Congress refused to accept it."

He used the phrase "balance the budget" 16 times in his brief statement, then walked away without facing the tough questions that would have followed, or should have followed, if the press would want to make the President accountable for his statements.

What he neglected to mention is that his so-called balanced budgets were so ridiculously out of balance that they did not get a single vote—Republican or Democrat—when they were brought before this Chamber.

Mr. President, I have received more than 500 telephone calls from my Minnesota constituents over the last 3 days, and the overwhelming majority of them—7 to 1—agree with Congress. "Stick by your guns and balance the budget," they are saying.

Mark and Sally Crowell of Burnsville, MN felt so strongly about it that they sent me this fax yesterday—something they said they did on behalf of their four children. The fax says:

> If President Clinton doesn't want to balance the budget and wants to shut down the government, we guess we are going to have to put up with it for a while.
>
> They—the Democrats—have had 40 years to get it right and have shown that they have no intention of balancing the budget. Balance it for our children!

Nobody wants a prolonged Government shutdown. Federal workers deserve better than that. The Americans who rely on Government services deserve better than that. Most of all, the taxpayers deserve better than that.

But until we can get past all the campaign rhetoric, threats, and flat-out lies we are hearing from the White House—and until we get a commitment that we will have a balanced budget within 7 years—I am afraid we are not left with much of a choice.

Mr. President, we have debunked a lot of the world's great myths over the last 350 years:

We now know that the Earth revolves around the Sun, just as Copernicus suggested.

If you sail toward the horizon, you will not fall off the edge of the world.

Man can build a flying machine and even take it to the Moon, which, by the way, is not made out of green cheese after all.

All that is left to prove is that Elvis really is dead and that President Clinton does support a balanced budget.

The first one should be easy, but empty rhetoric aside, it is going to take a lot more evidence than we have seen over the past week to convince Congress and the American people that President Clinton is truly serious about wanting a balanced budget.

I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

A BALANCED BUDGET—SOMETHING TO HAND OUR CHILDREN

Mr. BURNS. Mr. President, if we are going to be quoting, let us start off with the President. Candidate Clinton said he would balance the budget in 5 years. President Clinton says it cannot be done. Yes, he would embrace a 7-year budget agreement. Now that is not any good anymore. He said he wanted a 10-year plan—I am not real sure—but all with a caveat of, "Yes, I would use and want to use CBO figures," real assumptions. He said that in his State of the Union Address. Now that is off the table.

Basically, what we are saying here is what is on the table: Balance the budget in 7 years using CBO's assumption and real economics. That is all we are asking. I do not think that is too much. It is because we have a very deep feeling and support for education. It is because this side of the aisle is very supportive of and deeply cares for Medicare that we want to save it. We do not stick our head in the sand. Medicare spending will actually go up some 45 percent in the next 7 years, and you say we do not care? Medicaid continues to go up. Welfare continues to go up, even with reform.

And we care for children and grandchildren. Instead of handing them a bill that their country is so far in debt they never will see the bottom—we are spending $1 billion a day in interest on the national debt now, and to those who would not support a balanced budget, are you saying that you want your benefits now at the expense of your children or your grandchildren? That is the funniest parent I have ever seen, or grandparent.

By not taking the meaningful steps to confront the problems we have now is irresponsible and, I think, probably one of the great facades that has been cast on the American people.

The message over here has been constant since last year. You can talk about Medicare, welfare, the county fair—I do not care what you want to talk about. Basically, we are talking about a balanced budget. We are talking about something we can hand our children that they can deal with. It is because people ran for public office and made a promise to America that we will balance the budget and now the other side says, "We don't want you to keep your promises."

It is very, very simple. There is nothing, there is nothing, there is just nothing that is not simple about this whole presentation.

So while we are quoting quotes and we see the message, one has been consistent, one has not, because maybe the compass sort of goes awry every now and again. The American people have learned one thing—that they do not want business as usual. In the past couple of months, we have heard a lot about the drastic cuts in Medicare. Well, where did we go to school? In the last 7 years, if we spent $900 billion in Medicare and in the next 7 years we will spend $1.6 trillion in Medicare—a 45 percent increase—is that a cut? Not where I went to school. A 45 percent increase by the year 2002, and we still balance the budget. The same goes for Medicaid.

Let us talk about the tax package. Candidate Clinton called for a tax cut for the middle class during the campaign of 1992. And then in 1993 he gave this country a tax package that was the largest tax increase in the history of the country. In Houston, he says: Maybe I raised your taxes a little too much, and I sort of cooled this economy a little too much.

Well, in this package, we are trying to help some families. Seventy-five percent or the tax cuts go to families with children. We care about children. There is a $500 per child tax credit. There are IRA reforms, and also reforms in estate planning, estate taxes, that keeps farms and ranches and small businesses and families functioning. There is an alternative minimum tax reform that creates jobs and does something about investment, providing an expanding economy.

Let us talk a little bit about those death taxes, those estate taxes. It is a form of double taxation. Capital gains is a form of a—let us call it a voluntary tax. Everybody participates in capital gains. If you own anything that appreciates in value, it is capital gains—anything, such as your home, or whatever, you participate in capital gains. It is a voluntary tax. You do not have to pay it because you do not have to sell. I think that is a lot of difference. When we look at a farm or ranch and everybody says, "Do something for the family farm," this is what you can do; we can let them hang on to it and let the next generation farm it or ranch it. That is the way it should be.

Let us not be led astray and be quoting different quotes because of the message, and do not shoot the messenger. There has been one consistent message: Now is the time to get our fiscal house in order.

I come here from county government. We had to balance it there. Sometimes it would become tough because maybe you did not get everything covered, but you found a way to get through it. We even lived through an initiative in Montana called I–105. We could not levy any more mils because people were tired of their tax bill.

I will say to those folks who do not want any reforms at all, if you do not think something has to be done over the entitlements, I have a little fellow out here in Springfield, VA, that takes care of my car. If you say to him, "I want to raise your taxes," and he says, "OK, you do it," then I will probably go along with you. Right now, he has all the taxes he can handle, and he is just making $25,000 a year. He has a couple of kids and wants to pay for a home. I think he needs a part of the American dream, too.

So we do not care? I think we care a lot. We do not care for Medicare? I think we care a lot. We care enough to sacrifice so that we can save it, so that it will be there for my children and their children. That is what this discussion is all about. That is what it is all about.

Let us talk about the package that has been presented. It is a CR, continuing resolution, and it says, Mr. President, agree to a 7-year balanced budget and use CBO figures, real assumptions, and use real economics, and we will put everybody back to work. But this is the time to balance the budget with the least amount of pain.

So it is because we do care that we go through this. Somebody has to step up and take responsibility. Sometimes that gets to be a little tough. We hear a lot of rhetoric, a lot of rhetoric that really inflames the landscape so that no negotiations can take place at all. I do not propose to do that. What I propose to do is the responsible thing. I think this is the responsible thing.

I always go back to what my dad said. Fathers teach us a lot of things about discipline, discipline in the family, discipline in your company, and discipline in your job. I can remember when our first child was born and dad was just a farmer down in northwest Missouri. I do not see how most kids make it to be good kids anyway because they are being raised by amateurs. But I asked dad, "How tough do you have to be on your kids disciplinewise?" He said, "It all depends how much you love them." I have never forgotten that, and I have never forgotten that in Government either. It all depends on how much we love this country, how much we want to put her on solid footing, to be both the political and economic leader in this world, because these young people deserve a future, and they cannot do it if they are borrowed up to their eyes.

So this is responsible. This is because we love this country very much. This is the time to do it with the least amount of pain. Let us just do it.

Mr. President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that I may speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

A BALANCED BUDGET

Mr. HOLLINGS. Mr. President, I am reminded that Patrick Henry said, "'Peace, peace.' Everywhere, men cry 'peace.' But there is no peace." Now the colleagues on the other side of the aisle cry "balanced budget, balanced budget," but there is no balanced budget.

I ask unanimous consent to have printed at this point in the RECORD an article entitled "Polls get in the Way of Washington's Work," from this morning's Post and Courier.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Post and Courier, Wednesday, Nov. 15, 1995]

POLLS GET IN THE WAY OF WASHINGTON'S WORK

(By Sen. Ernest F. Hollings)

The silent scandal that permeates Washington is the pollster charade. As in Newsweek's Conventional Wisdom Watch, today's Washington is based on who's up and who's down in the polls. Everyone—the president, Congress and the media—participates. The result? Nothing gets done and no one really expects anything to get done. Meanwhile, the nation's real needs are ignored. There is no genuine plan to guide us. And plans to put us on a pay-as-you-go basis are simply pollster-driven budget schemes fashioned to get politicians past the next election.

John F. Kennedy started it all 35 years ago in West Virginia. Lou Harris' polls identified hot-button issues of concern and Jack Kennedy played them like a Stradivarius. Political polling immediately became the order of the day. Now even the media wittingly are the engines behind the oppressive reliance on polls. No longer do reporters bow to the who, what, where, when, how and why of fact and accuracy. Instead, they kowtow to pollsters to elicit pithy partisan responses that stem from polls.

The pollster begins each day with "divide and conquer." Voters immediately are divided into age, sex, race, education, working or retired, married or single, veteran or military, city, suburb or rural. No one is considered an American. They have to be Asian-American, African-American, Irish-American.

Division is the pollster mentality, but dissembling is the pollster's art. No pollster has served a day in office. But they'll tell you in a minute that you can't break the Sacred Code of the Pollster. If you want to get—and stay—in office.

Never take a firm position. If you do, you'll divide voters.

Favoring a proposition will put you at odds with those who oppose.

Opposing will separate you from those who favor.

To influence the most voters possible, firmly say that you're "concerned" about any issue so you appear understanding and appease both sides.

Aha! Now any way you slice it, you've identified with the voter. With this kind of soundbite mentality permeating the airwaves, it's easy to understands why there is no leadership in Washington.

Lee Atwater taught that negative politics is the positive path to political victory. As a result, one of the first "musts" for a candidate today is to order negative research on opponents—and himself. Why? To have a prepared answer for any past mistakes or inconsistencies and to be able to unload on an opponent at the end of the campaign when voters finally are interested and there's no time to respond.

Pollsters also teach both incumbents and challengers to preach change. That's why all candidates sound the same. Republicans and Democrats are all for cutting spending and against taxes; for prisons and against crime; for jobs and against welfare; for education and the environment. And, of course, everyone is for the family. With this emphasis on change and negative politics, the logic of the pollster paradigm is that government is the enemy and problem, not the solution. As such, everyone serving in government must be ousted. Thus, there's the cry for term limits.

The media's job is to expose this nonsense. But instead of living up to this responsibility, the media have joined the scam. They feast on polls and partisanship. Rather than reporting the news of the day, they make the news with their own polls. Questions by reporters don't delve into an issue but focus on the poll or partisan aspects of the issue. What they want is conflict.

These days, the pollster charade in the media continues with the ludicrous notion that spending cuts alone can eliminate the deficit. Or worse—that cutting taxes can eliminate the deficit. Nothing could be further from the truth. Since Ronald Reagan's "voodoo" that tax cuts could bring in more revenue and eliminate the deficit, the national debt quintupled from less that $1 trillion to almost $5 trillion. And instead of eliminating waste in government, we created the biggest waste of all—$348 billion a year in interest costs. Since we can't avoid paying interest costs, we borrow a billion dollars daily, which automatically increases spending a billion, increases the debt a billion and increases interest costs. Every day the cycle starts again.

Both President Clinton's and Speaker Gingrich's budget plans to get rid of this waste are mere ruses to get past next year's election. But Washington politicians figure—who cares? Who will be around seven years from now? And the media lets them get by with it. Our 1995 budget was $1.52 trillion. The 1996 Clinton budget is $1.63 trillion. The 1996 Gingrich congressional budget is $1.60 trillion. Both budgets increase spending. Neither keeps up with the $1 billion daily increases in the national debt. Over the seven years, spending exceeds revenues by more than $1 trillion. The media know this yet continue to report "a balanced budget by the year 2002."

Now comes the bogus proposal to balance the budget by reducing cost-of-living increases for Social Security and by raiding Medicare. By law, Social Security funds are in trust and are not to be used to offset the deficit. Similarly, the Medicare trust funds for hospital costs is in the black, but may go into the red by 2002. In other words, both Social Security and Medicare are paid for and in surplus. What is not paid for this minute is defense, education, farm subsidies, environmental protection, veteran's benefits, law enforcement—general government. We readily increase billions for defense and other programs but are unwilling to pay for it. Thus continues the borrowing, spending and downward spiral that increases the deficit. We have fiscal cancer and nobody wants to talk about it.

To put a tourniquet on this deficit-debt hemorrhage, we need spending cuts, spending freezes, a closing of tax loopholes, denying new programs and tax increases. But proposals to do this go unreported. As such, the public believes spending cuts alone will do the job. And the media validate bogus plans to cut taxes as serious moves to balance the budget. That we really are broke is ignored.

Rather than being pollster pawns, the media should serve as an institutional memory to give us perspective. With the Cold War over, it's time to rebuild our economy. More than ever, a strong government is needed—for education, job training research, housing, transportation, technical development and inner-city needs.

But the media treat government as the enemy.

In a silent conspiracy with pollsters and Washington politicians, the media masquerade opinion polls as fact and validate the politics that any tax increase is poison. All the time, the rebuilding of America goes wanting and neither the Clinton nor the Dole/Gingrich forces can talk sense. The train wreck is a media production.

Mr. HOLLINGS. It pretty well explains the reason for our dilemma. Let me address comments of the Senator from Montana, and others, who have made the argument that President Clinton does not want a balanced budget. Those who have the unmitigated gall to come and contend that really ought to be embarrassed. They know no shame.

For openers, we should note that President Clinton came to the Presidency having balanced 10 budgets in a row down in Arkansas. Some of my colleagues that bellow and scream and whine and cry have never seen a balanced budget. But the President did it. That was one of the Clinton campaign's clarion calls, that he knew how to put Government on a pay-as-you-go basis.

What did he do when he came to town? He cut spending and put us on a path that has led to significant reductions in the Federal budget deficit. Even the opposition contends that it cannot be balanced except in 7 years. But let me address the issue of responsibility. That is what Republicans claim now—that they are responsible and the President is irresponsible. I think somewhere, sometime, somehow the record should show exactly who caused these deficits and who is not responsible for the deficit. You cannot accuse President Lyndon Johnson of causing the deficit. He left office at the end of 1968 with a surplus. Ever heard that word around here? Not just balanced, but totally in the black.

I say in passing that President Nixon did not cause these deficits that we grapple with now. Likewise, President Ford worked his dead-level best even holding a budget summit to try and bring down the deficits. After Ford, President Carter worked to reduce the deficit that he had inherited from President Ford.

Mr. President, it was not until we got to voodoo, Kemp-Roth Reaganomics, that we started this nonsense. President Reagan gave us the first $100 billion deficit in the history of the land. He gave us the first $200 billion deficit in the history of the land. President Bush gave us the first $300 billion deficit in the history of the land. And at the close of his administration, President Bush was fast approaching a $400 billion deficit. That is where the deficits have come from.

I speak advisedly. President Bush voted for every dollar spent during his 4 years. Not this Senator. Not the distinguished Presiding Officer. But I can guarantee that of the 44 vetoes under President Bush, not a red cent of spending was ever vetoed.

So now we know from whence we came, piling up annual shortfalls until they approached almost $400 billion deficits. President Clinton comes to town and what did he do? He put together a package to reduce the deficit $500 billion over 5 years. That is the one person that cannot be accused of causing the deficit—William Jefferson Clinton.

The distinguished Presiding Officer as well as this Senator from South Carolina could be accused. We were here at the time that deficits soared up, up, and away. The expression used by my colleagues on the other side of the aisle is that the President's program leaves us with $200 billion deficits "for as far as the eye can see."

Heavens above, President Clinton did not cause it. He was down in Little Rock. The first thing he did when he came to town was to say that we are going to start balancing the budget.

Here was a Democrat who said we are going to tax gasoline. We are going to tax liquor. We are going to close corporate loopholes.

And not a peep was heard from that crowd over there. We could not get a single vote in the U.S. Senate from our Republican colleagues. We could not get a single vote in the U.S. House of Representatives from our Republican colleagues.

Now, having caused the trouble, they act like they never heard of it and charge that President Clinton does not want a balanced budget. But what did he do? On top of the $57 billion in Medicare cuts that were part of his deficit reduction package, he followed up with a proposal to cut another $120 billion as part of comprehensive health care reform. But my colleagues on the other side of the aisle countered, "Why change the best health care system in the world?" Now they say that unless we cut $270 billion Medicare will be broke.

Let me quote for the RECORD from the 1994 report of the Medicare trustees.

> The trust fund ratio, defined as the ratio of assets at the beginning of the year to disbursements during the year, was 131 percent in 1993 and then under the intermediate assumptions is projected to decline steadily until the fund is completely exhausted in 2001.

This year the same board says that exhaustion will not occur until 2002, as a direct result of the deficit reduction package that we enacted in 1993.

President Clinton did that. Not one Republican on the other side of the aisle had anything to do with it. They ought to be ashamed of themselves, having caused the problem, fussing with the fellow who had nothing to do with the problem, who is trying his best.

And the Republicans say that because he is up in the polls, he will not take a stand. He has taken a stand. It is they who would not. It is all political applesauce. They have been threatening all year, "We will close down the Government." Read this morning's Washington Post.

The Washington Post editorials say, why do you need the FDA? Forget pharmaceuticals. Why do you need the EPA? We can get clean water. That is freedom. I never heard such nonsense.

Close down the Government, they say. And they are reveling in it, trying to act now like they are responsible. And every time we meet, they have to get the gang of 73 satisfied who came to Government with a pledge not to serve.

They ought to get rid of the entire crowd. They ought to understand the charge. The truth of the matter is they have not done a thing to help us. We tried in the Budget Committee to show the extreme nonsense of having a $245 billion tax cut. Heavens above, we do not have enough revenue. That is why we have a deficit.

When they proposed this in the Budget Committee, we said "Let's not have the tax cut until we balance the budget." They all voted "no." We said, "Let's have the economic dividend go to Medicare if that's the problem?" Red-faced, they replied, "Let's change the subject."

The chairman of the Budget Committee constantly says "Well, that is the way they did it before; that is the way they did it." Well, I thought the election message of last November a year ago was that we were going to have change. It is the same act, same scene; same players.

We said in 1981 we were going to balance the budget by 1984. In 1985 we had a similar document which said we would have a balanced budget by 1990.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Then in 1990, heavens above, you know what we said? They said in 1990 that by September 30, 1995, we would have a surplus of $20.5 billion. Look at the budget document.

And now the chairman of the Budget Committee tries to justify his actions by saying, "Well, that is what you all have done before." That is the trouble. We keep telling the American people that we are getting together on a balanced budget. Then when they finally get together they say, "Oops, something else happened." They have no idea of actually balancing the budget.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the budget tables along with my "Dear Colleague" letter of which each Senator, each Congressman, I sent to them.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUDGET TABLES—SENATOR HOLLINGS

[Dollar amounts in billions]

Year	U.S. budget (outlays)	Real deficit	Gross Federal debt	Gross interest
1945	$92.7		$260.1	
1946	55.2	−$10.9	271.0	
1947	34.5	+13.9	257.1	
1948	29.8	+5.1	252.0	
1949	38.8	−0.6	252.6	
1950	42.6	−4.3	256.9	
1951	45.5	+1.6	255.3	
1952	67.7	−3.8	259.1	
1953	76.1	−6.9	266.0	
1954	70.9	−4.8	270.8	
1955	68.4	−3.6	274.4	
1956	70.6	+1.7	272.7	
1957	76.6	+0.4	272.3	
1958	82.4	−7.4	279.7	
1959	92.1	−7.8	287.5	
1960	92.2	−3.0	290.5	
1961	97.7	−2.1	292.6	
1962	106.8	−10.3	302.9	9.1
1963	111.3	−7.4	310.3	9.9
1964	118.5	−5.8	316.1	10.7
1965	118.2	−6.2	322.3	11.3
1966	134.5	−6.2	328.5	12.0
1967	157.5	−11.9	340.4	13.4
1968	178.1	−28.3	368.7	14.6
1969	183.6	+2.9	365.8	16.6
1970	195.6	−15.1	380.9	19.3
1971	210.2	−27.3	408.2	21.0
1972	230.7	−27.7	435.9	21.8
1973	245.7	−30.4	466.3	24.2
1974	269.4	−17.6	483.9	29.3
1975	332.3	−58.0	541.9	32.7
1976	371.8	−87.1	629.0	37.1
1977	409.2	−77.4	706.4	41.9
1978	458.7	−70.2	776.6	48.7
1979	503.5	−52.9	829.5	59.9
1980	590.9	−79.6	909.1	74.8
1981	678.2	−85.7	994.8	95.5
1982	745.8	−142.5	1,137.3	117.2
1983	808.4	−234.4	1,371.7	128.7
1984	851.8	−193.0	1,564.7	153.9
1985	946.4	−252.9	1,817.6	178.9
1986	990.3	−303.0	2,120.6	190.3
1987	1,003.9	−225.5	2,346.1	195.3
1988	1,064.1	−255.2	2,601.3	214.1
1989	1.143.2	−266.7	2,868.0	240.9
1990	1,252.7	−338.6	3,206.6	264.7
1991	1,323.8	−391.9	3,598.5	285.5
1992	1,380.9	−403.6	4,002.1	292.3
1993	1,408.2	−349.3	4,351.4	292.5
1994	1,460.6	−292.3	4,643.7	296.3
1995	1,518.0	−283.3	4,927.0	336.0
1996CBOest.	1,602.0	−311.1	5,238.0	348.0

Note: Historical Tables, Budget of the U.S. Government FY 1996; Beginning in 1962, CBO's 1995 Economic and Budget Outlook. 10/10/95.

U.S. SENATE,
Washington, DC, November 1, 1995.

DEAR COLLEAGUE: In 1987, in the Budget Committee, a bipartisan group of 8 Senators voted for a 5% value-added-tax to eliminate the deficit and debt. Like everyone else, these 8 Senators abhorred taxes—but there was no other way. Beginning in the 80's, they had tried a spending freeze—then a freeze plus cuts across the board with Gramm-Rudman-Hollings—then a freeze, cuts, and tax loophole closings with the Tax Reform Act of 1986. But the debt with increased interest costs was growing faster than these combined cuts. The only way to put a tourniquet on this hemorrhage of spending and put an end to deficit spending was to apply a freeze, cuts, loophole closings *and a tax increase*. This was 8 years ago. Now the problem has exploded. In 1980, the debt was less than $1 trillion—now, quintupled to $5 trillion; interest costs on the debt were $75 billion—now, estimated at $348 billion. To this challenge comes the GOP plan to balance the budget—not with a tax increase but with a tax cut. Ludicrous! Let the facts and figures of the plan speak for themselves:

1. Each year, spending increases;
2. Spending increases exceed the increase in revenues for 7 years by over $1 trillion;
3. The debt grows by $1.8 trillion;
4. Interest costs approximate $500 billion.

Enclosed you will find the undisputed budget figures of the plan. Remember, in 1981, President Reagan submitted a three year plan indicating a balance by 1984. Then, at the end of 1985, President Reagan endorsed a five year plan (Gramm-Rudman-Hollings) showing a balance in 1991. In 1990, the across-the-board cuts of Gramm-Rudman-Hollings were repealed and replaced with spending caps and a totally inadequate tax increase. This 1990 plan of President Bush showed a *surplus* by 1995 of $20,500,000,000.

Periodically, we Democrats and Republicans conspire to "balance the budget" to get by the next election. We know it can't be done without a tax increase but the media conveniently goes along. In the words of our fearless Leader, President Reagan, "Here we go again."

With kindest regards, I am
Sincerely,

ERNEST F. HOLLINGS.

"Here We Go Again": Senator Ernest F. Hollings

[By fiscal year 1995; in billions of dollars]

Starting in 1995 with:

(a) A deficit of $283.3 Billion for 1995—

Outlays	1,530
Trust Funds	121.9
Unified Deficit	161.4
Real Deficit	−283.3
Gross Interest	336.0

(b) And a debt of $4,927 Billion

How do you balance the budget by:

(a) Increasing spending over revenues $1,801 Billion over seven years?

GOP "SOLID", "NO SMOKE AND MIRRORS" BUDGET PLAN

[In billions of dollars]

Year	CBO outlays	CBO revenues	Cumulative deficits
1996	$1,583	$1,355	−228
1997	1,624	1,419	−205
1998	1,663	1,478	−185
1999	1,718	1,549	−169
2000	1,779	1,622	−157
2001	1,819	1,701	−118
2002	1,874	1,884	+10
Total	12,060	11,008	−1,052

(b) And increasing the national debt from $4,927.0 Billion to $6,728.0 Billion?

DEBT (OFF CBO's APRIL BASELINE *)

[In billions of dollars]

Year	National debt	Interest costs
1995	$4,927.0	$336.0
1996	5,261.7	369.9
1997	5,551.4	381.6
1998	5,821.6	390.9
1999	6,081.1	404.0
2000	6,331.3	416.1
2001	6,575.9	426.8
2002	6,728.0	436.0
Increase 1995–2002	1,801.0	100.0

* Off CBO's August Baseline.

[In billions of dollars]

	1996	2002
Debt Includes:		
(1) Owed to the Trust Funds	$1,361.8	$2,355.7
(2) Owed to Government Accts.	81.9	(1)
(3) Owed to Additional Borrowing	3,794.3	4,372.7
[Note: No "unified" debt; just total debt]	5,238.0	6,728.4

[1] Included above.

(c) And increasing mandatory spending for interest costs by $100 billion?

How? You don't!

(a) 1996 Budget: Kasich Conference Report, p.3 −$108 Billion Deficit.

(b) October 20, 1995, CBO Letter from June O'Neill −105 Billion Deficit.

—You must fabricate a "paper balance" by "smoke and mirrors" and borrowing more: Smoke and Mirrors

(a) Picking up $19 billion by cutting the Consumer Price index (CPI) by .2%—thereby reducing Social Security Benefits and increasing taxes by increasing "bracket creep".

(b) With impossible spending cuts:

	Billion
Medicare	−$270
Medicaid	−$182
Welfare	−$83

(c) "Backloading" the plan:

—Promising a cut of $347 Billion in FY2002 when a cut of $45 Billion this year will never materialize.

[In billions of dollars]

2002 CBO Baseline Budget	$1,874	$1,884
This assumes:		
(1) Discretionary Freeze Plus Discretionary Cuts (in 2002)		−$121
(2) Entitlement Cuts and Interest Savings (in 2002)		−226
[1996 Cuts, $45 B] Spending Reductions (in 2002)		−347
Using SS Trust Fund		−115
Total Reductions (in 2002)		−462
+Increased Borrowing from Tax Cut		−93
Grand total		−555
(d) By increasing revenues by decreasing revenues (tax cut)		245
(e) By borrowing and increasing the debt (1995–2002)		1,801

—Includes $636 billion "embezzlement" of the Social Security Trust Fund.

The Real Problem—

Not Medicare—In Surplus $147 Billion—Paid For

Not Social Security—In Surplus $481 Billion—Paid For

But interest costs on the National debt—are now at almost $1 billion a day and are growing faster than any possible spending cuts

—And Both the Republican Congress and Democratic White House as well as the media are afraid to tell the American people the truth: "A tax increase is necessary."

Solution: Spending Cuts, Spending Freezes, Tax loophole closings, withholding new programs (AmeriCorps) and a 5% Value Added Tax allocated to the deficit and the debt.

"Here We Go Again"—Promised Balanced Budgets

	Billion
President Reagan (by FY1984) 1981 Budget	0
President Reagan (by FY1991) 1985 GRH Budget	0
President Bush (by FY1995) 1990 Budget	+$20.5

Mr. HOLLINGS. They ought to put me in charge of the CIA. I know how to keep things secret.

But just as the title of my budget tables say, "here we go again". Same thing we did in 1981. Same thing we did in 1985. Same thing we did in 1990. Here we go again in 1995, saying the budget is balanced when their budget is not even near balance and they know it. They know it.

They spend $636 billion of surpluses in the Social Security trust fund. That is not eliminating deficits. That is moving the deficit from the general fund to the Social Security trust fund to make it appear like we are eliminating deficits. Not so.

Today, we owe Social Security $484 billion. Spending another $636 billion under their plan, we will owe over $1 trillion. So we will come in the year 2002 and say, "Oh, what a smart boy am I, I have Medicare solvent." And then they will look over and say, "Ye gads, I put Social Security into bankruptcy." We will owe it $1 trillion. Who has the plan to raise $1 trillion in revenues in 2002?

Mr. President, we are fiddling while Rome burns and they know it. The GOP budget is nothing more then a political document to get by next year's election—excuse me, next year's election and the election in 2000. That is how arrogant they are. Avoid the tough decisions to get by two Presidential elections.

Do you know how much they are supposed to cut in spending in the year 2002? Mr. President, $347 billion. Right now in debating the fiscal year 1996 appropriations bills, with all the attention, with the Government closed down, we are having difficulty saving $45 billion. But in the last year, they have to save $347 billion. The reason that this whole charade is transpiring is that they are trying to force-feed the President what they cannot pass by a majority vote.

I am on these committees. I know. Do you think Republicans are opposed to legal services? I joined with the distinguished Senator from New Mexico to restore the funding.

Do you think the Republicans really want to abolish the Department of Commerce? I know. We joined in to strike that language. We let the Senator who was trying to kill the Department make the motion, for some kind of political advantage. It was embarrassing, but that is what they wanted to do, and I wanted to preserve the Department.

My point is that Republicans and Democrats are not for all these cuts and they know it. That is why 10 of the 13 appropriations bills have not passed. And it is Thanksgiving. We have the "Grinch That Stole Christmas." Now we've got the GINGRICH that is going to steal Thanksgiving with this nonsense. That is exactly what is going on. They cannot get their bills through the Congress, so they are piling it all up in a budget and saying, "Mr. President, take it or leave it." Since he does not take it, "Oh, you are not for a balanced budget."

They ought to give it to him in an orderly process, let him veto it, and let them get two-thirds. Let us have the democratic process, the orderly process of legislation here on the floor of the national Congress and stop all this one-upmanship about who is going to win and who is going to lose in the polls. It is downright embarrassing.

They cannot get it through the Congress. That is why they have not passed the appropriations bills. They cannot pass those appropriations bills because we have right-thinking Members on the Republican side as well as the Democratic side who do not want to do away with technology. They do not want to do away with the Minority Business Administration.

I can go down the list of things on both sides of the aisle. They did not want to do away with the Department of Energy; with the Department of Education.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, I ask to proceed just for a couple of minutes more.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

Mr. HOLLINGS. My point is they planned this scenario all year long. They had no idea of passing any appropriations bills. Last December I saw it on TV, and they were going to pass their bills and they were going to do this and that. But as we have already seen, they cannot pass a defense appropriations bill. Defense has been voted down, right over there with the gang of 73.

I am on State, Justice, Commerce and they cannot get that bill enacted. So, not being able to pass them using their own troops, they just load them on to a debt bill and a continuing resolution. This is really just a terrible shame for Government to be conducted in this fashion. All to save that Presidential gang of 73. You see, the 73 control the Speaker, the Speaker controls GRAMM, GRAMM controls DOLE, and DOLE controls the chairman of the Budget Committee, Senator DOMENICI. I feel sorry for my friend from New Mexico.

I hear statements that I know he does not agree with. I see votes that I know he does not agree with. All of these tricks—changing the CPI, backloading the cuts, using the Social Security surpluses, creating a Medicare lockbox—are a bad mistake. I would not vote for it. President Clinton ought not to sign it. He ought to veto it. He knows that is just a document for the next two Presidential elections, to get them in office next November.

I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. GLENN] is recognized.

THE DEBT CEILING

Mr. GLENN. Mr. President, I wish to talk for a few minutes about the debt ceiling bill, what happened to it, and an amendment that was on it when it came to the floor.

First, I want to make a couple of comments so that the public will understand exactly what this is all about.

In general terms, we are talking about the balanced budget. There is not a soul in this Chamber, elected or otherwise, who would not agree that we want a balanced budget. I certainly agree with that. The question is, how do we get to that?

We, on the Democratic side, were concerned about this back 2 years ago, in 1993, when we passed the President's proposal for the budget. There was a lot of difficulty passing that. It meant the committee chairs, of which I was one, had to go through and analyze everything to meet the objectives that were assigned as part of the debt reduction process.

We did that. That was in the summer of 1993. The budget deficit at that time was running right at $300 billion a year and going up. What happened? We passed a $500 billion deficit reduction program and it was tough. We passed it without one single Republican vote—not a one. In the Senate, it was a 50–50 tie vote and the Vice President broke that tie.

There were all sorts of dire predictions from the other side. I can remember some of the debate here. "We are going to see millions unemployed. If this passes, it will be a terrible bill. Everything bad is going to happen."

What happened? We were running right at $300 billion a year at that time. Last year, it went down to $246 billion, and now down to about $192 billion. We were on the right path toward a balanced budget.

For the first time since Harry Truman we have had a reduced budget deficit 3 years in a row. So it has been working. We went from $300 billion to $246 billion to $192 billion. The problem is—and I am critical of our own administration and the Democrats and everybody else for not taking action that will keep that trend going. Instead of leveling off we should be trying to further reduce those annual deficits and keep us on the right track. It is not as though we have seen things run away in the last 3 years. I think the President deserves a lot of credit. He is not getting much from the other side, of course. The people over in the House in particular, some of the leadership over there just dismiss the fact for 3 years in a row, the first time since Harry Truman, we have had declining deficits.

What has happened now? As part of this so-called Contract With America, they want to give a $245 billion tax break as a crown jewel. We are giving a $245 billion tax break, and the figures are that almost half, a little over half of that goes to people already making $100,000 a year.

When I point that out to people back home in Ohio, they are incredulous that we could be permitting that to be considered, whether the cuts come from Medicare, Medicaid, education, or environmental protection. Basically, those are not areas that the American people want to give up and say that we are just going to whack with a two-edged sword, or swing machetes back and forth and whack those programs. The American people do not agree with that.

So we have come to an impasse. We can put up with it for a few days. However, I understand that Speaker GINGRICH told his staff in the House as reported on CNN about an hour and a half ago, that we could look forward to maybe 90 days of this.

I hope that he is not serious about that because, if he is, this will get far beyond just being a domestic problem in the United States of America. We are the leading world currency. We are the leading economy in this whole world. And if ever there begins to be doubt and if ever there begins to be lack of trust in the good faith and credit of the United States of America around the world by letting this impasse run 90 days, we are in deep trouble.

Everybody wants a balanced budget. As I understand it, what we are down to now is they said to the President, "Well, we will agree to provide a clean continuing resolution if you will agree to a balanced budget over 7 years using CBO assumptions." I understand that the President agrees that we are going to balance this budget, the real question is how.

The President, as I understand it, made an offer back that said, "Well, OK, let's make it 7 to 10 years," using mutually agreed upon economic assumptions. And they turned it down. He has to come up with 7 years or else.

That is just flat ideological blackmail. There is no other term that you can put onto it. I think this has gotten to be a bit ridiculous.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GLENN. Mr. President, I ask unanimous consent for another 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, now to get down to a specific. We had two continuing resolution limit proposals yesterday in which we proposed a straight, clean spending extension to go to the President—nothing else on it, no amendments. Government gets back in operation and away we go, and that is it. There was objection on the other side to that.

The debt ceiling question is very simple. Everyone knows that a debt limit extension is must legislation. You have to have it or everything else in Government stops.

So everyone is aware that there is a lot of pressure toward getting that through. There is a lot of pressure on the President to sign it, and that is why it attracts amendments, because people believe if they can just get their pet amendment, whatever it may be, hooked onto this thing, it can become law without all the protective mechanisms such as hearings, open debate on the floor, perfecting amendments, and consideration of all the long-term impacts and all the other things that we normally have to consider. So people know that when you have a debt limit extension that is must legislation.

What happened? We have no better example of the contempt with which the legislative process has been treated in recent days than the way in which the so-called regulatory reform bill was attached to the debt ceiling by the House Republicans without any hearings whatsoever, without any analysis, without adequate notice to the minority. A 112-page nongermane amendment was brought to the House floor and attached to the debt limit bill—112 pages. It was done with such haste that at least three versions of the amendment were circulating Thursday morning, November 9, the day of the debate and the vote.

The day before, on November 8, the chief sponsor of the amendment had inserted one version into the CONGRESSIONAL RECORD. It was that version to which my remarks on November 9 were addressed.

Revisions to the amendment were being made so close to the time of introduction on the House floor that the chief sponsors themselves misstated an important provision of the amendment. They referred to the definition of "major rule" and said it was defined in the amendment as one costing $75 million per year. In the amendment, the cost is $100 million. This is not a small point.

Cost-benefit analysis of major rules is a huge undertaking that can result in documents—we were told in testimony before the Governmental Affairs Committee—reaching over 100 feet of shelf space just for one rule. So this is not something that is lightly considered.

I do not know which number the House sponsors think is the correct one, since $100 million is in the amendment, but $75 million was mentioned by both key sponsors. Are their remarks in error, or is the number in the amendment a typographical error? We do not know. That should not surprise us.

The night before, on November 8, the bill that was given to the House Rules Committee was 132 pages long and defined a major rule with a threshold of $50 million. The next day at 10 a.m. it was about 20 pages shorter, though still hefty, and defined a major rule with a threshold $75 million. That was the second version. Then, the third version appeared at about 2:30 p.m. after debate on the amendment had begun, and defined a major rule with a threshold of $100 million. No wonder the sponsors were confused.

But that confusion did not stop the House Republicans from ramming the bill through with minimum debate.

Well, since the President was going to veto the debt limit bill anyway, we agreed to let it go through the Senate, and I spoke about one version of this amendment on the Senate floor that night. I can tell you that if I thought this regulatory reform bill was going to become law, I would still be here talking these many days, almost. I feel that strongly about it.

Mr. President, I have now examined the version that passed the House, and it turns out that my comments of November 9 require no major revision.

I claimed that the amendment had a supermandate. They changed the language, but the supermandate is still there. How do I know that? Well, besides reading the language, I have the word of the chief sponsor, Representative WALKER. In describing the amendment, he stated that current statutory standards can be "superseded—the so-called supermandate".

Let us be clear about what that means. It means that 25 years of health-based environmental standards for clean air and clean water could be overturned if this amendment became law.

Representative WALKER also describes his amendment as "not as tough as the House bill, nor as loose as the Senate bill". That is one way of putting it. Here is another. The original House bill, H.R. 9, was as reactionary an antienvironment, antihealth, and antisafety legislative instrument as I have seen during my entire 20 years in the U.S. Senate. The Senate bill referred to is the Dole-Johnston bill, S. 343, which is a seriously flawed bill that has failed three cloture motions in the Senate this year.

So, according to the chief sponsor of the amendment, the amendment is a cross between the reactionary H.R. 9 and the not-so-moderate version of S. 343 that failed on three cloture votes. Is this a moderate compromise?

No, it is not. It is an example of what we can expect in a conference with the House on regulatory reform if we go into it with a Senate bill like S. 343.

I think the Walker amendment is extreme. It is reckless, extreme in the burden it places on agencies to defend themselves from the unlimited litigation that would be unleashed by the judicial review provisions of this amendment. It is reckless in the jeopardy that it causes our laws concerning health, safety, and the environment.

We passed it in the U.S. Senate and sent it as part of the debt limit bill over to the President. It is a good thing that he vetoed it.

Mr. President, I am for regulatory reform, but not at the expense of the health and the safety of the American people. I worked hard all year with both Republican and Democratic colleagues to produce a moderate bill, and we came within two votes of passing it. I am still interested in producing a moderate bill that provides real regulatory reform but owes its provenance to no special interest group, and above all protects the American people.

I am for a balanced budget, too. I am for all the things we are trying to do to get the Federal Government on the right track for the American people. But this game playing that is going on, that is largely coming from the House with literally poor and onerous pieces of legislation hooked on as amendments to an essential bill like the debt limit; this is something we cannot tolerate.

The President was absolutely right to veto that bill, and I think we can still pass legislation here to benefit all of the American people.

We can still do that in this Congress but not if the legislative process is treated with the literal contempt that has been evinced this past week by the way in which reg reform was attached to the debt limit bill.

I thank my colleague for yielding, and I yield the floor.

COMMERCE FUNDS LOBBYISTS

Mr. ABRAHAM. Mr. President, I rise today to call my colleagues' attention to a woeful misuse of the taxpayers' money.

As we have debated the so-called Istook amendment banning taxpayer subsidies for lobbyists, those opposed to reform have argued that current law already prohibits using grant funds for advocacy.

But there has come to my attention a blatant example of just this phenomenon.

The National Telecommunications and Information Administration, a part of the Commerce Department, has provided $200,000 to HandsNet, Inc., a California group which operates an on-line computer service focused on lobbying and available on the Internet. According to its own Internet-based documents, HandsNet links "5,000 public interest and human service organizations across the United States." Among the services offered: "the latest Action Alerts," a weekly digest summarizing the alerts, and daily updates on key issues.

Mr. President, NTIA's own description of the grant award specifically mentions that the grant will allow "National organizations [to] help local ones keep up to date by publicizing action alerts. . . ."

And what are these action alerts? Allow me to offer a few recent examples:

"ISTOOK AMENDMENT—CALL YOUR REPRESENTATIVES"

The message? "Now is the time to turn up the heat. . . . So Call, E-Mail, or Fax Your Representative Today!"

"GIVE PRESIDENT CLINTON A WAKE-UP CALL."

The message? "If President Clinton signs immoral welfare and Medicaid 'reform' bills, the 60-year-old guaranteed safety net for children will be destroyed."

"CONGRESS YIELDS TO TRADITIONAL VALUES COALITION"

The message? "The hearing, dubbed 'Parental Involvement in Social Issues in Education'. . . Is likely to become a tax-funded platform for gay bashing."

I could go on, Mr. President, but my point is clear. These action alerts are intended to facilitate and increase the effectiveness of lobbying on this Congress. "HandsNet" has a clear political agenda, and it is using Commerce Department funding—the taxpayers' money—to further that agenda.

We cannot afford to fund this kind of political activism. It is a waste of taxpayers' money in times when the Government already taxes too much and spends even more than it takes in. It is also counterproductive, in times of budgetary downsizing, to fund the interest groups that seek to continue Government's expansion.

The sum of $200,000 may not sound like a lot of money Mr. President, but it is the taxpayers' money. What is more, this practice is entirely too widespread. NTIA also has funded online activities for a number of other groups engaged in lobbying activities.

Mr. President, HandsNet members include several special interest groups lobbying against the Istook-McIntosh-Ehrlich reform effort. Not surprisingly, these groups are more than happy to use taxpayer funds to lobby against having taxpayer funds cut off from their lobbying efforts.

This brings up the problem of the Commerce Department itself. I say the problem of the Commerce Department because that agency itself is an invitation and a source of funds for lobbying activities and subsidies against the interests of America's taxpayers.

The General Accounting Office has noted that the Commerce Department is duplicative and so unnecessary. It shares its missions with over 71 Federal departments, agencies and offices. It controls at most 8 percent of funding devoted to actual trade issues in our Government and has no unified purpose for its existence.

What, then, do we get for our $3.6 billion in funding for the Commerce Department? Corporate welfare and subsidies for lobbying organizations.

The HandsNet example proves how counterproductive Commerce Department grants really are. These grants encourage a growth industry of special-interest lobbying, distort our deliberations here, and push us toward overspending and unbalanced budgets. We must stop this blatant self-interested lobbying for the sake of our Nation and for the sake of our own independence as a legislative body.

I ask unanimous consent that the full text of the Heritage Foundation's Government Integrity Project Report titled "Commerce Department Funds Blatant Lobbying" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMERCE DEPARTMENT FUNDS BLATANT LOBBYING

(By Marshall Wittman and Charles P. Griffin)

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any . . . printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose . . . any legislation . . . 18 USC 1913

Opponents of the effort to end 40 years of political corruption manifested in a system of taxpayer-subsidized lobbying often state that existing federal law already prohibits using grant funds for advocacy. They cite the above section of the U.S. Code to defend this view.

It appears, however, that the law is irrelevant. In recent weeks, the Department of Commerce has provided $200,000 to HandsNet, Inc., a California group which operates an online computer service focused on lobbying and available on the Internet. According to its own Internet-based documents, HandsNet links "5,000 public interest and human service organizations across the United States." Among the services offered: "the latest Action Alerts."

A description of the grant award prepared by the grant provider, the National Telecommunications and Information Administration (part of the Commerce Department), specifically mentions that the grant will allow "National organizations [to] help local ones keep up to date by publicizing action alerts. . . ." A recent selection of alerts includes:

"Istook Amendment—Call Your Representatives 10/30/95—Now is the time to turn up the heat. . . . So Call, E-Mail, or Fax Your Representative Today!"

"Give President Clinton a Wake-Up Call—If President Clinton signs immoral welfare and Medicaid 'reform' bills, the 60-year-old guaranteed safety net for children will be destroyed."

"Stop English-only Proposals in Congress 10/24/95—Call and write to your Representative and Senator. Ask to meet with them directly."

"Congress Yields To Traditional Values Coalition—The hearing, dubbed 'Parental Involvement in Social Issues in Education' . . . is likely to become a tax-funded platform for gay bashing."

Each of the alerts is supported by information to describe what action needs to be taken and what arguments can be used to lobby Congress most effectively.

ABOUT THE GRANT TO HANDSNET

The $200,000 awarded to HandsNet, Inc., of California was to be used for the nationwide training of public interest organizations on how to use the Internet more effectively. The NTIA award summary states that HandsNet "will train 250 organizations in Internet skills, so that they can publish information on the new system." In addition, HandsNet will "conduct a national outreach campaign" to introduce human services groups to the Internet.

The major component of the grant appears to be a new training center in Washington, D.C. The center will be fully functional around January 1, 1996, according to HandsNet documents, but is housed temporarily at the headquarters of Families USA (funder of the 1994 Clinton health care bus caravans). The national center will be operated in conjunction with the Institute for Global Communications, also of California.

ABOUT HANDSNET

In reviewing the HandsNet site on the Internet, it appears that its principal purpose is explicit political advocacy. The site has been used in recent months to fight welfare reform and the Istook-McIntosh-Ehrlich Amendment, among many other issues. The three key information components provided are Action Alerts, a Weekly Digest (a summary of the alerts) and daily updates on key issues. According to its Internet site, HandsNet is affiliated with the Institute for Global Communications, an arm of the Tides Foundation. Members of HandsNet include the major opponents of the Istook-McIntosh-Ehrlich reform effort, including OMB Watch and the Alliance for Justice.

ABOUT THE TELECOMMUNICATIONS AND INFORMATION INFRASTRUCTURE ASSISTANCE PROGRAM TIIAP

The Telecommunications and Information Infrastructure Assistance Program is operated by NTIA in the Commerce Department. Under the Clinton Administration, this program has mushroomed in cost, from $10 million in FY 1994 to $25 million in FY 1995. In 1994 there were 92 grants; in the most recent round (to be announced in mid-November, has already awarded), there are 120. There also are indications that the TIIAP may subsidize other lobbying activities, in addition to those of HandsNet, Inc.

According to NTIA documents, the Planned Parenthood Federation of America received $300,000 in 1994 to set up a "nationwide on-line information system" for itself and all 164 affiliates. Also in 1994, a California organization called LatinoNet received funding to "establish a network of regional field representatives" and "demonstrate a model for building a national grassroots information system," among other things.

Organizations that filed proposals and applications for funding in the FY 1995 process include Families USA, ACORN (which led noisy demonstrations in Congress earlier this year), the Congressional Black Caucus Foundation, and Citizens Fund (an affiliate of Citizen Action, an active grassroots lobbying organization). It is unclear which, if any, will receive funding.

CONCLUSION

The Commerce Department, through NTIA, has awarded a grant to an online lobbying organization for the specific purpose of engaging more groups in its Internet advocacy efforts. The $200,000 gift to HandsNet, Inc., to train people in the publishing of action alerts and other lobbying materials represents a blatant misuse of taxpayer funds.

Supporters of taxpayer-funded political patronage argue that the current system is designed to prevent abuses. The case of the Commerce Department and HandsNet, Inc., provides a serious test of this claim. The fact that such a significant grant could be made with no effort to hide the fact that it directly funds lobbying activities clearly demonstrates the need for Congress to reform this costly and irresponsible form of political corruption.

SAMPLE ACTION ALERT FROM HANDSNET

Help Stop Medicaid and Medicare Cuts! Call Your Legislators and Mail a Card to the President TODAY!

Unless we all pitch in, Congress may demolish the Medicaid and Medicare programs. During September, the House and Senate will be working out the details of their budget plan, which includes huge cuts in Medicaid and Medicare. If we don't stop them, the health care and long term care needs of millions of Americans of all ages will be in jeopardy. We need your help to stop this madness.

Campaign launched to send a message to Washington! The Save Our Security (SOS) Coalition, headed by Dr. Arthur Flemming, is spearheading a major campaign to put legislators on notice: Don't cut the heart out of Medicaid and Medicare! The SOS Coalition is made up of a wide range of children's, disability, and senior groups.

Special "fight back" action cards are available. These cards are addressed to President Clinton and ask him to use his veto power to stop cuts to Medicare and Medicaid. SOS and its member groups are circulating thousands of these cards. If you would like a card for yourself, or a quantity for your organization to circulate, call 1-800-593-5041 and leave us a message saying how many you need (be sure to give your name and address slowly and clearly!).

What you can do: Read over the card. Call your Senators and your Representative using one of the toll-free numbers. Then put your name and address on the postcard to the President; use the space provided for a personal message to emphasize your concern about Medicaid, or attach a family photo to personalize your card.

Here are a few good places to find people who may be willing to participate: senior centers, day care centers, clinics, union halls, churches or synagogues.

Call the above 800 number to order cards! Provided by: Families USA.

THE CONTINUING RESOLUTION

Mr. BYRD. Mr. President, we should not lose sight of the fact that we need a Continuing Resolution because Congress has not completed its work on the fiscal year 1996 appropriation bills. The fiscal year began on October 1st and, yet, today, 6 weeks later, Congress has sent only three of the thirteen appropriation bills to the President that he signed. Congress sent a fourth one, the legislative appropriation bill, which the President, in mid-July, very unwisely vetoed.

Be that as it may, in addition, congressional action on the transportation and legislative appropriation bills has been completed and they are ready to go to the President. Of the eight remaining bills, seven are still in various stages of the legislative process: Defense, Interior, Foreign Operations, Treasury-Postal Service, Commerce, Justice, VA-HUD, and the District of Columbia appropriation bills. The Labor-HHS bill has not even been brought up in this Chamber—6 weeks after the fiscal year began.

One of the major causes of this failure to complete congressional action on these eight appropriation bills is the fact that virtually all of them contain controversial legislative riders, issues such as public housing reform, EPA regulatory issues, mining law reform, California desert protection, National Endowment for the Arts, prison reform, abortion, and rewriting the 1994 crime bill.

In other words, instead of completing our necessary appropriations work, Congress has chosen instead to load up our appropriation bills with items from the Republicans' so-called "Contract With America."

Now, Mr. President, this is my "Contract With America." I keep it in my shirt pocket in all of my waking hours, Sundays included. It is the Constitution of the United States. It is pretty well-worn. It only cost 19 cents when I first gained possession of it—this Contract With America—the Constitution of the United States. That is my contract.

I have read nowhere in this Constitution of the United States that there is any constitutional requirement that we enact the so-called "Contract With America." I say it is "so-called" because it is not a legitimate contract. Any lawyer who has studied law, who has taken a course in contracts, knows that it is not a bona fide contract.

There is no constitutional requirement that Congress enact the so-called "Contract With America." But we are required by the Constitution of the United States to enact appropriation bills and only the Congress may enact appropriation bills.

The reason for the President's veto of the continuing resolution and the resolution to increase the debt limit was that the Republican majority in Congress insisted on including such controversial provisions in each of those appropriation measures. That is why we are at this impasse.

It is incumbent upon the Congress to enact a clean continuing resolution and a clean debt limit increase without adding controversial and unnecessary legislative riders to either. If Congress refuses to do so, then the blame properly lies at the doorstep of Congress.

It has been obvious for months that part of the grand strategy of the Republican majority in Congress was to threaten to shut down the Government and to force a default on our debt in order to coerce the President into accepting their misguided contract items and their misguided budget and Medicare cuts. No question but that we have to cut the budget. We all know that. And we will have to make some reductions in Medicare. But the cuts that are being proposed are, in my judgment, misguided.

A leader of the other body has been extensively and regularly quoted in the media on the subject of a Government shutdown, as well as on the question of increasing the national debt ceiling. In his statements, that leader of the other body has shown a callous disregard for those Americans who are affected adversely by this Government shutdown, as well as for the consequences of the Government's being unable to meet its debt obligations.

For example, on the question of shutting down the Federal Government, he has had the following things to say. The June 3, 1995, issue of the Rocky Mountain News quoted Speaker GINGRICH as saying: "We're going to go over the liberal Democratic part of the Government and then say to them: 'We could last 60 days, 90 days, 120 days, 5 years, a century.' There's a lot of stuff we don't care if it's ever funded."

The June 5, 1995, issue of Time magazine contained this quote by Speaker GINGRICH. I am quoting Time magazine. "He," meaning the President, "can run the parts of the Government that are left [after the Republican budget cuts] or he"—the President—"can run no Government * * *. Which of the two of us do you think worries more about Government not showing up?"

The September 22, 1995, issue of the Washington Post attributed this quote to Speaker GINGRICH, and I am quoting the Washington Post: "I don't care what the price is. I don't care if we have no executive offices and no bonds for 30 days—not this time."

And on the question of increasing the national debt ceiling so that the Federal Government will not default on its financial commitments, the Washington Times reported on April 3 that Speaker GINGRICH vowed "to create a titanic legislative standoff with President Clinton by adding vetoed bills to must-pass legislation, increasing the national debt ceiling." That is a quote from the Washington Times of the date of April 3, 1995.

The same issue, the April 3, 1995 issue of the Washington Times, also included this quote by Speaker GINGRICH: "The President will veto a number of things and we'll then put them all"—Senators, you can see this coming; this is what is developing here; the prophecy is being fulfilled—"The President will veto a number of things and we'll then put them all on the debt ceiling, and then he'll decide how big a crisis he wants." So there you have it—the complete blueprint for the shutdown.

And finally, the November 8, 1995, issue of Investor's Business Daily contained this quote: "Gingrich has said he would force the Government to miss interest and principle payments for the first time ever to force Democrat Clinton's administration to agree to his seven-year deficit reduction."

So there should be no question in the minds of the American people as to why the shutdown of the Federal Government occurred at 12:01 a.m. yesterday morning. It is because the Republican majority decided months ago and alerted the American people months ago, called the shots months ago that there would be a shutdown and that they would create such a crisis—even though there is no reason for a Government shutdown. All Congress has to do to alleviate and remove this crisis is to simply enact an extension of spending authority for the period of time sufficient to enable Congress to complete its work on the remaining 1996 appropriation bills.

Yet, that is not what the Republican majority proposed in the Continuing Resolution which the President chose to veto. Instead, that resolution included what amounted to a 25 percent increase in Medicare Part B premiums and made even further deep cuts in education and other public investments. So, it is clear that the Republican majority created this crisis which it said would be created to coerce the President either to accept their wrongheaded proposals or to shut the Government down.

The Republicans demanded higher Medicare premiums as the price of keeping the Government running. Making seniors pay more for health care is the one part of the Republican budget agenda they picked to do first. Higher bills for seniors. The vetoed Continuing Resolution would have increased monthly Medicare premiums on January 1, 1996. Congressional Budget Office estimates indicate that the monthly increase would be $11.00 above current law. That would mean an increase of $264 a year in Medicare Part B premiums for an elderly couple.

Mr. President, I cannot for the life of me understand what the Republican majority thought they gained from forcing a Government shutdown at 12:01 a.m. yesterday morning by insisting on including these Medicare premium increases in the Continuing Resolution. The American people can see through this deliberately created train wreck. The November 13, 1995, issue of The Wall Street Journal contained an NBC News Poll asking the question: "Who Gets Blamed? If President Clinton and the Republican Congress don't reach a budget agreement in time to avoid a major shutdown of the federal government, who do you think will be more to blame—President Clinton or the Congress?" Forty-three percent of those polled would blame the Republican Congress; thirty-two percent would blame President Clinton; eighteen percent would blame both equally; and seven percent were not sure as to whom they would blame.

And the percentage of Americans who are discontented with Congress keeps growing. Yesterday's Washington Post contained the results from a Washington Post-ABC News Poll entitled "Battle of the Budget." The question was asked: "There's a possibility the Federal Government might have to shut down in the next few days because the Clinton administration and the Republicans in Congress can't agree on a plan to keep it running while they work on a new budget. Whose fault do you think this mainly is—Clinton's or the Republicans in Congress?" Forty-six percent of those polled place the fault of the government shutdown on the Republicans in Congress; twenty-seven percent fault President Clinton; twenty percent fault both; and two percent fault neither the Republicans in Congress nor President Clinton.

The American people, then, are becoming increasingly disgruntled with this Republican-controlled Congress.

Mr. President, how much time is there remaining?

The PRESIDING OFFICER. The time of the Senator has expired prior to the vote.

Mr. BYRD. Mr. President, I ask unanimous consent I may proceed for not to exceed 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Chair.

The American people, then, are becoming increasingly disgruntled, as I say, with this Republican-controlled Congress. The American people must be asking themselves what this game of chicken is going to cost and who is going to pay for this fiasco. It is not going to be Members of Congress—who will continue to be paid in full even if the Government shuts down.

Furloughed Federal workers by the hundreds of thousands will not be paid during this funding hiatus, nor will those who do contract work for the Federal Government. But, the President, and Senators, and Members of the House of Representatives, and Federal judges will still receive their full paychecks, no matter how long the shutdown lasts. Be assured, my colleagues, that that situation will not make our constituents love us any more than they do already—which is not very much.

Mr. President, according to the General Accounting Office, there were nine occasions over the period from October 1981 through October 1990 when there were funding gaps of 1 to 3 days. In other words, we had nine short periods, usually over weekends, when there were lapses of appropriations. Not one of these occasions approached the cost or the severity, not to mention the gross irresponsibility, of our present situation. Furthermore, I am deeply concerned by the strident tones surrounding much of the debate on this budget impasse. In the climate of violence and intolerance in American society at large at this time, the extreme rhetoric and incivility emanating from some of our national leaders seems to me to be most unhealthy.

On the last of these occasions, namely Columbus Day weekend (October 6–8, 1990), GAO estimated that the shutdown costs of seven affected Federal agencies totalled $3.4 million. However, the cost would have been much higher if a 3-day shutdown had occurred during a normal workweek. GAO states that "the total cost of such a 3-day workweek shutdown would range from about $244.6 million to $607.3 million, depending upon whether revenues estimated to be lost by the IRS could be recovered." That is a lot of money that will be wasted—at least $250 million for every 3 workdays that the Government is shut down. This is a very expensive way to prove once and for all to the American people that the Government cannot perform even its most basic responsibilities. No wonder one hears so much talk about throwing the whole lot of us out of office. This impasse is like nothing that I have ever seen before.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. This impasse is like nothing I have ever seen before in Washington. I was searching for an analogy to describe the current impasse in Washington today and I found it in an unlikely place. Guess where? The November 14, 1995, issue of the New York Times, in its Science section, carries a story about the behavior of the great spotted cuckoo. It seems that, in order to advance its territory and deposit its eggs without the bother of doing the work of building a nest of its own, the great spotted cuckoo resorts to creative extortion.

It lays its eggs in magpie nests. If the magpies do not cooperate and hatch and raise the cuckoos' eggs, the cuckoos then destroy the whole nest, killing all the baby chicks and throwing any unhatched eggs out of the nest.

The cuckoos run a kind of "avian mafia," making an offer to the magpies that the magpies can ill afford to refuse.

It appears to me that some in the Congress may have been carefully studying these strange habits in their spare time. These disciples of the great spotted cuckoo have likewise not done their work and instead have insisted upon planting their very special "eggs" in the nests of the Continuing Resolution and the debt limit. If those eggs do not hatch or receive proper attention, these Congressional cuckoo birds fully intend to exact punishment by damaging or destroying our national economy. This is certainly not very civilized behavior.

In the case of the cuckoo, it is described as "thuggish" behavior even among animals, by the Times. One thing is certain, Mr. President. The American people must certainly view our current situation as more than a little cuckoo. I daresay they are probably watching us with utter disgust.

Mr. President, I ask unanimous consent that the New York Times article be printed in the RECORD.

Mr. President, I yield the floor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 14, 1995]

THUGGISH CUCKOOS USE MUSCLE TO RUN EGG PROTECTION RACKET

(By Carol Kaesuk Yoon)

Biologists had ranked them among nature's most laughable dupes, inexplicably gullible bird-brains that dutifully tended eggs dumped into their nests by other bird species. For evolutionary biologists, the many species of birds that so devote themselves to a stranger's young have been something of a mystery, for even when the dumped eggs and young look nothing like their own, the birds often favor the parasites' offspring at the expense of their own.

Now a study in the journal Evolution offers the first evidence to support what had been considered an unlikely explanation for this behavior. Biologists studying magpies and the great spotted cuckoos that dump eggs into their nests say that the magpie hosts are not dupes at all, but have been forced into cooperation by an avian extortion scheme.

The researchers say the cuckoos return periodically to check on the nests in which they have left their eggs. If they find their young safely there, all is well. If their eggs are missing, tossed out by uncooperative magpie hosts, the cuckoos destroy the nest, killing the remaining egg or chick inhabitants wholesale. In other words, the magpies are members of an avian mafia.

"It's an offer that the birds cannot refuse," said Dr. Anders Moller, an evolutionary biologist at Copenhagen University in Denmark and an author of the study. "It's just the same as in the human mafia. If you resist, it turns out very badly."

Dr. Timothy Clutton-Brock, an evolutionary biologist at Cambridge University in England, called the paper "extremely interesting," saying that such punishment behaviors were probably widespread among animals for keeping others in line. He describes this apparently reliable and adaptive strategy for living as: "You do something nasty to me, I do something even nastier to you."

Raising a nest full of eggs and chicks is difficult, time-consuming work. There is the incubating of eggs, the chasing off of predators, the finding of food for so many peeping, gaping mouths, not to mention feeding oneself to maintain the energy to do all this intensive baby rearing. So cuckoos might well be expected to have evolved all manner of tricks to get other birds to do such work for them.

But Dr. Manuel Soler of the University of Granada in Spain said that he and his colleagues did not believe that birds engaged in such coercive behavior and had set out to disprove the theory known as the mafia hypothesis. Dr. Soler studied the great spotted cuckoos and the magpies they parasitize in high altitude plateaus in southern Spain. He worked with his brother, Dr. Juan Soler, and Dr. Juan Martinez, behavioral ecologists at the university, and Dr. Moller.

To test the hypothesis, Dr. Soler and his colleagues removed cuckoo eggs from 29 nests while leaving them in 28 nests. What they found was that in most of the nests that had had their cuckoo eggs removed either the magpie eggs or chicks that remained were later killed. In contrast, nearly all the nests in which scientists allowed the cuckoo eggs to remain were left intact.

At the same time, scientists monitored nature. The great majority of nests from which magpies had ejected cuckoo eggs on their own, without the help of scientists, were also attacked and their young inhabitants killed. Very few of those magpie nests that accepted the cuckoo eggs suffered such attacks.

Such killings, like most rare and rapid events in nature, are hard to witness. But the biologists say they are confident that the attackers were indeed the cuckoos whose eggs had been ejected. When removing eggs from nests to set up their experiment, the researchers were often scolded by cuckoos, which quickly checked the nests after researchers were done. They also followed one female cuckoo outfitted with a radio transmitter who returned to a nest from which her egg had been removed and destroyed the contents.

But most convincing was the evidence in the nests themselves. For what the biologists found were pecked eggs and wounded nestlings, all left behind by their killers. While other birds and animals attack magpie nests, such hungry predators do not leave their victims behind.

By the breeding season's end, the magpies that accepted cuckoos in their nests tended to produce more magpie young than those that ejected them, suggesting that the cost of noncompliance is high.

"The experiment they did is very convincing," said Dr. Peter Arcese, an ecologist at the University of Wisconsin in Madison. "People are going to have to take seriously the idea that these nest parasites are more sophisticated than we think."

Researchers say the data are the first to support the so-called mafia hypothesis proposed in 1979 by Dr. Amotz Zahavi, a behavioral ecologist at Tel Aviv University in Israel. Dr. Zahavi proposed that nest parasites, like the cuckoo, might be bullying their hosts into accepting eggs under threat of violence if they did not. But in the 16 years since Dr. Zahavi's hypothesis was published, no evidence had turned up in support of it.

"He's put out a number of ideas that people have initially pooh-poohed," said Dr. Arcese, "and later people have shown that, in fact, they may operate."

Dr. Zahavi said, "Obviously it is satisfying that a model you created is found to be true at least for one cuckoo in one place."

But at the same time, researchers note that enforcement may not be the only reason that parasites like the cuckoos are destroying nests.

Dr. Arcese said that based on studies of cowbirds that parasitize song sparrows on Mandarte Island near Victoria, British Columbia, he and his colleagues had evidence that cowbirds could also cause their hosts' nests to fail. But Dr. Arcese says their studies indicate that the cowbirds may be destroying nests, not to teach the song sparrows a lesson, but for their own convenience.

Cowbirds, like other nest parasites, must find nests into which eggs are being freshly laid. In nests with older eggs or eggs of unknown age, the host's young may hatch first, ending incubation and leading to the death of the parasite's egg.

To avoid such problems, Dr. Arcese suggests that parasites, including the cuckoo, may kill young as a way of getting hosts to start another nest, where the parasites can leave their eggs at the perfect time.

Dr. Stephen Rothstein, an evolutionary biologist at the University of California at Santa Barbara, while praising the team's work as "superb," suggested a simpler explanation for the fact that many magpies keep the cuckoo eggs.

While the eggs and young of many parasites look strikingly different from that of their hosts, those of the great spotted cuckoo are good mimics of the magpie's.

"It could just be evolutionary lag," said Dr. Rothstein, describing an idea that has come out of his work with cowbirds. That is, magpies may keep cuckoo eggs simply because they have not yet evolved the ability to make the sometimes difficult distinction between the cuckoo's and their own. It is a lag that leaves the cuckoos winning the evolutionary war, at least for now.

Dr. Rothstein added that he also had evidence that parents of nests from which any eggs had been removed, whether the bird's own or a parasite's, would often desert the nest. He said this could explain the greater rate of attacks on nests from which eggs had been experimentally ejected as seen in the new study. With eggs missing, the magpie parents might be considerably less interested in tending and protecting the nests, leaving them open to attack by cuckoos or other birds.

To complicate matters even further, Dr. Rothstein said he and his colleagues have studied the same parasite, the great spotted cuckoo, in Israel where it leaves its eggs in crows' nests. Doing similar experiments, they found no evidence of mafia behavior.

But Dr. Arcese said that more and more researchers seemed to be finding such geographical differences in the behavior of these birds. One explanation is that since both the parasites and their hosts are long-lived and can learn, these complex behaviors may actually differ from place to place, depending on what they have experienced.

At the same time, researchers say that both the great spotted cuckoo and the cowbird are extending their ranges, moving into new territory and encountering new birds. Biologists say that with such changes going on, rather than some studies being wrong, all may be right, with researchers witnessing different stages in the ongoing skirmishes of the evolutionary war between these parasites and their hosts.

RETIREMENT OF RICHARD EKSTRUM, SOUTH DAKOTA FARM BUREAU PRESIDENT

Mr. DASCHLE. Mr. President, this week South Dakota Farm Bureau president Richard Ekstrum will step down after 20 years of dedicated service. During those two decades, his service to South Dakota and American agriculture has been immeasurable. I have had the privilege of working with Richard and the Farm Bureau for many years and have appreciated his invaluable advice and thoughtful discussions on farm policies and the future of rural America.

Throughout his 10 consecutive terms as president of the South Dakota Farm Bureau, Richard has been an effective advocate and promoter of free market policies for agriculture. Under his leadership, the South Dakota Farm Bureau has more than doubled its membership, from 4,700 to 10,000 members. He has donated over 100 days per year in service to Farm Bureau. His commitment to advancing the needs of rural America cannot be underestimated.

As a hog producer for 30 years Richard knows full well the rewards and challenges of American agriculture. During his tenure as president, agriculture has undergone tremendous changes. It is the mark of a true leader that he has effectively adapted to those changes and moved his organization forward. He understands the critical needs facing rural communities and the necessary steps we must take to ensure farmers and ranchers remain on the land to produce the food and fiber for our Nation.

Not only has Richard been a successful leader and farmer, but he also has traveled the world as an ambassador for South Dakota and American farmers and ranchers. I am sure the people of the many nations he has visited in his 20 years as Farm Bureau president have been benefited from his experience and expertise.

The South Dakota Farm Bureau will dearly miss the leadership of Richard Ekstrum, as will I. There is no doubt in my mind that he will continue to be an active advocate for South Dakota agriculture. I wish him all the best in his future endeavors and thank him for all his assistance over the years.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the skyrocketing Federal debt, now slightly in excess of $13 billion shy of $5 trillion, has been fueled for a generation by bureaucratic hot air—sort of like a hot air balloon spinning out of control—which everybody has talked about, but almost nobody even tried to fix. That attitude began to change however, immediately after the November 1994 elections.

The 104th Congress promised to hold true to the Founding Fathers' decree that the executive branch of the U.S. Government should never be able to spend a dime unless and until it had been authorized and appropriated by the U.S. Congress.

So, when the new 104th Congress convened this past January, the U.S. House of Representatives quickly approved a balanced budget amendment to the U.S. Constitution. On the Senate side, all but 1 of the 54 Republican Senators supported the balanced budget amendment.

That was the good news. The bad news was that only 13 Democratic Senators supported it, and that killed the balanced budget amendment for the time being. Since a two-thirds vote—67 Senators, if all Senators are present—is necessary to approve a constitutional amendment, the proposed Senate amendment failed by one vote. There will be another vote during the 104th Congress.

Here is today's bad debt boxscore:

As of the close of business Tuesday, November 14, the Federal debt—down to the penny—stood at exactly $4,987,139,764,503.11 or $18,931.27 on a per capita basis for every man, woman, and child.

EPA/OSHA FINDINGS ON PASSIVE SMOKING

Mr. FORD. Mr. President, the Congressional Research Service [CRS] released a long awaited report today that calls into question the validity of claims that passive smoking presents a risk to nonsmokers. It also highlights questions on the validity of the science behind the Environmental Protection Agency's [EPA] and subsequently the Occupational Safety and Health Administration [OSHA] findings on the effects of secondhand smoke. In 1993, the EPA released a report classifying passive smoke a "class A carcinogen." This EPA report has been the basis for numerous actions taken to limit smoking in public places with the most dramatic example being the OSHA proposed smoking ban in all workplaces across the United States.

However, this CRS report, indicates well placed skepticism on the methods used by OSHA to justify the need for such draconian and invasive policies as the one espoused by this agency. CRS also questions the very harm of second hand smoke. It found fault with the EPA's premise that there is no safe level of exposure to passive smoke, and the conclusions that OSHA drew from a limited number of studies, a practice which clearly undercuts the validity of the OSHA findings.

The report released today is but the latest in a series by different high level specialists at CRS. Every report has led to the same conclusion: There is no scientific justification for smoking bans or de facto bans like the one issued by OSHA some months ago. In previous reports CRS stated unequivocally that, "the epidemiological evidence for passive-smoking-related disease is weak." It has followed this statement up with today's report which represents a comprehensive look at this subject as well as an examination of purported risks for heart disease.

While many agenda driven researchers have picked and chosen from only the studies that support their views, CRS, an agency which is unquestioned in its objectivity, has, during a lengthy 20 month review, rigorously examined all of the data on this controversial topic. Its conclusion is that the OSHA risk assessment as stated in its proposed rule is incorrect. While CRS is prohibited under its rules from issuing specific policy recommendations, the evidence of the study is clear and bears repeating: There is no scientific justification for the current regulatory action being sought by OSHA.

The CRS study calls into question the very underpinnings that form the basis of Environmental Protection Agency [EPA] and OSHA claims regarding the dangers of second hand smoke. EPA has claimed since the release of its much criticized report back in January 1993, that there is no safe level of exposure to ETS. However, CRS directly refutes this assertion. Furthermore, it finds that the only reasonable chance of risk comes in extreme situations and even in those cases the findings are uncertain and in need of further research. This, in my view, is the scientific equivalent of the townspeople screaming out "The emperor has no clothes."

In light of the seriousness of the findings of this study and the reputation of the organization that is so questioning OSHA actions, I am calling on OSHA to reopen its hearings on the proposed rule and to re-evaluate the justification for the rule in the first place. I respectfully suggest to my colleagues that this historic study undermines the premise for all government coerced smoking bans.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York, Mr. D'AMATO, is recognized.

EXTENSION OF MORNING BUSINESS

Mr. D'AMATO. Mr. President, I ask that the time be continued as if in morning business until I conclude my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. How much time does the Senator anticipate?

Mr. D'AMATO. Ten minutes.

The PRESIDING OFFICER. Ten minutes. Without objection, it is so ordered.

CONCEALING THE TRUE FACTS ABOUT MEXICO AND THE IMF

Mr. D'AMATO. Mr. President, for months, the Clinton administration and the Mexican Government have told Congress and the American people that the President's $20 billion bailout of Mexico was a success. But the administration and the Mexican Government have been concealing the true facts from the Congress and, more importantly, from the American people. It is wrong and it is outrageous. Particularly in this time of budget austerity when we are having such incredible battles over how to balance the budget and deciding what programs will be cut. I think it is incredible at this point in our history that we are watching tens of billions of dollars go down a sinkhole and do nothing about it.

For almost a year, I have warned that the Clinton bailout of Mexico was doomed to failure. Over the last few weeks, it has become clear that the President's Mexican mirage is evaporating. Truth, unfortunately, is not pleasant at times, so there are those who seek to look the other way. But the truth is finally coming into focus.

The Clinton administration and the Mexican Government can no longer conceal the real facts. We know that record numbers of Mexicans are out of work, that Mexican interest rates are soaring and that Mexico is reeling under increasing social and political unrest.

Before the Mexican peso was devalued last December, it traded at 3.44 against the dollar. On December 22, after the devaluation, the peso was trading at 4.8. Then it went up to 6, and then 7. Yesterday, the peso closed at 7.81. That is a historic low closing rate. Never before has it closed at such a rate—7.81 pesos to the dollar. This morning, it opened at 7.9. That is shocking. That is unbelievable. The peso is in free fall without Mexican Government intervention.

Indeed, Mr. President, let me suggest that the only people who are making money are the currency speculators. They know that the Mexican central bank will intervene, and so as the peso is devalued, as it becomes worth less and approaches the 8 mark and 8.1 and 8.2, the money speculators begin to buy it up because they know at some point the central bank will move in and they can sell for a handsome profit. They are making their profit, while the Mexican Government is chewing up billions of dollars.

How much longer will we have to wait before we recognize that this program has been a failure? If the Mexican bailout was a success, would interest rates have climbed from 20 percent to over 60 percent? That is exactly what has taken place during this period of time. No economy can survive such crushing interest rates—60 percent. Yet when the Mexican President came to the United States, the Secretary of the Treasury, indeed, the President of the United States, said that the proof that the program was working was Mexico's "pre-payment" of some of their debt. In reality Mexico flipped the $1.3 billion remainder of their loan, rolled it over, and could not pay it in spite of their so-called early payment of $700 million.

Since February, the United States and the IMF have poured over $23 billion into Mexico. The Mexican Government has used American taxpayer dollars to pay off private investors. The administration should not continue to throw good money after bad.

Last week, I offered a Sense-of-the-Senate resolution calling for the public release of an important document, a document prepared by the International Monetary Fund. This report is known as the Whittome Report. The Whittome Report examined the International Monetary Fund's monitoring and response to the Mexican peso crisis. According to news accounts, the IMF's own report concluded that the International Monetary Fund had distorted its reporting on Mexico to placate political pressure from the Mexican Government.

I suggest that the American people have a right to see that report. Why is the Treasury Department hiding that report? Secretary Rubin has classified it on "national security" grounds.

This report talks about the International Monetary Fund's failure. Why should it be classified so that the American people cannot know what is taking place with money that we have invested with the IMF, with money we have sent down to Mexico. It is American taxpayers' dollars. That report should be declassified.

The Treasury Department's classification on national security grounds is hokum. What nonsense. This report has been made available to 178 other countries that are members of the IMF.

So here we have a report that has been widely circulated and is being held on the arbitrary, obviously sham, excuse that its release would jeopardize national security. It is our taxpayers who are providing the bulk of the funding for this bailout package, a package which is failing. This package is producing record unemployment in Mexico, record high interest rates, and has sent the peso to a record low. This bailout jeopardizes Americans' financial interests.

What do we have? We have secrecy from the Treasury Department claiming that release of this report would jeopardize the security of our country, hiding under the pretext of national security grounds.

Mr. President, 178 countries, many of which may be allied against the interests of the United States, have copies of this report, but the American people do not. And this Senator is not permitted to disclose the contents of that report? That is just simply wrong. It is obvious that this administration is attempting to hide the debacle and the fact that we should never have entered into this absolutely shameful relationship.

What we see taking place today is the currency speculators making billions of dollars of profit. Last evening, the Mexican central bank moved in to support the peso; otherwise, it would have closed over 8. And I have to tell you, as long as they are going to continue to do this, the money speculators will ride that rollercoaster up and down. They will continue to make their fortunes.

We are not helping the Mexican people. We are not helping their economy. We are not helping to create job stability. As a matter of fact, the programs that we have insisted upon are creating economic hardship for Mexico. It is just simply wrong, and it is unconscionable.

I do not believe that we should put one more U.S. dollar into this sinkhole. Let us use the money, if we have an opportunity to save that $7 billion-plus that has not already been wasted, to reduce the budget deficit. Let us use it to fund programs that reasonable people may say, yes, we want to fund but we do not have sufficient money. If we are talking about providing students with an opportunity to get a better education, let us use the money for that program. If we are talking in terms of reducing the Medicare burden, then let us see to it that we make that money available in that area. If we are talking about not having sufficient funds to carry out some of the needs because of budget constraints in the Medicaid Program in years to come, let us use that $7 billion-plus instead of putting good money after bad and making rich people and speculators richer at the expense of the taxpayers.

But let us not hide the truth. Why should the Secretary of the Treasury classify this report and keep it from the American people? I ask the Secretary, "What do you have to hide, Mr. Secretary?" One hundred and seventy-eight foreign countries have this report. Some of them put little, if any, money into the IMF, a pittance. The United States of America and the taxpayers have poured in billions. And yet this report is classified on so-called national security grounds? Mr. Secretary, you are telling the people they do not have a right to see what has taken place?

I have not read the report, and I have not read it for good reason, because otherwise I would probably want to come down on the floor of the Senate and expose the sham that took place. We all know it is a sham that took place. The administration does not want people to see that the IMF has mishandled and bungled what took place down in Mexico. Indeed, the program that we have imposed on the Mexican people not only robs the American taxpayers, it will not help the Mexican people.

We continue blindly along as if the emperor had no clothes and we are afraid to say it. Somehow we are afraid, like the fable about the emperor having no clothes. It took some little boy to say what was wrong. Here they did not want us to have the facts because they do not want people to begin to say, "How could you continue this incredible fiasco?"

Mr. President, let me end on this—the Congress of the United States is reluctant to pull the plug in terms of financing for Mexico because they are justly afraid that President Clinton will turn around and say, "Aha, you are responsible for the failure of the Mexican rescue bailout package." That is exactly what would take place but that is wrong. President Clinton knows it and the American people know it too.

But there is no reason for this Congress not to insist at least that the truth be made public. My colleagues, Senators and Congressmen should be demanding the release of this Whittome Report. It should not be left to Senator D'AMATO. It should not be left to any one person. This should be something that we want, that we demand. I urge my colleagues to support this resolution.

So, Mr. President, I am going to continue to call this to the attention of my colleagues in the Congress. They have a duty to step forward and say, "Yes, we want this information. The Congress and the American people are entitled to it and they should have it." For the Secretary of the Treasury to say on national security grounds he cannot make this information available, is something that is absolutely, totally unreasonable, and not sustainable.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is now closed.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business for 5 or 6 minutes.

The PRESIDING OFFICER. Without objection, the Senator may speak for 6 minutes.

TRENDS IN DRUG ABUSE

Mr. GRASSLEY. Mr. President, I have spoken several times on this floor, as have others, about disturbing trends in drug use in this country. Well, the latest bad news is out, having been delayed over 2 months by the administration. The new Drug Abuse Warning Network [DAWN] numbers on hospital admissions for drug emergencies are in. And the story that they have to tell is disturbing.

At least 500,000 Americans ended up in hospital emergency rooms in 1994 in drug-related episodes. Cocaine-related incidents were up 15 percent over 1993, and a stunning 40 percent over 1988. Cocaine-related episodes are the highest since DAWN surveys began. In part, this indicates the consequences for an aging addict population beginning to show the signs of prolonged addiction.

But, with increases among teenagers in the use of hallucinogens, marijuana, uppers, and downers, we are faced with increasing problems in a new generation of users, and storing up problems for the future.

Young people are simply not getting the message that drug use is both harmful and wrong. Since 1990, marijuana/hashish related episodes increased by 155 percent. They increased 40 percent between 1993 and 1994 alone.

When you combine these numbers with recent PRIDE, household survey, and high school survey figures on teenage use, the trend is unmistakable. And it is bad news. After years of decline, after years of young people forgoing drugs, we are seeing all the successes we had wiped out in a few short years as the message about the dangers of drugs has been lost.

The mistake made by the present administration was to believe that they could abandon the bully pulpit on this issue, refocus programs to treatment, and not send a signal to the most at-risk population, our young people, that drug use was not so bad or dangerous. The mistake was in telling people not to inhale instead of saying "no."

The mistake we seem determined to repeat, after our experiences of the 1960's, 1970's, and 1980's, is that you should only have to do the counter-drug effort once, like a smallpox vaccination. Having done this once, we can move on to more pressing issues.

Such thinking is based on a fundamental misunderstanding of the realities of drug use. The most at-risk population for starting use are our teenagers, beginning as early as 12 years old. Unless we declare a moratorium on having children in this country, we will see a new crop of teenagers coming into schools and into contact with a drug culture every year. And they are coming of age now in an environment in which our cultural elite are once again praising the virtues of drug use, further obscuring the message.

Just as we have to give new immunization shots to a new group of teenagers every year. Just as we have to teach a new class geometry, and algebra, and civic responsibilities—every year—we have to provide the moral guidance and information to a new crop of kids that will protect them from drug use.

We have to have the clear, unambiguous message from all sources that can penetrate that teen sense of immortality that persuades them that nothing bad can happen to them simply because they are young. We need to sustain that message so that kids can learn that things they do today can have bad consequences years later.

When we fail to get the word out repeatedly and pointedly, we put our young people at even greater risk. And it encourages those today who still push the 1960's agenda that has destroyed so many promising lives. We cannot afford to do this. We have seen the consequences. And the increases in cocaine and heroin hospital emergencies today are a legacy of our foolishness yesterday. We cannot let this happen to our tomorrow.

I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota [Mr. PRESSLER] is recognized.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may speak as in morning business for 5 minutes.

A CLASHING OF TWO CULTURES

Mr. PRESSLER. Mr. President, in Washington, we are facing a crisis. It is not just a crisis of a Government shutdown, but it is the crisis of what direction we shall go as a nation regarding a balanced budget.

It is my strongest opinion that the liberals are standing in the way of a balanced budget. I always tell high school audiences that they should decide if they are liberal or conservative. If they are more liberal, they probably should join the liberal wing of the Democratic Party. If they are more conservative, they probably should join the Republican Party.

Let us face it, there are two cultures clashing here. One is the traditional liberal culture of big government; the other is the effort to have less government, lower taxes, less regulation, and the two cultures have clashed here in this balanced budget debate.

It has been my opinion that there has been shameless waste in many Federal Government spending programs—shameless waste. There has been waste, fraud, and abuse, and the American people want our Federal Government to become more efficient. They want to take care of the poor, they want to take care of the Medicaid and Medicare people and, indeed, our budget does take care of them. We are a compassionate people in that we certainly will not abandon the poor and the elderly. But our people want us to be more efficient in the use of Federal dollars.

Working middle-class families have felt that they are left out of the system. A lot of families, or a lot of people, are what are called working middle class. They do not get a lot of the tax breaks. They are required to pull the wagon, so to speak.

There is a revolt across the country of these working middle-class families and their children, because they feel that if we do not move toward a balanced budget, they will have to pay higher taxes and their children will have to pay higher taxes.

I tell all of the high school graduating classes that I talk to that they will have to pay between 3 and 5 percent additional taxes all their lives because of the debt that this country has.

In my State of South Dakota, we primarily have working middle-class people, and they are the ones who drive us to stick together to get this budget passed that will bring us to a balanced budget in the year 2002. I feel passionately that we must give the dream of America back to our children.

I feel that this budget is the most important single piece of legislation, because if we fail, we will be continuing the same habits of deficit spending that has gotten us this huge debt. At some point, we have to stop, and we have reached that point.

In my State of South Dakota, our field offices have received an overwhelming number of calls that indicate that our people want us to continue; our people do not want us to compromise the balanced-budget principle;

our people want us to take the steps. So we have cast many of those difficult votes this year.

I hope our leadership does not compromise. I know that all parties are acting in what they believe to be the national interest. But I think realistically and actually what is happening is that the liberal traditional approach to Government is clashing with what came out of the 1994 elections, and that is a fiscally conservative approach to Government. Those two forces are now clashing, and the working middle-class families of America are watching to see if we have a resolve to continue to move toward a balanced budget by 2002. I urge our leadership to continue that effort.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland [Ms. Mikulski] is recognized.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

A FIGHT ABOUT AMERICA'S FUTURE

Ms. MIKULSKI. Mr. President, as you know, I am a Senator from Maryland, but I am a Senator not only from Maryland but I am a Senator for Maryland. I represent a State that is the host agency to some of the most important Federal agencies in the United States of America: The National Institutes of Health, Goddard, the Federal Drug Administration, Andrews Air Force Base, the home of the President's own; the U.S. Naval Academy.

I come to the Senate floor today to tell you I am absolutely opposed to the continuation of this Government shutdown. It is terrible for Federal employees, it is unfair to the taxpayers of the United States, it has a tremendous negative impact on the State of Maryland, and I believe it compromises America's public health and safety, and I think it threatens our American global reputation.

Today is the second day of the Federal Government shutdown. No end is in sight. We are in gridlock, we are in deadlock, and I think that that is a disgrace.

Now what is this fight all about? Presidential politics? Yes, but this is a fight also about America's future, about our priorities, about our values, what kind of Nation we are going to be, how do we preserve the economic security for senior citizens and provide economic opportunity for young people? That is what the national debate should be all about, but we should not have to shut down the Federal Government to have a conversation about America's future.

That is why I absolutely support the effort of Senator Tom Daschle, a Democrat, to call for a continuing resolution for at least 5 days to 5 weeks, a cooling-off period where there are no gimmicks, there are no riders, no blackmail, where the leadership of this Nation, Republican and Democrat, can sit down and negotiate really in not what is in a political party's interest, but what is in the national interest.

We must seek the sensible center. We must find an answer to balancing the budget and balancing our priorities at the same time. That is what we should be doing, but we should not be making pawns of Federal employees.

Right now, 800,000 Federal employees were told that they were not essential and sent home. How demeaning. How demeaning to those scientists at NIH. How disgraceful to say that to the people at FDA who are trying to move pharmaceutical products to the marketplace that are safe and effective. How demeaning to the caseworkers who take the calls from senior citizens applying for Social Security, and how disgraceful it is to those who work for the Veterans Administration, who may be veterans themselves—when the veterans call to apply for their disability, they are going to get voice mail.

I have said to the Federal employees, "I think you are essential. I want you on the job and I want you working hard for the people of the United States." And to the taxpayers listening, I hope you call this an outrage. Get on the phone and tell us to pass a continuing resolution to put those Federal employees back to work. Your Government, American people, should be working as hard for you as you work for your money.

I think to close down the Government is an absolute insult to the taxpayers of the United States. We have people on furlough, we have jobs that need to be done, and we are playing politics, we are playing this kind of Mickey Mouse politics. We have to get out of the Disney World of Washington and stop acting like the Federal budget is some aspect that we can play politics with.

Mr. President, I hope that this afternoon we give Senator Daschle the chance to offer a continuing resolution, where the Federal Government could be in operation for the next 3 days to the next 5 weeks. Let us reason together. Let us discuss these issues. Let us talk about the timeframe for balancing the budget. Let us include our national priorities—economic security for the old, opportunity for the young—and let us reach out and not be on this side of the aisle or that side of the aisle. Let us go to that sensible center and put our national interests first, put our Federal employees back to work. Let us give the taxpayers a dollar's worth of Government service for a dollar's worth of their taxes. Then we can hold our heads up high and be proud that we are U.S. Senators.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. Snowe). Without objection, it is so ordered.

DO WHAT IS RIGHT FOR AMERICA

Mr. DOLE. Madam President, as we begin the second day of the Federal Government shutdown, I do want to note that like all Senators, I have read the polls that say more Americans are blaming the Republican Congress for the shutdown than are blaming President Clinton.

If you think leadership is all about taking polls—as the White House does—then I suppose you can take heart in these results.

But I happen to believe that leadership is more than just trying to make everybody happy. It is about doing what is right for America and what is right for our children and grandchildren.

From the moment the votes giving Republicans their first congressional majority were tallied last November, we knew we had a choice.

We could either look to the next election, basically leave the status quo intact, and avoid taking any action that might be controversial or unpopular.

Or we could roll up our sleeves and do the hard work of giving the American people the fundamental changes we have needed for so long.

That is the road on which we embarked. We knew the road would be bumpy. We knew there would be those who would urge us to detour to the path of least resistance.

But we also know that if we stay the course, then America will be a better place to live, work, and raise a family.

America will be better because our children and grandchildren will be freed from the crushing burden of our national debt.

America will be better because the lower interest rates that will result from a balanced budget will allow more of us to own a home, buy a car, and take out a college loan.

America will be better because we will have saved Medicare from bankruptcy.

America will be better because we will have returned power to where it belongs—to our States, our cities, our neighborhoods, and our people.

Madam President, I cannot say it any better than did Mr. Joe Ham of Lawrenceville, GA, who sent me the following fax yesterday:

> Senator Dole: I know the media and the White House will be pouring on the propaganda, but for our kids' sake and the sake of America, stand your ground.

As Mark Twain said, "In the beginning of a change, the patriot is a scarce man, brave and hated and scorned. When his cause succeeds, however, the timid join him, for then it costs nothing to be a patriot.

Let me just say to Mr. Ham that when I look at House and Senate Republicans I see patriots, patriots who are willing to pay the price for leadership, and who are willing to pay the price of making the tough choices today that will ensure a better tomorrow.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPUBLICANS SHOULD NOT CAVE IN

Mr. INHOFE. Madam President, I appreciate very much the statement just made by the majority leader. What he has been hearing is the same thing that I have been hearing.

I think a lot of us, Madam President, have been distressed by reading some of the polls that might imply that there is a deadlock, and somehow the Republicans have something to do with it, when, in fact, we have come up with a solution, the solution that was a part of the mandate of the election of 1994.

They told us in loud and clear terms as Republicans took control of both the House and the Senate, that we are tired of business as usual, that we do want less Government involved in our lives. We want to change that trend that has existed since the 1960's.

I am very proud to announce here today that in our partly closed offices around the State of Oklahoma and here in Washington, that we have been watching very closely as the calls come in. The calls have come in, and the very first 6 hours after supposedly the Government shut down, 98 people called in and said that they thought the President was right; but 611 people called in—almost an 8-1 ratio—and those 611 people said "Don't give in."

We made ourselves clear in November of 1994: If the Republicans cannot do it, you know the Democrats will not do it. Do not cave in at this time. We want a balanced budget.

The Republicans have offered a balanced budget. Every Democrat I know of has stood on this floor and said we all want balanced budgets, but when it gets right down to it, they really do not want balanced budgets. They want business as usual.

We have offered a balanced budget. We have sent all this to the President. It is in the President's court now.

It is hard for me to understand what is going to happen. I encourage all of my Republican colleagues to listen to the loud and clear message that we are getting from Oklahoma, a very wise State. That is, stay the course. The same as Mr. Ham said, who wrote to our majority leader, BOB DOLE, that he quoted a few minutes ago.

I have no intentions of caving in. This is the last opportunity we will have to actually achieve a balanced budget in America. We are going to do it.

I yield the floor.

CONGRESS DID NOT DO THEIR WORK

Mr. LEAHY. Madam President, I think there are people watching this debate who should put one thing in perspective: The Government is not being shut down because there is somehow an inability of the White House and the congressional leadership to agree on a 7-year budget plan. The fact of the matter is, it is being shut down because we have not passed 13 appropriations bills.

Now, it is the responsibility—when we talk about whose responsibility is involved, whether the President or the Congress —of the congressional leadership to pass 13 appropriations bills by the end of the fiscal year.

These begin in the other body. I understand the Speaker of the House of Representatives has spoken with a great deal of accuracy of his control over the House. The Speaker of the House of Representatives has spoken about his ability to move what he wants to move through the House of Representatives.

But the fact of the matter is there are only 3 of the 13 appropriations bills that have been signed into law.

We are shortly going to vote on a conference report as we already have on one of the remaining 10 appropriations bills.

If the congressional leadership had passed and sent the President the 13 appropriations bills as they are supposed to do, had they done that by the end of the fiscal year as they are supposed to do, and had the leadership done as they claimed they can with their new majority, to move their agenda through, had they just done the people's business, the business of all Americans—Republicans, Democrats, and independents—had they passed the 13 appropriations bills, we would have no shutdown at all. There would be nothing to shut down. We would have passed the legislation.

Now, they have a majority of Republicans in the House. They have a majority of Republicans in the Senate. They could very easily have passed and sent to the President for signature 13 appropriations bills. Thirteen appropriations bills could have been signed into law, and there would be no Government shutdown today.

Do not talk about this as being some kind of a case where our side and their side or the White House and the congressional leadership cannot meet agreement. If we, here in the Congress, had done the work we are paid to do, hired to do, elected to do—that is, pass our bills on time—everybody would be at work today. None of the stoppages would be occurring. There would be none of the inconvenience and the tourists here in the Capitol would be able to see something besides just us.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Morning business has just expired.

Mrs. HUTCHISON. Madam President, I ask unanimous consent morning business be extended for 5 minutes for the purpose of introducing legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Madam President, I send a bill to the desk and ask it be appropriately referred.

The PRESIDING OFFICER. The bill will be referred to the appropriate committee.

The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair.

(The remarks of Mrs. HUTCHISON and Mr. SIMPSON pertaining to the introduction of S. 1414 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. McCONNELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1868, a bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Revolved, That the House disagree to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 115 to the bill (H.R. 1868) entitled "An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.".

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Madam President, let me bring the Senate up to date on the status of the foreign operations appropriations bill. It has been sort of bouncing back and forth between the House and the Senate.

The conference report itself on foreign operations was passed by both Houses by very wide margins. It passed in the Senate 91 to 7. It passed in the House, 331 to 71.

This morning the House passed, once again, language offered by Congressman SMITH, 237 to 183, which remains in disagreement with the Senate. So what we have extant is an amendment in disagreement. The conference report will not be needed—will not be needed to be voted on again.

So what we have before us this afternoon, upon which there will be a motion to table shortly, is the Smith language.

The Senate defeated this language 53 to 44 on November 1, and, candidly, I expect the outcome of the vote we are about to have to be exactly the same. Let me repeat. The only item in disagreement is amendment 115. That is the only item upon which we are called to vote in a few moments.

The underlying conference report, which we have already approved, enjoys strong bipartisan support. We fund a number of key national priorities including the Camp David accords, aid to the NIS, including Armenia and Ukraine. Also in this bill is an extension of the Middle East Peace Facilitation Act.

So, again, let me say the conference report itself enjoys very strong, overwhelming bipartisan support. The only item we have before us today is what is known as the Chris Smith language, on abortion.

My colleague, Senator LEAHY may want to make a few comments and then I believe the chairman of the Appropriations Committee is going to make a motion to table.

I yield the floor.

Mr. LEAHY. Madam President, very briefly, I am old enough to remember going to the movies when they would have a cartoon. They would have sort of a single line to follow the bouncing ball. Most of the other Members here are not old enough to remember those cartoons. But in effect this bill has been like a bouncing ball going back and forth. The distinguished chairman can correct me if I am wrong, but I believe we had 193 items in disagreement in conference that lasted until after midnight. We resolved 192. Both bodies have voted on those. It is time now to realize that the last matter is at an impasse. Let us get the basic bill passed and sent on to the President for his signature and allow this part, at least, of our foreign policy to go forward.

So I support the distinguished chairman in this. I see the superchairman, the overall chairman, on the floor. So I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Madam President, very shortly I am going to move to table the underlying Senate amendment, amendment No. 115, which will take with it both the original amendment by Senator KASSEBAUM and the House amendment by Congressmen CALLAHAN and SMITH.

Madam President, I need not talk further about the crisis that we all face today and of the need to resolve the crisis. I am taking a small step to narrow the area of disagreement between the White House and the Congress.

But I want to make it very clear that I speak as a deeply committed, unadulterated pro-life person, and I have cast my votes on this Senate floor scores of times on that issue. I ran a political campaign in my State for reelection when that issue was of paramount importance, and Oregon is considered the most pro-choice State in the country.

So I want it clearly understood that, regardless of my personal viewpoint on this question, I have to look at the fact that we are legislating on an appropriations bill, and we do so regularly.

We have three appropriations bills struggling with this issue of abortion. Not one of these amendments belongs on an appropriations bill. It violates the rules of the Senate. It violates the orderly legislative process.

At the same time, this very issue and this form of the abortion question is already on the foreign relations reauthorization bill adopted by the House of Representatives, by the same authors, which will be here for consideration by the full Senate. That is where the issue should be debated. That is where the issue should be worked out, not on the foreign operations appropriation bill.

I realize that when you get into the position of trying to explain procedure to the public, you are lost. But, nevertheless, this is a fundamental procedural question that we have to consider seriously. Bear in mind we could have a vote on this—and I plan to ask for the yeas and nays—so that everyone will have an opportunity to express his or her viewpoint and to cast a vote. I hope that people vote on the procedural question rather than on the abortion question.

That is probably wishing against all odds, but I do feel that even as a pro-life person I will have to vote to table this amendment that was put on this appropriations bill. I have no desire to further encumber the appropriations process and to further exacerbate the contention that now exists between the White House and the Congress. We have to take some small steps to bridge and to resolve that conflict, and I think we ought to be about the business of resolving it rather than exacerbating the circumstances of conflict.

So we can pass this bill. If we will adopt this tabling motion, we can pass this bill that has been approved by this Senate before with 90-some votes. It has gone through the conference with very little acrimony. So then we can get this bill down to the White House, and the President, as I understand, has signaled that he will sign this appropriations bill.

We are going to get the Transportation bill down to the White House today. The President has indicated he will sign it. We have cleared up the Treasury-Post Office problem in conference. The House will send that over to us. I hope we can get it down tonight or early tomorrow. The President will probably sign it. And then legislative. We can have 7 of the 13 appropriations bills completed and signed by the President in the next 48 hours.

That is going to make the job of reconciling the so-called balanced budget question—or sometimes referred to as the reconciliation, or the continuing resolution—and the debt ceiling; all these others that we must act upon. I think this will help facilitate those other tasks that we have.

So now I move to table the underlying Senate amendment, amendment No. 115, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, when the Senate first considered the amendment in disagreement, regarding abortion funding with foreign aid money, advance notice was given only to those who opposed the House position. Today, no notice was given to anyone. It was I who urged a rollcall vote on the issue.

I urge Senators to support the House position. I heard it mentioned that the Senate already has defeated this language, but that is just not the case. The Senate has never voted directly on this provision and it won't today; previously, it voted on a Kassebaum provision which, in essence, gutted the House provision.

I have heard assertions that pro-life Members refuse to budge on various amendments or provisions. But, Senators should understand that the House position has already changed substantially from its original position in order to meet concerns of the Senate.

The original "Mexico City" language as passed by the House has been modified to cover only foreign private and voluntary organizations. This is an important distinction that Senators on the other side of the aisle ignore.

Furthermore, the provision relating to the U.N. Population Program [UNFPA] was modified by the House in several ways. First, more time was provided to UNFPA to terminate its operations in China, thus allowing it more flexibility. Second, the term "motivate" was redefined so as not to prohibit family planning counseling.

The House has tried to accommodate Senate concerns. It is pro-abortion

Senators who refuse to compromise. And I urge my colleagues to oppose the tabling motion and thereby support the House position.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I ask unanimous consent that the vote begin at 10 minutes to 3.

Mr. LEAHY. Madam President, reserving the right to object, I will not object. So people understand, we are trying to coordinate the schedules of people on both sides of the aisle in doing that. I support the motion to table. I support the unanimous consent request of the Senator from Kentucky.

Mr. SARBANES. Reserving the right to object, can one assume that we will have morning business between now and 10 of 3?

Mr. MCCONNELL. I say to my friend from Maryland that we will be glad to divide the 10 minutes between now and 10 minutes to 3. He takes 5 and we take 5. Is that agreeable with the Senator from Maryland?

Mr. SARBANES. Certainly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Who controls the time, Madam President?

Mr. LEAHY. If we have 5 minutes on this time and the Senator from Kentucky has 5 minutes on that time, I yield my 5 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I am prompted to rise because of the comments made by the chairman of the Appropriations Committee with respect to passing appropriations bills and sending them to the President.

It is very important to understand how we find ourselves in this outrageous impasse with the Federal Government closing down and with the ability of the United States to honor its debts cast in jeopardy. The fact of the matter is that, as of this morning, only 3 of the 13 appropriations bills have been signed into law. Only four have been sent to the President. He vetoed the legislative appropriations bill, and that has come back to us, and it will have to be resubmitted.

I hear all of these protestations from my colleagues from across the aisle. But the fact is they have not moved the appropriations process forward. Now they want to hold the President hostage and engage in legislative terrorism. That is exactly what is happening here, and 800,000 Federal employees are furloughed as a consequence of this terrorism. How are people who live from paycheck to paycheck going to meet their mortgage payments or tuition payments for their kids who are in school?

A budget reconciliation package has not even been passed in the Congress. It is not even out of the conference committee. So the President has not had a chance to act on the budget. He has not had a chance to act on most of the appropriations bills—10 out of 13 as of last night. A couple will be sent to him shortly—hopefully this one that is now before us and a couple of others that we be considered shortly. So the fact is that the Congress has not done its work in sending the appropriations bills to the President for him either to sign or to return to the Congress with his veto.

What is underway is a tremendous coercive tactic to try to force the President to accede to the priorities that are being set by my Republican colleagues with respect to the budget, and that essential priority that is contained therein is deep cuts in Medicare in order to give tax breaks to wealthy people. That is essentially the driving force behind the budget proposal of my Republican colleagues. Of course, the President has indicated he will not agree to that, and now they are trying to use every tactic in the book in order to compel him to do so.

It is an outrage that they have closed down the Federal Government. Clearly, what should have been done is we should have had short-term extensions of the appropriations measures and an extension of the debt ceiling until the remainder of the appropriations bills and the reconciliation measure could be sent to the President. That was not done, and the Republicans are now trying to coerce the President into accepting a set of priorities with which he does not agree.

I oppose that set of priorities and continue to do so. But I must say that my colleagues on the other side of the aisle, you are playing with fire. Standard & Poor's this week issued a strongly worded warning to the Government saying the faith of investors has to some degree been diminished by the threat of imminent default on its debt. I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. SARBANES. I am now quoting from the article: "The unusual statement by the Standard & Poor's Corporation, the rating agency, said that it was not reducing the United States' triple A credit rating, the highest grade—and one granted to only about a dozen countries. But it clearly left open that possibility."

And they went on later: "The President of Standard & Poor's * * * said"—and this is a quote of his—"if this were any other country than the United States that we were talking about, we would have put them on credit watch."

That is the fire that is being played with here.

Later, on their own credit line release, Standard & Poor's questioned the Government's willingness to make timely debt service. I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SARBANES. Let me just quote:

> Standard & Poor's triple A rating of the U.S. Government is predicated on the dual components of the Government's overwhelming capacity and unquestioned willingness to honor its debt obligations. The U.S. Government's financial capacity to meet its debt obligations remains a worldwide standard based on the size and strength of the U.S. economy. However, the current budget dispute between the President and Congress has raised issues regarding the Government's willingness to make timely debt service.

This is what is at risk regarding the game that is being played here. Most of the appropriations bills have not been sent to the President. Of the 13 appropriations bills, as of yesterday, only 4 had been sent to the President. He signed three of them. Now we are starting to send the remaining appropriations bills to the President. And I approve of that process. I hope we will get the bills down to the President.

Not only have the Republicans failed to pass the appropriations bills, but they have also failed to pass the reconciliation bill. The reconciliation measure is not even out of conference. The conference report has not yet passed the House and Senate. It is not even out of conference.

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. SARBANES. As one of the Federal employees who had been furloughed said in the morning paper, "It is stupid."

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. SARBANES. He said it is stupid. It is stupid. It is stupid, and it ought to stop. Mr. President, he is right.

EXHIBIT 1

[From the New York Times, Nov. 11, 1995]

S. & P. STRONGLY WARNS GOVERNMENT OF THREAT OF DEFAULT

(By David E. Sanger)

WASHINGTON, November 10.—One of the world's leading credit-rating agencies issued a strongly worded warning today to the United States Government, saying that the faith of investors "has, to some degree, been diminished" by the threats of imminent default on its debt.

The unusual statement by the Standard & Poor's Corporation, the rating agency, said that it was not reducing the United States' triple-A credit rating, the highest grade—and one granted to only about a dozen countries. But it clearly left open that possibility if the country failed to meet any of its payments on United States Treasury obligations because of the budget impasse.

In an interview this evening, the president of Standard & Poor's, Leo C. O'Neill, said that "if this were any other country than the U.S. that we were talking about, we would have put them on credit watch," the formal warning the firm issues when a government or company is at risk of having its credit rating lowered.

Mr. O'Neill said that a committee within his firm debated today's statement for nearly two days after it became clear that Congress and the White House were headed toward a showdown. While the warning, which was issued late in the afternoon, itself may rattle the markets early next week, Mr. O'Neill said that he thought it was important that Government officials understand the implications of a default on the country's solid gold credit rating.

He said that he fully expected that the United States would make full payment on its debts. But the willingness of American officials to talk about the possibility of default has already done lasting harm to the United States' international image as a country willing to pay back what it borrows, he said.

"Even if the issue is resolved in the 11th hour and 59th minute, in some respects the damage has been done," Mr. O'Neill said.

The growing uncertainty in Washington over the budget and the prospect of shutting down the Government and defaulting on the national debt is already rippling through Wall Street. Bond prices fell and the broad stock market indexes slumped as the Democratic White House and the Republican Senate headed into the weekend playing an old fashioned game of chicken. And the price of gold, a traditional haven in times of uncertainty, surged $3.10, to $390.50.

The price of the 30-year bond fell as the yield, which moves in the opposite direction, rose to 6.33 percent. The Dow Jones industrial average managed to inch 6.14 points higher, to a record 4,870.37. But the S. & P. 500-stock index slipped 0.54 point, to 592.72, and the broader Nasdaq index fell almost 2 points.

For decades the United States has been the gold standard in the world of investing. Long considered the safest of all investments, Government debt is the yardstick by which the risk of lending funds to other nations or corporations is regularly measured. If Standard & Poor's lowered the nation's rating the result would almost certainly be an increase in interest rates, in order to attract investors to take a marginally higher risk of not being paid back on time. That, in turn, would affect a raft of other rates, including variable-rate mortgages held by millions of American homeowners. Those mortgages are usually based on the interest rate of Treasury obligations.

Politically, the rating agency's action today plays into the hands of President Clinton and Treasury Secretary Robert E. Rubin. Both have warned that Congress was threatening America's creditworthiness around the world by linking an increase in the national debt limit to a number of other Republican budget priorities. But many Republicans and some on Wall Street have dismissed that view, contending that investors see the current threats of default as a political sideshow that has little to do with the United States' ability to pay its debts.

It is still unlikely that the United States is heading for default and any imminent action is doubtful. Mr. Rubin has been extraordinarily cagey in recent days when asked how long the United States can continue to meet its obligations without increasing the $4.9 trillion ceiling on Federal borrowing.

He has authority—which Congress is trying to strip away—to draw on Federal trust funds that keep their money in Treasury securities. That, in turn, would allow the United States to borrow more to meet its operating expenses and to repay investors. The first big hurdle comes on Wednesday, when the Government must pay $25 billion in interest to bondholders; another $44 billion is due the next day.

Standard & Poor's argued today that even without a default, America's reputation among investors was hurting. "Even assuming a debt ceiling agreement is enacted in time to forestall default," the firm said in its statement, "the global capital market's unquestioned faith in the United States Government's willingness to honor its financial obligations has, to some degree, been diminished by the failure of the Government to act in a timely fashion. As a result, the reduced level of market certainty may require some time to overcome, well after the immediate fiscal dispute is resolved."

That wording almost exactly parallels warnings issued recently by Mr. Rubin, who has said the United States will pay for a default "for years and years to come."

Mr. O'Neill said that he had had no contact with Treasury officials concerning his firm's rating of American debt, or about today's statement. This is the first time Standard & Poor's has issued such a warning. In past debt limit battles, Mr. O'Neill said, "we didn't really believe there was a real threat of default; now, we are concerned that the debate isn't being resolved."

When Republicans and Democrats can bicker over who is at fault, only Standard & Poor's and its competitor, Moody's Investors Service Inc., have the power to issue ratings that are followed by investors around the world. They are viewed as politically neutral, interested only in the question of risk, not the wisdom of various budget-cutting policies.

Moody's issued a less dire warning on Wednesday. It said then that while the odds of a default were low, they were already higher than in 1989, when the United States last faced an impasse over the debt limit.

The effects on the United States Government of a lower rating are clear: some institutions in the world will only invest their funds in triple-A securities. But the effects would also be much larger. Many cities and towns issue debt that is linked to United States securities, and others offer those securities as collateral. Standard and Poor's also warned that "a disruption in U.S. Government debt payments also would have major implications for the liquidity of various financial institutions, money market funds and Government bond funds."

EXHIBIT 2

S&P HIGHLIGHTS BROAD IMPLIC OF US GVT DEBT LIMIT DEBATE

NEW YORK.—Standard & Poor's CreditWire 11/10/95—Standard & Poor's, while maintaining its triple-"A" rating on the United States government, is increasingly concerned about the global financial market ramifications of the current U.S. budget impasse. Even a short-lived default on the U.S. government's direct debt obligations would profoundly impact a broad range of securities and financial market participants.

Even assuming a debt ceiling agreement is enacted in time to forestall default, the global capital market's unquestioned faith in the United States government's willingness to honor its financial obligations has, to some degree, been diminished by the failure of the government to act in a timely fashion. As a result, the reduced level of market certainty may require some time to overcome, well after the immediate fiscal dispute is resolved.

Standard & Poor's triple-"A" rating of the U.S. government is predicated on the dual components of the government's overwhelming capacity and unquestioned willingness to honor its debt obligations. The U.S. government's financial capacity to meet its debt obligations remains a worldwide standard based on the size and strength of the U.S. economy. However, the current budget dispute between the President and Congress has raised issues regarding the government's willingness to make timely debt service. Standard & Poor's continues to regard that fundamental willingness as consistent with the highest credit rating category, but in the midst of the current budget struggle, the threat of delayed U.S. debt service payments has become a highly charged political tactic.

While the current debate in Washington has focused substantially on the government's ability to honor its debt obligations in the absence of an agreement to raise the existing ceiling about $4.9 trillion, there are numerous, ancillary debt issues that would also be negatively affected by the failure to reach an agreement. Corollary credit ramifications of a U.S. government default would affect; corporate and municipal agency debt linked to U.S. securities, pre-refunded municipal bonds amounting to $400 billion, collateralized by U.S. obligations. A disruption of U.S. government debt payments also would have major implications for the liquidity of various financial institutions, money-market funds, and government bonds funds.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President——

The PRESIDING OFFICER. The Chair informs the Senator that the Senator from Kentucky controls the time.

Mr. CRAIG. Will the Senator from Kentucky yield me 5 minutes?

Mr. MCCONNELL. I yield 5 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. CRAIG. Madam President, I have listened in the last several minutes to my colleague from Maryland talk about tactics that have caused certain financial interests and indicators in this country to react.

There is a clear tactic that has been played out here for the last several weeks by the Secretary of the Treasury saying that if we did not do certain things, the Government will shut down. All the while he was saying that to the American community of financial interests and to this Congress, he knew and we knew that was nothing but a tactic. And yet he went on with the scare game that has been used and is currently being used.

I suggest, if there is a sense of irresponsibility, then the Secretary of the Treasury ought to know that suggesting something that is not real, and that is financial collapse of this Government if we did not pass x pieces of legislation when he knew he had the capacity to keep our Government running and to honor its debt structure for the next several months, is in fact the worst tactic of all.

Now the White House is suggesting that they will not deal with us to achieve a 7-year balanced budget under

CBO figures. "Nonstart, won't go, can't go," says the President and his men, although the President has suggested in a variety of ways that he could accept a balanced budget in 5 years if we gave him a large tax increase. And he got the tax increase, and now it is 9 years and maybe 7 years, but he is not really sure because he does not really know.

Here is what we know. We know that we are headed down the course of producing a budget for this Government and this country that will balance in 7 years, and that in balancing it in 7 years we will use CBO figures because the President said in the Chamber of the U.S. House of Representatives that they are the ones you can trust, the CBO, so we will use those figures.

Beyond the rhetoric of a balanced budget and CBO, and concurrent resolutions and debt ceilings, what is the reality of what we are trying to do? What is the impact on America? What will the American family achieve or receive as a result of our efforts? I suggest to you that a temporary shutdown in the Government, while it may represent some pain, is a short-term problem to a long-term solution. And that long-term solution is achieving a balanced budget.

That is what we are after, and that is not what this President is after because he is not really sure about where he can get and how he can get there, but we are. We have worked to produce legislation that will achieve just that.

Madam President, a $500 tax cut to 28 million American families raising 51 million children in this country and having the ability to provide a better lifestyle to assure a college education, that is what our balanced budget is all about. I think it is very clear what we are trying to achieve here—provide a more spendable income to create a better sense of being in this country.

Madam President, a 7-year balanced budget with the tax cuts that are proposed in this, they yield good things for America. Why not suggest that the gross national product should grow by an additional $10.8 billion by the year 2002? A new study just out by an econometric modeling firm, one of the best in the country, indicates just that, if you have a tax cut along with spending reductions of the kind that we put together into the mix—and that is what we are trying to do—you have an additional $32.1 billion in real disposable income.

What happens when you put real disposable income out there in the hands of the American consumer and the American family? They buy homes, they save for a college education, they buy a new car, they do all of the kinds of things that we ought to be suggesting to the American family they are entitled to do. This President says, "No. Let's stay with the past, let's stay with spending, let's stay with the big government that has proven itself incapable of dealing with the real needs of America."

That is what we are about here. That is the fundamental argument underway. And I understand what my colleague from Maryland is suggesting. Let me suggest that the long-term benefits of a balanced budget, the kind this President wants to destroy, means real income for America, and real opportunity.

The PRESIDING OFFICER. The Senator's time has expired.

The question now occurs on agreeing to the motion to table the underlying Senate amendment numbered 115. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Indiana [Mr. LUGAR] is necessarily absent.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 575 Leg.]

YEAS—54

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Brown
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Glenn
Graham
Harkin
Hatfield
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Simpson
Snowe
Specter
Stevens
Wellstone

NAYS—44

Abraham
Ashcroft
Bennett
Bond
Breaux
Burns
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Heflin
Helms
Hutchison
Inhofe
Johnston
Kempthorne
Kyl
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Shelby
Smith
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Lugar

So the motion to lay on the table the amendment (No. 115) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCONNELL addressed the Chair.

Mr. LEAHY. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

The Senator from Kentucky is recognized.

Mr. McCONNELL. Mr. President, let me describe where I believe we are on the foreign operations bill as of this motion to table.

According to the Senate Parliamentarian, based on precedence, beginning in 1898 and in subsequent votes as recently as 1984, either House has the option to recede on its amendment. Based on discussions with the Parliamentarian, it is my understanding that by tabling amendment No. 115, we have, in effect, receded our position on both the Kassebaum language and the Chris Smith language leaving no further amendments in disagreement. This means no further action is required by the House on the foreign operations appropriations bill, unless it chooses to, and it can be enrolled by the House and sent to the President, again, if the House should choose to take that route.

I thank my colleagues, and I hope we have completed our action on this legislation.

Mr. LEAHY. Mr. President, I concur with the analysis of the Senator from Kentucky. I point out, as I did earlier, the Senator from Kentucky and I went into this conference with 193 items in disagreement; we settled 192, after a great deal of work, a lot of informal conferences, and a formal conference that went well after midnight. This was the only item, and this is the only way to take care of it, frankly.

The Senate has spoken loudly and clearly on this, and it is a good compromise between both bodies. Let us get off this subject. The issue can come up on authorizations bills, where it belongs, not on appropriations bills, and we can go on with the business of the Senate.

The only way we are going to get out of the real budget problem we have, when people are out of work and everything else, is to pass the appropriations bills. Here is another 1 of the 13 appropriations bills that could go to the President. If he signed it, that would be 3 of the 13 appropriations bills signed, with only 10 more to go, and we are out of this problem.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, let me say that, hopefully, within the next minute or two, we can call up another conference report—the Treasury, Postal Service appropriations bill. As I understand it, the Senate papers are on the way up.

The PRESIDING OFFICER. That is correct.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1996—CONFERENCE REPORT

Mr. DOLE. Mr. President, I submit a report of the committee of conference on H.R. 2020 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2020) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1996, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 25, 1995.)

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

Mr. President, in a few moments it is my understanding, according to the majority leader's request, that we are about to begin consideration of the conference report on the Treasury-Postal appropriations bill. That is my understanding. I think that will be coming to the Senate floor in just a very few moments.

Mr. President, I want to remind my colleagues respectfully, notwithstanding the fact that the Senate in a voice vote knocked out a provision which was in the bill that came over from the House of Representatives, this provision has now been put back in during the conference between the House and Senate, and the final conference report including this provision is going to be voted on in a few moments by the Senate.

Here is what this provision does: For the first time—for the first time—in the history of this great Republic, we are going to grant the authority for the Internal Revenue Service to privatize tax collections—for the first time.

There are no guidelines. There are no ethics rules. There are no laws or regulations that pertain to this at this point. But we are going to be saying that we are going to put $13 million in for a pilot project to see how much law firms, lawyers, and private bill collectors can go out and collect from people who owe the Internal Revenue Service money.

This was tried a few years ago, as far back as the ancient Greeks. Actually, this led, I might say, to this practice being labeled as "tax farming." These tax farmers, Mr. President, became so very unpopular that ultimately they were beheaded. There is a lot written about this. There is a lot stated about this.

We are about to commit the act of not recognizing our history nor realizing what this could do in the future of tax collections in this country.

I have been advised, Mr. President, by those with great experience in parliamentary procedure—certainly greater than myself—that it will be impossible for this Senator or any other Senator to move that we recommit the conference report with instructions to the conferees. The reason is that there is no conference—the conference has disbanded. That is my understanding at this point. I hope I am wrong about that, but I think I am correct.

Second, I then thought perhaps I would try something like a sense of the Senate or perhaps some other avenue of approach so that we could strike from this bill that particularly onerous provision that is going to send this country stepping toward tax farming and tax collections by the private sector against our own citizens.

Mr. President, I have been advised that there is nothing that I can do at this moment to strike that provision, with the exception of just trying to talk about it and wait for another provision in another piece of legislation subsequent to this at the appropriate time.

In a moment, I will continue this discussion. I will continue talking about why I think this is a very, very bad step, a dangerous step, a precedent-setting step, wading off into an area where we have no guidelines, no ethics protection, no protection for confidentiality to protect the taxpayers, something that I hope at the appropriate time we can strike from this particular piece of legislation.

I thank the Chair for recognizing me. I yield the floor.

Mr. McCAIN. Mr. President I want to take 1 minute to thank both the managers of the bill, Senator SHELBY and Senator KERREY.

I often am critical of appropriations bills that come to the floor because of unnecessary and wasteful spending that is associated with it. I want to say that I have reviewed this bill, and with a very rare exception, this bill is clean of wasteful and unauthorized programs.

I think it is probably the best piece of legislation in the appropriation cycle that I have seen. I want to express my appreciation to both Senator KERREY and Senator SHELBY for resisting what seems to be irresistible on the part of some members of the Appropriations Committee, and that is loading it up with unauthorized projects and other special interest programs.

I want to again thank him for an outstanding piece of legislation. I yield the floor.

Mr. BUMPERS. Mr. President, I see Senator SHELBY is not here, and I assumed we were not ready to start in on this bill. I thought I might make a few remarks pending his arrival.

Mr. KERREY. I would like to begin. I know Senator SHELBY will be down here shortly.

How long will the Senator speak?

Mr. BUMPERS. You never know when I get wound up.

Mr. KERREY. I am aware of that. The Senator from Alabama is coming to the floor.

Mr. BUMPERS. Is there a time agreement on the bill?

Mr. KERREY. I believe they are going to try to set the time for the vote at 5 o'clock, and I doubt that Senator SHELBY and I are going to take a great deal of time in opening statements.

Mr. BUMPERS. Fine. I will wait until then or at some hiatus in the bill to speak, Mr. President. I thank the distinguished ranking member.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, today with my distinguished ranking member, Senator KERRY, I bring to the Senate the conference report for H.R. 2020, the fiscal year 1996 appropriations for the Department of the Treasury, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

The conference report we are presenting today contains total funding of $23,161,490. This bill is $339,457,000 below the appropriations provided in fiscal year 1995. It is $15,797,000 below the House-passed bill and $1,735,000,000 below the President's request.

Of the totals in this bill the conference is recommending $11,263,514,000 for new discretionary spending. The balance, $11,889,400,000 is for mandatory programs.

The $11,263,514,000 the committee proposes for domestic discretionary programs is almost $1.8 billion below the President's request. Let me repeat that, Mr. President. This bill is nearly $1.8 billion below the President's fiscal year 1996 request. It is also $340 million below the amount appropriated for the accounts funded in this bill in fiscal year 1995.

Reaching this level has not been an easy task. We have had to make some very difficult decisions, while trying to ensure that funds are made available to carry out essential Government services.

Mr. President, this bill includes $10,303,999,000 for the Department of the Treasury.

The conference report includes $121,908,000 for payment to the Postal Service fund for free mail for the blind, overseas voting, and payment to the Department of Labor for disability costs incurred by the old Post Office Department.

The President receives $156,844,000 to exercise the duties and responsibilities of the Executive Office of the President.

This conference report contains $7.5 million for the operations of the Office of National Drug Control Policy. The fact that we have included funding for the drug czar's office does not mean I am satisfied with the current drug policy of this administration. I have made my feelings on the ineffectiveness of this office known before. I will not take the time of my colleagues to restate it again today. I do want to reiterate that the committee will revisit funding for ONDCP in 1996. I certainly hope we will see some changes.

This bill includes $545,002,000 for construction of new courthouses and Federal facilities. This funding provides the General Services Administration the ability to let construction contracts for buildings which construction can begin in fiscal year 1996. There is no funding for projects where no construction awards can be made in fiscal year 1996.

There is $11.8 billion in mandatory payments through the Office of Personnel Management for annuitant and employee health, disability and retirement, and life insurance benefits.

There is approximately $375 million for other independent agencies.

Mr. President, this bill proposes to terminate the Advisory Commission on Intergovernmental Relations and the Administrative Conference of the United States. Funds are provided for ACIR to complete the unfunded mandates study, and provide for the orderly closedown of the two agencies.

Mr. President, this subcommittee continues to be a strong supporter of law enforcement. We have done what we can to ensure that the law enforcement agencies funded in this bill have the resources to do the job we ask them to do.

There has been considerable discussion since this bill was reported from the subcommittee about the level of funding for the Internal Revenue Service. The level of discussion continued through the conference. The conference report exceeds the bill passed by the Senate by $31 million. The Senate conferees worked with the conferees from the other body to do what we could to resolve the differences between the two Houses to balance processing and enforcement, while continuing tax systems modernization efforts.

Mr. President, let me be perfectly clear on this. As I said when the Senate first deliberated this bill, that the committee's options were limited. Many may disagree with the choices we have made, but we had to work with limited resources. Funding for the IRS makes up 65 percent of the discretionary spending in this bill. There is no other way to reach savings called for in our 602(b) allocation.

Mr. President, this bill, as we all know has been held up because of discussions on the legislative language popularly called the Istook amendment. The amendment in disagreement is language offered by Senator SIMPSON, which I support. The other body insisted that the Senate recede from its position in amendment No. 132. Senator SIMPSON, the sponsor of this amendment, has indicated that he will support the motion to recede on this amendment so we can send this bill to the President. I personally want to thank Senators SIMPSON and CRAIG for all of their hard work on this issue.

I yield to Senator KERREY, the subcommittee's ranking member.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I thank the Chair. First let me congratulate the Senator from Alabama for doing an exceptional job of chairing this subcommittee and working through the various amendments and problems that he has faced, along with Chairman LIGHTFOOT on the House side, in making certain we can deliver a bill to the President.

PRIVILEGE OF THE FLOOR

Mr. KERREY. Mr. President, I ask unanimous consent that John Libonati, legislative fellow with the Appropriations Committee, be granted the privilege of the floor throughout the consideration of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I am pleased to join the subcommittee chairman, Senator SHELBY, in bringing this conference report to the floor.

As the chairman pointed out, this conference report is substantially below the requested and enacted levels for the many programs and activities under the jurisdiction of the Treasury Department, the Executive Office of the President, and certain independent agencies.

Having said that, I want to take this opportunity to compliment the distinguished Senator from Alabama, Mr. SHELBY, and the House subcommittee chairman, Mr. LIGHTFOOT, for the bipartisan spirit they both displayed during the conference to craft a conference agreement which, under the most severe budgetary constraints, meets the highest priorities of both the executive branch and the Congress.

The conference report contains funding for the continuation of the Council of Economic Advisers, which the House had proposed to eliminate, and does not include many of the controversial legislative riders which would most assuredly open this bill to a Presidential veto.

This conference report funds Federal programs where a compelling case has been made for their continued existence. And, in the case of two agencies, the Administrative Conference of the United States and the Advisory Commission on Intergovernment Relations, it provides only limited funding for the orderly close out of their operations.

While most programs have been reduced below enacted levels, the conference agreement does contain modest increases for Treasury law enforcement agencies to permit them to sustain current levels of vigilance in the war on drugs, violent and financial crimes investigations, counterterrorism, Presidential protection, White House security, and law enforcement training.

Funding for new Federal building and courthouse construction has been funded at the Senate-passed level of $573 million, or $415 million below the requested level. In addition, the Senate criteria on Federal building construction were adopted by the conferees. These criteria provide full funding for GSA's highest priority projects, which have received site or design funds in the past; but do not permit the funding of new starts or projects where the construction contract awards will not be awarded in fiscal year 1996.

I believe this is a sound approach. We are funding buildings at levels that will permit GSA to complete the projects. We did not go along with the House proposal to provide 40-percent funding for these projects. That approach will only prolong these projects and will not enable GSA to let any contracts in fiscal year 1996.

Mr. President, having said that, I do not support all of the actions taken by the conference committee. I am particularly concerned that the Senate provision fencing IRS tax systems modernization funds until GAO certifies that certain corrections in the management of the program have been made, was dropped.

Mr. President, to date, $2.5 billion has been invested in this program to modernize IRS' outdated computer systems. The conference agreement contains an additional $695 million toward this effort. When all is said and done, this program could cost the taxpayers upward of $8 billion. This is a hefty sum of money, particularly in these budgetary times, for a program which according to GAO is fraught with mismanagement and infrastructure problems. There is no doubt that the TSM concept should revolutionize the IRS. However, the way the agency is progressing on its implementation at this juncture, at some point in the future, we could find us regretting this substantial investment.

Mr. President, I am also concerned about the reduced funding level for the

IRS returns processing and taxpayer assistance account. The conference agreement cuts $81 million from the President's requested level for IRS' front-line returns processing and taxpayer assistance activities. The IRS estimates that it will process about 211 million returns and supplemental documents and will issue about 83 million tax refunds in fiscal year 1996. This is an increase of about 3 million returns and documents and 2 million refunds above the 1995 level. I just hope, Mr. President, that as a result of these reductions, refunds are not delayed and taxpayer questions do not go unanswered because we have not provided the agency with the funds it needs to operate at increased service levels.

I am pleased that the final agreement includes a provision which I offered on the Senate bill to establish a Commission on the Restructuring of the Internal Revenue Service. I am hopeful, that through the work of this Commission, we will come up with some workable solutions to make the IRS a more customer-oriented organization, which will be the Nation's leading revenue producer while operating more economically and efficiently.

Mr. President, depending on what happens to the amendment in disagreement, amendment No. 132, I believe this bill will be signed by the President. This bill was passed by the Senate on August 5, the conferees met September 12 and was it not for the controversial Istook-McIntosh-Erlich provision, this bill could have been sent to the President and I believe signed prior to the close of the fiscal year.

Unfortunately, we are now past that date, our agencies have been operating at reduced funding levels through two continuing resolutions, and now most of the agencies funded in this bill are in the shutdown phase. I believe we have an opportunity here to get this bill to the President without further delay. We have an obligation to the American public to get the job done and ensure that important tax, financial management, law enforcement, and Federal building programs move forward.

So, I would urge my colleagues to support this conference report and put an end to the gridlock. I urge the adoption of the conference report.

Let me comment on a couple of things. I suppose I am not unique. I imagine all of us are getting questions from home as to why we were unable to pass appropriations bills, why do we have the furloughing of Federal employees, and why have we essentially shut down parts of the Government. There are 200,000 Federal employees who have been furloughed for 2 days as a consequence of this particular appropriations bill.

The Senator from Alabama referenced it. There were 141 amendments on this legislation that were subject to the conference of this subcommittee—141.

The chairman called a conference, he and Chairman LIGHTFOOT. We met on the 12th and 13th of September, a full 2 weeks before we were supposed to finish our work. According to the Budget Impoundment Act, we had to have that work done by the 30th of September.

On the 12th and 13th, the chairman was successful in disposing of 140 of 141 amendments. As he indicated, the only one that remained was the so-called Istook amendment, which appeared in neither version of the bill and which, regardless of your position on the issue, had no relevance to this appropriation bill, and which had a little or no support in the Senate, and delayed the final House and Senate action on this conference report.

I mention it because there is a kind of a common perception—I think it is common—that there are significant differences between Republicans and Democrats on all these appropriations items, and that is why the Government was shut down.

I agree with Senator SHELBY on this piece of legislation. I am prepared to vote for it. Both of us wanted to move this thing out before the 30th of September, and it could have been not nearly as difficult as it might appear to the average citizen out there that is wondering what has gone on in the past couple of days—200,000 Federal employees being furloughed in the last 2 days. Again, not because of great ideological differences on spending, not because Democrats and Republicans disagreed that we need to get rid of the deficit that has been, I think, tormenting the Nation for many, many years, but because of a single amendment having to do with the regulation of 501(c)(3)'s and 501(c)(4)'s.

Mr. President, I, too, appreciate the willingness of the Senator from Wyoming to allow us to recede to the House. I supported the original Simpson proposal, and appreciate very much his willingness to recede to the House in this particular case so we can move this to the President for his signature and end the furloughing of 200,000 Federal employees who are covered by this legislation.

Let me also comment. The distinguished chairman mentioned his concern about the drug czar. I share that concern. I have a great deal of respect for Dr. Brown. It is not as if I am critical of him as an individual but the number one problem that we face with drugs today is the illegal consumption of drugs by young people 12, 13, and 14 years of age. Those who have made it either their living or their avocation trying to help us reduce drug consumption in America will say to us that the most important thing is to reduce the size of the funnel of people that are coming on line using illegal drugs. That means we have to get to young people and say to them that you should not use these illegal and dangerous drugs.

I remember when former First Lady Nancy Reagan started the Just Say No Program. And I thought, well, this is a silly program. It cannot possibly work. The fact is it did work. The fact is that young people see the consumption and the use of illegal drugs in black or white materials. It is either yes or no. If we as adults do not say no to them, they are likely to say, "Well, maybe it is OK."

Over the past 4 or 5 years, according to those like Jim Burke who have been involved in this effort in the private sector, there has been an increase of exposure to the youth of illegal drugs, either on television shows or in movies. This has been creeping in again to our culture—sort of an acceptance that perhaps marijuana use is OK, or that perhaps cocaine use is OK.

So this idea that our leaders say to our youth do not do drugs, say no to drugs, this idea that can have a very powerful impact on our youth, to me, has sunken in rather impressively after listening to people out there in the private sector. I have been quite discouraged in looking at the drug czar who has legal authority to take action and has failed to either use that legal authority or to make much progress in the war on drugs.

So I join with the Senator from Alabama. We initially were going to zero out the drug czar. We entered into a negotiation here on the floor, and when the bill was first being considered by the Senate and talked to the distinguished chairman of the Judiciary Committee and the ranking member of the Judiciary Committee, and they convinced us to accept some language that would urge the President to take stronger leadership. I personally am pleased to see that the President has announced that in January he is going to begin communicating. He is organizing a conference of youth.

I think it is terribly important that our political leaders put that message out there, and that we start doing it repeatedly in order to reduce the size of the funnel of the number of people that are coming in and beginning to use illegal drugs.

To say for emphasis, I am also with the chairman. The verdict is still out as far as I am concerned. I was willing to yield on this point, willing to give him a little bit more rope to try to see if they could be effective. But the bottom line for me is, if it is not effective, I will be back here next year suggesting that this Senate vote to zero out the drug czar. Get the job done or let us find some other organization or somebody else that can do it. Let us not pretend that we are solving the problem if the problem in fact is getting worse.

Again, I say in closing that I appreciate very much the fine work Senator

SHELBY has done on this bill. I hope that in an expeditious fashion we can get this down to the President for his signature.

PROPOSED PRIVATIZATION OF INVESTIGATIVE SERVICES BY THE OFFICE OF PERSONNEL MANAGEMENT

Mr. SPECTER. Mr. President, I would like to enter into a brief discussion with the distinguished chairman of the subcommittee to clarify a matter regarding the proposed privatization of Investigative Services by the Office of Personnel Management.

It is my understanding that the House and Senate have directed the General Accounting Office to perform a detailed, long-term, cost-benefit and feasibility analysis on the OPM submissions for an Employee Stock Ownership Plan [ESOP] for the Investigative Services under OPM's jurisdiction.

Is it the intent of the conferees that OPM must retain full staffing at the Federal Investigative Processing Center [FIPC] in Boyers, PA, and that OPM may not proceed with the privatization of Investigative Services before receipt of the GAO report and in no event before March 30, 1996?

Mr. SHELBY. The Senator is correct. The committee has received the assurance of OPM that full staffing will be retained at the FIPC in Boyers with the recognition that many of the employees will be converted from the Federal payroll to the employee stock ownership plan.

Mr. SPECTER. I thank the Senator for clarifying the intent of the conferees. This is an issue of great importance to several hundred Pennsylvania OPM employees and I appreciate the assistance of the distinguished chairman and his commitment to ensure that their interests and those of every taxpayer are best served. I thank the Chair and yield the floor.

FRESNO COURTHOUSE

Mrs. FEINSTEIN. Mr. President, I would like to ask the distinguished chairman of the subcommittee on Treasury, Postal Service and General Government Appropriations, Senator SHELBY, and the ranking minority member, Senator KERREY, if they would engage in a brief colloquy with myself and my colleague from California, Senator BOXER.

Mr. SHELBY. We would be happy to do so.

Mrs. FEINSTEIN. We want to bring to the attention of the managers the need for a new courthouse in Fresno. The current U.S. courthouse in Fresno is at its full capacity and would require extensive modifications to meet seismic, fire, and security standards.

The current courthouse, the B.F. Sisk Building, opened in 1968 as an office building with only two courtrooms and a small amount of support space designated for the courts. Now, the court and related support agencies occupy 92 percent of the building with additional space being leased on the outside. There are currently four district, two magistrate, and two bankruptcy courtrooms in the building, which is used by two district judges, two senior district judges, one visiting judge from Sacramento, two bankruptcy judges, two magistrate judges and visiting magistrate judge. Within the next year, there will be an additional senior judge. Five of the current courtrooms have been built out in previous office space. There is no room for future expansion.

A recent seismic evaluation on the current building found that the cost of seismic retrofitting would be more than the cost of the building. Also, serious concerns have been raised about the safety and security standards in the building relating to its use as a court facility.

Given the current situation and projected future growth, the city has been working with the courts, the General Services Administration [GSA], and the subcommittee to obtain funding for a new structure for the past few years. However, I understand that due to budget constraints, there is no funding provided for new start courthouse projects, including the Fresno project, in the conference report for the Treasury-Postal appropriations bill for fiscal year 1996.

Mrs. BOXER. Mr. President, I share my colleague's concern over the safety and lack of security of this facility. The chief judge for the Eastern District of California, the Honorable Robert E. Coyle, has informed me that "the efficient, uninterrupted, safe, and secure operation of the present courthouse cannot be carried out" in the current building.

I also want to make my colleagues aware of actions taken in Fresno pursuant to direction from this subcommittee last year. Senator FEINSTEIN and I commend the city and GSA's work to develop a site for the proposed courthouse in downtown Fresno. As the Senator may know, the fiscal year 1995 Treasury-Postal appropriations conference report acknowledged the beginning of the site selection process for a Federal courthouse in Fresno and directed GSA to locate a site in downtown Fresno for the project. To this end, the city has donated a site in downtown Fresno and is presently purchasing parcels to add to the city-owned property for that purpose. Also, the city has agreed to complete all site and utility preparation work prior to construction and, will build parking for the courthouse to accommodate nearly 400 spaces.

This agreement will save $5 million off the estimated Federal cost for site acquisition.

It is important to recognize the importance of this project to the city of Fresno. GSA and the courts have worked closely with the city for the purpose of redeveloping a truly troubled downtown area. It would also appear from recent experience that the competitive bidding process in California is ripe for construction. In both Santa Ana and Sacramento, the bids came in considerable lower than the anticipated budget. However, one can only assume that delay in this project will only cause the cost to escalate.

We would like to urge the chairman and ranking member, in light of the partnership between the city of Fresno and the judicial administration in complying with the committee's directive to reduce Federal spending, to make this project a high priority next year. We ask whether you will give the project your highest consideration.

Mr. SHELBY. Yes. The subcommittee will carefully review this project in our deliberations next year for court construction for fiscal year 1997.

Mr. KERREY. I appreciate the words from my colleagues from California and I also want to express my congratulations for the agreement the court and GSA was able to work out with the city of Fresno. The Senator can be assured that I will do my part to see that this project receives serious consideration in subcommittee deliberations next year.

Mrs. FEINSTEIN. We thank the chairman and ranking member for their understanding and thoughtful responses.

Mr. DOMENICI. Mr. President, I rise in strong support of the conference agreement on H.R. 2020, the Treasury, Postal Service, and general Government appropriations bill for 1996.

This bill provides new budget authority of $23 billion and new outlays of $20 billion to finance operations of the Department of the Treasury, including the Internal Revenue Service, U.S. Customs Service, Bureau of Alcohol, Tobacco and Firearms, and the Financial Management Service; as well as the Executive Office of the President, the Office of Personnel Management, and other agencies that perform central government functions.

I congratulate the chairman and ranking member for producing a bill that is within the subcommittee's 602(b) allocation. When outlays from prior-year budget authority and other adjustments are taken into account, the bill totals $22.8 billion in budget authority and $23.1 billion in outlays. The total bill is at the Senate subcommittee's 602(b) nondefense allocation for budget authority and under its allocation for outlays by $67 million. The subcommittee is also under its Violent Crime Reduction Trust Fund allocation by $1 million in budget authority and less than $500,000 in outlays.

Mr. President, I ask unanimous to have printed in the RECORD a table displaying the Budget Committee scoring of the conference agreement on H.R. 2020.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TREASURY-POSTAL SUBCOMMITTEE SPENDING TOTALS—CONFERENCE REPORT

[For fiscal year 1996, in millions of dollars]

	Budget authority	Outlays
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed		2,778
H.R. 2020, conference report	11,187	8,712
Scorekeeping adjustment		
Subtotal nondefense discretionary	11,187	11,490
Violent crime reduction trust fund:		
Outlays from prior-year BA and other actions completed		8
H.R. 2020, conference report	77	62
Scorekeeping adjustment		
Subtotal violent crime reduction trust fund	77	70
Mandatory:		
Outlays from prior-year BA and other actions completed	127	130
H.R. 2020, conference report	11,763	11,756
Adjustment to conform mandatory programs with Budget Resolution assumptions	−334	−333
Subtotal mandatory	11,555	11,553
Adjusted bill total	22,819	23,113
Senate Subcommittee 602(b) allocation:		
Defense discretionary		
Nondefense discretionary	11,187	11,557
Violent crime reduction trust fund	78	70
Mandatory	11,555	11,553
Total allocation	22,820	23,180
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary		
Nondefense discretionary		−67
Violent crime reduction trust fund	−1	−0
Mandatory		
Total allocation	−1	−67

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. BAUCUS. Mr. President, I was an early supporter of the taxpayer bill of rights which was enacted in 1988. That legislation protected the American taxpayer from overreaching actions by the IRS. This year, the Finance Committee included a number of additional provisions in the tax bill to protect the taxpayer.

Unfortunately, the conference report for Treasury and Postal appropriations upon which we will vote today contains language taking us in the opposite direction. The report provides for an appropriation of $13 million to the IRS to "initiate a program to utilized private counsel law firms and debt collection agencies in the collection activities of the IRS."

Mr. President, most bill collectors are paid on a contingency basis. We are in danger of creating a system that will encourage bounty hunters to collect taxes from U.S. citizens.

Margaret Milner Richardson, the Commissioner of the Internal Revenue Service, in a letter dated August 4, 1995, expressed "grave reservations" with respect to privatizing the tax collection services of the IRS. To quote Ms. Richardson:

> What impact would private debt collection have on the public's perception of the fairness of tax administration and of the security of the financial information provided to the IRS? A recent study conducted by Anderson Consulting revealed that 59 percent of Americans oppose State tax agencies contracting with private companies to administer and collect taxes.

Frankly, Mr. President, I believe that the 59 percent number would have increased dramatically had the survey inquired as to whether the IRS should contract with debt collection agencies to collect Federal income taxes.

We are told by supporters of the proposal that we should not worry because the debt collectors will be under the direct supervision of IRS employees. I do worry Mr. President, because we have too many instances in which IRS employees themselves have abused their powers. This is why we enacted the 1988 taxpayer bill of rights and why this year's reconciliation bill contains additional taxpayer rights. I am not comfortable that debt collectors working on a contingency basis will respect taxpayer rights—even if they are under the direct supervision of IRS employees.

For this reason, Mr. President, I plan to vote against the conference report.

Mr. SHELBY. Mr. President, I now ask unanimous consent that the vote occur on adoption of the conference report to accompany H.R. 2020, the Treasury-Postal Service appropriations bill, at 4:45 p.m. this evening, and that the Senate recede from the Senate amendment in disagreement at that time.

Mr. PRYOR. Reserving the right to object, Mr. President, I do not want to object, and I usually am not an obstructionist around this Chamber. But I want to be guaranteed some time, and enough time to explain a position that I have relative to the farming out of private tax collection.

Mr. SHELBY. How much time does the Senator want?

Mr. PRYOR. Let me say to my friend from Alabama that I do not think that I would use over 30 minutes. If I could have 30 to 35 minutes, I think I could cover the areas that I need to be covering. I would like the opportunity to ask some questions of my friend from Alabama as to how this very onerous provision crept back into this conference report.

Mr. SHELBY. The Senator may ask questions of the Senator from Nebraska, too.

Mr. PRYOR. I would be glad to ask either.

Mr. SHELBY. Both of us. Sure.

Mr. PRYOR. I wonder if I could be allocated a minimum of 35 minutes.

Mr. SHELBY. What about 40 minutes? Is that OK?

Mr. PRYOR. I will take 40 minutes. I do not think I will use all of that time. I thank the Senator very much.

Mr. SHELBY. At 4:45. Would that be OK?

Mr. PRYOR. If it is all right with the Senator from Alabama, could we say no later than 5 o'clock?

Mr. KERREY. We have to vote at 4:45.

Mr. SHELBY. An hour from now is 4:45.

Mr. PRYOR. Could not we vote no later than 5 o'clock?

Mr. SHELBY. We have a lot of Members. We will give you all the time and try to respond to whatever you want.

Mr. PRYOR. I guess I will take at least 40 minutes. I hope I do not use it. I know my friend from Iowa wants to speak for 3 minutes on the issue. He can speak before I do, if that is all right with the distinguished managers.

Mr. SHELBY. Sure.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who seeks recognition?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in strong support of the action of the conferees decision not to fund President Clinton's initiative last year which spent $405 million to hire over 6,000 more IRS agents. This is an issue that Senator LOTT and I have worked on very closely for over a year and I am pleased to see that our efforts have achieved a success for the taxpayers.

In particular, I want to commend Senator SHELBY for his work. This would not have happened were it not for Senator SHELBY's efforts and his decision to put the interest of the American taxpayer first and not listen to the voices of empire-building bureaucrats at the IRS.

I find it particularly galling that when the President is thumping his chest about vetoing bills, he forgets to tell the American people that one of his top priorities is to get $405 million to retain the 6,000 plus additional IRS agents—that is right 6,000 more IRS agents that he hired last year.

And remember, the IRS has already seen a massive increase in staff, from 82,000 in 1982 to over 110,000 in the early 1990's. Yet, that was not enough for President Clinton.

President Clinton wanted to have 6,000 more IRS agents knocking on taxpayers doors. And last year, the big-spending Democrats in Congress were happy to oblige.

But last fall, the voters spoke strongly for a smaller Government. And today we see a significant response to those voters. This bill will ensure that the IRS will not have 114,000 IRS agents looking through your files but instead 106,000—a reduction of 8,000 agents.

We have asked the American taxpayers to tighten their belts enough times, now we are finally asking the IRS to do the same. And let me say, you do not hear about it in press releases from the White House, but in closed doors they have been fighting tooth and nail for more money to keep these additional IRS agents and incredibly, to hire even more.

We have heard on this floor the question asked many times, "Whose side are you on?" It is clear that the White House is on the side of bigger bureaucracy and more agents at the IRS, and this Congress is on the side of the taxpayer and small businessmen and women struggling to pay the bills and who just want big Government off their backs.

Once again I want to commend Senator SHELBY and Congressman LIGHTFOOT, chairman in the House and the conferees for their work on this issue. This is clearly a red letter day for taxpayers who have finally won one over the IRS.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. With no one else seeking recognition at this point, if I might, Mr. President, I would like to make a few points relative to this legislation and to one specific provision which bothers me to such a great extent that I will not only speak against this bill being passed, I will vote against this bill being passed, and I may be in a minority of one, but if that is the case I will be in that minority and be very proud of it.

Historically, the Finance Committee, which is one of the oldest committees of this great institution, as is the Appropriations Committee, has not only been charged with tax collection but also charged with a very unique function in addition to that, and that function is the protection of the individual taxpayer. The protection of the individual taxpayer's rights has always, historically been a function not of the Appropriations Committee but of the Finance Committee of the Senate.

On page 33 of the conference report that we are considering at this point—and that is the issue before the Senate—we find amendment No. 22. This is the same language that was stricken by the Senate on August 4, 1995, when the Senator from Alabama acquiesced in a unanimous-consent request for an amendment by myself, and the Senate knocked out the House language which stated this—I am going to read amendment No. 22, Mr. President.

> Restores and modifies House language authorizing $13 million for a private debt collection initiative.

This is truly the tip of the iceberg. When my friend, Senator GRASSLEY, of Iowa, a few moments ago was speaking about taxpayers' rights and the number of IRS agents that we are not going to employ, thus protecting the taxpayer, I went back many years ago remembering the work that Senator GRASSLEY and myself and Senator SHELBY, even in his days in the House of Representatives, were involved in by trying to get passed in the Congress the first-ever Taxpayer Bill of Rights, the first time that this country ever stated in statute rights specifically to protect the taxpayer.

It was 1988 when this legislation was passed. And we are seeing today what I consider to be a great challenge to and a great erosion of the spirit of the Taxpayer Bill of Rights. Why is that? First, the Taxpayer Bill of Rights had a very key provision. I am sure my friend from Alabama remembers—I wish my friend from Iowa were here because he helped to draft that particular section—we stated in 1988 that there could be no bounty system, there could be no quota system with regard to tax collections from the taxpayers of America. We found egregious example after example throughout the 50 States where tax collectors were abusing the rights of taxpayers, where they were abusing these rights to the extent that the tax collectors before 1988 operated under a bounty system and under a quota system whereby their raises and the structure of their civil service retirement, their opportunity in the work force was based upon, "How much did you collect?"

Here is what we are doing now. For the first time in 200 years we are about to put our stamp of approval officially upon a bounty system. That is what this is. This is a bounty system where we cannot pay those lawyers to collect debts, where we cannot pay ABC Collection Service to collect debts of the IRS. There is no way we can put them temporarily on the Federal payroll. So we are going to pay them the only way there is to pay them: We are going to give them a percentage of what they collect.

What sort of environment does that bring about? It does not take a rocket scientist to figure that one out. They are going to be out there using methods that are unprotected by statute, using a system of bounty hunter mentality that was in place before 1988, that is going to become the law of the land with the sanction of the U.S. Government. I think it is horrible that we would consider taking this very backward step and going back into the dark ages in the collection of our taxes.

I received this letter August 4, and usually I am not on the side of the Internal Revenue Service. I chaired the Senate Finance Committee's subcommittee on oversight of the IRS for a good number of years. I worked closely with many of my colleagues on that committee and Members of this body. But on August 4, I received a letter from Margaret Milner Richardson, who is the Commissioner of the Internal Revenue Service at the Department of the Treasury, and I agree 100 percent.

By the way, I ask unanimous consent to place this letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, August 4, 1995.

Hon. DAVID PRYOR,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRYOR: I am writing to express my concern regarding statutory language in the FY 1996 Appropriations Committee Bill (H.R. 2020) for Treasury, Postal Service and General Government that would mandate the Internal Revenue Service (IRS) spend $13 million "to initiate a program to utilize private counsel law firms and debt collection activities. . ." I have grave reservations about starting down the path of using private contractors to contact taxpayers regarding their delinquent tax debts without Congress having a thorough understanding of the costs, benefits and risks of embarking on such a course.

There are some administrative and support functions in the collection activity that do lend themselves to performance by private sector enterprises under contract to the IRS. For example in FY 1994, the IRS spent nearly $5 million for contracts to acquire addresses and telephone numbers for taxpayers with delinquent accounts. In addition, we are taking many steps to emulate the best collection practices of the private sector to the extent they are compatible with safeguarding taxpayer rights. However, to this point, the IRS has not engaged contractors to make direct contact with taxpayers regarding delinquent taxes as is envisioned in H.R. 2020. Before taking this step, I strongly recommend that all parties with an interest obtain solid information on the following key issues:

(1) What impact would private debt collectors have on the public's perception of the fairness of tax administration and of the security of the financial information provided to the IRS? A recent survey conducted by Anderson Consulting revealed that 59% of Americans oppose state tax agencies contracting with private companies to administer and collect taxes while only 35% favor such a proposal. In all likelihood, the proportion of those opposed would be even higher for Federal taxes. Addressing potential public misgivings should be a priority concern.

(2) How would taxpayers rights be protected and privacy be guaranteed once tax information was released to private debt collectors? Would the financial incentives common to private debt collection (keeping a percentage of the amount collected) result in reduced rights for certain taxpayers whose accounts had been privatized? Using private collectors to contact taxpayers on collection matters would pose unique oversight problems for the IRS to assure that Taxpayers Bill of Rights and privacy rights are protected for all taxpayers. Commingling of tax and non-tax data by contractors is a risk as is the use of tax information for purposes other than intended.

(3) Is privatizing collection of tax debt a good business decision for the Federal Government? Private contractors have none of the collection powers the Congress has given to the IRS. Therefore, their success in collection may not yield the same return as a similar amount invested in IRS telephone or field collection activities where the capability to contact taxpayers is linked with the ability to institute liens and levy on property if need be. Currently, the IRS telephone collection efforts yield about $26 collected for every dollar expended. More complex and difficult cases dealt with in the field yield about $10 for every dollar spent.

I strongly believe a more extensive dialogue is needed on the matter of contracting out collection activity before the IRS proceeds to implement such a provision. Please let me know if I can provide any additional information that would be of value to you as Congress considers this matter.

Sincerely,

MARGARET MILNER RICHARDSON.

Mr. PRYOR. I thank the Chair.

Mrs. Richardson wrote me this letter August 4, and I quote:

I have grave reservations about starting down the path of using private contractors to contact taxpayers regarding their delinquent tax debts without Congress having a thorough understanding of the costs, the benefits and risks of embarking on such a course.

Another quote from paragraph 2, and she is asking questions at this time.

How would taxpayers rights be protected and privacy be guaranteed once tax information was released to private debt collectors?

And that is a good question.

Would the financial incentives common to private debt collection (keeping a percentage of the amount collected) result in reduced rights for certain taxpayers whose accounts had been privatized? Using private collectors to contact taxpayers on collection matters would cause unique oversight problems for the Internal Revenue Service to assure that Taxpayers Bill of Rights and privacy rights are protected for all taxpayers. Commingling of tax and nontax data by contractors is a risk as is the use of tax information for purposes other than intended.

This is the end of that quote from the Commissioner of the Internal Revenue Service embodied in a letter to me dated August 4.

How far will this go? Well, we might say it is only $13 million. They are going to go out there and experiment. We are going to hire a few collectors now, and maybe a few lawyers would be interested. They are going to go out there and try to collect some of the debts that are owed to the Internal Revenue Service.

How far does it go? No one knows how far it goes because, Mr. President, there was not one day of hearings. There was not a hearing. There was not a discussion. There was not a debate. There was nothing. All we knew was that the House of Representatives inserted this language here. We struck it out in the Senate on August 4. I am hoping that we can defeat this bill so we can send a message back to the House that we are not going to tolerate this potential invasion of privacy, this potential invasion of confidentiality of private taxpayers' records and give those out to private debt collection companies and lawyers throughout the land. It is a terrible situation.

The second question is, who are these people going to be? Are they just going to be lawyers? We just had the first version where we saw they were debt collection companies. Then it was expanded to lawyers. I do not know what it will be expanded to the next goround. But now we have already expanded it once from debt collection companies to lawyers. I do not know how that happened.

Who is going to be hired? Who makes that determination? Do they go up into the IRS office in Washington and say, "We want to go back in our hometowns, and we know that that Ford dealer down there or that old farmer out there on route 4—I have a feeling that he probably owes the IRS something. We would like to see his records. And if you would show us those records of that Ford dealer or that farmer or that housewife or that small businessperson or that individual whom they may not like, "for 50 percent we'll go out there and collect that money for you." Then is the IRS going to say, "OK. You're hired?" Someone else may come up and say, "OK. You are not hired." Maybe they want too much money. Maybe they do not want enough. Who is going to train those people, Mr. President?

My friend from Iowa, Senator GRASSLEY, was talking about this massive bureaucracy of the IRS. I, too, have been critical of that bureaucracy. I think for too long it has been too insensitive. But who is going to train these people to go out and protect taxpayers' rights? That is what this argument is about. I do not know anything in the legislation that says that those rights are going to be protected.

I know nothing in this amendment that says anything about the particular training program that these individuals are going to go through. All it says is, here is $13 million to go out and hire private collection agencies in the private sector. Who is going to train them? We do not know. Who is going to oversee them, Mr. President? Who is going to go down to Camden, AR, and oversee the Jones collection agency and see if they are properly giving the proper treatment and protection to the individual taxpayers that they are collecting money from? Who is going to oversee them? I do not know. New bureaucracy? Yes. Fewer taxpayers' rights? Yes.

And now—this is a key and critical question, Mr. President—which taxpayers' cases are these individuals, once they are hired, once they are given their contract, which taxpayers' cases, when you file through all the records of the Internal Revenue Service, which ones are they going to be given to work on? Will it be at random? Will it be rural letter carriers as it was a few years ago? Will it be Methodist ministers? Will it be small businesspeople? Who is it going to be that they are going to zero in on? And this confidential information, confidential tax records, dating perhaps 10 years back, is it going to be given to the local collection agency so they can carry them around in the coffee shops, carry them around to the shopping centers and hold them up and say, "Hey, look at our neighbors' tax collections for the last 10 years." Are we going to go out and get that system? As a result, we might collect 50 percent and make a nice profit on it.

Mr. President, what type of taxpayer information will be made available? And how will this information be made available? And how will these tax collectors, these bill collectors, I should say, be paid? That has never been mentioned in this debate.

Once again, Mr. President, this is an appropriations bill. It is not a bill that came from the Finance Committee. The Finance Committee is that committee historically that has been charged with regulating the protections of the taxpayer. And here we are making a very, very backward step, in fact a step back into the Dark Ages, in my opinion, when we are creating a new bounty-hunter mentality in the Internal Revenue Service. And it is an issue—I should say it is an authority, a new authority, that the Internal Revenue Service does not want. They do not think it will work. They are posing these many questions today as we consider this particular appropriations bill.

Mr. President, I would like at this point to yield the floor. I would like the opportunity to ask some questions of my friend from Alabama. Perhaps he would like to respond. He may desire to do so at this time. I will yield the floor and retain the remainder of my time.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I appreciate the remarks of my good friend from Arkansas. He is to be commended over the years for being very involved in pushing legislation for years and years and articulating the position of the taxpayer as far as the IRS is concerned. We all know that that is known as the Taxpayers' Bill of Rights. That was long in coming, and the Senator from Arkansas should get most of the credit for it. A lot of us worked with him, but he was the leader in this, and I commend him so.

On this bill here, let me share some of it. In December 1991, the IRS completed an internal study that addressed, among other things, legal, financial, policy, and design considerations involved in contracting out collections. The study concluded that the IRS should test the use of private collection companies, provided that legal issues regarding activities that the IRS could contract out and funding sources were resolved. This proposal before us encourages that. In September 1992, the OMB issued a policy letter indicating that private companies can do collection-related functions such as locating taxpayers, making telephone calls to remind taxpayers of tax delinquencies, mailing tax notices, and providing lockboxes for receipt of payments. This proposal encourages that.

In December 1992, the IRS chief counsel's office issued guidance for IRS' use of contracting with private collection companies. It concurs with the OMB letter. In discussing the disclosure issue, the guidance said that the IRS has the authority to contract out certain collection-related activities and that the appropriate safeguards would be in place. This proposal would allow the IRS to ensure the appropriate safeguards are in place.

As the Senator from Arkansas brings up—and he is absolutely right—the appropriate safeguards must be in place. The IRS must, Mr. President, oversee this. The IRS will oversee this. This is a pilot program. The 1993 GAO report indicated, Mr. President, that the IRS was moving forward with the plans for a pilot test which would start as early as October 1993—we are behind on that—and that the IRS' long-range plans included expansion if the test worked.

The Vice President's reinvention proposal indicates that a pilot test should be developed. And considering the fact that taxes remain uncollected in the United States and that the number of IRS personnel continues to grow, and the only apparent way the IRS is able to increase revenues is to spend more money and hire more people, should we not try something new? I say yes.

This proposal allows the IRS to create the plan. They can address all of the concerns that have been raised, not only by the Senator from Arkansas, but by others, including this Senator. I firmly believe, Mr. President, that we should use all of the resources available to ensure that tax scofflaws are tracked down and those of us who pay our taxes are given more for our money.

Let me continue. The conferees have included, Mr. President, a provision which will create the pilot program allowing private law and collection activities to pursue delinquent tax bills under the direction of the IRS, Mr. President; no one else.

This proposal is intended to be innovative. It gives the authority to the IRS to make the decisions. The IRS will be able to use all of the safeguards available to ensure taxpayers and disclosure problems.

Many businesses and States already use private collection sources in an attempt to manage and to supplement their basic resources.

The GAO reported in 1993 that 28 States with individual income tax problems used private collection companies in collecting taxes. Only 6 of the 28 States felt they were ineffective.

Several questions have been raised by the Senator from Arkansas, and they should be, about the private collection initiative. Some of those questions are basically these:

Is privatizing certain collection activities on delinquent tax debt a good idea? The answer, I believe, is yes. Currently, approximately $70 billion, Mr. President—$70 billion—is owed to the IRS in delinquent tax debt upon which the IRS has ceased active collection efforts, and this amount is growing by roughly $10 billion a year.

This proposal before us would allow private firms to provide limited collection services on that debt at no cost to the taxpayers, unless the debt is collected, because these accounts are currently lying dormant at the IRS and will remain so.

What prevents private collectors from engaging in abusive collection practices or disclosure of confidential information? The Fair Debt Collection Practices Act and the Privacy Act of 1974 prohibit harassment of debtors and other unfair collection practices, as well as the unauthorized disclosure of debtor information to third parties. Violations of these provisions can subject collectors to millions of dollars in actual and punitive damages.

Let me go into this a minute. What type of taxpayer records will they have access to? This was raised by the Senator from Arkansas. The only information that contractors would receive would be the debtor's name, the address, the phone number, the Social Security number, employer, and amount owed, just as they would with any nontax debt in America.

Mr. President, the debtor's tax return would not—and I repeat, would not—be disclosed to the contractor.

Who will these contractors be? Private collection companies that specialize in collecting overdue debts. An example of the best pool of candidates from which to choose would be those collectors currently working under the Department of Education's private sector collection activities for student-related debt contracts.

Who will train them? According to GAO, one of the reasons for using private collection companies is for the IRS to learn from the techniques that are being used in the private sector to collect overdue taxes. Consequently, the training of employees who will be performing this function should be, I believe, done by private collection companies that will be contracting with the Internal Revenue Service, under the supervision and guidelines of the Internal Revenue Service.

With respect to special expertise that is needed for collecting tax debts, the IRS should and would provide the speciality training. No one else.

On which cases will the collector's work? Currently not collectible accounts, that is what they are called, Mr. President, as classified by the IRS since these accounts are now lying dormant at the IRS, $70 billion of them.

One approach would be to send cases to private contractors that are otherwise noncollectible, primarily where there is an inability to locate the taxpayer and, in such cases, a contractor should be able to invest more resources to locate them than the IRS can spend.

Another approach would be to take cases that are deferred, meaning that there is a small enough balance due that the moneys are left uncollected until some other credit shows up in the system, such as a refund, that is then offset against the deferred amount, and replace these with private collectors.

What type of collection services will they provide? The contractors will be responsible for generating letters to be mailed in most cases by the IRS and making phone calls to debtors. The letters and calls would be designed to remind debtors of their outstanding tax debt and to seek assurances from the debtor that the debt will be repaid. The contractors would not, Mr. President, be authorized to receive funds, compromise debts, sue debtors, seize property, or levy against assets.

At this time, it would seem to make sense to me to test a program where private contractors locate and call taxpayers by telephone and inform them of how much they owe, how high interest and/or penalties are accumulating, their options, and the actions the IRS can take if they do not pay.

However, the contractor would not make the final decision and should not make the final decision whether or not to enter into an installment agreement or to take any other collection action.

The bottom line is that this is a pilot program. IRS has full control. They should have full control. The points I have tried to respond to are examples. IRS will be making the decisions. I believe that any ideas should be considered. I believe this is a good proposal that we have come forth with.

The PRESIDING OFFICER. The Senator from Arkansas has 25 minutes.

Mr. PRYOR. I thank the Chair for advising me on the time remaining. I am going to speak only a few moments, Mr. President. I want to give adequate time for our friend and colleague, the distinguished Senator from West Virginia, to speak. I would like to hit two or three more points.

I listened very intently to my friend from Alabama go down through the concerns as expressed by the Department of the Treasury, more specifically the Commissioner of the IRS, Margaret Milner Richardson, who wrote me on August 4—I placed that letter in the RECORD—expressing grave concerns about going down this particular trail with debt collection.

The Senator from Alabama has just mentioned that the IRS would still retain control throughout this whole process. I maintain that the IRS has control now. What we are about to do is to add a new dimension whereby confidential tax information of individual taxpayers, of small businesses and large, perhaps, are going to be taken from the confidentiality of the Internal Revenue Service and given, basically, to debt collection services, to lawyers and to law firms, and they are going to go out and collect these debts with a bounty hunter's mentality.

It did not work centuries ago in Greece. It did not work in Rome. And, Mr. President, it is not going to work now, especially with the opposition of the agency, the IRS, that is going to be policing this situation, training these collectors and lawyers and, basically, having oversight of this whole new venture, in this leap that I think we are about to make into darkness.

We are about to privatize the collection of debts by the Internal Revenue Service. There is some form of privatizing that may be all right. Yesterday, for example, when everything was closed down, I went down to the dining room. I walked down to the dining room, I knocked on the door, and the dining room was closed. So I decided, well, I have to eat somewhere, I had not had anything to eat. Somebody said, "You can go over to the House of Representatives and eat; they have a cafeteria over there that is open." So I walked over, and I had two or three people with me. We walked through the tunnel and walked to the House of Representatives, and we ate. We ate because it was privatized. It was not run by the Government. Therefore, the Government did not have a lot to say about whether or not employees came in.

But, Mr. President, privatizing a cafeteria and privatizing the confidential information to be dispensed to the general public and to lawyers and debt collectors are two different things. This is one area of privatizing that—even though many of our colleagues on the other side of the aisle might think it is appropriate—I beg them to reconsider, to look at the potential for conflict, for harassment, for bounty hunters, and for undue influence being used against unsuspecting and unprotected taxpayers.

In 1988, in the taxpayers' bill of rights, we protected those taxpayers, I say to my friend from Alabama, and now we are about to walk away from them. We are about to say, well, we wanted to give you a little respite, but now we are ready to go after you again. We are ready to harness bounty hunters, who are going after you, who are going to have knowledge of your confidential tax information, where there are no ethics laws applying, and no regulations, where the IRS Commissioner says even the IRS cannot police this program.

Mr. President, I ask, what are we doing? I hope we will reconsider this. I, for one, will vote against this conference report, even though I will probably be in the minority of one, and I hope that at the appropriate time, I am going to give this opportunity of the Senate itself to vote up or down on whether or not we should start privatizing the collections of our debts owed to the Internal Revenue Service.

Mr. President, I yield the floor.

Mr. SHELBY. Mr. President, I believe some good is going to come out of this debate here on the floor of the Senate because I agree with the Senator from Arkansas that the IRS should and must protect the privacy of all taxpayers not to hand over their tax returns to anyone else, and we are not going to do that in this.

Let me go back to something. The IRS, Internal Revenue Service, actually requested this proposal 2 years ago. The approved budget for the Internal Revenue Service in fiscal year 1994 included funding, at the request of the IRS, totaling $5.790 million in startup funds and 41 full-time equivalent employees. I will quote the IRS document:

> This will enable the Internal Revenue Service collection to contract for a test to determine the effectiveness and cost-benefit of having private sector collection agencies work a portion of the delinquent taxes inventory not being worked due to resource constraints, and so forth. The funds, unfortunately, were reprogrammed to cover costs of locality pay. Let me repeat, Mr. President, there are $70 billion in America in these closed accounts or dormant accounts, uncollectible, growing at the rate of $10 billion a year. I do not know how much of these dormant accounts—$70 billion now, and next year it will be $80 billion, getting on up toward $100 billion. That is a lot of money in America. If these taxes are owed—and most of them are not even disputed, it is my understanding—we should collect them. These are owed taxes. If we can collect them, it helps us in our expenditures here in the Congress. It means people are not going to be deadbeats in this country, and that we will have to levy fewer taxes elsewhere. I think it is a good start. It is a pilot program, and I think it makes sense.

I do want to continue to work with my friend from Arkansas to make sure that the American taxpayers' privacy is protected. Their returns are not put out of the IRS, but as far as what they owe and who they are, I do not see any privacy on that. That is everywhere in America today. You can pick that up on a credit report.

Mr. PRYOR. Will my friend from Alabama yield?

Mr. SHELBY. Yes.

Mr. PRYOR. Mr. President, I want to ask my friend from Alabama, how are these new collectors going to be paid?

Mr. SHELBY. How will they be paid? We have not received the directive from the IRS. But I hope they will be paid on what they collect, a percentage of what they collect. In other words, I certainly would not want to pay them a salary. I do not believe they would be as diligent or that they would work as hard. Billions of dollars in America is collected each day, probably based on incentives. Incentives do matter. As with the Department of Education debt collection contracts, the base compensation, I hope, would be calculated as a percentage of account dollars collected, or included in repayment schedules agreed to by the debtors. Also, a competitive environment would be structured so that it would reward productive contractors who comply with the law and who do not generate debtor complaints, do not abuse people and penalize unproductive or compliant ones. That is who we look forward to working with.

Mr. PRYOR. Mr. President, in the 1988 taxpayers' bill of rights, on which the Senator from Alabama was a helpful participant, we abolished the quota system. We said to the regional district offices of the Internal Revenue Service, you may not promote or demote your employees based upon what they collected or what they did not collect. We sent a message throughout the IRS collection system: No quotas, no bounties.

The Senator from Alabama has just stated he hopes that they are paid on a percentage. That is a bounty. That is a quota. That is going directly contrary to the 1988 taxpayers' bill of rights.

Mr. SHELBY. This is a lot different, if I can respond. That is different from an IRS auditor coming in and auditing Mr. and Mrs. John Jones' account, and the more they found, the more they get working as an IRS employee. These efforts will be directed at collecting debts that are not in dispute, debts that have been arrived at as owed, debts that have basically been forgotten, as I said, to the tune now of $70 billion. There is a lot of difference between that and protecting someone who the IRS is auditing or having a tax dispute with. This is not a tax dispute. This is a debt owed. There is a lot of difference.

Mr. PRYOR. Mr. President, to conclude, my friend from Alabama has stated that the IRS has requested this. The IRS did not request this authority. This administration did not request this authority. The present IRS Commissioner did not request this new authority. In fact, the present IRS Commissioner has said she does not think it will work. She is raising the questions that, today, are unanswered.

I hope that my colleagues from both of the committees and both managers—each of the managers, I should say, of this conference report will understand my voting "no" on this. It is nothing personal against them. But I am going to continue this fight to try to strike this from the law of the land when we adopt it.

Mr. SHELBY. Mr. President, I ask unanimous consent that the fiscal year 1994 compliance option request regarding the budget, where the IRS requested this, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1994 COMPLIANCE OPTIONS

Key Area: Accounts Receivable.

Concern: Implementation of Private Collection Agency Program Pilot Objective.

We are requesting the direct hire of 41 FTEs and $5.790 million in start up funds. This will enable the IRS Collection to contract for a test to determine the effectiveness/cost benefit of having private sector collection agencies work a portion of delinquent taxes inventory not being worked due to resource constraints.

PROGRAM AREA

A feasibility study on contracting our collection work was completed by a cross-functional group in December 1991. This group concluded that contracting out could be an effective means to address portions of the Collection inventory that have not been worked, or that have been worked with little or no revenue collected. Benefits of this approach would include a direct reduction in accounts receivable dollar inventory (ARDI), and a reduction of taxpayer burden.

A test using commercial vendors to collect delinquent taxes will require the establishment of a national program office to plan and oversee implementation of the pilot test site. Collection agencies would be involved with the collection of accounts with a balance due of $10,000 or less, or accounts receivable deemed too low for immediate IRS involvement. This project requires a national centralized focal point to oversee the program development and to complete testing before implementation. This proposal has the potential to reduce excessive taxpayer burden while increasing revenue.

In addition to personnel this initiative will require start up funds for contractual services. It is not anticipated that the IRS will be able to have a normal business relationship with the collection agencies involved with this program. In the private sector, accounts receivable are collected or sold to a vendor who then retains a portion of the receipts as payment. The IRS must receive the entire portion that is to be applied towards the taxpayer balance due. Then a prearranged payment would be paid to the vendor. We estimate $12.5 million would be needed up-front, $5.790 million in FY94 and $6.710 million in FY95.

TYPES OF EMPLOYEES

We are proposing the direct hiring of 41 FTE/positions, to be distributed as follows: 14 positions to be hired by the beginning of the first quarter of FY 1994 for the project office; 17 positions to be located at the ACS test site location; and 10 positions will be located at the Service Center support site.

HISTORICAL DATA

This is a first time pilot, there are no historical records.

	Fiscal year—		Total
	1994	1995	
Revenue:			
Projections	$26,859,000	$34,993,000	$61,852,000
Cost	(5,790,000)	(6,710,000)	(12,500,000)
Net Revenue	$21,069,000	$28,283,000	$49,352,000

ASSUMPTIONS

Benefits of this contracting approach would include a direct reduction in ARDI, and a reduction of taxpayer burden.

We assume a collection rate of 5% of the case value.

The test is scheduled to start in January of FY94; 75% of the revenue is reported in FY94 and 25% in FY95.

As of June 1992 inventories in the queue and currently not collectable (CNC) were as follows:

	Queue	CNC	Total
Taxpayers	470,000	1,400,000	1,870,000
Dollar/value (billions)	3	30	33
Avg dollars per T/P	6,410	21,311	

This request is for a limited one year controlled pilot. The experience gained through a pilot test would enable the Service to better evaluate the concept's direct benefits and costs, and to measure public acceptance. The contract would include a one year renewable option for FY95.

METHODOLOGY

Contract out approximately 100,000 cases (taxpayers) from the two categories listed.

The mix of cases will be approximately 60,000 out of the queue and 40,000 from CNC.

The average dollar per case is assigned to the number of cases that will be contracted out in each area:

	Queue	CNC	Total
Taxpayers	60,000	40,000	100,000
Avg dollars per T/P	6,410	21,311	
Dollar value (thousands)	384,600	852,440	1,237,040

Dollars collected would be approximately 61,852,000, (5% collection rate).

The contract will be a fixed price deliverable contract with an award fee pool, i.e. a fixed price per module with an award if the contractor does an excellent job. The total cost is based on the industry standard, which is 20% of what is collected, approximately $12,500,000.

$5.790 million will be needed in FY94 and the other $6.710 million in FY95.

FISCAL YEAR 1994 COMPLIANCE OPTIONS, DIRECT ENFORCEMENT REVENUE AND COSTS

[Dollar amounts in millions]

Options	Fiscal year—		Dollars collected by fiscal years—					
	1994 FTE	1994 Cost	1994	1995	1996	1997	1998	Totals
International Issues	177	$30.5	($1.9)	$1.0	$10.1	$13.5	$27.7	$50.4
Private Debt Collection	44	12.6	26.9	35.0	0	0	0	61.9
Bankruptcy	60	3.4	23.6	35.0	39.9	44.3	44.3	187.1
High Income Individual	160	12.1	(4.9)	(3.0)	12.4	27.4	37.8	69.7
Employment Issues	414	31.6	1.9	17.7	77.7	108.7	127.0	329.2
Accounts Receivable	529	24.8	61.8	128.8	231.9	247.4	247.4	917.3
Non—Filers	358	20.3	9.7	73.7	201.4	294.1	315.6	894.5
Information Reporting	109	4.3	0	57.0	63.0	63.0	63.0	246.0
Underfunded Pension Plans	43	2.9	0	0	0	0	0	0
Electronic Filing Fraud	81	5.0			Not quantifiable			
Motor Fuels	25	2.6			Not quantifiable			
Grand total	2,000	150.0	13.3	345.2	636.4	798.4	862.8	2,756.1

Note: It is important to realize that the direct enforcement revenue listed above does not represent the total revenue that will eventually be realized through our enforcement efforts. Indirect revenue will occur as a result of influencing the voluntary compliance of not only the taxpayers undergoing enforcement, but also other taxpayers such as relatives, friends, and neighbors. Depending on the compliance option, the amount of indirect revenue will vary.

FISCAL YEAR 1994 COMPLIANCE OPTIONS

	Revenue Scored by OTA by fiscal year—					
	1994	1995	1996	1997	1998	Total
International issues	($1.9)	$1.0	$10.1	$13.5	$27.7	$50.4
Private debt collection	26.9	35.0	0	0	0	61.9
Bankruptcy	23.6	35.0	39.9	44.3	44.3	187.0
Collection	4.8	10.0	14.9	19.3	19.3	68.3
Chief Counsel	18.8	25.0	25.0	25.0	25.0	118.8
High income	(4.9)	(3.0)	12.4	27.4	37.8	69.7
Employment issues	(1.9)	17.7	77.7	108.7	127.0	329.2
Collection	6.4	15.3	32.4	36.6	37.0	127.7
Examination	(8.3)	2.4	45.3	72.1	90.0	201.5
Accounts receivable	61.8	128.8	231.9	247.4	247.4	917.3
Non-filer	9.7	73.7	201.4	294.1	315.6	894.5
Collection	5.8	15.9	22.1	23.2	23.2	90.2

FISCAL YEAR 1994 COMPLIANCE OPTIONS—Continued

	Revenue Scored by OTA by fiscal year—					
	1994	1995	1996	1997	1998	Total
Examination	3.9	57.8	179.3	270.9	292.4	804.3
Information reporting	0	57.0	63.0	63.0	63.0	246.0
Total	113.3	345.3	636.4	798.4	862.7	2,756.1

Mr. SHELBY. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. SHELBY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report to accompany H.R. 2020. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Indiana [Mr. LUGAR] is necessarily absent.

The PRESIDING OFFICER (Mr. ABRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 576 Leg.]

YEAS—64

Abraham
Ashcroft
Bennett
Bond
Bradley
Breaux
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kohl
Kyl
Leahy
Lieberman
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—34

Akaka
Baucus
Biden
Bingaman
Boxer
Brown
Bryan
Bumpers
Conrad
Dorgan
Exon
Faircloth
Feingold
Feinstein
Glenn
Harkin
Hollings
Kennedy
Kerry
Lautenberg
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Snowe
Wellstone

NOT VOTING—1

Lugar

So, the conference report was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate recedes from its amendment numbered 132.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

BUDGET IMPASSE

Mr. KENNEDY. Mr. President, the current budget impasse demonstrates the harsh and unacceptable priorities of the Republican majority in Congress. As the past 2 days have shown, our Republican friends are prepared to hold the entire Federal Government hostage to their extreme agenda. Their price for keeping the Government open is to abandon senior citizens on Medicare and families struggling to educate their children. Their price is too high and their tactics are irresponsible, and President Clinton is right to reject them.

It is wrong for our Republican friends to sacrifice the rights of students and senior citizens on the altar of tax breaks for the wealthy. The American people did not think they were voting for deep cuts in Medicare and education in 1994, and they are not going to vote for anti-Medicare, anti-education candidates in 1996.

Make no mistake, balancing the Federal budget is not the issue. We all agree that the budget should be balanced and must be balanced, but above all, it must be balanced fairly. The fundamental issue that divides Democrats and Republicans is not whether to balance the budget but how to balance the budget. We can debate these issues responsibly. It is reckless and irresponsible for the Republican majority in Congress to shut down the Federal Government because they cannot get their way. They do not deserve their way, and they will not get their way.

Democrats categorically reject Republican priorities that would balance the budget on the backs of senior citizens, students, and working families to provide payoffs to the privileged and confer lavish tax breaks worth hundreds of billions of dollars on the wealthiest individuals and corporations in our society.

In education, the Republican budget bill is a bust for students and a bonanza for big banks. It is wrong to dismantle the highly successful Direct Student Loan Program. It is wrong to prohibit colleges and universities from choosing and using a loan program that provides the best service and the lowest cost to students. It is wrong to tilt the playing field and funnel $100 billion in new business over the next 7 years to the banks and guaranty agencies in the student loan industry. I say let competition work. Let the best loan program win.

Whatever happened to the Republican belief in competition? The President had signed a law that went into effect in 1993 to provide for a transition and a real competition between direct loan and the guaranteed student loans. Republicans and Democrats alike had worked towards a real compromise.

There were many who wanted to go immediately to direct loans. There were others who wanted the guaranteed loan. So we created a compromise that permitted the universities and colleges of this country to move gradually towards the Direct Loan Program, and they have been moving forward with that Direct Loan Program.

There are more than 1,450 colleges that have that. It is interesting that there is not a single college in the United States that has moved from a Direct Loan Program back to the guaranteed loan. Not one. And there are scores of them that want to move the other way.

But under this particular proposal, what we are doing is actually carving out a very narrow sliver of the whole loan program to the direct loan, some 10 percent, and giving the other part to the guaranty agencies. Almost $100 billion will flow through them and the profits will be anywhere from $7 billion to $9 billion. Those will be out of the pockets and pocketbooks of the parents primarily and the students over the period of these next 7 years, and that is wrong.

We say, "OK, let's leave it up to the universities and colleges." Let them make the choice whether they want the guaranteed loan program, on the one, or the direct loan on the other. We have offered that. Let the colleges make the choice. That is competition at the local level. But we were refused and effectively closed out from that option.

That is only the beginning of the Republican attack on education. Over the next 7 years, their budget would slash Federal aid to education by an incredible one-third—$36 billion. A one-third cut in education is utterly irresponsible. We ought to be investing more in education, not less. That is our priority, that is President Clinton's priority, and I am confident the American people share it.

The Republicans claim their budget means a brighter future for the Nation's children. In fact, the Republican budget will turn out the classroom lights for millions of the Nation's schoolchildren and no anti-education plan like that deserves to pass. That is included in the Republican program.

What they take is the House appropriations figure, which is $4 billion. We had just over $2 billion in the Senate. I am convinced if we had gone to the conference, it would have been closer to the Senate, given the votes that have taken place here in the Senate on the education issue where we had bipartisan support, 67 to 32, when we had the vote on the Snowe-Simon amendment some time ago and the other actions that were taken on the compromise here.

We restored money in education, and what did the continuing resolution do? It took the lower figure between the House and the Senate, $4 billion cut and said you only have to spend 60 percent of what was being spent last year. That is effectively undermining in a dramatic way major education programs, whether it is the Head Start Program, the math and science programs for elementary schools, the whole school reform program, the drug-free school program, and many others, and that is basically wrong.

Excessive cuts like that break faith with families across America struggling to educate their children. Extreme cuts like that walk away from 30 years of bipartisan cooperation to improve education. Up to this year, we had bipartisan support. If you look over the last Congress, in 1992 through 1994, when we reauthorized the Head Start Program, when we reauthorized title I, $6.6 billion to reach out to needy children to help them with math and science, when we passed the Goals 2000 program to commit 90 percent of the funding to go to local schools and parents in local communities to enhance academic achievement, when we passed the School-to-Work Program, when we passed the Direct Loan Program, every one of those had bipartisan support. Only a handful of Republicans voted against it. Effectively, what happened in the 1994 legislation that said we have to wipe those programs out—I did not hear that point being made by our Republican friends in the course of the 1994 election, and we should not effectively undermine that important commitment to the young people in this country.

Mr. President, over the next decade, the number of school-aged children will rise to 50 million. That is almost double the number in the Sputnik era, a generation ago, when nobody questioned that educating our children was an urgent national priority. We are increasing the total number of children and effectively seeing the significant cuts by a third of all of the programs dealing with K through 12.

Now is no time to cut education. Education is the key that unlocks the American dream. Cutting education as we struggle to meet the challenge of the information age is like cutting national defense at the height of the cold war.

Senior citizens are targeted by the Republican budget. In the bill vetoed by President Clinton, our Republican friends were not insisting that Medicare payments to doctors and hospitals be cut as their price for keeping the Government open. They were not insisting that fraud and waste be squeezed out of Medicare. They were not insisting that senior citizens get the preventive care for outpatient services that they need to keep them out of the hospital to reduce Medicare. The right way instead of the right wing way. The only provision our friends insisted on was a new tax on senior citizens in the form of higher Medicare premiums.

Speaker GINGRICH makes no mistake about it. He says he wants to see Medicare wither away. Well, with priorities like that, it is more likely that the Republican Party will wither away.

Medicare is part of Social Security. It is a contract between the Government and the people that says, "Pay into the trust fund during your working years, and we will guarantee good health care in your retirement years."

It is wrong for the Republicans to break that contract. It is wrong for Republicans to propose deep cuts in Medicare—three times as deep as anything needed to protect the trust fund. It is doubly wrong for Republicans to propose deep cuts in Medicare in order to pay for tax breaks for the wealthy. It is triply wrong for the Republicans to try to force the President into accepting higher Medicare premiums as their price for keeping the Government open.

Over the period of the last 2 days, I have seen many of the Republican leaders on television, and not one of them mentions their tax cut for the wealthy individuals. I have yet to hear them talk about it on the floor of the Senate. Not one of them goes on television and says, "The reason we need our program, Mr. President, is because we have $245 billion of tax cuts." Not one of them say it. They brought it in here just a few days before we were going to vote on that. It was an add-on, and once they got their commitment in terms of the higher premiums on Medicare, then they went ahead and got their tax cut. We have all known that it has been out there for some period of time. Why do we not, on the level, try to present that to the people and let the American people vote on that issue? They refuse to do so.

So Republican leaders make the preposterous claim that their cuts in Medicare will only affect millionaires. Well, I have news for them. Eighty-three percent of the Medicare spending is for senior citizens with incomes of less than $25,000 a year. Almost two-thirds of Medicare spending is for senior citizens with less than $15,000 a year. These are the people who you are raising the taxes on with the increased premiums on Medicare. On average, because of gaps in Medicare coverage, already high copays, deductibles, and premiums, senior citizens must spend 21 percent of their total income to purchase the health care they need. It is unfair to make them bear the brunt of cuts in Medicare.

The Republican attack on Medicare will make life harder, sicker, and shorter for millions of elderly Americans. They deserve better from Congress, and I believe they will get it.

This cruel and unjust Republican plan to turn the Medicare trust fund into a slush fund for tax breaks for the wealthy deserves to be defeated. Their attempt to force a Medicare premium increase into law to keep the Government running deserved the veto it received.

We can meet our budget goals without undermining education, without undoing Medicare, and without shutting down the Government. I believe that this is a battle that we should fight, rather than cutting the Medicare programs and the key education programs, which are so important for the future.

Mr. HARKIN. Will the Senator yield for a question?

Mr. KENNEDY. Yes.

Mr. HARKIN. The Senator makes a lot of good points about the people that are being hurt out there and are being affected by this shutdown of the Government. I ask the Senator if he knows something or has heard what I have found out today and that I was not aware of. Right now, because of the shutdown in Government, I understand that essential workers go to work. All of our staffs are here at work; committee staffs are here, Senators' staffs, and Representatives' staffs are here. But I just discovered today that when they get their paychecks next week, they are not going to be paid for any days worked after the 13th of this month. Is that the Senator's understanding?

Mr. KENNEDY. Well, I had heard that mentioned by some of our colleagues, but the particular details, I am not as familiar with as the Senator from Iowa. I hope that he will explain that to us.

Mr. HARKIN. Well, I just heard that even though they are essential workers and they have to come to work, they do not get paid. I then found out that it does not just apply to staffs. All the air traffic controllers out there right now working to guide our aircraft—they are working now, and they are essential, but they are not getting paid. So whether it is our staffs, air traffic controllers, or people working at the Pentagon for the Department of Defense, they are working but not getting paid.

I thought we did away with slavery in this country. They have to go to work, but they do not get paid. Now, again, I guess they will get paid later on sometime, but these are people with mortgages, car payments, kids in college, kids in school. They have their bills to pay just like everybody else. But next Monday, when they get their checks, they are going to come up short. However, I think the Senator—I would like to ask the Senator, we do not fall into that category? Senators and Congress are going to get full pay next week when our paychecks come. But staff, air traffic controllers, everybody else, they do not get full pay.

What an abomination. I ask the Senator, it seems to me, did we not pass, earlier this year, a law stipulating that all of the laws that we have in this country have to apply to Members of Congress and the Senate? Did we not pass that bill? I thought we passed a bill that said if we have laws out there, they have to apply to us just like everybody else?

Mr. KENNEDY. The Senator is quite right, with this one exception: We have provided ourselves with universal comprehensive health insurance. We get the choice of some 200 health programs. The Federal Government pays three-quarters of it; we only pay a quarter of it. We have not provided that for the American people. We have provided very good health insurance for every Member here, and it is so interesting that so many of those that were against any kind of health care coverage were the quickest ones to sign up. You can go down in the office of the Secretary of the Senate, and they have a blue sheet down there, and you can go down and check off if you do not want your health care coverage. Every Member in this Senate now has checked that and said that they do want it.

So the Senator is right. We have applied laws to ourselves that cover others, with the important exception that we have not given the American people what we have given ourselves in terms of health insurance, which is another issue at another time. But I think it is always important to mention that, particularly when the total number of uninsured is going up through the roof, particularly children in my State and around this country, and where the cost of health care continues, particularly in prescription drugs, to rise.

Mr. HARKIN. The Senator is our expert on health care. My question was dealing with the staff right now who are not getting paid in the Senate and the House, the air traffic controllers, and the people who work for the Department of Defense. But we do. I thought we passed a law that says that Congress has to live by the laws that the rest of the people do. You pointed out one in health care. Is it not true also that Congress is not applying to itself the very laws that say that those staff people, air traffic controllers, people working for the Department of Defense, essential Government workers, they do not get paid?

But guess what, Senators and Congressmen? We get our pay.

Mr. KENNEDY. That is certainly the way that I understand it, the way that the Senator explained it. I think it is one of the reasons why I think the American people are so frustrated and should be frustrated.

This did not have to happen, does the Senator agree with me? This did not have to happen, to work through this whole kind of a situation where they are halting the Government and effectively blackmailing the President of the United States for the first time in the history of this country, and also loading up the debt limit with similar kinds of activity to try to halt full faith and credit when we ought to be able to, as individuals, be able to work out an accommodation. That is the way it is done around here.

Mr. HARKIN. Will the Senator yield? It seems funny, since Congress has not applied this law to itself—that is, Senators and Congressmen continue to get paid but other Government workers will not get paid.

They are the ones who have mortgages to meet, car payments, kids in school. Does it not seem fair to the Senator that perhaps we ought to take up the Boxer bill and pass it here, that would say that Senators and Congressmen and the Speaker of the House and everybody else, that we put ourselves in the same boat, that we do not get paid either during this same period of time? Does that not seem reasonable?

Mr. KENNEDY. It certainly seems reasonable to me. It would make a great deal of sense.

Mr. HARKIN. I hope that the other side, the Republicans, would agree to bring this up and put ourselves in the same boat as all the other Government workers who are not getting paid and see how long this foolishness will go on if Senators and Congressmen are not getting paid.

Mrs. BOXER. Will the Senator yield?

Mr. KENNEDY. I am happy to yield to the Senator.

Mrs. BOXER. My question is——

Mr. NICKLES. Mr. President——

Mr. KENNEDY. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. I will yield briefly and then I will yield the floor.

Mrs. BOXER. I wanted to ask the Senator if he was aware, because the Senator from Iowa raised the subject, that in fact the U.S. Senate did pass the Boxer amendment which said no budget, no pay.

It was bipartisan. Senator DASCHLE and Senator DOLE helped me get it through. It passed twice. But it is, in fact—and I ask the Senator if he is aware of this—Speaker NEWT GINGRICH who refused to allow it to be voted on on the House side.

Is the Senator aware of that?

Mr. KENNEDY. I was not aware that very sound and worthwhile, valuable suggestion which I supported was sidetracked—Speaker GINGRICH, in other words, sidetracked that measure.

Mrs. BOXER. Yes, I say to my friend, that is true.

Mr. KENNEDY. And as a result of that, we have the inequity which the Senator from Iowa pointed out.

I yield the floor.

MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business, with Senators permitted to speak for up to 15 minutes each, so if we have discussion we can have discussion on both sides of the issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CONTINUING RESOLUTION

Mr. NICKLES. Mr. President, I want to respond to a couple of comments made by my friend and colleague from the State of Massachusetts.

I heard two or three statements that Republicans have a budget and they are trying to balance the budget on the backs of senior citizens and making unrealistic cuts in Medicare would be the thrust. I disagree.

Mr. President, if you look at the Medicare fund, it is going broke. The Medicare system is funded by a payroll tax. All the money goes into one fund. It is financed by a tax that costs right now 1.45 percent of payroll, matched by employer. That is 2.9 percent.

Now, next year the fund pays out more than it takes in. You cannot continue to do that indefinitely. The fund is going broke. The President's own trustees said it is going broke.

Some of us do not want that to happen. Some of us think that would be unfair to seniors. Maybe some of my colleagues on the other side of the aisle say, "Well, do not do anything. We will not solve that problem." I disagree.

Now, there are two ways to solve the problem—either reduce the rate of growth of spending in Medicare, which is, frankly, what we are proposing, or you increase payroll taxes, which is what Congress has done in the past.

Just for my colleagues' information, I looked up years ago what was the history of Medicare taxes. The maximum tax in 1977 was $177. That is employee and employer maximum tax. The maximum tax in 1993 was almost $4,000. So it went substantially from $177 to almost $4,000.

Guess what? The fund is still going broke. So we have increased the tax rates, we have increased the basis. We are spending a lot more money, and still spending exceeds the revenues. Next year, the spending is greater than the revenue in spite of the fact that now there is no cap. It is 2.9 percent of payroll. It can be well over $4,000 and the fund is still going broke.

If it goes broke, it cannot pay the bills. It cannot pay the hospital. It cannot pay the doctor. How is it responsible to allow that to happen? I do not believe it is responsible. So we need to fix it. That is part of our budget.

Somebody says, "Well, you are cutting Medicare." I disagree. This year we are spending $178 billion in Medicare. By the year 2002, we will be spending $286 billion in Medicare. That is an increase. That is an increase at twice the rate of inflation. So, Medicare under our proposal grows twice the rate of inflation, and it stays solvent. We keep the Medicare trust fund solvent for beyond the year 2010. The President keeps it solvent for a couple more years. That is not satisfactory. We are trying to be responsible. Some people are playing politics.

The President is playing politics. The Republicans wanted a 25-percent increase in beneficiaries' payments. That is so demagogic. The facts are, just to be very simple, part B, part B is voluntary. It pays for the doctors. When the system started 30 years ago, it was supposed to be 50–50. Now the percentage that beneficiaries pay is 31.5 percent. That means taxpayers pay 68.5 percent. That means my son and daughter, who are not wealthy by any means but they have jobs, they are helping to subsidize the wealthiest persons' Medicare—they help pay 68.5 percent of the Medicare premium of the wealthiest persons in America.

We are trying to make some changes in that. One, we try and keep the perk at 31.5 percent under our proposal. Anybody that has looked at the problem of financing Medicare says that the Medicare beneficiary should probably pay at least 31.5 percent. Here you have the President of the United States saying that is an outlandish increase in Medicare copayments. No, we were trying to keep the percentage at 31.5 percent.

People should know the country's law says it will drop to 25 percent. Should it drop to 25 percent when it is going broke? We are trying to keep it at that level. Is that an unfair attack on senior citizens to give rich people tax cuts as was alluded to on the floor? Definitely not.

As a matter of fact, we passed a provision that says any increase between the 25 percent and 31.5 percent, 100 percent of that goes into the part A trust fund, which is going broke. Any of the changes that we made in part B, any of the changes we made as increased contributions—and we say wealthier people—we will drop off the subsidies. If they make over $150,000 or something, they have to pay 100 percent of their Medicare payments. We will eliminate the subsidies for wealthier people. I believe that subsidy phaseout begins at $60,000 for an individual and $90,000 for a couple. We say above those amounts —and it takes $50,000, I think, to get to where there is no subsidy—we say above that amount people should pay their own.

I think that is a good proposal. Why should our kids be subsidizing people who have incomes of over $150,000? That is a good proposal. Does that wreck the Medicare system? No. It helps save the Medicare system. It reduces the subsidy that a lot of people are paying for people who can well afford to pay for their own.

I want to make a couple of comments concerning the stopgap spending measure that we in Washington, DC, call a continuing resolution. The President vetoed one that we sent him the other night, on Monday night. I wish he had not. He vetoed it because of the part B, and he demagogued it and maybe scored some points. It might have helped electionwise, but it was bad policy for him to do that. I regret that.

What else did he veto? I met with the negotiators yesterday. And I compliment Senator DOMENICI and Congressman KASICH. And we met with Mr. Panetta and Secretary Rubin representing the administration, we said we will not mess with Medicare. We say what we really want is a commitment to balance the budget in 7 years. So we want to pass a continuing resolution, a stopgap spending bill, that will allow Government offices across the country to stay open, but we want a commitment from them to balance the budget in 7 years.

Mr. Panetta said that is not acceptable. Why? Because we want to use Congressional Budget Office economics because we feel those are more realistic than the Office of Management and Budget, than the President's economic figures. They said it was not acceptable. I will just remind you, Mr. President, that the President of the United States in a speech in the House of Representatives, in a State of the Union speech, said that he would use Congressional Budget Office figures. He did not want smoke and mirrors. He did not want to play games. He said, let us use the same numbers. There was a big round of applause.

Now the President does not want to use the Congressional Budget Office. You say, what difference does that make? I will tell you. Over a 10-year period of time it makes $475 billion difference, the difference in economic assumptions. So you are talking about a lot of difference. That is twice what we are talking about for changes in Medicare and so on. So we are talking about a significant difference.

The President says we can balance the budget just by having greater economic expectations and so on. We are saying, no, let us use realistic numbers, let us use the same numbers the President said he would use 2 years ago. So that is what we are saying. Then we said we want to balance the budget in 7 years.

President Clinton, as a candidate in June 1992, said we can balance the budget in 5 years. In the last 4 months, he has said we should balance the budget in 10 years, 9 years, 8 years, 7 years, and more than 7 years. He said all the above. We believe it should be done in 7 years.

Do we know what is right? Why did we pick 7 years? Because, when we had a balanced budget amendment on the floor of the Senate, we said we would balance the budget by the year 2002, and we said we would try to do it whether we had a balanced budget amendment or not. We happened to think that was the right thing to do. We should balance the budget. That is what this is all about.

Do we want to fund Government? Do we want to shut Government down? No. Do we want to pass a responsible short-term spending resolution? Yes. But we also want the President to start working with us to balance the budget. And, so far, he has been AWOL: absent without leadership. He has not been at the table.

His negotiators have said, send us a bill, we will veto it, and then we will negotiate. Why should we not negotiate now? Why should we not try to solve the problems now, not later, but now? We have not been able to get anybody's attention in the White House to make it happen. We want it to happen. We want to save Medicare and we want to balance the budget and we want to be able to give American families tax relief.

Then I just have to answer the claim that I heard two or three times by my colleague from Massachusetts, when he said Republicans want to make all these changes, they are cutting all this spending, and they want to do it so they can give their wealthy friends tax cuts. I disagree.

Are we cutting spending? Not really. Today we are spending $1.5 trillion. In 7 years we are going to spend almost $1.9 trillion. Spending rises every single year.

Do we slow the growth of spending? Yes. Do we curb the growth of entitlements? Yes. Have we done that before? For the most part, no. Congress has never really had the courage or the leadership to slow the growth of entitlements, and some entitlement programs have been exploding. So now we are saying, let us control their growth. In most cases, like Medicare, it is growing at over twice the rate of inflation. But we can do that and balance the budget, moderate their growth and save Medicare.

All the savings in Medicare go in to help save the Medicare fund, so Medicare reductions in growth have nothing whatsoever to do with tax cuts. But we are saying we can make this slope. We can actually make it happen, balance the budget by the year 2002, and allow American families to keep more of their hard-earned dollars.

Over 70-some-odd percent of our budget, 75 or 76 percent, is directed toward American families. The bulk of that is the $500 tax credit per child. Most all that—we passed it in the conference—it comes out to individuals who make less than $70,000 or families who make less than $110,000. So we target it toward working families who are paying taxes. Then they can use that.

If you have two kids, that is $1,000 a year. If you have four kids, that is $2,000 a year. If you have an income of $24,000, you will not pay any income tax. If you have income of $30,000 with two kids, we just cut your tax in half. If you have income of $40,000, we just cut your income tax by a fourth. If you have income of $75,000, we did not reduce your tax very much percentagewise, but we still allow that person to have $2,000 more. If they have four kids and they can send their kids to college, that will help them make that decision. People will be able to make that decision, not Government. To me, that is very profamily.

We do some other things. We have some IRA enhancement so people can be encouraged to save. We have some inheritance tax changes so people can be encouraged to build a small business and pass that on to their children and grandchildren. There are some very positive things in this bill that I think would be supported and should be supported by both Democrats and Republicans, and we do it in a responsible fashion.

Mr. President, I have been here for 15 years and we have never voted for a balanced budget. We have never voted for the implementing legislation to make it happen. Now we are talking about doing it.

Granted, the White House does not want to participate. They do not want it to happen. But we are really serious about making it happen. We want to balance the budget.

To me, this battle is not about who wins, Democrats or Republicans. It is who wins as far as our children are concerned. Are we to continue piling up debt after debt after debt?

The President's budget, according to CBO, has $200 billion deficits as far as the eye can see. For 7 years, 10 years, it is over $200 billion and climbing. That is not acceptable. That is not realistic. It needs to be changed.

We are trying to convince the President he is going to have to negotiate with us to get us to a balanced budget. He says he is for a balanced budget; he just does not have one. We are producing one, and hopefully in the next couple of days we will vote on one.

Mr. President, I am optimistic. I hope the President and his advisers would quit saying "what makes me look better in the polls" instead of saying what is right for America. I know some of the President's advisers, and I know they know we can never ever get to a balanced budget unless we start curbing the growth of entitlements, which is about $1 trillion out of a budget today that is $1.5 trillion. They know you cannot say we are going to balance the budget and only work on a third of the budget. They know you have to work and really look at the entire budget, and that is what we are trying to do.

So I urge the President—I hope we send the President a short-term spending bill tonight. I believe the House will be taking up one soon. That bill will be a continuation—it will be a short-term spending bill, and it will also have language that we should balance the budget with real economics by the year 2002.

I hope the President receives that bill tonight. I expect he will receive that bill tonight, and I hope he will sign it. Thousands of people can go back to work and we can go back to work and we can finish our business, and that business should include balancing the budget. To me, that is not a victory for Republicans or Democrats; it is a victory for Americans. That is what we should be doing. That is what this Congress has been working on for the most part of this year, and now it is coming to a crisis point; it is coming to a head. Now is the time to do it. In my opinion, if we send the President a clean CR with language that we should be balancing the budget in 7 years, he should sign it, and I hope he will.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

A BALANCED BUDGET

Mr. THOMPSON. Mr. President, I think the Senator from Oklahoma has hit upon the real issue. I think it is important that we get back to the real issue, focus on the real issue, what all this complex debate is about. It simply boils down to whether or not we want a balanced budget—whether or not we want a balanced budget. All the discussion, all the debate, all of the figures, all of the back and forth—do we want a balanced budget, and what are we willing to do to achieve it?

Everybody says they want a balanced budget. Everybody gives lip service to a balanced budget. We came close to passing a constitutional amendment, lacking one vote, to balance the budget, and everybody said we do not need a constitutional amendment. All we have to do is balance the budget and do the right thing. The day of reckoning now has come, and we are challenged to do the right thing.

Why does everybody admit that we have to have a balanced budget? It is because of the simple fact we are in the process of bankrupting the next generation. The fact we say it over and over again, like water rolling off a duck's back, does not make it any less true.

That is what is happening. That is why many of us ran for office. That is why many of us came here—not because we want to say no to anybody; not because it will not be more comfortable to have business as usual, continue the same programs, the same levels of spending, and making everybody happy; not because of that but because we realize that there was going to be some heavy lifting to do. That is a challenge for a serious person.

I like to think there are a lot of serious people addressing this. Now the very people who are crying the loudest over students—who are the purported defenders of the elderly and all of the other people who these large deficits are hurting and creating a Nation and an economy that will hurt them because of the deficit presided over this last 30 years with the lack of a balanced budget—perhaps can tell those of us who have not been here that long why, if they are concerned about all of these little people, they allowed this country to get into the shape of a $5 trillion debt. They say, "Well, the Republicans were in the White House part of that time." That is true. The Democrats controlled the Congress almost all of that time. And that is true.

And half the time that I listen to the debate here it is "who shot John?" Who is the bigger person that is the most blameworthy in all of this debate? We have to get past that. We have to get past this idea that one side is for the average person and the other side is not.

The real issue here is whether or not we want to balance the budget. The President says now that he wants a balanced budget. But the American people are gradually going to focus in on the fact that the President, and those that are supporting the President in this deadlock that we are in right now, are twisting and squirming and maneuvering all the time they say they want a balanced budget to do everything in the world to avoid a balanced budget. Why would they want to do that? Because, if we have a balanced budget, we cannot continue to spend the way that we have been spending for the last 30 or 40 years in this country. And everybody likes to spend.

In all of the congressional hearings we have up here nobody comes up here and testifies, "Please cut out our grant." Nobody comes up here and testifies that "we get too much money." Everybody loves spending. Everybody wants a little more. Everybody wants their nose in the trough, and everybody has been there for the last several decades in this country. Now we have to decide not who is going to give lip service to a balanced budget but who is willing to do what is necessary.

The fact of the matter is that the irony is if we act now, if we do a responsible thing now in order to get a balanced budget, a major step toward a balanced budget, we do not have to engage in draconian measures. We can make some incremental adjustments. We will be spending more money.

The Senator from Oklahoma pointed out that over a 7-year period we will be spending more money—$1.9 trillion in this country. We do not have to hurt anybody. But we have to get to our job. We have to start down that road toward what everybody says they want. Everybody wants to go to Heaven. Nobody wants to do what is necessary to get there.

The President now has figured out, apparently, how we can balance the budget without really making any incremental adjustments. He decided to turn his back on his own figures that he said he wanted—the Congressional Budget Office figures over all these years to let his staff come up with new figures, and they produced about a half a trillion dollars out of thin air because they changed the estimates. They changed some estimates, projections, and figures and said, "Well, we do not really have to do anything." Of course, that will get them past the next election, will it not? It will get them past the next election before that little house of cards comes tumbling down just like every other projection in this country over the last decade has come tumbling down.

We are trying to use real figures over here. The President said during the campaign that he had a plan to balance the budget in 5 years. Then when he is submitting his budget, everybody kind of looked at it, and said, "Well, that is $200 billion a year of deficits as far as the eye can see." They kind of acknowledge that was the case.

Then the President said, "Well, we need to balance it maybe in 10 years." Then, since that time, he has been at 7 years, 8 years, and 9 years, too, I think. I do not think he has gone back to 5 years, or anywhere along the line.

Then he submitted another document purported, I guess, to be a budget document that has the new figures in it. Lo and behold, we really do not have to make many adjustments at all because we have this windfall over $400 billion because he is using the figures now that he derives from his own staff. Bobbing, weaving, turning, and twisting all the time saying he wants a balanced budget but every few days coming up, "Well, we can do it in this number of years," changing to, "No. We can do it in that number of years." One of his advisers, Ms. Tyson, who says somewhere along the line we do not really need to have a balanced budget. It would hurt us to have one. The next day, I guess we really do. But we should not have it before 10 years.

Are these the comments, are these the actions, of a serious leader who really wants a balanced budget? Are these the actions of someone trying to get past the next election giving lip service to a balanced budget but not willing to do one thing—not willing to say to anybody that we cannot continue your program with a 10 percent increase a year, we can continue it maybe at 6.4 percent? I think the answer to that is clear.

But the President bobs and weaves, twists and turns, and now his latest impasse when legislation was sent down with the Medicare provision is that he cannot go along with the submission because it is raping Medicare, and we are trying to do all of these terrible things. A person dealing with the complex issue who is willing to use scare tactics—and he has the most bully of all pulpits—is going to win that argument in the short run because you can scare people on these important matters and complex issues. It takes a while for it to set in. But the truth does set in, and it will set in just like on his health care plan.

The President now says with regard to Medicare part B—and everybody acknowledges that Medicare is in terrible shape, and going bankrupt—but he wants a temporary reduction in premiums until the next election, a temporary reduction in premiums when he and all of his advisors have acknowledged in times past that premiums are going to have to be increased. What is the difference between the increase that we are saying is going to be necessary to save it and the increase that the President says is necessary? Four dollars by the year 2002; a $4 difference. We are $4 higher than he is.

If he can convince the senior citizens and get them so excited, and appeal to the worst instincts of the American people in terms of greed and selfishness, that they are not going to be willing to make any incremental adjustment, even to the extent of $4 for the benefit of the next generation, then I guess this is a hopeless cause. But I do not think we have come to that point yet.

But this is what he is trying to sell. This is what he is trying to sell at a time when it is going bankrupt, at a time when everybody knows we have to make some incremental adjustments. Between now and next November he wants actually those premiums to be able to decrease at a time when everybody knows they have to go up a little bit, and even acknowledges it but he is waiting until after the election to do it.

Why resist the balanced budget this strongly? Because spending is a hard habit to break. I guess there is nothing more attractive politically in this entire world than the proposition and the idea of being able to have your cake and eat it too. And if the American people can be convinced that the President really wants a balanced budget but that we really do not have to do anything in order to achieve it, and that anybody who suggests we have to make incremental adjustment is against students, or against his own parents, or against retirees—if a person is willing to play that game, he is going to make some points. But he is not going to win because I think people understand that is a short-term game, and that we have a long-term problem; and that, if we will face up to what we need to do, we will have to make some short-term adjustments but we will have some long-term benefits that will inure to the benefit of our children and our grandchildren that we will be extremely proud of.

The Heritage Foundation just this month issued a report using a widely regarded model of the U.S. economy and found that balancing the Federal budget between 1996 and 2002, and cutting taxes, caused the economy generally to grow more than not balancing the budget and cutting taxes. According to this simulation that they used, the balanced budget plan with tax relief would mean that gross domestic product would grow by $10.8 billion more than under current law by the year 2002. If we balanced the budget, we would get an additional $32 billion in real disposable income over that period of time. If we balanced the budget, we would have an additional $66.2 billion in consumption expenditures over that period of time. If we balanced the budget, we would have an additional $88.2 billion in real nonresidential fixed investment over that period of time.

If we balanced the budget, we would have a decrease of four-tenths of 1 percent in the conventional mortgage rate in this country. That means that a balanced budget with tax relief will save a home borrower of $100,000 about $10,000 over the life of a 30-year mortgage. If we are concerned about working people and middle-income people in this country, we need to balance the budget. People out here trying to buy a home, seeing their wages stagnated, young working people's wages actually going down, interest rates being what they are, trying to borrow, what are they going to be if we do not balance the budget? The tax rate, some say, will be 70, 80 percent if we do not balance the budget—astronomical interest rates.

Here is the result if we do balance it: additional construction of over 104,000 new family homes over the next 7 years; the additional sales of 100,000 automobiles over the next 7 years worth $10 billion, and a decrease of 7 percent in the growth rate of the Consumer Price Index, a decrease in the Consumer Price Index for things that average people go to K-Mart, Wal-Mart, or whatever, and buy.

It is not all gloom and doom. It is not all gloom and doom. We are going to have to reduce the rate of growth in some of these programs without question. But after that, we stand to see real long-term benefits in this country.

So again, Mr. President, let us get back to the real issue. The real issue is whether or not we really want to balance the budget in this country and whether or not we really want to give any more than lip service to it. We are at a point now where we are either going to put up or shut up.

The President of the United States needs to know that there are many of us here who would like to work with the President. We would like to do this thing together. I think ultimately we are going to have to do a lot over the next several years to get this job done. It is not a 1-year deal. Ultimately, it is going to have to be Democrats and Republicans together, it is going to have to be the Congress and the White House. I would like to get on about that. But if he is going to continue to stand in the way of what we all know has to be done, he ought to know there are some people in town who are just as stubborn as he is. And if we were not willing to finish the job we came here to do, we would not have taken the job in the first place.

ORDER OF PROCEDURE

Mr. THOMPSON. Mr. President, I ask unanimous consent that the Senate now stand in recess subject to the call of the Chair.

Mr. EXON. I object.

The PRESIDING OFFICER (Mr. GRAMS). Is there objection?

Mr. EXON. I object.

Mr. THOMPSON. I suggest the absence of a quorum.

Mr. BUMPERS. Will the Senator yield for 1 minute? Will the Senator yield for 1 minute prior to the quorum call?

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. THOMPSON. I object.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Is there objection? Objection is heard.

The clerk will continue to call the roll.

The legislative clerk continued with the call of the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The legislative clerk continued with the call of the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The legislative clerk continued with the call of the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. NICKLES. Mr. President, I ask unanimous consent that there now be 1 hour of debate equally divided under the control of Senator EXON for 30 minutes and Senator SANTORUM for 30 minutes; at the conclusion of that hour that the Senate would stand in recess subject to the call of the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Reserving the right to object, and I will not object, I would just correct that to say that I believe the intent is it would be under the control of Senator EXON or his designee. Is that correct?

Mr. NICKLES. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I yield myself 10 minutes under the unanimous-consent agreement just agreed to.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

BALANCING THE BUDGET

Mr. EXON. Mr. President, those who are watching the debate on television might wonder why it was that it took us so long to get to this point. Actually, this Senator had sought recognition, the Senator from Arkansas was about to seek recognition, when we were suddenly cut off with the quorum call. I am glad that the Republicans have come back and seen the light to allow us at least to discuss a proposition that is very vital to America.

As I understand it, we are awaiting the offer by NEWT GINGRICH from the House of Representatives. It would be a continuing resolution to some time in the future, maybe 10 days, maybe 15 days, and stripped of all other extraneous matters except—I underline except—the proposition that we would have a balanced budget by 7 years using CBO's estimates.

That is exactly what was proposed to us yesterday during a conference that I was a part of. I will simply say to you, Mr. President, that this Senator is for balancing the budget in 7 years. I voted for a constitutional amendment to do that. The record of this Senator in fighting for control of spending in the United States and getting our budget under control is very clear, if not legendary.

I would simply say, if we accept the continuing resolution that the Republicans have come up with, I would simply compliment them and compliment them and compliment them for the fact, after we have been pounding this podium now for almost a month, that they have finally conceded that they are not going to insist on making cuts in the Medicare proposals. At least that would be a major victory for us. And I salute them for finally recognizing the failure of their ways in that regard.

However, I would say, Mr. President, that if we accept the continuing resolution, then that continuing resolution is essentially what the Republicans offered to us yesterday, which was rejected by the administration and, I suspect, will be strenuously objected to by the majority of the Democrats. This is a shell game that is going on because, if we accept this continuing resolution, had we Democrats and the White House accepted yesterday this same offer that was offered to us in the daylong negotiations, we would essentially be locking in the Republican budget that they are trying to force down our throat and that of the American people.

They would essentially have guaranteed the $245 billion tax break for the wealthy. They would essentially guarantee a dramatic cut in the projected spending of Medicare. They would continue the unfairness that is part and parcel of their budget. What this continuing resolution is, as I understand it, is another clever means—another clever means—of trying to fool the American people.

I emphasize that this Senator is for a balanced budget in 7 years. And as the Democratic leader on the Budget Committee, I am fashioning such a program that I will offer at an appropriate time. But I am not about to sign on, and I hope none of the Democrats will, and enough of the Republicans—to stop it. If they do not, the President will veto it, in any event.

I want to explain what they are doing. They are trying to put into law in the continuing resolution the basic unfairness of the budget that they are proposing. I would also point out, Mr. President, that all during the so-called budget deliberation, the Democrats have not been involved. I am a member of a conference with the House of Representatives on four matters: the debt ceiling; debt rescission bill that we hope to receive sometime tonight that they want us to vote on even before we see the numbers; the matter of the line-item veto, which I joined with the Republicans in getting passed, but after we passed it they wanted to make sure that this President did not have a line-item veto until they got their unfair budget bill passed; and I am also a conferee on the defense authorization bill, which is a very, very important matter.

I would simply say that in all of these matters, Mr. President, I am a conferee, but I have not even been conferenced by the Republicans. They have gone behind closed doors, shut out the minority Democrats, done what they want, stamped "Republican fairness" on it, and sent it on its merry way.

Mr. President, there is so much wrong with the procedures that are going on in the U.S. Senate today that I am ashamed, and I would best describe it as "a swamp." It is not part of the deliberative body that this body has been known for for a long, long time.

To sum up as best as I have ever seen it summed up was an editorial in U.S. News & World Report, that of November 13, 1995, by David Gergen. I am going to read that, Mr. President, because I think it puts all this in proper perspective. It exposes this once and for all by David Gergen, who is now an editor at large with the U.S. News & World Report, but is better known as a very prominent Republican who served with great distinction in the White House under President Ronald Reagan.

Here is what he has to say in the editorial of the date I mentioned:

THE GOP'S "FAIRNESS DOCTRINE"

Give credit where ample credit is due: True to their campaign promises, Republicans in Congress are forcing the country toward a balanced budget. Only once since the Eisenhower presidency has the nation written its ledgers in black ink. Now, doing what Democrats would not, the new GOP majorities are trying to restore a habit of self-discipline.

But in the eagerness to satisfy one principle, fiscal responsibility, the Republicans would ask the country to abandon another, equally vital, principle—fair play. This is a false, cruel choice we should not make.

When George Bush and then Bill Clinton achieved large deficit reductions, we pursued the idea of "shared sacrifice." Not this time. Instead, Congress now seems intent on imposing new burdens upon the poor, the elderly and vulnerable children while, incredibly, delivering a windfall for the wealthy.

Proposals passed by the House and Senate would rip gaping holes in the nation's social safety net, already low by standards of advanced nations and once considered sacrosanct. Consider how much Congress would extract from projecting spending for key social programs over the next seven years: $169 billion from Medicaid, $102 billion from welfare, $27 billion from food assistance, $133 million from Head Start, at least $23 billion from the earned income tax credit—a program enacted in the 1970s that Ronald Reagan called "the best antipoverty, the best pro-family, the best job-creation measure to come out of Congress."

This assault doesn't even count the $270 billion reduction in projected spending for Medicare that is frightening senior citizens and could further squeeze public hospitals. Nor does it include the possible elimination of federal standards for nursing homes—standards signed into law by Reagan to stop rip-offs of the elderly.

Now consider how our more fortunate citizens make out under these proposals:

Left largely unscathed are billions in subsidies, tax loopholes and credits for corporations.

Left largely untouched are many sacred cows—such as the mortgage interest deduction—that benefit middle- and upper-income groups.

And for sweeteners, Congress would throw in $245 billion of tax cuts (especially wrongheaded because well-to-do Americans aren't seeking them while hard-pressed Americans won't qualify for them).

U.S. News reported last week that internal studies by the executive branch estimate that the lowest 20 percent of the population would lose more income under these spending cuts than the rest of the population combined. At the other end, the highest 20 percent would gain more from the tax cuts than everyone else combined. Republicans are probably right that these estimates, coming from Democrats, are skewed. But no one disputes the basic contention that the burdens and benefits are lopsided. In a nation dividing dangerously into haves and have-nots, this is neither wise nor just.

Arguments advanced by proponents simply aren't persuasive. States will take over many of the social programs, it is said, and will make the poor whole. Huh? Who believes that in this climate state legislatures will raise taxes to help poor kids? Many of these social programs are broken, it is said, so they must be overhauled. True, there are many abuses, but we should protect the truly needy while we punish the greedy. Sometime tomorrow, it is said, balancing the budget will help everyone in the younger generation. True, but why shouldn't we all share the same sacrifices today?

Ronald Reagan is often invoked as the patron saint of this revolution. How soon we forget that as president, Reagan insisted that seven key programs in the safety net—Head Start, Medicare, Social Security, veterans, Supplemental Security Income, school lunches and summer jobs for youth—would not be touched; now, six of those seven are under the knife. Reagan believed, as he said in his memorable address accepting his party's nomination in 1980, that "we have to move forward, but we're not going to leave anyone behind."

That sentiment should guide upcoming budget negotiations between Congress and the White House. It expresses America's true spirit. We know that government must be changed and respect Republicans for trying when Democrats would not. But Americans also believe in another grand tradition—fair play.

What we are going to be voting on tonight is another Republican trick. It is not fair play. I hope that the debate will follow, and I hope that we will be allowed to offer some amendments by the Democrats that will be fair.

I yield the remainder of my time, half of it to the Senator from Arkansas and the other half to the Senator from California.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I yield 10 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 10 minutes.

BUDGET CONFRONTATION

Mr. SIMPSON. Mr. President, I thank the manager for the time, and I thank the Chair.

I think the people of America must be getting pretty tired of this by now. My hunch is they are. My hunch is, in real-life America, they are saying, "What are these jerks up to?" That means the President, that means the people in Congress, that means all of us. That is what we are looking at.

And they must be just numb, as we are sitting here arguing about whether to go 4 or 5 bucks more a month on a program which is called part B premiums on Medicare, which is voluntary anyway. You do not have to belong. I mean, it boggles the mind.

One of the fascinating things about coming to the Senate is the experience of living in two realities. There is one that you actually live, and there is another one that you read about in the papers. That is an interesting one, too. Sometimes I wonder if, indeed, there is any possible correlation between the two.

A case in point is this current standoff, this Government shutdown. The headlines and the television would indicate that it is nearly—nearly—the same as Three Mile Island, which was back in 1979. That got a lot of hysteria. The plume was supposed to be floating towards Washington to paralyze us all in our sacks at night. This is the kind of stuff that goes with this business. Any time you have 24-hour-a-day news, you have to find the news to stick in it, and, boy, they stick it in.

This confrontation about the budget has inspired the media to new heights of hysteria, about the President bringing the Government to a halt. They say, "No, no, the President didn't do that; the Congress did that." I would like to remind my colleagues about a fact or two, because one can watch all the television, read the newspapers in utter vain until your eyes pop out of their sockets and see the television until you get a migraine, and you will never hear described what has really happened here.

What has happened is that the President decided to shut down the Government. I hope you heard that. We in the Congress sent him continuing resolutions, called CR's—you have heard that before—to keep it going. And he said, no, that he was going to shut it down.

There are people lobbying the Congress now about this matter trying to pressure us into "doing something about it." Someone does not realize what has happened. We cannot force the President to sign our resolutions to keep the Government operating. I hope you hear that. He does, indeed, have the power to shut the Government down, and he has. It is not something which can be changed by lobbying the Congress.

So that is just one little item that seems to have glanced off the simian skulls of many of the Nation's media for reasons quite unclear to me.

Here is another one. The President decided to veto our first continuing resolution, he said, because of a necessary measure to maintain Medicare premiums at a constant fraction of program costs.

Just a few raw facts about that particular action. Fact 1: The President himself, his very self, endorsed increases in Medicare part B premiums. Has anybody missed this, that the President of the United States has asked for these? And they are within $5 of where Republican budgets have been headed. I hope that everyone will hear that one.

Medicare part B, fact 2, was originally structured so the beneficiaries pay 50 percent of the program costs and the general taxpayers the other 50 percent. We have now let it slip to 31 percent, and if we did not take that action to arrest that decline, it would have dipped to 25 percent next year, meaning that we would have raised the effective taxes on the American public up to 75 percent of all of this program cost.

That was the action that the President was demanding when he blocked the Medicare provision. He was demanding that we increase the taxpayers' contributions to the program to 75 percent of the overall program costs. That is called raising people's taxes.

Guess who is paying the taxes? Thirty-one percent is paid by the beneficiary, regardless of their net worth or their income in a voluntary program. No one can refute that. I challenge anyone.

So 70 percent, 69 percent paid by Joe Six-Pack and now the President wants to have Joe Six-Pack paying 75 percent of the premium and doing things for the little guy? The drinks are on me.

Fact 3: Taking that action, blocking that measure will vastly worsen the deficit outlook in the years to come, because it would require the Government, that is, taxpayers, and I hope somebody has that figured out, who this Government is, to spend more and more on Medicare part B than it otherwise would. So the President was making a stand here for higher deficits. I guess that is what he wanted to do.

Fact 4: The President did not do this to protect Medicare beneficiaries from Republicans—evil Republicans—for he had already endorsed restraints on the growth of Medicare that are almost exactly the same as Republicans have. This President said he wanted a 7.1 percent annual growth limit in his own package, his budget, just assumptions—at least he said 7.1. What do Republicans want to do? Let it go up only 6.4. So we are seven-tenths of 1 percent apart and shutting down the Government.

So let us not be bamboozled into thinking that this was some principled stand, if you will, to hold Medicare harmless.

Fact 5: The President got his own way. We offered him a clean continuing resolution, no Medicare provision. Yet, he has kept the Government shut down. So what are we and the people to make about all of this? I would opine that the President has forgotten one essential factor needed for a man who intends to stand on principle: There has to be a principle there to stand on.

What does he want now? What will convince him to let the Government operate again? We have offered him a clean continuing resolution, if only he will work with us to balance the budget in 7 years. He said he wanted to balance it in 5, 7, 8, 9, and 10—pick one, any one. That, my colleagues, is the sticking point. The administration will not agree to that.

The President would sooner keep the Government shut down than to work with us—while stockpiling mountains of debt upon our children and grandchildren—at least until after November 1996. Then there will be lots of scurried action, you bet, patching together a limping Nation, but not until after November 1996. The President is hung up over a couple of requirements. One is that he does not want to agree in advance to a deadline for a balanced budget. That, very simply, is because he simply has no plans to balance the budget. Thus, he refuses to be held to any standard which would require that this be done.

The other serious problem he has is that if he refuses to adopt the standards which he himself previously had endorsed—even demanded and required—and that is a certification by the Congressional Budget Office. He well knows that if real numbers are used, if the books are not cooked, then none of his own proposals will be judged to balance the budget and will never see the light of day. And he is out, then, on the statement he made at the State of the Union Address a couple of years ago when he said, "Let us use CBO numbers, ladies and gentlemen, no more phony numbers. Let us use Congressional Budget Office." And everybody cheered. What numbers do we use now? OMB. I know that sounds like inside baseball. I call it deception.

That is the problem. The President is saying: Let me cook the books, let me avoid any deadline for balancing the budget, and I will set Government running again. That does not sound like much of a principled stand to me.

Let us try to look at this from the President's point of view for a moment. Consider what would happen if he did agree to try to balance the budget in 7 years, using real numbers, without gimmicks and chicanery in the books, and without assumptions and all the stuff we have seen both administrations use for decades; then he would have to agree with the Congress as to making really tough decisions. Then he would have to take a long, hard look at what is really happening in Medicare, and that it is going broke. His own trustees are telling him that—people he appointed, people of the stature of Robert Rubin, Robert Reich, and Donna Shalala. He would have to give up the pretending.

He would have to give up the posturing and the pretending that he is the great defender of unlimited spending on the poor, the elderly, the veteran, the downtrodden, everybody. He can choose to pose now as their greatest protector because he is held to no standard at all of budgetary responsibility—none. But if the standard is required of him, then suddenly he cannot continue to say what he has been saying, that he can shield these vulnerable folks from evil depredations and balance the books all at the same time.

So that is where we are. This whole Government shut down as a result of a gap between the administration's rhetoric. They claimed to want to balance the budget 18 times in one speech yesterday, and they simultaneously claim that no favorite political constituency in this land, not a single sacred cow, needs to be touched. On the other hand, the reality is that some severe, very tough choices have to be made in order to balance the budget. The American citizens know it, and everybody in this Chamber knows it.

As soon as the administration is held to an honest standard of accountability, this gap will be exposed. And, politically, the administration simply cannot bear to face that. So they are going to keep the Government shut down.

This is a curious version and vision of leadership. The administration will not be able to play this game forever. It will be great for a short period of time. It is going to be a lot of fun. They received a temporary boost from playing the Medicare political card. But I do not think in any long-term way the public will believe that refusal to commit to balancing the budget is any worthy or worthwhile lesson or reason to shut down the Government of the United States for 5 bucks a month on a program that is voluntary, which in any other society would be called an income transfer, because 70 percent of it is paid by Joe Six-Pack, and 30 percent of it is paid by the beneficiary, regardless of their net worth or income. No wonder the people think we are nuts.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

A BALANCED BUDGET

Mr. BUMPERS. Mr. President, I yield myself 10 minutes. There is so much to be said on this subject and not very much time. I want to begin by following up on what my good friend from Nebraska, Senator EXON, said a moment ago. I do hope that we do not have any further abuse of the rules by trying to silence the minority and put in a quorum call and object to it being called off, because there are Senators on this side who want to speak. That is the kind of things they do in Third World nations, Mr. President.

We are a body of Senators who are supposed to be deliberating. We cannot deliberate if we do not get the floor to speak, and we cannot speak when this place is in recess. We all know what is going on here. There is an obvious effort to silence people. I am not going to be silenced. I am like Patrick Henry—I'm willing to sit here all night to say what I am going to say.

The other thing the Senator from Nebraska brought up is that no Democrat—not one—has been invited to participate in a conference on the so-called budget reconciliation bill. We are not even permitted in the room. The first time, probably, in history, that the minority has been completely shut out of conference. I have only been here 21 years, but it is the first time I have ever seen anything like it in my life. Normally, when the House and Senate pass different versions of a bill, they select conferees—and there are more Republicans when they are in control and more Democrats when we are in control. The conferees resolve the differences between the two bills and they send the conference report to both Houses.

This body is going to be asked to vote on Friday on the budget reconciliation bill, on which not one Democrat has even been offered the opportunity to amend, or even offer an amendment. So when the President says, no, I am not going to accept the Republican so-called 7-year budget balancing act, it is not because he does not favor a balanced budget.

I heard the Senator from Tennessee earlier tonight say that is what all of this is about. I say to all Senators, if that is all this were about, we would be recessed and home by now.

The President wants a balanced budget. The House and the Senate want a balanced budget. The American people want a balanced budget. But the President is not going to sign a bill with garbage on it which has no place on it. And he is not going to sign a bill which commits him to a reconciliation bill that is absolutely devastating to the values of this country.

What are we doing? Here is that sacred document called the Constitution. It is the reason we are still a free nation. What does it say about the Presidency? Just so you will not think I am making this up, I will read it.

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal.

The mother tongue is English. I just read, in English, the Constitution which says if the President approves, he will sign it. If he does not approve it, he will send it back.

I will not take the time to read the rest of it, but then it says the bill shall go back to the House where it originated and that House shall vote to override the President's veto by a 67 percent vote. And if they do it, it will be sent to the other House.

What are we doing here? The President vetoed the continuing resolution. There is no effort to override it. They have an AK-47 to the President's head, saying, "You will accept a $20 billion cut in school lunches; you will accept a $40 billion cut in education; you will accept a $270 billion cut in Medicare; you will accept a $182 billion cut in Medicaid; you will accept a $32 billion cut in the earned-income tax credit; you will accept a $245 billion tax cut for the wealthy."

People on this floor stand up and solemnly talk about a tax credit for our children. Let me tell you about the tax credit for our children. The people who work in this country who have children do not get it. If that is the House Speaker's idea of a revolution, deliver me from it. I hope the Speaker keeps using that term revolution. It scares people. It scares me.

When I hear people talking about a revolution, I might also say there are a lot of people who have never received the full benefits from the first revolution. And an awful lot of them do not want the benefits of his revolution, including me.

This is not about who wants a balanced budget. This is who believes in elemental values of fairness. What the reconciliation bill says is: Eight percent of the people cheat. Let us kill the whole program. Put another 1 million people in poverty by adopting the welfare reform bill. Educate 1 million fewer children in college by cutting student loans and student grants. So far as that child tax credit is concerned, Mr. President, listen to this. They act as though the parent of every child in America is going to get a $500 tax credit. Mr. President, there are 5 million households in this country, with 11 million children, that will receive part or all of the $500 tax credit.

Listen to this. There are 8 million households with 15 million children who will not get one dime, not even a nickel. Who are they? Who are these 15 million children? I will tell you precisely who they are. They are the people who ought to get a tax cut because they are from the families who do not make enough money to even pay income tax. A husband and wife that make $20,000 a year and pay no tax won't benefit from the so-called family tax credit. If you pay no tax, you get no refund. What kind of value is that?

I have never seen so much political chicanery in my life. It is scary. Some of the things that have gone around here have been absolutely shameless.

I know exactly where we are headed. We are headed to the point where the people in this country are beginning to get nervous about the Speaker's revolution. They are uneasy.

I tell you, the election a week ago yesterday was not that big a deal. We Democrats got some satisfaction out of it. To me, that election just simply said we are not sure this is what we voted for in 1994. We want a balanced budget but we did not know you were going to assault the elderly and the poor children by cutting school lunches, by cutting education funds, by cutting funds for the elderly, by a $182 billion cut in Medicaid which affects the health care of the poorest children in America. Mr. President, the Republican budget would impose a $2.6 billion Medicare cut on my little State of Arkansas. I promise you we will be lucky to even have a program worthy of the name Medicaid. We cannot do it if you cut $2.6 billion, and for what? For this miserable, for this awful $245 billion tax cut which the wealthy do not want and which the poor will not receive.

So I can see it coming now. The polls are going to continue to show the President doing very well and the people getting terribly upset about what we have done here. So what will happen? We will bring up desecration of the flag. That will take their mind off of it. Everybody loves the flag. And everybody is for prayer in school, so we will bring up prayer in school. That will get their mind off of it.

Is it not interesting? I have fought a line-item veto ever since I have been in the Senate, and this year I lost. We passed a line-item veto, and what happens? There happens to be a Democrat in the White House and we cannot get anything done.

What about term limits? Everybody was for term limits as long as the Democrats were in charge. Now all of a sudden term limits are not such a hot idea. I wonder if that has anything to do with the Republicans gaining majorities in the House and Senate?

The PRESIDING OFFICER. The Chair would like to remind the Senator from Arkansas he has consumed 10 minutes.

Mr. BUMPERS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I yield myself—we have 18 minutes remaining?

The PRESIDING OFFICER. You have 17 minutes 45 seconds.

THE FACTS

Mr. SANTORUM. I yield myself 9 minutes.

Mr. President, sitting here I was planning on what I was going to say, and talk about how we were going to balance the budget over the next 7 years. It is very difficult to sit here and listen to some of the inaccuracies that were being put forward on the floor. It is amazing to me. We should have a debate that talks about what the facts really are.

The Senator from Arkansas said 15 million children are not going to benefit as a result of the child tax credit. What he did not tell you is those 15 million children have parents who pay no income tax. In fact, the majority of those—first, for all of those 15 million children, their parents receive an earned-income tax credit, most of which is not to pay them for the income tax they pay. They paid no income taxes. But it is to pay them for their Social Security taxes that they pay. And in the majority of cases it is to give them money beyond even their Social Security taxes. So, to suggest we should then give them an additional $500, it is how much welfare you want to provide?

What we have done is, people who earned the earned-income tax credit and who pay no taxes, they are going to be at least as well off, if not better off than what they would be under current law. Those who do pay taxes will get a $500 tax credit, or a portion thereof, depending how much they pay in taxes. If they only pay $300 in taxes they will get a $300 tax credit.

Again, I guess it is statistics. There are lies, damned lies, and statistics. There is a statistic that, if you listen, on the face you would say, "Boy, this is not fair. We are not helping out the poor folks here in this country who need help."

Wrong. We have the earned-income tax credit that does just that. This is for families who pay taxes. That is what the tax credit is for, for families who pay taxes. I just wanted to set the record straight on that.

I would like to step back and take a look at where we are right now. Where are we? The Government is shut down. What does that mean? That means all nonessential personnel are not showing up for work and have not been showing up for work. I found it somewhat remarkable that 99 percent of the Department of Housing and Urban Development are nonessential. That makes you think about what they do over at the Department of Housing and Urban Development, that 99 percent of them are not essential. Mr. President, 89 percent of the Department of Education are not essential and 67 percent of the Department of Commerce are not essential.

One has to stop here and think. If all this is so important, how can the Department of Housing and Urban Development, almost everybody there—the only reason it is not 100 percent at HUD is because political appointments are deemed essential. Other than that, I guess everybody at HUD could go home.

This is where we are. Government is shut down. Why? I can tell you in a word why. It is because the President of the United States has refused to come to the table and negotiate on how to balance the budget. That is what this all about, all this clamor, Medicare this and that. The Senator from Wyoming was completely eloquent on the demagoguery that is going on with the Medicare part B premiums. But the bottom line is the reason Republicans and Democrats have not sat down at a conference to get a balanced budget resolution to the floor is just that the President of the United States has simply refused to participate in those discussions.

No one on the other side of the aisle has offered any kind of hope that they are willing to participate themselves in this discussion to get to a balanced budget. Oh, you hear that I am for a balanced budget. Everybody is for a balanced budget. But wishing does not make it so. You have to make decisions. You have to come to a conclusion on how we are going to do it.

All we are trying to get from the President right now in a CR, which is the spending bill that we are going to be considering probably later tonight, is a commitment from the President that he will agree in the next few days to sit down and negotiate a balanced budget over the next 7 years using real numbers—not phony, rosy scenario numbers, not gimmicks, not smoke and mirrors, but the real thing, the thing he said he was going to use. That is what we said we wanted. That is not much.

That is exactly what the Senator from Arkansas said he is for. He is for a balanced budget. Let us get a balanced budget. Let us do what we promised the American public. Let us do what President—then candidate—Clinton promised the American public, that he had a plan to balance the budget in 5 years. Three years have gone by—no balanced budget. And how about 10 years? That is what it has been since the President said he could do it in five. That is all we are asking. That is where we are. I know there is a lot of confusion out there.

The Senator from Arkansas is correct. The people are being scared to death out there. If I listened to the Senator from Arkansas very long, I would be scared too. You would think everything is going to collapse around here. Well, the fact of the matter is that most of America has gone on pretty well the last couple of days. Life is OK. And we have a serious problem. Those of us who are here trying to solve that problem believe it is important to stand our ground and to do what is right—which is a balanced budget. That is not to say that we should not compromise. We should. We should sit down and discuss a balanced budget over the next 7 years. We will sit down with the President. We will assess his priorities. He will assess ours. But we need to do that. We need to sit down and start negotiating on how we are going to get there.

My goodness, we owe it. I have three young children, a 4-year-old, a little boy who is going to turn 3 this weekend, and a 5-month-old little boy. I cannot go home every night and look at them. I just cannot go home and look at them and say, "Well, we are going to continue to spend more money. You are going to have to work more hours with probably less take-home pay than people are making today and have less opportunity, less chance for advancement, because I just could not make tough decisions because I was afraid that someone was going to vote against me or the polls said, you know, people do not like what we are doing. I am sorry. If anybody in this country who has listened to this can look at their children or grandchildren and say that extra $5 a month means your future, that is just that important to me, I do not think anyone can do it.

This is a historic time in our country. I had a gentleman who saw me outside on the way in. He has been sitting up in the galleries biting his tongue for the last 3 days listening to all of this. He suggested in a letter that he gave me that we should do what the Founding Fathers did in Philadelphia when they were working on the U.S. Constitution, that we should take a day off, sit and ask God to help us and intervene, and we should pray about it, and we should have a reconciliation.

Maybe that is a good idea. Maybe we should get rid of all this rhetoric around here—all of these charges and countercharges—and think about what this country was founded upon. Think about how important this great experiment is to the world, and how all of this politics—that is what it is, folks; this is just all politics being played—how all this just is not necessary.

We are not that far apart. I mean, we really are not. It is amazing, if anybody—I do not know if any of the news publications have done this—would take a look at where the President wants to go, at least his public statement, and where we want to go. The Senator from Wyoming said we are seven-tenths of 1 percent away on Medicare spending. I mean, that is a few billion dollars a year out of a program that is a $250 billion program. You do not think we can come together on something? Of course we can.

Welfare reform—I have been working on welfare reform for 3 years on this bill. We have a bill in conference that is very similar to the Senate bill, one that the Senate passed 87 to 12, and one that the President said he would sign. That is going to be in the reconciliation bill. It is something he should sign. We are not far apart. There may be a few minor differences in welfare, but not substantial. It has everything the President campaigned on. It is in that bill. Tax cuts——

The PRESIDING OFFICER. The Chair reminds the Senator from Pennsylvania——

Mr. SANTORUM. I will take 45 additional seconds.

We are close together on tax cuts. He says he wants a tax cut for middle-income families. I talked before. We say EITC increases for next year and the year after. That is included in our budget, with the exception of families that do not have children. But if you have a child, you are going to get those increases.

We have a middle-income tax. Ninety percent of our tax cut goes to people under $100,000.

I think my friend from Wyoming may have a good idea. We ought to start thinking about what our calling is here and the great experiment that we have in this country, and can the politics. Let us get down to the substance, because on the substance we agree. We are not far apart, and we hope we agree that balancing the budget is the best thing for this country.

I yield the remainder of my time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I understand that I have 7 minutes. I ask unanimous-consent that I be granted 3 additional minutes and 3 additional minutes on that side as well.

Mr. SANTORUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. Thank you very much, Mr. President. That just shows you the kind of cooperative spirit we have when the Senator from California asks for 3 additional minutes and that the unanimous-consent request asks for an additional 3 minutes for the other side. That that would be objected to is extraordinary.

Mr. COATS. Will the Senator yield?

Mrs. BOXER. On your time. I only have 7 minutes.

Mr. COATS. We were informed that an agreement was made with the leaders, the majority and minority leaders, that an hour of time would be allocated, 30 minutes to each side, and that Senator DOLE would then recess.

May I suggest that the Senator from California take her 7 minutes. We will check to see if that can be extended, and perhaps additional time can be added on, an equal amount on each side, while she is speaking.

(Mr. SANTORUM assumed the chair.)

Mrs. BOXER. I thank my friend very much because I do not think 6 minutes in a day like today is going to make or break the U.S. Senate. That is why I asked equally for each side.

Mr. COATS. It may not. But since there was an agreement between the leaders, we have to check with them.

Mrs. BOXER. I absolutely have no problem with that at all. I thank the Senator very much.

RECONCILIATION AND THE BUDGET

Mrs. BOXER. Mr. President, when you took to the floor, you talked about your obligation to your children. I relate to that very much because I raised two of them, and now I am a grandmother. That is what this debate is all about. You are exactly right. It is about our children, and it is about what life in America is going to be like for them.

I grew up in the years when I was able to get the American dream. I came from a very middle-class family. Actually, my mother never graduated from high school, and I am in the Senate because I got a free education, because I played by the rules of the game, because I had a community that was safe to grow up in and a caring community it was. I grew up in an inner city.

So that is what this debate is all about. It is about the Presiding Officer's children and my grandchild and generations to come.

I find it very interesting; on the one hand we hear a new cry: All we want is a little bit different than the President. All we are talking about is incremental change. That is what the Senator from Tennessee said.

Well, gee, I have listened to the Republicans. They are talking about a revolution—a revolution—not incremental change. And it is a revolution to allow Medicare to "wither on the vine," to quote NEWT GINGRICH. He says he was talking about HCFA. He was talking about Medicare. Even all the analysts agree—wither on the vine. The majority leader bragging to a group that he led the charge against Medicare.

So let us not take to the floor and say one thing one day: It is a revolution, and another thing another day: No, no, it is just that we want to balance the budget.

Today the majority leader made a very eloquent speech in which he praised Republicans for their courage. He said the polls are not going our way, but we are courageous. And I think that the majority leader clearly sees it that way. But I have to ask a question: What is courageous about shutting down the Government? What is courageous about cutting Medicare by $270 billion and giving the money to the wealthiest among us? What is courageous about gutting education and environmental funds and, frankly, repealing nursing home standards? What is courageous about loading down the temporary debt extension and the continuing appropriations bills with extraneous matters such as regulatory reform, habeas corpus reform, and my all-time favorite, a debt limit extension for a few weeks that says to the President, "Your hands are tied on the debt crisis. You cannot do anything but default."

That is really swell. When I was a stockbroker on Wall Street, I watched the market shift, and so far they do not believe anything is going to happen, but I can tell you we are playing with fire here. For the greatest nation in the world, the dollar is under stress right now. The markets are wondering. S&P is looking at us for bond ratings. The international bond raters are saying we are on the watch list.

Swell. Real courageous. I say it is outrageous, and it is a dereliction of our duty. What is courageous about not doing our job? What is courageous about thousands and thousands of American workers being sent home, workers who have to care for their families. They, too, I say to the Presiding Officer, have beautiful little children just like you, and you do, and you adore them, and these workers adore their families. They do not know if they are going to get paid. As a matter of fact, they will not get paid until this mess is over, even if they are essential. And if they are nonessential, who knows.

That is a dereliction of duty that is not courageous. So I hope we get off of the self-congratulatory binge around here, whether Republicans or Democrats, because a pox on everyone for this mess we are in. There is nothing courageous about this continuing shutdown, about Congress not passing its appropriations bills. Let us not try to blackmail the President with a budget that destroys Medicare and rewards the wealthy. The fight should take place over the budget bill, not over these short-term extensions and trying to force the President into signing something that makes it impossible for him to negotiate. I do not know how else to say it except, ladies and gentlemen, we do have a Democrat in the White House, the Republicans' control the Congress, and we better work together and not tie each other's hands. Come to the table clean.

I ask a question: Why should we get our pay when thousands of other Federal employees are not getting theirs? Why should we get our pay? It is not fair. We passed here in this Senate the Boxer-Durbin bill that essentially says if there is a shutdown, Members of Congress and the President will not get our pay and we will not get it back retroactively. And some of us have begun doing something about it. But this is about institutional failure.

I was here when we all voted for congressional accountability, and we said we are not above the law; we are going to be treated like everybody else. And yet we are the only Federal employees who are guaranteed their pay even though there is no appropriations bills signed into law for this function.

I do praise the leadership of the Senate; in a bipartisan way, Senators DASCHLE and DOLE, they came together. They supported this. But over there on the House side Speaker GINGRICH is blocking a vote as we speak. I hope people will call Speaker GINGRICH.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. I hope they will tell him to support the Boxer-Durbin no budget-no pay bill. It is not courageous for us to take our pay and cut off everybody else's.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Indiana.

CALLING THE PRESIDENT'S BLUFF

Mr. COATS. Mr. President, what we are faced with here very shortly is essentially calling the President's bluff. We sent him a continuing resolution that would keep Government open, keep those workers working, keep the functions of Government going forward, and the President vetoed it, he said, because it was loaded with extraneous material. There were items on there that promoted the Republican budget, promoted the Republican plan to redefine some of the functions of Government, and therefore he could not accept it. But give him a clean CR, so-called clean continuing resolution, that is what he needed. That is what he wanted. We had all kinds of injunctions from 1600 Pennsylvania Avenue about giving the President just a clean bill.

Now, the President campaigned in 1992 vigorously on the proposal of a balanced budget in 4 years, some say 5. It might have been 5. The President has kind of been all over the lot on this. But 4 or 5 years is almost irrelevant here. The President said this country needs a balanced budget, and if I am elected, I will deliver a balanced budget.

He also campaigned vigorously on tax relief for middle-income families with children, saying it is a disgrace that they are so shortchanged in our Tax Code; the costs of raising children are increasing dramatically; we need tax relief for middle America.

That was 1992, and that was the campaign. Subsequently, we have not seen delivered from 1600 Pennsylvania Avenue a balanced budget that is scored as a real balanced budget. It was the President himself in his first address to a Joint Session of Congress after he was elected who looked at the Republican side with a big smile on his face and said we are going to use the numbers certified by the Congressional Budget Office because they are nonpartisan and they are not politically motivated as are the numbers from the Office of Management and Budget, which is the President's own budgeting people.

Now, all that the Republicans are asking for, and I assume will come over from the House of Representatives, we hope this evening, is what the President has said he wants: a continuing resolution which will bring back Federal workers to work tomorrow morning, which will continue the functions of Government. There is only one condition attached to it, and that is the condition that the President campaigned for and the President now has asked for, and that is a balanced budget.

We are saying, Mr. President, we will allow Government to go forward for a period of time while we resolve the details of a balanced budget. And unlike the 4 years or 5 years that you campaigned for, we will allow 7 years in order to accomplish this fact. That is all we are asking. And we are attaching it to this continuing resolution as a condition because, frankly, that is the only way we can bring the President to the bargaining table.

We have heard nothing but excuse and obfuscation from the White House and from the President, from Democrats, our friends across the aisle. "Oh, yes, we're for a balanced budget, but not this one." Well, I have been here 15 years, and that is all I have heard from the party across the aisle. "We're for a balanced budget, but not this one. We need to talk some more. We need to negotiate some more." That is all we have been doing this year in this body.

Democrats say they have not been invited to the party. They have been at the party now for 10 months. We have debated every item that we are talking about in reconciliation. We talked about the tax cut, we talked about the changes to Medicare, to Medicaid, to welfare, to every aspect of the budget. Everybody knows what the details are. The fact of the matter is, there are people who want to maintain the status quo. They are the party of government, big government, ever-growing government. It is their ticket to political success, they think. And there are many of us who feel that our debt is of such a staggering proportion, and growing at such an extraordinary rate, that this is the moment and this is the time where, if we do not grab a hold of it now, it may be too late.

So we have put a plan together to balance that budget. What we hear from the other side of the aisle is nitpicking about portions of this plan. And so we have said, "All right, Mr. President. We will set that aside and we will simply, in return for continuing the functioning of government, we will simply ask you to agree to sit down with us and negotiate a plan to balance the budget in a 7-year period of time, certified by the very accounting agency, the Congressional Budget Office, that you asked us to use."

So I do not know how much more we can give the President. We have essentially given him everything he has asked for. And so we are going to find out whether or not the President is really interested in balancing the budget, is really interested in keeping the promise he made to the American people in his campaign for the Presidency. We are going to put this on his desk and say, "Mr. President, we have now given you what you asked for. If you really believe this, sign the bill, and we're in business. If you veto it, we'll all know where you stand."

The bluff is going to be called. It will be called very quickly. And the American people will fully understand just who is willing to put it on the line for a balanced budget and who is not willing to put it on the line for a balanced budget. So we will know now in about the next 24 hours or so just who is upfront and who is straight out with the American people about the agenda that is best and good for this country.

I think everyone instinctively knows we cannot continue on the path that we are on. To continue on that path is bankruptcy for this Nation. Republicans are saying, "It's time to draw the line to make the tough choices, to balance the budget. Mr. President, why don't you join us?"

I thank the Chair.

The PRESIDING OFFICER. The time has expired.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess subject to the call of the Chair.

Thereupon, at 7:22 p.m., the Senate recessed until 9:05; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mrs. HUTCHISON).

MORNING BUSINESS

Mr. DOLE. Madam President, I now ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 1014. An act to authorize extension of time limitation for FERC-issued hydroelectric license.

H.R. 2366. An act to repeal unnecessary medical device reporting requirement.

The message also announced that the House has passed the bill (S. 790) to provide for the modification or elimination of Federal reporting requirements, with an amendment, in which it requests the concurrence of the Senate.

At 1:40 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.

At 3:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2020) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1996, and for other purposes; and insists on its disagreement to the amendment of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2539. An act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation to transportation, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1014. An act to authorize extension of time limitation for FERC-issued hydroelectric license; to the Committee on Energy and Resources.

H.R. 2366. An act to repeal unnecessary medical device reporting requirement; to the Committee on Finance.

H.R. 2539. An act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

S. 1410. A bill making further continuing appropriations for fiscal year 1996.

S. 1411. A bill making further continuing appropriations for fiscal year 1996.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1597. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period April 1 to September 30, 1995; ordered to lie on the table.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 1412. A bill to designate a portion of the Red River in Louisiana as the "J. Bennett Johnston Waterway", and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HELMS (for himself and Mr. FAIRCLOTH):

S. 1413. A bill to amend the Federal Water Pollution Control Act to require that an application to the Federal Energy Regulatory Commission for a license, license amendment, or permit for an activity that will result in a withdrawal by a State or political subdivision of a State of water from a lake that is situated in 2 States shall not be granted unless the Governor of the State in which more that 50 percent of the lake, reservoir, or other body of water is situated certifies that the withdrawal will not have an adverse effect on the environment in or economy of that State, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON (for herself, Mr. SIMPSON, Mr. HELMS, Mr. GRAMM, and Mr. MCCONNELL):

S. 1414. A bill to ensure that payments during fiscal year 1996 of compensation for veterans with service-connected disabilities, of dependency and indemnity compensation for survivors of such veterans, and of other veterans benefits are made regardless of Government financial shortfalls; to the Committee on Veterans Affairs.

By Mr. D'AMATO:

S. 1415. A bill entitled "Thrift Charter Conversion Act of 1995"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATFIELD (for himself and Mr. MACK):

S. 1416. A bill to establish limitation with respect to the disclosure and use of genetic information, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX:

S. 1412. A bill to designate a portion of the Red River in Louisiana as the "J. Bennett Johnston Waterway," and for other purposes; to the Committee on Energy and Natural Resources.

THE J. BENNETT JOHNSTON WATERWAY DESIGNATION ACT OF 1995

Mr. BREAUX. Mr. President, I rise today, with respect and admiration for my colleague from Louisiana, the Honorable J. BENNETT JOHNSTON, in order to introduce legislation which will designate part of the Red River the "J. Bennett Johnston Waterway."

Senator JOHNSTON's diligence in serving the people of Louisiana for close to 30 years more than justifies this legislation and should be a reminder to those of us who have had the honor to serve in the Senate with him and to all who will serve here in the future what the word "service" truly means.

The work that Senator JOHNSTON has done to rebuild and rejuvenate the Red River and the communities that depend on it exemplifies the strength of his leadership and his commitment to the economic development of Louisiana.

For years, the many bends and excessive sedimentation in the Red River made it unnavigable to the barges and ships necessary for transporting local goods. The economy of the region that depended on the Red River became depressed.

Senator JOHNSTON has worked successfully for the last 22 years helping local communities and organizations obtain the funding necessary to create a modern waterway. As a result of this success, old and new businesses are moving back into the area, job opportunities are sprouting up again, and the hope that accompanied a new economic direction is taking root in the region.

In fact, the Army Corps of Engineers estimates that $107 million in benefits will be generated annually and approximately 56,000 new jobs will be created in 40 years. Other benefits include cleaner water, improved and increased recreational use, the possibility of hydroelectric power in the future, and potential for greater agricultural utilization of the river.

Local organizations and residents recognize the positive growth resulting from this project as well as the substantial role Senator JOHNSTON played in making this growth a reality. In fact, it was local citizens who requested this naming legislation.

The many people who have worked with Senator JOHNSTON over the years know he was the key to this project's success and want to honor him for all that he has done to make the waterway a reality.

Each time we navigate the river, each time we use it to recreate and each time we realize economic benefits from the river, we will forever be mindful of the man whose unyielding leadership and dedication made it all possible, my colleague, my friend, and my senior Senator, the Honorable J. BENNETT JOHNSTON.

By Mr. HELMS (for himself and Mr. FAIRCLOTH):

S. 1413. A bill to amend the Federal Water Pollution Control Act to require that an application to the Federal Energy Regulatory Commission for a license, license amendment, or permit for an activity that will result in a withdrawal by a State or political subdivision of a State of water from a lake that is situated in two States shall not be granted unless the Governor of the State in which more than 50 percent of the lake, reservoir, or other body of water is situated certifies that the withdrawal will not have an adverse effect on the environment in or economy of that State, and for other purposes; and the Committee on Environment and Public Works.

THE LAKE GASTON PROTECTION ACT OF 1995

Mr. HELMS. Mr. President, today Senator FAIRCLOTH and I are introducing the Lake Gaston Protection Act of 1995. The States of North Carolina and Virginia have been locked in a dispute for a decade as to whether the city of Virginia Beach should be able to withdraw water from Lake Gaston, which straddles both States.

Our bill stops the withdrawal of water from the lake until Federal officials listen to the concerns of countless thousands of citizens of both North Carolina and Virginia.

The Federal Energy Regulatory Commission [FERC] approved a permit allowing the daily withdrawal of 60 million gallons from Lake Gaston—but the FERC officials did not look closely enough at the potential negative environmental effects of withdrawing 60 million gallons a day from the lake. In short, they failed to consider either the environmental problems or the adverse impact on striped bass and other fish species. A sharply reduced quantity of water flowing through the lower Roanoke River basin may very well be harmful to the estuaries of the Albemarle Sound in the spawning of many fish species.

And, Mr. President besides the environmental impact, the withdrawal could very well pose dire consequences to the commercial and recreational fishing industry that depends so heavily on an adequate exchange of fresh water and salt water in the estuary.

The Federal Energy Regulatory Commission should have obtained certification from the State of North Carolina that there would be no degradation of water quality or the environment. Instead, FERC ran roughshod over the concerns of North Carolina.

Mr. President, Senator FAIRCLOTH's and my bill would require FERC to obtain certification from North Carolina that this project will have no, and I emphasize, no adverse impact on the environment or the local economy.

Mr. President, for the record, I believe a brief history of this dispute may be helpful.

Virginia Electric Power Co., on behalf of Virginia Beach, applied to the FERC for permission to construct a water intake on Pea Hill Cove of Lake Gaston and a 76-mile pipeline to withdraw up to 60 million gallons per day.

Both the City of Virginia Beach and the State of North Carolina have marched back and forth in the Federal courts over this issue. North Carolina raised many concerns of water quality and the adverse effects on the downstream ecosystems. North Carolina officials assert that FERC did a far too hasty job on its environmental analysis. FERC allowed only 2 months for the review of the reams of environmental data.

Furthermore North Carolina asserts that FERC staff failed to conduct studies requested by several Federal agencies, including the EPA, U.S. Fish and Wildlife Service, National Marine Fisheries, and independent biologists.

After much litigation, a Federal mediator was appointed by the Federal courts within the past 18 months, to look into the possibility of bringing the State of North Carolina and the city of Virginia Beach to an agreement on the issue.

A final settlement agreement was reached on June 26, and was supported by both Virginia Senators. I have a copy of a letter signed by both Senators to the Governors of North Carolina and Virginia in support of the agreement. I ask unanimous consent that the text of this letter be placed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, the settlement was subject to ratification of an Interstate compact by both State legislatures and approval by the Congress. According to the officials in North Carolina, this agreement protects the interests of the three North Carolina counties that surround the lake. As of now, neither State has ratified the compact.

The communities that surround the lake in Northampton, Warren, and Halifax Counties in North Carolina are greatly dependent on it to support their economies. According to a November 2, 1993, article in the Lake Gaston Gazette, property owners around the lake paid over $253 million in 1993 real estate and personal property taxes. Also it is estimated that there has been $125 million in new home construction each year.

Mr. President, North Carolina and Virginia have a history of cooperation on matters affecting both States. For example the joint North Carolina and Virginia efforts to stem Lake Gaston's having been infested by hydrilla, an aquatic weed similar to kudzu. These five counties and both State governments have worked together to bring this nuisance weed under control.

If Virginia and the city of Virginia Beach object to this legislation, there is a way out; this proposed law will not apply if and when the June 26 settlement is resurrected and there is an interstate compact. So each State can urge its Governor and legislature to ratify the agreement and the compact. This will give everyone a chance to take a second look at North Carolina's environmental concerns.

This legislation is narrowly drawn to apply only to this particular situation and would not adversely affect our western friends.

We realize how sensitive our western friends are on the issue of water rights. Senator FAIRCLOTH's and my staffs have consulted with numerous experts in western U.S. water rights and have been assured that this legislation exempts western water projects.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lake Gaston Protection Act of 1995".

SEC. 2. WITHDRAWALS OF WATER FROM LAKES SITUATED IN 2 STATES.

(a) IN GENERAL.—Section 401(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1341(a)(2)) is amended—

(1) by striking "(2) Upon receipt" and inserting the following:

"(2) ACTION BY THE ADMINISTRATOR.—

"(A) IN GENERAL.—On Receipt"; and

(2) by adding at the end the following:

"(B) LAKES SITUATED IN 2 STATES.—

"(i) CERTIFICATION OF NO ADVERSE EFFECT.—Except as provided in clause (ii), in the case of an application to the Federal Energy Regulatory Commission for a license, license amendment, or permit for an activity that will result directly or indirectly in the withdrawal by a State or political subdivision of a State of water from a lake, reservoir, or similar body of water that is situated in 2 (and not more than 2) States, the

Commission shall not grant the license, license amendment, or permit unless the Governor of the State in which more than 50 percent of the lake, reservoir, or other body of water is situated certifies that the withdrawal will not adversely affect the environment in or the economy of that State.

"(ii) EXCEPTION.—Clause (i) does not apply to an application for a license, license amendment, or permit for an activity that will occur with or affect waters located within a river basin that is subject to an interstate compact, decree of the Supreme Court, or Act of Congress that specifically allocates the rights to use the water that is the subject of the application.".

"(b) RETROACTIVE EFFECT.—The amendment made by subsection (a) shall apply to any application made on or after January 1, 1991, unless the application has been granted and is no longer subject to judicial review.

EXHIBIT 1

U.S. SENATE,
Washington, DC, July 5, 1995.

Hon. GEORGE F. ALLEN,
Governor, Commonwealth of Virginia, State Capitol, Richmond, VA.

Hon. JAMES B. HUNT, JR.,
Governor, State of North Carolina, State Capitol, Raleigh, NC.

DEAR GOVERNORS: The City of Virginia Beach has advised us that it hopes to finalize a settlement with the State of North Carolina regarding the Lake Gaston pipeline project within the next few days.

It is our understanding that one feature of the settlement contemplates that you will seek to have introduced and passed in your respective General Assemblies an Interstate Compact that will place limits on out of basin transfers of water from the Roanoke River Basin in Virginia and North Carolina.

We wish to assure you that we believe a settlement of the issues will facilitate the construction of the Lake Gaston project which we fully support. We also pledge our support to the proposed Interstate Compact should it be passed by the General Assemblies of Virginia and North Carolina and if the settlement becomes effective and is not terminated by the parties after action by the Federal Energy Regulatory Commission (FERC) on VEPCO's application.

Following enactment by both state legislatures, it is our intention to promptly introduce the Compact in the United States Senate and take every appropriate action to obtain the expeditious consent of the Congress to the Compact.

With kind regards,

Sincerely,

CHARLES ROBB.
JOHN WARNER.

Mr. FAIRCLOTH. Mr. President, I am pleased to join with Senator HELMS today in introducing a bill to help resolve a long-standing dispute between Virginia and North Carolina over Lake Gaston, a lake spanning the border between our two States. The dispute concerns Virginia's plans to construct a water pipeline from Lake Gaston to Virginia Beach for that city's municipal use—60 million gallons a day.

I am disappointed that this disagreement has come to the point where we must introduce legislation. Last spring the two States came very close to resolving the issue and actually had a settlement ready, signed, and waiting for ratification by the States and the Congress. Unfortunately, logistical problems prevented the settlement from being closed by the Virginia State legislature before their adjournment. Soon after they adjourned, however, the Federal Energy Regulatory Commission approved a permit allowing for the project to proceed. Of course, with approval in hand, Virginia was refused to return to the negotiating table. They simply have a permit. As it now stands, the citizens of North Carolina and the residents of Lake Gaston have lost the water without any agreement whatsoever between the States on how much water can be withdrawn from the lake, and other critical factors.

Mr. President, it is wrong for the Federal Government to allow this pipeline to take millions of gallons of water from Lake Gaston and North Carolina without North Carolina's approval and agreement. It is only fair that a project with this kind of impact should proceed only after an agreement has been reached between the two States—especially when an agreement is very nearly at hand—until the Federal Government went ahead and issued the permit.

Reasonable restrictions should be in place and agreed to by both States, such as the amount of water that can be withdrawn each day. The impact of withdrawing millions of gallons of water from the Roanoke River Basin is, frankly, unknown and in dispute.

I am particularly concerned about the impact the new pipeline will have on the economy of North Carolina. Many industries and towns depend on water from the Roanoke River. The property owners around the lake paid nearly $250 million in property taxes this year alone. What happens, Mr. President, when all this water is diverted to Virginia Beach? Even if the effect right now may not be severe, it could hamper growth in the future. You simply will lower the lake level to a degree where it will be unattractive. No one can tell with any certainty what the effect will be on the local economy, but predictions from homeowners and others are that they will be severe.

The environmental effects are equally unknown. Every day people are turned down for wetland permits by the Federal Government because of relatively minor environmental impacts. But here, with lake Gaston, where we are talking about an enormous and unprecedented impact on water flow and quality—and the agencies let the permit sail on through. The environmental impact study—which sometimes drag on for years—took only 3 months to sail it through.

Mr. President, the bottom line is there are simply too many questions to allow this project to proceed over the objections of North Carolina. Too much is on the line here. An agreement is just around the corner if we give it a chance and give it time.

Senator HELMS and I are representing North Carolina as a whole, the State legislature, the State house, the State Senate, and the Governor. In North Carolina we are totally unified as to what should be done—and that is not build a pipeline until an agreement is reached. An agreement is at hand, and around the corner. With some help here today it can be reached.

We look forward to working with the Senators from Virginia to conclude it, and to bring it to a proper conclusion.

By Mrs. HUTCHISON (for herself, Mr. SIMPSON, Mr. HELMS, Mr. MCCONNELL, and Mr. GRAMM):

S. 1414. A bill to ensure that payments during fiscal year 1996 of compensation for veterans with service-connected disabilities, of dependency, and indemnity compensation for survivors of such veterans, and of other veterans benefits are made regardless of Government financial shortfalls: to the Committee on Veterans' Affairs.

VETERANS' LEGISLATION

Mrs. HUTCHISON. Madam President, Senator SIMPSON and I are introducing legislation today to make sure the veterans of this country do not worry about their pension payments being made, in case the Government continues to be shut down, by November 21 or November 22. Madam President, of course we hope this will not happen. We hope the President will agree to a balanced budget, and that we can do our responsibility to the people of this country and pass the first year of the 7-year march to a balanced budget.

But the administration has chosen to tell veterans that they will not be paid; that they are not a priority payment. We are introducing this legislation to force the administration to pay veterans benefits, just as the administration would pay any other mandatory benefits that people have earned. Our veterans have earned their benefits. It is a mandatory payment. This legislation should not be necessary but for the position the administration has taken.

I am pleased to introduce this bill with Senator SIMPSON and I yield the time I have left to Senator SIMPSON to talk about the importance of making sure that veterans are not going to have to worry, that their pension checks will be in the mail December 1.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Madam President, I am proud to be a cosponsor of this measure. I think Senator HUTCHISON has well described what we are trying to do. It seems extraordinary to me we would even be in this position. The President could have had every opportunity to extricate himself from the position. I think the reason it has come to pass is a very simple one, and that is the Secretary of Veterans Affairs, a Cabinet post, Secretary Jesse Brown, is acting and continues to act in an exceedingly and purely partisan mode.

On November 3, I rose in this Chamber to speak to an issue of particular concern to me. At that time I spoke of what I feel to be the wholly inappropriate use by the Secretary of Veterans Affairs of Government computers and the VA employee pay stubs to convey a blatantly partisan political message to his 240,000 employees.

The consistent message Secretary Brown has been conveying has been one of doom and destruction. Were one to listen to the Secretary, one would believe that the whole system of veterans' benefits was in grave jeopardy—a system put in place by a grateful Nation for those who fought and sacrificed that she may remain free. Indeed, in his morning message to employees that greeted them when they booted up their computers on the morning of November 9, he said no less.

That is just plain wrong. For it is simply not true. The budget proposed by this Congress—these evil Republicans—provides for a growth, that is, increase, of nearly $4 billion over the 7-year time period during which we seek a budget balance. That hardly smacks of the elimination of veterans' benefits as we know them. And during this time in which the budget for veterans will rise more than 10 percent, the number of veterans will be steadily falling from the 26.1 million currently living to approximately 23 million. Resources continue to increase. The number of beneficiaries continues to decline. How anyone can refer to that as the same draconian cut Secretary Brown keeps mentioning truly amazes and eludes me.

I want to say I have served as chairman of the Veterans' Affairs Committee and have been a member of it for some 17 years, since 1979. Since that time I have seen many good, able men at the helm of the Veterans Administration, now the Department of Veterans Affairs.

When I arrived, Max Cleland, that very spirited, brave young man, who had lost three of his limbs in combat in Vietnam, was the Administrator under a Democrat President. Following him, under the Reagan administration, Bob Nimmo, a committed decorated bomber pilot of World War II, served in that position. Then West Pointer and "Lonesome End," Harry Walters was in that position. Then steady and reliable Gen. Tom Turnage. With the elevation of the VA to Cabinet status my old friend the affable and effective Ed Derwinski took the helm, and following Ed, the exceedingly bright and conscientious former staff director, Tony Principi.

Never, during all of those years, and they include both Democratic and Republican Administrators, have I ever seen the role of Administrator of Veterans Affairs or Secretary be used—and being used is the word I want to use here—for such blatant partisan political purposes, and being used in a way I would consider to be wholly embarrassing and demeaning.

In my remarks on November 3, I stated that the budget approved by the Congress was substantially more advantageous to veterans than the President's own. In an interview with Ruth Larson of the Washington Times published on November 8, Secretary Brown himself acknowledged as much saying: "He's (meaning me) absolutely right." Then he goes on, with an apparently straight face: "No problem. The President said I can come back and ask for more next year."

I ask unanimous consent to have a copy of that article printed in the RECORD, if I may.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMPSON. Madam President, that is the way the budget process works. Each year, every single agency head submits his or her own budget request for that particular year.

The budget process starts in the fall of the year. The agencies submit their budget requests to the Office of Management and Budget. After some considerable back and forth, the budget of the administration comes to us. When the Secretary says that he'll have a chance to ask for more next year—or that the President promises to treat this veteran constituency fairly in the future, I am tempted to say: "So what. No big deal." Those are the very same rules by which every agency operates. And indeed, I would imagine that the President has committed to each of his Cabinet officers the very same thing saying: "Present your best budget to me, and I'll package that for presentation to the Hill." One notes in this form of articulation that there are no promises made.

And really there can't be. The budget environment in which we are operating, to balance the budget as I personally would hope we do by the year 2002, or the budget proposed by the administration which would, under assumptions that are at the very best questionable, balance the budget over a 10-year period. Either way, there are limits on spending programs, and those limits will, of necessity, affect every single agency of this Government.

Indeed, Secretary Brown's criticism of the Congress assumes a straight line freeze of the VA medical care budget. While, in fact, both the Senate and House have approved significant increases.

Secretary Brown tells us the President will think about an increase next year. Well, I remind him again. The Congress has delivered one this year.

The true fact is, no country on this Earth has been more generous with its veterans than has ours. The very fact that the budget of the VA goes up some $4 billion over the next 7 years, while the population of veterans will decline by 3 million, seems to be a pretty powerful indication of our continuing commitment to veterans. In this climate, other agencies are suffering actual cuts. Many of those agencies have worthy constituencies as well. But the budget of the Department of Veterans Affairs is not being cut. It continues to grow, and indeed grow at a generous rate as it has each and every year since my arrival here in the Senate in 1979. It was $20 billion then. It is almost $40 billion now. Not a cut in a carload.

Madam President, would that the Secretary could simply acknowledge that basic fact and then work with us to assure that the funds appropriated for the worthy purposes pursued by his Department were best utilized. Unfortunately, he has taken the President's tack on this. He is churning out the political message of the day as it is set forth by the White House in anticipation of the tough 1996 election year. And he is doing it in various ways that I consider to be wholly inappropriate.

It has recently come to my attention that part of this political caper is done through the use of dedicated career civil service employees of the Department who are directed by the Secretary's political underlings and henchmen to craft his message. Does one really believe that those messages flickering on the VA computer screen every morning are the work of the Secretary himself? I do not think so. They are cranked in his Office of Public Affairs, as are the drafts of the myriad political stump speeches he and his underlings deliver around the country. I'm learning fast on that too—by having my fellow veteran friends out there listening to those speeches. Those are often outrageous.

One VA employee has raised a concern with me regarding the fact that he has been asked to further the White House political message line—although it has nothing whatsoever to do with veterans. Instructions to just send the political appointees out in the land—at Government expense—with a canned speech in tow that could have been written by the White House itself. And do always attack the Republican Congress and any budget it proposes. Do whatever you will—as long as it is consistent with the White House media message of the week.

I too am a taxpayer, and I am offended. Indeed, this Nation's veterans are taxpayers as well, and they should be similarly offended that their tax dollars are being used in this way.

I have nothing whatsoever against a Secretary extolling the splendid virtues of America's veterans, exhorting his fine professional staff to ever higher levels of service to those who fought for this country, or generally informing both segments of society of information they need to effectively participate in this political process. What grievously appalls me is the blatant partisanship here exhibited. Doesn't seem to bother Jesse though.

Mr. President, Secretary Brown has referred to my criticism of him and of his message as outrageous.

Jim Holley, his media spin-master spokesman, has called it ironic as it would appear to be a criticism of the Secretary based on his advocacy for veterans. Mr. Holley, surely misses the entire point. There is a difference between advocating for our veterans, and pouring out rank political partisanship. What we see here is the latter.

Mr. President, I have no intention of holding back in my criticism of the Secretary on this matter. As I have said before, I believe what he is doing is plain wrong. I do not condone that, nor should veterans.

It is unacceptable for political agencies to lobby. We have statutes that prohibit that. It is equally inappropriate for an agency such as this to encourage its employees and its constituency, albeit by implication, to do that which they cannot legally do directly. And I shall keep expressing that message loud and clear.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SIMPSON. Madam President, I will continue to observe this process very clearly and express my objections at every possible occasion.

EXHIBIT 1

[From the Washington Times, Nov. 8, 1995]

VA CHIEF TERMS "OUTRAGEOUS" GOP "CHEAP POLITICS" CHARGE

(By Ruth Larson)

Veterans Affairs Secretary Jesse Brown said he will continue telling his employees about the effect of congressional budget proposals, despite congressional Republicans' objections that he was engaging in "cheap politics."

"It's outrageous to suggest that the VA shouldn't tell its 240,000 employees that as many as 61,000 jobs are at risk, or that 41 veterans hospitals may close," Mr. Brown said in a telephone interview yesterday.

Sen. Alan K. Simpson, Wyoming Republican and chairman of the Senate Veterans' Affairs Committee, on Friday blasted Mr. Brown's use of VA computers and employee pay stubs to criticize congressional budget proposals and warn of massive layoffs at the department. He accused Mr. Brown of using government resources to send out partisan misinformation.

Mr. Brown countered: "I hope someone tells me that it's not going to happen—that they're not going to lock in our funding at 1995 levels for the next seven years. If somebody would tell me that, I'd apologize—sure, I would," Mr. Brown said.

Asked about Mr. Simpson's assertions that veterans would suffer more under the Clinton administration's proposed budget than under congressional plans, Mr. Brown said, "He's absolutely right."

But he was quick to explain that statement. He said that during the budget process, he'd gone to Mr. Clinton three times to tell him that the administration's government-wide cutbacks "would have the same effect as what the Republicans are proposing."

Mr. Clinton assured him that he would be able to negotiate the budget every year. "I'll be sure the veterans are treated fairly," he quoted Mr. Clinton as saying.

"We aren't getting the same commitment from Congress. There is no flexibility," Mr. Brown said.

Rep. Bob Stump, Arizona Republican and chairman of the House Veterans' Affairs Committee, criticized Mr. Brown for "intentionally misrepresenting and needlessly scaring vulnerable veterans" about Republican budget proposals.

He said in a statement: "The real hypocrisy lies with the Clinton 10-year budget plan which takes nearly three times as much from veterans' programs without balancing the budget."

The Washington Times reported yesterday that some VA field employees had complained that Mr. Brown's messages represented "political propaganda."

Mr. Brown said he had sent out hundreds of daily messages on a variety of subjects to his 240,000 employees. "Out of those hundreds of messages, [Mr. Simpson] chose three."

Mr. Brown said he routinely runs the messages by his general counsel "to make sure they don't violate any laws or ethics requirements, and they've all passed," he said. "We wouldn't do it if it weren't legal."

Administration officials often defend the legality of their actions by saying they stop short of urging employees to contact members of Congress. For example, in one of his messages, Mr. Brown cautioned, "I am not calling on you to act."

"No, not much," Mr. Simpson chided him on Friday. "It does not take a rocket scientist to figure out that many employees might take that as a pretty good hint to take some action."

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Madam President, I understand the Senator from Texas simply wants to add some cosponsors to her bill.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I ask unanimous consent to add Senators HELMS and MCCONNELL as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. D'AMATO:

S. 1415. A bill entitled "Thrift Charter Conversion Act of 1995"; to the Committee on Banking, Housing, and Urban Affairs.

THE THRIFT CHARTER CONVERSION ACT

• Mr. D'AMATO. Mr. President, I am introducing today the Thrift Charter Conversion Act. I am introducing the bill exactly as it was reported out by the Subcommittee on Financial Services and Consumer Credit of the House Committee on Banking and Financial Services. I am doing this in the spirit of cooperation exhibited during the House and Senate collaboration during the reconciliation process, particularly in recapitalizing the Savings Association Insurance Fund—an action which will increase public confidence in our Federal deposit insurance system and avoid any further costs to the taxpayers.

This bill would eliminate the specialized Federal thrift charter, merge the Federal thrift industry into the banking industry, and consolidate the federal thrift and bank regulatory agencies. It would create a safer and sounder and more rational framework for depository institutions. While I do not endorse all of the provisions of the House bill, I am committed to its basic goal of merging the thrift and bank charters. The Senate Banking Committee will commence its consideration of this bill immediately, and I am committed to completing this legislative task as quickly as possible consistent with the other obligations of the Banking Committee.

Mr. President, I am committed to the goal of minimizing—and eliminating to the extent possible—the risks to the taxpayer that will inevitably result from the continued existence of the thrift industry. Earlier this year, I took the first step toward this goal by introducing legislation to merge the separate federal deposit insurance funds for banks and thrifts. The introduction of the Thrift Charter Conversion Act is an important final step toward that goal.

I want to commend my colleagues in the House for their leadership on this essential next step of merging the thrift and bank charters. The House and Senate Banking Committees considered including charter merger provisions in the budget reconciliation legislation, but Senate procedural rules prohibited us from including such provisions. The House reconciliation bill contained the text of the measure that I am introducing today. I want to commend Representative MARGE ROUKEMA, chairman of the Subcommittee on Financial Institutions and Consumer Credit, and full committee Chairman LEACH for their work on this bill.

Mr. President, our Nation's thrift industry has helped Americans finance their homes for over 160 years—with remarkable success. As we have witnessed during the past two decades, however, it has also experienced serious financial difficulties. These difficulties eventually led to the industry's collapse during the 1980's—a collapse that has cost the American taxpayers more than $150 billion.

Despite the massive bailout and the numerous laws enacted to stabilize the thrift industry, serious problems continue to plague our Nation's thrift industry. Congress cannot ignore these problems. Congress must act now before our Nation's taxpayers are asked to pay for another bailout of the thrift industry.

I am pleased that under the leadership of the House and Senate Banking Committees, Congress is already taking action to protect the American taxpayer and to avoid another thrift industry crisis. Last week, the House and Senate Banking Committees agreed to a proposal to recapitalize the ailing Federal deposit insurance fund for thrifts—called the Savings Association Insurance Fund [SAIF]. The SAIF is now so undercapitalized that the failure of one large thrift could bankrupt it. The proposal agreed to last week will recapitalize the fund-using industry—not taxpayer—money. Because the proposal saves the American taxpayers some $900 million, it has been included in Congress' budget reconciliation package—a package designed to eliminate the budget deficit in 7 years.

Mr. President, despite the recapitalization of SAIF, the thrift industry continues to pose serious and chronic safety and soundness risks to our Nation's Federal deposit insurance system. In an October 31, 1995 letter to me, Ricki Helfer, Chairman of the FDIC, explained why thrifts pose a greater safety and soundness risk of the Federal deposit insurance system than do banks, even with a recapitalized insurance fund:

> Relative to the Bank Insurance Fund [BIF], the SAIF faces risks related to the size of its membership, geographic and product concentrations, and inherent structural problems in the industry. The SAIF has fewer members than the BIF and faces greater risks with the failure of any one member. The SAIF also has a geographic concentration on the West coast. The eight largest SAIF-insured thrifts operate predominantly in California, and they hold 18.5 percent of SAIF-insured deposits. By contrast, the eight largest holders of BIF-insured deposits are located in five different states and hold 10 percent of BIF-insured deposits. SAIF members' assets are concentrated in residential real estate . . . to realize certain tax benefits. While traditional residential real estate lending can be managed in such a way as to present relatively little credit risk, substantial concentrations in the area make SAIF members susceptible to interest-rate fluctuations.

In an August 29, 1995, report, entitled "The Thrift Charter: Should It Be Eliminated?" the Congressional Research Service also noted that their specialization in housing finance makes thrifts more vulnerable than banks to an economic downturn:

> Support for a more flexible [thrift] charter stems from interest in protecting the Federal deposit insurance system. . . . Lending and deposit options for thrifts have been broadened over the past several years, nonetheless, thrifts' deposit and lending base is still less diversified than banks because of their specialization in housing finance. There is concern that this lack of diversification could cause institutional weaknesses in an unfavorable economic climate.

Thus, an important goal of charter merger legislation is to decrease the significant safety and soundness risks posed by thrifts to the Federal deposit insurance system.

In addition, fundamental changes in the marketplace have called into question the need for a specialized thrift industry. The role played by thrifts in the housing finance market has declined significantly. Testifying before the House Subcommittee on Financial Institutions and Consumer Credit on August 2, 1995, Alan Greenspan, chairman of the Federal Reserve Board, summarized this development as follows:

> So far this decade, savings and loans and savings banks have originated 25 percent of residential mortgages—as compared to 50 percent over the previous 20 years—and hold, on average, only 28 percent of outstanding residential mortgage debt, compared to two-thirds during the earlier period. Currently only 2 thrifts are among the top 15 mortgage services and none are among the top 10 originators. Over the last decade, when thrifts' participation in the residential mortgage market receded, the aggregate supply of housing finance was unimpaired and mortgage rates apparently unaffected.

The decreased dependence on a specialized thrift industry to originate and fund mortgages is primarily due to the development of mortgage-backed securities and a secondary mortgage market.

Mr. President, while the role of thrifts in housing finance is receding, thrifts do continue to provide niche financing that is important to the housing market, including adjustable rate mortgages and mortgages that do not conform to secondary market underwriting criteria. Thrifts could still specialize in this type of financing under current charter merger proposals, however. In this regard, I believe that, as a business matter, many institutions will want to focus on housing finance, despite any charter changes mandated by Congress.

To summarize, the continued safety and soundness risks posed by the thrift industry and the receding role of the thrift industry have resulted in proposals to eliminate the thrift charter. Federal banking and thrift regulators have expressed support for these proposals. At a September 21, 1995, hearing held by the House Subcommittee on Financial Institutions and Consumer Credit, Federal Reserve Chairman Greenspan noted:

> Two conclusions are clear. First, the nexus between thrifts and housing largely has been broken without any evident detriment to housing finance availability. Second, a public policy that induces—let alone requires—thirfts to specialize in mortgage finance threatens the continued viability of many of these entities—particularly those without wide and deep deposit franchises, tight cost controls, and the ability, when necessary, effectively to originate and sell standard mortgages that cannot profitably be held long-term. A broader charter for thrifts—such as a commercial bank charter that lets them hold a wider range of assets—thus would seem to be good public policy. . . .

At that same hearing, FDIC Chairman Helfer also expressed support for the elimination of the current thrift charter:

> The FDIC is not opposed to eliminating the distinctions between bank and thrift charters—far from it. The FDIC believes that the current charter distinctions no longer match economic reality. Moreover, forcibly concentrating a class of institutions—thrifts in this instance—into a limited range of activities with low profit margins is a prescription for trouble, as the savings and loan crisis of the 1980's and early 1990's amply demonstrated.

These statements from our Nation's top bank and thrift regulators cannot be ignored by Congress.

Mr. President, industry representatives have also recognized the inherent problems of the thrift charter and expressed support for eliminating or reforming their current charter. In a September 12, 1995, Wall Street Journal article, entitled "Time to Kill the Thrifts for Good," a leading thrift industry executive stated:

> The thrift industry charter is inherently flawed, and the resulting vulnerability of the industry has been demonstrated repeatedly over the past 25 years. . . . These numbers are trying to tell us something—namely the thrift charter is obsolete. Today, a separate thrift industry cannot be justified either by standards of the market or public policy. . . . In formulating public policy, we should not seek to maintain an industry charter that impairs the viability of its institutions, strains the banking system and threatens the American taxpayer. We need to integrate thrifts into the banking industry.

It is difficult to imagine a stronger statement in favor of eliminating the thrift charter, and the statement is even more forceful coming from a thrift industry executive. In a September 20, 1995, letter to me, America's Community Bankers, the national trade association for thrifts, also noted that it "is fully prepared to work . . . toward—thrift—charter reform and modernization."

> Finally, one of the strongest statements in support of eliminating the thrift charter has come from the editorial board of a leading national newspaper. In a September 20, 1995 editorial, the Washington Post stated that "S&Ls have lost their special purpose—all kinds of institutions now make mortgage loans—and in some respects have become a danger." The editorial concluded: "S&Ls were work horses in their day. The day is gone, and so—as a separate kind of entity—should they be."

Mr. President, the bill I am introducing today would eliminate the specialized Federal thrift charter, and would force all federally chartered thrifts to convert to banks. It also would require that all State-chartered thrifts be regulated like State-chartered banks. It would also allow some converted institutions and qualified thrift holding companies to engage in certain activities not permitted for banks. These grandfathered activities would be permitted only under strict constraints. Finally, it would create a new Federal charter, called a national mutual bank.

This bill also would rationalize the Federal regulation of banks and thrifts. It would merge the Federal banking and thrift regulators, saving taxpayer money, and reducing bureaucratic redtape. There is a broad consensus in favor of this initiative. As Under Secretary of the Treasury for Domestic Finance John Hawke stated, in an October 27, 1995, letter to House Banking

Chairman LEACH, there is "broad agreement on the logic of merging the Federal regulation of banks and thrifts."

Mr. President, resolving the thrift industry's remaining problems will not be an easy task. This is not a project that can be completed overnight. There are numerous, complex legal and public policy issues that must be addressed in a careful, thoughtful way. Congress will need to collaborate with industry representatives, Federal thrift and bank regulators, and the administration. Decisions made today on these issues will have lasting consequences on the shape of our Nation's financial services industry well into the next millennium.

I ask unanimous consent that a brief description of the complex legal and public policy issues that must be addressed as we move forward with consideration of this bill be printed in the RECORD. Some of these issues are addressed by the House bill. Others are not.

Mr. President, every process needs a beginning. I believe this bill is an appropriate place for the Senate to start its consideration. I look forward to working with my Senate and House colleagues to address the very important issues raised by this bill. Working together, I believe we can create a safer and sounder and more rational framework for depository institutions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ISSUES RAISED BY THE THRIFT CHARTER CONVERSION ACT

Transition Period: The House bill may not provide an adequate transition period. The bill requires federal savings associations to convert to banks or liquidate in two years. In other cases where entire classes of financial institutions have been subject to major statutory change, a longer transition period was provided. For example, when one-bank holding companies became subject to Federal Reserve Regulation by the Bank Holding Company Act Amendments of 1970, a transition period of 10 years accompanied such change to allow for proper corporate planning.

Continued Existence of State Thrifts: The House bill eliminates federal thrifts, but not state thrifts. If the reasoning of the House bill is that the thrift charter is inherently risky, it is unclear why federal deposit insurance should continue to be made available to state thrifts. Many, perhaps even most, federal thrifts may elect to become state thrifts under the House legislation, thereby frustrating whatever purpose underlies the House bill.

Grandfather Period for Savings Institutions Powers: Under the House bill, thrifts that become banks would have two years in which to terminate any activities or investments not permissible for banks. Regulators could grant two one-year extensions of that deadline, on a case-by-case basis. This two-year period may be too short and may create needless uncertainty for institutions. The case-by-case extension procedure could create needless administrative costs for institutions and their regulators.

Branching: All thrift branches established after September 13, 1995, would be subject to federal and state laws applicable to banks under the House bill. Tying grandfathering to this date could unnecessarily disrupt the operations of thrifts pending enactment of legislation. Moreover, the public policy rationale underlying the House provision prohibiting former thrifts from branching within a state in which the thrift had already established a branch should be carefully reviewed. Limiting branching by an institution in a state where it already has a presence could harm institutions heavily invested in existing branch networks.

New Rules for Thrift Holding Companies: The House bill completely changes the rules that apply to companies that own savings institutions. But there has been no evidence that the current thrift holding company framework has been a source of strength to their thrift subsidiaries. Obviously, the public policy rationale and consequences of these changes must be carefully reviewed.

Grandfather for Thrift Holding Companies: the House bill's requirements for maintaining grandfathered holding company status may be too rigid and need adjustment. Even a minor infraction of an investment limitation could trigger forfeiture of grandfather rights. These provisions must be carefully reviewed.

Regulation by Federal Reserve: The financial impact and uncertainty of regulation of grandfathered thrift holding companies by the Federal Reserve has not been thoroughly analyzed and considered.

Elimination of Commonly Used Indices: Certain indices commonly used for adjustable rate mortgages (e.g., cost of funds indices (COFI) likely will be lost under the House bill. While the bill recognizes the need to address this loss, the uncertainty surrounding their replacement could have a significant impact on the mortgage market and COFI-based mortgage related securities.

Federal Home Loan Bank Membership: The House bill would permanently prohibit federal savings associations from withdrawing voluntarily from the Federal Home Loan Bank System. It is unclear why national banks that once were thrifts should be singled out for mandatory membership.

Prohibition on New Federal Savings Association Charters: The House bill would prohibit the OTS from issuing any new federal thrift charters. A prohibition against issuing new thrift charters between the date of enactment and the date on which the federal thrift charter expires may not allow for exceptions needed to facilitate conversions and mergers (including resolution of troubled thrifts) that will not result in the creation of a new federal thrift.

Loans-to-One Borrower ("LTOB") Rules: The House bill would grandfather for 3 years after the date of enactment any loans or legally binding commitments made by a thrift that converts to a national bank on or before January 1, 1998. Thus, thrifts with significant investments in housing loans authorized pursuant to the special real estate exception available to thrifts under the LTOB rule would be forced to liquidate existing loans made under this exception. It is unclear what purpose is served by requiring liquidation of loans that were lawful when made. It is also unclear what impact revocation of the exemption would have on a going forward basis on funding for housing.

Elimination of the OTS: The House bill provides for a complicated three-way merger of the Office of Thrift Supervision (OTS) into the other federal banking agencies. The bill omits the "standard" FIRREA employee protections. Treasury, OTS, and the Office of the Comptroller of the Currency have discussed agency merger transition provisions, but have yet to produce a comprehensive proposal for disposition of OTS. Adequate transfer rules for OTS employees are essential to ensure the retention of skilled and experienced personnel to supervise institutions during a period of significant economic strain on the thrift industry. They are also necessary for the smooth transition of oversight functions, and the fair treatment of existing OTS personnel.•

By Mr. HATFIELD (for himself and Mr. MACK):

S. 1416. A bill to establish limitation with respect to the disclosure and use of genetic information, and for other purposes; to the Committee on Labor and Human Resources.

THE GENETIC PRIVACY ACT OF 1995

• Mr. HATFIELD. Madam President, recent breakthroughs in science have brought great hopes in the area of genetics. The human genome project is proceeding with the goal of mapping and sequencing every gene in the human body. The potential of identifying disease characteristics through their genetic makeup brings great hope to those suffering from an array of diseases such as Huntington disease, Alzheimer's disease, cystic fibrosis, and breast cancer. Unfortunately, these advances also raise profound ethical, legal, and social questions relating to access to genetic testing, insurability, employability, and confidentiality.

While many doctors are offering genetic testing to patients with a history of a genetic-related disease to identify their own risk, many patients and physicians are not capable of dealing with the consequences of this information. For example, is the patient required to share this information with the health insurance company? How about their employer? Does the physician have an obligation to share this information? There have already been cases of discrimination as a result of an employer learning of an employee's genetic risk. In addition, cases have arisen where health insurance access was denied as a result of a genetic predisposition.

This is problematic because we are only in the first stages of understanding the human genome. Genetic testing has proven effective in some cases but it can be argued that the presence of a gene or certain genetic characteristics will not always result in the onset of the particular illness. The potential for discrimination is great. Although several States, including my own State of Oregon, have begun to address the issue of genetic information and health insurance, there are currently no Federal laws governing the use of genetic information.

The legislation that I am introducing today with my colleague, Senator MACK, is modeled on the Genetic Privacy Act recently passed by the Oregon

Legislature. It also draws on recommendations made by the NIH-sponsored ELSI Working Group and the National Action Plan on Breast Cancer.

The purpose of the Genetic Privacy Act of 1995 is to establish some initial limitations with respect to the disclosure and use of genetic information with the goal of balancing the need to protect the rights of the individual against society's interests. The bill is intended as a first step—to ensure that there are some Federal standards in place in the most critical areas of concern. I see it as a working draft to be refined as the science progresses. The bill would define the rights of individuals whose genetic information is disclosed. In addition, it would protect against discrimination by an insurer or employer based upon an individual's genetic characteristics.

First, the bill prohibits the disclosure of genetic information by anyone without the specific written authorization of the individual. This disclosure provision could apply to health care professionals, health care institutions, laboratories, researchers, employers insurance companies, and law enforcement officials. The written authorization must include a description of the information being disclosed, the name of the individual or entity to whom the disclosure is being made, and the purpose of the disclosure. This provision preserves the individual's ability to control the disclosure of his or her genetic information. There are several exceptions for the purposes of criminal or death investigations, specific orders of Federal or State courts for civil actions, paternity establishment, specific authorization by the individual, genetic information relating to a decedent for the medical diagnosis of blood relatives of the decedent, or identifying bodies.

Second, the legislation prohibits employers from seeking to obtain or use genetic information of an employee or prospective employee in order to discriminate against that person. In March 1995, the U.S. Equal Employment Opportunity Commission [EEOC] released official guidance on the definition of the term "disability". The EEOC's guidance clarifies that protection under the Americans With Disabilities Act extends to individuals who are discriminated against in employment decisions based solely on genetic information. Issuance of the EEOC's guidance is precedent setting—it is the first Federal protection against the unfair use of genetic information. The provision included in the bill is intended to reiterate the ruling of the EEOC and make it clear that this practice would be prohibited under Federal law.

Third, the legislation prohibits health insurers from using genetic information to reject, deny, limit, cancel, refuse to renew, increase rates, or otherwise affect health insurance. This is in line with changes that are currently under consideration with regard to health insurance and preexisting condition exclusions.

A study of genetic discrimination prepared by Paul R. Billings, M.D. and cited by the NIH-DOE ELSI Working Group in their report entitled "Genetic Information and Health Insurance," indicates that there have been a number of cases of discrimination already as the result of an insurer learning of an individual's genetic predisposition. One woman who was found to carry the gene that causes cystic fibrosis was told she and her children were not insurable unless her husband was determined not to carry the cystic fibrosis gene. She went without health insurance for several months while this was determined. In another case, a man diagnosed with Huntington disease was denied health insurance on the basis that it was a preexisting condition, even though no previous diagnosis of Huntington had been made.

As the prevalence of genetic testing spreads, so does the risks of discrimination. Women found to carry the gene that indicates breast cancer susceptibility, BRCA1, fear they will lose health coverage if their insurer finds out. However, having this information may provide early treatment and prevention options for the woman. The provision relating to health insurance in the bill will provide much needed assurance to individuals with genetic predispositions. This will ensure that they will not risk losing their health coverage when they need it the most.

Finally, the bill requires the recently established National Bioethics Advisory Commission to submit to Congress their recommendations on further protections for the collection, storage, and use of DNA samples and genetic information obtained from those samples, and appropriate standards for the acquisition and retention of genetic information in all settings. This provision is intended to ensure that the social consequences of genome research are considered as the technology develops and not after the fact.

Madam President, as I said previously, this is a first step. This bill addresses the most pressing concerns surrounding genetic testing and the disclosure of genetic information as they relate to health insurer and employer discrimination. I believe this is a good beginning and I hope my colleagues will join me in supporting this important legislation.•

ADDITIONAL COSPONSORS

S. 881

At the request of Mr. PRYOR, the names of the Senator from Virginia [Mr. WARNER], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from Georgia [Mr. NUNN], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1150

At the request of Mr. SANTORUM, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall plan and George Catlett Marshall.

ADDITIONAL STATEMENTS

THE LIKELIHOOD OF A GATT CHALLENGE TO AN EMBARGO ON IRAN

• Mr. D'AMATO. Mr. President, I rise today to discuss the likelihood of a GATT challenge to an embargo on Iran.

On December 13, 1994, the Congressional Research Service did a Memorandum for Representative Peter DeFazio entitled "The Likelihood of a GATT challenge to the Cuban embargo under the GATT 1994 and the WTO." This document further backs up my assertion that the United States, under Article 21 of the GATT, the United States has the broad authority to impose sanctions against another country for reasons of national security, and by connection we have that right to do so in the case of Iran. Mr. President, so that my colleagues can read this interesting memorandum, I ask that this memo be printed in the RECORD at the conclusion of my remarks.

I would also like to comment on section 8(a) of the Export Administration

Act of 1979, as it relates to S. 1228, the Iran Foreign Oil Sanctions Act of 1995. For purposes of demonstration, I would like to comment on paragraph (1) of this section which reads as follows:

> (1) For the purpose of implementing the policies set forth in subparagraph (A) or (B) of paragraph (5) of section 3 of this Act, the President shall issue regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation. . . ."

This paragraph is very instructive because it prohibits U.S. companies from dealing with a country that abides by an "unsanctioned" third-party boycott against another country. However, the stipulations of this paragraph are vital to the argument supporting a "sanctioned" third-party embargo against Iran. The intent here is to prevent support for "* * * any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation * * *." The phrases "against a country which is friendly to the United States," and "which is not itself the object of any form of boycott pursuant to United States law or regulation" are key to the argument. In the case of Iran, I think everyone would agree that Iran is not friendly to the United States and equally so, it is certainly a matter of fact that Iran is subject to sanctions by the United States.

Therefore, the opponents of this legislation cannot argue against the Iran sanctions legislation because there are provisions in the bill that would require United States companies to avoid doing business with companies that sell oil and gas equipment to Iran. The "anti-boycott provisions in the EAA clearly permit the imposition of "sanctioned boycotts" against countries which are unfriendly to the United States.

The material follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, December 13, 1994.

To: Hon. PETER A. DEFAZIO.
(Attention: Peter Tyler).
From: American Law Division.
Subject: Likelihood of a GATT challenge to the Cuban embargo under the GATT 1994 and the WTO.

This memorandum is in response to your inquiry concerning the possibility of Cuba's bringing a challenge to the U.S. embargo against it before the World Trade Organization (WTO) under the terms of the General Agreement on Tariffs and Trade of 1994, the General Agreement as it emerged from the Uruguay Round.[1] Unless otherwise exempted by other provisions under the GATT 1994, the Cuban embargo is arguably inconsistent with the obligations to extend most-favored-nation (MFN) treatment under Article I: 1, of the GATT 1994,[2] to extend national treatment under Article II: 4, of the GATT 1994, and to eliminate quantitative restrictions generally under Article XI: 1, of the GATT 1994. The U.S. embargo against Cuba appears to be justifiable under the international law concept of fundamental change in circumstances, *i.e.*, Cuba's change to a communist regime and a non-market economy. The national security exception under Article XXI of GATT 1994 may also exempt the embargo as a national security measure. Also, the United States could request a waiver to permit the embargo, but this may be difficult to obtain. Apparently, there is some concern that the strengthened dispute settlement and enforcement mechanisms under the GATT 1994 may motivate Cuba to bring a challenge to the embargo. You also indicated concern about possible limitations on unilateral quantitative restrictions under the GATT 1994, but it seems these limitations generally involve limitations on quantitative restrictions that have been permissible in the past as a routine matter under textile arrangements, for balance-of-payments reasons, and the like, and not limitations on embargoes that are justifiable under other provisions of the GATT. This memorandum will briefly discuss the history of the embargo and the possible justifications for the embargo under the GATT.

Cuba is an original contracting party to the GATT,[3] yet the United States has had an embargo on Cuba since 1962.[4] Cuba has from time to time protested or commented negatively on the U.S. embargo as GATT illegal,[5] indicating that the United States has never formally justified its actions in the GATT context. These comments or protests either concern the Cuban Democracy Act of 1992 or the support of other countries subjected to sanctions by the United States. It is unclear whether Cuba made a formal complaint about the original embargo in the GATT forum.[6] The United States was apparently motivated by the communist coup and unresolved U.S. compensation claims arising from the expropriation and nationalization of U.S. property holdings in Cuba and also by concerns about human rights abuses and the lack of democracy in Cuba.[7]

THE CONCEPT OF FUNDAMENTAL CHANGE IN CIRCUMSTANCES

It appears that justification of the embargo was possible under the international law concept of fundamental change in circumstance. However, this requires notification to the other parties of action taken pursuant to the doctrine. Under the international law concept of fundamental change in circumstances, the United States and other GATT parties could have considered Cuba to no longer be a member of GATT when Castro deposed the Cuban government that had been in power when the GATT 1947 was concluded. This concept, codified in the Vienna Convention on the Law of Treaties,[8] states that where there has been a fundamental change from the circumstances existing at the time of the conclusion of an international agreement, which was not foreseen by the parties, this change may not be a ground for terminating or withdrawing from the agreement unless the circumstances were essential to the consent of the parties to be bound by the agreement and the change radically transforms the extent of obligations still to be performed under the agreement. A party may not invoke this doctrine if the fundamental change of circumstances was the result of the invoking party's breach of an obligation under the agreement or of any international obligation owed by that party to any other party to the agreement. If a party may invoke the doctrine for termination of or withdrawal from an agreement, it may also invoke it for suspension of the operation of the agreement. A party invoking this doctrine must notify other parties to the agreement.[9]

The original circumstances, that Cuba was controlled by a non-communist regime and was a market economy, were arguably essential to the Agreement. Although non-market economies have acceded to the GATT, they have done so under protocols specifying goals and measures to be met to ensure fair trade. Also, given the international political situation at the time, the cuban change to a communist-style government and the resulting political and military tensions between the two countries could be considered by the United States to constitute a fundamental change of circumstances sufficient to terminate or suspend the operation of an agreement.[10]

The United States and other GATT parties could have notified, and may still be able to notify, the GATT that, under the doctrine, they consider the GATT terminated (or suspended) with respect to Cuba.[11] There apparently was never any formal declaration by either the United States or Cuba to the GATT Contracting Parties of any inability to continue the application of the General Agreement to each other. Although the United States has not declared a formal suspension regarding agreements with Cuba generally, apparently many agreements are not being applied.[12]

APPLICATION OF ARTICLE XXI

The United States could justify its embargo for national security reasons under GATT Article XXI(b)(iii), because of the acts of hostility between the two at the time the embargo was imposed. The national security reasons need not be formally stated to the GATT Contracting Parties.[13] However, the presidential proclamation declaring the embargo against Cuba gave self-defense and national security as the reasons for it.[14]

Historically, the United States has suspended most-favored-nation treatment for various countries and justified its actions under GATT exceptions, particularly GATT Article XXI concerning security exceptions. Article XXI, provides that nothing in the Agreement shall be construed (1) to require a contracting party to reveal information the disclosure of which is contrary to its security interests; (2) to prevent measures, which a party considers necessary to the protection of its security interests and which are related to nuclear material, related to trade in arms, or taken in time of war or other international emergency; (3) or to prevent a party from taking action pursuant to its obligations under the United Nations Charter for the maintenance of international peace and security. The security exceptions have been applicable in several cases where the United States has suspended MFN treatment, although some parties have felt that the United States has relied excessively on Article XXI in justifying its actions. However, a GATT panel has decided that the underlying justification for a claim of the national security exception will not be questioned. This decision resulted from Nicaragua's GATT challenge to the embargo that the U.S. imposed on it.

Nicaragua became a GATT contracting party on May 28, 1950, under the terms of the

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Footnotes at end of article.

1949 Annecy Protocol of Terms of Accession.[15] In the late 1970s and early 1980s, relations between the United States and the Nicaraguan Sandinista-controlled government deteriorated as the United States cut off aid to the Nicaraguan government and supported Contra rebel efforts to bring about a free and independent government by deposing the Sandinista government.[16] On September 23, 1983, President Reagan reduced the import quota for Nicaraguan sugar.[17] Nicaragua brought a complaint before the GATT. A dispute settlement panel found that the quota reduction was in violation of GATT Article XIII, which provides that quantitative restrictions of a product are only permissible where similar measures are applied to all imports and exports of that product and where the import quota shares are distributed among the parties concerned in a way that approximates as nearly as possible the share each party would have had in the absence of restrictions.[18] The United States did not invoke any exception and seems to have effectively refused to defend itself on GATT grounds, stating merely that any actions taken were not matters of trade policy and could not be properly evaluated in the trade context, and that the United States had not benefitted in any economic manner from the reduction in Nicaragua's quota.[19] The panel report was adopted on March 13, 1984, but in November 1984, Nicaragua was complaining that the United States still had not restored its sugar quota.[20] The United States agreed that Nicaragua had rights, but maintained its position that the situation had to be viewed in a political context.[21]

President Reagan imposed an embargo on Nicaragua by executive order on May 1, 1985, pursuant to his authority under the International Economic Emergency Act and the National Emergency Act, among others.[22] He found that the "policies and actions of the Government of Nicaragua constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with the threat." The embargo prohibited all imports of goods and services of Nicaraguan origin and all exports of goods and services destined for Nicaragua except for those destined for the democratic resistance organization. Additionally, Nicaraguan aircraft were forbidden from landing in or taking off from the United States and Nicaraguan vessels were prohibited from entering U.S.ports.

The embargo against Nicaragua is notable particularly because Nicaragua brought a formal complaint before the GATT and got the reluctant United States to agree to the formation of a dispute settlement panel.[23] Although discrete discriminatory measures had been challenged, a virtually total embargo apparently had never before been brought before a dispute settlement panel. Nicaragua also had previously sued the United States before the International Court of Justice (ICJ) and gotten a determination that the military and paramilitary actions taken against Nicaragua, including the embargo, were violations of international law.[24]

The United States claimed an exception under the national security clause of GATT Article XXI.[25] Nicaragua challenged the validity of the motives of the United States, complaining that it was improperly using a trade forum and trade measures to achieve political ends.[26] It wanted a panel to examine the validity of the United States' claim to the national security exemption by determining whether the Nicaraguan situation posed a valid national security concern for the United States.[27] But although the United States consented to the formation of a panel, it insisted that the GATT could not question the validity of a party's national security concerns.[28] It was a party's prerogative to decide what it considered a threat to national security. The GATT members agreed and did not authorize the panel to examine the justification for the invocation of GATT Article XXI. The panel could only decide whether the measures taken by the United States were consistent or inconsistent with the General Agreement. Therefore, the panel concluded that it could not determine whether the actions of the United States were inconsistent with or in compliance with its obligations under the General Agreement.[29]

Thus, the United States successfully invoked the national security exception under GATT Article XXI and used trade sanctions for political purposes, which it maintained was permissible. However, although many other GATT parties agreed that GATT Article XXI properly left to each party the judgment of what constituted its essential security interests, the parties also regretted the expansive interpretation of the exception by the United States and were concerned that frequent resort to it as an all-purposes defense would erode the GATT rules.[30] They also noted the 1982 decision regarding GATT Article XXI, indicating that actions under Article XXI, should not be overly broad in scope.[31] Free elections were held in Nicaragua in February 1990.[32] President Bush restored the sugar quota in April 1990[33] and Nicaragua, stating that it had reached an agreement with the United States on economic relations, requested the discontinuation of proceedings to determine reparations in the ICJ case in 1991.[34]

THE POSSIBILITY OF A WAIVER UNDER GATT ARTICLE XXV: 5 AND THE WTO AGREEMENT

Article IX:3 of the WTO Agreement[35] specifies a three-fourths majority vote for a waiver of a multilateral trade agreement obligation "in exceptional circumstances." Article XVI:3 of the WTO Agreement provides that in case of a conflict between a WTO Agreement provision and that of a multilateral trade agreement, the WTO Agreement prevails. GATT Article XXV:5 provides that the Contracting Parties may waive an obligation for a particular party "in exceptional circumstances not elsewhere provided for in this agreement" by a two-thirds majority vote of approval where such majority comprises more than half of the parties.[36] So under the terms of the WTO Agreement, a three-fourths vote is now required. Under GATT Article XXV:V, the GATT parties may also by such a vote define certain categories of exceptional circumstances to which other voting requirements shall apply for a waiver and may prescribe such criteria as may be necessary for the application of Article XXV:5. Article IX:4 of the WTO Agreement provides that a waiver granted for more than one year shall be reviewed annually by the Ministerial Conference which shall examine whether the exceptional circumstances justifying the waiver still exist and whether all terms and conditions for the waiver have been met. Possibly the United States could ask for a waiver of the MFN for Cuba, but the three-fourths majority required for the grant of the waiver would be difficult to meet; the Contracting Parties are unlikely to relax the requirements for such a serious matter. Furthermore, the annual review of the waiver would make it necessary to satisfy the Ministerial Conference that the exceptional circumstances still existed in order to maintain an embargo pursuant to a waiver, thereby making it less likely that such an embargo could be maintained indefinitely. In the 1950s, the United States and Czechoslovakia were granted waivers to suspend application of the GATT to each other.

In 1951, the United States suspended application of the GATT to Czechoslovakia, although it was an original signatory to the GATT and accepted the Protocol of Provisional Application[37] and the United States had not invoked GATT Article XXXV, providing for non-application between parties upon accession, with respect to Czechoslovakia upon the accession of the two to the GATT. Czechoslovakia did not have a non-market economy at the time of its accession to the GATT on April 20, 1948.[38] But subsequent changes in the government of Czechoslovakia and friction with the United States over U.S. claims to compensation for post-war nationalizations led to a breach in trade relations.[39] The United States and Czechoslovakia each made declarations, using language found in GATT Article XXIII:1, that the other, through its actions, had nullified benefits which should have accrued to the declaring party.[40]

Although the GATT parties apparently considered the issue to have been resolved through dispute settlement under GATT Article XXIII:2,[41] it also appears that the Contracting Parties took joint action pursuant to GATT Article XXV:5.[42] This provides that "under *exceptional circumstances not elsewhere provided for in this Agreement*, the Contracting Parties may waive an obligation imposed upon a contracting party by this Agreement; *Provided* that any such decision shall be approved by a two-thirds majority of the votes cast and that such majority shall comprise more than half of the contracting parties [emphasis added]." The Contracting Parties declared that, considering "that a contracting party may not be held subject to the provisions of the General Agreement when the fulfillment [sic] of its obligations is rendered impossible by *exceptional circumstances of a kind different from those contemplated under the General Agreement* . . . the Governments of the United States and Czechoslovakia shall be free to suspend, each with respect to the other, the obligations of the [GATT] [emphasis added]."[13]

However, more recently where the waiver has been requested by a party for discriminatory treatment of a certain other party, the discriminatory treatment was to the benefit of the other party. For example, the original GATT authority for voluntary tariff preference programs for developing countries, *e.g.*, Generalized System of Preferences (GSP), was done by waiver.[44] Also, Italy requested permission to give more favorable treatment to certain products from Libya and from Somalia; Australia asked permission to treat certain products of Papua-New Gunea more favorably.[45] The more developed country was trying to assist the economic development of the lesser developed country or to continue a traditional special relationship. So a waiver to deny MFN treatment to Cuba may be difficult to obtain, particularly since Cuba now, unlike Czechoslovakia in the 1950s, apparently has no interest in a mutual suspension of GATT application, as evidenced by its protests that the embargo is illegal.[46]

CONCLUSION

The U.S. suspension of application of the General Agreement to Cuba, embodied by the embargo, is probably justifiable under international law on the grounds of Cuba's change to a communist regime and a non-market economy. The United States may also invoke GATT Article XXI, the national security exception, on the basis of a concern for national security, with our without a mutual declaration of suspension authorized by the Contracting Parties. A waiver to permit the embargo may be requested under Articles IX:3 and IX:4 of the WTO Agreement and GATT Article XXV:5, but may not be readily granted.

If we can be of further assistance, please let us know.

MARGARET MIKYUNG LEE,
Legislative Attorney.●

FOOTNOTES

[1] General Agreement on Tariffs and Trade of 1994 as defined in Annex 1A of the Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations, concluded April 15, 1994 (reprinted at H. Doc. No. 103–316, Vol. I, 103d Cong., 2d Sess. 1339 (1994)).

[2] The article and paragraphs refer to the provisions of the General Agreement on Tariffs and Trade originally concluded Oct. 30, 1947, 61 Stat. (5) & (6), T.I.A.S. 1700, 55 U.N.T.S. 194, and annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee on the United Nations Conference on Trade and Employment (excluding the Protocol of Provisional Application) as amended before the entry into force of the Agreement Establishing the World Trade Organization. Hereinafter, these provisions will be referred to as "GATT Article ___."

[3] It accepted the 1947 Protocol of Provisional Application on Jan. 1, 1948. M. Bowman & D. Harris, "Multilateral Treaties: Index and Current Status" 133 (1984).

[4] Proclamation 3447, 27 Fed. Reg. 1085 (1962) (embargo proclaimed pursuant to §620(a) of the Foreign Assistance Act of 1961, 75 Stat. 445, authorizing the President to establish and maintain an embargo against Cuba and also pursuant to the Final Act of the Eighth Meeting of Consultation of Ministers of Foreign Affairs, Serving as Organ of Consultation in Application of the Inter-American Treaty of Reciprocal Assistance, which resolved that the present Cuban government was incompatible with the Inter-American system and urged member states to take those steps they considered appropriate for their individual and collective self-defense, in light of the offensive of Sino-Soviet communism with which the Cuban government was publicly aligned).

[5] "GATT Activities 1992" 57 (1992) (Cuba protested the Cuban Democracy Act of 1992 reinforcing the trade embargo of the U.S. against Cuba); Council Hears Cuban Complaint on U.S. Sugar Imports, EC Protest on Manufacturing Clause, 3 International Trade Reporter 723 (BNA 1986) (Cuba complained that the U.S. requirement that sugar beet imports through a Third World country must be certified as not being from Cuba discriminated against Cuba and termed the measure "a clear case of aggression against Cuba"); Nicaragua Charges U.S. is "Undermining" Trading System by Cuts in Sugar Quota, 8 International Trade Reporter 330 (1983) (Cuba supported Nicaragua's protest against the U.S. embargo against Nicaragua, saying "we, too, have suffered for more than 20 years from U.S. discrimination").

[6] There do not appear to be any statements recorded in the official supplements to the Basic Instruments and Selected Documents nor reference to unpublished documents concerning such a statement. However, at the time of the suspension of MFN treatment for Poland, some GATT parties recalled that the United States-Poland dispute was the first time a suspension of MFN treatment had been brought before the GATT since the United States-Cuba breach in trade relations. Poland Unsuccessful in Attempt to Get GATT Censure of U.S. for MFN Suspension, 7 International Trade Reporter 187 (1982).

[7] U.N. Adopts Resolution Favoring Free and Fair Trade with Cuba, 9 International Trade Reporter 2045 (BNA 1992). Although it may seem that expropriation of property requires some sort of compensation under international law, the developed and developing countries have not been able to agree on this point, with the developed countries insisting on an international minimum standard and the developing countries insisting that expropriation is a domestic matter to be regulated by the expropriating country under its own laws. D. Harris, "Cases and Materials on International Law" 422–433 (1983).

[8] Art. 62, May 23, 1969, UN Doc A/Conf 39/27, 8 I.L.M. 679, 63 A.J.I.L. 875 See also Restatement (Third) of the Foreign Relations Law of the United States §336 (Am. Law Inst. 1987) [hereinafter Rest. 3rd].

[9] Rest. 3rd. supra note 8, §337, cmt. *f*, and337 (Am. Law Inst. 1987) [hereinafter Rest. 3rd].

[10] Rest. 3rd, supra note 8, at §336(a), cmt. e and Reporters' Note 4 (1987). Although even actual, overt acts of hostility do not necessarily constitute a fundamental change of circumstances sufficient to terminate or suspend the operation of an agreement between the parties engaged in hostilities, where the agreement at issue concerns trade relations and trade is essentially disrupted by political and military tension, the agreement probably could be considered terminated or suspended between the concerned parties. Other types of agreements probably would not be considered terminated by any of the parties because of either overt hostility or political and military tensions. For example, the U.N. Charter prohibits the use of force and was intended to end war as a solution to international disputes, but obviously force is still used to resolve disputes and the Geneva Conventions on the Law of War are considered applicable for humanitarian reasons during hostilities.

[11] Ya Qin, China and GATT: Accession Instead of Resumption, 27 J. of World Trade 77, 95–97 and note 89 (1993); Rest. 3rd, supra note 8, at §336, cmt. *f*.

[12] Rest. 3rd, supra note 8, at §333, Reporters' Note 3.

[13] "Nothing in this Agreement shall be construed . . . to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests . . . taken in time of war or other emergency in international relations. . . ."

[14] See supra note 4.

[15] M. Bowman & D. Harris, supra note 3, at 133.

[16] Philip Brenner & William M. LeoGrande, Congress and Nicaragua: The Limits of Alternative Policy Making, in "In Divided Democracy: Cooperation and Conflict Between the President and Congress" 219, 222–225 (James A. Thurber ed., 1991).

[17] Proclamation No. 5104 of September 23, 1983, 48 Fed. Reg. 44057 (1983).

[18] Dispute Settlement, United States—Imports of Sugar from Nicaragua, 31 B.I.S.D. 66, 73–74 (1985).

[19] Id. at 72.

[20] GATT Council Hears Attack on FSCs and Other U.S. Moves, Delays Work Program Evaluation, 1 International Trade Reporter 586 (1984); Impass Occurs at Opening of Annual Meeting as U.S. Threatens to Link Funding to Work, 1 International Trade Reporter 644 (1984).

[21] GATT Council Hears Attack on FSCs and Other U.S. Moves, Delays Work Program Evaluation, supra note 20, at 586.

[22] Exec. Order No. 12513, 50 Fed. Reg. 18629 (1985).

[23] U.S., Nicaragua Unsuccessful in Getting GATT Action on Trade Embargo Dispute, 2 International Trade Reporter 765 (1985); U.S. Again Blocks GATT Dispute Panel Sought by Nicaragua to Investigate Trade Embargo, 2 International Trade Reporter 965 (1985); GATT Council Appoints Panel to Study U.S. Nicaragua Embargo, Reviews Other Disputes, 2 International Trade Reporter 1313 (1985).

[24] International Court of Justice: Judgment on Merits in Case Concerning Military and Paramilitary Activities In and Against Nicaragua (*Nicaragua* v. *United States*), June 27, 1986, 25 I.L.M. 1023 (1986); "GATT Activities 1986" 59 (1987).

[25] "GATT Activities 1985" 47–49 (1986); "GATT Activities 1986," supra note 24, 58–59. See also supra note 23.

[26] "GATT Activities 1985," supra note 25, at 47; U.S., Nicaragua Unsuccessful in Getting GATT Action on Trade Embargo Dispute, supra note 23.

[27] "GATT Activities 1985," supra note 25, at 57–49; "GATT Activities 1986," supra note 24, at 58–59; U.S., Nicaragua Unsuccessful in Getting GATT Action on Trade Embargo Dispute, supra note 23.

[28] Id.

[29] "GATT Activities 1986," supra note 24, at 58–59.

[30] "GATT Activities 1985," supra note 25, at 48.

[31] See also Decision Concerning Art. XXI of the General Agreement, Decision of 30 November 1982, 29 B.I.S.D. 23 (1983). The Decision stated that the Contracting Parties should consider the third party interests that may be affected in taking action under Article XXI. When such action is taken, all affected GATT parties retain full rights under the GATT (hereinafter Decision Concerning Art. XXI]. GATT decisions will become part of the GATT 1994 according to the General Agreement on Tariffs and Trade 1994, ¶1(b)(iv), but this provision is hortatory.

[32] Philip Brenner & William M. LoeGrande, supra note 16, at 242.

[33] Proclamation No. 6120, 55 Fed. Reg. 17744 (1990).

[34] International Court of Justice: Judgment on Merits in Case Concerning Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States), June 27, 1986, supra note 24.

[35] Agreement Establishing the World Trade Organization, as reprinted in H. Doc. No. 103–316, Vol. I, 103 Cong., Sess. 1327 (1994).

[36] See also Article XXV—Guiding Principles to be Followed by the Constructing Parties in Considering Applications for Waiver from Part I or Other Important Obligations of the Agreement, Procedures adopted on 1 November 1956, 5 B.I.S.D. 25 (1957).

[37] It signed the 1947 PPA on April 20, 1948. M. Bowman & D. Harris, supra note 3, at 133. The 1947 PPA was laid open for signature from Oct. 1947, to Nov. 15, 1947 for eight principal countries, and until June 30, 1948, for all other signatories to the General Agreement. None of the countries discussed in this section were among the eight who signed by Nov. 15, 1947.

[38] M. Bowman & D. Harris, supra note 3, at 133.

[39] Article XXI, United States Export Restrictions, Decision of 8 June 1949, II B.I.S.D. 28 (1952) (GATT parties rejected the complaint by Czechoslovakia under Articles I and XXI that U.S. export restrictions did not conform to Article I); Note, East-West Trade: The Accession of Poland to the GATT, 24 Stan. L. Rev. 743, at note 7 (1972); Czechoslovakia Renews Effort to Regain MFN, Says U.S. Firms Losing Out in Modernization, 5 International Trade Reporter 117 (BNA 1988).

[40] Suspension of Obligations between Czechoslovakia and the United States under the Agreement, Declaration of 27 September 1951, II B.I.S.D. 36 (1952).

[41] See the cumulative index at the back of all B.I.S.D. issues which list the suspension of GATT application between the United States and Czechoslovakia as an action under Article XXIII.

[42] J. Jackson & W. Davey, "Legal Problems of International Economic Relations: Cases, Materials and Text on the National and International Regulation of Transnational Economic Relations" 916 (2d Ed. 1988).

[43] Suspension of Obligations between Czechoslovakia and the United States under the Agreement, supra note 40.

[44] 18th Supp. B.I.S.D. 24 (1972).

[45] Australia and products of Papua-New Guinea, Decision of 24 October 1953, 2 B.I.S.D. 18, 93 (1954); Italy and products of Libya, Decision of 26 October 1951, II B.I.S.D. 10 (1952), Decision of 9 October 1952, 1 B.I.S.D. 14 (1953); Italy and the products of Somalia, Decision of 19 November 1960, 9 B.I.S.D. 40, 229 (1961) and other decisions listed in the cumulative index in every volume of the B.I.S.D.

[46] See supra note 5.

MANUEL T. SANCHEZ

● Mr. BINGAMAN. Mr. President, it is with pleasure that I ask the Senate to recognize Manuel T. Sanchez for his service to my home State of New Mexico. Manuel has distinguished himself as a successful family man, businessperson, and community leader.

He was born on November 15, 1901 in Las Vegas, NM, 11 years before New Mexico was admitted into the Union. Needless to say, Manuel has witnessed New Mexico flourish and change during his lifetime.

In the early 1920's, Manuel and his family moved to a section of Albuquerque known as Martineztown. There they started a grocery store to serve the community. This store is still in operation today and it still serves as an unofficial meeting place for social and political gatherings.

In 1933, Manuel was elected Democratic ward chairman of Ward 11 B. During those early years he worked closely with my uncle John Bingaman in helping Governor Tingley succeed in his campaigns. For over 60 years, he has continued to serve in this capacity as ward chair. His success is a result of his dedication to the work ethic and in the belief that a person's word is as good as a written contract. It would have been impossible for Manuel to represent his community as Democratic ward chairman for such an extended period of time if people did not put trust in his word.

Although much about New Mexico has changed since Manuel's childhood years, one characteristic that has not changed is a strong sense of community. He is very central to that feeling in Martineztown. Whether in the grocery store or at the Barelas Cafe eating some combination of green chile, I believe he deserves recognition and our thanks for his service to the community over the years. It is with this thought that I wish Manuel many more years of health and happiness on this his 94th birthday.●

ISRAELI PRIME MINISTER YITZHAK RABIN

● Mr. GRAMS. Mr. President, although the period of official mourning in Israel for slain Prime Minister Yitzhak Rabin has ended, the time for reflection on his legacy has not. Supporters of Israel in America and around the world continue to ponder the incredible sacrifices made by Yitzhak Rabin during his relentless pursuit of peace in the Middle East. Many people continue to draw great personal strength and inspiration from the way Rabin conducted his heroic life until his tragic and untimely death.

Mr. President, I ask unanimous consent that the following statements on Yitzhak Rabin by leaders of the Jewish community in my home State of Minnesota be included in the RECORD.

Mr. Frank R. Berman: "It is with much grief that we mourn the tragic assassination of Prime Minister Yitzhak Rabin. I had the honor of knowing the Prime Minister and came to hold him in the highest regard. He was a great leader and visionary for Israel as well as for peace-loving people everywhere. I know that the Jewish community and all citizens of Minnesota join me in expressing our deeply felt condolences to the government and people of Israel and to his family. We pray that his noble goal of peace in the Middle East will be fulfilled."

Margo and Fred Berdass: "We offer our heartfelt condolences to Mrs. Rabin and her family and to the people of Israel. We pray God give them the strength and wisdom to unite as a people and to overcome their great loss. May we all hope Israel may forge a policy all can support and that will lead to peace."

Mr. Mike Fiterman: "Prime Minister Rabin was more than a leader within his country—he was more of a visionary on how to make the world a better place. Although he was viewed as a brilliant military strategist, his role in the military only befits him as really a champion of peace and not war. His desire was never one of victory over opponent, but rather a desire to bring peace and security to his beloved country and the Israeli people. I had the great privilege of attending the historic peace signing on the White House lawn between the people of Israel and the Palestinian people. No one watching that day could help but be moved by the significance of that event whether you were personally present or watching from places around the world. It was one of the most emotional events I have ever been privileged to witness. With all of the various speeches, I think it was Prime Minister Rabin's words of 'enough killing, enough war' that were the most moving. It was not the words he spoke, but the emotion in his voice that spoke volumes. He spoke not only of his desire for peace, but also of the enormous sacrifice he personally knew was needed to earn a lasting peace. None of us knew that day the ultimate sacrifice Yitzhak Rabin would make in the name of peace for his country, his people and the world. The sacrifice that Yitzhak Rabin made that day on the White House lawn was a true exhibit for all people around the world that nothing could ever be more important than people living in harmony with one another throughout the world. He showed us if two peoples warring over the centuries could put down their weapons and pick up a pen to sign a peace agreement, it was possible for all people around the world to achieve peace with their neighbors. Prime Minister Rabin's granddaughter during the memorial service, however, remembered him for all of us as not a statesman or a general, but as a warm person who loved his family and who tried to make the world a little better for all of us. Yitzhak Rabin will be missed by all peace loving people and will be a lasting reminder to all of us that we can never stop working toward a goal to do whatever we can to make the world a little better everyday and to continue to strive to bring peace to all the people of the world."●

GLOBAL CASINOS POSE VIRTUAL MESS; LAWMAKERS SAY ELECTRONIC GAMBLING DIFFICULT TO REGULATE

● Mr. LUGAR. Mr. President, I ask that the following article be printed in the RECORD.

The article follows:

[From the Tampa Tribune, Aug. 27, 1995]

GLOBAL CASINOS POSE VIRTUAL MESS; LAWMAKERS SAY ELECTRONIC GAMBLING DIFFICULT TO REGULATE

(By Ron Bartlett)

So you're sitting at home, somewhere in Florida, and you've got the itch to go casino gambling?

No problem. Chances are by early next year, no matter where you live in the state, such an opportunity will be at your fingertips.

Through a personal computer, you'll be able to glide down the hallways of a glittering casino, passing rooms filled with roulette wheels and slot machines. Once you pick a game, you'll be able to plunk down a bet and take on other gamblers from across the globe.

But this won't be for play. This will be for real, cold, hard cash.

Didn't state voters resoundingly reject casinos in 1994 for the third time?

Sure they did. But savvy entrepreneurs are using electronics to introduce new forms of gambling that are likely to be widely available in Florida and throughout the United States in the coming months.

In a rapidly developing market, offshore companies based mostly in the Caribbean are beginning to offer "virtual reality" casinos and sports book operations on the Internet, the worldwide network of computers.

From your easy chair in Tampa, it soon will be possible to place real bets through your personal computer at virtual casinos in places such as Antigua and St. Martin. Some of these games will come with sophisticated graphics and video that will give players at home the feeling that they are inside a major casino.

While the first such virtual casino isn't yet operating, predictions are that hundreds could be up and running within the next year.

Meanwhile, the Coeur d'Alene Indian tribe in Idaho plans to offer a national lottery by year's end that some experts say ultimately could offer weekly jackpots up to $200 million.

The tribe wants to set up toll-free 1-800 lines that players would use to dial in numbers and give their credit card information.

And Floridians who want to bet on sporting events already can call Connecticut or New York, which offer national telephone wagering.

The expansion of electronic gambling is not only creating new outlets for players but also bringing wagering directly into the home, which gaming entrepreneurs view as the new frontier. In Florida and other states, the trend is worrying law enforcement officials, regulators and lawmakers.

On one level, there are concerns that electronic gambling will hurt business at existing state lotteries, pari-mutuel facilities, bingo halls and Indian gaming facilities.

On another, there are fears it will be difficult, if not impossible, to regulate offshore casinos operating on the Internet, that consumers won't be adequately protected, and that the new opportunities could increase gambling addiction and all its dangers.

Earlier this month, the chairman of the Florida House Regulated Industries Committee asked state Attorney General Bob Butterworth to investigate what, if anything, the state can do to stop Floridians from betting on the emerging virtual casinos or from calling other states to wager on sports events.

State Rep. Steven Geller, a Hallandale Democrat, said his request wasn't a moral stance against gambling, rather, he wants to protect the state's struggling horse and dog tracks and jai alai frontons, which generate jobs and taxes.

"If you have access to a virtual casino and play blackjack, how do you know that the casino in Antigua is run honestly?" Geller asked. "How do you know that the roulette wheel isn't rigged?"

Butterworth hasn't responded to Geller's inquiry. But with the Internet gambling in particular, he says, any regulatory answers rest in Washington, not Tallahassee.

"How do you stop it from coming into states that don't want it?" Butterworth said. "How do you tax it in states that do want it? I don't know how you do that without the federal government taking the lead."

Some members of Congress are grumbling about online gambling. The Justice Department has declared it illegal in the United States, saying it will act on violators. But to date, the full extent and scope of the federal response—if any—remains to be seen.

Under federal law, it's a crime for anyone in the gambling business to use an interstate or international telephone line to transmit information assisting in the placing of bets. But it's not illegal to make a bet, as long as you're not in the gambling business. The Coeur d'Alene tribe would have callers place bets to its operations in Idaho.

I. Nelson Rose, a Whittier College law professor and gambling expert, believes Americans running offshore virtual casinos could face seizure of their assets under federal racketeering statutes. But foreign nationals operating the facilities are likely beyond Uncle Sam's reach, and players are usually hard to trace and aren't prosecuted.

"Because it's so new, people don't really know how to respond to it," said Jeff Frentzen, who follows developments on the Internet for the magazine PC Week. "In some corners, it's viewed as a threat.

"It reminds me of what was going on earlier this year with the Internet pornography issue. It's a global system, and it's really hard to control."

One company on the Internet is Sports International Ltd., which says it has 25 to 30 people working at its computer operation on St. John's, Antigua. It does marketing and software development at an office outside Philadelphia.

The publicly held company, which says it handled $48 million in its first year, has been taking bets on sports events on the Internet since February. During the first quarter of 1996, it expects to offer "Global Casino," in which players at home will be given software that will make it seem as though they're really inside a gambling hall.

The way the online operations are typically set up is this: Players either send money or use a credit card to establish a prepaid account on the island where the game is administered. They use that money to gamble. Their winnings are either rolled back into their account, or wired to them. That way, all the gambling takes place outside the U.S.

Jeffrey Erb, a Sports International official, said players are responsible for paying taxes on their earnings. He said the company has a simple incentive for maintaining integrity: Any customer who felt cheated could instantly put the word out to millions of Internet users.

At this stage, the phenomenon of Internet gambling is so new and so rapidly evolving that no one really knows what its ultimate impact on the gaming industry will be.

Roger Gros, the Atlantic City-based editor of two industry publications, Casino Journal and Casino Player, said that in recent months, he has heard about a half-dozen announcements for virtual casinos. But more are coming; within a year, he expects hundreds.

Still, he doesn't think they'll fundamentally alter the casino landscape. At least not now.

"It's just going to be a little sidelight for people who want to gamble and know how to use the Internet," he said. "But I don't think it's going to be a major factor in the gambling industry."

While Butterworth is still trying to determine whether he can do anything to halt electronic gambling on the Internet, he and other attorneys general from around the country already have taken a strong stand to stop the Coeur d'Alene tribe's proposed national lottery.

In March, Butterworth sent a letter to all telephone companies in Florida, warning that use of their phone lines for carrying gambling information across state lines would violate both state and federal laws.

Meanwhile, the National Association of Attorneys General passed a resolution urging the National Indian Gaming Commission and U.S. Attorney General Janet Reno to take action to prevent the "illegal" lottery. A bill introduced in Congress would effectively kill the planned lottery by amending current law to require that all players be physically present at the game.

The tribe wants to run its weekly game where state lotteries already exist—that's 36 states and the District of Columbia, a huge potential market that far exceeds any other lottery. The tribe contends it has received all the government approvals it needs and says its detractors are just afraid of competition.

Indeed, that fear is high in Florida. Officials say the Indian lottery could severely hurt ticket sales for the Florida Lottery, and cut into the more than $800 million it raises for public schools each year.

Butterworth vows to go to court the moment the tribe's lottery is up and running.

Yet another form of electronic gambling that is now being offered by lotteries in five states, including California and New York, is keno. But it's doubtful it will appear in Florida, at least in the near future.

Under keno, players select up to 20 of 80 numbers, and then watch randomly selected numbers flash on a screen. How much they win depends on how many of their numbers appear. The games are run every five minutes, and terminals are being installed in restaurants, bars, bowling alleys and convenience stores.

Florida Lottery Secretary Marcia Mann said her staff hasn't studied keno for possible introduction and doesn't intent to.

"Knowing our governor like I do, I think he would see that as too much of a proliferation of gambling and too much like casinos," she said. Gov. Lawton Chiles has generally been a staunch opponent of gambling.●

MEASURES PLACED ON CALENDAR—S. 1410 AND S. 1411

Mr. DOLE. Madam President, I understand there are two bills due their second reading.

The PRESIDING OFFICER. The clerk will read the first bill by title.

The legislative clerk read as follows:

A bill (S. 1410) making further appropriations for fiscal year 1996.

Mr. DOLE. I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

The clerk will read the second bill by title.

The legislative clerk read as follows:

A bill (S. 1411) making further appropriations for fiscal year 1996.

Mr. DOLE. I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

ORDERS FOR THURSDAY, NOVEMBER 16, 1995

Mr. DOLE. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Thursday, November 16; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I ask unanimous consent that immediately following the prayer, the Senate begin the continuing resolution, House Joint Resolution 122.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. I think Senators should, therefore, be on notice that we can expect votes probably tomorrow morning. We hope to complete action on this by early afternoon, I hope. As I understand, there may be no more than two amendments, so we will just take it up at 9 o'clock. Senator HATFIELD, chairman of the Appropriations Committee, has been notified. And, hopefully, we can turn to any other available conference reports tomorrow.

I will just say I do not think it would be helpful to stay here until the House completes action. It would be after 11 o'clock, and by the time we completed action it would be 2 or 3 in the morning. So even if it were passed, it would not get to the White House until morning and that would not be in time to alert anybody, assuming he signed it, to come back to work. So I think we are not losing any time nor prejudicing anybody's rights by taking this up tomorrow morning at 9 o'clock.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I share the view expressed by the majority leader and can assure him that we are prepared to go to the resolution. We will be offering amendments. It is certainly not our intention to delay the consideration and final passage of the resolution, hopefully, sometime early afternoon.

CHANGE OF VOTE

Mr. DASCHLE. I have one housekeeping matter. It is on rollcall vote No. 576. Senator BRADLEY voted "yea." It was his intention to vote "nay." Madam President, I ask unanimous consent that his vote be changed. This will not affect the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. DOLE. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:09 p.m., adjourned until Thursday, November 16, 1995, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, November 15, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. BUNNING of Kentucky].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 15, 1995.

I hereby designate the Honorable JIM BUNNING to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

Rev. John H. Wengrovius, Calvary Episcopal Church, Golden, CO, offered the following prayer:

Almighty God, who alone gives us the breath of life and in whose hands are held the peoples and nations of the world, send down upon this House of Representatives the spirit of wisdom, charity, and justice; to the Representatives give courage and foresight to provide for the well-being of the people of this Nation and the strength and will to fulfill their many obligations. In Your divine compassion, sanctify all our thoughts and endeavors, that we may neither begin an action without pure intention nor continue it without Your blessing. And to all in authority, grant the grace to ask what You would have them do to the establishment of justice and righteousness and to the furthering of Your peaceable kingdom. All this we ask in Your most holy name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance?

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 395) "An Act to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes."

WELCOME TO REVEREND WENGROVIUS

(Mr. SCHAEFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Speaker, I am pleased to be here today with our guest Chaplain, Reverend Wengrovius, and to thank him for his inspiring prayer this morning. Mr. Wengrovius comes to us today from my district in Golden, CO. His trip is very special, as he is visiting his daughter, Emily, a House page I had the pleasure of appointing. The Reverend has lead Calvary Episcopal Church, in Golden, with a ministry focusing on help and charity for the entire community. The church is also active with the Golden T and T—Tying Neighborhoods Together—a group who brings activities and goodwill to the area. His family includes his wife, Ruth, and three children. Jack is studying at the University of Southern California, Emily is a House page here in the District of Columbia for the remainder of her junior year in high school, and Jenny is in junior high. I invite you to join me in welcoming Reverend Wengrovius to the House floor.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minutes on each side.

SUPPORT THE FUTURE BY BALANCING THE BUDGET

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, the President's intentions are now crystal clear. This President is willing to sacrifice our children's future to satisfy his thirst for more spending, more taxes, and more bureaucracy.

For weeks he has been talking and just talking about wanting to balance the budget. But, Mr. Speaker, talk is cheap and does nothing to solve this Nation's problems. The President should end his little charade about caring for this country's future because it does nothing but undermine the credibility of the Office of the President.

It is time that he accept and embrace the Republican's effort to balance the budget. All America wants, needs, and deserves a balanced budget and a secure future. We must end the President's pattern of all talk and no action by balancing the budget, saving Medicare, reforming welfare, and cutting people's taxes. Support the future—tell the President to get behind the Republican Balanced Budget Act.

GINGRICH-DOLE GOVERNMENT SHUTDOWN

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, this is day two of the Gingrich-Dole Government shutdown. The next time Speaker GINGRICH stands in front of the TV cameras, I hope the press will ask him a few questions.

Speaker GINGRICH, if your Government shutdown sent 800,000 Federal employees home without pay, why do you keep drawing your congressional paycheck?

Speaker GINGRICH, if your Government shutdown stops checks for the widows of American veterans, why should your congressional paycheck keep coming?

If we turned off the TV cameras and the machine printing congressional paychecks, this Gingrich gridlock would end in 5 minutes.

Tomorrow, in the Subcommittee on District of Columbia of the Committee on Appropriations, my congressional colleagues will have an opportunity to vote on my proposal: No budget, no pay. It stops congressional paychecks when there is a Government shutdown or a default on the national debt. Mr. GINGRICH should put his paycheck on the line, not everybody else's.

LIBERAL DEMOCRATS SCARING SENIORS

(Mr. NORWOOD asked and was given permission to address the House for 1

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

minute and to revise and extend his remarks.)

Mr. NORWOOD. Mr. Speaker, the liberal Democrats would rather scare seniors than make good public policy. The evidence of pure political gamesmanship is clear and convincing. Listen to what the liberal Democrats are calling for today. They want to lower Medicare premiums. Have they lost their minds?

Mr. Speaker, Medicare is going bankrupt, and they want to increase the cost of the Medicare trust fund. The Federal Government is almost $5 trillion in debt, Medicare is going bankrupt, and liberal Democrats want to increase the spending of the Federal Government. It is little wonder we owe $5 trillion.

Mr. Speaker, we will save Medicare from bankruptcy. We are making the hard choices we were elected to make, and ladies and gentlemen, we will stand our ground. We will stand our ground and fight for the future of our children and our grandchildren.

NO MORE GAMES

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, I rise today to ask Speaker GINGRICH to present to the American people a clean, honest continuing resolution. No tricks, no gimmicks for Gingriches, just an honest government bill to keep the Government functioning.

Many of our financial problems are because congressional leaders have used the budget to make major legislative policy changes that only serves to compound our budget problems. In an honest budget, there is no place for Medicare premium increases, or in an honest budget, there is no place to cut student college loan programs.

Mr. Speaker, give this Congress and the American people an honest, clean budget. No more games with the budget; no more tricks on the American people; no more, Speaker GINGRICH. Give us a clean, honest budget.

COMMITMENT TO A BALANCED BUDGET

(Mr. BUNN of Oregon asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUNN of Oregon. Mr. Speaker, right now the Federal Government is in the process of shutting down. All nonessential services have been stopped temporarily while we wait for President Clinton to come to the table to seriously negotiate with Congress. While the President is busy golfing and playing other games the American people, Federal employees are not getting paid.

The President's plan may be par for the course, but it doesn't balance the budget and it isn't good enough.

The President still gets paid during this shutdown, he has nothing to lose. He doesn't understand how committed Congress is about balancing the budget. It is time for us to show the President and the American people just how serious we are about balancing the budget.

Under H.R. 2351 our salaries will be stopped if we fail to resolve our budget impasse. This bill will hold us accountable for our actions, something that the President is unable and unwilling to do.

The President once promised the American people that he would balance the budget in 5 years. Obviously he wasn't serious about doing that, it was just another campaign promise. Let's show the American people how committed we are to ensuring that our kids don't have to shoulder the debt we have incurred, let's pass H.R. 2351.

Mr. Speaker, I yield back the balance of time.

GI'S ON THE BORDER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I would like to talk about balancing the budget. There are 4 million illegal immigrants that have walked across our border, and the INS wants to build a big fence. Now, would you walk across the border illegally if you got free food, free housing, free health care, and free education? I think you would too. To boot, you do not have to pay one single dime of tax.

I say, Mr. Speaker, we have GI's falling out of chairs on arm rests overseas, and we have people illegally crossing our borders. Why do we not support H.R. 4387, put a few GI's and a couple of Jeeps on the border, maybe we will help to even balance our budget. Think about it.

HUMOROUS STUDY IN HYPOCRISY

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute.)

Mr. SCARBOROUGH. Mr. Speaker, this past week since the Government has been shut down it has been a very humorous study in hypocrisy watching the President of the United States and his minions here in Congress. They say they want to protect seniors, but talk is cheap.

Let us look at the record. Yesterday they voted to allow the President and Robert Rubin to raid the Social Security trust fund. A few years ago every one of them voted to raise taxes on Social Security recipients to 85 percent, and they did that without a single Republican vote supporting that. They voted in 1993 to raise taxes through the roof for working seniors and lower the level to $11,000.

They have ignored the President's own trustees who have told us that Medicare is going bankrupt. Instead, they want to close their eyes and demagogue the issue, and they say, let us go ahead and let Rubin raid the trust fund. We can trust Bill Clinton.

Well, in 1992, was it not Bill Clinton who promised a middle class tax cut, and when he had a chance to define his budget priorities, the next year he passed the largest tax increase in the history of this country. In 1992, he promised to balance the budget in 5 years, and yet the deficit continued to soar.

REPUBLICAN PLAN TOO EXTREME

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, Mr. GINGRICH and Senator DOLE have shut the Government down so that they can get a tax cut to the richest 1 percent of Americans. The extreme program they have undertaken has stopped Government. Two hundred and forty-five billion dollars in Medicare cuts, $170 billion from Medicaid, an assault on the environment, student loans, the Endangered Species Act, the Arctic National Refuge.

Mr. Speaker, every part of the program is too extreme, and that is why Government has come to a halt. It cannot get through the House and Senate, so they are trying to blackmail the American people by shutting down this Government.

Mr. Speaker, if they take the tax cut off the table, we could even reach the balanced budget in the time they want to. But no, their goal is to take seniors and throw them off Medicare, to take children and take away their lunch program, to end the kind of environmental protection that has cleaned up the air and our rivers, a program even this week's Business Week says is too extreme.

AMERICAN DREAM, NOT AMERICAN DEBT

(Mr. EHLERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EHLERS. Mr. Speaker, as Members of Congress we are sent here to, as the Constitution says, "secure the blessings of liberty to ourselves, and our Prosperity." For a generation now Congress has forsaken the mandate laid out in the founding documents: limited government freedom of opportunity, and common responsibility.

For years now, Congress has helped to create a government that is too big, taxes too much, and makes people dependent. Well, last year the American people said "Enough." They are tired

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of seeing their paychecks shrink while the Government gets bigger and goes further and further into debt, and elected a new majority to Congress.

Congress and the President are now in a conflict over the budget. It must be made absolutely clear, the people and the President that Congress now follows a very different agenda than it did before. This Congress is committed to balancing the budget, so that our children will inherit the American dream and not the American debt. I hope the President will join us in this commitment.

REPUBLICANS THROWING BUDGET TANTRUM

(Mrs. LOWEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, the Republican leadership is throwing a budget tantrum that has shut our Government down.

Speaker GINGRICH and his freshman troops decided months ago to force their extreme agenda on the American people by creating this crisis.

Accept our cuts in Medicare, education, and the environment, the Republicans say, or else we will shut the Government down and cause a default.

Mr. Speaker, that's no way to run a country. NEWT GINGRICH should not be shutting the Government down in order to force his agenda on the American people.

Republicans and Democrats should sit down together and pass bipartisan bills to keep the Government running. Unfortunately, the Republican leadership is more interested in provoking confrontation that they are in governing responsibility.

The American people overwhelmingly support our budget priorities—they agree that we should not cut Medicare, education, and the environment. We should not raise premiums on Medicare 25 percent. The President is fighting for the priorities of the American people, and he is clearly standing firm.

□ 1015

SEVEN SUMS UP BUDGET DEBATE

(Mr. GANSKE asked and was given permission to address the House for 1 minute.)

Mr. GANSKE. Mr. Speaker, let me sum up the current debate on the budget. One word: Seven. We are committed to balancing the Federal budget in 7 years with honest numbers. Not 8, not 9, not 10. Seven. Why seven? Because it is not too extreme, it is not too fast. But is realistic. We will not compromise, we will not back down. We will balance the budget in 7 years. The sooner the President of the United States understands this, the sooner we can stop the Government shutdown, and the sooner we can balance the budget. Seven.

BALANCING BUDGET A MATTER OF PRIORITIES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, Speaker GINGRICH tries to blame the President for the Government shutdown but he has been planning this now for months.

Just take a look at the Speaker's words in September:

"I don't care what the price is. I don't care if we have no executive offices and no bonds for 30 days—not at this time.

"I don't care what happens." That is what Speaker GINGRICH says. President Clinton does care. He cares about seniors, he cares about our children, and he cares about our environment. The question is not will we have a balanced budget, the question is how will we balance the budget. What are our priorities?

The President and the Democrats are standing with the American people in opposition to Medicare, education, and environmental cuts to pay for tax breaks and tax cuts for the wealthiest Americans. This is not the American way. It is wrong.

DO IT FOR OUR CHILDREN

(Ms. PRYCE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE. Mr. Speaker, I hope the mothers of America are watching what is going on in Washington.

As a mother, do you know that your child will have to pay $187,000 during his or her lifetime just to pay for interest on the national debt?

As a mother, do you know that interest payments on the national debt eat up one-third of the entire Federal budget?

As a mother, do you know that generational accounting indicates that your children will face lifetime tax rates of more than 80 percent in order to pay off the debt?

Well, as a mother, I know I will not stand for this.

As a mother, I believe it is time to get our Federal house in order.

As a mother, I believe it is immoral to continue to saddle my children and all American children with the national debt.

I hope the mothers of America will join me.

Call the President. Tell him it is time to get down to the people's business. It is time to stop politicking, pass a balanced budget, and save our children's future.

Come on, Moms, keep the pressure on.

SPEAKER OUT OF TOUCH WITH AMERICAN PEOPLE

(Mr. SANDERS asked and was given permission to address the House for 1 minute.)

Mr. SANDERS. Mr. Speaker, this partial Government shutdown is causing a great deal of anxiety for people who utilize Government services and for the 800,000 Federal employees who are currently being furloughed. We must stop that shutdown and end that anxiety as soon as possible. But we should also be clear as to what is really going on here. What is going on is that Mr. GINGRICH and the Republican leadership are attempting to blackmail the President and accept an agenda that the vast majority of American people disagree with. Very few people in this country think that we should give huge tax breaks for the rich, build B-2 bombers that the Pentagon does not want, and slash Medicare, Medicaid, veterans' programs, student loans, environmental programs, and job programs that protect our kids.

Mr. GINGRICH is dead wrong. He is out of touch with the American people. He should back down and let Government start running again.

REPUBLICANS DETERMINED TO BALANCE BUDGET

(Mr. SHAYS asked and was given permission to address the House for 1 minute.)

Mr. SHAYS. Mr. Speaker, former Prime Minister Rabin of Israel once said, "Politicians are elected by adults to represent the children." Children do not vote, they do not respond to political polls, but they ultimately are the ones who will be helped or hurt by what we do here. That is why we are determined to get our financial house in order and balance our Federal budget within 7 years, save our trust funds, particularly Medicare, from bankruptcy, and transform our social and corporate welfare state into an opportunity society.

For our children we are determined to balance our Federal budget within 7 years, with or without the support of the President.

We are doing it by increasing spending. EITC goes up from $19.8 to $27 billion. School lunches go up from $6 to $8 billion. Student loans go up from $24 to $36 billion. Only in America and only in this place when you spend more money do people call it a cut.

DEMOCRATS READY TO DO THE PEOPLE'S WORK

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, all across our Nation, millions of Americans wake up every day, go to work, and do their jobs.

Sometimes it is tough. Some days it would be easier just to stay home.

But our people do it. Because it is a duty, you might even call it a contract.

Well, the Members of the House of Representatives also have a duty, a contract, to do our jobs.

And our job is to pass administration bills on time and keep our country running so veterans and seniors and students and families get the services they pay for and deserve.

Well, for all the Republican talk about a Contract With America, this body has failed spectacularly in honoring its contract to do our job.

Let us be clear—Government is closed—and people are suffering—because the Republican Congress cannot do its duty and pass these bills.

On the Democratic side of the aisle, we hear the alarm clock, and we are ready to do the people's work.

I hope my friends on the other side of the aisle are ready to rise and shine and do something more than talk about a contract.

A LETTER TO THE PRESIDENT

(Ms. DUNN of Washington asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN of Washington. Mr. Speaker, yesterday I received a copy of a letter written by a senior citizen and businessman who lives in Seattle. It is addressed to President Clinton, and this is what he wrote:

> When you were elected President, I felt issues you addressed in your campaign, such as balancing the budget in five years, were important.

Let me interject, Mr. Speaker, that the President now says that balancing the budget by 2002—10 years after his election—is unacceptable.

The writer goes on:

> At the age of 62, I qualify as one of those you are trying to scare, but I can count . . . You speak of "huge and horrendous cuts in programs" which, in reality, will increase at well over the rate of inflation.
>
> Please settle down, and without posturing, deal in a thoughtful way with our budget problem. . . . Even the poor, old, infirm and students will benefit from lower interest rates . . .
>
> Your posturing and inflammatory scare rhetoric may, in the short-run, accomplish some objective, but history will not treat anyone well who fails to lead us out of the mess that years of excessive spending has created.

Mr. Speaker, that says it all.

CLEAN CR BEST HOPE TO END BUDGET BATTLE

(Mr. REED asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REED. Mr. Speaker, I call today on the Republican leadership and my President to resolve the current shutdown of the Federal Government. The livelihood of many Americans and the stability of our Nation's political system demand as much.

I have heard from many Rhode Islanders who are upset and confused. They may all have different concerns, but they all share a common question—why did this happen?

Rhode Islanders realize that the current impasse did not have to occur. They understand that the House is behind in its work. They know that instead of passing appropriations bills in a timely, responsible manner, this House has been playing politics.

Each year this House has the duty to establish priorities and appropriate the funds to meet them. There are 13 such bills and they are supposed to be sent to the President before the start of the fiscal year.

Regrettably, this House, and, in particular, this new Republican leadership failed in this task. Instead of seeking bipartisan support for a fair, balanced budget, the Speaker crafted an extreme plan that included unnecessary cuts in essential programs like Medicare and education. More importantly, Mr. Speaker, this failure shut down the Government.

Balancing the budget is important, but there can be no progress in this environment of hostility. The majority has failed to get the appropriations bills to the President. Now, they must be responsible and end the shutdown. A clean continuing resolution is the best and only solution. Moreover, it would provide the only real framework for the bipartisan solution the American people want.

Mr. Speaker, I urge you to do the right thing and end this game.

RESOLVING THE BUDGET SHOWDOWN

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, this whole budget showdown boils down to one question—why won't the President do what he promised and help balance the budget? This showdown is not about one side wanting to furlough Federal employees. This is about character, this is about trust, this is about our children, this is about our future as a nation.

The American people can no longer shoulder the burden of debt that the Federal Government is placing on them year after year after year. We now have a $5 trillion debt. We spend over $200 billion every year just to pay interest on this debt. The irresponsibility has to stop. Period.

Our President said he would present a 5-year plan to balance the budget.

We challenge the President to end the excuses and end the gimmicks. We encourage him to keep his promises. He should not be keeping us from keeping ours.

GETTING ON WITH THE PEOPLE'S BUSINESS

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, only one thing good has come out of this shutdown. It has exposed the extreme agenda of the Republican Party. What are they doing? What are they proposing? To raise Medicare premiums on seniors, gut environmental regulations, gut worker safety laws, gut health rules for food inspection, gut education, gut student loans, and let us remember, we would not be in this crisis if the Republicans were doing their job. Ten of 13 appropriations bills have not yet been sent to the President that were supposed to have been sent by October 1.

It is easy to see that the Republican leadership has provided this crisis in order to blackmail the President to accept their extreme agenda. Let us listen to what some of the leaders said just a few months ago.

The chairman of the Committee on the Budget: "If we close down, people will listen."

The Speaker: "The President will veto a number of thing and we'll put them all on the debt ceiling and then he'll decide how big a crisis he wants."

We cannot balance the budget on the backs of working people. We cannot cut Medicare $270 billion to give a tax break for the rich. Stop your extreme agenda, Republican leadership, and let us get on with the people's business.

REPUBLICAN BUDGET RESTORES AMERICAN DREAM

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, the debate rages on regarding the balanced budget and I am a little tired of hearing the same old excuses over and over. The calls that are coming into my office right now overwhelmingly say do not let up, keep pushing for a balanced budget and do it now. They tell me we have a wonderful opportunity to finally end the habit of spending away our children's future, and balance the budget.

What is so extreme about working together to save Medicare for our parents and our grandparents? What is so extreme about working together to reform welfare, to emphasize work? What is so extreme about working together to cut taxes for working families? This budget restores the American dream. An analysis done by the Heritage Foundation said the Republican plan to balance the budget in 7 years with tax relief will offer the following for workers: $32 billion more to keep for themselves in tax relief, higher compensation per hour for workers, lower mortgage rates, more industrial production.

This is clearly a wonderful opportunity. No more excuses. It is time to do the right thing for the people of this country. Balance the budget.

BIPARTISANSHIP CALLED FOR IN BUDGET BATTLE

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Mr. Speaker, the President should not give in to blackmail.

The Republican leaders in Congress are attempting to blackmail the American people into accepting a budget-balancing plan that pays for a massive $245 billion tax cut for the rich by extreme $450 billion reductions in Medicare and Medicaid.

The Republicans threaten to force the Government to default in its obligations and shut down unless the President lets them balance the budget in 7 years their way—a way that hurts seniors, hurts children, hurts veterans, hurts farmers, hurts rural hospitals, and hurts college students.

I am a fiscal conservative. I support a balanced budget. Conservative Democrats offered a bill to balance the budget in 7 years that is credible, makes reasonable reductions in Government programs while preserving those that benefit our Nation's people. The Republican majority rejected this fair bill.

Let's get a bipartisan agreement to balance the budget in a way that is fair and just to all Americans—not just the rich. But let's not give in to Republican's blackmail.

□ 1030

SPENDING BINGE HAS TO END

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, the mandate from Americans in last year's elections was clear.

Cut the fat in Government. Rein in the spending. Save our country. The spending binge has to end.

We promised our constituents we would balance the budget. President Clinton, you are standing in the way. This is not a political campaign. We are talking about the future of our country.

Republicans have produced a budget which spares the vulnerable.

Our budget will not cut spending on important programs. It allows for growth at a sustainable rate.

Student loans: In 7 years, annual student loan spending goes from $24.5 to $36.4 billion in 2002.

Medicaid: In the past 7 years, Medicaid spending totaled $443 billion. In the next 7 years, $773 billion.

Medicare: In the past 7 years, we spent $926 billion. In the next 7 years, $1.6 trillion.

Over the next 7 years, Medicare spending per beneficiary will increase 40 percent.

We have promised taxpayers we will balance the budget. We will do that.

It's time for President Clinton to say no to spending, and yes to our children.

If not now, when, Mr. President?

BALANCE THE BUDGET IN 7 YEARS WITHOUT CUTTING MEDICARE AND EDUCATION

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, Speaker GINGRICH has said he wants to keep open the Social Security and veterans offices temporarily so the elderly and veterans will not have to suffer from the shutdown. Well, I am glad to hear that. The problem though is that once they reopen after this budget impasse, there are not going to be as many benefits for them there.

The balanced budget proposal cuts Medicare $270 billion over the next 7 years, and, in my own State, the Republican bill cuts Medicare by over $16 billion in Texas. Such a dramatic cutback would have a severe cutback on the 2 million senior citizens. The veterans better watch out because $6.4 billion is cut over the next 7 years, including increasing veterans' costs for prescription drugs.

Let me look at what has happened from 1 day of the Government shutdown: 28,000 American seniors and workers have been unable to apply for Social Security or disability benefits; 200,000 American seniors have tried to call the 1-800-HELP line, oftentimes to report abuses we need to have reported, and they have not gotten an answer; 7,600 veterans have not been able to file for compensation.

Let us cut this impasse. We want to balance the budget in 7 years, too, but not to cut veterans and Social Security.

STICK TO COMMITMENT TO BALANCE THE BUDGET

(Mr. WHITE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITE. Mr. Speaker, the public does not like it when Congress and the President cannot get together on a budget. Frankly, neither do I. It would be so much easier on all of us if everything was sweetness and light here in Washington, DC. But, unfortunately, there is a reason that things are not sweetness and light here in Washington, DC, and it is because there is a fundamental disagreement between Congress and the President on an issue that is very crucial to our country. Congress is committed to balancing the budget as soon as possible, but certainly no later than 7 years from now, and the President is not.

Mr. Speaker, since I came here 11 months ago, we have worked very hard on our budget. We have had to make some very difficult decisions. We have had to say no to our own constituents. We have had to make sure we did not use all the phony numbers that we sometimes see from the budgets in the past.

For the first time in 30 years, we have proposed and passed in both Houses of Congress a budget that will balance over the next 7 years. We cannot back off that commitment. It is too important to our children. I hope that the President joins us.

IT IS TIME TO END THIS CRISIS

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, if today were a normal day, 28,000 people would be planning to apply for Social Security, survivors, or disability benefits, 1,600 veterans would be filing their new claims for compensation or pensions, and 900 more would be claiming their benefits under the Montgomery GI bill.

If today were a normal day, three-quarters of a million people would be getting up this morning, planning to visit one of the national parks. And, on a normal day, 55,000 of those people would be here in Washington, ready to visit the Washington Monument, the White House, Ford's Theater and other locations here.

If today were a normal day, 23,000 Americans would be applying for their passports to get ready for trips abroad. And on a normal day, 700 young men and women would be ready to dedicate themselves to our country by enlisting in our Nation's Armed Forces.

But instead of these normal everyday things, today we have paralysis, confusion, delay, and waste. It's time to end this crisis, and get people back to work.

IT IS TIME FOR THE PRESIDENT TO GET SERIOUS ABOUT BALANCING THE FEDERAL BUDGET

(Mr. CHABOT asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, I am a little troubled by some of President Clinton's comments the last couple of days. I have been listening to the White House press conferences, which seem to occur about every 20 minutes, and I can keep hearing the President claim that he wants to balance the budget.

Now, that is interesting, because the budget that he sent to Congress called for $200 billion annual deficits into the foreseeable future and added $1 trillion to the national debt over the next 5 years. His so-called balanced budget was so unbalanced, the Democrats in the House refused to offer it. In the Senate, where it was introduced, it received not one single vote.

Now every time we turn on the television we see a somber President Clinton proclaiming that theoretically he supports some balanced budget at some time, just not this particular balanced budget.

Baloney. The President could care less about balancing the budget. He should join us and we should work together to finally balance the budget for this country.

WHO IS GOING TO BALANCE THE BUDGET IS NOT THE ISSUE

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, here is something the national Republicans do not want to talk about. The last time they were in charge, under former Presidents Reagan and Bush, they passed their budget. You remember it, it was called trickle down. The Federal deficit tripled last time they were in charge.

Under President Clinton, the deficit has finally begun to come down. In fact, for 3 years in a row the deficit has come down. The last President to pull that off was Harry Truman in the 1940's.

Here is a very remarkable thing: If the Gingrich budget passed, it would not reduce the deficit in its first 3 years as much as the Clinton budget reduced the deficit in its first 3 years. And Bill Clinton did it with equity and fairness, without savaging kids or farmers or veterans or old folks.

So the issue is not who is going to balance the budget. The Republicans have proven they do not know how to do it. President Clinton has proven Democrats do.

EVERYBODY WANTS A BALANCED BUDGET

(Mr. NEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEY. Mr. Speaker, the American people need to know that there was a vote on this floor to protect Social Security funds from being raided. They need to know there was a vote on this floor to protect pension funds from being raided to pay the national debt.

We voted for it, but we were not successful. We needed more support from over here. People talk about the fact that they want a balanced budget. Everybody wants a balanced budget, until it is time to actually do it. The American people are not extremists. My district is overwhelmingly Democrat, and the calls are coming in overwhelmingly 9 to 1, by Democrats, Republicans, independents, working people across this country that they want a balanced budget.

The American people care about the money they put into their wallets, and their money for 26 to 30 years the Government has taken out of their wallets. No more smoke and mirrors, no more false promises of Gramm-Rudman. It is time to act and for Washington to act right now on behalf of the American people and the future of children in our country to balance the Nation's budget once and for all so people can keep their own hard-earned money.

GOVERNMENT SHUTDOWN

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, since April of this year, Speaker GINGRICH has threatened that he would close down the Government in order to pass his extremist agenda. Well, yesterday, Speaker GINGRICH got his wish—the Government closed down.

All this because the GOP is in a mad rush to make their gargantuan cuts to Medicare, the environment, and education, so they can help pay for $245 billion in tax breaks.

Mr. Speaker, the American people yearn for Medicare reforms worthy of the mainstream and not the GOP extreme. Clearly, extremist GOP policies have only one purpose in mind, and that is to reward those who finance the Republican Party at the expense of those who don't make campaign contributions.

Don't try to blame the President, pass the appropriations bills.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BUNNING of Kentucky). Further 1-minutes will be recognized at the end of the legislative day.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. CALLAHAN. Mr. Speaker, I call up the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, with the remaining Senate amendment thereto, and move to disagree to the Senate amendment to the House amendment to the Senate amendment numbered 115.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendment numbered 115, as follows:

Senate amendment to House amendment to Senate amendment:

In lieu of the matter proposed to be inserted by the House amendment to the Senate amendment, insert: ": *Provided*, That in determining eligibility for assistance from funds appropriated to carry out section 104 of the Foreign Assistance Act of 1961, nongovernmental and multilateral organizations shall not be subjected to requirements more restrictive than the requirements applicable to foreign governments for such assistance: *Provided further*, That none of the funds made available under this Act may be used to lobby for or against abortion".

Mr. CALLAHAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

MOTION OFFERED BY MR. CALLAHAN

Mr. CALLAHAN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. CALLAHAN moves to disagree to the Senate amendment to the House amendment to the Senate amendment numbered 115.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. CALLAHAN] will be recognized for 30 minutes, and the gentleman from Texas [Mr. WILSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. CALLAHAN].

GENERAL LEAVE

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and that I be allowed to include tabular and extraneous material on H.R. 1868.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. CALLAHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, under the present circumstances, we must do whatever is needed to move all of the remaining appropriations bills to the President's desk as soon as possible. Each appropriations bill the President signs will put more agencies back into business. In the case of this foreign aid appropriations bill, we must act to ensure that humanitarian aid continues without interruption.

The complicated motion I have just offered is actually a simple one. Both the House and Senate have passed the conference agreement on the foreign aid appropriations bill. This morning, the House is being asked to insist on its previous position on the only remaining amendment in disagreement.

This is the so-called Smith-Callahan amendment on population funding and abortion. It last passed the House on October 31 by a vote of 232 to 187. In a slightly different version, the Smith amendment passed the House on two previous occasions during consideration of H.R. 1561, the foreign aid authorization bill. This will be the fourth time the House is being asked to vote on this.

By sending this amendment back to the Senate, we will be giving the other body another opportunity to consider the Smith amendment which is so important to many Members of this body. I expect the Senate leadership to work to pass this amendment. I hope they are successful, but I recognize that parts of the Smith amendment have failed to pass the Senate on two previous occasions.

Mr. Speaker, I urge the House to agree to this motion. Our leadership has determined that this is the best way to move the foreign operations appropriations bill toward the President's desk. We must do what we can to make sure that humanitarian aid to displaced people and refugees around the world is not disrupted.

Mr. Speaker, I reserve the balance of my time.

Mr. WILSON. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we finished the foreign operations conference more than 3 weeks ago, but we have been unable to send a bill to the President because of the issue of who will receive family planning funds.

Today we are wasting a vote by again voting on the same language that the Senate has refused to accept, and the President has said he will veto the bill if it is included.

We need to look at the priorities in this bill and take out the Mexico City language so that this bill can get to the President for signature.

Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, my friend, the distinguished subcommittee chairman, just indicated that this bill is before us because we had to move these appropriations bills forward.

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I agree that we do. The problem is this motion does not do that. It keeps the Congress stuck on dead center on another 1 of the 10 appropriation bills which still have not made their way into law.

We have been here before, Mr. Speaker. Three weeks ago we went through this exercise. The House voted to insist on its position on this matter. It was sent to the Senate and the Senate turned it down. I know of absolutely no development which has changed the Senate position to this point. What we have is, I think, another example of why the Government at this moment is shut down with over 90 percent of the appropriations still not in law for the coming fiscal year.

Frankly, there are a whole lot more issues in this bill that I care about more than how we come down on the Mexico City issue. I have been trying through the years to find any way to resolve that issue, and I offered a compromise motion the last time we were on the floor with this issue. We lost. The rules do not allow me to make that same motion again. If they did, I would make that motion again because I think both chambers need to show some movement.

I respect people's strong views on this subject, on both sides, but it seems to me we are caught in a higher problem this morning. It seems to me that this motion is again, in a small way, a vivid example of why the Congress has not been able to finish its work, why we are sitting here wrapped around the axle with the Government shut down, with the majority party blaming the President because he has not signed bills they have not sent him yet.

It just seems to me, Mr. Speaker, that the way out of this box is to, not just on this bill but on all the other bills that have not yet become law, try to find ways to bridge the differences between the House and the Senate, not to keep those differences going. This motion keeps that difference going this morning. It does nothing constructive to either move this bill to the White House or to lessen the portion of the Federal budget which has still not been passed for the coming fiscal year.

I will vote against the motion, Mr. Speaker, not because of any particularly strong feelings about the motion per se, but simply because I do have strong feelings that we ought to be moving these bills forward, as the subcommittee chair indicates, but this motion is not doing that.

I really think that sooner or later people have to get over their insistence on first preferences. We have to recognize that we have an obligation in a legislative body to get our work done, and continuing to polarize this issue between the House and the Senate is not making any significant contribution toward that end.

Mr. WILSON. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to the motion before us. This motion aims to completely eliminate family planning aid overseas.

Mr. Speaker, this motion is one of the reasons why the Federal Government is shut down today. The Republican leadership has insisted on putting extreme provisions in appropriations bills like this one that have no place here. Every appropriations bill that comes up has an abortion rider attached to it. Collectively, these riders have brought the budget process to a grinding halt.

This language is a substantial change in law that should not tie up passage of an important spending bill like this one. I have the utmost respect and admiration for Chairman CALLAHAN. He has crafted a good bill here that makes sense for America and the world, and it is a shame that this critical legislation is being held up by extremist language.

Proponents of this language claim that it simply cuts abortion funding. What they have not told you is that abortion funding overseas has been prohibited since 1973. This language would cut abortion funding from its current level of zero to zero.

Therefore, this motion goes after family planning, not abortion.

One of the most important forms of aid that we provide to other countries is family planning assistance. No one can deny that the need for family planning services in developing countries is urgent and the aid we provide is both valuable and worthwhile.

The world's population is growing at an unprecedented rate. In 40 years our planet's population will more than double. As a responsible world leader, the United States must do more to deter the environmental, political, and health consequences of this explosive growth.

And let us not forget what family planning assistance means to women around the world. Complications of pregnancy, childbirth, and unsafe abortion are the leading killers of women of reproductive age throughout the third world. One million women die each year as a result of reproductive health problems.

Each year, 250,000 women die from unsafe abortions.

Only 20 to 35 percent of women in Africa and Asia receive prenatal care.

Five hundred million married women want contraceptives but cannot obtain them.

Most of these disabilities and deaths could be prevented.

This motion would defund family planning organizations that perform legal abortions—even if the abortion services are funded with non-U.S. money.

The motion also cuts funds to the UNFPA, an organization that provides family planning and population assistance in over 140 countries. The pretext for this provision is that the UNFPA operates in China, and therefore the funding must be cut. However, the law currently states that no United States funds can be used in UNFPA's China program. Proponents of this language are clearly using the deplorable situation in China as an excuse to eliminate funding for this highly successful and important family planning organization. The UNFPA is in no way linked to reported family planning abuses in China, and should not be held hostage to extremist antiabortion rhetoric.

I urge my colleagues to oppose this motion. No matter how its proponents try to disguise it, this motion is ultimately intended to end U.S. family planning assistance overseas. A vote for this motion is a vote against sensible, cost-effective family planning programs.

It is also a vote to continue these destructive budget games at the expense of the American people. Let us face it. The reason October 1 has come is because we have not done our work, my colleagues.

Mr. CALLAHAN. Mr. Speaker, I yield myself 1 minute to respond to the two previous speakers.

What we are trying to do, I think, is a responsible thing, and that is just what Mr. OBEY wants us to do, is to pass these bills, to get the Government operating.

I think that we are being very responsible in giving the President the opportunity to have a foreign policy operation capability. So that is the purpose of it.

I do not know why we should go through this continued debate on a bill that has already been debated four times and say the same things that we are saying; but, nevertheless, we have indications from the Senate that if we will send this message back to them, that possibly they can work something out. So it is a responsible thing to do in order to give the President the latitude he needs to handle foreign policy and to continue the humanitarian efforts worldwide.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan, [Mr. KNOLLENBERG] who is a member of our subcommittee.

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman for yielding me time. I rise and join my colleagues in urging the House to reaffirm its strong commitment to the Callahan amendment language, the very language which passed the House on October 31 by a vote, and most of my colleagues know this, by a vote of 232 to 187.

This amendment prevents taxpayer money from going to fund the promotion or performance of abortions. It does not reduce, and I would challenge the comments of the gentleman from New York, does not reduce funding for international family planning. It simply ensures that our money is spent saving lives and not taking them.

Mr. Speaker, the statement has been made, and I am just repeating it, that this is the very same language that we passed before. The will of the House is very clear on this issue. Our limited funds, and we do have limited funds, and the gentleman from Wisconsin, [Mr. OBEY] spoke in regard to some of this, as has the gentleman from Alabama [Mr. CALLAHAN], that we do have limited funds, but those funds for foreign assistance programs should not be spent on promoting or performing abortions.

I urge my colleagues to vote "yes" on the Callahan motion and insist on the House-passed language.

Mr. WILSON. Mr. Speaker, I yield 4 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the ranking member for yielding me time.

Mr. Speaker, with the highest regard for the chairman of our subcommittee, Mr. CALLAHAN and for the maker of this original amendment, the gentleman from New Jersey, Mr. SMITH, I rise in opposition to this motion today.

I heard our colleagues on the other side talk about this. The gentleman from Michigan [Mr. KNOLLENBERG] and the gentleman from Alabama [Mr. CALLAHAN], our chairman, and it reminded me of the many weeks our chairman with his leadership took us through with this bill. We resolved every point except this one. Indeed, 3 weeks ago we were gathered here and we voted on this very issue and here we are back again.

Mr. Speaker, it is, yes indeed, one example of why our appropriations bills are not finished, and why we are in the difficult situation we are in today with the closing down the Government. If we could get our appropriations bills passed we would not have to be waiting for a continuing resolution.

Having said that, in terms of procedure, I oppose the technique that is being used, to go back and forth and back and forth to the Senate on this language. The Republican Senators agree with many people in this House of Representatives that the language in the Smith legislation is not appropriate to this legislation. I would urge my colleagues to support that position, which is to oppose this amendment.

Mr. Speaker, we have been down this road before as I have said. The conference report has gone back and forth. This legislation contains the same restrictive anti-choice language which the Senate has already rejected. Negotiations require each side to compromise. Sending back the exact same language already rejected by the other body is not a compromise.

When the bill was before us 3 weeks ago, Mr. Speaker, the gentleman from Wisconsin [Mr. OBEY] proposed language that would remove the legislative language referred to as the Mexico City policy that should be debated on an authorizing bill. Mr. Obey proposed restrictions that are in current law on coercive abortion. The gentleman included a provision limiting funds for UNFPA unless they stop their program in China. It was tougher than I wanted, but, nonetheless, it was a compromise.

Mr. Speaker, I oppose the House language in disagreement. According to the World Health Organization, 500,000 women die each year of pregnancy-related causes, 99 percent of them in the developing world. Restrictions on family planning organizations proposed in this provision represent a threat to the health and safety of the world's women.

We all share the goal of decreasing the number of abortions performed throughout the world, and, indeed, even in our own country. However, it is not at all likely that the Smith language would succeed in that regard. Indeed, during the time the Mexico City policy was in effect there was no decrease in the number of abortions performed worldwide, but there was a decrease in the safety of that procedure.

The provision in disagreement is not about cutting abortion funding, because there is no funding to cut. Existing law, as has been said over and over again, existing law already prevents the use of U.S. funds for abortion activities abroad, and has done so under the Foreign Assistance Act since 1973. This amendment would restrict effective women's health care in family planning organizations and interfere with the efforts to provide safe and legal reproductive health care for women in developing countries.

Mr. Speaker, this is about improving health for women throughout the world, and especially in the developing countries. It is a big environmental issue. A vote for this amendment is a vote against family planning. It is not a vote for cutting abortion funding. There is no abortion funding in this bill to be cut.

So on the basis of procedure, Mr. Speaker, and on the basis of substance, I urge our colleagues to vote against this proposal.

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Mr. CALLAHAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, there are some things that are factual, and one is that China has a brutal, inhuman policy of mandating only one-child families, and if you have more than one child, you can be, and I have talked to seven women from China who were forcibly aborted, coercively aborted, or sterilized. I talked to one woman whom the authorities took and aborted her when she was 6 months pregnant, because she picked up a baby girl that was thrown away on the side of a road, and that gave her two children, and so they aborted her. How can anybody support that kind of policy?

Well, Mr. Speaker, the United Nations does. Money is fungible. Do not say "no money for abortion," because what you do not spend with this money, you spend with that money. So that is just a dodge.

Now, I have heard about the number of women who die from unsafe abortions, and that is tragic, but the mortality rate for the babies is 100 percent. Millions of them die.

Mr. Speaker, family planning is not abortion and abortion is not family planning. Whatever dollars we have for family planning are still going to go for family planning, but not to organizations that perform or council abortion. American tax dollars should not be in the abortion racket. We should not pay to exterminate unborn children. That is a policy decision.

Mr. Speaker, everybody who takes the well in opposition to the position of the gentleman from Alabama [Mr. CALLAHAN] is for the abortion license. I do not say they are for abortions, but they think abortion is an acceptable answer to an unwanted child, and we think it is highly unacceptable. So do not use American tax dollars to advance the cause of exterminating unborn children, whether they are in the Third World or whether they are in Chicago.

Mr. CALLAHAN. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding time to me.

One of the previous speakers said that this language would completely eliminate family planning. Nothing could be further from the truth.

The Mexico City language and the UNFPA anticoercion language was in effect for most of the 1980's, since about 1984, and into the 1990's, and during that time, the United States, was still the primary donor nation to family planning, both to countries and to organizations around the world.

What we said was that coercion is a terrible and heinous thing, and that we as a nation will not look askance or look the other way when it comes to forcing women to have abortions. All our legislation does today is say that we are again serious about the human rights abuse that occur when women are forcibly aborted and forcibly sterilized. And by our legislation today we say no to those organizations, like the U.N. population fund that whitewashes these crimes and coddles those who commit these crimes and provides substantial money and other kinds of technical supports to programs that sanction these crimes. We are telling the world that we are opposed to that and that we are not going to allow our money to go to those kinds of crimes and the organizations that sanction them.

Mr. Speaker, I think that the language that the gentleman from Alabama [Mr. CALLAHAN] has crafted is a compromise. It is a middle ground that has given in a number of areas, and the Senate should take it.

Let me also point out, Mr. Speaker, again, that anyone who says on the other side that this completely eliminates, and I say this to the press as well, completely eliminates family planning, that that is absolutely unmitigated nonsense. It did not happen before, funding continued under humane rules.

Those specious charges were made back in the 1980's on this House floor and one provider of family planning services after another agreed to the Mexico City clauses, signed on the dotted line—Planned Parenthood and others all got their money. However, they did so by having a wall of separation between family planning and the performance of abortion, except in cases of rape, incest and life of the mother.

Mr. Speaker, let me just say something else. Recently my Subcommittee on International Operations and Human Rights had a hearing and we heard testimony from women who had been forcibly aborted, who are now in this country awaiting to be deported. Right now some of those women are on a hunger strike in California.

This administration, which says that it cares for women, is about to send 19 women back to China, women that the INS itself has said were credible, had sufficient documentation and information to lead a reasonable man or woman to believe that they, indeed, were forcibly aborted. Well, these women right now are on a hunger strike because the Clinton administration is trying to kick them out of the country and send them back to China.

We heard from those women. They came to our subcommittee. It took over 4 months to get them to come, because the administration threw up every kind of barrier to prevent us from hearing their story.

One of those witnesses, Li Bao Yu, told us that when she had an IUD that was forcibly inserted into her body by the cadres, when she had it removed, she got pregnant. So what did the Chinese Government do? It said that that baby that was conceived had to be aborted, and they dragged her in and they forced her to have an abortion.

Some of my friends on the other side of the aisle heard her testimony. We heard from another woman, Hu Shuye, who at 6 months had her baby ripped out of her body by the cadres, by the family planning cadres in the People's Republic of China, and she said, "I had no way out, they forced me, they dragged me to have this abortion done."

Mr. Speaker, are we serious about voluntarism? Are we going to look the other way and allow and subsidize these terrible crimes against women?

Mr. Speaker, this administration talks out of both sides of its mouth. It says they want to help women, but instead it is sending those women back; it wants to give money to those organizations that do this kind of thing and assist those countries that do this kind of human rights abuse.

We will see, and the gentleman from Alabama [Mr. CALLAHAN] and the rest of the committee will confirm, that there is money in this bill for family planning. We just say that human rights criteria ought to have sway. Coercion? Or voluntarism? When it comes between the two, let us come down on the side of voluntarism and not on the side of coercion.

Finally, let me just say that we have made some concessions. The Mexico City policy worked, and it will work again.

Mr. CALLAHAN. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, the gentleman from Illinois [Mr. HYDE] said a couple of minutes ago that anyone who opposes this amendment is for the abortion of an unwanted child. That is absolute baloney. The gentleman is perfectly entitled to describe his own motives. He certainly by no means has any right to describe mine.

Mr. Speaker, I am opposed to abortions period. I just do not happen to think that I ought to be making the decision for every woman in this country. That is a distinction which I think the gentleman from Illinois is bright enough to understand.

I also want to say that with respect to the China issue, I want to read the language of the amendment that the gentleman who just spoke voted against the last time it was before us on the floor.

My amendment said in section 518 (a):

> Notwithstanding any other provision of this act or other law, none of the funds appropriated by this act may be made available for the United Nations Population Fund unless the President certifies to the appropriate congressional committees that, one: The United Nations Population Fund will terminate all family planning activities in the People's Republic of China no later than May 1, 1996; or two: During the 12 months preceding such certification, there have been no abortions as a result of coercion associated with the family planning activities of the national government or other governmental entities within the People's Republic of China.

Now, that language is very clear, and my statement was very clear at the time. I wanted us to end funding for the U.N. Population Program if it does not pull the plug in China, because I believe, and most of us believe on this side of the aisle, that China does have a coercive program and we have no business being associated with a program that does not recognize that. I feel that very strongly and have felt that way for 5 years.

Mr. Speaker, the gentleman from New Jersey [Mr. SMITH] says that he thinks the language in this amendment is a compromise. Well, that is very nice. The fact is, the Senate does not think it is a compromise, because they have already voted against it. All I am suggesting is that if the gentleman wants to move this bill forward, the gentleman will find some other formulation than the one in this bill.

Mr. Speaker, we have already tried this route. The Senate has already voted it down, and the hardheadedness that is demonstrated by insisting on everyone's first principles is a clear demonstration of why 10 out of the 13 appropriations bills still have not become law and we are sitting here today with the Government in a situation where it is shut down.

Mr. Speaker, I would suggest that if the gentleman wants to compromise, it has to be a compromise somewhere other than in your own mind. It has to be a compromise which is generally recognized.

Mr. CALLAHAN. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to respond to the comments of the gentleman from New Jersey [Mr. SMITH]. He referenced the hearings that he had, and indeed, the gentleman is to be commended for his leadership on this issue of the inhumane treatment of women in China. We all agree, we all agree. We stipulate to the fact that the program that is being conducted in China is not one that we want to be associated with.

The gentleman from New Jersey [Mr. SMITH], under his leadership, held hearings. We shuddered to hear the testimony of these women who were brought into the hearing room in handcuffs. The gentleman is absolutely right on this subject about the coercion of abortion in China. The gentleman is absolutely right about how these women are treated.

However, what is happening here today is not about that. What is happening here today is that this amendment will curtail the activities of organizations that are engaged in family planning throughout the world. A poor family in Africa should not be held hostage to the coercive programs in China, and that is what this proposal will do. I urge our colleagues to respect the attitude of the gentleman from New Jersey [Mr. SMITH] but vote against his proposal.

Mr. CALLAHAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH], the chairman of the Subcommittee on Military Construction of the Committee on Appropriations.

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman from Alabama for yielding me this time.

Mr. Speaker, I rise today to urge my colleagues to vote "yes" on the Callahan motion. The Callahan motion would reiterate the House's support for restoring two important pro-life policies in effect during the Bush and Reagan administrations.

These policies will ensure that none of the moneys will be available to the U.N. Population Fund unless the President certifies that the UNPF has terminated all activities in China or, during the 12 months preceding, there have been no abortions as the result of coercion by government agencies.

We will also ensure that none of the moneys sent to the UNPF may be used to fund any private, nongovernmental, or multilateral organization that directly or through a subcontractor performs abortions in any foreign country—except to save the life of the mother or in cases of rape and incest.

Now some may claim that this is a gag rule on family planning assistance. However, this is not the case, abortion is not considered a family planning method and should not be promoted as one, especially by the United States. Recently, the State Department decided that the promotion of abortion should be a priority in advancing U.S. population-control efforts. This is unacceptable to the millions of Americans who do not view abortion as a legitimate method of family planning and do not support Federal funding of abortion except to save the life of the mother or in cases of rape and incest.

The Mexico City policy prohibits funds to organizations unless they certify that they do not perform abortions in any foreign country except in the cases cited above. Over 350 foreign family planning organizations readily agreed to these terms from 1984 to 1993. Also, it is important to note that we are not reducing the funding level for real international population assistance.

In a time when 69 percent of the American public opposes Federal funding for abortion we desperately need to clarify congressional intent so that it cannot be disregarded by those who seek to fund abortion on demand throughout the world. I urge my colleagues to support the Callahan motion. Vote "yes."

Mr. CALLAHAN. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, what is the problem here? We all accept that abortion should not be performed with American money, and family planning groups have abided by this law.

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But the Smith-Callahan language goes one step further and says that these women's health groups cannot perform abortions even in cases of serious health problems of the mother or in cases of serious malformation of the fetus, even if it is performed with private money, money that they raise privately.

The result? Americans cannot provide money to the most efficient, effective family planning groups, because these groups are made up of health care professionals. These health care providers find it difficult to turn women away from their clinics that have these terribly serious health problems.

Mr. Speaker, there are two problems here. One is China which receives money from the U.N. Fund for Population Assistance, UNFPA. We all agree that we should give money to UNFPA but restrict it in China. We all agree to that. They keep talking about China like it is a problem. It is not a problem. We agree with them.

We just keep talking past each other. We say, give money to the U.N. Fund for Population Assistance, restrict it from China, but grant it to the rest of the world. Smith-Callahan says take this valuable family planning money from all women in the world because there are abuses in China. We say, provide money to private family planning groups that are widespread and have a presence in the most needy countries in the world. Bangladesh, where the average number of children for childbearing women is 6, or Rwanda where the average number of children for women of childbearing age is 7.

Smith-Callahan would deny this family planning money to those groups that are in the most needy countries in the world. We need to start communicating with each other. We need to accept the Senate language and accept that family planning money is essential in this world.

Mr. WILSON. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to the Callahan amendment. One point must be reiterated in this debate—this amendment has nothing to do with abortion. Current law already prohibits the use of U.S. funds for abortion. For 20 years, foreign aid policy and law has clearly stated that U.S. funds cannot be used to pay for abortion services or to lobby on the issue.

What this amendment does do is gut family planning programs—resulting in more abortions.

The Callahan amendment would deny funds to women's health organizations which use their own funds to perform abortions or lobby their governments on abortion policy. This amendment is antifamily planning. I urge my colleagues to recognize that the effect of this provision would be to kill family planning programs.

Let me provide some examples to illustrate the impact of this amendment: A university providing contraceptive training to hospitals in the former Soviet Union would be ineligible for funding because the hospital provides legal abortions funded from other sources. An Indian women's health clinic lobbying that nation's health ministry with its own funds to provide safer conditions for legal abortion would not be eligible for funding.

Ukrainian women average two abortions for every live birth. The average woman will have four or five abortions during her lifetime. Some will have as many as 10 or more. By making safe and reliable family planning information and contraceptives available, a Kiev clinic reports that only 25 percent of pregnant women coming to the clinic had abortions—a high number, of course, but the average for the rest of the country was 60 percent. Sixty percent—and there are many more examples.

There are a number of similar clinics around the world which we are helping to fund. By giving women the opportunity to regulate their own fertility, we have reduced the number of abortions, while empowering women to manage and space their pregnancies to best suit their needs and the needs of their families.

The gentleman from Alabama has argued that family planning funding will still be available if his amendment is adopted—and that is true—but the effect of his amendment will be that the funding will be channeled through foreign government health ministries, with all of the problems of corruption, mismanagement, and bureaucracy which they entail. This approach would also run counter to the philosophy of this Congress, which has been seeking to reduce the intrusions into the lives of families.

The Callahan amendment, and international gag rule, endangers women's health and will deny women and couples access to family planning information. It will increase, not reduce, abortions. Mr. Speaker, I urge my colleagues to join me in opposing the Callahan amendment and accept the Senate language.

Mr. CALLAHAN. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I would just like to ask my good friend, the gentlewoman from Maryland [Mrs. MORELLA], if she is aware that during the course of the Reagan and Bush years when the Mexico City policy was in effect that, yes, money went to foreign governments but it also went in record amounts to foreign nongovernmental organizations, including Planned Parenthood, Western Hemisphere, and other organizations that agreed to the Mexico City clause.

So it is untrue that the money will only be funneled through governments. It will also continue to go to nongovernmental organizations as it has in the past.

Mr. WILSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CALLAHAN. Mr. Speaker, I yield myself such time as I may consume.

One would think there was nothing else in this bill. This is a body of compromise. While we should never compromise our principles, I think that we have worked in a responsible manner in responding to the constitutional requirements and needs of this administration to provide them with the vehicles they need to implement foreign policy. There are other things in this measure other than this antiabortion debate that is taking place today. The Middle East peace accord is at stake if we do not get this thing fulfilled today and send it to the Senate and let them act more responsibly than they did in the past. We are very optimistic that this can take place and this is the reason we are sending it back to the Senate. We have indications that they think that in this two bodies of compromise that maybe they ought to reconsider their vote of two times before.

I think that we have a good bill. This House has voted favorably for it twice before in the past. It is the same identical thing.

Ms. JACKSON-LEE. Mr. Speaker, I rise in opposition to this motion which would insist on the House language which prohibits U.S. funding to any private, nongovernmental, or multilateral organization that directly or indirectly to engage in family planning in a foreign country. This language would effectively eliminate all funding for international family planning organizations.

Organizations like International Planned Parenthood offer basic health care screening and information on family planning. Denying funds to organizations like International Planned Parenthood is nonsensical. This language would implement an international gag rule.

With the world's population growing at an unprecedented rate, one of the most important forms of aid that we provide to other countries is family planning assistance. As a world leader, the United States must work to reduce the complications of pregnancy, childbirth, and unsafe abortions, which are the leading killers of women of reproductive age throughout the third world. One million women die each year as a result of reproductive health problems.

But this debate has nothing to do with abortion itself. Current law prohibits—and has for 20 years—the use of U.S. funds for abortion. Foreign aid policy and law clearly states that U.S. funds may not be used to pay for abortion procedures or to lobby on the issue.

Thus, the proposed language would simply eliminate funding for legal, and essential, health and family planning services—not abortion. Legitimate and effective international health organizations would be punished under the proposed language simply for providing family planning information. I urge my colleagues to defeat this motion.

Ms. WOOLSEY. Mr. Speaker, I rise again in strong opposition to the Callahan motion to next year's foreign operations appropriations bill.

Mr. Speaker, just 2 months ago, women from different nations, cultures, and religions came together at the U.N. World Conference on Women in Beijing.

At Beijing, women from around the world spoke about the need to increase access to family planning, particularly in the developing world, where an unwanted pregnancy is often a matter of life or death.

If you believe that women, rich and poor, should have the right to choose safe motherhood, you must vote down the Callahan motion. If you believe that women should have the right to choose how many children they have and under what conditions, you must vote down the Callahan motion. If you believe that the United States has the obligation to support the United Nations in its efforts to slow the Earth's exploding population, and the misery that comes with it, you must vote down the Callahan motion.

I think that it is an outrage that the House is being forced to debate this issue once again. Come on, this is getting ridiculous.

The House of Representatives needs to get on with its work and send the foreign operations appropriations bill onto the President. We have a conference report, it is a good conference report, and we should not waste the taxpayers' dollars by going back and forth over the issue of international family planning.

I urge my colleagues to support international family planning, support the conference report language for the foreign operations appropriations bill, and vote down the Callahan motion.

Mr. EMERSON. Mr. Speaker, I rise today in support to Mr. CALLAHAN'S motion.

For the fourth time this year, we revisit the issue of future U.S. funding of the U.N. Population Fund [UNPFA] and the reinstatement of the Reagan-Bush administration's Mexico City policy. This time—just as 2 weeks ago—the main motivation for the vote is to send a message to our counterparts in the Senate that we are willing to meet them halfway on these funding issues. We are not willing, however, to back down from our stance of allowing the United States to send unrestricted funds to the international abortion industry or to those that have no qualms with a coercive abortion policy.

Even though the three previous House votes on this issue were overwhelmingly positive, I guess we need to once again reiterate to our colleagues in the Senate that we will not weaken language when it comes to defending the life of the most defenseless member of the human race—the unborn child. So with that, I urge my colleagues to stand behind the Callahan motion by voting "yes."

Mr. CALLAHAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BUNNING of Kentucky). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. CALLAHAN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WILSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 237, nays 183, not voting 12, as follows:

[Roll No. 794]

YEAS—237

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Tiahrt
Traficant
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (FL)
Zeliff

NAYS—183

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Berman
Bilbray
Bishop
Boehlert
Boucher
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
Cramer
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hobson
Horn
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnston
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Klug
Kolbe
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Miller (CA)
Minge
Mink
Moran
Morella
Nadler
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Pryce
Ramstad
Rangel
Reed
Richardson
Rivers
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
White
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—12

Brown (CA)
Chrysler
Dornan
Fields (LA)
Goodling
Houghton
Kaptur
Lantos
Mfume
Tucker
Volkmer
Young (AK)

□ 1144

The Clerk announced the following pair:

On this vote:

Mr. Dornan for, with Ms. Kaptur against.

Mr. FOGLIETTA changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, on rollcall No. 794, the Callahan motion to disagree to the House amendment to Senate amendment No. 115 on the foreign assistance appropriations conference report, I am not recorded. I was in conference with the majority leader of the Senate at that time and unable to vote. Had I been present, I would have voted "yea."

□ 1145

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2020, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1996

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 267 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 267

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2020) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived. If the conference report is adopted, then a motion that the House insist on its disagreement to the amendment of the Senate numbered 132 shall be considered as adopted.

Mr. DIAZ-BALART. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 267 is a rule waiving points of order for the conference report to accompany H.R. 2020, the Treasury, Postal Service, and general Government appropriations bill for fiscal year 1996. H.R. 2020 provides funds for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

The rule waives points of order against the conference agreement and its consideration. In addition, the rule disposes of the amendment in disagreement by including a provision which considers the House's insistence on its disagreement to the amendment of the Senate, numbered 132, as adopted with the conference report's adoption. In other words, to demonstrate the resolve of the House, the rule self-executes out the amendment in disagreement so that the conference report can be passed expeditiously by both Chambers and sent to the President without further delay.

The amendment in disagreement concerned language prohibiting the use of funds for political advocacy by certain Federal grant recipients, and the conferees were unable to decide on advocacy language between Senator SIMPSON's version and Congressman ISTOOK's proposed compromise. The President has indicated that a veto would be likely if this political advocacy language were to be included with the Treasury, Postal bill, and, in a spirit of compromise and in order to get this bill signed as soon as possible, without risking another trip back from the Senate in the interim, this lone amendment in disagreement is disposed of in the rule.

Mr. Speaker, the conference agreement on H.R. 2020 provides $11.6 billion in discretionary spending for fiscal year 1996, which is $646 million less than the fiscal year 1995 level. Thus, this bill saves money and keeps us on a glidepath to a balanced budget in 7 years. There has been some bipartisan cooperation in getting this bill to the floor today, and it is responsible legislation. More importantly, it covers 192,000 Federal employees, which is a full 10 percent of the total Federal work force. By adopting this rule and the conference report today, we will be one step closer to completing the appropriations process and we will be resolving the critical problem of a substantial portion of the Federal work force.

I would like to commend subcommittee Chairman LIGHTFOOT, Chairman LIVINGSTON, subcommittee ranking member HOYER, and full committee ranking member OBEY for their hard work on this bill. I urge adoption of this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume and I thank the gentleman from Florida [Mr. DIAZ-BALART] for yielding the customary 30 minutes of debate time to me.

Mr. Speaker, this rule provides for the consideration of the Treasury-Postal appropriations conference report. It waives all points of order against the conference report and against its consideration, which is necessary to expedite the consideration of this appropriations conference report.

We do not oppose these waivers, but we do take this opportunity to point but that we on this side of the aisle, when we were in the majority, were often roundly criticized for recommending such blanket waivers of our standing rules. We hope our Republican colleagues now understand that such waivers are often necessary for the expeditious and timely consideration of legislation.

The rule also provides that, if the conference report is adopted, the controversial Istook amendment will be dropped. We support the removal of the Istook language that would severely restrict the ability of organizations that receive any Federal assistance from using their own non-Federal money for lobbying or political advocacy.

This conference report has been delayed for weeks because of this very controversial rider, which did not belong on an appropriations bill.

Further, the President has indicated that he will sign this appropriations bill if it does not contain the Istook language.

In the Rules Committee last night, the Democrats offered an amendment that would have modified the rule to allow for a motion to dispose of Senate amendment No. 132 and replace it with a clean continuing resolution to keep the Federal Government running through December 13. Unfortunately, the amendment was defeated on a party-line vote.

We will be asking Members to defeat the previous question on this resolution so that we may again attempt to offer this motion to keep the Federal Government running for another month while we work to pass the nine remaining appropriations bills.

The Federal Government has already been shut down for 2 days, causing confusion and hardship for those who rely on the services of the Federal Government. Although so-called essential personnel remain on the job, tens of thousands of vital workers are not at their posts. We ought to stop playing this game that affects the lives of Federal employees, and of citizens who need the services of the Federal Government.

Mr. Speaker, one of the principal concerns about this bill is the serious under-funding of the Internal Revenue Service, particularly in the area of enforcement. The level was low in the House-passed bill, and the Senate lowered it even further. Adequate funding for enforcement would have resulted in more funds being collected for the treasury. Now, it is likely that this cut will actually add to the deficit. Unfortunately, because of the extremely low Senate 602(b) allocation, there is no way to fix this shortfall at this time.

Many of us are deeply disappointed that the conference agreement reverses current policy by banning, with certain exceptions, the use of funds in the bill to pay for abortions under Federal employee health benefit plans.

The reinstatement of the policy that we overturned in 1993, threatens the right of Federal employees to choose to have an abortion—a right that has been guaranteed by the Supreme Court and discriminates against women in public service.

I regret that we are taking one more step against ensuring all women the right to a safe and legal abortion.

Mr. Speaker, we are already 6 weeks into the new fiscal year, and only three of the 13 regular appropriations bills have been enacted into law. Our Government has been forced to shut down and send most Federal employees home.

Although this conference report for the Treasury-Postal appropriations bill is not all that we might want it to be, it appears to have the support it needs to be passed, and it will apparently be signed by the President when we send it to him.

Almost 200,000 Federal employees are affected by this legislation, nearly 10 percent of the Federal work force. Almost 95,000 of those workers were sent home yesterday due to the Government shutdown. If we pass this appropriations bill, we can put those people back to work.

We urge the House to complete action on this bill, so we can send it to the Senate and then to the White House.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. LIGHTFOOT], the distinguished subcommittee chairman.

□ 1200

Mr. LIGHTFOOT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of this rule. As has been noted by the gentleman from Florida and the gentleman from California, it is important that we move forward with this piece of legislation, which affects roughly 190,000 Federal employees, and which will allow them an opportunity to get back to work and an opportunity to move forward toward the successful conclusion of all of our appropriations packages.

As has been outlined by previous speakers, one of the big hangups was what has become known as the Istook amendment. It has been explained that it is now being pursued or will be pursued on other pieces of legislation. That is not to say that the leadership on this side of the aisle as in any way weakened in their support for what the gentleman from Oklahoma [Mr. ISTOOK] is attempting to accomplish, but there comes a time to make some decisions. A decision was made that this is an issue that best would be pursued in another venue, perhaps on lobbying reform or on another appropriations bill.

I would state to those who support the Istook amendment that there is strong support for it, but it will be pursued in another vehicle.

Mr. Speaker, this rule, by passing it, does take that particular amendment out of this package. We will of course discuss the bill in further detail later, but I think there is a great deal of work that has gone into it.

The gentleman from Maryland [Mr. HOYER], the ranking member, and I worked together on this for about 11 months. The committee staff has worked endless hours on 141 differences between the House, the Senate, and the White House which have been resolved. Overall it makes a few people happy, it makes a few people mad, so it is probably a pretty good piece of legislation.

Mr. Speaker, I very strongly urge my colleagues to support this rule.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished ranking member of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I thank my colleague from California for yielding.

Mr. Speaker, now's our chance, now's our chance to vote for a clean continuing resolution.

Now's our chance to stop playing politics and put 650,000 Federal employees back to work.

Congress has one primary obligation, and that is to pass the 13 appropriations bills before October 1. Obviously October 1 has passed, but we can still get it done. I would ask my Republican colleagues, Mr. Speaker, to stop playing games.

If my Republican colleagues had done their work we wouldn't need a continuing resolution. But Democrats are willing to support a clean continuing resolution, not one loaded down with Medicare premium increases and education cuts that we know President Clinton won't sign. I ask my colleagues to accept our offer of a bipartisan solution.

After the debate on this rule we will offer a clean continuing resolution no Medicare premium increases, no education cuts, no fiddling with people's jobs. No putting politics before the business of running the country. A simple extension so Congress can get its job done.

Mr. Speaker, it's time to rise above the partisan squabbling and get the Government running again.

I urge my colleagues to vote against the previous question.

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I would like to say to my colleagues on the other side of the aisle that I support this rule.

There has been a lot of misunderstanding and I think misrepresentation about Medicare. Medicare is going to increase the benefits by $1,900 over the next few years. The percentage of growth is going to be 6.5 percent, which is above most private health plans. So senior citizens need to know that their benefits are going to increase, an they are going to have to pay, according to the plan we have, 31 percent of the premium, but 69 percent is going to be paid for by the taxpayers.

Mr. Speaker, I would like to talk about another aspect of this that I think is important to my colleagues. This morning on Business Day, on CNN, they had a financial expert on there that predicted, if we stick to our guns and we get to a balanced budget in 7 years, that interest rates on home mortgages will drop down to between 5 and 5.5 percent, which will be the lowest interest rate on home mortgages since the 1950's. Likewise, interest rates on short-term financial transactions like car loans will drop dramatically.

What that means to the average taxpayer is more money in their pocket. They will be able to afford cars that they cannot now afford, because they will be able to afford the payments because of the lower interest rates. They will be able to buy homes which will be a boon to the housing industry and to economic expansion.

So this balanced budget that we are going to see in 7 years, if we stick to our guns, and we intend to do that, is going to be beneficial to everybody in the country who buys anything, because interest rates are going to drop and they are going to drop precipitously, according to most economic experts.

Now, in addition to that, we are talking about tax cuts for average families, a $500 per child tax cut for the families that have children. We are talking about a capital gains tax that is going to benefit probably 75 percent of the people in this country regarding capital gains.

So this package that we have talked about, this balanced budget approach, will result in lower home interest rates, lower car interest rates, lower interest rates on small loans. It will translate into lower taxes for the average family and lower taxes for the business people. It is going to be good for the entire economy.

Mr. Speaker, regarding the senior citizens, I am very disappointed that my colleagues keep beating on this issue and trying to frighten them. We all know that the Medicare trust fund is going to go bankrupt if we do not do something about it. We are doing something about it. We are going to solve the problem.

There is going to be a 31-percent cost to the senior citizen, but 69 percent is going to be paid for by the taxpayer, and they are still going to have their benefits go up to 6.5 percent a year, which means they are going to have a $1,900 increase in benefits over the next 5 to 6 years.

Mr. Speaker, this is a good package, it is good for America, and I hope my colleagues will reconsider supporting it.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER], the ranking member of the Subcommittee on Treasury, Postal Service, and General Government.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, in response to the comments that were just made, this issue that is before us today is about the appropriations process and moving that forward.

The gentleman speaks about the balanced budget. I am one of those who voted for the constitutional amendment for a balanced budget. I am one who voted for the Stenholm budget as an alternative which balances the budget in 7 years. I am one who voted for the coalition budget, which balances the budget in 7 years.

Frankly, in reference to the gentleman from Indiana who mentioned senior citizens, from my perspective, having voted for all of those, taking a $245 billion tax cut and taking a big whack out of senior citizens, $270 billion in Medicare, is not needed. The trustees do not think it is needed and I do not think it is needed.

Having said that, that is not what this is about. This is about what we have been saying would preclude the shutdown of Government. That is, the accomplishment, in the regular order, of the appropriations process. That is why I am going to support this rule. However, I want to say that I very much regret that the Committee on Rules failed to allow the distinguished ranking member of the Committee on Appropriations [Mr. OBEY] to offer a clean continuing resolution as an amendment to this bill.

Mr. Speaker, whether we use the figure of 650,000 or 800,000, there are an awful lot of people that were sent home yesterday and are not doing the job today that the American public expects them to do.

The gentleman from Wisconsin, Mr. OBEY, has repeatedly tried to bring such a bill to the floor in recent days and has been blocked at every opportunity, frankly, by Speaker GINGRICH and others. Today, Federal workers are at home furloughed for just one reason: We have not gotten our work done.

Mr. Speaker, 53 percent of the employees of the Department of Treasury covered by this bill, about 83,000 men and women, are at home today because of the Government shutdown and frankly the inability of Speaker GINGRICH and the Republican leadership to resolve the issue that is now resolved in this rule. Fifty percent of the employees of the Office of Personnel Management and 79 percent of the workers of the General Services Administration are at home today, not doing the job that the American public expects of them.

So while I am glad the rule allows this bill to finally move forward, I believe the real business of the House today should be passing a continuing resolution and an extension of the debt limit ceiling without extraneous riders.

We drop an extraneous rider in this rule. I believe that is wise policy. We can consider that issue on some other legislation. Passage of this bill, however, which I believe the President will sign, will put important Government agencies back to work. It will also put about 90,000 furloughed civil servants, some obviously from my congressional district, but I suggest to you from congressional districts all over the United States, back to work.

Mr. Speaker, it is therefore my intention, as I said earlier, to support the rule, I am pleased that the committee rejected, as I requested, the latest attempt to add the Istook-Ehrlich language to gag nonprofit organizations to this bill. That issue alone, not any of the other issues in this bill, that issue alone, an extraneous, unrelated-to-the-appropriations-process issue, has held this bill hostage for 63 days.

The gentleman from Iowa [Mr. LIGHTFOOT], the chairman of the subcommittee, got the conference organized, got this bill agreed upon in conference, did his work. I do not agree with everything in this bill, as I have told the Committee on Rules and as I will say later in the debate on this floor. The gentleman from Iowa does not agree with everything in this bill. But the legislative process, as has been said, is a process of compromise. It is a process of being reasonable. That is what the American public expects us to do.

Therefore, I am going to support this rule because it does move forward a bill that although not perfect, is, in my opinion, probably as good as our side is going to get in terms of this legislative process, and the realities on this floor and in the Senate.

The Istook issue, which I mentioned earlier, has stalled consideration of this bill too long. I commend the other side for finally dropping it from this piece of legislation. There are many problems, as I have said, with this measure which I will detail during the general debate.

Constraints of the 602(b) allocation, however, put a lot of pressure on the gentleman from Iowa [Mr. LIGHTFOOT] and the committee to work within those constraints. I understand that. Within those constraints, this is, in my opinion, an acceptable piece of legislation.

I certainly share the concern that we should be passing a clean continuing resolution, as I said earlier, so we can get the whole Government back to work. It would be very simple to do that, Mr. Speaker. We could have a unanimous-consent request and pass, as we did under President Reagan and President Bush and now under President Clinton, a clean continuing resolution. Recognizing that we have not done our work here in Congress, have not passed those 10 appropriations bills so that the President could sign them and keep Government operating at such levels as we agree upon, then, Mr. Speaker, I think we would be doing our work responsibly.

A clean CR is a responsible act to take. I hope that at some time during this process the gentleman from Wisconsin [Mr. OBEY] will be successful in bringing up and seeing passed a clean continuing resolution, and I will support that, and I will support efforts on this bill and others to accomplish that objective. But in the final analysis, I believe this bill does, in fact, warrant our support as moving the appropriations process forward in a responsible way.

□ 1215

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding me the time.

Mr. Speaker, we are, of course, engaged in attempting to get our work done, and this is rather interesting, to hear people that now have differing versions of getting the work done.

The best way to reopen offices in the Government is to send bills to the White House, have the White House sign them into law on a permanent basis, so that we do not even have to deal with continuing resolutions or other kinds of mechanisms.

Yet now what we are hearing from the other side is that they are satisfied to have us do continuing resolutions as long as it is on their terms. They love this term of a clean continuing resolution.

In our view, what we are attempting to do here with the legislation that we are moving through the process in terms of regular appropriations, and what we have done on continuing resolutions and on the balanced budget bills, is we are attempting to put a down payment on the balanced budget for the American people. That is what this debate is all about, whether or not we are going to balance the budget in 7 years.

If, in fact, what we do is do a so-called clean CR, or a clean debt limit, clean CR's and clean debt limits are a dirty deal. They are a dirty deal for future generations, they are a dirty deal for older Americans, and they are a dirty deal for the American middle class.

So each time that we hear the opposition say that they are for a clean CR, it is a clean political product that gives them the opportunity to go on spending at past years' rates, that gets us nowhere near to a balanced budget. In fact, if we listen to what is really happening here, the fact is that all of those continuing appropriations in past years are $200 billion deficits into infinity.

We are no longer going to allow that to happen. We have decided that we are going to begin, with everything we do from now on in, to make a down payment on a balanced budget, and we are going to pass appropriation bills that give us a balanced budget for real. We are going to move in the direction of a balanced budget.

No more excuses, no more gimmicks, no more phony figures, no more claims that, oh, we will do it some time in the future. We are going to begin to do it right now. Anything other than that is a dirty deal, because it means that future generations are going to have to pay more and more of the bill for what we do now. It means that the elderly are going to more and more have their pension funds raided by the Secretary of the Treasury, and it means that middle-class Americans are not going to get the take-home pay and the tax cuts that they deserve at the present time.

We need the down payment now. When we have a vote to defeat the previous question here, it is not a vote about a clean CR. It is a vote about a dirty deal for future generations.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY], the distinguished ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, the previous speaker is just plain wrong. This debate on this bill is not about the deficit. This debate is about whether or not the President of the United States, some 800,000 workers, and the entire country will be held hostage to the demand by Speaker GINGRICH and others on his team that the President buy into a budget concept and timetable that will require huge reductions in future Medicare payments by this Government and a doubling of Medicare premiums. That is what is going on here.

That debate about what happens to Medicare and that debate about the shape and nature of the path to a balanced budget is supposed to occur on the reconciliation bill which is now in conference between the House and the Senate. That is a multiyear fight. That is a multiyear bill. But that bill has not yet even gone to the President, so the President is not even in a position to determine whether he would sign it or veto it, because we still do not know what the final contents of that will be.

Meanwhile, what we have before us is the fact that we still have ten 1-year appropriation bills which have not made their way to the White House. The President cannot rationally be criticized for not signing something that has not yet been sent to him.

What we have at issue now, today, is whether the Treasury-Post Office appropriation bill, 1 of the 10 remaining unsigned bills because it has not yet gotten to the President, whether that bill ought to be moved forward. We think it should.

We have a significant disagreement with the majority party on their underfunding of the IRS, because ironically while the gentleman from Pennsylvania says he is concerned about getting the deficit down, the underfunding of the IRS is actually going to add to the deficit next year, because we will not be collecting revenues that are due the Government.

But despite that difference, we are willing to support the basic thrust of this bill. Most of us on this side of the aisle will vote for this bill when we get to the question of final passage.

But what we are suggesting is this: We are suggesting that this bill only allows 100,000 workers to go back to work if it is signed by the President, and what we are suggesting is that all 800,000 workers who are out of work ought to be able to go back. The fastest way to accomplish that is to turn down the previous question, turn down the rule, and allow me to offer this amendment to the resolution before us.

This resolution will simply say that when this bill passes and when it is signed by the President, that the other operations of Government are continued until December 13, 1995. That is all we are trying to do.

We have, at this moment as I speak, some 125 cosponsors to this proposition, and by the end of the day we are going to have a whole lot more than that.

We had every single Democrat vote yesterday plus three Republicans who voted yesterday to try to extend the continuation of the Government action so that we do not continue this silly spectacle of the Government being shut down while we are trying to pass our annual appropriation bills.

Do not be confused. Do not be fooled. This issue is not about whether there is going to be a 7-year deficit path to zero or not. This is a fight about whether or not the Government is going to do its basic business, whether the services that people have a right to expect from the Government are going to be provided, whether Social Security recipients are going to get their questions answered, whether veterans are going to be able to get their questions answered.

I understand that one State announced yesterday they may have to cancel a portion of their hunting season because their national forests will not be open because of the shutdown of the agencies involved. That may not be very important to some people on this floor but it is awfully important to an awful lot of hunters in this country. The list of services goes on and on.

I would suggest what is at issue is not the content of this bill. What is at issue is whether or not we are going to meet our responsibilities to keep the Government open without engaging in blackmail using many thousand American citizens as hostages.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DREIER], my distinguished colleague on the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding me the time and congratulating him on his fine management of this very important rule.

Mr. Speaker, the American people are unhappy with the fact that we are faced with a shutdown of the Federal Government. I am one of those who is very, very concerned.

But having said that, I am convinced that the people whom I am privileged to represent and others from around the country are even more concerned about the prospect of proceeding down the road of business as ususal. That is the main reason that we have gotten to the point where we are today.

There is a sense from my colleagues on the other side of the aisle that defeating the previous question will somehow allow them to offer this resolution that would provide a clean CR. Well, it is not germane and could not be considered even if the previous question is defeated.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Wisconsin.

Mr. OBEY. I think the gentleman would have to admit that we would be in a position to offer it if no Member on his side of the aisle raised a parliamentary objection.

Mr. DREIER. It is nongermane to the bill and it could not be brought up. Now, what my friend advocated was defeat of the previous question and defeat of the rule. Obviously if they proceeded with a completely different rule.

But under this rule, the standing rules of the House, it would be nongermane and I think that is what needs to be realized as we proceed with this.

So let me just say that I am convinced that we——

Mr. OBEY. Would the gentleman mind answering my question?

Mr. DREIER. The answer is, It is nongermane to this measure. I thank my friend for the question.

Mr. Speaker, let me say that as we look at where we are headed today, I hope very much that we can put into place a package that will balance the budget.

I was rather struck with the statement that came from the President yesterday. I did not see it but a couple of the essential members of my staff saw it and they were rather struck. They indicated to me that apparently a land speed record was broken, because in 3 minutes, the President on 11 occasions talked about his quest for a balanced budget.

He said:

> We share a central goal, balancing the federal budget.
>
> We must balance the budget.
>
> I proposed to Congress a balanced budget.
>
> We must balance the budget.
>
> I proposed my balanced budget plan.
>
> It balances the budget.
>
> We can balance the budget.
>
> We can balance the budget.
>
> I am fighting for a balanced budget.
>
> I'll balance the budget.
>
> I will continue to fight for the right kind of balanced budget.

Looking at those statements that were made by the President, one could not help but think once again of what David Broder referred to in his very famous column back in 1993 as the "trust deficit." The trust deficit is something that many people have talked about since then. In that piece that Broder wrote, he said in the 1992 campaign that President Clinton played fast and loose with the facts.

The President knows that people are unhappy about the fact that the Federal Government has shut down and that we are at this point, but he also knows that the American people want us to balance the budget.

This is really little more than what the New York Times described as a political play, and I believe that it is not contributing to our ultimate goals of trying to bring about a modicum of fiscal responsibility.

We also know that Robert Samuelson, another very respected columnist, has written several damning pieces about the President, and I do not like to be one who in any way is critical of the President of the United States, but in this piece he is very direct and blunt, more blunt than I would be, frankly, when he just said, "Clinton lies." That is the way he put it.

So these things came to mind as we observe the rhetoric that has been going on for such a long period of time, and then these 11 claims to be pursuing a balanced budget. It is very unfortunate. I hope very much that we will be able to settle this thing, but it is not going to be done by defeating the previous question on this. The responsible thing for us to do is to pass this rule and proceed with the appropriations bills, which is what we very much want to do. I hope my colleagues will join in doing that.

□ 1230

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Member should not make such personal references to the President of the United States.

Mr. DREIER. I was quoting, Mr. Speaker.

The SPEAKER pro tempore. It makes no difference whether it was quoted or not quoted.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR], our distinguished whip.

Mr. BONIOR. Mr. Speaker, I thank my colleague, my dear friend, TONY BEILENSON, for allowing me this time.

Let me just say at the outset I want to commend the Committee on Rules for the work they did on this particular rule. Let me also echo the points that were made by my friend, the gentleman from Wisconsin [Mr. OBEY].

The issue that we face here on the impending votes which will occur in the next few minutes on the rule itself is whether or not we want to allow the gentleman from Wisconsin [Mr. OBEY] to offer a resolution in which he has over 135 Members sponsoring and will probably have over 200 by the end of the day; to allow him to offer that motion which will extend the Government and put all 800,000 workers back to work until we can reach a resolution to this budget impasse; or whether or not we will be satisfied with just putting 100,000 of these Federal workers back to work.

The date I believe that the gentleman from Wisconsin will extend this to is December 13. It seems to us if we are serious about dealing with this crisis, that, as this chart shows, affects over 1,161,000 Americans: 28,000 American seniors and workers who have been unable to apply for Social Security or disability benefits; 200,000 American seniors who have tried to call the 1-800-HELP line for Social Security and got no answer. This has happened the first day of the crisis we are in. Over 7,000 American veterans have been unable to file compensation benefits and education benefit claims or adjustments; 781,000 people have been turned away from the national parks and monuments; 99,000 tourists have been shut out of the Smithsonian museums and the National Zoo, the Kennedy Center, the Gallery of Art. It goes on and on: 45,000 Americans have not been able to get passports to visit loved ones who may be sick or dying overseas; 700 recruits have been unable to enlist in our Nation's Armed Forces.

That happened in the first day, in the first day, and it is because 800,000 Federal workers are not working. What the resolution that Mr. OBEY has, that will be the pending vote before us, does is to allow them to go back to work until the December 13 and to give us some breathing room so we can work out this impasse that the Government is in.

I urge my colleagues, as strongly as I can, to defeat the rule. The bill, as others have said, is something that many can support in this body, but it does not provide us the procedure to get to the bigger crisis at hand, and that is putting back 800,000 Americans to work in this country.

So we urge defeat of the rule.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. LIVINGSTON], the distinguished chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, we have heard a lot of complaints in the last few days that the majority of both houses have not sent the President a clean CR, a clean continuing resolution. In fact, the President himself said that the reason he was vetoing the continuing resolution was because it had extraneous material in it.

We have heard a lot of pontificating about the Congress not doing its business on time, not getting the bills done, because we are cluttering up the continuing resolutions in the interim while we try to get our appropriations bill through.

I just want to say that, as I have noted before, continuing resolutions have been the theme of the day when the Democrats controlled the House and controlled the Senate. There have been 55 continuing resolutions in the last 15 years, about 15 budget confrontations much like the one we are in today because there were differences between the President and the Congress. So all this has happened before.

But just so that we not get carried away with the thought that a clean CR has always been cherished by what is now the minority, I would point out that when they were in the majority, as far back as 1974, they appended legislation, policy, real meaningful policy legislation, to a continuing resolution that had such an impact that it changes the history, the virtual history of the United States.

I look at this document before me, which is the cover page of a continuing resolution act for 1975, dated June 30, 1974, making continuing appropriations for the fiscal year 1975, and for other purposes.

If you go to one little obscure section, section 110 of that continuing appropriation, that CR, you find the following:

> None of the funds herein made available shall be obligated or expended to finance directly or indirectly combat activities by the United States military forces in or over or from off the shores of North Vietnam, South Vietnam, Laos, or Cambodia.

My friends, we ended the Vietnam war with a continuing resolution. For whatever reason whether you agree or disagree, and I think most of us would agree it was the right thing to do, it was a major policy decision that was put on a CR, a continuing resolution.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, is it possible that there are Members still in this body who would have voted for that continuing resolution, that actually ended the Vietnam war using a continuing resolution?

Mr. LIVINGSTON. Mr. Speaker, reclaiming my time, I bet if we looked real hard, we could find a few Members who actually voted for this continuing resolution, with this significant policy statement on it, and I will bet you they are the same people, some of whom are complaining today because we did not send the President of the United States a clean continuing resolution.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, in other words, the gentleman really believes that some people who are now out here arguing for a clean continuing resolution actually voted for a continuing resolution that had as a policy statement the ending of the Vietnam war?

Mr. LIVINGSTON. Mr. Speaker, reclaiming my time, ended it, totally. And you know how they ended it? They cut off the funding. This was not a peace treaty. This was not negotiated with the President of the United States. Congress on its own unilaterally cut off the funding of the Vietnam war in a continuing resolution.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, might there also be people in the Clinton administration that might have voted for that kind of a continuing resolution?

Mr. LIVINGSTON. Mr. Speaker, reclaiming my time, I dare say there are people in the White House that might have supported this.

Mr. WALKER. No, that cannot be. That cannot be.

Mr. LIVINGSTON. Mr. Speaker, reclaiming my time, I share the gentleman's shock and horror, but I believe that maybe, just maybe, the President of the United States himself supported cutting off the funding of the Vietnam war by virtue of the continuing resolution, and today he is concerned about us submitting policy statements on the continuing resolution. It does strike me right at the heart.

Mr. GIBBONS. . . .

The SPEAKER pro tempore. The gentleman from Florida has not been recognized. Regular order will prevail.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I enjoyed the theatrics and the speeches. They were very entertaining for people that probably have nothing better to do than to watch these proceedings. But the fact remains, the fact remains, boys, gentlemen, Mr. Chairman, you have not done your work. The things you are sending to the President absolutely have no place on this bill. And if you want to go back to when you were elected, you were elected to change things around here. All you do is go back in the rhetoric, what happened years ago. You were elected to change things, not to come here and talk about what happened in the past.

But the fact remains, it has no business on this legislation. You have not done your work. You can show charts, you can wave your arms, you can be clever, you can have anecdotes, but the fact remains you have not done your work and you have not sent the President the appropriations bills, you just have not done the job that you were elected to do. You can rant and rave and make clever speeches, but it all boils down to the bottom line, you ain't done your work.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY], the distinguished ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I will not take much time. I would simply try to reinforce what the gentleman from North Carolina has just said. We have heard several speakers take the floor on the Republican side of the aisle this morning and denounce business as usual. Then we hear others come to the floor and say, "Well, it is all right to do this stuff on a continuing resolution because it was done in the past." I thought you folks were bragging about the fact that you had been elected to change business as usual.

There is a very big difference between the action that was taken on the continuing resolution that ended the Vietnam war, and I was here and I voted for it and I helped draft it. I would note that the difference is that that resolution's passage saved lives, lots of them. This refusal today of this Congress to pass a continuing resolution is screwing up lives, and it is screwing up the country.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding. I think the gentleman is referring to my remarks earlier on this business-as-usual thing. I would simply like to clarify for the record what I meant.

Mr. OBEY. Mr. Speaker, I was referring to the gentleman from Pennsylvania.

Mr. DREIER. All I was trying to say when I referred to bringing business as usual to an end is that we have passed and are trying desperately to pursue a balanced budget. Since it has been a quarter of a century since we have done that, that is really the pattern of spending we are trying to end. That is what I was referring to when I mentioned "business as usual."

Mr. OBEY. Mr. Speaker, reclaiming my time, I was not referring to the gentleman's comments; I was referring to the comments of the gentleman from Pennsylvania.

But I would simply say, as I said once before and I will say it again and again until the majority finally gets it, that issue is not present on this bill. That issue is not present on any of the appropriations bills, except, so far as I know, only the interrelationship between the Labor-HEW and the Defense bill.

The point is simply that what the timetable will be on the budget and what will be required in order to meet that will be determined on the reconciliation bill. But you are trying to make the President buy into ahead of time the idea that he will buy huge cuts in Medicare in order to reach your time table on a budget, and, in order to get him to do that, you are trying to hold up the ability of this House to keep the Government open, and you are trying to shift the debate from one venue to another. That is not a legitimate position for the Congress to take.

I would simply say that in the end, what happened in the past is not important. What counts is what we are going to do now to make today sensible and tomorrow better. That is what is at issue here, and that is why these bills need to pass, and that is why a clean CR needs to pass.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is important to realize what we are voting on at this time. We have got a rule before us that such distinguished Members on the other side of the aisle as the gentleman from Maryland [Mr. HOYER] and the gentleman from California [Mr. BEILENSON] have said that they will support, and they have worked hard to get this bill before us. They admit that it is not a perfect bill from their vantage point; and from our vantage point it is not a perfect bill, but we are making progress.

So we have to ask ourselves at what point, if we are making progress on an appropriations bill, and there are significant Members on the other side of the aisle, a percentage of Members on the other side of the aisle that have worked hard in making it possible for this bill to come to the floor and actually will support the rule, why it is that there is an effort to defeat the rule, which is what defeating the previous question would be?

So I just want to put this in context once again. Many important issues have been brought out in this debate, but I think it is important to realize that we are talking about a rule that will be supported by many on the other side of the aisle, as well as on this side of the aisle, to bring before us a bill that will be supported on a bipartisan basis.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I want to thank my colleague from Florida for yielding me 2 minutes.

Mr. Speaker, the gentleman from Wisconsin [Mr. OBEY] and I talked yesterday afternoon about this business about it is ancient history what the Democrats have done for the last 40 years with their continuing resolutions. I went back and have done a little research. I am not going to take my full time to outline this ancient history. But because at this point, when we are talking about moving forward with a continuing resolution, the gentleman from Wisconsin [Mr. OBEY] would say "Let's not talk about what the Democrats did over the last 55 years or last 40 years or last 10 years," I think it is important to note that in 1978–79 many appropriation bills were never passed.

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And, in fact, in 1987 and 1988, not one of the 13 appropriation bills were ever passed or ever sent to the Congress. So the Democrats will come on the House floor and give this hue and cry all about, well, we are talking about a new history with the Republican party. But we are well ahead of what you did in 1987 and 1988, where not one of the 13 appropriation bills was ever passed in Congress and sent to the President.

I can just go from 1980, 1981, 1982. The minority party's record is clear that we are way ahead of where you were. So if we want to talk about our improving, we are already at an improvement point.

I think the point my colleague should realize is that we are trying to balance the budget in 7 years. This is the whole issue. The whole defining issue is will we be able to balance the budget in 7 years, and continually the Democrats say we cut Medicare.

Mr. Speaker, today, while explaining why he vetoed a bill that would have kept the Government from shutting down, the President expressed dismay that all 13 appropriations bills had not been passed by the Congress and signed into law. Yet since 1977 the Congress failed entirely to pass all 13 appropriations bills 11 times. That's right, at least 11 times the Congress failed to pass at least one of the appropriations bills, at all.

Since 1990, the Democratic run Congress has shut down the Government nine times. The last time, in 1990, they forced President Bush to accept a compromise with them over the budget which resulted in Mr. Bush breaking his "No New Taxes" pledge. I didn't hear Mr. Panetta, then the Budget Committee chairman and now the President's Chief of Staff, claiming he was blackmailing the President.

Since 1977 the Democratic run Congress has spent the entire year on a continuing resolution for at least 1 of the 13 appropriations bills 11 times. In fact, for both fiscal year 1987 and 1988 the Congress failed to send even 1 of the 13 appropriations bills to the President. They spent both those years with only continuing resolutions.

Let me just list the specific instances.

In fiscal year 1978, the Labor-HEW bill was never passed. In fiscal year 1979, the energy and water bill was never passed.

In fiscal year 1980, the foreign operations, Labor-HHS, and legislative branch bills were never passed. In fiscal year 1981, the Labor-HHS, legislative branch, Commerce-Justice, and Treasury-Postal bills were never passed. In fiscal year 1982, the Commerce-Justice, Labor-HHS, legislative branch, and Treasury-Postal bills were never passed. In fiscal year 1983, the Commerce-Justice, energy and water, foreign operations, Labor-HHS, legislative branch, and Treasury-Postal bills were never passed. In fiscal year 1984, the agriculture, foreign operations, and Treasury-Postal bills were never passed. In fiscal year 1985, the Agriculture, Defense, District of Columbia, foreign operations, Interior, military construction, transportation, and Treasury-Postal bills never passed. In fiscal year 1986, the Agriculture, Defense, District of Columbia, foreign operations, Interior, Transportation, and Treasury-Postal bills were never passed. And in both fiscal years 1987 and 1988, not 1 of the 13 appropriations bills was ever passed and sent to the President.

I have heard it said that they feared to send 13 separate bills to Presidents Reagan and Bush as then the President could have vetoed only part of their budget. I was not yet privileged to serve in Congress when these actions were taken, but I know that we have no such fears and will soon send all 13 bills to the President.

Mr. Speaker, I know that there are fewer Democrats today then there were when they passed the 55 continuing resolutions, and when they acted only with continuing resolutions for an entire year 11 times, but I find it hard to believe that none of those remaining can remember the facts of what actually occurred in the past.

I hope that the President will agree to negotiate with our leadership soon, and that we can reach an agreement on this important legislation. After all, it is the veterans, seniors and other people who rely on their Government who will suffer if we don't.

Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. OBEY], but is it not true that the Republican plan slows the growth of Medicare and does not cut Medicare? Just yes or no.

Mr. OBEY. Mr. Speaker, that is not why I asked the gentleman to yield. I asked him to yield because I wanted to ask him why does his side not include the record last year?

The SPEAKER pro tempore (Mr. BUNNING of Kentucky). The gentleman's time has expired.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding me time.

I would simply suggest, as I did yesterday, instead of looking at the deep, dark, distant past, why not look at last year. Last year, I took over as chairman of the Committee on Appropriations. We finished all 13 appropriations bills. They were all signed by the President before the end of the fiscal year.

The reason that happened is because I went to the ranking Republican and I said let us work out a bipartisan approach to all 13 bills. It was the very first thing I did. We did, and that is why it passed. If the majority had done the same thing on these bills, they might have had the same result. But they did not, which is why 10 of them are still stuck in the muck.

Mr. STEARNS. Mr. Speaker, would the gentleman yield for 10 seconds?

Mr. OBEY. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Speaker, if we had the Presidency, if the Republicans had the Presidency, we would pass all these, and we would not be talking about the continuing resolution or the debt ceiling.

Mr. OBEY. Mr. Speaker, reclaiming my time, let us talk about conditions that do exist instead of talking about fantasy conditions.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, I am a freshman Member of Congress. I have been here for a little over 10 months, and I have supported a balanced budget over 7 years without any tax breaks. I do not like a gun being held to my head to support a balanced budget with large tax breaks and increases in the military budget over that same 7-year period. But that is a separate debate from the debate on a continuing resolution.

This Congress has not completed its work and is using a continuing resolution to continue running the Government because it has not finished its work. To add items onto it that would be unacceptable to me and maybe other Members of their own party, let alone the President of the United States, Mr. Speaker, this country is being held hostage in this process because they cannot win it on their own merits. We should have this discussion, and it should be separate and apart.

I had a veteran call my office today and want to know about their veterans benefits, and then I watched the majority colleagues conduct themselves on the floor, and I thought to myself, there are good hard-working people that are worried, that have paid their taxes, have raised their family, and if they had watched what happened on the floor of the House, regardless of party, they would be truly disappointed.

Mr. Speaker, at the same time that there is peace talks going on in the United States in regards to Bosnia and trying to bring parties together, it seems like the parties in the well of the House cannot come together in the public interest.

The President has not done anything wrong, and I resent the name calling, indirectly, of the President of the United States. He has not done anything wrong. It is the Congress that has not completed its work by October 1, this year. Whatever happened in the past, happened in the past. Let us move forward into the future and let us do it in the public interest.

Mr. DIAZ-BALART. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, when it boils down to whether we are talking the debt ceiling, a CR, or a balanced budget, it goes to a balanced budget.

I would say to my friend, the gentleman from Wisconsin [Mr. OBEY], the President promised that he would balance the budget within 5 years. He has 2 years left on that promise. He said that it had to be scored by CBO, the only people that could really justify and certify it. Well, we had a vote on this House floor, 300 votes for a balanced budget that balances the budget in 7 years. The Senate did likewise, so both bodies, the House and the Senate, agreed, and it was CBO scored and certified in 7 years, bipartisan. Yet the President refuses to sign it knowing that we do not have enough votes in the Senate to override it.

Mr. Speaker, we have the will of the people, the will of the House, the will of the Senate, but yet the President and the leftees that control this place are advising the President not to sign it. That is what all this is about.

When we talk about appropriations bills that the minority side passed last Congress when they were in the majority, let us look at that. The gentleman says it was bipartisan. Not a single Republican voted for that tax and spend package. It cut COLA's. The highest tax in the history of the United States. They cut military COLA's. They increased tax on Social Security and they cut defense $177 billion. We are now $200 billion below the bottom up review in defense. In looking at Bosnia, the minority put this world at a threat.

The minority promised they would have a middle-class tax cut in that package, in that bipartisan approach, but they increased the marginal rate of the middle class and put a tax cut on them. That was bipartisan?

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, we are specifically debating the rule on this bill, and the fact is that the Committee on Rules has been reasonable on this particular rule, but there is a more important, more overriding and compelling issue facing us, and it is because of this issue that we need to attach a clean continuing resolution to this bill.

Let me address some of the people who have become pawns in what has become an intense, largely political, struggle between the White House and the Congress. There were 800,000 people who were sent home yesterday, people who were told when they came into work that they were nonessential, that they were not needed. Now, we have been assured that every one of them is going to get paid, but think about this.

The Federal taxpayer will pay out a billion dollars this week for those Federal employees to stay home from work. Is that right? Is that fair? It certainly is not what Federal employees want. What about the 1.2 million Federal employees who are working, who will get the same compensation, who will come to work every day and get paid the very same amount that their colleague down the hallway is going to get for not working?

Mr. Speaker, we should think of the situation that we have created here. Think of the disabled veteran who just came to the office which said they cannot file for his benefit that he is entitled to because that office is not open. We saw on this chart the thousands of veterans across the country who will not get their benefits; and 28,000 Social Security people who will not be able to apply for their benefits. They are all pawns in this struggle.

The reality of the situation is that this is not, as the gentleman from California [Mr. CUNNINGHAM] suggested, a matter of the Democratic leftees driving us off the cliff; this is a matter of the House Republicans not being able to agree with the Senate Republicans and not getting appropriation bills to the President in time. Had the Republicans, who control the votes in both the House and Senate, been able to reach agreement any time over the last 11 months, and sent any of the 13 spending bills to the President before the end of the fiscal year, there would, quite possibly, have been no need for any continuing resolution, and certainly no need for any Government shutdown.

But the more moderate Republican Senators couldn't accept the most extreme and inappropriate riders that the House Republicans insisted on adding to all of these spending bills. That's where the responsibility must lie, and that's why we need to pass a clean continuing resolution today.

The SPEAKER pro tempore. Let me remind the gentleman from Florida [Mr. DIAZ-BALART] that he has 3 minutes remaining and is entitled to close; and the gentleman from California [Mr. BEILENSON] has one-half minute remaining.

Mr. BEILENSON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I associate myself with the remarks just made by the gentleman from Virginia [Mr. MORAN], and previously the remarks made by the gentleman from Wisconsin [Mr. OBEY] and by the gentleman from Maryland [Mr. HOYER], who are, I think, very much on the mark.

Finally, Mr. Speaker, I urge a "no" vote on the previous question. If the previous question is defeated, we will offer an amendment to the rule that will self-execute a motion that the House recede from its disagreement to the Senate amendment and concur with an amendment that extends the continuing resolution, a clean continuing resolution, through December 13, 1995.

Mr. Speaker, I include a copy of the amendment in the RECORD at this point.

TEXT OF THE PREVIOUS QUESTION AMENDMENT

In House Resolution 267 on page 2, line 7 strike "insist on" and insert "recede from"

On page 2, line 8 after "132" insert: "And concur therein with an amendment substituting the matter contained in section 2 of this resolution"

At the end of the resolution add the following:

SEC 2.

Section 106(c) of Public Law 104-31 (109 Stat. 280) is amended by striking "November 13, 1995" and inserting "December 13, 1995"."

Mr. DIAZ-BALART. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, we have before us a rule that will bring to the floor a bill that covers almost 200,000 Federal employees, and that is what we are talking about. We are talking about passing a bill today, sending it to the President, that will permit almost 200,000 Federal employees to go to work tomorrow.

In addition to that, the bill maintains a glidepath, is on a glidepath to a balanced budget in 7 years. Now, the gentleman from Pennsylvania [Mr. WALKER], was, I think, very much correct in bringing out the fact that other econometric projections, whether they are called continuing resolutions, which would not be germane to this bill, if the previous question were to fail, it would not be germane today on this rule, an econometric projection or theory that continues to pile debt is not as clean as some maintain that it is.

What we have before us in synthesis, Mr. Speaker, is a rule that will permit us to vote on a bill that is on a glidepath to a balanced budget in 7 years and that tomorrow will permit 200,000 Federal workers to go back to work.

So I would hope that the spirit of compromise that was propounded and mentioned again today on the floor by such distinguished Members on the other side of the aisle as the gentleman from Maryland [Mr. HOYER] and the gentleman from California [Mr. BEILENSON] who say they will vote for the rule, will prevail, and that we will be able to pass this rule, obviously succeed on the motion for the previous question, pass the rule and then pass the bill.

Mr. Speaker, I yield back the balance of my time, and I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 233, nays 189, not voting 10, as follows:

[Roll No. 795]

YEAS—233

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh

Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (FL)
Zeliff
Zimmer

NAYS—189

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—10

Browder
Fields (LA)
Fields (TX)
Ford
Houghton
Sisisky
Tucker
Volkmer
White
Young (AK)

□ 1318

Messrs. DINGELL, BARCIA, and STUPAK changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BUNNING of Kentucky). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 285, nays 133, not voting 14, as follows:

[Roll No. 796]

YEAS—285

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wise
Wolf
Young (FL)
Zeliff
Zimmer

NAYS—133

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Becerra
Bentsen
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Bryant (TX)
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Doggett
Doyle
Durbin
Edwards
Engel
Evans
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Istook
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Klink
LaFalce
Lantos
Lewis (GA)
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McIntosh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Rangel
Reed
Rose
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Schumer
Scott
Serrano
Spratt
Stark
Stokes
Tanner
Taylor (MS)
Tejeda
Thompson
Torres
Torricelli
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Williams
Wilson
Woolsey
Wyden
Wynn
Yates

NOT VOTING—14

Barcia
Callahan
Fields (LA)
Fields (TX)
Goodling
Houghton
Norwood
Pelosi
Radanovich
Slaughter
Tucker
Volkmer
White
Young (AK)

□ 1327

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LIGHTFOOT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 2020, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

CONFERENCE REPORT ON H.R. 2020, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1996

Mr. LIGHTFOOT. Mr. Speaker, pursuant to House Resolution 267, I call up the conference report on the bill (H.R. 2020), making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. DREIER). Pursuant to rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 25, 1995, at page H10813.)

The SPEAKER pro tempore. The gentleman from Iowa [Mr. LIGHTFOOT] will be recognized for 30 minutes, and the gentleman from Maryland [Mr. HOYER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. LIGHTFOOT].

□ 1330

Mr. LIGHTFOOT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to bring to the House today the conference report on H.R. 2020, fiscal year 1996 appropriations bill for the Department of Treasury, the Postal Service, the Executive Office of the President, the General Services Administration and other independent agencies.

For discretionary programs under our control, the conference report is below the subcommittee's section 602(b) allocation by $67 million in outlays, below last year's spending by $646 million, below the President's request by $1.2 billion, and below the level passed by the House on July 19 by $243 million. With only 5 exceptions, every account in this appropriations bill is below last year's level. I think that this is another step toward a balanced budget.

Mr. Speaker, over the past several weeks, as we have waited for the conferees to come to a resolution on the Istook-Simpson amendment, I have sensed an attitude of indifference on the part of many of my colleagues about the need to send this bill to the President quickly and in a form that he can readily sign.

Granted, this bill does not have a strong constituency. Mr. Speaker, I tell you this about the Treasury appropriations bill. It is not a throwaway piece of legislation.

This bill funds the nuts and bolts of Government for the General Services Administration, maintaining our Federal buildings and courthouses. It protects the integrity of our Nation's currency through the anticounterfeiting efforts of the Secret Service. It preserves our Nation's history through the National Archives. It provides for the protection of our President and other dignitaries. It funds programs that ensure our trade laws are properly enforced, that drugs are interdicted along our borders, and that our tax laws are implemented.

Let there be no mistake about it. The programs funded here do touch the lives of each and every American.

Yesterday the Government shut down, including the programs funded in this appropriations measure. Without swift action to put the 190,000 Federal employees supported by this bill back to work, we will soon experience long delays at ports of entry, no one will be around to answer questions on the phones at IRS, there will be limited resources to process monthly Treasury checks, and we could easily have delays in getting out Social Security, disability and pension benefits for veterans, and checks for Federal retirees. We place the President and Presidential candidates in danger and we make it even easier for traffickers to get drugs into this country. We basically help organized crime launder money. I do not think any of us want to do any of these.

There are other consequences in not passing this bill, including a risk of losing a number of significant initiatives that we have fought long and hard for: A reversal of the administration's policy on funding abortions through the Federal Employees Health Benefit Program; a restriction on new courthouse construction starts; a pay freeze for Members of Congress, for judges and heads of agencies; and a restriction on the President's ability to bail out foreign currencies.

We terminate two agencies and seven agency functions, saving $135 million over the next 5 years. Most importantly of all, we have deficit reduction of the 646 million in real U.S. taxpayers' dollars.

Mr. Speaker, this bill was not an easy one to put together. The Senate 602(b) allocation was below the one we had in the House and there was a great deal of work that had to be done to bring these two measures together.

I would like to thank my ranking member, the gentleman from Maryland [Mr. HOYER], for working with us on this package. As was stated during the debate on the rule, there are things in it that neither one of us like, but that is the way Government works. We have had the opportunity to get together to exchange ideas in an honest, forthright manner and have tried to pick out what we hope is the best of all those ideas. I would like to send my appreciations to the gentleman from Maryland [Mr. HOYER] and to all of our staff who have worked very hard on this.

When this whole debate started and we were ready to go to the floor, I was 56 years old. I have aged a year since then, because that was September 20, and on the 27th, I ticked off another year on the calendar. So this has been a year in my life that we are waiting to get this bill on the floor, although it is 63 days if you actually look at the calendar. It is long overdue that we move this bill along. I think there is a right time and a right place for everything. For the 1996 Treasury appropriations bill, the time certainly is now, today, here on this floor.

I urge my colleagues to move this bill forward and vote "aye" on the conference report.

Mr. Speaker, I add the following data for the RECORD:

H.R. 2020 - Treasury, Postal Service, and General Government, 1996

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF THE TREASURY						
Departmental Offices	104,379,000	120,408,000	104,000,500	110,929,000	105,929,000	+1,550,000
Treasury Building Repair and Restoration				7,684,000	21,491,000	+21,491,000
Office of Inspector General	29,700,000	31,864,000	29,319,000	30,067,000	29,319,000	-381,000
Financial Crimes Enforcement Network	19,823,000	22,198,000	20,273,000	22,198,000	22,198,000	+2,375,000
Treasury Forfeiture Fund (limitation on availability of deposits)	15,000,000	15,000,000		15,000,000	10,000,000	-5,000,000
Federal Law Enforcement Training Center:						
Salaries and Expenses	58,813,000	38,528,000	36,070,000	34,006,000	36,070,000	-22,743,000
Transfers of unobligated balances		(11,600,000)				
Acquisition, Construction, Improvements, and Related Expenses	5,815,000	8,163,000	8,163,000	9,663,000	9,663,000	+3,848,000
Transfer to Salaries and Expenses		(-11,600,000)				
Total, Federal Law Enforcement Training Center	64,628,000	46,691,000	44,233,000	43,669,000	45,733,000	-18,895,000
Foreign Law Enforcement		14,490,000				
Financial Management Service	183,729,000	189,259,000	181,837,000	186,070,000	184,300,000	+571,000
Bureau of Alcohol, Tobacco and Firearms	420,138,000	435,185,000	391,035,000	377,971,000	377,971,000	-42,167,000
United States Customs Service:						
Salaries and Expenses	1,395,793,000	1,395,970,000	1,392,429,000	1,387,153,000	1,387,153,000	-8,640,000
(By transfer)	(13,200,000)					(-13,200,000)
Harbor Maintenance Fee Collection		3,000,000	3,000,000	3,000,000	3,000,000	+3,000,000
Operation and Maintenance, Air and Marine Interdiction Programs	89,041,000	60,993,000	60,993,000	68,543,000	64,843,000	-24,198,000
Unobligated balances carried forward (non-add)		(19,733,000)	(19,733,000)	(19,733,000)	(19,733,000)	(+19,733,000)
Customs Facilities, Construction, Improvements and Related Expenses	1,000,000					-1,000,000
Customs Services at Small Airports (to be derived from fees collected)	1,406,000	1,406,000	1,406,000	1,406,000	1,406,000	
Total, United States Customs Service	1,487,240,000	1,461,369,000	1,457,828,000	1,460,102,000	1,456,402,000	-30,838,000
United States Mint	55,740,000	58,261,000				-55,740,000
Bureau of the Public Debt	183,458,000	176,965,000	170,000,000	170,000,000	170,000,000	-13,458,000
Payment of Government Losses in Shipment	500,000	500,000	500,000	500,000	500,000	
Internal Revenue Service:						
Administration and Management	225,632,000					-225,632,000
Processing, Assistance, and Management	1,511,266,000	1,805,042,000	1,682,742,000	1,767,309,000	1,723,764,000	+212,498,000
Tax Law Enforcement	4,385,459,000	4,524,351,000	4,254,476,000	4,097,294,000	4,097,294,000	-288,165,000
Information Systems	1,386,510,000	1,781,252,000	1,571,616,000	1,442,605,000	1,527,154,000	+140,644,000
Total, Internal Revenue Service	7,508,867,000	8,110,645,000	7,508,834,000	7,307,208,000	7,348,212,000	-160,655,000
United States Secret Service	483,606,000	579,628,000	542,461,000	534,502,000	531,944,000	+48,338,000
Violent Crime Reduction Programs:						
Departmental Offices	2,400,000	4,850,000				-2,400,000
Financial Crimes Enforcement Network	2,700,000	2,221,000	2,221,000	2,500,000		-2,700,000
Bureau of Alcohol, Tobacco and Firearms	7,000,000	25,305,000	3,100,000	24,700,000	21,010,000	+14,010,000
Gang Resistance Education and Training: Grants	9,000,000	7,200,000	12,200,000	7,200,000	7,200,000	-1,800,000
United States Customs Service	4,000,000	4,685,000	33,865,000	17,500,000	25,690,000	+21,690,000
Internal Revenue Service: Tax Law Enforcement	7,000,000	19,049,000				-7,000,000
United States Secret Service	6,600,000	9,800,000	10,000,000	21,600,000	21,600,000	+15,000,000
Federal Law Enforcement Training Center		5,090,000	2,500,000	2,000,000	1,014,000	+1,014,000
Total, Violent Crime Reduction Programs	38,700,000	78,200,000	63,886,000	75,500,000	76,514,000	+37,814,000
Procurement reform	-33,437,000					+33,437,000
Total, Title I, Department of the Treasury	10,562,071,000	11,340,663,000	10,514,206,500	10,341,400,000	10,380,513,000	-181,558,000
TITLE II - POSTAL SERVICE						
Payment to the Postal Service Fund	92,317,000	109,094,000	85,080,000	85,080,000	85,080,000	-7,237,000
Payment to the Postal Service Fund for Nonfunded Liabilities	37,776,000	36,828,000	36,828,000	36,828,000	36,828,000	-948,000
Total, Title II, Postal Service	130,093,000	145,922,000	121,908,000	121,908,000	121,908,000	-8,185,000
TITLE III - EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT						
Compensation of the President	250,000	250,000	250,000	250,000	250,000	
The White House Office	40,022,000	40,193,000	39,459,000	38,131,000	39,459,000	-563,000
Executive Residence at the White House:						
Operating Expenses	7,827,000	7,827,000	7,522,000	7,827,000	7,827,000	
White House Repair and Restoration		2,200,000		2,200,000	2,200,000	+2,200,000
Official Residence of the Vice President	324,000	324,000	324,000	324,000	324,000	
Special Assistance to the President	3,280,000	3,280,000	3,175,000	3,280,000	3,280,000	
Council of Economic Advisers	3,439,000	3,439,000		3,439,000	3,180,000	-259,000
Office of Policy Development	5,058,000	3,867,000	3,867,000	3,867,000	3,867,000	-1,191,000
National Security Council	6,648,000	6,648,000	6,459,000	6,648,000	6,648,000	
Office of Administration	26,217,000	26,100,000	25,736,000	25,560,000	25,736,000	-481,000
Procurement reform	-117,000					+117,000

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	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Office of Management and Budget	57,754,000	56,272,000	55,426,000	55,573,000	55,573,000	-2,181,000
Information Security Oversight Office		1,482,000		1,482,000		
Office of National Drug Control Policy	9,942,000	9,942,000	20,062,000	28,500,000	23,500,000	+13,558,000
Unanticipated Needs	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	
Federal Drug Control Programs:						
High Intensity Drug Trafficking Areas Program	107,000,000	110,000,000	104,000,000	110,000,000	103,000,000	-4,000,000
Special Forfeiture Fund	41,900,000	37,000,000				-41,900,000
Transfer to other agencies:						
El Paso Intelligence Center	(1,800,000)					(-1,800,000)
SAMSHA	(14,000,000)					(-14,000,000)
CTAC (R&D)	(8,000,000)					(-8,000,000)
ONDCP Director Discretion	(18,100,000)					(-18,100,000)
United States Customs Service	(13,200,000)					(-13,200,000)
Total, Federal Drug Control Programs	148,900,000	147,000,000	104,000,000	110,000,000	103,000,000	-45,900,000
(Transfer to other agencies)	(55,100,000)					(-55,100,000)
Total, Title III, Executive Office of the President	310,544,000	309,824,000	267,280,000	288,081,000	275,844,000	-34,700,000
TITLE IV - INDEPENDENT AGENCIES						
Advisory Commission on Intergovernmental Relations	1,000,000	1,400,000		334,000	784,000	-216,000
Administrative Conference of the United States	1,800,000	2,259,000		1,800,000	600,000	-1,200,000
Committee for Purchase from People Who Are Blind or Severely Disabled	1,682,000	1,800,000	1,682,000	1,800,000	1,800,000	+118,000
Federal Election Commission	25,710,000	29,021,000	26,521,000	28,517,000	26,521,000	+811,000
Federal Labor Relations Authority	21,341,000	22,230,000	19,742,000	21,398,000	20,542,000	-799,000
General Services Administration:						
Federal Buildings Fund:						
Appropriation	310,197,000	-259,112,000		86,000,000	86,000,000	-224,197,000
Rescissions	(-715,532,000)			(-55,000,000)	(-55,000,000)	(+660,532,000)
Limitations on availability of revenue:						
Construction and acquisition of facilities	(604,002,000)		(302,013,000)	(573,872,000)	(545,002,000)	(-59,000,000)
Alfred P. Murrah Federal Office Building	(40,400,000)					(-40,400,000)
Repairs and alterations	(723,864,000)	(911,000,000)	(713,086,000)	(627,000,000)	(637,000,000)	(-86,864,000)
Installment acquisition payments	(127,531,000)	(181,963,000)	(181,963,000)	(181,963,000)	(181,963,000)	(+54,432,000)
Rental of space	(2,181,300,000)	(2,339,000,000)	(2,341,100,000)	(2,327,200,000)	(2,326,200,000)	(+144,900,000)
Building operations	(1,322,025,000)	(1,352,551,000)	(1,389,463,000)	(1,302,551,000)	(1,302,551,000)	(-19,474,000)
Transfer to Construction and Acquisition		(554,813,000)				
Repayment of Debt		(73,433,000)	(73,433,000)	(73,433,000)	(73,433,000)	(+73,433,000)
Emergency funding	(-66,800,000)					(+66,800,000)
Total, Federal Buildings Fund	310,197,000	-259,112,000		86,000,000	86,000,000	-224,197,000
(Limitations)	(4,932,322,000)	(5,412,760,000)	(5,001,058,000)	(5,086,019,000)	(5,066,149,000)	(+133,827,000)
Real Property Activities:						
Appropriation		989,418,000				
Transfer from FBF		(554,813,000)				
Construction and Acquisition - Limitation:						
(Construction - Limitation)		(1,017,213,000)				
(Acquisition - Limitation)		(5,000,000)				
Subtotal		(1,022,213,000)				
GSA operations:						
Policy and Oversight		111,827,000	62,499,000	113,827,000		
Operating Expenses	130,036,000	53,878,000	49,130,000		119,091,000	-10,945,000
Subtotal	130,036,000	165,705,000	111,629,000	113,827,000	119,091,000	-10,945,000
Office of Inspector General	33,090,000	34,407,000	32,549,000	34,000,000	33,274,000	+184,000
Allowances and Office Staff for Former Presidents	2,215,000	2,181,000	2,181,000	2,181,000	2,181,000	-34,000
Procurement reform	-8,959,000					+8,959,000
Total, General Services Administration	466,579,000	932,599,000	146,359,000	236,008,000	240,546,000	-226,033,000
John F. Kennedy Assassination Record Review Board	2,150,000	2,418,000	2,150,000	2,150,000	2,150,000	
Merit Systems Protection Board:						
Salaries and Expenses	24,549,000	24,549,000	21,129,000	24,549,000	24,549,000	
(Limitation on administrative expenses)	(2,250,000)	(2,430,000)	(2,430,000)	(2,430,000)	(2,430,000)	(+180,000)
Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation	10,000,000					-10,000,000
National Archives and Records Administration	195,238,000	195,291,000	193,291,000	199,633,000	199,633,000	+4,395,000
Reduction of debt	-3,692,000	-4,012,000	-4,012,000	-4,012,000	-4,012,000	-320,000
Procurement reform	-325,000					+325,000
National Archives and Presidential Libraries Repair and Restoration				1,500,000	1,500,000	+1,500,000
National Historical Publications and Records Commission:						
Grants program	9,000,000	4,000,000	4,000,000	5,000,000	5,000,000	-4,000,000
Office of Government Ethics	8,104,000	8,328,000	7,776,000	8,328,000	7,776,000	-328,000

H.R. 2020 - Treasury, Postal Service, and General Government, 1996

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Office of Personnel Management:						
Salaries and Expenses	111,999,000	108,572,000	85,524,000	93,106,000	88,000,000	-23,999,000
(Limitation on administrative expenses)	(93,934,000)	(102,536,000)	(102,536,000)	(93,261,000)	(102,536,000)	(+8,602,000)
Office of Inspector General	4,009,000	4,037,000	4,009,000	4,009,000	4,009,000	
(Limitation on administrative expenses)	(6,156,000)	(6,181,000)	(6,181,000)	(6,181,000)	(6,181,000)	(+25,000)
Government Payment for Annuitants, Employees Health Benefits	4,210,560,000	3,746,337,000	3,746,337,000	3,746,337,000	3,746,337,000	-464,223,000
Government Payment for Annuitants, Employee Life Insurance	28,159,000	32,647,000	32,647,000	32,647,000	32,647,000	+4,488,000
Payment to Civil Service Retirement and Disability Fund	7,339,638,000	7,945,998,000	7,945,998,000	7,945,998,000	7,945,998,000	+606,360,000
Employees Life Insurance Fund (limitation on administrative expenses)	(753,000)	(993,000)	(993,000)	(993,000)	(993,000)	(+240,000)
Retired Employees Health Benefits Fund (limitation on administrative expenses)	(81,000)					(-81,000)
Procurement reform	-1,256,000					+1,256,000
Total, Office of Personnel Management	11,693,109,000	11,837,591,000	11,814,515,000	11,822,097,000	11,816,991,000	+123,882,000
Office of Special Counsel	7,955,000	8,566,000	7,840,000	7,840,000	7,840,000	-115,000
United States Tax Court	34,039,000	34,039,000	32,899,000	33,639,000	33,269,000	-770,000
Total, Title IV, Independent Agencies	12,498,239,000	13,100,079,000	12,273,892,000	12,390,581,000	12,385,489,000	-112,750,000
(Limitation on administrative expenses)	(4,319,964,000)	(6,547,113,000)	(5,113,198,000)	(5,133,884,000)	(5,123,289,000)	(+803,325,000)
Grand total	23,500,947,000	24,896,488,000	23,177,286,500	23,141,970,000	23,163,754,000	-337,193,000
(Limitations)	(4,319,964,000)	(6,547,113,000)	(5,113,198,000)	(5,133,884,000)	(5,123,289,000)	(+803,325,000)
CONGRESSIONAL BUDGET RECAP						
Total in this bill	23,500,947,000	24,896,488,000	23,177,286,500	23,141,970,000	23,163,754,000	-337,193,000
Scorekeeping adjustments	-744,405,000	126,840,000	71,069,000	13,030,000	-10,840,000	+733,565,000
Total mandatory and discretionary	22,756,542,000	25,023,328,000	23,248,355,500	23,155,000,000	23,152,914,000	+396,372,000
Mandatory	11,736,379,000	11,889,400,000	11,889,400,000	11,889,400,000	11,889,400,000	+153,021,000
Discretionary:						
Crime trust fund	38,700,000	78,200,000	63,886,000	75,500,000	76,514,000	+37,814,000
General purposes	10,981,463,000	13,055,728,000	11,295,069,500	11,190,100,000	11,187,000,000	+205,537,000
Total, Discretionary	11,020,163,000	13,133,928,000	11,358,955,500	11,265,600,000	11,263,514,000	+243,351,000

Mr. LIGHTFOOT. Mr. Speaker, I am pleased to bring before the House today the conference report on H.R. 2020, the fiscal year 1996 appropriations bill for the Department of Treasury, the Postal Service, the Executive Office of the President, the General Services Administration and other independent agencies.

For discretionary programs under our control, the conference report is below the subcommittee's section 602(b) allocation by $67 million in outlays, below last years spending by $646 million, below the President's request by $1.2 billion and below the level passed by the House on July 19 by $243 million. With only five exceptions, every account in this appropriations bill is below last years level. This is another step that we have to take toward a balanced budget.

Mr. Speaker, over the past several weeks, as we have waited for the conferees to come to a resolution on the Istook-Simpson amendment, I have sensed an attitude of indifference on the part of many of my colleagues about the need to send this bill to the President quickly and in a form that he can sign.

Granted, this bill doesn't have a strong constituency. But, Mr. Speaker, I will tell you this about the Treasury appropriations bill. It isn't a throw away piece of legislation.

This bill funds the nuts and bolts of government through the General Services Administration, maintaining our Federal buildings and courthouses. It protects the integrity of our Nation's currency through the anti-counterfeiting efforts of the Secret Service. It preserves our Nation's history through the National Archives. It provides for the protection of our President and other dignitaries. It funds programs that ensure our trade laws are properly enforced, that drugs are interdicted along our borders, and that our tax laws are implemented.

Let there be no mistake about it. The programs funded here touch the lives of all Americans.

Yesterday, the Government shut down, including the programs funded in this appropriations measure. Without swift action to put the 190,000 Federal employees supported by this bill back to work, we will soon experience long delays at ports of entry; no one will be around to answer the phones at IRS, and there will be limited resources to process monthly Treasury checks. We could easily have delays in getting out Social Security, disability and pension benefits for veterans, and checks for Federal retirees. We place the President and Presidential candidates in danger. We make it even easier for traffickers to get drugs into this country. We help organized crime launder money.

There are other consequences of not passing this bill, including a risk of losing a number of significant initiatives that we have fought long and hard for:

A reversal of the Administration's policy on funding abortions through the Federal Employee Health Benefit Program; a restriction on new Courthouse construction starts; a pay freeze for members, Judges, and heads of agencies; a restriction on the President's ability to bail out foreign currencies; and deficit reduction of $646 million.

Mr. Speaker, we need to move this bill along. There is a right time and place for everything. For the 1996 Treasury appropriations bill, the time is now. I urge my colleagues to move this bill forward and vote aye on the conference report.

I reserve the balance of my time.

GENERAL SERVICES ADMINISTRATION

Mr. Speaker, I would like to take this time to expand on language included in the House report to accompany the fiscal year 1996 Treasury appropriations bill. The report language requiring GSA to develop a plan to implement a commercial broker function should be expanded to include commercial leasing, property management, and asset management.

TRIBUTE TO JEANNE KOCHNIARCZK

Before we finish, I would like to extend my personal thanks to Jeanne Kochniarczk, who joined my committee staff earlier this year while they were short-handed. Jeanne played a key behind the scenes role in keeping the office together. She remained consistently professional, even when nobody would have blamed her for letting the long hours, fast pace and often short tempers get the better of her. I and all of my staff wish Jeanne good luck and godspeed as she returns to the Treasury Department.

STATUTE OF LIMITATIONS UNDER THE FAIR LABOR STANDARDS ACT

Mr. Speaker, I would like to make a few comments regarding one of the most difficult issues addressed by the conferees this year—modifications to the statute of limitations under the Fair Labor Standards Act.

Let me begin with history. The Fair Labor Standards Act allows all employees the right to sue their employers for up to 2 years back pay for violations under the Fair Labor Standards Act.

The General Accounting Office in 1978 made a mistake and established regulations stating that Federal employees can get up to 6 years back pay for overtime claims under this act—three times more than people working for Chrysler or GM. This GAO ruling incorrect—the law states that everyone would only be entitled to 2 years—the error remained undetected for a long time because there were no suits under this statute for 16 years. Once suits were filed, GAO found and corrected its mistake.

The 103d Congress reversed GAO, and passed a law allowing Federal workers to get up to 6 years back pay. The problem is that this act will cost as much as $460 million—nearly the entire Secret Service budget.

The conferees were faced with a choice—either pay hundreds of millions for work done many years ago and fire four or five thousand employees or give the Federal workers the same rights as their private sector counterparts.

This is not a partisan issue. At the administration's request, we included language providing for the same treatment for public and private workers. We agreed, not just because it costs a lot of money, but because it is fair.

Mr. Speaker, I reserve the balance of my time.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

First of all, Mr. Speaker, let me make a comment generally. There has been a lot of talk on this floor during the course of the consideration of the continuing resolution about keeping this Government going and balancing the budget.

I have observed that I am for doing that, and have voted for a constitutional amendment to require that and budgets which carried out that policy.

The fact of the matter is, though, that those of us on the Committee on Appropriations ought to honestly let all our colleagues know and ought to reiterate that, in general, the consideration of the appropriation bills is not about balancing the budget.

The reason for that is America has gone from, in 1953, spending 18 percent of its gross domestic product on discretionary spending—that is what we do in the Committee on Appropriations, we make decisions on where to spend money, in defense, and on the domestic side—to today when in America we spend less than 8 percent of our gross domestic product on discretionary spending. That is a significant reduction. We now spend less than half of what we used to spend on discretionary spending.

Therefore, when we bring appropriation bills to the floor, it is not necessarily about balancing the budget but making a determination as to where we apply that discretionary spending to most appropriately serve the American public.

The chairman of this committee is one of our most responsible Members. He is a person with whom I enjoy working. He and I do not always agree, but Americans would be pleased with the fact that he and I always respect one another's point of view and try to work so that we get a consensus.

I am going to talk about this bill because there are aspects of it that I oppose, and very frankly, if the question on the passage of this bill was simply do you like it or do you not like it, I probably would vote "no." But that is not the question. We are at a time when we need to make a decision.

In a body that represents 435 different districts in America, there is no surprise that there are differences of opinion within the Republican Party and within the Democratic Party, as well as between the Democratic and Republican Parties, on the priorities. Notwithstanding that, however, there comes a time when you have to make decisions and you have to move forward, realizing that in a democracy compromise is absolutely essential if we are to move forward.

I think the American public expects us to do that. As the chairman has noted, this bill covers 193,000 Federal employees. The failure to pass this bill in a timely fashion, that is, by September 30, 1995, resulted yesterday in approximately 95,000 to 100,000 of those people being sent home.

We are going to pay them. The President has said that, the Speaker has said that, the majority leader has said that. The Democratic leaders in the

Senate and the House have also said that. We are going to pay them. However, they are not working today on behalf of the American public. That is a result of our failure. Collectively and individually.

This bill moves us a step forward in doing our business, in passing appropriation bills to fund those services which this Congress has made a determination as the elected representatives of the American public are necessary and proper to serve the people of this country.

Mr. Speaker, the conference report being brought to us today is a mixed blessing. On one hand, if we act quickly and send this bill to the President almost 200,000 Government workers will be assured of continuation of their jobs—because signing of the bill will take the agency out of the continuing resolution fight.

On the other hand, this bill does not meet the need to responsibly operate the U.S. Government.

The bill before us provides $11.3 billion in discretionary funding for the Treasury Department, Postal operations, and other agencies. This funding is $187 million below the amount appropriated last year—about a 1-percent cut. The bill is $2 billion below the administration's request.

Mr. Speaker, the conference on this bill was essentially completed on September 13—63 days ago.

I think it is unfortunate that one issue has held up this bill for 2 months and has resulted in almost 100,000 employees being laid off during this Government shutdown.

The Istook-Ehrlich amendment restricting free speech for nonprofits has delayed this bill for 63 days despite the fact that it is legislative and does not belong on this bill.

This conference report includes no language on this subject but I want to point out that current law already prohibits the use of Federal funds for lobbying.

The conference was able to restore funds for a number of important programs, including the Council of Economic Advisers. The funding provided for tax systems modernization is adequate to meet the administration's objectives.

However, I remain quite concerned about cuts in the Internal Revenue Service which receives only $6.4 billion, far less than the $8.1 billion requested by the administration. I am especially concerned about the impact on tax compliance initiative that is actually a revenue raiser.

Funding for the GSA and OPM is also inadequate in this conference report and I am very disappointed that we could not, in a bipartisan fashion, approve the President's full request for the Executive Office of the President.

I am also concerned that the bill contains language restricting the ability of Government employees to decide on the type of health insurance coverage they wish to purchase.

Finally, I want to express my concern that the bill is silent on the issue of Federal pay and, actually repeals a provision we added last year to guarantee fair compensation to criminal investigators and others covered by the Fair Labor Standards Act.

If it were not for the necessity of providing for a full year appropriations for agencies included in this bill, I would not be supporting this bill.

However, I commend Chairman LIGHTFOOT for doing the best he could with a very limited allocation and I urge adoption of the conference report.

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Mr. Speaker, I reserve the balance of my time.

Mr. LIGHTFOOT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to add to the comments of the gentleman from Maryland [Mr. HOYER] on the issue with the IRS. When the bill left the House, as far as tax compliance is concerned, we had reached an agreement to spread that out over a few more years. It was taken out when it got into the other body.

The whole tax compliance issue, in my opinion, ties in with the whole issue with tax systems modernization, which has been somewhat of an ongoing battle with the IRS, being kept under a very critical eye by the General Accounting Office. Quite frankly, there has been some very strong criticism of the manner in which the IRS has been moving forward with TSM. It is one of those things, which came first, the chicken or the egg. It is difficult to enforce compliance if you do not know who you are going to enforce it upon. That is one of the basic problems with the IRS using technology that was modern in the 1960's or maybe the early 1970's.

One of the efforts we tried earlier, which because of objections from the Committee on Ways and Means we could not undertake, was the collect between $300 to $400 billion in uncollected taxes and put that money toward the TSM. That did not work because Ways and Means obviously wants to see any tax revenue go into the General Fund without any earmarking. But I think this is an ongoing situation that we will continue to have until or if the underlying tax law that IRS is required to enforce is changed, but we are not here to debate that.

We hear people talk about a flat tax. What they really want is a simpler tax. Be that as it may, we have the responsibility of making sure that the IRS has the capabilities to take care of what they are charged to do.

Obviously, compliance is extremely important to all of us. We have heard a lot of figures from IRS. If they get an appropriated dollar, they get so many dollars back in revenue. Obviously, those are very difficult figures to prove. But as we move down this road, I would hope that we will see a closer tie between compliance and modernization.

One of the things that we have extracted is an agreement with the IRS to fence off a portion of their TSM money this year until they come forward with a plan for modernization that the General Accounting Office says is doable and fits 640's idea of how it should be done correctly.

I think we are making some good progress in that direction. Again, that is one issue the gentleman from Maryland [Mr. HOYER] and I happen to share the same opinion on, as far as the compliance issue is concerned. But as we mentioned earlier, legislation is about compromise, and the other body decided they did not want that, and they prevailed on that particular issue.

Mr. Speaker, I reserve the balance of my time.

Mr. HOYER. Mr. Speaker, I was not going to go into this in detail, but I think it is appropriate, because I have a great deal of concern about this issue of the appropriate funding level of the Internal Revenue Service, which is, by the way, the largest single item in this particular budget.

I have concern, which is expressed in a document that I received from the Internal Revenue Service when I asked them what will be the result of the underfunding that is included in this bill. And their response was as follows: First of all, they may have to furlough all employees for between 3 and 8 days at some time during the fiscal year. This would affect over 100,000 employees and is equal to reducing IRS by 2,000 FTE's, full-time-equivalent employees. Said differently, this translates into a loss of over half a million workdays.

Now, there are some people who would say is that not great, we will get those people off on the sidelines. But, again, to the extent that the IRS does not have the ability to do its job correctly, those who honestly respond and pay their taxes, have their taxes withdrawn on a weekly or monthly or biweekly basis, depending upon how they are paid, will pay the taxes that are due. However, to the extent that those who are missed or do not cooperate and honestly respond to their obligations, to the extent that they do not pay, the rest of us have to pay more, so that this not only affects collections, but it affects very much the fairness of the system.

In terms of tax compliance, we had a bipartisan agreement, Republicans, Democrats, the President, the Congress, the Office of Management and Budget, the fiscal arm of the President, the Congressional Budget Office, the fiscal arm of the Congress, everyone agreed that if we put $405 million per year into tax compliance for 5 years, a total of approximately $2 billion, it would result in additional collections of approximately $10 billion, a five-to-one payoff.

However, because of the constraints that confront us on our 602(b) allocation, we do not have that money to spend. As a result, IRS says that revenues collected by the IRS endorsement function are projected to drop from $31.1 billion in fiscal year 1995, that is simply the extra money collected by appropriate enforcement resulting in appropriate tax compliance, drop from $31.1 billion this fiscal year to 27.5 billion in the next fiscal year, because of the reduction in enforcement and compliance, an estimated decrease of $3.6 billion.

Said another way, Mr. Speaker, we are cutting approximately $405 million from compliance, and that is going to cost us $3.6 billion. Now, it does not take much of a mathematician to see that that may be a penny-wise and pound-foolish savings, a hackneyed phrase, but one I think is applicable at this time.

In addition, they are going to examine less returns. The percent of all tax returns examined, a major source for identifying unreported taxes, would fall from 1.63 percent in fiscal year 1995, to 1.29 percent. Now, because of that fall, less people will feel that they need to honestly meet their obligations, and, therefore, not doing so will result in a loss of revenue and a decrease in compliance.

Last, unfortunately, as a result of the reductions in this bill, they are going to be able to answer fewer taxpayer phone calls. One of the things our committee has tried to do is provide for the additional response and timely response and accurate response to those we ask to fill out the tax forms and pay their taxes. Quite obviously, we owe it to them to make it as easy as possible. We know it is difficult. We know it is time-consuming. This effort has been to try to make it a little easier for our taxpayers.

Up to 1 million fewer phone calls from taxpayers needing information will be answered because of the fact that we have reduced the resources here.

Mr. Speaker, as you can tell, I am worried about the ability of the IRS to do that which we expect, unrelated to, as the chairman has so correctly stated, whatever system you have. And if you make it a very simple system, then you can perhaps lay off a lot of people. I understand that. But under the system that we now have or are going to have in the foreseeable year, the resources allocated are insufficient to do the job properly.

I am hopeful that in the coming year, it will not result, as it did back in 1988, in a backlog in Philadelphia or other regional centers, where taxpayers become extremely distressed because they do not get their answers in a timely fashion, they do not get their refunds in a timely fashion. If that happens, I am sure we will hear about it.

But in any event, Mr. Speaker, I note that the two gentlemen from California are here, and we are prepared to proceed with the colloquy.

Mr. Speaker, I yield such time as he may consume to my friend, the distinguished gentleman from California [Mr. DOOLEY].

Mr. RADANOVICH. Mr. Speaker, will the gentleman yield?

Mr. DOOLEY. I yield to the gentleman from California.

Mr. RADANOVICH. Mr. Speaker, at this time I would like to enter into a colloquy with the gentleman from Iowa, Chairman LIGHTFOOT, the gentleman from California, Mr. DOOLEY, and the gentleman from Maryland, Mr. HOYER, if I may.

Mr. Speaker, the U.S. Courthouse in Fresno is currently at its full capacity and requires extensive modifications to meet seismic, fire, and security standards. Moreover, Fresno is the fastest growing city in America, has the largest population per judgeship of any U.S. judicial district, and faces an explosion in federally filed claims. We need a new courthouse and have been working to obtain approval for the past few years. I understand that there is no funding provided for the courthouse in this year's Treasury, Postal appropriations bill, and I realize the dramatic spending reductions we all must make to work toward a balanced budget.

I do want to let my colleague, Mr. LIGHTFOOT, know, however, of actions taken in Fresno in response to directions from his subcommittee last year. The fiscal year 1995 Treasury, Postal appropriations conference report contained language that acknowledged the beginning of the site selection process for a Federal courthouse in Fresno, and directed GSA to locate the site in the downtown area of Fresno.

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I am pleased to report that not only did we locate a site in the downtown area, but that the city of Fresno is committing to donate the site. In addition, the city has offered to complete all site preparation and build public parking for the courthouse.

I would also ask that the chairman also consider that the GSA has completed a facility study showing the need for the courthouse, accepted an environmental impact study, and has selected an architect for the site. This agreement will save the taxpayers about $5 million.

I urge the subcommittee to make this project a top priority next year in light of our compliance with the chairman's directive and also their effort to reduce Federal spending.

Mr. LIGHTFOOT. Mr. Speaker, I would say to the gentleman from California [Mr. RADANOVICH], that I am pleased to learn of the progress that he has made with the courthouse project in Fresno. I want to commend the GSA, the district court, and the city of Fresno for their compliance with the intent of Congress, and obviously encourage them to continue in that direction.

This subcommittee, I will assure the gentleman, will carefully review this project on our next round of court construction proposals. And as a personal note, this is the type of cooperation, I think, that we need to see all over the country as we work together with Federal and State and city governmental authorities to put worthwhile projects in place at a reasonable cost to the taxpayer.

Mr. DOOLEY. Mr. Speaker, I, too, want to let the chairman know that I would also like to endorse the Fresno courthouse project, and mention that it was the gentleman from Maryland [Mr. HOYER] who offered the language included in last year's appropriations bill.

I want to thank him for that effort, as it has resulted in an excellent site for the courthouse that will enhance our efforts to revitalize downtown Fresno.

As my colleague, the gentleman from California [Mr. RADANOVICH] stated, it will also realize substantial savings to our taxpayers.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his remarks. I appreciate the kind comments. And I also want to express my congratulations for the agreement that GSA and the court were able to work out with the city of Fresno. The gentleman can be assured I will also do my part to see that this project receives very serious consideration in subcommittee deliberations next year.

Mr. LIGHTFOOT. Mr. Speaker, I reserve the balance of my time.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume to say that there is one additional issue that I would like to reference.

The chairman brought it up in his bill. It has been a contentious issue for years. I have a strong feeling about it and would be remiss if I did not mention it.

The Federal employee health benefit plan is one of the best employee plans in the Nation. In fact, it is a model for many. It is a plan which provides for health care coverage for our employees, retirees, and their dependents. It is a plan that they contribute to and the Federal Government, as the employer, also contributes to.

It has been my contention over the years that this is a part of the employee's compensation package and that when the Federal Government pays 72 percent of the average premium, it does so as a part of the compensation package of the Federal employee. To that extent, I believe it is like salary; and, therefore, is the property of the employee. Others, however, take the position, no, that money is the money of the Federal Government; and, therefore, they object to that money being spent on any health benefit plan that might include abortion services within its framework.

Now, currently, Mr. Speaker, there are about half of the policies that cover such services, and they can be obtained, as any other policy can be, at the option of the employee. It is the employee's choice, not the employer's choice, as to what coverage the employee wants to secure.

This bill limits this coverage, as was done, frankly, in the 1980's and the early 1990's, and precludes any of our Federal employees from purchasing a policy that has abortion services other than to save the life of the mother or for a pregnancy resulting from rape or incest. Quite frankly, when the bill left the House, it was only for the life of the mother. The Senate added rape and incest, which I think was an appropriate addition, and I am pleased that the conference agreed to that.

Nevertheless, I want to make it clear that, although I will support this bill, I oppose this provision because I think it places, inappropriately, a restriction on the use of the employee's money in the guise that it is restricting the application of the Federal Government's money.

Mr. Speaker, I yield back the balance of my time.

Mr. LIGHTFOOT. Mr. Speaker, I yield myself the balance of my time. I appreciate the support of the gentleman from Maryland [Mr. HOYER] on the bill.

The abortion provision is one that the gentleman from Maryland and I have had a bit of disagreement on. I nevertheless supported the bill last year, and he is supporting the bill this year, and I think it is symptomatic of the spirit of cooperation and the willingness to work together to try to move very important pieces of legislation.

As we have both stated, this bill has to move. We need to get Federal employees back behind their desks and at their guard posts along the borders. Particularly with the world we face today, we certainly cannot let down the law enforcement officers from Customs and Secret Service and other agencies funded through this bill.

In closing, Mr. Speaker, I would thank all the staff that have done an excellent job. Seth and Terry, on the minority side; Betsy, Dan, Michelle, Bill, Jenny back in the office, and Jeanne, who worked with us through a good bit of this while Jenny was giving birth to a new member of her family. The staff does an outstanding job and without their efforts we just would not get it done.

Mr. Speaker, I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, the gentleman raised a point about the border guards, and I think most of them are probably essential employees. It occurs to me, however, that both of us have discussed this and we have had what, I think, is somewhat an unfortunate incident; not only having employees being told to go home, but the implication that they are not essential.

I think the American public should know that essential is a technical term which simply means that the employees who are necessary for the defense of the Nation or public safety or immediate health are determined to be, under the law, employees that we can keep on board, even though funding authorization has not been approved.

Frankly, I perceive all of our Federal employees as essential. That is to say they are important to carry out functions adopted by this Congress and carried out by the executive department. I think we ought to make that comment to all of them, so that some of them do not believe that the tasks they perform are not important. They are critically important even though they may not be in the category that if they are not on the job public safety and life and health may be jeopardized.

Mr. Speaker, I thank the gentleman for yielding and thank him for his leadership on this bill.

Mr. Speaker, I appreciate the gentleman's interpretation of the word "essential" and would concur with the assessment of such.

Mr. LAZIO of New York. Mr. Speaker, I rise in support of H.R. 2020, the FY 1996 Treasury, Postal Service, and General Government Appropriations Act. I would like to take this opportunity to commend the conferees on this bill for their efforts, particularly the chairman of the Treasury, Postal Service, and General Government Appropriations Subcommittee, the gentleman from Iowa [Mr. LIGHTFOOT].

The conference agreement contains $189 million in funding to complete construction of a vitally important project in my district on Long Island, the Central Islip Federal Courthouse. I was pleased the conferees quickly reached agreement on full funding for completion of the courthouse and deeply appreciate the willingness of Chairman LIGHTFOOT and the other conferees in working with me to meet this essential need.

First announced by the General Services Administration [GSA] in 1991, the Central Islip Courthouse was designed to solve the problems of the only space emergency in our Nation declared by the U.S. Judicial Conference. That space emergency for the eastern district of New York, was first declared in 1989 and renewed in 1992. These declarations are unique in that these are the only times the Judicial Conference has ever taken such an action. The Administrative Office of the U.S. Courts has just designated the Central Islip Federal Courthouse as its No. 1 construction priority.

Without the completion of the Central Islip Federal Courthouse, eastern Long Island's 2.5 million people will continue to have to tolerate what has been described as a security nightmare. Federal judges in New York's eastern judicial district are facing the heaviest case load in the district's history while enduring dangerous, inefficient, costly temporary facilities scattered in five rented locations.

Unlike some other Federal courthouse projects, the cost per square foot of the Central Islip Courthouse is below the GSA average for similar projects. The courthouse will be cost effective, saving taxpayers $4 million a year, now paid for rent.

I urge my colleagues to support this bill and to continue to support the timely completion of the Central Islip Federal Courthouse.

Mr. LIGHTFOOT. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 374, nays 52, not voting 6, as follows:

[Roll No. 797]

YEAS—374

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flake
Flanagan
Foglietta
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert

Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilliard
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mfume
Mica
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roybal-Allard
Royce
Sabo
Salmon
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Studds
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torres
Torricelli
Towns
Traficant
Upton
Velázquez
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (FL)
Zeliff
Zimmer

NAYS—52

Andrews
Boehlert
Chenoweth
Collins (IL)
Collins (MI)
Conyers
Cooley
Dellums
Duncan
Engel
Evans
Fattah
Filner
Frank (MA)
Funderburk
Gilman
Goodling
Greenwood
Gutierrez
Harman
Hilleary
Hinchey
Horn
Jacobs
Johnson (CT)
LaHood
Maloney
Martinez
McDermott
McIntosh
Meyers
Miller (CA)
Nadler
Neumann
Olver
Owens
Roemer
Roukema
Rush
Sanders
Sanford
Scarborough
Schroeder
Slaughter
Stark
Stump
Taylor (MS)
Torkildsen
Waters
Watt (NC)
Waxman
Yates

NOT VOTING—6

Fields (LA)
Foley
Houghton
Tucker
Volkmer
Young (AK)

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Mr. HINCHEY, Mrs. CHENOWETH, and Messrs. RUSH, NADLER, HORN, FUNDERBURK, and OLVER changed their vote from "yea" to "nay."

Messrs. SERRANO, DEUTSCH, CLAY, Ms. WOOLSEY, Mr. GEJDENSON, and Mr. HASTINGS of Florida changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. DREIER). Pursuant to House Resolution 267, a motion that the House insist on its disagreement to the amendment of the Senate numbered 132 is adopted.

PERSONAL EXPLANATION

Mr. FOLEY. Mr. Speaker, on rollcall No. 797, adoption of the conference report on Treasury-Postal appropriations, I was unavoidably delayed in reaching the House floor in order to record my vote. Had I been present, I would have voted "yea."

WAIVING POINTS OF ORDER AGAINST FURTHER CONFERENCE REPORT ON H.R. 1977, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 253 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 253

Resolved, That upon adoption of this resolution it shall be in order to consider the further conference report to accompany the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the distinguished gentleman from California [Mr. BEILENSON], my good friend, pending which time I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I am pleased to bring to the floor today this rule providing for the further consideration of the conference report H.R. 1977, the Department of the Interior and related agencies appropriations bill for the fiscal year 1996. This is a simple, fair rule which waives all points of order against the conference report and against its consideration.

The blanket waiver includes a waiver of clause 2 of rule XX as well as a waiver of clause 3 of rule XXVIII which permits the House to discuss provisions which may exceed the scope of differences between the House and Senate. Under the normal rules of the House, we will have 1 hour of debate on the conference report itself in addition to the minority's customary right to offer a motion to recommit with or without instructions. Considering the serious fiscal situation which our country now faces, I am hopeful that the House will accept the work of the conferees so that we can send this important legislation on to the President for his signature.

Every step we take to pass these important appropriations bills brings us one step closer to restoring stability to our Nation's budget and finances. As my colleagues will recall, the House first considered the conference report on the Interior bill on September 29. By a vote of 277 to 147, the House voted to send the bill back to conference with instructions to reinstate the House-passed moratorium on issuing mining patents. Although the House passed a separate motion instructing conferees to stand by the moratorium language, the conference agreed, the conference agreement dropped this provision and instead replaced it with the Senate language essentially requiring payment of fair market value.

This new conference agreement continues the existing moratorium on issuing mining patents until mining law reform is enacted either as a part of reconciliation or if it is passed by both the House and Senate in a freestanding identical bill. Under the compromise agreement, the Interior Department is required to process within 3 years at least 90 percent of grandfathered claims which are exempt from the current moratorium.

In addition to addressing the moratorium issue, the conference report provides funding for the core program and missions of the agencies covered by this legislation including funding for operating the national park system and all of our public lands and for the health, care and education needs of Native Americans.

Although the bill represents less spending than last year's level, funding for the operations of the Nation's national parks and monuments, national forests and grasslands, public lands and national wildlife refugees has been maintained. The bill also provides for basic energy research with an emphasis on industry cost sharing, and it funds research programs which focus on protecting human life and property from earthquakes and similar natural hazards.

Funding for the repair and maintenance of the various Smithsonian museums and the National Gallery of Art has actually been increased, and the bill continues to demand Outer Continental Shelf offshore oil and gas leasing. The conference report also includes a reduction in the funding for the naval petroleum reserve need today ensure that the outlays in the conference report match the subcommittee's 602(b) outlay allocation and a provision permitting the National Park Service to spend up to $100,000 to develop a management plan for the Mojave National Preserve.

The conference report total is more than 10 percent below the amount provided in last year's legislation. Savings have been achieved by eliminating redundant management layers, reducing grants programs and doing away with functions which the subcommittee believes are not inherent Federal responsibilities. Chairman REGULA and the members of the Committee on Appropriations have made some very difficult choices in writing this year's bill, and I applaud them for their hard work and dedication. The chairman's system of prioritizing the must-do's, the need-to-do's and the nice-to-do's reflects the kind of fiscal restraint and responsibility we need to keep this Nation firmly on the road to a balanced budget.

So I commend Chairman REGULA for his leadership and for his patience in crafting a bill that avoids unnecessary earmarks and that honors our fundamental commitment to the American people to achieve meaningful deficit reduction and to create a smaller, more efficient Federal Government.

In closing, Mr. Speaker, let me say that I look forward to hearing from my good friend from Ohio and from other Members who played a role in shaping this final conference agreement. House Resolution 253 differs very little from the kind of rule granted by the Committee on Rules this year for conference reports on other appropriations bills. It is entirely appropriate for this debate. I urge my colleagues to adopt this rule and to pass the conference report without any further delay.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume. I thank the distinguished gentlewoman from Ohio [Ms. PRYCE] for yielding the customary 30 minutes of debate time to me.

Mr. Speaker, we oppose this rule, and the measure it makes in order, the conference report on Interior appropriations for fiscal 1996. This new conference report is only slightly different from the version of the legislation the House voted to return to the conference committee back in September. For the same reasons we stated at that time, we believe that Members should reject this rule and this conference report.

The rule before us waives all points of order against the conference report, and against its consideration. One major reason why the conference report needs such a rule is that it contains numerous violations of clause 2 of rule XXI, the rule that prohibits legislation—policy matters—in an appropriations bill.

We acknowledge that it is very difficult to avoid violating rule XXI entirely in an appropriations bill, but the Rules Committee usually tries—or we did try, in previous Congresses—to minimize the extent to which appropriations bills contain policy matters. Not only did those efforts prevent flagrant intrusions on the jurisdiction of authorizing committees, they also kept appropriations bills from getting bogged down in disagreements over issues that are unrelated to the amount of funding being provided to Government agencies.

This rule, however, sanctions the use of the appropriations process to make far-reaching changes in policies governing the use of our Nation's resources. It makes it possible for the House to consider a bill that the Los Angeles Times has said is "swollen with hidden attacks on the public lands, national parks, and the environment."

One of those attacks, as Members know, is on public lands containing valuable minerals. As Members recall, the mining legislation inserted into the first conference report is the issue that persuaded 277 Members—an overwhelming majority of us—to vote to send that version back to conference for revisions.

Unfortunately, the conferees came back with a wholly unsatisfactory response. The conference report does contain a moratorium on mining patents, but only until either budget reconciliation legislation containing provisions regarding patenting of mining claims and payment of royalties is enacted, or the House and Senate agree to such provisions in other legislation.

Note that the moratorium could be lifted simply if the House and Senate pass such legislation—it is not necessary that it be enacted into law.

The conferees also made a change regarding the Mojave National Preserve that attempts to allay the concerns of many of us about the original conference report. But it fails in that respect, too.

Report language accompanying the new conference report allows the National Park Service to use $100,000 in existing funds to develop a management plan for the east Mojave area. But it does not overturn the original legislation removing the Mojave Preserve from the protection of the National Park Service by prohibiting the Park Service from spending more than $1 on it next year. It would still shift authority for the area back to the Bureau of Land Management, whose rules are much more lenient than the Park Service's on mining, grazing, dirt biking, and other detrimental activities.

Many other egregious provisions that were contained in the original conference report remain in the new version. For example:

The conference report directs the Forest Service to change policy with regard to the Tongass National Forest in Alaska—our Nation's premier temperate rainforest—in order to dramatically increase logging in environmentally sensitive areas of the forest;

It prohibits adding new species of plants and animals to the endangered species list, despite clear scientific evidence that hundreds of species awaiting listing are headed toward extinction;

It cripples a joint Forest Service-BLM ecosystem management project for the Columbia River Basin in the Northwest, a project that was intended to allow a sustainable flow of timber from that region. This provision threatens the protection of salmon and other critical species, and guarantees continued court battles over logging in that region; and

It places a moratorium on the development of Federal energy efficiency standards.

In addition to all these troubling provisions, the conference report endangers resource protection by reducing spending for many critical activities. The conference report cuts spending on the Interior Department and related agencies as a whole by 10 percent from this year's level, but within that reduction are much deeper cuts in many valuable programs, including wildlife protection, energy conservation, land acquisition, support for the arts and humanities, and support for native Americans. These are programs that do an enormous amount of good for our Nation for a relatively small sum.

Defenders of this measure say that these cuts are necessary to help balance the budget but, in fact, the $1.4 billion cut this bill makes from last year's level is necessary only in the sense that the majority's budget plan needs it to help pay for $7 billion in added defense spending, including spending on weaponry that Pentagon officials themselves say the Nation does not need. It is necessary only because the majority's budget plan needs it to help pay for a 7-year, $245 billion tax cut that will mostly benefit the wealthiest Americans.

The real significance of this legislation is not its contribution to reducing the Federal budget deficit, but rather its contribution to the multipronged assault on environmental protection that has been launched by the Republican leadership in the House. When this legislation is viewed in the context of other antienvironmental measures the House has considered, or will be considering, its negative impacts are even more apparent.

This conference report follows House passage of several so-called regulatory reform bills—the Contract With America bills that would cripple Federal regulatory agencies' ability to implement and enforce environmental protection laws;

It follows House passage of the amendments to the Clean Water Act that would permit more water pollution and allow the destruction of more than half the Nation's remaining wetlands;

It follows enactment of a provision included in the fiscal 1995 rescission bill which will dramatically increase logging in national forests;

It follows House passage of an appropriations bill which cuts funding for the Environmental Protection Agency by one third;

It follows House passage of the budget reconciliation bill that would open Arctic National Wildlife Refuge to oil and gas drilling, and would provide special deals for industries that want to use the natural resources that belong to all Americans—mining, timber, ranching, and oil and gas interests—and special deals for concessionaires in our national parks, and for ski operators in our national forests; and

It follows House Resource Committee passage of a bill that would weaken the most important provisions of the Endangered Species Act, imperiling our hard-fought efforts to protect our biological resources.

Mr. Speaker, the President intends to veto this bill if it is sent to him in its current form. Thus, we have two choices: Either pass this bill now, and have it vetoed and returned to us for further changes, or send it back to conference now for those changes. At this late date, the wise choice would be to shorten the process by sending it back to conference now.

Mr. Speaker, I urge Members to vote "no" on the rule.

□ 1445

Ms. PRYCE. Mr. Speaker, I yield 10 minutes to the gentleman from Ohio [Mr. REGULA], the distinguished chairman of the Subcommittee on Interior of the Committee on Appropriations.

Mr. REGULA. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, my colleagues, let us make it clear what the issue is. This body voted to recommit this bill to the conference committee for the purpose of including a mining patent moratorium. The patent moratorium was put back in the bill. It is the language that I had in the bill last year. I have been one of the key proponents of a patent moratorium. I voted to recommit my own bill to get a mining patent moratorium. I think it is essential. I think we need the patent moratorium in order to effect meaningful mining reform legislation.

However, we are not a legislative committee. Our responsibility is to hold the line with a moratorium for fiscal year 1996 in hopes that there will be mining reform legislation.

Mr. Speaker, I would point out to my friends across the aisle that for 2 years they had complete control of the House, the Senate, and the executive branch, and there was no mining reform. The only thing that was enacted was the patent moratorium that I put in the bill last year after a struggle to get that. Now we have an opportunity again to have a mining patent moratorium in this bill.

Mr. Speaker, let me read to my colleagues what the Department of Interior said about this language, and I quote from the Department's effect statement, and they say this, about what is in this conference report: "This amendment language would hold back such a rush while Congress passes at least some form of mining law reform legislation."

So you have the Department of Interior saying that this language will hold back the rush to have patents issued. Without the moratorium language, we are going to have along line down at the Department of Interior of people waiting to file their patents and have them issued.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, will the gentleman also read the preferred action of the effect statement which indicate that the Department prefers the moratorium language that was in the bill last year to the moratorium language that is in this bill; is that not correct?

Mr. REGULA. Mr. Speaker, reclaiming my time, that is correct, but the problem is that we cannot use the identical language, because the moratorium last year was conditioned on falling out if the mining reform legislation in conference was passed. Well, of course it was not, so the moratorium stayed in effect.

Mr. Speaker, we do not have mining reform bill in conference as a free standing bill this year. We have mining reform legislation in reconcilation, also known as the Balanced Budget Act of 1995. This, again is conditioned on the fact that if, if there is in the reconciliation bill mining reform that must be signed by the President and becomes law, only then will the moratorium drop out. I would assume and hope that it will be not be signed by the President if it does not have good comprehensive mining reform. The President has said that.

Mr. YATES. Mr. Speaker, as I understand the language of the so-called mining reform that is in the reconciliation bill, it does not require that the bill be sent to the President for his signature.

Mr. REGULA. Well, reclaiming my time, the reconciliation bill cannot become law unless it is signed by the President. That is a legislative act.

Mr. YATES. Mr. Speaker, if the gentleman will continue to yield, that is an entirely different question, may I say to the gentleman. The only reason for doing away with the moratorium, the language in that bill, is passage by the House and the Senate.

Mr. REGULA. Mr. Speaker, reclaiming my time, the gentleman from West Virginia is talking about the second condition that it has to be an identical freestanding bill. If that occurred, it would allow every Member of the House and Senate to participate in establishing mining policy. That is extremely unlikely to happen.

The real key is that if the reconciliation bill contains mining reform dealing with patents and royalties and it is signed by the President, then the moratorium drops out. Otherwise, it stays in effect and we will not have this rush of patents that otherwise would happen.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Speaker, I appreciate the distinguished subcommittee chairman for yielding and do commend him for all of the excellent work he has done in the area of mining law reform, and in an effort to invoke a true mining moratorium.

Mr. Speaker, I would ask the gentleman, though, if he is aware of a letter that has been written to a member of the other body from the Department of Justice stating the unconstitutionality of the particular provision to which you refer.

Mr. REGULA. Mr. Speaker I am very aware of it, and for that reason it becomes meaningless. So the key here is a reconciliation bill that contains mining reform that is signed by the President. Otherwise, the moratorium stays in place, which I know is what the gentleman would like to have happen.

Mr. RAHALL. Mr. Speaker, I would say to the gentleman if he would continue to yield, yes, but it is my understanding that the signature of the President is not required.

Mr. REGULA. Mr. Speaker, reclaiming my time, it is on the reconciliation bill, and that is the key to having the moratorium drop out. As a practical matter, unless there is a reconciliation bill with mining law reform signed by the President, the moratorium stays in place for fiscal year 1996. That is the practical effect, because the question you have raised makes the second part moot.

Mr. RAHALL. Mr. Speaker, I thank the gentleman.

Mr. REGULA. Mr. Speaker, again, just let me emphasize that this does address what this body recommitted, and I supported the recommittal. Again, I want to emphasize, I support a mining patent moratorium. I put it in place in this subcommittee in previous years. I think that this does the job.

Mr. Speaker, the real problem is with the reconciliation bill, and I would urge my colleagues on both sides who want meaningful mining reform legislation to talk to the conferees on the reconciliation bill, because there is where the action is. But if they do not do the job, and the President obviously has said he will not sign a bill that does not have good mining reform language, then the moratorium will stay in place in fiscal year 1996, as we were instructed.

Mr. Speaker, let me mention the Tongass. The statement was made that this would dramatically increase the cut. Well, from 310 million board feet to 320 million board feet hardly qualifies as dramatically increasing the cut. All it does is give the Forest Service some flexibility.

The Tongass language, and this is important that I emphasize to my colleagues, says, and I am quoting from the language, that the increased cut, which will be very, very slight, if any, because we have not put any extra money in to implement the cuts, so I doubt if there will be any extra cut, but if it is, it is "to the maximum extent as is practical." Decided by whom? The Forest Service.

The Chief of the Forest Service is appointed by the President of the United States. So, control over what happens in the Tongass remains, I emphasize remains, in the Forest Service. Because if they determine that not one extra board foot is practicable, nothing happens. Furthermore, they likely cannot do it because they do not have the money to accomplish that.

So I think that the Tongass is raised as a symbolic issue, but as a real issue, it is meaningless, and I hope Members will not make a judgment on this motion on the basis that it is sending it back for the Tongass. That language does not do anything for all practical purposes. I was advised by the Forest Service that it really does not do anything.

So I think it is important that we get on with this bill and not recommit it. Let us get it passed. if the President determines that this does not meet his standards for environmental conditions, he can veto it, and then we will go back to the drawing board and the ranking member and myself, along with our colleagues in the other body, will try to address as best possible their concerns.

Mr. Speaker, let me also point out to the Members on my side of the aisle, and for all Members, for that matter, we talk about balancing the budget; the President is talking about balancing the budget, about cutting spending. The only way we cut spending is to cut spending. We have done this.

This bill is 10 percent below 1995, and that is in the face of very challenging responsibilities. However, it keeps the parks open, it keeps the forest recreation areas open, it keeps the fish and wildlife facilities open, it keeps the Smithsonian open, the Kennedy Center, the National Gallery of Art. It funds the programs that are important.

Obviously, there were some things we could not do. We could not buy a lot more land, we could not start more visitor centers. A lot of the nice things that we would like to do we could not do, but we have accomplished what I think is a very responsible bill, given the fact that we had 10 percent less to work with.

Some on my side have been concerned about the National Biological Service. We have folded that into the U.S. Geological Survey to ensure that we have the scientific evidence and basic information that is needed to do an effective job in the Department of the Interior. We have in no way crippled the ability to deliver science. The USGS is a highly respected, reputable agency, and I think that what we have here is a very responsible bill, given the parameters of what we have to work with, and I would urge all of my colleagues, when the time comes, to reject the motion to recommit and to vote for the conference agreement.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

□ 1500

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I oppose both this rule and the bill. I urge my colleagues to vote against the bill if this rule should pass, for a number of reasons, but one that is particularly close to me and many other Members is one I want to mention here today.

The people in America with the lowest life expectancy are native Americans. This bill cuts native American efforts. The people among us with the highest infant mortality rates are America's Indians. This bill cuts them. The American people do not support that. President Clinton does not support that.

The people in America with the highest unemployment rates are native Americans. This bill cuts them. The people in America with the worst poverty in this Nation are America's Indian people. I have a reservation in Montana, proud people, northern Cheyenne, taught Custer a lesson in strategy. They have 65 percent unemployment. No people in America would put up with that for a month. These people have lived with it for more than a century.

A turnaround has begun in Indian country. Because of the dozen and a half years of chairmanship of the gentleman from Illinois [Mr. YATES] and his good colleagues, American Indians have begun to turn the corner toward a better future. This bill stops that progress. There is a quarter of a billion dollar cut in BIA programs in this bill. The American people do not support that.

In a bill that is about to come to us, Housing and Urban Development, the people with the worst housing in America, American Indians, are about to find their housing money running out. And this bill cuts construction for native American projects by $20 million.

If you left this up to a vote of the American people, they would say the Republicans are absolutely wrong about this. They would say, "Mr. President, veto this bill. Don't harm these native Americans any worse than has already been done."

Native Americans are a proud people, and they are eager for a museum to be completed down on The Mall, the Native American Indian Museum. The Republicans killed the money for that museum and say it will not be built. The American people want it built. The American people want to understand how it is these native Americans got in the position they are in and that museum will help our understanding.

It is shameful, my friends, and I have not used this word shame, which has been used on the floor of the House a lot this year, I have not used it, but these cuts to the first Americans are shameful, and my colleagues should vote against the bill on that basis alone.

Ms. PRYCE. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Speaker, I thank the gentlewoman from Ohio for yielding me the time.

Mr. Speaker, I want to thank the gentleman from Ohio [Mr. REGULA] for all his fine work on this bill. While I disagree with my colleagues on that side of the aisle, these cuts are necessary if we are going to indeed live up to a balanced budget over the next 7 years.

I also have to say that I am disappointed in negotiations that have been going on in the situation over mining reform. Mining legislation in this country is based on laws that were passed in 1872, and for 120 years mines which operate on Federal lands pay absolutely no royalties on billions of dollars of gold and copper deposits and everything else. The gentleman from Ohio [Mr. REGULA] is absolutely right.

he was the one who championed the idea of patent moratoriums which said no additional new mines until we figure out a way to force these companies to pay the royalties they should have paid, not just the last several years but frankly in many cases for hundreds of years.

The gentleman from Ohio [Mr. REGULA] drafted legislation that very sensibly said we will agree to lift the moratorium if we can get a deal in the budget reconciliation package that establishes mining fees we can all agree on. It is my great disappointment at the end of the day and after a week of discussions to tell Members unfortunately the language that is going to be in the reconciliation package in terms of mining reform I frankly do not think is very responsible.

True it will achieve about $160 million in income to the Federal Government from those mining operations, but first of all arguably that is only a fraction of what we might get, and then of the money that comes in the door, less than 20 percent of that $160 million actually comes from royalties, and so when we are through this first cycle, we are now going to discover that those mining operations can continue on Federal land for a fraction of what they should be paying.

All we are asking for is the same kind of mining royalty fees that we see in Nevada and California and other States across this country where there is mining on States lands, they get their taxpayers a fair chunk of change and we should do that here in Washington as well. Unfortunately the language that is going to be tucked in the reconciliation bill in many cases will not only apply the royalty fee at too low a rate, it will apply it at too soon a step in the mining process to get us a far lower return than we should get and frankly is loaded with so many loopholes that you can drive truckloads of billions of dollars of ore right straight on through it.

I want to thank the gentlewoman from Ohio [Ms. PRYCE] for bringing a rule to the floor that makes sense. I will be delighted to support it. I want to thank my colleague, the gentleman from Ohio [Mr. REGULA], for beginning to champion this issue several years ago, but while we are trying to broker a deal that makes sense for the American people, we have not brokered the right deal yet and I cannot support the Interior Department appropriation bill with mining moratorium yanked out of it for a deal that none of us can face our constituents and fully support. I wish it were otherwise, Mr. Speaker, but it is not. As a result, I cannot support this very difficult package that my colleague from Ohio has tried to put back together.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I do not understand my good friends in the majority. Do they not read the polls about environmental protection, that the American people want to see that? Do they not read about 1872 mining laws? Do they not read about logging on Tongass and many of the other important initiatives?

I think nobody is more eloquent than my friend from Montana talking about native American programs. Of all the Department of the Interior programs, 45 percent of the cuts come from the Bureau of Indian Affairs.

These cuts are going to mean that thousands and thousands of native Americans are going to face cuts in law enforcement, on services to the elderly, on road repair, on housing repairs, social services, and as if that were not already devastating, the conference report abolishes the Office of Indian Education, eliminating educational funds for half a million Indian children.

This bill also proceeds with a number of initiatives that gut the environment. Protection of fish, wildlife, plant species, a waiting list under the Endangered Species Act would be blocked for another year, even for species on the verge of extinction.

The Forest Service, as I mentioned the Tongass, would be forced to implement an obsolete, ecologically unsound forest management plan for the environmentally sensitive Tongass National Forest.

The dialog initiated between livestock permittees and other public land users, very important to those of us in the West, on the future of public rangelands will be put on hold. These are the famous RAC's, Rangeland Advisory Councils. Throughout the West they have been formed. They are ranchers, environmentalists, public land users. They are working well. Why do we want to put them on hold? These are going to determine the future of public lands. This bill does that.

The Columbia Basin ecosystem management project, that deals with salmon and saving salmon and other vital resources of the Pacific Northwest, would also be subverted.

Mr. Speaker, what we have here is a bill that may even be worse than the last one. The mining moratorium. Despite the fact that we have been told that the mining moratorium provisions have been fixed to accommodate the overwhelming will of the House that a real patenting moratorium is included in the final bill, what we have is only a half loaf solution to a very real problem.

Mr. Speaker, the President is going to veto this bill. The League of Conservation Voters is going to be against this bill. The main reasons are the Tongass, and the giveaway of free gold and public lands through mining patents that are going to continue.

What would happen here is, the Interior Department would be mandated to sell off over 230,000 acres of public lands to mining companies in the next 3 years. In addition, if either the House or Senate passes legislation changing the mining law patent provision, the moratorium on new patents would be lifted.

This is a bad bill. It should be sent back to conference. I urge its defeat, and I urge the defeat of the rule.

Mr. RICHARDSON. Mr. Speaker, I include the following for the RECORD:

[From National Wildlife Federation, Washington, DC]

(By John Kostyack, Counsel and Cathy Carlson)

H.R. 1977 STILL FATALLY FLAWED

VOTE NO ON THE INTERIOR APPROPRIATIONS CONFERENCE REPORT

In September 1995, the House voted 277 to 147 to recommit the FY96 Interior Appropriations conference report because the report lifted a moratorium on "patenting" under the Mining Law, allowing mining companies to buy public land for as little as $2.50 per acre, and we get the gold for free.

In the reconferenced bill, *the give-away of free gold and public lands through mining patents will continue.* The Interior Department would be mandated to sell off over 230,000 acres of public lands to mining companies in the next three years. In addition, if either the House or Senate passes legislation changing the Mining Law patent provision, the moratorium on new patents would be lifted.

The Mining Law patent give-away is not the only problem with H.R. 1977. The Interior Appropriations bill also undermines several vital natural resource programs.

Protection of fish, wildlife and plant species awaiting listing under the Endangered Species Act would be blocked for another year, even for species on the verge of extinction.

The Forest Service would be forced to implement an obsolete and ecologically unsound forest management plan for the environmentally sensitive Tongass National Forest in Alaska.

The dialogue initiated between livestock permittees and other public land users (in BLM Resource Advisory Councils) on the future of the public rangelands would be put on hold.

The Columbia Basin Ecosystem Management Project, designed to save salmon and other vital resources of the Pacific Northwest, would be subverted. The latest scientific findings would be ignored and timber sales and management plans would be exempt from environmental review.

Don't let Congress give away our Nation's precious resources—vote no on H.R. 1977.

STATEMENT OF ADMINISTRATION POLICY ON H.R. 1977—DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1996

(Sponsors: Livingston (R) Louisiana; Regula (R) Ohio)

This Statement of Administration Policy provides the Administration's views on H.R. 1977, the Department of the Interior and Related Agencies Appropriations Bill, FY 1996, as approved in conference on October 31, 1995. Your consideration of the Administration's views would be appreciated.

In an October 19, 1995, letter to the conferees, the Administration identified the most troublesome provisions in the original conference report with the goal of arriving at a bill that serves specific, vital interests and that could be signed by the President.

Regrettably, the second conference report did not address the significant funding shortfalls and objectionable legislative riders. If the bill, as approved by the second conference, were presented to the President, he would veto it. The issues that were identified in the October 19th letter are still serious problems and are described below.

FUNDING ISSUES

The second conference did nothing to restore funds in the areas that the Administration identified as significantly underfunded. These are the Bureau of Indian Affairs and the Department of Energy's (DOE's) energy conservation programs.

The Bureau of Indian Affairs (BIA) budget was increased in the first conference $86 million above the Senate level. However, there was no additional increase provided in the second conference. That would still leave the program $136 million short of the House mark and $184 million below the FY 1995 enacted level. The most significant effect of this action remains the crippling reductions targeted at tribal priority allocation programs, which support essential tribal government, law enforcement, housing improvement, general assistance, Indian child welfare, adult vocational training, road maintenance, and other reservation programs. The Administration's view is that funding must be substantially restored for these programs.

DOE's energy conservation programs are still funded at a net level of $536 million. There has been no increase from the first conference level. This is $187 million, or 26 percent, below the net FY 1995 enacted level of $723 million, and 38 percent below the President's request. Funding for these programs must be restored significantly in order to reach acceptable levels.

In addition to the language issues addressed below, the President will not sign an Interior appropriations bill unless funding for these programs is significantly restored without harming other high-priority programs or unless there is an overall agreement between the Congress and the Administration on budget priorities that addresses the Administration's fundamental concerns about spending priorities both in this bill and elsewhere.

LANGUAGE ISSUES

The conference committee has again chosen to continue to include numerous legislative riders in the bill that the Administration finds seriously objectionable. The riders that were cited in the October 19th letter have not been significantly improved in the second conference. These provisions are so seriously flawed that the Administration sees no way to remedy them, short of removing them altogether. The most serious problems are:

A mining provision that still does not adequately protect the public interest. Unlike the language in the FY 1995 Act, the moratorium contained in the second conference report on new patents would be revoked if minimal provisions relating to patenting (but not comprehensive mining reform) are enacted into law through the budget reconciliation process, or simply if the House and Senate approve an agreement in identical form on patenting, royalties, and reclamation of mining claims. The latter provision raises a serious constitutional problem: the provision would be invalid under the Chadha decision if construed to require anything less than enactment. The moratorium language in the FY 1995 Act must be restored.

The Tongass (Alaska) forest management provisions that are unchanged from the first conference. These still include sufficiency language and would dictate the use of a 1992 forest plan that preempts our use of the most recent scientific information.

The Interior Columbia River Basin provision that is also unchanged from the first conference. It would terminate comprehensive planning for the management of these public lands by prohibiting the publication of the final Environmental Impact Statement or Record of Decision and limiting the contents to exclude information on fisheries and watersheds. The provision would risk a return to legal gridlock on timber harvesting, grazing, mining, and other economically desirable activities.

Retention of bill language that provides only $1 for National Park Service (NPS) operation of the Mojave National Preserve and provides for land within the preserve to be managed by the Bureau of Land Management (BLM). Report language adopted by the second conference calling for more studies by the Park Service and disclaiming an intention to repeal portions of the landmark 1994 California Desert Protection Act does not change the fact that the Preserve would be starved of funding, and the purposes of the California Desert Act would be undercut.

No change in language from the first conference in a rider to make permanent the protocol for identification of marbled murrelet nests that was included in the FY 1995 rescission bill, thereby eliminating normal flexibility to use new scientific information as it develops.

In addition, the Administration has previously expressed concern about other legislative riders, including the moratorium on future listings under the Endangered Species Act, the Department of Energy efficiency standards one-year moratorium, the 90-day moratorium on grazing regulation implementation, and the provision affecting the Lummi Tribe and seven other self-governance tribes in Washington State. An additional funding issue concerns the severe cuts (nearly 40 percent) to the National Endowment for the Arts (NEA) and the National Endowment for the Humanities (NEH). These significantly reduced funding levels would jeopardize NEA's and NEH's ability to continue to provide important cultural, educational, and artistic programs for communities across America.

CONGRESS OF THE UNITED STATES,
Washington, DC, November 14, 1995.

Recommit Interior appropriations conference report.

DEAR COLLEAGUE: There are many good reasons to vote again to recommit the Interior Appropriations Conference Report. Here are two:

MINING PATENT MORATORIUM

We need to maintain restore a true mining patent moratorium. On July 18, the House voted 271 to 153 to continue the existing moratorium to prevent the unjustified giveaway of public lands to international mining conglomerates. When the Conferees bowed to pressure from the Senate and failed to include the patent moratorium, on September 29, the House voted 277 to 147 to recommit the Conference Report.

The Conferees have returned with a sham moratorium. Unlike the House amendment, this fake moratorium would not last through the entire fiscal year. Instead, it would be revoked if any patent provisions, no matter how weak, are included in budget reconciliation. And of course we will have no opportunity for a separate vote on the mining provisions in reconciliation. Moreover, those provisions—which allow for mineral-rich land to be sold only for the fair market value of the surface and a royalty so riddled with deductions that it won't collect any revenue—are not sufficient to protect the taxpayers against the continuation of a multibillion dollar rip-off of public resources.

MANDATED LOGGING IN TONGASS FOREST

We also must get rid of a rider added by the Senate to dictate use of a scientifically flawed 1991 plan to increase logging in Tongass National Forest in Alaska by 100 million board feet (44 percent) over historic levels. Accelerated logging in this magnificent old-growth rainforest will not only threaten fish and wildlife viability, but also will significantly increase the Tongass timber program's $102 million cost to the Treasury over the last three fiscal years—a greater cash flow deficit than any other national forest. To add further insult, the Tongass rider overturns a Ninth Circuit court decision and insulates the timber barons from further legal challenges from the public.

The mining and tongass provisions are both fiscally and environmentally irresponsible. We urge you to join us in voting for a motion to recommit this seriously flawed bill to the Conference Committee.

Sincerely,

GEORGE MILLER,
Committee on Resources.
SIDNEY R. YATES,
Subcommittee on Interior, Committee on Appropriations.

Ms. PRYCE. Mr. Speaker, I yield 10 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I thank the gentlewoman for yielding me the time.

Mr. Speaker, I just want to answer some of the things that have been stated here. No. 1, concerning funding for programs for Indians, I want to point out that reservation-based education, these are the programs run by the Indians for their own education, is $2 million over 1995 levels. I would point out that health care—and these are the two areas of greatest Federal responsibility—health is fully funded at 1995 levels.

I would point out, also, that we restored in conference, which I insisted on, $86 million above the level for Indian programs in the other body. When we went to conference, the level in the other body's legislation was about $220 million less than ours, and we pushed hard in conference and got it up $86 million over the other body's level.

There is not enough to go around to do everything, but I think we addressed the most important things, education and health.

Some of the complaints about the existing programs are those that are operating under legislation passed when my friends across the aisle were in charge.

Now, let us talk again about the issue of mining reform. I think this is not the venue or the forum to address it. That issue is in the authorizing area. As the Congressional Quarterly in 1994 reported, if the gentleman from Illinois [Mr. YATES] recalls, the President sent up a bill that had in it a provision for royalties, and the gentleman deleted it because he said this is a responsibility of the authorizing committee, which was proper.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. Just about half of this bill is legislative. If the gentleman insists that this bill is the wrong forum to have a mining provision, why then do we have the provision that we have on the Lummi Indians? Why then do we have the provision on Tongass? Why then do we have the provision on so many other things if this is in the wrong forum?

I would agree with the gentleman that we used legislative provisions in our bills when I was chairman, as well. But the fact remains that this is much more legislative and serves much more destructive purposes than our bills did at the time.

Mr. REGULA. Let me just quote for the gentleman from Illinois [Mr. YATES] from Congressional Quarterly:

> Chairman Sidney Yates had tried to steer clear of major policy disputes that could spark a fight with authorizing committees. He persuaded the panel, "that is the subcommittee", for example, to exclude proposals to boost entrance fees at national parks and to impose royalties on hard rock miners.

President Clinton included both policy proposals in his fiscal 1995 budget request. So there was something that was proposed in the subcommittee by the President, and you took it out.

Mr. YATES. Mr. Speaker, will the gentleman yield further?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. The reason for that was that we had a different atmosphere from the legislative committees at the time that I was chairman, and they objected to our putting legislative provisions in. This Congress, on the contrary, uses the appropriations bills for legislative purposes. There is no objection from the legislative committees. As a matter of fact, the legislative committees give you the legislation in order to put it into the appropriations bills.

Mr. REGULA. Reclaiming my time, I would point out that, of course, we did not have the Tongass language in the bill in the House originally, but there is another body, and we have to conference with the other body and reach some level of agreement with them.

I would point out also that the mining patent moratorium is not legislation. It simply says they cannot use the money in this bill to issue patents. As the Interior Department points out very clearly in their statement, there will be a land grab, a rush down in the department if we do not have a moratorium. That is why I put it in, to stop that from happening.

The gentleman from Wisconsin [Mr. KLUG] talked about the shortcomings of the reconciliation bill, and I agree with him 100 percent in what he said. So the answer to that is to vote against the reconciliation bill. That is where the issue is.

Mr. YATES. Mr. Speaker, will the gentleman yield further?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. In our conference, I offered the gentleman's language on the moratorium that he put into our bill last year. It was voted down by the Republican side, including the gentleman's vote. Is that not correct?

Mr. REGULA. The language could not be exactly what it was last year because it was conditioned on a conference report coming out of a conference on mining reform that was being held between the House and the Senate, a conference agreement which never materialized.

□ 1515

Mr. YATES. It could have been.

Mr. REGULA. Let me say, as the gentleman well knows, in the first conference I was the one who tried to maintain the House position on the mining patent moratorium. I voted to send the bill back for a second conference to get a mining patent moratorium. I do not believe anybody can question my dedication to accomplishing a mining patent moratorium.

As the gentleman knows, I pushed this in our subcommittee.

Mr. YATES. If the gentleman will yield further, the gentleman and I have been friends for 20 years. We will remain friends no matter what happens, no matter how strained it is, we will remain very close friends.

Mr. REGULA. Absolutely.

Mr. YATES. The gentleman is exactly right in stating to the House that it was his language, it was his language that established the first moratorium. I wanted to do the same in this bill, and the gentleman would not do it.

Mr. REGULA. Well, I think, I say to the gentleman from Illinois [Mr. YATES], that we do accomplish the goal of establishing a moratorium. I think we achieved what we were directed to do by the motion to recommit that you offered in the first go around on this. If the President keeps his word that he will not sign any bill containing mining reform that is not good, then we have no problem, because it is clear that the moratorium stays in place unless there is a mining reform bill in reconciliation that has to be signed by the President.

Mr. YATES. If the gentleman will yield further, the answer to what the gentleman proposes is to defeat this rule in which case we can go back to conference and change the language on the mining reform.

Mr. REGULA. Well, I think, in response to the gentleman, that we have accomplished what your motion to recommit directed us to do, and that is we have put a moratorium in this bill.

Mr. YATES. If the gentleman will yield further, the gentleman knows that one of the experts in the House on the moratorium is the gentleman from Wisconsin [Mr. KLUG]. You heard his speech. He does not agree with you.

Mr. REGULA. Well, I believe that I heard him say that he does not agree with what is happening in the reconciliation bill, and he clearly, and with good cause, has said that the language in the reconciliation bill is inadequate. I would also point out to my colleagues that the original Interior appropriations conference agreement had in it some of that very weak, sham legislation, as the gentleman from Illinois will recall, the so-called Craig language, and as part of getting the moratorium in our second conference, we eliminated that weak language that they attempted to place in the Interior appropriation bill in the other body. That is, of course, what the gentleman from Wisconsin [Mr. KLUG] was addressing. We got rid of that.

We have a mining patent moratorium in this bill to stop the giveaway until such time as we have good mining reform legislation, and I hope that the reconciliation conference committee will produce that. If they do not, I am quite sure the President will veto it, and therefore, the moratorium will stay in place, and I certainly urge everyone to vote for the rule, to vote against the motion to recommit that will be offered by the gentleman from Illinois, and vote for this conference report.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. YATES], the ranking member of the Subcommittee on Interior of the Committee on Appropriations.

Mr. YATES. Mr. Speaker, I never thought that I would say what I am going to say now about the Interior bill. This bill is a terrible bill. It is more legislative than it is appropriate. It provides a series of legislative provisions that should not be in this bill.

The appropriations process has been taken over by the authorizing committees to a much greater extent than should be done. The provisions in this bill are such that it will wreak destruction upon so many of our natural resources. It certainly will provide another trail of tears for the Indian people because of the burdens that it places on them.

The Republicans have insisted—on opposing President Clinton in the continuing resolution—that they are protecting their children's and the grandchildren's heritage. If that is truly their argument, then they will vote against this rule. They will vote against the conference report because this bill is destructive of our children's heritage.

It is supposed to protect our resources. It does not do that. Tongass, of course, is the primary example of that. So, Mr. Speaker, I would urge a defeat of this rule, and in the event the rule is defeated, there will be no necessity for offering another motion to recommit.

The House will recall, as was pointed out by my friend from Ohio, the chairman, that 7 weeks ago I offered the motion to recommit this conference report to improve the bill and to restore the mining moratorium. The conference committee reconvened. Instead of improving the bill, I suggest they made it worse.

I urge defeat of this rule.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, I hope that the majority party in the House will come to its senses and reject this bill. This is a very bad bill, for any number of reasons.

First of all, it slashes some very important programs. It cuts the National Endowment for the Arts by almost 40 percent. It slashes the National Endowment for the Humanities by almost 40 percent. It slashes and cuts away at the Nation's natural resources. It encourages increased logging in the Tongass National Forest, America's greatest temperate rainforest.

Beyond that, most of the logs cut from the rainforest will be shipped overseas. The value added will not even be added, for the most part, in this country. We will ship it overseas as a natural resource. Somebody else will add the value to it, send it back to us, and we will purchase it from them. It makes absolutely no sense to do that in this way.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, on that point, over the last 3 years, the cuts from the Tongass National Forest cost the Federal Government over $100 million.

Mr. HINCHEY. I thank the gentleman for making that point. I thank the gentleman for making that point, and I want to say this: In addition to that piece of bad business, this bill contains a lot of bad business as well.

Ask yourself this question: If you owned a piece of land with minerals under it, valuable minerals under that land, would you sell that land for $2.50 an acre or even $100 an aore and sell the mineral rights along with it and forgo most of the royalties associated with those minerals rights? of course, you would not. But that is what we are doing in this bill. We are selling the patrimony of our Nation. We are selling off vast mineral rights, billions of dollars, literally billions of dollars of mineral rights at bargain basement prices to people who will take it, many of them foreign companies. They will come here from foreign places, take these lands, reap the mineral resources from them, and take the profits away, away from the American people who are their owners. This is wrong. It is simply wrong.

People on the majority party here come to us all the time and talk to us about running government as a business. Let us run it intelligently. Let us run it as a business.

Let me tell you, we have an opportunity to do that by rejecting this bill. If we are serious about running America as a business or running the government as a business, the last thing we ought to be doing is selling off the most valuable resources that we have, among them, at least, the vast billions of dollars of mineral resources that reside in the western part of this country. It makes absolutely no sense.

Therefore, this rule should be defeated, and the bill should be defeated.

Ms. PRYCE. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, the real problem today is getting out the facts. The facts are that this bill stops the giveaway, quite the contrary of what we just heard; it puts a moratorium on issuance of patents so that they cannot sell or give this away.

The speeches keep addressing mining reform. This is not mining reform legislation. That is in reconciliation. It should have come out and have been passed in the last 2 years when my friends had control. They did not do it.

I would certainly disagree that this is destruction of the Tongass when there are only a few million board feet added, and the Forest Service has control. There may not be any board feet added unless the Forest Service agrees to it.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, all I can say is sham, sham, sham. That is what this bill is all about.

What we have got is a situation where the gentleman from Ohio [Mr. REGULA] is promising the American people that, in fact, there is going to be mining reform, but underneath the so-called reforms, what we have is a situation where, if any of the big mining companies come in and somehow, just somehow assert their will in the Congress of the United States and somehow get through a bill that looks like mining reform, smells like mining reform, but is reform only in the sense of a piece of paper but has no substantive reform underneath it, then in fact the moratorium disappears.

The American people grow up being taught that pennies are made out of copper. But if you are a foreign mine operator, they are made out of gold. The gold of the American taxpayer is being handed over to foreign mining operators simply because we do not have the will in the Congress of the United States to stand up to them. We have got a Republican Congress sitting here telling us today that we have got to raise Medicare premiums, that we have got to raise the rates on senior citizens in elderly housing, that we have got to raise the price of a college education, that we are going to take the meals away from elderly people, but when it comes to big foreign mining operations, oh, boy, we can find the dollars to subsidize them.

There is no real attempt to reform the foreign mining operations in this bill. There is an attempt to pretend on the floor of the Congress of the United States that we have foreign mining operations that are going to adhere to some new standard, but underneath it everyone knows that follows this place that all those guys come in here with their contributions, they come in here and are able to somehow assert their will on the majority and be able to get the kind of consideration that no poor person in the United States of America can expect to get in this Congress these days.

So I ask the people of this country, to, please, wake up; please, recognize that if you want a balanced budget, let us go after foreign miners, not after the working people and the poor of this country.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].S0634

Ms. JACKSON-LEE. Mr. Speaker, what we are doing here as far as the American people are concerned is, yes, dealing with the question of appropriations, in this instance the Interior appropriations bill, and I guess the confusion is that they are seeing the Government not work, and we are now on the House floor talking about appropriations.

I wish this had been done some time ago. But it is all a question of priorities. I just voted for an appropriation also bill on Treasury and Postal and the reason is because there was a compromise there. But this has no sense of compromise. This has no understanding of what the American people have been saying.

Because is guts energy conservation programs, it certainly guts the National Endowment for the Arts, the National Endowment for the Humanities, and as to the native Americans, it guts the programs that will help educate their children. This legislation bars the listing of additional endangered species. It does not extend the moratorium on transferring the mineral-rich

Federal lands to private owners. It overturns a key provision of the California Desert Protection Act, which designates the Mojave National Preserve as a unit of the national park system.

Yes, it places new restrictions on the National Endowment for the Arts grant. This legislation wants to negatively legislate the NEA out of existence. Nobody wants to talk about that, the question of the arts and the First Amendment and the idea of children understand their Art heritage, arts in rural and inner-city schools is being. This is not about obscenity. This is about the National Endowment for the Arts providing programs for our rural hamlets and urban centers. In my district this hurts the Ensemble theatre, MECA, the Houston Ballet, Kuumba House, and the Houston Grand Opera. This bill hurts our Museums national and local (like Houston's Museum of Fine Arts). This bill cuts grants award going to our starving artists so they will not be able to produce the Nation's art. Yet we say we do not care about this. We do not care about the art of this Nation or the history of this Nation, and we are not supporting the fact that our history is the very manner by which we preserve our past.

□ 1530

The National Service Program, the AmeriCorps Program, which has been so successful in helping young people help their communities and go to college too! They work in cities and rural areas across this Nation. In Houston in the 18th Congressional District, they work with those unable to read, teaching them to read as they work in inner-city schools. These AmeriCorps students, under this bill see their funding gutted.

That is what is wrong with the appropriations process. There are no priorities. We want this Government to work, we want the doors to be open, we want to bring people back to work so they can serve the American people, and, yes, we have agreed, over and over again, the Democrats, to a balanced budget. What we have not agreed to is the list of priorities.

Mr. Speaker, I would simply ask my colleagues on the other side of the aisle, let the Interior bill conferees go back, and be fair with the dollars that the American people have entrusted to them. Do not give $270 billions in tax cuts to the rich and then gut programs governing our environment, our Arts, our history and the American Indian. Do not take arts and history away from our children and deprive us of an environment that we can stand for and support. I just ask for a sense of fairness in this whole process. We must appropriate funds with the right priorities.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Speaker, I thank the gentleman for yielding to me this time.

Mr. Speaker, this bill probably speaks more to the values that we in Congress have toward the esthetics of America, its land, its people, and certainly its arts. The gentleman from Ohio [Mr. REGULA] is probably one of the finest Members of this House, and it is a tough thing to bring this thing to the floor in the shape it is in.

Mr. Speaker, I stand today in opposition to the rule, and hopefully it will be defeated. If it is not, I hope that the bill is defeated and recommitted as it was once before, for several reasons.

First of all, the taxpayers are still ripped off under this bill, particularly as the mining process goes. It defers to the authorizing bill, which makes it worse, so by adopting this bill and then leading us to the authorizing bill, we are not getting a fair shake for the American taxpayer.

Second, the public gets cheated on the issue of the Endangered Species Act. It prohibits adding species not in the jurisdiction of the appropriations committee. It is in the jurisdiction committee, and this bill prohibits any endangered species from being added.

Third, the bill cripples the Columbia River Basin from the ability to create a sustainable timber harvest, at the same time protecting the salmon runs, which are so vital to the local economy.

Fourth, it puts a moratorium on the development of Federal energy efficiency standards.

Fifth, and worst of all, it cuts the subvention to State and local governments for acquisition of lands to enhance the quality of life issues, that enhance the local economies. It locks up over $11.1 billion in the bank. This money is made from the sale of public resources, and does not give it back, does not reinvest, does not do what most things do when you try to run Government like a business, reinvest in its resources.

This bill locks that money up. These moneys should be reinvested, allowing us to create the esthetics that are essential for local communities to be a nice place to live. It fails to reinvest in America. That is why the rule should be defeated. If the rule passes, the bill should be defeated.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in opposition to this rule. The reason that this bill and appropriation bill needs a rule is because, as the ranking member stated, this bill goes well beyond a straight appropriations bill. In fact, it gets into the heart of writing and rewriting almost 30 years of land use and landscape and environmental policy. Just as on the EPA bill we had 17 riders, on this bill I dare say you have even more riders than that, in terms of suspending what is happening in various parks and various public lands across this Nation.

I am sorry to see this happen, because I think that this bill, the Interior appropriations bill that in years before passed, had a great degree of comity; some controversy, but a greater degree of comity than almost any other appropriation bills before the House.

Mr. Speaker, I think with regards to the American public, there is great support for the conservation and the preservation of these special places and the rehabilitation of them. I think we had achieved that in the past, but we know that the issues are very hot. And when this comes down, this bill today is like a litany of issues that take away from the taxpayer, take away from the legacy of future generations, for the moment of today.

As we look at it, this bill does not make any economic sense if we were to count the value of the assets, but, of course, they are discounted. They are given no value in terms of asset sales and what is happening to our forests, what is happening to our public lands. It makes no economic sense.

This is not good business, this is bad business for the public. It makes no scientific sense. In fact, this bill suspends the very science of ecology and biology and others that the United States should be at the zenith of all nations in utilizing all our actions. We should be leading the world in terms of this conservation and the application of this science, not abandoning it.

It is easy to give lectures about Amazonia, or the Rift Valley in Africa. But you suspend it. In fact, this goes into the unprecedented step of eliminating the National Biological Survey; symbolic, but nevertheless, I think the wrong symbol. It suspends court cases and laws that try to guard and safeguard these fragile ecosystems that are so important.

The politics of this is bad politics. Look at the polls. Look at the polls in terms of what you are doing. If you do not think that is bad politics, I think you have another guess coming. The public does not want this to happen.

Finally, I think from a moral standpoint, from a moral standpoint, I think we know that this type of action is wrong. It is wrong. I think we have a responsibility to future generations.

As I heard my colleague and mentor Mo Udall often step to this well and say, we ought to leave part of this landscape the way it left the hand of the creator, quoting Mo Udall. I think he was right and I think he was touching on something all of us know we have a responsibility as policy makers and stewards today to uphold.

You can go back in dollars and cents and make up for some of the mistakes we make, when we make a mistake with regards to a tax policy or spending policy. But this type of damage, you will never recover.

Mr. Speaker, that is why this rule needs to be defeated, this bill needs to be defeated, and sent back to conference and corrected.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say once again we oppose this rule, and we oppose the measure that would make in order the conference report on Interior appropriations for next year, for a good many reasons, but especially for the reasons stated so well by the gentleman from Minnesota, Mr. VENTO, a couple of minutes ago, and also Mr. YATES and others in the past few minutes.

This new conference report is only slightly different from the version of the legislation that the House voted to return to the conference committee back in September. For the same reasons stated at that time and the reasons stated over and over again on this floor afternoon, we believe Members should reject the rule and the conference report.

Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield the balance of our time to the gentleman from Ohio [Mr. REGULA], the chairman of the Committee on Resources.

The SPEAKER pro tempore. The gentleman from Ohio is recognized for 3½ minutes.

Mr. REGULA. Mr. Speaker, I have to say to my colleagues, I am tempted to check with the Clerk and see if we are still debating H.R. 1977. I hear from my friends on the other side of the aisle a lot of statements that have no relationship to this bill.

First of all, they say it is going to be a giveaway. This bill does not give anything away. It is the reconciliation bill that has mining reform, not this bill. This bill stops the giveaway. This bill has the moratorium.

Now, my friend from California says it is only slightly different. It is very different because it has a patent moratorium in it. The bill that was sent back by my friend from Illinois, and I agreed with his motion, did not have a moratorium. We sent it back to put in a moratorium. We did. We put the moratorium in, and, believe me, it was not easy. But it is there. I think that is far more than slightly different.

Then I have heard the statement that we are not doing enough for science. Let me point out that we have $137 million for natural resource research in the NBS that has been put into the USGS. We have $650 million for USGS, including resource research which is a scientific organization. We have almost $1 billion in energy research in science. So we get a total of at least $2 billion in science. That is not exactly a slight amount.

Then I have heard the statement that it guts Indian education. Well, I do not understand how a $2 million increase over 1995 deserves that kind of a description. It is an increase in Indian-based education over 1995. It is certainly no reduction.

I have to say to all of my colleagues, this bill, given the fact that we were given 10 percent less to work with, is very fair. We have addressed the needs. As Members will recall, I said we divided into must-do's, need-to-do's, and nice-to-do's. We did those without regard to whose district it might be in, without regard to any partisanship. There are things in here in the must-do's that are in Democrat districts and Republican districts. There are need-to-do's in Democrat districts and Republican districts. We have done the best we could, given the fact that we had 10 percent less money.

We have done the best we could to address the egregious problems in mining in the 1872 Act. We are not given the responsibility nor do we have the right to enact mining reform. That is an authorizing problem, as the gentleman from Illinois clearly pointed out, in 1994, and it is in the reconciliation bill. We said we have a thumb in the dike, no more patents, other than those in the pipeline, which we cannot deal with because of the Constitution, but no more patents until there is a mining reform bill signed by the President of the United States.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, if the gentleman condemns the provision respecting mining because it should be handled by the authorizing committee, why then should not the gentleman also condemn what the conference did in connection with Tongass when it accepted alternative P, which will increase the cut in Tongass by 44 percent?

Mr. REGULA. Mr. Speaker, reclaiming my time, I do not condemn that. That is something the other body insisted on. But as the Forest Service people said to me this morning, it really does not do anything. We have not put the money in to increase the cut, so as the gentleman knows from past experience, it cannot be increased. So that is a Trojan Horse really.

The real issue here is the mining patent moratorium, and it is in here, as was ordered by the House.

The SPEAKER pro tempore (Mr. BURTON of Indiana). All time has expired. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. REGULA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 237, nays 188, not voting 7, as follows:

[Roll No. 798]

YEAS—237

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stenholm
Stockman
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White

Whitfield
Wicker
Wolf
Young (FL)
Zeliff
Zimmer

NAYS—188

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Chenoweth
Clay
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Cubin
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stump
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Tiahrt
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—7

Fields (LA)
Houghton
Spence
Tejeda
Tucker
Waldholtz
Young (AK)

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Mr. MORAN and Mr. STUMP changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 250, THE HOUSE GIFT REFORM RULE

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–341) on the resolution (H. Res. 268) providing for consideration of the resolution (H. Res. 250) to amend the Rules of the House of Representatives to provide for gift reform, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2564, LOBBYING DISCLOSURE ACT OF 1995

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–342) on the resolution (H. Res. 269) providing for the consideration of the bill (H.R. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 1977, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. REGULA. Mr. Speaker, pursuant to House Resolution 253, I call up the conference report on the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BURTON). Pursuant to rule XXVIII, the conference report is considered read.

(For conference report and statement, see proceedings of the House of October 31, 1995, at page 31001.)

The SPEAKER pro tempore. The gentleman from Ohio [Mr. REGULA] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. YATES] will be recognized for 30 minutes.

It is the Chair's understanding that the gentleman from Colorado [Mr. SKAGGS] will control the time on the Democratic side.

Mr. SKAGGS. Mr. Speaker, that is correct. Mr. Speaker, I ask unanimous consent that 5 minutes of the time that the minority would otherwise control be controlled by the gentleman from New York [Mr. BOEHLERT].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio [Mr. REGULA].

GENERAL LEAVE

Mr. REGULA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report to H.R. 1977, which was just agreed to, and that I be allowed to include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring to you today the improved and revised Interior conference report. When we last met on H.R. 1977, the House voted to recommit the Interior Appropriations conference agreement with instructions to restore the mining patent moratorium included in the House-passed bill.

As the original author of the patent moratorium which was enacted for the first time last year, I supported the motion to recommit. Mr. Speaker, I urge those who joined me in supporting that motion, and all of my colleagues, to support this conference agreement and defeat a new motion to recommit.

Mr. Speaker, I will discuss that at a little more length. The Interior Appropriations conference agreement is fair. It is a well-balanced bill. It is fiscally responsible. It cuts spending by 10 percent from last year's level. It is sensitive to the need to preserve and enhance our natural and cultural resources.

It keeps open the facilities that are important to the public. We level-fund the money for the operations of the parks. We level-fund the money for the operations of the Forest Service, or close to it, so that they can provide the facilities that people enjoy. It is the same with other agencies; the Smithsonian, the National Gallery, the Kennedy Center.

Mr. Speaker, I want to address essentially the two issues that we will hear a lot about today. It is my understanding there will be a motion to recommit this bill back to the conference committee for further revision of the mining moratorium and the Tongass language.

Mr. Speaker, let me say to my colleagues, if reforming the 1872 mining law were easy, it would have been accomplished years ago, and certainly would have been accomplished in the past 2 years, 1993, and 1994, when my friends from the other side of the aisle had complete control.

Mr. Speaker, they had control of the House. They had control of the Senate. They had the President, the executive branch, as a Member of their party. So, far 2 years they had a golden opportunity to revise the 1872 Mining Law. Nothing happened.

The only thing that was done in that period of time was a moratorium on issuing patents, which was language I introduced into the Interior appropriations bill.

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Speaker, the gentleman is fully aware that under the last Congress, we passed overwhelmingly out of the House of Representatives a bill that was true mining law reform.

Mr. REGULA. Mr. Speaker, reclaiming my time, I agree, and I supported the bill.

Mr. RAHALL. Mr. Speaker, if the gentleman would continue to yield, I appreciate all of the gentleman's efforts, but to imply that under the last majority in this Congress we did not do anything is not a correct statement.

Mr. REGULA. Mr. Speaker, again reclaiming my time, I apologize for the misunderstanding. What I meant was nothing was done in terms of legislation being enacted into law and signed by the President to change the 1872 mining law. I think the gentleman from West Virginia would agree that is the case.

Mr. RAHALL. Mr. Speaker, if the gentleman would continue to yield, as the gentleman just then stated it, that is correct. But we did pass true mining law reform out of this body.

Mr. REGULA. Mr. Speaker, reclaiming my time, the gentleman from West Virginia was a sponsor and it was a good bill and I spoke for it and supported it. Unfortunately, it died in conference and it did not get to the President.

But, Mr. Speaker, the point I am making is that it is very difficult to revise the 1872 mining law. I think the gentleman from West Virginia would agree with that, because the gentleman has been making an effort for several years to accomplish that goal.

What concerns me is that this bill is being used to address that problem. We have heard speeches during the rule debate that would indicate that we are not doing mining reform. That is not the mission of this bill. That is not the venue of this bill. Mining reform is in the reconciliation bill. Members who want mining reform, including myself, should push hard to get the reconciliation bill to have meaningful mining reform.

Mr. Speaker, what we are doing is stopping the issuance of patents. We are stopping the giveaway. We responded in the second conference to the directive of the motion to recommit offered by the gentleman from Illinois [Mr. YATES], my good friend and the ranking member of this committee and former chairman. Mr. Speaker, I agreed with him. I voted to recommit. We went back to the conference and it was a struggle with the other body, but we got a mining moratorium. It stops the giveaway.

Of course, it provides that if a reconciliation bill contains meaningful mining reform, if it is signed by the President and becomes the law of the land, then the mining moratorium drops out. That is only fair. But I think, and I emphasize over and over again, we did what we were instructed to do. We have a moratorium on the issuance of mining patents.

Certainly some are grandfathered, because they are in the pipeline. This was true in the language last year. We made every effort in this bill to address the mining question insofar as it is our responsibility.

Mr. Speaker, I hope that in the discussion that follows, that we will not be discussing the reconciliation bill, but rather we will be discussing what we do, which is to stop the issuance of patents until such time as a meaningful mining reform bill is signed by the President.

Of course, this would be in effect until the end of the fiscal year 1996. The other issue will be the Tongass, and I would again, as I did in the rule debate, point out that the Tongass language is subject to a decision on the part of the Forest Service, by the chief, because it says that any increase in the cut must be to the extent practicable as determined by the chief of the Forest Service.

Mr. Speaker, that means that the administration of my friends on the other side of the aisle will be calling the shots on anything that will be done in the Tongass. I would point out that in the Tongass, there are 17 million acres. A great part of that acreage is already set aside as wilderness.

If my colleagues will look at the chart here, in the Tongass, almost 7 million acres out of the 17 is wilderness. Not even hunting and fishing. It is no cutting of timber certainly. No cutting.

Another 4.6 million acres is set aside for recreation, and the nonsuitable timber is 4 million. That leaves 1.7 million out of a total of 17 million acres, or 10 percent as a timber base.

Mr. Speaker, I would point out that, under the present program enacted by this body, will be harvested over the next 220 years.

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So it is not going to impact on the Tongass. Furthermore, the cut that is already allowed by legislation passed last year when my good friend was chairman of the committee allows a cut of 310 million board feet. Under the language that is put in the conference report, it might increase to 320. It probably will not increase at all. We would be cutting the same amount that was allocated for 1995.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, under the language of alternative P, the amount is raised to 410 million board feet; is that not correct?

Mr. REGULA. Mr. Speaker, that is correct.

Mr. YATES. In conversation with officials of the Forest Service, I was told that there is no way, no way they can be forced not to cut 410 million board feet because the Alaska delegation is so insistent upon their doing so.

Mr. REGULA. Mr. Speaker, reclaiming my time, I can only say that one of the members of the Forest Service who worked in the Tongass said that, as a practical matter, there will be no increase in cut over what is allocated. As a practical matter, there is no money to do it, regardless of what the Alaska delegation may want to do. We did not put enough money in, which I agreed with, and I am sure the gentleman from Illinois agreed with, to accomplish a 310 million board foot timber harvest.

So actually the Tongass language for all practical purposes has no effect. I think that to send this back to conference on those issues does not make sense. We have taken care of the mining moratorium as we were directed to in the original motion to recommit. As far as the Tongass is concerned, the language was in the bill, in the bill when we sent it back to conference, and nobody mentioned it. Now, suddenly this is brought up.

I assume that, if we would go back to conference, make some changes here, then there would be something else that would not suit. We have to get on with this because if we can pass this bill, the parks will open. That is the problem. Let us get this bill down to the President and open the parks and the Washington Monument and the Smithsonian and the Kennedy Center and the National Gallery. All we need to do to open those facilities is to pass this bill and send it to the President and have him sign it. Let us do that. That is what the public wants. Let us deal with those issues.

Let the reconciliation bill deal with mining reform. For those that do not like what is in that bill, that is the venue that should be addressed. Those that do not like mining reform language as it is set forth in reconciliation should vote against it. They should object to it. They should speak on that issue. This is not the place for mining reform. We are doing the best we can to stop the giving away of the land by putting a moratorium in. That is the extent of what our right is under this bill.

I am not going to take a lot of time on the other features in the bill. I think we have done a good job working with the Members on both sides of the aisle to have a fair, balanced budget. I think they would agree that it was not in any way partisan. We did the projects. We dealt with the things that were important and we keep the facilities open. If we can get this bill down to the President, we can get the parks opened again and give the public access that they deserve.

I would certainly say to my colleagues, and I guess I begin to sound like a broken record, but let me say over and over again, this conference report has a mining patent moratorium as was directed by this body in the motion to recommit. The Tongass language does very little. That is not a problem. The Forest Service says it is not a problem, and certainly I would accept their judgment on that. It was not a problem the last time we had a conference report here.

Suddenly for some reason it came up here. All I can say is, I think that this is a reasonable bill. We have done our best to address the problems. I hope in this debate we will limit our remarks to what is in the bill.

I kept thinking when I listened to the comments on the rule, this must be the reconciliation bill, because most of the speeches were directed to the reconciliation bill, which has mining reform, or to other items that were in that bill and not to this bill. We heard about the Bureau of Indian Affairs and education. We increase tribal education over last year. We flat fund the health services. Those are the two most important things.

Obviously, when you have 10 percent less than we had in 1995, to work with, it is difficult. We had to work hard to make sure that all the essential services, all the essential programs were funded. And some of the things that it would be nice to do simply could not be done under those circumstances. But I have to say, I believe that in November 1994, the American people said we want the budget balanced in an appropriate time. We want to reduce spending, and we have made every effort to accomplish that goal; in the process, not do anything that is injurious to the management and the use of the 750 million acres of America that are presently owned by the Federal Government and to the other programs that are funded by this bill.

I urge all of my colleagues to reject the motion to recommit and vote for the bill. Let us get on with this. Let us get those parks open so that the public can again enjoy the parks and the forest and the fish and wildlife facilities and the Smithsonian and the Kennedy Center, the National Gallery and all the other good things that we fund.

The bill is 10 percent, or $1.4 billion below 1995 spending levels. This represents real savings both now and in the future. By not starting programs or construction we save costs in future years. The bill terminates agencies and programs and puts others on notice that Federal funding will terminate in the near future. This bill is not business as usual. We are not cutting at the margins with the hopes that if we can keep programs on life support more money will be available in the future. Instead we have terminated lower priority initiatives to provide scarce resources to meet the many critical needs of our public lands, to ensure quality health and education for native Americans and to promote quality science and research in energy and public land management.

Specifically four agencies were eliminated: the National Biological Service, the Bureau of Mines, DOE's Office of Emergency Preparedness, and the Pennsylvania Avenue Development Corporation. In addition more than 35 individual programs have been eliminated.

With respect to the National Biological Service, an issue of some interest to many in this body, let me reiterate the NBS has been eliminated. However, as many agreed, the core natural resource research activities critical to responsible stewardship of our public lands has been preserved and will be carried out by what is widely recognized as a premier unbiased, credible scientific agency, the U.S. Geological Survey. As the statement of the managers makes clear, this merger is permanent and is to be fully implemented by October 1, 1996. This will ensure that critical research continue and that it be conducted independent of regulatory influence or agendas and will ensure scientific excellence. I will also commit to my colleagues that have had a keen interest in this issue that I intend to very closely monitor the elimination of the NBS and the absorption of the core scientific functions into the USGS to ensure that the intent of the conferees is met. In keeping with our commitment to reduce spending we have also cut funding for this activity by 15 percent.

The National Endowment for the Arts is funded at the House-passed level of $99.5 million and the statement of the managers makes it clear that it is the intent of the House to terminate Federal support for the NEA after fiscal year 1997.

Funding for land acquisition, as in the House-passed bill, is not earmarked and is funded at 40 percent below past year's funding levels, ensuring that limited funding will be directed to high priority projects for the four land management agencies.

Contrary to what you may have read in your local press, passage of this bill will not force the closure of one single National Park. No park will be forced to close under this agreement as funding for park operations is over 1995 levels by $5 million. To achieve that increase savings were made in lower priority park programs such as land acquisition and construction. Construction has been reduced more than 14 percent and land acquisition is down nearly 44 percent. Overall, however, funding for the Park Service is down less than 5 percent.

Further the bill establishes a new Recreational Fee Demonstration Program that may help land managers meet their growing needs by collecting fees which can then be used in the areas in which they are generated for enhancements and improvements in sites, facilities, interpretive programs and so forth, all needs which we cannot fully meet with declining budgets.

Generally we have tried to fund critical maintenance and as much as possible, health and safety needs.

Funding for critical scientific research is also maintained including important health and safety research and mineral assessments of the former Bureau of Mines which will now be carried out by the USGS and the Department of Energy for significant savings. This disposition upholds the House position that much of the work of the Bureau in health and safety research and minerals information is critical and these functions will be preserved.

Core programs that are critical to providing for the needs of native Americans have also been maintained. Funding for the Indian Health Service is down less than one percent from last year's level. Of the increase above the Senate level virtually all of this was directed to the tribal priority allocations which all the tribes indicated was the highest priority for restoration.

Energy programs have also been reduced ten percent from 1995 levels with commitments for continued downward trends. Numerous energy projects were terminated and limited funding focused on projects and programs which leverage significant non-Federal investment.

While new construction was significantly curtailed it was our goal to take care of necessary maintenance and rehabilitation of Federal facilities and the Smithsonian is a good example where the conference provides nearly $34 million, the budget request, for critical repair and restoration of aging Smithsonian facilities.

Two points of clarification: First, in the statement of the Managers accompanying the conference report the managers referred to the "existing hospital authority" in American Samoa. This reference is to the institutional entity, and does not preclude charges to the composition or the structuring of the authority, particularly if the changes strengthen the management of health care in American Samoa; and second, the managers for both the House and the Senate agree that funds provided in this bill for cooperative conservation agreements may be used for the 4(d) rule to ease endangered species land use restriction on landowners, whether large or small.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, will the public be able to do that if the President vetoes the bill as he said he was going to do?

Mr. REGULA. Mr. Speaker, obviously, if the President vetoes the bill, we will not be able to do it, but I think we ought to give him a chance to make a decision. As it is, he cannot even address the issue. If he does veto the bill and sends it back, at least we will

know through that what his concerns are. I think in terms of an orderly procedure, let us do that. Then if he is not satisfied, we will know and we can address that by further action of our appropriate committees.

In conclusion I would urge my colleagues to support this bill. It is fiscally responsible and it meets the concerns of my colleagues who voted a month ago for reconsideration with respect to the mining patent moratorium.

At this point I ask that a table detailing the various amounts in the bill as agreed to by the conference managers be included in the RECORD.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I include for the RECORD the following material:

FY 1996 INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 1977)

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF THE INTERIOR						
Bureau of Land Management						
Management of lands and resources	597,236,000	616,547,000	570,017,000	563,936,000	568,062,000	-29,174,000
Fire protection	114,748,000	114,763,000				-114,748,000
Emergency Department of the Interior firefighting fund	121,176,000	131,482,000				-121,176,000
Wildland fire management			235,924,000	240,159,000	235,924,000	+235,924,000
Central hazmat account	13,409,000	14,024,000	10,000,000	10,000,000	10,000,000	-3,409,000
Construction and access	12,068,000	3,019,000	2,515,000	2,615,000	3,115,000	-8,953,000
Payments in lieu of taxes	101,409,000	113,911,000	111,409,000	100,000,000	101,500,000	+91,000
Land acquisition	14,757,000	24,473,000	8,500,000	10,550,000	12,800,000	-1,957,000
Oregon and California grant lands	97,364,000	112,752,000	91,387,000	95,364,000	93,379,000	-3,985,000
Range improvements (indefinite)	10,350,000	9,113,000	9,113,000	9,113,000	9,113,000	-1,237,000
Service charges, deposits, and forfeitures (indefinite)	8,883,000	8,993,000	8,993,000	8,993,000	8,993,000	+110,000
Miscellaneous trust funds (indefinite)	7,605,000	7,605,000	7,605,000	7,605,000	7,605,000	
Total, Bureau of Land Management	1,099,005,000	1,156,682,000	1,055,463,000	1,048,335,000	1,050,491,000	-48,514,000
United States Fish and Wildlife Service						
Resource management	511,334,000	535,018,000	497,150,000	501,478,000	497,943,000	-13,391,000
Construction	53,768,000	34,095,000	26,355,000	38,775,000	37,655,000	-16,113,000
Natural resource damage assessment and restoration fund	6,687,000	6,700,000	6,019,000	4,000,000	4,000,000	-2,687,000
Land acquisition	67,141,000	62,912,000	14,100,000	32,031,000	36,900,000	-30,241,000
Cooperative endangered species conservation fund	8,983,000	38,000,000	8,085,000	8,085,000	8,085,000	-898,000
National wildlife refuge fund	11,977,000	11,371,000	10,779,000	10,779,000	10,779,000	-1,198,000
Rewards and operations	1,167,000	1,169,000	600,000	600,000	600,000	-567,000
North American wetlands conservation fund	8,983,000	12,000,000	4,500,000	6,750,000	6,750,000	-2,233,000
Lahonton Valley and Pyramid Lake fish and wildlife fund		152,000	152,000	152,000	152,000	+152,000
Rhinoceros and tiger conservation fund		400,000	200,000	200,000	200,000	+200,000
Wildlife conservation and appreciation fund	998,000	1,000,000	998,000	800,000	800,000	-198,000
Total, United States Fish and Wildlife Service	671,038,000	702,817,000	568,938,000	603,650,000	603,864,000	-67,174,000
Natural Resources Science Agency						
Research, inventories, and surveys	162,041,000	172,696,000		145,965,000		-162,041,000
National Park Service						
Operation of the national park system	1,077,900,000	1,157,738,000	1,088,249,000	1,092,265,000	1,083,151,000	+5,251,000
National recreation and preservation	42,941,000	39,305,000	35,725,000	38,094,000	37,649,000	-5,292,000
Historic preservation fund	41,421,000	43,000,000	37,934,000	38,312,000	36,212,000	-5,209,000
Construction	167,688,000	179,883,000	114,868,000	116,480,000	143,225,000	-24,463,000
Urban park and recreation fund	6,000	2,300,000				-6,000
Land and water conservation fund (rescission of contract authority)	-30,000,000	-30,000,000	-30,000,000	-30,000,000	-30,000,000	
Land acquisition and state assistance	87,373,000	82,696,000	14,300,000	45,187,000	49,100,000	-38,273,000
Crime Trust Fund		15,200,000				
Total, National Park Service (net)	1,387,329,000	1,490,122,000	1,261,076,000	1,300,338,000	1,319,337,000	-67,992,000
United States Geological Survey						
Surveys, investigations, and research	571,462,000	586,369,000	686,944,000	577,503,000	730,503,000	+159,041,000
Minerals Management Service						
Royalty and offshore minerals management	188,181,000	193,348,000	186,556,000	182,169,000	182,994,000	-5,187,000
Oil spill research	6,440,000	7,892,000	6,440,000	6,440,000	6,440,000	
Total, Minerals Management Service	194,621,000	201,240,000	192,996,000	188,609,000	189,434,000	-5,187,000
Bureau of Mines						
Mines and minerals	152,427,000	132,507,000	87,000,000	128,007,000	64,000,000	-88,427,000
Office of Surface Mining Reclamation and Enforcement						
Regulation and technology	109,795,000	107,152,000	92,751,000	95,470,000	95,470,000	-14,325,000
Receipts from performance bond forfeitures (indefinite)	1,189,000	501,000	500,000	500,000	500,000	-689,000
Subtotal	110,984,000	107,653,000	93,251,000	95,970,000	95,970,000	-15,014,000
Abandoned mine reclamation fund (definite, trust fund)	182,423,000	185,120,000	176,327,000	170,441,000	173,887,000	-8,536,000
Total, Office of Surface Mining Reclamation and Enforcement	293,407,000	292,773,000	269,578,000	266,411,000	269,857,000	-23,550,000

FY 1996 INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 1977) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Bureau of Indian Affairs						
Operation of Indian programs	1,519,012,000	1,609,842,000	1,509,628,000	1,261,234,000	1,359,434,000	-159,578,000
Construction	120,450,000	125,424,000	98,033,000	107,333,000	100,833,000	-19,617,000
Indian land and water claim settlements and miscellaneous payments to Indians	77,096,000	151,025,000	75,145,000	82,745,000	80,645,000	+3,549,000
Navajo rehabilitation trust fund	1,996,000					-1,996,000
Technical assistance of Indian enterprises	1,966,000	1,966,000		900,000	500,000	-1,466,000
Indian direct loan program account	779,000					-779,000
(Limitation on direct loans)	(10,890,000)					(-10,890,000)
Indian guaranteed loan program account	9,671,000	9,684,000		7,700,000	5,000,000	-4,671,000
(Limitation on guaranteed loans)	(46,900,000)	(70,100,000)		(50,680,000)	(35,914,000)	(-10,986,000)
Total, Bureau of Indian Affairs	1,730,970,000	1,897,941,000	1,682,806,000	1,459,912,000	1,546,412,000	-184,558,000
Territorial and International Affairs						
Assistance to territories	50,481,000	41,512,000	24,685,000	40,468,000	37,468,000	-13,013,000
Northern Mariana Islands Covenant	27,720,000	27,720,000	27,720,000	27,720,000	27,720,000	
Subtotal	78,201,000	69,232,000	52,405,000	68,188,000	65,188,000	-13,013,000
Trust Territory of the Pacific Islands	19,800,000					-19,800,000
Compact of Free Association	13,574,000	10,038,000	14,618,000	10,038,000	10,038,000	-3,536,000
Mandatory payments	10,000,000	14,900,000	14,900,000	14,900,000	14,900,000	+4,900,000
Subtotal	23,574,000	24,938,000	29,518,000	24,938,000	24,938,000	+1,364,000
Total, Territorial and International Affairs	121,575,000	94,170,000	81,923,000	93,126,000	90,126,000	-31,449,000
Departmental Offices						
Departmental management	62,479,000	64,772,000	53,919,000	57,796,000	57,796,000	-4,683,000
Office of the Solicitor	34,608,000	35,361,000	34,608,000	34,608,000	34,608,000	
Office of Inspector General	23,939,000	25,485,000	23,939,000	23,939,000	23,939,000	
Construction Management	1,996,000	2,000,000		500,000	500,000	-1,496,000
National Indian Gaming Commission	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	
Office of Special Trustee for American Indians				16,338,000	16,338,000	+16,338,000
Total, Departmental Offices	124,022,000	128,618,000	113,466,000	134,181,000	134,181,000	+10,159,000
Total, title I, Department of the Interior:						
New budget (obligational) authority (net)	6,507,897,000	6,855,935,000	6,000,190,000	5,946,037,000	5,998,205,000	-509,692,000
Appropriations	(6,537,897,000)	(6,870,735,000)	(6,030,190,000)	(5,976,037,000)	(6,028,205,000)	(-509,692,000)
Rescission	(-30,000,000)	(-30,000,000)	(-30,000,000)	(-30,000,000)	(-30,000,000)	
Crime trust fund		(15,200,000)				
(Limitation on direct loans)	(10,890,000)					(-10,890,000)
(Limitation on guaranteed loans)	(46,900,000)	(70,100,000)		(50,680,000)	(35,914,000)	(-10,986,000)
TITLE II - RELATED AGENCIES						
DEPARTMENT OF AGRICULTURE						
Forest Service						
Forest research	193,748,000	203,796,000	182,000,000	177,000,000	178,000,000	-15,748,000
State and private forestry	154,268,000	187,459,000	129,551,000	136,794,000	136,794,000	-17,474,000
Emergency pest suppression fund	17,000,000					-17,000,000
International forestry	4,987,000	10,000,000				-4,987,000
National forest system	1,328,893,000	1,348,755,000	1,266,688,000	1,247,543,000	1,256,253,000	-72,640,000
Forest Service fire protection	159,285,000	164,285,000				-159,285,000
Emergency Forest Service firefighting fund	226,200,000	239,000,000				-226,200,000
Emergency appropriations	450,000,000					-450,000,000
Wildland Fire Management			385,485,000	381,485,000	385,485,000	+385,485,000
Construction	199,215,000	192,338,000	120,000,000	186,888,000	163,500,000	-35,715,000
Timber receipts transfer to general fund (indefinite)	(-44,769,000)	(-44,548,000)	(-44,548,000)	(-44,548,000)	(-44,548,000)	(+221,000)
Timber purchaser credits	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	
Land acquisition	63,882,000	65,311,000	14,600,000	41,167,000	41,200,000	-22,682,000
Acquisition of lands for national forests, special acts	1,250,000	1,317,000	1,069,000	1,069,000	1,069,000	-181,000
Acquisition of lands to complete land exchanges (indefinite)	210,000	210,000	210,000	210,000	210,000	
Range betterment fund (indefinite)	4,575,000	3,976,000	3,976,000	3,976,000	3,976,000	-599,000
Gifts, donations and bequests for forest and rangeland research	89,000	92,000	92,000	92,000	92,000	+3,000
Total, Forest Service	2,803,602,000	2,416,539,000	2,103,671,000	2,176,224,000	2,166,579,000	-637,023,000
DEPARTMENT OF ENERGY						
Clean coal technology	-337,879,000	-155,019,000				+337,879,000
Fossil energy research and development	423,701,000	436,508,000	379,524,000	376,181,000	417,169,000	-6,532,000
(By transfer)	(17,000,000)					(-17,000,000)
Alternative fuels production (indefinite)	-3,900,000	-2,400,000	-2,400,000	-2,400,000	-2,400,000	+1,500,000
Naval petroleum and oil shale reserves	187,048,000	101,028,000	151,028,000	136,028,000	148,786,000	-38,262,000
Energy conservation	755,751,000	923,561,000	556,371,000	576,976,000	553,293,000	-202,458,000
Biomass Energy Development (transfer)		-16,000,000	-16,000,000	-16,000,000	-16,000,000	-16,000,000

FY 1996 INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 1977) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Economic regulation	12,413,000	10,500,000	6,297,000	8,038,000	6,297,000	-6,116,000
Emergency preparedness	8,233,000	8,219,000	....	....	....	-8,233,000
Strategic Petroleum Reserve	135,954,000	25,689,000	....	....	....	-135,954,000
(By transfer)	(90,764,000)	(187,000,000)	(187,000,000)	(187,000,000)	(187,000,000)	(+96,236,000)
Energy Information Administration	84,566,000	84,689,000	79,766,000	64,766,000	72,266,000	-12,300,000
Total, Department of Energy	1,265,887,000	1,416,775,000	1,154,586,000	1,143,589,000	1,179,411,000	-86,476,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Indian Health Service						
Indian health services	1,709,780,000	1,816,350,000	1,725,792,000	1,815,373,000	1,722,842,000	+13,062,000
Indian health facilities	253,282,000	242,672,000	236,975,000	151,227,000	238,958,000	-14,324,000
Total, Indian Health Service	1,963,062,000	2,059,022,000	1,962,767,000	1,966,600,000	1,961,800,000	-1,262,000
DEPARTMENT OF EDUCATION						
Office of Elementary and Secondary Education						
Indian education	81,341,000	84,785,000	52,500,000	54,660,000	52,500,000	-28,841,000
OTHER RELATED AGENCIES						
Office of Navajo and Hopi Indian Relocation						
Salaries and expenses	24,888,000	26,345,000	21,345,000	20,345,000	20,345,000	-4,543,000
Institute of American Indian and Alaska Native Culture and Arts Development						
Payment to the Institute	11,213,000	19,846,000	5,500,000	5,500,000	5,500,000	-5,713,000
Smithsonian Institution						
Salaries and expenses	313,853,000	329,800,000	309,471,000	307,988,000	308,188,000	-5,665,000
Construction and improvements, National Zoological Park	3,042,000	4,950,000	3,000,000	3,250,000	3,250,000	+208,000
Repair and restoration of buildings	23,954,000	34,000,000	24,954,000	33,954,000	33,954,000	+10,000,000
Construction	21,857,000	38,700,000	12,950,000	27,700,000	27,700,000	+5,843,000
Total, Smithsonian Institution	362,706,000	407,450,000	350,375,000	372,892,000	373,092,000	+10,386,000
National Gallery of Art						
Salaries and expenses	52,902,000	54,566,000	51,315,000	51,844,000	51,844,000	-1,058,000
Repair, restoration and renovation of buildings	4,016,000	9,885,000	5,500,000	7,385,000	6,442,000	+2,426,000
Total, National Gallery of Art	56,918,000	64,451,000	56,815,000	59,229,000	58,286,000	+1,368,000
John F. Kennedy Center for the Performing Arts						
Operations and maintenance	10,323,000	10,373,000	9,800,000	10,323,000	10,323,000	....
Construction	8,983,000	9,000,000	8,983,000	8,983,000	8,983,000	....
Total, John F. Kennedy Center for the Performing Arts	19,306,000	19,373,000	18,783,000	19,306,000	19,306,000	....
Woodrow Wilson International Center for Scholars						
Salaries and expenses	8,878,000	10,070,000	5,140,000	6,537,000	5,840,000	-3,038,000
National Foundation on the Arts and the Humanities						
National Endowment for the Arts						
Grants and administration	133,846,000	143,675,000	82,259,000	88,765,000	82,259,000	-51,587,000
Matching grants	28,512,000	28,725,000	17,235,000	21,235,000	17,235,000	-11,277,000
Total, National Endowment for the Arts	162,358,000	172,400,000	99,494,000	110,000,000	99,494,000	-62,864,000
National Endowment for the Humanities						
Grants and administration	146,131,000	156,087,000	82,469,000	94,000,000	94,000,000	-52,131,000
Matching grants	25,913,000	25,913,000	17,025,000	16,000,000	16,000,000	-9,913,000
Total, National Endowment for the Humanities	172,044,000	182,000,000	99,494,000	110,000,000	110,000,000	-62,044,000
Institute of Museum Services						
Grants and administration	28,715,000	29,800,000	21,000,000	21,000,000	21,000,000	-7,715,000
Total, National Foundation on the Arts and the Humanities	363,117,000	384,200,000	219,988,000	241,000,000	230,494,000	-132,623,000
Commission of Fine Arts						
Salaries and expenses	834,000	879,000	834,000	834,000	834,000	....
National Capital Arts and Cultural Affairs						
Grants	7,500,000	6,941,000	6,000,000	6,000,000	6,000,000	-1,500,000
Advisory Council on Historic Preservation						
Salaries and expenses	2,947,000	3,063,000	3,063,000	2,500,000	2,500,000	-447,000

FY 1996 INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 1977) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
National Capital Planning Commission						
Salaries and expenses	5,655,000	6,000,000	5,090,000	5,090,000	5,090,000	-565,000
Franklin Delano Roosevelt Memorial Commission						
Salaries and expenses	48,000	147,000	48,000	147,000	147,000	+99,000
Pennsylvania Avenue Development Corporation						
Salaries and expenses	2,738,000	3,043,000	2,000,000			-2,738,000
Public development	4,084,000	2,445,000				-4,084,000
Land acquisition and development fund		1,388,000				
Total, Pennsylvania Avenue Development Corporation	6,822,000	6,876,000	2,000,000			-6,822,000
United States Holocaust Memorial Council						
Holocaust Memorial Council	26,609,000	28,707,000	28,707,000	26,609,000	28,707,000	+2,098,000
Total, title II, Related Agencies	7,011,333,000	6,961,469,000	5,997,212,000	6,107,062,000	6,116,431,000	-894,902,000
(Timber receipts transfer to general fund, indefinite)	(-44,769,000)	(-44,548,000)	(-44,548,000)	(-44,548,000)	(-44,548,000)	(+221,000)
(Timber purchaser credits)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	
TITLE III - GENERAL REDUCTION						
General reduction, Energy conservation			-12,799,000			
Grand total:						
New budget (obligational) authority (net)	13,519,230,000	13,817,404,000	11,984,603,000	12,053,099,000	12,114,636,000	-1,404,594,000
Appropriations	(13,549,230,000)	(13,832,204,000)	(12,027,402,000)	(12,083,099,000)	(12,144,636,000)	(-1,404,594,000)
Rescission	(-30,000,000)	(-30,000,000)	(-30,000,000)	(-30,000,000)	(-30,000,000)	
Crime trust fund		(15,200,000)				
(Timber receipts transfer to general fund, indefinite)	(-44,769,000)	(-44,548,000)	(-44,548,000)	(-44,548,000)	(-44,548,000)	(+221,000)
(Timber purchaser credits)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	
(By transfer)	(107,764,000)	(187,000,000)	(187,000,000)	(187,000,000)	(187,000,000)	(+79,236,000)
TITLE I - DEPARTMENT OF THE INTERIOR						
Bureau of Land Management	1,099,005,000	1,156,682,000	1,055,463,000	1,048,335,000	1,050,491,000	-48,514,000
United States Fish and Wildlife Service	671,038,000	702,817,000	568,938,000	603,650,000	603,864,000	-67,174,000
National Biological Service	162,041,000	172,696,000		145,965,000		-162,041,000
National Park Service	1,387,329,000	1,490,122,000	1,261,076,000	1,300,338,000	1,319,337,000	-67,992,000
United States Geological Survey	571,462,000	586,369,000	686,944,000	577,503,000	730,503,000	+159,041,000
Minerals Management Service	194,621,000	201,240,000	192,996,000	188,609,000	189,434,000	-5,187,000
Bureau of Mines	152,427,000	132,507,000	87,000,000	128,007,000	64,000,000	-88,427,000
Office of Surface Mining Reclamation and Enforcement	293,407,000	292,773,000	269,578,000	266,411,000	269,857,000	-23,550,000
Bureau of Indian Affairs	1,730,970,000	1,897,941,000	1,682,806,000	1,459,912,000	1,546,412,000	-184,558,000
Territorial and International Affairs	121,575,000	94,170,000	81,923,000	93,126,000	90,126,000	-31,449,000
Departmental Offices	124,022,000	128,618,000	113,466,000	134,181,000	134,181,000	+10,159,000
Total, Title I - Department of the Interior	6,507,897,000	6,855,935,000	6,000,190,000	5,946,037,000	5,998,205,000	-509,692,000
TITLE II - RELATED AGENCIES						
Forest Service	2,803,602,000	2,416,539,000	2,103,671,000	2,176,224,000	2,166,579,000	-637,023,000
Department of Energy	1,265,887,000	1,416,775,000	1,154,586,000	1,143,589,000	1,179,411,000	-86,476,000
Indian Health Service	1,963,062,000	2,059,022,000	1,962,767,000	1,966,600,000	1,961,800,000	-1,262,000
Indian Education	81,341,000	84,785,000	52,500,000	54,660,000	52,500,000	-28,841,000
Office of Navajo and Hopi Indian Relocation	24,888,000	26,345,000	21,345,000	20,345,000	20,345,000	-4,543,000
Institute of American Indian and Alaska Native Culture and Arts Development	11,213,000	19,846,000	5,500,000	5,500,000	5,500,000	-5,713,000
Smithsonian Institution	362,706,000	407,450,000	350,375,000	372,892,000	373,092,000	+10,386,000
National Gallery of Art	56,918,000	64,451,000	56,815,000	59,229,000	58,286,000	+1,368,000
John F. Kennedy Center for the Performing Arts	19,306,000	19,373,000	18,783,000	19,306,000	19,306,000	
Woodrow Wilson International Center for Scholars	8,878,000	10,070,000	5,140,000	6,537,000	5,840,000	-3,038,000
National Endowment for the Arts	162,358,000	172,400,000	99,494,000	110,000,000	99,494,000	-62,864,000
National Endowment for the Humanities	172,044,000	182,000,000	99,494,000	110,000,000	110,000,000	-62,044,000
Institute of Museum Services	28,715,000	29,800,000	21,000,000	21,000,000	21,000,000	-7,715,000
Commission of Fine Arts	834,000	879,000	834,000	834,000	834,000	
National Capital Arts and Cultural Affairs	7,500,000	6,941,000	6,000,000	6,000,000	6,000,000	-1,500,000
Advisory Council on Historic Preservation	2,947,000	3,063,000	3,063,000	2,500,000	2,500,000	-447,000
National Capital Planning Commission	5,655,000	6,000,000	5,090,000	5,090,000	5,090,000	-565,000
Franklin Delano Roosevelt Memorial Commission	48,000	147,000	48,000	147,000	147,000	+99,000
Pennsylvania Avenue Development Corporation	6,822,000	6,876,000	2,000,000			-6,822,000
Holocaust Memorial Council	26,609,000	28,707,000	28,707,000	26,609,000	28,707,000	+2,098,000
Total, Title II - Related Agencies	7,011,333,000	6,961,469,000	5,997,212,000	6,107,062,000	6,116,431,000	-894,902,000
TITLE III - GENERAL REDUCTION						
General reduction, Energy conservation			-12,799,000			
Grand total	13,519,230,000	13,817,404,000	11,984,603,000	12,053,099,000	12,114,636,000	-1,404,594,000

Mr. SKAGGS. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I rise in absolute opposition to this conference report. I urge Members at the conclusions of this debate to soundly defeat it.

Mr. SKAGGS. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. YATES], the ranking member of this subcommittee.

Mr. YATES. Mr. Speaker, 7-weeks ago I offered a motion to recommit this conference report in order to improve this dreadful bill and restore the mining moratorium. Well, the conference committee reconvened. Instead of improving the bill, they made it worse. If my colleagues voted for my motion to recommit the Interior appropriations conference report in September, they must vote for the motion to recommit that I will offer at the appropriate time today for two reasons: one, that the mining moratorium has not met the expectations of the House; and, second, because of what has been, what is being proposed for the Tongass National Forest.

The foreign mining companies will still be able to take hundreds of billions of dollars worth of publicly owned minerals from Federal lands for next to nothing because clear-cutting will increase by almost 40 percent in the Tongass National Forest, because this conference report does nothing to stop the impending rape of the Alaska National Wildlife Refuge for only a few barrels of oil.

I had hoped to offer that amendment in the conference and was prevented from doing so. Specifically, the motion to recommit that will be offered today contains instructions to reinstate a true mining moratorium and strike the provisions that lead to the destruction of the Tongass.

There is simply no defense for why the conferees are presenting the House with this excuse for a mining moratorium. After three votes in this body expressing the importance of a mining patent moratorium, the conferees ignored the will of the House and instead there is created in this conference report a sham mining moratorium.

With respect to the Tongass, the mining moratorium is not the only reason why we should recommit this bill. This conference report contains a legislative rider that would force the Forest Service to adopt alternative P in the Tongass National Forest. Alternative P is a radical forest management plan that has been rejected by the Forest Service and by the Governor of Alaska because it would wreak ecological havoc on the Tongass.

What is more, this conference report contains sufficiency language, sufficiency language which is a rider that prevents all environmental laws from being enforced in the Tongass. The Endangered Species Act is dismissed. The National Environmental Policy Act is waived. The Clean Water Act is ignored. All other applicable laws are considered irrelevant. In addition, this sufficiency language prevents all citizens, environmentalists, private landowners from exercising their rights to sue the Federal Government.

If we vote for this motion to recommit, the conference committee will be enabled to again consider making this an acceptable bill.

Mr. REGULA. Mr. Speaker, I yield 3 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I would like to bring to the attention of my colleagues the so-called Tongass amendment. It disturbs me when I hear my friend, the gentleman from Illinois [Mr. YATES], speak about the Tongass because you have to understand what the Tongass amendment does.

First, you have to also understand what the Tongass is. The Tongass Forest is a forest of 17 million acres of land, 17 million acres of land, I hope all of my colleagues listen to this, 7 million acres of wilderness already set aside by this Congress; 8.3 million acres in fact is not suitable for timber harvest. We have now 1.7 million acres of land that could be available for harvesting. And because of the action of the Forest Service under this administration, it has taken 585,000 acres out of the remaining 1.7 million acres and made it not available, contrary to the action of this Congress.

I am going to suggest that the Tongass amendment does nothing to change the present law. This is in fact what was recommended by the Forest Service. What was previously said about exempting the Endangered Species Act is not true. What was said about cutting the rain forest is not true.

We have, as I said, over 7 million acres already set aside by this Congress of old growth preservation and wildlife habitat. Now we have the administration coming down and saying by the Undersecretary that we must set this aside for old growth preservation and wildlife habitat. If that is the case, then what are we doing with the 7-odd-million acres; did we make a mistake there? If so, then let us reopen that.

What we have done under this amendment that has been proposed by the Senator from my State is in fact set forth the original concept of the Forest Service itself. This is the Forest Service plan that was signed off by the Forest Service prior to this administration.

I can tell Members this. We have closed over 300 mills in the northern part of this great Nation of ours in California, Washington, and Oregon. The gentleman from Washington [Mr. DICKS] will recognize that, because of the Pacific pact. It is time to understand that this amendment offered by the other body is an amendment that creates jobs, still maintains the rain forest, the 7-odd-million acres. And those that suggest recommittal are in fact falling prey to those environmental groups that do not want Americans working, that would rather have Americans sitting idle and not harvesting those trees. The recommittal act itself is wrong. This is a bill that has been thought out, fought out and worked on. It should be accepted. We should vote "yes" on it.

I ask our Members to consider the history of the Tongass. If they have a question, come ask me.

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Let me answer it. Do not read what is being said by certain groups who are not telling the truth. This is nothing new in this body. We have different groups telling flatout, dishonest, supposedly facts. Let us, in fact, have the truth. Vote for this bill, and vote against the motion to recommit.

Mr. SKAGGS. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, here we go again.

The first time the Republican leadership brought this conference report to the floor, the House did the right thing—we rejected the bill, and told the conferees to go back and try again. That was the right thing to do, because that conference report did not deserve to pass.

Sadly, the Republican leadership still hasn't tried very hard to improve it—and it shows. We should adopt the motion to recommit, and, failing that, we should defeat this conference report.

For starters, the Republican leadership limited the number of things that the conferees could consider. They wouldn't let the conferees try to improve the parts of the bill dealing with native Americans—even though the previous conference report fell woefully short of providing proper funding for the tribal governments and the Bureau of Indian Affairs. In fact, the Republican leadership wouldn't let the conferees try to improve any of the funding provisions in the previous conference report, or any of the antienvironmental riders, like the ban on new listings under the Endangered Species Act.

Instead, the Republican leadership allowed the conferees to consider just four things. Those four were: mining; the Mojave National Preserve; the Tongass National Forest; and the National Endowments for the Arts and the Humanities.

So, what did the conferees do about those?

First, about mining: When it sent the bill back to conference the House told the conferees to include a moratorium on bargain-basement sales of the gold, silver, and other hardrock minerals on public lands—a moratorium like the one that was in the House version of the bill. But that isn't what happened. Instead, this new conference report contains something that's called a moratorium—but that, in fact, will speed up, not slow down, these sales. This so-called moratorium will not apply to applications filed before September 30 of this year, and it will only last until the Republican leadership can get Congress to pass something—anything, except a reconciliation bill—that would revise the obsolete Mining Law of 1872. Then the moratorium would end, even if that bill were vetoed by the President. Meanwhile, this so-called moratorium will actually require the Interior Department to speed up its processing of patent applications.

That is not a moratorium. It is a sham. It is a shame. We should not accept it.

What about the Mojave National Preserve? Well, on that issue there's no difference between this new conference report and the last one. Instead, there's some report language in the statement of managers that tries to deny that this conference report is a back-door attack on the California Desert Protection Act while at the same time attacking the National Park Service and limiting their plans for managing the Mojave. So, this, too, is no improvement, and it should not be accepted.

What about the Tongass? The previous conference report called for increased timbering, including in areas that the Forest Service wants to put off-limits in order to protect fish and wildlife, and would make permanent some temporary restrictions on protecting habitat that were misguidedly included as part of the rescissions bill. This conference report is exactly the same. The conferees not only didn't remove or improve these unsound provisions, they voted to retain them. We shouldn't accept that.

And regarding the endowments, the conferees voted to adopt the so-called Helms language. That's no improvement, and it should not be accepted.

In short, Mr. Speaker, this second conference report is still a bad bill, and still deserves to be defeated. Congress should not pass it. If it is passed, it should be vetoed, and that veto should be sustained.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Speaker, I yield myself 3½ minutes.

Mr. Speaker, I rise in strong support of the motion to recommit. The motion asks nothing more than that the House stick to its original position, keep the mining moratorium, keep current law on the Tongass. The House position has not yet had a chance to prevail because the House majority conferees, with the exception of the esteemed chairman, have not backed it. We must not let a handful of Members turn the rest of the House into a kind of giant Boys' State where we just pretend to legislate. But there are substantive, as well as process, problems with this bill.

On mining, Mr. Speaker, we are being asked to trade a solid moratorium for reconciliation language which few Members have seen. It is a "Let's Make a Deal" situation. We can take what we have or trade it for whatever is behind door No. 1, and, by the way those who have opened up door No. 1, who have seen the reconciliation language, describe it as sham reform, hardly meaningful reform as the chairman seeks, a continuing giveaway of our resources. How can we look the taxpayers in the face and explain why large, often foreign, companies should continue to reap profits from Federal resources while paying next to nothing?

Now I know some Members have been told, "Don't worry about it, we'll fix it after the vote." That is no way to make policy. We were told it would be taken care of in this reconciliation conference, but it was not.

The question of the Tongass is simpler. We have not acted on it in this body. The other body added a provision that will allow more logging in ecologically sensitive areas at a hemorrhaging loss to the taxpayer. The Governor of Alaska opposes this language, sportsment's associations oppose this language, environmentalists oppose this language. As a matter of fact, Governor Knowles of Alaska has repeatedly stressed, and this is his language, the need for a balanced process based on good science, the application of sound management principles, and input from the public. We have such a vehicle; it is called the Tongass land management plan.

The Governor goes on to say, and these are his words, the Governor of Alaska, "Killing the Tongass land management process and leaving Alaskans out of the decision is just plain wrong." That is the Governor of Alaska speaking.

Mr. Speaker, the only reason this language is in here, and once again let me repeat, the House has not acted on this. It was added in the Senate. The only reason it is in here is that a few Members in the other body are trying to force the issue. There is no reason to give in. This report takes the unprecedented step of imposing a forest management plan over the objections of scientists and insulates that plan from all legal challenges. In other words, it suspends current environmental law just as surely as the EPA riders did.

Mr. Speaker, I urge my colleagues to stick to the House position, as we did when a similar conference report came before us in September. Vote for the environment, vote for the taxpayers, vote to recommit.

Mr. SKAGGS. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. MILLER], the ranking member of the Committee on Resources.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman from Colorado [Mr. SKAGGS] for yielding this time to me, and I want to thank the gentleman from New York [Mr. BOEHLERT] for his remarks he just made because I think he outlined very clearly the issue that confronts us both in mining and Tongass. In Tongass we are presented with a radical change from established plan that was passed by both Houses of the Congress and signed by the President of the United States for the management of our largest national forests and our only temperate rain forest in the United States.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. Mr. Speaker, I only have 2 minutes. I am sorry; I only have 2 minutes.

Mr. YOUNG of Alaska. I just want to make sure the gentleman sticks to the facts.

Mr. MILLER of California. The gentleman will not impugn my remarks in that way at all. The gentleman from Alaska [Mr. YOUNG] does not have the time, and he has no right to do that to this Member.

The SPEAKER pro tempore (Mr. McINNIS). The gentleman from California will suspend.

Mr. MILLER of California. Mr. Speaker, that should not be done.

The SPEAKER pro tempore. The Chair advises the gentleman from California that the gentleman will suspend.

Mr. MILLER of California. Let the gentleman from Alaska have his own time. The gentleman from Alaska wants to take cheap shots, and he can take them on his own time. The gentleman knows exactly what he did.

The SPEAKER pro tempore. The gentleman from California is out of order.

Gentlemen, all Members need to keep their statements to the RECORD and focused on the issue at hand.

The gentleman from California [Mr. MILLER] controls the time.

Mr. MILLER of California. Mr. Speaker the point is that this legislation, as is presented to us, not only substantially increases the mandated cut for the Tongass Forest, it also increases a mandated hemorrhage of taxpayer dollars from the Treasury. Over the last 3 years we had a cashflow deficit of the Treasury because of the Tongass, of $102 million. We cannot afford to cut these trees in the manner in which they want us to do it under this legislation.

As pointed out by the gentleman from New York and others, the Governor of Alaska has asked us not to do it this way. He has asked us to do it within the confines of the management plan that relies on science, relies on the marketplace, and relies on making sure that the Tongass is preserved.

Now a number of the Republicans who support this recognize that this is unacceptable to the American public, so they started a plan where the Republicans would plant a tree. Mr. Speaker, if all 234 Republicans plant a tree, and we wait 400 years, we will have about 234,000 board feet from the little trees that they planted, but, if we pass this bill, we will cut 100 million board feet of lumber, more board feet of lumber every year, and 100,000 trees will get cut from the Tongass National Forest, and, as they cut those 100,000 trees, they are going to reach into the taxpayers' pockets in this country and ask us to continue to subsidize forest practices that are mandated, mandated by a couple of Members of Congress that have nothing to do with forest practices, with the ecological health of this rainforest. We should not do that.

Others have spoken about the sham of the mining law reform. It is not a royalty, it is a complete, complete loophole, and not only do they not change the royalty to these companies, but they let those individuals that are in the process now of getting patented claims to escape completely from the royalties, so once again we are going to see the Secretary of the Interior award tens of billions of dollars in minerals, and gold, and platinum, and silver to mining companies, and no return to the taxpayer.

Mr. Speaker, I rise in opposition to the conference report. While there are many good reasons to oppose this legislation and to expect the President to veto it, there are two issues which are included in the motion to recommit to be offered by Mr. YATES which deserve special recognition.

One offensive provision is the rider added by the Senate to greatly accelerate logging of the Tongass National Forest in Alaska while, at the same time, removing protections for fish and wildlife and insulating the timber barons from the public planning process and legal challenges.

The Tongass rider would suspend environmental and management laws, and would dictate that a discredited 1991 timber plan rule forest management.

This unprecedented congressional action would boost logging of the old-growth forest by 100 million board feet annually, or 44 percent over the historic average. By independent calculation, the Tongass timber program already costs the taxpayers more than any other national forest. GAO concluded that the cash-flow deficit to the Treasury was $102 million over the last 3 years. To support the increased logging, this Tongass rider could cost another $18 million in annual subsidies.

The Tongass rider ignores new scientific information, and even prevents the Forest Service from setting aside habitat to protect fish and wildlife. It is a solution in search of a problem that doesn't exist, because the economy of southeast Alaska is becoming more diverse. It is opposed by the administration, the Governor of Alaska, and significant user groups who depend on the forest resources, including the Alaska Outdoor Council.

Recently, the Republican leadership circulated a memo advising that Members could enjoy excellent media opportunities and show their environmental credentials by planting trees in their districts. The same Republican leadership has allowed the Tongass rider to be included in this conference report, demonstrating that this advice is nothing more than a gimmick to cover up their antienvironmental agenda here in Congress.

Well, the American people should not be fooled by this kind of trickery. If every Republican Member were to follow the leadership's plot and plant a spruce tree in the Tongass, in about 400 years we could have trees the size of those in the rain forest today. If we wait 400 years and we're lucky, each of the 234 Republican trees could produce about 1,000 board feet, for a total of 234,000 board feet of potential timber.

By contrast, this provision in the conference report would accelerate Tongass logging by 100 million board feet every single year, requiring an annual cut of at least 100,000 majestic old-growth trees.

Another very good reason to reject the conference report is that it contains a sham mining patent moratorium. The House has voted overwhelmingly and repeatedly to end this multibillion-dollar ripoff of mineral-rich public lands. But this bill does not extend the patent moratorium through the entire fiscal year as we have decided in the past. Instead, the patent moratorium disappears if the mining provisions in budget reconciliation become law. It also can vanish simply if the House and Senate pass identical bills but the President does not sign the bill, though the Justice Department has already concluded that this language is unconstitutional.

I doubt more than a handful of Members in this body have even read the mining provisions in reconciliation which are incorporated by reference in this bill. When you do find a copy, what you will learn is that these valuable public lands will continue to be given away for a fraction of their true worth. All a mining conglomerate has to do is pay for the surface value of the land that contains the gold. That is like buying Fort Knox by paying only for the roof.

The proponents will argue that the taxpayers will get a return from a 5-percent net royalty. But read the fine print. There are so many deductions allowed that this royalty is likely to cost more to administer than it will generate in revenue for the Treasury.

Make no mistake about it. The vote on the motion to recommit is the real vote this year on mining reform. We won't have a chance for a separate vote on the mining provisions in budget reconciliation. We should reject this conference report and send the President the message that only real reform—a true patent moratorium, a real royalty, and an effective abandoned mine cleanup program—are acceptable. To do otherwise is simply to sanction the continuation of a multibillion-dollar ripoff of the public lands.

Mr. Speaker, I could go on and on about the flaws in this conference report. It prevents the National Park Service from implementing the California Desert Protection Act, which we just enacted last Congress. It is cruelly unfair to American Indians who bear a disproportionate amount of the budget cuts in their programs. It fails even to meet the administration's modest request for land and water conservation fund appropriations, despite an $11.2 billion surplus in that dedicated trust fund.

Mr. Speaker, this conference report is fiscally and environmentally irresponsible. I urge Members to vote for the motion to recommit.

Mr. REGULA. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I want to congratulate the chairman of this subcommittee for the work he has done on this conference report. This has been very contentious. I serve on this subcommittee; I know it has not been easy.

Mr. Speaker, I rise today to urge my colleagues to vote in favor of this conference report and to reject the motion to recommit. I want to focus my remarks on the so-called mining moratorium here. It is a very real moratorium. It is real, and to see why, let us look at the process it establishes for a second.

This moratorium stays in effect unless a balanced budget act, that is, reconciliation language, is enacted into law. That means legislation passed by both Houses and signed by the President. Or, if both the House and the Senate pass identical language in some freestanding bill the moratorium would be lifted. Now that is a significant change from where we were before because it allows those who want the moratorium, and this House has supported their position, to have a great measure of control, of leverage over this process to be sure that the kind of language that we ultimately pass into law works to their satisfaction.

Now let us focus on the substance of the language that we are going to be dealing with in the next couple of days on the balanced budget act; that is, the reconciliation instructions on mineral royalties. I do not agree that it is a sham royalty. I think a 5-percent royalty is a very real royalty. It is up from 3½ percent that we were talking about before. A 5-percent tax on top of the other corporate taxes, sales taxes, and other Federal and State taxes and fees that are paid. And those are not insignificant taxes, I might add. Furthermore, we will require payment at fair market rates on land that is taken to patent in the future, and it will have to pay on top of that the 5-percent royalty. Of course there is a clause in there that does not apply it retroactively to patent claims that are already in process; and it should not be. People that have made the effort to patent land should not be told, "Oh, the rules got changed in the middle of your patent process." There is also a reverter clause so that land would revert to the U.S. Government if its use is changed. That prevents sham patents being taken for mining and then put to some other kind of use. There will be significant increases in rental payments beginning in 1999. Forty percent of the royalties would go to reclamation of mined land, and that is something I think all of us have wanted to see.

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In addition to these provisions there are many other reasons why we should support this conference report. One provision that I am the most enthusiastic about is the recreational fee demonstration program, an innovative program to allow the Fish and Wildlife Service, the Bureau of Land Management, the Park Service, to establish a 1-year pilot program to allow managing agencies to utilize onsite recreational use and access fees. We need to give this kind of flexibility to these agencies for land management.

Mr. Speaker, this is a bill that provides a sound and fiscally conservative blueprint for the continued management of our public lands, and it deserves our support. Vote for it. Defeat the motion to recommit.

Mr. SKAGGS. Mr. Speaker, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS], the Representative at Large.

Mr. WILLIAMS. Mr. Speaker, the National Endowment for the Arts and the National Endowment for the Humanities have enlivened the lives of Americans. Individual Americans have received wonderful things each year for less than the price of a milkshake. For that price, they have received the last 11 Pulitzer Prize winning plays. The Endowment has funded "Driving Miss Daisy," "Live From Lincoln Center." For the price of that milkshake, we received those two wonderful TV series, the "Civil War," and "Baseball." We preserved the papers of Thomas Jefferson. We got Garrison Keillor's "Prairie Home Companion." We got the Vietnam Wall. Now, this shortsighted bill, a shortsighted Congress cuts those Endowments by 40 percent. It is wrong. It is wrong.

Mr. SKAGGS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, because this bill guts the protection of the Northwest salmon runs, I oppose the conference report and I urge my colleagues to vote no.

Mr. Speaker, I rise to express my unmitigated opposition to this bill. This bill is so packed with ill-advised cuts that it would take me an hour just to list them all. Let me speak of just one outrage, the treatment of our Nation's sports and commercial fisheries.

First, this bill terminates three vital initiatives to protect fisheries habitat in the Northwest—pacfish, infish, and the Upper Columbia Basin assessment.

Second, this bill drastically slashes funding for land acquisition. If we are serious about protecting private property rights, we must purchase the lands necessary to provide the habitat for fish and wildlife.

And third, this bill terminates all funding for new species listings under the Endangered Species Act. We are simply putting our heads in the sand if we think that stopping agencies from listing species will somehow magically make the species healthy again.

On the west coast, we are struggling to reverse the decline of our world-famous salmon runs. These salmon once contributed more than $1 billion and 60,000 jobs annually to our regional economy, but, salmon fishing revenues have dropped by 90 percent because of declining populations.

To those of you who think that gutting funding for the ESA or habitat protection or land acquisition will help the economy, I say go talk to the unemployed fishermen and women in my district, go talk to the bankrupt tackle shop owners in Idaho, go talk to the thousands of recreational fishermen and women in this country who may never be able to catch a salmon in the Pacific Northwest again, go talk to the Native Americans whose culture and religion rely on salmon that will soon no longer exist.

Yes, we need to reduce the deficit. But the priorities in this bill are all wrong. We can do better than this. I urge my colleagues to vote no on this bill.

Mr. SKAGGS. Mr. Speaker, I yield 2½ minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I rise in very strong support of the motion of the gentleman from Illinois [Mr. YATES] to recommit this bill.

This appropriation bill for the Interior Department has the most tortured and longest history of any appropriation bill I think this body has ever witnessed. I think that tortuous history is well deserving, indeed. That is because the conference committee on this bill has consistently and in a most blatant fashion ignored the majority view of this body on the question of mining claim patents.

As the distinguished gentleman from Ohio [Mr. REGULA], the subcommittee chairman knows, this body has expressed its opinion quite clearly on mining law patent moratoriums in previous actions on motions to recommit, and on true mining law reform itself in the last Congress, when we passed a bipartisan and in a large measure true mining law reform that even had the support at that time of the current Speaker of this body. That was true reform. We have also voted for a true moratorium, which is not what we are talking about today at all. We are talking about a sham moratorium in this bill today.

There was in place during the last fiscal year a moratorium on the processing and issuance of these patents. In that true reform I referred to in the last Congress, we even ended the patenting process, again, clearly supported by this body.

This moratorium last year was put in place to halt a national scandal involving the Federal Government giving away billions of dollars worth of public lands to mostly foreign-controlled corporations, without the benefit of a royalty and for the sale price of $2.50 an acre.

The history of recommittal motions on this bill has already been stated many times during this debate. I shall not do that again at this time. But this moratorium, as I say, is a sham moratorium. It is a fraud. It is a mockery. Once again, I repeat, it ignores the views of the majority of this body, Republican and Democrat alike, that the American people deserve better from their Government. They do not deserve to be ripped off and the mineral wealth of this Nation plundered on the altar of corporate welfare.

Why is the pending mining claim patent language a fraud? First, and we have been through it already, apparently nobody in the conference committee ever heard of the *Chadha* decision. The pending language would lift the moratorium if minimal provisions relating to patenting are simply passed by both the House and Senate. They do not have to be enacted into law; no, simply passed by both bodies.

Second, the moratorium would be lifted if the sham mining reform provisions that will be part of the budget reconciliation package are enacted into law. That is not true reform.

This bill will most assuredly be vetoed by the President.

So this leaves us with a situation where, in order to lift the moratorium, all that would have to be done would be to pass a one-sentence bill by both the House and Senate, despite the questionable constitutionality of that action.

Too much is at stake here. And the will of the House has simply been ignored too many times on this issue.

This time, once again, I urge my colleagues to stand firm and vote, yes, vote once again, to recommit this conference report with instructions to maintain the fiscal year 1995 moratorium language.

Mr. REGULA. Mr. Speaker, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH], a member of the subcommittee.

Mrs. VUCANOVICH. Mr. Speaker, I would like to thank the gentleman from Ohio [Mr. REGULA], for bringing this conference report back to the House. I rise in support of this revised conference report. This bill is 10 percent below last year's funding and within our budget allocation.

All of the rhetoric notwithstanding, the mining provisions in this bill are not a "sham." The moratorium on issuing new mining patents is real. So much so, that I had to think twice before I decided I would support this conference report.

Those of us who support responsible mining in our country have moved toward mining law reform. We are willing to negotiate royalties and payment for patented land. How much of a royalty, and how much should be paid for the land—these are issues we will have to negotiate with the administration in budget reconciliation.

On the other hand, those who will vote against the bill are voting for the status quo. The question is whether we want to go forward or not. I, for one, do indeed want to make some progress on mining law reform. I urge my colleagues to reject the motion to recommit and support the conference report.

Mr. SKAGGS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, 1984 has come and gone, but Big Brother is alive and well. It may seem like tilting at windmills to focus on this bill's restrictions on the content of art that the National Endowment for the Arts may fund, but we must not lose sight of the larger issue. Freedom of expression is the bedrock of our national identity.

This bill prohibits the NEA from funding art "* * * which depicts or describes sexual or excretory activities or organs." Does the definition of "sexual" include kissing or holding hands? Does the prohibition against the depiction of sexual organs bar the works by Michelangelo? This language is probably unconstitutional. It is clearly blatant censorship. The new majority has declared deregulation and decentralization to be at the top of its agenda. I guess those lofty goals had a run-in with the Republican censors.

Along with censorship, the bill reduces NEA funding by 40 percent. When this body established the NEA, it said, "* * * it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry * * *." Let us not forget that our constituents sent us here to protect their rights, not to clip away at their freedoms.

Mr. REGULA. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. NETHERCUTT], a member of the subcommittee.

Mr. NETHERCUTT. Mr. Speaker, I thank the gentleman for yielding me time and for his good work on this bill, the fiscal year 1996 Interior appropriations conference report.

As a new Member of Congress from the West—eastern Washington—and as a member of the Interior Subcommittee I have had the opportunity to work closely with those parties with an interest in land-use issues, including the mining patent moratorium.

The conference report before us is a fair agreement that reconciles the interests on all sides of the mining issue.

I would like to remind members that we currently live under the law of the 1872 Mining Act. This law must be reformed, however, it is inappropriate to impose a total moratorium on an appropriations bill because we don't like the law. The law should be and will be reformed outside of the of the appropriations process.

On September 29, the House voted to recommit the Interior conference report with instructions to impose a moratorium on the processing of mining patents. I did not support that motion, however the conference complied with the will of the House and reinstated the moratorium for all new patent applications. And consistent with the language in the bill last year, the conference agreed to grandfather those patent applications already in process. This is a fair agreement.

Before voting on this report, members should know that I am told the other body will not support a conference report that does not grandfather patents that were filed before the moratorium was enacted.

I emphasize again, if this conference report is passed and signed into law, no new mining patent applications will be processed. The will of the House has been met.

I also want to address the issue of logging in the Tongass Forest. The language in this conference report simply directs the Forest Service to proceed with alternative P. It may surprise some to know that alternative P was the Forest Service's own preferred management plan under the Bush administration. This plan will allow a sustainable yield of timber while protecting the environment.

I strongly urge all members to support the Interior conference report. It's a fair agreement and a good bill—vote against the motion to recommit and for the report.

Mr. SKAGGS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in strong opposition to this conference report and this action of this Congress, which is building on one of the worst environmental records of any Congress in recent history. It is a sad day to come here and to face the types of changes that are being proposed in this bill, and then to have them suggest that our House conferees actually did better in contact with the Senate counterparts in this bill. They certainly did not.

This bill upsets and interjects itself into almost all the professional decisions that have had great, great consideration of the past decade in terms of the environment, which have been debated. Furthermore, in this Congress we have not been given and afforded the opportunity, with all the hours that have been worked, somehow we could not find the time to deliberate and consider these bills on the floor in an open manner so we could debate them. No. What we have been treated to is one closed rule, one closed debate process after another, whether it has been on the rescission bill that dealt with the salvage logging issue, whether it has been in the reconciliation bill that the Republicans have put forth; no opportunity to even vote on some of the provisions on the House floor on these measures, and now in the Interior Appropriation bill and other appropriation bills repeatedly.

The authorizing committees in this Congress have been rendered irrelevant, by and large, in terms of this process. There are but just a few examples. That is what this really is all about, that the American public is not getting the benefit of the debate. The Members cannot work their will on these issues. They are presented with legislation logrolled into one enormous package of environmental changes, of landscape changes, sort of take it or leave it.

We might have a vote today on the mineral patent moratorium; which surely this bill does not uphold the will of the House in terms of that mining patent moratorium. It does not uphold the will of the House. In fact, beyond that, it goes in and interjects itself into decisions made by professionals, whether it is in the Bureau of Land Management and dealing with the roads in the West, or whether it is the grazing moratorium that is continued in here, on the moratorium on the Endangered Species Act barring the professionals from enforcing the law and doing their jobs.

Of course, it goes beyond that and adopts new policy, timber harvest mandates in Tongass, plus this bill further immunizes the rescission timber salvage process bill in terms of salvage logging that was written into the rescission bill last year. We told you it was bad then, and now we know, as we see it unfold, how really bad these salvage timber provisions are—logging without laws or common sense. This is not forest health, this is not fair. This is not the democratic way. This is not considering policy, basing judgments on issues' merits. It is basically destroying our landscape: Destroying the legacy of future generations.

It is a sad day when this Congress steps forward to begin to write these types of measures into law to be our policy. We are not fulfilling our role as diligent stewards. We are not protecting the natural resources.

This bill is not necessary to deal with the deficit in this country. This will leave an enormous environmental deficit in this country that you will not be able to repair in many, many decades to come. We should defeat this bill and send it back to conference.

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Mr. SKAGGS. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would just like to make a couple of points. One is that the suggestion that when they went from 3.5 royalty to 5.5-royalty that somehow that is an increase in the royalty, but my colleagues really ought to know that there is almost 3.5 payment of royalty exceptions. That means that you will never really get that 5.5-percent royalty, because the companies will be allowed to deduct almost their entire operations, far beyond what is touted as the Nevada law, so that is a huge loophole.

The gentleman from Washington suggested that this takes us back to plan P on the Tongass National Forest and that was the preferred plan of the Forest Service. The fact is, that plan was never adopted by the Forest Service, and the fact is that since that time, this Congress of the United States passed a bill to better manage that forest, and that was done with Presidential signature.

So there is a lot of suggestions that somehow this is major reform, both in mining and in forestry, but the fact of the matter is it is not. In mining, almost 300,000 claims that have not even made application for a patent are going to be exempted from a royalty should they ever decide to make an application for a patent. That is a loophole that you can drive the entire U.S. Treasury through.

Mr. REGULA. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I just want to take this opportunity to commend Chairman REGULA of the subcommittee and all of the staff and Members on both sides who have worked to try to come up with a compromise on this issue.

This has been a very difficult bill, and I realize that my friend, the gentleman from New York [Mr. BOEHLERT], is still not happy with it, and I will tell him that there are people who are pro-mining folks who are not happy with it either, and I suppose that there are always going to be people on both sides that are unhappy with this bill.

Mr. Speaker, I just want to give credit to the gentleman from Ohio [Mr. REGULA]. He played the role of Solomon. He divided the baby in half. If people on one side do not like it and people on the other side do not like it, it must be a pretty good compromise, because if it were too far to one side or the other, frankly, there would be no hope that it would pass.

So I urge all of my colleagues to take a look at the progress that has been made in these negotiations. It may not be everything one likes, it may not be everything one has hoped for, but this is a good bill, and in view of what is going on in the current political environment, it is very, very important that the conference report be adopted and passed today, that it will then go over to the Senate, that it be passed, and we can send this bill to the President for his signature or do whatever he wants.

The point is, there are a lot of people in the Park Service and a lot of the other agencies that are covered by this bill who, once this bill becomes law, will not have to worry about furloughs, will not have to worry about their next paycheck; they will get paid because the work of the Government under the Interior appropriations will be law, but only, only if we take this first step toward approving the conference report here today.

Mr. SKAGGS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I am not sure whether the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the full committee, wished to rest on the Biblical allusion that he recently invoked. I think actually the gentleman from Ohio has done better than dividing the baby in half, which would have been, of course, a mortal act. He has done well, given the restrictions that have been imposed on him.

Mr. Speaker, the problem with this bill is that the gentleman had lousy restrictions to work within. And so we really have decimated so many important programs that even, given his genius at trying to make this into a halfway respectable bill, even the good works of the gentleman from Ohio have not been sufficient to make this worthy of the endorsement of the House, whatever shape the baby may be in at this point.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the full committee is absolutely right. The gentleman from Ohio is probably as respected as any person in this House. That is why this is a very difficult position for those of us in the new majority.

The fact of the matter is, he tried very hard. The fact of the matter is he led this House before in voting to recommit with instructions on the mining section. The fact of the matter is, this House has not spoken previously on Tongass.

Mr. Speaker, I think we should maintain the House position. The House has already spoken. Ninety-one Republicans have done so in terms of the mining permitting section.

Mr. Speaker, it is this bill that will drive the reconciliation process. We can send a strong signal to those people so that they will get the message, so that they will deal with the mining permitting section in a responsible manner.

This issue is not whether or not we will have logging in the Tongass. We have logging now, more than 300 million board-feet per year. The question is whether it should be increased through unprecedented congressional action. In essence, a mandate from Washington, a mandate from Washington that the Governor has told us he does not want.

The motion to recommit is pro-taxpayer at a time when we are all talking about balancing the budget. That is the number one objective. If you vote for this motion to recommit, if we succeed in our mission, then we will bring additional revenue into the Treasury, which will help us in that very demanding, challenging task of balancing the budget. It certainly is pro-environment. All America is watching. They want us to be concerned about sensitive environmental issues.

Mr. Speaker, let me conclude by once again heaping praise on the distinguished gentleman from Ohio. He has done a masterful job, although there are some areas of disagreement. I would urge my colleagues to join me in voting for the motion to recommit so that we can make a pretty good bill even better.

Mr. REGULA. Mr. Speaker, I reserve the balance of my time to close.

Mr. SKAGGS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, I have sought this time to join the others in throwing accolades upon the gentleman from Ohio who has done a very fine job with meager offerings. The job could have been better. The job can be better. If we are given the opportunity to again review the work that this committee has done, I believe we can come in with a much better bill.

Mr. SKAGGS. Mr. Speaker, I yield back the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker and my colleagues, I think we have had an excellent debate on this issue, and certainly my good friend, the ranking member and former Chairman, made the point.

I just want to make sure everybody has all of the correct facts. We have heard this called a sham. Well, the Department of Interior said this: "This amendment language would hold back a rush while Congress passes at least some form of mining law reform legislation."

We have the Secretary of Interior, the Department of Interior saying, this is a good moratorium.

Let me read the moratorium that we put in in conference so that everybody has all of the facts. This is in the law, and they are attempting to send it back. I would say to the gentleman from Illinois [Mr. YATES], my good friend, when the gentleman says more, I do not know what more we can do. Because here is what the moratorium language says, and we did this at the direction of Members of this House, including myself:

> None of the funds appropriated or otherwise made available pursuant to this act shall be obligated or expended to accept or process applications for a patent, for any mining or mill site claim located under the general mining laws, unless legislation to carry out reconciliation instructions pursuant to a concurrent resolution on the budget for fiscal year 1996 is enacted into law and such legislation contains, at a minimum, provisions relating to the patenting of and payment of royalties on such claims or an agreement is approved by the House and Senate in identical form in other legislation containing provisions relating to patents.

Mr. Speaker, it is clear. It says, unless there is mining reform legislation in reconciliation which will have to be passed by a majority of both Houses and signed by the President that, otherwise, the patent moratorium stays in place. This is what this body requested that we do.

I think therefore it is important to understand that we vote "no" to recommit and we vote "yes" on the bill. It accomplishes that goals of budget reduction. It does it without hurting anything. It takes care of the important needs. There is no give-away, it stops the give-away of the mining patents that are presently taking place. As far as the Tongass is concerned, there is no money to increase the cut despite what has been said out here. The cut will remain at 310, maybe a few thousand extra board feet.

Mr. Speaker, I would point out something else that we did in the conference, and that is we allow the planning to go forward on the Tongass. We allow the Forest Service to continue their planning process and to determine what is the best way long-term to deal with this resource.

Furthermore, it protects the Tongass because it gives the Forest Service the decision as to whether or not there should be additional cutting, because the language says that they can only cut to the maximum extent practicable, and that word practicable is determined by the Forest Service. So I think the control remains in the Forest Service. All the dire things that have been outlined here simply will not happen.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I would inquire of the gentleman, will the gentleman agree with me that the Forest Service should not cut more than 310 million board feet?

Mr. REGULA. Mr. Speaker, that is right, and I do not think that there will be more than 310, more than that, because the money is not there, and the Forest Service has the judgment as to what is practicable.

Mr. Speaker, I urge my colleagues to vote against the motion to recommit. Vote for the bill. It is a good bill, it is a responsible bill.

Ms. SLAUGHTER. Mr. Speaker, today I rise in opposition to H.R. 1977, the Department of the Interior and related agencies appropriations bill for fiscal year 1996. Time and again, I have stood on the floor of this House to defend our Nation's modest, but vital investment in cultural, educational, and artistic programs. As Chair of the Arts Caucus, I have watched the 104th Congress hammer away at the National Endowment for the Arts and we keep hearing the same ridiculous argument from the other side of the aisle. America can no longer afford to support arts or cultural institutions.

I simply cannot understand the priorities of this Congress when 1 minute we rush to dismantle the NEA, and the next we deliver 20 unnecessary B–2 bombers to the Pentagon, and then we sign away $7 billion the military didn't even ask for. The other week, several Members here were just ecstatic after passing a budget that will cost Americans billions of dollars in lost revenue and sinks our progress on deficit reduction. As long as the 104th Congress follows these budgetary priorities, no one can convince me that the decimation of the NEA is any kind of economic plan, or that it has anything to do with money.

My colleagues, we have all listened to this debate before, and we should all know this is not about deficit reduction or about what we can afford—this is all about philosophy, plain and simple. How many Government programs can point to an investment of 64 cents a year per taxpayer, which supports over 1.3 million jobs in nonprofit arts, and which yields $3.4 billion a year in tax revenue? To those who claim that Federal involvement is not needed, I would remind you that a few dollars from the NEA often come first before a museum exhibit, a ballet, an opera, or a dance troupe receives any financial commitment from the private sector.

Mr. Speaker, of all the reasons why we should not eliminate the NEA, I cannot think of any one more important than the effect on our children. Throughout America and in all of our districts, the NEA routinely provides minority, at-risk, and financially disadvantaged students their first exposure to arts, drama, and theater. Thanks to NEA grants, some of our most troubled inner city schools have established innovative programs which emphasize art in teaching math, science, and history. If we approve these cuts to the NEA, these and so many other projects in financially-strapped schools will be grounded immediately.

My colleagues, it is clear to me, and should be to all of you: the arts are a vital investment in our economy, our children, and in the future of our Nation. There are numerous problems with the Interior appropriations bill, but I would ask each of you to seriously consider your vote today—to realize the message we are sending young people and to think about what legacy we are leaving behind. Don't sacrifice what's left of our Nation's cultural programs. Vote against this measure.

Ms. PELOSI. Mr. Speaker, I rise today to urge my colleagues to vote no on this conference report. This conference report rolls back decades of responsible stewardship of our natural resources through shortsighted funding cuts, overturning of existing laws, and abdication of our responsibility to preserve our natural lands for future generations.

Mr. Speaker, since 1872, the mining law has allowed more than 278 billion dollars' worth of gold, silver, and other metals to be taken from public lands in return for minuscule payments, according to the Mineral Policy Center. This conference report allows new patents, now blocked by the moratorium, worth more than $15.5 billion to follow the same giveaway trail.

This past September, the House voted 277 to 147 to reject this brazen example of corporate welfare and insist on maintaining a true patenting moratorium. The mining provisions contained in this conference report ignore the clear will of the House.

In addition to mining industry giveaways, this conference report contains numerous legislative policy riders which attempt to weaken existing environmental laws. The conference report encourages increased logging in the Tongass National Forest, places a moratorium on listing of endangered species, suspends grazing regulations, and cripples the National Biological Service.

In California, the conference report overturns the establishment of the new Mojave National Park Preserve by denying funding for its transfer to the National Park Service. Just 1 year ago, Congress voted overwhelmingly to establish the Mojave as one of the largest natural preserves. This capped 8 years of debate and compromise and was a significant victory for our natural lands.

Since passage, the Park Service has improved visitor services, resource protection, and law enforcement in the Mojave. Visitation to the California desert has increased significantly and has generated additional revenue in the surrounding communities.

By contrast, the conference report rider would transfer management of the Mojave to the Bureau of Land Management thereby eliminating or jeopardizing visitor services and safety, the processing of hunting, grazing, and mining permits, and the maintenance and protection of valuable park resources.

Mr. Speaker, taken as a whole, this conference report constitutes a massive assault on our natural heritage. It offers unprecedented levels of corporate welfare to the mining industry, encourages clearcutting of our ancient forests, and ignores the future health of both threatened and endangered species and their habitats.

I urge my colleagues to vote "no" on this conference report.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. YATES. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. YATES moves to recommit the conference report on the bill H.R. 1977 to the

committee of conference with instructions to the managers on the part of the House to insist on the House position on the amendments of the Senate numbered 108 and 158.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. REGULA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 199, not voting 4, as follows:

[Roll No. 799]

YEAS—230

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chabot
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Ehlers
Engel
English
Eshoo
Evans
Ewing
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Horn
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
LaHood
Lantos
Latham
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran
Morella
Nadler
Neal
Ney
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—199

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bishop
Bliley
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
Ensign
Everett
Fawell
Fields (TX)
Flanagan
Fowler
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gillmor
Gingrich
Goodling
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kim
King
Kingston
Knollenberg
Kolbe
Largent
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—4

Fields (LA)
Houghton
Tucker
Waldholtz

☐ 1735

Mr. PACKARD, Mrs. CUBIN and Mr. TIAHRT changed their vote from "yea" to "nay."

Messrs. WYDEN, POMEROY, BERMAN, NEY, SAXTON, PETERSON of Minnesota, SMITH of New Jersey, BILIRAKIS, BASS, TORKILDSEN, DAVIS, EWING, WILLIAMS, and LAHOOD changed their vote from "nay" to "yea."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, I ask for this time for the purpose of announcing the schedule.

Mr. Speaker, I appreciate the time given to me by the Members so that I might be able to advise our Members about the program for the rest of the evening.

Mr. Speaker, in just a moment, we will be asking that the House go into a recess. The recess should last until 6:30 or sometime between 6:30 and 7.

During that time, the Committee on Rules will be meeting. The Members should be prepared for the House to reconvene on additional business between 6:30 and 7. We would be at that point taking up, if there is additional business, we will be taking up an hour's debate on a rule so that the Members should be advised that they should anticipate another vote this evening and perhaps another two or three votes this evening, but that the first vote would be at around 7:30 or thereabouts, assuming we can come back from the recess at 6:30.

We would have an hour's debate time on a rule between now and then. Any further business could take us to as late as 10 o'clock this evening.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I thank the majority leader for yielding.

I would just like to ask, as you know, there is considerable discussion about a possible continuing resolution this evening. When might we get the language that the gentleman is talking about so that we have some opportunity to review it before we are asked to debate it?

☐ 1745

Mr. ARMEY. Mr. Speaker, the language we are discussing will be at the Committee on Rules, and they will be taking it up when we go up. Obviously the gentleman will have a keen interest in that, and we would try to make sure that the gentleman has a copy as well at the Committee on Rules.

Mr. OBEY. Is there any opportunity to get that language before we get up to the Committee on Rules, so we know what it is we are being asked to do in the Committee on Rules?

Mr. ARMEY. We will try to get the gentleman a copy as soon as we have it.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, could the majority leader advise the rest of the Members what he anticipates for the rest of this week in the way of legislation on the floor?

Mr. ARMEY. I thank the gentleman. We do anticipate we will take up the gift ban and the lobbying reform bills tomorrow. We would expect conference reports, of course, at any time, and do anticipate some conference reports. Then, of course, on Friday we anticipate the House considering the Balanced Budget Act of 1995.

Mr. BONIOR. May I ask the gentleman from Texas if he anticipates the Hefley bill to be brought up with respect to Bosnia?

Mr. ARMEY. I appreciate the point. Yes, it is possible. Members should be advised it is possible that the Hefley bill will be brought up later this week. I cannot give the gentleman any definite information at this time.

Mr. BONIOR. Could the distinguished majority leader tell us what plans he has for the Members on this weekend?

Mr. ARMEY. I thank the gentleman for asking. As the gentleman knows, we would expect to pass the Balanced Budget Act out of the House on Friday. We would send it over to the other body. We would anticipate their action, and we would need to be prepared to act on any alterations they might make.

I am telling Members on my side to be prepared to stay here perhaps Friday night, and perhaps even Saturday. As a matter of fact, I have even cautioned Members that the possibility of a Sunday session would not necessarily be out of the question, but I would hope that that would not be the case.

Mr. BONIOR. I thank the gentleman.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 6:30 p.m.

Accordingly (at 5 o'clock and 47 minutes p.m.), the House stood in recess until 6:30 p.m.

□ 1838

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MCINNIS) at 6:38 p.m.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of Rule I, the House will stand in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 39 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1945

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HASTINGS of Washington) at 7:45 p.m.

FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate recedes from its amendment numbered 115 to the bill (H.R. 1868) "An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.".

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2020) "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1996, and for other purposes.".

The message also announced that the Senate recedes from its amendment numbered 132 to the above-entitled bill.

REREFERRAL OF H.R. 2552, JAMIE WHITTEN WILDERNESS AREA, TO THE COMMITTEE ON NATIONAL SECURITY

Mr. STUMP. Mr. Speaker, I ask unanimous consent that the bill, H.R. 2552, a bill to transfer the Tatum salt dome property to the State of Mississippi to be designated by the State as the Jamie Whitten Wilderness Area, be rereferred to the Committee on National Security.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

COMMUNICATION FROM CHAIRMAN OF THE DEMOCRATIC CAUCUS

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Democratic caucus:

HOUSE OF REPRESENTATIVES,
DEMOCRATIC CAUCUS,
Washington, DC, November 13, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to inform you that Representative Mike Parker is no longer a member of the Democratic Caucus.

Sincerely,

VIC FAZIO,
Chairman.

COMMUNICATION FROM THE SPEAKER

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 15, 1995.

Hon. BUD SHUSTER
Chairman Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that Representative Mike Parker's election to the Committee on Transportation and Infrastructure has been automatically vacated pursuant to clause 6(b) of rule X, effective today.

Sincerely,

NEWT GINGRICH.

COMMUNICATION FROM THE SPEAKER

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 15, 1995.

Hon. JOHN R. KASICH,
Chairman, Committee on the Budget, Cannon House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that Representative Mike Parker's appointment to the Committee on the Budget has been automatically vacated pursuant to clause 6(b) of rule X, effective today.

Sincerely,

NEWT GINGRICH.

WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 265 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 265

Resolved, That the requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on rules on the same day it is presented to the House is waived with respect to any resolution reported on or before the legislative day of November 23, 1995, providing for consideration or disposition of any bill or joint resolution that includes provisions making further continuing appropriations for the fiscal year 1996, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon. In no case shall this resolution apply to a resolution providing for consideration or disposition of a bill that is a reconciliation bill within the meaning of section 310 of the Congressional Budget Act of 1974, any amendment reported in disagreement from a conference thereon.

The SPEAKER pro tempore. The gentleman from Florida [Mr. DIAZ-BALART] is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. Beilenson], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 265 waives clause 4(b) of rule XI—which requires a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee—against the same-day consideration of resolutions reported from the Committee on Rules on or before the legislative day of November 23, 1995, for the consideration or disposition of any measure making further continuing appropriations.

In addition, the rule clarifies that the provisions of House Resolution 265 do not apply to any reconciliation measures.

Mr. Speaker, House Resolution 265 is an expedited procedure to facilitate the same-day consideration of urgent legislative matters. The Rules Committee does not waive the two-thirds requirement very often—10 times by the last Congress under a Democratic majority, and considered and adopted 5 of those times by the full House—and the committee has been very diligent in reserving this waiver for only the most urgent fiscal year matters this Congress—twice this year—and only considered this one time today on the floor by the full House.

House Resolution 265 is necessary to expedite legislation to pay the Federal Government's bills and allow furloughed Federal employees to return to work as quickly as possible. The House has now passed all 13 requisite appropriations bills. While differences over the remaining 10 or so individual spending bills that have not been signed into law are being negotiated with both the Senate and the President, it is important that the House be able to act immediately on the floor to consider any rule that deals with providing funds for the urgent matter of expired appropriations. I urge adoption of House Resolution 265.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman from Florida [Mr. DIAZ-BALART] for yielding me the customary 30 minutes of debate time.

Mr. Speaker, we do not object to this rule. We think it is reasonable, as we did in the past when our Republican colleagues supported our requests to waive the two-thirds vote requirement. Of course, we should not even be in a position of debating it tonight. The only reason it is necessary for us to do so is that the Republican controlled Congress has been unable to do its most basic job, and that is to pass appropriations bills. That is why we are here considering this waiver of a standing rule of the House.

The public is wondering what we are doing, as they should. The arguments we will be considering in the context of the next resolution over such a controversial provision as how to reach a balanced budget should be taking place in the context of the budget reconciliation bill, legislation which the House and Senate have, in fact, already passed.

There is no need to encumber the continuing resolution with this extraneous provision which will be considered where it should be, in the conference report on budget reconciliation, which should be before us on Friday.

We ought to do now what we could have done last week, pass a continuing appropriations measure that is clean and straightforward. The gentleman from Wisconsin, Mr. OBEY, the ranking member of the Committee on Appropriations, has attempted several times to gain unanimous consent to bring his legislation to the floor for that purpose but unfortunately has repeatedly been denied that request.

We repeat, we Democrats remain willing and ready to expedite in a reasonable and responsible manner the business of the House.

Mr. Speaker, I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I thank the gentleman for yielding time to me.

Time is of the essence with this. Federal workers have been sitting home the last couple of days. They want to resume their jobs. They want to continue on with governing, which is what this is all about. For Members who believe we should get our Government back up and operating, this rule makes sense. This is urgent legislation, as my colleague noted earlier in his remarks. This is one of the few times we would waive this rule, but I think that we can get a bipartisan yes to this rule and hopefully to the resolution that will follow.

As I said before, Federal employees want to return to work. They are eager to get on with their business. Many employees, even if they are with funded agencies at this point or are deemed essential employees under the law, are still unable in many cases to perform their work because of other limitations in procurement and hiring and firing that take place because we do not have continuing resolutions in effect. So, should the rule come forward and this resolution be passed and sent to the President, all of this will be resolved should the President sign it.

I think the subsequent resolution is something that the President should sign. The continuing resolution will make sense for several reasons. First of all, the funding levels contained here are adequate for the Federal Government and the District of Columbia government to continue for the next 18 days. There is no dip in the funding that will cut education, that will cut the environmental programs for 18 days and that should hinder that. It is certainly better than what we are being funded today.

Second, it will get our Federal employees back working tomorrow. Third, it strips the Medicare and other riders that the President and the administration have deemed superfluous and have said are unacceptable. We have taken those out.

Finally, it mutually, mutually commits the Congress, both the House and the Senate, and the President to balance the Federal budget with CBO numbers over the next 7 years. This should be no problem for this Congress or Members of both sides of the aisle who have professed to stand for this and for the President who on numerous occasions has said he is for a balanced budget and accepts CBO numbers.

I rise in support of this rule and the subsequent resolution.

Mr. DIAZ-BALART. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 122, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104-343) on the resolution (H. Res. 270) providing for consideration of the joint resolution (H.J. Res. 122) making further continuing appropriations for the fiscal year 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR THE CONSIDERATION OF HOUSE JOINT RESOLUTION 122, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 270 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 270

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 122) making further continuing appropriations for the fiscal year 1996, and for other purposes. The joint resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit with or without instructions. The motion to recommit may include instructions only if offered by the Minority Leader or his designee.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this rule provides for consideration in the House without intervening points of order of the joint resolution making further continuing appropriations for fiscal year 1996 through December 5, 1995. The rule provides for 1 hour of debate equally divided between the chairman and ranking minority member of the Committee on Appropriations and further provides that the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit with or without instructions.

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The motion to recommit may include instructions only if offered by the minority leader or his designee.

Mr. Speaker, this continuing resolution is not the legislation that will bring us a balanced budget in 7 years. However, the political confrontation that has preoccupied this city and the national media, if not all Americans for the last few days, has been about one simple, but fundamental issue—balancing the budget.

The continuing resolution we will consider this evening will fund the Government for 20 days. Taken alone, that may not seem like much. However, it is extremely significant because it will give Congress and the President more time to pass the regular spending bills, and a balanced budget reconciliation bill, to get the Government on a realistic glidepath to a balanced budget.

Frankly, Mr. Speaker, it is taking us more time than we would like to pass those appropriations bills. We have run this House in a much more open manner than it was operated under the old majority. There have been more amendments and more open rules. The open process delayed the House. The result has been that we have worked more days and cast more votes than past Congresses. Along with the other body carrying out its constitutional role of slowing down the legislative process, it is simply harder to craft appropriations bills when you are operating within the constraints of a balanced budget. You can not just throw money at every problem.

As those who served on the other side of the aisle for many terms as members of the old majority certainly know, past Congresses often used continuing resolutions to provide spending authority in lieu of regular appropriations bills. For example, in 1987 and 1988, all of the appropriations bills were wrapped up in a year-long continuing resolutions. In addition, legislative add-ons were a common occurrence.

The administration precipitated this confrontation for political reasons. They looked at polls and saw that picking a fight over Medicare, even if there really were no Medicare reductions in the bill, was good for the President. Even the New York Times called the administration's Medicare charges purely political. The administration placed a Medicare attack strategy ahead of a balanced budget work strategy.

Mr. Speaker, the administration has called for a higher rate of spending for programs that were eliminated in the House and Senate appropriations bill. While a clean continuing resolution would not normally provide funding when the House and Senate both voted to eliminate the program, the original bill did provide 60 percent funding in the spirit of compromise. Calls for higher funding belie the true intention to simply continue with the status quo rather than have a clean continuing resolution.

Mr. Speaker, the overriding issue is whether we will have a balanced budget. This Congress was charged by the American people in an historical election to balance the Federal budget and restore the future for America's children. That is hard work as we found out. We can do it in 7 years, while letting programs like Social Security, Medicare, Medicaid, school lunches and student loans grow—just not as fast as some people in Washington would like. That is the mandate of the 1994 election, and that is a responsibility we will not discharge.

Balancing the Federal budget is not a trivial issue. It is about the role of Government and our Nation's future. While some oppose balancing the budget, and hope and pray that we fail, we want this to be a bipartisan, unifying way that includes the President. He repeatedly says that he supports a balanced budget. He called for a balanced budget in 5 years in his campaign when he was running in 1992, and has hinted that he would even support the idea that it can be balanced in 7 years. He should sign onto this fundamental compact with the American people.

Mr. Speaker, we must keep our eyes set on our ultimate goals. We will balance the Federal budget, save the Medicare system for a generation of retirees, end welfare as we know it, and implement a tax cut for families that increases the take home pay of workers and creates private sector jobs.

This rule will permit the House to approve a fiscally responsible continuing resolution so that we can get back to accomplishing those critical goals without unnecessary diversions. I urge my colleagues to support this rule so that we can proceed with balancing the budget.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague from California for yielding me the customary half hour.

Mr. Speaker, this is staring to get ridiculous. This bill is as dead as dead can be, but my Republican colleagues are determined to waste time on it anyway. President Clinton said that he would veto any continuing resolution with extraneous provisions, and I believe him.

So why are we wasting time on this one? Why is the Federal Government still closed? Why did 200,000 seniors who tried to call the 1–800 helpline for Social Security get no help today?

Why were over 7,000 American veterans unable to file claims today? Why were 781,000 people turned away from national parks and monuments?

Why were 99,000 tourists shut out of Smithsonian Museums, the National Zoo, the Kennedy Center, and the National Gallery of Art?

Why were 45,000 Americans unable to get their passports? Why were 700 recruits unable to enlist in our Nation's Armed Forces?

Because, Mr. Speaker, my Republican colleagues insist on playing partisan games with this continuing resolution. They insist on attaching totally unrelated provisions designed to make a political point.

Mr. Speaker, the sole purpose of a continuing resolution is to keep the Government running while Congress works to pass the appropriations bills. A continuing resolution should not be used to further a political agenda. A continuing resolution is not to blackmail the President.

Mr. Speaker, a continuing resolution should be clean and bipartisan, plain and simple. But this one is not.

Well, Mr. Speaker, the American people expect more from Congress. They expect House Republicans to stop fiddling around and get the job done, and it could be very, very easy.

Democrats and Republicans can pass a clean continuing resolution right this minute. The President will sign it, and the Federal Government can start up again.

Mr. Speaker, I strongly urge my colleagues to stop these political games. Defeat this ridiculous rule. Let us give Americans their Government back.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Appleton, WI [Mr. ROTH], who is the chairman of the Subcommittee on International Economic Policy and Trade.

Mr. ROTH. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding this time to me.

Mr. Speaker, I feel the President is going to sign this new CR, and the reason I say that is because there is a Russian proverb that says two mountains can never come together, but two men always can. I believe the Congress and the President, if they will use good faith, can come together. The reason I think the President is going to sign this bill is because no one wants to see the Government shut down.

Now as I see it, Mr. Speaker, our side has made a good-faith effort. We did send the CR to the President, and the President has vetoed our first initiative. Now here we are with a continuing resolution. A balanced budget is our commitment on this side of the aisle, and, quite frankly, to be fair with President Clinton, he also has put forth a balanced budget as his commitment, as he said in the 1992 Presidential election, that he will balance the budget inside of 5 years.

Mr. Speaker, I believe that in politics today a person's or party's word must be their bond. We gave our commitment to the American people that we would balance the budget in 7 years. The President said that he was going to do it in 5.

Now here we have before us a resolution, and basically this is the bill, H.J. Res. 122, and a short paragraph in the back basically states that the President and the Congress shall enact legislation in the 104th Congress to achieve an unified balanced budget not later than fiscal year 2002 as scored by the nonpartisan Congressional Budget Office.

I think it is plain, it is straightforward, and I do believe that the President is going to sign this legislation because basically what we want to do is not only have our essential people work. Do my colleagues know essential people working for the Government are working now, but nonessential people are not, but both are getting paid, essential and nonessential? So we have people working for the Government whether it is in mail, or whether it is in medical care, whether it is in Social Security checks going out, welfare benefits, veterans' hospital. All the essential people are working.

Let us pass this legislation and allow the nonessential people to go back to work because they are getting paid.

Mr. MOAKLEY. Mr. Speaker, I yield 10½ minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the Committee on Appropriations and the former chairman of the committee.

Mr. OBEY. Mr. Speaker, we are here tonight, not because we do not have a 7-year commitment to a balanced budget and not because lots of other things have not happened. We are here tonight for one very simple reason, because this has not happened. This chart represents each of the 13 appropriation bills which are supposed to pass in order for the Congress to fulfill its obligations. We have only passed three. So, Mr. Speaker, we have over 90 percent of the Government represented by these 10 appropriations bills still not passed through the appropriations process. Most of those bills have been hung up because of the fights over extraneous issues such as the Interior bill that went down today because the majority party insists on continuing to reward Western mining interests with huge boondoggles. We have abortion tying up other bills. We have the Labor-HEW bill tied up simply because the Senate Republicans are so embarrassed by the extreme nature of the bill that passed the House that they would not even take it up. It is not the Democrats who will not take it up in the Senate, it is the Republicans.

Mr. Speaker, I do not say that to point fingers. I say that simply to point out facts. This is our problem, not what is happening in some other committee on long-term budget problems. Our problem is that the Congress simply has not done its work.

Mr. Speaker, first we were told earlier in the week that the way to solve this was to double Medicare fees, and so for 2 days our Republican friends said we are going to hold the Government hostage until we double Medicare fees. Well, they decided they were getting burned on that in the court of public opinion, so now they have found a way to try to shift the argument, and, no, I will not yield until I finish.

I was shocked to see in the Associated Press an article which I think tells us why we are really here in what is the functional equivalent of an institutional temper tantrum, and I want to read this for my colleagues, Washington (AP), dateline today, Reporter Jill Lawrence:

> An angry Newt Gingrich said Wednesday that Clinton administration snubs during lengthy flights to and from Yitzhak Rabin's funeral led to this week's budget impasse and government shutdown.
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> House Speaker Gingrich and Senate Majority Leader Bob Dole have been simmering ever since their 25 hours in the air early this month.
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> "Both of us got on that airplane expecting to spend several hours talking about the budget and how do we avoid the shutdown," Gingrich said. "Every president we had ever flown with had us up front. Every president we had ever flown with had talked to us at length."
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> The lack of contact and their having to exit through the rear of the plane were "part of why you ended up with us sending down a tougher continuing resolution," Gingrich said in an extraordinary exchange with reporters at a breakfast meeting.

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He then went on to admit "This is petty. I'm going to say up front it's petty, and Tony," meaning Blankley, his press secretary, "will probably say that I shouldn't say it, but I think it's human." Well, it may be human, but it is dead wrong, given the serious consequences facing this country.

Who are we kidding when people say, as someone just did, that it was the President who precipitated this crisis? The Speaker was quoted on April 3 as saying the following: "Gingrich boasted that the President will veto a number of things and will then put them all in the debt ceiling, and then he will decide how big a crisis he wants."

That was said on April 3, not after the President vetoed the continuing resolution. So I really think what we are looking at here tonight is the functional equivalent of an institutional temper tantrum brought on by the hurt feelings of the Speaker of the House because of his airplane episode. I think he ought to come down to earth and think about what the consequences are going to be for people on the surface of this globe, and they are not very pretty.

I also want to raise some basic questions about the wisdom of tying ourselves into a 7-year promise. If I thought that that 7-year promise would be kept, I would say by all means, let us make a promise right now to balance the budget in 7 years. But I want to point out, we have had a number of multiyear promises before.

In 1981, we had a promise from the President, President Reagan, that if we just passed his budget, we would balance the budget in 4 years. After it was passed, the President's Secretary of the Treasury, Donald Regan, said, "This is our program. It is now in place." This chart demonstrates the difference between the promise and the performance. They promised to take the deficit down from $55 billion down to a $1 billion surplus, does that sound familiar, in 4 years. They only missed by $185 billion.

So then they produced Gramm-Rudman I. They said, "Okay, we are going to make a 7-year promise. We are going to get to zero," from what was then a $172 billion deficit down to zero in 7 years. They passed it. They only missed by $220 billion, represented by these red bars here.

Then they said, "Okay, we are going to try it again, baby," so they passed Gramm-Rudman II. That was a 5-year promise to get us down from a $144 billion deficit down to zero by 1992. You know what? They only missed by $290 billion.

So I would say, beware of those bearing multiyear promises.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield.

Mr. OBEY. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, is the gentleman saying "million" or "billion"?

Mr. OBEY. "Billion."

Mr. MOAKLEY. With a "B".

Mr. OBEY. With a "B", a big B. It fits with the big baloney we are being told to slice here tonight.

What we are being told is that we should buy into another multiyear promise, but I want to know what assumptions are behind that promise. How much are you planning to cut Social Security in order to get there in 7 years? How much are you planning to cut education, and how much will that squeeze educational opportunity for young people today? How much are you going to be providing in taxes to your rich friends?

Do we really have to buy into those assumptions in order to get a balanced budget? I do not think so. I am perfectly willing to sign on, in a minute, to a balanced budget if you will remove your tax cuts, if you will provide the President with a line item veto that applies to tax gifts as well as appropriations, so that he has all of the goodies that he can eliminate in order to hold to that timetable.

I am willing to do it if you have a civilized and fair distribution of burden on taxes and on education and all the rest. But I am not willing to buy into a 7-year timetable just on vague promises, buy into a 7-year promise with a blindfold on, simply based on your promise that you are going to get it right this time when you screwed it up three times before.

I would suggest we ought to quit all of the fancy promises, we ought to quit all of the past history, now that I have corrected some of the misstatements that we have had all day here, and what we ought to ask ourselves is one simple question: whether we will do what is right tonight, whether we will do what is right tonight to create a better future for our kids tomorrow. That is the choice before us.

Mr. Speaker, I urge the Speaker, get over your personal pique, get over your hurt feelings about an airplane trip, grow up, and do what this country expects, which is to meet the immediate needs of the country in the fairest way possible.

Mr. ROTH. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Speaker, my friend, the gentleman from Wisconsin, I would ask him, these charts he has here on the broken promises, who was in control when all those promises were made? Who was in control?

Mr. OBEY. The Republicans controlled the Senate and Democrats controlled the House and the White House.

Mr. ROTH. No, you were in control for 40 continuous years.

Mr. OBEY. Mr. Speaker, I would say to the gentleman, he is smart enough to know history. Do not rewrite it. You and I both lived it.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Metairie, LA [Mr. LIVINGSTON], chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I appreciate my good friend, the gentleman from California, yielding time to me. I certainly rise in support of the rule. I think it is a good rule. I commend the Committee on Rules for its work.

Mr. Speaker, I was hoping my friend, the gentleman from Wisconsin, would have left me his charts. I wanted to talk from them, but he walked off with them.

Mr. Speaker, it is interesting to look at those Gramm-Rudman years. The fact is that our other friend, the gentleman from Wisconsin [Mr. ROTH], was right on the money. Back then, the Gramm-Rudman bill was primarily prompted by the Reagan administration and Members of Congress on both sides of the aisle who supported the Gramm-Rudman initiative were primarily Republicans, and we were in the minority.

In fact, Gramm-Rudman, if I recall correctly, got its start in 1987, which was after the Republicans were no longer in control of the U.S. Senate. By the way, 1987 and 1988 were the 2 years when all 13 appropriations bills were placed under continuing resolutions.

It was also the 2 years that led to the break from the Reagan years when we were downsizing the budget, that put us on an escalating path toward increased deficits. They are also the years that led up to a tax increase, in conjunction with the majority party meeting at Andrews Air Force Base in 1990, which gave us continued deficits, and an end to Gramm-Rudman. Because of the constraints, the straitjacket of Gramm-Rudman was ripped apart, so that the gentleman who did not support Gramm-Rudman and did everything, along with so many other Members of the then-majority of the House and the then-majority of the Senate, to just simply disregard Gramm-Rudman.

Spending under the majority party's governance in both the House and Senate went up drastically. Gramm-Rudman did not work, because the majority did not abide by it. Now they are in the minority for exactly that reason. Finally, the American people said, "Okay, you have had your time at bat, 40 years at bat is enough, let us give somebody else another chance."

The Republicans are in control. We are taking this country toward a balanced budget by the year 2002, with or without you, with or without the President of the United States, without their cooperation if necessary, but we are going to get there. There are going to be a lot of Democrats that are going to support us. There are going to be a lot of Republicans, Democrats, and independents around this Nation that are going to support us.

The bottom line is the downpayment is being made, no smoke, no gimmicks, no mirrors, no distortion. We are working within a balanced budget glide path to the year 2002, and our children and our grandchildren will prosper because of it.

Mr. ROTH. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Speaker, I just want to make two points. The gentleman from Louisiana is one of the hardest working Members of this body, and when people say, "Hey, we have not done our work," I used and he used this card 797 times this year. Two years ago we used it about 500 times. I want to ask the gentleman this question: Does he not think the President is going to sign it? The President on his campaign trail says he is going to balance the budget in 5 years. The gentleman is giving him 7.

Mr. LIVINGSTON. If the gentleman will continue to yield, 7 years. Mr. President, I hope you sign the bill.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 seconds to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, just to correct the misstatement of history, Gramm-Rudman was passed in 1985, not 1987. The Republicans controlled the Senate when it happened. That is why it is named Gramm and Rudman.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from New Jesey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to urge my colleagues to defeat this rule on the continuing resolution, because it does not allow an amendment that would take out the budget language that is objectionable to the President.

Mr. Speaker, I think it is wrong for us to cut back or close down Government agencies because of a disagreement in this House over the budget. That is essentially what we have here. The President says that he does not want to be bogged down by this 7-year budget language and the language that is in the CR with regard to the Congressional Budget Office.

I personally feel that the budget is wrong, as I have said many times, because it cuts Medicare in order to pay primarily for tax cuts for the wealthy.

But I think that what we really should be doing is allowing a continuing resolution to pass that is clean, that does not get involved in the budget battle, and spend the time over the next few days or the next few weeks trying to come up with a compromise on the budget that is acceptable to both sides and that is acceptable to the President.

What is happening now is that basically the American people are being asked to pay the price of the bickering that is going on in this House, that is going on, I should say, in this Congress. It is simply not fair. We know a lot of people came down to Washington the last couple of days and they want to see the monuments. Some of them had been waiting for the bill a year or two to do that. I have people in my office that have not been able to apply for Social Security benefits, for veterans' benefits, those who wanted to join the Armed Forces who have not been able to see a recruiter.

What the Republican leadership is basically saying is that "You have to have it our way. You have to go for the 7-year budget. You have to go with the CBO estimates. Otherwise, we are going to continue to close down the Government." They are essentially holding the Government, if you will, hostage to their view of the budget. It is not the proper way to proceed. We know there are disagreements on the budget. The way this rule provides, it does not allow for a clean CR. I think it is wrong, and for that reason it should be defeated.

Mr. DREIER. Mr. Speaker, I am happy to yield 3 minutes to my very good friend, the gentleman from Fairfax, VA [Mr. DAVIS], chairman of the Subcommittee on the District of Columbia.

Mr. DAVIS. Mr. Speaker, I thank my good friend for yielding time to me.

Mr. Speaker, I voted with the minority on Monday to recommit this bill and send a clean resolution to the President. I thought it was junked up. I wanted to get the Federal Government working again. I felt there were some extraneous matters that did not belong there.

But having said that, let me note that continuing resolutions with extraneous matters is not new to this body on the other side of the aisle. The nuclear waste policy amendments were put on in 1988, the Boland amendment, called the Central American Nicaraguan Promotion of Democracy Act were put on in about 1987, along with 8 other riders.

In 1984 we put on a comprehensive crime control act; in 1983, language designating part of the New Jersey Turnpike as part of the Interstate Highway System was put on a continuing resolution, as was a pay raise for House Members, as was the Ted Turner amendments, giving him tax breaks for cable operators; and in fiscal 1982, tax breaks for Members of this body were put on. So this has happened before, and Members on the other side are not being fair to say let us get a clean resolution now, when that has not been their history.

Having said that, let us get to where we are today. I hope what I am hearing on the other side is not, do it our way or no way. This side is showing flexibility. We have come back with another resolution, in light of the fact that the President would not sign what was sent to him earlier. It is hardly an extraneous resolution.

Mr. WYNN. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Maryland.

Mr. WYNN. Mr. Speaker, I think we have some of the same concerns, representing probably more Federal employees than any other Members in this body.

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I am concerned when I turn to the last page. I want to understand what kind of commitment we are making. Quite frankly, while I can live with a balanced budget and think we probably ought to get there, I am not willing to accept $270 billion cuts in Medicare nor am I willing to accept certain tax breaks.

Do you interpret this language to mean that we are making commitments to essentially your budget?

Mr. DAVIS. As my friend knows, I opposed the tax cuts. I was 1 of 10 Members on this side to oppose that. I understand all of that will be on the table. All of that will be on the table. This does not commit you to vote for $270 billion in tax cuts. It does not commit you to vote for Medicare cuts. It is on the table to be negotiated between the President and Congress.

This is hardly blackmail. It is clean, simple. If the President vetoes this resolution, it is going to be clear it was not Medicare that led him to veto the last resolution. Medicare is not in here. It is not in here at all. It was not educational cuts. There is enough money in this resolution to keep the Department of Education running at present levels over the next 18 days. It was not the environment, because there is enough money in here to keep the EPA running for the next 18 days, which is what this resolution provides for.

So the excuses that were used for not signing the first resolution are not here in this case. It would only be because the President would not care about continuing the operations of government and would not care about balancing the budget, and I do not believe that. I do not believe that. I think the President will do the right thing. I think he will do the right thing for the country. I think he will do the right thing for Federal employees. I think he will do the right thing for the children and for our Nation's future by signing this resolution, this continuing resolution to keep the government going. I intend to support it.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I just wanted to talk a bit more about some of the really awful things that have happened by this government shutdown. Today in my State of Colorado they had to issue an emergency request for blood supply, for blood supply, because this happens to be the time when they run the blood drive at the Federal center, and so many Federal employees give so generously, and during the holiday season we have all sorts of people come to visit, and they feel that if they do not get 400 units of blood a day during this period, we are in dire straits during the holiday season.

Now, we in our office have been asking people in Colorado to, please, go donate because this is very, very critical. But that is one more impact on top of people phoning our office day and night with all sorts of crises, from passports on, trying to figure out what to do.

I must say tonight I was very angry to look at the AP wire and see a headline saying the House Speaker says that the Air Force 1 snub led to the government shutdown, and he said that morning at a breakfast, according to the AP wire, that the reason he felt obligated to shut the government down was that the President did not come chat him up or chat with him when he was on the way to the funeral.

Now, I find this absolutely amazing.

Number one, it was a funeral for a head of State.

Number two, you had prior ex-Presidents sitting with the President and on, but to have that kind of temper tantrum and go through all the turbulence we have gone through this week is immaturity beyond belief, and I think this whole body deserves an apology if this story is correct, and it is not correct, then I hope the Speaker comes and corrects it.

Because, really, the turbulence and what has happened to the lives of those 800,000 people who have been thrown out on the street, what is happening to the taxpayers who are going to be paying those 800,000 people, thank goodness, but they are getting less service, they are going to be paying more money. And all of this is absolutely crazy.

But to read that it is all about ego, all about ego, when, according to this story, the Speaker was accorded all sorts of privileges no one else had. He got to bring his spouse, when the prior Presidents did not get to, which other people did not get to. He got all of those. But it seems it was not enough.

they get their way—they will shut the door of government services that help veterans who served our country and students who want to serve. Cut. Gut. And shut. That is the entire GOP plan.

Now, Republicans are outraged that the President would use his veto. Well, for them, I offer not a vocabulary lesson, but a civics lesson. Remember—this is just a part of our American system of "checks and balances."

Unfortunately, when many Republicans think about "checks," they can only picture the huge campaign checks that paid for their election. When they hear "balances," they only think about a budget "balanced" on the backs of working families.

Mr. GINGRICH: instead of "cut, gut and shut," please cut out the political posturing, show some guts, and shut the door on the special interest lobbyists who financed your election. That's the simple solution that all Americans want.

And that's why we need to defeat this rule.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. SCHIFF], chairman of the Subcommittee on Basic Research of the Committee on Science.

Mr. SCHIFF. Mr. Speaker, this is it. All of the conditions in the continuing resolution have been removed except for one: that we reach a balanced budget through a common procedure; in this case, over 7 years using Congressional Budget Office economic projections.

Both of those conditions have previously been agreed to by the President of the United States. There is no commitment in voting for this continuing resolution in supporting the Republican plan or any other plan.

Mr. Speaker, the question was asked what will be on the table, and the point is that the President of the United States can put anything on the table he wants, as long as it will balance the budget in 7 years and uses Congressional Budget Office economic figures.

So, if the President does not like our budget, the President can offer his own budget, only as long as it meets the same standards that we have used for ourselves.

Mr. Speaker, in my judgment, this is really a vote to decide who supports a balanced budget and who does not. Dozens upon dozens of our Democratic Party colleagues voted for a 7-year balanced budget. I hope they will do so again.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from East Petersburg, PA [Mr. WALKER], chair of the very important Committee on Science.

Mr. WALKER. Mr. Speaker, is it not sad and tragic and somewhat pathetic that the people who oppose the balanced budget can only come to the floor and attack the Speaker? It is the only thing that they have left.

Mr. Speaker, it really is kind of tragic, folks. The fact is that many of the American people have come to the conclusion that the Government is too big and spends too much. They figure that the way to stop that problem is to balance the budget.

That is what this is all about. A large number of people have been bragging for weeks out here about how they voted for the balanced budget amendment to the Constitution. That was about 7 years. A substantial number of people have come to the floor and talked about how they voted for alternative balanced budgets in the course of the year. Those are all 7 years.

All the language says tonight is that we are going to commit, we and the President, to a contract. That that is what we are going to do. All of the people who have voted on both sides of the aisle for a balanced budget of some type in the course of this year, or for the balanced budget amendment to the Constitution, tonight will prove whether or not they meant it for real.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Portland, ME [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, this is an interesting debate tonight. It was barely 8 or 10 months ago that on this floor 300 Members voted for the balanced budget amendment, including a significant number of Members from the other side of the aisle.

Not only that, but there were a number of Members that stood up in the well of this House and piously intoned how they could not support a balanced budget amendment, because what we really needed to do was to have a Congress with the will to make the tough decisions.

My, my, my. Well, tonight we have a clean continuing resolution. Frankly, we should have had it a week ago, maybe even 6 or 8 weeks ago, because I think we should have started the new fiscal year on the assumption that we are going to balance the budget within 7 years, just like 300 Members voted back in January.

Mr. Speaker, tonight is where the rubber meets the road. Who means what they say or who is just down here posturing?

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Speaker, there is nothing magical about 7 years. Our Republican friends made a promise in their Contract With America that the fictional 7 years was important. I say fiction, because they know and the American people really know, that we are not able to bind future Congresses any more than we have been bound by previous Congresses.

We will not balance the budget in 7 years. We will create more pain for the elderly; more pain for the young; more pain for veterans; more pain for American citizens. It is simply a question, when trying to balance the budget, of whether or not we are going to do it in a certain time frame.

□ 2100

You have come up with 7 years. I could do it in 3 with a lot of pain. I could do it in 10 with less pain. There is not a damn thing magical about 7 years.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Birmingham, AL [Mr. BACHUS].

Mr. BACHUS. Mr. Speaker, 3 years ago on "Larry King Live," candidate Bill Clinton made a promise to the American people to balance the budget in 5 years. He spoke of a balanced budget as both an obligation to our children and a necessity of our country.

Tonight we will give him an opportunity to make good on his promise to the American people. To balance the budget—not in 2 more years as he originally promised, or in 5 years from tonight. No, we ask simply that he commit to a real balanced budget in 7 years. Seven years.

Tonight is his and our moment of truth. Tonight he, and we in this body, will be given the opportunity to choose between higher taxes and a bigger, more costly, more reaching Federal bureaucracy, and, on the other hand, lower taxes on American families, and a smaller, more effective, less intrusive Washington.

Will Bill Clinton choose the latter, as he promised? Will he keep his word? Or will he break his promise to the American people, to our children, and the future generations, and in the process, shut the Federal Government down.

The choice is first ours, and then Bill Clinton's. It's promise keeping time. Mr. President?

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Palm Bay, FL [Mr. WELDON], a hard-working new Member.

Mr. WELDON of Florida. Mr. Speaker, when I was running for Congress in 1994, I had many, many people who told me they had never worked on a campaign before and never donated to a campaign before who got involved with getting me elected to Congress.

I remember one fellow, Doug Jackson, told me he had saved up some money for a new entertainment center in his living room. He had no furniture in his living room and he gave me that money. I tried to talk him out of it. I asked him, why are you doing this? He told me he was concerned about the future for his children regarding the problems with education and crime in our country. But the most important thing he cited was deficit spending, the debt that this nation was incurring.

I am rising today to speak out in strong support of this rule and this continuing resolution which will finally for the first time commit us to what Doug Jackson sent me to the U.S. Congress for, and that is finally balancing the books here in Washington. I am very encouraged to hear that many of our colleagues on the other side of the aisle are going to be joining with us tonight, but I am very disappointed by the words of the President. I do not know why he does not want to join with us. Clearly the American people want a balanced budget. They spoke clearly in 1994. I urge all my colleagues to support this rule.

Mr. DREIER. Mr. Speaker, may I inquire how much time remains on both sides?

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] has 3 minutes and 45 seconds remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 3½ minutes remaining.

Mr. DREIER. Mr. Speaker, I yield 1½ minutes to the gentleman from Sanibel, FL [Mr. GOSS], chairman of the Subcommittee on Legislative Process of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank my friend from greater metropolitan San Dimas, CA, distinguished vice chairman of the Committee on Rules, for yielding time to me.

It is a good rule. It is an appropriate rule. It is a timely rule, and I urge its support, and this debate is about the rule.

Mr. Speaker, most everyone in the country agrees that we need to. That is why we have this good rule. But most also think it is very important that we stick to our commitment to balance the budget in 7 years and if the President can commit to that, then this limited government shutdown problem will get resolved very quickly if not immediately.

Americans want this budget balanced by 2002 or sooner, as my friend from Florida noted. In fact, the calls and faxes to our offices today tell the story. Not the predetermined poll results of the liberal media but the calls and faxes that came into my office, they were running up to 7 to 1 in favor of the balanced budget and get on with it.

I note that the President has said over and over that he thinks he wants a balanced budget, too. Unfortunately, according to the Congressional Budget Office, the President's best plan leaves this country $200 billion in the red, in deficit, in the year 2002, while our plan does balance the budget.

There is no plausible reason for the President to veto this bill unless he really does not want a balanced budget. And in the spirit of bipartisanship, we have created a cleaner CR for him now. There are no more excuses. Now is the time to sign. We hope he is going to do the right thing and so do most Americans.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. FAZIO].

The SPEAKER pro tempore. The gentleman from California [Mr. FAZIO] is recognized for 3½ minutes.

Mr. FAZIO of California. Mr. Speaker, I find this an extraordinary circumstance. I think every one of us anticipated that we would be at this crisis point about this time in the calendar year. Why? Because we assumed the President would have used his veto power and there would be so many issues that we would be in conflict on, bills unresolved. Mr. Speaker, I think we all assumed we would be at a point of conflict because the President had exercised his veto authority and, therefore, appropriations bill after bill would be before this body for override and then perhaps because we would fail to do so, each would end up in a CR.

But this is a contrived crisis. This is not a result of a clash between the President and his veto pen and this Congress. We have not even sent him most of the bills to veto. He made one veto of the legislative branch bill because, as he said, he wanted us to feel the pain of a government shutdown and not exempt our selves. Now, all of the remainder of our appropriations bills have not even been sent to him. We have not sent a budget resolution. It was supposed to have been passed 6 weeks ago. The debt limit would have been dealt with in the context of that. So we are in a contrived crisis tonight. Of course public opinion was not serving the new majority well. They did not look well jacking up Medicare rates on senior citizens so they tried a new tact. They have begun to peel back the onion, begun to try to put together something that on the surface looks like a cleaner CR.

But there is one little hooker in it. It relates to the concept of a 7-year balanced budget. I am for a 7-year balanced budget. I have voted not only for the Stenholm resolution, but I have voted for the balanced budget proposal that was made on our side by the gentleman from Texas [Mr. STENHOLM], the gentleman from Utah [Mr. ORTON], and the gentleman from Minnesota [Mr. SABO]. But I took that position in the context of a detailed alternative to what the Republicans have offered.

For example, I do not believe we ought to be cutting taxes for people at the upper income level by $250 billion. So what I would like to say, if I could have the attention of my Republican colleagues, is we cannot pull out the 7-year issue from the context of all of the components of a balanced budget. When you do not deal with taxes—whether you increase them on working people or cut them for the wealthy. When you do not deal with the question of how much you are going to cut Medicare or how much you are going to cut Medicaid; when you do not deal with the other demands that have to be part of what will constitute a balanced budget plan, you cannot legitimately come here and ask us to take one issue—the time frame to reach balance—off the table.

It is a complex combination of policies that will get us to a balanced budget in 7 years. If we have no ability to cut back on the massive tax cuts or reduce the Medicare cuts, for example we may have to go beyond 7 years to 8. Those of us on this side who have stood up for a 7-year balanced budget have done so laying out our policies that differed dramatically with your Republican plan, but we cannot simply concede that time line without knowing the details.

We ought to be given the opportunity to allow the give and take between the executive and the legislative branches, between the President and your majority, to take place without it being circumscribed tonight by this rider. This is not a clean CR. It ought to be defeated, and then we ought to go about the business of bringing the bills to the President so he can exercise his authority to sign or veto them. A clean CR is what we need tonight. Not another political gesture.

Mr. DREIER. Mr. Speaker, to close the debate on our side, I yield the balance of my time to the gentleman from Stamford, CT [Mr. SHAYS], a senior member of the Committee on the Budget.

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. SHAYS] is recognized for 2 minutes and 15 seconds.

Mr. SHAYS. Mr. Speaker, former Prime Minister Rabin of Israel once said, politicians are elected by adults to represent the children. Children do not vote. They do not respond to political polls, but they ultimately are the ones who will be helped or hurt by what we do here. That is why we are determined to get our financial house in order and balance our budgets.

We are determined to save our trust funds, particularly Medicare, and we are determined to transform this social and corporate welfare state into an opportunity society. For our children, we are determined to balance our Federal budgets within 7 years with or without the help of the President. And we are doing it by increasing the earned income tax credit from $19.8 billion to $27.5 billion. The school lunch program, from $6.3 billion to $7.8 billion. The student loan program from $24.5 billion to $36 billion. The Medicaid program from $89 billion to $124 billion. The Medicare program from $178 billion to $278 billion.

Only in Washington, when you spend so much money for our children, do some people call it a cut in spending. Over 300 Members of this House supported a balanced budget amendment in 7 years, Republicans and Democrats. We are asking the President to join with 300 Members, well over two-thirds of this body, to get our financial house in order. Balance this budget and save this future for our children.

Mr. DREIER. Mr. Speaker, I urge an aye vote on this resolution.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 249, nays 176, not voting 7, as follows:

[Roll No. 800]

YEAS—249

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—176

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn

NOT VOTING—7

Fields (LA)
Houghton
Rose
Tucker
Volkmer
Waldholtz
Yates

☐ 2132

Mr. DOGGETT changed his vote from "yea" to "nay."

Mr. HOBSON changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2126, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. YOUNG of Florida submitted the following conference report and statement on the bill (H.R. 2126) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-344)

The Committee on Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2126) "making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes," having met, after further full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, for military functions administered by the Department of Defense, and for other purposes, namely:*

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,946,187,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $17,008,563,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant *to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,885,740,000.*

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $17,207,743,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $2,122,466,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $1,355,523,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $378,151,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $784,586,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $3,242,422,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $1,259,627,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $14,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $18,321,965,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,151,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $21,279,425,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: Provided, That of the funds appropriated under this heading, $595,100,000 shall be available only for the liquidation of prior year accumulated operating losses of the Department of the Navy activities included in the Defense Business Operations Fund.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $2,392,522,000.

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,326,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $18,561,267,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: Provided, That the Secretary of the Air Force may acquire all right, title, and interest of any party in and to parcels of real property, including improvements thereon, consisting of not more than 92 acres, located near King Salmon Air Force Station for the purpose of conducting a response action in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601–9675) and the Air Force Installation Restoration Program.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $10,388,595,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $28,588,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided, That of the funds appropriated under this heading, $20,000,000 shall be made available only for use in federally owned education facilities located on military installations for the purpose of transferring title of such facilities to the local education agency: Provided further, That of the funds available under this heading, $300,000,000 shall be available only for transfer to the Coast Guard in support of the national security functions of the Coast Guard, while operating in conjunction with and in support of the Navy: Provided further, That funds transferred pursuant to this section are in addition to transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,119,191,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $859,542,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $100,283,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles;

travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,519,287,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $2,440,808,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $2,776,221,000.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces; $6,521,000, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $1,422,200,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same period as the appropriations of funds to which transferred, as follows:

Operation and Maintenance, Army, $631,900,000;

Operation and Maintenance, Navy, $365,300,000;

Operation and Maintenance, Air Force, $368,000,000; and

Operation and Maintenance, Defense-wide, $57,000,000:

Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

SUMMER OLYMPICS

For logistical support and personnel services (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the 1996 Games of the XXVI Olympiad to be held in Atlanta, Georgia) provided by any component of the Department of Defense to the 1996 Games of the XXVI Olympiad; $15,000,000: Provided, That funds appropriated under this heading shall remain available for obligation until September 30, 1997.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code); $50,000,000: Provided, That of the funds available under this heading, $20,000,000 shall be available for training and activities related to the clearing of landmines for humanitarian purposes.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise; $300,000,000 to remain available until expended.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,558,805,000, to remain available for obligation until September 30, 1998: Provided, That not less than nine UH-60L helicopters shall be made available to the Army National Guard for the medical evacuation mission.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $865,555,000, to remain available for obligation until September 30, 1998.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,652,745,000, to remain available for obligation until September 30, 1998.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,110,685,000, to remain available for obligation until September 30, 1998.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 41 passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,769,443,000, to remain available for obligation until September 30, 1998.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $4,589,394,000, to remain available for obligation until September 30, 1998.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private *plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $1,166,827,000, to remain available for obligation until September 30, 1998.*

Procurement of Ammunition, Navy and Marine Corps

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $430,053,000, to remain available for obligation until September 30, 1998.

Shipbuilding and Conversion, Navy

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefore, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

For continuation of the SSN–21 attack submarine program, $700,000,000;

NSSN–1 (AP), $704,498,000;

NSSN–2 (AP), $100,000,000;

CVN Refuelings, $221,988,000;

DDG–51 destroyer program, $2,169,257,000;

LHD–1 amphibious assault ship program, $1,300,000,000;

LPD–17 amphibious transport dock ship, $974,000,000;

Fast patrol craft, $9,500,000;

T–AGS–64 multi-purpose oceanographic survey ship, $16,000,000;

LSD–52, $20,000,000; and

For craft, outfitting, post delivery, conversions, and first destination transportation, $428,715,000;

In all: $6,643,958,000, to remain available for obligation until September 30, 2000: Provided, That additional obligations may be incurred after September 30, 2000, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 252 passenger motor vehicles for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $2,483,581,000, to remain available for obligation until September 30, 1998.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 194 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $458,947,000, to remain available for obligation until September 30, 1998.

Aircraft Procurement, Air Force

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,367,983,000, to remain available for obligation until September 30, 1998.

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $2,943,931,000, to remain available for obligation until September 30, 1998.

Procurement of Ammunition, Air Force

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $338,800,000, to remain available for obligation until September 30, 1998.

Other Procurement, Air Force

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 385 passenger motor vehicles for replacement only; the purpose of 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $260,000 per vehicle; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $6,284,230,000, to remain available for obligation until September 30, 1998.

Procurement, Defense-Wide

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 451 passenger motor vehicles, of which 447 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $2,124,379,000, to remain available for obligation until September 30, 1998.

National Guard and Reserve Equipment

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $777,000,000, to remain available for obligation until September 30, 1998: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Research, Development, Test and Evaluation, Army

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $4,870,684,000, to remain available for obligation until September 30, 1997.

Research, Development, Test and Evaluation, Navy

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $8,748,132,000, to remain available for obligation until September 30, 1997: Provided, That of the funds provided in Public Law 103–335, in title IV, under the heading "Research, Development, Test and Evaluation, Navy", $5,000,000 shall be made available as a grant only to the Marine and Environmental Research and Training Station (MERTS) for laboratory and other efforts associated with research, development, and other programs of major importance to the Department of Defense:

Provided further, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique requirements of the Special Operations Forces.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $13,126,567,000, to remain available for obligation until September 30, 1997: Provided, That of the funds made available in this paragraph, $25,000,000 shall be only for development of reusable launch vehicle technologies: Provided further, That not less than $9,500,000 of the funds appropriated in this paragraph shall be made available only for the Joint Seismic Program and the Global Seismographic Network.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,411,057,000, to remain available for obligation until September 30, 1997: Provided, That not less than $200,442,000 of the funds appropriated in this paragraph shall be made available only for the Sea-Based Wide Area Defense (Navy Upper-Tier) program: Provided further, That the funds made available under the second proviso under this heading in Public Law 103–335 (108 Stat. 2613) shall also be available to cover the reasonable costs of the administration of loan guarantees referred to in that proviso and shall be available to cover such costs of administration and the costs of such loan guarantees until September 30, 1998.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director, Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $251,082,000, to remain available for obligation until September 30, 1997.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $22,587,000, to remain available for obligation until September 30, 1997.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE BUSINESS OPERATIONS FUND

For the Defense Business Operations Fund; $878,700,000.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App 1744); $1,024,220,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all ship-board services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That the Secretary of the Navy may obligate not to exceed $110,000,000 from available appropriations to the Navy for the procurement of one additional MPS ship.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law; $10,226,358,000, of which $9,938,325,000 shall be for Operation and maintenance, of which $288,033,000, to remain available for obligation until September 30, 1998, shall be for Procurement: Provided, That of the funds appropriated under this heading, $14,500,000 shall be made available for obtaining emergency communications services for members of the Armed Forces and their families from the American National Red Cross as authorized by law: Provided further, That the date for implementation of the nationwide managed care military health services system shall be extended to September 30, 1997: Provided further, That of the funds provided under this heading, $3,400,000 is available only to permit private sector or non-Federal physicians, who have used and will use the antibacterial treatment method based upon the excretion of dead decaying spherical bacteria to work in conjunction with the Walter Reed Army Medical Center on a treatment protocol and related studies for Desert Storm Syndrome-affected veterans.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $672,250,000, of which $353,850,000 shall be for Operation and maintenance, $265,000,000 shall be for Procurement to remain available until September 30, 1998, and $53,400,000 shall be for Research, development, test and evaluation to remain available until September 30, 1997.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; $688,432,000: Provided, That the funds appropriated by this paragraph shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended; $178,226,000, of which $177,226,000 shall be for Operation and maintenance, of which not to exceed $400,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on his certificate of necessity for confidential military purposes; and of which $1,000,000 to remain available until September 30, 1998, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $213,900,000.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $7,500,000, to be derived from the national Security Education Trust Fund, to remain available until expended: Provided, That any individual accepting a scholarship or fellowship from this program agrees to be employed by the Department of Defense or in the Intelligence Community in accordance with Federal employment standards.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

For necessary expenses of the Intelligence Community Management Account; $90,683,000.

KAHO'OLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION TRUST FUND

For payment to the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, as authorized by law, $25,000,000, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. *No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.*

SEC. 8004. *No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.*

(TRANSFER OF FUNDS)

SEC. 8005. *Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $2,400,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.*

(TRANSFER OF FUNDS)

SEC. 8006. *During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds and the "Foreign Currency Fluctuations, Defense" and "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.*

SEC. 8007. *Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source: Provided further, That none of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.*

SEC. 8008. *Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.*

SEC. 8009. *None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for payments to physicians and other noninstitutional health care providers in excess of the amounts allowed in fiscal year 1995 for similar services, except that: (a) for services for which the Secretary of Defense determines an increase is justified by economic circumstances, the allowable amounts may be increased in accordance with appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act; and (b) for services the Secretary determines are overpriced based on allowable payments under title XVIII of the Social Security Act, the allowable amounts shall be reduced by not more than 15 percent (except that the reduction may be waived if the Secretary determines that it would impair adequate access to health care services for beneficiaries). The Secretary shall solicit public comment prior to promulgating regulations to implement this section. Such regulations shall include a limitation, similar to that used under title XVIII of the Social Security Act, on the extent to which a provider may bill a beneficiary an actual charge in excess of the allowable amount.*

SEC. 8010. *None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the congressional defense committees have been notified at least thirty days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.*

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

UH-60 Blackhawk helicopter;

Apache Longbow helicopter; and

M1A2 tank upgrade.

SEC. 8011. *Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.*

SEC. 8012. *(a) During fiscal year 1996, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.*

(b) The fiscal year 1997 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1997 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1997.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8013. *None of the funds provided in this Act shall be available either to return any IOWA Class Battleships to the Naval Register, or to retain the logistical support necessary for support of any IOWA Class Battleships in active service.*

SEC. 8014. *Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States, its territories, and the District of Columbia, 125,000 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual: Provided further, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.*

SEC. 8015. *None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.*

SEC. 8016. *None of the funds appropriated for the Department of Defense during the current fiscal year and hereafter shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.*

SEC. 8017. *Notwithstanding any other provision of law, during the current fiscal year and hereafter, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any person who would* *otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.*

SEC. 8018. (a) None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act—

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: Provided, That, in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: Provided further, That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8019. Funds appropriated for the Department of Defense during the current fiscal year and hereafter shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8020. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: Provided, That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

(TRANSFER OF FUNDS)

SEC. 8021. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8022. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

(TRANSFER OF FUNDS)

SEC. 8023. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8024. Of the funds made available by this Act in title III, Procurement, $8,000,000, drawn pro rata from each appropriations account in title III, shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974, 25 U.S.C. 1544. These payments shall be available only to contractors which have submitted subcontracting plans pursuant to 15 U.S.C. 637(d), and according to regulations which shall be promulgated by the Secretary of Defense within 90 days of the passage of this Act.

SEC. 8025. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8026. During the current fiscal year, none of the funds available to the Department of Defense may be used to procure or acquire (1) defensive handguns unless such handguns are the M9 or M11 9mm Department of Defense standard handguns, or (2) offensive handguns except for the Special Operations Forces: Provided, That the foregoing shall not apply to handguns and ammunition for marksmanship competitions.

SEC. 8027. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by Executive Agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: Provided, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: Provided further, That the Department of Defense's budget submission for fiscal year 1997 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: Provided further, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: Provided further, That each such Executive Agreement with a NATO member host nation shall be reported to the congressional defense committees, and the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate thirty days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8028. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, or M–1911 pistols.

SEC. 8029. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8030. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8031. None of the funds appropriated during the current fiscal year and hereafter, may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: Provided, That savings that result from this provision are represented as such in future budget proposals.

SEC. 8032. None of the funds appropriated by this Act shall be available for payments under the Department of Defense contract with the Louisiana State University Medical Center involving the use of cats for Brain Missile Wound Research, and the Department of Defense shall not make payments under such contract from *funds obligated prior to the date of the enactment of this Act, except as necessary for costs incurred by the contractor prior to the enactment of this Act: Provided, That funds necessary for the care of animals covered by this contract are allowed.*

SEC. 8033. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa: Provided, That notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8034. None of the funds provided in this Act or any other Act shall be available to conduct bone trauma research at any Army Research Laboratory until the Secretary of the Army certifies that the synthetic compound to be used in the experiments is of such a type that its use will result in a significant medical finding, the research has military application, the research will be conducted in accordance with the standards set by an animal care and use committee, and the research does not duplicate research already conducted by a manufacturer or any other research organization.

SEC. 8035. No more than $50,000 of the funds appropriated or made available in this Act shall be used for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and Senate that such a relocation is required in the best interest of the Government.

SEC. 8036. During the current fiscal year, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5 or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 261 of title 10, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under section 331, 332, 333, or 12406 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5.

SEC. 8037. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of twenty-four months after initiation of such study with respect to a single function activity or forty-eight months after initiation of such study for a multi-function activity.

SEC. 8038. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8039. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1996 for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 8040. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8041. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act.

SEC. 8042. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

SEC. 8043. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8044. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That, upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriation or fund which incurred such obligations.

SEC. 8045. Of the funds made available in this Act, not less than $25,144,000 shall be available for the Civil Air Patrol, of which $16,704,000 shall be available for Operation and Maintenance.

SEC. 8046. (a) None of the funds appropriated in this Act are available to establish a new FFRDC, either as a new entity, or as a separate entity administered by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other nonprofit entities.

(b) LIMITATION ON COMPENSATION.—No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, may be compensated for his or her services as a member of such entity, or as a paid consultant, except under the same conditions, and to the same extent, as members of the Defense Science Board: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the Department of Defense from any source during fiscal year 1996 may be used by a defense FFRDC, through a fee or other payment mechanism, for charitable contributions, for construction of new buildings, for payment of cost sharing for projects funded by government grants, or for absorption of contract overruns.

(d) Notwithstanding any other provision of law, of the amounts available to the Department of Defense during fiscal year 1996, not more than $1,162,650,000 may be obligated for financing activities of defense FFRDCs: Provided, That the total amounts appropriated in titles II, III, and IV of this Act are hereby reduced by $90,000,000 to reflect the funding ceiling contained in this subsection.

SEC. 8047. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of enactment of this Act.

SEC. 8048. None of the unobligated balances available in the National Defense Stockpile Transaction Fund during the current fiscal year may be obligated or expended to finance any grant or contract to conduct research, development, test and evaluation activities for the development or production of advanced materials, unless amounts for such purposes are specifically appropriated in a subsequent appropriations Act.

SEC. 8049. For the purposes of this Act, the term "congressional defense committees" means the National Security Committee of the House of Representatives, the Armed Services Committee of the Senate, the subcommittee on Defense of the Committee on Appropriations of the Senate, and the subcommittee on National Security of *the Committee on Appropriations of the House of Representatives.*

SEC. 8050. Notwithstanding any other provision of law, during the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8051. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 1996. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8052. Notwithstanding any other provision of law, the Secretary of Defense may, when he considers it in the best interest of the United States, cancel any part of an indebtedness, up to $2,500, that is or was owed to the United States by a member or former member of a uniformed service if such indebtedness, as determined by the Secretary, was incurred in connection with Operation Desert Shield/Storm: Provided, That the amount of an indebtedness previously paid by a member or former member and cancelled under this section shall be refunded to the member.

SEC. 8053. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

SEC. 8054. During the current fiscal year, voluntary separation incentives payable under 10 U.S.C. 1175 may be paid in such amounts as are necessary from the assets of the Voluntary Separation Incentive Fund established by section 1175(h)(1).

SEC. 8055. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8056. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2) (A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8057. During the current fiscal year, appropriations available to the Department of Defense may be used to reimburse a member of a reserve component of the Armed Forces who is not otherwise entitled to travel and transportation allowances and who occupies transient government housing while performing active duty for training or inactive duty training: Provided, That such members may be provided lodging in kind if transient government quarters are unavailable as if the member was entitled to such allowances under subsection (a) of section 404 of title 37, United States Code: Provided further, That if lodging in kind is provided, any authorized service charge or cost of such lodging may be paid directly from funds appropriated for operation and maintenance of the reserve component of the member concerned.

SEC. 8058. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the Defense Agencies.

SEC. 8059. None of the funds in this or any other Act shall be available for the preparation of studies on—

(a) the feasibility of removal and transportation of unitary chemical weapons from the eight chemical storage sites within the continental United States to Johnston Atoll: Provided, That this prohibition shall not apply to General Accounting Office studies requested by a Member of Congress or a Congressional Committee; and

(b) the potential future uses of the nine chemical disposal facilities other than for the destruction of stockpile chemical munitions and as limited by section 1412(c)(2), Public Law 99-145: Provided, That this prohibition does not apply to future use studies for the CAMDS facility at Tooele, Utah.

SEC. 8060. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8061. During the current fiscal year, annual payments granted under the provisions of section 4416 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-428; 106 Stat. 2714) shall be made from appropriations in this Act which are available for the pay of reserve component personnel.

SEC. 8062. For fiscal year 1996, the total amount appropriated in this Act to fund the Uniformed Services Treatment Facilities program, operated pursuant to section 911 of Public Law 97-99 (42 U.S.C. 248c), shall not exceed $315,000,000.

SEC. 8063. Of the funds appropriated or otherwise made available by this Act, not more than $119,200,000 shall be available for payment of the operating costs of NATO Headquarters: Provided, That the Secretary of Defense may waive this section for Department of Defense support provided to NATO forces in and around the former Yugoslavia.

SEC. 8064. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8065. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $100,000.

SEC. 8066. During the current fiscal year, appropriations available for the pay and allowances of active duty members of the Armed Forces shall be available to pay the retired pay which is payable pursuant to section 4403 of Public Law 102-484 (10 U.S.C. 1293 note) under the terms and conditions provided in section 4403.

SEC. 8067. (a) During the current fiscal year, none of the appropriations or funds available to the Defense Business Operations Fund shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Defense Business Operations Fund if such an item would not have been chargeable to the Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 1997 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1997 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 1997 procurement appropriation and not in the supply management business area or any other area or category of the Defense Business Operations Fund.

SEC. 8068. None of the funds provided in this Act shall be available for use by a Military Department to modify an aircraft, weapon, ship or other item of equipment, that the Military Department concerned plans to retire or otherwise dispose of within five years after completion of the modification: Provided, That this prohibition shall not apply to safety modifications: Provided further, That this prohibition may be waived by the Secretary of a Military Department if the Secretary determines it is in the best national security interest of the United States to *provide such waiver and so notifies the congressional defense committees in writing.*

SEC. 8069. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions to the Johnston Atoll for the purpose of storing or demilitarizing such munitions.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8070. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1997.

SEC. 8071. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8072. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $8,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8073. Notwithstanding any other provision of law, funds appropriated in this Act for the High Performance Computing Modernization Program shall be made available only for the acquisition and sustainment of operations, including maintenance of the supercomputing and related networking capability at (1) the DOD Science and Technology sites under the cognizance of the DDR&E, (2) the DOD Test and Evaluation centers under the Director, Test and Evaluation, OUSD (A&T), and (3) the Ballistic Missile Defense Organization: Provided, That the contracts, contract modifications, or contract options are awarded upon the requirements of the users.

SEC. 8074. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986 and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

SEC. 8075. To the extent authorized in law, the Secretary of Defense shall issue loan guarantees in support of U.S. defense exports not otherwise provided for: Provided, That the total contingent liability of the United States for guarantees issues under the authority of this section may not exceed $15,000,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee, shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: Provided further, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services and Foreign Relations of the Senate and the Committees on Appropriations, National Security and International Relations in the House of Representatives on the implementation of this program.

SEC. 8076. None of the funds appropriated in this Act may be used to fill the commander's position at any military medical facility with a health care professional unless the prospective candidate can demonstrate professional administrative skills.

SEC. 8077. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

SEC. 8078. None of the funds provided in this Act may be obligated or expended for the sale of zinc in the National Defense Stockpile if zinc commodity prices decline more than five percent below the London Metals Exchange market price reported on the date of enactment of this Act.

SEC. 8079. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8080. Funds appropriated by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 1996 until the enactment of the Intelligence Authorization Act for fiscal year 1996.

SEC. 8081. (a) None of the funds made available by this Act may be obligated for design, development, acquisition, or operation of more than 47 Titan IV expendable launch vehicles, or for satellite mission-model planning for a Titan IV requirement beyond 47 vehicles.

(b) $115,226,000 made available in this Act for Research, Development, Test and Evaluation, Air Force, may only be obligated for development of a new family of medium-lift and heavy-lift expendable launch vehicles evolved from existing technologies.

SEC. 8082. None of the funds available to the Department of Defense in this Act may be used to establish additional field operating agencies of any element of the Department during fiscal year 1996, except for field operating agencies funded within the National Foreign Intelligence Program: Provided, That the Secretary of Defense may waive this section by certifying to the House and Senate Committees on Appropriations that the creation of such field operating agencies will reduce either the personnel and/or financial requirements of the Department of Defense.

(RESCISSIONS)

SEC. 8083. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

"Aircraft Procurement, Air Force, 1994/1996", $53,654,000;

"Missile Procurement, Air Force, 1994/1996", $16,783,000;

"Weapons Procurement, Navy, 1995/1997", $14,600,000;

"Shipbuilding and Conversion, Navy, 1995/1999", $87,700,000;

"Other Procurement, Navy, 1995/1997", $8,600,000;

"Aircraft Procurement, Air Force, 1995/1997", $24,000,000;

"Missile Procurement, Air Force, 1995/1997", $140,978,000;

"Other Procurement, Air Force, 1995/1997", $180,000,000;

"Research, Development, Test and Evaluation, Army, 1995/1996", $9,000,000;

"Research, Development, Test and Evaluation, Navy, 1995/1996", $6,000,000;

"Research, Development, Test and Evaluation, Air Force, 1995/1996", $7,902,000;

"Research, Development, Test and Evaluation, Defense-Wide, 1995/1996", $12,000,000.

SEC. 8084. Notwithstanding any other provision of law, for resident classes entering the war colleges after September 30, 1996, the Department of Defense shall require that not less than 20 percent of the total of United States military students at each war college shall be from military departments other than the hosting military department: Provided, That each military department will recognize the attendance at a sister military department war college as the equivalent of attendance at its own war college for promotion and advancement of personnel.

SEC. 8085. None of the funds in this or any other Act may be used to implement the plan to reorganize the regional headquarters and basic camps structure of the Reserve Officer Training Corps program of the Army until the Comptroller General of the United States has certified to the congressional defense committees that the methodology and evaluation of the potential sites were consistent with the established criteria for the consolidation, that all data used by the Army in the evaluation was accurate and complete, and that the conclusions reached are based upon the total costs of the Army's final plan to establish the Eastern Reserve Officer Training Corps Headquarters at Fort Benning, Georgia: Provided, That all cost, including Military Construction, shall be considered as well as an analysis of the impact of the consolidation on the surrounding communities for all affected installations.

SEC. 8086. None of the funds provided in this Act may be obligated for payment on new contracts on which allowable costs charged to the government include payments for individual compensation at a rate in excess of $200,000 per year after July 1, 1996, unless the Office of Federal Procurement Policy establishes in the Federal Acquisition Regulations guidance governing the allowability of individual compensation.

SEC. 8087. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the

Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8088. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8089. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602 (a)(2) and (b)(2) of title 10, United States Code.

SEC. 8090. Funds appropriated in this Act for operation and maintenance of the Military Departments, Unified and Specified Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence support to Unified Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the General Defense Intelligence Program and the Consolidated Cryptologic Program: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8091. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 1995 level.

(TRANSFER OF FUNDS)

SEC. 8092. Upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds: Provided, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1996":

SSN–688 attack submarine program, $5,051,000;

CG–47 cruiser program, $2,500,000;

BB battleship reactivation, $4,400,000;

T–AGOS SURTASS ship program, $2,135,000;

LCAC landing craft air cushion program, $700,000;

For craft, outfitting, post delivery, and cost growth, $12,360,000;

Weapons Procurement, Navy, 1994/1996, $30,900,000;

Other Procurement, Navy, 1994/1996, $4,200,000;

Other Procurement, Navy, 1995/1997, $5,000,000;

Aircraft Procurement, Navy, 1994/1996, $2,056,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1996":

MSH coastal mine hunter program, $69,302,000;

From:

Weapons Procurement, Navy 1994/1996, $5,500,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1996":

AOE combat support ship program, $5,500,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1988/2001":

SSN–688 attack submarine program, $1,500,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1988/2001":

T–ACS auxiliary crane ship program, $1,500,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1989/2000":

SSN–688 attack submarine program, $23,535,000;

DDG–51 destroyer program, $33,700,000;

T–AO fleet oiler program, $38,969,000;

Other Procurement, Navy, 1995/1997, $3,500,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1989/2000":

SSN–21 attack submarine program, $65,886,000;

MHC coastal mine hunter program, $30,318,000;

AOE combat support ship program, $3,500,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1990/2002":

SSN–688 attack submarine program, $1,907,000;

DDG–51 destroyer program, $22,669,000;

For craft, outfitting and post delivery, $3,900,000;

Aircraft Procurement, Navy, 1994/1996, $17,944,000;

Procurement of Ammunition, Navy and Marine Corps, 1995/1997, $5,116,000;

Weapons Procurement, Navy, 1995/1997, $2,000,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1990/2002":

MHC coastal mine hunter, $9,536,000;

T–AGOS surveillance ship program, $42,000,000;

AOE combat support ship program, $2,000,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1991/2001":

SSN–21 attack submarine program, $18,330,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1991/2001":

LHD–1 amphibious assault ship program, $6,178,000;

MHC coastal mine hunter program, $12,152,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":

DDG–51 destroyer program, $5,315,000;

For craft, outfitting, post delivery, and DBOF transfer, $9,675,000;

For escalation, $3,347,000;

Weapons Procurement, Navy, 1995/1997, $7,500,000;

Procurement, Marine Corps, 1995/1997, $378,000;

Other Procurement, Navy, 1995/1997, $355,000;

Aircraft Procurement, Navy 1995/1997, $3,600,000;

Research, Development, Test and Evaluation, Navy, 1995/1996, $5,600,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":

MHC coastal mine hunter program, $35,770,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1993/1997":

LSD–41 cargo variant ship program, $1,600,000;

For craft, outfitting, post delivery, and first destination transportation, and inflation adjustments, $5,627,000;

Procurement of Ammunition, Navy and Marine Corps, 1995/1997, $1,784,000;

Other Procurement, Navy, 1995/1997, $645,000;

Weapons Procurement, Navy, 1994/1996, $1,963,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1993/1997":

DDG–51 destroyer program, $7,356,000;

AOE combat support ship program, $2,300,000;

MHC coastal mine hunter program, $1,963,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1994/1998":

MCS(C) program, $4,819,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1995/1999":

Nuclear submarine main steam condensor industrial base, $900,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1994/1998":

LHD program, $5,719,000.

SEC. 8093. The Department shall include, in the operation of TRICARE Regions 7/8, a region-wide wraparound care package that requires providers of residential treatment services to share financial risk through case rate reimbursement, to include planning and individualized wraparound services to prevent recidivism.

SEC. 8094. All refunds or other amounts collected in the administration of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be credited to current year appropriations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8095. None of the funds appropriated in this Act may be transferred to or obligated from the Pentagon Reservation Maintenance Revolving Fund, unless the Secretary of Defense certifies that the total cost for the planning design, construction and installation of equipment for the renovation of the Pentagon Reservation will not exceed $1,218,000,000.

SEC. 8096. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8097. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8098. Funds in the amount of $61,300,000 received during fiscal year 1996 by the Department of the Air Force pursuant to the "Memorandum of Agreement between the National Aeronautics and Space Administration and the United States Air Force on Titan IV/Centaur Launch Support for the Cassini Mission," signed September 8, 1994, and September 23, 1994, and Attachments A, B, and C to the Memorandum, shall be merged with appropriations available for research, development, test *and evaluation and procurement for fiscal year 1996, and shall be available for the same time period as the appropriation with which merged, and shall be available for obligation only for those Titan IV vehicles and Titan IV-related activities under contract as of the date of enactment of this Act, as well as on the follow-on launch services and program sustaining support contract to be awarded in fiscal year 1996.*

SEC. 8099. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8100. Not less than 30 percent of the total inventory, or 60,000 pounds, of the pentaborane currently stored in non-defective containers at Edwards Air Force Base, California, will be retained until the Secretary of Energy certifies to the House and Senate Committees on Appropriations that the Secretary does not intend to use the pentaborane at the Idaho National Engineering Laboratory for: (a) a source of raw material for environmental remediation of high level, liquid radioactive waste, or (b) as a source of raw material for boron drugs for the Boron Neutron Capture Therapy or other medical or industrial applications: Provided, That the Secretary of the Air Force is authorized to dispose of any materials that pose a significant health or safety hazard.

SEC. 8101. The total amount appropriated in title II, III, and IV of this Act is hereby reduced by $30,000,000 for savings through improved management of contractor automatic data processing costs charged through indirect rates on Department of Defense acquisition contracts.

SEC. 8102. (a) Not later than October 1, 1995, the Secretary of Defense shall require that each disbursement by the Department of Defense in an amount in excess of $5,000,000 be matched to a particular obligation before the disbursement is made.

(b) The Secretary shall ensure that a disbursement in excess of the threshold amount applicable under subsection (a) is not divided into multiple disbursements of less than that amount for the purpose of avoiding the applicability of such subsection to that disbursement.

(c) The Secretary of Defense may waive a requirement for advance matching of a disbursement of the Department of Defense with a particular obligation in the case of (1) a disbursement involving deployed forces, (2) a disbursement for an operation in a war declared by Congress or a national emergency declared by the President or Congress, or (3) a disbursement under any other circumstances for which the waiver is necessary in the national security interests of the United States, as determined by the Secretary and certified by the Secretary to the congressional defense committees.

(d) This section shall not be construed to limit the authority of the Secretary of Defense to require that a disbursement not in excess of the amount applicable under subsection (a) be matched to a particular obligation before the disbursement is made.

SEC. 8103. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8104. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8105. The Department of Defense shall release all funds appropriated and available for the HAVE GAZE program to the Department of the Air Force for obligation under existing contractual arrangements.

SEC. 8106. None of the funds available to the Department of Defense during fiscal year 1996 may be obligated or expended to support or finance the activities of the Defense Policy Advisory Committee on Trade.

SEC. 8107. Notwithstanding any other provision of law, within the funds available in this Act, the Secretary of the Air Force may enter into agreements to modify leases of housing units being constructed if deemed to be in the best interest of the Department. The housing units shall be assigned, without rental charge, as family housing to members of the armed forces who are eligible for assignment to military family housing.

SEC. 8107A. Notwithstanding any other provision of law, the authorization for the Indiana, Pennsylvania armory project set forth in section 2601 of Public Law 102–484 (division B) shall remain in effect until September 30, 1997.

SEC. 8108. None of the funds appropriated by this Act shall be available to lease or charter a vessel in excess of seventeen months (inclusive of any option periods) to transport fuel or oil for the Department of Defense if the vessel was constructed after October 1, 1995 unless the Secretary of Defense requires that the vessel be constructed in the United States with a double hull under the long-term lease or charter authority provided in section 2401 note of title 10, United States Code: Provided, That this limitation shall not apply to contracts in force on the date of enactment of this Act: Provided further, That by 1997 at least 20 percent of annual leases and charters must be for ships of double hull design constructed after October 1, 1995 if available in numbers sufficient to satisfy this requirement: Provided further, That the Military Sealift Command shall plan to achieve the goal of eliminating single hull ship leases by the year 2015.

SEC. 8109. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop or procure main propulsion engines for the LPD–17 class of ships unless such equipment is powered by a diesel engine manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8110. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop or procure an emergency generator set for the New Attack Submarine unless such equipment is powered by a diesel engine manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8111. None of the funds in this Act may be used to transport military personnel into Edwards Air Force Base for training rotations at the National Training Center after April 15, 1996: Provided, That the Department of Defense shall comply with the recommendations of the fiscal year 1996 Military Construction bill as it pertains to the interim and permanent National Training Center Airhead.

SEC. 8112. The Secretary of Defense and the Secretary of the Army shall reconsider the decision not to include the infantry military occupational specialty among the military skills and specialties for which special pays are provided under the Selected Reserve Incentive Program.

SEC. 8113. (a) The Secretary of Defense shall submit, on a quarterly basis, a report to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate setting forth all costs (including incremental costs) incurred by the Department of Defense during the preceding quarter in implementing or supporting resolutions of the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, and humanitarian missions undertaken by the Department of Defense. The quarterly report shall include an aggregate of all such Department of Defense costs by operation or mission.

(b) The Secretary of Defense shall detail in the quarterly reports all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

SEC. 8114. (a) LIMITATION.—Of the funds available under title II under the heading "FORMER SOVIET UNION THREAT REDUCTION" for dismantlement and destruction of chemical weapons, not more than $52,000,000 may be obligated or expended for that purpose until the President certifies to Congress the following:

(1) That the United States and Russia have completed a joint laboratory study evaluating the proposal of Russia to neutralize its chemical weapons and the United States agrees with the proposal.

(2) That Russia is in the process of preparing, with the assistance of the United States as necessary, a comprehensive plan to manage the dismantlement and destruction of the Russia chemical weapons stockpile.

(3) That the United States and Russia are committed to resolving outstanding issues under the 1989 Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement.

(b) DEFINITIONS.—In this section:

(1) The term "1989 Wyoming Memorandum of Understanding" means the Memorandum of Understanding between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(2) The term "1990 Bilateral Destruction Agreement" means the Agreement between the United States of America and the Union of Soviet Socialist Republics on destruction and non-

production of chemical weapons and on measures to facilitate the multilateral convention on banning chemical weapons signed on June 1, 1990.

SEC. 8115. (a) INTERNATIONAL PEACEKEEPING, PEACE ENFORCEMENT, AND HUMANITARIAN ASSISTANCE OPERATIONS.—It is the sense of Congress that in the event of a deployment or participation of United States Armed Forces units in any international peacekeeping, peace enforcement, and humanitarian assistance operation, the President must engage in consultations with the bipartisan leadership of Congress and the congressional committees named in subsection (e) regarding such operation in accordance with subsection (c)(1).

(b) COVERED OPERATIONS.—(1) This section applies to the following:

(A) Any international peacekeeping or peace-enforcement operation that is not underway as of the date of the enactment of this Act and that is authorized by the Security Council of the United Nations under chapter VI or VII of the Charter of the United Nations.

(B) Any other international peacekeeping or peace-enforcement operation that is not underway as of the date of the enactment of this Act.

(C) Any deployment after the date of the enactment of this Act of United States ground forces in the territory of the former Yugoslavia above the level of such forces so deployed as of such date of enactment, other than a deployment involving fewer than 100 personnel.

(D) Except as provided in paragraph (2), any international humanitarian assistance operation.

(2) This section does not apply with respect to—

(A) an international humanitarian assistance operation carried out in response to a disaster; or

(B) any other international humanitarian assistance operation if the President reports to Congress that the estimated cost of such operation is less than $50,000,000.

(c) CONSULTATION WITH CONGRESS.—(1) Consultations under subsection (a) in the case of any operation shall be initiated before the initial deployment of United States Armed Forces units to participate in the operation and, whenever possible, at least 15 days before such deployment. However, if the President determines that the national security so requires, the President may delay the initiation of such consultations until after such initial deployment, but in no case may such consultations be initiated later than 48 hours after such deployment.

(2) Such consultations shall include discussion of all of the following:

(A) The goals of the operation and the mission of any United States Armed Forces units involved in the operation.

(B) The United States interests that will be served by the operation.

(C) The estimated cost of the operation.

(D) The strategy by which the President proposes to fund the operation, including possible supplemental appropriations or payments from international organizations, foreign countries, or other donors.

(E) The extent of involvement of armed forces and other contributions of personnel from other nations.

(F) The anticipated duration and scope of the operation.

(3) Such consultations shall continue on a periodic basis throughout the period of the deployment.

(d) REQUESTS FOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—Whenever there is a deployment of United States Armed Forces to perform an international humanitarian, peacekeeping, or peace-enforcement operation, the President should seek emergency supplemental appropriations to meet the incremental costs to the Department of Defense of that deployment not later than 90 days after the date on which such deployment commences.

(e) COMMITTEES TO BE INCLUDED IN CONSULTATIONS.—The committees referred to in subsection (a) are the following:

(1) The congressional defense committees.

(2) The Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) The Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 8116. (a) FINDINGS.—The Senate makes the following findings:

(1) The President of France stated on June 13, 1995, that the Republic of France plans to conduct eight nuclear test explosions over the next several months.

(2) The People's Republic of China continues to conduct underground nuclear weapons tests.

(3) The United States, France, Russia, and Great Britain have observed a moratorium on nuclear testing since 1992.

(4) A resumption of testing by the Republic of France could result in the disintegration of the current testing moratorium and a renewal of underground testing by other nuclear weapon states.

(5) A resumption of nuclear testing by the Republic of France raises serious environmental and health concerns.

(6) The United Nations Conference on Disarmament presently is meeting in Geneva, Switzerland, for the purpose of negotiating a Comprehensive Nuclear Test Ban Treaty (CTBT), which would halt permanently the practice of conducting nuclear test explosions.

(7) Continued underground weapons testing by the Republic of France and the People's Republic of China undermines the efforts of the international community to conclude a CTBT by 1996, a goal endorsed by 175 nations, at the recently completed NPT Extension and Review Conference (the conference for the extension and review of the Nuclear Non-Proliferation Treaty).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Republic of France and the People's Republic of China should abide by the current international moratorium on nuclear test explosions and refrain from conducting underground nuclear tests in advance of a Comprehensive Test Ban Treaty.

SEC. 8117. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, and the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—(1) This section applies to—

(A) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(B) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8118. None of the funds available to the Department of Defense shall be obligated or expended to make a financial contribution to the United Nations for the cost of an United Nations peacekeeping activity (whether pursuant to assessment or a voluntary contribution) or for payment of any United States arrearage to the United Nations.

SEC. 8119. None of the funds made availabale in this Act may be used to administer any policy that permits the performance of abortions at medical treatment or other facilities of the Department of Defense.

SEC. 8119A. The provision of section 8119 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or that the pregnancy is the result of an act of rape or incest.

SEC. 8120. None of the funds made available in this Act under the heading "Procurement of Ammunition, Army" may be obligated or expended for the procurement of munitions unless such acquisition fully complies with the Competition in Contracting Act.

SEC. 8121. None of the funds in this Act may be used to implement any change to the computation of military retired pay as required by law in fiscal year 1995 for military personnel who entered the Service before September 8, 1980.

SEC. 8122. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8123. None of the funds provided in title II of this Act for "FORMER SOVIET UNION THREAT REDUCTION" may be obligated or expended to finance housing for any individual when it is made known to the Federal official having authority to obligate or expend such funds that such individual was a member of the military forces of the Soviet Union or that such individual is or was a member of the military forces of the Russian Federation.

SEC. 8124. It is the sense of Congress that none of the funds available to the Department of Defense shall be obligated or expended for the deployment or participation of United States Armed Forces in any peacekeeping operation in Bosnia-Herzegovina, unless such deployment or participation is specifically authorized by a law enacted after the date of enactment of this Act: Provided, That this section shall not apply to operations of the nature and extent conducted by United States Armed Forces in Bosnia-Herzegovina during fiscal year 1995, emergency air rescue operations, the airborne delivery of humanitarian supplies, or the planning and execution of OPLAN 40104 or similar operations to extract UNPROFOR personnel.

SEC. 8125. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $832,000,000 to reflect savings from revised economic assumptions, to be distributed as follows:

Operation and Maintenance, Army, $54,000,000;

Operation and Maintenance, Navy, $80,000,000;

Operation and Maintenance, Marine Corps, $9,000,000;

Operation and Maintenance, Air Force, $51,000,000;

Operation and Maintenance, Defense-Wide, $36,000,000;

Operation and Maintenance, Army Reserve, $4,000,000;

Operation and Maintenance, Navy Reserve, $4,000,000;

Operation and Maintenance, Marine Corps Reserve, $1,000,000;

Operation and Maintenance, Air Force Reserve, $3,000,000;

Operation and Maintenance, Army National Guard, $7,000,000;

Operation and Maintenance, Air National Guard, $7,000,000;

Drug Interdiction and Counter-Drug Activities, Defense, $5,000,000;

Environmental Restoration, Defense, $11,000,000;

Overseas Humanitarian, Disaster, and Civic Aid, $1,000,000;

Former Soviet Union Threat Reduction, $2,000,000;

Defense Health Program, $51,000,000;

Aircraft Procurement, Army, $9,000,000;

Missile Procurement, Army, $5,000,000;

Procurement of Weapons and Tracked Combat Vehicles, Army, $10,000,000;

Procurement of Ammunition, Army, $6,000,000;

Other Procurement, Army, $17,000,000;

Aircraft Procurement, Navy, $29,000,000;

Weapons Procurement, Navy, $13,000,000;

Shipbuilding and Conversion, Navy, $42,000,000;

Other Procurement, Navy, $18,000,000;

Procurement, Marine Corps, $4,000,000;

Aircraft Procurement, Air Force, $50,000,000;

Missile Procurement, Air Force, $29,000,000;

Other Procurement, Air Force, $45,000,000;

Procurement, Defense-Wide, $16,000,000;

Chemical Agents and Munitions Destruction, Defense, $5,000,000;

Research, Development, Test and Evaluation, Army, $20,000,000;

Research, Development, Test and Evaluation, Navy, $50,000,000;

Research, Development, Test and Evaluation, Air Force, $79,000,000;

Research, Development, Test and Evaluation, Defense-Wide, $57,000,000; and

Developmental Test and Evaluation, Defense, $2,000,000:

Provided, That these reductions shall be applied proportionally to each budget activity, activity group and subactivity group and each program, project, and activity within each appropriation account.

SEC. 8126. Notwithstanding any other provision of law, of the revenue collected by the Defense Business Operations Fund, $117,000,000 shall be made available for obligation and expenditure for termination liability, lease and operational costs for aircraft to accomplish the VC–137 aircraft mission: Provided, That the funds made available pursuant to this section shall remain available until expended.

SEC. 8127. Funds appropriated by this and future Acts under the heading "Missile Procurement, Air Force" may be obligated for payment of satellite on-orbit incentives in the fiscal year in which an incentive payment is earned: Provided, That any obligation made pursuant to this section may not be entered into until 30 calendar days in session after the congressional defense committees have been notified that an on-orbit incentive payment has been earned.

SEC. 8128. (a) Not more than a total of $11,000,000 of the funds appropriated under the heading "Research, Development, Test and Evaluation, Army", in title IV of Public Law 103–335, and in title IV of this Act, may be made available for support of a NATO Alliance Ground Surveillance (AGS) program based on the Joint Surveillance/Target Attack Radar System (JSTARS).

(b) Not more than a total of $6,450,000 of the funds appropriated under the heading "Research, Development, Test and Evaluation, Air Force", in title IV of Public Law 103–335, and in title IV of this Act, may be made available for support of a NATO Alliance Ground Surveillance (AGS) program based on JSTARS.

SEC. 8129. (a) In addition to any other reductions required by this Act, the following funds are hereby reduced from the following accounts in title IV of this Act in the specified amounts:

"Research, Development, Test and Evaluation, Army", $65,062,000;

"Research, Development, Test and Evaluation, Navy", $116,909,000;

"Research, Development, Test and Evaluation, Air Force", $175,386,000; and

"Research, Development, Test and Evaluation, Defense-Wide", $84,643,000.

(b) The reductions taken pursuant to subsection (a) shall be applied on a pro-rata basis by subproject within each R–1 program element as modified by this Act, except that no reduction may be taken against the funds made available to the Department of Defense for Ballistic Missile Defense.

SEC. 8130. Notwithstanding any other provision of law, fixed and mobile telecommunications support shall be provided by the White House Communications Agency (WHCA) to the United States Secret Service (USSS), without reimbursement, in connection with the Secret Service's duties directly related to the protection of the President or the Vice President or other officer immediately next in order of succession to the office of the President at the White House Security Complex in the Washington, D.C. Metropolitan Area and Camp David, Maryland. For these purposes, the White House Security Complex includes the White House, the White House grounds, the Old Executive Office Building, the New Executive Office Building, the Blair House, the Treasury Building, and the Vice President's Residence at the Naval Observatory.

This Act may be cited as the "Department of Defense Appropriations Act, 1996".

And the Senate agree to the same.

BILL YOUNG,
JOSEPH M. MCDADE,
BOB LIVINGSTON,
JERRY LEWIS,
JOE SKEEN,
DAVE HOBSON,
HENRY BONILLA,
GEORGE R. NETHERCUTT, JR.,
ERNEST ISTOOK,
JOHN P. MURTHA,
NORMAN D. DICKS,
CHARLES WILSON,
W.G. BILL HEFNER,
MARTIN OLAV SABO,
(except to the agreement regarding abortion funding exception),

Mangers on the Part of the House.

TED STEVENS,
THAD COCHRAN,
ARLEN SPECTER,
PETE V. DOMENICI,
KIT BOND,
MITCH MCCONNELL,
CONNIE MACK,
RICHARD C. SHELBY,
JUDD GREGG,
MARK HATFIELD,
DANIEL INOUYE,
J. BENNETT JOHNSTON,
ROBERT BYRD,
PATRICK LEAHY,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the further conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2126), making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the Department of Defense Appropriations Act, 1996, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 104–208 and Senate Report 104–124 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

The conferees agree that for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1996, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes and reports, and the P–1 and R–1 budget justification documents as subsequently modified by Congressional action. The following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act. At the time the President submits his budget for fiscal year 1997, the conferees direct the Department of Defense to transmit to the congressional defense committees a budget justification document to be known as the "O–1" which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for operation and maintenance in any budget request, or amended budget request, for fiscal year 1997.

TITLE I—MILITARY PERSONNEL

The conferees agree to the following amounts and end strength totals for the Military Personnel accounts as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Active personnel:				
Army	19,721,408	19,884,608	19,776,587	19,946,187
Navy	16,930,609	17,006,363	16,979,209	17,008,563
Marine Corps	5,877,740	5,928,340	5,886,540	5,885,740
Air Force	17,108,120	17,294,620	17,156,443	17,207,743
Reserve personnel:				
Army	2,101,366	2,122,566	2,102,466	2,122,466
Navy	1,348,223	1,350,023	1,349,323	1,355,523
Marine Corps	361,751	366,101	364,551	378,151
Air Force	782,761	783,586	783,861	784,586
National Guard personnel:				
Army	3,218,258	3,240,858	3,222,422	3,242,422
Air Force	1,246,427	1,254,827	1,259,627	1,259,627
Total, Military Personnel	68,696,663	69,231,892	68,881,029	69,191,008

OPERATIONS PROVIDE COMFORT/ENHANCED SOUTHERN WATCH

The conference agreement includes $647,100,000, as proposed by the House, for unbudgeted costs associated with Operations Provide Comfort and Enhanced Southern Watch. Of this amount, $77,500,000 is appropriated in Title I, Military Personnel, and $569,600,000 is appropriated in Title II, Operation and Maintenance. The conferees designate these funds as an item of Congressional interest, meaning they can only be used for additional incremental costs of Operations Provide Comfort and Enhanced Southern Watch unless prior approval is granted by the House and Senate Committees on Appropriations through normal reprogramming procedures. In addition, the conferees direct that none of these funds may be obligated or expended unless the costs of these operations are fully submitted in the President's fiscal year 1997 budget request. The conferees direct that funds shall be available for obligation only after submission of the fiscal year 1997 budget request, and only if the request fully funds and details the estimated costs of these operations. The conferees direct the Secretary of Defense to provide a report to the House and Senate Committees on Appropriations by January 30, 1996, on planned obligations and expenditures of these funds.

FORCE STRUCTURE CHANGES

The conferees recommend an increase of $38,500,000 to maintain fiscal year 1995 Primary Authorized Aircraft (PAA) levels in Air National Guard general purpose fighter forces during fiscal year 1996.

The conferees recommend an increase of $34,200,000 to sustain the maritime patrol aircraft force structure at 13 active and 9 reserve squadrons in fiscal year 1996.

The conferees also recommend an increase of $9,600,000 for additional Marine Corps Reserve full-time support, in order to facilitate the Marine Corps Reserve's contingency role and operations.

ARMY PERSONNEL SHORTFALLS

The conferees recommend an increase of $137,000,000 to "Military Personnel, Army" to cover unfunded requirements associated with the downsizing of Army forces. Previous congressional limitations on end strength and other Army manpower assumptions have contributed to an increase in the cost of the force since anticipated personnel losses did not occur as planned. The conferees agree this is necessary in order to prevent readiness and quality of life problems during the fiscal year.

MILITARY TECHNICIAN AND MEDICAL PERSONNEL REPROGRAMMING

The conferees direct that the Department of Defense, in the event of sequestration during fiscal year 1996, protect military (civilian) technicians and medical personnel necessary to maintain the current level of medical and Reserve Component operations, from any associated reduction of personnel pay and medical programs (to include CHAMPUS).

BASIC ALLOWANCE FOR QUARTERS

The conferees agree to provide $72,366,000, as proposed by the Senate, for an increase in the Basic Allowance for Quarters, to be effective January 1, 1996.

ACTIVE END STRENGTH

[Fiscal year 1996]

	Budget	Conference	Conference vs. Budget
Army	495,000	495,000	
Navy	428,000	428,340	+340
Marine Corps	174,000	174,000	
Air Force	388,200	388,200	
Total	1,485,200	1,485,540	+340

MILITARY PERSONNEL, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Provide Comfort/Enhanced Southern Watch	3,600		3,600
Overseas Station Allowance	139,000	32,000	61,000
Selective Reenlistment Bonus	−1,200		
Basic Allowance for Quarters	12,000	23,179	23,179
Variable Housing Allowance	9,800		
Manpower shortfalls			137,000
Total, Military Personnel, Army	+163,200	+55,179	+224,779

MILITARY PERSONNEL, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Aviation Continuation Pay	−1,000		−1,000
Responsibility Pay	−1,146		−1,146
Provide Comfort/Enhanced Southern Watch	25,500		25,500
Overseas Station Allowance	45,000	32,000	24,000
Selective Reenlistment Bonus	−25,000		
Basic Allowance for Quarters	11,600	16,600	16,600
Variable Housing Allowance	20,800		
P–3 Squadron			14,000
Total, Military Personnel, Navy	+75,754	+48,600	+77,954

MILITARY PERSONNEL, MARINE CORPS

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Aviation Continuation Pay	−200		−200
Provide Comfort/Enhanced Southern Watch	3,400		3,400
Overseas Station Allowance	43,000	4,000	
Selective Reenlistment Bonus	−4,000		
Basic Allowance for Quarters	3,200	4,800	4,800
Variable Housing Allowance	5,200		
Total, Military Personnel, Marine Corps	+50,600	+8,800	+8,000

MILITARY PERSONNEL, AIR FORCE

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Aviation Continuation Pay	−4,400		−4,400
Aviation Career Incentive Pay	−800		−800
Flight Duty Pay	−500		−500
Provide Comfort/Enhanced Southern Watch	45,000		45,000
Overseas Station Allowance	73,000	32,000	44,000
Selective Reenlistment Bonus	−12,000		
Basic Allowance for Quarters	11,000	16,323	16,323
Variable Housing Allowance	10,200		
B–52 Force Structure	65,000		
Total, Military Personnel, Air Force	+186,500	+48,323	+99,623

NATIONAL GUARD AND RESERVE FORCES

The conferees agree to provide $9,142,775,000 in Reserve personnel appropriations, $8,815,232,000 in Operation and maintenance appropriations, and $777,000,000 in the National Guard and Reserve Equipment appropriation. These funds support a Selected Reserve strength of 930,980 as shown below.

RESERVE STRENGTHS

[Fiscal year 1996]

	Budget	Conference	Conference vs. Budget
Selected Reserve:			
Army Reserve	230,000	230,000	
Navy Reserve	98,608	98,877	+269
Marine Corps Reserve	42,000	42,000	
Air Force Reserve	73,969	74,007	+38
Army National Guard	373,000	373,000	
Air National Guard	109,458	112,458	+3,000
Total	927,035	930,342	+3,307
AGR/TARS:			
Army Reserve	11,575	11,575	
Navy Reserve	17,490	17,605	+115
Marine Corps Reserve	2,285	2,559	+274
Air Force Reserve	628	628	
Army National Guard	23,390	23,390	
Air National Guard	9,817	10,066	+249
Total	65,185	65,823	+638
Technicians:			
Army Reserve	6,409	6,630	+221
Air Force Reserve	9,467	9,802	+335
Army National Guard	25,094	25,500	+406
Air National Guard	22,558	23,399	+841
Total	63,528	65,331	+1,803

MILITARY (CIVILIAN) TECHNICIANS

The conferees recommend an increase of $40,500,000 in the Operation and Maintenance accounts of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard for additional military (civilian) technicians. The conferees remain concerned about the significant reduction to military technicians contained in the President's budget request and expect these funds to not be used for any other purpose without a prior approval reprogramming being submitted through normal channels. Additionally, the conferees direct the Department to provide the required number of workyears needed to sustain the levels of military (civilian) technicians as provided in this Act. The conferees also include a general provision (Section 8087) which prohibits reducing the full-time support levels for technicians unless such technicians are a result of a reduction in military force structure. The conferees expect the Department to follow the intent of this provision.

RESERVE PERSONNEL, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Unit Readiness/Training	20,000		20,000
Basic Allowance for Quarters	500	1,100	1,100
Variable Housing Allowance	700		
Total, Reserve Personnel, Army	+21,200	+1,100	+21,100

RESERVE PERSONNEL, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Basic Allowance for Quarters	700	1,100	1,100
Variable Housing Allowance	1,100		
P–3 Squadron			6,200
Total, Reserve Personnel, Navy	+1,800	+1,100	+7,300

RESERVE PERSONNEL, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Annual Training/School Tours	4,000		4,000
Basic Allowance for Quarters	150	2,800	2,800
Variable Housing Allowance	200		
Increase of Active Reservists			9,600
Total, Reserve Personnel, Marine Corps	+4,350	+2,800	+16,400

RESERVE PERSONNEL, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
WC–130 Weather Reconn	725		725
Basic Allowance for Quarters	100	1,100	1,100
Total, Reserve Personnel, Air Force	+825	+1,100	+1,825

NATIONAL GUARD PERSONNEL, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
School/Special Training	20,000		20,000
Basic Allowance for Quarters	1,300	4,164	4,164
Variable Housing Allowance	1,300		
Total, National Guard Personnel, Army	22,600	4,164	24,164

NATIONAL GUARD PERSONNEL, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Tanker Task Force/1st Air Force	7,200		
Basic Allowance for Quarters	500	1,200	1,200
Variable Housing Allowance	700		
Fighter Force Structure		12,000	12,000
Total, National Guard Personnel, Air Force	8,400	13,200	13,200

SUPPORT OF THE U.S. ANTARCTIC PROGRAM

The conferees agree to continue the Department of Defense support to the U.S. Antarctic Program. However, in light of the congressional requirement for the National Science and Technology Council to undertake a Government-wide policy review of DoD's role in the Antarctic program no later than March 31, 1996, future Defense involvement in this mission will be reassessed after receipt of that report. The conferees believe that Air National Guard participation in this project is predicated only on full reimbursement by the National Science Foundation and shall not conflict with any other Air National Guard mission.

TITLE II—OPERATION AND MAINTENANCE

A summary of the conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
RECAPITULATION				
O & M, ARMY	18,134,736	18,998,131	17,947,229	18,321,965
TRANSFER—STOCKPILE	(50,000)	(50,000)	(50,000)	(50,000)
O & M, NAVY	21,175,710	20,846,710	21,195,301	21,279,425
TRANSFER—STOCKPILE	(50,000)	(50,000)	(50,000)	(50,000)
O & M, MARINE CORPS	2,269,722	2,508,822	2,341,737	2,392,522
O & M, AIR FORCE	18,206,597	18,873,793	18,202,437	18,561,267
TRANSFER—STOCKPILE	(50,000)	(50,000)	(50,000)	(50,000)
O & M, DEFENSEWIDE	10,366,782	9,908,810	9,904,068	10,388,595
O & M, ARMY RESERVE	1,068,591	1,119,191	1,068,312	1,119,191
O & M, NAVY RESERVE	826,042	841,565	826,042	859,542
O & M, MARINE CORPS RESERVE	90,283	102,079	90,283	100,283
O & M, AIR FORCE RESERVE	1,485,947	1,519,287	1,485,947	1,519,287
O & M, ARMY NATIONAL GUARD	2,304,108	2,334,487	2,361,708	2,440,808
O & M, AIR NATIONAL GUARD	2,712,221	2,737,221	2,724,021	2,776,121
NATL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY				
COURT OF MILITARY APPEALS, DEFENSE	6,521	6,521	6,521	6,521
ENVIRONMENTAL RESTORATION, DEFENSE	1,622,200	1,422,200	1,487,000	1,422,200
SUMMER OLYMPICS	15,000	15,000	15,000	15,000
SPECIAL OLYMPICS				
HUMANITARIAN ASSISTANCE	79,790		60,000	
FORMER SOVIET UNION THREAT REDUCTION	371,000	200,000	325,000	300,000
CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING AND PEACE ENFORCEMENT ACTIVITIES FUND	65,000			
OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID		50,000		50,000
GRAND TOTAL, O & M	80,800,250	81,483,817	79,940,606	81,552,727
TRANSFER	(150,000)	(150,000)	(150,000)	(150,000)
TOTAL FUNDS AVAILABLE, O & M	80,950,250	81,633,817	80,090,606	81,702,727

BUDGET JUSTIFICATION AND EXECUTION MATERIALS

The conferees are encouraged by the steps the Department has taken to improve the Operation and maintenance program justification materials submitted to the Congress. In order to further these efforts, the conferees direct the Department to:

provide the Committees on Appropriations quarterly budget execution reports for all Operation and maintenance accounts for fiscal year 1996. These reports should reflect the O–1 categories used in the budget justification materials. Reports should be submitted within 60 days of the end of the quarter to which they apply, concurrently to the Office of Management and Budget;

provide the Committees on Appropriations quarterly reports describing the execution of real property maintenance programs. These reports should describe those activities specifically and/or generally described by the Congress and should separately identify activity related to barracks renovation. Real Property Maintenance is designated an item of congressional interest; transfers from real property maintenance programs to other activities are subject to prior-notification reprogramming procedures.

The conferees agree that proposed transfers of funds between O–1 budget activity funding categories in excess of $20,000,000 are subject to normal reprogramming procedures. In addition, due to continuing concerns about force readiness and the possible diversion of Operation and maintenance funds, the conferees agree that the Department should provide written notification to the congressional defense committees prior to transfers in excess of $20,000,000 from the following subactivity group categories:

O&M, Army

Operating forces: Combat units; Tactical support; Force related training/special activities; Depot maintenance.

O&M, Navy

Operating forces: Mission and other flight operations; Aircraft depot maintenance; Mission and other ship operations; Ship depot maintenance.

O&M, Marine Corps

Operating forces: Operational forces

O&M, Air Force

Operating forces: Primary combat forces; Primary combat weapons; Air operations training. Mobilization: Airlift operations.

FINANCIAL MANAGEMENT

The conferees are concerned about the state of financial management in the Department of Defense and the measures that may be taken to improve upon past performance. Both the House and Senate reports on the fiscal year 1996 Department of Defense Appropriations Bill recommended several items for the Department's consideration. These items should be merged into a single report due to the Committees on Appropriations not later than May 31, 1996. The DoD report should address the following issues:

the state of Defense Finance and Accounting Service (DFAS) consolidation and future reorganization plans. Of specific interest are DoD plans concerning establishment of 20 DFAS operating locations;

opportunities for utilizing private sector financial services to meet non-unique departmental requirements such as travel processing, payroll and contract disbursements;

procedural changes designed to improve DoD performance in the areas of unmatched disbursements and negative unliquidated obligations;

the estimated resource requirements to achieve long term improvements of DoD financial management procedures and systems.

REAL PROPERTY MAINTENANCE

The conferees agree with the Senate in providing an additional $322,000,000 for barracks renovation. The conferees have provided a total increase of $700,000,000 to the Real Property Maintenance account.

[In thousands of dollars]

	Barracks renovation	Other RPM	Total additional RPM
Army	100,000	67,000	167,000
Navy	100,000	55,000	155,000
Air Force	100,000	51,000	151,000
Marine Corps	22,000	38,000	60,000
Army National Guard		100,000	100,000
Army Reserve		17,000	17,000
Navy Reserve		20,000	20,000
Marine Corps Reserve		1,500	1,500
Air National Guard		15,000	15,000
Air Force Reserve		13,500	13,500
Total	322,000	378,000	700,000

SECURITY PROGRAMS

The conferees agree to reduce the military departments' security program accounts and the On-Site Inspection Agency. In order to meet emergent requirements stemming from valid treaty obligations, the conferees expect the Department of Defense to submit a reprogramming request subject to normal, prior approval reprogramming procedures.

TRANSPORTATION IMPROVEMENTS

The conferees agree that the Department of Defense should be able to improve the efficiency of the transportation organizations and infrastructure under the control of the U.S. Transportation Command (USTRANSCOM). The conferees direct that the Department of Defense report to the congressional defense committees not later than March 31, 1996, on measures that will be taken to achieve improvements in this area.

INTERNATIONAL MILITARY TRAINING AND EDUCATION

The conferees express their continued support for the International Military Education and Training Program. The conferees note however that this program is funded within international affairs programs and is properly within the jurisdiction of the Subcommittees on Foreign Operations. Therefore, the conferees direct that no funds appropriated in this Act be used for foreign operations costs associated with the International Military Education and Training program.

DEFENSE COMMISSARY ACCESS POLICY

The conferees direct a report be made by the General Accounting Office to the Committee on Appropriations of the Senate and the House of Representatives on any changes in DoD commissary access policy, including providing reservists new or additional privileges, and addressing any resulting financial impact on the commissaries.

MILITARY TRAFFIC MANAGEMENT COMMAND REENGINEERING PROGRAM

The conferees direct the Department of Defense to provide a report on its pilot program to implement commercial business practices and standards of service for its movement of military household goods, to the congressional defense committees by March 1, 1997. This report should fully assess how the pilot program impacts the government's transportation costs as compared to the current program. The conferees expect the Department to fairly evaluate the present program as modified by the removal of government unique terms, conditions and regulations and using simplified procedures. This analysis shall determine whether the proposed reengineering of the current program is economically justified, can achieve a higher level of service and lower claims frequency.

In addition, the conferees direct the Department to report by January 1, 1996, prior to the implementation of any element of the pilot program, on its impact on small businesses resulting from, but not limited to, the application of the Federal Acquisition Regulations, and the requirement of any program elements that are not standard commercial business practices.

OPERATION AND MAINTENANCE, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY				
BUDGET ACTIVITY 1: OPERATING FORCES:				
LAND FORCES:				
COMBAT UNITS	1,882,069	1,882,069	1,882,069	1,882,069
TACTICAL SUPPORT	1,165,970	1,165,970	1,165,970	1,165,970
THEATER DEFENSE FORCES	178,670	178,670	178,670	178,670
FORCE RELATED TRAINING/SPECIAL ACTIVITIES	1,271,154	1,271,154	1,285,154	1,271,154
FORCE COMMUNICATIONS	73,584	73,584	73,584	73,584
DEPOT MAINTENANCE	861,426	1,065,426	890,426	950,696
JCS EXERCISES	54,467	54,467	54,467	54,467
BASE SUPPORT	3,582,306	3,612,306	3,618,129	3,612,306
LAND OPERATIONS SUPPORT:				
COMBAT DEVELOPMENTS	214,364	214,364	214,364	214,364
UNIFIED COMMANDS	36,937	36,937	36,937	36,937
TOTAL, BUDGET ACTIVITY 1	9,320,947	9,554,947	9,399,770	9,440,217
BUDGET ACTIVITY 2: MOBILIZATION:				
MOBILITY OPERATIONS:				
POMCUS	86,830	86,830	86,830	86,830
STRATEGIC MOBILIZATION	393,923	482,923	388,923	423,923
WAR RESERVE ACTIVITIES	72,166	72,166	72,166	72,166
INDUSTRIAL PREPAREDNESS	143,841	143,841	143,841	143,841
TOTAL, BUDGET ACTIVITY 2	696,760	785,760	691,760	726,760
BUDGET ACTIVITY 3: TRAINING AND RECRUITING:				
ACCESSION TRAINING:				
OFFICER ACQUISITION	58,328	58,328	58,328	58,328
RECRUIT TRAINING	11,228	11,228	11,228	11,228
ONE STATION UNIT TRAINING	17,008	17,008	17,008	17,008
RESERVE OFFICER TRAINING CORPS (ROTC)	109,789	109,789	109,789	109,789
BASE SUPPORT (ACADEMY ONLY)	118,445	118,445	118,445	118,445
BASIC SKILL/ADVANCE TRAINING:				
SPECIALIZED SKILL TRAINING	236,760	302,760	260,760	281,760
FLIGHT TRAINING	218,514	218,514	218,514	218,514
PROFESSIONAL DEVELOPMENT EDUCATION	68,981	68,981	68,981	68,981
TRAINING SUPPORT	375,528	375,528	375,528	375,528

[In thousands of dollars]

	Budget	House	Senate	Conference
BASE SUPPORT (OTHER TRAINING)	1,160,360	1,160,360	1,171,960	1,160,360
RECRUITING/OTHER TRAINING:				
RECRUITING AND ADVERTISING	211,375	217,875	216,375	216,375
EXAMINING	64,333	64,333	64,333	64,333
OFF-DUTY AND VOLUNTARY EDUCATION	103,812	103,812	103,812	103,812
CIVILIAN EDUCATION AND TRAINING	81,108	81,108	81,108	81,108
JUNIOR ROTC	74,506	74,506	74,506	74,506
BASE SUPPORT (RECRUITING LEASES)	156,020	156,020	156,020	156,020
TOTAL, BUDGET ACTIVITY 3	3,066,095	3,138,595	3,106,695	3,116,095
BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES:				
SECURITY PROGRAMS:				
SECURITY PROGRAMS	362,333	362,333	356,333	356,333
LOGISTICS OPERATIONS:				
SERVICEWIDE TRANSPORTATION	542,910	542,910	542,910	542,910
CENTRAL SUPPLY ACTIVITIES	487,281	475,281	487,281	491,031
LOGISTIC SUPPORT ACTIVITIES	299,230	299,230	299,230	299,230
AMMUNITION MANAGEMENT	300,853	300,853	300,853	300,853
SERVICEWIDE SUPPORT:				
ADMINISTRATION	275,238	265,238	275,588	275,588
SERVICEWIDE COMMUNICATIONS	686,446	686,446	686,446	686,446
MANPOWER MANAGEMENT	124,676	124,676	124,676	124,676
OTHER PERSONNEL SUPPORT	175,832	169,832	175,832	172,832
OTHER SERVICE SUPPORT	568,225	568,225	571,225	571,225
ARMY CLAIMS ACTIVITIES	173,290	173,290	173,290	173,290
REAL ESTATE MANAGEMENT	86,930	86,930	86,930	86,930
BASE SUPPORT	735,466	759,566	752,816	735,466
PENTAGON RENOVATION TRANSFER			−44,130	−44,130
SUPPORT OF OTHER NATIONS:				
INTERNATIONAL MILITARY HEADQUARTERS	252,778	252,778	252,778	252,778
MISC SUPPORT OF OTHER NATIONS	29,446	29,446	29,446	29,446
TOTAL, BUDGET ACTIVITY 4	5,100,934	5,097,034	5,071,504	5,054,904
CLASSIFIED PROGRAMS UNDISTRIBUTED		3,589	−1,800	4,089
CIVILIAN PERSONNEL UNDERSTRENGTH		−65,000	−67,000	−67,000
FAMILY HOUSING SURVEY & DEFICIT REDUCTION PROGRAM			3,500	3,500
GENERAL REDUCTION, NATIONAL DEFENSE STOCKPILE FUND	−50,000	−50,000	−50,000	−50,000
REAL PROPERTY MAINTENANCE		350,000		167,000
FOREIGN CURRENCY FLUCTUATION		173,300		59,300
EDCARS/DSREDS		2,000		2,000
PRINTING EFFICIENCIES		−3,000	−3,000	−3,000
INSPECTOR GENERAL CONSOLIDATION		−12,500		−12,500
REDUCED AUDITS		−10,000	−10,000	−10,000
TRANSPORTATION IMPROVEMENTS		−26,200	−26,200	−26,200
ADMINISTRATIVE TRAVEL SAVINGS			−17,500	−28,500
BARRACKS RENOVATION INITIATIVES			100,000	
AAFES 2ND DESTINATION TRANSPORTATION		−17,500	−17,500	−17,500
PROVIDE COMFORT/ENHANCED SOUTHERN WATCH		87,300		87,300
SUPPLY MANAGEMENT REFORMS		−8,500		−8,500
CIVILIAN PAY			−233,000	−116,000
OPERATIONAL SUPPORT AIRLIFT		−1,694		
TOTAL, OPERATION AND MAINTENANCE, ARMY	18,134,736	18,998,131	17,947,229	18,321,965
TRANSFER	(50,000)	(50,000)	(50,000)	(50,000)
TOTAL FUNDING AVAILABLE	(18,184,736)	(19,048,131)	(17,997,229)	(18,371,965)

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
Communications/Electronics Maintenance	39,000
Other Depot Maintenance	66,000
Depot Maintenance Logistics Tail	(15,730)
NTC Interim Airhead	2,000
Base Operations Support	28,000
Budget Activity 2: Mobilization:	
Prepositioning Ships	(5,000)
Prepositioned Materiel, S.W. Asia	16,000
Prepositioned Materiel, Korea	19,000
Budget Activity 3: Training and Recruiting:	
TNET	4,000
Chemical/Biological Defense Training	20,000
Simulation Enhancements	21,000
Recruiting and Advertising	5,000
Budget Activity 4: Administration and Servicewide Activities:	
Security Programs (Arms Control)	(6,000)
Acquisition Reform	(12,000)
Depot Maintenance Logistics Tail	15,750
Waste Water Treatment Planning	350
Personnel Management Efficiencies	(3,000)
Conservation and Ecosystem Management	3,000
Pentagon Renovation Transfer	(44,130)
Other Adjustments:	
Civilian Underexecution	(67,000)
Family Housing Survey/Deficit Reduction Program	3,500
Foreign Currency	59,300
Inspector General Consolidation	(12,500)
Administrative Travel Savings/Executive Transport	(28,500)
Provide Comfort/Enhanced Southern Watch	87,300
Supply Management Reform	(8,500)
Civilian Personnel Pay	(116,000)

CONVENTIONAL AMMUNITION MAINTENANCE

The conferees direct that of the funds provided for conventional ammunition care and maintenance, the Army shall expend not less than $300,853,000 for this purpose.

NATIONAL PRESTO

The conferees direct that not less than $15,000,000 be made available in the "Operation and Maintenance, Army" account only for the remediation of environmental contamination at the National Presto Industries, Inc. site in Eau Claire, Wisconsin. These funds are to be made available only for the implementation and execution of the 1988 agreement between the Department of the Army and National Presto Industries, Inc., within sixty days of the enactment of this Act and without being made subject to any studies, reports or other pre-conditions that would in any way delay or obstruct the obligation and disbursal of the funds. The conferees are satisfied that sufficient studies of this matter already have been done.

LIFE SCIENCES EQUIPMENT LABORATORY

The conferees direct that the Army shall make available $500,000 to the Life Sciences Equipment Laboratory at Kelly AFB, Texas, for work in support of the Joint Task Force—Full Accounting.

FORT WAINWRIGHT EMERGENCY REPAIRS

The conferees agree to provide $8,000,000 of available funds, for emergency repairs for the Fort Wainwright Central Heat and Power Plant.

CONTRACTOR-OPERATED PARTS STORES (COPARS)

The conferees are concerned by the issues raised in a recent GAO study of the COPARS program questioning the methodology used by certain military commanders to justify the use of alternative approaches. The conferees direct the services to suspend all efforts directed toward the elimination of COPARS unless and until economic analyses are approved that clearly show other alternatives to be more cost-effective. Such economic analyses must compare like items of cost (including labor and overhead costs of any COPARS alternative) and must fully address the concerns about earlier analyses cited in the GAO report. To ensure the fairness and objectivity of any such analysis, the conferees direct the Secretary to designate a single point of contact within the Office of the Secretary of Defense for approval of study methodology and any final recommendations.

OPERATION AND MAINTENANCE, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, NAVY				
Budget Activity 1: Operating forces:				
Air operations:				
Mission and other flight operations	1,788,301	1,788,301	1,788,301	1,796,301
Fleet air training	627,871	627,871	642,166	642,166
Intermediate maintenance	68,070	68,070	68,070	68,070
Air operations and safety support	59,060	59,060	59,060	59,060
Aircraft depot maintenance	489,443	539,443	489,443	514,443
Aircraft depot operations support	28,232	28,232	28,232	28,232
Base support	1,205,651	1,233,151	1,217,651	1,205,651
Ship operations:				
Mission and other ship operations	1,885,234	1,885,234	1,885,234	1,885,234
Ship operational support and training	462,396	462,396	462,396	462,396
Intermediate maintenance	401,812	401,812	401,812	401,812
Ship depot maintenance	2,261,190	2,331,190	2,411,190	2,411,190
Ship depot operations support	758,320	758,320	758,320	758,320
Base support	1,110,058	1,137,558	1,121,058	1,110,058
Combat operations/support:				
Combat communications	198,415	198,415	198,415	198,415
Electronic warfare	7,396	7,396	7,396	7,396
Space systems and surveillance	153,881	153,881	153,881	153,881
Warfare tactics	138,256	138,256	138,256	138,256
Operational meteorology and oceanography	198,719	198,719	198,719	198,719
Combat support forces	339,888	339,888	339,888	339,888
Equipment maintenance	145,820	145,820	145,820	145,820
Depot operations support	1,127	1,127	1,127	1,127
Base support	398,298	398,298	402,278	398,298
Weapons support:				
Cruise missile	96,656	96,656	96,656	96,656
Fleet ballistic missile	788,463	788,463	788,463	788,463
In-service weapons systems support	25,945	25,945	25,945	25,945
Weapons maintenance	401,879	411,879	401,879	406,879
Base support	111,176	111,176	112,286	111,176
DBOF support	695,100		695,100	595,100
Total, budget activity 1	14,846,657	14,336,557	15,039,042	14,948,952
Budget activity 2: Mobilization:				
Ready reserve and prepositioning forces:				
Ship prepositioning and surge	511,034	511,034	511,034	511,034
Activations/inactivations:				
Aircraft activations/inactivations	7,215	7,215	7,215	7,215
Ship activations/inactivations	472,386	472,386	472,386	472,386
Mobilization preparedness:				
Fleet hospital program	16,162	16,162	16,162	16,162
Industrial readiness	1,917	1,917	1,917	1,917
Coast Guard support	21,514	21,514	21,514	21,514
Total, budget activity 2	1,030,228	1,030,228	1,030,228	1,030,228
Budget activity 3: Training and recruiting:				
Accession training:				
Officer acquisition	66,755	66,755	66,755	66,755
Recruit training	4,667	4,667	4,667	4,667
Reserve Officers Training Corps (ROTC)	64,836	64,836	64,836	64,836
Base support	112,811	112,811	113,311	112,811
Basic skills and advanced training:				
Specialized skill training	212,121	222,121	222,121	222,121
Flight training	273,004	273,004	273,004	273,004
Professional development education	61,214	61,214	61,214	61,214
Training support	125,237	125,237	125,237	125,237
Base support	415,830	415,830	419,980	415,830
Recruiting, and other training and education:				
Recruiting and advertising	122,820	128,820	127,820	127,820
Off-duty and voluntary education	54,970	54,970	54,970	54,970
Civilian education and training	22,223	22,223	22,223	22,223
Junior ROTC	24,382	24,382	24,382	24,382
Base support	822	822	822	822
Total, budget activity 3	1,561,692	1,577,692	1,581,342	1,576,692
Budget activity 4: Admin & servicewide activities:				
Servicewide support:				
Administration	605,287	595,287	605,287	605,287
External relations	21,684	21,684	21,684	21,684
Civilian manpower and person management	63,166	59,166	59,166	61,166
Military manpower and person management	139,864	139,864	139,864	139,864
Other personnel support	395,629	414,229	405,629	395,629
Servicewide communications	261,463	261,463	288,463	288,463
Base support	271,900	271,900	274,600	271,900
Logistics operations and technical support:				
Servicewide transportation	147,132	147,132	147,132	147,132
Planning, engineering and design	249,620	249,620	249,620	249,620
Acquisition and program management	426,404	409,404	426,404	412,904
Air systems support	302,011	302,011	302,011	302,011
Hull, mechanical and electrical support	60,022	60,022	60,022	60,022
Combat/weapons systems	41,632	51,632	41,632	51,632
Space and electronic warfare systems	68,111	68,111	68,111	68,111
Base support	158,334	158,334	158,334	158,334
Pentagon renovation transfer			−33,330	−33,330
Security programs:				
Security Programs	556,805	556,805	549,805	549,805
Base support	10,674	10,674	10,780	10,674
Support of other nations:				
International headquarters and agencies	7,395	7,395	7,395	7,395
Total, budget activity 4	3,787,133	3,784,733	3,784,189	3,768,303
Classified programs undistributed		1,000	5,000	1,150
Civilian pay			−12,800	

[In thousands of dollars]

	Budget	House	Senate	Conference
NSIPS		9,000		9,000
General reduction, national defense stockpile fund	−50,000	−50,000	−50,000	−50,000
Real property maintenance		150,000		155,000
Foreign currency fluctuation		31,900		5,000
Barracks renovation initiative			100,000	
Administrative travel savings			−17,500	−28,500
Printing efficiencies		−4,000	−4,000	−4,000
Inspector General consolidation		−20,000		−20,000
Reduced audits		−10,000	−10,000	−10,000
Transportation improvements		−7,200	−7,200	−7,200
Bulk fuel requirements reduction			−200,000	−100,000
Nexcom 2nd destination transportation		−7,500		−7,500
Civilian understrength		−5,000	−33,000	−17,000
Provide comfort/enhanced southern watch		75,300		75,300
Tomahawk missile recertification		−9,000		−9,000
Supply management reforms		−37,000		−37,000
Total, operation and maintenance, Navy	21,175,710	20,846,710	21,195,301	21,279,425
Transfer	(50,000)	(50,000)	(50,000)	(50,000)
Total funding available	(21,225,710)	(20,896,710)	(21,245,301)	(21,329,425)

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
P–3 Force Structure	8,000
Pacific Missile Range Facility	14,295
Aircraft Depot Maintenance	25,000
Ship Depot Maintenance Availabilities	150,000
Other Weapon Systems Maintenance	5,000
DBOF Support	(100,000)
Budget Activity 3: Training and Recruiting:	
Recruiting and Advertising	5,000
Budget Activity 4: Administration and Servicewide Activities:	
Personnel Management Efficiencies	(2,000)
Challenge Athena	27,000
Acquisition Reform	(17,000)
Reverse Osmosis Desalinators	3,500
AN–UYQ–70	10,000
Pentagon Renovation Transfer	(33,330)
Security Programs (Arms Control)	(7,000)
Other Adjustments:	
Foreign Currency	5,000
Administrative Travel Savings/Executive Transport	(28,500)
Inspector General Consolidation	(20,000)
Bulk Fuel Reduction	(100,000)
NexCom Second Destination Transportation	(7,500)
Civilian Underexecution	(17,000)
Provide Comfort/Enhanced Southern Watch	75,300
Tomahawk Missile Recertification	(9,000)
Supply Management Reforms	(37,000)

REVERSE OSMOSIS DESALINATORS

The conferees agree to provide $3,500,000 under this heading for the purchase and repair and maintenance of reverse osmosis desalinators. Of this amount, $500,000 is directed to the repair and maintenance of existing Navy desalinators, $1,000,000 is directed for the procurement of new desalinators for the Navy, and the remaining $2,000,000 is directed to Navy procurement of desalinators in support of the Air Force.

ASIA-PACIFIC CENTER FOR SECURITY STUDIES

In their respective bills, the House and Senate have each approved the budget request for the Asia-Pacific Center for Security Studies. The conferees note that the Center was dedicated by the Secretary of Defense in August of this year and it continues to receive strong support from the civilian and military leadership of the Defense Department and other nations. The conferees want to express their support for fully funding the requirements of the Center in 1996 and the future.

CSS HUNLEY

The House recedes from its report language regarding the CSS Hunley.

OPERATION AND MAINTENANCE, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, MARINE CORPS				
BUDGET ACTIVITY 1: OPERATING FORCES:				
EXPEDITIONARY FORCES:				
OPERATIONAL FORCES	334,133	344,133	334,133	344,133
FIELD LOGISTICS	158,299	158,299	158,299	158,299
DEPOT MAINTENANCE	148,574	173,574	148,574	158,574
BASE SUPPORT	903,013	953,013	922,043	945,013
USMC PREPOSITIONING:				
MARITIME PREPOSITIONING	77,416	77,416	96,416	77,416
NORWAY PREPOSITIONING	8,019	8,019	4,019	5,919
TOTAL, BUDGET ACTIVITY 1	1,629,454	1,714,454	1,663,484	1,689,354
BUDGET ACTIVITY 3: TRAINING AND RECRUITING:				
ACCESSION TRAINING:				
RECRUIT TRAINING	7,343	7,343	7,343	7,343
OFFICER ACQUISITION	268	268	268	268
BASE SUPPORT	66,554	66,554	67,219	66,554
BASIC SKILLS AND ADVANCED TRAINING:				
SPECIALIZED SKILLS TRAINING	25,057	35,057	35,057	35,057
FLIGHT TRAINING	165	165	165	165
PROFESSIONAL DEVELOPMENT EDUCATION	5,792	5,792	5,792	5,792
TRAINING SUPPORT	74,964	74,964	74,964	74,964
BASE SUPPORT	69,791	69,791	75,481	69,791
RECRUITING AND OTHER TRAINING EDUCATION:				
RECRUITING AND ADVERTISING	61,037	66,037	65,037	65,037
OFF-DUTY AND VOLUNTARY EDUCATION	11,055	11,055	11,055	11,055
JUNIOR ROTC	7,588	7,588	7,588	7,588
BASE SUPPORT	13,496	13,496	13,626	13,496
TOTAL, BUDGET ACTIVITY 3	343,110	358,110	363,595	357,110
BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES:				
SERVICEWIDE SUPPORT:				
LOGISTICS SUPPORT	95,596	95,596	95,596	95,596
SPECIAL SUPPORT	131,023	139,823	131,023	131,023
SERVICEWIDE TRANSPORTATION	31,931	31,931	31,931	31,931
ADMINISTRATION	28,523	28,523	29,523	28,523
BASE SUPPORT	10,085	10,085	10,185	10,085
TOTAL, BUDGET ACTIVITY 4	297,158	305,958	298,258	297,158
CLASSIFIED PROGRAMS			1,000	500

[In thousands of dollars]

	Budget	House	Senate	Conference
REAL PROPERTY MAINTENANCE		100,000		60,000
FOREIGN CURRENCY FLUCTUATION		9,400		1,000
INCLEMENT WEATHER GEAR		24,000		
TRANSPORTATION IMPROVEMENTS		−3,100	−3,100	−3,100
BARRACKS RENOVATION INITIATIVES			22,000	
ADMINISTRATIVE TRAVEL SAVINGS			−3,500	−9,500
TOTAL, O&M, MARINE CORPS	2,269,722	2,508,822	2,341,737	2,392,522

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
Operating Tempo	10,000
Depot maintenance	10,000
Initial Issue Equipment	16,000
Personnel Support Equipment	25,000
Training Range Environmental Assessment	1,000
Norway Prepositioning	(2,100)
Budget Activity 3: Training and Recruiting:	
Recruiting and Advertising	4,000
Other Adjustments:	
Foreign Currency	1,000
Administrative Travel Savings/Executive Transport	(9,500)

OPERATION AND MAINTENANCE, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, AIR FORCE				
BUDGET ACTIVITY 1: OPERATING FORCES:				
AIR OPERATIONS:				
PRIMARY COMBAT FORCES	2,684,913	2,829,413	2,664,913	2,713,913
PRIMARY COMBAT WEAPONS	409,701	389,701	389,701	389,701
COMBAT ENHANCEMENT FORCES	257,139	257,139	257,139	257,139
AIR OPERATIONS TRAINING	647,570	652,470	650,570	655,470
COMBAT COMMUNICATIONS	854,442	854,442	846,542	846,542
BASE SUPPORT	2,407,212	2,456,212	2,431,282	2,407,212
COMBAT RELATED OPERATIONS:				
GLOBAL C^3I AND EARLY WARNING	826,526	834,726	826,526	830,526
NAVIGATION/WEATHER SUPPORT	128,374	128,374	128,374	128,374
OTHER COMBAT OPS SUPPORT PROGRAMS	210,481	210,481	210,481	210,481
JCS EXERCISES	41,793	41,793	41,793	41,793
MANAGEMENT/OPERATIONAL HEADQUARTERS	111,914	111,914	111,914	111,914
TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	190,613	190,613	190,613	190,613
SPACE OPERATIONS:				
LAUNCH FACILITIES	254,590	254,590	254,590	254,590
LAUNCH VEHICLES	117,482	117,482	117,482	117,482
SPACE CONTROL SYSTEMS	341,862	341,862	341,862	341,862
SATELLITE SYSTEMS	49,132	49,132	43,832	49,132
OTHER SPACE OPERATIONS	79,989	79,989	79,989	79,989
BASE SUPPORT	402,589	402,589	406,589	402,589
TOTAL, BUDGET ACTIVITY 1	10,016,322	10,202,922	9,994,192	10,029,322
BUDGET ACTIVITY 2: MOBILIZATION:				
MOBILITY OPERATIONS:				
AIRLIFT OPERATIONS	1,544,785	1,526,785	1,524,785	1,533,785
AIRLIFT OPERATIONS C^3I	10,961	10,961	10,961	10,961
MOBILIZATION PREPAREDNESS	160,110	160,110	160,110	160,110
PAYMENTS TO TRANSPORTATION BUSINESS AREA	293,027	273,027	273,027	273,027
BASE SUPPORT	514,490	514,490	519,590	514,490
TOTAL, BUDGET ACTIVITY 2	2,523,373	2,485,373	2,488,473	2,492,373
BUDGET ACTIVITY 3: TRAINING AND RECRUITING:				
ACCESSION TRAINING:				
OFFICER ACQUISITION	49,197	49,197	49,197	49,197
RECRUIT TRAINING	3,881	3,881	3,881	3,881
RESERVE OFFICER TRAINING CORPS (ROTC)	39,226	39,226	39,226	39,226
BASE SUPPORT (ACADEMIES ONLY)	91,666	91,666	91,666	91,666
BASIC SKILLS AND ADVANCED TRAINING:				
SPECIALIZED SKILL TRAINING	204,465	214,465	214,465	214,465
FLIGHT TRAINING	336,956	276,956	309,556	326,956
PROFESSIONAL DEVELOPMENT EDUCATION	78,688	78,688	78,688	78,688
TRAINING SUPPORT	65,048	65,048	65,048	65,048
BASE SUPPORT (OTHER TRAINING)	545,451	545,451	550,851	545,451
RECRUITING, AND OTHER TRAINING AND EDUCATION:				
RECRUITING AND ADVERTISING	44,827	50,827	49,827	49,827
EXAMINING	3,122	3,122	3,122	3,122
OFF DUTY AND VOLUNTARY EDUCATION	75,537	86,237	75,537	79,537
CIVILIAN EDUCATION AND TRAINING	77,304	77,304	77,304	77,304
JUNIOR ROTC	25,392	25,392	25,392	25,392
TOTAL, BUDGET ACTIVITY 3	1,640,760	1,607,460	1,633,760	1,649,760
BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES:				
LOGISTICS OPERATIONS:				
LOGISTICS OPERATIONS	790,324	754,324	794,224	754,324
TECHNICAL SUPPORT ACTIVITIES	365,535	365,535	365,535	365,535
SERVICEWIDE TRANSPORTATION	234,836	234,836	234,836	234,836
BASE SUPPORT	889,348	889,348	913,648	889,448
SERVICEWIDE ACTIVITIES:				
ADMINISTRATION	118,319	102,819	118,319	112,819
SERVICEWIDE COMMUNICATIONS	318,240	318,240	318,240	318,240
PERSONNEL PROGRAMS	84,766	79,066	84,766	81,766
RESCUE AND RECOVERY SERVICES	40,426	44,826	40,426	44,826
SUBSISTENCE-IN-KIND	48,429	48,429	48,429	48,429
ARMS CONTROL	34,645	34,645	34,645	34,645
OTHER SERVICEWIDE ACTIVITIES	396,155	396,155	396,155	396,155
OTHER PERSONNEL SUPPORT	32,080	32,080	32,080	32,080
CIVIL AIR PATROL CORPORATION	14,704	15,804	16,704	16,704
BASE SUPPORT	248,095	270,295	254,595	248,095
PENTAGON RENOVATION TRANSFER			−32,730	−32,730
SECURITY PROGRAMS:				
SECURITY PROGRAMS	447,218	447,218	439,218	439,218
SUPPORT TO OTHER NATIONS:				
INTERNATIONAL SUPPORT	13,022	13,022	13,022	13,022

[In thousands of dollars]

	Budget	House	Senate	Conference
TOTAL, BUDGET ACTIVITY 4	4,076,142	4,046,642	4,072,112	3,997,412
CLASSIFIED PROGRAMS UNDISTRIBUTED		2,000	12,700	15,400
SR–71			30,000	30,000
CIVILIAN PERSONNEL UNDERSTRENGTH		−80,000	−30,000	−72,000
INFORMATION TECHNOLOGY		100		
GENERAL REDUCTION, NATIONAL DEFENSE STOCKPILE FUND	−50,000	−50,000	−50,000	−50,000
REAL PROPERTY MAINTENANCE		320,000		151,000
FOREIGN CURRENCY FLUCTUATION		20,600		7,200
EDCARS/DSREDS		2,000		2,000
INSPECTOR GENERAL CONSOLIDATION		−11,000		−11,000
REDUCED AUDITS		−13,000	−13,000	−13,000
PRINTING EFFICIENCIES		−3,000	−3,000	−3,000
ADMINISTRATIVE TRAVEL SAVINGS			−17,500	−28,500
BARRACKS RENOVATION INITIATIVES			100,000	
TRANSPORTATION IMPROVEMENTS		−15,300	−15,300	−15,300
PROVIDE COMFORT/ENHANCED SOUTHERN WATCH		393,200		393,200
SUPPLY MANAGEMENT REFORMS		−13,600		−13,600
OPERATIONAL SUPPORT AIRLIFT		−20,604		
TOTAL, O&M, AIR FORCE	18,206,597	18,873,793	18,202,437	18,561,267
TRANSFER	(50,000)	(50,000)	(50,000)	(50,000)
TOTAL FUNDING AVAILABLE	(18,256,597)	(18,923,793)	(18,252,437)	(18,611,267)

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
Air Guard Transfer	(6,200)
Excess Funded Carryover	(27,000)
Mission Readiness Training	25,200
Precision Weapons	1,000
Spares Funding	36,000
Caribbean Basin Radars	3,000
Simulation Enhancements	4,900
Combat Communications Transfer to R&D	(7,900)
Rivet Joint	4,000
Budget Activity 2: Mobilization:	
KC–135s	2,000
Excess Funded Carryover	(13,000)
Budget Activity 3: Training and Recruiting:	
Undergraduate Pilot Training	(10,000)
Recruiting and Advertising	5,000
Tuition Assistance	4,000
Budget Activity 4: Administration and Servicewide Activities:	
Acquisition Reform	(40,000)
B–1 Maintenance	4,000
CAMS/REMIS	100
STRATCOM	2,500
Administrative Efficiencies	(8,000)
Personnel Management Efficiencies	(3,000)
Rescue and Recovery Programs	4,400
Civil Air Patrol	2,000
Pentagon Renovation Transfer	(32,730)
Security Programs (Arms Control)	(8,000)
Other Adjustments:	
SR–71	30,000
Civilian Underexecution	(72,000)
Foreign Currency	7,200
Inspector General Consolidation	(11,000)
Administrative Travel Savings/Executive Transport	(28,500)
Provide Comfort/Enhanced Southern Watch	393,200
Supply Management Reforms	(13,600)

COUNTERDRUG OPERATIONS

The conferees direct that no more than $8,000,000 of available funds are to be used to relocate USSOUTHCOM radars. These funds are intended to augment counterdrug O&M funding and are not to be counted against the fiscal year 1996 appropriated level for counterdrug O&M activities.

ALTERNATIVE POWER DEMONSTRATION

The conferees agree that the report on the demonstration of alternative power sources for Burnt Mountain should be provided to the Committees on Appropriations by September 30, 1997.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, DEFENSE-WIDE				
BUDGET ACTIVITY 1: OPERATING FORCES:				
JOINT CHIEFS OF STAFF	475,977	537,977	480,977	480,977
SPECIAL OPERATIONS COMMAND	1,018,476	1,018,476	1,018,476	1,019,476
PROVIDE COMFORT/ENHANCED SOUTHERN WATCH				10,100
TOTAL, BUDGET ACTIVITY 1	1,494,453	1,566,553	1,499,453	1,510,553
BUDGET ACTIVITY 2: MOBILIZATION:				
DEFENSE LOGISTICS AGENCY	26,000	26,000	26,000	26,000
WASHINGTON HEADQUARTERS SERVICES	45,438			
TOTAL, BUDGET ACTIVITY 2	71,438	26,000	26,000	26,000
BUDGET ACTIVITY 3: TRAINING AND RECRUITING:				
DEFENSE ACQUISITION UNIVERSITY	112,991	93,991	112,991	101,491
DEFENSE BUSINESS MANAGEMENT UNIVERSITY	19,669	3,969	19,669	19,669
TOTAL, BUDGET ACTIVITY 3	132,660	97,960	132,660	121,160
BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES:				
AMERICAN FORCES INFORMATION SERVICE	90,892	90,892	90,892	90,892
CORPORATE INFORMATION MANAGEMENT	127,967	127,967	127,967	127,967
CLASSIFIED AND INTELLIGENCE	3,350,037	3,340,369	3,334,237	3,334,469
DEFENSE CIVILIAN PERSONNEL MANAGEMENT SERVICE	45,631	40,831	45,631	43,231
DEFENSE CONTRACT AUDIT AGENCY	342,926	332,126	342,926	332,126
DEFENSE INVESTIGATIVE SERVICE	201,582	197,682	201,582	199,582
DEFENSE LOGISTICS AGENCY	1,055,996	1,036,696	1,072,996	1,069,696
PROCUREMENT TECHNICAL ASSISTANCE PROGRAM			12,000	
DEFENSE LEGAL SERVICES AGENCY	6,540	6,540	6,540	6,540
DEFENSE MAPPING AGENCY	734,438	695,338	734,438	714,538
DEFENSE NUCLEAR AGENCY	96,105	96,105	96,105	96,105
DEFENSE POW/MIA OFFICE	13,486	13,486	13,486	13,486
FEDERAL ENERGY MANAGEMENT PROGRAM	234,682	120,000	50,000	35,000
DEPARTMENT OF DEFENSE DEPENDENTS EDUCATION	1,292,684	1,168,825	1,293,184	1,306,729
DEFENSE SUPPORT ACTIVITIES	82,562	82,562	82,562	82,562
DEFENSE TECHNOLOGY SECURITY ADMINISTRATION	10,858	10,858	10,858	10,858
JOINT CHIEFS OF STAFF	97,873	97,873	97,873	97,873
OFFICE OF ECONOMIC ADJUSTMENT	59,078	60,578	59,078	60,578
OFFICE OF THE SECRETARY OF DEFENSE	349,291	267,761	324,622	323,922
ON SITE INSPECTION AGENCY	97,987	97,987	85,987	85,987
WASHINGTON HEADQUARTERS SERVICES	308,421	298,821	308,421	298,821
PENTAGON RENOVATION TRANSFER			−50,830	108,020

[In thousands of dollars]

	Budget	House	Senate	Conference
TOTAL, BUDGET ACTIVITY 4	8,599,036	8,183,297	8,340,555	8,453,982
BUDGET ACTIVITY 6: CAPITAL LEASE:				
DEFENSE BUSINESS MANAGEMENT UNIVERSITY	69,195			
CIVILIAN PAY			−74,400	
CIVILIAN PERSONNEL UNDERSTRENGTH		−60,000	−57,700	−45,000
INFORMATION TECHNOLOGY		112,000		12,000
JOINT MARKET RESEARCH PROGRAM		2,000		2,000
FOREIGN CURRENCY FLUCTUATION		24,200		6,400
IMPACT AID		35,000		35,000
TRANSPORTATION IMPROVEMENTS		−18,200		
TRAVEL RE-ENGINEERING		−10,000	−22,500	−33,500
GENERAL REDUCTION			−40,000	
TRAVEL REDUCTION		−50,000		
FORT ORD BASE REHABILITATION SUPPORT				15,000
COAST GUARD TRANSFER				300,000
TOTAL, O&M, DEFENSE-WIDE	10,366,782	9,908,810	9,804,068	10,388,595

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
Northern Edge	5,000
Seal Delivery Vehicle Team One	1,000
Provide Comfort/Enhanced Southern Watch	10,100
Budget Activity 3: Training and Recruiting:	
DAU/Defense Systems Management College	(11,500)
Budget Activity 4: Administration and Servicewide Activities:	
Defense Civilian Personnel Management Service	(2,400)
Defense Contract Audit Agency	(10,800)
Defense Investigative Service	(2,000)
DLA Acquisition Reform	(10,700)
DLA Security Locks	15,000
DLA Homeless Initiative	(2,600)
DLA Procurement Technical Assistance	12,000
DMA, Minor Equipment	(13,800)
DMA, Internet Access	(600)
DMA, Productivity Improvements	(4,500)
DMA, Personnel Regionalization	(1,000)
Federal Energy Management Program	(199,682)
DoDDS Administrative Overhead	(10,000)
New Parent Support Program	25,600
Relocation Assistance Program	(2,055)
DoDDS Mathematics Teachers Leadership Project	500
Office of Economic Adjustment	1,500
OSD, Mobility Enhancements	41,000
OSD, DFAS Efficiencies	(20,000)
OSD, Management Efficiencies	(32,669)
OSD, Acquisition Reform	(400)
OSD, Staffing Reductions	(6,400)
OSD, Acquisition Program Growth	(4,200)
OSD, Consulting Services Growth	(20,700)
OSD, Joint Recruiting and Advertising Program	10,000
MARC cards	8,000
OSIA (Arms Control)	(12,000)
WHS, Inventory Growth	(9,600)
Pentagon Renovation Transfer	108,020
Other Adjustments:	
Civilian Underexecution	(45,000)
Information Technology	12,000
Joint Market Research Program	2,000
Foreign Currency	6,400
Impact Aid	35,000
Travel Efficiencies/Executive Transport	(33,500)
Fort Ord base rehabilitation support	15,000
Coast Guard Defense Missions	300,000

JOINT ANALYSIS MODEL IMPROVEMENT PROGRAM

The conferees agree that, of the funds provided, $11,200,000 shall be made available for the Joint Analysis Model Improvement Program.

PENTAGON RENOVATION

The conferees direct that the Pentagon renovation funding be consolidated in the "Operation and Maintenance, Defense-Wide" account. The conferees have provided a total of $108,020,000 for the Pentagon renovation.

TROOPS TO COPS AND TEACHERS

The Senate included language providing $52,000,000 to continue the Troops to Cops and Troops to Teachers programs. The conferees have deleted this language. The conferees expect the Defense Department to consider using existing resources within this appropriation, if available, to continue these programs.

TRANSITION ASSISTANCE PROGRAM AND RELOCATION ASSISTANCE PROGRAM

The conferees agree to provide $49,300,000 for the Transition Assistance Program and $18,504,000 for the Relocation Assistance Program for fiscal year 1996. However, the conferees are concerned that these programs have become permanent entities, even though they were initiated to provide service members and their families with separation and relocation assistance resulting from the drawdown. At the end of fiscal year 1996, the Department of Defense will have largely completed its downsizing effort. Accordingly, the conferees direct the Department to report to the Defense Committees no later than March 1, 1996, on phasing out these programs, and what, if any residual level of continued resourcing is required.

OPERATION AND MAINTENANCE, ARMY RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY RESERVE				
BUDGET ACTIVITY 1: OPERATING FORCES:				
MISSION OPERATIONS:				
BASE SUPPORT	284,036	284,036	284,036	284,036
DEPOT MAINTENANCE	57,377	57,377	57,377	57,377
RECRUITING AND RETENTION	43,963	43,963	43,963	43,963
TRAINING OPERATIONS	573,414	606,414	573,414	606,414
TOTAL, BUDGET ACTIVITY 1	958,790	991,790	958,790	991,790
BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES:				
ADMINISTRATION AND SERVICEWIDE ACTIVITIES:				
INFORMATION MANAGEMENT	17,492	17,492	17,492	17,492
PUBLIC AFFAIRS	423	423	423	423
PERSONNEL ADMINISTRATION	61,941	61,941	61,941	61,941
STAFF MANAGEMENT	29,945	29,945	29,945	29,945
TOTAL, BUDGET ACTIVITY 4	109,801	109,801	109,801	109,801
REAL PROPERTY MAINTENANCE		17,000		17,000
MILITARY/CIVILIAN TECHNICIAN RESTORATION		5,000		5,000
RESERVE COMPONENT AUTOMATION SYSTEM		−4,400		−4,400
TRANSITION BENEFITS			−279	
TOTAL, O&M, ARMY RESERVE	1,068,591	1,119,191	1,068,312	1,119,191

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
Training operations	33,000
Other adjustments:	
Real property maintenance	17,000
Military/civilian technician restoration	5,000
Reserve component automation system	−4,400
Total adjustments	+50,600

OPERATION AND MAINTENANCE, NAVY RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, NAVY RESERVE				
Budget activity 1: Operating forces:				
Reserve air operations:				
Mission and other flight operations	291,673	291,673	291,673	291,673
P–3 squadron operations				6,000
Intermediate maintenance	17,813	17,813	17,813	17,813
Air operation and safety support	1,915	1,915	1,915	1,915
Aircraft depot maintenance	49,338	59,338	49,338	54,338
Aircraft depot OPS support	356	356	356	356
Base support	130,854	130,854	130,854	130,854
Reserve Ship operations:				
Mission and other ship operations	60,895	60,895	60,895	60,895
Ship operational support and training	658	658	658	658
Intermediate maintenance	23,990	23,990	23,990	23,990
Ship depot maintenance	70,930	70,930	70,930	70,930
Ship depot operations support	1,467	1,467	1,467	1,467
Reserve combat operations support:				
Combat communications	817	817	817	817
Combat support forces	25,207	25,207	25,207	25,207
Base support	52,410	52,410	52,410	52,410
Reserve weapons support:				
Weapons maintenance	5,641	5,641	5,641	5,641
Total, Budget Activity 1	733,964	743,964	733,964	744,964
Budget Activity 4: Admin & servicewide activities:				
Administration and servicewide activities:				
Administration	8,029	8,029	8,029	8,029
Civilian manpower and personnel management	3,222	3,222	3,222	3,222
Military manpower and personnel management	31,209	31,209	31,209	31,209
Servicewide communications	21,247	21,247	21,247	21,247
Base support	25,723	25,723	25,723	25,723
Combat/Weapons systems	2,648	2,648	2,648	2,648
Total, Budget Activity 4	92,078	92,078	92,078	92,078
Real property maintenance		12,000		20,000
NSIPS		9,000		2,500
Operational support airlift		−15,477		
Total, O&M, Navy Reserve	826,042	841,565	826,042	859,542

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
P–3 Squadrons	6,000
Aircraft Depot Maintenance	5,000
Other Adjustments:	
Real Property Maintenance	20,000
NSIPS	2,500
Total Adjustments	+33,500

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, MARINE CORPS RESERVE				
BUDGET ACTIVITY 1: OPERATING FORCES:				
MISSION FORCES:				
TRAINING	13,617	14,517	13,617	14,517
OPERATING FORCES	21,237	27,637	21,237	25,637
BASE SUPPORT	18,059	18,059	18,059	18,059
DEPOT MAINTENANCE	2,322	3,722	2,322	3,322
TOTAL, BUDGET ACTIVITY 1	55,235	63,935	55,235	61,535
BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES:				
ADMINISTRATION AND SERVICEWIDE ACTIVITIES:				
RECRUITING AND ADVERTISING	7,609	7,609	7,609	7,609
SPECIAL SUPPORT	9,064	9,064	9,064	9,064
SERVICEWIDE TRANSPORTATION	5,381	5,381	5,381	5,381
ADMINISTRATION	6,274	6,274	6,274	6,274
BASE SUPPORT	6,720	11,020	6,720	8,920
TOTAL, BUDGET ACTIVITY 4	35,048	39,348	35,048	37,248
REAL PROPERTY MAINTENANCE		1,500		1,500
OPERATIONAL SUPPORT AIRLIFT		−2,704		
TOTAL, O&M, MARINE CORPS RESERVE	90,283	102,079	90,283	100,283

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
Training	900
Operating Forces	4,400
Depot Maintenance	1,000
Budget Activity 4: Admin & Servicewide Activities:	
Base Support	2,200
Other Adjustments:	
Real Property Maintenance	1,500
Total Adjustments	+10,000

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, AIR FORCE RESERVE				
BUDGET ACTIVITY 1: OPERATING FORCES:				
AIR OPERATIONS:				
AIRCRAFT OPERATIONS	1,103,593	1,115,433	1,103,593	1,115,433
MISSION SUPPORT OPERATIONS	35,073	35,073	35,073	35,073
BASE SUPPORT	282,248	282,248	282,248	282,248
TOTAL, BUDGET ACTIVITY 1	1,420,914	1,432,754	1,420,914	1,432,754
BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES:				
ADMINISTRATION AND SERVICEWIDE ACTIVITIES:				
ADMINISTRATION	33,107	33,107	33,107	33,107
MILITARY MANPOWER AND PERSONNEL MANAGEMENT	17,746	17,746	17,746	17,746
RECRUITING AND ADVERTISING	7,743	7,743	7,743	7,743
OTHER PERSONNEL SUPPORT	6,063	6,063	6,063	6,063
AUDIOVISUAL	374	374	374	374
TOTAL, BUDGET ACTIVITY 4	65,033	65,033	65,033	65,033
REAL PROPERTY MAINTENANCE	....	13,500	....	13,500
MILITARY/CIVILIAN TECHNICIAN RESTORATION	....	8,000	....	8,000
TOTAL, O&M, AIR FORCE RESERVE	1,485,947	1,519,287	1,485,947	1,519,287

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
Aircraft Operations	11,840
Other Adjustments:	
Real Property Maintenance	13,500
Military/Civilian Technician Restoration	8,000
Total Adjustments	+33,340

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD				
BUDGET ACTIVITY 1: OPERATING FORCES:				
MISSION OPERATIONS:				
TRAINING OPERATIONS	1,720,134	1,760,134	1,720,134	1,760,134
RECRUITING AND RETENTION	20,110	20,110	20,110	20,110
MEDICAL SUPPORT	19,109	19,109	19,109	19,109
DEPOT MAINTENANCE	100,687	100,687	100,687	100,687
BASE SUPPORT	250,378	250,378	252,978	252,978
TOTAL, BUDGET ACTIVITY 1	2,110,418	2,150,418	2,113,018	2,153,018
BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES:				
ADMINISTRATION AND SERVICEWIDE ACTIVITIES:				
INFORMATION MANAGEMENT	59,496	29,396	59,496	44,596
PUBLIC AFFAIRS	1,461	1,461	1,461	1,461
PERSONNEL ADMINISTRATION	89,665	89,665	89,665	89,665
STAFF MANAGEMENT	43,068	43,068	43,068	43,068
TOTAL, BUDGET ACTIVITY 4	193,690	163,590	193,690	178,790
REAL PROPERTY MAINTENANCE	....	21,000	100,000	100,000
MILITARY/CIVILIAN TECHNICIAN RESTORATION	....	9,000	....	9,000
TRANSITION BENEFITS	....	....	−45,000	....
OPERATIONAL SUPPORT AIRLIFT	....	−9,521	....	....
TOTAL, O&M, ARMY NATIONAL GUARD	2,304,108	2,334,487	2,361,708	2,440,808

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
Training Operations	40,000
Base Support	2,600
Budget Activity 4: Admin & Servicewide Activities:	
Information Management	−14,900
Other Adjustments:	
Real Property Maintenance	100,000
Military/Civilian Technician Restoration	9,000
Total Adjustments	+136,700

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, AIR NATIONAL GUARD				
BUDGET ACTIVITY 1: OPERATING FORCES:				
AIR OPERATIONS:				
AIRCRAFT OPERATIONS	1,977,786	1,979,286	2,005,186	2,006,686
MISSION SUPPORT OPERATIONS	346,687	346,687	246,687	346,687
BASE SUPPORT	361,224	361,224	361,224	361,224
DEPOT MAINTENANCE	18,410	19,910	18,410	19,910
TOTAL, BUDGET ACTIVITY 1	2,704,107	2,707,107	2,731,507	2,734,507

[In thousands of dollars]

	Budget	House	Senate	Conference
BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES:				
SERVICEWIDE ACTIVITIES:				
ADMINISTRATION	3,127	3,127	3,127	3,127
RECRUITING AND ADVERTISING	4,987	4,987	4,987	4,987
TOTAL, BUDGET ACTIVITY 4	8,114	8,114	8,114	8,114
REAL PROPERTY MAINTENANCE		15,000		15,000
MILITARY/CIVILIAN TECHNICIAN RESTORATION		7,000		18,500
TRANSITION BENEFITS			−15,600	
TOTAL, O&M, AIR NATIONAL GUARD	2,712,221	2,737,221	2,724,021	2,776,121

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
Aircraft Operations	28,900
Depot Maintenance	1,500
Other Adjustments:	
Real Property Maintenance	15,000
Military/Civilian Technician Restoration	18,500
Total Adjustments	+63,900

ENVIRONMENTAL RESTORATION, DEFENSE

The conferees agree to provide $1,422,200,000 for Environmental Restoration, Defense.

ENVIRONMENTAL REMEDIATION

The conferees support the "relative risk" approach to environmental remediation and expect the Department to make sure the most hazardous sites receive primary attention. While the conferees believe that all bases—those closing and those remaining open—must meet environmental standards the Department must not let ongoing environmental clean-up efforts preclude reuse opportunities at closing military installations. In these cases, the Department should work aggressively and innovatively with State and local officials to lower clean-up costs and to be sure environmental issues do not make it harder for affected communities to recover from losing a military installation.

SUMMER OLYMPICS

The conference agreement recommends an appropriation of $15,000,000 as proposed by the House and Senate for support of the 1996 Games of the XXVI Olympiad.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

The conferees agree to provide $50,000,000 for these functions of which $20,000,000 is specifically earmarked for training and activities related to the clearing of landmines for humanitarian purposes.

The conferees also agree to the House recommendation to consolidate all funds for humanitarian, disaster, and civil aid into a single account.

FORMER SOVIET UNION THREAT REDUCTION

The conferees agree to provide $300,000,000 for the Former Soviet Union Threat Reduction program, a reduction of $71,000,000 from the budget request. Funding provided at the subprogram level appears in the following table:

[In millions of dollars]

Program	Budget	House	Senate	Conference
Nuclear Arms Reduction	167.5	167.5	167.5	167.5
Defense Enterprise Fund	40	0	0	0
Chemical Weapons Destruction	104	0	104	79
Fissile Material	29	6	29	29
Other	30.5	26.5	24.5	24.5
Total	371	200	325	300

Although no new funds are provided for the Defense Enterprise Fund, the conferees agree that up to $2,000,000 of previously appropriated funds may be expended to administer the continued operation of the Defense Enterprise Fund program currently underway. The conferees have included two general provisions regarding the Former Soviet Union Threat Reduction program involving the limitation on expenditures of funds for the Chemical Weapons Destruction program and a prohibition on providing funds for housing for current or former Soviet military officers.

TITLE III—PROCUREMENT

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
SUMMARY				
ARMY:				
AIRCRAFT	1,223,067	1,468,067	1,498,623	1,558,805
MISSILES	676,430	842,830	846,555	865,555
WEAPONS, TRACKED COMBAT VEHICLES	1,298,986	1,616,964	1,396,264	1,652,745
AMMUNITION	795,015	1,019,315	1,090,891	1,110,685
OTHER	2,256,601	2,570,125	2,760,002	2,769,443
TOTAL, ARMY	6,250,099	7,517,301	7,592,335	7,957,233
NAVY:				
AIRCRAFT	3,886,488	4,310,703	4,897,393	4,589,394
WEAPONS	1,787,121	1,736,211	1,771,421	1,669,827
AMMUNITION		483,779		430,053
SHIPS	5,051,935	5,577,958	7,062,001	6,643,958
OTHER	2,396,080	2,480,670	2,394,260	2,483,581
MARINE CORPS	474,116	480,852	597,139	458,947
TOTAL, NAVY	13,595,740	15,070,173	16,722,214	16,275,760
AIR FORCE:				
AIRCRAFT	6,183,886	7,140,703	7,163,258	7,367,983
MISSILES	3,647,711	3,223,265	3,550,192	2,943,931
AMMUNITION		321,328		338,800
OTHER	6,804,696	6,508,425	6,540,951	6,284,230
TOTAL, AIR FORCE	16,636,293	17,193,721	17,254,401	16,934,944
DEFENSE-WIDE	2,179,917	2,187,085	2,114,824	2,124,379
NATIONAL GUARD AND RESERVE EQUIPMENT		908,125	777,000	777,000
TOTAL PROCUREMENT	38,662,049	42,876,405	44,460,774	44,069,316

JOINT FORCES COMMAND, CONTROL AND COMMUNICATIONS

The conferees understand the importance of interoperability for joint forces in war and peacetime and have provided an additional $103,300,000 to correct critical deficiencies. However, through testimony from the Vice Chairman, Joint Chiefs of Staff, Service Chiefs and Commanders in Chief of the various Unified and Specified Commands, the conferees believe that deficiencies in command, control and communications still exist. The conferees encourage the Secretary of Defense to provide adequate resources for joint interoperability initiatives and will entertain reprogramming action that provides additional funds for this purpose.

AMMUNITION AND MISSILE QUANTITIES

The conferees agree the quantities of missiles and ammunition noted in the following tables are to be considered a floor and direct the Department to buy as many units as appropriated funds will allow. In no case shall the Department buy less than the quantities noted in the table unless the congressional defense committees are informed as to why these levels are unachievable.

AIRCRAFT PROCUREMENT, ARMY

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Quantity	Conference
AIRCRAFT PROCUREMENT, ARMY:					
C–XX (MEDIUM RANGE) AIRCRAFT			23,000	4	23,000
UH–60 BLACKHAWK (MYP)	334,880	334,880	302,962	60	334,880
UH–60 BLACKHAWK (MYP) (AP–CY)		75,000	70,000		70,000
GUARDRAIL MODS (TIARA)	48,969	57,969	48,969		57,969
AH–64 MODS	53,596	53,596	50,596		53,596
LONGBOW	341,968	341,968	418,168		418,168
KIOWA WARRIOR	71,334	211,334	196,334	20	211,334
SPARES AND REPAIR PARTS	49,177	49,177	33,351		34,615
AIRCRAFT SURVIVABILITY EQUIPMENT	22,304	43,304	54,404		54,404

AH–64 MODIFICATIONS

The conferees agree to provide the budget request of $53,596,000 for AH–64 modifications. Of this amount, $3,000,000 shall be used to procure additional embedded global positioning/inertial navigation systems for Apache helicopters.

UH–60

The conferees agree with the Senate language regarding enhanced protection systems. However, in view of the conference agreement to fund a multi-year procurement program for the UH–60, the conferees believe that the House-recommended report on helicopter production strategies is not required.

HIGH CAPACITY AIR AMBULANCE

The conferees are deeply concerned by the failure of the Army to address the need for a High Capacity Air Ambulance (HCAA). The Army Surgeon General has stated that this is one of his highest priorities. The conferees direct the Army to seek an appropriate solution and report the results of the planned joint exercise with the Air Force and National Guard by February 15, 1996. The report should include the feasibility of utilizing C–130s for the HCAA fixed wing requirement, the role of the Army and Air National Guard in this mission, and requirements for the UH–60L and or UH–60Q helicopters for the National Guard in order to accomplish the rotary wing portion of this mission. The conferees direct that, of the funds appropriated for UH–60Ls, the first 9 aircraft to be procured within the Aircraft Procurement, Army appropriation will be assigned to the National Guard.

MISSILE PROCUREMENT, ARMY

The conference agreement is as follows:

	Budget	House	Senate	Qty	Conference
MISSILE PROCUREMENT, ARMY:					
HELLFIRE SYS SUMMARY	209,460	249,460	246,685	750	246,685
JAVELIN (AAWS–M) SYSTEM SUMMARY	171,428	210,428	206,928	1,010	206,928
TOW 2 SYSTEM SUMMARY	7,378	7,378	27,378	1,000	12,378
MLRS LAUNCHER SYSTEMS	48,158	64,558	64,558	29	98,558
STINGER MODS	10,095	20,095	10,095		10,095

TOW 2 MISSILES

The conferees agree to provide $12,378,000 for TOW 2 missiles, an increase of $5,000,000 to modify the capstan block of existing TOW 2 missiles.

MULTIPLE LAUNCH ROCKET SYSTEM LAUNCHERS

The conferees agree to provide $98,588,000 for multiple launch rocket system launchers, an increase of $50,400,000 only for the refurbishment of existing launchers which are to be transferred to the National Guard.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
Procurement of W&TCV, Army:					
Armored Gun System (AGS)	141,551	141,551	141,551	26	147,551
M1 Abrams Tank Series (MYP)			15,000		3,000
Carrier, MOD	48,067	49,667	48,067		49,667
BFVS Series (MOD)	74,336	74,336	88,336		88,336
Howitzer, MED SP FT 155MM M109A6 (MOD)	220,239	302,039	220,239		302,039
M1 Abrams Tank (MOD)	77,076	46,754	51,754		51,754
Abrams Upgrade Program	340,911	340,911	340,911		450,911
Abrams Upgrade Program (MCR)		110,000			
Production Base Support (TCV-WTCV)	11,619	11,619	4,019		5,500
FAASV		44,000			44,000
Machine Gun, 5.56MM (SAW)		28,500	12,500		28,500
Grenade Launcher, Auto 40MM, MK19–3		20,000	33,900		33,900
M16 Rifle		13,500	6,500		13,500
Medium Machine Gun		6,500	5,900		6,500

TEST EQUIPMENT

The conferees agree to provide $15,000,000 for Direct Support Electronic System Test Sets (DSESTS). The funding is appropriated as follows:

	Conference
Armored Gun System	$6,000,000
Abrams Tank Series	3,000,000
Combat Vehicle Improvement Program (RDT&E,A)	6,000,000

PROCUREMENT OF AMMUNITION, ARMY

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
PROCUREMENT OF AMMUNITION, ARMY:					
CTG, 7.62MM, ALL TYPES	2,573	2,573	12,573		7,573
CTG, 25MM, ALL TYPES	35,139	45,139	70,139		70,139
SPECIAL PURPOSE AMMUNITION					6,000
CTG MORTAR 60MM 1/10 PRAC M766		3,600			3,600
CTG MORTAR 81MM PRAC 1/10 RANGE M880		6,600			6,600
CTG MORTAR 120MM SMOKE XM929 W/MO FUZE	47,704	69,704	67,704	44	67,704
CTG ARTY 75MM BLANK M337A1	3,749	3,749		102	1,500
PROJ ARTY 155MM SMOKE WP M825	10,607	10,607	5,132		5,132
PROJ ARTY 155MM SADARM XM898	24,284	24,284	42,284	77	42,284
MINE AT/AP M87 (VOLCANO)			30,000		30,000
DEMOLITION MUNITIONS, ALL TYPES	26,269	26,269	32,269		32,269
PROVISION OF INDUSTRIAL FACILITIES	41,906	66,906	41,906		44,000
LAYAWAY OF INDUSTRIAL FACILITIES	13,663	23,663	13,663		18,663
ARMAMENT RETOOLING & MANUFACTURING SUPPORT (ARMS)			45,000		45,000

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
CONVENTIONAL AMMO DEMILITARIZATION	96,280	106,280	100,280		100,280

SPECIAL PURPOSE AMMUNITION

The conferees agree to provide $6,000,000 for special purpose ammunition. The increase is to be allocated as follows:

	Conference
7.62 MM (XM993)	$2,000,000
5.56 MM (XM995)	2,000,000
.50 caliber (MK211)	2,000,000

CTG 120 MM HEAT M830A1

The conferees direct the Army to procure 120MM HEAT M830A1 tank rounds with the $15,000,000 appropriated in fiscal year 1994 for AT-4 modifications.

OTHER PROCUREMENT, ARMY

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
OTHER PROCUREMENT, ARMY:					
HI MOB MULTI-PURP WHLD VEH (HMMWV) (MYP)	57,690	109,690	129,690	546	129,690
FAMILY OF HEAVY TACTICAL VEHICLES (MYP)	596	100,596	125,596		125,596
MEDIUM TRUCK EXTENDED SVC PGM (ESP) (PREVS)			30,000		20,000
NAVSTAR GLOBAL POSITIONING SYSTEM	32,502	50,002	32,502	15,025	50,002
STD THEATER CMD & CONTROL SYS (STACCS)	14,526	14,526	17,826		14,526
SINCGARS FAMILY	310,620	310,620	364,720		364,720
EAC COMMUNICATIONS	5,896	5,896	45,896		45,896
INFORMATION SYSTEMS	64,142	40,142	64,142		52,142
DEFENSE MESSAGE SYSTEM (DMS)	7,963	7,963	10,763		7,963
LOCAL AREA NETWORK (LAN)	61,547	41,547	61,547		51,547
GENERAL DEFENSE INTELL PROG (GDIP)	29,409	24,188	29,409		24,188
ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)	9,886	9,886	16,266		9,886
IEW—GND BASE COMMON SENSORS (TIARA)	46,937	46,937			46,937
JOINT STARS (ARMY) (TIARA)	82,984	99,484	82,984		82,984
NIGHT VISION DEVICES	77,132	77,132	85,132		85,132
ADV FIELD ARTILLERY TACT SYS (AFATDS)	30,897	29,397	30,897	221	29,397
FAAD C2	32,942	40,342	32,942	5	40,342
MANEUVER CONTROL SYSTEM (MCS)	13,808	13,808	18,808	152	18,808
AUTOMATED DATA PROCESSING EQUIP	132,751	130,351	132,751		138,751
RESERVE COMPONENT AUTOMATION SYS (RCAS)	83,174	113,174	83,174		83,174
INTEGRATED FAMILY OF TEST EQUIP (IFTE)	26,449	46,449	26,449		44,949
LAB PETROLEUM MODULAR BASE	2,786	2,786		1	2,786
ITEMS LESS THAN $2.0M (POL)	5,537	5,537	3,237		4,700
COMBAT SUPPORT MEDICAL	14,310	8,810	14,310		14,310
PUSHER TUG, SMALL	3,576	3,576		1	3,576
ITEMS LESS THAN $2.0M (FLOAT/RAIL)	3,602	2,602	3,602		2,602
GENERATORS AND ASSOCIATED EQUIP	13,761	8,761	48,761		13,761
TRAINING DEVICES, NONSYSTEM	71,561	71,561	76,061		76,061
SIMNET/CLOSE COMBAT TACTICAL TRAINER	30,655		30,655		30,655
MODIFICATION OF IN-SVC EQUIPMENT (OPA–3)	21,911	14,411	21,911		14,411

NAVSTAR GLOBAL POSITIONING SYSTEM

The conferees agree to provide $32,502,000 for the Navstar Global Positioning System, an increase of $17,500,000 to complete the installation of global positioning systems on all Army active and reserve aircraft. The conferees direct that priority installation be given to the 1/207th Aviation Regiment because of their unique search and rescue mission in remote areas.

JSTARS GROUND STATIONS

The conferees do not agree on the transfer language for JSTARS ground stations from the Army to the Marine Corps. The conferees have provided funds in the Procurement, Marine Corps appropriation for JSTARS ground stations.

AIRCRAFT PROCUREMENT, NAVY

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
AIRCRAFT PROCUREMENT, NAVY:					
EA–6B/REMFG (ELECTRONIC WARFARE) PROWLER			140,000		
AV–8B (V/STOL) HARRIER	148,163	308,163	229,414	8	229,414
F/A–18C/D (FIGHTER) HORNET	609,904	583,204	1,096,869	18	822,669
F/A–18C/D (FIGHTER) HORNET (AP–CY)			86,459		
AH–1W (HELICOPTER) SEA COBRA	10,385	75,000	10,385	6	75,000
T–39N			45,000	17	45,000
EA–6 SERIES			65,000		165,000
F–14 SERIES	59,047	59,047	76,147		107,522
H–1 SERIES	54,530	66,530	71,530		71,530
P–3 SERIES	178,557	217,857	182,557		217,357
TRAINER A/C SERIES	727	45,727	727		727
COMMON ECM EQUIPMENT	4,234	4,234	34,234		34,234
SPARES AND REPAIR PARTS	784,782	784,782	822,912		784,782
COMMON GROUND EQUIPMENT	367,017	397,017	367,017		367,017
AVIATION MULTIYEAR FUND		100,000			

F/A–18C/D HORNET

The conferees agree to provide $822,669,000 for the acquisition of eighteen F/A–18C/D aircraft. The conferees do not agree with the House reduction of funds for procurement of ALR–67(V)3 radar warning receivers.

T–39N

The conferees agree to provide $45,000,000 to purchase 17 T–39N aircraft. The conferees also agree with the House's direction for the Navy to transition to a competitive purchase of services contract for logistical support for the T–39N fleet after aircraft acquisition. However, the conferees direct that this transition should occur at the conclusion of the current T–39N contract, which is due to expire at the end of fiscal year 1998.

EA–6B

The conferees agree to provide $165,000,000 for modifications and improvements to the EA–6B electronic warfare aircraft. The funds are approved for the following purposes: $100,000,000 to modify 20 more aircraft to enable the Navy to support Air Force requirements; $40,000,000 to buy 60 shipsets of Band 9/10 jammer transmitters; and $25,000,000 to buy 30 USQ–113 radio countermeasures sets. The conferees further agree to modify the Senate's direction to use prior year funds for the acquisition of Band 9/10 jammers, which is now not necessary because they have provided sufficient fiscal year 1996 funds to procure these systems. The conferees urge the Navy to buy these systems expeditiously.

P–3 MODIFICATIONS

The conferees agree with the Senate's direction regarding acquisition of the AN/AAQ–22 thermal imaging system and incorporation of that system into the P–3 Antisurface Warfare Improvement Program (AIP).

COMMON ECM EQUIPMENT

The conferees support the use of the LAU–138/A launch rail chaff dispenser system on Navy tactical aircraft as a cost effective means for improving aircrew/aircraft survivability. The conferees direct that these systems be managed as fleet armament equipment pool assets to afford maximum flexibility and cost savings, and that all remaining prior year funds appropriated for these systems be expeditiously applied toward this purpose.

AVIATION MULTIYEAR FUND

The conferees do not agree to provide funds for an Aviation Multiyear Fund as proposed by the House. The Navy is therefore not required to solicit multiyear bids from E–2C, AV–8B, and T–45 manufacturers, although it may do so if circumstances warrant.

WEAPONS PROCUREMENT, NAVY

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
WEAPONS PROCUREMENT, NAVY:					
TOMAHAWK	161,727	201,727	120,027	164	120,027
AMRAAM	81,691	77,491	77,691	115	77,491
HARPOON	46,368	86,368	46,368	75	86,368
DRONES AND DECOYS			7,000		
TOMAHAWK MODS	684	60,684	684	220	50,000
WEAPONS INDUSTRIAL FACILITIES	13,094	13,094	43,094		43,094
VERTICAL LAUNCHED ASROC (VLA)		14,000			10,000
GENERAL PURPOSE BOMBS	46,142		39,142		
2.75 INCH ROCKETS	14,806		14,806		
MACHINE GUN AMMUNITION	11,469		11,469		
PRACTICE BOMBS	11,195		11,195		
CARTRIDGES & CART ACTUATED DEVICES	17,974		17,974		
AIRCRAFT ESCAPE ROCKETS	10,586		10,586		
AIR EXPENDABLE COUNTERMEASURES	22,828		22,828		
MARINE LOCATION MARKERS	871		871		
JATOS	4,940		4,940		
5 INCH/54 GUN AMMUNITION	21,501		21,501		
CIWS AMMUNITION	93		93		
76MM GUN AMMUNITION	6,432		6,432		
OTHER SHIP GUN AMMUNITION	5,148		5,148		
SMALL ARMS & LANDING PARTY AMMO	5,814		5,814		
PYROTECHNIC AND DEMOLITION	11,253		11,253		
MINE NEUTRALIZATION DEVICES	787		787		
SHIP EXPENDABLE COUNTERMEASURES	8,871		8,871		

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
PROCUREMENT OF AMMUNITION, NAVY & MARINE CORPS:					
GENERAL PURPOSE BOMBS		46,142			43,000
2.75 INCH ROCKETS		14,806			14,806
MACHINE GUN AMMUNITION		11,469			11,469
PRACTICE BOMBS		26,195			19,000
CARTRIDGES & CART ACTUATED DEVICES		17,974			17,974
AIRCRAFT ESCAPE ROCKETS		10,586			10,586
AIR EXPENDABLE COUNTERMEASURES		24,828			24,828
MARINE LOCATION MARKERS		871			871
JATOS		4,940			4,940
5 INCH/54 GUN AMMUNITION		51,701			36,000
CIWS AMMUNITION		93			93
76 MM GUN AMMUNITION		6,432			6,432
OTHER SHIP GUN AMMUNITION		10,148			10,148
SMALL ARMS & LANDING PARTY AMMO		5,814			5,814
PYROTECHNIC AND DEMOLITION		11,253			11,253
MINE NEUTRALIZATION DEVICES		787			787
SHIP EXPENDABLE COUNTERMEASURES		8,871			8,871
5.56 MM, ALL TYPES		28,487			28,487
7.62 MM, ALL TYPES		12,082			12,082
.50 CALIBER		66,688			45,000
40 MM, ALL TYPES		3,939			3,939
60 MM HE M888		9,855			9,855
81 MM HE		4,724			4,724
81 MM, HE, M889A1					10,000
81 MM SMOKE SCREEN		5,445			5,445
81 MM ILLUMINATION (XM816)		6,700			6,700
120 MM TPCSDS–T M865		8,902			8,902
120 MM TP–T M831		3,314			3,314
155 MM CHG. PROP. RED BAG		32,000			16,000
FUZE, ET, XM762		10,000			10,000
CTG 25 MM, ALL TYPES		6,724			6,724
9 MM ALL TYPES		2,979			2,979
ROCKETS, ALL TYPES		7,034			7,034
AMMO MODERNIZATION		9,611			9,611
GRENADES, ALL TYPES		1,174			1,174
ITEMS LESS THAN $2 MIL		11,211			11,211

5 INCH/54 GUN AMMUNITION

The conferees agree to provide $36,000,000, an increase of $14,499,000 only for 5 inch/54 gun ammunition. Despite Congressional direction to correct the requirements process and provide adequate funding for fleet training ammunition, the Navy has chosen once again to provide insufficient funding. The conferees direct the Secretary of Navy to ensure that adequate funding is provided in subsequent budget requests for fleet training ammunition.

SHIPBUILDING AND CONVERSION, NAVY

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
SHIPBUILDING & CONVERSION, NAVY:					
SSN–21	1,507,477		700,000	1	700,000
NEW SSN (AP–CY) (NO. 2)			100,000		100,000
ENHANCED SSN CAPABILITY		1,000,000			
DDG–51	2,162,457	2,162,457	3,580,000		2,162,457
DDG–51 ADVANCE PROCUREMENT	6,800	6,800	6,800		6,800
LHD–7 AMPHIBIOUS ASSAULT SHIP (MYP (AP–CY)			1,300,000		1,300,000
LPD–17		974,000		1	974,000
FAST PATROL CRAFT		9,500			9,500

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
T-AGS 64		70,000			16,000
LSD–52 SELF DEFENSE					20,000
OUTFITTING	144,791	134,791	144,791		134,791
POST DELIVERY	174,991	164,991	174,991		164,991

DDG–51

The conferees agree to provide $2,169,257,000 for the purchase of three DDG–51 class destroyers. The conferees believe contracting for three ships will generate increased economies of scale and provide stability for the Navy and the shipbuilding industrial base.

LPD–17 RCS ENGINEERING SUPPORT

The conferees note that as a result of the Base Realignment and Closure decisions, the Navy has reorganized and consolidated its Radio Communications Systems (RCS) engineering, production, testing, integration and training support activities. In assigning RCS engineering support workload for the LPD–17 class of ships, the conferees expect that the Navy will assign such workload to the most appropriate facility.

T-AGS–64

The conferees agree to provide $16,000,000 for advance procurement for a T-AGS–64 multi-purpose oceanographic survey ship.

LSD–52

The conferees agree to provide $20,000,000 as recommended by the House for one additional SSDS MK–1 unit which the conferees direct be installed on LSD–52 during its construction prior to delivery of this vessel to the fleet.

SHIP COST ADJUSTMENT

The conferees do not agree to the House proposal to modify the ship cost adjustment process by eliminating specific designations in the bill, providing new transfer authority, and providing reprogramming limitations. The conferees also do not agree to the House requirement to include ship cost adjustments in the annual omnibus reprogramming process.

Within the ship cost adjustment implemented in section 8091 of the Act, the conferees have allocated funds for potential settlement of claims on the AOE class of ships. This action is taken solely to facilitate the Navy's ability to implement a settlement, should one be reached.

OTHER PROCUREMENT, NAVY

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
OTHER PROCUREMENT, NAVY:					
ELEC SUSPENDED GYRO NAVIGATOR	4,108		4,108		
OTHER NAVIGATION EQUIPMENT	17,688	27,688	14,119		27,688
MINESWEEPING EQUIPMENT	12,985	6,985	12,985		6,985
HM&E ITEMS UNDER $2 MILLION	43,389	33,389	39,629		33,389
FLEET MODERNIZATION PROGRAM		3,000			3,000
RADAR SUPPORT	466	14,466	466		14,466
SURFACE ELECTRO-OPTICAL SYSTEM	3,542	9,542	3,542		9,542
SURFACE SONAR SUPPORT EQUIPMENT	9,349	9,349	19,609		19,609
AN/SQQ–89 SURF ASW COMBAT SYSTEM	30,297	30,297	25,297		25,297
SSN ACOUSTICS	42,269	33,269	42,269		42,269
SSTD	13,751	11,051	13,751		13,751
C–3 COUNTERMEASURES	9,540	24,540	9,540		24,540
NAVY TACTICAL DATA SYSTEM	301	12,301	301		12,301
ID SYSTEMS	10,202	9,702	10,202		9,702
SHIPBOARD TACTICAL COMMUNICATIONS	6,635	12,935	6,635		12,935
SATCOM SHIP TERMINALS	98,099	98,099	112,499		112,499
SECURE DATA SYSTEM	8,636	8,636	6,037		6,037
AN/SSQ–36 (BT)		200			200
AN/SSQ–62 (DICASS)		4,090			4,090
AN/SSQ–110 (EER)		21,910			21,910
WEAPONS RANGE SUPPORT EQUIPMENT	40,280	38,080	50,030		48,830
LAMPS MK III SHIPBOARD EQUIPMENT	17,914	16,714	17,914		16,714
DARP			4,500		
RAM GMLS	50,037	39,337	72,937		50,037
SHIP SELF DEFENSE SYSTEM	15,643	35,643	15,643		15,643
SURFACE TOMAHAWK SUPPORT EQUIPMENT	71,293	71,293	51,293		61,293
ANTI-SHIP MISSILE DECOY SYSTEM	15,199	2,599	15,199		2,599
FLEET MINE SUPPORT EQUIPMENT	4,452	4,452	6,152		6,152
FORKLIFT TRUCKS	3,750	3,750	1,750		1,750
COMPUTER ACQUISITION PROGRAM (NSIPS)					13,000
SAFETY AND SURVIVABILITY ITEMS		20,000			10,000
SPARES AND REPAIR PARTS	210,213	210,213	170,713		190,213

HM&E ITEMS UNDER $2,000,000

The conferees agree to provide $33,389,000 for "HM&E Items Under $2,000,000", a reduction of $10,000,000. This decrease, which is applied against the Surface Ship Support Equipment portion, includes a reduction of $3,760,000 against the Gaseous Nitrogen Generator subproject.

FLEET MODERNIZATION

The conferees agree to provide $3,000,000 for procurement of propeller shaft composite fairwaters to be backfit on CG 47 class cruisers during overhaul.

RADAR SUPPORT

The conferees agree to provide $14,466,000 for the Radar Support program, an increase of $14,000,000. The increase includes $9,000,000 for the AN/BPS–16 submarine radar and $5,000,000 for the AN/SPA–25G Radar Display program.

SURFACE SONAR WINDOWS AND DOMES

The conferees agree to provide $6,000,000 for procurement of replacement sonar rubber domes and windows, provision of safety-related field service repair and change-out of this equipment, and product improvements to increase durability and service life.

WEAPONS RANGE SUPPORT EQUIPMENT

The conferees agree to provide $48,830,000, an increase of $8,550,000, for Weapons Range Support Equipment program. The net increase includes a decrease of $1,200,000 for the Electronic Warfare Response Monitor subprogram and an increase of $9,750,000 as proposed by the Senate.

SURFACE TOMAHAWK SUPPORT EQUIPMENT

The conferees agree to provide $61,293,000 for the Surface Tomahawk Support Equipment program, a reduction of $10,000,000. The reduction is against the Afloat Planning System (APS) subprogram. The conferees are concerned that the Navy does not currently have an operational doctrine for the tactical use of Tomahawk cruise missiles by ship commanders. Furthermore, the conferees question the need to deploy APS on all carriers in light of the Challenge Athena satellite communications project.

AN/SPS–48E RADAR

The conferees direct that the funds previously appropriated for Pulse Doppler Mod Kits for AN/SPS–48E radars be released to the Navy. The modification of the radar will significantly improve its operational effectiveness when operating in littoral waters and therefore will improve the entire surface fleet's tactical situation awareness when it is incorporated into the Cooperative Engagement Capability. Given the vital link between these two programs, the conferees further direct that management and execution of the upgrade to the AN/SPS–48E radar program be conducted by the Program Executive Officer for Theater Air Defense.

HF LINK 11 DATA TERMINALS

The conferees agree to the Senate language directing the evaluation and selection of the AN/USQ–125 and the AN/USQ–120V radio communication link. However, the conferees direct that the selection of the objective system is to be no later than 30 days after the enactment of this Act.

PROCUREMENT, MARINE CORPS

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
PROCUREMENT, MARINE CORPS:					
5.56 MM, ALL TYPES	28,487		28,487		
7.62 MM, ALL TYPES	2,082		12,082		
.50 CALIBER	8,588		19,060		
40 MM, ALL TYPES	3,939		3,939		
60 MM HE M888	9,855		9,855		
81 MM HE	4,724		11,724		
81 MM, HE, M–889A1			17,000		
81 MM SMOKE SCREEN	5,445		5,445		
120 MM TPCSDS–T M865	8,902		8,902		
120 MM TP–T M831	3,314		3,314		
CTG 25 MM, ALL TYPES	6,724		6,724		
9 MM ALL TYPES	2,979		2,979		
GRENADES, ALL TYPES	474		474		
ROCKETS, ALL TYPES	7,034		7,034		
AMMO MODERNIZATION	9,611		9,611		
ITEMS LESS THAN $2 MIL	8,711		17,262		
MODIFICATION KITS (TRKD VEH)	3,273	15,573	17,773		15,573
HAWK MOD	3,040	4,688	3,040		3,040
MANPACK RADIOS AND EQUIP	9,735	12,735	9,735		12,735
MULTI-SERV ADF FIELD ART TACTICAL DATA SYS	12,140	23,140	23,140	188	12,140
INTELLIGENCE SUPPORT EQUIPMENT	6,283	18,783	6,283		35,283
NIGHT VISION EQUIPMENT	2,283	2,283	4,283		4,283
LIGHT RECON VEHICLE		2,000			
TRAILERS	4,932	10,439	10,432		10,432
MODIFICATION KITS	6,496	7,496	6,496		7,496
ITEMS LESS THAN $2 MIL	75	1,975	75		75
PRECISION GUNNERY TRAINING SYSTEM		5,900			5,900
M240 MACHINE GUN MODS		2,200			
ASSET TRACKING LOGISTICS SYSTEM		17,850			
LIGHTWEIGHT COMPUTER UNITS		3,800			

INTELLIGENCE SUPPORT EQUIPMENT

The conferees agree to provide $35,283,000 for intelligence support equipment, an increase of $29,000,000. Of the increase, $16,500,000 is only for two JSTARS ground stations and $12,500,000 is only for Commander's Tactical Terminals.

RIGHT HAND DRIVE VEHICLES

The conferees have reviewed the implementation of Public Law 100–370, which amended title 10 U.S.C. (2253) to limit the amount available for purchase of right hand drive vehicles to $12,000. The conferees agree that this limitation should only apply to the purchase of passenger sedans manufactured outside of the United States. Further, this limitation does not affect the use of any right hand drive vehicle provided as part of the local contribution towards the basing of U.S. forces in the Host Nation.

AIRCRAFT PROCUREMENT, AIR FORCE

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
AIRCRAFT PROCUREMENT, AIR FORCE:					
B–1B (MYP)	56,336	56,336	143,336		56,336
B–2A (MYP)	279,921	772,921	279,921		772,921
F–15E		250,000	311,210	6	311,210
F–15E ADV PROC			50,190		50,190
F–16 C/D (MYP)		50,000	159,400	6	159,400
F–16 C/D ADV PROC			15,400		
C–17 (MYP)	2,402,491	2,402,491	2,412,491	8	2,412,491
C–17 (MYP) (AP–CY)			180,000		
WC–130			221,167	3	132,700
STRATEGIC AIRLIFT	183,757	183,757	75,000		183,757
JPATS	54,968	44,968	54,968	3	54,968
E–8B	394,634	394,634	371,334	2	377,434
B–1B	75,383	82,593	76,283		68,483
B–52	4,908	24,908	4,908		4,908
F–117	47,660	47,660	44,060		47,660
A–10	79,424	79,424	33,324		41,024
F–15	79,488	78,288	63,688		78,288
F–16	118,606	118,606	118,606		120,606
C–5	45,431	51,631	45,431		51,631
C–130	84,399	94,399	88,399		94,399
C–135	142,764	334,764	251,264		238,764
DARP MODS		79,000	48,000		53,000
SPARES AND REPAIR PARTS	603,619	581,719	572,781		586,281
COMMON AGE	216,048	212,510	223,248		212,510
F–15 POST PRODUCTION SUPPORT	13,955		13,955		6,978
F–16 POST PRODUCTION SUPPORT	194,672	94,672	158,572		126,622
OTHER PRODUCTION CHARGES	167,676	167,676	188,576		187,676
DARP SUPPORT EQUIPMENT	194,374	194,374	214,374		194,374

STRATEGIC AIRLIFT

The conferees agree to provide $183,757,000 for strategic airlift, the amount of the budget request. It is the conferees' belief that the Defense Acquisition Board's upcoming decision on the optimal composition of the airlift fleet will require the continued production of C–17 aircraft. The conferees therefore direct that from the amount of funding provided for strategic airlift the Department of Defense must give first priority to fully funding advance procurement for continued production of C–17 aircraft in fiscal year 1997.

B–1B MODIFICATIONS

The conferees agree to provide $68,483,000 for B–1B modifications, a decrease of $6,900,000 to the budget request. The amount provided by the conferees includes a decrease of $14,100,000 from cost savings for miscellaneous modifications and an increase of $7,200,000 for reliability and maintainability improvements identified during the B–1B operational readiness assessment. The conferees also agree with the Senate's reporting requirement about expanding the B–1B conventional mission upgrade program.

A–10

The conferees agree to provide $41,024,000, a decrease of $38,400,000 to the budget request for A–10 modifications. The deleted funds are excess to program requirements for fiscal year 1996.

F–15 MODIFICATIONS

The conferees agree to provide $78,288,000, a decrease of $1,200,000 to the budget request for F–15 modifications. The conferees agree with the House reduction of funds for installation of landing gear wiring switch kits. The conferees do not agree with the Senate reduction of funds for a fighter data link modification. In restoring the $15,800,000 deleted by the Senate, the conferees direct that $9,000,000 may only be used to acquire Joint Tactical Information Distribution System (JTIDS) class II terminals for one squadron of F–15 aircraft. The remaining $6,800,000 is available only for the Multifunctional Information Distribution System (MIDS) variant project.

The Under Secretary of Defense (Acquisition and Technology) has informed the conferees of the Defense Department's recent decision to meet the F–15 fighter data link (FDL) requirements through the MIDS program. The conferees understand that the Department intends full and open competition for FDL production. The conferees direct the Under Secretary to assure the congressional defense committees in writing that the use of MIDS architecture and software will not place U.S. companies at a competitive disadvantage. This assurance is required before release of the formal Request for Proposal for the F-15 fighter data link.

F-16 MODIFICATIONS

The conferees agree to provide $120,606,000 for F-16 modifications, an increase of $2,000,000 to the budget request. The additional funding provided is only for initial acquisition of 600 gallon fuel tanks for destructive testing, evaluation and limited operational use.

C-130 MODIFICATIONS

The conferees agree to provide $94,399,000 for C-130 modifications, an increase of $10,000,000 to the budget request. Of the additional funding provided by the conferees, $6,000,000 is only for threat defensive systems, and $4,000,000 is only for acquisition of AN/AAQ-22 thermal imaging systems for 10 Air Force Reserve HC-130 aircraft, as recommended by the Senate.

C-135 MODIFICATIONS

The conferees agree to provide $238,764,000, for C-135 modifications, an increase of $96,000,000 to the budget request. The additional funding provided by the conferees is only for continued reengining of the Air Guard and Reserve KC-135 tanker fleet. The conferees have provided sufficient funding for four reengining kits.

DARP MODIFICATIONS

The conferees agree to provide $53,000,000 for Defense Airborne Reconnaissance Program (DARP) modifications, an increase of $53,000,000 to the budget request. Of the additional funding provided by the conferees, $48,000,000 is only for the acquisition of two RC-135 reengining kits and $5,000,000 is only for costs associated with the refurbishment of the SR-71 aircraft.

AIRCRAFT SPARE AND REPAIR PARTS

The conferees agree to provide $586,281,000 for aircraft spare and repair parts, a decrease of $17,338,000 to the budget request. The amount of funding provided by the conferees includes a decrease of $21,900,000 for C-17 spares, a decrease of $8,938,000 for T-1 spares and an increase of $13,500,000 for F100-229 engine spares.

ELECTRONIC WARFARE FORCE STRUCTURE

The conferees strongly agree with Senate report language with respect to retaining at least 12 EF-111A Raven jammer aircraft in the primary aircraft inventory through fiscal year 1999, and with the Senate directed reporting requirements.

Missile Procurement, Air Force

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Quantity	Conference
MISSILE PROCUREMENT, AIR FORCE:					
HAVE NAP		39,000	38,000		38,000
AMRAAM	190,672	178,366	182,672	291	182,672
TARGET DRONES	39,150	36,150	39,150	88	36,150
CONVENTIONAL ALCM		27,200		100	15,000
GLOBAL POSITIONING (MYP)	136,060	136,060	118,660	4	126,060
GLOBAL POSITIONING (MYP) (AP-CY)	38,412		33,412		33,412
SPACE BOOSTERS	464,953	459,953	405,903		433,853
MEDIUM LAUNCH VEHICLE	150,929	150,929	147,765	4	150,929
DEF METEOROLOGICAL SAT PROG	29,265	29,265	26,876		29,265
DEFENSE SUPPORT PROGRAM (MYP)	102,911	67,011	61,375		67,011
SPECIAL PROGRAMS	1,605,765	1,483,565	1,573,765		1,210,765
2.75 INCH ROCKET MOTOR	10,402		10,402		
2.75 INCH ROCKET HEAD SIGNATURE	1,993		1,993		
ITEMS LESS THAN $2,000,000	950		950		
5.56 MM	5,534		5,534		
CARTRIDGE CHAFF RR-180	10,030		10,030		
CARTRIDGE CHAFF RR-188	1,192		1,192		
ITEMS LESS THAN $2,000,000	5,162		5,162		
MK-82 INERT/BDU-50	8,253		8,253		
TIMER ACTUATOR FIN FUZE	6,242		6,242		
BOMB PRACTICE 25 POUND	5,928		5,928		
MK-84 BOMB-EMPTY	9,261		9,261		
SENSOR FUZED WEAPON	165,447		165,447		
CBU-89 GATOR INERT	6,531		6,531		
ITEMS LESS THAN $2,000,000	1,500		1,500		
FLARE, IR MJU-7B	21,859		21,859		
MJU-23 FLARE	6,483		6,483		
MJU-10B	7,204		7,204		
M-206 CARTRIDGE FLARE	11,250		11,250		
INITIAL SPARES	621		621		
REPLENISHMENT SPARES	2,329		2,329		
MODIFICATIONS	2,340		2,340		
ITEMS LESS THAN $2,000,000	11,289		11,289		
M-16 A2 RIFLE	5,048		5,048		5,048

SPACE BOOSTERS

The conferees agree to provide $433,853,000 for the procurement of the Titan IV heavy lift space booster, a decrease of $31,100,000 to the budget request. The recommendation makes the following reductions: $20,000,000 for no longer needed relocation costs; $6,100,000 for unadjudicated claims; $5,000,000 from contractor consolidation savings.

Procurement of Ammunition, Air Force

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Quantity	Conference
PROCUREMENT OF AMMUNITION, AIR FORCE:					
2.75 INCH ROCKET MOTOR		10,402		30,000	10,402
2.75″ ROCKET HEAD SIGNATURE		1,993		24,320	1,993
ITEMS LESS THAN $2,000,000		950			950
5.56 MM		5,534		13,835	5,534
30 MM TRAINING		14,480		1,360	7,000
CARTRIDGE CHAFF RR-180		10,030		720	10,030
CARTRIDGE CHAFF RR-188		1,192		903	1,192
ITEMS LESS THAN $2,000,000		5,162			5,162
MK-82 INERT/BDU-50		8,253		12,586	8,253
TIMER ACTUATOR FIN FUZE		6,242		10,000	6,242
BOMB PRACTICE 25 POUND		5,928		400,000	5,926
MK-84 BOMB EMPTY		9,261		3,718	9,261
SENSOR FUZED WEAPON		165,447		500	165,447
CBU-89 GATOR INERT		6,531		236	6,531
CBU (COMBINED EFFECTS MUNITIONS)					30,000
ITEMS LESS THAN $2,000,000					1,500
FLARE, IR MJU-7B		21,859		945,049	21,859
MJU-23 FLARE		6,483		7,426	6,483
MJU-10B		7,204		110,436	7,204
M-206 CARTRIDGE FLARE		11,250		331,564	11,250
INITIAL SPARES		621			621
REPLENISHMENT SPARES		2,329			2,329
MODIFICATIONS		2,340			2,340
ITEMS LESS THAN $2,000,000		11,289			11,289
M-16 A2 RIFLE		5,048			

OTHER PROCUREMENT, AIR FORCE

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Quantity	Conference
OTHER PROCUREMENT, AIR FORCE:					
CBU–87 (COMBINED EFFECTS MUNITION)			30,000		
ARMORED SEDAN	202	202	260	1	260
MODIFICATIONS	200	200	3,500		1,000
ITEMS LESS THAN $2,000,000	2,352	14,176	2,352		14,176
THEATER AIR CONTROL SYS IMPROVEMENT	32,345	32,345	27,745		27,745
WEATHER OBSERV/FORCAST	7,103	7,103	13,803		13,803
DEFENSE SUPPORT PROGRAM	36,909	36,909	11,909		36,909
STRATEGIC COMMAND AND CONTROL	67,596	67,596	58,095		58,095
AUTOMATIC DATA PROCESSING EQUIP	23,958	32,458	23,958		23,958
BASE LEVEL DATA AUTO PROGRAM	26,851	26,851	38,451		35,151
BASE INFORMATION INFRASTRUCTURE	73,138	56,538	56,385		56,385
MILSATCOM	43,362	43,362	13,207		43,362
COMM ELECT MODS	20,424	9,724	20,424		9,724
MOBILITY EQUIPMENT	17,670	31,770	29,570		29,570
WARTIME HOST NATION SUPPORT	1,699	1,699			
INTELLIGENCE PRODUCTION ACTIVITY	67,928	69,128	61,228		69,128
SELECTED ACTIVITIES	5,409,357	5,117,657	5,189,357		4,904,257

ITEMS LESS THAN $2,000,000

The conferees agree to provide $14,176,000 for "Items Less Than $2,000,000", an increase of $11,874,000. The increase is provided only for those items identified by the Air Force as shortfalls.

AIR COMBAT MEASUREMENT INSTRUMENTATION SYSTEM

In fiscal year 1995, Congress authorized $25,000,000 to upgrade the only Air National Guard Combat Readiness Training Center (CRTC) which lacks a modernized Air Combat Measurement Instrumentation System. That CRTC has access to unencumbered air space, a pilot training resource which is increasingly scarce. The conferees note that following the submission of the fiscal year 1996 request, the Air Force developed a less costly plan to provide the needed instrumentation capability for $12,200,000. The conferees encourage the Defense Department to seek ways, including reprogramming, to promptly fund this plan within existing funds.

PROCUREMENT, DEFENSE-WIDE

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Qty	Conference
PROCUREMENT, DEFENSE-WIDE:					
DARP	179,307	161,975	179,307		161,575
DEFENSE INFORMATION INFRASTRUCTURE	54,234	58,734	54,234		58,734
CLASSIFIED PROGRAMS	844,903	858,903	766,403		763,190
SHIPBUILDING:					
PC, CYCLONE CLASS				1	20,000
MK V SPECIAL OPERATIONS CRAFT (MK V SOC)	19,501	19,501	37,201	4	37,201
OTHER PROCUREMENT PROGRAMS:					
SPECIAL WARFARE EQUIPMENT	11,776	11,776	7,483		7,483
LIGHT STRIKE VEHICLE		6,000			6,000

DEFENSE AIRBORNE RECONNAISSANCE PROGRAM

The conferees agree to provide $161,575,000 for procurement for the Defense Airborne Reconnaissance Program (DARP), a decrease of $17,732,000 to the budget request. The conferees support the Army's identified need for a short range unmanned air vehicle (UAV), but remain concerned with the continuing problems associated with the Hunter program. As a result, the conferees have denied funding for marinization of the Hunter UAV and direct that the remaining fiscal year 1996 funds provided for Hunter not be obligated until the Appropriations Committees receive the results of the Defense Acquisition Board's review of the program. This review should include all options for fulfilling the Army's UAV requirement. The conferees further direct that use of these funds for any other purpose is to be handled through normal reprogramming procedures.

PATROL CRAFT—CYCLONE CLASS

The conferees agree to provide $20,000,000 for the procurement of one additional PC–Cyclone class operations patrol craft/vessel to continue to meet force requirements.

NATURAL GAS VEHICLES

The conferees recommend the Department develop an implementation plan and a demonstration effort based on the 1993 Navy study which specified natural gas vehicles as the vehicle of choice for achieving significant emission reductions on military bases.

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree to provide $777,000,000 for National Guard and Reserve Equipment as proposed by the Senate instead of $980,125,000 as proposed by the House.

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Quantity	Conference
NATIONAL GUARD & RESERVE EQUIPMENT					
RESERVE EQUIPMENT					
ARMY RESERVE:					
MISCELLANEOUS EQUIPMENT			90,000		90,000
TACTICAL VEHICLES		52,000			
NIGHT VISION EQUIPMENT		2,500			
ENGINEER EQUIPMENT		20,000			
VARI-REACH LIFT TRUCKS		4,500			
MK–19 GRENADE LAUNCHERS		2,000			
MEDICAL EQUIPMENT		2,000			
3000 GPH ROWPU		3,000			
130T FLOATING CRANE		6,000			
PUSHER BOAT		5,000			
5 KW LIGHT TOWER		5,000			
LASER LEVELING SYSTEMS		4,000			
AUTOMATIC BUILDING MACHINES		3,000			
NAVY RESERVE:					
MISCELLANEOUS EQUIPMENT		33,300	40,000		40,000
F/A–18 UPGRADES		48,000			
MIUW TSQ–108		40,000			
MARINE CORPS RESERVE:					
MISCELLANEOUS EQUIPMENT		30,525	50,000		50,000
CBT. VEHICLE TRAINER		3,800			
CH–53 HELICOPTERS		50,000			
DIGITAL COMMAND & CONTROL NETWORK		4,300			
COMM COMPANY EQUIPMENT		5,000			
UH–1N NAV/FLIR UPGRADES		5,000			

[In thousands of dollars]

	Budget	House	Senate	Quantity	Conference
AIR FORCE RESERVE:					
MISCELLANEOUS EQUIPMENT		30,300	40,000		40,000
C–130H		135,600			
NATIONAL GUARD EQUIPMENT					
ARMY NATIONAL GUARD:					
MISCELLANEOUS EQUIPMENT		15,000	100,000		100,000
TACTICAL TRUCK NEW PROCUREMENT		10,000			
TACTICAL TRUCK SLEP (5 TON)		10,000			
TACTICAL TRUCK SLEP (2½ TON)		10,000			
M109 ACE		10,000			
IFTE		10,000			
NIGHT VISION EQUIPMENT		10,000			
CHEM/BIO EQUIPMENT		5,000			
AH–1 (C-NITE)		10,000			
FADEC		10,000			
AH–64 COMBAT MISSION SIMULATOR		15,000			
UH–1 SLEP		10,000			
AH–1 BORE SIGHT EQUIPMENT		5,000			
AIR NATIONAL GUARD:					
MISCELLANEOUS EQUIPMENT			57,000		57,000
F–16 220E ENGINES		10,000			
C–130H		203,400			
AIRLIFT DEFENSIVE SYSTEMS		10,000			
AIRLIFT REPLACEMENT RADAR		6,800			
C–130 MODS		15,000			
AUTOMATIC BUILDING MACHINES		2,000			
F–16 RADAR WARNING RECEIVERS		36,200			
DOD:					
MISC EQUIPMENT (GUARD & RESERVE AIRCRAFT)			400,000		400,000

The conferees agree to the Senate provision which requires the Chiefs of the Reserve and National Guard components to prepare and submit a modernization priority assessment for their respective Reserve and National Guard components and have established 30 days after the enactment of the Act as the deadline for this submission.

MISCELLANEOUS EQUIPMENT

The conferees concur with the Senate position that the Reserves and National Guard should exercise control of funds provided for their modernization in this account with priority consideration for miscellaneous equipment appropriations given to the following items:

Avenger, heavy truck modernization, radar warning receivers, laser leveling systems, AH–64 combat mission simulators, automatic building machines, HMMWVs, UH–60 Upgrades, F–18 upgrades, 2½ ton truck ESP, UH–1 Huey SLEP, AH–1 (C-NITE), M–9 ACE, night vision equipment, IFTE, external fuel tanks, AN/AQS–14 airborne mine countermeasures trainer, MIUW vans, modular airborne fire fighting systems, AH–1 borsighting devices, FADEC for UH–1 and CH–47, C–9 upgrades, small arms simulators, HC–130N conversions, M–915/916 heavy dump trucks, 5-ton flatbed trailers, SQQ–T1 trainer, KC–135 re-engining, UH–60Q helicopter upgrades, driver's night viewers, unmanned aerial vehicles, heavy equipment transport system, C–12 and C–20 aircraft, CT–39 Navy/Marine Corps replacement aircraft, SINCGARS radios, Medium Truck SLEP, and M109A5 Howitzer upgrades.

The conferees also agree that while they have established a separate aircraft account, other aircraft may be purchased from the miscellaneous equipment account at the discretion of the Reserve and National Guard component chiefs.

NATIONAL GUARD AND RESERVE AIRCRAFT

The conferees agree to provide $400,000,000 for the acquisition of aircraft to support Reserve and National Guard missions and agree that the following aircraft shall be purchased:

C–130 H for the Air Force Reserve and Air National Guard (10)	$339,000,000
CH–53E for the Marine Corps Reserve (2)	50,000,000
C–26 for the National Guard (2)	11,000,000

INFORMATION TECHNOLOGY RESOURCES

The conference agreement is as follows:

[In thousands of dollars]

Appropriations and Programs	House	Senate	Conference
Operation and Maintenance, Army:			
EDCARS/DSREDS	2,000	0	2,000
Operation and Maintenance, Navy:			
NSIPS	9,000	0	2,500
Operation and Maintenance, Air Force:			
Base Support	889,348	913,648	889,448
(CAMS)	(0)	(+500)	(+500)
(TICARRS)	(0)	(+10,000)	(+10,000)
(BLSM)	(0)	(0)	(−10,400)
Note: Conferees agree to House recommendations on CAMS, TICARRS, and BLSM but have made the funding adjustments in the Base Support line rather than in the line proposed by the House.			
Information Technology	0	100	0
EDCARS/DSREDS	2,000	0	2,000
Operation and Maintenance, Defensewide:			
Information Technology	112,000	0	12,000
(JLSC)	(+100,000)	(0)	(0)
(DISA COOP)	(+12,000)	(0)	(+12,000)
Operation and Maintenance, Army Reserve:			
RCAS	−4,000	0	−4,000
Operation and Maintenance, Navy Reserve:			
NSIPS	9,000	0	2,500
Operation and Maintenance, Army National Guard:			
Information Management	29,396	59,456	44,556
(RCAS)	(−33,500)	(0)	(−18,300)
(Distance Learning)	(+3,400)	(0)	(+3,400)
Other Procurement, Army:			
Automated Data Processing Equipment	130,151	132,751	138,751
(Distance Learning)	(+9,600)	(0)	(+6,000)
(General Reduction)	(−12,000)	(0)	(0)
RCAS	113,134	83,174	83,174
Other Procurement, Navy:			
NSIPS	0	0	13,000
Other Procurement, Air Force:			
Automatic Data Processing Equipment	32,458	23,958	23,958
(CAMS)	(+4,000)	(0)	(0)
(Equipment Management System)	(+4,500)	(0)	(0)
Base Level Data Automation	26,851	38,451	35,151
(CMOS)	(0)	(+3,250)	(0)
(REMIS)	(0)	(+8,300)	(+8,300)

[In thousands of dollars]

Appropriations and Programs	House	Senate	Conference
Operation and Maintenance, Defense Wide:			
Defense Information Infrastructure	58,734	54,234	58,734
(DISA COOP)	(+4,500)	(0)	(+4,500)
Research, Development, Test, and Evaluation, Air Force:			
Advanced Computing Technology	36,305	11,005	36,305
(BLSM transfer from O&M)	(+10,400)	(0)	(+10,400)
(IMDS)	(+15,200)	(0)	(+15,200)

JOINT LOGISTICS SYSTEMS CENTER

The conferees do not agree to the House proposal to provide an additional $100,000,000 in the Operation and Maintenance, Defense-wide appropriation for the Joint Logistics Systems Center (JLSC). The conferees recognize that there is the potential for significant cost savings from effective logistics systems modernization, and believe that JLSC and its programs should remain a top priority. A September, 1995 report to the House Appropriations Committee by the Committee's Surveys and Investigations Staff, however, indicates that the JLSC is not properly organized to accomplish the redesign of the Department of Defense's logistics systems. The conferees direct that not more than half of the funds requested in the budget and appropriated for JLSC may be obligated until the Secretary of Defense has taken appropriate action to correct JLSC's organizational deficiencies and has designated the Air Force as the executive agency for the JLSC, which will remain the responsibility of the Deputy Undersecretary of Defense (Logistics) and will remain located at Wright-Patterson Air Force Base. The conferees further direct that the Secretary of Defense provide a report to the congressional defense committees by February 1, 1996 which explains his plan for improving the management of the Joint Logistics Systems Center, including improved levels of management, technical, contracting, and acquisition support.

NAVY STANDARD INTEGRATED PERSONNEL SYSTEM

The conferees have provided $18,000,000 as recommended by the House for the Navy Standard Integrated Personnel System (NSIPS). The additional funding is only for NSIPS as directed in House Report 104–208, page 134, except that $13,000,000 is appropriated in Other Procurement, Navy; $2,500,000 in Operation and Maintenance, Navy Reserve; and $2,500,000 in Operation and Maintenance, Navy. The conferees concur with the Department's plan to use a joint working group to define the functional and technical requirements for a standard military personnel management system. The conferees believe that parallel development of NSIPS is critical and direct the Navy, the Under Secretary of Defense for Personnel and Readiness, and the Assistant Secretary of Defense for C^{3}I to continue NSIPS development and implementation as a joint Naval Reserve and active team project which will include the core capabilities required to support joint requirements for the objective DOD field level data collection personnel system. The conferees concur with the Department's decision to designate the Navy as executive agent for prototyping and testing these field level applications or core capabilities and the Air Force as the executive agent for the database.

The conferees are aware of Navy needs to also continue to consolidate and integrate its headquarters personnel systems. The House previously directed that the Navy Military Personnel Distribution System (NMPD) central design authority (CDA) be assigned to the Enlisted Personnel Management Center (EPMAC) to assure the most efficient and cost effective development and maintenance of this system. The conferees understand that the Military Assignment, Selection, and Transfer System (MAST) has been conceived to modernize Naval personnel management by combining legacy systems and allowing these systems to operate in a more cost effective and client friendly environment. EPMAC has been identified as the technical expert possessing the expertise required to meet the development demands of MAST and NMPD systems. The conferees direct the Navy to assign CDA responsibilities, implementation, and funding functions to EMPAC for the MAST and NMPD systems by January, 1996, and that the transfer of the NMPD system to EPMAC be completed by September, 1996. The conferees direct the Navy to allocate the required funding to EPMAC in support of the MAST and NMPD system development to include hardware, software, and personnel requirements.

The conferees concur with the House direction that the Department of the Navy place the collocated Naval Telecommunications and Communications Station (NTCS) functions and operations under the operational control and command of the Naval Reserve Information Systems Office, except that this direction shall only apply to the Central Design Agency functions and its related support functions and civilian personnel. The conferees direct that these functions continue to be supported through the Defense Business Operations Fund.

OTHER DEFENSE AGENCIES

The conferees concur with the House direction provided in House Report 104–208, pages 136–137 regarding DISA megacenter outsourcing. The conferees are adamant that the reporting requirements and directions provided in the House report be followed by the Department of Defense. While the conferees may be able to support outsourcing some non-essential military functions and services prior to the completion of recommended base closing and realignment consolidations, the conferees expect the reporting requirements contained in the House report to occur first along with proper Congressional committee oversight.

The conferees concur with the House National Security Committee efforts urging the Department of Defense to privatize or outsource non-essential military services such functions as civilian payroll and payroll-and-accounting for nonappropriated instrumentality functions. However, the conferees recommend the Department also look to franchising for these and other similar services from other Federal agencies that already provide similar, cost effective services. In this regard, the conferees urge the Department to proceed with the recommendation made in the statement of the managers accompanying the fiscal year 1995 Defense Appropriations Act to initiate a prototype for using the National Finance Center cross servicing functions, in conjunction with existing DFAS and private operations in the area, for some financial management and personnel services at DOD as recommended by Military Department Comptrollers in January, 1994.

RESERVE COMPONENT AUTOMATION SYSTEM

The Army has spent eighteen years and close to a billion dollars without successfully providing modern computer technology to its Reserve Component. For the first time in the RCAS program's history, there now appears to be general consensus between the active Army, the National Guard, the Army Reserve, the Office of the Secretary of Defense, and the Congress on its future direction based on the restructure proposed by the Chief of the National Guard Bureau. Given this apparent consensus, there is no longer the need for legislation to accomplish the goals set out by the Congress for this program. The conferees therefore do not agree to retain bill language as proposed by the House. This action should not be construed as a diminution of Congressional support for RCAS, a Congressional authorization to change the program responsibilities of the Chief of the National Guard Bureau, or an invitation to the Army to change the program architecture to parallel or merge with active Army computer modernization programs. The funding provided in this Act is available solely to implement the restructured RCAS program as proposed by the Chief of the National Guard Bureau, endorsed by the Office of the Secretary of Defense in a formal Major Automated Information Systems Review Council, and recently presented to the Congress. All RCAS funds are hereby designated to be of special Congressional interest, any other use of which would require approval by the Congress through the formal reprogramming process; this would include the use of RCAS funds to modernize active Army systems or to finance codevelopment of new systems. The conferees agree to the certification requirements by the Assistant Secretary of Defense for Reserve Affairs in the House report.

For many years, the Congress has denied the use of government furnished equipment and software in the RCAS system primarily because the Army would not identify it in advance to the Congress. The Chief of the National Guard Bureau has proposed the limited use of government furnished software in the restructured program. The Army has touted for many years the large amount of government furnished software that potentially could be used in RCAS. However, of the 16 existing Army information systems that will be examined for reuse in RCAS during fiscal year 1996, the Guard Bureau indicates that not even one is likely to have more than 14 percent of the software available for reuse. Many of these are also very old systems. The conferees wish to assure that software reuse is not done simply for its own sake or solely to satisfy the technical community. The conferees impose no restrictions on the use of government furnished software in the restructured program, but direct that the Program Executive Office for RCAS certify each time it tasks the RCAS contractor to use a significant amount of government furnished software that such action is the most cost-effective approach.

Finally, for many years the Congress had a very tight restriction in law prohibiting the purchase of interim equipment outside of the RCAS program. The Reserve Components have recently disclosed that there are 12,000 modern computers which are available for the restructured program. The conferees direct the Inspector General of the Defense Department to conduct an investigation on how the Reserve Component was able to obtain such a large number of computers, whether any of these acquisitions violated law, and/or if anti-deficiency violations occurred.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
RECAPITULATION				
RDTE, ARMY	4,444,175	4,742,150	4,639,131	4,870,684
RDTE, NAVY	8,204,530	8,715,481	8,282,051	8,748,132
RDTE, AIR FORCE	12,598,439	13,110,335	13,087,389	13,126,567
RDTE, DEFENSE-WIDE	8,802,881	9,029,666	9,196,784	9,411,057
DEVELOPMENTAL TEST AND EVALUATION	259,341	259,341	246,082	251,082
OPERATIONAL TEST AND EVALUATION	22,587	22,587	22,587	22,587
GRAND TOTAL, RDTE	34,331,953	35,879,560	35,474,024	36,430,109
CATEGORY RECAP				
BASIC RESEARCH	974,025	953,625	916,592	935,964
EXPLORATORY DEVELOPMENT	2,722,753	2,855,416	2,836,736	2,907,381
ADVANCED DEVELOPMENT	3,693,547	3,318,907	3,370,626	3,624,055
DEMONSTRATION AND VALIDATION	2,664,245	3,018,253	2,780,156	2,983,101
ENGINEERING & MANUFACTURING DEVELOPMENT	8,239,924	8,602,411	8,599,378	8,579,080
RDT&E MANAGEMENT SUPPORT	3,119,546	3,103,818	3,112,963	3,130,779
OPERATIONAL SYSTEMS DEVELOPMENT	10,235,821	10,732,599	10,589,899	10,955,133
OTHER	2,682,092	3,294,531	3,267,674	3,314,616
TOTAL	34,331,953	35,879,560	35,474,024	36,430,109

SPECIAL INTEREST ITEMS

The conferees agree with the direction in the House report with respect to the identification and treatment of Congressional interest items and further direct that these requirements be imposed with respect to items so identified in the Senate report and in this Statement of the Managers.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL, ARMY:				
DEFENSE RESEARCH SCIENCES	127,565	127,565	128,240	128,240
UNIVERSITY AND INDUSTRY RESEARCH CENTERS	62,715	62,715	39,016	49,779
SENSORS AND ELECTRONIC SURVIVABILITY	21,918	27,918	21,918	27,918
AVIATION TECHNOLOGY	20,381	20,381	18,470	18,470
MISSILE TECHNOLOGY	17,985	17,985	12,740	17,985
MODELING AND SIMULATION	23,770	23,770	20,526	20,526
BALLISTICS TECHNOLOGY	28,126	39,126	25,976	33,976
ELECTRONICS AND ELECTRONIC DEVICES	17,525	19,025	20,525	22,025
HUMAN FACTORS ENGINEERING TECHNOLOGY	12,534	20,034	12,534	16,034
ENVIRONMENTAL QUALITY TECHNOLOGY	21,304	21,304	26,704	26,704
COMMAND, CONTROL, COMMUNICATIONS TECHNOLOGY	15,726	15,726	13,578	13,578
MEDICAL TECHNOLOGY	56,658	58,658	63,311	65,311
LOGISTICS ADVANCED TECHNOLOGY	10,569	13,669	5,607	8,707
MEDICAL ADVANCED TECHNOLOGY	11,760	88,760	18,535	95,535
AVIATION ADVANCED TECHNOLOGY	48,593	59,093	48,593	56,593
WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY	18,518	21,518	21,649	27,518
COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY	30,616	31,616	23,842	28,171
COMMAND, CONTROL, COMMUNICATIONS ADVANCED TECHNOLOGY	16,922	16,922	28,922	28,922
TRACTOR HIKE	14,588	31,588	14,588	24,588
GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISION STRIKE TECHNOLOGY	39,824	39,824	38,324	38,324
MISSILE AND ROCKET ADVANCED TECHNOLOGY	123,913	126,413	108,913	118,913
LANDMINE WARFARE AND BARRIER ADVANCED TECHNOLOGY	18,820	18,820	24,820	24,820
NIGHT VISION ADVANCED TECHNOLOGY	37,969	37,969	33,803	33,803
ADVANCED TACTICAL COMPUTER SCIENCE AND TECHNOLOGY	33,989	33,989	28,952	28,952
TRACTOR DUMP	15,025	15,025		
ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (DEM/VAL)	2,985	30,785	2,985	23,985
ARTILLERY PROPELLANT DEVELOPMENT	10,946	30,546	21,646	21,946
ARMORED SYSTEM MODERNIZATION—ADV DEV	201,513	201,513	176,513	191,513
TACTICAL ELECTRONIC SUPPORT SYSTEMS—ADV DEV	2,937	5,937	2,937	5,937
SOLDIER SUPPORT AND SURVIVABILITY	33,848	33,848	7,913	7,913
AVIATION—ADV DEV	8,430	14,430	8,430	14,430
WEAPONS AND MUNITIONS—ADV DEV			1,000	1,000
COMANCHE	199,103	199,103	373,103	299,103
ADVANCED MISSILE SYSTEM-HEAVY	995	995		995
MEDIUM TACTICAL VEHICLES			1,500	1,500
JAVELIN		2,000		1,000
LANDMINE WARFARE	31,028	31,028	15,628	31,028
HEAVY TACTICAL VEHICLES		2,745		2,745
ADVANCED COMMAND AND CONTROL VEHICLE (AC2V)	18,238	18,238	13,776	18,238
LIGHT TACTICAL WHEELED VEHICLES	2,187	4,187	7,187	4,187
ARMORED SYSTEMS MODERNIZATION (ASM)-ENG, DEV	38,465	43,825	40,065	40,065
ENGINEER MOBILITY EQUIPMENT DEVELOPMENT	21,831	35,984	24,431	24,431
NON-SYSTEM TRAINING DEVICES—ENG DEV	55,303	55,303	50,703	52,303
TACTICAL SURVEILLANCE SYSTEM—ENG DEV		3,100	3,000	3,000
AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE—ENG DEV	22,030	22,030	20,830	20,830
AUTOMATIC TEST EQUIPMENT DEVELOPMENT	5,437	15,437	5,437	15,437
TRACTOR BAT	193,303	200,303	193,303	200,303
JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM	18,771	18,771	28,271	28,271
WEAPONS AND MUNITIONS—ENG DEV	15,928	17,528	16,428	18,028
NON-COOPERATIVE TARGET RECOGNITION—ENG DEV	30,466	30,466	14,139	22,466
RAND ARROYO CENTER	21,872	21,872	16,872	18,872
DOD HIGH ENERGY LASER TEST FACILITY	3,000	24,808	35,000	35,000
PROGRAMWIDE ACTIVITIES	63,649	63,649	59,400	63,649
TECHNICAL INFORMATION ACTIVITIES	16,401	16,401	13,837	13,837
MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY	6,903	6,903	18,103	18,103
ENVIRONMENTAL COMPLIANCE	66,101	66,101	68,101	68,101
BASE OPERATIONS—RDT&E	329,978	329,978	319,478	319,478
MANAGEMENT HEADQUARTERS (RESEARCH AND DEVELOPMENT)	8,766	8,766	15,766	15,766
MLRS PRODUCT IMPROVEMENT PROGRAM	68,786	68,786	72,586	72,586
ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	39,422	39,422		36,422
COMBAT VEHICLE IMPROVEMENT PROGRAMS	197,669	198,978	202,694	215,003
MANEUVER CONTROL SYSTEM	38,327	51,327		51,327
AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	3,012	4,112	3,012	4,112

[In thousands of dollars]

	Budget	House	Senate	Conference
DIGITIZATION	88,567	88,567		100,867
MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PROGRAM	17,069	26,869	68,869	64,869
OTHER MISSILE PRODUCT IMPROVEMENT PROGRAMS	57,949	57,949	65,499	65,499
END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES		17,776	23,776	28,776
TASK FORCE XXI			184,456	
TASK FORCE XXI SOLDIER				30,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
University and Industry Research Centers	62,715	62,715	39,016	49,779
Electromechanics and hypervelocity physics			−1,390	
Automotive Technology				+2,000
Federated Labs			−22,309	−14,936
Ballistics Technology	28,126	39,216	25,976	33,976
Electric gun technology		+9,000		+7,000
Electrothermal-chemical (ETC) tech		+2,000		+1,000
Self Protection System			−2,150	−2,150
Electronics and Electronic Devices	17,525	19,025	20,525	22,025
Battery maintainer system		+1,500		+1,500
Adv nonmetallic rechargeable battery			+1,000	+1,000
Low cost reusable alkaline batteries for Sincgars			+1,000	+1,000
"AA" zinc air battery for military application			+1,000	+1,000
Human Factors Engineering Technology	12,534	20,034	12,534	16,034
Medteams		+4,000		
Rural Health		+3,500		+3,500
Medical Technology	56,658	58,658	63,311	65,311
Dengue fever			+1,000	+1,000
Nutrition Research			+1,775	+1,775
Medteams			+3,878	+3,878
Wound Healing		+2,000		+2,000
Logistics Advanced Technology	10,569	13,669	5,607	8,707
Soldier Survivability			−4,962	−4,962
Ammunition logistics		+3,100		+3,100
Medical Advanced Technology	11,760	88,760	18,535	95,535
Nutrition research			+1,775	+1,775
Tissue replacement			+5,000	+5,000
Breast cancer		+75,000		+75,000
Blood analyzer		+2,000		+2,000
Aviation Advanced Technology	48,593	59,093	48,593	56,593
Chinook helicopter SLEP		+4,000		+4,000
Starstreak evaluation [Note: The conferees agree to Senate language regarding the Starstreak funding strategy.]		+6,500		+4,000
Weapons and Munitions Advanced Tech	18,518	21,518	21,649	27,518
Precision guided mortar munition			+6,000	+6,000
Large footprint sensor evaluation			−2,869	
XM–982 [Note: The conferees direct the Army to assess the potential for accelerating the XM–982 program and report findings to the congressional defense committees no later than January 15, 1996.]		+2,000		+2,000
Electro-Rheological Fluid Recoil System		+1,000		+1,000
Combat Vehicle and Automotive Advanced Tech	30,616	31,616	23,842	28,171
Armored vehicle self protection program [Note: The conferees direct that the additional funds are only for the development of a tank system capable of close in detection and destruction of high velocity, low front-end radar cross-section threats such as KE rounds.]		+1,000		+1,000
Active protection concept			−3,329	
Composites for future military vehicles			−3,445	−3,445
Missile and Rocket Advanced Technology	123,913	126,413	108,913	118,913
EFOG–M			−15,000	−7,500
Low cost autonomous attack submunition		+2,500		+2,500
Army Missile Defense Systems Integration (Dem/Val)	2,985	30,785	2,985	23,985
THEL		+5,000		
Nautilus laser		+5,000		
Battlefield integration center		+17,800		+21,000
Artillery Propellant Development	10,946	30,546	21,646	21,946
Unicharge		+19,600	+10,700	+11,000
Armored System Modernization—Adv Dev	201,513	201,513	176,513	191,513
FARV Adv development			−25,000	−10,000
Comanche [Note: The conferees do not agree to House language regarding testing at Patuxent River.]	199,103	199,103	373,103	299,103
Non-System Training Devices—Eng Dev	55,303	55,303	50,703	52,303
FSCATT phase 1			−3,000	−3,000
STRICOM and Naval air warfare ctr training			−1,600	
Weapons and Munitions—Eng Dev	15,928	17,528	16,428	18,028
XM 931 (120MM Practice)		+1,600		+1,600
Universal brackets for MK19 grenade launchers			+500	+500
Non-Cooperative Target Recognition—Eng Dev	30,466	30,466	14,139	22,466
Low cost BCIS study			−1,091	
BCIS hardware build			−15,236	−8,000
Base operations—RDT&E [Note: The conferees direct that no part of the reduction may be assessed against personnel.]	329,978	329,978	319,478	319,478
Combat Vehicle Improvement Program	197,669	198,978	202,694	215,003
Abrams Improvement system enhancement package			−5,000	
Abrams Improvement GEN II FLIR/testing			−5,000	−5,000
Tractor Dump			+15,025	+15,025
Abrams transfer		+1,309		+1,309
Test equipment				+6,000
Digitization	88,567	88,567		100,867
EXFOR modernization			+4,000	+4,000
AWE—Warrior Focus			+500	+500
AWE—JWID			+1,500	+1,500
ASAS connectivity for TF XXI			+3,300	+3,300
TF XXI radios and displays			+5,000	+5,000
Prior year carryover			−2,000	−2,000
Missile/Air Defense Product Improvement	17,069	26,869	68,869	64,869
Stinger Block II		+9,800	+9,800	+9,800
Avenger PIP			+3,000	+3,000
Starstreak evaluation			+4,000	
Patriot anti-cruise missile upgrade			+35,000	+35,000
Other Missile Product Improvement Programs	57,949	57,949	65,499	65,499
Hydra-70 PIP [Note: The conferees direct increase is only for a competitive product improvement program for the Hydra-70 rocket.]			+10,000	+10,000
Support and Management costs			−2,450	−2,450
Industrial Preparedness Activities		17,776	23,776	28,776
Transfer		+17,776	+17,776	+17,776
PAN fibers			+4,000	+4,000
Non-metallic rechargeable battery			+2,000	+2,000
Instrumented Factory for Gears (INFAC)				+5,000

UNIVERSITY AND INDUSTRY RESEARCH CENTERS

The conferees have provided $49,779,000. Included in this amount is $22,847,000 for the Army's new federated labs program. The conferees direct that these funds may only be used to initiate the three federated lab programs which the Army determines are most important to its needs.

The conferees are concerned that the Army's plan to enter into long term agreements could limit its ability to respond to new ideas and changes in the defense industry. Therefore, the conferees direct that the Army shall not enter into any federated lab agreement or contract which provides for the non-competitive continuation of a federated lab for more than five years. The conferees further direct that the Assistant Secretary of the Army for Research, Development and Acquisition provide a report identifying the three fiscal year 1996 federated labs, the participants, the allocation of funds, the management structure, and the planned research program by March 1, 1996 to the congressional defense committees.

EW DEVELOPMENT

The conferees understand that funds are included in the budget request for the development of an electronic protection system and encourage the Army to obligate up to $10,300,000 in fiscal year 1996 for the SHORTSTOP project.

MEDICAL ADVANCED TECHNOLOGY

The conferees agree to provide $75,000,000 for the Army's peer reviewed breast cancer research program. The conferees expect the Army to provide special emphasis to research that addresses the specific needs of military beneficiaries.

AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE

The conferees provided $2,000,000 in fiscal year 1995 for the evaluation of the Air Defense Alerting Device (ADAD). The conferees direct the Department of Defense to release the fiscal year 1995 funds appropriated for ADAD and proceed with testing.

TASK FORCE XXI SOLDIER

The conferees agree to provide $30,000,000 for a new project, Task Force XXI Soldier, to accelerate the development of integrated, modular equipment designed for the individual soldier. The Army's strategy to develop and field the interim Land Warrior system and then immediately begin production of the objective GEN II Soldier system appears to be an inefficient allocation of resources. The conferees believe that accelerating the GEN II soldier program will eliminate the need for an interim system allowing the Army to field a more capable system at an earlier date. Therefore, the conferees have consolidated funds from the existing programs to accelerate the GEN II Soldier program and provided additional funds to continue only the Land Warrior efforts necessary to support the objective program. The conferees direct the Assistant Secretary of the Army for Research, Development and Acquisition to provide a report defining a revised acquisition strategy to the congressional defense committees by March 1, 1996.

AIRBORNE RECONNAISSANCE LOW

The conferees understand that upgrading the Airborne Reconnaissance Low (ARL) aircraft with the RAH-66 Comanche engine will significantly enhance operational capabilities and reduce support costs. Although no funds were requested in the fiscal year 1996 budget, the conferees encourage the Army to pursue upgrading the ARL engine in fiscal year 1997.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL NAVY:				
DEFENSE RESEARCH SCIENCES	385,917	385,917	373,917	373,917
SURFACE/AEROSPACE SURVEILLANCE AND WEAPONS TECHNOLOGY	32,658	36,658	30,658	34,658
SURFACE SHIP TECHNOLOGY	36,786	46,786	37,860	62,860
AIRCRAFT TECHNOLOGY	22,238	24,738	28,238	30,738
READINESS, TRAINING, AND ENVIRONMENTAL QUALITY TECHNOLOGY	40,511	45,311	42,511	49,211
MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY	74,849	77,849	71,849	78,349
UNDERSEA SURVEILLANCE WEAPON TECHNOLOGY	51,182	51,182	56,982	56,982
MINE COUNTERMEASURES, MINING AND SPECIAL WARFARE	43,384	51,384	43,384	48,384
OCEANOGRAPHIC AND ATMOSPHERIC TECHNOLOGY	45,526	60,526	49,476	58,376
AIR SYSTEMS AND WEAPONS ADVANCED TECHNOLOGY	17,082	71,082	26,082	71,082
MEDICAL DEVELOPMENT	27,754	62,754	27,754	65,754
ENVIRONMENTAL QUALITY AND LOGISTICS ADVANCED TECHNOLOGY	21,504	33,504	25,004	25,004
UNDERSEA WARFARE ADVANCED TECHNOLOGY	51,816	51,816	45,170	48,493
SHALLOW WATER MCM DEMOS	50,958	25,000	46,565	40,958
ADVANCED TECHNOLOGY TRANSITION	96,825	78,000	89,325	81,000
AIR/OCEAN TACTICAL APPLICATIONS	16,621	19,821	16,621	19,821
AVIATION SURVIVABILITY	7,477	16,377	7,477	16,377
SURFACE AND SHALLOW WATER MINE COUNTERMEASURES	54,527	56,177	54,527	56,177
ADVANCED SUBMARINE COMBAT SYSTEMS DEVELOPMENT	21,281	28,181	21,281	28,181
CARRIER SYSTEMS DEVELOPMENT	16,164	16,164	9,226	12,764
NON-ACOUSTIC ANTI SUBMARINE WARFARE (ASW)			10,000	10,000
ADVANCED SUBMARINE SYSTEM DEVELOPMENT	35,748	55,748	35,748	55,748
SUBMARINE TACTICAL WARFARE SYSTEMS	5,070	8,570	5,070	8,570
SHIP CONCEPT ADVANCED DESIGN	16,736	53,736	16,736	53,736
ADVANCED SURFACE MACHINERY SYSTEMS	39,156	39,156	67,094	82,864
MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM	46,733	46,733	46,733	50,933
RETRACT MAPLE	82,932	90,932	82,932	87,932
LINK PLUMERIA	17,879	21,579	17,879	21,579
RETRACT ELM	32,561	32,561	31,561	31,561
SHIP SELF DEFENSE	245,620	365,120	245,620	332,620
GUN WEAPON SYSTEM TECHNOLOGY	12,028	37,028	31,028	34,028
JOINT ADVANCED STRIKE TECHNOLOGY—DEM/VAL	149,295	143,795	123,272	83,795
ASW AND OTHER HELO DEVELOPMENT	91,803	80,175	99,636	89,636
AV–8B AIRCRAFT—ENG DEV	11,309	26,909	11,309	26,909
S–3 WEAPON SYSTEM IMPROVEMENT	12,872	27,872	12,872	12,872
P–3 MODERNIZATION PROGRAM	1,945	16,945	1,945	16,945
TACTICAL COMMAND SYSTEM	27,389	27,389	24,750	24,750
V–22A	762,548	762,548	757,548	757,548
AIR CREW SYSTEMS DEVELOPMENT	9,788	17,688	9,788	17,688
EW DEVELOPMENT	87,440	87,440	97,440	97,440
AEGIS COMBAT SYSTEM ENGINEERING	105,683	89,883	94,683	94,683
STANDARD MISSILE IMPROVEMENTS	8,572	2,572	18,572	18,572
AIRBORNE MCM	42,226	42,226	30,468	34,468
ENHANCED MODULAR SIGNAL PROCESSOR	8,342	14,842	8,342	14,842
SUBMARINE COMBAT SYSTEM	43,302	37,151	43,302	43,302
SUBMARINE TACTICAL WARFARE SYSTEM	38,479	20,487	38,479	38,479
NAVY TACTICAL COMPUTER RESOURCES	5,499	15,499	5,499	15,499
UNGUIDED CONVENTIONAL AIR-LAUNCHED WEAPONS	40,517	43,517	94,517	53,517
SHIP SELF DEFENSE	165,997	201,997	179,297	207,297
NAVIGATION/ID SYSTEM	56,472	56,472	51,104	54,104
DISTRIBUTED SURVEILLANCE SYSTEM	93,507	93,507	93,507	103,507
STUDIES AND ANALYSIS SUPPORT—NAVY	9,281	7,000	7,781	7,000
MANAGEMENT, TECHNICAL & INTERNATIONAL SUPPORT	20,371	12,000	18,422	18,422
STRATEGIC TECHNICAL SUPPORT	3,584	3,000	3,584	3,000
TEST AND EVALUATION SUPPORT	245,911	247,911	237,911	239,911
STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	39,511	39,511	36,609	36,609
F/A–18 SQUADRONS	919,484	923,984	919,484	923,984
E–2 SQUADRONS	52,965	52,965	52,965	62,965
TOMAHAWK AND TOMAHAWK MISSION PLANNING CENTER (TMPC)	141,440	176,440	141,440	170,440
INTEGRATED SURVEILLANCE SYSTEM	16,440	32,640	16,440	32,640
CONSOLIDATED TRAINING SYSTEMS DEVELOPMENT	48,058	51,058	65,058	68,058
F–14 UPGRADE	44,490	44,490	44,490	19,115
MARINE CORPS COMBAT SERVICES SUPPORT	3,915	6,915	3,915	7,415
SATELLITE COMMUNICATIONS	38,472	38,472	43,472	38,472
INDUSTRIAL PREPAREDNESS		88,000	41,251	88,000
CLASSIFIED PROGRAMS	539,680	579,680	545,480	585,480
GENERAL REDUCTION, UNIVERSITY LABS		−10,000		−10,000

[In thousands of dollars]

	Budget	House	Senate	Conference
FREE ELECTRON LASER PROGRAM		9,000		9,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
Surface/Aerospace Surveillance and Weapons Technology	32,658	36,658	30,658	34,658
Long Range Projectile		+2,000		+2,000
IPHTET/Rocket Propulsion		+2,000		+2,000
Theater Defense			−2,000	−2,000
Surface Ship Technology	36,786	46,786	37,860	62,860
Submarine Technology		+10,000		+10,000
Submarine Signature Control/ Structural Systems/ Power and Automation/ and Maneuvering and Seakeeping			−4,926	−4,926
Power Electronic Building Blocks			+6,000	+6,000
Curved Plate Technology				+15,000
ITEM for Embedded Test Procedures			(1,000)	(1,000)
ITEM for Prototype Advanced Maintenance			(1,000)	(1,000)
Aircraft Technology	22,238	24,738	28,238	30,738
Helmet mounted displays		+2,500		+2,500
Vectored thrust ducted propeller technology			+6,000	+6,000
Readiness, Training, and Environmental Quality Technology	40,511	45,311	42,511	49,211
Aircrew chemical-biological protection		+4,800		+4,800
MERTS			+2,000	+3,900
Materials, Electronics, and Computer Technology	74,849	77,849	71,849	78,349
Embedded sensors		+3,000		+3,000
C-band telemetry/data link systems			−3,000	−3,000
Distributed Manufacturing Demonstration Project				+3,500
Mine Countermeasures, Mining and Special Warfare	43,384	51,384	43,384	48,384
RAMICS		+8,000		+5,000
Oceanographic and Atmospheric Technology	45,526	60,526	49,476	58,376
Oceanographic research		+10,000		+10,100
Mapping, charting, geodesy			+3,700	+0
PM–10			+250	+250
POAM–II		+5,000		+2,500
Medical Development	27,754	62,754	27,754	65,754
Bone marrow		+24,000		+24,000
Prostate cancer [Note: The conferees direct that the prostate cancer funds are to continue the ongoing Army research program, in collaboration with the Navy.]		+7,500		+7,500
DOD head injury		+1,000		+1,000
Blood storage		+1,000		+1,000
Naval Biodynamics Laboratory [Note: The conferees agree to provide $3,000,000 only for the Naval Biodynamics Laboratory (NBDL). These funds are to maintain the level of effort at NBDL so that the lab, facilities, equipment, and records (including data bases) can be transferred, effective October, 1996, to a participating facility which is an integral part of the Gulf Coast Region Maritime Technology Center.]		+1,500		+3,000
Undersea Warfare Advanced Technology	51,816	51,816	45,170	48,493
Shallow water surveillance advanced technology—littoral warfare advanced development			−6,646	−3,323
Shallow Water MCM Demonstrations	50,958	25,000	46,565	40,958
Budget growth		−25,958		−10,000
Advanced airborne target designator			−1,400	
C^{4}I technology			−1,468	
Surface surveillance, target acquisition and fire control			−1,525	
Advanced Technology Transition	96,825	78,000	89,325	81,000
Budget growth		−18,825		−18,825
Tactical aircraft directed IR countermeasures			−5,500	
Dual mission advanced missile airframe			−5,000	
SLICE			+3,000	+3,000
Carrier Systems Development	16,164	16,164	9,226	12,764
Zonal electric distribution system			−2,000	
Aviation weapons information systems			−1,538	
Multi-threat magazine protection system			−1,700	−1,700
Integrated catapult/ski-jump			−1,700	−1,700
Advanced Surface Machinery Systems	39,156	39,156	67,094	82,864
ICR			+27,938	+41,008
ICR statutory allocation			(45,458)	(0)
Standard monitoring control system [Note: Conferees agree to provide an additional $2.7 million, a total of $6.2 million, for the standard monitoring control system.]				+2,700
Marine Corps Ground Combat/Support System	46,733	46,733	46,733	50,933
Light weight 155mm howitzer				+4,200
Ship Self Defense	245,620	365,120	245,620	332,620
NRL P–3		+26,500		+26,500
Fleet P–3		+11,500		+11,500
E–2 CEC		+8,000		+5,500
Patriot/THAAD/CORPSAM CEC		+20,000		+5,000
Hawk CEC		+15,000		+3,000
AWACS CEC		+10,000		+11,000
National sensors CEC		+4,000		+4,000
FACT high definition systems		+4,500		+4,500
Multisensor fusion (St. Inigoes)		+4,000		
AN/UYQ–70		+16,000		+16,000
Gun Weapon System Technology	12,028	37,028	31,028	34,028
Naval surface fire support		+25,000	+19,000	+22,000
Joint Advanced Strike Technology—Dem/Val	149,295	143,795	123,272	83,795
General reduction		−25,500	−51,023	−65,500
Engine competition		+20,000		
A/F–117X [Note: Conferees direct that no reduction be made to the $7 million budgeted and appropriated for alternate engine activities.]			+25,000	
ASW and Other Helicopter Development	91,803	80,175	99,636	89,636
AH–1W		−11,628	−11,628	−11,628
ALFS			−2,167	−2,167
4BW/4BH			+21,628	+11,628
AV–8B	11,309	26,909	11,309	26,909
Engineering and manufacturing development		+15,600		+15,600
S–3 Weapon System Improvement	12,872	27,872	12,872	12,872
Gray Wolf		+15,000		
P–3 Modernization Program	1,945	16,945	1,945	16,945
AIP		+12,000		+12,000
Stores management		+3,000		+3,000
Airborne Mine Countermeasures	42,226	42,226	30,468	34,468
Airborne laser mine detection system [Note: $18,262,000 is available only for Magic Lantern.]			−11,758	−7,758
Unguided Conventional Air Launched Weapons	40,517	43,517	94,517	53,517
SLAM–ER		+3,000		+3,000
SLAM on Air Force platforms			+54,000	+10,000
Ship Self-Defense	165,997	201,997	179,297	207,297
Test ship		+7,900		+7,900
QRCC		+2,500		+2,500
ESM		+4,500		+4,500
IRST		+9,500	+9,500	+9,500
SPQ–9		+4,800		+4,800
ESSM		+6,800	−8,200	

[In thousands of dollars]

	Budget	House	Senate	Conference
Multi-sensor integration			+4,000	+4,100
NULKA			+8,000	+8,000
Distributed Surveillance System	93,507	93,507	93,507	103,507
FDS—Deployable [Note: Conferees agree to provide $10 million for refurbishment of an existing FDS–D and for procurement of additional spare clusters.]				+10,000
Studies and Analysis Support—Navy	9,281	7,000	7,781	7,000
Growth		−2,281		−781
CVLA			−1,500	−1,500
Test and Evaluation Support	245,911	247,911	237,911	239,911
NDI safety/survivability		+2,000		+2,000
Program reduction [Note: Conferees direct that no part of the general reduction shall be assessed against personnel.]			−8,000	−8,000
F/A–18 Squadrons	919,484	923,984	919,484	923,984
BOL chaff [Note: $4.5 million is only to integrate BOL chaff on F/A–18C/D series aircraft		+4,500		+4,500
E–2 Squadrons	52,965	52,965	52,965	62,965
E–2 Radar Modernization Program				+10,000
Tomahawk and Tomahawk Mission Planning Center	141,440	176,440	141,440	170,440
Tomahawk Block IV		+25,000		+25,000
Joint targeting testbed [Note: $4 million for testbed is only for studies.]		+10,000		+4,000
Consolidated Training Systems Development	+48,058	+51,058	+65,058	+68,058
Outboard trainer		+3,000		+3,000
PMRF shallow water range			+17,000	+17,000
F–14 Upgrade	44,490	44,490	44,490	19,115
JDAM integration				−25,375
Marine Corps Combat Services Support	3,915	6,915	3,915	7,415
All terrain vehicle		+3,000		
Medium tactical vehicle replacement [Note: Conferees direct that funds for the medium tactical vehicle replacement may only be used for the cargo variant.]				+3,500
Satellite Communications	38,472	38,472	43,472	38,472
Commercial direct broadcast [Note: Conferees do not agree to the Senate language on the global broadcast service.]			+5,000	
Industrial Preparedness		88,000	41,251	88,000
Transfer		+41,251	+41,251	+41,251
Generic increase		+36,749		+36,749
Electro-optics [Note: The conference agreement includes $10 million to continue a multi-year effort in partnership with U.S. manufacturers to develop advanced electro-optic manufacturing technologies aimed at developing lower cost and technologically superior U.S. weaponry. This program was authorized in the 1996 House National Defense Authorization bill.]		+10,000		+10,000

SHIP SELF-DEFENSE

The conferees do not agree to the House bill language on ship self-defense programs, as there is now agreement between the Congress and the Defense Department on the direction of the affected programs. This action should not be construed as a diminution of Congressional support for achieving robust self-defense capabilities on Navy ships, particularly on the LPD–17 class, as soon as possible.

SURFACE SHIP TECHNOLOGY

The conferees believe recent efforts to develop state-of-the-art curved plate technology for constructing large double hull tankers hold promise to significantly reduce construction costs and provide an improved level of safety and performance for Navy tanker vessels. The conference agreement includes $15,000,000 only to complete the development, design, construction and testing of full scale prototype equipment essential to evaluating and deploying this technology. Funds are to be used for detailed design and construction of full scale prototype equipment for curved plate panel forming, coating, subassembly and final welding.

OCEANOGRAPHIC AND ATMOSPHERIC TECHNOLOGY

The conferees agree to provide $10,000,000 for oceanographic research as recommended by the House. These funds are available only for collaborative research for the continued development, integration and application of cost-effective underwater multisensing systems (physical, chemical, optical, and acoustic) and unmanned underwater vehicles for continental shelf oceanographic measurements for mine countermeasures and other oceanographic applications, both fundamental and applied. These funds are to continue the project explained in House report 103–254, whose focus is on in-situ oceanographic sensors, fusion of multiple sensors, reconfigurability, interoperability to achieve low cost, reduced size and flexible payload/platform systems, adaptive capabilities for extended deployments, and navigation by self-convergent approaches using onboard sensors and intelligent control.

JOINT ADVANCED STRIKE TECHNOLOGY

Due to a recent restructure of the JAST program, there is now $131,000,000 in the fiscal year 1996 budget that is for work to be accomplished in fiscal year 1997. Such work should be budgeted in that year. The conferees agree to this reduction in the Navy and Air Force accounts, and direct that the Office of the Secretary of Defense ensure that the fiscal year 1997 budget to Congress includes a restoration of these funds.

F/A–18 SQUADRONS

The conferees agree to provide an additional $4,500,000 only for BOL chaff as recommended by the House. These funds are only to complete certification of the BOL chaff system on the F/A–18C/D series aircraft.

E–2 SQUADRONS

The conferees have provided an increase of $10,000,000 only to support evaluation of technologies for an E–2 radar modernization program (RMP). The conferees support an expansion of current development and test efforts at a site which permits elevated testing of an ADS–18S antenna and is involved with evaluation of space time adaptive processing (STAP) algorithms. Based on analysis and testing completed to date, the Navy has concluded that upgrades to the E–2 can provide substantial warfighting improvements in a littoral environment. The conferees direct that the additional funds shall only be available for radar development work, antenna testing and site enhancements in conjunction with ongoing efforts.

LCAC SERVICE LIFE EXTENSION PROGRAM

The conferees agree to provide $37,000,000 as recommended by the House for advanced planning and engineering of a Landing Craft Air Cushion (LCAC) service life extension program. The program will include component improvements and structural modifications to reduce maintenance costs, meet increased lift requirements, and restore growth margins. Modifications will be incorporated into the last craft during production and into existing fleet craft beginning in fiscal year 1996 as an expansion of the current corrosion control effort.

INTERCOOLED RECUPERATIVE GAS TURBINE ENGINE

The conferees agree to provide $41,008,000 for the continued development of the Intercooled Recuperative (ICR) gas turbine engine. This includes the amount requested in the budget and additional funds for the recuperator recovery plan and the U.S. test site.

NAVY RANGE SUPPORT SHIP

In the process of restructuring its fleet of oceanographic research vessels, the Navy recently decided that the Kaimalino would not be part of the future Navy oceanographic fleet. The conferees are aware of a plan for the Pacific Missile Range Facility (PMRF) to acquire the Kaimalino to support operational training needs as well as research and development programs, such as Navy Upper and Lower Tier Patriot, and THAAD. The conferees believe this would be an effective use of the Kaimalino. The conferees direct the Navy to review PMRF's request and to report to the Committees on Appropriations prior to taking any other action on the ship. The conferees further direct that the reuse of the Kaimalino shall have no effect on other ships in the Navy's oceanographic fleet.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL AF:				
DEFENSE RESEARCH SCIENCES	239,893	254,393	230,478	239,978
MATERIALS	74,534	71,000,	74,534	74,534
AEROSPACE FLIGHT DYNAMICS	66,268	62,768	60,799	63,100
HUMAN SYSTEMS TECHNOLOGY	90,311	86,911	75,311	86,911

[In thousands of dollars]

	Budget	House	Senate	Conference
AEROSPACE PROPULSION	78,592	81,592	72,070	75,070
AEROSPACE AVIONICS	74,256	74,256	66,601	68,500
HYPERSONIC TECHNOLOGY PROGRAM	19,900	19,900	16,900	19,900
ADVANCED WEAPONS	124,446	130,446	130,746	136,746
COMMAND CONTROL AND COMMUNICATIONS	98,477	96,477	98,477	96,477
ADVANCED MATERIALS FOR WEAPON SYSTEMS	23,283	25,283	28,283	30,283
CREW SYSTEMS AND PERSONNEL PROTECTION TECHNOLOGY	18,953	21,953	18,953	21,953
ADVANCED AVIONICS INTEGRATION	20,421	17,621	20,421	17,621
EW TECHNOLOGY	25,079	20,079	25,079	22,579
SPACE AND MISSILE ROCKET PROPULSION	15,203	20,203	15,203	20,203
BALLISTIC MISSILE TECHNOLOGY	3,085	8,785	8,085	8,785
ADVANCED SPACECRAFT TECHNOLOGY	32,627	83,627	52,627	78,627
CONVENTIONAL WEAPONS TECHNOLOGY	31,637	34,137	31,637	34,137
ADVANCED RADIATION TECHNOLOGY	47,919	47,919	74,919	74,919
CIVIL AND ENVIRONMENTAL ENGINEERING TECHNOLOGY	9,835	7,835	9,835	8,835
ADVANCED COMPUTING TECHNOLOGY	11,005	36,605	11,005	36,605
POLAR SATCOM			68,331	58,000
NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAL SATE	23,861	18,861	13,861	18,861
SPACE BASED INFRARED ARCHITECTURE (SBIR)—DEM/VAL	130,744	230,744	265,744	265,744
JOINT ADVANCED STRIKE TECHNOLOGY—DEM/VAL	151,186	125,686	85,258	85,686
INTERCONTINENTAL BALLISTIC MISSILE—DEM/VAL	20,265	20,265	31,765	31,765
B–1B	173,838	197,438	187,438	202,438
C–17 PROGRAM	85,753	85,753	42,353	73,803
F–22 EMD	2,138,718	2,338,718	2,338,718	2,238,718
NIGHT/PRECISION ATTACK	8,708	8,708	20,708	20,708
SPACE BASED INFRARED ARCHITECTURE (SBIR)—EMD	152,219	152,219	162,119	172,219
MILSTAR LDR/MDR SATELLITE COMMUNICATIONS	649,666	649,666	591,666	577,666
JOINT STANDOFF WEAPONS SYSTEMS	44,025	44,025	40,802	44,025
COMPUTER RESOURCE TECHNOLOGY TRANSITION (CRTT)	2,166	2,166	20,366	9,166
JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM (JSTARS)	169,702	189,702	162,202	182,202
SPACE TEST PROGRAM	57,710	57,710	39,572	47,000
THREAT SIMULATOR DEVELOPMENT	53,377	53,377	65,877	58,877
NAVIGATION/RADAR/SLED TRACK TEST SUPPORT		3,000		3,000
TEST AND EVALUATION SUPPORT	454,067	444,167	430,167	434,167
ENVIRONMENTAL CONSERVATION	14,169	4,169	14,169	4,169
ROCKET SYSTEMS LAUNCH PROGRAM (RSLP)	5,949	5,949	22,749	22,749
BASE OPERATIONS—RDT&E	117,083	120,683	126,983	123,983
AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	103,700	101,730	135,200	133,230
B–52 SQUADRONS	16,505	16,505	25,505	21,005
F–16 SQUADRONS	175,600	175,600	177,600	175,600
F–15E SQUADRONS	171,337	171,337	169,237	171,337
MANNED DESTRUCTIVE SUPPRESSION	2,908	2,908	10,908	10,908
JASSM			50,000	25,000
ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	42,311	50,311	37,211	47,311
THEATER BATTLE MANAGEMENT (TBM) C⁴I	24,813	29,813	24,813	29,813
ADVANCED SYSTEMS IMPROVEMENTS	105,548	105,548	105,548	63,748
THEATER MISSILE DEFENSES	25,102	25,102	53,102	25,102
SATELLITE CONTROL NETWORK	89,717	82,717	84,617	84,617
TITAN SPACE LAUNCH VEHICLES	140,514	140,514	135,514	135,514
NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE AND CONTROL S)	26,921	26,921	25,921	25,921
NCMC—TW/AA SYSTEM	60,897	60,897	68,797	68,797
SPACETRACK	35,583	35,583	57,883	58,383
DEFENSE SUPPORT PROGRAM	43,672	43,672	37,441	37,441
NUDET DETECTION SYSTEM	16,227	13,277	16,277	13,277
INDUSTRIAL PREPAREDNESS		53,332	60,932	60,932
CLASSIFIED PROGRAMS	3,203,479	3,310,979	3,249,279	3,339,129

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
Defense Research Sciences	239,893	254,393	230,478	239,978
Center for Astronomical Adaptive Optics		+5,000	+5,000	+5,000
Joint Seismic Research		+9,500		+9,500
Program Reduction			−14,415	−14,415
Aerospace Flight Dynamics	66,268	62,768	60,799	63,100
Aeromechanics			−5,469	−3,168
Aerospace Propulsion	78,592	81,592	72,070	75,070
Thermally Stable Jet Fuels		+3,000		+3,000
Program Reduction			−6,522	−6,522
Advanced Weapons	124,446	130,446	130,746	136,746
Rocket Propulsion Technology		+6,000		+6,000
High Frequency Active Auroral Research			+5,000	+5,000
AEOS Spectrograph			+1,300	+1,300
Advanced Materials for Weapon Systems	22,283	25,283	28,283	30,283
Infrared Signature Control		+2,000		+2,000
Metal Fatigue Monitoring Technology			+5,000	+5,000
Advanced Spacecraft Technology	32,627	83,627	52,627	78,627
Reusable Launch Vehicle Technology		+50,000		+25,000
Miniature Threat Reporting System		+1,000		+1,000
Microsat			+20,000	+20,000
B–1B	173,838	197,438	187,438	202,438
JDAM Integration		+7,000	+7,000	+7,000
ECM Risk Reduction		+6,600	+6,600	+6,600
PGM		+10,000		+15,000
SBIR–EMD	152,219	152,219	162,119	172,219
Other Procurement Transfer			+9,900	+20,000
Computer Resource Tech Transition	2,166	2,166	20,366	9,166
Software Design for Reliability and Reuse			+3,000	+5,000
CARDS				+2,000
IMDS			+15,200	
Joint Surveillance/Target Attack Radar	169,702	189,702	162,202	182,202
REA			−12,000	−12,000
NATO JSTARS Project Office			+4,500	+4,500
Data Link/Dissemination Technologies		+20,000		+20,000
Aircraft Engine Component Improvement Program	103,700	101,730	135,200	133,200
B–2		−1,970		−1,970
RC–135 Re-engining NRE			+31,500	+31,500
Threat Simulator Development	53,377	53,377	65,877	58,877
ECIT Infrastructure			−3,100	−3,100
REDCAP			+15,600	+8,600
Test and Evaluation Support	454,067	444,167	430,167	434,167
AF T&E Transfer		−9,900	−9,900	−9,900
Program Reduction [Note: The conferees direct that no part of the reduction may be assessed against personnel.]			−14,000	−10,000
Base Operations—RDT&E	117,083	120,683	126,983	123,983

[In thousands of dollars]

	Budget	House	Senate	Conference
Test and Evaluation Transfer		+9,900	+9,900	+9,900
Growth Reduction		−6,300		−3,000
Satellite Control Network [Note: The conferees direct the Air Force to use unobligated fiscal year 1995 funds allocated for special projects to fund fiscal year 1996 general program requirements.]	89,717	82,717	84,617	84,617
Space Track	35,583	35,583	57,883	58,383
Air Force Maui Optical Station			+5,300	+5,300
Advanced Electro-Optical System (AEOS)			+17,000	+17,000
AEOS Site Characterization				+500
Defense Support Program [Note: The conferees direct that the reduction shall only be assessed against engineering change orders and management support.]	43,672	43,672	37,441	37,441

SPACE BASED INFRARED ARCHITECTURE—DEM/VAL

The conferees agree to provide $265,744,000 for the demonstration/validation stage of the space based infrared architecture program, an increase of $135,000,000 to the budget request. The conferees have agreed to provide the additional $135,000,000 to accelerate development of the space missile tracking system (SMTS), formerly known as Brilliant Eyes. The additional funds provided for the program shall be used only for efforts identified jointly by both the Ballistic Missile Defense Organization and the Air Force to accelerate the deployment of SMTS.

B–1B

The conferees agree to provide $202,438,000 for the B–1B upgrade program, an increase of $28,600,000 to the budget request. The additional funding includes an increase of $7,000,000 for B–1B JDAM integration, an increase of $6,600,000 for ECM risk reduction activities, and $15,000,000 for efforts to equip the bomber with precision guided munitions, including the B–1B virtual umbilical demonstration (BVUD). The conferees agree that none of the funding used for BVUD may be obligated until the Commander of the Air Combat Command and the Air Force Director of Operational Requirements certify to the appropriations committees that (a) a documented requirement for BVUD exists; and (b) that BVUD will be incorporated as part of the B–1B conventional upgrade program.

The conferees also direct that the Commander of the Air Force Operational Test and Evaluation Center provide a report no later than March 15, 1996 on the test and evaluation plan for BVUD and other precision guided munitions demonstrations. Finally the conferees direct the Department of the Air Force to consider other available alternatives to providing precision guided capability for the Mk–82 munition with the additional funding provided.

C–17

The conferees agree to provide $73,803,000 for continued development of the C–17 advanced transport aircraft, a decrease of $11,950,000 to the budget request. The conferees direct that these funds be allocated as follows: flight test support, $17,850,000; T–1 refurbishment, $11,700,000; aircraft structural integrity, $11,000,000; mission support, $10,900,000; aircraft armor, $5,000,000; flight test hours, $4,000,000; automatic communications processor; $4,000,000; station-keeping equipment, $1,300,000; passenger oxygen mask improvements, $1,000,000; enhanced aeromedical litters, $1,000,000; cargo compartment heating, $600,000; troop seats, $553,000; GPS integrity monitoring, $500,000; airlift defensive system survivability study, $400,000; signature reduction study, $400,000.

The conferees agree with Senate's direction regarding crew armor.

SENSOR FUZED WEAPON PRODUCT IMPROVEMENT

The House and Senate both included $10,000,000 in their respective bills to begin a product improvement program for the Sensor Fuzed Weapon (SFW). The conferees direct the Air Force to program those funds required in the outyears to complete development of these improvements. Currently programmed SFW production funds shall not be used as a source for the required development funds. The conferees strongly urge the Air Force to begin this development as soon as possible and to examine ways to streamline and shorten the effort.

The conferees also agree with the Senate requirement for a reevaluation, to be submitted no later than May 1, 1996, of total inventory needs for smart munitions.

JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM

The conferees agree to reduce the budget request for Joint Surveillance/Target Attack Radar System (JSTARS) procurement by $17,200,000 and for development by $12,000,000. The conferees agree to add $4,500,000 in development funds for the NATO Alliance Ground Surveillance (AGS) program and to add $20,000,000 in development funds for data link/dissemination technologies. An amount of $6,100,000 in procurement funds is available only to pay over and above expenses for repair actions during aircraft refurbishment. The conferees direct the Air Force to report to the Committees on Appropriations no later than 30 days after the enactment of this Act as to how the reductions have been allocated. If necessary to accommodate the impact of these reductions, the Air Force is encouraged to submit a reprogramming request in a timely manner.

The conferees agree with the Senate requirements regarding the AGS program.

B–52 SQUADRONS

The conferees agree to provide $21,005,000 for B–52 development, an increase of $4,500,000 to the budget request. The additional funding is only for integration of the AGM–130 munition onto B–52 bombers. The conferees direct that not more than $1,000,000 may be obligated until the Secretary of the Air Force certifies that there is a validated operational requirement for the weapon and reports to the Committees on Appropriations about the annual and total costs, schedule, technical risks, and operational considerations of such integration.

JOINT-AIR-TO-SURFACE STANDOFF MISSILE

The conferees agree to provide $25,000,000 to initiate the Joint-Air-to-Surface Standoff Missile (JASSM) program. The conferees agree to the Senate requirements regarding a report and a cost and operational effectiveness analysis. However, the Senate proposed obligation restrictions are not required. The required report is due no later than June 1, 1996.

THREAT SIMULATOR DEVELOPMENT

The conferees direct that none of the funds available for the Real-Time Electromagnetic Digitally Controlled Analyzer and Processor (REDCAP) may be used to fund any activities which would produce permanent improvements which could not be relocated in accordance with the Base Realignment and Closure (BRAC) decision to move this facility.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL DEFWIDE:				
DEFENSE RESEARCH SCIENCES	89,732	84,732	86,332	81,332
UNIVERSITY RESEARCH INITIATIVES	236,165	221,165	231,165	231,165
FOCUSED RESEARCH INITIATIVES	14,009	9,009		9,009
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	23,947	28,547	23,947	28,547
COUNTERPROLIFERATION SUPPORT	9,952	14,452	9,952	14,452
MEDICAL FREE ELECTRON LASER	13,258	13,258	26,258	26,258
LINCOLN LABORATORY RESEARCH PROGRAM	19,903	10,000	19,903	12,903
COMPUTING SYSTEMS AND COMMUNICATIONS TECHNOLOGY	403,875	402,876	372,525	392,325
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	60,665	84,165	58,515	68,515
TACTICAL TECHNOLOGY	113,168	132,168	117,718	130,718
INTEGRATED COMMAND AND CONTROL TECHNOLOGY	48,000	50,000	48,000	50,000
MATERIALS AND ELECTRONICS TECHNOLOGY	226,045	236,045	235,145	248,145
DEFENSE NUCLEAR AGENCY	219,003	231,703	237,003	237,703
DEFENSE HEALTH RESEARCH AND DEVELOPMENT			120,000	20,000
NATIONAL MISSILE DEFENSE—DEM/VAL	370,621	820,621	670,621	745,621
CORPS SURFACE-TO-AIR MISSILE—TMD—DEM/VAL	30,442	20,442		20,442
SUPPORT TECHNOLOGIES/FOLLOW-ON TECHNOLOGIES—ADVANCE	79,387	79,387	149,387	129,387
OTHER THEATER MISSILE DEFENSE/FOLLOW-ON TMD ACTIVITIES	460,470	423,470	475,470	438,470
BALLISTIC MISSILE DEFENSE RDT&E PROGRAM MANAGEMENT	185,542	165,542	155,542	155,542
PATRIOT PAC–3 THEATER MISSILE DEFENSE ACQUISITION—EM	247,921	247,921	352,421	352,421
THEATER HIGH-ALTITUDE AREA DEFENSE SYSTEM—TMD—EMD		50,000		
NAVY LOWER TIER ACQUISITION EMD	237,473	282,473	282,473	97,473
NAVY LOWER TIER ACQUISITION DEM/VAL				185,000

[In thousands of dollars]

	Budget	House	Senate	Conference
COUNTERTERROR TECHNICAL SUPPORT	12,044	24,044	12,044	18,244
COUNTERPROLIFERATION SUPPORT—ADV DEV	55,331	55,331	65,331	65,331
ASAT PROGRAM	....	....	30,000	30,000
JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVELOPMENT	16,799	16,799	21,799	21,799
EXPERIMENTAL EVALUATION OF MAJOR INNOVATIVE TECHNOLOGIES	618,005	671,006	576,405	613,705
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM—ADVANCED DEV	25,684	38,284	21,686	35,684
ADVANCED SUBMARINE TECHNOLOGY	7,473	30,473	13,973	30,473
DEFENSE REINVESTMENT	500,000	....	238,000	195,000
STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	58,435	58,155	58,435	58,155
JOINT TECHNOLOGY INSERTION PROGRAM	4,976	4,976	....	3,476
CALS INITIATIVE	6,545	6,545	25,745	25,745
COOPERATIVE DOD/VA MEDICAL RESEARCH	....	....	25,000	25,000
ADVANCED ELECTRONICS TECHNOLOGIES	419,863	434,863	388,718	422,660
SEMICONDUCTOR MANUFACTURING TECHNOLOGY	89,554	....	89,554	39,000
MARITIME TECHNOLOGY	49,657	63,957	49,657	49,657
ELECTRIC VEHICLES	....	....	15,000	15,000
ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS	63,251	32,251	59,851	38,609
HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRAM	89,682	89,682	119,682	119,682
INDUSTRIAL PREPAREDNESS MANUFACTURING TECHNOLOGY	7,007	7,007	....	....
JOINT ADVANCED STRIKE TECHNOLOGY—DEM/VAL	30,675	30,675	18,775	30,675
JOINT ROBOTICS PROGRAM	17,382	22,382	23,115	22,382
ADVANCED SENSOR APPLICATIONS PROGRAM	25,923	35,923	25,923	25,923
NATO RESEARCH AND DEVELOPMENT	45,642	....	28,500	23,500
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM—DEM/VAL	32,461	36,861	29,661	34,061
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM—EMD	95,324	107,324	91,617	91,617
GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS	16,800	16,800	12,300	12,300
TECHNICAL STUDIES, SUPPORT AND ANALYSIS	39,302	24,302	24,372	34,302
TECHNICAL ASSISTANCE	4,927	4,927	....	....
SMALL BUSINESS INNOVATIVE RESEARCH ADMINISTRATION	1,574	1,574	....	1,574
DEFENSE SUPPORT ACTIVITIES	14,752	14,752	17,752	17,752
COUNTERDRUG INTELLIGENCE SUPPORT	....	....	7,000	7,000
INDUSTRIAL PREPAREDNESS	....	....	7,007	7,007
INFORMATION SYSTEMS SECURITY PROGRAM	23,884	23,884	17,414	17,414
DMA MAPPING, CHARTING, AND GEODESY (MC&G) PRODUCTIONS	80,131	80,131	92,745	74,745
DEFENSE AIRBORNE RECONNAISSANCE PROGRAM	515,148	612,048	391,148	604,448
C^3I INTELLIGENCE PROGRAMS	7,907	7,907	9,907	9,907
SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMENT	13,288	14,788	19,288	15,788
SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT	101,602	105,602	109,895	112,395
CLASSIFIED PROGRAMS	1,194,090	1,188,421	1,227,090	1,225,601

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
Defense Research Sciences	89,732	84,732	86,332	81,332
Authorization adjustments	....	−5,000	....	−5,000
Material Sciences—Bioremediation	....	....	−3,400	−3,400
University Research Initiatives	236,165	221,165	231,165	231,165
Authorization adjustment	....	....	−15,000	....
Combat readiness research	....	....	+10,000	+10,000
DEPSCOR	....	+20,000	(20,000)	+20,000
Reduction	....	−35,000	....	−35,000
Focused Research Initiatives [Note: The conferees agree to provide $9,009,000 for Focused Research Initiatives. The conferees agree that priority should be given to new materials research and continuing programs already initiated in conjunction with the National Medical Technology Testbed.]	14,009	9,009	....	9,009
Program reduction or deferral	....	....	−14,009	....
Computing Systems and Communications Technology	403,875	402,875	372,525	392,325
Planning and decision aids	....	....	−3,200	....
Human computer interaction	....	....	−6,100	....
Evoluntary design of complex software	....	....	−4,000	....
High Performance Computing Defense Info enterprise	....	....	−24,800	....
Defensive Information Warfare	....	....	−5,000	−5,000
Interoperative Intelligent Metacomputing Testbed	....	....	+8,000	+8,000
[Note: The conferees agree with the Senate direction and further direct that the facility be located in close proximity to the Department of Defense headquarters and ARPA.]				
Asset Source for Software Engineering Technology	....	....	+3,750	+3,750
Nuclear Monitoring Technology	....	+11,000	....	+11,000
Software Managers Network	....	+10,000	....	+6,000
Natural Language Text	....	+5,000	....	+5,000
Global Broadcast Service	....	+8,000	....	+8,000
Seismic Monitoring Research	....	−10,000	....	....
High Performance Computing	....	−25,000	....	−35,000
Program Reduction	....	....	....	−13,300
Chemical and Biological Defense Program	60,665	84,165	58,515	68,515
House Authorization Increase	....	+23,500	....	+10,000
Non medical chem/bio defense and gen/investment	....	....	−2,150	−2,150
Tactical Technology	113,168	132,168	117,718	130,718
Tactical Landing System	....	+7,000	+6,450	+6,450
Multiple Object Tracking Sensor System	....	+7,000	....	+7,000
Simulation Based Design	....	+5,000	....	+5,000
Naval Warfare Technology	....	....	−4,000	−3,000
Aglie Warrior	....	....	−4,900	−4,900
Center of Excellence for Research in Ocean Sciences	....	....	+7,000	+7,000
Integrated Command and Control Technology	48,000	50,000	48,000	50,000
Digital Camera	....	+2,000	....	+2,000
Field Emission Display [Note: The conferees agree that $5,000,000 is to be made available only for plasma enhanced chemical vapor deposition equipment and for development of manufacturing systems in a cluster tool format specifically tailored for field emission display (FED) production.]	....	....	....	(5,000)
Materials and electronics technology	226,045	236,045	235,145	248,145
High Temperature Superconducting Materials	....	+10,000	....	+10,000
LSTAT	....	(4,000)	(3,000)	(3,000)
Joint LSTAT requirement	....	(500)	(500)	(500)
Materials and Processing Technology	....	....	−8,900	−4,900
Military Medical/Trauma Care Technology	....	....	....	....
2–D Ultrasound	....	....	−3,500	−1,000
Healthcare and Information infrastructure	....	....	−3,000	−3,000
Thermal Diamond Management	....	....	+14,500	+11,000
Cryogenic Electronics	....	....	+10,000	+10,000
Defense Nuclear Agency	219,003	231,703	237,003	237,703
High Power Microwave Technology	....	+4,700	+4,000	+4,700
Counterterrorist Explosive Research	....	+4,000	....	+4,000
Radiation Hardened Electronics	....	(15,000)	....	(15,000)
Environmental Pollutants	....	....	(5,000)	(5,000)
Thermionics	....	....	+10,000	+10,000
Defense Health Research and Development	....	....	120,000	20,000
Breast Cancer Research	....	....	+100,000	....
AIDS Research	....	....	+20,000	+20,000

[In thousands of dollars]

	Budget	House	Senate	Conference
Other Theater Missile Defense/Follow-on TMD Activities	460,470	423,470	475,470	438,470
Reduction		−37,0000		−37,000
UAV/Boost Phase Interceptor			+15,000	+15,000
Kauai Test Facility			(3,000)	(3,000)
Counterterror Technical Support	12,044	24,044	12,044	18,244
Pulsed Fast Neutron Analysis		+12,000		+6,200
Experimental Evaluation of Major Innovative Tech	618,005	671,005	576,405	613,705
MOBA			−9,500	−9,500
Command and Control Info Systems			−11,100	−11,100
Guidance Tech—Sharpshooter			−13,700	−13,700
Advanced Simulation: Synthetic Theater of War			−3,000	−1,000
Advanced Simulator Technologies			−9,700	−5,000
Critical Mobile Targets			−10,000	−10,000
Pacific Disaster Center			+6,000	+6,000
Two Megawatt direct fuel cell powerplant			+9,400	+7,000
Shallow Water ASW		+5,000		+5,000
Classified Programs		+35,000		+10,000
Small Satellites		+1,000		+1,000
Safety and Survivability		+2,000		+2,000
GEOSAR		+10,000		+10,000
Crown Royal				+5,000
Strategic Packaging for Single Multi-Chip Modules [Note: The conferees agree to provide $2,000,000 only for Strategic Packaging for Single and Multi-chip Modules.]				(2,000)
Deep ocean relocation of coastal and harbor sediments [Note: The conferees agree to provide $2,500,000 only for the continuted study of deep ocean relocation of coastal and harbor sediments leading to a demonstration and validation of viable relocation and environmental monitoring technology.]				(2,500)
Large Millimeter Wave Telescope			(3,000)	(3,000)
Chemical and Biological Defense Program—Advanced Development	25,684	38,284	21,688	35,684
House Increase		+12,600		+10,000
Chem/bio defense advanced tech demo			−3,998	
Advanced Submarine Technology [Note: $7,000,000 of submarine technology is for project M.]	7,473	30,473	13,973	30,473
Submarine Technology		+23,000		+20,000
Active Structural Control			+3,000	+3,000
Integrated, passive, topographic navigation			+3,500	+0
Cooperative DoD/VA Medical Research			25,000	25,000
Core Program			+20,000	+20,000
Spinal/Brain research [Note: The conferees agree to provide $5,000,000 to complete the efforts initiated in 1992 for the Department of Defense Military Medical Personnel Collaborative Spinal Cord Injury, Paralysis, Neuroscience Research, Education and Training Center.]			+5,000	+5,000
Advanced Electronics Technologies	419,863	434,863	388,718	422,660
Focus Hope/U.S. Japan Management Training			−23,642	
CALS/Electronic Resource Centers			−6,000	
Manufacturing Technology Applications—Advanced Multimissile Manufacturing			−10,000	−10,000
Electronic Module Technology: Rapid acquisition of application specific signal processors technology base efforts			−3,100	−3,100
High Density Microwave Packaging			−9,100	−2,100
Microwave and Analog Front End Technology			−14,300	−7,000
Seamless High Off-Chip Conductivity			+10,000	+10,000
Institute for Advanced Flexible Manufacturing			+4,000	+4,000
Advanced Lithography			+20,997	+20,997
U.S. Japan—Management Training		−10,000		−10,000
Advanced Lithography		+25,000		
DMA mapping, charting, geodesy production	80,131	80,131	92,745	74,745
Support and management			−5,386	−5,386
Classified			+18,000	
Defense Airborne Reconnaissance Program	515,148	612,048	391,148	604,448
Tier II UAV	19,950	45,250	19,950	45,250
Tier III–UAV	48,000	83,000	48,000	66,000
Maneuver UAV	36,800	16,800	36,800	26,800
U–2 Sensor Upgrades			20,000	15,000
U–2 Defensive Systems			13,000	10,000
U–2 General Upgrades		15,000		
MSAG		12,000		8,000
E/O Framing Sensor		8,000		7,000
High Data Rate Laser Com		5,000		5,000
Common Imagery Ground System	33,833	49,833	38,833	44,833
Special Operations Advanced Technology Development	13,288	14,788	19,288	15,788
Integrated Bridge		+1,500		+1,500
Millimeter Wave			+1,000	+1,000
Crown Royal			+5,000	
Special Operations Tactical Systems Development	101,602	105,602	109,895	112,395
Advanced Seal Delivery System			+4,000	+4,000
SOF surface craft—Navy Boat program			+4,293	+4,293
Lightweight Strike Vehicle		+1,500		
Full Authority Digital Electronic Control		+2,500		+2,500

HISTORICALLY BLACK COLLEGES AND OTHER MINORITY INSTITUTIONS

The Department is encouraged to continue its support of minority institutions, including Hispanic serving institutions, through academic collaborations for research and education related to science and technology, relevant to the Department's mission.

COMPUTING SYSTEMS AND COMMUNICATIONS TECHNOLOGY

The conferees agree to provide $8,000,000 for a Global Broadcast Service (GBS) as recommended by the House. The conferees also agree to the House language directing that the GBS initiative is to be managed by the Under Secretary of Defense for Acquisition and Technology (USD (A&T)). The conferees do not agree to the House language directing that the $8,000,000 is to be released to the Navy for a near-term GBS pilot program. Instead, the conferees believe that the GBS program must address the needs of all of the services and direct the USD (A&T) to compete the acquisition of both the near-term and objective GBS. After the competition is completed, the Under Secretary of Defense (Comptroller) is to certify to the defense committees that $8,000,000 has been released to the service chosen as executive agent to conduct the near-term GBS pilot program. The conferees do agree to the House language directing the USD (A&T) to provide to the defense committees a long-term master architecture. Additionally, the conferees direct that the USD (A&T) provide a comparison of cost, schedule, technical risk and operational considerations for several potential GBS host spacecraft including UFO follow-on, Milstar, DSCS, classified, and commercial satellites with the master architecture.

ADVANCED ELECTRONICS TECHNOLOGIES

The conferees agree with the House report concerning the ECRC program and also direct the Department to enter into a five-year contract with each of the two system integrators, the National ECRC and CAMP, who will continue to manage their respective sites.

The conferees commend ARPA for recent advancements in low-cost dense plasma focus x-ray source technology and 0.18 micron synchrotron-based x-ray technology. The conferees urge ARPA to continue efforts in the point source area and direct the Agency to allocate $11,000,000 to fund an integrated point source x-ray lithography system based on these latest x-ray source and stepper developments. This research should target defense related applications such as the production of Microwave Monolithic Integrated Circuit (MMIC) chips for military uses, including missile seekers, digital battlefield systems and F–22 radar modules.

ELECTRONIC COMBAT MASTER PLAN

The conferees direct the Secretary of Defense to develop and provide to the congressional defense committees, no later than March 31, 1996, an Electronic Combat Master Plan to establish an optimum infrastructure for electronic combat assets.

STRATEGIC TARGET SYSTEM (STARS)

The conferees agree to provide $10,000,000, the budget amount, only to continue planning, preparation and actual conduct of STARS flight tests. The conferees direct that BMDO take no actions to terminate or place the STARS program in a caretaker status.

NAVAL THEATER BALLISTIC MISSILE DEFENSE

The conferees believe that the Navy's area wide (Lower Tier) and theater wide (Upper Tier) programs should be deployed as rapidly as possible. The Navy's current plan to build on existing ship platforms, the Aegis system, proven launch systems, and the operational Standard missile family has resulted in a cost effective, technically capable and manageable program that is planned to produce a user operational capability (UOES) Upper Tier system not later than FY 1999 with an initial operational capability (IOC) by 2001. The conferees are committed to a rapid and actual deployment of an effective sea-based missile defense system. The conferees direct the Department to place highest priority on proceeding with a development program that achieves deployment of the Navy Upper Tier system by the planned 2001 IOC. The conferees endorse the Navy Theater Wide system as a core TMD program and endorse fully funding the core program in the 5-year defense plan. The conferees direct that not less than $200,442,000 shall be spent on Navy Upper Tier and not less than $282,473,000 on Navy Lower Tier for research and development activities. Funding allocations through BMDO to the Navy for these programs should proceed expeditiously.

TIER II UNMANNED AIR VEHICLE

The conferees agree to provide $45,250,000 for the Tier II (Predator) unmanned air vehicle program, an increase of $25,300,000 to the budget request. The conferees also agree that the additional funding provided shall only be used for attrition replacement air vehicles and shall not be used to marinize the Predator air vehicle.

RIVET JOINT RE-ENGINING

The conferees have provided $79,000,000 solely for the purpose of initiation of reengining the Rivet Joint fleet. The conferees direct that future funding for this project be included in budget submissions for fiscal year 1997 and beyond, thus ensuring completion of this project in an expeditious and cost effective manner.

USH-42 MISSION RECORDER

The conferees agree that from funding provided in fiscal year 1996 for the Defense Airborne Reconnaissance Program, $10,000,000 may be used for the planned product improvement that will result in a low cost, lightweight, high capacity, digital version of the Navy's USH-42 recorder/reproducer suitable for a wide range of applications in reconnaissance and surveillance platforms.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
DIRECTOR OF TEST & EVAL DEFENSE:				
CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPMENT (CTEIP)	119,714	119,714	109,714	114,714
FOREIGN COMPARATIVE TESTING	34,062	34,062	32,453	32,453
DEVELOPMENT TEST AND EVALUATION	105,565	105,565	103,915	103,915

TITLE V—REVOLVING AND MANAGEMENT FUNDS

The conferees agree to the following amounts for Revolving and Management Funds program:

[In thousands of dollars]

	Budget	House	Senate	Conference
Defense Business Operations Fund	878,700	1,573,800	1,178,700	878,700
National Defense Sealift Fund	974,220	974,220	1,024,220	1,024,220
Total, Revolving and Management Funds	1,852,920	2,548,020	2,202,920	1,902,920

DEFENSE BUSINESS OPERATIONS FUND

The conferees agree to provide $878,700,000 for the Defense Business Operations Fund.

NATIONAL DEFENSE SEALIFT FUND

The conferees agree to provide $1,024,220,000 for the National Defense Sealift Fund.

MARITIME PREPOSITIONING SHIPS

The legislative authority in this Act to procure an additional Maritime Prepositioning Ship for up to $110,000,000 may not be used until a notification has been provided at least 30 days in advance of release of a RFP under this authority to the congressional defense committees on the Department of the Navy's intent to use the authority and on identification and justification of proposed financing sources.

TITLE VI—OTHER DEPARTMENT OF DEFENSE PROGRAMS

The conferees agree to the following amounts for Other Department of Defense programs:

[In thousands of dollars]

	Budget	House	Senate	Conference
Defense Health	10,153,558	10,205,158	10,196,558	10,226,358
Chemical Agents and Munitions Destruction	746,698	746,698	631,698	672,250
Drug Interdiction Defense	680,432	688,432	680,432	688,432
Office of the Inspector General	139,226	178,226	139,226	178,226
Total, Other Department of Defense Programs	11,719,914	11,818,514	11,647,914	11,765,266

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
Medical Programs, O&M	9,865,525	9,917,125	9,908,525	9,938,325
PACMEDNET		+16,000	+11,000	+11,000
Beaumont Army Medical Center Computer Support		+1,500		+1,500
Currency Fluctuation		+8,100		+6,900
Breast Cancer		+25,000		+25,000
American Red Cross		+1,000	+14,500	+14,500
Desert Storm Syndrome				+3,400
USTF			−15,900	
Telemedicine			+22,900	
Ongoing Initiatives:				
Brown Tree Snake			+1,000	+1,000
Military Nursing			+5,000	+5,000
Pacific Island Referral Project			+2,500	+2,500
USUHS Graduate School of Nursing			+2,000	+2,000

DEFENSE HEALTH PROGRAM

BREAST CANCER

The conferees have provided an increase of $100,000,000 only for breast cancer. The conferees have provided $75,000,000 to continue the Army's peer-reviewed research program. In addition, the conferees have provided $25,000,000 to the Department for: increased recruitment, training and education for military cancer specialists; diagnostic equipment and improved detection technologies, such as digital mammography; and prevention and education efforts for the military community.

TRICARE IMPLEMENTATION

The conferees commend the significant progress of the Department of Defense in moving toward a nation-wide managed health care system for the military, known as TRICARE. Existing law mandates that the TRICARE system be implemented by September 30, 1996, and the Department has attempted to meet this deadline. Unfortunately, complications with the issuance and implementation of these large, complex, competitively bid contracts, have caused significant problems and associated delays. The conferees are concerned that the Department has accelerated the process in order to meet this statutory deadline. The conferees understand the Department is fully committed to the full implementation of TRICARE, as well as a standard health benefit for all military beneficiaries, but believe that the Department, the offerors, and the beneficiaries would greatly benefit from additional time in meeting the complex requirements of TRICARE. Therefore, the conferees agree to extend the deadline for implementation of the TRICARE managed care system by one year.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

The conferees remain committed to the continuation of the Uniformed Services University of the Health Sciences (USUHS) at its current level and direct that, within funds made available to the Defense Health program, the amount provided for USUHS shall fully fund the programs and functions of the University at existing levels.

UNCOMPENSATED HEALTH CARE

The conferees reiterate their longstanding request for DoD Health Affairs to provide data documenting the cost of uncompensated care. The conferees note provision of trauma care provides DoD physicians and other trauma team members with training essential for their wartime performance and hence has provided sufficient funds to DoD Health Affairs in this and past appropriations to cover the estimated costs incurred in the provision of uncompensated care.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Quantity	Conference
CHEM AGENTS & MUNITIONS DESTRUCTION, DEF:					
CHEM DEMILITARIZATION—PROC	299,448	299,448	224,448		265,000
CHEM DEMILITARIZATION—O&M	393,850	393,850	353,850		353,850

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

The conferees agree to provide $688,432,000 as proposed by the House instead of $680,432,000 as proposed by the Senate. The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Military Personnel	152,787	152,787	152,787	152,787
O&M	422,633	441,633	442,633	440,088
South Com Radars	20,282	21,782	20,282	20,282
Community Outreach	8,236	0	8,236	0
CARIBROC Comms	206	1,356	206	206
Gulf States CI	2,059	3,900	2,059	6,059
Southwest Border Info System	4,000	5,545	4,000	4,000
Civil Air Patrol	2,224	3,424	2,224	3,424
Procurement	48,659	57,659	48,659	59,204
Southwest Border Info System	5,265	6,265	5,265	7,810
Classified Program		8,000		8,000
RDT&E	36,353	36,353	36,353	36,353
Total, Drug Interdiction	680,432	688,432	680,432	688,432

The conferees agree to provide $4,000,000 above the budget to the Gulf States Counterdrug Initiative, and direct that $2,000,000 be provided for the Command, Control, Communications and Computer Network and $2,000,000 for the Regional Counterdrug Training Academy.

The conferees have deleted bill language which provided $5,000,000 for the conversion of surplus Department of Defense helicopters by State and local governments for use in counterdrug activities and agree that funding may be requested in annual plans submitted by individual states.

The conferees agree that, if authorized, up to $3,000,000 in available funds may be used to continue the Community Outreach pilot program.

The conferees agree that, in accordance with normal reprogramming procedures, up to $25,000,000 in available funds may be used to procure low-energy/backscatter x-ray equipment.

OFFICE OF THE INSPECTOR GENERAL

The conferees agree to provide $178,226,000 for the Office of the Inspector General. Of this amount, $177,226,000 shall be for operation and maintenance activities and $1,000,000 for procurement.

TITLE VII—RELATED AGENCIES

[In Thousands of Dollars]

	Request	House	Senate	Conference
Central Intelligence Agency Retirement and Disability System Fund	213,900	213,900	213,900	213,900
Intelligence Community Management Account	93,283	75,683	93,283	90,683
National Security Education Trust Fund	15,000	15,000	7,500	7,500
Kaho'olawe Island Conveyance and Environmental Restoration Trust Fund			25,000	25,000

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

ENVIRONMENTAL TASK FORCE

The conferees have provided $15,000,000 to support the activities of the task force. Of this amount, $5,000,000 is to be used to continue joint United States/Russian efforts in this area.

NATIONAL SECURITY EDUCATION TRUST FUND

The conferees direct the Director of Central Intelligence, in coordination with the NSETF Board, to establish criteria and procedures to ensure that all individuals accepting fellowships or scholarships from this fund meet qualifications for employment by the Department of Defense or Intelligence Community. The conferees further direct that any recipient must be engaged in a course of study that is an identified critical shortage within the Department of Defense or the Intelligence Community. Upon meeting these requirements, the recipient must agree to serve at least two years with the Department of Defense or the Intelligence Community or reimburse the U.S. Treasury for the total costs of the scholarship or fellowship.

TITLE VIII—GENERAL PROVISIONS

The conference agreement incorporates general provisions of the House and Senate versions of the bill which were not amended. Those general provisions that were amended in conference follow:

The conferees included a general provision (Section 8005) which amends House language on transfer authority to $2.4 billion.

The conferees included a general provision (Section 8010) which amends Senate language that defines the congressional defense committees.

The conferees included a general provision (Section 8028) which amends House language to prohibit the demilitarization of certain types of surplus firearms.

The conferees included a general provision (Section 8045) which amends Senate language which earmarks funds for the Civil Air Patrol.

The conferees retained a Senate provision (Section 8046) concerning Federally Funded Research and Development Centers (FFRDCs).The conferees direct that the restrictions on consultants only shall apply to the use of consulting services for specific projects undertaken by an FFRDC as part of its core mission responsibilities to meet sponsor requirements.The restrictions do not apply to administration and management functions necessary to operate an FFRDC as an organizational entity.

The conferees included a general provision (Section 8062) which amends Senate language that limits payment to Uniformed Services Treatment Facilities to $315,000,000.

The conferees included a general provision (Section 8063) which amends House language concerning limitations on U.S. support for NATO headquarters operations.

The conferees included a general provision (Section 8065) which amends House language that maintains an expense/investment threshold of $100,000.

The conferees included a general provision (Section 8073) which amends House language concerning the supercomputing capability at various Department of Defense sites.

The conferees included a general provision (Section 8082) which amends House language concerning the establishment of field operating agencies.

The conferees included a general provision (Section 8083) which amends Senate language concerning rescission of funds from various Procurement and Research and Development programs.

RESCISSION OF FUNDS

The conferees agree to rescind excess prior year funds, as presented in the following table:

	House	Senate	Conference
FISCAL YEAR 1993			
PROCUREMENT OF AMMUNITION, ARMY:			
Armament and retooling manufacturing support initiative	0	−15,000,000	0
Subtotal	0	−15,000,000	0
Total fiscal year 1993	0	−15,000,000	0
FISCAL YEAR 1994			
AIRCRAFT PROCUREMENT, AIR FORCE:			
F–16 production termination	0	−49,854,000	−49,854,000
F–111 claims	0	−3,800,000	−3,800,000
Subtotal	0	−53,654,000	−53,654,000
MISSILE PROCUREMENT, AIR FORCE:			
GPS on-orbit incentive	0	0	−16,783,000
Subtotal	0	0	−16,783,000
RESEARCH, DEVELOPMENT, TEST & EVALUATION, ARMY:			
Triservice standoff attack missile	0	−242,000	0
Subtotal	0	−242,000	0
RESEARCH, DEVELOPMENT, TEST & EVALUATION, NAVY:			
Triservice standoff attack missile	0	−4,416,000	0
Subtotal	0	−4,416,000	0
RESEARCH, DEVELOPMENT, TEST & EVALUATION, AIR FORCE:			
Triservice standoff attack missile	0	−46,589,000	0
Subtotal	0	−46,589,000	0
Total fiscal year 1994	0	−104,901,000	−70,437,000
FISCAL YEAR 1995			
WEAPONS PROCUREMENT, NAVY:			
Tomahawk contract savings	0	0	−10,000,000
Harpoon contract savings	0	0	−2,400,000
Ordnance support equipment	0	0	−2,200,000
Subtotal	0	0	−14,600,000
SHIPBUILDING AND CONVERSION, NAVY:			
Outfitting	0	0	−55,000,000
Post delivery (craft outfitting, post delivery)	0	0	−32,700,000
Subtotal	0	0	−87,700,000
OTHER PROCUREMENT, NAVY:			
Forklift trucks	0	−2,000,000	−2,000,000
Other supply support equipment	0	−1,500,000	−1,500,000
Secure data	0	−2,600,000	−2,600,000
Nucalts	0	000	−2,500,000
Subtotal	0	−8,600,000	−8,600,000
AIRCRAFT PROCUREMENT, AIR FORCE:			
A–10 modifications	0	−46,400,000	−17,500,000
F–111 claims	0	−6,700,000	−6,500,000
Subtotal	0	−53,100,000	−24,000,000
MISSILE PROCUREMENT, AIR FORCE:			
Classified programs	0	0	−120,000,000
GPS on-orbit incentive	0	0	−20,978,000
Subtotal	0	0	−140,978,000
OTHER PROCUREMENT, AIR FORCE:			
Classified programs	0	0	−180,000,000
Subtotal	0	0	−180,000,000
RESEARCH, DEVELOPMENT, TEST & EVALUATION, ARMY:			
Triservice standoff attack missile	0	−11,156,000	−9,000,000
Subtotal	0	−11,156,000	−9,000,000
RESEARCH, DEVELOPMENT, TEST & EVALUATION, NAVY:			
Triservice standoff attack missile	0	−10,150,000	0
F–14/JDAM	0	0	−6,000,000
Subtotal	0	−10,150,000	−6,000,000
RESEARCH, DEVELOPMENT, TEST & EVALUATION, AIR FORCE:			
Outboard electronic warfare simulator	0	−6,000,000	−6,000,000
Triservice standoff attack missile	0	−9,767,000	−1,902,000
Subtotal	0	−15,767,000	−7,902,000
RESEARCH, DEVELOPMENT, TEST & EVALUATION, DEFENSE-WIDE:			
Maritime Technology Office	....	....	
(Ship Self Defense)	0	0	−12,000,000
Subtotal	0	0	−12,000,000
Total fiscal year 1995	0	−98,773,000	−490,780,000
Grand total	0	218,674,000	−561,217,000

The conferees included a general provision (Section 8086) which amends House language that limits executive compensation to $200,000 per year.

The conferees included a general provision (Section 8088) which amends Senate language prohibiting the obligation or expenditure of any funds provided in this Act for aid to the Government of North Korea.

The conferees included a general provision (Section 8092) which amends Senate language that reallocates funds to cover unanticipated shipbuilding cost increases.

The conferees included a general provision (Section 8099) which amends Senate language concerning ball and roller bearings manufactured in the United States.

The conferees included a general provision (Section 8100) which amends Senate language to allow for storage and disposal of pentaborane.

The conferees included a general provision (Section 8102) which amends Senate language that directs the Department of Defense to match disbursement to obligations before the disbursement is made.

The conferees included a general provision (Section 8104) which amends House language that prohibits procurement of 120mm mortars or mortar ammunition manufactured outside the United States.

The conferees included a new provision (Section 8107) that allows the Air Force to modify leases for certain family housing units. The conferees direct the Secretary of the Air Force to provide a report to the House and Senate Committees on Appropriations 30 days prior to the obligation or expenditure of any funds pursuant to Section 8107. This report shall indicate those proposed accounts or programs that will provide the source of funds to finance modification of such leases, and the amount to be obtained from each account or program.

The conferees included a new provision (Section 8107A) that extends authorization set forth in Section 2601 of Public Law 102–484 (division B) until September 30, 1997.

The conferees included a general provision (Section 8108) which amends House language concerning the lease or charter of double hull ships by the Military Sealift Command.

The conferees included a general provision (Section 8111) which amends House language pertaining to the National Training Center, and the interim and permanent rotational airhead.

The conferees included a general provision (Section 8115) which amends House language concerning international peacekeeping, peace enforcement, and humanitarian assistance operations.

The conferees included a general provision (Section 8117) which amends House language regarding the transfer of defense articles and services.

The conferees included a general provision (Section 8119) which amends House language on abortion and also included a new general provision (Section 8119A) which provides certain exceptions for abortions.

The conferees included a general provision (Section 8122) which is intended to ensure that no taxpayer funds be used to pay for special executive bonuses triggered by corporate mergers. The conferees direct the Department to promptly revise its policies and regulations to make it absolutely clear no taxpayer funds shall be used to reimburse any contractor for special executive bonuses or any other special retention incentive payments for executives triggered by a corporate merger, acquisition, or any other change in corporate control.

The conferees included a new general provision (Section 8124) concerning the participation of U.S. forces in any operation in Bosnia-Herzegovina.

The conferees included a new general provision (Section 8125) which reduces the appropriation accounts in the Act by $832,000,000 to reflect savings from revised economic assumptions.

The Executive Branch Mid Session Review of the budget revised the inflation estimate on which the fiscal year 1996 budget was based downward from its original assumptions. This downward revision results in overall savings to the Department of Defense and the reduction in this provision reflects those savings.

The conferees included a new general provision (Section 8126) which makes funds available from the Defense Business Operations Fund for termination liability for the VC–137 replacement aircraft.

The conferees included a new general provision (Section 8127) which allows funds to be obligated for payment of satellite on-orbit incentives.

The conferees included a new general provision (Section 8128) which makes funds available for support of a NATO Alliance Ground Surveillance program based on the Joint Surveillance/Target Attack Radar System.

The conferees included a new general provision (Section 8129) which reduces the funding provided in Title IV, Research, Development, Test and Evaluation, by $442,000,000, in order to achieve savings in overhead and improve management efficiencies. This reduction is to be applied on a pro-rata basis by subproject within each R–1 program element as modified by this Act, except no reduction may be taken against funds made available to the Department of Defense for Ballistic Missile Defense.

The conferees included a new provision (Section 8130) that allows the Department of Defense White House Communications Agency to provide communications support to the U.S. Secret Service.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1996 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 amount, the 1996 budget estimates, and the House and Senate bills for 1996 follow:

New budget (obligational) authority, fiscal year 1995	$241,553,071,000
Budget estimates of new (obligational) authority, fiscal year 1996	236,344,017,000
House bill, fiscal year 1996	243,997,500,000
Senate bill, fiscal year 1996	242,683,841,000
Conference agreement, fiscal year 1996	243,251,297,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1995	+1,698,226,000
Budget estimates of new (obligational) authority, fiscal year 1996	+6,907,280,000
House bill, fiscal year 1996	−746,203,000
Senate bill, fiscal year 1996	+567,456,000

Bill Young,
Joseph M. McDade,
Bob Livingston,
Jerry Lewis,
Joe Skeen,
Dave Hobson,
Henry Bonilla,
George R. Nethercutt, Jr.,
Ernest Istook,
John P. Murtha,
Norman D. Dicks,
Charles Wilson,
W.G. Bill Hefner,
Martin Olav Sabo
(except to the agreement regarding abortion funding exceptions),

Managers on the Part of the House.

Ted Stevens,
Thad Cochran,
Arlen Specter,
Pete V. Domenici,
Kit Bond,
Mitch McConnell,
Connie Mack,
Richard C. Shelby,
Judd Gregg,
Mark Hatfield,
Daniel Inouye,
J. Bennett Johnston,
Robert Byrd,
Patrick Leahy,

Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 440, NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

Mr. SHUSTER submitted the following conference report and statement on the Senate bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

CONFERENCE REPORT (H. REPT. 104–345)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 440), to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Highway System Designation Act of 1995".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.

TITLE I—NATIONAL HIGHWAY SYSTEM

Sec. 101. National highway system designation.

TITLE II—TRANSPORTATION FUNDING FLEXIBILITY

Sec. 201. Findings and purposes.
Sec. 202. Funding restoration.
Sec. 203. Rescissions.
Sec. 204. State unobligated balance flexibility.
Sec. 205. Relief from mandates.
Sec. 206. Definitions.

TITLE III—MISCELLANEOUS HIGHWAY PROVISIONS

Sec. 301. Traffic monitoring, management, and control on NHS.
Sec. 302. Transferability of apportionments.
Sec. 303. Quality improvement.
Sec. 304. Design criteria for the national highway system.
Sec. 305. Applicability of transportation conformity requirements.
Sec. 306. Motorist call boxes.
Sec. 307. Quality through competition.
Sec. 308. Limitation on advance construction.
Sec. 309. Preventive maintenance.
Sec. 310. Federal share.
Sec. 311. Eligibility of bond and other debt instrument financing for reimbursement as construction expenses.
Sec. 312. Vehicle weight and longer combination vehicles exemptions.
Sec. 313. Toll roads.
Sec. 314. Scenic byways.
Sec. 315. Applicability of certain requirements to third party sellers.
Sec. 316. Streamlining for transportation enhancement projects.
Sec. 317. Metropolitan planning for highway projects.
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TITLE IV—WOODROW WILSON MEMORIAL BRIDGE

Sec. 401. Short title.

Sec. 402. Findings.
Sec. 403. Purposes.
Sec. 404. Definitions.
Sec. 405. Establishment of authority.
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SEC. 2. SECRETARY DEFINED.

In this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—NATIONAL HIGHWAY SYSTEM

SEC. 101. NATIONAL HIGHWAY SYSTEM DESIGNATION.

(a) IN GENERAL.—Section 103(b) of title 23, United States Code, is amended by adding at the end the following:

"(5) DESIGNATION OF NHS.—The National Highway System as submitted by the Secretary of Transportation on the map entitled 'Official Submission, National Highway System, Federal Highway Administration', and dated November 13, 1995, is hereby designated within the United States, including the District of Columbia and the Commonwealth of Puerto Rico.

"(6) MODIFICATIONS TO NHS.—

"(A) IN GENERAL.—Subject to paragraph (7), the Secretary may make modifications to the National Highway System that are proposed by a State or that are proposed by the State and revised by the Secretary if the Secretary determines that each of the modifications—

"(i) meets the criteria established for the National Highway System under this title; and

"(ii) enhances the national transportation characteristics of the National Highway System.

"(B) COOPERATION.—In proposing modifications under this paragraph, a State shall cooperate with local and regional officials. In urbanized areas, the local officials shall act through the metropolitan planning organizations designated for such areas under section 134.

"(7) TRANSITIONAL RULES FOR INTERMODAL CONNECTORS.—

"(A) REQUIRED SUBMISSION.—Not later than 180 days after the date of the enactment of the National Highway System Designation Act of 1995, the Secretary shall submit for approval to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives modifications to the National Highway System that are proposed by a State or that are proposed by the State and revised by the Secretary and that consist of connectors to major ports, airports, international border crossings, public transportation and transit facilities, interstate bus terminals, and rail and other intermodal transportation facilities.

"(B) COOPERATION.—Paragraph (6)(B) shall apply to modifications proposed by a State under this paragraph.

"(C) ELIGIBILITY.—

"(i) INITIAL APPROVAL BY LAW.—Modifications proposed under subparagraph (A) may take effect only if a law has been enacted approving such modifications.

"(ii) INTERIM ELIGIBILITY.—Notwithstanding clause (i), a project to construct a connector to an intermodal transportation facility described in subparagraph (A) shall be eligible for funds apportioned under section 104(b)(1) for the National Highway System if the Secretary finds that the project is consistent with criteria developed by the Secretary for construction of such connectors.

"(iii) PERIOD OF ELIGIBILITY.—A project which is eligible under clause (ii) for funds apportioned under section 104(b)(1) shall remain eligible for such funds pursuant to clause (ii) only until the date of the enactment of a law described in clause (i).

"(D) MODIFICATIONS AFTER INITIAL APPROVAL.—After the date of the enactment of a law described in subparagraph (C)(i), a modification consisting of a connector to an intermodal transportation facility described in subparagraph (A) may be made in accordance with paragraph (6).

"(8) CONGRESSIONAL HIGH PRIORITY CORRIDORS.—Upon the completion of feasibility studies, the Secretary shall add to the National Highway System any congressional high priority corridor or any segment thereof established by section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031-2037) which was not identified on the National Highway System designated by paragraph (5).".

(b) CONFORMING AMENDMENTS.—Section 103(b)(3) of such title is amended—

(1) in subparagraph (C) by striking "For purposes of proposing highways for designation to the National Highway System, the" and inserting "The"; and

(2) in subparagraph (D)—

(A) by striking "In proposing highways for designation to the National Highway System, the" and inserting "The"; and

(B) by inserting after "mileage" the following: "on the National Highway System".

TITLE II—TRANSPORTATION FUNDING FLEXIBILITY

SEC. 201. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares that—

(1) Federal infrastructure spending on transportation is critical to the efficient movement of goods and people in the United States;

(2) section 1003(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1921) has been estimated to result in fiscal year 1996 transportation spending being reduced by as much as $2,700,000,000;

(3) such section 1003(c) will result in a reduction of critical funds to States from the Highway Trust Fund; and

(4) the funding reduction will have adverse effects on the national economy and the predictability of funding for the Nation's highway system and impede interstate commerce.

(b) PURPOSES.—The purposes of this title are—

(1) to make the program categories in the Federal-aid highway program more flexible so that States may fund high-priority projects in fiscal year 1996;

(2) to reallocate funds from certain programs during fiscal year 1996 so that the States will be able to continue their core transportation infrastructure programs;

(3) to ensure the equitable distribution of funds to urbanized areas with a population over 200,000 in a manner consistent with the Intermodal Surface Transportation Efficiency Act of 1991; and

(4) to suspend certain penalties that would be imposed on the States.

SEC. 202. FUNDING RESTORATION.

(a) IN GENERAL.—Not later than the 10th day following the date of the enactment of this Act and on October 1, 1997, or as soon as possible thereafter, the Secretary shall allocate among the States the amounts made available, as a result of section 203, to carry out this section for fiscal years 1996 and 1997, respectively, for projects eligible for assistance under chapter 1 of title 23, United States Code.

(b) ALLOCATION FORMULA.—Funds made available to carry out this section shall be allocated among the States in accordance with the following table:

States:	Allocation Percentages
Alabama	1.80
Alaska	1.20
Arizona	1.43
Arkansas	1.42
California	9.17
Colorado	1.27
Connecticut	1.74
Delaware	0.39
District of Columbia	0.52
Florida	4.04
Georgia	2.92
Hawaii	0.54
Idaho	0.70
Illinois	3.88
Indiana	2.18
Iowa	1.27
Kansas	1.13
Kentucky	1.53
Louisiana	1.52
Maine	0.65
Maryland	1.68
Massachusetts	4.11
Michigan	2.75
Minnesota	1.69
Mississippi	1.11
Missouri	2.28
Montana	0.93
Nebraska	0.79
Nevada	0.69
New Hampshire	0.48
New Jersey	2.86
New Mexico	1.02
New York	5.35
North Carolina	2.62
North Dakota	0.64
Ohio	3.64
Oklahoma	1.36
Oregon	1.23
Pennsylvania	4.93
Rhode Island	0.56
South Carolina	1.42
South Dakota	0.69
Tennessee	2.00
Texas	6.21
Utah	0.73
Vermont	0.43
Virginia	2.28
Washington	2.05
West Virginia	1.15
Wisconsin	1.90
Wyoming	0.65
Puerto Rico	0.46
Territories	0.01.

(c) EFFECT OF ALLOCATIONS.—Funds distributed to States under subsection (b) shall not affect calculations to determine allocations to States under section 157 of title 23, United States Code, and sections 1013(c), 1015(a), and 1015(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note).

(d) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—Notwithstanding any other provision of law, funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code. Such funds shall be available for obligation for the fiscal year for which such amounts are made available plus the 3 succeeding fiscal years. Obligation limitations for Federal-aid highways and highway safety construction programs established by the Intermodal Surface Transportation Efficiency Act of 1991 and subsequent laws shall apply to obligations made under this section.

(e) Special Rule for Urbanized Areas of Over 200,000.—

(1) General rule.—The amount determined by application of the percentage determined under paragraph (2) to funds allocated to a State under this section for a fiscal year shall be obligated in urbanized areas of the State with an urbanized population of over 200,000 under section 133(d)(3) of title 23, United States Code.

(2) Percentage.—The percentage referred to in paragraph (1) is the percentage determined by dividing—

(A) the total amount of the reduction in funds that would have been attributed under section 133(d)(3) of title 23, United States Code, to urbanized areas of the State with an urbanized population of over 200,000 for fiscal year 1996 as a result of the application of section 1003(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1921); by

(B) the total amount of the reduction in authorized funds for fiscal year 1996 that would have been allocated to the State, and that would have been apportioned to the State, as a result of the application of such section 1003(c).

(f) Limitation on Planning Expenditures.—One-half of 1 percent of amounts allocated to each State under this section in any fiscal year may be available for expenditure for the purpose of carrying out the requirements of section 134 of title 23, United States Code (relating to transportation planning). One and ½ percent of the amounts allocated to each State under this section in any fiscal year may be available for expenditure for the purpose of carrying out activities referred to in section 307(c) of such title.

(g) Authorization of Appropriations.—There are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this section $266,522,436 for fiscal year 1996 and $155,000,000 for fiscal year 1997. Such funds shall not be subject to an administrative deduction under section 104(a) of title 23, United States Code.

(h) Territories Defined.—In this section, the term "territories" means the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 203. RESCISSIONS.

(a) Rescissions.—Effective on the date of the enactment of this Act and after any necessary reductions are made under section 1003(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1921), the following unobligated balances available on such date of enactment, of funds made available for the following provisions are hereby rescinded:

(1) $78,994 made available by section 131(c) of the Surface Transportation Assistance Act of 1982 (96 Stat. 2120).

(2) $798,701 made available by section 131(j) of the Surface Transportation Assistance Act of 1982 (96 Stat. 2123).

(3) $942,249 made available by section 149(a)(66) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 185).

(4) $52,834 made available by section 149(a)(95) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 195).

(5) $909,131 made available by section 149(a)(99) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 195).

(6) $797,800 made available by section 149(a)(100) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 195).

(7) $2 made available by section 149(c)(3) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 201).

(8) $24,706,878 made available by section 1012(b)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1938).

(9) $15,401,107 made available by section 1003(a)(7) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919).

(10) $113,834,740, or such greater amount as may be necessary to ensure that the aggregate of amounts rescinded by this subsection and amounts reduced by the amendments made by subsection (b) is equal to the amount authorized to be appropriated by section 202(g) for fiscal year 1996, deducted by the Secretary under section 104(a) of title 23, United States Code.

(b) Reductions in Authorized Amounts.—

(1) Magnetic levitation.—Section 1036(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1986) is amended—

(A) in subparagraph (A) by inserting "and" after "1994,";

(B) in subparagraph (A) by striking ", $125,000,000" and all that follows through "1997"; and

(C) in subparagraph (B) by striking "1996, and 1997" and inserting "and 1996".

(2) Highway safety programs.—Section 2005(1) of such Act (105 Stat. 2079) is amended—

(A) by striking "and" the first place it appears and inserting a comma; and

(B) by striking "1996, and 1997" and inserting "and 1996, and $146,000,000 for fiscal year 1997".

(3) Effective date.—The amendments made by paragraphs (1) and (2) shall take effect on the later of the date of the enactment of this Act or as soon as possible after the date on which authorized funds for fiscal year 1996 are reduced as a result of application of section 1003(c) of such Act.

(c) Congestion Pricing Pilot Program Transfers.—After the date on which authorized funds for fiscal year 1996 are reduced as a result of application of section 1003(c) of the Intermodal Surface Transportation Efficiency Act of 1991, the amounts made available for fiscal years 1996 and 1997 to carry out section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1938) shall be available to carry out projects under section 202 of this Act.

SEC. 204. STATE UNOBLIGATED BALANCE FLEXIBILITY.

(a) Reduction in Federal Funding.—

(1) Notification of states.—On the date of the enactment of this Act, or as soon as possible thereafter, the Secretary shall notify each State of the total amount of the reduction in authorized funds for fiscal year 1996 that would have been allocated to such State, and that would have been apportioned to such State, as a result of application of section 1003(c) of the Intermodal Surface Transportation Efficiency Act of 1991.

(2) Exclusion of certain funding.—In determining the amount of any reduction under paragraph (1), the Secretary shall deduct the amount allocated to each State in fiscal year 1996 to carry out projects under section 202 of this Act.

(b) Unobligated Balance Flexibility.—Upon request of a State, the Secretary shall make available to carry out projects eligible for assistance under chapter 1 of title 23, United States Code, in fiscal year 1996 an amount not to exceed the amount determined under subsection (a) for the State. Such funds shall be made available from authorized funds that were allocated or apportioned to such State and were not obligated as of September 30, 1995. The State shall designate on or before the 30th day following the date of the enactment of this Act, or as soon as possible thereafter, which of such authorized funds are to be made available under this section to carry out such projects. The Secretary shall make available, before the 45th day following such date of enactment or as soon as possible thereafter, funds designated under the preceding sentence to the State.

(c) Special Rules.—

(1) Urbanized areas of over 200,000.—Funds that were apportioned to the State under section 104(b)(3) of title 23, United States Code, and attributed to urbanized areas of a State with an urbanized population of over 200,000 under section 133(d)(3) of such title may be designated by the State under subsection (b) only if the metropolitan planning organization designated for such area concurs, in writing, with such designation.

(2) Congestion mitigation and air quality and surface transportation program transportation enhancement activities balances.—

(A) In general.—Except as provided in subparagraph (B), States may not designate under subsection (b) CMAQ and STP transportation enhancement funds.

(B) Exception for insufficient funding availability.—If the Secretary determines—

(i) that there is not sufficient funding available to pay the Federal share of the cost of a project in fiscal year 1996 from funds apportioned or allocated to a State under title 23, United States Code, and title I of the Intermodal Surface Transportation Efficiency Act of 1991 and available for carrying out projects of the same category as such project, and

(ii) that the State has utilized all flexibility and transferability available to it under title 23, United States Code, and this section with respect to such project,

the State may designate in fiscal year 1996 under subsection (b) CMAQ and STP transportation enhancement funds apportioned or allocated to the State and not obligated as of the date of the enactment of this Act to carry out such project.

(C) CMAQ and STP transportation enhancement funds defined.—In this paragraph, the term "CMAQ and STP transportation enhancement funds" means—

(i) funds apportioned under section 104(b)(2) of title 23, United States Code; and

(ii) funds apportioned under section 104(b)(3) of such title and available only for transportation enhancement activities under section 133(d)(3) of such title.

(3) Interstate construction balances.—A State may not designate under subsection (b) more than ⅓ of funds apportioned or allocated to the State for Interstate construction and not obligated as of the date of the enactment of this Act.

(d) Applicability of Chapter 1 of Title 23.—Notwithstanding any other provision of law, amounts designated under subsection (b) shall be made available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code. Such amounts shall be available for obligation for the same period for which such amounts were originally made available for obligation. Obligation limitations for Federal-aid highways and highway safety construction programs established by the Intermodal Surface Transportation Efficiency Act of 1991 and subsequent laws shall apply to obligations made under this section.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect calculations under section 157 of title 23, United States Code, and sections 1002(e), 1013(c), 1015(a), and 1015(b) of the Intermodal Surface Transportation Efficiency Act of 1991.

(f) STATE.—In this section and section 202, the term "State" has the meaning such term has under section 401 of title 23, United States Code.

SEC. 205. RELIEF FROM MANDATES.

(a) SUSPENSION OF MANAGEMENT SYSTEMS.—Section 303 of title 23, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

"(c) STATE ELECTION.—A State may elect, at any time, not to implement, in whole or in part, 1 or more of the management systems required under this section. The Secretary may not impose any sanction on, or withhold any benefit from, a State on the basis of such an election."; and

(2) in subsection (f)—

(A) by striking "(f) ANNUAL REPORT.—Not" and inserting the following:

"(f) REPORTS.—

"(1) ANNUAL REPORTS.—Not";

(B) by moving the remainder of the text of paragraph (1), as designated by subparagraph (A) of this paragraph, 2 ems to the right; and

(C) by adding at the end the following:

"(2) REPORT ON IMPLEMENTATION.—Not later than October 1, 1996, the Comptroller General, in consultation with States, shall transmit to Congress a report on the management systems under this section, including recommendations as to whether, to what extent, and how the management systems should be implemented.".

(b) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—Section 1038 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 109 note; 105 Stat. 1987–1990) is amended by striking subsection (d).

(c) METRIC REQUIREMENTS.—

(1) PLACEMENT AND MODIFICATION OF SIGNS.—The Secretary shall not require the States to expend any Federal or State funds to construct, erect, or otherwise place or to modify any sign relating to a speed limit, distance, or other measurement on a highway for the purpose of having such sign establish such speed limit, distance, or other measurement using the metric system.

(2) OTHER ACTIONS.—Before September 30, 2000, the Secretary shall not require that any State use or plan to use the metric system with respect to designing or advertising, or preparing plans, specifications, estimates, or other documents, for a Federal-aid highway project eligible for assistance under title 23, United States Code.

(3) DEFINITIONS.—In this subsection, the following definitions apply:

(A) HIGHWAY.—The term "highway" has the meaning such term has under section 101 of title 23, United States Code.

(B) METRIC SYSTEM.—The term "metric system" has the meaning the term "metric system of measurement" has under section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c).

(d) REPEAL OF NATIONAL MAXIMUM SPEED LIMIT COMPLIANCE PROGRAM.—

(1) IN GENERAL.—Title 23, United States Code, is amended—

(A) in section 141 by striking subsection (a) and redesignating subsections (b) through (d) as subsections (a) through (c), respectively; and

(B) by striking section 154.

(2) CONFORMING AMENDMENT.—The analysis to chapter 1 of such title is amended by striking the item relating to section 154.

(3) APPLICABILITY.—The amendments made by paragraph (1) shall be applicable to a State on the 10th day following the date of the enactment of this Act; except that if the legislature of a State is not in session on such date of enactment and the chief executive officer of the State declares, before such 10th day, that the legislature is not in session and that the State prefers an applicability date for such amendments that is after the date on which the legislature will convene, such amendments shall be applicable to the State on the 60th day following the date on which the legislature next convenes.

(e) ELIMINATION OF PENALTY FOR NONCOMPLIANCE FOR MOTORCYCLE HELMETS.—Effective September 30, 1995, section 153(h) of title 23, United States Code, is amended by striking "a law described in subsection (a)(1) and" each place it appears.

SEC. 206. DEFINITIONS.

In this title, the following definitions apply:

(1) AUTHORIZED FUNDS.—The term "authorized funds" means funds authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out title 23, United States Code (other than sections 402 and 410) and the Intermodal Surface Transportation Efficiency Act of 1991 and subject to an obligation limitation.

(2) URBANIZED AREA.—The term "urbanized area" has the meaning such term has under section 101(a) of title 23, United States Code.

TITLE III—MISCELLANEOUS HIGHWAY PROVISIONS

SEC. 301. TRAFFIC MONITORING, MANAGEMENT, AND CONTROL ON NHS.

(a) ELIGIBILITY.—Section 103(i) of title 23, United States Code, is amended by striking paragraph (8) and inserting the following:

"(8) Capital and operating costs for traffic monitoring, management, and control facilities and programs.".

(b) DEFINITIONS.—Section 101(a) of such title is amended—

(1) in the undesignated paragraph relating to the term "project" by inserting before the period at the end the following: "or any other undertaking eligible for assistance under this title"; and

(2) by striking the undesignated paragraph relating to the term "startup costs for traffic management and control" and inserting the following:

"The term 'operating costs for traffic monitoring, management, and control' includes labor costs, administrative costs, costs of utilities and rent, and other costs associated with the continuous operation of traffic control, such as integrated traffic control systems, incident management programs, and traffic control centers.".

SEC. 302. TRANSFERABILITY OF APPORTIONMENTS.

The third sentence of section 104(g) of title 23, United States Code, is amended by striking "40 percent" and inserting "50 percent".

SEC. 303. QUALITY IMPROVEMENT.

(a) LIFE-CYCLE COST ANALYSIS.—Section 106 of title 23, United States Code, is amended by adding at the end the following:

"(e) LIFE-CYCLE COST ANALYSIS.—

"(1) ESTABLISHMENT.—The Secretary shall establish a program to require States to conduct an analysis of the life-cycle costs of each usable project segment on the National Highway System with a cost of $25,000,000 or more.

"(2) ANALYSIS OF THE LIFE-CYCLE COSTS DEFINED.—In this subsection, the term 'analysis of the life-cycle costs' means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.".

(b) VALUE ENGINEERING.—Such section is further amended by adding at the end the following:

"(f) VALUE ENGINEERING FOR NHS.—

"(1) REQUIREMENT.—The Secretary shall establish a program to require States to carry out a value engineering analysis for all projects on the National Highway System with an estimated total cost of $25,000,000 or more.

"(2) VALUE ENGINEERING DEFINED.—In this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project during its design phase by a multidisciplined team of persons not involved in the project in order to provide suggestions for reducing the total cost of the project and providing a project of equal or better quality. Such suggestions may include combining or eliminating otherwise inefficient or expensive parts of the original proposed design for the project and total redesign of the proposed project using different technologies, materials, or methods so as to accomplish the original purpose of the project.".

SEC. 304. DESIGN CRITERIA FOR THE NATIONAL HIGHWAY SYSTEM.

Section 109 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

"(1) adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

"(2) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (1) and to conform to the particular needs of each locality.";

(2) by striking subsection (c) and inserting the following:

"(c) DESIGN CRITERIA FOR NATIONAL HIGHWAY SYSTEM.—

"(1) IN GENERAL.—A design for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the National Highway System (other than a highway also on the Interstate System) may take into account, in addition to the criteria described in subsection (a)—

"(A) the constructed and natural environment of the area;

"(B) the environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; and

"(C) access for other modes of transportation.

"(2) DEVELOPMENT OF CRITERIA.—The Secretary, in cooperation with State highway departments, may develop criteria to implement paragraph (1). In developing criteria under this paragraph, the Secretary shall consider the results of the committee process of the American Association of State Highway and Transportation Officials as used in adopting and publishing 'A Policy on Geometric Design of Highways and Streets', including comments submitted by interested parties as part of such process."; and

(3) by striking subsection (q) and inserting the following:

"(q) Scenic and Historic Values.—Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to—

"(1) allow for the preservation of environmental, scenic, or historic values;

"(2) ensure safe use of the facility; and

"(3) comply with subsection (a).".

SEC. 305. APPLICABILITY OF TRANSPORTATION CONFORMITY REQUIREMENTS.

(a) Highway Construction.—Section 109(j) of title 23, United States Code, is amended by striking "plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended." and inserting the following: "plan for—

"(1) the implementation of a national ambient air quality standard for each pollutant for which an area is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

"(2) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area for the standard and that is required to develop a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a).".

(b) Clean Air Act Requirements.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the following:

"(5) Applicability.—This subsection shall apply only with respect to—

"(A) a nonattainment area and each pollutant for which the area is designated as a nonattainment area; and

"(B) an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area and that is required to develop a maintenance plan under section 175A with respect to the specific pollutant for which the area was designated nonattainment.".

SEC. 306. MOTORIST CALL BOXES.

Section 111 of title 23, United States Code, is amended by adding at the end the following:

"(c) Motorist Call Boxes.—

"(1) In general.—Notwithstanding subsection (a), a State may permit the placement of motorist call boxes on rights-of-way of the National Highway System. Such motorist call boxes may include the identification and sponsorship logos of such call boxes.

"(2) Sponsorship logos.—

"(A) Approval by state and local agencies.—All call box installations displaying sponsorship logos under this subsection shall be approved by the highway agencies having jurisdiction of the highway on which they are located.

"(B) Size on box.—A sponsorship logo may be placed on the call box in a dimension not to exceed the size of the call box or a total dimension in excess of 12 inches by 18 inches.

"(C) Size on identification sign.—Sponsorship logos in a dimension not to exceed 12 inches by 30 inches may be displayed on a call box identification sign affixed to the call box post.

"(D) Spacing of signs.—Sponsorship logos affixed to an identification sign on a call box post may be located on the rights-of-way at intervals not more frequently than 1 per every 5 miles.

"(E) Distribution throughout state.—Within a State, at least 20 percent of the call boxes displaying sponsorship logos shall be located on highways outside of urbanized areas with a population greater than 50,000.

"(3) Nonsafety hazards.—The call boxes and their location, posts, foundations, and mountings shall be consistent with requirements of the Manual on Uniform Traffic Control Devices or any requirements deemed necessary by the Secretary to assure that the call boxes shall not be a safety hazard to motorists.".

SEC. 307. QUALITY THROUGH COMPETITION.

(a) Contracting for Engineering and Design Services.—Section 112(b)(2) of title 23, United States Code, is amended by adding at the end the following:

"(C) Performance and audits.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal Acquisition Regulations of part 31 of title 48, Code of Federal Regulations.

"(D) Indirect cost rates.—Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal Acquisition Regulations for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

"(E) Application of rates.—Once a firm's indirect cost rates are accepted under this paragraph, the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings of any kind.

"(F) Prenotification; confidentiality of data.—A recipient of funds requesting or using the cost and rate data described in subparagraph (E) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to another firm or to any government agency which is not part of the group of agencies sharing cost data under this paragraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(G) State option.—Subparagraphs (C), (D), (E), and (F) shall take effect 1 year after the date of the enactment of this subparagraph; except that if a State, during such 1-year period, adopts by statute an alternative process intended to promote engineering and design quality and ensure maximum competition by professional companies of all sizes providing engineering and design services, such subparagraphs shall not apply with respect to the State. If the Secretary determines that the legislature of the State did not convene and adjourn a full regular session during such 1-year period, the Secretary may extend such 1-year period until the adjournment of the next regular session of the legislature.".

(b) Repeal of Pilot Program.—Section 1092 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 112 note; 105 Stat. 2024) is repealed.

SEC. 308. LIMITATION ON ADVANCE CONSTRUCTION.

Section 115(d) of title 23, United States Code, is amended to read as follows:

"(d) Inclusion in Transportation Improvement Program.—The Secretary may approve an application for a project under this section only if the project is included in the transportation improvement program of the State developed under section 135(f).".

SEC. 309. PREVENTIVE MAINTENANCE.

Section 116 of title 23, United States Code, is amended by adding at the end the following:

"(d) Preventive Maintenance.—A preventive maintenance activity shall be eligible for Federal assistance under this title if the State demonstrates to the satisfaction of the Secretary that the activity is a cost-effective means of extending the useful life of a Federal-aid highway.".

SEC. 310. FEDERAL SHARE.

(a) Safety Rest Areas.—Section 120(c) of title 23, United States Code, is amended—

(1) by inserting "safety rest areas," after "signalization,"; and

(2) by adding at the end the following: "In this subsection, the term 'safety rest area' means an area where motor vehicle operators can park their vehicles and rest, where food, fuel, and lodging services are not available, and that is located on a segment of highway with respect to which the Secretary determines there is a shortage of public and private areas at which motor vehicle operators can park their vehicles and rest.".

(b) Bicycle Transportation Facilities and Pedestrian Walkways.—Section 217(f) of such title is amended by striking "80 percent" and inserting "determined in accordance with section 120(b)".

(c) Economic Growth Center Development Highways.—Section 1021(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 120 note), as amended by section 417 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1565), is amended—

(1) by striking "and" at the end of clause (2) and inserting "or"; and

(2) in clause (3) by striking "section 143 of title 23" and inserting "a project for construction, reconstruction, or improvement of a development highway under section 143 of such title on a Federal-aid system (other than the Interstate System), as such system was described in section 103 of such title on the day before the date of the enactment of this Act".

(d) Northwest Arkansas Regional Airport Connector.—Notwithstanding any other provision of law, the Federal share of the cost of the project to construct a highway to the Northwest Arkansas Regional Airport from United States Route 71 in Arkansas shall be 95 percent.

SEC. 311. ELIGIBILITY OF BOND AND OTHER DEBT INSTRUMENT FINANCING FOR REIMBURSEMENT AS CONSTRUCTION EXPENSES.

(a) In General.—Section 122 of title 23, United States Code, is amended to read as follows:

"§ 122. Payments to States for bond and other debt instrument financing

"(a) Definition of Eligible Debt Financing Instrument.—In this section, the term 'eligible debt financing instrument' means a bond or other debt financing instrument, including a note, certificate, mortgage, or lease agreement, issued by a State or political subdivision of a State or a public authority, the proceeds of which are used for an eligible project under this title.

"(b) Federal Reimbursement.—Subject to subsections (c) and (d), the Secretary may reimburse a State for expenses and costs incurred by the State or a political subdivision of the State and reimburse a public authority for expenses and costs incurred by the public authority for—

"(1) interest payments under an eligible debt financing instrument;

"(2) the retirement of principal of an eligible debt financing instrument;

"(3) the cost of the issuance of an eligible debt financing instrument;

"(4) the cost of insurance for an eligible debt financing instrument; and

"(5) any other cost incidental to the sale of an eligible debt financing instrument (as determined by the Secretary).

"(c) Conditions on Payment.—The Secretary may reimburse a State or public authority under subsection (b) with respect to a project funded by an eligible debt financing instrument after the State or public authority has complied with this title with respect to the project to the extent and in the manner that would be required if payment were to be made under section 121.

"(d) Federal Share.—The Federal share of the cost of a project payable under this section shall not exceed the Federal share of the cost of the project as determined under section 120.

"(e) Statutory Construction.—Notwithstanding any other provision of law, the eligibility of an eligible debt financing instrument for reimbursement under subsection (b) shall not—

"(1) constitute a commitment, guarantee, or obligation on the part of the United States to provide for payment of principal or interest on the eligible debt financing instrument; or

"(2) create any right of a third party against the United States for payment under the eligible debt financing instrument.".

(b) Definition of Construction.—The first sentence of the undesignated paragraph relating to the term "construction" of section 101(a) of such title is amended by inserting "bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments," after "highway, including".

(c) Conforming Amendment.—The analysis for chapter 1 of such title is amended by striking the item relating to section 122 and inserting the following:

"122. Payments to States for bond and other debt instrument financing.".

SEC. 312. VEHICLE WEIGHT AND LONGER COMBINATION VEHICLES EXEMPTIONS.

(a) Sioux City, Iowa.—

(1) Vehicle weight limitations.—The proviso in the second sentence of section 127(a) of title 23, United States Code, is amended by striking "except for those" and inserting the following: "except for vehicles using Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or vehicles using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for those".

(2) Longer combination vehicles.—Section 127(d)(1) of such title is amended by adding at the end the following:

"(F) Iowa.—In addition to vehicles that the State of Iowa may continue to allow to be operated under subparagraph (A), the State may allow longer combination vehicles that were not in actual operation on June 1, 1991, to be operated on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska.".

(3) Property-carrying unit limitation.—Section 31112(c) of title 49, United States Code, is amended—

(A) in the subsection heading by striking "AND ALASKA" and inserting "ALASKA, AND IOWA";

(B) by striking "and" at the end of paragraph (2);

(C) by striking the period at the end of paragraph (3) and inserting "; and"; and

(D) by adding at the end the following:

"(4) Iowa may allow the operation on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or on Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska of commercial motor vehicle combinations with trailer length, semitrailer length, and property-carrying unit length allowed by law or regulation and in actual lawful operation on a regular or periodic basis (including continued seasonal operation) in South Dakota or Nebraska, respectively, before June 2, 1991.".

(b) Applicability of Certain Vehicle Weight Limitations in Wisconsin.—Section 127 of such title is amended by adding at the end the following:

"(f) Operation of Certain Specialized Hauling Vehicles on Certain Wisconsin Highways.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between Interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 139(a), the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the 104-mile portion with respect to the operation of any vehicle that could legally operate on the 104-mile portion before the date of the enactment of this subsection.".

SEC. 313. TOLL ROADS.

(a) Federal Share for Highways, Bridges, and Tunnels.—Section 129(a)(5) of title 23, United States Code, is amended to read as follows:

"(5) Limitation on federal share.—The Federal share payable for a project described in paragraph (1) shall be a percentage determined by the State but not to exceed 80 percent.".

(b) Loan Program.—Section 129(a)(7) of title 23, United States Code, is amended to read as follows:

"(7) Loans.—

"(A) In general.—A State may loan to a public or private entity constructing or proposing to construct under this section a toll facility or non-toll facility with a dedicated revenue source an amount equal to all or part of the Federal share of the cost of the project if the project has a revenue source specifically dedicated to it. Dedicated revenue sources for non-toll facilities include excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, and such other dedicated revenue sources as the Secretary determines appropriate.

"(B) Compliance with federal laws.—As a condition of receiving a loan under this paragraph, the public or private entity that receives the loan shall ensure that the project will be carried out in accordance with this title and any other applicable Federal law, including any applicable provision of a Federal environmental law.

"(C) Subordination of debt.—The amount of any loan received for a project under this paragraph may be subordinated to any other debt financing for the project.

"(D) Obligation of funds loaned.—Funds loaned under this paragraph may only be obligated for projects under this paragraph.

"(E) Repayment.—The repayment of a loan made under this paragraph shall commence not later than 5 years after date on which the facility that is the subject of the loan is open to traffic.

"(F) Term of loan.—The term of a loan made under this paragraph shall not exceed 30 years from the date on which the loan funds are obligated.

"(G) Interest.—A loan made under this paragraph shall bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible.

"(H) Reuse of funds.—Amounts repaid to a State from a loan made under this paragraph may be obligated—

"(i) for any purpose for which the loan funds were available under this title; and

"(ii) for the purchase of insurance or for use as a capital reserve for other forms of credit enhancement for project debt in order to improve credit market access or to lower interest rates for projects eligible for assistance under this title.

"(I) Guidelines.—The Secretary shall establish procedures and guidelines for making loans under this paragraph.".

(c) Ferry Boats and Terminal Facilities.—Section 129(c)(5) of such title is amended—

(1) by inserting before the period at the end of the first sentence the following: "or between a point in a State and a point in the Dominion of Canada"; and

(2) in the second sentence—

(A) by striking "Hawaii and" and inserting "Hawaii,"; and

(B) by inserting after "Puerto Rico" the following: ", operations between a point in a State and a point in the Dominion of Canada,".

(d) Treatment of Centennial Bridge, Rock Island, Illinois, Agreement.—For purposes of section 129(a)(6) of title 23, United States Code, the agreement concerning the Centennial Bridge, Rock Island, Illinois, entered into under the Act entitled "An Act authorizing the city of Rock Island, Illinois, or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Illinois, and to a place at or near the city of Davenport, Iowa", approved March 18, 1938 (52 Stat. 110), shall be treated as if the agreement had been entered into under section 129 of title 23, United States Code, as in effect on December 17, 1991, and may be modified in accordance with section 129(a)(6) of such title.

(e) Collection of Tolls To Finance Certain Environmental Projects in Florida.—Notwithstanding section 129(a) of title 23, United States Code, on request of the Governor of the State of Florida, the Secretary shall modify the agreement entered into with the transportation department of the State under section 129(a)(3) of such title to permit the collection of tolls to liquidate such indebtedness as may be incurred to finance any cost associated with a feature of an environmental project that is carried out under State law and approved by the Secretary of the Interior.

SEC. 314. SCENIC BYWAYS.

Section 131(s) of title 23, United Sates Code, is amended by adding at the end the following: "In designating a scenic byway for purposes of this section and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, a State may exclude from such designation any segment of a highway that is inconsistent with the State's criteria for designating State scenic byways. Nothing in the preceding sentence shall preclude a State from signing any such excluded segment, including such segment on a map, or carrying out similar activities, solely for purposes of system continuity.".

SEC. 315. APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.

Section 133(d) of title 23, United States Code, is amended by adding at the end the following:

"(5) APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a transportation enhancement activity funded from the allocation required under paragraph (2), if real property or an interest in real property is to be acquired from a qualified organization exclusively for conservation purposes (as determined under section 170(h) of the Internal Revenue Code of 1986), the organization shall be considered to be the owner of the property for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(B) FEDERAL APPROVAL PRIOR TO INVOLVEMENT OF QUALIFIED ORGANIZATION.—If Federal approval of the acquisition of the real property or interest predates the involvement of a qualified organization described in subparagraph (A) in the acquisition of the property, the organization shall be considered to be an acquiring agency or person as described in section 24.101(a)(2) of title 49, Code of Federal Regulations, for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

"(C) ACQUISITIONS ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—If a qualified organization described in subparagraph (A) has contracted with a State highway department or other recipient of Federal funds to acquire the real property or interest on behalf of the recipient, the organization shall be considered to be an agent of the recipient for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.".

SEC. 316. STREAMLINING FOR TRANSPORTATION ENHANCEMENT PROJECTS.

Section 133(e) of title 23, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "(3) PAYMENTS.—The" and inserting the following:

"(3) PAYMENTS.—

"(A) IN GENERAL.— Except as provided in subparagraph (B), the";

(B) by moving the remainder of the text of subparagraph (A), as designated by subparagraph (A) of this paragraph, 2 ems to the right; and

(C) by adding at the end the following:

"(B) ADVANCE PAYMENT OPTION FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—

"(i) IN GENERAL.—The Secretary may advance funds to the State for transportation enhancement activities funded from the allocation required by subsection (d)(2) for a fiscal year if the Secretary certifies for the fiscal year that the State has authorized and uses a process for the selection of transportation enhancement projects that involves representatives of affected public entities, and private citizens, with expertise related to transportation enhancement activities.

"(ii) LIMITATION ON AMOUNTS.—Amounts advanced under this subparagraph shall be limited to such amounts as are necessary to make prompt payments for project costs.

"(iii) EFFECT ON OTHER REQUIREMENTS.—This subparagraph shall not exempt a State from other requirements of this title relating to the surface transportation program."; and

(2) by adding at the end the following:

"(5) TRANSPORTATION ENHANCEMENT ACTIVITIES.—

"(A) CATEGORICAL EXCLUSIONS.—To the extent appropriate, the Secretary shall develop categorical exclusions from the requirement that an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) be prepared for transportation enhancement activities funded from the allocation required by subsection (d)(2).

"(B) NATIONWIDE PROGRAMMATIC AGREEMENT.—The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), shall develop a nationwide programmatic agreement governing the review of transportation enhancement activities funded from the allocation required by subsection (d)(2), in accordance with—

"(i) section 106 of such Act (16 U.S.C. 470f); and

"(ii) the regulations of the Advisory Council on Historic Preservation.".

SEC. 317. METROPOLITAN PLANNING FOR HIGHWAY PROJECTS.

Section 134(f) of title 23, United States Code, is amended by adding at the end the following:

"(16) Recreational travel and tourism.".

SEC. 318. NON-FEDERAL SHARE FOR CERTAIN TOLL BRIDGE PROJECTS.

Section 144(l) of title 23, United States Code, is amended by adding at the end the following: "Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.".

SEC. 319. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) AREAS ELIGIBLE FOR FUNDS.—

(1) IN GENERAL.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(A) by inserting "if the project or program is for an area in the State that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994 and" after "program" the second place it appears; and

(B) in paragraph (1)(A) by striking "contribute" and all that follows through "; or" and inserting the following: "contribute to—

"(i) the attainment of a national ambient air quality standard; or

"(ii) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or".

(2) APPORTIONMENT.—Section 104(b)(2) of such title is amended—

(A) in the second sentence, by striking "is a nonattainment area (as defined in the Clean Air Act) for ozone" and inserting "was a nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) for ozone during any part of fiscal year 1994"; and

(B) in the third sentence—

(i) by striking "is also" and inserting "was also"; and

(ii) by inserting "during any part of fiscal year 1994" after "monoxide".

(b) TRAFFIC MONITORING, MANAGEMENT, AND CONTROL FACILITIES AND PROGRAMS.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by adding at the end the following:

"(4) to establish or operate a traffic monitoring, management, and control facility or program if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard; or".

(c) EFFECT OF LIMITATION ON APPORTIONMENT.—Notwithstanding any other provision of law, for each of fiscal years 1996 and 1997, the amendments made by subsection (a) shall not affect any apportionment adjustments under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943).

SEC. 320. OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 161. Operation of motor vehicles by intoxicated minors

"(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

"(1) FISCAL YEAR 1999.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5)(B) of section 104(b) on October 1, 1998, if the State does not meet the requirement of paragraph (3) on that date.

"(2) THEREAFTER.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5)(B) of section 104(b) on October 1, 1999, and on October 1 of each fiscal year thereafter, if the State does not meet the requirement of paragraph (3) on that date.

"(3) REQUIREMENT.—A State meets the requirement of this paragraph if the State has enacted and is enforcing a law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol.

"(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

"(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2000.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2000, shall remain available until the end of the third fiscal -year following the fiscal year for which the funds are authorized to be appropriated.

"(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2000.—No funds withheld under this section from apportionment to any State after September 30, 2000, shall be available for apportionment to the State.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirement of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirement, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned. Sums not obligated at the end of that period shall lapse.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirement of subsection (a)(3), the funds shall lapse.".

(b) CONFORMING AMENDMENT.—The analysis of such chapter is amended by adding at the end the following:

"161. Operation of motor vehicles by intoxicated minors.".

SEC. 321. UTILIZATION OF THE PRIVATE SECTOR FOR SURVEYING AND MAPPING SERVICES.

Section 306 of title 23, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "In"; and

(2) by adding at the end the following:

"(b) GUIDANCE.—The Secretary shall issue guidance to encourage States to utilize, to the maximum extent practicable, private sector sources for surveying and mapping services for projects under this title. In carrying out this subsection, the Secretary shall recommend appropriate roles for State and private mapping and surveying activities, including—

"(1) preparation of standards and specifications;

"(2) research in surveying and mapping instrumentation and procedures and technology transfer to the private sector;

"(3) providing technical guidance, coordination, and administration of State surveying and mapping activities; and

"(4) recommending methods for increasing the use by the States of private sector sources for surveying and mapping activities.".

SEC. 322. DONATIONS OF FUNDS, MATERIALS, OR SERVICES FOR FEDERALLY ASSISTED PROJECTS.

Section 323 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES.—Nothing in this title or any other law shall prevent a person from offering to donate funds, materials, or services in connection with a project eligible for assistance under this title. In the case of such a project with respect to which the Federal Government and the State share in paying the cost, any donated funds, or the fair market value of any donated materials or services, that are accepted and incorporated into the project by the State highway department shall be credited against the State share.".

SEC. 323. DISCOVERY AND ADMISSION AS EVIDENCE OF CERTAIN REPORTS AND SURVEYS.

Section 409 of title 23, United States Code, is amended by inserting "or collected" after "compiled".

SEC. 324. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

(a) TECHNICAL AMENDMENT.—Section 410(d)(1)(E) of title 23, United States Code, is amended by striking "the date of enactment of this section" and inserting "December 18, 1991".

(b) BASIC GRANT ELIGIBILITY.—Section 410(d) of such title is amended—

(1) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following:

"(B) A State shall be treated as having met the requirement of this paragraph if—

"(i) the State provides to the Secretary a written certification that the highest court of the State has issued a decision indicating that implementation of subparagraph (A) would constitute a violation of the constitution of the State; and

"(ii) the State demonstrates to the satisfaction of the Secretary that—

"(I) the alcohol fatal crash involvement rate in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such rate are available; and

"(II) the alcohol fatal crash involvement rate in the State has been lower than the average such rate for all States in each of such calendar years."; and

(2) by adding at the end the following:

"(7) Any individual under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated or driving under the influence of alcohol.".

(c) SUPPLEMENTAL GRANTS.—Section 410(f) of such title is amended by striking paragraph (1) and redesignating paragraphs (2) through (7) as paragraphs (1) through (6), respectively.

SEC. 325. REFERENCES TO COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.

(a) RAILWAY-HIGHWAY CROSSINGS REPORT.—The third sentence of section 130(g) of title 23, United States Code, is amended by striking "Committee on Public Works and Transportation" and inserting "Committee on Transportation and Infrastructure".

(b) HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION REPORT.—Section 144(i)(1) of such title is amended by striking "Committee on Public Works and Transportation" and inserting "Committee on Transportation and Infrastructure".

(c) HAZARD ELIMINATION REPORT.—The third sentence of section 152(g) of such title is amended by striking "Committee on Public Works and Transportation" and inserting "Committee on Transportation and Infrastructure".

(d) RESEARCH REPORTS.—Subsections (d)(5), (e)(11), and (h) of section 307 of such title are each amended by striking "Committee on Public Works and Transportation" and inserting "Committee on Transportation and Infrastructure".

(e) CONGESTION PRICING PILOT PROGRAM REPORT.—Section 1012(b)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking "Committee on Public Works and Transportation" and inserting "Committee on Transportation and Infrastructure".

(f) MOTOR FUEL TAX ENFORCEMENT REPORT.—Section 1040(d)(1) of such Act (23 U.S.C. 101 note; 105 Stat. 1992) is amended by striking "Committee on Public Works and Transportation" and inserting "Committee on Transportation and Infrastructure".

(g) ALLOCATION FORMULA STUDY.—Section 1098(b) of such Act (23 U.S.C. 104 note; 105 Stat. 2025) is amended by striking "these committees as they" and inserting "the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives as the committees".

(h) NATIONAL RECREATIONAL TRAILS REPORT.—Section 1303(i) of such Act (16 U.S.C. 1262(i)) is amended by striking "Committee on Public Works and Transportation" and inserting "Committee on Transportation and Infrastructure".

SEC. 326. PUBLIC TRANSIT VEHICLES EXEMPTION.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note) is amended—

(1) by striking "2-year" the first place it appears and all that follows through "Act," and inserting "period beginning on October 6, 1992, and ending on the date on which Federal-aid highway and transit programs are reauthorized after the date of the enactment of the National Highway System Designation Act of 1995,"; and

(2) by striking the second sentence.

SEC. 327. USE OF RECYCLED PAVING MATERIAL.

Section 1038 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 109 note; 105 Stat. 1987–1990), as amended by section 205(b) of this Act, is amended—

(1) by inserting before subsection (e) the following:

"(d) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—

"(1) CRUMB RUBBER MODIFIER RESEARCH.—Not later than 180 days after the date of the enactment of the National Highway System Designation Act of 1995, the Secretary shall develop testing procedures and conduct research to develop performance grade classifications, in accordance with the strategic highway research program carried out under section 307(d) of title 23, United States Code, for crumb rubber modifier binders. The testing procedures and performance grade classifications should be developed in consultation with representatives of the crumb rubber modifier industry and other interested parties (including the asphalt paving industry) with experience in the development of the procedures and classifications.

"(2) CRUMB RUBBER MODIFIER PROGRAM DEVELOPMENT.—

"(A) IN GENERAL.—The Secretary may make grants to States to develop programs to use crumb rubber from scrap tires to modify asphalt pavements.

"(B) USE OF GRANT FUNDS.—Grant funds made available to States under this paragraph shall be used—

"(i) to develop mix designs for crumb rubber modified asphalt pavements;

"(ii) for the placement and evaluation of crumb rubber modified asphalt pavement field tests; and

"(iii) for the expansion of State crumb rubber modifier programs in existence on the date the grant is made available."; and

(2) in subsection (e) by striking paragraph (1) and inserting the following:

"(1) the term 'asphalt pavement containing recycled rubber' means any mixture of asphalt and crumb rubber derived from whole scrap tires, such that the physical properties of the asphalt are modified through the mixture, for use in pavement maintenance, rehabilitation, or construction applications; and".

SEC. 328. ROADSIDE BARRIER TECHNOLOGY.

Section 1058 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 109 note; 105 Stat. 2003) is amended—

(1) in subsection (a)—

(A) by striking "median" and inserting "or temporary crashworthy"; and

(B) by inserting "crashworthy" after "innovative"; and

(2) in subsection (c)—

(A) in the subsection heading by inserting "CRASHWORTHY" after "INNOVATIVE";

(B) by inserting "crashworthy" after "innovative";

(C) by striking "median";

(D) by inserting "or guiderail" after "guardrail"; and

(E) by inserting before the period at the end the following: ", and that meets or surpasses the requirements of the National Cooperative Highway Research Program 350 for longitudinal barriers".

SEC. 329. CORRECTIONS TO MISCELLANEOUS AUTHORIZATIONS.

(a) GOWANUS EXPRESSWAY CORRIDOR, NEW YORK.—Section 1069(ee) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2011) is amended by adding at the end the following: "In carrying out such improvements, the State of New York shall consider the economic and social impacts of the project on the neighboring community.".

(b) NEW YORK CITY, NEW YORK.—Section 1069(gg) of such Act (105 Stat. 2011) is amended to read as follows:

"(gg) INTERMODAL FACILITIES, NEW YORK.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $150,000,000 for fiscal years beginning after September 30, 1995, for—

"(A) design and construction of the Whitehall Street Ferry Terminals in New York, New York;

"(B) completion of construction of the Oak Point Link in the Harlem River in New York, New York;

"(C) engineering, design, and construction activities to permit the James A. Farley Post Office in New York, New York, to be used as an intermodal transportation facility and commercial center; and

"(D) necessary improvements to and redevelopment of Pennsylvania Station and associated service buildings in New York, New York.

Such sums shall remain available until expended.

"(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

"(A) not to exceed $50,000,000 may be used to carry out paragraph (1)(A); and

"(B) not to exceed $10,000,000 may be used to carry out paragraph (1)(B).".

SEC. 330. CORRECTIONS TO HIGH COST BRIDGE PROJECTS.

The table contained in section 1103(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027–2028) is amended—

(1) in item number 2, relating to Eugene, Oregon—

(A) by striking "Construction" and inserting "Design, right-of-way acquisition, and construction"; and

(B) by inserting ", including pedestrian, bicycle, and vehicle approach roadways, intersections, signalization, and structural bridge changes, and related structures between East Broadway and Oakway Road" after "Bridge";

(2) in item 5, relating to Gloucester Point, Virginia, by inserting after "York River" the following: "and for repair, strengthening, and rehabilitation of the existing bridge"; and

(3) in item 10, relating to Shakopee, Minnesota, by inserting "project, including the bypass of" after "replacement".

SEC. 331. CORRECTIONS TO CONGESTION RELIEF PROJECTS.

The table contained in section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2029–2031) is amended—

(1) in item 1, relating to Long Beach, California, by striking "HOV Lanes on" and inserting "downtown Long Beach access ramps into the southern terminus of";

(2) in item 10, relating to San Diego, California, by striking "1 block of Cut and Cover Tunnel on Rt. 15" and inserting "bridge decking on Route 15";

(3) in item 23, relating to Tucson, Arizona, by inserting ", of which a total of $3,609,620 shall be available for the project authorized by item 74 of the table contained in section 1106(b)" after "in Tucson, Arizona";

(4) in item 38, relating to New York, New York, by striking "Construction" and all that follows through "Bypass" and inserting the following: "Whitehall Street ferry terminals"; and

(5) in item 43, relating to West Virginia, by striking "Coal Fields" and inserting "Coalfields".

SEC. 332. HIGH PRIORITY CORRIDORS.

(a) IDENTIFICATION OF HIGH PRIORITY CORRIDORS.—

(1) IN GENERAL.—Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended—

(A) by inserting before the period at the end of paragraph (3) the following: "commencing on the Atlantic Coast in the Hampton Roads area going westward across Virginia to the vicinity of Lynchburg, Virginia, continuing west to serve Roanoke and then to a West Virginia corridor centered around Beckley to Welch as part of the Coalfields Expressway described in section 1069(v), then to Williamson sharing a common corridor with the I–73/74 Corridor (referred to in item 12 of the table contained in subsection (f)), then to a Kentucky Corridor centered on the cities of Pikeville, Jenkins, Hazard, London, Somerset, Columbia, Bowling Green, Hopkinsville, Benton, and Paducah, into Illinois, and into Missouri and exiting western Missouri and moving westward across southern Kansas";

(B) by striking paragraph (5) and inserting the following:

"(5)(A) I–73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, to termini at Detroit, Michigan and Sault Ste. Marie, Michigan. The Sault Ste. Marie terminus shall be reached via a corridor connecting Adrian, Jackson, Lansing, Mount Pleasant, and Grayling, Michigan.

"(B)(i) In the Commonwealth of Virginia, the Corridor shall generally follow—

"(I) United States Route 220 from the Virginia-North Carolina border to I–581 south of Roanoke;

"(II) I–581 to I–81 in the vicinity of Roanoke;

"(III) I–81 to the proposed highway to demonstrate intelligent transportation systems authorized by item 29 of the table in section 1107(b) in the vicinity of Christiansburg to United States Route 460 in the vicinity of Blacksburg; and

"(IV) United States Route 460 to the West Virginia State line.

"(ii) In the States of West Virginia, Kentucky, and Ohio, the Corridor shall generally follow—

"(I) United States Route 460 from the West Virginia State line to United States Route 52 at Bluefield, West Virginia; and

"(II) United States Route 52 to United States Route 23 at Portsmouth, Ohio.

"(iii) In the States of North Carolina and South Carolina, the Corridor shall generally follow—

"(I) in the case of I–73—

"(aa) United States Route 220 from the Virginia State line to State Route 68 in the vicinity of Greensboro;

"(bb) State Route 68 to I–40;

"(cc) I–40 to United States Route 220 in Greensboro;

"(dd) United States Route 220 to United States Route 1 near Rockingham;

"(ee) United States Route 1 to the South Carolina State line; and

"(ff) South Carolina State line to Charleston, South Carolina; and

"(II) in the case of I–74—

"(aa) I–77 from Bluefield, West Virginia, to the junction of I–77 and the United States Route 52 connector in Surry County, North Carolina;

"(bb) the I–77/United States Route 52 connector to United States Route 52 south of Mount Airy, North Carolina;

"(cc) United States Route 52 to United States Route 311 in Winston-Salem, North Carolina;

"(dd) United States Route 311 to United States Route 220 in the vicinity of Randleman, North Carolina.

"(ee) United States Route 220 to United States Route 74 near Rockingham;

"(ff) United States Route 74 to United States Route 76 near Whiteville;

"(gg) United States Route 74/76 to the South Carolina State line in Brunswick County; and

"(hh) South Carolina State line to Charleston, South Carolina.";

(C) in paragraph (18)—

(i) by striking "and";

(ii) by inserting "Mississippi, Arkansas," after "Tennessee,";

(iii) by inserting after "Texas" the following: ", and to the Lower Rio Grande Valley at the border between the United States and Mexico; and

(iv) by inserting before the period at the end the following: ", and to include the Corpus Christi Northside Highway and Rail Corridor from the existing intersection of United States Route 77 and Interstate Route 37 to United States Route 181, including FM511 from United States Route 77 to the Port of Brownsville"; and

(D) by adding at the end the following:

"(22) The Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California.

"(23) The Interstate Route 35 Corridor from Laredo, Texas, through Oklahoma City, Oklahoma, to Wichita, Kansas, to Kansas City, Kansas/Missouri, to Des Moines, Iowa, to Minneapolis, Minnesota, to Duluth, Minnesota.

"(24) The Dalton Highway from Deadhorse, Alaska to Fairbanks, Alaska.

"(25) State Route 168 (South Battlefield Boulevard), Virginia, from the Great Bridge Bypass to the North Carolina State line.

"(26) The CANAMEX Corridor from Nogales, Arizona, through Las Vegas, Nevada, to Salt Lake City, Utah, to Idaho Falls, Idaho, to Montana, to the Canadian Border as follows:

"(A) In the State of Arizona, the CANAMEX Corridor shall generally follow—

"(i) I–19 from Nogales to Tucson;

"(ii) I–10 from Tucson to Phoenix; and

"(iii) United States Route 93 in the vicinity of Phoenix to the Nevada Border.

"(B) In the State of Nevada, the CANAMEX Corridor shall follow—

"(i) United States Route 93 from the Arizona Border to Las Vegas; and

"(ii) I–15 from Las Vegas to the Utah Border.

"(C) From the Utah Border through Montana to the Canadian Border, the CANAMEX Corridor shall follow I–15.

"(27) The Camino Real Corridor from El Paso, Texas, to Denver, Colorado, as follows:

"(A) In the State of Texas, the Camino Real Corridor shall generally follow—

"(i) arterials from the international ports of entry to I–10 in El Paso County; and

"(ii) I–10 from El Paso County to the New Mexico border.

"(B) In the State of New Mexico, the Camino Real Corridor shall generally follow—

"(i) I–10 from the Texas Border to Las Cruces; and

"(ii) I–25 from Las Cruces to the Colorado Border.

"(C) In the State of Colorado, the Camino Real Corridor shall generally follow I–25 from the New Mexico border to Denver continuing to the Wyoming border.

"(D) In the State of Wyoming, the Camino Real Corridor shall generally follow—

"(i) I–25 north to join with I–90 at Buffalo; and

"(ii) I–90 to the Montana border.

"(E) In the State of Montana, the Camino Real Corridor shall generally follow—

"(i) I–90 to Billings; and

"(ii) Montana Route 3, United States Route 12, United States Route 191, United States Route 87, to I–15 at Great Falls; and

"(iii) I–15 from Great Falls to the Canadian border.

"(28) The Birmingham Northern Beltline beginning at I–59 in the vicinity of Trussville, Alabama, and traversing westwardly intersecting with United States Route 75, United States Route 79, and United States Route 31; continuing southwestwardly intersecting United States Route 78 and terminating at I–59 with the I–459 interchange.

"(29) The Coalfields Expressway beginning at Beckley, West Virginia, to Pound, Virginia, generally following the corridor defined as State Routes 54, 97, 10, 16, and 83.".

(2) Inclusion of certain route segments on interstate system.—Section 1105(e) of such Act (105 Stat. 2033) is amended by adding at the end the following:

"(5) Inclusion of certain route segments on interstate system.—

"(A) In general.—The portions of the routes referred to in clauses (i), (ii), and (iii) of subsection (c)(5)(B), in subsection (c)(9), and in subsections (c)(18) and (c)(20) that are not a part of the Interstate System are designated as future parts of the Interstate System. Any segment of such routes shall become a part of the Interstate System at such time as the Secretary determines that the segment—

"(i) meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code; and

"(ii) connects to an existing Interstate System segment.

The portion of the route referred to in subsection (c)(9) is designated as Interstate Route I–99.

"(B) Treatment of segments.—Subject to subparagraph (C), segments designated as part of the Interstate System by this paragraph and the mileage of such segments shall be treated in the manner described in the last 2 sentences of section 139(a) of title 23, United States Code.

"(C) Use of funds.—

"(i) General rule.—Funds apportioned under section 104(b)(5)(A) of title 23, United States Code, may be used on a project to construct a portion of a route referred to in this paragraph to standards set forth in section 109(b) of such title if the State determines that the project for which the funds were originally apportioned is unreasonably delayed or no longer viable.

"(ii) Limitation.—If funds apportioned under section 104(b)(5)(A) of title 23, United States Code, for completing a segment of the Interstate System are used on a project pursuant to this subparagraph, no interstate construction funds may be made available, after the date of the enactment of this paragraph, for construction of such segment.

(b) Feasibility Studies.—

(1) Evacuation routes for Louisiana coastal areas.—Section 1105(e)(2) of such Act (105 Stat. 2033) is amended by adding at the end the following: "A feasibility study may be conducted under this paragraph to identify routes that will expedite future emergency evacuations of coastal areas of Louisiana.".

(2) East-west transamerica corridor.—With amounts available to the Secretary under section 1105(h) of the Intermodal Surface Transportation Efficiency Act of 1991, the Secretary in cooperation with the States of Virginia and West Virginia shall conduct a study to determine the feasibility of establishing a route for the East-West Transamerica Corridor (designated pursuant to section 1105(c)(3) of such Act) from Beckley, West Virginia, utilizing a corridor entering Virginia near the city of Covington then moving south from the Allegheny Highlands to serve Roanoke and continuing east to Lynchburg. From there such route would continue across Virginia to the Hampton Roads area.

(c) Corrections to Projects.—The table contained in section 1105(f) of such Act (105 Stat. 2033–2035) is amended—

(1) in item 1, relating to Pennsylvania, by inserting after "For" the following: "the segment described in item 6 of this table and up to $11,000,000 for";

(2) in item 2, relating to Alabama, Georgia, Mississippi, Tennessee, by inserting after "Rt. 72" the following: "and up to $1,500,000 from the State of Alabama's share of the project for modification of the Keller Memorial Bridge in Decatur, Alabama, to a pedestrian structure";

(3) in item 21, relating to Louisiana, by inserting after "Shreveport, Louisiana" insert the following: ", and up to $6,000,000 for surface transportation projects in Louisiana, including $4,500,000 for the I–10 and I–610 project in Jefferson Parish, Louisiana, in the corridor between the St. Charles Parish line and Tulane Avenue, $500,000 for noise analysis and safety abatement measures or barriers along the Lakeview section of I–610 in New Orleans, and $1,000,000 for 3 highway studies (including $250,000 for a study to widen United States Route 84/Louisiana Route 6 traversing north Louisiana, $250,000 for a study to widen Louisiana Route 42 from United States Route 61 to Louisiana Route 44 and extend to I–10 in East Ascension Parish, and $500,000 for a study to connect I–20 on both sides of the Ouachita River)"; and

(4) in item 26, relating to Indiana, Kentucky, Tennessee, by striking "Newberry" and inserting "Evansville".

(d) Coalfields Expressway Description.—The first sentence of section 1069(v) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2010) is amended by striking "93" and inserting the following: "83, and from the West Virginia-Virginia State line generally following Route 83 to Pound, Virginia.".

SEC. 333. CORRECTIONS TO RURAL ACCESS PROJECTS.

The table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037–2042) is amended—

(1) in item 18, relating to Louisiana, by inserting after "in Louisiana" the following: "and for Zachary Taylor Parkway, Alexandria to Bogalusa, Louisiana, to I–59 in Mississippi not to exceed $1,000,000";

(2) in item 34, relating to Illinois, by striking "Resurfacing" and all that follows through "Omaha" and inserting "Bel-Air Road improvement from south of Carmi to State Route 141 in southeastern White County";

(3) in item 52, relating to Bedford Springs, Pennsylvania, by striking "and Huntington" and inserting "Franklin, and Huntingdon";

(4) in item 61, relating to Lubbock, Texas, by striking "with Interstate 20" and inserting "with Interstate 10 through Interstate 20 and Interstate 27 north of Amarillo to the border between Texas and Oklahoma";

(5) in item 71, relating to Chautauqua County, New York, by inserting "and other improvements" after "expressway lanes";

(6) in item 75, relating to Pennsylvania, by striking "Widen" and all that follows through "lanes" and inserting "Road improvements on a 14-mile segment of United States Route 15 in Lycoming County, Pennsylvania";

(7) in item 93, relating to New Mexico, by striking "Raton-Clayton Rd., Clayton, New Mexico" and inserting "United States Route 64/87 from Raton, New Mexico, through Clayton to the border between Texas and New Mexico"; and

(8) in item 111, relating to Parker County, Texas—

(A) by striking "Parker County" and inserting "Parker and Tarrant Counties"; and

(B) by striking "to four-" and inserting "in Tarrant County to freeway standards and in Parker County to a 4-".

SEC. 334. CORRECTIONS TO URBAN ACCESS AND MOBILITY PROJECTS.

The table contained in section 1106(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2043–2047) is amended—

(1) in item 9, relating to New York, New York, by inserting after "NY" the following: ", $4,440,398, and redevelopment of the James A. Farley Post Office, Pennsylvania Station, and associated service buildings into an intermodal transportation facility and commercial center, $11,159,602";

(2) in item 13, relating to Joliet, Illinois, by striking "and construction and interchange at Houbolt Road and I–80";

(3) in item 36, relating to Compton, California, by striking "For a grade" and all that follows through "Corridor" and inserting "For grade separations and other improvements in the city of Compton, California"; and

(4) in item 52, relating to Chicago, Illinois, by striking "Right-of-way" and all that follows through "Connector)" and inserting "Reconstruct the Michigan Avenue viaduct".

SEC. 335. CORRECTIONS TO INNOVATIVE PROJECTS.

The table contained in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2048–2059) is amended—

(1) in item 10, relating to Atlanta, Georgia, by striking "(IVHS)" and inserting "(ITS)";

(2) in item 19, relating to Water Street, Pennsylvania—

(A) by striking "Water Street,"; and

(B) by inserting ", or other projects in the counties of Bedford, Blair, Centre, Franklin, and Huntingdon as selected by the State of Pennsylvania" after "Pennsylvania" the second place it appears;

(3) in item 20, relating to Holidaysburg, Pennsylvania—

(A) by striking "Holidaysburg," the first place it appears; and

(B) by inserting ", or other projects in the counties of Bedford, Blair, Centre, Franklin, and Huntingdon as selected by the State of Pennsylvania" after "Pennsylvania" the second place it appears;

(4) in item 24, relating to Pennsylvania, by inserting after "line" the following: "and for the purchase, rehabilitation, and improvement of any similar existing facility within a 150-mile radius of such project, as selected by the State of Pennsylvania";

(5) in item 29, relating to Blacksburg, Virginia—

(A) by inserting "methods of facilitating public and private participation in" after "demonstrate"; and

(B) by striking "intelligent/vehicle highway systems" and inserting "intelligent transportation systems";

(6) in item 35, relating to Alabama, by striking "to bypass" and all that follows through "I–85" and inserting "beginning on United States Route 80 west of Montgomery, Alabama, and connecting to I–65 south of Montgomery and I–85 east of Montgomery";

(7) in item 49, relating to Suffolk County, New York, by inserting after "perimeters" the following: "and provide funds to the towns of Brookhaven, Riverhead, Smithtown, East Hampton, Southold, Shelter Island, and Southampton for the purchase of vehicles to meet the transportation needs of the elderly and persons with disabilities";

(8) in item 52, relating to Pennsylvania, by striking "2" and all that follows through "Pennsylvania" and inserting "or rehabilitate (or both) highway and transportation infrastructure projects within 30 miles of I–81 or I–80 in northeastern Pennsylvania";

(9) in item 61, relating to Mojave, California—

(A) by striking "Mojave" and inserting "Victorville"; and

(B) by inserting "Mojave" after "reconstruct";

(10) in item 68, relating to Portland/S. Portland, Maine—

(A) by striking "Portland/S. Portland,"; and

(B) by inserting after "Bridge" the following: "and improvements to the Carlton Bridge in Bath-Woolworth";

(11) in item 76, relating to Tennessee—

(A) by inserting "Improved access to" before "I–81";

(B) by striking "Interchange"; and

(C) by inserting after "Tennessee" the second place it appears the following: "via improvements at I–181/Eastern Star Road and I–81/Kendrick Creek Road";

(12) in item 100, relating to Arkansas, by striking "Thornton" and inserting "Little Rock";

(13) in item 113, relating to Durham County, North Carolina, by inserting after "Route 147" the following: ", including the interchange at I–85";

(14) in item 114, relating to Corpus Christi to Angleton, Texas, by striking "Construct new multi-lane freeway" and inserting "Construct a 4-lane divided highway";

(15) in item 162, relating to New York, New York, by inserting after "paint" the following: ", $40,000,000, and James A. Farley Post Office, Pennsylvania Station, and associated service buildings: redevelopment, $15,000,000";

(16) in item 193, relating to Corning, New York, by inserting "and other improvements" after "expressway lanes"; and

(17) in item 196, relating to Orlando, Florida—

(A) by striking "Orlando,"; and

(B) by striking "Land" and all that follows through "project" and inserting "One or more regionally significant, intercity ground transportation projects".

SEC. 336. CORRECTIONS TO INTERMODAL PROJECTS.

The table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2060–2063) is amended—

(1) in item 9, relating to E. Haven/Wallingford, Connecticut—

(A) by striking "for $8.8 million";

(B) by striking "for $2.4 million"; and

(C) by striking "for $0.7 million";

(2) in item 12, relating to Buffalo, New York, by inserting after "Project" the following: "and the Crossroads Arena Project";

(3) in item 31, relating to Los Angeles, California, by striking "To improve ground access from Sepulveda Blvd. to Los Angeles, California" and inserting the following: "For the Los Angeles International Airport central terminal ramp access project, $3,500,000; for the widening of Aviation Boulevard south of Imperial Highway, $3,500,000; for the widening of Aviation Boulevard north of Imperial Highway, $1,000,000; and for transportation systems management improvements in the vicinity of the Sepulveda Boulevard/Los Angeles International Airport tunnel, $950,000";

(4) in item 33, relating to Orange County, New York, strike "Stuart Airport Interchange Project" and insert "Stewart Airport interchange projects"; and

(5) in item 38, relating to Provo, Utah, strike "South" and all that follows through "Airport" and insert "East-West Connector from United States Route 89–189".

SEC. 337. NATIONAL RECREATIONAL TRAILS.

(a) STATE ELIGIBILITY.—Section 1302(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261(c)) is amended—

(1) by striking "Act" each place it appears and inserting "part";

(2) in paragraph (2)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(3) by adding at the end the following:

"(3) FEDERAL SHARE.—

"(A) PRIOR TO FISCAL YEAR 2001.—Prior to October 1, 2000, the Federal share of the cost of a project under this section shall be 50 percent.

"(B) FISCAL YEAR 2001 AND THEREAFTER.—For fiscal year 2001 and each fiscal year thereafter, a State shall be eligible to receive moneys under this part for a fiscal year only if the State agrees to expend from non-Federal sources for carrying out projects under this part an amount equal to 20 percent of the amount received by the State under this part in that fiscal year.".

(b) ADMINISTRATIVE COSTS.—Section 1302(d)(1) of such Act (16 U.S.C. 1261(d)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following:

"(D) contracting for services with other land management agencies; and".

(c) ENVIRONMENTAL MITIGATION.—

(1) IN GENERAL.—Section 1302(e) of such Act (16 U.S.C. 1261(e)) is amended—

(A) by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (6), (7), (8), and (9), respectively; and

(B) by inserting after paragraph (4) the following:

"(5) ENVIRONMENTAL MITIGATION.—

"(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, in complying with paragraph (4), a State should give consideration to project proposals that provide for the redesign, reconstruction, nonroutine maintenance, or relocation of trails in order to mitigate and minimize the impact to the natural environment.

"(B) GUIDANCE.—A recreational trail advisory board satisfying the requirements of subsection (c)(2)(A) shall issue guidance to a State for the purposes of implementing subparagraph (A).

(2) CONFORMING AMENDMENT.—Section 1302(e)(4) of such Act (16 U.S.C. 1261(e)(4)) is amended by striking "paragraphs (6) and (8)(B)" and inserting "paragraphs (7) and (9)(B)".

(d) RETURN OF MONEYS NOT EXPENDED.—Section 1302(e)(9)(B) of such Act, as redesignated by subsection (c)(1)(A), is amended—

(1) by inserting "the State" before "may be exempted"; and

(2) by striking "and expended or committed" and all that follows before the period.

(e) ADVISORY COMMITTEE.—

(1) IN GENERAL.—Section 1303(b) of such Act (16 U.S.C. 1262(b)) is amended—

(A) by striking "11 members" and inserting "12 members";

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(C) by inserting after paragraph (1) the following:

"(2) 1 member appointed by the Secretary representing individuals with disabilities;".

(2) CONFORMING AMENDMENT.—Section 1303(c) of such Act (16 U.S.C. 1262(c)) is amended by striking "subsection (b)(2)" and inserting "subsection (b)(3)".

(f) FUNDING.—Section 104 of title 23, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (j); and

(2) by inserting after subsection (g) the following:

"(h) NATIONAL RECREATIONAL TRAILS FUNDING.—In addition to funds made available from the National Recreational Trails Trust Fund, the Secretary shall obligate, from administrative funds (contract authority) deducted under subsection (a), to carry out section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) $15,000,000 for each of fiscal years 1996 and 1997.".

SEC. 338. INTELLIGENT TRANSPORTATION SYSTEMS.

(a) IMPROVED COLLABORATION IN INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH AND DEVELOPMENT.—Section 6054 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 307 note; 105 Stat. 2191–2192) is amended by adding at the end the following:

"(e) COLLABORATIVE RESEARCH AND DEVELOPMENT.—In carrying out this part, the Secretary may carry out collaborative research and development in accordance with section 307(a)(2) of title 23, United States Code.".

(b) Time Limit for Obligation of Funds for Intelligent Transportation Systems Projects.—Section 6058 of such Act (23 U.S.C. 307 note; 105 Stat. 2194–2195) is amended—

(1) in subsection (e) by striking "until expended" and inserting "for obligation in accordance with this section"; and

(2) by adding at the end the following:

"(f) Obligation of Funds.—

"(1) In general.—Funds made available pursuant to subsections (a) and (b) on or after the date of the enactment of this subsection and other funds made available on or after that date to carry out specific intelligent transportation systems projects shall be obligated not later than the last day of the fiscal year following the fiscal year for which the funds are made available. Funds made available pursuant to subsections (a) and (b) before such date of enactment shall remain available until expended.

"(2) Reallocation of funds.—If funds described in paragraph (1) are not obligated by the date described in the paragraph, the Secretary may make the funds available to carry out any other project with respect to which funds may be made available under subsection (a) or (b).".

(c) Conforming Amendments.—

(1) Findings.—Section 6009(a)(6) of such Act (23 U.S.C. 307 note; 105 Stat. 2176) is amended by striking "intelligent vehicle highway systems" and inserting "intelligent transportation systems".

(2) Intelligent transportation systems generally.—Part B of title VI of such Act (23 U.S.C. 307 note) is amended—

(A) by striking the part heading and inserting the following:

"PART B—INTELLIGENT TRANSPORTATION SYSTEMS";

(B) in section 6051 by striking "Intelligent Vehicle-Highway Systems" and inserting "Intelligent Transportation Systems";

(C) by striking "intelligent vehicle-highway systems" each place it appears and inserting "intelligent transportation systems";

(D) in section 6054(a)(2)(A) by striking "intelligent vehicle-highway" and inserting "intelligent transportation systems";

(E) in the subsection heading for section 6054(b) by striking "Intelligent Vehicle-Highway Systems" and inserting "Intelligent Transportation Systems";

(F) in the subsection heading for section 6056(a) by striking "IVHS" and inserting "ITS";

(G) in the subsection heading for each of subsections (a) and (b) of section 6058 by striking "IVHS" and inserting "ITS"; and

(H) in the paragraph heading for section 6059(1) by striking "IVHS" and inserting "ITS".

(3) DOT appropriations act.—Section 310(c)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1995 (23 U.S.C. 104 note; 108 Stat. 2489–2490) is amended by striking "intelligent vehicle highway systems" and inserting "intelligent transportation systems".

(4) HAZMAT.—Section 109(a) of the Hazardous Materials Transportation Authorization Act of 1994 (23 U.S.C. 307 note) is amended—

(A) by striking "Intelligent Vehicle-Highway Systems" each place it appears and inserting "Intelligent Transportation Systems"; and

(B) by striking "intelligent vehicle-highway system" and inserting "intelligent transportation system".

(5) University research institute.—Section 5316(d) of title 49, United States Code, is amended—

(A) in the subsection heading by striking "Intelligent Vehicle-Highway" and inserting "Intelligent Transportation"; and

(B) by striking "intelligent vehicle-highway" each place it appears and inserting "intelligent transportation".

SEC. 339. ELIGIBILITY.

(a) Pennsylvania Turnpike and I–95.—

(1) Reconstruction and widening.—The project authorized by section 162 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2136) shall include reconstruction and widening to 6 lanes of existing Interstate Route 95 and of the Pennsylvania Turnpike from United States Route 1 to the junction with the New Jersey Turnpike, including the structure over the Delaware River.

(2) Federal share.—Notwithstanding any other provision of law, the Federal share payable on account of the project referred to in paragraph (1), including the additional through roadway and bridge travel lanes, shall be 90 percent of the cost of the project.

(3) Tolls.—Notwithstanding section 301 of title 23, United States Code, the project for construction of an interchange between the Pennsylvania Turnpike and Interstate Route 95, including the widening of the Pennsylvania Turnpike, shall be treated as a reconstruction project described in section 129(a)(1)(B) of such title and tolls may be continued on all traffic on the Pennsylvania Turnpike between United States Route 1 and the New Jersey Turnpike.

(b) Type II Noise Barriers.—

(1) General rule.—No funds made available out of the Highway Trust Fund may be used to construct Type II noise barriers (as defined by section 772.5(i) of title 23, Code of Federal Regulations) pursuant to subsections (h) and (i) of section 109 of title 23, United States Code, if such barriers were not part of a project approved by the Secretary before the date of the enactment of this Act.

(2) Exceptions.—Paragraph (1) shall not apply to construction of Type II noise barriers along lands that were developed or were under substantial construction before approval of the acquisition of the rights-of-ways for, or construction of, the existing highway.

(c) Route Segments in Wyoming.—

(1) In general.—The Secretary shall cooperate with the State of Wyoming in monitoring the changes in growth along, and traffic patterns of, the route segments in Wyoming described in paragraph (2), for the purpose of future consideration of the addition of the route segments to the National Highway System in accordance with section 103(b)(6) of title 23, United States Code.

(2) Route segments.—The route segments referred to in paragraph (1) are—

(A) United States Route 191 from Rock Springs to Hoback Junction;

(B) United States Route 16 from Worland to Interstate Route 90; and

(C) Wyoming Route 59 from Douglas to Gillette.

(d) Orange Street Bridge, Missoula, Montana.—Notwithstanding section 149 of title 23, United States Code, or any other provision of law, a project to construct new capacity for the Orange Street Bridge in Missoula, Montana, shall be eligible for funding under the congestion mitigation and air quality improvement program established under such section.

(e) National Railroad Passenger Corporation Line.—The improvements to, or adjacent to, the main line of the National Railroad Passenger Corporation between milepost 190.23 at Central Falls, Rhode Island, and milepost 168.53 at Davisville, Rhode Island, that are necessary to support the rail movement of freight shall be eligible for funds apportioned under sections 103(e)(4), 104(b)(2), and 104(b)(3) of title 23, United States Code.

(f) Pocono Northeast Railway Company Line.—The improvements to the former Pocono Northeast Railway Company freight rail line by the Luzerne County Redevelopment Authority that are necessary to support the rail movement of freight shall be eligible for funds apportioned under sections 104(b)(2) and 104(b)(3) of title 23, United States Code.

(g) Brightman Street Bridge, Fall River Harbor, Massachusetts.—Notwithstanding any other provision of law, the Brightman Street Bridge in Fall River Harbor, Massachusetts, may be reconstructed to result in a clear channel width of less than 300 feet.

(h) Atlantic Intracoastal Waterway Bridge Replacement at Great Bridge, Chesapeake, Virginia.—The project for navigation at Great Bridge, Virginia, Highway 168, over the Atlantic Intracoastal Waterway in Chesapeake, Virginia: Report of the Chief of Engineers, dated July 1, 1994, at a total cost of $23,680,000, with an estimated Federal cost of $20,341,000 and an estimated non-Federal cost of $3,339,000. The city of Chesapeake shall assume full ownership of the replacement bridge to be constructed under the project, including all associated operation, maintenance, repair, replacement, and rehabilitation costs.

(i) Federal Lands Highways Program.—Notwithstanding section 101(a) of title 23, United States Code, and the requirements of sections 202 and 204 of such title, the highway projects described in section 149(a)(62) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 191), section 1 of Public Law 100–211 (101 Stat. 1442), and Public Law 99–647 (100 Stat. 3625) and projects on State Highway 488 within the Great Basin National Park, Nevada, and United States Route 93 from Somers to Whitefish, Montana, shall be eligible for assistance under sections 202 and 204 of such title. Any funds allocated for fiscal year 1996 and thereafter for such projects as a result of enactment of this subsection shall not affect the apportionment adjustments made under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991.

(j) Alameda Transportation Corridor, California.—Funds apportioned to the State of California under section 104(b)(1) of title 23, United States Code, for the National Highway System may be obligated for construction of, and operational improvements for, grade separation projects for the Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate Route 10, Los Angeles, California. The Federal share of the costs of such projects shall be determined in accordance with section 120(b) of such title.

SEC. 340. MISCELLANEOUS CORRECTIONS TO SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987.

(a) 34th Street Corridor Project in Moorhead, Minnesota.—Section 149(a)(5)(A) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181), relating to Minnesota, is amended—

(1) by striking "and" at the end of clause (i); and

(2) by inserting "and (iii) a safety overpass," after "interchange,".

(b) CALIFORNIA.—Section 149(a)(69) of such Act (101 Stat. 191), relating to Burbank-Glendale-Pasadena Airport, California, is amended—

(1) by striking "highway";

(2) by striking "and construction of terminal and parking facilities at such airport"; and

(3) by striking "by making" and all that follows through the period at the end of the second sentence and inserting the following: "by preparing a feasibility study and conducting preliminary engineering, design, and construction of a link between such airport and the commuter rail system that is being developed by the Los Angeles County Metropolitan Transportation Authority.".

(c) PENNSYLVANIA.—Section 149(a)(74) of such Act (101 Stat. 192) is amended—

(1) by striking "CHAMBERSBURG, PENNSYLVANIA" in the paragraph heading and inserting "PENNSYLVANIA"; and

(2) by inserting before the period at the end the following: "and other projects in the counties of Bedford, Blair, Centre, Franklin, and Huntingdon, Pennsylvania".

(d) LOUISIANA.—

(1) RURAL ACCESS PROJECT.—Section 149(a)(87) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 194) is amended—

(A) by striking "WEST CALCASIEU PARISH, LOUISIANA" and inserting "LOUISIANA"; and

(B) by inserting before the period at the end the following: "and construction of roads and a bridge to provide access to the Rose Bluff industrial area, Lake Charles, Louisiana".

(2) I-10 EXIT RAMP AND OTHER PROJECTS.—Section 149(a)(89) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 194) is amended—

(A) by inserting "AND LAKE CHARLES" after "LAFAYETTE" in the paragraph heading; and

(B) by inserting before the period at the end the following: "and, of amounts made available to carry out this paragraph, may use up to $456,022 to carry out a comprehensive transportation and land use plan for Lafayette, Louisiana, $1,000,000 to carry out a project to construct an exit ramp from the eastbound side of Interstate Route 10 to Ryan Street in Lake Charles, Louisiana, and $269,661 to carry out projects described in paragraph (90)".

(3) CONTRABAND BRIDGE.—Section 149(a)(90) of such Act (101 Stat. 194) is amended—

(A) by inserting "AND LAKE CHARLES" after "LAFAYETTE" in the paragraph heading; and

(B) by inserting before the period at the end "and a project to construct the Contraband Bridge portion of the Nelson Access Road Project".

(e) MARYLAND.—Section 149(a)(92) of such Act (101 Stat. 194) is amended—

(1) by striking "UNITED STATES ROUTE 48" in the paragraph heading and inserting "WASHINGTON AND FREDERICK COUNTIES"; and

(2) by inserting "and to construct an interchange between Interstate Route 70 and Interstate Route 270 in Frederick County, Maryland" after "Mountain Road".

(f) NORTH DAKOTA.—Of funds remaining available for obligation under sections 149(a)(111)(C), 149(a)(111)(E), 149(a)(111)(J), 149(a)(111)(K), 149(a)(111)(L), 149(a)(111)(M), and 149(a)(112) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, $217,440 shall be made available for the repair of County Road 8 west of Lawton, Ramsey County, North Dakota. The remainder of such funds shall be made available to the North Dakota department of transportation for flood prevention and repair activities on North Dakota county roads on a Federal-aid system that are threatened by flooding (as determined by the North Dakota department of transportation).

SEC. 341. ACCESSIBILITY OF OVER-THE-ROAD BUSES TO INDIVIDUALS WITH DISABILITIES.

Section 306(a)(2)(B)(iii) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12186(a)(2)(B)(iii)) is amended—

(1) in subclause (I) by striking "7 years after the date of the enactment of this Act" and inserting "3 years after the date of issuance of final regulations under clause (ii)"; and

(2) in subclause (II) by striking "6 years after such date of enactment" and inserting "2 years after the date of issuance of such final regulations".

SEC. 342. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

(a) MASS TRANSIT TESTING.—Section 5331(b) of title 49, United States Code, is amended by striking the subsection designation and all that follows through paragraph (1)(A) and inserting the following:

"(b) TESTING PROGRAM FOR MASS TRANSPORTATION EMPLOYEES.—(1)(A) In the interest of mass transportation safety, the Secretary shall prescribe regulations that establish a program requiring mass transportation operations that receive financial assistance under section 5307, 5309, or 5311 of this title or section 103(e)(4) of title 23 to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of a controlled substance in violation of law or a United States Government regulation, and to conduct reasonable suspicion, random, and post-accident testing of such employees for the use of alcohol in violation of law or a United States Government regulation. The regulations shall permit such operations to conduct preemployment testing of such employees for the use of alcohol.".

(b) RAILROAD TESTING.—Section 20140(b)(1)(A) of title 49, United States Code, is amended to read as follows:

"(A) a railroad carrier to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of a controlled substance in violation of law or a United States Government regulation, and to conduct reasonable suspicion, random, and post-accident testing of such employees for the use of alcohol in violation of law or a United States Government regulation; the regulations shall permit such railroad carriers to conduct preemployment testing of such employees for the use of alcohol; and".

(c) MOTOR CARRIER TESTING.—Section 31306(b) of such title is amended by striking the subsection designation and all that follows through paragraph (1)(A) and inserting the following:

"(b) TESTING PROGRAM FOR OPERATORS OF COMMERCIAL MOTOR VEHICLES.—(1)(A) In the interest of commercial motor vehicle safety, the Secretary of Transportation shall prescribe regulations that establish a program requiring motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of operators of commercial motor vehicles for the use of a controlled substance in violation of law or a United States Government regulation and to conduct reasonable suspicion, random, and post-accident testing of such operators for the use of alcohol in violation of law or a United States Government regulation. The regulations shall permit such motor carriers to conduct preemployment testing of such employees for the use of alcohol.".

(d) AVIATION TESTING.—

(1) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS.—Section 45102(a) of title 49, United States Code, is amended by striking the subsection designation and all that follows through paragraph (1) and inserting the following:

"(a) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS.—(1) In the interest of aviation safety, the Administrator of the Federal Aviation Administration shall prescribe regulations that establish a program requiring air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crew members, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of a controlled substance in violation of law or a United States Government regulation; and to conduct reasonable suspicion, random, and post-accident testing of airmen, crew members, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol in violation of law or a United States Government regulation. The regulations shall permit air carriers and foreign air carriers to conduct preemployment testing of airmen, crew members, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol.".

(2) PROGRAM FOR EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION.—Section 45102(b) of title 49, United States Code, is amended by striking the subsection designation and all that follows through paragraph (1) and inserting the following:

"(b) PROGRAM FOR EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION.—(1) The Administrator shall establish a program of preemployment, reasonable suspicion, random, and post-accident testing for the use of a controlled substance in violation of law or a United States Government regulation for employees of the Administration whose duties include responsibility for safety-sensitive functions and shall establish a program of reasonable suspicion, random, and post-accident testing for the use of alcohol in violation of law or a United States Government regulation for such employees. The Administrator may establish a program of preemployment testing for the use of alcohol for such employees.".

SEC. 343. NATIONAL DRIVER REGISTER.

Section 30308(a) of title 49, United States Code, is amended by striking "and $2,550,000 for fiscal year 1995" and inserting "and $2,550,000 for each of fiscal years 1995 and 1996".

SEC. 344. COMMERCIAL MOTOR VEHICLE SAFETY PILOT PROGRAM.

Section 31136(e) of title 49, United States Code, is amended—

(1) by inserting "(1) IN GENERAL.—" before "After";

(2) by indenting paragraph (1), as designated by paragraph (1) of this section, and moving that paragraph 2 ems to the right; and

(3) by adding at the end the following:

"(2) COMMERCIAL MOTOR VEHICLE SAFETY PILOT PROGRAM.—

"(A) IN GENERAL.—Not later than the 270th day following the date of the enactment of this paragraph, the Secretary shall implement a commercial motor vehicle regulatory relief and safety pilot program (hereinafter in this paragraph referred to as the 'program') to grant and to monitor exemptions from the provisions of this section and sections 504 and 31502. The program shall provide that the Secretary, within 120 days after receiving an application for participation in the program from an employer, shall determine whether to exempt some or all of the eligible vehicles operated by the applicant, and some or all of the drivers of such vehicles employed by the applicant, from some or all of the regulations prescribed under this section and sections 504 and 31502—

"(i) if the applicant has a satisfactory safety rating issued by the Secretary or meets criteria established by the Secretary pursuant to subparagraph (J) instead of such rating; and

"(ii) if the applicant and the Secretary enter into an agreement that provides that the applicant while participating in the program—

"(I) shall operate safely;

"(II) shall provide the Secretary with accident and nonconfidential insurance-related information relevant to the safety performance of the applicant and vehicles and drivers of the applicant subject to the program;

"(III) shall use in the program only drivers with good safety records in the preceding 36 months and who maintain such good safety records while in the program; and

"(IV) shall implement such safety management controls as the Secretary (in cooperation with the applicant) determines are necessary to carry out the objectives of this subsection.

"(B) SAFETY MANAGEMENT CONTROLS.—Safety management controls implemented by participants in the program shall be designed to achieve a level of operational safety equal to or greater than that resulting from compliance with the regulations prescribed under this section and sections 504 and 31502.

"(C) PAPERWORK BURDEN TO BE MINIMIZED.—The Secretary shall ensure that participants in the program are subject to a minimum of paperwork and regulatory burdens necessary to ensure compliance with the requirements of the program.

"(D) ENCOURAGEMENT OF ADVANCED TECHNOLOGY.—The Secretary shall encourage participants in the program to use such advanced technologies as may be necessary to ensure compliance with the requirements of the program.

"(E) APPROVAL FACTORS.—In approving applicants for participation in the program, the Secretary shall—

"(i) ensure that the participants represent a broad cross-section of fleet size and drivers of eligible vehicles; and

"(ii) ensure participation by qualified applicants, except to the extent limited by resources of the Secretary that are necessary to permit effective monitoring under subparagraph (G).

"(F) MODIFICATIONS TO REFLECT CHANGES IN REGULATIONS.—If there is a material change in the regulations prescribed under this section or section 504 or 31502, the Secretary shall require each participant in the program to modify the safety management controls applicable to such participant, and the agreement provided for in subparagraph (A)(ii), to the extent necessary to reflect the material change.

"(G) MONITORING.—The Secretary and participants in the program shall monitor periodically the safety of vehicles and drivers subject to the program.

"(H) TERMINATION OF PARTICIPATION.—A participant shall participate in the program until—

"(i) the Secretary finds that—

"(I) the participant has exceeded the average ratio of preventable accidents to vehicle miles traveled for a period of 12 months for eligible vehicles;

"(II) the participant has failed to comply with the requirements established by the Secretary for participation in the program (including applicable safety management controls); or

"(III) continued participation in the program is not in the public interest; or

"(ii) the participant voluntarily withdraws from the program.

"(I) EMERGENCIES.—The Secretary may suspend or modify participation in the program in case of emergency.

"(J) GUIDELINES.—

"(i) IN GENERAL.—Not later than the 270th day following the date of the enactment of this paragraph, the Secretary, after notice and opportunity for comment, shall establish criteria and define any terms necessary for implementing the program consistent with this section. In establishing the criteria, the Secretary may consider to what extent and under what conditions safety management controls may substitute, in whole or in part, for compliance with some or all of the regulations prescribed under this section and sections 504 and 31502.

"(ii) LIMITATION.—Notwithstanding clause (i), the program shall take effect on or before the 270th day following the date of the enactment of this paragraph. If the rulemaking described in clause (i) is not completed on or before such 270th day, the Secretary shall issue interim criteria, consistent with this section, pending the completion of the rulemaking described in this subsection.

"(K) ELIGIBLE VEHICLES.—For purposes of this subsection, the term 'eligible vehicle' means a commercial motor vehicle with a gross vehicle weight rating of at least 10,001 pounds, but not more than 26,000 pounds, other than a vehicle—

"(i) designed to transport more than 15 passengers, including the driver; or

"(ii) used in transporting material found by the Secretary to be hazardous under section 5103 and transported in a quantity requiring placarding under the regulations issued under such section.

"(3) REVIEW OF REGULATIONS.—Based in part on the information and experience obtained from the program, the Secretary shall conduct a zero-based review of the need for, and the costs and benefits of, all regulations prescribed under this section and sections 504 and 31502 to determine whether and to what extent such regulations should apply to eligible vehicles. The review shall focus on the appropriate level of safety that is in the public interest and the paperwork and regulatory burdens of such regulations as the regulations apply to employers and employees that use such vehicles. The Secretary shall complete the review by the last day of the 3-year period beginning on the date of the enactment of this paragraph. Upon completion of the review, the Secretary shall, after notice and an opportunity for public comment, grant such exemptions or modify or repeal existing regulations to the extent appropriate.".

SEC. 345. EXEMPTIONS FROM REQUIREMENTS RELATING TO COMMERCIAL MOTOR VEHICLES AND THEIR OPERATORS.

(a) EXEMPTIONS.—

(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if such transportation is limited to an area within a 100 air mile radius from the source of the commodities or the distribution point for the farm supplies and is during the planting and harvesting seasons within such State, as determined by the State.

(2) TRANSPORTATION AND OPERATION OF GROUND WATER WELL DRILLING RIGS.—Such regulations shall, in the case of a driver of a commercial motor vehicle who is used primarily in the transportation and operation of a ground water well drilling rig, permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum driving and on-duty time.

(3) TRANSPORTATION OF CONSTRUCTION MATERIALS AND EQUIPMENT.—Such regulations shall, in the case of a driver of a commercial motor vehicle who is used primarily in the transportation of construction materials and equipment, permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum driving and on-duty time.

(4) DRIVERS OF UTILITY SERVICE VEHICLES.—Such regulations shall, in the case of a driver of a utility service vehicle, permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum driving and on-duty time.

(5) SNOW AND ICE REMOVAL.—A State may waive the requirements of chapter 313 of title 49, United States Code, with respect to a vehicle that is being operated within the boundaries of an eligible unit of local government by an employee of such unit for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting. Such waiver authority shall only apply in a case where the employee is needed to operate the vehicle because the employee of the eligible unit of local government who ordinarily operates the vehicle and who has a commercial drivers license is unable to operate the vehicle or is in need of additional assistance due to a snow emergency.

(b) PREEMPTION.—Nothing contained in this section shall require the preemption of State laws and regulations concerning the safe operation of commercial motor vehicles as the result of exemptions from Federal requirements provided under this section.

(c) REVIEW BY THE SECRETARY.—The Secretary may conduct a rulemaking proceeding to determine whether granting any exemption provided by subsection (a) (other than paragraph (2)) is not in the public interest and would have a significant adverse impact on the safety of commercial motor vehicles. If, at any time as a result of such a proceeding, the Secretary determines that granting such exemption would not be in the public interest and would have a significant adverse impact on the safety of commercial motor vehicles, the Secretary may prevent the exemption from going into effect, modify the exemption, or revoke the exemption. The

Secretary may develop a program to monitor the exemption, including agreements with carriers to permit the Secretary to examine insurance information maintained by an insurer on a carrier.

(d) REPORT.—The Secretary shall monitor the commercial motor vehicle safety performance of drivers of vehicles that are subject to an exemption under this section. If the Secretary determines that public safety has been adversely affected by an exemption granted under this section, the Secretary shall report to Congress on the determination.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) 7 OR 8 CONSECUTIVE DAYS.—The term "7 or 8 consecutive days" means the period of 7 or 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

(2) 24-HOUR PERIOD.—The term "24-hour period" means any 24 consecutive hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

(3) GROUND WATER WELL DRILLING RIG.—The term "ground water well drilling rig" means any vehicle, machine, tractor, trailer, semitrailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water.

(4) TRANSPORTATION OF CONSTRUCTION MATERIALS AND EQUIPMENT.—The term "transportation of construction materials and equipment" means the transportation of construction and pavement materials, construction equipment, and construction maintenance vehicles, by a driver to or from an active construction site (a construction site between initial mobilization of equipment and materials to the site to the final completion of the construction project) within a 50 air mile radius of the normal work reporting location of the driver. This paragraph does not apply to the transportation of material found by the Secretary to be hazardous under section 5103 of title 49, United States Code, in a quantity requiring placarding under regulations issued to carry out such section.

(5) ELIGIBLE UNIT OF LOCAL GOVERNMENT.—The term "eligible unit of local government" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law which has a total population of 3,000 individuals or less.

(6) UTILITY SERVICE VEHICLE.—The term "utility service vehicle" means any commercial motor vehicle—

(A) used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;

(B) while engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and

(C) except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility.

(f) EFFECTIVE DATE.—Subsection (a) of this section shall take effect on the 180th day following the date of the enactment of this Act; except that paragraphs (1) and (2) of subsection (a) shall take effect on such date of enactment.

SEC. 346. WINTER HOME HEATING OIL DELIVERY STATE FLEXIBILITY PROGRAM.

(a) IN GENERAL.—After notice and opportunity for comment, the Secretary shall develop and implement a pilot program for the purpose of evaluating waivers of the regulations issued by the Secretary pursuant to sections 31136 and 31502 of title 49, United States Code, relating to maximum on-duty time, and sections 31102 and 31104(j) of such title, relating to the Motor Carrier Safety Assistance Program, to permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum on-duty time for drivers of motor vehicles making intrastate home heating oil deliveries that occur within 100 air miles of a central terminal or distribution point of the delivery of such oil. The Secretary may approve up to 5 States to participate in the pilot program during the winter heating season in the 6-month period beginning on November 1, 1996.

(b) APPROVAL CRITERIA.—The Secretary shall select States to participate in the pilot program upon approval of applications submitted by States to the Secretary. The Secretary shall act on a State's application within 30 days after the date of its submission. The Secretary may only approve an application of a State under this section if the Secretary finds, at a minimum, that—

(1) a substantial number of the citizens of the State rely on home heating oil for heat during winter months;

(2) current maximum on-duty time regulations may endanger the welfare of these citizens by impeding timely deliveries of home heating oil;

(3) the State will ensure an equal to or greater level of safety with respect to home heating oil deliveries than the level of safety resulting from compliance with the regulations referred to in subsection (a);

(4) the State will monitor the safety of home heating oil deliveries while participating in the program;

(5) employers of deliverers of home heating oil that will be covered by the program will agree to make all safety data developed from the pilot program available to the State and to the Secretary;

(6) the State will only permit employers of deliverers of home heating oil with satisfactory safety records to be covered by the program; and

(7) the State will comply with such other criteria as the Secretary determines are necessary to implement the program consistent with this section.

(c) PARTICIPATION IN PROGRAM.—Upon approval of an application of a State under this section, the Secretary shall permit the State to participate in the pilot program for an initial period of 15 days during the winter heating season of the State (as determined by the Governor and the Secretary). If, after the last day of such 15-day period, the Secretary finds that a State's continued participation in the program is consistent with this section and has resulted in no significant adverse impact on public safety and is in the public interest, the Secretary shall extend the State's participation in the program for periods of up to 30 additional days during such heating season.

(d) SUSPENSION FROM PROGRAM.—The Secretary may suspend a State's participation in the pilot program at any time if the Secretary finds—

(1) that the State has not complied with any of the criteria for participation in the program under this section;

(2) that a State's participation in the program has caused a significant adverse impact on public safety and is not in the public interest; or

(3) the existence of an emergency.

(e) REVIEW BY SECRETARY.—Within 90 days after the completion of the pilot program, the Secretary shall initiate a rulemaking to determine, based in part on the results of the program, whether to—

(1) permit a State to grant waivers of the regulations referred to in subsection (a) to motor carriers transporting home heating oil within the borders of the State, subject to such conditions as the Secretary may impose, if the Secretary determines that such waivers by the State meet the conditions in section 31136(e) of title 49, United States Code; or

(2) amend the regulations referred to in subsection (a) as may be necessary to provide flexibility to motor carriers delivering home heating oil during winter periods of peak demand.

(f) DEFINITION.—In this section, the term "7 or 8 consecutive days" has the meaning such term has under section 345 of this Act.

SEC. 347. SAFETY REPORT.

Not later than September 30, 1997, the Secretary, in cooperation with any State which raises any speed limit in such State to a level above the level permitted under section 154 of title 23, United States Code, as such section was in effect on September 15, 1995, shall prepare and submit to Congress a study of—

(1) the costs to such State of deaths and injuries resulting from motor vehicle crashes; and

(2) the benefits associated with the repeal of the national maximum speed limit.

SEC. 348. MORATORIUM ON CERTAIN EMISSIONS TESTING REQUIREMENTS.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") shall not require adoption or implementation by a State of a test-only I/M240 enhanced vehicle inspection and maintenance program as a means of compliance with section 182 or 187 of the Clean Air Act (42 U.S.C. 7511a; 7512a), but the Administrator may approve such a program if a State chooses to adopt the program as a means of compliance with such section.

(b) LIMITATION ON PLAN DISAPPROVAL.—The Administrator shall not disapprove or apply an automatic discount to a State implementation plan revision under section 182 or 187 of the Clean Air Act (42 U.S.C. 7511a; 7512a) on the basis of a policy, regulation, or guidance providing for a discount of emissions credits because the inspection and maintenance program in such plan revision is decentralized or a test-and-repair program.

(c) EMISSIONS REDUCTION CREDITS.—

(1) STATE PLAN REVISION; APPROVAL.—Within 120 days of the date of the enactment of this subsection, a State may submit an implementation plan revision proposing an interim inspection and maintenance program under section 182 or 187 of the Clean Air Act (42 U.S.C. 7511a; 7512a). The Administrator shall approve the program based on the full amount of credits proposed by the State for each element of the program if the proposed credits reflect good faith estimates by the State and the revision is otherwise in compliance with such Act. If, within such 120-day

period, the State submits to the Administrator proposed revisions to the implementation plan, has all of the statutory authority necessary to implement the revisions, and has proposed a regulation to make the revisions, the Administrator may approve the revisions without regard to whether or not such regulation has been issued as a final regulation by the State.

(2) EXPIRATION OF INTERIM APPROVAL.—The interim approval shall expire on the earlier of (A) the last day of the 18-month period beginning on the date of the interim approval, or (B) the date of final approval. The interim approval may not be extended.

(3) FINAL APPROVAL.—The Administrator shall grant final approval of the revision based on the credits proposed by the State during or after the period of interim approval if data collected on the operation of the State program demonstrates that the credits are appropriate and the revision is otherwise in compliance with the Clean Air Act.

(4) BASIS OF APPROVAL; NO AUTOMATIC DISCOUNT.—Any determination with respect to interim or full approval shall be based on the elements of the program and shall not apply any automatic discount because the program is decentralized or a test-and-repair program.

SEC. 349. ROADS ON FEDERAL LANDS.

(a) MORATORIUM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no agency of the Federal Government may take any action to prepare, promulgate, or implement any rule or regulation addressing rights-of-way authorized pursuant to section 2477 of the Revised Statutes (43 U.S.C. 932), as such section was in effect before October 21, 1976.

(2) SUNSET.—This subsection shall not be effective after September 30, 1996.

(b) REQUIREMENT OF TRANSFER OF COUNTY ROAD CORRIDORS.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) COUNTY ROAD CORRIDOR.—The term "county road corridor" means a corridor that is comprised of—

(i) a Shenandoah county road; and

(ii) land contiguous to the road that is selected by the Secretary of the Interior, in consultation with the Governor of the State of Virginia, such that the width of the corridor is 50 feet.

(B) SHENANDOAH COUNTY ROAD.—The term "Shenandoah county road" means the portion of any of the following roads that is located in the Shenandoah National Park and that has been in general use as a public roadway prior to the date of the enactment of this Act:

(i) Madison County Route 600.
(ii) Rockingham County Route 624.
(iii) Rockingham County Route 625.
(iv) Rockingham County Route 626.
(v) Warren County Route 604.
(vi) Page County Route 759.
(vii) Page County Route 611.
(viii) Page County Route 682.
(ix) Page County Route 662.
(x) Augusta County Route 611.
(xi) Augusta County Route 619.
(xii) Albemarle County Route 614.
(xiii) Augusta County Route 661.
(xiv) Rockingham County Route 663.
(xv) Rockingham County Route 659.
(xvi) Page County Route 669.
(xvii) Rockingham County Route 661.
(xviii) Criser Road (to the town of Front Royal).
(xix) The Government-owned parcel connecting Criser Road to the Warren County School Board parcel.

(2) PURPOSE.—The purpose of this subsection is to permit the State of Virginia to maintain and provide for safe public use of certain roads that the State donated to the United States at the time of the establishment of Shenandoah National Park.

(3) TRANSFER.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Interior shall transfer to the State of Virginia, without consideration or reimbursement, all right, title, and interest of the United States in and to each county road corridor.

(4) REVERSION.—A transfer under paragraph (3) shall be subject to the condition that if at any time a county road corridor is withdrawn from general use as a public roadway, all right, title, and interest in the county road corridor shall revert to the United States.

SEC. 350. STATE INFRASTRUCTURE BANK PILOT PROGRAM.

(a) IN GENERAL.—

(1) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may enter into cooperative agreements with not to exceed 10 States for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

(2) INTERSTATE COMPACTS.—Congress grants consent to 2 or more of the States, entering into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, to enter into an interstate compact establishing such bank in accordance with this section.

(b) FUNDING.—

(1) SEPARATE ACCOUNTS.—An infrastructure bank established under this section shall maintain a separate highway account for Federal funds contributed to the bank under paragraph (2) and a separate transit account for Federal funds contributed to the bank under paragraph (3). No Federal funds contributed or credited to an account of an infrastructure bank established under this section may be commingled with Federal funds contributed or credited to any other account of such bank.

(2) HIGHWAY ACCOUNT.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (g)(1), a State entering into a cooperative agreement under this section to contribute not to exceed—

(A) 10 percent of the funds apportioned to the State for each of fiscal years 1996 and 1997 under each of sections 104(b)(1), 104(b)(3), 104(b)(5)(B), 144, and 160 of title 23, United States Code, and section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991; and

(B) 10 percent of the funds allocated to the State for each of such fiscal years under each of section 157 of such title and section 1013(c) of such Act;

into the highway account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the highway account of the infrastructure bank.

(3) TRANSIT ACCOUNT.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (g)(1), a State entering into a cooperative agreement under this section, and any other Federal transit grant recipient, to contribute not to exceed 10 percent of the funds made available to the State or other Federal transit grant recipient in each of fiscal years 1996 and 1997 for capital projects under sections 5307, 5309, and 5311 of title 49, United States Code, into the transit account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the transit account of the infrastructure bank.

(4) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) or 160 of title 23, United States Code, or under section 1013(c) or 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 and attributed to urbanized areas of a State with an urbanized population of over 200,000 under section 133(d)(3) of such title may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.

(c) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other assistance provided for such project may be subordinated to any other debt financing for the project. Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section may not be made in the form of a grant.

(d) QUALIFYING PROJECTS.—Federal funds in the highway account of an infrastructure bank established under this section may be used only to provide assistance with respect to construction of Federal-aid highways. Federal funds in the transit account of such bank may be used only to provide assistance with respect to capital projects.

(e) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, each State establishing the bank shall—

(1) contribute, at a minimum, in each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank; except that if the contribution is into the highway account of the bank and the State has a lower non-Federal share under section 120(b) of title 23, United States Code, such percentage shall be adjusted by the Secretary to correspond with such lower non-Federal share;

(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank;

(3) ensure that investment income generated by funds contributed to an account of the bank will be—

(A) credited to the account;

(B) available for use in providing loans and other assistance to projects eligible for assistance from the account; and

(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

(4) provide that the repayment of a loan or other assistance from an account of the bank under this section shall be consistent with the repayment provisions of section 129(a)(7)

of title 23, United States Code, except to the extent the Secretary determines that such provisions are not consistent with this section;

(5) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;

(6) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

(7) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan under paragraph (6); and

(8) require the bank to make an annual report to the Secretary on its status no later than September 30, 1996, and September 30, 1997, and to make such other reports as the Secretary may require by guidelines.

(f) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited towards the non-Federal share of the cost of any project.

(g) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

(1) ensure that Federal disbursements shall be at a rate consistent with historic rates for the Federal-aid highway program and the Federal transit program, respectively;

(2) issue guidelines to ensure that all requirements of title 23, United States Code, or title 49, United States Code, that would otherwise apply to funds made available under such title and projects assisted with such funds apply to—

(A) funds made available under such title and contributed to an infrastructure bank established under this section; and

(B) projects assisted by the bank through the use of such funds;

except to the extent that the Secretary determines that any requirement of such title is not consistent with the objectives of this section; and

(3) specify procedures and guidelines for establishing, operating, and providing assistance from the bank.

(h) UNITED STATES NOT OBLIGATED.—The contribution of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

(i) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

(j) PROGRAM ADMINISTRATION.—For each of fiscal years 1996 and 1997, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

(k) SECRETARIAL REVIEW.—The Secretary shall review the financial condition of each infrastructure bank established under this section and transmit to Congress a report on the results of such review not later than March 1, 1997. In addition, the report shall contain—

(1) an evaluation of the pilot program conducted under this section and the ability of such program to increase public investment and attract non-Federal capital; and

(2) recommendations of the Secretary as to whether the program should be expanded or made a part of the Federal-aid highway and transit programs.

(l) DEFINITIONS.—In this section, the following definitions apply:

(1) CAPITAL PROJECT.—The term "capital project" has the meaning such term has under section 5302 of title 49, United States Code.

(2) CONSTRUCTION; FEDERAL-AID HIGHWAY.—The terms "construction" and "Federal-aid highway" have the meanings such terms have under section 101 of title 23, United States Code.

(3) OTHER ASSISTANCE.—The term "other assistance" includes any use of funds in an infrastructure bank—

(A) to provide credit enhancements;

(B) to serve as a capital reserve for bond or debt instrument financing;

(C) to subsidize interest rates;

(D) to ensure the issuance of letters of credit and credit instruments;

(E) to finance purchase and lease agreements with respect to transit projects;

(F) to provide bond or debt financing instrument security; and

(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.

(4) STATE.—The term "State" has the meaning such term has under section 101 of title 23, United States Code.

SEC. 351. RAILROAD-HIGHWAY GRADE CROSSING SAFETY.

(a) INTELLIGENT TRANSPORTATION SYSTEMS.—In implementing the Intelligent Transportation Systems Act of 1991 (23 U.S.C. 307 note; 105 Stat. 2189–2195), the Secretary shall ensure that the national intelligent transportation systems program addresses, in a comprehensive and coordinated manner, the use of intelligent transportation technologies to promote safety at railroad-highway grade crossings. The Secretary shall ensure that 2 or more operational tests funded under such Act are designed to promote highway traffic safety and railroad safety.

(b) SAFETY ENFORCEMENT.—

(1) COOPERATION BETWEEN FEDERAL AND STATE AGENCIES.—The National Highway Traffic Safety Administration and the Office of Motor Carriers within the Federal Highway Administration shall cooperate and work, on a continuing basis, with the National Association of Governors' Highway Safety Representatives, the Commercial Vehicle Safety Alliance, and Operation Lifesaver, Inc., to improve compliance with and enforcement of laws and regulations pertaining to railroad-highway grade crossings.

(2) REPORT.—Not later than June 1, 1998, the Secretary shall submit to Congress a report indicating—

(A) how the Department of Transportation worked with the entities referred to paragraph (1) to improve the awareness of the highway and commercial vehicle safety and law enforcement communities of regulations and safety challenges at railroad-highway grade crossings; and

(B) how resources are being allocated to better address these challenges and enforce such regulations.

(c) FEDERAL-STATE PARTNERSHIP.—

(1) STATEMENT OF POLICY.—

(A) HAZARDS TO SAFETY.—Certain railroad-highway grade crossings present inherent hazards to the safety of railroad operations and to the safety of persons using those crossings. It is in the public interest—

(i) to promote grade crossing safety and reduce risk at high risk railroad-highway grade crossings; and

(ii) to reduce the number of grade crossings while maintaining the reasonable mobility of the American people and their property, including emergency access.

(B) EFFECTIVE PROGRAMS.—Effective programs to reduce the number of unneeded and unsafe railroad-highway grade crossings require the partnership of Federal, State, and local officials and agencies, and affected railroads.

(C) HIGHWAY PLANNING.—Promotion of a balanced national transportation system requires that highway planning specifically take into consideration grade crossing safety.

(2) PARTNERSHIP AND OVERSIGHT.—The Secretary shall encourage each State to make progress toward achievement of the purposes of this subsection.

SEC. 352. COLLECTION OF BRIDGE TOLLS.

Notwithstanding any other provision of law, tolls collected for motor vehicles on any bridge connecting the boroughs of Brooklyn, New York, and Staten Island, New York, shall continue to be collected for only those vehicles exiting from such bridge in Staten Island.

SEC. 353. TRAFFIC CONTROL.

(a) SIGNS.—Traffic control signs referred to in the experimental project conducted in the State of Oregon in December 1991 shall be deemed to comply with the requirements of section 2B–4 of the Manual on Uniform Traffic Control Devices of the Department of Transportation.

(b) STRIPES.—Notwithstanding any other provision of law, a red, white, and blue center line in the Main Street of Bristol, Rhode Island, shall be deemed to comply with the requirements of section 3B–1 of the Manual on Uniform Traffic Control Devices of the Department of Transportation.

SEC. 354. PUBLIC USE OF REST AREAS.

Notwithstanding section 111 of title 23, United States Code, or any project agreement under such section, the Secretary shall permit the conversion of any safety rest area adjacent to Interstate Route 95 within the State of Rhode Island that was closed as of May 1, 1995, to use as a motor vehicle emissions testing facility. At the option of the State, vehicles shall be permitted to enter and exit any such testing facility directly from Interstate Route 95.

SEC. 355. SAFETY BELT USE LAW REQUIREMENTS FOR NEW HAMPSHIRE AND MAINE.

(a) IN GENERAL.—For purposes of this section and section 153 of title 23, United States Code, the States of New Hampshire and Maine shall each be treated as having in effect a State law described in subsection (a)(2) of such section and as having achieved a rate of compliance with the State law required by subsections (f)(2) and (f)(3) of such section upon certification by the Secretary that the State has achieved—

(1) a safety belt use rate in each of fiscal years 1995 and 1996, of not less than 50 percent; and

(2) a safety belt use rate in each fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary.

(b) RETROACTIVE APPLICABILITY.—

(1) EFFECTIVE DATE.—Subsection (a) shall take effect September 30, 1995.

(2) TREATMENT OF CONTINUANCE OF SAFETY BELT USE LAW.—If the State of New Hampshire or Maine continues in effect a law described in subsection (a)(2) of section 153 of title 23, United States Code, within 60 days after the date of the enactment of this section, the State shall be treated, for purposes of this section and such section, as having in effect a State law described in such subsection on September 30, 1995.

(c) RESERVATION OF APPORTIONMENT PENDING CERTIFICATION.—If, at any time in a fiscal year beginning after September 30, 1994, the State of New Hampshire or Maine does not have in effect a law described in subsection (a)(2) of section 153 of title 23, United States Code, the Secretary shall reserve 3 percent of the funds to be apportioned to the State for the succeeding fiscal year, under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of such title, if the Secretary has not certified, in accordance with subsection (a) of this section, that the State has achieved the applicable safety belt use rate.

(d) EFFECT ON NONCERTIFICATION.—If, at the end of the fiscal year in which the funds are reserved under subsection (c), the Secretary has not certified, in accordance with subsection (a), that the State of New Hampshire or Maine achieved the applicable safety belt use rate, the Secretary shall transfer the funds reserved from the State under subsection (c) to the apportionment of the State under section 402 of title 23, United States Code.

SEC. 356. ORANGE COUNTY, CALIFORNIA, TOLL ROADS.

(a) MODIFICATION OF AGREEMENT.—The Secretary shall enter into an agreement modifying the agreement entered into pursuant to section 339 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1552) to conform such agreement to the provisions of section 336 of the Department of Transportation and Related Agencies Appropriations Act, 1995 (108 Stat. 2495).

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to change the amount of the appropriation made by section 339 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1552), and the line of credit provided for shall not exceed an amount supported by such appropriation.

(c) HIGHER INTEREST RATE.—In implementing sections 336 and 339 referred to in subsection (a), the Secretary may enter into an agreement requiring an interest rate that is higher than the rate specified in such sections.

SEC. 357. COMPILATION OF TITLE 23, UNITED STATES CODE.

(a) LEGISLATIVE PROPOSAL.—The Secretary shall, by March 31, 1997, prepare and submit to Congress a draft legislative proposal of necessary technical and conforming amendments to title 23, United States Code, and related laws.

(b) CONFORMING REPEAL.—Section 1066 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2006) is repealed.

SEC. 358. SAFETY RESEARCH INITIATIVES.

(a) OLDER DRIVERS AND OTHER SPECIAL DRIVER GROUPS.—

(1) STUDY.—The Secretary shall conduct a study of technologies and practices to improve the driving performance of older drivers and other special driver groups.

(2) DEMONSTRATION ACTIVITIES.—In conducting the study under paragraph (1), the Secretary shall undertake demonstration activities that incorporate and build upon gerontology research related to the study of the normal aging process. The Secretary shall initially implement such activities in those States that have the highest population of aging citizens for whom driving a motor vehicle is their primary mobility mode.

(3) COOPERATIVE AGREEMENT.—The Secretary shall conduct the study under paragraph (1) by entering into a cooperative agreement with an institution that has demonstrated competencies in gerontological research, population demographics, human factors related to transportation, and advanced technology applied to transportation.

(b) WORK ZONE SAFETY.—In carrying out the work zone safety program under section 1051 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 401 note; 105 Stat. 2001), the Secretary shall utilize a variety of methods to increase safety at highway construction sites, including each of the following:

(1) Conducting conferences to explore new techniques and stimulate dialogue for improving work zone safety.

(2) Establishing a national clearinghouse to assemble and disseminate, by electronic and other means, information relating to the improvement of work zone safety.

(3) Conducting a national promotional campaign in cooperation with the States to provide timely, site-specific information to motorists when construction workers are actually present.

(4) Encouraging the use of enforceable speed limits in work zones.

(5) Developing training programs for work site designers and construction workers to promote safe work zone practices.

(6) Encouraging the use of unit price bid items in contracts for traffic control devices and implementation of traffic control plans.

(c) RADIO AND MICROWAVE TECHNOLOGY FOR MOTOR VEHICLE SAFETY WARNING SYSTEM.—

(1) STUDY.—The Secretary, in consultation with the Federal Communications Commission and the National Telecommunications and Information Administration, shall conduct a study to develop and evaluate radio and microwave technology for a motor vehicle safety warning system in furtherance of safety in all types of motor vehicles.

(2) EQUIPMENT.—Equipment developed under the study shall be directed toward, but not limited to, advance warning to operators of all types of motor vehicles of—

(A) temporary obstructions in a highway;

(B) poor visibility and highway surface conditions caused by adverse weather; and

(C) movement of emergency vehicles.

(3) SAFETY APPLICATIONS.—In conducting the study, the Secretary shall determine whether the technology described in this subsection has other appropriate safety applications.

(d) EFFECTIVENESS OF DRUNK DRIVING LAWS.—The Secretary shall conduct a study to evaluate the effectiveness on reducing drunk driving and appropriateness of laws enacted in the States which allow a health care provider who treats an individual involved in a vehicular accident to report the blood alcohol level, if known, of such individual to the local law enforcement agency which has jurisdiction over the accident site if the blood alcohol concentration level exceeds the maximum level permitted under State law.

SEC. 359. MISCELLANEOUS STUDIES.

(a) PAN AMERICAN HIGHWAY.—

(1) STUDY.—The Secretary shall conduct a study on the adequacy of and the need for improvements to the Pan American Highway.

(2) ELEMENTS.—The study shall include, at a minimum, the following elements:

(A) Findings on the benefits of constructing a highway at Darien Gap, Panama and Colombia.

(B) Recommendations for a self-financing arrangement for completion and maintenance of the Pan American Highway.

(C) Recommendations for establishing a Pan American highway authority to monitor financing, construction, maintenance, and operations of the Pan American Highway.

(D) Findings on the benefits to trade and prosperity of a more efficient Pan American Highway.

(E) Findings on the benefits to United States industry resulting from the use of United States technology and equipment in construction of improvements to the Pan American Highway.

(F) Findings on environmental considerations, including environmental considerations relating to Darien Gap.

(3) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

(b) HIGHWAY SIGNS FOR NATIONAL HIGHWAY SYSTEM.—

(1) STUDY.—The Secretary shall conduct a study to determine the cost, need, and efficacy of establishing a highway sign for identifying routes on the National Highway System. In conducting the study, the Secretary shall make a determination concerning whether to identify National Highway System route numbers.

(2) REPORT.—Not later than March 1, 1997, the Secretary shall transmit to Congress a report on the results of the study.

(c) COMPLIANCE WITH BUY AMERICAN ACT.—

(1) STUDY.—The Secretary shall conduct a study on compliance with the Buy American Act (41 U.S.C. 10a–10c) with respect to contracts entered into using amounts made available from the Highway Trust Fund.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

(d) MAGNETIC LEVITATION.—

(1) STUDY.—The Secretary shall conduct a study evaluating the near-term applications of magnetic levitation ground transportation technology in the United States, with particular emphasis in identifying projects which would warrant immediate application of such technology. The study shall also evaluate the use of innovative financial techniques for the construction and operation of such projects.

(2) ELEMENTS.—The study shall be undertaken in consultation with a committee of 8 persons chosen by the Secretary with appropriate backgrounds in magnetic levitation transportation, design and construction, public and private finance, and infrastructure policy disciplines. The chairperson of the committee shall be elected by the members.

(3) REPORT.—Not later than September 30, 1996, the Secretary shall transmit to the President and Congress a report on the results of the study.

TITLE IV—WOODROW WILSON MEMORIAL BRIDGE

SEC. 401. SHORT TITLE.

This title may be cited as the "Woodrow Wilson Memorial Bridge Authority Act of 1995".

SEC. 402. FINDINGS.

Congress finds that—

(1) traffic congestion imposes serious economic burdens on the metropolitan Washington, D.C., area, costing each commuter an estimated $1,000 per year;

(2) the volume of traffic in the metropolitan Washington, D.C., area is expected to increase by more than 70 percent between 1990 and 2020;

(3) the deterioration of the Woodrow Wilson Memorial Bridge and the growing population of the metropolitan Washington, D.C., area contribute significantly to traffic congestion;

(4) the Bridge serves as a vital link in the Interstate System and in the Northeast corridor;

(5) identifying alternative methods for maintaining this vital link of the Interstate System is critical to addressing the traffic congestion of the area;

(6) the Bridge is—

(A) the only drawbridge in the metropolitan Washington, D.C., area on the Interstate System;

(B) the only segment of the Capital Beltway with only 6 lanes; and

(C) the only segment of the Capital Beltway with a remaining expected life of less than 10 years;

(7) the Bridge is the only part of the Interstate System owned by the Federal Government;

(8)(A) the Bridge was constructed by the Federal Government;

(B) prior to the date of the enactment of this Act, the Federal Government has contributed 100 percent of the cost of building and rehabilitating the Bridge; and

(C) the Federal Government has a continuing responsibility to fund future costs associated with the upgrading of the Interstate Route 95 crossing, including the rehabilitation and reconstruction of the Bridge;

(9) the Woodrow Wilson Memorial Bridge Coordination Committee is undertaking planning studies pertaining to the Bridge, consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable Federal laws;

(10) the transfer of ownership of the Bridge to a regional entity under the terms and conditions described in this title would foster regional transportation planning efforts to identify solutions to the growing problem of traffic congestion on and around the Bridge;

(11) any material change to the Bridge must take into account the interests of nearby communities, the commuting public, Federal, State, and local government organizations, and other affected groups; and

(12) a commission of congressional, State, and local officials and transportation representatives has recommended to the Secretary that the Bridge be transferred to an independent authority to be established by the Capital Region jurisdictions.

SEC. 403. PURPOSES.

The purposes of this title are—

(1) to grant consent to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to establish by interstate agreement or compact the Woodrow Wilson Memorial Bridge Authority;

(2) to authorize the transfer of ownership of the Woodrow Wilson Memorial Bridge to the Authority for the purposes of owning, constructing, maintaining, and operating a bridge or tunnel or a bridge and tunnel project across the Potomac River; and

(3) to direct the Secretary to continue working with the parties that comprise the Woodrow Wilson Memorial Bridge Coordination Committee to complete all planning, preliminary engineering and design, environmental studies and documentation, and final engineering, and to submit a proposed agreement to Congress by October 1, 1996, that specifies the selected alternative, implementation schedule, and costs of the Project and the Federal share of the costs of the activities to be carried out as part of the Project.

SEC. 404. DEFINITIONS.

In this title, the following definitions apply:

(1) AUTHORITY.—The term "Authority" means the Woodrow Wilson Memorial Bridge Authority established under section 405.

(2) BOARD.—The term "Board" means the board of directors of the Authority established under section 406.

(3) BRIDGE.—The term "Bridge" means the Woodrow Wilson Memorial Bridge across the Potomac River, including approaches thereto.

(4) CAPITAL REGION JURISDICTION.—The term "Capital Region jurisdiction" means—

(A) the Commonwealth of Virginia;

(B) the State of Maryland; and

(C) the District of Columbia.

(5) PROJECT.—The term "Project" means the upgrading of the Interstate Route 95 Potomac River crossing, consistent with the selected alternative to be determined under section 407. Such term shall include ongoing short-term rehabilitation and repairs to the Bridge and may include 1 or more of the following:

(A) Construction of a new bridge or bridges in the vicinity of the Bridge.

(B) Construction of a tunnel in the vicinity of the Bridge.

(C) Long-term rehabilitation or reconstruction of the Bridge.

(D) Work necessary to provide rights-of-way for a rail or bus transit facility or bus or high occupancy vehicle lanes in connection with an activity described in subparagraph (A), (B), or (C).

(E) Work on Interstate Route 95 approaching the Bridge and other approach roadways if necessitated by an activity described in subparagraph (A), (B), or (C).

(F) Construction or acquisition of any building, improvement, addition, extension, replacement, appurtenance, land, interest in land, water right, air right, machinery, equipment, furnishing, landscaping, easement, utility, approach, roadway, or other facility that is necessary or desirable in connection with or incidental to a facility described in subparagraph (A), (B), or (C).

(6) SIGNATORY.—The term "Signatory" means any political jurisdiction that enters into the interstate agreement or compact that establishes the Authority.

(7) WOODROW WILSON MEMORIAL BRIDGE COORDINATION COMMITTEE.—The term "Woodrow Wilson Memorial Bridge Coordination Committee" means the Woodrow Wilson Memorial Bridge Coordination Committee established and chaired by the Federal Highway Administration and comprised of representatives of Federal, State, and local governments.

SEC. 405. ESTABLISHMENT OF AUTHORITY.

(a) CONSENT TO INTERSTATE AGREEMENT.—Congress grants consent to the Capital Region jurisdictions to enter into an interstate agreement or compact to establish the Authority and to designate the governance, powers, and duties of the Authority. The Authority shall be a non-Federal entity designated by the interstate agreement or compact.

(b) ESTABLISHMENT OF AUTHORITY.—

(1) IN GENERAL.—Upon execution of the interstate agreement or compact described in subsection (a) and an agreement between the Secretary and the Signatories as to the Federal share of the cost of the Project and the terms and conditions related to the timing of the transfer of the Bridge to the Authority as provided in section 407(c), the Authority shall be considered to be established for purposes of subsection (c).

(2) GENERAL POWERS.—The Authority shall be a body corporate and politic, and an instrumentality of each of the Capital Region jurisdictions, having the powers and jurisdiction described in this title and such additional powers as are conferred on the Authority by the Capital Region jurisdictions, to the extent that the additional powers are consistent with this title.

(c) PURPOSES OF AUTHORITY.—The Authority shall be established—

(1) to assume ownership of the Bridge; and

(2) to undertake the Project.

SEC. 406. GOVERNMENT OF AUTHORITY.

(a) IN GENERAL.—The Authority shall be governed in accordance with this section and with the terms of any interstate agreement or compact relating to the Authority that is consistent with this title.

(b) BOARD.—The Authority shall be governed by a board of directors consisting of not more than 12 members appointed by the Capital Region jurisdictions and 1 member appointed by the Secretary.

(c) QUALIFICATIONS.—At least 2 members of the Board shall be elected officials each of whom represents a political subdivision that has jurisdiction over the area at an end of the Project crossing.

(d) FAILURE TO APPOINT.—The failure of a Capital Region jurisdiction to appoint 1 or more members of the Board shall not impair the establishment of the Authority if the condition of the establishment described in section 405(b)(1) has been met.

(e) PERSONAL LIABILITY OF MEMBERS.—A member of the Board, including any nonvoting member, shall not be personally liable for—

(1) any action taken in his or her capacity as a member of the Board; or

(2) any note, bond, or other financial obligation of the Authority.

(f) RESIDENCY REQUIREMENT.—Each member of the Board shall reside within a Capital Region jurisdiction.

SEC. 407. OWNERSHIP OF BRIDGE.

(a) CONVEYANCE BY SECRETARY.—

(1) IN GENERAL.—After execution of the agreement under subsection (c), the Secretary shall convey to the Authority all right, title, and interest of the United States in and to the Bridge, including such related riparian rights and interests in land underneath the Potomac River as are necessary to carry out the Project. Except as provided in paragraph (2), upon conveyance by the Secretary, the Authority shall accept the right, title, and interest in and to the Bridge and all duties and responsibilities associated with the Bridge.

(2) INTERIM RESPONSIBILITIES.—Until such time as the Project is constructed and operational, the conveyance under paragraph (1) shall not—

(A) relieve the Capital Region jurisdictions of the sole and exclusive responsibility to maintain and operate the Bridge; or

(B) relieve the Secretary of the responsibility to rehabilitate the Bridge or to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all other requirements applicable with respect to the Bridge.

(b) TRANSFERS OF JURISDICTION.—For the purpose of making the conveyance under subsection (a), the Secretary of the Interior and the head of any other Federal department or agency that has jurisdiction over land under or adjacent to the Bridge shall transfer such jurisdiction to the Secretary.

(c) AGREEMENT.—

(1) IN GENERAL.—The agreement referred to in subsection (a) is an agreement concerning the Project that is executed in accordance with this subsection.

(2) SUBMISSION TO CONGRESS.—Not later than October 1, 1996, the Secretary shall submit to Congress a proposed agreement between the Secretary and the Signatories that specifies—

(A) the selected alternative, implementation schedule, and costs of the Project;

(B) the Federal share of the costs of the activities to be carried out as part of the Project, including, at a minimum, a 100 percent Federal share of—

(i) the cost of the continuing rehabilitation of the Bridge until such time as the Project is constructed and operational;

(ii) an amount, as determined by the Woodrow Wilson Memorial Bridge Coordination Committee, equivalent to the cost of replacing the Bridge with a comparable modern bridge designed according to current engineering standards; and

(iii) the cost of planning, preliminary engineering and design, environmental studies and documentation, and final engineering for the Project; and

(C) the Federal share of the cost of activities to be carried out as part of the project after September 30, 1997, will be reduced by amounts expended by the United States for activities (other than environmental studies and documentation) described in subparagraph (B)(iii) in fiscal years 1996 and 1997.

(3) APPROVAL AND EXECUTION OF AGREEMENT.—After the enactment of a Federal law approving an agreement described in paragraph (2), the Secretary may execute the agreement.

SEC. 408. PROJECT PLANNING.

The Secretary shall work with the Woodrow Wilson Memorial Bridge Coordination Committee, or with the Authority consistent with the purpose of the Authority, to complete, at the earliest possible date, planning, preliminary engineering and design, environmental studies and documentation, and final engineering for the Project, consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable.Federal laws.

SEC. 409. ADDITIONAL POWERS AND RESPONSIBILITIES OF AUTHORITY.

In addition to the powers and responsibilities of the Authority under the other provisions of this title and under any interstate agreement or compact relating to the Authority that is consistent with this title, the Authority shall have all powers necessary and appropriate to carry out the duties of the Authority, including the power—

(1) to adopt and amend any bylaw that is necessary for the regulation of the affairs of the Authority and the conduct of the business of the Authority;

(2) to adopt and amend any regulation that is necessary to carry out the powers of the Authority;

(3) subject to section 407(a)(2), to plan, establish, finance, operate, develop, construct, enlarge, maintain, equip, or protect the facilities of the Project;

(4) to employ, in the discretion of the Authority, such personnel and agents as may be necessary to carry out the purposes of the Authority (including consulting engineers, attorneys, accountants, construction and financial experts, superintendents, and managers) and to fix the compensation and benefits of the employees and agents, except that—

(A) an employee of the Authority shall not engage in an activity described in section 7116(b)(7) of title 5, United States Code, with respect to the Authority; and

(B) an employment agreement entered into by the Authority shall contain an explicit prohibition against an activity described in subparagraph (A) with respect to the Authority by an employee covered by the agreement;

(5) to acquire personal and real property (including land lying under water and riparian rights), or any easement or other interest in real property, by purchase, lease, gift, transfer, or exchange;

(6) to exercise such powers of eminent domain in the Capital Region jurisdictions as are conferred on the Authority by the Signatories, in the exercise of the powers and the performance of the duties of the Authority;

(7) to apply for and accept any property, material, service, payment, appropriation, grant, gift, loan, advance, or other fund that is transferred or made available to the Authority by the Federal Government or by any other public or private entity or individual;

(8) to borrow money on a short-term basis and issue notes of the Authority for the borrowing payable on such terms and conditions as the Board considers advisable, and to issue long-term or short-term bonds in the discretion of the Authority for any purpose consistent with this title, which notes and bonds—

(A) shall not constitute a debt of the United States (or any political subdivision of the United States), or a general obligation of a Capital Region jurisdiction (or any political subdivision of a Capital Region jurisdiction), unless consented to by the jurisdiction or political subdivision; and

(B) may be secured solely by the general revenues of the Authority, or solely by the income and revenues of the Bridge or a new crossing of the Potomac River constructed as part of the Project, or by other revenues in the discretion of the Authority;

(9) to fix, revise, charge, and collect any reasonable toll or other charge;

(10) to enter into any contract or agreement necessary or appropriate to the performance of the duties of the Authority or the proper operation of the Bridge or a new crossing of the Potomac River constructed as part of the Project;

(11) to make any payment necessary to reimburse a local political subdivision having jurisdiction over an area where the Bridge or a new crossing of the Potomac River is situated for any extraordinary law enforcement cost incurred by the subdivision in connection with the Authority facility;

(12) to enter into partnerships or grant concessions between the public and private sectors for the purpose of—

(A) financing, constructing, maintaining, improving, or operating the Bridge or a new crossing of the Potomac River constructed as part of the Project; or

(B) fostering development of a new transportation technology;

(13) to obtain any necessary Federal authorization, permit, or approval for the construction, repair, maintenance, or operation of the Bridge or a new crossing of the Potomac River constructed as part of the Project;

(14) to adopt an official seal and alter the seal, as the Board considers appropriate;

(15) to appoint 1 or more advisory committees;

(16) to sue and be sued in the name of the Authority;

(17) to carry out or contract with other entities to carry out such maintenance of traffic activities during construction of the Project as is considered necessary by the Authority to properly manage traffic and minimize congestion, such as public information campaigns, improvements designed to encourage appropriate use of alternative routes, use of high occupancy vehicles and transit services, and deployment and operation of intelligent transportation technologies; and

(18) to carry out any activity necessary or appropriate to the exercise of the powers or performance of the duties of the Authority under this title and under any interstate agreement or compact relating to the Authority that is consistent with this title, if the activity is coordinated and consistent with the transportation planning process implemented by the metropolitan planning organization for the Washington, District of Columbia, metropolitan area under section 134 of title 23, United States Code, and section 5303 of title 49, United States Code.

SEC. 410. FUNDING.

Section 104 of title 23, United States Code, as amended by section 337(f) of this Act, is amended by inserting before subsection (j), as redesignated by such section 337(f), the following:

"(i) WOODROW WILSON MEMORIAL BRIDGE.—

"(1) EXPENDITURE.—From any available administrative funds deducted under subsection (a), the Secretary shall obligate such sums as are necessary for each of fiscal years 1996 and 1997 for the rehabilitation of the Woodrow Wilson Memorial Bridge and for environmental studies and documentation, planning, preliminary engineering and design, and final engineering for a new crossing of the Potomac River as part of the Project, as defined by section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995.

"(2) FEDERAL SHARE.—The Federal share of the cost of any project funded with amounts expended under paragraph (1) shall be 100 percent.".

SEC. 411. AVAILABILITY OF PRIOR AUTHORIZATIONS.

In addition to the funds made available under section 104(i) of title 23, United States Code, any funds made available for the rehabilitation of the Bridge under sections 1069(i) and 1103(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2009 and 2028) shall continue to be available after the conveyance under section 407(a) of the Bridge, in accordance with the terms under which the funds were made available under such sections 1069(i) and 1103(b).

And the House agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

BUD SHUSTER,
BILL CLINGER,
THOMAS E. PETRI,
BILL EMERSON,
RAY LAHOOD,
JAMES L. OBERSTAR,
NICK RAHALL,
ROBERT A. BORSKI,

As additional conferees for the consideration of secs. 105 and 141 of the Senate bill, and sec. 320 of the House amendment, and modifications committed to conference:

TOM BLILEY,
MICHAEL BILIRAKIS,
JOE BARTON,
JAMES GREENWOOD,
JOHN D. DINGELL,

As additional conferees for the consideration of sec. 157 of the Senate bill, and modifications committed to conference:

DON YOUNG,
JAMES V. HANSEN,
Managers on the Part of the House.

JOHN WARNER,
JOHN H. CHAFEE,
BOB SMITH,
DIRK KEMPTHORNE,
MAX BAUCUS,
D.P. MOYNIHAN,
HARRY REID,
LARRY PRESSLER,
TRENT LOTT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

PURPOSE

The purpose of this legislation is to designate the National Highway System, consisting the National System of Interstate and Defense Highways and those principal arterial roads that are essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities, and trade. This legislation also amends current surface transportation law to provide greater flexibility to the States and to reduce certain administrative burdens. Title II of the legislation provides relief to States due to the impact of Section 1003(c) of the Intermodal Surface Transportation Efficiency Act. Title III makes technical and minor policy clarifications to current Federal-aid highway and safety programs. Title IV establishes a Regional Interstate Transportation Authority to own, construct, maintain, and operate a new crossing of the Potomac River on Interstate 495 at the current location of the Woodrow Wilson Memorial Bridge.

BACKGROUND AND NEED

NATIONAL HIGHWAY SYSTEM

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) requires Congress to designate the National Highway System (NHS) by September 30, 1995. The purpose of the National Highway System, as stated in ISTEA, is "to provide an interconnected system of principal arterial routes which will serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations; meet national defense requirements; and serve interstate and regional traffic."

The Secretary of Transportation has transmitted to Congress a system map of routes to be included in the final NHS. The NHS as designated is comprised of approximately 160,955 miles, 75 percent of which are rural roads, and 25 percent of which are urban roads.

According to the Federal Highway Administration (FHWA), the NHS carries over 40 percent of the nation's highway traffic and 70 percent of its truck freight traffic. The NHS represents 4 percent of the nation's 4 million miles of public roads.

The NHS is needed more than ever because of America's reliance on its transportation system. Over 90 percent of the U.S. population lives within 5 miles of an NHS road. Nearly 90 percent of U.S. counties have NHS mileage running through them. These counties account for 99 percent of all manufacturing jobs, 97 percent of the mining jobs, and 93 percent of all farming jobs.

The NHS approved in this Conference report is the result of a process involving extensive consultations between FHWA, the States and metropolitan planning organizations. FHWA and the States cooperatively developed the system based on criteria of efficiency, connectivity, and equity among the States. State and local officials were actively involved in the process, especially in the identification of routes.

The FHWA determined that traffic volume, service to destination points, and interstate, intrastate, and interregional connectivity were useful indicators of efficiency. These indicators became the analytical criteria for including individual routes in the illustrative system. Another key element that the FHWA considered was the mileage distribution among the States between urban and rural areas.

With the illustrative NHS as a starting point, the States submitted to the FHWA their recommended systems based on assigned urban and rural mileage targets. The FHWA then worked with the States to finalize the system. On December 9, 1993, the Secretary transmitted to Congress a proposed NHS based on its review of, and adjustments to, the State route submissions.

Section 1006(c) of ISTEA also required the States to complete a functional reclassification of all public roads and streets and required the Secretary of Transportation to use the functional roads classification in preparing the NHS. Reclassification was important for the NHS designation process because it identified roads eligible for designation as NHS routes. Under ISTEA, only principal arterials are eligible as NHS routes, unless they are part of STRAHNET.

Cooperation among the States over many years had resulted in generally recognized interstate and interregional routes that connected across State borders. In cases where inconsistencies existed, FHWA consulted with the States and made determinations of routes to be included based on consideration such as traffic volume, connectivity and service to destinations as well as inclusion of routes in existing State long range plans.

TITLE I—NATIONAL HIGHWAY SYSTEM

Senate bill

The Senate bill approves the most recent National Highway System (NHS), submitted to Congress by the Secretary of Transportation. The Senate bill provides that the Secretary may at the request of a State add a new route segment to the NHS or delete an existing route segment and any connection to the route segment, as long as the segment or connection is within the jurisdiction of the requesting State and the total mileage of the NHS, including any route segment or connection proposed to be added, does not exceed 165,000 miles. The provision also specifies that if a State requests a modification to the NHS as adopted by Congress, the State must work in cooperation with local officials. This cooperative process between the State and local officials will be carried out under the existing transportation planning activities for metropolitan areas and the statewide planning process established under ISTEA. The Senate bill provides that Congress will not approve or disapprove any modifications made to the NHS subsequent to enactment of this legislation. The Secretary should instead work in cooperation with the State and local officials in considering modifications.

House amendment

The House amendment approves the most recent NHS submitted to Congress by the Secretary. The provision requires that future modifications must be approved by Congress. Not later than 180 days after the enactment of the NHS bill, the Secretary shall submit to Congress the proposed modifications to the National Highway System, including connections to intermodal transportation facilities and upon completion of feasibility studies, the routings of high priority corridors not already on the NHS. The House provision makes connections to intermodal facilities that are consistent with the Secretary's criteria eligible to receive NHS funds until Congress modifies the NHS to include connections to intermodal facilities. The House amendment continues current law as to total mileage allowed on the NHS. The mileage of highways on the NHS shall not exceed 155,000 miles; except that the Secretary may increase or decrease the maximum mileage by not more than 15 percent.

Conference substitute

The Conference substitute incorporates selected provisions of the Senate bill with selected provisions of the House amendment. Future modifications (other than intermodal connectors) to the NHS will be approved by the Secretary and will not require Congressional approval. The Conference substitute continues current law on the total mileage of highways allowed on the NHS. The Conference substitute allows for a one time Congressional approval for intermodal connectors. When approving future connectors, the Secretary, in considering whether a facility is a major facility, is to recognize the significance of the intermodal terminal within a State or any plans that the States, Metropolitan Planning Organizations (MPOs) or others may have for improving the access to the intermodal terminal.

A connector that is determined to be significant by the State, MPOs and local officials, and proposed to be included in the NHS, is to be given priority consideration by the Secretary.

Intermodal connectors on the NHS are eligible for NHS funds. No additional Federal designs or performance standards or funding set asides are to be applied to NHS connectors.

After this one time approval, future intermodal connectors will be approved by the Secretary, not Congress. The Conference substitute adopts the House provision on interim eligibility of NHS funds for intermodal connectors prior to approval of the connectors by the Congress.

TITLE II—TRANSPORTATION FUNDING FLEXIBILITY

Senate bill

The Senate bill contains no comparable provision regarding section 1003(c) of ISTEA.

The Senate bill contains several provisions that provide States relief from Federal mandates.

Section 117 of the Senate bill strikes the current provision requiring States to certify they are implementing the management systems and related penalty provisions and inserts a new provision that gives States the option to elect not to implement one or more of the systems or parts thereof. The Secretary is still required to issue regulations and submit annual reports to Congress on the status of implementation of the systems and is required to issue an additional report with recommendations on whether, and to what extent, the systems should be implemented.

Section 106 repeals the requirements and penalty provisions for the use of crumb rubber in asphalt pavement.

Section 120 provides that, notwithstanding any requirements of the Metric Conversion Act of 1975, no State is required to erect or modify any highway signs that establish speed limit, distance, or other measurements using the metric system. Section 120 enables States to request a waiver, until September 30, 2000, of any requirement that a State use or plan to use the metric system with respect to designing, preparing plans, specifications and estimates, advertising, or taking any other action with respect to Federal-aid highway projects or activities.

Section 115 of the Senate bill repeals the national maximum speed limit for non-commercial motor vehicles.

Section 142 repeals the penalty for noncompliance for motorcycle helmets.

House amendment

The House amendment contains several provisions that provide additional funding and flexibility to the States to remediate the 13 percent reduction in FY96 budget authority forced by section 1003(c) of ISTEA.

Section 203 creates a State High Priority Project Restoration Program for fiscal years 1996 and 1997 and sets out the eligibility use of such funds. Funds may be spent on any purpose eligible under title 23. This program redistributes funds from rescissions of previously apportioned or allocated budget authority.

It provides that there are authorized to be appropriated, out of the Highway Trust Fund, (other than the Mass Transit Account), to carry out this section $321,420,595 for fiscal year 1996 and $155,000,000 for fiscal year 1997. These funds are derived from rescissions of budget authority previously made available.

Section 204 rescinds funds from previously authorized projects that are no longer viable and from unobligated balances of funds derived from the Highway Trust Fund and reduces the authorized funding levels for certain programs funded from the Highway Trust Fund for fiscal years 1996 and 1997. It provides that certain funds made available for fiscal years 1996 and 1997, shall be transferred to carry out section 203.

Section 205 provides States additional flexibility to spend some of their unobligated balances on their highest surface transportation priorities in an amount equal to the net amount of the reduction in budget authority each State shall receive as a result of section 1003(c). In determining the net amount of each State's reduction, the Secretary shall deduct the amounts allocated to each State in fiscal year 1996 pursuant to the High Priority Project Restoration Program in section 203 of this Act, and any amounts made available to the States pursuant to Section 157(a)(4)(B)(iii) of title 23.

Subsection (c) of this section directs that funds allocated to urbanized areas with a population of over 200,000 shall be obligated in such areas unless the Metropolitan Planning Organization designated in such area concurs that the State may transfer such funds out of such urbanized area. Subsection (d) permits a State to designate for transfer up to one-third of funds apportioned or allocated to the State for Interstate Construction and not obligated as of September 30, 1995. Subsection (e) provides that unobligated balances of funds apportioned to the States under the Congestion Mitigation and Air Quality Program (CMAQ) may be transferred by a State under section 203 but such funds must be obligated in non-attainment areas as defined by the Clean Air Act.

Subsection (f) provides that the funds made available to carry out this section shall be available for obligation for four fiscal years and shall be subject to the provisions of title 23.

Section 206 clarifies the method of distribution of funds made available under the minimum allocation program in fiscal years 1996 and 1997. It provides that if the amounts authorized to be made available for minimum allocation exceed the amounts required to be distributed by ISTEA to the States under the minimum allocation program, then any additional amounts shall be distributed first to each State in such amount as may be necessary so that such State receives the full amount of minimum allocation that would have been allocated to such State without the application of section 1003(c). If any excess funds remain, then the excess funds would next be distributed to each State in the amount necessary for each State to receive the full amount authorized for projects authorized in ISTEA that would have been allocated without the application of section 1003(c). If any excess remain after this distribution, then such funds shall be allocated to each State in the final ISTEA percentages.

The House amendment also contains several provisions that provide the States relief from Federal mandates.

Section 207 repeals the crumb rubber mandate and directs the Secretary not to penalize States for failure to implement management systems during FY96.

Section 324 of the House amendment prohibits the Secretary from requiring the States to expend Federal or State funds to construct, modify or erect or otherwise place any sign relating to distance, or other measurements to establish the use of the metric system on highways signs before September 30, 1997.

Section 348 repeals the national maximum speed limit and all related enforcement requirements for all motor vehicles.

Section 349 is identical to the Senate provisions that repeals the penalty for noncompliance for motorcycle helmets.

Conference substitute

The Conference substitute modifies the House bill related to section 1003(c) of ISTEA. The House provision to create a State High Priority Project Restoration Program is eliminated. The Conference substitute modifies the rescissions of previously apportioned or allocated budget authority. As a result of the modifications, $153,000,000 is provided in FY96 and 97 for distribution to all States.

The Conference substitute also modifies the House unobligated balance flexibility provisions. A State may not designate unobligated CMAQ or STP Transportation Enhancement funds for uses under this section, unless the Secretary determines that there would not otherwise be sufficient funding available to pay the Federal share of a project in FY96 and that the State has exhausted all flexibility and transferability to it under this section for such project.

The House recedes to the Senate on the provisions relating to the suspension of management systems.

The Conference substitute adopts the repeal of crumb rubber requirements and penalties.

The Conference substitute adopts the Senate provision on metric requirements and signs, as modified.

The Senate recedes to the House provision repealing the national maximum speed limit with a modification to provide that the Federal repeal takes effect 10 days after the date of enactment. During this period, a Governor may provide a period of time for the state legislature to meet the consider whether to revise the state law regarding speed limits. If the Governor does not take action, the provision takes effect 10 days after the date of enactment of this Act.

The conference substitute adopts the identical provision that repeals the penalty for noncompliance for motorcycle helmets and ensures that it is effective September 30, 1995. No State is to be penalized for lack of a motorcycle helmet law in FY96. States shall be permitted to return to highway construction accounts any funds that were transferred to Section 402 safety programs as a result of the Section 153 penalty for FY96.

States experiencing significant rail safety problems are urged to continue obligating these funds for railway-highway grade crossing improvement and hazard elimination project as provided under section 130 of title 23.

The Secretary, in consultation with the State of California, is urged to give priority consideration to a project to add one north bound lane from the I-15 Route 58 interchange to East Main Street on I-15. The Secretary and State of California are encouraged to use unobligated balances and the flexibility granted by this Act for design and construction of this project.

TITLE III—MISCELLANEOUS HIGHWAY PROVISIONS

TRAFFIC MONITORING, MANAGEMENT, AND CONTROL ON NHS

Senate bill

The Senate provision makes capital and operating costs for traffic monitoring, management, and control facilities and programs eligible for NHS funds.

House amendment

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision with a modification to amend section 101(a) of title 23 for the definition of "project" by adding "and any other undertaking eligible for assistance under this title," to conform the definition of project to ISTEA eligibility.

TRANSFERABILITY OF APPORTIONMENTS

Senate bill

This section increases the percentage of Highway Bridge Replacement and Rehabilitation Program (HBRRP) apportionments that a State may transfer to its NHS or Surface Transportation (STP) program from 40 to 60 percent.

House amendment

No comparable House provision.

Conference substitute

The Conference substitute modifies the Senate provision to permit a State to transfer 50 percent of its Bridge apportionments to its NHS or STP program.

QUALITY IMPROVEMENT

Senate bill

The Senate bill contains no comparable provision.

House amendment

This section directs the Secretary to require the States to conduct an analysis of the life-cycle costs for projects on the NHS with an estimated total project cost of $25 million or more.

This provision directs the Secretary to require the States to conduct value engineering analyses of all projects on the NHS with an estimated total cost of $25 million or more.

Conference substitute

The Conference adopts the House provision with the modification that the analysis of life cycle costs pertains to the "usable project segment" instead of "total project cost." Life cycle cost analysis is a process that protects transportation investment. The use of life cycle cost analysis on higher-cost Federal-aid NHS projects will reduce long-term costs and improve quality and performance.

The Department of Transportation may require value engineering or life cycle cost analyses requirements only on projects for which such analyses are required by this provision. A State remains free to choose to undertake such analyses on additional projects at a State's discretion. The Department may not be prescriptive as to the forms of life cycle cost or value engineering analyses that a State must undertake in order to satisfy a life cycle cost or value engineering analysis requirement.

DESIGN CRITERIA FOR THE NATIONAL HIGHWAY SYSTEM

Senate bill

This provision amends section 109 of title 23, United States Code, which relates to standards for proposed highway projects, to indicate that planned, as opposed to merely probable, future traffic needs should be met by the proposed project.

In addition, section 109(c) is amended to assure that the "constructed" and "natural" environment, the environmental, scenic, aesthetic, historic, community, and preservation impacts, and access to other modes of transportation are considered in the design of the NHS projects (except for interstate construction) for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation. The section further directs the Secretary, in cooperation with State highway agencies, to develop NHS criteria for such projects that include the consideration of factors noted above. The Secretary shall also consider the results of the AASHTO committee process, as set forth in its "Policy on Geometric Design of Highways and Streets," and appropriate public input.

This provision also amends section 109(q) of title 23 to allow the Secretary to approve projects for the NHS, including the Interstate System, that may not meet the criteria developed in response to subsections (b) and (c) but are designed to preserve environmental, scenic, or historic values; to ensure safe use of the facility; and to comply with subsection (a).

House amendment

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision, but replaces "shall" with "may" in reference to design criteria for NHS projects. Sections 109(c) and 109(q) are discretionary on States and the Secretary. These provisions are not requirements for NHS projects.

The development of any design criteria or any other activity carried out under this section should be an inclusive process allowing significant opportunity for public participation and comment throughout the process. Any process the Secretary or the American Association of State Highway and Transportation Officials carry out under this section should involve State and local officials, and individuals and organizations representing environmental, scenic, aesthetic, historic, community, preservation, bicycling, and pedestrian interests both in developing or adopting any criteria or process under this section.

APPLICABILITY OF TRANSPORTATION CONFORMITY REQUIREMENTS

Senate bill

Section 105 amends section 109(j) of title 23, United States Code, to confirm that the transportation conformity requirements of the Intermodal Transportation Efficiency Act of 1991 (ISTEA) and the Clean Air Act Amendments of 1990 apply only to areas that have been designated as "nonattainment" under the Clean Air Act, and to areas that have been redesignated as attainment, but that are still subject to the maintenance plan requirements of the Clean Air Act section 175A (24 U.S.C. 7505a).

Section 105 also clarifies that areas designated as nonattainment under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) are required only to conduct a conformity analysis for those specific transportation-related pollutants for which an area is designated nonattainment.

House amendment

This section is identical to the Senate provision.

Conference substitute

The Conference adopts the provision.

MOTORIST CALL BOXES

Senate bill

The Senate bill contains no comparable provision.

House amendment

This provision amends section 131(c) of title 23, United States Code, to allow signs, displays, and devices identifying and announcing free motorist aid call boxes and their sponsorship by corporations or other organizations in areas adjacent to the Interstate System and the primary system.

Conference substitute

The Conference adopts the House provision with modifications. Sponsorship signs may be located on the call box and the call box post. Sponsorship signs on the call box post may be erected in intervals not to exceed one per every 5 miles. States are required to place 20 percent of the call boxes with sponsorship logos in rural areas outside of urbanized areas.

QUALITY THROUGH COMPETITION

Senate bill

This provision amends section 112(b) of title 23, United States Code, relating to the letting of contracts and subcontracts funded in whole or in part with Federal funds under the Federal-aid highway program.

The recipient of Federal funds must accept and use indirect cost rates established by a government agency in accordance with Federal Acquisition Regulations for one-year applicable accounting periods in estimating, negotiating, and administering contracts. Recipients must notify affected firms before requesting or using the cost and rate data and must keep the information confidential.

The provisions of this section take effect upon enactment of the bill, however, a State may enact legislation to adopt an alternative process to promote engineering and design quality and to ensure maximum competition by professional companies providing engineering and design services.

House amendment

The House provision is identical to the Senate provision, except that the provisions of section 321 will not take effect until two years after the date of enactment unless the State adopts an alternative process to promote engineering and design quality and to ensure maximum competition by private companies providing engineering and services. The House provision also repeals the pilot program for uniform audit procedures provided in section 1092 of ISTEA.

Conference substitute

The Conference substitute adopts the provision with a modification that the section will not take effect until one year after the date of enactment of this legislation. During this period, a State may adopt an alternative process. If the Secretary of Transportation determines that the legislature of the State did not convene and adjourn a full regular session during such one year period, the Secretary may extend the one year period until the adjournment of the next regular session of the legislature.

LIMITATION ON ADVANCE CONSTRUCTION

Senate bill

This provision amends section 115(d) of title 23, United States Code, to permit the Secretary to approve an application for advance construction, provided the project is on the State's transportation improvement program (STIP). The STIP is fiscally constrained under section 135(f) of title 23, United States Code. The current limitation on advance construction requires that an authorization be in effect one year beyond the fiscal year for which the application for advance funding is sought, thus limiting the States' flexibility to advance construction in the final year of a multiyear authorization act, even though the life of the Highway Trust Fund extends beyond the authorization period.

House amendment

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision. This section will allow for the greater use of advance construction during the final year of a multi-year authorization by allowing the Secretary to approve the use of advance construction for any projects on a State transportation improvement plan, including projects beyond the current authorization period.

The current limitation on advance construction requires that an authorization be in effect one year beyond the fiscal year for which the application for advance funding is sought, thus limiting the States' flexibility to advance construct in the final year of a multi-year authorization act, even though the life of the Highway Trust Fund extends beyond the authorization period.

PREVENTIVE MAINTENANCE

Senate bill

Section 108 makes preventive maintenance activities eligible for Federal assistance under title 23 if the State demonstrates to the satisfaction of the Secretary that the activity is a "cost-effective means of extending the life of a federal-aid highway."

House amendment

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

FEDERAL SHARE

Senate bill

The Senate bill amends section 217(f) of title 23, United States Code, by eliminating the current provision that sets the Federal share for bicycle and pedestrian projects at 80 percent. Instead, the Federal share for these projects will be established under the provisions of subsection 120(b) of title 23. This change will result in the treatment of the Federal share for bicycle and pedestrian projects in a similar manner as that allowed for Federal-aid highway projects in general.

The provision amends section 1021(c) of ISTEA, which was previously amended by section 417 of the Department of Transportation and Related Agencies Appropriations Act, 1993.

The provision raises the Federal share for the intermodal connector to the Northwest Arkansas Region Airport from U.S. Highway 71 in Arkansas to 95 percent.

House amendment

Section 350 of the House provision amends section 120(c) of title 23, United States Code, by adding safety rest areas to the list of safety projects that quality for 100 percent Federal funding.

Conference substitute

The Conference adopts the Senate provisions and modifies the House provision. The purpose of the House provision is to address a safety problem related to truck driver fatigue.

ELIGIBILITY OF BOND AND OTHER DEBT INSTRUMENT FINANCING FOR REIMBURSEMENT AS CONSTRUCTION EXPENSES

Senate bill

The Senate bill provides that eligible bond or debt financing instrument costs include bond and debt financing instrument principal and interest, and other costs associated with bond or debt financing instrument issuances, provided that the proceeds of such bonds or debt financing instruments are used on eligible Federal-aid projects. Existing section 122 of title 23 relating to payments to States for bond retirement, limits Federal participation to retirement of bond principal on the former Federal-aid primary and urban systems, and to Interstate substitute projects (and authorizes participation in interest and incidental costs as well as principal retirement, in connection with the sale of such bonds relating to Interstate System projects).

This section clearly defines eligible bond costs, provides greater flexibility and broadens eligibility to States for Federal-aid projects constructed with bond or debt financing instrument proceeds, and permits States to leverage additional infrastructure investment. At the same time, this section makes clear that although bond or debt financing instrument costs are eligible for Federal participation (as a cost of construction under section 101 as amended), such eligibility does not constitute a Federal commitment, obligation or guarantee. This section preserves the tax exempt status of any State issued bonds or debt financing instruments under sections 103 and 149(b) of title 23 and attracts additional investment in such issuances at a lower cost to the State.

The section also makes a conforming amendment to the definition of "construction" in section 101(a) of title 23, inserting "bond costs and other costs relating to the issuance of bonds or other debt instrument financing in accordance with section 122" to the definition.

House amendment

The House amendment contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

VEHICLE WEIGHT AND LONGER COMBINATION VEHICLES EXEMPTION

Senate bill

Section 136 of the Senate bill allows the State of Iowa to permit the use of certain commercial motor vehicles over 80,000 pounds on Interstates 29 and 129 in Sioux City and allows Iowa to operate certain longer combination vehicles (LCVs) on the same routes.

Section 138 amends section 127 of title 23, United States Code, to exempt certain specialized hauling vehicles operating on the 104-mile portion of Wisconsin State Route 78 and United States Route 51 from the vehicle weight limitations in section 127 upon the inclusion of the route as part of the Interstate System under section 139 of title 23.

House amendment

The House amendment contains an identical provision concerning Wisconsin. The House bill contains no comparable provision addressing Sioux City, Iowa.

Conference substitute

The Conference adopts the Senate provision as modified.

TOLL ROADS

Senate bill

Section 110 of the Senate bill provides that the Federal share for participation in toll highways, bridges and tunnels shall be determined by the State, but shall not exceed 80 percent. This provision replaces the current Federal share limitations of 50 percent or 80 percent, depending on the type of project.

Section 140 includes the Centennial Bridge in Rock Island, Illinois, under section 129 of title 23, which relates to toll agreements. The city may enter into a section 129 toll agreement with the FHWA to amend the terms of the toll agreements.

Section 144 permits a State to loan an amount, up to the full Federal share, of a toll or non-toll project that has a dedicated revenue source to a public entity constructing or proposing to construct a toll facility or non-toll facility with a dedicated revenue source.

Section 129 allows the State of Florida to use tolls collected along the portion of I–75 referred to as "Alligator Alley" to be used for environmental projects in Florida that are approved by the State and the Secretary of the Interior.

House amendment

The House amendment contains an identical provision concerning the Centennial Bridge in Rock Island, Illinois. Section 309 of the House bill amends section 129(c)(5) of title 23 to allow Federal participation in the construction of ferry boats and terminal facilities that operate between a State and a point in Canada.

Conference substitute

The Conference adopts the House and Senate provisions. Section 144 of the Senate bill is not intended to be used as a way to divert aviation revenue for non-aviation purposes. The dedicated revenue source referred to in this section does not include airport revenues, and specifically passenger facility charges, which under current law already are restricted to airport uses only.

Section 129 recognizes the Federal/State partnership agreement between the U.S. Department of Interior and the State of Florida. This section conforms with State law to allow Florida to utilize excess tolls generated on I–75 in South Florida (Alligator Alley).

Funds generated annually in excess of that required for outstanding contractual obligations, operation, and maintenance of highway and toll facilities and other related expenses can be used for environmentally-related project to restore the Everglades ecosystem.

SCENIC BYWAYS

Senate bill

The Senate bill contains no comparable provision.

House amendment

This provision amends section 131(s) of title 23, United States Code, to clarify that the Federal ban on new billboards on scenic byways does not restrict the authority of a State with respect to commercial and industrial areas along a scenic byway or roads designated pursuant to section 1047 of ISTEA. The section reaffirms the ability of States to establish standards stricter than those in Federal law.

Conference substitute

The Conference substitute codifies the United States Department of Transportation's current implementation of section 131(s) of title 23, United States Code. In designating a scenic byway for purposes of section 131(s) and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, a State may exclude from such designation any segment of a highway that is inconsistent with the State's criteria for designating scenic byways. The exclusion of a highway segment must have a reasonable basis. The Secretary of Transportation has the authority to prevent actions that evade Federal requirements.

APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS

Senate bill

This provision affects how certain third party sellers are treated for purposes of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. In general, it exempts certain "qualified organizations" (as determined under the Internal Revenue Code) from the requirements of the Uniform Act when they sell or donate real property to States for use in transportation enhancement activities. In two circumstances, this general rule would not apply: (1) when the Federal Government has approved a right-of-way acquisition before the involvement of a qualified organization; and, (2) when an organization has contracted with a State to acquire real property on behalf of the State.

House amendment

The House amendment contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

STREAMLINING FOR TRANSPORTATION ENHANCEMENT PROJECTS

Senate bill

This provision amends section 133(e) of title 23, United States Code, to allow the Secretary to advance funds to States for transportation enhancement activities if the Secretary certifies that the State authorizes and uses a process for the selection of transportation enhancement projects that involves representatives of affected public entities and private citizens with expertise related to such activities. Amounts to be advanced by the Secretary are limited to those necessary to make prompt payments for project costs. The Secretary is required also to develop categorical exclusions for transportation enhancement activities from the requirements of the National Environmental Policy Act (42 U.S.C. 4332). Finally, the Federal Highway Administration is required to develop, in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation, a nationwide programmatic agreement governing the review of transportation enhancement activities.

House amendment

The House amendment contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

METROPOLITAN PLANNING FOR HIGHWAY PROJECTS

Senate bill

The Senate bill contains no comparable provision.

House amendment

This House provision amends section 134(f) of title 23, United States Code, to add recreational travel and tourism to the factors that must be considered by metropolitan planning organizations in developing transportation plans and programs.

Conference Substitute

The Conference adopts the House provision.

NON-FEDERAL SHARE FOR CERTAIN TOLL BRIDGE PROJECTS

Senate bill

This provision amends section 144(l) of title 23, United States Code, to allow any non-Federal funds expended for the seismic retrofit of the Golden Gate bridge described in section 144(l) to be credited towards the required non-Federal match of Federal-aid seismic retrofit projects authorized for this bridge.

House amendment

The House bill contains an identical provision.

Conference substitute

The Conference adopts the provision.

CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM

Senate bill

Section 114(a) freezes the amount of money each State receives under the Congestion and Air Quality Improvement (CMAQ) Program at the fiscal year 1994 level. Geographical areas that are newly designated as nonattainment will not affect a State's CMAQ apportionment. This section also allows a State to use its funds apportioned under the CMAQ program in maintenance areas, as well as other nonattainment areas. Under this provision, as with current law, CMAQ funds may not be used for projects in areas designated as "traditional" or "incomplete data" nonattainment areas for ozone or in "not classified" nonattainment areas for carbon monoxide.

Subsection (b) of this section lifts the restriction against using CMAQ funds for the removal of pre-1980 vehicles ("scrappage" programs) and programs to reduce motor vehicle emissions resulting from extreme cold start conditions. It requires that activities under these programs and all programs listed in section 108(f) of the Clean Air Act must be publicly sponsored to be eligible for CMAQ funding.

Subsection (c) provides that the "hold harmless" apportionment adjustment under section 1015(c) of ISTEA would not be affected by the limitations included in this section during fiscal years 1996 and 1997.

Subsection (d) permits CMAQ funding for the establishment and operation of traffic monitoring, management, and control facilities or programs that are likely to contribute to the attainment of a national ambient air quality standard.

House amendment

The House provision is nearly identical, but contains no comparable provisions concerning scrappage or traffic monitoring.

Conference substitute

The Conference adopts the House provision on freezing CMAQ at the fiscal year 1994 level. The Conference adopts the Senate provision on traffic monitoring. The Conference substitute strikes the provision concerning vehicle scrappage.

This provision ensures that geographical areas that are redesignated to attainment status or areas that are newly designated as nonattainment will not affect a State's CMAQ apportionment. This section also allows a State to use its funds apportioned under the CMAQ program in any such maintenance area, as well as in other nonattainment areas, within a State. This provision does not affect the hold harmless and 90 percent of payments calculations. An additional purpose of the provision is to recognize ongoing needs in Clean Air maintenance areas.

OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS

Senate bill

The Senate bill requires that the States enact and enforce a law that the operation of a motor vehicle by an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater shall be considered to be driving under the influence or driving while intoxicated. In the event that a State has not enacted and is not enforcing such a law, the Secretary shall withhold 5 percent of highway construction funds on October 1, 1998, and 10 percent on October 1, 1999, and every year thereafter.

House amendment

The House provision is nearly identical but includes a grace period for compliance.

Conference substitute

The Conference adopts the House provision with a modification. A State meets the requirement if the State has enacted and is enforcing a law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol.

UTILIZATION OF THE PRIVATE SECTOR FOR SURVEYING AND MAPPING SERVICES

Senate bill

The Senate bill contains no comparable provision.

House amendment

This provision instructs the Secretary to issue guidance to encourage States to use the private sector for surveying and mapping service for highway projects to the maximum extent feasible.

Conference substitute

The Conference adopts the House provision with minor, technical modifications.

DONATIONS OF FUNDS, MATERIALS, OR SERVICES FOR FEDERALLY ASSISTED PROJECTS

Senate bill

This provision amends section 323 of title 23, United States Code, to permit States to receive as credit to the non-Federal share of a project the fair market value for donated materials or services. This section will increase the States ability to attract private capital and various in-kind services related to project development and construction by expanding the types of donations eligible for credit under section 323.

House amendment

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision. This section is consistent with sound fiscal management practices, which can be achieved through guidelines issued by the Administrator that may, among other things, require approval in writing, in advance for valuation of credits attributable to unpaid volunteer service. Nothing in this section is intended to interfere with the Secretary's sole discretion to disapprove a proposed valuation of unpaid volunteer services.

DISCOVERY AND ADMISSION AS EVIDENCE OF CERTAIN REPORTS AND SURVEYS

Senate bill

The Senate bill contains no comparable provision.

House amendment

This provision amends section 409 of title 23, United States Code, to clarify that data "collected" for safety reports or surveys shall not be subject to discovery or admitted into evidence in Federal or State court proceedings.

Conference substitute

The Conference adopts the House provision.

ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES

Senate bill

The Senate bill contains no comparable provision.

House amendment

Subsection (a) of this provision makes a technical amendment to section 410(d)(1)(E) of title 23, United States Code.

Subsection (b) amends section 410(d) to provide that a State shall be treated as having met the requirements of having a statewide program for roadside sobriety checkpoints if such a program violates the constitution of the State and if the State meets certain other safety requirements.

The requirement that a State provide that any person under the age of 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated is moved from the Supplemental Grants program to the Basic Grants program.

Subsection (c) makes a conforming amendment.

Conference substitute

The Conference adopts the House provision

REFERENCES TO COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Senate bill

The Senate bill contains no comparable provision.

House amendment

The House bill contains no comparable provision.

Conference substitute

This provision replaces specific statutory references in title 23, United States Code, to the "Committee on Public Works and Transportation" with the "Committee on Transportation and Infrastructure."

PUBLIC TRANSIT VEHICLES EXEMPTION

Senate bill

The Senate bill contains no comparable provision.

House amendment

This section extends until the reauthorization of the Federal-aid highway and transit programs the temporary waiver included in the fiscal year 1993 Department of Transportation Appropriations Act for overweight public transit buses traveling on the Interstate System.

Conference substitute

The Conference adopts the House provision.

USE OF RECYCLED PAVING MATERIAL

Senate bill

The provision requires the Federal Highway Administration, within 180 days after the date of enactment of this Act, to begin development performance grade classifications, in accordance with the Strategic Highway Research Program (SHRP), for crumb modifier binders. These testing procedures and performance grade classifications are to be developed in consultation with representatives of the crumb rubber modifier industry and other interested parties.

This section also requires the FHWA to make grants of up to $500,000 to each State for the development of programs to use crumb rubber from scrap tires to modify asphalt pavements. These grants may be used for the development of mix designs, for the placement and evaluation of field tests and for the expansion of State crumb rubber modifier programs in existence on the date the grant is made available.

This section provides funding for these research and grant programs from previously authorized funds under section 6005 of ISTEA for section 307(e)(13) of title 23, United States Code. This section directs that $500,000 be expended for research in fiscal year 1996, and $10 million be expended in each of the fiscal years 1996 and 1997 for grants to States to develop crumb rubber modifier programs.

In addition, this section strikes the definition of the term "asphalt pavement containing recycled rubber" as it appears in 1038(e)(1) of ISTEA and redefines it as "any mixture of asphalt and crumb rubber derived from whole scrap tires, such that the physical properties of the asphalt are modified through the mixture, for use in pavement maintenance, rehabilitation, or construction applications."

House amendment

The House amendment contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision without specific funding.

ROADSIDE BARRIER TECHNOLOGY

Senate bill

The Senate bill contains no comparable provision.

House amendment

This provision amends section 1058 of ISTEA by modifying the definition of innovative safety barriers.

Conference substitute

The Conference adopts the House provision.

CORRECTIONS TO MISCELLANEOUS AUTHORIZATIONS

Senate bill

This provision provides a general fund authorization for certain facilities in New York, New York.

House amendment

The House amendment contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision as modified. The State of New York is urged to consider the economic effect of the Gowanus Expressway Project on the neighboring community, in particular, to work with the communities affected and to minimize any long-term impairment of local businesses. The State is encouraged to appoint a community engineer, study traffic calming strategies and make all technical and other information concerning the project available and explained to the community.

The City and State of New York are urged to consider the original 1907 structures in the design of the ferry terminals at Whitehall Street.

CORRECTIONS TO HIGH COST BRIDGE PROJECTS

Senate bill

The Senate bill contains no comparable provision.

House amendment

The House provision provides technical amendments to two high cost bridge projects in ISTEA.

Conference substitute

The Conference adopts the House provision with additional modifications. The Buffalo and Fort Erie Peace Bridge Authority's plans for improvements to the Peace Bridge truck inspection facility may include construction of ramps and roadways to access or exit the Peace Bridge; the restoration of impacted areas; and other additional improvements necessary to facilitate the movement of truck traffic over the Peace Bridge.

CORRECTIONS TO CONGESTION RELIEF PROJECTS

Senate bill

The Senate bill makes a technical correction to a congestion relief project in ISTEA.

House amendment

The House provision provides a series of technical amendments to congestion relief projects in ISTEA.

Conference substitute

The Conference adopts the House provision with additional modifications.

HIGH PRIORITY CORRIDORS

Senate bill

The Senate provision amends the routing of certain existing high priority corridors, adds two additional high priority corridors and authorizes a feasibility study. It also requires the Secretary to designate certain route segments as Interstate routes when they are constructed to Interstate standards without regard to whether the segment is a logical addition or connection to the Interstate System as defined by section 139 of title 23, United States Code.

House amendment

The House provision amends the routing of certain existing high priority corridors, adds five additional high priority corridors, authorizes feasibility studies and makes technical corrections to existing high priority corridors.

The provision also requires the Secretary to designate certain of these routes as future Interstate routes, if they are not already designated, when the Secretary determines the routes meet Interstate standards and connect to the existing Interstate system and if the Secretary determines it to be a safe and useable segment.

Conference substitute

The Conference substitute contains modifications of both the House and the Senate provisions. The Conference substitute adopts the House provision concerning future Interstates. The provision is intended to permit States to erect signs along such designated routes as "future" Interstates upon enactment. States are permitted to use unobligated Interstate Construction balances on these future Interstates, if the pending Interstate Construction projects are not moving forward. States may not receive any additional Interstate Construction funding, after date of enactment, if funds are used on future Interstates. Unobligated interstate construction and interstate construction discretionary funds may continued to be expended on the original interstate segment. U.S. 220 in Pennsylvania shall be designated I–99.

This provision also directs that priority corridor 18, designated I–69, be extended "to the lower Rio Grande Valley at the border between the United States and Mexico." The Conferees, in order to clarify its intent, direct that the routes include United States Highway 77 from the Rio Grande River to Interstate Highway 37 and then to Victoria on U.S. Highway 281 from the Rio Grande River to Interstate 37; and U.S. Highway 83 from Brownsville, Texas to Laredo.

The current Lafayette North-South Corridor study is an evaluation of freeway alternatives running north-south through Lafayette, Louisiana. The surface Transportation and Uniform Relocation Assistance Act of 1987 authorized a study of the area and allocated $2.4 million to demonstrate the benefits to traffic flow and transportation of labor and materials by construction of a highway to provide continuous access between the interstate and highway and the Federal-aid primary system. The State provided approximately $600,000 for the project. The FHWA defined the study south of I-10. The extension of the study area will provide additional evidence as to the feasibility of completing the 4.5 mile Evangeline Thruway alignment project by producing a positive cost-benefit ratio as well as a positive public safety and environmental impact. No additional funding would be required. This provision does not violate the noise barrier provision discussed earlier in the report.

This section designates the CANAMEX Corridor. The name of this corridor does not imply primacy with respect to the North American Free Trade Agreement (NAFTA).

This section designates the Camino Real Corridor. In Wyoming, the routing of the Camino Real Corridor does not preclude future designations of other significant routes.

CORRECTIONS TO RURAL ACCESS PROJECTS

Senate bill

The Senate makes a technical correction to a rural access project in ISTEA.

House amendment

The House provision provides a series of technical amendments to rural access projects in ISTEA.

Conference substitute

The Conference adopts the House provision with additional modifications.

CORRECTIONS TO RURAL ACCESS PROJECTS

Senate bill

The Senate makes a technical correction to a rural access project in ISTEA.

House amendment

The House provision provides a series of technical amendments to rural access projects in ISTEA.

Conference substitute

The Conference adopts the House provision with additional modifications.

CORRECTIONS TO URBAN ACCESS AND MOBILITY PROJECTS

Senate bill

The Senate bill contains no comparable provision.

House amendment

The House bill provides a series of technical amendments to urban access and mobility projects in ISTEA.

Confernce substitute

The Conference adopts the House provision with additional modifications.

CORRECTIONS TO INNOVATIVE PROJECTS

Senate bill

The Senate bill makes a technical correction to an innovative project in ISTEA.

House amendment

This provision makes a series of technical amendments to innovative projects in ISTEA.

Conference substitute

The Conference adopts the House provision with additional modifications.

CORRECTIONS TO INTERMODAL PROJECTS

Senate bill

The Senate bill makes a technical correction to an intermodal projects in ISTEA.

House amendment

This provision makes a series of technical amendments to intermodal projects in ISTEA.

Conference substitute

The Conference adopts the House provision with additional modifications.

NATIONAL RECREATIONAL TRAILS

Senate bill

The Senate bill provides contract authority for the National Recreational Trails Program. This section amends the National Recreational Trails program, established in ISTEA, to provide that the Federal share of any trails project funded under the Recreational Trails Program is 50 percent. The existing State fuel tax requirement is eliminated. Further, this section defines the term "eligible State" to conform with the definition of that term contained in title 23, United States Code. This section adds a provision to section 104 of title 23 to provide that the Secretary shall expend, from administrative funds deducted under section 104(a), $15 million per year for FY96 and FY97, to carry out the recreational trails program.

House amendment

The House provision amends section 1302 of ISTEA to make certain amendments to the National Recreational Trails Program, including a provision requiring States to provide 20 percent of the program costs in the sixth year of the program. This section also provides that a State shall give priority to projects that mitigate and minimize impacts to the environment. In addition, a State may apply to the Secretary for an exemption from requirements for distribution of federal trail program funds between motorized and nonmotorized users. The Advisory Committee membership is increased to provide for a member representing the disabled community to serve on the Committee.

Conference substitute

The Conference adopts the Senate version with House modifications. The Federal share of a project will be 50 percent prior to fiscal year 2001 and thereafter a State shall be eligible to receive Federal funds under this program if the State agrees to provide an amount equal to 20 percent of the amount of Federal funds received by the State. States are encouraged to give priority consideration to environmental mitigation projects. A member representing the disabled community is to serve on the National Advisory Committee. For fiscal year 1996 and 1997, the program is funded at $15 million per year from the Federal Highway administration funds. This funding through the administrative funds is provided as an interim measure since the program funding, which is authorized in ISTEA at $30 million per year, has not been provided. When ISTEA is reauthorized, this program will be reviewed to correct funding difficulties by providing contract authority for the program.

INTELLIGENT TRANSPORTATION SYSTEMS

Senate bill

This provision amends section 6054 of ISTEA to allow the Secretary to use cooperative research and development agreements to carry out Intelligent Transportation Systems (ITS) activities. This provision also authorizes the Secretary to reallocate for ITS projects those ITS funds that have not been obligated by the end of the fiscal year after the year in which the funds were made available. Finally, this section amends ISTEA and other laws to change the official program name from "Intelligent Vehicle-Highway Systems" to "Intelligent Transportation Systems."

House amendment

The House amendment contains no comparable provision.

Conference Substitute

The Conference adopts the Senate provision. The Secretary should consider providing assistance to demonstrate the efficacy of the Pennsylvania Rural Highway Safety Trauma Network. Rural Emergency Service applications of Intelligent Transportation Technology are no less important than the urban congestion relief and mitigation projects commonly funded under this program. In this project, the proposed network will enable EMS providers attending to accident victims on NHS and other highways to establish and maintain contact with a network of 20 hospitals and a Level One Trauma Center, located in Danville, Pennsylvania.

ELIGIBILITY

Senate bill

This provision permits the Orange Street Bridge in Missoula, Montana, to be eligible for funding under the CMAQ program.

Section 126 permits the use of funds apportioned under sections 103(e)(4), 104(b), and 144, of title 23 (NHS, CMAQ, STP, Bridge program and Interstate Transfer) for improvements to a rail freight corridor between Central Falls and Davisville, RI.

Section 143 permits the use of Highway Bridge Replacement and Rehabilitation Program (HBRRP) funds, CMAQ funds, and railroad highway grade crossing safety funds for improvements to the former Pocono Northeast Railway Company freight line by the Luzerne County Redevelopment Authority.

Section 101 directs the Secretary, in cooperation with the State of Wyoming, to monitor the changes in growth along and traffic patterns of three route segments in Wyoming for the purpose of future consideration of the addition of the route segments to the NHS.

Section 102 amends section 103(I) of title 23, United States Code, to make the Alameda Transportation Corridor an eligible project for NHS funds.

House amendment

Subsection 341(a) amends section 108(b) of the Federal-aid Highway Act of 1956 (23 U.S.C. 101 note) to make the High Street to Causeway Street section of the Central Artery project eligible for Interstate Construction funds. No additional funding is authorized.

Subsection (b) makes certain revisions to the Interstate 95 and Pennsylvania Turnpike project authorized by section 162 of the Surface Transportation Assistance Act of 1982.

Subsection (c) prohibits the future use of Federal-aid highway funds to construct Type II noise barriers.

Section 353 of the House bill provides that Brightman Street Bridge in Fall River Harbor, Massachusetts, may be reconstructed to result in a clear channel of less than 300 feet.

Section 358 makes projects described in section 149(a)(62) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 and section one of P.L. 100–211 eligible under the Federal Lands Highway Program.

Conference Substitute

The Conference adopts the Senate provisions and modifies the House provisions. The Conference does not adopt the House provision in section 341(a).

The Conference adopts the Senate provision to allow the city of Missoula, Montana and the State of Montana to use congestion mitigation and air quality funds on a project or projects to add capacity to the Orange Street Bridge. No restrictions in the CMAQ program prohibiting the use of CMAQ funds for additional capacity shall apply to the Orange Street Bridge project and the use of CMAQ funds on the project.

Grade separations to be constructed as part of the Alameda Corridor Project are eligible for funding under section 104(b)(1). Portions of the Alameda Corridor Project that are exclusively freight rail are not eligible for NHS funds.

The Federal Highway Administration is to work collaboratively with the Nevada Department of Transportation, Clark County, the City of Henderson, and to the extent practicable, affected residents to develop a noise mitigation plan with the goal of alleviating noise for affected residents adjacent to Interstate 515.

MISCELLANEOUS CORRECTIONS TO SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987

Senate bill

The Senate bill makes a technical amendment to a rural access project and a technical amendment to a project included in the

Surface Transportation and Uniform Relocation Assistance Act of 1987.

House amendment

The House bill makes a technical amendment to a rural access project and technical amendments to certain projects included in the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Conference substitute

The Conference substitute adopts the Senate provisions and the House provisions with additional modifications. The Conference substitute makes existing funding available for the planning, design, and construction of up to 4.8 miles of Prater and Pete Manina Roads as part of the Rose Bluff Industrial Access Road Project authorized under section 1105(a)(2) of ISTEA. Funds are available for, among other purposes, widening, drainage improvements, and reconstruction.

ACCESSIBILITY OF OVER-THE-ROAD BUSES TO INDIVIDUALS WITH DISABILITIES

Senate bill

The Senate bill contains no comparable provision.

House amendment

This provision amends section 306(a)(2)(B)(iii) of the Americans With Disabilities Act (ADA) of 1990 to provide that accessibility requirements for private over-the-road buses must be met by small providers within three years after the issuance of final regulations and with respect to other providers, within two years after the issuance of final regulations.

Conference substitute

The Conference adopts the House provision. Under the Americans With Disabilities Act, DOT was required to issue regulations for over-the-road bus operators by July 1994. Under the ADA, compliance with these regulations is stated as six years after enactment of that Act or by July 1996 for large bus operators and seven years after enactment, or by July 1997, for small bus operators. However, to date, DOT has not yet issued final regulations under ADA and has no expected date for issuance, forcing over-the-road bus operators into a compliance burden with an unknown set of regulations. To avoid this result, this provision amends the ADA to change compliance dates to two and three years after issuance of final regulations for large and small over-the-road bus operators, respectively.

ALCOHOL AND CONTROLLED SUBSTANCES TESTING

Senate bill

The Senate bill contains no comparable provision.

House amendment

Subsection (a) amends section 5331(b)(1)(A) of title 49, United States Code, to repeal the preemployment alcohol testing requirement for certain transit workers. All other drug and alcohol testing requirements are retained.

Subsection (b) amends section 20140(b)(1)(A) of title 49 to repeal the preemployment alcohol testing requirement for certain railroad employees. All other drug and drug and alcohol testing requirements are retained.

Subsection (c) amends section 31306(b)(1)(A) of title 49 to repeal the preemployment alcohol testing requirement for operators of commercial vehicles. All other drug and alcohol testing requirements are retained.

Subsection (d) amends section 45102 of title 49 to repeal the preemployment alcohol testing requirement for certain employees of air carriers and the FAA. All other drug and alcohol testing requirements are retained.

Conference substitute

The Conference adopts the House provision.

NATIONAL DRIVER REGISTER

Senate bill

The Senate bill contains no comparable provision.

House amendment

This provision authorizes $2,550,000 for each of fiscal years 1995 and 1996 for the National Driver Register.

Conference substitute

The Conference adopts the House provision.

COMMERCIAL MOTOR VEHICLE SAFETY PILOT PROGRAM

Senate bill

The Senate bill contains no comparable provision.

House amendment

Subsection (A) directs the Secretary within 180 days of the application of an operator of motor vehicles with a gross vehicle weight rating of at least 10,001 pounds but not more than 26,000 pounds to exempt some or all of such vehicles and drivers of such vehicles from some or all of the regulations under sections 31136(e), 504 and 31502 of title 49. The Secretary will only exempt the vehicles or drivers if he finds the applicant has a current safety fitness rating issued by the Secretary and that the applicant will implement a program of safety management controls designed to achieve a level of safety equal to or greater than that resulting from compliance with the regulations in this section.

Subsection (B) provides that the Secretary and participants in the program shall periodically monitor the safety of vehicles and drivers exempted from regulations in this section. This provision also provides that if an exemption is granted it shall remain in effect until the Secretary finds that the operator has exceeded the average ratio of preventable accidents to vehicle miles traveled for a period of 12 months for this class of vehicles; or that the operator's exemption is not in the public interest and would result in a significant adverse impact on the safety of commercial motor vehicles.

Subsection (C) provides the factors the Secretary must consider when approving applications. The applicants approved to participate in the program must represent a broad cross section of fleet size and operators of vehicles between 10,001 and 26,000 pounds, and participation should be permitted for as many qualified participants as possible.

Subsection (D) prohibits the Secretary from granting exemptions to vehicles designed to transport more than 15 passengers, including the driver; or vehicles used in transporting hazardous materials.

Subsection (E) permits the Secretary to revoke or modify the participation of an operator in the program in the case of an emergency.

This provision directs the Secretary to conduct a zero-based review within 18 months after the date of enactment of the need and costs and benefits of all regulations issued under sections 31136(e), 504 and 31502 of title 49 to determine whether such regulations should apply to vehicles weighing between 10,001 and 26,000 pounds. After the review is completed, the Secretary is directed to grant such exemptions or modify or repeal existing regulations to the extent appropriate.

Conference substitute

The Conference substitute incorporates suggestions from the Department of Transportation, consumer groups, industry and safety advocates to ensure a reasoned balance between regulatory relief and safety. Therefore, the Conference substitute modifies the House provision in the following manner:

Subsection (A) provides that the Secretary shall carry out the program within 270 days after enactment. The Secretary, within 120 days of receiving an application for participation in the program, shall determine whether to exempt some or all of the eligible vehicles operated by the applicant, and some or all drivers of the vehicles employed by the applicant, from some or all of the regulations under sections 31136(e), 504 and 31502. The applicant must have a satisfactory safety rating or, if the applicant has not been rated, meet criteria set forth by the Secretary. The applicant and the Secretary must enter into an agreement that provides that the applicant, while participating in the program shall: (1) operate safely; (2) provide the Secretary with access to accident and insurance related information relevant to the safety performance of the applicant and such vehicles and drivers; (3) use in the program only drivers with good demonstrated safety records in the preceding 36 months; and (4) implement such safety management controls as the Secretary and the applicant agree are necessary to carry out the objectives of this subsection. Not all motor carrier operators who may wish to participate in the program have DOT safety ratings. As a result, these carriers, many small carriers, may be precluded from participating in the program as a result. The provision vests DOT with the authority to set forth criteria in lieu of a safety rating to permit unrated, but safe carriers to be eligible for the program.

Subsection (B) provides that the safety management controls must be designed to achieve a level of operational safety equal to or greater that that resulting from compliance with the current regulations.

Subsection (C) provides that the Secretary shall ensure that participants in the program are subject to a minimum of paperwork and regulatory burdens necessary to ensure compliance with the program.

Subsection (D) provides that the Secretary shall encourage the use of advanced technologies necessary to ensure compliance with the requirements of the program, including the use of on-board recorders. It is believed that advanced technologies may be an appropriate substitute for certain regulations.

Subsection (E) provides the factors the Secretary must consider in approving applicants for participation in the program. The Secretary must ensure that the participants represent a broad cross-section of fleet size and drivers of eligible vehicles and ensure participation by qualified applicants.

Subsection (F) provides that the Secretary must require each participant to modify the safety management controls applicable to each participant, if there is a material change in the regulations, to the extent necessary to reflect the material change in the regulations.

Subsection (G) provides that the Secretary and participants in the program shall monitor periodically the safety of vehicles and drivers subject to the program. The conferees recognize that periodically monitoring the safety performance of the holders of any waivers granted under this section will require DOT resources. In order to mitigate this impact, participants in this pilot program will be expected to maintain current and complete safety and accident data. The Secretary shall ensure that sufficient oversight is carried out to promote the adequacy and accuracy of such information. The Office of Motor Carriers at the Federal Highway Administration will consider whether the SAFESTAT or a similar system used in the Commercial Vehicle Information System project can be used to help monitor the safety performance of the participants in this pilot project.

Subsection (H) provides that a participant will participate in the program until the Secretary finds (1) the participant has exceeded the average ratio of preventable accidents to vehicle miles traveled for a period of 12 months for eligible vehicles, or (2) the participant has failed to comply with requirements established by the Secretary for participation in the program, or (3) continued participation in the program is not in the public interest.

Subsection (I) permits the Secretary to suspend or modify participation in the program in case of an emergency.

Subsection (J) provides that within 270 days after enactment, the Secretary, after notice and opportunity for comment, shall establish criteria for implementing the program. The program will take effect on or before the 270th day after enactment. The Secretary is also directed to establish interim criteria to ensure that the program may commence on the 270th day after enactment.

Subsection (K) provides that the eligible vehicles for this program are commercial motor vehicles weighing between 10,001 and 26,000 pounds, but not vehicles that transport more than 15 passengers, including the driver, or vehicles used in transporting hazardous materials.

This provision also directs the Secretary to conduct a zero-based review within 3 years after enactment of the need and the costs and benefits of all regulations issued under sections 31136(e), 504 and 31502 of title 49 to determine whether such regulations should apply to eligible vehicles. After the review is completed, the Secretary shall grant such exemptions or modify or repeal existing regulations to the extent appropriate.

For employers participating in this program, this section is not intended to eliminate DOT jurisdiction with respect to such employer's vehicles. The conferees specifically recognize that the sole responsibility for all safety regulation regarding commercial motor vehicles as set forth in Subtitle VI of title 49, United States Code, (and all regulations promulgated thereunder) shall continue to reside with the Secretary of Transportation, and not with any other Federal agency, including the Occupational Safety and Health Administration.

EXEMPTIONS FROM REQUIREMENTS RELATING TO COMMERCIAL MOTOR VEHICLES AND THEIR OPERATORS

Senate bill

The Senate provision extends to drivers of ground water well drilling rigs the same relief from limitations on cumulative hours of service over an eight consecutive day period currently provided to drivers of vehicles used exclusively in oil field operations under section 395.1(d)(1) of CFR 49. The drivers of ground water well drilling rigs remain subject to other Federal and State safety regulations including other hours of service limitations applicable to their operations.

The section further provides that the Secretary shall monitor the effects of this provision, and, if the Secretary finds that commercial motor vehicle safety has been adversely affected as a result of this provision, the Secretary shall report such findings to Congress.

House amendment

This provision establishes a series of exemptions from Federal regulations for certain specified motor carrier operations where there is a time-sensitive need for an exemption or where driving is incidental to the driver's overall duties. The exemptions shall take effect 180 days after enactment. The Secretary is also given authority to conduct a rulemaking to determine whether granting any of these exemptions is (i) not in the public interest and (ii) would have a significant adverse impact on the safety of commercial motor vehicles.

Subsection (a) directs that waivers be granted from certain Federal motor carrier regulations. Subsection (a)(1) grants an exemption from the Federal hours of service regulations for drivers transporting agricultural supplies or farm supplies during planting and harvesting seasons operating within a 100 air mile radius of the source of the commodities or the distribution point of the supplies. This exemption is intended to operate in a similar manner as the exemption granted 40 years ago for small package delivered during the Holiday season in December. This exemption is limited to the planting and harvesting seasons, as determined by the Governor.

Subsections (a)(2) and (a)(3) and (a)(4) modify the hours of service regulations for drivers who primarily transport water well drilling rigs, drivers used primarily in the transportation of construction equipment and materials and for drivers of utility vehicles. These are identical to relief granted for oil field drillers in 1962. These subsections permit the "clock" used to calculate a driver's hours of service time to return to 0 after taking 24 or more consecutive hours off. These activities are seasonal and the drivers spend long periods of time waiting or performing tasks unrelated to driving. These provisions maintain current maximum on-duty time and driving time regulations, but only affect when the driver's "clock" is reset. The House intends this exemption apply to operators who operate six or seven days per week.

Subsection (a)(5) permits a State to grant a limited exemption for part-time or substitute employees of towns and townships smaller than 3,000 persons to temporarily operate a snowplow which the regular driver who has a commercial driver's license is unavailable or additional vehicles are needed due to a snow emergency.

Subsection (d) contains a series of definitions. The House intends that the definition of the term "construction finished related products" includes asphalt and concrete, and that the term "construction personnel and construction equipment" includes construction maintenance vehicles.

Conference substitute

The Conference adopts the Senate provision and the House provision as modified. The Secretary may conduct a rulemaking proceeding to determine whether granting any exemption provided by subsection (a) (other than paragraph (2)) is not in the public interest and would have a significant adverse impact on the safety of commercial motor vehicles. If the Secretary makes such a determination, then the Secretary may prevent the exemption from going into effect, modify the exemption, or revoke the exemption. All exemptions (except with respect to ground water well drilling rigs and farm suppliers) take effect 180 days from the date of enactment.

The Secretary may develop a program to monitor the exemption, including agreements with carriers to permit the Secretary to examine insurance information maintained by an insurer on a carrier. The Secretary is directed to monitor the safety performance of drivers that are subject to an exemption under this section and if the Secretary determines that public safety has been adversely affected by an exemption, the Secretary must report to Congress.

The definitions of "transportation of construction materials and equipment" and "utility service vehicle" are also modified. It is intended that construction maintenance vehicles to apply to any vehicle driven to a job site and used in the transportation of tools or parts for on-site repair or maintenance of equipment or machines that are employed in construction. In the definition of "Transportation of Construction Materials and Equipment" the term "construction and pavement materials" includes all materials used in construction that are transported in quantity to a construction site. The provision does not include appliances and plumbing fixtures. In addition, the provision requires that the driver be used "primarily in the transportation of construction materials and equipment". The provision does not apply to a driver whose travel to and from the construction site only incidentally includes the carrying of construction materials and equipment. In addition, because of the 50 air-mile radius restriction many items manufactured more than 50 air-miles from the work site would not be covered by this exemption by virtue of the length of the delivery trip to the construction site.

The conference substitute represents a reasonable and flexible approach for public utility service vehicles and their operators from the Department's regulatory requirements regarding "hours of service." The operation of utility service vehicles in the course of business has not been demonstrated to pose a significant safety risk for the general public.

In keeping with the nature and intent of this section, the conferees expect the Secretary to take all actions necessary to minimize requirements for monitoring, recordkeeping, and reporting as such activities relate to the hours of service issue. The exemptions (except as otherwise directed) take effect in 180 days, unless otherwise specified or modified by the Secretary.

WINTER HOME HEATING OIL DELIVERY STATE FLEXIBILITY PILOT PROGRAM

Senate bill

The Senate bill contains no comparable provision.

House amendment

The House bill contains no comparable provision.

Conference substitute

The provision directs the Secretary to implement a one-season pilot program to permit up to five States flexibility for winter deliveries of home heating oil. The pilot program will permit the Secretary to permit States, for the purposes of determining maximum on-duty time for drivers of intrastate home heating oil deliveries that occur within 100 air miles of a central terminal or distribution point, to permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours.

The pilot program is limited to the winter heating season that occurs in the 6 month period following November 1, 1996. Up to five States may be approved to be included in the program. Prior to approving a State to participate in the program, the Secretary must determine that the State will meet several safety and enforcement criteria. Upon initial approval, the Secretary may permit a State to participate for 15 days during the winter season of the State (as determined by the Secretary and the Governor). The Secretary may permit a State to continue in such program for periods of up to 30 days if he finds that such continued participation in the program is consistent with this section.

The Secretary is permitted to suspend a State's participation in the program if the Secretary finds that the State has not complied with the participation criteria or if there has been a significant adverse impact on public safety or in case of an emergency.

Upon completion of the program, the Secretary is directed to review the results of the program to determine whether to amend the Federal regulations regarding maximum onduty time to provide flexibility to motor carriers delivering home heating oil during winter periods.

Deliveries of home heating oil occur during concentrated periods during winter months. In many States, particularly New England and Northeastern States, many citizens rely on home heating oil for heat during winter months. This provision is intended to permit States flexibility for limited periods for one winter season to permit the Secretary to determine whether such flexibility is needed on a permanent basis.

SAFETY REPORT

Senate bill

The Senate bill contains no comparable provision.

House amendment

This provision directs the Secretary, in cooperation with any State that raises the speed limit above the level permitted under section 154 of title 23 as of September 15, 1995, to submit to Congress a study of the costs to the State of deaths and injuries resulting from motor vehicle crashes and the benefits associated with the repeal of the national maximum speed limit.

Conference amendment

The Conference adopts the House provision.

MORATORIUM ON CERTAIN EMISSIONS TESTING REQUIREMENTS

Senate bill

This provision prevents the Administrator of the Environmental Protection Agency from requiring States to use the test-only, I/M240 technology for enhanced inspection and maintenance programs required under the Clean Air Act Amendments of 1990. Further, the EPA is prohibited from disapproving a State implementation plan revision on the basis of an automatic discount factor of 50 percent for States that use a decentralized test and repair program.

House amendment

No comparable provision

Conference substitute

Under sections 182 and 187 of the Clean Air Act, the Environmental Protection Agency (EPA) has developed regulations for enhanced inspection and maintenance programs that require emissions testing for vehicles already in use. The EPA rules are based on a testing technology called I/M240 that is not practical in the decentralized system of emissions testing that has been relied on in the past. Although the Clean Air Act Amendments of 1990 required EPA to develop an "enhanced" program that would increase emissions reductions, it was not intended that EPA impose a centralized system.

The 1990 Amendments include some specific elements for these enhanced programs. Beyond these requirements, which do not include centralized testing stations or a particular testing technology, States were to be given broad latitude to design programs meeting a general performance standard. Accordingly, the Conference report prevents the Administrator from requiring States to use the test-only I/M240 in enhanced programs.

Another element of EPA's inspection and maintenance regulations authorized States to develop decentralized programs carried out by service stations, dealerships and other facilities that offered both emissions testing at facilities that also perform repair work (to bring vehicles failing an emissions test into compliance). However, the EPA program applied an automatic discount factor of 50 percent to the States that used such decentralized programs. The Conference report overturns this element of EPA's regulation. As the Clean Air Act provides, EPA is to base credits for a State program on available information about the actual effectiveness of each aspect of the program as proposed and is not to apply an automatic discount factor because a program is decentralized or allows emissions tests and facilities that also perform repairs.

States have developed many new options to improve programs that reduce emissions from vehicles in the existing fleet. In many cases, States have concluded that some of these options achieve greater emissions reductions than EPA models and guidance now provide. The Conference report allows States to design inspection and maintenance programs based on their own estimates of the emissions reduction credits that are appropriate for each element. EPA is to approve State programs based on the emissions reduction credits as estimated by a State, if the State estimates reflect a good faith expectation of performance. The EPA approval is only for an interim period of 18 months. Approval based on the State's proposed emission reduction credit can be made permanent, if information from the interim program demonstrates that the credits are appropriate.

States may submit interim programs for consideration for a period of 120 days after enactment of this legislation. The Administrator may approve a State proposal, even if the State regulations have not been finalized during this period provided that the State has all of the statutory authority necessary to carry out the program and the program has been proposed as a regulation by the State.

In proposing interim credits, States are required to make good faith estimates regarding the performance of their enhanced inspection and maintenance program. It is expected that States will experiment with various network types and control equipment for which it may be difficult to estimate emission reductions. Therefore, to satisfy good faith estimates it is only necessary that the proposed credits have a basis in fact. Good faith estimates of a State's inspection and maintenance program are estimates produced by a State which are based on any of the following: the performance of any previous automobile emissions inspection and maintenance programs; the results of a remote sensing or other roadside testing techniques; fleet and VMT profiles; demographic studies; or other evidence which has relevance to the effectiveness or emissions reducing capabilities of an emissions inspection and maintenance program.

The data collection effort contemplated during and after the 18 month interim period should be a joint effort between the individual States and the United States Environmental Protection Agency.

It is expected that proposed credits and the emission reductions demonstrated through program data may not match exactly. EPA should use this data to adjust credits on a program basis as demonstrated by the program data.

The Conference agreement makes changes to the requirements and assumptions under section 182 with respect to inspection and maintenance. Section 184 of the Clean Air Act by reference to section 182 of the Clean Air Act requires that each area within the ozone transport region with a population of 100,000 implement an inspection and maintenance program. By changing the underlying requirements of section 182 of the Clean Air Act, it is anticipated that the requirements for inspection and maintenance under section 184 of the Clean Air Act will be changed accordingly.

The Conference agreement does not address all the issues that are important to each State. Therefore, it is anticipated that Congress may address this and other related issues at a later date.

ROADS ON FEDERAL LANDS

Senate bill

This provision prohibits the Federal government from taking any action to prepare or implement any regulation concerning rights-of-way across public lands until December 1, 1995. This provision addresses rights-of-way over unreserved public lands for the construction of highways.

House amendment

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision with a modification of the date and a provision addressing roads in Shenandoah National Park. The Conference substitute provides for the transfer of 19 road corridors within the Shenandoah National Park from the Federal government to the Commonwealth of Virginia. These roads were donated originally by the Commonwealth to the Federal government but are managed currently by the Commonwealth. The substitute provides for direct ownership and management by the Commonwealth.

STATE INFRASTRUCTURE BANK PILOT PROGRAM

Senate bill

The Senate bill contains no comparable provision.

House amendment

The House bill contains no comparable provision.

Conference substitute

STATE INFRASTRUCTURE BANK PILOT PROGRAM

The Secretary is directed to create a pilot program to examine the potential of State Infrastructure Banks (SIBs) to leverage State, local and private sources of capital and increase investment in the nation's surface transportation infrastructure.

The pilot program would permit participation by up to ten states and allows for both single-state and multi-state infrastructure banks.

The State Infrastructure Banks are required to maintain separate accounts for funds made available from the Highway Trust Fund and from funds available from the Federal transit program. A participating State may contribute to the highway account up to 10 percent of its annual apportionments from each category under section 104(b)(except CMAQ and Interstate Construction funds), 10 percent of its annual Bridge apportionments and up to 10 percent of the funds allocated annually under the Minimum Allocation program. A participating State may also contribute up to 10 percent of the funds annually apportioned to metropolitan regions if the Metropolitan Planning Organization concurs in writing. Federal transit grant recipients in a participating State may contribute up to 10 percent of their annual Section 3, Section 9, and Section 18 capital grants into the transit account of its SIB. All funds contributed to an infrastructure bank shall be considered obligated.

The highway account of a SIB may be used only to provide loans and other forms of financial assistance to Federal-aid eligible highway projects as defined by the section 101 of title 23, United States Code. Federal contributions to a SIB transit account may only be used for providing loans and other forms of financial assistance to capital projects as defined by section 5302 of title 49, United States Code. Federal funds contributed to a SIB may not be used as a grant.

In order to establish an infrastructure bank under this section, a State must meet the requirements of this section. At a minimum, a State must match 25 percent of the Federal contribution with funds from non-Federal sources (except as provided for by section 120(b) of title 23, United States Code). This matching provision parallels the traditional Federal-aid highway matching requirements and will ensure a proper level of State participation and oversight. In order to qualify for a SIB under this pilot program, a State must ensure that its SIB bank maintains an investment grade rating on a continuing basis or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank. A State must also ensure that repayment of any loan from the bank will commence not later than five years after the project has been completed or, in the case of a highway project, the facility has been opened to traffic. The term for repaying any loan may not exceed 30 years after the date of the first payment. Income generated by funds contributed to an account of the bank will be credited to the account and available for use in providing loans and other assistance. The state must require the bank to make an annual report to the Secretary on its status no later than September 30, 1996 and September 30, 1997.

Any funds that result from the repayment of a loan or other assistance under this section shall be treated in a manner consistent with other Federal Highway Administration loan programs. Such funds may be reused for surface transportation projects and may not be credited towards the non-federal share of the cost of any project. Other than such regulations stated in this section, no additional Federal regulations shall apply to use of such funds.

The provision shall have no effect on the rate in which outlays are made. To that end, the Secretary shall ensure that Federal disbursements shall occur at a rate consistent with historic rates for the Federal-aid highway and transit programs.

The Secretary shall review the financial conditions of each infrastructure bank and transmit a report to Congress not later than March 1, 1997. The report shall contain an evaluation of the pilot program and recommendations as to whether the program should be expanded or made part of the Federal-aid highway and transit programs.

The Alameda Transportation Corridor in Los Angeles County, California, is a project that would greatly benefit from the options that state infrastructure banks provide. The Alameda Corridor consolidates more than 90 miles of rail with 200 at-grade crossings into a single, 20-mile, high capacity and fully grade-separated facility linking the San Pedro Bay ports of Los Angeles and Long Beach with the national railroad network. The project widens and improves the truck route paralleling the rail facility to expedite port truck traffic. The project benefits include significant improvements in highway traffic congestion and safety, air pollution, vehicle delays at grade crossings, and noise in residential areas.

RAILROAD-HIGHWAY GRADE CROSSING SAFETY

Senate bill

Title III of the Senate bill contains several provisions concerning railroad-highway grade crossings.

Section 302 directs the Secretary in implementing the Intelligent Vehicle-Highway Systems Act of 1991 to ensure that the national intelligent transportation systems program addresses the use of intelligent vehicle-highway technologies to promote safety at railroad-highway grade crossings. This section also requires the Secretary to fund two or more operational tests under the Act that will promote highway traffic safety and railroad safety.

Section 303 directs the Secretary to conduct a rulemaking to amend the regulations under section 500.407 of title 23 to require that each highway safety management system developed, established, and implemented by a State include: (1) public railroad-highway grade-crossing closure plans that are aimed at eliminating high-risk or redundant crossings (2) railroad-highway grade-crossing policies that limit the creation of new at-grade crossings for vehicle and pedestrian traffic, recreational use, or any other purpose (3) plans for State policies, programs, and resources to further reduce death and injury at high-risk railroad-highway grade crossings. The Secretary is directed to finish the rulemaking and prescribe the required amended regulations within one year after enactment.

Section 304 amends section 31311 of title 49 by adding a new subsection (h) that directs the Secretary to issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations concerning railroad-highway grade crossings. This provision establishes the minimum requirements the Secretary can issue.

Section 305 directs that Federal and State agencies must work together to improve compliance with and enforcement of laws and regulations pertaining to railroad-highway grade crossings. The Secretary is directed to submit a report to Congress by January 1, 1996 indicating how the relevant agencies are working together.

Section 306 provides a statement of policy. The section discusses the hazards of the present state of railroad-highway grade crossing and supports the elimination of redundant and high risk railroad-highway grade crossings as well as closing those crossings that cannot be made reasonably safe. The provision also directs the Secretary to foster a partnership among Federal, State, and local transportation officials and agencies to reduce the number of grade crossings and to improve safety at remaining crossings. The Secretary will make provisions for periodic review to ensure that each State is making progress toward achieving the purpose of this section. If the Secretary determines that a State has failed to make progress, the Secretary shall impose a limit on the maximum number of public railroad-highway grade crossings in that State. The limitation will remain in effect until the State demonstrates compliance with the requirements of this section.

House amendment

The House bill contains no comparable provision.

Conference substitute

The Conference adopts sections 302, 305, and 306 of the Senate bill as modified.

COLLECTION OF BRIDGE TOLLS

Senate bill

The Senate bill contains no comparable provision.

House amendment

The House amendment provides that tolls collected for motor vehicles on any bridge connecting the boroughs of Brooklyn, New York, and Staten Island, New York, shall continue to be collected for only those vehicles exiting from such bridge in Staten Island.

Conference substitute

The Conference adopts the House provision.

TRAFFIC CONTROL

Senate bill

The Senate bill contains a provision that authorizes an exception to the Manual on Uniform Traffic Control Devices (MUTCD) to permit the town of Bristol, RI, to replace permanently the existing double yellow line on its Main Street with a red, white, and blue center line. A red, white, and blue line has been used temporarily in the past in conjunction with the town's longstanding Fourth of July parade, which is the oldest in the country.

House amendment

The House amendment provides that Oregon's "right turn on red without stopping" sign shall be deemed to comply with the Department of Transportation's MUTCD.

Conference substitute

The Conference adopts the House and Senate provisions.

PUBLIC USE OF REST AREAS

Senate bill

This provision permits the State of Rhode Island to convert any State safety area adjacent to I-95 that was closed prior to May 1, 1995, for use as a motor vehicle emissions testing facility. The State has the option to permit access to and from any such facility directly from the Interstate.

House amendment

The House amendment bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

SAFETY BELT USE REQUIREMENTS FOR NEW HAMPSHIRE AND MAINE

Senate bill

This provision allows New Hampshire and Maine to meet the safety belt use law required under 49 U.S.C. 153 through a performance requirement. Each of these States would be deemed to have met the safety belt use law requirements of section 153 upon certification by the Secretary that the State has achieved: (1) a safety belt use rate in each of fiscal years 1995 and 1996 of not less than 50 percent; and (2) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary.

House amendment

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision with a modification. This provision applies retroactively, notwithstanding the October 1, 1995 deadline for compliance. If the requirements of this provision are met, either State shall have the ability to return any funds that are transferred as a result of the Section 153 penalty of October 1, 1995.

If either State is deemed to have a law in effect meeting the requirements of section 153(a)(2) of title 23, United States Code within 60 days after date of enactment, the state will be in compliance with section 153 requirements.

ORANGE COUNTY, CALIFORNIA, TOLL ROADS

Senate amendment

The Senate bill contains no comparable provision.

House amendment

This provision allows the Secretary to enter into an agreement modifying existing agreements that provide Orange County, California with contingent lines-of-credit. This provision also allows the Secretary to require an interest rate that is higher than the rate specified in previous Acts.

Conference substitute

The Conference adopts the House provision.

COMPILATION OF TITLE 23, UNITED STATES CODE

Senate bill

The Senate bill contains no comparable provision.

House amendment

The House bill contains no comparable provision.

Conference substitute

The Secretary shall prepare and submit by March 31, 1997 a draft legislative proposal of necessary technical and conforming amendments to title 23 of United States Code.

SAFETY RESEARCH INITIATIVES

Senate bill

The Senate bill contains no comparable provision.

House amendment

Section 316(a) directs the Secretary to conduct a study and demonstration of technologies and practices to improve the driving performance of older drivers and special user groups. The Secretary shall implement these activities in those States that have the highest population of aging citizens for whom driving a motor vehicle is their primary mobility mode and shall enter into a cooperative agreement with an institution with demonstrated competencies in such areas.

Subsection (b) directs the Secretary in carrying out the work zone safety program established in ISTEA to utilize a variety of methods to increase safety at highway construction sites, including conferences, the creation of a national information clearinghouse, and national promotional campaign and promotion of work site training.

Subsection (c) directs the Secretary to conduct a study to develop and evaluate radio and microwave technology for a motor vehicle safety warning system in furtherance of safety in all types of motor vehicles.

Subsection (d) directs the Secretary to conduct a study to evaluate the effectiveness on reducing drunk driving of laws enacted in the States that allow a health care provider who treats an individual involved in a car accident to report the blood alcohol level of the individual to the local law enforcement agency which has jurisdiction over the accident site, if the blood alcohol level is above the maximum legal limit permitted under State law.

Conference substitute

The Conference adopts the House provision with modifications to the work zone safety program. The Secretary is directed to implement the initiatives related to work zone safety in partnership with a broad range of the transportation construction industry's private sector.

The Secretary is directed to expend not more than $200,000 on each of these studies.

MISCELLANEOUS STUDIES

Senate bill

The Senate bill contains no comparable provision.

House amendment

Section 343(a) directs the Secretary to conduct a study on the adequacy of and the need for improvements to the Pan American Highway. The Secretary is directed to submit a report to Congress on the results of the study within two years.

Section 343(b) directs the Secretary to conduct a study to determine the cost, need, and efficacy of establishing a highway sign for identifying routes on the National Highway System.

Section 343(c) directs the Secretary to conduct a study on compliance with the provisions of the Buy American Act with respect to contracts entered into using amounts made available from the Highway Trust Fund. The Secretary is directed to submit a report to Congress on the results of the study within one year.

Conference substitute

The Conference substitute modifies the House provisions and provides for an additional study of Maglev transportation. The Committee should identify and analyze specific magnetic levitation projects, such as a connector from New York City to its airports, the transportation project under development between Baltimore, Maryland and Washington, DC and technology transfer efforts underway in Pittsburgh, Pennsylvania, so that Congress can better assess how near-term magnetic levitation technology could complement other existing modes of transportation infrastructure and thereby improve the safety, speed, capacity, and longevity of current infrastructure in an era of dwindling Federal resources.

The members of the Committee that undertake the study shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, while away from their homes or regular places of business in the performance of services for the Committee in the same manner as persons employed intermittently in the Government service. The Chairperson may appoint staff as required in undertaking the study within the monetary constraints imposed on all studies in this section. The Secretary is directed to expend not more than $200,000 on each of these studies.

TITLE IV—WOODROW WILSON MEMORIAL BRIDGE

Senate bill

Title II of the Senate bill recognizes that the Federal government, as the owner of the bridge, is responsible for annual rehabilitation costs to ensure that the Bridge meets Federal safety standards. A 1994 study commissioned by the FHWA to assess the current condition of the Bridge confirmed that annual repairs fail to extend the useful life of the facility and are no longer cost-effective.

Title II provides that Congress grants consent to Virginia, Maryland, and the District of Columbia to enter into an interstate agreement to establish the national Capital Region Interstate Transportation Authority. Upon execution of an agreement between the Secretary of Transportation and the member jurisdictions of the Authority, the bill authorizes the transfer of the Woodrow Wilson Memorial Bridge to the Authority for the purpose of owning, constructing, maintaining, and operating a bridge or tunnel or a bridge and tunnel project across the Potomac River.

Title II provides $17.5 million in contract authority for fiscal year 1996 and $80 million in contract authority for fiscal year 1997 for the rehabilitation of the bridge and the planning, design and right-of-way acquisition for a new crossing of the Potomac River. Title II also requires the Secretary to submit to Congress by May 31, 1997 a report identifying the Federal share of constructing a new crossing.

House amendment

The House bill contains no comparable provision.

Conference substitute

The Conference substitute adopts the Senate provision with a modification to require that Congress grant approval of the agreement between the Secretary and members of the Authority prior to the Department of Transportation executing the agreement.

Ownership of the Woodrow Wilson Memorial Bridge is not conveyed to the Authority until the agreement is approved by Congress.

The agreement shall include all costs financed by the Federal government in fiscal years 1996 and 1997 for planning, preliminary engineering, design and all Federal expenditures in fiscal years 1996 and 1997 for replacement of the facility shall be counted towards the Federal share to be approved by Congress.

The Secretary is authorized to allocate funds from administrative expenses in fiscal years 1996 and 1997 to ensure the completion of environmental studies and documentation, to provide for the rehabilitation of the existing Woodrow Wilson Memorial Bridge and to conduct planning, preliminary engineering and design and final engineering of a new crossing of the Potomac River.

BUD SHUSTER,
BILL CLINGER,
THOMAS E. PETRI,
BILL EMERSON,
RAY LAHOOD,
JAMES L. OBERSTAR
NICK RAHALL,
ROBERT A. BORSKI,

As additional conferees for the consideration of secs. 105 and 141 of the Senate bill, and sec. 320 of the House amendment, and modifications committed to conference:

TOM BLILEY,
MICHAEL BILIRAKIS
JOE BARTON,
JAMES GREENWOOD,

JOHN D. DINGELL,

As additional conferees for the consideration of sec. 157 of the Senate bill, and modifications committed to conference:

DON YOUNG,
JAMES V. HANSEN,
Managers on the Part of the House.

JOHN WARNER,
JOHN H. CHAFEE,
BOB SMITH,
DIRK KEMPTHORNE,
MAX BAUCUS,
D.P. MOYNIHAN,
HARRY REID,
LARRY PRESSLER,
TRENT LOTT,
Managers on the Part of the Senate.

FURTHER CONTINUING APPROPRIATIONS FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 270, I call up the joint resolution (H.J. Res. 122) making further continuing appropriations for fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 122 is as follows:

H.J. RES. 122

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

TITLE I

CONTINUING APPROPRIATIONS

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 701 of the United States Information and Educational Exchange Act of 1948, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 53 of the Arms Control and Disarmament Act;

The Department of Defense Appropriations Act, 1996, notwithstanding section 504(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1996;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, notwithstanding section 10 of Public Law 91–672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Department of the Interior and Related Agencies Appropriations Act, 1996;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996;

The Legislative Branch Appropriations Act, 1996, H.R. 2492;

The Department of Transportation Appropriations Act, 1996;

The Treasury, Postal Service, and General Government Appropriations Act, 1996;

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996: *Provided,* That whenever the amount which would be made available or the authority which would be granted in these Acts is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided,* That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act listed in this section has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided,* That where an item is funded in the applicable appropriations Act for the fiscal year 1995 and not included in the version passed by the one House as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 and 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1995 or prior years, for the increase in production rates above those sustained with fiscal year 1995 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1995: *Provided,* That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 105. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) December 5, 1995, whichever first occurs.

SEC. 107. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. Notwithstanding any other provision of this joint resolution, except section 106, whenever an Act listed in section 101 as passed by both the House and Senate as of the date of enactment of this joint resolution, does not include funding for an ongoing project or activity for which there is a budget request, or whenever an Act listed in section 101 has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, and an item funded in fiscal year 1995 is not included in the version passed by the one House, or whenever the rate for operations for an ongoing project or activity provided by section 101 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 101 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366. For the purposes of the Act, the minimal level means a rate for operations that is reduced from the current rate by 40 percent.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 106, whenever the rate for operations for any continuing project or activity provided by section 101 or section 111 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366.

SEC. 113. Notwithstanding any other provision of this joint resolution, except sections 106, 111, and 112, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 114. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 115. The provisions of section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100–202, shall not apply for this joint resolution. Included in the apportionment for the Federal Payment to the District of Columbia shall be an additional $15,000,000 above the amount otherwise made available by this joint resolution, for purposes of certain capital construction loan repayments pursuant to Public Law 85–451, as amended.

SEC. 116. Notwithstanding any other provision of this joint resolution, except section 106, the authority and conditions for the application of appropriations for the Office of Technology Assessment as contained in the Conference Report on the Legislative Branch Appropriations Act, 1996, House Report 104–212, shall be followed when applying the funding made available by this joint resolution.

SEC. 117. Notwithstanding any other provision of this joint resolution, except section 106, any distribution of funding under the Rehabilitation Services and Disability Research account in the Department of Education may be made up to an amount that bears the same ratio to the rate for operation for this account provide by this joint resolution as the number of days covered by this resolution bears to 366.

SEC. 118. Notwithstanding any other provision of this joint resolution, except section 106, the authorities provided under subsection (a) of section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) shall remain in effect during the period of this joint resolution, notwithstanding paragraph (3) of said subsection.

SEC. 119. Notwithstanding any other provision of this joint resolution, except section 106, the amount made available to the Securities and Exchange Commission, under the heading Salaries and Expenses, shall include, in addition to direct appropriations, the amount it collects under the fee rate and offsetting collection authority contained in Public Law 103–352, which fee rate and offsetting collection authority shall remain in effect during the period of this joint resolution.

SEC. 120. Until enactment of legislation providing funding for the entire fiscal year ending September 30, 1996, for the Department of the Interior and Related Agencies, funds available for necessary expenses of the Bureau of Mines are for continuing limited health and safety and related research, materials partnerships, and minerals information activities; for mineral assessments in Alaska; and for terminating all other activities of the Bureau of Mines.

SEC. 121. Notwithstanding any other provision of this joint resolution, except section 106, funds for the Environmental Protection Agency shall be made available in the appropriation accounts which are provided in H.R. 2099 as reported on September 13, 1995.

SEC. 122. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations for projects and activities that would be funded under the heading "International Organizations and Conferences, Contributions to International Organizations" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, shall be the amount provided by the provisions of sections 101, 111, and 112 multiplied by the ratio of the number of days covered by this resolution to 366 and multiplied further by 1.27.

SEC. 123. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations of the following projects or activities shall be only the minimum necessary to accomplish orderly termination:

Administrative Conference of the United States;

Advisory Commission on Intergovernmental Relations (except that activities to carry out the provisions of Public Law 104–4 may continue);

Interstate Commerce Commission;

Pennsylvania Avenue Development Corporation;

Land and Water Conservation Fund, State Assistance; and

Office of Surface Mining Reclamation and Enforcement, Rural Abandonment Mine Program.

TITLE II

SEC. 201. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING.

(a) WAIVER.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any of the following measures of the first session of the One Hundred Fourth Congress presented to the President after the enactment of this joint resolution:

(1) A continuing resolution.

(2) A debt limit extension measure.

(3) A reconciliation bill.

(b) CERTIFICATION BY COMMITTEE ON HOUSE OVERSIGHT.—The enrollment of a measure to which subsection (a) applies shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

SEC. 202. DEFINITIONS.

As used in this joint resolution:

(1) CONTINUING RESOLUTION.—The term "continuing resolution" means a bill or joint resolution that includes provisions making further continuing appropriations for fiscal year 1996.

(2) DEBT LIMIT EXTENSION MEASURE.—The term "debt limit extension measure" means a bill or joint resolution that includes provisions increasing or waiving (for a temporary period or otherwise) the public debt limit under section 3101(b) of title 31, United States Code.

(3) RECONCILIATION BILL.—The term "reconciliation bill" means a bill that is a reconciliation bill within the meaning of section 310 of the Congressional Budget Act of 1974.

TITLE III

COMMITMENT TO A SEVEN-YEAR BALANCED BUDGET

SEC. 301. (a) The President and the Congress shall enact legislation in the One Hundred Fourth Congress to achieve a unified balanced budget not later than the fiscal year 2002 as scored by the non-partisan Congressional Budget Office.

(b) The unified balanced budget in subsection (a) shall be based on the most current economic and technical assumptions of the Congressional Budget Office.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 270, the gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 122, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I am pleased to bring this joint resolution to the floor to provide authority for most of the Government to continue operations through December 5 or until the regular bills are enacted, whichever is sooner. We have come to this point because the President has vetoed House Joint Resolution 115 and in doing so shutdown the Government. This CR will enable the Government to get back to work.

The House and Senate Appropriations Committees are continuing to work on the remaining regular funding bills in a manner that will allow us to present them to the President for signature. However it is clear that many of the budget decisions will extend beyond the next few days. Therefore, we need to provide spending authority for those portions of the Government which are not covered by signed bills.

Mr. Speaker, this continuing resolution is the same as the one the President vetoed with the following exceptions:

It does not reference the energy and water development bill as it has been signed into law.

Its provisions would remain in effect until December 5 rather than December 1, giving us a little more time to do the public's business.

It does not include any provision dealing with Medicare part B premiums or breast or prostate cancer treatments or, indeed, any nonbudgetary riders.

It does, however, include a commitment to a 7-year balanced budget as scored and with the technical assumptions used by CBO. This is a commitment we freely make. This is a commitment we ask the President to make with us.

This resolution continues Government funding through December 5, or whenever a regular bill is enacted into law, whichever is sooner.

This resolution provides temporary funding for the programs covered under 10 bills. Since three bills have been signed into law, military construction, agriculture, and energy and water development, and perhaps transportation, I have just been advised that Transportation has been signed as well, those bills will have been omitted from this resolution. But you will be pleased to know that we have two other bills, Mr. Speaker, Treasury-Postal and Legislative branch, all ready for the President's signature.

All the projects and activities in the nine bills that remain operate under a restrictive formula that provides rates that do not exceed the lower of the House-passed bill, the Senate-passed bill, or the fiscal 1995 current level. The resolution provides that for programs that are proposed for termination in either the House or Senate version of the regular bill, or are significantly reduced in these bills, they may continue, but at a minimum level not to exceed 60 percent of the current rate of operations. This is down from the 90-percent level provided for in the very first continuing resolution. All programs continued will be under the fiscal year 1995 terms and conditions. These incentives will help Congress and the President keep our eyes on the big prize: that is, 13 signable spending bills, to get back on the track to a balanced budget.

This resolution continues the "no furlough" language that was contained in the first resolution. Early year distributions for programs that have historical high initial fund distributions are prohibited. Also no new initiatives can be started under this bill.

There are additional items that are under this resolution. They deal with hand enrollment for various future bills and commitment to a 7-year balanced budget. This continuing resolution keeps the Government functioning while locking all of us firmly into the commitment that we have championed, and that is a 7-year balanced budget.

Mr. Speaker, I ask all members to join with me in voting for a continuing resolution with five main principles:

First, it provides funding at levels that are below the section 602 allocation provided for in the budget resolution. This keeps us on the glide path to get us to a balanced budget by 2002.

Second, it prevents costly Government furloughs and premature program terminations.

Third, it does not prejudice funding decisions for the remainder of the appropriations bills, except for a limited number of program terminations that are agreed to by the President.

Fourth, it continues a climate that is an incentive for all involved to conclude action on the regular appropriations bills.

Finally, it commits all of us—House, Senate, and President—to a balanced budget in 7 years.

Mr. Speaker, this continuing resolution is a good-faith effort to get the Government operating again. We're moving the remaining bills as fast as we can, and we are making real progress, but we still need this CR. It is tough love, but we need tough love to keep the necessary pressure on both the Congress and the President to work out our differences on the remaining regular bills and get them enacted into law.

□ 2145

I urge all of our Members to support this joint resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. SABO], the distinguished ranking member of the Committee on the Budget.

Mr. SABO. Mr. Speaker this is one of those issues where, frankly, I am tempted in a variety of ways in how I should react because there are things within this resolution I agree with.

My advice to the administration has been for a period of time that their goal should be to have a 7-year balanced budget, that they should also use the more cautious and conservative economic assumptions of CBO, that a variety of other differences need to be looked at. Neither CBO nor OMB have divine wisdom, and one needs to examine those.

On the other hand, I also am going to vote "no" tonight in the strong belief that this is the wrong thing to do at this point in time. What we should be doing is simply passing a clean continuing resolution to deal with the reality that we have not passed our appropriation bills. Then the majority should pass their reconciliation bill, I assume, on Friday. It will be vetoed, and then we should get on with serious negotiations.

Part of this is posturing. The rhetoric gets very hot around here, and if it were not for the fact that people were not working, I think the whole institution would be better off if everybody went home for a while and cooled off and calmed things down and then get back to work. It is getting increasing polarized.

While I believe that we should move to a balanced budget in 7 years, using cautious economic assumptions, I also read today, I think accurately quoted, the leader, not of this body but of another institution involved in these negotiations, that there were four pillars to the Republican program. One was a 7-year balanced budget; the second was Medicare reform, and I am sure he meant his version of Medicare reform; welfare reform, and I am sure he meant his version of welfare reform; and a tax cut, and he meant his version of a tax cut. And those were nonnegotiable demands.

This is one of those four pillars, and to pretend tonight that somehow we take up one of those pillars, that we are taking up one of those pillars when those three other pillars still exist in the minds of most of the majority, would be dreadfully wrong. Because, in my judgment, that tax cut is not justified. In my judgment, you cannot have a fair balanced budget with the size and scope of the tax cut proposed by the majority. In my judgment, any tax cut should wait until we balance the Federal budget, not now.

Welfare reform, as passed by the majority, and I hate using this word, but, in my judgment, is mean. And the Medicare reform is of such nature that it puts too great a burden on millions of low-income widows in this country, and the scope of the change is such that it simply is not sustainable.

So, Mr. Speaker, I urge a "no" vote this evening.

Mr. LIVINGSTON. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. KASICH], the distinguished chairman of the Committee on the Budget.

Mr. KASICH. Mr. Speaker, this is an opportunity for this House to send a message. It is a message, frankly, that at the end of the day the American people will send themselves. Now we can send a message from this side, and we are going to vote, I would believe unanimously, on our side to send a message about one single thing, one simple thing, balance the budget, do it in 7 years.

Two years ago on Monday, my friend, Tim Penny, and I joined together in a bipartisan effort to send a message. It was a similar message. You know what the message was? We need to cut some spending. And I will tell you something, even though we lost the vote on the House floor that day, that message did not just get sent downtown but it got sent around the country.

I am asking my Democrat friends and colleagues who believe in the concept of 7 years to step up to the plate tonight, to join with your Republican colleagues and let us send a message, and it is not a message that is strident.

The simple fact of the matter is, under any plan to balance the budget over the next 7 years, this Federal Government will spend $3 trillion more than what we spent in the last 7 years. The question is: Are we capable of saving that extra trillion dollars for the next generation?

We are not fighting over the first $3 trillion. We are fighting over the last $1 trillion. Frankly, folks, to do this in 7 years, to let the Federal spending go up even though it goes up at a slower rate, it will help us to balance the budget. The drop in interest rates, short term, will make housing, cars, and education affordable, and in the long run it will guarantee the young people of this country will have decent jobs and decent homes and decent automobiles. That is what we are talking about.

If we fail, well, I know my Democratic colleagues and friends who voted on Penny-Kasich will not let us fail.

I told Leon Panetta yesterday in the meeting:

> Leon, just commit to 7 years. We can negotiate the priorities. We can argue what ought to be emphasized. We can get down. We can sit down, and we can have meaningful negotiations. But we cannot have them without a reasonable bottom line, and that reasonable bottom line is committing today, right now, this minute, to a 7-year plan to rein the Federal spending and save the next generation.

Let us send a strong message, not just downtown, but let us send a strong bipartisan message from one end of this Nation to the other that this Congress is serious, and we will work together to balance this budget and guarantee the children of the next generation a bright and prosperous America, a bright and prosperous future.

Support the resolution.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I want to commend my Republican colleagues for having come part of the way to getting this problem resolved part of the way. You have got a further way to go. But you are moving in the right direction, and I appreciate that, and I am sure the American public appreciates that.

I am glad you have given up on the direct assault on the Medicare beneficiaries.

Now, I am going to vote against this resolution tonight because I do not put as much faith in the so-called nonpartisan Committee on the Budget staff as perhaps some of my friends over there on the other side of the aisle do. I had a lot more faith in it when they were on our payroll. I do not have quite as much faith in them when on their payroll. I think all of you can understand that.

Two, I believe that we ought to balance the budget, but my priorities are different than yours. My priorities are not to give a tax cut until the budget is actually balanced, and then if we have anything left over, we can talk about cutting taxes. And I will leave out all of my rhetoric about how terrible I think the priorities are in that tax cut bill.

But I do not want to see us have that tax cut bill on the table, because if you do keep that on the table, you are going to have to cut Medicare far too far, and you are going to have to cut Medicaid and the welfare programs far too far if you keep that tax cut bill on the table.

So the tax cut bill has got to go, and we have got to have some give in the Medicare changes, and we have got to have real give in the Medicaid changes and in the welfare changes.

The Medicare changes and the Medicaid changes and the welfare changes are really hard and cruel. And I do not think that you all are hard and cruel, but I do not think you really understand what the problem is. You are cutting more money out of poor kids than you really are cutting out of Medicare. You are making huge cuts in the welfare budget.

Seventy percent of all the people in America who are on welfare are children, infants and children, and you are taking food out of their mouths, you are taking medical care away from them, you are taking housing and shelter and everything else away from these children. That is not fair.

I am sure when you focus on that, you will come to that same conclusion. So take the tax cut off the table. Take the Medicare cuts off the table. Take the welfare cuts off the table that you have given them, and take the Medicaid cuts off the table.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE], a distinguished member of our Committee on Appropriations.

Mr. KOLBE. Mr. Speaker, this is it. This is the moment of truth.

We had a continuing resolution just a few days ago on this floor. The President vetoed that. He said he could not sign it because the language keeping Medicare premiums at 31 percent of Part B was unacceptable. He said he could not countenance keeping Medicare premiums at their current level.

I think he is wrong. We have to do it to protect, to preserve Medicare. We will come back. We will revisit that issue on the Balanced Budget Act before this week is out.

What we have here tonight is a clean continuing resolution to reopen the Government. There is no extraneous provision, no add-ons here.

Oh, yes, yes, it does say we will balance the budget in 7 years, and, yes, it says the President will agree to work with us to accomplish that. But surely that is no problem. The President has already said we can do that. He said it not once, not twice, but repeatedly. President Clinton has said we can balance the budget in 7 years.

In fact, he said he would submit a budget that would do it in 5 years, and that is all this resolution says. It does not say we will have tax cuts or Medicare reform or welfare reform, nor does it say what their shape would be. I think we should have them. I think we should have all of those things. But this continuing resolution does not commit the President to any of those.

□ 2200

This stopgap spending bill would put Federal workers back on the job. It says we will work together to balance the budget in 7 years. If the President vetoes this, we will know it was not Medicare that caused the first veto. The truth will be out there for all to see, stark, bare naked.

This President will be saying he cannot agree to a balanced budget, not now, not in 7 years, not ever. I say to the President, there are no more excuses. There is nothing left to hide behind. Your spokesman tonight misquoted you when he said you repeatedly rejected a 7-year balanced budget. But you can set the record straight. You can demonstrate your solidarity with the American people who want a balanced budget. You can put Federal workers back on the job. You can sign this spending bill.

I urge my colleagues to support this continuing resolution.

Mr. OBEY. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the American public quite obviously wants us to be serious. I have 56,000 people who work for our Federal Government. They rely on each one of us to do our job seriously so that they can support their families and do their job on a day-to-day, week-to-week, month-to-month, year-to-year basis. I believe the overwhelming majority of those people give outstanding service to the American public.

I suggest to my colleagues, however, that they and America are distressed because rather than do our job totally seriously, we do what politicians like to do, send messages. Not necessarily do work, but send messages.

I listened to my friend, the gentleman from Ohio [Mr. KASICH], for whom I have great respect. He got up and said, let us send a message that we are for a balanced budget. I had voted for that amendment. I voted for the resolutions. I voted for the coalition budget. I believe not only in sending the message but in doing it.

My colleagues, we have here a bill. It is 16 pages in length. I suggest to my colleagues that the first 15 pages are, in fact, a relatively clean CR that would put those people who live in my district and in fact live in every district in America back to work tomorrow. The President would sign this 15 pages. That is the substantive part.

Unfortunately, for me and for others, there is a 16th page. It really does not mean anything. It has words on it. It had words about 7 years. It has words about CBO scoring. It has words about the most recent economic statistics. But you and I both know that this really does not mean anything, and we ought not to fool the American public.

We cannot, by this statute say, Mr. President, after you sign this bill tomorrow you cannot sign a bill which does something different. And we cannot say, by this bill, as all of my colleagues know, that tomorrow this Congress, after passing these 8 lines, cannot do something differently. Of course we can.

All of my colleagues know on this floor that we are about to get real. It is called substantive. Because we are going to bring to this floor a reconciliation bill. That is real. It will incorporate real policy alternatives and each of us will have to vote on those alternatives.

It is, therefore, a shame that with just 48 or 72 hours to go before we bring that bill to this floor that we have to continue to send messages, not to be real.

This is real. It says tomorrow we put the Government back to work, that contractors who are doing work for our Government and their employees will get paid.

But this is political message, political game playing. Is it not a shame?

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I rise in support of this resolution because it is time, Mr. Speaker, to put politics behind us. It is time to get back to the people's business. It is time to put 800,000 Federal employees back to work. It is time to be there for those 60,000 elderly and disabled persons and 15,000 veterans who have already been denied benefits that they are legally entitled to because there were no Federal employees to accept their claims. It is time to open up our national treasures to the 1½ million American families who have been turned away from their national parks and monuments because they have been shut down.

My colleagues, it is time to balance our Federal budget. I personally do not think it is time to cut taxes because no business should pay out dividends when it is operating at a deficit. But the sooner we get to balance, the sooner we can reduce the American people's tax burden. Without his tax cuts, the President can reach his balanced budget objective in 7 years rather than 8 or 9 years. If, indeed, the President's higher economic forecasts are correct, then that additional revenue over and above the CBO forecast should be used to pay for the President's tax cut proposals. But first things first.

Our very first responsibility is to vote for this continuing resolution and to put America's Government back into the business of serving America's people.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I am proud that I voted for the coalition budget. The coalition budget says that we will balance the budget, like the American people want us to do, in 7 years. Now, what this CR says tonight, it says, we want to balance the budget in 7 years and use CBO figures. I will support the continuing resolution because that is what it says.

Now, the continuing resolution says on these parameters that we will vote to try to balance the budget in 7 years. It does not say that we are going to cut $270 billion out of Medicare. We will fight that. It does not say, we are going to cut $10 billion out of student loans. We will fight that.

It does not say anything about where things will be cut and amended and pieced together. What it does say is that the American people want us to talk, Democrats and Republicans. If we can have Bosnians and Serbs and Croats talking in Dayton, OH, we should talk. If we can have Catholics and Protestants talk in Northern Ireland, we should talk. And if we can have Mr. Rabin to talk to Mr. Arafat about a longstanding feud going back centuries, we can talk and maybe fight about where our priorities are on a balanced budget.

Mr. LIVINGSTON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], distinguished whip.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding time to me. I do not know that I could improve on that last speech.

Mr. Speaker, I do urge my colleagues to vote for this continuing resolution which is a giant step toward certifying a balanced budget.

I just wanted to say to my good friend from Maryland, who spoke earlier, that said 15 pages of this bill are important and mean something and the 16th page means nothing. My answer to the gentleman from Maryland, if it means nothing, he has voted for a 7-year balanced budget. He ought to be able to vote for this continuing resolution.

Two-thirds of this House came here to balance the budget. I know some of my colleagues would rather not send this CR to the President. Some of my friends would rather keep the heat on the President and let him keep the government closed. And let me say to my colleagues, that choice does hold a little appeal to me. It would be nice to have the President come to the negotiating table rather than just make speeches that are misleading at best.

But I think we have an opportunity to clarify where President Clinton stands on a balanced budget. And that is worth its weight in gold.

After all, President Clinton has more stands than the Houston Astrodome when it comes to the balanced budget. The question today is simple: Will the President support a real, certified 7-year balanced budget or will he continue to evade and confuse this issue that is so important to the American people?

Yesterday President Clinton said, let us say yes to a balanced budget and no to the cuts. The President really means yes to a balanced budget but only if it happens by magic.

Well, the President needs to know that a balanced budget only happens through hard work, hard choices and very real cuts in spending. So I say to my colleagues that the country wins if we pass this CR, no matter what the President does. Because if he votes this CR, the American people finally know that President Clinton oppose a real balanced budget. But if he signs the bill, we have the real numbers from which we can negotiate a real agreement. I just urge my colleagues on both sides of the aisle to put President Clinton on the spot. Vote for this CR and let us clarify where the President really stands on a balanced budget.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, if this resolution were just about balancing the budget over the next 7 years, I would vote for it. But it is not, and I will not.

Several speakers from both sides have talked about the fact this is a clean resolution. Without editorial comment, let me simply state the facts. This resolution does more than that. On an annualized basis, it cuts veterans health care benefits by a half a billion dollars. Let me repeat that. On an annualized basis, it cuts veterans health care benefits by $500 million. This is not the first continuing resolution.

I would imagine, Mr. Speaker, there are veterans in hospitals around this country who have served their nation who would probably take greater umbrage at the facts in this resolution than some of the Members who helped write it who object to the fact that I have stated the facts about this resolution.

Let me also say that this is not a clean resolution on other matters, on many issues that most Democrats had no input on. Let me list some of the cuts, programs that will be cut by 40 percent. And let each Member decide whether he or she wants to support a 40-percent cut in these programs.

□ 2215

Summer youth employment, AmeriCorps, veterans homeless programs, State offices of rural health, rural health research, substance abuse training, national vaccine program, new rural health grants, Low-Income Home Energy Assistance Program at a time when we have freezing weather across many parts of this Nation, rural housing, Goals 2000, State and local grants, Goals 2000 national programs, school-to-work national programs, early childhood education also along with the others cut by 40 percent, Federal Perkins loan capital contributions, State student incentive grants.

This is not a clean resolution. I urge my colleagues to vote no on it.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Virgina [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I congratulate my Republican colleagues for stripping extraneous language from the continuing resolution as the President asked, and I applaud my colleagues on the other side who are willing to join the bipartisan dialog on how to balance the Federal budget. This continuing resolution does not mandate tax cuts, it does not mandate Medicare cuts, or education cuts. But it does get our Federal employees back to work without furloughs over the next 2½ weeks, and it does mandate that together Republicans and Democrats, the Congress and the President, will join together and work together to balance the Federal budget and do it within the CBO guidelines, something that the President stated right here that he feels was the best way, the best way really between what will work and what does not work. It does not cut the veterans benefits; basically, without furloughs, funds these agencies over these next 2½ weeks, and it leaves off Medicare, it leaves off cuts in education and the environment, which was ostensibly the reason the President gave for vetoing the last resolution.

This gives the President what he wants, and it commits us to doing what we came here to do, and that is balance the Federal budget.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Speaker, I want to thank the gentleman from Wisconsin [Mr. OBEY] for yielding this time to me. I want to thank the Democratic leadership for allowing us the time. I want to thank the Republican leadership for bringing forward a better CR than we saw heretofore, and I want to say that I speak for some Democrats who believe that we can balance the budget in 7 years and are prepared to support the CR tonight.

But I want to say that we do not feel like we have a monopoly on wisdom and virtue and we do not think that either side here has a monopoly on wisdom and virtue. We think we ought to work together.

This CR is a step in the right direction. It balances, or calls for a balanced budget, in 7 years.

We think, if our colleagues will allow some of the minority to work with them and that if the minority will work with the majority, we think we can make an American solution, not a Republican or Democrat solution, to the problems that face us all as Americans. If this country goes under, it is not going to be just the Republicans or the Democrats going broke. It is going to be all of us, and we ought to set aside some of this partisan rhetoric that I hear from both sides, quite frankly, and try to get together here while we are here in the short time that we serve in public life and do something for the people that sent us here.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Speaker, I thank the gentleman from Louisiana [Mr. LIVINGSTON] for yielding this time to me.

There is nothing in this continuing resolution about how we will balance the budget. It merely says that we will do it. The words are:

> The President and the Congress shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the year 2002 as scored by the nonpartisan Congressional Budget Office.

The President's response when he was asked the following question by Dan Rather, "Are you saying flat out that you will veto a clean bill that contains only in it the insistence to balance the budget?"; the President's response was, "Yes, I cannot tell you how strongly I feel that this would not be good for America. I do not believe in it."

The difference between the President and the Congress has finally been exquisitely clarified and perfectly defined. This is the people's House. The people will speak tonight through the Congress. Let us pass this resolution. Let us balance the budget in 7 years.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Speaker, I am not speaking to the Republicans because they are together. They have gotten their program together, and they are coordinated. I am speaking to my colleagues in the Democratic Party:

> I love each of you very, very much. I want to say to you this is a time for you to stand up, and be counted, and it's not time for you to go vacillating and running all over the globe. It is time that you say we stand for something, we support our President.

Now do not let anybody be fooled. There is no way in God's Earth that they can balance this budget by doing $245 billion worth of tax cuts. There is no way it can be done. If they do it, my colleagues know they got to take it out of someone's hide. They are going to take it from the poor, from the elderly, and from the disabled.

Now look at it. I do not care how smart my colleagues are mathematically or what kind of statistician they are. There is just to no way that can be done.

Now let us get back down to bare facts. All of my colleagues have come up here. I have watched them. They want more from Medicare, they want more for the older people, they want more for Medicaid, and they are not saying too much about Medicare. I say, "Think about it. You're talking about the environment. If you're any kind of environmentalist, then vote against this continuing resolution. There is no way you can do it. Face it."

Mr. Speaker, now is the time to fish or cut bait. My colleagues have got to cut bait now; the fishing is over.

Mr. LIVINGSTON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I rise in support of the continuing resolution and the commitment to a 7-year balanced budget.

Mr. Speaker, for years the Supreme Court has wrestled with the definition of the word obscene. They have not succeeded, but we here have. It is obscene to have a national debt approaching $5 trillion, a national debt which requires us to spend nearly $900 million every day just in interest payments—that doesn't feed anybody, or clothe anybody, or educate anybody, or provide jobs or medical care for anybody—it just services the national debt. That is obscene.

This is an historic moment. We now have the opportunity to demonstrate, in tangible form by our vote, that we not only heard the American people and their message of November 8, 1994, we are heeding it.

The American people said, in unmistakable terms, that they want smaller, less costly, less intrusive and yet more efficient government. That's a tall order, but we can do it.

In this 104th Congress, with a new majority determined to respond to the will of the American people, we have demonstrated that we are keeping the faith. In this House we have passed a balanced budget amendment, we have passed a line item veto, we have passed welfare reform and we have been both responsive and responsible in moving to avert a crisis of monumental proportions by passing legislation to save Medicare. I proudly voted for these significant measures, but our job is not done.

We must move to fulfill our commitment to the American people and our children and generations to come by approving this resolution which moves us ahead on our journey to a balanced budget, a balanced budget to be achieved on a date certain not decades away, but in seven years. When we have done what we must, we will be able to say a day's work well done.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from New Hampshire [Mr. BASS].

Mr. BASS. Mr. Speaker, I have to agree with the words of the gentlewoman from Florida [Mrs. MEEK]. This is indeed the time to stand up and be counted. Indeed this is not a debate about airplane trips, or education, or EPA, or veterans, or Medicare, or whether the national parks will be open or closed. This is a debate about whether or not we should pass a continuing resolution that is going to open this Government up, end the shutdown, and at the same time affirm the vote that 300 Republicans and Democrats cast earlier this year to have a balanced budget in 7 years and save this country.

For my two little children, Jonathan and Lucy, and all the other children in this country in whose hands the future of this country will lie long after we are all gone, please join me in supporting this resolution tonight.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, as we debate this continuing resolution tonight, I think it is important to look at the components of the budget negotiations that we are actually in the middle of. The majority would ask us tonight to support a balanced budget by the year 2002 using Congressional Budget Office budget assumptions. Sixty-eight of us, myself included, have voted for a plan that accomplishes exactly that. But there is a third and essential leg to this three-legged stool that is conspicuously missing in the continuing resolution advanced by the majority tonight, and that is the $245 billion tax cut. There is not one word about backing off of the $245 billion tax cut in this continuing resolution.

Therefore, Mr. Speaker, I must oppose it tonight because we know that advancing towards the goal of a balanced budget in 2002, which I support, CBO numbers, which I think are sound, cannot be accomplished with the $245 billion tax cut without eviscerating cuts to Medicare, Medicaid, farm programs, student loans, and the rest of the litany of horrors represented in the budget reconciliation act, including the raid on pension funds that notwithstanding a 94-to-5 vote in the Senate has come back into the Budget Reconciliation Act in the conference committee.

Mr. Speaker, we are at this point in the budget negotiations because the Republican majority has insisted upon increasing the part B premium for Medicare as part of passing a continuing resolution. Tonight they back off of that, but they insist on two points: balanced budget by 2002, CBO numbers, and not 1 inch of budging off of their 245 billion tax cut disproportionately benefiting the wealthiest people in this country. We now that means cuts in Medicare, cuts in Medicaid, cuts in farm programs that cannot be sustained, and we must vote no.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. BUNN], a member of the Committee on Appropriations.

□ 2230

Mr. BUNN of Oregon. Mr. Speaker, the American people are shouting about the shutdown of the Federal Government. Some are shouting that we are scared, we are not sure how we are going to pay the rent, we are not sure how we are going to buy groceries, and they have a right to be scared.

But a lot of people are shouting some other things. Here is a message. I have a stack of faxes. "We are 60 years old, close down the government as long as it takes, continue with Medicare reform."

Another message: "The Republicans are on the right track. Stay the course. We have come a long way. We've got a long way to go."

Another one. "Hold the line."

Another one. "Balance the budget."

Another one. "Just do it."

The message is very clear. Overwhelmingly, my constituents are saying, "Stay the course. We want a balance budget." We have to resolve this issue.

Tonight we are offering a solution. We are saying we will get back to work and we will move to balance the budget. I hope that the President is listening to the American people. We are, and we are determined to solve the solution. We are bringing it to his door today.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, this measure has been called a sham, a shame, but in short, it is nothing but a Medicare cut under another name. Our Republican colleagues were so committed to cutting Medicare that the one thing they sent over to the President, along with their proposal, was an increase in Medicare premiums. They got caught. The American people have been saying no, and they have been saying no all week to that kind of Medicare cut. So what are they coming back with tonight? They come back with a new straitjacket to accomplish through the back door what they could not get done through the front door.

There is one thing this great revolution that they have provided us has not changed. That is elementary school arithmetic. Adding still is the same old way as it was prior to the last election. If you give hundreds of billions of dollars of tax cuts to those at the top of the economic ladder, you give the Pentagon $8 billion more than it asked for, the only other place you can look is to take it out of the hide of the senior citizens of this country, out of the schoolchildren, and out of the environment. That is what they are going to do through this resolution. If you believe in protecting Medicare, you are going to vote against this.

Mr. LIVINGSTON. Mr. Speaker, with a flabbergasted expression of surprise, I am not happy to yield such time as he may consume to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Speaker, I thank the gentleman for yielding time to me.

I stand tonight in strong support of this resolution.

Mr. LIVINGSTON. Mr. Speaker, I am happy to yield 1 minute to the distinguished gentleman from New York [Mr. FORBES], a member of the Committee on Appropriations.

Mr. FORBES. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, now is the time. The Nation is asking us to put partisanship aside and unite as a Nation on behalf of this very responsible blueprint that builds for a better tomorrow. On behalf of my child, Abbie, and my son, Ted, and all the children of America, it is time to embrace as a Nation this blueprint. I ask the protectors of the old order here in Washington to put it aside.

Let us move forward, with the President and the Congress united, let us go forward in this blueprint that takes care of the future for our children, creates jobs for the future, hope and opportunity for all Americans. It is time to unite and pass the continuing resolution.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, I come to you this evening before this body as a strong supporter of a balanced budget, a strong supporter of a balanced budget in 7 years. I challenge the Republicans to give us a balanced budget within 7 years. Stop this ancillary nonsense of cutting every program out there. You go out and you cut programs that provide for youth employment, you cut the programs for veteran's homeless benefits, you cut programs that look out for the Native Americans, for AIDS education, for rural housing, for substance abuse, for low-income energy assistance, the Christa McAuliffe scholarship fund, all of the Eisenhower leadership grants, and the star schools programs.

You sit there and cut those programs with grins on your faces, and yet you are willing to provide an enormous tax cut to the wealthy, you are willing to cut the Medicare Program, you sit there, two-faced, pretending to the American people that you are for a balanced budget when the only thing you are for is gutting the poor, hurting the low-income people, hurting the senior citizens, and lining the pockets of the wealthy.

Mr. LIVINGSTON. Mr. Speaker, I will refrain from asking unanimous consent for the gentleman to proceed for another hour, and I yield such time as he may consume to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I include for the RECORD an editorial that appeared today in the Mobile Press Register.

NATION'S FUTURE AT STAKE IN BUDGET SHOWDOWN

It finally happened. President Clinton and the Congress were eyeball to eyeball, neither blinked, and the government shutdown was under way. On its first full day, more than a few Americans shared radio commentator Paul Harvey's attitude: "The government has shut down. Enjoy it while you can." In reality, though, this Beltway tug of war is no laughing matter.

If it isn't resolved quickly, the man on the street may conclude that neither the Clinton White House nor the GOP-led Congress cares nearly as much about the future of the country as they do about the upcoming elections. In the case of Bill Clinton, who tracks opinion polls like a dog following a juicy steak, the man on the street would be correct.

Over in the House, though, one-third of the Republicans were elected for the first time in the 1994 GOP landslide. They believe passionately that they were sent to Washington to carry out the will of the voters. Their constituents want them to downsize government, fix welfare, restore Medicare to solid footing, balance the budget and eradicate deficit spending—and they intend to do it.

They're the ones who are refusing to get drawn into politics as usual, who aren't willing to be bullied by poll numbers or even the threat of losing their Republican majority in 1996.

This budgetary clash of the titans erupted Monday over two normally routine measures. One was a bill that would have raised the national debt limit so the government could borrow money to pay its bills. The other was a measure to fund the government temporarily while Congress kept working on the regular appropriations bill.

The president vetoed the emergency measures because Republicans insisted he sign onto their goal of balancing the budget in seven years. That should have surprised no one; Mr. Clinton is always weak when he should be strong, and inflexible when he should be willing to negotiate.

How can he fail to recognize that this is no mere political struggle? What the president and Congress do now about balancing the budget will define the scope and the nature of our government well into the 21st century. This is a rare chance to step off the deficit treadmill. Results would include lower interest rates, increased investment and a dynamic economy for years to come.

Without action on Washington's part, before the year 2000 we will be spending more each year on the national debt than we spend on national defense. Yet Mr. Clinton stands stubborn, declaring that he'll protect Americans from the GOP's "unwise cuts" in Medicare, Medicaid, education and environmental protection.

Whenever genuine balanced-budget advocates talk about reining in government spending, this president accuses Republicans of "slashing" social programs. Such shameless rhetoric is obviously intended to rouse public ire and obscure the real issues.

Republican leaders are doing the nation a service by holding out for a presidential commitment to a balanced budget. Mr. Clinton is doing the nation a disservice by his blatant attempts to fuel public hysteria.

White House spokesman Mike McCurry said Tuesday that his boss is "willing to give up his presidency" rather than accept the GOP's priorities. That's nice to know; but if Bill Clinton blows this opportunity for government to turn itself around, his "willingness" to relinquish the presidency in 1996 will be academic.

A year from now, voters will take care of that for him.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. DICKEY], a distinguished member of the Committee on Appropriations.

Mr. DICKEY. Mr. Speaker, I represent Hope, Arkansas, and Hot Springs, Arkansas. I represent where the President has grown up, where he has forged out his political career, where he has gotten votes from citizens in my district from years and years and years.

I want Members to know I am in favor of this balanced budget, because those people at home are crying out for that to happen. They want the President to know that it is not a question of who we are taking money away from as far as the poor and the people who are dependent on government, it is who they are taking away from before they get to that point.

The President knows that. He is from our district. He knows that. They are saying, almost unanimously, with every letter, every call I get, "Balance the budget. Do not get fooled." I am saying the same thing. I would like for us to respect the people who earn the money and balance the budget for their sake, rather than the people who are receiving the money from the government.

Mr. OBEY. Mr. Speaker, I yield myself 6½ minutes.

Mr. Speaker, nobody in this House can say that I have routinely and blindly defended the President of the United States. If you doubt that, all you have to do is take a look at the newspapers this morning. But having said that, I want to stand here and defend him from some of the things that I have heard this evening.

Mr. Speaker, this debate, unfortunately, is not being driven by policy. It is, in my judgment, being driven by sheer, raw power politics. There is no question that the Speaker has been planning for a long time for this moment. All you have to do is to go back to his quotations in April and May, where he made quite clear that he was just waiting for the time that he could load up a debt ceiling or a CR and send it to the President, and he made quite clear on numerous occasions that he did not care what the price was.

He made that clear as recently, I believe, as yesterday. I don't care what price political parties pay, or what people pay on this House floor, but I do care about the price that our system pays when the public concludes that what we are doing is driven by raw politics and raw personal ambition. And yet that is what the public has concluded on the basis of this sorry episode.

We are in this position because this Congress has not finished its work. We are in this position because over 90 percent of the appropriations still have not become law, and that has given the Speaker an opportunity to try to leverage his position by sending down to the President a series of poison pills.

First, he sent down to the President the CR which the President vetoed because that contained the poison pill that required Medicare premiums to be virtually doubled over the next few years. The President vetoed that. The majority party took a big public relations bath for that effort.

Now you are in the process of trying to send a second poison pill down to the White House. That poison pill is to demand that the President, sight unseen, with no understanding of what underlying assumptions there are. Except for CBO's technical and economic assumptions, it demands that, sight unseen, he buy into the idea of a 7 years balanced budget.

Let me tell you why I am suspicious of that timetable. Because I have been here long enough to see three previous promises broken in terms of multiyear budgets. This chart shows the contrast between the promises that Ronald Reagan told us, that he would balance the budget in 4 years, versus, in the red bars, the performance. He promised that in 4 years we would hit a zero deficit. They missed by $185 billion.

Then we were told, "Well, let's try Gramm-Rudman." Again, they promised in 5 years we would get to a balanced budget. They only missed by $220 billion.

Then they tried Gramm-Rudman II, and again, they promised that they would take us down to zero deficit. They only missed by $290 billion. So I think we have a lot of reasons to be suspicious of these political promises about multiyear balanced budgets.

Nonetheless, nonetheless, I am willing to support that idea, provided we know what your other assumptions are.

That is why the recommit motion, which I will offer tonight, would have us accept this proposition, provided that you buy some of our assumptions.

Our assumptions would be:

First, no tax cut shall be provided until the budget is in balance;

Second, no reduction should be made in education which closed the door of opportunity to young people;

Third, no alterations in the Medicare program should restrict the access or quality of care available to senior citizens, or disproportionately increase the cost of that care to those citizens;

Fourth, no money may be appropriated, and no targeted tax benefits will be provided, including all fiscal 1996 appropriation measures and the reconciliation bill you are about to produce, if they are not subjected to a line-item veto which the President can exercise to hold us to that 7-year timetable.

□ 2245

You want us to buy your technical assumptions on CBO. I will be happy to buy them, but we want to know that in the process you are not going to gut social security, you are not going to gut Medicare, you are not going to gut education, you are not going to provide a tax cut, a huge percentage of which goes to the highest income people in this country.

We want to know in short order that your economic prescription for reaching that balance is not going to fall disproportionately on the shoulders of working people so that once again the richest one-half million families in this country can clean up on the gravy train as they have done by your policies for the last 12 years. You buy our assumptions, we will buy yours.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. KINGSTON], a distinguished member of the Committee on Appropriations.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding.

You know, 435 Members of this body claim in principle to accept the balanced budget, and every break we go back to the Kiwanis Clubs and Lions Clubs, and we tell the Rotary Club we want a balanced budget. "Of course, I support it."

I call this Rotary Club speech versus reality. Tonight you have a chance to make that vote. There is nothing to squirm about in this. It is just a clean bill. Very simple. Do you want a balanced budget in 7 years or not? Do you want to get the furloughed employees back to work or not? Do you want to leave the gates of old faithful open or not? Do you want the social security services and passport services to be reopened or not? That is what we are debating.

We are not debating Medicare. We are not debating welfare reform. We are not debating taxes. We know you all love taxes as much as you seem to disdain the middle class.

But this is only a bedrock, fundamental question. Statement in principal: Do you want a balanced budget in 7 years or not?

You know, the previous speaker said that our Speaker, the Speaker of the House, had been waiting for this for months. Well, I will tell you what, 234 Members on this side of the aisle have been waiting for this, and so have the American people. Let us balance the budget and let us do it tonight.

Let us vote for this bill.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I am not one who usually takes the floor on things like this. I usually like to reserve to bills that I have direct jurisdiction.

But I am alarmed tonight at what I am hearing, the restoration of the partisanship on both sides, in fact, that does not really fit tonight.

We have been criticized by the media, by the American people, because we have been partisan. The last week in Terre Haute I was criticized because I said there was ample responsibility and blame for both sides of the aisle here in not achieving this continuing resolution.

Now, I am going to be critical of you on the Democratic side. I am about as least partisan as anyone here and still claim to be a loyal Republican. But you asked for a clean CR. I am surprised that this is as clean as it is, with one exception, the provision that we have almost all of us voted for that we will support to balance the budget by the year 2002. That is all this says, that we are reestablishing.

Tonight, support this. If the President does not sign it, then I will say the blame is all one way. And I am sorry to say that.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, we have been discussing tonight, talking about the poison. The poison, Mr. Speaker, is the $5 trillion debt. The antidote is a balance budget.

The President said on no less than six occasions, in fact, a balanced budget is something he wants. Well, all of America is waiting for it.

This legislation is bipartisan. A balanced budget, according to Alan Greenspan, will reduce mortgage payments, reduce car payments, reduce college payments, reduce health care costs.

This is the best legislation for seniors, for children, working families. This bill is good for America.

I ask all Members to vote for it. It is good for America.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Georgia [Mr. BARR].

Mr. BARR. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, men and women and children of America, listen up, look into the eyes of this Chamber, listen to the words in this Chamber, for tonight for the very first time in the entire 11 months of this 104th historic Congress, the issue is crystal-clear. The issue is crystal-clear, as it will go down to Pennsylvania Avenue. This issue is crystal-clear, as it will go over tomorrow to the U.S. Senate. Does this body join the American people in support of a balanced budget or do they not? Is the President going to stand by what he said over and over again, or is he not?

He will have that chance. America has that chance. This is America's night. This is America's day. Stand up and say we will balance the budget and make sure that the folks on both sides are accountable for that, and, most importantly, men and women of America, make sure the gentleman at 1600 Pennsylvania Avenue hears that message. Call, write, fax: "We want a balanced budget amendment, we want a balanced budget." This is the vehicle to do it.

Let us commit ourselves as America has committed us to do and vote for this continuing resolution.

The SPEAKER pro tempore (Mr. DREIER). The Chair wishes to inform the Members that all remarks should be address to the Speaker, not to other Members or to those outside the Chamber.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Speaker, let me see if I get this right: If we vote for the alternative proposal being offered tonight, then we are basically admitting that we are willing to cut, or we are willing to meet the balanced budget? We just do not want to change our spending any? That is a joke. I think we all know that. I think the American people know that, that there really is only one way to balance the budget, and that is to reduce the rate of growth and to stop spending as past Congresses have done.

Why are we doing this? We talked about poison pills. We have talked about a system, protecting a system.

Well, let me tell you, you cannot go home and hug a system. I can go home and hug my four children. This is for them. This is for the future of our children.

The balanced budget means the very lives and future of every one of those children just as it is for my children. Put up or shut up. Come on, you have got the opportunity to do so. Quit squawking, get the job done.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I do rise in favor of this clean continuing resolution to balance the budget and, as a matter of fact, to let Government start operating again.

I also rise on behalf of 800,000 Federal workers who have been furloughed. These men and women are frightened, anxious, and confused. Through no fault of their own, they find that they no longer can work. Even though they have been assured that there will be an appropriation for them in the future, they want to work. They want to continue research on the AIDS virus. They do not want to stop looking for better educational strategies for our children. They do not want to stop developing alternative energy sources. And they want a balanced budget.

To me, this is so very simple. There is no requirement in balancing this budget, the commitment the President has made and will make with this continuing resolution, that says he has to have tax cuts in it. There is no commitment that he has to follow any of the suggestions that have been made by the majority side. He simply has to show he can balance it in 7 years using the CBO figures.

We must do that tonight.

Mr. Speaker, there is a need to balance the budget. But, what is getting lost in the budget debates and the shutdown posturing is the fact that Federal workers are human beings—they are taxpayers; and they are consumers. They have kids off in college. They buy food at the local grocery and worship at the neighborhood churches and synagogues.

These public servants also want a balanced budget and believe in a future for their children—the common vision that we all share, even though there are different roads to get there.

I've been assured by the leadership that action will be put forth that would pay Federal workers for any time off resulting from this shutdown, and I am sure the President will agree with this. And I'm grateful for this commitment, but Federal workers do not want something for nothing. They want to work. They don't want to stop research on the AIDS virus; they don't want to stop looking for better educational strategies for our children; and they don't want to stop developing alternative energy sources. And they want a balanced budget.

Shutdowns are inconsistent with the principles that bring people to Federal service. They are contrary to good government management and an affront to the taxpayers who must foot the shutdown bill.

Mr. Speaker, we all look bad on this—from the President to the most junior Member of Congress. I hope we learn a valuable lesson from this experience, because I never want to come to this floor again to speak about a Federal shutdown.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of this continuing resolution, and I reach out my hand in thanks to the many Members of the other side who are going to join us in supporting this continuing resolution and making it a bipartisan bill going back to the President

Frankly, I am stunned that before we had even taken action this evening, the President took it upon himself to say that he would veto legislation that is going to have strong bipartisan support that would reopen the government and, most importantly, establish the principle that 300 of us on both sides of the aisle voted for, and that is to balance the budget in this country for the first time in 33 years.

I urge my colleagues to support this continuing resolution on both sides of the aisle. Let us send this to the President and let him know that we want to see a balanced budget for the first time in this country in over 25 years.

Mr. LIVINGSTON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I rise in support of this bill that is good for all Americans.

Mr. Speaker, a lot of our constituents have been wondering what this whole government shutdown crisis is all about. Contrary to the characterizations by some in the media and elsewhere, this is not a petty, partisan, pushing match between a Republican Congress, and a Democrat President over who is tougher or stronger.

This is a very serious debate over the future size, shape, role, and direction of this Federal Government.

It is about our commitment to achieve a balanced budget in 7 years.

It is about downsizing and streamlining the Federal bureaucracy.

It is about returning more responsibility and, tax dollars to the States, localities, and most importantly, to the people.

It is really all about the first three words of the Constitution, "We the People." The people want a balanced budget.

The people want a trimmed down Federal bureaucracy.

The people want us to cut waste fraud and abuse from Government.

The people want us to re-think, re-set, and, yes, reduce our Federal priorities, because they recognize that when the Federal Government tries to do everything for the people, it usually fails to do much of anything successfully, other than collecting the people's hard-earned tax dollars.

That is what this dispute between the President and the Congress is all about. We have invited the President to join with us in our task of bringing the Federal budget into balance by fiscal year 2002.

The President has thus far balked at our invitation on grounds that he doesn't want to give up his priorities and programs. He would still like to have the American people believe that we can not only continue with all we are now doing (and spending) but that we can even do and spend more, not less, and still balance the budget at some time after he has long left office.

Mr. Speaker, that is a recipe for disaster. The Federal Government is not what will save our Nation and its economy. It is our ability through the private sector to create new and better jobs and opportunities for today's workers and their children.

The Federal Government is not our salvation. But it is what is standing in the way of this country's salvation, as long as the Government continues to spend us deeper and deeper into debt, and consume the capital that is so desperately needed to re-build this country and its economy.

In conclusion, Mr. Speaker, the differences between this Congress and the President are not petty, partisan squabbling, by any means.

They are a very fundamental debate about the future direction and scope of this Government, and what it will or will not allow the people (by their individual and collective enterprise and efforts) to do to save this great Nation of ours.

And balancing our Government's books, in a reasonable amount of time, in a carefully measured way, is critical to the success of "We the People" to save ourselves by our private sector initiatives and efforts.

Let's vote for this bill that will permit the Government to function at a reduced rate of spending, while we hammer-out the final details of that 7-year balanced budget bill, that will put us on that steady glide-path of digging this Nation out of its debts, and putting it back on a glide-path of fiscal responsibility.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like very quickly to say that this should not be a partisan vote tonight. This is a question of whether or not we are going to balance the budget of this country within 7 years. It is about the economic future of this country. It is not about a tax cut. There is no tax cut in this bill.

It is not about Medicare. Medicare is not in this bill.

It is not about a Republican or a Democrat agenda. It is simply about common sense: Do we want to leave the country that we received from our parents, do we want to leave that quality of life and economic future to our kids?

Tonight, before each one of us casts our vote, close your eyes for just a second, think about your kids, your grandkids. Think about the generations to come after us. Do we want them to have what we had? Or do we want to leave them a bankrupt Nation?

Think about it tonight. This is the only question that we should really consider: Do we want to live within our means and leave a better country for our children than we have today?

□ 2300

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute and 30 seconds to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding 1 minute to me, and wish it were 1 hour.

I rise tonight to ask all of my colleagues on both sides of the aisle to please vote for this bill, this CR. I think it is not that complicated. We are trying to put our Federal workers back to work. We are simply saying that we need to balance our budget, and Members all know that.

My colleagues have all said they wanted to do that in a 7-year period. I am asking my colleagues to help us balance this budget for my children and my grandchildren, for the 80 percent of the American people who believe we need to balance it, for the 66 percent of the people in my district who voted for me who sent me here to balance it, but maybe most of all for one Federal employee who left a note in my office the other night. I would like to read it to my colleagues and share it with them and ask them to consider voting for us.

The note read,

> Congressman Norwood, please don't give an inch to Clinton. I work in the AC shop and I met you the other night. I have a wife and 5 children and stand to lose $531 this week from furlough days. I support Newt and yourself and all others for the current balanced budget. The only Christmas we may have is this bill, but I can't think of a better Christmas.
>
> Please support this bill.

Mr. OBEY. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Missouri [Mr. GEPHARDT], minority leader.

The SPEAKER pro tempore (Mr. DREIER). The gentleman from Missouri [Mr. GEPHARDT] is recognized for 3 minutes.

Mr. GEPHARDT. Mr. Speaker, I urge Members to vote against this bill. We are here tonight because we have not gotten our work done. We are on a continuing resolution because the appropriation bills have not been done on time.

I respect greatly the work that has gone into this budget. I respect the legitimate intentions of the Members in the majority that have worked on this. But we have expended a tremendous amount of energy in the last days simply trying to extend the government, extend the debt so that we could have the time to do either the presentation of bills to the President so that we could bring this to a successful conclusion or to get the veto from the President, which is certain to come, so that we could get to the negotiations, if that is what is to happen next, so that we again can bring this to a successful conclusion.

We are expending energy needlessly on a continuing resolution tonight that includes admonitions about the budget in a bill that is not the budget. We know that there are many Members in the body, Democrats and Republicans, that want to reach a balanced budget in 7 years. This bill does not do it. The bill tomorrow or Friday is the bill that does that. And we cannot quite seem to get to the main act.

Now, let me say to my friends, if this is to be successful at the end of the day, at some point there has to be a willingness in the majority to say that there have to be 100 minority Members who are part of voting for this budget so the President will ultimately sign it. For the good of the country, I would hope that we could get to that point. But many on the majority side have said over and over again, well, the only way this works, the only way we will be for it is if there are 218 Republican votes for the bill. And in fact, some have said we will never be for a budget that gets as much as 100 Democratic votes. If that is the ultimate outcome, I think then we are bound to argue these issues into the campaign.

I am not unwilling to do that. In fact, I have come to believe that these issues are of such importance over such a long period of time that the American people should be dealt into these decisions, if the decisions are simply yours alone. So at some point there has got to be a coming together.

Let me finally say this: I understand the Speaker said today, reported in a news article, and sometimes those news articles are wrong and I understand that, but he said that the 7-year number was intuition. I respect his intuition. I respect anybody's intuition. But I am here to tell my colleagues that this issue of 7 years is a clash of values. A budget is not just about 7 years. A budget is about a lot of different decisions.

I am here to tell my colleagues tonight, like a lot of people among the American people, I am not for balancing the budget in 5 or 6 or 7 or even 8 years, if it means decimating and ruining the Medicare program that the people of this country have come to depend upon. I am not for balancing the budget in 6 or 7 or 8 years if it means that the young people in my district and in your district cannot get a student loan when they need a student loan to get their education. I can tell my colleagues for sure that I am not for a balanced budget if it means that we are going to cut Medicare and Medicaid and cut seniors, if we are using the majority of that money to pay for a tax break for the wealthiest people in this country.

So I say to my friends on the Democratic side tonight, vote against this bill. Let us not put bookends on this decision that says that it has got to be my way or the highway. Let us decide in a rational way, either through the presentation of bills or through an honest negotiation between the parties for a good, sensible, logical, humane balanced budget for this country, even if it takes 8 years or 9 years. Let us not lock our hands tonight and say there is only one way to do this. There has got to be a number of ways to do it. Let us work together to get it done sensibly.

Mr. LIVINGSTON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the lines are clearly drawn. The other side wanted a clean bill. This is a clean bill with one exception. It says all we want to do is achieve a unified balanced budget not later than the fiscal year 2002 based on the most current economic and technical assumptions of the Congressional Budget Office. That is the difference in this bill from the bill that they have been saying they wanted from the beginning, and all this one does is commit us to a balanced budget.

On behalf of all the Americans who want the Federal budget balanced and on behalf of all Americans who want their government working and fully functioning, I would urge all our Members, Republican and Democrat alike, to pass a clean continuing resolution that will commit us to a balanced budget by the year 2002.

Mr. PORTER. Mr. Speaker, finally the choice has been made clear: whether the Congress and then the President are committed to a balanced budget or not. The question is not 7 years, or whether there will be a tax cut or not, or whether Medicare and Medicaid will be reformed. The question is solely whether the Congress is committed to balancing the budget in 7 years or not, and then whether the President has such a commitment.

The issue is really whether business in Washington will continue as usual or whether there will be a new commitment to change. To change from policies that have left our children in major cities uneducated, or welfare system supporting persons in the third and fourth generations, our population plagued with drugs, our prisons overflowing with people who do not obey our laws.

Change has come to the private sector in America, and while the transition in the post-cold-war world has been difficult, our country today is in position to successfully compete throughout the world. We have known that it was necessary to change how we organized and conducted or business enterprises, to reduce inventories, to lay off unproductive and unneeded employees, to do those things to meet competitive pressures in the world economy. We have turned the corner and today are as competitive as we have ever been, with an economy characterized by both low inflation and low unemployment.

But change in the private sector is not enough. Everyone understands that government must change as well. That 40 years of accumulating programs to serve narrow constituencies at high administative costs can no longer be afforded. That huge deficits year after year, draining the future from our children and grandchildren, cannot be tolerated. That all the rights we are guaranteed as a free people in this most free land on earth come with responsibilities—the responsibility to give something to our country, to contribute to solving its problems.

It's time, Mr. Speaker, that we start from the premise that we are all Americans, that we must change business as usual, stop demanding that our interests as seniors, or business people, or union members, or farmers, or of any group come first, and that we find the way to work together to solve our country's problems. We must begin by a commitment to balance the budget and put ourselves on a solid economic foundation that will guarantee our children and grandchildren the opportunity for a better economic life.

This resolution does that. It puts the Government back to work for the American people and commits the Congress and the President to balancing the budget. There is no escape for the President, nor for any Member of Congress, Mr. Speaker. You're either for balancing the budget or against it. There's no question of how, or what spending cuts will or will not be made or whether tax cuts are or are not part of it. It's only a commitment to do the job. Yes or no. How will you be counted?

□ 2310

The SPEAKER pro tempore (Mr. DREIER). All time has expired.

Pursuant to House Resolution 270, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. OBEY. In its present form I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk, read as follows:

Mr. OBEY moves to recommit House Joint Resolution 122 to the Committee on Appropriations with instructions that it report back the joint resolution to the House forthwith with the following amendments:

On page 9, line 12, strike "40 percent" and insert "10 percent"; and,

Amend Title III by striking the last period and inserting the following: "and shall be based on the following substantive assumptions

(1) tax cuts shall be provided only after the budget is in balance;

(2) no reductions in education shall be made which close the doors of opportunity to young people;

(3) no alterations in the Medicare program shall restrict the access or quality of care available to senior citizens or disproportionately increase the cost of that care to those citizens; and

(4) no money will be appropriated and no targeted tax benefit will be provided (including all fiscal year 1996 appropriation measures and any reconciliation bill enacted after the date of enactment of this joint resolution) that is not subject to a line item veto in order to maintain the time table for a balanced budget."

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes in support of his motion to recommit.

Mr. OBEY. Mr. Speaker, what this motion to recommit says is that we will be happy to buy into the idea of a 7-year balanced budget despite all of the blindfolds that that implies provided that the majority party will be willing to buy into the following requirements: First of all, that a tax cut will be provided only after the budget is in balance. We do not want any $14,000 tax cuts going to people making $300,000 a year before the budget is balanced. I do not want them anytime.

We also do not want any reductions in education which will close the doors of opportunity for young people. I thought the reason we came here was to open doors of opportunity, not close them.

Mr. Speaker, we also do not want to see tax cuts that are provided by cuts in Medicare and cuts in Medicaid, and we do not want cuts in those programs to affect the quality of care or disproportionately increase the cost of that care to the citizens who rely on those programs.

Lastly, we want the line-item veto to apply to each and every appropriation bill that passes for this fiscal year, we want it to apply to every item in the reconciliation bill that passes, and we also want it to apply to all of the tax goodies that from time to time work their way into bills in this place, especially for rich friends. We want the President to be able, if he indeed is expected to adhere to a timetable of 7 years, we want the President to have all of those tools available, and we want them available now.

Now everybody talks about personal experiences. I held a lot of hearings in my district over the past months, and the person I will never forget is a young woman who was 22 or 23 from Rhinelander, WI, who appeared at a hearing of mine. She had two young children. She divorced her husband because he beat the hell out of her on a regular basis, and she needed Medicaid desperately, she needed to maintain her student loan, she was homeless for 4 months last year, and yet she kept going to school each and every day because she wanted to make something of herself.

I do not want to balance the budget on the backs of people like that when at the same time in the reconciliation package coming down at us on that freight train we are going to be asked to make life a whole lot easier for the wealthiest people in this society.

Mr. Speaker, I have absolutely nothing against rich people. I want everybody to be rich. But in the 1980's, in the 1980's, we saw the richest one-half million families in this country increase their share of national wealth from 24 percent to 32 percent. Think about it. At the same time we saw the average working person in this country either hang on or lose ground.

We want to change that. We do not want to see the budget balanced in a way which increases the disparity—in income and well-being—between the very wealthiest people in this society and the folks, the everyday folks, who struggle every day just to make ends meet.

If we are going to listen to the accountants who tell us how we numerically pull the numbers together, we also want to listen to the folks who will talk to us about the morality associated with these choices so that we also pay attention to the need to hold this society together. And we will not hold this society together if we continue to follow a prescription which asks as its first question, "What can we do for the boys on the top?" We will not hold this society together if we wind up with a prescription that gives table scraps to everybody else in this society, and that is what has been happening for the last 12 to 15 years.

I urge my colleagues to vote for this motion to recommit, and I urge my colleagues to vote against this resolution if the motion to recommit is not adopted.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON] for 5 minutes.

Mr. LIVINGSTON. Mr. Speaker, I rise in opposition to the motion to recommit, in favor of the continuing resolution, and I yield the 5 minutes to the gentleman from Georgia [Mr. GINGRICH], the distinguished Speaker of the House of Representatives.

Mr. GINGRICH. Mr. Speaker, I think this is a very historic debate, and I thank the gentleman from Louisiana [Mr. LIVINGSTON] for yielding this time to me.

The Mobile Press-Register had it right today when they ran an editorial entitled "Nation's Future at Stake in Budget Slowdown," and that is what this is really all about.

I listened carefully twice this evening to the gentleman from Wisconsin, the distinguished leader of the Democrats on the Committee on Appropriations. I really liked his one chart about how past efforts had failed. He did not note that he was part of the majority in Congress during those failures and that we are different. We have been here 11 months, and we are different, and we recognize that, and we accept it.

As my colleagues know, this does not need to be a fight.

□ 2320

Virtually every liberal who opposed the balanced budget earlier this year said, "We don't need a constitutional amendment. We need the courage to make the decisions now." You go back and read the RECORD. Virtually every liberal said, "Vote no on the constitutional amendment for a balanced budget. We can do it here." And they are right. And we are.

Just last week, 68 Democrats voted for a 7-year balanced budget. Let us be very clear, the language tonight says nothing about taxes. It says nothing about defense. It says nothing about education or environment. All it says, all it says the President of the United States, in return for us giving him billions of dollars to spend, should commit to a 7-year balanced budget, scored honestly, by the Congressional Budget Office.

Everything is on the table. You want to negotiate over the taxes? Fine. Let us negotiate. We believe that a $500 tax credit per child for a working mother with three children is a good thing. That is $1,500 in her pocket when she goes to work. But that is not in this resolution. That is to be negotiated. All this resolution says is "Use the Congressional Budget Office."

Now, I was here in the minority, I sat right there where the gentleman from California is sitting, in the Whip's chair, and I watched the President of the United States, Mr. Clinton, right there is his first speech to the Congress. And he said to us: "We should score all of these things with the Congressional Budget Office." He said it. Why? Because historically it was more honest, it was more accurate, and it was not under the political control of the President.

So all we have done is take the President's advice. Now, there is one constant misrepresentation I just have to take a moment to comment on. It is in the statement of administration policy sent out. And it saddens me. It was in the quotes from the gentleman from Texas [Mr. DOGGETT], from the gentleman from Wisconsin [Mr. OBEY], from my good friend, the minority leader, the gentleman from Missouri [Mr. GEPHARDT]. Here is what the administration says: "Drastic cuts in Medicare."

Let me say to my friends, the gentleman from Wisconsin [Mr. OBEY] talked about "gutting Medicare." The gentleman from Texas [Mr. DOGGETT] talked about "simply arithmetic." Let me give you the actual facts, and I am not asking all my Democratic friends to agree to this. That would be on the table to be negotiated. But I at least have to make the record clear.

This year we spend $4,800 per senior citizen. At the end of 7 years in our plan to balance the budget and save the Medicare trust fund from going broke, we spend $6,700 per senior citizen. That is just an arithmetical fact. That is just true. You may not like it, maybe you want to spend more, but that is an increase per senior citizen of $1,900, per year per senior citizen, more than the inflation rate, more than the medical inflation rate. In fact the total growth in this program, which is 45 percent, is twice the inflation rate.

When people say the word "cut," it is just not accurate. I really wish they would have somebody on their staff do the arithmetic; from $4,800 to $6,700 is an increase.

But let me come back to what is really happening. The President wants money. We need to get the furloughed employees back to work. That is the right thing to do. We want the Federal Government to work at full speed. That is the right thing to do. But the President, since April, when I first said we would not accept a veto strategy, we would not allow ourselves to be stopped by the power of the veto, the President simply refused to negotiate, and as recently as tonight he has said he does not want to get to a balanced budget in 7 years. He wants a lot more money, a lot bigger deficit, a lot higher taxes.

We have a document right down the hall called the Magna Carta. It is a reproduction from England of the original, created in 1215, when the barons said to King John, "You can't have money unless the people who are taxed have some say." In America that got translated pretty simply: No taxation without representation.

Then we created the Congress based on the House of Commons, the House over here. The Senate was supposed to be the House of Lords, and I will not comment, out of a sense of comity. But the power to originate all taxes and the power to originate all spending is in the legislative branch.

Why? So that the 435 people elected every 2 years from back home, and the 100 Senators elected to represent the States, would have the power to say to a President: "If you want money from the American people, there are legitimate, honorable conditions."

And tonight we only say we want one condition, and it is not a hard condition. Almost 90 percent of the American people want this condition. Our phones are ringing off the hook with people who are saying, "Don't back down. Don't give in." What is that condition? Balance the budget. And how long do we take? I say to my friend, the gentleman from Missouri, you are right. Seven is an intuitive number. It is based on having spent 35 years studying this business and trying to figure out what is the shortest time without causing immense pain that we could get to a balanced budget.

I would say that the gentleman from Ohio, Chairman KASICH, has done a brilliant job in working that out, and I would say that 68 of your own colleagues voted last week to 7 years because it is doable in 7 years. Why should we take a year longer than necessary?

So all I say to all my friends on both sides of the aisle, we do not ask you to agree on tax cuts, we do not ask you to agree to a number in defense, we do not ask you to agree to a number in education, we do not ask you to agree to anything but two principles, that the budget shall be balanced in 7 years and that the scoring will be honest numbers based on the Congressional Budget Office.

We say to the President, "We offer you a contract with the representatives of the American people. We will give you the money to bring back the furloughed employees. You sign on the line that you agree to work to a balanced budget." It is that simple. It is that direct. It is that American.

Mr. WYDEN. Mr. Speaker, I want to make it clear that I support balancing the Federal budget within 7 years. It can be done if we roll up our sleeves and work in a bipartisan fashion.

However, I am not able to support this evening's continuing resolution as it fails to provide even the most basic protections for Social Security or Medicare. Further, it would immediately cut education, veterans' homeless programs, and—at the outset of winter—the Low Income Home Energy Assistance Program.

This is not a vote taken in a vacuum. The House has adopted a balanced budget that calls for $270 billion in Medicare cuts. I cannot and I will not support the weakening of Medicare for our seniors.

I am prepared tonight to work across the aisle to balance the budget. My priorities for cutting the Federal budget include slashing military spending, agricultural subsidies, the space program, and Federal agency overhead, as well as eliminating waste, fraud, and abuse in the Medicare and Medicaid Programs.

I will work with anyone to bring the Federal budget under control, but I cannot support tonight's partisan effort.

The SPEAKER pro tempore (Mr. DREIER). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote. A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 187, noes 241, not voting 5, as follows:

[Roll No. 801]

AYES—187

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin

Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—241

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Fields (LA)
Houghton
Tucker
Waldholtz
Yates

☐ 2344

Mr. RAHALL and Mr. QUINN changed their vote from "aye" to "no."

So the motion to recommit was not agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DREIER). The question is on the joint resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LIVINGSTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 277, noes 151, not voting 5, as follows:

[Roll No. 802]

AYES—277

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—151

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin

Lewis (GA)
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McKinney
Meek
Menendez
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Shadegg
Skaggs
Slaughter
Souder
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden

NOT VOTING—5

Fields (LA)
Houghton
Tucker
Waldholtz
Yates

☐ 0004

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 707

Mr. METCALF. Mr. Speaker, I ask unanimous consent to have my name removed from H.R. 707.

The SPEAKER pro tempore (Mr. DREIER). Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY, THURSDAY, NOVEMBER 16, 1995, DURING 5-MINUTE RULE

Mr. METCALF. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit on today, Thursday, November 16, 1995, while the House is meeting in the Committee of the Whole House under the 5-minute rule:

The Committee on Commerce;

The Committee on Economic and Educational Opportunities;

The Committee on Government Reform and Oversight;

The Committee on House Oversight;

The Committee on International Relations;

The Committee on Resources;

The Committee on Science;

The Committee on Transportation and Infrastructure;

The Committee on Veterans' Affairs; and

The Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2126, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104-346) on the resolution (H. Res. 271) waiving points of order against the conference report to accompany the bill (H.R. 2126) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

RECESS

The SPEAKER pro tempore. Without objection, the House will stand in recess subject to the call of the Chair.

There was no objection.

Accordingly (at 12 o'clock and 10 minutes a.m.), the House stood in recess subject to the call of the Chair.

☐ 0110

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CHRYSLER) at 1 o'clock and 10 minutes p.m.

CONFERENCE REPORT ON H.R. 2491, BALANCED BUDGET ACT OF 1995

Mr. HOBSON submitted the following conference report and statement on the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996:

CONFERENCE REPORT (H. REPT. NO. 104-347)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2491), to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Act of 1995".

SEC. 2. TABLE OF TITLES.

This Act is organized into titles as follows:

Title I—Agriculture and Related Provisions
Title II—Banking, Housing, and Related Provisions
Title III—Communication and Spectrum Allocation Provisions
Title IV—Education and Related Provisions
Title V—Energy and Natural Resources Provisions
Title VI—Federal Retirement and Related Provisions
Title VII—Medicaid
Title VIII—Medicare
Title IX—Transportation and Related Provisions
Title X—Veterans and Related Provisions
Title XI—Revenues
Title XII—Teaching hospitals and graduate medical education; asset sales; welfare; and other provisions

TITLE I—AGRICULTURE AND RELATED PROVISIONS

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1001. Short title; table of contents.

Subtitle A—Agricultural Market Transition Program

Sec. 1101. Short title.
Sec. 1102. Definitions.
Sec. 1103. Production flexibility contracts.
Sec. 1104. Nonrecourse marketing assistance loans and loan deficiency payments.
Sec. 1105. Payment limitations.
Sec. 1106. Peanut program.
Sec. 1107. Sugar program.
Sec. 1108. Administration.
Sec. 1109. Elimination of permanent price support authority.
Sec. 1110. Effect of amendments.

Subtitle B—Conservation

Sec. 1201. Conservation.

Subtitle C—Agricultural Promotion and Export Programs

Sec. 1301. Market promotion program.
Sec. 1302. Export enhancement program.

Subtitle D—Miscellaneous

Sec. 1401. Crop insurance.
Sec. 1402. Collection and use of agricultural quarantine and inspection fees.
Sec. 1403. Commodity Credit Corporation interest rate.

Subtitle A—Agricultural Market Transition Program

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Agricultural Market Transition Act".

SEC. 1102. DEFINITIONS.

In this subtitle:

(1) CONSIDERED PLANTED.—The term "considered planted" means acreage that is considered planted under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) (as in effect prior to the amendment made by section 1109(b)(2)).

(2) CONTRACT.—The term "contract" means a production flexibility contract entered into under section 1103.

(3) CONTRACT ACREAGE.—The term "contract acreage" means 1 or more crop acreage bases established for contract commodities under title V of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)). If a crop acreage base was not enrolled in an annual program for the 1995 crop in order to increase crop acreage base, the contract acreage for the 1996 crop shall reflect the increased base acreage that would have been established under title V of the Act (as so in effect).

(4) CONTRACT COMMODITY.—The term 'contract commodity' means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.

(5) CONTRACT PAYMENT.—The term "contract payment" means a payment made under section 1103 pursuant to a contract.

(6) FARM PROGRAM PAYMENT YIELD.—The term "farm program payment yield" means the farm program payment yield established for the 1995 crop of a contract commodity under title V of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)).

(7) LOAN COMMODITY.—The term 'loan commodity' means each contract commodity, extra long staple cotton, and oilseeds.

(8) OILSEED.—The term "oilseed" means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

(9) PROGRAM.—The term "program" means the agricultural market transition program established under this subtitle.

(10) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 1103. PRODUCTION FLEXIBILITY CONTRACTS.

(a) CONTRACTS AUTHORIZED.—

(1) OFFER AND TERMS.—Beginning as soon as practicable after the date of the enactment of this subtitle, the Secretary shall offer to enter into a contract with an eligible owner or operator described in paragraph (2) on a farm containing eligible farmland. Under the terms of a contract, the owner or operator shall agree, in exchange for annual contract payments, to comply with—

(A) the conservation plan for the farm prepared in accordance with section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812);

(B) wetland protection requirements applicable to the farm under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.); and

(C) the planting flexibility requirements of subsection (j).

(2) ELIGIBLE OWNERS AND OPERATORS DESCRIBED.—The following persons shall be considered to be an owner or operator eligible to enter into a contract:

(A) An owner of eligible farmland who assumes all of the risk of producing a crop.

(B) An owner of eligible farmland who shares in the risk of producing a crop.

(C) An operator of eligible farmland with a share-rent lease of the eligible farmland, regardless of the length of the lease, if the owner enters into the same contract.

(D) An operator of eligible farmland who cash rents the eligible farmland under a lease expiring on or after September 30, 2002, in which case the consent of the owner is not required.

(E) An operator of eligible farmland who cash rents the eligible farmland under a lease expiring before September 30, 2002, if the owner consents to the contract.

(F) An owner of eligible farmland who cash rents the eligible farmland and the lease term expires before September 30, 2002, but only if the actual operator of the farm declines to enter into a contract. In the case of an owner covered by this subparagraph, contract payments shall not begin under a contract until the fiscal year following the fiscal year in which the lease held by the nonparticipating operator expires.

(G) An owner or operator described in a preceding subparagraph regardless of whether the owner or operator purchased catastrophic risk protection for a fall-planted 1996 crop under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)).

(3) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interests of operators who are tenants and sharecroppers.

(b) ELEMENTS.—

(1) TIME FOR CONTRACTING.—

(A) DEADLINE.—Except as provided in subparagraph (B), the Secretary may not enter into a contract after April 15, 1996.

(B) CONSERVATION RESERVE LANDS.—

(i) IN GENERAL.—At the beginning of each fiscal year, the Secretary shall allow an eligible owner or operator on a farm covered by a conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) that terminates after the date specified in subparagraph (A) to enter into or expand a production flexibility contract to cover the contract acreage of the farm that was subject to the former conservation reserve contract.

(ii) AMOUNT.—Contract payments made for contract acreage under this subparagraph shall be made at the rate and amount applicable to the annual contract payment level for the applicable crop.

(2) DURATION OF CONTRACT.—

(A) BEGINNING DATE.—A contract shall begin with—

(i) the 1996 crop of a contract commodity; or

(ii) in the case of acreage that was subject to a conservation reserve contract described in paragraph (1)(B), the date the production flexibility contract was entered into or expanded to cover the acreage.

(B) ENDING DATE.—A contract shall extend through the 2002 crop.

(3) ESTIMATION OF CONTRACT PAYMENTS.—At the time the Secretary enters into a contract, the Secretary shall provide an estimate of the minimum contract payments anticipated to be made during at least the first fiscal year for which contract payments will be made.

(c) ELIGIBLE FARMLAND DESCRIBED.—Land shall be considered to be farmland eligible for coverage under a contract only if the land has contract acreage attributable to the land and—

(1) for at least 1 of the 1991 through 1995 crops, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of a contract commodity under section 101B, 103B, 105B, or 107B of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)) or was considered planted;

(2) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) whose term expired, or was voluntarily terminated, on or after January 1, 1995; or

(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on the date specified in subsection (b)(1)(A).

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—An annual contract payment shall be made not later than September 30 of each of fiscal years 1996 through 2002.

(2) ADVANCE PAYMENTS.—

(A) FISCAL YEAR 1996.—At the option of the owner or operator, 50 percent of the contract payment for fiscal year 1996 shall be made not later than 60 days after the date on which the owner or operator enters into a contract.

(B) SUBSEQUENT FISCAL YEARS.—At the option of the owner or operator for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be made on December 15.

(e) AMOUNTS AVAILABLE FOR CONTRACT PAYMENTS FOR EACH FISCAL YEAR.—

(1) IN GENERAL.—The Secretary shall expend on a fiscal year basis the following amounts to satisfy the obligations of the Secretary under all contracts:

(A) For fiscal year 1996, $5,570,000,000.

(B) For fiscal year 1997, $5,385,000,000.

(C) For fiscal year 1998, $5,800,000,000.

(D) For fiscal year 1999, $5,603,000,000.

(E) For fiscal year 2000, $5,130,000,000.

(F) For fiscal year 2001, $4,130,000,000.

(G) For fiscal year 2002, $4,008,000,000.

(2) ALLOCATION.—The amount made available for a fiscal year under paragraph (1) shall be allocated as follows:

(A) For wheat, 26.26 percent.

(B) For corn, 46.22 percent.

(C) For grain sorghum, 5.11 percent.

(D) For barley, 2.16 percent.

(E) For oats, 0.15 percent.

(F) For upland cotton, 11.63 percent.

(G) For rice, 8.47 percent.

(3) ADJUSTMENT.—The Secretary shall adjust the amounts allocated for each contract commodity under paragraph (2) for a particular fiscal year by—

(A) subtracting an amount equal to the amount, if any, necessary to satisfy payment requirements under sections 101B, 103B, 105B, and 107B of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)) for the 1994 and 1995 crops of the commodity;

(B) adding an amount equal to the sum of all producer repayments of deficiency payments received under section 114(a)(2) of the Act (as so in effect) for the commodity;

(C) adding an amount equal to the sum of all contract payments withheld by the Secretary, at the request of producers, during the preceding fiscal year as an offset against producer repayments of deficiency payments otherwise required under section 114(a)(2) of the Act (as so in effect) for the commodity; and

(D) adding an amount equal to the sum of all refunds of contract payments received during the preceding fiscal year under subsection (h) for the commodity.

(f) DETERMINATION OF CONTRACT PAYMENTS.—

(1) INDIVIDUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—For each contract, the payment quantity of a contract commodity for each fiscal year shall be equal to the product of—

(A) 85 percent of the contract acreage; and

(B) the farm program payment yield.

(2) ANNUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—The payment quantity of each contract commodity covered by all contracts for each fiscal year shall equal the sum of the amounts calculated under paragraph (1) for each individual contract.

(3) ANNUAL PAYMENT RATE.—The payment rate for a contract commodity for each fiscal year shall be equal to—

(A) the amount made available under subsection (e) for the contract commodity for the fiscal year; divided by

(B) the amount determined under paragraph (2) for the fiscal year.

(4) ANNUAL PAYMENT AMOUNT.—The amount to be paid under a contract in effect for each fiscal year with respect to a contract commodity shall be equal to the product of—

(A) the payment quantity determined under paragraph (1) with respect to the contract; and

(B) the payment rate in effect under paragraph (3).

(5) ASSIGNMENT OF CONTRACT PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to contract payments under this subsection. The owner or operator making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this paragraph.

(6) SHARING OF CONTRACT PAYMENTS.—The Secretary shall provide for the sharing of contract payments among the owners and operators subject to the contract on a fair and equitable basis.

(g) PAYMENT LIMITATION.—The total amount of contract payments made to a person under a contract during any fiscal year may not exceed the payment limitations established under section 1105.

(h) EFFECT OF VIOLATION.—

(1) TERMINATION OF CONTRACT.—Except as provided in paragraph (2), if an owner or operator subject to a contract violates the conservation plan for the farm containing eligible farmland under the contract, wetland protection requirements applicable to the farm, or the planting flexibility requirements of subsection (j), the Secretary shall terminate the contract with respect to the owner or operator. On the termination, the owner or operator shall forfeit all rights to receive future contract payments and shall refund to the Secretary all contract payments received by the owner or operator during the period of the violation, together with interest on the contract payments as determined by the Secretary.

(2) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation does not warrant termination of the contract under paragraph (1), the Secretary may require the owner or operator subject to the contract—

(A) to refund to the Secretary that part of the contract payments received by the owner or operator during the period of the violation, together with interest on the contract payments as determined by the Secretary; or

(B) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

(3) FORECLOSURE.—An owner or operator subject to a contract may not be required to make repayments to the Secretary of amounts received under the contract if the contract acreage has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate in order to provide fair and equitable treatment. This paragraph shall not void the responsibilities of such an owner or operator under the contract if the owner or operator continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.

(4) REVIEW.—A determination of the Secretary under this subsection shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

(i) TRANSFER OF INTEREST IN LANDS SUBJECT TO CONTRACT.—

(1) EFFECT OF TRANSFER.—Except as provided in paragraph (2), the transfer by an owner or operator subject to a contract of the right and interest of the owner or operator in the contract acreage shall result in the termination of the contract with respect to the acreage, effective on the date of the transfer, unless the transferee of the acreage agrees with the Secretary to assume all obligations of the contract. At the request of the transferee, the Secretary may modify the contract if the modifications are consistent with the objectives of this section as determined by the Secretary.

(2) EXCEPTION.—If an owner or operator who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

(j) PLANTING FLEXIBILITY.—

(1) PERMITTED CROPS.—Subject to paragraph (2)(A), any commodity or crop may be planted on contract acreage.

(2) LIMITATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the planting of any fruit or vegetable, and unlimited haying and grazing, shall be permitted on not more than 15 percent of the contract acreage.

(B) EXCEPTION.—Subparagraph (A) shall not apply to the planting of contract commodities, lentils, mung beans, and dry peas on contract acreage.

(3) ALFALFA.—The planting of alfalfa on contract acreage is unlimited, except that the quantity of acreage on which the contract payment of the owner or operator would otherwise be based shall be reduced for each acre planted to alfalfa in excess of the limitation in effect under paragraph (2)(A) for the contract.

(4) HAYING AND GRAZING.—Subject to paragraphs (2) and (3), haying and grazing of contract acreage shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the contract acreage.

SEC. 1104. NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS.

(a) AVAILABILITY OF NONRECOURSE LOANS.—

(1) AVAILABILITY.—For each of the 1996 through 2002 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b) for the loan commodity.

(2) ELIGIBLE PRODUCTION.—The following production shall be eligible for a marketing assistance loan under this section:

(A) In the case of a marketing assistance loan for a contract commodity, any production by a producer who has entered into a production flexibility contract.

(B) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

(b) LOAN RATES.—

(1) WHEAT.—

(A) LOAN RATE.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for wheat shall be—

(i) not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(ii) not more than $2.58 per bushel.

(B) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(i) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(ii) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

(iii) less than 15 percent, the Secretary may not reduce the loan rate for wheat for the corresponding crop.

(C) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan rate for wheat under subparagraph (B) shall not be considered in determining the loan rate for wheat for subsequent years.

(2) FEED GRAINS.—

(A) LOAN RATE FOR CORN.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for corn shall be—

(i) not less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(ii) not more than $1.89 per bushel.

(B) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

(i) equal to or greater than 25 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 10 percent in any year;

(ii) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 5 percent in any year; or

(iii) less than 12.5 percent the Secretary may not reduce the loan rate for corn for the corresponding crop.

(C) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan rate for corn under subparagraph (B) shall not be considered in determining the loan rate for corn for subsequent years.

(D) OTHER FEED GRAINS.—The loan rate for a marketing assistance loan for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

(3) UPLAND COTTON.—

(A) LOAN RATE.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States a rate that is not less than the smaller of—

(i) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 in the year in which the loan rate is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(ii) 90 percent of the average, for the 15-week period beginning July 1 of the year in which the loan rate is announced, of the 5 lowest-priced growths of the growths quoted for Middling 1$^{3}/_{32}$-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

(B) LIMITATIONS.—The loan rate for a marketing assistance loan for upland cotton shall not be less than $0.50 per pound or more than $0.5192 per pound.

(4) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan for extra long staple cotton shall be—

(A) not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5 previous marketing years, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $0.7965 per pound.

(5) RICE.—The loan rate for a marketing assistance loan for rice shall be $6.50 per hundredweight.

(6) OILSEEDS.—

(A) SOYBEANS.—The loan rate for a marketing assistance loan for soybeans shall be $4.92 per bushel.

(B) SUNFLOWER SEED, CANOLA, RAPESEED, SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—The loan rates for a marketing assistance loan for

sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be $0.087 per pound.

(C) OTHER OILSEEDS.—The loan rates for a marketing assistance loan for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.

(c) TERM OF LOAN.—In the case of each loan commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made. A marketing assistance loan for upland cotton or extra long staple cotton shall have a term of 10 months. The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

(d) REPAYMENT.—

(1) REPAYMENT RATES GENERALLY.—The Secretary shall permit producers to repay a marketing assistance loan under subsection (a) for a loan commodity (other than extra long staple cotton) at a level that is the lesser of—

(A) the loan rate established for the commodity under subsection (b); or

(B) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

(2) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under subsection (b).

(3) PREVAILING WORLD MARKET PRICE.—For purposes of paragraph (1)(B) and subsection (f), the Secretary shall prescribe by regulation—

(A) a formula to determine the prevailing world market price for each loan commodity, adjusted to United States quality and location; and

(B) a mechanism by which the Secretary shall announce periodically the prevailing world market price for each loan commodity.

(4) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—

(A) IN GENERAL.—During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under paragraph (3) shall be further adjusted if—

(i) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under subsection (b), as determined by the Secretary; and

(ii) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) $1\frac{3}{32}$-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) $1\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe (referred to in this subsection as the "Northern Europe price").

(B) FURTHER ADJUSTMENT.—Except as provided in subparagraph (C), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(i) The United States share of world exports.

(ii) The current level of cotton export sales and cotton export shipments.

(iii) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(C) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under subparagraph (B) may not exceed the difference between—

(i) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling $1\frac{3}{32}$-inch cotton delivered C.I.F. Northern Europe; and

(ii) the Northern Europe price.

(e) LOAN DEFICIENCY PAYMENTS.—

(1) AVAILABILITY.—Except as provided in paragraph (4), the Secretary may make loan deficiency payments available to producers who, although eligible to obtain a marketing assistance loan under subsection (a) with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for payments under this subsection.

(2) COMPUTATION.—A loan deficiency payment under this subsection shall be computed by multiplying—

(A) the loan payment rate determined under paragraph (3) for the loan commodity; by

(B) the quantity of the loan commodity that the producers on a farm are eligible to place under loan but for which the producers forgo obtaining the loan in return for payments under this subsection.

(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

(A) the loan rate established under subsection (b) for the loan commodity; exceeds

(B) the rate at which a loan for the commodity may be repaid under subsection (d).

(4) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This subsection shall not apply with respect to extra long staple cotton.

(f) SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.—

(1) FIRST HANDLER MARKETING CERTIFICATES.—

(A) IN GENERAL.—During the period ending on July 31, 2003, if the repayment rates provided in subsection (d) for upland cotton or the availability of loan deficiency payments for upland cotton under subsection (e) fails to make United States upland cotton fully competitive in world markets and the prevailing world market price of upland cotton (adjusted to United States quality and location) is below the current loan repayment rate for upland cotton, to make United States upland cotton competitive in world markets and to maintain and expand domestic consumption and exports of upland cotton produced in the United States, the Secretary shall provide for the issuance of marketing certificates or cash payments in accordance with this paragraph.

(B) PAYMENTS.—The Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, through the issuance of marketing certificates or cash payments, to first handlers of upland cotton (persons regularly engaged in buying or selling upland cotton) who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this paragraph. The payments shall be made in such amounts and subject to such terms and conditions as the Secretary determines will make upland cotton produced in the United States available at competitive prices, consistent with the purposes of this paragraph.

(C) VALUE.—The value of each certificate or cash payment issued under subparagraph (B) shall be based on the difference between—

(i) the loan repayment rate for upland cotton; and

(ii) the prevailing world market price of upland cotton (adjusted to United States quality and location), as determined by the Secretary.

(D) REDEMPTION, MARKETING, OR EXCHANGE.—The Commodity Credit Corporation, under regulations prescribed by the Secretary, may assist any person receiving marketing certificates under this paragraph in the redemption of certificates for cash, or marketing or exchange of the certificates for agricultural commodities or products owned by the Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this paragraph. Any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this paragraph.

(E) DESIGNATION OF COMMODITIES AND PRODUCTS; CHARGES.—Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

(F) DISPLACEMENT.—The Secretary shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and products for certificates under this subsection from adversely affecting the income of producers of the commodities or products.

(G) TRANSFERS.—Under regulations prescribed by the Secretary, certificates issued to cotton handlers under this paragraph may be transferred to other handlers and persons approved by the Secretary.

(2) COTTON USER MARKETING CERTIFICATES.—

(A) ISSUANCE.—Subject to subparagraph (D), during the period ending July 31, 2003, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(i) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) $1\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(ii) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 130 percent of the loan rate for upland cotton established under subsection (b).

(B) VALUE OF CERTIFICATES OR PAYMENTS.—The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(C) ADMINISTRATION.—Subparagraphs (D) through (G) of paragraph (1) shall apply to marketing certificates issued under this paragraph. Any such certificates may be transferred to other persons in accordance with regulations issued by the Secretary.

(D) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under subparagraph (A) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) $1\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this paragraph, exceeds the Northern Europe price by more than 1.25 cents per pound.

(E) LIMITATION ON EXPENDITURES.—Total expenditures under this paragraph shall not exceed $701,000,000 during fiscal years 1996 through 2002.

(3) SPECIAL IMPORT QUOTA.—

(A) ESTABLISHMENT.—The President shall carry out an import quota program that provides that, during the period ending July 31, 2003, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1$\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under paragraph (2), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(B) QUANTITY.—The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(C) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under subparagraph (A) and entered into the United States not later than 180 days after the date.

(D) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by subparagraph (A), except that a special quota period may not be established under this paragraph if a quota period has been established under subsection (g).

(E) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(F) DEFINITION.—In this paragraph, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(g) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) IN GENERAL.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) DEFINITIONS.—In this subsection:

(i) SUPPLY.—The term "supply" means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(II) production of the current crop; and

(III) imports to the latest date available during the marketing year.

(ii) DEMAND.—The term "demand" means—

(I) the average seasonally adjusted annual rate of domestic mill consumption in the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) LIMITED GLOBAL IMPORT QUOTA.—The term "limited global import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(D) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (f)(3).

SEC. 1105. PAYMENT LIMITATIONS.

(a) LIMITATION ON PAYMENTS UNDER PRODUCTION FLEXIBILITY CONTRACTS.—The total amount of contract payments made to a person under 1 or more production flexibility contracts during any fiscal year may not exceed $40,000.

(b) LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.—

(1) LIMITATION.—The total amount of payments specified in paragraph (2) that a person shall be entitled to receive under section 1104 for contract commodities and oilseeds during any fiscal year may not exceed $75,000.

(2) DESCRIPTION OF PAYMENTS.—The payments referred to in paragraph (1) are the following:

(A) Any gain realized by a producer from repaying a marketing assistance loan for a crop of any loan commodity at a lower level than the original loan rate established for the commodity under section 1104(b).

(B) Any loan deficiency payment received for a loan commodity under section 1104(e).

(c) APPLICABILITY OF OTHER PROVISIONS REGARDING PAYMENT LIMITATIONS.—Paragraphs (5), (6), and (7) of section 1001 and sections 1001A through 1001C of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.) shall apply with respect to the application of payment limitations under this section.

(d) CONFORMING AMENDMENTS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking "1997" each place it appears in paragraphs (1)(A), (1)(B), and (2)(A) and inserting "1995".

SEC. 1106. PEANUT PROGRAM.

(a) QUOTA PEANUTS.—

(1) AVAILABILITY OF LOANS.—The Secretary shall make nonrecourse loans available to producers of quota peanuts.

(2) LOAN RATE.—The national average quota loan rate for quota peanuts shall be $610 per ton.

(3) INSPECTION, HANDLING, OR STORAGE.—The loan amount may not be reduced by the Secretary by any deductions for inspection, handling, or storage.

(4) LOCATION AND OTHER FACTORS.—The Secretary may make adjustments in the loan rate for quota peanuts for location of peanuts and such other factors as are authorized by section 411 of the Agricultural Adjustment Act of 1938.

(b) ADDITIONAL PEANUTS.—

(1) IN GENERAL.—The Secretary shall make nonrecourse loans available to producers of additional peanuts at such rates as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

(2) ANNOUNCEMENT.—The Secretary shall announce the loan rate for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the loan rate is being determined.

(c) AREA MARKETING ASSOCIATIONS.—

(1) WAREHOUSE STORAGE LOANS.—

(A) IN GENERAL.—In carrying out subsections (a) and (b), the Secretary shall make warehouse storage loans available in each of the producing areas (described in section 1446.95 of title 7 of the Code of Federal Regulations (January 1, 1989)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(B) ADMINISTRATIVE AND SUPERVISORY ACTIVITIES.—An area marketing association shall be used in administrative and supervisory activities relating to loans and marketing activities under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(C) ASSOCIATION COSTS.—Loans made to the association under this paragraph shall include such costs as the area marketing association reasonably may incur in carrying out the responsibilities, operations, and activities of the association under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(2) POOLS FOR QUOTA AND ADDITIONAL PEANUTS.—

(A) IN GENERAL.—The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico. Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

(B) NET GAINS.—Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

(i) QUOTA PEANUTS.—For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool.

(ii) ADDITIONAL PEANUTS.—For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts.

(d) LOSSES.—Losses in quota area pools shall be covered using the following sources in the following order of priority:

(1) TRANSFERS FROM ADDITIONAL LOAN POOLS.—The proceeds due any producer from

any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by the producer under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)).

(2) OTHER PRODUCERS IN SAME POOL.—Further losses in an area quota pool shall be offset by reducing the gain of any producer in the pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and export edible use.

(3) USE OF MARKETING ASSESSMENTS.—The Secretary shall use funds collected under subsection (g) (except funds attributable to handlers) to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) and available for use under this subsection that the Secretary determines are not required to cover losses in area quota pools.

(4) CROSS COMPLIANCE.—Further losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)), shall be offset by any gains or profits from quota pools in other production areas (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

(5) INCREASED ASSESSMENTS.—If use of the authorities provided in the preceding paragraphs is not sufficient to cover losses in an area quota pool, the Secretary shall increase the marketing assessment established under subsection (g) by such an amount as the Secretary considers necessary to cover the losses. The increased assessment shall apply only to quota peanuts in the production area covered by the pool. Amounts collected under subsection (g) as a result of the increased assessment shall be retained by the Secretary to cover losses in that pool.

(e) DISAPPROVAL OF QUOTAS.—Notwithstanding any other provision of law, no loan for quota peanuts may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 358–1(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(d)).

(f) QUALITY IMPROVEMENT.—

(1) IN GENERAL.—With respect to peanuts under loan, the Secretary shall—

(A) promote the crushing of peanuts at a greater risk of deterioration before peanuts of a lesser risk of deterioration;

(B) ensure that all Commodity Credit Corporation inventories of peanuts sold for domestic edible use must be shown to have been officially inspected by licensed Department of Agriculture inspectors both as farmer stock and shelled or cleaned in-shell peanuts;

(C) continue to endeavor to operate the peanut program so as to improve the quality of domestic peanuts and ensure the coordination of activities under the Peanut Administrative Committee established under Marketing Agreement No. 146, regulating the quality of domestically produced peanuts (under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937); and

(D) ensure that any changes made in the peanut program as a result of this subsection requiring additional production or handling at the farm level shall be reflected as an upward adjustment in the Department of Agriculture loan schedule.

(2) EXPORTS AND OTHER PEANUTS.—The Secretary shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146.

(g) MARKETING ASSESSMENT.—

(1) IN GENERAL.—The Secretary shall provide for a nonrefundable marketing assessment. The assessment shall be made on a per pound basis in an amount equal to 1.1 percent for each of the 1994 and 1995 crops, 1.15 percent for the 1996 crop, and 1.2 percent for each of the 1997 through 2002 crops, of the national average quota or additional peanut loan rate for the applicable crop.

(2) FIRST PURCHASERS.—

(A) IN GENERAL.—Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

(i) collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by—

(I) in the case of each of the 1994 and 1995 crops, .55 percent of the applicable national average loan rate;

(II) in the case of the 1996 crop, .6 percent of the applicable national average loan rate; and

(III) in the case of each of the 1997 through 2002 crops, .65 percent of the applicable national average loan rate;

(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .55 percent of the applicable national average loan rate; and

(iii) remit the amounts required under clauses (i) and (ii) to the Commodity Credit Corporation in a manner specified by the Secretary.

(B) DEFINITION OF FIRST PURCHASER.—In this subsection, the term "first purchaser" means a person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, the term means the person acquiring the peanuts from the Commodity Credit Corporation.

(3) OTHER PRIVATE MARKETINGS.—In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

(4) LOAN PEANUTS.—In the case of peanuts that are pledged as collateral for a loan made under this section, ½ of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

(5) PENALTIES.—If any person fails to collect or remit the reduction required by this subsection or fails to comply with the requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of peanuts involved in the violation; by

(B) the national average quota peanut rate for the applicable crop year.

(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

(h) CROPS.—Subsections (a) through (f) shall be effective only for the 1996 through 2002 crops of peanuts.

(i) MARKETING QUOTAS.—

(1) IN GENERAL.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1 (7 U.S.C. 1358–1)—

(i) in the section heading, by striking "**1991 through 1997 crops of**";

(ii) in subsections (a)(1), (b)(1)(B), (b)(2)(A), (b)(2)(C), and (b)(3)(A), by striking "of the 1991 through 1997 marketing years" each place it appears and inserting "marketing year";

(iii) in subsection (a)(3), by striking "1990" and inserting "1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years";

(iv) in subsection (b)(1)(A)—

(I) by striking "each of the 1991 through 1997 marketing years" and inserting "each marketing year"; and

(II) in clause (i), by inserting before the semicolon the following: ", in the case of the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years"; and

(v) in subsection (f), by striking "1997" and inserting "2002";

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking "**1991 through 1995 crops of**"; and

(ii) in subsection (c), by striking "1995" and inserting "2002";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking "**for 1991 through 1997 crops of peanuts**"; and

(ii) in subsection (i), by striking "1997" and inserting "2002".

(2) ELIMINATION OF QUOTA FLOOR.—Section 358–1(a)(1) of the Act (7 U.S.C. 1358–1(a)(1)) is amended by striking the second sentence.

(3) TEMPORARY QUOTA ALLOCATION.—Section 358–1 of the Act (7 U.S.C. 1358–1) is amended—

(A) in subsection (a)(1), by striking "domestic edible, seed," and inserting "domestic edible use"; and

(B) in subsection (b)(2)—

(i) in subparagraph (A), by striking "subparagraph (B) and subject to"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) TEMPORARY QUOTA ALLOCATION.—

"(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph.

"(ii) QUANTITY.—The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted under regulations prescribed by the Secretary.

"(iii) ADDITIONAL QUOTA.—The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited, for the applicable marketing year only, in total to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

"(iv) EFFECT OF OTHER REQUIREMENTS.—Nothing in this section alters or changes the requirements regarding the use of quota and additional peanuts established by section 358e(b).".

(4) UNDERMARKETINGS.—Part VI of subtitle B of title III of the Act is amended—

(A) in section 358–1(b) (7 U.S.C. 1358–1(b))—

(i) in paragraph (1)(B), by striking "including—" and clauses (i) and (ii) and inserting "including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).";

(ii) in paragraph (3)(B), by striking "include—" and clauses (i) and (ii) and inserting "include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7)."; and

(iii) by striking paragraphs (8) and (9); and

(B) in section 358b(a) (7 U.S.C. 1358b(a))—

(i) in paragraph (1), by striking "(including any applicable under marketings)" both places it appears;

(ii) in paragraph (1)(A), by striking "of undermarketings and";

(iii) in paragraph (2), by striking "(including any applicable under marketings)"; and

(iv) in paragraph (3), by striking "(including any applicable undermarketings)".

(5) DISASTER TRANSFERS.—Section 358–1(b) of the Act (7 U.S.C. 1358–1(b)), as amended by paragraph (4)(A)(iii), is further amended by adding at the end the following:

"(8) DISASTER TRANSFERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), additional peanuts produced on a farm from which the quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide.

"(B) LIMITATION.—The poundage of peanuts transferred under subparagraph (A) shall not exceed the difference between—

"(i) the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm; and

"(ii) the total farm poundage quota, excluding quota pounds transferred to the farm in the fall.

"(C) SUPPORT RATE.—Peanuts transferred under this paragraph shall be supported at not more than 70 percent of the quota support rate for the marketing years in which the transfers occur. The transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.".

SEC. 1107. SUGAR PROGRAM.

(a) SUGARCANE.—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to 18 cents per pound for raw cane sugar.

(b) SUGAR BEETS.—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to 22.9 cents per pound for refined beet sugar.

(c) TERM OF LOANS.—

(1) IN GENERAL.—Loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

(A) the end of 9 months; or

(B) the end of the fiscal year.

(2) SUPPLEMENTAL LOANS.—In the case of loans made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

(A) be made at the loan rate in effect at the time the second loan is made; and

(B) mature in 9 months less the quantity of time that the first loan was in effect.

(d) LOAN TYPE; PROCESSOR ASSURANCES.—

(1) RECOURSE LOANS.—Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

(2) NONRECOURSE LOANS.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level in excess of 1,500,000 short tons raw value, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during the fiscal year shall be changed by the Secretary into a nonrecourse loan.

(3) PROCESSOR ASSURANCES.—If the Secretary is required under paragraph (2) to make nonrecourse loans available during a fiscal year or to change recourse loans into nonrecourse loans, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for sugar beets and sugarcane delivered by producers served by the processor. The Secretary may establish appropriate minimum payments for purposes of this paragraph.

(e) MARKETING ASSESSMENT.—

(1) SUGARCANE.—Effective for marketings of raw cane sugar during the 1996 through 2003 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.375 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

(2) SUGAR BEETS.—Effective for marketings of beet sugar during the 1996 through 2003 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1794 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.47425 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

(3) COLLECTION.—

(A) TIMING.—A marketing assessment required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation not later than 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of the year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

(4) PENALTIES.—If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of cane sugar or beet sugar involved in the violation; by

(B) the loan rate for the applicable crop of sugarcane or sugar beets.

(5) ENFORCEMENT.—The Secretary may enforce this subsection in a court of the United States.

(f) FORFEITURE PENALTY.—

(1) IN GENERAL.—A penalty shall be assessed on the forfeiture of any sugar pledged as collateral for a nonrecourse loan under this section.

(2) SUGARCANE.—The penalty for sugarcane shall be 1 cent per pound.

(3) SUGAR BEETS.—The penalty for sugar beets shall bear the same relation to the penalty for sugarcane as the marketing assessment for sugar beets bears to the marketing assessment for sugarcane.

(4) EFFECT OF FORFEITURE.—Any payments owed producers by a processor that forfeits of any sugar pledged as collateral for a nonrecourse loan shall be reduced in proportion to the loan forfeiture penalty incurred by the processor.

(g) INFORMATION REPORTING.—

(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

(2) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

(3) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

(h) MARKETING ALLOTMENTS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

(i) CROPS.—This section (other than subsection (h)) shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.

SEC. 1108. ADMINISTRATION.

(a) COMMODITY CREDIT CORPORATION.—

(1) USE OF CORPORATION.—The Secretary shall carry out this subtitle through the Commodity Credit Corporation.

(2) SALARIES AND EXPENSES.—No funds of the Corporation shall be used for any salary or expense of any officer or employee of the Department of Agriculture in connection with the administration of payments or loans under this subtitle.

(b) ADMINISTRATION.—Title IV of the Agricultural Adjustment Act of 1938 (as added by section 1109) shall apply to the administration of this subtitle.

(c) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this subtitle.

SEC. 1109. ELIMINATION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—The Agricultural Adjustment Act of 1938 is amended—

(1) in title III—

(A) in subtitle B—

(i) by striking parts II through V (7 U.S.C. 1326–1351); and

(ii) in part VI, by striking sections 358, 358a, and 358d (7 U.S.C. 1358, 1358a, and 1359); and

(B) by striking subtitle D (7 U.S.C. 1379a–1379j); and

(2) by striking title IV (7 U.S.C. 1401–1407).

(b) AGRICULTURAL ACT OF 1949.—

(1) TRANSFER OF CERTAIN SECTIONS.—The Agricultural Act of 1949 is amended—

(A) by transferring sections 106, 106A, and 106B (7 U.S.C. 1445, 1445–1, 1445–2) to appear after section 314A of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314–1) and redesignating the transferred sections as sections 315, 315A, and 315B, respectively;

(B) by transferring sections 111, 201(c), and 204 (7 U.S.C. 1445f, 1446(c), 1446e) to appear after section 304 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1304) and redesignating the

transferred sections as sections 305, 306, and 307, respectively;

(C) by transferring sections 403, 405, 407, 412, and 422 (7 U.S.C. 1423, 1425, 1427, 1429, 1431a) to appear after section 393 (7 U.S.C. 1393) and redesignating the transferred sections as sections 411, 412, 413, 414, and 415, respectively; and

(D) by transferring section 416 (7 U.S.C. 1431) to appear after section 415 of the Agricultural Adjustment Act of 1938 (as transferred and redesignated by subparagraph (C)).

(2) REPEAL.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) (as amended by paragraph (1)) is repealed.

(c) CONFORMING AMENDMENTS.—The Agricultural Adjustment Act of 1938 is amended—

(1) in section 306 (as transferred and redesignated by subsection (b)(1)(B)), by striking "204" and inserting "307"; and

(2) by striking section 411 (as transferred and redesignated by subsection (b)(1)(C)) and inserting the following:

"TITLE IV—ADMINISTRATION OF LOANS

"SEC. 411. ADJUSTMENTS FOR GRADE, TYPE, QUALITY, LOCATION, AND OTHER FACTORS.

"The Secretary may make such adjustments in the announced loan rate for a commodity as the Secretary considers appropriate to reflect differences in grade, type, quality, location, and other factors.".

SEC. 1110. EFFECT OF AMENDMENTS.

(a) EFFECT ON PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before the date of the enactment of this Act.

(b) LIABILITY.—A provision of this subtitle or an amendment made by this subtitle shall not affect the liability of any person under any provision of law as in effect before the date of the enactment of this Act.

Subtitle B—Conservation

SEC. 1201. CONSERVATION.

(a) FUNDING.—Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

"Subtitle E—Funding

"SEC. 1241. FUNDING.

"(a) MANDATORY EXPENSES.—For each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the programs authorized by—

"(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 16 U.S.C. 3831 note));

"(2) subchapter C of chapter 1 of subtitle D; and

"(3) chapter 4 of subtitle D.

"(b) LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM.—For each of fiscal years 1996 through 2002, $100,000,000 of the funds of the Commodity Credit Corporation shall be available for providing technical assistance, cost-sharing payments, and incentive payments for practices relating to livestock production under the livestock environmental assistance program under chapter 4 of subtitle D.".

(b) LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM.—To carry out the programs funded under the amendment made by subsection (a), subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by adding at the end the following:

"CHAPTER 4—LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM

"SEC. 1240. DEFINITIONS.

"In this chapter:

"(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure management, irrigation management, tillage or residue management, grazing management, or other land management practice that the Secretary determines is needed to protect, in the most cost effective manner, water, soil, or related resources from degradation due to livestock production.

"(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means an operation that—

"(A) is a confined animal feeding operation; and

"(B) has more than—

"(i) 55 mature dairy cattle;

"(ii) 10,000 beef cattle;

"(iii) 30,000 laying hens or broilers (if the facility has continuous overflow watering);

"(iv) 100,000 laying hens or broilers (if the facility has a liquid manure system);

"(v) 55,000 turkeys;

"(vi) 15,000 swine; or

"(vii) 10,000 sheep or lambs.

"(3) LIVESTOCK.—The term 'livestock' means dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, lambs, and such other animals as determined by the Secretary.

"(4) OPERATOR.—The term 'operator' means a person who is engaged in livestock production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, or other structural practice that the Secretary determines is needed to protect, in the most cost effective manner, water, soil, or related resources from degradation due to livestock production.

"SEC. 1240A. ESTABLISHMENT AND ADMINISTRATION OF LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2002 fiscal years, the Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators who enter into contracts with the Secretary, through a livestock environmental assistance program.

"(2) ELIGIBLE PRACTICES.—

"(A) STRUCTURAL PRACTICES.—An operator who implements a structural practice shall be eligible for technical assistance or cost-sharing payments, or both.

"(B) LAND MANAGEMENT PRACTICES.—An operator who performs a land management practice shall be eligible for technical assistance or incentive payments, or both.

"(3) ELIGIBLE LAND.—Assistance under this chapter may be provided with respect to land that is used for livestock production and on which a serious threat to water, soil, or related resources exists, as determined by the Secretary, by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

"(4) SELECTION CRITERIA.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area in which an agricultural operation is located, the Secretary shall consider—

"(A) the significance of the water, soil, and related natural resource problems; and

"(B) the maximization of environmental benefits per dollar expended.

"(b) APPLICATION AND TERM.—

"(1) IN GENERAL.—A contract between an operator and the Secretary under this chapter may—

"(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(B) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(2) DUTIES OF OPERATORS AND SECRETARY.—To receive cost sharing or incentive payments, or technical assistance, participating operators shall comply with all terms and conditions of the contract and a plan, as established by the Secretary.

"(c) STRUCTURAL PRACTICES.—

"(1) COMPETITIVE OFFER.—The Secretary shall administer a competitive offer system for operators proposing to receive cost-sharing payments in exchange for the implementation of 1 or more structural practices by the operator. The competitive offer system shall consist of—

"(A) the submission of a competitive offer by the operator in such manner as the Secretary may prescribe; and

"(B) evaluation of the offer in light of the selection criteria established under subsection (a)(4) and the projected cost of the proposal, as determined by the Secretary.

"(2) CONCURRENCE OF OWNER.—If the operator making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the operator shall obtain the concurrence of the owner of the land with respect to the offer.

"(d) LAND MANAGEMENT PRACTICES.—The Secretary shall establish an application and evaluation process for awarding technical assistance or incentive payments, or both, to an operator in exchange for the performance of 1 or more land management practices by the operator.

"(e) COST-SHARING, INCENTIVE PAYMENTS, AND TECHNICAL ASSISTANCE.—

"(1) COST-SHARING PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be greater than 75 percent of the projected cost of each practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

"(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1, 2, or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

"(3) TECHNICAL ASSISTANCE.—

"(A) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year. The allocated amount may vary according to the type of expertise required, quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

"(B) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

"(f) LIMITATION ON PAYMENTS.—

"(1) IN GENERAL.—The total amount of cost-sharing and incentive payments paid to a person under this chapter may not exceed—

"(A) $10,000 for any fiscal year; or

"(B) $50,000 for any multiyear contract.

"(2) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

"(A) defining the term 'person' as used in paragraph (1); and

"(B) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this subsection.

"(g) REGULATIONS.—Not later than 180 days after the effective date of this subsection, the Secretary shall issue regulations to implement the livestock environmental assistance program established under this chapter.".

(c) CONFORMING AMENDMENTS.—

(1) COMMODITY CREDIT CORPORATION CHARTER ACT.—Section 5(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(g)) is amended to read as follows:

"(g) Carry out conservation functions and programs.".

(2) WETLANDS RESERVE PROGRAM.—

(A) IN GENERAL.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended—

(i) in subsection (b)(2)—

(I) by striking "not less" and inserting "not more"; and

(II) by striking "2000" and inserting "2002"; and

(ii) in subsection (c), by striking "2000" and inserting "2002".

(B) LENGTH OF EASEMENT.—Section 1237A(e) of the Food Security Act of 1985 (16 U.S.C. 3837a(e)) is amended by striking paragraph (2) and inserting the following:

"(2) shall be for 15 years, but in no case shall be a permanent easement.".

(3) CONSERVATION RESERVE PROGRAM.—

(A) IN GENERAL.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended by striking "total of" and all that follows through the period at the end of the subsection and inserting "total of 36,400,000 acres.".

(B) OPTIONAL CONTRACT TERMINATION BY PRODUCERS.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended by adding at the end the following:

"(e) TERMINATION BY OWNER OR OPERATOR.—

"(1) NOTICE OF TERMINATION.—An owner or operator of land subject to a contract entered into under this subchapter may terminate the contract by submitting to the Secretary written notice of the intention of the owner or operator to terminate the contract.

"(2) EFFECTIVE DATE.—The contract termination shall take effect 60 days after the date on which the owner or operator submits the written notice under paragraph (1).

"(3) PRORATED RENTAL PAYMENT.—If a contract entered into under this subchapter is terminated under this subsection before the end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

"(4) RENEWED ENROLLMENT.—The termination of a contract entered into under this subchapter shall not affect the ability of the owner or operator who requested the termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

"(5) CONSERVATION REQUIREMENTS.—If land that was subject to a contract is returned to production of an agricultural commodity, the conservation requirements under subtitles B and C shall apply to the use of the land to the extent that the requirements are similar to those requirements imposed on other similar lands in the area, except that the requirements may not be more onerous that the requirements imposed on other lands.

"(6) REPAYMENT OF COST SHARE.—A person who terminates a contract entered into under this subchapter within less than 3 years after entering into the contract shall reimburse the Secretary for any cost share assistance provided under the contract.".

(C) LIMITATION.—Notwithstanding any other provision of law, no new acres shall be enrolled in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) in calendar year 1997.

Subtitle C—Agricultural Promotion and Export Programs

SEC. 1301. MARKET PROMOTION PROGRAM.

Effective October 1, 1995, section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amended—

(1) by striking "and" after "1991 through 1993,"; and

(2) by striking "through 1997," and inserting "through 1995, and not more than $100,000,000 for each of fiscal years 1996 through 2002,".

SEC. 1302. EXPORT ENHANCEMENT PROGRAM.

Effective October 1, 1995, section 301(e)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)) is amended to read as follows:

"(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

"(A) $350,000,000 for fiscal year 1996;

"(B) $350,000,000 for fiscal year 1997;

"(C) $500,000,000 for fiscal year 1998;

"(D) $550,000,000 for fiscal year 1999;

"(E) $579,000,000 for fiscal year 2000;

"(F) $478,000,000 for fiscal year 2001; and

"(G) $478,000,000 for fiscal year 2002.".

Subtitle D—Miscellaneous

SEC. 1401. CROP INSURANCE.

(a) CATASTROPHIC RISK PROTECTION.—Section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is amended—

(1) in paragraph (4), by adding at the end the following:

"(C) DELIVERY OF COVERAGE.—

"(i) IN GENERAL.—In full consultation with approved insurance providers, the Secretary may continue to offer catastrophic risk protection in a State (or a portion of a State) through local offices of the Department if the Secretary determines that there is an insufficient number of approved insurance providers operating in the State or portion to adequately provide catastrophic risk protection coverage to producers.

"(ii) COVERAGE BY APPROVED INSURANCE PROVIDERS.—To the extent that catastrophic risk protection coverage by approved insurance providers is sufficiently available in a State as determined by the Secretary, only approved insurance providers may provide the coverage in the State.

"(iii) CURRENT POLICIES.—Subject to clause (ii), all catastrophic risk protection policies written by local offices of the Department shall be transferred (including all fees collected for the crop year in which the approved insurance provider will assume the policies) to the approved insurance provider for performance of all sales, service, and loss adjustment functions."; and

(2) in paragraph (7), by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Effective for the spring-planted 1996 and subsequent crops, to be eligible for any payment or loan under the Agricultural Market Transition Act, the conservation reserve program, or any benefit described in section 371 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008f), a person shall—

"(i) obtain at least the catastrophic level of insurance for each crop of economic significance in which the person has an interest; or

"(ii) provide a written waiver to the Secretary that waives any eligibility for emergency crop loss assistance in connection with the crop.".

(b) COVERAGE OF SEED CROPS.—Section 519(a)(2)(B) of the Act (7 U.S.C. 1519(a)(2)(B) is amended by inserting "seed crops," after "turfgrass sod,".

SEC. 1402. COLLECTION AND USE OF AGRICULTURAL QUARANTINE AND INSPECTION FEES.

Subsection (a) of section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a) is amended to read as follows:

"(a) QUARANTINE AND INSPECTION FEES.—

"(1) FEES AUTHORIZED.—The Secretary of Agriculture may prescribe and collect fees sufficient—

"(A) to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger, commercial vessel, commercial aircraft, commercial truck, or railroad car;

"(B) to cover the cost of administering this subsection; and

"(C) through fiscal year 2002, to maintain a reasonable balance in the Agricultural Quarantine Inspection User Fee Account established under paragraph (5).

"(2) LIMITATION.—In setting the fees under paragraph (1), the Secretary shall ensure that the amount of the fees are commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees. The costs of the services with respect to passengers as a class includes the costs of related inspections of the aircraft or other vehicle.

"(3) STATUS OF FEES.—Fees collected under this subsection by any person on behalf of the Secretary are held in trust for the United States and shall be remitted to the Secretary in such manner and at such times as the Secretary may prescribe.

"(4) LATE PAYMENT PENALTIES.—If a person subject to a fee under this subsection fails to pay the fee when due, the Secretary shall assess a late payment penalty, and the overdue fees shall accrue interest, as required by section 3717 of title 31, United States Code.

"(5) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

"(A) ESTABLISHMENT.—There is established in the Treasury of the United States a no-year fund, to be known as the 'Agricultural Quarantine Inspection User Fee Account', which shall contain all of the fees collected under this subsection and late payment penalties and interest charges collected under paragraph (4) through fiscal year 2002.

"(B) USE OF ACCOUNT.—For each of the fiscal years 1996 through 2002, funds in the Agricultural Quarantine Inspection User Fee Account shall be available, in such amounts as are provided in advance in appropriations Acts, to cover the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. Amounts made available under this subparagraph shall be available until expended.

"(C) EXCESS FEES.—Fees and other amounts collected under this subsection in any of the fiscal years 1996 through 2002 in excess of $100,000,000 shall be available for the purposes specified in subparagraph (B) until expended, without further appropriation.

"(6) USE OF AMOUNTS COLLECTED AFTER FISCAL YEAR 2002.—After September 30, 2002, the unobligated balance in the Agricultural Quarantine Inspection User Fee Account and fees

and other amounts collected under this subsection shall be credited to the Department of Agriculture accounts that incur the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. The fees and other amounts shall remain available to the Secretary until expended without fiscal year limitation.

"(7) STAFF YEARS.—The number of full-time equivalent positions in the Department of Agriculture attributable to the provision of agricultural quarantine and inspection services and the administration of this subsection shall not be counted toward the limitation on the total number of full-time equivalent positions in all agencies specified in section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 5 U.S.C. 3101 note) or other limitation on the total number of full-time equivalent positions.".

SEC. 1403. COMMODITY CREDIT CORPORATION INTEREST RATE.

Notwithstanding any other provision of law, the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation shall be 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995.

TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS

SEC. 2001. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS

Sec. 2001. Table of contents.

TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS

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Sec. 2013. Merger of BIF and SAIF.
Sec. 2014. Creation of SAIF Special Reserve.
Sec. 2015. Refund of amounts in deposit insurance fund in excess of designated reserve amount.
Sec. 2016. Assessment rates for SAIF members may not be less than assessment rates for BIF members.
Sec. 2017. Assessments authorized only if needed to maintain the reserve ratio of a deposit insurance fund.
Sec. 2018. Limitation on authority of Oversight Board to continue to employ more than 18 officers and employees.
Sec. 2019. Definitions.

Subtitle B—Housing

Sec. 2051. Annual adjustment factors for operating costs only; restraint on rent increases.
Sec. 2052. Foreclosure avoidance and borrower assistance.

TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS

Subtitle A—Financial Institutions

SEC. 2011. SPECIAL ASSESSMENT TO CAPITALIZE SAIF.

(a) IN GENERAL.—Except as provided in subsection (f), the Board of Directors shall impose a special assessment on the SAIF-assessable deposits of each insured depository institution at a rate applicable to all such institutions that the Board of Directors, in its sole discretion, determines (after taking into account the adjustments described in subsections (g) through (j)) will cause the Savings Association Insurance Fund to achieve the designated reserve ratio on the first business day of January 1996.

(b) FACTORS TO BE CONSIDERED.—In carrying out subsection (a), the Board of Directors shall base its determination on—

(1) the monthly Savings Association Insurance Fund balance most recently calculated;

(2) data on insured deposits reported in the most recent reports of condition filed not later than 70 days before the date of enactment of this Act by insured depository institutions; and

(3) any other factors that the Board of Directors deems appropriate.

(c) DATE OF DETERMINATION.—For purposes of subsection (a), the amount of the SAIF-assessable deposits of an insured depository institution shall be determined as of March 31, 1995.

(d) DATE PAYMENT DUE.—The special assessment imposed under this section shall be—

(1) due on the first business day of January 1996; and

(2) paid to the Corporation on the later of—

(A) the first business day of January 1996; or

(B) such other date as the Corporation shall prescribe, but not later than 60 days after the date of enactment of this Act.

(e) ASSESSMENT DEPOSITED IN SAIF.—Notwithstanding any other provision of law, the proceeds of the special assessment imposed under this section shall be deposited in the Savings Association Insurance Fund.

(f) EXEMPTIONS FOR CERTAIN INSTITUTIONS.—

(1) EXEMPTION FOR WEAK INSTITUTIONS.—The Board of Directors may, by order, in its sole discretion, exempt any insured depository institution that the Board of Directors determines to be weak, from paying the special assessment imposed under this section if the Board of Directors determines that the exemption would reduce risk to the Savings Association Insurance Fund.

(2) GUIDELINES REQUIRED.—Not later than 30 days after the date of enactment of this Act, the Board of Directors shall prescribe guidelines setting forth the criteria that the Board of Directors will use in exempting institutions under paragraph (1). Such guidelines shall be published in the Federal Register.

(3) EXEMPTION FOR CERTAIN NEWLY CHARTERED AND OTHER DEFINED INSTITUTIONS.—

(A) IN GENERAL.—In addition to the institutions exempted from paying the special assessment under paragraph (1), the Board of Directors shall exempt any insured depository institution from payment of the special assessment if the institution—

(i) was in existence on October 1, 1995, and held no SAIF-assessable deposits prior to January 1, 1993;

(ii) is a Federal savings bank which—

(I) was established de novo in April 1994 in order to acquire the deposits of a savings association which was in default or in danger of default; and

(II) received minority interim capital assistance from the Resolution Trust Corporation under section 21A(w) of the Federal Home Loan Bank Act in connection with the acquisition of any such savings association; or

(iii) is a savings association, the deposits of which are insured by the Savings Association Insurance Fund, which—

(I) prior to January 1, 1987, was chartered as a Federal savings bank insured by the Federal Savings and Loan Insurance Corporation for the purpose of acquiring all or substantially all of the assets and assuming all or substantially all of the deposit liabilities of a national bank in a transaction consummated after July 1, 1986; and

(II) as of the date of that transaction, had assets of less than $150,000,000.

(B) DEFINITION.—For purposes of this paragraph, an institution shall be deemed to have held SAIF-assessable deposits prior to January 1, 1993, if—

(i) it directly held SAIF-assessable insured deposits prior to that date; or

(ii) it succeeded to, acquired, purchased, or otherwise holds any SAIF-assessable deposits as of the date of enactment of this Act that were SAIF-assessable deposits prior to January 1, 1993.

(4) EXEMPT INSTITUTIONS REQUIRED TO PAY ASSESSMENTS AT FORMER RATES.—

(A) PAYMENTS TO SAIF AND DIF.—Any insured depository institution that the Board of Directors exempts under this subsection from paying the special assessment imposed under this section shall pay semiannual assessments—

(i) during calendar years 1996 and 1997, into the Savings Association Insurance Fund, based on SAIF-assessable deposits of that institution, at assessment rates calculated under the schedule in effect for Savings Association Insurance Fund members on June 30, 1995; and

(ii) during calendar years 1998 and 1999—

(I) into the Deposit Insurance Fund, based on SAIF-assessable deposits of that institution as of December 31, 1997, at assessment rates calculated under the schedule in effect for Savings Association Insurance Fund members on June 30, 1995; or

(II) in accordance with clause (i), if the Bank Insurance Fund and the Savings Association Insurance Fund are not merged into the Deposit Insurance Fund.

(B) OPTIONAL PRO RATA PAYMENT OF SPECIAL ASSESSMENT.—This paragraph shall not apply with respect to any insured depository institution (or successor insured depository institution) that has paid, during any calendar year from 1997 through 1999, upon such terms as the Corporation may announce, an amount equal to the product of—

(i) 12.5 percent of the special assessment that the institution would have been required to pay under subsection (a), if the Board of Directors had not exempted the institution; and

(ii) the number of full semiannual periods remaining between the date of the payment and December 31, 1999.

(g) SPECIAL ELECTION FOR CERTAIN INSTITUTIONS FACING HARDSHIP AS A RESULT OF THE SPECIAL ASSESSMENT.—

(1) ELECTION AUTHORIZED.—If—

(A) an insured depository institution, or any depository institution holding company which, directly or indirectly, controls such institution, is subject to terms or covenants in any debt obligation or preferred stock outstanding on September 13, 1995; and

(B) the payment of the special assessment under subsection (a) would pose a significant risk of causing such depository institution or holding company to default or violate any such term or covenant,

the depository institution may elect, with the approval of the Corporation, to pay such special assessment in accordance with paragraphs (2) and (3) in lieu of paying such assessment in the manner required under subsection (a).

(2) 1ST ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay an assessment of 50 percent of the amount of the special assessment that would otherwise apply under subsection (a), by the date on which such special assessment is otherwise due under subsection (d).

(3) 2D ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay a 2d assessment, by the date established by the Board of Directors in accordance with paragraph (4), in an amount equal to the product of 51 percent of the rate determined by the Board of Directors under subsection (a) for determining the amount of the special assessment and the SAIF-assessable deposits of the institution on March 31, 1996, or such other date in calendar year 1996 as the Board of Directors determines to be appropriate.

(4) DUE DATE OF 2D ASSESSMENT.—The date established by the Board of Directors for the payment of the assessment under paragraph (3) by

a depository institution shall be the earliest practicable date which the Board of Directors determines to be appropriate, which is at least 15 days after the date used by the Board of Directors under paragraph (3).

(5) SUPPLEMENTAL SPECIAL ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay a supplemental special assessment, at the same time the payment under paragraph (3) is made, in an amount equal to the product of—

(A) 50 percent of the rate determined by the Board of Directors under subsection (a) for determining the amount of the special assessment; and

(B) 95 percent of the amount by which the SAIF-assessable deposits used by the Board of Directors for determining the amount of the 1st assessment under paragraph (2) exceeds, if any, the SAIF-assessable deposits used by the Board for determining the amount of the 2d assessment under paragraph (3).

(h) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN BANK INSURANCE FUND MEMBER BANKS.—

(1) IN GENERAL.—For purposes of computing the special assessment imposed under this section with respect to a Bank Insurance Fund member bank, the amount of any deposits of any insured depository institution which section 5(d)(3) of the Federal Deposit Insurance Act treats as insured by the Savings Association Insurance Fund shall be reduced by 20 percent—

(A) if the adjusted attributable deposit amount of the Bank Insurance Fund member bank is less than 50 percent of the total domestic deposits of that member bank as of June 30, 1995; or

(B) if, as of June 30, 1995, the Bank Insurance Fund member—

(i) had an adjusted attributable deposit amount equal to less than 75 percent of the total assessable deposits of that member bank;

(ii) had total assessable deposits greater than $5,000,000,000; and

(iii) was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the Bank Insurance Fund greater than the aggregate amount of deposits insured or treated as insured by the Savings Association Insurance Fund.

(2) ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—For purposes of this subsection, the "adjusted attributable deposit amount" shall be determined in accordance with section 5(d)(3)(C) of the Federal Deposit Insurance Act.

(i) ADJUSTMENT TO THE ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT FOR CERTAIN BANK INSURANCE FUND MEMBER BANKS.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

(1) in subparagraph (C), by striking "The adjusted attributable deposit amount" and inserting "Except as provided in subparagraph (K), the adjusted attributable deposit amount"; and

(2) by adding at the end the following new subparagraph:

"(K) ADJUSTMENT OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The amount determined under subparagraph (C)(i) for deposits acquired by March 31, 1995, shall be reduced by 20 percent for purposes of computing the adjusted attributable deposit amount for the payment of any assessment for any semiannual period after December 31, 1995 (other than the special assessment imposed under section 2011(a) of the Balanced Budget Act of 1995), for a Bank Insurance Fund member bank that, as of June 30, 1995—

"(i) had an adjusted attributable deposit amount that was less than 50 percent of the total deposits of that member bank; or

"(ii)(I) had an adjusted attributable deposit amount equal to less than 75 percent of the total assessable deposits of that member bank;

"(II) had total assessable deposits greater than $5,000,000,000; and

"(III) was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the Bank Insurance Fund greater than the aggregate amount of deposits insured or treated as insured by the Savings Association Insurance Fund.".

(j) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN SAVINGS ASSOCIATIONS.—

(1) SPECIAL ASSESSMENT REDUCTION.—For purposes of computing the special assessment imposed under this section, in the case of any converted association, the amount of any deposits of such association which were insured by the Savings Association Insurance Fund as of March 31, 1995, shall be reduced by 20 percent.

(2) CONVERTED ASSOCIATION.—For purposes of this subsection, the term "converted association" means—

(A) any Federal savings association—

(i) that is a member of the Savings Association Insurance Fund and that has deposits subject to assessment by that fund which did not exceed $4,000,000,000, as of March 31, 1995; and

(ii) that had been, or is a successor by merger, acquisition, or otherwise to an institution that had been, a State savings bank, the deposits of which were insured by the Federal Deposit Insurance Corporation prior to August 9, 1989, that converted to a Federal savings association pursuant to section 5(i) of the Home Owners' Loan Act prior to January 1, 1985;

(B) a State depository institution that is a member of the Savings Association Insurance Fund that had been a State savings bank prior to October 15, 1982, and was a Federal savings association on August 9, 1989;

(C) an insured bank that—

(i) was established de novo in order to acquire the deposits of a savings association in default or in danger of default;

(ii) did not open for business before acquiring the deposits of such savings association; and

(iii) was a Savings Association Insurance Fund member as of the date of enactment of this Act; and

(D) an insured bank that—

(i) resulted from a savings association before December 19, 1991, in accordance with section 5(d)(2)(G) of the Federal Deposit Insurance Act; and

(ii) had an increase in its capital in conjunction with the conversion in an amount equal to more than 75 percent of the capital of the institution on the day before the date of the conversion.

SEC. 2012. FINANCING CORPORATION ASSESSMENTS SHARED PROPORTIONALLY BY ALL INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 21 of the Federal Home Loan Bank Act (12 U.S.C. 1441) is amended—

(1) in subsection (f)(2)—

(A) in the matter immediately preceding subparagraph (A)—

(i) by striking "Savings Association Insurance Fund member" and inserting "insured depository institution"; and

(ii) by striking "members" and inserting "institutions"; and

(B) by striking ", except that—" and all that follows through the end of the paragraph and inserting ", except that—

"(A) the Financing Corporation shall have first priority to make the assessment; and

"(B) no limitation under clause (i) or (iii) of section 7(b)(2)(A) of the Federal Deposit Insurance Act shall apply for purposes of this paragraph."; and

(2) in subsection (k)—

(A) by striking "section—" and inserting "section, the following definitions shall apply:";

(B) by striking paragraph (1);

(C) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(D) by adding at the end the following new paragraph:

"(3) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(b) CONFORMING AMENDMENT.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1, 1996.

SEC. 2013. MERGER OF BIF AND SAIF.

(a) IN GENERAL.—

(1) MERGER.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund established by section 11(a)(4) of the Federal Deposit Insurance Act, as amended by this section.

(2) DISPOSITION OF ASSETS AND LIABILITIES.—All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

(3) NO SEPARATE EXISTENCE.—The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease.

(b) SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.—

(1) IN GENERAL.—Immediately before the merger of the Bank Insurance Fund and the Savings Association Insurance Fund, if the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the amount by which that reserve ratio exceeds the designated reserve ratio shall be placed in the Special Reserve of the Deposit Insurance Fund, established under section 11(a)(5) of the Federal Deposit Insurance Act, as amended by this section.

(2) DEFINITION.—For purposes of this subsection, the term "reserve ratio" means the ratio of the net worth of the Savings Association Insurance Fund to aggregate estimated insured deposits held in all Savings Association Insurance Fund members.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1, 1998, if no insured depository institution is a savings association on that date.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEPOSIT INSURANCE FUND.—Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by striking subparagraph (A) and inserting the following:

"(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—

"(i) maintain and administer;

"(ii) use to carry out its insurance purposes in the manner provided by this subsection; and

"(iii) invest in accordance with section 13(a).

"(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to Deposit Insurance Fund members."; and

(C) by striking "(4) GENERAL PROVISIONS RELATING TO FUNDS.—" and inserting the following:

"(4) ESTABLISHMENT OF THE DEPOSIT INSURANCE FUND.—".

(2) OTHER REFERENCES.—Section 11(a)(4)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(C), as redesignated by paragraph (1) of this subsection) is amended by striking "Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".

(3) DEPOSITS INTO FUND.—Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended by adding at the end the following new subparagraph:

"(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited in the Deposit Insurance Fund.".

(4) SPECIAL RESERVE OF DEPOSITS.—Section 11(a)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(5)) is amended to read as follows:

"(5) SPECIAL RESERVE OF DEPOSIT INSURANCE FUND.—

"(A) ESTABLISHMENT.—

"(i) IN GENERAL.—There is established a Special Reserve of the Deposit Insurance Fund, which shall be administered by the Corporation and shall be invested in accordance with section 13(a).

"(ii) LIMITATION.—The Corporation shall not provide any assessment credit, refund, or other payment from any amount in the Special Reserve.

"(B) EMERGENCY USE OF SPECIAL RESERVE.—Notwithstanding subparagraph (A)(ii), the Corporation may, in its sole discretion, transfer amounts from the Special Reserve to the Deposit Insurance Fund, for the purposes set forth in paragraph (4), only if—

"(i) the reserve ratio of the Deposit Insurance Fund is less than 50 percent of the designated reserve ratio; and

"(ii) the Corporation expects the reserve ratio of the Deposit Insurance Fund to remain at less than 50 percent of the designated reserve ratio for each of the next 4 calendar quarters.

"(C) EXCLUSION OF SPECIAL RESERVE IN CALCULATING RESERVE RATIO.—Notwithstanding any other provision of law, any amounts in the Special Reserve shall be excluded in calculating the reserve ratio of the Deposit Insurance Fund under section 7.".

(5) FEDERAL HOME LOAN BANK ACT.—Section 21B(f)(2)(C)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)(ii)) is amended—

(A) in subclause (I), by striking "to Savings Associations Insurance Fund members" and inserting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995"; and

(B) in subclause (II), by striking "to Savings Associations Insurance Fund members" and inserting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995".

(6) REPEALS.—

(A) SECTION 3.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) is amended to read as follows:

"(y) DEFINITIONS RELATING TO THE DEPOSIT INSURANCE FUND.—The term

"(1) DEPOSIT INSURANCE FUND.—The term 'Deposit Insurance Fund' means the fund established under section 11(a)(4).

"(2) RESERVE RATIO.—The term 'reserve ratio' means the ratio of the net worth of the Deposit Insurance Fund to aggregate estimated insured deposits held in all insured depository institutions.

"(3) DESIGNATED RESERVE RATIO.—The designated reserve ratio of the Deposit Insurance Fund for each year shall be—

"(A) 1.25 percent of estimated insured deposits; or

"(B) a higher percentage of estimated insured deposits that the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund.

(B) SECTION 7.—Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(i) by striking subsection (l);

(ii) by redesignating subsections (m) and (n) as subsections (l) and (m), respectively;

(iii) in subsection (b)(2), by striking subparagraphs (B) and (F), and by redesignating subparagraphs (C), (E), (G), and (H) as subparagraphs (B) through (E), respectively.

(C) SECTION 11.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended—

(i) by striking paragraphs (6) and (7); and

(ii) by redesignating paragraph (8) as paragraph (6).

(7) SECTION 5136 OF THE REVISED STATUTES.—Paragraph Eleventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the fifth sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(8) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the fourth sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(9) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

(10) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(A) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(B) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund;".

(11) FURTHER AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(A) in section 11(k) (12 U.S.C. 1431(k))—

(i) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(B) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(C) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(i) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(ii) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(D) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(E) in section 21B(e) (12 U.S.C. 1441b(e))—

(i) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place such term appears;

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(F) in section 21B(k) (12 U.S.C. 1441b(k))—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(12) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(A) in section 5 (12 U.S.C. 1464)—

(i) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

(ii) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

(iii) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(iv) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(v) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (v)(2)(A)(i), by striking ", the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(B) in section 10 (12 U.S.C. 1467a)—

(i) in subsection (e)(1)(A)(iii)(VII), by adding "or" at the end;

(ii) in subsection (e)(1)(A)(iv), by adding "and" at the end;

(iii) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(iv) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(v) in subsection (m)(3), by striking subparagraph (E), and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.

(13) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(A) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund"; and

(B) in section 526(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

(14) FURTHER AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 3(a)(1) (12 U.S.C. 1813(a)(1)), by striking subparagraph (B) and inserting the following:

"(B) includes any former savings association.";

(B) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund;" and inserting "Deposit Insurance Fund,";

(C) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

(D) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(i) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "the reserve ratio of the Deposit Insurance Fund";

(ii) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(iii) by striking "(1) UNINSURED INSTITUTIONS.—"; and

(iv) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively, and moving the margins 2 ems to the left;

(E) in section 5(e) (12 U.S.C. 1815(e))—

(i) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(ii) by striking paragraph (6); and

(iii) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(F) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(G) in section 7(b) (12 U.S.C. 1817(b))—

(i) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund";

(ii) in clauses (i)(I) and (iv) of paragraph (2)(A), by striking "each deposit insurance fund" each place such term appears and inserting "the Deposit Insurance Fund";

(iii) in paragraph (2)(A)(iii), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(iv) by striking clause (iv) of paragraph (2)(A);

(v) in paragraph (2)(C) (as redesignated by paragraph (6)(B) of this subsection)—

(I) by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(vi) in paragraph (2)(D) (as redesignated by paragraph (6)(B) of this subsection)—

(I) in the subparagraph heading, by striking "FUNDS ACHIEVE" and inserting "FUND ACHIEVES"; and

(II) by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(vii) in paragraph (3)—

(I) in the paragraph heading, by striking "FUNDS" and inserting "FUND";

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(III) in subparagraph (A), by striking "Except as provided in paragraph (2)(F), if" and inserting "If";

(IV) in subparagraph (A), by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(V) by striking subparagraphs (C) and (D) and inserting the following:

"(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B)."; and

(viii) in paragraph (6)—

(I) by striking "any such assessment" and inserting "any such assessment is necessary";

(II) by striking "(A) is necessary—";

(III) by striking subparagraph (B);

(IV) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

(V) in subparagraph (C) (as redesignated), by striking "; and" and inserting a period;

(H) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking ", except that—" and all that follows through the end of the paragraph and inserting a period;

(I) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(iii) in subparagraph (B) (as redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

(J) in section 11A(a) (12 U.S.C. 1821a(a))—

(i) in paragraph (2), by striking "LIABILITIES.—" and all that follows through "Except" and inserting "LIABILITIES.—Except";

(ii) by striking paragraph (2)(B); and

(iii) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

(K) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(L) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(M) in section 13 (12 U.S.C. 1823)—

(i) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund, the Special Reserve of the Deposit Insurance Fund,";

(ii) in subsection (c)(4)(E)—

(I) in the subparagraph heading, by striking "FUNDS" and inserting "FUND"; and

(II) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

(iii) in subsection (c)(4)(G)(ii)—

(I) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";

(II) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

(III) by striking "each member's" and inserting "each insured depository institution's"; and

(IV) by striking "the member's" each place such term appears and inserting "the institution's";

(iv) in subsection (c), by striking paragraph (11);

(v) in subsection (h), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(N) in section 14(a) (12 U.S.C. 1824(a)) in the fifth sentence—

(i) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(ii) by striking "each such fund" and inserting "the Deposit Insurance Fund";

(O) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(P) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(Q) in section 14(d) (12 U.S.C. 1824(d))—

(i) by striking "BIF" each place such term appears and inserting "DIF"; and

(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(R) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(i) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place such term appears and inserting "the Deposit Insurance Fund"; and

(ii) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" and inserting "the Deposit Insurance Fund";

(S) in section 17(a) (12 U.S.C. 1827(a))—

(i) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) in paragraph (1), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(T) in section 17(d) (12 U.S.C. 1827(d)), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(U) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(i) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund"; and

(ii) in subparagraph (C), by striking "or the Bank Insurance Fund";

(V) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

(W) in section 24 (12 U.S.C. 1831a) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(X) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(Y) by striking section 31 (12 U.S.C. 1831h);

(Z) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)) by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(AA) in section 38(a) (12 U.S.C. 1831o(a)) in the subsection heading, by striking "FUNDS" and inserting "FUND";

(BB) in section 38(k) (12 U.S.C. 1831o(k))—

(i) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(ii) in paragraph (2)(A)—

(I) by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

(II) by striking "the deposit insurance fund's outlays" and inserting "the outlays of the Deposit Insurance Fund"; and

(CC) in section 38(o) (12 U.S.C. 1831o(o))—

(i) by striking "ASSOCIATIONS.—" and all that follows through "Subsections (e)(2)" and inserting "ASSOCIATIONS.—Subsections (e)(2)";

(ii) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and moving the margins 2 ems to the left; and

(iii) in paragraph (1) (as redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the left.

(15) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act (Public Law 101–73; 103 Stat. 183) is amended—

(A) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund"; and

(B) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

(16) AMENDMENT TO THE BANK ENTERPRISE ACT OF 1991.—Section 232(a)(1) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking "section 7(b)(2)(H)" and inserting "section 7(b)(2)(G)".

(17) AMENDMENT TO THE BANK HOLDING COMPANY ACT.—Section 2(j)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)(2)) is amended by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".

SEC. 2014. CREATION OF SAIF SPECIAL RESERVE.

Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by adding at the end the following new subparagraph:

"(L) ESTABLISHMENT OF SAIF SPECIAL RESERVE.—

"(i) ESTABLISHMENT.—If, on January 1, 1998, the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, there is established a Special Reserve of the Savings Association Insurance Fund, which shall be administered by the Corporation and shall be invested in accordance with section 13(a).

"(ii) AMOUNTS IN SPECIAL RESERVE.—If, on January 1, 1998, the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the amount by which the reserve ratio exceeds the designated reserve ratio shall be placed in the Special Reserve of the Savings Association Insurance Fund established by clause (i).

"(iii) LIMITATION.—The Corporation shall not provide any assessment credit, refund, or other payment from any amount in the Special Reserve of the Savings Association Insurance Fund.

"(iv) EMERGENCY USE OF SPECIAL RESERVE.—Notwithstanding clause (iii), the Corporation may, in its sole discretion, transfer amounts from the Special Reserve of the Savings Association Insurance Fund to the Savings Association Insurance Fund for the purposes set forth in paragraph (4), only if—

"(I) the reserve ratio of the Savings Association Insurance Fund is less than 50 percent of the designated reserve ratio; and

"(II) the Corporation expects the reserve ratio of the Savings Association Insurance Fund to remain at less than 50 percent of the designated reserve ratio for each of the next 4 calendar quarters.

"(v) EXCLUSION OF SPECIAL RESERVE IN CALCULATING RESERVE RATIO.—Notwithstanding any other provision of law, any amounts in the Special Reserve of the Savings Association Insurance Fund shall be excluded in calculating the reserve ratio of the Savings Association Insurance Fund.".

SEC. 2015. REFUND OF AMOUNTS IN DEPOSIT INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE AMOUNT.

Subsection (e) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is amended to read as follows:

"(e) REFUNDS.—

"(1) OVERPAYMENTS.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

"(A) refund the amount of the excess payment to the insured depository institution; or

"(B) credit such excess amount toward the payment of subsequent semiannual assessments until such credit is exhausted.

"(2) BALANCE IN INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), if, as of the end of any semiannual assessment period, the amount of the actual reserves in—

"(i) the Bank Insurance Fund (until the merger of such fund into the Deposit Insurance Fund pursuant to section 2013 of the Balanced Budget Act of 1995); or

"(ii) the Deposit Insurance Fund (after the establishment of such fund),

exceeds the balance required to meet the designated reserve ratio applicable with respect to such fund, such excess amount shall be refunded to insured depository institutions by the Corporation on such basis as the Board of Directors determines to be appropriate, taking into account the factors considered under the risk-based assessment system.

"(B) REFUND NOT TO EXCEED PREVIOUS SEMIANNUAL ASSESSMENT.—The amount of any refund under this paragraph to any member of a deposit insurance fund for any semiannual assessment period may not exceed the total amount of assessments paid by such member to the insurance fund with respect to such period.

"(C) REFUND LIMITATION FOR CERTAIN INSTITUTIONS.—No refund may be made under this paragraph with respect to the amount of any assessment paid for any semiannual assessment period by any insured depository institution described in clause (v) of subsection (b)(2)(A).".

SEC. 2016. ASSESSMENT RATES FOR SAIF MEMBERS MAY NOT BE LESS THAN ASSESSMENT RATES FOR BIF MEMBERS.

Section 7(b)(2)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(E), as redesignated by section 2013(d)(6) of this Act) is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(iii) notwithstanding any other provision of this subsection, during the period beginning on the date of enactment of the Balanced Budget Act of 1995, and ending on January 1, 1998, the assessment rate for a Savings Association Insurance Fund member may not be less than the assessment rate for a Bank Insurance Fund member that poses a comparable risk to the deposit insurance fund.".

SEC. 2017. ASSESSMENTS AUTHORIZED ONLY IF NEEDED TO MAINTAIN THE RESERVE RATIO OF A DEPOSIT INSURANCE FUND.

(a) IN GENERAL.—Section 7(b)(2)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(i)) is amended in the matter preceding subclause (I) by inserting "when necessary, and only to the extent necessary" after "insured depository institutions".

(b) LIMITATION ON ASSESSMENT.—Section 7(b)(2)(A)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(iii)) is amended to read as follows:

"(iii) LIMITATION ON ASSESSMENT.—Except as provided in clause (v), the Board of Directors shall not set semiannual assessments with respect to a deposit insurance fund in excess of the amount needed—

"(I) to maintain the reserve ratio of the fund at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio.".

(c) EXCEPTION TO LIMITATION ON ASSESSMENTS.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended by adding at the end the following new clause:

"(v) EXCEPTION TO LIMITATION ON ASSESSMENTS.—The Board of Directors may set semiannual assessments in excess of the amount permitted under clauses (i) and (iii) with respect to insured depository institutions that exhibit financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or are not well capitalized, as that term is defined in section 38.".

SEC. 2018. LIMITATION ON AUTHORITY OF OVERSIGHT BOARD TO CONTINUE TO EMPLOY MORE THAN 18 OFFICERS AND EMPLOYEES.

(a) IN GENERAL.—Section 21A(a) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)) is amended by adding at the end the following new paragraph:

"(17) PHASED-DOWN OPERATION OF OVERSIGHT BOARD FOLLOWING TERMINATION OF CORPORATION.—

"(A) TERMINATION OF AUTHORITY TO EMPLOY STAFF.—Except as provided in subparagraph (B), the authority of the Thrift Depositor Protection Oversight Board under paragraph (5) to establish officer and employee positions, to compensate officers and employees of the Board, and to provide other benefits for officers and employees of the Board shall terminate as of December 31, 1995.

"(B) LIMITED AUTHORITY FOR EMPLOYING STAFF.—The Thrift Depositor Protection Oversight Board may employ not more than 18 individuals, excluding any employee of any other department or agency utilized by the Board, to carry out the functions of the Board during the period beginning on January 1, 1996 and ending on May 1, 1996, other than employees whose employment is in the process of being terminated in accordance with subparagraph (C).

"(C) TERMINATION OF EMPLOYMENT OF ADDITIONAL EMPLOYEES REQUIRED TO BE COMMENCED.—The Thrift Depositor Protection Oversight Board shall commence terminating, not later than December 31, 1995, and in accordance with title 5, United States Code, and applicable regulations of the Office of Personnel Management, the employment of any employee of the Board whose continued employment by the Board after such date is inconsistent with the requirement of subparagraph (B).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 21A(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(5)) is amended in subparagraphs (B), (C), (D), and (E), by inserting "subject to paragraph (17)," after the closing parenthesis of the subparagraph designation in each such subparagraph.

SEC. 2019. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Bank Insurance Fund" means the fund established pursuant to section (11)(a)(5)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act;

(2) the terms "Bank Insurance Fund member" and "Savings Association Insurance Fund member" have the same meanings as in section 7(l) of the Federal Deposit Insurance Act;

(3) the terms "bank", "Board of Directors", "Corporation", "insured depository institution", "Federal savings association", "savings association", "State savings bank", and "State depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act;

(4) the term "Deposit Insurance Fund" means the fund established under section 11(a)(4) of the Federal Deposit Insurance Act, as amended by section 2013(d) of this Act;

(5) the term "depository institution holding company" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(6) the term "designated reserve ratio" has the same meaning as in section 7(b)(2)(A)(iv) of the Federal Deposit Insurance Act;

(7) the term "Savings Association Insurance Fund" means the fund established pursuant to section 11(a)(6)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act; and

(8) the term "SAIF-assessable deposit" means—

(A) a deposit that is subject to assessment for purposes of the Savings Association Insurance Fund under the Federal Deposit Insurance Act; and

(B) a deposit that section 5(d)(3) of the Federal Deposit Insurance Act treats as insured by the Savings Association Insurance Fund.

Subtitle B—Housing

SEC. 2051. ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY; RESTRAINT ON RENT INCREASES.

(a) ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended—

(1) by striking "(2)(A)" and inserting "(2)(A)(i)";

(2) by striking the second sentence and all that follows through the end of the subparagraph; and

(3) by adding at the end the following new clause:

"(ii) Each assistance contract under this section shall provide that—

"(I) if the maximum monthly rent for a unit in a new construction or substantial rehabilitation project to be adjusted using an annual adjustment factor exceeds 100 percent of the fair market rent for an existing dwelling unit in the market area, the Secretary shall adjust the rent using an operating costs factor that increases the rent to reflect increases in operating costs in the market area; and

"(II) if the owner of a unit in a project described in subclause (I) demonstrates that the adjusted rent determined under subclause (I) would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary, the Secretary shall use the otherwise applicable annual adjustment factor.".

(b) Restraint on Section 8 Rent Increases.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), as amended by subsection (a), is amended by adding at the end the following new clause:

"(iii)(I) Subject to subclause (II), with respect to any unit assisted under this section that is occupied by the same family at the time of the most recent annual rental adjustment, if the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor, and if the rent for the unit is otherwise eligible for an adjustment based on the full amount of the annual adjustment factor, 0.01 shall be subtracted from the amount of the annual adjustment factor, except that the annual adjustment factor shall not be reduced to less than 1.0.

"(II) With respect to any unit described in subclause (I) that is assisted under the certificate program, the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area in which the unit is located.".

(c) Effective Date.—The amendments made by this section shall become effective on October 1, 1995.

SEC. 2052. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) Foreclosure Avoidance.—Except as provided in subsection (e), the last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended by inserting before the period the following: ": And provided further, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to foreclosure of a mortgage that is in default, which actions may include such actions as special forbearance, loan modification, and deeds in lieu of foreclosure, all upon such terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: And provided further, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review".

(b) Authority to Assist Mortgagors in Default.—Except as provided in subsection (e), section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

"AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

"Sec. 230. (a) Payment of Partial Claim.—The Secretary may establish a program for payment of a partial insurance claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the Secretary's sole discretion and on terms and conditions acceptable to the Secretary, except that—

"(1) the amount of the payment shall be in an amount determined by the Secretary, which shall not exceed an amount equivalent to 12 monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

"(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary.

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

"(b) Assignment.—

"(1) Program Authority.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

"(2) Program Requirements.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

"(A) the mortgage was in default;

"(B) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay at interest rates not exceeding current market interest rates; and

"(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

"(3) Payment of Insurance Benefits.—Upon accepting assignment of a mortgage under the program under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund in an amount that the Secretary determines to be appropriate, but which may not exceed the amount necessary to compensate the mortgagee for the assignment and any losses and expenses resulting from the mortgage modification.

"(c) Prohibition of Judicial Review.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.

"(d) Savings Provision.—Any mortgage for which the mortgagor has applied to the Secretary, before the date of the enactment of the Balanced Budget Act of 1995, for assignment pursuant to subsection (b) of this section as in effect before such date of enactment shall continue to be governed by the provisions of this section in effect immediately before such date of enactment.

"(e) Applicability of Other Laws.—No provision of this Act or any other law shall be construed to require the Secretary to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under this Act, or to accept assignments of such mortgages.".

(c) Applicability of Amendments.—Except as provided in subsection (e), the amendments made by subsections (a) and (b) shall apply only with respect to mortgages insured under the National Housing Act that are originated on or after October 1, 1995.

(d) Regulations.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue interim regulations to implement this section and the amendments made by this section.

(e) Effectiveness and Applicability.—If this Act is enacted after the date of the enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996—

(1) subsections (a), (b), (c), and (d) of this section shall not take effect; and

(2) subsection (c) of the section relating to foreclosure avoidance and borrower assistance in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, is amended by striking "only with respect to mortgages insured under the National Housing Act that are originated before October 1, 1995" and inserting "to mortgages originated before, on, and after October 1, 1995".

TITLE III—COMMUNICATIONS AND SPECTRUM ALLOCATION PROVISIONS

SEC. 3001. SPECTRUM AUCTIONS.

(a) Extension and Expansion of Auction Authority.—

(1) Amendments.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) General Authority.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) Exemptions.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

"(B) for public safety radio services, including non-Government uses the sole or principal purpose of which is to protect the safety of life, health, and property and which are not made commercially available to the public; or

"(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses, unless—

"(i) the Commission, not later than 180 days after the date of enactment of the Balanced Budget Act of 1995, after notice and public comment, submits to Congress a report on the use of the authority provided in this subsection for the assignment of initial licenses or construction permits for use of the electromagnetic spectrum allocated but not assigned as of the date of enactment of that Act for television broadcast services; and

"(ii) the Congress amends this subsection to authorize the use of the authority provided by this subsection for such licenses or permits.

Except as provided in this subparagraph, the Commission may not assign initial licenses or construction permits under this title to terrestrial commercial television broadcast licensees to replace their existing broadcast licenses before November 15, 1996."; and

(B) by striking "1998" in paragraph (11) and inserting "2002".

(2) Conforming Amendment.—Subsection (i) of section 309 of such Act is repealed.

(3) Effective Date.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for a terrestrial radio or television broadcast station for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) Commission Obligation To Make Additional Spectrum Available by Auction.—

(1) In General.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September

30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section;

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act; or

(iii) been reserved for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305).

The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2000.

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services;

(D) comply with the requirements of international agreements concerning spectrum allocations; and

(E) take into account the costs to satellite service providers that could result from multiple auctions of like spectrum internationally for global satellite systems.

(3) NOTIFICATION TO NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this section).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsections:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Balanced Budget Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.

"(g) RELOCATION OF FEDERAL GOVERNMENT STATIONS.—

"(1) IN GENERAL.—In order to expedite the efficient use of the electromagnetic spectrum and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity which operates a Federal Government station may accept payment in advance or in-kind reimbursement of costs, or a combination of payment in advance and in-kind reimbursement, from any person to defray entirely the expenses of relocating the Federal entity's operations from one or more radio spectrum frequencies to another frequency or frequencies, including, without limitation, the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other expenses incurred by that entity. Any such payment shall be deposited in the account of such Federal entity in the Treasury of the United States. Funds deposited according to this paragraph shall be available, without appropriation or fiscal year limitation, only for the operations of the Federal entity for which such funds were deposited under this paragraph.

"(2) PROCESS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use may submit a petition for such relocation to NTIA. The NTIA shall limit or terminate the Federal Government station's operating license when the following requirements are met:

"(A) the person seeking relocation of the Federal Government station has guaranteed to defray entirely, through payment in advance, in-kind reimbursement of costs, or a combination thereof, all relocation costs incurred by the Federal entity, including all engineering, equipment, site acquisition and construction, and regulatory fee costs;

"(B) the person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use);

"(C) any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested to ensure that the Federal Government station is able to successfully accomplish its purposes; and

"(D) NTIA has determined that the proposed use of the spectrum frequency band to which the Federal entity will relocate its operations is—

"(i) consistent with obligations undertaken by the United States in international agreements and with United States national security and public safety interests; and

"(ii) suitable for the technical characteristics of the band and consistent with other uses of the band.

In exercising its authority under subparagraph (D)(i), NTIA shall consult with the Secretary of Defense, the Secretary of State, or other appropriate officers of the Federal Government.

"(3) RIGHT TO RECLAIM.—If within one year after the relocation the Federal Government station demonstrates to the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person seeking such relocation must take reasonable steps to remedy any defects or pay the Federal entity for the costs of returning the Federal Government station to the spectrum from which such station was relocated.

"(h) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation for mixed Federal and non-Federal use in any reallocation report under subsection (a) shall, to the maximum extent practicable through the use of the authority granted under subsection (g) and any other applicable provision of law, take action to relocate its spectrum use to other frequencies that are reserved for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use. Subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocates a Federal power agency under subsection (g).

"(i) DEFINITION.—For purposes of this section, the term 'Federal entity' means any department, agency, or other instrumentality of the Federal Government that utilizes a Government station license obtained under section 305 of the 1934 Act (47 U.S.C. 305)."; and

(2) in section 114(a)(1), by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(d) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting "INITIAL REALLOCATION REPORT.—";

(B) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a)."; and

(2) in section 115—

(A) in subsection (b), by striking "the report required by section 113(a)" and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end the following new subsection:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j) of the 1934 Act (47 U.S.C. 309(j)).".

TITLE IV—EDUCATION AND RELATED PROVISIONS

SEC. 4000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE IV—EDUCATION AND RELATED PROVISIONS

Sec. 4000. Table of contents.

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Sec. 4101. Waiver of minimum period for joint and survivor annuity explanation before annuity starting date.

Subtitle A—Higher Education

SEC. 4001. SHORT TITLE; REFERENCES; AND GENERAL EFFECTIVE DATE.

(a) SHORT TITLE.—This subtitle may be cited as the "Student Loan Reform Act of 1995".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(c) GENERAL EFFECTIVE DATE.—Unless otherwise specified in this subtitle, the amendments made by this subtitle shall take effect on January 1, 1996.

SEC. 4002. PARTICIPATION OF INSTITUTIONS AND ADMINISTRATION OF LOAN PROGRAMS.

(a) LIMITATION ON PROPORTION OF LOANS MADE UNDER THE DIRECT LOAN PROGRAM.—Section 453(a) (20 U.S.C. 1087c(a)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) DETERMINATION OF NUMBER OF AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may enter into agreements under subsections (a) and (b) of section 454 with institutions for participation in the direct loan program under this part, subject to the following:

"(A) For academic year 1994–1995, loans made under this part shall represent not more than 5 percent of new student loan volume for such year.

"(B) For academic year 1995–1996, loans made under this part, including Federal Direct Consolidation Loans, shall represent not more than 30 percent of the new student loan volume for such year, except that the Secretary shall not enter into such an agreement with an eligible institution that has not applied and been accepted for participation in the direct loan program under this part on or before September 30, 1995.

"(C) For academic year 1996–1997 and for each succeeding academic year, loans made under this part, including Federal Direct Consolidation Loans, shall represent not more than 10 percent of the new student loan volume for such year, except that only the 102 eligible institutions that participated in the direct loan program under this part for academic year 1994–1995 shall be eligible to participate in such program for academic year 1996–1997 and for each succeeding academic year.";

(2) by striking paragraph (3);

(3) by redesignating paragraph (4) as paragraph (3); and

(4) in the second sentence of paragraph (3) (as redesignated by paragraph (3)), by striking "on the most recent program data available" and inserting "on data from the academic year preceding the academic year for which the estimate is made".

(b) ELIMINATION OF CONSCRIPTION.—Section 453(b)(2) (20 U.S.C. 1087c(b)(2)) is amended—

(1) by striking subparagraph (B); and

(2) in subparagraph (A)—

(A) in clause (ii)—

(i) by striking "beginning"; and

(ii) by striking "clause (i); and" and inserting "subparagraph (A).";

(B) by redesignating clause (ii) (as amended by subparagraph (A)) as subparagraph (B); and

(C) by striking "(i) categorizing" and inserting "categorizing".

(c) CONTROL OF ADMINISTRATIVE EXPENSES.—Section 458 (20 U.S.C. 1087h) is amended—

(1) by amending subsection (a) to read as follows:

"(a) EXPENSES.—

"(1) IN GENERAL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each fiscal year there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for subsidy costs under this part for the William D. Ford Federal Direct Loan Program. There shall also be available from funds not otherwise appropriated, funds to be obligated for indirect administrative expenses under this part and part B, not to exceed (from such funds not otherwise appropriated) $260,000,000 for fiscal year 1994, $345,000,000 for fiscal year 1995, $85,000,000 (and such sums as may be necessary for administrative cost allowances for guaranty agencies for costs accrued prior to January 1, 1996) for fiscal year 1996, and $85,000,000 for each of the fiscal years 1997 through 2002.

"(B) REDUCTION.—The amount authorized to be made available for fiscal year 1997 under subparagraph (A) shall be reduced by the amount of any unobligated unexpended funds available to carry out this subsection for any fiscal year prior to fiscal year 1996.

"(2) DIRECT AND INDIRECT ADMINISTRATIVE EXPENSES.—

"(A) DIRECT ADMINISTRATIVE EXPENSES.—

"(i) IN GENERAL.—For purposes of this subsection the term 'direct administrative expenses' means the cost under the William D. Ford Federal Direct Loan Program of—

"(I) activities related to credit extension, loan origination, loan servicing, management of contractors, and payments to contractors, other government entities, and program participants, under this part;

"(II) collection of delinquent loans under this part; and

"(III) write-off and closeout of loans under this part.

"(ii) CLARIFICATION WITH RESPECT TO CERTAIN EXPENSES.—Such term does not include the costs to the Department of personnel, training, rent, printing, or other administrative costs, associated with the activities described in subclause (I), (II), or (III) of clause (i).

"(B) INDIRECT ADMINISTRATIVE EXPENSES.—For purposes of this subsection the term 'indirect administrative expenses' means the cost of—

"(i) personnel engaged in developing program regulations, policy and administrative guidance;

"(ii) audits of institutions and contractors;

"(iii) program reviews; and

"(iv) other oversight of the program under this part or under part B.

"(3) SUBSIDY COST.—The term 'subsidy cost' means the estimated long-term cost to the Federal Government of direct administrative expenses calculated on a net present value basis."; and

(2) by striking subsection (d).

(d) DEFAULT RATE LIMITATIONS ON DIRECT LENDING.—

(1) INSTITUTIONAL ELIGIBILITY BASED ON DEFAULT RATES.—The first sentence of section 435(a)(2)(A) (20 U.S.C. 1085(a)(2)(A)) is amended by inserting "or part D" after "under this part".

(2) COHORT DEFAULT RATE.—Section 435(m)(1) (20 U.S.C. 1085(m)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking "428, 428A, or 428H" and inserting "428, 428A, 428H, or part D (other than Federal Direct PLUS Loans)"; and

(ii) by striking "428C" and inserting "428C or 455(g)";

(B) in subparagraph (B)—

(i) by striking "only"; and

(ii) by inserting "and loans made under part D determined by the Secretary to be in default," after "for insurance,"; and

(C) in subparagraph (C), by striking "428C" and inserting "428C or 455(g)".

(3) DEFAULT RATES AND INCOME CONTINGENT REPAYMENT.—Section 435(m) (20 U.S.C. 1085(m)) is amended by adding at the end the following new paragraph:

"(5) DEFAULT RATE AND INCOME CONTINGENT REPAYMENT.—The Secretary shall prescribe regulations for the calculation of default rates for loans that are repaid pursuant to income contingent repayment under this part, which regulations shall be comparable to regulations for the calculation of default rates for loans that are repaid pursuant to income contingent repayment under part D.".

(4) TERMINATION OF INSTITUTIONAL PARTICIPATION.—Section 455 (20 U.S.C. 1087e) is amended by adding at the end the following new subsection:

"(l) TERMINATION OF INSTITUTIONS FOR HIGH DEFAULT RATES.—

"(1) METHODOLOGY AND CRITERIA.—The Secretary shall develop—

"(A) a methodology for the calculation of institutional default rates under the loan programs operated pursuant to this part;

"(B) criteria for the initiation of termination proceedings on the basis of such default rates; and

"(C) procedures for the conduct of such termination proceedings.

"(2) COMPARABILITY TO PART B.—In developing the methodology, criteria, and procedures required by paragraph (1), the Secretary, to the maximum extent possible, shall establish standards for the termination of institutions from participation in loan programs under this part that are comparable to the standards established for the termination of institutions from participation in the loan programs under part B. Such procedures shall include provisions for the appeal of default rate calculations based on deficiencies in the servicing of loans under this part that are comparable to the provisions for such appeals based on deficiencies in the servicing of loans under part B.

"(3) PROMULGATION.—The methodology, criteria, procedures and standards required by paragraphs (1) and (2) shall be promulgated in final form not later than 120 days after the date of enactment of this paragraph.".

(e) ELIMINATION OF TRANSITION TO DIRECT LOANS.—The Act (20 U.S.C. 1001 et seq.) is further amended—

(1) in section 422(c)(7) (20 U.S.C. 1072(c)(7))—

(A) in subparagraph (A), by striking "during the transition" and all that follows through "part D of this title"; and

(B) in subparagraph (B), by striking "section 428(c)(10)(F)(v)" and inserting "section 428(c)(9)(F)(v)";

(2) in section 422(g)(1) (20 U.S.C. 1072(g)(1))—

(A) in the first sentence, by striking "or the program authorized by part D of this title"; and

(B) in the second sentence, by striking "or the program authorized by part D of this title";

(3) in section 428(c)(8) (20 U.S.C. 1078(c)(8))—

(A) by striking subparagraph (B); and

(B) by striking "(A) If" and inserting "If";

(4) in section 428(c)(9)(F)(vii) (20 U.S.C. 1078(c)(9)(F)(vii))—

(A) by inserting "and" before "to avoid disruption"; and

(B) by striking ", and to ensure an orderly transition" and all that follows through the end of such clause and inserting a period;

(5) in section 428(c)(9)(K) (20 U.S.C. 1078(c)(9)(K)), by striking "the progress of the transition from the loan programs under this part to" and inserting "the integrity and administration of";

(6) in section 428(e)(1)(B)(ii) (20 U.S.C. 1078(e)(1)(B)(ii)), by striking "during the transition" and all that follows through "under part D of this title";

(7) in section 428(e)(3) (20 U.S.C. 1078(e)(3)), by striking "costs of transition" and inserting "indirect administrative expenses";

(8) in section 428(j)(3) (20 U.S.C. 1078(j)(3))—

(A) in the heading for paragraph (3), by striking "DURING TRANSITION TO DIRECT LENDING"; and

(B) in subparagraph (A), by striking "during the transition" and all that follows through "part D of this title";

(9) in the heading for paragraph (2) of section 453(c) (20 U.S.C. 1087c(c)), by striking "TRANSITION" and inserting "INSTITUTIONAL";

(10) in the heading for paragraph (3) of section 453(c) (20 U.S.C. 1087c(c)), by striking "AFTER TRANSITION"; and

(11) in section 456(b) (20 U.S.C. 1087f(b))—

(A) in paragraph (3), by inserting "and" after the semicolon;

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4); and

(D) in paragraph (4) (as redesignated by subparagraph (C)), by striking "successful operation" and inserting "integrity and efficiency".

(f) FEES FOR ORIGINATION SERVICES.—Section 452 (20 U.S.C. 1087b) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(g) RISK SHARING.—Section 428(n) (20 U.S.C. 1078(n)) is amended by adding at the end the following new paragraph:

"(5) APPLICABILITY TO PART D LOANS.—The provisions of this subsection shall apply to institutions of higher education participating in direct lending under part D with respect to loans made under such part, and for the purposes of this paragraph, paragraph (4) shall be applied by inserting 'or part D' after 'this part'.".

(h) TECHNICAL AMENDMENT.—Section 428(b)(1)(X) (20 U.S.C. 1078(b)(1)(X)) is amended by striking "section 428(c)(10)" and inserting "section 428(c)(9)".

SEC. 4003. LOAN TERMS AND CONDITIONS.

(a) COMPARABILITY PROVISIONS.—

(1) IN GENERAL.—Paragraph (1) of section 455(a) (20 U.S.C. 1087e(a)) is amended to read as follows:

"(1) PARALLEL TERMS, CONDITIONS, ELIGIBILITY REQUIREMENTS, BENEFITS AND AMOUNTS.—Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, deferments, forbearances, eligibility requirements, and benefits, be subject to the same administrative requirements for origination, payment and processing of applications, be available in the same amounts, be subject to the same interest rates and same amount of fees, and have the same repayment plans, as the corresponding types of loans made to borrowers under sections 428, 428B, and 428H. The Secretary shall promulgate regulations implementing this paragraph not later than 120 days after the date of enactment of the Student Loan Reform Act of 1995.".

(2) CONFORMING AMENDMENTS.—Section 428(b)(1) (20 U.S.C. 1078(b)(1)) is amended—

(A) in subparagraph (D)(ii), by inserting "(except pursuant to a graduated, income-sensitive, or income contingent repayment schedule)" after "10 years"; and

(B) in subparagraph (E)(ii), by inserting "(except pursuant to a graduated, income-sensitive, or income contingent repayment schedule)" after "10 years".

(b) ABILITY OF PART D BORROWERS TO OBTAIN FEDERAL STAFFORD CONSOLIDATION LOANS.—Section 428C(a)(4) (20 U.S.C. 1078–3(a)(4)) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) made under part D of this title;".

(c) ABILITY OF PART B BORROWERS TO OBTAIN FEDERAL DIRECT CONSOLIDATION LOANS.—Paragraph (5) of section 428C(b) (20 U.S.C. 1078–3(b)) is amended to read as follows:

"(5) DIRECT CONSOLIDATION LOANS FOR BORROWERS IN SPECIFIED CIRCUMSTANCES.—

"(A) Subject to subparagraphs (B) and (C) of section 453(a)(2), the Secretary may offer a borrower a Federal Direct Consolidation loan if such borrower is otherwise eligible for a consolidation loan pursuant to this section and such borrower is—

"(i) unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1) that holds one of such borrower's loans under this part; or

"(ii) unable to obtain a consolidation loan with income contingent repayment terms from a lender with an agreement under subsection (a)(1).

"(B) The Secretary shall establish appropriate certification procedures to verify the eligibility of borrowers for consolidation loans under this paragraph.

"(C) The Secretary shall not offer consolidation loans under this paragraph if, in the Secretary's judgment, the Department does not have the necessary origination and servicing arrangements in place for such loans, or the projected volume in such loans will be destabilizing to the availability of loans otherwise available under this part.".

(d) INCOME CONTINGENT REPAYMENT IN THE FEDERAL FAMILY EDUCATION LOAN PROGRAM.—

(1) INSURANCE PROGRAM AGREEMENTS.—Section 428(b)(1)(E)(i) (20 U.S.C. 1078(b)(1)(E)(i)) is amended by striking "or income-sensitive repayment schedule" and inserting "repayment schedule or an income-sensitive repayment schedule, and may, at the discretion of the lender, offer the borrower the option of repaying the loan in accordance with an income contingent repayment schedule,".

(2) REPAYMENT SCHEDULES.—The matter preceding clause (i) of section 428C(c)(2)(A) (20 U.S.C. 1078–3(c)(2)(A)) is amended—

(A) in the first sentence, by striking "or income-sensitive repayment schedules" and inserting "repayment schedules or income-sensitive repayment schedules, and may include, at the discretion of the lender, the establishment of income contingent repayment schedules"; and

(B) in the second sentence, by striking "income-sensitive" and inserting "graduated, income-sensitive, or income contingent".

(3) COMPARABLE TERMS AND CONDITIONS.—Section 428(m) (20 U.S.C. 1078(m)) is amended by adding at the end the following new paragraph:

"(3) INCOME CONTINGENT REPAYMENT SCHEDULES.—For the purpose of this part, income contingent repayment schedules established pursuant to subsection (b)(1)(E)(i) and section 428C(c)(2)(A) shall have terms and conditions comparable to the terms and conditions established by the Secretary pursuant to section 455(e)(4). The Secretary shall discharge or cancel the indebtedness of borrowers that repay pursuant to income contingent repayment under this part to the same extent, and under the same circumstances, as the Secretary discharges or cancels the indebtedness of borrowers that repay pursuant to income contingent repayment under part D.".

(e) PLUS PROGRAM REDUCTIONS.—Section 428B(b) (20 U.S.C. 1078–2(b)) is amended—

(1) by striking "(b) LIMITATION BASED ON NEED.—" and inserting the following:

"(b) ANNUAL LIMITS.—

"(1) LIMITATION BASED ON NEED.—";

(2) by inserting before the last sentence thereof the following:

"(3) LIMITATION COMPUTED ON BASIS OF ACTUAL PAYMENTS.—"; and

(3) by inserting before paragraph (3) (as designated by the amendment made by paragraph (2) of this section) the following new paragraph:

"(2) DOLLAR LIMITATION.—Subject to paragraph (1), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulations of the Secretary) is $15,000.".

SEC. 4004. AMENDMENTS AFFECTING GUARANTY AGENCIES.

(a) USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.—Section 422 (20 U.S.C. 1072) is amended by adding at the end the following new subsection:

"(h) USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a guaranty agency shall use not less than 50 percent of such agency's reserve funds to purchase and hold defaulted loans that are guaranteed by such agency and for which a claim for insurance is filed with such agency by an eligible lender. The amount of such purchases shall be considered as reserve funds under this section and used in the calculation of the minimum reserve level under section 428(c)(9).

"(2) SPECIAL RULE.—A guaranty agency shall not be required to use its reserve funds to purchase and hold defaulted loans in accordance with paragraph (1) to the extent that—

"(A) the dollar volume of insurance claims filed with such agency does not amount to 50 percent of such agency's available reserve funds;

"(B) such use is prohibited by State law; or

"(C) such use will compromise the ability of the guaranty agency to pay program expenses.".

(b) EXTENSION OF PERIOD A GUARANTY AGENCY MUST HOLD A DEFAULTED LOAN.—

(1) EXEMPTION FOR EXTENDED HOLDING PERIOD.—The last sentence of section 428(c)(1)(A) (20 U.S.C. 1078(c)(1)(A)) is amended by striking "A guaranty agency" and inserting "Except as provided in section 428K, a guaranty agency".

(2) NEW EXTENDED HOLDING PERIOD PROGRAM.—

(A) AMENDMENT.—Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 428J the following new section:

"SEC. 428K. GUARANTOR PURCHASE OF CLAIMS WITH RESERVE FUNDS.

"(a) LOANS SUBJECT TO EXTENDED HOLDING PERIOD.—Except as provided in subsection (b), a guaranty agency shall file a claim for reimbursement with respect to losses (resulting from the default of a borrower) subject to reimbursement by the Secretary pursuant to section 428(c)(1) not less than 180 days nor more than 225 days after the guaranty agency discharges such agency's insurance obligation on a loan insured under this part. Such claim shall include losses on the unpaid principal and accrued interest of any such loan, including interest accrued from the date of such discharge to the date such agency files the claim for reimbursement from the Secretary.

"(b) LOANS EXCLUDED FROM EXTENDED HOLDING.—A guaranty agency may file a claim with respect to losses subject to reimbursement by the Secretary pursuant to section 428(c)(1) prior to 180 days after the date the guaranty agency discharges such agency's insurance obligation on a loan insured under this part, if—

"(1) such agency used 50 percent or more of such agency's reserve funds to purchase or hold loans in accordance with section 422(h);

"(2) such claim is based on an inability to locate the borrower and the guaranty agency certifies to the Secretary that—

"(A) diligent attempts were made to locate the borrower through the use of reasonable skip-

tracing techniques in accordance with section 428(c)(2)(G); and

"(B) such skip-tracing attempts to locate the borrower were unsuccessful; or

"(3) the guaranty agency determines that the borrower is unlikely to possess the financial resources to begin repaying the loan prior to 180 days after default by the borrower.

"(c) GUARANTY AGENCY EFFORTS DURING EXTENDED HOLDING PERIOD.—A guaranty agency shall attempt to bring a loan described in subsection (a) into repayment status during the period prior to 225 days after the date the guaranty agency discharges its insurance obligation on such loan, so that no claim for reimbursement by the Secretary is necessary. Upon securing payments satisfactory to the guaranty agency during such period, such agency shall, if practicable, sell such loan to an eligible lender. Such loan shall not be sold to an eligible lender that the guaranty agency determines has substantially failed to exercise the due diligence required of lenders under this part.

"(d) REGULATION PROHIBITED.—The Secretary shall not promulgate regulations regarding the collection activity of a guaranty agency with respect to a loan described in subsection (a) for which reinsurance has not been paid under section 428(c)(1).".

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply with respect to loans for which claims for insurance are filed by eligible lenders on or after January 1, 1996.

(c) ADMINISTRATIVE COST ALLOWANCE.—Section 428(f)(1) (20 U.S.C. 1078(f)(1)) is amended—

(1) in the matter preceding clause (i) of subparagraph (A), by striking "For a fiscal year prior to fiscal year 1994, the" and inserting "The"; and

(2) by amending subparagraph (B) to read as follows:

"(B)(i) The total amount of payments for any fiscal year prior to fiscal year 1994 made under this paragraph shall be equal to 1 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency.

"(ii) For the period beginning January 1, 1996 and ending September 30, 1996, and for each fiscal year thereafter, each guaranty agency shall receive an administrative cost allowance, payable quarterly, for such fiscal year calculated on the basis of 0.85 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency.

"(iii) The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefor under this subparagraph.

"(iv) Notwithstanding clauses (ii) and (iii)—

"(I) for each of the fiscal years 1996 through 1998, the Secretary shall pay an aggregate amount for such year of not more than $220,000,000 to all guaranty agencies receiving administrative cost allowances under this subparagraph; and

"(II) for each of the fiscal years 1999 through 2002, the Secretary shall pay an aggregate amount for such year of not more than $180,000,000 to all guaranty agencies receiving administrative cost allowances under this subparagraph.".

(d) SECRETARY'S EQUITABLE SHARE OF COLLECTIONS ON CONSOLIDATED DEFAULTED LOANS.—Section 428(c)(6)(A) (20 U.S.C. 1078(c)(6)(A)) is amended—

(1) in the matter preceding clause (i)—

(A) by inserting "or on behalf of" after "made by"; and

(B) by inserting ", including payments made to discharge loans made under this title to obtain a consolidation loan pursuant to this part or part D," after "borrower"; and

(2) in clause (ii), by inserting after "an amount equal to" the following: "—

"(I) for defaulted loans consolidated pursuant to this part or part D on or after January 1, 1996, 18.5 percent of the balance of the principal, accrued interest, and collection costs, outstanding at the time of such consolidation; or

"(II) for all other loans,".

(e) RESERVE FUND REFORMS.—

(1) STRENGTHENING AND STABILIZING GUARANTY AGENCIES.—Section 428(c) (20 U.S.C. 1078(c)) is amended—

(A) in paragraph (9)(C)(ii), by striking "80 percent" and inserting "76 percent"; and

(B) in paragraph (9)(E)—

(i) in the matter preceding clause (i), by striking "The Secretary may terminate a" and inserting "After providing a guaranty agency notice and opportunity for a hearing on the record, the Secretary may terminate such";

(ii) in clause (iv), by inserting "or" after the semicolon;

(iii) by striking clause (vi); and

(iv) in clause (v), by striking "; or" and inserting a period.

(2) ADDITIONAL AMENDMENTS.—Section 422 (20 U.S.C. 1072) is further amended—

(A) in the last sentence of subsection (a)(2), by striking "Except as provided in section 428(c)(10)(E) or (F), such" and inserting "Except as provided in subparagraph (E) or (F) of section 428(c)(9), such"; and

(B) in subsection (g), by amending paragraph (4) to read as follows:

"(4) DISPOSITION OF FUNDS RETURNED TO OR RECOVERED BY THE SECRETARY.—Any funds that are returned to or otherwise recovered by the Secretary pursuant to this subsection shall be returned to the Treasury of the United States for purposes of reducing the Federal debt and shall be deposited into the special account under section 3113(d) of title 31, United States Code.".

(f) ELIMINATION OF SUPPLEMENTAL PRECLAIMS ASSISTANCE.—

(1) AMENDMENT.—Section 428(l) (20 U.S.C. 1078(l)) is amended—

(A) by striking paragraph (2); and

(B) by striking "(l) PRECLAIMS" and all that follows through "Upon receipt" and inserting the following:

"(l) PRECLAIMS ASSISTANCE AND SUPPLEMENTAL PRECLAIMS ASSISTANCE.—Upon receipt".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to loans for which the first delinquency occurs on or after January 1, 1996.

(g) RESERVE RATIOS.—Section 428(c)(9)(A) (20 U.S.C. 1078(c)(9)(A)) is amended—

(1) in clause (i), by inserting "and" after the semicolon;

(2) in clause (ii), by striking "; and" and inserting a period; and

(3) by striking clause (iii).

(h) GUARANTY AGENCY REIMBURSEMENT.—

(1) IN GENERAL.—Section 428(c)(1) (20 U.S.C. 1078(c)(1)) is amended—

(A) in subparagraph (A), by striking "98 percent" and inserting "96 percent"; and

(B) in subparagraph (B)—

(i) in clause (i), by striking "88 percent" and inserting "86 percent"; and

(ii) in clause (ii), by striking "78 percent" and inserting "76 percent".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

SEC. 4005. AMENDMENTS AFFECTING FFELP LENDERS AND LOAN HOLDERS.

(a) RISK SHARING BY THE LOAN HOLDERS.—

(1) AMENDMENT.—Section 428(b)(1)(G) (20 U.S.C. 1078(b)(1)(G)) is amended by striking "not less than 98 percent" and inserting "95 percent".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(b) LENDERS-OF-LAST-RESORT.—Section 428(j)(2) (20 U.S.C. 1078(j)(2)) is amended—

(1) in subparagraph (A), by striking "60 days" and inserting "15 days"; and

(2) in subparagraph (B), by striking "two rejections from eligible lenders" and inserting "one rejection from an eligible lender".

(c) EXCEPTIONAL PERFORMANCE INSURANCE REDUCTION.—Section 428I(b)(1) (20 U.S.C. 1078–9(b)(1)) is amended—

(1) in the paragraph heading, by striking "100 PERCENT"; and

(2) by striking "100 percent" and inserting "95 percent (or 100 percent in the case of a lender-of-last-resort)".

(d) LOAN FEES FROM LENDERS.—

(1) AMENDMENT.—Section 438(d)(2) (20 U.S.C. 1087–1(d)(2)) is amended by striking "0.50 percent" and inserting "0.80 percent".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(e) LENDER AND HOLDER REBATE.—

(1) AMENDMENT.—Section 438 (20 U.S.C. 1078) is amended by adding at the end the following new subsection:

"(g) SUBSIDY REBATE ON STAFFORD AND PLUS LOANS.—

"(1) REBATE.—Each holder of a subsidized or unsubsidized Federal Stafford Loan under this part, or a Federal PLUS loan under section 428B, shall pay to the Secretary, on June 30 and December 31 of each year, a subsidy rebate in an amount equal to 0.035 percent of the unpaid principal amount of each such loan that such holder holds during the repayment period described in section 428(b)(7), except that, notwithstanding subparagraphs (A), (B), and (C) of section 428(b)(7), such holder shall pay a subsidy rebate under this paragraph with respect to such loan during any period of authorized forbearance.

"(2) PAYMENT OF REBATE.—The subsidy rebate shall be paid, to the extent possible, by subtracting from amounts owed such holder under section 438(b) (after deducting from such amounts any amount owed by such holder under section 438(d) for the quarters ending June 30 and December 31, as appropriate) the amount of subsidy rebates owed by such holder. To the extent the amounts owed such holder under section 438(b) (after making the deduction described in the preceding sentence) are insufficient to pay in full the subsidy rebates due from such holder, such holder shall pay the insufficiency by check or wire transfer of funds, in a manner determined by the Secretary.

"(3) DEPOSIT.—The Secretary shall deposit all subsidy rebates collected under the second sentence of paragraph (2) into the insurance fund established in section 431.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(f) SMALL LENDER AUDIT EXEMPTION.—Section 428(b)(1)(U)(iii) (20 U.S.C. 1078(b)(1)(U)(iii)) is amended—

(1) by inserting "in the case of any lender that originates or holds more than $5,000,000 in principal on loans made under this title in any fiscal year" before "for (I)";

(2) in subclause (I), by inserting "such" before "lender at least once";

(3) in subclause (II), by inserting "such" before "a lender that is audited"; and

(4) by striking "if the lender" and inserting "if such lender".

SEC. 4006. CONNIE LEE PRIVATIZATION.

(a) STATUS OF THE CORPORATION AND CORPORATE POWERS; OBLIGATIONS NOT FEDERALLY GUARANTEED.—

(1) STATUS OF THE CORPORATION.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation nor a Government controlled corporation as such terms are defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(2) CORPORATE POWERS.—The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct its affairs as a private, for-profit corporation and to carry out its purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of its affairs and the efficient operation of a private, for-profit business.

(3) LIMITATION ON OWNERSHIP OF STOCK.—

(A) SECRETARY OF THE TREASURY.—The Secretary of the Treasury, in completing the sale of stock pursuant to subsection (c), may not sell or issue the stock held by the Secretary of Education to an agency, instrumentality, or establishment of the United States Government, or to a Government corporation or a Government controlled corporation as such terms are defined in section 103 of title 5, United States Code, or to a government-sponsored enterprise as such term is defined in section 622 of title 2, United States Code.

(B) STUDENT LOAN MARKETING ASSOCIATION.—The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on the date of enactment of this Act. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise its right to appoint directors under section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3) as long as that section is in effect.

(C) PROHIBITION.—Until such time as the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation.

(D) FINANCIAL SUPPORT OR GUARANTEES.—After the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are subject to terms and conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where applicable, other monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.

(4) NO FEDERAL GUARANTEE.—

(A) OBLIGATIONS INSURED BY THE CORPORATION.—

(i) FULL FAITH AND CREDIT OF THE UNITED STATES.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(ii) STUDENT LOAN MARKETING ASSOCIATION.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) SPECIAL RULE.—This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(B) SECURITIES OFFERED BY THE CORPORATION.—No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(5) DEFINITION.—The term "Corporation" as used in this section means the College Construction Loan Insurance Association as in existence on the day before the date of enactment of this Act, and to any successor corporation.

(b) RELATED PRIVATIZATION REQUIREMENTS.—

(1) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—During the six-year period following the date of enactment of this Act, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation a prominent statement providing notice that—

(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations guaranteed in any way by the full faith and credit of the United States; and

(ii) the Corporation is not an instrumentality of the United States.

(B) ADDITIONAL NOTICE.—During the five-year period following the sale of stock pursuant to subsection (c)(1), in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

(2) CORPORATE CHARTER.—The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.

(3) CORPORATE NAME.—The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term "College Construction Loan Insurance Association", or any substantially similar variation thereof.

(4) ARTICLES OF INCORPORATION.—The Corporation shall amend its articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure, and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) REQUIREMENTS UNTIL STOCK SALE.—Notwithstanding subsection (d), the requirements of sections 754 and 760 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3 and 1132f–9), as such sections were in effect on the day before the date of enactment of this Act, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.

(c) SALE OF FEDERALLY OWNED STOCK.—

(1) SALE OF STOCK REQUIRED.—The Secretary of the Treasury shall sell, pursuant to section 324 of title 31, United States Code, the stock of the Corporation owned by the Secretary of Education as soon as possible after the date of enactment of this Act, but not later than six months after such date.

(2) PURCHASE BY THE CORPORATION.—In the event that the Secretary of the Treasury is unable to sell the stock, or any portion thereof, at a price acceptable to the Secretary of Education and the Secretary of the Treasury, the Corporation shall purchase, within 6 months after the date of enactment of this Act, such stock at a price determined by the Secretary of the Treasury and acceptable to the Corporation based on the independent appraisal of one or more nationally recognized financial firms, except that such price shall not exceed the value of the Secretary of Education's stock as determined by the Congressional Budget Office in House Report 104–153, dated June 22, 1995.

(3) REIMBURSEMENT OF COSTS OF SALE.—The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs related to such sale, including all reasonable expenses relating to one or more independent appraisals under this subsection.

(4) ASSISTANCE BY THE CORPORATION.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

(d) REPEAL OF STATUTORY RESTRICTIONS AND RELATED PROVISIONS.—Part D of title VII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is repealed.

SEC. 4007. EXTENSION OF PROGRAM DURATION.

Part B of title IV (20 U.S.C. 1071 et seq.) is amended—

(1) in section 424(a) (20 U.S.C. 1074(a)), by striking "1998" and inserting "2002";

(2) in section 428(a)(5) (20 U.S.C. 1078(a)(5))—

(A) by striking "1998" and inserting "2002"; and

(B) by striking "2002" and inserting "2006"; and

(3) in section 428C(e) (20 U.S.C. 1078–3(e)), by amending the first sentence to read as follows: "The authority to make loans under this section expires at the close of September 30, 2002.".

Subtitle B—Provisions Relating to the Employee Retirement Income Security Act of 1974

SEC. 4101. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) GENERAL RULE.—For purposes of section 205(c)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(3)(A)), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1995.

TITLE V—ENERGY AND NATURAL RESOURCES PROVISIONS

Subtitle A—Nuclear Regulatory Commission Annual Charges

SEC. 5001. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1998" and inserting "September 30, 2002".

Subtitle B—Department of Energy Assets

CHAPTER 1—UNITED STATES ENRICHMENT CORPORATION

SEC. 5201. SHORT TITLE.

This chapter may be cited as the "USEC Privatization Act".

SEC. 5202. DEFINITIONS.

For purposes of this chapter:

(1) The term "AVLIS" means atomic vapor laser isotope separation technology.

(2) The term "Corporation" means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term "gaseous diffusion plants" means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term "highly enriched uranium" means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term "low-enriched uranium" means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term "low-level radioactive waste" has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)).

(7) The term "private corporation" means the corporation established under section 5205.

(8) The term "privatization" means the transfer of ownership of the Corporation to private investors.

(9) The term "privatization date" means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term "public offering" means an underwritten offering to the public of the common stock of the private corporation pursuant to section 5204.

(11) The "Russian HEU Agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term "Secretary" means the Secretary of Energy.

(13) The "Suspension Agreement" means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

SEC. 5203. SALE OF THE CORPORATION.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

(b) PROCEEDS.—Proceeds from the sale of the United States' interest in the Corporation shall be deposited in the general fund of the Treasury.

SEC. 5204. METHOD OF SALE.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 5205 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the state of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) BOARD DETERMINATION.—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

(c) ADEQUATE PROCEEDS.—The Secretary of the Treasury shall not allow the privatization of the Corporation unless before the sale date the Secretary of Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 5203(a).

(d) APPLICATION OF SECURITIES LAWS.—Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

SEC. 5205. ESTABLISHMENT OF PRIVATE CORPORATION.

(a) INCORPORATION.—(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this chapter.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18, United States Code.

(b) STATUS OF THE PRIVATE CORPORATION.—(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this chapter, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation.

(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions stated in section 207 (a), (b), (c), and (d) of title 18, United States Code, shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

SEC. 5206. TRANSFERS TO THE PRIVATE CORPORATION.

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 5207,

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 5208(a),

(4) the Corporation's right to purchase power from the Secretary under section 5208(b),

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

SEC. 5207. LEASING OF GASEOUS DIFFUSION FACILITIES.

(a) TRANSFER OF LEASE.—Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

(b) RENEWAL.—The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before July 1, 1993 at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

(e) ENVIRONMENTAL AUDIT.—For purposes of subsection (d), the conditions existing before July 1, 1993, at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c-2(e)).

(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).

(g) WAIVER OF EIS REQUIREMENT.—The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 5208. TRANSFER OF CONTRACTS.

(a) TRANSFER OF CONTRACTS.—Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 1401(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c(b)), or

(2) entered into by the Corporation before the privatization date.

(b) NONTRANSFERABLE POWER CONTRACTS.—The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) EFFECT OF TRANSFER.—(1) Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(d) PRICING.—The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

SEC. 5209. LIABILITIES.

(a) LIABILITY OF THE UNITED STATES.—(1) Except as otherwise provided in this chapter, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising from any action taken by any agent or officer of the United States in connection with the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

(b) LIABILITY OF THE CORPORATION.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 5208 or any other action the Corporation is required to take under this chapter.

(c) LIABILITY OF THE PRIVATE CORPORATION.—Except as provided in this chapter, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

(d) LIABILITY OF OFFICERS AND DIRECTORS.—(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a. et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a. et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

SEC. 5210. EMPLOYEE PROTECTIONS.

(a) CONTRACTOR EMPLOYEES.—(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint-labor management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act (29 U.S.C. 151 et seq.), any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or

(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.

(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—

(A) offer employment to non-management employees of the predecessor contractor to the extent that their jobs still exist or they are qualified for new jobs, and

(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.

(5) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a)(2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993, as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274i).

(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for eligible persons, as described under subparagraph (B), employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.

(B) Persons eligible for coverage under subparagraph (A) shall be limited to:

(i) persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant; and

(ii) persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.

(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor on or after July 1, 1993, in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.

(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 301 of the Labor Management Relations Act (29 U.S.C. 185).

(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).

(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege a violation of the National Labor Relations Act, may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy or the citizenship of the parties.

(b) FORMER FEDERAL EMPLOYEES.—(1)(A) An employee of the Corporation that was subject to either the Civil Service Retirement System (referred to in this section as "CSRS") or the Federal Employees' Retirement System (referred to in this section as "FERS") on the day immediately preceding the privatization date shall elect—

(i) to retain the employee's coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.

(B) An employee that makes an election under subparagraph (A)(ii) shall have the option to transfer the balance in the employee's Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5, United States Code, for those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);

(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the "normal cost" (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of "normal cost" being used consistent with generally accepted actuarial standards and principles; and

(C) such additional amounts, not to exceed two percent of the amounts under subparagraphs (A) and (B), as are determined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5, United States Code).

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to paragraph (1).

(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(5) The Corporation shall pay to the Employees Health Benefits Fund—

(A) such employee deductions and agency contributions as are required by section 8906(a)–(f) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and

(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).

(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired persons that was performed for the Corporation after the privatization date.

SEC. 5211. OWNERSHIP LIMITATIONS.

(a) SECURITIES LIMITATIONS.—No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corporation on terms more favorable than those offered to the general public—

(1) in a public offering designed to transfer ownership of the Corporation to private investors,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of the directors of the private corporation.

(b) OWNERSHIP LIMITATION.—Immediately following the consummation of the transaction or series of transactions pursuant to which 100 percent of the ownership of the Corporation is transferred to private investors, and for a period of three years thereafter, no person may acquire, directly or indirectly, beneficial ownership of securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The foregoing limitation shall not apply to—

(1) any employee stock ownership plan of the Corporation,

(2) members of the underwriting syndicate purchasing shares in stabilization transactions in connection with the privatization, or

(3) in the case of shares beneficially held in the ordinary course of business for others, any commercial bank, broker-dealer, or clearing agency.

SEC. 5212. URANIUM TRANSFERS AND SALES.

(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) RUSSIAN HEU.—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U^{235}*. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.*

(2) Within 7 years of the date of enactment of this Act, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for end use outside the United States;

(C) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or,

(D) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3,000,000 pounds U_3O_8 *equivalent per year.*

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U^{235}*. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.*

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, or upon request of the Russian Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or U_3O_8 *(in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.*

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

Annual maximum deliveries to end users

Year:	*(millions lbs.* U_3O_8 *equivalent)*
1998	*2*
1999	*4*
2000	*6*
2001	*8*
2002	*10*
2003	*12*
2004	*14*
2005	*16*

Year:	*(millions lbs. U_3O_8 equivalent)*
2006	*17*
2007	*18*
2008	*19*
2009 and each year thereafter	*20.*

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) TRANSFERS TO THE CORPORATION.—(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e), no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary to national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

(f) SAVINGS PROVISION.—Nothing in this chapter shall be read to modify the terms of the Russian HEU Agreement.

SEC. 5213. LOW-LEVEL WASTE.

(a) RESPONSIBILITY OF DOE.—(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than a gaseous diffusion plant. The terms and conditions for such service shall be no more favorable than those the Secretary offers any other generator of such wastes generated by uranium enrichment plants licensed by the Nuclear Regulatory Commission.

(2) The Secretary shall recover the cost of providing the service in paragraph (1), including a pro rata share of any capital costs, by charging the Corporation a fee for such service in an amount equal to the price charged uranium enrichment plants licensed by the Nuclear Regulatory Commission, but in no event shall the Secretary charge any generator more than an amount equal to that which would be charged by commercial, state, regional, or interstate compact entities for disposal of such waste.

(b) AGREEMENTS WITH OTHER PERSONS.—The Corporation or any other generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes, but shall have no authority under this or any other law to require a State or interstate compact to treat, store, or dispose of such waste in a State or interstate compact facility without the State or compact's consent.

SEC. 5214. AVLIS.

(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

(1) IN GENERAL.—To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the President shall transfer without charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).

(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon the privatization date.

(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157 b. (3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

SEC. 5215. APPLICATION OF CERTAIN LAWS.

(a) OSHA.—(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after the date of enactment of this Act, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards.

(b) ANTITRUST LAWS.—For purposes of the antitrust laws, the performance by the private corporation of a "matched import" contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

(c) ENERGY REORGANIZATION ACT REQUIREMENTS.—(1) The private corporation and its contractors and subcontractors shall be subject to the provisions of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the private corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the private corporation.

SEC. 5216. AMENDMENTS TO THE ATOMIC ENERGY ACT.

(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297-2297e-7) are repealed as of the privatization date.

(2) The table of contents of such Act is amended as of the privatization date by striking the items referring to sections repealed by paragraph (1).

(b) NRC LICENSING.—(1) Section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014v.) is amended by striking "or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology".

(2) Section 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under

this section or sections 53, 63, or 1701, if the Commission determines that—

"(1) the Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

"(2) the issuance of such a license or certificate of compliance would be inimical to—

"(A) the common defense and security of the United States; or

"(B) the maintenance of a reliable and economical domestic source of enrichment services.".

(3) Section 1701(c)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as follows:

"(2) PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.".

(4) Section 1702(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f–1(a)) is amended—

(1) by striking "other than" and inserting "including", and

(2) by striking "sections 53 and 63" and inserting "sections 53, 63, and 193".

(c) JUDICIAL REVIEW OF NRC ACTIONS.—Section 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended to read as follows:

"b. The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, United States Code and chapter 7 of title 5, United States Code:

"(1) Any final order entered in any proceeding of the kind specified in subsection (a).

"(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

"(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act.

"(4) Any final determination under section 1701(c) relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act, are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.".

(d) CIVIL PENALTIES.—Section 234 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2282(a)) is amended by—

(1) striking "any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109" and inserting: "any licensing or certification provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, 109, or 1701"; and

(2) by striking "any license issued thereunder" and inserting: "any license or certification issued thereunder".

(e) REFERENCES TO THE CORPORATION.—Following the privatization date, all references in the Atomic Energy Act of 1954 to the United States Enrichment Corporation shall be deemed to be references to the private corporation.

SEC. 5217. AMENDMENTS TO OTHER LAWS.

(a) DEFINITION OF GOVERNMENT CORPORATION.—As of the privatization date, section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N) as added by section 902(b) of Public Law 102–486.

(b) DEFINITION OF THE CORPORATION.—Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1) is amended by inserting "or its successor" before the period.

CHAPTER 2—DEPARTMENT OF ENERGY

SEC. 5221. SALE OF DOE ASSETS

(a) ASSET MANAGEMENT AND DISPOSITION PROGRAM.—

(1) IN GENERAL.—In order to maximize the use of Department of Energy assets and to reduce overhead and other costs related to asset management at the Department's facilities and laboratories, the Secretary of Energy shall conduct an asset management and disposition program that will result in not less than $225,000,000 in receipts and savings by October 1, 2000.

(2) ITEMS TO BE INCLUDED.—The program shall include an inventory of assets in the care of the Department and its contractors; the recovery, reuse, and stewardship of assets; and disposition of a minimum of 1,139,000,000 pounds of fuel, 136,000 tons of chemicals and industrial gases, 557,000 tons of scrap metal, 14,000 radiation sources, 17,000 pieces of major equipment, 11,000 pounds of precious metals, and 91,000,000 pounds of base metals.

(b) FEDERAL PROPERTY AND ADMINSTRATIVE SERVICES ACT.—The disposition of assets under this section is not subject to section 202 or 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484) or section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622). In order to avoid market disruptions, the Secretary shall consult with appropriate executive agencies with respect to dispositions under this section.

(c) DISPOSITION OF PROCEEDS.—After deduction of administrative costs of disposition under this section not to exceed $7,000,000 per year, the remainder of the proceeds from dispositions under this subpart shall be returned to the Treasury as miscellaneous receipts. There shall be established a new receipt account in the Treasury for proceeds of asset sales under this section.

SEC. 5222. SALE OF WEEKS ISLAND OIL.

Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), the Secretary of Energy shall draw down and sell 32,000,000 barrels of oil contained in the Weeks Island Strategic Petroleum Reserve Facility. The Secretary shall, to the greatest extent practicable, sell oil from the reserve in a manner that minimizes the impact of such sale upon supply levels and market forces.

SEC. 5223. LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY.

(a) AMENDMENT.—Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) is amended by adding at the end the following:

"USE OF UNDERUTILIZED FACILITIES

"SEC. 168. (a) AUTHORITY.—Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product owned by a foreign government or its representative. Petroleum products stored under this section are not part of the Strategic Petroleum Reserve and may be exported without license from the United States.

"(b) PROTECTION OF FACILITIES.—All agreements entered into pursuant to subsection (a) shall contain provisions providing for fees to fully compensate the United States for all costs of storage and removals of petroleum products, including the cost of replacement facilities necessitated as a result of any withdrawals.

"(c) ACCESS TO STORED OIL.—The Secretary shall ensure that agreements to store petroleum products for foreign governments or their representatives do not affect the ability of the United States to withdraw, distribute, or sell petroleum from the Strategic Petroleum reserve in response to an energy emergency or to the obligations of the United States under the Agreement on an International Energy Program.

"(d) AVAILABILITY OF FUNDS.—Beginning in fiscal year 2001 and in each fiscal year thereafter except for fiscal years 2003 and 2004, 50 percent of the funds resulting from the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) shall be available to the Secretary of Energy without further appropriation for the purchase of oil for the Strategic Petroleum Reserve.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of part B of title I of the Energy Policy and Conservation Act is amended by adding at the end the following:

"Sec. 168. Use of underutilized facilities.".

Subtitle C—Natural Resources

CHAPTER 1—DEPARTMENT OF THE INTERIOR CONVEYANCES

Subchapter A—California Directed Land Sale

SEC. 5301. CONVEYANCE OF PROPERTY.

All right, title and interest of the United States in the property depicted on a map designated USGS 7.5 minute quadrangle, west of Flattop Mtn, CA 1984, entitled "Location Map for Ward Valley Site", located in San Bernardino Meridian, Township 9 North, Range 19 East, and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed to the Department of Health Services of the State of California upon the tendering of $500,100 on behalf of the State of California and the release of the United States by the State of California from any liability for claims relating to the property described in this section and, as part of the consideration paid for such property, such conveyance is declared to meet and fully comply with any otherwise applicable provisions of section 7 of Endangered Species Act of 1973 (16 U.S.C. 1536) and the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Secretary of the Interior shall issue evidence of title pursuant to this Act notwithstanding any other provision of law.

Subchapter B—Helium Reserves

SEC. 5311. SHORT TITLE.

This subchapter may be cited as the "Helium Act of 1995".

SEC. 5312. AMENDMENT OF HELIUM ACT.

Except as otherwise expressly provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).

SEC. 5313. AUTHORITY OF SECRETARY.

Sections 3, 4, and 5 are amended to read as follows:

"SEC. 3. AUTHORITY OF SECRETARY.

"(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—

"(1) IN GENERAL.—The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as the Secretary deems fair, reasonable, and necessary.

"(2) LEASEHOLD RIGHTS.—The Secretary may grant leasehold rights to any such helium.

"(3) LIMITATION.—The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium.

"(4) REGULATIONS.—Agreements under paragraph (1) may be subject to such regulations as may be prescribed by the Secretary.

"(5) EXISTING RIGHTS.—An agreement under paragraph (1) shall be subject to any rights of any affected Federal oil and gas lessee that may be in existence prior to the date of the agreement.

"(6) TERMS AND CONDITIONS.—An agreement under paragraph (1) (and any extension or renewal of an agreement) shall contain such terms and conditions as the Secretary may consider appropriate.

"(7) Prior Agreements.—This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence on the date of enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after that date.

"(b) Storage, Transportation and Sale.—The Secretary may store, transport, and sell helium only in accordance with this Act.

"SEC. 4. STORAGE, TRANSPORTATION, AND WITHDRAWAL OF CRUDE HELIUM.

"(a) Storage, Transportation and Withdrawal.—The Secretary may store, transport and withdraw crude helium and maintain and operate crude helium storage facilities, in existence on the date of enactment of the Helium Act of 1995 at the Bureau of Mines Cliffside Field, and related helium transportation and withdrawal facilities.

"(b) Cessation of Production, Refining, and Marketing.—Not later than 18 months after the date of enactment of the Helium Act of 1995, the Secretary shall cease producing, refining, and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except activities described in subsection (a).

"(c) Disposal of Facilities.—

"(1) In general.—Subject to paragraph (5), not later than 24 months after the cessation of activities referred to in section (b) of this section, the Secretary shall designate as excess property and dispose of all facilities, equipment, and other real and personal property, and all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium.

"(2) Applicable law.—The disposal of such property shall be in accordance with the Federal Property and Administrative Services Act of 1949.

"(3) Proceeds.—All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f).

"(4) Costs.—All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

"(5) Exception.—Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage, transportation and withdrawal of crude helium or any equipment, facilities, or other real or personal property, required to maintain the purity, quality control, and quality assurance of crude helium in the Bureau of Mines Cliffside Field.

"(d) Existing Contracts.—

"(1) In general.—All contracts that were entered into by any person with the Secretary for the purchase by the person from the Secretary of refined helium and that are in effect on the date of the enactment of the Helium Act of 1995 shall remain in force and effect until the date on which the refining operations cease, as described in subsection (b).

"(2) Costs.—Any costs associated with the termination of contracts described in paragraph (1) shall be paid from the helium production fund established under section 6(f).

"SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

"(a) In General.—Whenever the Secretary provides helium storage withdrawal or transportation services to any person, the Secretary shall impose a fee on the person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal.

"(b) Treatment.—All fees received by the Secretary under subsection (a) shall be treated as moneys received under this Act for purposes of section 6(f).".

SEC. 5314. SALE OF CRUDE HELIUM.

(a) Subsection 6(a) is amended by striking "from the Secretary" and inserting "from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary".

(b) Subsection 6(b) is amended—

(1) by inserting "crude" before "helium"; and

(2) by adding the following at the end: "Except as may be required by reason of subsection (a), sales of crude helium under this section shall be in amounts as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection with minimum market disruption.".

(c) Subsection 6(c) is amended—

(1) by inserting "crude" after "Sales of"; and

(2) by striking "together with interest as provided in this subsection" and all that follows through the end of the subsection and inserting "all funds required to be repaid to the United States as of October 1, 1995 under this section (referred to in this subsection as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary by—

"(1) dividing the outstanding amount of such repayable amounts by the volume (in million cubic feet) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned, and

"(2) adjusting the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1995.".

(d) Subsection 6(d) is amended to read as follows:

"(d) Extraction of Helium From Deposits on Federal Lands.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c).".

(e) Subsection 6(e) is repealed.

(f) Subsection 6(f) is amended—

(1) by striking "(f)" and inserting "(e)(1)"; and

(2) by adding the following at the end:

"(2)(A) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1).

"(B) On repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the general fund of the Treasury.".

SEC. 5315. ELIMINATION OF STOCKPILE.

Section 8 is amended to read as follows:

"SEC. 8. ELIMINATION OF STOCKPILE.

"(a) Stockpile Sales.—

"(1) Commencement.—Not later than January 1, 2005, the Secretary shall commence offering for sale crude helium from helium reserves owned by the United States in such amounts as would be necessary to dispose of all such helium reserves in excess of 600,000,000 cubic feet on a straight-line basis between such date and January 1, 2015.

"(2) Times of sale.—The sales shall be at such times during each year and in such lots as the Secretary determines, in consultation with the helium industry, to be necessary to carry out this subsection with minimum market disruption.

"(3) Price.—The price for all sales under paragraph (1), as determined by the Secretary in consultation with the helium industry, shall be such price as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c).

"(b) Discovery of Additional Reserves.—The discovery of additional helium reserves shall not affect the duty of the Secretary to make sales of helium under subsection (a).".

SEC. 5316. REPEAL OF AUTHORITY TO BORROW.

Sections 12 and 15 are repealed.

SEC. 5317. LAND CONVEYANCE IN POTTER COUNTY, TEXAS.

(a) In General.—The Secretary of the Interior shall transfer all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the Texas Plains Girl Scout Council for consideration of $1, reserving to the United States such easements as may be necessary for pipeline rights-of-way.

(b) Land Description.—The parcel of land referred to in subsection (a) is all those certain lots, tracts or parcels of land lying and being situated in the County of Potter and State of Texas, and being the East Three Hundred Thirty-One (E331) acres out of Section Seventy-eight (78) in Block Nine (9), B.S. & F. Survey, (some times known as the G.D. Landis pasture) Potter County, Texas, located by certificate No. 1/39 and evidenced by letters patents Nos. 411 and 412 issued by the State of Texas under date of November 23, 1937, and of record in Vol. 66A of the Patent Records of the State of Texas. The metes and bounds description of such lands is as follows:

(1) First tract.—One Hundred Seventy-one (171) acres of land known as the North part of the East part of said survey Seventy-eight (78) aforesaid, described by metes and bounds as follows:

Beginning at a stone 20 x 12 x 3 inches marked X, set by W.D. Twichell in 1905, for the Northeast corner of this survey and the Northwest corner of Section 59;

Thence, South 0 degrees 12 minutes East with the West line of said Section 59, 999.4 varas to the Northeast corner of the South 160 acres of East half of Section 78;

Thence, North 89 degrees 47 minutes West with the North line of the South 150 acres of the East half, 956.8 varas to a point in the East line of the West half Section 78;

Thence, North 0 degrees 10 minutes West with the East line of the West half 999.4 varas to a stone 18 x 14 x 3 inches in the middle of the South line of Section 79;

Thence, South 89 degrees 47 minutes East 965 varas to the place of beginning.

(2) Second tract.—One Hundred Sixty (160) acres of land known as the South part of the East part of said survey No. Seventy-eight (78) described by metes and bounds as follows:

Beginning at the Southwest corner of Section 59, a stone marked X and a pile of stones; Thence, North 89 degrees 47 minutes West with the North line of Section 77, 966.5 varas to the Southeast corner of the West half of Section 78; Thence, North 0 degrees 10 minutes West with the East line of the West half of Section 78;

Thence, South 89 degrees 47 minutes East 965.8 varas to a point in the East line of Section 78;

Thence, South 0 degrees 12 minutes East 934.6 varas to the place of beginning.

Containing an area of 331 acres, more or less.

CHAPTER 2—ARCTIC COASTAL PLAIN LEASING AND REVENUE ACT

SEC. 5312. SHORT TITLE.

This chapter may be cited as the 'Arctic Coastal Plain Leasing and Revenue Act of 1995".

SEC. 5322. DEFINITIONS.

When used in this chapter the term—

(1) "Coastal Plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)) comprising approximately 1, 549,000 acres; and

(2) "Secretary" except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

SEC. 5333. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) AUTHORIZATION.—The Congress hereby authorizes and directs the Secretary, acting through the Bureau of Land Management in consultation with the Fish and Wildlife Service and other appropriate Federal officers and agencies, to take such actions as are necessary to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain and to administer the provisions of this chapter through regulations, lease terms, conditions, restrictions, prohibitions, stipulations and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and shall require the application of the best commercially available technology for oil and gas exploration, development, and production, on all new exploration, development, and production operations, and whenever practicable, on existing operations, and in a manner to ensure the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—The prohibitions and limitations contained in section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) are hereby repealed.

(c) COMPATIBILITY.—Congress hereby determines that the oil and gas leasing program and activities authorized by this section in the Coastal Plain are compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(d) SOLE AUTHORITY.—This chapter shall be the sole authority for leasing on the Coastal Plain. Provided, That nothing in this chapter shall be deemed to expand or limit state and local regulatory authority.

(e) FEDERAL LAND.—The Coastal Plain shall be considered "Federal land" for the purposes of the Federal Oil and Gas Royalty Management Act of 1982 .

(f) SPECIAL AREAS.—The Secretary, after consultation with the State of Alaska, City of Kaktovik, and the North Slope Borough, is authorized to designate up to a total of 45,000 acres of the Coastal Plain as Special Areas and close such areas to leasing if the Secretary determines that these Special Areas are of such unique character and interest so as to require special management and regulatory protection. The Secretary may, however, permit leasing of all or portions of any Special Areas within the Coastal Plain by setting lease terms that limit or condition surface use and occupancy by lessees of such lands but permit the use of horizontal drilling technology from sites on leases located outside the designated Special Areas.

(g) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this subtitle.

(h) CONVEYANCE.—In order to maximize federal revenues by removing clouds on title of lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), is authorized and directed to convey (1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611), and (2) to the Arctic Slope Regional Corporation the subsurface estate beneath such surface estate pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 5334. RULES AND REGULATIONS.

(a) PROMULGATION.—The Secretary shall prescribe such rules and regulations as may be necessary to carry out the purposes and provisions of this chapter, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and the environment of the Coastal Plain. Such rules and regulations shall be promulgated no later than fourteen months after the date of enactment of this chapter and shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this chapter and all operations on the Coastal Plain related to the leasing, exploration, development and production of oil and gas.

(b) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) of this section to reflect any significant biological, environmental, or engineering data which come to the Secretary's attention.

SEC. 5335. ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.

The "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is hereby found by the Congress to be adequate to satisfy the legal and procedural requirements of the National Environmental Policy Act of 1969 with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of the leasing program authorized by this chapter, to conduct the first lease sale and any subsequent lease sale authorized by this chapter, and to grant rights-of-way and easements to carry out the purposes of this chapter.

SEC. 5336. LEASE SALES.

(a) LEASE SALES.—Lands may be leased pursuant to the provisions of this chapter to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act, as amended (30 U.S.C. 181).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale; and

(2) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALES ON COASTAL PLAIN.—The Secretary shall, by regulation, provide for lease sales of lands on the Coastal Plain. When lease sales are to be held, they shall occur after the nomination process provided for in subsection (b) of this section. For the first lease sale, the Secretary shall offer for lease those acres receiving the greatest number of nominations, but no less than two hundred thousand acres and no more than three hundred thousand acres shall be offered. If the total acreage nominated is less than two hundred thousand acres, the Secretary shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than three hundred thousand acres of the Coastal Plain be offered in such sale. With respect to subsequent lease sales, the Secretary shall offer for lease no less than two hundred thousand acres of the Coastal Plain. The initial lease sale shall be held within twenty months of the date of enactment of this chapter. The second lease sale shall be held no later than twenty-four months after the initial sale, with additional sales conducted no later than twelve months thereafter so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 5337. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive cash bonus bid any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease.

(b) ANTITRUST REVIEW.—Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to perform an antitrust review of the results of such lease sale on the likely effects the issuance of such leases would have on competition and the Attorney General shall advise the Secretary with respect to such review, including any recommendation for the nonacceptance of any bid or the imposition of terms or conditions on any lease, as may be appropriate to prevent any situation inconsistent with the antitrust laws.

(c) SUBSEQUENT TRANSFERS.—No lease issued under this chapter may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

(d) IMMUNITY.—Nothing in this chapter shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

(e) DEFINITIONS.—As used in this section, the term—

(1) "antitrust review" shall be deemed an "antitrust investigation" for the purposes of the Antitrust Civil Process Act (15 U.S.C. 1311); and

(2) "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12) as amended.

SEC. 5338. LEASE TERMS AND CONDITIONS.

An oil or gas lease issued pursuant to this chapter shall—

(1) be for a tract consisting of a compact area not to exceed five thousand seven hundred sixty acres, or nine surveyed or protracted sections which shall be as compact in form as possible.

(2) be for an initial period of ten years and shall be extended for so long thereafter as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or for so long as drilling or reworking operations, as approved by the Secretary, are conducted on the lease or unit area;

(3) require the payment of royalty as provided for in section 5337 of this chapter;

(4) require that exploration activities pursuant to any lease issued or maintained under this chapter shall be conducted in accordance with an exploration plan or a revision of such plan approved by the Secretary;

(5) require that all development and production pursuant to a lease issued or maintained pursuant to this chapter shall be conducted in accordance with development and production plans approved by the Secretary;

(6) require posting of bond as required by section 5339 of this chapter;

(7) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(8) contain such provisions relating to rental and other fees as the Secretary may prescribe at the time of offering the area for lease;

(9) provide that the Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms of this chapter in the interest of conservation of the resource or where there is no available system to transport the resource. If such a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding any such suspension period thereto;

(10) provide that whenever the owner of a nonproducing lease fails to comply with any of the provisions of this chapter, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this chapter, such lease may be canceled by the Secretary if such default continues for more than thirty days after mailing of notice by registered letter to the lease owner at the lease owner's record post office address of record;

(11) provide that whenever the owner of any producing lease fails to comply with any of the provisions of this chapter, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this chapter, such lease may be forfeited and canceled by any appropriate proceeding brought by the Secretary in any United States district court having jurisdiction under the provisions of this chapter;

(12) provide that cancellation of a lease under this chapter shall in no way release the owner of the lease from the obligation to provide for reclamation of the lease site;

(13) allow the lessee, at the discretion of the Secretary, to make written relinquishment of all rights under any lease issued pursuant to this chapter. The Secretary shall accept such relinquishment by the lessee of any lease issued under this chapter where there has not been surface disturbance on the lands covered by the lease;

(14) provide that for the purpose of conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof, and in order to avoid the unnecessary duplication of facilities, to protect the environment of the Coastal Plain, and to protect correlative rights, the Secretary shall require that, to the greatest extent practicable, lessees unite with each other in collectively adopting and operating under a cooperative or unit plan of development for operation of such pool, field, or like area, or any part thereof, and the Secretary is also authorized and directed to enter into such agreements as are necessary or appropriate for the protection of the United States against drainage;

(15) require that the holder of a lease or leases on lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands adversely affected in connection with exploration, development, production or transportation activities on a lease within the Coastal Plain by the holder of a lease or as a result of activities conducted on the lease by any of the leaseholder's subcontractors or agents;

(16) provide that the holder of a lease may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another party without the express written approval of the Secretary;

(17) provide that the standard of reclamation for lands required to be reclaimed under this chapter be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(18) contain the terms and conditions relating to protection of fish and wildlife, their habitat, and the environment, as required by section 5333(a) of this chapter;

(19) provide that the holder of a lease, its agents, and contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing Section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State; and

(20) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this chapter and the regulations issued under this chapter.

SEC. 5339. BONDING REQUIREMENTS TO ENSURE FINANCIAL RESPONSIBILITY OF LESSEE AND AVOID FEDERAL LIABILITY.

(a) REQUIREMENT.—The Secretary shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. Such bond, surety, or financial arrangement is in addition to, and not in lieu, of any bond, surety, or financial arrangement required by any other regulatory authority or required by any other provision of law.

(b) AMOUNT.—The bond, surety, or financial arrangement shall be in an amount—

(1) to be determined by the Secretary to provide for reclamation of the lease site in accordance with an approved or revised exploration or development and production plan; plus

(2) set by the Secretary consistent with the type of operations proposed, to provide the means for rapid and effective cleanup, and to minimize damages resulting from an oil spill, the escape of gas, refuse, domestic wastewater, hazardous or toxic substances, or fire caused by oil and gas activities.

(c) ADJUSTMENT.—In the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond, surety, or other financial arrangement to conform to such modified plan.

(d) DURATION.—The responsibility and liability of the lessee and its surety under the bond, surety, or other financial arrangement shall continue until such time as the Secretary determines that there has been compliance with the terms and conditions of the lease and all applicable law.

(e) TERMINATION.—Within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary, after consultation with affected Federal and State agencies, shall notify the lessee that the period of liability under the bond, surety, or other financial arrangement has been terminated.

SEC. 5340. OIL AND GAS INFORMATION.

(a) IN GENERAL.—(1) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this chapter shall provide the Secretary access to all data and information from any lease granted pursuant to this chapter (including processed and analyzed) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

(2) If processed and analyzed information provided pursuant to paragraph (1) is provided in good faith by the lessee or permittee, such lessee or permittee shall not be responsible for any consequence of the use or of reliance upon such processed and analyzed information.

(3) Whenever any data or information is provided to the Secretary, pursuant to paragraph (1)—

(A) by a lessee or permittee, in the form and manner of processing which is utilized by such lessee or permittee in the normal conduct of business, the Secretary shall pay the reasonable cost of reproducing such data and information; or

(B) by a lessee or permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information.

(b) REGULATIONS.—The Secretary shall prescribe regulations to: (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained; and (2) set forth the time periods and conditions which shall be applicable to the release of such information.

SEC. 5341. EXPEDITED JUDICIAL REVIEW.

(a) Any complaint seeking judicial review of any provision in this chapter, or any other action of the Secretary under this chapter may be filed in any appropriate district court of the United States, and such complaint must be filed within ninety days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint: Provided, That any complaint seeking judicial review of an action of the Secretary in promulgating any regulation under this chapter may be filed only in the United States Court of Appeals for the District of Columbia.

(b) Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 5342. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

Notwithstanding Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.), the Secretary is authorized and directed to grant, in accordance with the provisions of Section 28(c) through (t) and (v) through (y) of the Mineral Leasing Act of 1920 (30 U.S.C. 185), rights-of-way and easements across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The regulations issued as required by section 5334 of this chapter shall include provisions granting rights-of-way and easements across the Coastal Plain.

SEC. 5343. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL REGULATIONS TO ENSURE COMPLIANCE WITH TERMS AND CONDITIONS OF LEASE.

(a) RESPONSIBILITY OF THE SECRETARY.—The Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this chapter.

(b) RESPONSIBILITY OF HOLDERS OF LEASE.—It shall be the responsibility of any holder of a lease under this chapter to—

(1) maintain all operations within such lease area in compliance with regulations intended to protect persons and property on, and fish and wildlife, their habitat, subsistence resources, and the environment of, the Coastal Plain; and

(2) allow prompt access at the site of any operations subject to regulation under this chapter to any appropriate Federal or State inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

(c) ON-SITE INSPECTION.—The Secretary shall promulgate regulations to provide for—

(1) scheduled onsite inspection by the Secretary, at least twice a year, of each facility on the Coastal Plain which is subject to any environmental or safety regulation promulgated pursuant to this chapter or conditions contained in any lease issued pursuant to this chapter to assure compliance with such environmental or safety regulations or conditions; and

(2) periodic onsite inspection by the Secretary at least once a year without advance notice to the operator of such facility to assure compliance with all environmental or safety regulations.

SEC. 5344. NEW REVENUES.

(a) DISTRIBUTION OF REVENUES.—(1) Notwithstanding any other provision of law, all revenues received by the Federal Government from competitive bids, sales, bonuses, royalties, rents, fees, or interest derived from the leasing of oil and gas within the Coastal Plain shall be deposited into the Treasury of the United States, solely as provided in this subsection.

(2) Fifty percent of all revenues referred to in paragraph (1) shall be paid by the Secretary of the Treasury semiannually to the State of Alaska, on March 30 and September 30 of each year.

(3)(A) The Secretary of the Treasury is directed to monitor the revenues deposited into the Treasury from oil and gas leases issued under the authority of this chapter. Except as provided in subparagraph (B), all monies deposited into the Treasury from such oil and gas leases in excess of $2,600,000,000 shall be distributed as follows:

(i) Fifty percent shall be paid to the State of Alaska in the manner provided in this subsection; and

(ii) Fifty percent shall be deposited into a special fund established in the Treasury of the United States known as the "National Park, Refuge, and Fish and Wildlife Renewal and Protection Fund (hereinafter in this section referred to as the "renewal fund").

(B) Deposits into the renewal fund shall not exceed $250,000,000 over the life of the renewal fund. Monies in excess of such amount shall be deposited as miscellaneous receipts in the Treasury of the United States.

(C) Deposits into the renewal fund shall remain available until expended. The Secretary of the Treasury is directed to develop procedures for use of the renewal fund to ensure accountability and demonstrated results.

(b) USE OF RENEWAL FUND.—Monies from the renewal fund shall be made available to the Secretary of the Interior, without further appropriation, at the beginning of each fiscal year in which funds are available, and shall be expended by the Secretary as follows:

(1) Twenty-five percent shall be used for infrastructure needs at units of the National Park System, including but not limited to, facility refurbishment, repair and replacement, interpretive media and exhibit repair and replacement, and Infrastructure projects associated with park resource protection;

(2) Twenty-five percent shall be used for infrastructure needs at units of the National Wildlife Refuge System, including but not limited to, facility refurbishment, repair and replacement, interpretive media and exhibit repair and replacement, and infrastructure projects associated with refuge resource protection;

(3) Twenty-five percent shall be used for acquisition of important habitat lands for threatened or endangered species from owners of private property. Such lands shall be acquired solely on a willing seller basis and shall be managed by the Secretary for the conservation of such species pursuant to the terms of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1534); and

(4) Twenty-five percent shall be available for wetlands projects in accordance with the applicable provision of the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).

(c) COMMUNITY ASSISTANCE.—There is hereby established a Community Assistance Fund in the Treasury into which shall be deposited $30,000,000 from revenues derived from the federal share of the first lease sale authorized under this chapter. The Secretary of the Treasury shall invest the funds in the Community Assistance Fund in interest bearing government securities. No more than $5,000,000 per year from the Community Assistance Fund, shall be available to the Secretary for distribution, upon application and without further appropriation, to organized boroughs, other municipal subdivisions of the State of Alaska, and recognized Indian Reorganization Act entities which are directly impacted by the exploration and production of oil and gas on the Coastal Plain authorized by this chapter to provide public and social services and facilities required in connection with such activities.

CHAPTER 3—WATER PROJECTS

Subchapter A—Irrigation Prepayment

SEC. 5351. AUTHORIZATION FOR PREPAYMENT OF CONSTRUCTION CHARGES.

Subsection 213(a) of the Reclamation Reform Act of 1982 (96 Stat.1269, 43 U.S.C. 390mm(a)) is amended:

(1) by adding at the beginning:

"Notwithstanding any provision of Reclamation law or limitation contained in any repayment or water service contract, any person or district holding such a contract or receiving water under such a contract with the United States may prepay the construction costs referred to in this section either through accelerated or lump sum payments. For the purposes of such prepayment only, the project to which such contract applies is declared to be complete and the Secretary shall determine the repayment obligations associated with the construction costs of the project facilities so that accelerated payments or a lump sum payment may be made. The amount of any prepayment shall be calculated by discounting the remaining payments due under a contract in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget: Provided, That the discount shall be adjusted by any amounts necessary to compensate the Federal Government for the direct or indirect loss of future tax revenues if the individual or district plans to use federally tax-exempt financing for such prepayment.";

(2) by striking "lands in a district" and inserting: "lands in a district, or lands owned or leased by a person";

(3) by striking "obligation of a district" and inserting: "obligation of a district or a person";

(4) by striking "enactment of this Act." and inserting: "enactment of this Act or as otherwise provided for in this section. Any additional capital costs incurred after the date of such prepayment shall be recoverable as a separate obligation and shall not be considered to be a new or supplemental benefit for the purposes of this act nor cause the full cost pricing limitation of this Act or the ownership limitations contained in any provision of federal reclamation law to apply to the lands to which such capital costs apply.".

SEC. 5352. CONFORMING AMENDMENT.

Subsection 213 (c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390 mm (c)) is repealed.

Subchapter B—Hetch Hetchy

SEC. 5353. HETCH HETCHY DAM.

Section 7 of the Act of December 19, 1913 (38 Stat. 242, chapter 4), is amended—

(1) by striking "$30,000" in the first sentence and inserting "$2,000,000"; and

(2) by amending the second and third sentences to read as follows: "These funds shall be placed in a separate fund by the United States and, notwithstanding any other provision of law, shall not be available for obligation or expenditure until appropriated by the Congress. The highest priority use of the funds shall be for annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in the State of California.".

Subchapter C—Collbran Project

SEC. 5355. COLLBRAN PROJECT.

(a) SHORT TITLE.—This subchapter may be cited as the "Collbran Project Unit Conveyance Act".

(b) DEFINITIONS.—For purposes of this subchapter:

(1) DISTRICTS.—The term "Districts" means the Ute Water Conservancy District and the Collbran Conservancy District (including their successors and assigns), which are political subdivisions of the State of Colorado.

(2) FEDERAL RECLAMATION LAWS.—The term "Federal reclamation laws" means the Act of June 17, 1902 and Acts amendatory thereof or supplementary thereto (32 Stat. 388, chapter 1093; 43 U.S.C. 371 et seq.) (including regulations adopted pursuant to those Acts).

(3) PROJECT.—The term "Project" means the Collbran Reclamation Project, as constructed and operated under the Act of July 3, 1952 (66 Stat. 325, chapter 565), including all property, equipment, and assets of or relating to the Project that are owned by the United States, including—

(A) Vega Dam and Reservoir (but not including The Vega Recreation Facilities);

(B) Leon-Park Dams and Feeder Canal;

(C) Southside Canal;

(D) East Fork Diversion Dam and Feeder Canal;

(E) Bonham-Cottonwood Pipeline;

(F) Snowcat Shed and Diesel Storage;

(G) Upper Molina Penstock and Power Plant;

(H) Lower Molina Penstock and Power Plant;

(I) the diversion structure in the tailrace of the Lower Molina Power Plant;

(J) all substations and switchyards;

(K) a non-exclusive easement for the use of existing easements or rights-of-way owned by the United States on or across nonfederal lands which are necessary for access to Project facilities;

(L) title to lands reasonably necessary for all Project facilities except for land described in subparagraph (K) or subsection (c)(1) (B) or (C);

(M) all permits and contract rights held by the Bureau of Reclamation, including, without limitation, contract or other rights relating to the operation, use, maintenance, repair, or replacement of the water storage reservoirs located on *the Grand Mesa which are operated as a part of the Project;*

(N) all equipment, parts inventories, and tools;

(O) all additions, replacements, betterments, and appurtenances to any of the above; and

(P) a copy of all data, plans, designs, reports, records, or other materials, whether in writing or in any form of electronic storage relating specifically to the Project.

(4) VEGA RECREATION FACILITIES.—The term "Vega Recreation Facilities" includes, but is not limited to, buildings, campgrounds, picnic areas, parking lots, fences, boat docks and ramps, electrical lines, water and sewer systems, trash and toilet facilities, roads and trails, and other structures and equipment used for State park purposes at and near Vega Reservoir such as recreation, maintenance and daily and overnight visitor use, and lands above the high water level of Vega Reservoir within the area previously defined by the Department of the Interior as the "Reservoir Area Boundary" which have not historically been utilized for Collbran Project water storage and delivery facilities, together with an easement for public access for recreational purposes to Vega Reservoir and the water surface thereof, and construction, operation, maintenance and replacement of such recreation facilities below the high water line. Such facilities shall also include improvements constructed or added as a result of the agreements referred to in section (c)(6).

(c) CONVEYANCE OF THE COLLBRAN PROJECT.—

(1) IN GENERAL.—

(A) CONVEYANCE TO DISTRICTS.—The Secretary of the Interior shall convey to the Districts all right, title, and interest of the United States in and to the Project, as described in subsection (b)(3), by quitclaim deed and bill of sale, without warranties, in the last quarter of fiscal year 2000, subject only to the requirements of this section. Until such conveyance occurs, the Bureau of Reclamation shall continue to provide for the operation, maintenance, repair, and replacement of Project facilities and the storage reservoirs on the Grand Mesa to the extent such responsibilities are the responsibility of the Bureau of Reclamation and have not been delegated to the Districts prior to the date of enactment of this Act or are delegated or transferred to the Districts by agreement thereafter, so that at the time of conveyance such facilities are in the same condition as, or better condition than, the condition of the facilities on the date of enactment of this Act.

(B) EASEMENTS ON NATIONAL FOREST SYSTEM LANDS.—The Secretary of Agriculture shall grant, in the last quarter of fiscal year 2000, subject only to the requirements of this section; (i) a non-exclusive easement on and across National Forest System lands to the Districts for ingress and egress on existing access routes to each existing component of the Project and to the existing storage reservoirs on the Grand Mesa which are operated as a part of the Project; (ii) a non-exclusive easement on National Forest System lands for the operation, use, maintenance, repair, and replacement, but not enlargement, of the existing storage reservoirs on the Grand Mesa to the owners and operators of such reservoirs which are operated as a part of the Project; which easement may be exercised in the event that the existing land use authorizations for such storage reservoirs are restricted, terminated, relinquished, or abandoned, and which easement shall not be subject to conditions or requirements that interfere with or limit the use of such reservoirs for water supply or power purposes; and (iii) a non-exclusive easement to the Districts for the operation, use, maintenance, repair, and replacement, but not enlargement, of those components of Project facilities which are located on National Forest System lands, subject to the requirement that the Districts shall provide reasonable notice to and the opportunity for consultation with the designated representative of the Secretary of Agriculture for non-routine, non-emergency activities that occur on such easements.

(C) EASEMENTS TO DISTRICTS FOR SOUTHSIDE CANAL.—The Secretary of the Interior shall grant to the Districts, in the last quarter of fiscal year 2000, subject only to the requirements of this section, (i) a non-exclusive easement on and across lands administered by agencies within the Department of the Interior for ingress and egress on existing access routes to and along the Southside Canal, and (ii) a non-exclusive easement for the operation, use, maintenance, repair, and replacement of the Southside Canal, subject to the requirement that the Districts shall provide reasonable notice to and the opportunity for consultation with the designated representative of the Secretary of the Interior for non-routine, non-emergency activities that occur on such easements.

(2) RESERVATION.—The transfer of rights and interests pursuant to paragraphs (1) (A), (B), and (C) shall reserve to the United States all minerals, including hydrocarbons, and a perpetual right of public access over, across, under, and to the portions of the Project which on the date of enactment of this Act were open to public use for fishing, boating, hunting, and other outdoor recreation purposes and other public uses such as grazing, mineral development and logging: Provided, That the United States may allow for continued public use and enjoyment of such portions of the Project for recreational activities and other public uses conducted as of the date of enactment of this Act.

(3) CONVEYANCE TO STATE OF COLORADO.—All right, title, and interest in the Vega Recreation Facilities shall remain in the United States until the terms of the agreements referred to in paragraph (6) have been fulfilled by the United States. At such time, all right, title, and interest in the Vega Recreation Facilities shall be conveyed by the Secretary of the Interior to the State of Colorado, Division of Parks and Outdoor Recreation.

(4) PAYMENT.—

(A) IN GENERAL.—At the time of transfer, the Districts shall pay to the United States $12,900,000 ($12,300,000 of which represents the net present value of the outstanding repayment obligations for the Project), of which—

(i) $12,300,000 shall be deposited in the general fund of the United States Treasury; and

(ii) $600,000 shall be deposited in a special account in the United States Treasury and shall be available to the United States Fish and Wildlife Service, Region 6, without further appropriation, for use in funding Colorado operations and capital expenditures associated with the Grand Valley Water Management Project for the purpose of recovering endangered fish in the Upper Colorado River Basin, as identified in the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin, or such other component of the Recovery Implementation Program within Colorado that is selected with the concurrence of the Governor of the State of Colorado.

(B) SOURCE OF FUNDS.—Funds for the payment to the extent of the amount specified in subparagraph (A) shall not be derived from the issuance or sale, prior to the conveyance, of State or local bonds, the interest on which is exempt from taxation under section 103 of the Internal Revenue Code of 1986.

(5) OPERATION OF PROJECT.—

(A) IN GENERAL.—The Project was authorized and constructed to place water to beneficial use for authorized purposes within the State of Colorado. The Project shall be operated and used by the Districts for a period of 40 years after the date of enactment of this Act for the purposes for which the Project was authorized under the Act of July 3, 1952 (66 Stat. 325, chapter 565). The Districts shall attempt to the extent practicable, taking into consideration historic Project operations, to notify the State of Colorado of changes in historic Project operations which may adversely affect State park operations.

(B) REQUIREMENTS.—During the 40-year period described in subparagraph (A)—

(i) the Districts shall annually submit to the Secretary of Agriculture and the Colorado Department of Natural Resources a plan for operation of the Project, which plan shall—

(I) report on Project operations for the previous year;

(II) provide a description of the manner of Project operations anticipated for the forthcoming year, which shall be prepared after consultation with the designated representatives of the Secretary of Agriculture, the Board of County Commissioners of Mesa County, Colorado, and the Colorado Department of Natural Resources; and

(III) certify that the Districts have operated and will operate and maintain the Project facilities in accordance with sound engineering practices; and

(ii) subject to subsection (d), all electric power generated by operation of the Project shall be made available to and be marketed by the Western Area Power Administration (including its successors or assigns).

(6) AGREEMENTS.—Conveyance of the Project shall be subject to the agreements between the United States and the State of Colorado dated August 22, 1994, and September 23, 1994, relating to the construction and operation of recreational facilities at Vega Reservoir, which agreements shall continue to be performed by the parties thereto according to the terms of the agreements.

(d) OPERATION OF THE POWER COMPONENT.—

(1) CONFORMITY TO HISTORIC OPERATIONS.—The power component and facilities of the Project shall be operated in substantial conformity with the historic operations of the power component and facilities (including recent operations in a peaking mode).

(2) POWER MARKETING.—

(A) EXISTING MARKETING ARRANGEMENT.—The Post-1989 Marketing Criteria, which provide for the marketing of power generated by the power component of the Project as part of the output of the Salt Lake City Area Integrated Projects, shall no longer be binding on the Project upon conveyance of the Project under subsection (c)(1).

(B) AFTER TERMINATION OF EXISTING MARKETING ARRANGEMENT.—

(i) IN GENERAL.—After the conveyance, the Districts shall offer all power produced by the power component of the Project to the Western Area Power Administration or its successors or assigns (referred to in this section as "Western"), which, in consultation with its affected preference customers, shall have the first right to purchase such power at the rates established in accordance with clause (ii). If Western declines to purchase the power after consultation with its affected preference customers, such power shall then be offered at the same rates first to Western's preference customers located in the Salt Lake City Area Integrated Projects marketing area (referred to in this section as the "SLCAIP preference customers"). Thereafter, such power may be sold to any other party: Provided, however, That no such sale may occur at rates less than rates established in accordance with clause (ii) unless such power is first offered at such lesser rate first to Western and then to its SLCAIP preference customers.

(ii) The rate for power initially offered to Western and its SLCAIP preference customers

under this paragraph shall not exceed that required to produce revenues sufficient to provide for—

(I) annual debt service and/or recoupment of the cost of capital for the amount specified in subsection (c)(4)(A)(i) of this section, less the sum of $310,000 (which is the net present value of the outstanding repayment obligation of the Collbran Conservancy District), and

(II) the cost of operation, maintenance, and replacement of the power component of the Project.

Such costs and rate shall be determined in a manner consistent with the current principles followed by the Secretary of the Interior and by Western in its annual power and repayment study.

(e) LICENSE.—

(1) Prior to the conveyance of the Project to the Districts, the Commission shall issue to the Districts a license or licenses as appropriate under part I of the Federal Power Act, as amended, (16 U.S.C. 791 et seq.), authorizing for a term of 40 years the continued operation and maintenance of the power component of the Project.

(2) The license issued pursuant to subsection (1):

(A) shall be for the purpose of operating, using, maintaining, repairing, and replacing the power component of the Project as authorized by the Act of July 3, 1952 (66 Stat. 325, chapter 565);

(B) shall be conditioned upon the requirement that the power component of the project continue to be operated and maintained in accordance with the authorized purposes of the project;

(C) shall be subject only to the provisions of Part I of the Federal Power Act, except the word "constructed" in section 3(10); the four provisos of section 4(e); section 6 to the extent it requires the licensee's acceptance of those terms and conditions of the Act that this subsection waives; section 10(e) as concerns annual charges for the use and occupancy of federal lands and facilities; section 10(f); section 10(j); section 18; section 19; section 20; and section 22 of the Federal Power Act, 16 U.S.C. 796(10), 797(e), 799, 803(e), 803(f), 803(j), 811, 812, 813, and 815; and shall not be subject to the standard "L-Form" license conditions, published at 54 FPC 1792-1928 (1975), the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.), as amended, section 2402 of the Energy Policy Act of 1992 (16 U.S.C. 797c), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") (33 U.S.C. 1251 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), or any other Act otherwise applicable to the licensing of the project.

(3) The license issued under paragraph (1) is deemed to meet the licensing standards of the Federal Power Act, including section 10(a) and the last sentence of section 4(e) (16 U.S.C. 797(e)).

(4) Any power site reservation established by the President, the Secretary of the Interior, or pursuant to section 24 of the Federal Power Act (16 U.S.C. 818) or any other law, which exists on any lands, whether federally or privately owned, that are included within the boundaries of the project shall be vacated by operation of law upon issuance of the license for the project.

(5) All requirements of Part I of the Federal Power Act and of any other Act applicable to the licensing of a hydroelectric project shall apply to the project upon expiration of the license issued under this section.

(6) For purposes of this section, "Commission" means the Federal Energy Regulatory Commission.

(7) The operation of the Project shall be subject to all applicable state and federal laws subsequent to the issuance of the license pursuant to paragraph (1).

(f) INAPPLICABILITY OF NEPA.—Neither the conveyance of the Project nor the issuance of easements pursuant to this section constitutes a major Federal action within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including any regulations issued under such Act.

(g) INAPPLICABILITY OF PRIOR AGREEMENTS AND OF FEDERAL RECLAMATION LAWS.—On conveyance of the Project to the Districts—

(1) the Repayment Contract dated May 27, 1957, as amended April 12, 1962, between the Collbran Conservancy District and the United States, and the Contract for use of Project facilities for Diversion of Water dated January 11, 1962, as amended November 10, 1977, between the Ute Water Conservancy District and the United States, shall be terminated and of no further force or effect; and

(2) the Project shall no longer be subject to or governed by the Federal reclamation laws.

(h) DISTRICTS' LIABILITY.—The Districts shall be liable, to the extent allowed under State law, for all acts or omissions relating to the operation and use of the Project by the Districts that occur subsequent to the conveyance under section (c), including damages to Federal lands or facilities which result from the failure of Project facilities.

(i) EFFECT ON STATE LAW.—Nothing in this section shall be construed to impair the effectiveness of any State or local law (including regulations) relating to land use.

(j) TREATMENT OF SALES FOR PURPOSES OF CERTAIN LAWS.—The sales of assets under this subchapter shall not be considered a disposal of Federal surplus property under the following provisions of law:

(1) Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).

(2) Section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

Subchapter D—Sly Park

SEC. 5356. SLY PARK.

(a) SHORT TITLE.—This subchapter may be cited as the "Sly Park Unit Conveyance Act".

(b) DEFINITIONS.—For purposes of this subchapter:

(1) The term "El Dorado Irrigation District" or "District" means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Sly Park Unit" means the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel and conduits and canals as authorized under the Act entitled "An Act to authorize the American River Basin development, California, for irrigation and reclamation, and for other purposes", approved October 14, 1949 (63 Stat. 852 chapter 690), together with all other facilities owned by the United States including those used to convey and store water delivered from Sly Park, as well as all recreation facilities associated thereto.

(c) SALE OF THE SLY PARK UNIT.—

(1) IN GENERAL.—The Secretary shall, on or before December 31, 1997, and upon receipt of the payment for the original construction debt described in paragraph (2), sell and convey to the El Dorado Irrigation District all rights, title, and interest of the United States in and to the Sly Park Unit. At the time the Sly Park Unit is conveyed, the Secretary shall also transfer and assign to the District the water rights relating to the Sly Park Unit held in trust by the Secretary for diversion and storage under California State permits numbered 2631, 5645A, 10473, and 10474.

(2) SALE PRICE.—The sale price for the Sly Park Unit shall be $3,993,982, which is the outstanding balance for the original construction of the Sly Park Unit payable to the United States. Payment shall be deposited as miscellaneous receipts in the Treasury and credited to the Central Valley Project Restoration Fund. Payment of such price shall extinguish all payment obligations under contract numbered 14-06-200-949 between the District and the Secretary.

(d) NO ADDITIONAL ENVIRONMENTAL IMPACT.—The Congress specifically finds that (A) the sale, conveyance and assignment of the Sly Park Unit and water rights under this section involves the transfer of the ownership and operation of an existing ongoing water project, (B) the Sly Park Unit operation, facilities, and water rights have been, and after the sale and transfer will continue to be, committed to maximum reasonable and beneficial use for existing services, and (C) the sale, conveyance and assignment of the Sly Park Unit and water rights does not involve any additional growth or expansion of the project or other environmental impacts. Consequently, the sale, conveyance and assignment of the Sly Park Unit and water rights shall not be subject to environmental review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4332) or endangered species review or consultation pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536).

(e) CERTAIN CONTRACT OBLIGATIONS NOT AFFECTED.—The sale of the Sly Park Unit under this section shall not affect the payment obligations of the District under the contract between the District and the Secretary numbered 14-06-200-7734, as amended by contracts numbered 14-06-200-4282A and 14-06-200-8536A.

(f) TREATMENT OF SALES FOR PURPOSES OF CERTAIN LAWS.—The sales of assets under this subchapter part shall not be considered a disposal of Federal surplus property under the following provisions of law:

(1) Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).

(2) Section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

Subchapter E—Central Utah Project

SEC. 5357. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: "The Secretary shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under terms and conditions similar to those contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The prepayment may be provided in several installments to reflect substantial completion of the delivery facilities being prepaid and may not be adjusted on the basis of the type of prepayment financing utilized by the District: Provided That the District shall complete all payments authorized pursuant to this section by the end of fiscal year 2002.".

CHAPTER 4—FEDERAL OIL AND GAS ROYALTIES

SEC. 5361. DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended—

(1) by amending paragraph (7) to read as follows:

"(7) 'lessee' means any person to whom the United States issues an oil and gas lease or any person to whom operating rights in a lease have been assigned;"; and

(2) by striking "and" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

"(17) 'adjustment' means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on a lease;

"(18) 'administrative proceeding' means any Department of the Interior agency process in which a demand, decision or order issued by the Secretary or a delegated State is subject to appeal or has been appealed;

"(19) 'assessment' means any fee or charge levied or imposed by the Secretary or a delegated State other than—

"(A) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(B) any interest; or

"(C) any civil or criminal penalty;

"(20) 'commence' means—

"(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, crossclaim, or other pleading seeking affirmative relief or seeking credit or recoupment; or

"(B) with respect to a demand, the receipt by the Secretary or a delegated State or a lessee of the demand;

"(21) 'credit' means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

"(22) 'delegated State' means a State which, pursuant to an agreement or agreements under section 205, performs authorities, duties, responsibilities, or activities of the Secretary which may be performed by a State under the Constitution of the United States for all lands within the State, including, but not limited to—

"(A) activities under sections 111 and 115;

"(B) collection, audit, lease and post-lease management activities, and applicable enforcement activities;

"(C) inspections (including activities described in section 108;

"(D) approval of pooling, unitization, and communitization agreements; and

"(E) investigations;

"(23) 'demand' means—

"(A) an order to pay issued by the Secretary or the applicable delegated State that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing; or

"(B) a separate written request by a lessee which asserts an obligation due the lessee that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing, but does not mean any royalty or production report, or any information contained therein, required by the Secretary or a delegated State;

"(24) 'obligation' means—

"(A) any duty of the Secretary or, if applicable, a delegated State—

"(i) to take oil or gas royalty in kind at or near the lease (unless the lease expressly provides for delivery at a different location); or

"(ii) to pay, refund, offset, or credit monies including but not limited to)—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

"(II) any interest;

"(B) any duty of a lessee—

"(i) to deliver oil or gas royalty in kind at or near the lease (unless the lease expressly provides for delivery at a different location); or

"(ii) to pay, offset or credit monies including but not limited to—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(II) any interest;

"(III) any penalty; or

"(IV) any assessment, which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

"(25) 'order to pay' means a written order issued by the Secretary or the applicable delegated State which—

"(A) asserts a specific, definite, and quantified obligation claimed to be due, and

"(B) specifically identifies the obligation by lease, production month and monetary amount of such obligation claimed to be due and ordered to be paid, as well as the reason or reasons such obligation is claimed to be due, but such term does not include any other communication or action by or on behalf of the Secretary or a delegated State;

"(26) 'overpayment' means any payment by a lessee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

"(27) 'payment' means satisfaction, in whole or in part, of an obligation;

"(28) 'penalty' means a statutorily authorized civil fine levied or imposed for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

"(29) 'refund' means the return of an overpayment;

"(30) 'State concerned' means, with respect to a lease, a State which receives a portion of royalties or other payments under the mineral leasing laws from such lease;

"(31) 'underpayment' means any payment or nonpayment by a lessee that is less than the amount legally required to be paid on an obligation; and

"(32) 'United States' means the United States Government and any department, agency, or instrumentality thereof, the several States, the District of Columbia, and the territories of the United States.".

SEC. 5362. MAXIMIZING RECEIPTS THROUGH STATE EFFORTS.

(a) GENERAL AUTHORITY.—Section 205(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(a)) is amended to read as follows:

"(a) In order to provide incentives to States to maximize the amount of oil and gas receipts collected on lease obligations within the six-year period of limitations, and consequently to maximize the Federal share of such receipts to the United States Treasury, upon written request of a State, the State, pursuant to an agreement or agreements and consistent with subsection (c), may perform all or part of the authorities, duties, responsibilities, and activities of the Secretary under this Act which may be delegated to a State under the Constitution of the United States for all Federal lands within the State. The delegated State shall assume and perform the authorities, duties, responsibilities, or activities delegated under this section. To avoid duplication of effort, any authority, duty, responsibility, or activity delegated to a State under this Act with respect to all Federal lands within the State may not be carried out by the Secretary. Under any such agreement, the Secretary shall share oil or gas royalty management information.".

(b) DETERMINATION.—Section 205(b) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(b)) is amended by striking "is authorized to" and inserting "shall".

(c) FEDERAL-STATE ROYALTY COLLECTION EFFORTS.—Subsection (c) section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735) is amended by striking "which define" and all that follows and inserting "within 18 months after the date of enactment of section 115, under which States may perform the authorities, duties, responsibilities, and activities under this title which are subject to delegation, based on the recommendations of the States concerned following consultation with affected persons. If the Secretary decides not to follow any recommendations supported by all States concerned, the Secretary shall justify such decision within 30 days after making such decision. In carrying out this section the Secretary shall provide for reasonable flexibility to a State to perform any authority, duty, responsibility or activity delegated hereunder in a more efficient and cost-effective manner and provide the States concerned a direct role in determining such requirements, procedures and policies. To ensure efficient and timely collections of royalties pursuant to this Act, the delegated States shall provide—

"(1) for the effective and efficient performance of any authority, duty, responsibility or activity delegated under this Act;

"(2) for the consistent and uniform performance among the delegated States of any authority, duty, responsibility or activity delegated under this Act;

"(3) for valuation under the terms of the leases and applicable Federal statutes; and

"(4) for uniform reporting form and reporting requirements for all Federal lessees, unless the State and all affected parties otherwise agree.".

(d) PERFORMANCE.—Subsection (d) of section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735) is amended by striking ", pertaining" and all that follows and inserting the following: "for requirements pertaining to records and accounts to be maintained and reporting procedures to be required by delegated States under this section. The records and accounts under such reporting procedures shall be sufficient to allow the Secretary to monitor the performance of any delegated State under this section. The applicable delegated State and the Secretary shall agree to terms and conditions for inclusion into an agreement to perform all or part of the authorities, duties, responsibilities, and activities under this title consistent with subsection (c).".

(e) STATE ACTIONS.—Section 204 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1734) is amended by adding at the end the following:

"(d) With respect to enforcement of an obligation under this Act, a State bringing an action under this section shall enjoy no greater rights than the Secretary enjoys under this Act.".

(f) SAVINGS PROVISION.—Nothing in the amendments made by this section shall impair any agreement, or any extension thereof, existing under section 205 as in effect on the day before the date of enactment of this Act. Following enactment of this Act, any State which is a party to an existing agreement under such section under which the State has been delegated audit or inspection responsibility, may issue orders to pay, subpoenas, or notices to perform restructured accounting and may continue to perform audits or inspections under terms and conditions consistent with the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by this chapter.

(g) Receipts.—Section 205(f) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(f)) is amended by adding at the end the following: "Such costs shall be allocable for the purposes of section 35(b) of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (commonly known as the "Mineral Leasing Act") (30 U.S.C. 191(b)) to the administration and enforcement of laws providing for the leasing of any onshore lands or interests in land owned by the United States. The Secretary shall compensate any State in the next succeeding fiscal year for the aggregate amount of such costs incurred but not compensated due to such allocation for the current fiscal year. All money received from sales, bonuses, royalties, and interest, including money claimed to be due and owing pursuant to a delegation under this section, shall be payable and paid to the Treasury of the United States.".

SEC. 5363. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS.

(a) In General.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

"SEC. 115. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS.

"(a) In General.—All duties, responsibilities, and activities with respect to a lease shall be performed by the Secretary, delegated States, and lessees in a timely manner.

"(b) Limitation Period.—

"(1) A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within six years from the date on which the obligation becomes due and if not so commenced shall be barred. The Secretary, a delegated State, or a lessee (A) shall not take any other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation; and (B) shall not pursue any other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation.

"(2) The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code and section 42 of the Mineral Leasing Act (30 U.S.C. 226-2) shall not apply to any obligation to which this Act applies. Section 3716 of title 31, United States Code, may be applied to an obligation the enforcement of which is not barred by this Act, but may not be applied to any obligation the enforcement of which is barred by this Act.

"(c) Obligation Becomes Due.—

"(1) In general.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

"(2) Royalty obligations.—The right to enforce any royalty obligation for any given production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

"(d) Tolling of Limitation Period.—The running of the limitation period under subsection (b) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or a delegated State, other than the following:

"(1) Tolling agreement.—A written agreement executed during the limitation period between the Secretary or a delegated State and a lessee which tolls the limitation period for the amount of time during which the agreement is in effect.

"(2) Subpoena.—

"(A) The issuance of a subpoena to a lessee in accordance with the provisions of subsection (B)(i) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee receives the subpoena and ending on the date on which (i) the lessee has produced such subpoenaed records for the subject obligation, (ii) the Secretary or a delegated State receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's possession or control, or (iii) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

"(B)(i) A subpoena for the purposes of this section which requires a lessee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest elected State official having ultimate authority over the collection of royalties from leases on Federal lands within the state, may issue such subpoena, but may not delegate such authority to any other person.

"(ii) A subpoena described in clause (i) may only be issued against a lessee during the limitation period provided in this section and only after the Secretary or a delegated State has in writing requested the records from the lessee related to the obligation which is the subject of the subpoena and has determined that—

"(I) the lessee has failed to respond within a reasonable period of time to the Secretary's or the applicable delegated State's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or

"(II) the lessee has in writing denied the Secretary's or the applicable delegated State's written request to produce such records in the lessee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or

"(III) the lessee has unreasonably delayed in producing records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or the applicable delegated State's responsibilities under this Act after the Secretary's or such delegated State's written request.

"(C) In seeking records, the Secretary or the applicable delegated State shall afford the lessee a reasonable period of time after a written request by the Secretary or such delegated State in which to provide such records prior to the issuance of any subpoena.

"(3) Misrepresentation or concealment.—The intentional misrepresentation or concealment of a material fact for the purpose of evading the payment of an obligation in which case the limitation period shall be tolled for the period of such misrepresentation or such concealment.

"(4) Order to perform a restructured accounting.—(A) The issuance of a notice under subsection (D) that the lessee has not adequately performed a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee receives the notice and ending 120 days after the date on which (i) the Secretary or the applicable delegated State receives written notice the accounting or other requirement has been performed, or (ii) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

"(B)(i) The Secretary or the applicable delegated State may issue an order to perform a restructured accounting to a lessee when the Secretary or such delegated State determines during an in-depth audit of a lessee that the lessee should recalculate royalty due on an obligation based upon the Secretary's or the delegated State's finding that the lessee has made identified underpayments or overpayments which are demonstrated by the Secretary or the delegated State to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.

"(ii) The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the 'Associate Director for Royalty Management', and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the state, may issue such order to perform, which may not be delegated to any other person. An order to perform a restructured accounting shall—

"(I) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

"(II) specify the reasons and factual bases for such order; and

"(III) be specifically identified as an 'order to perform a restructured accounting'.

"(C) An order to perform a restructured accounting shall not mean or be construed to include any other communication or action by or on behalf of the Secretary or a delegated State.

"(D) If a lessee fails to adequately perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee that the restructured accounting has not been adequately performed. A lessee shall be given a reasonable time within which to perform the restructured accounting. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest elected State official having ultimate authority over the collection of royalties from leases on Federal lands within the state, may issue such notice, which may not be delegated to any other person.

"(e) Termination of Limitations Period.—An action or an enforcement of an obligation by the Secretary or delegated State or a lessee shall be barred under this section prior to the running of the six-year period provided in subsection (b) in the event—

"(1) the Secretary or a delegated State has notified the lessee in writing that a time period is closed to further audit; or

"(2) the Secretary or a delegated State and a lessee have so agreed in writing.

"(f) Records Required for Determining Collections.—Records required pursuant to

section 103 by the Secretary or any delegated State for the purpose of determining obligations due and compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under subsection (b). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to that demand is rendered, unless the Secretary or the applicable delegated State authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in this section. Records required for administrative actions and investigations (including, but not limited to, accounting collection and audits) under this Act involving obligations shall not be duplicated pursuant to section 3518(c)(1)(B) of title 44, United States Code.

"(g) TIMELY COLLECTIONS.—In order to most effectively utilize resources available to the Secretary to maximize the collection of oil and gas receipts from lease obligations to the Treasury within the six-year period of limitations, and consequently to maximize the State share of such receipts, the Secretary shall not perform or require accounting, reporting, or audit activities if the Secretary and the State concerned determines that the cost of conducting or requiring the activity exceeds the expected amount to be collected by the activity, based on the most current 12 months of activity. To the maximum extent possible, the Secretary and delegated States shall reduce costs to the United States Treasury and the States by discontinuing requirements for unnecessary or duplicative data and other information, such as separate allowances and payor information, relating to obligations due. If the Secretary and the State concerned determine that collection will result sooner, the Secretary or the applicable delegated State may waive or forego interest in whole or in part.

"(h) APPEALS AND FINAL AGENCY ACTION.—

"(1) 30-MONTH PERIOD.—All orders issued by the Secretary or a delegated State are subject to appeal to the Secretary. No State shall impose any conditions which would hinder a lessee's immediate appeal of an order to the Secretary or the Secretary's designee. The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of this section, within 30 months from the date such proceeding was commenced or 30 months from the date of such enactment, whichever is later. The 30-month period may be extended by any period of time agreed upon in writing by the Secretary and the lessee.

"(2) EFFECT OF FAILURE TO ISSUE DECISION.—If no such decision has been issued by the Secretary within the 30-month period referred to in paragraph (1)—

"(A) the Secretary shall be deemed to have issued and granted a decision in favor of the lessee or lessees as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $2,500; and

"(B) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is $2,500 or more, and the lessee shall have a right to a de novo judicial review of such deemed final decision.

"(i) COLLECTIONS OF DISPUTED AMOUNTS DUE.—To expedite collections relating to disputed obligations due within the six-year period beginning on the date the obligation became due, the parties shall hold not less than one settlement consultation and the Secretary and the State concerned may take such action as is appropriate to compromise and settle a disputed obligation, including waiving or reducing interest and allowing offsetting of obligations among leases.

"(j) ENFORCEMENT OF A CLAIM FOR JUDICIAL REVIEW.—In the event a demand subject to this section is properly and timely issued, the obligation which is the subject of the demand may be enforced beyond the six year limitations period without being barred by this statute of limitations. In the event a demand subject to this section is properly and timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee of the final agency action.

"(k) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

"(l) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any party ordered by the Secretary or a delegated State to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the party periodically demonstrates to the satisfaction of the Secretary that such party is financially solvent or otherwise able to pay the obligation. In the event the party is not able to so demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any party ordered by the Secretary or a delegated State to pay an assessment shall be entitled to a stay without bond or other surety instrument.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended by inserting after the item relating to section 114 the following new item:

"Sec. 115. Limitation periods and agency actions.".

SEC. 5364. ADJUSTMENT AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by inserting after section 111 the following:

"SEC. 111A. ADJUSTMENTS AND REFUNDS.

"(a) ADJUSTMENTS TO ROYALTIES PAID TO THE SECRETARY OR A DELEGATED STATE.—

"(1) If, during the adjustment period, a lessee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior written notice to the Secretary or the applicable delegated State of an adjustment.

"(2)(A) For any adjustment, the lessee shall calculate and report the interest due attributable to such adjustment at the same time the lessee adjusts the principal amount of the subject obligation, except as provided by subparagraph (B).

"(B) In the case of a lessee who determines that subparagraph (A) would impose a hardship, the Secretary or such delegated State shall calculate the interest due and notify the lessee within a reasonable time of the amount of interest due, unless such lessee elects to calculate and report interest in accordance with subparagraph (A).

"(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary or the applicable delegated State, as appropriate, during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary or the applicable delegated State, as appropriate, shall allow a credit or refund in the amount of the overpayment.

"(4) For purposes of this section, the adjustment period for any obligation shall be the five-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

"(b) REFUNDS.—

"(1) IN GENERAL.—A request for refund is sufficient if it—

"(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;

"(B) identifies the person entitled to such refund;

"(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

"(D) provides the reasons why the payment was an overpayment.

"(2) NOTICE.—The Secretary shall promptly notify each State concerned of a request for refund.

"(3) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

"(4) PAYMENT PERIOD.—A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary or the applicable delegated State and subject to the provisions of this Act.

"(5) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.—In no event shall the Secretary or any delegated State directly or indirectly claim or offset any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by section 115.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas

Royalty Management Act of 1982 (30 U.S.C. 1701) is amended by inserting after the item relating to section 111 the following new item:

"Sec. 111A. Adjustments and refunds.".

SEC. 5365. ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES.

(a) LESSEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (g) the following:

"(h) Interest shall be allowed and paid or credited on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate obtained by applying the provisions of subparagraphs (A) and (B) of section 6621(a)(1) of the Internal Revenue Code of 1986, but determined without regard to the matter following subparagraph (B) of section 6621(a)(1). Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.".

(b) LIMITATION ON INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982, as amended by subsection (a), is further amended by adding at the end the following:

"(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee for a given reporting month) was made for the sole purpose of receiving interest, interest shall not be paid on the excessive amount of such overpayment. For purposes of this Act, an 'excessive overpayment' shall be the amount that any overpayment a lessee pays for a given reporting month (excluding payments for demands for obligations determined to be due as a result of judicial or administrative proceedings or agreed to be paid pursuant to settlement agreements) for the aggregate of all of its Federal leases exceeds 10 percent of the total royalties paid that month for those leases.".

(c) ESTIMATED PAYMENT.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) and (b), is further amended by adding at the end the following:

"(j) A lessee may make a payment for the approximate amount of royalties (hereinafter in this subsection 'estimated payment') that would otherwise be due for such lease to avoid underpayment or nonpayment interest charges. When an estimated payment is made, actual royalties are due and payable at the end of the month following the month in which the estimated payment is made. If the lessee makes a payment for such actual royalties, the lessee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee.".

(d) VOLUME ALLOCATION OF OIL AND GAS PRODUCTION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) through (c), is amended by adding at the end the following:

"(k)(1) Except as otherwise provided by this subsection—

"(A) a lessee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

"(B) a lessee of a lease in any other unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

"(C) a lessee of a lease that is not contained in a unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

"(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

"(3) For any unit or communitization agreement, if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary or the delegated State for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

"(4) The Secretary or the delegated State shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following calendar year or portion thereof. Any additional royalties due or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term 'marginal property' means a lease that produces on average the combined equivalent of less than 15 barrels of oil per day or 90 thousand cubic feet of gas per day, or a combination thereof, determined by dividing the average daily production of crude oil and natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

"(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.".

"(e) PRODUCTION ALLOCATION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) through (d), is amended by adding at the end the following:

"(l) The Secretary or the delegated State shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary or the delegatea State fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.".

(f) NEW ASSESSMENT TO ENCOURAGE PROPER ROYALTY PAYMENTS.—

(1) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by this section, is further amended by adding at the end the following:

"SEC. 116. ASSESSMENTS.

"Beginning eighteen months after the date of enactment of this section, to encourage proper royalty payment the Secretary or the delegated State shall impose assessments on lessees who chronically submit erroneous reports under this Act. Assessments under this Act may only be issued as provided for in this section.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:

"Sec. 116. Assessments.".

(g) LIABILITY FOR ROYALTY PAYMENTS.—Section 102(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712(a)) is amended to read as follows:

"(a) In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary or the applicable delegated State. A lessee may designate a person to make all or part of the payments due under a lease on the lessee's behalf and shall notify the Secretary or the applicable delegated State in writing of such designation, in which event said designated person may, in its own name, pay, offset or credit monies, make adjustments, request and receive refunds and submit reports with respect to payments required by the lessee. The person owning operating rights in a lease shall be primarily liable for its pro rata share of payment obligations under the lease. If the person owning the legal record title in a lease is other than the operating rights owner, the person owning the legal record title shall be secondarily liable for its pro rata share of such payment obligations under the lease.".

(h) CLERICAL AMENDMENT.—The heading of section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended to read as follows:

"ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES".

SEC. 5366. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by section 5365 of this chapter, is further amended by adding at the end the following:

"SEC. 117. ALTERNATIVES FOR MARGINAL PROPERTIES.

"(a) DETERMINATION OF BEST INTERESTS OF STATE CONCERNED AND THE UNITED STATES.—The Secretary and the State concerned, acting in the best interests of the United States and the State concerned to promote production, reduce administrative costs, and increase net receipts to the United States and the States, shall jointly determine, on a case by case basis, the amount of what marginal production from a lease or leases or well or wells, or parts thereof, shall be subject to a prepayment under subsection (b) or regulatory relief under subsection (c). If the State concerned does not consent, such prepayments or regulatory relief shall not be made available under this section for such marginal

production, provided that if royalty payments from a lease or leases, or well or wells is not shared with any State, such determination shall be made solely by the Secretary.

"(b) PREPAYMENT OF ROYALTY.—

"(1) I GENERAL.—Notwithstanding the provisions of any lease to the contrary, for any lease or leases or well or wells identified by the Secretary and the State concerned pursuant to subsection (a), the Secretary is authorized to accept a prepayment for royalties in lieu of monthly royalty payments under the lease for the remainder of the lease term if the affected lessee so agrees. Any prepayment agreed to by the Secretary, State concerned and lessee which is less than an average $500 per month in total royalties shall be effectuated under this section not earlier than two years after the date of enactment of this section and, any prepayment which is greater than an average $500 per month in total royalties shall be effectuated under this section not earlier than three years after the date of enactment of this section. The Secretary and the State concerned may condition their acceptance of the prepayment authorized under this section on the lessee's agreeing to such terms and conditions as the Secretary and the State concerned deem appropriate and consistent with the purposes of this Act. Such terms may—

"(A) provide for prepayment that does not result in a loss of revenue to the United States in present value terms;

"(B) include provisions for receiving additional prepayments or royalties for developments in the lease or leases or well or wells that deviate significantly from the assumptions and facts on which the valuation is determined; and

"(C) require the lessee to provide such periodic production reports as may be necessary to allow the Secretary and the State concerned to monitor production for the purposes of subparagraph (B).

"(2) STATE SHARE.—A prepayment under this section shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

"(3) SATISFACTION OF OBLIGATION.—Except as may be provided in the terms and conditions established by the Secretary under subsection (b), a lessee who makes a prepayment under this section shall have satisfied in full its obligation to pay royalty on the production stream sold from the lease or leases or well or wells.

"(c) ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.—

"(1) IN GENERAL.—Within one year after the date of the enactment of this section, the Secretary or the delegated State shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop properties subject to subsection (a); provided, that such relief will only be available to lessees in a State that concurs, which concurrence is not required if royalty from the lease or leases or well or wells is not shared with any State. Prior to granting such relief, the Secretary and, if appropriate, the State concerned shall agree that the type of marginal wells and relief provided under this paragraph is in the best interest of the United States and, if appropriate, the State concerned.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:

"Sec. 117. Alternatives for marginal properties.".

SEC. 5367. REPEALS.

(a) FOGRMA.—As applicable to Federal lands, sections 202 and 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732 and 1755), are repealed. Such repeal shall not affect cooperative agreements involving Indian tribes or Indian lands. Section 1 of such Act (relating to the table of contents) is amended by striking out the items relating to sections 202 and 307.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 5368. INDIAN LANDS.

The amendments and repeals made by this chapter shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall continue to apply after such date with respect to Indian lands.

SEC. 5369. PRIVATE LANDS.

This chapter shall not apply to any privately owned minerals.

SEC. 5369A. EFFECTIVE DATE.

Except as provided by section 115(f), section 111(h), section 111(k)(5), and section 117 of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this chapter), this chapter, and the amendments made by this chapter, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act.

CHAPTER 5—MINING

SEC. 5371. SHORT TITLE.

This chapter may be cited as "The Mining Law Revenue Act of 1995".

SEC. 5372. DEFINITIONS.

When used in this chapter—

(1) "Assessment year" means the annual period commencing at 12 o'clock noon on the 1st day of September and ending at 12 o'clock noon on the 1st day of September of the following year.

(2) "Federal lands" means lands and interests in lands owned by the United States that are open to mineral location, or that were open to mineral location when a mining claim or site was located and which have not been patented under the general mining laws.

(3) "General mining laws" means those Acts which generally comprise chapters 2, 11, 12, 12A, 15, and 16, and sections 161 and 162, of Title 30 of the United States Code, all Acts heretofore enacted which are amendatory of or supplementary to any of the foregoing Acts, and the judicial and administrative decisions interpreting such Acts.

(4) "Locatable minerals" means those minerals owned by the United States and subject to location and disposition under the general mining laws on or after the effective date of this chapter, but not including any mineral held in trust by the United States for any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101), or any mineral owned by any Indian or Indian tribe, as defined in that section, that is subject to a restriction against alienation imposed by the United States, or any mineral owned by any incorporated Native group, village corporation, or regional corporation and acquired by the group or corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(5) "Mineral activities" means any activity related to, or incidental to, exploration for or development, mining, production, beneficiation, or processing of any locatable mineral or mineral that would be locatable if it were subject to disposition under the general mining laws, or reclamation of the impacts of such activities.

(6) "Mining claim or site", except where provided otherwise, means a lode mining claim, placer mining claim, mill site or tunnel site.

(7) "Operator" means any person conducting mineral activities subject to this chapter.

(8) "Person" means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, limited liability company, corporation, cooperative or other organization, and any instrumentality of State or local government, including any publicly owned utility or publicly owned corporation of State or local government.

(9) "Secretary" means the Secretary of the Interior.

SEC. 5373. RENTAL PAYMENT REQUIREMENTS.

(a) RENTAL PAYMENTS.—(1) After the date of enactment of this Act, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located before or after the enactment of this Act, shall pay to the Secretary prior to September 1 of each year, until a patent has been issued therefor, an annual rental payment for each unpatented mining claim or site.

(2) LOCATION PAYMENT.—The owner of each unpatented mining claim or site located after the date of enactment of this Act pursuant to the general mining laws shall pay to the Secretary, at the time the copy of the notice or certificate of location is filed with the Bureau of Land Management pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), a $25.00 location payment, in lieu of the annual rental payment of $100 per mining claim or site for the assessment year which includes the date of location of such mining claim or site.

(3) EXEMPTION AND WAIVER.—(A) The owner of any mining claim or site who demonstrates to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied during the prior assessment year by the action or inaction of any State or Federal governmental officer, agency, or court, or by any Indian tribal authority, shall be exempt from the annual rental payment requirements of paragraph (1) for the assessment year following the filing of the certification.

(B) The rental payment provided for in subsection 5373(a) shall be waived for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than ten unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a rental payment under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or of any other State or Federal law, subject to any suspension or deferment of annual assessment work provided by law, for the assessment year following the filing of the certification required by this subsection.

(4) AMOUNT OF ANNUAL RENTAL PAYMENT.—For each assessment year the annual rental payment payable for a claim or site referred to in paragraph (1) shall be in the amount specified in Table 1.

Table 1

Assessment Year:	*Amount of Payment Per Site or Claim:*
1996–1998	*$100 per year*
1999 and thereafter	*$200 per year*

(5) EFFECT OF FORFEITURE.—No owner or co-owner of a mining claim or site which has been forfeited because the rental payment has not been paid and no person who is a related person of any such owner or co-owner may relocate a new claim on any part of lands located within the forfeited claim for a period of 12 months after the date of forfeiture.

(b) ANNUAL LABOR.—(1) Beginning in 1999, amounts expended on activities that qualify as annual labor under the general mining laws may be credited on a dollar for dollar basis towards up to 50 percent of the annual rental payment payable under this section for the following assessment year. During the assessment year in 1999, annual labor performed in 1998

may be credited toward the annual rental payment due in 1999.

(2) In order to receive credit under this subsection for annual labor work, the description and value of the work must be included in the statement required in subsection (e) and the statement must be timely filed.

(3) Annual labor performed on an individual mining claim or site within a group of contiguous claims may be credited towards the aggregate amount of rental payments due on all of the contiguous claims within that group.

(c) Work Qualifying as Annual Labor.—(1) Only work which directly benefits or develops a mining claim or facilitates the extraction of ore qualifies as annual labor or other activities as determined by the Secretary. Acceptable labor and improvements include, but are not limited to, any of the following:

(A) Drilling or excavating, including ore extraction.

(B) Mining costs directly associated with the production of ore.

(C) Prospecting work which benefits the claim or a contiguous claim.

(D) Development work toward an actual mine, such as shafts, tunnels, crosscuts and drifts, settling ponds and dams.

(E) Activities covered under section 1 of the Act of September 2, 1958 (30 U.S.C. 281), as amended.

(F) Reclamation conducted pursuant to State or Federal surface management laws or regulations.

(2) The following activities do not qualify as annual labor:

(A) Work involved in maintaining the location such as brushing and marking boundaries or replacing corner posts and location notices.

(B) Transportation of workers to or from the location.

(C) Prospecting or exploration work not conducted within the location or a contiguous location.

(d) Amendments of Public Law 85–876.—The Act of September 2, 1958 (Public Law 85-876; 30 U.S.C. 281), is amended as follows:

(1) Section 1 is amended by inserting "mineral activities, environmental baseline monitoring, and" after "without being limited to" and before "geological, geochemical and geophysical surveys" and by striking "Such" at the beginning of the last sentence and inserting "Airborne".

(2) Section 2(d) is amended by inserting "environmental baseline monitoring or" after "experience to conduct" and before "geological, geochemical or geophysical surveys".

(3) Section 2 is amended by adding the following new subsection at the end thereof:

"(e) The term 'environmental baseline monitoring' means activities for collecting, reviewing and analyzing information concerning soil, vegetation, wildlife, mineral, air, water, cultural, historical, archaeological or other resources related to planning for or complying with Federal and State environmental or permitting requirements applicable to potential or proposed mineral activities on the claim(s).".

(e) Rental Payment Statement.—Each payment under subsection (a) of this section shall be accompanied by a statement which reasonably identifies the mining claim or site for which the rental payment is being paid. The statement required under this subsection shall be in lieu of any annual filing requirements for mining claims or sites, under any other Federal law, but shall not supersede any such filing requirement under applicable State law.

(f) Annual Labor Statement.—When the value of annual labor is credited towards part or all of the rental payment, subject to the 50-percent limit set forth in subsection (b)(1), the following shall apply:

(1) The rental payment statement required in subsection (e) must also state the dates of performance of the labor, describe the character and total value of the improvements made or the labor performed, and the amount of labor used as a credit toward the rental payment for the current year.

(2) The annual labor statements must include a summary of the quantity, value and location of work done. This includes a listing of the physical work done, to include drilling, trenching, sampling and underground excavation, and the location of any environmental, geologic, geochemical, and geophysical surveys. The claim holder shall maintain sufficient records which document the value of the work claimed.

(3) All supporting material filed pursuant to paragraph (2) shall remain confidential in accordance with section 552 of title 5 of the United States Code as long as the location is maintained and for a period of one year after the location is abandoned, after which all data filed shall be considered public information.

(4) To the extent that labor credited against the rental payment payable under this section is determined by a final action not to qualify as labor under the general mining laws, the claimant shall pay the insufficiency by making payment to the Secretary of an amount equal to the amount of the rental payment against which the insufficient labor was credited. If such payment is made within 30 days of the claimant's receipt of a notice of a final decision making such determination, the claim concerned shall not be forfeited or null or void, and the rental payment applicable to such claim shall be deemed timely paid.

(g) Credit Against Royalty.—The annual claim rental payment payable in advance of the assessment year for any unpatented mining claim or site, or the aggregate rental payments from a group of contiguous claims or sites, shall be credited against the amount of royalty obligation accruing for that year for such claims or sites under section 5375.

(h) Failure to Comply.—The failure of the owner to pay any claim rental payment for a mining claim or site by the date such payment is due under this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be null and void, effective as of the day after the date such payment is due: Provided, That if such rental payment is paid on or before the 30th day after such payment was due under this section, such mining claim or site shall not be forfeited or null or void.

(i) Amendment of FLPMA Filing Requirements.—Section 314(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)) is hereby repealed.

(j) Related Persons.—As used in this section, the term "related persons" includes—

(1) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986) of the owner of the mining claim or site; and

(2) a person controlled by, controlling, or under common control with the owner of the mining claim or site.

(k) Repeal.—Sections 10101 through 10106 of the Omnibus Budget Reconciliation Act of 1993 (107 Stat. 406; 30 U.S.C. 28g) are repealed.

SEC. 5374. PATENTS.

(a) In General.—Except as provided in subsection (c), any patent issued by the United States under the general mining laws after the date of enactment of this chapter shall be issued only—

(1) upon payment by the owner of the claim of the fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land or the use of the land for mineral activities; and

(2) subject to reservation by the United States of the royalty provided in section 5375.

(b) Right of Re-entry.—

(1) Except as provided in subsection 5374(c), and notwithstanding any other provision of law, the United States shall retain a right of re-entry in lands patented under section 5374.

(2) Such right of re-entry of the United States shall ripen if—

(A) the land is used by the patentee, or any subsequent owners, for any purpose other than conducting mineral activities in good faith;

(B) such use is not discontinued within a time period specified by the Secretary (but not earlier than 90 days after the Secretary provides the owner of the land with written notice pursuant to paragraph (2) to discontinue such use); and

(C) the Secretary elects to assert the right of re-entry in accordance with paragraph (3).

(3) The ripened right of re-entry retained by the United States pursuant to subparagraph (2) shall vest and all right, title and interest in such patented estate shall revert to the United States only if—

(A) the Secretary files a declaration of re-entry within 6 months of the requisite occurrences under paragraph (2) with the Office of the Bureau of Land Management in the state where the land subject to such right of re-entry is situated; and

(B) the Secretary records such declaration in the office of the county recorder of the county in which the lands subject to a reversion are situated within 30 days of filing under subparagraph (A).

(4) One year after the patent holder provides written notice to the Secretary that all mineral activities are completed and applicable reclamation is completed, the right of re-entry held by the United States and created under the subsection (b) shall expire unless within such period the Secretary notifies the patent holder in writing that he is exercising the right of re-entry held by the United States. At such time, ownership of the patented lands shall automatically revert to the United States, notwithstanding subparagraphs (A), (B) and (C) of subsection (b)(2). The Secretary may decline to exercise the right of re-entry and such rights shall continue if—

(a) solid waste or hazardous substances released on or from the patented estate may pose a threat to public safety or the environment; or

(b) acceptance of title would expose the United States to liability for past mineral activities on the patented estate.

(c) Protection of Valid Existing Rights.—Notwithstanding any other provision of law, the requirements of this chapter (except with respect to rental payments in accordance with section 5373)—

(1) shall not apply to the mining claims and sites contained within those mineral patent applications pending at the Department as of September 30, 1995, which shall be processed under the general mining laws in effect immediately prior to the date of enactment of this chapter; and

(2) likewise shall not apply to the mining claims or sites for which there is on the date of enactment of this chapter a vested possessory property right against the Government under the general mining laws in effect immediately prior to the date of enactment of this chapter.

SEC. 5375. ROYALTY.

(a) In General.—The production and sale of locatable minerals (including associated minerals) from any unpatented mining claim (other than those from Federal lands to which subsection 5374(c) applies) or any mining claim patented under subsection 5374(a) shall be subject to a royalty of 5.0 percent on the net proceeds from such production mined and sold from such claim.

(b) ROYALTY EXCLUSION.—

(1) The royalty payable under this section shall be waived for any person with annual net proceeds from mineral production subject to subsection (a) of less than $50,000.

(2) The obligation to pay royalties hereunder shall accrue upon the sale of locatable minerals or mineral products produced from a mining claim subject to such royalty, and not upon the stockpiling of the same for future processing.

(3) Where mining operations subject to this section are conducted in two or more places by the same person, the operations shall be considered a single operation the aggregate net proceeds from which shall be subject to the $50,000 limitation set forth in this subsection.

(4) No royalty shall be payable under this section with respect to minerals processed at a facility by the same person or entity which extracted the minerals if an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974 with respect to any portion of such facility.

(c) DEFINITIONS.—For the purposes of this chapter:

(1) The term "net proceeds" shall mean gross yield, less the sum of the following deductions for costs incurred prior to sale or value determination, and none other:

(A) The actual cost of extracting the locatable mineral.

(B) The actual cost of transporting the locatable mineral from the claim to the place or places of reduction, beneficiation, refining, and sale.

(C) The actual cost of reduction, beneficiation, refining, and sale of the locatable mineral.

(D) The actual cost of marketing and delivering the locatable mineral and the conversion of the locatable mineral into money.

(E) The actual cost of maintenance and repairs of—

(i) all machinery, equipment, apparatus, and facilities used in the mine;

(ii) all crushing, milling, leaching, refining, smelting, and reduction works, plants, and facilities; and

(iii) all facilities and equipment for transportation.

(F) The actual cost for support personnel and support services at the mine site, including without limitation, accounting, assaying, drafting and mapping, computer services, surveying, housing, camp, and office expenses, safety, and security.

(G) The actual cost of engineering, sampling, and assaying pertaining to development and production.

(H) The actual cost of permitting, reclamation, environmental compliance and monitoring.

(I) The actual cost of fire and other insurance on the machinery, equipment, apparatus, works, plants, and facilities mentioned in subparagraph (E).

(J) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants, and facilities listed in subparagraph (E). The annual depreciation charge shall consist of amortization of the original cost in the manner consistent with the Internal Revenue Code of 1986, as amended from time to time. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

(K) All money expended for premiums for industrial insurance, and the owner paid cost of hospital and medical attention and accident benefits and group insurance for all employees engaged in the production or processing of locatable minerals.

(L) All money paid as contributions or payments under State unemployment compensation law, all money paid as contributions under the Federal Social Security Act, and all money paid to State government in real property taxes and severance or other taxes measured or levied on production, or Federal excise tax payments and payments as fees or charges for use of the Federal lands from which the locatable minerals are produced.

(M) The actual cost of the developmental work in or about the mine or upon a group of mines when operated as a unit.

(2) The term "gross yield" shall having the following meaning:

(A) In the case of sales of gold and silver ore, concentrates or bullion, or the sales of other locatable minerals in the form of ore or concentrates, the term "gross yield" means the actual proceeds of sale of such ore, concentrates or bullion.

(B) In the case of sales of beneficiated products from locatable minerals other than those subject to subparagraph (A) (including cathode, anode or copper rod or wire, or other products fabricated from the locatable minerals), the term "gross yield" means the gross income from mining derived from the first commercially marketable product determined in the same manner as under section 613 of the Internal Revenue Code of 1986.

(C) If ore, concentrates, beneficiated or fabricated products, or locatable minerals are used or consumed and are not sold in an arms length transaction, the term "gross yield" means the reasonable fair market value of the ore, concentrates, beneficiated or fabricated products at the mine or wellhead determined from the first applicable of the following:

(i) Published or other competitive selling prices of locatable minerals of like kind and grade.

(ii) Any proceeds of sale.

(iii) Value received in exchange for any thing or service.

(iv) The value of any locatable minerals in kind or used or consumed in a manufacturing process or in providing a service.

Without limiting the foregoing, the profits or losses incurred in connection with forward sales, futures or commodity options trading, metal loans, or any other price hedging or speculative activity or arrangement shall not be included in gross yield.

(d) LIMITATIONS AND ALLOCATIONS OF NET PROCEEDS, GROSS YIELD, AND ALLOWABLE DEDUCTIONS.—

(1) The deductions listed in subsection (c)(1) are intended to allow a reasonable allowance for overhead. Such deductions shall not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in—

(A) the working of the mine;

(B) the operating of the leach pads, ponds, plants, mills, smelters, or reduction works;

(C) the operating of the facilities or equipment for transportation; or

(D) superintending the management of any of those operations described in subparagraphs (A) through (C).

(2) Ores or solutions of locatable minerals subject to the royalty requirements of this section may be extracted from mines comprised of mining claims and lands other than mining claims and ore or solutions of locatable minerals subject to the royalty requirements of this section may be commingled with ores or solutions from lands other than mining claims. In any such case, for purposes of determining the amount of royalties payable under this section—

(A) the operator shall first sample, weigh or measure, and assay the same in accordance with accepted industry standards; and

(B) gross yield, allowable costs and net proceeds for royalty purposes shall be allocated in proportion to mineral products recovered from the mining claims in accordance with accepted industry standards.

(e) LIABILITY FOR ROYALTY PAYMENTS.—The owner or co-owners of a mining claim subject to a royalty under this section shall be liable for such royalty to the extent of the interest in such claim owned. As used in this subsection, the terms "owner" and "co-owner" mean the person or persons owning the right to mine locatable minerals from such claim and receiving the net proceeds of such sale. No person who makes any royalty payment attributable to the interest of the owner or co-owners liable therefor shall become liable to the United States for such royalty as a result of making such payment on behalf of such owner or co-owners.

(f) TIME AND MANNER OF PAYMENT.—

(1) Royalty payments for production from any mining claim subject to the royalty payable under this section shall be due to the United States at the end of the month following the end of the calendar quarter in which the net proceeds from the sale of such production are received by the owner or co-owners. Royalty payments may be made based upon good faith estimates of the gross yield, net proceeds and the quantity of ore, concentrates, or other beneficiated or fabricated products of locatable minerals, subject to adjustment when the actual annual gross yield, net proceeds and quantity are determined by the owner of the mining claim or site or co-owners.

(2) Each royalty payment or adjustment shall be accompanied by a statement containing each of the following:

(A) The name and Bureau of Land Management serial number of the mining claim or claims from which ores, concentrates, solutions or beneficiated products of locatable minerals subject to the royalty required in this section were produced and sold for the period covered by such payment or adjustment.

(B) The estimated (or actual, if determined) quantity of such ore, concentrates, solutions or beneficiated or fabricated products produced and sold from such mining claim or claims for such period.

(C) The estimated (or actual, if determined) gross yield from the production and sale of such ore, concentrates, solutions or beneficiated products for such period.

(D) The estimated (or actual, if determined) net proceeds from the production and sale of such ores, concentrates, solutions or beneficiated products for such period, including an itemization of the applicable deductions described in subsection (c)(1).

(E) The estimated (or actual, if determined) royalty due to the United States, or adjustment due to the United States or such owner or co-owners, for such period.

(3) In lieu of receiving a refund under subsection (h), the owner or co-owners may elect to apply any adjustment due to such owner or co-owners as an offset against royalties due from such owner or co-owners to the United States under this Act, regardless of whether such royalties are due for production and sale from the same mining claim or claims.

(g) RECORDKEEPING AND REPORTING REQUIREMENTS.—

(1) An owner, operator, or other person directly involved in the conduct of mineral activities, transportation, purchase, or sale of locatable minerals, concentrates, or products derived therefrom, subject to the royalty under this section, through the point of royalty computation, shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with regulations or orders under this section. Upon the request of

the Secretary when conducting an audit or investigation pursuant to subsection (i), the appropriate records, reports, or information required by this subsection shall be made available for inspection and duplication by the Secretary.

(2) Records required by the Secretary under this section shall be maintained for 3 years after the records are generated unless the Secretary notifies the record holder that he or she has initiated an audit or investigation specifically identifying and involving such records and that such records must be maintained for a longer period. When an audit or investigation is under way, such records shall be maintained until the earlier of the date that the Secretary releases the record holder of the obligation to maintain such records or the date that the limitations period applicable to such audit or investigation under subsection (i) expires.

(h) INTEREST ASSESSMENTS.—

(1) If royalty payments under this section are not received by the Secretary on the date that such payments are due, or if such payments are less than the amount due, the Secretary shall charge interest on such unpaid amount. Interest under this subsection shall be computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate." In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount, and only for the number of days such payment is late. No other late payment or underpayment charge or penalty shall be charged with respect to royalties under this section.

(2) In any case in which royalty payments are made in excess of the amount due, or amounts are held by the Secretary pending the outcome of any appeal in which the Secretary does not prevail, the Secretary shall promptly refund such overpayments or pay such amounts to the person or persons entitled thereto, together with interest thereon for the number of days such overpayment or amounts were held by the Secretary, with the addition of interest charged against the United States computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate."

(i) AUDITS, PAYMENT DEMANDS AND LIMITATIONS.—

(1) The Secretary may conduct, after notice, any audit reasonably necessary and appropriate to verify the payments required under this section.

(2) The Secretary shall send or issue any billing or demand letter for royalty due on locatable minerals produced and sold from any mining claim subject to royalty required by this section not later than 3 years after the date such royalty was due and must specifically identify the production involved, the royalty allegedly due and the basis for the claim. No action, proceeding or claim for royalty due on locatable minerals produced and sold, or relating to such production, may be brought by the United States, including but not limited to any claim for additional royalties or claim of the right to offset the amount of such additional royalties against amounts owed to any person by the United States, unless judicial suit or administrative proceedings are commenced to recover specific amounts claimed to be due prior to the expiration of 3 years from the date such royalty is alleged to have been due.

(j) TRANSITIONAL RULES.—Any mining claim for which a patent is issued pursuant to section 5374(c) shall not be subject to the obligation to pay the royalty pursuant to this section. Royalty payments for any claim processed under section 5374(c) shall be suspended pending final determination of the right to patent. For any such claim that is determined not to qualify for the issuance of a patent under section 5374(c), royalties shall be payable under this section on production after the date of enactment of this Act, plus interest computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate" on production after such date of enactment and before the date of such determination.

(k) PENALTIES.—Any person who withholds payment or royalties under this section after a final, nonappealable determination of liability may be liable for civil penalties of up to $5,000 per day that payment is withheld after becoming due.

(l) DISBURSEMENT OF REVENUES.—The receipts from royalties collected under this section shall be disbursed as follows:

(1) Fifty percent of such receipts shall be paid into the Treasury of the United States and deposited as miscellaneous receipts.

(2) Forty percent of such receipts shall be paid into a State Fund or Federal Fund in accordance with section 5376; until termination as provided in section 5379.

(3) Ten percent of such receipts shall be paid by the Secretary of the Treasury to the State in which the mining claim from which production occurred is located.

SEC. 5376. ABANDONED LOCATABLE MINERALS MINE RECLAMATION FUND.

(a) STATE FUND.—Any State within which royalties are collected pursuant to section 5375 from a mining claim and which wishes to become eligible to receive such proceeds allocated by paragraph 5375(l)(2) shall establish and maintain an interest-bearing abandoned locatable mineral mine reclamation fund (hereinafter referred to in this chapter as "State Fund") to accomplish the purposes of this chapter. States with existing abandoned locatable mineral reclamation programs shall qualify to receive proceeds allocated by section 5375(l)(2).

(b) FEDERAL FUND.—There is established on the books of the Treasury of the United States an interest-bearing fund to be known as the Abandoned Locatable Minerals Mine Reclamation Fund (hereinafter referred to in this chapter as "Federal Fund") which shall consist of royalty proceeds allocated by paragraph 5375(l)(2) from mining claims in a State where a State Fund has not been established or maintained under subsection (a).

SEC. 5377. ALLOCATION AND PAYMENTS.

(a) STATE FUND.—Royalties collected pursuant to section 5375 and allocated by section 5375(l)(2) shall be paid by the Secretary of the Treasury to the State Fund established pursuant to subsection 5376(a) for the State where the mining claim from which the production occurred is located. Payments to States under this subsection with respect to any royalties received by the United States, shall be made not later than the last business day of the month in which such royalties are warranted by the United States Treasury to the Secretary of the Interior as having been received, except for any portion of such royalties which is under challenge, which shall be placed in a suspense account pending resolution of such challenge. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such royalties by the Treasury. Royalties placed in a suspense account which are determined to be due the United States shall be payable to a State Fund not later than fifteen days after such challenge is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the challenge is resolved. In determining the amount of payments to State Funds under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.

(b) FEDERAL FUND.—Royalties collected pursuant to section 5375, and allocated by paragraph 5375(l)(2), from mining claims located in a State which has not established or maintained a State Fund, and such royalties from mining claims located in a State for which the Secretary's authority has expired under subsection 5379(a), shall be credited to the Federal Fund and distributed in accordance with subsection (c).

(c) TRANSITION.—Prior to the time a State establishes a State Fund pursuant to subsection 5376(a), any royalties collected from a mining claim within such State shall be deposited into the Federal Fund and allocated to such State. Once a State establishes a State Fund under subsection 5376(a), the State allocation in the Federal Fund with accrued interest shall be paid by the Secretary of the Treasury to the State Fund in accordance with subsection (a). Commencing three years after the date of enactment of this chapter, the Secretary of the Treasury shall distribute royalty proceeds then accrued or which are thereafter credited to the Federal Fund equally among all States which maintain a State Fund established under subsection 5376(a), and for which the Secretary of the Treasury's authority has not expired under subsection 5379(a).

SEC. 5378. ELIGIBLE AREA.

(a) IN GENERAL.—Subject to subsection (b), lands and water eligible for reclamation under this chapter shall be Federal lands that —

(1) have been adversely affected by past mineral activities on lands abandoned and left inadequately reclaimed prior to the date of enactment of this chapter; and

(2) for which the State determines there is no identifiable party with a continuing reclamation responsibility under State or Federal laws.

(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—The following areas shall not be eligible for expenditures from a State Fund:

(1) any area subject to a plan of operations submitted or approved prior to, on or after the date of enactment of this chapter which includes remining or reclamation of the area adversely affected by past locatable mineral activities;

(2) any area affected by coal mining eligible for reclamation expenditures pursuant to section 404 of the Surface Mining Control and Reclamation Act (30 U.S.C. 1234);

(3) any area designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7912); and

(4) any area that was listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9605) prior to the date of enactment of this chapter, or where the Environmental Protection Agency has initiated or caused to be initiated a response action pursuant to that Act.

SEC. 5379. SUNSET PROVISIONS.

(a) TERMINATION OF AUTHORITY.—The Secretary of the Treasury's authority to allocate funds to a State Fund under section 5377 shall expire on the date that the State submits a report to the Congress which states that there are no areas in the State eligible under subsection 5378(a) which remain to be reclaimed.

(b) TERMINATION OF FUND.—Upon the termination of authority as provided in subsection (a) with respect to all State Funds, the Federal Fund shall also be terminated, and all royalty proceeds thereafter remaining in the Federal Fund shall be distributed to the States as provided for in Section 5375(l)(3).

SEC. 5380. EFFECT ON THE GENERAL MINING LAWS.

The provisions of this chapter shall supersede the general mining laws only to the extent such laws conflict with the requirements of this chapter. Where no such conflict exists, the general *mining laws, including all judicial and administrative decisions interpreting them, shall remain in full force and effect.*

SEC. 5381. SEVERABILITY.

If any provision of this chapter or the applicability thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 5382. MINERAL MATERIALS.

(a) Determinations.—Section 3 of the Act of July 23, 1955 (30 U.S.C. 611), is amended as follows:

(1) Insert "(a)" before the first sentence.

(2) Add the following new subsection at the end thereof:

(b)(1) Subject to valid existing rights, after the date of enactment of this subsection, notwithstanding the reference to common varieties in subsection (a) and to the exception to such term relating to a deposit of materials with some property giving it distinct and special value, all deposits of mineral materials referred to in such subsection, including the block pumice referred to in such subsection, shall be subject to disposal only under the terms and conditions of the Materials Act of 1947.

(2) For purposes of paragraph (1), the term 'valid existing rights' means that a mining claim located for any such mineral material had some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection, was properly located and maintained under the general mining laws prior to the date of the enactment of this subsection, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws as in effect immediately prior to such date of enactment and that such claim continues to be valid under this Act.".

(b) Identified Deposits.—The Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 602), is amended by adding at the end the following:

"(b) Identified Deposits.—

"(1) Lands known to contain valuable deposits of mineral materials subject to this Act and subsequent amendments and not covered by any contract, permit, or lease, for uncommon varieties of mineral materials under this section or by a valid mining claim for an uncommon variety of a mineral material under the general mining laws shall be subject to disposition by lease under this Act by the Secretary through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such reasonably compact areas as he shall fix.

"(2) All leases will be conditioned upon—

"(A) the payment by the lessee of such royalty as may be fixed in the lease, not less than two percent of the quantity or gross value of the output of mineral materials, and

"(B) the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth years, respectively; and $1 per acre per annum thereafter during the continuance of the lease, such rental for that year being credited against royalties accruing for that year.

"(3)(A) Any lease issued under this subsection shall be for a term of 20 years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each 20-year period succeeding the date of the lease such reasonable adjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary unless otherwise provided by law at the expiration of such periods.

"(B) Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee.

"(C) The Secretary may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss.

"(D) The Secretary upon application by the lessee prior to the expiration of any existing lease in good standing shall amend such lease to provide for the same tenure and to contain the same conditions, including adjustment at the end of each 20-year period succeeding the date of said lease, as provided for in this subsection.

"(c) Other Lands.—

"(1) The Secretary is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for mineral materials in lands belonging to the United States which are not subject to subsection (b), and are not covered by a contract, permit, or lease under this Act, except that a prospecting permit shall not exceed a period of 2 years and the area to be included in such a permit shall not exceed 2,560 acres of land in reasonably compact form.

"(2) The Secretary shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution of the prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit issued under the provisions of this Act appropriate provisions for its cancellation by him.

"(3)(A) Upon showing to the satisfaction of the Secretary that valuable deposits of one of the mineral materials subject to the Materials Act of 1947 have been discovered by the permittee within the area covered by his permit, and that such land is valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit, at a royalty of not less than two percent of the quantity or gross value of the output of the mineral materials at the point of shipment to market, such lease to be taken in compact form by legal subdivisions of the public land surveys, or if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary.".

"(B) "Persons holding valid mining claims for uncommon varieties of mineral materials shall be entitled to receive a lease under this subsection."

(D) Mineral Materials Disposal Clarification.—Section 4 July 23, 1955 (30 U.S.C. 612), is amended as follows:

(1) In subsection (b) insert "and mineral material" after "vegetative".

(2) In subsection (c) insert "and mineral material" after "vegetative".

(e) Authorization for Disposal of Mineral Materials by Contract.—Section 2(a) of the Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 602(a)), is amended—

(1) by striking the period at the end of paragraph (3) and inserting "or, if"; and

(2) by adding after paragraph (3) the following:

"(4) the material is a mineral material.".

CHAPTER 6—DEPARTMENT OF THE INTERIOR

SEC. 5391. AIRCRAFT SERVICES.

(a) Use of Private Contractors.—By not later than October 1, 1996, the Secretary of the Interior shall contract with private entities for the provision of all aircraft services required by the Department of the Interior, other than those available from existing DOI aircraft whose primary purpose is fire suppression.

(b) Sale of Federal Aircraft.—By September 30, 1998, the Secretary of the Interior is authorized and directed to sell all aircraft owned by the Department of the Interior and all associated equipment and facilities, other than those whose primary purpose is fire suppression.

(c) Exemptions.—The disposition of assets under this section is not subject to section 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483 and 484) or section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

(d) Disposition of Proceeds.—The proceeds from dispositions under this section shall be returned to the Treasury as miscellaneous receipts and all savings from reduced overhead and other costs related to the management of the assets sold shall be returned to the Treasury.

CHAPTER 7—POWER MARKETING ADMINISTRATIONS

Subchapter A—Bonneville Power Administration Refinancing

SEC. 5401. DEFINITIONS.

For the purposes of this subchapter—

(1) "Administrator" means the Administrator of the Bonneville Power Administration;

(2) "capital investment" means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k);

(3) "new capital investment" means a capital investment for a project, facility, or separable unit or feature of a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1995;

(4) "old capital investment" means a capital investment the capitalized cost of which—

(A) was incurred, but not repaid, before October 1, 1995, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1995;

(5) "repayment date" means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment; and

(6) "Treasury rate" means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

SEC. 5402. NEW PRINCIPAL AMOUNTS.

(a) PRINCIPAL AMOUNT.—Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—

(1) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(2) an amount equal to $100,000,000 multiplied by a fraction the numerator of which is the principal amount of the old payment amounts for the old capital investment and the denominator of which is the sum of the principal amounts of the old payment amounts for all old capital investments.

(b) DETERMINATION.—With the approval of the Secretary of the Treasury, based solely on consistency with this subchapter, the Administrator shall determine the new principal amounts under this section and the assignment of interest rates to the new principal amounts under section 5403.

(c) OLD PAYMENT AMOUNT.—For the purposes of this section, "old payment amounts" means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1995, if this subchapter had not been enacted, assuming that—

(1) the principal were repaid—

(A) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1993; and

(2) interest were paid—

(A) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

SEC. 5403. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.

As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under section 5402 bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

SEC. 5404. REPAYMENT DATES.

As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under section 5402 is no earlier than the repayment date for the old capital investment assumed in section 5402(c)(1).

SEC. 5405. PREPAYMENT LIMITATIONS.

During the period October 1, 1995, through September 30, 2000, the total new principal amounts of old capital investments, as established under section 5402, that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

SEC. 5406. INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.

(a) NEW CAPITAL INVESTMENT.—The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(1) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(2) accrued interest during construction.

(b) PAYMENT.—The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (a).

(c) ONE-YEAR RATE.—For the purposes of this section, "one-year rate" for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

SEC. 5407. INTEREST RATES FOR NEW CAPITAL INVESTMENTS.

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

SEC. 5408. CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.

The Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103–436; 108 Stat. 4577) is amended by striking section 6 and inserting the following:

"SEC. 6. CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.

"So long as the Administrator makes annual payments to the tribes under the settlement agreement, the Administrator shall apply against amounts otherwise payable by the Administrator to the United States Treasury a credit that reduces the Administrator's payment in the amount and for each fiscal year as follows: $15,250,000 in fiscal year 1996; $15,860,000 in fiscal year 1997; $16,490,000 in fiscal year 1998; $17,150,000 in fiscal year 1999; $17,840,000 in fiscal year 2000; and $4,100,000 in each succeeding fiscal year.".

SEC. 5409. CONTRACT PROVISIONS.

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1995, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1995—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under section 5402;

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under section 5403;

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under section 5402 and to pay the interest on the principal amount under section 5403, no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this subchapter; and

(4) the contract provisions specified in this subchapter do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

SEC. 5410. SAVINGS PROVISIONS.

(a) REPAYMENT.—This subchapter does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the "Administrator's net proceeds," as defined in section 13(b) of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(b) PAYMENT OF CAPITAL INVESTMENT.—Except as provided in section 5405, this subchapter does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

Subchapter B—Alaska Power Marketing Administration Sale

SEC. 5411. SHORT TITLE.

This subchapter may be cited as the "Alaska Power Administration Asset Sale and Termination Act".

SEC. 5412. DEFINITIONS.

For Purposes of this subchapter:

(1) The term "Eklutna" means Eklutna Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Eklutna Purchase Agreement.

(2) The term "Eklutna Purchase Agreement" means the August 2, 1989, Eklutna Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Eklutna Purchasers, together with any amendments thereto adopted before the date of enactment of this Act.

(3) The term "Eklutna Purchasers" means the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc. and the Matanuska Electric Association, Inc.

(4) The term "Snettisham" means the Snettisham Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Snettisham Purchase Agreement.

(5) The term "Snettisham Purchase Agreement" means the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Alaska Power Authority and its successors in interest, together with any amendments thereto adopted before the date of enactment of this Act.

(6) The term "Snettisham Purchaser" means the Alaska Industrial Development and Export Authority or a successor State agency or authority.

SEC. 5413. SALE OF EKLUTNA AND SNETTISHAM HYDROELECTRIC PROJECTS.

(a) Sale of Eklutna.—The Secretary of Energy is authorized and directed to sell Eklutna to the Eklutna Purchasers in accordance with the terms of this subchapter and the Eklutna Purchase Agreement.

(b) Sale of Snettisham.—The Secretary of Energy is authorized and directed to sell Snettisham to the Snettisham Purchaser in accordance with the terms of this subchapter and the Snettisham Purchase Agreement.

(c) Cooperation of Other Agencies.—The heads of other Federal departments, agencies, and instrumentalities of the United States shall assist the Secretary of Energy in implementing the sales and conveyances authorized and directed by this subchapter.

(d) Proceeds.—Proceeds from the sales required by this subchapter shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

(e) Preparation of Eklutna and Snettisham for Sale.—The Secretary of Energy is authorized and directed to use such funds from the sale of electric power by the Alaska Power Administration as may be necessary to prepare, survey, and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchaser.

(f) Contributed Funds.—Notwithstanding any other provision of law, the Alaska Power Administration is authorized to receive, administer, and expend such contributed funds as may be provided by the Eklutna Purchasers or customers or the Snettisham Purchaser or customers for the purposes of upgrading, improving, maintaining, or administering Eklutna or Snettisham. Upon the termination of the Alaska Power Administration under section 5414(f), the Secretary of Energy shall administer and expend any remaining balances of such contributed funds for the purposes intended by the contributors.

SEC. 5414. EXEMPTION AND OTHER PROVISIONS.

(a) Federal Power Act.—

(1) After the sales authorized by this subchapter occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of part I of the Federal Power Act (16 U.S.C. 791a et seq.), except as provided in subsection (b).

(2) The exemption provided by paragraph (1) shall not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

(3) Nothing in this subchapter or the Federal Power Act (16 U.S.C. 791 et seq.) preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

(b) Subsequent Transfers.—Except for subsequent assignment of interest in Eklutna by the Eklutna Purchasers to the Alaska Electric Generation and Transmission Cooperative Inc. pursuant to section 19 of the Eklutna Purchase Agreement, upon any subsequent sale or transfer of any portion of Eklutna or Snettisham from the Eklutna Purchasers or the Snettisham Purchaser to any other person, the exemption set forth in paragraph (1) of subsection (a) of this section shall cease to apply to such portion.

(c) Review.—

(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than 90 days after the date on which the Program is adopted by the Governor of Alaska, or be barred.

(3) An action seeking review of implementation of the Program shall be brought not later than 90 days after the challenged act implementing the Program, or be barred.

(d) Eklutna Lands.—With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

(A) at no cost to the Eklutna Purchasers;

(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

(2) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

(3) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly known as the Alaska Statehood Act, Public Law 85–508; 72 Stat. 339), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

(e) Snettisham Lands.—With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly known as the Alaska Statehood Act, Public Law 85–508; 72 Stat. 339).

(f) Termination of Alaska Power Administration.—Not later than one year after both of the sales authorized in section 5413 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration;

(2) submit to Congress a report documenting the sales; and

(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(g) Repeals.—

(1) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date that Eklutna is conveyed to the Eklutna Purchasers.

(2) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date that Snettisham is conveyed to the Snettisham Purchaser.

(3) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

(h) DOE Organization Act.—As of the later of the two dates determined in paragraphs (1) and (2) of subsection (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively; and

(2) in paragraph (2) by striking out "and the Alaska Power Administration" and by inserting "and" after "Southwestern Power Administration,".

(i) Disposal.—The sales of Eklutna and Snettisham under this subchapter are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly known as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622).

SEC. 5415. OTHER FEDERAL HYDROELECTRIC PROJECTS.

The provisions of this subchapter regarding the sale of the Alaska Power Administration's hydroelectric projects under section 5413 and the exemption of these projects from part I of the Federal Power Act under section 5414 do not apply to other Federal hydroelectric projects.

CHAPTER 8—OUTER CONTINENTAL SHELF DEEP WATER ROYALTY RELIEF

SEC. 5421. SHORT TITLE.

This chapter may be referred to as the "Outer Continental Shelf Deep Water Royalty Relief Act".

SEC. 5422. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.

Section 8(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)), is amended—

(1) by designating the provisions of paragraph (3) as subparagraph (A) of such paragraph (3); and

(2) by inserting after subparagraph (A), as so designated, the following:

"(B) In the Western and Central Planning Areas of the Gulf of Mexico and the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, the Secretary may, in order to—

"(i) promote development or increased production on producing or non-producing leases; or

"(ii) encourage production of marginal resources on producing or non-producing leases; through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

"(C)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

"(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the

increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(I), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400 to 800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Administrative Procedure Act (5 U.S.C. 702), only for actions filed within 30 days of the Secretary's determination or redetermination.

"(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

"(I) For new production, as defined in clause (iv) (I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

"(II) For new production, as defined in clause (iv) (II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

"(iv) For purposes of this subparagraph, the term 'new production' is—

"(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

"(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

"(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.".

SEC. 5423. NEW LEASES.

Section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337 (a)(1)), is amended—

(1) by redesignating subparagraph (H) as subparagraph (I);

(2) by striking "or" at the end of subparagraph (G); and

(3) by inserting after subparagraph (G) the following new subparagraph:

"(H) cash bonus bid with royalty at no less than 12 and 1/2 per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary, which suspensions may vary based on the price of production from the lease; or".

SEC. 5424. LEASE SALES.

For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within seven years of the date of enactment of this chapter, shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this chapter, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

SEC. 5425. REGULATIONS.

The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this chapter within 180 days after the enactment of this Act.

SEC. 5426. SAVINGS CLAUSE.

Nothing in this chapter shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.

CHAPTER 9—EXPORTS OF ALASKA NORTH SLOPE OIL

SEC. 5431. EXPORTS OF ALASKAN NORTH SLOPE OIL.

Section 28 of the Mineral Leasing Act (30 U.S.C. 185) is amended by amending subsection (s) to read as follows:

"EXPORTS OF ALASKAN NORTH SLOPE OIL

"(s)(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this Act or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within five months of the date of enactment of this subsection. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider—

"(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;

"(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within four months of the date of the enactment of this subsection; and

"(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including noncontiguous States and Pacific territories. If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

"(2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), or part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271–76) to prohibit exports.

"(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

"(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.

"(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.".

CHAPTER 10—SKI AREA PERMIT RENTAL CHARGES ON NATIONAL FOREST SYSTEM LANDS

SEC. 5441. SKI AREA PERMIT RENTAL CHARGE.

(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading "SURVEYING THE PUBLIC LANDS" under the heading "UNDER THE DEPARTMENT OF THE INTERIOR" in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b). Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: Provided, That a permittee may, at the permittee's option, use the calculation method set forth in subsection (b).

(b)(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. That amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking and other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000;

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and ski area permittees, the adjusted gross revenue figures for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year.

(c) The rental charge set forth in subsection (b) shall be due on June 1 of each year and shall be paid or pre-paid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary of Agriculture and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to the date of enactment of this Act. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment.

(d) The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: Provided, however, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to the date of enactment of this Act, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this Act, the rental charge paid by any individual permittee shall be—

(1) for the 1995–1996 permit year, shall be either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(2) for the 1996–1997 permit year, the rental charge paid shall be either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher; and

(3) for the 1997–1998 permit year, the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this Act.

(e) Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) To reduce administrative costs on ski area permittees and the Forest Service the terms "revenue" and "sales", as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive money.

(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a), the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined to be appropriate by the Secretary.

(h) Where the new rental charge provided for in subsection (b)(1) results in an increase in permit rental charge greater than one half of one percent of the permittee's adjusted gross revenue (as determined under subsection (b)(1)), the new rental charge shall be phased in over a 5-year period in a manner providing for increases of approximately equal increments.

CHAPTER 11—PARK ENTRANCE FEES

SEC. 5451. FEES.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(a)) is amended—

(1) in the first sentence of the subsection by striking "no more than 21";

(2) in the first sentence of paragraph (1)(A)(i) by striking "$25" and inserting "$50";

(3) in the second sentence of paragraph (1)(B) by striking "$15" and inserting "$25";

(4) in paragraph (2) by striking the fourth, fifth, and sixth sentences and inserting "The fee for a single-visit permit at any designated area shall be collected on a per person basis, not to exceed $6 per person, including for persons entering by private, noncommercial vehicle.";

(5) in paragraph (3)—

(A) in the third sentence by inserting "Great" before "Smoky"; and

(B) by striking the last sentence;

(6) in paragraph (4)—

(A) by striking the second sentence and inserting "Such permit shall be nontransferable, shall be issued for a one-time charge, which shall be set at the same rate as the fee for a Golden Eagle Passport, and shall entitle the permittee to free admission into any area designated pursuant to this subsection."; and

(B) by striking the third sentence and inserting "No fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local government business.";

(7) by striking paragraph (5) and inserting the following:

"(5) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person legally domiciled in, the United States, if such citizen or person applies for such permit and is permanently disabled. Such procedures shall ensure that a lifetime admission permit shall be issued only to persons who have been medically determined to be permanently disabled. A lifetime admission permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this subsection, notwithstanding the method of travel.";

(8) by striking paragraph (9) and by redesignating paragraph (10) as paragraph (9)";

(9) by striking all but the last sentence of paragraph (11) and redesignating paragraph (11) as paragraph (10); and

(10) by redesignating paragraph (12) as paragraph (11).

(b) RECREATION FEES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a) is amended by striking subsection (b) and inserting the following:

"(b) RECREATION USE FEES.—Each agency developing, administering, providing, or furnishing at Federal expense services for such activities as camping, including, but not limited to, back country camping under permit, guarded swimming sites, boat launch facilities, managed parking lots, motorized recreation use and other recreation uses, is authorized, in accordance with this section to provide for the collection of recreation use fees at the place of use or any reasonably convenient location. The administering Secretary may establish both daily and annual recreation use fees.".

(c) CRITERIA, POSTING AND UNIFORMITY OF FEES.—Section 4(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(d))

is amended in the first sentence by striking "recreation fees charged by non-Federal public agencies," and inserting "fees charged by other public and private entities,".

(d) PENALTY.—Section 4(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(e)) is amended by striking "of not more than $100." and inserting "as provided by law.".

(e) TECHNICAL AMENDMENTS.—Section 4(h) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(h)) is amended—

(1) by striking "Bureau of Outdoor Recreation" and inserting "National Park Service";

(2) by striking "Natural Resources" and inserting "Resources"; and

(3) by striking "Bureau" and inserting "National Park Service".

(f) USE OF FEES.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(i)) is amended—

(1) in the first sentence of paragraph (1)(B) by striking "fee collection costs for that fiscal year" and inserting "fee collection costs for the immediately preceding fiscal year" and by striking "section in that fiscal year" and inserting "section in such immediately preceding fiscal year";

(2) in the second sentence of subparagraph (B) by striking "in that fiscal year"; and

(3) by striking paragraph (4) and inserting the following:

"(4) Amounts covered into the special account for the National Park Service shall be allocated among park system units in accordance with subsection (j) for obligation or expenditure by the Director of the National Park Service for park operations.".

(g) TIME OF REIMBURSEMENT.—Section 4(k) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(k)) is amended by striking the last sentence.

(h) COMMERCIAL TOUR USE FEES.—Section 4(n) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(n)) is amended—

(1) by striking the first sentence of paragraph (1) and inserting "In the case of each unit of the National Park System for which an admission fee is charged under this section, the Secretary of the Interior shall establish, by October 1, 1996, a commercial tour use fee in lieu of a per person admission fee to be imposed on each vehicle entering the unit for the purpose of providing commercial tour services within the unit."; and

(2) by striking the period at the end of paragraph (3) and inserting ", with written notification of such adjustments provided to commercial tour operators 12 months in advance of implementation.".

(i) CONFORMING AMENDMENTS.—

(1) Title I of the Department of the Interior and Related Agencies Appropriations Act, 1994, is amended by striking the second proviso under the heading "ADMINISTRATIVE PROVISIONS" under the heading "NATIONAL PARK SERVICE" (related to recovery of costs associated with special use permits).

(2) Section 3 of the Act entitled "An Act creating the Mount Rushmore National Memorial Commission and defining its purposes and powers", approved February 25, 1929 (45 Stat. 1300, chapter 315), is amended by striking the last sentence.

(3) Section 5 of Public Law 87-657 (16 U.S.C. 459c-5), is amended by striking subsection (e).

(4) Section 3 of Public Law 87-750 (16 U.S.C. 398e) is amended by striking subsection (b).

(5) Section 4(e) of Public Law 92-589 (16 U.S.C. 460bb-3) is amended by striking the first sentence.

(6) Section 6 of Public Law 95-348 (16 U.S.C. 410dd) is amended by striking subsection (j).

(7) Section 207 of Public Law 96-199 (16 U.S.C. 410ff-6) is repealed.

(8) Section 106 of Public Law 96-287 (16 U.S.C. 410gg-5) is amended by striking the last sentence.

(9) Section 204 of Public Law 96-287 (94 Stat. 601) is amended by striking the last sentence.

(10) Section 5 of Public Law 96-428 (94 Stat. 1842; 16 U.S.C. 461 note) is repealed.

(11) Public Law 100-55 (101 Stat. 371; U.S.C. 460l-6a note) is repealed.

SEC. 5452. COVERING OF INCREASED FEE REVENUES INTO SPECIAL ACCOUNTS.

Of the funds deposited in special accounts in the Treasury for the National Park Service, Bureau of Land Management, and Forest Service as set forth in section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(i)), beginning in fiscal year 1997, 80 percent of all receipts earned in the previous year in excess of the following amounts for each covered agency shall be made available to that agency without further appropriation:

(1) National Park System:
(A) $82,000,000 for fiscal year 1997.
(B) $85,000,000 for fiscal year 1998.
(C) $88,000,000 for fiscal year 1999.
(D) $91,000,000 for fiscal year 2000.
(E) $94,000,000 for fiscal year 2001.
(F) $97,000,000 for fiscal year 2002.
(G) $100,000,000 for fiscal year 2003.
(H) $112,000,000 for fiscal year 2004.
(I) $106,000,000 for fiscal year 2005.
(2) Bureau of Land Management:
(A) $4,500,000 for fiscal year 1997.
(B) $5,000,000 for fiscal year 1998.
(C) $5,000,000 for fiscal year 1999.
(D) $5,000,000 for fiscal year 2000.
(E) $5,000,000 for fiscal year 2001.
(F) $5,000,000 for fiscal year 2002.
(G) $5,000,000 for fiscal year 2003.
(H) $5,000,000 for fiscal year 2004.
(I) $5,000,000 for fiscal year 2005.
(3) Forest Service:
(A) $20,000,000 for fiscal year 1997.
(B) $20,600,000 for fiscal year 1998.
(C) $21,200,000 for fiscal year 1999.
(D) $21,900,000 for fiscal year 2000.
(E) $22,500,000 for fiscal year 2001.
(F) $23,600,000 for fiscal year 2002.
(G) $24,300,000 for fiscal year 2003.
(H) $25,000,000 for fiscal year 2004.
(I) $25,800,000 for fiscal year 2005.

Beginning in fiscal year 2006, and in each fiscal year thereafter, the amounts set forth in this section for each covered agency in fiscal year 2005 shall be increased by 4 percent per year, and 80 percent of all receipts earned in excess of such amounts for each covered agency shall be made available to that agency without further appropriation.

SEC. 5453. ALLOCATION AND USE OF FEES.

(a) ALLOCATION.—Beginning in fiscal year 1997, receipts above the amounts stated in section 5452 in each covered agency's special account from the previous fiscal year shall be allocated as follows:

(1) Seventy-five percent shall be allocated among the units or areas of each affected agency in the same proportion as fees collected pursuant to section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a) from a specific unit or area bear to the total amount of such fees collected from all units or areas of the same covered agency for each fiscal year.

(2) Twenty-five percent shall be allocated among each covered agency's units or areas on the basis of need, as determined by the Secretary.

(b) USE.—Expenditures from the special accounts shall be used solely for infrastructure related to visitor use and annual operating expenses related to visitor services at units or areas of the covered agencies.

CHAPTER 12—CONCESSION REFORM

SEC. 5461. SHORT TITLE.

This chapter may be cited as the "Visitor Facilities and Services Enhancement Act of 1995".

SEC. 5462. DEFINITIONS.

In this chapter:

(1) "adjusted gross receipts" means gross receipts less revenue derived from goods and services provided on other than Federal lands or conveyed to units of Government for hunting or fishing licenses or for entrance or recreation fees, or from such other exclusions as the Secretary concerned might apply.

(2) "agency head" means the head of an agency or his or her designated representative.

(3) "bidder" means a person who has submitted, or may submit, a proposal respecting the facilities or services, whether or not such bidder is the current concessioner.

(4) "concessioner" means a person or other entity acting under a concession authorization which provides public services, facilities, or activities on Federal lands pursuant to a concession service agreement or concession license.

(5) "concession authorization" means a concession service agreement or concession license as applicable.

(6) "concession license" means a written contract between the agency head and the concessioner which sets forth the terms and conditions under which the concessioner is authorized to provide recreation services or activities on a limited basis as well as the rights and obligations of the Federal Government.

(7) "concession service agreement" means a written contract between the agency head and the concessioner which sets forth the terms and conditions under which the concessioner is authorized to provide visitor services, facilities, or activities as well as the rights and obligations of the Federal Government.

(8) "Consumer Price Index" means the Consumer Price Index-All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, and from and after such time as such index is no longer published, the Consumer Price Index or other regularly-published cost-of-living index chosen by the Secretary concerned which reasonably approximates the Consumer Price Index specified above.

(9) "gross receipts" means revenue from goods or services provided by concession services, facilities, or activities on Federal lands and waters.

(10) "performance incentive" means a credit based on past performance toward the score awarded by the Secretary concerned to an incumbent concessioner's proposal submitted in response to a solicitation for the reissuance of such incumbent concessioner's contract.

(11) "proposal" means the complete submission for a concession service agreement offered in response to the solicitation for such concession service agreement.

(12) "prospectus" means a document or documents issued by the Secretary concerned and included with a solicitation which sets forth the minimum requirements for the award of a concession service agreement.

(13) "Secretary concerned" means —

(A) the Secretary of the Interior with respect to all concession authorizations issued by the National Park Service, and all concession authorizations for river runner, outfitter, or guide concessions issued by the United States Fish and Wildlife Service and the Bureau of Land Management; and

(B) the Secretary of Agriculture with respect to all river runner, outfitter, or guide concessions issued by the Forest Service.

(14) "selected bidder" means the bidder selected by the Secretary concerned for the award of a concession service agreement until such bidder becomes the concessioner.

(15) "solicitation" means a request by the Secretary concerned for proposals in response to a prospectus.

SEC. 5463. NATURE AND TYPES OF CONCESSION AUTHORIZATIONS.

(a) IN GENERAL.—The Secretary concerned may enter into concession authorizations as follows:

(1) CONCESSION SERVICE AGREEMENT.—A concession service agreement shall be entered into for all concessions where the Secretary concerned determines that the provision of concession services is in the interest of the Federal Government and issues either a competitive offering for concession services, facilities or activities or a noncompetitive offering for such services, facilities, or activities based on a finding that due to special circumstances it is not in the public interest of the United States to award a concession service agreement on a competitive basis.

(2) CONCESSION LICENSE.—Whenever the Secretary concerned makes a determination that public enjoyment of Federal lands would be enhanced through the provision of concession services for one-time, intermittent, or infrequently scheduled activities and that there exists no need to limit the number of concessionaires providing such services, the Secretary shall enter into a concession license with a qualified concessioner. The Secretary concerned may not limit the number of concession licenses issued for the same types of activities in a particular geographic area.

(3) LANDS UNDER MULTIPLE JURISDICTIONS.—In order to reduce administrative costs the Secretaries of the Departments concerned shall designate an agency to be the lead agency concerning concessions which conduct a single operation on lands or waters under the jurisdiction of more than one agency. Unless otherwise agreed to by each such Secretary concerned, the lead agency shall be that agency under whose jurisdiction the concessioner generates the greatest amount of gross receipts. The agency so designated shall issue a single concession authorization and collect a single fee under paragraphs (1) and (2) for such operation.

SEC. 5464. COMPETITIVE SELECTION PROCESS FOR CONCESSION SERVICE AGREEMENTS.

(a) AWARD TO BEST PROPOSAL.—The Secretary concerned shall enter into, and reissue, a concession service agreement with the person whom the Secretary determines in accordance with this section submits the best proposal through a competitive process as defined in this section.

(b) SOLICITATION AND PROSPECTUS.—Prior to making a solicitation for a concession service agreement, the Secretary concerned shall prepare a prospectus for such solicitation, shall publish notice of its availability at least once in such local or national newspapers or trade publications as the Secretary determines appropriate, and shall make such prospectus available upon request to all interested parties. The prospectus shall specify the minimum requirements for such concession service agreement, including but not limited to:

(1) a description of the services and facilities to be provided by the concessioner.

(2) the level of capital investment required by the concessioner (if any).

(3) terms and conditions of the concession service agreement.

(4) minimum facilities and services to be provided by the Secretary concerned to the concessioner, if any, including but not limited to public access, utilities, buildings, and minimum public services.

(5) such other information related to the concession operation available to the Secretary concerned as is not privileged or otherwise exempt from disclosure under Federal law, as the Secretary determines is necessary to allow for the submission of competitive proposals; and

(6) Local hiring preferences provisions, if applicable, and notwithstanding any other provision of law, to increase revenue to the United States by avoiding additional transportation and related costs associated with non-resident labor, each contract awarded by the Department of the Interior for concessioner or commercial use contractor-provided visitor services performed in whole or in part of a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment, as determined by the Secretary of Labor shall include a provision requiring the concessioner or commercial use contractor to employ individuals who are residents of such State, and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills for the purpose of performing that portion of the contract in such State.

(7) Minimum fees to the United States.

(c) FACTORS AND MINIMUM STANDARDS IN DETERMINING BEST PROPOSAL.—The prospectus shall assign a weight to each factor identified therein related to the importance of such factor in the selection process. Points shall be awarded for each such factor, based on the relative strength of the proposal concerning that factor. In selecting the best proposal, the Secretary concerned shall take into consideration (but shall not be limited to) the following, including whether the proposal meets the minimum requirements (if any) of the Secretary for each of the following:

(1) Responsiveness to the prospectus.

(2) Quality of visitor services to be provided taking into account the nature of equipment and facilities to be provided.

(3) Experience and performance in providing the same or similar accommodations, facilities, or services. This factor shall account for not less than 20 percent of the maximum points available under any prospectus. Where the Secretary concerned determines it to be warranted to provide for a high quality visitor experience, the prospectus for a concession service agreement shall provide greater weight to this factor based on such aspects of the concession service agreement as scope or size, complexity, nature of technical skills required, and site-specific knowledge of the area. The similarity of the qualifying experience outlined in the proposal to the nature of the services required under the concession service agreement and the length of such qualifying experience shall be the basis for awarding points for this factor.

(4) Record of resource protection (as appropriate for services and activities with potential to impact natural or cultural resources).

(5) Financial capability.

(6) Fees to the United States.

(d) SELECTION PROCESS.—The process for selecting the best proposal shall consist of the following:

(1) First, the Secretary concerned shall identify those proposals which meet the minimum standards (if any) for the factors identified under subsection (c).

(2) Second, the Secretary concerned shall evaluate all proposals identified under paragraph (1), considering all factors identified under subsection (c), as well as performance incentives earned under subsection (e) and renewal penalties incurred under subsection (f).

(3) Third, the Secretary concerned shall offer the concession service agreement to the best qualified applicant as determined by the evaluation under paragraph (2). Prior to any such offer, the Secretary shall certify that such applicant has adequate funds to purchase any investment interest.

(e) PERFORMANCE INCENTIVES.—

(1) In evaluating the proposal of an incumbent concessioner when the Secretary concerned issues a prospectus for the renewal of the concession service agreement, such concessioner is entitled to a performance incentive of—

(A) one percent of the maximum points available under such prospectus for each year in which the concessioner's annual performance is rated as exceeding the requirements outlined in the prospectus or "good", and

(B) a one-time 3-year merit term extension upon a finding that a concessioner has been rated as "good" in each annual performance evaluation through the term of the concession service agreement.

(2) A performance incentive awarded under paragraph (1)(A) may not exceed 10 percent of the maximum points available under such prospectus.

(3) The performance incentive specified under paragraph (1)(A) may only be awarded to a concessioner which meets the monetary definition of a small business under section 3 of the Small Business Act (15 U.S.C. 632). The Board of Contract Appeals within each Department shall adjudicate disputes between the Federal Government and concessionaires regarding performance evaluations.

(f) RENEWAL PENALTY.—In evaluating the proposal of an incumbent concessioner when the Secretary concerned issues a prospectus for the renewal of the concession service agreement, the incumbent concessioner shall be penalized one percent of the maximum points available under such prospectus for each year in which the concessioner's annual performance is found to be unsatisfactory.

(g) INAPPLICABILITY OF NEPA TO TEMPORARY EXTENSIONS AND SIMILAR REISSUANCE OF CONCESSIONS AGREEMENTS.—The temporary extension of a concession authorization, or reissuance of a concession authorization to provide concession services similar in nature and amount to concession services provided under the previous authorization, is hereby determined not to be a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et. seq.).

(h) PROVISION FOR ADDITIONAL RELATED SERVICES.—The Secretary concerned may modify the concession service agreement to allow concessionaires to provide services closely related to such agreement only if the Secretary concerned determines that such changes would enhance the safety or enjoyment of visitors and would not unduly restrict the award of future concession service agreements.

SEC. 5465. CAPITAL IMPROVEMENTS.

(a) IN GENERAL.—Concessionaires may construct or finance construction under terms of section 5470 only such public facilities on Federal lands as are to be used by the concessioner under the terms of its concession service agreement or facilities which are necessary for the concessioner to administer such public facilities on Federal lands.

(b) INVESTMENT INTEREST.—

(1) IN GENERAL.—A concessioner that is required or authorized under a concession service agreement pursuant to this subchapter to acquire or construct any structure, improvement, or fixture pursuant to such agreement on Federal lands shall have an investment interest therein, as defined in this subchapter. Any such investment interest shall consist of all incidents of ownership, except legal title which shall be vested in the Federal Government. Such investment interest shall not be extinguished by the expiration of such agreement. Such investment interest may be assigned, transferred, encumbered or relinquished.

(2) LIMITATION.—Such investment interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use of any improvement in which the concessioner has an investment interest shall be wholly subject to the applicable provisions of the concession service agreement and of laws and regulations relating to the area.

(3) FEDERAL PROPERTY.—Notwithstanding paragraph (1), a concession service agreement may specify that certain new structures, improvements, or fixtures required to be constructed under terms of the concession service agreement shall be property of the Federal Government subject only to the right of the concessioner to use such improvements during the term of such agreement and that the concessioner shall not be accorded an investment interest therein. Concession service agreements shall not, to the extent practicable, provide for a concessioner to obtain an investment interest in any building or facilities wholly owned by the Federal Government.

(c) SALE OF ASSETS.—If the existing concessioner is not the selected bidder at the time of reissuance of a concession service agreement, the Secretary concerned shall require the new concessioner to buy the investment interest of the existing concession. In the event that the successor concessioner is unable to fully pay such investment interest, any deficiency shall be paid by the Federal Government.

(d) CLOSURE OF CONCESSIONER FACILITIES.—If the Secretary concerned determines that the public interest, by reason of public and safety considerations or for other reasons beyond the control of the concessioner, requires the discontinuation or closure of facilities in which the concessioner has an investment interest, the Federal Government shall compensate the concessioner in the amount equal to the value of the investment interest.

(e) DETERMINATION OF VALUE OF INVESTMENT INTEREST.—For purposes of this subchapter, the investment interest of any capital improvement at the end of the concession service agreement period shall be an amount equal to the actual cost of construction or purchase of such investment interest or such capital improvement adjusted from the time of completion of such construction by changes in the Consumer Price Index less depreciation evidenced by the condition and prospective serviceability in comparison with a new unit of like kind. The Secretary concerned shall include the value to be paid by the selected bidder for any existing investment interest in the prospectus for the related concession service agreement.

SEC. 5466. DURATION OF CONCESSION AUTHORIZATION.

(a) CONCESSION SERVICE AGREEMENT.—The standard term of a concession service agreement shall be 10 years. The Secretary concerned may issue a concession service agreement for less than 10 years if the Secretary determines that the average annual gross receipts over the life of the concession service agreement would be less than $100,000. The Secretary concerned may not issue a concession service agreement for less than 5 years. The Secretary concerned shall issue a concession service agreement for longer than 10 years if the Secretary determines that such longer term is in the public interest or necessary due to the extent of investment and associated financing requirements and to meet the obligations assumed. The term for a concession service agreement may not exceed 30 years.

(b) CONCESSION LICENSE.—The term for a concession license may not exceed 2 years.

(c) TEMPORARY EXTENSION.—The Secretary concerned may agree to temporary extensions of concession service agreements for up to 2 years on a noncompetitive basis to avoid interruption of services to the public.

SEC. 5467. RATES AND CHARGES TO THE PUBLIC.

In general, rates and charges to the public shall be set by the concessioner. For concession service agreements only, a concessioner's rates and charges to the public shall be subject to the approval of the Secretary concerned in those instances where the Secretary determines that sufficient competition for such facilities and services does not exist within or in close proximity to the area in which the concessioner operates. In those instances, the concession service agreement shall state that the reasonableness of the concessioner's rates and charges to the public shall be reviewed and approved by the Secretary concerned primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, seasonal variations, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary concerned. Such review shall be completed within 90 days of receipt of all necessary information, or the requirement for the Secretary's approval shall be waived and such rates and charges as proposed by the concessioner considered to be approved for immediate use.

SEC. 5468. TRANSFERABILITY OF CONCESSION AUTHORIZATIONS.

(a) CONCESSION SERVICE AGREEMENTS.—

(1) APPROVAL REQUIRED.—A concession service agreement is transferable or assignable only with the approval of the Secretary concerned, which approval may not be unreasonably withheld or delayed. The Secretary may not approve any such transfer or assignment if the Secretary determines that the prospective concessioner is or is likely to be unable to completely satisfy all of the material requirements, term, and conditions of the agreement or that the terms of the transfer or assignment would preclude providing appropriate facilities or services to the public at reasonable rates.

(2) CONSIDERATION PERIOD.—If the Secretary concerned fails to approve or disapprove a transfer or assignment under paragraph (1) within 90 days after the date on which the Secretary receives all necessary information requested by the Secretary with respect to such transfer, the transfer or assignment shall be deemed to have been approved.

(3) NO MODIFICATION OF TERMS AND CONDITIONS.—The terms and conditions of the concessions service agreement shall not be subject to modification by reason of any transfer or assignment under this section.

(b) CONCESSION LICENSE.—A concession license may not be transferred.

SEC. 5469. FEES CHARGED BY THE UNITED STATES FOR CONCESSION AUTHORIZATIONS.

(a) IN GENERAL.—The Secretary concerned shall charge a fee for the privilege of providing concession services pursuant to this subchapter. The fee for any concession service agreement may include any of the following:

(1) An annual cash payment for the privilege of providing concession services.

(2) The amount required for capital improvements required pursuant to section 5465 (a).

(3) Fees for rental or lease of Government-owned facilities or lands occupied by the concessioner.

(4) Expenditures for maintenance of or improvements to Government-owned facilities occupied by the concessioner.

(b) ESTABLISHMENT OF AMOUNT.—

(1) MINIMUM ACCEPTABLE FEE.—The Secretary concerned shall establish a minimum fee for each applicable category specified in paragraphs (1) through (4) of subsection (a) which is acceptable to the Secretary under this section and shall include the minimum fee in the prospectus under section 5464. This fee shall be based on historical data, where available, as well as industry-specific and other market data available to the Secretary concerned.

(2) FINAL FEE.—Except as provided in paragraph (3), the final fee shall be the amount bid by the selected applicant under section 5464.

(3) SUBSTANTIALLY SIMILAR SERVICES IN A SPECIFIC GEOGRAPHIC AREA.—When the Secretary concerned simultaneously offers authorizations for more than one river runner, outfitter, or guide concession operation to provide substantially similar services in a defined geographic area, the concession fee for all such concessionaires shall be specified by the Secretary concerned in the prospectus. The Secretary concerned shall base the fee on historical data, where available, as well as on industry-specific and other market data available to the Secretary concerned or may establish a charge per user day.

(c) ADJUSTMENT OF FEES.—The amount of any fee for the term of the concession service agreement shall be set at the beginning of the concession authorization and may only be modified if stated in the contract on the basis of inflation, when the annual payment is not determined by a percentage of adjusted gross receipts (as measured by changes in the Consumer Price Index), to reflect substantial changes from the conditions specified in the prospectus, or in the event of an unforseen disaster.

(d) CONCESSION LICENSE FEE.—The fee for a concession license shall at least cover the program administrative costs and may not be changed over the term of the license.

SEC. 5470. DISPOSITION OF FEES.

(a) CONCESSION IMPROVEMENT ACCOUNT.—

(1) IN GENERAL.—The Secretary concerned shall, whenever the concession service agreement requires or authorizes the concessioner to perform maintenance or make improvements to Government-owned facilities occupied by the concessioner, require the concessioner to establish a concession improvement account. The concessioner shall deposit into this account all funds for maintenance of or improvements to Government-owned facilities occupied by the concessioner;

(2) TERMS AND CONDITIONS.—The account shall be maintained by the concessioner in an interest bearing account in a Federally insured financial institution. The concessioner shall maintain the account separately from any other funds or accounts and shall not commingle the money in the account with any other money.

(3) DISBURSEMENTS.—The concessioner shall make disbursements from the account for improvements and other activities, only for capital improvements or maintenance of improvements to Government-owned facilities occupied by the concessioner as specified in the concession service agreement.

(4) TRANSFER OF REMAINING BALANCE.—On the termination of a concession authorization, or on the transfer of a concession service agreement, any remaining balance in the account shall be transferred by the concessioner to the successor concessioner, to be used solely as set forth in this subsection. In the event there is no successor concessioner, the account balance shall be deposited in the Treasury as miscellaneous receipts.

(b) When the concessioner is required to make capital improvements to other than Government-owned facilities occupied by the concessioner in accordance with a concession service agreement, the concessioner shall have the option to control and expend such funds directly.

(c) AMOUNTS RECEIVED RELATING TO PRIVILEGE OF PROVIDING CONCESSION SERVICES AND RENTAL OF GOVERNMENT-OWNED FACILITIES.—

(1) DEPOSIT INTO TREASURY.—The Secretary concerned shall deposit in the Treasury of the United States as miscellaneous receipts all funds not deposited in concession improvement accounts or funds for capital improvements specified in (b) above, including specifically amounts received for a fiscal year for the privilege of providing concession services and the rental of Government-owned facilities, except that of the amount of fees paid by vessel operators for the privilege of entering into Glacier Bay, Alaska,

50 percent of such fees for the 5-year period beginning on the first full fiscal year following the date of enactment of this subchapter shall be deposited into a special account and that such funds shall be available without further appropriation and may only be used to conduct research to quantify any effect of such vessel activity on wildlife and other natural resource values of Glacier Bay National Park. For the National Park Service such deposits into the Treasury shall total not less than the amounts specified in the table in paragraph (2). For the other agencies covered under this subchapter, the Secretary concerned shall develop a schedule of anticipated receipts to be deposited to the Treasury and submit such schedule to the appropriate Congressional committees not later than 18 months after the date of enactment of this Act. Nothing in this chapter shall be construed to modify any provision of law relating to sharing of Federal receipts with any other level of Government.

(2) DEPOSIT INTO CONCESSION IMPROVEMENT ACCOUNTS.—The table referred to in paragraph (1), expressed by fiscal year, is as follows:

National Park Service

"Fiscal year:	Amount:
1997	$15,800,000
1998	$21,100,000
1999	$26,700,000
2000	$32,300,000
2001	$38,200,000
2002	$44,400,000.

(d) Beginning in fiscal year 1998, the Inspector General of the Department concerned shall conduct a biennial audit of concession fees generated pursuant to this chapter. The Inspector General shall make a determination as to whether concession fees are being collected and expended in accordance with this chapter and shall submit copies of each audit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 5471. REGULATIONS.

The Secretary concerned shall promulgate regulations to implement this chapter no later than 2 years after the date of enactment of this Act. Subsequent to the date of enactment of this chapter, no new concession authorization may be issued, nor may any existing concession authorization be amended or extended, unless such authorization, amendment, or extension is fully consistent with sections 5465, 5469(c), and 5470.

SEC. 5472. RELATIONSHIP TO OTHER LAWS.

(a) REPEALS.—

(1) The Act entitled "An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes" (16 U.S.C. 20–20g) approved October 9, 1965, is repealed.

(b) SAVINGS.—

(1) IN GENERAL.—The repeal of any provision, the superseding of any provision, and the amendment of any provision, of an Act referred to in subsection (a) shall not affect the validity of any authorizations entered into under any such Act. The provisions of this chapter shall apply to any such authorizations, except to the extent such provisions are inconsistent with the express terms and conditions of such authorizations.

(2) RIGHT OF RENEWAL.—The right of renewal explicitly provided for by any concession contract under any such provision shall be preserved for a single renewal of a contract following the enactment of, or concession authorization under, this chapter.

(3) VALUE OF CAPITAL IMPROVEMENTS OR POSSESSORY INTEREST.—Nothing in this chapter shall be construed to change the value as of the date of enactment of this chapter for existing capital improvements or possessory interest as identified in concession contracts entered into before the date of enactment of this Act. Subsequent to enactment of this chapter, the increase in value for any possessory interest established under any concession contract in effect on the date of enactment of this chapter shall be as provided for in this chapter unless otherwise specifically provided in the contract.

(4) ANILCA.—Nothing in this chapter shall be construed to amend, supersede or otherwise affect any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.

(5) PROCEDURES FOR CONSIDERING EXISTING CONCESSIONAIRES IN REISSUANCE OF CONTRACTS.—In the case of a concession contract which has expired prior to the date of the enactment of this Act, or within 5 years after the date of the enactment of this Act, an incumbent concessioner shall be entitled to a one-time bonus of five percent of the maximum points available in the reissuance of a previous concession authorization. For any concession contract entered into prior to the date of enactment of this Act, which is projected to terminate 5 years or later after the date of enactment of this Act, any concessioner shall be entitled to a performance incentive in accordance with this chapter. The concessioner shall be entitled to an evaluation of "good" for each year in which the Secretary concerned does not complete an evaluation as provided for in this chapter.

TITLE VI—FEDERAL RETIREMENT AND RELATED PROVISIONS

Subtitle A—Civil Service and Postal Service Provisions

SEC. 6001. EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.

Section 11001(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 408) is amended in the matter preceding paragraph (1) by striking out "or 1996," and inserting in lieu thereof "1996, 1997, 1998, 1999, 2000, 2001, or 2002,".

SEC. 6002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as the case may be, the percentage of basic pay applicable under subsection (c).".

(2) AGENCY CONTRIBUTIONS.—

(A) INCREASE IN AGENCY CONTRIBUTIONS DURING CALENDAR YEARS 1996 THROUGH 2002.—Section 8334(a)(1) of title 5, United States Code (as amended by this section) is further amended—

(i) by inserting "(A)" after "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B)(i) Notwithstanding subparagraph (A), the agency contribution under the second sentence of such subparagraph, during the period beginning on January 1, 1996, through December 31, 2002—

"(I) for each employing agency (other than the United States Postal Service or the Washington Metropolitan Airport Authority) shall be 8.51 percent of the basic pay of an employee, Congressional employee, and a Member of Congress, 9.01 percent of the basic pay of a law enforcement officer, a member of the Capitol Police, and a firefighter, and 8.51 percent of the basic pay of a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Services, and a bankruptcy judge, as the case may be; and

"(II) for the United States Postal Service and the Washington Metropolitan Airport Authority shall be 7 percent of the basic pay of an employee and 7.5 percent of the basic pay of a law enforcement officer or firefighter.".

(B) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(i) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(ii) shall be computed as though such amendments had not been enacted.

(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(A) in the matter relating to an employee by striking out

"7	After December 31, 1969."

and inserting in lieu thereof the following:

"7	January 1, 1970, to December 31, 1995.
7.25 ..	January 1, 1996, to December 31, 1996.
7.4 ...	January 1, 1997, to December 31, 1997.
7.5 ...	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(B) in the matter relating to a Member or employee for Congressional employee service by striking out

"7½ ..	After December 31, 1969."

and inserting in lieu thereof the following:

"7.5 ...	January 1, 1970, to December 31, 1995.
7.25 ..	January 1, 1996, to December 31, 1996.
7.4 ...	January 1, 1997, to December 31, 1997.
7.5 ...	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(C) in the matter relating to a Member for Member service by striking out

"8	After December 31, 1969."

and inserting in lieu thereof the following:

"8	January 1, 1970, to December 31, 1995.
7.25 ..	January 1, 1996, to December 31, 1996.
7.4 ...	January 1, 1997, to December 31, 1997.

7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out

"7½	After December 31, 1974."

and inserting in lieu thereof the following:

"7.5	January 1, 1975, to December 31, 1995.
7.75	January 1, 1996, to December 31, 1996.
7.9	January 1, 1997, to December 31, 1997.
8	January 1, 1998, to December 31, 2002.
7.5	After December 31, 2002.";

(E) in the matter relating to a bankruptcy judge by striking out

"8	After December 31, 1983."

and inserting in lieu thereof the following:

"8	January 1, 1984, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking out

"8	On and after the date of the enactment of the Department of Defense Authorization Act, 1984."

and inserting in lieu thereof the following:

"8	The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(G) in the matter relating to a United States magistrate by striking out

"8	After September 30, 1987."

and inserting in lieu thereof the following:

"8	October 1, 1987, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(H) in the matter relating to a Claims Court judge by striking out

"8	After September 30, 1988."

and inserting in lieu thereof the following:

"8	October 1, 1988, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

and

(I) by inserting after the matter relating to a Claims Court judge the following:

"Member of the Capitol Police.	2.5	August 1, 1920, to June 30, 1926.
	3.5	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.5	November 1, 1956, to December 31, 1969.
	7.5	January 1, 1970, to December 31, 1995.
	7.75	January 1, 1996, to December 31, 1996.
	7.9	January 1, 1997, to December 31, 1997.
	8	January 1, 1998, to December 31, 2002.
	7.5	After December 31, 2002.".

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following new paragraph:

"(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end thereof the following new paragraph:

"(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

"(A) the applicable percentage under paragraph (3), minus

"(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

"(3) The applicable percentage under this paragraph, for civilian service shall be as follows:

Employee	7	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Congressional employee.	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Member	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.

Law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller.	*7.5*	*Before January 1, 1996.*
	7.75	*January 1, 1996, to December 31, 1996.*
	7.9	*January 1, 1997, to December 31, 1997.*
	8	*January 1, 1998, to December 31, 2002.*
	7.5	*After December 31, 2002.*

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (6)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following:

"(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1996.

SEC. 6003. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.

(a) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY.—

(1) CSRS.—Section 8339 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting "or Member" after "employee"; and

(B) by striking out subsections (b) and (c).

(2) FERS.—Section 8415 of title 5, United States Code, is amended—

(A) by striking out subsections (b) and (c);

(B) in subsections (a) and (g) by inserting "or Member" after "employee" each place it appears; and

(C) in subsection (g)(2) by striking out "Congressional employee".

(b) ACCRUAL RATE FOR MEMBER AND CONGRESSIONAL EMPLOYEE SERVICE PERFORMED BUT NOT VESTED BEFORE EFFECTIVE DATE.—

(1) APPLICATION.—This subsection shall apply to an individual who—

(A) is a Member of Congress or Congressional employee on December 31, 1995;

(B) has performed less than 5 years of service as a Member of Congress or Congressional employee on December 31, 1995; and

(C) after December 31, 1995, completes 5 years of service as a Member of Congress or Congressional employee, that includes a period of service performed as a Member of Congress or Congressional employee before January 1, 1996.

(2) COMPUTATION OF ANNUITY.— In computing the annuity of an individual described under paragraph (1)—

(A) any period of service as a Member of Congress or Congressional employee performed before January 1, 1996, shall be computed under section 8339 or 8415 of title 5, United States Code (as though the amendments under subsection (a) of this section were not enacted); and

(B) the 5 year service requirement under subsections (b) and (c) of section 8339 or 8415 of such title (as in effect before the date of enactment of this Act) shall be deemed fulfilled.

(c) CAPITOL POLICE.—Section 8339(q) of title 5, United States Code, is amended by striking out "with subsection (b), except that, in the case of a member who retires under section 8335(d) or 8336(m), and who meets the requirements of subsection (b)(2)," and inserting in lieu thereof "with subsection (a), except that in the case of a member who retires under section 8335(d) or 8336(m), and who has deductions withheld from his pay or has made deposit covering his last 5 years of civilian service,".

(d) ADMINISTRATIVE REGULATIONS.—The Office of Personnel Management, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(e) EFFECTIVE DATES.—

(1) YEARS OF SERVICE; ANNUITY COMPUTATION.—

(A) SERVICE AFTER EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1996, and shall apply only with respect to the computation of an annuity relating to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed on or after January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee performed on or after January 1, 1996.

(B) SERVICE BEFORE EFFECTIVE DATE.—An annuity shall be computed as though the amendments made under subsection (a) had not been enacted with respect to—

(i) the service of a Member of Congress as a Member or a Congressional employee or military service performed before January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee or military service performed before January 1, 1996.

(C) ALTERNATIVE EFFECTIVE DATE RELATING TO MEMBERS OF CONGRESS.—If a court of competent jurisdiction makes a final determination that a provision of this paragraph violates the 27th amendment of the United States Constitution, the effective date and application dates relating to Members of Congress shall be January 1, 1997.

(2) ADMINISTRATIVE PROVISIONS.—The provisions of subsections (b), (c), and (d) shall take effect on the date of the enactment of this Act.

SEC. 6004. ACCRUAL RATES RELATING TO CERTAIN JUDGES WITH SIMILAR TREATMENT AS CONGRESSIONAL SERVICE.

(a) JUDGE OF THE UNITED STATES COURT OF MILITARY APPEALS.—Section 8339(d)(7) of title 5, United States Code, is amended by striking out "service." and inserting in lieu thereof "service performed before January 1, 1996.".

(b) CLAIMS COURT JUDGE, BANKRUPTCY JUDGE, UNITED STATES MAGISTRATE.—Section 8339(n) of title 5, United States Code, is amended by striking out "service." and inserting in lieu thereof "service performed before January 1, 1996. The annuity of any such employee is, with respect to any service referred to in the preceding sentence that is performed on or after January 1, 1996, computed under subsection (a).".

SEC. 6005. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) REPEAL.—

(1) IN GENERAL.—Section 2004 of title 39, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall be effective as of October 1, 1995.

(2) PROVISIONS RELATING TO PAYMENTS FOR FISCAL YEAR 1996.—

(A) AMOUNTS NOT YET PAID.—No payment may be made to the Postal Service Fund, on or after the date of the enactment of this Act, pursuant to any appropriation for fiscal year 1996 authorized by section 2004 of title 39, United States Code (as in effect before the effective date of this section).

(B) AMOUNTS PAID.—If any payment to the Postal Service Fund is or has been made pursuant to an appropriation for fiscal year 1996 authorized by such section 2004, then an amount equal to the amount of such payment shall be paid from such Fund into the Treasury as miscellaneous receipts.

Subtitle B—Patent and Trademark Fees

SEC. 6011. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1998" and inserting "2002";

(2) in subsection (b)(2) by striking "1998" and inserting "2002"; and

(3) in subsection (c)—

(A) by striking "through 1998" and inserting "through 2002"; and

(B) by adding at the end the following:

"(9) $119,000,000 in fiscal year 1999.

"(10) $119,000,000 in fiscal year 2000.

"(11) $119,000,000 in fiscal year 2001.

"(12) $119,000,000 in fiscal year 2002.".

Subtitle C—GSA Property Sales

SEC. 6021. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties,

the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 6022. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 1996, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1995, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1996.

SEC. 6023. AVAILABILITY OF SURPLUS PROPERTY FOR HOMELESS ASSISTANCE.

(a) REPEAL.—(1) Title V of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 et seq.) is repealed.

(2) The table of contents in section 101(b) of that Act is amended by striking the items relating to title V.

(3) This subsection shall be effective October 1, 1995.

(b) AUTHORITY TO TRANSFER SURPLUS REAL PROPERTY FOR HOUSING USE.—Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) is amended by adding at the end the following:

"(r) Under such regulations as the Administrator may prescribe, and in consultation with appropriate local governmental authorities, the Administrator may transfer to any nonprofit organization which exists for the primary purpose of providing housing or housing assistance for homeless individuals or families, such surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

"(s)(1) Under such regulations as the Administrator may prescribe, and in consultation with appropriate local governmental authorities, the Administrator may transfer to any non-profit organization which exists for the primary purpose of providing housing or housing assistance for low-income individuals or families such surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

"(2) In making transfers under this subsection, the Administrator shall take such actions, which may include grant agreements with an organization receiving a grant, as may be necessary to ensure that—

"(A) assistance provided under this subsection is used to facilitate and encourage homeownership opportunities through the construction of self-help housing, under terms which require that the person receiving the assistance contribute a significant amount of labor toward the construction; and

"(B) the dwellings constructed with property transferred under this subsection shall be quality dwellings that comply with local building and safety codes and standards and shall be available at prices below the prevailing market prices.".

TITLE VII—TRANSFORMATION OF THE MEDICAID PROGRAM

SEC. 7000. SHORT TITLE OF TITLE; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE OF TITLE.—This title may be cited as the "Medicaid Transformation Act of 1995".

(b) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

Sec. 7000. Short title of title; table of contents of title.
Sec. 7001. Transformation of medicaid program.
Sec. 7002. Termination of current program and transition.
Sec. 7003. Medicare/MediGrant integration demonstration project.

SEC. 7001. TRANSFORMATION OF MEDICAID PROGRAM.

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—MEDIGRANT PROGRAM FOR LOW-INCOME INDIVIDUALS AND FAMILIES

"TABLE OF CONTENTS OF TITLE

"Sec. 2100. Purpose; State MediGrant plans.

"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

"Sec. 2101. Description of strategic objectives and performance goals.
"Sec. 2102. Annual reports.
"Sec. 2103. Periodic, independent evaluations.
"Sec. 2104. Description of process for MediGrant plan development.
"Sec. 2105. Consultation in MediGrant plan development.

"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

"Sec. 2111. Eligibility and benefits.
"Sec. 2112. Set-asides of funds.
"Sec. 2113. Premiums and cost-sharing.
"Sec. 2114. Description of process for developing capitation payment rates.
"Sec. 2115. Preventing spousal impoverishment.
"Sec. 2116. State flexibility.

"PART C—PAYMENTS TO STATES

"Sec. 2121. Allotment of funds among States.
"Sec. 2122. Payments to States.
"Sec. 2123. Limitation on use of funds; disallowance.

"PART D—PROGRAM INTEGRITY AND QUALITY

"Sec. 2131. Use of audits to achieve fiscal integrity.
"Sec. 2132. Fraud prevention program.
"Sec. 2133. Information concerning sanctions taken by State licensing authorities against health care practitioners and providers.
"Sec. 2134. State MediGrant fraud control units.
"Sec. 2135. Recoveries from third parties and others.
"Sec. 2136. Assignment of rights of payment.
"Sec. 2137. Quality assurance requirements for nursing facilities.
"Sec. 2138. Other provisions promoting program integrity.

"PART E—ESTABLISHMENT AND AMENDMENT OF MEDIGRANT PLANS

"Sec. 2151. Submittal and approval of MediGrant plans.
"Sec. 2152. Submittal and approval of plan amendments.
"Sec. 2153. Process for State withdrawal from program.
"Sec. 2154. Sanctions for noncompliance.
"Sec. 2155. Secretarial authority.

"PART F—GENERAL PROVISIONS

"Sec. 2171. Definitions.
"Sec. 2172. Treatment of territories.
"Sec. 2173. Description of treatment of Indian Health Service facilities.
"Sec. 2174. Application of certain general provisions.
"Sec. 2175. MediGrant master drug rebate agreements.

"SEC. 2100. PURPOSE; STATE MEDIGRANT PLANS.

"(a) PURPOSE.—The purpose of this title is to provide block grants to States to enable them to provide medical assistance to low-income individuals and families in a more effective, efficient, and responsive manner.

"(b) STATE PLAN REQUIRED.—A State is not eligible for payment under section 2122 of this title unless the State has submitted to the Secretary under part E a plan (in this title referred to as a 'MediGrant plan') that—

"(1) sets forth how the State intends to use the funds provided under this title to provide medical assistance to needy individuals and families consistent with the provisions of this title, and

"(2) is approved under such part.

"(c) CONTINUED APPROVAL.—An approved MediGrant plan shall continue in effect unless and until—

"(1) the State amends the plan under section 2152,

"(2) the State terminates participation under this title under section 2153, or

"(3) the Secretary finds substantial noncompliance of the plan with the requirements of this title under section 2154.

"(d) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under part C.

"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

"SEC. 2101. DESCRIPTION OF STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.

"(a) DESCRIPTION.—A MediGrant plan shall include a description of the strategic objectives and performance goals the State has established for providing health care services to low-income populations under this title, including a general description of the manner in which the plan is designed to meet these objectives and goals.

"(b) CERTAIN OBJECTIVES AND GOALS REQUIRED.—A MediGrant plan shall include strategic objectives and performance goals relating to rates of childhood immunizations and reductions in infant mortality and morbidity.

"(c) CONSIDERATIONS.—In specifying these objectives and goals the State may consider factors such as the following:

"(1) The State's priorities with respect to providing assistance to low-income populations.

"(2) The State's priorities with respect to the general public health and the health status of individuals eligible for assistance under the MediGrant plan.

"(3) The State's financial resources, the particular economic conditions in the State, and relative adequacy of the health care infrastructure in different regions of the State.

"(d) PERFORMANCE MEASURES.—To the extent practicable—

"(1) one or more performance goals shall be established by the State for each strategic objective identified in the MediGrant plan; and

"(2) the MediGrant plan shall describe, how program performance will be—

"(A) measured through objective, independently verifiable means, and

"(B) compared against performance goals, in order to determine the State's performance under this title.

"(e) PERIOD COVERED.—

"(1) STRATEGIC OBJECTIVES.—The strategic objectives shall cover a period of not less than 5 years and shall be updated and revised at least every 3 years.

"(2) PERFORMANCE GOALS.—The performance goals shall be established for dates that are not more than 3 years apart.

"SEC. 2102. ANNUAL REPORTS.

"(a) IN GENERAL.—In the case of a State with a MediGrant plan that is in effect for part or all of a fiscal year, no later than March 31 following such fiscal year (or March 31, 1998, in the case of fiscal year 1996) the State shall prepare and submit to the Secretary and the Congress a report on program activities and performance under this title for such fiscal year.

"(b) CONTENTS.—Each annual report under this section for a fiscal year shall include the following:

"(1) EXPENDITURE AND BENEFICIARY SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), a summary of all expenditures under the MediGrant plan during the fiscal year (and during any portions of fiscal year 1996 during which the MediGrant plan was in effect under this title) as follows:

"(i) Aggregate medical assistance expenditures, disaggregated to the extent required to determine compliance with the set-aside requirements of subsections (a) through (d) of section 2112 and to compute the case mix index under section 2121(d)(3).

"(ii) For each general category of eligible individuals (specified in subsection (c)(1), aggregate medical assistance expenditures and the total and average number of eligible individuals under the MediGrant plan.

"(iii) By each general category of eligible individuals, total expenditures for each of the categories of health care items and services (specified in subsection (c)(2)) which are covered under the MediGrant plan and provided on a fee-for-service basis.

"(iv) By each general category of eligible individuals, total expenditures for payments to capitated health care organizations (as defined in section 2114(c)(1)).

"(v) Total administrative expenditures.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, a summary of—

"(i) all expenditures under the MediGrant plan, and

"(ii) the total and average number of eligible individuals under the MediGrant plan for each general category of eligible individuals.

"(2) UTILIZATION SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), summary statistics on the utilization of health care services under the MediGrant plan during the year (and during any portions of fiscal year 1996 during which the MediGrant plan was in effect under this title) as follows:

"(i) For each general category of eligible individuals and for each of the categories of health care items and services which are covered under the MediGrant plan and provided on a fee-for-service basis, the number and percentage of persons who received such a type of service or item during the period covered by the report.

"(ii) Summary of health care utilization data reported to the State by capitated health care organizations.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, summary statistics on the utilization of health care services under the MediGrant plan.

"(3) ACHIEVEMENT OF PERFORMANCE GOALS.—With respect to each performance goal established under section 2101 and applicable to the year involved—

"(A) a brief description of the goal;

"(B) a description of the methods to be used to measure the attainment of such goal;

"(C) data on the actual performance with respect to the goal;

"(D) a review of the extent to which the goal was achieved, based on such data; and

"(E) if a performance goal has not been met—

"(i) why the goal was not met, and

"(ii) actions to be taken in response to such performance, including adjustments in performance goals or program activities for subsequent years.

"(4) PROGRAM EVALUATIONS.—A summary of the findings of evaluations under section 2103 completed during the fiscal year covered by the report.

"(5) FRAUD AND ABUSE AND QUALITY CONTROL ACTIVITIES.—A general description of the State's activities under part D to detect and deter fraud and abuse and to assure quality of services provided under the program.

"(6) PLAN ADMINISTRATION.—

"(A) A description of the administrative roles and responsibilities of entities in the State responsible for administration of this title.

"(B) Organizational charts for each entity in the State primarily responsible for activities under this title.

"(C) A brief description of each interstate compact (if any) the State has entered into with other States with respect to activities under this title.

"(D) General citations to the State statutes and administrative rules governing the State's activities under this title.

"(c) DESCRIPTION OF CATEGORIES.—In this section:

"(1) GENERAL CATEGORIES OF ELIGIBLE INDIVIDUALS.—Each of the following is a general category of eligible individuals:

"(A) Pregnant women.

"(B) Children.

"(C) Blind or disabled adults who are not elderly individuals.

"(D) Elderly individuals.

"(E) Other adults.

"(2) CATEGORIES OF HEALTH CARE ITEMS AND SERVICES.—The health care items and services described in each paragraph of section 2171(a) shall be considered a separate category of health care items and services.

"SEC. 2103. PERIODIC, INDEPENDENT EVALUATIONS.

"(a) IN GENERAL.—During fiscal year 1998 and every third fiscal year thereafter, each State shall provide for an evaluation of the operation of its MediGrant plan under this title.

"(b) INDEPENDENT.—Each such evaluation with respect to an activity under the MediGrant plan shall be conducted by an entity that is neither responsible under State law for the submission of the State MediGrant plan (or part thereof) nor responsible for administering (or supervising the administration of) the activity. If consistent with the previous sentence, such an entity may be a college or university, a State agency, a legislative branch agency in a State, or an independent contractor.

"(c) RESEARCH DESIGN.—Each such evaluation shall be conducted in accordance with a research design that is based on generally accepted models of survey design and sampling and statistical analysis.

"SEC. 2104. DESCRIPTION OF PROCESS FOR MEDIGRANT PLAN DEVELOPMENT.

"Each MediGrant plan shall include a description of the process under which the plan shall be developed and implemented in the State (consistent with section 2105).

"SEC. 2105. CONSULTATION IN MEDIGRANT PLAN DEVELOPMENT.

"(a) PUBLIC NOTICE PROCESS.—Before submitting a MediGrant plan or a plan amendment described in subsection (c) to the Secretary under part E, a State shall provide—

"(1) public notice respecting the submittal of the proposed plan or amendment, including a general description of the plan or amendment,

"(2) a means for the public to inspect or obtain a copy (at reasonable charge) of the proposed plan or amendment,

"(3) an opportunity for submittal and consideration of public comments on the proposed plan or amendment, and

"(4) for consultation with one or more advisory committees established and maintained by the State.

The previous sentence shall not apply to a revision of a MediGrant plan (or revision of an amendment to a plan) made by a State under section 2154(c)(1) or to a plan amendment withdrawal described in section 2154(c)(4).

"(b) CONTENTS OF NOTICE.—A notice under subsection (a)(1) for a proposed plan or amendment shall include a description of—

"(1) the general purpose of the proposed plan or amendment (including applicable effective dates),

"(2) where the public may inspect the proposed plan or amendment,

"(3) how the public may obtain a copy of the proposed plan or amendment and the applicable charge (if any) for the copy, and

"(4) how the public may submit comments on the proposed plan or amendment, including any deadlines applicable to consideration of such comments.

"(c) AMENDMENTS DESCRIBED.—An amendment to a MediGrant plan described in this subsection is an amendment which makes a material and substantial change in eligibility under the MediGrant plan or the benefits provided under the plan.

"(d) PUBLICATION.—Notices under this section may be published (as selected by the State) in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules.

"(e) COMPARABLE PROCESS.—A separate notice, or notices, shall not be required under this section for a State if notice of the MediGrant plan or an amendment to the plan will be provided under a process specified in State law that is substantially equivalent to the notice process specified in this section.

"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

"SEC. 2111. ELIGIBILITY AND BENEFITS.

"(a) DESCRIPTION OF GENERAL ELIGIBILITY AND BENEFITS.—Each MediGrant plan shall include a description (consistent with this title) of the following:

"(1) GENERAL ELIGIBILITY STANDARDS.—The general eligibility standards of the plan for eligible low-income individuals (including individuals described in subsection (b)), including—

"(A) any limitations as to the duration of eligibility,

"(B) any eligibility standards relating to age, income and resources (including any standards relating to spenddowns and disposition of resources), residency, disability status, immigration status, or employment status of individuals,

"(C) methods of establishing and continuing eligibility and enrollment, including the methodology for computing family income,

"(D) the eligibility standards in the plan that protect the income and resources of a married individual who is living in the community and whose spouse is residing in an institution in order to prevent the impoverishment of the community spouse, and

"(E) any other standards relating to eligibility for medical assistance under the plan.

"(2) SCOPE OF ASSISTANCE.—The amount, duration, and scope of health care services and items covered under the plan, including differences among different eligible population groups.

"(3) DELIVERY METHOD.—The State's approach to delivery of medical assistance, including a general description of—

"(A) the use (or intended use) of vouchers, fee-for-service, or managed care arrangements (such as capitated health care plans, case management, and case coordination); and

"(B) utilization control systems.

"(4) FEE-FOR-SERVICE BENEFITS.—To the extent that medical assistance is furnished on a fee-for-service basis—

"(A) how the State determines the qualifications of health care providers eligible to provide such assistance; and

"(B) how the State determines rates of reimbursement for providing such assistance.

"(5) COST-SHARING.—Beneficiary cost-sharing (if any), including variations in such cost-sharing by population group or type of service and financial responsibilities of parents of recipients who are children and the spouses of recipients.

"(6) UTILIZATION INCENTIVES.—Incentives or requirements (if any) to encourage the appropriate utilization of services.

"(7) SUPPORT FOR CERTAIN HOSPITALS.—

"(A) IN GENERAL.—With respect to hospitals described in subparagraph (B) located in the State, a description of the extent to which provisions are made for expenditures for items and services furnished by such hospitals and covered under the MediGrant plan.

"(B) HOSPITALS DESCRIBED.—A hospital described in this subparagraph is a short-term acute care general hospital or a children's hospital, the low-income utilization rate of which exceeds the lesser of—

"(i) 1 standard deviation above the mean low-income utilization rate for hospitals receiving payments under a MediGrant plan in the State in which such hospital is located, or

"(ii) 1¼ standard deviations above the mean low-income utilization rate for hospitals receiving such payments in the 50 States and the District of Columbia.

"(C) LOW-INCOME UTILIZATION RATE.—For purposes of subparagraph (B), the term 'low-income utilization rate' means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of patient days attributable to patients who (for such days) were eligible for medical assistance under a MediGrant plan or were uninsured in a period, and the denominator of which is the total number of the hospital's patient days in that period.

"(D) PATIENT DAYS.—For purposes of subparagraph (C), the term 'patient day' includes each day in which—

"(i) an individual, including a newborn, is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere; or

"(ii) an individual makes one or more outpatient visits to the hospital.

"(b) MANDATORY COVERAGE.—Each MediGrant plan shall provide for making medical assistance available (subject to the eligibility standards described under the plan pursuant to subsection (a)(1) and State flexibility of benefits under section 2116) to—

"(1) any pregnant woman or child under the age of 13 whose family income does not exceed the poverty line applicable to a family of the size involved, and

"(2) any individual who is disabled, as defined by the State.

"(c) IMMUNIZATIONS FOR CHILDREN.—The MediGrant plan shall provide medical assistance for immunizations for children eligible for any medical assistance under the MediGrant plan, in accordance with a schedule for immunizations established by the Health Department of the State in consultation with the individuals and entities in the State responsible for the administration of the plan.

"(d) FAMILY PLANNING SERVICES.—The MediGrant plan shall provide prepregnancy planning services and supplies as specified by the State.

"(e) PREEXISTING CONDITION EXCLUSIONS.—Notwithstanding any other provision of this title—

"(1) a MediGrant plan may not deny or exclude coverage of any item or service for an eligible individual for benefits under the MediGrant plan for such item or service on the basis of a preexisting condition; and

"(2) if a State contracts or makes other arrangements (through the eligible individual or through another entity) with a capitated health care organization, insurer, or other entity, for the provision of items or services to eligible individuals under the MediGrant plan and the State permits such organization, insurer, or other entity to exclude coverage of a covered item or service on the basis of a preexisting condition, the State shall provide, through its MediGrant plan, for such coverage (through direct payment or otherwise) for any such covered item or service denied or excluded on the basis of a preexisting condition.

"(f) FAMILY RESPONSIBILITY.—A MediGrant plan may not require an adult child with a family income below the State median income (as determined by the State) applicable to a family of the size involved to contribute to the cost of covered nursing facility services and other long-term care services for the child's parent under the plan.

"(g) SOLVENCY STANDARDS FOR CAPITATED HEALTH CARE ORGANIZATIONS.—

"(1) IN GENERAL.—A State may not contract with a capitated health care organization, as defined in section 2114(c)(1), for the provision of medical assistance under a MediGrant plan under which the organization is—

"(A) at full financial risk, as defined by the State, unless the organization meets solvency standards established by the State for private health maintenance organizations, or

"(B) is not at such risk, unless the organization meets solvency standards that are established under the MediGrant plan.

"(2) TREATMENT OF PUBLIC ENTITIES.—Paragraph (1) shall not apply to an organization that is a public entity or if the solvency of such organization is guaranteed by the State.

"(3) TRANSITION.—In the case of a capitated health care organization that as of the date of the enactment of this title has entered into a contract with a State for the provision of medical assistance under title XIX under which the organization assumes full financial risk and is receiving capitation payments, paragraph (1) shall not apply to such organization until 3 years after the date of the enactment of this title.

"SEC. 2112. SET-ASIDES OF FUNDS.

"(a) FOR TARGETED LOW-INCOME FAMILIES.—

"(1) IN GENERAL.—Subject to subsection (f), a MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for targeted low-income families (as defined in paragraph (3)) for a fiscal year shall be not less than the minimum low-income-family percentage specified in paragraph (2) of the total funds expended under the plan for all medical assistance for the fiscal year.

"(2) MINIMUM LOW-INCOME-FAMILY PERCENTAGE.—The minimum low-income-family percentage specified in this paragraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which were attributable to expenditures for medical assistance for mandated benefits (as defined in subsection (h)) furnished to individuals—

"(A) who (at the time of furnishing the assistance) were under 65 years of age;

"(B) whose coverage (at such time) under a State plan under title XIX was required under Federal law; and

"(C) whose eligibility for such coverage (at such time) was not on a basis directly related to disability status, including being blind.

"(3) TARGETED LOW-INCOME FAMILY DEFINED.—In this subsection, the term 'targeted low-income family' means a family (which may be an individual)—

"(A) which includes a child or a pregnant woman; and

"(B) the income of which does not exceed 185 percent of the poverty line applicable to a family of the size involved.

"(b) FOR LOW-INCOME ELDERLY.—

"(1) SET-ASIDES.—Subject to subsection (f)—

"(A) GENERAL SET-ASIDE.—A MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income elderly individuals for a fiscal year shall be not less than the minimum low-income-elderly percentage specified in paragraph (2)(A) of the total funds expended under the plan for all medical assistance for the fiscal year.

"(B) SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—A MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for medicare cost-sharing described in section 2171(c)(1) for a fiscal year shall be not less than the minimum medicare premium assistance percentage specified in paragraph (2)(B) of the total funds expended under the plan for all medical assistance for the fiscal year. The MediGrant plan shall provide priority for such making such assistance available for targeted low-income elderly individuals (as defined in paragraph (3)).

"(2) MINIMUM PERCENTAGES.—

"(A) FOR GENERAL SET-ASIDE.—The minimum low-income-elderly percentage specified in this subparagraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(i) whose eligibility for such assistance was based on their being 65 years of age or older; and

"(ii)(I) whose coverage (at such time) under a State plan under title XIX was required under Federal law, or (II) who (at such time) were residents of a nursing facility.

"(B) FOR SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—The minimum medicare premium assistance percentage specified in this subparagraph for a State is equal to 90 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1993 through 1995 which was attributable to expenditures for medical assistance for medicare premiums described in section 1905(p)(3)(A) for individuals whose coverage (at such time) for such assistance for such premiums under a State plan under title XIX was required under Federal law.

"(3) TARGETED LOW-INCOME ELDERLY INDIVIDUAL DEFINED.—In this subsection, the term 'targeted low-income elderly individual' means an elderly individual whose family income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(c) FOR LOW-INCOME DISABLED PERSONS.—

"(1) IN GENERAL.—Subject to subsection (f), a MediGrant plan shall provide that the percentage of funds expended under the plan for medical assistance for eligible low-income individuals who are not elderly individuals and who are eligible for such assistance on the basis of a disability, including being blind, for a fiscal year is not less than the minimum low-income-disabled percentage specified in paragraph (2) of the total funds expended under the plan for medical assistance for the fiscal year.

"(2) MINIMUM LOW-INCOME-DISABLED PERCENTAGE.—The minimum low-income-disabled percentage specified in this paragraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(A) whose coverage (at such time) under a State plan under title XIX was required under Federal law; and

"(B) whose coverage (at such time) was on a basis directly related to disability status, including being blind.

"(d) FOR SERVICES PROVIDED AT FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.—Subject to subsection (f), a MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for services provided at rural health clinics (as defined in section 1861(aa)(2)) and Federally-qualified health centers (as defined in section 1861(aa)(4)), for eligible low-income individuals for a fiscal year is not less than 85 percent of the average annual expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which were attributable to expenditures for medical assistance for rural health clinic services and Federally-qualified health center services (as defined in section 1905(l)).

"(e) USE OF RESIDUAL FUNDS.—

"(1) IN GENERAL.—Subject to limitations on payment under section 2123, any funds not required to be expended under the set-asides under the previous subsections may be expended under the MediGrant plan for any of the following:

"(A) ADDITIONAL MEDICAL ASSISTANCE.—Medical assistance for eligible low-income individuals (as defined in section 2171(b)), in addition to any medical assistance made available under a previous subsection.

"(B) MEDICALLY-RELATED SERVICES.—Payment for medically-related services (as defined in paragraph (2)).

"(C) ADMINISTRATION.—Payment for the administration of the MediGrant plan.

"(2) MEDICALLY-RELATED SERVICES DEFINED.—In this title, the term 'medically-related services' means services reasonably related to, or in direct support of, the State's attainment of one or more of the strategic objectives and performance goals established under section 2101, but does not include items and services included on the list under section 2171(a) (relating to the definition of medical assistance).

"(f) EXCEPTIONS TO MINIMUM SET-ASIDES.—

"(1) ALTERNATIVE MINIMUM SET-ASIDES.—

"(A) IN GENERAL.—A State may provide in its MediGrant plan (through an amendment to the plan) for a lower percentage of expenditures than the minimum percentages specified in any (or all) of paragraphs (2) of subsections (a), (b), (c), and (d) if the State determines (and certifies to the Secretary) that—

"(i) the health care needs of the low-income populations described in paragraph (1) of the subsections (a), (b), (c), or (d) who are eligible for medical assistance under the plan during the previous fiscal year (or medicare premium assistance needs described in subsection (b)(1)(B)) can be reasonably met without the expenditure of the percentages otherwise required to be expended,

"(ii) the performance goals established under section 2101 relating to the respective population can reasonably be met with the expenditure of such lower percentage of funds, and

"(iii) in the case of subsection (d) with respect to rural health clinic services and Federally-qualified health center services, the health care needs of eligible low-income individuals residing in medically underserved rural areas can reasonably be met without the level of expenditure for such services otherwise required and the performance goals established under section 2101 relating to such individuals can reasonably be met with such lower level of expenditures.

"(B) PERIOD OF APPLICATION.—The determination and certification under subparagraph (A) shall be made for such period as a State may request, but may not be made for a period of more than 3 consecutive Federal fiscal years (beginning with the first fiscal year for which the lower percentage is sought). A new determination and certification must be made under such clause for any subsequent period.

"(C) NO EXCEPTION PERMITTED BEFORE FISCAL YEAR 1998.—This paragraph may not apply with respect to the percentages described in paragraphs (2) of subsections (a), (b), and (c) for a fiscal year before fiscal year 1998.

"(2) INDEPENDENT CERTIFICATION OF COMPLIANCE WITH GOALS.—

"(A) IN GENERAL.—For purposes of section 2151(c), a MediGrant plan shall not be considered to be in substantial violation of the requirements of this section if the amount of actual State expenditures specified in any (or all) of paragraphs (1) of subsections (a), (b), (c), and (d) is lower than the minimum percentages specified in any (or all) of paragraphs (2) of such subsections if an independent actuary determines and certifies to the State that the MediGrant plan is reasonably designed to result in a level of expenditures which is consistent with the requirements of such subsections.

"(B) LIMIT ON VARIATION.—Subparagraph (A) shall not apply in the case of a MediGrant plan for which the actual State expenditures described in any (or all) of paragraphs (1) of subsections (a), (b), (c), and (d) are less than 95 percent of the expenditures which would be made if the amount of State expenditures specified in any (or all) of such paragraphs was equal to the applicable minimum percentage specified in any (or all) of paragraphs (2) of such subsections.

"(g) COMPUTATIONS.—States shall calculate the minimum percentages under paragraphs (2) of subsections (a), (b), (c), and (d) in a reasonable manner consistent with reports submitted to the Secretary for the fiscal years involved and medical assistance attributable to the exception provided under section 1903(v)(2) shall not be considered to be expenditures for medical assistance.

"(h) BENEFITS INCLUDED FOR PURPOSES OF COMPUTING SET-ASIDES.—In this section, the term 'mandated benefits'—

"(1) means medical assistance for items and services described in section 1905(a) to the extent such assistance with respect to such items and services was required to be provided under title XIX,

"(2) includes medical assistance for medicare cost-sharing only to the extent such assistance was required to be provided under section 1902(a)(10)(E), and

"(3) does not include medical assistance attributable to disproportionate share payment adjustments described in section 1923.

"SEC. 2113. PREMIUMS AND COST-SHARING.

"(a) IN GENERAL.—Subject to subsection (b), if any charges are imposed under the MediGrant plan for cost-sharing (as defined in subsection (d)), such cost-sharing shall be pursuant to a public cost-sharing schedule.

"(b) LIMITATION ON PREMIUM AND CERTAIN COST-SHARING FOR LOW-INCOME FAMILIES INCLUDING CHILDREN OR PREGNANT WOMEN.—

"(1) IN GENERAL.—In the case of a pregnant woman or a child who is a member of a family described in paragraph (2)—

"(A) the plan shall not impose any premium, and

"(B) the plan shall not (except as provided in subsection (c)(1)) impose any cost-sharing with respect to primary and preventive care services (as defined by the State) covered under the MediGrant plan for children or pregnant women unless such cost-sharing is nominal in nature.

"(2) FAMILY DESCRIBED.—A family described in this paragraph is a family (which may be an individual) which—

"(A) includes a child or a pregnant woman,

"(B) is made eligible for medical assistance under the MediGrant plan, and

"(C) the income of which does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(c) CERTAIN COST-SHARING PERMITTED.—Nothing in this section shall be construed as preventing a MediGrant plan (consistent with subsection (b))—

"(1) from imposing cost-sharing to discourage the inappropriate use of emergency medical services delivered through a hospital emergency room, a medical transportation provider, or otherwise,

"(2) from imposing premiums and cost-sharing differentially in order to encourage the use of primary and preventive care and discourage unnecessary or less economical care,

"(3) from scaling cost-sharing in a manner that reflects economic factors, employment status, and family size,

"(4) from scaling cost-sharing based on the availability to the individual or family of other health insurance coverage, or

"(5) from scaling cost-sharing based on participation in employment training programs, drug or alcohol abuse treatment, counseling programs, or other programs promoting personal responsibility.

"(d) COST-SHARING DEFINED.—In this section, the term 'cost-sharing' includes copayments, deductibles, coinsurance, and other charges for the provision of health care services.

"SEC. 2114. DESCRIPTION OF PROCESS FOR DEVELOPING CAPITATION PAYMENT RATES.

"(a) IN GENERAL.—If a State contracts (or intends to contract) with a capitated health care organization (as defined in subsection (c)(1)) under which the State makes a capitation payment (as defined in subsection (c)(2)) to the organization for providing or arranging for the provision of medical assistance under the MediGrant plan for a group of services, including at least inpatient hospital services and physicians' services, the plan shall include a description of the following:

"(1) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—

"(A) to analyze and project health care expenditures and utilization for individuals enrolled (or to be enrolled) in such an organization under the MediGrant plan, and

"(B) to develop capitation payment rates, including a brief description of the general methodologies used by actuaries.

"(2) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications, including any accreditation, State licensure or certification, or provider network standards, required by the State for participation of capitated health care organizations under the MediGrant plan.

"(3) DISSEMINATION PROCESS.—The process used by the State under subsection (b) and otherwise to disseminate, before entering into contracts with capitated health care organizations, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).

"(b) PUBLIC NOTICE AND COMMENT.—Under the MediGrant plan the State shall provide a process for providing, before the beginning of each contract year—

"(1) public notice of—

"(A) the amounts of the capitation payments (if any) made under the plan for the contract year preceding the public notice, and

"(B)(i) the information described under subsection (a)(1) with respect to capitation payments for the contract year involved, or (ii) amounts of the capitation payments the State expects to make for the contract year involved, unless such information is designated as proprietary and not subject to public disclosure under State law, and

"(2) an opportunity for receiving public comment on the amounts and information for which notice is provided under paragraph (1).

"(c) DEFINITIONS.—In this title:

"(1) CAPITATED HEALTH CARE ORGANIZATION.—The term 'capitated health care organization' means a health maintenance organization or any other entity (including a health insuring organization, managed care organization, prepaid health plan, integrated service network, or similar entity) which under State law is permitted to accept capitation payments for providing (or arranging for the provision of) a group of items and services including at least inpatient hospital services and physicians' services.

"(2) CAPITATION PAYMENT.—The term 'capitation payment' means, with respect to payment, payment on a prepaid capitation basis or any other risk basis to an entity for the entity's provision (or arranging for the provision) of a group of items and services, including at least inpatient hospital services and physicians' services.

"SEC. 2115. PREVENTING SPOUSAL IMPOVERISHMENT.

"(a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—

"(1) SUPERSEDES OTHER PROVISIONS.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title which is inconsistent with them.

"(2) DOES NOT AFFECT CERTAIN DETERMINATIONS.—Except as this section specifically provides, this section does not apply to—

"(A) the determination of what constitutes income or resources, or

"(B) the methodology and standards for determining and evaluating income and resources.

"(3) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section shall only apply to a State that is one of the 50 States or the District of Columbia.

"(b) RULES FOR TREATMENT OF INCOME.—

"(1) SEPARATE TREATMENT OF INCOME.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

"(2) ATTRIBUTION OF INCOME.—In determining the income of an institutionalized spouse or community spouse for purposes of the post-eligibility income determination described in subsection (d), except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

"(A) NON-TRUST PROPERTY.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

"(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse,

"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them, and

"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).

"(B) TRUST PROPERTY.—In the case of a trust—

"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title; and

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse,

"(II) if payment of income is made to both the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them, and

"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).

"(C) PROPERTY WITH NO INSTRUMENT.—In the case of income not from a trust in which there is no instrument establishing ownership, subject to subparagraph (D), ½ of the income shall be considered to be available to the institutionalized spouse and ½ to the community spouse.

"(D) REBUTTING OWNERSHIP.—The rules of subparagraphs (A) and (C) are superseded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.

"(c) RULES FOR TREATMENT OF RESOURCES.—

"(1) COMPUTATION OF SPOUSAL SHARE AT TIME OF INSTITUTIONALIZATION.—

"(A) TOTAL JOINT RESOURCES.—There shall be computed (as of the beginning of the first continuous period of institutionalization of the institutionalized spouse)—

"(i) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest, and

"(ii) a spousal share which is equal to ½ of such total value.

"(B) ASSESSMENT.—At the request of an institutionalized spouse or community spouse, at the beginning of the first continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the State shall promptly assess and document the total value described in subparagraph (A)(i) and shall provide a copy of such assessment and documentation to each spouse and shall retain a copy of the assessment for use under this section. If the request is not part of an application for medical assistance under this title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State shall include a notice indicating that the spouse will have a right to a fair hearing under subsection (e)(2).

"(2) ATTRIBUTION OF RESOURCES AT TIME OF INITIAL ELIGIBILITY DETERMINATION.—In determining the resources of an institutionalized spouse at the time of application for medical assistance under this title, regardless of any State laws relating to community property or the division of marital property—

"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and

"(B) resources shall be considered to be available to an institutionalized spouse, but only to the extent that the amount of such resources exceeds the amount computed under subsection (f)(2)(A) (as of the time of application for medical assistance).

"(3) ASSIGNMENT OF SUPPORT RIGHTS.—The institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where—

"(A) the institutionalized spouse has assigned to the State any rights to support from the community spouse,

"(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such assignment, or

"(C) the State determines that denial of eligibility would work an undue hardship.

"(4) SEPARATE TREATMENT OF RESOURCES AFTER ELIGIBILITY FOR MEDICAL ASSISTANCE ESTABLISHED.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for medical assistance under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

"(5) RESOURCES DEFINED.—In this section, the term 'resources' does not include—

"(A) resources excluded under subsection (a) or (d) of section 1613, and

"(B) resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

"(d) PROTECTING INCOME FOR COMMUNITY SPOUSE.—

"(1) ALLOWANCES TO BE OFFSET FROM INCOME OF INSTITUTIONALIZED SPOUSE.—After an institutionalized spouse is determined or redetermined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

"(A) A personal needs allowance (described in paragraph (2)(A)), in an amount not less than the amount specified in paragraph (2)(C).

"(B) A community spouse monthly income allowance (as defined in paragraph (3)), but only to the extent income of the institutionalized spouse is made available to (or for the benefit of) the community spouse.

"(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (4)(A)(i) exceeds the amount of the monthly income of that family member.

"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse as provided under paragraph (6).

In subparagraph (C), the term ‘family member’ only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

“(2) PERSONAL NEEDS ALLOWANCE.—

“(A) IN GENERAL.—The MediGrant plan must provide that, in the case of an institutionalized individual or couple described in subparagraph (B), in determining the amount of the individual’s or couple’s income to be applied monthly to payment for the cost of care in an institution, there shall be deducted from the monthly income (in addition to other allowances otherwise provided under the plan) a monthly personal needs allowance—

“(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution, and

“(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in subparagraph (C).

“(B) INSTITUTIONALIZED INDIVIDUAL OR COUPLE DEFINED.—In this paragraph, the term ‘institutionalized individual or couple’ means an individual or married couple—

“(i) who is an inpatient (or who are inpatients) in a medical institution or nursing facility for which payments are made under this title throughout a month, and

“(ii) who is or are determined to be eligible for medical assistance under the State MediGrant plan.

“(C) MINIMUM ALLOWANCE.—The minimum monthly personal needs allowance described in this subparagraph is $40 for an institutionalized individual and $80 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).

“(3) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—

“(A) IN GENERAL.—In this section (except as provided in subparagraph (B)), the community spouse monthly income allowance for a community spouse is an amount by which—

“(i) except as provided in subsection (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (4)) for the spouse, exceeds

“(ii) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

“(B) COURT ORDERED SUPPORT.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

“(4) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—

“(A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which, subject to subparagraph (B), is equal to or exceeds—

“(i) 150 percent of 1/12 of the poverty line applicable to a family unit of 2 members, plus

“(ii) an excess shelter allowance (as defined in paragraph (4)).

A revision of the poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

“(B) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (e) and (g)).

“(5) EXCESS SHELTER ALLOWANCE DEFINED.—In paragraph (4)(A)(ii), the term ‘excess shelter allowance’ means, for a community spouse, the amount by which the sum of—

“(A) the spouse’s expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charge, for the community spouse’s principal residence, and

“(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse’s actual utility expenses, exceeds 30 percent of the amount described in paragraph (4)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (B) shall be reduced to the extent the maintenance charge includes utility expenses.

“(6) TREATMENT OF INCURRED EXPENSES.—With respect to the post-eligibility treatment of income under this section, there shall be disregarded reparation payments made by the Federal Republic of Germany and, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

“(A) medicare and other health insurance premiums, deductibles, or coinsurance, and

“(B) necessary medical or remedial care recognized under State law but not covered under the State MediGrant plan under this title, subject to reasonable limits the State may establish on the amount of these expenses.

“(e) NOTICE AND HEARING.—

“(1) NOTICE.—Upon—

“(A) a determination of eligibility for medical assistance of an institutionalized spouse, or

“(B) a request by either the institutionalized spouse, or the community spouse, or a representative acting on behalf of either spouse,

each State shall notify both spouses (in the case described in subparagraph (A)) or the spouse making the request (in the case described in subparagraph (B)) of the amount of the community spouse monthly income allowance (described in subsection (d)(1)(B)), of the amount of any family allowances (described in subsection (d)(1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (f), and of the spouse’s right to a hearing under the MediGrant plan respecting ownership or availability of income or resources, and the determination of the community spouse monthly income or resource allowance.

“(2) RESULTS OF HEARING.—

“(A) REVISION OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—If either such spouse establishes in a hearing under this subsection that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance in subsection (d)(2)(A), an amount adequate to provide such additional income as is necessary.

“(B) REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—If either such spouse establishes in such a hearing that the community spouse resource allowance (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse’s income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance under subsection (f)(2), an amount adequate to provide such a minimum monthly maintenance needs allowance.

“(f) PERMITTING TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—

“(1) IN GENERAL.—An institutionalized spouse may, without regard to any other provision of the MediGrant plan to the contrary, transfer an amount equal to the community spouse resource allowance (as defined in paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to, or for the sole benefit of, the community spouse. The transfer under the preceding sentence shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account such time as may be necessary to obtain a court order under paragraph (3).

“(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DEFINED.—In paragraph (1), the ‘community spouse resource allowance’ for a community spouse is an amount (if any) by which—

“(A) the greatest of—

“(i) $12,000 (subject to adjustment under subsection (g)), or, if greater (but not to exceed the amount specified in clause (ii)(II)) an amount specified under the State MediGrant plan,

“(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) $60,000 (subject to adjustment under subsection (g)), or

“(iii) the amount established under subsection (e)(2);

exceeds

“(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

“(g) INDEXING DOLLAR AMOUNTS.—For services furnished during a calendar year after 1989, the dollar amounts specified in subsections (d)(3)(C), (f)(2)(A)(i), and (f)(2)(A)(ii)(II) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

“(h) DEFINITIONS.—In this section:

“(1) INSTITUTIONALIZED SPOUSE.—The term ‘institutionalized spouse’ means an individual—

“(A)(i) who is in a medical institution or nursing facility, or

“(ii) at the option of the State (I) who would be eligible under the MediGrant plan under this title if such individual was in a medical institution, (II) with respect to whom there has been a determination that but for the provision of home or community-based services such individual would require the level of care provided in a hospital, nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the plan, and (III) who will receive home or community-based services pursuant the plan; and

“(B) is married to a spouse who is not in a medical institution or nursing facility;

but does not include any such individual who is not likely to meet the requirements of subparagraph (A) for at least 30 consecutive days.

“(2) COMMUNITY SPOUSE.—The term ‘community spouse’ means the spouse of an institutionalized spouse.

“SEC. 2116. STATE FLEXIBILITY.

“(a) STATE FLEXIBILITY IN BENEFITS, PROVIDER PAYMENTS, GEOGRAPHICAL COVERAGE AREA, AND SELECTION OF PROVIDERS.—Nothing in this title (other than subsections (c) and (d) of section 2111) shall be construed as requiring a State—

“(1) to provide medical assistance for any particular items or services,

“(2) to provide for any payments with respect to any specific health care providers or any level of payments for any services,

“(3) to provide for the same medical assistance in all geographical areas or political subdivisions of the State, so long as medical assistance is made available in all such areas or subdivisions,

“(4) to provide that the medical assistance made available to any individual eligible for medical assistance must not be less in amount, duration, or scope than the medical assistance made available to any other such individual, or

"(5) to provide that any individual eligible for medical assistance with respect to an item or service may choose to obtain such assistance from any institution, agency, or person qualified to provide the item or service.

"(b) STATE FLEXIBILITY WITH RESPECT TO MANAGED CARE.—Nothing in this title shall be construed—

"(1) to limit a State's ability to contract with, on a capitated basis or otherwise, health care plans or individual health care providers for the provision or arrangement of medical assistance,

"(2) to limit a State's ability to contract with health care plans or other entities for case management services or for coordination of medical assistance, or

"(3) to restrict a State from establishing capitation rates on the basis of competition among health care plans or negotiations between the State and one or more health care plans.

"PART C—PAYMENTS TO STATES

"SEC. 2121. ALLOTMENT OF FUNDS AMONG STATES.

"(a) ALLOTMENTS.—

"(1) COMPUTATION.—The Secretary shall provide for the computation of State obligation and outlay allotments in accordance with this section for each fiscal year beginning with fiscal year 1996.

"(2) LIMITATION ON OBLIGATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not enter into obligations with any State under this title for a fiscal year in excess of the obligation allotment for that State for the fiscal year under paragraph (4). The sum of such obligation allotments for all States in any fiscal year (excluding amounts carried over under subparagraph (B) and excluding changes in allotments effected under paragraph (4)(D)) shall not exceed the aggregate limit on new obligation authority specified in paragraph (3) for that fiscal year.

"(B) ADJUSTMENTS.—

"(i) CARRYOVER OF ALLOTMENT PERMITTED.—If the amount of obligations entered into under this part with a State for quarters in a fiscal year is less than the amount of the obligation allotment under this section to the State for the fiscal year, the amount of the difference shall be added to the amount of the State obligation allotment otherwise provided under this section for the succeeding fiscal year. This clause shall be applied separately with respect to the portion of the obligation allotment that is attributable to the supplemental outlay allotment under subsection (f).

"(ii) REDUCTION FOR POST-ENACTMENT NEW OBLIGATIONS UNDER TITLE XIX IN FISCAL YEAR 1996.—The amount of the obligation allotment otherwise provided under this section for fiscal year 1996 for a State shall be reduced by the amount of the obligations entered into with respect to the State under section 1903(a) after the date of the enactment of this title.

"(C) NO EFFECT ON PRIOR YEAR OBLIGATIONS.—Subparagraph (A) shall not apply to or affect obligations for a fiscal year prior to fiscal year 1996.

"(D) OBLIGATION.—For purposes of this section, the Secretary's establishment of an estimate under section 2123(b) of the amount a State is entitled to receive for a quarter (taking into account any adjustments described in such subsection) shall be treated as the obligation of such amount for the State as of the first day of the quarter.

"(3) AGGREGATE LIMIT ON NEW OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (C), the 'aggregate limit on new obligation authority', for a fiscal year, is the pool amount under subsection (b) for the fiscal year, divided by the payout adjustment factor (described in subparagraph (B)) for the fiscal year.

"(B) PAYOUT ADJUSTMENT FACTOR.—For purposes of this subsection, the 'payout adjustment factor'—

"(i) for fiscal year 1996 is 0.950,

"(ii) for fiscal year 1997 is 0.986, and

"(iii) for a subsequent fiscal year is 0.998.

"(C) TRANSITIONAL ADJUSTMENT FOR PRE-ENACTMENT-OBLIGATION OUTLAYS.—In order to account for pre-enactment-obligation outlays described in paragraph (4)(C)(iv), in determining the aggregate limit on new obligation authority under subparagraph (A) for fiscal year 1996, the pool amount for such fiscal year is equal to—

"(i) the pool amount for such year, reduced by

"(ii) $24,624,000,000.

"(4) OBLIGATION ALLOTMENTS.—

"(A) GENERAL RULE FOR 50 STATES AND THE DISTRICT OF COLUMBIA.—Except as provided in this paragraph, the 'obligation allotment' for any of the 50 States or the District of Columbia for a fiscal year (beginning with fiscal year 1997) is an amount that bears the same ratio to the outlay allotment under subsection (c)(2) for such State or District (not taking into account any adjustment due to an election under paragraph (4)) for the fiscal year as the ratio of—

"(i) the aggregate limit on new obligation authority (less the total of the obligation allotments under subparagraph (B)) for the fiscal year, to

"(ii) the pool amount (less the sum of the outlay allotments for the territories) for such fiscal year.

"(B) TERRITORIES.—The obligation allotment for each of the Commonwealths and territories for a fiscal year is the outlay allotment for such Commonwealth or territory (as determined under subsection (c)(5)) for the fiscal year divided by the payout adjustment factor for the fiscal year (as defined in paragraph (3)(B)).

"(C) TRANSITIONAL RULE FOR FISCAL YEAR 1996.—

"(i) IN GENERAL.—The obligation amount for fiscal year 1996 for any State (including the District of Columbia, a Commonwealth, or territory) is determined according to the formula: A=(B-C)/D, where—

"(I) 'A' is the obligation amount for such State,

"(II) 'B' is the outlay allotment of such State for fiscal year 1996, as determined under subsection (c),

"(III) 'C' is the amount of the pre-enactment-obligation outlays (as established for such State under clause (ii)), and

"(IV) 'D' is the payout adjustment factor for such fiscal year (as defined in paragraph (3)(B)).

"(ii) PRE-ENACTMENT-OBLIGATION OUTLAY AMOUNTS.—Within 30 days after the date of the enactment of this title, the Secretary shall estimate (based on the best data available) and publish in the Federal Register the amount of the pre-enactment-obligation outlays (as defined in clause (iv)) for each State (including the District of Columbia, Commonwealths, and territories). The total of such amounts shall equal the dollar amount specified in paragraph (3)(C)(ii).

"(iii) AGREEMENT.—The submission of a MediGrant plan by a State under this title is deemed to constitute the State's acceptance of the obligation allotment limitations under this subsection, including the formula for computing the amount of such obligation allotment.

"(iv) PRE-ENACTMENT-OBLIGATION OUTLAYS DEFINED.—In this subsection, the term 'pre-enactment-obligation outlays' means, for a State, the outlays of the Federal Government that result from obligations that have been incurred under title XIX with respect to the State before the date of the enactment of this title, but for which payments to States have not been made as of such date of enactment.

"(D) ADJUSTMENT TO REFLECT ADOPTION OF ALTERNATIVE GROWTH FORMULA.—Any State that has elected an alternative growth formula under subsection (c)(4) which increases or decreases the dollar amount of an outlay allotment for a fiscal year is deemed to have increased or decreased, respectively, its obligation amount for such fiscal year by the amount of such increase or decrease.

"(E) TRANSITIONAL CORRECTION FOR FISCAL YEAR 1997.—

"(i) IN GENERAL.—The obligation amount for fiscal year 1997 for any State described in clause (ii) shall be increased by 90 percent of the amount by which 90 percent of the amount described in clause (ii)(I) exceeds the amount described in clause (ii)(II), divided by the payout adjustment factor specified in paragraph (3)(B) for fiscal year 1996. The increase under this clause shall be paid to a State in the first quarter of fiscal year 1997.

"(ii) STATES DESCRIBED.—A State described in this clause is a State for which—

"(I) the amount of the pre-enactment-obligation outlays (as established for such State under subparagraph (C)(ii)), exceeded

"(II) the outlays of the Federal Government during fiscal year 1996 that are attributable to obligations that were incurred under title XIX with respect to the State before the date of the enactment of this title, but for which payments to States had not been made as of such date of enactment,

by at least 10 percent of the amount described in subclause (I).

"(b) POOL OF AVAILABLE FUNDS.—

"(1) IN GENERAL.—For purposes of this section, the 'pool amount' under this subsection for—

"(A) fiscal year 1996 is $96,386,037,894,

"(B) fiscal year 1997 is $103,233,603,164,

"(C) fiscal year 1998 is $107,907,625,827,

"(D) fiscal year 1999 is $112,644,040,408,

"(E) fiscal year 2000 is $117,359,685,046,

"(F) fiscal year 2001 is $122,284,072,525,

"(G) fiscal year 2002 is $127,418,239,580, and

"(H) each subsequent fiscal year is the pool amount under this paragraph for the previous fiscal year increased by the lesser of 4.2 percent or the annual percentage increase in the gross domestic product for the 12-month period ending in June before the beginning of that subsequent fiscal year.

"(2) NATIONAL MEDIGRANT GROWTH PERCENTAGE.—For purposes of this section for a fiscal year (beginning with fiscal year 1997), the 'national MediGrant growth percentage' is the percentage by which—

"(A) the pool amount under paragraph (1) for the fiscal year, exceeds

"(B) such pool amount for the previous fiscal year.

"(c) STATE OUTLAY ALLOTMENTS.—

"(1) FISCAL YEAR 1996.—

"(A) IN GENERAL.—For each of the 50 States and the District of Columbia, the amount of the State outlay allotment under this subsection for fiscal year 1996 is, subject to paragraph (4), determined in accordance with the following table:

"State or District:	Outlay allotment (in dollars):
Alabama	1,517,652,207
Alaska	204,933,213
Arizona	1,370,781,297
Arkansas	1,011,457,933
California	8,946,838,461
Colorado	757,492,679
Connecticut	1,463,011,635
Delaware	212,327,763
District of Columbia	501,412,091
Florida	3,715,624,180
Georgia	2,426,320,602
Hawaii	323,124,375
Idaho	278,329,686
Illinois	3,467,274,342

''State or District:	Outlay allotment (in dollars):
Indiana	1,952,467,267
Iowa	835,235,895
Kansas	713,700,869
Kentucky	1,577,828,832
Louisiana	2,622,000,000
Maine	694,220,790
Maryland	1,369,699,847
Massachusetts	2,870,346,862
Michigan	3,465,182,886
Minnesota	1,793,776,356
Mississippi	1,261,781,330
Missouri	1,849,248,945
Montana	312,212,472
Nebraska	463,900,417
Nevada	257,896,453
New Hampshire	360,000,000
New Jersey	2,854,621,241
New Mexico	634,756,945
New York	12,901,793,038
North Carolina	2,587,883,809
North Dakota	241,168,563
Ohio	4,034,049,690
Oklahoma	911,198,775
Oregon	1,088,670,440
Pennsylvania	4,454,423,400
Rhode Island	545,686,262
South Carolina	1,621,021,815
South Dakota	262,804,959
Tennessee	2,519,934,251
Texas	6,351,909,343
Utah	484,274,254
Vermont	248,158,729
Virginia	1,144,962,509
Washington	1,763,460,996
West Virginia	1,156,813,157
Wisconsin	1,709,500,642
Wyoming	132,925,390.

''(2) COMPUTATION OF STATE OUTLAY ALLOTMENTS.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the amount of the State outlay allotment under this subsection for one of the 50 States and the District of Columbia for a fiscal year (beginning with fiscal year 1997) is equal to the product of—

''(i) the needs-based amount determined under subparagraph (B) for such State or District for the fiscal year, and

''(ii) the scalar factor described in subparagraph (C) for the fiscal year.

''(B) NEEDS-BASED AMOUNT.—The needs-based amount under this subparagraph for a State or the District of Columbia for a fiscal year is equal to the product of—

''(i) the State's or District's aggregate expenditure need for the fiscal year (as determined under subsection (d)), and

''(ii) the State's or District's old Federal medical assistance percentage (as defined in section 2122(d)) for the fiscal year (or, in the case of fiscal year 1997, the Federal medical assistance percentage determined under section 1905(b) for fiscal year 1996).

''(C) SCALAR FACTOR.—The scalar factor under this subparagraph for a fiscal year is such proportion so that, when it is applied under subparagraph (A)(ii) for the fiscal year (taking into account the floors and ceilings under paragraph (3)), the total of the outlay allotments under this subsection for all the 50 States and the District of Columbia for the fiscal year (not taking into account any increase in an outlay allotment for a fiscal year attributable to the election of an alternative growth formula under paragraph (4)) is equal to the amount by which (i) the pool amount for the fiscal year (as determined under subsection (b)), exceeds (ii) the sum of the outlay allotments provided under paragraph (5) for the Commonwealths and territories for the fiscal year.

''(3) FLOORS AND CEILINGS.—

''(A) FLOORS.—Subject to the ceiling established under subparagraph (B), in no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the greatest of the following:

''(i) IN GENERAL.—Beginning with fiscal year 1998, 0.24 percent of the pool amount for the fiscal year.

''(ii) FLOOR BASED ON PREVIOUS YEAR'S OUTLAY ALLOTMENT.—Subject to clause (iii)—

''(I) FISCAL YEAR 1997.—For fiscal year 1997, 103.5 percent of the amount of the State outlay allotment under this subsection for fiscal year 1996.

''(II) FISCAL YEAR 1998.—For fiscal year 1998, 103 percent of the amount of the State outlay allotment under this subsection for fiscal year 1997.

''(III) SUBSEQUENT FISCAL YEARS.—For a fiscal year after 1998, 102 percent of the amount of the State outlay allotment under this subsection for the previous fiscal year.

''(iii) FLOOR BASED ON OUTLAY ALLOTMENT GROWTH RATE IN FIRST YEAR.—Beginning with fiscal year 1998, in the case of a State for which the outlay allotment under this subsection for fiscal year 1997 exceeded its outlay allotment under this subsection for the previous fiscal year by more than the national MediGrant growth percentage for fiscal year 1997, 104 percent of the amount of the State outlay allotment under this subsection for the previous fiscal year (or, if less, beginning with fiscal year 2003, 95 percent of the national MediGrant growth percentage for the year).

''(B) CEILINGS.—

''(i) IN GENERAL.—Subject to clause (ii), in no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

''(I) the State outlay allotment under this subsection for the State for the preceding fiscal year, and

''(II) the applicable percent (specified in clause (ii) or (iii)) for the fiscal year involved.

''(ii) GENERAL RULE FOR APPLICABLE PERCENT.—For purposes of clause (i), subject to clause (iii), the 'applicable percent'—

''(I) for fiscal year 1997 is 109 percent, and

''(II) for a subsequent fiscal year is 105.33 percent.

''(iii) SPECIAL RULE.—For a fiscal year after fiscal year 1997, in the case of a State (among the 50 States and the District of Columbia) that is one of the 10 States with the lowest Federal MediGrant spending per resident-in-poverty rates (as determined under clause (iv)) for the fiscal year, the 'applicable percent' is 107 percent.

''(iv) DETERMINATION OF FEDERAL MEDIGRANT SPENDING PER RESIDENT-IN-POVERTY RATE.—For purposes of clause (iii), the 'Federal MediGrant spending per resident-in-poverty rate' for a State for a fiscal year is equal to—

''(I) the State's outlay allotment under this subsection for the previous fiscal year (determined without regard to paragraph (4)), divided by

''(II) the average annual number of residents of the State in poverty (as defined in subsection (d)(2)) with respect to the fiscal year.

''(C) SPECIAL RULE.—

''(i) IN GENERAL.—Notwithstanding the preceding subparagraphs of this paragraph, the State outlay allotment for—

''(I) New Hampshire for each of the fiscal years 1997 through 2000, is $360,000,000.

''(II) Louisiana, subject to subclause (III), for each of the fiscal years 1997 through 2000, is $2,622,000,000, and

''(III) Louisiana and Nebraska for fiscal year 1997, as otherwise determined, shall be increased by $37,048,207 and $106,132,408, respectively.

''(IV) Nevada for each of fiscal years 1996, 1997, and 1998, as otherwise determined, shall be increased by $90,000,000.

''(ii) EXCEPTION.—A State described in subclause (I) or (II) of clause (i) may apply to the Secretary for use of the State outlay allotment otherwise determined under this subsection for any fiscal year, if such State notifies the Secretary not later than March 1 preceding such fiscal year that such State will be able to expend sufficient State funds in such fiscal year to qualify for such allotment.

''(iii) TREATMENT OF INCREASE AS SUPPLEMENTAL ALLOTMENT.—Any increase in an outlay allotment under clause (i)(III) or (i)(IV) shall not be taken into account for purposes of determining the scalar factor under paragraph (2) for fiscal year 1997, any State outlay allotment for a fiscal year after fiscal year 1997, the pool amount for a fiscal year after fiscal year 1997, or determination of the national MediGrant growth percentage for any fiscal year.

''(4) ELECTION OF ALTERNATIVE GROWTH FORMULA.—

''(A) ELECTION.—In order to reduce variations in increases in outlay allotments over time, any of the 50 States or the District of Columbia may elect (by notice provided to the Secretary by not later than April 1, 1996) to adopt an alternative growth rate formula under this paragraph for the determination of the State's outlay allotment in fiscal year 1996 and for the increase in the amount of such allotment in subsequent fiscal years.

''(B) FORMULA.—The alternative growth formula under this paragraph may be any formula under which a portion of the State outlay allotment for fiscal year 1996 under paragraph (1) is deferred and applied to increase the amount of its outlay allotment for one or more subsequent fiscal years, so long as the total amount of such increases for all such subsequent fiscal years does not exceed the amount of the outlay allotment deferred from fiscal year 1996.

''(5) COMMONWEALTHS AND TERRITORIES.—

''(A) IN GENERAL.—The outlay allotment for each of the Commonwealths and territories for a fiscal year is the maximum amount that could have been certified under section 1108(c) (as in effect on the day before the date of the enactment of this title) with respect to the Commonwealth or territory for the fiscal year with respect to title XIX, if the national MediGrant growth percentage (as determined under subsection (b)(2)) for the fiscal year had been substituted (beginning with fiscal year 1997) for the percentage increase referred to in section 1108(c)(1)(B) (as so in effect).

''(B) DISREGARD OF ROUNDING REQUIREMENTS.—For purposes of subparagraph (A), the rounding requirements under section 1108(c) shall not apply.

''(C) LIMITATION ON TOTAL AMOUNT FOR FISCAL YEAR 1996.—Notwithstanding the provisions of subparagraph (A), the total amount of the outlay allotments for the Commonwealths and territories for fiscal year 1996 may not exceed $139,950,000.

''(d) STATE AGGREGATE EXPENDITURE NEED DETERMINED.—

''(1) IN GENERAL.—For purposes of subsection (c), the 'State aggregate expenditure need' for a State or the District of Columbia for a fiscal year is equal to the product of the following 4 factors:

''(A) RESIDENTS IN POVERTY.—The average annual number of residents in poverty of such State or District with respect to the fiscal year (as determined under paragraph (2)).

''(B) CASE MIX INDEX.—The case mix index for such State or District (as determined under paragraph (3)) for the most recent fiscal year for which data are available, but in no case less than 0.9 or greater than 1.15.

''(C) INPUT COST INDEX.—The input cost index for the State (as determined under paragraph (4)) for the most recent fiscal year for which data are available.

''(D) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—The national average spending per resident in poverty (as determined under paragraph (5)).

''(2) RESIDENTS IN POVERTY.—In this section—

"(A) IN GENERAL.—The term 'average annual number of residents in poverty' means, with respect to a State or the District of Columbia and a fiscal year, the average annual number of residents in poverty (as defined in subparagraph (B)) in such State or District (based on data made generally available by the Bureau of the Census from the Current Population Survey) for the most recent 3-calendar-year period (ending before the fiscal year) for which such data are available.

"(B) RESIDENT IN POVERTY DEFINED.—The term 'resident in poverty' means an individual whose family income does not exceed the poverty threshold (as such terms are defined by the Office of Management and Budget and are generally interpreted and applied by the Bureau of the Census for the year involved).

"(3) CASE MIX INDEX.—

"(A) IN GENERAL.—In this subsection, the 'case mix index' for a State or the District of Columbia for a fiscal year is equal to—

"(i) the sum of—

"(I) the projected per recipient expenditures with respect to elderly individuals in such State or District for the fiscal year (determined under subparagraph (B)),

"(II) the projected per recipient expenditures with respect to the blind and disabled individuals in such State or District for the fiscal year (determined under subparagraph (C)), and

"(III) the projected per recipient expenditures with respect to other individuals in such State or District (determined under subparagraph (D));

divided by—

"(ii) the national average spending per recipient determined under subparagraph (E) for the fiscal year involved.

"(B) PROJECTED PER RECIPIENT EXPENDITURES FOR THE ELDERLY.—For purposes of subparagraph (A)(i)(I), the 'projected per recipient expenditures with respect to elderly individuals' in a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for elderly individuals, and

"(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(C) PROJECTED PER RECIPIENT EXPENDITURES FOR THE BLIND AND DISABLED.—For purposes of subparagraph (A)(i)(II), the 'projected per recipient expenditures with respect to blind and disabled individuals' in a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are eligible for medical assistance because such individuals are blind or disabled and are not elderly individuals, and

"(ii) the proportion, of all individuals who received medical assistance under this title in the State in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(D) PROJECTED PER RECIPIENT EXPENDITURES FOR OTHER INDIVIDUALS.—For purposes of subparagraph (A)(i)(III), the 'projected per recipient expenditures with respect to other individuals' in a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are not described in subparagraph (B)(i) or (C)(i), and

"(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(E) NATIONAL AVERAGE SPENDING PER RECIPIENT.—For purposes of this paragraph, the 'national average expenditures per recipient' for a fiscal year is equal to the sum of—

"(i) the product of (I) the national average described in subparagraph (B)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph,

"(ii) the product of (I) the national average described in subparagraph (C)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph, and

"(iii) the product of (I) the national average described in subparagraph (D)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph.

"(F) DETERMINATION OF NATIONAL AVERAGES AND PROPORTIONS.—

"(i) IN GENERAL.—The national averages per recipient and the proportions referred to in clauses (i) and (ii), respectively, of subparagraphs (B), (C), and (D) and subparagraph (E) shall be determined by the Secretary using the most recent data available.

"(ii) USE OF MEDICAID DATA.—If for a fiscal year there is inadequate data to compute such averages and proportions based on expenditures and numbers of individuals receiving medical assistance under this title, the Secretary may compute such averages based on expenditures and numbers of such individuals under title XIX for the most recent fiscal year for which data are available and, for this purpose—

"(I) any reference in subparagraph (B)(i) to 'elderly individuals' is deemed a reference to 'individuals whose eligibility for medical assistance is based on being 65 years of age or older',

"(II) the reference in subparagraph (C)(i) to 'and are not elderly individuals' shall be considered to be deleted, and

"(III) individuals whose basis for eligibility for medical assistance was reported as unknown shall not be counted as individuals under subparagraph (D)(i).

"(iii) EXPENDITURE DEFINED.—For purposes of this paragraph, the term 'expenditure' means medical vendor payments by basis of eligibility as reported by HCFA Form 2082.

"(4) INPUT COST INDEX.—

"(A) IN GENERAL.—In this section, the 'input cost index' for a State or the District of Columbia for a fiscal year is the sum of—

"(i) 0.15, and

"(ii) 0.85 multiplied by the ratio of (I) the annual average wages for hospital employees in such State or District for the fiscal year (as determined under subparagraph (B)), to (II) the annual average wages for hospital employees in the 50 States and the District of Columbia for such year (as determined under such subparagraph).

"(B) DETERMINATION OF ANNUAL AVERAGE WAGES OF HOSPITAL EMPLOYEES.—The Secretary shall provide for the determination of annual average wages for hospital employees in a State or the District of Columbia and, collectively, in the 50 States and the District of Columbia for a fiscal year based on the area wage data applicable to hospitals under section 1886(d)(2)(E) (or, if such data no longer exists, comparable data of hospital wages) for discharges occurring during the fiscal year involved.

"(5) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—For purposes of this subsection, the 'national average spending per resident in poverty'—

"(A) for fiscal year 1997 is equal to—

"(i) the sum (for each of the 50 States and the District of Columbia) of the total of the Federal and State expenditures under title XIX for calendar quarters in fiscal year 1994, increased by the percentage by which (I) the pool amount for fiscal year 1997, exceeds (II) $83,213,431,458 (which represents Federal medicaid expenditures for such States and District for fiscal year 1994); divided by

"(ii) the sum of the number of residents in poverty (as defined in paragraph (2)(A)) for all of the 50 States and the District of Columbia for fiscal year 1994; and

"(B) for a succeeding fiscal year is equal to the national average spending per resident in poverty under this paragraph for the preceding fiscal year increased by the national MediGrant growth percentage (as defined in subsection (b)(2)) for the fiscal year involved.

"(e) PUBLICATION OF OBLIGATION AND OUTLAY ALLOTMENTS.—

"(1) NOTICE OF PRELIMINARY ALLOTMENTS.—Not later than April 1 before the beginning of each fiscal year (beginning with fiscal year 1997), the Secretary shall initially compute, after consultation with the Comptroller General, and publish in the Federal Register notice of the proposed obligation and outlay allotments for each State under this section (not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of the methodology and data used in deriving such allotments for the year.

"(2) REVIEW BY GAO.—The Comptroller General shall submit to Congress by not later than May 15 of each such fiscal year, a report analyzing such allotments and the extent to which they comply with the precise requirements of this section.

"(3) NOTICE OF FINAL ALLOTMENTS.—Not later than July 1 before the beginning of each such fiscal year, the Secretary, taking into consideration the analysis contained in the report of the Comptroller General under paragraph (2), shall compute and publish in the Federal Register notice of the final allotments under this section (both taking into account and not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of any changes in such allotments from the initial allotments published under paragraph (1) for the fiscal year and the reasons for such changes. Once published under this paragraph, the Secretary is not authorized to change such allotments.

"(4) GAO REPORT ON FINAL ALLOTMENTS.—The Comptroller General shall submit to Congress by not later than August 1 of each such fiscal year, a report analyzing the final allotments under paragraph (3) and the extent to which they comply with the precise requirements of this section.

"(f) SUPPLEMENTAL ALLOTMENT FOR EMERGENCY HEALTH CARE SERVICES TO CERTAIN ALIENS.—

"(1) IN GENERAL.—Notwithstanding the previous provisions of this section, the amount of the State outlay allotment for each of fiscal years 1996 through 2000 for each supplemental allotment eligible State shall be increased by the amount of the supplemental outlay allotment provided under paragraph (2) for the State for that year. The amount of such increased allotment may only be used for the purpose of providing medical assistance for care and services

for aliens described in paragraph (1) of section 2123(e) and for which the exception described in paragraph (2) of such section applies. Section 2122(f)(3) shall apply to such assistance in the same manner as it applies to medical assistance described in such section.

"(2) SUPPLEMENTAL OUTLAY ALLOTMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the amount of the supplemental outlay allotment for a supplemental allotment eligible State for a fiscal year is equal to the supplemental allotment ratio (as defined in subparagraph (C)) multiplied by the supplemental pool amount (specified in subparagraph (D)) for the fiscal year.

"(B) SUPPLEMENTAL ALLOTMENT ELIGIBLE STATE.—In this subsection, the term 'supplemental allotment eligible State' means one of the 15 States with the highest number of undocumented alien residents of all the States.

"(C) SUPPLEMENTAL ALLOTMENT RATIO.—In this paragraph, the 'supplemental allotment ratio' for a State is the ratio of—

"(i) the number of undocumented aliens residing in the State, to

"(ii) the sum of such numbers for all supplemental allotment eligible States.

"(D) SUPPLEMENTAL POOL AMOUNT.—In this paragraph, the 'supplemental pool amount'—

"(i) for fiscal year 1996 is $627,325,551,

"(ii) for fiscal year 1997 is $673,388,855,

"(iii) for fiscal year 1998 is $702,313,450,

"(iv) for fiscal year 1999 is $733,140,258, and

"(v) for fiscal year 2000 is $763,831,886.

"(E) DETERMINATION OF NUMBER.—

"(i) IN GENERAL.—The number of undocumented aliens residing in a State under this paragraph—

"(I) for fiscal year 1996 shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992, and

"(II) for a subsequent fiscal year shall be determined based on the most recent updated estimate made under clause (ii).

"(ii) UPDATING ESTIMATE.—For each fiscal year beginning with fiscal year 1997, the Secretary, in consultation with the Commission of the Immigration and Naturalization Service, States, and outside experts, shall estimate the number of undocumented aliens residing in each of the 50 States and the District of Columbia.

"(3) TREATMENT FOR OBLIGATION PURPOSES.—For purposes of computing obligation allotments under subsection (a)—

"(A) the amount of the supplemental pool amount for a fiscal year shall be added to the pool amount under subsection (b) for that fiscal year, and

"(B) the amount of the supplemental allotment to a State provided under paragraph (1) shall be added to the outlay allotment of the State for that fiscal year.

"(4) SEQUENCE OF OBLIGATIONS.—For purposes of carrying out this title, payments to a supplemental allotment eligible State under section 2122 that are attributable to expenditures for medical assistance described in the second sentence of paragraph (1) shall first be counted toward the supplemental outlay allotment provided under this subsection, rather than toward the outlay allotment otherwise provided under this section.

"SEC. 2122. PAYMENTS TO STATES.

"(a) AMOUNT OF PAYMENT.—From the allotment of a State under section 2121 for a fiscal year, subject to the succeeding provisions of this title, the Secretary shall pay to each State which has a MediGrant plan approved under part E, for each quarter in the fiscal year—

"(1) an amount equal to the applicable Federal medical assistance percentage (as defined in subsection (c)) of the total amount expended during such quarter as medical assistance under the plan; plus

"(2) an amount equal to the applicable Federal medical assistance percentage of the total amount expended during such quarter for medically-related services (as defined in section 2112(e)(2)); plus

"(3) subject to section 2123(c)—

"(A) an amount equal to 90 percent of the amounts expended during such quarter for the design, development, and installation of information systems and for providing incentives to promote the enforcement of medical support orders, plus

"(B) an amount equal to 75 percent of the amounts expended during such quarter for medical personnel, administrative support of medical personnel, operation and maintenance of information systems, modification of information systems, quality assurance activities, utilization review, medical and peer review, anti-fraud activities, independent evaluations, coordination of benefits, and meeting reporting requirements under this title, plus

"(C) an amount equal to 50 percent of so much of the remainder of the amounts expended during such quarter as are expended by the State in the administration of the State MediGrant plan.

"(b) PAYMENT PROCESS.—

"(1) QUARTERLY ESTIMATES.—Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

"(2) PAYMENT.—

"(A) IN GENERAL.—The Secretary shall then pay to the State, in such installments as the Secretary may determine and in accordance with section 6503(a) of title 31, United States Code, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section (or section 1903) to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection (or under section 1903(d)).

"(B) TREATMENT AS OVERPAYMENTS.—Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 2135.

"(C) RECOVERY OF OVERPAYMENTS.—For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

"(D) NO ADJUSTMENT FOR UNCOLLECTABLES.—In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).

"(3) FEDERAL SHARE OF RECOVERIES.—The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State MediGrant plan shall be considered an overpayment to be adjusted under this subsection.

"(4) TIMING OF OBLIGATION OF FUNDS.—Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

"(5) DISALLOWANCES.—In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day treasury bill auction rates during such period.

"(c) APPLICABLE FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—In this section, except as provided in subsection (f), the term 'applicable Federal medical assistance percentage' means, with respect to one of the 50 States or the District of Columbia, at the State's or District's option—

"(1) the old Federal medical assistance percentage (as determined in subsection (d));

"(2) the lesser of—

"(A) new Federal medical assistance percentage (as determined under subsection (e)) or

"(B) the old Federal medical assistance percentage plus 10 percentage points; or

"(3) 60 percent.

"(d) OLD FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), the term 'old Federal medical assistance percentage' for any State is 100 percent less the State percentage; and the State percentage is that percentage which bears the same ratio to 45 percent as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii.

"(2) LIMITATION ON RANGE.—In no case shall the old Federal medical assistance percentage be less than 50 percent or more than 83 percent.

"(3) PROMULGATION.—The old Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1101(a)(8)(B).

"(e) NEW FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—

"(1) IN GENERAL.—

"(A) TERM DEFINED.—Except as provided in paragraph (3) and subsection (f), the term 'new Federal medical assistance percentage' means, for each of the 50 States and the District of Columbia, 100 percent reduced by the product 0.39 and the ratio of—

"(i)(I) for each of the 50 States, the total taxable resources (TTR) ratio of the State specified in subparagraph (B), or

"(II) for the District of Columbia, the per capita income ratio specified in subparagraph (C), to—

"(ii) the aggregate expenditure need ratio of the State or District, as described in subparagraph (D).

"(B) TOTAL TAXABLE RESOURCES (TTR) RATIO.—For purposes of subparagraph (A)(i)(I), the total taxable resources (TTR) ratio for each of the 50 States is—

"(i) an amount equal to the most recent 3-year average of the total taxable resources (TTR) of the State, as determined by the Secretary of the Treasury, divided by

"(ii) an amount equal to the sum of the 3-year averages determined under clause (i) for each of the 50 States.

"(C) PER CAPITA INCOME RATIO.—For purposes of subparagraph (A)(i)(II), the per capita income ratio of the District of Columbia is—

"(i) an amount equal to the most recent 3-year average of the total personal income of the District of Columbia, as determined in accordance with the provisions of section 1101(a)(8)(B), divided by

"(ii) an amount equal to the total personal income of the continental United States (including Alaska) and Hawaii, as determined under section 1101(a)(8)(B).

"(D) AGGREGATE EXPENDITURE NEED RATIO.—For purposes of subparagraph (A), with respect to each of the 50 States and the District of Columbia for a fiscal year, the aggregate expenditure need ratio is—

"(i) the State aggregate expenditure need (as defined in section 2121(d)) for the State for the fiscal year, divided by

"(ii) the such of such State aggregate expenditure needs for the 50 States and the District of Columbia for the fiscal year.

"(2) LIMITATION ON RANGE.—Except as provided in subsection (f), the new Federal medical assistance percentage shall in no case be less than 40 percent or greater than 83 percent.

"(3) PROMULGATION.—The new Federal medical assistance percentage for any State shall be promulgated in a timely manner consistent with the promulgation of the old Federal medical assistance percentage under section 1101(a)(8)(B).

"(f) SPECIAL RULES.—For purposes of this title—

"(1) COMMONWEALTHS AND TERRITORIES.—In the case of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, the old and new Federal medical assistance percentages are 50 percent.

"(2) ALASKA.—In the case of Alaska, the old Federal medical assistance percentage is that percentage which bears the same ratio to 45 percent as the square of the adjusted per capita income of such State bears to the square of the per capita income of the continental United States. For purposes of the preceding sentence, the adjusted per capita income for Alaska shall be determined by dividing the State's most recent 3-year average per capita by the input cost index for such State (as determined under section 2121(d)(4)).

"(3) INDIAN HEALTH SERVICE FACILITIES.—

"(A) IN GENERAL.—The old and new Federal medical assistance percentages shall be 100 percent with respect to the amounts expended as medical assistance for services which are received through a facility described in subparagraph (B) of an Indian tribe or tribal organization or through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).

"(B) FACILITY DESCRIBED.—For purposes of subparagraph (A), a facility described in this subparagraph is a facility of an Indian tribe if—

"(i) the facility is located in a State which, as of the date of the enactment of this title, was not operating its State plan under title XIX pursuant to a Statewide waiver approved under section 1115,

"(ii) the facility is not an Indian Health Service facility,

"(iii) the tribe owns at least 2 such facilities, and

"(iv) the tribe has at least 50,000 members (as of the date of the enactment of this title).

"(4) NO STATE MATCHING REQUIRED FOR CERTAIN EXPENDITURES.—In applying subsection (a)(1) with respect to medical assistance provided to unlawful aliens pursuant to the exception specified in section 2123(f)(2), payment shall be made for the amount of such assistance without regard to any need for a State match.

"(5) SPECIAL TRANSITIONAL RULE.—

"(A) IN GENERAL.—Notwithstanding subsections (a) and (f), in order to receive the full State outlay allotment described in section 2121(c)(3)(C)(i), a State described in subparagraph (C) shall expend State funds in a fiscal year (before fiscal year 2000) under a MediGrant plan under this title in an amount not less than the adjusted base year State expenditures, plus the applicable percentage of the difference between such expenditures and the amount necessary to qualify for the full State outlay allotment so described in such fiscal year as determined under this section without regard to this paragraph.

"(B) REDUCTION IN ALLOTMENT IF EXPENDITURE NOT MET.—In the event a State described in subparagraph (C) fails to expend State funds in an amount required by subparagraph (A) for a fiscal year, the outlay allotment described in section 2121(c)(3)(C)(i) for such year for such State shall be reduced by an amount which bears the same ratio to such outlay allotment as the State funds expended in such fiscal year bears to the amount required by subparagraph (A).

"(C) ADJUSTED BASE YEAR STATE EXPENDITURES.—For purposes of this paragraph, the term 'adjusted base year State expenditures' means—

"(i) for New Hampshire, $203,000,000, and

"(ii) for Louisiana, $355,000,000.

"(D) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage for a fiscal year is specified in the following table:

"Fiscal year:	*Applicable Percentage:*
1996	*20*
1997	*40*
1998	*60*
1999	*80.*

"(g) STATE FINANCIAL PARTICIPATION.—Each MediGrant plan shall provide for financial participation by the State equal to not less than 40 percent of the non-Federal share of the expenditures under the plan with respect to which payments may be made under this section.

"SEC. 2123. LIMITATION ON USE OF FUNDS; DISALLOWANCE.

"(a) IN GENERAL.—Funds provided to a State under this title shall only be used to carry out the purposes of this title.

"(b) DISALLOWANCES FOR EXCLUDED PROVIDERS.—

"(1) IN GENERAL.—Payment shall not be made to a State under this part for expenditures for items and services furnished—

"(A) by a provider who was excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2), or

"(B) under the medical direction or on the prescription of a physician who was so excluded, if the provider of the services knew or had reason to know of the exclusion.

"(2) EXCEPTION FOR EMERGENCY SERVICES.—Paragraph (1) shall not apply to emergency items or services, not including hospital emergency room services.

"(c) LIMITATIONS.—

"(1) IN GENERAL.—No Federal financial assistance is available for expenditures under the MediGrant plan for—

"(A) medically-related services for a quarter to the extent such expenditures exceed 5 percent of the total expenditures under the plan for the quarter, or

"(B) total administrative expenses (other than expenses described in paragraph (2) during the first 8 quarters in which the plan is in effect under this title) for quarters in a fiscal year to the extent such expenditures exceed the sum of $20,000,000 plus 10 percent of the total expenditures under the plan for the year.

"(2) ADMINISTRATIVE EXPENSES NOT SUBJECT TO LIMITATION.—The administrative expenses referred to in this paragraph are expenditures under the MediGrant plan for the following activities:

"(A) Quality assurance.

"(B) The development and operation of the certification program for nursing facilities and intermediate care facilities for the mentally retarded under section 2137.

"(C) Utilization review activities, including medical activities and activities of peer review organizations.

"(D) Inspection and oversight of providers and capitated health care organizations.

"(E) Anti-fraud activities.

"(F) Independent evaluations.

"(G) Activities required to meet reporting requirements under this title.

"(d) TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its MediGrant plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

"(e) MEDIGRANT AS SECONDARY PAYER.—Except as otherwise provided by law, no payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its MediGrant plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care program, other than a program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this subsection, rules similar to the rules for overpayments under section 2122(b) shall apply.

"(f) LIMITATION ON PAYMENTS TO EMERGENCY SERVICES FOR NONLAWFUL ALIENS.—

"(1) IN GENERAL.—Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment may be made to a State under this part for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

"(2) EXCEPTION FOR EMERGENCY SERVICES.—Payment may be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

"(A) such care and services are necessary for the treatment of an emergency medical condition of the alien,

"(B) such alien otherwise meets the eligibility requirements for medical assistance under the MediGrant plan (other than a requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment), and

"(C) such care and services are not related to an organ transplant procedure.

"(3) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this subsection, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(g) LIMITATION ON PAYMENT FOR CERTAIN OUTPATIENT PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—No payment may be made to a State under this part for medical assistance for covered outpatient drugs (as defined in section 2175(i)(2)) of a manufacturer provided under the MediGrant plan unless the manufacturer (as defined in section 2175(i)(4)) of the drug—

"(A) has entered into a MediGrant master rebate agreement with the Secretary under section 2175,

"(B) is otherwise complying with the provisions of such section,

"(C) is complying with the provisions of section 8126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section, and

"(D) subject to paragraph (4), is complying with the provisions of section 340B of the Public Health Service Act, including the requirement of entering into an agreement with the Secretary under such section.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to participate in the MediGrant master rebate agreement under section 2175.

"(3) EFFECT OF SUBSEQUENT AMENDMENTS.—For purposes of subparagraphs (C) and (D), in determining whether a manufacturer is in compliance with the requirements of section 8126 of title 38, United States Code, or section 340B of the Public Health Service Act—

"(A) the Secretary shall not take into account any amendments to such sections that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992, and

"(B) a manufacturer is deemed to meet such requirements if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of such sections (as in effect immediately after the enactment of the Veterans Health Care Act of 1992) and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after the date of the enactment of the Veterans Health Care Act of 1992.

"(4) EFFECT OF ESTABLISHMENT OF ALTERNATIVE MECHANISM UNDER PUBLIC HEALTH SERVICE ACT.—If the Secretary does not establish a mechanism to ensure against duplicate discounts or rebates under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:

"(A) Each covered entity under such section shall inform the State when it is seeking reimbursement from the MediGrant plan for medical assistance with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

"(B) Each such State shall provide a means by which such an entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment with respect to such a drug.

"PART D—PROGRAM INTEGRITY AND QUALITY

"SEC. 2131. USE OF AUDITS TO ACHIEVE FISCAL INTEGRITY.

"(a) FINANCIAL AUDITS OF PROGRAM.—

"(1) IN GENERAL.—Each MediGrant plan shall provide for an annual audit of the State's expenditures from amounts received under this title, in compliance with chapter 75 of title 31, United States Code.

"(2) VERIFICATION AUDITS.—If, after consultation with the State and the Comptroller General and after a fair hearing, the Secretary determines that a State's audit under paragraph (1) was performed in substantial violation of chapter 75 of title 31, United States Code, the Secretary may—

"(A) require that the State provide for a verification audit in compliance with such chapter, or

"(B) conduct such a verification audit.

"(3) AVAILABILITY OF AUDIT REPORTS.—Within 30 days after completion of each audit or verification audit under this subsection, the State shall—

"(A) provide the Secretary with a copy of the audit report, including the State's response to any recommendations of the auditor, and

"(B) make the audit report available for public inspection in the same manner as proposed MediGrant plan amendments are made available under section 2105.

"(b) FISCAL CONTROLS.—

"(1) IN GENERAL.—With respect to the accounting and expenditure of funds under this title, each State shall adopt and maintain such fiscal controls, accounting procedures, and data processing safeguards as the State deems reasonably necessary to assure the fiscal integrity of the State's activities under this title.

"(2) CONSISTENCY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—Such controls and procedures shall be generally consistent with generally accepted accounting principles as recognized by the Governmental Accounting Standards Board or the Comptroller General.

"(c) AUDITS OF PROVIDERS.—Each MediGrant plan shall provide that the records of any entity providing items or services for which payment may be made under the plan may be audited as necessary to ensure that proper payments are made under the plan.

"SEC. 2132. FRAUD PREVENTION PROGRAM.

"(a) ESTABLISHMENT.—Each MediGrant plan shall provide for the establishment and maintenance of an effective program for the detection and prevention of fraud and abuse by beneficiaries, providers, and others in connection with the operation of the program.

"(b) PROGRAM REQUIREMENTS.—The program established pursuant to subsection (a) shall include at least the following requirements:

"(1) DISCLOSURE OF INFORMATION.—Any disclosing entity (as defined in section 1124(a)) receiving payments under the MediGrant plan shall comply with the requirements of section 1124.

"(2) SUPPLY OF INFORMATION.—An entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, an item or service under the MediGrant plan shall supply upon request specifically addressed to the entity by the Secretary or the State agency the information described in section 1128(b)(9).

"(3) EXCLUSION.—

"(A) IN GENERAL.—The MediGrant plan shall exclude any specified individual or entity from participation in the plan for the period specified by the Secretary when required by the Secretary to do so pursuant to section 1128 or section 1128A, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual or entity during such period.

"(B) AUTHORITY.—In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the MediGrant plan for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII or under section 1128, 1128A, or 1866(b)(2).

"(4) NOTICE.—The MediGrant plan shall provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the plan, the State agency responsible for administering the plan shall promptly notify the Secretary and, in the case of a physician, the State medical licensing board of such action.

"(5) ACCESS TO INFORMATION.—The MediGrant plan shall provide that the State will provide information and access to certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 2133.

"SEC. 2133. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.

"(a) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 2132(b)(5) is that the State must provide for the following:

"(1) INFORMATION REPORTING SYSTEM.—The State must have in effect a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) responsible for the licensing of health care practitioners (or any peer review organization or private accreditation entity reviewing the services provided by health care practitioners) or entities:

"(A) Any adverse action taken by such licensing authority as a result of the proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation.

"(B) Any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the State or jurisdiction.

"(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.

"(D) Any negative action or finding by such authority, organization, or entity regarding the practitioner or entity.

"(2) ACCESS TO DOCUMENTS.—The State must provide the Secretary (or an entity designated by the Secretary) with access to such documents of the authority described in paragraph (1) as may be necessary for the Secretary to determine the facts and circumstances concerning the actions and determinations described in such paragraph for the purpose of carrying out this Act.

"(b) FORM OF INFORMATION.—The information described in subsection (a)(1) shall be provided to the Secretary (or to an appropriate private or public agency, under suitable arrangements made by the Secretary with respect to receipt, storage, protection of confidentiality, and *dissemination of information) in such a form and manner as the Secretary determines to be appropriate in order to provide for activities of the Secretary under this Act and in order to provide, directly or through suitable arrangements made by the Secretary, information—*

"(1) to agencies administering Federal health care programs, including private entities administering such programs under contract,

"(2) to licensing authorities described in subsection (a)(1),

"(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h)),

"(4) to utilization and quality control peer review organizations described in part B of title XI and to appropriate entities with contracts under section 1154(a)(4)(C) with respect to eligible organizations reviewed under the contracts,

"(5) to State MediGrant fraud control units (as defined in section 2134),

"(6) to hospitals and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986), with respect to physicians or other licensed health care practitioners that have entered (or may be entering) into an employment or affiliation relationship with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities (and such information shall be deemed to be disclosed pursuant to section 427 of, and be subject to the provisions of, that Act),

"(7) to the Attorney General and such other law enforcement officials as the Secretary deems appropriate, and

"(8) upon request, to the Comptroller General, in order for such authorities to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving health care through such programs, and to protect the fiscal integrity of such programs.

"(c) CONFIDENTIALITY OF INFORMATION PROVIDED.—The Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

"(d) APPROPRIATE COORDINATION.—The Secretary shall provide for the maximum appropriate coordination in the implementation of subsection (a) of this section and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.

"SEC. 2134. STATE MEDIGRANT FRAUD CONTROL UNITS.

"(a) IN GENERAL.—Each MediGrant plan shall provide for a State MediGrant fraud control unit described in subsection (b) that effectively carries out the functions and requirements described in such subsection, unless the State demonstrates to the satisfaction of the Secretary that the effective operation of such a unit in the State would not be cost-effective because minimal fraud exists in connection with the provision of covered services to eligible individuals under the plan, and that beneficiaries under the plan will be protected from abuse and neglect in connection with the provision of medical assistance under the plan without the existence of such a unit.

"(b) UNITS DESCRIBED.—For purposes of this section, the term 'State MediGrant fraud control unit' means a single identifiable entity of the State government which meets the following requirements:

"(1) ORGANIZATION.—The entity—

"(A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

"(B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures that—

"(i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution, and

"(ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

"(C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.

"(2) INDEPENDENCE.—The entity is separate and distinct from any State agency that has principal responsibilities for administering or supervising the administration of the MediGrant plan.

"(3) FUNCTION.—The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the MediGrant plan.

"(4) REVIEW OF COMPLAINTS.—The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the MediGrant plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

"(5) OVERPAYMENTS.—

"(A) IN GENERAL.—The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the MediGrant plan to health care providers and that are discovered by the entity in carrying out its activities.

"(B) TREATMENT OF CERTAIN OVERPAYMENTS.—If an overpayment is the direct result of the failure of the provider (or the provider's billing agent) to adhere to a change in the State's billing instructions, the entity may recover the overpayment only if the entity demonstrates that the provider (or the provider's billing agent) received prior written or electronic notice of the change in the billing instructions before the submission of the claims on which the overpayment is based.

"(6) PERSONNEL.—The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"SEC. 2135. RECOVERIES FROM THIRD PARTIES AND OTHERS.

"(a) THIRD PARTY LIABILITY.—Each MediGrant plan shall provide for reasonable steps—

"(1) to ascertain the legal liability of third parties to pay for care and services available under the plan, including the collection of sufficient information to enable States to pursue claims against third parties, and

"(2) to seek reimbursement for medical assistance provided to the extent legal liability is established where the amount expected to be recovered exceeds the costs of the recovery.

"(b) BENEFICIARY PROTECTION.—

"(1) IN GENERAL.—Each MediGrant plan shall provide that in the case of a person furnishing services under the plan for which a third party may be liable for payment—

"(A) the person may not seek to collect from the individual (or financially responsible relative) payment of an amount for the service more than could be collected under the plan in the absence of such third party liability, and

"(B) may not refuse to furnish services to such an individual because of a third party's potential liability for payment for the service.

"(2) PENALTY.—A MediGrant plan may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to 3 times the amount of any payment sought to be collected by that person in violation of paragraph (1)(A).

"(c) GENERAL LIABILITY.—The State shall prohibit any health insurer, including a group health plan as defined in section 607 of the Employee Retirement Income Security Act of 1974, a service benefit plan, or a health maintenance organization, in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a MediGrant plan for any State.

"(d) ACQUISITION OF RIGHTS OF BENEFICIARIES.—To the extent that payment has been made under a MediGrant plan in any case where a third party has a legal liability to make payment for such assistance, the State shall have in effect laws under which, to the extent that payment has been made under the plan for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services.

"(e) ASSIGNMENT OF MEDICAL SUPPORT RIGHTS.—The MediGrant plan shall provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients in accordance with section 2136.

"(f) REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT.—

"(1) IN GENERAL.—Each State with a MediGrant plan shall have in effect the following laws:

"(A) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—

"(i) the child was born out of wedlock,

"(ii) the child is not claimed as a dependent on the parent's Federal income tax return, or

"(iii) the child does not reside with the parent or in the insurer's service area.

"(B) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll, or eliminate coverage of, such a child unless the insurer is provided satisfactory written evidence that—

"(I) such court or administrative order is no longer in effect, or

"(II) the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.

"(C) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll (or eliminate coverage of) any such child unless—

"(I) the employer is provided satisfactory written evidence that such court or administrative order is no longer in effect, or the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment, or

"(II) the employer has eliminated family health coverage for all of its employees; and

"(iv) to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (except that the amount so withheld may not exceed the maximum amount permitted to be withheld under section 303(b) of the Consumer Credit Protection Act), and to pay such share of premiums to the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which an employer may withhold less than such employee's share of such premiums.

"(D) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

"(E) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

"(i) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage,

"(ii) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent, and

"(iii) to make payment on claims submitted in accordance with clause (ii) directly to such custodial parent, the provider, or the State agency.

"(F) A law that permits the State agency under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—

"(i) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

"(ii) has received payment from a third party for the costs of such services to such child, but

"(iii) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

"(2) DEFINITION.—For purposes of this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.

"(g) ESTATE RECOVERIES AND LIENS PERMITTED.—A State may take such actions as it considers appropriate to adjust or recover from the individual or the individual's estate any amounts paid as medical assistance to or on behalf of the individual under the MediGrant plan, including through the imposition of liens against the property or estate of the individual.

"SEC. 2136. ASSIGNMENT OF RIGHTS OF PAYMENT.

"(a) IN GENERAL.—For the purpose of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the MediGrant plan, each MediGrant plan shall—

"(1) provide that, as a condition of eligibility for medical assistance under the plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—

"(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under the plan and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical care by a court or administrative order) and to payment for medical care from any third party,

"(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is a pregnant woman or the individual is found to have good cause for refusing to cooperate as determined by the State, and

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State; and

"(2) provide for entering into cooperative arrangements, including financial arrangements, with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 454(3)) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the plan with respect to—

"(A) the enforcement and collection of rights to support or payment assigned under this section, and

"(B) any other matters of common concern.

"(b) USE OF AMOUNTS COLLECTED.—Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.

"SEC. 2137. QUALITY ASSURANCE REQUIREMENTS FOR NURSING FACILITIES.

"(a) NURSING FACILITY DEFINED.—In this title, the term 'nursing facility' means an institution (or a distinct part of an institution) which—

"(1) is primarily engaged in providing to residents—

"(A) skilled nursing care and related services for residents who require medical or nursing care,

"(B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or

"(C) on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities,

and is not primarily for the care and treatment of mental diseases;

"(2) has in effect a transfer agreement (meeting the requirements of section 1861(l)) with one or more hospitals having agreements in effect under section 1866; and

"(3) meets the requirements for a nursing facility described in subsections (b), (c), and (d) of this section.

Such term also includes any facility which is located in a State on an Indian reservation and is certified by the Secretary as meeting the requirements of paragraph (1) and subsections (b), (c), and (d).

"(b) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—

"(1) QUALITY OF LIFE.—

"(A) IN GENERAL.—A nursing facility must care for its residents in such a manner and in such an environment as will reasonably promote maintenance or enhancement of the quality of life of each resident.

"(B) QUALITY ASSESSMENT AND ASSURANCE.—A nursing facility must maintain a quality assessment and assurance committee, consisting of the director of nursing services, a physician designated by the facility, and at least 3 other members of the facility's staff, which (i) meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary and (ii) develops and implements appropriate plans of action to correct identified quality deficiencies. A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this subparagraph.

"(2) SCOPE OF SERVICES AND ACTIVITIES UNDER PLAN OF CARE.—A nursing facility must provide services and activities in accordance with a written plan of care which—

"(A) describes the medical, nursing, and psychosocial needs of the resident and how such needs will be met;

"(B) is initially prepared, with the participation to the extent practicable of the resident or the resident's family or legal representative, by a team which includes the resident's attending physician and a registered professional nurse with responsibility for the resident; and

"(C) is periodically reviewed and revised by such team after each assessment under paragraph (3).

"(3) RESIDENTS' ASSESSMENT.—

"(A) REQUIREMENT.—A nursing facility must conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity, which assessment—

"(i) describes the resident's capability to perform daily life functions and significant impairments in functional capacity;

"(ii) uses an instrument which is specified by the State under subsection (e)(5); and

"(iii) includes the identification of medical problems.

"(B) CERTIFICATION.—

"(i) IN GENERAL.—Each such assessment must be conducted or coordinated (with the appropriate participation of health professionals) by a registered professional nurse who signs and certifies the completion of the assessment. Each individual who completes a portion of such an assessment shall sign and certify as to the accuracy of that portion of the assessment.

"(ii) PENALTY FOR FALSIFICATION.—

"(I) An individual who willfully and knowingly certifies under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $1,000 with respect to each assessment.

"(II) An individual who willfully and knowingly causes another individual to certify under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $5,000 with respect to each assessment.

"(III) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this clause in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) USE OF INDEPENDENT ASSESSORS.—If a State determines, under a survey under subsection (g) or otherwise, that there has been a knowing and willful certification of false assessments under this paragraph, the State may require (for a period specified by the State) that resident assessments under this paragraph be conducted and certified by individuals who are independent of the facility and who are approved by the State.

"(C) FREQUENCY.—

"(i) IN GENERAL.—Such an assessment must be conducted—

"(I) promptly upon (but no later than 14 days after the date of) admission for each individual admitted;

"(II) promptly after a significant change in the resident's physical or mental condition; and

"(III) in no case less often than once every 12 months.

"(ii) RESIDENT REVIEW.—The nursing facility must examine each resident no less frequently than once every 3 months and, as appropriate, revise the resident's assessment to assure the continuing accuracy of the assessment.

"(D) USE.—The results of such an assessment shall be used in developing, reviewing, and revising the resident's plan of care under paragraph (2).

"(E) COORDINATION.—Such assessments shall be coordinated with any State-required preadmission screening program to the maximum extent practicable in order to avoid duplicative testing and effort. In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.

"(4) PROVISION OF SERVICES AND ACTIVITIES.—

"(A) IN GENERAL.—To the extent needed to fulfill all plans of care described in paragraph (2), a nursing facility must provide (or arrange for the provision of)—

"(i) nursing and related services and specialized rehabilitative services;

"(ii) medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of residents;

"(iii) pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of residents;

"(iv) dietary services that assure that the meals meet the daily nutritional and special dietary needs of residents;

"(v) an on-going program, directed by a qualified professional, of activities designed to meet the interests and the physical, mental, and psychosocial well-being of residents; and

"(vi) routine dental services (to the extent covered under the State MediGrant plan) and emergency dental services to meet the needs of residents.

The services provided or arranged by the facility must meet professional standards of quality.

"(B) QUALIFIED PERSONS PROVIDING SERVICES.—Services described in clauses (i), (ii), (iii), (iv), and (vi) of subparagraph (A) must be provided by qualified persons in accordance with each resident's written plan of care.

"(C) REQUIRED NURSING CARE; FACILITY WAIVERS.—

"(i) GENERAL REQUIREMENTS.—A nursing facility—

"(I) except as provided in clause (ii), must provide 24-hour licensed nursing services which are sufficient to meet the nursing needs of its residents, and

"(II) except as provided in clause (ii), must use the services of a registered professional nurse for at least 8 consecutive hours a day, 7 days a week.

"(ii) WAIVER BY STATE.—To the extent that a facility is unable to meet the requirements of clause (i), a State may waive such requirements with respect to the facility if—

"(I) the facility demonstrates to the satisfaction of the State that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel,

"(II) the State determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility,

"(III) the State finds that, for any such periods in which licensed nursing services are not available, a registered professional nurse or a physician is obligated to respond immediately to telephone calls from the facility,

"(IV) the State agency granting a waiver of such requirements provides notice of the waiver to the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) and the protection and advocacy system in the State for the mentally ill and the mentally retarded, and

"(V) the nursing facility that is granted such a waiver by a State notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.

A waiver under this clause shall be subject to annual review and to the review of the Secretary and subject to clause (iii) shall be accepted by the Secretary for purposes of this title to the same extent as is the State's certification of the facility. In granting or renewing a waiver, a State may require the facility to use other qualified, licensed personnel.

"(iii) ASSUMPTION OF WAIVER AUTHORITY BY SECRETARY.—If the Secretary determines that a State has shown a clear pattern and practice of allowing waivers in the absence of diligent efforts by facilities to meet the staffing requirements, the Secretary shall assume and exercise the authority of the State to grant waivers.

"(5) REQUIRED TRAINING OF NURSE AIDES.—

"(A) IN GENERAL.—(i) Except as provided in clause (ii), a nursing facility must not use on a full-time basis any individual as a nurse aide in the facility, for more than 4 months unless the individual—

"(I) has completed a training and competency evaluation program, or a competency evaluation program, approved by the State under subsection (e)(1)(A), and

"(II) is competent to provide nursing or nursing-related services.

"(ii) A nursing facility must not use on a temporary, per diem, leased, or on any other basis other than as a permanent employee any individual as a nurse aide in the facility, unless the individual meets the requirements described in clause (i).

"(B) OFFERING COMPETENCY EVALUATION PROGRAMS FOR CURRENT EMPLOYEES.—A nursing facility must provide, for individuals used as a nurse aide by the facility, for a competency evaluation program approved by the State under subsection (e)(1) and such preparation as may be necessary for the individual to complete such a program.

"(C) COMPETENCY.—The nursing facility must not permit an individual, other than in a training and competency evaluation program approved by the State, to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competency and must not use such an individual as a nurse aide unless the facility has inquired of any State registry established under subsection (e)(2)(A) that the facility believes will include information concerning the individual.

"(D) RE-TRAINING REQUIRED.—For purposes of subparagraph (A), if, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual performed nursing or nursing-related services for monetary compensation, such individual shall complete a new training and competency evaluation program, or a new competency evaluation program.

"(E) REGULAR IN-SERVICE EDUCATION.—The nursing facility must provide such regular performance review and regular in-service education as assures that individuals used as nurse aides are competent to perform services as nurse aides, including training for individuals providing nursing and nursing-related services to residents with cognitive impairments.

"(F) NURSE AIDE DEFINED.—In this paragraph, the term 'nurse aide' means any individual providing nursing or nursing-related services to residents in a nursing facility, but does not include an individual—

"(i) who is a licensed health professional (as defined in subparagraph (G)) or a registered dietician,

"(ii) who volunteers to provide such services without monetary compensation, or

"(iii) who is trained, whether compensated or not, to perform a task-specific function which assists residents in their daily activities.

"(G) LICENSED HEALTH PROFESSIONAL DEFINED.—In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, physical or occupational therapy assistant, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"(6) PHYSICIAN SUPERVISION AND CLINICAL RECORDS.—A nursing facility must—

"(A) require that the health care of every resident be provided under the supervision of a physician (or, at the option of a State, under the supervision of a nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is working in collaboration with a physician);

"(B) provide for having a physician available to furnish necessary medical care in case of emergency; and

"(C) maintain clinical records on all residents, which records include the plans of care (described in paragraph (2)) and the residents' assessments (described in paragraph (3)).

"(c) REQUIREMENTS RELATING TO RESIDENTS' RIGHTS.—

"(1) GENERAL RIGHTS.—

"(A) SPECIFIED RIGHTS.—A nursing facility must protect and promote the rights of each resident, including each of the following rights:

"(i) FREE CHOICE.—The right to choose a personal attending physician, to be fully informed in advance about care and treatment, to be fully informed in advance of any changes in care or treatment that may affect the resident's well-being, and (except with respect to a resident adjudged incompetent) to participate in planning care and treatment or changes in care and treatment.

"(ii) FREE FROM RESTRAINTS.—The right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any

physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed—

"(I) to ensure the physical safety of the resident or other residents, and

"(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary until such an order could reasonably be obtained).

"(iii) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of resident groups.

"(iv) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records and access to current clinical records of the resident upon request by the resident or the resident's legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request.

"(v) ACCOMMODATION OF NEEDS.—The right—

"(I) to reside and receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

"(II) to receive notice before the room or roommate of the resident in the facility is changed unless a delay in changing the room or roommate while notice is given would endanger the resident or others.

"(vi) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

"(vii) PARTICIPATION IN RESIDENT AND FAMILY GROUPS.—The right of the resident to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

"(viii) PARTICIPATION IN OTHER ACTIVITIES.—The right of the resident to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

"(ix) EXAMINATION OF SURVEY RESULTS.—The right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Secretary or a State with respect to the facility and any plan of correction in effect with respect to the facility.

"(x) OTHER RIGHTS.—Any other right established by the Secretary.

Clause (iii) shall not be construed as requiring the provision of a private room.

"(B) NOTICE OF RIGHTS.—A nursing facility must—

"(i) inform each resident, orally and in writing at the time of admission to the facility, of the resident's legal rights during the stay at the facility and of the requirements and procedures for establishing eligibility for medical assistance under this title, including the right to request an assessment under section 2115(c)(1)(B);

"(ii) make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights) including the notice (if any) of the State developed under subsection (e)(6);

"(iii) inform each resident who is entitled to medical assistance under this title—

"(I) at the time of admission to the facility or, if later, at the time the resident becomes eligible for such assistance, of the items and services that are included in nursing facility services under the State MediGrant plan and for which the resident may not be charged, and of those other items and services that the facility offers and for which the resident may be charged and the amount of the charges for such items and services, and

"(II) of changes in the items and services described in subclause (I) and of changes in the charges imposed for items and services described in that subclause; and

"(iv) inform each other resident, in writing before or at the time of admission and periodically during the resident's stay, of services available in the facility and of related charges for such services, including any charges for services not covered under title XVIII or by the facility's basic per diem charge.

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and a statement that a resident may file a complaint with a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

"(C) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

"(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph (2)) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually an independent, external consultant reviews the appropriateness of the drug plan of each resident receiving such drugs.

"(2) TRANSFER AND DISCHARGE RIGHTS.—

"(A) IN GENERAL.—A nursing facility must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility unless—

"(i) the transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met in the facility;

"(ii) the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;

"(iii) the safety of individuals in the facility is endangered;

"(iv) the health of individuals in the facility would otherwise be endangered;

"(v) the resident has failed, after reasonable and appropriate notice, to pay (or to have paid under this title or title XVIII on the resident's behalf) for a stay at the facility; or

"(vi) the facility ceases to operate.

In each of the cases described in clauses (i) through (iv), the basis for the transfer or discharge must be documented in the resident's clinical record. In the cases described in clauses (i) and (ii), the documentation must be made by the resident's physician, and in the case described in clause (iv) the documentation must be made by a physician. For purposes of clause (v), in the case of a resident who becomes eligible for assistance under this title after admission to the facility, only charges which may be imposed under this title shall be considered to be allowable.

"(B) PRE-TRANSFER AND PRE-DISCHARGE NOTICE.—

"(i) IN GENERAL.—Before effecting a transfer or discharge of a resident, a nursing facility must—

"(I) notify the resident (and, if known, an immediate family member of the resident or legal representative) of the transfer or discharge and the reasons therefor,

"(II) record the reasons in the resident's clinical record (including any documentation required under subparagraph (A)), and

"(III) include in the notice the items described in clause (iii).

"(ii) TIMING OF NOTICE.—The notice under clause (i)(I) must be made at least 30 days in advance of the resident's transfer or discharge except—

"(I) in a case described in clause (iii) or (iv) of subparagraph (A);

"(II) in a case described in clause (ii) of subparagraph (A), where the resident's health improves sufficiently to allow a more immediate transfer or discharge;

"(III) in a case described in clause (i) of subparagraph (A), where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs;

"(IV) in a case where a resident has not resided in the facility for 30 days; or

"(V) in a case where the provision of a 30-day notice would be impossible or impracticable.

In the case of such exceptions, notice must be given as many days before the date of the transfer or discharge as is practicable.

"(iii) ITEMS INCLUDED IN NOTICE.—Each notice under clause (i) must include—

"(I) notice of the resident's right to appeal the transfer or discharge under the State process established under subsection (e)(3);

"(II) the name, mailing address, and telephone number of the State long-term care ombudsman (established under title III or VII of the Older Americans Act of 1965);

"(III) in the case of residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy system for developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act; and

"(IV) in the case of mentally ill residents (as defined in subsection (e)(7)(G)(i)), the mailing address and telephone number of the agency responsible for the protection and advocacy system for mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

"(iv) EXCEPTION.—This subparagraph shall not apply to a voluntary transfer or discharge or a transfer or discharge necessitated by a medical emergency.

"(C) ORIENTATION.—A nursing facility must provide reasonable preparation and orientation to residents to promote safe and orderly transfer or discharge from the facility.

"(D) NOTICE ON BED-HOLD POLICY AND READMISSION.—

"(i) NOTICE BEFORE TRANSFER.—Before a resident of a nursing facility is transferred for hospitalization or therapeutic leave, a nursing facility must provide written information to the resident and an immediate family member or legal representative concerning—

"(I) the provisions of the State MediGrant plan under this title regarding the period (if any) during which the resident will be permitted under the State MediGrant plan to return and resume residence in the facility, and

"(II) the policies of the facility regarding such a period, which policies must be consistent with clause (iii).

"(ii) NOTICE UPON TRANSFER.—At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide written notice to the resident and an immediate family member or legal representative of the duration of any period described in clause (i).

"(iii) PERMITTING RESIDENT TO RETURN.—A nursing facility must establish and follow a written policy under which a resident—

"(I) who is eligible for medical assistance for nursing facility services under a State MediGrant plan,

"(II) who is transferred from the facility for hospitalization or therapeutic leave, and

"(III) whose hospitalization or therapeutic leave exceeds a period paid for under the State MediGrant plan for the holding of a bed in the facility for the resident,

will be permitted to be readmitted to the facility immediately upon the first availability of a bed in a room (not including a private room) in the facility if, at the time of readmission, the resident requires the services provided by the facility.

"(3) ACCESS AND VISITATION RIGHTS.—A nursing facility must—

"(A) permit immediate access to any resident by any representative of the Secretary, by any representative of the State, by an ombudsman or agency described in subclause (II), (III), or (IV) of paragraph (2)(B)(iii), or by the resident's individual physician;

"(B) permit immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives of the resident;

"(C) permit immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident, unless such access would endanger the health or safety of the resident or others in the facility;

"(D) permit reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time; and

"(E) permit representatives of the State ombudsman (described in paragraph (2)(B)(iii)(II)), with the permission of the resident (or the resident's legal representative) and consistent with State law, to examine a resident's clinical records.

"(4) EQUAL ACCESS TO QUALITY CARE.—

"(A) IN GENERAL.—A nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services required under the State MediGrant plan for all individuals regardless of source of payment.

"(B) CONSTRUCTION.—

"(i) NOTHING PROHIBITING ANY CHARGES FOR NON-MEDIGRANT PATIENTS.—Subparagraph (A) shall not be construed as prohibiting a nursing facility from charging any amount for services furnished, consistent with the notice in paragraph (1)(B) describing such charges.

"(ii) NO ADDITIONAL SERVICES REQUIRED.—Subparagraph (A) shall not be construed as requiring a State to offer additional services on behalf of a resident than are otherwise provided under the State MediGrant plan.

"(5) PROTECTION OF RESIDENT FUNDS.—

"(A) IN GENERAL.—The nursing facility—

"(i) may not require residents to deposit their personal funds with the facility, and

"(ii) upon the written authorization of the resident, must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.

"(B) MANAGEMENT OF PERSONAL FUNDS.—Upon written authorization of a resident under subparagraph (A)(ii), the facility must manage and account for the personal funds of the resident deposited with the facility as follows:

"(i) DEPOSIT.—The facility must deposit any amount of personal funds in excess of $250 with respect to a resident in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the facility must maintain such funds in a non-interest bearing account or petty cash fund.

"(ii) ACCOUNTING AND RECORDS.—The facility must assure a full and complete accounting of each such resident's personal funds, maintain a written record of all financial transactions involving the personal funds of a resident deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record.

"(iii) CONVEYANCE UPON DEATH.—Upon the death of a resident with such an account, the facility must convey promptly the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. All other personal property, including medical records, shall be considered part of the resident's estate and shall only be released to the administrator of the estate.

"(C) ASSURANCE OF FINANCIAL SECURITY.—The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the State, to assure the security of all personal funds of residents deposited with the facility.

"(D) LIMITATION ON CHARGES TO PERSONAL FUNDS.—The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under this title or title XVIII.

"(6) LIMITATION ON CHARGES IN CASE OF MEDIGRANT-ELIGIBLE INDIVIDUALS.—A nursing facility may not impose charges, for certain MediGrant-eligible individuals for nursing facility services covered by the State under its plan under this title, that exceed the payment amounts established by the State for such services under this title.

"(7) POSTING OF SURVEY RESULTS.—A nursing facility must post in a place readily accessible to residents, and family members and legal representatives of residents, the results of the most recent survey of the facility conducted under subsection (g).

"(d) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.—

"(1) ADMINISTRATION.—

"(A) IN GENERAL.—A nursing facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident (consistent with requirements established under subsection (f)(5)).

"(B) REQUIRED NOTICES.—If a change occurs in—

"(i) the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the facility,

"(ii) the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the facility,

"(iii) the corporation, association, or other company responsible for the management of the facility, or

"(iv) the individual who is the administrator or director of nursing of the facility,

the nursing facility must provide notice to the State agency responsible for the licensing of the facility, at the time of the change, of the change and of the identity of each new person, company, or individual described in the respective clause.

"(C) NURSING FACILITY ADMINISTRATOR.—The administrator of a nursing facility, whether freestanding or hospital-based, must meet such standards as are established by the Secretary.

"(2) LICENSING AND LIFE SAFETY CODE.—

"(A) LICENSING.—A nursing facility must be licensed under applicable State and local law.

"(B) LIFE SAFETY CODE.—A nursing facility must meet such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to nursing homes; except that—

"(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver would not adversely affect the health and safety of residents or personnel, and

"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects residents of and personnel in nursing facilities.

"(3) SANITARY AND INFECTION CONTROL AND PHYSICAL ENVIRONMENT.—A nursing facility must—

"(A) establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment in which residents reside and to help prevent the development and transmission of disease and infection, and

"(B) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents, personnel, and the general public.

"(4) MISCELLANEOUS.—

"(A) COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND PROFESSIONAL STANDARDS.—A nursing facility, whether freestanding or hospital-based, must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with accepted professional standards and principles which apply to professionals providing services in such a facility.

"(B) OTHER.—A nursing facility must meet such other requirements relating to the health and safety of residents or relating to the physical facilities thereof as the Secretary may find necessary.

"(e) STATE REQUIREMENTS RELATING TO NURSING FACILITY REQUIREMENTS.—A State with a MediGrant plan shall provide for the following:

"(1) SPECIFICATION AND REVIEW OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND OF NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—The State must—

"(A) specify those training and competency evaluation programs, and those competency evaluation programs, that the State approves for purposes of subsection (b)(5) and that meet the requirements established under subsection (f)(2), and

"(B) provide for the review and reapproval of such programs, at a frequency and using a methodology consistent with the requirements established under subsection (f)(2)(A)(iii).

"(2) NURSE AIDE REGISTRY.—

"(A) IN GENERAL.—The State shall establish and maintain a registry of all individuals who have satisfactorily completed a nurse aide training and competency evaluation program, or a nurse aide competency evaluation program, approved under paragraph (1) in the State, or any individual described in subsection (f)(2)(B)(ii) or in subparagraph (B), (C), or (D) of section 6901(b)(4) of the Omnibus Budget Reconciliation Act of 1989.

"(B) INFORMATION IN REGISTRY.—The registry under subparagraph (A) shall provide for the inclusion of specific documented findings by a State under subsection (g)(1)(C) of resident neglect or abuse or misappropriation of resident property involving an individual listed in the registry, as well as any brief statement of the individual disputing the findings. The State shall make available to the public information in the registry. In the case of inquiries to the registry concerning an individual listed in the registry, *any information disclosed concerning such a finding shall also include disclosure of any such statement in the registry relating to the finding or a clear and accurate summary of such a statement.*

"(C) PROHIBITION AGAINST CHARGES.—A State may not impose any charges on a nurse aide relating to the registry established and maintained under subparagraph (A).

"(3) STATE APPEALS PROCESS FOR TRANSFERS AND DISCHARGES.—The State must provide for a fair mechanism, meeting the guidelines established under subsection (f)(3), for hearing appeals on transfers and discharges of residents of such facilities.

"(4) NURSING FACILITY ADMINISTRATOR STANDARDS.—The State must implement and enforce the nursing facility administrator standards developed under subsection (f)(4) respecting the qualification of administrators of nursing facilities. Any such standards promulgated shall apply to administrators of hospital-based facilities as well as administrators of freestanding facilities.

"(5) SPECIFICATION OF RESIDENT ASSESSMENT INSTRUMENT.—The State shall specify the instrument to be used by nursing facilities in the State in complying with the requirement of subsection (b)(3)(A)(iii).

"(6) NOTICE OF MEDIGRANT RIGHTS.—Each State shall develop (and periodically update) a written notice of the rights and obligations of residents of nursing facilities (and spouses of such residents) under this title.

"(7) STATE REQUIREMENTS FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—

"(A) PREADMISSION SCREENING.—

"(i) IN GENERAL.—The State must have in effect a preadmission screening program, for identifying mentally ill and mentally retarded individuals (as defined in subparagraph (B)) who are admitted to nursing facilities.

"(ii) STATE REQUIREMENT FOR RESIDENT REVIEW.—The State shall notify the State mental health authority or the State mental retardation or developmental disability authority, as appropriate, of the individuals so identified.

"(B) DEFINITIONS.—In this paragraph:

"(i) An individual is considered to be 'mentally ill' if the individual has a serious mental illness (as defined by the Secretary in consultation with the National Institute of Mental Health) and does not have a primary diagnosis of dementia (including Alzheimer's disease or a related disorder) or a diagnosis (other than a primary diagnosis) of dementia and a primary diagnosis that is not a serious mental illness.

"(ii) An individual is considered to be 'mentally retarded' if the individual is mentally retarded or a person with a related condition.

"(f) RESPONSIBILITIES RELATING TO NURSING FACILITY REQUIREMENTS.—

"(1) GENERAL RESPONSIBILITY.—It is the duty and responsibility of a State with a MediGrant plan under this title to assure that requirements which govern the provision of care in nursing facilities under the plan, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of residents and to promote the effective and efficient use of public moneys.

"(2) REQUIREMENTS FOR NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND FOR NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—For purposes of subsections (b)(5) and (e)(1)(A), the State shall establish—

"(A) requirements for the approval of nurse aide training and competency evaluation programs, including requirements relating to (i) the areas to be covered in such a program (including at least basic nursing skills, personal care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents' rights) and content of the curriculum, (ii) minimum hours of initial and ongoing training and retraining, (iii) qualifications of instructors, and (iv) procedures for determination of competency;

"(B) requirements for the approval of nurse aide competency evaluation programs, including requirement relating to the areas to be covered in such a program, including at least basic nursing skills, personal care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents' rights, and procedures for determination of competency;

"(C) requirements respecting the minimum frequency and methodology to be used by a State in reviewing such programs' compliance with the requirements for such programs; and

"(D) requirements, under both such programs, that—

"(i) provide procedures for determining competency that permit a nurse aide, at the nurse aide's option, to establish competency through procedures or methods other than the passing of a written examination and to have the competency evaluation conducted at the nursing facility at which the aide is (or will be) employed, and

"(ii) prohibit the imposition on a nurse aide who is employed by (or who has received an offer of employment from) a facility on the date on which the aide begins either such program of any charges (including any charges for textbooks and other required course materials and any charges for the competency evaluation) for either such program.

"(3) QUALIFICATION OF ADMINISTRATORS.—For purposes of subsections (d)(1)(C) and (e)(4), the State shall develop standards to be applied in assuring the qualifications of administrators of nursing facilities. Any such standards must apply to administrators of hospital-based facilities as well as administrators of freestanding facilities.

"(g) SURVEY AND CERTIFICATION PROCESS.—

"(1) STATE AND FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Under each State MediGrant plan under this title, the State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of nursing facilities with the requirements of subsections (b), (c), and (d). The Secretary shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of State nursing facilities with the requirements of such subsections.

"(B) INVESTIGATION OF ALLEGATIONS OF RESIDENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF RESIDENT PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide of a resident in a nursing facility or by another individual used by the facility in providing services to such a resident. The State shall, after notice to the individual involved and a reasonable opportunity for a hearing for the individual to rebut allegations, make a finding as to the accuracy of the allegations. If the State finds that a nurse aide has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the nurse aide and the registry of such finding. If the State finds that any other individual used by the facility has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the appropriate licensure authority. A State shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.

"(2) SURVEYS.—

"(A) ANNUAL STANDARD SURVEY.—

"(i) IN GENERAL.—Each nursing facility shall be subject to a standard survey, to be conducted without any prior notice to the facility. Any individual who notifies (or causes to be notified) a nursing facility of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The State shall take all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(ii) CONTENTS.—Each standard survey shall include, for a case-mix stratified sample of residents—

"(I) a survey of the quality of care furnished, as measured by indicators of medical, nursing, and rehabilitative care, dietary and nutrition services, activities and social participation, and sanitation, infection control, and the physical environment,

"(II) written plans of care provided under subsection (b)(2) and an audit of the residents' assessments under subsection (b)(3) to determine the accuracy of such assessments and the adequacy of such plans of care, and

"(III) a review of compliance with residents' rights under subsection (c).

"(iii) FREQUENCY.—

"(I) IN GENERAL.—Each nursing facility shall be subject to a standard survey not later than 24 months after the date of the previous standard survey conducted under this subparagraph, except that in the case of a facility which has been subjected to an extended survey under subparagraph (B), a standard survey shall be conducted not later than 12 months after the date of the preceding extended survey.

"(II) SPECIAL SURVEYS.—If not otherwise conducted under subclause (I), a standard survey (or an abbreviated standard survey) may be conducted within 4 months of any change of ownership, administration, management of a nursing facility, or director of nursing in order to determine whether the change has resulted in any decline in the quality of care furnished in the facility.

"(B) EXTENDED SURVEYS.—

"(i) IN GENERAL.—Each nursing facility which is found, under a standard survey, to have provided substandard quality of care shall be subject to an extended survey. Any other facility may, at the State's discretion, be subject to such an extended survey (or a partial extended survey).

"(ii) TIMING.—The extended survey shall be conducted immediately after the standard survey (or, if not practicable, not later than 2 weeks after the date of completion of the standard survey).

"(iii) CONTENTS.—In such an extended survey, the survey team shall review and identify the policies and procedures which produced such substandard quality of care and shall determine whether the facility has complied with all the requirements described in subsections (b), (c), and (d). Such review shall include an expansion of the size of the sample of residents' assessments reviewed and a review of the staffing, of in-service training, and, if appropriate, of contracts with consultants.

"(iv) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an extended or partial extended survey as a prerequisite to imposing a sanction against a facility under subsection (h) on the basis of findings in a standard survey.

"(C) SURVEY PROTOCOL.—Standard and extended surveys shall be conducted—

"(i) based upon the protocol which the Secretary has developed, tested, and validated, as of the date of the enactment of this title, and

"(ii) by individuals, of a survey team, who meet such minimum qualifications as the State establishes.

"(D) CONSISTENCY OF SURVEYS.—Each State shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.

"(E) SURVEY TEAMS.—

"(i) IN GENERAL.—Surveys under this subsection shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse).

"(ii) PROHIBITION OF CONFLICTS OF INTEREST.—A State may not use as a member of a survey team under this subsection an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the facility surveyed respecting compliance with the requirements of subsections (b), (c), and (d), or who has a personal or familial financial interest in the facility being surveyed.

"(3) VALIDATION SURVEYS.—

"(A) IN GENERAL.—The Secretary shall conduct onsite surveys of a representative sample of nursing facilities in each State, within 4 months of the date of surveys conducted under paragraph (2) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under paragraph (2). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (2). If the State has determined that an individual nursing facility meets the requirements of subsections (b), (c), and (d), but the Secretary determines that the facility does not meet such requirements, the Secretary's determination as to the facility's noncompliance with such requirements is binding and supersedes that of the State survey.

"(B) SCOPE.—With respect to each State, the Secretary shall conduct surveys under subparagraph (A) at least every third year with respect to at least 5 percent of the number of nursing facilities surveyed by the State in the year, but in no case less than 5 nursing facilities in the State.

"(C) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has found substantial evidence of a pattern of noncompliance by a nursing facility with any of the requirements of subsections (b), (c), and (d), the Secretary may conduct a survey of the facility and, on the basis of that survey, make determinations concerning the extent to which the nursing facility meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING NURSING FACILITY COMPLIANCE.—Each State shall maintain procedures and adequate staff to—

"(A) investigate complaints of violations of requirements by nursing facilities, and

"(B) monitor, on-site, on a regular, as needed basis, a nursing facility's compliance with the requirements of subsections (b), (c), and (d), if—

"(i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;

"(ii) the facility was previously found not to be in compliance with such requirements, has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or

"(iii) the State has reason to question the compliance of the facility with such requirements.

"(5) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys and certifications made respecting nursing facilities, including statements of deficiencies, within a reasonable time after such information is made available to those facilities, and approved plans of correction,

"(ii) copies of cost reports of such facilities filed under this title or under title XVIII,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO OMBUDSMAN.—Each State shall notify the State long-term care ombudsman (established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act) of the State's findings of noncompliance with any of the requirements of subsections (b), (c), and (d), or of any adverse action taken against a nursing facility under paragraphs (1), (2), or (3) of subsection (h), with respect to a nursing facility in the State.

"(C) NOTICE TO PHYSICIANS AND NURSING FACILITY ADMINISTRATOR LICENSING BOARD.—If a State finds that a nursing facility has provided substandard quality of care, the State shall notify—

"(i) the attending physician of each resident with respect to which such finding is made, and

"(ii) any State board responsible for the licensing of the nursing facility administrator of the facility.

"(D) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State MediGrant fraud and abuse control unit (established under section 2134) with access to all information of the State agency responsible for surveys and certifications under this subsection.

"(h) ENFORCEMENT PROCESS.—

"(1) IN GENERAL.—If a State finds, on the basis of a standard, extended, or partial extended survey under subsection (g)(2) or otherwise, that a nursing facility no longer meets a requirement of subsection (b), (c), or (d)—

"(A) the State shall require the facility to correct the deficiency involved;

"(B) if the State finds that the facility's deficiencies immediately jeopardize the health or safety of its residents, the State shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii), or terminate the facility's participation under the State MediGrant plan and may provide, in addition, for one or more of the other remedies described in paragraph (2); and

"(C) if the State finds that the facility's deficiencies do not immediately jeopardize the health or safety of its residents, the State may—

"(i) terminate the facility's participation under the State MediGrant plan,

"(ii) provide for one or more of the remedies described in paragraph (2), or

"(iii) do both.

"(2) SPECIFIED REMEDIES.—

"(A) LISTING.—Except as provided in subparagraph (B), each State shall establish by law (whether statute or regulation) at least the following remedies:

"(i) Denial of payment under the State MediGrant plan with respect to any individual admitted to the nursing facility involved after such notice to the public and to the facility as may be provided for by the State.

"(ii) A civil money penalty assessed and collected, with interest, for each day in which the facility is or was out of compliance with a requirement of subsection (b), (c), or (d).

"(iii) The appointment of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the State has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

"(iv) The authority, in the case of an emergency, to close the facility, to transfer residents in that facility to other facilities, or both.

The State also shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies.

"(B) ALTERNATIVE REMEDIES.—A State may establish alternative remedies to the remedies described in subparagraph (A), if the State demonstrates to the Secretary's satisfaction that the alternative remedies are as effective in deterring noncompliance and correcting deficiencies as those described in such subparagraph.

"(C) ASSURING PROMPT COMPLIANCE.—If a nursing facility has not complied with any of the requirements of subsections (b), (c), and (d), within 3 months after the date the facility is found to be out of compliance with such requirements, the State may impose the remedy described in subparagraph (A)(i) for all individuals who are admitted to the facility after such date.

"(D) REPEATED NONCOMPLIANCE.—In the case of a nursing facility which, on 3 consecutive standard surveys conducted under subsection (g)(2), has been found to have provided substandard quality of care, the State shall (regardless of what other remedies are provided)—

"(i) impose the remedy described in subparagraph (A)(i), and

"(ii) monitor the facility under subsection (g)(4)(B),

until the facility has demonstrated, to the satisfaction of the State, that it is in compliance with the requirements of subsections (b), (c), and (d), and that it will remain in compliance with such requirements.

"(3) SECRETARIAL AUTHORITY.—

"(A) FOR STATE NURSING FACILITIES.—With respect to a State nursing facility, the Secretary shall have the authority and duties of a State under this subsection. Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy a nursing facility's deficiencies.

"(B) OTHER NURSING FACILITIES.—With respect to any other nursing facility in a State, if the Secretary finds that a nursing facility no longer meets a requirement of subsection (b), (c), or (d), the Secretary shall notify the State of such deficiency. If, after a reasonable period of time after such notification is given, the Secretary finds that the State has failed to carry out the requirements of paragraph (1)(A) or paragraph (1)(B) (if appropriate) with respect to the deficiency involved, or that the deficiency remains uncorrected—

"(i) the Secretary shall require the facility to correct the deficiency involved;

"(ii) if the Secretary finds that the deficiency involved immediately jeopardizes the health or safety of its residents, the Secretary shall, in consultation with the State, take action to remove the jeopardy and correct the deficiencies through the remedy specified in subparagraph (C)(iii), or terminate the facility's participation under the State MediGrant plan and may provide, in addition, for one or more of the other remedies described in subparagraph (C); and

"(iii) in the case of a deficiency that remains uncorrected, if the Secretary finds that the deficiency involved does not immediately jeopardize the health or safety of its residents, the Secretary may impose any of the remedies described in subparagraph (C).

"(C) SPECIFIED REMEDIES.—The remedies specified in this subparagraph are as follows:

"(i) DENIAL OF PAYMENT.—Denial of any further payments to the State in accordance with section 2154(f) for medical assistance furnished by the facility to all individuals in the facility or to individuals admitted to the facility after the effective date of the finding.

"(ii) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—Imposition of a civil money penalty against the facility in an amount not to exceed $5,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) APPOINTMENT OF TEMPORARY MANAGEMENT.—Appointment of temporary management (in consultation with the State) to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the Secretary has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

The Secretary shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies.

"(4) SPECIAL RULES REGARDING PAYMENTS TO FACILITIES.—

"(A) CONTINUATION OF PAYMENTS PENDING REMEDIATION.—The State or the Secretary, as appropriate, may continue payments, over a period of not longer than 6 months after the effective date of the findings, under this title with respect to a nursing facility not in compliance with a requirement of subsection (b), (c), or (d).

"(B) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the State or Secretary (as the case may be) finds that the facility is in substantial compliance with all the requirements of subsections (b), (c), and (d).

"(5) CONSTRUCTION.—The remedies provided under this subsection are in addition to those otherwise available under Federal or State law and shall not be construed as limiting such other remedies, including any remedy available to an individual at common law. The provisions of this subsection shall apply to a nursing facility (or portion thereof) notwithstanding that the facility (or portion thereof) also is a skilled nursing facility for purposes of title XVIII or is accredited by an entity pursuant to subsection (i)(2).

"(6) SHARING OF INFORMATION.—Notwithstanding any other provision of law, all information concerning nursing facilities required by this section to be filed with the Secretary or a State agency shall be made available by such facilities to Federal or State employees for purposes consistent with the effective administration of programs established under this title and title XVIII, including investigations by State MediGrant fraud control units.

"(i) CONSTRUCTION.—

"(1) MEDICARE REQUIREMENTS.—Where requirements or obligations under this section are identical to those provided under section 1819 of this Act, the fulfillment of those requirements or obligations under section 1819 shall be considered to be the fulfillment of the corresponding requirements or obligations under this section.

"(2) EFFECT OF ACCREDITATION.—

"(A) IN GENERAL.—At the option of a State, or the Secretary, as appropriate, if a nursing facility in the State is accredited by a national accrediting entity meeting such standards as the State or the Secretary may impose, such facility shall be deemed to have met the requirements of this section and the State shall be deemed to have met the survey and certification requirements under subsection (g).

"(B) REQUIREMENT FOR ACCREDITING ENTITY.—A State or the Secretary, as appropriate, may not find that an accrediting entity meets standards under subparagraph (A) unless such entity applies standards for accreditation for facilities that meet or exceed the requirements of this section.

"SEC. 2138. OTHER PROVISIONS PROMOTING PROGRAM INTEGRITY.

"(a) PUBLIC ACCESS TO SURVEY RESULTS.—Each MediGrant plan shall provide that upon completion of a survey of any health care facility or organization by a State agency to carry out the plan, the agency shall make public in readily available form and place the pertinent findings of the survey relating to the compliance of the facility or organization with requirements of law.

"(b) RECORD KEEPING.—Each MediGrant plan shall provide for agreements with persons or institutions providing services under the plan under which the person or institution agrees—

"(1) to keep such records, including ledgers, books, and original evidence of costs, as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the plan, and

"(2) to furnish the State agency with such information regarding any payments claimed by such person or institution for providing services under the plan, as the State agency may from time to time request.

"(c) QUALITY ASSURANCE.—Each MediGrant plan shall provide a program to assure the quality of services provided under the plan, including such services provided to individuals with chronic mental or physical illness.

"PART E—ESTABLISHMENT AND AMENDMENT OF MEDIGRANT PLANS

"SEC. 2151. SUBMITTAL AND APPROVAL OF MEDIGRANT PLANS.

"(a) SUBMITTAL.—As a condition of receiving funding under part C, each State shall submit to the Secretary a MediGrant plan that meets the applicable requirements of this title.

"(b) APPROVAL.—Except as the Secretary may provide under section 2154, a MediGrant plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title, and

"(2) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than the first calendar quarter that begins at least 60 days after the date the plan is submitted.

"SEC. 2152. SUBMITTAL AND APPROVAL OF PLAN AMENDMENTS.

"(a) SUBMITTAL OF AMENDMENTS.—A State may amend, in whole or in part, its MediGrant plan at any time through transmittal of a plan amendment under this section.

"(b) APPROVAL.—Except as the Secretary may provide under section 2154, an amendment to a MediGrant plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title, and

"(2) shall be effective as provided in subsection (c).

"(c) EFFECTIVE DATES FOR AMENDMENTS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an amendment to a MediGrant plan shall take effect on one or more effective dates specified in the amendment.

"(2) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—Except as provided in paragraph (4)—

"(A) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has provided prior or contemporaneous public notice of the change, in a form and manner provided under applicable State law.

"(B) TIMELY TRANSMITTAL.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60 day period unless the amendment has been transmitted to the Secretary before the end of such period.

"(3) OTHER AMENDMENTS.—Subject to paragraph (4), any plan amendment that is not described in paragraph (2) becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

"(4) EXCEPTION.—The requirements of paragraphs (2) and (3) shall not apply to a plan amendment that is submitted on a timely basis pursuant to a court order or an order of the Secretary.

"SEC. 2153. PROCESS FOR STATE WITHDRAWAL FROM PROGRAM.

"(a) IN GENERAL.—A State may rescind its MediGrant plan and discontinue participation in the program under this title at any time after providing—

"(1) the public with 90 days prior notice in a publication in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules, and

"(2) the Secretary with 90 days prior written notice.

"(b) EFFECTIVE DATE.—Such discontinuation shall not apply to payments under part C for expenditures made for items and services furnished under the MediGrant plan before the effective date of the discontinuation.

"(c) PRORATION OF ALLOTMENTS.—In the case of any withdrawal under this section other than at the end of a Federal fiscal year, notwithstanding any provision of section 2121 to the contrary, the Secretary shall provide for such appropriate proration of the application of allotments under section 2121 as is appropriate.

"SEC. 2154. SANCTIONS FOR NONCOMPLIANCE.

"(a) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review MediGrant plans and plan amendments submitted under this part to determine if they substantially comply with the requirements of this title.

"(b) DETERMINATIONS OF SUBSTANTIAL NONCOMPLIANCE.—

"(1) AT TIME OF PLAN OR AMENDMENT SUBMITTAL.—

"(A) IN GENERAL.—If the Secretary, during the 30-day period beginning on the date of submittal of a MediGrant plan or plan amendment—

"(i) determines that the plan or amendment substantially violates (within the meaning of subsection (c)) a requirement of this title, and

"(ii) provides written notice of such determination to the State,

the Secretary shall issue an order specifying that the plan or amendment, insofar as it is in substantial violation of such a requirement, shall not be effective, except as provided in subsection (c), beginning at the end of a period of not less than 30 days (or 120 days in the case of the initial submission of the MediGrant plan) *specified in the order beginning on the date of the notice of the determination.*

"(B) EXTENSION OF TIME PERIODS.—The time periods specified in subparagraph (A) may be extended by written agreement of the Secretary and the State involved.

"(2) VIOLATIONS IN ADMINISTRATION OF PLAN.—

"(A) IN GENERAL.—If the Secretary determines, after reasonable notice and opportunity for a hearing for the State, that in the administration of a MediGrant plan there is a substantial violation of a requirement of this title, the Secretary shall provide the State with written notice of the determination and with an order to remedy such violation. Such an order shall become effective prospectively, as specified in the order, after the date of receipt of such written notice. Such an order may include the withholding of funds, consistent with subsection (f), for parts of the MediGrant plan affected by such violation, until the Secretary is satisfied that the violation has been corrected.

"(B) EFFECTIVENESS.—If the Secretary issues an order under paragraph (1), the order shall become effective, except as provided in subsection (c), beginning at the end of a period (of not less than 30 days) specified in the order beginning on the date of the notice of the determination to the State.

"(C) TIMELINESS OF DETERMINATIONS RELATING TO REPORT-BASED COMPLIANCE.—The Secretary shall make determinations under this paragraph respecting violations relating to information contained in an annual report under section 2102, an independent evaluation under section 2103, or an audit report under section 2131 not later than 30 days after the date of transmittal of the report or evaluation to the Secretary.

"(3) CONSULTATION WITH STATE.—Before making a determination adverse to a State under this section, the Secretary shall (within any time periods provided under this section)—

"(A) reasonably consult with the State involved,

"(B) offer the State a reasonable opportunity to clarify the submission and submit further information to substantiate compliance with the requirements of this title, and

"(C) reasonably consider any such clarifications and information submitted.

"(4) JUSTIFICATION OF ANY INCONSISTENCIES IN DETERMINATIONS.—If the Secretary makes a determination under this section that is, in whole or in part, inconsistent with any previous determination issued by the Secretary under this title, the Secretary shall include in the determination a detailed explanation and justification for any such difference.

"(5) SUBSTANTIAL VIOLATION DEFINED.—For purposes of this title, a MediGrant plan (or amendment to such a plan) or the administration of the MediGrant plan is considered to 'substantially violate' a requirement of this title if a provision of the plan or amendment (or an omission from the plan or amendment) or the administration of the plan—

"(A) is material and substantial in nature and effect, and

"(B) is inconsistent with an express requirement of this title.

A failure to meet a strategic objective or performance goal (as described in section 2101) shall not be considered to substantially violate a requirement of this title.

"(c) STATE RESPONSE TO ORDERS.—

"(1) STATE RESPONSE BY REVISING PLAN.—

"(A) IN GENERAL.—Insofar as an order under subsection (b)(1) relates to a substantial violation by a MediGrant plan or plan amendment, a State may respond (before the date the order becomes effective) to such an order by submitting a written revision of the MediGrant plan or plan amendment to substantially comply with the requirements of this part.

"(B) REVIEW OF REVISION.—In the case of submission of such a revision, the Secretary shall promptly review the submission and shall withhold any action on the order during the period of such review.

"(C) SECRETARIAL RESPONSE.—The revision shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the revision, that the MediGrant plan or amendment, as proposed to be revised, still substantially violates a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(D) REVISION RETROACTIVE.—If the revision provides for substantial compliance, the revision may be treated, at the option of the State, as being effective either as of the effective date of the provision to which it relates or such later date as the State and Secretary may agree.

"(2) STATE RESPONSE BY SEEKING RECONSIDERATION OR AN ADMINISTRATIVE HEARING.—A State may respond to an order under subsection (b) by filing a request with the Secretary for—

"(A) a reconsideration of the determination, pursuant to subsection (d)(1), or

"(B) a review of the determination through an administrative hearing, pursuant to subsection (d)(2).

In such case, the order shall not take effect before the completion of the reconsideration or hearing.

"(3) STATE RESPONSE BY CORRECTIVE ACTION PLAN.—

"(A) IN GENERAL.—In the case of an order described in subsection (b)(2) that relates to a substantial violation in the administration of the MediGrant plan, a State may respond to such an order by submitting a corrective action plan with the Secretary to correct deficiencies in the administration of the plan which are the subject of the order.

"(B) REVIEW OF CORRECTIVE ACTION PLAN.—In such case, the Secretary shall withhold any action on the order for a period (not to exceed 30 days) during which the Secretary reviews the corrective action plan.

"(C) SECRETARIAL RESPONSE.—The corrective action plan shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the corrective action plan, that the State's administration of the MediGrant plan, as proposed to be corrected in the plan, will still substantially violate a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(4) STATE RESPONSE BY WITHDRAWAL OF PLAN AMENDMENT; FAILURE TO RESPOND.—Insofar as an order relates to a substantial violation in a plan amendment submitted, a State may respond to such an order by withdrawing the plan amendment and the MediGrant plan shall be treated as though the amendment had not been made.

"(d) ADMINISTRATIVE REVIEW AND HEARING.—

"(1) RECONSIDERATION.—Within 30 days after the date of receipt of a request under subsection (b)(2)(A), the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse the original determination within 60 days of the conclusion of the hearing.

"(2) ADMINISTRATIVE HEARING.—Within 30 days after the date of receipt of a request under subsection (b)(2)(B), an administrative law judge shall schedule a hearing for the purpose of reviewing the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The administrative law judge shall affirm, modify, or reverse the determination within 60 days of the conclusion of the hearing.

"(e) JUDICIAL REVIEW.—

"(1) IN GENERAL.—A State which is dissatisfied with a final determination made by the Secretary under subsection (d)(1) or a final determination of an administrative law judge under subsection (d)(2) may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which the State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary and, in the case of a determination under subsection (d)(2), to the administrative law judge involved. The Secretary (or judge involved) thereupon shall file in the court the record of the proceedings on which the final determination was based, as provided in section 2112 of title 28, United States Code. Only the Secretary, in accordance with this title, may compel a State under Federal law to comply with the provisions of this title or a MediGrant plan, or otherwise enforce a provision of this title against a State, and no action may be filed under Federal law against a State in relation to the State's compliance, or failure to comply, with the provisions of this title or of a MediGrant plan except by the Secretary as provided under this subsection.

"(2) STANDARD FOR REVIEW.—The findings of fact by the Secretary or administrative law judge, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary or judge to take further evidence, and the Secretary or judge may thereupon make new or modified findings of fact and may modify a previous determination, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) JURISDICTION OF APPELLATE COURT.—The court shall have jurisdiction to affirm the action of the Secretary or judge or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(f) WITHHOLDING OF FUNDS.—

"(1) IN GENERAL.—Any order under this section relating to the withholding of funds shall be effective not earlier than the effective date of the order and shall only relate to the portions of a MediGrant plan or administration thereof which substantially violate a requirement of this title. In the case of a failure to meet a set-aside requirement under section 2112, any withholding shall only apply to the extent of such failure.

"(2) SUSPENSION OF WITHHOLDING.—The Secretary may suspend withholding of funds under paragraph (1) during the period reconsideration or administrative and judicial review is pending under subsection (d) or (e).

"(3) RESTORATION OF FUNDS.—Any funds withheld under this subsection under an order shall be immediately restored to a State—

"(A) to the extent and at the time the order is—

"(i) modified or withdrawn by the Secretary upon reconsideration,

"(ii) modified or reversed by an administrative law judge, or

"(iii) set aside (in whole or in part) by an appellate court; or

"(B) when the Secretary determines that the deficiency which was the basis for the order is corrected;

"(C) when the Secretary determines that violation which was the basis for the order is resolved or the amendment which was the basis for the order is withdrawn; or

"(D) at any time upon the initiative of the Secretary.

"(g) INDIVIDUAL COMPLAINT PROCESS.—The Secretary shall provide for a process under which an individual may notify the Secretary concerning a State's failure to provide medical assistance as required under the State MediGrant plan or otherwise comply with the requirements of this title or such plan. If the Secretary finds that there is a pattern of complaints with respect to a State or that a particular failure or finding of noncompliance is egregious, the Secretary shall notify the chief executive officer of the State of such finding and shall notify the Congress if the State fails to respond to such notification within a reasonable period of time.

"SEC. 2155. SECRETARIAL AUTHORITY.

"(a) NEGOTIATED AGREEMENT AND DISPUTE RESOLUTION.—

"(1) NEGOTIATIONS.—Nothing in this part shall be construed as preventing the Secretary and a State from at any time negotiating a satisfactory resolution to any dispute concerning the approval of a MediGrant plan (or amendments to a MediGrant plan) or the compliance of a MediGrant plan (including its administration) with requirements of this title.

"(2) COOPERATION.—The Secretary shall act in a cooperative manner with the States in carrying out this title. In the event of a dispute between a State and the Secretary, the Secretary shall, whenever practicable, engage in informal dispute resolution activities in lieu of formal enforcement or sanctions under section 2154.

"(b) LIMITATIONS ON DELEGATION OF DECISION-MAKING AUTHORITY.—The Secretary may not delegate (other than to the Administrator of the Health Care Financing Administration) the authority to make determinations or reconsiderations respecting the approval of MediGrant plans (or amendments to such plans) or the compliance of a MediGrant plan (including its administration) with requirements of this title. Such Administrator may not further delegate such authority to any individual, including any regional official of such Administration.

"(c) REQUIRING FORMAL RULEMAKING FOR CHANGES IN SECRETARIAL ADMINISTRATION.—The Secretary shall carry out the administration of the program under this title only through a prospective formal rulemaking process, including issuing notices of proposed rulemaking, publishing proposed rules or modifications to rules in the Federal Register, and soliciting public comment.

"PART F—GENERAL PROVISIONS

"SEC. 2171. DEFINITIONS.

"(a) MEDICAL ASSISTANCE.—For purposes of this title, the term 'medical assistance' means payment of part or all of the cost of any of the following, or assistance in the purchase, in whole or in part, of health benefit coverage that includes any of the following, for eligible low-income individuals (as defined in subsection (b)) as specified under the MediGrant plan:

"(1) Inpatient hospital services.

"(2) Outpatient hospital services.

"(3) Physician services.

"(4) Surgical services.

"(5) Clinic services and other ambulatory health care services.

"(6) Nursing facility services.

"(7) Intermediate care facility services for the mentally retarded.

"(8) Prescription drugs and biologicals and the administration of such drugs and biologicals, only if such drugs and biologicals are not furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

"(9) Over-the-counter medications.

"(10) Laboratory and radiological services.

"(11) Family planning services and supplies.

"(12) Inpatient mental health services, including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services in the case of a child.

"(13) Outpatient mental health services, including services furnished in a State-operated mental hospital and including community-based services in the case of a child.

"(14) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

"(15) Disposable medical supplies.

"(16) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).

"(17) Community supported living arrangements.

"(18) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.

"(19) Abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(20) Dental services.

"(21) Inpatient substance abuse treatment services and residential substance abuse treatment services.

"(22) Outpatient substance abuse treatment services.

"(23) Case management services.

"(24) Care coordination services.

"(25) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

"(26) Hospice care.

"(27) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—

"(A) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

"(B) performed under the general supervision or at the direction of a physician, or

"(C) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

"(28) Premiums for private health care insurance coverage, including private long-term care insurance coverage.

"(29) Medical transportation.

"(30) Medicare cost-sharing (as defined in subsection (c)).

"(31) Enabling services (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

"(32) Any other health care services or items specified by the Secretary and not excluded under this section.

"(b) ELIGIBLE LOW-INCOME INDIVIDUAL.—

"(1) IN GENERAL.—The term 'eligible low-income individual' means an individual—

"(A) who has been determined eligible by the State for medical assistance under the MediGrant plan and is not an inmate of a public institution (except as a patient in a State psychiatric hospital), and

"(B) whose family income (as determined under the plan) does not exceed a percentage (specified in the MediGrant plan and not to exceed 275 percent) of the poverty line for a family of the size involved.

"(2) AMOUNT OF INCOME.—In determining the amount of income under paragraph (1)(B), a State may exclude costs incurred for medical care or other types of remedial care recognized by the State.

"(c) MEDICARE COST-SHARING.—For purposes of this title, the term 'medicare cost-sharing' means any of the following:

"(1)(A) Premiums under section 1839.

"(B) Premiums under section 1818 or 1818A.

"(2) Coinsurance under title XVIII (including coinsurance described in section 1813).

"(3) Deductibles established under title XVIII (including those described in sections 1813 and 1833(b)).

"(4) The difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to '80 percent' therein were deemed a reference to '100 percent'.

"(5) Premiums for enrollment of an individual with an eligible organization under section 1876 or with a MedicarePlus organization under part C of title XVIII.

"(d) ADDITIONAL DEFINITIONS.—For purposes of this title:

"(1) CHILD.—The term 'child' means an individual under 19 years of age.

"(2) ELDERLY INDIVIDUAL.—The term 'elderly individual' means an individual who has attained retirement age, as defined under section 216(l)(1).

"(3) POVERTY LINE DEFINED.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section).

"(4) PREGNANT WOMAN.—The term 'pregnant woman' includes a woman during the 60-day period beginning on the last day of the pregnancy.

"SEC. 2172. TREATMENT OF TERRITORIES.

"Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program for a State other than the 50 States and the District of Columbia, other than a waiver of—

"(1) the applicable Federal medical assistance percentage,

"(2) the limitation on total payments in a fiscal year to the amount of the allotment under section 2121(c), or

"(3) the requirement that payment may be made for medical assistance only with respect to amounts expended by the State for care and services described in section 2171(a) and medically-related services (as defined in section 2112(e)(2)).

"SEC. 2173. DESCRIPTION OF TREATMENT OF INDIAN HEALTH SERVICE FACILITIES.

"In the case of a State in which one or more facilities of the Indian Health Service are located, the MediGrant plan shall include a description of—

"(1) what provision (if any) has been made for payment for items and services furnished by such facilities, and

"(2) the manner in which medical assistance for low-income eligible individuals who are Indians will be provided, as determined by the State in consultation with the appropriate Indian tribes and tribal organizations.

"SEC. 2174. APPLICATION OF CERTAIN GENERAL PROVISIONS.

"The following sections in part A of title XI shall apply to States under this title in the same manner as they applied to a State under title XIX:

"(1) Section 1101(a)(1) (relating to definition of State).

"(2) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with the provisions of part C.

"(3) Section 1124 (relating to disclosure of ownership and related information).

"(4) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(5) Section 1128B(d) (relating to criminal penalties for certain additional charges).

"(6) Section 1132 (relating to periods within which claims must be filed).

"SEC. 2175. MEDIGRANT MASTER DRUG REBATE AGREEMENTS.

"(a) REQUIREMENT FOR MANUFACTURER TO ENTER INTO AGREEMENT.—

"(1) IN GENERAL.—Pursuant to section 2123(f), in order for payment to be made to a State under part C for medical assistance for covered outpatient drugs of a manufacturer, the manufacturer shall enter into and have in effect a MediGrant master rebate agreement described in subsection (b) with the Secretary on behalf of States electing to participate in the agreement.

"(2) COVERAGE OF DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Nothing in this section shall be construed to prohibit a State in its discretion from providing coverage under its MediGrant plan of a covered outpatient drug for which no rebate agreement is in effect under this section.

"(3) EFFECT ON EXISTING AGREEMENTS.—If a State has a rebate agreement in effect with a manufacturer on the date of the enactment of this section which provides for a minimum aggregate rebate equal to or greater than the minimum aggregate rebate which would otherwise be paid under the MediGrant master agreement under this section, at the option of the State—

"(A) such agreement shall be considered to meet the requirements of the MediGrant master rebate agreement, and

"(B) the State shall be considered to have elected to participate in the MediGrant master rebate agreement.

"(4) LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES.—

"(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992.

"(B) COVERED ENTITY DEFINED.—In this subsection, the term 'covered entity' means an entity described in section 340B(a)(4) of the Public Health Service Act provided that—

"(i) an entity is licensed by the State to purchase and take possession of covered outpatient drugs and furnishes the drugs to patients at a cost no greater than acquisition plus such dispensing fee as may be allowable under a State pharmaceutical assistance program, and

"(ii) such entity is certified pursuant to section 340B(a)(7) of such Act.

"(C) ESTABLISHMENT OF ALTERNATIVE MECHANISM TO ENSURE AGAINST DUPLICATE DISCOUNTS OR REBATES.—If the Secretary does not establish a mechanism under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:

"(i) Each covered entity shall inform the single State agency under this title when it is seeking reimbursement from the medicaid plan for medical assistance with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

"(ii) Each such single State agency shall provide a means by which a covered entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment under subsection (b) with respect to such a drug.

"(D) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether an agreement under subparagraph (A) meets the requirements of section 340B of the Public Health Service Act, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(E) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 340B of the Public Health Service Act (as in effect immediately after the enactment title VI of the Veterans Health Care Act of 1992, and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after such enactment.

"(b) TERMS OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—The MediGrant master rebate agreement under this section shall require the manufacturer to provide, to the MediGrant plan of each State participating in the agreement, a rebate for a rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed after the effective date of the agreement, for which payment was made under the plan for such period. Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period involved.

"(2) STATE PROVISION OF INFORMATION.—

"(A) STATE RESPONSIBILITY.—Each State participating in the MediGrant master rebate agreement shall report to each manufacturer not later than 60 days after the end of each rebate period and in a form consistent with a standard reporting format established by the Secretary, information on the total number of units of each dosage form and strength and package size of each covered outpatient drug, for which payment was made under the MediGrant plan for the period, and shall promptly transmit a copy of such report to the Secretary.

"(B) AUDITS.—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

"(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—

"(A) IN GENERAL.—Each manufacturer which is subject to the MediGrant master rebate agreement under this section shall report to the Secretary—

"(i) not later than 30 days after the last day of each rebate period under the agreement, on the average manufacturer price (as defined in subsection (i)(1)) and, for single source drugs and innovator multiple source drugs, the manufacturer's best price (as defined in subsection (c)(1)(C)) for each covered outpatient drug for the rebate period under the agreement, and

"(ii) not later than 30 days after the date of entering into an agreement under this section, on the average manufacturer price (as defined in subsection (i)(1)) as of October 1, 1990, for each of the manufacturer's covered outpatient drugs.

"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information by the Secretary in connection with a survey under this subparagraph. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(C) PENALTIES.—

"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer which is subject to the MediGrant master rebate agreement that fails to provide information required under subparagraph (A) on a timely basis, the amount of the penalty shall be $10,000 for each day in which such information has not been provided and such amount shall be paid to the Treasury. If such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

"(ii) FALSE INFORMATION.—Any manufacturer which is subject to the MediGrant master rebate agreement, or a wholesaler or direct seller, that knowingly provides false information under subparagraph (A) or (B) is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Any such civil money penalty shall be in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph or under an agreement with the Secretary of Veterans Affairs described in section 2123(f) is confidential and shall not be disclosed by the Secretary or the Secretary of Veterans Affairs or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler or the prices charged for drugs by such manufacturer or wholesaler, except—

"(i) as the Secretary determines to be necessary to carry out this section,

"(ii) to permit the Comptroller General to review the information provided, and

"(iii) to permit the Director of the Congressional Budget Office to review the information provided.

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—The MediGrant master rebate agreement under this section shall be effective for an initial period of not less than 1 year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of the MediGrant master rebate agreement with respect to a manufacturer for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days *after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination. Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.*

"(ii) BY A MANUFACTURER.—A manufacturer may terminate its participation in the MediGrant master rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(iv) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.

"(v) APPLICATION TO TERMINATIONS OF OTHER AGREEMENTS.—The provisions of this subparagraph shall apply to the terminations of master agreements described in section 8126(a) of title 38, United States Code.

"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(5) SETTLEMENT OF DISPUTES.—

"(A) SECRETARY.—The Secretary shall have the authority to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section and section 1927.

"(B) STATE.—Each State, with respect to covered outpatient drugs paid for under the State's MediGrant plan, shall have authority, independent of the Secretary' authority under subparagraph (A), to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section. Any such action shall be deemed to comply with the requirements of this title, and such covered outpatient drugs shall be eligible for payment under the MediGrant plan under this title.

"(C) AMOUNT OF REBATE.—The Secretary shall limit the amount of the rebate payable in any case in which the Secretary determines that, because of unusual circumstances or questionable data, the provisions of subsection (c) result in a rebate amount that is inequitable or otherwise inconsistent with the purposes of this section.

"(c) DETERMINATION OF AMOUNT OF REBATE.—

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate specified in this subsection with respect to a State participating in the MediGrant master rebate agreement for a rebate period (as defined in subsection (i)(7)) with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—

"(i) the total number of units of each dosage form and strength paid for under the State MediGrant plan in the rebate period (as reported by the State); and

"(ii) the greater of—

"(I) the difference between the average manufacturer price and the best price (as defined in subparagraph (C)) for the dosage form and strength of the drug, or

"(II) the minimum rebate percentage (specified in subparagraph (B)) of such average manufacturer price,
for the rebate period.

"(B) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the 'minimum rebate percentage' is 15 percent.

"(C) BEST PRICE DEFINED.—For purposes of this section—

"(i) IN GENERAL.—The term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding—

"(I) any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in section 340B(a)(4) of the Public Health Service Act,

"(II) any prices charged under the Federal Supply Schedule of the General Services Administration,

"(III) any prices used under a State pharmaceutical assistance program, and

"(IV) any depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.

"(ii) SPECIAL RULES.—The term 'best price'—

"(I) shall be inclusive of cash discounts, free goods that are contingent on any purchase requirement, volume discounts, and rebates (other than rebates under this section),

"(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package,

"(III) shall not take into account prices that are merely nominal in amount, and

"(IV) shall exclude rebates paid under this section or any other rebates paid to a State participating in the MediGrant master rebate agreement.

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—The amount of the rebate specified in this subsection with respect to a State participating in the MediGrant master rebate agreement for a rebate period, with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, shall be increased by an amount equal to the product of—

"(i) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the MediGrant plan for the rebate period; and

"(ii) the amount (if any) by which—

"(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

"(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990 (without regard to whether or not the drug has been sold or transferred to an entity, including a division or subsidiary of the manufacturer, after the first day of such quarter), increased by the percentage by which the Consumer Price Index for All Urban Consumers (United States city average) for the month before the month in which the rebate period begins exceeds such index for September 1990.

"(B) TREATMENT OF SUBSEQUENTLY APPROVED DRUGS.—In the case of a covered outpatient drug approved by the Food and Drug Administration after October 1, 1990, clause (ii)(II) of subparagraph (A) shall be applied by substituting 'the first full calendar quarter after the day on which the drug was first marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the day on which the drug was first marketed' for 'September 1990'.

"(3) REBATE FOR OTHER DRUGS.—

"(A) IN GENERAL.—The amount of the rebate paid to a State participating in the MediGrant master rebate agreement for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(i) the applicable percentage (as described in subparagraph (B)) of the average manufacturer price for the dosage form and strength for the rebate period, and

"(ii) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the MediGrant plan for the rebate period.

"(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(i), the 'applicable percentage' is 11 percent.

"(4) LIMITATION ON AMOUNT OF REBATE TO AMOUNTS PAID FOR CERTAIN DRUGS.—

"(A) IN GENERAL.—Upon request of the manufacturer of a covered outpatient drug, the Secretary shall limit, in accordance with subparagraph (B), the amount of the rebate under this subsection with respect to a dosage form and strength of such drug if the majority of the estimated number of units of such dosage form and strength that are subject to rebates under this section were dispensed to inpatients of nursing facilities.

"(B) AMOUNT OF REBATE.—In the case of a covered outpatient drug subject to subparagraph (A), the amount of the rebate specified in this subsection for a rebate period, with respect to each dosage form and strength of such drug, shall not exceed the amount paid under the MediGrant plan with respect to such dosage form and strength of the drug in the rebate period (without consideration of any dispensing fees paid).

"(5) SUPPLEMENTAL REBATES PROHIBITED.—No rebates shall be required to be paid by manufacturers with respect to covered outpatient drugs furnished to individuals in any State that provides for the collection of such rebates in excess of the rebate amount payable under this section.

"(d) LIMITATIONS ON COVERAGE OF DRUGS BY STATES PARTICIPATING IN MASTER AGREEMENT.—

"(1) PERMISSIBLE RESTRICTIONS.—A State participating in the MediGrant master rebate agreement under this section may—

"(A) subject to prior authorization under its MediGrant plan any covered outpatient drug so long as any such prior authorization program complies with the requirements of paragraph (5); and

"(B) exclude or otherwise restrict coverage under its plan of a covered outpatient drug if—

"(i) the drug is contained in the list referred to in paragraph (2);

"(ii) the drug is subject to such restrictions pursuant to the MediGrant master rebate agreement or any agreement described in subsection (a)(4); or

"(iii) the State has excluded coverage of the drug from its formulary established in accordance with paragraph (4).

"(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted by a State participating in the MediGrant master rebate agreement:

"(A) Agents when used for anorexia, weight loss, or weight gain.

"(B) Agents when used to promote fertility.

"(C) Agents when used for cosmetic purposes or hair growth.

"(D) Agents when used for the symptomatic relief of cough and colds.

"(E) Agents when used to promote smoking cessation.

"(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

"(G) Nonprescription drugs.

"(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

"(I) Barbiturates.

"(J) Benzodiazepines.

"(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically update the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.

"(4) REQUIREMENTS FOR FORMULARIES.—A State participating in the MediGrant master rebate agreement may establish a formulary if the formulary meets the following requirements:

"(A) The formulary is developed by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State.

"(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with the agreement under subsection (a) (other than any drug excluded from coverage or otherwise restricted under paragraph (2)).

"(C) A covered outpatient drug may be excluded with respect to the treatment of a specific disease or condition for an identified population (if any) only if, based on the drug's labeling (or, in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, based on information from the appropriate compendia described in subsection (i)(5)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion.

"(D) The State MediGrant plan permits coverage of a drug excluded from the formulary (other than any drug excluded from coverage or otherwise restricted under paragraph (2)) pursuant to a prior authorization program that is consistent with paragraph (5).

"(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.

"(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—The MediGrant plan of a State participating in the MediGrant master rebate agreement may require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section, the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (i)(5)) only if the system providing for such approval—

"(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization, and

"(B) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

"(6) OTHER PERMISSIBLE RESTRICTIONS.—A State participating in the MediGrant master rebate agreement may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to discourage waste, and may address instances of fraud or abuse by individuals in any manner authorized under this Act.

"(e) DRUG USE REVIEW.—

"(1) IN GENERAL.—A State participating in the MediGrant master rebate agreement may provide for a drug use review program to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs.

"(2) APPLICATION OF STATE STANDARDS.—Except as provided in subparagraph (B), a State with a drug use review program under this subsection shall establish and operate the program under such standards as it may establish.

"(f) ELECTRONIC CLAIMS MANAGEMENT.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State to establish, as its principal means of processing claims for covered outpatient drugs under its MediGrant plan, a point-of-sale electronic claims management system, for the purpose of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.

"(g) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall transmit to the Committee on Finance of the Senate, and the Committee on Commerce of the House of Representatives, a report on the operation of this section in the preceding fiscal year.

"(2) DETAILS.—Each report shall include information on—

"(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs,

"(B) the total value of rebates received and number of manufacturers providing such rebates,

"(C) the effect of inflation on the value of rebates required under this section,

"(D) trends in prices paid under this title for covered outpatient drugs, and

"(E) Federal and State administrative costs associated with compliance with the provisions of this title.

"(h) EXEMPTION FOR CAPITATED HEALTH CARE ORGANIZATIONS, HOSPITALS, AND NURSING FACILITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of the MediGrant master rebate agreement under this section shall not apply with respect to covered outpatient drugs dispensed by or through—

"(A) a capitated health care organization (as defined in section 2114(c)(1)), or

"(B) a hospital or nursing facility that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital's or facility's purchasing costs for covered outpatient drugs.

"(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.

"(i) DEFINITIONS.—In the section—

"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a rebate period, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade, after deducting customary prompt pay discounts.

"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term 'covered outpatient drug' means—

"(A) of those drugs which are treated as prescribed drugs for purposes of section 2171(a)(8), a drug which may be dispensed only upon prescription (except as provided in subparagraph (D)), and—

"(i) which is approved as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for some or all conditions of use prescribed, recommended, or suggested in its labeling;

"(B) a biological product, other than a vaccine which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product;

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act; and

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).

"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, any of the following (and for which payment may be made under a MediGrant plan as part of payment for the following and not as direct reimbursement for the drug):

"(A) Inpatient hospital services.

"(B) Hospice services.

"(C) Dental services, except that drugs for which the MediGrant plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

"(D) Physicians' services.

"(E) Outpatient hospital services.

"(F) Nursing facility services and services provided by an intermediate care facility for the mentally retarded.

"(G) Other laboratory and x-ray services.

"(H) Renal dialysis services.

Such term also does not include any such drug or product for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological used for a medical indication which is not a medically accepted indication. Any drug, biological product, or insulin excluded from the definition of such term as a result of this paragraph shall be treated as a covered outpatient drug for purposes of determining the best price (as defined in subsection (c)(1)(C)) for such drug, biological product, or insulin.

"(4) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug.

"(5) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:

"(A) American Hospital Formulary Service Drug Information.

"(B) United States Pharmacopeia-Drug Information.

"(C) American Medical Association Drug Evaluations.

"(D) The DRUGDEX Information System.

"(E) The peer-reviewed medical literature.

"(6) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

"(A) DEFINED.—

"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a rebate period, a covered outpatient drug (not including any drug described in paragraph (2)(D)) for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations'),

"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and

"(III) are sold or marketed in the State during the period.

"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under an original new drug application or product licensing application approved by the Food and Drug Administration.

"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug which is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity,

"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence, and

"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, if the listed product is generally available to the public through retail pharmacies in that State.

"(7) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified by the Secretary with respect to the payment of rebates under such agreement.".

SEC. 7002. TERMINATION OF CURRENT PROGRAM AND TRANSITION.

(a) TERMINATION OF CURRENT PROGRAM; LIMITATION ON MEDICAID PAYMENTS IN FISCAL YEAR 1996.—

(1) REPEAL OF TITLE.—Title XIX of the Social Security Act is repealed effective October 1, 1996, except that the repeal of section 1928 of such Act is effective on the date of the enactment of this Act and the succeeding two sections of such title shall be effective during fiscal year 1996 in the same manner and to the same extent as such sections were effective during fiscal year 1995.

(2) LIMITATION ON OBLIGATION AUTHORITY.—Notwithstanding any other provision of such title—

(A) POST-ENACTMENT, PRE-MEDIGRANT.—Subject to subparagraph (B), the Secretary of Health and Human Services (in this section referred to as the "Secretary") may enter into obligations under such title with any State (as defined for purposes of such title) for expenses incurred after the date of the enactment of this Act and during fiscal year 1996, but not in excess of the obligation allotment for that State for fiscal year 1996 under section 2121(a)(4) of the Social Security Act (as added by section 7001).

(B) NONE AFTER MEDIGRANT.—The Secretary is not authorized to enter into any obligation with any State under title XIX of such Act for expenses incurred on or after the earlier of—

(i) October 1, 1996, or

(ii) the first day of the first quarter on which the State MediGrant plan under title XXI of such Act (as added by section 7001) is first effective.

(C) AGREEMENT.—A State's submission of claims for payment under section 1903 of such Act after the date of the enactment of this Act with respect to which the limitation described in subparagraph (A) applies is deemed to constitute the State's acceptance of the obligation limitation under such subparagraph (including the formula for computing the amount of such obligation limitation).

(D) EFFECT ON MEDICAL ASSISTANCE.—Effective on the date of the enactment of this section—

(i) except as provided in this paragraph, the Federal Government has no obligation to provide payment with respect to items and services provided under title XIX of the Social Security Act, and

(ii) such title and title XXI of such Act shall not be construed as providing for an entitlement, under Federal law in relation to the Federal Government, in an individual or person (including any provider) at the time of provision or receipt of services.

(3) REQUIREMENT FOR TIMELY SUBMITTAL OF CLAIMS.—No payment shall be made to a State under title XIX of such Act with respect to an obligation incurred before the date of the enactment of this Act, unless the State has submitted to the Secretary, by not later than June 30, 1996, a claim for Federal financial participation for expenses paid by the State with respect to such obligations. Nothing in paragraph (2) shall be construed as affecting the obligation of the Federal Government to pay claims described in the previous sentence.

(b) MEDICAID-TO-MEDIGRANT TRANSITION PROVISIONS.—

(1) Notwithstanding any provision of law, in the case where payment has been made under section 1903(a) of the Social Security Act to a State before October 1, 1995, and for which a disallowance has not been taken as of such date (or, if so taken, has not been completed, including judicial review, by such date), the Secretary of Health and Human Services shall discontinue the disallowance proceeding and, if such disallowance has been taken as of the date of the enactment of this Act, any payment reductions effected shall be rescinded and the payments returned to the State.

(2) The repeal under subsection (a)(1) of section 1928 of the Social Security Act shall not affect the distribution of vaccines purchased and delivered to the States before the date of the enactment of this Act. No vaccine may be purchased after such date by the Federal Government or any State under any contract under section 1928(d) of the Social Security Act.

(3) No judicial or administrative decision rendered regarding requirements imposed under title XIX of the Social Security Act with respect to a State shall have any application to the MediGrant plan of the State title under XXI of such Act. A State may, pursuant to the previous sentence, seek the abrogation or modification of any such decision after the date of termination of the State plan under title XIX of such Act.

(4) No cause of action under title XIX of the Social Security Act which seeks to require a State to establish or maintain minimum payment rates under such title or claim which seeks reimbursement for any period before the date of the enactment of this Act based on the alleged failure of the State to comply with such title and which has not become final as of such date shall be brought or continued.

(5) Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989 (as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993) and section 2 of Public Law 102–276 (as amended by section 13644 of the Omnibus Budget Reconciliation Act of 1993) are each amended by striking "December 31, 1995" and inserting "October 1, 1996".

(c) ANTI-FRAUD PROVISIONS.—Section 1128(h)(1) of the Social Security Act (42 U.S.C. 1320a–7(h)(1)) is amended by inserting "or a MediGrant plan under title XXI" after "title XIX".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation, as appropriate, with heads of other Federal agencies and the States (as defined in section 1101(a)(8) of the Social Security Act for purposes of title XIX of such Act), shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of, and amendments made by, this title.

(2) TRANSITIONAL RULE.—Any reference in any provision of law to title XIX of the Social Security Act or any provision thereof shall be deemed to be a reference to such title or provision as in effect on the day before the date of the enactment of this Act.

SEC. 7003. MEDICARE/MEDIGRANT INTEGRATION DEMONSTRATION PROJECT.

(a) DESCRIPTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects under this section to demonstrate the manner in which States may use funds from the medicare program under title XVIII of the Social Security Act and the MediGrant program under title XXI of such Act (in this section referred to as the "medicare and MediGrant programs") for the purpose of providing a more cost-effective full continuum of care for delivering services to meet the needs of chronically-ill elderly and disabled beneficiaries who are eligible for items and services under such programs, through integrated systems of care, with an emphasis on case management, prevention, and interventions designed to avoid institutionalization whenever possible. The Secretary shall use funds from the amounts appropriated for the medicare and MediGrant programs to make the payments required under subsection (d)(1).

(2) OPTION TO PARTICIPATE.—A State may not require an individual eligible to receive items and services under the medicare and MediGrant programs to participate in a demonstration project under this section.

(b) ESTABLISHMENT.—The Secretary shall make payments in accordance with subsection (d) for the conduct of demonstration projects that provide for integrated systems of care in accordance with subsection (a). Not more than 10 demonstration projects shall be conducted under this section.

(c) APPLICATIONS.—Each State, or a coalition of States, desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an explanation of a plan for evaluating the project. The Secretary shall approve or deny an application not later than 90 days after the receipt of such application.

(d) PAYMENTS.—

(1) IN GENERAL.—For each calendar quarter occurring during a demonstration project conducted under this section, the Secretary shall pay to each entity designated under paragraph (3) an amount equal to the Federal capitated payment rate determined under paragraph (2).

(2) FEDERAL CAPITATED PAYMENT RATE.—The Secretary shall determine the Federal capitated payment rate for purposes of this section based on the anticipated Federal quarterly cost of providing care to chronically-ill elderly and disabled beneficiaries who are eligible for items and services under the medicare and MediGrant programs and who have elected to participate in a demonstration project under this section.

(3) DESIGNATION OF ENTITY.—

(A) IN GENERAL.—Each State, or coalition of States, shall designate entities to directly receive the payments described in paragraph (1).

(B) REQUIREMENT.—A State, or a coalition of States, may not designate an entity under subparagraph (A) unless such entity meets the quality, solvency, and coverage standards applicable to providers of items and services under the medicare and MediGrant programs.

(4) STATE PAYMENTS.—Each State conducting, or in the case of a coalition of States, participating in a demonstration project under this section shall pay to the entities designated under paragraph (3) an amount equal to the product of (A) 100 percent minus the applicable Federal medical assistance percentage (as defined in section 2122(e) of the Social Security Act) for the State, and (B) the expenditures under the project attributable to the MediGrant program for items and services provided to chronically-ill elderly and disabled beneficiaries who have elected to participate in the demonstration.

(5) BUDGET NEUTRALITY.—The aggregate amount of Federal payments to entities designated by a State, or coalition of States, under paragraph (3) for a fiscal year shall not exceed the aggregate amount of such payments that would otherwise have been made under the medicare and MediGrant programs for such fiscal year for items and services provided to beneficiaries under such programs but for the election of such beneficiaries to participate in a demonstration project under this section.

(e) DURATION.—

(1) IN GENERAL.—The demonstration projects conducted under this section shall be conducted for a 5-year period, subject to annual review and approval by the Secretary.

(2) TERMINATION.—The Secretary may, with 90 days' notice, terminate any demonstration project conducted under this section that is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(f) OVERSIGHT.—The Secretary shall establish quality standards for evaluating and monitoring the demonstration projects conducted under this section. Such quality standards shall include reporting requirements which contain the following:

(1) A description of the demonstration project.

(2) An analysis of beneficiary satisfaction under such project.

(3) An analysis of the quality of the services delivered under the project.

(4) A description of the savings to the MediGrant and medicare programs as a result of the demonstration project.

TITLE VIII—MEDICARE

SEC. 8000. SHORT TITLE OF TITLE; AMENDMENTS AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE.—This title may be cited as the "Medicare Preservation Act of 1995".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", "OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(d) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

Sec. 8000. Short title of title; amendments and references to OBRA; table of contents of title.

Subtitle A—MedicarePlus Program

"PART C—MEDICAREPLUS PROGRAM

CHAPTER 1—MEDICAREPLUS PROGRAM

Sec. 8001. Establishment of MedicarePlus program.

"PART C—MEDICAREPLUS PROGRAM

"Sec. 1851. Eligibility, election, and enrollment.

"Sec. 1852. Benefits and beneficiary protections.

"Sec. 1853. Organizational and financial requirements for MedicarePlus organizations; provider-sponsored organizations.

"Sec. 1854. Payments to MedicarePlus organizations.

"Sec. 1855. Premiums and rebates.

"Sec. 1856. Establishment of standards; certification of organizations and plans.

"Sec. 1857. Contracts with MedicarePlus organizations.

"Sec. 1858. Standards for MedicarePlus and medicare information transactions and data elements.

"Sec. 1859. Definitions; miscellaneous provisions.

Sec. 8002. Duplication and coordination of medicare-related plans.

Sec. 8003. Transitional rules for current medicare HMO program.

CHAPTER 2—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

Sec. 8011. MedicarePlus MSA.

Sec. 8012. Certain rebates excluded from gross income.

CHAPTER 3—MEDICARE PAYMENT REVIEW COMMISSION

Sec. 8021. Medicare Payment Review Commission.

CHAPTER 4—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS

Sec. 8031. Treatment of hospitals which participate in provider-sponsored organizations.

Subtitle B—Health Care Fraud and Abuse Prevention

CHAPTER 1—FRAUD AND ABUSE CONTROL PROGRAM

Sec. 8101. Fraud and abuse control program.

Sec. 8102. Medicare integrity program.

Sec. 8103. Beneficiary incentive programs.

Sec. 8104. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health care programs.

Sec. 8105. Guidance regarding application of health care fraud and abuse sanctions.

CHAPTER 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

Sec. 8111. Mandatory exclusion from participation in medicare and State health care programs.

Sec. 8112. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.

Sec. 8113. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.

Sec. 8114. Sanctions against practitioners and persons for failure to comply with statutory obligations.

Sec. 8115. Intermediate sanctions for medicare health maintenance organizations.

Sec. 8116. Additional exception to anti-kickback penalties for discounting and managed care arrangements.

Sec. 8117. Penalties for the fraudulent conversion of assets in order to obtain State health care program benefits.

Sec. 8118. Effective date.

CHAPTER 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 8121. Establishment of the health care fraud and abuse data collection program.

CHAPTER 4—CIVIL MONETARY PENALTIES

Sec. 8131. Social Security Act civil monetary penalties.

Sec. 8132. Clarification of level of intent required for imposition of sanctions.

Sec. 8133. Penalty for false certification for home health services.

CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

Sec. 8141. Health care fraud.

Sec. 8142. Forfeitures for Federal health care offenses.
Sec. 8143. Injunctive relief relating to Federal health care offenses.
Sec. 8144. False Statements.
Sec. 8145. Obstruction of criminal investigations of Federal health care offenses.
Sec. 8146. Theft or embezzlement.
Sec. 8147. Laundering of monetary instruments.
Sec. 8148. Authorized investigative demand procedures.

CHAPTER 6—STATE HEALTH CARE FRAUD CONTROL UNITS

Sec. 8151. State health care fraud control units.

Subtitle C—Regulatory Relief

Sec. 8201. Repeal of physician ownership referral prohibitions based on compensation arrangements.
Sec. 8202. Revision of designated health services subject to ownership referral prohibition.
Sec. 8203. Delay in implementation of 1993 ownership referral changes until promulgation of regulations.
Sec. 8204. Exceptions to ownership referral prohibitions.
Sec. 8205. Effective date.

Subtitle D—Modification in Payment Policies Regarding Graduate Medical Education

Sec. 8301. Indirect medical education payments.
Sec. 8302. Direct graduate medical education.

Subtitle E—Provisions Relating to Part A

CHAPTER 1—GENERAL PROVISIONS RELATING TO PART A

Sec. 8401. PPS hospital payment update.
Sec. 8402. PPS-exempt hospital payments.
Sec. 8403. Reductions in disproportionate share payment adjustments.
Sec. 8404. Capital payments for PPS hospitals.
Sec. 8405. Reduction in payments to hospitals for enrollees' bad debts.
Sec. 8406. Increase in update for certain hospitals with a high proportion of medicare patients.

CHAPTER 2—PAYMENTS TO SKILLED NURSING FACILITIES

SUBCHAPTER A—PROSPECTIVE PAYMENT SYSTEM

Sec. 8410. Prospective payment system for skilled nursing facilities.

SUBCHAPTER B—INTERIM PAYMENT SYSTEM

Sec. 8411. Payments for routine service costs.
Sec. 8412. Cost-effective management of covered non-routine services.
Sec. 8413. Payments for routine service costs.
Sec. 8414. Reductions in payment for capital-related costs.
Sec. 8415. Treatment of items and services paid for under part B.
Sec. 8416. Medical review process.
Sec. 8417. Report by medicare payment review commission.
Sec. 8418. Effective date.

CHAPTER 3—OTHER PROVISIONS RELATING TO PART A

Sec. 8421. Payments for hospice services.
Sec. 8422. Permanent extension of hemophilia pass-through.

Subtitle F—Provisions Relating to Part B

CHAPTER 1—PAYMENT REFORMS

Sec. 8501. Payments for physicians' services.
Sec. 8502. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 8503. Extension of reductions in payments for costs of hospital outpatient services.
Sec. 8504. Reduction in updates to payment amounts for clinical diagnostic laboratory tests.
Sec. 8505. Payments for durable medical equipment.
Sec. 8506. Updates for ambulatory surgical services.
Sec. 8507. Payments for ambulance services.
Sec. 8508. Ensuring payment for physician and nurse for jointly furnished anesthesia services.

CHAPTER 2—PART B PREMIUM

Sec. 8511. Promoting solvency of part a trust fund through part b premium.
Sec. 8512. Income-related reduction in medicare subsidy.

Subtitle G—Provisions Relating to Parts A and B

CHAPTER 1—PAYMENTS FOR HOME HEALTH SERVICES

Sec. 8601. Payment for home health services.
Sec. 8602. Maintaining savings resulting from temporary freeze on payment increases for home health services.
Sec. 8603. Extension of waiver of presumption of lack of knowledge of exclusion from coverage for home health agencies.
Sec. 8604. Extension of period of home health agency certification.

PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS

Sec. 8611. Extension and expansion of existing requirements.
Sec. 8612. Improvements in recovery of payments.

CHAPTER 3—OTHER ITEMS AND SERVICES UNDER PARTS A AND B

Sec. 8621. Medicare coverage of certain anticancer drug treatments.
Sec. 8622. Administrative provisions.

CHAPTER 4—FAILSAFE

Sec. 8631. Failsafe budget mechanism.

Subtitle H—Rural Areas

Sec. 8701. Medicare-dependent, small, rural hospital payment extension.
Sec. 8702. Medicare rural hospital flexibility program.
Sec. 8703. Establishment of rural emergency access care hospitals.
Sec. 8704. Classification of rural referral centers.
Sec. 8705. Floor on area wage index.
Sec. 8706. Additional payments for physicians' services furnished in shortage areas.
Sec. 8707. Payments to physician assistants and nurse practitioners for services furnished in outpatient or home settings.
Sec. 8708. Expanding access to nurse aide training in underserved areas.

Subtitle A—MedicarePlus Program

CHAPTER 1—MEDICAREPLUS PROGRAM

SEC. 8001. ESTABLISHMENT OF MEDICAREPLUS PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—MEDICAREPLUS PROGRAM

"ELIGIBILITY, ELECTION, AND ENROLLMENT

"SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS THROUGH MEDICAREPLUS PLANS.—

"(1) IN GENERAL.—Subject to the provisions of this section, every MedicarePlus eligible individual (as defined in paragraph (3)) is entitled to elect to receive benefits under this title—

"(A) through the Medicare fee-for-service program under parts A and B, or

"(B) through enrollment in a MedicarePlus plan under this part.

"(2) TYPES OF MEDICAREPLUS PLANS THAT MAY BE AVAILABLE.—A MedicarePlus plan may be any of the following types of plans of health insurance:

"(A) COORDINATED CARE PLANS.—Private coordinated care plans which provide health care services, including health maintenance organization plans and preferred provider organization plans.

"(B) COMBINATION OF HIGH DEDUCTIBLE PLAN AND CONTRIBUTIONS TO HIGH DEDUCTIBLE MEDICARE MSA.—A high deductible plan, as defined in section 1859(b)(2), and a contribution into a High Deductible MedicarePlus medical savings account (MSA).

"(C) PLANS OFFERED BY PROVIDER-SPONSORED ORGANIZATION.—A MedicarePlus plan offered by a provider-sponsored organization, as defined in section 1853(i).

"(D) UNION, TAFT-HARTLEY, AND ASSOCIATION PLANS.—A MedicarePlus organization plan offered by a MedicarePlus organization that is a union sponsor, Taft-Hartley sponsor, or qualified association sponsor, as defined in section 1859(a).

"(E) FEE-FOR-SERVICE PLANS.—Plans that reimburse hospitals, physicians, and other providers on the basis of a privately determined fee schedule or other basis.

"(F) OTHER HEALTH CARE PLANS.—Any other private plan for the delivery of health care items and services that is not described in a previous subparagraph.

"(3) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—In this title, subject to subparagraph (B), the term 'MedicarePlus eligible individual' means an individual who is entitled to benefits under part A and enrolled under part B.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a MedicarePlus plan may continue to be enrolled in that plan.

"(b) SPECIAL RULES.—

"(1) RESIDENCE REQUIREMENT.—

"(A) IN GENERAL.—Except as the Secretary may otherwise provide, an individual is eligible to elect a MedicarePlus plan offered by a MedicarePlus organization only if the organization serves the geographic area in which the individual resides under the plan.

"(B) CONTINUATION OF ENROLLMENT PERMITTED.—Pursuant to rules specified by the Secretary, the Secretary shall provide that an individual may continue enrollment in a plan, notwithstanding that the individual no longer resides in the service area of the plan, so long as the plan provides benefits for providers located in the area in which the individual resides.

"(2) AFFILIATION REQUIREMENTS FOR CERTAIN PLANS.—

"(A) IN GENERAL.—Subject to subparagraph (B), an individual is eligible to elect a MedicarePlus plan offered by—

"(i) a union sponsor only if (I) the individual is a member of the sponsor and affiliated with the sponsor through an employment relationship with any employer or is the spouse of such a member, and (II) the individual elected under this section a MedicarePlus plan offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor;

"(ii) a Taft-Hartley sponsor only if (I) the individual is entitled to obtain benefits through such plans under the terms of an applicable collective bargaining agreement, and (II) the individual elected under this section a MedicarePlus plan offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor; and

"(iii) a qualified association sponsor only if the individual is a member of the association (or is a spouse of such a member).

"(B) LIMITATION ON ENROLLMENT.—Subject to subparagraph (C)—

"(i) a union sponsor may not enroll an individual under this part unless the individual is described in subparagraph (A)(i)(I),

"(ii) a Taft-Hartley sponsor may not enroll an individual under this part unless the individual is described in subparagraph (A)(ii)(I), and

"(iii) a qualified association sponsor may not enroll an individual under this part unless the individual is described in subparagraph (A)(iii).

"(C) LIMITATION ON TERMINATION OF COVERAGE.—A qualified association sponsor offering a MedicarePlus plan to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

"(3) SPECIAL RULES FOR UNION, TAFT-HARTLEY, AND QUALIFIED ASSOCIATION SPONSORS.—

"(A) UNIONS.—Subject to subparagraph (D), a union sponsor (as defined in section 1859(a)(5)) shall limit eligibility of enrollees under this part for MedicarePlus plans it offers to individuals who are members of the sponsor and affiliated with the sponsor through an employment relationship with any employer or are the spouses of such members.

"(B) TAFT-HARTLEY SPONSORS.—Subject to subparagraph (D), a MedicarePlus organization that is a Taft-Hartley sponsor (as defined in section 1859(a)(4)) shall limit eligibility of enrollees under this part for MedicarePlus plans it offers to individuals who are entitled to obtain benefits through such plans under the terms of an applicable collective bargaining agreement.

"(C) QUALIFIED ASSOCIATION SPONSORS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a MedicarePlus organization that is a qualified association sponsor (as defined in section 1859(a)(3)) shall limit eligibility of individuals under this part for plans it offers to individuals who are members of the association (or who are spouses of such individuals).

"(ii) LIMITATION ON TERMINATION OF COVERAGE.—Such a qualifying association sponsor offering a MedicarePlus plan to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

"(D) LIMITATION.—Rules of eligibility to carry out the previous subparagraphs of this paragraph shall not have the effect of denying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability.

"(E) NO REELECTION AFTER DISENROLLMENT FOR CERTAIN PLANS.—An individual is not eligible to elect a MedicarePlus plan offered by a MedicarePlus organization that is a union sponsor or a Taft-Hartley sponsor if the individual previously had elected a MedicarePlus plan offered by the organization and had subsequently discontinued election of such a plan offered by the organization.

"(4) SPECIAL RULE FOR CERTAIN INDIVIDUALS COVERED UNDER FEHBP.—An individual who is enrolled in a health benefit plan under chapter 89 of title 5, United States Code, is not eligible to enroll in a high deductible plan until such time as the Director of the Office of Management and Budget certifies to the Secretary that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

"(c) PROCESS FOR EXERCISING CHOICE.—

"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) EXPEDITED IMPLEMENTATION.—The Secretary shall establish the process of electing coverage under this section during the transition period (as defined in subsection (e)(1)(B)) in such an expedited manner as will permit such an election for MedicarePlus plans in an area as soon as such plans become available in that area.

"(3) COORDINATION THROUGH MEDICAREPLUS ORGANIZATIONS.—

"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a MedicarePlus plan offered by a MedicarePlus organization to make such election through the filing of an appropriate election form with the organization.

"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a MedicarePlus plan offered by a MedicarePlus organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(4) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the Medicare fee-for-service program option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with a MedicarePlus organization at the time of the initial election period and who fail to elect to receive coverage other than through the organization are deemed to have elected the MedicarePlus plan offered by the organization (or, if the organization offers more than one such plan, the MedicarePlus plan offered by the organization with the lowest net monthly premium).

"(B) CONTINUING PERIODS.—An individual who has made (or is deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) a MedicarePlus plan is discontinued, if the individual had elected such plan at the time of the discontinuation.

"(d) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—

"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to broadly disseminate information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options.

"(2) PROVISION OF NOTICE.—

"(A) OPEN SEASON NOTIFICATION.—At least 15 days before the beginning of each annual, coordinated election period, the Secretary shall mail to each MedicarePlus eligible individual residing in an area the following:

"(i) GENERAL ELECTION INFORMATION AND INFORMATION ABOUT MEDICARE FEE-FOR-SERVICE PROGRAM.—The general information regarding election, benefits coverage, and procedures described in paragraph (3).

"(ii) LIST OF PLANS AND COMPARISON OF PLAN OPTIONS.—A list identifying the MedicarePlus plans that are (or will be) available to residents of the area (and their service areas) and information, described in paragraph (4) and in comparative form, concerning such plans.

"(iii) MEDICAREPLUS MONTHLY CAPITATION RATE.—The amount of the monthly MedicarePlus capitation rate for the area.

"(iv) ADDITIONAL INFORMATION.—Any other information that the Secretary determines will assist the individual in making the election under this section.

The mailing of such information shall be coordinated with the mailing of any annual notice under section 1804.

"(B) NOTIFICATION TO NEWLY MEDICAREPLUS ELIGIBLE INDIVIDUALS.—To the extent practicable, the Secretary shall, not later than 2 months before the beginning of the initial MedicarePlus enrollment period for an individual described in subsection (e)(1)(A), mail to the individual the information described in subparagraph (A).

"(C) FORM.—The information disseminated under this paragraph shall be written and formatted in the most easily understandable manner possible.

"(D) PERIODIC UPDATING.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of MedicarePlus plans and the benefits and monthly premiums (and net monthly premiums) for such plans.

"(3) GENERAL ELECTION INFORMATION AND INFORMATION ABOUT MEDICARE FEE-FOR-SERVICE PROGRAM.—General information under this paragraph, with respect to coverage under this part during a year, shall include the following:

"(A) BENEFITS.—A general description of the benefits covered (and not covered) under the medicare fee-for-service program under parts A and B, including—

"(i) covered items and services, and

"(ii) beneficiary cost sharing, such as deductibles, coinsurance, and copayment amounts, and the beneficiary liability for balance billing.

"(B) PART B PREMIUM.—The part B premium rates that will be charged for part B coverage.

"(C) ELECTION PROCEDURES.—Information and instructions on how to exercise election options under this section.

"(D) PROCEDURAL RIGHTS.—The general description of procedural rights (including grievance procedures) of beneficiaries under the medicare fee-for-service program and the MedicarePlus program.

"(E) RIGHT OF ORGANIZATION TO TERMINATE CONTRACT.—The right of each MedicarePlus organization by law to terminate or refuse to renew its contract and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the MedicarePlus plan under this part.

"(F) USE OF 911 EMERGENCY NUMBER.—A statement that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of what constitutes an emergency situation.

"(4) INFORMATION COMPARING PLAN OPTIONS.—Information under this paragraph, with respect to a MedicarePlus plan for a year, shall include the following:

"(A) BENEFITS.—The benefits covered under the plan, including covered items and services beyond those provided under the medicare fee-for-service program, any reductions in beneficiary cost sharing, and any maximum limitations on out-of-pocket losses.

"(B) PREMIUMS.—The monthly premium (and net monthly premium, including any rebate) for the plan.

"(C) QUALITY.—(i) To the extent available, quality indicators for the benefits under the plan (in comparison with quality indicators

under the Medicare fee-for-service program under parts A and B in the area involved), including—

"(I) disenrollment rates for medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area),

"(II) information on medicare enrollee satisfaction and health outcomes, and

"(III) whether the plan is out of compliance with any requirements of this part (as determined by the Secretary).

"(D) SUPPLEMENTAL COVERAGE OPTIONS.—Whether the organization offering the plan offers optional supplemental coverage.

"(5) MAINTAINING A TOLL-FREE NUMBER.—The Secretary shall maintain a toll-free number for inquiries regarding MedicarePlus options and the operation of part C in all areas in which MedicarePlus plans are offered.

"(6) USE OF NONFEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subsection.

"(7) PROVISION OF INFORMATION.—A MedicarePlus organization shall provide the Secretary with such information on the organization and each MedicarePlus plan it offers as may be required for the preparation of the information referred to in paragraph (2)(A).

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION.—

"(A) IN GENERAL.—In the case of an individual who first becomes entitled to benefits under part A and enrolled under part B after the beginning of the transition period (as defined in subparagraph (B)), the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at the first time the individual both is entitled to benefits under part A and enrolled under part B. Such period shall be specified in a manner so that, in the case of an individual who elects a MedicarePlus plan during the period, coverage under the plan becomes effective as of the first date on which the individual may receive such coverage.

"(B) TRANSITION PERIOD DEFINED.—In this subsection, the term 'transition period' means, with respect to an individual in an area, the period beginning on the first day of the first month in which a MedicarePlus plan is first made available to individuals in the area and ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (3).

"(2) DURING TRANSITION PERIOD.—Subject to paragraph (6)—

"(A) CONTINUOUS OPEN ENROLLMENT INTO A MEDICAREPLUS OPTION.—During the transition period, a MedicarePlus eligible individual who has elected the Medicare fee-for-service program option described in subsection (a)(1)(A) may change such election to a MedicarePlus option described in subsection (a)(1)(B) at any time.

"(B) OPEN DISENROLLMENT BEFORE END OF TRANSITION PERIOD.—

"(i) IN GENERAL.—During the transition period, an individual who has elected a MedicarePlus option described in subsection (a)(1)(B) for a MedicarePlus plan may change such election to another MedicarePlus plan or to the Medicare fee-for-service program option described in subsection (a)(1)(A).

"(ii) SPECIAL RULE.—During the transition period, an individual who has elected a high deductible plan may not change such election to a MedicarePlus plan that is not a high deductible plan unless the individual has had such election in effect for 12 consecutive months.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during an annual, coordinated election period.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of October before such year.

"(C) MEDICAREPLUS HEALTH FAIR DURING OCTOBER, 1996.—In the month of October, 1996, the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform MedicarePlus eligible individuals about such plans and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).

"(4) SPECIAL 90-DAY DISENROLLMENT OPTION.—

"(A) IN GENERAL.—In the case of the first time an individual elects any MedicarePlus plan (other than a high deductible plan) offered by a particular MedicarePlus organization under this section, the individual may change such election through the filing of an appropriate notice during the 90-day period beginning on the first day on which the individual's coverage under the MedicarePlus plan under such option becomes effective.

"(B) LIMITATION.—Subparagraph (A)—

"(i) shall only apply once for an individual with respect to any particular organization, and

"(ii) may not apply more than twice for any individual in a calendar year.

"(C) EFFECT OF DISCONTINUATION OF ELECTION.—An individual who discontinues an election under subparagraph (A) may, during the period specified by the Secretary, make a new election under this subsection (a) (or, in the absence of such an election, is deemed at the time of such discontinuation to have elected the Medicare fee-for-service program option described in subsection (a)(1)(A)).

"(5) SPECIAL ELECTION PERIODS.—An individual may discontinue an election of a MedicarePlus plan offered by a MedicarePlus organization other than during an annual, coordinated election period and make a new election under this section if—

"(A) the organization's or plan's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the plan;

"(B) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of a plan offered by a qualified association sponsor or termination of the individual's enrollment on the basis described in clause (i) or (ii) section 1851(g)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the plan substantially violated a material provision of the organization's contract under part C in relation to the individual and the plan; or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the plan's provisions in marketing the plan to the individual; or

"(D) the individual meets such other conditions as the Secretary may provide.

"(6) SPECIAL RULE FOR HIGH DEDUCTIBLE PLANS.—Notwithstanding the previous provisions of this subsection, an individual may elect a high deductible plan only during an annual, coordinated election period described in paragraph (3)(B) or during the month of October, 1996.

"(f) EFFECTIVENESS OF ELECTIONS.—

"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING TRANSITION; 90-DAY DISENROLLMENT OPTION.—An election of coverage made under subsection (e)(2) and an election to discontinue a MedicarePlus option under subsection (e)(4) at any time shall take effect with the first calendar month following the date on which the election is made.

"(3) ANNUAL, COORDINATED ELECTION PERIOD AND HIGH DEDUCTIBLE PLAN ELECTION.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year or for a high deductible plan shall take effect as of the first day of the following year.

"(4) OTHER PERIODS.—An election of coverage made during any other period under subsection (e)(5) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) GUARANTEED ISSUE AND RENEWAL.—

"(1) IN GENERAL.—Except as provided in this subsection, a MedicarePlus organization shall provide that at any time during which elections are accepted under this section with respect to a MedicarePlus plan offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) PRIORITY.—If the Secretary determines that a MedicarePlus organization, in relation to a MedicarePlus plan it offers, has a capacity limit and the number of MedicarePlus eligible individuals who elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided—

"(A) first to such individuals as have elected the plan at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the plan) on a basis described in section 1852(b).

The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the service area of the plan.

"(3) LIMITATION ON TERMINATION OF ELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a MedicarePlus organization may not for any reason terminate the election of any individual under this section for a MedicarePlus plan it offers.

"(B) BASIS FOR TERMINATION OF ELECTION.—A MedicarePlus organization may terminate an individual's election under this section with respect to a MedicarePlus plan it offers if—

"(i) any net monthly premiums required with respect to such plan are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of net monthly premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the plan is terminated with respect to all individuals under this part.

Any individual whose election is so terminated is deemed to have elected the Medicare fee-for-service program option described in subsection (a)(1)(A).

"(C) LIMITATION ON TERMINATION OF COVERAGE.—A qualified association sponsor offering *a MedicarePlus plan to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.*

"(D) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1857, each MedicarePlus organization receiving an election form under subsection (c)(3) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(h) APPROVAL OF MARKETING MATERIALS.—

"(1) SUBMISSION.—No marketing materials may be distributed by a MedicarePlus organization to (or for the use of) MedicarePlus eligible individuals unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material.

"(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material submitted and under such guidelines the Secretary shall disapprove such material if the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing materials under paragraph (1)(B) with respect to a MedicarePlus plan in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization.

"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each MedicarePlus organization shall conform to fair marketing standards in relation to MedicarePlus plans offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form used to carry out elections under this section on behalf of any individual.

"(i) EFFECT OF ELECTION OF MEDICAREPLUS PLAN OPTION.—Subject to section 1852(a)(5)—

"(1) payments under a contract with a MedicarePlus organization under section 1854(a) with respect to an individual electing a MedicarePlus plan offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual, and

"(2) subject to subsections (e) and (f) of section 1854, only the MedicarePlus organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(j) ADMINISTRATION.—

"(1) IN GENERAL.—This part and section 1876 shall be administered through an operating division (A) that is established or identified by the Secretary and is in the Department of Health and Human Services, (B) that is separate from the Health Care Financing Administration, and (C) the primary function of which is the administration of this part and such section. The director of such division shall be of equal pay and rank to that of the individual responsible for overall administration of parts A and B.

"(2) TRANSFER AUTHORITY.—The Secretary shall transfer such personnel, administrative support systems, assets, records, funds, and other resources in the Health Care Financing Administration to the operating division referred to in paragraph (1) as are used in the administration of section 1876 and as may be required to implement the provisions of this part promptly and efficiently.

"BENEFITS AND BENEFICIARY PROTECTIONS

"SEC. 1852. (a) BASIC BENEFITS.—

"(1) IN GENERAL.—Except as provided in section 1859(b)(2) for high deductible plans, each MedicarePlus plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(A) those items and services for which benefits are available under parts A and B to individuals residing in the area served by the plan, and

"(B) additional health services as the Secretary may approve.

The Secretary shall approve any such additional health care services which the plan proposes to offer to such members, unless the Secretary determines that including such additional services will substantially discourage enrollment by MedicarePlus eligible individuals with the plan.

"(2) SATISFACTION OF REQUIREMENT.—A MedicarePlus plan (other than a high deductible plan) offered by a MedicarePlus organization satisfies paragraph (1)(A) with respect to benefits for items and services if the following requirements are met:

"(A) FEE FOR SERVICE PROVIDERS.—In the case of benefits furnished through a provider that does not have a contract with the organization, the plan provides for at least the dollar amount of payment for such items and services as would otherwise be provided under parts A and B.

"(B) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has such a contract, the individual's liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:

"(i) INDIVIDUAL'S LIABILITY UNDER MEDICARE FEE-FOR-SERVICE PROGRAM.—The amount of the liability that the individual would have had (based on the provider being a participating provider) if the individual had not elected coverage under a MedicarePlus plan.

"(ii) MEDICARE COINSURANCE APPLIED TO PLAN PAYMENT RATES.—The applicable coinsurance or copayment rate (that would have applied under the Medicare fee-for-service program option described in section 1851(a)(1)(A)) of the payment rate provided under the contract.

"(3) SUPPLEMENTAL OPTIONAL BENEFITS.—Each MedicarePlus organization may offer under a MedicarePlus plan optional supplemental benefits to each individual enrolled in the plan under this part for an additional premium amount. If the supplemental benefits are offered only to individuals enrolled in the sponsor's plan under this part, the additional premium amount shall be the same for all enrolled individuals in the MedicarePlus payment area. Such benefits may be marketed and sold by the MedicarePlus organization outside of the enrollment process described in section 1851(c).

"(4) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a MedicarePlus organization may (in the case of the provision of items and services to an individual under a MedicarePlus plan under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such a law, plan, or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(5) NATIONAL COVERAGE DETERMINATIONS.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1854(b) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to a MedicarePlus organization of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the annual MedicarePlus capitation rate under section 1854 included in the announcement made at the beginning of such period—

"(A) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and

"(B) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1851(i) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period,

unless otherwise required by law.

"(b) ANTIDISCRIMINATION.—A MedicarePlus organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual. A MedicarePlus organization shall notify each enrollee under this part of provisions of this subsection at the time of the individual's enrollment.

"(c) DETAILED DESCRIPTION OF PLAN PROVISIONS.—A MedicarePlus organization shall disclose, in clear, accurate, and standardized form to each enrollee with a MedicarePlus plan offered by the organization under this part at the time of enrollment and at least annually thereafter, the following information regarding such plan:

"(1) SERVICE AREA.—The plan's service area.

"(2) BENEFITS.—Benefits under the plan offered, including information described in section 1851(d)(3)(A) and exclusions from coverage and, if it is a high deductible plan, a comparison of benefits under such a plan with benefits under other MedicarePlus plans.

"(3) ACCESS.—The number, mix, and distribution of participating providers.

"(4) OUT-OF-AREA COVERAGE.— Out-of-area coverage provided by the plan.

"(5) EMERGENCY COVERAGE.—Coverage of emergency services and urgently needed care.

"(6) OPTIONAL SUPPLEMENTAL COVERAGE.—Optional supplemental coverage available from the organization offering the plan, including—

"(A) supplemental items and services covered, and

"(B) the premium price for the optional supplemental benefits.

"(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in nonpayment.

"(8) PLAN GRIEVANCE PROCEDURES.— Any plan-specific appeal or grievance rights and procedures.

"(9) QUALITY ASSURANCE PROGRAM.—A description of the organization's quality assurance program under subsection (e).

"(d) ACCESS TO SERVICES.—

"(1) IN GENERAL.—A MedicarePlus organization offering a MedicarePlus plan may restrict the providers from whom the benefits under the plan are provided so long as—

"(A) the organization makes such benefits available and accessible to each individual

electing the plan within the plan service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the plan provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(ii) it was not reasonable given the circumstances to obtain the services through the organization;

"(D) the organization provides access to appropriate providers, including credentialed specialists, for medically necessary treatment and services, and

"(E) coverage is provided for emergency services (as defined in paragraph (3)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

"(2) PROTECTION OF ENROLLEES FOR CERTAIN EMERGENCY SERVICES.—

"(A) PARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (C) which are furnished by a participating physician or provider of services to an individual enrolled with a MedicarePlus organization under this section, the applicable participation agreement is deemed to provide that the physician or provider of services will accept as payment in full from the organization for such emergency services described in subparagraph (C) the amount that would be payable to the physician or provider of services under part B and from the individual under such part, if the individual were not enrolled with such an organization under this part.

"(B) NONPARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (C) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with a MedicarePlus organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(C) EMERGENCY SERVICES DESCRIBED.—The emergency services described in this subparagraph are emergency services which are furnished to an enrollee of a MedicarePlus organization under this part by a physician or provider of services that is not under a contract with the organization.

"(D) EXCEPTION FOR UNRESTRICTED FEE-FOR-SERVICE PLANS.—The previous provisions of this paragraph shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus unrestricted fee-for-service plan (as defined in section 1859(b)(3)).

"(3) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

"(A) are furnished by an appropriate source other than the organization,

"(B) are needed immediately because of an injury or sudden illness, and

"(C) are needed because the time required to reach the organization's providers or suppliers would have meant risk of serious damage to the patient's health.

"(e) QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—Each MedicarePlus organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to individuals enrolled with MedicarePlus plans of the organization.

"(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

"(A) stress health outcomes;

"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

"(D) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions;

"(E) evaluate the continuity and coordination of care that enrollees receive;

"(F) have mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establish or alter practice parameters;

"(H) take action to improve quality and assesses the effectiveness of such action through systematic follow-up;

"(I) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate); and

"(J) be evaluated on an ongoing basis as to its effectiveness.

"(3) EXTERNAL REVIEW.—Each MedicarePlus organization shall, for each MedicarePlus plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary.

"(4) EXCEPTION FOR UNRESTRICTED FEE-FOR-SERVICE PLANS.—Paragraphs (1) and (3) and subsection (h)(2) (relating to maintaining medical records) shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus unrestricted fee-for-service plan.

"(5) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a MedicarePlus organization is deemed to meet the requirements of paragraphs (1) through (3) of this subsection and subsection (h) (relating to confidentiality and accuracy of medical records) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards established under section 1856 to carry out this subsection and such subsection.

"(f) COVERAGE DETERMINATIONS.—

"(1) DECISIONS ON NONEMERGENCY CARE.—A MedicarePlus organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

"(2) APPEALS.—

"(A) IN GENERAL.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.

"(B) PHYSICIAN DECISION ON CERTAIN APPEALS.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.

"(C) EMERGENCY CASES.—Appeals from such a determination involving a life-threatening or emergency situation shall be decided on an expedited asis.

"(g) GRIEVANCES AND APPEALS.—

"(1) GRIEVANCE MECHANISM.—Each MedicarePlus organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees with MedicarePlus plans of the organization under this part.

"(2) APPEALS.—An enrollee with a MedicarePlus plan of a MedicarePlus organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(3) INDEPENDENT REVIEW OF CERTAIN COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve appeals of denials of coverage related to urgent or emergency services with respect to MedicarePlus plans.

"(4) COORDINATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503, so long as such requirements provide at least as much protection for beneficiaries as would apply if this paragraph did not apply.

"(h) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each MedicarePlus organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information, and

"(2) to maintain accurate and timely medical records for enrollees.

"(i) INFORMATION ON ADVANCE DIRECTIVES.—Each MedicarePlus organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(j) RULES REGARDING PHYSICIAN PARTICIPATION.—

"(1) PROCEDURES.—Each MedicarePlus organization shall establish reasonable procedures relating to the participation (under an agreement etween a physician and the organization) of physicians under MedicarePlus plans offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A MedicarePlus organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

"(A) IN GENERAL.—No MedicarePlus organization may operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.126 "(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a MedicarePlus organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(4) LIMITATION ON PROVIDER INDEMNIFICATION.—A MedicarePlus organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought by or on behalf of an enrollee under this part for any damage caused to an enrollee with a MedicarePlus plan of the organization by the organization's denial of medically necessary care.

"(5) EXCEPTION FOR UNRESTRICTED FEE-FOR-SERVICE PLANS.—The previous provisions of this subsection shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus unrestricted fee-for-service plan.

"ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICAREPLUS ORGANIZATIONS; PROVIDER-SPONSORED ORGANIZATIONS

"SEC. 1853. (a) ORGANIZED AND LICENSED UNDER STATE LAW.—

"(1) IN GENERAL.—A MedicarePlus organization shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a MedicarePlus plan.

"(2) EXCEPTION FOR CERTAIN UNION SPONSORS AND TAFT-HARTLEY SPONSORS.—Paragraph (1) shall not apply to a MedicarePlus organization that is a union sponsor or Taft-Hartley sponsor.

"(3) EXCEPTION FOR QUALIFIED ASSOCIATIONS SPONSOR.—Paragraph (1) shall not apply to a MedicarePlus organization that is a qualified association sponsor.

"(4) SPECIAL RULES FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(A) IN GENERAL.—A provider-sponsored organization that seeks to offer a MedicarePlus plan in a State may apply for a waiver of the requirement of paragraph (1) for that organization operating in that State.

"(B) STANDARD.—The Secretary shall act on such an application within 60 days after the date it is filed and shall grant such a waiver for an organization with respect to a State if the Secretary determines that—

"(i) the State has failed to complete action on a licensing application of the organization within 90 days of the date of the State's receipt of the completed application; or

"(ii) the State denied such a licensing application and—

"(I) the State's licensing standards or review process imposes any requirements, procedures, or other standards to such organizations that are not generally applicable to any other entities engaged in substantially similar business,

"(II) such standards or review process applies solvency standards for the organization and the State is not approved under subsection (e)(2)(B), or

"(III) the State has used solvency standards to deny or discriminate against such an organization that has been provided a certificate of solvency under subsection (e)(2).

No period before the date of the enactment of this section shall be included in determining the 90-day period described in clause (i).

"(C) TREATMENT OF WAIVER.—In the case of a waiver granted under this paragraph for a provider-sponsored organization—

"(i) the waiver shall be effective for a 36-month period, except it may be renewed based on a subsequent application filed during the last 6 months of such period,

"(ii) the waiver is conditioned upon the pendency of the licensure application during the period the waiver is in effect, and

"(iii) any provisions of State law which relate to the licensing of the organization and which prohibit the organization from providing coverage pursuant to a contract under this part shall be superseded.

Nothing in this subparagraph shall be construed as limiting the number of times such a waiver may be renewed.

"(D) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the operation of section 514 of the Employee Retirement Income Security Act of 1974.

"(5) EXCEPTION IF REQUIRED TO OFFER MORE THAN MEDICAREPLUS PLANS.—Paragraph (1) shall not apply to a MedicarePlus organization in a State if the State requires the organization, as a condition of licensure, to offer any product or plan other than a MedicarePlus plan.

"(6) EXCEPTION IN CASES OF UNREASONABLE BARRIERS TO MARKET ENTRY.—

"(A) IN GENERAL.—A MedicarePlus organization that seeks to offer a MedicarePlus plan in a State may apply for a waiver of the requirement of paragraph (1) for that organization operating in that State.

"(B) STANDARD.—The Secretary shall act on such an application within 60 days after the date it is filed and shall grant such a waiver for an organization with respect to a State if the Secretary determines that—

"(i) the State (I) denied such a licensing application or (II) unreasonably delayed in acting upon the application, and

"(ii) the State's licensing standards or review process imposes unreasonable barriers to market entry, including through the imposition of any requirements, procedures, or other standards to such organizations that are not generally applicable to any other entities engaged in substantially similar business.

"(C) APPLICATION OF CERTAIN RULES.—The provisions of subparagraphs (C) and (D) of paragraph (4) shall apply to this paragraph in the same manner as they apply under such paragraph, except that for this purpose any reference in paragraph (4)(C)(i) to 36-month period is deemed a reference to a 24-month period.

"(b) PREPAID PAYMENT.—A MedicarePlus organization shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(c) ASSUMPTION OF FULL FINANCIAL RISK.—The MedicarePlus organization shall assume full financial risk on a prospective basis for the provision of the health care services (except, at the election of the organization, hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

In the case of a MedicarePlus organization that is a union sponsor, Taft-Hartley sponsor, or a qualified association sponsor, this subsection shall not apply with respect to MedicarePlus plans offered by such organization and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)).

"(d) PROVISION AGAINST RISK OF INSOLVENCY.—

"(1) IN GENERAL.—Each MedicarePlus organization shall meet standards under section 1856 relating to the financial solvency and capital adequacy of the organization and including provision to prevent enrollees from being held liable to any person or entity for the plan sponsor's debts in the event of the plan sponsor's insolvency. Such standards shall take into account the nature and type of MedicarePlus plans offered by the organization.

"(2) TREATMENT OF PROVIDER-SPONSORED ORGANIZATIONS.—

"(A) IN GENERAL.—In the case of an entity that is a provider-sponsored organization that is operating—

"(i) in a State approved under subparagraph (B), the organization shall meet the standards described in paragraph (1) through licensure by the State, or

"(ii) in a State that is not so approved, the organization shall meet the standards described in paragraph (1) through application and certification licensure by the Secretary.

"(B) APPROVED STATES.—

"(i) APPLICATION PROCESS.—For purposes of subparagraph (A), the Secretary shall establish a process under which a State may apply to the Secretary for a determination that the State is applying to provider-sponsored organizations, through its process for licensing provider-sponsored organizations, solvency standards that are identical with the solvency standards established under section 1856(c) for such organizations.

"(ii) DETERMINATION.—The Secretary shall approve such a State if the Secretary determines

that the State is so applying such standards. If the Secretary denies such an approval, the State may reapply for such a determination.

"(iii) PUBLICATION.—The Secretary shall publish a list of States that are approved under this subparagraph.

"(3) TREATMENT OF UNION AND TAFT-HARTLEY SPONSORS.—An entity that is a union sponsor or a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1).

"(4) TREATMENT OF CERTAIN QUALIFIED ASSOCIATION SPONSORS.—An entity that is a qualified association sponsor is deemed to meet the requirement of paragraph (1) with respect to MedicarePlus plans offered by such association and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization.

"(e) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity—

"(A) that is established or organized by a health care provider, or group of affiliated health care providers,

"(B) that provides a substantial proportion (as defined by the Secretary) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers, and

"(C) with respect to which those affiliated providers that share, directly or indirectly, substantial financial risk with respect to the provision of such items and services have at least a majority financial interest in the entity.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1)(A), the Secretary—

"(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(C) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(5) HEALTH CARE PROVIDER DEFINED.—In this subsection and subsection (f), the term 'health care provider' means—

"(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, and

"(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

"(6) REGULATIONS.—The Secretary shall issue regulations to carry out this subsection.

"(f) APPLICATION OF ANTITRUST RULE OF REASON TO PROVIDER-SPONSORED ORGANIZATIONS.—

"(1) RULE OF REASON STANDARD.—In any action under the antitrust laws, or under any law of a State (as defined in section 4G(2) of the Clayton Act) similar to the antitrust laws, the following conduct shall not be deemed illegal per se:

"(A) The conduct of a provider-sponsored organization, and affiliated providers of the organization, in negotiating, making, or performing a contract (including the establishment and modification of a fee schedule and the development of a panel of physicians), to the extent such contract is for the purpose of providing health care services to individuals under the terms of a MedicarePlus plan offered by such an organization.

"(B) The exchange of information among health care providers relating to costs, sales, profitability, marketing, prices, or fees of any health care product or service if—

"(i) the exchange of such information was solely for the purpose of establishing a provider-sponsored organization and was reasonably required for such purpose, and

"(ii) such information was not used for any other purpose.

Such conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including the effects on competition in properly defined markets.

"(C) The conduct of a group of health care providers, and provider members of such a group, in negotiating, making, or performing a contract (including the establishment and modification of a fee schedule and the development of a panel of physicians) with a provider-sponsored organization, to the extent such contract is for the purpose of providing health care services to individuals under the terms of a MedicarePlus plan of the organization, but only if the group meets the requirements of paragraph (2).

Such conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including the effects on competition in properly defined markets.

"(2) REQUIREMENTS FOR GROUP.—A group of health care providers meets the requirements of this paragraph with respect to a MedicarePlus plan of a provider-sponsored organization if the group—

"(i) is not a provider-sponsored organization,

"(ii) is organized by, operated by, and composed only of members who are health care providers and for purposes that include providing health care services,

"(iii) is funded in part by capital contributions made by the members of such group,

"(iv) with respect to each contract made by such group for the purpose of providing a type of health care service to individuals under the terms of the plan—

"(I) requires all members of such group who engage in providing such type of health care service to agree to provide health care services of such type under such contract,

"(II) receives the compensation paid for the health care services of such type provided under such contract by such members, and

"(III) provides for the distribution of such compensation,

"(v) has established, consistent with the requirements of this part, a program to review, pursuant to written guidelines, the quality, efficiency, and appropriateness of treatment methods and setting of services for all health care providers and all patients participating in the plan, along with internal procedures to correct identified deficiencies relating to such methods and such services,

"(vi) has established, consistent with the requirements of this part, a program to monitor and control utilization of health care services provided under the plan, for the purpose of improving efficient, appropriate care and eliminating the provision of unnecessary health care services,

"(vii) has established a management program to coordinate the delivery of health care services for all health care providers and all patients participating in the plan, for the purpose of achieving efficiencies and enhancing the quality of health care services provided, and

"(viii) has established, consistent with the requirements of this part, a grievance and appeal process for such group designed to review and promptly resolve beneficiary or patient grievances and complaints.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) ANTITRUST LAWS.—The term 'antitrust laws' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

"(B) HEALTH CARE SERVICE.—The term 'health care service' means any service for which payment may be made under a MedicarePlus plan including services related to the delivery or administration of such service.

"(3) ISSUANCE OF GUIDELINES.—Not later than 120 days after the date of the enactment of this part, the Attorney General and the Federal Trade Commission shall issue jointly guidelines specifying the enforcement policies and analytical principles that will be applied by the Department of Justice and the Commission with respect to the operation of this subsection.

"(g) ORGANIZATIONS TREATED AS MEDICAREPLUS ORGANIZATIONS DURING TRANSITION.—Any of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1998:

"(1) HEALTH MAINTENANCE ORGANIZATIONS.—An organization that is organized under the laws of any State and that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), an organization recognized under State law as a health maintenance organization, or a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

"(2) LICENSED INSURERS.—An organization that is organized under the laws of any State and—

"(A) is licensed by a State agency as an insurer for the offering of health benefit coverage, or

"(B) is licensed by a State agency as a service benefit plan,

but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage.

"(3) CURRENT RISK-CONTRACTORS.—An organization that is an eligible organization (as defined in section 1876(b)) and that has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this section.

"PAYMENTS TO MEDICAREPLUS ORGANIZATIONS

"SEC. 1854. (a) PAYMENTS TO ORGANIZATIONS.—

"(1) MONTHLY PAYMENTS.—

"(A) IN GENERAL.—Under a contract under section 1857 and subject to subsections (e) and (f), the Secretary shall make monthly payments under this section in advance to each MedicarePlus organization, with respect to coverage of an individual under this part in a MedicarePlus payment area for a month, in an amount equal to $1/12$ of the annual MedicarePlus capitation rate (as calculated under subsection (c)) with respect to that individual for that *area, adjusted for such risk factors as age, disability status, gender, institutional status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors, if such changes will improve the determination of actuarial equivalence.*

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish a separate rate of payment to a MedicarePlus organization with respect to any individual determined to have end-stage renal disease and enrolled in a MedicarePlus plan of the organization. Such rate of payment shall be actuarially equivalent to rates paid to other enrollees in the MedicarePlus payment area (or such other area as specified by the Secretary).

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a MedicarePlus organization under a plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1852(c) at the time the individual enrolled with the organization.

"(b) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—

"(1) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—

"(A) the annual MedicarePlus capitation rate for each MedicarePlus payment area for the year, and

"(B) the risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

"(2) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide for notice to MedicarePlus organizations of proposed changes to be made in the methodology from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(3) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (1) for a year, the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that MedicarePlus organizations can compute monthly adjusted MedicarePlus capitation rates for individuals in each MedicarePlus payment area which is in whole or in part within the service area of such an organization.

"(c) CALCULATION OF ANNUAL MEDICAREPLUS CAPITATION RATES.—

"(1) IN GENERAL.—For purposes of this part, the annual MedicarePlus capitation rate, for a MedicarePlus payment area for a contract year consisting of a calendar year, is equal to the greatest of the following:

"(A) BLENDED CAPITATION RATE.—The sum of—

"(i) area-specific percentage for the year (as specified under paragraph (2) for the year) of the annual area-specific MedicarePlus capitation rate for the year for the MedicarePlus payment area, as determined under paragraph (3), and

"(ii) national percentage (as specified under paragraph (2) for the year) of the input-price-adjusted annual national MedicarePlus capitation rate for the year, as determined under paragraph (4),

multiplied by a budget neutrality adjustment factor determined under paragraph (5).

"(B) MINIMUM AMOUNT.—

"(i) For 1996, $300.

"(ii) For 1997, $350.

"(iii) For a succeeding year, is the minimum amount specified in this subparagraph for the preceding year increased by national average per capita growth percentage, specified under paragraph (6) for that succeeding year.

"(C) MINIMUM INCREASE OF 2 PERCENT OVER PREVIOUS YEAR'S RATE.—

"(i) For 1996, 102 percent of the annual per capita rate of payment for 1995 determined under section 1876(a)(1)(C) for the MedicarePlus payment area.

"(ii) For a subsequent year, 102 percent of the annual MedicarePlus capitation rate under this subsection for the area for the previous year.

"(2) AREA-SPECIFIC AND NATIONAL PERCENTAGES.—For purposes of paragraph (1)(A)—

"(A) for 1996 and 1997, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

"(B) for 1998, the 'area-specific percentage' is 85 percent and the 'national percentage' is 15 percent,

"(C) for 1999, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,

"(D) for 2000, the 'area-specific percentage' is 75 percent and the 'national percentage' is 25 percent, and

"(E) for a year after 2000, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent.

"(3) ANNUAL AREA-SPECIFIC MEDICAREPLUS CAPITATION RATE.—For purposes of paragraph (1)(A), the annual area-specific MedicarePlus capitation rate for a MedicarePlus payment area—

"(A) for 1996 is the annual per capita rate of payment for 1995 determined under section 1876(a)(1)(C) for the MedicarePlus payment area, increased by the national average per capita growth percentage for 1996 (as defined in paragraph (6)); or

"(B) for a subsequent year is the annual area-specific MedicarePlus capitation rate for the previous year determined under this paragraph for the MedicarePlus payment area, increased by the national average per capita growth percentage for such subsequent year.

"(4) INPUT-PRICE-ADJUSTED ANNUAL NATIONAL MEDICAREPLUS CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the input-price-adjusted annual national MedicarePlus capitation rate for a MedicarePlus payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the plan (for each such type) of—

"(i) the national standardized annual MedicarePlus capitation rate (determined under subparagraph (B)) for the year,

"(ii) the proportion of such rate for the year which is attributable to such type of services, and

"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) NATIONAL STANDARDIZED ANNUAL MEDICAREPLUS CAPITATION RATE.—In subparagraph (A)(i), the 'national standardized annual MedicarePlus capitation rate' for a year is equal to—

"(i) the sum (for all MedicarePlus payment areas) of the product of (I) the annual area-specific MedicarePlus capitation rate for that year for the area under paragraph (3), and (II) the average number of medicare beneficiaries residing in that area in the year; divided by

"(ii) the total average number of medicare beneficiaries residing in all the MedicarePlus payment areas for that year.

"(C) SPECIAL RULES FOR 1996.—In applying this paragraph for 1996—

"(i) medicare services shall be divided into 2 types of services: part A services and part B services;

"(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—

"(I) for part A services, the ratio (expressed as a percentage) of the average annual per capita rate of payment for the area for part A for 1995 to the total average annual per capita rate of payment for the area for parts A and B for 1995, and

"(II) for part B services, 100 percent minus the ratio described in subclause (I);

"(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

"(iv) for part B services—

"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(II) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii);

"(v) the index values shall be computed based only on the beneficiary population who are 65 years of age or older who are not determined to have end stage renal disease.

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.

"(5) BUDGET NEUTRALITY ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a budget neutrality adjustment factor so that the aggregate of the payments under this part shall not exceed the aggregate payments that would have been made under this part if the area-specific percentage for the year had been 100 percent and the national percentage had been 0 percent.

"(6) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE DEFINED.—In this part, the 'national average per capita growth percentage' for—

"(A) 1996 is 8.0 percent,

"(B) 1997 is 3.8 percent,

"(C) 1998 is 4.6 percent,

"(D) 1999 is 4.3 percent,

"(E) 2000 is 3.8 percent,

"(F) 2001 is 5.5 percent,

"(G) 2002 is 5.6 percent, and

"(H) each subsequent year is 5.0 percent.

"(d) MEDICAREPLUS PAYMENT AREA DEFINED.—

"(1) IN GENERAL.—In this part, except as provided in paragraph (3), the term 'MedicarePlus payment area' means a county, or equivalent area specified by the Secretary.

"(2) RULE FOR ESRD BENEFICIARIES.—In the case of individuals who are determined to have end stage renal disease, the MedicarePlus payment area shall be each State.

"(3) GEOGRAPHIC ADJUSTMENT.—

"(A) IN GENERAL.—Upon request of a State for a contract year (beginning after 1996) made at least 7 months before the beginning of the year, the Secretary shall make a geographic adjustment to a MedicarePlus payment areas in the State otherwise determined under paragraph (1)—

"(i) to a single statewide MedicarePlus payment area,

"(ii) to the metropolitan based system described in subparagraph (C), or

"(iii) to consolidating into a single MedicarePlus payment area noncontinuous counties (or equivalent areas described in paragraph (1)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall adjust the payment rates otherwise established under this paragraph for MedicarePlus payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for MedicarePlus payment areas in the State in the absence of the adjustment under this paragraph.

"(C) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—

"(i) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single MedicarePlus payment area, and

"(ii) all areas in the State that do not fall within a metropolitan statistical area are treated as a single MedicarePlus payment area.

"(D) AREAS.—In subparagraph (C), the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

"(e) SPECIAL RULES FOR INDIVIDUALS ELECTING HIGH DEDUCTIBLE PLANS.—

"(1) IN GENERAL.—In the case of an individual who has elected a high deductible plan, notwithstanding the preceding provisions of this section—

"(A) the amount of the monthly payment to the MedicarePlus organization offering the high deductible plan shall not exceed the monthly premium for the plan, and

"(B) subject to paragraph (2), the difference between the amount of payment that would otherwise be made and the amount of payment to such organization shall be made directly into a High Deductible MedicarePlus MSA established (and, if applicable, designated) by the individual under paragraph (2).

"(2) ESTABLISHMENT AND DESIGNATION OF MEDICAREPLUS MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under a high deductible plan, no payment shall be made under paragraph (1)(B) on behalf of an individual for a month unless the individual—

"(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a High Deductible MedicarePlus MSA (as defined in section 137(b)(2) of the Internal Revenue Code of 1986), and

"(B) if the individual has established more than one High Deductible MedicarePlus MSA, has designated one of such accounts as the individual's High Deductible MedicarePlus MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

"(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing a high deductible plan effective beginning with a month in a year, the amount of the contribution to the High Deductible MedicarePlus MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

"(4) PERMITTING CONTRIBUTIONS INTO MEDICAREPLUS MSA.—Effective January 1, 1997, if a member of a Federally-qualified health maintenance organization certifies that a Rebate MedicarePlus MSA (as defined in section 137(c) of the Internal Revenue Code of 1986) has been established for the benefit of such member, the health maintenance organization may reduce the basic health services payment otherwise determined under otherwise applicable law by requiring the payment of a deductible by the member for basic health services.

"(f) PAYMENTS OF REBATES.—

"(1) IN GENERAL.—If the amount of the monthly premium for a MedicarePlus plan (other than a high deductible plan) for an MedicarePlus payment area for a year is less than 1/12 of the annual MedicarePlus capitation rate applied under this section 1854 for the area and year involved, at the election of an individual enrolled under the plan the Secretary shall either—

"(A) in the case of an individual who has a Rebate MedicarePlus MSA account (as defined in section 137(b)(3) of the Internal Revenue Code of 1986), to deposit 100 percent of such difference in such an account specified by the individual; or

"(B)(i) pay to the MedicarePlus organization on behalf of such individual the monthly amount equal to 100 percent of such difference up to the amount of the premium amount of such individual for supplemental benefits described in section 1895H(b),

"(ii) pay to such individual an amount equal to 75 percent of the remainder of such difference, and

"(iii) deposit any remainder of such difference in the Federal Hospital Insurance Trust Fund.

"(2) TIME FOR PAYMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), payments and deposits described in paragraph (1) shall be made on a monthly basis.

"(B) CASH REBATES.—A rebate under paragraph (1)(B)(ii) shall be paid as of the close of the calendar year to which the enrollment applied.

"(g) PAYMENTS FROM TRUST FUND.—The payment to a MedicarePlus organization under this section for individuals enrolled under this part with the organization, and payments to a High Deductible or Rebate MedicarePlus MSA under subsection (e)(1)(B) or subsection (f), shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title.

"(h) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) election under this part of a MedicarePlus plan offered by a MedicarePlus organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the MedicarePlus plan or the Medicare fee-for-service program option described in section 1851(a)(1)(A) (as the case may be) elected before the election with such organization,

"(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(2) termination of election with respect to a MedicarePlus organization under this part—

"(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding MedicarePlus organization, and

"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"PREMIUMS AND REBATES

"SEC. 1855. (a) SUBMISSION AND CHARGING OF PREMIUMS.—

"(1) IN GENERAL.—Subject to paragraph (3), each MedicarePlus organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

"(A) the amount of the monthly premium for coverage for services under section 1852(a) under each MedicarePlus plan it offers under this part in each MedicarePlus payment area (as defined in section 1854(d)) in which the plan is being offered; and

"(B) the enrollment capacity in relation to the plan in each such area.

"(2) TERMINOLOGY.—In this part—

"(A) the term 'monthly premium' means, with respect to a MedicarePlus plan offered by a MedicarePlus organization, the monthly premium filed under paragraph (1), not taking into account the amount of any payment made toward the premium under section 1854; and

"(B) the term 'net monthly premium' means, with respect to such a plan and an individual enrolled with the plan, the premium (as defined in subparagraph (A)) for the plan reduced by the amount of payment made toward such premium under section 1854.

"(3) LIMITATION ON PORTION OF MONTHLY PREMIUM ATTRIBUTABLE TO REQUIRED COVERAGE.—In no case may the portion of the monthly premium for a MedicarePlus plan for an area and year attributable to required services under section 1852(a)(1) exceed the adjusted community rate for the plan (as defined in subsection (f)(5)).

"(b) NET MONTHLY PREMIUM.—The amount of the net monthly premium charged by a MedicarePlus organization for a MedicarePlus plan offered in a MedicarePlus payment area to an individual under this part shall be equal to the amount (if any) by which—

"(1) the amount of the monthly premium for the plan for the period involved, exceeds

"(2) 1/12 of the annual MedicarePlus capitation rate applied under section 1854 for the area and year involved.

"(c) UNIFORM PREMIUM.—The monthly premium and net monthly premium (including rebates offered) by a MedicarePlus organization under this part may not vary among individuals who reside in the same MedicarePlus payment area.

"(d) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each MedicarePlus organization shall permit the payment of net monthly premiums on a monthly basis and may terminate election of individuals for a MedicarePlus plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i).

"(e) RELATION OF PREMIUMS AND COST-SHARING TO BENEFITS.—In no case may the portion of a MedicarePlus organization's monthly premium and the actuarial value of its deductibles, coinsurance, and copayments charged for (to the extent attributable to the required benefits described in section 1852(a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B if they were not members of a MedicarePlus organization.

"(f) REQUIREMENT FOR ADDITIONAL BENEFITS, REBATES, OR BOTH.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—Each MedicarePlus organization (in relation to a MedicarePlus plan it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the plan for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify), a monetary rebate (paid on a monthly basis), or a combination thereof, in a total value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

"(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a plan, is the amount (if any) by which—

"(i) the average of the capitation payments made to the organization under section 1854 for the plan at the beginning of contract year, exceeds

"(ii) the actuarial value of the required benefits described in section 1852(a)(1) under the plan for individuals under this part, as determined based upon an adjusted community rate described in paragraph (5) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

"(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a plan, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

"(D) NO APPLICATION TO HIGH DEDUCTIBLE PLANS.—Subparagraph (A) shall not apply to a high deductible plan.

"(E) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a plan in a MedicarePlus payment area.

"(F) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a MedicarePlus organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

"(2) RULES IN RELATION TO REBATES.—To the extent that the adjusted excess amount for a plan exceeds the value of additional benefits provided under subparagraph (A) by the MedicarePlus organization in relation to the plan for a month, then the organization shall provide for payment of the amount of such excess as follows:

"(A) REBATE MEDICAREPLUS MSA.—If the individual has a Rebate MedicarePlus MSA and elects treatment under this subparagraph, the organization shall provide for payment of such excess into such MSA.

"(B) ADDITIONAL AMOUNT.—The organization shall provide for payment of the amount of any additional excess as follows:

"(i) 75 percent of such excess to the individual.

"(ii) 25 percent to the Federal Hospital Insurance Trust Fund.

"(3) STABILIZATION FUND.—A MedicarePlus organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the MedicarePlus plan of the organization in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

"(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

"(5) ADJUSTED COMMUNITY RATE.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a MedicarePlus organization, either—

"(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a MedicarePlus plan under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other MedicarePlus coverage, or MedicarePlus eligible individuals in the area, in the State, or in the United States, eligible to elect MedicarePlus coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a MedicarePlus organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a MedicarePlus plan of the organization may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a plan.

"(g) TRANSITIONAL FILE AND USE FOR CERTAIN REQUIREMENTS.—

"(1) IN GENERAL.—In the case of a MedicarePlus plan proposed to be offered before the end of the transition period (as defined in section 1851(e)(1)(B)) by a MedicarePlus organization described in section 1853(f)(3) or by a MedicarePlus organization with a contract in effect under section 1857, if the organization submits complete information to the Secretary regarding the plan demonstrating that the plan meets the requirements and standards under section 1852(a) and subsections (a) through (f) of this section (relating to benefits and premiums), the plan shall be deemed as meeting such requirements and standards under such provisions unless the Secretary disapproves the plan within 60 days after the date of submission of the complete information.

"(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as waiving the requirement of a contract under section 1857 or waiving requirements and standards not referred to in paragraph (1).

"ESTABLISHMENT OF STANDARDS; CERTIFICATION OF ORGANIZATIONS AND PLANS

"SEC. 1856. (a) ESTABLISHMENT OF STANDARDS.—

"(1) STANDARDS APPLICABLE TO STATE-REGULATED ORGANIZATIONS AND PLANS AND NON-SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(A) RECOMMENDATIONS OF NAIC.—The Secretary shall request the National Association of Insurance Commissioners to develop and submit to the Secretary, not later than 12 months after the date of the enactment of the Medicare Preservation Act of 1995, proposed standards consistent with the requirements of this part for MedicarePlus organizations (other than union sponsors and Taft-Hartley sponsors, and other than solvency standards described in subsection (b) for provider-sponsored organizations) and MedicarePlus plans offered by such organizations, except that such proposed standards may relate to MedicarePlus organizations that are qualified association sponsors only with respect to MedicarePlus plans offered by them and only if such plans are issued by organizations to which section 1853(a)(1) applies.

"(B) REVIEW.—If the Association submits such standards on a timely basis, the Secretary shall review such standards to determine if the standards meet the requirements of this part. The Secretary shall complete the review of the standards not later than 90 days after the date of their submission. The Secretary shall promulgate such proposed standards to apply to organizations and plans described in subparagraph (A) except to the extent that the Secretary modifies such proposed standards because they do not meet such requirements.

"(C) FAILURE TO SUBMIT.—If the Association does not submit such standards on a timely basis, the Secretary shall promulgate such standards by not later than the date the Secretary would otherwise have been required to promulgate standards under subparagraph (B).

"(D) USE OF INTERIM RULES.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1996, for the application of such interim standards (without regard to any requirements for

notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this paragraph.

“(2) ESTABLISHMENT OF STANDARDS FOR UNION AND TAFT-HARTLEY SPONSORS, QUALIFIED ASSOCIATION SPONSORS, AND PLANS.—

“(A) IN GENERAL.—The Secretary shall develop and promulgate by regulation standards consistent with the requirements of this part for union and Taft-Hartley sponsors, for qualified association sponsors, and for MedicarePlus plans offered by such organizations (other than MedicarePlus plans offered by qualified association sponsors that are issued by organizations to which section 1853(a)(1) applies).

“(B) CONSULTATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor with respect to such standards for such sponsors and plans.

“(C) TIMING.—Standards under this paragraph shall be promulgated at or about the time standards are promulgated under paragraph (1).

“(3) COORDINATION AMONG FINAL STANDARDS.—In establishing standards (other than on an interim basis) under this subsection and subsection (b), the Secretary shall seek to provide for consistency (as appropriate) across the different types of MedicarePlus organizations, in order to promote equitable treatment of different types of organizations and consistent protection for individuals who elect plans offered by the different types of MedicarePlus organizations.

“(4) USE OF CURRENT STANDARDS FOR INTERIM STANDARDS.—To the extent practicable and consistent with the requirements of this part, standards established on an interim basis to carry out requirements of this part may be based on currently applicable standards, such as the rules established under section 1876 (as in effect as of the date of the enactment of this section) to carry out analogous provisions of such section or standards established or developed for application in the private health insurance market.

“(5) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a MedicarePlus organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

“(6) RELATION TO STATE LAWS.—The standards established under this subsection shall supersede any State law or regulation with respect to MedicarePlus plans which are offered by MedicarePlus organizations under this part and are issued by organizations to which section 1853(a)(1) applies, to the extent such law or regulation is inconsistent with such standards.

“(b) ESTABLISHMENT OF SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter 3 of chapter 5 of title 5, United States Code, standards described in section 1853(e) (relating to the financial solvency and capital adequacy of the organization) that entities must meet to qualify as provider-sponsored organizations under this part.

“(B) FACTORS TO CONSIDER.—In establishing solvency standards under subparagraph (A) for provider-sponsored organizations, the Secretary shall consult with interested parties and shall take into account—

“(i) the delivery system assets of such an organization and ability of such an organization to provide services directly to enrollees through affiliated providers, and

“(ii) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care.

“(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of Medicare Preservation Act of 1995.

“(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the ‘target date for publication’ (referred to in section 564(a)(5) of such title) shall be September 1, 1996.

“(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, ‘15 days’ shall be substituted for ‘30 days’.

“(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

“(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

“(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

“(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than June 1, 1996, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

“(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than one month before the target publication date.

“(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target publication date. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

“(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target publication date.

“(10) PROCESS FOR APPROVAL OF APPLICATIONS FOR CERTIFICATION OF SOLVENCY.—

“(A) IN GENERAL.—The Secretary shall establish a process for the receipt and approval of applications of entities for certification of solvency of provider-sponsored organizations under this part. Under such process, the Secretary shall act upon a complete application submitted within 60 days after the date it is received.

“(B) CIRCULATION OF PROPOSED APPLICATION FORM.—By March 1, 1996, the Secretary, after consultation with the negotiated rulemaking committee, shall circulate a proposed application form that could be used by entities considering being certified for solvency under this part.

“(c) CERTIFICATION PROCESS.—

“(1) STATE CERTIFICATION PROCESS FOR STATE-REGULATED ORGANIZATIONS AND NON-SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

“(A) APPROVAL OF STATE PROCESS.—The Secretary shall approve a MedicarePlus certification and enforcement program established by a State for applying the standards established under this section to MedicarePlus organizations (other than union sponsors and Taft-Hartley sponsors and other than solvency standards for provider-sponsored organizations) and MedicarePlus plans offered by such organizations if the Secretary determines that the program effectively provides for the application and enforcement of such standards in the State with respect to such organizations and plans and does not discriminate in its application by type of organization or plan. Such program shall provide for certification of compliance of MedicarePlus organizations and plans with the applicable requirements of this part not less often than once every 3 years.

“(B) EFFECT OF CERTIFICATION UNDER STATE PROCESS.—A MedicarePlus organization and MedicarePlus plan offered by such an organization that is certified under such program is considered to have been certified under this paragraph with respect to the offering of the plan to individuals residing in the State.

“(C) USER FEES.—The State may impose user fees on organizations seeking certification under this paragraph in such amounts as the State deems sufficient to finance the costs of such certification. Nothing in this subparagraph shall be construed as restricting a State's authority to impose premium taxes, other taxes, or other levies.

“(D) REVIEW.—The Secretary periodically shall review State programs approved under subparagraph (A) to determine if they continue to provide for certification and enforcement described in such paragraph. If the Secretary finds that a State program no longer so provides, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State program to meet the requirements of paragraph (1). If the Secretary makes a final determination that the State program, after such an opportunity, fails to meet such requirements, the provisions of subsection (b) shall apply to MedicarePlus organizations and plans in the State.

“(E) EFFECT OF NO STATE PROGRAM.—Beginning on the date standards are established under section 1856, in the case of organizations and plans in States in which a certification program has not been approved and in operation under subparagraph (A), the Secretary shall establish a process for the certification of MedicarePlus organizations (other than union sponsors and Taft-Hartley sponsors and other than solvency standards for provider-sponsored organizations) and plans of such organizations as meeting such standards.

“(F) PUBLICATION OF LIST OF APPROVED STATE PROGRAMS.—The Secretary shall publish (and

periodically update) a list of those State programs which are approved for purposes of this paragraph.

"(2) FEDERAL CERTIFICATION PROCESS FOR UNION SPONSORS AND TAFT-HARTLEY SPONSORS.—

"(A) ESTABLISHMENT.—The Secretary shall establish a process for the certification of union sponsors and Taft-Hartley sponsors and MedicarePlus plans offered by such sponsors and organizations as meeting the applicable standards established under this section.

"(B) INVOLVEMENT OF SECRETARY OF LABOR.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.

"(C) USE OF STATE LICENSING AND PRIVATE ACCREDITATION PROCESSES.—

"(i) IN GENERAL.—The process under this paragraph shall, to the maximum extent practicable, provide that MedicarePlus organizations and plans that are licensed or certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or plan.

"(ii) PERIODIC ACCREDITATION.—The use of an accreditation under clause (i) shall be valid only for such period as the Secretary specifies.

"(D) USER FEES.—The Secretary may impose user fees on entities seeking certification under this paragraph in such amounts as the Secretary deems sufficient to finance the costs of such certification.

"(3) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a MedicarePlus organization or plan is decertified under this subsection, the organization shall notify each enrollee with the organization and plan under this part of such decertification.

"(4) QUALIFIED ASSOCIATION SPONSORS.—In the case of MedicarePlus plans offered by a MedicarePlus organization that is a qualified association sponsor and issued by an organization to which section 1853(a)(1) applies or by a provider-sponsored organization, nothing in this subsection shall be construed as limiting the authority of States to regulate such plans.

"CONTRACTS WITH MEDICAREPLUS ORGANIZATIONS

"SEC. 1857. (a) IN GENERAL.—The Secretary shall not permit the election under section 1851 of a MedicarePlus plan offered by a MedicarePlus organization under this part, and no payment shall be made under section 1854 to an organization, unless the Secretary has entered into a contract under this section with an organization with respect to the offering of such plan. Such a contract with an organization may cover more than one MedicarePlus plan. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) MINIMUM ENROLLMENT REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may not enter into a contract under this section with a MedicarePlus organization (other than a union sponsor or Taft-Hartley sponsor) unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

"(2) EXCEPTION FOR HIGH DEDUCTIBLE PLAN.—Paragraph (1) shall not apply with respect to a contract that relates only to a high deductible plan.

"(3) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 3 contract years with respect to an organization.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the MedicarePlus organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part; and

"(C) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under a high deductible account be effective before January 1997 with respect to such coverage.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a MedicarePlus organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(B) shall have the right to audit and inspect any books and records of the MedicarePlus organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

"(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

"(3) DISCLOSURE.—

"(A) IN GENERAL.—Each MedicarePlus organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

"(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

"(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

"(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

"(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of a MedicarePlus organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a MedicarePlus organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director;

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).

"(C) ACCESS TO INFORMATION.—Each MedicarePlus organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

"(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

"(e) ADDITIONAL CONTRACT TERMS.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(f) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a MedicarePlus organization with a contract under this section—

"(A) fails substantially to provide medically necessary items and services that are required

(under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes net monthly premiums on individuals enrolled under this part in excess of the net monthly premiums permitted;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this part, or

"(ii) to an individual or to any other entity under this part;

"(F) fails to comply with the requirements of section 1852(j)(3); or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a MedicarePlus organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

"(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and

"(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) PROCEEDINGS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(g) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a MedicarePlus organization under this section or may impose the intermediate sanctions described in subsection (f) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(1) the Secretary provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

"(2) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

"(3) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(4) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

"STANDARDS FOR MEDICAREPLUS AND MEDICARE INFORMATION TRANSACTIONS AND DATA ELEMENTS

"SEC. 1858. (a) ADOPTION OF STANDARDS FOR DATA ELEMENTS.—

"(1) IN GENERAL.—Pursuant to subsection (b), the Secretary shall adopt standards for information transactions and data elements of MedicarePlus and medicare information and modifications to the standards under this section that are—

"(A) consistent with the objective of reducing the administrative costs of providing and paying for health care; and

"(B) developed or modified by a standard setting organization (as defined in subsection (h)(8)).

"(2) SPECIAL RULE RELATING TO DATA ELEMENTS.—The Secretary may adopt or modify a standard relating to data elements that is different from the standard developed by a standard setting organization, if—

"(A) the different standard or modification will substantially reduce administrative costs to health care providers and health plans compared to the alternative; and

"(B) the standard or modification is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.

"(3) SECURITY STANDARDS FOR HEALTH INFORMATION NETWORK.—

"(A) IN GENERAL.—Each person, who maintains or transmits MedicarePlus and medicare information or data elements of MedicarePlus and medicare information and is subject to this section, shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

"(i) to ensure the integrity and confidentiality of the information;

"(ii) to protect against any reasonably anticipated—

"(I) threats or hazards to the security or integrity of the information; and

"(II) unauthorized uses or disclosures of the information; and

"(iii) to otherwise ensure compliance with this section by the officers and employees of such person.

"(B) SECURITY STANDARDS.—The Secretary shall establish security standards and modifications to such standards with respect to MedicarePlus and medicare information network services, health plans, and health care providers that—

"(i) take into account—

"(I) the technical capabilities of record systems used to maintain MedicarePlus and medicare information;

"(II) the costs of security measures;

"(III) the need for training persons who have access to MedicarePlus and medicare information; and

"(IV) the value of audit trails in computerized record systems; and

"(ii) ensure that a MedicarePlus and medicare information network service, if it is part of a larger organization, has policies and security procedures which isolate the activities of such service with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

The security standards established by the Secretary shall be based on the standards developed or modified by standard setting organizations. If such standards do not exist, the Secretary shall rely on the recommendations of the MedicarePlus and Medicare Information Advisory Committee (established under subsection (g)) and shall consult with appropriate government agencies and private organizations in accordance with paragraph (5).

"(4) IMPLEMENTATION SPECIFICATIONS.—The Secretary shall establish specifications for implementing each of the standards and the modifications to the standards adopted pursuant to paragraph (1) or (3).

"(5) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this section, the Secretary shall rely on recommendations of the MedicarePlus and Medicare Information Advisory Committee established under subsection (g) and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register the recommendations of the MedicarePlus and Medicare Information Advisory Committee regarding the adoption of a standard under this section.

"(b) STANDARDS FOR INFORMATION TRANSACTIONS AND DATA ELEMENTS.—

"(1) IN GENERAL.—The Secretary shall adopt standards for transactions and data elements to make MedicarePlus and medicare information uniformly available to be exchanged electronically, that is—

"(A) appropriate for the following financial and administrative transactions: claims (including coordination of benefits) or equivalent encounter information, enrollment and disenrollment, eligibility, premium payments, and referral certification and authorization; and

"(B) related to other financial and administrative transactions determined appropriate by the Secretary consistent with the goals of improving the operation of the health care system and reducing administrative costs.

"(2) UNIQUE HEALTH IDENTIFIERS.—

"(A) ADOPTION OF STANDARDS.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the MedicarePlus and medicare information system. In developing unique health identifiers for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

"(B) PENALTY FOR IMPROPER DISCLOSURE.—A person who knowingly uses or causes to be used a unique health identifier under subparagraph (A) for a purpose that is not authorized by the Secretary shall—

"(i) be fined not more than $50,000, imprisoned not more than 1 year, or both; or

"(ii) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both.

"(3) CODE SETS.—

"(A) IN GENERAL.—The Secretary, in consultation with the MedicarePlus and Medicare Information Advisory Committee, experts from the private sector, and Federal and State agencies, shall—

"(i) select code sets for appropriate data elements from among the code sets that have been developed by private and public entities; or

"(ii) establish code sets for such data elements if no code sets for the data elements have been developed.

"(B) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under subsection (c)(2).

"(4) ELECTRONIC SIGNATURE.—

"(A) IN GENERAL.—The Secretary, after consultation with the MedicarePlus and Medicare Information Advisory Committee, shall promulgate regulations specifying procedures for the electronic transmission and authentication of signatures, compliance with which will be deemed to satisfy Federal and State statutory requirements for written signatures with respect to information transactions required by this section and written signatures on enrollment and disenrollment forms.

"(B) PAYMENTS FOR SERVICES AND PREMIUMS.—Nothing in this section shall be construed to prohibit the payment of health care services or health plan premiums by debit, credit, payment card or numbers, or other electronic means.

"(5) TRANSFER OF INFORMATION BETWEEN HEALTH PLANS.—The Secretary shall develop rules and procedures—

"(A) for determining the financial liability of health plans when health care benefits are payable under two or more health plans; and

"(B) for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

"(6) COORDINATION OF BENEFITS.—If, at the end of the 5-year period beginning on the date of the enactment of this section, the Secretary determines that additional transaction standards for coordinating benefits are necessary to reduce administrative costs or duplicative (or inappropriate) payment of claims, the Secretary shall establish further transaction standards for the coordination of benefits between health plans.

"(7) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, the standards adopted under this section shall not require disclosure of trade secrets or confidential commercial information by an entity operating a MedicarePlus and medicare information network.

"(c) TIMETABLES FOR ADOPTION OF STANDARDS.—

"(1) INITIAL STANDARDS.—Not later than 18 months after the date of the enactment of this section, the Secretary shall adopt standards relating to the information transactions, data elements of MedicarePlus and medicare information and security described in subsections (a) and (b).

"(2) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

"(A) IN GENERAL.—The Secretary shall review the standards adopted under this section and shall adopt additional or modified standards, that have been developed or modified by a standard setting organization, as determined appropriate, but not more frequently than once every 12 months. Any addition or modification to such standards shall be completed in a manner which minimizes the disruption and cost of compliance.

"(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

"(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

"(ii) ADDITIONAL RULES.—If a code set is modified under this paragraph, the modified code set shall include instructions on how data elements of MedicarePlus and medicare information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this paragraph shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

"(d) REQUIREMENTS FOR HEALTH PLANS.—

"(1) IN GENERAL.—If a person desires to conduct any of the information transactions described in subsection (b)(1) with a health plan as a standard transaction, the health plan shall conduct such standard transaction in a timely manner and the information transmitted or received in connection with such transaction shall be in the form of standard data elements of MedicarePlus and medicare information.

"(2) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirement imposed on such plan under paragraph (1) by directly transmitting standard data elements of MedicarePlus and medicare information or submitting nonstandard data elements to a MedicarePlus and medicare information network service for processing into standard data elements and transmission.

"(3) TIMETABLES FOR COMPLIANCE WITH REQUIREMENTS.—Not later than 24 months after the date on which standards are adopted under subsections (a) and (b) with respect to any type of information transaction or data element of MedicarePlus and medicare information or with respect to security, a health plan shall comply with the requirements of this section with respect to such transaction or data element.

"(4) COMPLIANCE WITH MODIFIED STANDARDS.—If the Secretary adopts a modified standard under subsection (a) or (b), a health plan shall be required to comply with the modified standard at such time as the Secretary determines appropriate taking into account the time needed to comply due to the nature and extent of the modification. However, the time determined appropriate under the preceding sentence shall be not earlier than the last day of the 180-day period beginning on the date such modified standard is adopted. The Secretary may extend the time for compliance for small health plans, if the Secretary determines such extension is appropriate.

"(e) GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS.—

"(1) GENERAL PENALTY.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall impose on any person that violates a requirement or standard—

"(i) with respect to MedicarePlus and medicare information transactions, data elements of MedicarePlus and medicare information, or security imposed under subsection (a) or (b); or

"(ii) with respect to health plans imposed under subsection (d);

a penalty of not more than $100 for each such violation of a specific standard or requirement, but the total amount imposed for all such violations of a specific standard or requirement during the calendar year shall not exceed $25,000.

"(B) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this paragraph in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

"(C) DENIAL OF PAYMENT.—Except as provided in paragraph (2), the Secretary may deny payment under this title for an item or service furnished by a person if the person fails to comply with an applicable requirement or standard for MedicarePlus and medicare information relating to that item or service.

"(2) LIMITATIONS.—

"(A) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under paragraph (1) if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person failed to comply with the requirement or standard described in paragraph (1).

"(B) FAILURES DUE TO REASONABLE CAUSE.—

"(i) IN GENERAL.—Except as provided in clause (ii), a penalty may not be imposed under paragraph (1) if—

"(I) the failure to comply was due to reasonable cause and not to willful neglect; and

"(II) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

"(ii) EXTENSION OF PERIOD.—

"(I) NO PENALTY.—The period referred to in clause (i)(II) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

"(II) ASSISTANCE.—If the Secretary determines that a health plan failed to comply because such plan was unable to comply, the Secretary may provide technical assistance to such plan during the period described in clause (i)(II). Such assistance shall be provided in any manner determined appropriate by the Secretary.

"(C) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under paragraph (1) that is not entirely waived under subparagraph (B) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

"(f) EFFECT ON STATE LAW.—

"(1) GENERAL EFFECT.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), a provision, requirement, or standard under this section shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

"(B) EXCEPTIONS.—A provision, requirement, or standard under this section shall not supersede a contrary provision of State law if the Secretary determines that the provision of State law should be continued for any reason, including for reasons relating to prevention of fraud and abuse or regulation of controlled substances.

"(2) PUBLIC HEALTH REPORTING.—Nothing in this section shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

"(g) MEDICAREPLUS AND MEDICARE INFORMATION ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT.—There is established a committee to be known as the MedicarePlus and Medicare Information Advisory Committee (in this subsection referred to as the 'committee').

''(2) DUTIES.—The committee shall—

''(A) advise the Secretary in the development of standards under this section; and

''(B) be generally responsible for advising the Secretary and the Congress on the status and the future of the MedicarePlus and medicare information network.

''(3) MEMBERSHIP.—

''(A) IN GENERAL.—The committee shall consist of 9 members of whom—

''(i) 3 shall be appointed by the President;

''(ii) 3 shall be appointed by the Speaker of the House of Representatives after consultation with the minority leader of the House of Representatives; and

''(iii) 3 shall be appointed by the President pro tempore of the Senate after consultation with the minority leader of the Senate.

The appointments of the members shall be made not later than 60 days after the date of the enactment of this section. The President shall designate 1 member as the Chair.

''(B) EXPERTISE.—The membership of the committee shall consist of individuals who are of recognized standing and distinction in the areas of information systems, information networking and integration, consumer health, or health care financial management, and who possess the demonstrated capacity to discharge the duties imposed on the committee.

''(C) TERMS.—Each member of the committee shall be appointed for a term of 5 years, except that the members first appointed shall serve staggered terms such that the terms of not more than 3 members expire at one time.

''(D) INITIAL MEETING.—Not later than 30 days after the date on which a majority of the members have been appointed, the committee shall hold its first meeting.

''(4) REPORTS.—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the committee shall submit to Congress and the Secretary a report regarding—

''(A) the extent to which entities using the MedicarePlus and medicare information network are meeting the standards adopted under this section and working together to form an integrated network that meets the needs of its users;

''(B) the extent to which such entities are meeting the security standards established pursuant to this section and the types of penalties assessed for noncompliance with such standards;

''(C) any problems that exist with respect to implementation of the MedicarePlus and medicare information network; and

''(D) the extent to which timetables under this section are being met.

Reports made under this subsection shall be made available to health care providers, health plans, and other entities that use the MedicarePlus and medicare information network to exchange MedicarePlus and medicare information.

''(h) DEFINITIONS.—For purposes of this section:

''(1) CODE SET.—The term 'code set' means any set of codes used for encoding data elements, such as tables of terms, enrollment information, and encounter data.

''(2) COORDINATION OF BENEFITS.—The term 'coordination of benefits' means determining and coordinating the financial obligations of health plans when health care benefits are payable under such a plan and under this title (including under a MedicarePlus plan).

''(3) MEDICAREPLUS AND MEDICARE INFORMATION.—The term 'MedicarePlus and medicare information' means any information that relates to the enrollment of individuals under this title (including information relating to elections of MedicarePlus plans under section 1851) and the provision of health benefits (including benefits provided under such plans) under this title.

''(4) MEDICAREPLUS AND MEDICARE INFORMATION NETWORK.—The term 'MedicarePlus and medicare information network' means the MedicarePlus and medicare information system that is formed through the application of the requirements and standards established under this section.

''(5) MEDICAREPLUS AND MEDICARE INFORMATION NETWORK SERVICE.—The term 'MedicarePlus and medicare information network service' means a public or private entity that—

''(A) processes or facilitates the processing of nonstandard data elements of MedicarePlus and medicare information into standard data elements;

''(B) provides the means by which persons may meet the requirements of this section; or

''(C) provides specific information processing services.

''(6) HEALTH PLAN.—The term 'health plan' means a plan which provides, or pays the cost of, health benefits. Such term includes the following, or any combination thereof:

''(A) Part A or part B of this title, and includes a MedicarePlus plan.

''(B) The medicaid program under title XIX and the MediGrant program under title XXI.

''(C) A medicare supplemental policy (as defined in section 1882(g)(1)).

''(D) Worker's compensation or similar insurance.

''(E) Automobile or automobile medical-payment insurance.

''(F) A long-term care policy, other than a fixed indemnity policy.

''(G) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.

''(H) An employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), but only to the extent the plan is established or maintained for the purpose of providing health benefits.

''(7) INDIVIDUALLY IDENTIFIABLE MEDICAREPLUS AND MEDICARE INFORMATION.—The term 'individually identifiable MedicarePlus and medicare information' means MedicarePlus and medicare enrollment information, including demographic information collected from an individual, that—

''(A) is created or received by a health care provider, health plan, employer, or MedicarePlus and medicare information network service, and

''(B) identifies an individual.

''(8) STANDARD SETTING ORGANIZATION.—The term 'standard setting organization' means a standard setting organization accredited by the American National Standards Institute and includes the National Council for Prescription Drug Program.

''(9) STANDARD TRANSACTION.—The term 'standard transaction' means, when referring to an information transaction or to data elements of MedicarePlus and medicare information, any transaction that meets the requirements and implementation specifications adopted by the Secretary under subsections (a) and (b).

''DEFINITIONS; MISCELLANEOUS PROVISIONS

''SEC. 1859. (a) DEFINITIONS RELATING TO MEDICAREPLUS ORGANIZATIONS.—In this part—

''(1) MEDICAREPLUS ORGANIZATION.—The term 'MedicarePlus organization' means a public or private entity that is certified under section 1857 as meeting the requirements and standards of this part for such an organization.

''(2) PROVIDER-SPONSORED ORGANIZATION.—The term 'provider-sponsored organization' is defined in section 1853(e).

''(3) QUALIFIED ASSOCIATION SPONSOR.—The term 'qualified association sponsor' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—

''(A) is organized for purposes other than to market a health plan,

''(B) may not condition its membership on health status, health claims experience, receipt of health care, medical history, or lack of evidence of insurability of a potential member,

''(C) may not exclude a member or spouse of a member from health plan coverage based on factors described in clause (ii);

''(D) does not exist solely or principally for the purpose of selling insurance,

''(E) has at least 1,000 individual members or 200 employer members,

''(F) is a permanent entity which receives a substantial proportion of its financial support from active members; and

''(G) is not owned or controlled by an insurance company.

Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.

''(4) TAFT-HARTLEY SPONSOR.—The term 'Taft-Hartley sponsor' means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

''(5) UNION SPONSOR.—The term 'union sponsor' means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.

''(6) EMPLOYER, ETC.—In this subsection and section 1851(b), the terms 'employer', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

''(b) DEFINITIONS RELATING TO MEDICAREPLUS PLANS.—

''(1) MEDICAREPLUS PLAN.—The term 'MedicarePlus plan' means health benefits coverage offered under a policy, contract, or plan by a MedicarePlus organization pursuant to and in accordance with a contract under section 1857.

''(2) HIGH DEDUCTIBLE PLAN.—

''(A) IN GENERAL.—The term 'high deductible plan' means a MedicarePlus plan that—

''(i) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the plan) equal to the amount of a deductible (described in subparagraph (B));

''(ii) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B or by the enrollee if the enrollee had elected to receive benefits through the provisions of such parts; and

''(iii) provides, after such deductible is met for a year and for all subsequent expenses for benefits referred to in clause (i) in the year, for a level of reimbursement that is not less than—

''(I) 100 percent of such expenses, or

''(II) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less.

''(B) DEDUCTIBLE.—The amount of deductible under a high deductible plan—

''(i) for contract year 1997 shall be not more than $6,000; and

"(ii) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this subparagraph increased by the national average per capita growth percentage under section 1854(c)(6) for the year.

If the amount of the deductible under clause (ii) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

"(3) MEDICAREPLUS UNRESTRICTED FEE-FOR-SERVICE PLAN.—The term 'MedicarePlus unrestricted fee-for-service plan' means a MedicarePlus plan that provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the organization offering the plan for the provision of such benefits.

"(c) OTHER REFERENCES TO OTHER TERMS.—

"(1) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—The term 'MedicarePlus eligible individual' is defined in section 1851(a)(3).

"(2) MEDICAREPLUS PAYMENT AREA.—The term 'MedicarePlus payment area' is defined in section 1854(d).

"(3) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE.—The 'national average per capita growth percentage' is defined in section 1854(c)(6).

"(4) MONTHLY PREMIUM; NET MONTHLY PREMIUM.—The terms 'monthly premium' and 'net monthly premium' are defined in section 1855(a)(2).

"(d) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICAREPLUS PLAN.—Nothing in this part shall be construed as preventing a State from coordinating benefits under its MediGrant program under title XXI with those provided under a MedicarePlus plan in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such program.".

(b) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(c) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(d) ADVANCE DIRECTIVES.—Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended—

(1) by inserting "1853(g)," after "1833(s),", and

(2) by inserting ", MedicarePlus organization," after "provider of services".

(e) CONFORMING AMENDMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended by inserting before the semicolon at the end the following: "and in the case of hospitals to accept as payment in full for inpatient hospital services that are emergency services (as defined in section 1853(b)(4)) that are covered under this title and are furnished to any individual enrolled under part C with a MedicarePlus organization which does not have a contract establishing payment amounts for services furnished to members of the organization the amounts that would be made as a payment in full under this title if the individuals were not so enrolled".

(f) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

SEC. 8002. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PLANS.

(a) TREATMENT OF CERTAIN HEALTH INSURANCE POLICIES AS NONDUPLICATIVE.—

(1) IN GENERAL.—Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending clause (i) to read as follows:

"(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title or electing a MedicarePlus plan under section 1851—

"(I) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) in the case of an individual not electing a MedicarePlus plan, a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) in the case of an individual electing a MedicarePlus plan, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or under another medicare supplemental policy.";

(B) in clause (iii), by striking "clause (i)" and inserting "clause (i)(II)"; and

(C) by adding at the end the following new clauses:

"(iv) For purposes of this subparagraph a health insurance policy shall be considered to 'duplicate' benefits under this title only when, under its terms, the policy provides specific reimbursement for identical items and services to the extent paid for under this title, and a health insurance policy providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual is not considered to 'duplicate' any health benefits under this title.

"(v) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which is not a health insurance policy), including a policy (such as a qualified long-term care insurance contract described in section 7702B(b) of the Internal Revenue Code of 1986, as added by the Revenue Reconciliation Act of 1995) providing benefits for long-term care, nursing home care, home health care, or community-based care, that coordinates against or excludes items and services available or paid for under this title and (for policies sold or issued after January 1, 1996) that discloses such coordination or exclusion in the policy's outline of coverage, is not considered to 'duplicate' health benefits under this title. For purposes of this clause, the terms 'coordinates' and 'coordination' mean, with respect to a policy in relation to health benefits under this title, that the policy under its terms is secondary to, or excludes from payment, items and services to the extent available or paid for under this title.

"(vi) A State may not impose, with respect to the sale or issuance of a policy (or rider) that meets the requirements of this title pursuant to clause (iv) or (v) to an individual entitled to benefits under part A or enrolled under part B or enrolled under a MedicarePlus plan under part C, any requirement based on the premise that such a policy or rider duplicates health benefits to which the individual is otherwise entitled under this title.".

(2) CONFORMING AMENDMENTS.—Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(A) in subparagraph (B), by inserting "(including any MedicarePlus plan)" after "health insurance policies";

(B) in subparagraph (C)—

(i) by striking "with respect to (i)" and inserting "with respect to", and

(ii) by striking ", (ii) the sale" and all that follows up to the period at the end; and

(C) by striking subparagraph (D).

(3) MEDICAREPLUS PLANS NOT TREATED AS MEDICARE SUPPLEMENTARY POLICIES.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting "a MedicarePlus plan or" after "and does not include".

(b) ADDITIONAL RULES RELATING TO INDIVIDUALS ENROLLED IN MEDICAREPLUS PLANS.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

"(u)(1) Notwithstanding the previous provisions of this section, this section shall not apply to the sale or issuance of a medicare supplemental policy to an individual who has elected to enroll in a MedicarePlus plan under section 1851.

"(2)(A) It is unlawful for a person to sell or issue a policy described in subparagraph (B) to an individual with knowledge that the individual has in effect under section 1851 an election of a high deductible plan.

"(B) A policy described in this subparagraph is a health insurance policy that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the high deductible plan.".

SEC. 8003. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) IN GENERAL.—Section 1876 (42 U.S.C. 1395mm) is amended—

(1) in subsection (c)(3)(A)(i), by striking "would result in failure to meet the requirements of subsection (f) or";

(2) by amending subsection (f) to read as follows:

"(f)(1) Except as provided in paragraph (3), the Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after—

"(A) the date standards for MedicarePlus organizations and plans are first established under section 1856(a) with respect to MedicarePlus organizations that are insurers or health maintenance organizations, or

"(B) in the case of in the case of such an organization with such a contract in effect as of the date such standards were first established, 1 year after such date.

"(2) The Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after January 1, 2000.

"(3) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1996, may continue enrollment in such organization. Not later then July 1, 1996, the Secretary shall issue regulations relating to such individuals and such organizations.

"(4) Notwithstanding subsection (a), the Secretary shall provide that payment amounts under risk-sharing contracts under this section for months in a year (beginning with January 1996) shall be computed—

"(A) with respect to individuals entitled to benefits under both parts A and B, by substituting payment rates under section 1854(a) for the payment rates otherwise established under subsection 1876(a), and

"(B) with respect to individuals only entitled to benefits under part B, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under this title attributable to such part) for the payment rates otherwise established under subsection (a).

For purposes of carrying out this paragraph for payments for months in 1996, the Secretary shall compute, announce, and apply the payment *rates under section 1854(a) (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made under this section not in accordance with such rates."; and*

(3) in subsection (i)(1)(C), by striking "(e), and (f)" and inserting "and (e)".

CHAPTER 2—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

SEC. 8011. MEDICAREPLUS MSA.

(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. MEDICAREPLUS MSA.

"(a) Exclusion.—Gross income shall not include any payment to the MedicarePlus MSA of an individual by the Secretary of Health and Human Services under part C of title XVIII of the Social Security Act.

"(b) MedicarePlus MSA.—For purposes of this section—

"(1) MedicarePlus MSA.—The term 'MedicarePlus MSA' means a medical savings account (as defined in section 222(d))—

"(A) which is designated as a MedicarePlus MSA,

"(B) notwithstanding section 222(f)(5), with respect to which no contribution may be made other than—

"(i) a contribution made by the Secretary of Health and Human Services pursuant to part C of title XVIII of the Social Security Act, or

"(ii) a trustee-to-trustee transfer described in subsection (c)(4), and

"(C) the governing instrument of which provides that trustee-to-trustee transfers described in subsection (c)(4) may be made to and from such account.

"(2) High deductible MSA.—The term 'High Deductible MedicarePlus MSA' means a MedicarePlus MSA which is established in connection with a high deductible plan described in section 1859(b)(2) of the Social Security Act.

"(3) Rebate MedicarePlus MSA.—The term 'Rebate MedicarePlus MSA' means a MedicarePlus MSA other than a High Deductible MedicarePlus MSA.

"(c) Special Rules for Distributions.—

"(1) Distributions for qualified medical expenses.—In applying section 222—

"(A) to a High Deductible MedicarePlus MSA, qualified medical expenses shall include only expenses for medical care of the account holder, and

"(B) to a Rebate MedicarePlus MSA, qualified medical expenses shall include only expenses for medical care of the account holder and of the spouse of the account holder if such spouse is entitled to benefits under part A of title XVIII of the Social Security Act and is enrolled under part B of such title.

"(2) Penalty for distributions from high deductible MSA not used for qualified medical expenses if minimum balance not maintained.—

"(A) In general.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a High Deductible MedicarePlus MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

"(i) the amount of such payment or distribution, over

"(ii) the excess (if any) of—

"(I) the fair market value of the assets in such MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

"(II) an amount equal to 60 percent of the deductible under the high deductible plan covering the account holder as of January 1 of the calendar year in which the taxable year begins. Section 222(f)(2) shall not apply to any payment or distribution from a High Deductible MedicarePlus MSA.

"(B) Exceptions.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) Special rules.—For purposes of subparagraph (A)—

"(i) all High Deductible MedicarePlus MSAs of the account holder shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) Withdrawal of erroneous contributions.—Section 222(f)(2) and paragraph (2) of this subsection shall not apply to any payment or distribution from a MedicarePlus MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

"(4) Trustee-to-trustee transfers.—Section 222(f)(2) and paragraph (2) of this subsection shall not apply to—

"(A) any trustee-to-trustee transfer from a High Deductible MedicarePlus MSA of an account holder to another High Deductible MedicarePlus MSA of such account holder, and

"(B) any trustee-to-trustee transfer from a Rebate MedicarePlus MSA of an account holder to another Rebate MedicarePlus MSA of such account holder.

"(d) Special Rules for Treatment of Account After Death of Account Holder.—Notwithstanding section 222(f)(1)(B), if, as of the date of the death of the account holder, the spouse of such holder is not entitled to benefits under title XVIII of the Social Security Act, then after the date of such death—

"(1) the Secretary of Health and Human Services may not make any payments to such MedicarePlus MSA, other than payments attributable to periods before such date, and

"(2) such MSA shall be treated as medical savings account which is not a MedicarePlus MSA.

"(e) Reports.—In the case of a MedicarePlus MSA, the report under section 222(h)—

"(1) shall include the fair market value of the assets in such MedicarePlus MSA as of the close of each calendar year, and

"(2) shall be furnished to the account holder—

"(A) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(B) in such manner as the Secretary prescribes in such regulations."

(b) Conforming Amendments.—

(1) The last sentence of section 4973(d) of such Code, as added by section 11066(f)(4), is amended by "or section 137(c)(3)" after "section 222(f)(3)".

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 137. MedicarePlus MSA.

"Sec. 138. Cross references to other Acts."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 8012. CERTAIN REBATES EXCLUDED FROM GROSS INCOME.

(a) In General.—Section 105 of the Internal Revenue Code of 1986 (relating to amounts received under accident and health plans) is amended by adding at the end the following new subsection:

"(j) Certain Rebates Under Social Security Act.—Gross income does not include any rebate received under part C of title XVIII of the Social Security Act during the taxable year."

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

CHAPTER 3—MEDICARE PAYMENT REVIEW COMMISSION

SEC. 8021. MEDICARE PAYMENT REVIEW COMMISSION.

(a) In General.—Title XVIII is amended by inserting after section 1804 the following new section:

"MEDICARE PAYMENT REVIEW COMMISSION

"Sec. 1805. (a) Establishment.—There is hereby established the Medicare Payment Review Commission (in this section referred to as the 'Commission').

"(b) Duties.—

"(1) General duties and reports.—

"(A) In general.—The Commission shall review, and make recommendations to Congress concerning, payment policies under this title.

"(B) Annual reports.—By not later than June 1 of each year, the Commission shall submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program.

"(C) Additional reports.—The Commission may submit to Congress from time to time such other reports as the Commission deems appropriate. By not later than May 1, 1997, the Commission shall submit to Congress a report on the matter described in paragraph (2)(G).

"(D) Availability of reports.—The Commission shall transmit to the Secretary a copy of each report submitted to Congress under this subsection and shall make such reports available to the public.

"(2) Specific duties relating to MedicarePlus program.—Specifically, the Commission shall review, with respect to the MedicarePlus program under part C—

"(A) the methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas);

"(B) the mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries;

"(C) the implications of risk selection both among MedicarePlus organizations and between the MedicarePlus option and the Medicare fee-for-service option;

"(D) in relation to payment under part C, the development and implementation of mechanisms to assure the quality of care for those enrolled with MedicarePlus organizations;

"(E) the impact of the MedicarePlus program on access to care for medicare beneficiaries;

"(F) the feasibility and desirability of extending the rules for open enrollment that apply during the transition period to apply in each county during the first 2 years in which MedicarePlus plans are made available to individuals residing in the county; and

"(G) other major issues in implementation and further development of the MedicarePlus program.

"(3) SPECIFIC DUTIES RELATING TO THE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

"(A) the factors affecting expenditures for services in different sectors, including the process for updating hospital, physician, and other fees,

"(B) payment methodologies; and

"(C) the impact of payment policies on access and quality of care for medicare beneficiaries.

"(4) SPECIFIC DUTIES RELATING TO INTERACTION OF PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically the Commission shall review the effect of payment policies under this title on the delivery of health care services under this title and assess the implications of changes in the health services market on the medicare program.

"(c) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General.

"(2) QUALIFICATIONS.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives, including physicians and other health professionals, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

"(3) TERMS.—

"(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(4) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

"(6) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) POWERS.—

"(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall collect and assess information to—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon request.

"(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the General Accounting Office.

"(5) OPEN MEETINGS, ETC..—Pursuant to regulations of the Comptroller General, rules based upon the requirements of section 10 of the Federal Advisory Committee Act shall apply with respect to the Commission.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Review Commission".

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) CONFORMING AMENDMENTS.—

(i) Section 1834(b)(2) (42 U.S.C. 1395m(b)(2)) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission".

(ii) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking "Physician Payment Review Commission" each place it appears in paragraphs (9)(D) and (14)(C)(i) and inserting "Medicare Payment Review Commission".

(iii) Section 1848 (42 U.S.C. 1395w–4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission" each place it appears in paragraph (2)(A)(ii), (2)(B)(iii), and (5) of subsection (c), subsection (d)(2)(F), paragraphs (1)(B), (3), and (4)(A) of subsection (f), and paragraphs (6)(C) and (7)(C) of subsection (g).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Review Commission (in this subsection referred to as "MPRC") by not later than September 30, 1996.

(2) TRANSITION.—Effective January 1, 1997, the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC") are terminated and amendments made by subsection (b) shall become effective. The Comptroller General, to the maximum extent feasible, shall provide for the transfer to the MPRC of assets and staff of ProPAC and PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or PPRC for any period shall be available to the MPRC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MPRC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MPRC) by the ProPAC and PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MPRC, to refer to the MPRC.

CHAPTER 4—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS

SEC. 8031. TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.), as amended by title XI, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section

1853 of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Health Care Fraud and Abuse Prevention

CHAPTER 1—FRAUD AND ABUSE CONTROL PROGRAM

SEC. 8101. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

''FRAUD AND ABUSE CONTROL PROGRAM

''SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

''(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans,

''(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

''(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse,

''(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D, and

''(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128E.

''(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

''(3) GUIDELINES.—

''(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

''(B) INFORMATION GUIDELINES.—

''(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

''(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

''(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

''(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

''(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

''(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

''(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

''(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

''(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

''(1) a policy of health insurance;

''(2) a contract of a service benefit organization; and

''(3) a membership agreement with a health maintenance organization or other prepaid health plan.''.

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

''(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

''(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

''(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

''(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

''(i) such gifts and bequests as may be made as provided in subparagraph (B);

''(ii) such amounts as may be deposited in the Trust Fund as provided in sections 8141(b) and 8142(c) of the Medicare Preservation Act of 1995, and title XI; and

''(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

''(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

''(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

''(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

''(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

''(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

''(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

''(3) APPROPRIATED AMOUNTS TO ACCOUNT FOR FRAUD AND ABUSE CONTROL PROGRAM, ETC.—

''(A) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

''(i) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (C), to be available without further appropriation, in an amount not to exceed—

''(I) for fiscal year 1996, $104,000,000, and

''(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

''(III) for each fiscal year after fiscal year 2002, the limit for fiscal year 2002.

''(ii) MEDICARE AND MEDIGRANT ACTIVITIES.—For each fiscal year, of the amount appropriated in clause (i), the following amounts shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the medicare and MediGrant programs—

''(I) for fiscal year 1996, not less than $60,000,000 and not more than $70,000,000;

''(II) for fiscal year 1997, not less than $80,000,000 and not more than $90,000,000;

''(III) for fiscal year 1998, not less than $90,000,000 and not more than $100,000,000;

''(IV) for fiscal year 1999, not less than $110,000,000 and not more than $120,000,000;

''(V) for fiscal year 2000, not less than $120,000,000 and not more than $130,000,000;

''(VI) for fiscal year 2001, not less than $140,000,000 and not more than $150,000,000; and

''(VII) for each fiscal year after fiscal year 2001, not less than $150,000,000 and not more than $160,000,000.

''(B) FEDERAL BUREAU OF INVESTIGATIONS.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigations to carry out the purposes described in subparagraph (C)(i), to be available without further appropriation—

''(i) for fiscal year 1996, $47,000,000;

''(ii) for fiscal year 1997, $56,000,000;

''(iii) for fiscal year 1998, $66,000,000;

''(iv) for fiscal year 1999, $76,000,000;

''(v) for fiscal year 2000, $88,000,000;

''(vi) for fiscal year 2001, $101,000,000; and

''(vii) for each fiscal year after fiscal year 2001, $114,000,000.

''(C) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

''(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

''(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

''(II) investigations;

''(III) financial and performance audits of health care programs and operations;

''(IV) inspections and other evaluations; and

''(V) provider and consumer education regarding compliance with the provisions of title XI.

''(ii) USE BY STATE MEDIGRANT FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State

MediGrant fraud control units established under section 2134(a) upon request to the Secretary for the costs of the activities authorized under section 2134(b).

"(4) APPROPRIATED AMOUNTS TO ACCOUNT FOR MEDICARE INTEGRITY PROGRAM.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under section 1893, subject to subparagraph (B) and to be available without further appropriation.

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For each fiscal year after fiscal year 2001, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 8102. MEDICARE INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity demonstrates to the Secretary that the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

"(4) the entity meets such other requirements as the Secretary may impose.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1842.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

"(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

"(2)(A) Except as provided in subparagraph (B), the provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section.

"(B) Competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary, except that the Secretary may contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1816 or contracts under section 1842 in effect on the date of the enactment of this section.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).".

SEC. 8103. BENEFICIARY INCENTIVE PROGRAMS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide an explanation of benefits under the medicare program under title XVIII of the Social Security Act with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(b) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 8104. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(1) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(2) In subsection (a)(1), by striking "a program under title XVIII or a State health care

program (as defined in section 1128(h))" and inserting "a Federal health care program".

(3) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(4) In the second sentence of subsection (a)—

(A) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(B) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(5) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program".

(6) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(7) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government; or

"(2) any State health care program, as defined in section 1128(h).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 8105. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 8101, is amended by inserting after section 1128C the following new section:

"GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS

"SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

"(1) IN GENERAL.—

"(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

"(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) interpretive rulings to be issued pursuant to subsection (b); and

"(iv) special fraud alerts to be issued pursuant to subsection (c).

"(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

"(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

"(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

"(A) An increase or decrease in access to health care services.

"(B) An increase or decrease in the quality of health care services.

"(C) An increase or decrease in patient freedom of choice among health care providers.

"(D) An increase or decrease in competition among health care providers.

"(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

"(G) An increase or decrease in the potential overutilization of health care services.

"(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

"(i) whether to order a health care item or service; or

"(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

"(b) INTERPRETIVE RULINGS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B (in this section referred to as an 'interpretive ruling').

"(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

"(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 90 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

"(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 60 days after receiving such a request and shall identify the reasons for such decision.

"(2) CRITERIA FOR INTERPRETIVE RULINGS.—

"(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

"(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

"(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

"(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

"(c) SPECIAL FRAUD ALERTS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under the medicare program or a State health care program, as defined in section 1128(h) (in this subsection referred to as a 'special fraud alert').

"(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

"(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

"(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

"(B) the volume and frequency of the conduct that would be identified in the special fraud alert.".

CHAPTER 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 8111. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Preservation Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Preservation Act of 1995, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by

or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Preservation Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 8112. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 8113. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—(A) Any individual—

"(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or

"(ii) who is an officer or managing employee (as defined in section 1126(b)) of such an entity.

"(B) For purposes of subparagraph (A), the term 'sanctioned entity' means an entity—

"(i) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(ii) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 8114. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 8115. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 8116. ADDITIONAL EXCEPTION TO ANTI-KICKBACK PENALTIES FOR DISCOUNTING AND MANAGED CARE ARRANGEMENTS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a-7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration between an organization and an individual or entity providing items or services, or a combination thereof, pursuant to a written agreement between the organization and the individual or entity if the organization is a MedicarePlus organization under part C of title XVIII or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to written agreements entered into on or after January 1, 1996.

SEC. 8117. PENALTIES FOR THE FRAUDULENT CONVERSION OF ASSETS IN ORDER TO OBTAIN STATE HEALTH CARE PROGRAM BENEFITS.

Section 1128B(a) (42 U.S.C. 1320a–7b(a)) is amended by striking "or" at the end of paragraph (4), by inserting "or" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) knowingly and willfully converts assets, by transfer (including any transfer in trust), aiding in such a transfer, or otherwise, in order for an individual to become eligible for benefits under a State health care program,".

SEC. 8118. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this chapter shall take effect January 1, 1996.

CHAPTER 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 8121. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 8101 and 8105, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"SEC. 1128E. (a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

"(b) REPORTING OF INFORMATION.—

"(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

"(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

"(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

"(C) The nature of the final adverse action and whether such action is on appeal.

"(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

"(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

"(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

"(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

"(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

"(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(d) ACCESS TO REPORTED INFORMATION.—

"(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

"(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) FINAL ADVERSE ACTION.—

"(A) IN GENERAL.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

"(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) EXCEPTION.—The term does not include any action with respect to a malpractice claim.

"(2) PRACTITIONER.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

"(3) GOVERNMENT AGENCY.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

"(D) State law enforcement agencies.

"(E) State MediGrant fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(4) HEALTH PLAN.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(5) DETERMINATION OF CONVICTION.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(i).".

(b) IMPROVED PREVENTION IN ISSUANCE OF MEDICARE PROVIDER NUMBERS.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

CHAPTER 4—CIVIL MONETARY PENALTIES

SEC. 8131. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a-7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(f)(1))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Medicare Preservation Act of 1995 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) Excluded Individual Retaining Ownership or Control Interest in Participating Entity.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection—

"(i) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or

"(ii) is an officer or managing employee (as defined in section 1126(b)) of such an entity;".

(c) Modifications of Amounts of Penalties and Assessments.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(d) Claim for Item or Service Based on Incorrect Coding or Medically Unnecessary Services.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or".

(e) Sanctions Against Practitioners and Persons for Failure To Comply With Statutory Obligations.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(f) Procedural Provisions.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 8115(a)(2), is amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).".

(g) Prohibition Against Offering Inducements to Individuals Enrolled Under Programs or Plans.—

(1) Offer of remuneration.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program (as so defined);".

(2) Remuneration defined.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Medicare Preservation Act of 1995; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(h) Effective Date.—The amendments made by this section shall take effect January 1, 1996.

SEC. 8132. CLARIFICATION OF LEVEL OF INTENT REQUIRED FOR IMPOSITION OF SANCTIONS.

(a) Clarification of Level of Knowledge Required for Imposition of Civil Monetary Penalties.—

(1) In general.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) in paragraphs (1) and (2), by inserting "knowingly" before "presents" each place it appears; and

(B) in paragraph (3), by striking "gives" and inserting "knowingly gives or causes to be given".

(2) Definition of standard.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'should know' means that a person, with respect to information—

"(A) acts in deliberate ignorance of the truth or falsity of the information; or

"(B) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.".

(b) Effective Date.—The amendments made by this section shall apply to acts or omissions occurring on or after January 1, 1996.

SEC. 8133. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) In General.—Section 1128A(b) (42 U.S.C. 1320a–7a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

"(i) $5,000, or

"(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

"(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

SEC. 8141. HEALTH CARE FRAUD.

(a) In General.—

(1) Fines and imprisonment for health care fraud violations.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§1347. Health care fraud

"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any Federal health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any Federal health care program in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

"(b) For purposes of this section, the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.".

(2) Clerical amendment.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) Criminal Fines Deposited in Federal Hospital Insurance Trust Fund.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 8101(b), an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 8142. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) In General.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act; and

"(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.".

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 8101(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 8143. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 8144. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§1033. False statements relating to health care matters

"(a) Whoever, in any matter involving a Federal health care program, knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or

"(2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry,

shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) For purposes of this section, the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 8145. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§1518. Obstruction of criminal investigations of Federal health care offenses

"(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.".

SEC. 8146. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§669. Theft or embezzlement in connection with health care

"(a) Whoever willfully embezzles, steals, or otherwise willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a Federal health care program, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) As used in this section the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or Embezzlement in Connection with Health Care.".

SEC. 8147. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 8148. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§3486. Authorized investigative demand procedures

"(a)(1)(A) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control.

"(B) A custodian of records may be required to give testimony concerning the production and authentication of such records.

"(C) The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served.

"(D) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(E) A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any Federal health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any Federal health care program in connection with the delivery of or payment for health care benefits, items, or services.

"(b)(1) A subpoena issued under this section may be served by any person designated in the subpoena to serve it.

"(2) Service upon a natural person may be made by personal delivery of the subpoena to such person.

"(3) Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(4) The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c)(1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena.

"(2) The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony required under subsection (a)(1)(B).

"(3) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) All process in any such case may be served in any judicial district in which such person may be found.

"(d) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e)(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(f) As used in this section the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3405 the following new item:

"§3486. Authorized investigative demand procedures".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

CHAPTER 6—STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 8151. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Paragraph (3) of section 2134(b), as added by section 7001 of this Act, is amended—

(1) by inserting "(A)" after "in connection with"; and

(2) by striking "plan." and inserting "plan; and (B) upon the approval of the relevant Federal agency and the chief executive officer of the State or such officer's designee, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(f)(1)).".

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDIGRANT BOARD AND CARE FACILITIES.—Paragraph (4) of section 2134(b), as added by section 7001 of this Act, is amended to read as follows:

"(4)(A) The entity has—

"(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the MediGrant plan funded under this title;

"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

"(iii) where appropriate, procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".

Subtitle C—Regulatory Relief

SEC. 8201. REPEAL OF PHYSICIAN OWNERSHIP REFERRAL PROHIBITIONS BASED ON COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by striking "is—" and all that follows through "equity," and inserting the following: "is (except as provided in subsection (c)) an ownership or investment interest in the entity through equity,".

(b) CONFORMING AMENDMENTS.—Section 1877 (42 U.S.C. 1395nn) is amended as follows:

(1) In subsection (b)—

(A) in the heading, by striking "TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS" and inserting "WHERE FINANCIAL RELATIONSHIP EXISTS"; and

(B) by redesignating paragraph (4) as paragraph (7).

(2) In subsection (c)—

(A) by amending the heading to read as follows: "EXCEPTION FOR OWNERSHIP OR INVESTMENT INTEREST IN PUBLICLY TRADED SECURITIES AND MUTUAL FUNDS"; and

(B) in the matter preceding paragraph (1), by striking "subsection (a)(2)(A)" and inserting "subsection (a)(2)".

(3) In subsection (d)—

(A) by striking the matter preceding paragraph (1);

(B) in paragraph (3), by striking "paragraph (1)" and inserting "paragraph (4)"; and

(C) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), and by transferring and inserting such paragraphs after paragraph (3) of subsection (b).

(4) By striking subsection (e).

(5) In subsection (f)(2)—

(A) in the matter preceding paragraph (1), by striking "ownership, investment, and compensation" and inserting "ownership and investment";

(B) in paragraph (2), by striking "subsection (a)(2)(A)" and all that follows through "subsection (a)(2)(B))," and inserting "subsection (a)(2),"; and

(C) in paragraph (2), by striking "or who have such a compensation relationship with the entity".

(6) In subsection (h)—

(A) by striking paragraphs (1), (2), and (3);

(B) in paragraph (4)(A), by striking clauses (iv) and (vi);

(C) in paragraph (4)(B), by striking "RULES.—" and all that follows through "(ii) FACULTY" and inserting "RULES FOR FACULTY"; and

(D) by adding at the end of paragraph (4) the following new subparagraph:

"(C) MEMBER OF A GROUP.—A physician is a 'member' of a group if the physician is an owner or a bona fide employee, or both, of the group.".

SEC. 8202. REVISION OF DESIGNATED HEALTH SERVICES SUBJECT TO OWNERSHIP REFERRAL PROHIBITION.

(a) IN GENERAL.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)) is amended by striking subparagraphs (B) through (K) and inserting the following:

"(B) Parenteral and enteral nutrients, equipment, and supplies.

"(C) Radiology services, including magnetic resonance imaging, computerized tomography, and ultrasound services.

"(D) Outpatient physical or occupational therapy services.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended in the matter preceding subparagraph (A) by striking "services" and all that follows through "supplies)—" and inserting "services—".

(2) Section 1877(h)(5)(C) (42 U.S.C. 1395nn(h)(5)(C)) is amended—

(A) by striking ", a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy," and inserting "and a request by a radiologist for magnetic resonance imaging or for computerized tomography", and

(B) by striking "radiologist, or radiation oncologist" and inserting "or radiologist".

SEC. 8203. DELAY IN IMPLEMENTATION OF 1993 OWNERSHIP REFERRAL CHANGES UNTIL PROMULGATION OF REGULATIONS.

(a) IN GENERAL.—Section 13562(b) of OBRA–1993 (42 U.S.C. 1395nn note) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following new paragraph:

"(3) PROMULGATION OF REGULATIONS.—Notwithstanding paragraphs (1) and (2), the amendments made by this section shall not apply to any referrals made before the effective date of final regulations promulgated by the Secretary of Health and Human Services to carry out such amendments.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of OBRA–1993.

SEC. 8204. EXCEPTIONS TO OWNERSHIP REFERRAL PROHIBITIONS.

(a) REVISIONS TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—

(1) REPEAL OF SITE-OF-SERVICE REQUIREMENT.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by amending subparagraph (A) of subsection (b)(2) to read as follows:

"(A) that are furnished personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are under the general supervision of the physician or of another physician in the group practice, and", and

(B) by adding at the end of subsection (h) the following new paragraph:

"(7) GENERAL SUPERVISION.—An individual is considered to be under the 'general supervision' of a physician if the physician (or group practice of which the physician is a member) is legally responsible for the services performed by the individual and for ensuring that the individual meets licensure and certification requirements, if any, applicable under other provisions of law, regardless of whether or not the physician is physically present when the individual furnishes an item or service.".

(2) CLARIFICATION OF TREATMENT OF PHYSICIAN OWNERS OF GROUP PRACTICE.—Section 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amended by striking "physician or such group practice" and inserting "physician, such group practice, or the physician owners of such group practice".

(3) CONFORMING AMENDMENT.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended by amending the heading to read as follows: "ANCILLARY SERVICES FURNISHED PERSONALLY OR THROUGH GROUP PRACTICE.—".

(b) CLARIFICATION OF EXCEPTION FOR SERVICES FURNISHED IN A RURAL AREA.—Paragraph (5) of section 1877(b) (42 U.S.C. 1395nn(b)), as transferred by section 8201(b)(3)(C), is amended by striking "substantially all" and inserting "not less than 75 percent".

(c) REVISION OF EXCEPTION FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1877(b)(3) (42 U.S.C. 1395nn(b)(3)) is amended—

(1) in the heading by inserting "MANAGED CARE ARRANGEMENTS" after "PREPAID PLANS";

(2) in the matter preceding subparagraph (A), by striking "organization—" and inserting "organization, directly or through contractual arrangements with other entities, to individuals enrolled with the organization—";

(3) in subparagraph (A), by inserting "or part C" after "section 1876";

(4) by striking "or" at the end of subparagraph (C);

(5) by striking the period at the end of subparagraph (D) and inserting a comma; and

(6) by adding at the end the following new subparagraphs:

"(E) with a contract with a State to provide services under the State plan under title XIX (in accordance with section 1903(m)) or a State MediGrant plan under title XXI; or

"(F) which is a MedicarePlus organization under part C or which provides or arranges for the provision of health care items or services pursuant to a written agreement between the organization and an individual or entity if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.".

(d) NEW EXCEPTION FOR SHARED FACILITY SERVICES.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), is amended—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) SHARED FACILITY SERVICES.—In the case of a designated health service consisting of a shared facility service of a shared facility—

"(A) that is furnished—

"(i) personally by the referring physician who is a shared facility physician or personally by an individual directly employed or under the general supervision of such a physician,

"(ii) by a shared facility in a building in which the referring physician furnishes substantially all of the services of the physician that are unrelated to the furnishing of shared facility services, and

"(iii) to a patient of a shared facility physician; and

"(B) that is billed by the referring physician or a group practice of which the physician is a member.".

(2) DEFINITIONS.—Section 1877(h) (42 U.S.C. 1395nn(h)), as amended by section 8201(b)(6), is amended by inserting before paragraph (4) the following new paragraph:

"(1) SHARED FACILITY RELATED DEFINITIONS.—

"(A) SHARED FACILITY SERVICE.—The term 'shared facility service' means, with respect to a shared facility, a designated health service furnished by the facility to patients of shared facility physicians.

"(B) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

"(C) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician (or a group practice of which the physician is a member) who has a financial relationship under a shared facility arrangement with the facility.

"(D) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—

"(i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

"(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

(e) NEW EXCEPTION FOR SERVICES FURNISHED IN COMMUNITIES WITH NO ALTERNATIVE PROVIDERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C) and subsection (d)(1), is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) NO ALTERNATIVE PROVIDERS IN AREA.—In the case of a designated health service furnished in any area with respect to which the Secretary determines that individuals residing in the area do not have reasonable access to such a designated health service for which subsection (a)(1) does not apply.".

(f) NEW EXCEPTION FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), subsection (d)(1), and subsection (e)(1), is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—In the case of a designated health service furnished in an ambulatory surgical center described in section 1832(a)(2)(F)(i).".

(g) NEW EXCEPTION FOR SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), subsection (d)(1), subsection (e)(1), and subsection (f), is amended—

(1) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11); and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—In the case of a designated health service furnished in a renal dialysis facility under section 1881.".

(h) NEW EXCEPTION FOR SERVICES FURNISHED IN A HOSPICE.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), and subsection (g), is amended—

(1) by redesignating paragraphs (8) through (11) as paragraphs (9) through (12); and

(2) by inserting after paragraph (7) the following new paragraph:

"(8) SERVICES FURNISHED BY A HOSPICE PROGRAM.—In the case of a designated health service furnished by a hospice program under section 1861(dd)(2).".

(i) NEW EXCEPTION FOR SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), subsection (g), and subsection (h), is amended—

(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—In the case of a designated health service furnished in a comprehensive outpatient rehabilitation facility (as defined in section 1861(cc)(2)).".

(j) DEFINITION OF REFERRAL.—Section 1877(h)(5)(A) (42 U.S.C. 1395nn(h)(5)(A)) is amended—

(1) by striking "an item or service" and inserting "a designated health service", and

(2) by striking "the item or service" and inserting "the designated health service".

SEC. 8205. EFFECTIVE DATE.

Except as provided in section 8203(b), the amendments made by this subtitle shall apply to referrals made on or after the date of the enactment of this Act, regardless of whether or not regulations are promulgated to carry out such amendments.

Subtitle D—Modification in Payment Policies Regarding Graduate Medical Education

SEC. 8301. INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) MULTIYEAR TRANSITION REGARDING PERCENTAGES; 6.7 FOR 1996 TO 5.0 FOR 2001 AND AFTERWARDS.—Section 1886(D)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) us amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c (((1+r) to the nth power)−1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equal .405. For discharges occurring on or after—

"(I) May 1, 1986, and before October 1, 1995, 'c' is equal to 1.89;

"(II) October 1, 1995, and before October 1, 1996, 'c' is equal to 1.654;

"(III) October 1, 1996, and before October 1, 1998, 'c' is equal to 1.481;

"(IV) October 1, 1998, and before October 1, 1999, 'c' is equal to 1.383;

"(V) October 1, 1999, and before October 1, 2000, 'c' is equal to 1.309; and

"(VI) October 1, 2000, 'c' is equal to 1.235.".

(b) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "of 1985" and inserting "of 1985, but not taking into account the amendments made by section 8301(a) of Medicate Preservation Act of 1995".

SEC. 8302. DIRECT GRADUATE MEDICAL EDUCATION.

(a) WEIGHTING FACTORS FOR RESIDENTS.—

(1) IN GENERAL.—Section 1886(h)(4)(C)(iv) (42 U.S.C. 1395ww(h)(4)(C)(iv)) is amended by striking "50" and inserting "0.25".

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to cost reporting periods beginning on or after October 1, 1997.

(b) LIMITATION ON AGGREGATE NUMBER OF FULL-TIME RESIDENTS.—

Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:

"(F) Adjustments for certain fiscal years in payments for programs in allopathic and osteopathic medicine.—

"(i) IN GENERAL.—With respect to a cost reporting period, the Secretary shall in accordance with clause (ii) adjust the payments for

approved medical residency training programs in the fields of allopathic medicine and osteopathic medicine if, in the fiscal year in which such cost reporting period begins, the number of full-time-equivalent residents determined under this paragraph with respect to all such programs exceeds the number of full-time-equivalent residents determined with respect to all such programs as of August 1, 1995.

"(ii) ADJUSTMENT DESCRIBED.—Adjustments under clause (i) shall be made with respect to cost reporting periods such that the total amount of payments under this subsection for the fiscal year involved does not exceed the amount that would have been paid under this subsection for such year if the number of full-time-equivalent residents determined under clause (i) for the year had not exceeded the number of full-time-equivalent residents with respect to all such programs as of August 1, 1995.

"(iii) HOLD HARMLESS.—The Secretary may provide that approved medical residency training programs that reduced or did not expand the number of full-time-equivalent residents determined under this paragraph for a cost reporting period shall not be subject to the adjustment described in clause (i).

"(iv) EFFECTIVE DATE.—The adjustment described in clause (i) shall apply with respect to cost reporting periods beginning on or after October 1, 1995, and on or before September 30, 2002.".

Subtitle E—Provisions Relating to Part A

CHAPTER 1—GENERAL PROVISIONS RELATING TO PART A

SEC. 8401. PPS HOSPITAL PAYMENT UPDATE.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XI), (XII), and (XIII) and inserting the following new subclauses:

"(XI) for fiscal year 1996 for hospitals in all areas, the market basket percentage increase minus 2.5 percentage points,

"(XII) for fiscal years 1997 through 2002 for hospitals in all areas, the market basket percentage increase minus 2.0 percentage points, and

"(XIII) for fiscal year 2003 and each subsequent fiscal year for hospitals in all areas, the market basket percentage increase.".

SEC. 8402. PPS-EXEMPT HOSPITAL PAYMENTS.

(a) UPDATE.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "1997" and inserting "1995", and

(ii) by striking "and" at the end,

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V), the following subclause:

"(VI) except as provided in clause (vi), for fiscal years 1996 through 2002, the market basket percentage increase minus the applicable reduction (as defined in clause (vii)(II)); and".

(2) SPECIAL RULES FOR CERTAIN HOSPITALS.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B))) is amended by adding at the end the following new clause:

"(vi) For purposes of clause (ii)(VI), the 'applicable percentage increase' for a hospital—

"(I) for a fiscal year for which the hospital's update adjustment percentage (as defined in clause (vii)(I)) is at least 10 percent, is the market basket percentage increase, and

"(II) for which 150 percent of the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available is less than the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, is 0 percent.".

(3) DEFINITIONS.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)), as amended by paragraph (2), is amended by adding at the end the following new clause:

"(vii) For purposes of clauses (ii)(VI) and (vi)—

"(I) a hospital's 'update adjustment percentage' for a fiscal year is the percentage by which the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, and

"(II) the 'applicable reduction' with respect to a hospital for a fiscal year is 2.5 percentage points, reduced by 0.25 percentage point for each percentage point (if any) the hospital's update adjustment percentage for the fiscal year is less than 10 percentage points.".

(3) EFFECT OF PAYMENT REDUCTION ON EXCEPTIONS AND ADJUSTMENTS.—Section 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by striking "paragraph (3)(B)(ii)(V)" and inserting "subclause (V) or (VI) of paragraph (3)(B)(ii)".

(b) TARGET AMOUNTS FOR REHABILITATION HOSPITALS AND LONG-TERM CARE HOSPITALS.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking "and (E)" and inserting "(E), (F), and (G)"; and

(2) by adding at the end the following new subparagraphs:

"(F) In the case of a rehabilitation hospital (or unit thereof) (as described in clause (ii) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1995,—

"(i) in the case of a hospital which first receives payments under this section before October 1, 1995, the target amount determined under subparagraph (A) for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under this paragraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and

"(ii) in the case of a hospital which first receives payments under this section on or after October 1, 1995, such target amount may not be greater than 130 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1991.

"(G) In the case of a hospital which has an average inpatient length of stay of greater than 25 days (as described in clause (iv) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1995—

"(i) in the case of a hospital which first receives payments under this section as a hospital that is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital before October 1, 1995, the target amount determined under subparagraph (A) for such hospital for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under such subparagraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and

"(ii) in the case of any other hospital which first receives payment under this section as a hospital described in clause (i) on or after October 1, 1995, such target amount may not be greater than 130 percent (or, if the Secretary determines it is appropriate, such alternative percentage based on case-mix and DRG category) of such national mean of the target amounts for such hospitals for cost reporting periods beginning during fiscal year 1991.".

(c) REBASING FOR CERTAIN LONG-TERM CARE HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by subsection (b), is amended—

(A) in subparagraph (A) in the matter preceding clause (i), by striking "and (G)" and inserting "(G), and (H)";

(B) in subparagraph (B)(ii), by striking "(A) and (E)" and inserting "(A), (E), and (G)"; and

(C) by adding at the end the following new subparagraph:

"(H)(i) In the case of a qualified long-term care hospital (as defined in clause (ii)), the term 'target amount' means—

"(I) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital, the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period beginning during fiscal year 1994; or

"(II) with respect to a later cost reporting period, the target amount for the preceding cost reporting period, increased by the applicable percentage increase under subparagraph (B)(ii) for that later cost reporting period.

"(ii) In clause (i), a 'qualified long-term care hospital' means, with respect to a cost reporting period, a hospital described in clause (iv) of subsection (d)(1)(B) during fiscal year 1995 for which the hospital's allowable operating costs of inpatient hospital services recognized under this title for each of the two most recent previous 12-month cost reporting periods exceeded 115 percent of the hospital's target amount determined under this paragraph for such cost reporting periods, if the hospital has a disproportionate patient percentage during such cost reporting period (as determined by the Secretary under subsection (d)(5)(F)(vi) as if the hospital were a subsection (d) hospital) of at least 70 percent.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring during cost reporting periods beginning on or after October 1, 1995.

(d) TREATMENT OF CERTAIN LONG-TERM CARE HOSPITALS LOCATED WITHIN OTHER HOSPITALS.—

(1) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended in the matter following clause (v) by striking the period and inserting the following: ", or a hospital classified by the Secretary as a long-term care hospital on or before September 30, 1995, and located in the same building as, or on the same campus as, another hospital.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 1995.

(e) CAPITAL PAYMENTS FOR PPS-EXEMPT HOSPITALS.—Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(4) In determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2002 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 10 percent.".

SEC. 8403. REDUCTIONS IN DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking "The amount" and inserting "Subject to clause (ix), the amount"; and

(2) by adding at the end the following new clause:

"(ix) In the case of discharges occurring on or after October 1, 1995, the additional payment amount otherwise determined under clause (ii) shall be reduced as follows:

"(I) For discharges occurring on or after October 1, 1995, and on or before September 30, 1996, by 5 percent.

"(II) For discharges occurring on or after October 1, 1996, and on or before September 30, 1997, by 10 percent.

"(III) For discharges occurring on or after October 1, 1997, and on or before September 30, 1998, by 17.5 percent.

"(IV) For discharges occurring on or after October 1, 1998, and on or before September 30, 1999, by 25 percent.

"(V) For discharges occurring on or after October 1, 1999, and on or before September 30, 2002, by 30 percent.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: ", and the Secretary shall not take into account any reductions in the amount of such additional payments resulting from the amendments made by section 8403(a) of the Medicare Preservation Act of 1995.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to discharges occurring on or after October 1, 1995.

SEC. 8404. CAPITAL PAYMENTS FOR PPS HOSPITALS.

(a) REDUCTION IN PAYMENTS.—

(1) CONTINUATION OF CURRENT REDUCTIONS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended in the second sentence—

(A) by striking "through 1995" and inserting "through 2002"; and

(B) by inserting after "10 percent reduction" the following: "(or a 15 percent reduction in the case of payments during fiscal years 1996 through 2002)".

(2) REDUCTION IN BASE PAYMENT RATES.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.47 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Medicare Preservation Act of 1995) and shall reduce by 8.27 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on such date of enactment).".

(b) HOSPITAL-SPECIFIC ADJUSTMENT FOR CAPITAL-RELATED TAX COSTS.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For discharges occurring after September 30, 1995, such system shall provide for an adjustment in an amount equal to the amount determined under clause (iv) for capital-related tax costs for each hospital that is eligible for such adjustment.

"(ii) Subject to clause (iii), a hospital is eligible for an adjustment under this subparagraph, with respect to discharges occurring in a fiscal year, if the hospital—

"(I) is a hospital that may otherwise receive payments under this subsection,

"(II) is not a public hospital, and

"(III) incurs capital-related tax costs for the fiscal year.

"(iii)(I) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change from nonproprietary to proprietary status or because the hospital commenced operation after such fiscal year, the first fiscal year for which the hospital shall be eligible for such adjustment is the second full fiscal year following the fiscal year in which the hospital first incurs such costs.

"(II) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change in State or local tax laws, the first fiscal year for which the hospital shall be eligible for such adjustment is the fourth full fiscal year following the fiscal year in which the hospital first incurs such costs.

"(iv) The per discharge adjustment under this clause shall be equal to the hospital-specific capital-related tax costs per discharge of a hospital for fiscal year 1992 (or, in the case of a hospital that first incurs capital-related tax costs for a fiscal year after fiscal year 1992, for the first full fiscal year for which such costs are incurred), updated to the fiscal year to which the adjustment applies. Such per discharge adjustment shall be added to the Federal capital rate, after such rate has been adjusted as described in 42 CFR 412.312 (as in effect on the date of the enactment of the Medicare Preservation Act of 1995), and before such rate is multiplied by the applicable Federal rate percentage.

"(v) For purposes of this subparagraph, capital-related tax costs include—

"(I) the costs of taxes on land and depreciable assets owned by a hospital and used for patient care,

"(II) payments in lieu of such taxes (made by hospitals that are exempt from taxation), and

"(III) the costs of taxes paid by a hospital as lessee of land, buildings, or fixed equipment from a lessor that is unrelated to the hospital under the terms of a lease that requires the lessee to pay all expenses (including mortgage, interest, and amortization) and leaves the lessor with an amount free of all claims (sometimes referred to as a 'net net net' or 'triple net' lease). In determining the adjustment required under clause (i), the Secretary shall not take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similar commercial properties.

"(vi) The system shall provide that the Federal capital rate for any fiscal year after September 30, 1995, shall be reduced by a percentage sufficient to ensure that the adjustments required to be paid under clause (i) for a fiscal year neither increase nor decrease the total amount that would have been paid under this system but for the payment of such adjustments for such fiscal year.".

(d) REVISION OF EXCEPTIONS PROCESS UNDER PROSPECTIVE PAYMENT SYSTEM FOR CERTAIN PROJECTS.—

(1) IN GENERAL.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)), as amended by subsection (c), is amended—

(A) by redesignating subparagraph (D) as subparagraph (E), and

(B) by inserting after subparagraph (C) the following subparagraph:

"(D) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under 42 CFR 412.348(g) (as in effect on September 1, 1995), except that the Secretary shall revise such process as follows:

"(i) A hospital with at least 100 beds which is located in an urban area shall be eligible under such process without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

"(ii) The minimum payment level for qualifying hospitals shall be 85 percent.

***"(iii) A hospital shall be considered to meet the requirement that it completes the project** involved no later than the end of the hospital's last cost reporting period beginning after October 1, 2001, if—*

"(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority by September 1, 1995, and

"(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

"(iv) Offsetting amounts, as described in 42 CFR 412.348(g)(8)(ii), shall apply except that subparagraph (B) of such section shall be revised to require that the additional payment that would otherwise be payable for the cost reporting period shall be reduced by the amount (if any) by which the hospital's current year medicare capital payments (excluding, if applicable, 75 percent of the hospital's capital-related disproportionate share payments) exceeds its medicare capital costs for such year.".

(2) LIMIT TO ADDITIONAL PAYMENTS.—The amendment made by paragraph (1) shall not result in aggregate additional payments under the special exception process described in section 1886(b)(1)(D) for fiscal years 1996 through 2000 in excess of an amount equal to the sum of $50,000,000 per year more than would have been paid in such fiscal years if such amendment had not been enacted.

(3) CONFORMING AMENDMENT.—Section 1886(g)(1)(B)(iii) (42 U.S.C. 1395ww(g)(1)(B)(iii)) is amended by striking "may provide" and inserting "shall provide (in accordance with subparagraph (D)".

SEC. 8405. REDUCTION IN PAYMENTS TO HOSPITALS FOR ENROLLEES' BAD DEBTS.

(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T)(i) In determining such reasonable costs for hospitals, the amount of bad debts otherwise treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced by—

"(I) 75 percent for cost reporting periods beginning during fiscal year 1996,

"(II) 60 percent for cost reporting periods beginning during fiscal year 1997, and

"(III) 50 percent for subsequent cost reporting periods.

"(ii) Clause (i) shall not apply with respect to bad debt of a hospital described in section 1886(d)(1)(B)(iv) if the debt is attributable to uncollectable deductible and coinsurance payments owed by individuals enrolled in a State plan under title XIX or under the MediGrant program under title XXI.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to hospital cost reporting periods beginning on or after October 1, 1995.

SEC. 8406. INCREASE IN UPDATE FOR CERTAIN HOSPITALS WITH A HIGH PROPORTION OF MEDICARE PATIENTS.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by subsections (b) and (c)(1) of section 8402, is amended by adding at the end the following new subparagraph:

"(I)(i) For purposes of subsection (d), in the case of a medicare-dependent hospital described in clause (ii), the applicable percentage increase otherwise determined under subparagraph (B)(i) shall be increased by—

"(I) 0.5 percentage points for discharges occurring during cost reporting periods beginning during fiscal year 1996, and

"(II) 0.3 percentage points for discharges occurring during cost reporting periods beginning during fiscal year 1997.

"(ii) A hospital described in this clause with respect to a cost reporting period is a subsection (d) hospital meeting the following requirements:

"(I) Not less than 60 percent of the hospital's inpatient days during the most recent cost reporting period for which data is available were attributable to inpatients entitled to benefits under part A.

"(II) The hospital does not receive any additional payment amount under subsection (d)(5)(F) (relating to payments for hospitals serving a disproportionate number of low-income patients) with respect to discharges occurring during the fiscal year.

"(III) The hospital does not receive any additional payment amount under subsection (d)(5)(B) (relating to payment for the indirect costs of medical education) or subsection (h) (relating to payment for direct medical education costs).

"(IV) In the case of a hospital located in a rural area, the hospital has more than 100 beds.".

CHAPTER 2—PAYMENTS TO SKILLED NURSING FACILITIES

Subchapter A—PROSPECTIVE PAYMENT SYSTEM

SEC. 8410. PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding the following new section after section 1888:

"PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES

"SEC. 1889. (a) ESTABLISHMENT OF SYSTEM.—Notwithstanding any other provision of this title, the Secretary shall establish a prospective payment system under which fixed payments for episodes of care shall be made, instead of payments determined under section 1861(v), section 1888, or section 1888A, to skilled nursing facilities for all extended care services furnished during the benefit period established under section 1812(a)(2). Such payments shall constitute payment for capital costs and all routine and non-routine service costs covered under this title that are furnished to individuals who are inpatients of skilled nursing facilities during such benefit period, except for physicians' services. The payment amounts shall vary depending on case-mix, patient acuity, and such other factors as the Secretary determines are appropriate. The prospective payment system shall apply for cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1997.

"(b) 90 PERCENT OF LEVELS OTHERWISE IN EFFECT.—The Secretary shall establish the prospective payment amounts under subsection (a) at levels such that, in the Secretary's estimation, the amount of total payments under this title shall not exceed 90 percent of the amount of payments that would have been made under this title for all routine and non-routine services and capital expenditures if this section had not been enacted.

"(c) ADJUSTMENT IN RATES TO TAKE INTO ACCOUNT BENEFICIARY COST-SHARING.—The Secretary shall reduce the prospective payment rates established under this section to take into account the beneficiary coinsurance amount required under section 1813(a)(3).".

Subchapter B—Interim Payment System

SEC. 8411. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment amounts under section 1888A.".

(b) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

SEC. 8412. COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1888 the following new section:

"COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy, including supplies and support services directly related to such services and therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to input price changes in routine service costs for the year under section 1888(a).

"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title for the individual during the individual's spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES BEGINNING IN FISCAL YEAR 1996.—

"(1) IN GENERAL.—The payment method established under this section shall apply with respect to covered non-routine services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1995.

"(2) INTERIM PAYMENTS.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during cost reporting periods (or portions of cost reporting periods) described in paragraph (1) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period amount determined under subsection (c)(2).

"(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) PART B BILLING.—In the case of a covered non-routine service other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise). This subparagraph shall not apply to physician's services furnished by a physician (as defined in section 1861(r)(1)) to a resident of a skilled nursing facility if such services are not covered non-routine services (as defined in section 1888A(a)(1)) or services for which routine service costs (as defined in section 1888(e)) are determined.

"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A or B (including a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) NO PAYMENT IN EXCESS OF PRODUCT OF PER STAY AMOUNT AND NUMBER OF STAYS.—

"(1) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

"(2) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is an amount equal to the product of—

"(A) the per stay amount applicable to the facility under subsection (d) for the period; and

"(B) the number of stays beginning during the period for which payment was made to the facility for such services.

"(3) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in paragraph (1), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period amount for the period determined under this paragraph.

"(d) DETERMINATION OF FACILITY PER STAY AMOUNT.—

"(1) AMOUNT FOR FISCAL YEAR 1996.—

"(A) IN GENERAL.—

"(i) ESTABLISHMENT.—Except as provided in subparagraph (B) and clause (ii), the Secretary

shall establish a per stay amount for each nursing facility for the 12-month cost reporting period beginning during fiscal year 1996 that is the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before December 31, 1994, increased (in a compounded manner) by the SNF market basket percentage increase (as defined in subsection (a)(2)) for each fiscal year through fiscal year 1996.

"(ii) ADJUSTMENT IF IMPLEMENTATION DELAYED.—If the amount under clause (i) is not established prior to the cost reporting period described in clause (i), the Secretary shall adjust such amount for stays after such amount is established in such a manner so as to recover any amounts in excess of the amounts which would have been paid for stays before such date if the amount had been in effect for such stays.

"(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before December 31, 1994, the per stay amount for the 12-month cost reporting period beginning during fiscal year 1996 shall be the average of all per stay amounts determined under subparagraph (A).

"(2) AMOUNT FOR FISCAL YEAR 1997 AND SUBSEQUENT FISCAL YEARS.—The per stay amount for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after 1996 is equal to the per stay amount established under this subsection for the 12-month cost reporting period beginning during the preceding fiscal year (without regard to any adjustment under paragraph (1)(A)(ii)), increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2.0 percentage points.

"(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is—

"(1) the sum of—

"(A) the amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and

"(B) the Secretary's best estimate of the amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary; divided by

"(2) the average number of days per stay for all residents of the skilled nursing facility receiving extended care services furnished during the benefit period established under section 1812(a)(2).

"(f) INTENSIVE NURSING OR THERAPY NEEDS.—

"(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay amount for such resident shall be the per stay amount developed under paragraph (2) instead of the per stay amount determined under subsection (d)(1)(A).

"(2) PER STAY AMOUNT FOR INTENSIVE NEED RESIDENTS.—Upon the implementation of the payment method established under this section, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a per stay amount for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) EXCEPTIONS AND ADJUSTMENTS TO AMOUNTS.—

"(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting period amounts applicable to a skilled nursing facility under subsection (c)(2) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

"(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(h) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—The Secretary shall determine an appropriate manner in which to apply this section, taking into account the purposes of this section, to non-routine costs of a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

"(i) SPECIAL RULE FOR X-RAY SERVICES.—Before furnishing a covered non-routine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray service services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.

"(j) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 shall reflect the payment methodology established under this section for covered non-routine services.".

(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, 1888A, and 1889".

SEC. 8413. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) PAYMENTS TO LOW MEDICARE VOLUME SKILLED NURSING FACILITIES.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

(b) BASING 1996 LIMITS ON NEW DEFINITION OF ROUTINE COSTS.—The Secretary of Health and Human Services shall take into account the new definition of routine service costs under section 1888(e) of the Social Security Act, as added by section 8411, in determining the routine per diem cost limits under section 1888(a) for fiscal year 1996 and each fiscal year thereafter.

(c) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting ", and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.".

(d) LIMITATION TO EXCEPTIONS PROCESS OF THE SECRETARY.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking "(c) The Secretary" and inserting "(c)(1) Subject to paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

"(A) for cost reporting periods beginning during fiscal year 1996, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1994 increased (on a compounded basis) by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year; and

"(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the preceding fiscal year, increased by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year.".

(e) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 8410, shall reflect the routine per diem cost limits under section 1888(a) of such Act.

SEC. 8414. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.

(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 8405(a), is amended by adding at the end the following new subparagraph:

"(U) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 10 percent for payments attributable to portions of cost reporting periods occurring beginning in fiscal years 1996 through 2002.".

(b) MAINTAINING SAVINGS RESULTING FROM 10 PERCENT CAPITAL REDUCTION.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 8410 of this Act, shall reflect the 10 percent reduction in payments for capital-related costs of skilled nursing facilities as such reduction is in effect under section 1861(v)(1)(U) of the Social Security Act, as added by subsection (a).

SEC. 8415. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service (other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), except that this subparagraph shall not preclude a physician (as defined in section 1861(r)(1)) from receiving payment for physician's services provided to a resident of a skilled nursing facility if such services are not covered non-routine services (as defined in section 1888A(a)(1)) or services for which routine service costs (as defined in section 1888(e)) are determined.".

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting "; or"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for covered non-routine services (as defined in section 1888A(a)(1)) (other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.".

(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 8405(a) and section 8414(a), is amended by adding at the end the following new subparagraph:

"(V) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 8416. MEDICAL REVIEW PROCESS.

In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this subchapter on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

SEC. 8417. REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.

Not later than October 1, 1997, the Medicare Payment Review Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 8412) on the payments for, and the quality of, extended care services under the medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.

(3) An analysis of the desirability of maintaining separate routine cost-limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

(6) An analysis of the effect of the prospective payment methodology established under section 1889 of the Social Security Act (as added by section 8410) on the payments for, and the quality of, extended care services under the medicare program, including an evaluation of the baseline used in establishing a system for payment for extended care services furnished by skilled nursing facilities.

SEC. 8418. EFFECTIVE DATE.

Except as otherwise provided in this subchapter, the amendments made by this subchapter shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1995.

CHAPTER 3—OTHER PROVISIONS RELATING TO PART A

SEC. 8421. PAYMENTS FOR HOSPICE SERVICES.

Section 1814(i)(1)(C)(ii) (42 U.S.C. 1395f(i)(1)(C)(ii)) is amended by striking subclauses (IV), (V), and (VI), and inserting the following subclauses:

"(IV) for fiscal years 1996 through 2002, the market basket percentage increase for the fiscal year minus 2.0 percentage points; and

"(V) for a subsequent fiscal year, the market basket percentage increase for the fiscal year.".

SEC. 8422. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH.

Effective as if included in the enactment of OBRA–1989, section 6011(d) of such Act (as amended by section 13505 of OBRA–1993) is amended by striking "and shall expire September 30, 1994".

Subtitle F—Provisions Relating to Part B

CHAPTER 1—PAYMENT REFORMS

SEC. 8501. PAYMENTS FOR PHYSICIANS' SERVICES.

(a) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—

(1) UPDATE.—

(A) IN GENERAL.—Section 1848(d)(3) (42 U.S.C. 1395w–4(d)(3)) is amended to read as follows:

"(3) UPDATE.—

"(A) IN GENERAL.—Unless Congress otherwise provides, subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) UPDATE ADJUSTMENT FACTOR.—The 'update adjustment factor' for a year is equal to the quotient of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished during each of the years 1995 through the previous year; divided by

"(ii) the Secretary's estimate of allowed expenditures for physicians' services furnished during the year.

"(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of subparagraph (B), allowed expenditures for physicians' services shall be determined as follows (as estimated by the Secretary):

"(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June 30, 1995.

"(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during the year.

"(D) DETERMINATION OF ACTUAL EXPENDITURES.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

"(E) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 103 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100; or

"(ii) less than 93 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to physicians' services furnished on or after January 1, 1997.

(2) CONFORMING AMENDMENTS.—(A) Section 1848(d)(2)(A) (42 U.S.C. 1395w–4(d)(2)(A)) is amended—

(i) in the matter preceding clause (i)—

(I) by striking "(or updates) in the conversion factor (or factors)" and inserting "in the conversion factor";

(II) by striking "(beginning with 1991)" and inserting "(beginning with 1996)"; and

(III) by striking the second sentence;

(ii) by amending clause (ii) to read as follows:

"(ii) such factors as enter into the calculation of the update adjustment factor as described in paragraph (3)(B); and";

(iii) by amending clause (iii) to read as follows:

"(iii) access to services.";

(iv) by striking clauses (iv), (v), and (vi); and

(v) by striking the last sentence.

(B) Section 1848(d)(2)(B) (42 U.S.C. 1395w–4(d)(2)(B)) is amended—

(i) by striking "and" at the end of clause (iii);

(ii) by striking the period at the end of clause (iv) and inserting "; and"; and

(iii) by adding at the end the following new clause:

"(v) changes in volume or intensity of services.".

(C) Section 1848(d)(2) (42 U.S.C. 1395w4–(d)(2)) is further amended—

(i) by striking subparagraphs (C), (D), and (E);

(ii) by redesignating subparagraph (F) as subparagraph (C); and

(iii) in subparagraph (C), as redesignated, by striking "(or updates) in the conversion factor (or factors)" and inserting "in the conversion factor".

(b) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—

(1) IN GENERAL.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) SPECIFICATION OF GROWTH RATE.—

"(A) FISCAL YEAR 1996.—The sustainable growth rate for all physicians' services for fiscal year 1996 shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law (including the Medicare Preservation Act of 1995), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

"(B) SUBSEQUENT FISCAL YEARS.—The sustainable growth rate for all physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law (including changes made by the Secretary in response to section 1895), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(3) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a private plan enrollee.

"(B) PRIVATE PLAN ENROLLEE.—The term 'private plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a MedicarePlus plan offered under part C or through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(2) CONFORMING AMENDMENTS.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended—

(A) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";

(B) in paragraph (1)—

(i) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";

(ii) in subparagraph (A), in the matter preceding clause (i), by striking "performance standard rates of increase" and inserting "sustainable growth rate"; and

(iii) in subparagraph (A), by striking "HMO enrollees" each place such term appears and inserting "private plan enrollees";

(C) in subparagraph (B), by striking "performance standard rates of increase" and inserting "sustainable growth rate"; and

(D) in subparagraph (C)—

(i) in the heading, by striking "PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";

(ii) in the first sentence, by striking "with 1991), the performance standard rates of increase" and all that follows through the first period and inserting "with 1997), the sustainable growth rate for the fiscal year beginning in that year."; and

(iii) in the second sentence, by striking "January 1, 1990, the performance standard rate of increase under subparagraph (D) for fiscal year 1990" and inserting "January 1, 1997, the sustainable growth rate for fiscal year 1997".

(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—

(1) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $35.42 for all physicians' services.".

(2) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(A) by striking "(or factors)" each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii) (as redesignated by paragraph (1)(a));

(B) in subsection (d)(1)(A), by striking "or updates";

(C) in subsection (d)(1)(D)(ii) (as redesignated by paragraph (1)(a)), by striking "(or updates)"; and

(D) in subsection (i)(1)(C), by striking "conversion factors" and inserting "the conversion factor".

SEC. 8502. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1995.

SEC. 8503. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 2002".

(b) REDUCTION IN PAYMENTS FOR OTHER COSTS.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 2002".

SEC. 8504. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) CHANGE IN UPDATE.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by striking "1994 and 1995" and inserting "1994 through 2002".

(b) LOWERING CAP ON PAYMENT AMOUNTS.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking "and" at the end;

(2) in clause (vii)—

(A) by inserting "and before January 1, 1997," after "1995,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1996, is equal to 65 percent of such median.".

SEC. 8505. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(C) for each of the years 1996 through 2002, 0 percentage points; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(A) by striking "and" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) for each of the years 1996 through 2002, 1 percent, and".

(b) OXYGEN AND OXYGEN EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(A) by striking "and" at the end of clause (iii);

(B) in clause (iv)—

(i) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and *(ii) by striking the period at the end and inserting a semicolon; and*

(C) by adding at the end the following new clauses:

"(v) in each of the years 1996 through 2002, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year reduced by the applicable percentage described in subparagraph (D) (but in no case may the amount determined under this clause be less than 70 percent of such national limited payment rate); and

"(vi) in a subsequent year, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year.".

(2) APPLICABLE PERCENTAGE DESCRIBED.—Section 1834(a)(9) (42 1395m(a)(9)) is amended by adding at the end the following new subparagraph:

"(D) APPLICABLE PERCENTAGE DESCRIBED.—In clause (v) of subparagraph (C), the 'applicable percentage' with respect to a year described in such clause is—

"(i) for 1996, 20 percent,

"(ii) for 1997, 21⅔ percent,

"(iii) for 1998, 23⅓ percent,

"(iv) for 1999, 25 percent,

"(v) for 2000, 26⅔ percent,

"(vi) for 2001, 28⅓ percent, and

"(vii) for 2002, 30 percent.".

(c) PAYMENT FREEZE FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during each of the years 1996 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

SEC. 8506. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is amended—

(1) by striking "1996" and inserting "2003"; and

(2) by inserting before the first sentence the following new sentence: "Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), the Secretary shall not update amounts established under such subparagraphs for fiscal years 1996 through 2002."

SEC. 8507. PAYMENTS FOR AMBULANCE SERVICES.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 8405(a), section 8414(a), and section 8415(b), is amended by adding at the end the following new subparagraph:

"(W) In determining the reasonable cost or charge of ambulance services for fiscal years 1996 through 2002, the Secretary shall not recognize any costs in excess of costs recognized as reasonable for fiscal year 1995.".

SEC. 8508. ENSURING PAYMENT FOR PHYSICIAN AND NURSE FOR JOINTLY FURNISHED ANESTHESIA SERVICES.

(a) PAYMENT FOR JOINTLY FURNISHED SINGLE CASE.—

(1) PAYMENT TO PHYSICIAN.—Section 1848(a)(4) (42 U.S.C. 1395w–4(a)(4)) is amended by adding at the end the following new subparagraph:

"(C) PAYMENT FOR SINGLE CASE.—Notwithstanding section 1862(a)(1)(A), with respect to physicians' services consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a certified registered nurse anesthetist, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the physicians' services shall be equal to 50 percent (or 55 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under this section for anesthesia services personally performed by the physician alone (without regard to this subparagraph). Nothing in this subparagraph may be construed to affect the application of any provision of law regarding balance billing.".

(2) PAYMENT TO CRNA.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended by adding at the end the following new clause:

"(iv) Notwithstanding section 1862(a)(1)(A), in the case of services of a certified registered nurse anesthetist consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a physician, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the services furnished by the certified registered nurse anesthetist shall be equal to 50 percent (or 40 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under section 1848 for anesthesia services personally performed by the physician alone (without regard to this clause).".

(b) EFFECTIVE DATE.—The amendments made by subsections (a) shall apply to services furnished on or after July 1, 1996.

CHAPTER 2—PART B PREMIUM

SEC. 8511. PROMOTING SOLVENCY OF PART A TRUST FUND THROUGH PART B PREMIUM.

(a) IN GENERAL.—Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking "1999" and inserting "2003", and

(2) by adding at the end the following new subparagraph:

"(C)(i) For each month beginning with January 1996 through December 2002, the amount of the monthly premium under this part shall be increased by an amount equal to 13 percent of the monthly actuarial rate for enrollees age 65 and over, as determined under subsection (a)(1) and applicable to such month.

"(ii) The Secretary shall transfer amounts received pursuant to clause (i) to the Federal Hospital Insurance Trust Fund.

"(iii) In applying section 1844(a), amounts attributable to clause (i) shall not be counted in determining the dollar amount of the premium per enrollee under paragraph (1)(A) or (1)(B).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to premiums for months beginning with January 1996.

SEC. 8512. INCOME-RELATED REDUCTION IN MEDICARE SUBSIDY.

(a) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following:

"(h)(1) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income for a taxable year ending with or within a calendar year (as initially determined by the Secretary in accordance with paragraph (3)) exceeds the threshold amount described in paragraph (5)(B), the Secretary shall increase the amount of the monthly premium for months in the calendar year by an amount equal to the difference between—

"(A) 200 percent of the monthly actuarial rate for enrollees age 65 and over as determined under subsection (a)(1) for that calendar year; and

"(B) the total of the monthly premiums paid by the individual under this section (determined without regard to subsection (b)) during such calendar year.

"(2) In the case of an individual described in paragraph (1) whose modified adjusted gross income exceeds the threshold amount by less than $50,000, the amount of the increase in the monthly premium applicable under paragraph (1) shall be an amount which bears the same ratio to the amount of the increase described in paragraph (1) (determined without regard to this paragraph) as such excess bears to $50,000. In the case of a joint return filed under section 6013 of the Internal Revenue Code of 1986 by spouses both of whom are enrolled under this part, the previous sentence shall be applied by substituting '$60,000' for '$50,000'. The preceding provisions of this paragraph shall not apply to any individual whose threshold amount is zero.

"(3) The Secretary shall make an initial determination of the amount of an individual's modified adjusted gross income for a taxable year ending with or within a calendar year for purposes of this subsection as follows:

"(A) Not later than September 1 of the year preceding the year, the Secretary shall provide notice to each individual whom the Secretary finds (on the basis of the individual's actual modified adjusted gross income for the most recent taxable year for which such information is available or other information provided to the Secretary by the Secretary of the Treasury) will be subject to an increase under this subsection that the individual will be subject to such an increase, and shall include in such notice the Secretary's estimate of the individual's modified adjusted gross income for the year.

"(B) If, during the 30-day period beginning on the date notice is provided to an individual under subparagraph (A), the individual provides the Secretary with information on the individual's anticipated modified adjusted gross income for the year, the amount initially determined by the Secretary under this paragraph with respect to the individual shall be based on the information provided by the individual.

"(C) If an individual does not provide the Secretary with information under subparagraph (B), the amount initially determined by the Secretary under this paragraph with respect to the individual shall be the amount included in the notice provided to the individual under subparagraph (A).

"(4)(A) If the Secretary determines (on the basis of final information provided by the Secretary of the Treasury) that the amount of an individual's actual modified adjusted gross income for a taxable year ending with or within a calendar year is less than or greater than the amount initially determined by the Secretary under paragraph (3), the Secretary shall increase or decrease the amount of the individual's monthly premium under this section (as the case may be) for months during the following calendar year by an amount equal to $\frac{1}{12}$ of the difference between—

"(i) the total amount of all monthly premiums paid by the individual under this section during the previous calendar year; and

"(ii) the total amount of all such premiums which would have been paid by the individual during the previous calendar year if the amount of the individual's modified adjusted gross income initially determined under paragraph (3) were equal to the actual amount of the individual's modified adjusted gross income determined under this paragraph.

"(B)(i) In the case of an individual for whom the amount initially determined by the Secretary under paragraph (3) is based on information provided by the individual under subparagraph (B) of such paragraph, if the Secretary determines under subparagraph (A) that the amount of the individual's actual modified adjusted gross income for a taxable year is greater than the amount initially determined under paragraph (3), the Secretary shall increase the amount otherwise determined for the year under subparagraph (A) by interest in an amount equal to the sum of the amounts determined

under clause (ii) for each of the months described in clause (ii).

"(ii) Interest shall be computed for any month in an amount determined by applying the underpayment rate established under section 6621 of the Internal Revenue Code of 1986 (compounded daily) to any portion of the difference between the amount initially determined under paragraph (3) and the amount determined under subparagraph (A) for the period beginning on the first day of the month beginning after the individual provided information to the Secretary under subparagraph (B) of paragraph (3) and ending 30 days before the first month for which the individual's monthly premium is increased under this paragraph.

"(iii) Interest shall not be imposed under this subparagraph if the amount of the individual's modified adjusted gross income provided by the individual under subparagraph (B) of paragraph (3) was not less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.

"(C) In the case of an individual who is not enrolled under this part for any calendar year for which the individual's monthly premium under this section for months during the year would be increased pursuant to subparagraph (A) if the individual were enrolled under this part for the year, the Secretary may take such steps as the Secretary considers appropriate to recover from the individual the total amount by which the individual's monthly premium for months during the year would have been increased under subparagraph (A) if the individual were enrolled under this part for the year.

"(D) In the case of a deceased individual for whom the amount of the monthly premium under this section for months in a year would have been decreased pursuant to subparagraph (A) if the individual were not deceased, the Secretary shall make a payment to the individual's surviving spouse (or, in the case of an individual who does not have a surviving spouse, to the individual's estate) in an amount equal to the difference between—

"(i) the total amount by which the individual's premium would have been decreased for all months during the year pursuant to subparagraph (A); and

"(ii) the amount (if any) by which the individual's premium was decreased for months during the year pursuant to subparagraph (A).

"(5) In this subsection, the following definitions apply:

"(A) The term 'modified adjusted gross income' means adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986)—

"(i) determined without regard to sections 135, 911, 931, and 933 of such Code, and

"(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax under such Code.

"(B) The term 'threshold amount' means—

"(i) except as otherwise provided in this paragraph, $60,000,

"(ii) $90,000, in the case of a joint return (as defined in section 7701(a)(38) of such Code), and

"(iii) zero in the case of a taxpayer who—

"(I) is married at the close of the taxable year but does not file a joint return (as so defined) for such year, and

"(II) does not live apart from his spouse at all times during the taxable year.

"(6)(A) The Secretary shall transfer amounts received pursuant to this subsection to the Federal Hospital Insurance Trust Fund.

"(B) In applying section 1844(a), amounts attributable to clause (i) shall not be counted in determining the dollar amount of the premium per enrollee under paragraph (1)(A) or (1)(B).".

(b) CONFORMING AMENDMENTS.—(1) Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by inserting "or section 1839A" after "subsections (b) and (e)";

(B) in subsection (a)(3) of section 1839(a), by inserting "or section 1839A" after "subsection (e)";

(C) in subsection (b), inserting "(and as increased under section 1839A)" after "subsection (a) or (e)"; and

(D) in subsection (f), by striking "if an individual" and inserting the following: "if an individual (other than an individual subject to an increase in the monthly premium under this section pursuant to subsection (h))".

(2) Section 1840(c) (42 U.S.C. 1395r(c)) is amended by inserting "or an individual determines that the estimate of modified adjusted gross income used in determining whether the individual is subject to an increase in the monthly premium under section 1839 pursuant to subsection (h) of such section (or in determining the amount of such increase) is too low and results in a portion of the premium not being deducted," before "he may".

(c) REPORTING REQUIREMENTS FOR SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

"(15) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME-RELATED REDUCTION IN MEDICARE PART B PREMIUM.—

"(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Health Care Financing Administration return information with respect to a taxpayer who is required to pay a monthly premium under section 1839 of the Social Security Act. Such return information shall be limited to—

"(i) taxpayer identity information with respect to such taxpayer,

"(ii) the filing status of such taxpayer,

"(iii) the adjusted gross income of such taxpayer,

"(iv) the amounts excluded from such taxpayer's gross income under sections 135 and 911,

"(v) the interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1 to the extent such information is available, and

"(vi) the amounts excluded from such taxpayer's gross income by sections 931 and 933 to the extent such information is available.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Health Care Financing Administration only for the purposes of, and to the extent necessary in, establishing the appropriate monthly premium under section 1839 of the Social Security Act."

(2) CONFORMING AMENDMENT.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "or (14)" each place it appears and inserting "(14), or (15)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning with January 1997.

(2) INFORMATION FOR PRIOR YEARS.—The Secretary of Health and Human Services may request information under section 6013(l)(15) of the Social Security Act (as added by subsection (c)) for taxable years beginning after December 31, 1993.

Subtitle G—Provisions Relating to Parts A and B

CHAPTER 1—PAYMENTS FOR HOME HEALTH SERVICES

SEC. 8601. PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395x et seq.), as amended by section 8102, is amended by adding at the end the following new section:

"PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1894. (a) IN GENERAL.—

"(1) PER VISIT PAYMENTS.—Subject to subsection (c), the Secretary shall make per visit payments beginning with fiscal year 1997 to a home health agency in accordance with this section for each type of home health service described in paragraph (2) furnished to an individual who at the time the service is furnished is under a plan of care by the home health agency under this title (without regard to whether or not the item or service was furnished by the agency or by others under arrangement with them made by the agency, under any other contracting or consulting arrangement, or otherwise).

"(2) TYPES OF SERVICES.—The types of home health services described in this paragraph are the following:

"(A) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse.

"(B) Physical therapy.

"(C) Occupational therapy.

"(D) Speech-language pathology services.

"(E) Medical social services under the direction of a physician.

"(F) To the extent permitted in regulations, part-time or intermittent services of a home health aide who has successfully completed a training program approved by the Secretary.

"(b) ESTABLISHMENT OF PER VISIT RATE FOR EACH TYPE OF SERVICES.—

"(1) IN GENERAL.—The Secretary shall, subject to paragraph (3), establish a per visit payment rate for a home health agency in an area (which shall be the same area used to determine the area wage index applicable to hospitals under section 1886(d)(3)(E)) for each type of home health service described in subsection (a)(2). Such rate shall be equal to the national per visit payment rate determined under paragraph (2) for each such type, except that the labor-related portion of such rate shall be adjusted by the area wage index applicable under section 1886(d)(3)(E) for the area in which the agency is located (as determined without regard to any reclassification of the area under section 1886(d)(8)(B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under section 1886(d)(10) for cost reporting periods beginning after October 1, 1995).

"(2) NATIONAL PER VISIT PAYMENT RATE.—The national per visit payment rate for each type of service described in subsection (a)(2)—

"(A) for fiscal year 1997, is an amount equal to the national average amount paid per visit under this title to home health agencies for such type of service during the most recent 12-month cost reporting period ending on or before June 30, 1994; and

"(B) for each subsequent fiscal year, is an amount equal to the national per visit payment rate in effect for the preceding fiscal year, increased by the home health market basket percentage increase for such subsequent fiscal year minus 2.0 percentage points.

"(3) REBASING OF RATES.—The Secretary shall adjust the national per visit payment rates under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 5 years thereafter, to reflect the most recent available data.

"(4) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the types of home health services described in subsection (a)(2) in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to inpatient hospital services for the fiscal year.

"(c) PER EPISODE LIMIT.—

"(1) AGGREGATE LIMIT.—

"(A) IN GENERAL.—Except as provided in paragraph (2), a home health agency may not receive aggregate per visit payments under subsection (a) for a fiscal year in excess of an amount equal to the sum of the following products determined for each case-mix category for which the agency receives payments:

"(i) The number of episodes of each such case-mix category during the fiscal year; multiplied by

"(ii) the per episode limit determined for such case-mix category for such fiscal year.

"(B) ESTABLISHMENT OF PER EPISODE LIMITS.—

"(i) IN GENERAL.—The per episode limit for a fiscal year for any case-mix category for the area in which a home health agency is located (which shall be the same area used to determine the area wage index applicable to hospitals under section 1886(d)(3)(E)) is equal to—

"(I) the mean number of visits for each type of home health service described in subsection (a)(2) furnished during an episode of such case-mix category in such area during fiscal year 1994, adjusted by the case-mix adjustment factor determined in clause (ii) for the fiscal year involved; multiplied by

"(II) the per visit payment rate established under subsection (b) for such type of home health service for the fiscal year for which the determination is being made.

"(ii) CASE-MIX ADJUSTMENT FACTOR.—For purposes of clause (i), the case-mix adjustment factor for a year for—

"(I) each of fiscal years 1997 through 2000 is the factor determined by the Secretary to assure that aggregate payments for home health services under this section during the year will not exceed the payment for such services during the previous year as a result of changes in the number and type of home health visits within case-mix categories over the previous year; and

"(II) each subsequent fiscal year, is the factor determined by the Secretary necessary to remove the effects of case-mix increases due to reporting improvements instead of real changes in patients' resource usage.

"(iii) REBASING OF PER EPISODE LIMITS.—Beginning with fiscal year 1999 and every 5 years thereafter, the Secretary shall revise the mean number of home health visits determined under clause (i)(I) for each type of home health service visit described in subsection (a)(2) furnished during an episode in a case-mix category to reflect the most recently available data on the number of visits.

"(iv) DETERMINATION OF AREA.—In the case of an area which the Secretary determines has an insufficient number of home health agencies to establish an appropriate per episode limit, the Secretary may establish an area other than the area used to determine the area wage under section 1886(d)(3)(E)) for purposes of establishing an appropriate per episode limit.

"(C) CASE-MIX CATEGORY.—For purposes of this paragraph, the term 'case-mix category' means each of the 18 case-mix categories established under the Home Health Agency Prospective Payment Demonstration Project conducted by the Health Care Financing Administration. The Secretary may develop an alternate methodology for determining case-mix categories.

"(D) EPISODE.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'episode' means the continuous 120-day period that—

"(I) begins on the date of an individual's first visit for a type of home health service described in subsection (a)(2) for a case-mix category, and

"(II) is immediately preceded by a 60-day period in which the individual did not receive visits for a type of home health service described in subsection (a)(2).

"(ii) TREATMENT OF EPISODES SPANNING COST REPORTING PERIODS.—The Secretary shall provide for such rules as the Secretary considers appropriate regarding the treatment of episodes under this paragraph which begin during a cost reporting period and end in a subsequent cost reporting period.

"(E) EXEMPTIONS AND EXCEPTIONS.—The Secretary may provide for exemptions and exceptions to the limits established under this paragraph for a fiscal year as the Secretary deems appropriate, to the extent such exemptions and exceptions do not result in greater payments under this section than the exemptions and exceptions provided under section 1861(v)(1)(L)(ii) in fiscal year 1994, increased by the home health market basket percentage increase for the fiscal year involved (as defined in subsection (b)(4)).

"(2) RECONCILIATION OF AMOUNTS.—

"(A) PAYMENTS IN EXCESS OF LIMITS.—Subject to subparagraph (B), if a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in excess of the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall reduce payments under this section to the home health agency in the following fiscal year in such manner as the Secretary considers appropriate (including on an installment basis) to recapture the amount of such excess.

"(B) EXCEPTION FOR HOME HEALTH SERVICES FURNISHED OVER A PERIOD GREATER THAN 165 DAYS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the amount of aggregate per visit payments determined under subsection (a) shall not include payments for home health visits furnished to an individual on or after a continuous period of more than 165 days after an individual begins an episode described in subsection (c)(1)(D) (if such period is not interrupted by the beginning of a new episode).

"(ii) REQUIREMENT OF CERTIFICATION.—Clause (i) shall not apply if the agency has not obtained a physician's certification with respect to the individual requiring such visits that includes a statement that the individual requires such continued visits, the reason for the need for such visits, and a description of such services furnished during such visits.

"(C) SHARE OF SAVINGS.—

"(i) BONUS PAYMENTS.—If a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in an amount less than the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall pay such home health agency a bonus payment equal to 50 percent of the difference between such amounts in the following fiscal year, except that the bonus payment may not exceed 5 percent of the aggregate per visit payments made to the agency for the year.

"(ii) INSTALLMENT BONUS PAYMENTS.—The Secretary may make installment payments during a fiscal year to a home health agency based on the estimated bonus payment that the agency would be eligible to receive with respect to such fiscal year.

"(d) MEDICAL REVIEW PROCESS.—The Secretary shall implement a medical review process (with a particular emphasis on fiscal years 1997 and 1998) for the system of payments described in this section that shall provide an assessment of the pattern of care furnished to individuals receiving home health services for which payments are made under this section to ensure that such individuals receive appropriate home health services. Such review process shall focus on low-cost episodes (as defined by the Secretary under section (e)(3)(C)) and cases described in subsection (c)(2)(B) and shall require recertification by intermediaries at 60 and 165 days into an episode described in subsection (c)(1)(D).

"(e) ADJUSTMENT OF PAYMENTS TO AVOID CIRCUMVENTION OF LIMITS.—

"(1) IN GENERAL.—The Secretary shall provide for appropriate adjustments to payments to home health agencies under this section to ensure that agencies do not circumvent the purpose of this section by—

"(A) discharging patients to another home health agency or similar provider;

"(B) altering corporate structure or name to avoid being subject to this section or for the purpose of increasing payments under this title; or

"(C) undertaking other actions considered unnecessary for effective patient care and intended to achieve maximum payments under this title.

"(2) TRACKING OF PATIENTS THAT SWITCH HOME HEALTH AGENCIES DURING EPISODE.—

"(A) DEVELOPMENT OF SYSTEM.—The Secretary shall develop a system that tracks home health patients that receive home health services described in subsection (a)(2) from more than 1 home health agency during an episode described in subsection (c)(1)(D).

"(B) ADJUSTMENT OF PAYMENTS.—The Secretary shall adjust payments under this section to each home health agency that furnishes an individual with a type of home health service described in subsection (a)(2) to ensure that aggregate payments on behalf of such individual during such episode do not exceed the amount that would be paid under this section if the individual received such services from a single home health agency.

"(3) LOW-COST CASES.—

"(A) IN GENERAL.—The Secretary shall develop and implement a system designed to adjust payments to a home health agency for a fiscal year to eliminate any increase in growth of the percentage distribution of low-cost episodes for which home health services are furnished by the agency over such percentage distribution determined for the agency under subparagraph (B).

"(B) DISTRIBUTION.—The Secretary shall profile each home health agency to determine the distribution of all episodes by length of stay for each agency during the agency's first 12-month cost reporting period beginning during fiscal year 1994.

"(C) LOW-COST EPISODE.—For purposes of this paragraph, the Secretary shall define a low-cost episode in a manner that provides that a home health agency has an incentive to be cost efficient in delivering home health services and that the volume of such services does not increase as a result of factors other than patient needs.

"(f) SPECIAL RULE FOR CHRISTIAN SCIENCE PROVIDERS.—

"(1) PAYMENT PERMITTED FOR SERVICES.—Notwithstanding any other provision of this title, payment shall be made under this title for home health services furnished by Christian Science providers who meet applicable requirements of the First Church of Christ, Scientist, Boston, Massachusetts, and are certified for purposes of this title under criteria established by the Secretary, in accordance with a payment methodology established by the Secretary.

"(2) EFFECTIVE DATE.—Paragraph (1) shall apply to services furnished during cost reporting periods which begin after the earlier of—

"(A) the date on which the Secretary establishes the payment methodology and the certification criteria described in paragraph (1), or

"(B) July 1, 1996.

"(g) Report by Medicare Payment Review Commission.—During the first 3 years in which payments are made under this section, the Medicare Payment Review Commission shall annually submit a report to Congress on the effectiveness of the payment methodology established under this section that shall include recommendations regarding the following:

"(1) Case-mix and volume increases.

"(2) Quality monitoring of home health agency practices.

"(3) Whether a capitated payment for home care patients receiving care during a continuous period exceeding 165 days is warranted.

"(4) Whether public providers of service are adequately reimbursed.

"(5) On the adequacy of the exemptions and exceptions to the limits provided under subsection (c)(1)(E).

"(6) The appropriateness of the methods provided under this section to adjust the per episode limits and annual payment updates to reflect changes in the mix of services, number of visits, and assignment to case categories to reflect changing patterns of home health care.

"(7) The geographic areas used to determine the per episode limits.".

(b) Payment for Prosthetics and Orthotics Under Part A.—Section 1814(k) (42 U.S.C. 1395f(k)) is amended—

(1) by inserting "and prosthetics and orthotics" after "durable medical equipment"; and

(2) by inserting "and 1834(h), respectively" after "1834(a)(1)".

(c) Conforming Amendments.—

(1) Payments under part A.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by section 8412(b), is amended in the matter preceding paragraph (1) by striking "1888 and 1888A" and inserting "1888, 1888A, and 1894".

(2) Treatment of items and services paid under part B.—

(A) Payments under part B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services—

"(i) that are a type of home health service described in section 1894(a)(2), and which are furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, the amount determined under section 1894;

"(ii) that are not described in clause (i) (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the lesser of—

"(I) the reasonable cost of such services, as determined under section 1861(v), or

"(II) the customary charges with respect to such services;".

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) Requiring payment for all items and services to be made to agency.—

(i) In general.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 8415(a)(1), is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of types of home health services described in section 1894(a)(2) furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).".

(ii) Conforming amendment.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(F);".

(C) Exclusions from coverage.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 8415(a)(2), is amended—

(i) by striking "or" at the end of paragraph (15);

(ii) by striking the period at the end of paragraph (16) and inserting "or"; and

(iii) by adding at the end the following new paragraph:

"(17) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(3) Sunset of reasonable cost limitations.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iv) This subparagraph shall apply only to services furnished by home health agencies during cost reporting periods ending on or before September 30, 1996.".

(d) Effective Date.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1996.

SEC. 8602. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) Basing Updates to Per Visit Cost Limits on Limits for Fiscal Year 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) No Exceptions Permitted Based on Amendment.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

SEC. 8603. EXTENSION OF WAIVER OF PRESUMPTION OF LACK OF KNOWLEDGE OF EXCLUSION FROM COVERAGE FOR HOME HEALTH AGENCIES.

Section 9305(g)(3) of OBRA-1986, as amended by section 426(d) of the Medicare Catastrophic Coverage Act of 1988 and section 4207(b)(3) of the OBRA-1990 (as renumbered by section 160(d)(4) of the Social Security Act Amendments of 1994), is amended by striking "December 31, 1995" and inserting "September 30, 1996.".

SEC. 8604. EXTENSION OF PERIOD OF HOME HEALTH AGENCY CERTIFICATION.

Section 1891(c)(2)(A) (42 U.S.C. 1395bbb(c)(2)(A)) is amended—

(1) by striking "15 months" and inserting "36 months"; and

(2) by striking the second sentence and inserting the following: "The Secretary shall establish a frequency for surveys of home health agencies within this 36-month interval commensurate with the need to assure the delivery of quality home health services.".

PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS

SEC. 8611. EXTENSION AND EXPANSION OF EXISTING REQUIREMENTS.

(a) Data Match.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) Application to Disabled Individuals in Large Group Health Plans.—

(1) In general.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) Conforming amendments.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) Individuals With End Stage Renal Disease.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the last sentence by striking "October 1, 1998" and inserting "the date of the enactment of the Medicare Preservation Act of 1995"; and

(2) by adding at the end the following new sentence: "Effective for items and services furnished on or after the date of the enactment of the Medicare Preservation Act of 1995 (with respect to periods beginning on or after the date that is 18 months prior to such date), clauses (i) and (ii) shall be applied by substituting '30-month' for '12-month' each place it appears.".

SEC. 8612. IMPROVEMENTS IN RECOVERY OF PAYMENTS.

(a) Permitting Recovery Against Third Party Administrators of Primary Plans.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking "under this subsection to pay" and inserting "(directly, as a third-party administrator, or otherwise) to make payment", and

(2) by adding at the end the following: "The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.".

(b) Extension of Claims Filing Period.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

"(v) Claims-filing period.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.".

(c) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

CHAPTER 3—OTHER ITEMS AND SERVICES UNDER PARTS A AND B

SEC. 8621. MEDICARE COVERAGE OF CERTAIN ANTI-CANCER DRUG TREATMENTS.

(a) COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2)(Q) (42 U.S.C. 1395x(s)(2)(Q)) is amended—

(1) by striking "(Q)" and inserting "(Q)(i)"; and

(2) by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following:

"(ii) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer nonsteroidal antiestrogen for the treatment of breast cancer, but only if the manufacturer of such drug has in effect a rebate agreement with the Secretary with respect to such drug which has substantially similar terms and conditions to the terms and conditions for such agreements under section 1927 (as such section is in effect on the date of the enactment of this clause);".

(b) UNIFORM COVERAGE OF ANTICANCER DRUGS IN ALL SETTINGS.—Section 1861(t)(2)(A) (42 U.S.C. 1395x(t)(2)(A)) is amended by inserting "(including a nonsteroidal antiestrogen regimen)" after "regimen".

(c) CONFORMING AMENDMENT.—Section 1834(j)(5)(F)(iv) (42 U.S.C. 1395m(j)(5)(F)(iv)) is amended by striking "prescribed for use" and all that follows through "1861(s)(2)(Q))" and inserting "described in section 1861(s)(2)(Q)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs furnished on or after January 1, 1996.

SEC. 8622. ADMINISTRATIVE PROVISIONS.

(a) INDIAN HEALTH SERVICE FACILITIES.—Nothing in this Act shall be construed to change the status under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of—

(1) a Federally qualified health center (as defined in section 1861(aa)(4) of such Act) which is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act; or

(2) hospitals or skilled nursing facilities of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), that are eligible for payments under title XVIII of the Social Security Act, in accordance with section 1880 of such Act (42 U.S.C. 1395qq).

(b) CONFORMING AMENDMENT TO CERTIFICATION OF CHRISTIAN SCIENCE PROVIDERS.—

(1) HOSPITALS.—Section 1861(e) (42 U.S.C. 1395x(e)) is amended in the sixth sentence by striking "the First Church of Christ, Scientist, Boston, Massachusetts," and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".

(2) SKILLED NURSING FACILITIES.—Section 1861(y)(1) (42 U.S.C. 1395x(y)(1)) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts," and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".

(3) GENERAL PROVISIONS.—

(A) UNIFORM REPORTING SYSTEMS.—Section 1122(h) (42 U.S.C. 1320a–1(h)) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.".

(B) PEER REVIEW.—Section 1162 (42 U.S.C. 1320c–11) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1997.

CHAPTER 4—FAILSAFE

SEC. 8631. FAILSAFE BUDGET MECHANISM

(a) IN GENERAL.—Title XVIII, as amended by sections 8102(a) and 8601(a), is amended by adding at the end the following new section:

"FAILSAFE BUDGET MECHANISM

"SEC. 1895. (a) REQUIREMENT OF PAYMENT ADJUSTMENTS TO ACHIEVE MEDICARE BUDGET TARGETS.—

"(1) IN GENERAL.—If the Secretary determines under subsection (e)(3)(C) before a fiscal year (beginning with fiscal year 1998) that—

"(A) the fee-for-service expenditures (as defined in subsection (f) for all sectors of medicare services (as defined in subsection (b)) for the fiscal year, will exceed

"(B) the sum of the allotments specified under subsection (c)(2) for such fiscal year (taking into account any adjustment in the allotment under subsection (g) for that fiscal year) for all sectors,

then, notwithstanding any other provisions of this title, there shall be an adjustment (consistent with subsection (d)) in applicable payment rates or payments for items and services included in each excess spending sector in the fiscal year. In this section, the term 'aggregate excess spending' means, for a fiscal year, the amount by which the amount described in subparagraph (A) (for the fiscal year) exceeds the amount described in subparagraph (B) for such year.

"(2) EXCESS SPENDING SECTOR.—In this section, the term 'excess spending sector' means, for a fiscal year, a sector of medicare services for which the Secretary determines under subsection (e)(3)(C)—

"(A) the fee-for-service expenditures (as defined in subsection (f)) for all the fiscal year, will exceed

"(B) the allotment specified under subsection (c)(2) for such fiscal year (taking into account any adjustment in the allotment under subsection (g) for that fiscal year).

In this section, the term 'excess spending means, for a fiscal year with respect to such a sector, the amount by which the amount described in subparagraph (A) (for the fiscal year and sector) exceeds the amount described in subparagraph (B) for such year and sector.

"(b) SECTORS OF MEDICARE SERVICES DESCRIBED—

"(1) IN GENERAL.—For purposes of this section, items and services included under each of the following subparagraphs shall be considered to be a separate 'sector' of medicare services:

"(A) Inpatient hospital services.

"(B) Home health services.

"(C) Extended care services (for inpatients of skilled nursing facilities).

"(D) Hospice care.

"(E) Physicians' services (including services and supplies described in section 1861(s)(2)(A)) and services of other health care professionals (including certified registered nurse anesthetists, nurse practitioners, physician assistants, and clinical psychologists) for which separate payment is made under this title.

"(F) Outpatient hospital services and ambulatory facility services.

"(G) Durable medical equipment and supplies, including prosthetic devices and orthotics.

"(H) Diagnostic tests (including clinical laboratory services and x-ray services).

"(I) Other items and services.

"(2) CLASSIFICATION OF ITEMS AND SERVICES.—The Secretary shall classify each type of items and services covered and paid for separately under this title into one of the sectors specified in paragraph (1). After publication of such classification under subsection (e)(1), the Secretary is not authorized to make substantive changes in such classification.

"(c) ALLOTMENT.—

"(1) ALLOTMENTS FOR EACH SECTOR.—For purposes of this section, subject to subsection (g)(1), the allotment for a sector of medicare services for a fiscal year is equal to the product of—

"(A) the total allotment for the fiscal year established under paragraph (2), and

"(B) the allotment proportion (specified under paragraph (3)) for the sector and fiscal year involved.

"(2) TOTAL ALLOTMENT.—

"(A) IN GENERAL.—For purposes of this section, the total allotment for a fiscal year is equal to—

"(i) the medicare benefit budget for the fiscal year (as specified under subparagraph (B)), reduced by

"(ii) the amount of payments the Secretary estimates will be made in the fiscal year under the MedicarePlus program under part C.

In making the estimate under clause (ii), the Secretary shall take into account estimated enrollment and demographic profile of individuals electing MedicarePlus products.

"(B) MEDICARE BENEFIT BUDGET.—For purposes of this subsection, subject to subparagraph (C), the 'medicare benefit budget'—

"(i) for fiscal year 1996 is $194.2 billion;

"(i) for fiscal year 1997 is $206.3 billion;

"(ii) for fiscal year 1998 is $217.8 billion;

"(iii) for fiscal year 1999 is $229.2 billion;

"(iv) for fiscal year 2000 is $247.2 billion;

"(v) for fiscal year 2001 is $266.4 billion;

"(vi) for fiscal year 2002 is $289.0 billion; and

"(vii) for a subsequent fiscal year is equal to the medicare benefit budget under this subparagraph for the preceding fiscal year multiplied by the product of (I) 1.05, and (II) 1 plus the annual percentage increase in the average number of medicare beneficiaries from the previous fiscal year to the fiscal year involved.

"(3) MEDICARE ALLOTMENT PROPORTIONS DEFINED.—

"(A) IN GENERAL.—For purposes of this section and with respect to a sector of medicare services for a fiscal year, the term 'medicare allotment proportion' means the ratio of—

"(i) the baseline-projected medicare expenditures (as determined under subparagraph (B)) for the sector for the fiscal year, to

"(ii) the sum of such baseline expenditures for all such sectors for the fiscal year.

"(B) BASELINE-PROJECTED MEDICARE EXPENDITURES.—In this paragraph, the 'baseline, projected medicare expenditures' for a sector of medicare services—

"(i) for fiscal year 1996 is equal to fee-for-service expenditures for such sector during fiscal year 1995, increased by the baseline annual growth rate for such sector of medicare services for fiscal year 1996 (as specified in table in subparagraph (C)); and

"(ii) for a subsequent fiscal year is equal to the baseline-projected medicare expenditures under this subparagraph for the sector for the previous fiscal year increased by the baseline annual growth rate for such sector for the fiscal year involved (as specified in such table).

"(C) BASELINE ANNUAL GROWTH RATES.—The following table specifies the baseline annual growth rates for each of the sectors for different fiscal years:

[In percent]

"For the following sector—	Baseline annual growth rates for fiscal year—						
	1996	1997	1998	1999	2000	2001	2002 and thereafter
(A) Inpatient hospital services	5.7	5.6	6.0	6.1	5.7	5.5	5.2
(B) Home health services	17.2	15.1	11.7	9.1	8.4	8.1	7.9
(C) Extended care services	19.7	12.3	9.3	8.7	8.6	8.4	8.0
(D) Hospice care	32.0	24.0	18.0	15.0	12.0	10.0	9.0
(E) Physicians' services	12.4	9.7	8.7	9.0	9.3	9.6	10.1
(F) Outpatient hospital services	14.7	13.9	14.5	15.0	14.1	13.9	14.0
(G) Durable medical equipment and supplies	16.1	15.5	13.7	12.4	13.2	13.9	14.5
(H) Diagnostic tests	13.1	11.3	11.0	11.4	11.4	11.5	11.9
(I) Other items and services	11.2	10.2	10.9	12.0	11.6	11.6	11.8

"(d) MANNER OF PAYMENT ADJUSTMENT.—

"(1) PAYMENT REDUCTIONS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall apply a payment reduction for each excess spending sector for a fiscal year in such a manner as to—

"(i) make a change in payment rates (to the maximum extent practicable) at the time payment rates are otherwise changed or subject to change for that fiscal year; and

"(ii) provide for the full appropriate adjustments so that the fee-for-service expenditures for the sector for the fiscal year will be reduced by 133⅓ percent of the amount of the sector reduction target for that sector.

"(B) SECTOR REDUCTION TARGET.—In paragraph (1), the 'sector reduction target' for an excess spending sector for a fiscal year is equal to the product of—

"(i) the amount of the excess spending for such sector and year (as defined in subsection (a)(2)); and

"(ii) the ratio of—

"(I) the aggregate excess spending for the year (as defined in subsection (a)(1), to

"(II) the sum of the amounts of the excess spending for all excess spending sectors.

"(2) TAKING INTO ACCOUNT VOLUME AND CASH FLOW.—In providing for an adjustment in payments under this subsection for a sector for a fiscal year, the Secretary shall take into account (in a manner consistent with actuarial projections)—

"(A) the impact of such an adjustment on the volume or type of services provided in such sector (and other sectors), and

"(B) the fact that an adjustment may apply to items and services furnished in a fiscal year (payment for which may occur in a subsequent fiscal year),

in a manner that is consistent with assuring that total fee-for-services expenditures for each sector for the fiscal year will not exceed the allotment under subsection (c)(1) for such sector for such year.

"(3) PROPORTIONALITY OF REDUCTIONS WITHIN A SECTOR.—In making adjustments under this subsection in payment for items and services included within a sector of medicare services for a fiscal year, the Secretary shall provide for such an adjustment that results (to the maximum extent feasible) in the same percentage reductions in aggregate Federal payments under parts A and B for the different classes of items and services included within the sector for the fiscal year.

"(4) APPLICATION TO PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A FISCAL YEAR BASIS.—

"(A) IN GENERAL.—In applying subsection (a) with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a fiscal year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished (or, in the case of payment for operating costs of inpatient hospital services of subsection (d) hospitals and subsection (d) Puerto Rico hospitals (as defined in paragraphs (1)(B) and (9)(A) of section 1886(d)), discharges occurring) during such year.

"(B) DESCRIPTION OF APPLICATION TO SPECIFIC SERVICES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

"(i) UPDATE FACTOR FOR PAYMENT FOR OPERATING COSTS OF INPATIENT HOSPITAL SERVICES OF PPS HOSPITALS.—To the computation of the applicable percentage increase specified in section 1886(d)(3)(B)(i) for discharges occurring in the fiscal year.

"(ii) HOME HEALTH SERVICES.—To the extent payment amounts for home health services are based on per visit payment rates under section 1894, to the computation of the increase in the national per visit payment rates established for the year under section 1894(b)(2)(B).

"(iii) HOSPICE CARE.—To the update of payment rates for hospice care under section 1814(i) for services furnished during the fiscal year.

"(iv) UPDATE FACTOR FOR PAYMENT OF OPERATING COSTS OF INPATIENT HOSPITAL SERVICES OF PPS-EXEMPT HOSPITALS.—To the computation of the target amount under section 1886(b)(3) for discharges occurring during the fiscal year.

"(v) COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES.—To the computation of the facility per stay limits for the year under section 1888A(d) for covered non-routine services of a skilled nursing facility (as described in such section).

"(5) APPLICATION TO PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A CALENDAR YEAR BASIS.—

"(A) IN GENERAL.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a calendar year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished at any time during such calendar year as follows:

"(i) For fiscal year 1997, the reduction shall be made for payment rates during calendar year 1997 in a manner so as to achieve the necessary payment reductions for such fiscal year for items and services furnished during the first 3 quarters of calendar year 1997.

"(ii) For a subsequent fiscal year, the reduction shall be made for payment rates during the calendar year in which the fiscal year ends in a manner so as to achieve the necessary payment reductions for such fiscal year for items and services furnished during the first 3 quarters of the calendar year, but also taking into account the payment reductions made in the first quarter of the fiscal year resulting from payment reductions made under this paragraph for the previous calendar year.

"(iii) Payment rate reductions effected under this subparagraph for a calendar year and applicable to the last 3 quarters of the fiscal year in which the calendar year ends shall continue to apply during the first quarter of the succeeding fiscal year.

"(B) APPLICATION IN SPECIFIC CASES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

"(i) UPDATE IN CONVERSION FACTOR FOR PHYSICIANS' SERVICES.—To the computation of the conversion factor under subsection (d) of section 1848 used in the fee schedule established under subsection (b) of such section for items and services furnished during the calendar year in which the fiscal year ends.

"(ii) PAYMENT RATES FOR OTHER HEALTH CARE PROFESSIONALS.—To the computation of payments for professional services, furnished during the calendar year in which the fiscal year ends, of certified registered nurse anesthetists under section 1833(l), nurse midwives, physician assistants, nurse practitioners and clinical nurse specialists under section 1833(r), clinical psychologists, clinical social workers, physical or occupational therapists, and any other health professionals for which payment rates are based (in whole or in part) on payments for physicians' services.

"(iii) UPDATE IN LAB FEE SCHEDULE.—To the computation of the fee schedule amount under section 1833(h)(2) for clinical diagnostic laboratory services furnished during the calendar year in which the fiscal year ends.

"(iv) UPDATE IN REASONABLE CHARGES FOR VACCINES.—To the computation of the reasonable charge for vaccines described in section 1861(s)(10) for vaccines furnished during the calendar year in which the fiscal year ends.

"(v) DURABLE MEDICAL EQUIPMENT-RELATED ITEMS.—To the computation of the payment basis under section 1834(a)(1)(B) for covered items described in section 1834(a)(13), for services furnished during the calendar year in which the fiscal year ends.

"(vi) RADIOLOGIST SERVICES.—To the computation of conversion factors for radiologist services under section 1834(b), for services furnished during the calendar year in which the fiscal year ends.

"(vii) SCREENING MAMMOGRAPHY.—To the computation of payment rates for screening mammography under section 1834(c)(1)(C)(ii), for screening mammography performed during the calendar year in which the fiscal year ends.

"(viii) PROSTHETICS AND ORTHOTICS.—To the computation of the amount to be recognized under section 1834(h) for payment for prosthetic devices and orthotics and prosthetics, for items furnished during the calendar year in which the fiscal year ends.

"(ix) SURGICAL DRESSINGS.—To the computation of the payment amount referred to in section 1834(i)(1)(B) for surgical dressings, for items furnished during the calendar year in which the fiscal year ends.

"(x) PARENTERAL AND ENTERAL NUTRITION.—To the computation of reasonable charge screens for payment for parenteral and enteral nutrition under section 1834(h), for nutrients furnished during the calendar year in which the fiscal year ends.

"(xi) AMBULANCE SERVICES.—To the computation of limits on reasonable charges for ambulance services, for services furnished during the calendar year in which the fiscal year ends.

"(6) APPLICATION TO PAYMENTS MADE BASED ON COSTS DURING A COST REPORTING PERIOD.—

"(A) IN GENERAL.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of costs incurred for items and services in a cost reporting period, the Secretary shall provide for the payment adjustment under such subsection for a fiscal year through an appropriate proportional reduction in the payment for costs for such items and services incurred at any time during each cost reporting period any part of which occurs during the fiscal year involved, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the fiscal year involved.

"(B) APPLICATION IN SPECIFIC CASES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

"(i) CAPITAL-RELATED COSTS OF HOSPITAL SERVICES.—To the computation of payment amounts for inpatient and outpatient hospital services under sections 1886(g) and 1861(v) for portions of cost reporting periods occurring during the fiscal year.

"(ii) OPERATING COSTS FOR PPS-EXEMPT HOSPITALS.—To the computation of payment amounts under section 1886(b) for operating costs of inpatient hospital services of PPS-exempt hospitals for portions of cost reporting periods occurring during the fiscal year.

"(iii) DIRECT GRADUATE MEDICAL EDUCATION.—To the computation of payment amounts under section 1886(h) for reasonable costs of direct graduate medical education costs for portions of cost reporting periods occurring during the fiscal year.

"(iv) INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—To the computation of payment amounts under section 1814(j) for inpatient rural primary care hospital services for portions of cost reporting periods occurring during the fiscal year.

"(v) EXTENDED CARE SERVICES OF A SKILLED NURSING FACILITY.—To the computation of payment amounts under section 1861(v) for post-hospital extended care services of a skilled nursing facility (other than covered non-routine services subject to section 1888A) for portions of cost reporting periods occurring during the fiscal year.

"(vi) REASONABLE COST CONTRACTS.—To the computation of payment amounts under section 1833(a)(1)(A) for organizations for portions of cost reporting periods occurring during the fiscal year.

"(vii) HOME HEALTH SERVICES.—Subject to paragraph (4)(B)(ii), for payment amounts for home health services, for portions of cost reporting periods occurring during such fiscal year.

"(7) OTHER.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on a basis not described in a previous paragraph of this subsection, the Secretary shall provide for the payment adjustment under such subsection through an appropriate proportional reduction in the payments (or payment bases for items and services furnished) during the fiscal year.

"(8) ADJUSTMENT OF PAYMENT LIMITS.—The Secretary shall provide for such proportional adjustment in any limits on payment established under part A or B for items and services within a sector as may be appropriate based on (and in order to properly carry out) the adjustment to the amount of payment under this subsection in the sector.

"(9) REFERENCES TO PAYMENT RATES.—Except as the Secretary may provide, any reference in this title (other than this section) to a payment rate is deemed a reference to such a rate as adjusted under this subsection.

"(e) PUBLICATION OF DETERMINATIONS; JUDICIAL REVIEW.—

"(1) ONE-TIME PUBLICATION OF SECTORS AND GENERAL PAYMENT ADJUSTMENT METHODOLOGY.—Not later than October 1, 1996, the Secretary shall publish in the Federal Register the classification of medicare items and services into the sectors of medicare services under subsection (b) and the general methodology to be used in applying payment adjustments to the different classes of items and services within the sectors.

"(2) INCLUSION OF INFORMATION IN PRESIDENT'S BUDGET.—

"(A) IN GENERAL.—With respect to fiscal years beginning with fiscal year 1999, the President shall include in the budget submitted under section 1105 of title 31, United States Code, information on—

"(i) the fee-for-service expenditures, within each sector, for the second previous fiscal year, and how such expenditures compare to the adjusted sector allotment for that sector for that fiscal year, and

"(ii) actual annual growth rates for fee-for-service expenditures in the different sectors in the second previous fiscal year.

"(B) RECOMMENDATION REGARDING GROWTH FACTORS.—The President may include in such budget for a fiscal year (beginning with fiscal year 1998) recommendations regarding percentages that should be applied (for one or more fiscal years beginning with that fiscal year) instead of the baseline annual growth rates under subsection (c)(3)(C). Such recommendations shall take into account medically appropriate practice patterns.

"(3) DETERMINATIONS CONCERNING PAYMENT ADJUSTMENTS.—

"(A) RECOMMENDATIONS OF COMMISSION.—By not later than March 1 of each year (beginning with 1997), the Medicare Payment Review Commission shall submit to the Secretary and the Congress a report that analyzes the previous operation (if any) of this section and that includes recommendations concerning the manner in which this section should be applied for the following fiscal year:

"(B) PRELIMINARY NOTICE BY SECRETARY.—Not later than May 15 preceding the beginning of each fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the Federal Register a notice containing the Secretary's preliminary determination, for each sector of medicare services, concerning the following:

"(i) the projected allotment under subsection (c) for such sector for the fiscal year.

"(ii) Whether there will be a payment adjustment for items and services included in such sector for the fiscal year under subsection (a).

"(iii) If there will be such an adjustment, the size of such adjustment and the methodology to be used in making such a payment adjustment for classes of items and services included in such sector.

"(iv) Beginning with fiscal year 1999, the fee-for-service expenditures for such sector for the second preceding fiscal year.

Such notice shall include an explanation of the basis for such determination. Determinations under this subparagraph and subparagraph (C) shall be based on the best data available at the time of such determinations.

"(C) FINAL DETERMINATION.—Not later than September 1 preceding the beginning of each fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the Federal Register a final determination, for each sector of medicare services, concerning the matters described in subparagraph (B) and an explanation of the reasons for any differences between such determination and the preliminary determination for such fiscal year published under subparagraph (B).

"(4) LIMITATION ON ADMINISTRATIVE OR JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1878 or otherwise of—

"(A) the classification of items and services among the sectors of medicare services under subsection (b),

"(B) the determination of the amounts of allotments for the different sectors of medicare services under subsection (c),

"(C) the determination of the amount (or method of application) of any payment adjustment under subsection (d), or

"(D) any adjustment in an allotment effected under subsection (g).

"(f) FEE-FOR-SERVICE EXPENDITURES DEFINED.—In this section, the term "fee-for-service expenditures', for items and services within a sector of medicare services in a fiscal year, means amounts payable for such items and services which are furnished during the fiscal year, and—

"(1) includes types of expenses otherwise reimbursable under parts A and B (including administrative costs incurred by organizations described in sections 1816 and 1842) with respect to such items and services, and

"(2) does not include amounts paid under part C.

"(g) LOOK-BACK ADJUSTMENT IN ALLOTMENTS TO REFLECT ACTUAL EXPENDITURES.—

"(1) DETERMINATIONS.—

"(A) IN GENERAL.—If the Secretary estimates under subsection (e)(3)(B) with respect to a particular fiscal year (beginning with fiscal year 1998) that—

"(i) the fee-for-service expenditures for all sectors of medicare services for the second preceding fiscal year, exceeded

"(ii) the sum of the adjusted allotments for all sectors for such year (as defined in paragraph (2)), then the allotment for each final excess spending sector (as defined in subparagraph (B)(i)) for the particular fiscal year shall be reduced by the look-back sector reduction amount determined under subparagraph (B)(ii) for such sector and year.

"(B) FINAL EXCESS SPENDING SECTORS.—

"(i) IN GENERAL.—In this paragraph, the term final excess spending sector' means, for a fiscal year, a sector of medicare services for which the Secretary determines under subsection (e)(B) that—

"(I) the fee-for-service expenditures (as defined in subsection (f) for the fiscal year, exceeded

"(II) the adjusted allotment for such fiscal year.

For purposes of clause (ii), the term 'final excess spending' means, for a fiscal year with respect to such a sector, the amount by which the amount described in subclause (I) (for the fiscal year and sector) exceeds the amount described in subclause (II) for such year and sector.

"(ii) LOOK BACK SECTOR REDUCTION AMOUNT.—In subparagraph (A)(i), the 'look back sector reduction amount' for a final excess spending sector for a fiscal year is equal to the product of—

"(I) the amount of the final excess spending for such sector and year (as defined in clause (i)); and

"(II) the ratio of—

"(a) the aggregate final excess spending for the year (described in subparagraph (A)(i)), to

"(b) the sum of the amounts of the final excess spending for all final excess spending sectors.

"(2) ADJUSTED ALLOTMENT.—The adjusted allotment under this paragraph for a sector for a fiscal year is—

"(A) the amount that would be computed as the allotment under subsection (c) for the sector for the fiscal year if the actual amount of payments made in the fiscal year under the MedicarePlus program under part C in the fiscal year were substituted for the amount described in subsection (c)(2)(A)(ii) for that fiscal year,

"(B) adjusted to take into account the amount of any adjustment under paragraph (1) for that fiscal year (based on expenditures in the second preceding fiscal year).".

(b) REPORT OF TRUSTEES ON GROWTH RATE IN PART A EXPENDITURES.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) Each annual report provided in subsection (b)(2) shall include information regarding the annual rate of growth in program expenditures that would be required to maintain the financial solvency of the Trust Fund and the extent to which the provisions of section 1895 restrain the rate of growth of expenditures under this part in order to achieve such solvency.".

Subtitle H—Rural Areas

SEC. 8701. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,"; and

(B) in clause (ii)(II), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,".

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after September 1, 1995, and before October 1, 2000,";

(B) in clause (ii), by striking "and" at the end;

(C) in clause (iii), by striking the period at the end and inserting ", and"; and

(D) by adding at the end the following new clause:

"(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA–93 (42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.

SEC. 8702. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i–4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).

"(b) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (d)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(c) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (d)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 6 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 72-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(d) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(e) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(f) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed 12 beds (minus the number of inpatient beds used for providing inpatient care in the facility pursuant to subsection (c)(2)(B)(iii)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care

services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital.

"(g) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.".

(b) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:

"CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(e).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Sections 1813(a) and section 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient rural primary care hospital services" each place it appears, and inserting "inpatient critical access hospital services".

(C) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services".

(D) Section 1814 (42 U.S.C. 1395f) is amended—

(i) in subsection (a)(8) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (l) to read as follows:

"(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) (42 U.S.C. 1320a–7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 (42 U.S.C. 1320b–4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services"; and

(II) in paragraph (2), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iv) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(v) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary care hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(c) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect on September 30, 1995" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect on September 30, 1995" after "1820 (i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(d) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access hospital services".

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 8703. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(b) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(c) COVERAGE AND PAYMENT FOR SERVICES.—

(1) COVERAGE.—Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (I);

(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(2) PAYMENT BASED ON PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1833(a)(6) (42 U.S.C. 1395l(a)(6)), as amended by section 8702(f)(2), is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(B) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) (42 U.S.C. 1395m(g)), as amended by section 8702(f)(2)(B), is amended—

(i) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and

(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.

SEC. 8704. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii).

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.

SEC. 8705. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) IMPLEMENTATION.—The Secretary of Health and Human Services shall adjust the area wage indices referred to in subsection (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this section did not apply.

SEC. 8706. ADDITIONAL PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN SHORTAGE AREAS.

(a) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "10 percent" and inserting "20 percent".

(b) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting after "physicians' services" the following: "consisting of primary care services (as defined in section 1842(i)(4))".

(c) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—

(1) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "area," and inserting "area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians' services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation),".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to physicians' services furnished in an area for which the designation as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act is withdrawn on or after January 1, 1996.

(d) REQUIRING CARRIERS TO REPORT ON SERVICES PROVIDED.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (I); and

(2) by inserting after subparagraph (I) the following new subparagraph:

"(J) will provide information to the Secretary (on such periodic basis as the Secretary may require) on the types of providers to whom the carrier makes additional payments for certain physicians' services pursuant to section 1833(m), together with a description of the services furnished by such providers; and".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (d) shall apply to physicians' services furnished on or after October 1, 1995.

SEC. 8707. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS.

(a) COVERAGE IN OUTPATIENT OR HOME SETTINGS FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (II); and

(B) by inserting "or (IV) in an outpatient or home setting as defined by the Secretary" following "shortage area,"; and

(2) in clause (ii)—

(A) by striking "in a skilled" and inserting "in (I) a skilled"; and

(B) by inserting ", or (II) in an outpatient or home setting (as defined by the Secretary)," after "(as defined in section 1919(a))".

(b) PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) IN GENERAL.—Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by inserting "services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in an outpatient or home setting" after "rural area),"; and

(B) by striking "or clinical nurse specialist" and inserting "clinical nurse specialist, or physician assistant".

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking "clauses (i), (ii), or (iv)" and inserting "subclauses (I), (II), or (III) of clause (i), clause (ii)(I), or clause (iv)".

(c) PAYMENT UNDER THE FEE SCHEDULE TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:

"(C) With respect to services described in clauses (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners furnishing services in outpatient or home settings)—

"(i) payment under this part may only be made on an assignment-related basis; and

"(ii) the amounts paid under this part shall be equal to 80 percent of (I) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (II) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".

(2) CONFORMING AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "(i), (ii)," and inserting "subclauses (I), (II), or (III) of clause (i), or subclause (I) of clause (ii)".

(3) TECHNICAL AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "a physician assistants" and inserting "physician assistants".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 8708. EXPANDING ACCESS TO NURSE AIDE TRAINING IN UNDERSERVED AREAS.

(a) IN GENERAL.—Section 1819(f)(2)(B)(iii)(I) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)) is amended in the matter preceding item (a), by striking "by or in a nursing facility" and inserting "by a nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to nurse aide training and competency evaluation programs under section 1819 of the Social Security Act which are offered on or after October 1, 1995.

TITLE IX—TRANSPORTATION AND RELATED PROVISIONS

SEC. 9001. MINIMUM ALLOCATION FOR HIGHWAY PROGRAMS.

(a) TECHNICAL CORRECTION.—With respect to fiscal year 1996—

(1) the Secretary of Transportation shall determine, in accordance with the policies established by the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914)—

(A) which of the States will no longer require an apportionment under section 157(a)(4) of title 23, United States Code; and

(B) which of the States will require decreased funding under such section 157(a)(4);

as a result of the termination of the Interstate construction program; and

(2) as a result of the reduced number of States that may require an apportionment under such section 157(a)(4), and the decrease in the amount of funds some States will require under such section 157(a)(4), the maximum amount available for apportionment under such section 157(a)(4) shall be reduced from the amount apportioned under such section 157(a)(4) for fiscal year 1995 by 60.4 percent.

(b) EFFECT ON CERTAIN CALCULATIONS.—The correction made by subsection (a) shall be made after the reduction required under section 1003(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1921) and shall not be taken into account in making the calculations under sections 1003(c), 1013(c), and 1015 of such Act (105 Stat. 1921, 1940, and 1943).

SEC. 9002. EXTENSION OF HIGHER VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998," each place it appears and inserting "for fiscal years through fiscal year 2002,".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 U.S.C. App. 132), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998," and inserting "for fiscal years through fiscal year 2002,".

SEC. 9003. FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

(a) IN GENERAL.—The Director of the Federal Emergency Management Agency may assess and collect fees applicable to persons subject to radiological emergency preparedness regulations issued by the Director.

(b) REQUIREMENTS.—The assessment and collection of fees by the Director under subsection (a) shall be fair and equitable and shall reflect the full amount of costs to the Agency of providing radiological emergency planning, preparedness, response, and associated services. Such fees shall be assessed by the Director in a manner that reflects the use of resources of the Agency for classes of regulated persons and the administrative costs of collecting such fees.

(c) AMOUNT OF FEES.—The aggregate amount of fees assessed under subsection (a) in a fiscal year shall approximate, but not be less than, 100 percent of the amounts anticipated by the Director to be obligated for the radiological emergency preparedness program of the Agency for such fiscal year.

(d) DEPOSIT OF FEES IN TREASURY.—Fees received pursuant to subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts.

(e) EXPIRATION OF AUTHORITY.—The authority of the Director to assess and collect fees under subsection (a) shall expire on September 30, 2002.

TITLE X—VETERANS AND RELATED PROVISIONS

SEC. 10001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Veterans Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 10001. Short title; table of contents.

Subtitle A—Extension of Temporary Authorities

Sec. 10011. Authority to require that certain veterans make copayments in exchange for receiving health-care benefits.
Sec. 10012. Medical care cost recovery authority.
Sec. 10013. Income verification authority.
Sec. 10014. Limitation on pension for certain recipients of medicaid-covered nursing home care.
Sec. 10015. Home loan fees.
Sec. 10016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.
Sec. 10017. Enhanced loan asset sale authority.

Subtitle B—Other Matters

Sec. 10021. Revision to prescription drug copayment.
Sec. 10022. Rounding down of cost-of-living adjustments in compensation and DIC rates.
Sec. 10023. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.
Sec. 10024. Withholding of payments and benefits.

Subtitle A—Extension of Temporary Authorities

SEC. 10011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

(a) HOSPITAL AND MEDICAL CARE.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

(b) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 10012. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1998," and inserting "before October 1, 2002,".

SEC. 10013. INCOME VERIFICATION AUTHORITY.

Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 10014. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 10015. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002"; and

(2) in paragraph (5)(C), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 10016. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out "October 1, 1998" and inserting "October 1, 2002".

SEC. 10017. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "September 30, 2002".

Subtitle B—Other Matters

SEC. 10021. REVISION TO PRESCRIPTION DRUG COPAYMENT.

(a) INCREASE IN AMOUNT OF COPAYMENT.—Section 1722A(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "$2" and inserting in lieu thereof "$4";

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph—

(A) striking out "or" at the end of subparagraph (A);

(B) striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(C) adding at the end the following new subparagraph:

"(C) to a veteran who is a former prisoner of war.".

(b) RECOVERY OF INDEBTEDNESS.—(1) Section 5302 of such title is amended by adding at the end the following new subsection:

"(f) The Secretary may not waive under this section the recovery of any payment or the collection of any indebtedness owed under section 1722A of this title.".

(2) The amendment made by paragraph (1) shall apply with respect to amounts that become due to the United States under section 1722A of title 38, United States Code, on or after the date of the enactment of this Act.

SEC. 10022. ROUNDING DOWN OF COST-OF-LIVING ADJUSTMENTS IN COMPENSATION AND DIC RATES.

(a) FISCAL YEAR 1996 COLA.—(1) Effective as of December 1, 1995, the Secretary of Veterans

Affairs shall recompute any increase in an adjustment that is otherwise provided by law to be effective during fiscal year 1996 in the rates of disability compensation and dependency and indemnity compensation paid by the Secretary as such rates were in effect on November 30, 1995. The recomputation shall provide for the same percentage increase as provided under such law, but with amounts so recomputed (if not a whole dollar amount) rounded down to the next lower whole dollar amount (rather than to the nearest whole dollar amount) and with each old-law DIC rate increased by the amount by which the new-law DIC rate is increased (rather than by a uniform percentage).

(2) For purposes of paragraph (1):

(A) The term "old-law DIC rate" means a dollar amount in effect under section 1311(a)(3) of title 38, United States Code.

(B) The term "new-law DIC rate" means the dollar amount in effect under section 1311(a)(1) of title 38, United States Code.

(b) OUT-YEAR COMPENSATION COLAs.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

"§1103. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

"1103. Cost-of-living adjustments.".

(c) OUT-YEAR DIC COLAs.—(1) Chapter 13 of title 38, United States Code, is amended by inserting after section 1302 the following new section:

"§1303. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b)(1) Cost-of-living adjustments for each of fiscal years 1997 through 2002 in old-law DIC rates shall be in a whole dollar amount that is no greater than the amount by which the new-law DIC rate is increased for that fiscal year as determined under subsection (a).

"(2) For purposes of paragraph (1):

"(A) The term 'old-law DIC rates' means the dollar amounts in effect under section 1311(a)(3) of this title.

"(B) The term 'new-law DIC rate' means the dollar amount in effect under section 1311(a)(1) of this title.

"(c) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1302 the following new item:

"1303. Cost-of-living adjustments.".

SEC. 10023. REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT.

(a) REVISED STANDARD.—Section 1151 of title 38, United States Code, is amended—

(1) by designating the second sentence as subsection (c);

(2) by striking out the first sentence and inserting in lieu thereof the following:

"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.

"(b)(1) For purposes of this section, a disability or death is a qualifying additional disability or a qualifying death only if the disability or death—

"(A) was caused by Department health care and was a proximate result of—

"(i) negligence on the part of the Department in furnishing the Department health care; or

"(ii) an event not reasonably foreseeable; or

"(B) was incurred as a proximate result of the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

"(2) For purposes of this section, the term 'Department health care' means hospital care, medical or surgical treatment, or an examination that is furnished under any law administered by the Secretary to a veteran by a Department employee or in a facility over which the Secretary has direct jurisdiction.

"(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section."; and

(3) by adding at the end the following:

"(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—

"(1) was the result of Department health care; or

"(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.".

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—

(1) by striking out ", aggravation," both places it appears; and

(2) by striking out "sentence" and inserting in lieu thereof "subsection".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any administrative or judicial determination of eligibility for benefits under section 1151 of title 38, United States Code, based on a claim that is received by the Secretary on or after October 1, 1995, including any such determination based on an original application or an application seeking to reopen, revise, reconsider, or otherwise readjudicate any claim for benefits under section 1151 of that title or any predecessor provision of law.

SEC. 10024. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

TITLE XI—REVENUE PROVISIONS

SEC. 11000. SHORT TITLES; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) REVENUE RECONCILIATION ACT.—This title may be cited as the "Revenue Reconciliation Act of 1995".

(b) CONTRACT WITH AMERICA.—Subtitles A, B, C, and D of this title may be cited as the "Contract With America Tax Relief Act of 1995".

(c) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—The table of contents for this title is as follows:

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Sec. 11000. Short titles; amendment of 1986 Code; table of contents.
Subtitle A—Family Tax Relief
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CHAPTER 1—RETIREMENT SAVINGS INCENTIVES
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SUBCHAPTER B—PENALTY-FREE DISTRIBUTIONS
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Subtitle A—Family Tax Relief

SEC. 11001. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. CHILD TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

"(b) LIMITATION.—

"(1) IN GENERAL.—The amount of the credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income exceeds the threshold amount.

"(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

"(A) $110,000 in the case of a joint return,

"(B) $75,000 in the case of an individual who is not married, and

"(C) $55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,

"(B) such individual has not attained the age of 18 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).

"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.".

(b) NOTICE OF CREDIT.—The Secretary of the Treasury shall transmit to all individual taxpayers by a separate mailing made on or before February 1, 1996, a notice which states only the following: "The Balanced Budget Act of 1995 was recently passed by the Congress. The Act's child tax credit allows taxpayers to reduce their taxes by $500 per child. The credit is effective October 1, 1995. You may wish to check with your employer about changing your tax withholding to take immediate advantage of the credit to which you are entitled for the current tax year. In addition, the Internal Revenue Service will be sending you a form in June of this year which you may use to claim the credit to which you are entitled for the period from October 1 through December 31, 1995 ($125 per child for 1995). In order to obtain your 1995 credit, you should file this form by August 15, 1996. Your refund will be sent to you sometime after October 1, 1996."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Child tax credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(e) PAYMENT OF 1995 CHILD CREDIT AMOUNT.—

(1) IN GENERAL.—The Secretary shall take such actions as are necessary to ensure that the 1995 child credit amount is paid to taxpayers entitled to payment of such credit amount.

(2) PAYMENTS GENERALLY DURING OCTOBER 1996.—In the case of taxpayers submitting the form referred to in paragraph (4) before August 16, 1996, the Secretary shall take such actions as are necessary to ensure that payments required by paragraph (1) are mailed after September 30, 1996, and before October 16, 1996.

(3) 1995 CHILD CREDIT AMOUNT.—For purposes of paragraph (1), the 1995 child credit amount is an amount equal to 25 percent of the amount of the credit which would be allowed to the taxpayer under section 23 of the Internal Revenue Code of 1986 (as added by this section) if such section were in effect for the taxpayer's taxable year beginning in 1995.

(4) ENTITLEMENT TO CREDIT.—A taxpayer shall be entitled to a 1995 child credit amount if (and only if) the taxpayer submits to the Secretary a form which the Secretary shall prescribe for purposes of determining such amount. The Secretary shall mail such form to taxpayers on or before June 1, 1996.

(5) PAYMENT TREATED AS OVERPAYMENT.—The 1995 child credit amount shall be treated for purposes of subtitle F of such Code as a payment of tax for the taxpayer's taxable year beginning in 1995 which was made on August 15, 1996, or, if later, the date the form referred to in paragraph (4) is filed, and shall be refunded or credited in the same manner as if it were an overpayment of tax for such taxable year. No interest shall be paid under section 6611 of such Code on amounts paid under paragraph (1) before October 16, 1996.

(6) SECRETARY.—For purposes of this subsection, the term "Secretary" means the Secretary of the Treasury or his delegate.

SEC. 11002. REDUCTION IN MARRIAGE PENALTY.

(a) INCREASE IN BASIC STANDARD DEDUCTION FOR MARRIED INDIVIDUALS.—Section 63(c) (relating to standard deduction) is amended—

(1) by striking "$5,000" in paragraph (2)(A) and inserting "the applicable dollar amount",

(2) by striking "$2,500" in paragraph (2)(D) and inserting "½ of the applicable dollar amount", and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (2), the applicable dollar amount for any taxable year shall be the product of the dollar amount in effect under paragraph (2)(C) for such year multiplied by the applicable factor determined under the following table:

"For taxable years beginning in calendar year—	The applicable factor is—
1996	1.68
1997	1.71
1998	1.72
1999	1.73
2000	1.75
2001	1.77
2002	1.78
2003	1.88
2004	1.91
2005 and thereafter	2.00.

If the amount determined under the preceding sentence is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11003. CREDIT FOR ADOPTION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 11001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income (determined without regard to sections 911, 931, and 933) exceeds $75,000, bears to

"(B) $40,000.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program. The preceding sentence shall not apply to expenses for the adoption of a child with special needs.

"(C) REIMBURSEMENT.—No credit shall be allowed under subsection (a) for any expense to the extent that such expense is reimbursed and the reimbursement is excluded from gross income under section 138.

"(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

"(A) which are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the taxpayer, and

"(B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement.

Such term shall not include expenses for a foreign adoption unless the child is actually adopted.

"(2) EXPENSES FOR ADOPTION OF SPOUSE'S CHILD NOT ELIGIBLE.—The term 'qualified adoption expenses' shall not include any expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse.

"(3) ELIGIBLE CHILD.—The term 'eligible child' means any individual—

"(A) who has not attained age 18 as of the time of the adoption, or

"(B) who is physically or mentally incapable of caring for himself.

"(4) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child if—

"(A) a State has determined that the child cannot or should not be returned to the home of his parents, and

"(B) such State has determined that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance.

"(e) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.".

(b) EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income), as amended by title VIII, is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. ADOPTION ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the adoption of any single child by the taxpayer shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income (determined without regard to this section and sections 911, 931, and 933) exceeds $75,000, bears to

"(B) $40,000.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d).".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 11001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses.".

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 138 and inserting the following:

"Sec. 138. Adoption assistance programs.

"Sec. 139. Cross reference to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11004. DEDUCTION FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. INTEREST ON EDUCATION LOANS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM DEDUCTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the deduction allowed by subsection (a) for the taxable year shall not exceed $2,500.

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $45,000 ($65,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a deduction under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $20,000.

"(B) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined—

"(i) without regard to this section and sections 135, 911, 931, and 933, and

"(ii) after application of sections 86, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 1996, the $45,000 and $65,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '1995' for '1992'.

"(D) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

"(c) DEPENDENTS NOT ELIGIBLE FOR DEDUCTION.—No deduction shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(d) LIMIT ON PERIOD DEDUCTION ALLOWED.—A deduction shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are incurred on behalf of the taxpayer or the taxpayer's spouse,

"(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) of the taxpayer or the taxpayer's spouse at an eligible educational institution, reduced by the sum of—

"(A) the amount excluded from gross income under section 135 by reason of such expenses, and

"(B) the amount of the reduction described in section 135(d)(1).

For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 135(c)(3), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

"(3) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.".

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) INTEREST ON EDUCATION LOANS.—The deduction allowed by section 220."

(c) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050P the following new section:

"SEC. 6050Q. RETURNS RELATING TO EDUCATION LOAN INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

"(a) EDUCATION LOAN INTEREST OF $600 OR MORE.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual from whom the interest described in subsection (a)(2) was received,

"(B) the amount of such interest received for the calendar year, and

"(C) such other information as the Secretary may prescribe.

"(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental unit or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) QUALIFIED EDUCATION LOAN DEFINED.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term 'qualified education loan' has the meaning given such term by section 220(e)(1).

"(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).".

(2) ASSESSABLE PENALTIES.—Section 6724(d) (relating to definitions) is amended—

(A) by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, in paragraph (1)(B) and by inserting after clause (viii) of such paragraph the following new clause:

"(ix) section 6050Q (relating to returns relating to education loan interest received in trade or business from individuals),", and

(B) by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, in paragraph (2) and by inserting after subparagraph (P) of such paragraph the following new subparagraph:

"(Q) section 6050Q (relating to returns relating to education loan interest received in trade or business from individuals),".

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 220. Interest on education loans.

"Sec. 221. Cross reference.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 220(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 1995.

SEC. 11005. DEDUCTION FOR TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual who maintains a household which includes as a member one or more qualified persons, there shall be allowed as a deduction for the taxable year an amount equal to $1,000 for each such person.

"(b) QUALIFIED PERSON.—For purposes of this section, the term 'qualified person' means any individual—

"(1) who is a father or mother of the taxpayer, his spouse, or his former spouse or who is an ancestor of such a father or mother,

"(2) who is physically or mentally incapable of caring for himself,

"(3) who has as his principal place of abode for more than half of the taxable year the home of the taxpayer,

"(4) over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer, and

"(5) whose name and TIN are included on the taxpayer's return for the taxable year.

For purposes of paragraph (1), a stepfather or stepmother shall be treated as a father or mother.

"(c) SPECIAL RULES.—For purposes of this section, rules similar to the rules of paragraphs (1), (2), (3), and (4) of section 21(e) shall apply."

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

"(17) TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.—The deduction allowed by section 221."

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 221. Taxpayers with certain persons requiring custodial care in their households.

"Sec. 222. Cross reference."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle B—Savings and Investment Incentives

CHAPTER 1—RETIREMENT SAVINGS INCENTIVES

Subchapter A—Individual Retirement Plans

PART I—RESTORATION OF IRA DEDUCTION

SEC. 11011. RESTORATION OF IRA DEDUCTION.

(a) INCREASE IN INCOME LIMITS FOR ACTIVE PARTICIPANTS.—

(1) IN GENERAL.—Subparagraph (B) of section 219(g)(3) (relating to applicable dollar amount) is amended to read as follows:

"(B) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means the following:

"(i) In the case of a taxpayer filing a joint return:

"For taxable years beginning in:	The applicable dollar amount is:
1996	$45,000
1997	$50,000
1998	$55,000
1999	$60,000
2000	$65,000
2001	$70,000
2002	$75,000
2003	$80,000
2004	$85,000
2005	$90,000
2006	$95,000
2007 and thereafter	$100,00

"(ii) In the case of any other taxpayer (other than a married individual filing a separate return):

"For taxable years beginning in:	The applicable dollar amount is:
1996	$30,000
1997	$35,000
1998	$40,000
1999	$45,000
2000	$50,000
2001	$55,000
2002	$60,000
2003	$65,000
2004	$70,000
2005	$75,000
2006	$80,000
2007 and thereafter	$85,000.

"(iii) In the case of a married individual filing a separate return, zero."

(2) INCREASE IN PHASEOUT RANGE FOR JOINT RETURNS.—

(A) IN GENERAL.—Clause (ii) of section 219(g)(2)(A) is amended by inserting "(the phaseout amount in the case of a joint return)" after "$10,000".

(B) PHASEOUT AMOUNT.—Paragraph (3) of section 219(g) is amended—

(i) by adding at the end the following new subparagraph:

"(C) PHASEOUT AMOUNT.—The phaseout amount is:

"For taxable years beginning in:	The applicable dollar amount is:
1996	$12,500
1997	$15,000
1998	$17,500
1999 and thereafter	$20,000

and

(ii) by inserting "; PHASEOUT AMOUNT" after "AMOUNT" in the heading.

(3) COST-OF-LIVING ADJUSTMENTS.—Section 219(h), as added by section 11012(a), is amended—

(A) by adding at the end the following new paragraph:

"(2) PHASE-OUT RANGES.—In the case of any taxable year beginning in a calendar year after 2007, the $100,000 and $85,000 amounts in clauses (i) and (ii) of subsection (g)(3)(B) shall each be increased by an amount equal to the product of such dollar amount and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, except that subparagraph (B) thereof shall be applied by substituting '2006' for '1992'. If any amount to which either such amount is increased is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.", and

(B) by striking "In the case" and inserting:

"(1) DEDUCTIBLE AMOUNT.—In the case".

(b) INDIVIDUAL NOT DISQUALIFIED BY SPOUSE'S PARTICIPATION.—Paragraph (1) of section 219(g) (relating to limitation on deduction for active participants in certain pension plans) is amended by striking "or the individual's spouse".

(c) REPORTING REQUIREMENTS.—Section 408(i) is amended by striking "under regulations" and "in such regulations" each place such terms appear.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11012. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) COST-OF-LIVING ADJUSTMENTS.—In the case of any taxable year beginning in a calendar year after 1996, the $2,000 amount under subsection (b)(1)(A) shall be increased by an amount equal to the product of $2,000 and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'. If the amount to which $2,000 would be increased under the preceding sentence is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

SEC. 11013. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUCTION.

(a) SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:

"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this paragraph applies for the taxable year, the limitation of paragraph (1) of subsection (b) shall be equal to the lesser of—

"(A) the dollar amount in effect under subsection (b)(1)(A) for the taxable year, or

"(B) the sum of—

"(i) the compensation includible in such individual's gross income for the taxable year, plus

"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by—

"(I) the amount allowed as a deduction under subsection (a) to such spouse for such taxable year, and

"(II) the amount of any contribution on behalf of such spouse to an AD IRA under section 408A for such taxable year.

"(2) INDIVIDUALS TO WHOM PARAGRAPH (1) APPLIES.—Paragraph (1) shall apply to any individual if—

"(A) such individual files a joint return for the taxable year, and

"(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 219(f) (relating to other definitions and special rules) is amended by striking "subsections (b) and (c)" and inserting "subsection (b)".

(2) Section 408(d)(5) is amended by striking "$2,250" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 219(g)(1) is amended by striking "(c)(2)" and inserting "(c)(1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

PART II—NONDEDUCTIBLE TAX-FREE IRAS

SEC. 11015. ESTABLISHMENT OF AMERICAN DREAM IRA.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. AMERICAN DREAM IRA.

"(a) GENERAL RULE.—Except as provided in this section, an American Dream IRA shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) AMERICAN DREAM IRA.—For purposes of this title, the term 'American Dream IRA' or 'AD IRA' means an individual retirement plan (as defined in section 7701(a)(37)) which is designated at the time of the establishment of the plan as an American Dream IRA. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an AD IRA.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all AD IRAs maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsection (g) of such section), over

"(B) the amount so allowed.

"(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to an AD IRA may be made even after the individual for whom the account is maintained has attained age 70½.

"(4) MANDATORY DISTRIBUTION RULES NOT TO APPLY, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), subsections (a)(6) and (b)(3) of section 408 (relating to required distributions) and section 4974 (relating to excise tax on certain accumulations in qualified retirement plans) shall not apply to any AD IRA.

"(B) POST-DEATH DISTRIBUTIONS.—Rules similar to the rules of section 401(a)(9) (other than subparagraph (A) thereof) shall apply for purposes of this section.

"(5) RULES RELATING TO ROLLOVER CONTRIBUTIONS.—

"(A) IN GENERAL.—No rollover contribution may be made to an AD IRA unless it is a qualified rollover contribution.

"(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).

"(6) TIME WHEN CONTRIBUTIONS MADE.—For purposes of this section, the rule of section 219(f)(3) shall apply.

"(d) DISTRIBUTION RULES.—For purposes of this title—

"(1) GENERAL RULES.—

"(A) EXCLUSIONS FROM GROSS INCOME.—Any qualified distribution from an AD IRA shall not be includible in gross income.

"(B) NONQUALIFIED DISTRIBUTIONS.—In applying section 72 to any distribution from an AD IRA which is not a qualified distribution, such distribution shall be treated as made from contributions to the AD IRA to the extent that such distribution, when added to all previous distributions from the AD IRA, does not exceed the aggregate amount of contributions to the AD IRA. For purposes of the preceding sentence, all AD IRAs maintained for the benefit of an individual shall be treated as 1 account.

"(C) EXCEPTION FROM PENALTY TAX.—Section 72(t) shall not apply to—

"(i) any qualified distribution from an AD IRA, and

"(ii) any qualified special purpose distribution (whether or not a qualified distribution) from an AD IRA.

"(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified distribution' means any payment or distribution—

"(i) made on or after the date on which the individual attains age 59½,

"(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

"(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

"(iv) which is a qualified special purpose distribution.

"(B) DISTRIBUTIONS WITHIN 5 YEARS.—No payment or distribution shall be treated as a qualified distribution if—

"(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to an AD IRA (or such individual's spouse made a contribution to an AD IRA) established for such individual, or

"(ii) in the case of a payment or distribution properly allocable (as determined in the manner prescribed by the Secretary) to a qualified rollover contribution (or income allocable thereto), it is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

Clause (ii) shall not apply to a qualified rollover contribution from an AD IRA.

"(3) ROLLOVERS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any distribution which is transferred in a qualified rollover contribution to an AD IRA.

"(B) INCOME INCLUSION FOR ROLLOVERS FROM NON-AD IRAS.—In the case of any qualified rollover contribution from an individual retirement plan (other than an AD IRA) to an AD IRA established for the benefit of the payee or distributee, as the case may be—

"(i) sections 72(t) and 408(d)(3) shall not apply, and

"(ii) in any case where such contribution is made before January 1, 1998, any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the payment or distribution is made.

"(C) ADDITIONAL REPORTING REQUIREMENTS.—The Secretary shall require that trustees of AD IRAs, trustees of individual retirement plans, or both, whichever is appropriate, shall include such additional information in reports required under section 408(i) as is necessary to ensure that amounts required to be included in gross income under subparagraph (B) are so included.

"(4) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—For purposes of this section, the term 'qualified special purpose distribution' means any distribution to which subparagraph (B), (D), or (E) of section 72(t)(2) applies.

"(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified rollover contribution' means a rollover contribution to an AD IRA from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan to an AD IRA.

"(2) CONVERSIONS.—The conversion of an individual retirement plan to an AD IRA shall be treated as if it were a qualified rollover contribution."

(b) REPEAL OF NONDEDUCTIBLE CONTRIBUTIONS.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end the following new paragraph:

"(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1995."

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(c) EXCESS DISTRIBUTIONS TAX NOT TO APPLY.—Subparagraph (B) of section 4980A(e)(1) is amended by inserting "other than an AD IRA (as defined in section 408A(b))" after "retirement plan".

(d) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended to read as follows:

"(b) EXCESS CONTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—In the case of individual retirement accounts or individual retirement annuities, the term 'excess contributions' means the sum of—

"(A) the amount determined under paragraph (2) for the taxable year, plus

"(B) the carryover amount determined under paragraph (3) for the taxable year.

"(2) CURRENT YEAR.—The amount determined under this paragraph for any taxable year is an amount equal to the sum of—

"(A) the excess (if any) of—

"(i) the amount contributed for the taxable year to the accounts or for the annuities or bonds (other than AD IRAs), over

"(ii) the amount allowable as a deduction under section 219 for the taxable year, plus

"(B) the excess (if any) of—

"(i) the amount described in clause (i) (taking into account contributions to AD IRAs) contributed for the taxable year, over

"(ii) the amount allowable as a deduction under section 219 for the taxable year (computed without regard to section 219(g)).

"(3) CARRYOVER AMOUNT.—The carryover amount determined under this paragraph for any taxable year is the amount determined under paragraph (2) for the preceding taxable year, reduced by the sum of—

"(A) the distributions out of the account for the taxable year which were included in the gross income of the payee under section 408(d)(1),

"(B) the distributions out of the account for the taxable year to which section 408(d)(5) applies, and

"(C) the excess (if any) of the amount determined under paragraph (2)(B)(ii) over the amount determined under paragraph (2)(B)(i).

"(4) SPECIAL RULES.—For purposes of this subsection—

"(A) ROLLOVER CONTRIBUTIONS.—Rollover distributions described in sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3), and 408A(e) shall not be taken into account.

"(B) CONTRIBUTIONS RETURNED BEFORE DUE DATE.—Any contribution which is distributed from an individual retirement plan in a distribution to which section 408(d)(4) applies shall not be taken into account.

"(C) EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTIONS.—In applying paragraph (3)(C), the determination as to amounts contributed for a taxable year shall be made without regard to section 219(f)(6)."

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. American Dream IRA."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subchapter B—Penalty-Free Distributions

SEC. 11016. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES OR TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(D) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR FIRST-TIME HOMEBUYERS OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)), or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year.

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) in the case of an individual retirement plan, by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse."

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C), (D), or (E)".

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual, the spouse of such individual, or any child, grandchild, or ancestor of such individual or the individual's spouse.

"(B) LIFETIME DOLLAR LIMITATION.—The aggregate amount of payments or distributions received by an individual which may be treated as qualified first-time homebuyer distributions for any taxable year shall not exceed the excess (if any) of—

"(i) $10,000, over

"(ii) the aggregate amounts treated as qualified first-time homebuyer distributions with respect to such individual for all prior taxable years.

"(C) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence.

Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(D) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(E) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any child (as defined in section 151(c)(3)), grandchild, or ancestor of the taxpayer or the taxpayer's spouse,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year.

To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subchapter C—Simple Savings Plans

SEC. 11018. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH PLANS FOR EMPLOYEES OF SMALL EMPLOYERS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) SIMPLE RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—For purposes of this title, the term 'simple retirement account' means an individual retirement plan (as defined in section 7701(a)(37))—

"(A) with respect to which the requirements of paragraphs (3), (4), and (5) are met; and

"(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.

"(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer under which—

"(i) an employee eligible to participate in the arrangement may elect to have the employer make payments—

"(I) as elective employer contributions to a simple retirement account on behalf of the employee, or

"(II) to the employee directly in cash,

"(ii) the amount which an employee may elect under clause (i) for any year is required to be expressed as a percentage of compensation and may not exceed a total of $6,000 for any year,

"(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an amount equal to so much of the amount the employee elects under clause (i)(I) as does not exceed the applicable percentage of compensation for the year, and

"(iv) no contributions may be made other than contributions described in clause (i) or (iii).

"(B) DEFINITIONS.—For purposes of this subsection—

"(i) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an employer who employs 100 or fewer employees on any day during the year.

"(ii) APPLICABLE PERCENTAGE.—

"(I) IN GENERAL.—The term 'applicable percentage' means 3 percent.

"(II) ELECTION OF LOWER PERCENTAGE.—An employer may elect to apply a lower percentage (not less than 1 percent) for any year for all employees eligible to participate in the plan for such year if the employer notifies the employees of such lower percentage within a reasonable period of time before the 60-day election period for such year under paragraph (5)(C). An employer may not elect a lower percentage under this subclause for any year if that election would result in the applicable percentage being lower than 3 percent in more than 2 of the years in the 5-year period ending with such year.

"(III) SPECIAL RULE FOR YEARS ARRANGEMENT NOT IN EFFECT.—If any year in the 5-year period described in subclause (II) is a year prior to the first year for which any qualified salary reduction arrangement is in effect with respect to the employer (or any predecessor), the employer shall be treated as if the level of the employer matching contribution was at 3 percent of compensation for such prior year.

"(C) ARRANGEMENT MAY BE ONLY PLAN OF EMPLOYER.—

"(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or benefits were accrued, for service in any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

"(ii) QUALIFIED PLAN.—For purposes of this subparagraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

"(D) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $6,000 amount under subparagraph (A)(ii) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter ending September 30, 1995, and any increase under this subparagraph which is not a multiple of $500 shall be rounded to the next lower multiple of $500.

"(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met with respect to a simple retirement account if the employee's rights to any contribution to the simple retirement account are nonforfeitable. For purposes of this paragraph, rules similar to the rules of subsection (k)(4) shall apply.

"(4) PARTICIPATION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any simple retirement account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who—

"(i) received at least $5,000 in compensation from the employer during any 2 preceding years, and

"(ii) are reasonably expected to receive at least $5,000 in compensation during the year,

are eligible to make the election under paragraph (2)(A)(i).

"(B) EXCLUDABLE EMPLOYEES.—An employer may elect to exclude from the requirement under subparagraph (A) employees described in section 410(b)(3).

"(5) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect to any simplified retirement account if, under the qualified salary reduction arrangement—

"(A) an employer must—

"(i) make the elective employer contributions under paragraph (2)(A)(i) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made, and

"(ii) make the matching contributions under paragraph (2)(A)(iii) not later than the date described in section 404(m)(2)(B),

"(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so terminates, the arrangement may provide that the employee may not elect to resume participation until the beginning of the next year, and

"(C) each employee eligible to participate may elect, during the 60-day period before the beginning of any year, to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) COMPENSATION.—

"(i) IN GENERAL.—The term 'compensation' means amounts described in paragraphs (3) and (8) of section 6051(a).

"(ii) SELF-EMPLOYED.—In the case of an employee described in subparagraph (B), the term 'compensation' means net earnings from self-employment determined under section 1402(a) without regard to any contribution under this subsection.

"(B) EMPLOYEE.—The term 'employee' includes an employee as defined in section 401(c)(1).

"(C) YEAR.—The term 'year' means the calendar year."

(b) TAX TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—

(1) DEDUCTIBILITY OF CONTRIBUTIONS BY EMPLOYEES.—

(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR SIMPLE RETIREMENT ACCOUNTS.—This section shall not apply with respect to any amount contributed to a simple retirement account established under section 408(p)."

(B) Section 219(g)(5)(A) (defining active participant) is amended by striking "or" at the end of clause (iv) and by adding at the end the following new clause:

"(vi) any simple retirement account (within the meaning of section 408(p)), or".

(2) DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS.—Section 404 (relating to deductions for contributions of an employer to pension, etc. plans) is amended by adding at the end the following new subsection:

"(m) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—Employer contributions to a simple retirement account shall be treated as if they are made to a plan subject to the requirements of this section.

"(2) TIMING.—

"(A) DEDUCTION.—Contributions described in paragraph (1) shall be deductible in the taxable year of the employer with or within which the calendar year for which the contributions were made ends.

"(B) CONTRIBUTIONS AFTER END OF YEAR.—For purposes of this subsection, contributions shall be treated as made for a taxable year if they are made on account of the taxable year and are made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof)."

(3) CONTRIBUTIONS AND DISTRIBUTIONS.—

(A) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

"(k) TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a simple retirement account under section 408(p)."

(B) Section 408(d)(3) is amended by adding at the end the following new subparagraph:

"(G) SIMPLE RETIREMENT ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a simple retirement account (as defined in section 408(p)) unless—

"(i) it is paid into another simple retirement account, or

"(ii) in the case of any payment or distribution to which section 72(t)(8) does not apply, it is paid into an individual retirement plan."

(C) Clause (i) of section 457(c)(2)(B) is amended by striking "section 402(h)(1)(B)" and inserting "section 402(h)(1)(B) or (k)".

(4) PENALTIES.—

(A) EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax in early distributions), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—In the case of any amount received from a simple retirement account (within the meaning of section 408(p)) during the 2-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section 408(p)(2), paragraph (1) shall be applied by substituting '25 percent' for '10 percent'."

(B) FAILURE TO REPORT.—Section 6693 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) PENALTIES RELATING TO SIMPLE RETIREMENT ACCOUNTS.—

"(1) EMPLOYER PENALTIES.—An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of $50 for each day on which such failures continue.

"(2) TRUSTEE PENALTIES.—A trustee who fails—

"(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of $50 for each day on which such failures continue, or

"(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of $50 for each day on which such failures continue.

"(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure which the taxpayer shows was due to reasonable cause."

(5) REPORTING REQUIREMENTS.—

(A)(i) Section 408(l) is amended by adding at the end the following new paragraph:

"(2) SIMPLE RETIREMENT ACCOUNTS.—

"(A) NO EMPLOYER REPORTS.—Except as provided in this paragraph, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under subsection (p).

"(B) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under subsection (p) shall provide to the employer maintaining the arrangement, each year a description containing the following information:

"(i) The name and address of the employer and the trustee.

"(ii) The requirements for eligibility for participation.

"(iii) The benefits provided with respect to the arrangement.

"(iv) The time and method of making elections with respect to the arrangement.

"(v) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

"(C) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in subparagraph (B)."

(ii) Section 408(l) is amended by striking "An employer" and inserting—

"(1) IN GENERAL.—An employer".

(5) REPORTING REQUIREMENTS.—Section 408(i) is amended by adding at the end the following new flush sentence:

"In the case of a simple retirement account under subsection (p), only one report under this subsection shall be required to be submitted each calendar year to the Secretary (at the time provided under paragraph (2)) but, in addition to the report under this subsection, there shall be furnished, within 30 days after each calendar year, to the individual on whose behalf the account is maintained a statement with respect to the account balance as of the close of, and the account activity during, such calendar year."

(6) EXEMPTION FROM TOP-HEAVY PLAN RULES.—Section 416(g)(4) (relating to special rules for top-heavy plans) is amended by adding at the end the following new subparagraph:

"(G) SIMPLE RETIREMENT ACCOUNTS.—The term 'top-heavy plan' shall not include a simple retirement account under section 408(p)."

(7) CONFORMING AMENDMENTS.—

(A) Section 280G(b)(6) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or" and by adding after subparagraph (C) the following new subparagraph:

"(D) a simple retirement account described in section 408(p)."

(B) Section 402(g)(3) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) any elective employer contribution under section 408(p)(2)(A)(i)."

(C) Subsections (b), (c), (m)(4)(B), and (n)(3)(B) of section 414 are each amended by inserting "408(p)," after "408(k),".

(D) Section 4972(d)(1)(A) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding after clause (iii) the following new clause:

"(iv) any simple retirement account (within the meaning of section 408(p))."

(c) REPEAL OF SIMPLIFIED EMPLOYEE PENSIONS.—Section 408(k) is amended by adding at the end the following new paragraph:

"(10) TERMINATION.—This subsection shall not apply to any years beginning after December 31, 1995. This paragraph shall not apply to a simplified employee pension established before January 1, 1996."

(d) MODIFICATIONS OF ERISA.—

(1) REPORTING REQUIREMENTS.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) SIMPLE RETIREMENT ACCOUNTS.—

"(1) NO EMPLOYER REPORTS.—Except as provided in this subsection, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986.

"(2) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of such Code shall provide to the employer maintaining the arrangement each year a description containing the following information:

"(A) The name and address of the employer and the trustee.

"(B) The requirements for eligibility for participation.

"(C) The benefits provided with respect to the arrangement.

"(D) The time and method of making elections with respect to the arrangement.

"(E) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

"(3) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in section 408 (p)(5)(C) of such Code may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in paragraph (2)."

(2) FIDUCIARY DUTIES.—Section 404 (c) of such Act (29 U.S.C. 1104(c)) is amended by inserting "(1)" after "(c)", by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and by adding at the end the following new paragraph:

"(2) In the case of a simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986, a participant or beneficiary shall, for purposes of paragraph (1), be treated as exercising control over the assets in the account upon the earliest of—

"(A) an affirmative election with respect to the initial investment of any contribution,

"(B) a rollover to any other simple retirement account or individual retirement plan, or

"(C) one year after the simple retirement account is established.

No reports, other than those required under section 101(g), shall be required with respect to a *simple retirement account established pursuant to such a qualified salary reduction arrangement."*

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11019. EXTENSION OF SIMPLE PLAN TO 401(k) ARRANGEMENTS.

(a) ALTERNATIVE METHOD OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

"(11) ADOPTION OF SIMPLE PLAN TO MEET NONDISCRIMINATION TESTS.—

"(A) IN GENERAL.—A cash or deferred arrangement maintained by an eligible employer shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement meets—

"(i) the contribution requirements of subparagraph (B),

"(ii) the exclusive benefit requirements of subparagraph (C), and

"(iii) the vesting requirements of section 408(p)(3).

"(B) CONTRIBUTION REQUIREMENTS.—The requirements of this subparagraph are met if, under the arrangement—

"(i) an employee may elect to have the employer make elective contributions for the year on behalf of the employee to a trust under the plan in an amount which is expressed as a percentage of compensation of the employee but which in no event exceeds $6,000,

"(ii) the employer is required to make a matching contribution to the trust for the year in an amount equal to so much of the amount the employee elects under clause (i) as does not exceed 3 percent of compensation for the year, and

"(iii) no other contributions may be made other than contributions described in clause (i) or (ii).

"(C) EXCLUSIVE BENEFIT.—The requirements of this subparagraph are met for any year to which this paragraph applies if no contributions were made, or benefits were accrued, for services during such year under any qualified plan of the employer on behalf of any employee eligible to participate in the cash or deferred arrangement, other than contributions described in subparagraph (B).

"(D) DEFINITIONS AND SPECIAL RULE.—

"(i) DEFINITIONS.—For purposes of this paragraph, any term used in this paragraph which is also used in section 408(p) shall have the meaning given such term by such section.

"(ii) COORDINATION WITH TOP-HEAVY RULES.—A plan meeting the requirements of this paragraph for any year shall not be treated as a top-heavy plan under section 416 for such year."

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(A) meets the contribution requirements of subparagraph (B) of subsection (k)(11),

"(B) meets the exclusive benefit requirements of subsection (k)(11)(C), and

"(C) meets the vesting requirements of section 408(p)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1995.

CHAPTER 2—CAPITAL GAINS REFORM

Subchapter A—Taxpayers Other Than Corporations

SEC. 11021. CAPITAL GAINS DEDUCTION.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION.

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of such gain shall be a deduction from gross income.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(d) SPECIAL RULE FOR COLLECTIBLES.—

"(1) IN GENERAL.—The rate of tax imposed by section 1 on the excess of—

"(A) the net capital gain for the taxable year determined as if section 1222(12) had not applied to any collectible which is sold or exchanged during the taxable year and the basis of which was not adjusted under section 1022(a), over

"(B) the net capital gain for the taxable year, shall not exceed 28 percent.

"(2) ELECTION.—A taxpayer may elect to treat any collectible specified in such election as not being an indexed asset for purposes of section 1022. Any such election, and any specification therein, once made, shall be irrevocable.

"(e) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of a taxable year which includes January 1, 1995—

"(A) the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after January 1, 1995, and

"(B) the amount of the net capital gain taken into account in applying section 1(h) for such year shall be reduced by the amount taken into account under subparagraph (A) for such year.

"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.".

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62, as amended by sections 11004 and 11005, is amended by inserting after paragraph (17) the following new paragraph:

"(18) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202.".

(c) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).".

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles).".

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(d) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 1 is amended by striking subsection (h).

(2) Paragraph (1) of section 170(e) is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "50 percent (80 percent in the case of a corporation) of the amount of gain".

(3) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 shall not be allowed.".

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction under section 1202 (whichever is appropriate) shall be taken into account.".

(5) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).".

(6) The last sentence of section 643(a)(3) is amended to read as follows: "The deduction under section 1202 (relating to capital gains deduction) shall not be taken into account.".

(7) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) shall not be taken into account".

(8)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income

from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.".

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) CORPORATIONS.—In the case of a corporation—", and

(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

"(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).".

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking "if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,", and

(ii) by striking "section 904(b)(3)(E)" and inserting "section 904(b)(3)(D)".

(9) The last sentence of section 1044(d) is amended by striking "1202" and inserting "1203".

(10)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.".

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) SPECIAL RULES.—

"(A) ADJUSTMENTS.—

"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.

"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year.".

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

"(3) TRANSITIONAL RULE.—In the case of any amount which, under this subsection and section 1211(b) (as in effect for taxable years beginning before January 1, 1996), is treated as a capital loss in the first taxable year beginning after December 31, 1995, paragraph (2) and section 1211(b) (as so in effect) shall apply (and paragraph (2) and section 1211(b) as in effect for taxable years beginning after December 31, 1995, shall not apply) to the extent such amount exceeds the total of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1995.".

(11) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 shall not apply" before the period at the end thereof.

(12) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "28 percent (or, to the extent provided in regulations, 19.8 percent)", and

(B) in paragraph (2) by striking "35 percent" and inserting "28 percent".

(13)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (28 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (28 percent".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

"Sec. 1202. Capital gains deduction.

"Sec. 1203. Small business stock eligible for preferential rates.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1994.

(2) COLLECTIBLES.—The amendments made by subsection (c) shall apply to sales and exchanges after December 31, 1994.

(3) REPEAL OF SECTION 1(h).—The amendment made by subsection (d)(1) shall apply to taxable years beginning after January 1, 1995.

(4) CONTRIBUTIONS.—The amendment made by subsection (d)(2) shall apply to contributions after December 31, 1994.

(5) USE OF LONG-TERM LOSSES.—The amendments made by subsection (d)(10) shall apply to taxable years beginning after December 31, 1995.

(6) WITHHOLDING.—The amendment made by subsection (d)(12) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 11022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 2000, FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 2000, FOR PURPOSES OF DETERMINING GAIN.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 3 years, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) common stock in a C corporation (other than a foreign corporation), and

"(B) tangible property,

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) STOCK IN CERTAIN FOREIGN CORPORATIONS INCLUDED.—For purposes of this section—

"(A) IN GENERAL.—The term 'indexed asset' includes common stock in a foreign corporation which is regularly traded on an established securities market.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) stock of a foreign investment company (within the meaning of section 1246(b)),

"(ii) stock in a passive foreign investment company (as defined in section 1296),

"(iii) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2), and

"(iv) stock in a foreign personal holding company (as defined in section 552).

"(C) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—An American depository receipt for common stock in a foreign corporation shall be treated as common stock in such corporation.

"(c) INDEXED BASIS.—For purposes of this section—

"(1) GENERAL RULE.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, increased by

"(B) the applicable inflation adjustment.

"(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

"(A) the adjusted basis of the asset, multiplied by

"(B) the percentage (if any) by which—

"(i) the gross domestic product deflator for the last calendar quarter ending before the asset is disposed of, exceeds

"(ii) the gross domestic product deflator for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest 1/10 of 1 percentage point.

"(3) GROSS DOMESTIC PRODUCT DEFLATOR.—The gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

"(d) SUSPENSION OF HOLDING PERIOD WHERE DIMINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—

"(1) IN GENERAL.—If the taxpayer (or a related person) enters into any transaction which substantially reduces the risk of loss from holding any asset, such asset shall not be treated as an indexed asset for the period of such reduced risk.

"(2) SHORT SALES.—

"(A) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 3 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) increased by the applicable inflation adjustment. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

"(B) SHORT SALE PERIOD.—For purposes of subparagraph (A), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.

"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"(1) ADJUSTMENTS AT ENTITY LEVEL.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under *subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).*

"(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

"(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

"(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

"(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year (determined without regard to this section) exceeds the entity's net capital gain for such year determined with regard to this section, and

"(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

"(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

"(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

"(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

"(A) REGULATED INVESTMENT COMPANIES.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

"(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

"(ii) the average of the fair market values of all assets held by such company at the close of each such month.

"(B) REAL ESTATE INVESTMENT TRUSTS.—Stock in a real estate investment trust (within the meaning of section 856) shall be an indexed asset for any calendar quarter in the same ratio as—

"(i) the fair market value of the indexed assets held by such trust at the close of such quarter, bears to

"(ii) the fair market value of all assets held by such trust at the close of such quarter.

"(C) RATIO OF 80 PERCENT OR MORE.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 80 percent or more, such ratio for such quarter shall be 100 percent.

"(D) RATIO OF 20 PERCENT OR LESS.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 20 percent or less, such ratio for such quarter shall be zero.

"(E) LOOK-THRU OF PARTNERSHIPS.—For purposes of this paragraph, a qualified investment entity which holds a partnership interest shall be treated (in lieu of holding a partnership interest) as holding its proportionate share of the assets held by the partnership.

"(3) TREATMENT OF RETURN OF CAPITAL DISTRIBUTIONS.—Except as otherwise provided by the Secretary, a distribution with respect to stock in a qualified investment entity which is not a dividend and which results in a reduction in the adjusted basis of such stock shall be treated as allocable to stock acquired by the taxpayer in the order in which such stock was acquired.

"(4) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) OTHER PASS-THRU ENTITIES.—

"(1) PARTNERSHIPS.—

"(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

"(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

"(4) INDEXING ADJUSTMENT DISREGARDED IN DETERMINING LOSS ON SALE OF INTEREST IN ENTITY.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the amount of any loss on a sale or exchange of an interest in a partnership, S corporation, or common trust fund, the adjustment made under subsection (a) shall not be taken into account in determining the adjusted basis of such interest.

"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(i) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT OF IMPROVEMENTS, ETC.—If there is an addition to the adjusted basis of any tangible property or of any stock in a corporation during the taxable year by reason of an improvement to such property or a contribution to capital of such corporation—

"(A) such addition shall never be taken into account under subsection (c)(1)(A) if the aggregate amount thereof during the taxable year with respect to such property or stock is less than $1,000, and

"(B) such addition shall be treated as a separate asset acquired at the close of such taxable year if the aggregate amount thereof during the taxable year with respect to such property or stock is $1,000 or more.

A rule similar to the rule of the preceding sentence shall apply to any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation adjustment shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(5) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins after December 31, 2000.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired after December 31, 2000, from a related person (as defined in section 1022(g)(2) of the Internal Revenue Code of 1986, as added by this section) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

(d) ELECTION TO RECOGNIZE GAIN ON ASSETS HELD ON JANUARY 1, 2001.—For purposes of the Internal Revenue Code of 1986—

(1) IN GENERAL.—A taxpayer other than a corporation may elect to treat—

(A) any readily tradable stock (which is an indexed asset) held by such taxpayer on January 1, 2001, and not sold before the next business day after such date, as having been sold on

such next business day for an amount equal to its closing market price on such next business day (and as having been re-acquired on such next business day for an amount equal to such closing market price), and

(B) any other indexed asset held by the taxpayer on January 1, 2001, as having been sold on such date for an amount equal to its fair market value on such date (and as having been re-acquired on such date for an amount equal to such fair market value).

(2) TREATMENT OF GAIN OR LOSS.—

(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the date the asset is treated as sold under paragraph (1) and shall be recognized notwithstanding any provision of the Internal Revenue Code of 1986.

(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(3) ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe and shall specify the assets for which such election is made. Such an election, once made with respect to any asset, shall be irrevocable.

(4) READILY TRADABLE STOCK.—For purposes of this subsection, the term "readily tradable stock" means any stock which, as of January 1, 2001, is readily tradable on an established securities market or otherwise.

(e) TREATMENT OF PRINCIPAL RESIDENCES.—Property held and used by the taxpayer on January 1, 2001, as his principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) shall be treated—

(1) for purposes of subsection (c)(1) of this section and section 1022 of such Code, as having a holding period which begins on January 1, 2001, and

(2) for purposes of section 1022(c)(2)(B)(ii) of such Code, as having been acquired on January 1, 2001.

Subsection (d) shall not apply to property to which this subsection applies.

SEC. 11023. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) REDUCED RATE IN LIEU OF EXCLUSION.—

(1) Section 1, as amended by section 11021, is amended by adding at the end the following new subsection:

"(h) MAXIMUM CAPITAL GAINS RATE FOR CERTAIN SMALL BUSINESS STOCK.—

"(1) IN GENERAL.—If for any taxable year a taxpayer has gain from the sale or exchange of any qualified small business stock held for more than 5 years, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed on the taxable income reduced by ½ the amount of the small business gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(B) a tax of 14 percent of the small business gain.

"(2) SMALL BUSINESS GAIN.—For purposes of paragraph (1), the term 'small business gain' means the lesser of—

"(A) gain from the sale or exchange of any qualified small business stock held for more than 5 years, or

"(B) the net capital gain taken into account under section 1202(a).

"(3) QUALIFIED SMALL BUSINESS STOCK.—The term 'qualified small business stock' has the meaning given such term by section 1203(c)."

(2) Subsection (a) of section 1203, as redesignated by section 11021, is amended to read as follows:

"(a) APPLICATION OF REDUCED RATES TO QUALIFIED SMALL BUSINESS STOCK GAINS.—

"For treatment of gain on qualified small business stock held for more than 5 years, see sections 1(h) and 1201(b).".

(b) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) Subsection (a) of section 57 is amended by striking paragraph (7).

(2) Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking ", (5), and (7)" and inserting "and (5)".

(c) STOCK OF LARGER BUSINESSES ELIGIBLE FOR REDUCED RATES.—Paragraph (1) of section 1203(d), as redesignated by section 11021, is amended by striking "$50,000,000" each place it appears and inserting "$100,000,000".

(d) REPEAL OF PER-ISSUER LIMITATION.—Section 1203, as so redesignated, is amended by striking subsection (b).

(e) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Paragraph (6) of section 1203(e), as so redesignated, is amended—

(A) by striking "2 years" in subparagraph (B) and inserting "5 years", and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of section 1203(c), as so redesignated, is amended by adding at the end the following new subparagraph:

"(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.".

(f) CLERICAL AMENDMENT.—The section heading for section 1203, as redesignated by section 11021, is amended to read as follows:

"SEC. 1203. SMALL BUSINESS STOCK ELIGIBLE FOR PREFERENTIAL RATES."

(g) EFFECTIVE DATES.—

(1) REDUCED RATES.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

(2) INCREASE IN SIZE.—The amendment made by subsection (c) shall apply to stock issued after the date of the enactment of this Act.

(3) OTHER RULES.—The amendments made by subsections (d) and (e) shall apply to stock issued after August 10, 1993.

Subchapter B—Corporate Capital Gains

SEC. 11025. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b) (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 28 percent of the net capital gain.

"(b) SPECIAL RULES FOR QUALIFIED SMALL BUSINESS GAIN.—

"(1) IN GENERAL.—If for any taxable year a corporation has gain from the sale or exchange of any qualified small business stock held for more than 5 years, the amount determined under subsection (a)(2) for such taxable year shall be equal to the sum of—

"(A) 21 percent of the lesser of such gain or the corporation's net capital gain, plus

"(B) 28 percent of the net capital gain reduced by the gain taken into account under subparagraph (A).

"(2) QUALIFIED SMALL BUSINESS STOCK.—For purposes of paragraph (1), the term 'qualified small business stock' has the meaning given such term by section 1203(c), except that stock shall not be treated as qualified small business stock if such stock was at any time held by a member of the parent-subsidiary controlled group (as defined in section 1203(d)(3)) which includes the qualified small business.

"(c) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In applying this section, net capital gain for any taxable year shall not exceed the net capital gain determined by taking into account only gains and losses properly taken into account for the portion of the taxable year after December 31, 1994.

"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1202(e)(2) shall apply for purposes of paragraph (1).

"(d) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A).".

(b) TECHNICAL AMENDMENT.—Clause (iii) of section 852(b)(3)(D) is amended by striking "65 percent" and inserting "72 percent".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.

(2) QUALIFIED SMALL BUSINESS STOCK.—Section 1201(b) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to gain from qualified small business stock acquired on or after the date of the enactment of this Act.

Subchapter C—Capital Loss Deduction Allowed With Respect to Sale or Exchange of Principal Residence

SEC. 11026. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end the following new paragraph:

"(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges after December 31, 1994, in taxable years ending after such date.

CHAPTER 3—CORPORATE ALTERNATIVE MINIMUM TAX REFORM

SEC. 11031. MODIFICATION OF DEPRECIATION RULES UNDER MINIMUM TAX.

(a) IN GENERAL.—Clause (i) of section 56(a)(1)(A) is amended by inserting "and before January 1, 1996," after "December 31, 1986,".

(b) CONFORMING AMENDMENT.—Clause (ii) of section 56(a)(1)(A) is amended by striking "The method" and inserting "In the case of property placed in service before January 1, 1996, the method".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 11032. LONG-TERM UNUSED CREDITS ALLOWED AGAINST MINIMUM TAX.

(a) IN GENERAL.—Section 53(c) (relating to limitation) is amended by adding at the end the following new paragraph:

"(2) SPECIAL RULE FOR TAXPAYERS WITH LONG-TERM UNUSED CREDITS.—

"(A) IN GENERAL.—If—

"(i) a corporation to which section 56(g) applies has a long-term unused minimum tax credit for a taxable year, and

"(ii) no credit would be allowable under this section for the taxable year by reason of paragraph (1),

then there shall be allowed a credit under subsection (a) for the taxable year in the amount determined under subparagraph (B).

"(B) AMOUNT OF CREDIT.—For purposes of subparagraph (A), the amount of the credit shall be equal to the least of the following for the taxable year:

"(i) The long-term unused minimum tax credit.

"(ii) 50 percent of the taxpayer's tentative minimum tax.

"(iii) The excess (if any) of the amount under paragraph (1)(B) over the amount under paragraph (1)(A).

"(C) LONG-TERM UNUSED MINIMUM TAX CREDIT.—For purposes of this paragraph—

"(i) IN GENERAL.—The long-term unused minimum tax credit for any taxable year is the portion of the minimum tax credit determined under subsection (b) attributable to the adjusted net minimum tax for taxable years beginning after 1986 and ending before the 7th taxable year immediately preceding the taxable year for which the determination is being made.

"(ii) FIRST-IN, FIRST-OUT ORDERING RULE.—For purposes of clause (i), credits shall be treated as allowed under subsection (a) on a first-in, first-out basis.".

(b) CONFORMING AMENDMENTS.—(1) Section 53(c) (as in effect before the amendment made by subsection (a)) is amended—

(A) by striking "The" and inserting:

"(1) IN GENERAL.—The", and

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(2) Subparagraph (C) of section 108(b)(4) is amended by striking "and (G)" in the text and heading thereof and inserting ", (C), and (G)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

CHAPTER 4—COST RECOVERY PROVISIONS

SEC. 11035. TREATMENT OF ABANDONMENT OF LESSOR IMPROVEMENTS AT TERMINATION OF LEASE.

(a) IN GENERAL.—Paragraph (8) of section 168(i) is amended to read as follows:

"(8) TREATMENT OF LEASEHOLD IMPROVEMENTS.—

"(A) IN GENERAL.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.

"(B) TREATMENT OF LESSOR IMPROVEMENTS WHICH ARE ABANDONED AT TERMINATION OF LEASE.—An improvement—

"(i) which is made by the lessor of leased property for the lessee of such property, and

"(ii) which is irrevocably disposed of or abandoned by the lessor at the termination of the lease by such lessee,

shall be treated for purposes of determining gain or loss under this title as disposed of by the lessor when so disposed of or abandoned."

(b) EFFECTIVE DATE.—Subparagraph (B) of section 168(i)(8) of the Internal Revenue Code of 1986, as added by the amendment made by subsection (a), shall apply to improvements disposed of or abandoned after March 13, 1995.

SEC. 11036. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

"(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed the following applicable amount:

"If the taxable year begins in:	***The applicable amount is:***
1996	*$19,000*
1997	*20,000*
1998	*21,000*
1999	*22,000*
2000	*23,000*
2001	*24,000*
2002 or thereafter	*25,000."*

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Health Related Provisions

CHAPTER 1—LONG-TERM CARE PROVISIONS

Subchapter A—Long-Term Care Services and Contracts

PART I—GENERAL PROVISIONS

SEC. 11041. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE.

"(a) IN GENERAL.—For purposes of this title—

"(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

"(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

"(4) except as provided in subsection (d)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

"(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(C) such contract is guaranteed renewable,

"(D) such contract does not provide for a cash surrender value or other money that can be—

"(i) paid, assigned, or pledged as collateral for a loan, or

"(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C),

"(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

"(F) such contract meets the requirements of subsection (f).

"(2) SPECIAL RULES.—

"(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) SPECIAL RULES RELATING TO MEDICARE.—

"(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

"(C) REFUNDS OF PREMIUMS.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL.—

"(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity or to cognitive impairment, or

"(ii) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i).

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) Eating.

"(ii) Toileting.

"(iii) Transferring.

"(iv) Bathing.

"(v) Dressing.

"(vi) Continence.

Nothing in this section shall be construed to require a contract to take into account all of the preceding activities of daily living.

"(3) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"(4) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r)(1) of the Social Security Act) and any

registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) Special Rules for Treatment of Insureds.—

"(1) Aggregate payments in excess of limits.—

"(A) In general.—If the aggregate amount of periodic payments under all qualified long-term care insurance contracts with respect to an insured for any period exceed the dollar amount in effect for such period under subparagraph (C), such excess payments shall be treated as made for qualified long-term care services only to the extent of the costs incurred by the payee (not otherwise compensated for by insurance or otherwise) for qualified long-term care services provided during such period for such insured.

"(B) Periodic payments.—For purposes of subparagraph (A), the term 'periodic payment' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

"(C) Dollar amount.—The dollar amount in effect under this paragraph shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).

"(D) Inflation adjustment.—In the case of a calendar year after 1996, the dollar amount contained in subparagraph (C) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(11).

"(e) Treatment of Coverage Provided as Part of a Life Insurance Contract.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on a life insurance contract—

"(1) In general.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) Application of 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(3) Application of section 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

"(4) Portion defined.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a qualified long-term care insurance contract."

(b) Reserve Method.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a qualified long-term care insurance contract, as defined in section 7702B(b))" after "insurance contract".

(c) Long-Term Care Insurance Not Permitted Under Cafeteria Plans or Flexible Spending Arrangements.—

(1) Cafeteria plans.—Section 125(f) is amended by adding at the end the following new sentence: "Such term shall not include any long-term care insurance contract (as defined in section 4980C)."

(2) Flexible spending arrangements.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) General Rule.—Except as provided in subsection (b), gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) Inclusion of Long-Term Care Benefits Provided Through Flexible Spending Arrangements.—

"(1) In general.—Effective on and after January 1, 1996, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

"(2) Flexible spending arrangement.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage."

(d) Continuation Coverage Excise Tax Not To Apply.—Subsection (f) of section 4980B is amended by adding at the end the following new paragraph:

"(9) Continuation of long-term care coverage not required.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely by reason of failing to provide coverage under any qualified long-term care insurance contract (as defined in section 7702B(b))."

(e) Amounts Paid to Relatives Treated as Not Paid for Medical Care.—Section 213(d) is amended by adding at the end the following new paragraph:

"(10) Certain payments to relatives treated as not paid for medical care.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

"(A) by a relative (directly or through a partnership, corporation, or other entity) unless the relative is a licensed professional with respect to such services, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance."

(f) Clerical Amendment.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of qualified long-term care insurance.".

(g) Effective Date.—

(1) In general.—The amendments made by this section shall apply to contracts issued after December 31, 1995.

(2) Continuation of existing policies.—In the case of any contract issued before January 1, 1996, which met the long-term care insurance requirements of the State in which the contract was sitused at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

(3) Exchanges of existing policies.—If, after the date of enactment of this Act and before January 1, 1997, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) Issuance of certain riders permitted.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

SEC. 11042. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) General Rule.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(c)), or".

(b) Technical Amendments.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

"In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (11)) shall be taken into account under subparagraph (D)."

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(11) Eligible long-term care premiums.—

"(A) In general.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	***The limitation is:***
40 or less	*$200*
More than 40 but not more than 50	*375*

More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500.

"(B) Indexing.—

"(i) In general.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) Medical care cost adjustment.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1995.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence."

(3) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11043. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.

(a) In General.—Subsection (a) of section 1035 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end the following new paragraph:

"(4) a contract of life insurance or an endowment or annuity contract for a qualified long-term care insurance contract (as defined in section 7702B(b))."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11044. EXCEPTION FROM PENALTY TAX FOR AMOUNTS WITHDRAWN FROM CERTAIN RETIREMENT PLANS FOR QUALIFIED LONG-TERM CARE INSURANCE.

(a) In General.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

"(F) Premiums for qualified long-term care insurance contracts.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3), to the extent such distributions do not exceed the premiums for a qualified long-term care insurance contract (as defined in section 7702B(b)) for such individual or the spouse of such individual. In applying subparagraph (B), such premiums shall be treated as amounts not paid for medical care."

(b) Distributions Permitted From Certain Plans To Pay Long-term Care Premiums.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for the payment of premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of the employee or the spouse of the employee."

(3) Subparagraph (A) of section 457(d)(1) is amended by striking "or" at the end of clause (ii), by striking "and" at the end of clause (iii) and inserting "or", and by inserting after clause (iii) the following new clause:

"(iv) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(c) Effective Date.—The amendments made by this section shall apply to payments and distributions after December 31, 1995.

SEC. 11045. REPORTING REQUIREMENTS.

(a) In General.—Subpart B of part III of subchapter A of chapter 61, as amended by section 11004, is amended by adding at the end the following new section:

"SEC. 6050R. CERTAIN LONG-TERM CARE BENEFITS.

"(a) Requirement of Reporting.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) Long-Term Care Benefits.—For purposes of this section, the term 'long-term care benefit' means any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e)).".

(b) Penalties.—

(1) Subparagraph (B) of section 6724(d)(1), as amended by section 11004, is amended by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

"(x) section 6050R (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d), as amended by section 11004, is amended by redesignating subparagraphs (R) through (U) as subparagraphs (S) through (V), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(R) section 6050R(b) (relating to certain long-term care benefits),".

(c) Clerical Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050R. Certain long-term care benefits."

(d) Effective Date.—The amendments made by this section shall apply to benefits paid after December 31, 1995.

PART II—CONSUMER PROTECTION PROVISIONS

SEC. 11051. POLICY REQUIREMENTS.

Section 7702B (as added by section 11041) is amended by adding at the end the following new subsection:

"(f) Consumer Protection Provisions.—

"(1) In general.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) Requirements of model regulation and act.—

"(A) In general.—The requirements of this paragraph are met with respect to any policy if such policy meets—

"(i) Model regulation.—The following requirements of the model regulation:

"(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

"(II) Section 7B (relating to prohibitions on limitations and exclusions).

"(III) Section 7C (relating to extension of benefits).

"(IV) Section 7D (relating to continuation or conversion of coverage).

"(V) Section 7E (relating to discontinuance and replacement of policies).

"(VI) Section 8 (relating to unintentional lapse).

"(VII) Section 9 (relating to disclosure), other than section 9F thereof.

"(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

"(IX) Section 11 (relating to minimum standards).

"(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(ii) Model act.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(B) Definitions.—For purposes of this paragraph—

"(i) Model provisions.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

"(ii) Coordination.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to any policy if such policy meets the requirements of section 4980C(d)(1).

"(4) NONFORFEITURE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

"(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

"(i) The nonforfeiture provision shall be appropriately captioned.

"(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying policies approved by the Secretary for the same policy form.

"(iii) The nonforfeiture provision shall provide at least one of the following:

"(I) Reduced paid-up insurance.

"(II) Extended term insurance.

"(III) Shortened benefit period.

"(IV) Other similar offerings approved by the Secretary.

"(5) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this subsection, the term 'long-term care insurance policy' has the meaning given such term by section 4980C(e).".

SEC. 11052. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

"(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirements of subsection (c) or (d) are not met with respect to each long-term care insurance policy.

"(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

"(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

"(1) REQUIREMENTS OF MODEL PROVISIONS.—

"(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

"(i) Section 13 (relating to application forms and replacement coverage).

"(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

"(iii) Section 20 (relating to filing requirements for marketing).

"(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

"(I) in addition to such requirements, no person shall, in selling or offering to sell a long-term care insurance policy, misrepresent a material fact; and

"(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(v) Section 22 (relating to appropriateness of recommended purchase).

"(vi) Section 24 (relating to standard format outline of coverage).

"(vii) Section 25 (relating to requirement to deliver shopper's guide).

"(B) MODEL ACT.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(f)(2)(B).

"(2) DELIVERY OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

"(A) provide a written explanation of the reasons for the denial, and

"(B) make available all information directly relating to such denial.

"(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b).

"(e) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Requirements for issuers of long-term care insurance policies.".

SEC. 11053. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this part shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4980C(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 11054. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this part shall apply to contracts issued after December 31, 1995. The provisions of section 11041(g) of this Act (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 11052 shall apply to actions taken after December 31, 1995.

Subchapter B—Treatment of Accelerated Death Benefits

SEC. 11061. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

"(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

"(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual (as determined in such manner as the Secretary may prescribe) but only if such amount is received under a rider or other provision of such contract which is treated as a qualified long-term care insurance contract under section 7702B.

"(2) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

"(i) any portion of such contract is sold to any viatical settlement provider, or

"(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

"(i) such person is licensed for such purposes in the State in which the insured resides, or

"(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes—

"(I) such person meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

"(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining amounts paid by such person in connection with such purchases or assignments.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) TERMINALLY ILL INDIVIDUAL.—The term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

"(B) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

"(4) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1995.

SEC. 11062. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) Qualified Accelerated Death Benefit Riders Treated as Life Insurance.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) Qualified Accelerated Death Benefit Riders Treated as Life Insurance.—For purposes of this part—

"(1) In general.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) Qualified accelerated death benefit riders.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g).

"(3) Exception for long-term care riders.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B."

(b) Effective Date.—

(1) In general.—The amendment made by this section shall take effect on January 1, 1996.

(2) Issuance of rider not treated as material change.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract.

CHAPTER 2—MEDICAL SAVINGS ACCOUNTS

SEC. 11066. MEDICAL SAVINGS ACCOUNTS.

(a) In General.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. MEDICAL SAVINGS ACCOUNTS.

"(a) Deduction Allowed.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

"(b) Limitations.—

"(1) In general.—Except as otherwise provided in this subsection, the amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed—

"(A) except as provided in subparagraph (B), the lesser of—

"(i) $2,000, or

"(ii) the annual deductible limit for any individual covered under the high deductible health plan, or

"(B) in the case of a high deductible health plan covering the taxpayer and any other eligible individual who is the spouse or any dependent (as defined in section 152) of the taxpayer, the lesser of—

"(i) $4,000, or

"(ii) the annual limit under the plan on the aggregate amount of deductibles required to be paid by all individuals.

The preceding sentence shall not apply if the spouse of such individual is covered under any other high deductible health plan.

"(2) Special rule for married individuals.—

"(A) In general.—This subsection shall be applied separately for each married individual.

"(B) Special rule.—If individuals who are married to each other are covered under the same high deductible health plan, then the amounts applicable under paragraph (1)(B) shall be divided equally between them unless they agree on a different division.

"(3) Coordination with exclusion for employer contributions.—No deduction shall be allowed under this section for any amount paid for any taxable year to a medical savings account of an individual if—

"(A) any amount is paid to any medical savings account of such individual which is excludable from gross income under section 106(b) for such year, or

"(B) in a case described in paragraph (2), any amount is paid to any medical savings account of either spouse which is so excludable for such year.

"(4) Proration of limitation.—

"(A) In general.—The limitation under paragraph (1) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

"(i) such individual is not an eligible individual for all months of the taxable year,

"(ii) the deductible under the high deductible health plan covering such individual is not the same throughout such taxable year, or

"(iii) such limitation is determined under paragraph (1)(B) for some but not all months during such taxable year.

"(B) Monthly limitation.—The monthly limitation for any month shall be an amount equal to $^1/_{12}$ of the limitation which would (but for this paragraph and paragraph (3)) be determined under paragraph (1) if the facts and circumstances as of the first day of such month that such individual is covered under a high deductible health plan were true for the entire taxable year.

"(5) Denial of deduction to dependents.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(c) Definitions.—For purposes of this section—

"(1) Eligible individual.—

"(A) In general.—The term 'eligible individual' means, with respect to any month, any individual—

"(i) who is covered under a high deductible health plan as of the 1st day of such month, and

"(ii) who is not, while covered under a high deductible health plan, covered under any health plan—

"(I) which is not a high deductible health plan, and

"(II) which provides coverage for any benefit which is covered under the high deductible health plan.

"(B) Certain coverage disregarded.—Subparagraph (A)(ii) shall be applied without regard to—

"(i) coverage for any benefit provided by permitted insurance, and

"(ii) coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

"(2) High deductible health plan.—The term 'high deductible health plan' means a health plan which—

"(A) has an annual deductible limit for each individual covered by the plan which is not less than $1,500, and

"(B) has an annual limit on the aggregate amount of deductibles required to be paid with respect to all individuals covered by the plan which is not less than $3,000.

Such term does not include a health plan if substantially all of its coverage is coverage described in paragraph (1)(B).

"(3) Permitted insurance.—The term 'permitted insurance' means—

"(A) Medicare supplemental insurance,

"(B) insurance if substantially all of the coverage provided under such insurance relates to—

"(i) liabilities incurred under workers' compensation laws,

"(ii) tort liabilities,

"(iii) liabilities relating to ownership or use of property, or

"(iv) such other similar liabilities as the Secretary may specify by regulations,

"(C) insurance for a specified disease or illness, and

"(D) insurance paying a fixed amount per day (or other period) of hospitalization.

"(d) Medical Savings Account.—For purposes of this section—

"(1) Medical savings account.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a rollover contribution described in subsection (f)(5), no contribution will be accepted—

"(i) unless it is in cash, or

"(ii) to the extent such contribution, when added to previous contributions to the trust for the calendar year, exceeds $4,000.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(2) Qualified medical expenses.—

"(A) In general.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder for medical care (as defined in section 213(d)) for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise.

"(B) Health insurance may not be purchased from account.—

"(i) In general.—Subparagraph (A) shall not apply to any payment for insurance.

"(ii) Exceptions.—Clause (i) shall not apply to any expense for coverage under—

"(I) a health plan during any period of continuation coverage required under any Federal law,

"(II) a qualified long-term care contract (as defined in section 7702B), or

"(III) a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law.

"(3) Account holder.—The term 'account holder' means the individual on whose behalf the medical savings account was established.

"(4) Certain rules to apply.—Rules similar to the following rules shall apply for purposes of this section:

"(A) Section 219(d)(2) (relating to no deduction for rollovers).

"(B) Section 219(f)(3) (relating to time when contributions deemed made).

"(C) Except as provided in section 106(b), section 219(f)(5) (relating to employer payments).

"(D) Section 408(g) (relating to community property laws).

"(E) Section 408(h) (relating to custodial accounts).

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—A medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(f) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) AMOUNTS USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account holder (or any spouse or dependent of the holder) shall not be includible in gross income.

"(B) TREATMENT AFTER DEATH OF ACCOUNT HOLDER.—

"(i) TREATMENT IF HOLDER IS SPOUSE.—If, after the death of the account holder, the account holder's interest is payable to (or for the benefit of) the holder's spouse, the medical savings account shall be treated as if the spouse were the account holder.

"(ii) TREATMENT IF DESIGNATED HOLDER IS NOT SPOUSE.—In the case of an account holder's interest in a medical savings account which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

"(I) such account shall cease to be a medical savings account as of the date of death, and

"(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's gross income for the last taxable year of such holder.

"(2) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account holder or of the spouse or dependents of such holder shall be included in the gross income of such holder.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all medical savings accounts of the account holder shall be treated as 1 account,

"(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (2) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account to the extent that such contribution exceeds the amount under subsection (d)(1)(A)(ii) if—

"(A) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the individual for the taxable year in which it is received.

"(4) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by this chapter on the account holder for any taxable year in which there is a payment or distribution from a medical savings account of such holder which is includible in gross income under paragraph (2) shall be increased by 10 percent of the amount which is so includible.

"(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account holder becomes disabled within the meaning of section 72(m)(7) or dies.

"(C) EXCEPTION FOR DISTRIBUTIONS AFTER AGE 59½.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account holder attains age 59½.

"(5) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—Paragraph (2) shall not apply to any amount paid or distributed from a medical savings account to the account holder to the extent the amount received is paid into a medical savings account for the benefit of such holder not later than the 60th day after the day on which the holder receives the payment or distribution.

"(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual's gross income because of the application of this paragraph.

"(6) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care.

"(7) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a medical savings account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a medical savings account with respect to which the spouse is the account holder.

"(g) COST-OF-LIVING ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount in subsection (b)(1), (c)(2), or (d)(1)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the medical care cost adjustment for such calendar year.

If any increase under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

"(2) MEDICAL CARE COST ADJUSTMENT.—For purposes of paragraph (1), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(A) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(B) such component for August of 1995.

"(h) REPORTS.—The Secretary may require the trustee of a medical savings account to make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (18) the following new paragraph:

"(19) MEDICAL SAVINGS ACCOUNTS.—The deduction allowed by section 222."

(c) EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) EXCLUSION FROM INCOME TAX.—Section 106 (relating to contributions by employer to accident and health plans), as amended by this Act, is amended—

(A) by adding at the end the following new subsection:

"(c) CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

"(1) IN GENERAL.—In the case of an employee who is an eligible individual, gross income does not include amounts contributed by such employee's employer to any medical savings account of such employee.

"(2) COORDINATION WITH DEDUCTION LIMITATION.—The amount excluded from the gross income of an employee under this subsection for any taxable year shall not exceed the limitation under section 222(b)(1) (determined without regard to this subsection) which is applicable to such employee for such taxable year.

"(3) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer.

"(4) SPECIAL RULE FOR DEDUCTION OF EMPLOYER CONTRIBUTIONS.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

"(5) DEFINITIONS.—For purposes of this subsection, the terms 'eligible individual' and 'medical savings account' have the respective meanings given to such terms by section 222", and

(B) by striking "subsection (b)" in subsection (a) and inserting "this subsection".

(2) EXCLUSION FROM WITHHOLDING TAX.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(d) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS NOT AVAILABLE UNDER CAFETERIA PLANS.—Subsection (f) of section 125 is amended by inserting "106(b)," before "117".

(e) EXCLUSION OF MEDICAL SAVINGS ACCOUNTS FROM ESTATE TAX.—Part IV of subchapter A of chapter 11 is amended by adding at the end the following new section:

"SEC. 2057. MEDICAL SAVINGS ACCOUNTS.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any medical savings account (as defined in section 222(d)) included in the gross estate."

(f) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "**medical savings accounts,**" after "**accounts,**" in the heading of such section,

(2) by striking "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 222(d)), or", and

(4) by adding at the end the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical savings account (within the meaning of section 222(d)), the term 'excess contributions' means the sum of—

"(1) the amount by which the amount contributed for the taxable year to the account exceeds the amount which may be contributed to the account under section 222(d)(1)(B)(ii) for such taxable year, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of distributions out of the account included in gross income under section 222(f) (2) or (3) and the excess (if any) of the maximum amount allowable as a deduction under section 222 for the taxable year over the amount contributed.

For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 222(f)(3) applies shall be treated as an amount not contributed."

(g) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975 (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 222(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 222(e)(2) to such account."

(2) Paragraph (1) of section 4975(e) is amended to read as follows:

"(1) PLAN.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medical savings account described in section 220(d), or

"(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph."

(h) FAILURE TO PROVIDE REPORTS ON MEDICAREPLUS MSA'S.—

(1) Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) REPORTS.—

"(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) PROVISIONS.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

"(B) section 222(h) (relating to medical savings accounts)."

(i) EXCEPTION FROM CAPITALIZATION OF POLICY ACQUISITION EXPENSES.—Subparagraph (B) of section 848(e)(1) (defining specified insurance contract) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any contract which is a medical savings account (as defined in section 222(d)).".

(j) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

"Sec. 222. Medical savings accounts.

"Sec. 223. Cross reference."

(k) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

CHAPTER 3—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

SEC. 11068. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—

"(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
1996 or 1997	30
1998 or 1999	35
2000 or 2001	40
2002 or thereafter	50."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle D—Estate and Gift Provisions

SEC. 11071. COST-OF-LIVING ADJUSTMENTS RELATING TO ESTATE AND GIFT TAX PROVISIONS.

(a) INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.—

(1) ESTATE TAX CREDIT.—

(A) Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "the applicable credit amount".

(B) Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

"In the case of estates of decedents dying, and gifts made, during:	**The applicable exclusion amount is:**
1996	$625,000
1997	$650,000
1998	$675,000
1999	$700,000
2000	$725,000
2001 or thereafter	$750,000.

"(2) COST-OF-LIVING ADJUSTMENTS.—In the case of any decedent dying, and gift made, in a calendar year after 2001, the $750,000 amount set forth in paragraph (1) shall be increased by an amount equal to—

"(A) $750,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

(C) Paragraph (1) of section 6018(a) is amended by striking "$600,000" and inserting "the applicable exclusion amount in effect under section 2010(c) (as adjusted under paragraph (2) thereof) for the calendar year which includes the date of death".

(D) Paragraph (2) of section 2001(c) is amended by striking "$21,040,000" and inserting "the amount at which the average tax rate under this section is 55 percent".

(E) Subparagraph (A) of section 2102(c)(3) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death".

(2) UNIFIED GIFT TAX CREDIT.—Paragraph (1) of section 2505(a) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for such calendar year".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying, and gifts made, after December 31, 1995.

(b) ALTERNATE VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.—Subsection (a) of section 2032A is amended by adding at the end the following new paragraph:

"(3) INFLATION ADJUSTMENT.—In the case of estates of decedents dying in a calendar year after 2000, the $750,000 amount contained in paragraph (2) shall be increased by an amount equal to—

"(A) $750,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

(c) ANNUAL GIFT TAX EXCLUSION.—Subsection (b) of section 2503 is amended—

(1) by striking the subsection heading and inserting the following:

"(b) EXCLUSIONS FROM GIFTS.—

"(1) IN GENERAL.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) INFLATION ADJUSTMENT.—In the case of gifts made in a calendar year after 2000, the $10,000 amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) $10,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000."

(d) EXEMPTION FROM GENERATION-SKIPPING TAX.—Section 2631 (relating to GST exemption) is amended by adding at the end the following new subsection:

"(c) INFLATION ADJUSTMENT.—In the case of an individual who dies in any calendar year after 2000, the $1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—

"(1) $1,000,000, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

(e) AMOUNT OF TAX ELIGIBLE FOR 4 PERCENT INTEREST RATE ON EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX ON CLOSELY HELD BUSINESS.—

(1) Subparagraph (A) of section 6601(j)(2) is amended by striking "$345,800" and inserting "the applicable limitation amount".

(2) Subsection (j) of section 6601 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) APPLICABLE LIMITATION AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (2), the applicable limitation amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were $1,000,000.

"(B) INFLATION ADJUSTMENT.—In the case of estates of decedents dying in a calendar year after 2000, the $1,000,000 amount contained in subparagraph (A) shall be increased by an amount equal to—

"(i) $1,000,000, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

SEC. 11072. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) the sum of—

"(A) $1,000,000, plus

"(B) 50 percent of the excess (if any) of the adjusted value of such interests over $1,000,000, but not over $2,500,000.

"(b) ESTATES TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

"(3) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) ADDITIONAL ESTATE TAX.—

"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation:	The applicable percentage is:
1 through 6	100
7	80
8	60
9	40
10	20.

"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Section 2032A(e)(10) (relating to community property).

"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(J) Section 2032A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(M) Section 6324B (relating to special lien for additional estate tax).

"(4) COORDINATION WITH OTHER ESTATE TAX BENEFITS.—If there is a reduction in the value of the gross estate under this section—

"(A) the dollar limitation applicable under section 2032A(a)(2), and

"(B) the $1,000,000 amount under section 6601(j)(3) (as adjusted),

shall each be reduced (but not below zero) by the amount of such reduction.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

SEC. 11073. TREATMENT OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2031 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

"(1) IN GENERAL.—If the executor makes the election described in paragraph (4), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the applicable percentage of the lesser of—

"(A) the value of land subject to a qualified conservation easement, reduced by the amount of any deduction under section 2055(f) with respect to such land, or

"(B) the excess (if any) of $5,000,000 over the lesser of—

"(i) $2,500,000, or

"(ii) the adjusted value of the qualified family-owned business interests of the decedent determined under section 2033A.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means 40 percent reduced (but not below zero) by 2 percentage points for each percentage point (or fraction thereof) by which the value of the qualified conservation easement is less than 30 percent of the value of the land (determined without regard to the value of such easement and reduced by the value of any retained development right (as defined in paragraph (4)).

"(3) TREATMENT OF CERTAIN INDEBTEDNESS.—

"(A) IN GENERAL.—The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT-FINANCED PROPERTY.—The term 'debt-financed property' means any property with respect to which there is an acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.

"(ii) ACQUISITION INDEBTEDNESS.—The term 'acquisition indebtedness' means, with respect to debt-financed property, the unpaid amount of—

"(I) the indebtedness incurred by the donor in acquiring such property,

"(II) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,

"(III) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, and

"(IV) the extension, renewal, or refinancing of an acquisition indebtedness.

"(4) TREATMENT OF RETAINED DEVELOPMENT RIGHT.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

"(B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.—If every person in being who has an interest (whether or not in possession) in the land executes an agreement to extinguish permanently some or all of any development rights (as defined in subparagraph (D)) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

"(C) ADDITIONAL TAX.—Any failure to implement the agreement described in subparagraph (B) not later than the earlier of—

"(i) the date which is 2 years after the date of the decedent's death, or *"(ii) the date of the sale of such land subject to the qualified conservation easement,*

shall result in the imposition of an additional tax in the amount of the tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following such date.

"(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this paragraph, the term 'development right' means any right to use the land subject to the qualified conservation easement in which such right is retained for any commercial purpose which is not subordinate to and directly supportive of the use of such land as a farm for farming purposes (within the meaning of section 6420(c)).

"(4) ELECTION.—The election under this subsection shall be made on the return of the tax imposed by section 2001. Such an election, once made, shall be irrevocable.

"(5) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (4) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (3)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—

"(i) which is located—

"(I) in or within 25 miles of an area which, on the date of the decedent's death, is a metropolitan area (as defined by the Office of Management and Budget),

"(II) in or within 25 miles of an area which, on the date of the decedent's death, is a national park or wilderness area designated as part of the National Wilderness Preservation System (unless it is determined by the Secretary that land in or within 25 miles of such a park or wilderness area is not under significant development pressure), or

"(III) in or within 10 miles of an area which, on the date of the decedent's death, is an Urban National Forest (as designated by the Forest Service),

"(ii) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

"(iii) with respect to which a qualified conservation easement has been made by the decedent or a member of the decedent's family.

"(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that clause (iv) of section 170(h)(4)(A) shall not apply, and the restriction on the use of such interest described in section 170(h)(2)(C) shall include a prohibition on commercial recreational activity.

"(C) MEMBER OF FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent.

"(7) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—This section shall apply to an interest in a partnership, corporation, or trust if at least 30 percent of the entity is owned (directly or indirectly) by the decedent, as determined under the rules described in section 2033A(e)(3).".

(b) CARRYOVER BASIS.—Section 1014(a) (relating to basis of property acquired from a decedent) is amended by striking the period at the end of paragraph (3) and inserting ", or" and by adding after paragraph (3) the following new paragraph:

"(4) to the extent of the applicability of the exclusion described in section 2031(c), the basis in the hands of the decedent.".

(c) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—Subsection (c) of section 2032A (relating to alternative valuation method) is amended by adding at the end the following new paragraph:

"(8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—A qualified conservation contribution (as defined in section 170(h)) by gift or otherwise shall not be deemed a disposition under subsection (c)(1)(A).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

SEC. 11074. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.

(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—

"(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—

"(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

"(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer (from which an interest of such individual is established or derived) is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time),

such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

"(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant."

(b) CONFORMING AMENDMENTS.—

(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Section 2612(c)(2) (as so redesignated) is amended by striking "section 2651(e)(2)" and inserting "section 2651(f)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after December 31, 1994.

SEC. 11075. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.

(a) GENERAL RULE.—Paragraph (7) of section 2032A(c) (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood.".

(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) is amended by striking out the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to leases entered into after December 31, 1995.

Subtitle E—Extension of Expiring Provisions

CHAPTER 1—TEMPORARY EXTENSIONS

SEC. 11111. WORK OPPORTUNITY TAX CREDIT.

(a) AMOUNT OF CREDIT.—Subsection (a) of section 51 (relating to amount of credit) is amended by striking "40 percent" and inserting "35 percent".

(b) MEMBERS OF TARGETED GROUPS.—Subsection (d) of section 51 is amended to read as follows:

"(d) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

"(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

"(A) a qualified IV–A recipient,

"(B) a qualified veteran,

"(C) a qualified ex-felon,

"(D) a high-risk youth,

"(E) a vocational rehabilitation referral, or

"(F) a qualified summer youth employee.

"(2) QUALIFIED IV–A RECIPIENT.—

"(A) IN GENERAL.—The term 'qualified IV–A recipient' means any individual who is certified by the designated local agency as being a member of a family receiving assistance under a IV–A program for at least a 9-month period ending during the 9-month period ending on the hiring date.

"(B) IV–A PROGRAM.—For purposes of this paragraph, the term 'IV–A program' means any program providing assistance under a State plan approved under part A of title IV of the Social Security Act (relating to assistance for needy families with minor children) and any successor of such program.

"(3) QUALIFIED VETERAN.—

"(A) IN GENERAL.—The term 'qualified veteran' means any veteran who is certified by the designated local agency as being—

"(i) a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least a 9-month period ending during the 12-month period ending on the hiring date, or

"(ii) a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date.

"(B) VETERAN.—For purposes of subparagraph (A), the term 'veteran' means any individual who is certified by the designated local agency as—

"(i)(I) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or

"(II) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, and

"(ii) not having any day during the 60-day period ending on the hiring date which was a day of extended active duty in the Armed Forces of the United States.

For purposes of clause (ii), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

"(4) QUALIFIED EX-FELON.—The term 'qualified ex-felon' means any individual who is certified by the designated local agency—

"(A) as having been convicted of a felony under any statute of the United States or any State,

"(B) as having a hiring date which is not more than 1 year after the last date on which such individual was so convicted or was released from prison, and

"(C) as being a member of a family which had an income during the 6 months immediately preceding the earlier of the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard.

Any determination under subparagraph (C) shall be valid for the 45-day period beginning on the date such determination is made.

"(5) HIGH-RISK YOUTH.—

"(A) IN GENERAL.—The term 'high-risk youth' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 25 on the hiring date, and

"(ii) as having his principal place of abode within an empowerment zone or enterprise community.

"(B) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—In the case of a high-risk youth, the term 'qualified wages' shall not include wages paid or incurred for services performed while such youth's principal place of abode is outside an empowerment zone or enterprise community.

"(6) VOCATIONAL REHABILITATION REFERRAL.—The term 'vocational rehabilitation referral' means any individual who is certified by the designated local agency as—

"(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

"(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

"(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—

"(A) IN GENERAL.—The term 'qualified summer youth employee' means any individual—

"(i) who performs services for the employer between May 1 and September 15,

"(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (or if later, on May 1 of the calendar year involved),

"(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(i), and

"(iv) who is certified by the designated local agency as having his principal place of abode within an empowerment zone or enterprise community.

"(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

"(i) subsection (b)(2) shall be applied by substituting 'any 90-day period between May 1 and September 15' for 'the 1-year period beginning with the day the individual begins work for the employer', and

"(ii) subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'.

The preceding sentence shall not apply to an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee.

"(C) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—Paragraph (5)(B) shall apply for purposes of this paragraph.

"(8) HIRING DATE.—The term 'hiring date' means the day the individual is hired by the employer.

"(9) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means a State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49-49n).

"(10) SPECIAL RULES FOR CERTIFICATIONS.—

"(A) IN GENERAL.—An individual shall not be treated as a member of a targeted group unless—

"(i) on or before the day on which such individual begins work for the employer, the employer has received a certification from a designated local agency that such individual is a member of a targeted group, or

"(ii)(I) on or before the day the individual is offered employment with the employer, a prescreening notice is completed by the employer with respect to such individual, and

"(II) not later than the 14th day after the individual begins work for the employer, the employer submits such notice, signed by the employer and the individual under penalties of perjury, to the designated local agency as part of a written request for such a certification from such agency.

For purposes of this paragraph, the term 'prescreening notice' means a document (in such form as the Secretary shall prescribe) which contains information provided by the individual on the basis of which the employer believes that the individual is a member of a targeted group.

"(B) INCORRECT CERTIFICATIONS.—If—

"(i) an individual has been certified by a designated local agency as a member of a targeted group, and

"(ii) such certification is incorrect because it was based on false information provided by such individual,

the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is received by the employer shall not be treated as qualified wages.

"(C) EXPLANATION OF DENIAL OF REQUEST.—If a designated local agency denies a request for certification of membership in a targeted group, such agency shall provide to the person making such request a written explanation of the reasons for such denial."

(c) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) (relating to certain individuals ineligible) is amended to read as follows:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual either—

"(A) is employed by the employer at least 180 days (20 days in the case of a qualified summer youth employee), or

"(B) has completed at least 500 hours (120 hours in the case of a qualified summer youth employee) of services performed for the employer."

(d) TERMINATION.—Paragraph (4) of section 51(c) (relating to wages defined) is amended to read as follows:

"(4) TERMINATION.—The term 'wages' shall not include any amount paid or incurred to an individual who begins work for the employer—

"(A) after December 31, 1994, and before January 1, 1996, or

"(B) after December 31, 1996."

(e) REDESIGNATION OF CREDIT.—

(1) Sections 38(b)(2) and 51(a) are each amended by striking "targeted jobs credit" and inserting "work opportunity credit".

*(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 is amended by striking "**Targeted Jobs Credit**" and inserting "**Work Opportunity Credit**".*

(3) The table of subparts for such part IV is amended by striking "targeted jobs credit" and inserting "work opportunity credit".

(4) The heading for paragraph (3) of section 1396(c) is amended by striking "TARGETED JOBS CREDIT" and inserting "WORK OPPORTUNITY CREDIT".

(f) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 51(c) is amended by striking ", subsection (d)(8)(D),".

(2) Paragraph (3) of section 51(i) is amended by striking "(d)(12)" each place it appears and inserting "(d)(6)".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 1995.

SEC. 11112. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXTENSION.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1994" and inserting "December 31, 1996".

(b) LIMITATION TO EDUCATION BELOW GRADUATE LEVEL.—The last sentence of section 127(c)(1) is amended by inserting before the period "or at the graduate level".

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

(2) LIMITATION.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1995.

SEC. 11113. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for research activities) is amended—

(1) by striking "June 30, 1995" each place it appears and inserting "December 31, 1996", and

(2) by striking "July 1, 1995" each place it appears and inserting "January 1, 1997".

(b) BASE AMOUNT FOR START-UP COMPANIES.—Clause (i) of section 41(c)(3)(B) (relating to start-up companies) is amended to read as follows:

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if—

"(I) the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983, or

"(II) there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.".

(c) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—Subsection (c) of section 41 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

"(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to the sum of—

"(i) 1.65 percent of so much of the qualified research expenses for the taxable year as exceeds 1 percent of the average described in subsection (c)(1)(B) but does not exceed 1.5 percent of such average,

"(ii) 2.2 percent of so much of such expenses as exceeds 1.5 percent of such average but does not exceed 2 percent of such average, and

"(iii) 2.75 percent of so much of such expenses as exceeds 2 percent of such average.

"(B) ELECTION.—An election under this paragraph may be made only for the first taxable year of the taxpayer beginning after June 30, 1995. Such an election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary."

(d) INCREASED CREDIT FOR CONTRACT RESEARCH EXPENSES WITH RESPECT TO CERTAIN RESEARCH CONSORTIA.—Paragraph (3) of section

41(b) is amended by adding at the end the following new subparagraph:

"(C) AMOUNTS PAID TO CERTAIN RESEARCH CONSORTIA.—

"(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting '75 percent' for '65 percent' with respect to amounts paid or incurred by the taxpayer to a qualified research consortium for qualified research.

"(ii) QUALIFIED RESEARCH CONSORTIUM.—The term 'qualified research consortium' means any organization described in subsection (e)(6)(B) if—

"(I) at least 15 unrelated taxpayers paid (during the calendar year in which the taxable year of the taxpayer begins) amounts to such organization for qualified research,

"(II) no 3 persons paid during such calendar year more than 50 percent of the total amounts paid during such calendar year for qualified research, and

"(III) no person contributed more than 20 percent of such total amounts.

For purposes of subclause (I), all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related taxpayers."

(e) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1995" and inserting "December 31, 1996".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after June 30, 1995.

(2) SUBSECTIONS (c) AND (d).—The amendments made by subsections (c) and (d) shall apply to taxable years beginning after June 30, 1995.

SEC. 11114. ORPHAN DRUG TAX CREDIT.

(a) RECATEGORIZED AS A BUSINESS CREDIT.—

(1) IN GENERAL.—Section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is transferred to subpart D of part IV of subchapter A of chapter 1, inserted after section 45B, and redesignated as section 45C.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 38 (relating to general business credit) is amended by striking "plus" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", plus", and by adding at the end the following new paragraph:

"(12) the orphan drug credit determined under section 45C(a).".

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subpart B of such part IV is amended by striking the item relating to section 28.

(B) The table of sections for subpart D of such part IV is amended by adding at the end the following new item:

"Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or conditions.".

(b) CREDIT TERMINATION.—Subsection (e) of section 45C, as redesignated by subsection (a)(1), is amended by striking "December 31, 1994" and inserting "December 31, 1996".

(c) NO PRE-1995 CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

"(7) NO CARRYBACK OF SECTION 45C CREDIT BEFORE 1995.—No portion of the unused business credit for any taxable year which is attributable to the orphan drug credit determined under section 45C may be carried back to a taxable year beginning before January 1, 1995.".

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 45C(a), as redesignated by subsection (a)(1), is amended by striking "There shall be allowed as a credit against the tax imposed by this chapter for the taxable year" and inserting "For purposes of section 38, the credit determined under this section for the taxable year is".

(2) Section 45C(d), as so redesignated, is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(3) Section 29(b)(6)(A) is amended by striking "sections 27 and 28" and inserting "section 27".

(4) Section 30(b)(3)(A) is amended by striking "sections 27, 28, and 29" and inserting "sections 27 and 29".

(5) Section 53(d)(1)(B) is amended—

(A) by striking "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)," in clause (iii), and

(B) by striking "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)" in clause (iv)(II).

(6) Section 55(c)(2) is amended by striking "28(d)(2),".

(7) Section 280C(b) is amended—

(A) by striking "section 28(b)" in paragraph (1) and inserting "section 45C(b)",

(B) by striking "section 28" in paragraphs (1) and (2)(A) and inserting "section 45C(b)", and

(C) by striking "subsection (d)(2) thereof" in paragraphs (1) and (2)(A) and inserting "section 38(c)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.

SEC. 11115. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(5) (relating to special rule for contributions of stock for which market quotations are readily available) is amended by striking "December 31, 1994" and inserting "December 31, 1996".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 1994.

SEC. 11116. DELAY OF TAX ON FUEL USED IN COMMERCIAL AVIATION.

(a) IN GENERAL.—Sections 4092(b)(2), 6421(f)(2)(B), and 6427(l)(4)(B) are each amended by striking "September 30, 1995" and inserting "September 30, 1997".

(b) CONFORMING AMENDMENT.—Section 13245 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect after September 30, 1995, but shall not take effect if section 11117 does not take effect.

(2) CROSS REFERENCE.—

For refund of tax paid on commercial aviation fuel before the date of the enactment of this Act, see section 6427(l) of the Internal Revenue Code of 1986.

(d) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of commercial aviation fuel which is held by any person on October 1, 1997, there is hereby imposed a floor stocks tax equal to 4.3 cents per gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on October 1, 1997, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before April 30, 1998.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) COMMERCIAL AVIATION FUEL.—The term "commercial aviation fuel" means aviation fuel (as defined in section 4093 of such Code) which is held on October 1, 1997, for sale or use in commercial aviation (as defined in section 4092(b) of such Code).

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or the Secretary's delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code (other than the rate imposed by section 4091(b)(2) of such Code) is allowable for aviation fuel so used.

(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on October 1, 1997, by any person if the aggregate amount of commercial aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.

SEC. 11117. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES.

(a) FUEL TAX.—

(1) Subparagraph (A) of section 4091(b)(3) is amended by striking "January 1, 1996" and inserting "October 1, 1996".

(2) Paragraph (2) of section 4081(d), as amended by section 11651 of this Act, is amended by striking "January 1, 1996" and inserting "October 1, 1996".

(b) TICKET TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1996" and inserting "October 1, 1996".

(c) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND.—

(1) Subsection (b) of section 9502 is amended by striking "January 1, 1996" each place it appears and inserting "October 1, 1996".

(2) Paragraph (3) of section 9502(f) is amended by striking "December 31, 1995" and inserting "September 30, 1996".

SEC. 11118. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2000" and by inserting "October 1, 2002".

CHAPTER 2—SUNSET OF LOW-INCOME HOUSING CREDIT

SEC. 11121. SUNSET OF LOW-INCOME HOUSING CREDIT.

(a) REPEAL OF REALLOCATION OF UNUSED CREDITS AMONG STATES.—Subparagraph (D) of section 42(h)(3) is amended by adding at the end the following new clause:

"(v) TERMINATION.—No amount may be allocated under this paragraph for any calendar year after 1995."

(b) TERMINATION.—Section 42 is amended by adding at the end the following new subsection:

"(o) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) clause (i) of subsection (h)(3)(C) shall not apply to any amount allocated after December 31, 1997, and

"(B) subsection (h)(4) shall not apply to any building placed in service after such date.

"(2) EXCEPTION FOR BOND-FINANCED BUILDINGS IN PROGRESS.—For purposes of paragraph (1)(B), a building shall be treated as placed in service before January 1, 1998, if—

"(A) the bonds with respect to such building are issued before such date,

"(B) the taxpayer's basis in the project (of which the building is a part) as of December 31, 1997, is more than 10 percent of the taxpayer's reasonably expected basis in such project as of December 31, 1999, and

"(C) such building is placed in service before January 1, 2000."

CHAPTER 3—EXTENSIONS OF SUPERFUND AND OIL SPILL LIABILITY TAXES

SEC. 11131. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) is amended to read as follows:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1997.".

(2) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before October 1, 1996.".

(b) TERMINATION ON DEPOSITS OF TAXES INTO HAZARDOUS SUBSTANCE SUPERFUND.—Paragraph (1) of section 9507(b) is amended by inserting "before August 1, 1996" after "received".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 11132. EXTENSION OF OIL SPILL LIABILITY TAX.

(a) IN GENERAL.—Section 4611(f)(1) (relating to application of oil spill liability trust fund financing rate) is amended by striking "after December 31, 1989, and before January 1, 1995" and inserting "after December 31, 1995, and before October 1, 2002".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1996.

CHAPTER 4—EXTENSIONS RELATING TO FUEL TAXES

SEC. 11141. ETHANOL BLENDER REFUNDS.

(a) IN GENERAL.—Paragraph (4) of section 6427(f) (relating to gasoline, diesel fuel, and aviation fuel used to produce certain alcohol fuels) is amended by striking "1995" and inserting "1999".

(b) SPECIAL RULE.—With respect to refund claims which could have been filed under section 6427(f) of the Internal Revenue Code of 1986 during the period beginning on October 8, 1995, and ending on the date of the enactment of this Act, but for the expiration of such section after September 30, 1995, interest shall accrue on such claims from the date which is the later of—

(1) November 1, 1995, or

(2) 20 days after the claim could have been filed under such section as in effect on September 30, 1995.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 11142. EXTENSION OF BINDING CONTRACT DATE FOR BIOMASS AND COAL FACILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 29(g)(1) (relating to extension of certain facilities) is amended by striking "January 1, 1997" and inserting "January 1, 1998" and by striking "January 1, 1996" and inserting "July 1, 1996".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 11143. EXEMPTION FROM DIESEL FUEL DYEING REQUIREMENTS WITH RESPECT TO CERTAIN STATES.

(a) IN GENERAL.—Section 4082 (relating to exemptions for diesel fuel) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) EXCEPTION TO DYEING REQUIREMENTS.—Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel—

"(1) removed, entered, or sold in a State for ultimate sale or use in an area of such State on or after the date on which such area is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator of the Environmental Protection Agency under paragraph (4) of such subsection (i) (as so in effect), and

"(2) the use of which is certified pursuant to regulations issued by the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 11144. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL SOLD FOR USE OR USED IN DIESEL-POWERED MOTORBOATS.

(a) IN GENERAL.—Subparagraph (D) of section 4041(a)(1) (relating to the imposition of tax on diesel fuel and special motor fuels) is amended to read as follows:

"(D) DIESEL FUEL USED IN MOTORBOATS.—

"(i) MORATORIUM.—No tax shall be imposed by subsection (a) or (d)(1) on diesel fuel sold for use or used in a diesel-powered motorboat during the period after December 31, 1995, and before July 1, 1997.

"(ii) SPECIAL TERMINATION DATE.—In the case of any sale for use, or use, of fuel in a diesel-powered motorboat—

"(I) effective during the period after September 30, 1999, and before January 1, 2000, the rate of tax imposed by this paragraph is 24.3 cents per gallon, and

"(II) the termination of the tax under subsection (d) shall not occur before January 1, 2000.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect after December 31, 1995.

CHAPTER 5—PERMANENT EXTENSION OF FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS

SEC. 11151. FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS.

(a) IN GENERAL.—Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking "before January 1, 1995,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services performed after December 31, 1994.

CHAPTER 6—DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS

SEC. 11161. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "Clause (viii) shall not apply after September 30, 1998." and inserting "Clause (viii) shall not apply after September 30, 2002."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle F—Taxpayer Bill of Rights 2 Provisions

SEC. 11201. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by inserting "unreasonable" before "error" each place it appears in subparagraphs (A) and (B), and

(2) by striking "in performing a ministerial act" each place it appears and inserting "in performing a ministerial or managerial act".

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended—

(1) by striking "ASSESSMENTS" and inserting "ABATEMENT", and

(2) by inserting "UNREASONABLE" before "ERRORS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 11202. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 calendar days (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6601(e)(2) is amended by striking "10 days from the date of notice and demand therefor" and inserting "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)".

(2) Paragraph (3) of section 6651(a) is amended by striking "10 days of the date of the notice and demand therefor" and inserting "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any notice and demand given after June 30, 1996.

SEC. 11203. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 11204. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.

(a) FUEL, ETC.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(1) by striking "If the taxpayer is the head of a family, so" and inserting "So",

(2) by striking "his household" and inserting "the taxpayer's household", and

(3) by striking "$1,650 ($1,550 in the case of levies issued during 1989)" and inserting "$2,500".

(b) BOOKS, ETC.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,250".

(c) INFLATION ADJUSTMENT.—Section 6334 (relating to property exempt from levy) is amended by adding at the end the following new subsection:

"(f) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year beginning after 1996, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to levies issued after December 31, 1995.

SEC. 11205. OFFERS-IN-COMPROMISE.

(a) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 11206. INCREASED LIMIT ON ATTORNEY FEES.

(a) IN GENERAL.—Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended—

(1) by striking "$75" in clause (iii) of subparagraph (B) and inserting "$110",

(2) by striking "an increase in the cost of living or" in clause (iii) of subparagraph (B), and

(3) by adding after clause (iii) the following: "In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 11207. AWARD OF LITIGATION COSTS PERMITTED IN DECLARATORY JUDGMENT PROCEEDINGS.

(a) IN GENERAL.—Subsection (b) of section 7430 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 11208. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) GENERAL RULE.—Subsection (b) of section 7433 (relating to damages) is amended by striking "$100,000" and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 11209. ENROLLED AGENTS INCLUDED AS THIRD-PARTY RECORDKEEPERS.

(a) IN GENERAL.—Paragraph (3) of section 7609(a) (relating to third-party recordkeeper defined) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting "; and", and by adding at the end the following the subparagraph:

"(I) any enrolled agent."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses issued after the date of the enactment of this Act.

SEC. 11210. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.

"Not less often than annually, the Secretary shall send a written notice to each taxpayer who has a tax delinquent account of the amount of the tax delinquency as of the date of the notice."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7524. Annual notice of tax delinquency."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1995.

Subtitle G—Casualty and Involuntary Conversion Provisions

SEC. 11251. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER INVOLUNTARY CONVERSION RULES.

(a) IN GENERAL.—Subsection (b) of section 1033 is amended to read as follows:

"(b) BASIS OF PROPERTY ACQUIRED THROUGH INVOLUNTARY CONVERSION.—

"(1) CONVERSIONS DESCRIBED IN SUBSECTION (a)(1).—If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—

"(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and

"(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

"(2) CONVERSIONS DESCRIBED IN SUBSECTION (a)(2).—In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

"(3) PROPERTY HELD BY CORPORATION THE STOCK OF WHICH IS REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—If the basis of stock in a corporation is decreased under paragraph (2), an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.

"(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).

"(C) ALLOCATION OF BASIS REDUCTION.—The decrease required under subparagraph (A) shall be allocated—

"(i) first to property which is similar or related in service or use to the converted property,

"(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and

"(iii) then to other property.

"(D) SPECIAL RULES.—

"(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).

"(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subparagraph (C), the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of such property (as so determined).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.

SEC. 11252. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:

"(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

"(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

"(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) a C corporation,

"(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined

in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

"(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000.

In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.

SEC. 11253. SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.

(a) IN GENERAL.—Section 451(d) (relating to special rule for crop insurance proceeds and disaster payments) is amended to read as follows:

"(d) SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.—

"(1) GENERAL RULE.—In the case of any payment described in paragraph (2), a taxpayer reporting on the cash receipts and disbursements method of accounting—

"(A) may elect to treat any such payment received in the taxable year of destruction or damage of crops as having been received in the following taxable year if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in a following taxable year, or

"(B) may elect to treat any such payment received in a taxable year following the taxable year of the destruction or damage of crops as having been received in the taxable year of destruction or damage, if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in the taxable year of destruction or damage.

"(2) PAYMENTS DESCRIBED.—For purposes of this subsection, a payment is described in this paragraph if such payment—

"(A) is insurance proceeds received on account of destruction or damage to crops, or

"(B) is disaster assistance received under any Federal law as a result of—

"(i) destruction or damage to crops caused by drought, flood, or other natural disaster, or

"(ii) inability to plant crops because of such a disaster.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to payments received after December 31, 1992, as a result of destruction or damage occurring after such date.

SEC. 11254. APPLICATION OF INVOLUNTARY EXCLUSION RULES TO PRESIDENTIALLY DECLARED DISASTERS.

(a) IN GENERAL.—Section 1033(h) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following new paragraph:

"(2) TRADE OR BUSINESS AND INVESTMENT PROPERTY.—If a taxpayer's property held for productive use in a trade or business or for investment is compulsorily or involuntarily converted as a result of a Presidentially declared disaster, tangible property of a type held for productive use in a trade or business shall be treated for purposes of subsection (a) as property similar or related in use to the property so converted.".

(b) CONFORMING AMENDMENTS.—Section 1033(h) is amended—

(1) by striking "residence" in paragraph (3) (as redesignated by subsection (a)) and inserting "property",

(2) by striking "Principal Residences" in the heading and inserting "Property", and

(3) by striking "(1) IN GENERAL.—" and inserting "(1) PRINCIPAL RESIDENCES.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters declared after December 31, 1994, in taxable years ending after such date.

Subtitle H—Exempt Organizations and Charitable Reforms

CHAPTER 1—EXCISE TAX ON AMOUNTS OF PRIVATE EXCESS BENEFITS

SEC. 11271. EXCISE TAXES FOR FAILURE BY CERTAIN CHARITABLE ORGANIZATIONS TO MEET CERTAIN QUALIFICATION REQUIREMENTS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:

"Subchapter D—Failure By Certain Charitable Organizations To Meet Certain Qualification Requirements

"Sec. 4958. Taxes on excess benefit transactions.

"SEC. 4958. TAXES ON EXCESS BENEFIT TRANSACTIONS.

"(a) INITIAL TAXES.—

"(1) ON THE DISQUALIFIED PERSON.—There is hereby imposed on each excess benefit transaction a tax equal to 25 percent of the excess benefit. The tax imposed by this paragraph shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

"(2) ON THE MANAGEMENT.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any organization manager in the excess benefit transaction, knowing that it is such a transaction, a tax equal to 10 percent of the excess benefit, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the excess benefit transaction.

"(b) ADDITIONAL TAX ON THE DISQUALIFIED PERSON.—In any case in which an initial tax is imposed by subsection (a)(1) on an excess benefit transaction and the excess benefit involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess benefit involved. The tax imposed by this subsection shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

"(c) EXCESS BENEFIT TRANSACTION; EXCESS BENEFIT.—For purposes of this section—

"(1) EXCESS BENEFIT TRANSACTION.—

"(A) IN GENERAL.—The term 'excess benefit transaction' means any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.

"(B) EXCESS BENEFIT.—The term 'excess benefit' means the excess referred to in subparagraph (A).

"(2) AUTHORITY TO INCLUDE CERTAIN OTHER PRIVATE INUREMENT.—To the extent provided in regulations prescribed by the Secretary, the term 'excess benefit transaction' includes any transaction in which the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the revenues of 1 or more activities of the organization but only if such transaction results in inurement not permitted under paragraph (3) or (4) of section 501(c), as the case may be. In the case of any such transaction, the excess benefit shall be the amount of the inurement not so permitted.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable for any tax imposed by subsection (a) or subsection (b), all such persons shall be jointly and severally liable for such tax.

"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 excess benefit transaction, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.

"(e) APPLICABLE TAX-EXEMPT ORGANIZATION.—For purposes of this subchapter, the term 'applicable tax-exempt organization' means—

"(1) any organization which (without regard to any excess benefit) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), and

"(2) any organization which was described in paragraph (1) at any time during the 2-year period ending on the date of the transaction.

Such term shall not include a private foundation (as defined in section 509(a)).

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) DISQUALIFIED PERSON.—The term 'disqualified person' means, with respect to any transaction—

"(A) any person who was, at any time during the 5-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization,

"(B) a member of the family of an individual described in subparagraph (A), and

"(C) a 35-percent controlled entity.

"(2) ORGANIZATION MANAGER.—The term 'organization manager' means, with respect to any applicable tax-exempt organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).

"(3) 35-PERCENT CONTROLLED ENTITY.—

"(A) IN GENERAL.—The term '35-percent controlled entity' means—

"(i) a corporation in which persons described in subparagraph (A) or (B) of paragraph (1) own more than 35 percent of the total combined voting power,

"(ii) a partnership in which such persons own more than 35 percent of the profits interest, and

"(iii) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

"(B) CONSTRUCTIVE OWNERSHIP RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this paragraph.

"(4) FAMILY MEMBERS.—The members of an individual's family shall be determined under section 4946(d); except that such members also shall include the brothers and sisters (whether by the whole or half blood) of the individual and their spouses.

"(5) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess benefit transaction, the period beginning with the date on which the transaction occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed.

"(6) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any excess benefit transaction, undoing the excess benefit to the

extent possible, and where fully undoing the excess benefit is not possible, such additional corrective action as is prescribed by the Secretary by regulations."

(b) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—

(1) Paragraph (4) of section 501(c) is amended by inserting "(A)" after "(4)" and by adding at the end the following:

"(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual."

(2) In the case of an organization operating on a cooperative basis which, before the date of the enactment of this Act, was determined by the Secretary of the Treasury or his delegate, to be described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, the allocation or return of net margins or capital to the members of such organization in accordance with its incorporating statute and bylaws shall not be treated for purposes of such Code as the inurement of the net earnings of such organization to the benefit of any private shareholder or individual. The preceding sentence shall apply only if such statute and bylaws are substantially as such statute and bylaws were in existence on the date of the enactment of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4955 is amended—

(A) by striking "SECTION 4945" in the heading and inserting "SECTIONS 4945 and 4958", and

(B) by inserting before the period "or an excess benefit for purposes of section 4958".

(2) Subsections (a), (b), and (c) of section 4963 are each amended by inserting "4958," after "4955,".

(3) Subsection (e) of section 6213 is amended by inserting "4958 (relating to private excess benefit)," before "4971".

(4) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting "4958," after "4955,".

(5) Subsection (b) of section 7454 is amended by inserting "or whether an organization manager (as defined in section 4958(f)(2)) has 'knowingly' participated in an excess benefit transaction (as defined in section 4958(c))," after "section 4912(b),".

(6) The table of subchapters for chapter 42 is amended by striking the last item and inserting the following:

"Subchapter D. Failure by certain charitable organizations to meet certain qualification requirements.

"Subchapter E. Abatement of first and second tier taxes in certain cases."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (b)) shall apply to excess benefit transactions occurring on or after September 14, 1995.

(2) BINDING CONTRACTS.—The amendments referred to in paragraph (1) shall not apply to any benefit arising from a transaction pursuant to any written contract which was binding on September 13, 1995, and at all times thereafter before such transaction occurred.

(3) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to inurement occurring on or after September 14, 1995.

(B) BINDING CONTRACTS.—The amendment made by subsection (b) shall not apply to any inurement occurring before January 1, 1997, pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such inurement occurred.

SEC. 11272. REPORTING OF CERTAIN EXCISE TAXES AND OTHER INFORMATION.

(a) REPORTING BY ORGANIZATIONS DESCRIBED IN SECTION 501(c)(3).—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) is amended by striking "and" at the end of paragraph (9), by redesignating paragraph (10) as paragraph (14), and by inserting after paragraph (9) the following new paragraphs:

"(10) the respective amounts (if any) of the taxes paid by the organization during the taxable year under the following provisions:

"(A) section 4911 (relating to tax on excess expenditures to influence legislation),

"(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations), and

"(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations),

"(11) the respective amounts (if any) of the taxes paid by the organization, or any disqualified person with respect to such organization, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations),

"(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),

"(13) the name of each disqualified person (as defined in section 4958(f)(1)(A)) with respect to such organization and such other information as the Secretary may prescribe, and".

(b) ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Section 6033 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after the date of the enactment of this Act.

SEC. 11273. INCREASE IN PENALTIES ON EXEMPT ORGANIZATIONS FOR FAILURE TO FILE COMPLETE AND TIMELY ANNUAL RETURNS.

(a) IN GENERAL.—Subparagraph (A) of section 6652(c)(1) (relating to annual returns under section 6033) is amended by striking "$10" and inserting "$20" and by striking "$5,000" and inserting "$10,000".

(b) LARGER PENALTY ON ORGANIZATIONS HAVING GROSS RECEIPTS IN EXCESS OF $1,000,000.—Subparagraph (A) of section 6652(c)(1) is amended by adding at the end the following new sentence: "In the case of an organization having gross receipts exceeding $1,000,000 for any year, with respect to the return required under section 6033 for such year, the first sentence of this subparagraph shall be applied by substituting '$100' for '$20' and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed $50,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years ending on or after December 31, 1995.

CHAPTER 2—OTHER PROVISIONS

SEC. 11276. COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—

"(1) IN GENERAL.—For purposes of this title, if an organization—

"(A) is organized and operated solely for purposes referred to in subsection (f)(1),

"(B) is composed solely of members which are exempt from taxation under subsection (a) and are—

"(i) private foundations, or

"(ii) community foundations as to which section 170(b)(1)(A)(vi) applies,

"(C) has at least 20 members,

"(D) does not at any time after the second taxable year beginning after the date of its organization or, if later, beginning after the date of the enactment of this subsection, have a member which holds more than 10 percent (by value) of the interests in the organization,

"(E) is organized and controlled by its members but is not controlled by any one member and does not have a member which controls another member of the organization, and

"(F) permits members of the organization to require the dismissal of any of the organization's investment advisers, following reasonable notice, if members holding a majority of interest in the account managed by such adviser vote to remove such adviser,

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's allocable share of the capital gain net income and gross investment income of the organization for any taxable year of the organization shall be treated, for purposes of section 4940, as capital gain net income and gross investment income of such private foundation (whether or not distributed to such foundation) for the taxable year of such private foundation with or within which the taxable year of the organization described in paragraph (1) ends (and such private foundation shall take into account its allocable share of the deductions referred to in section 4940(c)(3) of the organization).

"(3) APPLICABLE EXCISE TAXES.—Subchapter A of chapter 42 (other than sections 4940 and 4942) shall apply to any organization described in paragraph (1).".

(b) CONFORMING AMENDMENTS.—

(1) Section 4945(d) is amended by adding at the end the following new flush sentence:

"Paragraph (4)(B) shall not apply to a grant to an organization described in section 501(n)."

(2) Section 4942(g)(1)(A) is amended by inserting "or an organization described in section 501(n)" after "subsection (j)(3))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 11277. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business income) is amended by adding at the end the following new subsection:

"(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments.

"(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified sponsorship payment' means any payment made by any person engaged in a trade or business with

respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the name or logo (or product lines) of such person's trade or business in connection with the activities of the organization that receives such payment. Such a use or acknowledgement does not include advertising such person's products or services (including messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services).

"(B) LIMITATIONS.—

"(i) CONTINGENT PAYMENTS.—The term 'qualified sponsorship payment' does not include any payment if the amount of such payment is contingent upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events.

"(ii) ACKNOWLEDGEMENTS OR ADVERTISING IN PERIODICALS.—The term 'qualified sponsorship payment' does not include any payment which entitles the payor to an acknowledgement or advertising in regularly scheduled and printed material published by or on behalf of the payee organization that is not related to and primarily distributed in connection with a specific event conducted by the payee organization.

"(3) ALLOCATION OF PORTIONS OF SINGLE PAYMENT.—For purposes of this subsection, to the extent that a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, such portion of such payment and the other portion of such payment shall be treated as separate payments.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments solicited or received after December 31, 1995.

SEC. 11278. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.

(a) GENERAL RULE.—Section 512 (defining unrelated business taxable income) is amended by adding at the end the following new subsection:

"(d) TREATMENT OF DUES OF AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.—

"(1) IN GENERAL.—If—

"(A) an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and

"(B) the amount of such required annual dues does not exceed $100,

in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.

"(2) INDEXATION OF $100 AMOUNT.—In the case of any taxable year beginning in a calendar year after 1995, the $100 amount in paragraph (1) shall be increased by an amount equal to—

"(A) $100, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof.

"(3) DUES.—For purposes of this subsection, the term 'dues' means any payment required to be made in order to be recognized by the organization as a member of the organization.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 11279. REPEAL OF CREDIT FOR CONTRIBUTIONS TO COMMUNITY DEVELOPMENT CORPORATIONS.

(a) IN GENERAL.—Section 13311 of the Revenue Reconciliation Act of 1993 (relating to credit for contributions to certain community development corporations) is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act (other than contributions made pursuant to a legally enforceable agreement which is effect on the date of the enactment of this Act).

Subtitle I—Tax Reform and Other Provisions

CHAPTER 1—PROVISIONS RELATING TO BUSINESSES

SEC. 11301. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received.".

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

"(A) REDEMPTIONS.—In the case of any redemption of stock—

"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

"(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A).".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting "September 13, 1995" for "May 3, 1995".

SEC. 11302. REGISTRATION OF CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—

"(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

"(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a direct or indirect participant which is a corporation,

"(B) which is offered to any potential participant under conditions of confidentiality, and

"(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.

"(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

"(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

"(B) any promoter of the tax shelter—

"(i) claims, knows, or has reason to know,

"(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

"(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

"(3) PERSONS OTHER THAN PROMOTER REQUIRED TO REGISTER IN CERTAIN CASES.—

"(A) IN GENERAL.—If—

"(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

"(ii) no tax shelter promoter is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

"(i) such person notified the promoter in writing (not later than the close of the 90th day after the day on which such discussions began) that such person would not participate in such shelter, and

"(ii) such person does not participate in such shelter.

"(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale.".

(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

"(3) CONFIDENTIAL ARRANGEMENTS.—

"(A) IN GENERAL.—In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

"(i) 50 percent of the fees paid to any promoter of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

"(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

"(B) SPECIAL RULE FOR PARTICIPANTS REQUIRED TO REGISTER SHELTER.—In the case of a *person required to register such a tax shelter by reason of section 6111(d)(3)—*

"(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

"(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

"(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6707(a) is amended by striking "The penalty" and inserting "Except as provided in paragraph (3), the penalty".

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3), as the case may be".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.

SEC. 11303. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED INSURANCE.

(a) IN GENERAL.—Paragraph (4) of section 264(a) is amended—

(1) by inserting ", or any endowment or annuity contracts owned by the taxpayer covering any individual," after "the life of any individual", and

(2) by striking all that follows "carried on by the taxpayer" and inserting a period.

(b) EXCEPTION FOR CONTRACTS RELATING TO KEY PERSONS; PERMISSIBLE INTEREST RATES.—Section 264 is amended—

(1) by striking "Any" in subsection (a)(4) and inserting "Except as provided in subsection (d), any", and

(2) by adding at the end the following new subsection:

"(d) SPECIAL RULES FOR APPLICATION OF SUBSECTION (a)(4).—

"(1) EXCEPTION FOR KEY PERSONS.—Subsection (a)(4) shall not apply to any interest paid or accrued on any indebtedness with respect to policies or contracts covering an individual who is a key person to the extent that the aggregate amount of such indebtedness with respect to policies and contracts covering such individual does not exceed $50,000.

"(2) INTEREST RATE CAP ON KEY PERSONS AND PRE-1986 CONTRACTS.—

"(A) IN GENERAL.—No deduction shall be allowed by reason of paragraph (1) or the last sentence of subsection (a) with respect to interest paid or accrued for any month to the extent the amount of such interest exceeds the amount which would have been determined if the applicable rate of interest were used for such month.

"(B) APPLICABLE RATE OF INTEREST.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The applicable rate of interest for any month is the rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

"(ii) PRE-1986 CONTRACT.—In the case of indebtedness on a contract to which the last sentence of subsection (a) applies—

"(I) which is a contract providing a fixed rate of interest, the applicable rate of interest for any month shall be the Moody's rate described in clause (i) for the month in which the contract was purchased, or

"(II) which is a contract providing a variable rate of interest, the applicable rate of interest for any month in an applicable period shall be such Moody's rate for the last month preceding such period.

For purposes of subclause (II), the taxpayer shall elect an applicable period for such contract on its return of tax imposed by this chapter for its first taxable year ending on or after October 13, 1995. Such applicable period shall be for any number of months (not greater than 12) specified in the election and may not be changed by the taxpayer without the consent of the Secretary.

"(3) KEY PERSON.—For purposes of paragraph (1), the term 'key person' means an officer or 20-percent owner, except that the number of individuals who may be treated as key persons with respect to any taxpayer shall not exceed the greater of—

"(A) 5 individuals, or

"(B) the lesser of 5 percent of the total officers and employees of the taxpayer or 10 individuals.

"(4) 20-PERCENT OWNER.—For purposes of this subsection, the term '20-percent owner' means—

"(A) if the taxpayer is a corporation, any person who owns directly 20 percent or more of the outstanding stock of the corporation or stock possessing 20 percent or more of the total combined voting power of all stock of the corporation, or

"(B) if the taxpayer is not a corporation, any person who owns 20 percent or more of the capital or profits interest in the employer.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of paragraph (4)(A) and applying the $50,000 limitation in paragraph (1)—

"(i) all members of a controlled group shall be treated as 1 taxpayer, and

"(ii) such limitation shall be allocated among the members of such group in such manner as the Secretary may prescribe.

"(B) CONTROLLED GROUP.—For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as members of a controlled group.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to interest paid or accrued after December 31, 1995.

(2) TRANSITION RULE FOR EXISTING INDEBTEDNESS.—

(A) IN GENERAL.—In the case of—

(i) indebtedness incurred before January 1, 1996, or

(ii) indebtedness incurred before January 1, 1997 with respect to any contract or policy entered into in 1994 or 1995,

the amendments made by this section shall not apply to qualified interest paid or accrued on such indebtedness after October 13, 1995, and before January 1, 1999.

(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the qualified interest with respect to any indebtedness for any month is the amount of interest which would be paid or accrued for such month on such indebtedness if—

(i) in the case of any interest paid or accrued after December 31, 1995, indebtedness with respect to no more than 20,000 insured individuals were taken into account, and

(ii) the lesser of the following rates of interest were used for such month:

(I) The rate of interest specified under the terms of the indebtedness as in effect on October 13, 1995 (and without regard to modification of such terms after such date).

(II) The applicable percentage rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

For purposes of clause (i), all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 or subsection (m) or (o) of section 414 of such Code shall be treated as one person.

(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (B), the applicable percentage is as follows:

For calendar year:	***The percentage is:***
1995	*100 percent*
1996	*90 percent*
1997	*80 percent*
1998	*70 percent.*

(3) SPECIAL RULE FOR GRANDFATHERED CONTRACTS.—This section shall not apply to any contract purchased on or before June 20, 1986, except that section 264(d)(2) of the Internal Revenue Code of 1986 shall apply to interest paid or accrued after October 13, 1995.

(d) SPREAD OF INCOME INCLUSION ON SURRENDER, ETC. OF CONTRACTS.—

(1) IN GENERAL.—If any amount is received under any life insurance policy or endowment or annuity contract described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986—

(A) on the complete surrender, redemption, or maturity of such policy or contract during calendar year 1996, 1997, or 1998, or

(B) in full discharge during any such calendar year of the obligation under the policy or contract which is in the nature of a refund of the consideration paid for the policy or contract,

then (in lieu of any other inclusion in gross income) such amount shall be includible in gross income ratably over the 4-taxable year period beginning with the taxable year such amount would (but for this paragraph) be includible. The preceding sentence shall only apply to the extent the amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.

(2) SPECIAL RULES FOR APPLYING SECTION 264.—A contract shall not be treated as—

(A) failing to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986, or

(B) a single premium contract under section 264(b)(1) of such Code,

solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (1) of this subsection or solely by reason of no additional premiums being received under the contract by reason of a lapse occurring after October 13, 1995.

(3) SPECIAL RULE FOR DEFERRED ACQUISITION COSTS.—In the case of the occurrence of any event described in subparagraph (A) or (B) of paragraph (1) of this subsection with respect to any policy or contract—

(A) section 848 of the Internal Revenue Code of 1986 shall not apply to the unamortized balance (if any) of the specified policy acquisition expenses attributable to such policy or contract immediately before the insurance company's taxable year in which such event occurs, and

(B) there shall be allowed as a deduction to such company for such taxable year under chapter 1 of such Code an amount equal to such unamortized balance.

SEC. 11304. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end the following new paragraph:

"(7) TERMINATION.—

"(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after September 13, 1995.

"(B) 20-YEAR PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—Each suspense account under this subsection shall be reduced (but not below zero) for each of the first 20 taxable years beginning after September 13, 1995, by an amount equal to the applicable portion of such account. Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction. The amount of the reduction required under this paragraph for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.

"(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after September 13, 1995.

SEC. 11305. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

"(j) TERMINATION.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall not apply to any taxable year beginning after December 31, 1995.

"(2) TRANSITION RULES FOR ACTIVE BUSINESS INCOME CREDIT.—Except as provided in paragraph (3)—

"(A) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) does not apply, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2002.

"(B) SPECIAL RULE FOR REDUCED CREDIT.—

"(i) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 1998.

"(ii) ELECTION IRREVOCABLE AFTER 1997.—An election under subsection (a)(4)(B)(iii) which is in effect for the taxpayer's last taxable year beginning before 1997 may not be revoked unless it is revoked for the taxpayer's first taxable year beginning in 1997 and all subsequent taxable years.

"(3) ADDITIONAL RESTRICTED CREDIT.—

"(A) IN GENERAL.—In the case of an existing credit claimant—

"(i) the credit under subsection (a)(1)(A) shall be allowed for the period beginning with the first taxable year after the last taxable year to which subparagraph (A) or (B) of paragraph (2), whichever is appropriate, applied and ending with the last taxable year beginning before January 1, 2006, except that

"(ii) the aggregate amount of taxable income taken into account under subsection (a)(1)(A) for any such taxable year shall not exceed the adjusted base period income of such claimant.

"(B) COORDINATION WITH SUBSECTION (a)(4).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4) shall be such income as reduced under this paragraph.

"(4) ADJUSTED BASE PERIOD INCOME.—For purposes of paragraph (3)—

"(A) IN GENERAL.—The term 'adjusted base period income' means the average of the inflation-adjusted possession incomes of the corporation for each base period year.

"(B) INFLATION-ADJUSTED POSSESSION INCOME.—For purposes of subparagraph (A), the inflation-adjusted possession income of any corporation for any base period year shall be an amount equal to the sum of—

"(i) the possession income of such corporation for such base period year, plus

"(ii) such possession income multiplied by the inflation adjustment percentage for such base period year.

"(C) INFLATION ADJUSTMENT PERCENTAGE.—For purposes of subparagraph (B), the inflation adjustment percentage for any base period year means the percentage (if any) by which—

"(i) the CPI for 1995, exceeds

"(ii) the CPI for the calendar year in which the base period year for which the determination is being made ends.

For purposes of the preceding sentence, the CPI for any calendar year is the CPI (as defined in section 1(f)(5)) for such year under section 1(f)(4).

"(D) INCREASE IN INFLATION ADJUSTMENT PERCENTAGE FOR GROWTH DURING BASE YEARS.—The inflation adjustment percentage (determined under subparagraph (C) without regard to this subparagraph) for each of the 5 taxable years referred to in paragraph (5)(A) shall be increased by—

"(i) 5 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1995;

"(ii) 10.25 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1994;

"(iii) 15.76 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1993;

"(iv) 21.55 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1992; and

"(v) 27.63 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1991.

"(5) BASE PERIOD YEAR.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'base period year' means each of 3 taxable years which are among the 5 most recent taxable years of the corporation ending before October 14, 1995, determined by disregarding—

"(i) one taxable year for which the corporation had the largest inflation-adjusted possession income, and

"(ii) one taxable year for which the corporation had the smallest inflation-adjusted possession income.

"(B) CORPORATIONS NOT HAVING SIGNIFICANT POSSESSION INCOME THROUGHOUT 5-YEAR PERIOD.—

"(i) IN GENERAL.—If a corporation does not have significant possession income for each of the most recent 5 taxable years ending before October 14, 1995, then, in lieu of applying subparagraph (A), the term 'base period year' means only those taxable years (of such 5 taxable years) for which the corporation has significant possession income; except that, if such corporation has significant possession income for 4 of such 5 taxable years, the rule of subparagraph (A)(ii) shall apply.

"(ii) SPECIAL RULE.—If there is no year (of such 5 taxable years) for which a corporation has significant possession income—

"(I) the term 'base period year' means the first taxable year ending on or after October 14, 1995, but

"(II) the amount of possession income for such year which is taken into account under paragraph (4) shall be the amount which would be determined if such year were a short taxable year ending on September 30, 1995.

"(iii) SIGNIFICANT POSSESSION INCOME.—For purposes of this subparagraph, the term 'significant possession income' means possession income which exceeds 2 percent of the possession income of the taxpayer for the taxable year (of the period of 6 taxable years ending with the first taxable year ending on or after October 14, 1995) having the greatest possession income.

"(C) ELECTION TO USE ONE BASE PERIOD YEAR.—

"(i) IN GENERAL.—At the election of the taxpayer, the term 'base period year' means—

"(I) only the last taxable year of the corporation ending in calendar year 1992, or

"(II) a deemed taxable year which includes the first ten months of calendar year 1995.

"(ii) BASE PERIOD INCOME FOR 1995.—In determining the adjusted base period income of the corporation for the deemed taxable year under clause (i)(II), the possession income shall be annualized and shall be determined without regard to any extraordinary item.

"(iii) ELECTION.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1995, for which it is a possession corporation. The rules of subclauses (II) and (III) of subsection (a)(4)(B)(iii) shall apply to the election under this subparagraph.

"(D) ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this subsection.

"(6) POSSESSION INCOME.—For purposes of this subsection, the term 'possession income' means the income referred to in subsection (a)(1)(A), except that there shall not be taken into account any such income from an applicable possession (as defined in paragraph (8)(B)). In no event shall possession income be treated as being less than zero.

"(7) SHORT YEARS.—If the current year or a base period year is a short taxable year, the application of this subsection shall be made with such annualizations as the Secretary shall prescribe.

"(8) SPECIAL RULES FOR CERTAIN POSSESSIONS.—

"(A) IN GENERAL.—In the case of an existing credit claimant with respect to an applicable possession, this section (other than the preceding paragraphs of this subsection) shall apply to taxable years beginning after December 31, 1995, and before January 1, 2006.

"(B) APPLICABLE POSSESSION.—For purposes of this paragraph, the term 'applicable possession' means Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(9) EXISTING CREDIT CLAIMANT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'existing credit claimant' means a corporation—

"(i) which was actively conducting a trade or business in a possession on October 13, 1995, and

"(ii) with respect to which an election under this section is in effect for the corporation's taxable year which includes October 13, 1995.

"(B) NEW LINES OF BUSINESS PROHIBITED.—If, after October 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant adds a substantial new line of business, such corporation shall cease to be treated as an existing credit claimant as of the close of the taxable year ending before the date of such addition.

"(C) BINDING CONTRACT EXCEPTION.—If, on October 13, 1995, and at all times thereafter, there is in effect with respect to a corporation a binding contract for the acquisition of assets to be used in, or for the sale of assets to be produced from, a trade or business, the corporation shall be treated for purposes of this paragraph as actively conducting such trade or business on October 13, 1995. The preceding sentence shall not apply if such trade or business is not actively conducted before January 1, 1996.

"(D) SPECIAL RULE FOR APPLICABLE POSSESSIONS.—In determining under paragraph (8) whether a taxpayer is an existing credit claimant with respect to an applicable possession, this paragraph shall be applied separately with respect to such possession."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11306. DEPRECIATION UNDER INCOME FORECAST METHOD.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DEPRECIATION UNDER INCOME FORECAST METHOD.—

"(1) IN GENERAL.—If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method or any similar method—

"(A) in determining the amount of the depreciation deduction under such method, the estimated income from the property shall include all income earned before the close of the 10th taxable year following the taxable year in which the property was placed in service in connection with the ultimate use of the property by, or the ultimate sale of merchandise to, persons who are not related persons (within the meaning of section 267(b)) to the taxpayer,

"(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,

"(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and

"(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

"(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

"(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income with respect to such property)—

"(i) the actual income from such property for periods before the close of the recomputation year, and

"(ii) an estimate of the future income with respect to such property for periods after the recomputation year,

"(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such prior taxable year which would result solely from the application of subparagraph (A), and

"(C) then using the adjusted overpayment rate (as defined in section 460(b)(7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a separate property under paragraph (5)) shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.

"(3) EXCEPTION FROM LOOK-BACK METHOD.—Paragraph (1)(D) shall not apply with respect to any property which, when placed in service by the taxpayer, had a basis of $100,000 or less.

"(4) RECOMPUTATION YEAR.—For purposes of this subsection, except as provided in regulations, the term 'recomputation year' means, with respect to any property, the third and the 10th taxable years beginning after the taxable year in which the property was placed in service, unless the actual income from the property for the period before the close of such third or 10th taxable year is within 10 percent of the estimated income from the property for such period which was taken into account under paragraph (1)(A).

"(5) SPECIAL RULES.—

"(A) CERTAIN COSTS TREATED AS SEPARATE PROPERTY.—For purposes of this subsection, the following costs shall be treated as separate properties:

"(i) Any costs incurred with respect to any property after the 10th taxable year beginning after the taxable year in which the property was placed in service.

"(ii) Any costs incurred after the property is placed in service and before the close of such 10th taxable year if such costs are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.

"(B) SYNDICATION INCOME FROM TELEVISION SERIES.—In the case of property which is an episode in a television series, income from syndicating such series shall not be required to be taken into account under this subsection before the earlier of—

"(i) the 4th taxable year beginning after the date the first episode in such series is placed in service, or

"(ii) the earliest taxable year in which the taxpayer has an arrangement relating to the future syndication of such series.

"(C) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

"(D) DETERMINATIONS.—For purposes of paragraph (2), determinations of the amount of income from any property shall be determined in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.

"(E) TREATMENT OF PASS-THRU ENTITIES.—Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to property placed in service after September 13, 1995.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property produced or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such production or acquisition.

SEC. 11307. TRANSFERS OF EXCESS PENSION ASSETS.

(a) IN GENERAL.—Section 420 (relating to transfers of excess pension assets to retiree health accounts) is amended by adding at the end the following new subsection:

"(f) SIMILAR RULES TO APPLY TO OTHER TRANSFERS OF EXCESS PLAN ASSETS.—

"(1) IN GENERAL.—If there is a qualified employee benefit transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to an employer—

"(A) a trust which is part of such plan shall not be treated as failing to meet the requirements of section 401(a) solely by reason of such transfer (or any other action authorized under this section), and

"(B) such transfer shall not be treated as—

"(i) an employer reversion for purposes of section 4980, or

"(ii) a prohibited transaction for purposes of section 4975.

The gross income of the employer shall include the amount of any qualified employee benefit transfer made during the taxable year.

"(2) QUALIFIED EMPLOYEE BENEFIT TRANSFER.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified employee benefit transfer' means a transfer—

"(i) of excess pension assets of a defined benefit plan to the employer, and

"(ii) with respect to which—

"(I) the use requirements of paragraph (3) are met, and

"(II) the requirements of subsection (c)(2)(A) are met (determined by treating such transfer as a qualified transfer).

"(B) LIMITATION ON AMOUNTS TRANSFERRED.—The amount of excess pension assets which may be transferred in qualified employee benefit transfers during any taxable year shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) during the taxable year for qualified current employee benefit liabilities.

"(C) COORDINATION WITH TRANSFERS TO RETIREE HEALTH ACCOUNTS.—Such term shall not include any qualified transfer (as defined in subsection (b)).

"(D) EXPIRATION.—No transfer in any taxable year beginning after December 31, 2001, shall be treated as a qualified employee benefit transfer.

"(3) RESTRICTIONS ON USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to an employer in a qualified employee benefit transfer shall be used only to pay qualified current employee benefit liabilities for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY BENEFITS.—An employer shall transfer to a plan an amount equal to any assets transferred out of the plan in a qualified employee benefit transfer which are not used as provided in subparagraph (A). Such amount shall be treated in the same manner as amounts are treated under subsection (c)(1)(B), except that allocable income shall be determined by using the Federal short-term rate under section 1274(d).

"(C) QUALIFIED CURRENT EMPLOYEE BENEFIT LIABILITIES.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'qualified current employee benefit liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) for which a deduction is allowable to the employer for such taxable year with respect to applicable employee benefits.

"(ii) APPLICABLE EMPLOYEE BENEFITS.—The term 'applicable employee benefits' means—

"(I) contributions to a trust described in section 401(a) which is exempt from tax under section 501(a),

"(II) benefits under an accident or health plan (within the meaning of section 105),

"(III) disability benefits,

"(IV) benefits under an educational assistance program of the employer described in section 127(b), and

"(V) benefits under a dependent care assistance program of the employer described in section 129(d).

"(4) DEFINITION AND SPECIAL RULES.—For purposes of this subsection—

"(A) EXCESS PENSION ASSETS.—The term 'excess pension assets' has the meaning given such term by subsection (e)(2).

"(B) COORDINATION WITH SECTION 412.—In the case of a qualified employee benefit transfer—

"(i) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412, be treated as assets in the plan as of the valuation date for such year, and

"(ii) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) in an amount equal to the amount of such transfer and for which amortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) EXCESS ASSETS.—Section 420(e)(2) is amended to read as follows:

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i)(II), or

"(ii) 125 percent of termination liability determined under section 414(l), except that the actuarial assumptions used in making such determinations shall be the assumptions used by the Pension Benefit Guaranty Corporation for single-employer plan termination purposes under regulations under title IV of the Employee Retirement Income Security Act of 1974.

The determination under the preceding sentence with respect to any transfer shall be made as of the date of the transfer. No substantial changes in the regulations described in clause (ii) which are made after the date of the enactment of the Revenue Reconciliation Act of 1995 shall be taken into account for purposes of such clause."

(c) TAXPAYERS IN BANKRUPTCY MAY NOT MAKE TRANSFERS.—Section 420(e) is amended by adding at the end the following new paragraph:

"(5) EXCLUSION OF TAXPAYERS IN BANKRUPTCY.—No qualified transfer or qualified employee benefit transfer may be made under this section by a taxpayer if—

"(A) the taxpayer has filed, or has had filed against it, a petition in a title 11 or similar case (within the meaning of section 368(a)(3)), and

"(B) such case is still pending."

(d) CONFORMING AMENDMENTS TO ERISA.—

(1) NOTICE.—Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)) is amended—

(A) by inserting "or a qualified employee benefit transfer," after "to a health benefits account," in paragraphs (1) and (2)(A),

(B) by inserting "or qualified employee benefits" after "the amount of health benefits liabilities" in paragraph (1),

(C) in paragraph (3)—

(i) by striking "January 1, 1995" and inserting "the date of the enactment of the Revenue Reconciliation Act of 1995", and

(ii) by striking "paragraph (1)" and inserting "this subsection", and

(D) by striking "TO HEALTH BENEFITS ACCOUNTS" in the heading.

(2) EXCLUSIVE BENEFIT.—Paragraph (1) of section 403(c) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "January 1, 1995" and inserting "the date of the enactment of the Revenue Reconciliation Act of 1995".

(3) EXEMPTION FROM PROHIBITED TRANSACTION.—Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—

(A) by striking "retiree health account" and inserting "health benefits account",

(B) by inserting before the period at the end ", or any transfer of such assets in a taxable year beginning before January 1, 2002, in a qualified employee benefit transfer permitted under such section 420", and

(C) by striking "January 1, 1995" and inserting "the date of the enactment of the Revenue Reconciliation Act of 1995".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers on and after the date of the enactment of this Act.

(2) QUALIFIED TRANSFERS.—To the extent the amendments made by subsections (b), (c), and (d) apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act), such amendments shall apply to transfers occurring after December 31, 1995.

SEC. 11308. REPEAL OF EXCLUSION FOR INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) IN GENERAL.—Section 133 (relating to interest on certain loans used to acquire employer securities) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 291(e)(1) is amended by striking clause (iv) and by redesignating clause (v) as clause (iv).

(2) Section 812 is amended by striking subsection (g).

(3) Paragraph (5) of section 852(b) is amended by striking subparagraph (C).

(4) Paragraph (2) of section 4978(b) is amended by striking subparagraph (A) and all that follows and inserting the following:

"(A) first from qualified securities to which section 1042 applied acquired during the 3-year period ending on the date of the disposition, beginning with the securities first so acquired, and

"(B) then from any other employer securities. If subsection (d) applies to a disposition, the disposition shall be treated as made from employer securities in the opposite order of the preceding sentence.".

(5)(A) Section 4978B (relating to tax on disposition of employer securities to which section 133 applied) is hereby repealed.

(B) The table of sections for chapter 43 is amended by striking the item relating to section 4978B.

(6) Subsection (e) of section 6047 is amended by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock, or

"(2) both such employer or plan administrator,".

(7) Subsection (f) of section 7872 is amended by striking paragraph (12).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans made after October 13, 1995.

(2) REFINANCINGS.—The amendments made by this section shall not apply to loans made after October 13, 1995, to refinance securities acquisition loans (determined without regard to section 133(b)(1)(B) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) made on or before such date or to refinance loans described in this paragraph if—

(A) the refinancing loans meet the requirements of section 133 of such Code (as so in effect),

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the last day of the term of the original securities acquisition loan.

For purposes of this paragraph, the term "securities acquisition loan" includes a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code (as so in effect).

CHAPTER 2—LEGAL REFORMS

SEC. 11311. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES AND FOR DAMAGES NOT ATTRIBUTABLE TO PHYSICAL INJURIES OR SICKNESS.

(a) IN GENERAL.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended to read as follows:

"(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness;".

(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section 104(a) is amended by striking the last sentence and inserting the following new sentence: "For purposes of paragraph (2), emotional distress shall not be treated as a physical injury or physical sickness. The preceding sentence shall not apply to an amount of damages not in excess of the amount paid for medical care (described in subparagraph (A) or (B) of section 213(d)(1)) attributable to emotional distress.".

(c) SPECIAL RULE FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) RESTRICTION ON PUNITIVE DAMAGES NOT TO APPLY IN CERTAIN CASES.—The restriction on the application of subsection (a)(2) to punitive damages shall not apply to punitive damages which—

"(1) are awarded in a civil action—

"(A) which is a wrongful death action, and

"(B) with respect to which applicable State law (as in effect on February 1, 1996, and without regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before February 1, 1996, that only punitive damages may be awarded in such an action, and

"(2) would have been excludable from gross income under subsection (a)(2) as in effect for amounts received on December 31, 1995.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2)."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after December 31, 1995, in taxable years ending after such date.

(2) EXCEPTION.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

SEC. 11312. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.

(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

"(f) RETURN REQUIRED IN THE CASE OF PAYMENTS TO ATTORNEYS.—

"(1) IN GENERAL.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

"(2) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

"(B) EXCEPTION.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051.".

(b) REPORTING OF ATTORNEYS' FEES PAYABLE TO CORPORATIONS.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986 for payments made to corporations shall not apply to payments of attorneys' fees.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 1996.

CHAPTER 3—REFORMS RELATING TO NONRECOGNITION PROVISIONS

SEC. 11321. NO ROLLOVER OR EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE WHICH IS ATTRIBUTABLE TO DEPRECIATION DEDUCTIONS.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to limitations) is amended by adding at the end the following new paragraph:

"(3) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any residence as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such residence.".

(b) COMPARABLE TREATMENT UNDER 1-TIME EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.—Subsection (d) of section 121 is amended by adding at the end the following new paragraph:

"(10) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—

"(A) IN GENERAL.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such property.

"(B) COORDINATION WITH PARAGRAPH (5).—If this section does not apply to gain attributable to a portion of a residence by reason of paragraph (5), subparagraph (A) shall not apply to depreciation adjustments attributable to such portion.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 11322. NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL RESIDENCE BY NONCITIZENS LIMITED TO NEW RESIDENCES LOCATED IN THE UNITED STATES.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to limitations) (as amended by section 11321) is amended by adding at the end the following new paragraph:

"(4) NEW RESIDENCE MUST BE LOCATED IN UNITED STATES IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of a sale of an old residence by a taxpayer—

"(i) who is not a citizen of the United States at the time of sale, and

"(ii) who is not a citizen or resident of the United States on the date which is 2 years after the date of the sale of such old residence,

subsection (a) shall apply only if the new residence is located in the United States or a possession of the United States.

"(B) PROPERTY HELD JOINTLY BY HUSBAND AND WIFE.—Subparagraph (A) shall not apply if—

"(i) the old residence is held by a husband and wife as joint tenants, tenants by the entirety, or community property,

"(ii) such husband and wife make a joint return for the taxable year of the sale or exchange, and

"(iii) one spouse is a citizen of the United States at the time of sale.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to sales of old residences after December 31, 1995.

(2) TREATMENT OF PURCHASES OF NEW RESIDENCES.—The amendment made by this section shall not apply to new residences—

(A) purchased before September 13, 1995, or

(B) purchased on or after such date pursuant to a binding contract in effect on such date and at all times thereafter before such purchase.

(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of paragraphs (1), (2), and (3) of section 1034(c) of the Internal Revenue Code of 1986 shall apply.

CHAPTER 4—EXCISE TAX AND TAX-EXEMPT BOND PROVISIONS

SEC. 11331. REPEAL OF DIESEL FUEL TAX REBATE TO PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Section 6427 (relating to fuels not used for taxable purposes) is amended by striking subsection (g).

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 34(a) is amended to read as follows:

"(3) under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(k)).".

(2) Paragraphs (1) and (2)(A) of section 6427(i) are each amended—

(A) by striking "(g),", and

(B) by striking "(or a qualified diesel powered highway vehicle purchased)" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles purchased after December 31, 1995.

SEC. 11332. MODIFICATIONS TO EXCISE TAX ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Section 4682(d)(1) (relating to recycling) is amended by inserting ", or on any recycled halon imported from any country which is a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer" before the period at the end.

(b) CERTIFICATION SYSTEM.—The Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall develop a certification system to ensure compliance with the recycling requirement for imported halon under section 4682(d)(1) of the Internal Revenue Code of 1986, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 11333. ELECTION TO AVOID TAX-EXEMPT BOND PENALTIES FOR LOCAL FURNISHERS OF ELECTRICITY AND GAS.

Section 142(f) (relating to local furnishing of electric energy or gas) is amended by adding at the end the following new paragraphs:

"(3) ELECTION TO AVOID PENALTIES FOR CERTAIN FURNISHERS.—

"(A) IN GENERAL.—If—

"(i) a person engaged in the local furnishing of electric energy or gas, directly or indirectly financed facilities for such furnishing in whole or in part with exempt facility bonds described in subsection (a)(8) issued before the date of the enactment of this paragraph,

"(ii) such bonds would (but for this paragraph) cease to be tax-exempt by reason of such person failing to meet the local furnishing requirement of such section as a result of a service area expansion by such person, and

"(iii) an election described in subparagraph (B) is made by such person with respect to all such facilities of the person,

then such bonds shall not cease to be tax-exempt by reason of such expansion (and section 150(b)(4) shall not apply to interest on such bonds).

"(B) ELECTION.—An election is described in this subparagraph if it is an election made in such manner as the Secretary prescribes, and such person agrees that—

"(i) no bond exempt from tax under section 103 and described in subsection (a)(8) may be issued on or after the date of the enactment of this paragraph with respect to the facilities for the local furnishing of electric energy or gas, or both of such person, other than such a bond issued to refund another bond if the amount of such bond does not exceed the outstanding amount of the refunded bond and the maturity date of the refunding bond is not later than the average maturity date of the refunded bonds to be refunded by the issue of which the refunding bond is a part,

"(ii) the expansion of the service area—

"(I) is not financed with the proceeds of any exempt facility bond described in subsection (a)(8), and

"(II) is not treated as a nonqualifying use under the rules of paragraph (2), and

"(iii) all outstanding bonds used to finance the facilities for such person are redeemed not later than 6 months after the later of—

"(I) the earliest date on which such bonds may be redeemed, or

"(II) the date of the election.

"(C) RELATED PERSONS.—For purposes of this paragraph, the term 'person' includes a group of related persons (within the meaning of section 144(a)(3)) which includes such person.

"(4) APPLICATION OF SECTION.—For purposes of this section, no person may qualify on or after the date of the enactment of this paragraph for tax-exempt bond financing for the local furnishing of electric energy or gas unless such person is engaged on such date in the local furnishing of the energy source for which facilities are financed.".

SEC. 11334. TAX-EXEMPT BONDS FOR SALE OF ALASKA POWER ADMINISTRATION FACILITY.

Sections 142(f)(4) (as added by section 11333(a)) and 147(d) of the Internal Revenue Code of 1986 shall not apply with respect to any private activity bond issued after the date of the enactment of this Act and used to finance the acquisition of the Snettisham hydroelectric project from the Alaska Power Administration in determining if such bond is a qualified bond for purposes of such Code.

CHAPTER 5—FOREIGN TRUST TAX COMPLIANCE

SEC. 11341. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

"(A) IN GENERAL.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d), as amended by sections 11004 and 11045, is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ", or", and by inserting after subparagraph (V) the following new subparagraph:

"(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts.".

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 11342. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 11343. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any trust if—

"(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.".

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 11344. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 11345. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.".

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 11346. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

''If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.''.

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

''(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

CHAPTER 6—TREATMENT OF INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP

SEC. 11348. REVISION OF INCOME, ESTATE, AND GIFT TAXES ON INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subsection (a) of section 877 is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—

''(1) IN GENERAL.—Every nonresident alien individual who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B, shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

''(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if—

''(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $100,000, or

''(B) the net worth of the individual as of such date is $500,000 or more.

In the case of the loss of United States citizenship in any calendar year after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1994' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.''

(b) EXCEPTIONS.—

(1) IN GENERAL.—Section 877 is amended by striking subsection (d), by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

''(c) TAX AVOIDANCE NOT PRESUMED IN CERTAIN CASES.—

''(1) IN GENERAL.—Subsection (a)(2) shall not apply to an individual if—

''(A) such individual is described in a subparagraph of paragraph (2) of this subsection, and

''(B) within the 1-year period beginning on the date of the loss of United States citizenship, such individual submits a ruling request for the Secretary's determination as to whether such loss has for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B.

''(2) INDIVIDUALS DESCRIBED.—

''(A) DUAL CITIZENSHIP, ETC.—An individual is described in this subparagraph if—

''(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, or

''(ii) the individual becomes (not later than the close of a reasonable period after loss of United States citizenship) a citizen of the country in which—

''(I) such individual was born,

''(II) if such individual is married, such individual's spouse was born, or

''(III) either of such individual's parents were born.

''(B) LONG-TERM FOREIGN RESIDENTS.—An individual is described in this subparagraph if, for each year in the 10-year period ending on the date of loss of United States citizenship, the individual was present in the United States for 30 days or less. The rule of section 7701(b)(3)(D)(ii) shall apply for purposes of this subparagraph.

''(C) RENUNCIATION UPON REACHING AGE OF MAJORITY.—An individual is described in this subparagraph if the individual's loss of United States citizenship occurs before such individual attains age 18½.

''(D) INDIVIDUALS SPECIFIED IN REGULATIONS.—An individual is described in this subparagraph if the individual is described in a category of individuals prescribed by regulation by the Secretary.''

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 877(b) of such Code is amended by striking ''subsection (c)'' and inserting ''subsection (d)''.

(c) TREATMENT OF PROPERTY DISPOSED OF IN NONRECOGNITION TRANSACTIONS; TREATMENT OF DISTRIBUTIONS FROM CERTAIN CONTROLLED FOREIGN CORPORATIONS.—Subsection (d) of section 877, as redesignated by subsection (b), is amended to read as follows:

''(d) SPECIAL RULES FOR SOURCE, ETC.—For purposes of subsection (b)—

''(1) SOURCE RULES.—The following items of gross income shall be treated as income from sources within the United States:

''(A) SALE OF PROPERTY.—Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

''(B) STOCK OR DEBT OBLIGATIONS.—Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of United States persons or of the United States, a State or political subdivision thereof, or the District of Columbia.

''(C) INCOME OR GAIN DERIVED FROM CONTROLLED FOREIGN CORPORATION.—Any income or gain derived from stock in a foreign corporation but only—

''(i) if the individual losing United States citizenship owned (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), at any time during the 2-year period ending on the date of the loss of United States citizenship, more than 50 percent of—

''(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

''(II) the total value of the stock of such corporation, and

''(ii) to the extent such income or gain does not exceed the earnings and profits attributable to such stock which were earned or accumulated before the loss of citizenship and during periods that the ownership requirements of clause (i) are met.

''(2) GAIN RECOGNITION ON CERTAIN EXCHANGES.—

''(A) IN GENERAL.—In the case of any exchange of property to which this paragraph applies, notwithstanding any other provision of this title, such property shall be treated as sold for its fair market value on the date of such exchange, and any gain shall be recognized for the taxable year which includes such date.

''(B) EXCHANGES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any exchange during the 10-year period described in subsection (a) if—

''(i) gain would not (but for this paragraph) be recognized on such exchange in whole or in part for purposes of this subtitle,

''(ii) income derived from such property was from sources within the United States (or, if no income was so derived, would have been from such sources), and

''(iii) income derived from the property acquired in the exchange would be from sources outside the United States.

''(C) EXCEPTION.—Subparagraph (A) shall not apply if the individual enters into an agreement with the Secretary which specifies that any income or gain derived from the property acquired in the exchange (or any other property which has a basis determined in whole or part by reference to such property) during such 10-year period shall be treated as from sources within the United States. If the property transferred in the exchange is disposed of by the person acquiring such property, such agreement shall terminate and any gain which was not recognized by reason of such agreement shall be recognized as of the date of such disposition.

''(D) SECRETARY MAY EXTEND PERIOD.—To the extent provided in regulations prescribed by the Secretary, subparagraph (B) shall be applied by substituting the 15-year period beginning 5 years before the loss of United States citizenship for the 10-year period referred to therein.

''(E) SECRETARY MAY REQUIRE RECOGNITION OF GAIN IN CERTAIN CASES.—To the extent provided in regulations prescribed by the Secretary—

''(i) the removal of appreciated tangible personal property from the United States, and

''(ii) any other occurrence which (without recognition of gain) results in a change in the source of the income or gain from property from sources within the United States to sources outside the United States,

shall be treated as an exchange to which this paragraph applies.

''(3) SUBSTANTIAL DIMINISHING OF RISKS OF OWNERSHIP.—For purposes of determining whether this section applies to any gain on the sale or exchange of any property, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual's risk of loss with respect to the property is substantially diminished by—

''(A) the holding of a put with respect to such property (or similar property),

''(B) the holding by another person of a right to acquire the property, or

''(C) a short sale or any other transaction.''

(d) CREDIT FOR FOREIGN TAXES IMPOSED ON UNITED STATES SOURCE INCOME.—

(1) Subsection (b) of section 877 is amended by adding at the end the following new sentence: ''The tax imposed solely by reason of this section shall be reduced (but not below zero) by the amount of any income, war profits, and excess profits taxes (within the meaning of section 903) paid to any foreign country or possession of the United States on any income of the taxpayer on which tax is imposed solely by reason of this section.''

(2) Subsection (a) of section 877, as amended by subsection (a), is amended by inserting "(after any reduction in such tax under the last sentence of such subsection)" after "such subsection".

(e) COMPARABLE ESTATE AND GIFT TAX TREATMENT.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Subsection (a) of section 2107 is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) RATE OF TAX.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if, within the 10-year period ending with the date of death, such decedent lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—

"(A) IN GENERAL.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a decedent meeting the requirements of section 877(c)(1)."

(B) CREDIT FOR FOREIGN DEATH TAXES.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) CREDIT FOR FOREIGN DEATH TAXES.—

"(A) IN GENERAL.—The tax imposed by subsection (a) shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property which is included in the gross estate solely by reason of subsection (b).

"(B) LIMITATION ON CREDIT.—The credit allowed by subparagraph (A) for such taxes paid to a foreign country shall not exceed the lesser of—

"(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of property included in the gross estate as the value of the property included in the gross estate solely by reason of subsection (b) bears to the value of all property subjected to such taxes by such foreign country, or

"(ii) such property's proportionate share of the excess of—

"(I) the tax imposed by subsection (a), over

"(II) the tax which would be imposed by section 2101 but for this section.

"(C) PROPORTIONATE SHARE.—For purposes of subparagraph (B), a property's proportionate share is the percentage which the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate."

(C) EXPANSION OF INCLUSION IN GROSS ESTATE OF STOCK OF FOREIGN CORPORATIONS.—Paragraph (2) of section 2107(b) is amended by striking "more than 50 percent of" and all that follows and inserting "more than 50 percent of—

"(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(B) the total value of the stock of such corporation,".

(2) GIFT TAX.—

(A) IN GENERAL.—Paragraph (3) of section 2501(a) is amended to read as follows:

"(3) EXCEPTION.—

"(A) CERTAIN INDIVIDUALS.—Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(B) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(C) EXCEPTION FOR CERTAIN INDIVIDUALS.—Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).

"(D) CREDIT FOR FOREIGN GIFT TAXES.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph."

(f) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

(1) IN GENERAL.—Section 877 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

"(1) IN GENERAL.—Any long-term resident of the United States who—

"(A) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(B) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country,

shall be treated for purposes of this section and sections 2107, 2501, and 6039F in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.

"(2) LONG-TERM RESIDENT.—For purposes of this subsection, the term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the event described in subparagraph (A) or (B) of paragraph (1) occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(3) SPECIAL RULES.—

"(A) EXCEPTIONS NOT TO APPLY.—Subsection (c) shall not apply to an individual who is treated as provided in paragraph (1).

"(B) STEP-UP IN BASIS.—Solely for purposes of determining any tax imposed by reason of this subsection, property which was held by the long-term resident on the date the individual first became a resident of the United States shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

"(4) AUTHORITY TO EXEMPT INDIVIDUALS.—This subsection shall not apply to an individual who is described in a category of individuals prescribed by regulation by the Secretary.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations providing for the application of this subsection in cases where an alien individual becomes a resident of the United States during the 10-year period after being treated as provided in paragraph (1)."

(2) CONFORMING AMENDMENTS.—

(A) Section 2107 is amended by striking subsection (d), by redesignating subsection (e) as subsection (d), and by inserting after subsection (d) (as so redesignated) the following new subsection:

"(e) CROSS REFERENCE.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e)."

(B) Paragraph (3) of section 2501(a) (as amended by subsection (e)) is amended by adding at the end the following new subparagraph:

"(E) CROSS REFERENCE.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e)."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to—

(A) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(B) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after February 6, 1995.

(2) SPECIAL RULE.—

(A) IN GENERAL.—In the case of an individual who performed an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)) before February 6, 1995, but who did not, on or before such date, furnish to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of such act, the amendments made by this section and section 11349 shall apply to such individual except that—

(i) the 10-year period described in section 877(a) of such Code shall not expire before the end of the 10-year period beginning on the date such statement is so furnished, and

(ii) the 1-year period referred to in section 877(c) of such Code, as amended by this section, shall not expire before the date which is 1 year after the date of the enactment of this Act.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the individual establishes to the satisfaction of the Secretary of the Treasury that such loss of United States citizenship occurred before February 6, 1994.

SEC. 11349. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61, as amended by section 11344, is amended by inserting after section 6039F the following new section:

"SEC. 6039G. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

"(a) IN GENERAL.—Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which includes the information described in subsection (b). Such statement shall be—

"(1) provided not later than the earliest date of any act referred to in subsection (c), and

"(2) provided to the person or court referred to in subsection (c) with respect to such act.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing, "(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) ACTS DESCRIBED.—For purposes of this section, the acts referred to in this subsection are—

"(1) the individual's renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(2) the individual's furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

"(4) the cancellation by a court of the United States of a naturalized citizen's certificate of naturalization.

"(d) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(e) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

"(f) REPORTING BY LONG-TERM LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(g) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039F the following new item:

"Sec. 6039G. Information on individuals losing United States citizenship."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(2) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after such date.

In no event shall any statement required by such amendments be due before the 90th day after the date of the enactment of this Act.

CHAPTER 7—FINANCIAL ASSET SECURITIZATION INVESTMENTS

SEC. 11351. FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS.

(a) IN GENERAL.—Subchapter M of chapter 1 is amended by adding at the end the following new part:

"PART V—FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS

"Sec. 860H. Taxation of a FASIT; other general rules.
"Sec. 860I. Gain recognition on contributions to and distributions from a FASIT and in other cases.
"Sec. 860J. Non-FASIT losses not to offset certain FASIT inclusions.
"Sec. 860K. Treatment of transfers of high-yield interests to disqualified holders.
"Sec. 860L. Definitions and other special rules.

"SEC. 860H. TAXATION OF A FASIT; OTHER GENERAL RULES.

"(a) TAXATION OF FASIT.—A FASIT as such shall not be subject to taxation under this subtitle (and shall not be treated as a trust, partnership, corporation, or taxable mortgage pool).

"(b) TAXATION OF HOLDER OF OWNERSHIP INTEREST.—In determining the taxable income of the holder of the ownership interest in a FASIT—

"(1) all assets, liabilities, and items of income, gain, deduction, loss, and credit of a FASIT shall be treated as assets, liabilities, and such items (as the case may be) of such holder,

"(2) the constant yield method (including the rules of section 1272(a)(6)) shall be applied under an accrual method of accounting in determining all interest, acquisition discount, original issue discount, and market discount and all premium deductions or adjustments with respect to all debt instruments of the FASIT,

"(3) the amount of the tax imposed by section 860L(e) (relating to tax on income from foreclosure property) shall be allowed as a deduction,

"(4) there shall not be taken into account any item of income, gain, loss, or deduction allocable to prohibited income, and

"(5) interest accrued by the FASIT which is exempt from tax imposed by this subtitle shall, when taken into account by such holder, be treated as ordinary income.

For purposes of this subtitle, securities treated as held by such holder under paragraph (1) shall be treated as held for investment.

"(c) TREATMENT OF REGULAR INTERESTS.—For purposes of this title—

"(1) a regular interest in a FASIT, if not otherwise a debt instrument, shall be treated as a debt instrument,

"(2) section 163(e)(5) shall not apply to such an interest, and

"(3) amounts includible in gross income with respect to such an interest shall be determined under an accrual method of accounting.

"SEC. 860I. GAIN RECOGNITION ON CONTRIBUTIONS TO AND DISTRIBUTIONS FROM A FASIT AND IN OTHER CASES.

"(a) CONTRIBUTIONS TO FASIT.—

"(1) IN GENERAL.—If property is contributed to a FASIT by the holder of the ownership interest in such FASIT, gain (if any) shall be recognized to such holder in an amount equal to the excess (if any) of such property's value under subsection (e) on the date of such contribution over its adjusted basis on such date.

"(2) DEBT INSTRUMENTS ACQUIRED OTHER THAN BY CONTRIBUTION BY HOLDER OF OWNERSHIP INTEREST.—For purposes of this part, any debt instrument which is acquired by a FASIT other than in a contribution by the holder of the ownership interest in the FASIT shall be treated—

"(A) as having been acquired by such holder at its fair market value on the date of its acquisition by the FASIT, and

"(B) as having been contributed by such holder to the FASIT at its value under subsection (e) on such date.

"(3) DEFERRAL OF GAIN RECOGNITION.—The Secretary may prescribe regulations which—

"(A) provide that gain otherwise recognized under paragraph (1) shall not be recognized before the earliest date on which such property supports any regular interest in such FASIT or any indebtedness of the holder of the ownership interest (or of any person related to such holder), and

"(B) provide such adjustments to the other provisions of this part to the extent appropriate in the context of the treatment provided under subparagraph (A).

"(b) CERTAIN DISTRIBUTIONS.—If a FASIT makes a distribution of property with respect to the ownership interest in the FASIT, gain (if any) shall be recognized to such FASIT on the distribution in the same manner as if the FASIT had sold such property to the distributee at its value under subsection (e) on the date of such distribution.

"(c) GAIN RECOGNITION ON PROPERTY OUTSIDE FASIT WHICH SUPPORTS REGULAR INTERESTS.—If property held by the holder of the ownership interest in a FASIT (or by any person related to such holder) supports any regular interest in such FASIT—

"(1) gain shall be recognized to such holder in the same manner as if such holder had sold such property at its value under subsection (e) on the earliest date such property supports such an interest, and

"(2) such property shall be treated as held by such FASIT for purposes of this part.

"(d) GAIN RECOGNITION ON RETAINED INTERESTS.—If—

"(1) any interest in a debt instrument is contributed to a FASIT, and

"(2) the contributor (or any person related to such contributor) retains any interest in such instrument (including a right to receive excessive servicing fees with respect to such instrument),

then gain shall be recognized to such contributor (or person) in the same manner as if the contributor (or person) had sold the retained interest at its value under subsection (e) on the date of such contribution.

"(e) VALUATION.—For purposes of this section—

"(1) IN GENERAL.—The value of any property under this subsection shall be—

"(A) in the case of property other than a debt instrument, its fair market value, and

"(B) in the case of a debt instrument, the sum of the present values of the reasonably expected payments under such instrument determined (in the manner provided by regulations prescribed by the Secretary)—

"(i) as of the date of the event resulting in the gain recognition under this section, and

"(ii) by using a discount rate equal to 120 percent of the applicable Federal rate (as defined in section 1274(d)), or such other discount rate specified in such regulations, compounded semiannually.

"(2) SPECIAL RULE FOR REVOLVING LOAN ACCOUNTS.—For purposes of paragraph (1)—

"(A) each extension of credit (other than the accrual of interest) on a revolving loan account shall be treated as a separate debt instrument, and

"(B) payments on such extensions of credit having substantially the same terms shall be applied to such extensions beginning with the earliest such extension.

"(f) SPECIAL RULES.—

"(1) NONRECOGNITION RULES NOT TO APPLY.—Gain required to be recognized under this section shall be recognized notwithstanding any other provision of this subtitle.

"(2) BASIS ADJUSTMENTS.—The basis of any property on which gain is recognized under this section shall be increased by the amount of gain so recognized.

"SEC. 860J. NON-FASIT LOSSES NOT TO OFFSET CERTAIN FASIT INCLUSIONS.

"(a) IN GENERAL.—The taxable income of the holder of the ownership interest or any high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests.

"(b) COORDINATION WITH SECTION 172.—Any increase in the taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year by reason of subsection (a) shall be disregarded—

"(1) in determining under section 172 the amount of any net operating loss for such taxable year, and

"(2) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2).

"(c) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

"(1) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this section,

"(2) the alternative minimum taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests, and

"(3) any increase in taxable income under this section shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

"SEC. 860K. TREATMENT OF TRANSFERS OF HIGH-YIELD INTERESTS TO DISQUALIFIED HOLDERS.

"(a) GENERAL RULE.—If any high-yield interest is held by a disqualified holder, this chapter shall be applied as if the transferor of such interest to such holder had not transferred such interest.

"(b) EXCEPTIONS.—Rules similar to the rules of paragraphs (4) and (7) of section 860E(e) shall apply to the tax imposed by reason of subsection (a).

"(c) DISQUALIFIED HOLDER.—For purposes of this section, the term 'disqualified holder' means any holder other than an eligible corporation (as defined in section 860L(a)(2)).

"(d) TREATMENT OF INTERESTS HELD BY SECURITIES DEALERS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any high-yield interest held by a disqualified holder if such holder is a dealer in securities who acquired such interest exclusively for sale to customers in the ordinary course of business (and not for investment).

"(2) CHANGE IN DEALER STATUS.—

"(A) IN GENERAL.—In the case of a dealer in securities which is not an eligible corporation (as defined in section 860L(a)(2)), if—

"(i) such dealer ceases to be a dealer in securities, or

"(ii) such dealer commences holding the high-yield interest for investment,

there is hereby imposed (in addition to other taxes) an excise tax equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of such dealer attributable to such interest for periods after the date of such cessation or commencement.

"(B) HOLDING FOR 31 DAYS OR LESS.—For purposes of subparagraph (A)(ii), a dealer shall not be treated as holding an interest for investment before the 32d day after the date such dealer acquired such interest unless such interest is so held as part of a plan to avoid the purposes of this paragraph.

"(C) ADMINISTRATIVE PROVISIONS.—The deficiency procedures of subtitle F shall apply to the tax imposed by this paragraph.

"(e) TREATMENT OF HIGH-YIELD INTERESTS IN PASS-THRU ENTITIES.—If a pass-thru entity (as defined in section 860E(e)(6)) issues a debt or equity interest—

"(1) which is supported by any regular interest in a FASIT, and

"(2) which has an original yield to maturity which is greater than each of—

"(A) the sum determined under clauses (i) and (ii) of section 163(i)(1)(B) with respect to such debt or equity interest, and

"(B) the yield to maturity on such regular interest,

there is hereby imposed on the pass-thru entity a tax (in addition to other taxes) equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of the holder of such debt or equity interest which is properly attributable to such regular interest. For purposes of the preceding sentence, the yield to maturity of any equity interest shall be determined under regulations prescribed by the Secretary.

"SEC. 860L. DEFINITIONS AND OTHER SPECIAL RULES.

"(a) FASIT.—

"(1) IN GENERAL.—For purposes of this title, the terms 'financial asset securitization investment trust' and 'FASIT' mean any entity—

"(A) for which an election to be treated as a FASIT applies for the taxable year,

"(B) all of the interests in which are regular interests or the ownership interest,

"(C) which has only 1 ownership interest and such ownership interest is held directly by an eligible corporation,

"(D) as of the close of the 3rd month beginning after the day of its formation and at all times thereafter, substantially all of the assets of which (including assets treated as held by the entity under section 860I(c)(2)) consist of permitted assets, and

"(E) which is not described in section 851(a).

A rule similar to the rule of the last sentence of section 860D(a) shall apply for purposes of this paragraph.

"(2) ELIGIBLE CORPORATION.—For purposes of paragraph (1)(C), the term 'eligible corporation' means any domestic C corporation other than—

"(A) a corporation which is exempt from, or is not subject to, tax under this chapter,

"(B) an entity described in section 851(a) or 856(a),

"(C) a REMIC, and

"(D) an organization to which part I of subchapter T applies.

"(3) ELECTION.—

"(A) IN GENERAL.—An entity (otherwise meeting the requirements of paragraph (1)) may elect to be treated as a FASIT. Except as provided in paragraph (5), such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(B) ELECTIONS MADE AFTER 1ST TAXABLE YEAR OF ENTITY.—If the election under subparagraph (A) is made after the first taxable year of the entity, all property held (or treated as held under section 860I(c)(2)) by such entity as of the first day of the first taxable year for which such election is made shall be treated as contributed to such entity on such first day by the holder of the ownership interest in such entity.

"(4) TERMINATION.—If any entity ceases to be a FASIT at any time during the taxable year, such entity shall not be treated as a FASIT for such taxable year or any succeeding taxable year.

"(5) INADVERTENT TERMINATIONS, ETC.—Rules similar to the rules of section 860D(b)(2)(B) shall apply to inadvertent failures to qualify or remain qualified as a FASIT.

"(b) INTERESTS IN FASIT.—For purposes of this part—

"(1) REGULAR INTEREST.—

"(A) IN GENERAL.—The term 'regular interest' means any interest which is issued by a FASIT with fixed terms and which is designated as a regular interest if—

"(i) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount),

"(ii) except as otherwise provided by the Secretary—

"(I) in the case of a FASIT which would be treated as a REMIC if an election under section 860D(b) had been made, interest payments (or other similar amounts), if any, with respect to such interest at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B), or

"(II) in the case of any other FASIT, interest payments (or other similar amounts), if any, with respect to such interest are determined using a current rate which is reasonably expected to measure contemporaneous variations in the cost of newly borrowed funds in the currency in which the regular interest is denominated,

"(iii) such interest does not have a stated maturity (including options to renew) greater than 30 years (or such longer period as may be permitted by regulations),

"(iv) the issue price of such interest does not exceed 125 percent of its stated principal amount, and

"(v) the yield to maturity on such interest is less than the sum determined under section 163(i)(1)(B) with respect to such interest.

Interest shall not fail to meet the requirements of clause (i) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent that payments on debt instruments held by the FASIT are made in advance of anticipated payments and on the amount of income from permitted assets.

"(B) HIGH-YIELD INTERESTS.—

"(i) IN GENERAL.—The term 'regular interest' includes any high-yield interest.

"(ii) HIGH-YIELD INTEREST.—The term 'high-yield interest' means any interest which would be described in subparagraph (A) but for failing to meet the requirements of one or more of clauses (i), (iv), or (v) thereof.

"(2) OWNERSHIP INTEREST.—The term 'ownership interest' means the interest issued by a FASIT which is designated as an ownership interest and which is not a regular interest.

"(c) PERMITTED ASSETS.—For purposes of this part—

"(1) IN GENERAL.—The term 'permitted asset' means—

"(A) cash or cash equivalents,

"(B) any debt instrument (as defined in section 1275(a)(1)) under which interest payments (or other similar amounts), if any, at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B),

"(C) foreclosure property,

"(D) any asset—

"(i) which is an interest rate or foreign currency notional principal contract, letter of credit, insurance, guarantee against payment defaults, or other similar instrument, permitted by the Secretary, and

"(ii) which is a reasonably required to guarantee or hedge against the FASIT's risks associated with being the obligor on interests issued by the FASIT, and

"(E) contract rights to acquire debt instruments described in subparagraph (B) or assets described in subparagraph (D).

"(2) DEBT ISSUED BY HOLDER OF OWNERSHIP INTEREST NOT PERMITTED ASSET.—The term 'permitted asset' shall not include any debt instrument issued by the holder of the ownership interest in the FASIT or by any person related to such holder or any direct or indirect interest in such a debt instrument. The preceding sentence shall not apply to cash equivalents and to any other investment specified in regulations prescribed by the Secretary.

"(3) FORECLOSURE PROPERTY.—The term 'foreclosure property' means property—

"(A) which would be foreclosure property under section 856(e) (determined without regard to paragraph (5) thereof) if acquired by a real estate investment trust, and

"(B) which is acquired in connection with the default or imminent default of a debt instrument held by the FASIT unless the security interest in such property was created for the principal purpose of permitting the FASIT to invest in such property.

Solely for purposes of subsection (a)(1), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4).

"(d) TAX ON PROHIBITED TRANSACTIONS.—

"(1) IN GENERAL.—There is hereby imposed for each taxable year of a FASIT a tax equal to 100 percent of the net income derived from prohibited transactions.

"(2) PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' means—

"(A) the receipt of any income derived from any asset that is not a permitted asset,

"(B) except as provided in paragraph (3), the disposition of any permitted asset,

"(C) the receipt of any income derived from any loan originated by the FASIT, and

"(D) the receipt of any income representing a fee or other compensation for services (other than any fee received as compensation for a waiver, amendment, or consent under permitted assets (other than foreclosure property) held by the FASIT).

"(3) EXCEPTION FOR INCOME FROM CERTAIN DISPOSITIONS.—

"(A) IN GENERAL.—Paragraph (2)(B) shall not apply to a disposition which would not be a prohibited transaction (as defined in section 860F(a)(2)) by reason of—

"(i) clause (ii), (iii), or (iv) of section 860F(a)(2)(A), or

"(ii) section 860F(a)(5),

if the FASIT were treated as a REMIC and debt instruments described in subsection (c)(1)(B) were treated as qualified mortgages.

"(B) SUBSTITUTION OF DEBT INSTRUMENTS; REDUCTION OF OVER-COLLATERALIZATION.—Paragraph (2)(B) shall not apply to—

"(i) the substitution of a debt instrument described in subsection (c)(1)(B) for another debt instrument which is a permitted asset, or

"(ii) the distribution of a debt instrument contributed by the holder of the ownership interest to such holder in order to reduce over-collateralization of the FASIT,

but only if a principal purpose of acquiring the debt instrument which is disposed of was not the recognition of gain (or the reduction of a loss) as a result of an increase in the market value of the debt instrument after its acquisition by the FASIT.

"(C) LIQUIDATION OF CLASS OF REGULAR INTERESTS.—Paragraph (2)(B) shall not apply to the complete liquidation of any class of regular interests.

"(4) NET INCOME.—For purposes of this subsection, net income shall be determined in accordance with section 860F(a)(3).

"(e) TAX ON INCOME FROM FORECLOSURE PROPERTY.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of each FASIT. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b).

"(2) NET INCOME FROM FORECLOSURE PROPERTY.—For purposes of this part, the term 'net income from foreclosure property' means the amount which would be the FASIT's net income from foreclosure property under section 857(b)(4)(B) if the FASIT were a real estate investment trust.

"(f) COORDINATION WITH WASH SALES RULES.—Rules similar to the rules of section 860F(d) shall apply to the ownership interest in a FASIT.

"(g) RELATED PERSON.—For purposes of this part, a person (hereinafter in this subsection referred to as the 'related person') is related to any person if—

"(1) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(2) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent the abuse of the purposes of this part through transactions which are not primarily related to securitization of debt instruments by a FASIT.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by striking "and" at the end of subparagraph (M), by striking the period at the end of subparagraph (N) and inserting ", and", and by adding at the end the following new subparagraphs:

"(O) section 860K (relating to treatment of transfers of high-yield interests to disqualified holders).".

(2) Paragraph (6) of section 56(g) is amended by striking "or REMIC" and inserting "REMIC, or FASIT".

(3) Clause (ii) of section 382(l)(4)(B) is amended by striking "or a REMIC to which part IV of subchapter M applies" and inserting "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies".

(4) Paragraph (1) of section 582(c) is amended by inserting ", and any regular or ownership interest in a FASIT," after "REMIC".

(5) Subparagraph (E) of section 856(c)(6) is amended by adding at the end the following new sentence: "References in the preceding provisions of this subparagraph to a REMIC shall be treated as including a reference to a FASIT.".

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking "or REMIC" and inserting "REMIC, or FASIT".

(7) Clause (xi) of section 7701(a)(19)(C) is amended to read as follows:

"(xi) any regular or residual interest in a REMIC, and any regular or ownership interest in a FASIT, but only in the proportion which the assets of such REMIC or FASIT consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.".

(8) Subparagraph (A) of section 7701(i)(2) is amended by inserting "or a FASIT" after "a REMIC".

(c) CLERICAL AMENDMENT.—The table of parts for subchapter M of chapter 1 is amended by adding at the end the following new item:

"Part V. Financial asset securitization investment trusts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 8—DEPRECIATION PROVISIONS

SEC. 11361. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (e), and

(B) by inserting after subsection (b) the following new subsections:

"(c) SPECIAL RULES FOR WATER AND SEWERAGE DISPOSAL UTILITIES.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which is the property for which the contribution was made or is of the same type as such property, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND CREDITS; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(2) CONFORMING AMENDMENT.—Section 118(b) is amended by inserting "except as provided in subsection (c)," before "the term".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

"(F) Water utility property described in subsection (e)(5).".

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) is amended by inserting the following item after the item relating to 20-year property:

"WATER UTILITY PROPERTY
25 YEARS".

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) is amended by adding at the end the following new paragraph:

"(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—

"(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and which, without regard to this paragraph, would be 20-year property, and

"(B) any municipal sewer.".

(B) CONFORMING AMENDMENTS.—Section 168 is amended—

(i) by striking subparagraph (F) of subsection (e)(3), and

(ii) by striking the item relating to subparagraph (F) in the table in subsection (g)(3).

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) is amended by inserting "or water utility property" after "tunnel bore".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, other than property placed in service pursuant to a binding contract in effect on such date and at all times thereafter before the property is placed in service.

SEC. 11362. DEDUCTION FOR CERTAIN OPERATING AUTHORITY.

(a) GENERAL RULE.—For purpose of chapter 1 of the Internal Revenue Code of 1986, in computing the taxable income of a taxpayer who, on January 1, 1995, held one or more operating authorities preempted by section 601 of the Federal Aviation Administration Authorization Act of 1994, the taxpayer shall be entitled to deduct ratably over the 36-month period beginning with January 1995 an amount equal to the aggregate adjusted bases of such operating authorities held by the taxpayer on January 1, 1995.

(b) TREATMENT AS DEPRECIATION.—Any deduction under subsection (a) shall be treated as a deduction for depreciation for purposes of the Internal Revenue Code of 1986.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after December 31, 1994.

SEC. 11363. CLASS LIFE FOR GAS STATION CONVENIENCE STORES AND SIMILAR STRUCTURES.

(a) IN GENERAL.—Section 168(e)(3)(E) (classifying certain property as 15-year property) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) any section 1250 property which is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet).".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 168(g)(3) is amended by inserting after the item relating to subparagraph (E)(ii) in the table contained therein the following new item:

"(E)(iii) .... 20".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property which is placed in service on or after the date of the enactment of this Act and to which section 168 of the Internal Revenue Code of 1986 applies after the amendment made by section 201 of the Tax Reform Act of 1986. A taxpayer may elect to have such amendments apply with respect to any property placed in service before such date and to which such section so applies.

CHAPTER 9—OTHER PROVISIONS

SEC. 11371. APPLICATION OF FAILURE-TO-PAY PENALTY TO SUBSTITUTE RETURNS.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

SEC. 11372. EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.

(a) REPEAL OF EXEMPTION FOR BINGO AND KENO.—Paragraph (5) of section 3402(q) is amended to read as follows:

"(5) EXEMPTION FOR SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine.".

(b) THRESHOLD AMOUNT.—Paragraph (3) of section 3402(q) is amended—

(1) by striking "(B) and (C)" in subparagraph (A) and inserting "(B), (C), and (D)", and

(2) by adding at the end the following new subparagraph:

"(D) BINGO AND KENO.—Proceeds of more than $5,000 from a wager placed in a bingo or keno game.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 11373. LOSSES FROM FORECLOSURE PROPERTY.

(a) IN GENERAL.—Section 818(b) is amended by adding at the end the following new paragraph:

"(2) LOSSES FROM FORECLOSURE PROPERTY.—

"(A) IN GENERAL.—The amortizable portion of any loss arising from the sale or exchange of foreclosure property which (without regard to this paragraph) is treated as a capital loss shall be treated as a loss from the sale or exchange of real property used in carrying on an insurance business which is recognized ratably over the 10-taxable year period beginning with the taxable year following the taxable year in which the sale or exchange of the foreclosure property occurred.

"(B) AMORTIZABLE PORTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The amortizable portion of a loss referred to in subparagraph (A) is the percentage (not greater than 20 percent) of such loss to which the taxpayer elects to have this paragraph apply.

"(ii) SUBSEQUENT MODIFICATIONS OF AMOUNT.—The taxpayer may elect for any of the taxable years in the change period to change (subject to the limitation under clause (i)) the percentage of a loss referred to in subparagraph (A) which is treated as the amortizable portion of such loss. If the taxpayer so elects, each such changed percentage shall be treated as if it were the percentage specified in the election made under clause (i), and proper adjustments shall be made for all taxable years to reflect each such change.

"(iii) STATUTE OF LIMITATIONS.— For purposes of section 6501(h) and 6511(d)(2), any change by reason of an election under clause (ii) shall be treated as a capital loss carryback from the year such change is made.

"(iv) CHANGE PERIOD.—For purposes of clause (ii), the change period is the 3-taxable year period following the taxable year in which the sale or exchange of the foreclosure property occurred.

"(C) ELECTION TO TREAT UNAMORTIZED ORDINARY LOSSES AS CAPITAL LOSSES.—

"(i) IN GENERAL.—The taxpayer may elect to treat any unused amount of any ordinary loss described in subparagraph (A) as a capital loss arising in the taxable year for which the election under this subparagraph is made.

"(ii) LIMITATION ON ELECTION.—An election may be made under clause (i) with respect to any loss only for any taxable year in the 5-taxable year period following the taxable year referred to in subparagraph (A).

"(iii) UNUSED AMOUNT OF ORDINARY LOSS.—For purposes of clause (i), the unused amount of an ordinary loss is the amount of the amortizable portion of any loss which has not been recognized as of the close of the preceding taxable year.

"(iv) ORDERING RULE.—Any unused amount of an ordinary loss with respect to which an election was made under clause (i) shall be treated as coming first from the last taxable year in the 10-taxable year period referred to in subparagraph (A) and then from each preceding taxable year in reverse chronological order.

"(D) FORECLOSURE PROPERTY.—For purposes of this paragraph, the term 'foreclosure property' means any real property used in a trade or businesses (as defined in section 1231(b) without regard to this subsection) which is acquired by a life insurance company as the result of—

"(i) such company having bid on such property at foreclosure, or

"(ii) such company having otherwise reduced such property to ownership or possession by agreement or process of law, after there was a default (or default was imminent) on indebtedness which such property secured.

"(E) TIME FOR MAKING ELECTIONS.—Any election under this paragraph for any taxable year shall be made on or before the due date (including extensions) for the return of tax for such taxable year."

(b) CONFORMING AMENDMENTS.—Section 818(b) is amended—

(1) by striking "In the" and inserting:

"(1) IN GENERAL.—In the ", and

(2) by redesignating paragraphs (1) and (2) and subparagraphs (A) and (B) of paragraph (1) as subparagraphs (A) and (B) and clauses (i) and (ii) of subparagraph (A), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 11374. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If—

"(A) pursuant to a single plan, a common trust fund transfers substantially all of its assets to one or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are so transferred, and

"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

"(2) BASIS RULES.—

"(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

"(B) PARTICIPANTS.—The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of respective fair market values.

"(3) TREATMENT OF ASSUMPTIONS OF LIABILITY.—

"(A) IN GENERAL.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in one or more regulated investment companies, the assumption by any such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.

"(B) SPECIAL RULE WHERE ASSUMED LIABILITIES EXCEED BASIS.—

"(i) IN GENERAL.—If, in any transfer referred to in paragraph (1)(A), the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies—

"(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,

"(II) the basis of the assets received by the regulated investment company or companies in such transfer shall be increased by the amount so recognized, and

"(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

If the transfer referred to in paragraph (1)(A) is to two or more regulated investment companies, the basis increase under subclause (II) shall be allocated among such companies on the basis of the respective fair market values of the assets received by each of such companies.

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

"(I) any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

"(II) any liability to which property so transferred is subject.

"(4) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded for purposes of determining total assets under clause (iv) of section 368(a)(2)(F).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1995.

SEC. 11375. EXCLUSION FOR ENERGY CONSERVATION SUBSIDIES LIMITED TO SUBSIDIES WITH RESPECT TO DWELLING UNITS.

(a) IN GENERAL.—Paragraph (1) of section 136(c) (defining energy conservation measure) is amended by striking "energy demand—" and all that follows and inserting "energy demand with respect to a dwelling unit."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 136 is amended to read as follows:

"(a) EXCLUSION.—Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure."

(2) Paragraph (2) of section 136(c) is amended—

(A) by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(B) by striking "AND SPECIAL RULES" in the paragraph heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1995, unless received pursuant to a written binding contract in effect on September 13, 1995, and at all times thereafter.

SEC. 11376. ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.

(a) IN GENERAL.—Subsection (d) of section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.—

"(A) IN GENERAL.—Any qualified scholarship funding bond, and qualified student loan bond, outstanding on the date of the issuer's election under this paragraph (and any bond (or series of bonds) issued to refund such a bond) shall not fail to be a tax-exempt bond solely because the issuer ceases to be described in subparagraphs (A) and (B) of paragraph (2) if the issuer meets the requirements of subparagraphs (B) and (C) of this paragraph.

"(B) ASSETS AND LIABILITIES OF ISSUER TRANSFERRED TO TAXABLE SUBSIDIARY.—The requirements of this subparagraph are met by an issuer if—

"(i) all of the student loan notes of the issuer and other assets pledged to secure the repayment of qualified scholarship funding bond indebtedness of the issuer are transferred to another corporation within a reasonable period after the election is made under this paragraph;

"(ii) such transferee corporation assumes or otherwise provides for the payment of all of the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election is made under this paragraph;

"(iii) to the extent permitted by law, such transferee corporation assumes all of the responsibilities, and succeeds to all of the rights, of the issuer under the issuer's agreements with the Secretary of Education in respect of student loans;

"(iv) immediately after such transfer, the issuer, together with any other issuer which has made an election under this paragraph in respect of such transferee, hold all of the senior stock in such transferee corporation; and

"(v) such transferee corporation is not exempt from tax under this chapter.

"(C) ISSUER TO OPERATE AS INDEPENDENT ORGANIZATION DESCRIBED IN SECTION 501(c)(3).—The requirements of this subparagraph are met by an issuer if, within a reasonable period after the transfer referred to in subparagraph (B)—

"(i) the issuer is described in section 501(c)(3) and exempt from tax under section 501(a);

"(ii) the issuer no longer is described in subparagraphs (A) and (B) of paragraph (2); and

"(iii) at least 80 percent of the members of the board of directors of the issuer are independent members.

"(D) SENIOR STOCK.—For purposes of this paragraph, the term 'senior stock' means stock—

"(i) which participates pro rata and fully in the equity value of the corporation with all other common stock of the corporation but which has the right to payment of liquidation proceeds prior to payment of liquidation proceeds in respect of other common stock of the corporation;

"(ii) which has a fixed right upon liquidation and upon redemption to an amount equal to the greater of—

"(I) the fair market value of such stock on the date of liquidation or redemption (whichever is applicable); or

"(II) the fair market value of all assets transferred in exchange for such stock and reduced by the amount of all liabilities of the corporation which has made an election under this paragraph assumed by the transferee corporation in such transfer;

"(iii) the holder of which has the right to require the transferee corporation to redeem on a date that is not later than 10 years after the date on which an election under this paragraph was made and pursuant to such election such stock was issued; and

"(iv) in respect of which, during the time such stock is outstanding, there is not outstanding any equity interest in the corporation having any liquidation, redemption or dividend rights in the corporation which are superior to those of such stock.

"(E) INDEPENDENT MEMBER.—The term 'independent member' means a member of the board of directors of the issuer who (except for services as a member of such board) receives no compensation directly or indirectly—

"(i) for services performed in connection with such transferee corporation, or

"(ii) for services as a member of the board of directors or as an officer of such transferee corporation.

For purposes of clause (ii), the term 'officer' includes any individual having powers or responsibilities similar to those of officers.

"(F) COORDINATION WITH CERTAIN PRIVATE FOUNDATION TAXES.—For purposes of sections 4942 (relating to the excise tax on a failure to distribute income) and 4943 (relating to the excise tax on excess business holdings), the transferee corporation referred to in subparagraph (B) shall be treated as a functionally related business (within the meaning of section 4942(j)(4)) with respect to the issuer during the period commencing with the date on which an election is made under this paragraph and ending on the date that is the earlier of—

"(i) the last day of the last taxable year for which more than 50 percent of the gross income of such transferee corporation is derived from, or more than 50 percent of the assets (by value) of such transferee corporation consists of, student loan notes incurred under the Higher Education Act of 1965; or

"(ii) the last day of the taxable year of the issuer during which occurs the date which is 10 years after the date on which the election under this paragraph is made.

"(G) ELECTION.—An election under this paragraph may be revoked only with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 11377. CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS TREATED AS UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(18) TREATMENT OF CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), any amount included in gross income under section 951(a)(1)(A) shall be included as an item of gross income derived from an unrelated trade or business to the extent the amount so included is attributable to insurance income (as defined in section 953) which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to income attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is—

"(i) such organization,

"(ii) an affiliate of such organization which is exempt from tax under section 501(a), or

"(iii) a director or officer of, or an individual who performs services for, such organization or affiliate but only if the insurance covers primarily risks associated with the performance of services for the benefit of such organization or affiliate.

For purposes of this subparagraph, the determination as to whether an entity is an affiliate of an organization shall be made under rules similar to the rules of section 168(h)(4)(B).

"(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations for the application of this paragraph in the case of income paid through 1 or more entities or between 2 or more chains of entities."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts included in gross income in any taxable year beginning after December 31, 1995.

SEC. 11378. REPEAL OF FINANCIAL INSTITUTION TRANSITION RULE TO INTEREST ALLOCATION RULES.

(a) IN GENERAL.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99–514, 100 Stat. 2548) is hereby repealed.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11379. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence: "Paragraphs (1)(A), (2)(A), and (4) of section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7) Sections 595 and 596 are hereby repealed.

(8) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(9) Paragraph (3) of section 992(d) is amended by striking "or 593".

(10) Section 1038 is amended by striking subsection (f).

(11) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(12) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(13) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(14) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 593, 595, and 596.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) REPEAL OF SECTION 595.—The repeal of section 595 under subsection (b)(7) shall apply to property acquired in taxable years beginning after December 31, 1995.

(d) 6-YEAR SPREAD OF ADJUSTMENTS.—

(1) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section to change its method of computing reserves for bad debts—

(A) such change shall be treated as a change in a method of accounting,

(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

(i) shall be determined by taking into account only applicable excess reserves, and

(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

(2) APPLICABLE EXCESS RESERVES.—

(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

(i) the balance of the reserves described in section 593(c)(1) of such Code (as in effect on the day before the date of the enactment of this Act) as of the close of the taxpayer's last taxable year beginning before January 1, 1996, over

(ii) the lesser of—

(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

(II) the balance of the reserves described in subclause (I), reduce by an amount determined in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581 of such Code) which is not a large bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995—

(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserve as of the close of its last taxable year beginning before January 1, 1996, if the additions to such reserve for all taxable years had been determined under section 585(b)(2)(A), and

(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5), (6), and (7).

(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in subparagraph (A)(ii) except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for a taxable year beginning after December 31, 1995, and before January 1, 1998—

(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

(ii) such taxable year shall be disregarded in determining—

(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

(II) the amount of such adjustment.

(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term "residential loan" means any loan described in clause (v) of section 7701(a)(19)(C) of such Code but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning before January 1, 1996. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable *year beginning after December 31, 1995, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary of the Treasury or his delegate.*

(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1) of such Code, subparagraph (B) shall be applied with respect to such group.

(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995:

(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii) of such Code, there shall be taken into account only the excess of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4) of such Code—

(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

(ii) no amount shall be includible in gross income by reason of such reduction.

(6) CONTINUED APPLICATION OF SECTION 593(e).—Notwithstanding the amendments made by this section, in the case of a taxpayer to which paragraph (1) of this subsection applies, section 593(e) of such Code (as in effect on the day before the date of the enactment of this Act) shall continue to apply to such taxpayer as if such taxpayer were a domestic building and loan association but the amount of the reserves taken into account under subparagraphs (B) and (C) of section 593(e)(1) (as so in effect) shall be the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

(7) CERTAIN ITEMS INCLUDED AS SECTION 381(c) ITEMS.—The balance of the applicable excess reserves, and the balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection, shall be treated as items described in section 381(c) of such Code.

(8) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c)(14)(A)—

(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

(9) REGULATIONS.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary to carry out this subsection, including regulations providing for the application of paragraphs (4) and (6) in the case of acquisitions, mergers, spin-offs, and other reorganizations.

SEC. 11380. NEWSPAPER DISTRIBUTORS TREATED AS DIRECT SELLERS.

(a) IN GENERAL.—Section 3508(b)(2)(A) in amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) is engaged in the trade or business of the delivering or distribution of newspapers or shopping news (including any services directly related to such trade or business),".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 1995.

Subtitle J—Tax Simplification

CHAPTER 1—PROVISIONS RELATING TO INDIVIDUALS

Subchapter A—Provisions Relating To Rollover of Gain on Sale of Principal Residence

SEC. 11401. MULTIPLE SALES WITHIN ROLLOVER PERIOD.

(a) GENERAL RULE.—

(1) Section 1034(d) (relating to limitation on rollover of gain on sale of principal residence), as amended by sections 11321 and 11322, is amended by striking paragraphs (1) and (2) and by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(2) Paragraph (4) of section 1034(c) is amended to read as follows:

"(4) If the taxpayer, during the period described in subsection (a), purchases more than 1 residence which is used by him as his principal residence at some time within 2 years after the date of the sale of the old residence, only the first of such residences so used by him after the date of such sale shall constitute the new residence."

(3) Subsections (h)(1) and (k) of section 1034 are each amended by striking "(other than the 2 years referred to in subsection (c)(4))".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 11402. SPECIAL RULES IN CASE OF DIVORCE.

(a) IN GENERAL.—Subsection (c) of section 1034 is amended by adding at the end the following new paragraph:

"(5) If—

"(A) a residence is sold by an individual pursuant to a divorce or marital separation, and

"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,

for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 11403. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR CERTAIN SPOUSES.

(a) IN GENERAL.—Paragraph (2) of section 121(b) (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by adding at the end the following new sentence: "For purposes of applying the preceding sentence to individuals who are married to each other, an election by one individual with respect to a sale or exchange occurring before the marriage shall be disregarded for purposes of permitting an election with respect to property owned and used by the other individual as his principal residence throughout the 3-year period ending on the date of the marriage."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining whether an election may be made under section 121 of the Internal Revenue Code of 1986 with respect to a sale or exchange occurring after September 13, 1995.

Subchapter B—Other Provisions

SEC. 11411. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11412. TREATMENT OF TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS.

(a) IN GENERAL.—Subsection (a) of section 162 is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate, or provide support services for the investigation of, a Federal crime."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

CHAPTER 2—PENSION SIMPLIFICATION

Subchapter A—Simplified Distribution Rules

SEC. 11421. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

"(D) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment

within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.".

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking "shall not include any tax imposed by section 402(d) and".

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution.".

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(12) Section 4980A(c)(4) is amended—

(A) by striking "to which an election under section 402(d)(4)(B) applies" and inserting "(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply",

(B) by adding at the end the following new flush sentence:

"An individual may elect to have this paragraph apply to only one lump-sum distribution.", and

(C) by striking the heading and inserting:

"(4) SPECIAL ONE-TIME ELECTION.—".

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. For purposes of the preceding sentence, the rules of sections 402(c)(10) and 402(d) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this Act) shall apply.

SEC. 11422. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 101 is amended by striking "subsection (a) or (b)" and inserting "subsection (a)".

(2) Sections 406(e) and 407(e) are each amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 7701(a)(20) is amended by striking ", for the purposes of applying the provisions of section 101(b) with respect to employees' death benefits".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11423. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	***The number of anticipated payments is:***
Not more than 55	*360*
More than 55 but not more than 60	*310*
More than 60 but not more than 65	*260*
More than 65 but not more than 70	*210*
More than 70	*160.*

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1995.

SEC. 11424. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½, or

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408 (a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995.

Subchapter B—Increased Access to Pension Plans

SEC. 11431. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) IN GENERAL.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) ELIGIBILITY OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

"(i) GOVERNMENTS INELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This clause shall not apply to a rural cooperative plan.

"(ii) TAX-EXEMPTS ELIGIBLE.—

"(I) IN GENERAL.—Any organization exempt from tax under this subtitle may include a qualified cash or deferred arrangement as part of a plan maintained by it.

"(II) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—An employer which is an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing shall be treated as an organization exempt from tax under this subtitle for purposes of subclause (I).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1996, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

Subchapter C—Nondiscrimination Provisions

SEC. 11441. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES; REPEAL OF FAMILY AGGREGATION.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year, or

"(B) for the preceding year had compensation from the employer in excess of $80,000 and was in the top-paid group of the employer.

The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1996.".

(b) REPEAL OF FAMILY AGGREGATION RULES.—

(1) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.

(2) COMPENSATION LIMIT.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.

(3) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.

(c) CONFORMING AMENDMENTS.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (2), (5), (8), and (12) and by redesignating paragraphs (3), (4), (7), (9), (10), and (11) as paragraphs (2) through (7), respectively.

(B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking "section 414(q)(7)" and inserting "section 414(q)(4)".

(C) Section 416(i)(1)(A) is amended by striking "section 414(q)(8)" and inserting "section 414(r)(9)".

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph.".

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(3) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: "Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1995.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1995, except that in determining whether an employee is a highly compensated employee for years beginning in 1996, such amendments shall be treated as having been in effect for years beginning in 1995.

(2) FAMILY AGGREGATION.—The amendments made by subsection (b) shall apply to years beginning after December 31, 1995.

SEC. 11442. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 50 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee).".

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 11443. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.".

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions), as amended by this Act, is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(11) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(12),

"(ii) meets the notice requirements of subsection (k)(12)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee.".

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year",

(B) by striking "for such plan year" and inserting "the preceding plan year", and

(C) by adding at the end the following new sentence: "An arrangement may apply this clause by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.".

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employee",

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii), and

(C) by adding at the end the following flush sentence: "This subparagraph may be applied by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided the Secretary.".

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year.".

(2) Paragraph (3) of section 401(m) is amended by adding at the end the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1998.

(2) EXCESS CONTRIBUTIONS.—The amendments made by subsection (e) shall apply to years beginning after December 31, 1995.

SEC. 11444. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.

(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN DEFERRALS INCLUDED.—The term 'participant's compensation' shall include—

"(i) any elective deferral (as defined in section 402(g)(3)), and

"(ii) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of the employee under section 125 or 457.".

(b) CONFORMING AMENDMENTS.—

(1) Section 414(q)(4), as redesignated by section 11441, is amended to read as follows:

"(7) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3).".

(2) Section 414(s)(2) is amended by inserting "not" after "elect" in the text and heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

Subchapter D—Miscellaneous Provisions

SEC. 11451. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 11452. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1996, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1998.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 11453. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term 'hardship distribution' means a distribution described in paragraph (2)(B)(i)(IV) (without regard to the limitation of its application to profit-sharing or stock bonus plans).".

(b) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:

"(i) any organization which—

"(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or

"(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof)."

(c) EFFECTIVE DATES.—

(1) DISTRIBUTIONS.—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) RURAL COOPERATIVE.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1994.

SEC. 11454. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

"(15) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan."

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(d) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

"(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year."

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking "This" and inserting:

"(i) IN GENERAL.—This".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply to years beginning after December 31, 1994. The amendments made by subsection (d) shall apply with respect to revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—Nothing in the amendments made by this section shall be construed to infer that a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) fails to satisfy the requirements of section 415 of such Code for any taxable year beginning before the date of the enactment of this Act.

SEC. 11455. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

"(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 11456. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 11457. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election.".

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457, as amended by section 11454(b)(2) (relating to governmental plans), is amended by adding at the end the following new paragraph:

"(16) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1994, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11458. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Section 457 is amended by adding at the end the following new subsection:

"(g) GOVERNMENTAL PLANS MUST MAINTAIN SET ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—

"(1) IN GENERAL.—A plan maintained by an eligible employer described in subsection (e)(1)(A) shall not be treated as an eligible deferred compensation plan unless all assets and income of the plan described in subsection (b)(6) are held in trust for the exclusive benefit of participants and their beneficiaries.

"(2) TAXABILITY OF TRUSTS AND PARTICIPANTS.—For purposes of this title—

"(A) a trust described in paragraph (1) shall be treated as an organization exempt from taxation under section 501(a), and

"(B) notwithstanding any other provision of this title, amounts in the trust shall be includible in the gross income of participants and beneficiaries only to the extent, and at the time, provided in this section.

"(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—For purposes of this subsection, custodial accounts and contracts described in section 401(f) shall be treated as trusts under rules similar to the rules under section 401(f)."

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 457(b) is amended by inserting "except as provided in subsection (g)," before "which provides that".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to assets and income described in section 457(b)(6) of the Internal Revenue Code of 1986 held by a plan on and after the date of the enactment of this Act.

(2) TRANSITION RULE.—In the case of assets and income described in paragraph (1) held by a plan before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature of the State in which the governmental entity maintaining the plan is located beginning after the date of the enactment of this Act, a trust need not be established by reason of the amendments made by this section before such first day. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 11459. TRANSITION RULE FOR COMPUTING MAXIMUM BENEFITS UNDER SECTION 415 LIMITATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended to read as follows:

"(A) EXCEPTION.—A plan that was adopted and in effect before December 8, 1994, shall not be required to apply the amendments made by subsection (b) with respect to benefits accrued before the earlier of—

"(i) the later of the date a plan amendment applying such amendment is adopted or made effective, or

"(ii) the first day of the first limitation year beginning after December 31, 1999.

Determinations under section 415(b)(2)(E) of the Internal Revenue Code of 1986 shall be made with respect to such benefits on the basis of such section as in effect on December 7, 1994 (except that the modification made by subsection (b) shall be taken into account), and the provisions of the plan as in effect on December 7, 1994, but only if such provisions of the plan meet the requirements of such section (as so in effect)."

(b) MODIFICATION OF CERTAIN ASSUMPTIONS FOR ADJUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR EARLY RETIREES.—Subparagraph (E) of section 415(b)(2) (relating to limitation on certain assumptions) is amended—

(1) by striking "Except as provided in clause (ii), for purposes of adjusting any benefit or limitation under subparagraph (B) or (C)," in clause (i) and inserting "For purposes of adjusting any limitation under subparagraph (C) and, except as provided in clause (ii), for purposes of adjusting any benefit under subparagraph (B),", and

(2) by striking "For purposes of adjusting the benefit or limitation of any form of benefit subject to section 417(e)(3)," in clause (ii) and inserting "For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 767 of the Uruguay Round Agreements Act.

(d) TRANSITIONAL RULE.—In the case of a plan that was adopted and in effect before December 8, 1994, if—

(1) a plan amendment was adopted or made effective on or before the date of the enactment of this Act applying the amendments made by section 767(b) of the Uruguay Round Agreements Act, and

(2) within 1 year after the date of the enactment of this Act, a plan amendment is adopted which repeals the amendment referred to in paragraph (1),

the amendment referred to in paragraph (1) shall not be taken into account in applying section 767(d)(3)(A) of the Uruguay Round Agreements Act, as amended by subsection (a).

SEC. 11460. MODIFICATIONS OF SECTION 403(b).

(a) MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED.—

(1) GENERAL RULE.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules applicable to cash or deferred elections under section 401(k) of such Code.

(2) EFFECTIVE DATE.—This subsection shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—In the case of any contract purchased in a plan year beginning before January 1, 1995, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.

(2) ROLLOVERS.—Solely for purposes of applying section 403(b)(8) of such Code to a contract to which paragraph (1) applies, a qualified cash or deferred arrangement under section 401(k) of such Code shall be treated as if it were a plan or contract described in clause (ii) of section 403(b)(8)(A) of such Code.

(c) ELECTIVE DEFERRALS.—

(1) IN GENERAL.—Subparagraph (E) of section 403(b)(1) is amended to read as follows:

"(E) in the case of a contract purchased under a salary reduction agreement, the contract meets the requirements of section 401(a)(30),".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1995.

SEC. 11461. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) GENERAL RULE.—For purposes of section 417(a)(3)(A) of the Internal Revenue Code of 1986 (relating to plan to provide written explanations), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1995.

SEC. 11462. REPEAL OF LIMITATION IN CASE OF DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN FOR SAME EMPLOYEE; EXCESS DISTRIBUTIONS.

(a) IN GENERAL.—Section 415(e) is repealed.

(b) EXCESS DISTRIBUTIONS.—Section 4980A is amended by adding at the end the following new subsection:

"(g) LIMITATION ON APPLICATION.—This section shall not apply to distributions during years beginning after December 31, 1995, and before January 1, 1999, and such distributions shall be treated as made first from amounts not described in subsection (f)."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 415(b)(5) is amended by striking "and subsection (e)".

(2) Paragraph (1) of section 415(f) is amended by striking "subsections (b), (c), and (e)" and inserting "subsections (b) and (c)".

(3) Subsection (g) of section 415 is amended by striking "subsections (e) and (f)" in the last sentence and inserting "subsection (f)".

(4) Clause (i) of section 415(k)(2)(A) is amended to read as follows:

"(i) any contribution made directly by an employee under such an arrangement shall not be treated as an annual addition for purposes of subsection (c), and".

(5) Clause (ii) of section 415(k)(2)(A) is amended by striking "subsections (c) and (e)" and inserting "subsection (c)".

(6) Section 416 is amended by striking subsection (h).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to limitation years beginning after December 31, 1998.

(2) EXCESS DISTRIBUTIONS.—The amendment made by subsection (b) shall apply to years beginning after December 31, 1995.

SEC. 11463. TAX ON PROHIBITED TRANSACTIONS.

(a) IN GENERAL.—Section 4975(a) is amended by striking "5 percent" and inserting "10 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to prohibited transactions occurring after December 31, 1995.

SEC. 11464. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under primary direction or control by the recipient.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

CHAPTER 3—TREATMENT OF LARGE PARTNERSHIPS

SEC. 11471. SIMPLIFIED FLOW-THROUGH FOR ELECTING LARGE PARTNERSHIPS.

(a) General Rule.—Subchapter K (relating to partners and partnerships) is amended by adding at the end the following new part:

"PART IV—SPECIAL RULES FOR ELECTING LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to electing large partnerships.
"Sec. 772. Simplified flow-through.
"Sec. 773. Computations at partnership level.
"Sec. 774. Other modifications.
"Sec. 775. Electing large partnership defined.
"Sec. 776. Special rules for partnerships holding oil and gas properties.
"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO ELECTING LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to an electing large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) General Rule.—In determining the income tax of a partner of an electing large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes,

"(10) the credit allowable under section 29, and

"(11) other items to the extent that the Secretary determines that the separate treatment of such items is appropriate.

"(b) Separate Computations.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) Treatment at Partner Level.—

"(1) In general.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) Income or loss from passive loss limitation activities.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) Income or loss from other activities.—

"(A) In general.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) Deductions for loss not subject to section 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) Treatment of net capital gain or loss.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) Minimum tax treatment.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) General credits.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) Operating Rules.—For purposes of this section—

"(1) Passive loss limitation activity.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) Tax-exempt interest.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) Applicable net AMT adjustment.—

"(A) In general.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) Net adjustment.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) Treatment of certain separately stated items.—

"(A) Exclusion for certain purposes.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be), and any item referred to in subsection (a)(11), shall be excluded.

"(B) Allocation rules.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) Net capital loss.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) General credits.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) Foreign income taxes.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) Special Rule for Unrelated Business Tax.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) Special Rules for Applying Passive Loss Limitations.—If any person holds an interest in an electing large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) General Rule.—

"(1) Taxable income.—The taxable income of an electing large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) Elections.—All elections affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be made by the partnership; except that the election under section 901, and any election under section 108, shall be made by each partner separately.

"(3) Limitations, etc.—

"(A) In general.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be applied at the partnership level (and not at the partner level).

"(B) Certain limitations applied at partner level.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) Coordination with other provisions.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) Modifications to Determination of Taxable Income.—In determining the taxable income of an electing large partnership—

"(1) Certain deductions not allowed.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If an electing large partnership has income from the discharge of any indebtedness—

"(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

"(2) in determining the income tax of any partner of such partnership—

"(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

"(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of an electing large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

"(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

"(b) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

"(1) IN GENERAL.—In the case of an electing large partnership—

"(A) any credit recapture shall be taken into account by the partnership, and

"(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

"(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—An electing large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

"(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in an electing large partnership.

"(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

"(c) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to an electing large partnership.

"(d) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to an electing large partnership and shall not be taken into account by the partners of such partnership:

"(1) The credit provided by section 34.

"(2) Any credit or refund under section 852(b)(3)(D).

"(e) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any electing large partnership—

"(1) all interests in such partnership shall be treated as held by disqualified organizations,

"(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

"(3) subparagraph (D) of section 860E(e)(6) shall not apply.

"(f) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of an electing large partnership—

"(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

"(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

"SEC. 775. ELECTING LARGE PARTNERSHIP DEFINED.

"(a) GENERAL RULE.—For purposes of this part—

"(1) IN GENERAL.—The term 'electing large partnership' means, with respect to any partnership taxable year, any partnership if—

"(A) the number of persons who were partners in such partnership in the preceding partnership taxable year equaled or exceeded 100, and

"(B) such partnership elects the application of this part.

To the extent provided in regulations, a partnership shall cease to be treated as an electing large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

"(2) ELECTION.—The election under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

"(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

"(2) EXCLUSION.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership if substantially all the partners of such partnership—

"(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

"(B) are retired partners who had performed such substantial services, or

"(C) are spouses of partners who are performing (or had previously performed) such substantial services.

"(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

"(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

"(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as an electing large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

"(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—

"(1) IN GENERAL.—For purposes of this part, an election under section 775(a) shall not be effective with respect to any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

"(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES WHERE PART APPLIES.—

"(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of an electing large partnership, except as provided in paragraph (2)—

"(A) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

"(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without regard to paragraph (1) of section 613A(d), and

"(C) paragraph (3) of section 705(a) shall not apply.

"(2) TREATMENT OF CERTAIN PARTNERS.—

"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end the following new item:

"Part IV. Special rules for electing large partnerships."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1995.

SEC. 11472. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

(a) IN GENERAL.—Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end the following new sentence:

"Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1995.

CHAPTER 4—FOREIGN PROVISIONS

Subchapter A—Modifications to Treatment of Passive Foreign Investment Companies

SEC. 11481. UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS NOT SUBJECT TO PFIC INCLUSION.

Section 1296 is amended by adding at the end the following new subsection:

"(e) EXCEPTION FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this part, a corporation shall not be treated with respect to a shareholder as a passive foreign investment company during the qualified portion of such shareholder's holding period with respect to stock in such corporation.

"(2) QUALIFIED PORTION.—For purposes of this subsection, the term 'qualified portion' means the portion of the shareholder's holding period—

"(A) which is after December 31, 1995, and

"(B) during which the shareholder is a United States shareholder (as defined in section 951(b)) of the corporation and the corporation is a controlled foreign corporation.

"(3) NEW HOLDING PERIOD IF QUALIFIED PORTION ENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if the qualified portion of a shareholder's holding period with respect to any stock ends after December 31, 1995, solely for purposes of this part, the shareholder's holding period with respect to such stock shall be treated as beginning as of the first day following such period.

"(B) EXCEPTION.—Subparagraph (A) shall not apply if such stock was, with respect to such shareholder, stock in a passive foreign investment company at any time before the qualified portion of the shareholder's holding period with respect to such stock and no election under section 1298(b)(1) is made."

SEC. 11482. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK IN PASSIVE FOREIGN INVESTMENT COMPANY.

(a) IN GENERAL.—Part VI of subchapter P of chapter 1 is amended by redesignating subpart C as subpart D, by redesignating sections 1296 and 1297 as sections 1297 and 1298, respectively, and by inserting after subpart B the following new subpart:

"Subpart C—Election of Mark to Market For Marketable Stock

"Sec. 1296. Election of mark to market for marketable stock.

"SEC. 1296. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK.

"(a) GENERAL RULE.—In the case of marketable stock in a passive foreign investment company which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person, at the election of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) BASIS ADJUSTMENTS.—

"(1) IN GENERAL.—The adjusted basis of stock in a passive foreign investment company—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign investment company which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) CHARACTER AND SOURCE RULES.—

"(1) ORDINARY TREATMENT.—

"(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect), shall be treated as ordinary income.

"(B) LOSS.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect) to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock, shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign investment company.

"(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign investment company, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1291.

"(e) MARKETABLE STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part,

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, and

"(C) to the extent provided in regulations, any option on stock described in subparagraph (A) or (B).

"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign investment company which it owns directly or indirectly shall be treated as marketable stock for purposes of this section. Except as provided in regulations, similar treatment as marketable stock shall apply in the case of any other regulated investment company which publishes net asset valuations at least annually.

"(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN INVESTMENT COMPANIES.—In the case of a foreign corporation which is a controlled foreign corporation and which owns (or is treated under subsection (g) as owning) stock in a passive foreign investment company—

"(1) this section (other than subsection (c)(2)) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign investment company.

"(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) STOCK ACQUIRED FROM A DECEDENT.—In the case of stock of a passive foreign investment company which is acquired by bequest, devise, or inheritance (or by the decedent's estate) and

with respect to which an election under this section was in effect as of the date of the decedent's death, notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this subsection).

"(j) Coordination With Section 1291 for First Year of Election.—

"(1) Taxpayers other than regulated investment companies.—

"(A) In general.—If the taxpayer elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, and if the requirements of subparagraph (B) are not satisfied, section 1291 shall apply to—

"(i) any distributions with respect to, or disposition of, such stock in the first taxable year of the taxpayer for which such election is made, and

"(ii) any amount which, but for section 1291, would have been included in gross income under subsection (a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(B) Requirements.—The requirements of this subparagraph are met if, with respect to each of such corporation's taxable years for which such corporation was a passive foreign investment company and which begin after December 31, 1986, and included any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part with respect to the taxpayer.

"(2) Special rules for regulated investment companies.—

"(A) In general.—If a regulated investment company elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, then, with respect to such company's first taxable year for which such company elects the application of this section with respect to such stock—

"(i) section 1291 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such regulated investment company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1291(c)(3) if section 1291 were applied without regard to this subparagraph.

Clause (ii) shall not apply if for the preceding taxable year the company elected to mark to market the stock held by such company as of the last day of such preceding taxable year.

"(B) Disallowance of deduction.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"(k) Election.—This section shall apply to marketable stock in a passive foreign investment company which is held by a United States person only if such person elects to apply this section with respect to such stock. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless—

"(1) such stock ceases to be marketable stock, or

"(2) the Secretary consents to the revocation of such election.

"(l) Transition Rule for Individuals Becoming Subject to United States Tax.—If any individual becomes a United States person in a taxable year beginning after December 31, 1995, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign investment company owned by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day."

(b) Coordination With Interest Charge, Etc.—

(1) Paragraph (1) of section 1291(d) is amended by adding at the end the following new flush sentence:

"Except as provided in section 1296(j), this section also shall not apply if an election under section 1296(k) is in effect for the taxpayer's taxable year."

(2) The subsection heading for subsection (d) of section 1291 is amended by striking "Subpart B" and inserting "Subparts B and C".

(3) Subparagraph (A) of section 1291(a)(3) is amended to read as follows:

"(A) Holding period.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1296 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1296 so applied."

(c) Conforming Amendments.—

(1) Sections 532(b)(4) and 542(c)(10) are each amended by striking "section 1296" and inserting "section 1297".

(2) Subsection (f) of section 551 is amended by striking "section 1297(b)(5)" and inserting "section 1298(b)(5)"

(3) Subsections (a)(1) and (d) of section 1293 are each amended by striking "section 1297(a)" and inserting "section 1298(a)".

(4) Paragraph (3) of section 1297(b), as redesignated by subsection (a), is hereby repealed.

(5) The table of sections for subpart D of part VI of subchapter P of chapter 1, as redesignated by subsection (a), is amended to read as follows:

"Sec. 1297. Passive foreign investment company.

"Sec. 1298. Special rules."

(6) The table of subparts for part VI of subchapter P of chapter 1 is amended by striking the last item and inserting the following new items:

"Subpart C. Election of mark to market for marketable stock.

"Subpart D. General provisions."

(d) Clarification of Gain Recognition Election.—The last sentence of section 1298(b)(1), as so redesignated, is amended by inserting "(determined without regard to the preceding sentence)" after "investment company".

SEC. 11483. MODIFICATIONS TO DEFINITION OF PASSIVE INCOME.

(a) Exception for Same Country Income Not To Apply.—Paragraph (1) of section 1297(b) (defining passive income), as redesignated by section 11482, is amended by inserting before the period "without regard to paragraph (3) thereof".

(b) Passive Income Not To Include FSC Income.—Paragraph (2) of section 1297(b), as so redesignated, is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) any foreign trade income of a FSC."

SEC. 11484. EFFECTIVE DATE.

The amendments made by this subchapter shall apply to—

(1) taxable years of United States persons beginning after December 31, 1995, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

Subchapter B—Treatment of Controlled Foreign Corporations

SEC. 11486. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) General Rule.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end the following new subsection:

"(e) Gain on Certain Stock Sales by Controlled Foreign Corporations Treated as Dividends.—

"(1) In general.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) Same country exception not applicable.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) Clarification of deemed sales.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock."

(b) Amendment of Section 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 11487. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) Section 1248 Gain Taken Into Account in Determining Pro Rata Share.—

(1) In general.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) Effective date.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) Basis Adjustments in Stock Held by Foreign Corporation.—

(1) In general.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end the following new subsection:

"(c) Basis Adjustments in Stock Held by Foreign Corporation.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments *similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations).''*

(2) Effective date.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1995.

(c) Determination of Previously Taxed Income in Section 304 Distributions, Etc.—

(1) In general.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end the following new subsection:

''(g) Adjustments for Certain Transactions.—If by reason of—

''(1) a transaction to which section 304 applies,

''(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

''(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be.''

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) Clarification of Treatment of Branch Tax Exemptions or Reductions.—

(1) In general.—Subsection (b) of section 952 is amended by adding at the end the following new sentence: ''For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.''.

(2) Effective date.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 11488. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) Section 902 Credit.—

(1) In general.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

''(b) Deemed Taxes Increased in Case of Certain Lower Tier Corporations.—

''(1) In general.—If—

''(A) any foreign corporation is a member of a qualified group, and

''(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

''(2) Qualified group.—For purposes of paragraph (1), the term 'qualified group' means—

''(A) the foreign corporation described in subsection (a), and

''(B) any other foreign corporation if—

''(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

''(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

''(iii) such other corporation is not below the sixth tier in such chain.

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation.''

(2) Conforming amendments.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding ''or'' at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

''(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation.''

(B) Subparagraph (B) of section 902(c)(4) is amended by striking ''3rd foreign corporation'' and inserting ''sixth tier foreign corporation''.

(C) The heading for paragraph (3) of section 902(c) is amended by striking ''WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION'' and inserting ''WHERE FOREIGN CORPORATION FIRST QUALIFIES''.

(D) Paragraph (3) of section 902(c) is amended by striking ''ownership'' each place it appears.

(b) Section 960 Credit.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

''(1) Deemed paid credit.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B)).''

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) Special rule.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

SEC. 11489. REPEAL OF INCLUSION OF CERTAIN EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) In General.—

(1) Repeal of inclusion.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking subparagraph (C), by striking ''; and'' at the end of subparagraph (B) and inserting a period, and by adding ''and'' at the end of subparagraph (A).

(2) Repeal of inclusion amount.—Section 956A (relating to earnings invested in excess passive assets) is repealed.

(b) Conforming Amendments.—

(1) Paragraph (1) of section 956(b) is amended to read as follows:

''(1) Applicable earnings.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the sum of—

''(A) the amount (not including a deficit) referred to in section 316(a)(1), and

''(B) the amount referred to in section 316(a)(2),

but reduced by distributions made during the taxable year.''

(2) Paragraph (3) of section 956(b) is amended to read as follows:

''(3) Special rule where corporation ceases to be controlled foreign corporation.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

''(A) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation,

''(B) the average referred to in subsection (a)(1)(A) for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

''(C) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.''

(3) Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding ''or'' at the end of paragraph (1), by striking ''or'' at the end of paragraph (2), and by striking paragraph (3).

(4) Subsection (a) of section 959 is amended by striking ''paragraphs (2) and (3)'' in the last sentence and inserting ''paragraph (2)''.

(5) Subsection (c) of section 959 is amended by adding at the end the following flush sentence: ''References in this subsection to section 951(a)(1)(C) and subsection (a)(3) shall be treated as references to such provisions as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1995.''

(6) Paragraph (1) of section 959(f) is amended to read as follows:

''(1) In general.—For purposes of this section, amounts that would be included under subparagraph (B) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3).''

(7) Paragraph (2) of section 959(f) is amended by striking ''subparagraphs (B) and (C) of section 951(a)(1)'' and inserting ''section 951(a)(1)(B)''.

(8) Subsection (b) of section 989 is amended by striking ''subparagraph (B) or (C) of section 951(a)(1)'' and inserting ''section 951(a)(1)(B)''.

(9) Paragraph (9) of section 1298(b), as redesignated by section 11482, is amended by striking ''subparagraph (B) or (C) of section 951(a)(1)'' and inserting ''section 951(a)(1)(B)''.

(10) Subsections (d)(3)(B) and (e)(2)(B)(ii) of section 1298, as redesignated by section 11482, are each amended by striking ''or section 956A''.

(c) Clerical Amendment.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 956A.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after September 30, 1995, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end.

CHAPTER 5—OTHER INCOME TAX PROVISIONS

Subchapter A—Provisions Relating to S Corporations

SEC. 11501. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS.

Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking "35 shareholders" and inserting "75 shareholders".

SEC. 11502. ELECTING SMALL BUSINESS TRUSTS.

(a) GENERAL RULE.—Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (iv) the following new clause:

"(v) An electing small business trust."

(b) CURRENT BENEFICIARIES TREATED AS SHAREHOLDERS.—Subparagraph (B) of section 1361(c)(2) is amended by adding at the end the following new clause:

"(v) In the case of a trust described in clause (v) of subparagraph (A), each potential current beneficiary of such trust shall be treated as a shareholder; except that, if for any period there is no potential current beneficiary of such trust, such trust shall be treated as the shareholder during such period."

(c) ELECTING SMALL BUSINESS TRUST DEFINED.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

"(e) ELECTING SMALL BUSINESS TRUST DEFINED.—

"(1) ELECTING SMALL BUSINESS TRUST.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'electing small business trust' means any trust if—

"(i) such trust does not have as a beneficiary any person other than (I) an individual, (II) an estate, or (III) an organization described in paragraph (2), (3), (4), or (5) of section 170(c) which holds a contingent interest and is not a potential current beneficiary,

"(ii) no interest in such trust was acquired by purchase, and

"(iii) an election under this subsection applies to such trust.

"(B) CERTAIN TRUSTS NOT ELIGIBLE.—The term 'electing small business trust' shall not include—

"(i) any qualified subchapter S trust (as defined in subsection (d)(3)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and

"(ii) any trust exempt from tax under this subtitle.

"(C) PURCHASE.—For purposes of subparagraph (A), the term 'purchase' means any acquisition if the basis of the property acquired is determined under section 1012.

"(2) POTENTIAL CURRENT BENEFICIARY.—For purposes of this section, the term 'potential current beneficiary' means, with respect to any period, any person who at any time during such period is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. If a trust disposes of all of the stock which it holds in an S corporation, then, with respect to such corporation, the term 'potential current beneficiary' does not include any person who first met the requirements of the preceding sentence during the 60-day period ending on the date of such disposition.

"(3) ELECTION.—An election under this subsection shall be made by the trustee. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.

"(4) CROSS REFERENCE.—

"For special treatment of electing small business trusts, see section 641(d)."

(d) TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—Section 641 (relating to imposition of tax on trusts) is amended by adding at the end the following new subsection:

"(d) SPECIAL RULES FOR TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—

"(1) IN GENERAL.—For purposes of this chapter—

"(A) the portion of any electing small business trust which consists of stock in 1 or more S corporations shall be treated as a separate trust, and

"(B) the amount of the tax imposed by this chapter on such separate trust shall be determined with the modifications of paragraph (2).

"(2) MODIFICATIONS.—For purposes of paragraph (1), the modifications of this paragraph are the following:

"(A) Except as provided in section 1(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).

"(B) The exemption amount under section 55(d) shall be zero.

"(C) The only items of income, loss, deduction, or credit to be taken into account are the following:

"(i) The items required to be taken into account under section 1366.

"(ii) Any gain or loss from the disposition of stock in an S corporation.

"(iii) To the extent provided in regulations, State or local income taxes or administrative expenses to the extent allocable to items described in clauses (i) and (ii).

No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be apportioned to any beneficiary.

"(D) No amount shall be allowed under paragraph (1) or (2) of section 1211(b).

"(3) TREATMENT OF REMAINDER OF TRUST AND DISTRIBUTIONS.—For purposes of determining—

"(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and

"(B) the distributable net income of the entire trust,

the items referred to in paragraph (2)(C) shall be excluded. Except as provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.

"(4) TREATMENT OF UNUSED DEDUCTIONS WHERE TERMINATION OF SEPARATE TRUST.—If a portion of an electing small business trust ceases to be treated as a separate trust under paragraph (1), any carryover or excess deduction of the separate trust which is referred to in section 642(h) shall be taken into account by the entire trust.

"(5) ELECTING SMALL BUSINESS TRUST.—For purposes of this subsection, the term 'electing small business trust' has the meaning given such term by section 1361(e)(1)."

(e) TECHNICAL AMENDMENT.—Paragraph (1) of section 1366(a) is amended by inserting ", or of a trust or estate which terminates," after "who dies".

SEC. 11503. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS.

Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended—

(1) by striking "60-day period" each place it appears in clauses (ii) and (iii) and inserting "2-year period", and

(2) by striking the last sentence in clause (ii).

SEC. 11504. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT.

Clause (iii) of section 1361(c)(5)(B) (defining straight debt) is amended by striking "or a trust described in paragraph (2)" and inserting "a trust described in paragraph (2), or a person which is actively and regularly engaged in the business of lending money."

SEC. 11505. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 11506. AGREEMENT TO TERMINATE YEAR.

Paragraph (2) of section 1377(a) (relating to pro rata share) is amended to read as follows:

"(2) ELECTION TO TERMINATE YEAR.—

"(A) IN GENERAL.—If any shareholder terminates the shareholder's interest in the corporation during the taxable year and all affected shareholders and the corporation agree to the application of this paragraph, paragraph (1) shall be applied to the affected shareholders as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.

"(B) AFFECTED SHAREHOLDERS.—For purposes of subparagraph (A), the term 'affected shareholders' means the shareholder whose interest is

terminated and all shareholders to whom such shareholder has transferred shares during the taxable year. If such shareholder has transferred shares to the corporation, the term 'affected shareholders' shall include all persons who are shareholders during the taxable year.''

SEC. 11507. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.

(a) IN GENERAL.—Paragraph (1) of section 1377(b) (relating to post-termination transition period) is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer which follows the termination of the corporation's election and which adjusts a subchapter S item of income, loss, or deduction of the corporation arising during the S period (as defined in section 1368(e)(2)), and''.

(b) DETERMINATION DEFINED.—Paragraph (2) of section 1377(b) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) a determination as defined in section 1313(a), or''.

(c) REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.—

(1) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(2) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end the following new subsection:

''(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

''(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

''(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

''(A) IN GENERAL.—In the case of any subchapter S item, if—

''(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

''(II) the corporation has not filed a return, and

''(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

''(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

''(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

''(ii) elects to have this paragraph apply with respect to that item.

''(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

''(A) described in subparagraph (A)(i)(I) of paragraph (2), and

''(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2), any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

''(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

''(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(3) CONFORMING AMENDMENTS.—

(A) Section 1366 is amended by striking subsection (g).

(B) Subsection (b) of section 6233 is amended to read as follows:

''(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply.''

(C) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

SEC. 11508. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.

(a) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(b) TREATMENT OF CERTAIN WHOLLY OWNED S CORPORATION SUBSIDIARIES.—Section 1361(b) (defining small business corporation) is amended by adding at the end the following new paragraph:

''(3) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—

''(A) IN GENERAL.—For purposes of this title—

''(i) a corporation which is a qualified subchapter S subsidiary shall not be treated as a separate corporation, and

''(ii) all assets, liabilities, and items of income, deduction, and credit of a qualified subchapter S subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

''(B) QUALIFIED SUBCHAPTER S SUBSIDIARY.—For purposes of this paragraph, the term 'qualified subchapter S subsidiary' means any domestic corporation which is not an ineligible corporation (as defined in paragraph (2)), if—

''(i) 100 percent of the stock of such corporation is held by the S corporation, and

''(ii) the S corporation elects to treat such corporation as a qualified subchapter S subsidiary.

''(C) TREATMENT OF TERMINATIONS OF QUALIFIED SUBCHAPTER S SUBSIDIARY STATUS.—For purposes of this title, if any corporation which was a qualified subchapter S subsidiary ceases to meet the requirements of subparagraph (B), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the S corporation in exchange for its stock.''

(c) CERTAIN DIVIDENDS NOT TREATED AS PASSIVE INVESTMENT INCOME.—Paragraph (3) of section 1362(d) is amended by adding at the end the following new subparagraph:

''(F) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.''

(d) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1361 is amended by striking paragraph (6).

(2) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end the following new paragraph:

''(8) An S corporation.''

SEC. 11509. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) (relating to losses and deductions cannot exceed shareholder's basis in stock and debt) is amended by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)(A)''.

(2) Subsection (d) of section 1368 (relating to certain adjustments taken into account) is amended by adding at the end the following new sentence:

''In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year.''

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end the following new subparagraph:

''(C) NET LOSS FOR YEAR DISREGARDED.—

''(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

''(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

''(I) the reductions in the account for the taxable year (other than for distributions), over

''(II) the increases in such account for such taxable year.''

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking ''as provided in subparagraph (B)'' and inserting ''as otherwise provided in this paragraph'', and

(2) by striking ''section 1367(b)(2)(A)'' and inserting ''section 1367(a)(2)''.

SEC. 11510. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.

Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

''(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders.''

SEC. 11511. ELIMINATION OF CERTAIN EARNINGS AND PROFITS.

(a) IN GENERAL.—If—

(1) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(2) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1995,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 1362(d) is amended—

(A) by striking "SUBCHAPTER C" in the paragraph heading and inserting "ACCUMULATED",

(B) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(C) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(2)(A) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(B) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."

*(C) The section heading for section 1375 is amended by striking "**subchapter c**" and inserting "**accumulated**".*

(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(3) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

SEC. 11512. CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER AT-RISK RULES ALLOWED.

Paragraph (3) of section 1366(d) (relating to carryover of disallowed losses and deductions to post-termination transition period) is amended by adding at the end the following new subparagraph:

"(D) AT-RISK LIMITATIONS.—To the extent that any increase in adjusted basis described in subparagraph (B) would have increased the shareholder's amount at risk under section 465 if such increase had occurred on the day preceding the commencement of the post-termination transition period, rules similar to the rules described in subparagraphs (A) through (C) shall apply to any losses disallowed by reason of section 465(a)."

SEC. 11513. ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.

(a) IN GENERAL.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of decedents dying after the date of the enactment of this Act.

SEC. 11514. S CORPORATIONS ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS.

(a) IN GENERAL.—Subsection (a) of section 1237 (relating to real property subdivided for sale) is amended by striking "other than a corporation" in the material preceding paragraph (1) and inserting "other than a C corporation".

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 1237(a)(2) is amended by inserting "an S corporation which included the taxpayer as a shareholder," after "controlled by the taxpayer,".

SEC. 11515. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this subchapter, the amendments made by this subchapter shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—For purposes of section 1362(g) of the Internal Revenue Code of 1986 (relating to election after termination), any termination under section 1362(d) of such Code in a taxable year beginning before January 1, 1996, shall not be taken into account.

Subchapter B—Repeal of 30-Percent Gross Income Limitation on Regulated Investment Companies

SEC. 11521. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) GENERAL RULE.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding "and" at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) TECHNICAL AMENDMENTS.—

(1) The material following paragraph (3) of section 851(b) (as redesignated by subsection (a)) is amended—

(A) by striking out "paragraphs (2) and (3)" and inserting "paragraph (2)", and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking "subsection (b)(4)" each place it appears (including the heading) and inserting "subsection (b)(3)".

(3) Subsection (d) of section 851 is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(4) Paragraph (1) of section 851(e) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(5) Paragraph (4) of section 851(e) is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking "851(b)(4)" in subparagraph (A) and inserting "851(b)(3)", and

(B) by striking "851(b)(4)(A)(i)" in subparagraph (B) and inserting "851(b)(3)(A)(i)".

(9) Section 1092(f)(2) is amended by striking "Except for purposes of section 851(b)(3), the" and inserting "The".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subchapter C—Accounting Provisions

SEC. 11551. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 11552. APPLICATION OF MARK TO MARKET ACCOUNTING METHOD TO TRADERS IN SECURITIES.

(a) IN GENERAL.—Section 475 (relating to mark to market accounting method for dealers in securities) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) AUTHORITY TO EXTEND METHOD TO TRADERS IN SECURITIES.—

"(1) IN GENERAL.—A trader in securities may elect to have the provisions of this section (other than subsection (d)(3)) apply to securities held by the trader. Such election may be made only with the consent of the Secretary.

"(2) TRADER IN SECURITIES.—For purposes of this subsection, the term 'trader in securities'

means a taxpayer who is regularly engaged in trading securities."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on and after December 31, 1995.

SEC. 11553. MODIFICATION OF RULING AMOUNTS FOR NUCLEAR DECOMMISSIONING COSTS.

(a) IN GENERAL.—Section 468A(d) (relating to ruling amount) is amended by adding at the end the following new paragraph:

"(4) NONSUBSTANTIAL MODIFICATIONS.—A taxpayer may modify a schedule of ruling amounts under paragraph (1) without a review under paragraph (3) if such modification does not substantially modify the ruling amount. The taxpayer shall notify the Secretary of any such modification."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to modifications after the date of the enactment of this Act.

Subchapter D—Tax-Exempt Bond Provision

SEC. 11561. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

(a) IN GENERAL.—Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this part shall apply to bonds issued after the date of the enactment of this Act.

Subchapter E—INSURANCE PROVISIONS

SEC. 11571. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking "or" at the end of subparagraph (A), by striking "and" at the end of subparagraph (B) and inserting "or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and".

(2) Paragraph (3) of section 817(d) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11572. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.

(a) GENERAL RULE.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

"SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.

"(a) COMPUTATION OF RESERVES.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.

"(b) SEGREGATED ASSETS UNDER MODIFIED GUARANTEED CONTRACTS MARKED TO MARKET.—

"(1) IN GENERAL.—In the case of any life insurance company, for purposes of this subtitle—

"(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.

"(B) If any segregated asset is held by such company as of the close of any taxable year—

"(i) such company shall recognize gain or loss as if such asset were sold for its fair market value on the last business day of such taxable year, and

"(ii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

"(2) SEGREGATED ASSET.—For purposes of paragraph (1), the term 'segregated asset' means any asset held as part of a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

"(c) SPECIAL RULE IN COMPUTING LIFE INSURANCE RESERVES.—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

"(d) MODIFIED GUARANTEED CONTRACT DEFINED.—For purposes of this section, the term 'modified guaranteed contract' means a contract not described in section 817—

"(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

"(2) which—

"(A) provides for the payment of annuities,

"(B) is a life insurance contract, or

"(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract,

"(3) for which reserves are valued at market for annual statement purposes, and

"(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(e)(1)).

If only a portion of a contract is not described in section 817, such portion shall be treated for purposes of this section as a separate contract.

"(e) REGULATIONS.—The Secretary may prescribe regulations—

"(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),

"(2) to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B), and 812 with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and, to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d),

"(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company,

"(4) to provide appropriate treatment of transfers of assets to and from the segregated account, and

"(5) as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:

"Sec. 817A. Special rules for modified guaranteed contracts.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) TREATMENT OF NET ADJUSTMENTS.—In the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments and to mark segregated assets to market for any taxable year—

(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986 shall be taken into account as ordinary income or loss by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1995.

Subchapter F—Other Provisions

SEC. 11581. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1995.

SEC. 11582. CREDIT FOR SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) REPORTING REQUIREMENT NOT CONSIDERED.—Subparagraph (A) of section 45B(b)(1) (relating to excess employer social security tax) is amended by inserting "(without regard to whether such tips are reported under section 6053)" after "section 3121(q)".

(b) TAXES PAID.—Subsection (d) of section 13443 of the Revenue Reconciliation Act of 1993 is amended by inserting ", with respect to services performed before, on, or after such date" after "1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by, and the provisions of, section 13443 of the Revenue Reconciliation Act of 1993.

SEC. 11583. DUE DATE FOR FIRST QUARTER ESTIMATED TAX PAYMENTS BY PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Paragraph (3) of section 6655(g) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) In the case of any private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15' ".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

CHAPTER 6—ESTATES AND TRUSTS

Subchapter A—Income Tax Provisions

SEC. 11601. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.

(a) IN GENERAL.—Subpart A of part I of subchapter J (relating to estates, trusts, beneficiaries, and decedents) is amended by adding at the end the following new section:

"SEC. 646. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.

"(a) GENERAL RULE.—For purposes of this subtitle, if both the executor (if any) of an estate and the trustee of a qualified revocable trust elect the treatment provided in this section, such trust shall be treated and taxed as part of such estate (and not as a separate trust) for all taxable years of the estate ending after the date of the decedent's death and before the applicable date.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) QUALIFIED REVOCABLE TRUST.—The term 'qualified revocable trust' means any trust (or

portion thereof) which was treated under section 676 as owned by the decedent of the estate referred to in subsection (a) by reason of a power in the grantor (determined without regard to section 672(e)).

"(2) APPLICABLE DATE.—The term 'applicable date' means—

"(A) if no return of tax imposed by chapter 11 is required to be filed, the date which is 2 years after the date of the decedent's death, and

"(B) if such a return is required to be filed, the date which is 6 months after the date of the final determination of the liability for tax imposed by chapter 11.

"(c) ELECTION.—The election under subsection (a) shall be made not later than the time prescribed for filing the return of tax imposed by this chapter for the first taxable year of the estate (determined with regard to extensions) and, once made, shall be irrevocable."

(b) COMPARABLE TREATMENT UNDER GENERATION-SKIPPING TAX.—Paragraph (1) of section 2652(b) is amended by adding at the end the following new sentence: "Such term shall not include any trust during any period the trust is treated as part of an estate under section 646."

(c) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by adding at the end the following new item:

"Sec. 646. Certain revocable trusts treated as part of estate."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 11602. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAXABLE YEAR OF ESTATE.

(a) IN GENERAL.—Subsection (b) of section 663 (relating to distributions in first 65 days of taxable year) is amended by inserting "an estate or" before "a trust" each place it appears.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 663(b) is amended by striking "the fiduciary of such trust" and inserting "the executor of such estate or the fiduciary of such trust (as the case may be)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 11603. SEPARATE SHARE RULES AVAILABLE TO ESTATES.

(a) IN GENERAL.—Subsection (c) of section 663 (relating to separate shares treated as separate trusts) is amended—

(1) by inserting before the last sentence the following new sentence: "Rules similar to the rules of the preceding provisions of this subsection shall apply to treat substantially separate and independent shares of different beneficiaries in an estate having more than 1 beneficiary as separate estates.", and

(2) by inserting "or estates" after "trusts" in the last sentence.

(b) CONFORMING AMENDMENT.—The subsection heading of section 663(c) is amended by inserting "ESTATES OR" before "TRUSTS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 11604. EXECUTOR OF ESTATE AND BENEFICIARIES TREATED AS RELATED PERSONS FOR DISALLOWANCE OF LOSSES, ETC.

(a) DISALLOWANCE OF LOSSES.—Subsection (b) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting "; or", and by adding at the end the following new paragraph:

"(13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate."

(b) ORDINARY INCOME FROM GAIN FROM SALE OF DEPRECIABLE PROPERTY.—Subsection (b) of section 1239 is amended by striking the period at the end of paragraph (2) and inserting ", and" and by adding at the end the following new paragraph:

"(3) except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 11605. LIMITATION ON TAXABLE YEAR OF ESTATES.

(a) IN GENERAL.—Section 645 (relating to taxable year of trusts) is amended to read as follows:

"SEC. 645. TAXABLE YEAR OF ESTATES AND TRUSTS.

"(a) ESTATES.—For purposes of this subtitle, the taxable year of an estate shall be a year ending on October 31, November 30, or December 31.

"(b) TRUSTS.—

"(1) IN GENERAL.—For purposes of this subtitle, the taxable year of any trust shall be the calendar year.

"(2) EXCEPTION FOR TRUSTS EXEMPT FROM TAX AND CHARITABLE TRUSTS.—Paragraph (1) shall not apply to a trust exempt from taxation under section 501(a) or to a trust described in section 4947(a)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by striking the item relating to section 645 and inserting the following new item:

"Sec. 645. Taxable year of estates and trusts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 11606. TREATMENT OF FUNERAL TRUSTS.

(a) IN GENERAL.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:

"SEC. 684. TREATMENT OF FUNERAL TRUSTS.

"(a) IN GENERAL.—In the case of a qualified funeral trust—

"(1) subparts B, C, D, and E shall not apply, and

"(2) no deduction shall be allowed by section 642(b).

"(b) QUALIFIED FUNERAL TRUST.—For purposes of this subsection, the term 'qualified funeral trust' means any trust (other than a foreign trust) if—

"(1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,

"(2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,

"(3) the only beneficiaries of such trust are individuals who have entered into contracts described in paragraph (1) to have such services or property provided at their death,

"(4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,

"(5) the trustee elects the application of this subsection, and

"(6) the trust would (but for the election described in paragraph (5)) be treated as owned by the beneficiaries under subpart E.

"(c) DOLLAR LIMITATION ON CONTRIBUTIONS.—

"(1) IN GENERAL.—The term 'qualified funeral trust' shall not include any trust which accepts aggregate contributions by or for the benefit of an individual in excess of $7,000.

"(2) RELATED TRUSTS.—For purposes of paragraph (1), all trusts having trustees which are related persons shall be treated as 1 trust. For purposes of the preceding sentence, persons are related if—

"(A) the relationship between such persons would result in the disallowance of losses under section 267 or 707(b),

"(B) such persons are treated as a single employer under subsection (a) or (b) of section 52, or

"(C) the Secretary determines that treating such persons as related is necessary to prevent avoidance of the purposes of this section.

"(3) INFLATION ADJUSTMENT.—In the case of any contract referred to in subsection (b)(1) which is entered into during any calendar year after 1996, the dollar amount referred to paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

If any dollar amount after being increased under the preceding sentence is not a multiple of $100, such dollar amount shall be rounded to the nearest multiple of $100.

"(d) APPLICATION OF RATE SCHEDULE.—Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.

"(e) TREATMENT OF AMOUNTS REFUNDED TO BENEFICIARY ON CANCELLATION.—No gain or loss shall be recognized to a beneficiary described in subsection (b)(3) of any qualified funeral trust by reason of any payment from such trust to such beneficiary by reason of cancellation of a contract referred to in subsection (b)(1). If any payment referred to in the preceding sentence consists of property other than money, the basis of such property in the hands of such beneficiary shall be the same as the trust's basis in such property immediately before the payment.

"(f) SIMPLIFIED REPORTING.—The Secretary may prescribe rules for simplified reporting of all trusts having a single trustee."

(b) CLERICAL AMENDMENT.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

"Sec. 684. Treatment of funeral trusts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Subchapter B—Estate and Gift Tax Provisions

SEC. 11611. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to *any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.''*

(c) Effective Date.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 11612. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) General Rule.—Section 2035 is amended to read as follows:

''SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

''(a) Inclusion of Certain Property in Gross Estate.—If—

''(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

''(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

''(b) Inclusion of Gift Tax on Gifts Made During 3 Years Before Decedent's Death.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

''(c) Other Rules Relating to Transfers Within 3 Years of Death.—

''(1) In general.—For purposes of—

''(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

''(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

''(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

''(2) Coordination with section 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

''(3) Marital and small transfers.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(2)) to file any gift tax return for such year with respect to transfers to such donee.

''(d) Exception.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

''(e) Treatment of Certain Transfers From Revocable Trusts.—For purposes of this section and section 2038, any transfer from any portion of a trust during any period that such portion was treated under section 676 as owned by the decedent by reason of a power in the grantor (determined without regard to section 672(e)) shall be treated as a transfer made directly by the decedent.''

(b) Clerical Amendment.—The table of sections for part III of subchapter A of chapter 11 is amended by striking ''gifts'' in the item relating to section 2035 and inserting ''certain gifts''.

(c) Effective Date.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 11613. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) General Rule.—

(1) Estate tax.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end the following new clause:

''(vi) Treatment of certain income distributions.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse.''

(2) Gift tax.—Paragraph (3) of section 2523(f) is amended by striking ''and (iv)'' and inserting ''(iv), and (vi)''.

(b) Clarification of Subsequent Inclusions.—Section 2044 is amended by adding at the end the following new subsection:

''(d) Clarification of Inclusion of Certain Income.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate.''

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) Application of section 2044 to transfers before date of enactment.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 11614. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) General Rule.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) Effective Date.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 11615. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) General Rule.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

''(3) Modification of election and agreement to be permitted.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

''(A) the notice of election, as filed, does not contain all required information, or

''(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures.''

(b) Effective Date.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 11616. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX PURPOSES AFTER EXPIRATION OF STATUTE OF LIMITATIONS.

(a) In General.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end the following new subsection:

''(f) Valuation of Gifts.—If—

''(1) the time has expired within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), and

''(2) the value of such gift is shown on the return for such preceding calendar period or is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such gift,

the value of such gift shall, for purposes of computing the tax under this chapter, be the value of such gift as finally determined for purposes of chapter 12.''

(b) Modification of Application of Statute of Limitations.—Paragraph (9) of section 6501(c) is amended to read as follows:

''(9) Gift tax on certain gifts not shown on return.—If any gift of property the value of which (or any increase in taxable gifts required under section 2701(d)) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item. The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a).''

(c) Declaratory Judgment Procedure for Determining Value of Gift.—

(1) In general.—Part IV of subchapter C of chapter 76 is amended by inserting after section 7476 the following new section:

''SEC. 7477. DECLARATORY JUDGMENTS RELATING TO VALUE OF CERTAIN GIFTS.

''(a) Creation of Remedy.—In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 or disclosed on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(b) Limitations.—

''(1) Petitioner.—A pleading may be filed under this section only by the donor.

''(2) Exhaustion of administrative remedies.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing."

(2) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 7476 the following new item:

"Sec. 7477. Declaratory judgments relating to value of certain gifts."

(d) CONFORMING AMENDMENT.—Subsection (c) of section 2504 is amended by striking ", and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar period".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to gifts made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 11617. CLARIFICATIONS RELATING TO DISCLAIMERS.

(a) PARTIAL TRANSFER-TYPE DISCLAIMERS PERMITTED.—Paragraph (3) of section 2518(c) (relating to certain transfers treated as disclaimers) is amended by inserting "(or an undivided portion of such interest)" after "entire interest in the property".

(b) RETENTION OF INTEREST BY DECEDENT'S SPOUSE PERMITTED IN TRANSFER-TYPE DISCLAIMERS.—Paragraph (3) of section 2518(c) is amended by adding at the end the following new flush sentence:

"For purposes of the preceding sentence, a written transfer by the spouse of the decedent of property to a trust shall not fail to be treated as a transfer of such spouse's interest in such property by reason of such spouse having an interest in such trust."

(c) DISCLAIMERS ARE EFFECTIVE FOR INCOME TAX PURPOSES.—Subsection (a) of section 2518 is amended by inserting "and subtitle A" after "this subtitle" each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers creating an interest in the person disclaiming, and disclaimers, made after the date of the enactment of this Act.

SEC. 11618. CLARIFICATION OF TREATMENT OF SURVIVOR ANNUITIES UNDER QUALIFIED TERMINABLE INTEREST RULES.

(a) IN GENERAL.—Subparagraph (C) of section 2056(b)(7) is amended by inserting "(or, in the case of an interest in an annuity arising under the community property laws of a State, included in the gross estate of the decedent under section 2033)" after "section 2039".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 11619. TREATMENT UNDER QUALIFIED DOMESTIC TRUST RULES OF FORMS OF OWNERSHIP WHICH ARE NOT TRUSTS.

(a) IN GENERAL.—Subsection (c) of section 2056A (defining qualified domestic trust) is amended by adding at the end the following new paragraph:

"(3) TRUST.—To the extent provided in regulations prescribed by the Secretary, the term 'trust' includes other arrangements which have substantially the same effect as a trust."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

Subchapter C—Generation-Skipping Tax Provisions

SEC. 11631. TAXABLE TERMINATION NOT TO INCLUDE DIRECT SKIPS.

(a) IN GENERAL.—Paragraph (1) of section 2612(a) (defining taxable termination) is amended by adding at the end the following new flush sentence:

"Such term shall not include a direct skip."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to generation-skipping transfers (as defined in section 2611 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

CHAPTER 7—EXCISE TAX SIMPLIFICATION

Subchapter A—Provisions Related to Distilled Spirits, Wines, and Beer

SEC. 11641. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 11642. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) CLARIFICATION OF REFUND AND CREDIT OF TAX.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) BEER RECEIVED AT A DISTILLED SPIRITS PLANT.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.", and

(2) by striking "or rendering unmerchantable" in subsection (d) (as so redesignated) and inserting "rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 11643. REFUND OF TAX ON WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "**unmerchantable**"*.*

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 11644. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 11645. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end the following new item:

"Sec. 5418. Beer imported in bulk."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

Subchapter B—Consolidation of Taxes on Aviation Gasoline

SEC. 11651. CONSOLIDATION OF TAXES ON AVIATION GASOLINE.

(a) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to imposition of tax on gasoline and diesel fuel) is amended by redesignating clause (ii) as clause (iii) and by striking clause (i) and inserting the following:

"(i) in the case of gasoline other than aviation gasoline, 18.3 cents per gallon,

"(ii) in the case of aviation gasoline, 19.3 cents per gallon, and".

(b) TERMINATION.—Subsection (d) of section 4081 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) AVIATION GASOLINE.—On and after January 1, 1996, the rate specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon."

(c) REPEAL OF RETAIL LEVEL TAX.—

(1) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(2) Paragraph (3) of section 4041(c), as redesignated by paragraph (1), is amended by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 4041(k) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) Paragraph (1) of section 4081(d) is amended by striking "each rate of tax specified in subsection (a)(2)(A)" and inserting "the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A)".

(3) Sections 6421(f)(2)(A) and 9502(f)(1)(A) are each amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(4) Paragraph (2) of section 9502(b) is amended by striking "14 cents" and inserting "15 cents".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of aviation gasoline on which tax was imposed under section 4081 of the Internal Revenue Code of 1986 before January 1, 1996, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 1 cent per gallon of such gasoline.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation gasoline on January 1, 1996, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1996.

(3) DEFINITIONS.—For purposes of this subsection:

(A) HELD BY A PERSON.—Gasoline shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of such Code is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN AIRCRAFT TANK.—No tax shall be imposed by paragraph (1) on aviation gasoline held in the tank of an aircraft.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation gasoline held on January 1, 1996, by any person if the aggregate amount of aviation gasoline held by such person on such date does not exceed 6,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) CONTROLLED GROUPS.—

(i) CORPORATIONS.—In the case of a controlled group, the 6,000 gallon amount in subparagraph (A) shall be apportioned among the component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group under common control where 1 or more of the members is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

Subchapter C—Other Excise Tax Provisions

SEC. 11661. CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE UNDER RETAIL SALES TAX ON HEAVY TRUCKS.

(a) IN GENERAL.—Paragraph (2) of section 4052(c) (relating to certain combinations not treated as manufacture) is amended by striking "or wood or metal floor" and inserting "wood or metal floor, or a power take-off and dump body".

(b) REMOVAL OF FIFTH WHEEL.—Paragraph (1) of section 4052(c) is amended by inserting before the period "or the removal of any coupling device (including any fifth wheel)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 8—ADMINISTRATIVE PROVISION

SEC. 11671. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) GENERAL RULE.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end the following new clause:

"(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1995.

Subtitle K—Miscellaneous Provisions

SEC. 11701. TREATMENT OF STORAGE OF PRODUCT SAMPLES.

(a) IN GENERAL.—Paragraph (2) of section 280A(c) is amended by striking "inventory" and inserting "inventory or product samples".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 11702. ADJUSTMENT OF DEATH BENEFIT LIMITS FOR CERTAIN POLICIES.

(a) IN GENERAL.—Subparagraph (C)(i) of section 7702(e)(2) (relating to limited increases in death benefit permitted) is amended by striking "$5,000" and inserting "$7,000" and by striking "$25,000" and inserting "$30,000".

(b) INFLATION ADJUSTMENTS.—Section 7702(e) (relating to computational rules) is amended by adding at the end the following new paragraph:

"(3) INFLATION ADJUSTMENT TO DEATH BENEFIT LIMITS FOR YEARS AFTER 1996.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount contained in paragraph (2)(C)(i) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.".

(c) CONFORMING AMENDMENT.—Section 72(e)(10)(B) is amended by striking "$25,000" and inserting "$30,000 (adjusted at the same time and in the same manner as under section 7702(e)(3))".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into after December 31, 1995.

SEC. 11703. ORGANIZATIONS SUBJECT TO SECTION 833.

(a) IN GENERAL.—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

"(4) TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—

"(A) IN GENERAL.—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

"(B) APPLICABLE ORGANIZATION.—An organization is described in this subparagraph if it—

"(i) is organized under, and governed by, State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations, and

"(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after October 13, 1995.

SEC. 11704. CORRECTION OF INFLATION ADJUSTMENT IN LUXURY EXCISE TAX ON AUTOMOBILES.

(a) IN GENERAL.—Subsection (e) of section 4001 (relating to inflation adjustment) is amended to read as follows:

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—The $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the vehicle is sold, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 11705. EXTENSION AND PHASEDOWN OF LUXURY PASSENGER AUTOMOBILE TAX.

(a) EXTENSION.—Subsection (f) of section 4001 is amended by striking "1999" and inserting "2002".

(b) PHASEDOWN.—Section 4001 is amended by redesignating subsection (f) (as amended by subsection (a) of this section) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) PHASEDOWN.—For sales occurring in a calendar year after 1995 and before 2003, subsection (a) shall be applied by substituting for '10 percent' the percentage determined in accordance with the following table:

"If the calendar year is:	**The percentage is:**
1996	9 percent
1997	8 percent
1998	7 percent

1999	*6 percent*
2000	*5 percent*
2001	*4 percent*
2002	*3 percent.''*

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

Subtitle L—Generalized System of Preferences

SEC. 11801. SHORT TITLE.

This subtitle may be cited as the ''GSP Renewal Act of 1995''.

SEC. 11802. GENERALIZED SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended to read as follows:

''TITLE V—GENERALIZED SYSTEM OF PREFERENCES

''SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

''The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

''(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

''(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

''(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

''(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

''SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.

''(a) AUTHORITY TO DESIGNATE COUNTRIES.—

''(1) BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

''(2) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

''(b) COUNTRIES INELIGIBLE FOR DESIGNATION.—

''(1) SPECIFIC COUNTRIES.—The following countries may not be designated as beneficiary developing countries for purposes of this title:

''(A) Australia.

''(B) Canada.

''(C) European Union member states.

''(D) Iceland.

''(E) Japan.

''(F) Monaco.

''(G) New Zealand.

''(H) Norway.

''(I) Switzerland.

''(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

''(A) Such country is a Communist country, unless—

''(i) the products of such country receive nondiscriminatory treatment,

''(ii) such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and

''(iii) such country is not dominated or controlled by international communism.

''(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

''(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

''(ii) to cause serious disruption of the world economy.

''(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

''(D)(i) Such country—

''(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

''(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

''(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless clause (ii) applies.

''(ii) This clause applies if the President determines that—

''(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

''(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

''(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

''(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

''(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

''(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

''(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

''(1) an expression by such country of its desire to be so designated;

''(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

''(3) whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

''(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

''(5) the extent to which such country is providing adequate and effective protection of intellectual property rights;

''(6) the extent to which such country has taken action to—

''(A) reduce trade distorting investment practices and policies (including export performance requirements); and

''(B) reduce or eliminate barriers to trade in services; and

''(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

''(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—

''(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. In taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section.

''(2) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

''(3) ADVICE TO CONGRESS.—The President shall, as necessary, advise the Congress on the application of section 501 and subsection (c) of this section, and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subsection (c).

''(e) MANDATORY GRADUATION OF BENEFICIARY DEVELOPING COUNTRIES.—If the President determines that a beneficiary developing country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

“(f) CONGRESSIONAL NOTIFICATION.—

“(1) NOTIFICATION OF DESIGNATION.—

“(A) IN GENERAL.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

“(B) DESIGNATION AS LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

“(2) NOTIFICATION OF TERMINATION.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.

“SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

“(a) ELIGIBLE ARTICLES.—

“(1) DESIGNATION.—

“(A) IN GENERAL.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles from all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

“(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Except for articles described in subparagraphs (A), (B), and (E) of subsection (b)(1) and articles described in paragraphs (2) and (3) of subsection (b), the President may, in carrying out section 502(d)(1) and subsection (c)(1) of this section, designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

“(C) THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.

“(2) RULE OF ORIGIN.—

“(A) GENERAL RULE.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

“(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

“(ii) the sum of—

“(I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 507(2), plus

“(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

“(B) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

“(i) simple combining or packaging operations, or

“(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

“(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

“(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

“(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

“(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—

“(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

“(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

“(B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

“(C) Import-sensitive electronic articles.

“(D) Import-sensitive steel articles.

“(E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

“(F) Import-sensitive semimanufactured and manufactured glass products.

“(G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

“(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

“(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

“(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

“(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

“(2) COMPETITIVE NEED LIMITATION.—

“(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—

“(i) IN GENERAL.—Except as provided in clause (ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

“(I) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or

“(II) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year,

the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

“(ii) ANNUAL ADJUSTMENT OF APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

“(I) for 1996, $75,000,000, and

“(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

“(B) COUNTRY DEFINED.—For purposes of this paragraph, the term ‘country’ does not include an association of countries which is treated as one country under section 507(2), but does include a country which is a member of any such association.

“(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

“(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

“(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

“(F) DE MINIMIS WAIVERS.—

“(i) IN GENERAL.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

“(ii) APPLICABLE AMOUNT.—For purposes applying clause (i), the applicable amount is—

“(I) for calendar year 1995, $13,000,000, and

“(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $500,000.

“(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

“(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

“(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

“(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

“(C) publishes the determination described in subparagraph (B) in the Federal Register.

“(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

"(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

"(3) OTHER BASES FOR WAIVER.—The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that—

"(A) there has been a historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

and the President publishes that determination in the Federal Register.

"(4) LIMITATIONS ON WAIVERS.—

"(A) IN GENERAL.—The President may not exercise the waiver authority under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which equals or exceeds 30 percent of the aggregate appraised value of all articles that entered duty-free under this title during the preceding calendar year.

"(B) OTHER WAIVER LIMITS.—The President may not exercise the waiver authority provided under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which exceeds 15 percent of the aggregate appraised value of all articles that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year—

"(i) had a per capita gross national product (calculated on the basis of the best available information, including that of the International Bank for Reconstruction and Development) of $5,000 or more; or

"(ii) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an aggregate appraised value of more than 10 percent of the aggregate appraised value of all articles that entered duty-free under this title during that year.

"(C) CALCULATION OF LIMITATIONS.—There shall be counted against the limitations imposed under subparagraphs (A) and (B) for any calendar year only that value of any eligible article of any country that—

"(i) entered duty-free under this title during such calendar year; and

"(ii) is in excess of the value of that article that would have been so entered during such calendar year if the limitations under subsection (c)(2)(A) applied.

"(5) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under subsection (a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

"(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

"SEC. 504. REVIEW AND REPORTS TO CONGRESS.

"The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

"SEC. 505. DATE OF TERMINATION.

"No duty-free treatment provided under this title shall remain in effect after December 31, 1996.

"SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

"The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.

"SEC. 507. DEFINITIONS.

"For purposes of this title:

"(1) BENEFICIARY DEVELOPING COUNTRY.—The term 'beneficiary developing country' means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

"(2) COUNTRY.—The term 'country' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

"(3) ENTERED.—The term 'entered' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

"(4) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

"(5) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—The term 'least-developed beneficiary developing country' means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).".

(b) TABLE OF CONTENTS.—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"Sec. 501. Authority to extend preferences.
"Sec. 502. Designation of beneficiary developing countries.
"Sec. 503. Designation of eligible articles.
"Sec. 504. Review and reports to Congress.
"Sec. 505. Date of termination.
"Sec. 506. Agricultural exports of beneficiary developing countries.
"Sec. 507. Definitions.".

SEC. 11803. RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (b), the entry—

(1) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, and

(2) that was made after July 31, 1995, and before the date of the enactment of this Act,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

SEC. 11804. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—

(1) Section 1211(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is amended—

(A) in paragraph (1), by striking "(19 U.S.C. 2463(a), 2464(c)(3))" and inserting "(as in effect on July 31, 1995)"; and

(B) in paragraph (2), by striking "(19 U.S.C. 2464(c)(1))" and inserting the following: "(as in effect on July 31, 1995)".

(2) Section 203(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".

(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".

(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking "sections 503(b) and 504(c)" and inserting "subsections (a), (c), and (d) of section 503".

(5) Section 201(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3331(a)(2)) is amended by striking "502(a)(2) of the Trade Act of 1974 (19 U.S.C. 2462(a)(2))" and inserting "502(f)(2) of the Trade Act of 1974".

(6) Section 131 of the Uruguay Round Agreements Act (19 U.S.C. 3551) is amended in subsections (a) and (b)(1) by striking "502(a)(4)" and inserting "507(4)".

(b) OTHER LAWS.—

(1) Section 871(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "within the meaning of section 502" and inserting "under title V".

(2) Section 2202(8) of the Export Enhancement Act of 1988 (15 U.S.C. 4711(8)) is amended by striking "502(a)(4)" and inserting "507(4)".

(3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—

(A) in paragraph (1) by striking "502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))" and inserting "507(4) of the Trade Act of 1974";

(B) in paragraph (2) by striking "505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))" and inserting "504 of the Trade Act of 1974"; and

(C) in paragraph (4) by striking "502(a)(4)" and inserting "507(4)".

(4) Section 1621(a)(1) of the International Financial Institutions Act (22 U.S.C. 262p–4p(a)(1)) is amended by striking "502(a)(4)" and inserting "507(4)".

(5) Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444–2) is amended in subsections (a)(5)(F)(v) and (n)(1)(C) by striking "503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d))" and inserting "503(b)(3) of the Trade Act of 1974".

Subtitle M—Increase in Public Debt Limit

SEC. 11901. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained in the first sentence and inserting "$5,500,000,000,000" and by striking the second sentence (if any).

TITLE XII—TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION; ASSET SALES; WELFARE; AND OTHER PROVISIONS

SEC. 12001. SHORT TITLE.

Subtitles A through K of this title may be cited as the "Personal Responsibility and Work Opportunity Act of 1995".

SEC. 12002. TABLE OF CONTENTS.

The table of contents of subtitles A through L of this title is as follows:

Sec. 12001. Short title.

Sec. 12002. Table of contents.

Subtitle A—Block Grants for Temporary Assistance for Needy Families

Sec. 12100. References to the Social Security Act.

Sec. 12101. Block grants to States.

Sec. 12102. Report on data processing.

Sec. 12103. Conforming amendments to the Social Security Act.

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SEC. 12100. REFERENCES TO THE SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 12101. BLOCK GRANTS TO STATES.

Part A of title IV (42 U.S.C. 601 et seq.) is amended to read as follows:

"PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

"SEC. 401. ELIGIBLE STATES; STATE PLAN.

"(a) IN GENERAL.—As used in this part, the term 'eligible State' means, with respect to a fiscal year, a State that, during the 2-year period immediately preceding the fiscal year, has submitted to the Secretary a plan that includes the following:

"(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—

"(A) GENERAL PROVISIONS.—A written document that outlines how the State intends to do the following:

"(i) Conduct a program, designed to serve all political subdivisions in the State, that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient.

"(ii) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) once the State determines the parent or caretaker is ready to engage in work, or once the parent or caretaker has received assistance under the program for 24 months (whether or not consecutive), whichever is earlier.

"(iii) Ensure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 406.

"(iv) Take such reasonable steps as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under the program.

"(v) Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish numerical goals for reducing the illegitimacy ratio of the State (as defined in section 402(a)(2)(B)) for calendar years 1996 through 2005.

"(B) SPECIAL PROVISIONS.—

"(i) The document shall indicate whether the State intends to treat families moving into the State from another State differently than other families under the program, and if so, how the State intends to treat such families under the program.

"(ii) The document shall indicate whether the State intends to provide assistance under the program to individuals who are not citizens of the United States, and if so, shall include an overview of such assistance.

"(2) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.

"(3) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD PROTECTION PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child protection program under the State plan approved under part B.

"(4) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations—

"(A) have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and

"(B) have had at least 60 days to submit comments on the plan and the design of such services.

"(5) CERTIFICATION THAT THE STATE WILL PROVIDE INDIANS WITH EQUITABLE ACCESS TO ASSISTANCE.—A certification by the chief executive officer of the State that, during the fiscal year, the State will provide each Indian who is a member of an Indian tribe in the State that does not have a tribal family assistance plan approved under section 411 with equitable access to assistance under the State program funded under this part.

"(b) SPECIAL RULE FOR FISCAL YEAR 1996.—Notwithstanding subsection (a), the term 'eligible State' means, with respect to fiscal year 1996, a State that has submitted to the Secretary a plan described in subsection (a) within 3 months after the date of the enactment of this part.

"(c) PUBLIC AVAILABILITY OF STATE PLAN SUMMARY.—The State shall make available to the public a summary of any plan submitted by the State under this section.

"SEC. 402. PAYMENTS TO STATES.

"(a) GRANTS.—

"(1) FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary, for each of fiscal years 1996, 1997, 1998, 1999, and 2000, a grant in an amount equal to the State family assistance grant. The payment of these grants to States shall not be deemed to entitle any individual or family to any assistance under any State program funded under this part.

"(B) STATE FAMILY ASSISTANCE GRANT DEFINED.—As used in this part, the term 'State family assistance grant' means the greatest of—

"(i) $\frac{1}{3}$ of the total amount required to be paid to the State under section 403 of this title (as in effect on September 30, 1995) for fiscal years

1992, 1993, and 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as so in effect));

"(ii) the total amount required to be paid to the State under such section 403 for fiscal year 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as so in effect)); or

"(iii) $\frac{4}{3}$ *of the total amount required to be paid to the State under such section 403 for the 1st 3 quarters of fiscal year 1995 (other than with respect to amounts expended by the State under the State plan approved under part F (as so in effect) or for child care under subsection (g) or (i) of section 402 (as so in effect)), plus the total amount required to be paid to the State for fiscal year 1995 under section 403(l) (as so in effect).*

"(2) GRANT TO REWARD STATES THAT REDUCE OUT-OF-WEDLOCK BIRTHS.—

"(A) IN GENERAL.—In addition to any grant under paragraph (1), each eligible State shall be entitled to receive from the Secretary for fiscal year 1998 or any succeeding fiscal year, a grant in an amount equal to the State family assistance grant multiplied by—

"(i) 5 percent if—

"(I) the illegitimacy ratio of the State for the fiscal year is at least 1 percentage point lower than the illegitimacy ratio of the State for fiscal year 1995; and

"(II) the rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995; or

"(ii) 10 percent—

"(I) if the illegitimacy ratio of the State for the fiscal year is at least 2 percentage points lower than the illegitimacy ratio of the State for fiscal year 1995; and

"(II) the rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995.

"(B) ILLEGITIMACY RATIO.—As used in this paragraph, the term 'illegitimacy ratio' means, with respect to a State and a fiscal year—

"(i) the number of out-of-wedlock births that occurred in the State during the most recent fiscal year for which such information is available; divided by

"(ii) the number of births that occurred in the State during the most recent fiscal year for which such information is available.

"(C) DISREGARD OF CHANGES IN DATA DUE TO CHANGED REPORTING METHODS.—For purposes of subparagraph (A), the Secretary shall disregard—

"(i) any difference between the illegitimacy ratio of a State for a fiscal year and the illegitimacy ratio of the State for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate the illegitimacy ratio; and

"(ii) any difference between the rate of induced pregnancy terminations in a State for a fiscal year and such rate for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate such rate.

"(3) SUPPLEMENTAL GRANT FOR POPULATION INCREASES IN CERTAIN STATES.—

"(A) IN GENERAL.—In addition to any grant under paragraph (1), each qualifying State shall, subject to subparagraph (E), be entitled to receive from the Secretary for each of fiscal years 1997, 1998, 1999, and 2000, a grant in an amount equal to the sum of—

"(i) the amount (if any) required to be paid to the State under this paragraph for the immediately preceding fiscal year; and

"(ii) 2.5 percent of the sum of—

"(I) the total amount required to be paid to the State under part A (as in effect during fiscal year 1994) for fiscal year 1994; and

"(II) the amount (if any) required to be paid to the State under this paragraph for the fiscal year preceding the fiscal year specified in the matter preceding clause (i).

"(B) QUALIFYING STATE.—

"(i) IN GENERAL.—For purposes of this paragraph, a State is a qualifying State for a fiscal year if—

"(I) the level of welfare spending per poor person by the State for the immediately preceding fiscal year is less than the national average level of State welfare spending per poor person for such preceding fiscal year; and

"(II) the population growth rate of the State (as determined by the Bureau of the Census for the most recent fiscal year for which information is available exceeds the average population growth rate for all States (as so determined) for such most recent fiscal year.

"(ii) STATE MUST QUALIFY IN FISCAL YEAR 1997.—Notwithstanding clause (i), a State shall not be a qualifying State for any fiscal year after 1997 by reason of clause (i) if the State is not a qualifying State for fiscal year 1997 by reason of clause (i).

"(iii) CERTAIN STATES DEEMED QUALIFYING STATES.—For purposes of this paragraph, a State is deemed to be a qualifying State for fiscal years 1997, 1998, 1999, and 2000 if—

"(I) the level of welfare spending per poor person by the State for fiscal year 1996 is less than 35 percent of the national average level of State welfare spending per poor person for fiscal year 1996; or

"(II) the population of the State increased by more than 10 percent from April 1, 1990 to July 1, 1994, as determined by the Bureau of the Census.

"(C) DEFINITIONS.—As used in this paragraph:

"(i) LEVEL OF WELFARE SPENDING PER POOR PERSON.—The term 'level of State welfare spending per poor person' means, with respect to a State and a fiscal year—

"(I) the sum of—

"(aa) the total amount required to be paid to the State under part A (as in effect during fiscal year 1994) for fiscal year 1994; and

"(bb) the amount (if any) paid to the State under this paragraph for the immediately preceding fiscal year; divided by

"(II) the number of individuals, according to the 1990 decennial census, who were residents of the State and whose income was below the poverty line.

"(ii) NATIONAL AVERAGE LEVEL OF STATE WELFARE SPENDING PER POOR PERSON.—The term 'national average level of State welfare spending per poor person' means, with respect to a fiscal year, an amount equal to—

"(I) the total amount required to be paid to the States under part A (as in effect during fiscal year 1994) for fiscal year 1994; divided by

"(II) the number of individuals, according to the 1990 decennial census, who were residents of any State and whose income was below the poverty line.

"(iii) STATE.—The term 'State' means each of the 50 States of the United States and the District of Columbia.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated 1996, 1997, 1998, 1999, and 2000 such sums as are necessary for grants under this paragraph, in a total amount not to exceed $800,000,000.

"(E) GRANTS REDUCED PRO RATA IF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated pursuant to this paragraph for a fiscal year is less than the total amount of payments otherwise required to be made under this paragraph for the fiscal year, then the amount otherwise payable to each qualifying State for the fiscal year under this paragraph shall be reduced by a percentage equal to the amount so appropriated divided by such total amount.

"(b) CONTINGENCY FUND.—

"(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Contingency Fund for State Welfare Programs' (in this section referred to as the 'Fund').

"(2) DEPOSITS INTO FUND.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1996, 1997, 1998, 1999, and 2000 such sums as are necessary for payment to the Fund in a total amount not to exceed $800,000,000.

"(3) COMPUTATION OF GRANT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Treasury shall pay to each eligible State for a fiscal year an amount equal to the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1905(b), as in effect on the date of the enactment of this part) of so much of the expenditures by the State in the fiscal year under the State program funded under this part as exceed the historic State expenditures (as defined in section 408(a)(7)(B)(iii)) for the State.

"(B) LIMITATION.—The total amount paid to a State under subparagraph (A) for any fiscal year shall not exceed an amount equal to 20 percent of the State family assistance grant for the fiscal year.

"(C) METHOD OF RECONCILIATION.—If, at the end of any fiscal year, the Secretary finds that a State to which amounts from the Fund were paid in the fiscal year did not meet the maintenance of effort requirement under paragraph (4)(B) for the fiscal year, the Secretary shall reduce the grant payable to the State under subsection (a)(1) for the immediately succeeding fiscal year by such amounts.

"(4) ELIGIBLE STATE.—

"(A) IN GENERAL.—For purposes of this subsection, a State is an eligible State for a fiscal year, if—

"(i)(I) the average rate of total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published equals or exceeds 6.5 percent; and

"(II) the average rate of total unemployment in such State (seasonally adjusted) for the 3-month period equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; and

"(ii) has met the maintenance of effort requirement under subparagraph (B) for the State program funded under this part for the fiscal year.

"(B) MAINTENANCE OF EFFORT.—The maintenance of effort requirement for any State under this subparagraph for any fiscal year is the expenditure by the State during the fiscal year of an amount at least equal to 100 percent of the level of historic State expenditures for the State (as determined under section 408(e)).

"(5) STATE.—As used in this subsection, the term 'State' means each of the 50 States of the United States and the District of Columbia.

"(c) CONDITION OF GRANT.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, as a condition of receiving a grant under this section, a State shall not provide cash assistance to a family that includes an adult who has received assistance under any State program funded under this part for 60 months (whether or not consecutive) after September 30, 1995, except as provided in paragraphs (2) and (3).

"(2) MINOR CHILD EXCEPTION.—In determining the number of months for which an individual

who is a parent or pregnant, as the case may be, has received assistance under the State program funded under this part, there shall be disregarded any month for which such assistance was provided with respect to the individual and throughout which the individual was—

"(A) a minor child; and

"(B) not the head of a household or married to the head of a household.

"(3) HARDSHIP EXCEPTION.—

"(A) IN GENERAL.—The State may exempt a family from the application of paragraph (1) by reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty.

"(B) LIMITATION.—The number of families with respect to which an exemption made by a State under subparagraph (A) is in effect for a fiscal year shall not exceed 15 percent of the average monthly number of families to which the State is providing assistance under the program funded under this part.

"(C) BATTERED OR SUBJECT TO EXTREME CRUELTY DEFINED.—For purposes of subparagraph (A), an individual has been battered or subjected to extreme cruelty if the individual has been subjected to—

"(i) physical acts that resulted in, or threatened to result in, physical injury to the individual;

"(ii) sexual abuse;

"(iii) sexual activity involving a dependent child;

"(iv) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

"(v) threats of, or attempts at, physical or sexual abuse;

"(vi) mental abuse; or

"(vii) neglect or deprivation of medical care.

"(4) RULE OF INTERPRETATION.—Paragraph (1) shall not be interpreted to require any State to provide assistance to any individual for any period of time under the State program funded under this part.

"SEC. 403. USE OF GRANTS.

"(a) GENERAL RULES.—Subject to this part, a State to which a grant is made under section 402 may use the grant—

"(1) in any manner that is reasonably calculated to increase the flexibility of States in operating a program designed to—

"(A) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

"(B) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

"(C) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

"(D) encourage the formation and maintenance of two-parent families; and

"(2) in any manner that the State was authorized to use amounts received under part A or F of this title, as such parts were in effect on September 30, 1995.

"(b) LIMITATION ON USE OF GRANT FOR ADMINISTRATIVE PURPOSES.—

"(1) LIMITATION.—A State to which a grant is made under section 402 shall not expend more than 15 percent of the grant for administrative purposes.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the use of a grant for information technology and computerization needed for tracking or monitoring required by or under this part.

"(c) AUTHORITY TO USE PORTION OF GRANT FOR OTHER PURPOSES.—

"(1) IN GENERAL.—A State may use not more than 30 percent of the amount of the grant made to the State under section 402 for a fiscal year to carry out a State program pursuant to any or all of the following provisions of law:

"(A) Part B of this title.

"(B) Title XX of this Act.

"(C) The Child Care and Development Block Grant Act of 1990.

"(2) APPLICABLE RULES.—Any amount paid to the State under this part that is used to carry out a State program pursuant to a provision of law specified in paragraph (1) shall not be subject to the requirements of this part, but shall be subject to the requirements that apply to Federal funds provided directly under the provision of law to carry out the program.

"(d) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State may reserve amounts paid to the State under this part for any fiscal year for the purpose of providing, without fiscal year limitation, assistance under the State program funded under this part.

"(e) AUTHORITY TO OPERATE EMPLOYMENT PLACEMENT PROGRAM.—A State to which a grant is made under section 402 may use the grant to make payments (or provide job placement vouchers) to State-approved public and private job placement agencies that provide employment placement services to individuals who receive assistance under the State program funded under this part.

"(f) IMPLEMENTATION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—A State to which a grant is made under section 402 is encouraged to implement an electronic benefit transfer system for providing assistance under the State program funded under this part, and may use the grant for such purpose.

"SEC. 404. ADMINISTRATIVE PROVISIONS.

"(a) QUARTERLY.—The Secretary shall pay each grant payable to a State under section 402 in quarterly installments.

"(b) NOTIFICATION.—Not later than 3 months before the payment of any such quarterly installment to a State, the Secretary shall notify the State of the amount of any reduction determined under section 411(a)(1)(B) with respect to the State.

"(c) COMPUTATION AND CERTIFICATION OF PAYMENTS TO STATES.—

"(1) COMPUTATION.—The Secretary shall estimate the amount to be paid to each eligible State for each quarter under this part, such estimate to be based on a report filed by the State containing an estimate by the State of the total sum to be expended by the State in the quarter under the State program funded under this part and such other information as the Secretary may find necessary.

"(2) CERTIFICATION.—The Secretary of Health and Human Services shall certify to the Secretary of the Treasury the amount estimated by the Secretary under paragraph (1) with respect to a State.

"(d) PAYMENT METHOD.—Upon receipt of a certification under subsection (c)(2) with respect to a State, the Secretary of the Treasury shall, through the Fiscal Service of the Department of the Treasury and before audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

"SEC. 405. FEDERAL LOANS FOR STATE WELFARE PROGRAMS.

"(a) LOAN AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make loans to any loan-eligible State, for a period to maturity of not more than 3 years.

"(2) LOAN-ELIGIBLE STATE.—As used in paragraph (1), the term 'loan-eligible State' means a State against which a penalty has not been imposed under section 408(a)(1) at any time before the loan is to be made.

"(b) RATE OF INTEREST.—The Secretary shall charge and collect interest on any loan made under this section at a rate equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan.

"(c) USE OF LOAN.—A State shall use a loan made to the State under this section only for any purpose for which grant amounts received by the State under section 402(a) may be used including—

"(1) welfare anti-fraud activities; and

"(2) the provision of assistance under the State program to Indian families that have moved from the service area of an Indian tribe with a tribal family assistance plan approved under section 411.

"(d) LIMITATION ON TOTAL AMOUNT OF LOANS TO A STATE.—The cumulative dollar amount of all loans made to a State under this section during fiscal years 1996 through 2000 shall not exceed 10 percent of the State family assistance grant.

"(e) LIMITATION ON TOTAL AMOUNT OF OUTSTANDING LOANS.—The total dollar amount of loans outstanding under this section may not exceed $1,700,000,000.

"(f) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as may be necessary for the cost of loans under this section.

"SEC. 406. MANDATORY WORK REQUIREMENTS.

"(a) PARTICIPATION RATE REQUIREMENTS.—

"(1) ALL FAMILIES.—A State to which a grant is made under section 402 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to all families receiving assistance under the State program funded under this part:

"If the fiscal year is:	**The minimum participation rate is:**
1996	15
1997	20
1998	25
1999	30
2000	35
2001	40
2002 or thereafter	50.

"(2) 2-PARENT FAMILIES.—A State to which a grant is made under section 402 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to 2-parent families receiving assistance under the State program funded under this part:

"If the fiscal year is:	**The minimum participation rate is:**
1996	50
1997	75
1998	75
1999 or thereafter	90.

"(b) CALCULATION OF PARTICIPATION RATES.—

"(1) ALL FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

"(i) the number of families receiving assistance under the State program funded under this part that include an adult who is engaged in work for the month; divided by

"(ii) the amount by which—

"(I) the number of families receiving such assistance during the month that include an adult receiving such assistance; exceeds

"(II) the number of families receiving such assistance that are subject in such month to a reduction or termination of assistance pursuant to section 408(a)(2) but have not been subject to such penalty for more than 3 months within the preceding 12-month period (whether or not consecutive).

"(2) 2-PARENT FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for 2-parent families of the State for a month shall be calculated by use of the formula set forth in paragraph (1)(B), except that in the formula the term 'number of 2-parent families' shall be substituted for the term 'number of families' each place such latter term appears.

"(3) PRO RATA REDUCTION OF PARTICIPATION RATE DUE TO CASELOAD REDUCTIONS NOT REQUIRED BY FEDERAL LAW.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations for reducing the minimum participation rate otherwise required by this section for a fiscal year by the number of percentage points equal to the number of percentage points (if any) by which—

"(i) the number of families receiving assistance during the fiscal year under the State program funded under this part is less than

"(ii) the number of families that received aid under the State plan approved under part A of this title (as in effect on September 30, 1995) during the fiscal year immediately preceding such effective date.

The minimum participation rate shall not be reduced to the extent that the Secretary determines that the reduction in the number of families receiving such assistance is required by Federal law.

"(B) ELIGIBILITY CHANGES NOT COUNTED.—The regulations described in subparagraph (A) shall not take into account families that are diverted from a State program funded under this part as a result of differences in eligibility criteria under a State program funded under this part and eligibility criteria under such State's plan under the aid to families with dependent children program, as such plan was in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995. Such regulations shall place the burden on the Secretary to prove that such families were diverted as a direct result of differences in such eligibility criteria.

"(4) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY ASSISTANCE PLAN.—For purposes of paragraphs (1)(B) and (2)(B), a State may, at its option, include families receiving assistance under a tribal family assistance plan approved under section 411.

"(c) ENGAGED IN WORK.—

"(1) ALL FAMILIES.—For purposes of subsection (b)(1)(B)(i), a recipient is engaged in work for a month in a fiscal year if the recipient is participating in such activities for at least the minimum average number of hours per week specified in the following table during the month, not fewer than 20 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (7), or (8) of subsection (d) (or, in the case of the first 4 weeks for which the recipient is required under this section to participate in work activities, an activity described in subsection (d)(6)):

"If the month is in fiscal year:	**The minimum average number of hours per week is:**
1996	20
1997	20
1998	20
1999	25
2000	30
2001	30
2002	35
2003 or thereafter	35.

"(2) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(B)(i), an adult is engaged in work for a month in a fiscal year if the adult is making progress in such activities for at least 35 hours per week during the month, not fewer than 30 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (7), or (8) of subsection (d) (or, in the case of the first 4 weeks for which the recipient is required under this section to participate in work activities, an activity described in subsection (d)(6)).

"(3) LIMITATION ON VOCATIONAL EDUCATION ACTIVITIES COUNTED AS WORK.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B)(i) of subsection (b), not more than 20 percent of adults in all families and in 2-parent families determined to be engaged in work in the State for a month may meet the work activity requirement through participation in vocational educational training.

"(d) WORK ACTIVITIES DEFINED.—As used in this section, the term 'work activities' means—

"(1) unsubsidized employment;

"(2) subsidized private sector employment;

"(3) subsidized public sector employment;

"(4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;

"(5) on-the-job training;

"(6) job search and job readiness assistance;

"(7) community service programs;

"(8) vocational educational training (not to exceed 12 months with respect to any individual);

"(9) job skills training directly related to employment;

"(10) education directly related to employment, in the case of a recipient who has not attained 20 years of age, and has not received a high school diploma or a certificate of high school equivalency; and

"(11) satisfactory attendance at secondary school, in the case of a recipient who—

"(A) has not completed secondary school; and

"(B) is a dependent child, or a head of household who has not attained 20 years of age.

"SEC. 407. PROHIBITIONS.

"(a) IN GENERAL.—

"(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance to a family, unless the family includes—

"(A) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or

"(B) a pregnant individual.

"(2) REDUCED ASSISTANCE FOR FAMILY IF ADULT REFUSES TO WORK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not fail to—

"(i) reduce the amount of assistance otherwise payable to a family receiving assistance under the State program funded under this part, pro rata (or more, at the option of the State) with respect to any period during a month in which an adult member of the family refuses to engage in work required in accordance with this section; or

"(ii) terminate such assistance,

subject to such good cause and other exceptions as the State may establish.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), a State may not reduce or terminate assistance under the State program funded under this part based on a refusal of an adult to work if the adult is a single custodial parent caring for a child who has not attained 6 years of age, and the adult proves that the adult has a demonstrated inability (as determined by the State) to obtain needed child care, for 1 or more of the following reasons:

"(i) Unavailability of appropriate child care within a reasonable distance from the individual's home or work site.

"(ii) Unavailability or unsuitability of informal child care by a relative or under other arrangements.

"(iii) Unavailability of appropriate and affordable formal child care arrangements.

"(3) REDUCTION OR ELIMINATION OF ASSISTANCE FOR NONCOOPERATION IN CHILD SUPPORT.—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing, modifying, or enforcing a support order with respect to a child of the individual, then the State—

"(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State program funded under this part the share of such assistance attributable to the individual; and

"(B) may deny the family any assistance under the State program.

"(4) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—

"(A) IN GENERAL.—A State to which a grant is made under section 402 may not fail to require, as a condition of providing assistance to a family under the State program funded under this part, that a member of the family assign to the State any rights the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so provided to the family, which accrue (or have accrued) before the date the family leaves the program, which assignment, on and after the date the the family leaves the program, shall not apply with respect to—

"(i) if the assignment occurs on or after October 1, 1997, and before October 1, 2000, any support (other than support collected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by September 30, 2000; or

"(II) if the assignment occurs on or after October 1, 2000, any support (other than support collected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by the date the family leaves the program.

"(B) LIMITATION.—A State to which a grant is made under section 402 may not require, as a condition of providing assistance to any family under the State program funded under this part, that a member of the family assign to the State any rights to support described in subparagraph (A) which accrue after the date the family leaves the program.

"(5) NO ASSISTANCE FOR TEENAGE PARENTS WHO DO NOT ATTEND HIGH SCHOOL OR OTHER EQUIVALENT TRAINING PROGRAM.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance to an individual who has not attained 18 years of age, is not married, has a minor child at least 12 weeks of age in his or her care, and has not successfully completed a high-school education (or its equivalent), if the individual does not participate in—

"(A) educational activities directed toward the attainment of a high school diploma or its equivalent; or

"(B) an alternative educational or training program that has been approved by the State.

"(6) NO ASSISTANCE FOR TEENAGE PARENTS NOT LIVING IN ADULT-SUPERVISED SETTINGS.—

"(A) IN GENERAL.—

"(i) REQUIREMENT.—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not use any part of the grant to provide assistance to an individual described in clause (ii) of this subparagraph if the individual and the minor child referred to in clause (ii)(II) do not reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the individual as such parent's, guardian's, or adult relative's own home.

"(ii) INDIVIDUAL DESCRIBED.— For purposes of clause (i), an individual described in this clause is an individual who—

"(I) has not attained 18 years of age; and

"(II) is not married, and has a minor child in his or her care.

"(B) EXCEPTION.—

"(i) PROVISION OF, OR ASSISTANCE IN LOCATING, ADULT-SUPERVISED LIVING ARRANGEMENT.— In the case of an individual who is described in clause (ii), the State agency referred to in section 401(a)(4) shall provide, or assist the individual in locating, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a condition of the continued receipt of assistance under the State program funded under this part (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

"(ii) INDIVIDUAL DESCRIBED.—For purposes of clause (i), an individual is described in this clause if the individual is described in subparagraph (A)(ii), and—

"(I) the individual has no parent, legal guardian or other appropriate adult relative described in subclause (II) of his or her own who is living or whose whereabouts are known;

"(II) no living parent, legal guardian, or other appropriate adult relative, who would otherwise meet applicable State criteria to act as the individual's legal guardian, of such individual allows the individual to live in the home of such parent, guardian, or relative;

"(III) the State agency determines that—

"(aa) the individual or the minor child referred to in subparagraph (A)(ii)(II) is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian; or

"(bb) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian; or

"(IV) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of subparagraph (A) with respect to the individual or the minor child.

"(iii) SECOND-CHANCE HOME.—For purposes of this subparagraph, the term 'second-chance home' means an entity that provides individuals described in clause (ii) with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.

"(7) NO MEDICAL SERVICES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not use any part of the grant to provide medical services.

"(B) EXCEPTION FOR FAMILY PLANNING SERVICES.—As used in subparagraph (A), the term 'medical services' does not include family planning services.

"(8) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—a State to which a grant is made under section 402 may not use any part of the grant to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under this title, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.

"(9) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

"(A) IN GENERAL.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance to any individual who is—

"(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(ii) violating a condition of probation or parole imposed under Federal or State law.

"(B) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—If a State to which a grant is made under section 402 establishes safeguards against the use or disclosure of information about applicants or recipients of assistance under the State program funded under this part, the safeguards shall not prevent the State agency administering the program from furnishing a Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(i) such recipient—

"(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the recipient flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the recipient flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State;

"(II) is violating a condition of probation or parole imposed under Federal or State law; or

"(III) has information that is necessary for the officer to conduct the official duties of the officer; and

"(ii) the location or apprehension of the recipient is within such official duties.

"(10) DENIAL OF ASSISTANCE FOR MINOR CHILDREN WHO ARE ABSENT FROM THE HOME FOR A SIGNIFICANT PERIOD.—

"(A) IN GENERAL.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance for a minor child who has been, or is expected by a parent (or other caretaker relative) of the child to be, absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 90 consecutive days as the State may provide for in the State plan submitted pursuant to section 401.

"(B) STATE AUTHORITY TO ESTABLISH GOOD CAUSE EXCEPTIONS.—The State may establish such good cause exceptions to subparagraph (A) as the State considers appropriate if such exceptions are provided for in the State plan submitted pursuant to section 401.

"(C) DENIAL OF ASSISTANCE FOR RELATIVE WHO FAILS TO NOTIFY STATE AGENCY OF ABSENCE OF CHILD.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance for an individual who is a parent (or other caretaker relative) of a minor child and who fails to notify the agency administering the State program funded under this part, of the absence of the minor child from the home for the period specified in or provided for under subparagraph (A), by the end of the 5-day period that begins with the date that it becomes clear to the parent (or relative) that the minor child will be absent for such period so specified or provided for.

"(11) INCOME SECURITY PAYMENTS NOT TO BE DISREGARDED IN DETERMINING THE AMOUNT OF ASSISTANCE TO BE PROVIDED TO A FAMILY.—If a State to which a grant is made under section 402 uses any part of the grant to provide assistance for any individual who is receiving a payment under a State plan for old-age assistance approved under section 2, a State program funded under part B that provides cash payments for foster care, or the supplemental security income program under title XVI, then the State may not disregard the payment in determining the amount of assistance to be provided to the family of which the individual is a member under the State program funded under this part.

"SEC. 408. PENALTIES.

"(a) IN GENERAL.—Subject to subsections (b), (c), and (d):

"(1) FOR USE OF GRANT IN VIOLATION OF THIS PART.—

"(A) GENERAL PENALTY.—If an audit conducted under chapter 75 of title 31, United States Code, finds that an amount paid to a State under section 402 for a fiscal year has been used in violation of this part, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year quarter by the amount so used.

"(B) ENHANCED PENALTY FOR INTENTIONAL VIOLATIONS.—If the State does not prove to the satisfaction of the Secretary that the State did not intend to use the amount in violation of this part, the Secretary shall further reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.

"(2) FOR FAILURE TO SUBMIT REQUIRED REPORT.—

"(A) IN GENERAL.—If the Secretary determines that a State has not, within 6 months after the end of a fiscal year, submitted the report required by section 410 for the fiscal year, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.

"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

"(3) FOR FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 402 for a fiscal year has failed to comply with section 406(a) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) based on the degree of noncompliance.

"(4) FOR FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant.

"(5) FOR FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity in accordance with such part, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

"(6) FOR FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 405 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year quarter (without regard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary may not forgive any outstanding loan amount or interest owed on the outstanding amount.

"(7) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section 402(a)(1) for fiscal year 1996, 1997, 1998, 1999, or 2000 by the amount (if any) by which State expenditures under the State program funded under this part for the then immediately preceding fiscal year is less than the applicable percentage of historic State expenditures.

"(B) DEFINITIONS.—As used in this paragraph:

"(i) STATE EXPENDITURES UNDER THE STATE PROGRAM FUNDED UNDER THIS PART.—

"(I) IN GENERAL.—The term 'State expenditures under the State program funded under this part' means, with respect to a State and a fiscal year, the sum of the expenditures by the State under the program for the fiscal year for—

"(aa) cash assistance;

"(bb) child care assistance;

"(cc) education, job training, and work;

"(dd) administrative costs; and

"(ee) any other use of funds allowable under section 403(a)(1).

"(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include funding supplanted by transfers from other State and local programs.

"(ii) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"(I) for fiscal year 1996, 75 percent; and

"(II) for fiscal years 1997, 1998, 1999, and 2000, 75 percent reduced (if appropriate) in accordance with subparagraph (C)(iii).

"(iii) HISTORIC STATE EXPENDITURES.—The term 'historic State expenditures' means, with respect to a State, the lesser of—

"(I) the expenditures by the State under parts A and F of this title (as in effect during fiscal year 1994) for fiscal year 1994; or

"(II) the amount which bears the same ratio to the amount described in subclause (I) as—

"(aa) the State family assistance grant for the immediately preceding fiscal year; bears to

"(bb) the total amount of Federal payments to the State under section 403 (as in effect during fiscal year 1994) for fiscal year 1994.

"(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include any expenditures from amounts made available by the Federal Government, State funds expended for the medicaid program under title XIX or the MediGrant program under title XXI, or any State funds which are used to match Federal funds or are expended as a condition of receiving Federal funds under Federal programs other than under title I.

"(C) APPLICABLE PERCENTAGE REDUCED FOR STATES WITH BEST OR MOST IMPROVED PERFORMANCE IN CERTAIN AREAS.—

"(i) SCORING OF STATE PERFORMANCE.—Beginning with fiscal year 1997, the Secretary shall assign to each State a score that represents the performance of the State for the fiscal year in each category described in clause (ii).

"(ii) CATEGORIES.—The categories described in this clause are the following:

"(I) Increasing the number of families that received assistance under a State program funded under this part in the fiscal year, and that, during the fiscal year, become ineligible for such assistance as a result of unsubsidized employment.

"(II) Reducing the percentage of families that, within 18 months after becoming ineligible for assistance under the State program funded under this part, become eligible for such assistance.

"(III) Increasing the amount earned by families that receive assistance under this part.

"(IV) Reducing the percentage of families in the State that receive assistance under the State program funded under this part.

"(iii) REDUCTION OF MAINTENANCE OF EFFORT THRESHOLD.—

"(I) REDUCTION FOR STATES WITH 5 GREATEST SCORES IN EACH CATEGORY OF PERFORMANCE.—The applicable percentage for a State for a fiscal year shall be reduced by 2 percentage points, with respect to each category described in clause (ii) for which the score assigned to the State under clause (i) for the fiscal year is 1 of the 5 highest scores so assigned to States.

"(II) REDUCTION FOR STATES WITH 5 GREATEST IMPROVEMENT IN SCORES IN EACH CATEGORY OF PERFORMANCE.—The applicable percentage for a State for a fiscal year shall be reduced by 2 percentage points for a State for a fiscal year, with respect to each category described in clause (ii) for which the difference between the score assigned to the State under clause (i) for the fiscal year and the score so assigned to the State for the immediately preceding fiscal year is 1 of the 5 greatest such differences.

"(III) LIMITATION ON REDUCTION.—The applicable percentage for a State for a fiscal year may not be reduced by more than 8 percentage points pursuant to this clause.

"(8) PENALTIES FOR SUBSTANTIAL NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

"(A) IN GENERAL.—If a State program operated under part D is found as a result of a review conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter, and the Secretary determines that the program is not complying substantially with such requirements at the time the finding is made, the Secretary shall, subject to paragraph (2), reduce the grant payable to the State under section 402(a)(1) for the quarter and each subsequent quarter that ends before the 1st quarter throughout which the program is found not to be in substantial compliance with such requirements by—

"(i) not less than 1 nor more than 2 percent;

"(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive such finding made as a result of such a review; or

"(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding made as a result of such a review.

"(B) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of subparagraph (A) and section 452(a)(4), a State which is not in full compliance with the requirements of this part shall be determined to be in substantial compliance with such requirements only if the Secretary determines that any noncompliance with such requirements is of a technical nature which does not adversely affect the performance of the State's program operated under part D.

"(9) FOR FAILURE TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS.—If the grant payable to a State under section 402(a)(1) for a fiscal year is reduced by reason of any of the preceding paragraphs of this subsection, the State shall, during the immediately succeeding fiscal year, expend under the State program funded under this part an amount equal to the sum of—

"(A) the applicable percentage of the historic State expenditures; and

"(B) 105 percent of the total amount of such reductions under such preceding paragraphs.

"(b) REASONABLE CAUSE EXCEPTION.—The Secretary may not impose a penalty on a State under subsection (a) with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

"(c) CORRECTIVE COMPLIANCE PLAN.—

"(1) IN GENERAL.—

"(A) NOTIFICATION OF VIOLATION.—Notwithstanding any other provision of law, the Federal Government shall, before assessing a penalty against a State under subsection (a), notify the State of the violation of law for which the penalty would be assessed and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State will correct any such violations and how the State will insure continuing compliance with the requirements of this part.

"(B) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—Any State notified under subparagraph (A) shall have 60 days in which to submit to the Federal Government a corrective compliance plan to correct any violations described in subparagraph (A).

"(C) ACCEPTANCE OF PLAN.—The Federal Government shall have 60 days to accept or reject the State's corrective compliance plan and may consult with the State during this period to modify the plan. If the Federal Government does not accept or reject the corrective compliance plan during the period, the corrective compliance plan shall be deemed to be accepted.

"(2) FAILURE TO CORRECT.—If a corrective compliance plan is accepted by the Federal Government, no penalty shall be imposed with respect to a violation described in paragraph (1) if the State corrects the violation pursuant to the plan. If a State has not corrected the violation in a timely manner under the plan, some or all of the penalty shall be assessed.

"(d) LIMITATION ON AMOUNT OF PENALTY.—

"(1) IN GENERAL.—In imposing the penalties described in subsection (a), the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

"(2) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that paragraph (1) prevents the Secretary from recovering during a fiscal year the full amount of all penalties imposed on a State under subsection (a) for a prior fiscal

year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year.

"SEC. 409. APPEAL OF ADVERSE DECISION.

"(a) In General.—Within 5 days after the date any adverse decision is made or action is taken under this part with respect to a State, the Secretary shall notify the chief executive officer of the State of the adverse decision or action, including any decision with respect to the State plan submitted under section 401 or the imposition of a penalty under section 408.

"(b) Administrative Review of Adverse Decision.—

"(1) In general.—Within 60 days after the date a State receives notice under this section of an adverse decision, the State may appeal the decision, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (in this section referred to as the 'Board') by filing an appeal with the Board.

"(2) Procedural rules.—The Board shall consider a State's appeal on the basis of such documentation as the State may submit and as the Board may require to support the final decision of the Board. In deciding whether to uphold an adverse decision or any portion of such a decision, the Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall make a final determination with respect to an appeal filed under this paragraph not less than 60 days after the date the appeal is filed.

"(c) Judicial Review of Adverse Decision.—

"(1) In general.—Within 90 days after the date of a final decision by the Board with respect to an adverse decision regarding a State under this section, the State may obtain judicial review of the final decision (and the findings incorporated into the final decision) by filing an action in—

"(A) the district court of the United States for the judicial district in which the principal or headquarters office of the State agency is located; or

"(B) the United States District Court for the District of Columbia.

"(2) Procedural rules.—The district court in which an action is filed shall review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by subparagraphs (A) through (E) of section 706(2) of title 5, United States Code. The review shall be on the basis of the documents and supporting data submitted to the Board.

"SEC. 410. DATA COLLECTION AND REPORTING.

"(a) General Reporting Requirement.—Beginning July 1, 1996, each State shall collect on a monthly basis, and report to the Secretary on a quarterly basis, the following information on the families receiving assistance under the State program funded under this part:

"(1) The county of residence of the family.

"(2) Whether a child receiving such assistance or an adult in the family is disabled.

"(3) The ages of the members of such families.

"(4) The number of individuals in the family, and the relation of each family member to the youngest child in the family.

"(5) The employment status and earnings of the employed adult in the family.

"(6) The marital status of the adults in the family, including whether such adults have never married, are widowed, or are divorced.

"(7) The educational status of each adult in the family.

"(8) The educational status of each child in the family.

"(9) Whether the family received subsidized housing, assistance under the State MediGrant plan approved under title XXI, food stamps, or subsidized child care, and if the latter 2, the amount received.

"(10) The number of months that the family has received each type of assistance under the program.

"(11) If the adults participated in, and the number of hours per week of participation in, the following activities:

"(A) Education.

"(B) Subsidized private sector employment.

"(C) Unsubsidized employment.

"(D) Public sector employment, work experience, or community service.

"(E) Job search.

"(F) Job skills training or on-the-job training.

"(G) Vocational education.

"(12) Information necessary to calculate participation rates under section 406.

"(13) The type and amount of assistance received under the program, including the amount of and reason for any reduction of assistance (including sanctions).

"(14) From a sample of closed cases, whether the family left the program, and if so, whether the family left due to—

"(A) employment;

"(B) marriage;

"(C) the prohibition set forth in section 407(a)(8);

"(D) sanction; or

"(E) State policy.

"(15) Any amount of unearned income received by any member of the family.

"(16) The citizenship of the members of the family.

"(b) Use of Estimates.—

"(1) Authority.—A State may comply with subsection (a) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods approved by the Secretary.

"(2) Sampling and other methods.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid estimates of the performance of State programs funded under this part. The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.

"(c) Report on Use of Federal Funds to Cover Administrative Costs and Overhead.—The report required by subsection (a) for a fiscal quarter shall include a statement of the percentage of the funds paid to the State under this part for the quarter that are used to cover administrative costs or overhead.

"(d) Report on State Expenditures on Programs for Needy Families.—The report required by subsection (a) for a fiscal quarter shall include a statement of the total amount expended by the State during the quarter on programs for needy families.

"(e) Report on Noncustodial Parents Participating in Work Activities.—The report required by subsection (a) for a fiscal quarter shall include the number of noncustodial parents in the State who participated in work activities (as defined in section 406(d)) during the quarter.

"(f) Report on Transitional Services.—The report required by subsection (a) for a fiscal quarter shall include the total amount expended by the State during the quarter to provide transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services.

"(g) Report to Congress.—Not later than 6 months after the end of fiscal year 1997, and each fiscal year thereafter, the Secretary shall transmit to the Congress a report describing—

"(1) whether the States are meeting—

"(A) the participation rates described in section 406(a); and

"(B) the objectives of—

"(i) increasing employment and earnings of needy families, and child support collections; and

"(ii) decreasing out-of-wedlock pregnancies and child poverty;

"(2) the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that become ineligible to receive assistance;

"(3) the characteristics of each State program funded under this part; and

"(4) the trends in employment and earnings of needy families with minor children living at home.

"SEC. 411. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

"(a) Grants for Indian Tribes.—

"(1) Tribal family assistance grant.—

"(A) In general.—For each of fiscal years 1997, 1998, 1999, and 2000, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal year in an amount equal to the amount determined under subparagraph (B), and shall reduce the grant payable under section 402(a)(1) to any State in which lies the service area or areas of the Indian tribe by that portion of the amount so determined that is attributable to expenditures by the State.

"(B) Amount determined.—

"(i) In general.—The amount determined under this subparagraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 for fiscal year 1994 (as in effect during such fiscal year) attributable to expenditures by the State or States under parts A and F of this title (as so in effect) for fiscal year 1994 for Indian families residing in the service area or areas identified by the Indian tribe pursuant to subsection (b)(1)(C).

"(ii) Use of state submitted data.—

"(I) In general.—The Secretary shall use State submitted data to make each determination under clause (i).

"(II) Disagreement with determination.—If an Indian tribe or tribal organization disagrees with State submitted data described under subclause (I), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making the determination under clause (i) and the Secretary may consider such information before making such determination.

"(2) Grants for Indian tribes that received jobs funds.—

"(A) In general.—The Secretary shall pay to each eligible Indian tribe for each of fiscal years 1996, 1997, 1998, 1999, and 2000 a grant in an amount equal to the amount received by the Indian tribe in fiscal year 1994 under section 482(i) (as in effect during fiscal year 1994).

"(B) Eligible Indian tribe.—For purposes of subparagraph (A), the term 'eligible Indian tribe' means an Indian tribe or Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1995 under section 482(i) (as in effect during such fiscal year).

"(C) Use of grant.—Each Indian tribe to which a grant is made under this paragraph shall use the grant for the purpose of operating a program to make work activities available to members of the Indian tribe.

"(D) Appropriation.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $7,638,474 for each fiscal year specified in subparagraph (A) for grants under subparagraph (A).

"(b) 3-Year Tribal Family Assistance Plan.—

"(1) In general.—Any Indian tribe that desires to receive a tribal family assistance grant *shall submit to the Secretary a 3-year tribal family assistance plan that—*

"(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with this section;

"(B) specifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia, States, or other entities;

"(C) identifies the population and service area or areas to be served by such plan;

"(D) provides that a family receiving assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;

"(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and

"(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) APPROVAL.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

"(3) CONSORTIUM OF TRIBES.—Nothing in this section shall preclude the development and submission of a single tribal family assistance plan by the participating Indian tribes of an intertribal consortium.

"(c) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under the grant, and penalties against individuals—

"(1) consistent with the purposes of this section;

"(2) consistent with the economic conditions and resources available to each tribe; and

"(3) similar to comparable provisions in section 406(d).

"(d) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.

"(e) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—

"(1) generally accepted accounting principles; and

"(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(f) PENALTIES.—

"(1) Subsections (a)(1), (a)(6), and (b) of section 408, shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such subsections apply to a State.

"(2) Section 408(a)(3) shall apply to an Indian tribe with an approved tribal assistance plan by substituting 'meet minimum work participation requirements established under section 411(c)' for 'comply with section 406(a)'.

"(g) DATA COLLECTION AND REPORTING.—Section 410 shall apply to an Indian tribe with an approved tribal family assistance plan.

"(h) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), a tribal organization in the State of Alaska that receives a tribal family assistance grant under this section shall use the grant to operate a program in accordance with the requirements comparable to the requirements applicable to the program of the State of Alaska funded under this part. Comparability of programs shall be established on the basis of program criteria developed by the Secretary in consultation with the State of Alaska and the tribal organizations.

"(2) WAIVER.—An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).

"SEC. 412. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

"(a) RESEARCH.—The Secretary shall conduct research on the benefits, effects, and costs of operating different State programs funded under this part, including time limits relating to eligibility for assistance. The research shall include studies on the effects of different programs and the operation of such programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other area the Secretary deems appropriate. The Secretary shall also conduct research on the costs and benefits of State activities under section 406.

"(b) DEVELOPMENT AND EVALUATION OF INNOVATIVE APPROACHES TO REDUCING WELFARE DEPENDENCY AND INCREASING CHILD WELL-BEING.—

"(1) IN GENERAL.—The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children living at home with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed pursuant to this paragraph.

"(2) EVALUATIONS.—In performing the evaluations under paragraph (1), the Secretary shall, to the maximum extent feasible, use random assignment as an evaluation methodology.

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall develop innovative methods of disseminating information on any research, evaluations, and studies conducted under this section, including the facilitation of the sharing of information and best practices among States and localities through the use of computers and other technologies.

"(d) ANNUAL RANKING OF STATES AND REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—

"(1) ANNUAL RANKING OF STATES.—The Secretary shall rank annually the States to which grants are paid under section 402 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable method for calculating this information becomes available, diverting individuals from formally applying to the State program and receiving assistance. In ranking States under this subsection, the Secretary shall take into account the average number of minor children living at home in families in the State that have incomes below the poverty line and the amount of funding provided each State for such families.

"(2) ANNUAL REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—The Secretary shall review the programs of the 3 States most recently ranked highest under paragraph (1) and the 3 States most recently ranked lowest under paragraph (1) that provide parents with work experience, assistance in finding employment, and other work preparation activities and support services to enable the families of such parents to leave the program and become self-sufficient.

"(e) ANNUAL RANKING OF STATES AND REVIEW OF ISSUES RELATING TO OUT-OF-WEDLOCK BIRTHS.—

"(1) ANNUAL RANKING OF STATES.—

"(A) IN GENERAL.—The Secretary shall annually rank States to which grants are made under section 402 based on the following ranking factors:

"(i) ABSOLUTE OUT-OF-WEDLOCK RATIOS.—The ratio represented by—

"(I) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the most recent fiscal year for which information is available; over

"(II) the total number of births in families receiving assistance under the State program under this part in the State for such year.

"(ii) NET CHANGES IN THE OUT-OF-WEDLOCK RATIO.—The difference between the ratio described in subparagraph (A)(i) for the most recent fiscal year for which information is available and such State's ratio determined for the preceding year.

"(2) ANNUAL REVIEW.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (1) and the 5 States most recently ranked the lowest under paragraph (1).

"(f) STATE-INITIATED STUDIES.—A State shall be eligible to receive funding to evaluate the State's family assistance program funded under this part if—

"(1) the State submits a proposal to the Secretary for such evaluation,

"(2) the Secretary determines that the design and approach of the evaluation is rigorous and is likely to yield information that is credible and will be useful to other States, and

"(3) unless otherwise waived by the Secretary, the State provides a non-Federal share of at least 10 percent of the cost of such study.

"(g) FUNDING OF STUDIES AND DEMONSTRATIONS.—

"(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $15,000,000 for each fiscal year specified in section 402(a)(1) for the purpose of paying—

"(A) the cost of conducting the research described in subsection (a);

"(B) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b);

"(C) the Federal share of any State-initiated study approved under subsection (f); and

"(D) an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to this part, that are in effect or approved under section 1115 as of September 30, 1995, and are continued after such date.

"(2) ALLOCATION.—Of the amount appropriated under paragraph (1) for a fiscal year—

"(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and

"(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).

"SEC. 413. STUDY BY THE CENSUS BUREAU.

"(a) IN GENERAL.—The Bureau of the Census shall expand the Survey of Income and Program Participation as necessary to obtain such information as will enable interested persons to evaluate the impact of the amendments made by subtitle A of the Personal Responsibility and Work Opportunity Act of 1995 on a random national sample of recipients of assistance under State programs funded under this part and (as appropriate) other low income families, and in doing so, shall pay particular attention to the issues of out-of-wedlock birth, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells.

"(b) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise

appropriated, there are appropriated $10,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 for payment to the Bureau of the Census to carry out subsection (a).

"SEC. 414. WAIVERS.

"(a) CONTINUATION OF WAIVERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if any waiver granted to a State under section 1115 or otherwise which relates to the provision of assistance under a State plan under this part is in effect or approved by the Secretary as of October 1, 1995, the amendments made by the Personal Responsibility and Work Opportunity Act of 1995 shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

"(2) FINANCING LIMITATION.—Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver described in paragraph (1) shall receive the payment described for such State for such fiscal year under section 402, in lieu of any other payment provided for in the waiver.

"(b) STATE OPTION TO TERMINATE WAIVER.—

"(1) IN GENERAL.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

"(2) REPORT.—A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary summarizing the waiver and any available information concerning the result or effect of such waiver.

"(3) HOLD HARMLESS PROVISION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B), submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the terms and conditions of such waiver.

"(B) DATE DESCRIBED.—The date described in this subparagraph is the later of—

"(i) January 1, 1996; or

"(ii) 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995.

"(c) SECRETARIAL ENCOURAGEMENT OF CURRENT WAIVERS.—The Secretary shall encourage any State operating a waiver described in subsection (a) to continue such waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of such waiver.

"(d) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue one or more individual waivers described in subsection (a)(1).

"SEC. 415. ASSISTANT SECRETARY FOR FAMILY SUPPORT.

"The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law.

"SEC. 416. LIMITATION ON FEDERAL AUTHORITY.

"No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.

"SEC. 417. DEFINITIONS.

"As used in this part:

"(1) ADULT.—The term 'adult' means an individual who is not a minor child.

"(2) MINOR CHILD.—The term 'minor child' means an individual who—

"(A) has not attained 18 years of age; or

"(B) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

"(3) FISCAL YEAR.—The term 'fiscal year' means any 12-month period ending on September 30 of a calendar year.

"(4) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the terms 'Indian', 'Indian tribe', and 'tribal organization' have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(B) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—The term 'Indian tribe' means, with respect to the State of Alaska, only the following Alaska Native regional nonprofit corporations:

"(i) Arctic Slope Native Association.

"(ii) Kawerak, Inc.

"(iii) Maniilaq Association.

"(iv) Association of Village Council Presidents.

"(v) Tanana Chiefs Conference.

"(vi) Cook Inlet Tribal Council.

"(vii) Bristol Bay Native Association.

"(viii) Aleutian and Pribilof Island Association.

"(ix) Chugachmuit.

"(x) Tlingit Haida Central Council.

"(xi) Kodiak Area Native Association.

"(xii) Copper River Native Association.

"(xiii) Metlakatla Indian Tribe.

"(5) STATE.—Except as otherwise specifically provided, the term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.".

SEC. 12102. REPORT ON DATA PROCESSING.

(a) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Congress a report on—

(1) the status of the automated data processing systems operated by the States to assist management in the administration of State programs under part A of title IV of the Social Security Act (whether in effect before or after October 1, 1995); and

(2) what would be required to establish a system capable of—

(A) tracking participants in public programs over time; and

(B) checking case records of the States to determine whether individuals are participating in public programs of 2 or more States.

(b) PREFERRED CONTENTS.—The report required by subsection (a) should include—

(1) a plan for building on the automated data processing systems of the States to establish a system with the capabilities described in subsection (a)(2); and

(2) an estimate of the amount of time required to establish such a system and of the cost of establishing such a system.

SEC. 12103. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) AMENDMENTS TO TITLE II.—

(1) Section 205(c)(2)(C)(vi) (42 U.S.C. 405(c)(2)(C)(vi)), as so redesignated by section 321(a)(9)(B) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(A) by inserting "an agency administering a program funded under part A of title IV or" before "an agency operating"; and

(B) by striking "A or D of title IV of this Act" and inserting "D of such title".

(2) Section 228(d)(1) (42 U.S.C. 428(d)(1)) is amended by inserting "under a State program funded under" before "part A of title IV".

(b) AMENDMENTS TO PART D OF TITLE IV.—

(1) Section 451 (42 U.S.C. 651) is amended by striking "aid" and inserting "assistance under a State program funded".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A";

(B) by striking "such aid" and inserting "such assistance"; and

(C) by striking "under section 402(a)(26) or 471(a)(17)" and inserting "pursuant to section 408(a)(4) or under section 471(a)(17)".

(3) Section 452(a)(10)(F) (42 U.S.C. 652(a)(10)(F)) is amended—

(A) by striking "aid under a State plan approved" and inserting "assistance under a State program funded"; and

(B) by striking "in accordance with the standards referred to in section 402(a)(26)(B)(ii)" and inserting "by the State".

(4) Section 452(b) (42 U.S.C. 652(b)) is amended in the first sentence by striking "aid under the State plan approved under part A" and inserting "assistance under the State program funded under part A".

(5) Section 452(d)(3)(B)(i) (42 U.S.C. 652(d)(3)(B)(i)) is amended by striking "1115(c)" and inserting "1115(b)".

(6) Section 452(g)(2)(A)(ii)(I) (42 U.S.C. 652(g)(2)(A)(ii)(I)) is amended by striking "aid is being paid under the State's plan approved under part A or E" and inserting "assistance is being provided under the State program funded under part A or aid is being paid under the State's plan approved under part E".

(7) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter following clause (iii) by striking "aid was being paid under the State's plan approved under part A or E" and inserting "assistance was being provided under the State program funded under part A or aid was being paid under the State's plan approved under part E".

(8) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended in the matter following subparagraph (B)—

(A) by striking "who is a dependent child" and inserting "with respect to whom assistance is being provided under the State program funded under part A";

(B) by inserting "by the State agency administering the State plan approved under this part" after "found"; and

(C) by striking "under section 402(a)(26)" and inserting "with the State in establishing paternity".

(9) Section 452(h) (42 U.S.C. 652(h)) is amended by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(4)".

(10) Section 453(c)(3) (42 U.S.C. 653(c)(3)) is amended by striking "aid under part A of this title" and inserting "assistance under a State program funded under part A".

(11) Section 454(5)(A) (42 U.S.C. 654(5)(A)) is amended—

(A) by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(4)"; and

(B) by striking "; except that this paragraph shall not apply to such payments for any month following the first month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;" and inserting a comma.

(12) Section 454(6)(D) (42 U.S.C. 654(6)(D)) is amended by striking "aid under a State plan approved" and inserting "assistance under a State program funded".

(13) Section 456(a)(1) (42 U.S.C. 656(a)(1)) is amended by striking "under section 402(a)(26)".

(14) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "402(a)(26)" and inserting "408(a)(4)".

(15) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is amended by striking "aid" and inserting "assistance under a State program funded".

(16) Section 469(a) (42 U.S.C. 669(a)) is amended—

(A) by striking "aid under plans approved" and inserting "assistance under State programs funded"; and

(B) by striking "such aid" and inserting "such assistance".

(c) REPEAL OF PART F OF TITLE IV.—Part F of title IV (42 U.S.C. 681–687) is repealed.

(d) AMENDMENT TO TITLE X.—Section 1002(a)(7) (42 U.S.C. 1202(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(e) AMENDMENTS TO TITLE XI.—

(1) Section 1108 (42 U.S.C. 1308) is amended to read as follows:

"SEC. 1108. LIMITATION ON PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, the total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under parts A and B of title IV for payment to any territory for a fiscal year shall not exceed the ceiling amount for the territory for the fiscal year.

"(b) DEFINITIONS.—As used in this section:

"(1) TERRITORY.—The term 'territory' means Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(2) CEILING AMOUNT.—The term 'ceiling amount' means, with respect to a territory and a fiscal year, the mandatory ceiling amount with respect to the territory plus the discretionary ceiling amount with respect to the territory, reduced for the fiscal year in accordance with subsection (e).

"(3) MANDATORY CEILING AMOUNT.—The term 'mandatory ceiling amount' means—

"(A) $103,538,000 with respect to for Puerto Rico;

"(B) $4,812,000 with respect to Guam;

"(C) $3,677,397 with respect to the Virgin Islands; and

"(D) $1,122,095 with respect to American Samoa.

"(4) DISCRETIONARY CEILING AMOUNT.—The term 'discretionary ceiling amount' means, with respect to a territory, the dollar amount specified in subsection (c)(2) with respect to the territory.

"(c) DISCRETIONARY GRANTS.—

"(1) IN GENERAL.—The Secretary shall make a grant to each territory for any fiscal year in the amount appropriated pursuant to paragraph (2) for the fiscal year for payment to the territory.

"(2) USE OF GRANT.—Any territory to which a grant is made under paragraph (1) may expend the amount under any program operated or funded under any provision of law specified in subsection (a).

"(3) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under paragraph (1), there are authorized to be appropriated to the Secretary for each fiscal year—

"(A) $7,951,000 for payment to Puerto Rico;

"(B) $345,000 for payment to Guam;

"(C) $275,000 for payment to the Virgin Islands; and

"(D) $190,000 for payment to American Samoa.

"(d) AUTHORITY TO TRANSFER FUNDS AMONG PROGRAMS.—Notwithstanding any other provision of this Act, any territory to which an amount is paid under any provision of law specified in subsection (a) may use part or all of the amount to carry out any program operated by the territory, or funded, under any other such provision of law.

"(e) MAINTENANCE OF EFFORT.—The ceiling amount with respect to a territory shall be reduced for a fiscal year by an amount equal to the amount (if any) by which—

"(1) the total amount expended by the territory under all programs of the territory operated pursuant to the provisions of law specified in subsection (a) (as such provisions were in effect for fiscal year 1995) for fiscal year 1995; exceeds

"(2) the total amount expended by the territory under all programs of the territory that are funded under the provisions of law specified in subsection (a) for the fiscal year that immediately precedes the fiscal year referred to in the matter preceding paragraph (1).".

(2) Section 1109 (42 U.S.C. 1309) is amended by striking "or part A of title IV,".

(3) Section 1115 (42 U.S.C. 1315) is amended—

(A) in subsection (a)(2)—

(i) by inserting "(A)" after "(2)";

(ii) by striking "403,";

(iii) by striking the period at the end and inserting ", and"; and

(iv) by adding at the end the following new subparagraph:

"(B) costs of such project which would not otherwise be a permissible use of funds under part A of title IV and which are not included as part of the costs of projects under section 1110, shall to the extent and for the period prescribed by the Secretary, be regarded as a permissible use of funds under such part."; and

(B) in subsection (c)(3), by striking "under the program of aid to families with dependent children" and inserting "part A of such title".

(4) Section 1116 (42 U.S.C. 1316) is amended—

(A) in each of subsections (a)(1), (b), and (d), by striking "or part A of title IV,"; and

(B) in subsection (a)(3), by striking "404,".

(5) Section 1118 (42 U.S.C. 1318) is amended—

(A) by striking "403(a),";

(B) by striking "and part A of title IV,"; and

(C) by striking ", and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV".

(6) Section 1119 (42 U.S.C. 1319) is amended—

(A) by striking "or part A of title IV"; and

(B) by striking "403(a),".

(7) Section 1133(a) (42 U.S.C. 1320b–3(a)) is amended by striking "or part A of title IV,".

(8) Section 1136 (42 U.S.C. 1320b–6) is repealed.

(9) Section 1137 (42 U.S.C. 1320b–7) is amended—

(A) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) any State program funded under part A of title IV of this Act;"; and

(B) in subsection (d)(1)(B)—

(i) by striking "In this subsection—" and all that follows through "(ii) in" and inserting "In this subsection, in";

(ii) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii); and

(iii) by moving such redesignated material 2 ems to the left.

(f) AMENDMENT TO TITLE XIV.—Section 1402(a)(7) (42 U.S.C. 1352(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(g) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE TERRITORIES.—Section 1602(a)(11), as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972 (42 U.S.C. 1382 note), is amended by striking "aid under the State plan approved" and inserting "assistance under a State program funded".

(h) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42 U.S.C. 1382(c)(5)(A)) is amended to read as follows: "(A) a State program funded under part A of title IV,".

SEC. 12104. CONFORMING AMENDMENTS TO THE FOOD STAMP ACT OF 1977 AND RELATED PROVISIONS.

(a) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in the second sentence of subsection (a), by striking "plan approved" and all that follows through "title IV of the Social Security Act" and inserting "program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995";

(2) in subsection (d)—

(A) in paragraph (5), by striking "assistance to families with dependent children" and inserting "assistance under a State program funded"; and

(B) by striking paragraph (13) and redesignating paragraphs (14), (15), and (16) as paragraphs (13), (14), and (15), respectively;

(3) in subsection (j), by striking "plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.)" and inserting "program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

(b) Section 6 of such Act (7 U.S.C. 2015) is amended—

(1) in subsection (c)(5), by striking "the State plan approved" and inserting "the State program funded";

(2) in subsection (e)—

(A) by striking "aid to families with dependent children" and inserting "benefits under a State program funded"; and

(B) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(3) by adding at the end the following new subsection:

"(i) ELIGIBILITY UNDER OTHER LAW.—Notwithstanding any other provision of this Act, a household may not receive benefits under this Act as a result of the household's eligibility under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.".

(c) Section 16(g)(4) of such Act (7 U.S.C. 2025(g)(4)) is amended by striking "State plans under the Aid to Families with Dependent Children Program under" and inserting "State programs funded under part A of".

(d) Section 17 of such Act (7 U.S.C. 2026) is amended—

(1) in the first sentence of subsection (b)(1)(A), by striking "to aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)"; and

(2) in subsection (b)(3), by adding at the end the following new subparagraph:

"(I) The Secretary may not grant a waiver under this paragraph on or after October 1, 1995. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on September 30, 1995.";

(e) Section 20 of such Act (7 U.S.C. 2029) is amended—

(1) in subsection (a)(2)(B) by striking "operating—" and all that follows through "(ii) any other" and inserting "operating any"; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(b)(1) A household" and inserting "(b) A household"; and

(ii) in subparagraph (B), by striking "training program" and inserting "activity";

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(f) Section 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–186; 7 U.S.C. 612c note) is amended by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(g) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(C)(ii)(II)—

(i) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(ii) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(B) in paragraph (6)—

(i) in subparagraph (A)(ii)—

(I) by striking "an AFDC assistance unit (under the aid to families with dependent children program authorized" and inserting "a family (under the State program funded"; and

(II) by striking ", in a State" and all that follows through "9902(2)))" and inserting "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(ii) in subparagraph (B), by striking "aid to families with dependent children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(2) in subsection (d)(2)(C)—

(A) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(B) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

(h) Section 17(d)(2)(A)(ii)(II) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(ii)(II)) is amended—

(1) by striking "program for aid to families with dependent children established" and inserting "State program funded"; and

(2) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

SEC. 12105. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a; Public Law 94–566; 90 Stat. 2689) is amended to read as follows:

"(b) PROVISION FOR REIMBURSEMENT OF EXPENSES.—For purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices—

"(1) pursuant to the third sentence of section 3(a) of the Act entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes', approved June 6, 1933 (29 U.S.C. 49b(a)), or

"(2) by a State or local agency charged with the duty of carrying a State plan for child support approved under part D of title IV of the Social Security Act,

shall be considered to constitute expenses incurred in the administration of such State plan.".

(b) Section 9121 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(c) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(d) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 602 note), relating to treatment under AFDC of certain rental payments for federally assisted housing, is repealed.

(e) Section 159 of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 602 note) is repealed.

(f) Section 202(d) of the Social Security Amendments of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.

(g) Section 903 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11381 note), relating to demonstration projects to reduce number of AFDC families in welfare hotels, is amended—

(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded"; and

(2) in subsection (c), by striking "aid to families with dependent children in the State under a State plan approved" and inserting "assistance in the State under a State program funded".

(h) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 404C(c)(3) (20 U.S.C. 1070a–23(c)(3)), by striking "(Aid to Families with Dependent Children)"; and

(2) in section 480(b)(2) (20 U.S.C. 1087vv(b)(2)), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded".

(i) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in section 231(d)(3)(A)(ii) (20 U.S.C. 2341(d)(3)(A)(ii)), by striking "the program for aid to dependent children" and inserting "the State program funded";

(2) in section 232(b)(2)(B) (20 U.S.C. 2341a(b)(2)(B)), by striking "the program for aid to families with dependent children" and inserting "the State program funded"; and

(3) in section 521(14)(B)(iii) (20 U.S.C. 2471(14)(B)(iii)), by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(j) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in section 1113(a)(5) (20 U.S.C. 6313(a)(5)), by striking "Aid to Families with Dependent Children Program" and inserting "State program funded under part A of title IV of the Social Security Act";

(2) in section 1124(c)(5) (20 U.S.C. 6333(c)(5)), by striking "the program of aid to families with dependent children under a State plan approved under" and inserting "a State program funded under part A of"; and

(3) in section 5203(b)(2) (20 U.S.C. 7233(b)(2))—

(A) in subparagraph (A)(xi), by striking "Aid to Families with Dependent Children benefits" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and

(B) in subparagraph (B)(viii), by striking "Aid to Families with Dependent Children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act".

(k) Chapter VII of title I of Public Law 99–88 (25 U.S.C. 13d–1) is amended to read as follows: "Provided further, That general assistance payments made by the Bureau of Indian Affairs shall be made—

"(1) after April 29, 1985, and before October 1, 1995, on the basis of Aid to Families with Dependent Children (AFDC) standards of need; and

"(2) on and after October 1, 1995, on the basis of standards of need established under the State program funded under part A of title IV of the Social Security Act,

except that where a State ratably reduces its AFDC or State program payments, the Bureau shall reduce general assistance payments in such State by the same percentage as the State has reduced the AFDC or State program payment.".

(l) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended—

(1) in section 51(d)(9) (26 U.S.C. 51(d)(9)), by striking all that follows "agency as" and inserting "being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer.";

(2) in section 3304(a)(16) (26 U.S.C. 3304(a)(16)), by striking "eligibility for aid or services," and all that follows through "children approved" and inserting "eligibility for assistance, or the amount of such assistance, under a State program funded";

(3) in section 6103(l)(7)(D)(i) (26 U.S.C. 6103(l)(7)(D)(i)), by striking "aid to families with dependent children provided under a State plan approved" and inserting "a State program funded";

(4) in section 6334(a)(11)(A) (26 U.S.C. 6334(a)(11)(A)), by striking "(relating to aid to families with dependent children)"; and

(5) in section 7523(b)(3)(C) (26 U.S.C. 7523(b)(3)(C)), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act".

(m) Section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)) is amended by striking "State plan approved under part A of title IV" and inserting "State program funded under part A of title IV".

(n) The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4(29)(A)(i) (29 U.S.C. 1503(29)(A)(i)), by striking "(42 U.S.C. 601 et seq.)";

(2) in section 106(b)(6)(C) (29 U.S.C. 1516(b)(6)(C)), by striking "State aid to families with dependent children records," and inserting "records collected under the State program funded under part A of title IV of the Social Security Act,";

(3) in section 121(b)(2) (29 U.S.C. 1531(b)(2))—

(A) by striking "the JOBS program" and inserting "the work activities required under title IV of the Social Security Act"; and

(B) by striking the second sentence;

(4) in section 123(c) (29 U.S.C. 1533(c))—

(A) in paragraph (1)(E), by repealing clause (vi); and

(B) in paragraph (2)(D), by repealing clause (v);

(5) in section 203(b)(3) (29 U.S.C. 1603(b)(3)), by striking ", including recipients under the JOBS program";

(6) in subparagraphs (A) and (B) of section 204(a)(1) (29 U.S.C. 1604(a)(1) (A) and (B)), by striking "(such as the JOBS program)" each place it appears;

(7) in section 205(a) (29 U.S.C. 1605(a)), by striking paragraph (4) and inserting the following:

"(4) the portions of title IV of the Social Security Act relating to work activities;";

(8) in section 253 (29 U.S.C. 1632)—

(A) in subsection (b)(2), by repealing subparagraph (C); and

(B) in paragraphs (1)(B) and (2)(B) of subsection (c), by striking "the JOBS program or" each place it appears;

(9) in section 264 (29 U.S.C. 1644)—

(A) in subparagraphs (A) and (B) of subsection (b)(1), by striking "(such as the JOBS program)" each place it appears; and

(B) in subparagraphs (A) and (B) of subsection (d)(3), by striking "and the JOBS program" each place it appears;

(10) in section 265(b) (29 U.S.C. 1645(b)), by striking paragraph (6) and inserting the following:

"(6) the portion of title IV of the Social Security Act relating to work activities;";

(11) in the second sentence of section 429(e) (29 U.S.C. 1699(e)), by striking "and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C))";

(12) in section 454(c) (29 U.S.C. 1734(c)), by striking "JOBS and";

(13) in section 455(b) (29 U.S.C. 1735(b)), by striking "the JOBS program,";

(14) in section 501(1) (29 U.S.C. 1791(1)), by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act";

(15) in section 506(1)(A) (29 U.S.C. 1791e(1)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded";

(16) in section 508(a)(2)(A) (29 U.S.C. 1791g(a)(2)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded"; and

(17) in section 701(b)(2)(A) (29 U.S.C. 1792(b)(2)(A))—

(A) in clause (v), by striking the semicolon and inserting "; and"; and

(B) by striking clause (vi).

(o) Section 3803(c)(2)(C)(iv) of title 31, United States Code, is amended to read as follows:

"(iv) assistance under a State program funded under part A of title IV of the Social Security Act".

(p) Section 2605(b)(2)(A)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(A)(i)) is amended to read as follows:

"(i) assistance under the State program funded under part A of title IV of the Social Security Act;".

(q) Section 303(f)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note) is amended—

(1) by striking "(A)"; and

(2) by striking subparagraphs (B) and (C).

(r) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended—

(1) in the first section 255(h) (2 U.S.C. 905(h)), by striking "Aid to families with dependent children (75–0412–0–1–609);" and inserting "Block grants to States for temporary assistance for needy families;"; and

(2) in section 256 (2 U.S.C. 906)—

(A) by striking subsection (k); and

(B) by redesignating subsection (l) as subsection (k).

(s) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 210(f) (8 U.S.C. 1160(f)), by striking "aid under a State plan approved under" each place it appears and inserting "assistance under a State program funded under";

(2) in section 245A(h) (8 U.S.C. 1255a(h))—

(A) in paragraph (1)(A)(i), by striking "program of aid to families with dependent children" and inserting "State program of assistance"; and

(B) in paragraph (2)(B), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and

(3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)), by striking "State plan approved" and inserting "State program funded".

(t) Section 640(a)(4)(B)(i) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)) is amended by striking "program of aid to families with dependent children under a State plan approved" and inserting "State program of assistance funded".

(u) Section 9 of the Act of April 19, 1950 (64 Stat. 47, chapter 92; 25 U.S.C. 639) is repealed.

(v) Subparagraph (E) of section 213(d)(6) of the School-To-Work Opportunities Act of 1994 (20 U.S.C. 6143(d)(6)) is amended to read as follows:

"(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;".

SEC. 12106. EFFECTIVE DATE; TRANSITION RULE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect on October 1, 1995.

(b) PENALTIES.—

(1) IN GENERAL.—Paragraphs (2) through (7) and paragraph (9) of section 408(a) of the Social Security Act (as added by section 12101 of this Act) shall apply with respect to fiscal years beginning on or after October 1, 1996.

(2) MISUSE OF FUNDS.—Paragraphs (1) and (8) of section 408(a) of the Social Security Act (as added by section 12101 of this Act, shall apply with respect to fiscal years beginning on or after October 1, 1995.

(c) TRANSITION RULES.—

(1) STATE OPTION TO CONTINUE AFDC PROGRAM.—

(A) 9-MONTH EXTENSION.—A State may elect to continue the State AFDC program until June 30, 1996.

(B) NO INDIVIDUAL OR FAMILY ENTITLEMENT UNDER CONTINUED STATE AFDC PROGRAMS.—Notwithstanding any other provision of law or any rule of law, no individual or family is entitled to aid under any State AFDC program on or after the date of the enactment of this Act.

(C) LIMITATIONS ON FEDERAL OBLIGATIONS.—

(i) UNDER AFDC PROGRAM.—If a State elects to continue the State AFDC program pursuant to subparagraph (A), the total obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) after the date of the enactment of this Act shall not exceed an amount equal to—

(I) the State family assistance grant (as defined in section 402(a)(1)(B) of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act)); minus

(II) any obligations of the Federal Government to the State under such part (as in effect on September 30, 1995) with respect to expenditures by the State during the period that begins on October 1, 1995, and ends on the day before the date of the enactment of this Act.

(ii) UNDER TEMPORARY FAMILY ASSISTANCE PROGRAM.—Notwithstanding section 402(a)(1) of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act), the total obligations of the Federal Government to the State under such section 402(a)(1) for fiscal year 1996 after the termination of the State AFDC program shall not exceed an amount equal to—

(I) the amount described in clause (i)(I) of this subparagraph; minus

(II) any obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures by the State on or after October 1, 1995.

(D) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State under section 401(a) of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant reductions under subparagraph (C)(ii) of this paragraph (including the formula for computing the amount of the reduction).

(E) STATE AFDC PROGRAM DEFINED.—As used in this paragraph, the term "State AFDC program" means the State program under parts A and F of title IV of the Social Security Act (as in effect on September 30, 1995).

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS SUBTITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made under programs which are repealed or substantially amended in this subtitle and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year, shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—

(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs, and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the funds authorized by this subtitle.

(4) CONTINUANCE IN OFFICE OF ASSISTANT SECRETARY FOR FAMILY SUPPORT.—The individual who, on the day before the effective date of this subtitle, is serving as Assistant Secretary for Family Support within the Department of Health and Human Services shall, until a successor is appointed to such position—

(A) continue to serve in such position; and

(B) except as otherwise provided by law—

(i) continue to perform the functions of the Assistant Secretary for Family Support under section 417 of the Social Security Act (as in effect before such effective date); and

(ii) have the powers and duties of the Assistant Secretary for Family Support under section 415 of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act).

(d) SUNSET.—The amendment made by section 12101 shall be effective only during the 6-year period beginning on October 1, 1995.

Subtitle B—Supplemental Security Income

SEC. 12200. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, where ever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

CHAPTER 1—ELIGIBILITY RESTRICTIONS

SEC. 12201. DENIAL OF SUPPLEMENTAL SECURITY INCOME BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(b) REPRESENTATIVE PAYEE REQUIREMENTS.—

(1) Section 1631(a)(2)(A)(ii)(II) (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

"(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition that prevents the individual from managing such benefits.".

(2) Section 1631(a)(2)(B)(vii) (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(3) Section 1631(a)(2)(B)(ix)(II) (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows "15 years, or" and inserting "described in subparagraph (A)(ii)(II)".

(4) Section 1631(a)(2)(D)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(c) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Title XVI (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

"TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION

"SEC. 1636. In the case of any eligible individual whose benefits under this title by reason of disability are paid to a representative payee pursuant to section 1631(a)(2)(A)(ii)(II), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).".

(d) CONFORMING AMENDMENTS.—

(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(2) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).

(3) Section 201(c)(1) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is amended—

(A) by striking "to—" and all that follows through "in cases in which" and inserting "to individuals who are entitled to disability insurance benefits or child's, widow's, or widower's insurance benefits based on disability under title II of the Social Security Act, in cases in which";

(B) by striking "either subparagraph (A) or subparagraph (B)" and inserting "the preceding sentence"; and

(C) by striking "subparagraph (A) or (B)" and inserting "the preceding sentence".

(e) SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS.—

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33), $50,000,000 for each of the fiscal years 1997 and 1998.

(2) ADDITIONAL FUNDS.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33) and shall be allocated pursuant to such section 1933.

(3) USE OF FUNDS.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the amendments made by this section, such amendments shall apply with respect to the benefits of such individual, including such individual's treatment (if any) provided pursuant to such title as in effect on the day before the date of such enactment, for months beginning on or after January 1, 1997, and the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(B) REAPPLICATION.—

(i) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subparagraph (A) who desires to reapply for benefits under title XVI of the Social Security Act, as amended by this title, may reapply to the Commissioner of Social Security.

(ii) DETERMINATION OF ELIGIBILITY.—Not later than January 1, 1997, the Commissioner of Social Security shall complete the eligibility redetermination of each individual who reapplies for benefits under clause (i) pursuant to the procedures of title XVI of such Act.

(3) ADDITIONAL APPLICATION OF PAYEE REPRESENTATIVE AND TREATMENT REFERRAL REQUIREMENTS.—The amendments made by subsections (b) and (c) shall also apply—

(A) in the case of any individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act, on and after the date of such individual's first continuing disability review occurring after such date of enactment, and

(B) in the case of any individual who receives supplemental security income benefits under title XVI of the Social Security Act and has attained age 65, in such manner as determined appropriate by the Commissioner of Social Security.

SEC. 12202. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

(a) IN GENERAL.—Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following new paragraph:

"(5) An individual shall not be considered an eligible individual for the purposes of this title during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under title IV, title XXI, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under this title.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 12203. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 12201(d)(1), is amended by inserting after paragraph (2) the following new paragraph:

"(3) A person shall not be considered an eligible individual or eligible spouse for purposes of this title with respect to any month if during such month the person is—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(B) violating a condition of probation or parole imposed under Federal or State law.".

(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 12201(d)(1) and subsection (a), is amended by inserting after paragraph (3) the following new paragraph:

"(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits under this title, if the officer furnishes the Commissioner with the name of the recipient and notifies the Commissioner that—

"(A) the recipient—

"(i) is described in subparagraph (A) or (B) of paragraph (3); or

"(ii) has information that is necessary for the officer to conduct the officer's official duties; and

"(B) the location or apprehension of the recipient is within the officer's official duties.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

SEC. 12211. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 7251(a), is amended—

(1) in subparagraph (A), by striking "An individual" and inserting "Except as provided in subparagraph (C), an individual";

(2) in subparagraph (A), by striking "(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)";

(3) by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Notwithstanding the preceding sentence, no individual under the age of 18 who engages in substantial gainful activity (determined in accordance with regulations prescribed pursuant to subparagraph (E)) may be considered to be disabled."; and

(5) in subparagraph (F), as redesignated by paragraph (3), by striking "(D)" and inserting "(E)".

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) MEDICAL IMPROVEMENT REVIEW STANDARD AS IT APPLIES TO INDIVIDUALS UNDER THE AGE OF 18.—Section 1614(a)(4) (42 U.S.C. 1382(a)(4)) is amended—

(1) by redesignating subclauses (I) and (II) of clauses (i) and (ii) of subparagraph (B) as subclauses (aa) and (bb), respectively;

(2) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively;

(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and by moving their left hand margin 2 ems to the right;

(4) by inserting before clause (i) (as redesignated by paragraph (3)) the following:

"(A) in the case of an individual who is age 18 or older—";

(5) at the end of subparagraph (A)(iii) (as redesignated by paragraphs (3) and (4)), by striking the period and inserting "; or";

(6) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following:

"(B) in the case of an individual who is under the age of 18—

"(i) substantial evidence which demonstrates that there has been medical improvement in the individual's impairment or combination of impairments, and that such impairment or combination of impairments no longer results in marked and severe functional limitations; or

"(ii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments, is not as disabling as it was considered to be at the time of the most recent prior decision that he or she was under a disability or continued to be under a disability, and such impairment or combination of impairments does not result in marked or severe functional limitations; or";

(7) by redesignating subparagraph (D) as subparagraph (C) and by inserting in such subparagraph "in the case of any individual," before "substantial evidence"; and

(8) in the first sentence following subparagraph (C) (as redesignated by paragraph (7)), by—

(A) inserting "(i)" before "to restore"; and

(B) inserting ", or (ii) in the case of an individual under the age of 18, to eliminate or improve the individual's impairment or combination of impairments so that it no longer results in marked and severe functional limitations" immediately before the period.

(d) AMOUNT OF BENEFITS.—Section 1611(b) (42 U.S.C. 1382(b)) is amended by adding at the end the following new paragraph:

"(3)(i) Except with respect to individuals described in clause (ii), the benefit under this title for an individual described in section 1614(a)(3)(C) shall be payable at a rate equal to 75 percent of the rate otherwise determined under this subsection.

"(ii) An individual is described in this clause if such individual is described in section 1614(a)(3)(C), and—

"(I) in the case of such an individual under the age of 6, such individual has a medical impairment that severely limits the individual's ability to function in a manner appropriate to individuals of the same age and who without special personal assistance would require specialized care outside the home; or

"(II) in the case of such an individual who has attained the age of 6, such individual requires personal care assistance with—

"(aa) at least 2 activities of daily living;

"(bb) continual 24-hour supervision or monitoring to avoid causing injury or harm to self or others; or

"(cc) the administration of medical treatment; and

who without such assistance would require full-time or part-time specialized care outside the home.

"(iii)(I) For purposes of clause (ii), the term 'specialized care' means medical care beyond routine administration of medication.

"(II) For purposes of clause (ii)(II)—

"(aa) the term 'personal care assistance' means at least hands-on and stand-by assistance, supervision, or cueing; and

"(bb) the term 'activities of daily living' means eating, toileting, dressing, bathing, and mobility.".

(e) EFFECTIVE DATES, ETC.—

(1) EFFECTIVE DATES.—

(A) IN GENERAL.—The provisions of, and amendments made by, subsections (a), (b), and (c) shall apply to applicants for benefits under title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such provisions and amendments.

(B) ELIGIBILITY RULES.—The amendments made by subsection (d) shall apply to—

(i) applicants for benefits under title XVI of the Social Security Act for months beginning on or after January 1, 1997; and

(ii) with respect to continuing disability reviews of eligibility for benefits under such title occurring on or after such date.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY DETERMINATIONS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits based on a disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of, and amendments made by, subsections (a), (b), and (c). With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The provisions of, and amendments made by, subsections (a), (b), and (c), and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after January 1, 1997.

(C) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

(3) REGULATIONS.—The Commissioner of Social Security shall submit for review to the committees of jurisdiction in the Congress any final regulation pertaining to the eligibility of individuals under age 18 for benefits under title XVI of the Social Security Act at least 45 days before the effective date of such regulation. The submission under this paragraph shall include supporting documentation providing a cost analysis, workload impact, and projections as to how the regulation will effect the future number of recipients under such title.

(4) APPROPRIATIONS.—

(A) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are authorized to be appropriated and are hereby appropriated, to remain available without fiscal year limitation, $200,000,000 for fiscal year 1996, $75,000,000 for fiscal year 1997, and $25,000,000 for fiscal year 1998, for the Commissioner of Social Security to utilize only for continuing disability reviews and redeterminations under title XVI of the Social Security Act, with reviews and redeterminations for individuals affected by the provisions of subsection (b) given highest priority.

(B) ADDITIONAL FUNDS.—Amounts appropriated under subparagraph (A) shall be in addition to any funds otherwise appropriated for continuing disability reviews and redeterminations under title XVI of the Social Security Act.

SEC. 12212. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as redesignated by section 12211(a)(3), is amended—

(1) by inserting "(i)" after "(H)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or, at the option of the Commissioner, which is unlikely to improve).

"(II) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(III) If the representative payee refuses to comply without good cause with the requirements of subclause (II), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(IV) Subclause (II) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (II) should not apply to an individual's representative payee.".

(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—

(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsection (a), is amended by adding at the end the following new clause:

"(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

"(I) during the 1-year period beginning on the individual's 18th birthday; and

"(II) by applying the criteria used in determining the initial eligibility for applicants who are age 18 or older.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.".

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsections (a) and (b), is amended by adding at the end the following new clause:

"(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

"(III) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(IV) If the representative payee refuses to comply without good cause with the requirements of subclause (III), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(V) Subclause (III) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (III) should not apply to an individual's representative payee.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 12213. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—

(1) IN GENERAL.—Section 1613(c) (42 U.S.C. 1382b(c)) is amended to read as follows:

"(c) DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—(1)(A)(i) If an individual who has not attained 18 years of age (or any person acting on such individual's behalf) disposes of resources of the individual for less than fair market value on or after the look-back date specified in clause (ii)(I), the individual is ineligible for benefits under this title for months during the period beginning on the date specified in clause (iii) and equal to the number of months specified in clause (iv).

"(ii)(I) The look-back date specified in this subclause is a date that is 36 months before the date specified in subclause (II).

"(II) The date specified in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the disposal of the individual's resources for less than fair market value occurs.

"(iii) The date specified in this clause is the first day of the first month that follows the month in which the individual's resources were disposed of for less than fair market value and that does not occur in any other period of ineligibility under this paragraph.

"(iv) The number of months of ineligibility under this clause for an individual shall be equal to—

"(I) the total, cumulative uncompensated value of all the individual's resources so disposed of on or after the look-back date specified in clause (ii)(I), divided by

"(II) the amount of the maximum monthly benefit payable under section 1611(b) to an eligible individual for the month in which the date specified in clause (ii)(II) occurs.

"(B) An individual shall not be ineligible for benefits under this title by reason of subparagraph (A) if the Commissioner determines that—

"(i) the individual intended to dispose of the resources at fair market value;

"(ii) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title;

"(iii) all resources transferred for less than fair market value have been returned to the individual; or

"(iv) the denial of eligibility would work an undue hardship on the individual (as determined on the basis of criteria established by the Commissioner in regulations).

"(C) For purposes of this paragraph, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be considered to be disposed of by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such resource.

"(D)(i) Notwithstanding subparagraph (A), this subsection shall not apply to a transfer of a resource to a trust if the portion of the trust attributable to such resource is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered, but for the application of subsection (e)(4)).

"(ii) In the case of a trust established by an individual (within the meaning of paragraph (2)(A) of subsection (e)), if from such portion of the trust (if any) that is considered a resource available to the individual pursuant to paragraph (3) of such subsection (or would be so considered but for the application of paragraph (2) of such subsection) or the residue of such portion upon the termination of the trust—

"(I) there is made a payment other than to or for the benefit of the individual, or

"(II) no payment could under any circumstance be made to the individual,

then the payment described in subclause (I) or the foreclosure of payment described in subclause (II) shall be considered a disposal of resources by the individual subject to this subsection, as of the date of such payment or foreclosure, respectively.

"(2)(A) At the time an individual (and the individual's eligible spouse, if any) applies for benefits under this title, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Commissioner of Social Security shall—

"(i) inform such individual of the provisions of paragraph (1) providing for a period of ineligibility for benefits under this title for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to clause (ii) will be made available to the State agency administering a State plan under title XXI (as provided in subparagraph (B)); and

"(ii) obtain from such individual information which may be used in determining whether or not a period of ineligibility for such benefits would be required by reason of paragraph (1).

"(B) The Commissioner of Social Security shall make the information obtained under subparagraph (A)(ii) available, on request, to any State agency administering a State plan approved under title XXI.

"(3) For purposes of this subsection—

"(A) the term 'trust' includes any legal instrument or device that is similar to a trust; and

"(B) the term 'benefits under this title' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective with respect to transfers of resources for less than fair market value that occur at least 90 days after the date of the enactment of this Act.

(b) TREATMENT OF ASSETS HELD IN TRUST.—

(1) TREATMENT AS RESOURCE.—Section 1613 (42 U.S.C. 1382) is amended by adding at the end the following new subsection:

"TRUSTS

"(e)(1) In determining the resources of an individual who has not attained 18 years of age, the provisions of paragraph (3) shall apply to a trust established by such individual.

"(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if any assets of the individual were transferred to the trust.

"(B) In the case of an irrevocable trust to which the assets of an individual and the assets of any other person or persons were transferred, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

"(C) This subsection shall apply without regard to—

"(i) the purposes for which the trust is established;

"(ii) whether the trustees have or exercise any discretion under the trust;

"(iii) any restrictions on when or whether distributions may be made from the trust; or

"(iv) any restrictions on the use of distributions from the trust.

"(3)(A) In the case of a revocable trust, the corpus of the trust shall be considered a resource available to the individual.

"(B) In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the corpus from which payment to or for the benefit of the individual could be made shall be considered a resource available to the individual.

"(4) The Commissioner may waive the application of this subsection with respect to any individual if the Commissioner determines, on the basis of criteria prescribed in regulations, that such application would work an undue hardship on such individual.

"(5) For purposes of this subsection—

"(A) the term 'trust' includes any legal instrument or device that is similar to a trust;

"(B) the term 'corpus' means all property and other interests held by the trust, including accumulated earnings and any other addition to such trust after its establishment (except that such term does not include any such earnings or addition in the month in which such earnings or addition is credited or otherwise transferred to the trust);

"(C) the term 'asset' includes any income or resource of the individual, including—

"(i) any income otherwise excluded by section 1612(b);

"(ii) any resource otherwise excluded by this section; and

"(iii) any other payment or property that the individual is entitled to but does not receive or have access to because of action by—

"(I) such individual;

"(II) a person or entity (including a court) with legal authority to act in place of, or on behalf of, such individual; or

"(III) a person or entity (including a court) acting at the direction of, or upon the request of, such individual; and

"(D) the term 'benefits under this title' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.".

(2) TREATMENT AS INCOME.—Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(G) any earnings of, and additions to, the corpus of a trust (as defined in section 1613(f)) established by an individual (within the meaning of paragraph (2)(A) of section 1613(e)) and of which such individual is a beneficiary (other than a trust to which paragraph (4) of such section applies); except that in the case of an irrevocable trust, there shall exist circumstances under which payment from such earnings or additions could be made to, or for the benefit of, such individual.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1996, and shall apply to trusts established on or after such date.

(c) REQUIREMENT TO ESTABLISH ACCOUNT.—

(1) IN GENERAL.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(A) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(B) by inserting after subparagraph (E) the following new subparagraph:

"(F)(i)(I) Each representative payee of an eligible individual under the age of 18 who is eligible for the payment of benefits described in subclause (II) shall establish on behalf of such individual an account in a financial institution into which such benefits shall be paid, and shall thereafter maintain such account for use in accordance with clause (ii).

"(II) Benefits described in this subclause are past-due monthly benefits under this title (which, for purposes of this subclause, include State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93-66) in an amount (after any withholding by the Commissioner for reimbursement to a State for interim assistance under subsection (g)) that exceeds the product of—

"(aa) 6, and

"(bb) the maximum monthly benefit payable under this title to an eligible individual.

"(ii)(I) A representative payee may use funds in the account established under clause (i) to pay for allowable expenses described in subclause (II).

"(II) An allowable expense described in this subclause is an expense for—

"(aa) education or job skills training;

"(bb) personal needs assistance;

"(cc) special equipment;

"(dd) housing modification;

"(ee) medical treatment;

"(ff) therapy or rehabilitation; or

"(gg) any other item or service that the Commissioner determines to be appropriate;

provided that such expense benefits such individual and, in the case of an expense described in division (cc), (dd), (ff), or (gg), is related to the impairment (or combination of impairments) of such individual.

"(III) The use of funds from an account established under clause (i) in any manner not authorized by this clause—

"(aa) by a representative payee shall constitute misuse of benefits for all purposes of this paragraph, and any representative payee who knowingly misuses benefits from such an account shall be liable to the Commissioner in an amount equal to the total amount of such misused benefits; and

"(bb) by an eligible individual who is his or her own representative payee shall be considered an overpayment subject to recovery under subsection (b).

"(IV) This clause shall continue to apply to funds in the account after the child has reached age 18, regardless of whether benefits are paid directly to the beneficiary or through a representative payee.

"(iii) The representative payee may deposit into the account established pursuant to clause (i)—

"(I) past-due benefits payable to the eligible individual in an amount less than that specified in clause (i)(II), and

"(II) any other funds representing an underpayment under this title to such individual, provided that the amount of such underpayment is equal to or exceeds the maximum monthly benefit payable under this title to an eligible individual.

"(iv) The Commissioner of Social Security shall establish a system for accountability monitoring whereby such representative payee shall report, at such time and in such manner as the Commissioner shall require, on activity respecting funds in the account established pursuant to clause (i).".

(2) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (9), by striking "; and" and inserting a semicolon;

(B) in the first paragraph (10), by striking the period and inserting a semicolon;

(C) by redesignating the second paragraph (10) as paragraph (11), and by striking the period and inserting "; and"; and

(D) by adding at the end the following:

"(12) the assets and accrued interest or other earnings of any account established and maintained in accordance with section 1631(a)(2)(F).".

(3) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(A) by striking "and" at the end of paragraph (19);

(B) by striking the period at the end of paragraph (20) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(21) the interest or other earnings on any account established and maintained in accordance with section 1631(a)(2)(F).".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

SEC. 12214. REDUCTION IN CASH BENEFITS PAYABLE TO INSTITUTIONALIZED INDIVIDUALS WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE.

(a) IN GENERAL.—Section 1611(e)(1)(B) (42 U.S.C. 1382(e)(1)(B)) is amended—

(1) by striking "title XIX, or" and inserting "title XIX,"; and

(2) by inserting "or, in the case of an eligible individual under the age of 18 receiving payments (with respect to such individual) under any health insurance policy issued by a private provider of such insurance" after "section 1614(f)(2)(B),".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits for months beginning 90 or more days after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 12215. REGULATIONS.

Within 3 months after the date of the enactment of this Act, the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by sections 12211, 12212, 12213, and 12214.

Subtitle C—Child Support

SEC. 12300. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, where ever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

SEC. 12301. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

"(4) provide that the State will—

"(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to—

"(i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services for foster care maintenance and adoption assistance are provided under the State program funded under part B of this title, or (III) medical assistance is provided under the State plan approved under title XXI, unless the State agency administering the plan determines (in accordance with

paragraph (29)) that it is against the best interests of the child to do so; and

"(ii) any other child, if an individual applies for such services with respect to the child; and

"(B) enforce any support obligation established with respect to—

"(i) a child with respect to whom the State provides services under the plan; or

"(ii) the custodial parent of such a child."; and

(2) in paragraph (6)—

(A) by striking "provide that" and inserting "provide that—";

(B) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) services under the plan shall be made available to residents of other States on the same terms as to residents of the State submitting the plan;";

(C) in subparagraph (B), by inserting "on individuals not receiving assistance under any State program funded under part A" after "such services shall be imposed";

(D) in each of subparagraphs (B), (C), (D), and (E)—

(i) by indenting the subparagraph in the same manner as, and aligning the left margin of the subparagraph with the left margin of, the matter inserted by subparagraph (B) of this paragraph; and

(ii) by striking the final comma and inserting a semicolon; and

(E) in subparagraph (E), by indenting each of clauses (i) and (ii) 2 additional ems.

(b) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER PART A.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding after paragraph (24) the following new paragraph:

"(25) provide that if a family with respect to which services are provided under the plan ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of other individuals to whom services are furnished under the plan, except that an application or other request to continue services shall not be required of such a family and paragraph (6)(B) shall not apply to the family.".

(c) CONFORMING AMENDMENTS.—

(1) Section 452(b) (42 U.S.C. 652(b)) is amended by striking "454(6)" and inserting "454(4)".

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking "454(6)" each place it appears and inserting "454(4)(A)(ii)".

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking "paragraph (4) or (6) of section 454" and inserting "section 454(4)".

SEC. 12302. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.

(a) IN GENERAL.—Section 457 (42 U.S.C. 657) is amended to read as follows:

"SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.

"(a) IN GENERAL.—An amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

"(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State, the State shall—

"(A) retain, or distribute to the family, the State share of the amount so collected; and

"(B) pay to the Federal Government the Federal share of the amount so collected.

"(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State:

"(A) CURRENT SUPPORT PAYMENTS.—To the extent that the amount so collected does not exceed the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected to the family.

"(B) PAYMENTS OF ARREARAGES.—To the extent that the amount so collected exceeds the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected as follows:

"(i) DISTRIBUTION OF ARREARAGES THAT ACCRUED AFTER THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

"(I) PRE-OCTOBER 1997.—The provisions of this section (other than subsection (b)(1)) as in effect on the day before the date of the enactment of section 12302 of the Personal Responsibility and Work Opportunity Act of 1995 shall apply with respect to the distribution of support arrearages that—

"(aa) accrued after the family ceased to receive assistance, and

"(bb) are collected before October 1, 1997.

"(II) POST-SEPTEMBER 1997.—With respect to amounts collected on or after October 1, 1997—

"(aa) IN GENERAL.—The State shall distribute any amount collected (other than amounts described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued after the family ceased to receive assistance from the State.

"(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—To the extent that division (aa) does not apply to the amount, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)(A)) of the amount so collected, to the extent necessary to reimburse amounts paid to the family as assistance by the State.

"(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

"(ii) DISTRIBUTION OF ARREARAGES THAT ACCRUED BEFORE THE FAMILY RECEIVED ASSISTANCE.—

"(I) PRE-OCTOBER 2000.—The provisions of this section (other than subsection (b)(1)) as in effect on the day before the date of the enactment of section 12302 of the Personal Responsibility and Work Opportunity Act of 1995 shall apply with respect to the distribution of support arrearages that—

"(aa) accrued before the family received assistance, and

"(bb) are collected before October 1, 2000.

"(II) POST-SEPTEMBER 2000.—Unless based on the report required by paragraph (4), the Congress determines otherwise, with respect to amounts collected on or after October 1, 2000—

"(aa) IN GENERAL.—The State shall first distribute any amount collected (other than amounts described in clause (iv)) to the family to the extent necessary to satisfy any support arrears with respect to the family that accrued before the family received assistance from the State .

"(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—The State shall retain the State share of the amounts so collected in excess of those distributed pursuant to division (aa) and pay to the Federal Government the Federal share (as defined in subsection (c)(2)) of the amount so collected, to the extent necessary to reimburse all or part of the amounts paid to the family as assistance by the State.

"(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

"(iii) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY RECEIVED ASSISTANCE.—In the case of a family described in this subparagraph, the provisions of paragraph (1) shall apply with respect to the distribution of support arrearages that accrued while the family received assistance.

"(iv) AMOUNTS COLLECTED PURSUANT TO SECTION 464.—Notwithstanding any other provision of this section, any amount of support collected pursuant to section 464 shall be retained by the State to the extent necessary to reimburse amounts paid to the family as assistance by the State. The State shall pay to the Federal Government the Federal share of the amounts so retained. To the extent the amount collected pursuant to section 464 exceeds the amount so retained, the State shall distribute the excess to the family.

"(v) ORDERING RULES FOR DISTRIBUTIONS.—For purposes of this subparagraph, the State shall treat any support arrearages collected as accruing in the following order:

"(I) to the period after the family ceased to receive assistance;

"(II) to the period before the family received assistance; and

"(III) to the period while the family was receiving assistance.

"(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute the amount so collected to the family.

"(4) STUDY AND REPORT.—Not later than October 1, 1998, the Secretary shall report to the Congress the Secretary's findings with respect to—

"(A) whether the distribution of post-assistance arrearages to families has been effective in moving people off of welfare and keeping them off of welfare;

"(B) whether early implementation of a pre-assistance arrearage program by some States has been effective in moving people off of welfare and keeping them off of welfare;

"(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity Act of 1995 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and

"(D) based on the information and data the Secretary has obtained, what changes, if any, should be made in the policies related to the distribution of child support arrearages.

"(b) CONTINUATION OF ASSIGNMENTS.—Any rights to support obligations, which were assigned to a State as a condition of receiving assistance from the State under part A and which were in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995, shall remain assigned after such date.

"(c) DEFINITIONS.—As used in subsection (a):

"(1) ASSISTANCE.—The term 'assistance from the State' means—

"(A) assistance under the State program funded under part A or under the State plan approved under part A of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995); or

"(B) benefits under the State plan approved under part E of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995).

"(2) FEDERAL SHARE.—The term 'Federal share' means—

"(A) if the amounts collected and retained by the State (to the extent necessary to reimburse amounts paid to families as assistance by the State) are equal to or greater than such amounts collected in fiscal year 1995 (reduced by amounts not retained by the State in fiscal year 1995 as a result of the application of subsection (b)(1) of this section as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995), the highest Federal medical assistance percentage in effect for the State in fiscal year 1995 or any succeeding year of the amount so collected; or

"(B) if the amounts so collected and retained by the State are less than such amounts collected in fiscal year 1995 (reduced by amounts not retained by the State in fiscal year 1995 as a result of the application of subsection (b)(1) of this section as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995), the amounts so collected and retained less the State share in fiscal year 1995.

"(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means—

"(A) the Federal medical assistance percentage (as defined in section 1118), in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or

"(B) the Federal medical assistance percentage (as defined in section 2122(c)) in the case of any other State.

"(4) STATE SHARE.—The term 'State share' means 100 percent minus the Federal share.

"(d) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER PART A.—When a family with respect to which services are provided under a State plan approved under this part ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of individuals to whom services are furnished under section 454, except that an application or other request to continue services shall not be required of such a family and section 454(6)(B) shall not apply to the family.".

(b) CONFORMING AMENDMENT.—Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking "section 457 (b)(4) or (d)(3)" and inserting "section 457".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on October 1, 1996, or earlier at the State's option.

SEC. 12303. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 12301(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding after paragraph (25) the following new paragraph:

"(26) will have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including—

"(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

"(B) prohibitions against the release of information on the whereabouts of 1 party to another party against whom a protective order with respect to the former party has been entered; and

"(C) prohibitions against the release of information on the whereabouts of 1 party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

CHAPTER 2—LOCATE AND CASE TRACKING

SEC. 12311. STATE CASE REGISTRY.

Section 454A, as added by section 12344(a)(2) of this Act, is amended by adding at the end the following new subsections:

"(e) STATE CASE REGISTRY.—

"(1) CONTENTS.—The automated system required by this section shall include a registry (which shall be known as the 'State case registry') that contains records with respect to—

"(A) each case in which services are being provided by the State agency under the State plan approved under this part; and

"(B) each support order established or modified in the State on or after October 1, 1998.

"(2) LINKING OF LOCAL REGISTRIES.—The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.

"(3) USE OF STANDARDIZED DATA ELEMENTS.—Such records shall use standardized data elements for both parents (such as names, Social Security numbers and other uniform identification numbers, dates of birth, and case identification numbers), and contain such other information (such as on-case status) as the Secretary may require.

"(4) PAYMENT RECORDS.—Each case record in the State case registry with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;

"(B) any amount described in subparagraph (A) that has been collected;

"(C) the distribution of such collected amounts;

"(D) the birth date of any child for whom the order requires the provision of support; and

"(E) the amount of any lien imposed with respect to the order pursuant to section 466(a)(4).

"(5) UPDATING AND MONITORING.—The State agency operating the automated system required by this section shall promptly establish and maintain, and regularly monitor, case records in the State case registry with respect to which services are being provided under the State plan approved under this part, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from comparison with Federal, State, or local sources of information;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) INFORMATION COMPARISONS AND OTHER DISCLOSURES OF INFORMATION.—The State shall use the automated system required by this section to extract information from (at such times, and in such standardized format or formats, as may be required by the Secretary), to share and compare information with, and to receive information from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency (or the Secretary or other State or Federal agencies) to carry out this part, subject to section 6103 of the Internal Revenue Code of 1986. Such information comparison activities shall include the following:

"(1) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Furnishing to the Federal Case Registry of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) the minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the registry (as specified by the Secretary in regulations).

"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchanging information with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) TEMPORARY FAMILY ASSISTANCE AND MEDIGRANT AGENCIES.—Exchanging information with State agencies (of the State and of other States) administering programs funded under part A, programs operated under State plans under title XXI, and other programs designated by the Secretary, as necessary to perform State agency responsibilities under this part and under such programs.

"(4) INTRASTATE AND INTERSTATE INFORMATION COMPARISONS.—Exchanging information with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.".

SEC. 12312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b) and 12303(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by adding after paragraph (26) the following new paragraph:

"(27) provide that, on and after October 1, 1998, the State agency will—

"(A) operate a State disbursement unit in accordance with section 454B; and

"(B) have sufficient State staff (consisting of State employees) and (at State option) contractors reporting directly to the State agency to—

"(i) monitor and enforce support collections through the unit (including carrying out the automated data processing responsibilities described in section 454A(g)); and

"(ii) take the actions described in section 466(c)(1) in appropriate cases.".

(b) ESTABLISHMENT OF STATE DISBURSEMENT UNIT.—Part D of title IV (42 U.S.C. 651–669), as amended by section 12344(a)(2) of this Act, is amended by inserting after section 454A the following new section:

"SEC. 454B. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

"(a) STATE DISBURSEMENT UNIT.—

"(1) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency must establish and operate a unit (which shall be known as the 'State disbursement unit') for the collection and disbursement of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

"(2) OPERATION.—The State disbursement unit shall be operated—

"(A) directly by the State agency (or 2 or more State agencies under a regional cooperative agreement), or (to the extent appropriate) by a contractor responsible directly to the State agency; and

"(B) in coordination with the automated system established by the State pursuant to section 454A.

"(3) LINKING OF LOCAL DISBURSEMENT UNITS.—The State disbursement unit may be established by linking local disbursement units through an automated information network, subject to this section, if the Secretary agrees that the system will not cost more nor take more time to establish or operate than a centralized system. In addition, employers shall be given 1 location to which income withholding is sent.

"(b) REQUIRED PROCEDURES.—The State disbursement unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the agencies of other States;

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish to any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent.

"(c) TIMING OF DISBURSEMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the State disbursement unit shall distribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided.

"(2) PERMISSIVE RETENTION OF ARREARAGES.—The State disbursement unit may delay the distribution of collections toward arrearages until the resolution of any timely appeal with respect to such arrearages.

"(d) BUSINESS DAY DEFINED.—As used in this section, the term 'business day' means a day on which State offices are open for regular business.".

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 12344(a)(2) and as amended by section 12311 of this Act, is amended by adding at the end the following new subsection:

"(g) COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—

"(1) IN GENERAL.—The State shall use the automated system required by this section, to the maximum extent feasible, to assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B, through the performance of functions, including, at a minimum—

"(A) transmission of orders and notices to employers (and other debtors) for the withholding of wages and other income—

"(i) within 2 business days after receipt from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State of notice of, and the income source subject to, such withholding; and

"(ii) using uniform formats prescribed by the Secretary;

"(B) ongoing monitoring to promptly identify failures to make timely payment of support; and

"(C) automatic use of enforcement procedures (including procedures authorized pursuant to section 466(c)) if payments are not timely made.

"(2) BUSINESS DAY DEFINED.—As used in paragraph (1), the term 'business day' means a day on which State offices are open for regular business.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 12313. STATE DIRECTORY OF NEW HIRES.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a) and 12312(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (26);

(2) by striking the period at the end of paragraph (27) and inserting "; and"; and

(3) by adding after paragraph (27) the following new paragraph:

"(28) provide that, on and after October 1, 1997, the State will operate a State Directory of New Hires in accordance with section 453A.".

(b) STATE DIRECTORY OF NEW HIRES.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 453 the following new section:

"SEC. 453A. STATE DIRECTORY OF NEW HIRES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) REQUIREMENT FOR STATES THAT HAVE NO DIRECTORY.—Except as provided in subparagraph (B), not later than October 1, 1997, each State shall establish an automated directory (to be known as the 'State Directory of New Hires') which shall contain information supplied in accordance with subsection (b) by employers on each newly hired employee.

"(B) STATES WITH NEW HIRE REPORTING IN EXISTENCE.—A State which has a new hire reporting law in existence on the date of the enactment of this section may continue to operate under the State law, but the State must meet the requirements of this section (other than subsection (f)) not later than October 1, 1997.

"(2) DEFINITIONS.—As used in this section:

"(A) EMPLOYEE.—The term 'employee'—

"(i) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

"(ii) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to paragraph (1) with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

"(B) EMPLOYER.—

"(i) IN GENERAL.—The term 'employer' has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1996 and includes any governmental entity and any labor organization.

"(ii) LABOR ORGANIZATION.—The term 'labor organization' shall have the meaning given such term in section 2(5) of the National Labor Relations Act, and includes any entity (also known as a 'hiring hall') which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of such Act of an agreement between the organization and the employer.

"(b) EMPLOYER INFORMATION.—

"(1) REPORTING REQUIREMENT.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(B) MULTISTATE EMPLOYERS.—An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such employer has employees to which the employer will transmit the report described in subparagraph (A), and transmitting such report to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employer designates for the purpose of sending reports.

"(C) FEDERAL GOVERNMENT EMPLOYERS.—Any department, agency, or instrumentality of the United States shall comply with subparagraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 453.

"(2) TIMING OF REPORT.—Each State may provide the time within which the report required by paragraph (1) shall be made with respect to an employee, but such report shall be made not later than 20 days after the date the employer hires the employee.

"(c) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall be made on a W–4 form or, at the option of the employer, an equivalent form, and may be transmitted by 1st class mail, magnetically, or electronically.

"(d) CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS.—The State shall have the option to set a State civil money penalty which shall be less than—

"(1) $25; or

"(2) $500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

"(e) ENTRY OF EMPLOYER INFORMATION.—Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b).

"(f) INFORMATION COMPARISONS.—

"(1) IN GENERAL.—Not later than May 1, 1998, an agency designated by the State shall, directly or by contract, conduct automated comparisons of the social security numbers reported by employers pursuant to subsection (b) and the social security numbers appearing in the records of the State case registry for cases being enforced under the State plan.

"(2) NOTICE OF MATCH.—When an information comparison conducted under paragraph (1) reveals a match with respect to the social security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the agency administering the State plan approved under this part of the appropriate State with the name, address, and social security number of the employee to whom the social security number is assigned, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(g) TRANSMISSION OF INFORMATION.—

"(1) TRANSMISSION OF WAGE WITHHOLDING NOTICES TO EMPLOYERS.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State agency enforcing the employee's child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the wages of the employee an amount equal to the monthly (or other periodic) child support obligation (including any past due support obligation) of the employee, unless the employee's wages are not subject to withholding pursuant to section 466(b)(3).

"(2) TRANSMISSIONS TO THE NATIONAL DIRECTORY OF NEW HIRES.—

"(A) NEW HIRE INFORMATION.—Within 3 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires.

"(B) WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires extracts of the reports required under section 303(a)(6) to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as the Secretary of Health and Human Services shall specify in regulations.

"(3) BUSINESS DAY DEFINED.—As used in this subsection, the term 'business day' means a day on which State offices are open for regular business.

"(h) OTHER USES OF NEW HIRE INFORMATION.—

"(1) LOCATION OF CHILD SUPPORT OBLIGORS.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations.

"(2) VERIFICATION OF ELIGIBILITY FOR CERTAIN PROGRAMS.—A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.

"(3) ADMINISTRATION OF EMPLOYMENT SECURITY AND WORKERS' COMPENSATION.—State agencies operating employment security and workers' compensation programs shall have access to information reported by employers pursuant to subsection (b) for the purposes of administering such programs.".

(c) QUARTERLY WAGE REPORTING.—Section 1137(a)(3) (42 U.S.C. 1320b–7(a)(3)) is amended—

(1) by inserting "(including State and local governmental entities and labor organizations (as defined in section 453A(a)(2)(B)(iii))" after "employers"; and

(2) by inserting ", and except that no report shall be filed with respect to an employee of a State or local agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission" after "paragraph (2)".

SEC. 12314. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—

(1) IN GENERAL.—Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

"(1)(A) Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

"(B) Procedures under which the wages of a person with a support obligation imposed by a support order issued (or modified) in the State before October 1, 1996, if not otherwise subject to withholding under subsection (b), shall become subject to withholding as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.".

(2) CONFORMING AMENDMENTS.—

(A) Section 466(b) (42 U.S.C. 666(b)) is amended in the matter preceding paragraph (1), by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)".

(B) Section 466(b)(4) (42 U.S.C. 666(b)(4)) is amended to read as follows:

"(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each noncustodial parent to whom paragraph (1) applies—

"(i) that the withholding has commenced; and

"(ii) of the procedures to follow if the noncustodial parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact.

"(B) The notice under subparagraph (A) of this paragraph shall include the information provided to the employer under paragraph (6)(A).".

(C) Section 466(b)(5) (42 U.S.C. 666(b)(5)) is amended by striking all that follows "administered by" and inserting "the State through the State disbursement unit established pursuant to section 454B, in accordance with the requirements of section 454B.".

(D) Section 466(b)(6)(A) (42 U.S.C. 666(b)(6)(A)) is amended—

(i) in clause (i), by striking "to the appropriate agency" and all that follows and inserting "to the State disbursement unit within 2 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part. The employer shall comply with the procedural rules relating to income withholding of the State in which the employee works, regardless of the State where the notice originates.".

(ii) in clause (ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and

(iii) by adding at the end the following new clause:

"(iii) As used in this subparagraph, the term 'business day' means a day on which State offices are open for regular business.".

(E) Section 466(b)(6)(D) (42 U.S.C. 666(b)(6)(D)) is amended by striking "any employer" and all that follows and inserting "any employer who—

"(i) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to wage withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or

"(ii) fails to withhold support from wages, or to pay such amounts to the State disbursement unit in accordance with this subsection.".

(F) Section 466(b) (42 U.S.C. 666(b)) is amended by adding at the end the following new paragraph:

"(11) Procedures under which the agency administering the State plan approved under this part may execute a withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.".

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

SEC. 12315. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)) is amended by adding at the end the following new paragraph:

"(12) LOCATOR INFORMATION FROM INTERSTATE NETWORKS.—Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.".

SEC. 12316. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows "subsection (c))" and inserting ", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or enforcing child custody or visitation orders—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support or provide child custody or visitation rights;

"(B) against whom such an obligation is sought;

"(C) to whom such an obligation is owed, including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;

"(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual."; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information described in subsection (a)"; and

(B) in the flush paragraph at the end, by adding the following: "No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent. Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 454(26).".

(b) AUTHORIZED PERSON FOR INFORMATION REGARDING VISITATION RIGHTS.—Section 453(c) (42 U.S.C. 653(c)) is amended—

(1) in paragraph (1), by striking "support" and inserting "support or to seek to enforce orders providing child custody or visitation rights"; and

(2) in paragraph (2), by striking ", or any agent of such court; and" and inserting "or to issue an order against a resident parent for child custody or visitation rights, or any agent of such court;".

(c) REIMBURSEMENT FOR INFORMATION FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the 4th sentence by inserting "in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information)" before the period.

(d) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

"(g) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—The Secretary may reimburse Federal and State agencies for the costs incurred by such entities in furnishing information requested by the Secretary under this section in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information).".

(e) CONFORMING AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), 463(e), and 463(f) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), 663(e), and 663(f)) are each amended by inserting "Federal" before "Parent" each place such term appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT".

(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (d) of this section, is amended by adding at the end the following new subsections:

"(h) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—

"(1) IN GENERAL.—Not later than October 1, 1998, in order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the 'Federal Case Registry of Child Support Orders'), which shall contain abstracts of support orders and other information described in paragraph (2) with respect to each case in each State case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

"(2) CASE INFORMATION.—The information referred to in paragraph (1) with respect to a case shall be such information as the Secretary may specify in regulations (including the names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have the case.

"(i) NATIONAL DIRECTORY OF NEW HIRES.—

"(1) IN GENERAL.—In order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall, not later than October 1, 1996, establish and maintain in the Federal Parent Locator Service an automated directory to be known as the National Directory of New Hires, which shall contain the information supplied pursuant to section 453A(g)(2).

"(2) ENTRY OF DATA.—Information shall be entered into the data base maintained by the National Directory of New Hires within 2 business days of receipt pursuant to section 453A(g)(2).

"(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 32 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3507 of such Code, and verifying a claim with respect to employment in a tax return.

"(4) LIST OF MULTISTATE EMPLOYERS.—The Secretary shall maintain within the National Directory of New Hires a list of multistate employers that report information regarding newly hired employees pursuant to section 453A(b)(1)(B), and the State which each such employer has designated to receive such information.

"(j) INFORMATION COMPARISONS AND OTHER DISCLOSURES.—

"(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—

"(A) IN GENERAL.—The Secretary shall transmit information on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) VERIFICATION BY SSA.—The Social Security Administration shall verify the accuracy of, correct, or supply to the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):

"(i) The name, social security number, and birth date of each such individual.

"(ii) The employer identification number of each such employer.

"(2) INFORMATION COMPARISONS.—For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall—

"(A) compare information in the National Directory of New Hires against information in the support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

"(B) within 2 such days after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case.

"(3) INFORMATION COMPARISONS AND DISCLOSURES OF INFORMATION IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—To the extent and with the frequency that the Secretary determines to be effective in assisting States to carry out their responsibilities under programs operated under this part and programs funded under part A, the Secretary shall—

"(A) compare the information in each component of the Federal Parent Locator Service maintained under this section against the information in each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and

"(B) disclose information in such registries to such State agencies.

"(4) PROVISION OF NEW HIRE INFORMATION TO THE SOCIAL SECURITY ADMINISTRATION.—The National Directory of New Hires shall provide the Commissioner of Social Security with all information in the National Directory, which shall be used to determine the accuracy of payments under the supplemental security income program under title XVI and in connection with benefits under title II.

"(5) RESEARCH.—The Secretary may provide access to information reported by employers pursuant to section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.

"(k) FEES.—

"(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j).

"(2) FOR INFORMATION FROM STATE DIRECTORIES OF NEW HIRES.—The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such information).

"(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

"(l) RESTRICTION ON DISCLOSURE AND USE.—Information in the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.

"(m) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

"(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

"(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

"(n) FEDERAL GOVERNMENT REPORTING.—Each department, agency, and instrumentality of the United States shall on a quarterly basis report to the Federal Parent Locator Service the name and social security number of each employee and the wages paid to the employee during the previous quarter, except that such a report shall not be filed with respect to an employee of a department, agency, or instrumentality performing intelligence or counterintelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.".

(g) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—

(A) Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

"(B) the Federal Parent Locator Service established under section 453;".

(B) Section 454(13) (42 U.S.C.654(13)) is amended by inserting "and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan" before the semicolon.

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(a)(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking "Secretary of Health, Education, and Welfare" each place such term appears and inserting "Secretary of Health and Human Services";

(B) in subparagraph (B), by striking "such information" and all that follows and inserting "information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;";

(C) by striking "and" at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

"(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the National Directory of New Hires established under section 453(i) of the Social Security Act, and".

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Subsection (h) of section 303 (42 U.S.C. 503) is amended to read as follows:

"(h)(1) The State agency charged with the administration of the State law shall, on a reimbursable basis—

"(A) disclose quarterly, to the Secretary of Health and Human Services wage and claim information, as required pursuant to section 453(i)(1), contained in the records of such agency;

"(B) ensure that information provided pursuant to subparagraph (A) meets such standards relating to correctness and verification as the Secretary of Health and Human Services, with the concurrence of the Secretary of Labor, may find necessary; and

"(C) establish such safeguards as the Secretary of Labor determines are necessary to insure that information disclosed under subparagraph (A) is used only for purposes of section 453(i)(1) in carrying out the child support enforcement program under title IV.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no future certification to the Secretary of the Treasury with respect to the State.

"(3) For purposes of this subsection—

"(A) the term 'wage information' means information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual; and

"(B) the term 'claim information' means information regarding whether an individual is receiving, has received, or has made application for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual's current (or most recent) home address.".

(4) DISCLOSURE OF CERTAIN INFORMATION TO AGENTS OF CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) IN GENERAL.—Paragraph (6) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local child support enforcement agencies) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) DISCLOSURE TO CERTAIN AGENTS.—The address and social security account number (or numbers) of an individual with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by any child support enforcement agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C)."

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by striking "(l)(12)" and inserting "paragraph (6) or (12) of subsection (l)".

(ii) Subparagraph (C) of section 6103(l)(6) of such Code, as redesignated by subsection (a), is amended to read as follows:

"(C) RESTRICTION ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations."

(iii) The material following subparagraph (F) of section 6103(p)(4) of such Code is amended by striking "subsection (l)(12)(B)" and inserting "paragraph (6)(A) or (12)(B) of subsection (l)".

SEC. 12317. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 12315 of this Act, is amended by adding at the end the following new paragraph:

"(13) RECORDING OF SOCIAL SECURITY NUMBERS IN CERTAIN FAMILY MATTERS.—Procedures requiring that the social security number of—

"(A) any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application;

"(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

"(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a State allows the use of a number other than the social security number, the State shall so advise any applicants.".

(b) CONFORMING AMENDMENTS.—Section 205(c)(2)(C) (42 U.S.C. 405(c)(2)(C)), as amended by section 321(a)(9) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(1) in clause (i), by striking "may require" and inserting "shall require";

(2) in clause (ii), by inserting after the 1st sentence the following: "In the administration of any law involving the issuance of a marriage certificate or license, each State shall require each party named in the certificate or license to furnish to the State (or political subdivision thereof), or any State agency having administrative responsibility for the law involved, the social security number of the party.";

(3) in clause (ii), by inserting "or marriage certificate" after "Such numbers shall not be recorded on the birth certificate".

(4) in clause (vi), by striking "may" and inserting "shall"; and

(5) by adding at the end the following new clauses:

"(x) An agency of a State (or a political subdivision thereof) charged with the administration of any law concerning the issuance or renewal of a license, certificate, permit, or other authorization to engage in a profession, an occupation, or a commercial activity shall require all applicants for issuance or renewal of the license, certificate, permit, or other authorization to provide the applicant's social security number to the agency for the purpose of administering such laws, and for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.

"(xi) All divorce decrees, support orders, and paternity determinations issued, and all paternity acknowledgments made, in each State shall include the social security number of each party to the decree, order, determination, or acknowledgement in the records relating to the matter, for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.".

CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 12321. ADOPTION OF UNIFORM STATE LAWS.

Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:

"(f) UNIFORM INTERSTATE FAMILY SUPPORT ACT.—

"(1) ENACTMENT AND USE.—In order to satisfy section 454(20)(A), on or after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, together with any amendments officially adopted before January 1, 1998 by the National Conference of Commissioners on Uniform State Laws.

"(2) EMPLOYERS TO FOLLOW PROCEDURAL RULES OF STATE WHERE EMPLOYEE WORKS.—The State law enacted pursuant to paragraph (1) shall provide that an employer that receives an income withholding order or notice pursuant to section 501 of the Uniform Interstate Family Support Act follow the procedural rules that apply with respect to such order or notice under the laws of the State in which the obligor works.

SEC. 12322. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking "subsection (e)" and inserting "subsections (e), (f), and (i)";

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

"'child's home State' means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.";

(3) in subsection (c), by inserting "by a court of a State" before "is made";

(4) in subsection (c)(1), by inserting "and subsections (e), (f), and (g)" after "located";

(5) in subsection (d)—

(A) by inserting "individual" before "contestant"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(6) in subsection (e), by striking "make a modification of a child support order with respect to a child that is made" and inserting "modify a child support order issued";

(7) in subsection (e)(1), by inserting "pursuant to subsection (i)" before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting "individual" before "contestant" each place such term appears; and

(B) by striking "to that court's making the modification and assuming" and inserting "with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following new subsection:

"(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

"(1) If only 1 court has issued a child support order, the order of that court must be recognized.

"(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

"(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

"(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

"(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.";

(11) in subsection (g) (as so redesignated)—

(A) by striking "PRIOR" and inserting "MODIFIED"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting "including the duration of current payments and other obligations of support" before the comma; and

(B) in paragraph (3), by inserting "arrears under" after "enforce"; and

(13) by adding at the end the following new subsection:

"(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.".

SEC. 12323. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315 and 12317(a) of this Act, is amended by adding at the end the following new paragraph:

"(14) ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.—Procedures under which—

"(A)(i) the State shall respond within 5 business days to a request made by another State to enforce a support order; and

"(ii) the term 'business day' means a day on which State offices are open for regular business;

"(B) the State may, by electronic or other means, transmit to another State a request for assistance in a case involving the enforcement of a support order, which request—

"(i) shall include such information as will enable the State to which the request is transmitted to compare the information about the case to the information in the data bases of the State; and

"(ii) shall constitute a certification by the requesting State—

"(I) of the amount of support under the order the payment of which is in arrears; and

"(II) that the requesting State has complied with all procedural due process requirements applicable to the case;

"(C) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and

"(D) the State shall maintain records of—

"(i) the number of such requests for assistance received by the State;

"(ii) the number of cases for which the State collected support in response to such a request; and

"(iii) the amount of such collected support.".

SEC. 12324. USE OF FORMS IN INTERSTATE ENFORCEMENT.

(a) PROMULGATION.—Section 452(a) (42 U.S.C. 652(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11) not later than June 30, 1996, after consulting with the State directors of programs under this part, promulgate forms to be used by States in interstate cases for—

"(A) collection of child support through income withholding;

"(B) imposition of liens; and

"(C) administrative subpoenas.".

(b) USE BY STATES.—Section 454(9) (42 U.S.C. 654(9)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding at the end the following new subparagraph:

"(E) no later than October 1, 1996, in using the forms promulgated pursuant to section 452(a)(11) for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases;".

SEC. 12325. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 12314 of this Act, is amended—

(1) in subsection (a)(2), by striking the 1st sentence and inserting the following: "Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations."; and

(2) by inserting after subsection (b) the following new subsection:

"(c) EXPEDITED PROCEDURES.—The procedures specified in this subsection are the following:

"(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority to take the following actions relating to establishment or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of State agencies of other States) to take the following actions:

"(A) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(B) FINANCIAL OR OTHER INFORMATION.—To subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena.

"(C) RESPONSE TO STATE AGENCY REQUEST.—To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.

"(D) ACCESS TO CERTAIN RECORDS.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

"(i) Records of other State and local government agencies, including—

"(I) vital statistics (including records of marriage, birth, and divorce);

"(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

"(III) records concerning real and titled personal property;

"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

"(V) employment security records;

"(VI) records of agencies administering public assistance programs;

"(VII) records of the motor vehicle department; and

"(VIII) corrections records.

"(ii) Certain records held by private entities, including—

"(I) customer records of public utilities and cable television companies; and

"(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access), as provided pursuant to agreements described in subsection (a)(18).

"(E) CHANGE IN PAYEE.—In cases in which support is subject to an assignment in order to comply with a requirement imposed pursuant to part A or section 1912, or to a requirement to pay through the State disbursement unit established pursuant to section 454B, upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

"(F) INCOME WITHHOLDING.—To order income withholding in accordance with subsections (a)(1) and (b) of section 466.

"(G) SECURING ASSETS.—In cases in which there is a support arrearage, to secure assets to satisfy the arrearage by—

"(i) intercepting or seizing periodic or lump-sum payments from—

"(I) a State or local agency, including unemployment compensation, workers' compensation, and other benefits; and

"(II) judgments, settlements, and lotteries;

"(ii) attaching and seizing assets of the obligor held in financial institutions;

"(iii) attaching public and private retirement funds; and

"(iv) imposing liens in accordance with subsection (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

"(H) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages, subject to such conditions or limitations as the State may provide.

Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.

"(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

"(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

"(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the tribunal and the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and name and telephone number of employer; and

"(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal pursuant to clause (i).

"(B) STATEWIDE JURISDICTION.—Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and

"(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.

"(3) COORDINATION WITH ERISA.—Notwithstanding subsection (d) of section 514 of the Employee Retirement Income Security Act of 1974 (relating to effect on other laws), nothing in this subsection shall be construed to alter, amend, modify, invalidate, impair, or supersede subsections (a), (b), and (c) of such section 514 as it applies with respect to any procedure referred to in paragraph (1) and any expedited procedure referred to in paragraph (2), except to the extent that such procedure would be consistent with the requirements of section 206(d)(3) of such Act (relating to qualified domestic relations orders) or the requirements of section 609(a) of such Act (relating to qualified medical child support orders) if the reference in such section 206(d)(3) to a domestic relations order and the reference in such section 609(a) to a medical child support order were a reference to a support order referred to in paragraphs (1) and (2) relating to the same matters, respectively.".

(b) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 12344(a)(2) and as amended by sections 12311 and 12312(c) of this Act, is amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required by this section shall be used, to the maximum extent feasible, to implement the expedited administrative procedures required by section 466(c).".

CHAPTER 4—PATERNITY ESTABLISHMENT

SEC. 12331. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended to read as follows:

"(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—

"(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE 18.—

"(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 18 years of age.

"(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

"(B) PROCEDURES CONCERNING GENETIC TESTING.—

"(i) GENETIC TESTING REQUIRED IN CERTAIN CONTESTED CASES.—Procedures under which the State is required, in a contested paternity case (unless otherwise barred by State law) to require the child and all other parties (other than individuals found under section 454(29) to have good cause for refusing to cooperate) to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party—

"(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

"(II) denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

"(ii) OTHER REQUIREMENTS.—Procedures which require the State agency, in any case in which the agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and

"(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

"(C) VOLUNTARY PATERNITY ACKNOWLEDGMENT.—

"(i) SIMPLE CIVIL PROCESS.—Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

"(ii) HOSPITAL-BASED PROGRAM.—Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child, subject to such good cause exceptions, taking into account the best interests of the child, as the State may establish.

"(iii) PATERNITY ESTABLISHMENT SERVICES.—

"(I) STATE-OFFERED SERVICES.—Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(II) REGULATIONS.—

"(aa) SERVICES OFFERED BY HOSPITALS AND BIRTH RECORD AGENCIES.—The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

"(bb) SERVICES OFFERED BY OTHER ENTITIES.—The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

"(iv) USE OF PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit developed by the Secretary under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.

"(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—

"(i) INCLUSION IN BIRTH RECORDS.—Procedures under which the name of the father shall be included on the record of birth of the child only if—

"(I) the father and mother have signed a voluntary acknowledgment of paternity; or

"(II) a court or an administrative agency of competent jurisdiction has issued an adjudication of paternity.

Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit the issuance of an order in a judicial or administrative proceeding which bases a legal finding of paternity on an admission of paternity by the father and any other additional showing required by State law.

"(ii) LEGAL FINDING OF PATERNITY.—Procedures under which a signed voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of—

"(I) 60 days; or

"(II) the date of an administrative or judicial proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.

"(iii) CONTEST.—Procedures under which, after the 60-day period referred to in clause (ii), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

"(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

"(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

"(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is—

"(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and

"(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.

"(G) PRESUMPTION OF PATERNITY IN CERTAIN CASES.—Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

"(H) DEFAULT ORDERS.—Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

"(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.

"(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, if there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

"(L) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.

"(M) FILING OF ACKNOWLEDGMENTS AND ADJUDICATIONS IN STATE REGISTRY OF BIRTH RECORDS.—Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.".

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting ", and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security number of each parent and, after consultation with the States, other common elements as determined by such designee" before the semicolon.

(c) CONFORMING AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and".

SEC. 12332. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

Section 454(23) (42 U.S.C. 654(23)) is amended by inserting "and will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support by means the State deems appropriate" before the semicolon.

SEC. 12333. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE.

Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a), 12312(a), and 12313(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following new paragraph:

"(29) provide that the State agency responsible for administering the State plan—

"(A) shall make the determination (and redetermination at appropriate intervals) as to whether an individual who has applied for or is receiving assistance under the State program funded under part A or the State program under title XXI is cooperating in good faith with the State in establishing the paternity of, or in establishing, modifying, or enforcing a support order for, any child of the individual by providing the State agency with the name of, and such other information as the State agency may require with respect to, the noncustodial parent of

the child, subject to such good cause exceptions, taking into account the best interests of the child, as the State may establish through the State agency, or at the option of the State, through the State agencies administering the State programs funded under part A and title XXI;

"(B) shall require the individual to supply additional necessary information and appear at interviews, hearings, and legal proceedings;

"(C) shall require the individual and the child to submit to genetic tests pursuant to judicial or administrative order;

"(D) may request that the individual sign a voluntary acknowledgment of paternity, after notice of the rights and consequences of such an acknowledgment, but may not require the individual to sign an acknowledgment or otherwise relinquish the right to genetic tests as a condition of cooperation and eligibility for assistance under the State program funded under part A or the State program under title XXI; and

"(E) shall promptly notify the individual and the State agency administering the State program funded under part A and the State agency administering the State program under title XXI of each such determination, and if noncooperation is determined, the basis therefore.".

CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING

SEC. 12341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) DEVELOPMENT OF NEW SYSTEM.—The Secretary of Health and Human Services, in consultation with State directors of programs under part D of title IV of the Social Security Act, shall develop a new incentive system to replace the system under section 458 of such Act. The new system shall provide additional payments to any State based on such State's performance under such a program.

(b) CONFORMING AMENDMENTS TO PRESENT SYSTEM.—Section 458 (42 U.S.C. 658) is amended—

(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved under part A of this title" and inserting "assistance under a program funded under part A";

(2) in subsection (b)(1)(A), by striking "section 402(a)(26)" and inserting "section 407(a)(4)";

(3) in subsections (b) and (c)—

(A) by striking "AFDC collections" each place it appears and inserting "title IV–A collections", and

(B) by striking "non-AFDC collections" each place it appears and inserting "non-title IV–A collections"; and

(4) in subsection (c), by striking "combined AFDC/non-AFDC administrative costs" both places it appears and inserting "combined title IV–A/non-title IV–A administrative costs".

(c) CALCULATION OF IV–D PATERNITY ESTABLISHMENT PERCENTAGE.—

(1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended in each of subparagraphs (A) and (B), by striking "75" and inserting "90".

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter preceding clause (i)—

(A) by striking "paternity establishment percentage" and inserting "IV–D paternity establishment percentage"; and

(B) by striking "(or all States, as the case may be)".

(3) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended by adding at the end the following new sentence: "In meeting the 90 percent paternity establishment requirement, a State may calculate either the paternity establishment rate of cases in the program funded under this part or the paternity establishment rate of all out-of-wedlock births in the State.".

(4) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A) (as so redesignated), by striking "the percentage of children born out-of-wedlock in a State" and inserting "the percentage of children in a State who are born out of wedlock or for whom support has not been established"; and

(C) in subparagraph (B) (as so redesignated) by inserting "and securing support" before the period.

(d) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—

(A) IN GENERAL.—The system developed under subsection (a) and the amendments made by subsection (b) shall become effective on October 1, 1997, except to the extent provided in subparagraph (B).

(B) APPLICATION OF SECTION 458.—Section 458 of the Social Security Act, as in effect on the day before the date of the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years before fiscal year 1999.

(2) PENALTY REDUCTIONS.—The amendments made by subsection (c) shall become effective with respect to calendar quarters beginning on or after the date of the enactment of this Act.

SEC. 12342. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program operated under the State plan approved under this part, including such information as may be necessary to measure State compliance with Federal requirements for expedited procedures, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which the program is operated in compliance with this part; and

"(B) a process of extracting from the automated data processing system required by paragraph (16) and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV–D paternity establishment percentages to the extent necessary for purposes of sections 452(g) and 458.".

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 458;

"(B) review annual reports submitted pursuant to section 454(15)(A) and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used in calculating performance indicators under subsection (g) of this section and section 458;

"(ii) of the adequacy of financial management of the State program operated under the State plan approved under this part, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning 12 months or more after the date of the enactment of this Act.

SEC. 12343. REQUIRED REPORTING PROCEDURES.

(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes) to be applied in following such procedures" before the semicolon.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a), 12312(a), 12313(a), and 12333 of this Act, is amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting "; and"; and

(3) by adding after paragraph (29) the following new paragraph:

"(30) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.".

SEC. 12344. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) REVISED REQUIREMENTS.—

(1) IN GENERAL.—Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency" after "for the establishment";

(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";

(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

(2) AUTOMATED DATA PROCESSING.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:

"SEC. 454A. AUTOMATED DATA PROCESSING.

"(a) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency administering the State program under this part shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section with the frequency and in the manner required by or under this part.

"(b) PROGRAM MANAGEMENT.—The automated system required by this section shall perform such functions as the Secretary may specify relating to management of the State program under this part, including—

"(1) controlling and accounting for use of Federal, State, and local funds in carrying out the program; and

"(2) maintaining the data necessary to meet Federal reporting requirements under this part on a timely basis.

"(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive payments and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

"(B) to calculate the IV–D paternity establishment percentage for the State for each fiscal year; and

"(2) have in place systems controls to ensure the completeness and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

"(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required by this section, which shall include the following (in addition to such other safeguards as the Secretary may specify in regulations):

"(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

"(A) permit access to and use of data only to the extent necessary to carry out the State program under this part; and

"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data.

"(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies described in paragraph (1).

"(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

"(4) TRAINING AND INFORMATION.—Procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use confidential program data are informed of applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986), and are adequately trained in security procedures.

"(5) PENALTIES.—Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".

(3) REGULATIONS.—The Secretary of Health and Human Services shall prescribe final regulations for implementation of section 454A of the Social Security Act not later than 2 years after the date of the enactment of this Act.

(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by section 12303(a)(1) of this Act, is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988, and

"(B) by October 1, 1999, which meets all requirements of this part enacted on or before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995, except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 12344(a)(3) of the Personal Responsibility and Work Opportunity Act of 1995;".

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—

(1) IN GENERAL.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(A) in paragraph (1)(B)—

(i) by striking "90 percent" and inserting "the percent specified in paragraph (3)";

(ii) by striking "so much of"; and

(iii) by striking "which the Secretary" and all that follows and inserting ", and"; and

(B) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall pay to each State, for each quarter in fiscal years 1996 and 1997, 90 percent of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) (as in effect on September 30, 1995) but limited to the amount approved for States in the advance planning documents of such States submitted on or before May 1, 1995.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 through 2001, the percentage specified in clause (ii) of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements of sections 454(16) and 454A.

"(ii) The percentage specified in this clause is 80 percent.".

(2) TEMPORARY LIMITATION ON PAYMENTS UNDER SPECIAL FEDERAL MATCHING RATE.—

(A) IN GENERAL.—The Secretary of Health and Human Services may not pay more than $400,000,000 in the aggregate under section 455(a)(3) of the Social Security Act for fiscal years 1996, 1997, 1998, 1999, and 2000.

(B) ALLOCATION OF LIMITATION AMONG STATES.—The total amount payable to a State under section 455(a)(3) of such Act for fiscal years 1996, 1997, 1998, 1999, and 2000 shall not exceed the limitation determined for the State by the Secretary of Health and Human Services in regulations.

(C) ALLOCATION FORMULA.—The regulations referred to in subparagraph (B) shall prescribe a formula for allocating the amount specified in subparagraph (A) among States with plans approved under part D of title IV of the Social Security Act, which shall take into account—

(i) the relative size of State caseloads under such part; and

(ii) the level of automation needed to meet the automated data processing requirements of such part.

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100–485) is repealed.

SEC. 12345. TECHNICAL ASSISTANCE.

(a) FOR TRAINING OF FEDERAL AND STATE STAFF, RESEARCH AND DEMONSTRATION PROGRAMS, AND SPECIAL PROJECTS OF REGIONAL OR NATIONAL SIGNIFICANCE.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following new subsection:

"(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for—

"(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and

"(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.".

(b) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.—Section 453 (42 U.S.C. 653), as amended by section 12316 of this Act, is amended by adding at the end the following new subsection:

"(o) RECOVERY OF COSTS.—Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for operation of the Federal Parent Locator Service under this section, to the extent such costs are not recovered through user fees.".

SEC. 12346. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—

(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking "this part;" and inserting "this part, including—"; and

(B) by adding at the end the following new clauses:

"(i) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;

"(ii) the cost to the States and to the Federal Government of so furnishing the services; and

"(iii) the number of cases involving families—

"(I) who became ineligible for assistance under State programs funded under part A during a month in the fiscal year; and

"(II) with respect to whom a child support payment was received in the month;".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (1) cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 1912" after "471(a)(17)"; and

(iv) by inserting "(2)" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended—

(A) in subparagraph (H), by striking "and";

(B) in subparagraph (I), by striking the period and inserting "; and"; and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) compliance, by State, with the standards established pursuant to subsections (h) and (i).".

(5) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (J), as added by paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 12351. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

"(10) REVIEW AND ADJUSTMENT OF SUPPORT ORDERS UPON REQUEST.—Procedures under which the State shall review and adjust each support order being enforced under this part upon the request of either parent or the State if there is an assignment. Such procedures shall provide the following:

"(A) IN GENERAL.—

"(i) 3-YEAR CYCLE.—Except as provided in subparagraphs (B) and (C), the State shall review and, as appropriate, adjust the support order every 3 years, taking into account the best interests of the child involved.

"(ii) METHODS OF ADJUSTMENT.—The State may elect to review and, if appropriate, adjust an order pursuant to clause (i) by—

"(I) reviewing and, if appropriate, adjusting the order in accordance with the guidelines established pursuant to section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines; or

"(II) applying a cost-of-living adjustment to the order in accordance with a formula developed by the State and permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a).

"(iii) NO PROOF OF CHANGE IN CIRCUMSTANCES NECESSARY.—Any adjustment under this subparagraph (A) shall be made without a requirement for proof or showing of a change in circumstances.

"(B) AUTOMATED METHOD.—The State may use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under the threshold established by the State.

"(C) REQUEST UPON SUBSTANTIAL CHANGE IN CIRCUMSTANCES.—The State shall, at the request of either parent subject to such an order or of any State child support enforcement agency, review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 467(a) based upon a substantial change in the circumstances of either parent.

"(D) NOTICE OF RIGHT TO REVIEW.—The State shall provide notice not less than once every 3 years to the parents subject to such an order informing them of their right to request the State to review and, if appropriate, adjust the order pursuant to this paragraph. The notice may be included in the order.".

SEC. 12352. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:

"(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

"(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

"(B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);

"(C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

"(D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

"(5) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) for use to set an initial or modified child support award.".

SEC. 12353. NONLIABILITY FOR FINANCIAL INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a financial institution shall not be liable under any Federal or State law to any person for disclosing any financial record of an individual to a State child support enforcement agency attempting to establish, modify, or enforce a child support obligation of such individual.

(b) PROHIBITION OF DISCLOSURE OF FINANCIAL RECORD OBTAINED BY STATE CHILD SUPPORT ENFORCEMENT AGENCY.—A State child support enforcement agency which obtains a financial record of an individual from a financial institution pursuant to subsection (a) may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

(c) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE.—

(1) DISCLOSURE BY STATE OFFICER OR EMPLOYEE.—If any person knowingly, or by reason of negligence, discloses a financial record of an individual in violation of subsection (b), such individual may bring a civil action for damages against such person in a district court of the United States.

(2) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure which results from a good faith, but erroneous, interpretation of subsection (b).

(3) DAMAGES.—In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

(A) the greater of—

(i) $1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or

(ii) the sum of—

(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

(B) the costs (including attorney's fees) of the action.

(d) DEFINITIONS.—For purposes of this section—

(1) FINANCIAL INSTITUTION.—The term "financial institution" means—

(A) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(B) an institution-affiliated party, as defined in section 3(u) of such Act (12 U.S.C. 1813(v));

(C) any Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as defined in section 206(r) of such Act (12 U.S.C. 1786(r)); and

(D) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the State.

(2) FINANCIAL RECORD.—The term "financial record" has the meaning given such term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401).

(3) STATE CHILD SUPPORT ENFORCEMENT AGENCY.—The term "State child support enforcement agency" means a State agency which administers a State program for establishing and enforcing child support obligations.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

SEC. 12361. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.

(a) COLLECTION OF FEES.—Section 6305(a) of the Internal Revenue Code of 1986 (relating to collection of certain liability) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ", and";

(3) by adding at the end the following new paragraph:

"(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor."; and

(4) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 12362. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—Section 459 (42 U.S.C. 659) is amended to read as follows:

"SEC. 459. CONSENT BY THE UNITED STATES TO INCOME WITHHOLDING, GARNISHMENT, AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS.

"(a) CONSENT TO SUPPORT ENFORCEMENT.—Notwithstanding any other provision of law (including section 207 of this Act and section 5301 of title 38, United States Code), effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part or by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.

"(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.—With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permtt prompt *identification of the individual and the moneys involved), each governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.*

"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS—

"(1) DESIGNATION OF AGENT.—The head of each agency subject to this section shall—

"(A) designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and

"(B) annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.

"(2) RESPONSE TO NOTICE OR PROCESS.—If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall—

"(A) as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, respond to the order, process, or interrogatory.

"(d) PRIORITY OF CLAIMS.—If a governmental entity specified in subsection (a) receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person—

"(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

"(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by section 466(b) and the regulations prescribed under such section; and

"(3) such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

"(e) NO REQUIREMENT TO VARY PAY CYCLES.—A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.

"(f) RELIEF FROM LIABILITY.—

"(1) Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance with this section and the regulations issued to carry out this section.

"(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by the employee in connection with the carrying out of such actions.

"(g) REGULATIONS.—Authority to promulgate regulations for the implementation of this section shall, insofar as this section applies to moneys due from (or payable by)—

"(1) the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);

"(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

"(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).

"(h) MONEYS SUBJECT TO PROCESS.—

"(1) IN GENERAL.—Subject to paragraph (2), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

"(A) consist of—

"(i) compensation paid or payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

"(I) under the insurance system established by title II;

"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

"(III) as compensation for death under any Federal program;

"(IV) under any Federal program established to provide 'black lung' benefits; or

"(V) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death; and

"(iii) worker's compensation benefits paid under Federal or State law but

"(B) do not include any payment—

"(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual; or

"(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.

"(2) CERTAIN AMOUNTS EXCLUDED.—In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

"(A) are owed by the individual to the United States;

"(B) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

"(D) are deducted as health insurance premiums;

"(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

"(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

"(i) DEFINITIONS.—For purposes of this section—

"(1) UNITED STATES.—The term 'United States' includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

"(2) CHILD SUPPORT.—The term 'child support', when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

"(3) ALIMONY.—

"(A) IN GENERAL.—The term 'alimony', when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

"(B) EXCEPTIONS.—Such term does not include—

"(i) any child support; or

"(ii) any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

"(4) PRIVATE PERSON.—The term 'private person' means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.

"(5) LEGAL PROCESS.—The term 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment—

"(A) which is issued by—

"(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States;

"(ii) a court or an administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

"(iii) an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction or pursuant to State or local law; and

"(B) which is directed to, and the purpose of which is to compel, a governmental entity which

holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments.".

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661 and 662) are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

(c) MILITARY RETIRED AND RETAINER PAY.—

(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding after subparagraph (C) the following: new subparagraph

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social Security Act), and, for purposes of this subparagraph, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.".

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended—

(A) by inserting "or a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p))," before "which—";

(B) in subparagraph (B)(i), by striking "(as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))" and inserting "(as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 662(i)(2)))"; and

(C) in subparagraph (B)(ii), by striking "(as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c)))" and inserting "(as defined in section 459(i)(3) of the Social Security Act (42 U.S.C. 662(i)(3)))".

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by inserting "(OR FOR BENEFIT OF)" before "SPOUSE OR"; and

(B) in paragraph (1), in the 1st sentence, by inserting "(or for the benefit of such spouse or former spouse to a State disbursement unit established pursuant to section 454B of the Social Security Act or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act) by a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of such Act.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 12363. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection—

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term "child support" has the meaning given such term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, as amended by section 362(c)(4) of this Act, is amended—

(A) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(B) by inserting after subsection (h) the following new subsection:

"(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.".

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the 1st sentence the following new sentence: "In the case of a spouse or former spouse who, pursuant to section 407(a)(4) of the Social Security Act (42 U.S.C. 607(a)(4)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.".

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

"(6) In the case of a court order for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.".

(4) PAYROLL DEDUCTIONS.—The Secretary of Defense shall begin payroll deductions within 30 days after receiving notice of withholding, or for the 1st pay period that begins after such 30-day period.

SEC. 12364. VOIDING OF FRAUDULENT TRANSFERS.

Section 466 (42 U.S.C. 666), as amended by section 321 of this Act, is amended by adding at the end the following new subsection:

"(g) LAWS VOIDING FRAUDULENT TRANSFERS.—In order to satisfy section 454(20)(A), each State must have in effect—

"(1)(A) the Uniform Fraudulent Conveyance Act of 1981;

"(B) the Uniform Fraudulent Transfer Act of 1984; or

"(C) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

"(2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(A) seek to void such transfer; or

"(B) obtain a settlement in the best interests of the child support creditor.".

SEC. 12365. WORK REQUIREMENT FOR PERSONS OWING PAST-DUE CHILD SUPPORT.

(a) IN GENERAL.—Section 466(a) of the Social Security Act (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), and 12323 of this Act, is amended by adding at the end the following new paragraph:

"(15) PROCEDURES TO ENSURE THAT PERSONS OWING PAST-DUE SUPPORT WORK OR HAVE A PLAN FOR PAYMENT OF SUCH SUPPORT.—

"(A) IN GENERAL.—Procedures under which the State has the authority, in any case in which an individual owes past-due support with respect to a child receiving assistance under a State program funded under part A, to seek a court order that requires the individual to—

"(i) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency

administering the State program under this part; or

"(ii) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 406(d)) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.

"(B) PAST-DUE SUPPORT DEFINED.—For purposes of subparagraph (A), the term 'past-due support' means the amount of a delinquency, determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a child, or of a child and the parent with whom the child is living.".

(b) CONFORMING AMENDMENT.—The flush paragraph at the end of section 466(a) (42 U.S.C.666(a)) is amended by striking "and (7)" and inserting "(7), and (15)".

SEC. 12366. DEFINITION OF SUPPORT ORDER.

Section 453 (42 U.S.C. 653) as amended by sections 12316 and 12345(b) of this Act, is amended by adding at the end the following new subsection:

"(p) SUPPORT ORDER DEFINED.—As used in this part, the term 'support order' means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.".

SEC. 12367. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—

"(A) IN GENERAL.—Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any noncustodial parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

"(B) SAFEGUARDS.—Procedures ensuring that, in carrying out subparagraph (A), information with respect to a noncustodial parent is reported—

"(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

"(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency (as so defined).".

SEC. 12368. LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended to read as follows:

"(4) LIENS.—Procedures under which—

"(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State; and

"(B) the State accords full faith and credit to liens described in subparagraph (A) arising in another State, without registration of the underlying order.".

SEC. 12369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, and 12365 of this Act, is amended by adding at the end the following:

"(16) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.".

SEC. 12370. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) AUTHORITY FOR INTERNATIONAL AGREEMENTS.—Part D of title IV, as amended by section 362(a) of this Act, is amended by adding after section 459 the following new section:

"SEC. 459A. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

"(a) AUTHORITY FOR DECLARATIONS.—

"(1) DECLARATION.—The Secretary of State, with the concurrence of the Secretary of Health and Human Services, is authorized to declare any foreign country (or a political subdivision thereof) to be a foreign reciprocating country if the foreign country has established, or undertakes to establish, procedures for the establishment and enforcement of duties of support owed to obligees who are residents of the United States, and such procedures are substantially in conformity with the standards prescribed under subsection (b).

"(2) REVOCATION.—A declaration with respect to a foreign country made pursuant to paragraph (1) may be revoked if the Secretaries of State and Health and Human Services determine that—

"(A) the procedures established by the foreign nation regarding the establishment and enforcement of duties of support have been so changed, or the foreign nation's implementation of such procedures is so unsatisfactory, that such procedures do not meet the criteria for such a declaration; or

"(B) continued operation of the declaration is not consistent with the purposes of this part.

"(3) FORM OF DECLARATION.—A declaration under paragraph (1) may be made in the form of an international agreement, in connection with an international agreement or corresponding foreign declaration, or on a unilateral basis.

"(b) STANDARDS FOR FOREIGN SUPPORT ENFORCEMENT PROCEDURES.—

"(1) MANDATORY ELEMENTS.—Child support enforcement procedures of a foreign country which may be the subject of a declaration pursuant to subsection (a)(1) shall include the following elements:

"(A) The foreign country (or political subdivision thereof) has in effect procedures, available to residents of the United States—

"(i) for establishment of paternity, and for establishment of orders of support for children and custodial parents; and

"(ii) for enforcement of orders to provide support to children and custodial parents, including procedures for collection and appropriate distribution of support payments under such orders.

"(B) The procedures described in subparagraph (A), including legal and administrative assistance, are provided to residents of the United States at no cost.

"(C) An agency of the foreign country is designated as a Central Authority responsible for—

"(i) facilitating child support enforcement in cases involving residents of the foreign nation and residents of the United States; and

"(ii) ensuring compliance with the standards established pursuant to this subsection.

"(2) ADDITIONAL ELEMENTS.—The Secretary of Health and Human Services and the Secretary of State, in consultation with the States, may establish such additional standards as may be considered necessary to further the purposes of this section.

"(c) DESIGNATION OF UNITED STATES CENTRAL AUTHORITY.—It shall be the responsibility of the Secretary of Health and Human Services to facilitate child support enforcement in cases involving residents of the United States and residents of foreign nations that are the subject of a declaration under this section, by activities including—

"(1) development of uniform forms and procedures for use in such cases;

"(2) notification of foreign reciprocating countries of the State of residence of individuals sought for support enforcement purposes, on the basis of information provided by the Federal Parent Locator Service; and

"(3) such other oversight, assistance, and coordination activities as the Secretary may find necessary and appropriate.

"(d) EFFECT ON OTHER LAWS.—States may enter into reciprocal arrangements for the establishment and enforcement of child support obligations with foreign countries that are not the subject of a declaration pursuant to subsection (a), to the extent consistent with Federal law.".

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a), 12312(b), 12313(a), 12333, and 12343(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (29);

(2) by striking the period at the end of paragraph (30) and inserting "; and"; and

(3) by adding after paragraph (30) the following new paragraph:

"(31)(A) provide that any request for services under this part by a foreign reciprocating country or a foreign country with which the State has an arrangement described in section 459A(d)(2) shall be treated as a request by a State;

"(B) provide, at State option, notwithstanding paragraph (4) or any other provision of this part, for services under the plan for enforcement of a spousal support order not described in paragraph (4)(B) entered by such a country (or subdivision); and

"(C) provide that no applications will be required from, and no costs will be assessed for such services against, the foreign reciprocating country or foreign obligee (but costs may at State option be assessed against the obligor).".

SEC. 12371. FINANCIAL INSTITUTION DATA MATCHES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, 12365, and 12369 of this Act, is amended by adding at the end the following new paragraph:

"(17) FINANCIAL INSTITUTION DATA MATCHES.—

"(A) IN GENERAL.—Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State—

"(i) to develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and

"(ii) in response to a notice of lien or levy, encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a child support lien pursuant to paragraph (4).

"(B) REASONABLE FEES.—The State agency may pay a reasonable fee to a financial institution for conducting the data match provided for in subparagraph (A)(i), not to exceed the actual costs incurred by such financial institution.

"(C) LIABILITY.—A financial institution shall not be liable under any Federal or State law to any person—

"(i) for any disclosure of information to the State agency under subparagraph (A)(i);

"(ii) for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the State agency as provided for in subparagraph (A)(ii); or

"(iii) for any other action taken in good faith to comply with the requirements of subparagraph (A).

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any Federal or State commercial savings bank, including savings association or cooperative bank, Federal- or State-chartered credit union, benefit association, insurance company, safe deposit company, money-market mutual fund, or any similar entity authorized to do business in the State; and

"(ii) ACCOUNT.—The term 'account' means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.".

SEC. 12372. ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, 12365, 12369, and 12371 of this Act, is amended by adding at the end the following new paragraph:

"(18) ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS.—Procedures under which, at the State's option, any child support order enforced under this part with respect to a child of minor parents, if the custodial parents of such child is receiving assistance under the State program under part A, shall be enforceable, jointly and severally, against the parents of the noncustodial parents of such child.".

CHAPTER 8—MEDICAL SUPPORT

SEC. 12376. CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking "issued by a court of competent jurisdiction";

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following:

"if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the 1st plan year beginning on or after January 1, 1996, if—

(A) during the period after the date before the date of the enactment of this Act and before such 1st plan year, the plan is operated in accordance with the requirements of the amendments made by this section; and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such 1st plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

SEC. 12377. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, 12365, 12369, 12371, and 12372 of this Act, is amended by adding at the end the following new paragraph:

"(19) HEALTH CARE COVERAGE.—Procedures under which all child support orders enforced pursuant to this part shall include a provision for the health care coverage of the child, and in the case in which a noncustodial parent provides such coverage and changes employment, and the new employer provides health care coverage, the State agency shall transfer notice of the provision to the employer, which notice shall operate to enroll the child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice.".

CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-RESIDENTIAL PARENTS

SEC. 12381. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

Part D of title IV (42 U.S.C. 651–669) is amended by adding at the end the following:

"SEC. 469A. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

"(a) IN GENERAL.—The Administration for Children and Families shall make grants under this section to enable States to establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements.

"(b) AMOUNT OF GRANT.—The amount of the grant to be made to a State under this section for a fiscal year shall be an amount equal to the lesser of—

"(1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or

"(2) the allotment of the State under subsection (c) for the fiscal year.

"(c) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—The allotment of a State for a fiscal year is the amount that bears the same ratio to the amount appropriated for grants under this section for the fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

"(2) MINIMUM ALLOTMENT.—The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—

"(A) $50,000 for fiscal year 1996 or 1997; or

"(B) $100,000 for any succeeding fiscal year.

"(d) NO SUPPLANTATION OF STATE EXPENDITURES FOR SIMILAR ACTIVITIES.—A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a), but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

"(e) STATE ADMINISTRATION.—Each State to which a grant is made under this section—

"(1) may administer State programs funded with the grant, directly or through grants to or contracts with courts, local public agencies, or non-profit private entities;

"(2) shall not be required to operate such programs on a statewide basis; and

"(3) shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.".

CHAPTER 10—EFFECT OF ENACTMENT

SEC. 12391. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) the provisions of this subtitle requiring the enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this subtitle shall become effective upon the date of the enactment of this Act.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this subtitle shall become effective with respect to a State on the later of—

(1) the date specified in this subtitle, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this subtitle if the State is unable to so comply without amending the State constitution until the earlier of—

(1) 1 year after the effective date of the necessary State constitutional amendment; or

(2) 5 years after the date of the enactment of this Act.

Subtitle D—Restricting Welfare and Public Benefits for Aliens

CHAPTER 1—ELIGIBILITY FOR FEDERAL BENEFITS

SEC. 12401. ALIENS WHO ARE NOT QUALIFIED ALIENS INELIGIBLE FOR FEDERAL PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is not a qualified alien (as defined section 12431) is not eligible for any Federal public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following Federal public benefits:

(1) Emergency medical services under title XIX or XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(5) Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and

Urban Development, any program under title V of the Housing Act of 1949, or any assistance under section 306C of the Consolidated Farm and Rural Development Act, to the extent that the alien is receiving such a benefit on the date of the enactment of this Act.

(c) FEDERAL PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this subtitle the term "Federal public benefit" means a Federal public benefit providing direct spending for—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Attorney General, after consultation with the Secretary of State.

SEC. 12402. LIMITED ELIGIBILITY OF CERTAIN QUALIFIED ALIENS FOR CERTAIN FEDERAL PROGRAMS.

(a) LIMITED ELIGIBILITY FOR SPECIFIED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in paragraph (2), an alien who is a qualified alien (as defined in section 12431) is not eligible for any specified Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—Paragraph (1) shall not apply to an alien until 5 years after the date—

(i) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

(ii) an alien is granted asylum under section 208 of such Act; or

(iii) an alien's deportation is withheld under section 243(h) of such Act.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—Paragraph (1) shall not apply to an alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, and (II) did not receive any Federal means-tested public benefit (as defined in section 12403(c)) during any such quarter.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—Paragraph (1) shall not apply to an alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS.—Paragraph (1) shall apply to the eligibility of an alien for a program for months beginning on or after January 1, 1997, if, on the date of the enactment of this Act, the alien is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act.

(3) SPECIFIED FEDERAL PROGRAM DEFINED.—For purposes of this subtitle, the term "specified Federal program" means any of the following:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act.

(B) FOOD STAMPS.—The food stamp program as defined in section 3(h) of the Food Stamp Act of 1977.

(b) LIMITED ELIGIBILITY FOR DESIGNATED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in section 12403 and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 12431) for any designated Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—Qualified aliens under this paragraph shall be eligible for any designated Federal program.

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

(i) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(ii) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(iii) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—An alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage to be a fully insured individual for old-age retirement benefits under title II of the Social Security Act, (II) did not receive any Federal means-tested public benefit (as defined in section 12403(c)) during any such quarter, and (III) at the time of application is otherwise eligible for such benefits.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

(3) DESIGNATED FEDERAL PROGRAM DEFINED.—For purposes of this subtitle, the term "designated Federal program" means any of the following:

(A) TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.—The program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act.

(B) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

(C) MEDICAID AND MEDIGRANT.—The program of medical assistance under title XIX and XXI of the Social Security Act.

SEC. 12403. FIVE-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR FEDERAL MEANS-TESTED PUBLIC BENEFIT.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is a qualified alien (as defined in section 12431) and who enters the United States on or after the date of the enactment of this Act is not eligible for any Federal means-tested public benefit (as defined in subsection (c)) for a period of five years beginning on the date of the alien's entry into the United States with a status within the meaning of the term "qualified alien".

(b) EXCEPTIONS.—The limitation under subsection (a) shall not apply to the following aliens:

(1) EXCEPTION FOR REFUGEES AND ASYLEES.—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is being withheld under section 243(h) of such Act.

(2) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).

(c) FEDERAL MEANS-TESTED PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this subtitle, the term "Federal means-tested public benefit" means a Federal public benefit providing direct spending (including cash, medical, housing, and food assistance and social services) by the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(2) Such term does not include the following:

(A) Emergency medical services under title XIX or XXI of the Social Security Act.

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Assistance or benefits under the National School Lunch Act.

(D) Assistance or benefits under the Child Nutrition Act of 1966.

(E)(i) Public health assistance for immunizations.

(ii) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(F) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent or parents of such child are not described under subsection (a).

(G) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition

the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(H) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

(I) Means-tested programs under the Elementary and Secondary Education Act of 1965.

CHAPTER 2—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

SEC. 12421. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (c), in determining the eligibility and the amount of benefits of an alien for any means-tested public benefits program (as defined in subsection (e)) the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 12422) in behalf of such alien.

(2) The income and resources of the spouse (if any) of the person.

(b) APPLICATION.—Subsection (a) shall apply with respect to an alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III of the Immigration and Nationality Act.

(c) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following Federal public benefits:

(1) Emergency medical services under title XIX or XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(6) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent or parents of such child are not described under subsection (a).

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

(d) REVIEW OF INCOME AND RESOURCES OF ALIEN UPON REAPPLICATION.—Whenever an alien is required to reapply for benefits under any means-tested public benefits program, the applicable agency shall review the income and resources attributed to the alien under subsection (a).

(e) MEANS-TESTED PUBLIC BENEFITS PROGRAM DEFINED.—The term "means-tested public benefits program" means a program of Federal public benefits providing direct spending (including cash, medical, housing, and food assistance and social services) by the Federal government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(f) APPLICATION.—

(1) If on the date of the enactment of this Act, a means-tested public benefits program attributes a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning on the day after the date of the enactment of this Act.

(2) If on the date of the enactment of this Act, a means-tested public benefits program does not attribute a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning 180 days after the date of the enactment of this Act.

SEC. 12422. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed as a contract—

"(A) which is legally enforceable against the sponsor by the sponsored alien, the Federal Government, and by any State (or any political subdivision of such State) which provides any means-tested public benefits program, but not later than 10 years after the alien last receives any such benefit;

"(B) in which the sponsor agrees to financially support the alien, so that the alien will not become a public charge; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

"(2) A contract under paragraph (1) shall be enforceable with respect to benefits provided to the alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III.

"(b) FORMS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) IN GENERAL.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(2).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

(A) not less than $250 or more than $2,000, or

(B) if such failure occurs with knowledge that the alien has received any means-tested public benefit, not less than $2,000 or more than $5,000.

"(e) REIMBURSEMENT OF GOVERNMENT EXPENSES.—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

"(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

"(3) If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

"(4) No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.

"(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) SPONSOR.—The term 'sponsor' means an individual who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is 18 years of age or over;

"(C) is domiciled in any State; and

"(D) is the person petitioning for the admission of the alien under section 204.

"(2) MEANS-TESTED PUBLIC BENEFITS PROGRAM DEFINED.—The term 'means-tested public benefits program' means a program of Federal public benefits providing direct spending (including cash, medical, housing, and food assistance and social services) by the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(c) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date

the Attorney General formulates the form for such affidavits under subsection (b) of such section.

(d) BENEFITS NOT SUBJECT TO REIMBURSEMENT.—Requirements for reimbursement by a sponsor for benefits provided to a sponsored alien pursuant to an affidavit of support under section 213A of the Immigration and Nationality Act shall not apply with respect to the following:

(1) Emergency medical services under title XIX or XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(6) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent or parents of such child are not described under subsection (a).

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

SEC. 12423. COSIGNATURE OF ALIEN STUDENT LOANS.

Section 484(b) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)) is amended by adding at the end the following new paragraph:

"(6) Notwithstanding sections 427(a)(2)(C), 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), a student who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act shall not be eligible for a loan under this title unless the loan is endorsed and cosigned by the alien's sponsor under section 213A of the Immigration and Nationality Act or by another individual who is a United States citizen.".

CHAPTER 3—GENERAL PROVISIONS

SEC. 12431. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, the terms used in this subtitle have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(b) QUALIFIED ALIEN.—For purposes of this subtitle, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act,

(2) an alien who is granted asylum under section 208 of such Act,

(3) a refugee who is admitted to the United States under section 207 of such Act,

(4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year,

(5) an alien whose deportation is being withheld under section 243(h) of such Act, or

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980.

SEC. 12432. REAPPLICATION FOR SSI BENEFITS.

(a) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the application of section 12402(a)(2)(D), the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(b) REAPPLICATION.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subsection (a) who desires to reapply for benefits under title XVI of the Social Security Act shall reapply to the Commissioner of Social Security.

(2) DETERMINATION OF ELIGIBILITY.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall determine the eligibility of each individual who reapplies for benefits under paragraph (1) pursuant to the procedures of such title XVI.

SEC. 12433. STATUTORY CONSTRUCTION.

(a) LIMITATION.—

(1) Nothing in this subtitle may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this subtitle, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

(2) Nothing in this subtitle may be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under Plyler v. Doe (457 U.S. 202)(1982).

(b) NOT APPLICABLE TO FOREIGN ASSISTANCE.—This subtitle does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

(c) SEVERABILITY.—If any provision of this subtitle or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Subtitle E—Teaching Hospital and Graduate Medical Education Trust Fund

CHAPTER 1—TRUST FUND

SEC. 12501. ESTABLISHMENT OF FUND; PAYMENTS TO TEACHING HOSPITALS.

The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding after title XXI the following title:

"TITLE XXII—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

"TABLE OF CONTENTS OF TITLE

"PART A—ESTABLISHMENT OF FUND

"Sec. 2201. Establishment of Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"Subpart 1—Requirement of Payments

"Sec. 2211. Formula payments to teaching hospitals.

"Sec. 2212. Additional provisions regarding annual payment document.

"Subpart 2—Amount Relating to MedicarePlus Program

"Sec. 2221. Determination of amount relating to MedicarePlus program.

"Subpart 3—Amount Relating to Indirect Costs of Graduate Medical Education

"Sec. 2231. Determination of amount relating to indirect costs.

"Sec. 2232. Indirect costs; special rules regarding payments from general account.

"Subpart 4—Amount Relating to Direct Costs of Graduate Medical Education

"Sec. 2241. Determination of amount relating to direct costs.

"Sec. 2242. Direct costs; special rules regarding payments from general account.

"Sec. 2243. Direct costs; authority for payments to consortia of providers.

"PART A—ESTABLISHMENT OF FUND

"SEC. 2201. ESTABLISHMENT OF FUND.

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts appropriated to the Fund in subsections (d), (f)(3), and (g), and amounts transferred to the Fund under section 1886(j). Amounts in the Fund are available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2211.

"(c) ACCOUNTS IN FUND.—There are established within the Fund the following accounts:

"(1) The General MedicarePlus Incentive Account.

"(2) The General Indirect-Costs Medical Education Account.

"(3) The General Direct-Costs Medical Education Account.

"(4) The Medicare Indirect-Costs Medical Education Account.

"(5) The Medicare Direct-Costs Medical Education Account.

"(d) GENERAL TRANSFERS TO FUND.—

"(1) IN GENERAL.—For fiscal year 1997 and each subsequent fiscal year, there are appropriated to the Fund (effective on the date specified in paragraph (2)), out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the fiscal year involved):

"(A) For fiscal year 1997, $1,100,000,000.

"(B) For fiscal year 1998, $1,300,000,000.

"(C) For fiscal year 1999, $2,000,000,000.

"(D) For fiscal year 2000, $2,600,000,000.

"(E) For fiscal year 2001, $3,100,000,000.

"(F) For fiscal year 2002, $3,400,000,000.

"(G) For fiscal year 2003 and each subsequent fiscal year, the greater of the amount appropriated for the preceding fiscal year or an amount equal to the product of—

"(i) the amount appropriated for the preceding fiscal year; and

"(ii) 1 plus the percentage increase in the nominal gross domestic product for the one-year period ending upon July 1 of such preceding fiscal year.

"(2) EFFECTIVE DATE FOR ANNUAL APPROPRIATION.—For purposes of paragraph (1), the date specified in this paragraph for a fiscal year is the first day of the fiscal year.

"(3) ALLOCATION FOR GENERAL MEDICAREPLUS INCENTIVE ACCOUNT.—Of the amount appropriated in paragraph (1) for a fiscal year, there shall be allocated to the General MedicarePlus Incentive Account the following percentage (as applicable to the fiscal year involved):

"(A) For fiscal year 1997, 20 percent.

"(B) For fiscal year 1998, 30 percent.

"(C) For fiscal year 1999, 40 percent.

"(D) For fiscal year 2000 and each subsequent fiscal year, 50 percent.

"(4) ALLOCATIONS FOR GENERAL MEDICAL EDUCATION ACCOUNTS.—

"(A) IN GENERAL.—Of the amount appropriated in paragraph (1) for a fiscal year and remaining after the allocation required in paragraph (3) for the year has been made—

"(i) there shall be allocated to the General Indirect-Costs Medical Education Account the percentage determined under subparagraph (B)(ii); and

"(ii) there shall be allocated to the General Direct-Costs Medical Education Account the percentage determined under subparagraph (B)(iii).

"(B) DETERMINATION OF FIXED PERCENTAGES.—The Secretary of Health and Human Services, acting through the Administrator of the Health Care Financing Administration, shall determine the following:

"(i) The total amount of payments that were made under subsections (d)(5)(B) and (h) of section 1886 for fiscal year 1994.

"(ii) The percentage of such total that was constituted by payments under subsection (d)(5)(B) of such section.

"(iii) The percentage of such total that was constituted by payments under subsection (h) of such section.

"(e) TRANSFERS FROM MEDICARE PROGRAM.—Amounts shall, in accordance with section 1886(j), be transferred to the Fund from the trust funds established under parts A and B of title XVIII.

"(f) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

"(g) MONETARY GIFTS TO FUND.—There are appropriated to the Fund such amounts as may be unconditionally donated to the Federal Government as gifts to the Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"Subpart 1—Requirement of Payments

"SEC. 2211. FORMULA PAYMENTS TO TEACHING HOSPITALS.

"(a) IN GENERAL.—Subject to subsection (d), in the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1997 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and the total of the payments to the hospital for the fiscal year shall equal the sum of the following:

"(1) An amount determined under section 2221 (relating to the MedicarePlus program).

"(2) An amount determined under section 2231 (relating to the indirect costs of graduate medical education).

"(3) An amount determined under section 2241 (relating to the direct costs of graduate medical education).

"(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital during a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. This subsection is subject to section 2212.

"(c) PERIODIC PAYMENTS.—Payments under subsection (a) for a teaching hospital for a fiscal year shall be made periodically, at such intervals and in such amounts as the Secretary determines to be appropriate (subject to applicable Federal law regarding Federal payments).

"(d) SPECIAL RULES.—

"(1) PAYMENTS TO CONSORTIA OF PROVIDERS.—In the case of payments under subsection (a) that are determined under section 2241:

"(A) The requirement under such subsection to make the payments to teaching hospitals is subject to the authority of the Secretary under section 2243(a) to make payments to qualifying consortia.

"(B) If the Secretary authorizes payments to a consortium under section 2243(a), subsections (a) and (b) of this section (other than subsection (a)(2)) apply to the consortium to the same extent and in the same manner as the subsections apply to teaching hospitals.

"(2) HOSPITALS IN STATES WITH CERTAIN DEMONSTRATION PROJECTS.—Paragraph (2) of subsection (a) is subject to section 2232(d)(1)(B), and paragraph (3) of such subsection is subject to section 2242(d)(1)(B).

"(e) ADMINISTRATOR OF PROGRAMS.—This part, and the subsequent parts of this title, shall be carried out by the Secretary acting through the Administrator of the Health Care Financing Administration.

"(f) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM .—For purposes of this title, the term 'approved medical residency training program' has the meaning given such term in section 1886(h)(5)(A).

"SEC. 2212. ADDITIONAL PROVISIONS REGARDING ANNUAL PAYMENT DOCUMENT.

(a) PERIODIC REPORTS.—In collecting information under section 2211(b), the Secretary may require that information be submitted to the Secretary in periodic reports.

"(b) INFORMATION RELATING TO MEDICARE PROGRAM.—Information collected by the Secretary under section 2211(b) with respect to a teaching hospital for a fiscal year shall include information on the following:

"(1) The number of inpatient discharges for the fiscal year attributable to individuals enrolled in the MedicarePlus program under part C of title XVIII.

"(2) For each discharge with respect to which payment is received from the Secretary pursuant to part A of title XVIII, the diagnosis-related group within which the discharge is classified (as determined in accordance with section 1886(d)(4)(A)).

"(3) The medicare patient load of the hospital (as defined in section 1886(h)(3)(C)).

"Subpart 2—Amount Relating to MedicarePlus Program

"SEC. 2221. DETERMINATION OF AMOUNT RELATING TO MEDICAREPLUS PROGRAM.

"(a) IN GENERAL.—For purposes of section 2211(a)(1), the amount determined under this section for a teaching hospital for a fiscal year is the product of—

"(1) the amount in the General MedicarePlus Incentive Account on the date specified in section 2201(d)(2) (once the appropriation under such section is made); and

"(2) the percentage determined for the hospital under subsection (b) for the fiscal year.

"(b) ANNUAL HOSPITAL-SPECIFIC PERCENTAGE.—For purposes of subsection (a)(2), the percentage determined under this subsection for a teaching hospital for a fiscal year is the percentage constituted by the ratio of—

"(1) the number of inpatient discharges for the fiscal year attributable to individuals enrolled in the MedicarePlus program under part C of title XVIII; to

"(2) the sum of the respective numbers determined under paragraph (1) for the fiscal year for all teaching hospitals.

"Subpart 3—Amount Relating to Indirect Costs of Graduate Medical Education

"SEC. 2231. DETERMINATION OF AMOUNT RELATING TO INDIRECT COSTS.

"(a) IN GENERAL.—For purposes of section 2211(a)(2), the amount determined under this section for a teaching hospital for a fiscal year is the sum of—

"(1) the amount determined under subsection (b) (relating to the General Indirect-Costs Medical Education Account); and

"(2) the amount determined under subsection (c) (relating to the Medicare Indirect-Costs Medical Education Account), subject to section 2232(d)(1)(B).

"(b) PAYMENT FROM GENERAL ACCOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the amount determined under this subsection for a teaching hospital for a fiscal year is the product of—

"(A) the amount in the General Indirect-Costs Medical Education Account on the date specified in section 2201(d)(2) (once the appropriation under such section is made); and

"(B) the percentage determined for the hospital under paragraph (2).

"(2) FIXED HOSPITAL-SPECIFIC PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the percentage determined under this paragraph for a teaching hospital is the mean average of the respective percentages determined under subparagraph (C) for each fiscal year of the applicable period (as defined in subparagraph (B)), adjusted by the Secretary (upward or downward, as the case may be) on a pro rata basis to the extent necessary to ensure that the sum of the percentages determined under this paragraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to section 2232.

"(B) APPLICABLE PERIOD REGARDING RELEVANT DATA; FISCAL YEARS 1992 THROUGH 1994.—For purposes of this part, the term 'applicable period' means the period beginning on the first day of fiscal year 1992 and continuing through the end of fiscal year 1994.

"(C) RESPECTIVE DETERMINATIONS FOR FISCAL YEARS OF APPLICABLE PERIOD.—For purposes of subparagraph (A), the percentage determined under this subparagraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—

"(i) the total amount of payments received by the hospital under section 1886(d)(5)(B) for discharges occurring during the fiscal year involved; to

"(ii) the sum of the respective amounts determined under clause (i) for the fiscal year for all teaching hospitals.

"(3) AVAILABILITY OF DATA.—If a teaching hospital received the payments specified in paragraph (2)(C)(i) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such paragraph for the fiscal year involved, the Secretary shall for purposes of such subsection make an estimate on the basis of such data as are available to the Secretary for the applicable period.

"(c) PAYMENT FROM MEDICARE ACCOUNT.—For purposes of subsection (a)(2), the amount determined under this subsection for a teaching hospital for a fiscal year is an amount determined in accordance with the methodology in

effect under section 1886(d)(5)(B) for such year. Payments made under section 2211 pursuant to the preceding sentence shall be made from the Medicare Indirect-Costs Medical Education Account.

"SEC. 2232. INDIRECT COSTS; SPECIAL RULES REGARDING PAYMENTS FROM GENERAL ACCOUNT.

"(a) SPECIAL RULE REGARDING FISCAL YEARS 1995 AND 1996.—

"(1) IN GENERAL.—In the case of a teaching hospital whose first payments under section 1886(d)(5)(B) were for discharges occurring in fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, subject to paragraph (3).

"(2) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the total amount of payments received by the hospital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995 if such section, as in effect for fiscal year 1996, had applied to the hospital for discharges occurring during fiscal year 1995.

"(B)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the aggregate total of the payments received by teaching hospitals under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996—

"(I) the Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals; and

"(II) the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).

"(3) ADJUSTMENT OF PERCENTAGE.—The percentage determined under paragraph (2) shall be adjusted by the Secretary in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(b) NEW TEACHING HOSPITALS.—

"(1) IN GENERAL.—In the case of a teaching hospital that did not receive payments under section 1886(d)(5)(B) for any of the fiscal years 1992 through 1996, the percentage determined under paragraph (3) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, subject to paragraphs (4) and (5).

"(2) DESIGNATED FISCAL YEAR REGARDING DATA.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most recent fiscal year for which the Secretary has sufficient data to make the determination (referred to in this subsection as the 'designated fiscal year').

"(3) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A) The amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for the designated fiscal year if such section, as in effect for the first fiscal year for which payments pursuant to this subsection are to be made to the hospital, had applied to the hospital for the designated fiscal year.

"(B) The Secretary shall make an estimate in accordance with subparagraph (A) for all teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.

"(4) ADJUSTMENT OF PERCENTAGE.—The percentage determined under paragraph (3) shall be adjusted by the Secretary in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(5) LIMITATION.—This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which a demonstration project under section 1814(b)(3) is in effect.

"(c) CONSOLIDATIONS AND MERGERS.—In the case of two or more teaching hospitals that have each received payments pursuant to section 2231 for one or more fiscal years and that undergo a consolidation or merger, the percentage applicable to the resulting teaching hospital for purposes of section 2231(b)(2) is the sum of the respective percentages that would have applied pursuant to such section if the hospitals had not undergone the consolidation or merger.

"(d) STATES WITH CERTAIN DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—In the case of a teaching hospital in a State for which a demonstration project under section 1814(b)(3) is in effect—

"(A) the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital; and

"(B) the hospital is not eligible for any payments from the Medicare Indirect-Costs Medical Education Account.

"(2) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1)(A):

"(A) The Secretary shall make an estimate of the total amount of payments that would have been received under section 1886(d)(5)(b) by the hospital involved with respect to each of the fiscal years of the applicable period if such section (as in effect for such fiscal years) had applied to the hospital for such years.

"(B) The percentage determined under this paragraph for the hospital for a fiscal year is a mean average percentage determined for the hospital in accordance with the methodology of section 2231(b)(2), except that the estimate made by the Secretary under subparagraph (A) of this paragraph for a fiscal year of the applicable period is deemed to be the amount that applies for purposes of section 2231(b)(2)(C)(i) for such year.

"Subpart 4—Amount Relating to Direct Costs of Graduate Medical Education

"SEC. 2241. DETERMINATION OF AMOUNT RELATING TO DIRECT COSTS.

"(a) IN GENERAL.—For purposes of section 2211(a)(3), the amount determined under this section for a teaching hospital for a fiscal year is the sum of—

"(1) the amount determined under subsection (b) (relating to the General Direct-Costs Medical Education Account); and

"(2) the amount determined under subsection (c) (relating to the Medicare Direct-Costs Medical Education Account), subject to section 2242(d)(1)(B).

"(b) PAYMENT FROM GENERAL ACCOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the amount determined under this subsection for a teaching hospital for a fiscal year is the product of—

"(A) the amount in the General Direct-Costs Medical Education Account on the applicable date under section 2201(d)(2) (once the appropriation under such section is made); and

"(B) the percentage determined for the hospital under paragraph (2).

"(2) FIXED HOSPITAL-SPECIFIC PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the percentage determined under this paragraph for a teaching hospital is the mean average of the respective percentages determined under subparagraph (B) for each fiscal year of the applicable period (as defined in section 2231(b)(2)(B)), adjusted by the Secretary (upward or downward, as the case may be) on a pro rata basis to the extent necessary to ensure that the sum of the percentages determined under this subparagraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to section 2242.

"(B) RESPECTIVE DETERMINATIONS FOR FISCAL YEARS OF APPLICABLE PERIOD.—For purposes of subparagraph (A), the percentage determined under this subparagraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—

"(i) the total amount of payments received by the hospital under section 1886(h) for cost reporting periods beginning during the fiscal year involved; to

"(ii) the sum of the respective amounts determined under clause (i) for the fiscal year for all teaching hospitals.

"(3) AVAILABILITY OF DATA.—If a teaching hospital received the payments specified in paragraph (2)(B)(i) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such paragraph for the fiscal year involved, the Secretary shall for purposes of such paragraph make an estimate on the basis of such data as are available to the Secretary for the applicable period.

"(c) PAYMENT FROM MEDICARE ACCOUNT.—For purposes of subsection (a)(2), the amount determined under this subsection for a teaching hospital for a fiscal year is an amount determined in accordance with the methodology in effect under section 1886(h) for such year. Payments made under section 2211 pursuant to the preceding sentence shall be made from the Medicare Direct-Costs Medical Education Account.

"SEC. 2242. DIRECT COSTS; SPECIAL RULES REGARDING PAYMENTS FROM GENERAL ACCOUNT.

"(a) SPECIAL RULE REGARDING FISCAL YEARS 1995 AND 1996.—

"(1) IN GENERAL.—In the case of a teaching hospital whose first payments under section 1886(h) were for the cost reporting period beginning in fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2241(b)(2) to the hospital, subject to paragraph (3).

"(2) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the total amount of

payments received by the hospital under section 1886(h) for cost reporting periods beginning in fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for cost reporting periods beginning in fiscal year 1995 if such section, as in effect for fiscal year 1996, had applied to the hospital for fiscal year 1995.

"(B)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the aggregate total of the payments received by teaching hospitals under section 1886(h) for cost reporting periods beginning in fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996—

"(I) the Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals; and

"(II) the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).

"(3) ADJUSTMENT OF PERCENTAGE.—The percentage determined under paragraph (2) shall be adjusted by the Secretary in accordance with section 2241(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(b) NEW TEACHING HOSPITALS.—

"(1) IN GENERAL.—In the case of a teaching hospital that did not receive payments under section 1886(h) for any of the fiscal years 1992 through 1996, the percentage determined under paragraph (3) for the hospital is deemed to be the percentage applicable under section 2241(b)(2) to the hospital, subject to paragraphs (4) and (5).

"(2) DESIGNATED FISCAL YEAR REGARDING DATA.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most recent fiscal year for which the Secretary has sufficient data to make the determination (referred to in this subsection as the 'designated fiscal year').

"(3) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A) The amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for the designated fiscal year if such section, as in effect for the first fiscal year for which payments pursuant to this subsection are to be made to the hospital, had applied to the hospital for cost reporting periods beginning in the designated fiscal year.

"(B) The Secretary shall make an estimate in accordance with subparagraph (A) for all teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.

"(4) ADJUSTMENT OF PERCENTAGE.—The percentage determined under paragraph (3) shall be adjusted by the Secretary in accordance with section 2223(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(5) LIMITATION.—This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which a demonstration project under section 1814(b)(3) is in effect.

"(c) CONSOLIDATIONS AND MERGERS.—In the case of two or more teaching hospitals that have each received payments pursuant to section 2241 for one or more fiscal years and that undergo a consolidation or merger, the percentage applicable to the resulting teaching hospital for purposes of section 2241(b)(2) is the sum of the respective percentages that would have applied pursuant to such section if the hospitals had not undergone the consolidation or merger.

"(d) STATES WITH CERTAIN DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—In the case of a teaching hospital in a State for which a demonstration project under section 1814(b)(3) is in effect—

"(A) the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2241(b)(2) to the hospital; and

"(B) the hospital is not eligible for any payments from the Medicare Direct-Costs Medical Education Account.

"(2) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1)(A):

"(A) The Secretary shall make an estimate of the total amount of payments that would have been received under section 1886(h) by the hospital involved with respect to each of the fiscal years of the applicable period if such section (as in effect for such fiscal years) had applied to the hospital for such years.

"(B) The percentage determined under this paragraph for the hospital for a fiscal year is a mean average percentage determined for the hospital in accordance with the methodology of section 2241(b)(2), except that the estimate made by the Secretary under subparagraph (A) of this paragraph for a fiscal year of the applicable period is deemed to be the amount that applies for purposes of section 2241(b)(2)(B)(i) for such year.

"SEC. 2243. DIRECT COSTS; AUTHORITY FOR PAYMENTS TO CONSORTIA OF PROVIDERS.

"(a) IN GENERAL.—In lieu of making payments to teaching hospitals pursuant to sections 2221 and 2241, the Secretary may make payments under this section to consortia that meet the requirements of subsection (b).

"(b) QUALIFYING CONSORTIUM.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

"(1) The consortium consists of a teaching hospital and one or more of the following entities:

"(A) Schools of allopathic medicine or osteopathic medicine.

"(B) Other teaching hospitals.

"(C) Approved medical residency training programs.

"(D) Federally qualified health centers.

"(E) Medical group practices.

"(F) Managed care entities.

"(G) Entities furnishing outpatient services.

"(H) Such other entities as the Secretary determines to be appropriate.

"(2) The members of the consortium have agreed to collaborate in the programs of graduate medical education that are operated by such members.

"(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

"(4) The consortium meets such additional requirements as the Secretary may establish.

"(c) PAYMENTS FROM ACCOUNTS.—The total amount of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall be the sum of—

"(1) the aggregate amount determined for the teaching hospitals of the consortium pursuant to section 2221(a) (relating to the General MedicarePlus Incentive Account);

"(2) the aggregate amount determined for the teaching hospitals of the consortium pursuant to section 2241(a)(1) (relating to the General Direct-Costs Account); and

"(3) an amount determined for the consortium in accordance with the methodology in effect under section 1886(j)(2)(C)(i) for the fiscal year (relating to the Medicare Direct-Costs Account).

"(d) DEFINITION.—For purposes of this title, the term 'qualifying consortium' means a consortium that meets the requirements of subsection (b).".

CHAPTER 2—AMENDMENTS TO MEDICARE PROGRAM

SEC. 12511. TRANSFER OF FUNDS.

Section 1886 (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(5)(B), in the matter preceding clause (i), by striking "The Secretary shall provide" and inserting the following: "For discharges occurring on or before September 30, 1996, the Secretary shall provide";

(2) in subsection (h)—

(A) in paragraph (1), in the first sentence, by striking "the Secretary shall provide" and inserting "the Secretary shall, subject to paragraph (6), provide"; and

(B) by adding at the end the following paragraph:

"(6) LIMITATION.—

"(A) IN GENERAL.—The authority to make payments under this subsection applies only with respect to cost reporting periods ending on or before September 30, 1996, except as provided in subparagraph (B).

"(B) RULE REGARDING PORTION OF LAST COST REPORTING PERIOD.—In the case of a cost reporting period that extends beyond September 30, 1996, payments under this subsection shall be made with respect to such portion of the period as has lapsed as of such date.

"(C) RULE OF CONSTRUCTION.—This paragraph may not be construed as authorizing any payment under section 1861(v) with respect to graduate medical education."; and

(3) by adding at the end the following subsection:

"(j) TRANSFERS TO TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—

"(1) INDIRECT COSTS OF MEDICAL EDUCATION.—

"(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund, the Secretary shall, for fiscal year 1997 and each subsequent fiscal year, transfer to the Medicare Indirect-Costs Medical Education Account under section 2201 an amount determined by the Secretary in accordance with subparagraph (B).

"(B) DETERMINATION OF AMOUNTS.—The Secretary shall make an estimate for the fiscal year involved of the nationwide total of the amounts that would have been paid under subsection (d)(5)(B) to hospitals during the fiscal year if such payments had not been terminated for discharges occurring after September 30, 1996. For purposes of subparagraph (A), the amount determined under this subparagraph for the fiscal year is the estimate made by the Secretary under the preceding sentence.

"(C) SUPPLEMENTAL TRANSFERS.—If the Secretary determines that the amount of a transfer under subparagraph (A) for a fiscal year is insufficient for making payments in the amounts required pursuant to section 2231(a)(2) for the year, the Secretary shall make such additional transfers for the year between the funds and accounts involved as the Secretary determines to be necessary for making the payments.

"(2) DIRECT COSTS OF MEDICAL EDUCATION.—

"(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1997 and each subsequent fiscal year, transfer to the Medicare Direct-Costs Medical Education Account (under section 2201) the sum of—

"(i) an amount determined by the Secretary in accordance with subparagraph (B); and

"(ii) as applicable, an amount determined by the Secretary in accordance with subparagraph (C)(ii).

"(B) DETERMINATION OF AMOUNTS.—For each hospital (other than a hospital that is a member of a qualifying consortium referred to in subparagraph (C)), the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid under subsection (h) to the hospital during the fiscal year if such payments had not been terminated for cost reporting periods ending on or before September 30, 1996. For purposes of subparagraph (A)(i), the amount determined under this subparagraph for the fiscal year is the sum of all estimates made by the Secretary under the preceding sentence.

"(C) ESTIMATES REGARDING QUALIFYING CONSORTIA.—If the Secretary authorizes payments under section 2243(a) to one or more qualifying consortia, the Secretary shall carry out the following:

"(i) The Secretary shall establish a methodology for making payments to qualifying consortia with respect to the reasonable direct costs of such consortia in carrying out programs of graduate medical education. The methodology shall be the methodology established in subsection (h), modified to the extent necessary to take into account the participation in such programs of entities other than hospitals.

"(ii) For each qualifying consortium, the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid to the consortium during the fiscal year if, using the methodology under clause (i), payments had been made to the consortium for the fiscal year as reimbursements with respect to cost reporting periods. For purposes of subparagraph (A)(ii), the amount determined under this clause for the fiscal year is the sum of all estimates made by the Secretary under the preceding sentence.

"(D) ALLOCATION BETWEEN FUNDS.—In providing for a transfer under subparagraph (A) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

"(E) SUPPLEMENTAL TRANSFERS.—If the Secretary determines that the amount of a transfer under subparagraph (A) for a fiscal year is insufficient for making payments in the amounts required pursuant to sections 2241(a)(2) and 2243(c)(3) for the year, the Secretary shall make such additional transfers for the year between the funds and accounts involved as the Secretary determines to be necessary for making the payments.

"(3) APPLICABILITY OF CERTAIN AMENDMENTS.—Amendments made to subsection (d)(5)(B) and subsection (h) that are effective on or after October 1, 1996, apply only for purposes of estimates under paragraphs (1) and (2) and for purposes of determining the amount of payments under 2211. Such amendments do not require any adjustment to amounts paid under subsection (d)(5)(B) or (h) with respect to fiscal year 1996 or any prior fiscal year.

"(4) RELATIONSHIP TO CERTAIN DEMONSTRATION PROJECTS.—In the case of a State for which a demonstration project under section 1814(b)(3) is in effect, the Secretary, in making determinations of the rates of increase under such section, shall include all amounts transferred under this subsection. Such amounts shall be so included to the same extent and in the same manner as amounts determined under subsections (d)(5)(B) and (h) were included in such determination under the provisions of this title in effect on September 30, 1996.".

Title XII—Other Provisions

Subtitle F—National Defense Stockpile

SEC. 12601. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.

(a) DISPOSALS REQUIRED.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as of the date of the enactment of this Act, is authorized for disposal under any law (other than this Act).

(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and quantities of other materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in amounts equal to—

(A) $21,000,000 during the fiscal year ending September 30, 1996;

(B) $338,000,000 during the five-fiscal year period ending on September 30, 2000; and

(C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a)(2) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	30,000,000 pounds contained
Columbium Ferro	930,911 pounds contained
Germanium Metal	40,000 kilograms
Indium	35,000 troy ounces
Palladium	15,000 troy ounces
Platinum	10,000 troy ounces
Rubber, Natural	125,138 long tons
Tantalum, Carbide Powder.	6,000 pounds contained
Tantalum, Minerals	750,000 pounds contained
Tantalum, Oxide	40,000 pounds contained

(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a)(2) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a)(2) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) TERMINATION OF DISPOSAL AUTHORITY.—The President may not use the disposal authority provided in subsection (a)(2) after the date on which the total amount of receipts specified in subparagraph (C) of such subsection is achieved.

(f) DEFINITION.—The term "National Defense Stockpile" means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

Subtitle G—Child Protection Block Grant Program And Foster Care and Adoption Assistance

SEC. 12701. ESTABLISHMENT OF PROGRAM.

Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by striking subpart 2 of part B and inserting the following:

"Subpart 2—Block Grants to States for the Protection of Children and Matching Payments for Foster Care and Adoption Assistance

"SEC. 430. ELIGIBLE STATES.

"(a) IN GENERAL.—As used in this subpart, the term 'eligible State' means a State that has submitted to the Secretary, not later than October 1, 1996, and every 3 years thereafter, a plan which has been signed by the chief executive officer of the State and that includes the following:

"(1) OUTLINE OF CHILD PROTECTION PROGRAM.—A written document that outlines the activities the State intends to conduct to achieve the child protection goals of the program funded under this subpart, including the procedures to be used for—

"(A) receiving and assessing reports of child abuse or neglect;

"(B) investigating such reports;

"(C) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;

"(D) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

"(E) providing training for individuals mandated to report suspected cases of child abuse or neglect;

"(F) protecting children in foster care;

"(G) promoting timely adoptions;

"(H) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards;

"(I) providing services to individuals, families, or communities, either directly or through referral, that are aimed at preventing the occurrence of child abuse and neglect; and

"(J) establishing and responding to citizen review panels under section 434.

"(2) CERTIFICATION OF STATE LAW REQUIRING THE REPORTING OF CHILD ABUSE AND NEGLECT.—A certification that the State has in effect laws that require public officials and other professionals to report, in good faith, actual or suspected instances of child abuse or neglect.

"(3) CERTIFICATION OF PROCEDURES FOR SCREENING, SAFETY ASSESSMENT, AND PROMPT INVESTIGATION.—A certification that the State has in effect procedures for receiving and responding to reports of child abuse or neglect, including the reports described in paragraph (2), and for the immediate screening, safety assessment, and prompt investigation of such reports.

"(4) CERTIFICATION OF STATE PROCEDURES FOR REMOVAL AND PLACEMENT OF ABUSED OR NEGLECTED CHILDREN.—A certification that the State has in effect procedures for the removal from families and placement of abused or neglected children and of any other child in the same household who may also be in danger of abuse or neglect.

"(5) CERTIFICATION OF PROVISIONS FOR IMMUNITY FROM PROSECUTION.—A certification that the State has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

"(6) CERTIFICATION OF PROVISIONS AND PROCEDURES FOR EXPUNGEMENT OF CERTAIN

RECORDS.—A certification that the State has in effect laws and procedures requiring the facilitation of the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false.

"(7) CERTIFICATION OF PROVISIONS AND PROCEDURES RELATING TO APPEALS.—A certification that not later than 2 years after the date of the enactment of this subpart, the State shall have laws and procedures in effect affording individuals an opportunity to appeal an official finding of abuse or neglect.

"(8) CERTIFICATION OF STATE PROCEDURES FOR DEVELOPING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF REMOVED CHILDREN.—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children who have been removed from their families. Such plan shall specify the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months (until such placement is achieved), and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.

"(9) CERTIFICATION OF STATE PROGRAM TO PROVIDE INDEPENDENT LIVING SERVICES.—A certification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 16, but who are not 20 (or, at the option of the State, 22), years of age, and who do not have a family to which to be returned.

"(10) CERTIFICATION OF STATE PROCEDURES TO RESPOND TO REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—

"(A) IN GENERAL.—A certification that the State has in place for the purpose of responding to the reporting of medical neglect of infants (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

"(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

"(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

"(iii) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

"(B) WITHHOLDING OF MEDICALLY INDICATED TREATMENT.—As used in subparagraph (A), the term 'withholding of medically indicated treatment' means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that such term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—

"(i) the infant is chronically and irreversibly comatose;

"(ii) the provision of such treatment would—

"(I) merely prolong dying;

"(II) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

"(III) otherwise be futile in terms of the survival of the infant; or

"(iii) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

"(11) IDENTIFICATION OF CHILD PROTECTION GOALS.—The quantitative goals of the State child protection program.

"(12) CERTIFICATION OF CHILD PROTECTION STANDARDS.—With respect to fiscal years beginning on or after April 1, 1996, a certification that the State—

"(A) has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

"(i) the appropriateness of, and necessity for, the foster care placement;

"(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

"(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

"(B) is operating, to the satisfaction of the Secretary—

"(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

"(ii) a case review system for each child receiving foster care under the supervision of the State;

"(iii) a service program designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

"(iv) a preplacement preventive services program designed to help children at risk for foster care placement remain with their families; and

"(C)(i) has reviewed (or not later than October 1, 1997, will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

"(ii) is implementing (or not later than October 1, 1997, will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.

"(13) CERTIFICATION OF REASONABLE EFFORTS BEFORE PLACEMENT OF CHILDREN IN FOSTER CARE.—A certification that the State in each case will—

"(A) make reasonable efforts prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the child's home, and to make it possible for the child to return home; and

"(B) with respect to families in which abuse or neglect has been confirmed, provide services or referral for services for families and children where the State makes a determination that the child may safely remain with the family.

"(14) CERTIFICATION OF COOPERATIVE EFFORTS.—A certification by the State, where appropriate, that all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this subpart.

"(b) DETERMINATIONS.—The Secretary shall determine whether a plan submitted pursuant to subsection (a) contains the material required by subsection (a), other than the material described in paragraph (10) of such subsection. The Secretary may not require a State to include in such a plan any material not described in subsection (a).

"SEC. 431. GRANTS TO STATES FOR CHILD PROTECTION AND PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

"(a) FUNDING OF BLOCK GRANTS.—Each eligible State shall be entitled to receive from the Secretary for each fiscal year specified in subsection (c)(1) a grant in an amount equal to the State share of the child protection amount for the fiscal year.

"(b) MAINTENANCE PAYMENTS.—

"(1) IN GENERAL.—In addition to the grants described in subsection (a), each eligible State shall be entitled to receive from the Secretary for each quarter of each fiscal year specified in subsection (c)(1) an amount equal to the sum of—

"(A) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act as in effect on the day before the date of enactment of this subpart) of the total amount expended during such quarter as foster care maintenance payments under the child protection program under this subpart for children in foster family homes or child-care institutions; plus

"(B) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act (as so in effect)) of the total amount expended during such quarter as adoption assistance payments under the child protection program under this subpart pursuant to adoption assistance agreements.

"(2) ESTIMATES BY THE SECRETARY.—

"(A) IN GENERAL.—The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled to receive under paragraph (1) for such quarter, such estimates to be based on—

"(i) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with paragraph (1), and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived;

"(ii) records showing the number of children in the State receiving assistance under this subpart; and

"(iii) such other information as the Secretary may find necessary.

"(B) PAYMENTS.—The Secretary shall pay to the States the amounts so estimated under subparagraph (A), reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this subsection to such State for any prior quarter and with respect to which adjustment has not already been made under this paragraph.

"(C) PRO RATA SHARE.— The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under this subpart shall be considered an overpayment to be adjusted under this paragraph.

"(3) ALLOWANCE OR DISALLOWANCE OF CLAIM.—

"(A) IN GENERAL.—Within 60 days after receipt of a State claim for expenditures pursuant

to paragraph (2)(A), the Secretary shall allow, disallow, or defer such claim.

“(B) NOTICE.—Within 15 days after a decision to defer a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

“(C) DECISION.—Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

“(i) disallow the claim, if able to complete the review and determine that the claim is not allowable; or

“(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

“(I) upon completion of the review, if it is determined that the claim is not allowable; or

“(II) on the basis of findings of an audit or financial management review.

“(c) DEFINITIONS.—As used in this section:

“(1) CHILD PROTECTION AMOUNT.—The term ‘child protection amount’ means—

“(A) $1,936,000,000 for fiscal year 1996;

“(B) $1,942,000,000 for fiscal year 1997;

“(C) $2,063,000,000 for fiscal year 1998;

“(D) $2,167,000,000 for fiscal year 1999;

“(E) $2,297,000,000 for fiscal year 2000;

“(F) $2,432,000,000 for fiscal year 2001; and

“(G) $2,593,000,000 for fiscal year 2002;

“(2) STATE SHARE.—

“(A) IN GENERAL.—The term ‘State share’ means the qualified child protection expenses of the State divided by the sum of the qualified child protection expenses of all of the States.

“(B) QUALIFIED CHILD PROTECTION EXPENSES.—The term ‘qualified child protection expenses’ means, with respect to a State the greater of—

“(i) the total amount of—

“(I) ⅓ of the total obligations to the State under the provisions of law specified in clauses (i), (ii), and (iii) of subparagraph (C) for fiscal years 1992, 1993, and 1994; and

“(II) ⅓ of the total claims submitted by the State (without regard to disputed claims) under the provision of law specified in subparagraph (C)(iv) for fiscal years 1992, 1993, and 1994; or

“(ii) the total amount of—

“(I) the total obligations to the State under the provisions of law specified in clauses (i), (ii), and (iii) of subparagraph (C) for fiscal year 1995; and

“(II) the total claims submitted by the State (without regard to disputed claims) under the provision of law specified in subparagraph (C)(iv) for fiscal year 1995.

“(C) PROVISIONS OF LAW.—The provisions of law specified in this subparagraph are the following (as in effect on the day before the date of enactment of this subpart):

“(i) Section 434 of this Act.

“(ii) Section 474(a)(4) of this Act.

“(iii) Section 474(a)(3) of this Act.

“(d) USE OF GRANT.—

“(1) IN GENERAL.—A State to which a grant is made under this section may use the grant in any manner that the State deems appropriate to accomplish the child protection goals of the State program funded under this subpart.

“(2) TIMING OF EXPENDITURES.—A State to which a grant is made under this section for a fiscal year shall expend the total amount of the grant not later than the end of the immediately succeeding fiscal year.

“(3) RULE OF INTERPRETATION.—This subpart shall not be interpreted to prohibit short- and long-term foster care facilities operated for profit from receiving funds provided under this subpart.

“(e) TIMING OF PAYMENTS.—The Secretary shall pay each eligible State the amount of the grant payable to the State under this section in quarterly installments.

“(f) PENALTIES.—

“(1) FOR USE OF GRANT IN VIOLATION OF THIS SUBPART.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that an amount paid to a State under this section for a fiscal year has been used in violation of this subpart, then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount so used, plus 5 percent of the grant paid under this section to the State for such fiscal year.

“(2) FOR FAILURE TO MAINTAIN EFFORT.—

“(A) IN GENERAL.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that the amount expended by a State (other than from amounts provided by the Federal Government) during the fiscal years specified in subparagraph (B), to carry out the State program funded under this subpart is less than the applicable percentage specified in such subparagraph of the total amount expended by the State (other than from amounts provided by the Federal Government) during fiscal year 1995 under subpart 2 of part B and part E of this title (as in effect on the day before the date of the enactment of this subpart), then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount of the difference, plus 5 percent of the grant paid under this section to the State for such fiscal year.

“(B) SPECIFICATION OF FISCAL YEARS AND APPLICABLE PERCENTAGES.—The fiscal years and applicable percentages specified in this subparagraph are as follows:

“(i) For fiscal years 1996 and 1997, 100 percent.

“(ii) For fiscal years 1998 through 2002, 75 percent.

“(3) FOR FAILURE TO SUBMIT REQUIRED REPORT.—

“(A) IN GENERAL.—The Secretary shall reduce by 3 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a fiscal year if the Secretary determines that the State has not submitted the report required by section 436(b) for the immediately preceding fiscal year, within 6 months after the end of the immediately preceding fiscal year.

“(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

“(4) FOR FAILURE TO COMPLY WITH SAMPLING METHODS REQUIREMENTS.—The Secretary may reduce by not more than 1 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a succeeding fiscal year if the Secretary determines that the State has not complied with the Secretary's sampling methods requirements under section 436(c)(2) during the prior fiscal year.

“(5) STATE FUNDS TO REPLACE REDUCTIONS IN GRANT.—A State which has a penalty imposed against it under this subsection for a fiscal year shall expend additional State funds in an amount equal to the amount of the penalty for the purpose of carrying out the State program under this subpart during the immediately succeeding fiscal year.

“(6) REASONABLE CAUSE EXCEPTION.—The Secretary may not impose a penalty on a State under this subsection with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

“(7) CORRECTIVE COMPLIANCE PLAN.—

“(A) IN GENERAL.—

“(i) NOTIFICATION OF VIOLATION.—Notwithstanding any other provision of law, the Federal Government shall, before assessing a penalty against a State under this subsection, notify the State of the violation of law for which the penalty would be assessed and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State will correct any such violations and how the State will insure continuing compliance with the requirements of this subpart.

“(ii) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—Any State notified under clause (i) shall have 60 days in which to submit to the Federal Government a corrective compliance plan to correct any violations described in clause (i).

“(iii) ACCEPTANCE OF PLAN.—The Federal Government shall have 60 days to accept or reject the State's corrective compliance plan and may consult with the State during this period to modify the plan. If the Federal Government does not accept or reject the corrective compliance plan during the period, the corrective compliance plan shall be deemed to be accepted.

“(B) FAILURE TO CORRECT.—If a corrective compliance plan is accepted by the Federal Government, no penalty shall be imposed with respect to a violation described in this subsection if the State corrects the violation pursuant to the plan. If a State has not corrected the violation in a timely manner under the plan, some or all of the penalty shall be assessed.

“(8) LIMITATION ON AMOUNT OF PENALTY.—

“(A) IN GENERAL.—In imposing the penalties described in this subsection, the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

“(B) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that subparagraph (A) prevents the Secretary from recovering during a fiscal year the full amount of all penalties imposed on a State under this subsection for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 431(a) for the immediately succeeding fiscal year.

“(g) TREATMENT OF TERRITORIES.—

“(1) IN GENERAL.—A territory, as defined in section 1108(b)(1), shall carry out a child protection program in accordance with the provisions of this subpart.

“(2) PAYMENTS.—Each territory, as so defined, shall be entitled to receive from the Secretary for any fiscal year an amount, in accordance with section 1108, which shall be used for the purpose of carrying out a child protection program in accordance with the provisions of this subpart.

“(h) LIMITATION ON FEDERAL AUTHORITY.—Except as expressly provided in this Act, the Secretary may not regulate the conduct of States under this subpart or enforce any provision of this subpart.

“SEC. 432. REQUIREMENTS FOR FOSTER CARE MAINTENANCE PAYMENTS.

“(a) IN GENERAL.—Each State operating a program under this subpart shall make foster care maintenance payments under section 431(b) with respect to a child who would meet the requirements of section 406(a) or of section 407 (as in effect on the day before the date of the enactment of this subpart) but for the removal of the child from the home of a relative (specified in section 406(a)(as so in effect)), if—

“(1) the removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and that reasonable efforts of the type described in section 430(a)(13) have been made;

"(2) such child's placement and care are the responsibility of—

"(A) the State; or

"(B) any other public agency with whom the State has made an agreement for the administration of the State program under this subpart which is still in effect;

"(3) such child has been placed in a foster family home or child-care institution as a result of the voluntary placement agreement or judicial determination referred to in paragraph (1); and

"(4) such child—

"(A) would have been eligible to receive aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this subpart and adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated; or

"(B) would have received such aid in or for such month if application had been made therefore, or the child had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefore had been made.

"(b) LIMITATION ON FOSTER CARE PAYMENTS.—Foster care maintenance payments may be made under this subpart only on behalf of a child described in subsection (a) of this section who is—

"(1) in the foster family home of an individual, whether the payments therefore are made to such individual or to a public or private child-placement or child-care agency; or

"(2) in a child-care institution, whether the payments therefore are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payments' (as defined in section 437(6)).

"(c) VOLUNTARY PLACEMENTS.—

"(1) SATISFACTION OF CHILD PROTECTION STANDARDS.—Notwithstanding any other provision of this section, Federal payments may be made under this subpart with respect to amounts expended by any State as foster care maintenance payments under this subpart, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 435(b) or 430(a)(12).

"(2) REMOVAL IN EXCESS OF 180 DAYS.—No Federal payment may be made under this subpart with respect to amounts expended by any State as foster care maintenance payments, in the case of any child who was removed from such child's home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

"(3) DEEMED REVOCATION OF AGREEMENTS.—In any case where—

"(A) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a); and

"(B) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

the voluntary placement agreement shall be deemed to be revoked unless the State opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.

"SEC. 433. REQUIREMENTS FOR ADOPTION ASSISTANCE PAYMENTS.

"(a) IN GENERAL.—A State operating a program under this subpart shall enter into adoption assistance agreements with the adoptive parents of children with special needs.

"(b) PAYMENTS UNDER AGREEMENTS.—Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs who meets the requirements of subsection (c), the State may make adoption assistance payments to such parents or through another public or nonprofit private agency, in amounts determined under subsection (d).

"(c) CHILDREN WITH SPECIAL NEEDS.—For purposes of subsection (b), a child meets the requirements of this subsection if such child—

"(1)(A) at the time adoption proceedings were initiated, met the requirements of section 406(a) or section 407 (as in effect on the day before the date of the enactment of this subpart) or would have met such requirements except for such child's removal from the home of a relative (specified in section 406(a) (as so in effect)), either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 431(b) (or 403 (as so in effect)) or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

"(B) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

"(C) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent;

"(2)(A) would have received aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this subpart, adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated;

"(B) would have received such aid in or for such month if application had been made therefore, or had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefore had been made; or

"(C) is a child described in subparagraph (A) or (B); and

"(3) has been determined by the State, pursuant to subsection (g) of this section, to be a child with special needs.

"(d) DETERMINATION OF PAYMENTS.—The amount of the payments to be made in any case under subsection (b) shall be determined through agreement between the adoptive parents and the State or a public or nonprofit private agency administering the program under this subpart, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

"(e) PAYMENT EXCEPTION.—Notwithstanding subsection (d), no payment may be made to parents with respect to any child who has attained the age of 18 (or, where the State determines that the child has a mental or physical disability which warrants the continuation of assistance, the age of 21), and no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this subpart shall keep the State or public or nonprofit private agency administering the program under this subpart informed of circumstances which would, pursuant to this section, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

"(f) PRE-ADOPTION PAYMENTS.—For purposes of this subpart, individuals with whom a child who has been determined by the State, pursuant to subsection (g), to be a child with special needs is placed for adoption in accordance with applicable State and local law shall be eligible for adoption assistance payments during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

"(g) DETERMINATION OF CHILD WITH SPECIAL NEEDS.—For purposes of this section, a child shall not be considered a child with special needs unless—

"(1) the State has determined that the child cannot or should not be returned to the home of the child's parents; and

"(2) the State had first determined—

"(A) that there exists with respect to the child a specific factor or condition such as the child's ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this subpart or medical assistance under title XIX or XXI; and

"(B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX or XXI.

"SEC. 434. CITIZEN REVIEW PANELS.

"(a) ESTABLISHMENT.—Each State to which a grant is made under section 431(a) shall establish at least 3 citizen review panels.

"(b) COMPOSITION.—Each panel established under subsection (a) shall be broadly representative of the community from which drawn.

"(c) FREQUENCY OF MEETINGS.—Each panel established under subsection (a) shall meet not less frequently than quarterly.

"(d) DUTIES.—

"(1) IN GENERAL.—Each panel established under subsection (a) shall, by examining specific cases, determine the extent to which the State and local agencies responsible for carrying out activities under this subpart are doing so in accordance with the State plan, with the child protection standards set forth in section 430(a)(12) and 435, and with any other criteria that the panel considers important to ensure the protection of children.

"(2) CONFIDENTIALITY.—The members and staff of any panel established under subsection (a) shall not disclose to any person or government any information about any specific child protection case with respect to which the panel is provided information.

"(e) STATE ASSISTANCE.—Each State that establishes a panel under subsection (a) shall afford the panel access to any information on any case that the panel desires to review, and shall provide the panel with staff assistance in performing its duties.

"(f) REPORTS.—Each panel established under subsection (a) shall make a public report of its activities after each meeting.

"SEC. 435. FOSTER CARE PROTECTION REQUIRED FOR ADDITIONAL FEDERAL PAYMENTS.

"(a) REDUCTION OF GRANT.—A State shall not receive a grant under section 431(a) unless such State—

"(1) has conducted an inventory of all children who have been in foster care under the responsibility of the State for a period of 6 months preceding the inventory, and determined the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship; and

"(2) has implemented and is operating to the satisfaction of the Secretary—

"(A) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding 12 months can readily be determined;

"(B) a case review system (as defined in section 437(4)) for each child receiving foster care under the supervision of the State; and

"(C) a service program designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship.

"(b) ADDITIONAL REQUIREMENTS.—A State shall not receive a grant under section 431(a) unless such State—

"(1) has completed an inventory of the type specified in subsection (a)(1);

"(2) has implemented and is operating the program and systems specified in subsection (a)(2); and

"(3) has implemented a preplacement preventive service program designed to help children remain with their families.

"(c) PRESUMPTION FOR EXPENDITURES.—Any amounts expended by a State for the purpose of complying with the requirements of subsection (a) or (b) shall be conclusively presumed to have been expended for child welfare services.

"SEC. 436. DATA COLLECTION AND REPORTING.

"(a) ANNUAL REPORTS ON STATE CHILD WELFARE GOALS.—On the date that is 3 years after the effective date of this subpart and annually thereafter, each State to which a grant is made under section 431(a) shall submit to the Secretary a report that contains quantitative information on the extent to which the State is making progress toward achieving the goals of the State child protection program.

"(b) STATE DATA REPORTS.—

"(1) BIANNUAL REPORTS.—Each State to which a grant is made under section 431(a) shall biannually submit to the Secretary a report that includes the following information with respect to each child within the State receiving publicly-supported child welfare services under the State program funded under this subpart:

"(A) Whether the child received services under the program funded under this subpart.

"(B) The age, gender, and family income of the parents and child.

"(C) The county of residence of the child.

"(D) Whether the child was removed from the family.

"(E) Whether the child entered foster care under the responsibility of the State.

"(F) The type of out-of-home care in which the child was placed (including institutional care, group home care, family foster care, or relative placement).

"(G) The child's permanency planning goal, such as family reunification, kinship care, adoption, or independent living.

"(H) Whether the child was released for adoption.

"(I) Whether the child exited from foster care, and, if so, the reason for the exit, such as return to family, placement with relatives, adoption, independent living, or death.

"(J) Other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure a that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

"(2) ANNUAL REPORTS.—Each State to which a grant is made under section 431(a) shall annually submit to the Secretary a report that includes the following information:

"(A) The number of children reported to the State during the year as alleged victims of abuse or neglect.

"(B) The number of children for whom an investigation of alleged maltreatment resulted in a determination of substantiated abuse or neglect, the number for whom a report of maltreatment was unsubstantiated, and the number for whom a report of maltreatment was determined to be false.

"(C) The number of families that received preventive services.

"(D) The number of infants abandoned during the year, the number of such infants who were adopted, and the length of time between abandonment and adoption.

"(E) The number of deaths of children resulting from child abuse or neglect.

"(F) The number of deaths occurring while children were in the custody of the State.

"(G) The number of children served by the State independent living program.

"(H) Quantitative measurements demonstrating whether the State is making progress toward the child protection goals identified by the State.

"(I) The types of maltreatment suffered by victims of child abuse and neglect.

"(J) The number of abused and neglected children receiving services.

"(K) The average length of stay of children in out-of-home care.

"(L) The response of the State to the findings and recommendations of the citizen review panels established under section 434.

"(M) Other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure a that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

"(c) AUTHORITY OF STATES TO USE ESTIMATES.—

"(1) IN GENERAL.—A State may comply with a requirement to provide precise numerical information described in subsection (b) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods.

"(2) SECRETARIAL REVIEW OF SAMPLING METHODS.—The Secretary shall periodically review the sampling methods used by a State to comply with a requirement to provide information described in subsection (b). The Secretary may require a State to revise the sampling methods so used if such methods do not meet scientific standards and shall impose the penalty described in section 431(f)(4) upon a State if a State has not complied with such requirements.

"(d) SCOPE OF STATE PROGRAM FUNDED UNDER THIS SUBPART.—As used in subsection (b), the term 'State program funded under this subpart' includes any equivalent State program.

"SEC. 437. DEFINITIONS.

"For purposes of this subpart, the following definitions shall apply:

"(1) ADMINISTRATIVE REVIEW.—The term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"(2) ADOPTION ASSISTANCE AGREEMENT.—The term 'adoption assistance agreement' means a written agreement, binding on the parties to the agreement, between the State, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum—

"(A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement; and

"(B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time.

The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

"(3) CASE PLAN.—The term 'case plan' means a written document which includes at least the following:

"(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 432(a)(1).

"(B) A plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his or her own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

"(C) To the extent available and accessible, the health and education records of the child, including—

"(i) the names and addresses of the child's health and educational providers;

"(ii) the child's grade level performance;

"(iii) the child's school record;

"(iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;

"(v) a record of the child's immunizations;

"(vi) the child's known medical problems;

"(vii) the child's medications; and

"(viii) any other relevant health and education information concerning the child determined to be appropriate by the State.

Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

"(4) CASE REVIEW SYSTEM.—The term 'case review system' means a procedure for assuring that—

"(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child, which—

"(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child; and

"(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State in which the home of the parents of the child is located;

"(B) the status of each child is reviewed periodically but no less frequently than once every 6 months by either a court or by administrative review (as defined in paragraph (1)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship;

"(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 18 months after the original placement (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis) and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living; and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents; and

"(D) a child's health and education record (as described in paragraph (3)(C)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.

"(5) CHILD-CARE INSTITUTION.—The term 'child-care institution' means a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

"(6) FOSTER CARE MAINTENANCE PAYMENTS.—

"(A) IN GENERAL.—The term 'foster care maintenance payments' means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

"(B) SPECIAL RULE.—In cases where—

"(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution; and

"(ii) payments described in subparagraph (A) are being made under this subpart with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

"(7) FOSTER FAMILY HOME.—The term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing.

"(8) STATE.—The term 'State' means the 50 States and the District of Columbia.

"(9) VOLUNTARY PLACEMENT.—The term 'voluntary placement' means an out-of-home placement of a minor, by or with participation of the State, after the parents or guardians of the minor have requested the assistance of the State and signed a voluntary placement agreement.

"(10) VOLUNTARY PLACEMENT AGREEMENT.—The term 'voluntary placement agreement' means a written agreement, binding on the parties to the agreement, between the State, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.".

SEC. 12702. CONFORMING AMENDMENTS.

(a) REPEAL OF PART E OF TITLE IV OF THE SOCIAL SECURITY ACT.—Part E of title IV of the Social Security Act (42 U.S.C. 671–679) is hereby repealed.

(b) REPEAL OF SECTION 13712 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993.—Section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note) is hereby repealed.

(c) REPEAL OF SECTION 435.—Section 435 of the Social Security Act, as amended by section 12701, is repealed on April 1, 1996.

SEC. 12703. EFFECTIVE DATE; TRANSITION RULE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect as if enacted on October 1, 1995.

(b) TRANSITION RULE.—

(1) STATE OPTION TO CONTINUE PROGRAMS.—

(A) 9-MONTH EXTENSION.—A State may continue the State programs under subpart 2 of part B and part E of title IV of the Social Security Act, as in effect on September 30, 1995 (for purposes of this paragraph, the "State programs") until June 30, 1996.

(B) NO INDIVIDUAL OR FAMILY ENTITLEMENT UNDER CONTINUED STATE PROGRAMS.—Notwithstanding any other provision of law or any rule of law, no individual or family is entitled to aid under the State programs of any State on or after the date of the enactment of this Act.

(C) LIMITATIONS ON FEDERAL OBLIGATIONS.—If a State elects to continue the State programs pursuant to subparagraph (A), the total obligations of the Federal Government to the State under subpart 2 of part B and part E of title IV of the Social Security Act (as such subpart and part are in effect on September 30, 1995) after the date of the enactment of this Act shall not exceed an amount equal to—

(I) the grant to the State under section 431(a) (as in effect pursuant to the amendment made by section 12701 of this Act)); minus

(II) any obligations of the Federal Government to the State under such subpart and part (as in effect on September 30, 1995) with respect to expenditures by the State during the period that begins on October 1, 1995, and ends on the day before the date of the enactment of this Act.

(D) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State under section 430(a) of the Social Security Act (as in effect pursuant to the amendment made by section 12701 of this Act) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant reduction under subparagraph (C) of this paragraph (including the formula for computing the amount of the reduction).

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS SUBTITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made under programs which are repealed or substantially amended in this subtitle and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year, shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—

(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs; and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the funds authorized by this subtitle.

Subtitle H—Child Care

SEC. 12801. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the "Child Care and Development Block Grant Amendments of 1995".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

SEC. 12802. AUTHORIZATION OF APPROPRIATIONS AND ENTITLEMENT AUTHORITY.

(a) IN GENERAL.—Section 658B (42 U.S.C. 9858) is amended to read as follows:

"SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subchapter $1,000,000,000 for each of the fiscal years 1996 through 2002.".

(b) SOCIAL SECURITY ACT.—Part A of title IV of the Social Security Act (as amended by section 12101) is amended by adding at the end thereof the following new section:

"SEC. 418. FUNDING FOR CHILD CARE.

"(a) GENERAL CHILD CARE ENTITLEMENT.—

"(1) GENERAL ENTITLEMENT.—Subject to the amount appropriated under paragraph (3), each State shall, for the purpose of providing child care assistance, be entitled to payments under a grant under this subsection for a fiscal year in an amount equal to—

"(A) the sum of the total amounts of Federal payments for fiscal year 1994 to the State under section—

"(i) 402(g)(3)(A) of this Act (as such section was in effect before October 1, 1995) for amounts expended for child care pursuant to paragraph (1) of such section;

"(ii) 403(l)(1)(A) of this Act (as so in effect) for amounts expended for child care pursuant to section 402(g)(1)(A) of this Act, in the case of a State with respect to which section 1108 of this Act applies; and

"(iii) 403(n) of this Act (as so in effect) for child care services pursuant to section 402(i) of this Act; or

"(B) the average of the sum of the total amount of Federal payments for each of the fiscal years 1992 through 1994 to the State under the sections referred to in subparagraph (A);

whichever is greater.

"(2) REMAINDER.—

"(A) GRANTS.—The Secretary shall use any amounts appropriated for a fiscal year under paragraph (3), and remaining after grants are awarded under paragraph (1), to make grants to States under this paragraph.

"(B) AMOUNT.—Subject to subparagraph (C), the amount of a grant awarded to a State for a fiscal year under this paragraph shall be based on the formula used for determining the amount of Federal payments to the State for fiscal year 1994 under section 403(n) (as such section was in effect before October 1, 1995) for child care services pursuant to section 402(i) as such amount relates to the total amount of such Federal payments to all States for such fiscal year.

"(C) MATCHING REQUIREMENT.—The Secretary shall pay to each eligible State in a fiscal year an amount, under a grant under subparagraph (A), equal to the Federal medical assistance percentage for such State for fiscal year 1995 (as defined in section 1905(b)) of so much of the expenditures by the State for child care in such year as exceed the State set-aside for such State under subparagraph (A) for such year and the amount of State expenditures in fiscal year 1995 that equal the non-Federal share for the programs described in subparagraphs (A), (B) and (C) of paragraph (1).

"(3) APPROPRIATION.—There is authorized to be appropriated, and there is appropriated, to carry out this section—

"(A) $1,170,000,000 for fiscal year 1996;

"(B) $1,240,000,000 for fiscal year 1997;

"(C) $1,320,000,000 for fiscal year 1998;

"(D) $1,400,000,000 for fiscal year 1999;

"(E) $1,500,000,000 for fiscal year 2000;

"(F) $1,625,000,000 for fiscal year 2001; and

"(G) $1,745,000,000 for fiscal year 2002.

"(4) REDISTRIBUTION.—With respect to any fiscal year, if the Secretary determines that amounts under any grant awarded to a State under this subsection for such fiscal year will not be used by such State for carrying out the purpose for which the grant is made, the Secretary shall make such amounts available for carrying out such purpose to 1 or more other States which apply for such funds to the extent the Secretary determines that such other States will be able to use such additional amounts for carrying out such purpose. Such available amounts shall be redistributed to a State pursuant to section 402(i) (as such section was in effect before October 1, 1995) by substituting 'the number of children residing in all States applying for such funds' for 'the number of children residing in the United States in the second preceding fiscal year'. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under this subsection) for such year.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts received by a State under this section shall only be used to provide child care assistance.

"(2) USE FOR CERTAIN POPULATIONS.—A State shall ensure that not less than 70 percent of the total amount of funds received by the State in a fiscal year under this section are used to provide child care assistance to families who are receiving assistance under a State program under this part, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.

"(c) APPLICATION OF CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT.—Notwithstanding any other provision of law, amounts provided to a State under this section shall be transferred to the lead agency under the Child Care and Development Block Grant Act, integrated by the State into the programs established by the State under such Act, and be subject to requirements and limitations of such Act.

"(d) TRANSITION RULE.—

"(1) IN GENERAL.—Amounts obligated to a State under this section for fiscal year 1996 shall not exceed—

"(A) the amount for which a State is eligible under this section for such fiscal year; less

"(B) the amounts obligated to the State for such fiscal year under the provisions of law referred to in subsection (a)(1)(A) (as such provisions were in effect on the day before the date of enactment of this section).

"(2) ACCEPTANCE OF LIMITATION.—The submission of a plan by a State under section 401(a) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant reductions under paragraph (1). If amounts are provided to a State under this section prior to the submission of such a State plan, the acceptance of such amounts by the State shall constitute the State's acceptance of such reductions.".

SEC. 12803. LEAD AGENCY.

Section 658D(b) (42 U.S.C. 9858b(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "State" the first place that such appears and inserting "governmental or nongovernmental"; and

(B) in subparagraph (C), by inserting "with sufficient time and Statewide distribution of the notice of such hearing," after "hearing in the State"; and

(2) in paragraph (2), by striking the second sentence.

SEC. 12804. APPLICATION AND PLAN.

Section 658E (42 U.S.C. 9858c) is amended—

(1) in subsection (b)—

(A) by striking "implemented—" and all that follows through "(2)" and inserting "implemented"; and

(B) by striking "for subsequent State plans";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clause (i) by striking ", other than through assistance provided under paragraph (3)(C),"; and

(II) by striking "except" and all that follows through "1992", and inserting "and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph";

(ii) in subparagraph (B)—

(I) by striking "Provide assurances" and inserting "Certify"; and

(II) by inserting before the period at the end "and provide a detailed description of such procedures";

(iii) in subparagraph (C)—

(I) by striking "Provide assurances" and inserting "Certify"; and

(II) by inserting before the period at the end "and provide a detailed description of how such record is maintained and is made available";

(iv) by amending subparagraph (D) to read as follows:

"(D) CONSUMER EDUCATION INFORMATION.—Certify that the State will collect and disseminate to parents of eligible children and the general public, consumer education information that will promote informed child care choices.";

(v) in subparagraph (E), to read as follows:

"(E) COMPLIANCE WITH STATE LICENSING REQUIREMENTS.—

"(i) IN GENERAL.—Certify that the State has in effect licensing requirements applicable to child care services provided within the State, and provide a detailed description of such requirements and of how such requirements are effectively enforced. Nothing in the preceding sentence shall be construed to require that licensing requirements be applied to specific types of providers of child care services.

"(ii) UNIFORM APPLICATION OF REQUIREMENTS.—A certification under clause (i) shall include an assurance by the State that the State shall apply all such licensing requirements in a uniform manner to child care providers of the same type regardless of whether a child care provider is receiving assistance under this subchapter. Nothing in this subchapter shall be construed to require that a State apply, or prohibit a State from applying, licensing requirements with respect to a particular type of child care.

"(iii) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In lieu of any licensing and regulatory requirements applicable under State and local law, the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards (that appropriately reflect tribal needs and available resources) that shall be applicable to Indian tribes and tribal organization receiving assistance under this subchapter."; and

(vi) by striking subparagraphs (F), (G), (H), (I), and (J) and inserting the following:

"(F) MEETING THE NEEDS OF CERTAIN POPULATIONS.—Demonstrate the manner in which the State will meet the specific child care needs of families who are receiving assistance under a State program under part A of title IV of the Social Security Act, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.";

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "(B) and (C)" and inserting "(B) through (D)";

(ii) in subparagraph (B)—

(I) by striking ".—Subject to the reservation contained in subparagraph (C), the" and inserting "AND RELATED ACTIVITIES.—The";

(II) in clause (i) by striking "; and" at the end and inserting a period;

(III) by striking "for—" and all that follows through "section 658E(c)(2)(A)" and inserting "for child care services on sliding fee scale basis, activities that improve the quality or availability of such services, and any other activity that the State deems appropriate"; and

(IV) by striking clause (ii);

(iii) by amending subparagraph (C) to read as follows:

"(C) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 3 percent of the aggregate amount of funds available to the State to carry out this subchapter by a State in each fiscal year may be expended for administrative costs incurred by such State to carry out all of its functions and duties under this subchapter. As used in the preceding sentence, the term 'administrative costs' shall not include the costs of providing direct services."; and

(iv) by adding at the end thereof the following:

"(D) ASSISTANCE FOR CERTAIN FAMILIES.—A State shall ensure that a substantial portion of the amounts available (after the State has complied with the requirement of section 419(b)(2) of the Social Security Act) to the State to carry out activities this subchapter in each fiscal year is used to provide assistance to low-income working families other than families described in paragraph (2)(F)."; and 419(b)(2)

(C) in paragraph (4)(A)—

(i) by striking "provide assurances" and inserting "certify";

(ii) in the first sentence by inserting "and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access" before the period; and

(iii) by striking the last sentence.

SEC. 12805. LIMITATION ON STATE ALLOTMENTS.

Section 658F(b) (42 U.S.C. 9858d(b)) is amended—

(1) in paragraph (1), by striking "No" and inserting "Except as provided for in section 658O(c)(6), no"; and

(2) in paragraph (2), by striking "referred to in section 658E(c)(2)(F)".

SEC. 12806. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

Section 658G (42 U.S.C. 9858e) is amended to read as follows:

"SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

"A State that receives financial assistance under this subchapter, shall use not less than 3 percent of the total amounts received in each fiscal year for activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality and availability of child care (such as resource and referral services).".

SEC. 12807. ADMINISTRATION AND ENFORCEMENT.

Section 658I(b) (42 U.S.C. 9858g(b)) is amended—

(1) in paragraph (1), by striking ", and shall have" and all that follows through "(2)";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

SEC. 12808. PAYMENTS.

Section 658J(c) (42 U.S.C. 9858h(c)) is amended—

(1) by striking "expended" and inserting "obligated"; and

(2) by striking "3 fiscal years" and inserting "fiscal year".

SEC. 12809. ANNUAL REPORT AND AUDITS.

Section 658K (42 U.S.C. 9858i) is amended—

(1) in the section heading by striking "ANNUAL REPORT" and inserting "REPORTS";

(2) in subsection (a), to read as follows:

"(a) REPORTS.—

"(1) COLLECTION OF INFORMATION BY STATES.—

"(A) IN GENERAL.—A State that receives funds to carry out this subchapter shall collect the information described in subparagraph (B) on a monthly basis.

"(B) REQUIRED INFORMATION.—The information required under this subparagraph shall include, with respect to a family unit receiving assistance under this subchapter information concerning—

"(i) family income;

"(ii) county of residence;

"(iii) the gender and age of children receiving such assistance;

"(iv) whether the family includes only 1 parent;

"(v) the sources of family income, including the amount obtained from (and separately identified)—

"(I) employment, including self-employment;

"(II) cash or other assistance under part A of title IV of the Social Security Act;

"(III) housing assistance;

"(IV) assistance under the Food Stamp Act of 1977; and

"(V) other assistance programs;

"(vi) the number of months the family has received benefits;

"(vii) the type of child care in which the child was enrolled (such as family child care, home care, or center-based child care);

"(viii) whether the child care provider involved was a relative;

"(ix) the cost of child care for such families; and

"(x) the average hours per week of such care; during the period for which such information is required to be submitted.

"(C) SUBMISSION TO SECRETARY.—A State described in subparagraph (A) shall, on a quarterly basis, submit the information required to be collected under subparagraph (B) to the Secretary.

"(D) SAMPLING.—The Secretary may disapprove the information collected by a State under this paragraph if the State uses sampling methods to collect such information.

"(2) BIANNUAL REPORTS.—Not later than December 31, following the end of the first fiscal year with respect to which the amendments made by the Child Care and Development Block Grants Amendments of 1995 apply, and every 6 months thereafter, a State described in paragraph (1)(A) shall prepare and submit to the Secretary a report that includes aggregate data concerning—

"(A) the number of child care providers that received funding under this subchapter as separately identified based on the types of providers listed in section 658Q(5);

"(B) the monthly cost of child care services, and the portion of such cost that is paid for with assistance provided under this subchapter, listed by the type of child care services provided;

"(C) the number of payments made by the State through vouchers, contracts, cash, and disregards under public benefit programs, listed by the type of child care services provided;

"(D) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided; and

"(E) the total number (without duplication) of children and families served under this subchapter;

during the period for which such report is required to be submitted."; and

(2) in subsection (b)—

(A) in paragraph (1) by striking "a application" and inserting "an application";

(B) in paragraph (2) by striking "any agency administering activities that receive" and inserting "the State that receives"; and

(C) in paragraph (4) by striking "entitles" and inserting "entitled".

SEC. 12810. ALLOTMENTS.

Section 658O (42 U.S.C. 9858m) is amended—

(1) in subsection (a)—

(A) in paragraph (1)

(i) by striking "POSSESSIONS" and inserting "POSSESSIONS";

(ii) by inserting "and" after "States,"; and

(iii) by striking ", and the Trust Territory of the Pacific Islands"; and

(B) in paragraph (2), by striking "3 percent of the amount appropriated under section 658B" and inserting "1 percent of the aggregate amount of funds available to the State to carry out this subchapter";

(2) in subsection (c)—

(A) in paragraph (5) by striking "our" and inserting "out"; and

(B) by adding at the end thereof the following new paragraph:

"(6) CONSTRUCTION OR RENOVATION OF FACILITIES.—

"(A) REQUEST FOR USE OF FUNDS.—An Indian tribe or tribal organization may submit to the Secretary a request to use amounts provided under this subsection for construction or renovation purposes.

"(B) DETERMINATION.—With respect to a request submitted under subparagraph (A), and except as provided in subparagraph (C), upon a determination by the Secretary that adequate facilities are not otherwise available to an Indian tribe or tribal organization to enable such tribe or organization to carry out child care programs in accordance with this subchapter, and that the lack of such facilities will inhibit the operation of such programs in the future, the Secretary may permit the tribe or organization to use assistance provided under this subsection to make payments for the construction or renovation of facilities that will be used to carry out such programs.

"(C) LIMITATION.—The Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if such use will result in a decrease in the level of child care services provided by the tribe or organization as compared to the level of such services provided by the tribe or organization in the fiscal year preceding the year for which the determination under subparagraph (A) is being made.

"(D) UNIFORM PROCEDURES.—The Secretary shall develop and implement uniform procedures for the solicitation and consideration of requests under this paragraph."; and

(3) in subsection (e), by adding at the end thereof the following new paragraph:

"(4) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines is not being used in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.".

SEC. 12811. DEFINITIONS.

Section 658P (42 U.S.C. 9858n) is amended—

(1) in paragraph (2), in the first sentence by inserting "or as a deposit for child care services if such a deposit is required of other children being cared for by the provider" after "child care services"; and

(2) by striking paragraph (3);

(3) in paragraph (4)(B), by striking "75 percent" and inserting "85 percent";

(4) in paragraph (5)(B)—

(A) by inserting "great grandchild, sibling (if such provider lives in a separate residence)," after "grandchild,";

(B) by striking "is registered and"; and

(C) by striking "State" and inserting "applicable".

(5) by striking paragraph (10);

(6) in paragraph (3)—

(A) by inserting "or" after "Samoa,"; and

(B) by striking ", and the Trust Territory of the Pacific Islands";

(7) in paragraph (14)—

(A) by striking "The term" and inserting the following:

"(A) In general.—The term"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) Other organizations.—Such term includes a Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4)) and a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.".

Subtitle I—Child Nutrition Programs

CHAPTER 1—NATIONAL SCHOOL LUNCH ACT

SEC. 12901. TERMINATION OF ADDITIONAL PAYMENT FOR LUNCHES SERVED IN HIGH FREE AND REDUCED PRICE PARTICIPATION SCHOOLS.

Section 4(b)(2) of the National School Lunch Act (42 U.S.C. 1753(b)(2)) is amended by inserting before the period at the end the following: "for the 1995 school year and 1 cent more for each of the 1996 and 1997 school years".

SEC. 12902. DIRECT FEDERAL EXPENDITURES.

(a) Administrative Expenses.—Section 6(a) of the National School Lunch Act (42 U.S.C. 1755(a)) is amended by striking the second and fourth sentences.

(b) Amount of Commodity Assistance.—Section 6(e) of the Act is amended—

(1) in paragraph (1), by striking subparagraph (E); and

(2) in paragraph (2), by striking the second sentence and inserting the following: "Each State agency shall offer and equitably distribute commodities among schools participating in the school lunch program.".

(c) Breakfast Commodity Assistance.—Section 6 of the Act is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(d) Commodity Assistance.—

(1) In general.—Section 6(f) of the Act (as redesignated by subsection (c)) is amended by striking "12 percent" and inserting "8 percent".

(2) Effective date.—The amendment made by paragraph (1) shall become effective on July 1, 1996.

SEC. 12903. VALUE OF FOOD ASSISTANCE.

(a) In General.—Section 6(e)(1) of the National School Lunch Act (42 U.S.C. 1755(e)(1)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence—

(i) by inserting "for free and reduced price meals" after "thereof,";

(ii) by striking "11 cents" and inserting "14.5 cents"; and

(iii) by striking "1982" and inserting "1998"; and

(B) by inserting after the first sentence the following: "The national average value of donated foods, or cash payments in lieu thereof, for paid meals, shall be 12 cents, adjusted on July 1, 2001, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions."; and

(2) by striking subparagraph (B) and inserting the following:

"(B) Adjustments.—

"(i) In general.—Except as provided in subparagraph (A), the value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year.

"(ii) Method of adjustments.—Except as otherwise provided in this subparagraph, in the case of each school year, the Secretary shall—

"(I) base the adjustment made under clause (i) on the amount of the unrounded adjustment for the preceding school year;

"(II) adjust the resulting amount in accordance with clause (i); and

"(III) round the result to the nearest lower cent increment.

"(iii) Adjustment on January 1, 1996.—On January 1, 1996, the Secretary shall adjust the value of food assistance for all meals for the remainder of the school year by rounding the previously established value of food assistance to the nearest lower cent increment.".

(b) Effective Date.—The amendment made by subsection (a)(1) shall become effective on July 1, 1996.

SEC. 12904. REDUCED PRICE LUNCHES.

(a) Maximum Price.—Section 9(b)(3) of the National School Lunch Act (42 U.S.C. 1758(b)(3)) is amended—

(1) in the last sentence, by striking "The" and inserting "Except as provided in the succeeding 2 sentences, the"; and

(2) by adding at the end the following: "In the case of the school year beginning July 1, 2000, the price charged for a reduced price lunch shall not exceed 45 cents. In the case of the school year beginning July 1, 2001, and each school year thereafter, the price charged for a reduced price lunch shall not exceed 50 cents.".

(b) Reduced Price Meal Payment.—Section 11(a)(2) of the Act (42 U.S.C. 1759a(a)(2)) is amended—

(1) by striking "cents and the" and inserting "cents. Except as provided in the succeeding 2 sentences, the"; and

(2) by adding at the end the following: "In the case of the school year beginning July 1, 2000, the special assistance factor for reduced price lunches shall be 45 cents less than the special assistance factor for free lunches. In the case of the school year beginning July 1, 2001, and each school year thereafter, the special assistance factor for reduced price lunches shall be 50 cents less than the special assistance factor for free lunches.".

SEC. 12905. LUNCHES, BREAKFASTS, AND SUPPLEMENTS.

(a) In General.—Section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended—

(1) by designating the second and third sentences as subparagraphs (C) and (D), respectively; and

(2) by striking subparagraph (D) (as so designated) and inserting the following:

"(D) Rounding.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—

"(i) base the adjustment made under this paragraph on the amount of the unrounded adjustment for the preceding school year;

"(ii) adjust the resulting amount in accordance with subparagraphs (B) and (C); and

"(iii) round the result to the nearest lower cent increment.

"(E) Adjustment on January 1 and July 1, 1996.—The Secretary shall adjust the rates for breakfasts and supplements on January 1, 1996, for the remainder of the school year, and shall adjust the rates for lunches on July 1, 1996, by rounding the previously established rates to the nearest lower cent increment.

"(F) Adjustment for 24-month period beginning July 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the national average payment rates for paid lunches, paid breakfasts, and paid supplements shall be the same as the national average payment rate for paid lunches, paid breakfasts, and paid supplements, respectively, for the school year beginning July 1, 1995, rounded to the nearest lower cent increment.

"(G) Adjustment for school year beginning July 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(i) base the adjustments made under this paragraph for—

"(I) paid lunches and paid breakfasts on the amount of the unrounded adjustment for paid lunches for the school year beginning July 1, 1995; and

"(II) paid supplements on the amount of the unrounded adjustment for paid supplements for the school year beginning July 1, 1995;

"(ii) adjust each resulting amount in accordance with subparagraph (C); and

"(iii) round each result to the nearest lower cent increment.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 12906. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) Establishment of Program.—Section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "initiate, maintain, and expand" and insert "initiate and maintain"; and

(B) in subparagraph (E) of the second sentence, by striking "the Trust Territory of the Pacific Islands,"; and

(2) in paragraph (7)(A), by striking "Except as provided in subparagraph (C), private" and inserting "Private".

(b) Service Institutions.—Section 13(b) of the Act is amended by striking "(b)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(b) Service Institutions.—

"(1) Payments.—

"(A) In general.—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

"(B) Maximum amounts.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—

"(i) $1.82 for each lunch and supper served;

"(ii) $1.13 for each breakfast served; and

"(iii) 46 cents for each meal supplement served.

"(C) Adjustments.—Amounts specified in subparagraph (B) shall be adjusted each January 1 to the nearest lower cent increment in accordance with the changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.".

(c) Administration of Service Institutions.—Section 13(b)(2) of the Act is amended—

(1) in the first sentence, by striking "four meals" and inserting "3 meals, or 2 meals and 1 supplement,"; and

(2) by striking the second sentence.

(d) Reimbursements.—Section 13(c)(2) of the Act is amended—

(1) by striking subparagraph (A);

(2) in subparagraph (B)—

(A) in the first sentence—

(i) by striking ", and such higher education institutions,"; and

(ii) by striking "without application" and inserting "upon showing residence in areas in which poor economic conditions exist"; and

(B) by adding at the end the following: "The higher education institutions referred to in the

preceding sentence shall be eligible to participate in the program under this paragraph without application.";

(3) in subparagraph (C)(ii), by striking "severe need"; and

(4) by redesignating subparagraphs (B) through (E), as so amended, as subparagraphs (A) through (D), respectively.

(e) PERMITTING OFFER VERSUS SERVE.—Section 13(f) of the Act is amended—

(1) by redesignating the first through seventh sentences as paragraphs (1) through (7), respectively; and

(2) by adding at the end the following:

"(8) OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child attending a site on school premises operated directly by the authority to refuse not more than 1 item of a meal that the child does not intend to consume. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.".

(f) EFFECTIVE DATE.—The amendments made by subsection (b) shall become effective on January 1, 1996.

SEC. 12907. CHILD CARE FOOD PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in the section heading, by striking "AND ADULT"; and

(2) in the first sentence of subsection (a), by striking "initiate, maintain, and expand" and inserting "initiate and maintain".

(b) PAYMENTS TO SPONSOR EMPLOYEES.—Paragraph (2) of the last sentence of section 17(a) of the Act (42 U.S.C. 1766(a)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following:

"(D) in the case of a family or group day care home sponsoring organization that employs more than 1 employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited, managed, or monitored.".

(c) TECHNICAL ASSISTANCE.—The last sentence of section 17(d)(1) of the Act is amended by striking ", and shall provide technical assistance" and all that follows through "its application".

(d) REIMBURSEMENT OF CHILD CARE INSTITUTIONS.—Section 17(f)(2)(B) of the Act (42 U.S.C. 1766(f)(2)(B)) is amended by striking "two meals and two supplements or three meals and one supplement" and inserting "two meals and one supplement".

(e) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—

(1) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the Act is amended by striking "(3)(A) Institutions" and all that follows through the end of subparagraph (A) and inserting the following:

"(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(A) REIMBURSEMENT FACTOR.—

"(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

"(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

"(I) DEFINITION.—In this paragraph, the term 'tier I family or group day care home' means—

"(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;

"(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

"(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

"(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

"(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

"(I) IN GENERAL.—

"(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 90 cents for lunches and suppers, 25 cents for breakfasts, and 10 cents for supplements.

"(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

"(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.

"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".

(2) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

"(bb) training and other assistance to family and group day care homes in the implementation of the amendment to subparagraph (A) made by section 12907(e)(1) of the Balanced Budget Act of 1995.

"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(I)—

"(I) $30,000 in base funding to each State; and

"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State during fiscal year 1994 as a percentage of the number of all family day care homes participating in the program during fiscal year 1994.

"(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for fiscal year 1996 under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A).".

(3) PROVISION OF DATA.—Section 17(f)(3) of the Act (as amended by paragraph (2)) is further amended by adding at the end the following:

"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

"(ii) SCHOOL DATA.—

"(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

"(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.".

(4) CONFORMING AMENDMENTS.—Section 17(c) of the Act is amended by inserting "except as provided in subsection (f)(3)," after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3).

(f) REIMBURSEMENT.—Section 17(f) of the Act is amended—

(1) in paragraph (3)—

(A) in subparagraph (B), by striking the third and fourth sentences; and

(B) in subparagraph (C)—

(i) in clause (i)—

(I) by striking "(i)";

(II) in the first sentence, by striking "and expansion funds" and all that follows through "rural areas";

(III) by striking the second sentence; and

(IV) by striking "and expansion funds" each place it appears; and

(ii) by striking clause (ii); and

(2) by striking paragraph (4).

(g) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the Act is amended by striking subsection (k) and inserting the following:

"(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.".

(h) MODIFICATION OF ADULT CARE FOOD PROGRAM.—Section 17(o) of the Act is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "adult day care centers" and inserting "day care centers for chronically impaired disabled persons" ; and

(B) by striking "to persons 60 years of age or older or"; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "adult day care center" and inserting "day care center for chronically impaired disabled persons"; and

(ii) in clause (i)—

(I) by striking "adult";

(II) by striking "adults" and inserting "persons"; and

(III) by striking "or persons 60 years of age or older"; and

(B) in subparagraph (B), by striking "adult day care services" and inserting "day care services for chronically impaired disabled persons".

(i) UNNEEDED PROVISIONS.—Section 17 of the Act is amended—

(1) by striking subsections (b) and (q);

(2) by redesignating subsections (c) through (p), as so amended, as subsections (b) through (o), respectively; and

(3) in subsection (e), as redesignated by paragraph (2)—

(A) in paragraph (2)(A), by striking "subsection (c)" and inserting "subsection (b)"; and

(B) in paragraph (3)(C), by striking "subsection (d)" and inserting "subsection (c)".

(j) CONFORMING AMENDMENTS.—

(1) Section 11(a)(3)(A)(iv) of the Act (42 U.S.C. 1759a(a)(3)(A)(iv)) is amended by striking "17(c)" and inserting "17(b)".

(2) Section 17A(c) of the Act (42 U.S.C. 1766a(c)) is amended by striking "17(c)(3)" and inserting "17(b)(3)".

(3) Section 17B(f) of the Act (42 U.S.C. 1766b(f)) is amended—

(A) in the subsection heading, by striking "AND ADULT"; and

(B) in paragraph (1), by striking "and adult".

(4) Section 18(e)(3)(B) of the Act (42 U.S.C. 1769(e)(3)(B)) is amended by striking "and adult".

(5) Section 25(b)(1)(C) of the Act (42 U.S.C. 1769f(b)(1)(C)) is amended by striking "and adult".

(6) Section 3(1) of the Healthy Meals for Healthy Americans Act of 1994 (Public Law 103–448) is amended by striking "and adult".

(k) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (e) shall become effective on August 1, 1996.

(3) REGULATIONS.—

(A) INTERIM REGULATIONS.—Not later than February 1, 1996, the Secretary shall issue interim regulations to implement—

(i) the amendments made by paragraphs (1), (3), and (4) of subsection (e); and

(ii) section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)).

(B) FINAL REGULATIONS.—Not later than August 1, 1996, the Secretary shall issue final regulations to implement the provisions of law referred to in subparagraph (A).

(l) STUDY OF IMPACT OF AMENDMENTS ON PROGRAM PARTICIPATION AND FAMILY DAY CARE LICENSING.—

(1) IN GENERAL.—The Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, shall study the impact of the amendments made by this section on—

(A) the number of family day care homes participating in the child care food program established under section 17 of the National School Lunch Act (42 U.S.C. 1766);

(B) the number of day care home sponsoring organizations participating in the program;

(C) the number of day care homes that are licensed, certified, registered, or approved by each State in accordance with regulations issued by the Secretary;

(D) the rate of growth of the numbers referred to in subparagraphs (A) through (C);

(E) the nutritional adequacy and quality of meals served in family day care homes that—

(i) received reimbursement under the program prior to the amendments made by this section but do not receive reimbursement after the amendments made by this section; or

(ii) received full reimbursement under the program prior to the amendments made by this section but do not receive full reimbursement after the amendments made by this section; and

(F) the proportion of low-income children participating in the program prior to the amendments made by this section and the proportion of low-income children participating in the program after the amendments made by this section.

(2) REQUIRED DATA.—Each State agency participating in the child care food program under section 17 of the National School Lunch Act (42 U.S.C. 1766) shall submit to the Secretary data on—

(A) the number of family day care homes participating in the program on July 31, 1996, and July 31, 1997;

(B) the number of family day care homes licensed, certified, registered, or approved for service on July 31, 1996, and July 31, 1997; and

(C) such other data as the Secretary may require to carry out this subsection.

SEC. 12908. PILOT PROJECTS.

(a) UNIVERSAL FREE PILOT.—Section 18(d) of the National School Lunch Act (42 U.S.C. 1769(d)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) DEMO PROJECT OUTSIDE SCHOOL HOURS.—Section 18(e) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "(A)"; and

(ii) by striking "shall" and inserting "may"; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (5) and inserting the following:

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1997 and 1998.".

SEC. 12909. INFORMATION CLEARINGHOUSE.

Section 26 of the National School Lunch Act (42 U.S.C. 1769g) is repealed.

CHAPTER 2—CHILD NUTRITION ACT

SEC. 12921. SPECIAL MILK PROGRAM.

(a) IN GENERAL.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) in paragraph (3), by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands"; and

(2) by striking paragraph (8) and inserting the following:

"(8) ADJUSTMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—

"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the preceding school year;

"(ii) adjust the resulting amount in accordance with paragraph (7); and

"(iii) round the result to the nearest lower cent increment.

"(B) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the minimum rate for the remainder of the school year by rounding the previously established minimum rate to the nearest lower cent increment.

"(C) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the minimum rate shall be the same as the minimum rate in effect on June 30, 1996.

"(D) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the minimum rate for the school year beginning July 1, 1995;

"(ii) adjust the resulting amount to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which the data are available; and

"(iii) round the result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 12922. FREE AND REDUCED PRICE BREAKFASTS.

(a) IN GENERAL.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended—

(1) in the second sentence of paragraph (1)(B), by striking ", adjusted to the nearest one-fourth cent" and inserting "(as adjusted pursuant to section 11(a) of the National School Lunch Act (42 U.S.C. 1759a(a))"; and

(2) in paragraph (2)(B)(ii)—

(A) by striking "nearest one-fourth cent" and inserting "nearest lower cent increment for the applicable school year"; and

(B) by inserting before the period at the end the following: ", and the adjustment required by this clause shall be based on the unrounded adjustment for the preceding school year".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 1, 1996.

SEC. 12923. CONFORMING REIMBURSEMENT FOR PAID BREAKFASTS AND LUNCHES.

(a) IN GENERAL.—The last sentence of section 4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)(B)) is amended by striking "8.25 cents" and all that follows through "Act)" and inserting "the same as the national average lunch payment for paid meals established under section 4(b) of the National School Lunch Act (42 U.S.C. 1753(b))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

SEC. 12924. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by striking subsections (f) and (g).

SEC. 12925. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—

(1) in paragraph (1), by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands"; and

(2) in the first sentence of paragraph (3)—

(A) in subparagraph (A), by inserting "and" at the end; and

(B) by striking ", and (C)" and all that follows through "Governor of Puerto Rico".

SEC. 12926. NUTRITION EDUCATION AND TRAINING.

(a) USE OF FUNDS.—Section 19(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(f)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (A)—

(i) by striking "(A)";

(ii) by striking clauses (ix) through (xix);

(iii) by redesignating clauses (i) through (viii) and (xx) as subparagraphs (A) through (H) and (I), respectively; and

(iv) in subparagraph (H), as so redesignated, by inserting "and" at the end;

(2) by striking paragraphs (2) and (4); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i) of the Act is amended—

(1) in the first sentence of paragraph (2)(A), by striking "and each succeeding fiscal year";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(2) FISCAL YEARS 1997 THROUGH 2002.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1997 through 2002.

"(B) GRANTS.—

"(i) IN GENERAL.—Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than $75,000 per fiscal year.

"(ii) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.".

Subtitle J—Food Stamps and Commodity Distribution

SEC. 13001. SHORT TITLE.

This subtitle may be cited as the "Food Stamp Reform and Commodity Distribution Act of 1995".

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 13011. DEFINITION OF CERTIFICATION PERIOD.

Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by striking "Except as provided" and all that follows and inserting the following: "The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. A State agency shall have at least 1 contact with each certified household every 12 months.".

SEC. 13012. DEFINITION OF COUPON.

Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking "or type of certificate" and inserting "type of certificate, authorization card, cash or check issued in lieu of a coupon, or an access device, including an electronic benefit transfer card or personal identification number,".

SEC. 13013. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

SEC. 13014. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.

Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the third sentence the following: "Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentences, shall be considered a single household, without regard to the common purchase of food and preparation of meals.".

SEC. 13015. ADJUSTMENT OF THRIFTY FOOD PLAN.

The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking "shall (1) make" and inserting the following: "shall—

"(1) make";

(2) by striking "scale, (2) make" and inserting "scale;

"(2) make";

(3) by striking "Alaska, (3) make" and inserting the following: "Alaska;

"(3) make"; and

(4) by striking "Columbia, (4) through" and all that follows through the end of the subsection and inserting the following: "Columbia; and

"(4) on October 1, 1996, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet, in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary may not reduce the cost of the diet in effect on September 30, 1996.".

SEC. 13016. DEFINITION OF HOMELESS INDIVIDUAL.

Section 3(s)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2012(s)(2)(C)) is amended by inserting "for not more than 90 days" after "temporary accommodation".

SEC. 13017. STATE OPTION FOR ELIGIBILITY STANDARDS.

Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking "(b) The Secretary" and inserting the following:

"(b) ELIGIBILITY STANDARDS.—Except as otherwise provided in this Act, the Secretary".

SEC. 13018. EARNINGS OF STUDENTS.

Section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by striking "21" and inserting "19".

SEC. 13019. ENERGY ASSISTANCE.

(a) IN GENERAL.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking paragraph (11) and inserting the following: "(11) a 1-time payment or allowance made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device,".

(b) CONFORMING AMENDMENTS.—

(1) Section 5(k) of the Act (7 U.S.C. 2014(k)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "plan for aid to families with dependent children approved" and inserting "program funded"; and

(ii) in subparagraph (B), by striking ", not including energy or utility-cost assistance,";

(B) in paragraph (2), by striking subparagraph (C) and inserting the following:

"(C) a payment or allowance described in subsection (d)(11);"; and

(C) by adding at the end the following:

"(4) THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—

"(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a Federal or State law to provide energy assistance to a household shall be considered money payable directly to the household.

"(B) ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (e)(7), an expense paid on behalf of a household under a Federal or State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household.".

(2) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

(A) by striking "(f)(1) Notwithstanding" and inserting "(f) Notwithstanding";

(B) in paragraph (1), by striking "food stamps,"; and

(C) by striking paragraph (2).

SEC. 13020. DEDUCTIONS FROM INCOME.

(a) IN GENERAL.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by striking subsection (e) and inserting the following:

"(e) DEDUCTIONS FROM INCOME.—

"(1) STANDARD DEDUCTION.—The Secretary shall allow a standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of $134, $229, $189, $269, and $118, respectively.

"(2) EARNED INCOME DEDUCTION.—

"(A) DEFINITION OF EARNED INCOME.—In this paragraph, the term 'earned income' does not include income excluded by subsection (d) or any portion of income earned under a work supplementation or support program, as defined under section 16(b), that is attributable to public assistance.

"(B) DEDUCTION.—Except as provided in subparagraph (C), a household with earned income shall be allowed a deduction of 20 percent of all earned income (other than income excluded by subsection (d)) to compensate for taxes, other mandatory deductions from salary, and work expenses.

"(C) EXCEPTION.—The deduction described in subparagraph (B) shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner.

"(3) DEPENDENT CARE DEDUCTION.—

"(A) IN GENERAL.—A household shall be entitled, with respect to expenses (other than excluded expenses described in subparagraph (B)) for dependent care, to a dependent care deduction, the maximum allowable level of which shall be $200 per month for each dependent child under 2 years of age and $175 per month for each other dependent, for the actual cost of payments necessary for the care of a dependent if the care enables a household member to accept or continue employment, or training or education that is preparatory for employment.

"(B) EXCLUDED EXPENSES.—The excluded expenses referred to in subparagraph (A) are—

"(i) expenses paid on behalf of the household by a third party;

"(ii) amounts made available and excluded for the expenses referred to in subparagraph (A) under subsection (d)(3); and

"(iii) expenses that are paid under section 6(d)(4).

"(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

"(A) IN GENERAL.—A household shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.

"(B) METHODS FOR DETERMINING AMOUNT.—The Secretary may prescribe by regulation the methods, including calculation on a retrospective basis, that a State agency shall use to determine the amount of the deduction for child support payments.

"(5) HOMELESS SHELTER ALLOWANCE.—A State agency may develop a standard homeless shelter allowance, which shall not exceed $139 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the allowance may use the allowance in determining eligibility and allotments for the households, except that the State agency may prohibit the use of the allowance for households with extremely low shelter costs.

"(6) EXCESS MEDICAL EXPENSE DEDUCTION.—

"(A) IN GENERAL.—A household containing an elderly or disabled member shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for the portion of the actual costs of allowable medical expenses, incurred by the elderly or disabled member, exclusive of special diets, that exceeds $35 per month.

"(B) METHOD OF CLAIMING DEDUCTION.—

"(i) IN GENERAL.—A State agency shall offer an eligible household under subparagraph (A) a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction in lieu of submitting information or verification on actual expenses on a monthly basis.

"(ii) METHOD.—The method described in clause (i) shall—

"(I) be designed to minimize the burden for the eligible elderly or disabled household member choosing to deduct the recurrent medical expenses of the member pursuant to the method;

"(II) rely on reasonable estimates of the expected medical expenses of the member for the certification period (including changes that can be reasonably anticipated based on available information about the medical condition of the member, public or private medical insurance coverage, and the current verified medical expenses incurred by the member); and

"(III) not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period.

"(7) EXCESS SHELTER EXPENSE DEDUCTION.—

"(A) IN GENERAL.—A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed.

"(B) MAXIMUM AMOUNT OF DEDUCTION.—In the case of a household that does not contain an elderly or disabled individual, the excess shelter expense deduction shall not exceed—

"(i) in the 48 contiguous States and the District of Columbia, $247 per month; and

"(ii) in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $429, $353, $300, and $182 per month, respectively.

"(C) STANDARD UTILITY ALLOWANCE.—

"(i) IN GENERAL.—In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.

"(ii) RESTRICTIONS ON HEATING AND COOLING EXPENSES.—An allowance for a heating or cooling expense may not be used in the case of a household that—

"(I) does not incur a heating or cooling expense, as the case may be;

"(II) does incur a heating or cooling expense but is located in a public housing unit that has central utility meters and charges households, with regard to the expense, only for excess utility costs; or

"(III) shares the expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.

"(iii) MANDATORY ALLOWANCE.—

"(I) IN GENERAL.—A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—

"(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling; and

"(bb) the Secretary finds that the standards will not result in an increased cost to the Secretary.

"(II) HOUSEHOLD ELECTION.—A State agency that has not made the use of a standard utility allowance mandatory under subclause (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household.

"(iv) AVAILABILITY OF ALLOWANCE TO RECIPIENTS OF ENERGY ASSISTANCE.—

"(I) IN GENERAL.—Subject to subclause (II), if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to an energy provider.

"(II) SEPARATE ALLOWANCE.—A State agency may use a separate standard utility allowance for households on behalf of which a payment described in subclause (I) is made, but may not be required to do so.

"(III) STATES NOT ELECTING TO USE SEPARATE ALLOWANCE.—A State agency that does not elect to use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in subclause (I) or (II) of subparagraph (C)(ii)) may not be required to reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

"(IV) PRORATION OF ASSISTANCE.—For the purpose of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be prorated over the entire heating or cooling season for which the assistance was provided.".

(b) CONFORMING AMENDMENT.—Section 11(e)(3) of the Act (7 U.S.C. 2020(e)(3)) is amended by striking ". Under rules prescribed" and all that follows through "verifies higher expenses".

SEC. 13021. VEHICLE ALLOWANCE.

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking paragraph (2) and inserting the following:

"(2) INCLUDED ASSETS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources).

"(B) ADDITIONAL INCLUDED ASSETS.—The Secretary shall include in financial resources—

"(i) any boat, snowmobile, or airplane used for recreational purposes;

"(ii) any vacation home;

"(iii) any mobile home used primarily for vacation purposes;

"(iv) subject to subparagraph (C), any licensed vehicle that is used for household transportation or to obtain or continue employment to the extent that the fair market value of the vehicle exceeds $4,600; and

"(v) any savings or retirement account (including an individual account), regardless of whether there is a penalty for early withdrawal.

"(C) EXCLUDED VEHICLES.—A vehicle (and any other property, real or personal, to the extent the property is directly related to the maintenance or use of the vehicle) shall not be included in financial resources under this paragraph if the vehicle is—

"(i) used to produce earned income;

"(ii) is necessary for the transportation of a physically disabled household member; or

"(iii) is depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.".

SEC. 13022. VENDOR PAYMENTS FOR TRANSITIONAL HOUSING COUNTED AS INCOME.

Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended—

(1) by striking subparagraph (F); and

(2) by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

SEC. 13023. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.

Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—

(1) in clause (i), by striking "six months" and inserting "1 year"; and

(2) in clause (ii), by striking "1 year" and inserting "2 years".

SEC. 13024. DISQUALIFICATION OF CONVICTED INDIVIDUALS.

Section 6(b)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)(iii)) is amended—

(1) in subclause (II), by striking "or" at the end;

(2) in subclause (III), by striking the period at the end and inserting "; or"; and

(3) by inserting after subclause (III) the following:

"(IV) a conviction of an offense under subsection (b) or (c) of section 15 involving an item covered by subsection (b) or (c) of section 15 having a value of $500 or more.".

SEC. 13025. DISQUALIFICATION.

(a) IN GENERAL.—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended by striking "(d)(1) Unless otherwise exempted by the provisions" and all that follows through the end of paragraph (1) and inserting the following:

"(d) CONDITIONS OF PARTICIPATION.—

"(1) WORK REQUIREMENTS.—

"(A) IN GENERAL.—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—

"(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;

"(ii) refuses without good cause to participate in an employment and training program under paragraph (4), to the extent required by the State agency;

"(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—

"(I) the applicable Federal or State minimum wage; or

"(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;

"(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;

"(v) voluntarily and without good cause—

"(I) quits a job; or

"(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or

"(vi) fails to comply with section 20.

"(B) HOUSEHOLD INELIGIBILITY.—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household shall, at the option of the State agency, become ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—

"(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

"(ii) 180 days.

"(C) DURATION OF INELIGIBILITY.—

"(i) FIRST VIOLATION.—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 1 month after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

"(ii) SECOND VIOLATION.—The second time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 3 months after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.

"(iii) THIRD OR SUBSEQUENT VIOLATION.—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 6 months after the date the individual became ineligible;

"(III) a date determined by the State agency; or

"(IV) at the option of the State agency, permanently.

"(D) ADMINISTRATION.—

"(i) GOOD CAUSE.—The Secretary shall determine the meaning of good cause for the purpose of this paragraph.

"(ii) VOLUNTARY QUIT.—The Secretary shall determine the meaning of voluntarily quitting and reducing work effort for the purpose of this paragraph.

"(iii) DETERMINATION BY STATE AGENCY.—

"(I) IN GENERAL.—Subject to subclause (II) and clauses (i) and (ii), a State agency shall determine—

"(aa) the meaning of any term in subparagraph (A);

"(bb) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); and

"(cc) whether an individual is in compliance with a requirement under subparagraph (A).

"(II) NOT LESS RESTRICTIVE.—A State agency may not determine a meaning, procedure, or determination under subclause (I) to be less restrictive than a comparable meaning, procedure, or determination under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

"(iv) STRIKE AGAINST THE GOVERNMENT.—For the purpose of subparagraph (A)(v), an employee of the Federal Government, a State, or a political subdivision of a State, who is dismissed for participating in a strike against the Federal Government, the State, or the political subdivision of the State shall be considered to have voluntarily quit without good cause.

"(v) SELECTING A HEAD OF HOUSEHOLD.—

"(I) IN GENERAL.—For the purpose of this paragraph, the State agency shall allow the household to select any adult parent of a child in the household as the head of the household if all adult household members making application under the food stamp program agree to the selection.

"(II) TIME FOR MAKING DESIGNATION.—A household may designate the head of the household under subclause (I) each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.

"(vi) CHANGE IN HEAD OF HOUSEHOLD.—If the head of a household leaves the household during a period in which the household is ineligible to participate in the food stamp program under subparagraph (B)—

"(I) the household shall, if otherwise eligible, become eligible to participate in the food stamp program; and

"(II) if the head of the household becomes the head of another household, the household that becomes headed by the individual shall become ineligible to participate in the food stamp program for the remaining period of ineligibility.".

(b) CONFORMING AMENDMENT.—

(1) The second sentence of section 17(b)(2) of the Act (7 U.S.C. 2026(b)(2)) is amended by striking "6(d)(1)(i)" and inserting "6(d)(1)(A)(i)".

(2) Section 20 of the Act (7 U.S.C. 2029) is amended by striking subsection (f) and inserting the following:

"(f) DISQUALIFICATION.—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for failing to comply with this section.".

SEC. 13026. CARETAKER EXEMPTION.

Section 6(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(2)) is amended by striking subparagraph (B) and inserting the following: "(B) a parent or other member of a household with responsibility for the care of (i) a dependent *child under the age of 6 or any lower age designated by the State agency that is not under the age of 1, or (ii) an incapacitated person;''.*

SEC. 13027. EMPLOYMENT AND TRAINING.

(a) IN GENERAL.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking ''Not later than April 1, 1987, each'' and inserting ''Each'';

(B) by inserting ''work,'' after ''skills, training,''; and

(C) by adding at the end the following: ''Each component of an employment and training program carried out under this paragraph shall be delivered through a statewide workforce development system, unless the component is not available locally through the statewide workforce development system.'';

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking the colon at the end and inserting the following: '', except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application:'';

(B) in clause (i), by striking ''with terms and conditions'' and all that follows through ''time of application''; and

(C) in clause (iv)—

(i) by striking subclauses (I) and (II); and

(ii) by redesignating subclauses (III) and (IV) as subclauses (I) and (II), respectively;

(3) in subparagraph (D)—

(A) in clause (i), by striking ''to which the application'' and all that follows through ''30 days or less'';

(B) in clause (ii), by striking ''but with respect'' and all that follows through ''child care''; and

(C) in clause (iii), by striking '', on the basis of'' and all that follows through ''clause (ii)'' and inserting ''the exemption continues to be valid'';

(4) in subparagraph (E), by striking the third sentence;

(5) in subparagraph (G)—

(A) by striking ''(G)(i) The State'' and inserting ''(G) The State''; and

(B) by striking clause (ii);

(6) in subparagraph (H), by striking ''(H)(i) The Secretary'' and all that follows through ''(ii) Federal funds'' and inserting ''(H) Federal funds'';

(7) in subparagraph (I)(i)(II), by striking '', or was in operation,'' and all that follows through ''Social Security Act'' and inserting the following: ''), except that no such payment or reimbursement shall exceed the applicable local market rate'';

(8)(A) by striking subparagraphs (K) and (L) and inserting the following:

''(K) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a State agency uses to carry out this paragraph (including under subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.).''; and

(B) by redesignating subparagraphs (M) and (N) as subparagraphs (L) and (M), respectively; and

(9) in subparagraph (L), as redesignated by paragraph (8)(B)—

(A) by striking ''(L)(i) The Secretary'' and inserting ''(L) The Secretary''; and

(B) by striking clause (ii).

(b) FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended by striking ''(h)(1)(A) The Secretary'' and all that follows through the end of paragraph (1) and inserting the following:

''(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—

''(1) IN GENERAL.—

''(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under section 18(a)(1) the amount of—

''(i) for fiscal year 1996, $77,000,000;

''(ii) for fiscal year 1997, $80,000,000;

''(iii) for fiscal year 1998, $83,000,000;

''(iv) for fiscal year 1999, $86,000,000;

''(v) for fiscal year 2000, $89,000,000;

''(vi) for fiscal year 2001, $92,000,000; and

''(vii) for fiscal year 2002, $95,000,000.

''(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that gives consideration to the population in each State affected by section 6(o).

''(C) REALLOCATION.—

''(i) NOTIFICATION.—A State agency shall promptly notify the Secretary if the State agency determines that the State agency will not expend all of the funds allocated to the State agency under subparagraph (B).

''(ii) REALLOCATION.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

''(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 in each fiscal year.''.

(c) ADDITIONAL MATCHING FUNDS.—Section 16(h)(2) of the Act (7 U.S.C. 2025(h)(2)) is amended by inserting before the period at the end the following: '', including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work''.

(d) REPORTS.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended—

(1) in paragraph (5)—

(A) by striking ''(5)(A) The Secretary'' and inserting ''(5) The Secretary''; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (6).

SEC. 13028. COMPARABLE TREATMENT FOR DISQUALIFICATION.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—

(1) by redesignating subsection (i), as added by section 12104, as subsection (p); and

(2) by inserting after subsection (h) the following:

''(i) COMPARABLE TREATMENT FOR DISQUALIFICATION.—

''(1) IN GENERAL.—If a disqualification is imposed on a member of a household for a failure of the member to perform an action required under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

''(2) RULES AND PROCEDURES.—If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to impose the same disqualification under the food stamp program.

''(3) APPLICATION AFTER DISQUALIFICATION PERIOD.—A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant, except that a prior disqualification under subsection (d) shall be considered in determining eligibility.''.

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)) is amended—

(1) in paragraph (24), by striking ''and'' at the end;

(2) in paragraph (25), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(26) the guidelines the State agency uses in carrying out section 6(i); and''.

(c) CONFORMING AMENDMENT.—Section 6(d)(2)(A) of the Act (7 U.S.C. 2015(d)(2)(A)) is amended by striking ''that is comparable to a requirement of paragraph (1)''.

SEC. 13029. DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13028, is further amended by inserting after subsection (i) the following:

''(j) DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.—An individual shall be ineligible to participate in the food stamp program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a Federal or State court of having made, a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under the food stamp program.''.

SEC. 13030. DISQUALIFICATION OF FLEEING FELONS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13029, is further amended by inserting after subsection (j) the following:

''(k) DISQUALIFICATION OF FLEEING FELONS.—No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—

''(1) fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

''(2) violating a condition of probation or parole imposed under a Federal or State law.''.

SEC. 13031. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13030, is further amended by inserting after subsection (k) the following:

''(l) CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

''(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

''(A) in establishing the paternity of the child (if the child is born out of wedlock); and

''(B) in obtaining support for—

''(i) the child; or

''(ii) the individual and the child.

''(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual

if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(m) NON-CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in providing support for the child.

"(2) REFUSAL TO COOPERATE.—

"(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

"(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.".

SEC. 13032. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13031, is further amended by inserting after subsection (m) the following:

"(n) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(1) IN GENERAL.—No individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

SEC. 13033. WORK REQUIREMENT.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13032, is further amended by inserting after subsection (n) the following:

"(o) WORK REQUIREMENT.—

"(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term 'work program' means—

"(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(C) a program of employment or training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under section 6(d)(4), other than a job search program or a job search training program.

"(2) WORK REQUIREMENT.—Subject to the other provisions of this subsection, no individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12-month period, the individual received food stamp benefits for not less than 4 months during which the individual did not—

"(A) work 20 hours or more per week, averaged monthly; or

"(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or

"(C) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.

"(3) EXCEPTION.—Paragraph (2) shall not apply to an individual if the individual is—

"(A) under 18 or over 50 years of age;

"(B) medically certified as physically or mentally unfit for employment;

"(C) a parent or other member of a household with responsibility for a dependent child;

"(D) otherwise exempt under section 6(d)(2); or

"(E) a pregnant woman.

"(4) WAIVER.—

"(A) IN GENERAL.—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

"(i) has an unemployment rate of over 10 percent; or

"(ii) does not have a sufficient number of jobs to provide employment for the individuals.

"(B) REPORT.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(5) SUBSEQUENT ELIGIBILITY.—

"(A) IN GENERAL.—Paragraph (2) shall cease to apply to an individual if, during a 30-day period, the individual—

"(i) works 80 or more hours;

"(ii) participates in and complies with the requirements of a work program for 80 or more hours, as determined by a State agency; or

"(iii) participates in a program under section 20 or a comparable program established by a State or political subdivision of a State.

"(B) LIMITATION.—During the subsequent 12-month period, the individual shall be eligible to participate in the food stamp program for not more than 4 months during which the individual does not—

"(i) work 20 hours or more per week, averaged monthly;

"(ii) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or

"(iii) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.".

(b) TRANSITION PROVISION.—Prior to 1 year after the date of enactment of this Act, the term "preceding 12-month period" in section 6(o) of the Food Stamp Act of 1977, as amended by subsection (a), means the preceding period that begins on the date of enactment of this Act.

SEC. 13034. ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) ELECTRONIC BENEFIT TRANSFERS.—

"(A) IMPLEMENTATION.—Each State agency shall implement an electronic benefit transfer system in which household benefits determined under section 8(a) or 24 are issued from and stored in a central databank before October 1, 2002, unless the Secretary provides a waiver for a State agency that faces unusual barriers to implementing an electronic benefit transfer system.

"(B) TIMELY IMPLEMENTATION.—State agencies are encouraged to implement an electronic benefit transfer system under subparagraph (A) as soon as practicable.

"(C) STATE FLEXIBILITY.—Subject to paragraph (2), a State agency may procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency considers appropriate.

"(D) OPERATION.—An electronic benefit transfer system should take into account generally accepted standard operating rules based on—

"(i) commercial electronic funds transfer technology;

"(ii) the need to permit interstate operation and law enforcement monitoring; and

"(iii) the need to permit monitoring and investigations by authorized law enforcement agencies.";

(2) in paragraph (2)—

(A) by striking "effective no later than April 1, 1992,";

(B) in subparagraph (A)—

(i) by striking ", in any 1 year,"; and

(ii) by striking "on-line";

(C) by striking subparagraph (D) and inserting the following:

"(D)(i) measures to maximize the security of a system using the most recent technology available that the State agency considers appropriate and cost effective and which may include personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse; and

"(ii) effective not later than 2 years after the effective date of this clause, to the extent practicable, measures that permit a system to differentiate items of food that may be acquired with an allotment from items of food that may not be acquired with an allotment.";

(D) in subparagraph (G), by striking "and" at the end;

(E) in subparagraph (H), by striking the period at the end and inserting "; and"; and

(F) by adding at the end the following:

"(I) procurement standards."; and

(3) by adding at the end the following:

"(7) REPLACEMENT OF BENEFITS.—Regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an electronic benefit transfer system shall be similar to the regulations in effect for a paper food stamp issuance system.

"(8) REPLACEMENT CARD FEE.—A State agency may collect a charge for replacement of an electronic benefit transfer card by reducing the monthly allotment of the household receiving the replacement card.

"(9) OPTIONAL PHOTOGRAPHIC IDENTIFICATION.—

"(A) IN GENERAL.—A State agency may require that an electronic benefit card contain a photograph of 1 or more members of a household.

"(B) OTHER AUTHORIZED USERS.—If a State agency requires a photograph on an electronic benefit card under subparagraph (A), the State agency shall establish procedures to ensure that any other appropriate member of the household or any authorized representative of the household may utilize the card.".

SEC. 13035. VALUE OF MINIMUM ALLOTMENT.

The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking ", and shall be adjusted" and all that follows through "$5".

SEC. 13036. BENEFITS ON RECERTIFICATION.

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking "of more than one month".

SEC. 13037. OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by striking paragraph (3) and inserting the following:

"(3) OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is equal to the total amount of the initial allotment and the first regular allotment. The allotment shall be provided in accordance with section 11(e)(3) in the case of a household that is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 11(e) in the case of a household that is entitled to expedited service.".

SEC. 13038. FAILURE TO COMPLY WITH OTHER MEANS-TESTED PUBLIC ASSISTANCE PROGRAMS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by striking subsection (d) and inserting the following:

"(d) REDUCTION OF PUBLIC ASSISTANCE BENEFITS.—

"(1) IN GENERAL.—If the benefits of a household are reduced under a Federal, State, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction—

"(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

"(B) the State agency may reduce the allotment of the household by not more than 25 percent.

"(2) RULES AND PROCEDURES.—If the allotment of a household is reduced under this subsection for a failure to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to reduce the allotment under the food stamp program.".

SEC. 13039. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

"(f) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.—

"(1) IN GENERAL.—In the case of an individual who resides in a center for the purpose of a drug or alcoholic treatment program described in the last sentence of section 3(i), a State agency may provide an allotment for the individual to—

"(A) the center as an authorized representative of the individual for a period that is less than 1 month; and

"(B) the individual, if the individual leaves the center.

"(2) DIRECT PAYMENT.—A State agency may require an individual referred to in paragraph (1) to designate the center in which the individual resides as the authorized representative of the individual for the purpose of receiving an allotment.".

SEC. 13040. CONDITION PRECEDENT FOR APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: "No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the food stamp program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.".

SEC. 13041. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.

Section 9(a) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)) is amended by adding at the end the following:

"(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem coupons, or to redeem benefits through an electronic benefit transfer system, shall be valid under the food stamp program.".

SEC. 13042. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the first sentence, by inserting ", which may include relevant income and sales tax filing documents," after "submit information"; and

(2) by inserting after the first sentence the following: "The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified.".

SEC. 13043. WAITING PERIOD FOR STORES THAT FAIL TO MEET AUTHORIZATION CRITERIA.

Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: "A retail food store or wholesale food concern that is denied approval to accept and redeem coupons because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preceding sentence, including permanent disqualification, that reflects the severity of the basis of the denial.".

SEC. 13044. EXPEDITED COUPON SERVICE.

Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended—

(1) in subparagraph (A)—

(A) by striking "five days" and inserting "7 days"; and

(B) by inserting "and" at the end;

(2) by striking subparagraphs (B) and (C);

(3) by redesignating subparagraph (D) as subparagraph (B); and

(4) in subparagraph (B), as redesignated by paragraph (3), by striking ", (B), or (C)".

SEC. 13045. WITHDRAWING FAIR HEARING REQUESTS.

Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end a period and the following: "At the option of a State, at any time prior to a fair hearing determination under this paragraph, a household may withdraw, orally or in writing, a request by the household for the fair hearing. If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the withdrawal request and providing the household with an opportunity to request a hearing".

SEC. 13046. DISQUALIFICATION OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.

Section 12(b) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of an application for the approval or reauthorization to accept and redeem coupons that contains false information about a substantive matter that was a part of the application.".

SEC. 13047. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

"(g) DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.—

"(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this Act of an approved retail food store and a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 1786).

"(2) TERMS.—A disqualification under paragraph (1)—

"(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);

"(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

"(C) notwithstanding section 14, shall not be subject to judicial or administrative review.".

SEC. 13048. COLLECTION OF OVERISSUANCES.

(a) COLLECTION OF OVERISSUANCES.—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) COLLECTION OF OVERISSUANCES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

"(A) reducing the allotment of the household;

"(B) withholding amounts from unemployment compensation from a member of the household under subsection (c);

"(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

"(D) any other means.

"(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

"(3) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found eligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—

"(A) 10 percent of the monthly allotment of the household; or

"(B) \$10.

"(4) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment."; and

(2) in subsection (d)—

(A) by striking "as determined under subsection (b) and except for claims arising from an

error of the State agency," and inserting ", as determined under subsection (b)(1),"; and

(B) by inserting before the period at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(b) CONFORMING AMENDMENTS.—Section 11(e)(8) of the Act (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking "and excluding claims" and all that follows through "such section"; and

(2) by inserting before the semicolon at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(c) RETENTION RATE.—Section 16(a) of the Act (7 U.S.C. 2025(a)) is amended by striking "25 percent during the period beginning October 1, 1990" and all that follows through "error of a State agency" and inserting the following: "25 percent of the overissuances collected by the State agency under section 13, except those overissuances arising from an error of the State agency".

SEC. 13049. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.

Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) by redesignating the first through seventeenth sentences as paragraphs (1) through (17), respectively; and

(2) by adding at the end the following:

"(18) SUSPENSION OF STORES PENDING REVIEW.—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 12(b) shall be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.".

SEC. 13050. LIMITATION OF FEDERAL MATCH.

Section 16(a)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)(4)) is amended by inserting after the comma at the end the following: "but not including recruitment activities,".

SEC. 13051. WORK SUPPLEMENTATION OR SUPPORT PROGRAM.

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following:

"(c) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—

"(1) DEFINITION OF WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—In this subsection, the term 'work supplementation or support program' means a program under which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a public assistance recipient who was not employed by the employer at the time the public assistance recipient entered the program.

"(2) PROGRAM.—A State agency may elect to use an amount equal to the allotment that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting a job under a work supplementation or support program established by the State.

"(3) PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—

"(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;

"(B) the State agency shall expend the amount received under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;

"(C) for purposes of—

"(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and

"(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and

"(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.

"(4) OTHER WORK REQUIREMENTS.—No individual shall be excused, by reason of the fact that a State has a work supplementation or support program, from any work requirement under section 6(d), except during the periods in which the individual is employed under the work supplementation or support program.

"(5) LENGTH OF PARTICIPATION.—A State agency shall provide a description of how the public assistance recipients in the program shall, within a specific period of time, be moved from supplemented or supported employment to employment that is not supplemented or supported.

"(6) DISPLACEMENT.—A work supplementation or support program shall not displace the employment of individuals who are not supplemented or supported.".

SEC. 13052. AUTHORIZATION OF PILOT PROJECTS.

The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended by striking "1995" and inserting "2002".

SEC. 13053. EMPLOYMENT INITIATIVES PROGRAM.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (d) and inserting the following:

"(d) EMPLOYMENT INITIATIVES PROGRAM.—

"(1) ELECTION TO PARTICIPATE.—

"(A) IN GENERAL.—Subject to the other provisions of this subsection, a State may elect to carry out an employment initiatives program under this subsection.

"(B) REQUIREMENT.—A State shall be eligible to carry out an employment initiatives program under this subsection only if not less than 50 percent of the households that received food stamp benefits during the summer of 1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

"(2) PROCEDURE.—

"(A) IN GENERAL.—A State that has elected to carry out an employment initiatives program under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).

"(B) PAYMENT.—The Secretary shall pay to each State that has elected to carry out an employment initiatives program under paragraph (1) an amount equal to the value of the allotment that each household would be eligible to receive under this Act but for the operation of this subsection.

"(C) OTHER PROVISIONS.—For purposes of the food stamp program (other than this subsection)—

"(i) cash assistance under this subsection shall be considered to be an allotment; and

"(ii) each household receiving cash benefits under this subsection shall not receive any other food stamp benefit for the period for which the cash assistance is provided.

"(D) ADDITIONAL PAYMENTS.—Each State that has elected to carry out an employment initiatives program under paragraph (1) shall—

"(i) increase the cash benefits provided to each household under this subsection to compensate for any State or local sales tax that may be collected on purchases of food by any household receiving cash benefits under this subsection, unless the Secretary determines on the basis of information provided by the State that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

"(ii) pay the cost of any increase in cash benefits required by clause (i).

"(3) ELIGIBILITY.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

"(A) has worked in unsubsidized employment for not less than the preceding 90 days;

"(B) has earned not less than $350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;

"(C)(i) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) was receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;

"(D) is continuing to earn not less than $350 per month from the employment referred to in subparagraph (A); and

"(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.

"(4) EVALUATION.—A State that operates a program under this subsection for 2 years shall provide to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency, with the concurrence of the Secretary, shall determine the content of the evaluation.".

SEC. 13054. REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.

The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking "$974,000,000" and all that follows through "fiscal year 1995" and inserting "$1,143,000,000 for each of fiscal years 1995 and 1996, $1,182,000,000 for fiscal year 1997, $1,223,000,000 for fiscal year 1998, $1,266,000,000 for fiscal year 1999, $1,310,000,000 for fiscal year 2000, $1,357,000,000 for fiscal year 2001, and $1,404,000,000 for fiscal year 2002".

SEC. 13055. SIMPLIFIED FOOD STAMP PROGRAM.

(a) IN GENERAL.—The Act (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 24. SIMPLIFIED FOOD STAMP PROGRAM.

"(a) DEFINITION OF FEDERAL COSTS.—In this section, the term 'Federal costs' does not include any Federal costs incurred under section 17.

"(b) ELECTION.—Subject to subsection (d), a State agency may elect to carry out a Simplified Food Stamp Program (referred to in this section as a 'Program') in accordance with this section.

"(c) OPERATION OF PROGRAM.—If a State agency elects to carry out a Program, within the State or a political subdivision of the State—

"(1) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program; and

"(2) subject to subsection (f), benefits under the Program shall be determined under rules and procedures established by the State under—

"(A) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(B) the food stamp program (other than section 25); or

"(C) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the food stamp program (other than section 25).

"(d) APPROVAL OF PROGRAM.—

"(1) STATE PLAN.—A State agency may not operate a Program unless the Secretary approves a State plan for the operation of the Program under paragraph (2).

"(2) APPROVAL OF PLAN.—The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—

"(A) complies with this section; and

"(B) contains sufficient documentation that the plan will not increase Federal costs for any fiscal year.

"(e) INCREASED FEDERAL COSTS.—

"(1) DETERMINATION.—During each fiscal year and not later than 90 days after the end of each fiscal year, the Secretary shall determine whether a Program being carried out by a State agency is increasing Federal costs under this Act above the Federal costs incurred under the food stamp program in operation in the State or political subdivision of the State for the fiscal year prior to the implementation of the Program, adjusted for any changes in—

"(A) participation;

"(B) the income of participants in the food stamp program that is not attributable to public assistance; and

"(C) the thrifty food plan under section 3(o).

"(2) NOTIFICATION.—If the Secretary determines that the Program has increased Federal costs under this Act for any fiscal year or any portion of any fiscal year, the Secretary shall notify the State agency not later than 30 days after the Secretary makes the determination under paragraph (1).

"(3) ENFORCEMENT.—

"(A) CORRECTIVE ACTION.—Not later than 90 days after the date of a notification under paragraph (2), the State agency shall submit a plan for approval by the Secretary for prompt corrective action that is designed to prevent the Program from increasing Federal costs under this Act.

"(B) TERMINATION.—If the State agency does not submit a plan under subparagraph (A) or carry out a plan approved by the Secretary, the Secretary shall terminate the approval of the State agency to operate a Program and the State agency shall be ineligible to operate a future Program.

"(f) RULES AND PROCEDURES.—

"(1) IN GENERAL.—In operating a Program, a State or political subdivision of a State may follow the rules and procedures established by the State or political subdivision under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under the food stamp program.

"(2) STANDARDIZED DEDUCTIONS.—In operating a Program, a State may standardize the deductions provided under section 5(e). In developing the standardized deduction, the State shall consider the work expenses, dependent care costs, and shelter costs of participating households.

"(3) REQUIREMENTS.—In operating a Program, a State or political subdivision shall comply with the requirements of—

"(A) subsections (a) through (g) of section 7;

"(B) section 8(a) (except that the income of a household may be determined under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.));

"(C) subsection (b) and (d) of section 8;

"(D) subsections (a), (c), (d), and (n) of section 11;

"(E) paragraphs (8), (12), (17), (19), (21), (26), and (27) of section 11(e);

"(F) section 11(e)(10) (or a comparable requirement established by the State under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

"(G) section 16.

"(4) LIMITATION ON ELIGIBILITY.—Notwithstanding any other provision of this section, a household may not receive benefits under this section as a result of the eligibility of the household under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.".

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)), as amended by sections 13028(b), is further amended by adding at the end the following:

"(27) if a State agency elects to carry out a Simplified Food Stamp Program under section 24, the plans of the State agency for operating the program, including—

"(A) the rules and procedures to be followed by the State to determine food stamp benefits;

"(B) how the State will address the needs of households that experience high shelter costs in relation to the incomes of the households; and

"(C) a description of the method by which the State will carry out a quality control system under section 16(c).".

(c) CONFORMING AMENDMENTS.—

(1) Section 8 of the Act (7 U.S.C. 2017), as amended by section 13039, is further amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (f) as subsection (e).

(2) Section 17 of the Act (7 U.S.C. 2026) is amended—

(A) by striking subsection (i); and

(B) by redesignating subsections (j) through (l) as subsections (i) through (k), respectively.

SEC. 13056. STATE FOOD ASSISTANCE BLOCK GRANT.

(a) IN GENERAL.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13055, is further amended by adding at the end the following:

"SEC. 25. STATE FOOD ASSISTANCE BLOCK GRANT.

"(a) DEFINITIONS.—In this section:

"(1) FOOD ASSISTANCE.—The term 'food assistance' means assistance that may be used only to obtain food, as defined in section 3(g).

"(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Guam, and the Virgin Islands of the United States.

"(b) ESTABLISHMENT.—The Secretary shall establish a program to make grants to States in accordance with this section to provide—

"(1) food assistance to needy individuals and families residing in the State; and

"(2) funds for administrative costs incurred in providing the assistance.

"(c) ELECTION.—

"(1) IN GENERAL.—A State may annually elect to participate in the program established under subsection (b) if the State—

"(A) has fully implemented an electronic benefit transfer system that operates in the entire State;

"(B) has a payment error rate under section 16(c) that is not more than 6 percent as announced most recently by the Secretary; or

"(C) has a payment error rate in excess of 6 percent and agrees to contribute non-Federal funds for the fiscal year of the grant, for benefits and administration of the State's food assistance program, the amount determined under paragraph (2).

"(2) STATE MANDATORY CONTRIBUTIONS.—

"(A) IN GENERAL.—In the case of a State that elects to participate in the program under paragraph (1)(C), the State shall agree to contribute, for a fiscal year, an amount equal to—

"(A)(i) the benefits issued in the State; multiplied by

"(ii) the payment error rate of the State; minus

"(B)(i) the benefits issued in the State; multiplied by

"(ii) 6 percent.

"(B) DETERMINATION.—Notwithstanding sections 13 and 14, the calculation of the contribution shall be based solely on the determination of the Secretary of the payment error rate.

"(C) DATA.—For purposes of implementing subparagraph (A) for a fiscal year, the Secretary shall use the data for the most recent fiscal year available.

"(3) ELECTION LIMITATION.—

"(A) RE-ENTERING FOOD STAMP PROGRAM.—A State that elects to participate in the program under paragraph (1) may in a subsequent year decline to elect to participate in the program and instead participate in the food stamp program in accordance with the other sections of this Act.

"(B) LIMITATION.—Subsequent to re-entering the food stamp program under subparagraph (A), the State shall only be eligible to participate in the food stamp program in accordance with the other sections of this Act and shall not be eligible to elect to participate in the program established under subsection (b).

"(4) PROGRAM EXCLUSIVE.—

"(A) IN GENERAL.—A State that is participating in the program established under subsection (b) shall not be subject to, or receive any benefit under, this Act except as provided in this section.

"(B) CONTRACT WITH FEDERAL GOVERNMENT.—Nothing in this section shall prohibit a State from contracting with the Federal Government for the provision of services or materials necessary to carry out a program under this section.

"(d) LEAD AGENCY.—A State desiring to receive a grant under this section shall designate, in an application submitted to the Secretary under subsection (e)(1), an appropriate State agency responsible for the administration of the program under this section as the lead agency.

"(e) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive assistance under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by regulation require, including—

"(A) an assurance that the State will comply with the requirements of this section;

"(B) a State plan that meets the requirements of paragraph (3); and

"(C) an assurance that the State will comply with the requirements of the State plan under paragraph (3).

"(2) ANNUAL PLAN.—The State plan contained in the application under paragraph (1) shall be submitted for approval annually.

"(3) REQUIREMENTS OF PLAN.—

"(A) LEAD AGENCY.—The State plan shall identify the lead agency.

"(B) USE OF BLOCK GRANT FUNDS.—The State plan shall provide that the State shall use the amounts provided to the State for each fiscal year under this section—

"(i) to provide food assistance to needy individuals and families residing in the State, other than residents of institutions who are ineligible for food stamps under section 3(i); and

"(ii) to pay administrative costs incurred in providing the assistance.

"(C) GROUPS SERVED.—The State plan shall describe how and to what extent the program will serve specific groups of individuals and families and how the treatment will differ from

treatment under the food stamp program under the other sections of this Act of the individuals and families, including—

"(i) elderly individuals and families;

"(ii) migrants or seasonal farmworkers;

"(iii) homeless individuals and families;

"(iv) individuals and families who live in institutions eligible under section 3(i);

"(v) individuals and families with earnings; and

"(vi) members of Indian tribes or tribal organizations.

"(D) ASSISTANCE FOR ENTIRE STATE.—The State plan shall provide that benefits under this section shall be available throughout the entire State.

"(E) NOTICE AND HEARINGS.—The State plan shall provide that an individual or family who applies for, or receives, assistance under this section shall be provided with notice of, and an opportunity for a hearing on, any action under this section that adversely affects the individual or family.

"(F) ASSESSMENT OF NEEDS.—The State plan shall assess the food and nutrition needs of needy persons residing in the State.

"(G) ELIGIBILITY STANDARDS.—The State plan shall describe the income, resource, and other eligibility standards that are established for the receipt of assistance under this section.

"(H) RECEIVING BENEFITS IN MORE THAN 1 JURISDICTION.—The State plan shall establish a system for the exchange of information with other States to verify the identity and receipt of benefits by recipients.

"(I) PRIVACY.—The State plan shall provide for safeguarding and restricting the use and disclosure of information about any individual or family receiving assistance under this section.

"(J) OTHER INFORMATION.—The State plan shall contain such other information as may be required by the Secretary.

"(4) APPROVAL OF APPLICATION AND PLAN.—The Secretary shall approve an application and State plan that satisfies the requirements of this section.

"(f) NO INDIVIDUAL OR FAMILY ENTITLEMENT TO ASSISTANCE.—Nothing in this section—

"(1) entitles any individual or family to assistance under this section; or

"(2) limits the right of a State to impose additional limitations or conditions on assistance under this section.

"(g) BENEFITS FOR ALIENS.—

"(1) ELIGIBILITY.—No individual who is an alien shall be eligible to receive benefits under a State plan approved under subsection (e)(4) if the individual is not eligible to participate in the food stamp program due to the alien status of the individual.

"(2) INCOME.—The State plan shall provide that the income of an alien shall be determined in accordance with section 5(i).

"(h) EMPLOYMENT AND TRAINING.—

"(1) WORK REQUIREMENTS.—No individual or household shall be eligible to receive benefits under a State plan funded under this section if the individual or household is not eligible to participate in the food stamp program under subsection (d) or (o) of section 6.

"(2) WORK PROGRAMS.—Each State shall implement an employment and training program in accordance with the terms and conditions of section 6(d)(4) for individuals under the program and shall be eligible to receive funding under section 16(h).

"(i) ENFORCEMENT.—

"(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this section and the State plan approved under subsection (e)(4).

"(2) NONCOMPLIANCE.—

"(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

"(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the State plan approved under subsection (e)(4); or

"(ii) in the operation of any program or activity for which assistance is provided under this section, there is a failure by the State to comply substantially with any provision of this section; the Secretary shall notify the State of the finding and that no further grants will be made to the State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further grants to the State will be made with respect to the program or activity) until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(B) OTHER PENALTIES.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to, or in lieu of, imposing the penalties described in subparagraph (A), impose other appropriate penalties, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

"(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional penalty being imposed under subparagraph (B).

"(3) ISSUANCE OF REGULATIONS.—The Secretary shall establish by regulation procedures for—

"(A) receiving, processing, and determining the validity of complaints made to the Secretary concerning any failure of a State to comply with the State plan or any requirement of this section; and

"(B) imposing penalties under this section.

"(j) GRANT.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall pay to a State that has an application approved by the Secretary under subsection (e)(4) an amount that is equal to the grant of the State under subsection (m) for the fiscal year, adjusted for any reduction required under subsection (m)(2).

"(2) METHOD OF GRANT.—The Secretary shall make a grant to a State for a fiscal year under this section by issuing 1 or more letters of credit for the fiscal year, with necessary adjustments on account of overpayments or underpayments, as determined by the Secretary.

"(3) SPENDING OF GRANTS BY STATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a grant to a State determined under subsection (m)(1) for a fiscal year may be expended by the State only in the fiscal year.

"(B) CARRYOVER.—The State may reserve up to 10 percent of a grant determined under subsection (m)(1) for a fiscal year to provide assistance under this section in subsequent fiscal years, except that the reserved funds may not exceed 30 percent of the total grant received under this section for a fiscal year.

"(4) FOOD ASSISTANCE AND ADMINISTRATIVE EXPENDITURES.—In each fiscal year, not more than 6 percent of the Federal and State funds required to be expended by a State under this section shall be used for administrative expenses.

"(5) PROVISION OF FOOD ASSISTANCE.—A State may provide food assistance under this section in any manner determined appropriate by the State, such as electronic benefit transfer limited to food purchases, coupons limited to food purchases, or direct provision of commodities.

"(k) QUALITY CONTROL.—Each State participating in the program established under this section shall maintain a system in accordance with, and shall be subject to section 16(c), including sanctions and eligibility for incentive payment under section 16(c).

"(l) NONDISCRIMINATION.—

"(1) IN GENERAL.—The Secretary shall not provide financial assistance for any program, project, or activity under this section if any person with responsibilities for the operation of the program, project, or activity discriminates with respect to the program, project, or activity because of race, religion, color, national origin, sex, or disability.

"(2) ENFORCEMENT.—The powers, remedies, and procedures set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) may be used by the Secretary to enforce paragraph (1).

"(m) GRANT CALCULATION.—

"(1) STATE GRANT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), from the amounts made available under section 18 for each fiscal year, the Secretary shall provide a grant to each State participating in the program established under this section an amount that is equal to the sum of—

"(i) the greater of, as determined by the Secretary—

"(I) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1994; or

"(II) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1992 through 1994; and

"(ii) the greater of, as determined by the Secretary—

"(I) the total amount received by the State for administrative costs under section 16 for fiscal year 1994; or

"(II) the average per fiscal year of the total amount received by the State for administrative costs under section 16 for each of fiscal years 1992 through 1994.

"(B) INSUFFICIENT FUNDS.—If the Secretary finds that the total amount of grants to which States would otherwise be entitled for a fiscal year under subparagraph (A) will exceed the amount of funds that will be made available to provide the grants for the fiscal year, the Secretary shall reduce the grants made to States under this subsection, on a pro rata basis, to the extent necessary.

"(2) REDUCTION.—The Secretary shall reduce the grant of a State by the amount a State has agreed to contribute under subsection (c)(1)(C).".

(b) EMPLOYMENT AND TRAINING FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(a)), as amended by section 13027(d)(2), is further amended by adding at the end the following:

"(6) BLOCK GRANT STATES.—Each State electing to operate a program under section 25 shall—

"(A) receive the greater of—

"(i) the total dollar value of the funds received under paragraph (1) by the State during fiscal year 1994; or

"(ii) the average per fiscal year of the total dollar value of all funds received under paragraph (1) by the State during each of fiscal years 1992 through 1994; and

"(B) be eligible to receive funds under paragraph (2), within the limitations in section 6(d)(4)(K).".

(c) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—Section 17 of the Act (7 U.S.C. 2026), as amended by section 13055(c)(2), is further amended by adding at the end the following:

"(l) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—The Secretary may conduct research on the effects and costs of a State program carried out under section 25.".

SEC. 13057. AMERICAN SAMOA.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13056, is further amended by adding at the end the following:

"SEC. 26. TERRITORY OF AMERICAN SAMOA.

From amounts made available to carry out this Act, the Secretary may pay to the Territory of American Samoa not more than $5,300,000 for each of fiscal years 1996 through 2002 to finance 100 percent of the expenditures for the fiscal year for a nutrition assistance program extended under section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c)).".

SEC. 13058. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13057, is further amended by adding at the end the following:

"SEC. 27. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

"(a) DEFINITION OF COMMUNITY FOOD PROJECTS.—In this section, the term 'community food project' means a community-based project that requires a 1-time infusion of Federal assistance to become self-sustaining and that is designed to—

"(1) meet the food needs of low-income people;

"(2) increase the self-reliance of communities in providing for their own food needs; and

"(3) promote comprehensive responses to local food, farm, and nutrition issues.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—From amounts made available to carry out this Act, the Secretary may make grants to assist eligible private nonprofit entities to establish and carry out community food projects.

"(2) LIMITATION ON GRANTS.—The total amount of funds provided as grants under this section for any fiscal year may not exceed $2,500,000.

"(c) ELIGIBLE ENTITIES.—To be eligible for a grant under subsection (b), a private nonprofit entity must—

"(1) have experience in the area of—

"(A) community food work, particularly concerning small and medium-sized farms, including the provision of food to people in low-income communities and the development of new markets in low-income communities for agricultural producers; or

"(B) job training and business development activities for food-related activities in low-income communities;

"(2) demonstrate competency to implement a project, provide fiscal accountability, collect data, and prepare reports and other necessary documentation; and

"(3) demonstrate a willingness to share information with researchers, practitioners, and other interested parties.

"(d) PREFERENCE FOR CERTAIN PROJECTS.—In selecting community food projects to receive assistance under subsection (b), the Secretary shall give a preference to projects designed to—

"(1) develop linkages between 2 or more sectors of the food system;

"(2) support the development of entrepreneurial projects;

"(3) develop innovative linkages between the for-profit and nonprofit food sectors; or

"(4) encourage long-term planning activities and multi-system, interagency approaches.

"(e) MATCHING FUNDS REQUIREMENTS.—

"(1) REQUIREMENTS.—The Federal share of the cost of establishing or carrying out a community food project that receives assistance under subsection (b) may not exceed 50 percent of the cost of the project during the term of the grant.

"(2) CALCULATION.—In providing for the non-Federal share of the cost of carrying out a community food project, the entity receiving the grant shall provide for the share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services.

"(3) SOURCES.—An entity may provide for the non-Federal share through State government, local government, or private sources.

"(f) TERM OF GRANT.—

"(1) SINGLE GRANT.—A community food project may be supported by only a single grant under subsection (b).

"(2) TERM.—The term of a grant under subsection (b) may not exceed 3 years.

"(g) TECHNICAL ASSISTANCE AND RELATED INFORMATION.—

"(1) TECHNICAL ASSISTANCE.—In carrying out this section, the Secretary may provide technical assistance regarding community food projects, processes, and development to an entity seeking the assistance.

"(2) SHARING INFORMATION.—

"(A) IN GENERAL.—The Secretary may provide for the sharing of information concerning community food projects and issues among and between government, private for-profit and nonprofit groups, and the public through publications, conferences, and other appropriate forums.

"(B) OTHER INTERESTED PARTIES.—The Secretary may share information concerning community food projects with researchers, practitioners, and other interested parties.

"(h) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for the evaluation of the success of community food projects supported using funds under this section.

"(2) REPORT.—Not later than January 30, 2002, the Secretary shall submit a report to Congress regarding the results of the evaluation.".

CHAPTER 2—COMMODITY DISTRIBUTION PROGRAMS

SEC. 13071. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) DEFINITIONS.—Section 201A of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended to read as follows:

"SEC. 201A. DEFINITIONS.

"In this Act:

"(1) ADDITIONAL COMMODITIES.—The term 'additional commodities' means commodities made available under section 214 in addition to the commodities made available under sections 202 and 203D.

"(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term 'average monthly number of unemployed persons' means the average monthly number of unemployed persons in each State in the most recent fiscal year for which information concerning the number of unemployed persons is available, as determined by the Bureau of Labor Statistics of the Department of Labor.

"(3) ELIGIBLE RECIPIENT AGENCY.—The term 'eligible recipient agency' means a public or nonprofit organization—

"(A) that administers—

"(i) an emergency feeding organization;

"(ii) a charitable institution (including a hospital and a retirement home, but excluding a penal institution) to the extent that the institution serves needy persons;

"(iii) a summer camp for children, or a child nutrition program providing food service;

"(iv) a nutrition project operating under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), including a project that operates a congregate nutrition site and a project that provides home-delivered meals; or

"(v) a disaster relief program;

"(B) that has been designated by the appropriate State agency, or by the Secretary; and

"(C) that has been approved by the Secretary for participation in the program established under this Act.

"(4) EMERGENCY FEEDING ORGANIZATION.—The term 'emergency feeding organization' means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

"(5) FOOD BANK.—The term 'food bank' means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

"(6) FOOD PANTRY.—The term 'food pantry' means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

"(7) POVERTY LINE.—The term 'poverty line' has the same meaning given the term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(8) SOUP KITCHEN.—The term 'soup kitchen' means a public or charitable institution that, as integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

"(9) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term 'total value of additional commodities' means the actual cost of all additional commodities made available under section 214 that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

"(10) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.—The term 'value of additional commodities allocated to each State' means the actual cost of additional commodities made available under section 214 and allocated to each State that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).".

(b) STATE PLAN.—Section 202A of the Act (7 U.S.C. 612c note) is amended to read as follows:

"SEC. 202A. STATE PLAN.

"(a) IN GENERAL.—To receive commodities under this Act, a State shall submit a plan of operation and administration every 4 years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

"(b) REQUIREMENTS.—Each plan shall—

"(1) designate the State agency responsible for distributing the commodities received under this Act;

"(2) set forth a plan of operation and administration to expeditiously distribute commodities under this Act;

"(3) set forth the standards of eligibility for recipient agencies; and

"(4) set forth the standards of eligibility for individual or household recipients of commodities, which shall require—

"(A) individuals or households to be comprised of needy persons; and

"(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of applying for assistance.

"(c) STATE ADVISORY BOARD.—The Secretary shall encourage each State receiving commodities under this Act to establish a State advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this Act in the State.".

(c) AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNDS.—Section 204(a)(1) of the Act (7 U.S.C. 612c note) is amended—

(1) in the first sentence—

(A) by striking "1991 through 1995' and inserting "1996 through 2002"; and

(B) by striking "for State and local" and all that follows through "under this title" and inserting "to pay for the direct and indirect administrative costs of the State related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this Act and commodities secured from other sources"; and

(2) by striking the fourth sentence.

(d) DELIVERY OF COMMODITIES.—Section 214 of the Act (7 U.S.C. 612c note) is amended—

(1) by striking subsections (a) through (e) and (j);

(2) by redesignating subsections (f) through (i) as subsections (a) through (d), respectively;

(3) in subsection (b), as redesignated by paragraph (2)—

(A) in the first sentence, by striking "subsection (f) or subsection (j) if applicable," and inserting "subsection (a)"; and

(B) in the second sentence, by striking "subsection (f)" and inserting "subsection (a)";

(4) by striking subsection (c), as redesignated by paragraph (2), and inserting the following:

"(c) ADMINISTRATION.—

"(1) IN GENERAL.—Commodities made available for each fiscal year under this section shall be delivered at reasonable intervals to States based on the grants calculated under subsection (a), or reallocated under subsection (b), before December 31 of the following fiscal year.

"(2) ENTITLEMENT.—Each State shall be entitled to receive the value of additional commodities determined under subsection (a)."; and

(5) in subsection (d), as redesignated by paragraph (2), by striking "or reduce" and all that follows through "each fiscal year".

(e) TECHNICAL AMENDMENTS.—The Act (7 U.S.C. 612c note) is amended—

(1) in the first sentence of section 203B(a), by striking "203 and 203A of this Act" and inserting "203A";

(2) in section 204(a), by striking "title" each place it appears and inserting "Act";

(3) in the first sentence of section 210(e), by striking "(except as otherwise provided for in section 214(j))"; and

(4) by striking section 212.

(f) REPORT ON EFAP.—Section 1571 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 612c note) is repealed.

(g) AVAILABILITY OF COMMODITIES UNDER THE FOOD STAMP PROGRAM.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13058, is further amended by adding at the end the following:

"SEC. 28. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.

"(a) PURCHASE OF COMMODITIES.—From amounts appropriated under this Act, for each of fiscal years 1997 through 2002, the Secretary shall purchase $300,000,000 of a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c), and distribute the commodities to States for distribution in accordance with section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note).

"(b) BASIS FOR COMMODITY PURCHASES.—In purchasing commodities under subsection (a), the Secretary shall, to the extent practicable and appropriate, make purchases based on—

"(1) agricultural market conditions;

"(2) preferences and needs of States and distributing agencies; and

"(3) preferences of recipients.".

(h) EFFECTIVE DATE.—The amendments made by subsection (d) shall become effective on October 1, 1996.

Subtitle L—Reform of the Earned Income Credit

SEC. 13200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 13201. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.".

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II) of section 205(c)(2)(B)(i) of the Social Security Act.".

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income credit) to be included on a return and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13202. REPEAL OF EARNED INCOME CREDIT FOR INDIVIDUALS WITHOUT CHILDREN.

(a) IN GENERAL.—Subparagraph (A) of section 32(c)(1) (defining eligible individual) is amended to read as follows:

(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year.".

(b) CONFORMING AMENDMENTS.—Each of the tables contained in paragraphs (1) and (2) of section 32(b) are amended by striking the items relating to no qualifying children.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13203. MODIFICATION OF EARNED INCOME CREDIT AMOUNT AND PHASEOUT.

(a) MODIFICATION OF PHASEOUT.—Subparagraph (B) of section 32(a)(2) is amended to read as follows:

"(B) the sum of—

"(i) the initial phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the initial phaseout amount but does not exceed the final phaseout amount, plus

"(ii) the final phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the final phaseout amount."

(b) PERCENTAGES AND AMOUNTS.—

(1) IN GENERAL.—Subsection (b) of section 32, as amended by section 13202(b), is amended to read as follows:

"(b) PERCENTAGES AND AMOUNTS.—

"(1) PERCENTAGES.—The credit percentage, the initial phaseout percentage, and the final phaseout percentage shall be determined as follows:

"In the case of an eligible individual with:	The credit percentage is:	The initial phaseout percentage is:	The final phaseout percentage is:
1 qualifying child	34	15.98	20
2 or more qualifying children	36	21.06	25

"(2) AMOUNTS.—The earned income amount, the initial phaseout amount, and the final phaseout amount shall be determined as follows:

"In the case of an eligible individual with:	The earned income amount is:	The initial phaseout amount is:	The final phaseout amount is:
1 qualifying child	$6,340	$11,630	$14,850
2 or more qualifying children	$8,910	$11,630	$17,750".

(2) INCREASE IN CREDIT FOR LOWER-INCOME FAMILIES HAVING 2 MORE QUALIFYING CHILDREN.—Subsection (d) of section 32 is amended to read as follows:

"(d) INCREASE IN CREDIT FOR LOWER-INCOME FAMILIES HAVING 2 OR MORE QUALIFYING CHILDREN.—

"(1) IN GENERAL.—If an eligible individual has 2 or more qualifying children, for purposes of applying paragraphs (1) and (2)(A) of subsection (a)—

"(A) the amount of the taxpayer's earned income shall be treated as being equal to $\frac{10}{9}$ of such income (determined without regard to this paragraph), and

"(B) the earned income amount shall be treated as being equal to $\frac{10}{9}$ of such amount (determined without regard to this paragraph).

"(2) PHASEOUT OF BENEFIT.—If the applicable income of the taxpayer for the taxable year exceeds $14,000 ($17,000 in the case of a joint return), the amount of each increase under paragraph (1) shall be reduced (but not below zero) by an amount which bears the same ratio to such increase (determined without regard to this subparagraph) as such excess bears to $4,000.

"(3) APPLICABLE INCOME.—For purposes of this subsection, the term 'applicable income' means adjusted gross income or, if greater, earned income."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (j) of section 32 is amended—

(i) by striking "subsection (b)(2)(A)" and inserting "subsection (b)(2) or (d)",

(ii) by striking "1994" and inserting "1996", and

(iii) by striking "1993" and inserting "1995".

(B) Subsection (e) of section 32 is amended to read as follows:

"(e) OTHER SPECIAL RULES—

"(1) MARRIED INDIVIDUALS.—In the case of an individual who is married (within the meaning *of section 7703), this section shall apply only if a joint return is filed for the taxable year.*

"(2) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of an individual, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13204. RULES RELATING TO DENIAL OF EARNED INCOME CREDIT ON BASIS OF DISQUALIFIED INCOME.

(a) DEFINITION OF DISQUALIFIED INCOME.—Paragraph (2) of section 32(i) (defining disqualified income) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) the excess (if any) of—

"(i) the aggregate income from all passive activities for the taxable year (determined without regard to any amount described in a preceding subparagraph), over

"(ii) the aggregate losses from all passive activities for the taxable year (as so determined). For purposes of subparagraph (D), the term 'passive activity' has the meaning given such term by section 469.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13205. MODIFICATION OF ADJUSTED GROSS INCOME DEFINITION FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a)(2), (c)(1)(C), (d), and (f)(2)(B) of section 32, as amended by the preceding sections of this subtitle, are each amended by striking "adjusted gross income" each place it appears and inserting "modified adjusted gross income".

(b) MODIFIED ADJUSTED GROSS INCOME DEFINED.—Section 32(c) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(5) MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The term 'modified adjusted gross income' means adjusted gross income—

"(i) increased by the sum of the amounts described in subparagraph (B), and

"(ii) determined without regard to—

"(I) the amounts described in subparagraph (C), or

"(II) the deduction allowed under section 172.

"(B) NONTAXABLE INCOME TAKEN INTO ACCOUNT.—AMOUNTS DESCRIBED IN THIS SUBPARAGRAPH ARE—

"(i) social security benefits (as defined in section 86(d)) received by the taxpayer during the taxable year to the extent not included in gross income,

"(ii) amounts which—

"(I) are received during the taxable year by (or on behalf of) a spouse pursuant to a divorce or separation instrument (as defined in section 71(b)(2)), and

"(II) under the terms of the instrument are fixed as payable for the support of the children of the payor spouse (as determined under section 71(c)),

but only to the extent such amounts exceed $6,000,

"(iii) interest receive or accrued during the taxable year which is exempt from tax imposed by this chapter, and

"(iv) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.

Clause (iv) shall not include any amount which is not includible in gross income by reason of section 402(c), 403(a)(4), 403(b)(8), 408(d) (3), (4), or (5), or 457(e)(10).

"(C) CERTAIN AMOUNTS DISREGARDED.—an amount is described in this subparagraph if it is—

"(i) the amount of losses form sales or exchanges of capital assets in excess of gains from such sales or exchanges to the extent such amount does not exceed the amount under section 1211(b)(1),

"(ii) the net loss from the carrying on of trades or businesses, computed separately with respect to—

"(I) trades or businesses (other than farming) conducted as sole proprietorships,

"(II) trades or businesses of farming conducted as sole proprietorships, and

"(III) other trades or business,

"(iii) the net loss from estates and trusts, and

"(iv) the excess (if any) of amounts described in subsection (i)(2)(C)(ii) over the amounts described in subsection (i)(2)(C)(i) (relating to nonbusiness rents and royalties).

For purposes of clause (ii), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13206. PROVISIONS TO IMPROVE TAX COMPLIANCE.

(a) INCREASE IN PENALTIES FOR RETURN PREPARERS.—

(1) UNDERSTATEMENT PENALTY.—Section 6694 (relating to understatement of income tax liability by income tax return preparer) is amended—

(A) by striking "$250" in subsection (a) and inserting "$500", and

(B) by striking "$1,000" in subsection (b) and inserting "$2,000".

(2) OTHER ASSESSABLE PENALTIES.—Section 6695 (relating to other assessable penalties) is amended—

(A) by striking "$50" and "$25,000" in subsections (a), (b), (c), (d), and (e) and inserting "$100" and "$50,000", respectively, and

(B) by striking "$500" in subsection (f) and inserting "$1,000".

(b) AIDING AND ABETTING PENALTY.—Section 6701(b) (relating to amount of penalty) is amended—

(1) by striking "$1,000" in paragraph (1) and inserting "$2,000", and

(2) by striking "10,000" in paragraph (2) and inserting "20,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties with respect to taxable years beginning after December 31, 1995.

Subtitle M—Clinical Laboratories

SEC. 13301. EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.

Section 353(d) of the Public Health Service Act (42 U.S.C. 263a(d)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5) and by adding after paragraph (1) the following:

"(2) EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a clinical laboratory in a physician's office (including an office of a group of physicians) which is directed by a physician and in which examinations and procedures are either performed by a physician or by individuals supervised by a physician solely as an adjunct to other services provided by the physician's office is exempt from this section.

"(B) EXCEPTION.—A clinical laboratory described in subparagraph (A) is not exempt from this section when it performs a pap smear (Papanicolaou Smear) analysis.

"(C) DEFINITION.—For purposes of subparagraph (A), the term 'physician' has the same meaning as is prescribed for such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).";

(2) in paragraph (3) (as so redesignated) by striking "(3)" and inserting "(4)"; and

(3) in paragraphs (4) and (5) (as so redesignated) by striking "(2)" and inserting "(3)".

And the Senate agree to the same.

For consideration of the House bill and the Senate amendment, and modifications committed on conference:

JOHN R. KASICH,
ROBERT S. WALKER,
DICK ARMEY,
TOM DELAY,
JOHN BOEHNER,

As additional conferees from the Committee on the Budget, for consideration of title XX of the House bill, and modifications committed to conference:

JIM KOLBE,
CHRISTOPHER SHAYS,
DAVE HOBSON,

As additional conferees from the Committee on Agriculture, for consideration of title I of the House bill, and subtitles A–C of title I of the Senate amendment, and modifications committed to conference:

PAT ROBERTS,
BILL EMERSON,

As additional conferees from the Committee on Banking and Financial Services, for consideration of title II of the House bill, and title III of the Senate amendment, and modifications committed to conference:

JAMES A. LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,

As additional conferees from the Committee on Commerce, for consideration of title III of the House bill, and subtitle A of title IV, subtitles A and G of title V, and section 6004 of the Senate amendment, and modifications committed to conference:

TOM BLILEY,
DAN SCHAEFER,

As additional conferees from the Committee on Commerce, for consideration of title XV of the House bill, and subtitle A of title VII of the Senate amendment, and modifications committed to conference:

TOM BLILEY,
MICHAEL BILIRAKIS,
J. DENNIS HASTERT,
JAMES GREENWOOD,

As additional conferees from the Committee on Commerce, for consideration of title XVI of the House bill, and subtitle B of title VII of the Senate amendment, and modifications committed to conference:

TOM BLILEY,
MICHAEL BILIRAKIS,
BILLY TAUZIN,
JOE BARTON,
BILL PAXON,
J. DENNIS HASTERT,
JAMES GREENWOOD,
RALPH M. HALL,

As additional conferees from the Committee on Economic and Educational Opportunities, for consideration of title IV of the House bill, and title X of the Senate amendment, and modifications committed to conference:

WILLIAM F. GOODLING,
BUCK MCKEON,

As additional conferees from the Committee on Government Reform and Oversight, for consideration of title V of the House bill, and title VIII and sections 13001 and 13003 of the Senate amendment, and modifications committed to conference:

BILL CLINGER,

Steven Schiff,

As additional conferees from the Committee on International Relations, for consideration of title VI of the House bill, and section 13002 of the Senate amendment, and modifications committed to conference:

Ben Gilman,
Dan Burton,

As additional conferees from the Committee on the Judiciary, for consideration of title VII of the House bill, and title IX and section 12944 of the Senate amendment, and modifications committed to conference:

Henry Hyde,
Carlos J. Moorhead,

As additional conferees from the Committee on National Security, for consideration of title VIII of the House bill, and title II of the Senate amendment, and modifications committed to conference:

Floyd Spence,
Duncan Hunter,

As additional conferees from the Committee on Resources, for consideration of title IX of the House bill, and title V (except subtitles A and G) of the Senate amendment, and modifications committed to conference:

Don Young,
Billy Tauzin,

As additional conferees from the Committee on Transportation and Infrastructure, for consideration of title X of the House bill, and subtitles B and C of title IV and title VI (except section 6004) of the Senate amendment, and modifications committed to conference:

Bud Shuster,
Bill Clinger,

As additional conferees from the Committee on Veterans' Affairs, for consideration of title XI of the House bill, and title XI of the Senate amendment, and modifications committed to conference:

Robert Stump,
Tim Hutchinson,
G.V. Montgomery,

As additional conferees from the Committee on Ways and Means, for consideration of titles XII, XIII, XIV, and XIX of the House bill, and subtitles H and I of title VII and title XII (except section 12944) of the Senate amendment, and modifications committed to conference:

Bill Archer,
Phil Crane,
Wm. Thomas,
E. Clay Shaw, Jr.,
Jim Bunning,

As additional conferees from the Committee on Ways and Means, for consideration of title XV of the House bill, and subtitle A of title VII of the Senate amendment, and modifications committed to conference:

Bill Archer,
Wm. Thomas,
Nancy L. Johnson,
Jim McCrery,
Managers on the Part of the House.

From the Committee on the Budget for consideration of all titles:

Pete V. Domenici,
Chuck Grassley,

From the Committee on Agriculture, Nutrition, and Forestry:

Dick Lugar
(for consideration of all of title I),
Bob Dole
(for consideration of all of title I),
Jesse Helms
(for consideration of section 1113 and subtitle D),
Thad Cochran
(for consideration of title I, except sections 1106, 1108, 1113, and subtitle D),
Larry E. Craig
(for consideration of sections 1106 and 1108),

From the Committee on Armed Services:

Strom Thurmond,
John McCain,

From the Committee on Banking, Housing and Urban Affairs:

Alfonse M. D'Amato,
Phil Gramm,

From the Committee on Commerce, Science, and Transportation:

Larry Pressler,
Ted Stevens,
John McCain,

From the Committee on Energy and Natural Resources:

Frank H. Murkowski,
Mark O. Hatfield,
Don Nickles,

From the Committee on Environment and Public Works:

John H. Chafee,
John Warner,
Bob Smith,

From the Committee on Finance:

William V. Roth, Jr.,
Bob Dole,

From the Committee on Governmental Affairs (and for consideration of the title of the House bill relating solely to abolishing the Department of Commerce):

Ted Stevens,
Fred Thompson,

From the Committee on the Judiciary:

Orrin Hatch,
Chuck Grassley,

From the Committee on Labor and Human Resources:

Nancy Landon Kassebaum,
Dan Coats,
Bill Frist,

From the Committee on Veterans Affairs:

Alan K. Simpson,
Frank H. Murkowski,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—AGRICULTURE

(Numbers in parentheses refer to the section numbers of the provisions in the House Bill (H) the Senate Amendment (S), and the Conference Report (CR))

The Managers on the part of the House and the Senate on title I of the bill met to resolve a number of issues in disagreement between the House Bill and the Senate Amendment. A number of provisions agreed to by the Managers are included in the Conference Substitute. However, a number of provisions that were agreed to by the Managers were subsequently removed from the Conference Substitute pursuant to the Manager's agreement that provisions potentially violative of section 313 of the Congressional Budget Act of 1974, commonly referred to as the "Byrd Rule", be removed from the Conference Substitute.

The Byrd Rule provides in pertinent part, that during Senate debate on a reconciliation conference report, any Senator may make a point of order against extraneous material that, if sustained, will result in the extraneous material being stricken and result in the Conference Report being sent back to the House. The Rule also provides guidance as to what constitutes extraneous matter in a reconciliation conference report.

SUBTITLE A—AGRICULTURAL MARKET TRANSITION PROGRAM

DEFINITIONS (H. , S. , CR. 1102)

The *House Bill* authorized the Secretary to enter into a 7-year market transition contract (1996 to 2002) with eligible owners and operators on a farm containing eligible farmland. The land on the farm must have been enrolled in 1 or more of the annual upland cotton, rice, feed grain, or wheat programs, or contain considered planted acreage, for a total of at least 1 of the 1991 through 1995 crop years to be eligible for a Freedom to Farm contract.

The *Senate Amendment* required that the land on a farm must have been enrolled in 1 or more of the annual upland cotton, rice, feed grain, or wheat programs, or contain considered planted acreage, for a total of at least 3 of the 1991 through 1995 crop years to participate in an annual commodity program in calendar years 1996–2002.

The *Conference Substitute* amends the *House* provision and establishes the 1996 contract acreage and payment yield as the 1996 crop acreage base and yield that would have been established under the Agriculture Act of 1949 (that is repealed, except that certain of its provisions are inserted in the Agricultural Adjustment Act of 1938). To be eligible for a production flexibility contract, the land on a farm must have been enrolled in 1 or more of the annual upland cotton, rice, feed grain, or wheat programs, or contain considered planted acreage, for a total of at least 1 of the 1991 through 1995 crop years on the farm.

PRODUCTION FLEXIBILITY CONTRACTS (H. , S. , CR 1103)

The *House Bill* describes the terms owner and operator as those eligible to enter into contracts, and instructs the Secretary to provide adequate safeguards to protect the interests of operators who are tenants and sharecroppers. The bill establishes a contract system of guaranteed annual payments to owners and operators over fiscal years 1996–2002 that describes eligible farmland as that which contains a crop acreage base, at least a portion of which was enrolled in the acreage reduction programs for the major farm program crops (wheat, feed grains, cotton and rice) during one of the 1991 through 1995 crop years, including zero certified considered planted acreage. Conservation reserve program (CRP) acreage that contains crop acreage base was made eligible for transfer into a Freedom to Farm contract.

The yearly spending limits under the House bill are derived by scoring all the deficiency payments made to producers during crop years 1991–1995 based on budget baseline spending for the farm commodities and then adjusting them by subtracting payments made in fiscal years 1996 and 1997 based on payments due producers based on their 1994 and 1995 programs on which payment balances are due. Then, adding producer *repayments* of deficiency payments received by the Secretary during fiscal years 1996 and 1997;

adding market transition contract payments withheld at the request of producers during the preceding fiscal year as an offset against repayments of deficiency payments otherwise due; and adding penalties assessed in market transition contracts which are refunded during the preceding fiscal year.

Individual owner and operator contract payments are determined by establishing a producer's production history, divided by the total national percentage of programs payments for the program crop, divided by the producer's yield history for the crop. The 1996 and 1997 total contract payments include the 1994 and 1995 crop deficiency payments that are to be made or are unearned and would have been refunded due to favorable market price conditions. Acreage reduction authorities are repealed and 0/50/85/92 programs are repealed.

The *Senate Amendment* amends Sec. 302, 303, 304 and 305 of the Agricultural Act of 1949—

(1) by reauthorizing the rice, upland cotton, feed grain and wheat programs through 2002;

(2) by increasing unpaid flex acres to 30%;

(3) by establishing a maximum deficiency payment rate based on the February, 1995 Congressional Budget Office baseline for deficiency payments;

CBO BASELINE DEFICIENCY PAYMENTS, FEBRUARY, 1995

Crop		Crop year—						
		1996	1997	1998	1999	2000	2001	2002
Corn	$/bu	0.53	0.53	0.57	0.56	0.53	0.54	0.55
Sorghum	$/bu	0.59	0.59	0.63	0.61	0.59	0.60	0.61
Barley	$/bu	0.45	0.43	0.44	0.42	0.39	0.39	0.40
Oats	$/bu	0.12	0.11	0.12	0.11	0.09	0.09	0.10
Wheat	$/bu	0.89	0.94	0.95	0.89	0.79	0.78	0.71
Cotton	$/lb	0.086	0.121	0.131	0.136	0.130	0.120	0.115
Rice	$/cwt	4.21	4.19	3.86	3.48	3.23	2.89	2.66

Source: Congressional Budget Office, February, 1995 Baseline.

(4) by eliminating the authority to impose acreage reduction requirements;

(5) by retaining current law provisions regarding haying and grazing;

(6) in the 0/85 option for feed grains and rice by (1) paying on 85% of the payment acres devoted to conserving uses, planted to alternative crops, reduced yields, and oilseeds options, and (2) terminating 0/85 payments for prevented planting;

(7) in the 50/85 option for rice by (1) changing the 50% minimum planting requirement to 25%, (2) paying on 75% of the payment acres devoted to conserving uses or planted to alternative crops instead of 85%, (3) paying on 75% of the payment acres for reduced yields, and oilseeds options, and (4) terminating 0/85 payments for prevented planting;

(8) in the 50/85 option for upland cotton by (1) eliminating the 50% minimum planting requirement, (2) by paying on 85% of the payment acres devoted to conserving uses, planted to alternative crops, reduced yields, and oilseeds options, and (3) terminating 0/85 payments for prevented planting;

(9) by terminating the 8-month nonrecourse loan extension for upland cotton; and

(10) by requiring producers to pay the storage costs for upland cotton put under loan.

The *Conference Substitute* adopts the *House* provision with an amendment to establish a 7-year production flexibility contract. Contract holders must comply with existing conservation compliance and wetlands protection regulations, and planting flexibility restrictions. Contracts are to be entered into by April 15, 1996, and will extend through the 2002 crop. (Land may be enrolled in a contract after this date if it is covered by a Conservation Reserve Contract which expires or is voluntarily terminated by a producer after April 15, 1996.)

Annual payments are to be made by September 30 of each year, with an advance payment of 50% payable to the producer, at his or her option, not later than December 15 of the previous calendar year. (For the 1996 crops, however, the advance is to be paid within 60 days of the date the producer signs his or her contract.)

Total payments under all contracts are established at levels derived from the February 1995 Congressional Budget Office budget baseline estimate of 1996-2002 crop deficiency payments. Each year, 46.22% of the payments are to be made for corn, 5.11% for grain sorghum, 2.16% for barley, 0.15% for oats, 26.26% for wheat, 11.63% for upland cotton and 8.47% for rice.

The amounts available for contract payments will be adjusted by (1) subtracting any final deficiency payments for the 1994 and 1995 crops made in fiscal years 1996 or 1997; (2) adding repayments of unearned advance deficiency payments for the 1995 crops; (3) adding amounts deducted as offsets requested by producers in lieu of repaying unearned advance deficiency payments; and (4) adding any contract payments refunded by producers who violate or cancel their contracts.

To calculate contract payments, USDA will establish a payment quantity for each contract commodity on a farm, equal to 85% of the farm's contract acreage multiplied by the farm's payment yield for that commodity. For each commodity, the payment quantity will then be multiplied by the payment rate to obtain the annual payment amount. (The payment rate is determined by dividing the total payment quantities for all contracts covering a particular commodity by the dollars available for that commodity.)

PLANTING FLEXIBILITY AND LOAN ELIGIBILITY (H.1102, H.1103, S.1109, CR.1103)

The *House Bill* repeals Title V of the Agricultural Act of 1949 that provided for the establishment and maintenance of program bases and yields and also provided for planting flexibility under the 1991-1995 acreage reduction programs.

The *House Bill* provides that for the 1996 through 2002 crop years the Freedom to Farm transition program—

(1) allows the planting of any program crop, oilseed, industrial or experimental crop, mung beans, lentils and dry peas on payment acres (historical base acres);

(2) restricts the planting of fruits or vegetables on payment acres;

(3) restricts haying and grazing on payment acres during a 5-month period between April 1 and October 31; and

(4) makes all program crop production of contract holders eligible for loan programs. (See marketing assistance loans discussed infra.)

The *Senate Amendment* amends Title V of the Agricultural Act of 1949—

(1) by precluding the planting of fruits or vegetables (except lentils and peas), on paid acreage of a crop acreage base (70% of historical base);

(2) by allowing full planting flexibility and unlimited haying and grazing on unpaid flex acres (30%) of a crop acreage base;

(3) by allowing the planting of wheat, feed grains, or oilseeds on all acreage on a farm with full loan eligibility;

(4) by allowing full planting flexibility on wheat or feed grain crop acreage base, without loss of base history or deficiency payments;

(5) by allowing alternate crops to be planted on up to 100% of the upland cotton or rice acreage base without loss of base history, but with loss of deficiency payments;

(6) by precluding a producer with a wheat or feed grain crop acreage base and an upland cotton or rice crop acreage base from receiving deficiency payments with respect to rice or upland cotton planted in excess of the upland cotton or rice crop acreage base;

(7) by precluding deficiency payments for rice or upland cotton if planted in excess of the crop acreage base;

(8) by allowing the receipt of loans for planting upland cotton or rice in excess of the upland cotton or rice crop acreage base on up to 25% of the historical soybean acres, or on the unpaid flex acres of a crop acreage base; and

(9) by freezing the payment yield at the 1990 level.

The *Conference Substitute* adopts an amendment with a Senate approach to establish contract payment acres as 85% of historical base acreage. There are no restrictions on planting or haying and grazing on non-payment acres (15% of the contract acres); haying and grazing is restricted on payment acres during the 5 principal growing months between April 1 and October 31; and planting of fruits or vegetables is not allowed on payment acres. The *Conference Substitute* allows the planting of any program crop, oilseed, industrial or experimental crop, mung beans, lentils and dry peas on contract acres (historical base acres). All loan commodity production on a farm of contract holders is eligible for the marketing loan program. In the case of a loan for extra long staple cotton and oilseeds, all production is eligible for a marketing loan. In addition, alfalfa may be planted on contract acreage in excess of the acreage limitation except that the payment under the owner or operator's contract will be reduced if the alfalfa acreage, taken together with acreage of fruits and vegetables and haying and grazing, exceeds 15%.

It is the intent of the Managers that the Secretary utilize random, spot-checks for verification, and rely upon producer certification to enforce the flexibility provisions.

NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS (H.1103, S.SUBTITLE A, CR.1104)

The *House Bill* amends the Agriculture Act of 1949 by inserting after section 102 a new section 102A that establishes a nonrecourse marketing assistance loan for certain crops.

The *House Bill* in section 102A(a)(1), directs the Secretary to make nonrecourse marketing assistance loans available to eligible producers of wheat, feed grains, upland cotton, extra long staple cotton, rice, and oilseeds for each of the 1996 through 2002 crops of such commodities at a loan rate calculated at 70 percent of the simple average price received by producers during the immediately preceding five crops years (a rolling average). Loan rate adjustment authority contained in the Agricultural Act of 1949 was repealed. Such marketing assistance loans had a term of nine months, and could not be extended by the Secretary. Only a producer whose land was subject to a market transition contract was eligible for a marketing assistance loan.

New section 102A(g) provided that the Secretary could not make payments to producers to cover storage charges incurred in connection with marketing assistance loans.

Provisions were also added that converted these marketing assistance loans into marketing loans, but the Secretary was authorized to reduce the loan level below 70% if it was estimated that the Commodity Credit Corporation would assume ownership of the commodity.

The *Senate Amendment* extends loan and marketing loan provisions of the Agriculture Act of 1949 from 1996 through 2002, using the same formulas for calculating loan rates, adjusting rates, establishing minimum rates and determining loan repayment levels as in current law. The *Senate Amendment* repeals the 8-month loan extension for cotton and requires producers to prepay the storage costs for upland cotton put under loan.

The *Conference Substitute* adopts the *Senate* provision with an amendment that would establish a maximum loan rate at the 1995 level:

(1) Rice: $6.50/cwt
(2) Upland Cotton: $0.5192/lb
(3) Wheat: $2.58/bu
(4) Corn: $1.89/bu
(5) Soybeans: $4.92/bu
(6) ELS Cotton: $0.7965/lb

For rice and oilseeds, the *Conference Substitute* establishes loan rates at the 1995 level. For wheat and feed grains, the *Conference Substitute* extends authority to reduce loan rates because of the estimated stocks-to-use level, but does not extend authority to reduce loan rates further to maintain competitiveness. Upland cotton loan rates can move between the new cap ($0.5912) and the $0.50 per lb. floor. ELS cotton is eligible for a nonrecourse loan only.

The *Conference Substitute* also adopts the provision to eliminate the 8-month upland cotton loan extension, but retains a 10-month upland cotton loan and does not require producers to prepay storage costs for upland cotton placed under loan.

To minimize loan forfeitures and provide for the continued effective operation of the marketing loan, the Managers expect the Secretary to extend the provisions of current regulations to provide that the upland cotton loan repayment rate is the lesser of the Adjusted World Price (AWP) or the loan principal plus accrued interest, storage and other changes. It is the intention of the Managers that the prevailing world market price for upland cotton be established in a manner that is consistent with procedures used for that purpose for 1990-1995 crops.

COTTON USER MARKETING CERTIFICATES (H. , S.1103, CR.1104(f)(2))

The *House Bill* amends the Agriculture Act of 1949 by repeal of 103B(5)(E), which provides marketing certificates to domestic users and exporters when the price of cotton in the U.S. exceeds the Norther European price by more than 1.25 cents per pound.

The *Senate Amendment* amends Sec. 103B(5)(E) of the Agricultural Act of 1949 by increasing the price trigger from 1.25 cents to 2.50 cents per pound.

The *Conference Report* adopts the *Senate* position with an amendment that retains the trigger at 1.25 cents, but prohibits the Secretary from expending in excess of $701 million on this program during fiscal years 1996-2002. Exporters participating in the Cotton User Marketing Certificate program will not be able to lock-in a certificate value until the date of export as determined by the Secretary.

The Managers intend that upon enactment, the Secretary is directed to issue regulations such that in the event this limitation is reached, the special import quota provided in paragraph (3) will be established following a consecutive four-week period in which the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound.

PAYMENT LIMITATIONS (H.1104, H.1401(A)(2), S.1120, CR.1105)

The *House Bill*, section 1104(a), amends section 1001(5)(C)(i), that directs that the Secretary, in the case of payments to corporations and other entities described in section 1001(B)(i)(II), to attribute payments to individuals in proportion to their ownership interests in the corporation or entity receiving the payment, or in any other corporation or entity that has a substantial beneficial interest in the corporation or entity actually receiving the payment. The provisions of this subparagraph shall apply to individuals who hold or acquire, directly or through another corporation or entity, a substantial beneficial interest in the corporation or entity actually receiving the payment.

The *House Bill* amends section 1001(5)(C)(ii), that directs the Secretary, in the case of payments to corporations and other entities described in section 1001(B)(i)(II), to also attribute payments to any State (or political subdivision or agency thereof) or other corporation or entity that has a substantial beneficial interest in the corporation or entity actually receiving the payment in proportion to their ownership interests in the corporation or entity receiving the payment. The provisions of this subparagraph shall apply even if the payments are also attributable to individuals under clause (i).

The *House Bill* amends section 1001(5)(C)(iii), and provides that for purposes of subparagraph (C), substantial beneficial interest' means not less than five percent of all beneficial interests in the corporation or entity actually receiving the payment, except that the Secretary may set a lower percentage in order to ensure that the provisions of this section and the scheme or device provisions in section 1001B are not circumvented.

Subsection (b) of section 1104(b) amends section 1001A(a)(3) to provide that each entity or individual receiving payments as a separate person shall notify each individual or other entity that acquires or holds a substantial beneficial interest in it of the requirements and limitations of section 1001(A)(a). Each such entity or individual receiving payments shall provide to the Secretary, at such times and in such manner as prescribed by the Secretary, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest. Payments are tracked by means of social security and taxpayer identification numbers.

The *Senate Amendment* extends current payment limitation provisions through 2002.

The *Conference Report* adopts the *Senate* provision with an amendment to reduce the maximum production flexibility payment per person for any fiscal year to $40,000. (Production flexibility payments take the place of deficiency payments in the *Conference Substitute.*)

The Managers expect the Secretary to utilize significant latitude and flexibility in defining and enforcing the "bona fide and substantive" change provisions of the regulations, particularly in the initial years of this new farm legislation. The Managers intend that the Secretary shall continue to use existing regulations in defining the term "person".

It is the intent of the Conferees that persons who are tenants and sharecroppers and actively engaged in farming shall be eligible for payments under Sec 1103. In effect, any farm now eligible for deficiency payments can qualify for payments under Sec. 1103, if it participated in one of the 1991–95 commodity programs.

Notwithstanding the foregoing, Sec. 1105 payment limitations shall apply to any person determined to be eligible for contract payments.

PEANUT PROGRAM (H.1301, S.1113, CR.1106)

The *House Bill* amends—

(1) section 108 B of the Agricultural Act of 1949 by setting the quota support rate at $610 for the 1996 through 2002 crops, eliminating the price support escalator, reducing the support rate by 15% to any producer who sells peanuts to the government rather than a commercial buyer if the price is equal to greater than the support price. Reform of cross compliance procedures are achieved by segregating quota pool losses from additional pool losses and by increasing the assessment if quota pool losses remain; and

(2) section 358–1 of the Agricultural Adjustment Act of 1938 by requiring reduction of quota from municipalities, airport authorities, schools, colleges, refuges and other public entities; non-resident quota holders who are not producers; and resident quota holders who are not producers; eliminating the quota minimum; allowing spring and fall sale, transfer, lease of quota across county lines; eliminating undermarketings; limiting disaster transfer payments to no more than 70% of quota support rate not to exceed 25% of total quota pounds; and by granting a temporary quota allocation to all growers equal to seed purchases.

The *Senate Amendment*—

(1) amends section 108B of the Agricultural Act of 1949 by reauthorizing the program through 2000 and by reducing the price support rate for quota peanuts to $628 per ton for the 1996 through 2000 crops (the price escalator is eliminated);

(2) amends section 358–1 of the Agricultural Adjustment Act of 1938 by reauthorizing the section through 2000; by eliminating the poundage quota minimum; by setting the national poundage quota at a level equal to the quantity of peanuts that the Secretary estimates will be devoted in each marketing year to domestic edible and related uses, excluding peanuts used for seed on a farm, and including any stocks of peanuts on hand in the inventory of the Commodity Credit Corporation and peanuts or products of peanuts

imported into the United States; by eliminating undermarketings of peanuts for the purpose of calculating quota; by establishing a temporary quota for peanuts used for seed; and

(3) amends section 358b (lease and transfer) of the Agriculture Adjustment Act of 1938 by reauthorizing the section through 2000 and allows limited sale or lease of quota across county lines.

The *Conference Substitute* adopts the *House* position to—

(1) amend section 108b Agricultural Act of 1949 to authorize the quota price support program through 2002 at $610 per ton and eliminate the price support escalator;

(2) amend section 358–1 of the Agriculture Adjustment Act of 1938 to eliminate the 1.35 million ton quota poundage floor and undermarketings;

(3) amend section 358–1 to segregate quota pool losses from additional pools and to increase assessments to cover losses if any quota pool losses remain;

(4) amend section 358–1 to establish a temporary quota for seed; and

(5) amend section 358–1(b) to limit the transfer of additional peanuts as a result of natural disaster to 25% of quota pounds at not more than 70% of the quota support rate.

The Managers agreed to include additional reforms from the *House* bill that: (1) would prioritize quota reduction to farms controlled by public entities and out-of-state quota holders who are not producers; (2) allow full lease, sale and transfer of quota within a state; and (3) reduce the support rate by 5% to any producer who sells peanuts to the government rather than a commercial buyer if the price is equal to or greater than support price. However, these critical reforms were subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

SUGAR PROGRAM (H.1302, S.1108, CR.1107)

The *House Bill* amends—

(1) section 206 of the Agricultural Act of 1949 by maintaining sugarbeet and sugarcane loan rates at 1995 levels (18/22.9). Reduces the loan rates commensurate to reduction of subsidies by the European Union and other major sugar producing countries, establishes a loan modification threshold, which triggers the non-recourse loan system, at 1.256 million short tons in FY 1996 and FY 1997. The threshold increases 3% each year. Increases current marketing assessment for cane sugar from 1.1% to 1.5% of the loan rate per pound and from 1.1794% to 1.6083% of the loan rate for beet sugar;

(2) section 359b. of the Agricultural Adjustment Act of 1938 by eliminating marketing allotments.

The *Senate Amendment* amends section 206 of the Agricultural Act of 1949 to—

(1) reauthorize the program through 2002;

(2) provide for a recourse loan that becomes a nonrecourse loan when the tariff rate quota for imported sugar is set to equal or exceed 1.34 million short tons;

(3) increase the marketing assessment for cane sugar to 1.375 percent of the support price beginning in FY 1997;

(4) increase the marketing assessment for beet sugar to 1.47425 percent of the support price beginning in FY 1997;

(5) extend the marketing assessment provision through FY 2002; and

(6) impose a $0.01 per pound penalty on all sugar forfeited under loan.

Sugar Marketing allotments in section 359 of the Agricultural Adjustment Act of 1938 are repealed.

The *Conference Substitute* adopts the *House* approach to amend section 206 of the Agriculture Act of 1949 to set the sugar cane loan rate at $0.18 per pound, the sugar beet loan rate at $0.229 per pound and reauthorize the program through 2002. The *Conference Substitute* adopts the Senate approach and to provide non-recourse loans when the tariff rate quota for imports is set greater than or equal to 1.5 million short tons, raw value. Loans are recourse if the TRQ is set below this amount.

The *Conference Substitute* adopts the *Senate* provision to make 9-month loans and to impose a $0.01 per pound penalty on all sugar forfeited under loan. The *Conference Substitute* adopts the *Senate* provision to increase the marketing assessments on sugar cane and sugar beets to 1.375 and 1.47425 percent respectively, beginning in FY 1997.

Sugar Marketing allotments in section 359 of the Agricultural Adjustment Act of 1938 are repealed.

The Managers agreed to include additional important reforms in the *Conference Substitute* that would reduce the support rate for sugar if European Union domestic sugar subsidies are reduced. However, these critical reforms were subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

REPEAL OF PERMANENT PRICE SUPPORT AUTHORITY AND MISCELLANEOUS AUTHORITIES (H.1105, S.1101, CR.1109)

The *House Bill* suspends quotas, allotments, parity-based price supports and other outdated permanent law from the Agriculture Adjustment Act of 1938 and the Agricultural Act of 1949 from FY 1996-2002.

The *Senate Amendment* would repeal these provisions of permanent law from the from the Agriculture Adjustment Act of 1938 and the Agricultural Act of 1949.

The *Conference Substitute* adopts the *Senate* provision with modifications. As amended, the Agricultural Act of 1949 is repealed entirely, while certain necessary sections are transferred to the Agricultural Act of 1938. As part of the total repeal of the Agricultural Act of 1949, the production flexibility contracts, loan programs, peanut, and sugar programs for the 1996 through 2002 crops have been established under a new act, the "Agricultural Market Transition Act."

FARMER OWNED RESERVE (H.1404, S.1101, CR.1109)

The *House Bill* repeals the Farmer Owned Reserve Program authorized by section 110 of the Agricultural Act of 1949.

The *Senate Amendment* contains an identical provision.

The *Conference Substitute* maintains this provision.

EMERGENCY LIVESTOCK FEED PROGRAM (H.1401, S.1101, CR.1109)

The *House Bill* amends section 609 of the Emergency Livestock Feed Assistance Act of 1988 to provide that no person may receive benefits attributable to lost production of a feed commodity if catastrophic insurance protection or noninsured crop disaster assistance is available to the person under the Federal Crop Insurance Act.

The *Senate Amendment* repeals Title VI, the Emergency Livestock Feed Assistance Act of 1988, of the Agricultural Act of 1949.

The *Conference Substitute* adopts the *Senate* provision.

HONEY PROGRAM (H. , S.1101, CR.1109)

The *House Bill* contains no similar provision.

The *Senate Amendment* repeals Sec. 207 of the Agricultural Act of 1949, the Honey Program.

The *Conference Substitute* adopts the *Senate* provision.

SUBTITLE B—CONSERVATION

LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM (H. , S.1201, CR.1201(a))

The *House Bill* contains no similar provision.

The *Senate Amendment* replaces chapter 2 of subtitle D of title XII of the Food Security Act of 1985 with an Environmental Quality Incentives Program that would combine the functions of the Agricultural Conservation Program, the Water Quality Incentives Program, the Great Plains Conservation Program and the Colorado River Basin Salinity Control Program into a single initiative to provide technical assistance and cost-share and incentive payments to crop and livestock producers who undertake certain conservation practices. The program would receive $100,000,000 in annual mandatory funding directed for practices relating to livestock production.

The *Conference Substitute* adopts the *Senate* provision with an amendment that adds a new chapter 4 establishing a mandatory Livestock Environmental Assistance Program funded at $100,000,000 annually through the Commodity Credit Corporation, to be used for structural and land management practices to protect water, soil and related resources from degradation associated with livestock production. References to assistance primarily for crop production and to the four discretionary programs cited in the Senate amendment are eliminated and species thresholds in the Senate amendment for determining structural practice eligibility are increased for beef cattle and swine and lowered for dairy cattle.

In determining the practice or combination of practices appropriate for a particular farm or ranch, the Managers emphasize that the Secretary should use the lowest-cost option or options available. By doing so, the Secretary will be able to assist the greatest number of producers possible and maximize the positive impacts on the environment.

The legislation does not specifically mention all structural or land management practices that are eligible for funding under LEAP because of the broad gamut of measures that may be appropriate depending on the type of operation, its location and other factors. In addition, it is impossible to predict the evolution of new technologies. Accordingly, the Managers strongly urge the Secretary to make new practices eligible for funding under LEAP as soon as reasonable testing indicates their efficacy. The Managers also intend that the term "site-specific" refer not only to whole farms or ranches but to discrete locations within an operation.

The Managers urge the Department to minimize the formal planning that may be necessary to develop LEAP contracts. The Department should, however, take into account the practices contained in other plans the producer may have for commodity program eligibility or for receipt of other conservation assistance. Because of the multiyear nature of the contracts, the Managers suggest that the Department consider the planning process for the Great Plains Conservation Program in developing a similar process for LEAP.

The Managers believe that voluntary natural resource management plans developed by the producer and the Department (or third parties designated by the Secretary) should be sufficient for the LEAP planning process. Such plans should be confidential, address resource challenges as requested by the producer, and sufficiently flexible to permit innovation. However, the Committee emphasizes that such a voluntary natural resource management plan should not be a prerequisite for receiving assistance under LEAP, nor should it confer preference among producers requesting financial assistance.

CONSERVATION RESERVE PROGRAM (H.1402, S.1201, CR.1201)

The *House Bill* amends provisions of the Conservation Reserve Program established under subchapter B, Chapter 1, of Subtitle D of the Food Security Act of 1985 by:

(1) limiting the total number of acres authorized to be enrolled in the Conservation Reserve Program to 36,400,000 acres;

(2) limiting rental rates for contract extensions or new contracts covering land that was previously enrolled in the conservation reserve program to no more than 75 percent of the annual rental payment under the previous contract;

(3) providing authority for an owner or operator of land enrolled under a conservation reserve contract to terminate the contract upon written notice to the Secretary; and

(4) striking the proviso relating to the enrollment of new acres beginning in calendar year 1997 in section 727 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996.

The *Senate Amendment* reauthorizes the CRP through 2002 and specifies annual funding levels for the program that reflect a limit on the size of the CRP at the current level of 36.4 million acres and an additional reduction in expenditures of approximately $20 million per year.

The 1996–2002 direct spending for the Conservation Reserve (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624;) may not exceed—

(1) $1,787,000,000 for fiscal year 1996;
(2) $1,784,000,000 for fiscal year 1997;
(3) $1,445,000,000 for fiscal year 1998;
(4) $1,246,000,000 for fiscal year 1999;
(5) $1,101,000,000 for fiscal year 2000;
(6) $999,000,000 for fiscal year 2001; and
(7) $974,000,000 for fiscal year 2002.

The *Conference Substitute* adopts the *House* provision with an amendment removing the maximum rate for contract renewals, and changing the proviso with respect to new enrollments so that it is applicable notwithstanding any other provision of law.

The Managers also adopted the *House* amendment to section 1235 of the Food Security Act of 1985 to provide that an owner or operator of land enrolled under a conservation reserve contract may terminate the contract upon 60 days' written notice to the Secretary. Owners or operators who voluntarily terminate a contract within the first three years of its term must reimburse the Secretary for any cost-share payments received under the contract.

WETLANDS RESERVE PROGRAM (H. , S.1201, CR.1201)

The *House Bill* contains no similar provision.

The *Senate Amendment* reauthorizes the program through 2002 and reduces outlays by setting a maximum enrollment level of 975,000 acres and by eliminating authority for the Secretary to enter into permanent easements.

The *Conference Substitute* adopts the *Senate* provision with an amendment striking the reauthorization and setting the maximum easement period at 15 years.

SUBTITLE C—AGRICULTURAL PROMOTION AND EXPORT PROGRAMS

MARKET PROMOTION PROGRAM (MPP)(H , S.1301, CR.1301)

The *House Bill* contains no similar provision.

The *Senate Amendment* reduces, effective October, 1995, funding for the MPP to not more than $75 million for each of FY 1996–2002.

The *Conference Substitute* adopts the *Senate* provision with an amendment to fund MPP at not more than $100 million for each of FY 1996–2002.

EXPORT ENHANCEMENT PROGRAM (H.1405, S.1302, CR.1302)

The *House Bill* amends section 301(e)(1) of the Agricultural Trade Act of 1978 to limit the amount of the CCC funds or commodities available for the Export Enhancement Program as follows: $400,000,000 for fiscal years 1996 and 1997; $500,000,000 for fiscal year 1998; $550,000,000 for fiscal year 1999; $579,000,000 for fiscal year 2000; and $478,000,000 for fiscal years 2001 and 2002.

The *Senate Amendment* reduces, effective October 1, 1995, funding for the EEP for FY 1996–2002 by 20% each year from the maximum allowed by the Uruguay Round Agreement of GATT. Spending levels under section 301(e)(1) of the Agricultural Trade Act of 1978 available for the Export Enhancement Program are as follows: $767,200,000 for fiscal year 1996; $705,600,000 for fiscal year 1997; $624,800,000 for fiscal year 1998; $544,000,000 for fiscal year 1999; $463,200,000 for fiscal year 2000; and $382,400,000 for fiscal years 2001 and 2002.

The *Conference Substitute* adopts the *House* provision with an amendment to limit the amount of the CCC funds or commodities available for the Export Enhancement Program as follows: $350,000,000 for fiscal years 1996 and 1997; $500,000,000 for fiscal year 1998; $550,000,000 for fiscal year 1999; $579,000,000 for fiscal year 2000; and $478,000,000 for fiscal years 2001 and 2002.

The Managers recognize the Uruguay Round Agreement on GATT did not eliminate the use of export subsidies. As a result, U.S. agriculture is still faced with subsidized foreign competition. To help U.S. agriculture counter such subsidized competition, capitalize on potential new market opportunities, and maintain and expand existing export markets, the Managers expect the Secretary of Agriculture to fully utilize and aggressively implement the export programs authorized in this Act or any other Act.

SUNFLOWER OIL ASSISTANCE PROGRAM/COTTONSEED OIL ASSISTANCE PROGRAM (H.S. 1303, CR.)

The *House Bill* amends section 301 of the Disaster Assistance Act of 1988 and section 420 of the Agricultural Act of 1949 by removing obsolete authority of the Secretary to support the price of cottonseed and cottonseed products through loans, purchases, export assistance, or any other form of assistance.

The *Senate Amendment* repeals, effective October, 1995, section 301 of the Disaster Assistance Act of 1988. This would eliminate authority for the Secretary of Agriculture to utilize section 32 funds to promote the export of sunflowerseed oil, cottonseed oil or any other export promotion activities. Both vegetable oils would continue to be eligible for assistance under the Export Enhancement Program.

The *Conference Substitute* deletes both provisions.

SUBTITLE D—MISCELLANEOUS

CATASTROPHIC CROP INSURANCE COVERAGE (H. 1403, S. 1114, CR. 1401)

The *House Bill* repeals, beginning with spring-planted 1996 crops, the requirement that producers purchase catastrophic crop insurance in order to receive payments, conservation benefits and farm loans from the Consolidated Farm Services Agency. It requires producers who do not purchase the insurance to waive their right to receive any emergency crop loss assistance. The bill also establishes the Office of Risk Management as an agency separate from the Consolidated Farm Services Agency, ends the dual delivery of Federal crop insurance by prohibiting sales through CFSA offices, and creates a business interruption insurance program under which a producer can receive an indemnity payment if the producer suffers a loss of income.

The *Senate Bill* contains a similar repeal of the linkage between catastrophic coverage and program benefits, but begins the repeal with 1997 crops, and contains no waiver requirement. The Senate Amendment contains no provision with respect to other items in the House bill.

The *Conference Substitute* adopts the House provision with respect to de-linking catastrophic coverage from program benefits in 1996. The *Conference Substitute* adopts the *House* provision with respect to dual delivery, with an amendment that will require a more gradual phaseout of dual delivery in States where crop insurance is not widely offered by private companies. The *Conference Substitute* amends Sec. 519(1)(2)(B) of the Federal Crop Insurance Act to include seed crops.

The *Conference Substitute* would eliminate the sale of catastrophic risk protection through local county offices of the Department of Agriculture effective with the Spring-planted 1996 crops. The Secretary is required to transfer all existing catastrophic risk protection policies written by local offices of the Department to approved insurance providers.

However, the Managers did provide for a mechanism under which the Secretary could continue to offer catastrophic risk protection covered through local offices of the Department if, after full consultation and cooperation with approved insurance providers, the Secretary determines that there are not sufficient numbers of approved insurance providers operating in a State, or part of a State, to adequately provide catastrophic risk protection coverage to producers. It is not the intent of the Managers that the Secretary exercise this discretion casually. He should carefully evaluate the availability of private providers and consult fully with the private industry before making a determination that it is necessary for the Department to continue to offer catastrophic risk protection in a particular State, or part of a State.

AGRICULTURE QUARANTINE AND INSPECTION (H. , S. , CR. 1402)

The *House Bill* contains no similar provision.

The *Senate* Amendment contains no similar provision.

The Managers agreed to amend section 2509 of the Food, Agriculture, Conservation and Trade Act of 1990 to authorize the Secretary of Agriculture to collect fees to cover the cost of providing quarantine and inspection services for imports. As amended, this section allows the Secretary to utilize fees collected beyond $100 million.

COMMODITY CREDIT CORPORATION INTEREST RATES (H. , S. 1112, CR. 1403)

The *House Bill* contains no similar provision.

The *Senate Amendment* increases the Commodity Credit Corporation interest rate applicable to agriculture commodity loans by 100 basis points.

The Conference Substitute adopts the Senate provision.

AGRICULTURE COMPETITIVENESS INITIATIVE (H. , S. 1106E, CR.)

The *House Bill* contains no similar provision.

The *Senate Amendment* amends Sec. 1502 of the Agricultural Act of 1949 to establish competitive agriculture research grants.

The *Conference Substitute* deletes the Senate provision.

EVALUATION OF RICE INDUSTRY (H. , S. , CR. 1106(D))

The *House Bill* contains no similar provision.

The *Senate Bill* contains no similar provision.

The Managers agreed to include in the *Conference Substitute* provision to direct the Secretary of Agriculture, if he found that the rice industry is threatened by underplantings resulting from the requirements of this subtitle, to take such actions as necessary to strengthen the export and domestic consumption of rice and rice producers income. It is the intent of the Managers that the Secretary should use all tools available to him in order to maintain the domestic rice industry, including, but not limited to EEP, PL480, MPP, FMD, recommendations under section 301, and other programs to enhance market development efforts and allow producers to obtain their income from the marketplace. However, the provision was subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

BALANCED BUDGET ACT EXEMPTION (H. 1102 (L), S. , CR.)

The *House Bill* amends Sec. 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to provide an exemption for market transition payments in the 'Freedom to Farm' program.

The *Senate Amendment* contains no similar provision.

The Managers agreed to include the House provision in the *Conference Substitute*. However, these provisions were subsequently deleted from the Conference Substitute in order to comply with the Byrd Rule.

SENSE OF THE SENATE REGARDING ETHANOL (H. , S. 1116, CR.)

The *House Bill* contains no similar provision.

The *Senate Amendment* expresses the Sense of the Senate in support of the use of ethanol as an alternative fuel.

The Managers agreed to include the *Senate* provision in the *Conference Substitute. However, these provisions were subsequently deleted from the Conference Substitute* in order to comply with the Byrd Rule.

COMMISSION ON 21ST CENTURY AGRICULTURE (H. SUBTITLE E., S. , CR.)

The *House Bill* establishes a commission known as the "Commission on 21st Century Agriculture".

Membership is composed of 11 members (3 appointed by the President and 4 each by the Chairmen of the House and Senate Agriculture Committees), with qualifications of persons involved in agriculture production and related industries.

The Commission is directed to conduct a review of how the Freedom to Farm Act has performed during the period of operation (a "Look Back") and a review of the future of production agriculture in the United States and the role of Federal Government support of production agriculture (a "Look Forward"). The Commission is to submit a mid-term report (June 1, 1998) or a final report by January 1, 2001.

The Subtitle authorizes the Commission to conduct hearings, obtain support and information from other Federal Government agencies, employ a staff and otherwise carry out its duties.

The Committee is to terminate upon the issuance of the report required by January 1, 2001.

The *Senate Amendment* contains no similar provision.

The Managers agreed to include the *House* provision in the *Conference Substitute*. However, these provisions were subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

DELETED PROVISIONS—DAIRY

MILK PRICE SUPPORT PROGRAM (H. 1201, S. 1106 CR.)

The *House Bill* amends the Agricultural Act of 1949 by replacing section 204, and conforming sections 201(a) and 301, to authorize the Secretary to enter into market transition contracts with milk producers following the elimination of the dairy price support program.

The dairy price support program under existing section 204 of the Agricultural Act of 1949 continues in operation through December 31, 1995 at which time it is terminated. Producers that are entitled to a refund of their 1995 budget reconciliation assessment (i.e., their marketings of milk in calendar year 1995 did not exceed their marketings of milk in calendar year 1994) will receive those refunds from CCC funds rather than from assessments on producers in 1996.

Sections 201(a) and 301 of the Agricultural Act of 1949 are conformed to eliminate milk from the designated and undesignated nonbasic agricultural commodities for which the Secretary has general authority to provide price support.

The *Senate Amendment* amends the Agricultural Act of 1949 by replacing section 204 to operate a price support program for milk during the period beginning January 1, 1996, and ending December 31, 2002, and set the support price for milk used for cheese at $10.00 per hundredweight for calendar year 1996. The support price for milk used to make cheese shall decrease 10 cents per hundredweight each calendar year from 1997 through 2002.

The Secretary is required to decrease the support price of milk used for cheese for an upcoming calendar year by an additional 25 cents per hundredweight if, on November 20 of the preceding calendar year, the Secretary estimates that CCC purchases of cheese and DEIP sales of dairy products will exceed 1.5 billion pounds (milk equivalent, total solids basis) during the upcoming calendar year. Any such additional decrease in the support price shall be applicable only for the calendar year for which the Secretary made the estimate.

The *Conference Substitute* deletes both the *House* and *Senate* provisions.

RECOURSE LOANS FOR COMMERCIAL PROCESSORS OF DAIRY PRODUCTS (H. 1202, S. , CR.)

The *House Bill* amends the Agricultural Act of 1949 to authorize the Secretary to make recourse loans available to commercial processors of cheddar cheese, butter and nonfat dry milk dairy products at 90% of the reference price for a product and at established CCC interest rates to assist those processors in assuring price stability for the dairy industry.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the House provision.

DAIRY EXPORT INCENTIVE PROGRAM. (H. 1211. S., CR.)

The *House* Bill amends section 153(c) of the Food Security Act of 1985 to require the Secretary to use the DEIP program to export the maximum allowable quantities of U.s. dairy products consistent with the obligations of the United States as a member of the World Trade Organization, minus the quantity sold under section 1163 of the Food Security Act of 1985 during that year. The *House* Bill also extends the operations of the DEIP program through the year 2002.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

AUTHORITY TO ASSIST IN ESTABLISHMENT AND MAINTENANCE OF EXPORT TRADING COMPANY (H. 1212, S. , CR.)

The *House* Bill authorizes the Secretary of Agriculture to assist the United States dairy industry is establishing and maintaining an export trading company under the Export Trading Company Act of 1982 to facilitate the international market development for and exportation of U.s. dairy products.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

STANDBY AUTHORITY TO INDICATE ENTITY BEST SUITED TO PROVIDE INTERNATIONAL MARKET DEVELOPMENT AND EXPORT SERVICES (H. 1213, S. , CR.)

The *House* Bill provides standby authority for the Secretary of Agriculture to indicate which entity, autonomous of the U.s. government, is best suited to provide international market development and export services to the U.s. dairy industry and to assist that entity in identifying sources of funding for its activities during the period between July 1, 1997 and September 30, 2000.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

STUDY AND REPORT REGARDING POTENTIAL IMPACT OF URUGUAY ROUND ON PRICES, INCOME AND GOVERNMENT PURCHASES. (H. , S. , CR.)

The *House* Bill directs the Secretary of Agriculture to perform a study of the potential impact of new access cheese imports under the Uruguay Round on U.s. milk prices, dairy producer income, and the cost of Federal dairy programs.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

RESEARCH AND PROMOTION ACTIVITIES UNDER FLUID MILK PROMOTION ACT OF 1990 (H. 1221, S., CR.)

The *House* Bill amends the Fluid Milk Promotion Act of 1990 (subtitle H of title XIX of Public Law 101-624) to eliminate the automatic termination of any order issued under the Act on December 31, 1996, and to clarify the referendum requirements of the Fluid Milk Promotion Act which were inadvertently impacted by amendments made to the

Act in 1993 which altered the definition of "fluid milk processor". Any future order issued under the Act must now be approved by the affirmative votes of fluid milk processors representing 60 percent or more of the volume of fluid milk products marketed by all fluid milk processors voting in the referendum before it can be implemented.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

EXPANSION OF DAIRY PROMOTION PROGRAM TO COVER DAIRY PRODUCTS IMPORTED INTO THE UNITED STATES (H. 1222, S. , CR.) EXPANSION OF DAIRY PROMOTION PROGRAM TO COVER DAIRY PRODUCTS IMPORTED INTO THE UNITED STATES (H. 1222, S. , CR.)

The *House* Bill amends the Dairy Production Stabilization Act of 1983 to extend the assessment for generic research and promotion on U.S. dairy producers to imported dairy products.

Importers of dairy products will be entitled to the same credit for contributions to State or regional promotion or nutrition programs to which domestic producers are entitled.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

PROMOTION OF UNITED STATES DAIRY PRODUCTS IN INTERNATIONAL MARKETS THROUGH DAIRY PROMOTION PROGRAM (H. 1223, S. , CR.)

The *House* Bill amends section 113(e) of the Dairy Production Stabilization Act of 1983 to require that the budget of the National Dairy Promotion and Research Board during each of the fiscal years from 1996 and 2000 shall provide for the expenditure of not less than 10 percent of anticipated revenues available to the Board on the development of international markets for, and the promotion within such markets of, U.S. dairy products.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

ISSUANCE OF AMENDMENT ORDER UNDER DAIRY PRODUCTION STABILIZATION ACT OF 1983 (H. 1224, S. , CR.)

The *House* Bill establishes an expedited procedure to implement the amendments required by sections 1222 and 1223 to the dairy products promotion and research order issued under the Dairy Production Stabilization Act of 1983.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

PROGRAM TO VERIFY MILK RECEIPTS (H. 1231, S., CR.)

The *House* Bill creates a new subsection (l) in section 204 of the Agricultural Act of 1949 to establish a program to verify receipts of milk and audit marketing agreements and other contracts for the marketing and receipt of milk between producers and handlers.

Effective July 1, 1996, the verification program shall supersede any Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 with respect to milk or the products of milk.

The *Senate* Amendment contains no similar provision

The *Conference Substitute* deletes the *House* provision.

FEDERAL MILK MARKETING ORDERS(H. 1232, S. 1106, CR.)

The *House* Bill provides that the verification program established by section 1231 will supersede existing Federal milk marketing orders. The *House* Bill also terminates existing Federal milk marketing orders by striking paragraphs (5) and (18) of section 8c and provides that the amendments made by section 1232 are effective on July 1, 1996.

The *Senate* Amendment amends section 8c(5) of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 to classify butter and dry milk as Class IV dairy products. It also establishes a Class IV pool for all milk producers to share the difference, if any between the support price for cheese and the national average price for butter and dry milk, expressed in dollars per hundredweights of milk, each month. The cost of administering the Class IV pool is shared by all producers. Persons who fail to pay into the pool are liable for a civil penalty. The Secretary is to issue regulations without regard to the Administrative Producers Act.

The *Conference Substitute* deletes both the *House* and *Senate* provisions.

NORTHEAST COMPACT (H. , S. 1106, CR.)

The *House* Bill contains no similar provision.

The *Senate* Amendment provides congressional consent for the Northeast Interstate Dairy Compact for a period of seven years. The Compact Commission is required to compensate the CCC for the cost of any cheese purchased from within the Compact region resulting from increased fluid milk production within Compact region to the extent that such purchases exceed the national average rate of purchases of cheese by the CCC.

The *Conference Substitute* deletes the *Senate* provision.

EXTENSION OF TRANSFER AUTHORITY REGARDING MILITARY AND VETERANS HOSPITALS (H. 1241, S. , CR.)

The *House* Bill gives the authority of the Secretary to transfer dairy commodities to military and veterans hospitals is extended through 2002.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

EXTENSION OF DAIRY INDEMNITY PROGRAM (H. 1242, S. , CR.)

The *House* Bill extends the Dairy Indemnity Program until 2002.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

EXTENSION OF REPORT REGARDING EXPORT SALES OF DAIRY PRODUCTS (H. 1243, S. , CR.)

The *House* Bill requires that the Secretary report on export sales of dairy products is extended through 2002.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

STATUS OF PRODUCER-HANDLERS (H. 1244, S. , CR.)

The *House* Bill states that the legal status of producer-handlers is not altered or otherwise affected by the provisions of this subtitle.

The *Senate* Amendment contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

REPEAL OF SECTION 102 1990 FARM BILL (H. ,S1106, CR.)

The *House* Bill contains no similar provision.

The *Senate* Amendment repeals section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 which prohibits states from having higher "make allowances" than that permitted under the federal price support program for milk.

The *Conference Substitute* deletes the *Senate* provision.

TITLE II—BANKING, HOUSING, AND RELATED PROGRAMS

SUBTITLE A—FINANCIAL INSTITUTIONS

SECTION 2011—SPECIAL ASSESSMENT TO CAPITALIZE SAIF

House bill

The House bill would fully capitalize the Savings Association Insurance Fund (SAIF) to its designated reserve ratio with a one-time special assessment on all SAIF-insured deposits, including those held by SAIF members and those banks which have purchased SAIF deposits, or so-called "Oakar" banks. The Federal Deposit Insurance Corporation (FDIC) will determine the size of the special assessment based on the SAIF reserve balance and the most recently available data on insured deposits. The assessment, anticipated to be between seventy to eighty cents per every $100 of deposits, will be applied against the SAIF-deposits held by institutions as of March 31, 1995. The Federal Deposit Insurance Corporation (FDIC) will collect the special assessment on the first business day of January 1996, or such other date as the FDIC prescribes which may not be later than 60 days after the date of enactment.

The bill would provide the FDIC Board of Directors authority to exempt weak institutions from paying the special assessment if the exemption would reduce risk to the SAIF. Institutions exempt from the special assessment would pay regular assessments under the risk-based assessment schedule in effect for SAIF members on June 30, 1995 for the period 1996-1999. Institutions exempt from the special assessment have the option—during the period 1997-1999 —of paying a pro rated portion of the special assessment. Such institutions, would then pay on the same risk-based schedule as non-exempted SAIF members.

FDIC would also have authority to set the special assessment for Oakar banks at a lower rate than for SAIF members so long as such rate is not less than two-thirds of the rate set for SAIF members and would not result in an increased budget outlay or decrease in offsetting receipts.

Senate amendment

The Senate language is similar to the House bill on the timing and calculation of the special assessments. However, for purposes of determining the special assessment for Oakar banks, the Senate adopted language would provide those Oakar banks which hold a majority of BIF-insured deposits as of June 30, 1995 with a ten percent reduction in their SAIF assessable deposits. The exemption for weak institutions is also extended to include certain newly chartered savings associations.

Conference agreement

The conference agreement provides that the SAIF will be fully capitalized on January 1, 1996, as required under both House and Senate language. The House receded to the Senate on the treatment of Oakar banks with a modification that a twenty percent reduction be made in their SAIF-assessable deposits.

The conferees took these actions to improve SAIF's undercapitalized position. At present, SAIF reserves would not cover the cost of the failure of one large or a few medium-sized thrifts, or other substantial unanticipated losses. Should the reserves be exhausted, the taxpayer is next in line. The full and immediate capitalization of SAIF will decrease taxpayer risk significantly and ensure that thrifts make a significant contribution in stabilizing their insurance fund.

The Conference Committee recognizes the importance of recapitalizing SAIF and maintaining public confidence in federal deposit insurance. The legislative imposition of a one-time, special assessment on SAIF-insured institutions is a highly unusual and infrequent event intended to stabilize the SAIF.

SECTION 2012—FINANCING CORPORATION ASSESSMENT SHARED PROPORTIONALLY BY ALL INSURED DEPOSITORY INSTITUTIONS

House bill

Under the House bill, effective January 1, 1996, the assessment base for payments on the interest on obligations issued by the Financing Corporation (FICO) is to be expanded to include all FDIC-insured institutions, i.e., banks and thrifts (thus spreading the FICO obligation pro rata over all FDIC-insured institutions).

Senate amendment

The Senate language is identical.

Conference agreement

The conference agreement includes this language. Spreading the FICO burden will eliminate the potential for a premium differential, thereby decreasing thrifts' incentives to evade SAIF assessments.

SECTION 2013—MERGER OF BIF AND SAIF

House bill

The House provision would merge the Bank Insurance Fund (BIF) and the SAIF into the Deposit Insurance Fund on January 1, 1998. The exit moratorium, which currently prohibits institutions from switching insurance funds and the Oakar bank provisions, would be repealed on January 1, 1998.

The provision would also establish a special reserve for the Deposit Insurance Fund. The special reserve would consist of any SAIF excess reserves, i.e., reserves not needed to meet the designated reserve ratio, immediately prior to the merger of the funds. The FDIC would have the authority to transfer amounts from the special reserve to the deposit insurance fund if the Board of Directors determines that the fund's reserve ratio is less than half of the designated reserve ratio and is likely to be remain at or below that level for the next four quarters.

Because of the merger of the funds, the House bill would also modify the Federal Home Loan Bank System's annual contribution of $300 million toward the interest payments due on Resolution Funding Corporation (REFCORP) bonds. The provision would eliminate the shortfall allocation formula by changing the payment to 23.7% of the system's net earnings, as compared to the flat $300 million payment provided for under current law.

The House bill would also repeal the Home Owners' Loan Act, which provides for the chartering of federal savings associations and regulation of savings and loan holding companies. The Office of Thrift Supervision (OTS) would also be abolished. State chartered thrifts would be treated as if they were commercial banks for the purposes of all federal banking laws, including the Federal Deposit Insurance Act and the Federal Reserve Act. A number of technical provisions are included to implement the charter conversion, including a clarification that housing creditors may purchase and enforce alternative mortgage transactions in accordance with OTS regulations issued prior to the effective date of Section 3(f) of the Home Owners Loan Act (HOLA).

Senate amendment

With regard to the merger of the funds, the Senate language differs in that the BIF and the SAIF would be merged on January 1, 1998 only if no insured depository institution is a savings association (as those terms are defined in the Federal Deposit Insurance Act) on that date. The Senate language does not repeal the HOLA or abolish the OTS. The Senate language also maintains the present REFCORP formula.

Conference agreement

The House recedes.

SECTION 2014—CREATION OF SAIF SPECIAL RESERVE

House bill

No provision.

Senate amendment

No provision.

Conference agreement

Analogous to the treatment of the merged insurance funds under Section 2013, the conference agreement includes language establishing a special reserve for the SAIF on January 1, 1998. The SAIF special reserve will initially consist of the amount that SAIF's reserve ratio exceeds the designated reserve ratio. As with the Deposit Insurance Fund under Section 2013, the FDIC may transfer amounts from the special reserve to the Deposit Insurance Fund if the Board of Directors determines that the fund's reserve ratio is less than half of the designated reserve ratio and is likely to be less than half of the designated reserve ratio for the next four quarters.

SECTION 2015—REFUND OF AMOUNTS IN DEPOSIT INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE AMOUNT

House bill

The House bill would prohibit the FDIC from setting semiannual assessments in excess of the amount needed to maintain the reserve ratio of any fund at the designated reserve ratio. Further, the FDIC would be required to rebate at the end of any semiannual period any amount—in the BIF or in the merged fund after January 1, 1998—that exceeds the balance required to meet the designated reserve ratio on such basis as the Board of Directors determines to be appropriate. The Board will take into account the factors considered under the risk-based assessment system. The rebate to any member could not exceed the total amount paid by such member for that semiannual period.

Senate amendment

The Senate amendment would provide the FDIC with the discretion to rebate in the form of assessment credits the assessments paid by BIF members to the extent that the fund's reserve ratio exceeds the designated reserve ratio. FDIC would make this judgment after considering operating costs, case resolution cost, case resolution expenditures, and income.

Conference agreement

The Senate recedes, with an amendment which would exempt from the House provision those institutions that exhibit financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or are not well-capitalized. Assessments paid by these institutions cannot be rebated. This preserves the FDIC's flexibility to continue and refine the risk-based premium system required by the Federal Deposit Insurance Corporation Improvement Act of 1991.

SECTION 2016—ASSESSMENT RATES FOR SAIF MEMBERS MAY NOT BE LESS THAN ASSESSMENT RATES FOR BIF MEMBERS

House bill

The House bill would require that SAIF assessment rates could not be lower than BIF assessment rates.

Senate amendment

The Senate language is similar but would extend the requirement until all FICO obligations are paid.

Conference agreement

The conference agreement provides that SAIF assessment rates may not be lower than BIF assessment rates beginning on the date of enactment of the reconciliation act and ending on January 1, 1998.

SECTION 2017—ASSESSMENTS AUTHORIZED ONLY IF NEEDED TO MAINTAIN THE RESERVE RATIO OF A DEPOSIT INSURANCE FUND

House bill

The House bill would prohibit the FDIC from setting semiannual assessments in excess of the amount needed to maintain the reserve ratio of any fund at the designated reserve ratio, or, if the reserve ratio is less than the designated reserve ratio, to increase the ratio to the target level.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an exception. Subsection (c) of Section 2017 provides an exception to the limitations placed on the FDIC in setting semi-annual assessments when the fund is at or above the designated reserve ratio. This subsection permits the FDIC to continue to charge premiums under its risk-based system on institutions that exhibit financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or are not well-capitalized. These standards are generally the ones used by the FDIC in its current risk-based system. This exception is intended to provide the FDIC with sufficient flexibility to maintain a risk-based assessment system and thereby provide the owners and managers of financial institutions with an incentive to manage their institutions so as to reduce or eliminate their premiums.

So long as the designated reserve ratio has been met, the exception incorporated in this subsection is not intended to allow the FDIC to impose premiums on a percentage of the banking industry that would be significantly beyond the percentage of the banking industry which currently meets these standards, unless economic and banking industry conditions necessitate such an expansion.

SECTION 2018—LIMITATION ON AUTHORITY OF OVERSIGHT BOARD TO CONTINUE TO EMPLOY MORE THAN 18 OFFICERS AND EMPLOYEES

House bill

This provision would terminate the ability of the Thrift Depositor Protection Oversight Board to employ staff on December 31, 1995.

Senate amendment

No provision.

Conference agreement

The Senate recedes with modification to permit the Oversight Board to employ eighteen individuals during the period beginning on January 1, 1996 and ending May 1, 1996.

SUBTITLE B—HOUSING

SECTION 2051—REDUCTION OF SECTION 8 ANNUAL ADJUSTMENT FACTORS (AAF) FOR UNITS WITHOUT TENANT TURNOVER

House bill

This provision makes permanent an FY 1995 appropriation provision that reduces the annual adjustment factor (AAF) by one percentage point for those Section 8 units for which there has been no resident turnover since the preceding annual rental adjustment.

Senate Amendment

The Senate provision is similar to the House, and would limit the amount of the annual adjustment factor (AAF) for section 8 assisted housing by: (1) reducing by one percentage point the rent increase for those Section 8 units in which there has been no resident turnover since the preceding annual rental adjustment; and (2) limiting the overall AAF to the cost of operation of a particular project (excluding the portion of the rent for debt service).

Conference Agreement

The conference agreement generally adopts the Senate provision and would limit the amount of the annual adjustment factor (AAF) or a rent increase for section 8 assisted housing by: (1) reducing by one percentage point the rent increase for those Section 8 units in which there has been no resident turnover since the preceding annual rental adjustment; and (2) limiting the overall AAF to the cost of operation of a particular project (excluding the portion of the rent for debt service).

These reforms are needed to maintain reasonable rental costs in federally assisted projects, many of which receive subsidized rents in excess of the fair market rent for a comparable project in the same market area. This provision is a first step to comprehensive reforms that address the escalating costs of the section 8 project-based contract assistance program.

SECTION 2052—FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE

House bill

The House bill replaces the current Federal Housing Administration (FHA) assignment program and provides the Department of Housing and Urban Development (HUD) with authority to pay partial mortgage insurance claims limited to the amount equivalent to or less than twelve monthly mortgage payments. As a condition for accepting a partial claim payment, the lender agrees, on a short term basis, to modify the terms of the loan to a level where the borrower has the ability to pay and retain the loan in its portfolio. In some circumstances, however, where the default and modification may be for a longer period of time, the replaced program allows HUD to pay the mortgage insurance claim after loan modification and accept the borrower into a new assignment program. HUD will act as the lender for at least two years or whenever the mortgage may be sold to the secondary markets or otherwise disposed. The assignment program will require HUD to use private sector sources for servicing and foreclosure activities.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes with an amendment to apply the reforms to FHA mortgages originated in FY 1996 and thereafter.

The FHA assignment program was created in 1959, but was not operational until 1976 after a court consent decree required HUD to implement the program. Subsequent modifications to the temporary mortgage assistance program and the assignment program required HUD to accept defaulted FHA borrowers into the program. As a condition for assignment, a borrower's default must be based on circumstances beyond his or her control, such as sickness or loss of employment. Further, there must be a reasonable expectation that the borrower will resume normal and regular mortgage payments and correct any loan deficiencies within a reasonable time. Currently, the program allows up to 36 months in forbearance in anticipation that a mortgagor will be able to resume his or her mortgage payments. Since the majority of assigned loans are insured under the FHA Mutual Mortgage Insurance Fund (MMIF), the cost of the assignment program is borne by the Fund.

The Conference Committee notes that the well-intentioned objectives of the current assignment program are not achieved, and could cause some $1.6 billion in future losses to the FHA MMIF. A recent General Accounting Office (GAO) study indicates that there are currently 71,500 loans in the program and that it "operates at a high cost to FHA's Fund and has not been very successful helping borrowers avoid foreclosures in the long run." Approximately 30% of assigned borrowers eventually become current and graduate out of the FHA assignment program, thereby indicating a current failure rate at approximately 70%. Thus, current FHA borrowers are paying higher premiums to meet the capital ratio standards of the MMIF as well as cover the exorbitant costs of the assignment program.

The replaced assignment program included in the conference report provides HUD with authority to pay partial mortgage insurance claims limited to the amount equivalent to or less than twelve monthly mortgage payments. As a condition for accepting a partial claim payment, the lender agrees, on a short term basis, to modify the terms of the loan to a level where the borrower has the ability to pay and retain the loan in its portfolio. In some circumstances, however, where the default and modification may be for a longer period of time, the replaced program allows HUD to pay the mortgage insurance claim and accept the borrower into a new assignment program. Under a new assignment program, it is expected that HUD will use private sector sources for servicing and foreclosure activities. Given HUD's history of management and capacity deficiencies, the Conferees urge HUD to consider carefully the structure of any new or replaced assignment program.

TERMINATION OF THE RESOLUTION TRUST CORPORATION (RTC) AND THE FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) AFFORDABLE HOUSING PROGRAMS

House bill

The House provision repeals Section 40 of the Federal Deposit Insurance Act in anticipation of the December 31, 1995 sunset of the Resolution Trust Corporation (RTC) and terminates the RTC Affordable Housing Advisory Board. Remaining functions and authority vested in the RTC Affordable Housing Program are transferred to the Secretary of Housing and Urban Development. This includes monitoring affordable housing resale restrictions, low-income occupancy requirements, and rent limitations and recapturing resale proceeds.

Senate Amendment

No provision.

Conference Agreement

House recedes.

TERMINATION OF HUD-OWNED MULTIFAMILY PROPERTY DISPOSITION PROGRAM

House bill

This provision authorizes HUD to sell multifamily housing projects that are HUD-owned or HUD-held mortgages without restrictions. HUD is given authority to delegate this authority to other parties in order to sell the property more quickly.

Senate Amendment

No provision.

Conference Agreement

House recedes.

RECAPTURE OF RURAL HOUSING LOAN SUBSIDIES BY RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE

House bill

This provision extends statutory authority to the Rural Housing and Community Development Service to recapture government subsidy payments at the time the borrower refinances or repays a single family direct loan mortgage financed under Section 502 of the Housing Act of 1949.

Senate Amendment

No provision.

Conference Agreement

House recedes.

TITLE III—COMMUNICATIONS AND SPECTRUM ALLOCATION PROVISIONS

SECTION 3001—SPECTRUM AUCTIONS

(A) EXTENSION AND EXPANSION OF AUTHORITY

House bill

This subsection amends section 309(j) of the Communications Act of 1934 which grants the Federal Communications Commission (FCC) authority to use a system of competitive bidding as a means of granting licenses. The subsection provides that such authority will apply when there are mutually exclusive applications for an initial license for use of the electromagnetic spectrum. Competitive bidding would not be permitted to be used for unlicensed uses. The FCC is required to continue its obligation under section 309(j)(6)(E) to take actions necessary to avoid situations of mutual exclusivity. An example is the 450–470 MHz band, which is shared by low-powered medical telemetry devices.

The subsection also sets forth specific exemptions from the use of competitive bidding. The subsection does not permit the use of competitive bidding for public safety radio services, including non-government uses that protect the safety of life, health and property and that are not made commercially available to the public.

Under this subsection, the FCC may not use competitive bidding for initial licenses for broadcast digital television services assigned by the FCC to incumbent broadcast licenses to replace their current analog signal. This subsection also repeals the authority of the FCC to use random selection (or so-called "lotteries") as an alternative to competitive bidding. Finally, the expansion of competitive bidding authority under this subsection does not apply to any licenses for which the FCC has accepted mutually exclusive applications prior to the date of enactment.

Senate amendment

Section 4001(a) of the Senate bill is similar to the House provisions, but it contains an additional provision, section 309(j)(2)(C) of the Communications Act of 1934. This provision directs the FCC to submit to Congress a proposal regarding the use of auction authority for the assignment of licenses for advanced television services within 180 days of enactment of this section. The FCC would be prohibited from awarding ATV spectrum to existing commercial broadcast licenses, until January 1, 1998. The prohibition does not extend to assignment of ATV spectrum to public broadcasters.

Conference agreement

The Conferees adopt the Senate provisions with modifications. The Conference Agreement provides further limitations on the exemption of auction authority for public safety radio services by accepting the Senate language requiring that the "sole or principal purpose" of the spectrum exempted from auctions be for "the safety of life, health, and property and which are not made commercially available to the public."

Section 3001(a) amends the Communications Act of 1934 and provides that the FCC will employ auctions to assign licenses where there are mutually exclusive applications for such licenses. Section 309(j)(2)(C) of such Act exempts from the new auction authority the grant of licenses or construction permits to existing broadcast television licensees or permittees for advanced television services. Section 309(j)(2)(C)(i) directs the Commission, within 180 days after enactment of this bill, to report to Congress on whether auctions of the license to use spectrum currently reserved for advanced television should be authorized.

The conferees intend that the FCC's report should consider, among other things, the following issues:

The extent to which television broadcast license holders could provide advanced television services using their existing spectrum, in particular by replacing analog broadcasts with digital broadcasts on the same spectrum;

The impact of assigning such licenses by auction on the availability and deployment of advanced television service technology, particularly in rural areas and small television markets, and on the ability of consumers to receive digital television services through over-the-air television broadcasts;

The impact on television broadcasters of a requirement to simultaneously broadcast analog and digital signals for a set period of time, and in particular the impact of such requirements on the cost of broadcasting equipment and on consumer devices (including televisions and converter boxes);

The feasibility of using the spectrum reserved for advanced television for other purposes, including an estimate of the projected receipts that could be derived from auctioning licenses for the use of such spectrum;

The assignment of licenses without auction and the reassignment of current broadcast television spectrum under a system of public auctions upon completion of a transition from analog to digital transmission, including the feasibility and desirability of regrouping broadcast spectrum assignments so that contiguous nationwide spectrum would be available for public auction; and

The costs and uncertainties for broadcasters, including the cost of converting facilities for simulcasting analog/digital signals, and the lack of knowledge of whether consumers will purchase digital equipment, in comparison to the costs and uncertainties if a bidder is not an incumbent broadcaster and has no knowledge of whether new programming services will drive customers' purchases of digital sets.

To allow time for Congress to consider this report, the Commission may not issue licenses or construction permits for advanced television services that replace existing television licenses until November 15, 1996. The conferees do not intend the suspension of licensing authority to delay or prejudice any ongoing Commission proceedings regarding the authorization of advanced television services.

The conferees agree to the House effective date with a modification to clarify that amendment to Section 309 shall not apply with respect to any license or permit for a terrestrial radio or television broadcast station for which the FCC has accepted mutually exclusive applications on or before the date of enactment of this Act.

(B) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION

House bill

This subsection directs the FCC to auction 100 megahertz (MHz) of spectrum located below 3 gigahertz (GHz) by September 30, 2002, which prior to the date of enactment, have not been designated by the FCC for assignment by auction and have not been identified by the National Telecommunications and Information Administration (NTIA) as reallocable frequencies. The FCC must auction the licenses for the use of bands of frequencies in blocks of at least 25 MHz unless the FCC determines that a combination of smaller bands can reasonably be expected to produce greater receipts for the U.S. Treasury.

In making available such bands of frequencies for competitive bidding under this subsection, the FCC must consider, first and foremost, the promotion of the most efficient use of the spectrum. The FCC must also consider the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication. The FCC is also directed to take into account the needs of public safety users when making allocation decisions. Finally, in making bands of frequencies available for auction, the FCC must ensure that such assignments comply with the requirements of international agreements concerning spectrum allocations.

In making available bands of frequencies for competitive bidding pursuant to this section, if the FCC is unable to provide for the effective relocation of incumbent licenses, it shall notify the NTIA that it has identified bands of frequencies suitable for relocation and which could be reallocated for private use.

Senate amendment

Section 4001(b) of the Senate Amendment is virtually identical to the House provision, except that subsection (b)(1)(D)(iii) and subsection (b)(2)(E) are unique in comparison to the House bill. Subsection (b)(1)(D)(iii) ensures that the frequencies chosen by the FCC must not have been reserved for government use under section 305 of the Communications Act of 1934.

The Senate included subsection (b)(2)(E) which directs the FCC in exercising its authority to "take into account costs to satellite service providers that would result from multiple auctions of like spectrum internationally for global satellite systems."

Conference agreement

The Conferees adopt the Senate provisions.

(C) IDENTIFICATION AND REALLOCATION OF FREQUENCIES

House bill

The House provision requires that in response to a Notice from the FCC, the NTIA shall prepare and submit a report to the President and Congress identifying and recommending for reallocation frequencies that are assigned to the Federal government stations and are not required for the present or identifiable future needs of the Federal government and that are suitable for the uses identified in the Commission's Notice.

Senate amendment

The Senate provision is identical to the House provision but it adds new subsections (g), (h) and (i) to section 113 and 114 of the National Telecommunications and Information Administration Organization Act. Together, these additions to section 113 and 114 provide authority for Federal agencies to accept reimbursement or payment from private parties for the costs of relocation.

Conference agreement

The Conference Agreement adopts the Senate provisions with clarifications. The conferees intend that the provisions of this section would apply to the United Postal Service, which has an account in the United States Treasury and operates using government frequencies.

(D) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES

House bill

This subsection requires the NTIA to submit a second reallocation report to Congress, identifying and recommending for reallocation a single frequency band of at least 20 MHz, located below 3 GHz, and which meets the criteria of section 113(a) of the National Telecommunications and Information Administration Organization Act. Within one year after receipt of the second reallocation report, the FCC shall submit a plan to the President and Congress, and implement such plan for the allocation and assignment of such frequencies in accordance with section 309(j) of the Communications Act of 1934.

Senate amendment

The Senate provision is identical to the House provision.

Conference agreement

The Conference Agreement accepts the House provision.

TITLE IV—EDUCATION AND RELATED PROVISIONS

SUBTITLE A—HIGHER EDUCATION

Unless otherwise noted, all amendments proposed to be made by the conference report refer to the Higher Education Act (HEA) of 1965 and the effective date of these amendments is January 1, 1996.

PARTICIPATION OF INSTITUTIONS IN DIRECT LOAN PROGRAM

House bill

The House bill provides for the repeal of the direct loan program as of July 1996.

Senate amendment

The Senate amendment would limit participation in the direct loan program as follows:

1. Five percent of new student loan volume for academic year 1994–1995.
2. For academic year 1995–1996, and each succeeding year, direct loans will be provided to those students and parents of students attending institutions which have applied and been accepted for participation in the direct loan program on or before September 30, 1995, not to exceed 30 percent of new

student loan volume including direct consolidation loans.

3. For academic year 1996–1997 (starting July 1, 1996), and each succeeding year, direct loans will be provided only to those students and parents of students attending institutions which have applied and been accepted for participation in the direct loan program on or before September 30, 1995, not to exceed 20 percent of new student loan volume including direct consolidation loans.

Conference agreement

The Senate recedes with an amendment to limit the size of the direct loan program as follows:

1. Five percent of new student loan volume for academic year 1994–1995.

2. For academic year 1995–1996, and each succeeding year, direct loans will be provided to those students and parents of students attending institutions which have applied and been accepted for participation in the direct loan program on or before September 30, 1995, not to exceed 30 percent of new student loan volume including direct consolidation loans.

3. For academic year 1996–1997 (starting July 1, 1996), and each succeeding year, direct loans will be provided only to those students and parents of students attending the 102 institutions which participated in the direct loan program during the 1994–95 academic year, not to exceed 10 percent of new student loan volume including direct consolidation loans.

In 1993, Congress accelerated the 5 percent direct loan demonstration enacted in the 1992 amendments to the Higher Education Act to a program that is scheduled to account for 60 percent of federal student loan volume by 1998. This change was made through the budget reconciliation process, and the scoring used by the Congressional Budget Office (CBO) at that time made direct lending look significantly cheaper than guaranteed loans.

The 1993 scoring was flawed and failed to take into account any administrative costs of servicing or collecting on direct loans past the 5-year budget bill. Earlier this year, Congress passed the budget resolution, which contained a provision that changes the scoring so that guaranteed lending and direct lending are now scored in the same way. An October 26, 1995, letter from the Congressional Budget Office (CBO) to Senator Domenici confirmed this by stating that, "the Credit Reform Act amendment allows direct comparisons between the costs of the guaranteed and direct loan programs." The CBO letter also stated that, "By defining the direct administrative costs of direct loans and requiring these costs be calculated over the life of the loan portfolio, the resolution allowed for the costs of direct and guaranteed loans to be evaluated on a similar basis. Thus, all of the program costs for both programs are included in the resolution baseline and are accounted for in the same way."

This change in the scoring results in a more accurate accounting of direct lending and, thus, today significant savings can be realized by decreasing the size of the program. The conferees chose to include a decrease in the direct loan program as one of the savings items in the reconciliation bill to achieve required savings rather than a number of other elements that would have increased costs to students.

In addition, on a policy basis, the conferees are very concerned about the prospects of the Department of Education becoming one of the largest lending institutions in the country. Whether the Department will be able to effectively track and collect the loans which it has made to date is a question which needs to be answered before significant expansion of the direct loan program occurs. A demonstration program will allow questions of this nature to be answered prior to further program expansion.

CONSCRIPTION

Conference agreement

Both the House bill and Senate amendment eliminate the authority of the Secretary of Education to force schools into the direct loan program. This provision is unnecessary in an environment where direct loan volume is limited.

ADMINISTRATIVE FUNDS

House bill

The House bill defines direct administrative expenses for Part D and limits indirect administrative expenses to $110 million for fiscal year 1996 with $40 million dollars allotted to cover the costs of the administrative cost allowance for the guaranty agencies accrued prior to January 1, 1996, and $70 million per year for fiscal years 1997 through 2002.

Senate amendment

The Senate amendment defines direct administrative expenses for Part D and limits indirect administrative expenses for Parts B and D to $85 million per year for fiscal years 1996 through 2002, except that additional sums shall be available for fiscal year 1996 to cover the costs of the administrative cost allowance for the guaranty agencies accrued prior to January 1, 1996.

Conference agreement

The House recedes.

The conference agreement sets new limits on funds that the Department of Education will receive to administer the direct loan program since the size of the direct loan program is decreased. The Administration claims that such new levels will "gut" the Department of Education's administrative control and oversight of both the guaranteed and direct loan programs. However, the yearly funding levels are based on budget information received from the Department of Education. The information received indicates that these amounts are reasonable and appropriate.

The budget reconciliation bill combined with the proposed fiscal year 1996 Senate appropriations bill would level fund the administrative funds for student aid administration at the 1994 level of $239 million. Under the conference agreement, student aid administrative expenditures for fiscal year 1996 will still double from what was spent to administer student loans just five years ago. However, the agreement will stop the massive increases in administrative costs which have occurred over the last four years. Level funding at the 1994 level will fully provide for all necessary personnel, contract, oversight, equipment, publications, and administrative costs that are necessary to effectively and efficiently manage the student aid programs.

Both the House bill and the Senate amendment limit the use of section 458 funds by the Secretary to indirect administrative costs related to direct and guaranteed loans. Activities that were funded historically on a cash basis with discretionary appropriated administrative funds in the guaranteed loan program shall remain on a cash basis for both the guaranteed and direct loan programs and be considered indirect administrative expenses. Indirect administrative expenses can include the cost of Department personnel and required oversight activities.

The direct administrative expense account is not intended to be used for guaranteed loan costs nor for the costs of personnel or other administrative costs of the Department of Education for the Part D program. Salaries and expenses for the Department of Education, as for all other government agencies, are funded by annual appropriations. The conferees intend this practice to continue.

LIMITATION ON INDIRECT COSTS

House bill

The House bill states that indirect costs for direct loans may not exceed 30 percent of the section 458 funds.

Senate amendment

No provision.

Conference agreement

The House recedes as inclusion of this provision violates the Byrd rule.

DEFAULT RATES

House bill

No provision.

Senate amendment

The Senate amendment clarifies the HEA to reflect congressional intent that the Secretary is required to calculate default rates for direct lending schools and to terminate such schools if they exceed the default rates established in the law, as is the current procedure for schools participating in the guaranteed loan program.

The Secretary is directed to develop criteria for the calculation of default rates for institutions participating in the direct loan program within 120 days after date of enactment of this legislation. The methodology, criteria, and procedures to be used in determining such default rates must be comparable to those applied to schools participating in the guaranteed loan program under Part B of the HEA. Such standards must be promulgated no later than 120 days after the date of enactment of this legislation or the Secretary may not make any new direct loans.

Conference agreement

The House recedes with an amendment to clarify the fact that the conferees intend the Department of Education to apply comparable default rate calculations for both guaranteed loans and direct loans repaid through income contingent repayment. The prohibition on the Secretary making income contingent loans if default rate regulations are not issued within 120 days after enactment is not included in the conference agreement.

TRANSITION TO DIRECT LENDING

Conference agreement

Both the House bill and the Senate amendment eliminated all references to the transition to the direct loan program from the HEA. These references are no longer necessary or correct in the context of the legislation which does not contemplate a transition from guaranteed lending to direct lending.

ADMINISTRATIVE FEES FOR SCHOOLS AND ALTERNATIVE ORIGINATORS

Conference agreement

Both the House bill and the Senate amendment repeal the authority to pay schools or alternative originators to originate direct loans.

STATE RISK-SHARING

House bill

No provision.

Senate amendment

The Senate amendment applies the state risk-sharing provision in current law to direct loan schools. The provision currently applies only to guaranteed loan schools. It mandates that states pay to the federal government a yearly fee based on the cohort default rates of the schools in their state which participate in the federal student loan programs. The Congress anticipates that the Department of Education will implement this provision in the same manner for both guaranteed and direct lending.

Conference agreement

The House recedes.

GRACE PERIOD INTEREST SUBSIDY

House bill

The House bill eliminates payment of the interest on a subsidized Stafford student loan by the federal government on behalf of the student during the six-month period after a student leaves school.

Senate amendment

No provision.

Conference agreement

The House recedes.

SAME LOAN TERMS AND CONDITIONS

House bill

No provision.

Senate amendment

Although the Higher Education Act states that the terms and conditions of the direct and guaranteed student loan programs are supposed to be the same, the Department of Education has instituted more flexible repayment options for direct loan borrowers. The legislation clarifies and strengthens congressional intent that direct and guaranteed loans are required to have the same terms, conditions, eligibility requirements, interest rates, loan limits, and administrative requirements for origination, payment, and processing of applications. Additionally, the Secretary is required to issue corresponding regulations not later than 120 days after the enactment of this legislation.

Conference agreement

The House recedes.

COMMON FORM

House bill

The House bill amends the HEA to clarify that the Part B loan application may be the Free Application for Federal Student Assistance (FAFSA). The bill also clarifies that the application may be in an electronic or other format in order to facilitate use by borrowers and institutions. Finally, this section clarifies that application data shall be available to any guaranty agency that is authorized to receive such data by the appropriate institution for the purpose of processing Part B loan applications.

Senate amendment

No provision.

Conference agreement

The House recedes as inclusion of this provision violates the Byrd rule. However, the conferees believe that it would be beneficial to students and institutions to have the FAFSA serve as the single loan application for Part B and Part D loans. In 1993, the Advisory Committee on Student Financial Assistance recommended that the FAFSA serve as the single loan application, and that recommendation was adopted for Part D loans, but not for Part B loans. The conferees hoped to correct this disparity, but the budget rules do not permit this change to be made in this legislation. Therefore, the Secretary is encouraged to proceed in that direction and to use his waiver authority, if necessary, under 487A of the Higher Education Act in order to permit this practice for the benefit of students and institutions.

ELECTRONIC FORMS

House bill

The House bill permits the development, production, distribution and use of an electronic version of the free federal common application form by guaranty agencies, lenders, and consortium thereof to expedite the processing of student loans. This authority will enable lenders and guaranty agencies to achieve administrative efficiencies necessary to sustain the subsidy reductions contained elsewhere in this bill. The form must be approved by the Secretary to ensure its consistency with the requirements of the HEA. Certification of the accuracy of the output of the application by the applicant is allowed in a subsequent document. Fees in connection with the use of this form are prohibited.

Senate amendment

No provision

Conference agreement

The House recedes as inclusion of this provision violates the Byrd Rule. However, in the 1992 reauthorization of the Higher Education Act Congress emphasized the need to simplify and streamline the financial aid delivery system through standardization, electronic forms, and electronic communication linkages. Computerized financial aid applications and administrative processes that allow students to apply for federal, state, and institutional aid electronically, have been developed for the guaranteed loan program. This computerized process would eliminate the need for filling out multiple paper copies and simplify the process for students.

For example, once a student fills in his or her name and address, these data are incorporated into all of the other applications incorporated into the software. The software used in the process also has internal checks that reduce errors, saving administrative time and costs on the part of the school and frustration on the part of the student. The software will not permit an application to be filed if required information, such as home address, is missing. Schools also benefit by being able to transmit data electronically to the Department's central processor expediting the submission of forms as well as the receipt by students of loan proceeds.

In 1992, Congress restricted the production, use and distribution of the FAFSA. This was done to prevent questions other than those approved by the Secretary from being included in the FAFSA. However, software that involves reproducing the FAFSA in electronic form, and not adding questions to it, ought to be available to all students. Approval of such software is not in any way inconsistent with congressional intent. The conferees therefore ask the Secretary to exercise his waiver authority under section 487A of the Higher Education Act to obviate any statutory obstacles which, in the opinion of the Department, prevent the production, distribution and processing of the FAFSA in electronic form.

However, the conferees are sympathetic to various concerns raised by the Department of Education regarding the availability of electronic data for analysis by the Department, two-way exchange of electronic information between the Department and outside party processors to coordinate applications and reapplications, and security measures to protect private information. The conferees intend that the Secretary use his authority to approve electronic versions of the FAFSA to assure that these concerns are adequately and reasonably addressed. It is anticipated that entities seeking to produce, use, distribute, and process the electronic FAFSA will cooperate with the Secretary to assure that changes to current law do not result in undermining on-going efforts to simplify the application and processing of Federal student assistance.

GUARANTEED CONSOLIDATION LOANS

Conference agreement

Both the House bill and the Senate amendment make borrowers of direct loans eligible to consolidate such loans into a guaranteed consolidation loan.

DIRECT CONSOLIDATION LOANS

House bill

No provision.

Senate amendment

The Higher Education Act is clarified to reflect congressional intent that a guaranteed loan borrower is only eligible to obtain a direct consolidation loan when he or she is unable to obtain a consolidation loan from a loan holder. The law is also modified to limit eligibility of guaranteed loan borrowers to those students who are unable to obtain a consolidation loan with an income-contingent loan repayment schedule from a loan holder. Since income-contingent repayment is allowed in the guaranteed loan program in the conference bill, students should not need to consolidate into the direct loan program to obtain this repayment method.

This subsection requires the Secretary to establish appropriate certification procedures to verify eligibility of borrowers for consolidation loans, and it prohibits the Secretary from offering consolidation loans if the Department lacks the administrative capacity or if the projected loan volume of direct consolidation loans would destabilize the availability of guaranteed loans.

Conference agreement

The House recedes.

INCOME CONTINGENT REPAYMENT

House bill

No provision.

Senate amendment

The legislation authorizes guaranteed student loan borrowers to repay their loans through income-contingent repayment, which is an option currently available only in the direct loan program. The repayment schedules may be comparable to those developed for the Part D direct loan program.

Conference agreement

The House recedes with an amendment to require that the repayment schedules must be comparable to those developed for the Part D direct loan program. It is the conferees intent that in the case of a student desiring income-contingent repayment from a lender which lacks the capacity to offer income-contingent repayment, such lender will sell the student's loans to another lender that offers such repayment option.

PLUS LOAN LIMITS

House bill

The House bill establishes annual borrowing limits for borrowers of PLUS loans at $15,000 per student in any academic year.

Senate amendment

No provision.

Conference agreement

The Senate recedes. The conferees agree that unlimited borrowing by parents without sufficient credit analysis may not be in the best fiscal interests of the federal government or the actual borrower. For this reason, the conferees agreed to a maximum borrowing of $15,000 on parent loans per student per academic year. A $15,000 maximum should not create a hardship for parents and students since the current average parent loan is less than $6,000.

PLUS LOAN INTEREST RATE INCREASE AND REBATE

House bill

The House bill provides for an increase in the PLUS program loan interest rate from the 52-week Treasury bill plus 3.1 percent capped at 9 percent to the 52-week Treasury bill plus 4 percent capped at 11 percent, for loans with a first disbursement after January 1, 1996. The House bill also requires holders of PLUS program loans to pay a rebate to the Secretary equal to .80 percent of the outstanding principal balance of loans held on June 30 and December 31, payable within 60 days after such date.

Senate amendment

No provision.

Conference agreement

The House recedes.

GUARANTY AGENCY EXTENDED WITHHOLDING

Conference agreement

Both the House bill and the Senate amendment require a guaranty agency to use at least 50 percent of its reserve funds to purchase and hold defaulted loans from lenders. Except under certain circumstances, guarantors must wait at least 180 days after such purchase before submitting claims for reimbursement to the Secretary. During this time, guarantors will work with borrowers to attempt to bring the loan into repayment so that no claim for reimbursement from the federal government is ever filed. Currently, guaranty agencies must file for reimbursement from the Secretary after 45 days.

If such an attempt is successful, the loan will be sold to an eligible lender. Defaulted loans that are held by guarantors for the additional 180 days will be considered assets for the purposes of calculating guarantors' reserve levels.

In addition to saving money for the federal government, this provision gives students an additional 180 days after default to make satisfactory repayment arrangements before having their tax refunds attached by the IRS or facing other, more onerous, collection activities. Borrowers who are able to return their loans to good standing will be eligible for additional aid and other benefits of the loan program.

GUARANTY AGENCY ADMINISTRATIVE COST ALLOWANCE

House bill

The House bill would require originating lenders to pay to the guaranty agency which guarantees a loan, a fee equal to 0.70 percent of the principal amount of the loan for loans having a first disbursement after January 1, 1996. These funds are used by guaranty agencies for administrative costs of collections, preclaim assistance, monitoring enrollment and other program costs. No part of these payments may be assessed or collected directly or indirectly from the borrower.

Senate amendment

The Senate amendment would decrease the payment of the administrative cost allowance to guaranty agencies from 1 percent to either: .85 percent of the total principal amount of the loans for which insurance was issued during the fiscal year, or .08 percent of the original principal amount of the loans guaranteed by the program that are outstanding at the end of the previous fiscal year. The amount required to be paid by the federal government would be limited to $180 million per year.

Conference agreement

The House recedes with an amendment. The guaranty agencies would only receive .85% of the total principal amount of the loans for which insurance was issued during the fiscal year and the cap for fiscal years 1996, 1997, and 1998 would be increased to $220 million. The decrease in administrative funds paid to guaranty agencies will require more efficiency on the part of all agencies since they are expected to provide a high level of service with reduced operating funds.

GUARANTY AGENCY RESERVE RATIOS

House bill

Guaranty agencies are required to maintain a minimum reserve level equal to .9 percent of outstanding loans guaranteed.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

GUARANTY AGENCY REINSURANCE

House bill

The House bill reduces the guaranty agency reinsurance rate from 98 percent, 88 percent, 78 percent (based on the average default rate of the guaranty agency's loans) to 96/86/76 percent.

Senate amendment

No provision.

Conference agreement

The Senate recedes. The conferees agree that all parties should have a greater share of risk in the guaranteed loan program.

DEFAULTED CONSOLIDATION LOAN RETENTION

House bill

No provision.

Senate amendment

The Senate amendment lowers the collection retention rate for defaulted loans that are consolidated from 27 cents to 25 cents on the dollar.

Conference agreement

The House recedes with an amendment to lower the collection retention rate to 18.5 cents on the outstanding principal, interest and collection costs.

SUPPLEMENTAL PRECLAIMS ASSISTANCE

Conference agreement

Both the House bill and the Senate amendment eliminate payment to guaranty agencies for supplemental preclaims assistance to lenders for the purpose of preventing defaults. Currently, these payments equal 1 percent of the principal and interest of loans for which assistance was provided to lenders and the lenders did not file a default claim on or before 270 days after the loan became delinquent. Guaranty agencies are still required to provide this assistance (using their general operating funds) even though they will no longer receive a special payment to do so.

MANDATORY ASSIGNMENT

Both the House bill and Senate amendment include a provision to ensure that standards for the mandatory assignment of defaulted loans to the Secretary from the guaranty agencies revert to the standards enacted as part of the Higher Education Amendments of 1992. The legislation specifies that general criteria must be established through negotiated rulemaking.

Conference agreement

Both the House and Senate recede.

TERMINATION OF GUARANTY AGENCIES

House bill

The House bill deletes the Secretary's authority to terminate a guaranty agency for the purpose of achieving an orderly transition to the direct loan program. In addition, a provision is included requiring a hearing on the record prior to the termination of a guaranty agency agreement. The legislation mandates that funds recovered from a terminated guaranty agency shall be returned to the Treasury and used for the purpose of lowering the federal debt.

Senate amendment

The Senate amendment includes the same provisions as the House bill. In addition, the Senate amendment further restores to its pre-1993 state the conditions under which the Secretary may terminate guarantors, essentially the same as those established by the 1992 amendments to the Higher Education Act. The Secretary will still possess ample, yet more closely circumscribed, powers to terminate a guarantor that is in serious trouble and in danger of collapse.

The subsection further stipulates that, in the event a guarantor is terminated by the Secretary, the Secretary must abide by the recommendations of the affected State for all guarantor portfolio transfers, mergers and consolidations. In addition, the Secretary may take over a guaranty agency's portfolio only in the event that no existing guaranty agency is willing to act as a successor agency for the affected guarantor.

The Secretary must provide opportunities for hearings on the record in cases where he is exercising his authority to terminate guarantor contracts.

Conference agreement

The Senate recedes. The conferees believe that in order to maintain a viable guaranteed loan program, it is necessary to modify these provisions which were adopted in 1993 in order to provide for the easy termination of guaranty agencies as the transition to direct lending was implemented. With the transition effectively terminated in this legislation, guaranty agencies will continue to be critical to the loan program and should not be subject to unilateral termination by the Department. In the event funds are recalled from a guaranty agency, it is the intention of the conferees to require such funds be deposited with the Treasury for purposes of deficit reduction, rather than allowing the Secretary to determine the use of such funds.

USAGE OF GUARANTY AGENCY RESERVE FUNDS

House bill

No provision.

Senate amendment

The Senate amendment clarifies that guarantor reserve funds can be used to pay for future as well as current program costs.

Conference agreement

The Senate recedes.

LENDER RISK-SHARING

Conference agreement

Both the House bill and the Senate amendment decrease the amount the federal government reimburses lenders and exceptionally well performing lenders for defaulted guaranteed loans in the Federal Family Education Loan Program (FFELP) from 98 cents to 95 cents on the dollar.

LENDER ORIGINATION FEE

House bill

The House bill lowers the lender origination fee paid to the federal government from .5 percent to .3 percent.

Senate amendment

The Senate amendment increases the lender origination fee on guaranteed loans from

.5 percent to 1.0 percent, including consolidation loans.

Conference agreement

The House recedes with an amendment to increase the fee to .8%.

HOLDER TRANSFER FEE

House bill

The House bill requires a lender or holder which purchases or takes assignment of a loan from another lender or holder to pay the Secretary a transfer fee equal to 0.20 percent of the principal of the loan.

Senate amendment

No provision.

Conference agreement

The House recedes.

HOLDER REBATE FEE

House bill

No provision.

Senate amendment

The Senate amendment imposes a new .05 percent annual fee on loans in repayment by the loan holders on all new guaranteed student loans made after January 1, 1996.

Conference agreement

The House recedes with an amendment to add PLUS loans to the loans subject to the rebate fee and to increase the fee to .07 percent.

LENDERS OF LAST RESORT

House bill

Lender of last resort provisions are modified to require applications to be processed within 15 days and borrowers are only required to obtain one lender rejection in order to establish eligibility for lender of last resort.

Senate amendment

No provision.

Conference agreement

Senate recedes. The conferees agree that loans made under the lender of last resort should be processed in a timely manner without significant burdens on students.

ELIGIBLE LENDERS

House bill

The House bill expands the definition of eligible lender to provide for an additional category of eligible lender under FFELP. This new category would permit certain non-bank lenders, currently eligible pursuant to another subsection but that are experiencing difficulties in lending in certain states, to engage in guaranteed student lending in all states. The new category involves an eligible lender's status as a finance company under state law and would be regulated both by appropriate state regulatory agencies and the Department of Education.

In addition, the House bill clarifies that loans held in trust by an eligible lender for the benefit of a third party are not to be counted when determining a lender's primary consumer credit function.

Senate amendment

No provision.

Conference agreement

The House recedes.

SMALL LENDER AUDITS

Conference agreement

Both the House bill and Senate amendment exempt lenders who hold or originate less than $5 million a year in student loans from burdensome and costly annual compliance audits. The cost reductions achieved by small lenders with this provision will enable many such lenders to continue to participate in the guaranteed loan program. The cost of the audits currently required sometimes exceeds the annual earnings of some small lenders from the guaranteed loan program.

REAUTHORIZATION

Conference agreement

Both the House bill and Senate amendment reauthorize the student loan programs through the year 2002. This is necessary in order for the Congressional Budget Office to score savings for the loan programs in this bill.

CONNIE LEE PRIVATIZATION

Conference agreement

Both the House bill and Senate amendment include an amendment to sever any and all of the federal government's links to the College Construction Loan Insurance Association (Connie Lee). Connie Lee was authorized in the 1986 amendments to the Higher Education Act to assist in financing the construction and renovation of certain education facilities. In the Corporation's authorizing language it was intended that the federal government's ownership interest in the Corporation would eventually terminate. This amendment provides for that termination through the sale of the stock of the Corporation owned by the Secretary of Education.

ELIGIBLE INSTITUTION

House bill

The House bill amends the Higher Education Act by requiring that, for the purposes of determining whether an institution meets the requirements of clause (6) (commonly referred to as the 85/15 rule), the Secretary of Education shall count revenues from programs of education or training that do not meet the definition of an eligible program in subsection (e), but are provided on a contractual basis under federal, state, or local training programs, or to business or industry. The provision also prohibits the Secretary from considering the financial information of any institution for a fiscal year which began on or before April 30, 1994.

Senate amendment

No provision.

Conference agreement

The House recedes.

SERVICE CONTRACT ACT OF 1965

House bill

The House bill repeals the Service Contract Act of 1965.

Senate amendment

No provision.

Conference agreement

The House recedes. The provision was dropped because it violates the Byrd Rule, section 313 of the Congressional Budget Act of 1974.

SUBTITLE B—PROVISIONS RELATING TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

House bill

The House bill would amend the Employee Retirement Income Security Act of 1974 (ERISA) to provide that the 30-day minimum waiting period between the date an explanation of the joint and survivor annuity is provided and the date the annuity starts may be waived by the participant. Title XI contains an identical amendment to the tax code; this is a necessary, conforming amendment to ERISA. This waiver would cause a slight acceleration in distribution of qualified plans.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

TITLE V—ENERGY AND NATURAL RESOURCES PROVISIONS

SUBTITLE A—NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES

NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES

Current law

The NRC is responsible for ensuring the safety of civilian uses of nuclear materials. The independence and integrity of this agency is essential to maintaining the confidence of the public in the use of nuclear energy and radioactive materials. Thus, a reliable stream of long-term funding is vital to assuring the uninterrupted operation of this important organization.

The NRC budget is paid for entirely through user fees on licenses, except for work on the high-level nuclear waste repository which is paid for through the Nuclear Waste Fund. User fees are an equitable way of paying for the cost of Federal regulation. Currently, user fees fund several Federal agencies or programs including the Federal Energy Regulatory Commission, the Securities and Exchange Commission, and the pipeline safety program under the authority of the U.S. Department of Transportation.

By collecting user fees, those who use an agency's resources pay the costs of funding that agency. Those who use the greatest amount of the agency's resources are required to pay the greatest annual fees. In the case of the NRC, nuclear licensees pay for the cost of Federal regulation and then pass that cost on to their customers. The result is an equitable one: those who do not buy electricity or products generated by nuclear power do not bear the cost of regulating it.

Section 6101 of the Omnibus Reconciliation Act of 1990 (P.L. 101-508) requires the Nuclear Regulatory Commission to collect annual charges from its licensees to provide offsetting collections to pay for its programs. Specifically, section 6101 allows the NRC to collect amounts which, when added to other amounts collected by the NRC (such as fees collected under the Independent Offices Appropriations Act of 1952, 31 U.S.C. 9701), equals 100 percent. However, current law only provides authority to collect fees and annual charges equal to 100 percent of the NRC budget through fiscal year 1998. Absent an extension, after fiscal year 1998, NRC's permanent authority to collect 33 percent of its budget authority through fees and annual charges would take effect.

Currently, the NRC budget is made up of money collected through three different methodologies. First, the NRC receives appropriations from the Nuclear Waste Fund established under section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) for licensing the Department of Energy's nuclear waste management program. Charges for these activities are not recovered through annual charges because nuclear utilities are paying for the cost of these activities through their payments to the Nuclear Waste Fund. Thus, recovery of Nuclear Waste Fund appropriations through the annual charge would constitute double payment by the utilities.

The NRC also recovers a portion of its budget through fees assessed on licensees under the Independent Offices Appropriations Act of 1952 (31 U.S.C. 9701). This Act provides that anyone receiving a service or a thing of value from the NRC shall pay the NRC's cost of providing individually identifiable services to applicants and holders of NRC licensees from the recipients of those services. Finally, generic NRC activities that benefit all licensees generally are recovered through annual charges.

House bill

Section 3031 of the House bill extends NRC authority to collect up to 100 percent of its budget through user fees through fiscal year 2002. This extension will generate revenues in amounts sufficient to offset expenditures by the NRC. The NRC is charged by the Omnibus Reconciliation Act of 1990 to assess these charges under the principle that licensees who require the greatest expenditures of the NRC's resources should pay the greatest annual charge. This section does not alter, in any way, the fee structure as currently collected by the NRC.

Senate amendment

Same provision, except that fees are extended through fiscal year 2005.

Conference agreement

The conference agreement includes the House language.

SUBTITLE B—DEPARTMENT OF ENERGY ASSETS

Chapter 1—United States Enrichment Corporation

Present Law

Title IX of the Energy Policy Act of 1992 added a new title II to the Atomic Energy Act of 1954. Title II of the Atomic Energy Act established a wholly owned government corporation known as the United States Enrichment Corporation (USEC) to operate the Federal Government's uranium enrichment enterprise. Chapter 25 of title II set up a process by which ownership of the government-owned corporation would be sold to the private sector.

House bill

Title III, subtitle C of the House bill amends title II of the Atomic Energy Act to facilitate the sale of USEC to private investors and to maximize the return to the U.S. Treasury.

Senate amendment

The Senate amendment contains a comparable provision. The Senate amendment repeals most of title II of the Atomic Energy Act but provides new statutory authority similar to the House bill.

Conference agreement

The conference agreement follows the Senate amendment with minor changes.

Section 5012(b)(8) of the Senate amendment prohibiting the swap, exchange, or loan of Russian uranium hexafluoride was deleted, although the conferees intend that any of the Russian uranium hexafluoride sold pursuant to paragraph (5) of section 5212(b) of the Conference Agreement may be swapped, exchanged, or loaned solely for the purpose of facilitating the further processing and use as nuclear fuel, and that the Department of Commerce shall establish procedures to ensure that these limitations are not circumvented.

Section 5013(a) of the Senate amendment relating to low-level waste disposal was rewritten to eliminate matter that could have been deemed extraneous under section 313 of the Congressional Budget Act. The conferees intend the revised provision in section 5213(a) of the Conference Agreement to require the Department of Energy to offer low-level waste disposal services to any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility on the same terms as it provides those services to USEC. The conferees believe this policy is essential to avoid anti-competitive effects in the domestic uranium enrichment market.

Section 5013(c) of the Senate amendment relating to State and interstate compact low-level waste facilities was deleted to eliminate matter that could have been deemed extraneous under section 313 of the Congressional Budget Act. Notwithstanding the elimination of the provision, the conferees believe that nothing in the conference agreement, the Low-Level Radioactive Waste Policy Act, any compact consent act, or any other law can be read to require a State or interstate compact to provide treatment, storage, or disposal to any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, or decommissioning of any uranium enrichment facility.

Finally, a provision in the Senate amendment to commercialize gaseous diffusion technology was removed.

Chapter 2—Department of Energy

DEPARTMENT OF ENERGY ASSET SALES

During the Cold War, the Department of Energy stockpiled large inventories of industrial materials that were needed for weapons production activities. As those activities are reduced in scope and facilities closed, those materials are no longer needed in large quantities. In the past, DOE has had no clear accounting of these inventories on a Department-wide basis. However, an initial assessment shows that this inventory includes at least 10,000 pounds of precious metals (such as silver, platinum and gold), and large volumes of non-precious metals, rare gases and fuel. Maintaining these inventories contributes to high overhead costs associated with storage, security and handling of these materials. In total, the value of these assets is estimated to be as much as $300 million. This subpart would require DOE to conduct a program to identify and sell a minimum of $225 million in assets by October 1, 2000. The Subpart would expedite these sales by providing an exemption from the Federal acquisition regulations that govern sales of "excess" materials by Federal agencies.

House bill

The House bill had no such provision.

Senate amendment

The Senate amendment requires the Secretary of Energy to conduct an asset management and disposition program that will result in no less than $225 million in receipts and savings by October 1, 2000. It also requires the Secretary to sell a minimum 1,139,000,000 pounds of fuel, 136,000 tons of chemicals and industrial gases, 557,000 tons of scrap metal, 14,000 radiation sources, 17,000 pieces of major equipment, 11,000 pounds of precious metals, and 91,000,000 pounds of base metals.

In order to expedite the sales and maximize the value of the assets, this provision exempts the asset sales under this subsection from provisions of the Federal Property and Administrative Services Act of 1949 and the Surplus Property Act of 1944. It also requires that the Secretary consult with appropriate executive agencies to avoid market disruptions that might result from the asset sales.

This provision requires that all proceeds from the asset sales be returned to the Treasury as miscellaneous receipts.

Conference agreement

The House accedes to the Senate provision.

SALE OF WEEKS ISLAND OIL AND LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY

House bill

The House bill authorizes the lease of excess Strategic Petroleum Reserve capacity.

Senate amendment

The Senate bill authorizes the sale of 32 million barrels of oil contained in the Strategic Petroleum Reserve. It also authorizes the lease of excess Strategic Petroleum Reserve capacity, and it authorizes that beginning in fiscal year 2001 one-half of the revenues generated by such lease be available to the Secretary of Energy for the purchase of oil for the Strategic Petroleum Reserve.

Conference agreement

The Conference Report provides for the sale of 32 million barrels of oil contained in the Strategic Petroleum Reserve. The Secretary shall, to the greatest extent practicable, sell oil from the reserve in a manner which minimizes the impact of such sale upon supply levels and market forces. The Conference Report also authorizes the lease of excess Strategic Petroleum Reserve capacity, and provides that beginning in fiscal year 2001 (except for years 2003 and 2004) one-half of the revenues generated by such lease be available to the Secretary of Energy for the purchase of oil for the Strategic Petroleum Reserve.

OTHER

WASTE ISOLATION PILOT PLANT

House bill

Subtitle D of Title 3 of H.R. 2491 contained the "Waste Isolation Pilot Plant Land Withdrawal Amendment Act," the purpose of which was to eliminate outdated statutory requirements for, and expedite the commencement of, operations at the Waste Isolation Pilot Plant (WIPP). The WIPP is the nation's repository for the permanent disposal of transuranic materials.

Transuranic (TRU) elements—those with a periodic table value greater than uranium—are generally man-made products synthesized in laboratory conditions. Most TRU waste in the United States consists of trash, such as protective clothing, lab instruments, and equipment which has been contaminated by TRU isotopes in the course of the defense nuclear weapons program. TRU wastes are currently stored on-site at the facilities where they are generated, with a vast majority of these wastes being located at 10 different Department of Energy sites.

Until 1970, TRU waste was disposed of in a manner similar to that used for low-level radioactive wastes, usually by burial in shallow earth trenches. In 1970, the Atomic Energy Commission (forerunner of the Department of Energy) determined that TRU wastes should be handled in a more comprehensive fashion, and began siting studies which resulted in the decision to construct the WIPP facility about 26 miles east of Carlsbad, New Mexico. Congress authorized the construction of the WIPP in 1979 as part of the Department of Energy National Security and Military Application of Nuclear Energy Authorization Act (Public Law 96-164).

In 1992, Congress passed the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102-579) to transfer ownership of the land surrounding WIPP to the Department of Energy (DOE), and authorize DOE to begin underground experiments using TRU waste. In October of 1993, DOE announced that it would forego on-site testing of waste at WIPP in favor of laboratory testing at the Sandia National Laboratories to determine the site's suitability for disposing of TRU waste. The Environmental Protection Agency (EPA) and the National Academy of Sciences supported DOE's decision to switch from on-site testing to laboratory testing. Because there is broad agreement that in-situ testing will not be necessary to make a site suitability determination, subtitle D would have removed existing statutory hurdles related to in- situ testing that were imposed by the WIPP Land Withdrawal Act.

Further, WIPP is currently subject to four major regulatory schemes: 40 CFR Part 191: Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High Level and Transuranic Radioactive Wastes; 40 CFR Part 194: Criteria for the Certification and Determination of the Waste Isolation Pilot Plant's Compliance with Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High Level and Transuranic Radioactive Wastes; 40 CFR Part 264: Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities; and 40 CFR Part 268: Land Disposal Restrictions. The overlapping regulatory restrictions of these requirements have contributed to the lack of progress in opening the repository, and pose the risk of substantial cost increases in operating the facility. According to the Department of Energy's own estimates, complying with the overlapping requirements of 40 CFR Part 268: Land Disposal Restrictions could add up to an additional $500 million in operating costs at WIPP over the life of the facility. EPA has agreed with DOE that the current regulatory structure is superfluous. Subtitle D of the House bill would have removed the unnecessary regulatory burdens that are delaying the opening of WIPP.

Operation of WIPP is a crucial step to the environmental remediation of TRU waste at facilities throughout the DOE weapons complex. Thus, in addition to increasing the cost of compliance at WIPP itself, delays in opening WIPP due to unnecessary regulation have caused increased expenditures for storage costs and have contributed to a lack of movement on cleanup at least nineteen DOE sites. The Congressional Budget Office has estimated that legislation removing unnecessary regulatory hurdles to the opening of WIPP would save $130 million in outlays over the 1996-2000 period.

Senate amendment

The Senate amendment had no such provision.

Conference agreement

The Conferees agree that legislation removing unnecessary regulation applicable to the WIPP facility is needed and would result in significant savings to the American taxpayer. However, the Conferees agreed not to include Subtitle D of Title 3 of H.R. 2491 in the conference report solely because the $130 million in discretionary outlays saved by the provision could be deemed "extraneous" under section 313(b) of the Congressional Budget Act.

SUBTITLE C—NATURAL RESOURCES

Chapter 1—Department of the Interior Conveyances

SUBCHAPTER A—CALIFORNIA DIRECTED LAND SALE

House bill

Title IX, subtitle C, part 4 of the House bill directs a land conveyance in California in consideration of $501,000 and a liability release.

Senate amendment

The Senate had no similar provision.

Conference agreement

The Conference agreement follows the House bill with minor modifications.

SUBCHAPTER B—HELIUM RESERVES

House bill

The House bill amends the Helium Act of 1960. It authorizes the Secretary of the Interior to enter into contracts with private parties to recover and dispose of helium on Federal lands. Additionally, the Secretary is authorized to store, transport, and sell helium only in accordance with the act.

The bill authorizes the Secretary to store and transport crude helium and to maintain and operate crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

Under the bill, the Secretary must cease producing, refining and marketing refined helium within 18 months after enactment of this bill.

Further, the Secretary is directed to dispose of all facilities, equipment and other real and personal property held for the refining, producing and marketing of refined helium within two years after the Secretary ceases production, refining and marketing operations. All proceeds from the sale of such facilities shall be applied against the outstanding Helium Fund debt. All costs associated with the sale and disposal, including costs associated with termination of personnel, shall be paid from the Helium Production Fund. Any contract for refined helium in effect on the date of enactment of this bill would stay in effect until the cessation of facility operation. This section also provides for any costs associated with termination of such contracts. Funds for such costs shall be drawn from the Helium Production Fund.

Under the House bill, full cost recovery for helium storage, withdrawal, or transportation services must be provided to the Secretary by users.

Also, the bill provides for the sale of crude helium. It amends section 6 of the 1960 Act to require that those individuals who enter into contracts with Federal agencies to provide helium also purchase an equivalent amount from the Secretary. The Secretary is precluded from making sales of crude helium in amounts that would disrupt the market. All funds collected pursuant to this section shall be deposited against the helium debt, which shall be frozen at the amount outstanding on October 1, 1995. The minimum price of crude helium sold by the Secretary would be determined on the basis of the outstanding amount owed against the debt in comparison with the volume of crude helium in the Cliffside Reservoir. All funds received from the sale or disposition of helium produced under a Federal lease would be deposited against the debt.

The Secretary, no later than 2005, shall commence making sales of the crude helium in the Cliffside Reservoir, and dispose of all such reserves by 2015, except for 600 million cubic feet. Such sales must be made in consultation with the helium industry to provide for minimum market disruption. This subsection ensures repayment of the debt.

Under the House bill, fiscal reporting by the Inspector General of the Department of the Interior is required. This financial statement shall include: a balance sheet for the Helium Operations, the statement of operations, a statement of cash flows, and a reconciliation of budget reports.

Senate amendment

The Senate included a similar provision.

Conference agreement

The House recedes to Senate, with modifications.

One of the most significant modifications agreed to by the conferees was the removal of the GAO audit from the bill. This was due to procedural objections in the Senate. Although the legislative language has been removed, the conferees intend the audit in section 9017 of the House-passed version of the bill, with one change, to be conducted each year.

It has been brought to the conferees' attention that the audit directed in the House bill would be somewhat duplicative of actions currently carried out by the Inspector General. Therefore, the conferees expect the Department of Interior Inspector General to carry out the audit, rather than the GAO as prescribed by the House provisions. Further, the Conferees urge the Department IG to publish, in detail, this audit in its annual review of the Department's activities in its report to Congress. The conferees emphasize the importance of completing the audit and including in the financial statements the information requested in the House bill.

The conference agreement requires the Secretary to dispose of excess property and facilities used for the purpose of producing, refining, and marketing helium no later than 24 months after the cessation of helium refining and marketing.

Chapter 2—Arctic Coastal Plain Leasing and Revenue Act

House bill and Senate amendment

Both the House bill and the Senate amendment contain provisions authorizing and directing the Secretary of the Interior to lease competitively the Coastal Plain of the Arctic National Wildlife Refuge ("Coastal Plain") for exploration and production of oil and gas in a manner consistent with protection of the environment.

Conference agreement

The conferees agreed to adopt the Senate language with several major modifications.

The conferees adopted language clarifying that, because of its expertise in onshore oil and gas leasing, the Bureau of Land Management, in consultation with the Fish and Wildlife Service and other federal agencies, manage the oil and gas leasing program on the Coastal Plain and be responsible for all leasing and management of the leases.

The conferees, in an effort to expedite the leasing process and in recognition of the Congress' long involvement with this issue, added language contained in the House bill which determines that the oil and gas leasing program authorized by this subtitle is compatible with the purposes for which the Arctic National Wildlife Refuge was established and that no further findings or decisions are required to implement this determination.

The conferees agreed to compromise between the House and Senate language to authorize the Secretary to designate up to 45,000 acres of the Coastal Plain as Special Areas and close such areas to leasing if the Secretary determines the lands are of such unique character and interest so as to require special management and regulatory protection. Horizontal drilling beneath the Special Areas is specifically allowed. The conferees expect the Secretary to notify the Committee on Energy and Natural Resources and the Committee on Resources of the House of Representatives ninety days in advance of making such designations. Such notification shall include the reasons and justifications for designating the Special Area.

The conferees agreed to add language contained in the House bill that provides that the sole authority for the Secretary to close portions of the Coastal Plain to oil and gas leasing is provided for in this subtitle.

The conferees agreed to add language from the House bill authorizing and directing the Secretary to convey lands and interests therein to the Kaktovik Inupiat Corporation and the Arctic Slope Regional Corporation to the extent necessary to fulfill their entitlement under the Alaska Native Claims Settlement Act. This conveyance is necessary to maximize revenues by settling any clouds on title to lands on Coastal Plain prior to leasing of the area.

The conferees agreed to modify the Senate language to provide that the rules and regulations necessary to carry out the purposes and provisions of the subtitle be promulgated within fourteen months after date of enactment of the subtitle.

The conferees agreed to modify the Senate language with respect to the Final Legislative Environmental Impact Statement (FLEIS), which was completed in April of 1987, to provide that such statement is adequate to satisfy the legal and procedural requirements under the National Environmental Policy Act of 1969 (NEPA) with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program, to conduct the first lease sale, any subsequent lease sales, and to grant rights-of-way and easements to carry out the purposes of the subtitle.

The conference agreement reflects a compromise between the House and Senate language to provide that the first lease sale shall be comprised of no less than 200,000 acres nor more than 300,000 acres. Subsequent lease sales can be no less than 200,000 acres. The conferees also agreed to changes to the Senate language so that the initial lease sale will occur within 20 months after date of enactment; the second sale would be held no later than 24 months after the first lease sale; subsequent sales would be conducted not later than 12 months thereafter.

The conferees agreed to adopt the House language to authorize the Secretary to close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife.

The conferees agreed to delete the provision in the Senate bill forbidding the flaring of natural gas. The conferees intend for the operator of wells to minimize the flaring of natural gas to emergency situations and other necessary flaring.

The conferees agreed to adopt the House language requiring the holder of a lease to use best efforts to assure that a fair share of employment and contracting, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right-of-Way for the Operation of the Trans-Alaska Pipeline, be made available for Alaska Natives and Alaska Native Corporations.

The conferees agreed to modify the provisions of the Senate bill relating to the Park and Wildlife Refuge Renewal Fund to capture a portion of the royalty and other revenues from the Coastal Plain (in addition to bonus bid revenue) and expanded the purposes for which the fund can be used. In addition, a cap of $250,000,000 over the life of the fund contained in the House language was imposed.

The conferees also agreed to modify language in the House passed bill to provide for the establishment of a $30,000,000 community assistance fund in the Treasury from the Federal share of the first lease sale. Not to exceed $5,000,000 a year will be made available from that fund to the Secretary to provide local assistance to organized boroughs, municipalities, and recognized Indian Reorganization Act entities which are directly impacted by activities authorized under this subtitle to provide public and social services and facilities required in connection with the exploration and production of oil and gas on the Coastal Plain.

The conferees are aware of concerns raised over the possibility that the revenue sharing formula contained in the legislation could be subject to challenge as inconsistent with the provisions in the Mineral Leasing Act with respect to Alaska which were made as part of the Alaska Statehood Act. The conferees want to emphasize that those concerns are not well founded. The conferees have not sought to alter in any manner the provisions of the Alaska Statehood Act nor the Mineral Leasing Act. The provisions contained in this legislation are the sole authority for the conduct of the leasing program on the Coastal Plain and are self-contained. The revenue sharing provisions contained in this Chapter are unique to this particular area and program and do not alter in any manner the revenue sharing provisions applicable to any leasing program elsewhere in Alaska conducted under the Mineral Leasing Act. The conferees note that the solicitor of the Department of the Interior has concurred in this assessment and that the Governor of the State of Alaska, the President of the Senate and Speaker of the house of the Alaska Legislature also have indicated their acquiescence in this particular formula. The conferees note that in establishing the 1002 area, Congress specifically reserved to itself the decision as to whether to open the area to leasing and the terms and conditions under which such a program would be conducted and do not view the specifics of this particular leasing program, including the revenue sharing provisions, as a precedent for any other area in Alaska.

Chapter 3—Water Projects

SUBCHAPTER A—IRRIGATION PREPAYMENT

House bill

The House had no provision.

Senate amendments

The Senate had a provision repealing section 213(c) of the Reclamation Reform Act to permit prepayment of outstanding construction debt.

Conference agreement

The Conferees agreed to the Senate provision and note that the use of OMB Circular A–129 is solely for the purposes of calculating the discount rate.

SUBCHAPTER B—HETCH HETCHY

House bill

The House-passed bill contained Sec. 9214, which would increase from $30,000 to $8 million the annual payment made by the city of San Francisco under the provisions of the Raker Act (Act of December 13, 1913) for having the Hetch Hetchy system within Yosemite National Park.

Senate amendments

The Senate-passed bill contained a provision which would have raised the annual payment from $30,000 to a minimum of $597,000 pursuant to a formula used by the Federal Energy Regulatory Commission.

Conference agreement

The conferees reviewed all of the relevant factors and concluded that $2,000,000 was an appropriate figure. The managers also were made aware, by the County of Tuolumne, California, which has responsibility for providing infrastructure support to the Hetch Hetchy facility, that there are impacts on local government from the Raker Act. The managers believe that the Congress should examine those concerns.

SUBCHAPTER C—COLLBRAN PROJECT

House bill

The House had no provision.

Senate amendment

The Senate measure contained a provision that would transfer the Collbran Project in Colorado to the local districts.

Conference agreement

The conferees agreed to adopt the Senate provisions with modifications.

The conferees intend that by providing a non-exclusive easement to the Districts and the operators and owners of the associated storage reservoirs, that the Districts will have full access to undertake any activities the Districts believe are necessary for project purposes. While the easement is non-exclusive, the conferees intend that in allowing any other use, the Forest Service not interfere with the use of the easement by the District for project purposes.

The conferees agree that the provisions in this legislation dealing with the Collbran Project are unique to that project and are not a precedent for other project transfers.

SUBCHAPTER D—SLY PARK

House bill

The House-passed version contained Sec. 9213, to convey the Sly Park Unit of the Central Valley Project to the El Dorado Irrigation District.

Senate amendment

The Senate-passed version contained no such provision.

Conference agreement

The conferees agreed to adopt the House-passed version, but modified the language to address scoring problems that had been raised by the Congressional Budget Office. The revised language requires the payment for the original construction costs by December 31, 1997.

SUBCHAPTER E—CENTRAL UTAH PROJECT

House bill

The House-passed bill contained Sec. 9211, to authorize the prepayment of certain repayment contracts between the United States and the Central Utah Water Conservancy District.

Senate amendment

The Senate amendment did not contain a prepayment provision specific to the Central Utah Water Conservancy District.

Conference agreement

The conferees accepted the House-passed version, with minor modifications intended to clarify the language.

Chapter 4—Federal Oil and Gas Royalties

House bill

The House bill would amend the Federal Oil and Gas Royalty Management Act of 1982 and the Outer Continental Shelf Lands Act to create a more aggressive framework for the way the Department of the Interior's Minerals Management Service (MMS) and delegated states audit and collect federal oil and gas royalties and other monies owed the United States. These changes would provide for: more efficient audit and royalty collection processes, resulting in collection of additional monies owed to the U.S. and the

States within a 6-year limitation period; authority for the Secretary to delegate certain royalty management functions to States, where appropriate, to collect additional royalties due States and the U.S. Treasury, thereby resulting in a more economic royalty management program; records retention requirements for industry to determine royalties due during the 6-year limitation period; more efficient appeals processes at the Department of the Interior, resulting in additional collections from stale disputes between the U.S. and royalty payers; establishment of interest requirements analogous to those of the IRS, thereby encouraging accurate royalty payments; limits on the period within which lessees can make adjustments or request refunds, resulting in additional collections; and pre-payment of royalties on "marginal properties" and other relief to collect royalties on production that might otherwise be abandoned.

Senate amendment

The Senate amendment contained provisions substantially similar to the House version.

Conference agreement

The Conference agreement blends the House and Senate provisions, with modifications to eliminate procedural points of order in the Senate, to clarify that delegated States have a direct role in increasing net receipts due States and the U.S., and to make technical corrections.

Chapter 5—Mining

HARDROCK MINING LAW REFORM

Short title

The Senate bill contains a short title in Sec. 5700. The House bill does not. The House recedes to the Senate position.

Definitions

The Senate bill contains definitions in Sec. 5701. The House bill defines terms where pertinent. The House recedes to the Senate position with amendment by adding and deleting terms as necessary to reflect the conference report language.

Rental payments

The Senate bill contains claim maintenance requirements in Sec. 5702 which extend the current fee of $100 per year per claim and in Sec. 5703 enlarges the "small miner" waiver and exemption from the current ten or fewer claims to twenty-five or fewer claims. The House bill has parallel provisions in Sec. 9505 which include payment of an annual claim maintenance fee which escalates with time to deter speculative holding of claims. Credit for the value of labor performed to explore and develop one's claim(s) may offset not more than 75% of the following year's fee, with a three-year carry forward provision.

The bill managers believe the current claim maintenance fee has caused a precipitous decrease in exploration of the public lands as evidenced by the huge decline in mining claims of record with the Bureau of Land Management from approximately 1,200,000 in 1989 to a preliminary estimate of less than 300,000 in 1995. Exploration expenditures in the U.S. have also been falling while worldwide exploration expenditures are increasing significantly. Without exploration future mines will not be discovered on which royalties will be paid under the terms of this bill.

The Senate recedes to the House position with an amendment to reduce the exploration and development credit to not more than 50% of the claim maintenance fee which is renamed the "claim rental fee." The labor credit does not begin until the year 1999. Further, the amendment changes the timing and amount of the payments to $100 per year per claim for years 1996 through 1998 and $200 per year per claim in 1999 and thereafter, with the aforementioned exploration credit available. The managers believe the consequences of rental payments should be reviewed periodically to ensure hardrock mineral exploration of the public lands remains viable.

Patenting

The Senate bill contains patenting provisions in Sec. 5704 requiring the payment of fair market value of the land within the boundaries of claims for which title passes and the reservation of a royalty interest and a right of title reversion to the United States if the land is used for non-mining purposes, except for such claims as were pending application for patent as of September 30, 1995. The House bill contains similar provisions in Sec. 9502, except that those persons holding valid claims as of the date of enactment have opportunity to seek patents under current law within a two-year transition period (or ten-year period for claims for which access has been denied) by making application for mineral survey or patent. The House bill lacks a "reverter" provision.

The bill managers acknowledge persons holding "valid mining claims," (i.e., for which a discovery of a valuable mineral deposit within the meaning of the mining laws can be demonstrated on the date of enactment of this act, as well as for all location and recordation and payment requirements have been met) have a possessory right to the locatable minerals within their claims, as enunciated by the U.S. Supreme Court to be "property in the fullest sense of the term..." (Wilbur v. U.S. ex rel. Krushnic, 280 US 306).

Further, the managers believe a prospectively applied royalty may not be imposed upon claim owners who successfully make such showing, otherwise the royalty becomes an obligation in the nature of a severance tax which is levied by a government merely for permission to mine within the government's boundaries without respect to mineral estate ownership. The managers acknowledge many mining claims are held under the principle of pedis possessio, i.e., possession good against rival claimants but not the United States because a discovery of a mineral deposit is lacking. However, the managers believe there are claim holders with valid existing rights and expressly encourage persons holding such claims to assert their rights.

Therefore, the House recedes to the Senate position with an amendment which clarifies that the bill applies to all claims, subject to a vested possessory property right against the government. All mining claims would be subject to royalty, fair market value payment, and the reverter provision except claims for which there is a "vested possessory property right," including those mineral patent applications pending at the Department of the Interior, if such claims meet the requirements of existing law. These claimholders are exempted from the new requirements for the same reason: to protect valid property rights that have ripened because of the operation of the general mining laws. Those claimholders who cannot establish a discovery have no valid existing right and are not eligible to receive patents (and that would continue to be the case under the new law). Other existing claim holders may be able to establish a discovery as well, even though they have not applied for patents. Patenting is not and never has been a prerequisite to mining under the general mining laws. The important consideration is not whether miners have sought patents but whether they can show a "discovery" of a valuable mineral deposit. If they can, they have a constitutionally protected property right that cannot and should not be abrogated by Congress. The managers therefore intend with this subsection to apply the new royalty, reverter, and fair market value provisions in all cases in which they fairly can be applied, but not to those claimholders who have valid existing property rights.

The managers note that if a mineral patent "moratorium" (i.e., a limitation on the use of appropriated funds by the Secretary to accept or process applications or issue mineral patents) is in effect when this chapter is enacted into law, that such limitation is not part of the "general mining laws in effect on the date immediately prior to the date of enactment." This is consistent with House rules which constitute such funds limitation amendments to not violate the prohibition on legislating on appropriations measures.

Further, the House recedes to the Senate position on the reservation of a reversionary interest to the United States with an amendment allowing a right of re-entry to the United States with the direction to the Secretary to renounce such interests in certain situations.

Royalty and abandoned mine reclamation

The Senate bill contains royalty provisions styled as a "net smelter return" in Sec. 5705 with half of receipts to be disbursed to the federal treasury and half to those States whence production occurred, for purposes of reclamation of abandoned locatable minerals mines, and establishes a threshold of $500,000 annual gross proceeds below which royalty is exempted. The House bill contains a "net proceeds" royalty in Sec. 9503 that chiefly differs from the Senate version in allowing the deduction of mining costs from gross proceeds as well as beneficiation, smelting and refining costs which both bills allow, and establishes a threshold of $50,000 annual net proceeds (aggregated from all production subject to the Act) below which royalty is exempted. The House bill exempts claims which have been the recipient of Urban Development Action Grants (UDAG) funds from payment of royalty. The House bill disburses royalty receipts two-thirds to the federal treasury, one-third to the States without regard as to how such funds may be spent.

The bill managers acknowledge the need for a "net" royalty rather than a "gross" royalty in order to levy a fair royalty given the broad class of minerals and methods to which the general mining laws apply, e.g., a net royalty does not favor precious metals versus base metals extraction, open-pit operations versus underground mines, or low-cost labor areas versus remote high-cost areas. A net proceeds royalty conserves resources by not promoting "high-grading" of deposits as do "gross" royalties which clearly affect behavior. Consequently, the Senate recedes to the House royalty terms, including the net proceeds calculation as the threshold for royalty relief.

The bill managers acknowledge the need to offset the loss of State revenues, such as from severance taxes, to be expected from the imposition of a federal royalty. The bill managers also acknowledge the desirability of establishing a fund for the reclamation of public lands impacted by abandoned hardrock mines. Therefore, the Senate recedes to the House position on disbursement of receipts with an amendment to require 10 percent of royalty receipts be disbursed to States without spending mandates, and the House recedes to the Senate position on establishing an AML fund with an amendment to set the disbursement at forty percent of royalty receipts, retaining the Senate provisions of Section 5706 through 5710 respect to the AML funds except for an amendment limiting the eligible areas for reclamation to be public lands only and deleting Section 5709 relating to the use and objectives of the AML funds.

General provisions

The Senate bill contains provisions regarding the effect of the Subtitle on the general mining laws at Sec. 5711, and severability of the provisions of the Subtitle in the event of successful judicial challenge at Sec. 5712. The House has no comparable provisions. The House recedes to the Senate position.

Mineral materials and sodium

The House bill contains provisions for the prospective elimination of the applicability of the general mining laws to so-called uncommon varieties of mineral materials, and the modification of the current system for disposition of mineral materials to provide for stable supply of such materials at Sec. 9504. The Senate bill contains no comparable provisions.

The bill managers acknowledge the untenable situation which exists today for both the federal government and miners claiming alleged "uncommon varieties" of mineral materials. The adjudication of the validity of such claims is far more costly and time consuming for claimant and government alike than is usually warranted by the value of the commodity. Therefore, the Senate recedes to the House position with an amendment which strikes explanatory language while retaining language which expressly amends the 1947 Material Sales Act and the 1955 Surface Resources Act.

The House bill contains provisions affecting the disposition of sodium compounds from federal lands in Subsec. 9504 (i). The Senate bill contains no such provisions. The House recedes to the Senate position.

Chapter 6—Department of the Interior

AIRCRAFT SERVICES

House bill

The House bill did not contain language regarding this provision.

Senate amendment

The Senate amendment contained provisions to reduce the amount of aircraft owned by the Department of the Interior and increase the use of aircraft contract services with private entities.

Conference agreement

The conferees agreed to accept the Senate provision as written. The conferees direct the Secretary of the Interior to contract with private entities for the provision of all aircraft services required by the Department of the Interior (DOI), other than those available from the 13 existing DOI aircraft whose primary purpose is fire suppression. The Secretary is also directed to sell all the aircraft and related facilities owned by the Department, except those specified in the legislation, by September 30, 1998. It is the intention of the Conferees that this sale of assets be made to the highest bidder in each case and that the Secretary seek, to the maximum extent possible, to obtain fair market value for the assets.

Nothing in this section is intended to affect the use of dual-function pilots. The conferees expect that these personnel will continue to carry out their current role with the use of aircraft owned by private entities. The conferees direct the Secretary to report to the Senate Committee on Energy and Natural Resources and the House Resources Committee as soon as possible, and no later than October 1, 1996, identifying aircraft that should not be sold because they are either needed for the primary purpose of law enforcement, are specially equipped, or are not readily available under contract with private entities at a competitive cost. The conferees expect that those committees will review this information and consider the need to amend the requirements of subsection (b).

Chapter 7—Power Marketing Administrations

SUBCHAPTER A—BONNEVILLE POWER ADMINISTRATION

House bill

The House bill provides for the refinancing of certain appropriated debt of the Bonneville Power Marketing Administration.

Senate amendment

The Senate amendment provides for the refinancing of certain appropriated debt of the Bonneville Power Marketing Administration.

Conference agreement

With minor exceptions, the language contained in the House bill is identical to the language contained in the Senate amendment. In the Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act provisions, the Conference Report uses the term "credit" contained in the House bill in lieu of the term "appropriations" which was contained in the Senate amendment. There is no substantive difference between these terms.

The Conferees agreed to drop the study provisions contained in the House bill with the understanding that the Bonneville Power Administration would undertake these studies without a specific statutory requirement to do so. Accordingly, the conferees expect that the Administrator shall undertake a study to determine the effect that increases in the rates for electric power sales made by the Administrator may have on the customer base of the Bonneville Power Administration. Such study shall identify other sources of electric power that may be available to customers of the Bonneville Power Administration and shall estimate the level at which higher rates for power sales by the Administration may result in the loss of customers by the Administration. The Administrator shall also undertake a study to determine the total prior costs incurred by the Bonneville Power Administration for compliance with the provisions of the Endangered Species Act of 1973, and the total future costs anticipated to be incurred by the Administration for compliance with such provisions. It is the Conferee's expectation that the Administrator shall complete and submit to the Congress the results of these studies within 180 days after the date of the enactment of this Act.

SUBCHAPTER B—ALASKA POWER ADMINISTRATION

House bill

The House bill provides for the sale of the Alaska Power Marketing Administration's (APA) assets, and the termination of the APA once the sale occurs.

Senate amendment

The Senate amendment provides for the sale of the Alaska Power Marketing Administration's (APA) assets, and the termination of the APA once the sale occurs. It also provides for the exemption of the two hydroelectric projects from the licensing requirements of part I of the Federal Power Act.

Conference agreement

The Conferees adopted the Senate language with minor changes. The APA's assets will be sold pursuant to the 1989 purchase agreements between the Department of Energy and the purchasers. The Snettisham hydroelectric project and related assets will be sold to the State of Alaska. The Eklutna hydroelectric project and related assets will be sold jointly to the Municipality of Anchorage, the Chugach Electric Association, and the Matanuska Electric Association. For both projects, the sale price is determined by calculating the net present value of the remaining debt service payments the Treasury would receive if the Federal government retained ownership.

This Act and the separate formal agreements provide for the full protection of fish and wildlife. The purchasers, the State of Alaska, the U.S. Department of Commerce National Marine Fisheries Service, and the U.S. Department of the Interior have entered into a formal agreement providing for post-sale protection, mitigation, and enhancement of fish and wildlife resources affected by Eklutna and Snettisham. This Act makes that agreement legally enforceable.

As a result of the formal agreements, the Department of Energy, the Department of the Interior, and the Department of Commerce all agree that the two hydroelectric projects warrant exemption from FERC licensing under Part I of the Federal Power Act. The August 7, 1991 formal purchase agreement states:

"NMFS, USFWS and the State agree that the following mechanism to develop and implement measures to protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat) *obviate the need for the Eklutna Purchasers and AEA to obtain FERC licenses.* (Emphasis supplied.)"

The Alaska Power Administration employs 34 people in the State of Alaska. The purchasers of the two projects have pledged to hire as many of these as possible. For those who do not receive offers of employment, the Department of Energy has pledged it will offer employment to any remaining APA employees, although the DOE jobs are expected to be in the lower-48.

The House-passed bill did not contain any comparable provisions. The Conference Agreement adopts the Senate-passed bill with two material changes.

First, the Conference Agreement provides an exemption for Eklutna and Snettisham from Part I of the Federal Power Act (hydroelectric licensing), not from the entire Federal Power Act. That was intended by the Senate. By making this change, the conferees do not intend to imply that the Purchasers who are already exempt from other aspects of the Federal Power Act will lose such exemptions. The conferees do not intend to imply that by reason of this Act the other parts of the Federal Power Act apply to Eklutna and Snettisham. They apply only if they would have applied in the absence of this Act.

Second, the agreement provides a general rule that upon sale or transfer of any portion of Eklutna or Snettisham from the Purchasers to any other person, the exemption from Part I of the Federal Power Act shall cease to apply to such portion of Eklutna or Snettisham. However, the exemption from Part I will continue to apply if such sale or transfer is from one Purchaser to another Purchaser, as that term is defined in this Act. A loss of the exemption from Part I upon sale or transfer does not automatically trigger licensing under Part I. Licensing will be required only if the circumstances would otherwise require it under Part I. If licensing is not otherwise required under Part I of the Federal Power Act for such portion, it is not required by reason of these provisions. Such sale or transfer, even if it results in the licensing of the portion sold or transferred, does not affect the exemption from Part I for the portion of Eklutna or Snettisham that is not sold or transferred and is retained by a Purchaser.

The first phrase is an exception to this general rule. It provides that a subsequent assignment of interest in Eklutna by the Eklutna Purchasers to the Alaska Electric Generation and Transmission Cooperative Inc. pursuant to section 19 of the Eklutna Purchase Agreement will not result in the elimination of the exemption from Part I of the Federal Power Act for such interest.

The provisions on selection and transfer of Eklutna and Snettisham lands provide that notwithstanding the expiration of the right of the State of Alaska to make selections under section 6 of the Alaska Statehood Act, the State may select lands pursuant to the provisions of this Act and the Eklutna and Snettisham Purchase Agreements. Likewise, it is the intent of this legislation that the Secretary of the Interior shall convey lands selected by the State of Alaska notwithstanding any limitations contained in section 6(b) of the Alaska Statehood Act.

The Conferees agree that the circumstances justifying exemption from licensing under Part I of the Federal Power Act for these two Federally-owned hydroelectric projects are unique, and that they are not a precedent for a similar exemption of any other Federally-owned hydroelectric project in the event that such project were sold. The Conferees agree that in the event that other Federally-owned hydroelectric projects whose generation is marketed by other Federal power marketing administrations are privatized, these circumstances would not justify an exemption from Part I.

Chapter 8—Outer Continental Shelf Deep Water Royalty Relief

House bill

The House bill contained no similar provision.

Senate amendment

The Senate version would authorize the Secretary of the Interior to grant royalty relief on existing Outer Continental Shelf oil and gas leases in the western and central Gulf of Mexico to encourage production. For existing leases, the bill provides relief from royalty payment on a certain number of barrels of oil for leases in water depths of 200 meters or deeper, upon a finding by the Secretary that the leases are not otherwise economic. As water depth increases, the amount of relief provided under the bill would increase commensurately, reflecting that the economics of drilling in deep water increase significantly as water depth increases.

Under the Senate bill, new leases offered for sale in the future would provide terms granting an initial royalty waiver on a specific number of barrels of oil equivalent based on water depth. These new lease terms would be offered for the next seven years. The royalty waiver will increase the dollar value of bonus bids paid upon sale of leases.

The Senate bill provides relief only to OCS leases in the western and central areas of the Gulf of Mexico west of the Florida-Alabama border and does not affect leasing and development off the coast of Florida. The bill does not affect any planning areas or leases subject to pre- leasing, leasing or development moratoria.

Conference agreement

The Conference agreement adopts the Senate provision.

Chapter 9—Exports of Alaska North Slope Oil

House bill

Section 9001 of the House bill authorized exports of Alaskan North Slope (ANS) crude oil; mandated the filing of additional information in an annual report under the Energy Policy and Conservation Act; and required a study by the General Accounting Office (GAO).

Senate amendment

The Senate amendment did not include a similar provision.

Conference agreement

The Senate receded to the House language with an amendment.

The committee of conference recommends authorizing exports of ANS oil under terms substantially similar to the House provision.

Section 13800 amends section 28(b) of the Mineral Leasing Act (30 U.S.C. 185) to authorize ANS exports. Paragraph (1) of section 28(b) of the Mineral Leasing Act, as amended by the conference report, makes inapplicable the general and specific restrictions on such exports in section 7(d) of the Export Administration Act of 1979, (50 U.S.C. App. §2406(b)), section 28(u) of the Mineral Leasing Act of 1920, (30 U.S.C §185), section 103 of the Energy Policy and Conservation Act, (42 U.S.C. §6212), and the Short Supply regulations issued thereunder, unless the President determines (within five months of the date of enactment) that they would not be in the national interest. (Other statutory restrictions on the export of U.S. crude oil rendered either inapplicable or superseded with respect to ANS exports are 10 U.S.C. §7430 and 29 U.S.C. §1354, restricting exports of crude oil from the Naval Petroleum Reserve and the outer continental shelf.)

Before making his national interest determination, the President must consider an appropriate environmental review (to be completed within four months of enactment). Consistent with the original 1973 legislation, the President also must consider whether exports would diminish the total quantity or quality of petroleum available to the United States. Finally, the President must consider whether exports are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, in particular in noncontiguous States and Pacific territories.

In a comprehensive report submitted to Congress, the Department of Energy found "no plausible evidence of any direct environmental impact from lifting the ANS crude export ban." Based on this finding and the weight of the testimony, the provision directs, as the "appropriate environmental review," an abbreviated four-month study. The environmental review is intended to be thorough and comprehensive, but in light of the prior Department of Energy findings and the compressed time frame, neither a full Environmental Impact Statement nor even a more limited Environmental Assessment is contemplated. If any potential adverse effects on the environment are found, the study is to recommend "appropriate measures" to mitigate or cure them.

In making his national interest determination, the President is authorized to impose appropriate terms and conditions, other than a volume limitation, on ANS exports. The provision takes cognizance of the changed condition of national oil demand and available oil resources. The provision permits ANS crude oil to compete with other crude oil in the world market under normal market conditions. To facilitate this competition and in recognition that the provision specifically precludes imposition of a volume limitation, the President should direct that exports proceed under a general license. In further recognition that some information (such as volume and price) will be needed to monitor exports, the President may wish to impose such after-the- fact reporting requirements as may be deemed appropriate by the Secretary of Commerce.

Given the anticipated substantial benefits to the nation of ANS exports, the conferees urge the President to make his national interest determination as promptly as possible. If the President fails to make the required national interest determination within the statutorily imposed deadline, ANS oil exports are authorized without intervening action by the President or the Secretary of Commerce.

Paragraph (2) requires, with limited exceptions, that ANS exports be carried in U.S.-flag vessels. The only exceptions are exports to Israel under the terms of a specific bilateral treaty that entered into force in 1979 and exports to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency. The conferees concur with the Administration's assessment that the U.S.-flag cargo reservation requirement is consistent with U.S. international obligations and is supported by ample precedent, including, in particular, a comparable provision in the U.S.-Canada Free Trade Agreement as implemented under U.S. law.

Paragraph (3) preserves any authority the President may have under the Constitution and the enumerated statutes to prohibit ANS exports in an emergency.

Paragraph (4) directs the Secretary of Commerce to issue any rules necessary to govern ANS exports within 30 days of the President's national interest determination. In light of the clear benefits to the nation of ANS exports, the conferees urge the Secretary of Commerce to promulgate any rules necessary to implement that determination, including any licensing requirements and conditions, contemporaneously with the determination.

Paragraph (5) provides that if the Secretary of Commerce (after consulting with the Secretary of Energy) later finds that exports have caused sustained material oil shortages or sustained prices significantly above the world level and that the shortages or high prices have caused or are likely to cause sustained material job losses, he must recommend appropriate action, including modification or revocation of the authority to export ANS oil. The President has the discretion to adopt, reject, or modify any recommendation made by the Secretary. In recognition that prices fluctuate and supply patterns change under normal market conditions, the authority of the Secretary is limited to addressing activity that causes the specified sustained unanticipated price and supply effects.

Paragraph (6) provides that administrative action is not subject to notice and comment rulemaking requirements or other requirements of the Administrative Procedures Act.

Subsection 9001 (b) of the House bill, which would have required the Comptroller General (GAO) to conduct a review of the effects, if any, of ANS oil exports on consumers, independent refiners and shipbuilding and ship repair yards on the West Coast and Hawaii was dropped by the conferees. However, the conferees recommend that GAO complete a report to be submitted four years after the date of enactment. The report should contain a statement of principal findings and recommendations to address job loss in the shipbuilding and ship repair industry on the West Coast and Hawaii, if any, as well as adverse impacts on consumers and refiners on the West Coast and in Hawaii, if any, that the Comptroller General attributes to ANS exports. The conferees believe that the market should be given a reasonable period of time to operate before submission of the report. The conferees want to be sure the Comptroller General has a solid basis on which to make his analysis and offer any recommendations for the Congress and the President.

Chapter 10—Ski Fees on Forest Service Lands

House bill

The House included a provision that called for the establishment of a new formula to calculate fees paid to the Forest Service by ski area operators.

Senate amendment

The Senate had no similar provision.

Conference agreement

The Senate concurred with the House position with minor modifications. The Conferees agreed on provisions which closely reflect the text of legislation passed by the Senate in 1992.

The Conferees amended the House provision to insert a payment "floor" in the formula. Under the "floor" approach, the Conferees expect that the fee charged each individual ski area for the first 3 years of the transition will be either the fee under the new formula, or the actual fee paid by the area for the year prior to the new formula's implementation, whichever amount is higher. Using this approach will mean that no individual area fee will go down, unless overall business dips by more than 10 percent. In the majority of cases the Conferees expect that areas' fees will increase.

The Conferees expect that no later than five years after the date of enactment of this Act, and every ten years thereafter, the Secretary of Agriculture will submit to the appropriate Senate and House Committees a report analyzing whether the ski area rental charge system legislated by this Act is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications in the system.

Chapter 11—National Park Fees

House bill

The House bill had no similar provision.

Senate amendments

The Senate measure contained a provision that established increased caps on National Park admission fees and eliminated a number of prohibitions on implementing fee collection programs at certain park units. The provision would require that 80 percent of the new fees collected be returned to the National Park Service units for annual operating expenses related to visitor services.

Conference agreement

The House concurred with the Senate position with some modifications. The conferees included provisions which would authorize the Forest Service and the Bureau of Land Management to collect recreation use fees at certain locations.

With respect to the collection of fees at units of the National Park Service, the conferees fully expect that fee increases for admission and annual park passes for units of the System, including those units not currently charging such fees, be implemented incrementally over a reasonable period of time so as to minimize, to the greatest extent practicable, rapid escalation of entrance fees. The conferees do not anticipate that the Service will begin charging any of the authorized fee increases described in this legislation at the maximum allowable rate.

In addition, the conferees expect that no later than 30 days after the enactment of this Act, the Secretary of the Interior will submit to the appropriate Senate and House Committees a report on the admission fees proposed to be charged at units of the National Park System. The report shall include a list of units of the National Park System and the admission fee proposed to be charged at each unit. It is also expected that the report shall also identify areas where such fees are authorized but not collected, including an explanation of the reasons that such fees are not collected.

The conferees agreed that a significant portion of the new fees collected be returned to the areas or units of those land management agencies designated by this Act to augment annual operating expenses related to visitor services. The conferees are very concerned that any increase in fees paid by recreational users translate into increased services to the public. Therefore, the conferees intend to closely monitor implementation of this provision to ensure congressional intent is realized. In order to ensure that fees paid directly benefit users who pay the fees, the conferees have limited the use of the monies to visitor services and facilities. As used in this part, visitor services means services directly associated with the management of recreation visitors to Federal lands, including (but not limited to) such programs as maintenance of facilities which serve primarily visitor recreation use (such as campgrounds, scenic roads, trails, visitor centers and picnic areas), public information and interpretation, wildlife habitat enhancement directly related to public use (such as stream improvement to improve fishing or activities to facilitate watchable wildlife programs), and other activities of personnel assigned predominantly to the management of visitors or public safety programs, but not including costs of regional and Washington headquarters offices and administrative services such as personnel, budget and finance, and procurement.

The Conferees fully expect that the affected Secretaries will, by January 1 of each year, provide to the appropriate Committees of the Senate and the House a list of proposed expenditures from the fund designated by this Act for each unit or area for that fiscal year and a report detailing expenditures, by unit or area, for the previous year.

Chapter 12—Concession Reform

House bill

The House provided a comprehensive reform of concession management policies for 6 Federal land management agencies.

Senate amendment

The Senate had no comparable provision.

Conference agreement

The Senate receded to the House with amendments. The managers expect that each Federal land management agency covered under this title shall implement a program to encourage appropriate development and operation of services and facilities for the accommodation of visitors. The program implemented by each such agency shall consist of actions which—

(1) recognize the importance of the private sector in providing a quality visitor experience on Federal lands by encouraging private sector investments for facilities and services on Federal lands under a fair and competitive process;

(2) establish the basis for an effective relationship between the land management agencies and private business operating on public lands in efforts to serve the public and to protect the resources of these areas;

(3) measure quality and value of services provided by concessionaires and provide incentives for consistent excellence;

(4) ensure a fair return to the Federal Government;

(5) are consistent among the various agencies to the extent practicable in order to increase efficiency of the Federal Government and simplify requirements for concessionaires; and

(6) ensure that concession activities are fully consistent with agency policy and plans.

In order to ensure the consistent high quality of concession services and facilities, the Secretary concerned shall develop a program of evaluations of the concessionaires operating under a concession service agreement who are providing visitor services in areas under the jurisdiction of the Secretary. The evaluations shall be on an annual basis over the duration of the concession service agreement. In developing the evaluation program, the Secretary concerned shall seek broad public input from concessionaires, State agencies, and other interested persons. The evaluation program shall—

(1) include the four program areas of: quality of visitor services provided; resource protection (as applicable); financial performance; and compliance with concession service agreement provisions and pertinent laws and regulations;

(2) define three levels of performance—

(A) good, which shall be defined as a level of performance which exceeds the requirements outlined in the prospectus, but which is attainable;

(B) satisfactory, which shall be defined as meeting the requirements as contained in the prospectus; and

(C) unsatisfactory; which shall be defined as not meeting the requirements contained in the prospectus;

(3) be based on criteria which—

(A) are objective, measurable, and attainable; and

(B) shall include as applicable general standards for all concession operations, industry-specific standards, and standards developed by the Secretary concerned in consultation with the concessioner for each concession service agreement;

(4) be designed in such a manner that the annual evaluation represents the overall performance of the concessioner without weight to matters of limited importance; and

(5) take into account factors beyond the control of the concessioner, such as general market and other economic fluctuations, as well as weather and other natural phenomena, so that such factors may not be used as a justification for denial of performance incentives.

The conferees expect that the Secretary concerned shall annually review the performance of each concessioner and shall assign an overall rating for each concessioner for each year. The procedure for any performance evaluation shall be provided to the concessioner prior to the beginning of any evaluation period. Such procedure shall provide for adequate notification of the concessioner prior to any on-site evaluation and permit a representative of the concessioner to observe the evaluation. The concessioner shall be entitled to a complete explanation of any rating given. If the Secretary's performance evaluation for any year results in an unsatisfactory rating of the concessioner, the Secretary concerned shall so notify the concessioner, in writing. Such notification shall identify the nature of conditions which require corrective action and shall provide the concessioner with a list of corrective actions necessary to meet the standards.

The conferees intend that the Secretary concerned may suspend or terminate a concession authorization if the concessioner fails to correct the conditions identified by the Secretary within the limitations established by the Secretary at the time notice of the unsatisfactory rating is provided to the concessioner. The Secretary may immediately suspend or revoke a concession authorization where necessary to protect the public health or welfare, until the concessioner corrects the conditions which gave rise to such suspension.

In order to ensure that provisions of this part are fully carried out, the Managers expect the administering Secretaries to establish such record-keeping procedures as are necessary, including but not limited to:

(1) The concessioner shall annually submit to the Secretary concerned a statement reflecting total activity in the concession improvement account for the preceding financial year. The statement shall reflect monthly deposits, expenditures by project, interest earned, and such other information as the Secretary concerned requires.

(2) Each concessioner shall keep such records as the Secretary concerned may prescribe to enable the Secretary to determine that all terms of the concession authorization have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for all other purpose of audit and examination, have access at reasonable times and locations to such records and to other books, documents, and papers of the concessioner pertinent to the concession authorization and all the terms and conditions thereof.

(3) The Secretary of the Interior and the Secretary of Agriculture shall develop a single set of regulations which specify a uniform set of record keeping requirements for all concessionaires with respect to implementation of this part.

(4) The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five years after the close of the business year of each concessioner have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner related to the concession authorization involved.

The managers do not intend the following laws or regulations to apply to concession service agreements and concession licenses issued under this part:

(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251-266).

(2) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.)

(3) The Federal Acquisition Streamlining Act of 1994 (Public Law 103-355).

(4) The Brooks Automatic Data Processing Act (40 U.S.C. 759).

(5) Chapters 137 and 141 of title 10, United States Code.

(6) The Federal Acquisition Regulation and any laws not listed in paragraphs (1) through (5) providing authority to promulgate regulations in the Federal Acquisition Regulation.

The managers are aware that successful implementation of this part requires the agencies to develop a fully trained staff of concession professionals and expects the Secretary concerned to specify the minimum training and qualifications required for agency personnel assigned predominantly to concession management duties, including (but not limited to) competency in business management, public health and safety, and the delivery of quality customer services.

OTHER PROVISIONS NOT INCLUDED IN THE CONFERENCE REPORT

GRAZING

House bill

The House bill contains provisions that would: codify Bureau of Land Management (BLM) livestock grazing regulations in existence prior to the current regulations; require that the Forest Service issue regulations substantially similar to those in effect for lands administered by BLM; establish a formula for determining the fee for livestock grazing on public lands; address application of the National Environmental Policy Act to grazing permits and leases; and extend the term of grazing permits and leases from 10 to 15 years.

Senate amendment

The Senate version does not contain such provisions.

Conference agreement

The House recedes to the Senate position.

MAPPING

House bill

The House bill requires the Secretary of the Interior to conduct a surveying and mapping contracting program. In preparation for this contracting program, the bill requires the Secretary to conduct and publish an inventory of surveying and mapping activities to serve as a baseline. Additionally, the bill requires the Secretary to establish a plan that shall be based on the results of the inventory. The plan shall include, but not be limited to, the following actions:

A reduction in surveying and mapping activities by Department personnel that duplicate private sector capabilities;

Reduction in acquisition and maintenance of equipment that duplicates private sector;

A prohibition on Department performance of services for other government entities that can be obtained by contract from the private sector;

Increased use of contracts for requirements created through attrition in the Department;

Enhancement of the Department's role in:

Performing activities that are inherently governmental in nature,

Preparation of standards and specifications,

Research and technology transfer,

Coordination, cost sharing, and administration, and

Establishing goals for contracting.

Additionally, the bill requires annual reports to track program progress. Regarding definitions, the bill defines the terms "surveying and mapping" and "contract" based on current regulations of the U.S. Army Corps of Engineers, the government's largest contractor of these services.

Senate amendment

The Senate had no similar provision.

Conference agreement

The House recedes to the Senate, due to Senate procedural requirements.

It is the conferees' intention that the Secretary of the Interior begin the process of implementing the major provisions of the House provision administratively. It is the conferees intent that, over the next year, hearings will be held and legislation will be drafted which will incorporate—to the maximum extent possible—components of the legislation passed by the House. The conferees urge the Secretary to report to the House Committee on Resources and the Senate Committee on Energy and Natural Resources by Spring 1996 on the status of the Department's efforts to increase contracting out of mapping and charting activities.

NEED FOR CONTRACTING OUT OF MAPPING

In the Department of the Interior, there are 1827 employees engaged in surveying and mapping (as of September 30, 1994), according to data from the Office of Personnel Management. An Office of Management and Budget (OMB) survey (OMB Bulletin 93-14) estimated $761.7 million in budget authority in the Interior Department for geographic data activities (acquisition, management and dissemination) in FY 1993, and estimated the President's FY 1994 budget request at $801.5 million. In FY 1994, only 212 service contracts for geographic data activities totaling just $18.4 million were awarded to the private sector.

There is a capable and qualified private sector of more than 250 mapping firms and 6,000 surveying firms in the United States. The Interior mapping establishment duplicates the capabilities of the commercial, private sector. Moreover, not only do Federal agencies not contract a significant amount of their own work, but many agencies do work for other Federal agencies, as well as State, local and foreign governments, in direct competition with the private sector.

The conference report from the Senate-House Budget Resolution specifically addressed surveying and mapping, saying, "U.S. Geological Survey conducts research and provides basic scientific and information concerning natural hazards and environmental issues, as well as water, land, and mineral resources. The USGS has three main divisions: the National Mapping Division [NMD], the Water Resources Division [WRD] and the Geologic Division. This proposal assumes that the NMD will aggressively price its products for additional revenue to the Treasury. It also assumes greater contracting out to the private sector, appropriate data gathering, and map and digital data production. Finally, it calls for consolidation of overlapping mapping efforts. Within the WRD, savings are first assumed in the Federal program for such subprograms as global change hydrology and core program hydrology research. Savings could also be achieved by increasing the State and local matching formula for the Federal/State Cooperative Program."

In sum, the Conferees believe that agencies in the Department of the Interior should contract with the private sector where appropriate for surveying and mapping activities. While it is appropriate, proper, and necessary for the Department to be involved in setting standards and specifications, research and technology transfer, and coordination in the area of geographic data, the actual collection of data, through surveying and mapping, is a commercial activity and should be performed by the private sector.

TERRITORIES

House bill

The House measure contained a provision that would terminate further direct annual assistance to the Commonwealth of the Northern Mariana Islands and would also eliminate the Office of Territorial and International Affairs within the Department of the Interior, reduce the number of Assistant Secretaries for the Department by one, and prohibit future discretionary appropriations in certain territory accounts.

Senate amendment

The Senate amendment did not contain any language on this subject.

Conference agreement

The House and Senate authorizing committees have reported, and the Senate has passed, legislation addressing these issues with markedly different approaches. The Conferees agreed the issue would be best resolved by the authorizing committees within the context of that legislation.

INDIAN GAMING

House bill

The House included a provision that increased funding under section 18(a) of the Indian Gaming Regulatory Act from $1.5 million to $2.5 million and eliminate funding for the operation of the Commission.

Senate amendment

The Senate had no similar provision.

Conference agreement

The Conferees agreed to delete this provision.

CONSULTATION

House bill

The House measure contained a provision that amended section 7 of the Endangered Species Act to prohibit federal agencies and applicants for a permit or license from making any irreversible or irretrievable commitments of resources that would foreclose any reasonable and prudent alternative.

Senate amendment

The Senate amendment contained no similar language.

Conference agreement

The Conferees agreed to delete this provision.

SKI AREA SALE

House bill

The House measure contained a provision that would direct the Secretary of Agriculture to offer for sale at least 40 ski areas on Forest Service lands.

Senate amendment

The Senate amendment did not contain any language on this subject.

Conference agreement

The Conferees agreed to delete this provision.

FOLSOM

House bill

The House Bill contains a provision declaring that for the purpose of water transfers, the city of Folsom, California, shall be considered a Central Valley Project contractor.

Senate amendment

The Senate version does not contain such provisions.

Conference agreement

The House recedes to the Senate position because of Byrd Rule concerns.

POWER MARKETING ADMINISTRATION'S STUDY

House bill

The House provision repealed the current prohibition on studying the ratemaking or privatization of the Power Marketing Administrations (PMA's). In addition, it provided for a study of the Southeastern Power Administration (SEPA), the Southwestern Power Administration (SWPA) and the Western Area Power Administration (WAPA) for purposes of their ultimate sale. The House bill provided for an independent and experienced private sector firm to serve as an advisor in completing such a study. Because of the ongoing deregulation of the electric utility industry, and the competitive issues which currently exist among providers of electric power, the study also called for a review of tax consequences of potential transfers.

Since federal electric power is generally a by-product of facilities primarily designed and built for water management, the study was set-up to recognize and assume the continued operations and priorities of the projects as they currently exist. In addition, because there are a variety of uses and purposes for facilities that produce PMA power, the study was designed to inventory existing operations and uses so that these operations and uses could be preserved as part of any PMA transfer.

Senate amendment

The Senate had no similar provisions.

Conference agreement

The conferees recognize that there are numerous problems with the existing Power Marketing Administration operations and the underlying power generation facilities. These include: generating units in the SEPA service area that have been off-line and unable to provide power for years, deferred maintenance in many of the underlying facilities which are causing loss of power production, failure to provide current technology which could improve power output and environmental protection, accounting systems which do not fully recover the costs to the federal government from the systems, and inefficient operations stemming from government operating constraints. The conferees believe that Congress should begin addressing these issues, without preconditions as to the ultimate resolution of the issues.

The future solutions, for the issues which have been raised, must deal with the recognition of existing uses, priorities, and operations as well as the rapidly developing competitive electric industry and the impacts on ratepayers. Recently released information indicates that a detailed review and analysis of the PMA's is warranted.

Although only 6% of the nation's electricity is generated and transmitted from these sources, the potential for production from these facilities represents an important component of our domestic energy supply. Accordingly, while the study provision in the House bill was removed because of procedural issues with the Senate, the conferees believe and expect that the Congress will investigate and review the information pertaining to the future of the PMA's including operation and maintenance. The conferees believe that a fully considered review by the Congress should precede development of any specific proposal by the Executive Branch.

The Clinton Administration's 1996 legislative budget proposed to sell all the PMA's to the current customers at the discounted repayment. Such a "one size fits all" approach to the PMA's is simplistic and impractical. In addition to responsibilities to current customers, the federal government has important responsibilities for water management at these facilities as well as to Indian Tribes and to others dependent on the projects. Future Congressional reviews should consider the differing situations and problems facing each of the major components that comprise the PMA's.

House conferees

The conferees are concerned that the American public has made a substantial investment in these facilities and that all citizens should benefit from the rehabilitation and privatization of the PMA's. The conferees believe that those facilities can be operated more efficiently and that any sale can be structured in a way to maximize proceeds while limiting rate increases to the ultimate customers.

In addition to market forces which are likely to prohibit significant rate increases from any sale, studies of these issues should specifically evaluate alternatives that would address rate increase issues. The conferees are not persuaded by the rate concerns enunciated by sale opponents. As a result of the Energy Policy Act of 1992, customers have been afforded the opportunity to purchase their power from any source they wish. Thus, the conferees believe it impractical that a purchaser of a grouping of PMA assets would raise rates substantially because of the risk attendant with that customer leaving and purchasing from other sources in the competitive wholesale power market.

Senate conferees

The Senate conferees share many of the concerns of the House with respect to the present condition of the generating capacity of the PMA's and what the future may hold given sharply reduced budgets for the managing agencies. While consideration of the future of the PMA's is important, the Senate conferees are not prepared to suggest, recommend, or support any particular initiative at this time.

TITLE VI—FEDERAL RETIREMENT AND RELATED PROVISIONS

SUBTITLE A—CIVIL SERVICE AND POSTAL SERVICE PROVISIONS

EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS

House bill

Section 5001 of the House bill continues the current delay in payment of Federal retiree cost-of-living adjustments to April of each year through fiscal year 2002. Under the Omnibus Budget Reconciliation Act of 1993, the effective date for cost-of-living adjustments in Federal employee retirement benefits was delayed from January until April for fiscal years 1994, 1995 and 1996. This section would extend that delay through fiscal year 2002.

Senate amendment

The Senate amendment is identical.

Conference agreement

The Conference agreement includes the language of the Senate and House provisions.

INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS

House bill

Section 5002 provides for increased contributions to both Federal civilian retirement systems. Agencies will be required to increase their contributions to the Civil Service Retirement System (CSRS) for their employees who participate in CSRS. Employees participating in both CSRS and the Federal Employees Retirement System (FERS) will be required to increase their contributions to the systems.

The increase in employee contributions to CSRS will apply to all employees participating in that system including Members of

Congress, congressional employees, law enforcement officers, firefighters, Capitol Police, bankruptcy judges, judges for the U.S. Court of Appeals for the Armed Forces, U.S. magistrates, Claims Court judges, and employees of the United States Postal Service. The change in the contribution rate will also apply to employees participating in the Foreign Service retirement systems.

The amount deducted from basic pay for an individual participating in CSRS will be increased above the level in effect on the date of enactment by .25 percent in 1996, by an additional .15 percent in 1997, and by an additional .10 percent in 1998. The increase will then remain constant at .5 percent through 2002.

The bill also requires all Federal agencies, except for the United States Postal Service, to contribute an additional 1.5 percent each year above the percentage an agency is now contributing for each individual employee participating in CSRS. This 1.5 percent increase in employer contributions does not apply to the United States Postal Service which currently contributes the full actuarial cost of each employee's retirement under CSRS.

This section also provides that repayment for any military service between January 1, 1996, and December 31, 2002, for which an employee or Member of Congress would like to receive retirement credit under CSRS, would be at the contribution rate in effect for employees during the period for which such credit is provided.

Likewise, the section provides that repayment for any covered volunteer service between January 1, 1996, and December 31, 2002, for which an employee or Member of Congress would like to receive retirement credit under CSRS would be at the contribution rate in effect for employees during the period for which such credit is provided.

The House bill also requires increased employee contributions from all employees participating in the Federal Employees Retirement System (FERS), including Members of Congress, congressional employees, law enforcement officers, firefighters, Capitol Police, bankruptcy judges, judges for the U.S. Court of Appeals for the Armed Forces, U.S. magistrates, Claims Court judges, and employees of the United States Postal Service. The change in the contribution rate will also apply to employees participating in the Foreign Service retirement systems. and congressional employees. These employees are required to increase their contributions to FERS by .25 percent in 1996, an additional .15 percent in 1997, and by an additional .10 percent in 1998. The increase in the contribution over the percentage an employee currently pays into the system will then remain at .5 percent through 2002.

This subsection provides that repayment for any military service between January 1, 1996, and December 31, 2002, for which an employee or Member of Congress would like to receive retirement credit under FERS would reflect the increased employee contributions resulting in the following repayment percentages: calendar year 1996, 3.25 percent; calendar year 1997, 3.4 percent; calendar years 1998-2002, 3.5 percent.

In addition, this subsection provides that the repayment for any covered volunteer service between January 1, 1996 and December 31, 2002 for which an employee or Member of Congress would like to receive retirement credit under FERS would reflect the increased employee contributions resulting in the following repayment percentages: calendar year 1996, 3.25 percent; calendar year 1997, 3.4 percent; calendar years 1998-2002, 3.5 percent.

This subsection also prohibits agencies from reducing their contributions to FERS for each individual employee by a percentage equal to any percentage increase in individual employee contributions. Under current law, agency contributions would automatically decrease with any increase in employee contributions. The section prohibits the Postal Service and all other Federal agencies from reducing their contributions to FERS.

The effective date for the increased contributions for employees and agencies is the first day of the first pay period beginning on or after January 1, 1996.

Senate amendment

The Senate amendment is substantially the same as the House bill.

Conference agreement

The Conference agreement includes the language of the Senate and House bills with modifications. The percentage by which agencies are required to increase their current contribution rates for their employees who participate in the Civil Service Retirement System, is 1.51% rather than 1.5%. In addition, a distinction is made to ensure that the Washington Metropolitan Airport Authority (WMAA) is not required to pay increased employer contributions on behalf of its employees who participate in the Civil Service Retirement System. The employees of the WMAA are required to make increased contributions to the Civil Service Retirement System or the Federal Employees Retirement System. The WMAA is prohibited from decreasing its contributions to FERS. A drafting error which states the amount the United States Postal Service must contribute on behalf of employees and law enforcement officers is corrected.

The conference agreement adjusts the contribution rates for United States bankruptcy judges, magistrates, Claims Court judges and judges of the U.S. Court of Appeals for the Armed Forces to ensure their parity with federal and congressional employees. The contribution rates for Capitol Police are adjusted to provide parity with other federal law enforcement officers.

FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.

House bill

Section 5003 would reform the pensions of Members of Congress and congressional staff. Under current law, participating Members of Congress and congressional employees contribute a higher percentage of base pay toward retirement. Under CSRS, Members contribute 8 percent, while congressional employees contribute 7.5 percent. Members and congressional employees participating in FERS contribute 1.3 percent. The section amends the contribution rates to bring them into line with those applicable to most General Schedule Federal employees, 7 percent for CSRS and .8 percent for FERS. The accrual rates used to determine the annuities for Members of Congress and congressional employees would be reduced to ensure parity with those of other federal employees. The basic accrual rates for most General Schedule employees (1.5 percent for the first five years of service, 1.75 percent for the next five years, and 2 percent for all remaining years) would also apply to Members of Congress and congressional staff. All service prior to January 1, 1996, for which the higher amount was contributed would be computed using the accrual rate in effect during that service.

The contribution amounts and accrual rates for Members of Congress and congressional employees in CSRS and FERS are amended to conform with those used for the majority of General Schedule. New accrual rates and contribution amounts apply only to service performed on or after January 1, 1996. The changes take effect upon the date of enactment. The Secretary of the Senate and the Clerk of the House are given the authority necessary to prescribe regulations to implement the changes in the retirement benefits of Members of Congress and congressional employees. The House bill also retains the higher congressional accrual rate after January 1, 1996 for Capitol Police who retire at age 55 with 30 years of service.

Senate amendment

The Senate amendment is almost identical to the House bill. The Senate amendment however does not include the provision retaining the higher congressional accrual rate after January 1, 1996 for Capitol Police who retire at age 55 with 30 years of service.

Conference agreement

The Conference agreement includes most of the House language, but adds a provision to clarify that Members of Congress and congressional employees who have paid the higher contribution rate prior to January 1, 1996 would have their annuity computed using the higher accrual rate for that period once they have a total of five years of Member of Congress or congressional employee service. The House Capitol Police language is modified to provide that a member of the Capitol Police who retires as a congressional employee (rather than as a law enforcement officer) would receive the higher accrual rate which was in effect prior to January 1, 1996 for any period of service before that date during which the higher contribution rate was paid.

The conference retains the January 1, 1996 effective date for the reform of Member and staff pensions, but includes an alternate effective date of January 1, 1997 for use only in the event the courts determine that the January 1, 1996 violates the Twenty-seventh Amendment to the Constitution.

Judicial retirement

The conference agreement adds a new section proposed by the House which prospectively adjusts the accrual rate of Title V of the United States Code bankruptcy judges, judges of the U.S. Court of Appeals for the Armed Forces, United States magistrates and Claims Court judges to conform with that of other federal and congressional employees.

REPEAL OF POSTAL TRANSITION PAYMENTS

House bill

The House bill contained a provision (Sec. 5005) to repeal the permanent authorization of transitional appropriations for the United States Postal Service. Under the provision, payments to individuals due compensation from the Federal Employees Compensation Fund would not diminish. The United States Postal Service would instead be required to assume payment without federal reimbursement.

Senate amendment

No provision

Conference agreement

The Conference Agreement adopts the House provision.

SUBTITLE B—PATENT AND TRADEMARK OFFICE

PATENT FEES

House bill

On September 19, 1995, the House Judiciary Committee forwarded legislation that it had approved extending the patent fees surcharge through Fiscal Year 2002. This extension was contained in Title VII of the House bill.

Senate amendment

On September 22, 1995, the Senate Judiciary Committee forwarded legislation that it had approved extending the patent fees surcharge. This extension, title IX of the Senate amendment, is the same provision.

Conference agreement

No change to the Senate or House language was necessary because the two versions were identical.

The action changes Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41) extending the application of the surcharges on all fees authorized by Title 35 of the U.S. Code for Fiscal Years 1999 through 2002. These fees will be credited to a separate account established in the Treasury for Patent and Trademark Office (PTO) activities and will be available to the PTO when appropriated.

In extending the surcharge, the language specifies the maximum amount which the PTO can collect in patent surcharge fees for deposit into the Treasury. The limit is $119,000,000 for each of the four Fiscal Years 1999 through 2002.

SUBTITLE C—GSA PROPERTY SALES

SALE OF GOVERNORS ISLAND

House bill

Section 10402 of the House bill calls for the General Services Administration, notwithstanding any other provision of law, to sell, at fair market value, Governor's Island, New York. This property is currently being used as a Coast Guard facility. The sale of this 171 acre island, in the New York City harbor, is not subject to laws and regulations that normally apply to the disposal of real property by the Federal Government, including requirements of the National Environmental Policy Act, and the National Historic Preservation Act. It is recognized, however, that State and local environmental and historic preservation laws will protect the property upon sale and during any development of the property. The sale is intended for cash. The language provides for the State and City be given right of first refusal to purchase all or part of Governor's Island. Such right may be exercised either by the State, the city, or both acting jointly. Sale can proceed while environmental remediation is ongoing. If the State or city elects to purchase part of the property, GSA can sell the remainder of the property. GSA would be authorized to fund its cost of disposal of this property from proceeds of the sale. Net proceeds from the sale, estimated to generate approximately $500 million, would be deposited in the miscellaneous account of the Treasury.

Senate amendment

There is no comparable provision in the Senate amendment.

Conference agreement

The Senate recedes to the House.

UNION STATIONS AIR RIGHTS

House bill

Section 10403 of the House bill directs the sale of air rights over the train tracks at Union Station, Washington D.C. These air rights cover approximately 16.5 acres and are bounded by Union Station on the south, 2nd Street NE on the east, K street NE on the north and 1st Street NE on the west. The provision would direct the General Services Administration, notwithstanding any other provision of law, to sell these air rights, at fair market value, in a manner to be determined, during FY 1996. The air rights are a combination of the Department of Transportation and AMTRAK air rights. The provision calls for the transfer of AMTRAK air rights to DOT without compensation to AMTRAK, then GSA would sell the air rights. It is estimated that the air rights would support the development of 2.8 million square feet of office space, plus parking for 1,500 cars.

In 1992 the General Services Administration contracted for an appraisal of these air rights, and concluded that the value, net of the construction of any supporting structure over the train tracks, was $50 million. However, the Congressional Budget Office, in scoring the proposed sale, assigned a value of $40 million. Furthermore, CBO estimated that GSA would require about 18 months to effectively market and sell the air rights, which would include updating an appraisal, and any buyer would require some preliminary determination on zoning the property for future development. Proceeds from the sale would be deposited in the miscellaneous account of the Treasury.

Senate amendment

There is no comparable provision in the Senate amendment.

Conference agreement

The Senate recedes to the House.

AVAILABILITY OF SURPLUS PROPERTY FOR HOMELESS ASSISTANCE

House bill

The House bill contained a provision that would increase the flexibility of the General Services Administration in disposing of surplus federal land and buildings. The provision would repeal Title V of the Stewart B. McKinney Homeless Assistance Act, which gives homeless assistance groups a priority right to such surplus property. The provision would give the General Services Administration authority to donate, where warranted by the distinct facts and circumstances of each property disposition, surplus federal land and buildings to private-sector, nonprofit groups which provide housing assistance for homeless and low-income individuals. The provision is intended to increase revenues from the sales of such properties while also allowing the GSA to aid local efforts to address the housing needs of homeless and low-income persons.

Senate amendment

There is no comparable provision in the Senate bill.

Conference agreement

The Senate recedes to the House language.

TITLE VII—TRANSPORTATION OF THE MEDICAID PROGRAM

(SEC. 16000–16002 OF HOUSE BILL; SEC. 7190–7199 OF SENATE AMENDMENT)

Background and Need for Legislation

Established by President Lyndon Johnson in 1965, Medicaid is a joint Federal-State matching open-ended entitlement program that pays for medically necessary health care services provided to eligible beneficiaries by qualified providers. There are Medicaid programs in all States except Arizona, which runs a similar medical assistance program under a Federal waiver. (Federal funds for the Arizona program come from the Medicaid budget.) In addition, the Medicaid program is operated in the District of Columbia and U.S. territories, such as Puerto Rico and Guam.

According to the Congressional Budget Office (CBO), the Medicaid program will cost $156.5 billion in Fiscal Year 1995. Of this amount, the Federal government will be responsible for an estimated $89.2 billion. This expenditure represents a 11,050 percent increase over the program's initial cost to the Federal government of $800 million in Fiscal Year 1966. Since 1990, Medicaid has been the fastest-growing segment of the Federal government's budget, with costs soaring at annual rates as high as 31 percent. Placed in broader context, the Medicaid program's average annual rate of growth since 1990 has been four times that of private sector health care costs, which are rising at roughly 4–5 percent annually. Although CBO projects Medicaid spending will rise at a comparatively "stable" rate of 10 percent per year, at that rate total program costs will double by the year 2002 absent reform. As detailed in the section entitled "Program Growth versus Program Cuts" below, the MediGrant plan replaces the Medicaid program's unsustainable cost spiral with considerable and consistent funding to the States.

Medicaid's extraordinary rate of growth has made it the single largest item in many State budgets. According to the testimony of Governors and Medicaid officials appearing before the Committees of Congress, States have been compelled by the program's cost to restrict investment in other critical human services, including child welfare, education, mental health, and public safety. As described in the "Fiscal Impact of Medicaid Growth on the Federal and State Budgets" section below, the program's cost has been frequently underestimated and continues to threaten the budgetary stability of virtually every State.

Medicaid was also intended to operate as a joint Federal-State matching entitlement program providing medical assistance for low-income persons who are aged, blind, disabled, members of families with dependent children, and certain other pregnant women and children. Accordingly, States were permitted to design and administer their own programs, subject to specified Federal guidelines. In reality, however, the current Medicaid program hardly resembles that which was originally intended. Instead of allowing State and local officials the flexibility to best administer Medicaid, the Federal government created an extensive "one-size-fits-all" maze of Federal mandates and administrative requirements. The nature of this centralized approach to program administration is described in the "Medicaid Micromanagement" section below.

Finally, the operational and administrative inflexibility of the current Medicaid program has prevented States from developing innovative and cost-efficient mechanisms designed to meet the health care needs of their residents. Instead, they have been forced to shoulder the uncontrollable costs of what has become a rigid and ineffective health care program. The program's centralized micromanagement, complex bureaucratic requirements, and outdated service delivery is often cited by the States as impeding their ability to provide the quality health coverage, patient responsiveness, and efficient administration common in the private sector. As a result, States have long sought enhanced operational flexibility so that they can better meet the health care needs of their low-income residents. The current program's complex system of waivers and the anticipated impact of the MediGrant plan's flexibility is described below in the section entitled "Fostering Greater State Innovation."

The Fiscal Impact of Medicaid Growth

During the debate on the new MediGrant Program, the assertion has been repeatedly made that this legislation "cuts" health care spending for low-income people. This assertion is categorically false. Over the seven year period ending in Fiscal Year 2002, the average growth rate in the program is a guaranteed 5.2 percent annual increase. Total Federal spending between Fiscal Years 1996–2002 will total $791.1 billion. Total Federal expenditures in fiscal year 2002 will be $127.4 billion, a 43 percent cumulative increase over fiscal year 1995.

Federal expenditures on the Medicaid program during the past seven years have contributed significantly to the Federal budget deficit. However, Federal costs—while great—are only half the story. The States have been faced with even more extraordinary fiscal pressures because Medicaid mandates have made health care the fastest growing area of State budgets. Since almost all States are Constitutionally required to annually balance their budgets, the Medicaid financial squeeze has had dramatic effects.

The table below, prepared by the National Association of State Budget Officers (NASBO), documents the extraordinary growth of Medicaid expenditures as a percentage of State expenditures. In 1987, Medicaid represented approximately 10.2 percent of all State expenditures. By 1991, Medicaid's State spending share had risen to 14.2 percent, and by 1994 it was a striking 19.4 percent of all State spending, nearly double the percentage just seven years earlier.

MEDICAID SPENDING AS A PERCENTAGE OF TOTAL STATE SPENDING

	1987	1988	1989	1990	1991	1992	1993	1994
Medicaid Spending	10.20	10.80	11.30	12.50	14.20	17.50	18.40	19.40
Non-Medicaid Spending	89.90	89.20	88.70	87.50	85.80	82.50	81.60	80.60

Source: National Association of State Budget Officers, 1994 State Expenditure Report.

As State Medicaid spending has experienced uncontrollable rates of growth, other critical State funding initiatives have suffered commensurately. The table below, also prepared by NASBO, documents the decline in State spending for elementary and secondary education, higher education, welfare, and transportation due to the growth in Medicaid. Based on NASBO data, State expenditures for elementary and secondary education declined 11 percent between 1987 and 1994; State higher education spending dropped 8 percent over the same time period; State welfare spending experienced a 13 percent decrease; and State investment in public transportation declined 16 percent. On the other hand, during the 1987–1994 time period, Medicaid spending increased by more than 90 percent!

SECTORAL PROGRAM SPENDING, PERCENTAGE OF TOTAL STATE SPENDING

	1987	1988	1989	1990	1991	1992	1993	1994
Elementary/Secondary Ed.	22.80	23.00	23.40	22.80	22.00	21.10	21.20	20.30
Higher Education	12.30	11.80	12.00	12.20	11.50	10.90	10.60	10.50
Welfare	5.20	5.30	5.10	5.00	5.30	5.00	4.90	4.50
Medicaid	10.20	10.80	11.30	12.50	14.20	17.50	18.40	19.40
Transportation	10.60	10.30	10.10	9.90	9.40	9.10	9.00	8.90

Source: National Association of State Budget Officers, 1994 State Expenditure Report.

This data clearly reveals why many States officials have described Medicaid mandates as the worst of all the Federal unfunded mandates placed on the States. As these mandates were enacted into law through budget reconciliation in the late 1980s and early 1990s, they created havoc with State budgets and ultimately drained State funds away from education and welfare programs.

Federal and state budgetary havoc within budget reconciliation

One of the most perplexing issues concerning the unconstrained fiscal growth of Medicaid is the manner in which it was achieved. Most of the Medicaid mandates were enacted through reconciliation bills which were supposed to be budget-cutting vehicles.

How was this accomplished? In the days of the Gramm-Rudman-Hollings Budgetary Act, it was accomplished by "budgetary tricks." For example, in the Concurrent Resolution of the Budget for fiscal year 1990 (H. Con. Res. 106), $200 million of new budget entitlement authority became available for fiscal year 1990 for Medicaid spending. With this $200 million, the House Energy and Commerce Committee was able to report out five new mandated Medicaid expansions by slipping effective dates on some of the pending provisions so that only one calendar quarter's worth of spending would occur in fiscal year 1990. By this "budgetary trick", the Medicaid provisions technically met the budget target in the Budget Resolution. However, in the out-years, these five Medicaid provisions would cost additional billions of dollars. In 1989, the Office of Management and Budget (OMB) estimated that, taken together, these Medicaid provisions would increase Federal spending by approximately $8.6 billion over a five-year period.

Another perplexing issue in the enactment of Medicaid mandates has been the inability of the Congressional Budget Office (CBO) to provide accurate estimates of the projected costs of these laws. The table below documents the astounding inaccuracies in the CBO analysis of a number of Medicaid mandates enacted into law in the Omnibus Reconciliation Act of 1989 (OBRA 1989).

CBO OBRA 1989 MEDICAID MANDATES—ESTIMATES VS. ACTUAL FLORIDA EXPENDITURES FY1991

[In millions of dollars]

	CBO scoring for all states	Florida Federal expenditures
Mandatory Coverage of Pregnant Women	270	31
ESPDT	25	63
Payment for federally qualified health centers	15	8
Payment for obstetrical and pediatric services	11	4
Total	321	106

Florida represents 3.8% of all Federal Medicaid Expenditures—but accounted for 33% of Total Estimated Expenditures.

This table lists four major Medicaid mandates enacted into law in 1989: mandatory coverage of pregnant women up to 133 percent; mandatory coverage of early and periodic screening, diagnostic, and treatment services (EPSDT); enhanced payment for health care centers; and enhanced payments for obstetrical and pediatric services.[1] The first column is the official CBO estimate for all Federal expenditures for these benefits in Fiscal Year 1991. The second column is the actual Florida Federal expenditures provided by the Florida Medicaid Director at that time.

First, compare the totals for Fiscal Year 1991. The CBO calculated that the total Federal expenditures for these four mandates would be $321 million in fiscal year 1991 for all States. However, Florida's actual total was a whopping $106 million. Since Florida represents only 3.8 percent of all Federal Medicaid expenditures, the enormity of this error is obvious.

With regard to the CBO cost estimate of the EPSDT benefit, the picture is even more disturbing. Incredibly, the CBO estimated that the total Federal expenditures for all States would be $25 million for fiscal year 1991. The State of Florida alone spent $63 million in fiscal year 1991 to comply with this mandate, or more than double the CBO official estimate![2]

If one projects the Florida cost experience for these OBRA 1989 mandates to the entire nation, the analysis leads to a disturbing conclusion. While CBO projected expenditures of $323 million in fiscal year 1991, estimated Federal expenditures were closer to $2.8 billion. Though forecasting is not an exact science, an error in the range of nearly 900 percent is truly indefensible. This staggering forecasting error not only contributed to the growth of the Federal budget deficit but was a devastating fiscal blow to the States.

Medicaid Micromanagement

According to many State officials, the explosion of Medicaid spending is due in large part to Congressional and Executive directives. As noted above, Federally mandated eligibility changes over the last decade fueled the expansion of the Medicaid-eligible population and the cost of the program. Although States have the discretion of supplementing Medicaid's mandated coverage standards, the Federal government frequently expanded the scope of these standards. As a result, States have been compelled to increase their spending levels in order to receive their share of Federally-matched Medicaid spending.

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[1] In a 1990 official policy document of the National Governors' Association (NGA) entitled "Short-Term Medicaid Policy," the nation's Governors identified several of these mandates as particularly troublesome. In this NGA official document, they asked for relief from mandates in general and specified detailed changes to the EPSDT benefit. Governor Florio of New Jersey chaired the NGA Health Care Task Force which produced this policy, and then-Governor Bill Clinton was a member of the Task Force.

[2] In 1990, the American Public Welfare Association (APWA), conducted a study of the effect of the EPSDT expansions of OBRA 1989. Preliminary results from just 13 states showed an increase of $468 million in State and Federal spending in fiscal year 1991. The States responding were: Alabama, Alaska, Arizona, Florida, Idaho, Maryland, Missouri, North Dakota, Oregon, South Dakota, Texas, Utah, and Wisconsin. The APWA study advises the reader to "be advised that this total figure is likely to increase as more states complete a budget analysis." Note that the two largest Medicaid programs—California and New York—were not included in this study.

One of the most frequently heard State complaints regarding the Medicaid program concerns micromanagement by the Health Care Financing Administration (HCFA). At the Federal level, Medicaid is administered by HCFA which, through a network of regional offices, is supposed to work with State Medicaid departments to ensure appropriate management of the Medicaid program. However, the reality of HCFA-State relations has been described by many State officials as less a matter of coordinated cooperation than as an example of Federal micromanagement in State affairs.

When questioned during the hearings on the Medicaid program, State Governors and Medicaid directors pointed to program mandates as evidence of excessive Federal interference. In the House Commerce Committee's June 8, 1995 hearing, the Subcommittee on Health and Environment heard from Florida Governor Lawton Chiles, Illinois Governor Jim Edgar, Michigan Governor John Engler, Tennessee Governor Don Sundquist, and Utah Governor Mike Leavitt. Speaking for many of his colleagues, Governor Edgar expressed grave concern over the impact on other critical human service priorities of spiraling Medicaid spending resulting from Federal Medicaid micromanagement.

"The Federal government has micromanaged the program by heaping mandate after mandate upon the States. It has told us whom we must serve and dictated how we must provide the service without regard to cost. In 1966, the first year of Medicaid, Illinois spent $87 million on the program. This year, we will spend 64 times that much, or nearly $6 billion. In Illinois, the tab for recent Federal mandates alone tops $480 million this year."

Governor Engler cited the Boren Amendment, which requires States to pay "reasonable rates" for nursing and hospital care, as one of many Federal directives that have served to impose substantial burdens on State Medicaid programs. Intended to aid States in their efforts to contain program costs, the Boren Amendment's vague payment standard resulted in numerous lawsuits and the imposition of arbitrarily higher reimbursement levels.

"Creeping micromanagement has entangled us in a briar patch of perverse incentives that are costing taxpayers dearly. One example . . . is a direct result of the Boren Amendment: in 1989, Michigan Medicaid costs in a nursing facility were $35 a day. In 1994, they were up to $57 a day. We are paying a lot more money, but our patients are not getting a lot more care."

Governors Edgar and Engler are neither the first nor the only State Executives to describe to Congress the burdens of HCFA and the Medicaid program it administers. On December 8, 1990, then-Governor Bill Clinton told the House Government Operations Committee that 'Medicaid used to be a program with a lot of options and few mandates—now, it's just the opposite.'

Not surprisingly, many States have sought to take advantage of one of the only forms of relief available to them: waivers granted by the Federal government. Faced with the bureaucratic complexity and escalating costs of the Medicaid program, States have sought to make more efficient use of Medicaid dollars by such means as managed care. In many instances, the savings realized from these measures have been used to help fund program expansions as part of State initiatives to extend coverage to uninsured individuals. Since significant use of managed care in Medicaid is not permitted under current Medicaid rules, States have sought waivers of statutory and regulatory requirements from the Secretary of Health and Human Services.

Currently, Federal Medicaid law makes two basic types of waivers available to the States. Section 1915 of the Social Security Act provides for "program waivers," which allow States meeting specified conditions to operate certain types of special programs that are listed in the statute. Section 1115(a) provides much broader authority to grant "demonstration waivers," under which nearly any provision of Medicaid law may be waived to allow States to experiment with program improvements.

The experience of those States with waivers permitted under Sections 1915 and 1115(a) has been mixed. While any relief from the Medicaid program's many restrictions is certainly appreciated by the States, the waiver process itself is a source of great dissatisfaction. The process by which States seek Section 1115 waivers is particularly complex and costly. In order to comply with HCFA's numerous application requirements, States must devote staff time and money to the process—resources that could be used to provide health care services to low-income State residents. When the application is complete, it typically contains enough paper to measure almost three feet in height.

Unfortunately, States still face often insurmountable obstacles to flexibility even after completing their waiver applications. To date, only ten of an estimated twenty-three Section 1115 waiver applications have been approved by HCFA. In addition, the length of Federal waiver application review averages an estimated twelve months.

According to Ohio's Medicaid Director, Arnold Tompkins, who appeared before the Health Subcommittee of the House Commerce Committee on June 22, 1995, HCFA's slow process for reviewing State waiver applications is largely due to the substantial flaws of the waiver process itself:

"Five months into the [waiver] process we learned that our approach to budget neutrality . . . was considered off-base by HCFA. We spent the summer redesigning the budget to meet HCFA's concerns. But this redesign was still not enough. In the ninth month we were told that the redrawn budget had to be redrawn again because Federal thinking had changed about how budget neutrality should be demonstrated."

Fostering Greater State Innovation

All across the nation, States are working to improve the quality, effectiveness, and efficiency of the health care assistance they provide to their low- income residents. However, they have little of the operational or administrative flexibility they need to make their medical assistance programs more responsive and efficient. As a result, Governors and other State officials have long complained that Medicaid has served as an obstacle, rather than as an opportunity, to develop innovative health care delivery strategies.

This is particularly difficult for many States to understand, given the success achieved by the relatively few States that have received waivers. For example, HCFA data reveals that States have achieved significant program efficiencies by means of waiver-facilitated managed care initiatives. In particular, Section 1915(b) waivers have enabled some States to establish limited managed care programs. Based on State reports to HCFA, the General Accounting Office has calculated that the national weighted average of the savings realized from such Medicaid managed care initiatives is an estimated 9.4 percent. In other words, States were able to serve the populations enrolled in these programs using almost 10 percent fewer dollars than required by the traditional Medicaid program.

According to State officials, the lesson to be drawn from such experiences is clear: if Medicaid is to be substantially improved and the growth rate of its costs brought under control, States must be empowered to restructure their Medicaid programs. They argue that the millions of low-income Americans who need health care assistance will be more effectively and efficiently served only when Governors and State Legislators are given the flexibility to tailor Medicaid to meet the unique conditions in their States.

In light of the inflexibility of the current Medicaid program and the ineffectiveness of its waiver process, many States have petitioned Congress for significant Medicaid reform. In fact, State Governors have forged a close working relationship with the 104th Congress in an effort to develop the MediGrant block grant reform initiative. Indeed, the Congress was advised by State Governors, Medicaid Directors, and other program experts to replace the current Medicaid program and its lengthy waiver process with a block grant reform initiative.

Described as the most effective means for transforming Medicaid into a truly State-driven program, block grants would give States unprecedented operational and administrative flexibility. According to State officials, a block grant program would enable States to develop innovative service delivery strategies to meet the health care needs of their low-income residents. In other words, Medicaid block grants would free States in a manner far surpassing any flexibility they may enjoy under a waiver. In fact, under the proposed block grant reform initiative, Medicaid would become the State-run program it was initially intended to be. In place of the current rigid, bureaucratic, and often inadequate service delivery system, States would be able to develop health service strategies tailored to match the differing characteristics of their communities. These can include capitation and managed care, enhanced maternal, child, and mental health care initiatives, and insurance premium subsidy programs.

Medicaid block grants would also create compelling incentives for States to achieve unprecedented program efficiency. Currently, the Medicaid program effectively penalizes States which save Medicaid resources. On average, 57 percent of all State savings revert to the Federal government, not the States that made the savings possible. Under a block grant approach, States would be able to utilize the full value of any savings they achieve because they would be free to reinvest those resources into better service delivery, expanded benefits, and new program innovations.

The contribution that the flexibility of block grants can make to State medical assistance programs may be ascertained by examining current State initiatives. While ongoing State innovations have been severely restricted by the current Medicaid system, they are indicative of how States would respond to the flexibility of a Medicaid block grant. As has been proven by initiatives that have been undertaken nationwide, State and managed care provider innovations appear capable of substantially improving Medicaid service delivery and administration while finally bringing an end to the program's explosive rate of growth.

PURPOSE; STATE PLANS (SEC. 2100 OF MEDIGRANT; SEC. 2100 OF MEDICAID)

House bill

The bill would create an entitlement to States, called MediGrant, under Title XXI of the Social Security Act for block grants to enable States to provide medical assistance to low-income individuals and families. A State would be required to provide the Secretary with a plan that sets forth how the State intends to use the funds provided to provide medical assistance. An approved plan would continue in effect unless and until (1) the State amends the plan, (2) the State terminates participation in the program, or (3) the Secretary finds substantial noncompliance of the plan with the program's requirements.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House provision.

PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

DESCRIPTION OF STRATEGIC OBJECTIVES AND PERFORMANCE GOALS (SEC. 2101 OF MEDIGRANT; SEC. 2101 OF MEDICAID)

House bill

A State would be required to include in its MediGrant plan a description of its strategic objectives and performance goals for providing health care services, and the manner in which the plan is designed to meet the objectives and goals. Goals and objectives related to rates of childhood immunizations and reductions in infant mortality and morbidity would be required. With regard to other objectives and goals, the State could consider factors such as priorities for providing assistance to low-income populations, priorities for general public health and health status for low-income populations, the State's financial resources and economic conditions, and the adequacy of the State's health care infrastructure. To the extent practicable, a State would be required to establish one or more performance goals for each strategic objective and describe how performance would be measured and compared against goals. Strategic objectives would be required to cover a period of at least 5 years and would have to be updated and revised at least every 3 years. Performance goals would have to be established for dates not more than 3 years apart.

Senate amendment

Similar provision.

Conference agreement

The conference agreement follows the House provision.

ANNUAL REPORTS (SEC. 2102 OF MEDIGRANT; SEC. 2102 OF MEDICAID)

House bill

By March 31 (beginning in 1998), each State with a MediGrant plan in effect for the preceding fiscal year would be required to submit a report to the Secretary and the Congress on program activities and performance for that Federal fiscal year. Each report would be required to include data on the following: (1) aggregate expenditures for each category of eligible individuals, expenditures by each category of eligibles for covered services provided on a fee-for-service basis, expenditures for payments to capitated organizations by each category of eligibles, and administrative expenditures; (2) utilization of services, including summary statistics, for each category of eligible individuals, of items and services provided on a fee-for-service basis and a summary of data reported by capitated health care organizations; (3) achievement of performance goals including actions to be taken in case a goal was not met; (4) program evaluations; (5) fraud and abuse and quality control activities; and (6) plan administration, including a description of the roles and responsibilities of State entities responsible for administering the program and organization charts for each, a description of any interstate compact entered into, and citations to State law and rules governing the State's activities under the program.

With respect to inpatient hospital services provided on a fee-for-service basis, the plan must include a description of the average amount paid per discharge compared to either the average charge, or to the State's estimate of the average amount paid by commercial insurers. For subsequent fiscal years, expenditures and utilization reports would be required to fit the reporting format specified by the MediGrant Task Force established under Title XXI. Categories of eligible individuals would be children, blind or disabled adults under age 65, persons 65 or older, and other adults.

Senate amendment

Similar provision.

Conference agreement

The conference agreement follows the Senate amendment with modifications.

PERIODIC, INDEPENDENT EVALUATIONS (SEC. 2103 OF MEDIGRANT; SEC. 2103 OF MEDICAID)

House bill

Beginning in fiscal year 1998 and at least every third year thereafter, each State would be required to provide for evaluation of the operation of its MediGrant plan, conducted by an entity that is responsible neither for submission of the State plan nor for administering any activity under the plan.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House provision.

DESCRIPTION OF PROCESS FOR STATE PLAN DEVELOPMENT (SEC. 2104 OF MEDIGRANT; SEC. 2104 OF MEDICAID)

House bill

State plans would be required to include a description of the process for development and implementation of the plan.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House provision.

CONSULTATION IN STATE PLAN DEVELOPMENT (SEC. 2105 OF MEDIGRANT; SEC. 2105 OF MEDICAID)

House bill

Before submitting a plan or amendment to the Secretary, each State would be required to provide a public notice with a description of the plan or amendment, a means for the public to inspect or obtain a copy of the plan or amendment, and an opportunity for submittal and consideration of public comments. This provision would apply except when the State submitted a revision of a plan or amendment in response to a determination of disapproval by HHS.

Each State would be required to establish and maintain an advisory committee for consultation in the development, revision, and monitoring the performance of the plan. Such consultation would include the development of strategic objectives and performance goals, the annual report, and the research design for evaluating the State's plan operations. Members of the advisory committee should represent different geographic regions of the State although proportional representation would not be required. A State would be permitted to establish more than one advisory committee, including committees that represent the interests of specific population groups, provider groups, or geographic areas.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House provision. It is the intent of the Conferees that the composition of the advisory committees be chosen in a manner that assures geographical diversity.

TASK FORCE (SEC. 2106 OF MEDIGRANT)

House bill

The Secretary of HHS would be required to establish a MediGrant Task Force consisting of 6 members appointed by the chair of the National Governors Association (NGA) and 6 appointed by the vice chair of the NGA. The Task Force would be assisted by an advisory group composed of one representative from each of the following associations: National Committee for Quality Assurance; Joint Commission for the Accreditation of Healthcare Organizations; Group Health Association of America; American Managed Care and Review Association; Association of State and Territorial Health Officers; American Medical Association; American Hospital Association; American Dental Association; American College of Gerontology; American Health Care Association; and associations identified by the Secretary as representing the interests of disabled individuals, children, the elderly, and mentally ill individuals. The Task Force would be required to: (1) specify the format of expenditure and utilization summaries by December 31, 1996; (2) study and report to Congress and the States by April 1, 1997, with recommendations on models for strategic objectives and performance goals; methodologies for measuring and verifying each objective or goal recommended; an assessment of the usefulness to States of quality assurance safeguards, utilization data sets, and accreditation programs used in the private sector; and designs and methodologies for providing for independent evaluations. States would not be required to adopt any of the objectives or goals suggested by the Task Force. The Agency for Health Care Policy and Research, or the Secretary, would be required to provide administrative support for the Task Force.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision. However, it is the intent of the Conferees that the Secretary of HHS establish a MediGrant Task Force. It is the intent of the Conferees that the MediGrant Task Force consist of 6 members appointed by the chair of the National Governors Association (NGA) and 6 appointed by the vice chair of the NGA. The Task Force would be assisted by an advisory group composed of one representative from each of the following associations: National Committee for Quality Assurance; Joint Commission for the Accreditation of Healthcare Organizations; Group Health Association of America; American Managed Care and Review Association; Association of State and Territorial Health Officers; American Medical Association; American Osteopathic Association; American Hospital Association; Association of American Medical Colleges; American Dental Association; American College of Gerontology; American Health Care Association; National Healthcare Anti-Fraud Association; National Association of Health Data Organizations; American Academy of Actuaries; National Association of State Medicaid Directors; and associations identified by the Secretary as representing the interests of disabled individuals, children, the elderly, and mentally ill individuals.

It is the intent of the Conferees that the Secretary, through the work of the Task Force: (1) specify the format of expenditure and utilization summaries by December 31, 1996; (2) study and report to Congress and the States by April 1, 1997, with recommendations on models for strategic objectives and performance goals; methodologies for measuring and verifying each objective or goal recommended; an assessment of the usefulness to States of quality assurance safeguards, utilization data sets, and accreditation programs used in the private sector; and designs and methodologies for providing for independent evaluations. It is the expectation of the conferees that the Task Force will develop recommendations by which States may respond to needs of the chronically mentally ill, particularly those individuals with psychotic symptoms, such as schizophrenia, schizoaffective disorder, manic depression disorder, and autism, as well as severe forms of other mental disorders, such as major depression, panic disorder, and obsessive compulsive disorder. It is the intent of the Conferees that States may, but should not be required to, adopt any of the specific objectives or goals suggested by the Task Force.

PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

GENERAL DESCRIPTION OF ELIGIBILITY AND BENEFITS (SEC. 2111 OF MEDIGRANT; SEC. 2111 OF MEDICAID)

House bill

The State plan would be required to include a description of (a) the eligible population, including categories, duration of eligibility, financial standards and methodologies, and standards for the protection of income and resources of the community spouses of institutionalized beneficiaries; (b) duration and scope of covered services, including variations by population group; (c) the delivery method, such as use of vouchers, fee-for-service, or managed care arrangements; (d) required beneficiary cost-sharing, including any responsibility of parents and the spouses of recipients; (e) any incentives or requirements to encourage appropriate utilization; and (f) any payment provisions for community health centers, public hospitals, and certain hospitals serving a high share of low-income patients, along with a description of where and how enrollees previously using these facilities under Medicaid would obtain services (if these facilities were no longer available to them). A State using a fee-for-service system would also have to describe how it determines provider qualifications and sets reimbursement rates. The MediGrant plan would have to include coverage of immunizations for eligible children, in accordance with a schedule developed by the State health department in consultation with those responsible for administering the MediGrant plan. Payment rates for rural providers would have to equal those for comparable non-rural providers, except that States could offer incentives for providers in underserved areas. No MediGrant plan could deny or exclude services on the basis of a preexisting condition. If a State contracted with a capitated organization or other entity and allowed the organization to impose preexisting condition exclusions, the State would have to provide alternate coverage for any covered services denied as a result. MediGrant plans would be prohibited from requiring an adult child of moderate means to contribute to the cost of nursing facility and other long-term care services for the child's parent.

Senate amendment

Each Medicaid plan would have to meet the following requirements: (1) be designed to serve all political subdivisions in the State; (2) provide for making medical assistance available to any pregnant woman or child under age 13 whose family income is not over 100% of poverty; (3) provide for making medical assistance available to any disabled individual receiving cash SSI benefits, or receiving Medicaid under the State's options for SSI beneficiaries; and (4) describe how the State will provide medical assistance to any other population group. The State plan would be required to include a description of (a) the eligible population, including categories, duration of eligibility, financial standards and methodologies, and standards for the protection of income and resources of the community spouses of institutionalized beneficiaries; (b) duration and scope of covered services, including variations by population group; (c) the delivery method, such as use of vouchers, fee-for-service, or managed care arrangements; (d) required beneficiary cost-sharing, including any responsibility of parents of recipients under age 19 and the spouses of recipients; (e) any incentives or requirements to encourage appropriate utilization; and (f) any payment provisions for short-term acute general care hospitals or children's hospitals with a specified low-income utilization rate. A State using a fee-for-service system would also have to describe how it determines provider qualifications and sets reimbursement rates. The Medicaid plan would have to include coverage of immunizations for eligible children, in accordance with a schedule developed by the State health department in consultation with those responsible for administering the Medicaid plan. No Medicaid plan could deny or exclude services on the basis of a preexisting condition. If a State contracted with a capitated organization or other entity and allowed the organization to impose preexisting condition exclusions, the State would have to provide alternate coverage for any covered services denied as a result. The bill requires that States provide prepregnancy family planning services and supplies and prohibits the imposition of any treatment limits or financial requirements on mental illness services that are not imposed on services for other illnesses. Each State plan would have to provide that any State law solvency requirements that apply to private sector health plans and providers would apply to Medicaid plans and providers.

Conference agreement

The conference agreement follows the Senate provision with modifications. The agreement would require States to provide medical assistance, subject to State flexibility of benefits under Section 2116 of the bill, to the "disabled" as defined by the State (and subject to Section 2111(a)). The agreement follows the Senate provision regarding treatment of children's hospitals and certain disproportionate share hospitals. The agreement follows the House provision regarding the prohibition on requiring an adult child to contribute to the cost of long-term services for the child's parent. This "family responsibility" provision is not intended to affect estate recoveries. The agreement also establishes requirements relating to solvency standards for MediGrant capitated health care organizations.

SET-ASIDES OF FUNDS FOR POPULATION GROUPS (SEC. 2112 OF MEDIGRANT; SEC. 2112 OF MEDICAID)

House bill

States would be required to devote specified minimum percentages of total program spending to services for each of three groups: low-income families, low-income elderly, and low-income blind and disabled. (Funds set aside for low-income families would have to be spent on families below 185 percent of poverty that included a pregnant woman or child.) For each group, the minimum percentage to be spent would be set equal to 85 percent of the average percentage of the State's Medicaid spending during fiscal year 1992 through fiscal year 1994 devoted to mandatory services for members of that group who were required to be covered under Federal Medicaid law. (The percentage would be set at 75 percent in the case of a State that covered only mandatory services during the base period.)

For the elderly, there would be an additional set-aside for Medicare premium assistance, again based on the percentage of the State's spending that went for such assistance to mandatory individuals in the base period. For purposes of computing the base period expenditures for the low-income elderly, all elderly persons who were in nursing homes would be treated as persons whose coverage was required. Thus, the computation of the base for elderly includes all current long-term spending for elderly who qualify under options that States may use for covering persons with higher income levels.

One of these options is the medically needy option. Medically needy persons have incomes too high to qualify for cash welfare, but incur medical expenses that deplete their assets and incomes to levels that make them needy according to State-determined standards. The base also includes State spending under a special income rule referred to as the "300% rule", for extending eligibility to persons needing nursing home care. Under this rule, States were allowed to cover persons needing nursing home care so long as their income did not exceed 300% of the basic Supplemental Security Income (SSI) cash welfare payment. Nursing home payments for these two groups of non-poor accounted for 61% of total program payments for all elderly beneficiaries and approximately 90% of all spending on nursing home services.[3]

In computing the base period spending percentages, payments to disproportionate share hospitals (DSH) would not be treated as payments for mandatory services.

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[3] These calculations are based on a Congressional Research Service memo to the Commerce Committee entitled "Medicaid Nursing Home Expenditures for the Elderly" dated October 6, 1995.

The MediGrant plan prohibits any State from utilizing MediGrant funds for any purpose other than medical assistance for low-income residents and support functions essential to the provision of that assistance.

A State could establish a set-aside percentage for a population group below the specified minimum percentages if it determined and certified to the Secretary that the health care needs of that group (and any related performance goals in the MediGrant plan) could be met with a lower level of expenditure. Such exceptions could not apply before fiscal year 1998, and determinations would have to be renewed at intervals of no more than three years.

A State that spent less on any group than the required set-aside amount would not be found in substantial violation of the requirements if its spending for each of the three population groups was at least 95 percent of the required amounts and an independent actuary certified that the MediGrant plan was reasonably designed to result in expenditures of the required amounts.

Funds not required to be spent under the set-asides could be spent for additional medical assistance, program administration, or medically-related services, defined as services not included in the definition of medical assistance but related to or supporting the attainment of the strategic objectives and performance goals established under the State's MediGrant plan.

Senate amendment

Similar provision, except the Senate set-asides would be calculated based on expenditures rather than percentages.

Conference agreement

The conference agreement follows the House bill with an amendment establishing a funding set-aside for Federally-qualified health centers and rural health clinics.

It is the Conferees' expectation that actual State MediGrant spending on the recipient populations designated by the set-asides will be significantly higher than is mandated be the set-asides. It is also the Conferees' intention that the set-aside calculations on dollar expenditures serve as a floor for providing health assistance for the elderly, disabled, pregnant women, and children. The set-aside floor serve as a federal guarantee that MediGrant expenditures will be fairly and equitably distributed to different types of beneficiaries.

In providing eligibility for the disabled under the MediGrant program set-aside, the Conferees urge States to consider the special circumstances of women and children with disabilities. An expedited eligibility determination process is especially important for people who have disabilities that are life-threatening and are at risk of dying before such a determination may be made. The Conferees also urge States to provide services to meet the preventive and primary care needs of people with disabilities, including such measures as the prevention of illness through prophylactic and early intervention drugs and the prevention of transmission of illness through measures such as the administration of antiviral drugs to HIV-positive women during pregnancy. Such measures may prevent needless disability and unnecessary medical costs.

PREMIUMS AND COST-SHARING (SEC. 2113 OF MEDIGRANT; SEC. 2113 OF MEDICAID)

House bill

States would be permitted to impose premiums, copayments, coinsurance, or deductibles pursuant to a public schedule. Cost-sharing could be designed to encourage primary and preventive care and discourage unnecessary or less economical care and inappropriate use of emergency services. Amounts could be scaled to reflect economic factors, employment status, family size, availability of other health insurance, or participation in employment training, drug abuse or alcohol treatment, counseling, or other programs promoting personal responsibility. For a family below 100 percent of poverty and including a pregnant woman or child, no premium could be imposed and cost-sharing amounts would have to be nominal (except for cost-sharing designed to deter inappropriate emergency services).

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House provision.

DESCRIPTION OF PROCESS FOR DEVELOPING CAPITATION PAYMENT RATES (SEC. 2114 OF MEDIGRANT; SEC. 2114 OF MEDICAID)

House bill

If a State contracted with HMOs or similar entities on a risk basis for a package of services including at least inpatient hospital and physician care, the MediGrant plan would have to describe: (1) the use of actuarial science in projecting expenditures and utilization for enrollees and setting capitation payment rates; (2) required qualifications for participating organizations; and (3) a process for dissemination to contractors of information on capitation rates and historical fee-for-service cost and utilization data. The State would also have to provide for public notice and an opportunity to comment on this information before each contract year; the notice would have to include the amounts of capitation payments made under the MediGrant plan in the preceding year and expected to be made in the coming year (unless exempt from disclosure under State law).

Senate amendment

Similar provision.

Conference agreement

The conference agreement follows the House provision.

PREVENTING SPOUSAL IMPOVERISHMENT (SEC. 2115 OF MEDIGRANT; SEC. 2116 OF MEDICAID)

House bill

The income eligibility rules would not permit income of community spouses to be used in determining the nursing home spouse's eligibility unless the income were actually made available to the institutionalized spouse. As in current law, after eligibility has been determined, States would be required to set a minimum monthly maintenance needs allowance for living expenses of the community spouse according to statutory limits. (Currently, this minimum is $1,254 per month and the maximum is $1,871 per month. These amounts may be increased depending on the amount of the community spouse's actual shelter costs and other factors.)

From a couple's combined resources, an amount would be protected for the community spouse. This amount would be the greater of one-half of the couple's resources at the time the institutionalized spouse entered the nursing home, up to a maximum, or a standard established by the State. (Currently, the State resource standard may be no lower than $14,964 and no greater than $74,820.)

Senate amendment

Similar provision.

Conference agreement

The conference agreement follows the House provision with a Senate amendment to exclude from determinations of income reparations payments from the Federal Republic of Germany.

CONSTRUCTION (SEC. 2116 OF MEDIGRANT; SEC. 2115 OF MEDICAID)

House bill

The bill specifies that no provision shall be construed as creating an individual or group entitlement to medical assistance under Federal law. In addition, the bill grants states flexibility in determining: (a) coverage of any particular service or type of provider or any level of payment; (b) geographical coverage areas; and (c) selection of providers. The MediGrant plan also removes existing limitations on States' ability to contract with managed care plans or individual providers on a capitated or other basis, to contract for case management or coordination services, or to set capitation rates on the basis of competition or negotiation.

Senate amendment

Except for provisions related to immunizations for children and pre-pregnancy family planning services, no provision of this title would be construed as requiring a State to (a) cover any particular items or services; (b) provide for any particular type of provider or any level of payment; (c) provide for the same medical assistance in all geographical areas or political subdivisions of the State; or (d) provide for comparability of services to eligible individuals; (e) provide for freedom of choice of providers; or as limiting the State's ability to contract with managed care plans or individual providers on a capitated or other basis, to contract for case management or coordination services, or to set capitation rates on the basis of competition or negotiation.

Conference agreement

The conference agreement follows the House provision with an amendment. The amendment moves to Section 7002 the construction that no federal entitlement under federal law has been created in any individual, including any provider.

LIMITATIONS ON CAUSES OF ACTION (SEC. 2117 OF MEDIGRANT)

House bill

The bill would remove the existing right for an applicant, beneficiary, provider or health plan to sue a State official under 42 U.S.C. §1983 to require prospective enforcement of the Medicaid statute. However, the plan would have no effect on any action brought under State law.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House provision with an amendment. The amendment moves to Section 2154 the limitation on causes of action under federal law.

PART C—PAYMENTS TO STATES

ALLOTMENT OF FUNDS AMONG STATES (SEC. 2121 OF MEDIGRANT; SEC. 2121 OF MEDICAID)

House Bill

Beginning with fiscal year 1996, the bill would limit Federal obligations and outlays for each State to fixed allotments. (Obligations are binding agreements to make Federal payments, immediately or in the future. Outlays are actual payments to liquidate obligations.) The obligation allotments would include adjustments to reflect obligations incurred in one year that did not result in outlays until the following year.

For fiscal year 1996, the MediGrant outlay allotment for each State and the District of Columbia would be based on Federal Medicaid payments to the State in fiscal year 1994, increased by the ratio of $95,529,490,500 (the total available for outlay allotments to States and the District for fiscal year 1996) to $83,213,431,458 (the total of fiscal year 1994 Federal payments to the States and the District). For fiscal year 1997 and later years, the outlay allotment would be based on a formula allocation from a fixed pool of total MediGrant funds. A State could carry over any unused obligation allotment amount to a subsequent year.

The pool for fiscal year 1996 would be $95.663 billion (this represents outlay allotments to the States and the District plus allotments to Commonwealths and territories). The pool would be $102.748 billion for fiscal year 1997, $107.268 billion for fiscal year 1998, $111.827 billion for fiscal year 1999, $116.473 billion for fiscal year 2000, $121.311 billion for fiscal year 2001, and $126.351 billion for fiscal year 2002. For later years, the pool amount would be the previous year's amount increased by the lesser of 4.1546 percent or the growth in the consumer price index for all urban consumers (CPI–U) for the 12-month period ending in June before the start of the year in question. The increase in the pool amount over that for the preceding year would be designated the "national MediGrant growth percentage" (NMGP).

For fiscal year 1997 and later years, each State's outlay allotment from the pool would equal a needs-based amount times a scalar factor, subject to certain floors and ceilings. The needs-based amount for a State would be the product of its aggregate need and its old Federal medical assistance percentage for the previous year (FMAP; see below). The scalar factor would be a constant multiplier for all States used to ensure that floor and ceiling provisions, along with the allotments for Commonwealths and territories, do not cause total allotments to exceed the pool amount.

The State's aggregate need would be the product of four factors: residents in poverty, a case mix index, an input cost index, and national average spending per resident in poverty. Residents in poverty would be the average number of individuals in the State below the Federal poverty threshold in the most recent period of 3 calendar years for which data were available. The case mix index would equal the 3-year average ratio between the State's expected per recipient spending and national average per recipient spending, given the State's relative proportions of aged, disabled, and other recipients and assuming that the State's per recipient spending for each group was equal to the national average for that group. The case mix index could not be less than 0.9 or more than 1.15. The input cost index would be the sum of 0.15 and the product of 0.85 and a hospital wage index. This wage index would equal the ratio between annual average wages for hospital employees in the State and the national average; it would be based on the area wage indices computed under Medicare's prospective payment system for inpatient hospital services (or a comparable index if the Medicare index should no longer be available). National average spending per resident in poverty would be computed for fiscal year 1997 using fiscal year 1994 data; for fiscal year 1998 and later years, the figure would be increased by the NMGP.

State outlay allotments could not exceed certain floors and ceilings based on the State's prior allotment. In fiscal year 1997, a State would receive at least 103.5 percent of the fiscal year 1996 outlay allotment. In fiscal year 1998, the State minimum allotment (or floor) would equal 103 percent. In fiscal year 1999, the State floor would equal 102.5 percent. For all fiscal years after 1999, State outlay allotments would not be less than 102 percent. Beginning in fiscal year 1998, a higher floor would apply for certain States based on the one-time increase in the State's allotment from fiscal year 1996 to fiscal year 1997. For a State whose fiscal year 1996–97 outlay allotment increase was greater than 120 percent of the fiscal year 1997 NMGP, the floor would be 104 percent of the previous year's allotment. For those States whose fiscal year 1996–97 outlay allotment increase was greater than 75 percent of the fiscal year 1997 NMGP, but less than 120 percent the floor would equal 103 percent of the previous year's allotment. In fiscal year 1997, the allotment for a State could not exceed 109 percent of the fiscal year 1996 allotment, for each subsequent year the State allotment could not exceed 105.33 percent of the prior year's allotment. However, beginning in fiscal year 1998, the ceiling for the 10 States with the lowest rates of Federal Medicaid spending per resident-in-poverty is higher. In fiscal year 1998 and fiscal year 1999 the allotments for these States will not exceed 106 percent. In fiscal year 2000 the allotment ceiling for these States equals 106.0657 of the prior year's allotment. In fiscal year 2001 the allotment ceiling for these States equals 106.1488 percent of the prior year's allotment. In fiscal year 2002 and all subsequent years the allotment ceiling is set to 106.2319 percent of the prior year's allotments. Allotments for Commonwealths and territories would equal their previous year's allotments increased by the NMGP (in place of the percentage increases provided under current law).

To reduce variations in increases in outlay allotments over time, any State or the District could elect an alternative growth rate formula. A portion of the State's allotment for fiscal year 1996 could be deferred and applied to increase its allotment for one or more subsequent years, so long as the total of the increases did not exceed the amount deferred in fiscal year 1996. (Obligation allotments for the State would be adjusted accordingly.)

In fiscal year 1996 special adjustments are made to the State outlay allotments for Oregon and Tennessee. Oregon's outlay allotment is increased by $155.7 million, Tennessee's outlay allotment is increased by $195.5 million.

A supplemental allotment to be used by the twelve States with the highest number of undocumented aliens for emergency health care services would also be available between fiscal year 1996 and fiscal year 2002. This supplemental pool could not exceed $3 billion over the seven year period. Allotments to the States in any given year would be based on their relative share of undocumented aliens. Aggregate spending in any given year would be determined by taking into account the total $3 billion and the NMGP.

The Secretary would publish preliminary allotments for each fiscal year by April 1 of the preceding fiscal year. The General Accounting Office (GAO) would report to Congress by May 15 on the extent to which the allotments comply with statutory requirements. The Secretary would publish final allotments by July 1, taking into account the GAO analysis and explaining any changes from the preliminary allotments; the Secretary could not modify allotments thereafter. By August 1, GAO would report to Congress on the statutory compliance of the final allotments.

Senate amendment

Beginning with fiscal year 1996, the bill would limit Federal obligations and outlays for each State to fixed amounts. (Obligations are binding agreements to make Federal payments, immediately or in the future. Outlays are actual payments to liquidate obligations.) Obligation allotments would limit the amount the Secretary could agree to pay a State during a year. They would be based on outlay allotments, which represent the maximum actual payments to the State. The obligation allotments would include adjustments to reflect obligations incurred in 1 year that did not result in outlays until the following year.

The Medicaid obligation allotment would represent an amount slightly larger than the outlay allotment pool. In fiscal year 1996, the Medicaid obligation allotment for each State and the District of Columbia would equal the outlay pool of Medicaid outlays divided by 95% (i.e., the obligation amount would be roughly 105% of the outlay amount). Since fiscal year 1996 is a transition year, the fiscal year 1996 outlay allotment pool would be reduced to account for any obligations incurred under current law (the outlay pool amount would be reduced by $24.624 billion). For fiscal year 1997, the outlay would be divided by 98.6% to determine the obligation allotments. For fiscal year 1998, and all subsequent years the outlay allotment would be divided by 99.8% to determine the overall obligation allotment. A similar process is used for individual State obligation allotments.

The outlay pool for fiscal year 1996 would be $97.245 billion (this represents outlay allotments to the States and the District plus allotments to Commonwealths and territories). The pool would be $102.608 billion for fiscal year 1997, $106.712 billion for fiscal year 1998, $110.980 billion for fiscal year 1999, $115.420 billion for fiscal year 2000, $120.037 billion for fiscal year 2001, and $124.838 billion for fiscal year 2002. For later years, the pool amount would be the previous year's amount increased by the lesser of 4% or the growth in the gross domestic product (GDP) for the 12-month ending in June before the start of the year in question. The increase in the pool amount over that for the preceding year would be designated the "national Medicaid growth percentage" (NMGP).

In fiscal year 1996, each State's outlay allotment from the pool would equal 109 percent of the greater of: (1) its Federal Medicaid expenditures in fiscal year 1995 (excluding any disproportionate share payments); (2) 103.38 percent of its Federal Medicaid expenditures in fiscal year 1994; or (3) 95 percent of Federal Medicaid expenditures in fiscal year 1993 (excluding any disproportionate share payments). This initial allotment would be adjusted to take into account the overall obligation allotment total for the program. All States' allotments would be adjusted in order that the sum of the allotments equal the total. A State could carry over any unused outlay allotment amount to a subsequent year.

For fiscal year 1997 and later years, each State's outlay allotment from the pool would equal a needs-based amount times a scalar factor, subject to certain floors and ceilings. The needs-based amount for a State would be the product of its aggregate need and its Federal medical assistance percentage for the previous year (FMAP; see below). The scalar factor would be a constant multiplier for all States used to ensure that floor and ceiling provisions, along with the allotments for Commonwealths and territories, do not cause total allotments to exceed the pool amount.

The State's aggregate need would be the product of four factors: residents in poverty, a case mix index, an input cost index, and national average spending per resident in poverty. Residents in poverty would be the average number of individuals in the State below the Federal poverty threshold in the most recent period of 3 calendar years for which data were available. The case mix index would equal the ratio between the State's expected per recipient spending and national average per recipient spending, given the State's relative proportions of aged, disabled, and other recipients and assuming that the State's per recipient spending for each group was equal to the national average for that group. The calculation of these average expenditures would not include disproportionate share payments. This index would be based on data that is available for the most recent 3 fiscal years. The input cost index would be the 3-year average of the sum of 0.15 and the product of 0.85 and a hospital wage index. This index would equal the ratio between annual average wages for hospital employees in the State and the national average; it would be based on the area wage data computed under Medicare's prospective payment system for inpatient hospital services (or a comparable index if the Medicare index should no longer be available). National average spending per resident in poverty would be computed for fiscal year 1997 using fiscal year 1995 expenditure data and State three year average numbers of residents in poverty; these average expenditures would then be increased by the NMGP for fiscal year 1997. In later years, the previous year's figure would be increased by the NMGP.

The minimum State outlay allotment is based on the greatest of three amounts: (1) no State would receive an outlay allotment less than 102% of the State's allotment in the previous year; (2) an amount less than 0.26% of the total pool amount; (3) or if the State's fiscal year 1998 allotment is greater than 103.8% of its fiscal year 1997 allotment:

A State's fiscal year 1999 allotment could not be less than 104.25% of its prior year's allotment;

For fiscal year 2000 and fiscal year 2001 the State's allotment could not be less than 104% of its prior year's allotment;

For fiscal year 2002 the State's allotment could not be less than 103.4% of its prior year's allotment.

State obligation allotments are also subject to a maximum increase. This maximum increase from the prior year's outlay allotment is the product of the NMGP and the following schedule. A State's increase in its outlay allotment in:

Fiscal year 1997 cannot be greater than 125.5% of the NMGP;

Fiscal year 1998 cannot be greater than 132% of the NMGP;

Fiscal year 1999 cannot be greater than 151% of the NMGP;

Fiscal year 2000 cannot be greater than 156% of the NMGP;

Fiscal year 2001 cannot be greater than 144% of the NMGP;

Fiscal year 2002 cannot be greater than 146% of the NMGP.

Special outlay allotment rules apply to New Hampshire and Louisiana. For each of fiscal years 1996 through 2000, New Hampshire's outlay allotment would equal $360 million and Louisiana's outlay allotment would equal $2.622 billion. Beginning in fiscal year 1997, allotments for Commonwealths and territories would equal their previous year's allotments increased by the NMGP (in place of the percentage increases provided under current law).

To reduce variations in outlay allotments over time, any State or the District could elect an alternative growth rate formula. A portion of the State's allotment for fiscal year 1996 could be deferred and applied to increase its allotment for one or more subsequent years, so long as the total of the increases did not exceed the amount deferred in fiscal year 1996. (Obligation allotments for the State would be adjusted accordingly.) A State could choose to increase its fiscal year 1996 outlay allotment by a portion of its outlays for one or more of the fiscal years 1997 through 1999. This increase in the State's fiscal year 1996 outlay allotment could not be greater than 25% of the outlay allotment estimated under the regular allotment formula.

The Secretary would publish preliminary allotments for each fiscal year by April 1 of the preceding fiscal year. The General Accounting Office (GAO) would report to Congress by May 15 on the extent to which the allotments comply with statutory requirements. The Secretary would publish final allotments by July 1, taking into account the GAO analysis and explaining any changes from the preliminary allotments; the Secretary could not modify allotments thereafter. By August 1, GAO would report to Congress on the statutory compliance of the final allotments.

Conference agreement

The conference agreement follows the House provision with amendments. Under the agreement, the growth rate following 2002 is established, the small state minimum is set at 0.24%, and special rules for Louisiana, New Hampshire and Nebraska are incorporated. The conference agreement also includes the House provision providing for a $3.5 billion national fund for emergency services provided to illegal aliens for 15 states over a 5 year period.

PAYMENTS TO STATES (SEC. 2122 OF MEDIGRANT; SEC. 2122 OF MEDICAID)

House bill

Subject to the allotment limits, payments to States for medical assistance and medically-related services would equal the State's spending for the services times the applicable FMAP. This would be the greater of the old FMAP, computed as under current law, or a new FMAP, (or, if less, the old FMAP plus 10 percentage points). The new FMAP would equal 100 percent minus the product of (a) 0.39 and (b) the ratio of the total taxable resources (TTR) ratio for the State to the aggregate expenditure need ratio for the State. The TTR ratio would be the ratio of the most recent 3-year average of the State's TTR, as determined by the Secretary of the Treasury, to the sum of the average TTRs for all States (for the District of Columbia, a per capita income ratio would be substituted). The aggregate expenditure need ratio would be the ratio of the State's aggregate expenditure need (as determined in computing the State's allotment; see above) to the sum of the aggregate expenditure needs for all States. The new FMAP could not be less than 40 percent or greater than 83 percent. The FMAP for Commonwealths and territories would be 50 percent. The FMAP for services in Indian Health Service facilities (and for specified facilities of Indian tribes that are not Indian Health Service facilities) would continue to be 100 percent; in addition, no State matching would be required for services to unlawful aliens. For administrative services, the Federal matching percentage would generally be 50 percent, with enhanced matching for specified expenditures as under current law. Provisions of current Medicaid law relating to periodic payments to States and treatment of overpayments and disallowances would be retained.

Senate amendment

Subject to the allotment limits, payments to States for medical assistance and medically-related services would equal the State's spending for the services times the applicable FMAP. The FMAP would be calculated as under current law, except that Alaska's FMAP would be calculated with an adjustment. Alaska's FMAP would equal the average per capita income divided by the input cost index. This adjusted per capita measure would be compared to the per capita income of the continental United States. For all States, the FMAP could not be less than 60% or greater than 83%. The FMAP for Commonwealths and territories would be 50%. The FMAP for services in Indian Health Service facilities (and for specified facilities of Indian tribes that are not Indian Health Service facilities) would continue to be 100%; in addition, no State matching would be required for services to unlawful aliens. For administrative services, the Federal matching percentage would generally be 50%, with enhanced matching for specified expenditures as under current law. Provisions of current Medicaid law relating to periodic payments to States and treatment of overpayments and disallowances would be retained. As under current law, provider-related taxes and donations would be excluded from matching State medical assistance expenditures unless the donations met the definition of a bona fide provider-related donation, or a broad based health care tax. Furthermore, as under current law, donations associated with eligibility determination and outreach activities cannot exceed 10% of administrative spending in the State.

As under current law, States would be required to provide at least 40% of the non-Federal share of Medicaid expenditures. New Hampshire's state expenditures could not be less than 120% of $203 million in 1996, 140% of $203 million in 1997, 160% of $203 million in 1998, 180% of $203 million in 1999 and 200% of $203 million in 2000. Louisiana's state expenditures must be at least 120% of $355 million in 1996, and will follow the same percentage increase progression as New Hampshire through 2000. If not, federal funding will be reduced on a proportional basis.

If a State does not use its full outlay allotment, the difference between the payments and the obligation allotment can be used in the next fiscal year. This carryover amount cannot be larger than the total carryover amount from the two preceding years. Any obligated allotment amounts that go unused will be reallocated to qualified States. In order to qualify a State cannot have any carryover amount and must apply for the payments. These allotments will be obligated to qualifying States in the following order: (1) States with outlay allotments at their ceiling level; (2) States with allotments between the floor and the ceiling; and (3) States at their floor. If there are not enough funds to fulfill the request of any single group of the States, the funds will be proportionately allocated among the qualifying States in the group.

Special appropriations are provided to the following States: $63 million to Arizona, $250 million to Florida, $34 million to Georgia, $76.5 million to Kentucky, $181 million to South Carolina, $250 million to Washington, and $50 million to Vermont. These funds do not have to be used in any particular fiscal year and can be added to their outlay allotments.

Conference agreement

The conference agreement follows the House bill with a Senate amendment revising the current law FMAP floor.

LIMITATION ON USE OF FUNDS (SEC. 2123 OF MEDIGRANT; SEC. 2123 OF MEDICAID)

House bill

States could use Federal funds only to carry out the purposes of Title XXI. Federal payments would not be made to a State for nonemergency services provided or ordered by providers excluded under the maternal and child health or social services block grant, Medicare, or Medicaid. Spending for medically-related services could not exceed 5 percent of total spending under the MediGrant plan. Spending for administration could not exceed the sum of $20 million plus 10 percent of total spending under the MediGrant plan. This limit would not apply, during the first two years the MediGrant plan was in effect, to spending for quality assurance, utilization review, and similar activities or to spending needed to comply with reporting requirements. As under current law, Federal matching would not be available for services that would have been paid for by a private insurer but for a provision of the insurance contract making the insurer secondary to Medicaid. The definition of allowable emergency services for illegal aliens would be clarified. Payment could not be made for prescription drugs unless the manufacturer had entered into a MediGrant master rebate agreement with the Secretary (see below) and was in compliance with current requirements section 8126 of Title 38, including those for a master agreement with the Secretary of Veterans Affairs. Payment for abortions (or for health benefit coverage including abortions) would be permitted only to save the life of the mother, or in cases of rape or incest. Payment could not be made for drugs or services furnished to cause or assist in causing the death, suicide, euthanasia, or mercy killing of a person.

Senate amendment

States could use Federal funds only to carry out the purposes of Title XXI. Federal payments would not be made to a State for nonemergency services provided or ordered by providers excluded under the maternal and child health or social services block grant, Medicare, or Medicaid. Spending for medically-related services could not exceed 5% of total spending under the Medicaid plan. As under current law, Federal matching would not be available for services that would have been paid for by a private insurer or other payor but for a provision of the insurance contract making the insurer secondary to Medicaid. The definition of allowable emergency services for illegal aliens would be clarified. Federal funds could not be used for: the purchase of land, or to construct or remodel buildings; the payment of room and board (unless for respite care); certain educational services; or vocational rehabilitation services that are offered under other Federally funded programs.

Conference agreement

The conference agreement follows the House provision with a Senate amendment that denies Federal financial participation in any MediGrant payment for expenditures for medical assistance if payment could have been made under any other federally operated or financed health care program, other than a program under the Indian Health Service.

GRANT PROGRAM FOR COMMUNITY HEALTH CENTERS AND RURAL HEALTH CENTERS (SEC. 2124 OF MEDICAID)

House bill

No provision.

Senate amendment

The bill provides for 1% of the pool amount to be set aside and used for grants for primary and preventive health care services provided at rural health clinics and federally qualified health centers.

Conference agreement

The conference agreement does not include the Senate Amendment. The agreement includes an alternate provision under Section 2112.

PART D—PROGRAM INTEGRITY AND QUALITY

USE OF AUDITS TO ACHIEVE FISCAL INTEGRITY (SEC. 2131 OF MEDIGRANT; SEC. 2131 OF MEDICAID)

House bill

Each MediGrant plan would be required to provide for an annual audit of the State's medical assistance expenditures in compliance with the Single Audit Act (chapter 75 of title 31, United States Code). If the Secretary determined that a State's audit was performed in substantial violation of the chapter 75 provision, the Secretary would be permitted to conduct a verification audit or require that the State do so. Within 30 days of completion of an audit or verification audit, the State would be required to provide a copy of the audit report to the Secretary along with the State's response to the auditor's recommendation. The State also would be required to make the audit report available for public inspection.

Each State would be required to maintain fiscal controls, accounting procedures, and data processing safeguards that are reasonably necessary to assure the fiscal integrity of the State's activities. The State's controls and procedures would be required to be generally consistent with generally accepted accounting principles as recognized by the Governmental Accounting Standards Board or the Comptroller General.

Each MediGrant plan would be required to provide that the records of any provider could be audited to ensure that proper payments were made under the plan.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House provision.

FRAUD PREVENTION PROGRAM (SEC. 2132 OF MEDIGRANT; SEC. 2132 OF MEDICAID)

House bill

To detect fraud and abuse by beneficiaries, providers, and others, each MediGrant plan would be required to have a program that follows the following. Certain program contractors and providers would be required to disclose ownership and control information to State agencies in accordance with sections 1124 and 1124(a) of the Social Security Act. An entity (other than an individual practitioner or a group of practitioners) would be required to supply information on ownership, controlling interests, and conviction of certain offenses upon request by the Secretary or the State agency. A State could exclude a provider from participation in the MediGrant plan on its own initiative, and would be required to exclude any entity when required to do so by the Secretary pursuant to section 1128 or 1128A of the Act. Whenever a provider was terminated, suspended, sanctioned, or prohibited from participating under a State's plan, the State agency would be required to notify the Secretary and, in the case of a physician, the State medical licensing board. States would be required to provide information and access to information respecting sanctions taken against practitioners and providers by State licensing authorities.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House provision.

INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS (SEC. 2133 OF MEDIGRANT; SEC. 2133 OF MEDICAID)

House bill

The provision is identical to the current law provision. Each State would be required to have in effect a system for reporting and providing access to information for use by the Secretary and other officials concerning licensing revocations and other sanctions taken against providers and practitioners by State licensing authorities, peer review organizations, or accreditation entities. A State would be required to report any adverse action taken, whether a provider had surrendered a license or left the State, any other loss of license, and any negative action taken by a reviewing authority. The State would be required to provide the Secretary with access to whatever documents the Secretary needed to determine the facts and circumstances concerning the actions taken. Such information would have to be provided under arrangements made by the Secretary in the form the Secretary determined to be appropriate to (1) provide for the Secretary's activities, and (2) provide information to other specified authorities in order to protect their programs and services.

The Secretary would be required to safeguard the confidentiality of information furnished. However, any party authorized to disclose information would be permitted to do so. In implementing this section, the Secretary would be required to provide for maximum coordination of section 422 of the Health Care Quality Improvement Act of 1986.

Senate amendment

Identical provision with technical amendments.

Conference agreement

The conference agreement follows the Senate provision.

STATE FRAUD CONTROL UNITS (SEC. 2134 OF MEDIGRANT; SEC. 2134 OF MEDICAID)

House bill

Each MediGrant plan would be required to provide for a State MediGrant fraud control unit (FCU) unless the State demonstrated that such a unit would not be cost-effective because minimal fraud existed, and that beneficiaries would be protected from abuse and neglect without such a unit. The FCU would be required to be separate and distinct from the State agency responsible for the operation and administration of the MediGrant plan. It would have to be a part of the State Attorney General's office or coordinate with that office. It would be required to have statewide prosecutorial authority or the ability to refer to local prosecutors. The FCU would investigate and prosecute violations of State fraud laws, and review and prosecute cases involving neglect or abuse of beneficiaries in nursing homes and other facilities. It would be required to provide for the collection of overpayments it had discovered were made to health care providers. It would be required to employ auditors, attorneys, investigators, and other necessary personnel.

Senate amendment

Identical provision with technical amendments.

Conference agreement

The conference agreement follows the Senate provision.

RECOVERIES FROM THIRD PARTIES AND OTHERS (SEC. 2135 OF MEDIGRANT; SEC. 2135 OF MEDICAID)

House bill

Each MediGrant plan would be required to ascertain the legal liability of third parties to pay for care and services available under the plan and seek reimbursement to the extent of legal liability unless the cost of recovery was expected to exceed the amount of reimbursement.

MediGrant plans would be required to prohibit a provider from refusing to furnish a covered service to a beneficiary because of a third party's potential liability for the service, and from trying to collect payment from a beneficiary that exceeded payment that would be made under the plan. For violation of the collection provision, a MediGrant plan could provide for a payment reduction up to 3 times the amount sought to be collected.

States would be required to prohibit any health insurer, in enrolling an individual or in making payments for benefits, from taking into account that the individual was eligible for or was provided medical assistance under a MediGrant plan.

A State would be required to have laws in effect under which the State is considered to have acquired the rights of an individual to payments by a party that is liable for the individual's health care items and services. Each State would be required to provide for mandatory assignment of rights of payment for medical support and care to beneficiaries.

Each State with a MediGrant plan would be required to have in effect laws relating to medical child support. Each State would have to prohibit an insurer from denying enrollment of a child because the child was born out of wedlock, was not claimed as a dependent on the parent's Federal income tax return, or did not reside with the parent or in the insurer's area. In a case in which a parent was required by a court or administrative order to provide health coverage for a child, and the parent was eligible for family health coverage, State laws would have to require the employer and insurer to permit the parent to enroll the child upon application by either parent or by the State child support agency, and limit the circumstances under which the insurer could disenroll such a child. State laws would be required to prohibit an insurer from imposing requirements on a State agency that has been assigned the rights of an individual that are different from requirements applicable to an agent of any other covered individual; require an insurer, in the case of a child who has health coverage through the insurer of a non-custodial parent, to provide information to the custodial parent; permit the custodial parent to submit claims for covered services without the approval of the non-custodial parent, and make payment on claims to the custodial parent, the provider, or the State agency; permit the State agency to garnish the employment income of, and require withholding amounts from State tax refunds to, any person who is required by court or administrative order to cover the medical costs of a child who is eligible for medical assistance, has received payment from a third party for the costs of the child's services, and has not used the payment to reimburse the appropriate party.

A State would be permitted to take appropriate action to adjust or recover from an individual or the individual's estate amounts paid as medical assistance under a MediGrant plan.

Senate amendment

Similar provision.

Conference agreement

The conference agreement follows the House provision.

ASSIGNMENT OF RIGHTS OF PAYMENT (SEC. 2136 OF MEDIGRANT; SEC. 2136 OF MEDICAID)

House bill

As a condition of eligibility for medical assistance under a State's MediGrant plan, an individual would be required to assign to the State any rights to medical support and payment for medical care from any third party of the individual or any other person who is eligible and on whose behalf the individual has the legal authority to execute an assignment of such rights. An individual would be required to cooperate with the State agency in establishing paternity of a child born out of wedlock and in obtaining support and payments for the individual and child unless the individual was a pregnant woman or was found to have good cause for refusing to cooperate as determined by the State. An individual would be required to cooperate with the State in identifying and providing information to assist the State to pursue any liable third party unless the individual had good cause for refusing to cooperate as determined by the State. The State would be required to provide for entering into cooperative arrangements (including financial arrangements) with any appropriate agency of any State and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the State plan with respect to the enforcement and collection of rights to support or payment that had been assigned.

Any amount collected by the State under an assignment would be retained by the State to reimburse it for payments made on behalf of an individual with respect to whom the assignment was executed (with appropriate reimbursement to the Federal Government of its share of the payment). The remainder of such amount collected would be paid to the individual.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House provision.

QUALITY ASSURANCE STANDARDS FOR NURSING FACILITIES (SEC. 2137 OF MEDIGRANT; SEC. 2137 OF MEDICAID)

House bill

OBRA 87 nursing home reform provisions would be replaced with new requirements. State plans would be required to establish and maintain standards for facilities providing services under the State's program. Such standards would have to require nursing facilities to care for residents in a manner and environment that promote maintenance or enhancement of quality of life. Standards would also be required to address the following areas: the treatment of resident medical records; policies, procedures, and bylaws for operation; quality assurance systems; resident assessment procedures, including care planning and outcome evaluation; the assurance of a safe and adequate physical plant for the facility; qualifications for staff sufficient to provide adequate care, as defined by the State, and utilization review.

Standards for nursing facilities would also be required to provide for the protection and enforcement of resident rights, including rights to exercise the individual's rights as a resident of the facility and as a citizen or resident of the U.S.; to receive notice of rights and services; to be protected against the misuse of resident funds; to be provided privacy and confidentiality; to voice grievances; to examine the results of State certification program inspections; to refuse to perform services for the facility; to be provided privacy in communications and to receive mail; to have the facility provide immediate access to any resident by any representative of the State's certification program, the resident's individual physician, the State long-term care ombudsman, and any person the resident has designated as a visitor; to retain and use personal property; to be free from abuse, including verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion; to be provided with prior written notice of a pending transfer or discharge; to organize and participate in resident groups in the facility and to have family members meet in the facility with the families of other residents; to participate in social, religious, and community activities that do not interfere with the rights of other residents; to choose a personal attending physician, to be fully informed in advance about care and treatment, and (except with respect to a resident adjudged incompetent) to participate in care planning and treatment or changes in care and treatment. In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident would devolve upon, and, to the extent judged necessary by a court, be exercised by the person appointed under State law to act on the resident's behalf.

States would be required to promulgate standards either through the State's legislature, regulatory, or other process, and they could take effect only after the State had provided the public with notice and an opportunity for comment.

State plans would also be required to provide for the establishment and operation of a program for the certification of nursing facilities that meet specified standards as well as the decertification of those facilities that fail to meet the standards. States would be required to ensure public access (as defined by the State) to the certification program's evaluations of participating facilities, including compliance records and enforcement actions and other reports by the State regarding ownership, compliance histories, and services provided by certified facilities. States would be required to audit their expenditures under the program, not less often than every 4 years, through an entity designated by the State which is not affiliated with the program.

States would be required to impose certain sanctions against nursing facilities not meeting requirements. If a State determined that a certified nursing facility no longer substantially met specified requirements and further determined that the facility's deficiencies immediately jeopardized the health and safety of residents, then the State would be required, at a minimum, to terminate the facility's certification for participation. If the facility's deficiencies did not immediately jeopardize the health and safety of residents, the State could, in lieu of termination, provide lesser sanctions, including denial of payment for persons admitted after a specified date.

States could not impose sanctions until a facility has had a reasonable opportunity to correct its deficiencies, following the initial determination that it no longer substantially met the requirements for certification, and, has been given reasonable notice and opportunity for a hearing. A State's decision to deny payment for new admissions would be effective only after notice to the public and the facility, as may be provided for by the State. Denial of payment for new admissions would end when the State found that the facility was in substantial compliance (or was making good faith efforts to achieve substantial compliance). Facilities would, however, be required to be in compliance by the end of the eleventh month following the month when the decision to deny payments becomes effective. If facilities did not substantially meet the requirements by that time, States would be required to terminate their certification for participation.

Senate amendment

Current law nursing home reform provisions contained in section 1919 of the Social Security Act would apply to nursing facilities providing services under the State's plan. States with State law requirements for nursing facilities that are equivalent to or stricter than current law requirements, and contain State oversight and enforcement authority over nursing facilities, including penalty provisions, that are equivalent to or stricter than oversight and enforcement authority in current law, could apply to the Secretary for a waiver of current law requirements. The Secretary would determine whether State law requirements were equivalent to or stricter than current law and would be required to approve or deny a waiver application within 120 days after submission. A State granted a waiver would be subject to: (1) a penalty of up to 2 percent of its allotment if the Secretary determines that a State has failed to comply with current law nursing home reform requirements or any State law requirements in effect as a result of a waiver; (2) suspension or termination of the waiver; and (3) any other authority available to the Secretary to enforce the requirements of current law.

Conference agreement

The conference agreement follows the Senate provision with modification providing for Federal enforcement of State facilities, and enhanced State enforcement of standards for other nursing facilities. The agreement also provides for Federal enforcement action in the case of failure of State enforcement to correct deficiencies.

OTHER PROVISIONS PROMOTING PROGRAM INTEGRITY (SEC. 2138 OF MEDIGRANT; SEC. 2138 OF MEDICAID)

House bill

State agencies responsible for surveying health care facilities or organizations would be required to make public, in readily available form and place, pertinent findings on the compliance of the facility or organization with the requirements of law. Persons or institutions providing services under the State's plan would be required to keep such records (including ledgers, books, and original evidence of costs) as are necessary to fully disclose the extent of the services provided, and to furnish information about payments claimed, as the State may from time to time request.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House provision. It is the expectation of the conferees that States will respond to the needs of the chronically mentally ill. For this purpose, State MediGrant plans will provide under section 2139(c) quality assurance programs for individuals with chronic mental illness. For this purpose, chronic mental illness shall be defined through diagnosis, disability, and duration and shall include disorder with psychotic symptoms, such as schizophrenia, schizoaffective disorder, manic depression disorder, and autism, as well as severe forms of other mental disorders, such as major depression, panic disorder, and obsessive compulsive disorder.

PART E—ESTABLISHMENT AND AMENDMENT OF STATE PLANS

SUBMITTAL AND APPROVAL OF PLANS (SEC. 2151 OF MEDIGRANT; SEC. 2151 OF MEDICAID)

House bill

States would be required to submit to the Secretary a MediGrant plan that meets the requirements of Title XXI. A State with a Title XXI fiscal year 1996 allotment of more than $10 billion would be required to have specific authorization of its State legislature to submit a plan. Unless the Secretary found that a plan substantially violated the requirements of Title XXI, the plan would be approved and would be effective beginning with the calendar quarter specified in the plan, but no earlier than the first calendar quarter that begins at least 60 days after the plan is submitted.

Senate amendment

Similar provision.

Conference agreement

The conference agreement follows the Senate provision.

SUBMITTAL AND APPROVAL OF PLAN AMENDMENTS (SEC. 2152 OF MEDIGRANT; SEC. 2152 OF MEDICAID)

House bill

A State would be permitted to submit an amendment to its MediGrant plan at any time. However, any amendment that would eliminate or restrict eligibility or benefits under the plan could not take effect before it was transmitted to the Secretary, unless there was prior or contemporaneous public notice of the change, as provided under State law. Nor could it be effective for longer than a 60-day period unless the amendment had been transmitted to the Secretary before the end of the period. Any other amendment could not remain in effect after the end of a State fiscal year (or if later, the end of the 90-day period on which it becomes effective) unless the amendment had been transmitted to the Secretary. These requirements would not apply to an amendment submitted on a timely basis in response to an order of a court or the Secretary.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House provision.

PROCESS FOR STATE WITHDRAWAL FROM PROGRAM (SEC. 2153 OF MEDIGRANT)

House bill

A State could rescind its plan and discontinue participation in the program at any time after providing 90 days prior notice to the public and to the Secretary. Such discontinuation would not apply to Federal payments to States for expenditures made for items and services furnished under the plan before the effective date of the discontinuation.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House provision.

SANCTIONS FOR SUBSTANTIAL NONCOMPLIANCE (SEC. 2154 OF MEDIGRANT; SEC. 2153 OF MEDICAID)

House bill

The Secretary would be required to review promptly MediGrant plans and plan amendments to determine if they substantially comply with requirements. If the Secretary determined that a plan or plan amendment substantially violated the requirements and, within 30 days of submittal, provided written notice to the State, the Secretary would be required to issue an order specifying that the plan or amendment would not be effective at the end of the 30-day period (or 120 days in the case of the initial submission of the MediGrant plan). Before making such a determination, the Secretary would be required to consult with the State and consider any clarifications and additional information submitted. The Secretary would be required to explain and justify any determination inconsistent with any previous determination. A plan or amendment would be considered to substantially violate a requirement if a provision were material and substantial in nature and effect, and were inconsistent with an express requirement. Failure to meet a strategic objective or performance goal would not be considered a substantial violation. A State could appeal the Secretary's determination through administrative and judicial procedures.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House provision with an amendment that provides for a process by which individuals may register complaints with the Secretary. It is the intent of the Conferees that the appropriate committees of Congress hold oversight hearings in cases where States fail to respond to notifications by the Secretary under section 2154(g).

The conference agreement also includes in section 2154(c) a provision stating that only the Secretary, in accordance with this Title, may compel a State under federal law to comply with the provisions of this Title and that no other cause of action may be filed under federal law against a State.

SECRETARIAL AUTHORITY (SEC. 2155 OF MEDIGRANT; SEC. 2154 OF MEDICAID)

House bill

The Secretary would be permitted to negotiate a satisfactory resolution to any dispute concerning the approval of a plan or the compliance of a plan. The Secretary would be prohibited from delegating authority for approval of plans other than to the Administrator of the Health Care Financing Administration. The Administrator would be prohibited from making any further delegation of such authority. The Secretary would be required to administer the program only through a prospective formal rulemaking process, including issuing notices of proposed rule making, publishing proposed rules or modifications to rules in the Federal Register, and soliciting public comment.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House provision.

PART F—GENERAL PROVISIONS

DEFINITIONS (SEC. 2171 OF MEDIGRANT; SEC. 2171 OF MEDICAID)

House bill

"Medical assistance" would be defined as including an extensive list of services similar to those specified under current law, and, in addition, enabling services to increase accessibility to primary and preventive services. "Eligible low-income individual" would mean an individual who has been determined eligible by the State and whose family income does not exceed a percentage specified in the plan that is not greater than 300% of the poverty line. In determining income, States would be permitted to exclude costs incurred for medical care. "Medicare cost sharing" would include Medicare premiums, coinsurance, and deductibles. Definitions of child, pregnant woman, and poverty line would be the same as in current law.

Senate amendment

Similar provision. "Eligible low-income individual" would be defined as an individual who had been determined eligible by the State and whose family income did not exceed a percentage that was specified in the plan and was not greater than 250% of the poverty line. In determining income, States would be permitted to exclude costs incurred for medical care. The term "retirement age" would have the same meaning as in section 216(l)(1) of the Social Security Act.

Conference agreement

The conference agreement follows the House provision with amendments including provisions relating to home and community-based health care and supportive services, nursing care services, abortion and assisted suicide, and the definitions of "low-income individuals" and an "elderly individual."

It is the Committee's intention that the definition of "medical assistance" shall include services provided by a Christian Science sanatorium (nursing facility) and a Christian Science visiting nurse organization, listed and certified by The First Church of Christ, Scientist, in Boston, Massachusetts, or the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., and services provided in a home setting by a Christian Science nurse listed in the Christian Science Journal.

TREATMENT OF TERRITORIES (SEC. 2172 OF MEDIGRANT; SEC. 2172 OF MEDICAID)

House bill

The Secretary's waiver authorization would be extended to include Puerto Rico, Guam, and the Virgin Islands.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House provision. .

DESCRIPTION OF TREATMENT OF INDIAN HEALTH SERVICE FACILITIES (SEC. 2173 OF MEDIGRANT; SEC. 2173 OF MEDICAID)

House bill

In a State in which there is at least one Indian Health Service facility, the MediGrant plan would have to describe (1) what provision, if any, has been made for payment of items and services furnished by the facilities, and (2) how medical assistance will be provided to eligible Indians, as determined by the State in consultation with appropriate Indian tribes and tribal organizations. For services provided to Indians, the Federal matching rate to state Medicaid programs would be 100%.

Senate amendment

In a State in which there is at least one Indian Health Service facility, the State would have to describe (1) what provision, if any, has been made for payment of items and services furnished by the facilities, and (2) how medical assistance will be provided to eligible Indians, as determined by the State in consultation with appropriate Indian tribes and tribal organizations.

Conference agreement

The conference agreement follows the House provision.

APPLICATION OF CERTAIN GENERAL PROVISIONS (SEC. 2174 OF MEDIGRANT; SEC. 2174 OF MEDICAID)

House bill

The proposal would clarify that certain sections of Title XI would apply to MediGrant.

Senate amendment

Similar provision.

Conference agreement

The conference agreement follows the House bill.

REQUIREMENTS FOR MANUFACTURERS OF OUTPATIENT PRESCRIPTION DRUGS (SEC. 2175 OF MEDIGRANT; SEC. 2175 OF MEDICAID)

House bill

The House bill retains the current law Federal drug rebate program, with modifications.

Senate amendment

Similar provision with a provision prohibiting states from imposing supplemental rebates. The Senate amendment also would require the Secretary to establish a Medicaid Drug Rebate Program Task Force to study whether the Medicaid drug rebate program should be retained or repealed. By October 1, 1998 the Task Force would have to report its study results to the Secretary who would transmit the report to the Senate Committees on Finance and Aging and the House Committee on Commerce.

Conference agreement

The conference agreement follows the House provision, with the Senate amendment for supplemental rebates.

OTHER PROVISIONS (SEC. 16002 OF HOUSE BILL; SEC. 7191 OF SENATE AMENDMENT)

House bill

Effective on the date of enactment, Title XIX would cease to be an entitlement program for individuals and Federal obligations to States would be limited to statutory obligation allotments for fiscal year 1996. The Secretary would be prohibited from entering into any obligation with a State for expenses incurred on or after the earlier of October 1, 1996, or the first day the State's plan under Title XXI was effective. A State that submitted claims for payment under Title XIX after the date of enactment would be deemed to have accepted the obligation limitation. State's claims for obligations incurred before the date of enactment would have to be submitted for payment by June 30, 1996.

Any cause of action that required a State to establish or maintain minimum payment rates under Title XIX that was not final as of the date of enactment would not be continued. For any payment made under Title XIX before October 1, 1995, for which disallowance was not taken or not completed by that date, the Secretary would be required to discontinue the disallowance proceeding. If the disallowance had been taken as of the date of enactment, the Secretary would be required to rescind any effected payment reductions and return payments to the State.

Any judicial or administrative decision applied to a State's Medicaid program under Title XIX would not apply to the State's MediGrant plan under Title XXI.

The Vaccines for Children program would be repealed effective on the date of enactment. Although the repeal would not affect the distribution of vaccines purchased and delivered before enactment, no further vaccine purchases could be made under any Title XIX contract.

A MediGrant plan under title XXI would be added to the term "State health care program." The role of the Inspector General under Title XIX would continue under Title XXI.

The bill would extend the existing waiver for the Dayton Area Health Plan to the last day of the last calendar quarter in which Ohio has a Title XIX Medicaid plan in effect.

Senate amendment

Similar provision, with a provision increasing medical assistance funding to Puerto Rico to $200 million for fiscal year 1996.

Conference agreement

The conference agreement follows the House provision.

The Conferees would like to make special note of the repeal of the Vaccines for Children (VFC) program. The Clinton Administration developed a universal government vaccine purchase program (modified before enactment) based on the premise that cost was the most significant barrier to childhood immunization. It also used out-of-date data showing that immunization rates were very low. However, numerous Congressional witnesses and a June, 1995 General Accounting Office (GAO) report have contradicted these basic premises. GAO stated that there is insufficient evidence to conclude that the cost of vaccine has been a barrier to timely immunization. GAO found that 95 percent of the nation's children are vaccinated by school age, and that immunization rates for preschool children even before VFC were at or near the 90 percent national goals for 1996. GAO found that more important barriers to full immunization resulted from missed opportunities at health clinics and private providers' offices, lack of parental and provider understanding, less than optimal hours and organization.

GAO also has documented that the Secretary and the Centers for Disease Control have grossly mismanaged the program since its inception. In repealing Section 1928, the Conferees intend that all contracting authority under Section 1928 is terminated. Contracts currently in effect were negotiated under the authority granted to the Secretary under Section 1928 of the Social Security Act and Section 317 of the Public Health Service Act and will continue to their conclusion pursuant to authority under Section 317. With respect to subsequent contracts under Section 317, all procedures and requirements for purchase and delivery of vaccine will revert to those in place prior to enactment of Section 1928.

The Conferees understand that CDC has made representations to the states that federal reimbursement is available for distribution of vaccines pursuant to Section 1928(d). To avoid wastage of vaccine, any products already purchased and delivered to the states, and for which the state has a distribution contract in effect on the date of enactment, shall be eligible for reimbursement for such distribution.

WAIVERS (SEC. 7193 OF SENATE AMENDMENT)

House bill

No provision.

Senate amendment

At State option, Medicaid waivers granted under section 1115 of the Social Security Act and implemented as of Sept. 1, 1995, could be continued or terminated.

Conference agreement

The conference agreement does not include the Senate amendment.

CHILDREN WITH SPECIAL HEALTH CARE NEEDS (SEC. 7194 OF SENATE AMENDMENT)

House bill

No provision.

Senate amendment

The Secretary would be required to develop a classification system to identify children with special health needs not later than 18 months after enactment. Upon completion of the system, the Secretary would be required to make grants to up to 5 States for 5-year demonstration projects to test the reliability and validity of the system, develop methods of assuring quality care, and provide for initial methods for identifying children with special health care needs. For each of fiscal years 1997–2001, $2 million would be authorized to be appropriated for demonstration projects.

Conference agreement

The conference agreement does not include the Senate amendment.

CBO REPORTS (SEC. 7195 OF SENATE AMENDMENT)

House bill

No provision.

Senate amendment

The Congressional Budget Office would be directed to prepare an annual analysis of the effects of Title XXI on the health insurance status of children, the elderly, and the disabled and report to the Senate Finance Committee and the House Commerce Committee by May 15 of each year.

Conference agreement

The conference agreement does not include the Senate amendment.

ADJUSTMENT OF POOL AMOUNTS (SEC. 7196 OF SENATE AMENDMENT)

House bill

No provision.

Senate amendment

The Senate amendment adjusts the pool amounts under the Medicaid distribution formula for fiscal years 1996, 1997, 2000, and 2001.

Conference agreement

The conference agreement does not include the Senate amendment.

STATE REVIEW OF MENTALLY ILL OR RETARDED NURSING FACILITY RESIDENTS UPON CHANGE IN PHYSICAL OR MENTAL CONDITION (SEC. 7197 OF SENATE AMENDMENT)

House bill

No provision.

Senate amendment

The Senate amendment makes modifications to nursing home reform requirements under current law.

Conference agreement

The conference agreement does not include the Senate amendment. A similar provision is included under section 2137 of the MediGrant reform plan.

NURSE AIDE TRAINING IN NURSING FACILITIES SUBJECT TO EXTENDED SURVEY UNDER CERTAIN OTHER CONDITIONS (SEC. 7198 OF SENATE AMENDMENT)

House bill

No provision.

Senate amendment

The Senate amendment makes modifications to nurse aide training requirements under current law.

Conference agreement

The conference agreement does not include the Senate Amendment. A similar provision is included under section 2137 of the MediGrant reform plan.

MEDICARE/MEDICAID INTEGRATION DEMONSTRATION PROJECT (SEC. 7199 OF SENATE AMENDMENT)

House bill

No provision.

Senate amendment

The Senate amendment requires the Secretary to conduct demonstration projects integrating Medicare and Medicaid financing and delivery of health care services for chronically ill elderly and disabled beneficiaries of both programs.

Conference agreement

The conference agreement includes the Senate amendment.

TITLE VIII—MEDICARE

SUBTITLE A—MEDICAREPLUS/MEDICARE CHOICE

1. ESTABLISHMENT OF PROGRAM (SEC. 15001 OF HOUSE BILL; SEC. 7001 OF SENATE BILL)

Current law

Persons enrolling in Medicare have two basic coverage options. They may elect to obtain services through the traditional fee-for-service system under which program payments are made for each service rendered. Under section 1876 of the Social Security Act, they may also elect to enroll with a managed care organization which has entered into a payment agreement with Medicare. Three types of managed care organizations are authorized to contract with Medicare: an entity that has a risk contract with Medicare, an entity that has a cost contract with Medicare, or a health care prepayment plan (HCPP) that has a cost contract to provide Medicare Part B services. Risk-contracts are frequently referred to as TEFRA risk contracts and cost contracts are frequently referred to as TEFRA cost contracts. TEFRA refers to the 1982 legislation, the Tax Equity and Fiscal Responsibility Act of 1982, which established the rules governing these types of contracts.

A beneficiary in an area served by a health maintenance organization (HMO) or competitive medical plan (CMP) with a Medicare risk contract may voluntarily choose to enroll in the organization. Medicare makes a single monthly capitation payment for each of its enrollees. In return, the entity agrees to provide or arrange for the full range of Medicare services through an organized system of affiliated physicians, hospitals and other providers. The beneficiary must obtain all covered services through the HMO or CMP, except in emergencies. The beneficiary may be charged the usual cost-sharing charges or pay the equivalent in the form of a monthly premium to the organization. Beneficiaries are expected to share in the projected savings through the provision of benefits in addition to that included in Medicare's benefit package.

Beneficiaries may also enroll in organizations with TEFRA cost contracts. These entities must meet essentially the same conditions of participation as risk contractors; however they may have as few as 1,500 enrollees (rather than 5,000) to qualify. Under a cost contract, Medicare pays the actual cost the entity incurs in furnishing covered services (less the estimated value of beneficiary cost-sharing). Enrollees obtain supplemental benefits by paying a monthly premium. The entity must offer a basic package (which covers all or a portion of Medicare cost-sharing charges); any additional benefits must be priced separately. (Conversely, a risk-contractor may offer just one package.) Enrollees in TEFRA cost-contract entities may obtain services outside the entity's network; however, the entity has no obligation to cover the beneficiary's cost-sharing in this case.

A third type of managed care arrangement is the HCPP. A HCPP arrangement is similar to a TEFRA cost-contract except that it provides only Part B services. Further, there are no specific statutory conditions to qualify for a HCPP contract. Some HCPPs are private market HMOs, while others are union or employer plans. HCPPs have no minimum enrollment requirements, no requirement that the plan have non-Medicare enrollees, or a requirement for an open enrollment period. Unlike TEFRA cost contractors (but like risk contractors), HCPPs may offer a single supplemental package that includes both Part B cost-sharing and other benefits; cost-sharing benefits need not be priced separately.

Any Medicare beneficiary residing in the area served by an HMO/CMP may enroll, with two exceptions. The first exception applies to beneficiaries not enrolled in Part B. The second exception applies to persons qualifying for Medicare on the basis of end-stage renal disease (ESRD); however, persons already enrolled who later develop ESRD may remain enrolled in the entity.

The HMO/CMP must have an annual open enrollment period of at least 30 days duration. During this period, it must accept beneficiaries in the order in which they apply up to the limits of its capacity, unless to do so would lead to violation of the 50 percent Medicare-Medicaid maximum or to an enrolled population unrepresentative of the population in the area served by the HMO.

TEFRA risk contractors are required to hold an additional open enrollment period if any other risk-based entity serving part of the same geographic area does not renew its Medicare contract, has its contract terminated, or has reduced its service area to exclude any portion of the service area previously served by both contractors. In such cases, the Secretary must establish a single coordinated open enrollment period for the remaining contractors. These remaining HMOs/CMPs must then accept its enrollees during an enrollment period of 30 days.

An enrollee may request termination of his or her enrollment at any time. An individual may file disenrollment requests directly with the HMO or at the local social security office. Disenrollment takes effect on the first day of the month following the month during which the request is filed. The HMO may not disenroll or refuse to re-enroll a beneficiary on the basis of health status or need for health services.

The requirement for an open enrollment period does not apply to HCPPs. These entities may deny enrollment or terminate enrollment on medical or other grounds, if in doing so they guse the same criteria for Medicare and non-Medicare enrollees. As a result, employer or union plans may restrict enrollment to covered retirees.

The Secretary is authorized to prescribe procedures and conditions under which eligible organizations contracting with Medicare may inform beneficiaries about the organization. Brochures, applications forms, or other promotional or informational material may be distributed only after review and approval by the Secretary of HHS. HMOs may not disenroll or refuse to re-enroll a beneficiary because of health status or need for health care services. HMOs must provide enrollees, at the time of enrollment and annually thereafter, an explanation of rights to benefits, restrictions on services provided through nonaffiliated providers, out-of-area coverage, coverage of emergency and urgently needed services, and appeal rights. A terminating HMO must arrange for supplementary coverage for Medicare enrollees for the duration of any preexisting condition exclusion under their successor coverage for the lesser of 6 months or the duration of the exclusion period.

House bill

a. In General. The Social Security Act would be amended by establishing a MedicarePlus program. Sec. 15001 of the bill establishes a new sec. 1805 of the Social Security Act, relating to increasing choice under Medicare. (Sec. 15001)

b. Types of Choices. Every individual entitled to Medicare Part A and enrolled under Part B could elect to receive benefits through two options: (1) the existing fee-for-service system ("the non-MedicarePlus option") or (2) through a MedicarePlus product ("the MedicarePlus option"). A MedicarePlus product could be a product offered by a provider-sponsored organization; a high deductible policy which would be coupled with a Medisave account; or a product operating on a fee-for-service, or any other basis. It also could be offered by an organization that is a union, Taft-Hartley, or association sponsor. (New sec. 1805(a))

c. Special Rules. In general, an individual would be eligible to elect a MedicarePlus product offered by a MedicarePlus organization only if the organization served the geographic area in which in the individual resided. To enroll in a product offered by a limited-enrollment MedicarePlus organization, an individual would have to be affiliated with it. In the case of a product offered by a union or Taft-Hartley sponsor, the individual would have to elect the MedicarePlus product offered by the sponsor during the first enrollment period in which the individual was eligible to make such an election. An individual would not be eligible to elect a product offered by a union or Taft-Hartley sponsor if the individual previously had elected a MedicarePlus product offered by the organization and had subsequently discontinued to elect the product. An individual eligible for an annuity under the Federal Employee Health Benefit Program would not be eligible for a high-deductible/medisave product. (New sec. 1805(b))

d. Enrollment Procedures. The Secretary would be required to establish a process for electing non-MedicarePlus or MedicarePlus coverage in an expedited manner to permit election of MedicarePlus products in an area as soon as they became available. Elections would be made (or changed) only during specified coverage election periods. An individual who wished to elect a MedicarePlus product would do so by filing an appropriate election form with the organization. Disenrollment would be accomplished the same way. An individual failing to make an election during the initial election period would be deemed to have chosen the non-MedicarePlus option. An election would continue until the individual changed elections or the MedicarePlus product was discontinued. (New sec. 1805(c))

e. Assistance. The Secretary could enter into an agreement with the Commissioner of Social Security under which the Commissioner would be responsible for the administration of enrollment and disenrollment in MedicarePlus products. (New sec. 1805(c)(5))

f. Provision of Beneficiary Information to Promote Informed Choice. The Secretary would provide for activities to disseminate broadly information to current and prospective Medicare beneficiaries on the coverage options available in order to promote an active, informed selection among such options. The information would have to be provided so as to permit individuals to elect the MedicarePlus option during an initial election period. The Secretary would be required to contract with appropriate public and private entities to carry out such activities.

The Secretary would be required to provide for at least the following in all areas in which MedicarePlus products were offered: (1) publish and disseminate an information booklet during coverage election periods, including information in standardized format and in plain English on benefits and premiums, quality (including consumer satisfaction); and beneficiary rights and responsibilities; (2) maintain a toll-free number for inquiries regarding MedicarePlus options; and (3) include information in the Medicare Handbook on the MedicarePlus option. The information booklet would have to be updated regularly. (New sec. 1805(d))

g. Coverage Election Periods. For individuals newly eligible for Medicare after the transition period, elections would occur at the first time the individual both was entitled to benefits under Part A and enrolled under Part B. The transition period would be the period beginning when a MedicarePlus product first became available in an individual's area and ending with the month preceding the beginning of the first annual coordinated election period occurring in October 1997.

During the transition period, an individual who elected to enroll in the non-MedicarePlus option could change election to a MedicarePlus option at any time. An individual in a MedicarePlus product could change election to another MedicarePlus product or the non-MedicarePlus option.

In October, 1996, the Secretary would be required to conduct a MedicarePlus Health Fair which would provide for a nationally coordinated educational and publicity campaign to inform MedicarePlus eligible persons about MedicarePlus products and the election process, including the upcoming annual, coordinated election periods that would begin in October, 1997.

After the transition period, there would be an annual coordinated election period during October of each year (beginning 1997) in which individuals could change elections. An individual who elected the MedicarePlus product option (other than the high-deductible/medisave option) for the first time could discontinue such election through the filing of an appropriate notice for up to 90 days from the enrollment's effective date. An individual who discontinued an election would be deemed to have elected the Non-MedicarePlus option.

A person who had elected a high-deductible/medisave product could not change to a MedicarePlus option that was not a high-deductible/medisave product unless the individual made such change during an annual, coordinated election period, or the individual had had such election in effect for 12 months. The high-deductible/medisave option would become first available, effective January 1, 1997. Elections for 1997 would occur during the October 1996 election period.

Special election periods would be provided in which an individual could discontinue an election of a MedicarePlus product and make a new election if: (1) the organization's or product's certification was terminated or the organization terminated or otherwise discontinued providing the product; (2) the person who elected a MedicarePlus product was no longer eligible because of a change in residence or certain other changes in circumstances; (3) the individual demonstrated that the organization offering the product violated its contract with Medicare or misrepresented the product in its marketing; or (4) the individual met other conditions specified by the Secretary. (New sec. 1805(e))

h. Effectiveness of Elections. An election made during the initial election period would become effective when the individual became entitled to Medicare benefits, except as the Secretary might provide in order to prevent retroactive coverage. During the transition an election to discontinue a Medicare Plus option would take effect with the first calendar month after the election was made. In general, after the transition, elections made during an annual election period would take effect as of the first day of the following year. Elections during other periods would take effect in the manner specified by the Secretary to protect continuity of coverage. (New sec. 1805(f))

i. Payments to Plans in Lieu of Medicare Part A and Part B Payments. Payments under a contract with a MedicarePlus organization with respect to an individual electing a MedicarePlus product offered by an organization would be instead of the amounts which would otherwise been payable under Medicare Parts A and B. (New sec. 1805(g) of the House bill)

j. Administration. These provisions would be administered through an office in the Department of Health and Human Services that was separate from the Health Care Financing Administration, and whose primary function would be administration of the MedicarePlus and Medicare managed care programs. The director of this Division would be of equal pay and rank to that of the HCFA Administrator. The Secretary would be required to transfer personnel and other resources in HCFA to the newly designated division as are used to administer the current Medicare managed care program and as might be needed to administer than program and the requirements described above. (New sec. 1805(h))

Senate bill

a. In General. The Social Security Act would be amended to add a new Part D-Medicare Choice Plans, sections 1895A-1895S. Sec. 1895A provides for definitions; sec. 1895B provides for entitlement to Medicare choices. Additional sections provide for election and enrollment procedures. (New sec. 7001)

b. Types of Choices. Every individual entitled to Medicare Part A and enrolled in Medicare Part B (except those with end stage renal disease) would be entitled to choose to receive benefits through two options: (1) through the existing (fee-for-service system ("traditional Medicare") or (2) by receiving payments toward the individual's enrollment in a Medicare Choice plan. Eligible Medicare Choice plans would include: an indemnity or fee-for-service plan; a coordinated care plan; or any other private plan for the delivery of health care. A coordinated care plan is defined as a private managed or coordinated care plan which provides health care services through an integrated network of providers including a qualified HMO, preferred provider organization plan (PPO), point-of-service plan, provider-sponsored network plan, or another coordinated care plan. A Medicare Choice plan also could be offered by a union, Taft-Hartley, or qualified association sponsor. (New sec. 1895A(b); 1895B)

c. Special Rules. In general, each Medicare choice eligible individual would be entitled to enroll in any Medicare Choice plan with a Medicare service area including the geographic area in which the individual resided. The Secretary would be required to establish special rules for enrollment of individuals in Medicare Choice plans that were union, Taft-Hartley, or association-sponsored plans. Individuals medically determined to have end stage renal disease would not be eligible to elect a Medicare Choice plan. (An individual who developed ESRD while enrolled in a Medicare Choice plan could continue to be enrolled in that plan.) By Dec. 31, 1999, the Secretary would be required to submit to Congress recommendations on expanding the definition of"Medicare Choice eligible individual"to include individuals with ESRD and the enrollment of such individuals in Medicare Choice plans. (New sec. 1895A(c)(2)(B) and 1895D(6))

d. Enrollment Procedures. Medicare Choice eligible individuals would enroll in any Choice plan serving the area in which they resided during (1) the annual open enrollment period; or (2) any specified other enrollment period that applied to the individual. Each eligible individual desiring to enroll or terminate enrollment would be required to provide the Secretary with notice during the enrollment period. To the extent feasible, the Secretary would be required to provide for the receipt of such notice by telephone, through the mail, and in person at local Social Security offices. The Secretary would be required to promptly provide each Choice plan with notice of an individual's enrollment or disenrollment. (New sec. 1895C(a) and 1895C(b))

e. Assistance in Enrollment Process. The Secretary would be authorized to enter into an agreement with the Commissioner of Social Security under which the Commissioner would perform administrative responsibilities relating to enrollment and disenrollment. (New sec. 1895C(e))

f. Provision of Information to Beneficiaries. By September 30 of each year after 1995, the Secretary would be required to mail a notice of eligibility to each Medicare Choice eligible individual and each individual entitled to benefits under Part A prior to the end of the annual open enrollment period. The Secretary would be required to mail a notice of eligibility to individuals who become newly eligible for Medicare Choice during additional enrollment periods no later than 2 months before their eligibility. The required notice and materials sent by the Secretary would have to include an informational brochure. Such information would have to be written in the most easily understandable manner possible and would have to include at least general information about coverage during the next year, including: (1) the Part B premium rates, (2) the deductible, copayment, and coinsurance amounts for coverage under traditional Medicare, (3) a description of the coverage under traditional Medicare and any changes in its coverage from the prior year, (4) a description of the individual's Medicare payment area, and the standardized per person Medicare payment amount; (5) information and instructions on how to enroll in a Medicare Choice plan, (6) the right of each Medicare Choice plan sponsor by law to terminate or refuse to renew its contract and the effect such termination could have on an enrollee, and (7) to the extent available, quality indicators for traditional Medicare and each Choice plan, including for the latter, disenrollment rates for the previous 2 years and information on satisfaction and health outcomes.

In addition, plan specific information would be required including: (1) the plan's Medicare service area; (2) the enrollee's rights to benefits under the plan, (including covered items and services and enrollee cost-sharing responsibilities); (3) the extent to which enrollees could select providers of their choice from within or outside the plan's network (if applicable) and the restrictions (if any) on the plan's payment for services furnished to enrollees by other than the plan's participating providers; (4) out-of-area coverage; (5) coverage of emergency services and urgently needed care; (6) enrollee appeal rights; (7) whether the plan was out of compliance with any Medicare Choice requirements; (8) the plan's premium price and an indication of the difference between the price and the standardized Medicare payment amount; and (9) any optional supplemental coverage available and its price. The Secretary could require additional information if he or she determined it would assist the individual's enrollment decision. To the maximum extent feasible, the Secretary would be required to contract with appropriate non-Federal entities to assist in providing notice and informational materials to Medicare Choice eligible individuals. (New sec. 1895C(c); 1895C(d); 1895C(e)(2))

g. Coverage Election Periods. Medicare Choice eligible individuals would enroll in any Choice plan serving the area in which they resided during (1) the annual open enrollment period; or (2) any other enrollment period that applied to the individual. With exceptions, an individual could not terminate enrollment before the next annual open enrollment period applicable to the individual. An individual could terminate enrollment if: (1) the individual moved to a new Medicare service area, or (2) the individual had experienced a qualifying event (as determined by the Secretary). An individual could terminate enrollment if the plan failed to meet quality or capacity standards or for other causes as determined by the Secretary.

After initial enrollment in a plan, an individual could terminate enrollment within 90 days and enroll in another Medicare Choice plan or traditional Medicare.

If an individual was enrolled in a Medicare Choice plan and failed to provide the Secretary with notice of his or her enrollment or disenrollment during any open enrollment period applicable to the individual, the individual would be deemed to have reenrolled in the plan.

Each Medicare Choice plan sponsor would be required to offer an annual open enrollment period in November of each year for the enrollment and termination of enrollment of Medicare choice eligible individuals for the next year. Each plan sponsor would be required to accept the enrollment of an individual in the plan: (1) during an initial Medicare enrollment period specified in section 1837 of existing law (relating to Medicare enrollment periods); and (2) during the period specified by the Secretary following any termination of the enrollment of the individual in a Medicare Choice plan. (New sec. 1895D(b); 1895(G)(b))

h. Effectiveness of Elections. An election during the annual open enrollment period would become effective for the calendar year following the open enrollment period. An individual enrolling in a special election period would be enrolled in the plan for the portion of the calendar year on or after the date on which the enrollment became effective (as specified by the Secretary). Except as specified above, an individual could not terminate enrollment before the next annual open enrollment period. (New sec. 1895D(b))

i. Payments to Plans in Lieu of Medicare Part A and Part B Payments. Payments under a contract to a Medicare Choice plan and any rebates (as described below) would be instead of the amounts which would have otherwise been payable under traditional Medicare for items and services furnished to individuals enrolled with the plan. (New sec. 1895D(c).

j. Administration. No provision.

Conference agreement

The conference agreement follows the House provision with modifications.

Section 8001 of the conference agreement would amend the Social Security Act to include a new Part C, new sections 1851 through 1859. New section 1851 includes provisions relating to: (a) choice of plans; (b) special rules, (c) providing information to promote informed choice, (d) coverage election periods, (e) effectiveness of elections, (f) guaranteed issue and renewal, (g) approval of marketing materials, (h) effect of election of MedicarePlus plan option, and (i) administration. (This represents a reordering of provisions in the House bill.)

With respect to types of choices, every MedicarePlus eligible individual could elect to receive benefits through FFS Medicare or through enrollment in a MedicarePlus plan which would include: (1) a coordinated care plan, including an HMO and PPO; (2) a combination of high deductible plan and contributions to a High-Deductible Medicare MSA; (3) plans offered by a PSO; (4) union, Taft-Hartley, or qualified association plan; (5) a fee-for-service plan that reimburses hospitals, physicians, and other providers on the basis of a privately determined fee schedule; and (6) other health care plans.

With respect to special rules, individuals medically determined to have ESRD would not be eligible to elect MedicarePlus, except that an individual who developed ESRD while enrolled could continue in that plan.

It is the intent of the conferees that not later than December 31, 1999, the Secretary would submit to Congress recommendations on expanding the definition of"MedicarePlus eligible individual"to include individuals with ESRD and the enrollment of such individuals in the MedicarePlus plans.

In the case of an individual who was enrolled with a coordinated care plan that offers a point-of-service option and who moved to an area outside the plan's service area, the Secretary would have to provide for continued enrollment with the plan.

An individual who was enrolled in the Federal Employees Health Benefit Plan would not be eligible to enroll in a high deductible plan until such time as the Director of the Office of Management and Budget certified to the Secretary that the Office of Personnel Management had adopted policies which would ensure that the enrollment of such individuals in such plans would not result in increased expenditures for the Federal Government for health benefit plans.

With respect to the provision of beneficiary information, the Secretary would be required to provide information directly to current and prospective Medicare beneficiaries on the MedicarePlus plans. First, at least 15 days before the beginning of each annual open enrollment period, the Secretary would be required to mail to each MedicarePlus eligible individual residing in an area a notice containing:

(1) General election information and information about the Medicare fee-for-service program;

(2) A list of plans and comparison of plan ;

(3) The Federal contribution amount with respect to the enrollment of the individual under a MedicarePlus plan;

(4) Additional information that the Secretary determined would assist in the individual's selection.

The mailing of such information would be coordinated with the mailing of the annual notice specified elsewhere in the bill.

Second, to the extent practicable and no later than 2 months before the beginning of the initial enrollment in Medicare, the Secretary would be required to mail the above described information to the individual. It would have to be written and formatted in the most easily understandable manner possible. The general election and plan information would have to be updated on at least an annual basis to reflect changes in MedicarePlus plans and the benefits and premiums for such plans. The conference agreement specifies the required elements of the general election information and information about the Medicare fee-for-service program and the information comparing plan options.

The MedicarePlus organizations would be required to provide to the Secretary the information on the organization and the plan it offered as the Secretary needed to meet these information requirements.

A MedicarePlus organization would be required to disclose, in a clear, accurate, and standarized form to each enrollee with a MedicarePlus plan offered by the organization under this part at the time of the enrollment and at least annually thereafter, the following information regarding the plan: (1) service area, (2) benefits, (3) out-of-area coverage, (4) emergency coverage, (5) optional supplemental coverage, (6) prior authorization rules, (7) plan grievance procedures, and (8) the quality assurance program.

With respect to coverage election periods, the conference agreement modifies the special 90-day disenrollment option in the House provision. In the case of the first time an individual elected any MedicarePlus plan (other than a high deductible plan) offered by a particular MedicarePlus organization, the individual could disenroll within the first 90 days but the disenrollment option would apply only once for an individual with respect to any particular MedicarePlus organization and could not apply more than twice for any individual in a calendar year. The individual could elect a new option, or in the absence of such an election, would be deemed at the time of disenrollment to have elected the fee-for-service Medicare option.

With respect to payments to plans in lieu of Medicare Part A and Part B payments, the conference agreement clarifies that only the MedicarePlus organization would be entitled to receive Medicare payments from the Secretary for services furnished to the individual.

2. LICENSING AND FINANCIAL REQUIREMENTS FOR MEDICAREPLUS/MEDICARE CHOICE PLANS (SEC. 15002 OF THE HOUSE BILL; SEC 7001 OF THE SENATE BILL)

Current law

Under section 1876 of the Social Security Act, Medicare specifies requirements to be met by an organization seeking to become a managed care contractor with Medicare. In general, these include the following: (1) the entity must be organized under the laws of the State and be a Federally qualified HMO or meet specified requirements (provide physician, inpatient, laboratory, and other services, and provide out-of-area coverage); (2) the organization is paid a predetermined amount without regard to the frequency, extent, or kind of services actually delivered to a member; (3) the entity provides physicians' services primarily through physicians who are either employees or partners of the organization or through contracts with individual physicians or physician groups; (4) the entity assumes full financial risk on a prospective basis for the provision of covered services, except that it may obtain stop loss coverage and other insurance for catastrophic and other specified costs; and (5) the entity has made adequate protection against the risk of insolvency.

There is no provision under current law for high deductible/medisave products.

House bill

a. In General. The Social Security Act would be amended to create a new Part C.—Provisions Relating to MedicarePlus Organizations; High Deductible/Medisave Products. (Sec. 15002 which establishes new sec. 1851 through 1858 of the Social Security Act)

b. Entity Defined. A MedicarePlus organization would be defined as a public or private entity certified (as described below) as meeting the requirements described in the following provisions. (New sec. 1851(a))

c. Organized and Licensed Under State Law. In general, a MedicarePlus organization would have to be organized and licensed under State law to offer health insurance or health benefits coverage in each State in which it offered a MedicarePlus product. This would not apply to a union or Taft-Hartley sponsor, a qualified association, or a provider-sponsored organization (PSO). (New sec. 1851(b))

d. Prepaid Payment. A MedicarePlus organization would have to be compensated (except for deductibles, coinsurance, and copayments) by a fixed payment paid on a periodic basis and without regard to the frequency, extent, or kind of health care services actually provided to an enrollee. (New sec. 1851(c))

e. Assumption of Full Financial Risk. The organization would have to assume full financial risk on a prospective basis for the provision of health services (other than hospice care) except the organization could obtain insurance or make other arrangements for: stop-loss coverage for aggregate costs in excess of $5,000; services needing to be provided other than through the organization; and for no more than 90 percent of the amount by which its costs for any of its fiscal years exceeded 115 percent of its income for such year. It could also make arrangements with providers or health institutions to assume all or part of the risk on a prospective basis for the provision of basic services. This requirement would not apply to a union or Taft-Hartley sponsor, or a qualified association with respect to MedicarePlus products offered by such organization and issued by an organization required to be organized and licensed under State law or by a provider-sponsored organization (PSO). (New sec. 1851(d))

f. Provision Against Risk of Insolvency. Each MedicarePlus organization would have to meet standards relating to financial solvency and capital adequacy, as specified below. An entity that is a union or Taft-Hartley plan would be deemed to meet this requirement. Additionally, a qualified association would also be deemed to meet this requirement with respect to MedicarePlus products if the product offered by the association and issued by an organization was one that was organized and licensed under State law or was a provider-sponsored organization (PSO). (New sec. 1851(e))

g. High Deductible/Medical Saving Account Definition. The bill authorizes a Medisave option within MedicarePlus. A Medisave plan combines high deductible insurance with a medical savings account. High deductible insurance would provide reimbursement for Medicare benefits and others the plan may elect to provide only after the enrollee incurred annual expenses equal to a deductible of not greater than $10,000. These thresholds would be increased yearly (and rounded to the nearest $50) by the percentage increase in the national average per capita growth rate (described below). For purposes of the deductible, the insurance would have to at a minimum count all expenses that would have been payable by Medicare and the enrollee under parts A and B. After the deductible was met, the insurance would have to reimburse all expenses that would have been paid without regard to deductibles or coinsurance under parts A and B. (New sec. 1851(f))

h. Organizations Treated as MedicarePlus/Medicare Choice Plans During Transition. Certain organizations would be considered qualified as MedicarePlus organizations for contract years beginning before January 1, 1998. These include:

HMOs organized under State law that are qualified under the Public Health Service Act; an organization that is recognized under State law as an HMO; or a similar organization regulated for solvency in the same manner and extent as an HMO.

Organizations that are organized under State laws and are licensed by a State agency as a health insurer or as a service benefit plan, but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage; and

Organizations with Medicare risk contracts as of the date of enactment. (New sec. 1851(g))

i. Medigrant Demonstration Projects. The Secretary would be required to provide, in at least 10 States, for demonstration projects which would permit Medigrant programs under title XXI of the Social Security Act (Medicaid) to be treated as MedicarePlus organizations for individuals who are qualified to elect the MedicarePlus option and who are eligible to receive medical assistance under Medigrant. The purpose of such projects would be to demonstrate the delivery of primary, acute, and long-term care through an integrated delivery network which emphasized noninstitutional care. (New sec. 1851(h))

Senate bill

a. In General. The Social Security Act would be amended to create a new Part D-Medicare Choice Plans. New sections 1895A through 1895S would be added, including provisions establishing licensing and financial requirements for Medicare Choice plans. (New secs. 1895A and 1895I of Senate bill)

b. Entity Defined. A Medicare Choice plan would be defined to mean an eligible health plan with respect to which there was a contract in effect with Medicare to provide health benefits coverage to Medicare Choice eligible individuals. A Medicare Choice plan sponsor would be defined as a public or private entity which established or maintained a Medicare Choice plan. (New sec. 1895A(a))

c. Organized and Licensed Under State Law. In general, a Medicare Choice plan would be required to be organized and licensed under applicable State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which a Medicare Choice plan enrolled individuals under this part. This would not apply to a union, Taft-Hartley, or association plan if the plan were exempt from State law requirements under ERISA. The requirement would apply to coordinated care plans except to the extent that such plans were subject to the temporary Federal certification process described below. (New sec. 1895I)

d. Prepaid Payment. A Medicare Choice plan would be compensated (except for deductibles, coinsurance, and copayments) by a fixed payment paid by the Secretary (and, where appropriate, the individual) on a periodic basis and without regard to the frequency, extent, or kind of health care service actually provided to the enrollee. In the event that a Medicare enrollee in a Medicare Choice plan received additional benefits as a result of a national coverage determination or due to overlapping periods of coverage, only the plan sponsor would be entitled to receive payments from the Secretary for services furnished to the individual. (New sec. 1895I(d))

e. Assumption of Full Financial Risk. The Medicare Choice plan sponsor would have to assume full financial risk on a prospective basis for the provision of health services except the sponsor could obtain insurance or make other arrangements for: stop-loss coverage for aggregate costs in excess of $5,000; services needing to be provided other than through the plan sponsor; and for no more than 90 percent of the amount by which its costs for any of its fiscal years exceeded 115 percent of its income for such year. It could also make arrangements with providers or health institutions to assume all or part of the risk on a prospective basis for the provision of basic services. (New sec. 1895I(b))

f. Protection Against Risk of Insolvency. A Medicare Choice plan would be required to make adequate protection against the risk of insolvency (including provision to prevent enrollees from being held liable to any person or entity for the plan sponsor's debts in the event of the plan sponsor's insolvency) as determined by the Secretary, or as determined by a State which the Secretary determined requires solvency standards at least as stringent as those set by the Secretary. In establishing solvency standards for coordinated care plans, the Secretary would be required to consult with interested parties and take into account: (1) a coordinated care plan sponsor's delivery system assets and its ability to provide services directly to enrollees through affiliated providers, and (2) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, and partnerships with other licensed entities.

The Secretary would not be required to include the alternative means described above but could consider such alternatives where consistent with the standards. (New sec. 1895I(c))

g. High Deductible/Medical Savings Account Definition. No provision.

h. Organizations Treated as MedicarePlus/Medicare Choice Plans During Transition. No provision (but see new sec. 1895R(e) for treatment of plans that could be considered Federally certified under temporary Federal certification process for coordinated care plans).

i. Medigrant Demonstration. No provision.

Conference agreement

The conference agreement follows the House provision with modifications:

With respect to the requirement that a entity be organized and licensed under State law, the conference agreement provides that a MedicarePlus organization would be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offered a MedicarePlus plan. The exception for certain union and Taft-Hartley sponsors would apply if the plan was exempt from State law requirements under ERISA.

An exception to the general requirement that a MedicarePlus plan be organized and licensed in a State would apply if the State required that the organization, as a condition of licensure, to offer any product or plan other than a MedicarePlus plan. In addition, an exception would apply in cases of unreasonable barriers to market entry. The conference agreement would provide for a MeicarePlus organization to apply to the Secretary for a waiver of the requirement, and specifies the standard on which the Secretary would determine whether to grant the waiver and the timing for doing so.

Special rules for PSOs would apply. In general, a PSO that sought to offer a MedicarePlus plan in a State could apply for a waiver of the State organization and licensure requirement for an organization in that State. The Secretary would be required to act on the application within 60 days after it was filed and would grant a waiver for an organization with respect to a State if the Secretary determined that:

(1) the State had failed to substantially complete action on a licensing application within 90 days of the receipt of a completed application, or

(2) the State denied such a licensing application and (a) the State's licensing standards or review process imposed any requirements, procedures, or other standards on such organizations that were not generally applicable to any other entities engaged in substantially similar business; (b) such standards or review process applied solvency standards and the State did not have approval to do so; and (c) the State used solvency standards to deny or discriminate against such an organization that had been provided a Federal certificate of solvency (as provided for in this bill). No period before the date of enactment could be included in determining the 90 day period described above.

In the case of a waiver granted under this paragraph for a PSO:

(1) the waiver would be effective for a 36-month period except it could be renewed based on a subsequent application filed during the last 6 months of such period;

(2) the waiver would be conditioned upon the pendency of the licensure application during the period the waiver was in effect; and

(3) any provision of State law related to the licensing of the organization and which prohibited the organization from providing coverage pursuant to a MedicarePlus contract would be preempted.

In the case of a waiver granted for a PSO, any provision of State law which related to the licensing of the organization and which prohibited the organization from providing coverage under a MedicarePlus contract would be superseded.

It is the intent of the conferees that nothing in this section restricts the ability of a State to operate a hospital reimbursement system recognized under section 1814(b) of the Social Security Act or to require payments by PSOs to be made on the basis of such system.

With respect to assumption of full financial risk, the conference agreement clarifies that a MedicarePlus organization would not have to accept full financial risk for hospice care. However, MedicarePlus organizations would have the option of assuming full financial risk as under current law.

The conference agreement includes an amendment relating to solvency requirements for PSOs. In the case of an entity that was a PSO operating in an approved State (as described below), the organization would have to meet solvency standards through licensure by the State. In the case of an entity that was a PSO operating in a State that had not been approved, then the organization would be required to meet solvency standards through application and certification licensure by the Secretary. The Secretary would be required to establish a process under which a State could apply to the Secretary for a determination that the State was applying to PSOs, through its process for licensing PSOs, solvency standards that were consistent with the solvency standards established below (see sec. 1856(c)). The Secretary would be required to approve such a State if he or she determined that the State was applying the standards. If the Secretary denied approval, the State could reapply for a determination. The Secretary would be required to publish a list of States that were approved.

The conference agreement modifies the definition of the high deductible plan. For the contract year 1997, the deductible could be no more than $6,000.

The conference agreement does not include the Medigrant Demonstration Projects. However, it is the intent of the conferees that the Secretary provide, in at least 10 States, for demonstration projects which would permit Medigrant programs under title XXI of the Social Security Act (Medicaid) to be treated as MedicarePlus organizations for individuals who are qualified to elect the MedicarePlus option and who are eligible to receive medical assistance under Medigrant. The purpose of such projects would be to demonstrate the delivery of primary, acute, and long-term care through an integrated delivery network which emphasized noninstitutional care.

3. REQUIREMENTS RELATING TO BENEFITS, PROVISION OF SERVICES, ENROLLMENT,AND PREMIUMS (NEW SEC. 1852 OF HOUSE BILL; NEW SEC. 1895A, 1895C, 1895D, 1895G, 1895H, 1895J, 1895N, 1895R OF SENATE BILL)

Current law

Section 1876 provides for requirements relating to benefits, payment to the plans by Medicare, and payments to the plans by beneficiaries. In addition, it specifies standards for patient protection, quality assurance, and general contractor requirements.

A Medicare beneficiary enrolled in an HMO/CMP is entitled to receive all services and supplies covered under Medicare Parts A and B (or Part B only, if only enrolled in Part B). These services must be provided directly by the organization or under arrangements with the organization. Enrollees in risk-based organizations are required to receive all services from the HMO/CMP except in emergencies.

In general, HMOs/CMPs offer benefits in addition to those provided under Medicare's benefit package. In certain cases, the beneficiary has the option of selecting the additional benefits, while in other cases some or all of the supplementary benefits are mandatory.

Some entities may require members to accept additional benefits (and pay extra for them in some cases). These required additional services may be approved by the Secretary if it is determined that the provision of such additional services will not discourage enrollment in the organization by other Medicare beneficiaries.

The amount an HMO/CMP may charge for additional benefits is based on a comparison of the entity's adjusted community rate (ACR, essentially the estimated market price) for the Medicare package and the average of the Medicare per capita payment rate. A risk-based organization is required to offer "additional benefits" at no additional charge if the organization achieves a savings from Medicare. This "savings" occurs if the ACR for the Medicare package is less than the average of the per capita Medicare payment rates. The difference between the two is the amount available to pay additional benefits to enrollees. These may include types of services not covered, such as outpatient prescription drugs, or waivers of coverage limits, such as Medicare's lifetime limit on inpatient hospital care. The organization might also waive some or all of the Medicare's cost-sharing requirements.

The entity may elect to have a portion of its "savings" placed in a benefit stabilization fund. The purpose of this fund is to permit the entity to continue to offer the same set of benefits in future years even if the revenues available to finance those benefits diminish. Any amounts not provided as additional benefits or placed in a stabilization fund would be offset by a reduction in Medicare's payment rate.

If the difference between the average Medicare payment rate and the adjusted ACR is insufficient to cover the cost of additional benefits, the HMO/CMP may charge a supplemental premium or impose additional cost-sharing charges. If, on the other hand, the HMO does not offer additional benefits equal in value to the difference between the ACR and the average Medicare payment, the Medicare payments are reduced until the average payment is equal to the sum of the ACR and the value of the additional benefits.

For the basic Medicare covered services, premiums and the projected average amount of any other cost-sharing may not exceed what would have been paid by the average enrollee under Medicare rules if she or he had not joined the HMO. For supplementary services, premiums and projected average cost-sharing may not exceed what the HMO would have charged for the same set of services in the private market.

HMOs/CMPs contracting with Medicare can pay second to workers' compensation, automobile liability or other specified sources of insurance.

Current law also provides for Medicare managed care contracts with Health care Prepayment Plans (HCPPs). A HCPP arrangement is similar to a TEFRA cost-contract except that it provides only Part B services. There are no specific statutory conditions to qualify for a HCPP contract.

Collectively bargained health plans and those sponsored by private multiemployer health plans (most of which are Taft-Hartley plans) are regulated under the Employee Retirement Income Security Act (ERISA). Under ERISA, the States are authorized to regulate multiple employer welfare arrangements (MEWAs) to the extent that such regulation does not conflict with ERISA. Association plans may or may not be regulated as MEWAs and are generally regulated by the States.

Penalties apply for violations of limits on the use of "physician incentive plans," i.e., compensation arrangements between HMOs and physicians that might induce physicians to withhold services. An HMO may not make a specific payment to a physician as an inducement to reduce or limit services to a specific enrollee. In addition, if physicians or physician groups are placed at substantial financial risk for services other than their own, the HMO must provide adequate stop-loss protection to limit the physicians' potential liability and must periodically survey enrollee satisfaction.

There are no provisions in current law for provider protections, or for the Department of Labor to play a role in establishing and enforcing Medicare contractor standards for employer-sponsored health plans. In addition, there is no provision in current law for high-deductible/medisave products.

House bill

a. Basic Benefits Covered. Each MedicarePlus product would be required to provide benefits for at least the items and services for which benefits are available under parts A and B consistent with the standards for coverage of such items and services. A MedicarePlus product would meet this requirement if:

(1) in the case of benefits furnished through fee-for-service providers, the product provided for at least the dollar amount of payment for such items and services as would otherwise have been provided under Medicare Parts A and B; and

(2) in the case of benefits furnished through providers with a contract with the organization, the individual's liability for payment for services did not exceed (after taking into account any deductible which did not exceed any deductible under Parts A and B) the lesser of: (a) the amount of liability that the individual would have had (based on the provider being a participating provider) if the individual had elected the non-MedicarePlus option, or (b) the applicable coinsurance or copayment amounts (that would have applied under the non-MedicarePlus option) provided under the contract. (New sec. 1852(a))

b. Antidiscrimination. A MedicarePlus organization could not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability of an individual. (New sec. 1852(b))

c. Guaranteed Issue and Renewal/General Availability and Capacity Limits. Generally, a MedicarePlus organization would be required to provide that at any time during which elections were accepted, it would have to accept without restrictions individuals eligible to make such an election. If the Secretary determined that the organization had a capacity limit and the number of individuals who elected the product exceeded that limit, the organization could limit the election of individuals, but only if priority was given first to those individuals who had already elected the product, and then to others in a manner which did not discriminate. A MedicarePlus organization could not terminate or refuse to accept an individual's election except in the event of nonpayment of premiums, disruptive behavior, or the product was terminated with respect to all eligible Medicare individuals. (Those terminated would be deemed to have elected the non-MedicarePlus option). (New sec. 1852(c))

d. Special Rules for Limited Enrollment Organizations. MedicarePlus sponsors would have to limit enrollment for MedicarePlus products to specific individuals. A union sponsor would have to limit eligibility to individuals who were members and affiliated with the sponsor through an employment relationship or were the spouses of such members. A Taft-Hartley sponsor would have to limit eligibility to individuals who were entitled to obtain benefits under the terms of an applicable collective bargaining agreement.

A qualified association would be defined as an individual-membership association, religious fraternal organization, or other organization (a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary found (1) was formed for purposes other than the sale of health insurance and did not restrict membership based on the health status, claims experience, receipt of health care, medical history, or lack of insurability, of an individual; (2) did not exist solely or principally for the purposes of selling insurance; and had at least 1,000 individual members. Association sponsors would have to limit eligibility to individuals who were members of the association (or their spouses). Associations could not terminate coverage of an individual because the individual was no longer an association member except pursuant to a change of election during an open election period occurring on or after the date of termination of membership.

These eligibility rules could not have the effect of denying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability. (New sec. 1852(c)(4))

e. Submission and Charging of Premiums. Each MedicarePlus organization would be required annually to file with the Secretary the amount of the monthly premium for coverage under each of its products it would be offering in each payment area, and the enrollment capacity in relation to the product in each such area. The premium charged for a product offered in a payment area would equal 1/12 of the amount (if any) by which the premium exceeded the MedicarePlus capitation rate (see below). Premiums could not vary among individuals who resided in the same payment area. An exception would apply to high-deductible/Medisave products which would be experience-rated based on specified risk factors. (Theses factors would be the identical demographic and other adjustments used for setting the MedicarePlus contribution level.) Each MedicarePlus organization would have to permit monthly payment of premiums. An organization could terminate election of individuals for a MedicarePlus product for failure to make premium payments but only under specified conditions.

In no case could the portion of a MedicarePlus organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments attributable to the minimum benefits (and not counting any amount attributable to balance billing) exceed the actuarial value of the coinsurance and deductible applicable in the non-MedicarePlus option. (New sec. 1852(d))

e. Requirement for Additional Benefits, Part B Premium Discount Rebates, or Both. If the actuarial value of the benefits under the MedicarePlus product (as determined based upon the adjusted community rate (ACR) — see below) for individuals was less than the average of the capitation payments made to the organization for the product at the beginning of an annual contract period, the organization could provide additional benefits, a monetary rebate (paid on a monthly basis) of the Part B monthly premium, or a combination of both. The value of these benefits, rebates or combination thereof would have to be at least as much as the amount by which the capitation payment exceeded the ACR, and would have to be applied uniformly for all enrollees in a product area. The rebate could not exceed the amount of the Part B premium (not taking into account penalties for late enrollment or the amount incurred as a result of affluence testing). The organization could provide that a part of the excess be withheld for the organization's stabilization fund. A MedicarePlus organization could provide additional benefits (over and above those required to be added as a result of the excess payment), and could impose a premium for such additional benefits. Cash or other types of rebates to induce enrollment or otherwise would be prohibited.

A MedicarePlus organization could provide that a part of the value of the excess actuarial amount be withheld and reserved in the HI and SMI trust funds (in such proportions as the Secretary determined to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods. Leftover amounts not provided as additional benefits would revert to the trust funds.

The Adjusted Community Rate (ACR) would mean, at the election of the MedicarePlus organization, either the rate of payment services which the Secretary annually determined would apply to the individuals electing a MedicarePlus product if the payment were determined under a community rating system, or the portion of the weighted aggregate premium which the Secretary annually estimated would apply to the individual but adjusted for differences between the utilization of individuals under Medicare and the utilization of other enrollees (or through another specified manner). For PSOs, the ACR could be computed using data in the general commercial marketplace or (during the transition period) based on the costs incurred by the organization in providing such a product. (New sec. 1852(e))

g. Rules Regarding Physician Participation. Each MedicarePlus organization would be required to establish reasonable procedures relating to the participation of physicians by providing: (a) notice of rules of participation, (b) written notice of participation decisions that are adverse to providers, and (c) a process within the organization for appealing adverse decisions, including the presentation of information and views of the provider regarding such decision. The organization would be required to consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality and credentialing criteria, and medical management procedures.

Each MedicarePlus organization would be prohibited from operating any physician incentive plan (i.e., any compensation arrangement between a MedicarePlus organization and a physician or physician group that directly or indirectly has the effect of reducing or limiting services provided to enrollees) unless certain requirements were met: (1) No specific payment could be made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific enrollee; (2) if a plan placed a physician or physician group at substantial financial risk for services not provided by the physician or group, the organization provided adequate and appropriate stop-loss protection and conducted periodic surveys of both individuals enrolled and previously enrolled to determine their degree of access to services and satisfaction with the quality of those services; and (3) the organization provided to the Secretary descriptive information sufficient to determine the plan's compliance.

A MedicarePlus organization would not be able to provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought by or on behalf of an enrollee for any damage caused to the enrollee by the organization's denial of medically necessary care.

MedicarePlus fee-for-service plans (those organizations that do not have agreements between physicians and the organizations for the provision of services) would be exempt from these requirements. (New sec. 1852(f))

h. Provision of Information by Plan to Secretary. Each MedicarePlus organization would be required to provide the Secretary with the information needed to prepare the information booklet described above. (New sec. 1852(g))

i. Coordinated Acute and Long-Term Care Benefits under MedicarePlus/Medicare Choice. States would be able to coordinate benefits under their MediGrant programs with those provided under a MedicarePlus product to assure continuity of a full range of acute and long-term care services to eligible poor elderly or disabled individuals. (New sec. 1852(h))

j. Transitional File and Use for Certain Requirements. In the case of MedicarePlus products proposed to be offered during the transition period, contractors could submit information to the Secretary demonstrating that the product met the requirements and standards relating to benefits and premiums. If the Secretary did not disapprove the product within 60 days, the product would be deemed as meeting these requirements. Contractors would still have to meet other MedicarePlus contract requirements and standards. (New sec. 1852(i))

k. Supplemental Benefits. A MedicarePlus Organization would be able to provide health care benefits in addition to benefits otherwise required and could charge a premium for such additional benefits (New sec. 1852(e)(1)(F))

l. Cost-Sharing. In no case could the portion of a MedicarePlus organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments attributable to the minimum benefits (and not counting any amount attributable to balance billing) exceed the actuarial value of the coinsurance and deductible applicable in the non-MedicarePlus option. (New sec. 1851(d)(5))

m. Organization as Secondary-Payer. The MedicarePlus organization could pay second in specified cases. (New sec 1852(a)(2))

n. National Coverage Determination. See sec. 15721 of the House bill as described under Subtitle H.

o. Point-of-Service Coverage. No provision.

p. Prompt Payment. No provision.

Senate bill

a. Basic Benefits Covered. Each Medicare Choice plan would be required to provide to Medicare enrollees, through providers and other persons that meet the applicable requirements of Medicare and Part A of title XI (relating to General Provisions of the Social Security Act), those items and services covered under Medicare Part A and Part B which are available to individuals residing in the Medicare service area of the plan and additional health services as the Secretary might approve. The Secretary would be required to approve any such additional health care services which the plan proposed to offer to Medicare enrollees, unless the Secretary determined that including such additional services would substantially discourage enrollment by Medicare Choice eligible individuals. (New sec. 1895H(a))

b. Antidiscrimination. Each Medicare Choice plan would have to provide assurances to the Secretary that it would not deny enrollment to, expel, or refuse to reenroll any such individual because of the individual's health status or requirements for health care services, and that it would notify each individual of such fact at the time of their enrollment. (New sec. 1895J(e)(1))

c. Guaranteed Issue and Renewal/General Availability and Capacity Limits. Each Medicare Choice plan sponsor would be required to provide that each eligible individual would be eligible to enroll in the plan during an applicable enrollment period if the plan's Medicare service area included the geographic area in which the individual resided. Each sponsor would have to provide that, at any time during which enrollments were accepted, the sponsor would accept eligible individuals in the order in which they applied up to the limits of the plan's capacity (as determined by the Secretary) and without restrictions, except as might be authorized in regulations. The preceding sentence would not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the Medicare population in the Medicare service area of the plan. Each plan sponsor would be required to provide the Secretary with a demonstration of the plan's capacity to adequately service its expected enrollment. A plan could not cancel or refuse to renew a beneficiary except in the case of fraud or nonpayment of premiums. (New sec. 1895G(a), 1895J(d), 1895J(e)(1))

d. Special Rules for Limited Enrollment Organizations. A Medicare Choice plan sponsor of a union, Taft-Hartley plan, or association plan would be required to limit its enrollment to members of the sponsoring group who were entitled to all rights and privileges of any other members of the group and spouses of such members. An association plan sponsored by a religious fraternal benefit society could limit membership to individuals who shared the same religious convictions as the society.

A "union or association plan" is defined to mean an eligible health plan with a union sponsor, a Taft Hartley sponsor, or a qualified association sponsor that: (1) was organized for purposes other than to market a health plan; (2) could not condition its membership on health status, health claims experience, receipt of health care, medical history, or lack of evidence of insurability of a potential member; (3) could not exclude a member or spouse from health plan coverage based on those factors in item 2; (4) was a permanent entity which received a substantial majority of its financial support from active members; and (5) could not be owned or controlled by an insurance company. A "qualified association sponsor" is defined as an association, religious fraternal organization, or other organization (which could be a trade, industry, or professional association, chamber of commerce, or a public entity association) which established or maintained eligible health plans. (New sec. 1895A(b)(2); 1895G(a))

e. Submission and Charging of Premiums. Each Medicare Choice plan sponsor would be required annually to file with the Secretary the amount of the monthly premium for coverage under each of the plans it would be offering in each Medicare service area in which the plan was being offered. The enrolled individual: (1) would receive a rebate (as described below) if the plan's premium was less than the standardized Medicare payment amount; and (2) would be required to pay the plan's premium in excess of the standardized payment amount. The premiums charged by a plan sponsor could not vary among individuals who resided in the same Medicare payment area. Each plan sponsor would be required to permit monthly payment of monthly premiums. (New sec. 1895D(a); 1895N(a))

f. Requirement for Additional Benefits, Part B Premium Discount Rebates, or Both. If the standardized Medicare payment amount for the Medicare payment area in which an individual resided exceeded the amount of the monthly premium for the plan, the Secretary would be required to: (1) pay to the plan sponsor on behalf of the individual the monthly amount equal to the 100 percent of the excess for supplemental benefits; or (2) pay to the individual an amount equal to 75 percent of the remainder of such excess and deposit the remainder of the excess in the Federal Hospital Insurance Trust Fund. Rebates would have to be paid on a monthly basis from the Trust Funds on a proportional basis as specified. (New sec. 1895N(b))

g. Rules Regarding Physician Participation. No provision.

h. Provision of Information by Plan to Secretary. Each Medicare Choice plan sponsor would be required to provide such information as the Secretary requested with respect to its Medicare Choice plan in order to carry out activities relating to the Secretary's provision of plan information to beneficiaries. (New sec. 1895C(e)(3)).

i. Coordinated Acute and Long-Term Care Benefits under MedicarePlus/Medicare Choice. No provision.

j. Transitional File and Use for Certain Requirements. No provision (but see 1895R)

k. Supplemental Benefits. Each Medicare Choice Plan could offer optional supplemental benefits for an additional premium. If the supplemental benefits were offered only to Medicare enrollees, the additional premium would have to be the same for all enrolled individuals in the Medicare payment area. Supplemental benefits could be marketed and sold by the sponsor outside of the enrollment process. (New sec. 1895H(b))

l. Cost-Sharing. The total deductibles, coinsurance, and copayments charged an individual under a Medicare Choice plan for basic benefits for a year could not exceed the average total amount of deductibles, coinsurance, and copayments charged an individual under the traditional Medicare program for a year. If the Secretary determined that adequate data were unavailable to determine the average cost-sharing under the plan, the Secretary could determine the amount with respect to all individuals in the Medicare payment area, the State, or in the US, eligible to enroll in the plan or on the basis of other appropriate data. (New sec. 1895H(c))

m. Organization as Secondary Payer. The Medicare Choice plan sponsor could pay second in specified cases. (new sec. 1895H(f))

n. National Coverage Determinations. If a national coverage determination was made in the period beginning on the date of an announcement of Medicare payment rates and ending on the date of the next announcement that the Secretary projected would produce a significant change in costs to the Medicare Choice plan and that the change in costs was not reflected in the Medicare payment amounts for that period: (1) the determination would not apply to contracts until the first contract year beginning after the end of such period, and (2) if the coverage determination provided for coverage of additional benefits or under additional circumstances, the individual would not obtain such coverage until the first contract year beginning after the end of such period unless otherwise required by law. (New sec. 1895H(d))

o. Point-of-Service Coverage. If a Medicare Choice sponsor offered a Choice plan that limited benefits to items and services furnished only by providers in a network of providers which contracted with the sponsor, the sponsor would also have to offer, at the time of enrollment, a Medicare Choice plan that permitted payment to be made under the plan for services obtained out of network by the individual (i.e., a point-of-service option). (New sec. 1895G(a)(3))

p. Prompt Payment. Each Medicare Choice plan sponsor would be required to provide prompt payment consistent with existing provisions of law of claims submitted for services and supplies furnished to Medicare enrollees if the services or supplies were not furnished under a contract between the plan and the provider or supplier. In the case of a plan sponsor which the Secretary determined, after notice and opportunity for a hearing, had failed to make prompt payment, the Secretary could provide for direct payment of the amounts owed. If this occurred, the Secretary would provide for an appropriate reduction in the amount of payments otherwise made to the plan sponsor. (New sec. 1895J(f))

Conference agreement

The conference agreement follows the House provision with modifications.

New section 1852 of the Social Security Act would provide for "Benefits and Beneficiary Protections," which incorporates largely House provisions on benefits and patient protection standards. The conference agreement also establishes a new section 1855, "Premiums and Rebates," which largely incorporates provisions of the House bill on the submission and charging of premiums.

With respect to basic benefits covered, the MedicarePlus plan would have to provide benefits to members through providers and other persons who meet the applicable requirements of Medicare and part A of title XI of the Social Security Act. The plan would have to provide such additional health services as the Secretary might approve. The Secretary would be required to approve any such additional health care services which the plan proposed to offer to such members, unless the Secretary determined that including such additional services would substantially discourage enrollment by MedicarePlus eligible individuals with the plan.

It is the conferees' intent that Christian Science nursing facility services that are currently covered under Part A of Medicare should be made available by MedicarePlus plans to enrollees who choose to use such services.

A MedicarePlus organization would be required to notify each MedicarePlus plan enrollee of the antidiscrimination protections at the time of the individual's enrollment.

The conference agreement modifies the House provision relating to priority of enrollment in the case of a plan reaching capacity limits. The priority rules would not apply if they would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the Medicare population in the service area of the plan.

The conference agreement modifies the definition of a qualified association plan to require that it not be owned or controlled by an insurance company.

The conference agreement includes the Senate provision relating to supplemental benefits. Each Medicare Choice Plan could offer optional supplemental benefits for an additional premium. If the supplemental benefits were offered only to Medicare enrollees, the additional premium would have to be the same for all enrolled individuals in the Medicare payment area. Supplemental benefits could be marketed and sold by the sponsor outside of the enrollment process.

The conference agreement includes the Senate provision relating to national coverage determinations. If a national coverage determination was made in the period beginning on the date of an announcement of Medicare payment rates and ending on the date of the next announcement that the Secretary projected would produce a significant change in costs to the MedicarePlus plan and that the change in costs was not reflected in the Medicare payment amounts for that period: (1) the determination would not apply to contracts until the first contract year beginning after the end of such period, and (2) if the coverage determination provided for coverage of additional benefits or under additional circumstances, the individual would not obtain such coverage until the first contract year beginning after the end of such period unless otherwise required by law.

The conference agreement establishes a new section on "Premiums and Rebates" modifying the House bill. The agreement defines the term "monthly premium" with respect to a MedicarePlus plan as the monthly premium filed with the Secretary for coverage for services, not taking into account the amount of any payment made to the plan by Medicare. It defines the term "net monthly premium" with respect to such plan and an individual enrolled with it as the "monthly premium" reduced by the payment made toward such premium by Medicare. In no case could the portion of the monthly premium for a MedicarePlus plan for an area and year attributable to required services exceed the ACR for the plan.

The net monthly premium charged by a MedicarePlus organization for a Medicare plan in a payment area to an individual would be equal to the amount (if any) by which

(1) the amount of the monthly premium for the plan involved exceeded

(2) 1/12 of the annual MedicarePlus capitation rate for the area and year involved.

The requirement that there be a uniform premium within a payment area would apply to both the monthly premium and the net monthly premium (including rebates offered by a MedicarePlus organization).

With respect to rebates, the conference agreement includes the following provision: To the extent that the adjusted excess amount exceeded the value of additional benefits provided by the organization, then the organization would have to provide for payment of the amount of such excess as follows: (1) If the individual had a Rebate MSA and elected a rebate, the organization would have to pay the excess into the MSA. (2) Otherwise, the organization would have to pay 75% of the excess to the individual and 25% to the Hospital Insurance Trust Fund. The conference agreement does not include the House provision limiting cash rebates to the Part B premium amount.

4. PATIENT PROTECTION STANDARDS (NEW SEC. 1853 OF HOUSE BILL; NEW SEC. 1895C, 1895(G), AND 1895(J) OF SENATE BILL)

Current law

Medicare HMOs/CMPs must provide enrollees, at the time of enrollment and annually thereafter, an explanation of rights to benefits, restrictions on services provided through nonaffiliated providers, out-of-area coverage, coverage of emergency and urgently needed services, and appeal rights.

Medicare HMOs/CMPs must make all Medicare covered services and all other services contracted for available and accessible within its service area, with reasonable promptness and in a manner that assures continuity of care. Urgent care must be available and accessible 24 hours a day and 7 days a week. HMOs must also pay for services provided by nonaffiliated providers when services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable, given the circumstances, to obtain the services through the HMO.

Medicare HMOs/CMPs must enroll individuals and provide covered services to enrollees who live within the geographic area served by the organization. Regulations provide that geographic area means the area found by HCFA to be that within which the HMO furnishes, or arranges for furnishing, the full range of services it offers to its Medicare enrollees.

HMOs/CMPs are required to have arrangements for an ongoing quality assurance program that stresses health outcomes and provides review by physicians and other health care professionals of the process followed in the provision of health services. External review is conducted by a peer review organization (PRO), one of the groups that has contracted with the Secretary for review of the quality and appropriateness of hospital services. PRO reviews of HMOs/CMPs covers both inpatient and outpatient care. The Secretary also has the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services provided and the facilities of the organization when there is reasonable evidence of some need for inspection.

In up to 25 States, the Secretary is authorized to designate another external agency, known as a quality review organization or QRO to perform reviews. QROs must meet many of the same standards as PROs, but have not contracted with the Department of HHS for the review of services other than those provided by an HMO/CMP.

HMOs/CMPs must have meaningful grievance procedures for the resolution of individual enrollee complaints, about such problems as failure to receive covered services or unpaid bills. In addition, an enrollee who believes that the HMO has improperly denied a service or imposed an excessive charge has the right to a hearing before the Secretary if the amount involved is greater than $100. If the amount is greater than $1,000, either the enrollee or the HMO may seek judicial review.

House bill

a. Disclosure of Information to Enrollees. Each MedicarePlus organization would be required to disclose in clear, accurate, and standardized forms certain information including: (1) benefits, including coverage exclusions and, for a high-deductible/medisave product, a comparison of its benefits with those under other MedicarePlus products; (2) rules relating to prior authorization or other review requirements that could result in nonpayment; (3) liability for cost-sharing for out-of-network services; (4) the number, mix, and distribution of providers; (5) financial obligations of the enrollee; (6) enrollee satisfaction data; (7) enrollee rights and responsibilities; (8) a statement that use of the 911 number is appropriate in emergency situations; and (9) a description of the organization's quality assurance program. (New sec. 1853(a))

b. Access to Services. A MedicarePlus organization offering a MedicarePlus product could restrict the providers from whom benefits were to be provided so long as: (1) the organization made the benefits available to each individual electing the product within the service area with reasonable promptness and in a manner which assured continuity in the provision of benefits, (2) when medically necessary, the organization made benefits available and accessible 24 hours a day and 7 days a week, (3) the product provided for reimbursement to other organizations if the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition and it was not reasonable given the circumstances to obtain the services through the organization, and (4) coverage was provided for emergency services without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

Emergency services are defined as covered inpatient and outpatient services that are furnished by an appropriate source other than the organization, are needed immediately because of an injury or sudden illness, and are needed because the time required to each the organization's providers or suppliers would have meant risk of serious damage to the patient's health.

If the MedicarePlus product provided out-of-network coverage (i.e., under a point of service option), the payment level for services furnished outside the network would have to be at least 70 percent (or, if the cost-sharing was 50 percent, at least 40 percent) of the lesser of the payment basis (determined without regard to deductibles and cost-sharing) that would have applied under Medicare Parts A and B, or the amount charged by the entity furnishing such items and services.

In the event that emergency services were furnished by a participating physician or provider of services to an individual enrolled in a MedicarePlus organization, the applicable participation agreement would be deemed to provide that the physician or provider of services would accept as payment in full from the organization the amount that would be payable if the individual were not enrolled with a MedicarePlus organization. In the event that emergency services were furnished by a nonparticipating physician, the limitations on actual charges otherwise applicable under Medicare Part B would apply in the same manner as they do to services furnished to individuals not enrolled in a MedicarePlus organization. (New sec. 1853(b))

c. Timely Authorization for Promptly Needed Care Identified as a Result of Required Screening Evaluation. No provision.

d. Confidentiality and Accuracy of Enrollee Records. Each MedicarePlus organization would have to establish procedures to safeguard the privacy of individually identifiable enrollee information, and maintain accurate and timely medical records. (New sec. 1853(d))

e. Quality Assurance and Accreditation Program. Each MedicarePlus organization would be required to arrange (in accordance with regulations of the Secretary) for an ongoing quality assurance program meeting certain requirements such as: (1) stressing health outcomes; (2) providing the establishment of written protocols for utilization review, (3) providing review by physicians and other health care professionals of the process followed in the provision of services; (4) monitoring and evaluating high volume and high risk services and the care of acute and chronic conditions; (5) evaluating the continuity and coordination of care; (6) establishing mechanisms to detect underutilization and overutilization; (6) making information available on quality and outcomes to facilitate beneficiary comparison and choice; (7) evaluating on an ongoing basis the plan's effectiveness; and (8) providing for external accreditation or review, by a Peer Review Organization or other qualified independent review organization, that the quality of services meets professionally recognized standards of health care (including providing adequate access of enrollees to services). In addition, MedicarePlus fee-for-service plans would be exempt from the requirement that the organization have arrangements for an ongoing quality assurance program and that it maintain accurate and timely medical records for enrollees.

The Secretary would be required to provide that a MedicarePlus organization would be deemed to have met these requirements if it was accredited by a private organization under a process that the Secretary determined assured that the organization met standards that were no less stringent than those required by the bill. (New sec. 1853(d))

f. Coverage Determinations. Each MedicarePlus organization would have to make determinations regarding authorization requests for nonemergency care on a timely basis. Medical necessity decisions could only be made by a physician. Appeals of a determination would have to be decided within 30 days of receiving medical information and no later than 60 days after the date of the decision. Appeals relating to a life-threatening or emergency situation would have to be decided on an expedited basis. (New sec. 1853(e))

g. Grievances and Appeals. Each MedicarePlus organization would have to provide for meaningful procedures for hearing and resolving grievances between the organization (and entities and individuals through which it provides services) and enrollees. An enrollee dissatisfied by reason of the enrollee's failure to receive health services would be entitled, if the amount in controversy was $100 or more, to a hearing before the Secretary. If the amount in controversy was $1,000 or more, the individual or organization, upon notifying the other party, would be entitled to judicial review. The Secretary would be required to contract with an independent, outside entity to review and resolve appeals of denials of coverage related to urgent or emergency services with respect to MedicarePlus products. The Secretary would be required to consult with the Secretary of Labor to ensure that these requirements, as they apply to grievances to which section 503 of ERISA applies, are applied in a manner consistent with the requirements of ERISA. (New sec. 1853(f))

h. Information on Advance Directives. Each MedicarePlus organization would be required to maintain written policies and procedures respecting advance directives (as specified elsewhere in the Medicare statute). (New sec. 1853(g))

i. Approval of Marketing Materials. Each MedicarePlus organization could not distribute marketing material unless (1) at least 45 days before distribution, the organization submitted the material to the Secretary for review, and the Secretary did not disapprove the material. Standards established below would include guidelines for the review of such materials. Under these guidelines, the Secretary would be required to disapprove marketing material if it was materially inaccurate or misleading or otherwise made a material misrepresentation. To facilitate a one-stop shopping, materials submitted to the Secretary by an organization for a MedicarePlus product in an area that were not disapproved would be considered as such for all other areas covered by the product and organization. Each MedicarePlus organization would be required to conform to fair marketing standards included in the MedicarePlus standards. Such standards would include a prohibition against a plan (or agent of such a plan) completing any portion of any election form on behalf of any individual. (New sec. 1853(h))

j. Supplemental Coverage if Plan Terminates the Contract. No provision.

Senate Bill

a. Disclosure of Information to Enrollees. No provision for plan disclosure to enrollees. Secretary would disclose information to enrollees. Each Medicare Choice plan sponsor would be required to provide such information as the Secretary requested regarding the plan in order for the Secretary to provide specific information to enrollees. (New sec. 1895C(e)(3))

b. Access to Services. Each Medicare Choice plan sponsor would be required to: (1) make the basic services (and other services for which the sponsor contracted) available and accessible to each individual, within the Medicare service area of the plan with reasonable promptness, and in a manner which assured continuity; (2) provide for reimbursement with respect to such services provided to the enrollee other than through the plan's providers if: (A) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and (B) it was not reasonable given the circumstances to obtain the services through the plan's providers. (3) Provide access to appropriate providers, including credentialed specialists, for all medically necessary treatment and services; and (4) except as provided by the Secretary on a case-by-case basis, in the case of a coordinated care plan, provide primary care services within 30 minutes or 30 miles from an enrollee's place of residence if the enrollee resides in a rural area. Each Medicare Choice plan sponsor would be required to provide the Secretary with a demonstration of the plan's capacity to adequately service the plan's expected Medicare enrollment. (New sec. 1895J(d))

c. Timely Authorization for Promptly Needed Care Identified as a Result of Required Screening Evaluation. A Medicare Choice plan sponsor would be required to provide access 24 hours a day, 7 days a week to such persons as might be authorized to make any prior authorizations required by the plan sponsor for coverage of items and services (other than emergency services) that a treating physician or other emergency department personnel identified pursuant to a screening examination required under section 1867(a) of the Social Security Act (relating to examination and treatment in a medical emergency) as being needed promptly by an enrollee. A plan sponsor would be deemed to have approved a request for such services if the physician or other emergency department personnel involved: (1) made a reasonable effort to contact the person for authorization to provide an appropriate referral or to provide the services; or (2) requested such authorization from the person and the person had not denied the authorization within 30 minutes after the request was made. Approval of a request for a prior authorization determination would be treated as approval of a request for any items and services that were requested to treat the medical condition identified as a result of the required screening examination. "Emergency services" and "emergency medical condition" are specifically defined (New sec. 1895J(h))

d. Confidentiality and Accuracy of Enrollee Records. No provision.

e. Quality Assurance and Accreditation Program. Each Medicare Choice plan sponsor would be required to meet certain health plan standards, including those relating to quality assurance and accreditation.

Each sponsor would be required to establish an ongoing internal quality assurance program (in accordance with regulations established by the Secretary for health care services it provides to Medicare enrollees). This program would be required to (1) emphasize health outcomes; (2) provide for establishment of written protocols for utilization review; (3) provide review by physicians and other health care professionals of the process followed in the provision of services; (4) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions; (5) evaluate the continuity and coordination of care; (6) establish mechanisms to detect underutilization and overutilization; (7) after identifying areas for improvement, establish or alter practice parameters; (8) take action to improve quality and assess the effectiveness of such action through systematic follow-up; (9) make information available on quality and outcomes to facilitate beneficiary comparison and choice; and (10) evaluate on an ongoing basis the plan's effectiveness.

Each sponsor also would be required to have an agreement with an independent quality review and improvement organization approved by the Secretary. Such an organization would be required to: (1) provide an alternative mechanism for addressing enrollee grievances; (2) review plan performance based on accepted quality performance criteria; (3) promote and make plans accountable for improved plan performance; (4) integrate into ongoing external quality assurance activities a new set of quality indicators and standards developed specifically for the Medicare population that would be used to determine whether a plan was providing quality care and appropriate continuity and coordination of care; and (5) report to the Secretary on those plans that demonstrated unwillingness or inability to improve their performance.

Each sponsor would be required to meet accreditation standards established by the Secretary or to be accredited by an external independent accrediting organization, recognized by the Secretary as requiring standards at least as stringent as those set by the Secretary.

The Secretary would be required to create incentives for sponsors to report aggregate encounter data, including data on physician visits, nursing home days, home health days, hospital inpatient days and rehabilitation services. (New sec. 1895J(a);1895J(b))

f. Coverage Determinations. The Secretary would be required to provide an expedited review procedure (under the requirements for the sponsor to provide a hearing for grievances) where a failure to receive any health care service or payment for such service would result in significant harm. (New sec. 1895J(e)(2)(C))

g. Grievances and Appeals. Each Medicare Choice plan sponsor would have to provide for meaningful procedures for hearing and resolving grievances between the organization (and entities and individuals through which it provides services) and enrollees. An enrollee dissatisfied by reason of the enrollee's failure to receive health services would be entitled, if the amount in controversy was $100 or more, to a hearing before the Secretary. If the amount in controversy was $1,000 or more, the individual or organization, upon notifying the other party, would be entitled to judicial review. The Secretary would be required to contract with an independent, outside entity to review and resolve appeals of denials of coverage related to urgent or emergency services with respect to Medicare Choice plans (see new sec. 1895J(b)(2)(B)); 1895J(e)).

h. Information on Advance Directives. A contract with Medicare would have to provide that a Medicare Choice plan maintain written policies and procedures respecting advance directives (as specified elsewhere in the Medicare statute). (new sec. 1895J(g))

i. Approval of Marketing Materials. In addition to informational materials required to be distributed by the Secretary, a Medicare Choice Plan sponsor could develop and distribute marketing materials and engage in marketing strategies in accordance with the following: Any marketing material developed or distributed by a Medicare Choice plan sponsor and any marketing strategy developed by such a sponsor: (1) would be required to accurately describe differences between health care coverage available under the plan and the coverage available under traditional Medicare; (2) would have to be pursued in a manner not intended to violate the nondiscrimination requirements; and (3) could not contain false or materially misleading information, and would have to conform to any other fair marketing and advertising standards and requirements applicable to such plans under law. A sponsor would not be allowed to distribute marketing material unless at least 45 days before distribution, the plan submitted the material to the Secretary for review, and the Secretary did not disapprove the material. The Secretary would be required to review all marketing materials under guidelines established by the Secretary. Under these guidelines, the Secretary would be required to disapprove marketing material if it was materially inaccurate or misleading or otherwise made a material misrepresentation. Materials submitted to the Secretary or a regional office of the Department of Health and Human Services that were not disapproved with respect to one area would be considered as such for all other areas covered by the plan. (New sec. 1895G(c))

j. Supplemental Coverage if Plan Terminates the Contract. Each Medicare Choice plan sponsor that provided coverage pursuant to a contract with Medicare would be required to provide assurances to the Secretary that in the event that the contract was terminated, the sponsor could provide or arrange for supplemental coverage of benefits under this title related to a preexisting condition with respect to any exclusion period, to all individuals enrolled with the entity who received Medicare benefits, for the lesser of 6 months or the duration of such period. (Sec. 1895(J)(e)(3))

Conference agreement

The conference agreement follows the House provision with modifications. (See also previous section.)

With respect to access to services, the conference agreement does not include the

House provision specifying minimum payment levels where providing out-of-network services pursuant to a point-of-service coverage. It does require that the organization provide access to appropriate providers, including credentialed specialists, for all medically necessary treatment and services, and that coverage be provided for emergency services without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

The conference agreement clarifies that "certain fee-for-service" plans means "unrestricted fee-for-service plans." The latter is defined as a MedicarePlus FFS plan that provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the organization offering the plan for the provision of such benefits.

With respect to the required quality assurance and accreditation program, the conference agreement modifies the provision relating to external review for quality assurance. Each MedicarePlus organization, for each plan it operated, would have to have an agreement with an independent quality review and improvement organization approved by the Secretary.

With respect to grievances and appeals, the conference agreement modifies the requirement that the Secretary of HHS coordinate with the Secretary of Labor with respect to making the grievance process consistent with the requirements of section 503 of ERISA to ensure that the requirements provide for at least as much protection for beneficiaries as would have applied in its absence.

It is the intent of conferees that in the provision of information regarding advance directives that no health care provider or employee of a health care provider be required under this section to inform or counsel a patient regarding services which purposely cause the death of a person such as assisted suicide, euthansia, or mercy killing.

5. PROVIDER-SPONSORED ORGANIZATIONS (PSOS) (NEW SEC. 1854 OF HOUSE BILL)

Current law

PSOs do not qualify as eligible organizations for Medicare managed care contracts.

House bill

a. Provider-Sponsored Organization (PSO) Defined. A PSO means a public or private entity that (in accordance with standards established under this bill) is a provider or group of affiliated providers that provides a substantial portion of health care under the contract directly through the provider or affiliated group of providers. In defining substantial proportion, the Secretary would be required to consider the need for such an organization to assume responsibility for a substantial portion of services in order to assure financial stability and other factors. Affiliation is specifically defined. (New sec. 1854(a))

b. Process for Establishing Standards. These requirements are specified in other sections of the bill. (New sec. 1854(b))

c. Process for State Certification of PSOs. These requirements are specified in other sections of the bill. (New sec. 1854(c))

d. Preemption of State Insurance Licensing Requirements. In general, State law would be preempted which required that a PSO meet requirements for insurers of health services or HMOs doing business in the State with respect to initial capitalization and establishment of financial reserves against insolvency or imposed requirements that would have the effect of prohibiting the PSO from complying with the applicable requirements of the bill. The general preemption of State law would not apply with respect to State laws that met the bill's requirements for the Secretary to approve State PSO certification. Nothing in this provision would affect the operation of the Federal preemption of State law under section 514 of ERISA. (New sec. 1854(d))

Senate bill

No provision. (See new sec. 1895R on Temporary Federal Certification Process for Coordinated Care Plans.)

Conference agreement

The conference agreement follows the House bill with modifications. (See also discussion of conference agreement for Licensing and Financial Requirements.)

The conference agreement defines a provider-sponsored organization (PSO) as a public or private entity

(1) that is established or organized by a health care provide, or group of affiliated health care providers,

(2) that provides a substantial proportion (as defined by the Secretary) of health care under the contract directly through the provider or affiliated group of providers, and

(3) with respect to which those affiliated providers that share, directly or indirectly, substantial financial risk with respect to the provision of coverage have at least a majority financial interest in the entity.

The conference agreement provides a definition for"health care provider"and requires that the Secretary issue regulations to carry out this section.

(See also provisions relating to antitrust under Subtitle A. Part 3 of Conference Report.)

6. PAYMENTS TO MEDICAREPLUS ORGANIZATIONS (NEW SEC. 1855 OF HOUSE BILL; NEW SEC. 1895H, 1895M, 1895N AND SEC. 7003 OF SENATE BILL)

Current law

Under a Medicare risk contract, an HMO agrees to provide or arrange the full scope of covered Medicare services in return for a single monthly capitation payment issued by Medicare for each enrolled beneficiary. One of the numbers used to determine this payment is the adjusted average per capita cost, or AAPCC. The other, the adjusted community rate or ACR, is discussed above.

The AAPCC is Medicare's estimate of the average per capita amount it would spend for a given beneficiary (classified by certain demographic characteristics and county of residence) who was not enrolled in an HMO and who obtained services on the usual fee-for-service basis. Separate AAPCCs are established for enrollees on the basis of age, sex, whether they are in a nursing home or other institution, and whether they are also eligible for Medicaid, and the county of their residence. These AAPCC values are calculated in four basic steps:

Medicare national average calendar year per capita costs are projected for the future year under consideration. These numbers are known as the U.S. per capita costs (USPCCs) and are estimated average incurred benefit costs per Medicare enrollee and adjusted to include program administration costs. USPCCs are developed separately for Parts A and B of Medicare, and for costs incurred by the aged, disabled, and those with ESRD in those two parts of the program.

Geographic adjustment factors that reflect the historical relationships between the county's and the Nation's per capita costs are used to convert the national average per capita costs to the county level.

Expected Medicare per capita costs for the county are adjusted to a fee-for-service basis by removing both reimbursement and enrollment attributable to Medicare beneficiaries in prepaid plans.

The recalculated county per capita cost is converted into rates that vary according to the demographic variables enumerated above: age, sex, institutional status, Medicaid status.

For each Medicare beneficiary enrolled under a risk contract, Medicare will pay the HMO 95 percent of the rate corresponding to the demographic class to which the beneficiary is assigned.

House bill

a. In General. A MedicarePlus organization under a contract with the Secretary would be paid, with respect to coverage of an individual in a payment area for a month, an amount equal to the monthly adjusted MedicarePlus capitation rate with respect to that individual for that area. Each year, the Secretary would be required to determine and announce no later than September 7 the annual MedicarePlus capitation rate for each payment area for the year, and the factors to be used in adjusting monthly payment rates. (New sec. 1855(a))

b. Notice of Methodological Changes. An explanation of the assumptions and changes in methodology would have to be included in sufficient detail so that organizations could compute monthly adjusted MedicarePlus capitation rates. The Secretary would be required to provide advance notice (at least 45 days prior to the announcement)of the proposed changes in the methodology and assumptions used to develop the rates, and give organizations an opportunity to comment. (New sec. 1855(a))

c. Calculation of Standardized Medicare Capitation Payment Amounts.

Monthly Adjusted MedicarePlus Capitation rate. Each month, the MedicarePlus organization would be paid for an individual in a payment area, and in a class (as described below), 1/12 of that year's annual MedicarePlus capitation rate. This amount would be adjusted to reflect the relative actuarial value of Medicare benefits with respect to individuals in a class compared to the national average for individuals in all classes. A payment area is a county (or equivalent area specified by the Secretary) except for the ESRD population, in which case the area is the State.

For purposes of calculating rates, the Medicare population would be divided into three separate groups: the aged, the disabled, and those who have been determined to have end stage renal disease (ESRD). The Secretary would be required to define appropriate classes of enrollees, based on age, gender, welfare status, institutionalization, and such other factors as the Secretary determined to be appropriate so as to ensure actuarial equivalence. The Secretary could add, modify, or substitute for such classes to improve determination of actuarial equivalence. The Secretary would be required to conduct the research needed to provide for greater accuracy in the adjustment of capitation rates. This could include research into the addition or modification of classes. The Secretary would have to report to Congress on this research by January 1, 1997. (New sec. 1855(b))

Per Capita Growth Rates. In general, payment rates for each area would be calculated so as to improve contribution levels in rural and low service utilization markets. Payments to health plans from 1996 onward would be "decoupled" from local fee-for-service expenditures and paid instead on a budgeted system. Rates would be established so that over time, payments to areas with higher-than-average utilization of services would be increased more slowly than payments to areas with lower-than-average utilization. In addition, payments would be calculated so as to ensure that legitimate costs of doing business in different areas (based on certain input prices) would be recognized in the contribution levels.

To establish the payment rates for 1996, areas would be classified according to their average per capita utilization of services (see below). Those areas experiencing the lowest utilization in services would be assigned a per capita growth rate of 9.0 percent, the next lower, 8.0 percent, the median, 5.1 percent, the next higher, 4.7 percent, and those with the highest utilization, being assigned a per capita growth rate of 4.0 percent. To assure that total capitation payments during 1996 were the same as the amount they would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate, the Secretary would adjust the per capita growth rates as follows:

(1) The Secretary would first provide for the additional percent increase needed to assure that the annual MedicarePlus capitation rate for each payment area was at least 12 times $300 for 1996.

(2) For payment areas assigned to the lowest cohort, the Secretary would then provide for the additional percent increase needed to assure that the total capitation payments during 1996 were the same as they would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate. The increase could be applied to a payment area falling into the lowest utilization cohort and would be applied after the increase in the first step was applied.

To establish the payment rates for years after 1996, the Secretary would be required to compute a per capita growth rate for each year for each of the five service utilization cohorts. This computation of payments for each cohort is pegged to the national average per capita growth rate which is as follows: 1996 = 5.3%; 1997 = 3.8%; 1998 = 4.6%; 1999 = 4.3%; 2000 = 3.8%; 2001 = 5.5%; 2002 = 5.6%; Subsequent years = 5.0%.

The median service utilization cohort would receive the national average per capita growth rate for the year. Those areas assigned to the lowest service utilization cohort would get 187.5 percent of the national average growth rate, and those in the highest would get 75 percent. The Secretary would calculate intermediate growth rates for the second and fourth cohorts at an amount that would assure budget neutrality relative to the national average per capita growth rates. Specifically, the growth rates for each cohort are as follows:

lowest=187.5% of the national average per capita growth rate (NAGR);

lower=150% of the NAGR or lower if needed to meet budget neutrality;

median=the average NAGR;

higher=gets a rate calculated to achieve budget neutrality, but not less than 75% of the NAGR;

highest=75% of the NAGR.

After computing per capita growth rates for a year, the Secretary would be required to make a final adjustment of the growth rates. The Secretary would: (1) reduce the per capita growth rate for areas assigned to the median service utilization cohort by the ratio of .1 to 5.3; (2) if the year is 1997, increase the per capital growth rates for payment areas to the extent needed to assure that the annual MedicarePlus capitation rate for each payment area for that year was at least 12 times $320; and (3) adjust the per capita growth rate for areas assigned to the lowest service utilization cohort by such proportion that would result in no net increase in outlays for the year. (New sec. 1855(c))

Assignment of Payment Areas to Service Utilization Cohorts. Each year the Secretary would assign each payment area to a utilization cohort based on a service utilization index value: lowest—less than .80; lower—.80-.89; median—.90-1.09; higher—1.10-1.19; highest—1.20 or more.

The service utilization index value would be equal to the annual MedicarePlus capitation rate for each payment area divided by the input-price adjusted national capitation rate for that area for the year. (The utilization index for one year would be used to set cohorts for the update for the next year). The input-price adjusted capitation rate would be calculated by multiplying the weighted average capitation rate by an input price index (separate indices would be applied for different types of services). For 1996, the Secretary would apply an input price adjustment specified in the legislation; for 1997, the Secretary could continue to use the special rules for 1996. The Secretary would develop refined input price adjustments to be used in later years. (New sec. 1855(d))

d. Payment Process. The Secretary would be required to make monthly payments in advance to the plan for each individual enrolled with a MedicarePlus organization. The payment would be retroactively adjusted to take into account any differences between the actual number of individuals enrolled with an organization and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment. (New sec. 1855(e))

e. Special Rules for Individuals Electing High-Deductible/Medisave Products. In the case of an individual who elected a high-deductible/medisave product, the payment to the MedicarePlus organization could not exceed the premium for the high-deductible product and the difference between the amount that would have otherwise been paid. Anything in addition to that amount would be paid directly into the individual's medisave account on a monthly basis. (New sec. 1855(f))

f. Payments from Trust Funds. Payments to the MedicarePlus organizations would be made from the HI and SMI trust funds in such proportion as the Secretary determined reflected the relative weights that benefits under Parts A and B represented of Medicare's actuarial value of the total benefits. (New sec. 1855(g))

g. Special Rule for Certain Inpatient Hospital Stays. In the case of an individual receiving inpatient hospital services from a hospital covered under Medicare's prospective payment system as of the effective date of the (1) individual's election of a MedicarePlus product: (a) payment for such services until the date of the individual's discharge would be made as if the individual did not elect coverage under the MedicarePlus organization; (b) the elected organization would not be financially responsible for payment for such services until the date of the individual's discharge; and (c) the organization would nevertheless be paid the full amount otherwise payable to the organization; or (2) termination of enrollment with a MedicarePlus organization: (a) the organization would be financially responsible for payment for such services after the date of termination and until the date of discharge; (b) payment for such services during the stay would not be made under Medicare's PPS system; and (c) the terminated organization would not receive any payment with respect to the individual during the period in which the individual was not enrolled. (New sec. 1855(h))

h. Demonstration Project on Market-Based Reimbursement and Competitive Pricing. No provision.

i. Special Rule for Calculation of Payment Rates for 1996. See above under "per capita growth rates," in which the calculation of 1996 growth rates is described. (sec. 1855(c) and 1885(d))

Senate bill

a. In General. Beginning with 1996 and no later than July 31 of each calendar year, the Secretary would be required to determine a standardized Medicare payment amount (according to the provisions of this section) for the following calendar year for each Medicare payment area. (A Medicare payment area is defined as a metropolitan statistical area (whether or not such an area is in a single State) or, in the case of a consolidated metropolitan statistical area, each primary metropolitan statistical area within the consolidated area; and one area within each State composed of all areas that do not fall within a metropolitan statistical area.) The secretary would be required to announce these amounts in a manner intended to provide notice to interested parties. (New sec. 1895M(a), 1895A(c))

b. Notice of Methodological Changes. At least 45 days before making the announcement of annual rates (beginning with the announcement for 1998), the Secretary would be required to provide for notice to Medicare Choice plans of proposed changes to be made in the methodology or benefit coverage assumptions from those made in the previous announcement and would have to provide plans an opportunity to comment on proposed changes. In each announcement, the Secretary would be required to include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that plans could compute Medicare payment rates for classes of individuals located in each Medicare payment area which were in whole or in part within the Medicare service area of the plan. (New sec. 1895M(e))

c. Calculation of Standardized Medicare Capitation Payment Amounts.

Calendar year 1997. For calendar year 1997, the standardized Medicare payment amount for a Medicare payment area would be equal to the sum of:

50% of the modified per capita rate for calendar year 1996 and

50% of the adjusted average national per capita rate for calendar year 1996, increased by the percentage increase in the gross domestic product per capita for the 12-month period ending on June 30, 1996.

The *modified per capita rate* for calendar year 1996 for a Medicare payment area would be equal to the per capita rate which would have been determined (without regard to class) to derive the AAPCCs for 1995 if the applicable geographic area were the Medicare payment area, and 50% of any payments attributable to indirect medical education, direct graduate medical education, and disproportionate share hospital payments were not taken into account, increased by the percentage increase which the Secretary estimated would occur in Medicare expenditures per capita for 1996 over those for 1995.

The adjusted average national per capita rate for a Medicare payment area for calendar year 1996 would be equal to the sum, for all types of Medicare services, of the product for each type of:

the average national per capita rate for 1996;

the proportion of such rate for the year which is attributable to the type of services; and

an index that reflects for 1996 and the type of service the relative input price of such services in the Medicare payment area as compared to the national average input price for the service. (In applying this, the Secretary would use those indices that are used in applying (or updating) medical payment areas for specific areas and localities.)

The average national per capita rate for 1996 would be the weighted average of the modified per capita rates described above for all Medicare payment areas for 1996.

For succeeding years, the standardized Medicare payment for any calendar year after 1997 in a Medicare payment area would be an amount equal to the standardized Medicare payment amount determined for each area for the preceding year, increased by the percentage increase in the per capita GDP for the 12-month period ending in June 30 of the preceding calendar year.

However, for 1998, the standardized Medicare payment amount for the preceding calendar year would be the amount which would have been determined if 100% of the adjusted average national per capita rate for calendar year 1996 had been applied instead of 50%.

A special rule would apply with respect to individuals with ESRD. In computing the standardized Medicare payment amount for any Medicare payment area, individuals with ESRD or medical expenditures on them would not be taken into account. (New sec. 1895M(b))

Adjustments for Payments to Plan Sponsors. Payment rates to a Medicare Choice plan sponsor would be equal to the standardized Medicare payment amount for the Medicare payment area, adjusted for such risk factors as age, disability status, gender, institutional status, health status, and such other factors as the Secretary determined to be appropriate to ensure actuarial equivalency. The Secretary could add to, modify, or substitute for such classes if such changes would improve the determination of actuarial equivalence. The Secretary would be required to establish a separate rate of payment with respect to ESRD enrollees. This rate would have to be actuarially equivalent to rates paid for other enrollees in the Medicare payment area (or such other area as specified by the Secretary). (New sec. 1895M(c))

Geographical Adjustments. Unless Congress provides otherwise and starting with calendar years after 1999, the Secretary would be required to make annual differential adjustments to the standardized Medicare payment amounts for calendar years 2000 and 2001 so as to achieve appropriate and equitable variation across payment areas by calendar year 2002. This variation would be required to be reasonably related to measurable geographic differences in Medicare payment areas. The Secretary would be required to adjust the standardized Medicare payment amounts in a manner that assured that total payments for a year were not greater or less than they would have been in the absence of the geographical adjustment (i.e., budget neutrality). The geographic adjustment process would be informed by an analysis that the Secretary would be required to conduct in consultation with interested parties. Such analysis would focus on the measurable input cost differences across payment areas, including wage differentials, and other measurable variables identified by the Secretary. The Secretary would also be required to determine the degree to which Medicare beneficiaries, including those in rural and underserved areas, have access to more health choices by the year 2000 under this Act, and the extent to which standardized payment amounts limited or enhanced such choices. The Secretary would be required to submit a report to the appropriate committees of Congress that included the results of the analysis and the differential adjustments that the Secretary intended to implement for calendar years 2000 and 2001. (New sec. 1895M(d))

d. Payment Process. The Secretary would be required to make monthly payments in advance to the Medicare Choice plan sponsor for each Medicare individual is enrolled consistent with the payment rates described below. The payment would be retroactively adjusted to take into account any differences between the actual number of individuals enrolled in the plan and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment. (New sec. 1895O(a))

e. Special Rules for Individuals High-deductible/Medisave Products. No provision.

f. Payments from Trust Funds. Payments to Medicare Choice plan sponsors would be made from the HI and SMI trust funds in such proportion as the Secretary determined reflected the relative weights that benefits under Parts A and B represented of the actuarial value of the total benefits. (New sec. 1895O(b))

g. Special Rule for Certain Inpatient Hospital Stays. A contract under the Medicare Choice program would provide that in the case of an individual who was receiving inpatient hospital services from a hospital covered under Medicare's prospective payment system as of the effective date of the: (1) individual's enrollment with a Medicare Choice plan: (a) payment for such services until the date of the individual's discharge would be made as if the individual were not enrolled with the plan; (b) the plan sponsor would not be financially responsible for payment for such services until the date of the individual's discharge; and (c) the plan sponsor would nevertheless be paid the full amount otherwise payable to the plan; or (2) termination of enrollment with a Medicare Choice plan: (a) the plan sponsor would be financially responsible for payment for such services after the date of termination and until the date of discharge; (b) payment for such services during the stay would not be made under Medicare's PPS system; and (c) the plan sponsor would not receive any payment with respect to the individual during the period in which the individual was not enrolled. (New sec. 1895H(e))

h. Demonstration Project on Market-Based Reimbursement and Competitive Pricing. The Secretary would be required to establish one or more demonstration projects to determine the standardized Medicare payment amounts through competitive bidding by Medicare Choice plans in a Medicare payment area. By December 31, 2001, the Secretary would be required to submit a report to Congress on the success of such projects in determining standardized Medicare payment amounts that were reflective of market prices. (New sec. 1895M(f))

i. Special Rule for Calculation of Payment Rates for 1996. Notwithstanding any other provision of law, the per capita rate under sec. 1876 of the Social Security Act for 1996 for any class for a geographic area would be equal to the sum of: (1) 75% of the updated per capita rate for a class for an area; and (2) 25% of the weighted average of the updated per capita rates for a class for all geographic areas. The latter would be adjusted in the same manner as prescribed under the above provisions for calculating the adjusted average national per capita rate for 1996 to reflect differences in input prices in the geographic area as compared to the national average input prices. In no event would any average per capita rate in a geographic area determined under the preceding sentence be less than the rate determined under section 1876 of the Social Security Act for 1995. For purposes of calculating the per capita rate, the updated per capita rate for any class would equal the per capita rate of payment for 1995 determined under existing law for a county (or equivalent area), increased by the percentage increase which the Secretary estimated would occur in Medicare expenditures per capita for 1996 over those for 1995. The Secretary would be required to publish the rates no later than 30 days after enactment. (Sec. 7003)

Conference agreement

The conference agreement follows the Senate provision with modifications.

In general, under a MedicarePlus contract, the Secretary would be required to make monthly payments in advance to each MedicarePlus organization, with respect to coverage of an individual in a MedicarePlus payment area for a month, in an amount equal to 1/12 of the annual MedicarePlus capitation rate with respect to that individual for that area. The payment would be adjusted for such risk factors as age, disability status, gender, institutional status, and other such factors as the Secretary determined to be appropriate, so as to ensure actuarial equivalence. The Secretary could add to, modify, or substitute for such factors, if such changes would improve the determination of actuarial equivalence.

Payments to plans would be calculated based on the *annual MedicarePlus capitation rate*. The Secretary would be required to annually determine, and announce (in a manner intended to provide notice to interested parties) no later than August 1 before the calendar year concerned: (1) the annual MedicarePlus capitation rate for each MedicarePlus capitation area for year, and (2) the risk and other factors to be used in adjusting such rates for payments for months in that year.

Calculation of the annual MedicarePlus capitation rate. The conference agreement modifies the Senate methodology for determining the payment to MedicarePlus plans. The annual MedicarePlus capitation rate, for a payment area for a contract for a calendar year would be equal to the greatest of the following:

(A) A blended capitation rate, defined as the sum of: (1) the area-specific percentage (as defined below) of the annual area-specific MedicarePlus capitation rate for the year for the payment area and (2) the national percentage (as defined below) of the input-price adjusted annual national MedicarePlus capitation rate for the year. (This sum is multiplied by a budget neutrality adjustment to ensure no more or less is spent on plan payments than would have otherwise been made under this part.)

(B) A minimum monthly payment amount set at $300 for 1996 and $350 for 1997;

(C) A monthly payment amount representing a minimum 2% increase over the previous year's rate.

The area-specific and national percentages referred to in (A) above are as follows:

1996—the area-specific percentage is 90% and the national percentage is 10%.

1997—the area-specific percentage is 90% and the national percentage is 10%.

1998—the area-specific percentage is 85% and the national percentage is 15%.

1999—the area-specific percentage is 80% and the national percentage is 20%.

2000—the area-specific percentage is 75% and the national percentage is 25%.

After 2000—the area-specific percentage is 70% and the national percentage is 30%.

The annual area-specific MedicarePlus capitation rate for a MedicarePlus payment area would be:

For 1996—the annual per capita rate of payment for 1995 (as determined under the current law calculation to derive 95% of the AAPCC), increased by the national average per capita growth percentage for 1996 (as defined below), or

For a subsequent year—the annual area-specific MedicarePlus capitation rate for the previous year, increased by the national average per capita growth percentage for such subsequent year.

The conference agreement defines the input-price-adjusted annual national MedicarePlus capitation rate for a MedicarePlus payment area for a year to equal the weighted sum, for all types of Medicare services, of:

the national standardized annual MedicarePlus capitation rate for the year, defined as the weighted average of all area-specific capitation rates for that year multiplied by—

an index that reflects (for the year and the type of services) the relative input price of such services in the area as compared to the national average input price of such services. (In applying this, the Secretary would use those indices that are used in applying (or updating) national payment rates for specific areas and localities.)

A special rule would apply in determining the input-price adjusted annual national MedicarePlus capitation rate for 1996, and at the Secretary's discretion, for 1997.

The national average per capita growth percentage would be defined as follows: 1996 = 8.0%; 1997 = 3.8%; 1998 = 4.6%; 1999 = 4.3%; 2000 = 3.8%; 2001 = 5.5%; 2002 = 5.6%; Subsequent years = 5.0%.

A MedicarePlus payment area is defined as a county or equivalent area specified by the Secretary. In the case of individuals who are determined to have ESRD, the MedicarePlus payment area would be each State. The conference agreement would modify the Senate provision for making geographic adjustments. Upon request of a State for a contract year (beginning after 1996) made at least 7 months before the beginning of the year, the Secretary would redefine MedicarePlus payment areas in the State to: (1) a single Statewide MedicarePlus payment area; (2) the metropolitan system described below; or (3) a single MedicarePlus payment area consolidating noncontinuous counties (or equivalent areas) within a State. This adjustment would be effective for payments for months beginning with January of the year following the year in which the request was received. The Secretary would be required to make an adjustment to payment areas in the State to ensure budget neutrality.

The metropolitan system referred to above follows the Senate bill by providing for a payment system based on metropolitan statistical areas (MSAs) in which all portions of each MSA in the State or in the case of a consolidated MSA, all of the portions of each primary MSA within the consolidated areas within the State, are treated as a single MedicarePlus payment area, and all areas in the State that do not fall within a MSA are treated as a single MedicarePlus payment area.

The conference agreement does not include the Senate provisions relating to geographical adjustments, including the provision that the Secretary provide analysis of input cost differences across payment areas and the report to Congress on this analysis.

It is the intent of the conferees that the Secretary conduct an analysis, based on the developments in the MedicarePlus program up to December 31, 1998, of the variation in Medicare payment amounts, taking into consideration measurable input cost differences, and the degree to which MedicarePlus payment amounts have enhanced or limited beneficiary choice of health plans in areas. The Secretary would report the findings to the appropriate committees of the Congress, and the public, not later than December 31, 2000.

In the case of an individual who elected a high-deductible plan, the amount of the monthly payment to the MedicarePlus organization offering the high deductible plan could not exceed the monthly premium for the plan. Any additional amount would be paid directly into the individual's High Deductible MedicarePlus MSA. No payment would be made unless the individual had established a High Deductible MSA before the beginning of the month and if the case of multiple accounts, the individual had designated one for purposes of receiving the contribution. Deposits would be made to the account as a lump sum in the first month. In the case of a termination of election of this option, the Secretary would be required to provide for a procedure for recovery of deposits attributable to the remaining months of the year.

The conference agreement includes an amendment providing that effective January 1, 1997, if a member of a Federally qualified HMO certified that a Rebate MedicarePlus MSA had been established for his or her benefit, the HMO could reduce the basic health services payment otherwise determined under the applicable law by requiring the payment of a deductible.

Rebates would be provided as follows: In general, if the amount of the monthly premium for a MedicarePlus plan (other than a high deducible plan) for a MedicarePlus payment area was less than $\frac{1}{12}$ of the annual MedicarePlus capitation rate for the area and year involved, at the election of an individual enrolled under the plan, the Secretary would either:

(1) In the case of an individual who had a Rebate MedicarePlus MSA account, deposit 100% of such difference into the account specified by the individual,

(2)(a) pay to the MedicarePlus organization on behalf of the individual 100% of the difference (up to the premium amount) for supplemental benefits; or (b) pay to the individual an amount equal to 75% of the remainder of the difference, and deposit any remainder of the difference in the Federal Hospital Insurance Trust Fund.

The conference agreement follows the House provision with respect to payments in the case of an individual receiving inpatient hospital services from a hospital covered under Medicare's prospective payment system as of the effective date of the (1) individual's election of a MedicarePlus product.

7. ESTABLISHMENT OF STANDARDS FOR MEDICAREPLUS ORGANIZATIONS/MEDICARE CHOICE PLANS (NEW SEC. 1856 OF HOUSE BILL; NEW SEC. 1895S OF SENATE BILL)

Current law

Under section 1876 of the Social Security Act, Medicare specifies requirements to be met by an organization seeking to become a managed care contractor with Medicare. There is no provision for NAIC to play a role in developing or establishing these requirements. There is no provision for Provider-Sponsored Organizations.

House bill

a. Federal Standards Applicable to State-Regulated Organizations and Products. The Secretary would be required to request the National Association of Insurance Commissioners (NAIC) to develop and submit within 12 months after enactment proposed standards consistent with the bill requirements for MedicarePlus organizations (other than sponsoring organizations and PSOs) and products. Such proposed standards could relate to qualified associations only with respect to MedicarePlus products offered by them and only if such products were issued by organizations which were organized and licensed under State law.

If the NAIC's submission was timely, the Secretary would review the proposed standards within 90 days and promulgate them with modifications to the extent they did not meet the requirements. If the Association's submission was not timely, the Secretary would be required to promulgate proposed standards no later than otherwise required. Until such standards were established, the Secretary would provide interim standards as might be appropriate. Such interim standards would have to be issued no later than June 1, 1996. (New sec. 1856(a))

b. Standards Applicable to Union and Taft-Hartley Sponsors, and Qualified Associations. The Secretary would also develop and promulgate MedicarePlus standards for sponsoring organizations and products except for products offered by qualified associations organized and licensed under State law to offer health insurance or health benefits coverage. With respect to union and Taft-Hartley sponsors, the Secretary would be required to consult with the Secretary of Labor and the standards would be promulgated about the same time as the general MedicarePlus standards. (New sec. 1856(b))

c. Standards Applicable to Provider-Sponsored Organizations. With respect to provider-sponsored organizations, the Secretary would establish standards on an expedited basis using the negotiated rule-making process under title 5 United States Code.

The target publication date for the rule would be September 1, 1996.

Within 45 days after enactment, the Secretary, after consulting with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representing Medicare beneficiaries, and other interested parties, would publish the notice required by section 564(a) of title 5.

The period for submitting comments would be shortened to 15 days, and within 30 days thereafter the Secretary would be required to provide for the appointment of a negotiated rulemaking committee. The Secretary would be required to provide for a facilitator no later than 10 days after the establishment of the committee.

The negotiated rulemaking committee would be required to report to the Secretary no later than June 1, 1996, regarding its progress towards reaching consensus and whether that was likely to occur before one month prior to the target publication date. If the committee reported it had failed to make significant progress towards reaching consensus, or if it was unlikely to reach consensus by the target date, the Secretary could terminate the process and provide for the publication of the rule through other methods. Otherwise, the committee would be required to submit a report containing the proposed rule no later than one month before the target publication date.

The Secretary would publish the rule in the Federal Register by the target publication date. The rule would be effective and final immediately on an interim basis, but subject to revision after public notice and opportunity for comment of not less than 60 days. The Secretary would be required to provide for consideration of such comments and republication of the rule not later than one year after the target publication date.

With the initial publication of the final rule, the Secretary would be required to specify a process for timely review and approval of entities to be certified as provider-sponsored organizations. Completed applications would be acted upon within 60 days of receipt.

After consulting with the negotiated rule-making committee, the Secretary by March 1, 1996, would be required to circulate a proposed application form. (New sec. 1856(c))

d. Coordination Among Final Standards to Promote Equitable Treatment. In establishing MedicarePlus standards other than on an interim basis, the Secretary would be required to try to be consistent where appropriate in order to promote the equitable treatment of different types of MedicarePlus organizations and the consistent protection for individuals who chose their products. (New sec. 1856(d))

e. Use of Current Standards for Interim Standards. Standards established on an interim basis could be based on currently applicable standards, such as those established for analogous provisions of section 1876 or the private health insurance market. (New sec. 1856(e))

f. Application of New Standards to Entities with Existing Contracts. At the time MedicarePlus standards change, an organization with a contract in effect could elect not to have the changes apply until the end of the contract year (or, if there is less than 6 months remaining in the contract year, until one year after its end). (New sec. 1856(f))

g. Relation to State Laws. Standards under this section would supersede any State law or regulation (to the extent it was inconsistent with the standards) with respect to MedicarePlus products which were offered by MedicarePlus organizations that were organized and licensed under State law to offer health insurance or health benefits coverage. (New sec. 1856(g))

h. Secretary's Proposal for Conforming Amendments. No provision.

Senate bill

a. Federal Standards Applicable to State-Regulated Organizations and Products. The Secretary would be required to establish such regulations as might be necessary to carry out the purposes of the Medicare Choice provisions, including regulations setting forth the requirements to meet all quality, access, and solvency standards specified above.(New Sec. 1895S(a))

b. Standards Applicable to Union and Taft-Hartley Sponsors, and Qualified Associations. No provision.

c. Standards Applicable to Provider-Sponsored Organizations. No provision (but see new sec. 1895R on Temporary Federal Certification Process for Coordinated Care Plans).

d. Coordination Among Final Standards to Promote Equitable Treatment. No provision.

e. Use of Interim Standards. The Secretary could, within 120 days after enactment, promulgate regulations (as described in (a) above) on an interim basis, after notice and opportunity for comment. (New sec. 1895S(b))

f. Application of New Standards to Entities with Existing Contracts. No provision (but see sec. 1895R on Temporary Federal Certification Process for Coordinated Care Plans).

g. Relation to State Laws. No provision (but see sec. 1895R on Temporary Federal Certification Process for Coordinated Care Plans).

h. Secretary's Proposal for Conforming Amendments. No later than 90 days after enactment, the Secretary would be required to submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the Medicare Choice provisions. (New sec. 1895S(c))

Conference agreement

The conference agreement combines provisions on establishment of standards for MedicarePlus organizations with provisions for certification of MedicarePlus organizations and plans. The agreement is described below.

8. PROCESS FOR CERTIFICATION OF MEDICAREPLUS ORGANIZATIONS AND PRODUCTS (NEW SEC. 1857 OF HOUSE BILL; NEW SEC. 1895R OF SENATE BILL)

Current law

Eligibility to be a Medicare managed care contractor is determined by the Department of Health and Human Services. States do not play a role in certifying organizations as eligible to become Medicare managed care contractors.

House bill

a. Federal Certification of Plans. Beginning on the date MedicarePlus standards were established, for States for which certification programs were not approved and operating, the Secretary would be required to establish a process for certifying that such organizations (other than unions sponsors, Taft-Hartley sponsors, and PSOs) and their products met the standards. The Secretary would be required to publish and periodically update a list of approved State programs. (New sec. 1857(a)(5))

1. Coordinated care plans. No provision (but see new sec. 1857(a)(5))

2. Other plans. The Secretary would be required to establish a process for certifying that sponsoring organizations and their respective MedicarePlus products met MedicarePlus standards. With respect to union and Taft-Hartley sponsors, the process would be established and operated in cooperation with the Secretary of Labor. To the maximum extent practicable, the Federal process would use private accreditation processes that the Secretary finds apply standards no less stringent than the requirements of this part. The use of private accreditation processes would be valid only for periods specified by the Secretary. The Secretary could impose user fees on organizations seeking certification to finance its cost. (New sec. 1857(b))

3. Provider-Sponsored Organizations. See new sec. 1856(c) as described above in sec. 7(c) of the House provisions.

b. State Certification Process. The Secretary would be required to approve a MedicarePlus certification and enforcement program established by a State for applying MedicarePlus standards to MedicarePlus organizations and products if the Secretary determined that the program effectively provided for the application and enforcement of the MedicarePlus standards. State certification would not apply to union or Taft-Hartley sponsors or, except as follows, provider-sponsored organizations. State certification programs would have to provide for certification of compliance of MedicarePlus organizations and products not less often than once every three years. A State could impose user fees on organizations seeking certification to finance its cost. A MedicarePlus organization or product with State certification would be considered to be certified with respect to offerings of the product to individuals residing in the State. (New sec. 1857(a))

1. Federal approval of State certification. The Secretary would be required to periodically review approved State certification programs to determine if they continued to provide for certification and enforcement. States found to be out of compliance would be allowed an opportunity to adopt a plan of correction. If the failure continued, the Federal certification process would be applied. (New sec. 1857(a))

2. State certification of PSOs. The Secretary would be required to establish a process under which States could propose to certify provider-sponsored organizations, but State proposals would not be approved unless the Secretary determined that they were identical to the standards of this part and would not result in a lower level or quality of enforcement. (New sec. 1857(c))

c. Continued State Regulation of Products Offered by Qualified Association Plans. The certification provisions of this section would not limit the authority of States to regulate products offered by MedicarePlus organizations that are qualified associations and meet specified conditions. (New sec. 1857(e))

d. Notice to Enrollees in Case of Decertification. In the event that a MedicarePlus organization or product was decertified, the plan would have to notify each enrollee. (New sec. 1857(d))

e. Sunset of Temporary Federal Certification Process. No provision.

f. Transition Treatment for Existing Risk Contracts. No provision (but see new sec. 1856(f))

g. Partial Capitation Demonstration. No provision.

h. Report on Temporary Federal Certification. No provision.

Senate bill

a. Federal Certification of Plans. The Secretary would establish a process for certification of a coordinated care plan and its sponsor. The process would (1) set forth standards for certification, (2) provide that final action would be taken within 120 business days of receipt of the completed application, (3) provide that State laws and regulations would apply to the extent they were not found to be unreasonable barriers to market entry, and (4) require any person receiving a certificate to provide the Secretary with all reasonable information to ensure compliance with certification. A certificate issued under these procedures could not be for more than 36 months and could not be renewed. A person receiving the certificate would be required to continue seeking State licensure during the period the certificate is in effect. (New sec. 1895R(b))

1. Coordinated care plans. The Secretary would evaluate applications from coordinated care plan sponsors if a State failed to substantially complete action within 90 days of receipt of a completed application or if a State denied the application and the Secretary determined that the State's licensing standards or review process created an unreasonable barrier to market entry. State standards or review processes would not be treated as unreasonable barriers if they were applied consistently to all coordinated care Medicare Choice plan applications, [and] were not in conflict or inconsistent with Federal standards. (New sec. 1895(a))

2. Other plans. No provision.

3. Provider-Sponsored Organizations. No provision.

b. State Certification Process. No provision (but a person receiving a certificate under this section would be required to continue to seek State licensure during the period the certificate was in effect. (New sec. 1895R(b)(3)(B))

1. Federal approval of State certification. No provision (but see new sec. 1895R(b))

2. State certification of PSOs. No provision.

c. Continued State Regulation of Products Offered by Qualified Association Plans. No provision (but see new sec. 1895R(b))

d. Notice to Enrollees in Case of Decertification. No provision.

e. Sunset of Temporary Federal Certification Process. No certificate would be issued under Federal procedures after December 31, 2000, and no such certificate would remain in effect after December 31, 2001 (New sect. 1895R(b)(3)(C))

f. Transition Treatment for Existing Risk Contracts. A Medicare choice plan sponsor that was an eligible organization (under sec. 1876(b) of current law) and that had a risk-sharing contract in effect as of enactment or had an application for such a contract filed before enactment and the contract was entered into before July 1, 1996 would be treated as meeting the Federal standards in effect under this section for any contract years beginning before January 1, 2000. (New sec. 1895R(e))

g. Partial Capitation Demonstration. The Secretary would be required to conduct a demonstration on alternative partial risk-sharing arrangements with health care providers. The Secretary would be required to report to Congress no later than December 31, 1998, on the administrative feasibility of such partial capitation methods and the information necessary to implement the arrangements. (New sec. 1895R(f))

h. Report on Temporary Federal Certification. The Secretary would be required to report to Congress no later than December 31, 1998, on the temporary Federal certification system. The report would include analysis of State efforts to adopt licensing standards and review processes that take into account the fact that coordinated care plan sponsors provide services directly to enrollees through affiliated providers. (New sec. 1895R(c))

Conference agreement

The conference agreement combines provisions on establishment of standards for MedicarePlus organizations with provisions for certification of MedicarePlus organizations and plans.

The agreement follows the House bill with modifications. The agreement provides that State certification programs (as approved by the Secretary) may apply to provider-sponsored organizations other than with respect to solvency standards. Such organizations would be among those for which the Secretary would ask the National Association of Insurance Commissioners to develop and submit proposed standards (except for solvency). The Secretary would establish solvency standards for provider-sponsored organizations on an expedited basis and using a negotiated rulemaking process as under the House bill. In establishing the latter standards, the Secretary shall consult with interested parties and take into account (1) the delivery system assets of an organization and the ability of the organization to provides services directly to enrollees through affiliated providers and (2) alternative means of protecting against insolvency including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care.

9. CONTRACT AUTHORITY (NEW SEC. 1858 OF HOUSE BILL; NEW SEC. 1895P AND 1895Q OF SENATE BILL)

Current law

Contracts with HMOs are for 1 year, and may be made automatically renewable. However, the contract may be terminated by the Secretary at any time (after reasonable notice and opportunity for a hearing) in the event that the organization fails substantially to carry out the contract, or carries out the contract in a manner inconsistent with the efficient and effective administration of Medicare HMO law, or no longer meets the requirements specified for Medicare HMOs. The Secretary also has authority to impose certain lesser sanctions, including suspension of enrollment or payment and imposition of civil monetary penalties. These sanctions may be applied for denial of medically necessary services, overcharging, enrollment violations, misrepresentation, failure to pay promptly for services, or employment of providers barred from Medicare participation.

To be eligible to be a risk contractor, HMOs/CMPs must have at least 5,000 members; if, however, they primarily serve members outside urbanized areas, they may have fewer enrollees (defined in regulation as at least 1,500). Organizations eligible for Medicare cost contracts may have fewer members than 5,000 (specified in regulation as at least 1,500).

No more than 50 percent of the organization's enrollees may be Medicare or Medicaid beneficiaries. This rule may be waived, however, for an organization that serves a geographic area where Medicare and Medicaid beneficiaries make up more than 50 percent of the population or (for 3 years) for an HMO that is owned and operated by a governmental entity.

During its annual open enrollment period of at least 30 days duration, HMOs must accept beneficiaries in the order in which they apply, up to the limits of its capacity, unless to do so would lead to violation of the 50 percent Medicare-Medicaid maximum or to an enrolled population unrepresentative of the population in the area served by the HMO. If an HMO chooses to limit enrollment because of its capacity, regulation provides that it must notify HCFA at least 90 days before the beginning of its open enrollment period and, at that time, provide HCFA with its reasons for limiting enrollment.

In areas where Medicare has risk contracts with more than one HMO and an HMO's contract is not renewed or is terminated, the other HMOs serving the area must have an open enrollment period of 30 days for persons enrolled under the terminated contract.

House bill

a. In General. The Secretary would not permit the election of a MedicarePlus product and no payment would be made to an organization unless the Secretary had entered into a contract with the organization with respect to the product. A contract could cover more than one MedicarePlus product. Contracts would provide that organizations agree to comply with applicable requirements and standards. (New sec. 1858(a))

b. Minimum Enrollment Requirements. The Secretary would be prohibited from entering into a contract with a MedicarePlus organization other than a union or Taft-Hartley sponsor unless the organization had at least 5,000 individuals (or 1,500 individuals in the case of a PSO) who were receiving health benefits through the organization. An exception would apply if the MedicarePlus standards permitted the organization to have a lesser number of beneficiaries (but not less than 500 for a PSO) if the organization primarily served individuals residing outside of urbanized areas. The Secretary could waive this requirement during an organization's first 3 contract years. Minimum enrollment requirements would not apply to a contract that related only to high-deductible/medisave product. (New sec. 1858(b))

c. Contract Period and Termination. The contract would be for at least one year, could be made automatically renewable in the absence of notice by either party of intention to terminate. The Secretary could terminate any contract at any time or impose intermediate sanctions described below on the organization if the Secretary found that the organization (a) had failed substantially to carry out the contract; (b) was carrying it out in a manner substantially inconsistent with efficient and effective administration; (c) was operating in a manner that was not in the best interests of the individuals covered under the contract; or (d) no longer substantially met MedicarePlus conditions. Contracts would specify their effective date, but those for coverage under a high-deductible/medisave account could not take effect before January 1997. The Secretary would not have to contract with an organization that had voluntarily terminated its contract with Medicare in the previous 5 years. The authority of the Secretary with respect to Medicare Choice plans could be performed without regard to laws or regulations relating to contracts of the United States that the Secretary determined were inconsistent with the purposes of Medicare. (New sec. 1858(c))

d. Protections Against Fraud and Beneficiary Protections. Each contract would provide that the Secretary or his or her designee would have the right to inspect or otherwise evaluate the quality, appropriateness and timeliness of services, as well as the organization's facilities if there were reasonable evidence of need for such inspection; in addition, they would have the right to audit and inspect any books and records that pertain to (1) the ability of the organization to bear risk of financial loss and (2) services performed or determinations of amounts payable under the contract. The contract would also require the organization to provide and pay for written notice in advance of a termination, as well as a description of alternatives for obtaining benefits, to each enrollee. MedicarePlus organizations would be required to report financial information to the Secretary (and to enrollees, if requested), including information demonstrating that the organization was fiscally sound, a copy of the financial report filed with HCFA, and a description of transactions between the organization and parties in interest. The contract would require the organization to notify the Secretary of loans and other special financial arrangements with subcontractors, affiliates, and related parties. (New sec. 1858(d))

e. Additional Contract Terms. Contracts would contain other terms and conditions (including requirements for information) as the Secretary found necessary and appropriate. (New sec. 1858(e))

f. Intermediate Sanctions. The Secretary would be authorized to carry out specific remedies in the event that a MedicarePlus organization: (1) failed substantially to provide medically necessary items and services required to be provided, if the failure adversely affected (or had the substantial likelihood of adversely affecting) the individual; (2) imposed premiums on individuals that were in excess of the premiums permitted; (3) expelled or refused to re-enroll an individual; (4) engaged in any practice that would reasonably be expected to have the effect of denying or discouraging enrolling by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services; (5) misrepresented or falsified information; (6) failed to comply with other specified requirements; or (7) employed or contracted with any individual or entity that was excluded from Medicare or Medicaid participation for the provision of health care, utilization review, medical social work, or administrative services, or employed or contracted with any entity for the provision through such an excluded individual or entity.

The remedies would include civil money penalties of not more than $25,000 for each determination of a failure described above or with respect to certain failures (such as denying enrollment to persons with a preexisting medical condition or misrepresenting information furnished to the Secretary), of not more than $100,000. In cases of the latter, the Secretary could also levy a $15,000 fine for each individual not enrolled. In the case of an organization determined to have charged excess premiums, the Secretary could also recover twice the excess amount and return the excess amount to the affected individual. In addition, the Secretary could suspend enrollment of individuals and payment to the organization after notifying it of an adverse determination, until the Secretary was satisfied that the failure had been corrected or would not recur. The provisions of section 1128A (other than subsections (a) and (b)) would apply to the determinations of failures and the remedies described above.

Under his or her authority to terminate contracts, if the Secretary determined that a failure had occurred other than those described above, other intermediate sanctions could be imposed. These include: (1) civil money penalties up to $25,000 if the deficiency directly adversely affected (or had the likelihood of adversely affecting) an individual under the organization's contract; (2) penalties of not more $10,000 for each week after the Secretary initiated procedures for imposing sanctions; and (3) suspension of enrollment until the deficiency had been corrected and the Secretary determined it was unlikely to recur. (New sec. 1858(f))

g. Procedures for Imposing Sanctions. The Secretary could terminate a contract or impose the sanctions described above in accordance with formal investigation and compliance procedures under which (A) the Secretary provides the organization with an opportunity to develop and implement a corrective action plan, (B) the Secretary imposes more severe sanctions on organizations that have a history of deficiencies or have not taken steps to correct those the Secretary brought to their attention, (C) there are no unreasonable or unnecessary delays between finding a deficiency and imposing sanctions, and (D) the Secretary provides reasonable notice and opportunity for a hearing, including the right to appeal an initial decision. (New sec. 1858(g))

Senate bill

a. In General. The Secretary would enter into a contract with any Medicare Choice plan sponsor in a Medicare payment area if requirements pertaining to the plan and sponsor are met. (New sec. 1895P)

b. Minimum Enrollment Requirements. No provision.

c. Contract Period and Termination. Except for termination for cause, each contract may be made automatically renewable in the absence of notice by either party of intention to terminate. The Secretary may terminate a contract with a Medicare Choice plan sponsor at any time or may impose the intermediate sanctions described below if the Secretary finds that the sponsor (1) has failed substantially to carry out the contract, (2) is carrying it out in a manner substantially inconsistent with efficient and effective administration, or (3) no longer substantially meets Medicare Choice conditions. The Secretary would not have to have a contract with a sponsor that had voluntarily terminated its contract with Medicare in the previous 5 years. The authority the Secretary with respect to Medicare Choice plans may be performed without regard to laws or regulations relating to contracts of the United States that the Secretary determines are inconsistent with the purposes of Medicare. (New sec. 1895Q(b), 1895Q(d), and 1895Q(e))

d. Protections Against Fraud and Beneficiary Protections. Each contract would provide that the Secretary or his or her designee would have the right to inspect or otherwise evaluate the quality, appropriateness and timeliness of services, as well as the sponsor's facilities if there were reasonable evidence of need for such inspection; in addition, they would have the right to audit and inspect any books and records that pertain to the ability of the sponsor to bear risk of financial loss. The contract would also require the sponsor to provide and pay for written notice in advance of a termination, as well as a description of alternatives for obtaining benefits, to each enrollee. In addition, except as provided by the Secretary, the contract would require the sponsor to comply with Public Health Service Act provisions relating to financial information disclosures and liability arrangements, [and to provide information described in sec. 1866(b)(2)(C)(ii)]. The contract would require the sponsor to notify the Secretary of loans and other special financial arrangements with subcontractors, affiliates, and related parties. (New sec. 1895Q(c))

e. Additional Contract Terms. Contracts would contain other terms and conditions (including requirements for information) as the Secretary finds necessary and appropriate. (New sec. 1895Q(c))

f. Intermediate Sanctions. The Secretary would be authorized to carry out specific remedies in the event that a Medicare Choice plan sponsor: (1) failed substantially to provide medically necessary items and services required to be provided, if the failure adversely affected (or had the substantial likelihood of adversely affecting) the individual; (2) imposed cost sharing on individuals that were in excess of the cost sharing permitted; (3) expelled or refused to re-enroll an individual; (4) engaged in any practice that would reasonably be expected to have the effect of denying or discouraging enrolling by eligible individuals with the sponsor's plan whose medical condition or history indicates a need for substantial future medical services; (5) misrepresented or falsified information; (6) failed to comply with other specified requirements; or (7) employed or contracted with any individual or entity that was excluded from Medicare or Medicaid participation for the provision of health care, utilization review, medical social work, or administrative services, or employed or contracted with any entity for the provision through such an excluded individual or entity.

The remedies would include civil money penalties of not more than $25,000 for each determination of a failure described above or with respect to certain failures (such as denying enrollment to persons with a preexisting medical condition or misrepresenting information furnished to the Secretary), of not more than $100,000. In cases of the latter, the Secretary could also levy a $15,000 fine for each individual not enrolled. In the case of a plan sponsor determined to have charged excess premiums, the Secretary could also recover twice the excess amount and return the excess amount to the affected individual. In addition, the Secretary could suspend enrollment of individuals and payment to the plan sponsor after notifying it of an adverse determination, until the Secretary was satisfied that the failure had been corrected or would not recur. The provisions of section 1128A (other than subsections (a) and (b)) would apply to the determinations of failures and the remedies described above.

Under his or her authority to terminate contracts, if the Secretary determined that a failure had occurred other than those described above, other intermediate sanctions could be imposed. These include: (1) civil money penalties up to $25,000 if the deficiency directly adversely affected (or had the likelihood of adversely affecting) an individual under the organization's contract; (2) penalties of not more $10,000 for each week after the Secretary initiated procedures for imposing sanctions; and (3) suspension of enrollment until the deficiency had been corrected and the Secretary determined it was unlikely to recur. (New sec. 1895Q(f))

g. Procedures for Imposing Sanctions. The Secretary could terminate a contract or impose the sanctions described above in accordance with formal investigation and compliance procedures under which (A) the Secretary first provides the sponsor with reasonable opportunity to develop and implement a corrective action plan, which the sponsor fails to do, (B) the Secretary considers aggravating factors such as whether the sponsor has a history of deficiencies or has not taken action to correct those the Secretary brought to its attention, (C) there are no unreasonable or unnecessary delays between finding a deficiency and imposing sanctions, and (D) the Secretary provides reasonable notice and opportunity for a hearing, including the right to appeal an initial decision. (New sec. 1895Q(b))

Conference agreement

The conference agreement follows the House bill.

The conference agreement does not include the provision for termination of contracts if the plan was operating in a manner that was not in the best interests of the individuals covered under the contract.

Note that New Section 1858 of the Conference Agreement on "Standards for MedicarePlus Information Transactions and Data Elements," are discussed under Subtitle H, Part D of the Conference Report.

10. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PRODUCTS (SEC. 15003 OF HOUSE BILL)

Current law

Many Medicare beneficiaries purchase private health insurance to supplement their Medicare coverage. These individually purchased policies are commonly known as Medigap policies. OBRA 90, P.L. 101-508 provided for a standardization of Medigap policies. OBRA 90 also substantially modified the antiduplication provision contained in law. The intent of the OBRA 90 anti-duplication provision was to prohibit sales of duplicative Medigap policies. However, the statutory language applied, with very limited exceptions, to all "health insurance policies" sold to Medicare beneficiaries. Observers noted that this provision could thus apply to a broad range of policies including hospital indemnity plans, dread disease policies, and long-term care insurance policies.

The Social Security Amendments of 1994 (P.L. 103-432) included a number of technical modifications to the Medigap statute, including modifications to the anti-duplication provisions. Under the revised language, it is illegal to sell or issue the following policies to Medicare beneficiaries: (i) a health insurance policy with knowledge that it duplicates Medicare or Medicaid benefits to which a beneficiary is otherwise entitled; (ii) a Medigap policy, with knowledge that the beneficiary already has a Medigap policy, or (iii) a health insurance policy (other than Medigap) with knowledge that it duplicates private health benefits to which the beneficiary is already entitled. A number of exceptions to these prohibitions are established. The sale of a medigap policy is not in violation of the provisions relating to duplication of Medicaid coverage if: (i) the State Medicaid program pays the premiums for the policy; (ii) in the case of qualified Medicare beneficiaries (QMBs), the policy includes prescription drug coverage; or (iii) the only Medicaid assistance the individual is entitled to is payment of Medicare Part B premiums.

The sale of a health insurance policy (other than a Medigap policy) that duplicates private coverage is not prohibited if the policy pays benefits directly to the individual without regard to other coverage. Further, the sale of a health insurance policy (other than a Medigap policy to an individual entitled to Medicaid) is not in violation of the prohibition relating to selling of a policy duplicating Medicare or Medicaid, if the benefits are paid without regard to the duplication in coverage. This exception is conditional on the prominent disclosure of the extent of the duplication, as part of or together with, the application statement.

P.L. 103-432 provided for the development by the National Association of Insurance Commissioners (NAIC) of disclosure statements describing the extent of duplication for each of the types of private health insurance policies. Statements were to be developed, at a minimum, for policies paying fixed cash benefits directly to the beneficiary and policies limiting benefits to specific diseases. The NAIC identified 10 types of health insurance policies requiring disclosure statements and developed statements for them. These were approved by the Secretary and published in the Federal Register on June 12, 1995.

House bill

The provision would modify the anti-duplication provisions. It would be unlawful to sell to a Medicare beneficiary (including a person under MedicarePlus) a health insurance policy (other than a Medigap policy) with knowledge that it duplicated benefits under Medicare or Medicaid. It would be unlawful to sell, to persons not electing MedicarePlus, a Medigap policy with knowledge that the person is entitled to benefits under another Medigap policy. It would be unlawful to sell to a person electing MedicarePlus a Medigap policy duplicating benefits to which the individual is otherwise eligible under Medicare or another Medigap policy. A policy would be considered duplicative if the policy provided specific reimbursement for identical items and services to the extent paid for under Medicare. A policy would not be considered duplicative if it provided for payment of benefits without regard to other health benefits coverage of the individual. The provision would change the disclosure requirements contained in P.L. 103-432 to require plans to disclose the extent to which they may coordinate benefits with Medicare as part of their outlined coverage.

A health insurance policy (or a rider to an insurance contract which is not a health insurance policy) that coordinates against or excludes items and services covered under Medicare, and for policies sold after January 1, 1996, discloses such coordination or exclusion in the policy's outline of coverage would not be considered duplicative. For this purpose, health insurance policies would include policies providing benefits for long-term care, nursing home care, home health care, or community-based care.

The provision would prohibit the imposition of criminal or civil penalties or the bringing or continuing of legal action relating to selling duplicative policies if the penalty or action was based on actions occurring after November 1, 1991 and before enactment of OBRA of 1995 and if the policy was not duplicative under the revised language. The provision would also prohibit a State from imposing any requirement related to the sale or issuance of a policy (or rider) to a Medicare beneficiary based on the premise that the policy or rider was duplicative. The provision would require the Secretary to report within 3 years of enactment on the advisability of restricting the sale to Medicare beneficiaries of health insurance policies that duplicate other insurance policies the individual may have.

The provision would specifically exclude MedicarePlus products from the definition of Medigap policies. It would also exempt health insurance products sold to persons electing MedicarePlus from requirements relating sale of standardized benefits packages and minimum loss ratios.

The provision would make it unlawful to sell or issue a health insurance policy covering expenses which would otherwise be counted toward meeting the annual deductible amount under a high deductible/medisave product.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision with a modification.

It is the intent of the conferees that this provision be administered as though it were included in OBRA 1990. The agreement specifies that it is illegal to sell suppplemental policies that cover the deductible for persons who have high-deductible MedicarePlus plans.

11. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM (SEC. 15004 OF HOUSE BILL; SEC. 7002 OF SENATE BILL)

Current law

No provision.

House bill

a. Termination of Current Contracts. The Secretary would be prohibited from entering into any new risk sharing contract under section 1876 with an eligible organization for any contract year beginning on or after the date MedicarePlus standards are first established with respect to MedicarePlus organizations that are insurers or health maintenance organizations unless a contract with the organization had been in effect under section 1876 for the previous contract year. The Secretary could not extend or continue any risk-sharing contract for any contract year beginning on or after one year after the MedicarePlus standards are established.

The Secretary would also be prohibited from entering into any cost reimbursement contract under section 1876 beginning in any contract year starting on or after the enactment of this legislation. The Secretary could not extend or continue any cost reimbursement contract for any contract year beginning on or after January 1, 1998.

b. Conforming Payment Rates. For individuals entitled to benefits under both part A and part B, payments for risk-sharing contracts for months beginning with January 1996 would be computed by substituting the payment rates specified in this bill in as timely a manner as possible. For individuals entitled to benefits only under part B, the substitution would be based upon the proportion of those rates that reflects the proportion of payments under title XVIII attributable to part B. Payments under cost reimbursement contracts under section 1876(a) would take into account the adjustments to part A and part B payments made by this legislation.

c. Elimination of 50:50 Rule. The 50:50 rule under section 1876(f)] would not apply to contract years beginning on or after January 1, 1996.

d. HMO Limits on Deductibles. No provision.

Senate bill

a. Termination of Current Contracts. Section 1876 would not apply to risk-sharing contracts effective for contract years beginning on or after January 1, 1997. An individual who is enrolled in part B only and is enrolled in an organization with a 1987 contract on December 31, 1996, may continue his or her enrollment. The Secretary would be required to issue regulations relating to such individuals and organizations not later than July 1, 1996.

b. Conforming Payment Rates. (See sec. 7003 of the bill, as described under F(i) of the Senate provisions above.)

c. Elimination of 50:50 Rule. No specific provision, but section 1876 of the Social Security Act would terminate in 1997.

d. HMO Limits on Deductibles. If a member certifies that a Medicare Choice account has been established for his or her benefit, an HMO may reduce the basic health services payment otherwise determined under section 1301(a) of the Public Health Service Act by requiring payment of a deductible by the member.

Conference agreement

The conference agreement follows the House provision with a modification.

The Secretary would be prohibited from entering into, renewing, or continuing any risk-sharing contract for any contract year beginning on or after the date standards are established for MedicarePlus organization or in the case of such an organization with a contract in effect as of the date standards were established, one year after such date. The Secretary could not enter into, renew, or continue any risk-sharing contract for any contract year beginning on or after January 1, 2000.

An individual who is enrolled in part B only and was enrolled in an organization with a risk-sharing contract on December 31, 1996, could continue his or her enrollment. The Secretary would be required to issue regulations relating to such individuals and organizations not later than July 1, 1996.

Part 2. Special Rules for MedicarePlus Medical Savings Accounts

1. DESCRIPTION OF TAXATION OF MEDICARE MEDICAL SAVINGS ACCOUNTS

Present law

Under present law, the value of Medicare coverage and benefits is not includible in taxable income. There are no specific tax provisions for Medicare medical savings accounts ("MMSAs") or Rebate MSAs.

House bill

In general

Under the House bill, individuals who are eligible for Medicare may choose either the traditional Medicare program or a plan with a high deductible insurance policy and an MMSA. To the extent an individual chooses such a plan, the Secretary of Health and Human Services makes a specified contribution directly into an MMSA designated by the individual. Only contributions by the Secretary of Health and Human Services could be made to an MMSA and such contributions are not taxable. Income earned on amounts held in an MMSA are not currently includible in taxable income. Withdrawals from an MMSA are excludable from taxable income if used for the qualified medical expenses of the MMSA holder.

Taxation of distributions from an MMSA

Distributions from an MMSA that are used to pay the qualified medical expenses of the account holder are excludable from taxable income. Qualified medical expenses generally are defined as under the rules relating to the itemized deduction for medical expenses (sec. 213). However, for this purpose, qualified medical expenses do not include any insurance premiums other than premiums for long-term care insurance. Distributions from an MMSA that are excludable from gross income cannot be taken into account for purposes of the itemized deduction for medical expenses.

Distributions for purposes other than qualified medical expenses are includible in taxable income. An additional tax of 50 percent of the amount includible in taxable income applies to the extent the total distributions for purposes other than qualified medical expenses in a taxable year exceed the amount by which the value of the MMSA as of December 31, of the preceding taxable year exceeds 60 percent of the deductible of the plan under which the individual is covered. The additional tax does not apply to distributions on account of the disability or death of the account holder.

The provision includes rules that apply on the death of the MMSA owner. No estate tax applies, and the income tax treatment depends on who is the beneficiary.

Effective date

The provision is effective with respect to taxable years beginning after December 31, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with modifications. Under the conference agreement, as under the House bill, individuals enrolled in a high deductible plan automatically have contributions made to a high deductible MMSA. In addition, under the conference agreement, if an individual chooses a MedicarePlus option other than the high deductible plan, the individual may direct that the difference between the Medicare payment amount and the cost of the plan is deposited in a rebate MMSA. The Rebate MSA is separate from and cannot be commingled with the high deductible MMSA.

Rebate MMSAs are generally subject to the same rules as high deductible MMSAs, except with respect to the taxation of distributions for nonmedical purposes. With respect to rebate MMSAs, such distributions are includible in income, and subject to a 10-percent additional tax unless the distribution is made after death or disability. The 50-percent excise tax rule does not apply to a Rebate MSA.

2. TAX TREATMENT OF REBATES

Present law

Present law does not provide for cash payments to individuals under Medicare.

House bill

Under the House bill, certain individuals are entitled to cash rebates under the MedicarePlus program. These rebates are not includible in income.

Effective date.—The provision applies to rebates received after the date of enactment.

Senate amendment

Under the Senate amendment, certain individuals are entitled to cash rebates under the Medicare Choice program. These rebates are includible in income.

Effective date.—Same as the House bill.

Conference agreement

The conference agreement generally follows the House bill with modifications.

Part 3. Special Antitrust Rules for Provider Sponsored Organizations

1. APPLICATION OF ANTITRUST RULE OF REASON TO PROVIDER SERVICE NETWORKS (SEC. 15021 OF THE HOUSE BILL)

Current law

Under Federal antitrust law, agreements among competitors that fix prices or allocate markets are per se (automatically) illegal. Some joint activities, however, if deemed to create an entity separate from and in addition to the competitors who create them (i.e., true joint ventures), are judged under the rule of reason, which finds them legal if they are considered reasonable. The Department of Justice and the Federal Trade Commission have issued Statements of Enforcement Policy Relating to Health Care and Antitrust, pursuant to which they have attempted to indicate the limited circumstances under which they will consider "physician network joint ventures" not violations of Federal antitrust law.

House bill

Rule of Reason Standard. This provision states that the conduct of a provider service network in negotiating, making, or performing a contract (including the establishment and modification of a fee schedule and the development of a panel of physicians), to the extent such contract is for the purpose of providing health care services to individuals under the terms of a health benefit plan, would not be a per se violation of Federal or State antitrust laws. In addition, the conduct of any member of such a provider service network for the purpose of providing such health care services under a contract to provide health care services to individuals would not be deemed illegal per se under Federal or State antitrust laws. Such conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition in properly defined markets.

Definitions. This section defines "antitrust laws" to include those set out in subsection (a) of the first section of the Clayton Act, 15 U.S.C. ' 12, as well as ' 5 of the Federal Trade Commission Act, 15 U.S.C. ' 45, to the extent that ' 5 applies to unfair methods of competition. "Health benefit plan" is defined as a hospital or medical expense incurred policy or certificate, a hospital or medical service plan contract, a health maintenance subscriber contract, or a multiple employer welfare arrangement or employee benefit plan (as defined under ERISA). "Health care provider" is defined as any individual or entity engaged in the delivery of health care services that must be licensed or certified by State law or regulation to deliver such services. "Health care service" means any service for which payment may be made under a health benefit plan, including services related to the delivery or administration of such service. "Provider services network" is defined as an organization that meets the following requirements: It is organized by, operated by, and composed of members who are health care providers and for purposes that include health care services. It is funded in part by capital contributions made by the members of such organization. With respect to each contract made by such organization for the purpose of providing a type of health care service to individuals under the terms of a health benefit plan, the organization requires all members of the organization to agree to provide health care services of such type under such contract, receives the compensation paid for the provision of such health care services, and provides for the distribution of such compensation. It has established programs based on written guidelines to review the quality, efficiency, and appropriateness of treatment methods, health care services, and all patients participating in the health benefit plan, as well as internal procedures to correct any identified deficiencies, to monitor and control utilization of health care services in order to improve efficient care and eliminate the provision of unnecessary health care services. It coordinates the delivery of health care services by all health care providers to all patients participating in the health care plan so as to enhance the quality of health care services provided. And, it has established a grievance and appeal process to review and promptly resolve patient or beneficiary grievances or complaints. "State" is defined as the States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

Issuance of Guidelines. This provision requires the Attorney General and the Federal Trade Commission, within 120 days after enactment of this bill, to issue joint guidelines specifying the enforcement policies and analytical principles they will apply with respect to the operation of the rule of reason standard.

Senate bill

No provision.

Conference agreement

The conference agreement generally follows the House bill with modifications.

The Rule of Reason standard is made applicable to members of a provider-sponsored organization and to members of an unaffiliated group of health care providers.

Protected conduct includes the exchange of information among health care providers relating to costs, sales, profitability, marketing, prices, or fees of any health care product or service if the exchange of information was solely for the purpose of establishing a provider-sponsored organization and reasonably required to do so.

PART 4. COMMISSIONS

1. MEDICARE PAYMENT REVIEW COMMISSION. (SEC. 15031 OF HOUSE BILL)

Current Law

The Prospective Payment Assessment Commission was established by Congress through the Social Security Act Amendments of 1983 (P.L. 98-21). The Commission is charged with reporting each year its recommendation of an update factor for PPS payment rates and for other changes in reimbursement policy. It is also required each year to submit a report to Congress which provides background information on trends in health care delivery and financing. The Physician Payment Review Commission was established by the Congress through the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272). It was charged with advising and making recommendations to the Congress on methods to reform payment to physicians under the Medicare program. In subsequent laws, Congress mandated additional responsibilities relating to the Medicare and Medicaid programs as well as the health care system more generally. Both Commissions are appointed by the Director of the Office of Technology Assessment and are funded through appropriations from the Medicare trust funds.

House Bill

The provision would establish the Medicare Payment Review Commission (hereafter referred to as "the Commission") to review and make recommendations to Congress concerning payment policies under this title. The Commission would be required to submit a report to Congress by June 1 of each year containing an examination of issues affecting the Medicare program, including implications of changes in health care delivery and in the market for health care services on the Medicare program. The Commission would be authorized to submit from time to time other reports as it deemed appropriate. By May 1, 1997, it would be required to submit a report to Congress on major issues in implementation and further development of the MedicarePlus program. The Secretary would be required to respond to recommendations of the Commission in notices of rulemaking proceedings.

The Commission would be charged with the following specific responsibilities, including reviewing: (1) the appropriateness of the methodology for making payments to the health plans; (2) the appropriateness of the risk adjustment mechanisms and the need to adjust such mechanisms to take into account health status; (3) implications of risk selection; (4) the development and implementation of quality assurance mechanisms with respect to MedicarePlus organizations; (5) the impact of the MedicarePlus program on beneficiary access to care; (6) the feasibility and desirability of extending the rules for open enrollment that apply during the transition period to apply in each county during the first 2 years in which MedicarePlus products are made available; and (7) other issues in implementation and further development of the MedicarePlus program.

The Commission would also be required to review specific aspects of the failsafe budget mechanism established under the bill, including: (1) the appropriateness of the expenditure projections by the Secretary and growth factors for each Medicare sector; (2) the appropriateness of the mechanism for implementing reductions in payment amounts for different sectors; (3) the impact of the failsafe mechanism on provider participation; and (4) the appropriateness of the Medicare benefit budget, especially for fiscal years after 2002.

In addition, the Commission would be required to review payments policies under Medicare parts A and B (fee-for-service), including: (1) factors affecting expenditures in different sectors; (2) payment methodologies; and (3) the impact of payment policies on access and quality of care. It would also look at the effect of Medicare payment policies on the delivery of Medicare services and assess the implications of changes in the health services market on Medicare.

The Commission would be composed of 15 members appointed by the Comptroller General, with the first appointments being made by March 31, 1996. These members would have to meet specific qualifications, (such as national recognition for their expertise in health finance), including representatives of consumers and the elderly. Consideration in the initial appointment would be given to individuals who were already serving on the Physician Payment Review Commission or the Prospective Payment Assessment Commission. Commissioners would serve for 3-year terms. The bill provides for a mechanism for filling vacancies, compensating commissioners, appointing a chair and vice chair; convening meetings; and providing for staff, experts, and consultants. The Commission would be authorized to secure directly from any department or agency information to carry out these provisions. It would be required to collect and assess information (which would be available on an unrestricted basis to GAO). The Commission would be subject to periodic audit by GAO.

The provision authorizes such sums as may be necessary to be appropriated from the Medicare trust funds (60 percent part A and 40 percent from part B). The Comptroller General would be required to provide for appointment of members to the Commission by March 31, 1996. The Prospective Payment Assessment Commission and Physician Payment Review Commission would be abolished within 30 days after a majority of the Medicare Payment Review Commission were appointed. To the extent possible, the Comptroller General would be required to provide for the transfer from the former to the new commission assets and staff without any loss of benefits or seniority by virtue of such transfers. The Commission would be responsible for the preparation and submission of reports required by law to be submitted (and which had not been submitted by the time it was established) by the former commissions.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision with modifications.

With respect to Commission responsibilities, the conference agreement deletes "appropriateness" in the charge to the Commission to review payment and risk adjustment methodology.

The conference agreement does not include the provision requiring the Commission to review specific aspects of the failsafe budget mechanism established under the bill.

It is the intent of the conferees that to the extent possible, in first appointing members to the Commission, the Comptroller General consider appointing individuals who (as of the date of enactment of this section) were serving on ProPAC and PPRC.

In addition, it is the intent of the conferees that the Commission analyze and report on the reasonableness of the ACR, looking at any amounts being charged above the contribution rate and assessing the relationship between that charge and insuring companies' commercial rates. The Commission would also analyze and assess the prevalence of plans in major areas that provide MedicarePlus for the Government's capitated amount.

2. COMMISSION ON THE EFFECT OF THE BABY BOOM GENERATION ON THE MEDICARE PROGRAM (SEC. 15032 OF HOUSE BILL)

Current Law

No provision.

House bill

The provision would establish a commission to be known as the Commission on the Effect of the Baby Boom Generation on the Medicare Program, hereafter referred to as "the Commission." It would be required to: (1) examine the financial impact on the Medicare program of the significant increase in the number of Medicare eligible individuals which will occur approximately during 2010 and lasting for approximately 25 years, and (2) make specific recommendations to Congress with respect to a comprehensive approach to preserve the Medicare program for the period during which such individuals are eligible for Medicare. In making its recommendations, the Commission would be required to consider: (1) the amount and sources of Federal funds to finance Medicare, including innovative financing methods; (2) the most efficient and effective manner of administering the program, including the appropriateness of continuing the failsafe mechanism after 2002; (3) methods used by other nations to respond to comparable demographics; (4) modifying age-based eligibility to correspond to that under the OASDI program; and (5) trends in employment-related health care for retirees, including the use of medical savings accounts and similar financing devices.

The Commission would be composed of 15 members, 3 appointed by the President, 6 by the Majority Leader of the Senate in consultation with the Minority Leader, of whom no more than 4 are of the same party; and 6 by the Speaker of the House, after consultation with the Minority Leader, of whom no more than 4 are in the same party. The provision spells out the appointment of a chair and vice chair, appointment of staff and consultants, compensation, the procedure for filling vacancies, and requirements relating to meetings and quorums. Upon request of the Commission, the Comptroller General would be required to conduct such studies or investigations as the Commission determined were needed to carry out its duties. The Director of CBO would be required to provide the commission with cost estimates, for which CBO would be compensated. The Commission would be authorized to detail to it employees of Federal agencies, and to obtain technical assistance and information from Federal agencies.

The Commission would be required to submit to Congress a report, no later than May 1, 1997, containing its findings and recommendations regarding how to protect and preserve the Medicare program in a financially solvent manner until 2030 (or, if later, throughout a period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report would be required to include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective. The Commission would terminate 60 days after the date of submission of the mandated report. An amount of $1.5 million would be authorized to be appropriated.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

3. CHANGE IN APPOINTMENT OF ADMINISTRATOR OF HCFA (SEC. 15033 OF HOUSE BILL)

Current Law

The Administrator of HCFA is appointed by the President with the advise and consent of the Senate.

House Bill

Under the bill, the Administrator of HCFA would be appointed by the Secretary of Health and Human Services. The amendment would become effective on the date of enactment and would apply to Administrators appointed on or after the date of enactment.

Senate bill

No provision.

Conference Agreement

The conference agreement does not include the House provision.

PART 5. TAX TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS (SEC. 15041 of the House Bill)

Present law

To qualify as a charitable tax-exempt organization described in Internal Revenue Code ("Code") section 501(c)(3), an organization must be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster international sports competition, or for the prevention of cruelty to children or animals. Although section 501(c)(3) does not specifically mention furnishing medical care and operating a nonprofit hospital, such activities have long been considered to further charitable purposes, provided that the organization benefits the community as a whole.[1]

No part of the net earnings of a 501(c)(3) organization may inure to the benefit of any private shareholder or individual. No substantial part of the activities of a 501(c)(3) organization may consist of carrying on propaganda, or otherwise attempting to influence legislation, and such organization may not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office. In addition, under section 501(m), an organization described in section 501(c)(3) or 501(c)(4) is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance.

A tax-exempt organization may, subject to certain limitations, enter into a joint venture or partnership with a for-profit organization without affecting its tax-exempt status. Under current ruling practice, the IRS examines the facts and circumstances of each arrangement to determine (1) whether the venture itself and the participation of the tax-exempt organization therein furthers a charitable purpose, and (2) whether the sharing of profits and losses or other aspects of the arrangement entail improper private inurement or more than incidental private benefit.[2]

House bill

The House bill provides that an organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of Internal Revenue Code (the "Code") section 501(c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization ("PSO") (as defined in section 1845(a)(1) of the Social Security Act), whether or not such PSO is exempt from tax. Thus, participation by a hospital in a PSO (whether taxable or tax-exempt) would be deemed to satisfy the first part of the inquiry under current IRS ruling practice.[3]

The House bill does not change present-law restrictions on private inurement and private benefit. However, the House bill provides that any person with a material financial interest in such a PSO shall be treated as a private shareholder or individual with respect to the hospital for purposes of applying the private inurement prohibition in Code section 501(c)(3). Accordingly, the facts and circumstances of each PSO arrangement will be evaluated to determine whether the arrangement entails impermissible private inurement or more than incidental private benefit (e.g., where there is a disproportionate allocation of profits and losses to the non-exempt partners, the tax-exempt partner makes loans to the joint venture that are commercially unreasonable, the tax-exempt partner provides property or services to the joint venture at less than fair market value, or a non-exempt partner receives more than reasonable compensation for the sale of property or services to the joint venture).

The House bill does not change present-law restrictions on lobbying and political activities. In addition, the restrictions of section 501(m) on the provision of commercial-type insurance continue to apply.

Effective date.—The House bill is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

SUBTITLE B—FRAUD AND ABUSE

PART 1—GENERAL PROVISIONS

1. INCREASING AWARENESS OF FRAUD AND ABUSE (SEC. 15101 OF HOUSE BILL; SEC. 7103 AND SEC. 7121 OF SENATE BILL)

Current Law

No provision.

House bill

a. Beneficiary Outreach Efforts. This provision would require the Secretary to make ongoing efforts to alert individuals entitled to Medicare benefits of the existence of fraud and abuse committed against the program, of the costs of such fraud and abuse, and of a toll-free telephone line operated by the Secretary to receive information about such fraud and abuse.

b. Clarification of Requirement to Provide Explanation of Medicare Benefits. The Secretary would be required to provide an explanation of Medicare benefits with respect to each item or service for which payment may be made, without regard to whether a deductible or coinsurance may be imposed with respect to the item or service.

c. Provider Outreach Efforts; Publication of Fraud Alerts. Any person may, at any time, request the Secretary to publish a special fraud alert, which is defined as a notice that informs the public of practices the Secretary considers to be suspect or of particular concern under the Medicare program or a State health care program. Upon receipt of a request for a special fraud alert, the Secretary would be required to investigate to determine whether to issue a special fraud alert. If he determines issuance of a special fraud alert appropriate, he would be required, in consultation with the Attorney General, to publish a special fraud alert in the Federal Register. In determining whether to issue a special fraud alert, the Secretary could consider whether and to what extent the practices in question may result in the consequences described in the criteria used to modify and establish safe harbors, and the extent and frequency of the conduct in question. Each notice issued by the Health Care Financing Administration that informs the public of practices the Secretary considers to be suspect or of particular concern under the Medicare program or a State health care program would be required to be published in the Federal Register, without regard to whether it was issued by a regional office of the Health Care Financing Administration.

d. Establishment of the Health Care Fraud and Abuse Data Collection Program. No provision.

Senate bill

a. Beneficiary Outreach Efforts. No provision.

b. Clarification of Requirement to Provide Explanation of Medicare Benefits. No provision.

c. Provider Outreach Efforts; Publication of Fraud Alerts. Any person may request the Inspector General to issue a special fraud alert informing the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (anti-kickback provisions). After investigation the subject matter of the request, and, if appropriate, the Inspector General shall issue a special fraud alert in response to the request, published in the Federal Register.

d. Establishment of the Health Care Fraud and Abuse Data Collection Program

In General. The Secretary of Health and Human Services is required to establish a national health care fraud and abuse data collection program for reporting final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners.

Each government agency and health plan would, on a monthly basis, report any final adverse action taken against a health care provider, supplier, or practitioner. Certain information would be included in the report, including a description of the acts or omissions and injuries upon which the final adverse action was taken. The Secretary would, however, protect the privacy of individuals receiving health care services.

The Secretary would, by regulation, provide for disclosure of the information about adverse actions, upon request, to the health care provider, supplier, or licensed practitioner and provide procedures in the case of disputed accuracy of the information. Each government agency and health plan is required to report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner in such form and manner that the Secretary prescribes by regulation.

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[1] Although not-for-profit hospitals generally are recognized as tax-exempt by virtue of being "charitable" organizations, some may also qualify for exemption as "educational organizations" because they are organized and operated primarily for medical education purposes.

[2] See IRS General Counsel Memorandum 39862; Announcement 92-83, 1992-22 I.R.B. 59 (IRS Audit Guidelines for Hospitals). Even where no prohibited private inurement exists, however, more than incidental private benefits conferred on individuals may result in the organization not being operated "exclusively" for an exempt purpose. See, e.g., American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989).

[3] The qualification of a hospital as a tax-exempt charitable organization under section 501(c)(3) would be determined as under present law. See Rev. Rul. 69-545, 1969-2 C.B. 117.

The information in the database would be available to Federal and State government agencies and health plans. The Secretary may approve reasonable fees for the disclosure of information in the database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the data base.

No person or entity would be held liable in any civil action with respect to any report made as required by this section, unless the person or entity knows the information is false.

Improved Prevention in Issuance of Medicare Provider Numbers. The Secretary may impose appropriate fees on physicians to cover the costs of investigation and recertification activities with respect to the issuance of identifiers for physicians who furnish services for which Medicare payments are made.

Conference agreement

a. Beneficiary Outreach Efforts. The conference agreement does not include the House provision.

b. Clarification of Requirement to Provide Explanation of Medicare Benefits. The conference agreement includes the House provision.

c. Provider Outreach Efforts; Publication of Fraud Alerts. The conference agreement includes the Senate provision with a modification that fraud alerts may be issued with regard to practices under the Medicare program or a State health care program.

d. Establishment of the Health Care Fraud and Abuse Data Collection Program. The conference agreement includes the Senate provision with a modification eliminating the definitions of "health care provider" and "supplier". The conference agreement also clarifies that this program is an authorized use of funds under the fraud and abuse control program.

2. BENEFICIARY INCENTIVE PROGRAMS (SEC. 15102 OF HOUSE BILL; SEC. 7152 OF SENATE BILL)

Current law

No provision.

House bill

a. Program to Collect Information on Fraud and Abuse. This provision would require the Secretary, within three months after enactment of this bill, to establish a program to encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions that constitute grounds for sanctions under sections 1128, 1128A, or 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the Medicare program. If an individual reports information to the Secretary under this program that serves as a basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than amounts paid as a penalty under section 1128B), the Secretary may pay a portion of the amount collected to the individual, under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986.

b. Program to Collect Information on Program Efficiency. The Secretary would be required, within three months after enactment of this bill, to establish a program to encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the Medicare program. If the Secretary adopts a suggestion and savings to the program result, the Secretary could make a payment to the individual of an amount the Secretary considers appropriate.

Senate bill

a. Program to Collect Information on Fraud and Abuse. This provision would require the Secretary, within three months after enactment of this bill, to establish a program to encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions that constitute grounds for sanctions under sections 1128, 1128A, or 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the Medicare program. If an individual reports information to the Secretary under this program that serves as a basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than amounts paid as a penalty under section 1128B), the Secretary may pay a portion of the amount collected to the individual, under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986.

b. Program to Collect Information on Program Efficiency. The Secretary would be required, within three months after enactment of this bill, to establish a program to encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the Medicare program. If the Secretary adopts a suggestion and savings to the program result, the Secretary could make a payment to the individual of an amount the Secretary considers appropriate.

Conference agreement

The conference agreement includes the Senate provision with a modification adding a requirement to provide explanations of Medicare benefits under certain circumstances.

3. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS (SEC. 15103 OF HOUSE BILL; SEC. 7115 OF SENATE BILL)

Current Law

A contract between the Secretary and a Medicare Health Maintenance Organization (HMO) is generally for a one year term, with an option for automatic renewal. However, the Secretary may terminate any such contract at any time, after reasonable notice and an opportunity for a hearing, if the Medicare HMO has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the requirements of section 1876 of the Social Security Act, or if the Medicare HMO no longer substantially meets the statutory requirements contained in Section 1876(b),(c),(e) and (f).

House bill

a. Application of Intermediate Sanctions for Any Program Violations. This provision would add a ground for termination of a Medicare HMO contract by the Secretary, specifying that the Secretary may terminate such a contract if the organization is operating in a manner that is not in the best interests of the individuals covered under the contract. In addition, the Secretary would have the discretion to either terminate the contract or to impose certain intermediate sanctions on the eligible organization.

If the basis for the determination by the Secretary that an intermediate sanction should be imposed on an eligible organization is other than that the organization has failed substantially to carry out its contract with the Secretary, then the Secretary may apply intermediate sanctions as follows: civil money penalties of not more than $25,000 for each determination if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract; civil money penalties of not more than $10,000 for each week of a continuing violation; and suspension of enrollment of individuals until the Secretary is satisfied that the deficiency has been corrected and is not likely to recur.

Whenever the Secretary seeks to either terminate a Medicare HMO contract or impose intermediate sanctions on such an organization, the Secretary must do so pursuant to a formal investigation and under compliance procedures which provide the organization with an opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's adverse determination. The Secretary would impose more severe sanctions on organizations that have a history of deficiencies or that have not corrected deficiencies brought to their attention. The Secretary's compliance procedures must also include reasonable notice and opportunity for a hearing (including the right to appeal an initial decision) before the Secretary imposes any sanction or terminates the contract of a Medicare HMO, and there must not be any unreasonable or unnecessary delay between the finding of a deficiency and the imposition of sanctions.

b. Effective Date. The amendments made by this section would apply to contract years of eligible organizations beginning on or after January 1, 1996.

Senate bill

a. Application of Intermediate Sanctions for Any Program Violations. Under this section the Secretary may terminate a contract with a Medicare Health Maintenance Organization (HMO) or may impose certain intermediate sanctions on the organization if the Secretary determines that the Medicare HMO has failed substantially to carry out the contract; is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or, if the Medicare HMO no longer substantially meets the statutory requirements contained in Section 1876(b),(c),(e) and (f) of the Social Security Act.

If the basis for the determination by the Secretary that intermediate sanctions should be imposed on an eligible organization is other than that the organization has failed substantially to carry out its contract with the Secretary, then the Secretary may apply intermediate sanctions as follows: civil money penalties of not more than $25,000 for each determination if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organizations's contract; civil money penalties or not more than $10,000 for each week of a continuing violation; and suspension of enrollment of individuals until the Secretary is satisfied that the deficiency has been corrected and is not likely to recur.

Whenever the Secretary seeks to either terminate a Medicare HMO contract or impose intermediate sanctions on such an organization, the Secretary must do so pursuant to a formal investigation and under compliance procedures which provide the organization with a reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's adverse determination. In making a decision whether to impose sanctions the Secretary is required to consider aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention. The Secretary's compliance procedures must also include notice and opportunity for a hearing (including the right to appeal an initial decision) before the Secretary imposes any sanction or terminates the contract of a Medicare HMO, and there must not be any unreasonable or unnecessary delay between the finding of a deficiency and the imposition of sanctions.

b. Agreements with Peer Review Organizations. Under this section each risk-sharing contract with a Medicare HMO must provide that the organization will maintain a written agreement with a utilization and quality control peer review organization or similar organization for quality review functions.

Effective Date. The amendments made by this section shall apply to contract years beginning on or after January 1, 1996.

Conference agreement

The conference agreement includes the Senate provision.

4. VOLUNTARY DISCLOSURE PROGRAM (SEC. 15104 OF HOUSE BILL)

Current law

Current law does not provide for a program permitting the Secretary to mitigate penalties for parties who voluntarily disclose acts or omissions under Section 1128, 1128A, or 1128B. Section 1128 directs the Secretary to impose mandatory exclusions from the Medicare program and State health care programs for convictions of criminal offenses related to the delivery of an item or service under Medicare or State health care programs, as well as for convictions relating to patient abuse in connection with the delivery of a health care item or service. The Secretary has permissive exclusion authority for a number of criminal offenses relating to health care-related fraud, theft, embezzlement, financial misconduct, kickbacks, misuse of controlled substances, and activities relating to license revocations or suspensions, claims for excessive charges or unnecessary services, and the like. Section 1128A prescribes civil money penalties for a number of illegal activities relating to the submission of claims for reimbursement under the Medicare and Medicaid programs. Violations which are subject to civil money penalties include submitting claims for items or services not provided or which were false or fraudulent, providing services when not a properly licensed physician, and providing items or services by an excluded practitioner. Civil money penalties may also be imposed on a hospital which knowingly makes a payment to a physician, or a physician who knowingly accepts payment from a hospital, as inducement to limit or reduce care to a Medicare or Medicaid patient. Section 1128B sets forth criminal penalties under Medicare and State health care programs for offenses such as false statements in benefit applications or in determining rights under such benefits, concealing information relating to benefits, submitting claims from non-licensed physicians, and soliciting and receiving kickbacks for referrals or soliciting or receiving remuneration for admitting a Medicaid patient.

House bill

Under this section a new provision would be added to Title XI of the Social Security Act directing the Secretary of the Department of Health and Human Services to establish a program encouraging individuals and entities to voluntarily disclose to the Secretary information on acts or omissions which constitute grounds for the imposition of a sanction under Section 1128, 1128A, or 1128B of the Social Security Act.

Under this program the Secretary would have the authority to mitigate any applicable sanction which the Secretary might otherwise have imposed under Section 1128, 1128A or 1128B. The Secretary would not be required to reduce or mitigate applicable sanctions, but may do so, following a voluntary disclosure. This section would specify that no qui tam lawsuit could be brought under the False Claims Amendments Act of 1986, by private parties against the individual or entity with respect to a voluntarily disclosed act or omission under sections 1128, 1128A or 1128B.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

5. REVISIONS TO CURRENT SANCTIONS. (SEC. 15105 OF HOUSE BILL; SECS. 7102, 7111, 7112, 7113, 7114, 7131 OF SENATE BILL)

Current law

Section 1128 of the Social Security Act authorizes the Secretary to impose mandatory and permissive exclusions of individuals and entities from participation in the Medicare program, Medicaid program and programs receiving funds under the Maternal and Child Health Service Block Grant, or the Social Services Block Grant. Mandatory exclusions are authorized for convictions of criminal offenses related to the delivery of health care services under Medicare and State health care programs, as well as for convictions relating to patient abuse in connection with the delivery of a health care item or service. In the case of an exclusion under the mandatory exclusion authority the minimum period of exclusion could be no less than five years, with certain exceptions. Permissive exclusions are authorized for a number of offenses relating to fraud, kickbacks, obstruction of an investigation, and controlled substances, and activities relating to license revocations or suspensions, claims for excessive charges or unnecessary services, and the like.

Under Section 1128A of the Social Security Act civil monetary penalties may be imposed for false and fraudulent claims for reimbursement under the Medicare and State health care programs.

Under section 1128B, upon conviction of a program-related felony, an individual may be fined not more than $25,000 or imprisoned for not more than five years, or both.

House bill

a. Doubling the Amount of Civil Monetary Penalties. The maximum amount of civil monetary penalties set forth in Sec. 1128A of the Social Security Act would be doubled.

b. Establishment of Minimum Period of Exclusion for Certain Individuals and Entities Subject to Permissive Exclusion. This section would establish a minimum period of exclusion of three years for permissive exclusions of individuals or entities convicted, under Federal or State law, of health care criminal offenses relating to fraud, theft, embezzlement, breach of fiduciary responsibility or other financial misconduct, as well as for convictions relating to obstruction of an investigation, or of a criminal offense involving misuse of controlled substances. The Secretary may determine that a shorter period than three years is appropriate in cases of mitigating circumstances, or that a longer period is appropriate because of aggravating circumstances.

Permissive exclusions in cases relating to license revocations or suspensions for reasons bearing on an individual's or entity's professional competence or financial integrity, and permissive exclusions following the suspension, exclusion or sanction or an individual or entity from any Federal or State health care program for reasons bearing on professional competence or financial integrity, would be not less than the period during which the individual's or entity's license to provide health care has been revoked or suspended, or the individual or entity has been excluded or suspended from a Federal or State health care program.

In cases where the Secretary has permissive authority to exclude an individual or entity from Medicare or State health care programs due to submission of claims for excessive charges or for medically unnecessary services, the period of exclusion would be not less than one year.

Effective Date. The amendments made by this section would apply to acts or omissions occurring on or after January 1, 1996.

c. Application of Certain health Anti-Fraud and Abuse Sanctions to Fraud and Abuse Against Federal Health Programs. No provision.

d. Mandatory Exclusion From Participation in Medicare and State Health Care Programs. No provision.

e. Permissive Exclusion of Individuals With Ownership or Control Interest in Sanctioned Entities. No provision.

f. Sanctions Against Practitioners and Persons for Failure to Comply With Statutory Obligations. No provision.

g. Social Security Act Civil Monetary Penalties. No provision.

Senate bill

a. Doubling the Amount of Civil Monetary Penalties. No provision.

b. Establishment of Minimum Period of Exclusion for Certain Individuals and Entities Subject to Permissive Exclusion. This section would establish a minimum period of exclusion for certain permissive exclusions from participation in Medicare and State health care programs.

For convictions of misdemeanor criminal health care fraud offenses, criminal offenses relating to fraud in non-health care Federal or State programs, convictions relating to obstruction of an investigation of health care fraud offenses, and convictions of misdemeanor offenses relating to controlled substances, the minimum period of exclusion would be three years, unless the Secretary determines that a longer or shorter period is appropriate, due to aggravating or mitigating circumstances.

For permissive exclusions from Medicare or State health care programs due to the revocation or suspension of a health care license of an individual or entity, the minimum period of exclusion would not be less than the period during which the individual's or entity's license was revoked or suspended.

For permissive exclusions from Medicare or State health care programs due to exclusion from any Federal health care program or State health care program for reasons bearing on an individual's or entity's professional competence or financial integrity, the minimum period of exclusion would not be less than the period the individual or entity is excluded or suspended from a Federal or State health care program.

For permissive exclusions from Medicare or State health care programs due to a determination by the Secretary that an individual or entity has furnished items or services to patients substantially in excess of the needs of such patients or of a quality which fails to meet professionally recognized standards of health care, the period of exclusion would be not less than one year.

c. Application of Certain Health Anti-Fraud and Abuse Sanctions to Fraud and Abuse Against Federal Health Programs.

This section would extend certain criminal penalties for fraud and abuse violations under the Medicare and Medicaid programs to similar violations in other Federal health care programs generally. Other Federal health care programs include health insurance plans or programs funded, in whole or part, by the Federal government, such as the Department of Defense CHAMPUS program and the Office of Personnel Management Federal Employees Health Benefit Program. Violations would include willful submission of false information or claims and anti-kickback activities in Federal health care programs. Penalties include misdemeanor and felony fines and possible imprisonment.

The Secretary may identify community service opportunities for the satisfaction of court—imposed community service obligations in cases resulting from convictions of offenses under this section.

Effective Date. January 1, 1996.

d. Mandatory Exclusion From Participation in Medicare and State Health Care Programs.

INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD. This section would require the Secretary to exclude individuals and entities from Medicare and State health care programs who have been convicted of felony offenses relating to health care fraud for a minimum five year period. The Secretary would also retain the discretionary authority to exclude individuals from Medicare and State health care programs who have been convicted of misdemeanor criminal health care fraud offenses, or who have been convicted of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in programs (other than health care programs) funded in whole or part by any Federal, State or local agency.

Individual Convicted of Felony Relating to Controlled Substance. This section would require the Secretary to exclude individuals and entities from Medicare and State health care programs who have been convicted of felony offenses relating to controlled substances for a minimum five year period. The Secretary would retain the discretionary authority to exclude individuals from Medicare and State health care programs who have been convicted of misdemeanor offenses relating to controlled substances.

Effective Date. This section would apply to convictions after the date of the enactment of this statute.

e. Permissive Exclusion of Individuals With Ownership or Control Interest in Sanctioned Entities.

Entities owned, controlled, or managed by a sanctioned individual are already subject to permissive exclusion from participation in Medicare and State health programs by the Secretary. Under this new authority an individual who has a direct or indirect ownership or control interest of 5 percent or more in an entity, or who is an officer or managing employee of an entity may also be excluded from participation in Medicare and State health care programs by the Secretary if the entity has previously been convicted of an offense listed in Section 1128(a) or (b)(1),(2) or (3) or otherwise excluded form program participation. Under the new provision, the culpable individual would also be subject to program exclusion, even if not initially convicted or excluded.

f. Sanctions Against Practitioners and Persons for Failure to Comply With Statutory Obligations.

Minimum Period of Exclusion for Practitioners and Persons Failing to Meet Statutory Obligations. Under this section the Secretary may exclude a practitioner or person for such period as the Secretary may prescribe, except that such period shall be not less than one year.

Repeal of "Unwilling or Unable" Conditions for Imposition of Sanction. The Secretary, in making his determination that a practitioner or person should be sanctioned for failure to comply with certain statutory obligations relating to quality of health care, will no longer be required to prove that the individual was either unwilling or unable to comply with such obligations.

g. Social Security Act Civil Monetary Penalties.

General Civil Monetary Penalties. The provisions under the Medicare and Medicaid programs which provide for civil money penalties for specified fraud and abuse violations would apply to similar violations involving other Federal health care programs. Federal health care programs would include any health insurance plans or programs funded, in whole or part, by the Federal government, such as CHAMPUS and FEHBP.

Civil money penalties and assessments received by the Secretary would be deposited into the Health Care Fraud and Abuse Control Account established under this Act.

Excluded Individual Retaining Ownership or Control Interest in Participating Entity. Any person who has been excluded from participating in Medicare or a State health care program and who retains a direct or indirect ownership or control interest of 5 percent or more in an entity, or who is an officer or managing employee of an entity that is participating in Medicare or a State health care program would be subject to a civil money penalty of not more than $10,000 for each day the prohibited relationship occurs.

Modification of Amounts of Penalties and Assessments. This section would amend the civil money penalty provisions of Section 1128A(a) by increasing the amount of a civil money penalty from $2,000 to $10,000 for each item or service involved. This section also increases the assessment which a person may be subject to from "not more than twice the amount" to "not more than three times the amount" claimed for each such item or service in lieu of damages sustained by the United States or a State agency because of such claim.

Claim for Item or Service Based on Incorrect Coding or Medically Unnecessary Services. This section would add two practices to the list of prohibited practices for which civil money penalties may be assessed. The first occurs when a person (including an organization or agency, but excluding a beneficiary) engages in a pattern or practice of presenting a claim for an item or service based on a code that the person knows or has reason to know will result in greater payments than appropriate. The second is the practice whereby a person submits a claim or claims that the person knows or has reason to know is for a medical items or services that are not medically necessary.

Permitting Secretary to Impose Civil Monetary Penalty. This section would permit the Secretary to impose an intermediate civil money penalty of not more than $10,000 per violation for violations of the Medicare/Medicare anti-kickback statute. In addition, such person (or entity, but not a beneficiary) shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in the prohibited activity. Calculation of the assessment amount shall be without regard to whether some portion may have been intended to serve a non-prohibited purpose.

Sanctions Against Practitioners and Persons for Failure to Comply with Statutory Obligations. The Secretary has the authority to impose administrative sanctions against practitioners and persons who have failed to comply with certain statutory obligations relating to the quality of medical care rendered. Under this section the Secretary may require, in cases involving medically improper or unnecessary health care services, that the practitioner or person pay the United States an amount up to $10,000 for each instance of medically improper or unnecessary health care services. In such cases the practitioner or person would be permitted to continue to be eligible to receive reimbursement for health care services rendered to program beneficiaries.

Procedural Provisions. The procedural provisions outlined in Section 1128A, such as notice, hearings, and judicial review rights shall apply to civil money penalties assessed against Medicare Health Maintenance Organizations in the same manner as they apply to civil money penalties assessed against health care providers generally.

Prohibition Against Offering Inducements to Individuals Enrolled Under Programs or Plans. This section would add a new practice to the list of prohibited practices for which civil money penalties may be assessed. Any person (including an organization or agency, but excluding a beneficiary) who offers remuneration to an individual eligible for benefits under Medicare or a State health plan to induce that individual to order or receive from a particular provider, practitioner or supplier any item or service reimbursable under Medicare or a State health care program shall be subject to the various civil money penalties, assessments and exclusion provisions of section 1128A of the Social Security Act.

The term "remuneration" is defined to include the waiver of part or all of coinsurance and deductible amounts, as well as transfers of items or services for free, or for other than fair market value. There are exceptions to this definition. The waiver of part or all of coinsurance and deductible amounts would not be considered remuneration under this section if the waiver is not offered as part of any advertisement or solicitation, the person does not routinely waive coinsurance or deductible amounts, and the person either waives the coinsurance and deductible amounts because the individual is in financial need, or fails to collect the amounts after reasonable collection efforts, or provides for a permissible waiver under regulations issued by the Secretary. In addition, the term remuneration would not include differentials in coinsurance and deductible amounts as part of a benefit plan design if the differentials have been disclosed in writing to all beneficiaries, third party payors, and providers, and if the differentials meet the standards defined in the Secretary's regulations. Remuneration would also not include incentives given to individuals to promote the delivery of preventive care under the Secretary's regulations.

Effective Date. January 1, 1996.

Conference agreement

a. Doubling the Amount of Civil Monetary Penalties. The conference agreement does not include the House provision.

b. Establishment of Minimum Period of Exclusion for Certain Individuals and Entities Subject to Permissive Exclusion. The conference agreement includes the Senate provision.

c. Application of Certain Health Anti-Fraud and Abuse Sanctions to Fraud and Abuse Against Federal Health Programs. The conference agreement includes the Senate provision with a clarification of the term "Federal Health Care Program".

d. Mandatory Exclusion From Participation in Medicare and State Health Care Programs. The conference agreement includes the Senate provision.

e. Permissive Exclusion of Individuals With Ownership of Control Interest in Sanctioned Entities. The conference agreement includes the Senate provision with a clarification regarding certain individuals who are liable under this provision.

f. Sanctions Against Practitioners and Persons for Failure to Comply With Statutory Obligations. The conference agreement includes the Senate provision.

g. Social Security Act Civil Monetary Penalties. The conference agreement includes the Senate provision with a clarification regarding excluded individuals who retain an ownership interest in certain entities participating in Medicare or State health care programs, and a clarification regarding the applicable level of intent. In addition, the provision permitting the Secretary to impose civil monetary penalties for violations of the anti-kickback statute is eliminated.

6. CONSOLIDATED FUNDING FOR ANTI-FRAUD AND ABUSE ACTIVITIES (SEC. 15106 OF HOUSE BILL; SEC. 7101 OF SENATE BILL)

Current law

Currently Medicare's program integrity functions are subsumed under Medicare's general administrative budget. These functions are performed, along with general claims processing functions, by insurance companies under contract with the Health Care Financing Administration.

House bill

a. Establishment of Medicare Integrity Program. This provision would establish a Medicare Integrity Program under which the Secretary would promote the integrity of the Medicare program by entering into contracts with eligible private entities to carry out certain activities. These activities would include the following: (1) review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under the Medicare program, including medical and utilization review and fraud review, (2) audit of cost reports, (3) determinations as to whether payment should not be, or should not have been, made by reason of the Medicare as secondary payor provisions, and recovery of payments that should not have been made, and (4) education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues. The Secretary would impose certain eligibility requirements on entities entering into contracts under this Medicare Integrity Program.

The Secretary would be authorized to establish, by regulation, procedures for entering into contracts, including procedures relating to the number of contracts and the timing of contracts, competitive procedures for new contracts, and waiver of competitive procedures for renewed contracts under certain circumstances.

The Secretary would be required to provide, by regulation, for the limitation of a contractor's liability under the Medicare Integrity Program. The Secretary would employ, to the extent he finds appropriate, the same or comparable standards and other substantive and procedural provisions as are contained in section 1157 of the Social Security Act.

The Secretary would be required to transfer, for each fiscal year, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, to the Medicare Anti-Fraud and Abuse Trust Fund an amount equal to the total amount of expenditures that the Secretary would have made under this title during the year to carry out the activities described herein if the Medicare Integrity Program had not been in effect. Such transfer would be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.

There would be established in the Treasury of the United States the Anti-Fraud and Abuse Trust Fund, which would consist of such gifts and bequests as may be made unconditionally to the Trust Fund and such amounts as may be deposited in the Trust Fund as provided in this section. The Secretary of the Treasury would be required to invest such amounts of the Funds as he determines are not required to meet current withdrawals from the Fund in government account serial securities. Any interest derived from investments would be credited to the Fund.

Certain amounts would be deposited in the Trust Fund, including moneys from fines, penalties and damages assessed under various Medicare and State health care programs. There would be appropriated from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program, subject to specific limitations for fiscal years 1996 through 2002. The Secretary would submit an annual report to Congress on the revenues generated and disbursed by the Trust Fund each fiscal year.

Elimination of FI and Carrier Responsibility for Carrying Out Activities Subject to Program. This provision prohibits any agency, organization, or carrier, from carrying out (or receiving payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medical Integrity Program.

Conforming Amendment. This section specifies that certain penalties and assessments be deposited in the Trust Fund as provided herein.

Direct Spending for Medicare-Related Activities of Inspector General. Under this section certain amounts, subject to specified limitations, are appropriated form the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector General of HHS for activities relating to the Medicare program. These activities include prosecuting medicare-related matters through criminal, civil, and administrative proceedings, conducting investigations, audits and inspections, and conducting provider and consumer education activities regarding fraud and abuse provisions.

b. Fraud and Abuse Control Program. No provision.

Senate bill

a. Establishment of Medicare Integrity Program. No provision.

b. Fraud and Abuse Control Program. The Secretary of the Department of Health and Human Services (acting through the Office of the Inspector General) and the Attorney General would be required to jointly establish a national health care fraud and abuse control program to coordinate Federal, State and local law enforcement efforts to combat fraud and abuse in the delivery of and payment for health care in the United States. To facilitate the enforcement of this fraud and abuse control program the Secretary and Attorney General would be authorized to conduct investigations, audits, evaluations and inspections relating to the delivery and payment for health care, and would be required to arrange for the sharing of data with representatives of public and private third party payers. This program, implemented by guidelines issued by the Secretary and the Attorney General, would also facilitate the enforcement of applicable Federal statutes relating to health care fraud and abuse, and would provide for the provision of guidance to health care providers through the issuance of safe harbors, interpretive rulings and special fraud alerts.

The Secretary and Attorney General would consult with and share data with representatives of health plans. Guidelines issued by the Secretary and Attorney General would ensure the confidentiality of information furnished by health plans, providers and others, as well as the privacy of individuals receiving health care services. The Inspector General would retain all current authorities and would receive reimbursements for costs of investigations, audits and other functions under this section.

For purposes of this section the term "health plan" means a plan or program that provides health benefits through insurance or otherwise. Such plans include health insurance policies, contracts of service benefit organizations, and membership agreements with health maintenance organizations or other prepaid health plans.

Establishment of Health Care Fraud and Abuse Control Account in Federal Hospital Insurance Trust Fund. The Health Care Fraud and Abuse Control Account would be established as an expenditure account within the Federal Hospital Insurance Trust Fund. Monies derived from the coordinated health care anti-fraud and abuse program from imposition of civil money penalties, fines, forfeitures and damages assessed in criminal, civil or administrative health care cases, along with any gifts or bequests would be transferred into the Medicare HI trust fund. There are also appropriated from the HI trust fund to the Account such sums as the Secretary and the Attorney General certify are necessary to carry out certain functions, subject to specified limits for each of fiscal years 1996 through 2002. These functions include prosecuting health care matters, investigations, audits of health care programs and operations, inspections and other evaluations, and provider and consumer education regarding compliance with fraud and abuse provisions. Amounts in the Account would also be available to the various State Medicaid fraud control units to reimburse such units for the costs of certain activities. The Secretary and the Attorney General are required to submit a joint annual report to Congress on the revenues and expenditures, and the justification for such disbursements of the Health Care Fraud and Abuse Control Account.

Conference agreement

a. Establishment of Medicare Integrity Program. The conference agreement includes the

House provision with clarifications to the conflict of interest requirements for eligible entities and the competitive bidding procedures.

b. Fraud and Abuse Control Program. The conference agreement includes the Senate provision with modifications. The fraud and abuse control program coordinates Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans. The funding mechanism for the Federal Bureau of Investigations authorizes appropriations for the FBI from general revenues.

7. PERMITTING CARRIERS TO CARRY OUT PRIOR AUTHORIZATION FOR CERTAIN ITEMS OF DURABLE MEDICAL EQUIPMENT (DME) (SEC. 15107 OF HOUSE BILL)

Current law

The Secretary is authorized to develop and periodically update a list of DME items that are subject to unnecessary utilization throughout a carrier's entire service area or a portion of such area. The Secretary may also develop and update a list of DME suppliers with a substantial number of denied claims or a pattern of overutilization resulting from the business practices of suppliers. Carriers are required to make advance coverage determinations for items on the lists developed by the Secretary.

House bill

a. In General. Carriers would be authorized to develop the same lists of DME items and suppliers that the Secretary is authorized to develop. Carriers would also be authorized to make advance coverage determinations, regardless of whether or not the Secretary has promulgated a regulation for the list, except that carriers could not make such advance determinations with respect to an item or supplier on a list until the expiration of the 30-day period beginning on the date the Secretary or carrier places the item on the list.

b. Effective Date. This amendment would take effect as if included in the enactment of the Social Security Act Amendments of 1994.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision as part of the Medicare Integrity Program.

8. NATIONAL HEALTH CARE ANTI-FRAUD TASK FORCE (SEC. 15108 OF HOUSE BILL; SEC. 7101 OF SENATE BILL)

Current law

No provision.

House bill

Within 120 days of enactment of this bill the Attorney General, in consultation with the Secretary of HHS, would establish, within the Department of Justice, a nation-wide Health Care Anti-Fraud Task Force to prosecute health care fraud offenses. This Task Force would be composed of representatives of Federal agencies which prosecute health care fraud and abuse, including the Department of Justice, the FBI, the Department of Health and Human Services and its Office of Inspector General, the Department of Defense, the Department of Veterans Affairs, the U.S. Postal Service and the IRS. The Task Force would coordinate Federal law enforcement activities relating to health care fraud and abuse in order to better control fraud and abuse in the delivery of health care in the United States.

Senate bill

See Senate bill summary, item 6(b), above.

Conference agreement

The conference agreement does not include the House provision. The conference agreement (see item 6(b), above) includes the Senate provision.

9. STUDY OF ADEQUACY OF PRIVATE QUALITY ASSURANCE PROGRAMS (SEC. 15109 OF HOUSE BILL)

Current law

No provision.

House bill

The Administrator of the Health Care Financing Administration, through the Office of Research, would be required to contract for a study of the adequacy of quality assurance programs and consumer protections used by plans enrolling medicare beneficiaries under part C of title XVIII of the Social Security Act, including an analysis of the effectiveness of such programs in protecting plan enrollees against the risk of insufficient provision of benefits which may result from utilization controls. A report would be submitted to Congress on the study not later than 6 months after the conclusion of the 5-year period for the study.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

10. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES (SEC. 15110 OF HOUSE BILL)

Current law

No provision.

House bill

a. In General. This provision would add an additional civil monetary penalty of not more than three times the amount of the payments, or $5,000, whichever is greater, for a physician who certifies that an individual meets all of Medicare's requirements to receive home health care while knowing that the individual does not meet all such requirements.

b. Effective Date. The amendment made by this section would apply to certifications made on or after the date of enactment of this Act.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision.

11. PILOT PROJECTS (SEC. 15111 OF HOUSE BILL)

Current law

No provision.

House bill

The Secretary of HHS would establish and operate five pilot projects in various parts of the country implementing innovative approaches to monitor Medicare program payment claims to detect claims that are wasteful or fraudulent.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

12. ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES. (SECTION 7122 OF SENATE BILL)

Current law

The determination of reasonable costs under the Medicare program do not include the costs incurred by a provider of services representing a beneficiary in an unsuccessful appeal of a determination of an individual's entitlement to benefits under part A or part B, or the amount of such benefits, or certain other allowable grounds for appeal under Sec. 1869(b) of the Social Security Act.

House bill

No provision.

Senate bill

This provision would also disallow the costs incurred by a provider of services in representing a beneficiary in an unsuccessful appeal of a determination of entitlement to benefits under part A or part B, and in an appeal of an unsuccessful determination of the amount of benefits under part A or part B, and in any other appeal of a determination with respect to a claim for benefits under part A or a claim for benefits with respect to home health services under part B under Section 1869(a) of the Social Security Act.

Conference agreement

The conference agreement does not include the Senate provision.

PART 2—REVISIONS TO CRIMINAL LAW

1. DEFINITION OF HEALTH CARE FRAUD OFFENSE. (SEC. 15121 OF HOUSE BILL; SEC. 7142(A) OF THE SENATE BILL)

Current law

No provision.

House bill

This section sets forth a series of offenses against the federal government or private entities that would be considered as federal health care offenses when they relate to health care. These include (1) a violation of, or criminal conspiracy to violate section 226, 227, 669, 1035, 1347, or 1518 of title 18; (2) a violation of, or criminal conspiracy to violate section 1128B of the Social Security Act; (3) a violation of, or criminal conspiracy to violate section 201, 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title, if the violation or conspiracy relates to a health care benefit program; (4) a violation of, or criminal conspiracy to violate section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to a health care benefit program; (5) the commission of, or attempt to commit, an act which constitutes grounds for the imposition of a penalty under section 303 of the Federal Food, Drug, and Cosmetic Act, if the act or attempt relates to a health care benefit program; or (6) a violation of, or criminal conspiracy to violate, section 3 of the Anti-Kickback Act of 1986, if the violation or conspiracy relates to a health care benefit program.

Senate bill

This section sets forth those offenses that will be considered as "Federal Health Care Offenses" under this subtitle. These include a violation of, or a criminal conspiracy to violate—(i) section 1347 of title 18; (ii) section 1128B of the Social Security Act; and (iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of title 18, if the violation or conspiracy relates to health care fraud.

Conference agreement

The conference agreement includes the Senate provision.

2. HEALTH CARE FRAUD (SEC. 15122 OF HOUSE BILL; SEC. 7141 OF SENATE BILL)

Current law

Depending on the facts of a particular case, criminal penalties may be imposed on persons engaged in health care fraud under federal mail and wire fraud statutes, the False

Claims Act, false statement statutes, money laundering statutes, racketeering, and other related laws.

House bill

Criminal penalties would be imposed for devising, committing, or attempting a scheme (1) to defraud any health care benefit program; or (2) to obtain, by means of false or fraudulent pretenses, money or property owned by, or under the custody or control of, any health care benefit program. A "health care benefit program" is defined to include 1) any public or private plan or contract under which any medical benefit, item, or service is provided to any individual, and 2) includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract. Penalties include fines and up to 10 years imprisonment. If the violation results in serious bodily injury, the person may be imprisoned up to 20 years. If the violation results in death, the person may be imprisoned for life.

Senate bill

Criminal penalties would be imposed for knowingly and willfully executing a scheme, or artifice, or attempting to execute a scheme or artifice to defraud any "health plan" or any other person in connection with the payment or delivery of health care benefits, items or services. Penalties may also be imposed for obtaining money or property owned or under the custody or control of a health plan through false or fraudulent pretenses, representations or promises. Persons who violate the above provisions may be subjected to up to ten years in prison or applicable fines. If the violation results in serious bodily injury, the person may be imprisoned for any term of years. An amount equal to the criminal fines imposed by this section shall be deposited in the Federal Hospital Insurance Trust Fund.

The term "health plan" means a plan or program that provides health benefits through insurance or otherwise. Such plans include health insurance policies, contracts of service benefit organizations, and membership agreements with health maintenance organizations or other prepaid health plans. Later provisions under this subtitle generally provide protections to a "health plan" or person against fraud, theft, embezzlement, bribery, graft.

Conference agreement

The conference agreement includes the Senate provision, with a modification to cover only those offenses involving federal health care programs.

3. THEFT OR EMBEZZLEMENT (SEC. 15123 OF HOUSE BILL; SEC. 7147 OF SENATE BILL)

Current law

No provision.

House bill

Criminal penalties would be imposed for willfully embezzling, stealing, converting or intentionally misapplying the moneys, funds, securities, premiums, credits, property, or other assets of a "health care benefits program" to the use of any person other than the rightful owner. Violations of this section may include a fine under Title 18 and imprisonment not more than 10 years, or both.

Senate bill

Criminal penalties would be imposed for willfully embezzling, stealing, converting, or misapplying any of the moneys, funds, securities, premiums, credits, property, or other assets of a "health plan." A person convicted under this provision will be subject to a fine under title 18 of the United States Code, or imprisoned not more than 10 years, or both.

Conference agreement

The conference agreement includes the Senate provision, with a modification to cover only those offenses involving federal health care programs.

4. FALSE STATEMENTS (SEC. 15124 OF HOUSE BILL; SEC. 7145 OF SENATE BILL)

Current law

The Federal false statements provision at 18 U.S.C. §1001 generally prohibits false statements with regard to any matter within the jurisdiction of a Federal department or agency.

House bill

Criminal penalties would be imposed for knowingly and willfully falsifying, concealing, or covering up by any trick, scheme, or device a material fact, or making false, fictitious, or fraudulent statements or representation, or making or using any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry in any matter involving a health care benefit program. A person convicted under this provision may be punished by the imposition of fines under title 18 of the United States Code, or by imprisonment of not more than 5 years, or both. "Health care benefit program" shall have the meaning as set forth in §15121.

Senate bill

Criminal penalties would be imposed for knowingly and willfully falsifying, concealing, or covering up by any trick, scheme, or device a material fact, or making false, fictitious, or fraudulent statements or representation, or making or using any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry in any matter concerning a health plan. A person convicted under this provision may be punished by the imposition of fines under title 18 of the United States Code, or by imprisonment of not more than 5 years, or both.

Conference agreement

The conference agreement includes the Senate provision with a clarification that false statements or writings must be "material" and must be related to a federal health care program.

5. BRIBERY AND GRAFT (SEC. 15125 OF HOUSE BILL)

Current law

No provision.

House bill

Criminal penalties may be applied to a person who "corruptly" gives, offers, or promises anything of value to any person in order to influence a health care official's actions relating to a health care benefit program; to influence such an official to commit a fraud on a health care benefit program; or to induce such an official to engage in any conduct in violation of their lawful duty. The section also penalizes a health care official who corruptly demands or accepts anything of value for the above purposes. A health care official is an administrator, officer, trustee, fiduciary, custodian, counsel, agent, or employee of any health care benefit program; an officer, counsel, agent, or employee, of an organization that provides services under contract to any health care benefit program; or an official, employee, or agent of an entity having regulatory authority over any health care benefit program. Penalties include fines under title 18 or imprisonment for not more than 15 years, or both.

This section also provides that anyone who directly or indirectly gives, offers, or promises anything of value to a health care official (otherwise than as provided by law) "for or because" of any of the health care officials actions, decisions, or duties relating to a health care benefit program, or attempts to violate this subsection; or (2) being a health care official, directly or indirectly, demands, seeks, receives, accepts or agrees to accept anything of value the giving of which violates the above, would be fined under title 18, or imprisoned not more than 2 years, or both.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

6. ILLEGAL REMUNERATION WITH RESPECT TO HEALTH CARE BENEFIT PROGRAMS (SEC. 15126 OF HOUSE BILL; SEC. 7102 OF SENATE BILL)

Current law

No provision.

House bill

This section would transfer the anti-kickback provisions from §1128B of the Social Security Act to title 18, and would expand the statute to all health care benefit programs, rather than just Medicare and Medicaid. It specifically provides criminal penalties for a person who knowingly and willfully receives or pays any remuneration (including any kickback, bribe, or rebate) in return for referrals covered by a health care benefit program; or in return for purchasing, leasing, ordering, or arranging for any service or item for which payment may be made in whole or in part by any health care benefit program, or attempting to do so, shall be fined under this title or imprisoned for not more than 5 years, or both. Any person injured in his business or property by reason of a violation of this section may sue and recover treble damages.

This would not apply to (1) a discount or other reduction in price obtained by a provider of services if the reduction in price is reflected in the costs charges made by the provider; (2) any amount paid by a bona-fide employee; (3) any amount paid by a vendor of goods or services to a purchasing agent for a group of individuals or entities who are furnishing services reimbursed under a health care benefit program if—(A) the person has a written contract, with each such individual or entity, which specifies the amount to be paid the person, which amount may be a fixed amount or a percentage of the value of the purchases made by each such individual or entity under the contract, and (B) in the case of an entity that is a provider of services (as defined in section 1861(u) of the Social Security Act, the person discloses to the entity and, upon request, to the Secretary the amount received from each such vendor; (4) a waiver of any coinsurance under part B of Medicare by a federally qualified health care health care center; (5) any payment practice specified by the Secretary of HHS pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987.

Senate bill

This section extends the existing Anti-Kickback statute found in §1128B of the Social Security Act to all federal health care programs, rather than just Medicare and Medicaid.

Conference agreement

The conference includes the Senate provision.

7. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF HEALTH CARE OFFENSES (SEC. 15127 OF HOUSE BILL; SEC. 7146 OF SENATE BILL)

Current law

Criminal penalties are imposed for obstructing, delaying or preventing the communication of information to law enforcement officials regarding the violation of criminal statutes by using bribery, intimidation, threats, corrupt persuasion or harassment.

House bill

Criminal penalties would be imposed for willfully preventing, obstructing, misleading, delaying or attempting to prevent, obstruct, mislead or delay the communication of information or records relating to a health care offense to a criminal investigator. A person convicted under this provision may be punished by the imposition of fines under title 18 of the United States Code, or by imprisonment of not more than 5 years, or both. Health care offenses would have the same meaning given such term in §15121. A criminal investigator would mean any individual duly authorized by a department, agency or armed force of the United States to conduct or engage investigations for prosecutions for violations of health care offenses.

Senate bill

Criminal penalties would be imposed for willfully preventing, obstructing, misleading, delaying or attempting to prevent, obstruct, mislead or delay the communication of information or records relating to a Federal health care offense to a criminal investigator. A person convicted under this provision may be punished by the imposition of fines under title 18 of the United States Code, or by imprisonment of not more than 5 years, or both. Federal health care offenses would have the same meaning given such term in §7142 of the Act, and criminal investigator would mean any individual duly authorized by a department, agency or armed force of the United States to conduct or engage investigations for prosecutions for violations of health care offenses.

Conference agreement

The conference agreement includes the Senate provision.

8. CIVIL PENALTIES FOR VIOLATIONS OF FEDERAL HEALTH CARE OFFENSES (SEC. 15128)

Current law

No provision.

House bill

A civil penalty may be sought by the Attorney General against any person who engages in conduct constituting a violation of Federal health care offense (as defined in §15121), and would be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation or proceeds which the person received or offered for the prohibited conduct, whichever amount is greater.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

9. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES (SEC. 15129 OF HOUSE BILL; SEC. 7143 OF SENATE BILL)

Current law

Depending on the facts of a particular case, injunctive relief may be imposed on persons who are committing or about to commit health care fraud under federal racketeering statutes and other related laws.

House bill

If a person is violating or about to commit a Federal health care offense, the Attorney General of the United States may commence a civil action in any Federal court to enjoin such a violation.

Senate bill

If a person is violating or about to commit a Federal health care offense, the Attorney General of the United States may commence a civil action in any Federal court to enjoin such a violation. If a person is alienating or disposing of property or intends to alienate or dispose of property obtained as a result of a Federal health care offense, the Attorney General may seek to enjoin such alienation or disposition, or may seek a restraining order to prohibit the person from withdrawing, transferring, removing, dissipating or disposing of any such property or property of equivalent value and appoint a temporary receiver to administer such restraining order.

Conference agreement

The conference agreement includes the Senate provision.

10. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES (SEC. 15130 OF HOUSE BILL; SEC. 7149 OF SENATE BILL)

Current law

No provision.

House bill

This section would provide procedures for the Attorney General to make investigative demands in cases regarding Federal health care offenses. The Attorney General could issue a summons for witnesses or records, although a witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpoena. Administrative summons are authorized for investigations of Federal health care offenses or of any investigation with respect to concealing escaped prisoners, flight to avoid prosecution or testimony, or fleeing after conviction of such offenses. This section would also provide for service of a subpoena and enforcement of a subpoena in all United States courts, as well as grants of immunity to persons responding to a subpoena from civil liability for disclosure of such information.

Senate bill

This section would provide procedures for the Attorney General to make investigative demands in cases regarding health care fraud. Under this section, the Attorney General could issue a summons for records and/or a witness to authenticate the records, although a witness would not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpoena. Administrative summons are authorized for investigations of any scheme to defraud any health plan or other person in connection with the delivery of or payment for health care; or to fraudulently obtain money or property of a health plan or person in connection with the delivery of or health care. This section would provide for service of a subpoena and enforcement of a subpoena in all United States curtseys well as a grant of immunity to persons responding to a subpoena from civil liability for disclosure of such information.

The section would also provide that health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if good cause is shown.

Conference agreement

The conference agreement includes the Senate provision, with a modification to limit applicability to matters involving federal health care programs.

11. GRAND JURY DISCLOSURE (SEC. 15131 OF HOUSE BILL; SEC. 7144 OF SENATE BILL)

Current law

Attorneys for the United States government are generally forbidden from disclosing matters occurring before the grand jury under Rule 6(e)(2) of the Federal Rules of Criminal Procedure. Exceptions to this requirement include the following: Rule 6(e)(3)(A)(I), which allows a government attorney to disclose matters occurring before a grand jury (excluding deliberations and the vote of any grand juror) to an attorney for the government for use in the performance of such attorney's duties; Rule 6(e)(3)(A)(ii), which allows similar disclosure to such government personnel as are deemed necessary to an attorney for the government to assist in the enforcement of federal criminal law; and Rule 6(e)(3)(C)(I), which allows a court to direct disclosure of grand jury proceedings in connection with or preliminary to a judicial proceeding. The Supreme Court has interpreted these exceptions narrowly, however, holding that the disclosure allowed under Rule 6(e)(3)(A)(I) and (ii) must be relevant to the criminal process which is the focus of the grand jury, and that disclosure under Rule 6(e)(3)(C)(I) will only be directed by a court under a strong showing of particularized need. *United States v. Sells Engineering, Inc.*, 463 U.S. 418 (1983). Thus, a government attorney prosecuting a criminal case before a grand jury may not be able to divulge information occurring before the grand jury to a government attorney engaged in a civil investigation or proceeding on the same matters.

House bill

A person who is privy to grand jury information concerning a Federal health care offense received in the course of duty as an attorney for the Government or disclosed under Federal Rules of Criminal Procedure Rule 6(e)(3)(A)(I) may disclose such information to another attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.

Senate bill

A person who is privy to grand jury information concerning a Federal health care offense received in the course of duty as an attorney for the Government or disclosed under Federal Rules of Criminal Procedure Rule 6(e)(3)(A)(I) may disclose such information to another attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.

Conference agreement

The conference agreement does not include either the House or Senate provisions.

12. MISCELLANEOUS AMENDMENT TO TITLE 18, UNITED STATES CODE (SEC. 15132 OF HOUSE BILL; SEC. 7148, 7142 OF SENATE BILL)

a. Laundering of Monetary Instruments

Current law

The current Federal money laundering provision is found at 18 U.S.C. §1956(c)(7), but does not include money laundering as related to health care fraud.

House bill

An act or activity constituting a Federal health care offense would be considered a "specified unlawful activity" for purposes of the prohibition on money laundering, so that any person who engages in money laundering in connection with a Federal health care offense would be subject to existing criminal penalties.

Senate bill

An act or activity constituting a Federal health care offense would be considered a "specified unlawful activity" for purposes of the prohibition on money laundering, so that any person who engages in money laundering in connection with a Federal health care offense would be subject to existing criminal penalties.

Conference agreement

The conference agreement includes the Senate provision.

b. Enhanced Penalties (Telemarketing)

Current law

18 U.S.C. §2325 provides for enhanced penalties for offense occurring during a telemarketing scheme. The present law does not apply specifically to Federal Health Care offense.

House bill

This section would provide that a person convicted of a Federal Health Care offense which occurred in the course of a telemarketing scheme which targeted persons over fifty-five, or which victimized ten or more persons over 55, may be imprisoned up to an additional ten years.

Senate bill

No provision.

Conference Agreement

The conference agreement does not include the House provision.

c. Authorization for Interception of Wire, Oral, or Electronic Communication

Current law

18 U.S.C. §2516 sets forth the federal statutes for which authorization to place a wiretap may be sought from the courts. Federal Health Care offenses are not specifically included in this list.

House bill

This section would establish a court's authority to approve an application for a wiretap to be placed in order to gather evidence related to a Federal Health Care Offense, as defined in §15121.

Senate bill

No provision.

Conference Agreement

The conference agreement does not include the House provision.

d. Definitions (RICO)

Current law

A RICO violation may be summarized as follows: whoever participates in a commercial "enterprise" or an "enterprise" which has an impact on commerce through a pattern of specific criminal "racketeering" activity can be found to be in violation of RICO. Typical "racketeering" activity includes murder, kidnapping, robbery, arson, bribery, loan-sharking, mail fraud, wire fraud, obstruction of justice, witness retaliation, or extortion. Federal Health Care Offenses are not specifically listed as a "racketeering activity."

House bill

This section would establish a Federal Health Care Offense as a predicate offense for purposes of establishing a pattern of "racketeering activity" under RICO.

Senate bill

No provision.

Conference agreement

The conference provision does not include the House provision.

e. Criminal Forfeiture

Current law

Depending on the facts of a particular case, criminal forfeiture may be imposed on persons convicted under federal money laundering statutes, racketeering statutes, and other related laws.

House bill

A court imposing a sentence on a person convicted of a Federal health care offense would order the person to forfeit all real or personal property that is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

Senate bill

A court imposing a sentence on a person convicted of a Federal health care offense would order the person to forfeit all real or personal property that is derived, directly or indirectly, from proceeds traceable to the commission of the offense. After payment of the costs of asset forfeiture have been made, the Secretary of the Treasury would deposit into the Federal Hospital Insurance Trust Fund an amount equal to the net amount realized from the forfeiture of property by reason of a federal health care offense.

Conference agreement

The conference agreement includes the Senate provision.

13. STATE HEALTH CARE FRAUD CONTROL UNITS (SEC. 7151 OF SENATE BILL)

Current Law

State Medicaid Fraud Control Units are presently authorized under the Medicaid program and are certified annually by the Secretary if they meet certain requirements. Such units must be a unit of State government with either (a) statewide authority to investigate and prosecute individuals for criminal violations of State laws regarding fraud in the provision of medical assistance under the Medicaid program, or (b) have formal procedures providing effective coordination with the activities of the State Attorney General's office or other office with prosecutive authority. State Medicaid Control Units must also have procedures for reviewing complaints of abuse and neglect of patients of health care facilities receiving Medicaid payments and, where appropriate, acting on such complaints or referring them for action.

House bill

No provision.

Senate bill

a. Extension of Concurrent Authority to Investigate and Prosecute Fraud in Other Federal Programs. This section changes the State Medicaid Fraud Control Unit authorization language to specify that those units will have concurrent authority to investigate and prosecute health care fraud in other Federal programs at the approval of the relevant Federal agency.

b Extension of Authority to Investigate and Prosecute Patient Abuse in Non—Medicaid Board and Care Facilities. States have the option, under this section, to establish procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities and, where appropriate, acting on such complaints or referring them for action. "Board and care facility" is defined as a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom either nursing care services are provided, or personal care services are provided, or both.

Conference agreement

The conference agreement includes the Senate provision with a clarification that concurrent authority of Medicaid Fraud Control Units to investigate and prosecute health care fraud requires approval of the chief executive officer of the State or such officer's designee, as well as of the relevant Federal agency.

Subtitle C—Regulatory Relief

A. PHYSICIAN OWNERSHIP AND REFERRAL REFORM

1. REPEAL OF PROHIBITIONS BASED ON COMPENSATION ARRANGEMENTS (SEC. 15201 OF HOUSE BILL)

Current law

The law establishes a ban on certain financial arrangements between a referring physician and an entity. Specifically, if a physician (or immediate family member) has an ownership or investment interest in or a compensation arrangement with an entity, the physician is prohibited from making a referral to the entity for services for which Medicare would otherwise pay. Further, the entity may not bill for such services. For purposes of the ban, an ownership or investment interest may be through equity or debt or other means and includes an interest in an entity that holds an ownership or investment interest in any entity providing designated health services. A compensation arrangement is generally defined as any arrangement involving any remuneration between a physician (or immediate family member) and an entity.

The law includes general exceptions to the ban. Some are general exceptions to both the ownership and compensation arrangement prohibitions, while others relate only to ownership or only to compensation arrangements.

House bill

The provision would repeal the prohibitions based on compensation arrangements.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision.

2. REVISION OF DESIGNATED HEALTH SERVICES SUBJECT TO PROHIBITION (SEC. 15202 OF HOUSE BILL)

Current law

OBRA 89, which established the initial self-referral ban applied the ban to referrals for clinical laboratory services only. OBRA 93 (as modified by P.L. 103–432) extended the ban to additional "designated health services", effective January 1, 1995. These designated health services are: (i) physical therapy services; (ii) occupational therapy services; (iii) radiology, including magnetic resonance imaging, computerized axial tomography scans, and ultrasound services; (iv) radiation therapy services and supplies; (v) durable medical equipment and supplies; (vi) parenteral and enteral nutrients, equipment and supplies; (vii) prosthetics, orthotics, and prosthetic devices; (viii) home health services and supplies; (ix) outpatient prescription drugs; and (x) inpatient and outpatient hospital services.

House bill

The provision revises the list of "designated health services". Under the provision, the referral ban would apply only to: (i) clinical laboratory services, (ii) parenteral and enteral nutrients, equipment and supplies; (iii) magnetic resonance imaging and computerized tomography services; and (iv) outpatient physical or occupational therapy services.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision with an amendment modifying the description of item (iii) to read "radiology services, including magnetic resonance imaging, computerized tomography, and ultrasound services."

3. DELAY IN IMPLEMENTATION UNTIL PROMULGATION OF REGULATIONS (SEC. 15203 OF HOUSE BILL)

Current law

The self-referral provisions included in OBRA 89 applied to Medicare referrals for clinical laboratory services made on or after January 1, 1992. OBRA 93 expanded the referral ban to a list of "designated health services" and extended the prohibition to Medicaid. OBRA 93 also included significant revisions to the OBRA 89 provisions. In general, the amendments made by OBRA 93 (as amended by P.L. 103–432) apply with respect to referrals made on or after January 1, 1995; however some provisions had a retroactive effective date of January 1, 1992.

On August 14, 1995, DHHS issued final regulations implementing the OBRA 89 requirements. These regulations are effective September 13, 1995. DHHS noted that these regulations relate only to referrals for clinical laboratory services and address only those provisions that had an effective date, including a retroactive effective date, of January 1, 1992.

House bill

The proposal specifies that the amendments made by OBRA 93 would not apply to any referrals made before the effective date of the final implementing regulations promulgated by the Secretary of DHHS.

Senate bill

No provision

Conference agreement

The conference agreement includes the House provision.

4. EXCEPTION TO PROHIBITIONS (SEC. 15204 OF HOUSE BILL)

Current law

a. In-Office Ancillary Services. The law includes general exceptions to the self-referral ban. Some are general exceptions to both the ownership and compensation arrangement prohibitions, while others relate only to ownership or only to compensation arrangements.

A general exception applies to in-office ancillary services which are defined as furnished by the physician making the referral, another physician in the same group practice, or personally by individuals directly supervised by the physician or another physician in the same group practice.

The in-office ancillary services exception contains a site-of-service requirement. To meet the exception, the services must be furnished in: (i) a building in which the referring physician or other member of the group practice provides services unrelated to the furnishing of designated health services; or (ii) in a building used for the centralized provision of the group's designated health services. OBRA 93 specified that for clinical laboratory services only, the exception only applies if the services are provided in a centralized location.

b. Rural Providers. The law includes an exception, related only to the ownership and investment prohibition, for rural providers. To be eligible for an exception, the entity must be in a rural area. Further, the exception only applies if substantially all of the designated health services furnished by the entity are furnished to individuals residing in rural areas.

c. Prepaid Health Plans. The law includes a general exception for services provided by a prepaid health plan to enrollees. The definition of prepaid plans includes those either meeting Medicare requirements, operating as prepaid plans under a Medicare demonstration project, or meeting the requirements of a federally-qualified health maintenance organization.

d. Exceptions for Other Entities. No provision

House bill

a. In-Office Ancillary Services. The provision would modify the exception for in-office ancillary services. It would repeal the site-of-service requirement. It would also provide that non-physician personnel must be under the general supervision (rather than the direct supervision) of a physician. An individual would be under the general supervision of a physician (or a group practice of which the physician is a member) if the physician is legally responsible for the services performed by the individual and for ensuring the individual meets licensure and certification requirements regardless of whether or not the physician is physically present when the services are delivered.

b. Rural Providers. The provision would modify the provision relating to rural providers. To qualify for an exception, not less than 75 percent of the designated health services must be furnished to individuals residing in rural areas.

c. Prepaid Plans. The provision would modify the definition of prepaid plans to refer to managed care plans. It would expand the definition to include HMOs which have a contract under MedicarePlus or which have a contract with the State to provide Medicaid services. It would add an exception for other entities under the following conditions. The entity must provide for or arrange for the provision of services pursuant to a written agreement between the organization and an individual or entity. The agreement must place the individual or entity at substantial financial risk for the cost or utilization of services which the individual or entity is obligated to provide. This obligation may be through withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.

d. Exceptions for Other Entities. The provision would add a new exception for shared facility services. The services must be furnished by the facility to patients of shared facility physicians; the physicians must have a financial relationship under a shared facility arrangement with the facility. A shared facility arrangement is one: (i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building; (ii) in which the overhead expenses are shared among the physicians in accordance with previously determined methods; and (iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.

The provision would add a new exception for services furnished in communities which the Secretary of DHHS determines do not have access to alternative providers.

The provision would add an exception for services furnished in ambulatory surgical centers, renal dialysis facilities, comprehensive outpatient rehabilitation facilities, and hospice programs.

Senate bill

a. In-Office Ancillary Services. No provision
b. Rural Providers. No provision
c. Prepaid Health Plans. No provision
d. Exceptions for Other Entities. No provision

Conference agreement

a. In-Office Ancillary Services. The conference agreement includes the House provision.

b. Rural Providers. The conference agreement includes the House provision.

c. Prepaid Health Plans. The conference agreement includes the House provision.

d. Exceptions for Other Entities. The conference agreement includes the House provision.

5. REPEAL OF REPORTING REQUIREMENTS (SEC. 15205 OF HOUSE BILL)

Current law

The law establishes a reporting requirement for entities providing services under Medicare. Reports are to include information on the entity's ownership, investment and compensation arrangements.

House bill

The provision would delete the reporting requirements.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

6. PREEMPTION OF STATE LAW (SEC. 15206 OF HOUSE BILL)

Current law

No provision.

House bill

The provision would specify that the self-referral provisions preempt State law to the extent State law was inconsistent.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

7. EFFECTIVE DATE (SEC. 15207 OF HOUSE BILL)

Current law

No provision.

House bill

The provision would apply to referrals made on or after August 14, 1995, regardless of whether or not regulations are promulgated to carry out such amendments. The provision delaying the applicability of the effective date of OBRA 93 changes until issuance of regulations would be effective as if included in OBRA 93.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision modified to revise the effective date to "upon enactment."

B. OTHER MEDICARE REGULATORY RELIEF

1. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK (SEC. 15211 OF HOUSE BILL)

Current law

Under the Medicare secondary payer (MSP) program, the individual's employer-based group health insurance, liability insurance, or no-fault insurance may be the primary payer in certain cases. The OBRA 93 provided for the establishment of a Medicare and Medicaid Coverage Data Bank by the Secretary of DHHS. OBRA 93 required employers having or contributing to a group health insurance plan to submit employee health insurance information to the Secretary, on an annual basis, for calendar years 1994–1997. The 1994 submission was due by February 1995. The information was intended to facilitate the identification of both Medicare secondary payer cases and those circumstances in which employer-based insurance, rather than Medicaid, should be the primary payer.

A number of employers voiced strong opposition to the Data Bank requirements. One of the principal concerns was that employers would be required to report information which they did not routinely collect. In response to these concerns, the Conference agreement accompanying the FY 1995 Labor, DHHS, and Education appropriations bill (P.L.103-333) contained specific language relating to the Data Bank. It directed that no DHHS funds should be used for the implementation of or planning for implementation of the Bank.

House bill

The provision would repeal the Data Bank requirement.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

2. CLARIFICATION OF LEVEL OF KNOWLEDGE REQUIRED FOR IMPOSITION OF CIVIL MONETARY PENALTIES (SEC. 15212(A) OF HOUSE BILL)

Current law

Civil money penalties may be imposed for seeking reimbursement under the Medicare and Medicaid programs for items or services not provided or for services provided by someone who was not a licensed physician, whose license was obtained through misrepresentation, or who misrepresented his or her qualification as a specialist, or where the claim is otherwise fraudulent. Civil penalties may also be sought for presenting a claim for payments which are in violation of: 1) contracts limiting payment due to assignment of a patient, 2) agreements with state agencies limiting permitted charges, 3) agreement with participating physicians or suppliers, and 4) agreements with providers of service. Civil penalties may also be sought against persons who provide false or misleading information that could reasonably be expected to influence a decision to discharge a person from a hospital. A person is subject to these provisions if they presented a claim and he or she "knows or should have known" that the claim fell into one of the categories listed above.

House bill

This section adds a requirement, similar to the False claims Act, that a person is subject to this provision when the person "knowingly" presents a claim that the person "knows or should know" fell into one of the prohibited categories. Thus, an assessment under this provision would only be made where a person had actual knowledge that he or she had submitted a claim or had provided false or misleading information, and where the person had actual knowledge of the fraudulent nature of the claim, acted in deliberate ignorance, or acted in reckless disregard. The requirement that a person "knowingly" presents a claim or "knowingly" makes a false or misleading statement which influences discharge would prevent charging persons who inadvertently perform these acts.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision.

3. CLARIFICATION OF EFFECT AND APPLICATION OF SAFE HARBOR EXCEPTIONS (SECTION 15212(B) OF HOUSE BILL)

Current law

The Medicare and Medicaid anti-kickback provisions generally prohibit anyone from providing or offering to provide remuneration in cash or in kind in return for a patient referral whose treatment is paid for in whole or in part by Medicare or Medicaid. The provisions in section 1128B(b) of the Social Security Act also prohibit the solicitation or receipt of such remuneration and arranging or recommending a referral for remuneration. Violations are felonies and are subject to a fine of up to $25,000 or imprisonment for up to five years, or both. Certain business practices are exempted from the application of these provisions and the DHHS Office of Inspector General is directed to issue safe harbor regulations for additional payment practices that would not be subject to criminal prosecution or provide a basis for exclusion from participation in Medicare and Medicaid. If an individual or entity engages in a business arrangement which is the subject of a safe harbor provision and complies with all of the applicable requirements of the provision that individual or entity will be assured that he or she will not be prosecuted.

House bill

This section provides that the specification of any payment practice by the Secretary under this provision is to be solely for the purpose of adding additional exceptions to the types of conduct, and are not for the purpose of limiting the scope of such exceptions. In addition, an acceptable payment practice shall apply notwithstanding the intent of the party engaging in that practice.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

4. LIMITING IMPOSITION OF ANTI-KICKBACK PENALTIES TO ACTIONS WITH SIGNIFICANT PURPOSE TO INDUCE REFERRALS (SEC. 15212(C) OF HOUSE BILL)

Current law

The anti-kickback provisions in Section 1128B(b) prescribe criminal penalties for individuals or entities who knowingly and willfully offer or pay remuneration to induce business reimbursed under Medicare or State health care programs.

House bill

This section would amend Section 1128B(b)(2) to provide that person was subject to the anti-kickback provisions only if the remuneration which is offered is done so "for the significant purpose of inducing" business which would be reimbursed under Medicare or State health care programs. This would narrow the application of the anti-kickback provisions to only those situations where inducement was a significant purpose of remuneration.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

5. CLARIFICATION OF AND ADDITIONS TO EXCEPTIONS TO ANTI-KICKBACK PENALTIES (SEC. 15213 OF HOUSE BILL; SEC. 7116 OF SENATE BILL)

Current law

The anti-kickback provisions in Section 1128B(b) contain several exceptions. These exceptions include discounts or other reductions in price obtained by a provider of services or other entity under Medicare or a State health care program if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under Medicare or a State health care program; any amount paid by an employer to an employee for employment in the provision of covered items or services; any amount paid by a vendor of goods or services to a person authorized to act as a purchasing agent for a group of individuals or entities under specified conditions; a waiver of any coinsurance under Part B of Medicare by a Federally qualified health care center with respect to an individual who qualifies for subsidized services under a provision of the Public Health Service Act; and any payment practice specified by the Secretary as a Safe Harbor exception.

House bill

This section would add new exceptions to the anti-kickback provisions allowing remuneration between a MedicarePlus organization under part C of Title XVIII and an individual or entity providing services pursuant to a written agreement between the MedicarePlus organization and the individual or entity. Remuneration would also be allowed between an organization and an individual or entity if a written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services which the individual or entity is obligated to provide. The risk arrangement may be provided through a withhold, capitation, incentive pool, per diem payment or other similar risk arrangement. This amendment would apply to acts or omissions occurring after January 1, 1996.

Senate bill

The Secretary of DHHS is directed to conduct a study evaluating the benefits of discounting and other reductions in price obtained by a provider of services or other entity under Medicare or State health care programs. The study would identify mechanisms to assure that the Medicare program benefits from such discounts. The Secretary would report on the findings of the study to Congress and develop budget neutral regulations based on study's findings.

Conference agreement

The conference agreement includes the House provision with a clarification.

6. SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS (SEC. 15214 OF HOUSE BILL; SEC. 7103 OF SENATE BILL)

Current law

The 1987 Medicare and Medicaid Patient and Program Protection Act specified various payment practices which, although potentially capable of inducing referrals of business under Medicare or State health care programs, are protected from criminal prosecution or civil sanction under the anti-kickback provisions of the law. The 1987 law also established authority for the Secretary to promulgate regulations specifying additional payment practices, known as "safe harbors", which will not be subject to sanctions under the fraud and abuse provisions.

House bill

The Secretary would publish an annual notice in the Federal Register soliciting proposals for modifications to existing safe harbors, new safe harbors, interpretive rulings and special fraud alerts. After considering such proposals the Secretary, in consultation with the Attorney General, would, after notice and comment, issue final rules modifying existing safe harbors and establishing new safe harbors, as appropriate. The Secretary, in considering these proposals, may consider the extent to which such a proposal would affect access to health care service, quality of health care services, patient freedom of choice among health care providers, competition among health care providers, cost of health care programs to Government, over-utilization of health care services, and any other factors appropriate to prevent fraud and abuse in health care programs of the Federal Government. The Inspector General would issue an annual report on the proposals received by the Secretary, the proposals issued by the Secretary, and an explanation of the reason for rejection of any of the proposals received.

Senate bill

The Secretary would publish an annual notice in the Federal Register soliciting proposals for modifications to existing safe harbors and new safe harbors. After considering such proposals the Secretary, in consultation with the Attorney General, would issue final rules modifying existing safe harbors and establishing new safe harbors, as appropriate. The Inspector General would submit an annual report to Congress describing the proposals received, as well as the action taken regarding the proposals. The Secretary, in considering proposals, may consider a number of factors including the extent to which the proposals would affect access to health care services, quality of health care services, patient freedom of choice among health care providers, competition among health care providers, ability of health care facilities to provide services in medically underserved areas or to medically underserved populations, and the like.

The Secretary of Health and Human Services would publish the first notice in the Federal Register soliciting proposals for new or modified safe harbors no later than January 1, 1996.

Conference agreement

The conference agreement includes the Senate provision.

7. ISSUANCE OF ADVISORY OPINIONS/INTERPRETATIVE RULINGS UNDER TITLE XI (SEC. 15215 OF HOUSE BILL; SEC. 7103 OF SENATE BILL)

Current law

No provision.

House bill

The Secretary would issue regulations to provide for a procedure by which a party may seek an advisory opinion from the Secretary. These opinions would be binding, and could include matters such as what constitutes prohibited remuneration, what arrangements are excluded from these prohibitions, whether an arrangement satisfies the criteria established by the Secretary for activities which do not result in prohibited remuneration, what constitutes an inducement to reduce or limit services, and whether an activity constitutes grounds for imposition of penalties. Such opinions would not address whether the fair market value was received for goods and whether an individual is a bona fide employee for tax purposes. The Secretary would respond to advisory opinion requests within 30 days, and a fee equal to the costs incurred would be charged. The effective date of this section is January 1, 1996.

Senate bill

Interpretive rulings may be requested, at any time, by any person, and would be issued by the Inspector General, in consultation with the Attorney General, not later than 90 days after receiving such a request. Interpretive rulings would be published in the Federal Register, but would not have the force of law. If the Inspector General does not issue an interpretive ruling, he or she would notify the requester within sixty days of the request and give the reasons for denial.

Conference agreement

The conference agreement includes the Senate provision.

8. PRIOR NOTICE OF CHANGES IN BILLING AND CLAIMS PROCESSING REQUIREMENTS FOR PHYSICIANS' SERVICES

Current law

No provision.

House bill

The provision would require the Secretary, unless otherwise specifically provided by Congress, to give at least 120 days notice before making changes in billing and processing requirements for physicians claims.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

C. PROMOTING PHYSICIAN SELF-POLICING

1. EXEMPTION FROM ANTITRUST LAWS FOR CERTAIN ACTIVITIES OF MEDICAL SELF-REGULATORY ENTITIES (SEC. 15221 OF HOUSE BILL)

Current law

No provision.

House bill

The provision would provide an exemption from Federal and State antitrust laws for health care service activities which are considered safe harbors under the provision. A safe harbor is generally described as any activity of a medical self-regulatory entity relating to standard setting or standard enforcement activities that are designed to promote the quality of health care services provided to patients. However, no activity of a medical self-regulatory entity could be deemed to be a safe harbor under this section if the activity was conducted for purposes of financial gain, or the activity interfered with the provision of health care services by any health care provider who was not a member of the specific profession which was subject to the authority of the medical self-regulatory entity.

For purposes of the provision, the term "antitrust laws" would have the meaning given it in subsection (a) of the first section of the Clayton Act, except that the term includes section 5 of the Federal Trade Commission Act to the extent that section applies to unfair methods of competition. A "medical self-regulating entity" would be defined as a medical society or association, a specialty board, a recognized accrediting agency, or a hospital medical staff, and includes the members, officers, employees, consultants, and volunteers or committees of such an entity. "Standard setting or standard enforcement activities" mean accreditation of health care practitioners, health care providers, medical education institutions, or medical education programs, as well as technology assessment and risk management activities, the development and implementation of practice guidelines or practice parameters, or official peer review proceedings undertaken by a hospital medical staff or a medical society for purposes of evaluating the professional conduct or quality of health care provided by a medical professional. This section also defines "health care service", "health care provider" and "health benefit plan".

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

SUBTITLE D—MEDICAL LIABILITY REFORM

A. GENERAL PROVISIONS

1. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS (SEC. 15301 OF HOUSE BILL)

Current law

There are no uniform Federal standards governing health care liability actions.

House bill

The provision would provide for Federal reform of health care liability actions. It would apply to any health care liability action brought in any State or Federal court. The provisions would not apply to any action for damages arising from a vaccine-related injury or death or to the extent that the provisions of the National Vaccine Injury Compensation Program apply. The provisions would also not apply to actions under the Employment Retirement Income Security Act. The provisions would preempt State law to the extent State law provisions were inconsistent with the new requirements. However, it would not preempt State law to the extent State law provisions were more stringent.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

2. DEFINITIONS (SEC. 15302 OF HOUSE BILL)

Current law

No provision.

House bill

The provision would define the following terms for purposes of the Federal reforms: actual damages; alternative dispute resolution system; claimant; clear and convincing evidence; collateral source payments; drug; economic loss; harm; health benefit plan; health care liability action; health care liability claim; health care provider; health care service; medical device; noneconomic damages; person; product seller; punitive damages; and State.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

3. EFFECTIVE DATE (SEC. 15303 OF HOUSE BILL)

Current Law

No provision.

House bill

The provision would specify that Federal reforms apply to any health care liability action brought in any State or Federal court that is initiated after the date of enactment. The provision would also apply to any health care liability claim subject to an alternative dispute resolution system. Any health care liability claim or action arising from an injury occurring prior to enactment would be governed by the statute of limitations in effect at the time the injury occurred.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

B. UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

1. STATUTE OF LIMITATIONS (SEC. 15311 OF HOUSE BILL)

Current law

To date reforms of the malpractice system have occurred primarily at the State level and have generally involved changes in the rules governing tort cases. (A tort case is a civil action to recover damages, other than for a breach of contract.)

House bill

The provision would establish uniform standards for health care liability claims. It would establish a uniform statute of limitations. Actions could not be brought more than two years after the injury was discovered or reasonably should have been discovered. In no event could the action be brought more than five years after the date of the alleged injury.

Senate bill

No provision.

Conference Agreement

The conference agreement does not include the House provision.

2. CALCULATION AND PAYMENT OF DAMAGES (SEC. 15312 OF HOUSE BILL)

Current law

No provision.

House bill

The provision would limit noneconomic damages to $250,000 in a particular case. The limit would apply regardless of the number of persons against whom the action was brought or the number of actions brought.

The provision would specify that a defendant would only be liable for the amount of noneconomic damages attributable to that defendant's proportionate share of the fault or responsibility for that claimant's injury.

The provision would permit the award of punitive damages (to the extent allowed under State law) only if the claimant established by clear and convincing evidence either that the harm was the result of conduct that specifically intended to cause harm or the conduct manifested a conscious flagrant indifference to the rights or safety of others. The amount of punitive damages awarded could not exceed $250,000 or three times the amount of economic damages, whichever was greater. The determination of punitive damages would be determined by the court and not be disclosed to the jury The provision would not create a cause of action for punitive damages. Further, it would not preempt or supersede any State or Federal law to the extent that such law would further limit punitive damage awards.

The provision would permit either party to request a separate proceeding (bifurcation) on the issue of whether punitive damages should be awarded and in what amount. If a separate proceeding was requested, evidence related only to the claim of punitive damages would be inadmissible in any proceeding to determine whether actual damages should be awarded.

The provision would prohibit the award of punitive damages in a case where the drug or device was subject to premarket approval by the Food and Drug Administration, unless there was misrepresentation or fraud. A manufacturer or product seller would not be held liable for punitive damages related to adequacy of required tamper resistant packaging unless the packaging or labeling was found by clear and convincing evidence to be substantially out of compliance with the regulations.

The provision would permit the periodic (rather than lump sum) payment of future losses in excess of $50,000. The judgment of a court awarding periodic payments could not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of payments. The provision would not preclude a lump sum settlement.

The provision would permit a defendant to introduce evidence of collateral source payments. Such payments are those which are any amounts paid or reasonably likely to be paid by health or accident insurance, disability coverage, workers compensation, or other third party sources. If such evidence was introduced, the claimant could introduce evidence of any amount paid or reasonably likely to be paid to secure the right to such collateral source payments. No provider of collateral source payments would be permitted to recover any amount against the claimant or against the claimant's recovery.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

3. ALTERNATIVE DISPUTE RESOLUTION (SEC. 15313 OF HOUSE BILL)

Current law

No provision.

House bill

The provision would require that any alternative dispute resolution system used to resolve health care liability actions or claims must include provisions identical to those specified in the bill.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

SUBTITLE E—TEACHING HOSPITALS; GRADUATE MEDICAL EDUCATION

A. ESTABLISHMENT OF FUND; PAYMENTS TO TEACHING HOSPITALS (SEC. 15401 OF HOUSE BILL)

Current law

Medicare recognizes the costs of graduate medical education in teaching hospitals and the higher costs of providing services in those institutions. Medicare recognizes the costs of graduate medical education under two mechanisms: direct graduate medical education (GME) payments and an indirect medical education (IME) adjustment. The direct costs of approved GME programs include the salaries of residents and faculty, and other education costs for residents, nurses, and allied health professionals trained in provider-operated programs and are paid on the basis of a formula that reflects each hospital's per resident costs. The IME is designed to reimburse hospitals for indirect costs due to a variety of factors, including the extra demands placed on the hospital staff as a result of the teaching activity, greater severity of patient illness, or additional tests and procedures that may be ordered by residents.

House bill

The proposal would add a new title XXII to the Social Security Act (SSA) creating a trust fund in the Treasury known as the Teaching Hospital and Graduate Medical Education Trust Fund, which would make annual payment distributions to teaching hospitals. The Fund would consist of three accounts: the Indirect-Costs Medical Education Account, the Medicare Direct-Costs Medical Education Account, and the General Direct-Costs Medical Education Account.

Beginning in FY1997 and each subsequent year thereafter, the bill would appropriate amounts from the Treasury and allocations would be made from Medicare's Part A and B trust funds, and would be transferred into the Trust Fund for allocation to accounts within the Trust Fund. Appropriations from the Treasury would be: $1.3 billion in FY1997; $1.5 billion in FY1998; $2.3 billion in FY1999; $3.1 billion in FY2000; $3.6 billion in FY2001; and $4.00 billion in FY2002. For FY2003 and each subsequent fiscal year, the appropriation amount would be the greater of the amount appropriated for the preceding fiscal year, or the product of the amount appropriated for the preceding fiscal year and an amount equal to 1 plus the percentage increase in the nominal gross domestic product for the one-year period ending upon July 1 of the preceding fiscal year. The appropriated amounts would be allocated to the accounts by the Secretary based on the total amount of payments made under Medicare for indirect medical education (IME) and direct graduate medical education (GME) payments for FY1994, and the percentage of the total amount of payments for IME and GME.

The proposal would require that teaching hospitals submit a payment document for FY1997 and any subsequent fiscal year to the Secretary to receive a payment from the Fund equal to the sum of amounts related to IME and direct GME. The payment document would contain such information as necessary for the Secretary to make payments, and the Secretary would be permitted to require that the information be submitted by the teaching hospitals in periodic reports. The proposal would also authorize the Secretary to make payments to authorized consortia of providers.

For a teaching hospital's indirect costs, the proposal would determine an amount for a fiscal year as the product of: (1) the amount in the Indirect-Costs Medical Education Account for the applicable date, and (2) the hospital-specific percentage determined for the hospital. Once determined, the hospital-specific percentage would remain in effect for all subsequent fiscal years. The hospital-specific percentage would be the mean average of the respective percentages for the applicable period, adjusted by the Secretary on a pro rata basis to ensure that the sum of the percentages for all teaching hospitals would be equal to 100 percent. Generally, the applicable period would be fiscal years 1992–1994. The percentage determined for a teaching hospital for a fiscal year of the applicable period would be constituted by the ratio of: (1) the total amount of IME payments received by the hospital for the fiscal year involved, to (2) the sum of the respective amounts of IME payments for all teaching hospitals.

To determine the direct costs of graduate medical education for a teaching hospital for a fiscal year, the proposal would determine an amount equal to the sum of the amount determined under the General Direct-Cost Medical Education Account, and the amount determined under the Medicare Direct-Costs Medical Education Account. A teaching hospital's payment amount from the General Account would be equal to the product of: (1)

the amount in the General Direct-Costs Medical Education Account, and (2) the hospital-specific percentage. A teaching hospital's hospital-specific percentage for each fiscal year of the applicable period (1992–1994), would be determined in the same manner as for IME payments, except using data on GME payments received by the hospitals.

Payment from the Medicare Direct-Costs Medical Education Account for a teaching hospital for a fiscal year would be the product of (1) the amount in the Medicare Direct-Costs Medical Education Account, and (2) the hospital-specific percentage determined for the teaching hospital. Unlike the other accounts, the hospital-specific percentage for Medicare Direct-Costs would be determined annually based on the Secretary's estimate of what the hospital would have received for the year if the Medicare rules for GME were applicable. The hospital-specific percentage would be the ratio of: (1) the estimate made by the Secretary of the GME payment amount for a teaching hospital in a fiscal year under Medicare's GME if the payments had not been discontinued; to (2) the sum of the respective estimates of GME payments for all teaching hospitals.

Special rules would be applied to teaching hospitals that consolidated or merged and to new teaching hospitals. In the case of two or more teaching hospitals consolidating or merging that had received IME and GME payments under Medicare, the applicable percentage would be the sum of the percentage that would have been determined if the consolidation or merger had not occurred. For new teaching hospitals that had not received IME and GME payments under Medicare, the Secretary would be required to estimate the appropriate hospital-specific percentage based on the amount of IME and GME payments the teaching hospital would have received under Medicare. Special rules would also be applied to teaching hospitals that first received IME or GME payments under Medicare in FY1995 and FY1996, with the hospital-specific percentages being estimated by the Secretary based on the most recent data available.

The proposal would make payments to qualifying consortium for the costs of graduate medical education. Qualifying consortium would consist of a medical residency training program of a teaching hospital and one or more of the following entities: schools of medicine or osteopathic medicine; other teaching hospitals; community health centers; medical group practices; managed care entities; entities furnishing outpatient services; and other such entities the Secretary determines to be appropriate. Payments from the accounts in the Trust Fund for consortium would equal the sum of: (1) the aggregate amount determined for the teaching hospitals of the consortium under the proposal; and (2) an amount determined using the methodology provided under the Medicare Direct-Costs Medical Education Account for consortia payments. Aggregate total payments to qualifying consortia could not exceed the sum of the aggregate total amount that would have been paid to the teaching hospitals of the consortia, and an amount equal to 1 percent of the amount in the Medicare Direct-Costs Medical Education Account.

The Secretary would be required to collect data to determine whether the estimates of Medicare's payments for the costs of IME and GME in each fiscal year were substantially accurate, and make corrective adjustments in subsequent transfers to the Trust Fund and payments to teaching hospitals.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision with modifications. The Fund would include five accounts: the General MedicarePlus Incentive Account; the General Indirect-Costs Medical Education Account; the General Direct-Costs Medical Education Account; the Medicare Indirect-Costs Medical education Account; and the Medicare Direct-Costs Medical Education Account.

Appropriations from the Treasury into the Trust Fund would be as follows: $1.1 billion for FY1997; $1.3 billion for FY1998; $2.0 billion for FY1999; $2.6 billion for FY2000; $3.1 billion for FY2001; and $3.4 billion for FY2002. For FY2003 and each subsequent fiscal year, the appropriation amount would be the greater of the amount appropriated for the preceding fiscal year, or the product of the amount appropriated for the preceding fiscal year and an amount equal to 1 plus the percentage increase in the nominal gross domestic product for the one-year period ending upon July 1 of the preceding fiscal year. Of the appropriated amounts, the following percentage amounts would be allocated to the MedicarePlus Incentive Account: 20 percent for FY1997; 30 percent for FY1998; 40 percent for FY1999; and 50 percent for FY2000 and each subsequent year. Each teaching hospital that serves MedicarePlus patients will receive an amount from the MedicarePlus Incentive Account corresponding to it's share of total MedicarePlus patients served at all U.S. teaching hospitals. The remaining amounts would be allocated to the General Indirect-Costs Medical Education Account and the General Direct-Costs Medical Education Account, with the percentages determined by the Secretary based on: (1) the total amount of payments that were made under Medicare for IME and GME in FY1992–1994; (2) the percentage of such total constituted by payments under IME; and (3) the percentage of such total constituted by payments under GME. Formula payments for teaching hospitals for the fiscal year would be equal to the sum of: (1) the amount determined relating to the MedicarePlus program; (2) the amount determined relating to indirect costs of graduate medical education; and (3) the amount determined relating to direct costs of graduate medical education.

The Secretary would be permitted to require hospitals to submit periodic reports providing information relating to Medicare patients when teaching hospitals submit the payment document. The information would include: (1) the number of inpatient discharges attributable to individuals enrolled in the MedicarePlus program; (2) the Medicare patient load of the hospital as defined for the purposes of the Medicare direct GME payment formula; and (3) for each discharge with respect to which payment is received from the Secretary under Medicare Part A, the diagnosis-related group (DRG) within which the discharge is classified.

Qualifying consortia can receive payments for direct costs. Such consortia would consist of a teaching hospital and one or more of the following entities: schools of allopathic or osteopathic medicine; other teaching hospitals; approved medicine residency programs; Federally qualified health centers; medical group practices; managed care entities; entities furnishing outpatient services; and, such other entities as the Secretary determines to be appropriate.

B. TRANSFERS TO TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND (SEC. 15411 OF HOUSE BILL)

Current law

No provision.

House bill

The proposal would amend Medicare law by adding a new subsection (j) at the end of section 1886 of the SSA, under which the Secretary would, beginning in FY1997 transfer amounts to the Teaching Hospital and Graduate Medical Education Trust Fund. Amounts transferred to the Indirect-Costs Medical Education Account would be from the Medicare Part A trust fund on the basis of an estimate of the nationwide total of the amount that would have been paid to hospitals under Medicare's IME payment. Also, the Secretary would be required to transfer from Medicare Part A and B Trust Funds into the Medicare Direct-Costs Medical Education Account the amount estimated to be spent for teaching hospitals and consortia under Medicare's direct GME payment.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision.

C. MODIFICATION IN PAYMENT POLICIES REGARDING GRADUATE MEDICAL EDUCATION (SEC. 15412 OF HOUSE BILL)

Current law

1. Indirect Medical Education. Medicare makes payments to teaching hospitals under PPS for the indirect costs attributable to approved medical education programs. These indirect costs may be due to a variety of factors, including the extra demands placed on the hospital staff as a result of the teaching activity or additional tests and procedures that may be ordered by residents. Congressional reports on the PPS authorizing legislation indicated that the indirect medical education payments are also to account for factors not necessarily related to medical education which may increase costs in teaching hospitals, such as more severely ill patients, increased use of diagnostic testing, and higher staff-to-patient ratios.

The additional payment to a hospital is based on a formula that provides an increase of approximately 7.7 percent in the Federal portion of the DRG payment, for each 0.1 percent increase in the hospital's intern and resident-to-bed ratio on a curvilinear basis (i.e., the increase in the payment is less than proportional to the increase in the ratio of interns and residents to beds).

2. Direct Graduate Medical Education. The direct costs of approved graduate medical education (GME) programs (such as the salaries of residents and faculty, and other costs related to medical education programs) are excluded from PPS and are paid on the basis of a formula that reflects Medicare's share of each hospital's per resident costs. Medicare's payment to each hospital equals the hospital's costs per full-time-equivalent (FTE) resident, times the weighted average number of FTE residents, times the percentage of inpatient days attributable to Medicare Part A beneficiaries. Each hospital's per FTE resident amount is calculated using data from the hospital's cost reporting period that began in FY1984, increased by 1 percent for hospital cost reporting periods beginning July 1, 1985, and updated in subsequent cost reporting periods by the change in the CPI. OBRA 93 provided that the per resident amount would not be updated by the CPI for costs reporting periods during FY1994 and

FY1995, except for primary care residents in obstetrics and gynecology. The number of FTE residents is weighted at 100 percent for residents in their initial residency period (i.e., the number of years of formal training necessary to satisfy specialty requirements for board eligibility). Residents in preventive care or geriatrics are allowed a period of up to 2 additional years in the initial residency training period. For residents not in their initial residency period, the weighing factor is 50 percent. On or after July 1, 1986, residents who are foreign medical graduates can only be counted as FTE residents if they have passed designated examinations.

House bill

1. Indirect Medical Education. The proposal would reduce the IME amount under Medicare by changing the current formula multiplier to 1.48, resulting in a 6.0 percent aggregate payment adjustment for FY1996–FY1998, with a further reduction of the multiplier to 1.38 beginning in FY1999 and for each subsequent fiscal year, which would result in a 5.6 percent aggregate payment adjustment, for every 10 percent increase in teaching intensity measured by the ratio of interns and residents per bed, and the number of discharges expected under PPS.

2. Direct Graduate Medical Education. The GME formula would be modified to limit the number of residents that could be counted by a teaching hospital. The total number of full-time-equivalent (FTE) residents in an approved residency program would be limited to the total number of residents at a hospital as of August 1, 1995, for cost reporting periods beginning on or after October 1, 1995, and on or before September 30, 2002. For hospital cost reporting periods beginning on or after October 1, 1997, the weighting factor for a resident in the initial residency period would be 1.0 FTEs, and the weighting factor for a resident who had completed the initial residency period would be 0.0 FTEs. For cost reporting periods beginning during FY1996, the FTE amount paid for medical residents who are not citizens, nationals, or permanent resident aliens of the United States, or Canadian citizens, would be reduced and ultimately eliminated by lowering the FTE weight that a hospital would be allowed to count for GME payments to: 0.75 in FY1996; 0.50 in FY1997; and 0.25 in FY1998 and for any subsequent fiscal year.

The effective date for these provisions, unless otherwise specified would, apply to hospital cost reporting periods beginning on or after October 1, 1995.

Senate bill

1. Indirect Medical Education. The proposal would reduce the IME amount under Medicare by changing the current formula multiplier to 1.65 resulting in a 6.7 percent aggregate payment adjustment for FY1996; to 1.48 resulting in a 6.0 percent aggregate adjustment in FY1997; to 1.33 resulting in a 5.4 percent aggregate adjustment in FY1998; and to 1.23 resulting in a 5.0 percent aggregate adjustment in FY1999 through FY2001.

2. Direct Graduate Medical Education. No provision.

Conference agreement

1. Indirect Medical Education. The conference agreement includes the Senate provision with modifications. The IME formula multiplier would be set at 1.654 for FY 1996, resulting in a 6.7 percent aggregate payment adjustment; at 1.481 in FY1997 and FY1998, resulting in a 6.0 percent aggregate adjustment; at 1.383 in FY1999, resulting in a 5.6 percent aggregate adjustment; at 1.309 in FY2000, resulting in a 5.3 percent aggregate adjustment: and at 1.235 in FY2001 and thereafter, resulting in a 5.0 percent aggregate adjustment.

2. Direct Graduate Medical Education. The conference agreement includes the House provision with modifications. For cost reporting periods beginning on or after October 1, 1997, the weighting factor for a resident who had completed the initial residency period would be 0.25 FTEs. For cost reporting periods beginning on or after October 1, 1995, and on or before September 30, 2002, the Secretary is required to adjust payments to approved medical residency training programs in the fields of allopathic medicine and osteopathic medicine if the total number of such FTE residents in the fiscal year exceeds the number of FTE residents with respect to all such programs as of August 1, 1995. The Secretary is required to adjust payments to such approved medical residency training programs so that the total amount of payments does not exceed the amount that would have been paid if the number of FTE residents for all programs in a fiscal year did not exceed the number of FTE residents in all such programs as of August 1, 1995. The Secretary is authorized to provide that approved medical residency training programs that reduced or did not expand the number of FTE residents for a cost reporting period are not subject to the reduction in payments. The conference agreement does not include the House provision related to non-citizen medical residents.

D. ESTABLISHMENT OF ADVISORY PANEL FOR RECOMMENDING POLICIES REGARDING TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION (SEC. 15421 OF HOUSE BILL)

Current law

No provision.

House bill

The bill would require the Chair of the Medicare Payment Review Commission to establish an advisory panel on reform in the financing of teaching hospitals and graduate medical education. The advisory panel would be required to study and make recommendations on reforming Federal policies regarding teaching hospitals and financing of graduate medical education. The recommendations of the panel would include the following: (1) the financing of graduate medical education, including consideration of alternative broad-based sources of funding; (2) the financing of teaching hospitals, including consideration of the competitive difficulties such hospitals face; (3) the methodology for making payments and the selection of entities to receive the payments; (4) Federal policies regarding international medical graduates; (5) the dependence of schools of medicine on service generate income; (6) the effects of the amendments made by the Omnibus Budget Reconciliation Act of 1995; and (7) the feasibility and desirability of reducing payments for graduate medical education for high-cost residency programs under Medicare.

The advisory panel would be composed of 19 members with expertise on matters related to graduate medical education. The advisory panel would be required to provide Congress with a first interim report (not later than one year after enactment), a second interim report (not later than 2 years after enactment), and final report (not later than 3 years after enactment). The advisory panel would terminate 180 days after the date on which the final report was submitted to Congress. The bill would authorize appropriations of such sums as may be necessary for each of the fiscal years 1996 through 2000.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision. The conferees believe that further study of graduate medical education funding is needed. Included among the issues requiring further study are: (1) the financing of graduate medical education, including consideration of alternative broad-based sources of funding for such education and the method of financing used for the MedicarePlus program under Part C of Title XVIII of the Social Security Act; (2) Federal policies regarding international medical graduates; and (3) the dependence of schools of medicine on service-generated income. The conferees would expect that Prospective Payment Assessment Commission would study these issues and forward its findings to the relevant congressional committees.

SUBTITLE F—PROVISIONS RELATING TO MEDICARE PART A

A. General Provisions Related to Hospitals

1. REDUCTIONS IN INFLATION UPDATES FOR PPS HOSPITALS (SEC. 15501 OF HOUSE BILL; SEC. 7011 OF SENATE BILL)

Current law

Hospitals are paid on the basis of a prospectively fixed payment rate for costs associated with each discharge. Each hospital's basic payment rate is based on a national standardized payment amount, which is higher for hospitals in large urban areas than for other hospitals. Each standardized payment amount is adjusted by a wage index. Payment also depends on the relative costliness of the case, based on the diagnosis related group (DRG) to which the discharge is assigned. Additional payments are made for: extraordinary costs (outliers); indirect costs of medical education; and for hospitals serving a disproportionate share of low-income patients. Other exceptions and adjustments are made.

PPS payment rates are annually updated using an "update factor." The annual update factor applied to increase the Federal base payment amounts is determined, in part, by the projected increase in the hospital market basket index, which measures the costs of goods and services purchased by hospitals. Under the Omnibus Budget Reconciliation Act of 1993 (OBRA 93), the PPS update factor for all PPS hospitals is equal to the percentage increase in the market basket minus 2 percentage points.

House bill

The proposal sets the update factor for FY1996 at MBI minus 2.5 percentage points for all hospitals in all areas, for FY1997–2002, at MBI minus 2.0 percentage points for all hospitals in all areas, and for FY2003 and each subsequent fiscal year equal to the MBI for all hospitals in all areas.

Senate bill

The bill sets the update factor for FY1996 through FY2002 for hospitals in all areas, the greater of: (1) the MBI minus 2.5 percentage points, or (2) 1.1 percent (1.3 percent for discharges during FY1996, 1.2 percent for discharges during FY1997). For FY2003 and each subsequent year, equal to the MBI for all hospitals in all areas.

Conference agreement

The conference agreement includes the House provision.

2. REDUCTIONS IN DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS (SEC. 15502 OF HOUSE BILL; SEC. 7014 OF SENATE BILL)

Current law

Under PPS, an adjustment is made to the payment to hospitals that serve a disproportionate share of low-income patients. The DSH adjustment is intended to compensate hospitals that treat large proportions of low-income patients. The factors considered in determining whether a hospital qualifies for a DSH payment adjustment include the number of beds, the number of patient days, and the hospital's location. A hospital's disproportionate patient percentage is the sum of (1) the total number of inpatient days attributable to Federal SSI beneficiaries divided by the total number of Medicare patient days, and (2) the number of Medicaid patient days divided by total patient days, expressed as a percentage. A hospital is classified as a DSH under any of the following circumstances:

(1) If its disproportionate patient percentage equals or exceeds:

(a) 15 percent for an urban hospital with 100 or more beds, or a rural hospital with 500 or more beds (the latter is set by regulation);

(b) 30 percent for a rural hospital with more than 100 beds and fewer than 500 beds or is classified as a sole community hospital;

(c) 40 percent for an urban hospital with fewer than 100 beds; or

(d) 45 percent for a rural hospital with 100 or fewer beds, or

(2) if it is located in an urban area, has 100 or more beds, and can demonstrate that, during its cost reporting period, more than 30 percent of its net inpatient care revenues are derived from State and local government payments for care furnished to indigent payments. (This provision is intended to help hospitals in States that fund care for low-income patients through direct grants rather than expanded Medicaid programs.)

For a hospital qualifying on the basis of (1)(a) above, if its disproportionate patient percentage is greater than 20.2 percent, the applicable PPS payment adjustment factor is 5.88 percent plus .825 percent of the difference between 20.2 percent and the hospital's disproportionate patient percentage. If the hospital's disproportionate patient percentage is less than 20.2 percent, the applicable payment adjustment factor is equal to: 2.5 percent plus 65 percent of the difference between 15 percent and the hospital's disproportionate patient percentage. If the hospital qualifies as a DSH on the basis of (1)(b), the payment adjustment factor is determined as follows:

(a) if the hospital is classified as a rural referral center, the payment adjustment factor is 4 percent plus 60 percent of the difference between the hospital's disproportionate patient percentage and 30 percent;

(b) if the hospital is a SCH, the adjustment factor is 10 percent;

(c) if the hospital is classified as both a rural referral center and a SCH, the adjustment factor is the greater of 10 percent or 4 percent plus 60 percent of the difference between the hospital's disproportionate patient percentage and 30 percent; and

(d) if the hospital is not classified as either a SCH or a rural referral center, the payment adjustment factor is 4 percent.

If the hospital qualifies on the basis of (1)(c), the adjustment factor is equal to 5 percent. If the hospital qualifies on the basis of (1)(d), the adjustment factor is 4 percent. If the hospital qualifies on the basis of (2) above, the payment adjustment factor is 35 percent.

House bill

The proposal would reduce the DSH payment by 20 percent for discharges occurring on or after October 1, 1995, and on or before September 30, 1996; 25 percent for discharges occurring on or after October 1, 1996, and on or before September 30, 1997; and 30 percent for discharges occurring on or after October 1, 1997.

Senate bill

The bill would reduce the DSH payment by 5 percent for discharges occurring during FY1996; 10 percent in FY1997; 15 percent in FY1998; 20 percent in FY1999; and 25 percent for fiscal years 2000 through 2002.

Conference agreement

The conference agreement includes the Senate provision with modifications. The DSH payment would be reduced from current law spending by 5.0 percent in FY1996; an additional 5 percent in FY1997; an additional 7.5 percent in FY1998; an additional 7.5 percent in FY1999; an additional 5 percent in FY2000; and remain at 30 percent for FY2001 through FY2002.

3. PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES (SEC. 15503 OF HOUSE BILL; SEC. 7013 OF SENATE BILL)

Current law

In FY1992, Medicare began phasing in prospectively-determined per case rates for capital-related costs. During the 10-year transition to a single capital rate, payments will reflect both hospital-specific costs and a single Federal capital payment rate. During the transition, hospitals are paid according to either a fully prospective method or a "hold harmless" method of payment.

Capital payment rates are updated annually. For the first 5 years of the transition to prospectively determined per-case rates, historical cost increases were used to increase the Federal and hospital-specific rates. Under a budget neutrality requirement, per case capital rates were adjusted in the first 5 years of the transition so that total payments equaled 90 percent of estimated Medicare-allowed capital costs. In fiscal year 1996, the budget neutrality requirement will be lifted. In addition, the cost-based updates will be replaced by an "update framework" (developed by HCFA and proposed in the June 2, 1995 Federal Register), which will determine payment rate growth. This analytical framework is to take into account changes in the price of capital and appropriate changes in capital requirements resulting from development of new technologies and other factors.

Capital costs for PPS exempt hospitals are reimbursed on a reasonable cost basis.

Medicare's capital-related costs include local property taxes and property "fees" paid by nonprofit hospitals. The hospital-specific component of capital payments is based on a hospital's spending in a base year (generally 1990). Hospitals that have changed from nonprofit or public to proprietary may become subject to property taxes not included in their base; this may also occur as a result of changes in State or local law.

House bill

The provision would reduce aggregate payments for PPS and PPS-exempt capital payments by 15 percent of the allowable amount for FY1996 through FY2002. The capital payment reduction would not apply to payments for sole community hospitals or rural primary care hospitals (defined in the bill).

The provision would provide an adjustment for the amount of capital-related tax costs for eligible hospitals for discharges occurring after September 30, 1995. Eligible hospitals would be facilities that may otherwise receive capital payments, are not public hospitals, and incur capital-related tax costs for the fiscal year.

The provision would also amend the provision of additional exception payments for PPS-exempt hospital capital costs as follows: (1) urban hospitals with 100 beds would be eligible without regard to its DSH patient percentage or whether it qualifies for capital additional payments amounts; (2) the minimum payment level for qualifying hospitals would be 85 percent; (3) hospitals would be considered to meet the requirement that it completed a project involved no later than the end of the hospital's last cost reporting period beginning after October 1, 2001, if (I) the hospital obtained a certificate of need for the project approved by the State or a local planning authority, and (ii) by September 1, 1995, the hospital had expended on the project at least $750,000 or 10 percent of the estimated cost of the project; and (4) the amount of the exception payment made would not be reduced by any offsetting amounts.

Senate bill

The provision would reduce aggregate payments for PPS and PPS-exempt capital payments by 15 percent of the allowable amount for FY1996 through FY2002. The capital payment reduction would not apply to payments for sole community hospitals or rural primary care hospitals (defined in the bill).

The provision would provide an adjustment for the amount of capital-related tax costs for eligible hospitals for discharges occurring after September 30, 1995. Eligible hospitals would be facilities that may otherwise receive capital payments, are not public hospitals, and incur capital-related tax costs for the fiscal year.

The provision would also amend the provision of additional exception payments for PPS-exempt hospital capital costs as follows: (1) urban hospitals with 100 beds would be eligible without regard to its DSH patient percentage or whether it qualifies for capital additional payments amounts; (2) the minimum payment level for qualifying hospitals would be 80 percent; (3) hospitals would be considered to meet the requirement that it completed a project involved no later than the end of the hospital's last cost reporting period beginning after October 1, 2001, if (I) the hospital obtained a certificate of need for the project approved by the State or a local planning authority, and (ii) by September 1, 1995, the hospital had expended on the project at least $750,000 or 10 percent of the estimated cost of the project; and (4) the amount of the exception payment made would not be reduced by any offsetting amounts.

Conference agreement

The conference agreement includes the Senate provision with an amendment to reduce capital payments for PPS-exempt hospitals by 10 percent. Capital exceptions would have a minimum payment amount of 85 percent.

4. REDUCTION IN ADJUSTMENT FOR INDIRECT MEDICAL EDUCATION (SEC. 15504 OF HOUSE BILL; SEC. 7015 OF SENATE BILL)

House bill

The proposal would reduce the IME amount under Medicare by changing the current formula multiplier to 1.48, resulting in a 6.0 percent aggregate payment adjustment for FY1996-FY1998, with a further reduction the multiplier beginning in FY1999 and for each subsequent fiscal year, for a 5.6 percent aggregate payment adjustment, for every 10 percent increase in teaching intensity measured by the ratio of interns and residents per bed, and the number of discharges expected under PPS. (See Subtitle E above)

Senate bill

The proposal would reduce the IME amount under Medicare by changing the current formula multiplier to 1.65 resulting in a 6.7 percent aggregate payment adjustment for FY1996; to 1.48 resulting in a 6.0 percent aggregate adjustment in FY1997; to 1.33 resulting in a 5.4 percent aggregate adjustment in FY1998; and to 1.23 resulting in a 5.0 percent aggregate adjustment in FY1999 through FY2001.

Conference agreement

The conference agreement includes the Senate provision with modifications. (See Subtitle E above)

5. TREATMENT OF PPS-EXEMPT HOSPITALS (SEC. 15505 OF HOUSE BILL; SEC. 7012 OF SENATE)

Current law

Under Medicare, five types of specialty hospitals (psychiatric, rehabilitation, long-term care, children's and cancer) and two types of distinct-part units in general hospitals (psychiatric and rehabilitation) are exempt from PPS. They are subject to the payment limitations and incentives established in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). Each provider is paid on the basis of reasonable cost subject to a rate of increase ceiling on inpatient operating costs. The ceiling is based on a target amount per discharge. The target amount for a cost reporting period is equal to the hospital's allowable inpatient operating costs (excluding capital and medical education costs) per discharge in a base year increased by applicable update factors for subsequent years. This amount is then multiplied by Medicare discharges, to yield the ceiling or upper limit on operating costs.

OBRA 93 provided that the applicable rate of increase percentage, or update, would be equal to the MBI minus 1.0 percent for FY1994-1997.

House bill

The provision would extend the target amount updates of the MBI minus 1 percentage point through FY2002.

The provision would also provide for rebasing the target amount for certain long-term care hospitals for discharges occurring on or after October 1, 1995.

The provision would also apply to long-term care units of hospitals not treated as PPS hospitals for discharges occurring on or after September 30, 1995. Not later than 12 months after the majority of the members of the Medicare Payment Review Commission have been appointed, the Commission would be required to report to Congress their recommendations for appropriate revisions in the treatment of long-term care hospitals located in the same building or the same campus as another hospital. The Secretary would also be required to report to Congress by June 1, 1996, after consultation with the Prospective Payment Assessment Commission and other appropriate parties, on the advisability and feasibility of providing for payment based on a prospective payment system for inpatient services of rehabilitation hospitals and units under Medicare.

Senate bill

The provision would set the update factor to the cost limits for PPS-exempt hospitals equal to the MBI minus 2.5 percentage points for FY1996 through FY2002. The update adjustment would vary for hospitals above and below TEFRA limits.

The Secretary would also be required to adjust, for hospitals receiving updates, the inflation update to be no less than 1.4 percent in FY1996; 1.3 percent in FY1997; and 1.1 percent for fiscal years 1998-2002.

The provision would adjust the TEFRA limits for new and existing PPS-exempt rehabilitation hospitals and units, and long-term care hospitals that begin receiving PPS-exempt payments on or after October 1, 1995.

The Secretary would also be directed to report on a prospective payment system for PPS-exempt hospitals no later than June 1, 1996.

Conference agreement

The conference agreement includes the Senate provision with several modifications. The conference agreement includes House language regarding rebasing of certain long term care hospitals with modifications. The conference agreement includes House language regarding classification of long term care hospitals within other hospitals. There are no market basket floors. There is no requirement for the Secretary to report on a prospective payments system for PPS-exempt hospitals.

6. REDUCTION IN PAYMENTS TO HOSPITALS FOR ENROLLEES' BAD DEBTS (SEC. 15506 OF HOUSE BILL)

Current law

Certain hospital and other provider bad debts are reimbursed by Medicare on an allowable cost basis. To be qualified for reimbursement, the debt must be related to covered services and derived from deductible and coinsurance amounts left unpaid by Medicare beneficiaries. The provider must be able to establish that reasonable collection efforts were made and that sound business judgement established that there was no likelihood of recovery at any time in the future.

House bill

The proposal would reduce bad debt payments to providers by 75 percent for cost reporting periods beginning during FY1996; 60 percent for cost reporting periods beginning during FY1997; and 50 percent for subsequent cost reporting periods.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision.

7. PROPAC RECOMMENDATIONS ON URBAN MEDICARE DEPENDENT HOSPITALS (SECTION 7077 OF SENATE BILL)

Current law

No provision.

House bill

No provision.

Senate bill

The provision would require ProPAC to report its recommendations to Congress, beginning in 1996, on an appropriate update to be used for urban hospitals with a high proportion of Medicare patient days and on actions to ensure that Medicare beneficiaries served by such hospitals retain the same access and quality of care as Medicare beneficiaries nationwide.

Conference agreement

The conference agreement does not include the House or Senate provision. The conference agreement establishes a separate payment update for certain hospitals with a high proportion of Medicare patient days. Hospitals qualifying include: (1) urban hospitals with no Medicare teaching or disproportionate share payments, 60 percent Medicare patient days; and (2) rural hospitals with more than 100 beds with no Medicare teaching or disproportionate share payments. Qualifying hospitals could receive an annual inflation update of market basket minus 2.0 percentage points in FY1996; market basket minus 1.7 percentage points in FY1997; and market basket minus 2.0 percentage points in FY1998 through FY2002.

8. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH (SEC. 15507 OF HOUSE BILL)

Current law

Medicare makes additional payments for the costs of administering blood clotting factor to Medicare beneficiaries with hemophilia admitted for hospital stays where the clotting factor was furnished between June 19,1990 and September 30,1994.

House bill

The proposal would make the payment permanent.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision.

9. CONFORMING AMENDMENT TO CERTIFICATION OF CHRISTIAN SCIENCE PROVIDERS (SEC. 15508 OF HOUSE BILL; SEC. 7057(B) OF SENATE BILL)

Current law

Certain services furnished by a Christian Science sanatorium are covered under Medicare Part A if the institution is operated or listed and certified by the First Church of Christ, Scientists, Boston, Mass. Such a sanatorium qualifies as both a hospital and as a skilled nursing facility.

House bill

The provision would expand coverage of Christian Science sanatorium to include facilities (both hospitals and skilled nursing facilities) certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.

Senate bill

The provision would expand coverage of Christian Science sanatorium to include facilities (both hospitals and skilled nursing facilities) certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.

Conference agreement

The conference agreement includes the Senate provision.

10. SOLE COMMUNITY HOSPITALS (SEC. 15511 OF HOUSE BILL)

Current law

Sole Community Hospitals (SCHs) are facilities located in geographically isolated areas and are the sole provider of inpatient, acute cure hospital services in a geographic area based on distance, travel time, severe weather conditions, and/or market share. SCHs are paid the greater of what would be payable under PPS or a target amount comparable to that for PPS-exempt hospitals. Target amounts for SCHs are updated by an "applicable percentage increase" which is specified by statute and is generally pegged to the hospital market basket index. OBRA 93 provided separate SCH updates of MBI minus 2.2 percent for FY1995 and MBI minus 2.0 percent for FY1996. For FY1997 and thereafter, the update for SCHs is the same as for all PPS hospitals.

House bill

The provision would set the target amount update to the MBI minus 1 percentage point for fiscal years 1996-2000; and for FY2001 and each subsequent fiscal year, the applicable update would be applied.

The provision would require the Medicare Payment Review Commission to conduct a study of the impact of the designation of hospitals as SCHs on the delivery of health care services to individuals in rural areas, and include an analysis of the characteristics of the hospitals so designated. The Commission would be required to submit the report to Congress within 12 months after a majority of Commission members are first appointed.

Senate bill

No provision.

Conference agreement

The conference agreement includes the Senate provision.

11. CLARIFICATION OF TAXES CREDITED TO FUND (SEC. 15531 OF HOUSE BILL)

Current law

The Social Security Amendments of 1983 made up to half of Social Security benefits taxable for beneficiaries with incomes above a threshold level. That legislation provided that the Federal income tax revenue accruing from taxation of benefits would be credited to the Social Security trust funds. When OBRA of 1993 raised the maximum proportion of Social Security benefits subject to income taxation from 50% to 85%, effective Jan. 1, 1994, the additional income tax revenue was credited to the HI Trust Fund, effective upon enactment.

House bill

A House-passed tax bill (H.R. 1215) would repeal the 1993 legislation that raised the maximum taxable portion of Social Security benefits from 50% to 85%. That legislation was added to OBRA of 1995 before House passage of OBRA. Without corrective amendments, that legislation would result in a loss of revenue for the HI Trust Fund. Thus, Sec. 15531 of OBRA of 1995 would add language to Sec. 121(e) of the Social Security Amendments of 1983 to direct the Secretary of the Treasury to credit the HI Trust Fund with receipts from the taxation of Social Security benefits without regard to changes in the taxation of Social Security benefits that take affect after Dec. 31, 1993. Coupled with Sec. 19001(a)(2) of OBRA of 1995, which amends the provisions of H.R. 1215 that repeal the higher taxation of Social Security benefits, this language would place the HI fund in the same position financially with respect to credits from income tax revenue as it would be if taxation of Social Security benefits were not changed by OBRA of 1995. These transfers to HI would come from the general fund.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

12. GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR MEDICARE CHOICE (SEC. 7016 OF SENATE BILL)

Current law

Medicare's HMO payment amount includes the costs of graduate medical education (direct graduate medical education (GME) payments and indirect medical education (IME) adjustments) in an area. Hospitals incurring graduate medical education and disproportionate share hospital (DSH) costs associated with Medicare HMO patients do not receive a direct payment from Medicare for such costs. The current formulas used to calculate a hospital's IME and GME payment amounts do not account for Medicare HMO patients.

House bill

No provision. (See Part VII)

Senate bill

The provision would change Medicare's current formulas for GME, IME, and DSH payments to count Medicare Choice patients in determining Medicare's hospital payments. In addition, the provision removes area hospitals' costs for IME, GME, and DSH from the calculation of Medicare Choice payments. Hospitals that care for Medicare Choice patients would bill Medicare and receive an additional Medicare payment or adjustment under GME, IME, and DSH.

Conference agreement

The conference agreement includes the House provision.

B. Payments for Hospice Services (Sec. 7017 of Senate bill)

Current law

Medicare covers hospice care for terminally ill beneficiaries with a life expectancy of 6 months or less. Payment for hospice care is based on one of four prospectively determined rates, which correspond to four different levels of care, for each day a beneficiary is under the care of the hospice. The four categories are routine home care, continuous home care, inpatient respite care, and general inpatient care. These rates are updated annually by the hospital market basket index (MBI). OBRA 93 decreased the update for the payment rates as follows: FY 1994—MBI minus 2.0 percentage points; FY 1995—MBI minus 1.5 percentage point; FY 1996—MBI minus 1.0 percentage point; and FY 1997—MBI minus 0.5 percentage point. Beginning with FY 1998, the full hospital market basket percentage update will again apply.

House bill

No provision.

Senate bill

For each of the fiscal years 1996 through 2002, hospice payment rates would be updated by the greater of the market basket minus 2.5 percentage points, or 1.1 percent (1.4 percent in FY 1996 and 1.2 percent in 1997).

Conference agreement

The conference agreement includes the Senate provision with two amendments. Hospice payment rates would be updated by the market basket minus 2 percentage points for each of the fiscal years 1996 through 2002. There are no minimum market basket updates.

C. Extension of HI Tax to All State and Local Government Employees (Sec. 7108 of Senate bill)

Current law

Medicare Part A coverage and payment of the HI tax apply to State and local government employees who are not under a retirement plan or who were hired after Mar. 31, 1986. State and local employees hired on or before that date may be covered at the election of the employer, however.

House bill

No provision.

Senate bill

Effective for services performed after Dec. 31, 1995, Sec. 3121(u)(2) of the Internal Revenue Code of 1986 and Sec. 210(p) of the Social Security Act would be amended to extend Medicare coverage to employees of State and local governments on the same basis as for other employees. Thus, all State and local employees would pay the HI tax. Appropriations would be authorized to the HI Trust Fund to cover benefits and administrative costs resulting from this provision and to offset losses in trust fund interest income associated with these expenditures. The Secretary of Health and Human Services would be directed to provide information to State and local employees about their Medicare coverage.

Conference agreement

The conference agreement does not include the Senate provision.

D. Payments to Skilled Nursing Facilities (SNFs)

1. DEFINITION OF ROUTINE SERVICE COSTS (SEC. 15521 OF HOUSE BILL; SEC. 7031 OF SENATE BILL)

Current law

SNFs are generally reimbursed on the basis of reasonable costs, subject to limits that are applied to per diem routine service costs (nursing, room and board, administrative, and other overhead). Non-routine, or ancillary services (such as therapy and certain equipment), and capital-related costs are excluded from the cost limits and are generally paid on the basis of reasonable costs.

Separate per diem limits for routine service costs are established for freestanding and hospital-based SNFs by urban or rural area. Freestanding SNF cost limits are set at 112 percent of the average per diem labor-related and nonlabor-related costs. Hospital-based SNF limits are set at the limit for freestanding SNFs, plus 50 percent of the difference between the freestanding limits and 112 percent of the average per diem routine services costs of hospital-based SNFs. The limits are adjusted by the hospital wage index to reflect differences in wage levels. The law authorizes the Secretary to allow for exceptions to the limits, based on case mix or circumstances beyond the control of the facility. The Secretary is required to rebase cost limits every 2 years, i.e. to develop cost limits using the latest available SNF cost report data every 2 years. In the interim the Secretary applies a SNF market basket developed by the Health Care Financing Administration (HCFA) to reflect changes in the price of goods and services purchased by SNFs.

SNFs providing less than 1,500 days of care per year to Medicare patients in the preceding year have the option of being paid a prospective payment rate set at 105 percent of the regional mean for all SNFs in the region. The rate covers routine and capital-related costs (and not ancillary services) and is calculated separately for urban and rural areas, adjusted to reflect differences in wage levels. Prospective rates can not exceed the routine service cost limit that would be applicable to the facility, adjusted to take into account average capital-related costs with respect to the type and location of the facility. For low-volume SNFs, the Secretary is required to establish on an annual basis, prospective payments that reflect current SNF costs using the most recent data available from SNF cost reports. For SNFs receiving prospectively determined payment rates, the Secretary may pay for ancillary services on a reasonable charge basis, rather than on a cost basis, if the Secretary determines that a reasonable charge basis provides an equitable level of payment and eases the SNF's reporting burden.

House bill

For cost reporting periods beginning in FY 1997, the Secretary would be required to redefine routine service costs that would be subject to the routine cost limits. These would include all items used in the current definition—nursing, room and board, administrative, and other overhead—and, in addition, all ancillary services (including supplies and equipment), with the exception of non-routine services listed below.

Senate bill

In establishing an interim payment system (that would be in effect before the implementation of a prospective payment system for SNF care), the Secretary would be required, for cost reporting periods beginning in FY 1996, to redefine routine service costs that would be subject to the routine cost limits. These would include all items used in the current definition—nursing, room and board, administrative, and other overhead—and, in addition, all ancillary services (including supplies and equipment), with the exception of non-routine services listed below.

Conference agreement

The conference agreement includes the Senate provision.

2. INCENTIVES FOR COST EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES (SEC. 15522 OF HOUSE BILL; SEC. 7032 OF SENATE BILL)

Current law

Currently non-routine ancillary services are generally paid on the basis of reasonable costs and are not subject to limits.

House bill

For cost reporting periods beginning in FY 1997, new payment limits would be established for non-routine services provided to Medicare beneficiaries receiving SNF care. For these purposes, non-routine services would be defined to include therapy services (physical and occupational therapy, speech language pathology, and respiratory therapy, including supplies and support services incident to the therapy services); prescription drugs; complex medical equipment; intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment); radiation therapy; and diagnostic services, including laboratory, pulmonary, and radiology services (including tomography and imaging services).

The non-routine limit for a stay would be the sum of the following two amounts: 50 percent would be the facility-specific amount for these services; and 50 percent would represent the national average amount paid for these services for all SNF stays. The facility-specific amount would be calculated by summing (1) the average amount of payments made to a facility under Part A for non-routine services during a stay and (2) the Secretary's best estimate of the average amount of payments made under Part B for covered non-routine services furnished to all residents provided SNF care under Part A.

In establishing base year payments for the new limits, the Secretary would be required to use cost reporting periods ending September 30, 1994. These base year payments would be updated to FY 1997 by the SNF market basket. In subsequent years, per stay limits would be updated by the SNF market basket minus 2 percentage points. National average payments used for determining a facility's per stay limit would be calculated separately for freestanding and hospital-based SNFs. Separate per stay limits would apply to residents of SNFs who require intensive nursing or therapy services. The Secretary, after consulting with the Medicare Payment Review Commission and SNF experts, would be required to develop and publish this separate limit by June 30, 1996, and would be required to ensure its budget neutrality. The Secretary would also be required to rebase facility-specific amounts for cost reporting periods beginning October 1, 1999, and every 2 years thereafter. A SNF stay would be defined by the number of continuous days a beneficiary spent in the facility during a covered spell of illness.

An aggregate payment limit for non-routine services would also be determined annually for each SNF. This would be calculated by multiplying the number of SNF stays for which payments for these services were made times the blended payment limit. This amount would be compared to actual interim payments made to the SNF for these services; these payments would be based on the facility's reasonable costs of providing these services. If total payments for the year were below the SNF's aggregate payment limit, then the SNF would be allowed to retain 50 percent of the difference, up to 5 percent of total amount paid to the facility for covered non-routine services. In the event that total payments exceeded the SNF's payment limit, the Secretary would be required to reduce payments for new stays in the next fiscal year at such times and in a manner the Secretary considers appropriate.

SNFs would be required to bill Medicare for all services provided to beneficiaries eligible for SNF care, regardless of whether the service was provided by the facility, by others under arrangements with the facility, or under any other contracting or consulting arrangement. For beneficiaries residing in SNFs not eligible for Part A SNF benefits but receiving covered non-routine services, the SNF would again be required to bill for covered Part B services (except for portable x-ray or portable electrocardiogram services treated as a physician service). SNFs would be required to maintain records of all covered non-routine services furnished beneficiaries.

The Secretary could provide for exceptions to the per stay limits, so long as additional payments were budget neutral and did not exceed 5 percent of aggregate payments to all SNFs for covered non-routine services. New SNFs not receiving payments for non-routine services in the base year period of FY 1994 would be subject to the national average payment limit described above. Low-volume SNFs receiving prospective payments would not be subject to the new non-routine limits. Before furnishing a covered x-ray service to a Medicare beneficiary, SNFs would be required to consider the appropriateness of portable x-ray services, taking into account the cost effectiveness of the service and the convenience to the resident.

Senate bill

Under the interim payment system, new payment limits would be established for non-routine services provided to Medicare beneficiaries receiving SNF care during cost reporting periods beginning in FY 1996. For these purposes, non-routine services would be defined to include therapy services (physical and occupational therapy, speech language pathology, and respiratory therapy); prescription drugs; complex medical equipment; intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment); radiation therapy; and diagnostic services, including laboratory, pulmonary, and radiology services (including tomography and imaging services).

The non-routine limit for a stay would be a facility-specific amount. The facility-specific amount would be calculated by summing (1) the amount of payments made to a facility under Part A for non-routine services during a stay and (2) the Secretary's best estimate of the amount of payments made under Part B for covered non-routine services furnished to all residents provided SNF care under Part A, and then dividing this sum by the average number of days per stay for all residents of the SNF.

In establishing base year payments for the new limits, the Secretary would be required to use cost reporting periods ending September 30, 1994. These base year payments would be updated to FY 1996 by the SNF market basket. In subsequent years, per stay limits would be updated by the greater of the SNF market basket minus 2.5 percentage points or 1.2 percent (1.1 percent for fiscal years after 1997). Separate per stay limits would apply to residents of SNFs who require intensive nursing or therapy services. The Secretary, after consulting with the Prospective Payment Assessment Commission and SNF experts, would be required to develop and publish this separate limit and would be required to ensure its budget neutrality. A SNF stay would be defined by the number of continuous days a beneficiary spent in the facility during a covered spell of illness.

An aggregate payment limit for non-routine services would also be determined annually for each SNF. This would be calculated by multiplying the number of SNF stays for which payments for these services were made times the per stay payment limit. This amount would be compared to actual interim payments made to the SNF for these services; these payments would be based on the facility's reasonable costs of providing these services. If total payments exceeded the SNF's aggregate payment limit, the Secretary would be required to reduce payments for new stays in the next fiscal year at such times and in a manner the Secretary considers appropriate.

SNFs would be required to bill Medicare for all services provided to beneficiaries eligible for SNF care, regardless of whether the service was provided by the facility, by others under arrangements with the facility, or under any other contracting or consulting arrangement. For beneficiaries residing in SNFs not eligible for Part A SNF benefits but receiving covered non-routine services, the SNF would again be required to bill for covered Part B services. SNFs would be required to maintain records of all covered non-routine services furnished beneficiaries.

The Secretary could provide for exceptions to the per stay limits, so long as additional payments were budget neutral and did not exceed 5 percent of aggregate payments to all SNFs for covered non-routine services. New SNFs not receiving payments for non-routine services in the base year period of FY 1994 would be subject to the national average payment limit described above. The Secretary would be required to determine an appropriate manner in which to apply the non-routine limits to low-volume SNFs receiving prospective payments.

Conference agreement

The conference agreement includes the Senate provision with amendments. In establishing base year payments for new non-routine limits, the Secretary would be required to use cost reporting periods ending December 31, 1994. Beginning in FY 1997, per stay non-routine limits would be updated by the SNF market basket minus 2 percentage points. Non-routine services would include supplies and support services directly related to therapy. SNFs would be required to bill for all covered Part B services, except for portable x-ray or portable electrocardiogram services treated as a physician service, and physician services that are not covered routine or non-routine services. Before furnishing a covered x-ray service to a Medicare beneficiary, SNFs would be required to consider the appropriateness of portable x-ray services, taking into account the cost effectiveness of the service and the convenience to the resident.

3. PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES (SEC. 7025 OF SENATE BILL)

Current law

No provision.

House bill

No provision.

Senate bill

For cost reporting periods beginning in FY 1998, the Secretary would be required to establish a prospective payment system for SNF care under which fixed payments would be made for episodes of care. Payments would be required to cover all services, including all routine and non-routine services (except for physician services) and capital costs. Payment amounts would be required to take into account case-mix, patient acuity, and such other factors as the Secretary determines appropriate. Total payments under the new prospective system could not exceed 90 percent of amounts that would have been made for routine and non-routine and capital expenditures if the system were not established. The Secretary would be required to reduce the prospective payment rates to take into account beneficiary coinsurance payments. The prospective payment system would also be required to reflect savings from the new payment limits established for non-routine services, savings from the OBRA 93 freeze on routine costs limits, and the 15 percent reduction in capital payments.

Conference agreement

The conference agreement includes the Senate provision.

4. REVISED SALARY EQUIVALENCE LIMITS (SEC. 7037 OF SENATE BILL)

Current law

Medicare statute authorizes the Secretary to set limits on allowable costs incurred by a provider of services for which payment may be made under Medicare.

House bill

No provision.

Senate bill

The Secretary would be required to determine the non-routine facility-specific per stay payment amounts as if salary equivalency guidelines were in effect for occupational, physical, respiratory, and speech pathology therapy services for the last 12-month cost reporting period of the facility on or before September 30, 1994.

Conference agreement

The conference agreement does not include the Senate provision.

5. PAYMENTS FOR ROUTINE SERVICE COSTS (SEC. 15523 OF HOUSE BILL; SEC. 7033 OF SENATE BILL)

Current law

OBRA 93 required that there be no changes in SNF cost limits (including no adjustments for changes in the wage index or updates of data) for cost reporting periods beginning in FY 1994 and FY 1995, or in prospective payment amounts for low-volume SNFs during these cost reporting periods. The Secretary was also required, when granting or extending exceptions to cost limits, to limit any exception to the amount that would have been granted if there were no restriction on changes in cost limits. OBRA 93 also repealed the requirement that additional payments be made to hospital-based SNFs for costs attributable to excess overhead allocations, effective for cost reporting periods beginning on or after October 1, 1993. Payments to proprietary SNFs for return on equity were also eliminated, effective for cost reporting periods beginning on or after October 1, 1993.

House bill

Beginning in FY 1996, the proposal would permanently extend the savings stream, but not the OBRA 93 freeze on SNF cost limits, by not allowing for the inflation that occurred during the freeze years. Low-volume SNFs receiving prospective payments would be subject to the permanent extension of the savings stream of the freeze.

Reimbursements for exceptions to routine cost limits in FY 1997 would be limited to aggregate payments made in FY 1996, adjusted for increases in the SNF market basket. In future fiscal years, increases in aggregate payments for exceptions to the limits would be limited by percentage increases in the SNF market basket. The Secretary would be required to provide exceptions only to those facilities that make annual applications for adjustments.

Senate bill

Beginning in FY 1996, the proposal would permanently extend the savings stream, but not the OBRA 93 freeze on SNF cost limits, by not allowing for the inflation that occurred during the freeze years. Low-volume SNFs receiving prospective payments would be subject to the permanent extension of the savings stream of the freeze. Beginning in FY 1996, the Secretary would be required to take into account the new definition of routine service costs in determining routine cost limits.

Reimbursements for exceptions to routine cost limits in FY 1996 would be limited to aggregate payments made in FY 1994, updated to FY 1996 by the SNF market basket. In future fiscal years, increases in aggregate payments for exceptions to the limits would be limited by percentage increases in the SNF market basket. The Secretary would be required to provide exceptions only to those facilities that make annual applications for adjustments.

Conference agreement

The conference agreement includes the Senate provision.

6. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS (SEC. 15524 OF HOUSE BILL; SEC. 7034 OF SENATE BILL)

Current law

Capital-related costs of SNFs are paid on the basis of reasonable costs and are excluded from cost limits.

House bill

SNF capital cost payments would be reduced by 15 percent for cost reporting periods occurring during FY 1996–2002.

Senate bill

SNF capital cost payments would be reduced by 15 percent for cost reporting periods occurring during FY 1996–2002.

Conference agreement

The conference agreement includes the Senate provision with an amendment to reduce capital payments by 10 percent.

7. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B (SEC. 15525 OF HOUSE BILL; SEC. 7035 OF SENATE BILL)

Current law

Certain covered Part B services provided in SNFs are paid the lesser of reasonable costs or charges.

House bill

For services billed at the lesser of costs or charges, reasonable costs would be reduced by 5.8 percent from amounts currently recognized as reasonable for cost reporting periods occurring during fiscal years 1996 through 2002. For Medicare covered Part B services (except for portable x-ray or portable electrocardiogram services treated as a physician service), payments would have to be made to the SNF, regardless of whether the service was provided by the facility, by others under arrangements with the facility, or under any other arrangement. These services would be excluded from coverage if not billed by the SNF.

Senate bill

For services billed at the lesser of costs or charges, reasonable costs would be reduced by 5.8 percent from amounts currently recognized as reasonable for cost reporting periods occurring during fiscal years 1996 through 2002. For Medicare covered Part B services (except for physicians providing evaluation and management services to patients under their care), payments would have to be made to the SNF, regardless of whether the service was provided by the facility, by others under arrangements with the facility, or under any other contracting or consulting arrangement. These services would be excluded from coverage if not billed by the SNF.

Conference agreement

The conference agreement includes the Senate provision with an amendment. Payments would have to be made to SNFs for covered Part B services, except for portable x-ray and portable electrocardiogram services treated as a physician service, and physician services that are not covered routine or non-routine services.

8. CERTIFICATION OF FACILITIES MEETING REVISED NURSING HOME REFORM STANDARDS (SEC. 15526 OF HOUSE BILL)

Current law

OBRA 87 comprehensively revised Medicare and Medicaid requirements for nursing homes participating in the programs. These provisions, collectively referred to as nursing home reform law, are virtually identical in Medicare and Medicaid statutes. They have three major parts: (1) requirements that nursing homes must meet in order to be certified to participate in Medicare and/or Medicaid, including requirements about assessments of residents, available services, nurse staffing, nurse aide training, and resident rights; (2) provisions revising the survey and certification process that State survey agencies must use for determining whether nursing homes comply with the requirements for participation; and (3) provisions that expand the range of sanctions and penalties that States and the Secretary of HHS may impose against nursing homes found to be out of compliance with the requirements for participation.

The Commerce Committee has reported legislation transforming the Medicaid program into a new MediGrant program authorized under Title XXI of the Social Security program. The new program would replace the OBRA 87 nursing home reform provisions with more general requirements for assuring quality care in nursing homes.

House bill

Effective for cost reporting periods beginning in FY 1996, the proposal would repeal OBRA 87 nursing home reform requirements and require that SNFs participating in Medicare either be certified by the Secretary as meeting new requirements that would replace OBRA 87 reforms or be State-certified. State-certified facilities would include facilities licensed or certified as a SNF by the State in which it is located, or a facility which otherwise meets the requirements for nursing facilities specified under the Medicaid or new MediGrant authorities.

The Secretary would be required to establish and maintain standards in the following areas for SNFs providing Medicare covered services: the treatment of resident medical records; policies, procedures, and bylaws for operation; quality assurance systems; resident assessment procedures, including care planning and outcome evaluation; the assurance of a safe and adequate physical plant for the facility; qualifications for staff sufficient to provide adequate care; and utilization review.

Standards for SNFs would also be required to provide for the protection and enforcement of resident rights, including rights to exercise the individual's rights as a resident of the facility and as a citizen or resident of the U.S.; to receive notice of rights and services; to be protected against the misuse of resident funds; to be provided privacy and confidentiality; to voice grievances; to examine the results of certification program inspections; to refuse to perform services for the facility; to be provided privacy in communications and to receive mail; to have the facility provide immediate access to any resident by any representative of the certification program, the resident's individual physician, the State long-term care ombudsman, and any person the resident has designated as a visitor; to retain and use personal property; to be free from abuse, including verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion; and to be provided with prior written notice of a pending transfer or discharge.

Standards established by the Secretary for SNFs could take effect only after public notice and an opportunity for comment.

The Secretary would also be required to provide for the establishment and operation of a program for the certification of SNFs that meet specified standards as well as the decertification of those facilities that fail to meet the standards. The Secretary would be required to ensure public access (as defined by the Secretary) to the certification program's evaluations of participating facilities, including compliance records and enforcement actions and other reports regarding ownership, compliance histories, and services provided by certified facilities. The Secretary would be required to audit expenditures under the program, not less often than every 4 years, through an entity designated by the Secretary and not affiliated with the program.

The Secretary would be required to impose certain sanctions against SNFs not meeting requirements. If the Secretary determines that a facility certified either by the Secretary or State no longer substantially meets the requirements for participation and further determines that the facility's deficiencies immediately jeopardize the health and safety of residents, then the Secretary would be required, at a minimum, to terminate the facility's certification for participation. If the facility's deficiencies do not immediately jeopardize the health and safety of residents, the Secretary could, in lieu of termination, provide lesser sanctions, including denial of payment for persons admitted after a specified date.

The Secretary could not impose sanctions until a facility has had a reasonable opportunity to correct its deficiencies, following the initial determination that it no longer substantially meets the requirements for certification, and, has been given reasonable notice and opportunity for a hearing. The Secretary's decision to deny payment for new admissions would be effective only after notice to the public and the facility, as may be provided for by the Secretary. Denial of payment for new admissions would end when the Secretary finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance). Facilities would, however, be required to be in compliance by the end of the eleventh month following the month when the decision to deny payments becomes effective. If facilities did not substantially meet the requirements by that time, the Secretary would be required to terminate their certification for participation.

Senate bill

No provision; current law nursing home reform provisions would be retained.

Conference agreement

The conference agreement does not include the House provision.

9. MEDICAL REVIEW PROCESS (SEC. 15527 OF HOUSE BILL; SEC. 7036 OF SENATE BILL)

Current law

No Provision.

House bill

The Secretary would be required to implement a medical review process to examine the effects of the amendments of this part on the quality of care received by Medicare beneficiaries, placing a particular emphasis on the quality of non-routine covered services.

Senate bill

The Secretary would be required to implement a medical review process to examine the effects of the amendments of this part on the quality of care received by Medicare beneficiaries, placing a particular emphasis on the quality of non-routine covered services.

Conference agreement

The conference agreement includes the Senate provision.

10. REPORT (SEC. 15528 OF HOUSE BILL; SEC. 7038 OF SENATE BILL)

Current law

The Prospective Payment Assessment Commission has been authorized to review and make recommendations on prospective payment for SNF care.

House bill

The newly established Medicare Payment Review Commission would be required to report on Medicare's method for paying for SNF care and would be required to include in the report: (1) an analysis of the effect of the new payment limits for non-routine services on payments for and the quality of SNF services (2) an analysis of the advisability of determining the amount of payment for covered non-routine services on the basis of amounts paid for such services under Part B of the program; (3) an analysis of the desirability of maintaining separate limits for hospital-based and freestanding SNFs; (4) an analysis of the quality of services furnished by SNFs; and (5) an analysis of the adequacy of the process and standards used for exceptions to routine cost limits.

Senate bill

The Prospective Payment Assessment Commission would be required to report on Medicare's method for paying for SNF care and would be required to include in the report: (1) an analysis of the effect of the new payment limits for non-routine services on payments for and the quality of SNF services (2) an analysis of the advisability of determining the amount of payment for covered non-routine services on the basis of amounts paid for such services under Part B of the program; (3) an analysis of the desirability of maintaining separate routine cost limits for hospital-based and freestanding SNFs; (4) an analysis of the quality of services furnished by SNFs; (5) an analysis of the adequacy of the process and standards used for exceptions to routine cost limits; and (6) an analysis of the effect of the new SNF prospective payment methodology on the payments for and quality of SNF services, including an evaluation of the baseline used in establishing a system for payment of SNF services.

Conference agreement

The conference agreement includes the Senate provision.

11. EFFECTIVE DATE (SEC. 15529 OF HOUSE BILL; SEC. 7039 OF SENATE BILL)

Current law

No provision.

House bill

Except as otherwise noted, the provisions would be effective for services furnished during cost reporting periods beginning on or after October 1, 1996.

Senate bill

Except as otherwise noted, the provisions would be effective for services furnished during cost reporting periods beginning on or after October 1, 1996.

Conference agreement

The conference agreement includes the Senate provision.

12. NURSE AIDE TRAINING IN SKILLED NURSING FACILITIES SUBJECT TO EXTENDED SURVEY (SEC. 7019 OF SENATE BILL)

Current law

Skilled nursing facilities (SNFs) are prohibited from offering a nurse aide training program by or in the facility if within the previous 2 years it has had a waiver of the registered nurse staffing requirement, or has been subject to an extended survey as a result of a finding that it has provided substandard care, or has been subject to sanctions for noncompliance with requirements.

House bill

No provision.

Senate bill

The provision would allow SNFs otherwise prohibited from offering a nurse aide training program to do so, if the State determines that there would be no other program offered within a reasonable distance, provided notice of the approval to the State long-term care ombudsman, and assured through an oversight effort that an adequate environment exists for the program.

Conference agreement

The conference agreement includes the Senate provision.

PROVISIONS RELATING TO RURAL ISSUES

1. MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS (SECTION 7071 OF SENATE BILL)

Current law

Medicare dependent hospitals are hospitals located in a rural area, with 100 beds or less, that are not classified as a sole community provider, and for which not less than 60 percent of inpatient days or discharges in the hospital cost reporting period are attributable to Medicare. These hospitals are reimbursed on the same basis as sole community hospitals. The designation for Medicare-dependent, small rural hospitals expired on July 30, 1994.

House bill

No provision.

Senate bill

The provision would re-institute the Medicare-dependent hospital program effective for cost reporting periods on or after September 1, 1995 and before October 1, 2000.

Conference agreement

The conference agreement includes the Senate provision.

2. CRITICAL ACCESS HOSPITAL (SEC. 7072 OF SENATE BILL)

Current law

No provision.

House bill

No provision.

Senate bill

The provision would amend section 1820 to provide the Medicare Rural Hospital Flexibility Program, a limited service hospital program available to all States. Certain grants would be available to States to establish rural hospital networks consisting of at least one critical access hospital and limited service hospitals. Hospitals seeking to become limited service hospitals would be required to have an average length of stay of 72 hours and 6 beds; hospitals participating in the swing bed program could use 12 beds. Medicare would pay these facilities on a reasonable cost basis. The provision would authorize appropriations of $25 million for the program from the Federal Hospital Insurance Trust Fund for grants to States.

Conference agreement

The conference agreement includes the Senate provision.

3. RURAL EMERGENCY ACCESS CARE HOSPITALS (REACHS) (SEC. 15513 OF HOUSE BILL; SEC. 7073 OF SENATE BILL)

Current law

No provision.

House bill

The bill would provide for the establishment of a new category of hospitals under Medicare to provide for medical screening examinations and treatment for emergency medical conditions and active labor for rural facilities that are in danger of closing due to low inpatient utilization rates and operating losses and whose closing would reduce access to emergency services. Such facilities would have to meet specific requirements including those relating to appropriate medical staffing, referral arrangements; and diagnostic and laboratory services. Facilities would be reimbursed on a reasonable cost basis.

Senate bill

The bill would provide for the establishment of a new category of hospitals under Medicare to provide for medical screening examinations and treatment for emergency medical conditions and active labor for rural facilities that are in danger of closing due to low inpatient utilization rates and operating losses and whose closing would reduce access to emergency services. Such facilities would have to meet specific requirements including those relating to appropriate medical staffing, referral arrangements; and diagnostic and laboratory services. Facilities would be reimbursed on a reasonable cost basis.

Conference agreement

The conference agreement includes the Senate provision.

4. CLASSIFICATION OF RURAL REFERRAL CENTERS (SEC. 15514 OF HOUSE BILL)

Current law

Referral centers are paid prospective payments based on the applicable urban payment amount rather than the rural payment amount, as adjusted by the hospital's area wage index. The applicable amount is the "other urban" rate (i.e., the rate for urban areas with 1 million or fewer people) for all referral centers except those (if any) located in MSAs greater than 1 million. These centers are defined as:

(1) rural hospitals having 275 or more beds;

(2) hospitals having at least 50 percent of their Medicare patients referred from other hospitals or from physicians not on the hospital's staff, at least 60 percent of their Medicare patients residing more than 25 miles from the hospital, and at least 60 percent of the services furnished to Medicare beneficiaries are furnished to those who live 25 miles or more from the hospital; or

(3) rural hospitals meeting the following criteria for hospital cost reporting periods beginning on or after October 1, 1985:

(a) a case mix index equal to or greater than the median case mix for all urban hospital (the national standard), or the median case mix for urban hospitals located in the same census region, excluding hospitals with approved teaching programs;

(b) a minimum of 5,000 discharges, the national discharge criterion (3,000 in the case of osteopathic hospitals), or the median number of discharges in urban hospitals for the region in which the hospital is located; and

(c) at least one of the following three criteria: more than 50 percent of the hospital's medical staff are specialists, at least 60 percent of discharges are for inpatients who reside more than 25 miles from the hospital, or at least 40 percent of inpatients treated at the hospital have been referred either from physicians not on the hospital's staff or from other hospitals.

OBRA 93 extended the classification through FY1994 for those referral centers classified as of September 30, 1992.

House bill

The bill would prohibit the Medicare Geographic Classification Review Board from denying a referral centers request for classification on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located. Hospitals would be allowed to submit applications to the Board during the 30-day period beginning on the date of enactment requesting a change in classification for purposes of determining the area wage index applicable to the hospital for FY1997, if the hospital would be eligible for such change except for its failure to meet the deadline for applications.

The bill would, beginning in FY1996, extend the referral center classification of any hospital classified as a referral center for FY1994, and such hospitals would continue to classified as a referral center for each subsequent fiscal year.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision.

5. FLOOR ON AREA WAGE INDEX (SEC. 15515 OF HOUSE BILL)

Current law

As part of the methodology for determining prospective payments to hospitals under PPS, the Secretary is required to adjust a portion of the standardized amounts for area differences in hospital wage levels by a factor reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

House bill

For discharges occurring on or after October 1, 1995, the area wage index applicable for any hospital which was not located in a rural area could not be less than the average of the area wage indices applicable to hospitals located in rural areas in the State in which the hospital was located. The Secretary would be required to make any adjustments in the wage index in a budget neutral manner.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision.

6. CLARIFICATION OF TREATMENT OF ESSENTIAL ACCESS COMMUNITY HOSPITAL/RURAL PRIMARY CARE HOSPITAL (EACH/RPCH) (SEC. 15512 OF HOUSE BILL; SEC. 7072 OF SENATE BILL)

Current law

Under the EACH demonstration program up to 7 States may be designated by the Secretary to receive grants to develop rural health networks consisting of essential access community hospitals (EACHs) and rural primary care hospitals (RPCHs). Individual hospitals may be designated as EACHs and RPCHs. In order to receive designation by a State as a RPCH, a facility must meet certain criteria, including a requirement that inpatient stays not exceed 72 hours.

Montana also has a limited hospital program called the Medical Assistance Facility (MAF).

House bill

The provision would allow the EACHs to continue to receive special payments under Medicare determined in the same manner as for sole community hospitals (SCHs), and RPCHs to continue to receive Medicare payments for their services, even in fiscal years in which the program did not receive appropriations.

Senate bill

The provision would allow EACHs to continue to receive payments under Medicare determined in the same manner as for SCHs, and RPCHs to continue to receive Medicare payments for their services. The MAF program would also be continued for all qualifying facilities in Montana.

Conference agreement

The conference agreement includes the Senate provision.

7. ADDITIONAL PAYMENTS FOR SERVICES FURNISHED IN SHORTAGE AREAS (SEC. 7074 OF SENATE BILL)

The law authorizes a bonus payment of an additional 10 percent for physicians services furnished in a health professional shortage area.

House bill

No provision

Senate bill

The provision would increase the bonus payment in health professional shortage areas from 10 percent to 20 percent and limit the bonus to primary care services. Such payments would be continued for the three year period following the withdrawal of the health professional shortage area designation for an area, provided such withdrawal occurs on or after January 1, 1996. Carriers would be required to provide information periodically to the Secretary on the types of providers to whom the carrier makes bonus payments.

The Physician Payment Review Commission would be required to conduct a study of the effectiveness of bonus payments in recruiting physicians to provide services in health professional shortage areas. Within one year of enactment, the Secretary would be required to submit a report to Congress, together with recommendations, on such study.

Conference agreement

The conference agreement includes the Senate provision.

8. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS (SEC. 7075 OF SENATE BILL)

Current law

Physician assistants are paid directly for their services, when provided under the supervision of a physician: (i) in a hospital, skilled nursing facility, or nursing facility, (ii) as an assistant at surgery; or (iii) in a rural area designated as a health manpower shortage area. Payments equal a percentage of what would be paid if the services were performed by a physician, namely 65% of the fee schedule amount for services performed as an assistant at surgery, 75% for other hospital services, and 85% for other services.

Nurse practitioners are paid directly for services provided in collaboration with a physician which are furnished in a nursing facility. Payments equal 85% of the physician fee schedule amount. Nurse practitioners are also paid directly for services provided in collaboration with a physician in a rural area. Payments equal 75% of the physician fee schedule amount for services furnished in a hospital and 85% of the fee schedule amount for other services.

House bill

No provision.

Senate bill

The provision would permit direct payment for services in outpatient or home settings provided by physician assistants and nurse practitioners in collaboration with a physician. Payment would equal 80% of the lesser of either the actual charge or 85% of the physician fee schedule amount.

Conference agreement

The conference agreement includes the Senate provision.

9. TELEMEDICINE DEMONSTRATION (SEC. 7075 OF SENATE BILL)

Current law

Certain grants have been available through the Office of Rural Health Policy's Rural Telemedicine Grant Program to demonstrate and collect information on the feasibility, cost, appropriateness, and acceptability of telemedicine consultations for improving access to health services for rural residents and reducing the isolation of rural practitioners.

House bill

No provision.

Senate bill

The provision would establish a new grant program through the Office of Rural Health to award grants to eligible entities to establish demonstration projects under which are eligible entity would establish a rural-based consortium that would enable members of the consortium to utilize the telecommunications network in the delivery of health care services in rural areas through the use of telemedicine. The provision would authorize appropriations of $10 million for each of the fiscal years 1996 through 1998.

Conference agreement

The conference agreement includes the Senate provision.

SUBTITLE G—PROVISIONS RELATING TO MEDICARE PART B

A. PROVIDER/PRACTITIONER PAYMENTS'

1. PAYMENTS FOR PHYSICIANS SERVICES (SEC. 15601 OF HOUSE BILL; SEC. 7041 OF SENATE BILL)

Current law

Payments for physicians services are made on the basis of a fee schedule. The fee schedule assigns relative values to services based on the time, skill, and intensity it takes physicians to provide them. The relative values are adjusted for geographic variations in the costs of practicing medicine. The adjusted relative values are converted into a dollar payment amount by a conversion factor. There are three conversion factors: one for surgical services, one for primary care services, and one for all other services. The 1995 conversion factors are $39.45 for surgical services, $36.38 for primary care services, and $34.62 for other services.

Conversion factors are updated each year by a *default formula*. The update equals inflation as measured by the Medicare Economic Index (MEI), plus or minus the difference between actual physician spending for the category of services in a base period compared to the *Medicare Volume Performance Standard (MVPS)* for that category for the period. (If spending was below the MVPS, the update is larger than the MEI; if spending exceeded the MVPS, the update is less than the MEI).

The MVPS is a goal for the rate of expenditure growth from one fiscal year to the next. The calculation of the MVPS for a year is based on estimates of several factors (changes in fees, enrollment, volume and intensity, and laws and regulations). The MVPS derived from the calculation is subject to a reduction which is known as the *performance standard factor*. The performance standard factor is four percentage points for FY 1995 and subsequent years.

House bill

a. Replacement of Medicare Volume Performance Standard. The provision would replace the MVPS with a sustainable growth rate beginning for FY 1996. The provision would establish the sustainable growth rate for FY 1996 based on: (I) changes in the MEI, (ii) changes in Medicare enrollment (excluding Medicare Plus and HMO enrollees), (iii) growth in the real gross domestic product from FY 95 to FY 96 plus 2 percentage points; and (iv) changes resulting from changes in law (determined without taking into account changes in volume or intensity or changes resulting from changes in the calculation of the conversion factor update). For each subsequent fiscal year beginning in 1997, the sustainable growth rate would equal the previous year's rate, updated by the same factors used to set the FY 96 rate.

b. Conversion Factor Update. The provision would modify the calculation of the update beginning in 1997. The provision would specify that the update for a year would equal the MEI, subject to an adjustment to match the cumulative sustainable growth rate. Specifically, the update for a year would equal the MEI, plus or minus the difference between the percentage increase in actual physician spending for the 12-month period ending the previous June compared to the allowable growth rate for the year. The allowable growth rate would be based on the cumulative sustainable growth rate from the base year 1995. If spending was below the cumulative sustainable growth rate, the update would be larger than the MEI; if spending exceeded the cumulative sustainable growth rate, the update would be less than the MEI. However, limits would be established on allowable variation from the MEI. The update could not be more than 103 percent of the MEI. It could not be less than 93 percent of the MEI in 1996, 92.25 percent of the MEI in 1998, or 92 percent of the MEI in 1999 and subsequent years.

The provision would require the Secretary to submit to Congress by November 1 of each year, beginning in 1996, a report describing the update in the conversion factor for the following year. The Medicare Review Commission would review the report and submit to Congress by December 1 a report containing an analysis of the conversion factor.

c. Single Conversion Factor. The provision would provide for the establishment of a single conversion factor, rather than three conversion factors, effective January 1, 1996. It would set the factor for 1996 at $35.42.

Senate bill

a. Replacement of Medicare Volume Performance Standard. The provision would require the Secretary to transmit to the Congress by April 15 of each year (beginning with 1996) a recommendation on the sustainable growth rate for the upcoming fiscal year. In making the recommendation, the Secretary would be required to confer with organizations representing physicians. The Secretary is to consider inflation; changes in numbers of enrollees (other than Medicare Choice and HMO enrollees); changes in the age composition of enrollees; (other than Medicare Choice and HMO enrollees); changes in technology; evidence of inappropriate utilization of services; evidence of lack of access to necessary physicians services; and other factors the Secretary considers appropriate. The Physician Payment Review Commission would review the recommendation and make its recommendation to Congress by May 15. The Secretary would be required to publish the sustainable growth rate published in the last 15 days of October of that year. For 1997, the Secretary would be required to publish the sustainable growth rate as specified in the law by January 1, 1997.

The provision would replace the MVPS with a sustainable growth rate beginning for FY 1996. The provision would establish the sustainable growth rate for FY 1996 based on: (I) changes in the MEI, (ii) changes in Medicare enrollment (excluding Medicare Choice and HMO enrollees), (iii) growth in the real gross domestic product from FY 95 to FY 96 plus 2 percentage points; and (iv) changes resulting from changes in law (determined without taking into account changes in volume or intensity or changes resulting from changes in the calculation of the conversion factor update). For each subsequent fiscal year beginning in 1997, the sustainable growth rate would equal the previous year's rate, updated by the same factors used to set the FY 96 rate.

b. Conversion Factor Update. The provision would require the Secretary by April 15 of each year (beginning in 1996) to transmit a report to Congress that includes a recommendation on the appropriate update in the conversion factor taking into account the change in the MEI; factors that enter into the calculation of the update adjustment factor and access to services. The Secretary may also consider unexpected changes made by physicians in response to implementation of the fee schedule, unexpected changes in outlay projections, changes in the quality or appropriateness of care, any other relevant factors not measured in the resource based payment methodology; and changes in the volume or intensity of services. The Physician Payment Review Commission would be required to review the report and submit its recommendations to Congress by May 15.

Unless the Congress otherwise provided, the update for a year (beginning in 1997) would be determined under a modified update calculation. The provision would specify that the update for a year would equal the MEI, subject to an adjustment to match the cumulative sustainable growth rate. Specifically, the update for a year would equal the MEI, plus or minus the difference between the percentage increase in actual physician spending for the 12-month period ending the previous June compared to the allowable growth rate for the year. The allowable growth rate would be based on the cumulative sustainable growth rate from the base year 1995. If spending was below the cumulative sustainable growth rate, the update would be larger than the MEI; if spending exceeded the cumulative sustainable growth rate, the update would be less than the MEI. However, limits would be established on allowable variation from the MEI. The update could not be more than 103 percent of the MEI or less than 93 percent of the MEI.

c. Single Conversion Factor. The provision would provide for the establishment of a single conversion factor, rather than three conversion factors, effective January 1, 1996. It would set the factor for 1996 at $35.42.

Conference agreement

The conference agreement includes the Senate provision with a clarification of one of the factors used to calculate the sustainable growth rate for FY 1997 and subsequent years. The factor for changes resulting from changes in law must include changes made by the Secretary in response to the failsafe provision. The provision further clarifies that the recommendations are to be made by the Medicare Payment Review Commission rather than the Physician Payment Review Commission.

It is the conferees understanding that HCFA has commissioned a study of practice expenses. The conferees intend that the Secretary consider analyzing the codes for portable x-ray/EKGs and transportation separately in this cost study to ensure fair and accurate evaluation of such resource-based practice expenses.

2. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES (SEC. 15602 OF HOUSE BILL; SEC. 7042 OF SENATE BILL)

Current law

Medicare payments for hospital outpatient ambulatory surgery, radiology, and other diagnostic services equals the lesser of: (1) the lower of a hospital's reasonable costs or its customary charges, net of deductible and coinsurance amounts, or (2) a blended amount comprised of a cost portion and a charge portion, net of beneficiary cost-sharing. The cost portion of the blend is based on the lower of the hospital's costs or charges, net of beneficiary cost sharing, and the charge portion is based, in part, on ambulatory surgery center payment rates, net of beneficiary coinsurance.

A hospital may bill a beneficiary for the coinsurance amount owed for the outpatient service provided. The beneficiary coinsurance is based on 20 percent of the hospital's submitted charges for the outpatient service, whereas Medicare usually pays based on the blend of the hospital's costs and the amount paid to ambulatory surgery centers for the same service. This results in an anomaly whereby the amount a beneficiary pays in coinsurance does not equal 20 percent of the program's payment and does not result in a dollar-for-dollar decrease in Medicare program payments.

House bill

The provision would require that beneficiary coinsurance amounts be deducted later in the reimbursement calculation for hospital outpatient services, so that Medicare payments for covered services would be lower. Medicare's payment for hospital outpatient services would equal the blended amount less any amount the hospital may charge the beneficiary as coinsurance for services furnished during portions of cost reporting periods occurring on or after October 1, 1995.

Senate bill

The provision would require that beneficiary coinsurance amounts be deducted later in the reimbursement calculation for hospital outpatient services, so that Medicare payments for covered services would be lower. Medicare's payment for hospital outpatient services would equal the blended amount less any amount the hospital may charge the beneficiary as coinsurance for services furnished during portions of cost reporting periods occurring on or after October 1, 1995.

Conference agreement

The conference agreement includes the Senate provision.

3. DURABLE MEDICAL EQUIPMENT (DME) (SEC. 15603 OF HOUSE BILL; SEC. 7044 AND 7045 OF SENATE BILL)

Current law

a. Freeze in DME Updates. DME is reimbursed on the basis of a fee schedule. Items are classified into five groups for purposes of determining the fee schedules and making payments: (1) inexpensive or other routinely purchased equipment (defined as items costing less than $150 or which is purchased at least 75 percent of the time); (2) items requiring frequent and substantial servicing; (3) customized items; (4) oxygen and oxygen equipment; and (5) other items referred to as capped rental items. In general, the fee schedules establish national payment limits for DME. The national limits have floors and ceilings. The floor is equal to 85 percent of the weighted median of local payment amounts and the ceiling is equal to 100 percent of the weighted median of local payment amounts. Fee schedule amounts are updated annually by the consumer price index for all urban consumers, CPI–U. OBRA 93 changed the basis for the floors and ceiling for the DME fee schedules from the weighted average to the weighted median, effective January 1, 1994.

b. Freeze in Orthotics and Prosthetics Update. Prosthetics and orthotics are reimbursed on the basis of a fee schedule. Items covered by this fee schedule include leg, arm, and neck braces, artificial limbs and eyes, and items that replace all or part of an internal body organ. The fee schedule establishes regional payment limits for covered items. The regional limits have floors and ceilings. The floor is equal to 90 percent of the weighted average of local payment amounts and the ceiling is equal to 120 percent of the weighted average of local payment amounts. Fee schedule amounts are updated annually by CPI–U. OBRA 93 eliminated updates for prosthetics and orthotics for 1994 and 1995.

c. Oxygen and Oxygen Equipment. Oxygen and oxygen equipment is paid according to a DME fee schedule.

d. Upgraded DME. If a beneficiary wishes to purchase a more expensive or upgraded DME item or supply, the beneficiary must make full payment to the supplier and submit a claim to Medicare for reimbursement of the amount of the approved standard item. For approved items, on the other hand, the beneficiary pays suppliers only the 20 percent coinsurance required for the covered item, and the supplier bills Medicare for the remaining 80 percent of the approved fee schedule amount.

e. Freeze for Parenteral and Enteral Nutrients (PEN), Supplies, and Equipment. Parenteral and enteral nutrients, supplies, and equipment are paid on the basis of the lowest reasonable charge levels at which items are widely and consistently available in the community. OBRA 93 froze 1994 and 1995 reasonable charge payments for PEN at 1993 levels.

House bill

a. Freeze in DME Updates. The 1 provision would eliminate updates to the DME fee schedules for the period 1996 through 2002.

b. Freeze in Orthotics and Prosthetics Update. The update for prosthetics and orthotics would be limited to 1 percent for each of years 1996 through 2002.

c. Oxygen and Oxygen Equipment. The provision would reduce in 1996 the national payment limit for oxygen and oxygen equipment by 20 percent.

d. Upgraded DME. The provision would authorize payment for upgraded DME to be made in the same manner as payment for a standard item, with the supplier receiving payment for the item as if it were a standard item and the beneficiary paying the difference between the supplier's charge and the amount paid by Medicare. The supplier's charge for an upgraded item could not exceed the applicable fee schedule amount (if any) for the item. The Secretary would be required to issue regulations providing for consumer protection standards for upgraded DME. These regulations would be required to provide for full disclosure by the supplier of the availability and price of standard items and proof of disclosure to the beneficiary; conditions of participation for suppliers of upgraded items, including conditions relating to billing procedures; sanctions (including exclusion) of suppliers who are determined to have engaged in coercive or abusive practices; and such other safeguards as the Secretary determines necessary.

e. Freeze for Parenteral and Enteral Nutrients (PEN), Supplies, and Equipment. Payments for PEN would be frozen at 1993 levels for the period 1996 through 2002.

Senate bill

a. Freeze in DME Updates. The provision would eliminate updates to the DME fee schedules for the period 1996 through 2002.

b. Freeze in Orthotics and Prosthetics Update. The update for prosthetics and orthotics would be eliminated for the period 1996 through 2002.

c. Oxygen and Oxygen Equipment. The provision would reduce in 1996 the national payment limit for oxygen and oxygen equipment by 40 percent.

d. Upgraded DME. The provision would authorize payment for upgraded DME to be made in the same manner as payment for a standard item, with the supplier receiving payment for the item as if it were a standard item and the beneficiary paying the difference between the supplier's charge and the amount paid by Medicare. The supplier's charge for an upgraded item could not exceed the applicable fee schedule amount (if any) for the item. The Secretary would be required to issue regulations providing for consumer protection standards for upgraded DME. These regulations would be required to provide for full disclosure by the supplier of the availability and price of standard items and proof of disclosure to the beneficiary; conditions of participation for suppliers of upgraded items, including conditions relating to billing procedures; sanctions (including exclusion) of suppliers who are determined to have engaged in coercive or abusive practices; and such other safeguards as the Secretary determines necessary.

e. Freeze for Parenteral and Enteral Nutrients (PEN), Supplies, and Equipment. Payments for PEN would be frozen at 1993 levels for the period 1996 through 2002.

Conference agreement

a. Freeze in DME Updates. The conference agreement includes the Senate provision.

b. Freeze in Orthotics and Prosthetics Update. The conference agreement includes the House provision.

c. Oxygen and Oxygen Equipment. The conference agreement includes the House provision with an amendment to reduce the national payment limit for oxygen and oxygen equipment by 20 percent in 1996, 21 2/3 percent in 1997, 23 1/3 percent in 1998, 25 percent in 1999, 26 2/3 percent in 2000, 28 1/3 percent in 2001, and 30 percent in 2002.

d. Upgraded DME. The conference agreement does not include either provision.

e. Freeze for Parenteral and Enteral Nutrients (PEN), Supplies, and Equipment. The conference agreement includes the Senate provision.

The conferees are concerned that there are no specific on-going quality or service standards required of a durable medical equipment provider. The conferees strongly encourage the Secretary to implement a process to establish quality standards for DME.

4. PAYMENTS FOR CLINICAL LABORATORY TESTS (SEC. 15604 OF HOUSE BILL; SEC. 7043 OF SENATE BILL)

Current law

Medicare pays for clinical laboratory services on the basis of areawide fee schedules which are periodically updated. There is no update for 1994 and 1995. In addition, the law establishes a ceiling on payment amounts. In 1995, this ceiling is set at 80 percent of the median of all fee schedules for the test; in 1996 and subsequent years the ceiling is set at 76 percent of the national median. No beneficiary cost-sharing is required.

House bill

a. Update. The provision would provide for no update in the fee schedules through 2002.

b. Cap. The provision would lower the ceiling on payment amounts to 65 percent of the median, effective January 1, 1997.

c. Study. No provision.

Senate bill

a. Update. The provision would provide for no update in the fee schedules through 2002.

b. Cap. The provision would lower the ceiling on payment amounts to 65 percent of the median, effective January 1, 1997.

c. Study. The provision would require the Secretary to conduct a study of the laboratory fee schedule and the options for rebasing or otherwise revising the payment amounts, taking into account the amounts paid for services by other large payers. A report on the study is to be submitted to Congress within one year of enactment.

Conference agreement

a. Update. The conference agreement includes the Senate provision.

b. Cap. The conference agreement includes the Senate provision.

c. Study. The conference agreement does not include the Senate provision.

5. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES (SEC. 15605 OF HOUSE BILL; SEC. 7046 AND 7047 OF SENATE BILL)

Current law

a. Capital-Related Costs. Hospitals receive payments for Medicare's share of capital costs associated with outpatient departments. OBRA 93 extended a 10 percent reduction in payments for the capital costs of outpatient departments through FY 1998.

b. Non-Capital-Related Costs. Certain hospital outpatient services are paid on the basis of reasonable costs. OBRA 93 extended a 5.8 percent reduction for those services paid on a cost-related basis through FY 1998.

House bill

a. Capital-Related Costs. The provision would extend the 10 percent reduction in payments for outpatient capital through FY 2002.

b. Non-Capital-Related Costs. The 5.8 percent reduction for outpatient services paid on a cost basis would be extended through FY 2002.

Senate bill

a. Capital-Related Costs. The provision would reduce payments for outpatient capital by an additional 5 percent for FY 1996-1998 (above OBRA 93's 10 percent reduction) and reduce capital payments by 15 percent for FY 1999–2002.

b. Non-Capital-Related Costs. The 5.8 percent reduction for outpatient services paid on a cost basis would be extended through FY 2002.

Conference agreement

a. Capital-Related Costs. The conference agreement includes the House provision.

b. Non-Capital-Related Costs. The conference agreement includes the House provision.

6. FREEZE IN PAYMENTS FOR AMBULATORY SURGICAL CENTER SERVICES (SEC. 15606 OF HOUSE BILL; SEC. 7048 OF SENATE BILL)

Current law

Medicare pays for ambulatory surgical center (ASC) services on the basis of prospectively determined rates. These rates are updated annually by CPI–U. OBRA 93 eliminated updates for ASCs for FY 1994 and FY 1995.

House bill

The provision would eliminate the inflation update for ASCs for each of the fiscal years 1996 through 2002.

Senate bill

The provision would eliminate the inflation update for ASCs for each of the fiscal years 1996 through 2002.

Conference agreement

The conference agreement includes the Senate provision.

7. RURAL EMERGENCY ACCESS CARE HOSPITALS (SEC. 15607 OF THE HOUSE BILL; SEC. 7073(C)(1) OF SENATE BILL)

Current law

See *II. Medicare Part A, item 2* above.

House bill

The provision would make conforming amendments to Part B.

Senate bill

The provision would make conforming amendments to Part B.

Conference agreement

The conference agreement includes the House provision.

8. PAYMENTS FOR ANESTHESIA SERVICES (SEC. 15608 OF HOUSE BILL, SEC. 7050 OF SENATE BILL)

Current law

a. Payment for Jointly Furnished Services. The law specifies how payment amounts are to be determined when anesthesia services are furnished by an anesthesiologist practicing alone and when an anesthesiologist is medically directing or medically supervising two to four certified registered nurse anesthetists (CRNAs). When an anesthesiologist and a CRNA are involved in a single case and no exceptional medical requirement exists, only the anesthesiologist is reimbursed.

b. Physician Supervision of CRNAs. Reimbursement for CRNA services is conditioned on physician supervision.

House bill

a. Payment for Jointly Furnished Services. The provision would specify how payments are to be calculated when services for a single case are furnished jointly by a physician and a CRNA and the carrier determines that the use of both the physician and the CRNA are not medically necessary. In 1996 and 1997, the fee schedule amount for the physician's services are to equal 55% of the amount that would be paid if the physician were practicing alone. In 1998 and subsequent years, the amount paid would equal 50% of the amount that would be paid if the physician were practicing alone. The amount paid to the CRNA would equal 40% of the amount that would otherwise be paid to a physician practicing alone in 1996 and 1997 and 50% in subsequent years.

b. Physician Supervision of CRNAs. No provision.

Senate bill

a. Payment for Jointly Furnished Services. No provision.

b. Physician Supervision of CRNAs. The provision would require the Secretary to revise any regulations describing conditions under which payment may be made for anesthesia services in a hospital or ambulatory surgical center. The revision would defer to State law in determining whether physician supervision of CRNAs is required as a condition of payment.

Conference agreement

a. Payment for Jointly Furnished Services. The conference agreement includes the House provision.

b. Physician Supervision of CRNAs. The conference agreement does not include the Senate provision.

9. STATEWIDE FEE SCHEDULE AREA FOR PHYSICIANS SERVICES IN WISCONSIN (SEC. 15609 OF HOUSE BILL)

Current law

No provision

House bill

The provision would require the Secretary to treat the State of Wisconsin as a single fee schedule area for physicians services beginning in 1997. The provision would be implemented in a budget neutral fashion. Nothing in the section is to be construed as limiting the availability to the Secretary, the contractor or the physicians in the State of otherwise applicable administrative procedures for subsequently modifying the fee schedule areas.

Senate bill

No provision

Conference agreement

The conference agreement does not include the House provision.

10. PAYMENTS FOR AMBULANCE SERVICES (SEC. 15609A OF HOUSE BILL; SEC. 7049 OF SENATE BILL)

Current law

Payments for ambulance services are based on reasonable charge screens developed by individual carriers based on local billings (which may take a variety of forms). Based on these local billing methods, carriers develop screens for one or more of the following main billing methods: (i) a single all-inclusive charge reflecting all services and supplies, and mileage; (ii) one charge reflecting all services and supplies, with separate charge for mileage; (iii) one charge for all services and mileage, with separate charges for supplies; and (iv) separate charges for services, mileage, and supplies. Within each broad payment method, additional distinctions are made based on whether the service is basic life support or advanced life support service, whether emergency or non-emergency transport was used, and if specialized advanced life support services were rendered.

House bill

a. Payment Amount. The provision would specify that beginning January 1,1998, payment for ambulance services would equal 80% of the lesser of the actual charge for the service or the fee schedule amount.

b. Fee Schedule. The provision would require the Secretary to establish a fee schedule through a negotiated rulemaking process. In establishing a fee schedule, the Secretary would be required to: (i) establish mechanisms to control increases in expenditures which fairly reflect the changing nature of the ambulance service industry; (ii) establish definitions for ambulance services which promote efficiency and link payments (including fees for assessment and treatment services) to the type of services provided; (iii) take into account regional differences which affect cost and productivity, including differences in the costs of resources and the costs of uncompensated care; (iv) apply dynamic adjustments to payment rates to account for inflation, demographic changes in the population of Medicare beneficiaries, and changes in the number of participating providers; (v) phase-in the application of the payment rates in an efficient and fair manner.

The provision would require the Secretary to implement the provision in 1998 in a budget neutral fashion. Beginning in 1999, the payment amounts under the fee schedule would equal the previous year's payment amount updated by the increase in the consumer price index for the 12-month period ending the previous June.

The provision would require the Secretary to regularly consult with the following groups when establishing the fee schedule: American Ambulance Association, the National Association of State Medical Directors, and other national organizations representing individuals and entities who furnish or regulate ambulance services. The Secretary in establishing the fee schedule would be required to share with the associations and organizations the data and data analysis used in establishing the fee schedule, including data on variations in payments for years prior to 1998 among geographic areas and types of providers.

Senate bill

a. Payment Amount. The provision would provide that when determining the reasonable cost or charge of ambulance services for fiscal years 1996 through 2002, the Secretary could not recognize any costs in excess of those recognized as reasonable in fiscal year 1995.

b. Fee Schedule. No provision

Conference agreement

a. Payment Amount. The conference agreement includes the Senate provision.

b. Fee Schedule. The conference agreement does not include the House provision.

11. STANDARDS FOR PHYSICAL THERAPY SERVICES FURNISHED BY PHYSICIANS (SEC. 15609B OF HOUSE BILL)

Current law

No provision.

House bill

The provision would prohibit payment under Medicare for physicians services consisting of outpatient physical therapy services or outpatient occupational therapy services if such services are furnished by a physician who does not meet the requirements specified in the law for such services when furnished by a clinic or rehabilitation agency.

Senate bill

No provision

Conference agreement

The conference agreement does not include the House provision.

B. BENEFICIARY PAYMENTS

1. EXTENSION OF PART B PREMIUM (SEC. 15611 OF HOUSE BILL; SEC. 7052 OF SENATE BILL)

Current law

When Medicare was established in 1965, the Part B monthly premium was set at a level to finance one-half of Part B program costs. Beginning in 1974, however, Congress limited the percentage increase in the premium to the same percentage by which Social Security cash benefits were adjusted for changes in cost of living (i.e. cost-of-living adjustments or COLAs). Under this formula, revenues from premiums soon dropped from 50 percent to below 25 percent of program costs. This was because Part B program costs increased much faster than inflation as measured by the Consumer Price Index on which the Social Security COLA is based.

Since the early 1980s, Congress has regularly voted to set Part B premiums at a level to cover 25 percent of program costs, in effect overriding the COLA limitation. The 25 percent provision first became effective January 1, 1984. General revenues cover the remaining 75 percent of Part B program costs. Congress took this general approach again in the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), but instead of leaving the calculations to the Secretary, the law set specific premium amounts for each year, 1991-1995, based on estimates of the program's costs. For 1995, the Part B premium is set at $46.10 per month. Part B program cost estimates have since proven to be too large, and the 1995 premium is now projected to cover approximately 31.5 percent of program costs. Most recently, OBRA 93 extended the policy of setting the Part B premium at a level to cover 25 percent of program costs through 1998, leaving the calculations to the Secretary. This would mean that the 1996 premium would be lower than the 1995 premium. Under current law, the provision limiting the annual percentage increase to the percentage increase in the social security COLA would again apply, beginning in 1999.

House bill

The provision would permanently set the Part B premium at 31.5 percent of program costs, beginning in 1996.

Senate bill

The provision would set the Part B premium at the following levels for the years 1996—2002: $53 in 1996, $57 in 1997, $61 in 1998, $66 in 1999, $74 in 2000, $80 in 2001, and $89 in 2002.

Conference agreement

The conference agreement includes the House provision.

2. INCOME-RELATED PART B PREMIUM (SEC. 15612 OF HOUSE BILL; SEC. 7053 OF SENATE BILL)

Current law.

Under current law, all beneficiaries, regardless of income pay the same Part B premium. The remaining costs of the Part B program are paid from Federal General revenues.

House bill

a. Amount. Under the provision, individuals with incomes over $75,000 and couples with incomes over $125,000 would be responsible for increases in the Part B premium. The Federal subsidy would be gradually phased out. Individuals with incomes at $100,000, couples (with one spouse enrolled in Part B) with incomes at $150,000, and couples (with both spouses enrolled in Part B) with incomes at $175,000 would be required to pay a premium equal to 100 percent of Part B program costs. The provision would apply to monthly Part B premiums beginning in 1997.

b. Administration. The Secretary of DHHS would be required to make an initial determination of the amount of an individual's actual adjusted gross income (AGI) for a year. The determination would be based on information supplied by the Secretary of the Treasury. Not later than October 1 of the preceding year, the Secretary would be required to notify each individual subject to an increased premium. The notice would include the Secretary's estimate of the individual's AGI for the year. The individual would have a 30-day period (beginning with the date on which the notice is provided) to provide information on the individual's anticipated AGI for the forthcoming year.

The Secretary would required to make a premium adjustment if he or she determined (based on information provided by the Secretary of the Treasury) that actual AGI was different from the amount initially determined. The adjustment would be made to the subsequent year's premium to adjust for any overpayments or underpayments in the previous year. The Secretary would be authorized to make appropriate recovery efforts in the case of an individual who owed an additional amount, but was not enrolled in Part B in such subsequent year. The Secretary would also be authorized, in the case of a deceased individual, to make a payment to the surviving spouse, or an individual's estate, in the case of overpayments to the program.

The provision would generally define AGI as such term is used in the tax code. The determination of AGI would be made without regard to the provisions in the code relating to: income from U.S. savings bonds used to pay higher education costs; income for persons living abroad; and income from sources within the U.S. possessions and Puerto Rico. The definition of AGI would include interest income which is exempt from Federal taxes.

The provision would authorize the Secretary of the Treasury, upon written request from the Secretary of DHHS, to disclose to officers and employees of the Health Care Financing Administration (HCFA) return information for taxpayers required to pay a monthly Part B premium. The information would be limited to: taxpayer identity information, filing status, AGI, amounts excluded from gross income (under provisions relating to savings bonds used to pay higher education costs and citizens or residents living abroad); tax-exempt interest income to the extent such information is available; and amounts excluded from gross income (under provisions relating to income from sources within the U.S. possessions and Puerto Rico) to the extent such information is available. The information disclosed to HCFA could only be used for purposes of establishing the monthly Part B premium.

Senate bill

a. Amount. Under the provision, individuals with incomes over $50,000 and couples with incomes over $75,000 would be responsible for increases in the Part B premium. The Federal subsidy would be gradually phased out. Individuals with incomes at $100,000, couples with incomes at $150,000 would be required to pay a premium equal to 100 percent of Part B program costs. The provision would apply to monthly Part B premiums beginning in 1997.

b. Administration. Medicare enrollees would declare during the annual open enrollment period or during an enrollment period applicable to a specific individual, an estimate of their AGI for the forthcoming year. If an individual does not file an enrollment form for an enrollment period (and the individual's coverage therefore continues without modification), the AGI would be determined on the basis of the most recent available information. If the Secretary determines that an individual has filed incorrect information, based on information from the Secretary of the Treasury, the Secretary shall use the information obtained from the Secretary of the Treasury.

The Secretary would be required to notify the Social Security Administration of the amount of premium to be deducted from each enrollees check. The premium would be effective in the month in which the enrollment was effective or the month in which the notice was received, whichever was later.

The difference, if any, between the amount of the premium owed and the amount paid in a year would be reconciled in conjunction with the annual income tax filing process. If an additional amount was owed, a separate payment would be made to the Secretary, together with any interest owed. In the case of overpayments, the Secretary would credit the excess against any supplemental premium required or make a payment to the individual. The Secretary would also be authorized to make further adjustments, if required, based on information received from the Secretary of the Treasury.

The provision would generally define AGI as such term is used in the tax code. The determination of AGI would be made without regard to the provisions in the code relating to: income from U.S. savings bonds used to pay higher education costs; income for persons living abroad; and income from sources within the U.S. possessions and Puerto Rico. The definition of AGI would include interest income which is exempt from Federal taxes.

The provision would authorize the Secretary to enter into agreements with the Commissioner of Social Security or the head of any other appropriate Federal agency which performs administrative responsibilities under this section.

The provision would require the Secretary of the Treasury, upon written request from the Secretary of DHHS, to disclose whether or not and the amount by which an individual's AGI exceeds the minimum level subject to supplemental premiums. Return information could only be used by officers and employees of DHHS (or any other Federal agency with which an agreement was in effect) for the purpose of establishing an individual's correct supplemental premium amount.

Conference agreement

a. Amount. The conference agreement includes the House provision.

b. Administration. The conference agreement includes the House provision with a technical amendment. Individuals would be permitted to pay the Secretary if the amount of the estimated AGI is too low and results in a portion of the required premium not being deducted from the beneficiary's social security check.

It is the conferees intent that the Secretary of HHS not obtain any income-related information that is not necessary for the determination of the increase in the monthly premium.

3. PART B DEDUCTIBLE (SEC. 7051 OF SENATE BILL)

Current law

Beneficiaries enrolled in Part B must pay the first $100 each year of the programs recognized costs or charges for covered services.

House bill

No provision.

Senate bill

The provision would increase the deductible to $150 in 1996 and increase it by $10 each year thereafter.

Conference agreement

The conference agreement does not include the Senate agreement.

C. OTHER PROVIDER-RELATED PROVISIONS

1. ADMINISTRATION OF LABORATORY SERVICES (SEC. 15621 OF HOUSE BILL)

Current law

No provision.

House bill

The provision would require the Secretary to adopt uniform coverage, administration and payment policies for clinical diagnostic laboratory tests within one year of enactment. The Secretary would be required to select 15 carrier medical directors to develop recommendations to the Secretary for such policies. The directors would be representative of geographic areas and have a varied range of interest in relevant fields including pathology and clinical laboratory practice. The directors would be required to consult with independent experts in each major discipline of clinical laboratory medicine (including clinical laboratory personnel, bioanalysts, pathologists, and practicing physicians). The medical directors would also solicit comments from other individuals and groups wishing to participate. The provision would provide that the process would be conducted as negotiated rule-making as provided under the Administrative Procedures Act.

The provision would provide that the negotiated rule-making would result in recommendations for uniform policies in the following areas: (I) beneficiary information required to be submitted with each claim; (ii) physicians' obligations regarding documentation and record keeping; (iii) procedures for filing claims and for providing remittances electronically; (iv) performance of post-payment review; (v) prohibition of documentation of medical necessity except where determined to be appropriate after identification of aberrant medical patterns through focused medical review; and beneficiary responsibility for payment.

The provision would prohibit carriers and intermediaries from implementing any new requirements for submission of claims retroactive to January 1, 1995 during the period when the Secretary is adopting new policies. Further, carriers would be prohibited from issuing new coverage, administration or payment policies unless they promote the goal of administrative simplification.

The provision would require the medical directors to forward their recommendations to the Secretary within six months of enactment. The Secretary would provide for publication of recommendations for public comment using negotiated rule-making. The Secretary would publish final uniform policies which would become effective 180 days following publication. Following publication, the Secretary would implement uniform documentation and processing policies.

The provision would permit any independent laboratory to select one carrier for processing all of its claims for payment regardless of where the laboratory, patient, or provider resides or conducts business. The election would be made by the laboratory and an agreement between the carrier and the laboratory would be forwarded to the Secretary. No laboratory would be required to select a single carrier.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

2. DIRECT BILLING FOR LABORATORY SERVICES (SEC. 15622 OF HOUSE BILL)

Current law

In general, payment may only be made under Medicare to persons or entities who perform or personally supervise the performance of a laboratory test. This is known as direct billing. Payment may be made to a physician with whom the physician performing the test shares a practice.

A limited exception to the direct billing requirement is provided for referring labs. A referring lab may bill for tests performed by another lab only if one of the following three conditions are met: (1) the referring laboratory is located in or is part of a rural hospital; (2) the referring laboratory is wholly-owned by the entity performing the test, the referring lab wholly-owns the entity performing the test; or both entities are wholly-owned by a third entity; or (3) not more than 30 percent of the clinical diagnostic tests for which the referring laboratory (not described in paragraph (2)) receives requests for testing during the year are performed by another laboratory.

House bill

The provision would establish a direct billing requirement for labs. Any person collecting amounts in violation of the requirement would be liable for the amounts. Any person that furnished clinical lab services for which payment is made under Medicare's clinical laboratory fee schedules would be subject to a penalty of $10,000 for each violation. The Secretary would be authorized to exclude from participation in any Federal health care program any individual the Secretary determined had repeatedly violated the direct billing requirement. A Federal health program would be defined as any plan or program that provides health benefits, whether directly, through insurance or otherwise, which is funded in whole or in part by the U.S. Government. Also included are State Medicaid programs, maternal and child health block grant and social services block grant programs.

The Secretary would also be authorized to suspend, revoke, or limit a laboratory's certification under the Clinical Laboratory Improvement Act if it violated the direct billing requirement on a repeated basis. The lab would be given reasonable notice and opportunity for hearing before such action was taken.

The provision would require the Secretary, on July 31, 1999, to prepare an actuarial estimate to determine whether the cost of clinical lab services under Medicare for the FY 1997–FY 2002 period were expected to be at least three percent less than projected on enactment. If not, the Secretary would be required to adjust the payment ceiling (set under the bill at 65% of the national median) in fiscal years 2000, 2001 and 2002 to achieve the requisite savings by September 30, 2002. The Congressional Budget Office would be required to make its own 1999 estimate.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

3. RECOMMENDATIONS FOR QUALITY STANDARDS FOR DURABLE MEDICAL EQUIPMENT (DME) (SEC. 15631 OF HOUSE BILL)

Current law

No provision.

House bill

The Secretary of DHHS would be required to establish a broadly based task force to develop recommendations for quality standards for DME covered under Part B. The Secretary would be required to include on the task force representatives of DME suppliers, consumers, and other users of equipment, and would also be required to assure representation from various geographic regions. The task force would be required to submit its recommendations for quality standards not later than 1 year after enactment.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

SUBTITLE H—PROVISIONS RELATING TO MEDICARE PARTS A AND B

A. HOME HEALTH SERVICES

1. PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES (SEC. 15701 OF HOUSE BILL; SEC. 7061 OF SENATE BILL)

Current law

In provisions contained in the Orphan Drug Act of 1993, OBRA 87 and OBRA 90, Congress required the Secretary to develop alternative methods for paying for home health care on a prospective basis. In 1994, the Office of Research and Demonstration in the Health Care Financing Administration (HCFA) completed a demonstration project that tested prospective payment on a per visit basis. Preliminary analysis indicates that the per visit prospective payment methodology had no effect on cost per visit or volume of visits. HCFA has begun a second project, referred to as Phase II, to test prospective payment on a per episode basis.

House bill

The proposal would establish a prospective payment system for home health services. This system would be based on prospectively determined per visit rates that are subject to per episode limits applied in the aggregate. The proposal would have the following specific components.

Beginning in FY 1997, the Secretary would be required to establish national average per visit rates for each of the home health service disciplines covered under Medicare—skilled nursing care, physical therapy, speech pathology, occupational therapy, medical social services, and home health aide services. The per visit rates would be based on amounts paid during cost reporting periods ending June 30, 1994, updated by the home health market basket for fiscal years 1995 through 1997. The home health market basket is currently used to update cost limits. To reflect regional differences in the costs of providing services, the labor-related portion of the per visit rates would be adjusted by the hospital wage index. These adjusted per visit rates would be the amounts that home health care agencies would receive throughout the year for each of the particular mix of visits provided to a given home health care beneficiary.

Per visit rates would be subject to a per episode limit. The Secretary would calculate separate per episode limits for each of 18 different case categories of home health care. These 18 categories would be the same as those being used in HCFA's Phase II demonstration (or an alternative methodology developed by the Secretary), and would serve as a substitute for a true case-mix adjustment not yet available. The per episode limit for a category would cover all care provided to a beneficiary during a period of 120 days. No new episode of care would be recognized for reimbursement purposes until after a beneficiary has been discharged for a period of 60 days.

The per episode limit would be calculated as follows. For each of the 18 case categories, the Secretary would determine the mean number of visits of each type of home health services furnished during a period of 120 days following the initial admission of the beneficiary to the case during the base year FY 1994. The Secretary would then multiply the results by the per visit payment rates for services. This would become the target per episode limit for a case. Calculation of per episode limits would be done on an areawide basis; for these purposes the area in which an agency is located would be that area the Secretary finds most appropriate.

Each agency would be paid per visit payments throughout the year. At the end of the year, an agency's *aggregate* limit would be calculated by first multiplying the Secretary's regional target per episode limit for each of the 18 case categories times the number of episodes admitted by an agency to each of the 18 categories. The sum of these products becomes the agency aggregate payment limit.

Total per visit payments to an agency would be compared with the aggregate payment limit, i.e. the mix of an agency's episodes times the per episode limits. For these purposes, all visits provided during the first 165 days of care per episode would be counted against an agency's aggregate limit. If total payments for the year are below the agency's aggregate payment limit, then agencies would be allowed to retain 50 percent of the difference, up to 5 percent of an agency's aggregate Medicare payments in a year. For agencies with aggregate payments over the limit, the Secretary would be required to reduce payments to agencies in the following fiscal year in a manner the Secretary considers appropriate (including on an installment basis).

If a beneficiary continues to need home health visits after a period of 165 days, then an agency may request that additional payments be made on a per visit basis. These payments would not be subject to the aggregate limit. In order for fiscal intermediaries to approve such requests, agencies would be required to submit a physician's certification of the continuing need for care, as well as the reason for the need for additional visits, and a description of services to be furnished during the visits.

Beginning in FY 1998, per visit payment rates would be updated annually by the home health market basket minus 2 percentage points. The Secretary would be required to rebase the update at least once every 5 years with the most recent available data. Beginning in FY 1999, the Secretary would also be required to revise the mean number of visits in each case category to reflect the most recently available data on number of visits per episode. To deal with case-mix "creep," the Secretary would also be required to adjust per episode limits to assure that aggregate payments in a year do not exceed the previous year's payments because of changes in the number and type of home health visits within each episode.

The Secretary would be required to implement a medical review process for the new payment system, giving particular attention to fiscal years 1997 and 1998. The purpose of the medical review process would be to assess patterns of care to assure that beneficiaries receive appropriate services under the new prospective payment system. Medical reviews would be required to focus on short stay cases and cases over 165 days. Recertification of the need for care would have to done at 30, 60, 90, 120, and 165 days of home health care.

The Secretary would be required to make adjustments in payments to home health care agencies that circumvent the new payment system by discharging patients to another home health agency or similar provider; by altering corporate structure or name to avoid being subject to payment limits or for purposes of increasing Medicare payments; and by undertaking any other actions that are unnecessary for effective patient care and that are intended to maximize Medicare payments.

The Secretary would be required to develop a system to track home health patients who receive care from more than one agency during an episode. For such situations, the Secretary would be required to adjust payments to assure that total amounts paid to these agencies do not exceed the payment that would otherwise have been made if the patient had completed the episode in a single agency.

The Secretary would also be required to develop a system to adjust payments to agencies to eliminate any increase in growth in the percentage of low-cost episodes over the percentage of such cases occurring at the agency for the 12-month cost reporting period ending June 30, 1994. The Secretary would be required to define low-cost episode in a manner to assure that a home health agency has an incentive to be cost efficient in delivering services and that the volume of services does not increase as a result of factors other than patient needs.

Reimbursements for exceptions to the per episode limits would be limited to aggregate payments made in FY 1994 adjusted for increases in the home health market basket.

Separate Part B billings would be prohibited for any services covered under the per episode limit while the beneficiary is receiving home health services, and payment would have to be made to the home health agency, regardless of whether a service was provided by the agency, by others under arrangements with the agency, or under any other arrangement. Services would be excluded from coverage if not billed by the agency. Agencies would be required to bill prosthetics and orthotics furnished as part of a home health visit under Part B's prosthetics and orthotics fee schedule, just as durable medical equipment (DME) furnished by an agency as part of home health must now be billed under the fee schedules for DME.

Home health coverage under Medicare Part A would be limited to 165 days per spell of illness. Visits beyond this limit would be reimbursed under Part B and the Secretary would be prohibited from including these costs in the calculation of the Part B premium.

The Medicare Review Commission would be required to report on the effectiveness of the new payment system for each of the first three years of its operation. The Commission would also be required to make recommendations to Congress on (1) case-mix and volume increases, (2) quality monitoring of home health agency practices, (3) whether a capitated payment system for home health care patients using over 165 days of service is warranted; (4) whether public providers of service are adequately reimbursed; (5) the adequacy of the exemptions and exceptions to the limits; (6) the appropriateness of methods used to adjust the per episode limits and annual payment updates to reflect changes in the mix of services, number of visits, and assignment to case categories to reflect changing patterns of home health care; and (7) the geographic areas used to determine per episode limits.

Senate bill

The proposal would establish a prospective payment system for home health services. This system would be based on prospectively determined per visit rates that are subject to per episode limits applied in the aggregate. The proposal would have the following specific components.

Beginning in FY 1997, the Secretary would be required to establish national average per visit rates for each of the home health service disciplines covered under Medicare—skilled nursing care, physical therapy, speech pathology, occupational therapy, medical social services, and home health aide services. For FY 1997, the per visit rates would be based on amounts paid during cost reporting periods ending June 30, 1994. To reflect regional differences in the costs of providing services, the labor-related portion of the per visit rates would be adjusted by the hospital wage index. These adjusted per visit rates would be the amounts that home health care agencies would receive throughout the year for each of the particular mix of visits provided to a given home health care beneficiary.

Per visit rates would be subject to a per episode limit. The Secretary would calculate separate per episode limits for each of 18 different case categories of home health care. These 18 categories would be the same as those being used in HCFA's Phase II demonstration (or an alternative methodology developed by the Secretary), and would serve as a substitute for a true case-mix adjustment not yet available. The per episode limit for a category would cover all care provided to a beneficiary during a period of 120 days. No new episode of care would be recognized for reimbursement purposes until after a beneficiary has been discharged for a period of 60 days.

The per episode limit would be calculated as follows. For each of the 18 case categories, the Secretary would determine the mean number of visits of each type of home health services furnished during a period of 120 days following the initial admission of the beneficiary to the case during the base year FY 1994. The Secretary would then multiply the results by the per visit payment rates for services. This would become the target per episode limit for a case. Calculation of per episode limits would be done on an areawide basis; for these purposes the area in which an agency is located would be determined according to the same metropolitan statistical area/rural classification system used for the hospital wage index.

Each agency would be paid per visit payments throughout the year. At the end of the year, an agency's *aggregate* limit would be calculated by first multiplying the Secretary's regional target per episode limit for each of the 18 case categories times the number of episodes admitted by an agency to each of the 18 categories. The sum of these products becomes the agency aggregate payment limit.

Total per visit payments to an agency would be compared with the aggregate payment limit, i.e. the mix of an agency's episodes times the per episode limits. For these purposes, all visits provided during the first 165 days of care per episode would be counted against an agency's aggregate limit. If total payments for the year are below the agency's aggregate payment limit, then agencies would be allowed to retain 50 percent of the difference, up to 5 percent of an agency's aggregate Medicare payments in a year. For agencies with aggregate payments over the limit, the Secretary would be required to reduce payments to agencies in the following fiscal year in a manner the Secretary considers appropriate (including on an installment basis).

If a beneficiary continues to need home health visits after a period of 165 days, then an agency may request that additional payments be made on a per visit basis. These payments would not be subject to the aggregate limit. In order for fiscal intermediaries to approve such requests, agencies would be required to submit a physician's certification of the continuing need for care, as well as the reason for the need for additional visits, and a description of services to be furnished during the visits.

Beginning in FY 1998, per visit payment rates would be updated annually by the greater of the home health market basket minus 2.5 percentage points, or 1.1 percent (1.2 percent in FY 1997). The Secretary would be required to rebase the per visit rates with the most recent available data at least once every 2 years beginning with FY 2000. Beginning in FY 1999, the Secretary would also be required to revise the mean number of visits in each case category to reflect the most recently available data on number of visits per episode. To deal with case-mix "creep," the Secretary would also be required to adjust per episode limits for each of the fiscal years 1997–2000 to assure that aggregate payments in a year do not exceed the previous year's payments because of changes in the number and type of home health visits within each episode. In subsequent years, the Secretary would be required to adjust the limits to remove the effects of case-mix increases due to reporting improvements instead of real changes in patients' resource usage.

The Secretary would be required to implement a medical review process for the new payment system, giving particular attention to fiscal years 1997 and 1998. The purpose of the medical review process would be to assess patterns of care to assure that beneficiaries receive appropriate services under the new prospective payment system. Medical reviews would be required to focus on short stay cases and cases over 165 days. Recertification of the need for care would have to done at 30, 60, 90, 120, and 165 days of home health care. The Secretary could use public or private organizations to conduct medical reviews.

The Secretary would be required make adjustments in payments to home health care agencies that circumvent the new payment system by discharging patients to another home health agency or similar provider; by altering corporate structure or name to avoid being subject to payment limits or for purposes of increasing Medicare payments; and by undertaking any other actions that are unnecessary for effective patient care and that are intended to maximize Medicare payments.

The Secretary would be required to develop a system to track home health patients who receive care from more than one agency during an episode. For such situations, the Secretary would be required to adjust payments to assure that total amounts paid to these agencies do not exceed the payment that would otherwise have been made if the patient had completed the episode in a single agency.

The Secretary would also be required to develop a system to adjust payments to agencies to eliminate any increase in growth in the percentage of low-cost episodes over the percentage of such cases occurring at the agency for the 12-month cost reporting period beginning during FY 1994. For these purposes, the Secretary would be required to profile each agency to determine the distribution of all episodes by length of stay and define low-cost episodes as those at the 25th percentile. The Secretary would be required to define low-cost episode in a manner to assure that a home health agency has an incentive to be cost efficient in delivering services and that the volume of services does not increase as a result of factors other than patient needs.

Reimbursements for exceptions to the per episode limits would be limited to aggregate payments made in FY 1994 adjusted for increases in the home health market basket.

Separate Part B billings would be prohibited for any services covered under the per episode limit while the beneficiary is receiving home health services, and payment would have to be made to the home health agency, regardless of whether a service was provided by the agency, by others under arrangements with the agency, or under any other arrangement. Services would be excluded from coverage if not billed by the agency. Agencies would be required to bill prosthetics and orthotics furnished as part of a home health visit under Part B's prosthetics and orthotics fee schedule, just as durable medical equipment (DME) furnished by an agency as part of home health must now be billed under the fee schedules for DME.

The Prospective Payment Assessment Commission would be required to report on the effectiveness of the new payment system for each of the first three years of its operation. The Commission would also be required to make recommendations to Congress on (1) case-mix and volume increases, (2) quality monitoring of home health agency practices, (3) whether a capitated payment system for home health care patients using over 165 days of service is warranted; (4) whether public providers of service are adequately reimbursed; (5) the adequacy of the exemptions and exceptions to the limits; (6) the appropriateness of methods used to adjust the per episode limits and annual payment updates to reflect changes in the mix of services, number of visits, and assignment to case categories to reflect changing patterns of home health care; and (7) the geographic areas used to determine per episode limits.

Conference agreement

The conference agreement includes the Senate provision with amendments. Beginning in FY 1998, per visit payment rates would be updated annually by the home health market basket minus 2 percentage points. The Secretary would be required to rebase the per visit rates with the most recently available data at least once every 5 years for cost reporting periods beginning in FY 2000. Beginning in FY 1999, the Secretary would also be required to rebase at least once every 5 years the mean number of visits furnished during an episode for each case category to reflect the most recently available data. Recertification of the need for care would be have to done at 60 and 165 days of care.

2. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASE FOR HOME HEALTH SERVICES (SEC. 15702 OF HOUSE BILL; SEC. 7062 OF SENATE BILL)

Current law

Home health care agencies are currently reimbursed on the basis of reasonable costs, up to specified limits. Cost limits are determined separately for each type of covered home health service (skilled nursing care, physical therapy, speech pathology, occupational therapy, medical social services, and home health aide), and according to whether an agency is located in an urban or rural area. Costs limits, however, are applied to aggregate agency expenditures; that is, an aggregate cost limit is set for each agency that equals the limit for each type of service multiplied by the number of visits of each type provided by the agency. Limits for the individual services are set at 112 percent of the mean labor-related and nonlabor per visit costs for freestanding agencies. Cost limits are updated annually by applying a market basket index to base year data derived from home health agency cost reports. The labor-related portion of a service limit is adjusted by the current hospital wage index.

The Omnibus Budget Reconciliation Act of 1993 (OBRA 93) required that there be no changes in home health cost limits (including no adjustments for changes in the wage index or other updates of data) for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996. The Secretary was also required, when granting or extending exceptions to cost limits, to limit any exception to the amount that would have been granted if there were no restriction on changes in the cost limits. OBRA 93 also repealed the requirement that additional payments be made to hospital-based home health agencies for costs attributable to excess overhead allocations, effective for cost reporting periods beginning on or after October 1, 1993.

House bill

The provision would permanently extend the savings stream, but not the freeze, in setting future home health limits, by not allowing for the inflation that occurred during the freeze years.

Senate bill

The provision would permanently extend the savings stream, but not the freeze, in setting future home health limits, by not allowing for the inflation that occurred during the freeze years.

Conference agreement

The conference agreement includes the Senate provision.

3. EXTENSION OF WAIVER OF PRESUMPTION OF LACK OF KNOWLEDGE OF EXCLUSION FROM COVERAGE FOR HOME HEALTH AGENCIES (SEC. 15703 OF HOUSE BILL; SEC. 7063 OF SENATE BILL)

Current law

When a provider furnishes services that are not covered under Medicare, the provider is not normally entitled to Medicare payment for those services. The program, however, has recognized that circumstances may exist where providers of services or beneficiaries could not have reasonably known that services would not be covered. Medicare has paid for a limited number of services which are not covered services, so long as it is determined that the provider or beneficiary did not know and could not reasonably have been expected to know that services would be uncovered. The provider is presumed not to know that coverage for certain services would be denied—it qualifies for a "favorable presumption"—when its denial rate is below a certain level. With this favorable presumption, its liability for denied claims below the threshold is waived and it is paid for these claims. The provider receives waiver of liability protection for denied claims below the threshold.

For home health agencies, waiver of liability protection is available for two separate categories of denials. One waiver applies to medical denials, i.e., to claims that are denied because the care was not medically necessary or was determined to be custodial in nature. Another waiver applies to services determined to be non-covered because the beneficiary was not homebound or did not require intermittent skilled nursing care. These are referred to as technical denials.

For both categories, the principal criterion for meeting the favorable presumption test is a denial rate of 2.5 percent or less. Waiver of liability protection for both medical and technical denials expires December 31, 1995.

House bill

Waiver of liability for home health agencies would be extended through September 30, 1996.

Senate bill

Waiver of liability for home health agencies would be extended through September 30, 1996.

Conference agreement

The conference agreement includes the Senate provision.

4. REPORT ON RECOMMENDATIONS FOR PAYMENTS AND CERTIFICATION FOR HOME HEALTH SERVICES OF CHRISTIAN SCIENCE PROVIDERS (SEC. 15704 OF HOUSE BILL)

Current law

No provision.

House bill

The Secretary would be required to submit recommendations to Congress, not later than July 1, 1996, on an appropriate methodology for making payments under the Medicare program for home health services furnished by Christian Science providers who meet applicable requirements of the First Church of Christ, Scientist, Boston, and appropriate criteria for certifying these providers.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision with a modification to require that payments be made for home health services furnished by Christian Science providers. Providers must meet applicable requirements of the First Church of Christ, Scientist, and be certified under criteria established by the Secretary. Payments are to be made according to a methodology established by the Secretary. The provision is effective for services furnished during cost reporting periods which begin after the earlier of the date on which the Secretary establishes the payment methodology and certification criteria, or July 1, 1996.

5. EXTENSION OF PERIOD OF HOME HEALTH AGENCY CERTIFICATION (SEC. 15705 OF HOUSE BILL)

Current law

In order to determine compliance with requirements for participation, home health agencies must be subject to an unannounced standard survey that must be conducted not later than 15 months after the date of the previous standard survey. The average interval between standard surveys in a state must not exceed 12 months.

House bill

The provision would require that standard surveys for home health agencies be conducted not later 36 months after the date of the previous standard survey. The Secretary would be required to establish a frequency within this 36-month interval commensurate with the need to assure the delivery of quality home health services.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision.

B. MEDICARE SECONDARY PAYER

1. EXTENSION AND EXPANSION OF EXISTING REQUIREMENTS (SEC. 15711 OF HOUSE BILL; SEC. 7055(A)-(C) OF SENATE BILL)

Current law

Generally Medicare is the "primary payer," that is, it pays health claims first, with an individual's private or other public insurance filling in some or all of Medicare's coverage gaps. However, in certain instances, the individual's other coverage pays first, while Medicare is the secondary payer. This phenomenon is referred to as the MSP program. A group health plan offered by an employer (with 20 or more employees is required to offer workers age 65 or over (and workers spouses age 65 or over) the same group health insurance coverage as is offered to younger workers. If the worker accepts the coverage, the employer is the primary payer, with Medicare becoming the secondary payer

Similarly, a group health plan offered by a large employer (100 or more employees) is the primary payer for employees or their dependents who are on the Medicare disability program. The provision applies only to persons covered under the group plan because the employee is in "current employment status" (i.e. is an employee or is treated as an employee by the employer). The MSP provision for the disabled population expires October 1, 1998.

The MSP provisions apply to apply to end-stage renal disease (ESRD) beneficiaries with employer group health plans, regardless of employer size. The group health plan is the primary payer for 18 months for persons who become eligible for Medicare ESRD benefits. The employer's role as primary payer is limited to a maximum of 21 months (18 months plus the usual 3-month waiting period for Medicare ESRD coverage). The MSP provisions for the ESRD population expire October 1, 1998.

The law authorizes a data match program which is intended to identify potential secondary payer situations. Medicare beneficiaries are matched against data contained in Social Security Administration (SSA) and Internal Revenue Service (IRS) files to identify cases in which a working beneficiary (or working spouse) may have employer-based health insurance coverage. Cases of previous incorrect Medicare payments are identified and recoveries are attempted. The authority for the program extends through Sept. 30, 1998.

House bill

The provision would make permanent the MSP provisions for the disabled and the ESRD population. It would extend the period during which the employer group health plan is primary payer for an ESRD beneficiary from 18 to 24 months. The provision would also make permanent the data match requirement.

Senate bill

The provision would make permanent the MSP provisions for the disabled and the ESRD population. It would extend the period during which the employer group health plan is primary payer for an ESRD beneficiary to 30 months. The provision would also make permanent the data match requirement.

Conference agreement

The conference agreement includes the Senate provision.

2. PAYMENT RECOVERIES (SEC. 15712 OF HOUSE BILL)

Current Law

Recent court action may lessen the effectiveness of the data match program. In many cases where recoveries are sought, claims have never been filed with the primary payer. Identification of potential recoveries under the data match process usually takes in excess of the time period most health plans allow for claims filing. Two May 1994 decisions by the U.S. Court of Appeals for the District of Columbia held certain portions of the MSP overpayment recovery procedures invalid. In particular, it held invalid provisions authorizing payment recoveries without regard to a health plan's timeliness requirements. The U.S. Supreme Court denied a HCFA petition to review the 1994 decisions.

House bill

The provision would specifically permit MSP recoveries from third party administrators of health plans, except in cases of insolvency or bankruptcy of the employer or plan.. It would also permit recovery actions up to three years from the date the item or service was furnished to the beneficiary.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision.

3. PROHIBITION OF RETROACTIVE APPLICATION OF POLICY REGARDING ESRD BENEFICIARIES (SEC. 15713 OF HOUSE BILL; SEC. 7055(D) OF SENATE BILL)

Current law

Medicare remains the primary payer if a group health plan was already secondary for an individual entitled on the basis of age or disability when the individual becomes entitled on the basis of ESRD. Following enactment of OBRA 93, HCFA stated that the private plan would become primary in such cases. On April 24, 1995, HCFA corrected its construction of the statute; it issued guidelines stating that Medicare remains the primary payer in these cases.

House bill

The provision would specify that the policy change specified in the April 24, 1995 HCFA guidelines would only apply with respect to items and services furnished on or after such date.

Senate bill

The provision would prohibit a retroactive application of the policy. In the event age-based or disability-based Medicare entitlement preceded ESRD-based eligibility, Medicare would be the secondary payer for the period August 10, 1993 to April 24, 1995.

Conference agreement

The conference agreement does not include either provision.

C. FAILSAFE (SEC. 15721 OF HOUSE BILL)

Current law

Although the Federal Government is required by law to pay Medicare claims on behalf of eligible participants, total Medicare spending is limited in two ways: (1) by availability of reserves in the Medicare trust funds; and (2) by provisions of OBRA of 1990, P.L. 101-508. These limitations are intended to set ongoing aggregate limits on spending, not to regulate the annual rate of growth in Medicare.

Limitation created by trust fund reserves. Part A claims for hospitalization are paid from the Hospital Insurance (HI) Trust Fund. Part B claims for physicians' services are paid from the Supplementary Medical Insurance (SMI) Trust Fund. These two trust funds are accounting devices by which the Government determines the extent to which spending on Medicare claims is authorized without new legislation or appropriations. Trust fund balances represent spending authority. An insolvency in either fund would force a stoppage in Government reimbursement for Medicare claims until the fund had accrued new credits.

The sources of trust fund credits are: (1) payroll tax revenue; (2) enrollee premiums; (3) Government general fund contributions; and (4) interest on Government debt held by the funds. The earmarked revenue for the HI fund comes from a payroll tax of 1.45 percent applicable to both employees and employers. The SMI fund is credited with monthly premium payments made by Part B enrollees (currently $46.10 a month) and transfers of general Government funds. The HI fund is projected to be depleted in FY 2002. The SMI fund will not be depleted, however, since general fund transfers are credited each year in amounts sufficient to maintain the fund's solvency.

Limitation created by OBRA of 1990. A provision in OBRA of 1990 requires that legislated increases in entitlement spending and decreases in revenue be offset by entitlement decreases and/or revenue increases on a pay-as-you-go (PAYGO) basis. A violation of PAYGO rules can trigger sequestration, a process by which all budget accounts subject to sequestration are reduced by the percentage necessary to make up any spending overrun or revenue shortfall. However, the law limits the sequestration percentage that can be applied to Medicare benefits to 4.0 percent or less. These budget rules apply through FY 1998.

Sequestration has not occurred because of a PAYGO violation, but OBRA of 1990 restricted increases in certain Medicare payment rates beginning in FY 1991 as part of the budget agreement set forth by that law. Sequestration did occur in FY 1988 under an earlier law, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (P.L. 100-119). The sequestration percentage applied to Medicare spending was 2.0 percent, the maximum allowed for Medicare under that law. It was achieved by reducing payment rates for covered services.

House bill

1. RECOMMENDATION OF SPENDING CONTROLS

A new section 1895 would be added to Title XVIII of the Social Security Act to provide a "failsafe budget mechanism" by which certain Medicare spending would be reduced automatically if it were anticipated that spending would exceed budget targets during the next fiscal year.

2. EFFECTIVE DATE

The failsafe budget mechanism would be effective for FY 1998 and all subsequent fiscal years.

3. EXPENDITURE MEASURE SUBJECT TO CONTROL

The failsafe budget mechanism would apply to both Parts A and B of Medicare, but only to fee-for-service expenditures. Distinct limits would be specified for the following fee-for-service sectors: inpatient hospital services; home health services; extended care services; hospice care; physicians' services; outpatient hospital services and ambulatory facility services; durable medical equipment and supplies; diagnostic tests; and other items and services. The Secretary of Health and Human Services would classify each item and service paid for separately by Medicare into one of these sectors by Oct. 1, 1996.

4. MAXIMUM SPENDING LEVELS

a. Overall spending level

The total Medicare budget allotment for a fiscal year would equal the Medicare benefit budget less the payments the Secretary estimates would be made under MedicarePlus (the new Part C). The Medicare benefit budget would be set forth in law as follows:

[In billions of dollars]

Fiscal year:	*Benefit budget*
1997	208.0
1998	217.1
1999	228.4
2000	246.4
2001	265.5
2002	288.0

The benefit budget for a subsequent fiscal year would equal the benefit budget for the preceding fiscal year increased by the product of: (1) 1.05; and (2) 1.0 plus the annual percentage increase in the average numb.

b. Limit by Sector

The budget allotment for a sector for a fiscal year would be determined by multiplying the total fee-for-service allotment for that year by an allotment proportion for each sector. This proportion would equal the ratio of (1) the baseline projection of expenditures for the sector for the year to the sum of all such baseline expenditures for all sectors for that year. Baseline projections would be determined by applying annual growth rates for each sector, as specified in the new law, to the prior year's baseline expenditure for the sector. Baseline projections for FY 1996 would equal actual FY 1995 expenditures increased by the appropriate growth rate. In subsequent years, baseline projections would be determined by applying annual growth rates for each sector, as specified in the new law, to the prior year's baseline expenditure for each sector. These fiscal year growth rates (expressed in percents) are specified as follows:

Sector	1996	1997	1998	1999	2000	2001	2002
Inpatient care	5.7	5.6	6.0	6.1	5.7	5.5	5.2
Home health care	17.2	15.1	11.7	9.1	8.4	8.1	7.9
Extended care	19.7	12.3	9.3	8.7	8.6	8.4	8.0
Hospice care	32.0	24.0	18.0	15.0	12.0	10.0	9.0
Physician services	12.4	9.7	8.7	9.0	9.3	9.6	10.1
Outpatient services	14.7	13.9	14.5	15.0	14.1	13.9	14.0
Durable equipment & supplies	16.1	15.5	13.7	12.4	13.2	13.9	14.5
Diagnostic tests	13.1	11.3	11.0	11.4	11.4	11.5	11.9
Other items & services	11.2	10.2	10.9	12.0	11.6	11.6	11.8

The growth rates shown above for FY 2002 would also apply to subsequent years.

In providing for adjustments to Medicare payments for a particular sector, the Secretary would be required to take into account the impact of the adjustment on the volume or type of services provided in that sector and any delays in payments from one year to the next that might be expected in that sector.

5. LOOKBACK SPENDING ADJUSTMENT

If the actual fee-for-service expenditures for a sector were to exceed the total allotments for the second preceding year, then the sector's allotment would be reduced for the next fiscal year by 133⅓ percent of the excess amount. Should spending in the second preceding year fall below a sector's allotment for that year, the excess allotment could be added to the allotment for the next fiscal year. These adjustments would be made after adjusting the prior-year allotments to reflect actual Part C expenditures for the second preceding year.

6. METHOD FOR SPENDING REDUCTIONS

If the Secretary determines that expenditures for a sector for a fiscal year would exceed the sector's budget allotment for that year, then Medicare payment rates applicable to that sector would be adjusted so that expenditures would be reduced by 133⅓ percent of the amount of the excess. The Secretary would be required to publish the size of any necessary adjustments and the methodology to be used by May 15 preceding the fiscal year in question. A final determination on adjustments would have to be published by September 1 prior to that year.

7. CONGRESSIONAL MODIFICATION

If the President submits a legislative proposal to revise the baseline annual growth rates specified for fee-for-service sectors, Congress would be required to consider the proposal under an expedited procedure. Passage of a joint resolution of approval would be required within 60 days of submittal for the changes to become law. Procedure for consideration of a joint resolution would be the same as that used under the Defense Base Closure and Realignment Act of 1990.

8. REQUIRED REPORTS

Beginning with the budget documents for FY 1999, the President's Budget would be required to include information on actual Medicare fee-for-service expenditures by sector for the second preceding year, with a comparison to the corresponding Medicare benefit budget and sector allotments. Data on actual annual growth rates for each fee-for-service sector would also be required.

Annual reports of the Trustees on Part A of Medicare would be required to include information on the annual rate of program expenditures that would maintain the solvency of the trust fund and the extent to which the failsafe budget mechanism restrained the expenditure growth rate.

Beginning in 1997, the Medicare Payment Review Commission would be required to submit by March 1 of each year a report analyzing the past operation of the failsafe mechanism and making recommendations with respect to its application to the following fiscal year.

Senate bill

No provision.

Conference agreement

1. RECOMMENDATION OF SPENDING CONTROLS

The conference agreement includes the House provision.

2. EFFECTIVE DATE

The conference agreement includes the House provision.

3. EXPENDITURE MEASURE SUBJECT TO CONTROL

The conference agreement includes the House provision.

4. MAXIMUM SPENDING LEVELS

a. Overall spending level

The conference agreement includes the House provision with a modification to set the levels as follows:

Fiscal Year	*Benefit Budget ($ billions)*
1998	217.8
1999	229.2
2000	247.2
2001	266.4
2002	289.0

b. Limit by sector

The conference agreement includes the House provision with an amendment. The limit would be applied in the aggregate, with cuts applied proportionately to excess spending sectors. modification to apply the limit in the aggregate.

5. LOOKBACK SPENDING ADJUSTMENT

The conference agreement replaces the House provision with the new provision described below.

Beginning in FY 1998, if the fee-for-service expenditures for all sectors for the second preceding fiscal year are estimated to exceed the total adjusted allotments for that year, then the current year's allotment for each sector with excess spending would be reduced by the "sector reduction amount." This sector reduction amount is defined as the product of: (1) the amount of excess spending for a sector and year; and (2) the ratio of (a) the net excess spending for all fee-for-service sectors to (b) the gross sum of excess spending in only those sectors with excess spending.

These lookback adjustments would be made after adjusting the original allotments to reflect actual Part C expenditures in the second preceding fiscal year.

6. METHOD FOR SPENDING REDUCTIONS

The conference agreement includes the House provision with the following modification. Instead of reducing an excess spending sector's payment rates to reduce spending by 133⅓ percent of the estimated excess spending amount, the sector's payment rates would be modified to achieve a 133⅓ percent reduction of that sector's "reduction target." A sector's "reduction target" is defined as the product of: (1) the amount of excess spending for the sector in the fiscal year; and (2) the ratio of (a) net excess spending for all fee-for-service sectors, to (b) the gross sum of excess spending amounts for only those sectors with excess spending in the fiscal year.

7. REQUIRED REPORTS

The conference agreement includes the House provision.

D. ADMINISTRATIVE SIMPLIFICATION (SEC. 15731 OF HOUSE BILL)

Current law

No provision.

House bill

The provision would provide for the adoption of standards for Medicare information transactions and data elements. The Secretary would be required to adopt standards which were consistent with reducing administrative costs and which were developed or modified by a standard setting organization accredited by the American National Standards Institute. The Secretary could adopt or modify a standard relating to data elements that was different from such standard if, compared to the alternative, it would substantially reduce administrative costs to providers and health plans and it was promulgated in accordance with Federal rule making procedures.

The provision would require each person who maintains or transmits Medicare information or data elements to maintain reasonable and appropriate administrative, technical, and physical safeguards to: (I) ensure integrity and confidentiality of information; and (ii) protect against any reasonably anticipated threats or hazards to security or unauthorized uses or disclosures.

The Secretary would be required to establish security standards and modifications to those standards that take into account technical capability of record systems, costs of security measures, need for training personnel who have access to information, and the value of audit trails. The standards would assure that a Medicare information network service that was part of a larger organization had policies which isolated its activities. Security standards would be based on those developed by standard setting organizations or, if such standards do not exist, by the Medicare Information Advisory Committee. The Secretary would be required to establish specifications for implementing each of the standards and modifications. The Secretary would rely on the recommendations of the Medicare Information Advisory Committee and consult with appropriate Federal and State agencies and private organizations. The Secretary would publish the recommendations of the Advisory Committee in the Federal Register.

The Secretary would be required to adopt standards for transactions and data elements to make Medicare information uniformly available to be exchanged electronically. The standards would provide for unique health identifiers for each individual, plan, employer, and provider. Penalties would be imposed for improper disclosure of this number. In addition, the Secretary would: (i) provide for the establishment of code sets in consultation with the Medicare Information Advisory Committee and other experts.; (ii) promulgate regulations specifying procedures for the electronic transmission and authentication of signatures; (iii) develop rules for transfer of information between health plans needed for coordination of benefits. and (iv) develop further transaction standards if, after 5 years, they were deemed necessary for coordination of benefits. The provision would provide for protection of trade secrets.

The provision would require the development of the standards within 18 months of enactment. Additional or modified standards could be adopted not more than once every 12 months. Additions or modifications would be completed in a manner that minimized disruption and cost of compliance. Health plans would be required to conduct standard transactions in a timely manner and comply with transaction and data element standards within 24 months of adoption. Compliance with any modified standards would be required within an appropriate period but not less than 180 days after adoption of the modified standard. Penalties would be established for failure to comply with requirements and standards.

The provision would supersede any contrary provision of state law unless the Secretary determined that the provision of State law should be continued for any reason including for reasons relating to prevention of fraud and abuse or regulation of controlled substances.

The provision would establish a Medicare Information Advisory Committee to advise the Secretary in development of standards and to advise the Secretary and the Congress on the status and future of the Medicare information network. The Committee would be composed of 9 members—three appointed by the President, three appointed by the Speaker of the House, and three by the President pro tempore of the Senate. The Committee would be required to submit an annual report to the Congress which would include information on the extent to which entities using the Medicare information network were meeting the standards, forming an integrated network, and meeting security standards.

Senate bill

No provision

Conference agreement

The conference agreement includes the House provision with an amendment. The provision is incorporated in the new title C, MedicarePlus. The requirements apply to Medicare Plus and Medicare information and the advisory committee is the Medicare Plus and Medicare Advisory Committee. The National Council for Prescription Drug Program is an approved Standard Setting Organization.

E. OTHER PROVISION RELATING TO PARTS A AND B

1. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE (SEC. 15741 OF HOUSE BILL)

Current law

Medicare law does not provide an all-inclusive list of specific items, services, treatments, procedures, or technologies covered by the program. The law, however, provides that no payment may be made for any expenses which are not reasonable and necessary for the diagnosis or treatment of illness. While HCFA has not explicitly defined "reasonable" and "necessary" for purposes of making decisions about the appropriateness of Medicare's coverage for specific services and items, it has applied a general policy that services be safe and effective and not experimental or investigational. In 1994, HCFA clarified its coverage policy to prohibit coverage and payment of services associated with the use of investigational devices.

House bill

The provision specifies that nothing in Medicare law could be construed as prohibiting coverage of items and services associated with the use of a medical device in the furnishing of inpatient hospital services (including outpatient diagnostic imaging services) on the grounds that the device is not an approved device if (1) the device is an investigational device; and (2) the device is used instead of an approved device or a covered procedure. The amount of payment for items and services associated with the use of investigational devices in inpatient hospital services could not exceed the amount that Medicare would have paid if the item or service were associated with an approved device. The provision would define approved device as a medical device which has been approved for marketing under pre-market approval or cleared for marketing under the Federal Food, Drug, and Cosmetic Act. An investigational device would be defined as a medical device approved for investigational use under the Food, Drug, and Cosmetic Act.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

2. ADDITIONAL EXCLUSION FROM COVERAGE (SEC. 15742 OF HOUSE BILL; SEC. 7056 OF SENATE BILL)

Current law

Medicare excludes coverage for certain defined items and services.

House bill

The provision would exclude Medicare coverage for expenses associated with items or services or the purchase of health benefit coverage used for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

Senate bill

The provision would exclude Medicare coverage for expenses associated with items or services or the purchase of health benefit coverage used for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person. Medicare's requirements for providers to maintain policies and procedures for advance directives would be amended to specify that no health care provider or employee of a health care provider could be required to inform or counsel a patient regarding assisted suicide, euthanasia, mercy killing, or other service which purposefully causes the death of a person.

Conference agreement

The conference agreement does not include either provision. It is the conferees intent that notwithstanding any other provision of Medicare, no payment may be made under Part A or Part B for any expenses incurred for items or services where such expenses are for items or services, or to assist in the purchase, in whole or in part, of health benefit coverage that includes items or services, for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

3. COMPETITIVE BIDDING (SEC. 15743 OF HOUSE BILL)

Current law

No provision.

House bill

The Secretary would be required to operate over a 2-year period a demonstration project in two geographic regions under which payments for a selected item or service (other than clinical diagnostic laboratory tests) would be made according to a competitive bidding process. The competitive bidding process used in the demonstration would be required to meet requirements imposed by the Secretary to ensure the cost-effective delivery of items and services of high quality. The Secretary would be required to select items and services for the demonstration that would be appropriate and cost-effective, and in determining which items and services to select, the Secretary would be required to consult an advisory taskforce which includes representatives of providers and suppliers of items and services in each geographic region in which the project would be effective.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

4. DISCLOSURE OF CRIMINAL CONVICTIONS RELATING TO PROVISION OF HOME HEALTH SERVICES (SEC. 15744 OF HOUSE BILL)

Current law

No provision.

House bill

The Secretary and each State or local survey agency or other State agency responsible for monitoring compliance of home health agencies with requirements for participation would be required to make available, upon request of any person, information the Secretary or agency has on individuals who have been convicted of felonies relating to the provision of home health services.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

5. REQUIRING RENAL DIALYSIS FACILITIES TO MAKE SERVICES AVAILABLE ON A 24-HOUR BASIS (SEC. 15745 OF HOUSE BILL)

Current law

Medicare covers persons who suffer from end-stage renal disease. Facilities providing dialysis services must meet certain requirements.

House bill

Renal dialysis facilities would be required to make institutional dialysis services and supplies available on a 24-hour basis (either directly or through arrangements with providers of services or other renal dialysis facilities) and would be required to inform patients about arrangements with other providers.

Senate bill

No provision.

Conference agreement

The conference agreement does not include the House provision.

6. INDIAN HEALTH SERVICE FACILITIES (SEC. 7057(A) OF SENATE BILL)

Current law

Indian Health Service (IHS) facilities are eligible for Medicare payments for services provided to Medicare beneficiaries.

House bill

No provision.

Senate bill

The provision clarifies that nothing in the bill can be interpreted as meaning any change in Medicare payment to eligible IHS facilities.

Conference agreement

The conference agreement includes the Senate provision.

7. SENSE OF THE SENATE REGARDING COVERAGE FOR TREATMENT OF BREAST AND PROSTATE CANCER UNDER MEDICARE (SEC. 7058 OF SENATE BILL)

Current law

No provision.

House bill

No provision.

Senate bill

The provision sets forth the sense of the Senate that Medicare should not discriminate among breast and prostate cancer victims by providing drug treatment coverage for some but not all such cancers, and that the budget reconciliation conferees should amend Medicare to provide coverage for these important cancer drug treatments.

Conference agreement

The conference agreement includes the Senate provision with a modification. Under the modification, Medicare coverage is authorized for a self-administered oral drug prescribed for use as an anticancer nonsteroidal antiestrogen for treatment of breast cancer. Coverage is only authorized if the manufacturer of the drug has a rebate agreement with the Secretary under substantially similar terms and conditions as apply to Medicaid rebate agreements on the date of enactment.

SUBTITLE I—CLINICAL LABORATORY IMPROVEMENT AMENDMENTS

1. EXEMPTION OF PHYSICIANS OFFICE LABORATORIES (SEC. 15801 OF HOUSE BILL)

Current law

The Clinical Laboratory Improvement Amendments of 1988 (CLIA 88) significantly strengthened Federal regulation of laboratories and expanded Federal oversight to virtually all labs in the country, including physicians office laboratories. All labs are required to register with DHHS. Labs performing only simple tests receive a certificate of waiver. Other labs (performing moderate complexity and/or high complexity testing) must meet performance standards issued by the Secretary.

A special category of tests, physician performed microscopy procedures, was established in 1993. This category was expanded and renamed provider-performed microscopy procedures earlier this year. These are specified procedures which are personally performed by physicians, dentists, and certain mid-level personnel; the procedures must be performed on specimens derived from their patients as part of a physical examination and evaluation. The tests are labelled moderate complexity; however physicians (or other personnel) performing only these tests and waivered tests are not subject to routine inspections, though most other moderate complexity requirements continue to apply.

House bill

The provision would exempt a clinical laboratory in a physician's office from the CLIA requirements. Exempted labs would be those in the office of a physician (including an office of a group of physicians) which is directed by a physician. The examinations and procedures must be performed by a physician or by individuals supervised by a physician solely as an adjunct to other services provided by the physician's office.

A clinical office laboratory would not be exempt form CLIA when it performed Papanicolaou (PAP) Smears.

Senate bill

No provision.

Conference agreement

The conference agreement includes the House provision.

SUBTITLE J—LOCK BOX PROVISIONS FOR MEDICARE PART B SAVINGS FROM GROWTH REDUCTIONS

1. TREATMENT OF PART B SAVINGS (SEC. 15901 OF HOUSE BILL; SEC. 7172 OF SENATE BILL)

Current law

No provision.

House bill

a. *Authorize New Trust Fund.* A new Sec. 1841 would be added to Title XVIII, Part B of the Social Security Act. It would establish a Federal Medicare Growth Reduction Trust Fund under the Department of the Treasury. The new fund would be authorized to receive gifts, bequests, and appropriations.

b. *Appropriations of Part B Savings.* The Secretary of the Treasury would transfer from the general fund to the Federal Medicare Growth Reduction Trust Fund amounts equal to all Medicare savings estimated to result from the provisions of OBRA of 1995.

c. *Authorization of Spending from Fund.* Effective in FY 2003, funds could be spent from the new trust fund to pay obligations of the Medicare program, but these trust fund outlays would be limited to amounts authorized in advance by Congress through legislative action.

Senate bill

a. *Authorize New Trust Fund.* No provision.

b. *Appropriations of Part B Savings.* The Secretary of the Treasury would transfer from the general fund to the HI Trust Fund amounts equal to certain Medicare savings under OBRA of 1995. The savings eligible for this transfer would be those resulting from changes to: the Part B deductible, the part B premium, and the part B premium for high-income individuals.

c. *Authorization of Spending from Fund.* No provision.

Conference agreement

a. *Authorize New Trust Fund.*

The conference agreement does not include the House provision.

b. *Appropriations of Part B Savings.*

The conference agreement includes the Senate provision with a modification. The amount of the difference between the premium set at 31.5% of program costs and an amount equal to 25% of program costs would be transferred to the HI Trust Fund. Monies derived from additional income-related premium amounts would also be transferred to the HI Trust Fund. In addition, the reference to the Part B deductible is struck.

c. *Authorization of Spending from Fund.*

The conference agreement does not include the House provision.

2. NONDISCHARGEABILITY OF CERTAIN MEDICARE DEBTS (SEC. 7171 OF SENATE BILL)

Current law

No provision.

House bill

No provision.

Senate bill

Section 523(a) of Title 11, U.S. Code, which concerns the discharging of individual debt during a bankruptcy proceeding, would be amended. The amendment would not allow a discharging of debt owed by a health care provider or supplier because of an overpayment to that provider or supplier from the HI Trust Fund or the SMI Trust Fund.

Conference agreement

The conference agreement does not include the Senate provision.

TITLE IX—TRANSPORTATION AND RELATED PROVISIONS

MINIMUM ALLOCATION FOR HIGHWAY PROGRAMS

Current law

The minimum allocation program guarantees that a State will receive at least 90 percent of the percent of its contribution to the Federal aid highway program in the Highway Account of the Highway Trust Fund. Less minimum allocation program funds will be needed in fiscal year 1996 than were necessary in fiscal year 1995 because of changes enacted under the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA). As provided by ISTEA, the Interstate Construction and Interstate Transfer program end in fiscal year 1995 and a new category, Reimbursement, begins in fiscal year 1996. This will reduce the amount of money required in the minimum allocation category. This change occurs because fewer states need money and some states need less money in the minimum allocation program to receive a 90 percent return from the program compared to the revenues they contribute to the Highway Trust Fund.

House bill

House bill had no provision on the minimum allocation program.

Senate amendment

The Senate amendment reduces minimum allocation funds that are not needed in fiscal year 1996. Sufficient funds are provided to meet minimum allocation requirements under ISTEA. The balance that is not needed is applied to reconciliation savings. The minimum allocation reduction produces an estimated $512 million in savings over the period fiscal year 1996 through fiscal year 2002.

Savings in the minimum allocation program occur in fiscal year 1996 on a one-time basis only. The savings are not a result of any reduction in minimum allocation funds to which states are entitled.

The ISTEA and previous surface transportation acts have exempted the minimum allocation program from other controls on highway spending because the program is designed to bring some equity to the apportionment formulas. This section does not implement any limitation on the minimum allocation program in fiscal year 1996 or in any future year. Any State that is eligible to receive funding under the minimum allocation category is assured that sufficient funds are available to provide the full amount due each State.

Conference agreement

The Conference agreement includes the Senate amendment.

EXTENSION OF HIGHER VESSEL TONNAGE DUTIES

Current law

The United States imposes a tonnage duty on a vessel that enters the United States from any port or place. The duty is also imposed on a vessel that departs from and returns to a U.S. port or place on a "voyage to nowhere".

The tonnage duty is imposed on the cargo-carrying capacity of the vessel and is assessed regardless of whether the vessel is empty or is carrying cargo.

A vessel arriving from a foreign port in the northern Western Hemisphere—Canada, Mexico, Central America—and a vessel returning from a "voyage to nowhere" must pay a tonnage duty of 9 cents per ton. However, the maximum payment for any vessel in a single year is 45 cents per ton.

A vessel arriving from a foreign port anywhere else in the world must pay a tonnage duty of 27 cents per ton, not to exceed $1.35 per ton in a single year.

Under Current law, after fiscal year 1998, the tonnage duties will revert to earlier, lesser amounts—2 cents per ton, not to exceed 10 cents per ton in a single year for vessels entering from the northern Western Hemisphere and from "voyages to nowhere"—6 cents per ton, not to exceed 30 cents per ton for other vessels subject to the duty.

House bill

The House bill maintains the current level of vessel tonnage duties through fiscal year 2002.

Senate amendment

The Senate amendment did not contain a similar provision.

Conference agreement

The conference agreement includes the House language.

FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES

Current law

Under Public Law 96-295, the Congress established emergency planning and preparedness as new legal basis for licensing of commercial nuclear power plants. The Federal Emergency Management Agency (FEMA) Radiological Emergency Preparedness (REP) Program was created to ensure that communities in close proximity to commercial nuclear power plants are prepared in the event of radiological emergencies at the facilities. The REP Program consists of research development and training exercises which are designed to prevent emergency occurrences and to improve community and facility response plans. In March of 1995, in response to a directive in the fiscal year 1993 VA-HUD Independent Agencies Appropriations Act, FEMA developed final regulations for the assessment and collection of fees to cover the costs associated with the development of community radiological emergency response plans and other related features of the REP Program. The collection of fees has been directed on a year-by-year basis.

House bill

The House bill places in statute authority for FEMA to collect fees from licensees of commercial nuclear power plants to recover costs associated with the REP Program. The authority is extended through fiscal year 2002.

Senate amendment

The Senate amendment contained a similar provision, except that the authorization to collect fees was extended through fiscal year 2005.

Conference agreement

The Conference agreement accepted the House language. The fees established shall be fair and equitable and shall reflect the full amount of FEMA's costs of providing radiological emergency services.

TITLE X—VETERANS AND RELATED PROVISIONS

SUBTITLE A—EXTENSION OF TEMPORARY AUTHORITIES

AUTHORITY TO REQUIRE THAT CERTAIN VETERANS MAKE CO-PAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS

Current law

Section 1710 of title 38, United States Code, as amended by section 8013 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508 (OBRA 90), provides that, in addition to already existing copayment obligations (enacted in Public Law 99-272), certain veterans would be required to make per diem payments of $10 for hospital care provided by the Department of Veterans Affairs (VA) and $5 for nursing home care. That per diem copayment provision, which would have expired under OBRA 90 on September 30, 1997, was extended through September 30, 1998, by section 12002 of the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66 (OBRA 93).

Section 1722A of title 38 (a) requires a veteran (other than a veteran who has a service-connected disability rated 50 percent or more or whose income is at or below the maximum annual rate of VA pension) to pay $2 for each 30-day supply of a medication furnished on an outpatient basis; (b) prohibits a reduction in the amount of the co-payment if the initial amount of medication is less than a 30-day supply; (c) states that VA may not require a veteran to pay a copayment which exceeds the cost to VA of the prescription medication in question; and (d) requires that amounts collected under this authority be credited to VA's Medical Care Cost Recovery Fund. This provision, which would have expired under OBRA 90 on September 30, 1997, was extended through September 30, 1998, by section 12002 of OBRA 93.

House bill

Section 11011 would extend for four years, through September 30, 2002, the OBRA 90 per diem copayment requirements, and VA's authority to collect medication copayments from certain veterans.

Senate amendment

Section 11011 would extend for four years, through September 30, 2002, the OBRA 90 authority for VA to collect medication copayments from certain veterans.

Compromise agreement

Section 10011 follows section 11011 the House bill.

According to CBO, the enactment of section 10011 would result in savings of $120 million in outlays over fiscal years 1996–2000, and in savings of $255 million in outlays over fiscal years 1996–2002.

MEDICAL CARE COST RECOVERY AUTHORITY

Current law

Section 1729(a) of title 38 authorizes VA to collect from a health care payment plan the reasonable cost of medical care furnished for a non-service-connected disability of a veteran who has a service-connected disability and who is entitled to non-VA care (or payment of the costs associated with receiving non-VA care) under the health care payment plan. This provision was initially enacted as section 8011 of OBRA 90 and would have expired, under OBRA 90, on October 1, 1993. Section 12003 of OBRA 93 extended the expiration date of this provision to October 1, 1998. That date is codified at section 1729(a)(2)(E) of title 38.

House bill

Section 11012 would extend for four years, through September 30, 2002, VA's authority to collect from a health care payment plan the reasonable cost of medical care furnished to a veteran who has a service-connected disability for treatment of a non-service-connected disability.

Senate amendment

Section 11012 contains a substantially identical provision.

Compromise agreement

Section 10012 contains this provision.

According to CBO, the enactment of section 10012 would result in savings of $405 million in outlays over fiscal years 1996–2000, and in savings of $855 million in outlays over fiscal years 1996–2002.

INCOME VERIFICATION AUTHORITY

Current law

Section 5317 of title 38, and section 6103 of the Internal Revenue Code, 26 U.S.C. §6103, authorize VA to verify the eligibility of recipients of, or applicants for VA need-based benefits and VA "means-tested" medical care by gaining access to income-relevant records of the Department of Health and Human Services/Social Security Administration (SSA) and Internal Revenue Service (IRS). These provisions were initially enacted as section 8051 of OBRA 90 and would have expired, under OBRA 90, on September 30, 1997. Section 12004 of OBRA 93 extended these provisions to September 30, 1998.

House bill

Section 11013 would extend for four years, through September 30, 2002, VA's authority under section 5317 of title 38 to verify income data furnished to VA by gaining access to income relevant records of the IRS and SSA.

Senate amendment

Section 11014 contains a substantially identical provision, except that it also extends section 6103 of the Internal Revenue Code.

Compromise agreement

Section 10013 follows section 11013 of the House bill. The Committees note that the title of this Reconciliation compromise pertaining to the Internal Revenue Code contains a provision extending section 6103 of the Internal Revenue Code.

According to CBO, the enactment of section 10013 would result in savings of $42 million in outlays over fiscal years 1996–2000, and in savings of $140 million in outlays over fiscal years 1996–2002.

LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE

Current law

Section 5503(f) of title 38 limits to $90 a month the maximum amount of VA needs-based pension that may be paid to Medicaid-eligible veterans and surviving spouses who have no dependents and who are in nursing homes that participate in Medicaid. This section treats such individuals as if the care were being furnished at VA expense. This provision was initially enacted as section 8003 of OBRA 90 and would have expired, under OBRA 90, on September 30, 1997. Section 12005 of OBRA 93 extended these provisions to September 30, 1998.

House bill

Section 11014 would extend for four years, through September 30, 2002, the $90 limitation on the maximum amount of VA pension which can be received by Medicaid-eligible veterans and surviving spouses who have no dependents and who are in nursing homes that participate in Medicaid.

Senate amendment

Section 11015 contains a substantially identical provision.

Compromise Agreement

Section 10014 contains this provision.

According to CBO, the enactment of section 10014 would result in savings of $437 million in outlays over fiscal years 1996–2000, and in savings of $827 million in outlays over fiscal years 1996–2002.

HOME LOAN FEES

Current law

Section 3729 of title 38 specifies fees that will be paid by borrowers who obtain home purchase loans guaranteed, insured, or made by VA.

For borrowers obtaining the first such loan, fees generally range from 0.50% to 2.0% of the loan amount, depending on the amount of the down payment to be made by the borrower and the type of military or naval service (active duty vs. selected reserve) upon which eligibility for home loan benefits is based. Pursuant to subsection (a)(4) of section 3729, an additional fee of 0.75% is added to the fees set forth in section 3729, except as otherwise specified, for "first use" loans closed between September 30, 1993 and October 1, 1998. The "additional fee" provision was enacted as section 12007(a) of OBRA 93.

With respect to borrowers obtaining subsequent housing assistance loans, section 3729 specifies that the fee to be charged shall be 3.0% of the total loan amount. This provision applies to loans which close between September 30, 1993 and October 1, 1998. This provision was enacted as section 12007(b) of OBRA 93.

House bill

Section 11015 would extend for four years, through September 30, 2002, the loan fees currently specified in section 3729 of title 38.

Senate amendment

Section 11013 contains a substantially identical provision.

Compromise agreement

Section 10015 contains this provision.

According to CBO, the enactment of section 10015 would result in savings of $289 million in outlays over fiscal years 1996–2000, and in savings of $581 million in outlays over fiscal years 1996–2002.

PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS

Current law

Section 3732 of title 38 specifies that VA has two options when a property, the financing of which is guaranteed under the VA Home Loan Guaranty Program, goes into foreclosure. VA may simply pay off the guaranty, or the VA may elect to purchase the property securing the loan in default and resell it. The decision on the course of action to take will depend, generally, on VA calculations as to which action would be less costly and, therefore, more advantageous to the Government.

The provisions governing the above calculations, and the circumstances under which VA shall exercise the latter option are set forth in subsection (c) of section 3732. Subsection (c) applies only with respect to properties financed with VA-guaranteed home loans which close before October 1, 1998. That period of applicability was extended to that date by section 13004 of OBRA 93.

House bill

Section 11016 would extend for four years, through September 30, 2002, the provisions of subsection (c) of section 3732.

Senate amendment

The Senate amendment contains no comparable provision.

Compromise agreement

Section 10016 follows section 11016 of the House bill.

According to CBO, the enactment of section 10016 would result in savings of $8 million over fiscal years 1996–2000, and in savings of $16 million in outlays over fiscal years 1996–2002.

ENHANCED LOAN ASSET SALE AUTHORITY

Current law

Section 3720(h) authorizes VA to guarantee the timely payment of principal and interest to purchasers of real estate mortgage investment conduits (REMICs). REMICs are used to "bundle" and market a number vendee loan notes—that is, notes on direct loans made by VA to purchasers of VA-acquired real estate—so that they may be sold for cash under favorable terms. Under this authority, VA guarantees to REMIC purchasers that principal and interest will be paid timely. That assurance facilitates the marketing of such securities and enhances their value in the marketplace. It thus increases the return to the Treasury when such securities are sold.

VA's authority to guarantee REMICs expires on December 31, 1995.

House bill

Section 11024 would extend, through September 30, 1996, VA's authority to guarantee the timely payment of principal and interest to purchasers of REMICs.

Senate amendment

The Senate amendment contains no comparable provision.

Compromise agreement

Section 10017 follows section 11024 of the House bill, except that it extends VA's authority to guarantee the timely payment of principal and interest to the purchasers of REMICs through September 30, 2002.

According to CBO, the enactment of section 10017 would result in savings of $5 million in fiscal year 1996, in savings of $25 million in outlays over fiscal years 1996–2000, and in savings of $35 in outlays over fiscal years 1996–2002.

SUBTITLE B—OTHER MATTERS

REVISION TO PRESCRIPTION DRUG COPAYMENT

Current law

Section 1722A of title 38: (a) requires that certain veterans pay $2 for each 30-day supply of a medication furnished on an outpatient basis; (b) prohibits a reduction in the amount of the co-payment if the initial amount of medication is less than a 30-day supply; (c) states that VA may not require a veteran to pay a copayment which exceeds the cost to VA of the prescription medication in question; and (d) requires that amounts collected under this authority be credited to VA's Medical Care Cost Recovery Fund. Section 1722A, however, exempts the following categories of veteran from the copayment requirement: veterans with a service-connected disability rated 50% or more; and veterans with an annual income at or below the maximum annual rate of VA pension. This provision is currently scheduled to expire on September 30, 1998.

Section 5302 of title 38 authorizes the Secretary of Veterans Affairs to waive, on equitable grounds, the recovery of any payment owed to VA.

House bill

Section 11021 would: (a) increase the copayment amount to $3; (b) repeal the requirement that the copayment not exceed the cost of the medication in question; and (c) specify that the VA's "waiver of indebtedness" authority under section 5302 not apply to veterans' obligations to make medication copayments under section 1722A.

Senate amendment

The Senate amendment contains no comparable provision.

Compromise agreement

Section 10021 follows section 11021 of the House bill, except that it increases the copayment amount to $4, and adds former prisoners of war to the listing of veterans who are exempt from the medication copayment requirement.

According to CBO, the enactment of section 10021 would result in savings of $74 million in fiscal year 1996, in savings of $496 million in outlays over fiscal years 1996–2000, and in savings of $742 million in outlays over fiscal years 1996–2002.

ROUNDING DOWN OF COST-OF-LIVING ADJUSTMENTS IN COMPENSATION AND DIC RATES

Current law

Under chapter 11 of title 38, VA pays a monthly cash benefit, compensation, to veterans who have service-connected disabilities. The amount of the payment varies with the degree of service-connected disability suffered by the veteran.

Under chapter 13 of title 38, VA pays monthly cash benefits, Dependency and Indemnity Compensation (DIC), to survivors of service members or veterans who died, on or after January 1, 1957, from a disease or injury incurred or aggravated during active service. Until 1992, the basic monthly benefit received by the DIC recipient varied with the pay grade at which the deceased service member or veteran was compensated during service. In 1992, chapter 13 was amended to put into place a new system of DIC that pays a "flat rate"—that is, a rate which pays all beneficiaries of DIC the same basic monthly benefit irrespective of the deceased's former military or naval pay grade. "Old-law" DIC recipients, however, are "grandmothered"—that is, if the basic DIC benefit the beneficiary would receive under the "old-law" grade-based program exceeds the "new-law" flat rate amount, the beneficiary continues to receive the "old-law" benefit.

Compensation and DIC payments are not indexed. The Congress has, however, enacted legislation which, for a given year, has adjusted compensation and DIC benefits to reflect the percentage of change in the consumer price index (CPI) relative to the prior year. When such a cost-of-living adjustment (COLA) is legislated and new compensation and DIC rates are thereby computed, the prior year's benefit—which is paid in "round dollar" amounts—is multiplied by a fraction which expresses the change in the CPI, and the product is then converted to a whole-dollar amount using "normal" rounding techniques. That is, if the product of the whole dollar amount multiplied by the CPI is a fractional dollar amount of $0.50 or more, the compensation or DIC payment is rounded up; if it is a fractional amount of $0.49 or less, it is rounded down.

House bill

Section 11022 requires VA to "round down" any cost-of-living (COLA) adjustments that might be made during fiscal years 1996 through 2002.

Section 11022 also specifies a method for calculating COLAs for "old-law" DIC recipients during fiscal years 1996 through 2002. It states that (a) all DIC recipients shall receive the same dollar-amount COLA; and (b) that "flat rate" COLA shall be equal to the whole dollar amount that is yielded when the "new-law" DIC rate is calculated by reference to the percentage change in the CPI, rounded down.

Senate amendment

Section 11021 contains a "round down" provision that is substantially identical to the House bill. It contains no provision which is comparable to the House bill's "flat rate" COLA for "old-law" DIC beneficiaries.

Compromise agreement

Section 10022 follows the House bill.

According to CBO, the enactment of section 10022 would result in savings of $17 million in outlays in fiscal year 1996, in savings of $333 million in outlays over fiscal years 1996–2000, and in savings of $634 million in outlays over fiscal years 1996–2002.

REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT

Current law

Section 1151 of title 38 states that if a veteran/patient suffers an injury as a result of VA medical care (and not as a result of the veteran/patient's own willful misconduct), and that injury results in additional disability or death, then the veteran/patient and his or her survivors shall be entitled to compensation and DIC benefits as if the additional disability or death were service-connected. VA regulations also set forth standards for the awarding of compensation or DIC for injuries or death resulting from VA medical care. Until recently, those regulations had specified that compensation or DIC would be paid only if the requirements set forth in the text of section 1151 were met and the injury in question had been a result of either VA fault or an "accident," defined by VA regulations as an "unforeseen, untoward" event.

Recent litigation, culminating in the U.S. Supreme Court's decision in Brown v. Gardner,—U.S. ——, 115 S.Ct. 552, 130 L.Ed.2d 462 (1994), challenged the imposition, by VA regulation, of a "fault-or-accident" requirement not set forth in the text of section 1151. The courts ruled, inter alia, that no such requirement was set forth in statute; that the statute did not authorize VA to impose such a requirement by regulation; and that, therefore, VA could not deny compensation for failure to satisfy the "fault-or-accident" requirement. The courts also indicated that their decisions were premised on the text of section 1151 as enacted by Congress, which text Congress—but not VA—may modify.

VA has amended its regulations to conform to the standards specified in the above-referenced court rulings.

House bill

Section 11023 would amend section 1151 to establish a new standard similar to VA's invalidated "fault-or-accident" requirement with respect to all medical injuries for which a claim for section 1151 benefits was received by VA on or after October 1, 1995. It would also provide for VA liability for medical injuries caused by an event which was not reasonably foreseeable.

Senate amendment

Section 11041 contains a substantially identical provision.

Compromise agreement

Section 10023 contains this provision.

According to CBO, the enactment of section 10023 would result in savings of $89 million in fiscal year 1996, in savings of $1.601 billion in outlays over fiscal years 1996–2000, and in savings of $2.498 billion in outlays over fiscal years 1996–2002.

WITHHOLDING OF PAYMENTS AND BENEFITS

Current law

Section 3726 of title 38 states that, except as noted, no Federal agency may offset any payment owed to a veteran (or a deceased veteran's surviving spouse) in order to collect on a debt owed to VA by the veteran (or surviving spouse) under VA's home loan guaranty program unless one of two requirements are met: the debtor consents to the offset; or a judgement against the debtor from a court of competent jurisdiction is secured. The only exception to the rule is that veterans' benefits may be so offset.

House bill

Section 11025 would amend section 3726 to authorize VA to refer a veteran's (or surviving spouse's) home loan guaranty debt to another Federal agency for offset under certain circumstances. Referrals would be allowed if (a) the debtor is given notice, in writing, of VA's authority to waive debts under section 5302 of title 38; (b) VA makes an affirmative determination that the debtor should not be released from liability under section 3713(b) of title 38; and (c) the debtor has been notified of procedures available to appeal a determination that a release of liability is not warranted. In effect, this provision allows VA to refer such debts to the Internal Revenue Service for offset against income tax refunds or, in the case of debtors who are Federal employees, to the debtor's employing agency for offset against salary or wages.

Senate amendment

The Senate amendment contains no comparable provision.

Compromise Agreement

Section 10024 follows section 11025 of the House bill.

According to CBO, the enactment of section 10024 would result in savings of $90 million in outlays in fiscal year 1996, in savings of $90 million in outlays over fiscal years 1996–2000, and in savings of $90 in outlays over fiscal years 1996–2002.

HEALTH CARE ELIGIBILITY REFORM (HOUSE BILL)/EDUCATIONAL BENEFITS AMENDMENTS (SENATE AMENDMENT)

Current law

Eligibility for VA Health Care Services: Section 1710(a)(1) of title 38 states that VA shall provide needed hospital care, and may provide needed nursing home care, to specified classes of veterans for treatment of specified conditions. Those classes include: veterans who have service-connected disabilities for treatment of those service-connected disabilities; veterans who were discharged from service due to disabilities for treatment of any disability; veterans who would receive disability compensation but for the operation of laws which preclude "dual compensation" for treatment of any disability; veterans who have a service-connected disability rated at 50% or more for treatment of any disability; veterans who have a service-connected disability rated less than 50% for treatment of any disability; veterans who are former prisoners of war for treatment of any disability; veterans of the Persian Gulf War who VA finds might have been exposed to toxic substances or environmental hazards for treatment of conditions other than those determined by VA not to have been caused by that exposure; veterans of the Mexican border period or World War I for treatment of any disabilities; and veterans with non-service-connected disabilities if the veteran is of limited means as determined in accordance with section 1722(a) of title 38. Other veterans are eligible for VA hospital care, but only to the extent that resources and space are available to provide such care, and only if the veteran makes copayments.

Section 1712 of title 38 establishes various rules governing VA provision of outpatient medical services. VA shall furnish needed outpatient medical services to veterans who have a service connected disability (including veterans who were discharged from service due to disabilities and veterans eligible for compensation under section 1151) for treatment of that disability, and to veterans who have a service-connected disability rated at 50% or more for treatment of any disability. Section 1712 also states that VA shall provide needed "pre-, post-, and obviate" outpatient treatment to veterans who have a service-connected disability rated at 30% or 40%, and to veterans whose income does not exceed the maximum amount of VA pension. VA may furnish all needed medical services to classes of veterans including former prisoners of war, World War I veterans, and those receiving increased benefits based on need of aid and attendance or permanent housebound status. VA may furnish "pre-, post-, and obviate" services to other veterans who are eligible for care under the "means test" in section 1722(a).

Educational Benefits: Chapter 30 of title 38 states rules applicable to the All-Volunteer Force Educational Assistance Program, or the "Montgomery GI Bill" (MGIB). Recipients of MGIB benefits who are pursuing full time programs of study receive monthly benefits checks (which vary from $328.97 to $404.88 per month for 36 months depending on the period of the beneficiary's initial obligated period of active duty) if they had not "opted out" of participation while in service. The military or naval pay of service members who do not "opt out" of MGIB participation is reduced $100 per month during the first 12 months of service.

House bill

Eligibility for VA Health Care Services: Sections 11031 through 11037 affect a broad revision of the statutes governing eligibility for VA hospital care and outpatient treatment (including the provision of prosthetics). That revision substitutes a single uniform eligibility standard—"medical need"—for eligibility for hospital and outpatient care which would be applied to all veterans for whom VA, under current law, shall provide all needed hospital care (other than veterans whose only eligibility for hospital care is based on a service-connected disability rated at 0%). Thus, those veterans to whom VA, under current law, shall provide all needed hospital care would also be eligible for all needed outpatient medical treatment.

The measure would also require VA to establish an annual enrollment system for VA hospital and outpatient care and to manage that system in accordance with specified priorities. It would also grant to VA greater flexibility to contract for hospital care and medical services from "outside" sources, and to "share" VA resources with outside providers, while directing that VA maintain its "in-house" capacity to provide specialized treatment and rehabilitation services to disabled veterans, including those with spinal cord dysfunction, blindness, amputations and mental illness. Finally, the measure would extend expiring provisions of law (section 204 of Public Law 102-585) authorizing VA to enter into agreements to provide services to certain beneficiaries of the Department of Defense, and authorize VA to recover payments from health plans for care for which the patient (or the provider) would be eligible for payment under the plan furnished certain beneficiaries of the Department of Defense.

Educational Benefits: The House bill contains no provision pertaining to educational benefits.

Senate amendment

Eligibility for VA Health Care Services: The Senate bill contains no provision pertaining to eligibility for VA health care services.

Educational Benefits: Section 11031 limits, through September 30, 2002, the annual adjustment in MGIB benefits to one-half of the Consumer Price Index.

Section 11032 raises, for fiscal year 1996, the monthly pay reduction of service members who do not "opt out" of MGIB from $100 per month for twelve months to $134.96 per month for twelve months. It also "pegs" the monthly pay reduction, for fiscal years 1997 through 2002, to the same index to which MGIB benefits are tied.

Compromise agreement

Eligibility for VA Health Care Services: The bill follows the Senate bill provision. That is, it contains no provision pertaining to eligibility for VA health care services. The conferees note, however, that the Senate Committee on Veterans Affairs intends to hold legislative hearings during the 104th Congress to consider the issue of eligibility reform.

Educational Benefits: The bill follows the House bill provision. That is, it contains no provision pertaining to educational benefits.

TITLE XI. REVENUE PROVISIONS[1]

I. FAMILY TAX RELIEF

A. CHILD TAX CREDIT FOR CHILDREN UNDER AGE 18 (SEC. 6101 OF H.R. 1215 AND SEC. 12001 OF THE SENATE AMENDMENT)

Present Law

Present law does not provide tax credits based solely on the taxpayer's number of dependent children. Taxpayers with dependent children, however, generally are able to claim a personal exemption for each of these dependents.

House Bill

The House bill allows taxpayers a nonrefundable tax credit of $500 for each qualifying child under the age of 18. The credit amount is indexed for inflation after 1996.

The credit is phased out ratably for taxpayers with modified AGI over $200,000, and is fully phased out at modified AGI of $250,000. For purposes of the AGI phaseout, the taxpayer's AGI is increased by the amount otherwise excluded from gross income under Code sections 911, 931, or 933 (relating to the exclusion of income of U.S. citizens or residents living abroad; residents of Guam, the Northern Mariana Islands, and American Samoa; and residents of Puerto Rico, respectively). After 1996, the beginning point of the phaseout range ($200,000) is indexed for inflation. The size of the phaseout range will change as needed so as to remain 100 times the maximum amount of the credit per child.

Married taxpayers filing separate returns generally may not claim the credit.

Effective date.—The provision is effective for taxable years beginning after December 31, 1995.

Senate Amendment

The Senate amendment allows taxpayers a nonrefundable tax credit of $500 for each qualifying child under the age of 18. The credit amount is not indexed for inflation.

For taxpayers with AGI in excess of certain thresholds, the allowable child credit is reduced by $25 for each $1,000 of AGI (or fraction thereof) in excess of the threshold. For married taxpayers filing joint returns, the threshold is $110,000. For taxpayers filing single or head of household returns, the threshold is $75,000. For married taxpayers filing separate returns, the threshold is $55,000. These thresholds are not indexed for inflation.

Effective date.—The provision is effective for taxable years beginning after December 31, 1995.

Conference Agreement

The conference agreement follows the Senate amendment, except that the credit is effective October 1, 1995. The portion of the child credit that is effective for the period from October 1, 1995, through December 31, 1995, will be provided to taxpayers through a special procedure. The Internal Revenue Service has raised significant concerns about making the credit available through the normal return filing process for the 1995 income tax return. In light of these concerns, the conferees have directed the IRS to use a special procedure to help taxpayers obtain their 1995 child tax credit. Under this procedure, the IRS is directed to issue a form on which taxpayers can file for their 1995 child tax credit following the completion of the normal tax return filing season (i.e., after April 15, 1996). The IRS is directed to mail a notice to taxpayers on or before February 1, 1996.

The text of the notice will read as follows: "The Balanced Budget Act of 1995 was recently passed by the Congress. The Act's child tax credit allows taxpayers to reduce their taxes by $500 per child. The credit is effective October 1, 1995. You may wish to check with your employer about changing your tax withholding to take immediate advantage of the credit to which you are entitled for the current tax year. In addition, the Internal Revenue Service will be sending you a form in June of this year which you may use to claim the credit to which you are entitled for the period from October 1 through December 31, 1995 ($125 per child for 1995). In order to obtain your 1995 credit, you should file this form by August 15, 1996. Your refund will be sent to you sometime after October 1, 1996."

The IRS will mail to taxpayers on or before June 1, 1996, the form on which taxpayers may request their 1995 child tax credit. If taxpayers file their requests for their 1995 child tax credit on or before August 15, 1996, the IRS will mail their checks to them between October 1, 1996, and October 15, 1996.

In the case where a taxpayer's 1995 income tax liability had been reduced by a refundable credit, the amount of the 1995 child credit that is allowable would be calculated as if the taxpayer had been able to claim the 1995 child credit at the time that the taxpayer filed his or her 1995 income tax return. For example, suppose a taxpayer had a 1995 income tax liability of $110 prior to the application of a $1,000 refundable tax credit. The refundable credit would reduce the income tax liability to zero and a refund of $890 would be paid to the taxpayer. If the taxpayer has one qualifying child for the 1995 portion of the child tax credit, the taxpayer may receive an additional $110 refund, since he would have been able to use $110 of the $125 of 1995 child tax credit to offset his or her 1995 income tax liability, had the child tax credit been available on the 1995 income tax return.

The amount of the 1995 child credit generally will be treated as an overpayment of taxes for purposes of the appropriation of funds to pay the credit amounts.

B. MARRIAGE PENALTY RELIEF: TAX CREDIT; INCREASE IN STANDARD DEDUCTION FOR JOINT RETURNS (SEC. 6102 OF H.R. 1215 AND SEC. 12002 OF THE SENATE AMENDMENT)

Present Law

MARRIAGE PENALTY

A married couple generally is treated as one tax unit that must pay tax on the unit's total taxable income. Although married couples may elect to file separate returns, the rate schedules and provisions are structured so that filing separate returns usually results in a higher tax than filing joint returns. Other rate schedules apply to single persons and to single heads of household.

A "marriage penalty" exists when the sum of the tax liabilities of two unmarried individuals filing their own tax returns (either single or head of household returns) is less than their tax liability under a joint return (if the two individuals were to marry). A "marriage bonus" exists when the sum of the tax liabilities of the individuals is greater than their combined tax liability under a joint return.

While the size of any marriage penalty or bonus under present law depends upon the individuals' incomes, number of dependents, and itemized deductions, as a general rule married couples whose earnings are split more evenly than 70-30 suffer a marriage penalty. Married couples whose earnings are largely attributable to one spouse generally receive a marriage bonus.

Under present law, the size of the standard deduction and the tax bracket breakpoints follow certain customary ratios across filing statuses. The standard deduction and tax bracket breakpoints for single filers are roughly 60 percent of those for joint filers. With these ratios, unmarried individuals have standard deductions whose sum exceeds the standard deduction they would receive as a married couple filing a joint return. Thus, their taxable income as joint filers may exceed the sum of their taxable incomes as unmarried individuals.

Standard deduction

Taxpayers who do not itemize deductions may choose the standard deduction, which is subtracted (along with certain other items) from adjusted gross income (AGI) in arriving at taxable income. The size of the standard deduction varies according to filing status and is indexed for inflation. For 1996, the size of the standard deduction is projected to be as follows:

Filing status	*Standard deduction*
Married, joint return	$6,700
Head of household return	5,900
Single return	4,000
Married, separate return	3,350

For 1996, the standard deduction for joint returns is projected to be 1.675 times the standard deduction for single returns.

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[1] Rule XXI5(c) of the Rules of the House of Representatives provides that "No bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting." The House conferees have carefully reviewed the provisions of title XI of the conference agreement, and all other provisions of the conference agreement, to determine whether any of these provisions constitutes a Federal income tax rate increase within the meaning of the House Rules. It is the opinion of the House conferees that there is no provision of the conference agreement that constitutes a Federal income tax rate increase within the meaning of House Rule XXI5(c) or (d).

House Bill

Under the House bill, married couples who file a joint return may be eligible for a nonrefundable credit of up to $145 against their income tax liability. The Secretary of the Treasury is directed to issue tables calculating the marriage penalty credit applicable for married taxpayers based on the qualified earned income of each of the spouses.

The amount of the credit is based on the hypothetical tax liabilities that would result if the individual income tax rates applicable to single filers were applied to each spouse's qualified earned income, allowing for one personal exemption and the standard deduction allowed for single filers. The sum of those hypothetical tax liabilities is compared to the hypothetical tax liability that would result if the individual income tax rates applicable to married couples filing joint returns were applied to the aggregate qualified earned income of the spouses, allowing for two personal exemptions and the standard deduction allowed for joint filers.

Effective date.—The provision is effective for taxable years beginning after December 31, 1995.

Senate Amendment

The Senate amendment increases the standard deduction for married taxpayers filing a joint return according to the following schedule:

For taxable years beginning in calendar year—	*The standard deduction would be—*
1996	$6,800
1997	7,150
1998	7,500
1999	7,950
2000	8,200
2001	8,600
2002	9,100
2003	9,500
2004	9,950
2005	10,800

For calendar years after 2005, the $10,800 amount is indexed for inflation.

Effective date.—The provision is effective for taxable years beginning after December 31, 1995.

Conference Agreement

The conference agreement follows the Senate amendment, except that the conference agreement modifies the schedule for increasing the standard deduction for joint returns. In addition, the amount of the standard deduction for joint returns is expressed relative to the standard deduction for single returns as follows:

For taxable years beginning in calendar year—	*The ratio of the standard deduction for joint returns relative to single returns would be—*
1996	1.68
1997	1.71
1998	1.72
1999	1.73
2000	1.75
2001	1.77
2002	1.78
2003	1.88
2004	1.91
2005 and after	2.00

The dollar values of the standard deduction for joint filers will be published each year in the instructions for the income tax returns; taxpayers will not be required to perform the multiplications described above.

C. TAX CREDIT FOR ADOPTION EXPENSES; EXCLUSION FOR CERTAIN ADOPTION EXPENSES (SEC. 6401 OF H.R. 1215 AND SEC. 12003 OF THE SENATE AMENDMENT)

Present law

Present law does not provide a tax credit for adoption expenses. Present law also does not provide an exclusion from gross income for employer-provided adoption assistance.

House bill

The House bill provides a nonrefundable tax credit of up to $5,000 per child for qualified adoption expenses paid or incurred by the taxpayer. The credit is denied for any expense to the extent that such expenses are also funded by any Federal, State or local grant program. An exception from this rule is provided solely in the case of certain special-needs adoptions.

The credit is phased out ratably between $60,000 and $100,000 of modified adjusted gross income (AGI). The House bill does not include an exclusion for employer-provided adoption assistance.

Effective date.—Taxable years beginning after December 31, 1995.

Senate amendment

The Senate amendment differs from the House bill in five respects. Unlike the House bill, the Senate amendment:

(1) Allows the credit to be carried forward for up to five taxable years;

(2) Phases out the credit based on taxable income, not modified AGI;

(3) Does not allow a credit in the case of special-needs adoptions to the extent funded by Federal, State or local grant programs;

(4) Requires a finalized adoption for credit eligibility; and

(5) Provides an exclusion from income (up to $5,000 per child) for employer-provided adoption assistance.

Effective date.—Same as the House bill.

Conference agreement

The conference agreement follows the Senate amendment with three modifications. First, the phaseout ranges for the credit and exclusion start at $75,000 of modified AGI and end at $115,000 of modified AGI. Second, the requirement of a finalized adoption is applied only in the case of international adoptions. Third, the exception relating to special-needs adoptions in the House bill is included in the conference agreement

Effective date.—Taxable years beginning after December 31, 1995.

D. INTEREST ON STUDENT LOANS (SEC. 12004 OF THE SENATE AMENDMENT)

Present law

The Tax Reform Act of 1986 repealed the deduction for personal interest. Student loan interest generally is treated as personal interest and thus is not allowable as an itemized deduction from income. There is no tax credit allowed for student loan interest paid by a taxpayer.

House bill

No provision.

Senate amendment

In general

The Senate amendment allows individuals who have paid interest on qualified education loans a nonrefundable credit against income tax liability equal to 20 percent of such interest. The maximum credit allowed is $500 ($1,000 in the case of a taxpayer paying interest on loans for two or more students). Unused amounts of credit cannot be carried forward or backward to other taxable years.

A qualified education loan generally is any indebtedness incurred to pay for the qualified higher education expenses of the taxpayer or the taxpayer's spouse or dependents in attending (1) higher education institutions and certain area vocational education schools (i.e., eligible educational institutions defined in Code section 135(c)(3)) or (2) institutions conducting internship or residency programs leading to a degree or certificate from an institution of higher education, a hospital, or a health care facility conducting postgraduate training.

Qualified higher education expenses are the student's cost of attendance as defined in section 472 of the Higher Education Act of 1965 (generally, tuition, fees, room and board, and related expenses). At the time the expenses are incurred, the student has to be the taxpayer or the taxpayer's spouse or dependent.

Income phaseout range for credit

The credit is phased out ratably over the following modified adjusted gross income (modified AGI) ranges: joint filers ($60,000-$75,000) and unmarried individuals ($40,000-$55,000). The beginning of the phaseout ranges (but not the size of the phaseout range) is indexed for inflation for taxable years beginning after 1996. Modified AGI is defined as the taxpayer's AGI (1) increased by the amount otherwise excluded from gross income under Code sections 135, 911, 931, or 933 (relating to educational savings bonds and to the exclusion of income of U.S. citizens or residents living abroad; residents of Guam, the Northern Mariana Islands, and American Samoa; and residents of Puerto Rico, respectively) and (2) calculated after the inclusion of Social Security benefits in income, the deduction for contributions to individual retirement arrangements, and the limitation on passive losses.

Credit claimed for interest on borrowing for expenses of taxpayer or spouse

In the case of qualified education loans used to pay the qualified higher education expenses of the taxpayer or the taxpayer's spouse, the credit is allowed only with respect to interest paid on a qualified education loan during the first 60 months in which interest payments are required. For purposes of counting the 60 months, any qualified education loan and all refinancing (that is treated as a qualified education loan) of such loan is treated as a single loan.

Credit claimed for interest on borrowing for expenses of taxpayer's dependent

In the case of qualified education loans used to pay the qualified higher education expenses of an individual other than the taxpayer or the taxpayer's spouse, no credit is allowed unless the individual is claimed as a dependent of the taxpayer for that taxable year and the individual is at least a half-time student during that taxable year.

Limitations on claiming credit

No credit is allowed to an individual if that individual is claimed as a dependent on another taxpayer's return for the taxable year beginning in the calendar year in which such individual's taxable year begins. No credit is allowed for interest on any amount of education loan indebtedness for which a deduction is claimed under any other provision.

Couples who are married at the end of the taxable year have to file a joint return to claim the credit unless they lived apart for the last six months of the taxable year and the individual claiming the credit (1) maintained as his or her home a household for a dependent child for more than one-half of the taxable year and (2) furnished over one-half of the cost of maintaining that household in that taxable year. An individual legally separated from his spouse under a decree of divorce or separate maintenance is not considered married for purposes of this provision.

Information reporting on student loan interest

Any person in a trade or business or any governmental agency who receives $600 or more in qualified education loan interest from an individual during a calendar year is required to file an information report on such interest to the IRS and to the payor. In the case of interest received by any person on behalf of another person, generally only the first person receiving the interest is required to file the information reports.

Effective date

The provision is effective for payments of interest due after December 31, 1995, on any qualified education loan. Thus, in the case of already existing qualified education loans used to pay the qualified higher education expenses of the taxpayer or the taxpayer's spouse, interest payments will qualify for the credit to the extent that the 60-month period has not expired.

Conference agreement

In general

The conference agreement provides that certain individuals who have paid interest on qualified education loans may claim an above-the-line deduction for such interest expenses, up to a maximum deduction of $2,500 per year. The definitions of qualified education loans and qualified education expenses follow the Senate amendment, except that in order for the interest to be deductible under this provision, the indebtedness must be incurred to pay for the qualified higher education expenses of the taxpayer or the taxpayer's spouse.

Income phaseout range for deduction

The conference agreement follows the Senate amendment, except that the deduction is phased out ratably over the following modified AGI ranges: joint filers ($65,000-$85,000) and unmarried individuals ($45,000-$65,000).

Deduction claimed for interest on borrowing for expenses of taxpayer or spouse

The conference agreement follows the Senate amendment, with the clarification that months during which the qualified education loan is in deferral or forbearance do not count against the 60-month period.

Limitations on claiming deduction

The conference agreement follows the Senate amendment.

Information reporting on student loan interest

The conference agreement follows the Senate amendment. The conferees expect that the Secretary of the Treasury will clarify in regulations the information reporting requirements on qualified educational loans.

Effective date

The conference agreement follows the Senate amendment.

E. CUSTODIAL CARE OF CERTAIN ELDERLY FAMILY MEMBERS IN TAXPAYER'S HOME (SEC. 6402 OF H.R. 1215)

Present law

Generally, present law does not provide for tax credits based on custodial care of parents and grandparents.

House bill

The House bill provides a nonrefundable income tax credit of $500 for each qualified family member. Generally, a qualified family member is a parent or grandparent who lives with the taxpayer and is physically or mentally incapable of caring for himself or herself.

Effective Date.—Taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement provides for an above-the-line deduction of up to $1,000 of certain expenses incurred in the care of each qualified family member. The conference agreement generally follows the definition of qualified persons contained in the House bill with the addition of a support test.

Effective Date.—Taxable years beginning after December 31, 1995

F. INCLUSION IN INCOME OF SOCIAL SECURITY BENEFITS (SEC. 6201 OF H.R. 1215)

Present law

In general

Under present law, taxpayers receiving Social Security and Railroad Retirement Tier 1 benefits are not required to include any such benefits in gross income if their "provisional income" does not exceed $25,000 in the case of unmarried taxpayers or $32,000 in the case of married taxpayers filing joint returns. For purposes of these computations, a taxpayer's provisional income is defined as adjusted gross income plus tax-exempt interest plus certain foreign source income plus one-half of the taxpayer's Social Security or Railroad Retirement Tier 1 benefit.

Certain taxpayers with provisional income in excess of those thresholds are required to include in gross income up to 50 percent of their Social Security or Railroad Retirement Tier 1 benefit. Under a provision added by the Revenue Reconciliation Act of 1993 ("1993 Act"), taxpayers with provisional income in excess of a second-tier threshold ($34,000 in the case of unmarried taxpayers or $44,000 in the case of married taxpayers filing joint returns) are required to include in gross income up to 85 percent of their Social Security or Railroad Retirement Tier 1 benefit.

If the taxpayer's provisional income exceeds the lower threshold but does not exceed the second-tier threshold, then the amount of the inclusion is the lesser of (1) 50 percent of the taxpayer's Social Security or Railroad Retirement Tier 1 benefit, or (2) 50 percent of the excess of the taxpayer's provisional income over the lower threshold.

If the amount of provisional income exceeds the second-tier threshold, then the amount of the inclusion is the lesser of: (1) 85 percent of the taxpayer's Social Security or Railroad Retirement Tier 1 benefit or (2) the sum of: (a) 85 percent of the excess of the taxpayer's provisional income over the second-tier threshold, plus, (b) the smaller of (I) the amount of benefits that would have been included if the 50-percent inclusion rule (the rule in the previous paragraph) were applied, or (ii) one-half of the difference between the taxpayer's second-tier threshold and lower threshold.

Treatment of nonresident alien individuals

If a nonresident alien individual is engaged in a trade or business within the United States during the taxable year, the individual is subject to U.S. tax at the normal graduated rates on net taxable income that is effectively connected with the conduct of the U.S. trade or business. For purposes of taxing the income of nonresident alien individuals, the income thresholds for including Social Security and Railroad Retirement Tier 1 benefits do not apply. Instead, a fixed percentage of any such benefit is included in gross income. Until January 1, 1995, that percentage was 50 percent.

The implementing legislation for the General Agreement on Tariffs and Trade (P.L. 103-465) increased from 50 percent to 85 percent the amount of Social Security or Railroad Retirement Tier 1 benefits included in the gross income of a nonresident alien individual, effective for benefits paid after December 31, 1994, in taxable years ending after such date.

Trust funds

Revenues from the income taxation of Social Security and Railroad Retirement Tier 1 benefits attributable to the 1993 Act increase in the portion of benefits included in gross income are credited quarterly to the Medicare Hospital Insurance (HI) Trust Fund. The remainder of the proceeds from the income taxation of Social Security and Railroad Retirement Tier 1 benefits are credited quarterly to the Old-Age and Survivors Insurance Trust Fund, the Disability Insurance Trust Fund, or the Social Security Equivalent Benefit Account (of the Railroad Retirement system), as appropriate.

House bill

In general

The House bill phases in a repeal of the higher rate of income inclusion for taxpayers with provisional incomes in excess of the second-tier threshold.

For taxable years beginning in calendar years 1996 through 1999, if the amount of provisional income exceeds the second-tier threshold, then the amount of the inclusion is calculated as under present law, except that the following rates are substituted for "85 percent":

For taxable years beginning in calendar year—	*The percentage is—*
1996	75 percent
1997	65 percent
1998	60 percent
1999	55 percent.

For taxable years beginning after December 31, 1999, Social Security and Railroad Retirement Tier 1 benefits will be treated as under the law prior to 1994: if the amount of provisional income exceeds $25,000 in the case of unmarried taxpayers or $32,000 in the case of married taxpayers filing joint returns, then the amount of the inclusion is the lesser of (1) 50 percent of the taxpayer's Social Security or Railroad Retirement Tier 1 benefit, or (2) 50 percent of the excess of the taxpayer's provisional income over the threshold.

Treatment of nonresident alien individuals

The House bill phases in a reduction in the amount of Social Security or Railroad Retirement Tier 1 benefits included in the gross income of a nonresident alien individual. The inclusion percentage for any taxable year beginning in calendar years 1996 through 1999 is as given in the table above. For taxable years beginning after December 31, 1999, the amount of Social Security or Railroad Retirement Tier 1 benefits included in the gross income of a nonresident alien individual will be 50 percent.

Trust funds

Revenues from the income taxation of Social Security and Railroad Retirement Tier 1 benefits attributable to the increased portion of benefits included in gross income under the 1993 Act (as phased out under the provision) will be credited to the Old-Age and Survivors and Disability Insurance Trust Funds.

Effective date

In general, the provision is effective for taxable years beginning after December 31, 1995. The provision crediting revenues to the

Old-Age and Survivors and Disability Insurance Trust Funds applies to tax liabilities for taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

II. SAVINGS AND INVESTMENT INCENTIVES

A. PROVISIONS RELATING TO INDIVIDUAL RETIREMENT ARRANGEMENTS (SECS. 6103-6104 OF H.R. 1215, SECS. 19002(D) AND (E) OF THE HOUSE BILL AND SECS. 12101-12103, 12111, AND 12121 OF THE SENATE AMENDMENT)

Present law

Deductible IRA contributions

In general

An individual may make deductible contributions to an individual retirement arrangement ("IRA") up to the lesser of $2,000 or the amount of the individual's compensation if the individual is not an active participant in an employer-sponsored qualified retirement plan (and, if married, the individual's spouse also is not an active participant). An individual who makes excess contributions to an IRA, i.e., contributions in excess of $2,000, is subject to an excise tax on such excess contributions unless they are distributed from the IRA before the due date for filing the individual's tax return for the year (including extensions).

Income phase-out range

If the individual (or his or her spouse, if married) is an active participant, the $2,000 limit is phased out between $40,000 and $50,000 of adjusted gross income ("AGI") for married couples and between $25,000 and $35,000 of AGI for single individuals.

Inflation adjustment for IRA contribution limit

The $2,000 limit on IRA contributions is not indexed for inflation.

Spousal IRAs

In the case of a married individual whose spouse has no compensation (or elects to be treated as having no compensation) the $2,000 limit on IRA contributions is increased to the lesser of $2,250 or the individual's compensation.

Nondeductible tax-free IRAs

No provision. (However, present law does permit individuals to make nondeductible contributions to an IRA to the extent an individual is not permitted to (or does not) make deductible contributions. Earnings on such contributions are includible in gross income when withdrawn.)

Taxation of distributions

Amounts withdrawn from an IRA are includible in gross income (except to the extent of nondeductible contributions).

In addition, a 10-percent additional tax applies to distributions from IRAs made before age 59½, unless the distribution is on account of death or disability or is made in the form of annuity payments.

House bill

In general

The House bill permits a deductible IRA contribution of up to $2,000 to be made to an IRA for each spouse in a married couple. The House bill does not otherwise modify the rules relating to deductible IRAs.

The House bill replaces present-law nondeductible IRAs with new American Dream Savings Accounts ("ADSAs") to which individuals can make nondeductible contributions. Contributions to an ADSA are in addition to any contributions that can be made to a deductible IRA under the present-law rules. In general, an ADSA is an IRA which is designated at the time of establishment as an ADSA. An ADSA is generally subject to the same rules applicable to IRAs, but certain special rules apply. Qualified distributions from an ADSA are not includible in income.

Deductible IRA contributions

No provision.

Spousal IRAs

The House bill permits annual contributions of up to $2,000 for each spouse in a married couple. The aggregate contributions for both spouses cannot exceed the combined compensation of both spouses.

Nondeductible tax-free IRAs

In general

The House bill replaces the present-law rules relating to nondeductible contributions with new provisions that permit individuals to make nondeductible contributions to an ADSA. Generally, ADSAs are subject to the same rules applicable to deductible IRAs. However, a number of special rules apply.

Contribution limit

The maximum annual contribution that can be made to an ADSA is the lesser of $2,000 or the individual's compensation. This amount is in addition to any contributions that may be made to present-law IRAs. The $2,000 limit is indexed annually for inflation beginning in 1996. Inflation adjustments are rounded to the nearest $50.

Contributions for nonworking spouse

The compensation of both spouses is taken into account in determining the contribution limit for each spouse.

Miscellaneous

The House bill permits contributions to be made to an ADSA after age 70½. In addition, ADSAs are not subject to the pre-death minimum distribution rules applicable to IRAs and tax-qualified plans and are not subject to the excess distribution tax applicable to distributions from IRAs and qualified plans.

Taxation of distributions

Distributions are not includible in income if the distribution (1) is made after the 5-taxable year period beginning with the first taxable year for which the individual first made a contribution to any ADSA and (2) is (a) made on or after the date on which the individual attains age 59½, (b) made to a beneficiary after the death of the individual, (c) attributable to the individual's being disabled, or (d) is for a special purpose (i.e., the purchase of a first home, higher education expenses, medical expenses, or long-term care insurance premiums). Other distributions are includible in income (to the extent of earnings on contributions) and subject to the 10-percent tax on early withdrawals unless an exception applies (see below).

Rollover contributions

Under the House bill, amounts withdrawn from IRAs can be rolled over into an ADSA after December 31, 1995, and before January 1, 1998. The amount rolled over is includible in gross income ratably over a 4-year period. The 10-percent early withdrawal tax does not apply to amounts rolled over from an IRA to an ADSA. Amounts rolled over from an IRA to an ADSA are then subject to the rules applicable to ADSAs.

Tax-free rollovers from one ADSA to another ADSA are permitted as under the present-law rules relating to IRAs.

Special purpose withdrawals

In general

Under the House bill, special purpose withdrawals from an ADSA are not subject to the 10-percent early withdrawal tax. In addition, as described above, special purpose withdrawals are not includible in income if the individual has had an ADSA account for at least 5 years. In general, special purpose withdrawals include first-time homebuyer expenses, higher education expenses, and medical expenses.

First-time homebuyer expenses

First-time homebuyer expenses of the individual are expenses used within 60 days to pay the costs of acquiring, contracting, or reconstructing the principal residence of the individual. An individual is considered a first-time homebuyer if the individual (and, if married, his or her spouse) did not own an interest in a principal residence during the prior 3 years.

Higher education expenses

Higher education expenses are tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the individual, the individual's spouse, or a child or grandchild of the individual at an eligible educational institution. The amount of higher education expenses is reduced by any amount excludable from income under the rules relating to education savings bonds.

Medical expenses

Medical expenses are defined as under the itemized deduction for medical expenses (without regard to the 7.5 percent of adjusted gross income floor), and include the expenses of the individual and his or her spouse or dependents.

Distributions to unemployed persons

No provision.

Effective date

The provision is effective for taxable years beginning after December 31, 1995.

Senate amendment

In general

The Senate amendment phases up the income limits on the deductibility of IRA contributions and modifies the definition of active participant so that an individual is not considered an active participant merely because his or her spouse is an active participant in an employer-sponsored retirement plan. The Senate amendment indexes the $2,000 IRA contribution limit for inflation.

In addition, the Senate amendment replaces present-law nondeductible IRAs with a new IRA Plus to which nondeductible contributions can be made. The limits on contributions to deductible IRAs and an IRA Plus are coordinated, so that no more than $2,000 per year can be contributed to an individual's IRAs. In general, an IRA Plus is an IRA that is designated at the time of establishment as an IRA Plus. An IRA Plus is generally subject to the same rules as IRAs, but certain special rules apply. If certain requirements are satisfied, distributions from an IRA Plus are excludable from income.

Deductible IRA contributions

In general

The Senate amendment provides that an individual is not considered an active participant for purpose of the IRA deduction rules merely because his or her spouse is an active participant in an employer-sponsored retirement plan.

Income phase-out range

Beginning in 1996, for single individuals, the Senate amendment phases up the income limits on deductible IRA contributions in $5,000 increments until the phaseout range is $85,000 to $95,000 of AGI (in 2007). Also beginning in 1996, for married couples, the deduction is phased out over a $20,000 income range (rather than $10,000) and the phase-out range is increased in $5,000 increments until the phase-out range is $100,000 to $120,000 of AGI (in 2007). After these new ranges are reached, the income limits are indexed for inflation in $5,000 increments.

Inflation adjustment for IRA contribution limit

The Senate amendment indexes the $2,000 limit on IRA contributions in $500 increments.

Spousal IRAs

The Senate amendment is the same as the House bill.

Nondeductible tax-free IRAs

In general

The Senate amendment replaces the present-law rules relating to nondeductible contributions with new provisions that permit individuals to make nondeductible contributions to an IRA Plus. In general, an IRA Plus is subject to the same rules applicable to deductible IRAs. However, a number of special rules would apply.

Contribution limit

An individual can make contributions to an IRA Plus to the extent he or she does not make deductible contributions to an IRA. For this purpose, the active participant rule is disregarded in determining the maximum deductible IRA contribution the individual is permitted to make. That is, the income limits applicable to deductible IRAs do not apply to an IRA Plus.

Contributions for nonworking spouse

The Senate amendment is the same as the House bill.

Miscellaneous

Under the Senate amendment, contributions cannot be made to an IRA Plus after age 70½. IRA Plus accounts are subject to the minimum distribution rules, and the excess distribution tax applies to distributions from an IRA Plus.

Taxation of distributions

The Senate amendment is the same as the House bill, except that the 5-year holding period is calculated differently, and the definition of special purpose withdrawals differs. (See item 6, below.) Under the Senate amendment, the 5-year holding period is satisfied if the contribution to which the distribution relates has been in the IRA Plus for at least 5 years. All contributions for a year are treated as made on January 1 of the year.

Rollover contributions

The Senate amendment permits amounts withdrawn from IRAs to be rolled over into an IRA Plus. The amount rolled over is includible in gross income in the year the withdrawal was made, except that amounts rolled over to an IRA Plus before January 1, 1998, are includible in income ratably over a 4-year period. The 10-percent early withdrawal tax does not apply to amounts rolled over from an IRA to an IRA Plus.

Tax-free rollovers from one IRA Plus to another are permitted as under the rules relating to present-law IRAs.

Special purpose withdrawals

In general

Under the Senate amendment, special purpose withdrawals from a deductible IRA are not subject to the 10-percent early withdrawal tax. In addition, as described above, special purpose withdrawals from an IRA Plus are not includible in income (or subject to the 10-percent early withdrawal tax) if made after the 5-year holding requirement is satisfied. In general, special purpose withdrawals include withdrawals for first-time homebuyer expenses (up to $10,000), higher education expenses, medical expenses in excess of 7.5 percent of AGI, and distributions to unemployed individuals.

First-time homebuyer expenses

The definition of first-time homebuyer expenses is the same under the Senate amendment as under the House bill, with the following modifications. The maximum amount that can be treated as first-time homebuyer expenses is limited to $10,000. First-time homebuyer expenses include not only the expenses of the individual account holder, but also of the individual's spouse, or a child, grandchild, or ancestor of the individual or his or her spouse (as long as that person is a first-time homebuyer). A person is considered a first-time homebuyer if the individual (and, if married, his or her spouse) did not own an interest in a principal residence during the prior 2 years and the period for tax-free rollover of the gain on a personal residence has not been extended.

Higher education expenses

The definition of higher education expenses is the same under the Senate amendment as under the House bill, except that higher education expenses include expenses of the individual's ancestors and any child, grandchild, or ancestor of the individual's spouse.

Medical expenses

The Senate amendment is the same as the House bill, except that only medical expenses in excess of 7.5 percent of AGI are treated a special purpose withdrawals. In addition, medical expenses include the expenses of a child, grandchild, or ancestor of the individual and his or her spouse, whether or not a dependent for tax purposes.

Distributions to unemployed individuals

Under the Senate amendment, distributions are treated as a special purpose distribution if the individual has received unemployment compensation for 12 weeks under Federal or State law and the distribution is made during any taxable year during which such unemployment compensation is paid or the next taxable year. A self-employed individual is treated as meeting the requirements for unemployment compensation if the individual would have received such compensation if he or she had not been self employed.

Effective date

The provision is effective for taxable years beginning after December 31, 1995.

Conference agreement

In general

In general, the conference agreement follows the Senate amendment with respect to deductible IRA contributions (with modifications), and follows the House bill with respect to nondeductible tax-free IRAs (with modifications). Under the conference agreement, nondeductible tax-free IRAs are called American Dream IRAs (AD IRA's). The conference agreement adopts the Senate amendment definition of special purpose withdrawals.

Under the conference agreement, as under the Senate amendment, an individual is not considered an active participant in an employer-sponsored retirement plan merely because his or her spouse is an active participant. As under the House bill and the Senate amendment, under the conference agreement, annual contributions of up to $2,000 can be made to an IRA for each spouse in a married couple. The conference agreement phases up the income limits on deductible IRA contributions as under the Senate amendment, except that the phase-out range for married couples is increased to $20,000 in $2,500 increments.

Under the conference agreement, the $2,000 IRA contribution limit is indexed for inflation in $500 increments.

The conference agreement replaces present-law nondeductible IRAs with new provisions that permit individuals to make contributions to an AD IRA. Amounts withdrawn from an AD IRA are not includible in gross income if the withdrawal is made after the individual has had an AD IRA for at least 5 years and the withdrawal is for a special purpose or made after the individual is age 59-½.

Penalty-free withdrawals can be made for special purposes from an deductible IRA or an AD IRA. Special purposes are first-time homebuyer expenses, higher education expenses, catastrophic medical expenses, and distributions to unemployed individuals.

Deductible IRA contributions

The conference agreement follows the Senate amendment regarding deductible IRAs, with the following modifications. Beginning in 1996, the conference agreement increases the income phase-out range for married couples to $20,000 in $2,500 increments. In addition, under the conference agreement, indexing of the income thresholds (after they reach $85,000 for singles and $100,000 for couples) is in $1,000 increments.

Inflation adjustment for IRA contribution limit

The conference agreement follows the Senate amendment.

Spousal IRAs

The conference agreement follows the House bill and the Senate amendment.

Nondeductible tax-free IRAs

In general

The conference agreement generally follows the House bill with respect to nondeductible IRAs.[2] However, as under the Senate amendment, the conference agreement coordinates the limits on deductible IRAs and nondeductible IRAs. In addition, under the conference agreement, special purpose withdrawals are defined as under the Senate amendment.

Contribution limit

An individual can make contributions to all IRAs to the extent he or she does not make deductible contributions to an IRA. Thus, the maximum annual total contributions that can be made by an individual to all IRAs (including deductible IRAs and ADS IRAs) is $2,000. The income limits applicable to deductible IRAs do not apply to ADS IRAs.

Miscellaneous

The conference agreement follows the House bill. Thus, contributions can be made to an ADS IRA after age 70-1/2, and the predeath minimum distribution rules do not apply to an ADS IRA. Distributions from an

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[2] As under the House bill and the Senate amendment, an AD IRA is treated as an IRA, except as specifically provided. Thus, for example, the exception from the rules requiring capitalization of certain policy acquisition expenses applies to an AD IRA just as it applies to a deductible IRA.

ADS IRA are not subject to the excise tax on excess distributions (sec. 4980A).

The conference agreement clarifies the application of the excise tax on excess contributions to an IRA. Under the conference agreement, the excise tax applies separately to deductible IRAs and to total contributions to deductible IRAs and ADS IRAs. Thus, the excise tax applies to contributions in excess of the amount allowable as a deduction, unless the excess contributions are distributed before the due date for the individual's tax return for the year (including extensions). It is intended that the excise tax on excess contributions to a deductible IRA does not apply to the extent the individual transfers excess contributions to an ADS IRA by such date. In such a case, the contribution is treated as made to the ADS IRA for the taxable year for which the contribution was made to the deductible IRA. In addition, the excise tax applies to total contributions to deductible IRAs and the individual's contributions to an ADS IRA (including any amounts transferred as described above). Thus, the excise tax applies if such total contributions for a year exceed $2,000 (unless the excess contributions are distributed).

Taxation of distributions

The conference agreement generally follows the House bill. Thus, amounts withdrawn from an ADS IRA are excludable from income if the withdrawal is made after the 5-taxable year period beginning with the taxable year for which the individual first makes a contribution to an ADS IRA,[3] and either (a) the individual has attained age 59-½ or (b) the withdrawal is a special purpose withdrawal. Special purpose withdrawals made within the 5-taxable year period are includible in income (to the extent attributable to earnings), but are not subject to the 10-percent tax on early withdrawals. Other withdrawals are includible in income to the extent attributable to earnings on contributions. Distributions from an AD IRA that are not includible in income are referred to as "qualified distributions."

The conference agreement includes an ordering rule for purposes of determining what portion of a distribution that is not a qualified distribution is includible in income. Under the conference agreement, distributions are treated as made from contributions first. Thus, no portion of a distribution is treated as attributable to earnings until the total of all distributions from the AD IRA exceeds the amount of contributions.

Rollover contributions

The conference agreement follows the House bill, but clarifies that the conversion of an IRA to an AD IRA can be made without taking a distribution. For example, an individual could make the conversion by notifying the IRA trustee. Or, the individual could make the conversion in connection with a change in IRA trustees through a rollover or a trustee-to-trustee transfer. An individual can convert all or any part of the amount in an IRA into an AD IRA. If only part of the IRA account balance is converted into an AD IRA, the AD IRA amounts must be held separately.

As under the House bill, a conversion of an IRA into an AD IRA can only be made after December 31, 1996, and before January 1, 1998. The amount that would have been includible in income if the individual had withdrawn the converted amounts from the IRA is includible in income ratably over a 4-year period beginning with the year of the conversion. The trustee is required to make reports regarding the conversion and the amount involved as specified by the Treasury.[4]

Special purpose withdrawals

Under the conference agreement, special purpose withdrawals from an AD IRA or a deductible IRA are not subject to the 10-percent early withdrawal tax. Special purpose withdrawals are defined as under the Senate amendment.

Effective date

The provisions are effective for taxable years beginning after December 31, 1995.

B. ESTABLISH SIMPLE RETIREMENT PLANS (SECS. 12131-12132 OF THE SENATE AMENDMENT)

Present law

Present law does not contain rules relating to SIMPLE retirement plans. However, present law does provide a number of ways in which individuals can save for retirement on a tax-favored basis. These include employer-sponsored retirement plans that meet the requirements of the Internal Revenue Code (a "qualified plan") and individual retirement arrangements ("IRAs"). Employees can earn significant retirement benefits under employer-sponsored retirement plans. However, in order to receive tax-favored treatment, such plans must comply with a variety of rules, including complex nondiscrimination and administrative rules (including top-heavy rules). Such plans are also subject to certain requirements under the labor law provisions of the Employee Retirement Income Security Act of 1974 ("ERISA").

IRAs are not subject to the same rules as qualified plans, but the amount that can be contributed in any year is significantly less. The maximum deductible IRA contribution for a year is limited to $2,000. Distributions from IRAs and employer-sponsored retirement plans are generally taxable when made. In addition, distributions prior to age 59-½ generally are subject to an additional 10-percent early withdrawal tax.

Contributions to an IRA can also be made by an employer on behalf of employees under a simplified employee pension ("SEP"). Under SEPs, which are not qualified plans, employees can elect to have contributions made to the SEP or to receive the contributions in cash. The amount the employee elects to have contributed to the SEP is not currently includible in income. The annual amount an employee can elect to contribute to a SEP is limited to $9,240 for 1995. This dollar limit is indexed for inflation in $500 increments. The election to have amounts contributed to a SEP or received in cash is available only if at least 50 percent of the eligible employees of the employer elect to have amounts contributed to the SEP. In addition, such election is available for a taxable year only if the employer maintaining the SEP had 25 or fewer eligible employees at all times during the prior taxable year. Elective deferrals under SEP's are subject to a special nondiscrimination test.

Under one type of qualified plan that can be maintained by an employer, employees can elect to reduce their taxable compensation and have nontaxable contributions made to the plan. Such contributions are called elective deferrals, and the plans which allow such contributions are called qualified cash or deferred arrangements (or "401(k) plans"). Like SEPs, the maximum annual amount of elective deferrals that can be made by an individual is $9,240 for 1995. A special nondiscrimination test applies to elective deferrals. An employer may make contributions based on an employee's elective contributions. Such contributions are called matching contributions, and are subject to a special nondiscrimination test similar to the special nondiscrimination test applicable to elective deferrals.

House bill

No provision.

Senate amendment

In general

The Senate amendment creates a simplified retirement plan for small business called the savings incentive match plan for employees ("SIMPLE") retirement plan. SIMPLE plans can be adopted by employers who normally employ 100 or fewer employees on any day during the year and who do not maintain another employer-sponsored retirement plan. A SIMPLE plan can be either an IRA for each employee or part of a qualified cash or deferred arrangement ("401(k) plan"). If established in IRA form, a SIMPLE plan is not subject to the nondiscrimination rules generally applicable to qualified plans (including the top-heavy rules) and simplified reporting requirements apply. Within limits, contributions to a SIMPLE plan are not taxable until withdrawn. A SIMPLE plan is subject to certain provisions contained in Parts 1 and 4, Subtitle B, Title I of ERISA.

A SIMPLE plan can also be adopted as part of a 401(k) plan. In that case, the plan does not have to satisfy the special nondiscrimination tests applicable to 401(k) plans and is not subject to the top-heavy rules. The other qualified plan rules continue to apply. A simple plan adopted as part of a 401(k) plan is subject to the provisions contained in Subtitle B, Title I of ERISA applicable to qualified plans.

SIMPLE retirement plans in IRA form

In general

A SIMPLE retirement plan allows employees to make elective contributions to an IRA. Employee contributions have to be expressed as a percentage of the employee's compensation, and cannot exceed $6,000 per year. The $6,000 dollar limit is indexed for inflation in $500 increments.

The employer generally is required to match employee elective contributions on a dollar- for-dollar basis up to 3 percent of the employee's compensation. Under a special rule, the employer can elect a lower percentage matching contribution for all employees (but not less than 1 percent of each employee's compensation). In order for the employer to lower the matching percentage, the employer must notify employees of the applicable match within a reasonable time before the 60-day election period for the year (described below). In addition, a lower percentage cannot be elected for more than 2 out of any 5 years. No contributions other than employee elective contributions and employer matching contributions can be made to a SIMPLE account.

Only employers who normally employ 100 or fewer employees on any day during the year and who do not currently maintain a qualified plan can establish SIMPLE retirement accounts for their employees.

Each employee of the employer who received at least $5,000 in compensation from the employer during each of the 2 preceding years and who is reasonably expected to receive at least $5,000 in compensation during the year must be eligible to participate in the SIMPLE plan. Nonresident aliens and employees covered under a collective bargaining agreement do not have to be eligible to participate in the SIMPLE plan. Self-employed individuals can participate in a SIMPLE plan.

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[3] As is the case with IRAs in general, a contribution to an AD IRA for a taxable year can be made by the due date for filing the individual's tax return for the year (without regard to extensions). In such a case, the 5-year holding period begins to run with the taxable year to which the contribution relates, not the year in which the contribution is actually made.

[4] In the case of amounts attributable to a conversion of an IRA into an AD IRA, the 5-year holding period starts with the taxable year in which the conversion is made.

All contributions to an employee's SIMPLE account must be fully vested.

Distributions from a SIMPLE plan generally are taxed as under the rules relating to IRAs, except that an increased early withdrawal tax (25 percent) applies to distributions within the first 2 years the SIMPLE is established.

Tax treatment of SIMPLE accounts, contributions, and distributions

Contributions to a SIMPLE account generally are deductible by the employer. In the case of matching contributions, the employer is allowed a deduction for a year only if the contributions are made by the due date (including extensions) for the employer's tax return. Contributions to a SIMPLE account are excludable from the employee's income. SIMPLE accounts, like IRAs, are not subject to tax. Distributions from a SIMPLE retirement account generally are taxed under the rules applicable to IRAs. Thus, they are includible in income when withdrawn. Tax-free rollovers can be made from one SIMPLE account to another. To the extent an employee is no longer participating in a SIMPLE plan (e.g., the employee has terminated employment), the employee's SIMPLE account shall be treated as an IRA.

Early withdrawals from a SIMPLE account generally are subject to the 10-percent early withdrawal tax applicable to IRAs. However, withdrawals of contributions during the 2-year period beginning on the date the employee first participated in the SIMPLE plan are subject to a 25-percent early withdrawal tax (rather than 10 percent).

Administrative requirements

Each eligible employee can elect, within the 60-day period before the beginning of the year, to participate in the SIMPLE plan (i.e., to make elective deferrals), and to modify any previous elections regarding the amount of contributions. An employer is required to contribute employees' elective deferrals to the employee's SIMPLE account within 30 days after the end of the month to which the contributions relate. Employees must be allowed to terminate participation in the SIMPLE plan at any time during the year (i.e., to stop making contributions). The plan could provide that an employee who terminates participation could not resume participation until the following year. A plan can permit (but is not required to permit) an individual to make other changes to his or her salary reduction contribution election during the year (e.g., reduce contributions).

No fee can be imposed on the employee with respect to the employee's initial investment decision with respect to any contributions. This rule is not intended to preclude the imposition of a reasonable fee based on the rate of return on assets held in a SIMPLE account.

Reporting requirements

Trustee requirements.—The trustee of a SIMPLE account is required each year to prepare, and provide to the employer maintaining the SIMPLE plan, a summary description containing the following basic information about the plan: the name and address of the employer and the trustee; the requirements for eligibility; the benefits provided under the plan; the time and method of making salary reduction elections; and the procedures for and effects of, withdrawals from the SIMPLE account. At least once a year, the trustee also is required to furnish an account statement to each individual maintaining a SIMPLE account. In addition, the trustee is required to file an annual report with the Secretary. A trustee who fails to provide any of such reports or descriptions is subject to a penalty of $50 per day until such failure is corrected, unless the failure is due to reasonable cause.

Employer reports.—The employer maintaining a SIMPLE plan is required to notify each employee of the employee's opportunity to make salary reduction contributions under the plan immediately before the employee becomes eligible to make such election. This notice must include a copy of the summary description prepared by the trustee. An employer who fails to provide such notice is subject to a penalty of $50 per day on which such failure continues, unless the failure is due to reasonable cause.

Definitions

For purposes of the rules relating to SIMPLE plans, compensation is compensation required to be reported by the employer on Form W-2, plus any elective deferrals of the employee. In the case of a self-employed individual, compensation is net earnings from self-employment. "Employer" includes the employer and related employers. Related employers include trades or businesses under common control (whether incorporated or not), controlled groups of corporations, and affiliated service groups. In addition, the leased employee rules apply.

For purposes of the rule prohibiting an employer from establishing a SIMPLE plan, if the employer has another qualified plan, an employer is treated as maintaining a qualified plan if the employer (or a predecessor employer) maintained a qualified plan with respect to which contributions were made, or benefits were accrued, with respect to service for any year in the period beginning with the year the SIMPLE plan became effective and ending with the year for which the determination is being made. A qualified plan includes a qualified retirement plan, a qualified annuity plan, a governmental plan, a tax-sheltered annuity, and a simplified employee pension.

SIMPLE 401(k) plans

In general, under the Senate amendment, a cash or deferred arrangement (i.e., 401(k) plan), is deemed to satisfy the special nondiscrimination tests applicable to employee elective deferrals and employer matching contributions if the plan satisfies the contribution requirements applicable to SIMPLE plans. In addition, the plan is not subject to the top-heavy rules for any year for which this safe harbor is satisfied. The plan is subject to the other qualified plan rules.

The safe harbor is satisfied if, for the year, the employer does not maintain another qualified plan and (1) employee's elective deferrals are limited to no more than $6,000, (2) the employer matches employees' elective deferrals up to 3 percent of compensation, and (3) no other contributions are made to the arrangement. Contributions under the safe harbor must be 100 percent vested. The employer cannot reduce the matching percentage below 3 percent of compensation.

Effective date

The provisions relating to SIMPLE plans are effective for years beginning after December 31, 1995.

Conference agreement

SIMPLE retirement plans in IRA form

The conference agreement follows the Senate amendment with the following modifications. An employer is eligible to maintain a SIMPLE plan if the employer employs 100 or fewer employees on any day during the year. An employee must be eligible to participate in the SIMPLE plan in a year if the employee received at least $5,000 in compensation from the employer during any two prior years and the employee is reasonably expected to receive at least $5,000 in compensation in the current year. The prohibition on fees with respect to an employee's initial investment decision with respect to any contributions is eliminated. A SIMPLE account may be rolled over to an individual retirement arrangement ("IRA") on a tax-free basis after a two-year period has expired since the individual first participated in the SIMPLE plan. The conference agreement also clarifies that the summary description required to be prepared by the trustee of a SIMPLE account must provide information on rolling over amounts from a SIMPLE account.

The conference agreement also amends parts 1 and 4, Subtitle B, Title I of ERISA so that only simplified reporting requirements apply to SIMPLE plans and so that the employer will not be subject to fiduciary liability resulting from the employee (or beneficiary) exercising control over the assets in the SIMPLE account. For this purpose, an employee (or beneficiary) is treated as exercising control over the assets in his or her account upon the earlier of (1) an affirmative election with respect to the initial investment of any contributions, (2) a rollover contribution (including a trustee-to-trustee transfer) to another SIMPLE account or IRA, or (3) one year after the SIMPLE account is established.

It is intended that an employee's elective contributions, but not an employer's matching contributions, to a SIMPLE account are to be treated as wages for employment tax purposes.

SIMPLE 401(k) plans

The conference agreement follows the Senate amendment.

Repeal of SEPs

Under the conference agreement, the present-law rules governing SEPs will no longer apply after December 31, 1995, unless the SEP was established before January 1, 1996. Consequently, an employer will not be permitted to establish a SEP after December 31, 1995. SEPs established before January 1, 1996, may continue to receive contributions under present-law rules, and new employees of the employer hired after December 31, 1995, may participate in the SEP in accordance with such rules.

Effective date

The conference agreement follows the Senate amendment.

C. CAPITAL GAINS PROVISIONS

1. INDIVIDUAL CAPITAL GAINS (SEC. 6301 OF H.R. 1215 AND SEC. 12141 OF THE SENATE AMENDMENT)

Present law

In general, gain or loss reflected in the value of an asset is not recognized for income tax purposes until a taxpayer disposes of the asset. On the sale or exchange of capital assets, the net capital gain is taxed at the same rate as ordinary income, except that individuals are subject to a maximum marginal rate of 28 percent of the net capital gain. Net capital gain is the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for the year. Gain or loss is treated as long-term if the asset is held for more than one year.

Prior to the enactment of the Tax Reform Act of 1986, individuals were allowed a deduction equal to 60 percent of net capital gain. The deduction resulted in a maximum effective tax rate of 20 percent on such gains.

Capital losses are generally deductible in full against capital gains. In addition, individuals may deduct capital losses against up to $3,000 of ordinary income in each year. Capital losses in excess of the amount deductible are carried forward indefinitely. Prior to the Tax Reform Act of 1986, individuals were required to use two dollars of long-term capital loss to offset each dollar of ordinary income.

An alternative minimum tax is imposed at rates up to 28 percent on alternative minimum taxable income (AMTI), which is taxable income plus tax adjustments and preferences. Capital gains are included in AMTI.

House bill

The House bill allows individuals a deduction equal to 50 percent of net capital gain for the taxable year. The House bill makes the present-law maximum 28-percent rate inapplicable. Thus, under the House bill, the effective rate under the regular tax on the net capital gain of an individual in the highest (i.e., 39.6 percent) marginal rate bracket is 19.8 percent.

Collectibles are excluded from net capital gain. A maximum rate of 28 percent applies to the net gain from the sale or exchange of collectibles held for more than one year (unless the individual indexes the basis of the collectible, as described below).

The House bill reinstates the rule in effect prior to the Tax Reform Act of 1986 that required two dollars of the long-term capital loss of an individual to offset one dollar of ordinary income. The $3,000 limitation on the deduction of capital losses against ordinary income would continue to apply.

Effective date.—The provision generally applies to sales and exchanges (and installment payments received) after December 31, 1994. The capital loss rule does not apply to losses arising in taxable years beginning before January 1, 1996.

Senate amendment

The Senate amendment is the same as the House bill, except that one-half of the capital gains deduction is a preference for purposes of the alternative minimum tax. Also, the 28-percent rate for collectibles does not require an election to forgo indexing (as the Senate amendment contains no indexing provision).

Effective date.—The provision generally applies to sales and exchanges (and installment payments received) after October 13, 1995. The capital loss rule is effective the same as in the House bill.

Conference agreement

The conference agreement follows the House bill.

2. SMALL BUSINESS STOCK (SEC. 6301 OF H.R. 1215 AND SECS. 12142-12143 OF THE SENATE AMENDMENT)

Present law

The Revenue Reconciliation Act of 1993 provided individuals a 50-percent exclusion for the sale of certain small business stock acquired at t oginal issue and held for at least five years. One-half of the excluded gain is a minimum tax preference.

The amount of gain eligible for the 50-percent exclusion by an individual with respect to any corporation is the greater of (1) ten times the taxpayer's basis in the stock or (2) $10 million.

In order to qualify as a small business, when the stock is issued, the gross assets of the corporation may not exceed $50 million. The corporation also must meet an active trade or business requirement.

House bill

The House bill repeals the exclusion for small business stock.

Effective date.—A taxpayer holding small business stock on the date of enactment may elect, within one year from the date of enactment, to have the provisions of present law (rather than the provisions of the House bill) apply to any gain from the sale of the stock.

Senate amendment

The taxable portion of the gain from the sale of small business stock is eligible for the individual capital gains deduction added by the Senate amendment. Thus, only 25 percent of the gain from a qualified sale of small business stock is subject to tax. The effective rate under the regular tax on the gain of an individual in the highest (i.e., 39.6 percent) marginal rate bracket is 9.9 percent.

The Senate amendment increases the size of an eligible corporation from gross assets of $50 million to gross assets of $100 million. The Senate amendment also repeals the limitation on the amount of gain an individual can exclude with respect to the stock of any corporation.

The Senate amendment provides that certain working capital must be expended within five years (rather than two years) in order to be treated as used in the active conduct of a trade or business. No limit on the percent of the corporation's assets that are working capital is imposed.

The Senate amendment provides that if the corporation establishes a business purpose for a redemption of its stock, that redemption is disregarded in determining whether other newly issued stock can qualify as eligible stock.

The Senate amendment allows an individual to roll over gain from the sale or exchange of small business stock otherwise qualifying for the exclusion where the individual uses the proceeds to purchase other qualifying small business stock within 60 days of the sale of the original stock. If the individual sells the replacement stock, the gain attributable to the original stock is eligible for the small business stock exclusion and the capital gain deduction, and any remaining gain is eligible for the capital gain deduction if held more than one year and the small business exclusion if held for at least five years. In addition, any gain that otherwise would be recognized from the sale of the replacement stock can be rolled over to other small business stock purchased within 60 days.

Effective date.—The increase in the size of corporations whose stock is eligible for the exclusion applies to stock issued after the date of the enactment of the proposal. The remaining provisions apply to stock issued after August 10, 1993 (the original effective date of the small business stock provision).

Conference agreement

The conference agreement generally follows the Senate amendment.

Under the conference agreement, the maximum rate of tax on qualifying gain from the sale of small business stock by a taxpayer other than a corporation is 14 percent. The conference agreement repeals the present-law 50-percent exclusion for gain from qualifying small business stock, since that gain will be eligible for the 50-percent capital gains deduction that is generally applicable to gain recognized by individual taxpayers as provided for by the conference agreement. In addition, the conference agreement repeals the minimum tax preference for gain from the sale of small business stock.

The conference agreement does not contain the rollover provision in the Senate amendment.

3. INDEXING OF CAPITAL GAINS (SEC. 6302 OF H.R. 1215)

Present law

Under present law, a taxpayer's gain or loss from the disposition of an asset is determined without regard to any adjustment for inflation.

House bill

The House bill allows a taxpayer other than a C corporation to index the basis of certain assets for purposes of determining gain (but not loss) upon the sale or other disposition of the assets.

Assets eligible for indexing generally include common stock of C corporations and tangible property that are capital assets or property used in a trade or business and which are held more than three years.

The inflation adjustment is computed by multiplying the taxpayer's adjusted basis in the indexed asset by an index based on changes in the GDP deflator.

Special rules are provided for RICS, REITS, partnerships, S corporations and common trust funds.

Effective date.—The provision applies to property the holding period of which begins after December 31, 1994, and to principal residences held on January 1, 1995 (for inflation after that date). A taxpayer holding an indexed asset (other than a principal residence) on January 1, 1995, may elect to treat the asset as having been sold (and reacquired) on that date for its fair market value, i.e., "marked to market." If the election is made, any gain is recognized (and any loss is disallowed).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill except that the effective date is for assets acquired on or after, and principal residences held on, January 1, 2001 (rather than January 1, 1995), for inflation after that date. The date of the "mark to market" election under the House bill is also moved forward from January 1, 1995, to January 1, 2001. The election will apply to eligible assets held on January 1, 2001.

4. CORPORATE CAPITAL GAINS (SEC. 6311 OF H.R. 1215 AND SEC. 12151 OF THE SENATE AMENDMENT)

Present law

Under present law, the net capital gain of a corporation is taxed at the same rate as ordinary income, and subject to tax at graduated rates up to 35 percent. Prior to the Tax Reform Act of 1986, the net capital gain of a corporation was subject to an alternative tax rate of 28 percent.

House bill

The House bill provides an alternative tax of 25 percent on the net capital gain of a corporation if that rate is less than the corporation's regular tax rate.

Effective date.—The provision generally applies to sales and exchanges (and installment payments received) after December 31, 1994.

Senate amendment

The Senate amendment provides an alternative rate of 28 percent on the net capital gain of a corporation if that rate is less than the corporation's regular tax rate.

The Senate amendment also provides an alternative rate of 21 percent on the gain from the sale or exchange of qualified small business stock (other than stock of a subsidiary corporation) held more than five years.

Effective date.—The provision generally applies to sales and exchanges (and installment payments received) after October 13, 1995. The small business stock provision applies to stock issued after date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, except that the 28-percent rate is effective the same as in the House bill.

5. CAPITAL LOSS DEDUCTION ON THE SALE OR EXCHANGE OF A PRINCIPAL RESIDENCE (SEC. 6316 OF H.R. 1215)

Present law

Under present law, the sale or exchange of a principal residence is treated as a nondeductible personal loss.

House bill

The House bill provides that a loss from the sale or exchange of a principal residence is treated as a deductible capital loss.

Effective date.—The provision applies to sales and exchanges after December 31, 1994.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

D. ALTERNATIVE MINIMUM TAX (AMT) PROVISIONS (SEC. 19002(F) OF THE HOUSE BILL AND SECS. 12161 AND 12162 OF THE SENATE AMENDMENT)

Present law

Present law imposes an alternative minimum tax ("AMT") on an individual or a corporation to the extent the taxpayer's tentative minimum tax exceeds its regular tax liability. The individual minimum tax is imposed at graduated rates of 26 and 28 percent on alternative minimum taxable income in excess of a phased-out exemption amount; the corporate minimum tax is imposed at a rate of 20 percent on alternative minimum taxable income in excess of a phased-out $40,000 exemption amount. Alternative minimum taxable income ("AMTI") is the taxpayer's taxable income increased by certain preference items and adjusted by determining the tax treatment of certain items in a manner that negates the deferral of income resulting from the regular tax treatment of those items.

Individuals and corporations must adjust their regular tax depreciation deductions in computing their AMTI. Under the AMT, depreciation on property placed in service after 1986 must be computed by using the class lives prescribed by the alternative depreciation system of section 168(g) and either (1) the straight-line method in the case of property subject to the straight-line method under the regular tax or (2) the 150-percent declining balance method in the case of other property. Under the regular tax, depreciation on such property generally is determined using shorter recovery periods and more accelerated recovery methods.

If a taxpayer is subject to the AMT in one year, such amount of tax is allowed as a credit ("AMT credit") in a subsequent taxable year to the extent the taxpayer's regular tax liability exceeds its tentative minimum tax in such subsequent year. If the taxpayer is an individual, the AMT credit is allowed to the extent the taxpayer's AMT liability is a result of adjustments that are timing in nature (e.g., the adjustment for depreciation). The AMT credit has an unlimited carryforward but cannot be carried back.

House bill

The House bill eliminates the depreciation adjustment of the individual AMT and reduces the corporate AMT rate to zero.

Effective date.—The provision is effective for taxable years beginning after December 31, 1994. The effects of the two modifications are suspended for taxable years beginning in 1995 and 1996. These suspended amounts are refunded ratably as credits for the first three taxable years beginning after 1996.

Senate amendment

For purposes of the individual and corporate AMTs, the Senate amendment conforms the AMT depreciation method to the regular tax method. Thus, property that is recovered using the 200-percent declining balance method for regular tax purposes (generally, shorter-lived tangible personal property) will use that method under the AMT. The Senate amendment does not change the class lives applicable to any property for AMT purposes.

In addition, the Senate amendment allows a corporation with certain AMT credits to offset a portion of its tentative minimum tax in excess of its regular tax. The portion so allowed would be the least of: (1) the amount of the taxpayer's long-term minimum tax credit (i.e., those credits that arose at least five years ago); (2) 50 percent of the taxpayer's tentative minimum tax; or (3) the amount by which the taxpayer's tentative minimum tax exceeds it regular tax for the year.

Effective date.—The depreciation provision is effective for property placed in service after December 31, 1995. The AMT credit provision is effective for taxable years beginning after December 31, 1995.

Conference agreement

The conference agreement repeals the depreciation adjustment for purposes of both the individual and corporate AMT for property placed in service after December 31, 1995. Thus, the conference agreement conforms the AMT depreciation methods and lives to the depreciation methods and lives used for regular tax purposes for property placed in service after 1995.

In addition, the conference agreement follows the Senate amendment with respect to the AMT credit, except that under the agreement, the amount of the taxpayer's long-term minimum tax credit will be those credits that arose at least seven (rather than five) years ago.

E. COST RECOVERY PROVISIONS

1. TREATMENT OF LEASEHOLD IMPROVEMENTS (SEC. 6322 OF H.R. 1215)

Present law

Depreciation of leasehold improvements

Improvements made on leased property are depreciated under the modified Accelerated Cost Recovery System ("MACRS"), even if the MACRS recovery period assigned to the property is longer than the term of the lease (sec. 168(i)(8)). This rule applies regardless whether the lessor or lessee places the leasehold improvements in service. If a leasehold improvement constitutes an addition or improvement to nonresidential real property already placed in service, the improvement is depreciated using the straight-line method over a 39-year recovery period, beginning in the month the addition or improvement was placed in service (secs. 168(b)(3), (c)(1), (d)(2), and (i)(6)).

Treatment of dispositions of leasehold improvements

A taxpayer generally recovers the adjusted basis of property for purposes of determining gain or loss upon the disposition of the property. Upon the termination of a lease, the adjusted basis of leasehold improvements that were made, but are not retained, by a lessee are taken into account to compute gain or loss by the lessee. The proper treatment of the adjusted basis of improvements made by a lessor upon termination of a lease is less clear. Proposed Treasury regulation section 1.168-2(e)(1) provides that the unadjusted basis of a building's structural components must be recovered as whole. In addition, proposed Treasury regulation sections 1.168-2(l)(1) and 1.168-6(b) provide that "disposition" does not include the retirement of a structural component of real property if there is no disposition of the underlying building. Thus, it appears that it is the position of the Internal Revenue Service that leasehold improvements made by a lessor that constitute structural components of a building must be continued to be depreciated in the same manner as the underlying real property, even if such improvements are retired at the end of the lease term. Some lessors, on the other hand, may be taking the position that a leasehold improvement is a property separate and distinct from the underlying building and that an abandonment loss under section 165 is allowable at the end of the lease term for the adjusted basis of the property. In addition, lessors may argue that even if a leasehold improvement constitutes a structural component of a building, proposed Treasury regulation section 1.168-2(l)(1) (that seemingly denies the deduction at the end of the lease term) applies only to retirements, but not abandonments or demolitions, of such property. Thus, it appears that some lessors take the position that, at least in certain circumstances, the adjusted basis of leasehold improvements may be recovered at the end of the term of the lease to which the improvements relate even if there is no disposition of the underlying building.

House bill

Under the House bill, a lessor of leased property that disposes of a leasehold improvement which was made by the lessor for the lessee of the property may take the adjusted basis of the improvement into account for purposes of determining gain or loss if the improvement is irrevocably disposed of or abandoned by the lessee at the termination of the lease. The provision thus conforms the treatment of lessors and lessees with respect to leasehold improvements disposed of at the end of a term of lease.

For purposes of applying the provision, it is expected that a lessor must be able to separately account for the adjusted basis of the leasehold improvement that is irrevocably disposed of or abandoned.

Effective date.—The provision is effective for leasehold improvements disposed of after March 13, 1995. No inference is intended as to the proper treatment of such dispositions before March 14, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill provision.

2. INCREASE IN EXPENSING FOR SMALL BUSINESSES (SEC. 6352 OF H.R. 1215)

Present law

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $17,500 of the cost of qualifying property placed in service for the taxable year (sec. 179).[5] In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $17,500 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. In addition, the amount eligible to be expensed for a taxable year may not exceed the taxable income of the taxpayer for the year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations).

House bill

The House bill increases the $17,500 amount allowed to be expensed under Code section 179 to $35,000. The increase is phased in as follows:

Taxable year beginning in—	*Maximum expensing*
1996	$22,500
1997	27,500
1998	32,500
1999 and thereafter	35,000

Effective date.—The provision is effective for property placed in service in taxable years beginning after December 31, 1995, subject to the phase-in schedule set forth above.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, except that the maximum expensing limits and phase-in schedule are modified as follows:

Taxable year beginning in—	*Maximum expensing*
1996	$19,000
1997	20,000
1998	21,000
1999	22,000
2000	23,000
2001	24,000
2002 and thereafter	25,000

Effective date.—The provision is effective for property placed in service in taxable years beginning after December 31, 1995, subject to the phase-in schedule set forth above.

F. HOME OFFICE DEDUCTION:CLARIFICATION OF DEFINITION OF PRINCIPAL PLACE OF BUSINESS; TREATMENT OF STORAGE OF PRODUCT SAMPLES (SECS. 6353 AND 6354 OF H.R. 1215)

Present law

A taxpayer's business use of his or her home may give rise to a deduction for the business portion of expenses related to operating the home (e.g., a portion of rent or depreciation and repairs). Code section 280A(c)(1) provides, however, that business deductions generally are allowed only with respect to a portion of a home that is used exclusively and regularly in one of the following ways: (1) as the principal place of business for a trade or business; (2) as a place of business used to meet with patients, clients, or customers in the normal course of the taxpayer's trade or business; or (3) in connection with the taxpayer's trade or business, if the portion so used constitutes a separate structure not attached to the dwelling unit. In the case of an employee, the Code further requires that the business use of the home must be for the convenience of the employer (sec. 280A(c)(1)).[6] These rules apply to houses, apartments, condominiums, mobile homes, boats, and other similar property used as the taxpayer's home (sec. 280A(f)(1)). Under Internal Revenue Service (IRS) rulings, the deductibility of expenses incurred for local transportation between a taxpayer's home and a work location sometimes depends on whether the taxpayer's home office qualifies under section 280A(c)(1) as a principal place of business (see Rev. Rul. 94-47, 1994-29 I.R.B. 6).

Prior to 1976, expenses attributable to the business use of a residence were deductible whenever they were "appropriate and helpful" to the taxpayer's business. In 1976, Congress adopted section 280A, in order to provide a narrower scope for the home office deduction, but did not define the term "principal place of business." In *Commissioner* v. *Soliman*, 113 S.Ct. 701 (1993), the Supreme Court reversed lower court rulings and upheld an IRS interpretation of section 280A that disallowed a home office deduction for a self-employed anesthesiologist who practiced at several hospitals but was not provided office space at the hospitals. Although the anesthesiologist used a room in his home exclusively to perform administrative and management activities for his profession (i.e., he spent two or three hours a day in his home office on bookkeeping, correspondence, reading medical journals, and communicating with surgeons, patients, and insurance companies), the Supreme Court upheld the IRS position that the "principal place of business" for the taxpayer was not the home office, because the taxpayer performed the "essence of the professional service" at the hospitals.[7] Because the taxpayer did not meet with patients at his home office and the room was not a separate structure, a deduction was not available under the second or third exception under section 280A(c)(1) (described above).

Section 280A(c)(2) contains a special rule that allows a home office deduction for business expenses related to a space within a home that is used on a regular (even if not exclusive) basis as a storage unit for the inventory of the taxpayer's trade or business of selling products at retail or wholesale, but only if the home is the sole fixed location of such trade or business.

Home office deductions may not be claimed if they create (or increase) a net loss from a business activity, although such deductions may be carried over to subsequent taxable years (sec. 280A(c)(5)).

House bill

Definition of principal place of business

The House bill amends present-law section 280A to specifically provide that a home office qualifies as the "principal place of business" if (1) the office is used by the taxpayer to conduct administrative or management activities of a trade or business and (2) there is no other fixed location of the trade or business where the taxpayer conducts substantial administrative or management activities of the trade or business. As under present law, deductions will be allowed for a home office meeting the above two-part test only if the office is exclusively used on a regular basis as a place of business by the taxpayer, and in the case of an employee, only if such exclusive use is for the convenience of the employer.

Thus, under the House bill, a home office deduction will be allowed (subject to the present-law "convenience of the employer" rule governing employees) if a portion of a taxpayer's home is exclusively and regularly used to conduct administrative or management activities for a trade or business of the taxpayer, who does not conduct substantial administrative or management activities at any other fixed location of the trade or business, regardless of whether administrative or management activities connected with his trade or business (e.g., billing activities) are performed by others at other locations. The fact that a taxpayer also carries out administrative or management activities at sites that are not fixed locations of the business, such as a car or hotel room, will not affect the taxpayer's ability to claim a home office deduction under the provision. Moreover, if a taxpayer conducts some administrative or management activities at a fixed location of the business outside the home, the taxpayer still will be eligible to claim a deduction so long as the administrative or management activities conducted at any fixed location of the business outside the home are not substantial (e.g., the taxpayer occasionally does minimal paperwork at another fixed location of the business). In addition, a taxpayer's eligibility to claim a home office deduction under the provision will not be affected by the fact that the taxpayer conducts substantial *non-administrative* or *non-management* business activities at a fixed location of the business outside the home (e.g., meeting with, or providing services to, customers, clients, or patients at a fixed location of the business away from home).

If a taxpayer *in fact* does not perform substantial administrative or management activities at any fixed location of the business away from home, then the second prong of the provision is satisfied, regardless of whether or not the taxpayer opted not to use an office away from home that was available for the conduct of such activities. However, in the case of an employee, the question whether an employee *opted* not to use suitable space made available by the employer for administrative activities is relevant to determining whether the present-law "convenience of the employer" test is satisfied. In cases where a taxpayer's use of a home office does not satisfy the provision's two-part test, the taxpayer nonetheless may be able to claim a home office deduction under the present-law "principal place of business" exception or any other provision of section 280A.

Treatment of storage of product samples

In addition, the House bill clarifies that the special rule contained in present-law section 280A(c)(2) permits deductions for expenses related to a storage unit in a taxpayer's home regularly used for inventory or product samples (or both) of the taxpayer's trade or business of selling products at retail or wholesale, provided that the home is the sole fixed location of such trade or business.

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[5] The amount permitted to be expensed under Code section 179 is increased by up to an additional $20,000 for certain property placed in service by a business located in an empowerment zone (sec. 1397A).

[6] If an employer provides access to suitable space on the employer's premises for the conduct by an employee of particular duties, then, if the employee opts to conduct such duties at home as a matter of personal preference, the employee's use of the home office is not "for the convenience of the employer." See, e.g., *W. Michael Mathes*, (1990) T.C. Memo 1990-483.

[7] In response to the Supreme Court's decision in *Soliman*, the IRS revised its *Publication 587, Business Use of Your Home*, to more closely follow the comparative analysis used in Soliman by focusing on the following two primary factors in determining whether a home office is a taxpayer's principal place of business: (1) the relative importance of the activities performed at each business location; and (2) the amount of time spent at each location.

Effective date

The House bill provisions governing home office expense deductions apply to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

Definition of principal place of business

The conference agreement does not include the House bill provision that amends the definition of "principal place of business."

Treatment of storage of product samples

The conference agreement includes the House bill provision that clarifies that present- law section 280A(c)(2) applies to storage of inventory or product samples (or both) in a taxpayer's home.

Effective date

The provision applies to taxable years beginning after December 31, 1995.

III. HEALTH CARE-RELATED PROVISIONS

A. TREATMENT OF LONG-TERM CARE INSURANCE (SECS. 6211-6214 AND 6231-6232 OF H.R. 1215 AND SECS. 12201-12204 AND 12211-12214 OF THE SENATE AMENDMENT)

Present law

In general

Present law generally does not provide explicit rules relating to the tax treatment of long-term care insurance contracts or long-term care services. Thus, the treatment of long-term care contracts and services is unclear. Present law does provide rules relating to medical expenses and accident or health insurance.

Itemized deduction for medical expenses

In determining taxable income for Federal income tax purposes, a taxpayer is allowed an itemized deduction for unreimbursed expenses that are paid by the taxpayer during the taxable year for medical care of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer, to the extent that such expenses exceed 7.5 percent of the adjusted gross income of the taxpayer for such year (sec. 213). For this purpose, expenses paid for medical care generally are defined as amounts paid: (1) for the diagnosis, cure, mitigation, treatment, or prevention of disease (including prescription medicines or drugs and insulin), or for the purpose of affecting any structure or function of the body (other than cosmetic surgery not related to disease, deformity, or accident); (2) for transportation primarily for, and essential to, medical care referred to in (1); or (3) for insurance (including Part B Medicare premiums) covering medical care referred to in (1) and (2).

Exclusion for amounts received under accident or health insurance

Amounts received by a taxpayer under accident or health insurance for personal injuries or sickness generally are excluded from gross income to the extent that the amounts received are not attributable to medical expenses that were allowed as a deduction for a prior taxable year (sec. 104).

Treatment of accident or health plans maintained by employers

Contributions of an employer to an accident or health plan that provides compensation (through insurance or otherwise) to an employee for personal injuries or sickness of the employee, the employee's spouse, or a dependent of the employee, are excluded from the gross income of the employee (sec. 106). In addition, amounts received by an employee under such a plan generally are excluded from gross income to the extent that the amounts received are paid, directly or indirectly, to reimburse the employee for expenses for the medical care of the employee, the employee's spouse, or a dependent of the employee (sec. 105). For this purpose, expenses incurred for medical care are defined in the same manner as under the rules regarding the deduction for medical expenses.

A cafeteria plan is an employer-sponsored arrangement under which employees can elect among cash and certain employer-provided qualified benefits. No amount is included in the gross income of a participant in a cafeteria plan merely because the participant has the opportunity to make such an election (sec. 125). Employer-provided accident or health coverage is one of the benefits that may be offered under a cafeteria plan.

A flexible spending arrangement (FSA) is an arrangement under which an employee is reimbursed for medical expenses or other nontaxable employer-provided benefits, such as dependent care, and under which the maximum amount of reimbursement that is reasonably available to a participant for a period of coverage is not substantially in excess of the total premium (including both employee-paid and employer-paid portions of the premium) for such participant's coverage. Under proposed Treasury regulations, a maximum amount of reimbursement is not substantially in excess of the total premium if such maximum amount is less than 500 percent of the premium. An FSA may be part of a cafeteria plan or provided by an employer outside a cafeteria plan. FSAs are commonly used to reimburse employees for medical expenses not covered by insurance. If certain requirements are satisfied[8], amounts reimbursed for nontaxable benefits from an FSA are excludable from income.

Health care continuation rules

The health care continuation rules require that an employer must provide qualified beneficiaries the opportunity to continue to participate for a specified period in the employer's health plan after the occurrence of certain events (such as termination of employment) that would have terminated such participation (sec. 4980B). Individuals electing continuation coverage can be required to pay for such coverage.

Life insurance company reserve rules

In general, life insurance companies are allowed a deduction for a net increase in reserves and must take into income any net decreases in reserves (sec. 807(a) and (b)). Present law prescribes a tax reserve method based on the nature of the contract. For noncancellable accident and health insurance contracts, the prescribed method is a two-year full preliminary term method (sec. 807(d)(3)(A)(iii)). Long-term care insurance reserves are treated like noncancellable accident and health insurance for this purpose and, therefore, are determined under the two-year full preliminary term method. In no event is the tax reserve for any contract as of any time permitted to exceed the amount which would be taken into account in determining statutory reserves as set forth on the annual statement (sec 807(d)(1)).

The amount of any adjustment, whether an increase or a reduction in income, that is attributable to a change in the basis for determining reserves (or for determining any other item referred to in sec. 807(c)) is generally spread over a 10-year period (sec. 807(f)).

House bill

Tax treatment and definition of long-term care insurance contracts and qualified long-term care services

In general

Under the House bill, a long-term care insurance contract is accorded the following tax treatment. A long-term care insurance contract generally is treated as an accident and health insurance contract. Amounts (other than policyholder dividends or premium refunds) received under a long-term care insurance contract generally are excludable as amounts received for personal injuries and sickness (subject to a cap of $200 per day, or $73,000 annually). This cap is indexed by the medical care cost component of the consumer price index.

A plan of an employer providing coverage under a long-term care insurance contract generally is treated as an accident and health plan; however, coverage under a long-term care insurance contract is not excludable by an employee if provided through a cafeteria plan; similarly, expenses for long-term care services cannot be reimbursed under an FSA.[9]

The deduction for a percentage of health insurance expenses of self-employed individuals was permanently extended (at 30 percent) by P.L. 104-7 (April 11, 1995). Because the bill treats long-term care insurance as health insurance, the deduction for 30 percent of health insurance expenses of self-employed individuals applies to long-term care insurance premiums under the bill.

Within certain limits, premiums for long-term care insurance are treated as medical expenses for purposes of the itemized deduction for medical expenses.[10] In addition, expenses for qualified long-term care services are treated as medical expenses for purposes of the itemized deduction.

Definition of long-term care insurance contract

A long-term care insurance contract is defined as any insurance contract that provides only coverage of qualified long-term care services and that meets other requirements. The other requirements are that (1) the contract is guaranteed renewable, (2) the contract does not provide for a cash surrender value or other money that can be paid, assigned, pledged or borrowed, (3) refunds (other than refunds on the death of the insured or complete surrender or cancellation of the contract) and dividends under the contract may be used only to reduce future premiums or increase future benefits, and (4) the contract generally does not pay or reimburse expenses reimbursable under Medicare (except where Medicare is a secondary payor, or the contract makes per diem or other periodic payments without regard to expenses).

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[8] These requirements include a requirement that a health FSA can only provide reimbursement for medical expenses (as defined in sec. 213) and cannot provide reimbursement for premium payments for other health coverage and that the maximum amount of reimbursement under a health FSA must be available at all times during the period of coverage.

[9] The House bill does not otherwise modify the requirements relating to FSAs. An FSA is defined (as under proposed regulations) as a benefit program providing employees with coverage under which specified incurred expenses may be reimbursed (subject to maximums and other reasonable conditions), and the maximum amount of reimbursement that is reasonably available to a participant is less than 500 percent of the value of the coverage.

[10] Similarly, within certain limits, in the case of a rider to a life insurance contract, charges against the life insurance contract's cash surrender value that are includible in income are treated as medical expenses (provided the rider constitutes a long-term care insurance contract).

A contract does not fail to be treated as a long-term care insurance contract solely because it provides for payments on a per diem or other periodic basis without regard to expenses during the period.

Medicare duplication rules

The House bill provides that no provision of law shall be construed or applied so as to prohibit the offering of a long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under Medicare. Thus, long-term care insurance contracts are not subject to the rules requiring duplication of Medicare benefits.

Definition of qualified long-term care services

Qualified long-term care services means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating and rehabilitative services, and maintenance or personal care services that are required by a chronically ill individual and that are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

A chronically ill individual is one who has been certified within the previous 12 months by a licensed health care practitioner as being unable to perform (without substantial assistance) at least 2 activities of daily living for at least 90 days[11] due to a loss of functional capacity or cognitive impairment, or having a similar level of disability as determined by the Secretary of the Treasury in consultation with the Secretary of Health and Human Services. Activities of daily living are eating, toileting, transferring, bathing, dressing and continence.[12]

A licensed health care practitioner is a physician (as defined in sec. 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary of the Treasury.

Itemized deduction for medical expenses

Unreimbursed expenses for qualified long-term care services provided to the taxpayer or the taxpayer's spouse or dependent are treated as medical expenses for purposes of the itemized deduction for medical expenses (subject to the present-law floor of 7.5 percent of adjusted gross income). For this purpose, amounts received under a long-term care insurance contract (regardless of whether the contract reimburses expenses or pays benefits on a per diem or other basis) are treated as reimbursement for expenses actually incurred for medical care.

For purposes of the deduction for medical expenses, qualified long-term care services do not include services provided to an individual by a relative (directly, or through a partnership, corporation, or other entity), unless the relative is a licensed professional with respect to such services, or by a related corporation (within the meaning of Code section 267(b) or 707(b)).[13]

Long-term care insurance premiums that do not exceed specified dollar limits are treated as medical expenses for purposes of the itemized deduction for medical expenses. The limits are as follows:

In the case of an individual with an attained age before the close of the taxable year of:	*The limitation on premiums paid for such taxable years is:*
Not more than 40	$200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500

For taxable years beginning after 1996, these dollar limits are indexed for increases in the medical care component of the consumer price index. The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, is directed to develop a more appropriate index to be applied in lieu of the foregoing. Such an alternative might appropriately be based on increases in skilled nursing facility and home health care costs. It is intended that the Treasury Secretary annually publish the indexed amount of the limits as early in the year as they can be calculated.

Long-term care riders on life insurance contracts

In the case of long-term care insurance coverage provided by a rider on a life insurance contract, the requirements applicable to long-term care insurance contracts apply as if the portion of the contract providing such coverage were a separate contract. The term "portion" means only the terms and benefits that are in addition to the terms and benefits under the life insurance contract without regard to long-term care coverage. The guideline premium limitation applicable under section 7702(c)(2) is increased by the sum of charges (but not premium payments) against the life insurance contract's cash surrender value, less any such charges, the imposition of which reduces premiums paid for the contract (within the meaning of sec. 7702(f)(1)). In addition, it is anticipated that Treasury regulations will provide for appropriate reduction in premiums paid (within the meaning of sec. 7702(f)(1)) to reflect the payment of benefits under the rider that reduce the cash surrender value of the life insurance contract. A similar rule should apply in the case of a contract governed by section 101(f) and in the case of the payments under a rider that are excludable under section 101(g) of the Code (as added by the House bill).

Life insurance company reserves

In determining reserves for insurance company tax purposes, the House bill provides that the Federal income tax reserve method applicable for a long-term care insurance contract issued after December 31, 1995, is the method prescribed by the National Association of Insurance Commissioners (or, if no reserve method has been so prescribed, a method consistent with the tax reserve method for life insurance, annuity or noncancellable accident and health insurance contracts, whichever is most appropriate). The method currently prescribed by the NAIC for long-term care insurance contracts is the one-year full preliminary term method. As under present law, however, in no event may the tax reserve for a contract as of any time exceed the amount which would be taken into account with respect to the contract as of such time in determining statutory reserves.

Health care continuation rules

The health care continuation rules do not apply to coverage under a long-term care insurance contract.

Exchanges of life insurance and other contracts for long-term care insurance contracts

The exchange of a life insurance contract or an endowment or annuity contract for a qualified long-term care insurance contract is not taxable under the House bill.

Certain distributions from IRAs and retirement plans for long-term care insurance excludable from income

The House bill excludes from gross income distributions from individual retirement arrangements (IRAs) and distributions attributable to elective deferrals to qualified cash or deferred arrangements (sec. 401(k) plans), tax-sheltered annuities (sec. 403(b) plans), nonqualified deferred compensation plans of governmental or tax-exempt employers (sec. 457 plans), and section 501(c)(18) plans used to pay premiums for long-term care insurance for the individual or the individual's spouse. Such distributions are also not subject to the 10-percent tax on early withdrawals. A plan will not fail to meet the Internal Revenue Code requirements applicable to such plan merely because it permits such distributions.

Inclusion of excess long-term care benefits

In general, the House bill provides that the maximum annual amount of long-term care benefits excludable from income with respect to an insured who is chronically ill (not including amounts received by reason of the individual being terminally ill)[14] cannot exceed the equivalent of $200 per day for each day the individual is chronically ill. Thus, the maximum annual exclusion for long-term care benefits with respect to any chronically ill individual (not including amounts received by reason of the individual being terminally ill) is $73,000 (for 1996). Long-term care benefits for this purpose include payments and other benefits received under a long-term care insurance contract (to the extent otherwise excludable under section 7702B(b) as added by the House bill) and payments that are otherwise excludable under the provision of the bill related to accelerated death benefits and viatical settlements with respect to persons who are chronically ill (sec. 101(g) (as added by the House bill). If the insured is not the same as the holder of the contract, the insured may assign some or all of this limit to the contract holder at the time and manner prescribed by the Secretary.

This $200 per day limit is indexed for inflation after 1996 for increases in the medical care component of the consumer price index. The Treasury Secretary, in consultation with the Secretary of Health and Human

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[11] The 90-day period is not a waiting period. Thus, an individual can be certified as chronically ill if the licensed health care practitioner certifies that the individual will be unable to perform at least 2 activities of daily living for at least 90 days.

[12] Nothing in the House bill requires the contract to take into account all of the activities of daily living. For example, a contract could require that an individual be unable to perform (without substantial assistance) 2 out of any 5 such activities, or for another example, 3 out of the 6 activities.

[13] The rule limiting such services provided by a relative or a related corporation does not apply for purposes of the exclusion for amounts received under a long-term care insurance contract, whether the contract is employer-provided or purchased by an individual. The limitation is unnecessary in such cases because it is anticipated that the insurer will monitor reimbursements to limit opportunities for fraud in connection with the performance of services by the taxpayer's relative or a related corporation.

[14] Terminally ill is defined as under the provision of the bill relating to accelerated death benefits. In general, under that provision, an individual is considered to be terminally ill if he or she is certified as having an illness or physical condition that reasonably can be expected to result in death within 24 months of the date of the certification.

Services, is directed to develop a more appropriate index, to be applied in lieu of the foregoing. Such an alternative might appropriately be based on increases in skilled nursing facility and home health care costs. It is intended that the Treasury Secretary annually publish the indexed amount of the limit as early in the year as it can be calculated.

A payor of long-term care benefits (as defined above) is required to report to the IRS the aggregate amount of such benefits paid to any individual during any calendar year, and the name, address and taxpayer identification number of such individual. A copy of the report must be provided to the payee by January 31 following the year of payment, showing the name of the payor and the aggregate amount of benefits paid to the individual during the calendar year. Failure to file the report or provide the copy to the payee is subject to the generally applicable penalties for failure to file similar information reports.

Effective date

The provisions defining long-term care insurance contracts and qualified long-term care services apply to contracts issued after December 31, 1995. Any contract issued before January 1, 1996, that met the long-term care insurance requirements in the State in which the policy was sitused at the time it was issued is treated as a long-term care insurance contract, and services provided under or reimbursed by the contract are treated as qualified long-term care services.

A contract providing for long-term care insurance may be exchanged for a long-term care insurance contract (or the former cancelled and the proceeds reinvested in the latter within 60 days) tax free between the date of enactment and January 1, 1996. Taxable gain would be recognized to the extent money or other property is received in the exchange.

The issuance or conformance of a rider to a life insurance contract providing long-term care insurance coverage is not treated as a modification or a material change for purposes of applying sections 101(f), 7702 and 7702A of the Code.

The provisions relating to (1) treatment as a medical expense of qualified long-term care insurance services and eligible long-term care premiums and (2) tax-free exchanges of life insurance, endowment and annuity contracts for long-term care insurance contracts, are effective for taxable years beginning after December 31, 1995.

The change in treatment of reserves for long-term care insurance contracts is effective for contracts issued after December 31, 1995. If, after that date, a company changes its tax reserve method for long-term care insurance contracts issued after that date, the amount of any adjustment arising from the change with respect to those contracts is spread over a 10-year period as provided in section 807(f).

The provision relating to certain distributions from IRAs and elective deferrals used to pay long-term care insurance premiums is effective for payments and distributions after December 31, 1995.

The provisions relating to the maximum exclusion for long-term care benefits and reporting are effective for taxable years beginning after December 31, 1995. Thus, the initial year in which reports will be filed with the IRS and copies provided to the payee will be 1997, with respect to long-term care benefits paid in 1996.

Senate amendment

Tax treatment and definition of long-term care insurance contracts and qualified long-term care services

In general

The Senate amendment is generally the same as the House bill, except as follows. The cap on excludable amounts applies only to per diem type contracts. If the aggregate payments under all per diem contracts with respect to any one insured exceed $150 per day, then the excess is not excludable. The $150 limit is indexed by the lesser of (1) 5 percent, or (2) increases in the consumer price index. After 1998, a cost index based on cost increases in nursing homes and similar facilities is to be substituted for the consumer price index.

As under the House bill, the deduction for a percentage of health insurance expenses of self-employed individuals applies to long-term care insurance premiums, except that the Senate amendment increases the deduction for health insurance expenses of self-employed individuals to 55 percent.

Definition of long-term care insurance contract

The Senate amendment is generally the same as the House bill, except that the other requirements that a long-term care insurance contract must meet are as follows: (1) premiums are level annual payments over the life of the contract (or 20 years, if shorter); (2) refunds (other than refunds on death of the insured or complete surrender or cancellation of the contract) and dividends under the contract may be used only to reduce future premiums or increase future benefits; (3) the contract prohibits borrowing, assignment, or pledging; and (4) the contract generally does not pay or reimburse expenses reimbursable under Medicare (except where Medicare is a secondary payor). In addition, the Senate amendment imposes consumer protection requirements set forth in the January 1993 National Association of Insurance Commissioners Long-Term Care Insurance Model Act and Regulations, including a requirement that the contract cannot be cancelled on the grounds of age or deterioration of mental or physical health of the insured.

Medicare duplication rules

The Senate amendment is the same as the House bill.

Definition of qualified long-term care services

Qualified long-term care services mean necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative and maintenance (including personal care) services, that are required by a functionally impaired individual. Such services are required to be provided pursuant to a plan of care prescribed by a licensed health care practitioner, and to have as their primary purpose the provision of needed assistance with one or more activities of daily living, or substantial supervision to protect from threats to health and safety due to substantial cognitive impairment.

A functionally impaired individual means one who has been certified within the previous 12 months by a licensed health care practitioner as (1) being unable to perform (without substantial assistance) at least two activities of daily living, or (2) requiring substantial supervision to protect such individual from threats to health and safety due to substantial cognitive impairment. Activities of daily living are eating, toileting, transferring, bathing, dressing and continence.

A licensed health care practitioner is defined as a physician (as defined in sec. 1861(r)(1) of the Social Security Act), registered professional nurse, qualified community care case manager, or other qualified individual who meets such requirements as may be prescribed by the Secretary of the Treasury, provided such person is not a relative of the individual receiving care. A qualified community care case manager means an individual or entity with experience in assessing individuals to determine functional and cognitive impairment, and with experience in providing case management services and preparing individual care plans, and that meets requirements prescribed by the Secretary of the Treasury in consultation with the Secretary of Health and Human Services.

Itemized deduction for medical expenses

Without regard to dollar limits and without a limitation on services provided by relatives or related corporations, the Senate amendment provides that unreimbursed expenses for qualified long-term care services provided to the taxpayer or the taxpayer's spouse or dependent are treated as medical expenses for purposes of the itemized deduction for medical expenses (subject to the present-law floor of 7.5 percent of adjusted gross income). Amounts received under a long-term care insurance contract (regardless of whether the contract reimburses expenses or pays benefits on a per diem or other basis) are treated as reimbursement for expenses for this purpose. A deduction is also provided for premiums for insurance covering otherwise deductible expenses for medical care that is provided under a long-term care insurance contract.

Long-term care riders on life insurance contracts

The Senate amendment is generally the same as the House bill, except that the Senate amendment adds to the definition of the term "portion" a proviso that the payment of benefits does not result in the benefits failing to be treated as long-term care insurance by reason of a reduction in the contract's death benefit or cash surrender value resulting from any such payment.

Life insurance company reserves

The Senate amendment is the same as the House bill.

Health care continuation rules

The Senate amendment is the same as the House bill.

Consumer protection provisions

Under the Senate amendment, long-term care insurance contracts, and issuers of contracts, are required to satisfy certain provisions of the long-term care insurance model Act and model regulations promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993). The policy requirements relate to disclosure, nonforfeitability, guaranteed renewal or noncancellability, prohibitions on limitations and exclusions, extension of benefits, continuation or conversion of coverage, discontinuance and replacement of policies, unintentional lapse, post-claims underwriting, minimum standards, inflation protection, preexisting conditions, and prior hospitalization. The Senate amendment also provides disclosure and nonforfeiture requirements. The nonforfeiture provision gives consumers the option of selecting reduced paid-up insurance, extended term insurance, or a shortened benefit period in the event a policyholder who elects a nonforfeiture provision is unable to continue to pay premiums. The requirements for issuers of long-term care insurance contracts relate to application forms, reporting requirements, marketing, appropriateness of purchase, format, delivering a shopper's guide, right to return, outline of coverage, group plans, policy summary, monthly reports on accelerated death benefits, and incontestability period. A tax is imposed equal to $100 per policy per day for failure to satisfy these requirements.

Nothing in the proposal prevents a State from establishing, implementing or continuing standards related to the protection of policyholders of long-term care insurance policies, if such standards are not inconsistent with standards established under the proposal.

Effective date

The provisions relating to treatment of long-term care insurance or plans apply to contracts issued after December 31, 1995. The provisions relating to treatment of qualified long-term care services as medical care apply to taxable years beginning after December 31, 1995. The Senate amendment provides that no inference is intended as to the tax treatment of long-term care insurance and services prior to the effective date.

A contract providing for payment or reimbursement of services similar to qualified long-term care services, that is issued on or before December 31, 1995, may be exchanged for a long-term care insurance contract taxfree until June 30, 1997. Taxable gain is recognized to the extent money or other property is received in the exchange.

The issuance or conformance of a rider to a life insurance contract providing long-term care insurance coverage is not treated as a modification or a material change for purposes of applying present-law rules relating to flexible premium contracts and the definition of life insurance contracts and modified endowment contracts.

The change in treatment of reserves for long-term care insurance contracts is effective for contracts issued after December 31, 1995.

The provision relating to the reporting of long-term care benefits is effective for benefits paid after December 31, 1995. Thus, the initial year in which reports will be filed with the IRS and copies provided to the payee will be 1997, with respect to long-term care benefits paid in 1996.

The provision relating to consumer protections applies to contracts issued after December 31, 1995 with respect to policy requirements, and to actions taken after December 31, 1995 with respect to actions by insurers.

Conference agreement

The conference agreement follows the House bill, with modifications.

Under the conference agreement, the dollar cap on excludable amounts is $175 per day. In addition, the dollar cap on excludable amounts applies only to per diem type contracts. If the aggregate payments under all per diem contracts with respect to any one insured exceed $175 per day, then the excess is not excludable.

The conference agreement includes the consumer protection provisions of the Senate amendment. Thus, as under the Senate amendment, long-term care insurance contracts, and issuers of contracts, are required to satisfy certain provisions of the long-term care insurance model Act and model regulations promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

Under the conference agreement, the 10-percent tax on early withdrawals does not apply to distributions from individual retirement arrangements (IRAs) and distributions attributable to elective deferrals to qualified cash or deferred arrangements (sec. 401(k) plans), tax-sheltered annuities (sec. 403(b) plans), nonqualified deferred compensation plans of governmental or tax-exempt employers (sec. 457 plans), and section 501(c)(18) plans used to pay premiums for long-term care insurance for the individual or the individual's spouse. Unlike the House bill, however, the conference agreement provides that such distributions are includable in income (as under present law). A plan will not fail to meet the Internal Revenue Code requirements applicable to such plan merely because it permits such distributions.

Under the conference agreement, a contract providing for long-term care insurance may be exchanged for a long-term care insurance contract (or the former may be cancelled and the proceeds reinvested in the latter within 60 days) tax free between the date of enactment and January 1, 1997.

B. TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS (SECS. 6221–6222 OF H.R. 1215 AND SECS. 12221–12222 OF THE SENATE AMENDMENT)

Present law

Treatment of amounts received under a life insurance contract

If a contract meets the definition of a life insurance contract, gross income does not include insurance proceeds that are paid pursuant to the contract by reason of the death of the insured (sec. 101(a)). In addition, the undistributed investment income ("inside buildup") earned on premiums credited under the contract is not subject to current taxation to the owner of the contract. The exclusion under section 101 applies regardless of whether the death benefits are paid as a lump sum or otherwise.

Amounts received under a life insurance contract (other than a modified endowment contract) prior to the death of the insured are includible in the gross income of the recipient to the extent that the amount received constitutes cash value in excess of the taxpayer's investment in the contract (generally, the investment in the contract is the aggregate amount of premiums paid less amounts previously received that were excluded from gross income).

If a contract fails to be treated as a life insurance contract under section 7702(a), inside buildup on the contract is generally subject to tax (sec. 7702(g)).

Requirements for a life insurance contract

To qualify as a life insurance contract for Federal income tax purposes, a contract must be a life insurance contract under the applicable State or foreign law and must satisfy either of two alternative tests: (1) a cash value accumulation test or (2) a test consisting of a guideline premium requirement and a cash value corridor requirement (sec. 7702(a)). A contract satisfies the cash value accumulation test if the cash surrender value of the contract may not at any time exceed the net single premium that would have to be paid at such time to fund future benefits under the contract. A contract satisfies the guideline premium and cash value corridor tests if the premiums paid under the contract do not at any time exceed the greater of the guideline single premium or the sum of the guideline level premiums, and if the death benefit under the contract is not less than a varying statutory percentage of the cash surrender value of the contract.

Proposed regulations on accelerated death benefits

The Treasury Department has issued proposed regulations[15] under which certain "qualified accelerated death benefits" paid by reason of the terminal illness of an insured would be treated as paid by reason of the death of the insured, and therefore would qualify for exclusion under section 101. For purposes of the proposed regulations, an insured would be treated as terminally ill if he or she has an illness that, despite appropriate medical care, the insurer reasonably expects to result in death within 12 months from the payment of the accelerated death benefit. The proposed regulations would not apply to viatical settlements.

House bill

The House bill provides an exclusion from gross income as an amount paid by reason of the death of an insured for (1) amounts received under a life insurance contract and (2) amounts received for the sale or assignment of a life insurance contract to a qualified viatical settlement provider, provided that the insured under the life insurance contract is either terminally ill or chronically ill.[16]

The provision does not apply in the case of an amount paid to any taxpayer other than the insured, if such taxpayer has an insurable interest by reason of the insured being a director, officer or employee of the taxpayer, or by reason of the insured being financially interested in any trade or business carried on by the taxpayer.

A terminally ill individual is defined as one who has been certified by a physician as having an illness or physical condition that reasonably can be expected to result in death within 24 months of the date of certification.

A chronically ill individual is defined as under the long-term care provisions of the House bill.[17] In the case of amounts received with respect to a chronically ill individual (but not amounts received by reason of the individual being terminally ill), the $200 per day ($73,000 annual) limitation on excludable benefits (also applicable to long-term care insurance benefits) applies. A reporting requirement applies to payments to a chronically ill individual.

A qualified viatical settlement provider is any person that regularly purchases or takes assignments of life insurance contracts on the lives of terminally ill or chronically ill individuals and either (1) is licensed for such purposes in the State in which the insured resides, or (2) if the person is not required to be licensed by that State, meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act issued by the National Association of Insurance Commissioners (relating to disclosure requirements and general rules for a viatical settlement contract).

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[15] Prop. Treas. Reg. Secs. 1.101-8, 1.7702-0, 1.7702-2, and 1.7702A-1 (December 15, 1992).

[16] The exclusion for amounts received under a life insurance contract on the life of an insured who is chronically ill applies if the amount is received under a rider or other provision of the contract that is treated as a long-term care insurance contract under section 7702B (as added by the House bill).

[17] Thus, a chronically ill individual is one who has been certified within the previous 12 months by a licensed health care practitioner as being unable to perform (without substantial assistance) at least 2 activities of daily living for at least 90 days due to a loss of functional capacity or cognitive impairment, or having a similar level of disability as determined by the Secretary of the Treasury in consultation with the Secretary of Health and Human Services. Activities of daily living are eating, toileting, transferring, bathing, dressing and continence. Nothing in the bill requires the contract to take into account all of the activities of daily living.

For life insurance company tax purposes, the House bill provides that a life insurance contract is treated as including a reference to a qualified accelerated death benefit rider to a life insurance contract (except in the case of any rider that is treated as a long-term care insurance contract under section 7702B, as added by the bill). A qualified accelerated death benefit rider is any rider on a life insurance contract that provides only for payments of a type that are excludable under this provision.

Effective date.—The provision applies to amounts received after December 31, 1995. The provision treating a qualified accelerated death benefit rider as life insurance for life insurance company tax purposes takes effect on January 1, 1996. The issuance of a qualified accelerated death benefit rider to a life insurance contract, or the addition of any provision required to conform an accelerated death benefit rider to these provisions, is not treated as a modification or material change of the contract (and is not intended to affect the issue date of any contract under section 101(f)).

Senate amendment

In general

The Senate amendment is the same as the House bill, except as follows.

A terminally ill individual is defined as one who has been certified by a physician as having an illness or physical condition that reasonably is expected to result in death within 12 months of the date of certification. The Senate amendment does not apply in the case of a chronically ill individual.

Amounts received under a life insurance contract

The exclusion for amounts received under a life insurance contract is available only if two requirements are met. First, under a present value test, the amount received must equal or exceed the present value of the reduction in the death benefit otherwise payable under the life insurance contract. Second, under a ratio test, the payment of the amount must not reduce the cash surrender value of the contract proportionately more than the death benefit payable under the contract. In other words, the percentage derived by dividing the cash surrender value of the contract immediately after the distribution by the cash surrender value of the contract immediately before the distribution must equal or exceed the percentage derived by dividing the death benefit payable immediately after the distribution by the death benefit payable immediately before the distribution. The amount received includes a series of payments.

For purposes of the present value test, the present value of the reduction in the death benefit is determined by reference to a maximum permissible discount rate, and by assuming that the death benefit would have been paid on the date that is 12 months from the date of the physician's certification. The maximum permissible discount rate is the highest of the following three interest rates: (1) the 90-day Treasury bill yield (as most recently published); (2) Moody's Corporate Bond Yield Average-Monthly Average Corporates (or any successor rate) for the month ending two months before the date the rate is determined; or (3) the rate used to determine cash surrender values under the contract during the applicable period plus 1 percent per annum. It is intended that the rate be determined as of the date (or dates) that the payment is made.

If the accelerated death benefit under the contract is paid in connection with a lien against the death benefit rather than an actual reduction in the death benefit on a discounted basis, then the amount of the lien, and interest charges with respect to any amount in connection with the lien, are taken into account so as to achieve parity between use of the lien method and use of a discounted payment.

Viatical settlements

The Senate amendment defines a viatical settlement provider the same as under the House bill, except that if the viatical settlement provider is not required to be licensed by the State in which the insured resides, then the requirements of the section of the Viatical Settlements Model Regulation issued by the NAIC relating to standards for evaluation of reasonable payments, including discount rates, must be met in determining amounts paid by the viatical settlement provider.

Effective date

The Senate amendment applies to amounts received after December 31, 1995. The discount rules applicable to payments under life insurance contracts do not apply to any amount received before July 1, 1996. The provision treating a qualified accelerated death benefit rider as life insurance for life insurance company tax purposes takes effect on January 1, 1996. The issuance of a qualified accelerated death benefit rider to a life insurance contract, or the addition of any provision required to conform an accelerated death benefit rider to these provisions, would not be treated as a modification or material change of the contract for purposes of the definition of a life insurance contract and a modified endowment contract (and would not affect the issue date of any contract under section 101(f)).

Conference agreement

The conference agreement follows the House bill, with modifications.

As under the House bill, in the case of amounts received with respect to a chronically ill individual (but not amounts received by reason of the individual being terminally ill), the dollar cap of $175 per day[18] on excludable benefits (applicable to long-term care insurance benefits) applies. The reporting requirement under the House bill also applies.

Under the conference agreement, the Treasury Department is required to provide a definition of a chronically ill individual for purposes of the accelerated death benefit provision. It is intended that this definition include individuals with Parkinson's disease, Alzheimer's disease or symptomatic AIDS as chronically ill individuals.

The conference agreement, like the Senate amendment, defines a viatical settlement provider the same as under the House bill, except that if the viatical settlement provider is not required to be licensed by the State in which the insured resides, then the requirements of the section of the Viatical Settlements Model Regulation issued by the NAIC relating to standards for evaluation of reasonable payments, including discount rates, must be met in determining amounts paid by the viatical settlement provider.

C. MEDICAL SAVINGS ACCOUNTS (SEC. 13201 OF THE HOUSE BILL AND SECS. 12231-12233 OF THE SENATE AMENDMENT)

Present law

The tax treatment of health expenses depends on whether the individual is an employee or self employed, and whether the individual is covered under an employer-sponsored health plan. Employer contributions to a health plan for coverage for the employee and the employee's spouse and dependents is excludable from the employee's income and wages for social security tax purposes. Self-employed individuals are entitled to deduct 30 percent of the amount paid for health insurance for the self-employed individual and his or her spouse or dependents. The 30-percent deduction is available with respect to self insurance, as well as commercial insurance. Of course, the self-insured plan must in fact be insurance (e.g., there must be appropriate risk shifting) and not merely a reimbursement arrangement. Individuals who itemize their tax deductions may deduct unreimbursed medical expenses (including expenses for medical insurance) paid during the year to the extent that the total of such expenses exceeds 7.5 percent of the individual's adjusted gross income ("AGI"). Present law does not contain any special rules for medical savings accounts.

House bill

In general

Within limits, contributions to a medical savings account ("MSA") are deductible if made by an eligible individual and are excludable from income (and wages for social security purposes) if made by the employer of an eligible individual. Earnings on amounts in an MSA are currently taxable. Distributions from an MSA for medical expenses are not taxable.

Eligible individuals

An individual (including a self-employed individual) is eligible to make a deductible contribution to an MSA (or to have employer contributions made on his or her behalf) if the individual is covered under a catastrophic health plan and is not covered under another health plan (other than a plan that provides certain permitted coverage). An individual with other coverage in addition to a catastrophic plan is still eligible for an MSA if such other coverage is certain permitted insurance or is coverage (whether provided through insurance or otherwise) for accidents, dental care, vision care, or long-term care. Permitted insurance is (1) Medicare supplemental insurance; (2) insurance if substantially all of the coverage provided under such insurance relates to (a) liabilities incurred under worker's compensation law, (b) tort liabilities, (c) liabilities relating to ownership or use of property (e.g., auto insurance), (d) credit insurance, or (e) such other similar liabilities as the Secretary may prescribe by regulations, and (3) insurance for a specified disease or illness, and (4) insurance that provides a fixed payment for hospitalization. An individual is not eligible to make deductible contributions to an MSA for a year if any employer contributions are made to an MSA on behalf of the individual for the year.

Tax treatment of and limits on contributions

Individual contributions to an MSA are deductible (within limits) in determining AGI. Subject to the same limits, employer contributions to an MSA are excludable from gross income and wages for employment tax purposes, except that this exclusion does not apply to contributions made through a cafeteria plan. The maximum amount of contributions that can be deducted or excluded for a year is equal to the lesser of (1) the deductible under the catastrophic health plan or (2) $2,500 in the case of single coverage and $5,000 if the catastrophic plan covers the individual and a spouse or dependent. The annual limit is the sum of the limits determined separately for each month, based on the individual's status as of the first day of the month. The maximum contribution limit to an MSA is determined separately for each spouse in a married couple. In no event can the maximum contribution limit exceed $5,000 for a family. The dollar limits are indexed for medical inflation and rounded to the nearest multiple of $50.

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[18] The conference agreement follows the House bill, with modifications, with respect to long-term care insurance and services. The conference agreement provides that the dollar cap on excludable benefits under a long-term care insurance contract is modified to $175 per day, and applies only to per diem policies, not to indemnity policies. The dollar cap of $175 per day also applies to amounts excludable under this provision that are paid with respect to a chronically ill individual.

Definition of catastrophic health plan

A catastrophic health plan is a health plan with a deductible of at least $1,500 in the case of single coverage and $3,000 in the case of coverage of more than one individual. These dollar limits are indexed for medical inflation, rounded to the nearest multiple of $50.

Tax treatment of MSAs

Earnings on amounts in an MSA are currently includible in income under the rules relating to grantor trusts. Any net capital losses cannot offset other income.

Taxation of distributions

Distributions from an MSA for the medical expenses of the individual and his or her spouse or dependents are excludable from income. For this purpose, medical expenses do not include expenses for insurance other than long-term care insurance. Distributions that are not for medical expenses are includible in income (to the extent attributable to tax-favored contributions) and are subject to an additional 10-percent tax unless made after age 59½, death or disability.

Upon death, if the beneficiary is the individual's spouse, the spouse may keep the MSA as his or her own. Otherwise, amounts in the MSA must be distributed within 5 years, and are includible in income (to the extent attributable to tax-favored contributions).

Definition of MSAs

In general, an MSA is a trust or custodial account created exclusively for the benefit of the account holder and is subject to rules similar to those applicable to individual retirement arrangements. An MSA trustee (or custodian) can be a bank, insurance company, or other person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with applicable requirements. The MSA trustee (or custodian) is required to make such reports as may be required by the Secretary.

Effective date

Taxable years beginning after December 31, 1995.

Senate amendment

In general

Generally the same as the House bill, except that earnings on amounts in an MSA are not currently taxable (i.e., "inside buildup" is tax free) and the amount of contributions that receive favorable tax treatment differs.

Eligible individuals

An individual is eligible to make deductible contributions to an MSA if the individual is covered under a high deductible health plan and is not eligible to participate in an employer-subsidized health plan maintained by the employer of the individual or his or her spouse or to receive any employer contribution to an MSA. An employer contribution to an MSA is excludable from gross income (and wages for employment tax purposes) if made on behalf of an individual in a high deductible health plan. An individual is eligible to receive employer contributions to an MSA if the individual is covered under a high deductible health plan.

Tax treatment of and limits on contributions

The tax treatment of MSA contributions follows the present-law tax treatment of health insurance expenses (as modified by the Senate amendment). Thus, a self-employed individual may deduct 55 percent of MSA contributions. Other individuals may deduct MSA contributions to the extent the contributions and other medical expenses exceed 7.5 percent of AGI. Employer contributions to an MSA are excludable from income and wages for employment tax purposes, except that this exclusion does not apply to employer contributions made through a cafeteria plan. Only one MSA per family is permitted. The maximum amount of contributions that can be made to an MSA is the lesser of (1) the deductible under the high deductible plan or (2) $2,000 in the case of single coverage and $4,000 if the high deductible plan covers the individual and a spouse or dependent. The annual limit is the sum of the limits determined separately for each month, based on the individual's status as of the first day of the month. The dollar limits are indexed for medical inflation and rounded to the next lowest multiple of $50.

Definition of high deductible health plan

Same as the House bill definition of catastrophic health plan, except that indexed amounts are rounded to the next lowest multiple of $50.

Tax treatment of MSAs

MSAs are exempt from tax. An MSA ceases to be an MSA if, within 2 years after the MSA is established the individual is no longer covered under a high deductible health plan other than by reason of separation from employment.

Taxation of distributions

Same as the House bill, except that medical expenses also include premiums for health care continuation coverage and premiums for health care coverage while an individual is receiving unemployment compensation under Federal or State law. Distributions that are not for medical expenses are includible in income (to the extent not attributable to nondeductible contributions) and are subject to an additional 10-percent tax unless made after age 59½, death, or disability. Upon death, if the beneficiary is the individual's surviving spouse, the spouse may continue the MSA as his or her own. Otherwise, the beneficiary must include the MSA balance (to the extent not attributable to nondeductible contributions) in income in the year of death. If there is no beneficiary, the MSA balance (to the extent not attributable to nondeductible contributions) is includible on the final return of the decedent. In any case, no estate tax applies.

Definition of MSAs

Same as the House bill, except that the Senate amendment provides that the acquisition expenses of an insurance company relating to the establishment of an MSA are not subject to the rules relating to the capitalization of policy acquisition costs.

Effective date

Same as the House bill.

Conference agreement

In general

The conference agreement generally follows the House bill, except that the conference agreement follows the Senate amendment with respect to the limits on maximum contributions ($2,000 per year for an individual and $4,000 per year if the high deductible plan also covers a spouse or dependent of the individual), tax treatment of earnings, definition of medical expenses that can be paid tax-free with MSA funds, post-death distributions, and clarification relating to capitalization of policy acquisition costs. In addition, the conference agreement adopts the term "high deductible plan" rather than "catastrophic plan."

Thus, under the conference agreement, within limits, contributions to an MSA are deductible if made by an eligible individual (including a self-employed individual) and are excludable from income (and wages for employment tax purposes) if made by the employer of an eligible individual. Earnings on amounts in an MSA are not currently taxable. Distributions from an MSA for medical expenses (as defined under the Senate amendment) are not taxable. Distributions from an MSA that are not for medical expenses are includible in income and subject to a 10-percent excise tax unless the distribution is made after age 59½, death, or disability.

Eligible individuals

The conference agreement follows the House bill. As under the House bill, an individual must be covered by a high deductible plan and no other health plan in order to be eligible for an MSA. However, an individual may have certain types of permitted coverage and insurance in addition to the high deductible plan (e.g., dental coverage) and still qualify for an MSA. The conference agreement modifies the House bill definition of permitted coverage to provide that disability coverage (whether provided through insurance or otherwise) is permitted coverage and that credit insurance is not permitted coverage.

Tax treatment of and limits on contributions

The conference agreement follows the House bill, except that the maximum contribution is determined as under the Senate amendment. Under the conference agreement, individual contributions to an MSA are deductible (within limits) in determining AGI. Subject to the same limits, employer contributions to an MSA are excludable from gross income, except that this exclusion does not apply to contributions made through a cafeteria plan. It is expected that the present-law exclusion for social security purposes for accident and sickness benefits applies to employer contributions to an MSA that are excludable from income. If the high deductible plan covers only the individual, the maximum amount of contributions that can be deducted or excluded for a year is equal to the lesser of (1) the deductible under the high deductible plan or (2) $2,000. If the high deductible plan covers the individual and a spouse or a dependent, the maximum that can be excluded or deducted for a year is the lesser of (1) the annual limit under the plan on the aggregate amount of deductibles required to be paid with respect to all individuals, and (2) $4,000. The annual limit is the sum of the limits determined separately for each month, based on the individual's status as of the first day of the month. The maximum contribution limit to an MSA is determined separately for each spouse in a married couple. In no event can the maximum contribution limit exceed $4,000 for a family. The dollar limits are indexed for medical inflation and rounded to the nearest multiple of $50.

Definition of high deductible plan

The conference agreement follows the House bill and the Senate amendments. The conference agreement also clarifies that permitted coverage or insurance does not qualify as a high deductible plan. The conferees intend that a plan will not fail to be considered a high deductible plan merely because, under State law, the plan is required to provide that there is no deductible for preventive care.

Tax treatment of MSAs

The conference agreement follows the Senate amendment with respect to taxation of MSA earnings. Thus, under the conference agreement, MSAs are tax exempt. The conference agreement does not contain the provision in the Senate amendment providing that an MSA ceases to be an MSA if, within 2 years after the MSA is established, the individual is no longer covered under a high deductible plan.

Taxation of distributions

Under the conference agreement, distributions from an MSA for the unreimbursed medical expenses of the individual (including a self-employed individual) and his or her spouse or dependents are excludable from income. The exclusion applies regardless of whether the payment is made directly from the MSA to the service provider, the MSA distribution reimburses the individual for expenses already incurred, or the individual uses the MSA distribution to pay the service provider. In addition, trustee-to-trustee transfers from one MSA to another are permitted.

Medical expenses are defined as under the Senate amendment. Thus, medical expenses are defined as under the rules relating to the itemized deduction for medical expenses, except that medical expenses do not include insurance premiums other than (1) premiums for long-term care insurance as defined under the conference agreement; (2) premiums for health care continuation coverage under any Federal law; and (3) premiums while the individual is receiving unemployment compensation.

Distributions that are not for medical expenses are includible in income and are subject to an additional 10-percent tax unless made after age 591/2, death, or disability.

The conference agreement follows the Senate amendment with respect to distributions after the death of the individual.

Definition of MSAs

The conference agreement follows the Senate amendment.

Effective date

The provision is effective for taxable years beginning after December 31, 1995.

D. DEDUCTION FOR HEALTH INSURANCE EXPENSES OF SELF-EMPLOYED INDIVIDUALS (SEC. 12241 OF THE SENATE AMENDMENT)

Present law

Under present law, self-employed individuals are entitled to deduct 30 percent of the amount paid for health insurance for a self-employed individual and the individual's spouse and dependents. The deduction is not available for any month if the taxpayer was eligible to participate in a subsidized health plan maintained by the employer of the taxpayer or the taxpayer's spouse. The 30-percent deduction is available in the case of self insurance as well as commercial insurance. Of course, the self-insured plan must in fact be insurance (e.g., there must be appropriate risk shifting) and not merely a reimbursement arrangement.

House bill

No provision.

Senate amendment

Under the Senate amendment, the deduction for health insurance expenses of self-employed individuals and their spouses and dependents is increased to 55 percent.

Effective date.—The provision is effective for taxable years beginning after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment, with modifications. Under the conference agreement, the deduction for health insurance for self-employed individuals is phased up to 50 percent as follows: for taxable years beginning in 1998 and 1999, the amount of the deduction is 35 percent of health insurance expenses; for taxable years beginning in 2000 and 2001, 40 percent; and for taxable years beginning in 2002 and thereafter, 50 percent.

Effective date.—The provision is effective for taxable years beginning after December 31, 1997.

E. INCREASE DOLLAR LIMITS FOR BURIAL INSURANCE (SEC. 12242 OF THE SENATE AMENDMENT)

Present law

To qualify as a life insurance contract for Federal income tax purposes, a contract must be a life insurance contract under the applicable State or foreign law and must satisfy either of two alternative tests: (1) a cash value accumulation test or (2) a test consisting of a guideline premium requirement and a cash value corridor requirement (sec. 7702). A contract satisfies the cash value accumulation test if the cash surrender value of the contact may not at any time exceed the net single premium that would have to be paid at such time to fund future benefits under the contract. A contract satisfies the guideline premium and cash value corridor tests if the premiums paid under the contract do not at any time exceed the greater of the guideline single premium or the sum of the guideline level premiums, and if the death benefit under the contract is not less than a varying statutory percentage of the cash surrender value of the contract. Under these rules, the death benefit is generally deemed not to increase (sec. 7702(e)(1)(A)).

Special rules apply with respect to a contract that is purchased to cover payment of burial expenses or in connection with prearranged funeral expenses. For such a contract, death benefit increases may be taken into account in applying the cash value accumulation test if the contract (1) has an initial death benefit of $5,000 or less and a maximum death benefit of $25,000 or less, and (2) provides for a fixed predetermined annual increase not to exceed 10 percent of the initial death benefit or 8 percent of the death benefit at the end of the preceding year (sec. 7702(e)(2)(C)).

House bill

No provision.

Senate amendment .

The Senate amendment increases the dollar limits applicable in the case of an insurance contract to cover payment of burial expenses or in connection with prearranged funeral expenses. For such a contract, death benefit increases may be taken into account in applying the cash value accumulation test if the contract has an initial death benefit of $7,000 or less and a maximum death benefit of $30,000 or less (and other requirements of present law are met). In addition, these dollar limits are to be adjusted annually, after 1995, for inflation in accordance with the consumer price index.

Effective date.—The provision is effective for contracts entered into after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

F. HEALTH INSURANCE ORGANIZATIONS ELIGIBLE FOR BENEFITS OF SECTION 833(SEC. 12243 OF THE SENATE AMENDMENT)

Present law

An organization described in section 501(c)(3) or (4) of the Code is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance (sec. 501(m)). Special rules apply to certain eligible health insurance organizations. Eligible health insurance organizations are (1) Blue Cross or Blue Shield organizations existing on August 16, 1986, which have not experienced a material change in structure or operations since that date, and (2) other organizations that meet certain community-service-related requirements and substantially all of whose activities involve the providing of health insurance (sec. 833). Section 833 provides that eligible organizations are generally treated as stock property and casualty insurance companies.

Section 833 provides a special deduction for eligible organizations, equal to 25 percent of the claims and expenses incurred during the year, less the adjusted surplus at the beginning of the year. This deduction is calculated by computing surplus, taxable income, claims incurred, expenses incurred, tax-exempt income, net operating loss carryovers, and other items attributable to health business. The deduction may not exceed taxable income attributable to health business for the year (calculated without regard to this deduction).

In addition, section 833 eliminates, for eligible organizations, the 20-percent reduction in unearned premium reserves that applies generally to all property and casualty insurance companies.

House bill

No provision.

Senate amendment

The Senate amendment applies the special rules under section 833 to the same extent they are provided to certain existing Blue Cross or Blue Shield organizations, in the case of any organization that (1) is not a Blue Cross or Blue Shield organization existing on August 16, 1986, and (2) otherwise meets the requirements of section 833(c)(2) (including the requirement of no material change in operations or structure since August 16, 1986). Under the Senate amendment, an organization qualifies for this treatment only if (1) it is not a health maintenance organization, and (2) it is organized under and governed by State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations.

Effective date.—The provision is effective for taxable years ending after October 13, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

IV. ESTATE AND GIFT TAX PROVISIONS

A. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT; INDEXING OF CERTAIN PROVISIONS

1. INCREASE IN UNIFIED CREDIT (SEC. 6351(A) OF H.R. 1215 AND SEC. 12302 OF THE SENATE AMENDMENT)

Present law

A unified credit of $192,800 is allowed in computing a taxpayer's estate and gift tax, which effectively exempts a total of $600,000 in cumulative taxable transfers from the estate and gift tax (sec. 2010).

House bill

The House bill increases the unified credit over a three-year period beginning in 1996, from an effective exemption of $600,000 to an effective exemption of $750,000. For decedents dying and gifts made in 1996, an effective exemption of $700,000 is provided; for decedents dying and gifts made in 1997, the effective exemption is $725,000; and for decedents dying and gifts made in 1998, the effective exemption is $750,000. After 1998, the effective exemption amount of $750,000 is indexed annually for inflation occurring after 1997. The indexed exemption amount is rounded to the nearest $10,000.

To reflect the increase in the unified credit, the House bill also makes conforming amendments to (1) the 5-percent surtax in order to permit the proper phase out of the increased unified credit, (2) the general filing requirements for estate and gift tax returns under Code section 6018(a), and (3) the amount of the unified credit allowed under Code section 2102(c)(3) with respect to nonresident aliens with U.S. situs property who are residents of certain treaty countries.

Effective date.—Effective for decedents dying and gifts made after December 31, 1995.

Senate amendment

The Senate amendment increases the present-law unified credit over a six-year period beginning in 1996, from an effective exemption of $600,000 to an effective exemption of $750,000. The increase is phased in as follows:

Decedents dying and gifts made in	*Effective exemption*
1996	$625,000
1997	650,000
1998	675,000
1999	700,000
2000	725,000
2001 and thereafter	$750,000

The Senate amendment makes the same conforming amendments as are made in the House bill.

Effective date.—Same as the House bill.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that after 2001, the effective exemption amount of $750,000 is increased by inflation occurring after 2000. The indexed exemption amount is rounded to the nearest $10,000.

2. INDEXING OF OTHER PROVISIONS (SEC. 6351(B)-(E) OF H.R. 1215)

Present law

Annual exclusion for gifts.—A taxpayer may exclude $10,000 of gifts of present interests in property made to each donee during a calendar year (sec. 2503).

Special use valuation.—An executor may elect for estate tax purposes to value certain qualified real property used in farming or a closely-held trade or business at its current use value, rather than its highest and best use value (sec. 2032A). The maximum reduction in value under such an election is $750,000.

Generation-skipping transfer tax.—An individual is allowed an exemption from the GST tax of up to $1,000,000 for generation-skipping transfers made during life or at death (sec. 2631).

Installment payment of estate tax.—An executor may elect to pay the Federal estate tax attributable to an interest in a closely held business in installments over, at most, a 14-year period (sec. 6166). The first $1,000,000 in value of a closely-held business is eligible for a special 4-percent interest rate (sec. 6601(j)).

House bill

The House bill provides that, after 1998, the $10,000 annual exclusion for gifts, the $750,000 ceiling on special use valuation, the $1,000,000 generation-skipping transfer tax exemption, and the $1,000,000 ceiling on the value of a closely-held business eligible for the special 4-percent interest rate, are all indexed annually for inflation occurring after 1987. Indexing of the annual exclusion is rounded to the nearest $1,000 and indexing of the other amounts is rounded to the nearest $10,000.

Effective date.—Effective for decedents dying, and gifts made, after December 31, 1998.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, except that indexing does not begin until after December 31, 2000 (for inflation occurring after 1999).

Effective date.—Effective for decedents dying and gifts made after December 31, 2000.

B. REDUCTION IN ESTATE TAX FOR QUALIFIED FAMILY-OWNED BUSINESSES (SEC. 12301 OF THE SENATE AMENDMENT)

Present law

There are no special estate tax rules for qualified family-owned businesses. However, under section 2032A, an executor may elect for estate tax purposes to value certain qualified real property used in farming or another qualifying closely-held trade or business at its current use value, rather than its highest and best use value (up to a maximum reduction of $750,000). In addition, an executor may elect to pay the Federal estate tax attributable to a qualified closely—held business in installments over, at most, a 14-year period (sec. 6166). The first $1,000,000 in value of a closely-held business is eligible for a special 4-percent interest rate (sec. 6601(j)).

House bill

No provision.

Senate amendment

The Senate amendment provides special estate tax treatment for qualified "family-owned business interests" if such interests comprise more than 50 percent of a decedent's estate. Subject to certain requirements, the bill excludes the first $1.5 million of value in qualified family-owned business interests from the decedent's estate, and also excludes from the estate 50 percent of the value of qualified family-owned business interests between $1.5 million and $5 million. Thus, the total amount of exclusion available per decedent for qualified family-owned business interests is equal to $3.25 million (i.e., $1.5 million plus 50 percent of $3.5 million).

A qualified family-owned business interest is defined as any interest in a trade or business (regardless of the form in which it is held) with a principal place of business in the United States if ownership of the trade or business is held at least 50 percent by one family, 70 percent by two families, or 90 percent by three families, as long as the decedent's family owns at least 30 percent of the trade or business.

An interest in a trade or business does not qualify if the business's (or a related entity's) stock or securities were publicly-traded at any time within three years of the decedent's death. An interest in a trade or business also does not qualify if more than 35 percent of the adjusted ordinary gross income of the business for the year of the decedent's death was personal holding company income (as defined in section 543). In the case of a trade or business that owns an interest in another trade or business (i.e., "tiered entities"), special look-through rules apply.

The value of a trade or business qualifying as a family-owned business interest is reduced to the extent the business holds passive assets or excess cash or marketable securities.

To qualify for the beneficial treatment provided under the bill, the decedent (or a member of the decedent's family) must have owned and materially participated in the trade or business for at least five of the eight years preceding the decedent's date of death. In addition, each qualified heir (or a member of the qualified heir's family) is required to materially participate in the trade or business for at least five years of each 8-year period ending within ten years following the decedent's death.

The benefit of the exclusions for qualified family-owned business interests are subject to recapture if, within 10 years of the decedent's death and before the qualified heir's death, one of the following "recapture events" occurs: (1) the qualified heir ceases to meet the material participation requirements; (2) the qualified heir disposes of any portion of his or her interest in the family-owned business, other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution; (3) the principal place of business of the trade or business ceases to be located in the United States; or (4) the qualified heir loses U.S. citizenship.

The portion of the reduction in estate taxes that is recaptured is dependent upon the number of years that the qualified heir (or members of the qualified heir's family) materially participated in the trade or business after the decedent's death. If the qualified heir (or his or her family members) materially participated in the trade or business after the decedent's death for less than six years, 100 percent of the reduction in estate taxes attributable to that heir's interest is recaptured; if the participation was for at least six years but less than seven years, 80 percent of the reduction in estate taxes is recaptured; if the participation was for at least seven years but less than eight years, 60 percent is recaptured; if the participation was for at least eight years but less than nine years, 40 percent is recaptured; and if the participation was for at least nine years but less than ten years, 20 percent of the reduction in estates taxes is recaptured. In general, there is no requirement that the qualified heir (or members of his or her family) continue to hold or participate in the trade or business more than 10 years after the decedent's death. As under present-law section 2032A, however, the 10-year recapture period may be extended for a period of up to two years if the qualified heir does not begin to use the property for a period of up to two years after the decedent's death.

Effective date.—Effective with respect to the estates of decedents dying after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment, with the following modifications. The conference agreement excludes the first $1.0 million of value in qualified family-owned business interests from the decedent's estate, and also excludes from the estate 50 percent of the value of qualified family-owned business interests between $1.0 million and $2.5 million. Thus, the total amount of exclusion available per decedent for qualified family-owned business interests is equal to $1.75 million (i.e., $1.0 million plus 50 percent of $1.5 million).

In addition, the conference agreement coordinates the benefit for qualified family-owned business interests with the present-law benefits relating to special-use valuation (sec. 2032A) and the special 4-percent interest rate available for closely-held businesses (sec. 6601(j)). The conference agreement provides that any amount excluded from a decedent's estate under the qualified family-owned business provision reduces the ceilings with respect to both section 2032A and section 6601(j). Thus, for example, if a decedent had $350,000 of qualified family—owned business interests, the entire value of his qualified family-owned business property would be excluded from the estate; if the decedent's estate also qualifies for treatment under 2032A or 6601(j), the executor could take a maximum reduction under section 2032A of $400,000 (i.e., $750,000 less $350,000), and/or could use the special 4-percent rate provided in section 6601(j) with respect to the first $650,000 in value of a qualifying business (i.e., $1,000,000 less $350,000).

C. REDUCTION IN ESTATE TAX FOR CERTAIN LAND SUBJECT TO PERMANENT CONSERVATION EASEMENT (SEC. 12303 OF THE SENATE AMENDMENT)

Present law

A deduction is allowed for estate and gift tax purposes for a contribution of a qualified real property interest to a charity (or other qualified organization) exclusively for conservation purposes (secs. 2055(f), 2522(d)). For this purpose, a qualified real property interest means the entire interest of the transferor in real property (other than certain mineral interests), a remainder interest in real property, or a perpetual restriction on the use of real property (sec. 170(h)). A "conservation purpose" is (1) preservation of land for outdoor recreation by, or the education of, the general public, (2) preservation of natural habitat, (3) preservation of open space for scenic enjoyment of the general public or pursuant to a governmental conservation policy, and (4) preservation of historically important land or certified historic structures. A contribution is treated as "exclusively for conservation purposes" only if the conservation purpose is protected in perpetuity.

House bill

No provision.

Senate amendment

The Senate amendment provides that an executor may elect to exclude from the taxable estate 50 percent of the value of any land subject to a qualified conservation easement that meets the following requirements: (1) the land must be located within 25 miles of a metropolitan area or a national park or wilderness area; (2) the land must have been owned by the decedent or a member of the decedent's family at all times during the three-year period ending on the date of the decedent's death; and (3) a qualified conservation contribution of a qualified real property interest had been granted by the transferor or a member of his or her family. For this purpose, preservation of a historically important land area or a certified historic structure does not qualify as a conservation purpose. To the extent that the value of such land is excluded from the taxable estate, the basis of such land acquired at death is a carryover basis (i.e., the basis is not stepped up to its fair market value at death). Debt-financed property is not eligible for the exclusion.

The exclusion amount is calculated based on the value of the property after the conservation easement has been placed on the property. The exclusion from the taxable estate does not extend to the value of any development rights retained by the decedent or donor, although payment for estate taxes on retained development rights may be deferred for up to two years, or until the disposition of the property, whichever is earlier.

The 50-percent exclusion from the taxable estate for land subject to a qualified conservation easement may only be taken to the extent that the value of such land, plus the value of qualified family-owned business interests that qualify for the reduction in estate taxes, does not exceed $5 million.

If the value of the conservation easement is less than 30 percent of (1) the value of the land without the easement, reduced by (2) the value of any retained development rights, then the exclusion percentage is reduced. The reduction in the exclusion percentage is equal to two percentage points for each point that the above ratio falls below 30 percent.

The Senate amendment also provides that the granting of a qualified conservation easement (as defined above) is not treated as a disposition triggering the recapture provisions of section 2032A.

Effective date.—Effective for decedents dying after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment, with the following modifications.

The conference agreement provides an exclusion from the taxable estate of 40 percent of the value of any land subject to a qualified conservation easement. As in the Senate amendment, if the value of the conservation easement is less than 30 percent of (1) the value of the land without the easement, reduced by (2) the value of any retained development rights, then the exclusion percentage is reduced. The reduction in the exclusion percentage is equal to two percentage points for each point that the above ratio falls below 30 percent. In making this calculation, the value of the land without the easement is to be determined by taking into account any local, State, or Federal law that restricts the development of the land, and the extent to which any prior easements restrict the use of the land.

The conference agreement expands the category of land eligible for the exclusion to include land located within 10 miles of an Urban National Forest (as designated by the Forest Service of the United States Department of Agriculture) as well as land located within 25 miles of a metropolitan area or a national park or wilderness area.

D. MODIFICATION OF GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS (SEC. 14634 OF THE HOUSE BILL AND SEC. 12304 OF THE SENATE AMENDMENT)

Present law

A generation-skipping transfer tax ("GST" tax) generally is imposed on transfers to an individual who is in more than one generation below that of the transferor. Transfers subject to the GST tax include direct skips, taxable terminations and taxable distributions. For this purpose, a direct skip is any transfer subject to estate or gift tax of an interest in property to a skip person (sec. 2612(c)(1)). A taxable termination is a termination (by death, lapse of time, release of power, or otherwise) of an interest in property held in trust unless, immediately after such termination, a non-skip person has an interest in the property, or unless at no time after the termination may a distribution (including a distribution upon termination) be made from the trust to a skip person (sec. 2612(a)). A taxable distribution is a distribution from a trust to a skip person (other than a taxable termination or a direct skip) (sec. 2612(b)).

Under the "predeceased parent exception," a direct skip transfer to a transferor's grandchild is not subject to the generation skipping transfer ("GST") tax if the child of the transferor who was the grandchild's parent is deceased at the time of the transfer (sec. 2612(c)(2)). This "predeceased parent exception" to the GST tax is not applicable to (1) transfers to collateral heirs, e.g., grandnieces or grandnephews, or (2) taxable terminations or taxable distributions.

House bill

The House bill extends the predeceased parent exception to transfers to collateral heirs, provided that the decedent has no living lineal descendants at the time of the transfer.

In addition, the House bill extends the predeceased parent exception to taxable terminations and taxable distributions, provided that the parent of the relevant beneficiary was dead at the earliest time that the transfer (from which the beneficiary's interest in the property was established) was subject to estate or gift tax.

Effective date.—Effective for generation-skipping transfers occurring after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill, except for the effective date.

Effective date.—Effective for generation-skipping transfers occurring after December 31, 1994.

Conference agreement

The conference agreement follows the Senate amendment.

E. ESTATE TAX RECAPTURE FROM CASH LEASES OF SPECIALLY-VALUED PROPERTY (SEC. 12305 OF THE SENATE AMENDMENT)

Present law

An executor may elect to value certain "qualified real property" used in farming or other qualifying trade or business at its current use value rather than its highest and best use. If, after the special-use valuation election is made, the heir who acquired the real property ceases to use it in its qualified use within 10 years (15 years for individuals dying before 1982) of the decedent's death, an additional estate tax is imposed in order to "recapture" the benefit of the special-use valuation (sec. 2032A(c)).

Some courts have held that the cash rental of specially-valued property after the death of the decedent is not a qualified use and, therefore, results in the imposition of the recapture tax. A decedent's surviving spouse, however, is not treated as failing to use the property in a qualified use solely because the spouse rents the property to a member of the spouse's family on a net cash basis (sec. 2032A(b)(5)).

House bill

No provision.

Senate amendment

The Senate amendment provides that the cash lease of specially-valued real property by a lineal descendant of the decedent to a member of the lineal descendant's family, who continues to operate the farm or closely held business, does not cause the qualified use of such property to cease for purposes of imposing the additional estate tax under section 2032A(c). No inference is intended as to whether the cash lease of specially-valued real property is a qualified use of such property under present law.

Effective date.—Effective for cash rentals after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

V. EXPIRING TAX PROVISIONS

A. TEMPORARY EXTENSION OF CERTAIN PROVISIONS

1. WORK OPPORTUNITY TAX CREDIT (SEC. 13101 OF THE HOUSE BILL)

Present law

General rules.—Prior to January 1, 1995, the targeted jobs tax credit was available on an elective basis for employers hiring individuals from one or more of nine targeted groups. The credit generally was equal to 40 percent of qualified first-year wages.

Certification of members of targeted groups.—In general, an individual was not treated as a member of a targeted group unless certification that the individual was a member of such a group was received or requested in writing by the employer from the designated local agency on or before the day on which the individual began work for the employer.

Targeted groups eligible for the credit.—The nine groups eligible for the credit were either recipients of payments under means-tested transfer programs, economically disadvantaged (as measured by family income), or disabled individuals:

(1) Vocational rehabilitation referrals;

(2) Economically disadvantaged youths;

(3) Economically disadvantaged former convicts;

(4) Economically disadvantaged summer youth employees;

(5) AFDC recipients;

(6) Economically disadvantaged Vietnam-era veterans;

(7) Economically disadvantaged cooperative education students;

(8) SSI recipients; and

(9) General assistance recipients.

Other rules.—No credit was available for wages paid to replacement employees during strikes or lockouts.

Minimum employment period.—No credit was allowed for wages paid unless the eligible individual was either (1) employed by the employer for at least 90 days (14 days in the case of economically disadvantaged summer youth employees) or (2) had completed at least 120 hours (20 hours for summer youth) of services performed for the employer.

Length of extension.—Expired January 1, 1995.

House bill

General rules.—The House bill replaces the targeted jobs tax credit with the "work opportunity tax credit." The work opportunity tax credit is available on an elective basis for employers hiring individuals from one or more of five targeted groups. The credit generally is equal to 35 percent of qualified wages.

Certification of members of targeted groups.—In general, an individual is not treated as a member of a targeted group unless: (1) on or before the day the individual begins work for the employer, the employer received in writing a certification from the designated local agency that the individual is a member of a specific targeted group, or (2) on or before the day the individual is offered work with the employer, a pre-screening notice is completed with respect to that individual and within 14 days after the individual begins work for the employer, the employer submits such notice to the designated local agency as part of a written request for certification. The pre-screening notice will contain the information provided to the employer by the individual that forms the basis of the employer's belief that the individual is a member of a targeted group.

Targeted groups eligible for the credit.—There are five groups eligible for the credit:

(1) Vocational rehabilitation referral;

(2) High-risk youth;

(3) Qualified ex-felon;

(4) Qualified summer youth employee; and

(5) Aid to Families with Dependent Children ("AFDC") or successor program (with special rules for qualified veterans)

Other rules.—The House bill does not include the prior-law rule denying the credit in the case of strikes or lockouts.

Minimum employment period.—No credit is allowed for wages paid unless the eligible individual is employed by the employer for at least 180 days (20 days in the case of a qualified summer youth employee) or 500 hours (120 hours in the case of a qualified summer youth employee).

Length of extension.—January 1, 1996 through December 31, 1997 (two years).

Senate amendment[19]

General rules.—Same as the House bill, with the addition of a sixth targeted group: "qualified veterans." Unlike the House bill, the Senate amendment expands eligibility to certain veterans certified as receiving assistance under a food stamp program.

Certification of members of targeted groups.—Same as the House bill.

Targeted groups eligible for the credit.—Same as the House bill, with the addition of a sixth targeted group "qualified veterans." Unlike the House bill, the Senate amendment extends eligibility to certain veterans certified as receiving assistance under a food stamp program.

Other rules.—Retains the prior-law rule denying the credit in the case of strikes or lockouts.

Minimum employment period.—Same as the House bill, except 500 hours reduced to 400 hours.

Length of extension.—January 1, 1996, through February 28, 1997 (14 months).

Conference agreement

The conference agreement provides for the following:

General rules.—The conference agreement follows the Senate amendment.

Certification of members of targeted groups.—The conference agreement follows the House bill and the Senate amendment.

Targeted groups eligible for the credit.—The conference agreement follows the Senate amendment.

Other rules.—The conference agreement follows the Senate amendment.

Minimum employment period.—The conference agreement follows the House bill.

Length of extension.—The conference agreement provides for a one-year extension, January 1, 1996 through December 31, 1996.

Effective date.—The credit is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after January 1, 1996, and before January 1, 1997.

2. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE (SEC. 13102 OF THE HOUSE BILL AND SEC. 12402 OF THE SENATE AMENDMENT)

Present law

For taxable years beginning before January 1, 1995, an employees's gross income and wages did not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts were paid or incurred pursuant to an educational assistance program that met certain requirements. This exclusion, which expired for taxable years beginning after December 31, 1994, was limited to $5,250 of educational assistance with respect to an individual during a calendar year. The exclusion applied whether or not the education was job related. In the absence of the exclusion, educational assistance is excludable from income only if it is related to the employee's current job.

House bill

The House bill extends the exclusion for employer-provided educational assistance to taxable years beginning after December 31, 1994, and before January 1, 1998. In years beginning after December 31, 1995, the exclusion does not apply with respect to graduate-level courses.

Effective date.—The provision is effective with respect to taxable years beginning after December 31, 1994, and before January 1, 1998, and the restriction of the exclusion to undergraduate education is effective for taxable years beginning after December 31, 1995.

Senate amendment

The Senate amendment extends the exclusion for educational assistance for taxable years beginning after December 31, 1994, and before March 1, 1997. In the case of a taxable year beginning in 1997, the maximum amount that can be excluded is one-sixth of $5,250, or $875, and only amounts pad by the employer before March 1, 1997, are taken into account.

Effective date.—The provision is effective with respect to taxable years beginning after December 31, 1994, and before March 1, 1997.

Conference agreement

The conference agreement follows the House bill, except that the exclusion for educational assistance is extended for taxable years beginning after December 31, 1994, and before January 1, 1997. As under the House bill, the exclusion does not apply to graduate-level education after December 31, 1995.

Effective date.—The provision is effective with respect to taxable years beginning after December 31, 1994, and before January 1, 1997, and the restriction of the exclusion to undergraduate education is effective for taxable years beginning after December 31, 1995.

3. RESEARCH AND EXPERIMENTATION TAX CREDIT (SEC. 13103 OF THE HOUSE BILL AND SEC. 12402 OF THE SENATE AMENDMENT)

Present and prior law

General rule

Prior to July 1, 1995, section 41 of the Internal Revenue Code provided for a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenditures for a taxable year exceeded its base amount for that year. The research tax credit expired and does not apply to amounts paid or incurred after June 30, 1995.

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[19] The Senate amendment was inadvertently stricken in the enrolling of the Senate amendment. This explanation is of the Senate amendment as intended to be included.

A 20-percent research tax credit also applied to the excess of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation. This separate credit computation is commonly referred to as the "university basic research credit" (see sec. 41(e)).

Computation of allowable credit

Except for certain university basic research payments made by corporations, the research tax credit applies only to the extent that the taxpayer's qualified research expenditures for the current taxable year exceed its base amount. The base amount for the current year generally is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenditures for the 1984-1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (so-called "start-up firms") are assigned a fixed-base percentage of 3 percent.[20]

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

To prevent artificial increases in research expenditures by shifting expenditures among commonly controlled or otherwise related entities, research expenditures and gross receipts of the taxpayer are aggregated with research expenditures and gross receipts of certain related persons for purposes of computing any allowable credit (sec. 41(f)(1)). Special rules apply for computing the credit when a major portion of a business changes hands, under which qualified research expenditures and gross receipts for periods prior to the change or ownership of a trade or business are treated as transferred with the trade or business that gave rise to those expenditures and receipts for purposes of recomputing a taxpayer's fixed-base percentage (sec. 41(f)(3)).

Eligible expenditures

Qualified research expenditures eligible for the research tax credit consist of: (1) "in-house" expenses of the taxpayer for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent of amounts paid by the taxpayer for qualified research conducted on the taxpayer's behalf (so-called "contract research expenses").

To be eligible for the credit, the research must not only satisfy the requirements of present-law section 174 but must be undertaken for the purpose of discovering information that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and must pertain to functional aspects, performance, reliability, or quality of a business component. Research does not qualify for the credit if substantially all of the activities relate to style, taste, cosmetic, or seasonal design factors (sec. 41(d)(3)). In addition, research does not qualify for the credit if conducted after the beginning of commercial production of the business component, if related to the adaptation of an existing business component to a particular customer's requirements, if related to the duplication of an existing business component from a physical examination of the component itself or certain other information, or if related to certain efficiency surveys, market research or development, or routine quality control (sec. 41(d)(4)).

Expenditures attributable to research that is conducted outside the United States do not enter into the credit computation. In addition, the credit is not available for research in the social sciences, arts, or humanities, nor is it available for research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

House bill

The House bill extends the research tax credit (including the university basic research credit) for the period July 1, 1995, through December 31, 1997.

The House bill also expands the definition of "start-up firms" under section 41(c)(3)(B)(I) to include any firm if the first taxable year in which such firm had both gross receipts and qualified research expenses began after 1983.[21]

In addition, the House bill allows taxpayers to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 1.65 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1 percent (i.e., the base amount equals 1 percent of the taxpayer's average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 2.2 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of 2 percent. A credit rate of 2.75 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2 percent. An election to be subject to this alternative incremental credit regime may be made only for a taxpayer's first taxable year beginning after June 30, 1995, and such an election applies to that taxable year and all subsequent years unless revoked with the consent of the Secretary of the Treasury.

The House bill also provides for a special rule for payments made to a qualified research consortium. Under this special rule, 75 percent of amounts paid to a qualified research consortium for qualified research are treated as qualified research expenses eligible for the research credit (rather than 65 percent under the present-law section 41(b)(3) rule governing contract research expenses). For this purpose, a qualified research consortium is defined as a nonprofit scientific research organization that is described in section 501(c)(3) (but not a college or university) if (1) at least 15 unrelated persons paid amounts to the organization for qualified research during the calendar year in which the taxable year of the taxpayer begins, (2) no three persons paid more than 50 percent of such amounts, and (3) no one person paid more than 20 percent of such amounts.

Effective date.—Extension of the research tax credit is effective for expenditures paid or incurred during the period July 1, 1995, through December 31, 1997. The modification to the definition of "start-up firms" is effective for taxable years ending after June 30, 1995. Taxpayers may elect the alternative research credit regime (with lower fixed-base percentages and lower credit rates) for taxable years beginning after June 30, 1995. The special rule that treats 75 percent of qualified research consortium payments as qualified research expenses is effective for taxable years beginning after June 30, 1995.

Senate amendment

The Senate amendment extends the research tax credit (including the university basic research credit) for the period July 1, 1995, through February 28, 1997.

In addition, the Senate amendment includes the same provision contained in the House bill expanding the definition of "start-up firms" under section 41(c)(3)(B)(I) to include any firm if the first taxable year in which such firm had both gross receipts and qualified research expenses began after 1983.

Effective date.—Extension of the research tax credit is effective for expenditures paid or incurred during the period July 1, 1995, through February 28, 1997. The modification to the definition of "start-up firms" is effective for taxable years ending after June 30, 1995.

Conference agreement

The conference agreement extends the research tax credit (including the university basic research credit) for the period July 1, 1995, through December 31, 1996.

In addition, the conference agreement includes (1) the expanded definition of "start-up firms" from both the House bill and Senate amendment, (2) the provision from the House bill that allows taxpayers to elect an alternative incremental credit regime, and (3) the provision from the House bill that treats 75 percent of qualified research consortium payments as qualified research expenses.

Effective date.—Extension of the research tax credit is effective for expenditures paid or incurred during the period July 1, 1995, through December 31, 1996. The modification to the definition of "start-up firms" is effective for taxable years ending after June 30, 1995. Taxpayers may elect the alternative research credit regime (with lower fixed-base percentages and lower credit rates) for taxable years beginning after June 30, 1995. The special rule that treats 75 percent of qualified research consortium payments as qualified research expenses is effective for taxable years beginning after June 30, 1995.

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[20] The Omnibus Budget Reconciliation Act of 1993 included a special rule designed to gradually recompute a start-up firm's fixed-base percentage based on its actual research experience. Under this special rule, a start-up firm (i.e., any taxpayer that did not have gross receipts in at least three years during the 1984-1988 period) will be assigned a fixed-base percentage of 3 percent for each of its first five taxable years after 1993 in which it incurs qualified research expenditures. In the event that the research credit is extended beyond the scheduled June 30, 1995 expiration date, a start-up firm's fixed-base percentage for its sixth through tenth taxable years after 1993 in which it incurs qualified research expenditures will be a phased-in ratio based on its actual research experience. For all subsequent taxable years, the taxpayer's fixed-base percentage will be its actual ratio of qualified research expenditures to gross receipts for any five years selected by the taxpayer from its fifth through tenth taxable years after 1993 (sec. 41(c)(3)(B)).

[21] In applying the start-up firm rules, the test is whether a taxpayer, in fact, both incurred research expenses (which under the present-law rules would be qualified research expenses) and had gross receipts in a particular year, not whether the taxpayer claimed a research tax credit for that year.

4. EXCLUSION FOR EMPLOYER-PROVIDED GROUP LEGAL SERVICES; TAX EXEMPTION FOR QUALIFIED GROUP LEGAL SERVICES ORGANIZATIONS (SEC. 12404 OF THE SENATE AMENDMENT)

Present law

Under present law, there is no exclusion for employer-provided group legal services, or tax exemption for qualified group legal services organizations. Under prior law, employees were not subject to income or employment tax on amounts contributed by an employer to a qualified group legal services plan (or benefits provided under such a plan). The exclusion did not apply to the extent that the value of insurance against legal costs incurred by the individual (or spouse or dependents) provided under the plan for a year exceeded $70. The exclusion for group legal services benefits expired after June 30, 1992.

In addition, prior law provided tax-exempt status for an organization the exclusive function of which was to provide legal services or indemnification against the cost of legal services provided through a qualified group services plan. The tax exemption for such an organization expired for taxable years beginning after June 30, 1992.

House bill

No provision.

Senate amendment

The Senate amendment reinstates the exclusion from income for contributions to (and benefits under) employer-provided group legal services plans and the exemption from tax for certain group legal services organizations from January 1, 1996, through February 28, 1997. The exclusion is available with respect to contributions to employer-provided group legal services plans through February 28, 1997, but the limit on the value of insurance provided under the plan for taxable years beginning in 1997 is one-sixth of $70 or $12.

Effective date.—The provision is effective for taxable years beginning after December 31, 1995, and before February 28, 1997.

Conference agreement

The conference agreement does not include the Senate amendment.

5. ORPHAN DRUG TAX CREDIT (SEC. 13105 OF THE HOUSE BILL AND SEC. 12404 OF THE SENATE AMENDMENT)

Present and prior law

Prior to January 1, 1995, a 50-percent nonrefundable tax credit was allowed for qualified clinical testing expenses incurred in testing of certain drugs for rare diseases or conditions, generally referred to as "orphan drugs." Qualified testing expenses are costs incurred to test an orphan drug after the drug has been approved for human testing by the Food and Drug Administration (FDA) but before the drug has been approved for sale by the FDA. A rare disease or condition is defined as one that (1) affects less than 200,000 persons in the United States or (2) affects more than 200,000 persons, but for which there is no reasonable expectation that businesses could recoup the costs of developing a drug for it from U.S. sales of the drug. These rare diseases and conditions include Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette's syndrome, and Duchenne's dystrophy (a form of muscular dystrophy).

Under prior law, the orphan drug tax credit could be claimed by a taxpayer only to the extent that its regular tax liability for the year the credit was earned exceeded its tentative minimum tax for that year, after regular tax was reduced by nonrefundable personal credits and the foreign tax credit.[22] Unused credits could not be carried back or carried forward to reduce taxes in other years.

The orphan drug tax credit expired after December 31, 1994.

House bill

The House bill extends the orphan drug tax credit for the period January 1, 1995, through December 31, 1997.

Effective date.—Qualified clinical testing expenses paid or incurred during the period January 1, 1995, through December 31, 1997.

Senate amendment

The Senate amendment extends the orphan drug tax credit for the period January 1, 1995, through February 28, 1997.

In addition, the Senate amendment allows taxpayers to carry back unused credits to three years preceding the year the credit is earned and to carry forward unused credits to 15 years following the year the credit is earned.

Effective date.—Qualified clinical testing expenses incurred during the period January 1, 1995, through February 28, 1997. The provision allowing for the carry back and carry forward of unused credits is effective for taxable years ending after December 31, 1994, except that credits may not be carried back to a taxable year beginning before January 1, 1995.

Conference agreement

The conference agreement extends the orphan drug tax credit for the period January 1, 1995, through December 31, 1996.

The conference agreement includes the provision from the Senate amendment that allows taxpayers to carry back unused credits to three years preceding the year the credit is earned and to carry forward unused credits to 15 years following the year the credit is earned.

Effective date.—Qualified clinical testing expenses incurred during the period January 1, 1995, through December 31, 1996. The provision allowing for the carry back and carry forward of unused credits is effective for taxable years ending after December 31, 1994, except that credits may not be carried back to a taxable year beginning before January 1, 1995.

6. CONTRIBUTIONS OF APPRECIATED STOCK TO PRIVATE FOUNDATIONS (SEC. 13104 OF THE HOUSE BILL AND SEC. 12405 OF THE SENATE AMENDMENT)

Present and prior law

In computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the fair market value of property contributed to a charitable organization.[23] However, in the case of a charitable contribution of short-term gain, inventory, or other ordinary income property, the amount of the deduction generally is limited to the taxpayer's basis in the property. In the case of a charitable contribution of tangible personal property, the deduction is limited to the taxpayer's basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose.[24]

In cases involving contributions to a private foundation (other than certain private operating foundations), the amount of the deduction is limited to the taxpayer's basis in the property. However, under a special rule contained in section 170(e)(5), taxpayers were allowed a deduction equal to the fair market value of "qualified appreciated stock" contributed to a private foundation prior to January 1, 1995. Qualified appreciated stock was defined as publicly traded stock which is capital gain property. The fair-market-value deduction for qualified appreciated stock donations applied only to the extent that total donations made by the donor to private foundations of stock in a particular corporation did not exceed 10 percent of the outstanding stock of that corporation. For this purpose, an individual was treated as making all contributions that were made by any member of the individual's family. This special rule contained in section 170(e)(5) expired after December 31, 1994.

House bill

The House bill extends for the period January 1, 1995, through December 31, 1997, the special rule contained in section 170(e)(5) for contributions of qualified appreciated stock made to private foundations.[25]

Effective date.—The provision is effective for contributions of qualified appreciated stock to private foundations made during the period January 1, 1995, through December 31, 1997.

Senate amendment

The Senate amendment extends for the period January 1, 1995, through February 28, 1997, the special rule contained in section 170(e)(5) for contributions of qualified appreciated stock made to private foundations.

Effective date.—The provision is effective for contributions of qualified appreciated stock to private foundations made during the period January 1, 1995, through February 28, 1997.

Conference agreement

The conference agreement extends for the period January 1, 1995, through December 31, 1996, the special rule contained in section 170(e)(5) for contributions of qualified appreciated stock made to private foundations.

Effective date.—The provision is effective for contributions of qualified appreciated stock to private foundations made during the period January 1, 1995, through December 31, 1996.

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[22] To the extent that the orphan drug tax credit could not be used by reason of the minimum tax limitation, the taxpayer's minimum tax credit was increased (sec. 53(d)(1)(B)(iii)).

[23] The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)).

[24] As part of the Omnibus Budget Reconciliation Act of 1993, Congress eliminated the treatment of contributions of appreciated property (real, personal, and intangible) as a tax preference for alternative minimum tax (AMT) purposes. Thus, if a taxpayer makes a gift to charity of property (other than short-term gain, inventory, or other ordinary income property, or gifts to private foundations) that is real property, intangible property, or tangible personal property the use of which is related to the donee's tax-exempt purpose, the taxpayer is allowed to claim the same fair-market-value deduction for both regular tax and AMT purposes (subject to present-law percentage limitations).

[25] If, during this period, a taxpayer contributes qualified appreciate stock as defined in section 170(e)(5) and the amount of such contribution exceeds the percentage limitation under section 170(b)(1)(D), the excess may be carried over to succeeding taxable years. See, e.g., LTR 9444029, LTR 9424020.

7. TRANSPORTATION FUELS TAX EXEMPTION FOR FUEL USED IN COMMERCIAL AVIATION (SEC. 13111 OF THE HOUSE BILL AND SEC. 12407 OF THE SENATE AMENDMENT)

Present law

A 4.3-cents-per-gallon excise tax is imposed on fuel used in most transportation modes. This tax was enacted by the Omnibus Budget Reconciliation Act of 1993. Fuel used in commercial aviation was exempt before October 1, 1995.

House bill

The House bill extends the commercial aviation fuel tax exemption for two years, through September 30, 1997, and provides for refunds of excise taxes paid between October 1, 1995 and the date of the bill's enactment.

The Treasury Department is required to study and report on relative excise tax burdens, and Federal benefits financed with those taxes, for different transportation sectors.

Effective date.—October 1, 1995.

Senate amendment

The Senate amendment is the same as the House bill, except the commercial aviation fuels tax exemption is extended through February 28, 1997, and the Treasury Department study is only requested in legislative history.

Effective date.—Same as the House bill.

Conference agreement

The conference agreement follows the House bill with regard to the period when the exemption is extended (i.e., through September 30, 1997), and the Senate amendment with regard to the Treasury Department study. Extension of this exemption is contingent upon extension through September 30, 1996, of the present-law Airport and Airway Trust Fund excise taxes as part of the conference agreement.

8. AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES (SEC. 13116 OF THE HOUSE BILL)

Present law

Excise taxes are imposed on the following to fund the Airport and Airway Trust Fund program:

(1) domestic passenger tickets;
(2) domestic freight waybills;
(3) international departures; and
(4) noncommercial aviation fuel.

These taxes are scheduled to expire after December 31, 1995.

House bill

The House bill extends the Airport and Airway Trust Fund excise taxes through September 30, 1996.

Effective date.—January 1, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill. The extension of the exemption from the 4.3-cents-per-gallon transportation fuels excise tax included in the conference agreement is contingent upon extension of the Airport and Airway Trust Fund excise taxes through September 30, 1996, as part of this legislation.

9. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES (SEC. 12943 OF THE SENATE AMENDMENT)

Present law

The Internal Revenue Service ("IRS") provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS generally charges a fee for requests for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. The Uruguay Round Agreements Act extended the IRS user fee program for five years (until October 1, 2000).

House bill

No provision.

Senate amendment

The IRS user fees are extended for two additional years (until October 1, 2002).

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

B. TERMINATION OF CERTAIN TAX CREDITS

1. TAX CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE SOURCES (SEC. 13621 OF THE HOUSE BILL)

Present law

A tax credit is allowed for electricity produced from wind and closed-loop biomass facilities. The credit applies to production from property placed in service before July 1, 1999.

House bill

The House bill limits the credit to production from property placed in service (1) before September 14, 1995, or (2) before September 14, 1996, pursuant to a binding contract in existence on September 13, 1995.

Effective date.—Date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

2. LOW-INCOME HOUSING TAX CREDIT (SEC. 13636 OF THE HOUSE BILL)

Present law

A tax credit, claimed over a 10-year period is allowed for rental housing occupied by tenants having incomes below specified levels. The credit generally has a present value of 70 percent (new construction) or 30 percent (existing housing and most housing also receiving other Federal subsidies).

The tax credit is subject to annual per-State limitations of $1.25 per resident. Credits that remain unallocated by States after prescribed periods are reallocated to other States through a "national pool."

House bill

The House bill sunsets the credit generally for housing placed in service after December 31, 1997. The House bill also repeals the "national pool" after December 31, 1995.

Effective date.—Date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

C. SUPERFUND AND OIL SPILL LIABILITY TAXES

1. EXTEND SUPERFUND EXCISE TAXES AND CORPORATE ENVIRONMENTAL INCOME TAX (SEC. 12411 OF THE SENATE AMENDMENT)

Present law

Four taxes are imposed to fund the Hazardous Substance Superfund Trust Fund program:

(1) an excise tax on petroleum and imported refined products;

(2) an excise tax on certain hazardous chemicals;

(3) an excise tax on imported substances made with the chemicals subject to the tax in (2), above; and

(4) an income tax on corporations calculated using the alternative minimum tax rules.

These taxes are scheduled to expire after December 31, 1995. Revenues from these taxes are deposited in the Hazardous Substance Superfund Trust Fund.

House bill

No provision.

Senate amendment

The Senate amendment extends the three Superfund excise taxes through September 30, 2002, and the corporate environmental income tax through taxable years beginning before January 1, 1998. Revenues from these taxes would continue to be deposited in the Hazardous Substance Superfund Trust Fund throughout the extension period.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment with modifications. The three superfund excise taxes (taxes on petroleum and refined products, on certain hazardous chemicals, and on certain imported substances) are extended through September 30, 1996. Revenues from these taxes will continue to be deposited in the Hazardous Substance Superfund Trust Fund during the period January 1, 1996 through July 31, 1996; revenues attributable to taxes imposed during the period August 1, 1996 through September 30, 1996, will be retained in the General Fund.

The corporate environmental income tax is extended for one year, through taxable years beginning before January 1, 1997. Revenues attributable to this tax will continue to be deposited in the Hazardous Substance Superfund Trust Fund throughout the extension period.

2. REINSTATE OIL SPILL LIABILITY TRUST FUND EXCISE TAX (SEC. 12412 OF THE SENATE AMENDMENT)

Present law

A five-cents-per-barrel excise tax was imposed before January 1, 1995, to fund the Oil Spill Liability Trust Fund program.

House bill

No provision.

Senate amendment

The Senate amendment reinstates the Oil Spill Liability Trust Fund tax through September 30, 2002.

Effective date.—January 1, 1996.

Conference agreement

The conference agreement follows the Senate amendment.

D. OTHER FUELS TAX PROVISIONS

1. EXTEND EXPIRED ETHANOL BLENDER REFUND PROVISION (SEC. 12421 OF THE SENATE AMENDMENT)

Present law

Before October 1, 1995, persons who blended tax-paid gasoline and ethanol for use as a highway fuel could claim an expedited refund equal to the 54-cents-per-gallon subsidy for ethanol.

House bill

No provision.

Senate amendment

The Senate amendment reinstates the expedited refund provision during the period through September 30, 1999, and provides a special interest accrual rule for the period October 1, 1995, to the date of enactment.

Effective date.—Date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

2. EXTEND TAX CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE (SEC. 12422 OF THE SENATE AMENDMENT)

Present law

A tax credit is allowed for fuel produced from certain "nonconventional sources" (the "section 29 credit"). In the case of synthetic fuel produced from coal and gas produced from biomass, the credit is available only for fuel from facilities placed in service before January 1, 1997, pursuant to a binding contract entered into before January 1, 1996.

House bill

No provision.

Senate amendment

The Senate amendment extends the binding contract and placed in service dates for coal and biomass facilities for one year.

Effective date.—Date of enactment.

Conference agreement

The conference agreement follows the Senate amendment with a modification limiting the extension of the binding contract date to six months.

3. EXEMPT STATES EXEMPT FROM CLEAN AIR ACT DIESEL DYEING REQUIREMENT FROM SIMILAR EXCISE TAX DYEING REQUIREMENT (SEC. 14733 OF THE HOUSE BILL)

Present law

An excise tax totaling 24.4 cents per gallon is imposed on diesel fuel. The diesel fuel tax is imposed on removal of the fuel from a terminal facility. Present law provides that tax is imposed on all diesel fuel removed from terminal facilities unless the fuel is destined for a nontaxable use and is indelibly dyed pursuant to Treasury Department regulations.

A similar dyeing regime exists for diesel fuel under the Clean Air Act. Urban areas in the State of Alaska were exempted from the Clean Air Act, but not the excise tax, dyeing regime for three years (until October 1, 1996); the exemption for more remote areas is permanent.

House bill

The House bill exempts diesel fuel sold in the State of Alaska from the excise tax diesel dyeing requirement during the period when that State is exempt from the Clean Air Act dyeing requirement.

Effective date.—First calendar quarter beginning after enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, except the exemption is expanded to include diesel fuel removed from terminal facilities in any other State that is exempt from the Clean Air Act dyeing regime (as that Act is in effect on the date the conference agreement is enacted).

4. SUSPEND IMPOSITION OF DIESEL FUEL TAX ON RECREATIONAL MOTORBOATS (SEC. 12431 OF THE SENATE AMENDMENT)

Present law

Diesel fuel used in recreational motorboats is taxed at 24.4 cents per gallon. Diesel fuel used in commercial vessels is not taxed.

All diesel fuel is either taxed or dyed when it is removed from pipeline terminals. Dyed diesel fuel may not be used in a taxable use (i.e., recreational boats). Nontaxable users of undyed diesel fuel may claim refunds of tax paid on the fuel they use.

House bill

No provision.

Senate amendment

The Senate amendment suspends imposition of tax on diesel fuel used in recreational boats for the period January 1, 1996, through February 28, 1997.

The Senate amendment further requests (in the accompanying legislative history) the Treasury Department to study alternative tax regimes that would achieve comparable tax compliance to present law for the marine sector.

Effective date.—January 1, 1996.

Conference agreement

The conference agreement follows the Senate amendment, except the expiration date of the provision is June 30, 1997.

E. EXTENSIONS OF OTHER PROVISIONS

1. PERMANENT EXTENSION OF FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS (SEC. 13106 OF THE HOUSE BILL)

Present law

Generally, the Federal Unemployment Tax ("FUTA") is imposed on farm operators who (1) employ 10 or more agricultural workers for some portion of each of 20 different days, each day being in a different calendar week or (2) have a quarterly payroll for agricultural services of at least $20,000. An exclusion from FUTA was provided, however, for labor performed by an alien admitted to the United States to perform agricultural labor under section 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act. This exclusion was effective for labor performed before January 1, 1995.

House bill

The House bill permanently extends the exemption.

Effective date.—Effective for labor performed on or after January 1, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—Effective for labor performed on or after January 1, 1995.

2. TAX INFORMATION SHARING: EXTEND ACCESS TO TAX INFORMATION FOR THE DEPARTMENT OF VETERANS AFFAIRS (SEC. 13501 OF THE HOUSE BILL)

Present law

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431). No tax information may be furnished by the Internal Revenue Service (IRS) to another agency unless the other agency establishes procedures satisfactory to the IRS for safeguarding the tax information it receives (sec. 6103(p)).

Among the disclosures permitted under the Code is disclosure to the Department of Veterans Affairs (DVA) of self-employment tax information and certain tax information supplied to the Internal Revenue Service and Social Security Administration by third parties. Disclosure is permitted to assist DVA in determining eligibility for, and establishing correct benefit amounts under, certain of its needs-based pension, health care, and other programs (sec. 6103(l)(7)(D)(viii)). The income tax returns filed by the veterans themselves are not disclosed to DVA.

The DVA is required to comply with the safeguards currently contained in the Code and in section 1137(c) of the Social Security Act (governing the use of disclosed tax information). These safeguards include independent verification of tax data, notification to the individual concerned, and the opportunity to contest agency findings based on such information.

The DVA disclosure provision is scheduled to expire after September 30, 1998.

House bill

The House bill permanently extends the authority to disclose tax information to the DVA.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, except that the provision is extended through September 30, 2002.

VI. TAXPAYER BILL OF RIGHTS 2 PROVISIONS

1. TAXPAYER ADVOCATE

A. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE (SEC. 13301 OF THE HOUSE BILL)

Present law

The Office of the Taxpayer Ombudsman was created by the Internal Revenue Service (IRS) in 1979. The Taxpayer Ombudsman's duties are to serve as the primary advocate, within the IRS, for taxpayers. As the taxpayers' advocate, the Taxpayer Ombudsman participates in an ongoing review of IRS policies and procedures to determine their impact on taxpayers, receives ideas from the public concerning tax administration, identifies areas of the tax law that confuse or create an inequity for taxpayers, and supervises cases handled under the Problem Resolution Program. Under current procedures, the Taxpayer Ombudsman is selected by the Commissioner of the IRS and serves at the Commissioner's discretion.

House bill

The House bill establishes a new position, Taxpayer Advocate, within the IRS. This replaces the position of Taxpayer Ombudsman. The Taxpayer Advocate is appointed by and reports directly to the Commissioner. Compensation of the Taxpayer Advocate is at a level equal to that of the highest level official reporting directly to the Deputy Commissioner of the IRS.

The House bill also establishes the Office of Taxpayer Advocate within the IRS. The functions of the office are (1) to assist taxpayers in resolving problems with the IRS, (2) to identify areas in which taxpayers have problems in dealings with the IRS, (3) to propose changes (to the extent possible) in the administrative practices of the IRS that will mitigate those problems, and (4) to identify potential legislative changes that may mitigate those problems.

The Taxpayer Advocate is required to make two annual reports to the tax-writing Committees.

Effective date.—The provision is effective on the date of enactment. The first annual reports of the Taxpayer Advocate are due in June and December, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

B. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS (SEC. 13302 OF THE HOUSE BILL)

Present law

Section 7811(a) authorizes the Taxpayer Ombudsman to issue a Taxpayer Assistance Order (TAO). TAOs may order the release of taxpayer property levied upon by the IRS and may require the IRS to cease any action, or refrain from taking any action if, in the determination of the Taxpayer Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered.

House bill

The House bill provides the Taxpayer Advocate with broader authority to affirmatively take any action as permitted by law with respect to taxpayers who would otherwise suffer a significant hardship as a result of the manner in which the IRS is administering the tax laws. In addition, the House bill provides that a TAO may specify a time period within which the TAO must be followed. Further, the House bill provides that only the Taxpayer Advocate, the Commissioner of the IRS, the Deputy Commissioner, or a regional problem resolution officer, may modify or rescind a TAO. Any official who modifies or rescinds a TAO must provide the Taxpayer Advocate a written explanation of the reasons for the modification or rescission.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

2. MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

A. NOTIFICATION OF REASONS FOR TERMINATION OF INSTALLMENT AGREEMENTS (SEC. 13306 OF THE HOUSE BILL)

Present law

Section 6159 authorizes the IRS to enter into written installment agreements with taxpayers to facilitate the collection of tax liabilities. In general, the IRS has the right to terminate (or in some instances, alter or modify) such agreements if the taxpayer provided inaccurate or incomplete information before the agreement was entered into, if the taxpayer fails to make a timely payment of an installment or another tax liability, if the taxpayer fails to provide the IRS with a requested update of financial condition, if the IRS determines that the financial condition of the taxpayer has changed significantly, or if the IRS believes collection of the tax liability is in jeopardy. If the IRS determines that the financial condition of a taxpayer that has entered into an installment agreement has changed significantly, the IRS must provide the taxpayer with a written notice that explains the IRS determination at least 30 days before altering, modifying, or terminating the installment agreement. No notice is statutorily required if the installment agreement is altered, modified, or terminated for other reasons.

House bill

The House bill requires the IRS to notify taxpayers 30 days before altering, modifying, or terminating any installment agreement for any reason other than that the collection of tax is determined to be in jeopardy. The IRS must include in the notification an explanation of why the IRS intends to take this action.

Effective date.—The provision is effective six months after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

B. ADMINISTRATIVE REVIEW OF TERMINATION OF INSTALLMENT AGREEMENTS (SEC. 13307 OF THE HOUSE BILL)

Present law

The IRS is currently testing an appeal process for various collection actions, including installment agreements, that will permit taxpayers to appeal these collection actions to Appeals Division personnel.

House bill

The House bill requires the IRS to establish additional procedures for an independent administrative review of terminations of installment agreements for taxpayers who request a review.

Effective date.—The provision is effective on January 1, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

3. ABATEMENT OF INTEREST AND PENALTIES

A. EXPANSION OF AUTHORITY TO ABATE INTEREST (SEC. 13311 OF THE HOUSE BILL AND SEC. 12501 OF THE SENATE AMENDMENT)

Present law

Any assessment of interest on any deficiency attributable in whole or in part to any error or delay by an officer or employee of the IRS (acting in his official capacity) in performing a ministerial act may be abated.

House bill

The House bill permits the IRS to abate interest with respect to any unreasonable error or delay resulting from managerial acts as well as ministerial acts. This would include extensive delays resulting from managerial acts such as: the loss of records by the IRS, IRS personnel transfers, extended illnesses, extended personnel training, or extended leave. On the other hand, interest would not be abated for delays resulting from general administrative decisions. For example, the taxpayer could not claim that the IRS's decision on how to organize the processing of tax returns or its delay in implementing an improved computer system resulted in an unreasonable delay in the Service's action on the taxpayer's tax return, and so the interest on any subsequent deficiency should be waived.

Effective date.—The provision applies to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of enactment.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. REVIEW OF IRS FAILURE TO ABATE INTEREST (SEC. 13312 OF THE HOUSE BILL AND SEC. 12502 OF THE SENATE AMENDMENT)

Present law

Federal courts generally do not have the jurisdiction to review the IRS's failure to abate interest.

House bill

The House bill grants the Tax Court jurisdiction to determine whether the IRS's failure to abate interest for an eligible taxpayer was an abuse of discretion. The action must be brought within six months after the date of the Secretary's final determination not to abate interest. An eligible taxpayer must meet the net worth and size requirements imposed with respect to awards of attorney's fees. No inference is intended as to whether under present law any court has jurisdiction to review IRS's failure to abate interest.

Effective date.—The provision applies to requests for abatement after the date of enactment.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement does not include the House bill provision and the Senate amendment.

C. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND (SEC. 13313 OF THE HOUSE BILL)

Present law

In general, a taxpayer must pay interest on late payments of tax. An interest-free period of 10 calendar days is provided to taxpayers who pay the tax due within 10 calendar days of notice and demand.

House bill

The House bill extends the interest-free period provided to taxpayers for the payment of the tax liability reflected in the notice from 10 calendar days to 10 business days (21 calendar days, provided that the total tax liability shown on the notice of deficiency is less than $100,000).

Effective date.—The provision applies in the case of any notice and demand given after June 30, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. JOINT RETURNS

A. STUDIES OF JOINT AND SEVERAL LIABILITY FOR MARRIED PERSONS FILING JOINT TAX RETURNS AND OTHER JOINT RETURN-RELATED ISSUES (SEC. 13316 OF THE HOUSE BILL)

Present law

Spouses who file a joint tax return are each fully responsible for the accuracy of the return and for the full tax liability. This is true even though only one spouse may have earned the wages or income which is shown on the return. This is "joint and several" liability. Spouses who wish to avoid joint liability may file as a "married person filing separately."

Spouses often file a joint tax return but then later are separated or divorced. If the IRS later disputes the accuracy of the joint tax returns, one spouse may be held liable for the entire tax deficiency stemming from erroneous deductions or omitted income attributable to the other spouse. Therefore, the "innocent" spouse may be held liable for the full deficiency in a subsequent audit occurring after the separation or divorce. This has resulted in a serious hardship being imposed on an "innocent spouse" in a number of cases.

In some cases, a couple addresses the responsibility for tax liability as part of their divorce decree. However, these agreements are not binding on the IRS because the IRS was not a party to the divorce proceeding.

Thus, if a former spouse violates the tax responsibilities assigned to him or her in a divorce decree, the other spouse may not rely on the decree in dealing with the IRS.

House bill

The House bill directs the Treasury Department and the General Accounting Office (GAO) to conduct separate studies analyzing several joint return-related issues.

Effective date.—The studies are due six months after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

B. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX (SEC. 13317 OF THE HOUSE BILL AND SEC. 12503 OF THE SENATE AMENDMENT)

Present law

Taxpayers who file separate returns and subsequently determine that their tax liability would have been less if they had filed a joint return are precluded by statute from reducing their tax liability by filing jointly if they are unable to pay the entire amount of the joint return liability before the expiration of the three-year period for making the election to file jointly.

House bill

The House bill repeals the requirement of full payment of tax liability as a precondition to switching from married filing separately status to married filing jointly status.

Effective date.—The provision applies to taxable years beginning after the date of the enactment.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURNS (SEC. 13318 OF THE HOUSE BILL)

Present law

The IRS does not routinely disclose collection information to a former spouse that relates to tax liabilities attributable to a joint return that was filed when married.

House bill

If a tax deficiency with respect to a joint return is assessed, and the individuals filing the return are no longer married or no longer reside in the same household, the House bill requires the IRS to disclose in writing (in response to a written request by one of the individuals) to that individual whether the IRS has attempted to collect the deficiency from the other individual, the general nature of the collection activities, and the amount (if any) collected.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

5. COLLECTION ACTIVITIES

A. MODIFICATIONS TO LIEN AND LEVY PROVISIONS

I. WITHDRAWAL OF PUBLIC NOTICE OF LIEN (SEC. 13321(A) OF THE HOUSE BILL)

Present law

The IRS must file a notice of lien in the public record, in order to protect the priority of a tax lien. A notice of tax lien provides public notice that a taxpayer owes the Government money. The IRS has discretion in filing such a notice, but may withdraw a filed notice only if the notice (and the underlying lien) was erroneously filed or if the underlying lien has been paid, bonded, or become unenforceable.

House bill

The House bill allows the IRS to withdraw a public notice of tax lien prior to payment in full by the indebted taxpayer without prejudice, if the Secretary determines that (1) the filing of the notice was premature or otherwise not in accordance with the administrative procedures of the IRS, (2) the taxpayer has entered into an installment agreement to satisfy the tax liability with respect to which the lien was filed, (3) the withdrawal of the lien will facilitate collection of the tax liability, or (4) the withdrawal of the lien would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and of the Government. The IRS must also provide a copy of the notice of withdrawal to the taxpayer. The House bill also requires that, at the written request of the taxpayer, the IRS make reasonable efforts to give notice of the withdrawal of a lien to creditors, credit reporting agencies, and financial institutions specified by the taxpayer.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

II. RETURN OF LEVIED PROPERTY (SEC. 13321(B) OF THE HOUSE BILL)

Present law

The IRS is authorized to levy on the property of a taxpayer as a means of collecting unpaid taxes. The IRS is able to return levied property to a taxpayer only when the taxpayer has overpaid its liability with respect to tax, interest, and penalty for which the property was levied.

House bill

The House bill allows the IRS to return property (including money deposited in the Treasury) that has been levied upon if the Secretary determines that (1) the levy was premature or otherwise not in accordance with the administrative procedures of the IRS, (2) the taxpayer has entered into an installment agreement to satisfy the tax liability, (3) the return of the property will facilitate collection of the tax liability, or (4) the return of the property would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the Government.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

III. MODIFICATIONS IN CERTAIN LEVY EXEMPTION AMOUNTS (SEC. 13321(C) OF THE HOUSE BILL AND SEC. 12504 OF THE SENATE AMENDMENT)

Present law

Property exempt from levy includes personal property with a value of up to $1,650 and books and tools of a trade with a value of up to $1,100.

House bill

The House bill increases the exemption amount to $2,500 for personal property. This amount is indexed for inflation commencing January 1, 1996.

Effective date.—The provision is effective with respect to levies issued after December 31, 1995.

Senate amendment

Same as the House bill, except that the Senate amendment also increases the exemption amount to $1,250 for books and tools of a trade.

Conference agreement

The conference agreement follows the Senate amendment.

B. OFFERS-IN-COMPROMISE (SEC. 13322 OF THE HOUSE BILL AND SEC. 12505 OF THE SENATE AMENDMENT)

Present law

The IRS has the authority to settle a tax debt pursuant to an offer-in-compromise. IRS regulations provide that such offers can be accepted if: the taxpayer is unable to pay the full amount of the tax liability and it is doubtful that the tax, interest, and penalties can be collected or there is doubt as to the validity of the actual tax liability. Amounts over $500 can only be accepted if the reasons for the acceptance are documented in detail and supported by an opinion of the IRS Chief Counsel.

House bill

The House bill increases from $500 to $100,000 the amount requiring a written opinion from the Office of Chief Counsel. Compromises below the $100,000 threshold must be subject to continuing quality review by the IRS.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

Same as the House bill, except the threshold is $50,000.

Conference agreement

The conference agreement follows the Senate amendment.

6. INFORMATION RETURNS

A. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS (SEC. 13326 OF THE HOUSE BILL)

Present law

Federal law provides no private cause of action to a taxpayer who is injured because a fraudulent information return has been filed with the IRS asserting that payments have been made to the taxpayer.

House bill

The House bill provides that, if any person willfully files a fraudulent information return with respect to payments purported to have been made to another person, the other person may bring a civil action for damages against the person filing that return. A copy of the complaint initiating the action must be provided to the IRS. Recoverable damages are the greater of (1) $5,000 or (2) the amount of actual damages (including the costs of the action) and, in the court's discretion, reasonable attorney's fees. The court must specify in any decision awarding damages the correct amount (if any) that should have been reported on the information return. An action seeking damages under this provision must be brought within six years after the filing of the fraudulent information return, or one year after the fraudulent information return would have been discovered through the exercise of reasonable care, whichever is later.

Effective date.—The provision applies to fraudulent information returns filed after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

B. REQUIREMENT TO CONDUCT REASONABLE INVESTIGATIONS OF INFORMATION RETURNS (SEC. 13327 OF THE HOUSE BILL)

Present law

Deficiencies determined by the IRS are generally afforded a presumption of correctness.

House bill

The House bill provides that, in any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return (Form 1099 or Form W-2) filed by a third party and the taxpayer has fully cooperated with the IRS, the Government has the burden of producing reasonable and probative information concerning the deficiency (in addition to the information return itself). Fully cooperating with the IRS includes (but is not limited to) the following: bringing the reasonable dispute over the item of income to the attention of the IRS within a reasonable period of time, and providing (within a reasonable period of time) access to and inspection of all witnesses, information, and documents within the control of the taxpayer (as reasonably requested by the Secretary).

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

7. AWARDING OF COSTS AND CERTAIN FEES

A. UNITED STATES MUST ESTABLISH THAT ITS POSITION IN A PROCEEDING WAS SUBSTANTIALLY JUSTIFIED (SEC. 13331 OF THE HOUSE BILL)

Present law

Under section 7430, a taxpayer who successfully challenges a determination of deficiency by the IRS may recover attorney's fees and other administrative and litigation costs if the taxpayer qualifies as a "prevailing party." A taxpayer qualifies as a prevailing party if it: (1) establishes that the position of the United States was not substantially justified; (2) substantially prevails with respect to the amount in controversy or with respect to the most significant issue or set of issues presented; and (3) meets certain net worth and (if the taxpayer is a business) size requirements. A taxpayer must exhaust administrative remedies to be eligible to receive an award of attorney's fees.

House bill

The House bill provides that, once a taxpayer substantially prevails over the IRS in a tax dispute, the IRS has the burden of proof to establish that it was substantially justified in maintaining its position against the taxpayer. This will switch the current procedure which places the burden of proof on the taxpayer to establish that the IRS was not substantially justified in maintaining its position. Therefore, the successful taxpayer will receive an award of attorney's fees unless the IRS satisfies its burden of proof. The House bill also establishes a rebuttable presumption that the position of the United States was not substantially justified if the IRS did not follow in the administrative proceeding (1) its published regulations, revenue rulings, revenue procedures, information releases, notices, or announcements, or (2) a private letter ruling, determination letter, or technical advice memorandum issued to the taxpayer. This provision only applies to the version of IRS guidance that is most current on the date the IRS's position was taken.

Effective date.—The provision is effective for proceedings commenced after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

B. INCREASED LIMIT ON ATTORNEY'S FEES (SEC. 13332 OF THE HOUSE BILL)

Present law

Attorney's fees recoverable by prevailing parties as litigation or administrative costs was originally set at $75 per hour.

House bill

The House bill raises the statutory rate to $110 per hour, indexed for inflation beginning after 1996.

Effective date.—The provision applies to proceedings commenced after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

C. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT (SEC. 13333 OF THE HOUSE BILL)

Present law

To qualify for an award of attorney's fees, the taxpayer must have exhausted the administrative remedies available within the IRS.

House bill

The House bill provides that any failure to agree to an extension of the statute of limitations cannot be taken into account for purposes of determining whether a taxpayer has exhausted the administrative remedies for purposes of determining eligibility for an award of attorney's fees.

Effective date.—The provision applies to proceedings commenced after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

D. AWARD OF LITIGATION COSTS PERMITTED IN DECLARATORY JUDGMENT PROCEEDINGS (SEC. 13334 OF THE HOUSE BILL AND SEC. 12506 OF THE SENATE AMENDMENT)

Present law

Section 7430(b)(3) denies any reimbursement for attorney's fees in all declaratory judgment actions, except those actions related to the revocation of an organization's qualification under section 501(c)(3) (relating to tax-exempt status).

House bill

The House bill eliminates the present-law restrictions on awarding attorney's fees in all declaratory judgment proceedings.

Effective date.—The provision applies to proceedings commenced after the date of enactment.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

8. MODIFICATION TO RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS

A. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS (SEC. 13336 OF THE HOUSE BILL)

Present law

A taxpayer may sue the United States for up to $100,000 of damages caused by an officer or employee of the IRS who recklessly or intentionally disregards provisions of the Internal Revenue Code or the Treasury regulations promulgated thereunder in connection with the collection of Federal tax with respect to the taxpayer.

House bill

The House bill increases the cap from $100,000 to $1 million.

Effective date.—The provision applies to unauthorized collection actions by IRS employees that occur after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. COURT DISCRETION TO REDUCE AWARD FOR LITIGATION COSTS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES (SEC. 13337 OF THE HOUSE BILL AND SEC. 12507 OF THE SENATE AMENDMENT)

Present law

A taxpayer suing the United States for civil damages for unauthorized collection activities must exhaust administrative remedies to be eligible for an award.

House bill

The House bill permits (but does not require) a court to reduce an award if the taxpayer has not exhausted administrative remedies.

Effective date.—The provision is effective for proceedings commenced after the date of enactment.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement does not include the House bill provision and the Senate amendment.

9. MODIFICATION TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

A. PRELIMINARY NOTICE REQUIREMENT (SEC. 13341 OF THE HOUSE BILL)

Present law

Under section 6672, a "responsible person" is subject to a penalty equal to the amount of trust fund taxes that are not collected or paid to the government on a timely basis. An individual the IRS has identified as a responsible person is permitted an administrative appeal on the question of responsibility.

House bill

The House bill requires the IRS to issue a notice to an individual the IRS had determined to be a responsible person with respect to unpaid trust fund taxes at least 60 days prior to issuing a notice and demand for the penalty. The statute of limitations shall not expire before the date 90 days after the date on which the notice was mailed. The provision does not apply if the Secretary finds that the collection of the penalty is in jeopardy.

Effective date.—The provision applies to assessments made after June 30, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

B. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN ONE PERSON SUBJECT TO PENALTY (SEC. 13342 OF THE HOUSE BILL)

Present law

The IRS may not disclose to a responsible person the IRS's efforts to collect unpaid trust fund taxes from other responsible persons, who may also be liable for the same tax liability.

House bill

The House bill requires the IRS, if requested in writing by a person considered by the IRS to be a responsible person, to disclose in writing to that person the name of any other person the IRS has determined to be a responsible person with respect to the tax liability. The IRS is required to disclose in writing whether it has attempted to collect this penalty from other responsible persons, the general nature of those collection activities, and the amount (if any) collected. Failure by the IRS to follow this provision does not absolve any individual for any liability for this penalty.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

C. RIGHT OF CONTRIBUTION FROM MULTIPLE RESPONSIBLE PARTIES (SEC. 13343 OF THE HOUSE BILL)

Present law

A responsible person may seek to recover part of the amount which he has paid to the IRS from other individuals who also may have the obligations of a responsible person but who have not yet contributed their proportionate share of their liability under section 6672. Taxpayers must pursue such claims for contribution under state law (to the extent state law permits such claims). The variations in state law sometimes make it difficult or impossible to press successful suits in state courts to force a contribution from other responsible persons.

House bill

If more than one person is liable for this penalty, each person who paid the penalty is entitled to recover from other persons who are liable for the penalty an amount equal to the excess of the amount paid by such person over such person's proportionate share of the penalty. This proceeding is a Federal cause of action and must be entirely separate from any proceeding involving IRS's collection of the penalty from any responsible party (including a proceeding in which the United States files a counterclaim or third-party complaint for collection of the penalty).

Effective date.—The provision applies to penalties assessed after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

D. BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS (SEC. 13344 OF THE HOUSE BILL)

Present law

Under section 6672, "responsible persons" of tax-exempt organizations are subject to a penalty equal to the amount of trust fund taxes that are not collected and paid to the Government on a timely basis.

House bill

The House bill clarifies that the section 6672 responsible person penalty is not to be imposed on volunteer, unpaid members of any board of trustees or directors of a tax-exempt organization to the extent such members are solely serving in an honorary capacity, do not participate in the day-to-day or financial activities of the organization, and do not have actual knowledge of the failure. The provision cannot operate in such a way as to eliminate all responsible persons from responsibility.

The House bill requires the IRS to develop materials to better inform board members of tax-exempt organizations (including voluntary or honorary members) that they may be treated as responsible persons. The IRS is required to make such materials routinely available to tax-exempt organizations. The House bill also requires the IRS to clarify its instructions to IRS employees on application of the responsible person penalty with regard to honorary or volunteer members of boards of trustees or directors of tax-exempt organizations.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

10. MODIFICATIONS OF RULES RELATING TO SUMMONSES

A. ENROLLED AGENTS INCLUDED AS THIRD-PARTY RECORDKEEPERS (SEC. 13346 OF THE HOUSE BILL AND SEC. 12508 OF THE SENATE AMENDMENT)

Present law

Section 7609 contains special procedures that the IRS must follow before it issues a third- party summons. A third-party summons is a summons issued to a third-party recordkeeper compelling him to provide information with respect to the taxpayer. An example of this would be a summons served on a stock brokerage house to provide data on the securities trading of the taxpayer-client.

If a third-party summons is served on a third-party recordkeeper listed in section 7609(a)(3), then the taxpayer must receive notice of the summons and have an opportunity to challenge the summons in court. Otherwise the taxpayer has no statutory right to receive notice of the summons and accordingly he will not have the opportunity to challenge it in court.

Section 7609(a)(3) lists attorneys and accountants as third-party recordkeepers, but it does not list "enrolled agents", who are authorized to practice before the IRS.

House bill

The House bill includes enrolled agents as third-party recordkeepers.

Effective date.—The provision applies to summonses issued after the date of enactment.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. SAFEGUARDS RELATING TO DESIGNATED SUMMONSES; ANNUAL REPORT TO CONGRESS ON DESIGNATED SUMMONSES (SECS. 13347—13348 OF THE HOUSE BILL AND SEC. 12509 OF THE SENATE AMENDMENT)

Present law

The period for assessment of additional tax with respect to most tax returns, corporate or otherwise, is three years. The IRS and the taxpayer can together agree to extend the period, either for a specified period of time or indefinitely. The taxpayer may terminate an indefinite agreement to extend the period by providing notice to the IRS.

During an audit, the IRS may informally request that the taxpayer provide additional information necessary to arrive at a fair and accurate audit adjustment, if any adjustment is warranted. Not all taxpayers cooperate by providing the requested information on a timely basis. In some cases the IRS seeks information by issuing an administrative summons. Such a summons will not be judicially enforced unless the Government (as a practical matter, the Department of Justice) seeks and obtains an order for enforcement in Federal court. In addition, a taxpayer may petition the court to quash an administrative summons where this is permitted by statute.[26]

In certain cases, the running of the assessment period is suspended during the period when the parties are in court to obtain or avoid judicial enforcement of an administrative summons. Such a suspension is provided in the case of litigation over a third-party summons (sec. 7609(e)) or litigation over a summons regarding the examination of a related party transaction. Such a suspension can also occur with respect to a corporate tax return if a summons is issued at least 60 days before the day on which the assessment period (as extended) is scheduled to expire. In this case, suspension is only permitted if the summons clearly states that it is a "designated summons" for this purpose. Only one summons may be treated as a designated summons for purposes of any one tax return. The limitations period is suspended during the judicial enforcement period of the designated summons and of any other summons relating to the same tax return that is issued within 30 days after the designated summons is issued.

Under current internal procedures of the IRS, no designated summons is issued unless first reviewed by the Office of Chief Counsel to the IRS, including review by an IRS Deputy Regional Counsel for the Region in which the examination of the corporation's return is being conducted.

House bill

The House bill requires that issuance of any designated summons with respect to a corporation's tax return must be preceded by review of such issuance by the Regional Counsel, Office of Chief Counsel to the IRS, for the Region in which the examination of the corporation's return is being conducted.

The House bill also limits the use of a designated summons to corporations (or to any other person to whom the corporation has transferred records) that are being examined as part of the Coordinated Examination Program (CEP) or its successor. CEP audits cover about 1,600 of the largest corporate taxpayers. If a corporation moves between CEP and non-CEP audit categories, only the tax years covered by the CEP may be the subject of a designated summons. The House bill does not affect Code section 6038A(e)(1), which relates to a U.S. reporting corporation that acts merely as the agent of the foreign related party by receiving summonses on behalf of the foreign party.

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[26] Petitions to quash are permitted, for example, in connection with the examination of certain related party transactions under section 6038A(e)(4), and in the case of certain third-party summonses under section 7609(b)(2).

The House bill also requires that the Treasury report annually to the Congress on the number of designated summonses issued in the preceding 12 months.

Effective date.—The provision applies to summonses issued after date of enactment.

Senate amendment

The Senate amendment is the same as the House bill with respect to limiting the use of a designated summons to certain corporations. The Senate amendment does not contain the provisions requiring the review of the Regional Counsel or the report.

Conference agreement

The conference agreement does not include the House bill provision and the Senate amendment.

11. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS (SEC. 13351 OF THE HOUSE BILL)

Present law

Under section 7805(b), Treasury may prescribe the extent (if any) to which regulations shall be applied without retroactive effect.

House bill

The House bill provides that temporary and proposed regulations must have an effective date no earlier than the date of publication in the Federal Register or the date on which any notice substantially describing the expected contents of such regulation is issued to the public. Any regulations filed or issued within 12 months of the enactment of the statutory provision to which the regulation relates may be issued with retroactive effect. This general prohibition on retroactive regulations may be superseded by a legislative grant authorizing the Treasury to prescribe the effective date with respect to a statutory provision. The Treasury may issue retroactive temporary or proposed regulations to prevent abuse. The Treasury also may issue retroactive temporary, proposed, or final regulations to correct a procedural defect in the issuance of a regulation. Taxpayers may elect to apply a temporary or proposed regulation retroactively from the date of publication of the regulation. Final regulations may take effect from the date of publication of the temporary or proposed regulation to which they relate. The provision does not apply to any regulation relating to internal Treasury Department policies, practices, or procedures. Present law with respect to rulings is unchanged.

Effective date.—The provision applies with respect to regulations that relate to statutory provisions enacted on or after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

12. MISCELLANEOUS PROVISIONS

A. REPORT ON PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS (SEC. 13356 OF THE HOUSE BILL)

Present law

A taxpayer who disagrees with an IRS collection action generally can only appeal to successively higher levels of management in the Collection Division. However, certain cases involving the 6672 penalty, offers-in-compromise, and employment tax issues may be appealed to the Appeals Division.

House bill

The House bill requires the Secretary to report to the tax-writing committees on the effectiveness of the pilot program, together with any recommendations he may deem advisable.

Effective date.—The report is due by March 1, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

B. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENT REQUIRED TO BE SHOWN ON SUCH STATEMENT (SEC. 13357 OF THE HOUSE BILL)

Present law

Information returns must contain the name and address of the payor.

House bill

The House bill requires that information returns contain the name, address, and phone number of the information contact of the person required to make the information return. A payor may, for example, provide the phone number of the department with the relevant information. It is intended that the telephone number provide direct access to individuals with immediate resources to resolve a taxpayer's questions in an expeditious manner.

Effective date.—The provision applies to statements required to be furnished after December 31, 1996 (determined without regard to any extension).

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

C. REQUIRED NOTICE TO TAXPAYERS OF CERTAIN PAYMENTS (SEC. 13358 OF THE HOUSE BILL)

Present law

If the IRS receives a payment without sufficient information to properly credit it to a taxpayer's account, the IRS may attempt to contact the taxpayer. If contact cannot be made, the IRS places the payment in an unidentified remittance file.

House bill

The House bill requires the IRS to make reasonable efforts to notify, within 60 days, those taxpayers who have made payments which the IRS cannot associate with the taxpayer.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

D. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE (SEC. 13359 OF THE HOUSE BILL)

Present law

No statutory disincentive applies to IRS employees who entice a tax professional to disclose information about clients in exchange for the favorable treatment of the taxes of the professional.

House bill

If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer's tax liability, the taxpayer may bring a civil action for damages against the United States in a district court of the United States. Upon a finding of liability, damages shall equal the lesser of $500,000 or the sum of (1) actual economic damages sustained by the taxpayer as a proximate result of the information disclosure and (2) the costs of the action. These remedies shall not apply to information conveyed to an attorney, certified public accountant, or enrolled agent for the purpose of perpetrating a fraud or crime.

Effective date.—The provision applies to actions taken after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

E. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS (SEC. 13360 OF THE HOUSE BILL AND SEC. 12510 OF THE SENATE AMENDMENT)

Present law

There is no statutory requirement in the Code that the IRS send annual reminders to persons who have outstanding tax liabilities.

House bill

The House bill requires the IRS to send taxpayers an annual reminder of their outstanding tax liabilities. The fact that a taxpayer did not receive a timely, annual reminder notice does not affect the tax liability.

Effective date.—The provision requires the IRS to send annual reminder notices beginning in 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

F. FIVE-YEAR EXTENSION OF AUTHORITY FOR UNDERCOVER OPERATIONS (SEC. 13361 OF THE HOUSE BILL)

Present law

The Anti-Drug Abuse Act of 1988 exempted IRS undercover operations from the otherwise applicable statutory restrictions controlling the use of Government funds (which generally provide that all receipts be deposited in the general fund of the Treasury and all expenses be paid out of appropriated funds). In general, the exemption permits the IRS to "churn" the income earned by an undercover operation to pay additional expenses incurred in the undercover operation. The IRS is required to conduct a detailed financial audit of large undercover operations in which the IRS is churning funds and to provide an annual audit report to the Congress on all such large undercover operations. The exemption originally expired on December 31, 1989, and was extended by the Comprehensive Crime Control Act of 1990 to December 31, 1991. The IRS has not had the authority to churn funds from its undercover operations since 1991.

House bill

The House bill reinstates the IRS's offset authority under section 7608(c) from the date of enactment until January 1, 2001. The House bill amends the IRS annual reporting requirement under section 7608(c)(4)(B) to require the provision of the following data: (1) the date the operation was initiated; (2) the date offsetting was approved; (3) the total current expenditures and the amount and use of proceeds of the operation; (4) a detailed description of the undercover operation projected to generate proceeds, including the potential violation being investigated, and whether the operation is being conducted under grand jury auspices; and (5) the results of the operation to date, including the results of criminal proceedings.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

G. DISCLOSURE OF RETURNS ON CASH TRANSACTIONS (SEC. 13362 OF THE HOUSE BILL)

Present law

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431). No tax information may be furnished by the IRS to another agency unless the other agency establishes procedures satisfactory to the IRS for safeguarding the tax information it receives (sec. 6103(p)).

Under section 6050I, any person who receives more than $10,000 in cash in one transaction (or two or more related transactions) in the course of a trade or business generally must file an information return (Form 8300) with the IRS specifying the name, address, and taxpayer identification number of the person from whom the cash was received and the amount of cash received.

The Anti-Drug Abuse Act of 1988 provided a special rule permitting the IRS to disclose these information returns to other Federal agencies for the purpose of administering Federal criminal statutes. The special rule originally was to expire after November 18, 1990, and was extended by the Comprehensive Crime Control Act of 1990 to November 18, 1992.

House bill

The House bill permanently extends the special rule for disclosing Form 8300 information. Moreover, the House bill permits disclosures not only to Federal agencies but also to State, local and foreign agencies and for civil, criminal and regulatory purposes (i.e., generally in the same manner as Currency Transaction Reports filed by financial institutions under the Bank Secrecy Act.) Disclosure, however, is not permitted to any such agency for purposes of tax administration. The House bill also (1) extends the dissemination policies and guidelines under section 6103 to people having access to Form 8300 information, and (2) applies section 6103 sanctions to persons having access to Form 8300 information that disclose this information without proper authorization.Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

H. DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER (SEC. 13363 OF THE HOUSE BILL)

Present law

Under present law, the IRS is authorized to disclose the return of any taxpayer, or return information pertaining to a taxpayer, to such person(s) as the taxpayer has designated in a written request.

House bill

The House bill deletes the word "written" from the requirement that "written consent" from the taxpayer is necessary for the disclosure of taxpayer information to a designated third party. Allowing the IRS to adopt alternatives to the written request requirement will expedite such changes and facilitate the development and implementation of Tax System Modernization projects. It is anticipated that the IRS will continue to utilize its regulatory authority to impose reasonable restrictions on the form in which a request is made, and that the IRS will in no event accept an unconfirmed verbal request.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

I. REPORT ON NETTING OF INTEREST ON OVERPAYMENTS AND LIABILITIES (SEC. 13364 OF THE HOUSE BILL)

Present law

If any portion of a tax is satisfied through the crediting of an overpayment of tax, no interest is imposed on that portion of the tax for any period during which, if the credit had not been made, interest would have been allowable.

House bill

The House bill requires the Secretary of the Treasury to conduct a study of the manner in which the IRS has implemented the netting of interest on overpayments and underpayments and the policy and administrative implications of global netting. The Treasury is required to hold a public hearing to receive comments from any interested party prior to submitting the report of its study to the tax writing committees.

Effective date.—The report is due six months after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

J. TAX CREDIT FOR CERTAIN EXPENSES INCURRED IN CONNECTION WITH TCMP AUDITS (SEC. 13365 OF THE HOUSE BILL)

Present law

The IRS recently announced that it will not conduct taxpayer compliance measurement program (TCMP) audits of returns filed for taxable year 1994. (The IRS had previously announced it would soon begin these audits.) The IRS planned to audit a stratified random sample consisting of approximately 150,000 returns. The data collected in TCMP audits would have been used by the IRS for several purposes: measuring the level of compliance with federal tax laws; estimating the tax gap; developing criteria for objectively selecting returns for audit; allocating the IRS's audit resources; analyzing specific compliance issues; and developing legislative proposals designed to improve taxpayer compliance.

Under present law, any expenses a taxpayer incurs in connection with the determination, collection or refund of any tax are deductible under either section 162 or sections 212(3). However, there is no tax credit for expenses incurred in connection with TCMP audits.

House bill

The House bill provides a refundable tax credit to individuals (not including estates, trusts, partnerships, or S corporations) for up to $3,000 of expenses otherwise deductible under either section 162 or section 212(3) incurred in connection with a TCMP audit of the taxpayer for taxable year 1994. In some circumstances, such as where a taxpayer has a net operating loss carryback, adjustments may also be made to an earlier tax return of the taxpayer as a consequence of the TCMP audit of the taxpayer for taxable year 1994. Expenses incurred with respect to this type of adjustment on an earlier return would also be eligible for the credit, because they are incurred in connection with the TCMP audit of the taxpayer for taxable year 1994. The $3,000 credit is the total available with respect to an audit, regardless of whether the expenses are incurred in two (or more) years. The credit is in lieu of a deduction with respect to these expenses.

Effective date.—The provision is effective with respect to amounts paid or incurred after December 31, 1994, in taxable years ending after that date. The credit is allowable with respect to the taxable year in which the expenses are incurred.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

K. EXPENSES OF DETECTION OF UNDERPAYMENTS AND FRAUD (SEC. 13366 OF THE HOUSE BILL)

Present law

The Secretary may, pursuant to regulations, pay rewards for information leading to the detection and punishment of violations of the Internal Revenue laws.

House bill

The House bill clarifies that rewards may be paid for information relating to civil violations, as well as criminal violations. The House bill also provides that the rewards are to be paid out of the proceeds of amounts (other than interest) collected by reason of the information provided. The House bill also requires an annual report on the rewards program.

Effective date.—The provision is effective six months after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

VII. CASUALTY, NONRECOGNITION, AND INVOLUNTARY CONVERSION PROVISIONS

A. MODIFY BASIS ADJUSTMENT RULES UNDER SECTION 1033 (SEC. 13626 OF THE HOUSE BILL AND SEC. 12601 OF THE SENATE AMENDMENT)

Present law

Under section 1033, gain realized by a taxpayer from certain involuntary conversions of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within a specified replacement period of time. The replacement property may be acquired directly or by acquiring control of a corporation (generally, 80 percent of the stock of the corporation) that owns replacement property. The taxpayer's basis in the replacement property generally is the same as the taxpayer's basis in the converted property, decreased by the amount of any money or loss recognized on the conversion, and increased by the amount of any gain recognized on the conversion. In cases in which a taxpayer purchases stock as replacement property, the taxpayer generally reduces the basis of the stock, but does not reduce the basis of the underlying assets. Thus, the reduction in the basis of the stock generally does not result in reduced depreciation deductions where the corporation holds depreciable property, and may result in the taxpayer having more aggregate depreciable basis after the acquisition of replacement property than before the involuntary conversion.

House bill

The House bill provides that where the taxpayer satisfies the replacement property requirement of section 1033 by acquiring stock in a corporation, the corporation generally will reduce its adjusted bases in its assets by the amount by which the taxpayer reduces its basis in the stock. The corporation's adjusted bases in its assets will not be reduced, in the aggregate, below the taxpayer's basis in its stock (determined after the appropriate basis adjustment for the stock). In addition, the basis of any individual asset will not be reduced below zero. The basis reduction first is applied to: (1) property that is similar or related in service or use to the converted property, then (2) to other depreciable property, then (3) to other property.

Effective date.—The provision applies to involuntary conversions occurring after September 13, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. MODIFY THE EXCEPTION TO THE RELATED PARTY RULE OF SECTION 1033 FOR INDIVIDUALS TO ONLY PROVIDE AN EXCEPTION FOR DE MINIMIS AMOUNTS (SEC. 13627 OF THE HOUSE BILL AND SEC. 12602 OF THE SENATE AMENDMENT)

Present law

Under section 1033, gain realized by a taxpayer from certain involuntary conversions of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within a specified replacement period of time. Pursuant to a provision of H.R. 831, as passed by the Congress and signed by the President on April 11, 1995 (P.L. 104-7), subchapter C corporations (and certain partnerships with corporate partners) are not entitled to defer gain under section 1033 if the replacement property or stock is purchased from a related person.

House bill

The House bill expands the present-law denial of the application of section 1033 to any other taxpayer (including an individual) that acquires replacement property from a related party (as defined by secs. 267(b) and 707(b)(1)) unless the taxpayer has aggregate realized gain of $100,000 or less for the taxable year with respect to converted property with aggregate realized gains. In the case of a partnership (or S corporation), the annual $100,000 limitation applies to both the partnership (or S corporation) and each partner (or shareholder).

Effective date.—The provision applies to involuntary conversions occurring after September 13, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. TREATMENT OF CERTAIN CROP INSURANCE PROCEEDS AND DISASTER ASSISTANCE PAYMENTS (SEC. 14555 OF THE HOUSE BILL AND SEC. 12603 OF THE SENATE AMENDMENT)

Present law

A taxpayer engaged in a farming business generally may use the cash receipts and disbursements method of accounting ("cash method") to report taxable income. A cash method taxpayer generally recognizes income in the taxable year in which cash is received, regardless of when the economic events that give rise to such income occur. Under a special rule (sec. 451(d)), in the case of insurance proceeds received as a result of destruction or damage to crops, a cash method taxpayer may elect to defer the income recognition of the proceeds until the taxable year following the year of the destruction or damage, if the taxpayer establishes that under his practice, income from such crops would have been reported in a following taxable year.

House bill

The House bill amends the special rule of section 451(d) to allow a cash method taxpayer to elect to accelerate (or defer) the recognition of certain disaster-related payments if the taxpayer establishes that, under the taxpayer's practice, income from the crops lost in the disaster would have been reported in a prior (or the subsequent) taxable year. These elections are available with respect to payments of: (1) insurance proceeds received on account of destruction or damage to crops, or (2) disaster assistance received under any Federal law as a result of destruction or damage to crops caused by drought, flood, or other natural disaster, or the inability to plant crops because of such a disaster. A taxpayer is not allowed to accelerate the recognition of a disaster-related payment if the taxable year to which the taxpayer could properly accelerate such income under the bill is closed by the statute of limitations.

Effective date.—The provision is effective for payments received after December 31, 1995, as a result of destruction or damage occurring after such date.

Senate amendment

The Senate amendment is the same as the House bill, but with a different effective date.

Effective date.—The provision is effective for payments received after December 31, 1992, as a result of destruction or damage occurring after such date.

Conference agreement

The conference agreement follows the Senate amendment.

D. APPLICATION OF INVOLUNTARY CONVERSION RULES TO PROPERTY DAMAGED AS A RESULT OF PRESIDENTIALLY DECLARED DISASTERS (SEC. 12604 OF THE SENATE AMENDMENT)

Present law

A taxpayer may elect not to recognize gain with respect to property that is involuntarily converted if the taxpayer acquires within an applicable period property similar or related in service or use. If the taxpayer does not replace the converted property with property similar or related in service or use, then gain generally is recognized.

House bill

No provision.

Senate amendment

The Senate amendment provides that any tangible property acquired and held for productive use in a business is treated as similar or related in service or use to property that (1) was held for investment or for productive use in a business and (2) was involuntarily converted as a result of a Presidentially declared disaster.

Effective date.—The provision is effective for disasters for which a Presidential declaration is made after December 31, 1994, in taxable years ending after that date.

Conference agreement

The conference agreement follows the Senate amendment.

E. DISALLOW ROLLOVER UNDER SECTION 1034 TO EXTENT OF PREVIOUSLY CLAIMED DEPRECIATION FOR HOME OFFICE OR OTHER DEPRECIABLE USE OF RESIDENCE (SEC. 13628 OF THE HOUSE BILL AND SEC. 12821 OF THE SENATE AMENDMENT)

Present law

Rollover

Generally, no gain is recognized on the sale or exchange of a principal residence to the extent that the amount of the sales price of the old residence is reinvested in a new residence within a specified period. The specified period generally is a period beginning two years before the sale of the old residence and ending two years after the sale of the old residence.

One-time exclusion

In general, a taxpayer may exclude from gross income up to $125,000 of gain from the sale or exchange of a principal residence if the taxpayer (1) has attained age 55 before the sale, and (2) has used the residence as a principal residence for three or more years of the five years preceding the sale. This election is allowed only once in a lifetime unless all previous elections are revoked. For these purposes, sales on or before July 26, 1978, are not counted against the once-in-a-lifetime limit.

In the case of a mixed use of a residence, the exclusion is limited to that portion of the residence that is owned and used by the individual as his principal residence for at least three of the previous five years before the date of sale. Gain on the portion not qualifying as a principal residence is not eligible for this exclusion.

House bill

Rollover

The House bill provides that gain is recognized on the sale of a principal residence to the extent of any depreciation allowable with respect to such principal residence for periods after December 31, 1995.

One-time exclusion

The House bill imposes an additional restriction on the availability of the one-time exclusion. Specifically, the bill provides that the amount of the otherwise allowable one-time exclusion is reduced to the extent of depreciation allowable with respect to such principal residence for periods after December 31, 1995. To illustrate the bill, assume the following facts: a 60-year old never-married taxpayer purchased a building on January 1, 1995, for $100,000 which will be used as the taxpayer's principal residence until its sale on January 1, 2002. Further, assume that the taxpayer will use one-tenth of the building as a qualified home office for three years between January 1, 1996, and December 31, 1998, with allowable annual depreciation of $256. Finally, assume that the taxpayer sells the building for $150,000 on January 1, 2002, and does not acquire a replacement residence. The taxpayer's realized gain is $50,768 ($150,000-($100,000-$768)). Under the bill $50,000 ($50,768-$768) is eligible for the one-time exclusion. The taxpayer is subject to tax on $768.

Effective date.—Taxable years ending after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

F. PROVIDE THAT ROLLOVER OF GAIN ON SALE OF A PRINCIPAL RESIDENCE CANNOT BE ELECTED BY A RESIDENT ALIEN UNLESS THE REPLACEMENT PROPERTY PURCHASED IS LOCATED WITHIN THE UNITED STATES (SEC. 13629 OF THE HOUSE BILL AND SEC. 12822 OF THE SENATE AMENDMENT)

Present law

Generally, no gain is recognized on the sale or exchange of a principal residence to the extent that the amount of the sales price of the old residence is reinvested in a new residence within a specified period. The specified period generally is a period beginning two years before the sale of the old residence and ending two years after the sale of the old residence. There is no requirement that either the old residence or new residence be located within the United States or its possessions.

House bill

Generally, the House bill requires recognition of gain on the sale or exchange of a principal residence by a resident alien unless the resident alien (1) retains resident alien status for at least two years after the date of sale, (2) becomes a U.S. citizen within two years of the date of sale, or (3) acquires a replacement residence located in the U.S. or its possessions within the specified time period.

The House bill does not apply where (1) the old residence is held jointly by the resident alien and the resident alien's spouse, (2) they file a joint tax return, and (3) the spouse is a U.S. citizen on the date of sale of the old residence.

Effective date.—Applies to the sale of old residences after December 31, 1995, unless a replacement residence was purchased before September 13, 1995, or purchased on or after such date pursuant to a binding contract in effect on such date (and at all times thereafter before such purchase).

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

VIII. EXEMPT ORGANIZATIONS AND CHARITABLE PROVISIONS

A. INTERMEDIATE SANCTIONS FOR CERTAIN TAX-EXEMPT ORGANIZATIONS (SECS. 13646-13651 OF THE HOUSE BILL)

Present law

Private inurement

Charities.—Section 501(c)(3) specifically conditions tax-exempt status for all organizations described in that section on the requirement that no part of the net earnings of the organization inures to the benefit of any private shareholder or individual (the so-called "private inurement test").

Social welfare organizations.—A tax-exempt social welfare organization described in section 501(c)(4) must be organized on a non-profit basis and must be operated exclusively for the promotion of social welfare. In contrast to section 501(c)(3), however, there is no specific statutory rule in section 501(c)(4) prohibiting the net earnings of a social welfare organization described in section 501(c)(4) from inuring to the benefit of a private shareholder or individual.[27]

Other organizations.—Other tax-exempt organizations, such as labor and agricultural organizations described in section 501(c)(5) and business leagues described in section 501(c)(6) are subject to the private inurement test, as a result of explicit statutory language or Treasury Department regulations.

Sanctions for private inurement and other violations of exemption standards

Organizations described in section 501(c)(3) are classified as either public charities or private foundations. Penalty excise taxes may be imposed under the Code when a public charity makes political expenditures (sec. 4955) or excessive lobbying expenditures (secs. 4911 and 4912). However, the Code generally does not provide for the imposition of penalty excise taxes in cases where a 501(c)(3) public charity or a section 501(c)(4) social welfare organization engages in a transaction that results in private inurement. In such cases, the only sanction that specifically is authorized under the Code is revocation of the organization's tax-exempt status. A transaction engaged in by a private foundation (but not a public charity) is subject to special penalty excise taxes under the Code if the transaction is a prohibited "self-dealing" transaction (sec. 4941) or does not accomplish a charitable purpose (sec. 4945).

Filing and public disclosure rules

Tax-exempt organizations (other than churches and certain small organizations) are required to file an annual information return (Form 990) with the IRS, setting forth the organization's items of gross income and expenses attributable to such income, disbursements for tax-exempt purposes, plus certain other information for the taxable year. Private foundations are required to allow public inspection at the foundation's principal office of their current annual information return. Other tax-exempt organizations, including public charities, are required to allow public inspection at the organization's principal office (and certain regional or district offices) of their annual information returns for the three most recent taxable years (sec. 6104(e)). The Code also requires that tax-exempt organizations allow public inspection of the organization's application to the IRS for recognition of tax-exempt status, the IRS determination letter, and certain related documents. In addition, upon written request to the IRS, members of the general public are permitted to inspect annual information returns of tax-exempt organizations and applications for recognition of tax-exempt status (and related documents) at the National Office of the IRS in Washington, D.C. A person making such a written request is notified by the IRS when the material is available for inspection at the National Office, where notes may be taken of the material open for inspection, photographs taken with the person's own equipment, or copies of such material obtained from the IRS for a fee (Treas. Reg. secs. 301.6104(a)-6 and 301.6104(b)-1).

Section 6652(c)(1)(A) provides that a tax-exempt organization that fails to file a complete and accurate Form 990 is subject to a penalty of $10 for each day during which such failure continues (with a maximum penalty with respect to any one return of the lesser of $5,000 or five percent of the organization's gross receipts for the year). Section 6652(c)(1)(C) provides that tax-exempt organizations that fail to make certain annual returns and applications for exemption available for public inspection are subject to a penalty of $10 for each day the failure continues (with a maximum penalty with respect to any one return not to exceed $5,000, and without limitation with respect to applications). In addition, section 6685 provides a penalty for willfully failing to make an annual return or application available for public inspection of $1,000 per return or application.

Organizations that have tax-exempt status but that are not eligible to receive tax-deductible charitable contributions are required expressly to state in certain fundraising solicitations that contributions or gifts to the organization are not deductible as charitable contributions for Federal income tax purposes (sec. 6113). Penalties may be imposed on such organizations for failure to comply with this requirement (sec. 6710).

House bill

Extend private inurement prohibition to social welfare organizations

The House bill amends section 501(c)(4) explicitly to provide that a social welfare organization or other organization described in that section would be eligible for tax-exempt status only if no part of its net earnings inures to the benefit of any private shareholder or individual.

Effective date.—This provision generally would be effective on September 14, 1995. However, under a special transition rule, the provision does not apply to inurement occurring prior to January 1, 1997, if such inurement results from a written contract that was binding on September 13, 1995, and at all times thereafter before such inurement occurred, and the terms of which have not materially changed.

Intermediate sanctions for excess benefit transactions

The House bill imposes penalty excise taxes as an intermediate sanction in cases where organizations exempt from tax under section 501(c)(3) or 501(c)(4) (other than private foundations, which are subject to a separate penalty regime under current law) engage in an "excess benefit transaction." In such cases, intermediate sanctions can be imposed on certain disqualified persons (i.e., insiders) who improperly benefit from an excess benefit transaction and on organization managers who participate in such a transaction knowing that it is improper.

An "excess benefit transaction" is defined as: (1) any transaction in which an economic benefit is provided to, or for the use of, any disqualified person if the value of the economic benefit provided directly by the organization (or indirectly through a controlled entity[28]) to such person exceeds the value of consideration (including performance of services) received by the organization for providing such benefit; and (2) to the extent provided in Treasury Department regulations, any transaction in which the amount of any economic benefit provided to, or for the use of, any disqualified person is determined in whole or in part by the revenues of the organization, provided that the transaction constitutes prohibited inurement under present-law section 501(c)(3) or under section 501(c)(4), as amended. Thus, "excess benefit transactions" subject to excise taxes include transactions in which a disqualified person engages in a non-fair-market-value transaction with an organization or receives unreasonable compensation, as well as financial arrangements (to the extent provided in Treasury regulations) under which a disqualified person receives payment based on the organization's income in a transaction that violates the present-law private inurement prohibition. The Committee intends that the Treasury Department will issue prompt guidance providing examples of revenue-sharing arrangements that violate the private inurement prohibition.

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[27] Even where no prohibited private inurement exists, however, more than incidental private benefits conferred on individuals may result in the organization not being operated "exclusively" for an exempt purpose. See, e.g., *American Campaign Academy v. Commissioner*, 92 T.C. 1053 (1989).

[28] A tax-exempt organization cannot avoid the private inurement proscription by causing a controlled

Existing tax-law standards apply in determining reasonableness of compensation and fair market value. Consistent with such standards, the parties to a transaction would be entitled to rely on a rebuttable presumption of reasonableness with respect to a compensation arrangement with a disqualified person if such arrangement was approved by an independent board (or an independent committee authorized by the board) that: (1) was composed entirely of individuals unrelated to and not subject to the control of the disqualified person(s) involved in the arrangement; (2) obtained and relied upon appropriate data as to comparability (e.g., compensation levels paid by similarly situated organizations, both taxable and tax-exempt, for functionally comparable positions; the location of the organization, including the availability of similar specialties in the geographic area; independent compensation surveys by nationally recognized independent firms; or actual written offers from similar institutions competing for the services of the disqualified person); and (3) adequately documented the basis for its determination (e.g., the record includes an evaluation of the individual whose compensation was being established and the basis for determining that the individual's compensation was reasonable in light of that evaluation and data).[29] If these three criteria are satisfied, penalty excise taxes could be imposed under the bill only if the IRS develops sufficient contrary evidence to rebut the probative value of the evidence put forth by the parties to the transaction (e.g., the IRS could establish that the compensation data relied upon by the parties was not for functionally comparable positions or that the disqualified person, in fact, did not substantially perform the responsibilities of such position). A similar rebuttable presumption would arise with respect to the reasonableness of the valuation of property sold or otherwise transferred (or purchased) by an organization to (or from) a disqualified person if the sale or transfer (or purchase) is approved by an independent board that uses appropriate comparability data and adequately documents its determination.

The House bill specifically provides that the payment of personal expenses and benefits to or for the benefit of disqualified persons, and non-fair-market-value transactions benefiting such persons, would be treated as compensation only if it is clear that the organization intended and made the payments as compensation for services. In determining whether such payments or transactions are, in fact, compensation, the relevant factors would include whether the appropriate decision-making body approved the transfer as compensation in accordance with established procedures and whether the organization and the recipient reported the transfer (except in the case of non-taxable fringe benefits) as compensation on the relevant forms (i.e., the organization's Form 990, the Form W-2 provided by the organization to the recipient, the recipient's Form 1040, and other required returns).[30]

"Disqualified person" means any person who is (1) an "organization manager" (meaning any officer, director, or trustee of an organization or any individual having powers or responsibilities similar to those of officers, directors, or trustees) or (2) any individual (other than an organization manager) who is in a position to exercise substantial influence over the affairs of the organization.[31] In addition, "disqualified persons" include certain family members and 35-percent owned entities[32] of any person described in (1) or (2) above, as well as any person who was a disqualified person at any time during the five-year period prior to the transaction at issue.

A disqualified person who benefits from an excess benefit transaction would be subject to a first-tier penalty tax equal to 25 percent of the amount of the excess benefit (i.e., the amount by which a transaction differs from fair market value, the amount of compensation exceeding reasonable compensation, or the amount of a prohibited transaction based on the organization's gross or net income). Organization managers who participate in an excess benefit transaction knowing that it is an improper transaction would be subject to a first-tier penalty tax of ten percent of the amount of the excess benefit (subject to a maximum penalty of $10,000).

Additional, second-tier taxes could be imposed on a disqualified person if there is no correction of the excess benefit transaction within a specified time period.[33] In such cases, the disqualified person would be subject to a penalty tax equal to 200 percent of the amount of excess benefit. For this purpose, the term "correction" means undoing the excess benefit to the extent possible and, where fully undoing the excess benefit is not possible, taking such additional corrective action as is prescribed by Treasury regulations.

The intermediate sanctions for "excess benefit transactions" could be imposed by the IRS in lieu of (or in addition to) revocation of an organization's tax-exempt status. If more than one disqualified person or manager is liable for a penalty excise tax, then all such persons would be jointly and severally liable for such tax. As under current law, a three-year statute of limitations applies, except in the case of fraud (sec. 6501). Under the House bill, the IRS has authority to abate the excise tax penalty (under present-law section 4962) if it is established that the violation was due to reasonable cause and not due to willful neglect and the transaction at issue was corrected within the specified period.

To prevent an organization from avoiding the penalty excise taxes through termination of its tax-exempt status, the House bill also imposes a tax on tax-exempt organizations that terminate their tax-exempt status. The amount of the tax equals the lesser of (1) the aggregate tax benefits that an organization can substantiate that it has received from its exemption from tax under Code section 501(a), or (2) the value of the net assets of such organization.[34] The Secretary of the Treasury is permitted to abate all or a portion of the tax if a tax-exempt organization distributes all of its net assets to one or more charitable organizations described in Code section 501(c)(3) that have been in existence for a continuous five-year period. Tax-exempt organizations that are described in Code section 501(c)(4) are permitted to distribute their net assets to one or more organizations described in Code section 501(c)(3) or 501(c)(4) that have been in existence for a continuous five-year period. An organization is permitted to terminate its exempt status only if it has paid the tax (or any portion thereof that is not abated) and the organization has notified the Secretary of its intent to terminate its exempt status (or the Secretary has made a final determination that such status has terminated).

Effective date.—The provision generally applies to excess benefit transactions occurring on or after September 14, 1995. The provision does not apply, however, to any transaction pursuant to a written contract for the performance of personal services which was binding on September 13, 1995, and at all times thereafter before such transaction occurred, and the terms of which have not materially changed.

Additional filing and public disclosure rules

Reporting of identity of certain disqualified persons, excise tax penalties and excess benefit

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entity to engage in an excess benefit transaction. Thus, for example, if a tax-exempt organization causes its taxable subsidiary to pay excessive compensation to an individual who is a disqualified person with respect to the parent organization, such transaction would be an excess benefit transaction.

[29] The fact that a State or local legislative or agency body may have authorized or approved of a particular compensation package paid to a disqualified person is not determinative of the reasonableness of compensation paid for purposes of the excise tax penalties provided for by the proposal. Similarly, such authorization or approval is not determinative of whether a revenue sharing arrangement violates the private inurement proscription.

[30] With the exception of nontaxable fringe benefits described in present-law section 132 and other types of nontaxable transfers such as employer-provided health benefits and contributions to qualified pension plans, an organization cannot demonstrate at the time of an IRS audit that it clearly indicated its intent to treat economic benefits provided to a disqualified person as compensation for services merely by claiming that such benefits may be viewed as part of the disqualified person's total compensation package. Rather, the organization must provide substantiation that is contemporaneous with the transfer of economic benefits at issue.

[31] The Committee intends that a person could be in a position to exercise substantial influence over a tax-exempt organization despite the fact that such person is not an employee of (and receives no compensation directly from) a tax-exempt organization but is formally an employee of (and is directly compensated by) a subsidiary—even a taxable subsidiary—controlled by the parent tax-exempt organization.

[32] Family members are determined under present-law section 4946(d), except that such members also would include siblings (whether by whole or half blood) of the individual, and spouses of such siblings. "35-percent owned entities" mean corporations, partnerships, and trusts or estates in which a disqualified person owns more than 35 percent of the combined voting power, profits interest, or beneficial interest.

[33] Correction must be made on or prior to the earlier of (1) the date of mailing of a notice of deficiency under section 6212 with respect to the first-tier penalty excise tax imposed on the disqualified person, or (2) the date on which such tax is assessed.

[34] In calculating these amounts, rules similar to the rules applicable to private foundations set forth in Code section 507(d),(e), and (f) apply.

transactions.—Tax-exempt organizations are required to disclose on their Form 990 the names of each disqualified person who received an economic benefit during the taxable year and such other information as may be required by the Secretary of the Treasury. In addition, exempt organizations are required to disclose on their Form 990 such information as the Secretary of the Treasury may require with respect to "excess benefit transactions" (described above) and any other excise tax penalties paid during the year under present-law sections 4911 (excess lobbying expenditures), 4912 (disqualifying lobbying expenditures), or 4955 (political expenditures), including the amount of the excise tax penalties paid with respect to such transactions, the nature of the activity, and the parties involved.[35]

Furnishing copies of documents.—The House bill also provides that a tax-exempt organization that is subject to the public inspection rules of present-law section 6104(e)(1) (i.e., any tax-exempt organization, other than a private foundation, that files a Form 990) is required to comply with requests from individuals who seek a copy of the organization's Form 990 or the organization's application for recognition of tax-exempt status and certain related documents. Upon such a request, the organization is required to supply copies without charge other than a reasonable fee for reproduction and mailing costs. If so requested, copies must be supplied of the Forms 990 for any of the organization's three most recent taxable years. If the request for copies is made in person, then the organization must immediately provide such copies. If the request for copies is made other than in person (e.g., by mail or telephone), then copies must be provided within 30 days. However, an organization could be relieved, for a limited period of time, of its obligation to provide copies if the Secretary of the Treasury determined, upon application by the organization, that the organization was subject to a harassment campaign such that waiver of the obligation to provide copies would be in the public interest.

Advertisements and solicitations.—The House bill further requires that written advertisements or solicitations made by (or on behalf of) a tax-exempt organization that is subject to the public inspection rules of present-law section 6104(e)(1) must contain an express statement, in a conspicuous and easily recognizable format, that the organization's Forms 990 are available to individuals upon request.[36] Failure to make the required disclosure in an advertisement or solicitation would subject the organization to a penalty of $100 for each day on which the failure occurred. However, no penalty may be imposed with respect to a failure if it is shown that such failure was due to reasonable cause. The House bill generally limits the maximum penalty to $10,000 for all such failures by an organization during any calendar year.[37]

In addition, the House bill requires entities that do not have Federal tax-exempt status but that describe themselves in advertisements or solicitations as "nonprofit" to disclose in an express statement that contributions to the entity are not deductible as charitable contributions for Federal income tax purposes. Failure to make the disclosure would subject the entity to penalties under section 6716.

Electronic dissemination of information.—The House bill requires the Treasury Department to provide copies of annual returns and applications for recognition of tax-exempt status filed by exempt organizations to any organization that agrees to accept broad categories of such returns and applications and to provide electronic access to *all* such documents on an electronic network to the general public. Such returns and applications must be provided free of charge to organizations that do not charge a fee for public access; if an organization charges a fee for public electronic access, the Treasury Department is allowed to charge a reasonable fee for reproduction and mailing costs.

Penalties for failure to file timely or complete return.—The section 6652(c)(1)(A) penalty imposed on a tax-exempt organization that either fails to file a Form 990 in a timely manner or fails to include all required information on a Form 990 is increased from the present-law level of $10 for each day the failure continues (with a maximum penalty with respect to any one return of the lesser of $5,000 or five percent of the organization's gross receipts) to $20 for each day the failure continues (with a maximum penalty with respect to any one return of the lesser of $10,000 or five percent of the organization's gross receipts). Under the House bill, organizations with annual gross receipts exceeding $1 million are subject to a penalty under section 6652(c)(1)(A) of $100 for each day the failure continues (with a maximum penalty with respect to any one return of $50,000). As under present law, no penalty may be imposed under section 6652(c)(1)(A) if it were shown that the failure to file a complete return was due to reasonable cause (sec. 6652(c)(3)).

Penalties for failure to allow public inspection.—The section 6652(c)(1)(C) penalty imposed on tax-exempt organizations that fail to allow public inspection of certain annual returns or applications for exemption is increased from the present-law level of $10 per day (with a maximum of $5,000) to $20 per day (with a maximum of $10,000). In addition, the section 6685 penalty for willful failure to allow public inspections is increased from the present- law level of $1,000 to $5,000.

Treasury Department studies.—The House bill directs the Treasury Department to: (1) study and make recommendations regarding application of an explicit statutory private inurement prohibition, and intermediate sanctions, to other tax-exempt organizations; (2) study and make recommendations to the Congress on whether certain State officers, such as the attorney general and other officials charged with overseeing public charities, should be provided with additional access to Federal tax information beyond that authorized under section 6103; and (3) review the Form 990 reporting requirements to ensure the Form's utility to IRS and the public and to reduce unnecessary reporting burdens.

Effective dates.—The filing and disclosure provisions governing tax-exempt organizations generally take effect on January 1, 1996 (or, if later, 90 days after enactment). However, the provisions regarding the reporting on annual returns of excise tax penalties and excess benefit transactions is effective for returns with respect to taxable years beginning on or after January 1, 1995. The requirement that the Treasury Department provide copies of annual returns and applications for recognition of tax-exempt status for electronic dissemination applies to returns and applications filed on or after January 1, 1996; it applies to returns and applications filed prior to January 1, 1996, only to the extent provided by the Secretary of the Treasury. The Treasury Department studies are required to be transmitted to Congress by January 1, 1997.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, modified as set forth below.

Extend private inurement prohibition to social welfare organizations

The conference agreement codifies the provision in the committee report to the House bill providing that the private inurement rule will not be violated solely because of an allocation or return of net margins or capital to the members of a nonprofit association or organization that operates on a cooperative basis in accordance with its incorporating statute and bylaws (substantially as in existence on the date of enactment) and was determined to be exempt from Federal income tax under section 501(c)(4) prior to the date of enactment. The conferees intend that such cooperative organizations will be subject to the general private inurement proscription with respect to any other type of transaction.

Intermediate sanctions for excess benefit transactions

As under the House bill, an "excess benefit transaction" includes, to the extent provided in Treasury Department regulations, any transaction in which the amount of any economic benefit provided to, or for the use of, any disqualified person is determined in whole or in part by the revenues of the organization, provided that the transaction constitutes prohibited inurement under present-law section 501(c)(3) or under section 501(c)(4), as amended. The conferees are aware that, under present law, certain revenue sharing arrangements have been determined not to constitute private inurement[38] and the conferees expect that it would continue to be the case that not all revenue sharing arrangements would be improper private inurement. However, the conferees intend no inference that Treasury or the Internal Revenue Service are bound by any particular prior rulings in this area. The conferees intend that the Treasury Department will issue prompt guidance providing examples of revenue-sharing arrangements that violate the private inurement prohibition and that such guidance will be applicable on a prospective basis.

The conference agreement clarifies that in applying existing tax-law standards (see sec. 162) in determining reasonableness of compensation and fair market value, the conferees intend that the parties to a transaction are entitled to rely on a rebuttable presumption of reasonableness that is described in the committee report accompanying the House bill. Because the intermediate sanctions generally will be effective for transactions entered into after September 13, 1995 (other than transactions pursuant to written contracts binding on that date), the conferees intend that parties to transactions entered into after September 13, 1995, and before January 1, 1997, will be entitled to rely on the rebuttable presumption of reasonableness if, within a reasonable period (e.g., 90 days) after entering into the compensation package, the parties satisfy the three criteria that give rise to the presumption. After December 31, 1996, the rebuttable presumption should arise only if the three criteria are satisfied *prior* to payment of the compensation (or, to the extent provided by the Secretary, within a reasonable period thereafter).

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[35] The penalties applicable to failure to file a timely, complete, and accurate return apply for failure to comply with these requirements. In addition, it is intended that the IRS implement its plan to require additional Form 990 reporting regarding (1) changes to the governing board or the certified accounting firm, (2) such information as the Secretary may require relating to professional fundraising fees paid by the organization, and (3) aggregate payments (by related entities) in excess of $100,000 to the highest-paid employees.

[36] It is intended that the Department of Treasury will provide prompt guidance on this requirement.

[37] However, if a failure to comply with the disclosure requirement for solicitations is due to intentional disregard, then the $10,000 limitation does not apply, and the penalty for each day on which such an intentional failure occurred is the greater of (1) $1,000 or (2) 50 percent of the aggregate cost of the solicitations which occurred on such day and with respect to which there was intentional disregard of the disclosure requirement.

[38] See e.g., GCM 38283; GCM 38905; and GCM 39674.

The conferees further clarify the treatment of reimbursements of excise tax liability and purchase of insurance covering such liabilities. Consistent with the rule that payment of personal expenses and benefits to or for the benefit of disqualified persons and nonfair-market value transactions benefiting such persons are treated as compensation only if it is clear that the organization intended and made the payments as compensation for services, any reimbursements by the organization of excise tax liability are treated as an excess benefit unless they are included in the disqualified person's compensation during the year the reimbursement is made. The total compensation package, including the amount of any reimbursement would be subject to the reasonableness requirement. Similarly, the payment by an applicable tax-exempt organization of premiums for an insurance policy providing liability insurance to a disqualified person for excess benefit taxes is an excess benefit transaction unless such premiums are treated as part of the compensation paid to such disqualified person.[39]

The conference agreement amends the definition of "disqualified person" to mean any individual who is in a position to exercise substantial authority over the affairs of the organization, whether by virtue of being an organization manager or otherwise, as well as certain family members and 35-percent owned entities of any such individual at any time during the 5-year period prior to the transaction at issue. A person having the title of "officer, director, or trustee" does not automatically have the status of a disqualified person.[40] In addition, the conferees grant the Secretary of Treasury authority to promulgate rules exempting broad categories of individuals from the category of "disqualified persons" (e.g., full-time bona fide employees who receive economic benefits of less than a threshold amount or persons who have taken a vow of poverty).

The conferees generally expect that the intermediate sanctions will be the sole sanction imposed in those cases in which the excess benefit does not rise to a level where it calls into question whether, on the whole, the organization functions as a charitable or other tax-exempt organization. In practice, revocation of tax-exempt status, with or without the imposition of excise taxes, will occur only when the organization no longer operates as a charitable organization.

The conference agreement eliminates the provision of the House bill that imposes a tax on tax-exempt organizations that terminate their tax-exempt status. To prevent avoidance of the penalty excise taxes in cases of private inurement of assets of a previously tax-exempt organization, the conference agreement provides that an organization will be treated as an applicable tax-exempt organization subject to the excise taxes on excess benefit transactions if, at any time during the two-year period preceding the transaction, it was a tax-exempt organization described in section 501(c)(3) or 501(c)(4) or a successor to such an organization.

Effective date.—As under the House bill, the provision generally applies to excess benefit transactions occurring on or after September 14, 1995. However, under the conference agreement, the provision does not apply to any benefits arising out of a transaction pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such benefits arose, and the terms of which have not materially changed.

Additional filing and public disclosure rules

Reporting of identity of certain disqualified persons, excise tax penalties and excess benefit transactions.—The conference agreement modifies the reporting requirements with respect to identifying certain disqualified persons. Under the conference agreement, tax-exempt organizations are required to disclose on their form 990 the name of each individual who was in a position to exercise substantial influence over the affairs of the organization (but not their family members and 35-percent owned entities) and such other information as the Secretary of Treasury may prescribe.

Furnishing copies of documents.—The conference agreement does not include the House bill provision.

Advertisement and solicitations.—The conference agreement does not include the House bill provision.

Electronic dissemination of information.—The conference agreement does not include the House bill provision.

Penalties for failure to allow public inspection.—The conference agreement does not include the House bill provision.

Treasury Department studies.—The conference agreement does not include the House bill provision.

B. COMMON INVESTMENT FUND FOR PRIVATE FOUNDATIONS (SEC. 12701 OF THE SENATE AMENDMENT)

Present law

Code section 501(c)(3) requires that an organization be organized and operated exclusively for a charitable or other exempt purpose in order to qualify for tax-exempt status under that section.

Section 501(f) provides that an organization is treated as organized and operated exclusively for charitable purposes if it is comprised solely of members that are educational institutions and is organized and operated solely to hold, commingle, and collectively invest (including arranging for investment services by independent contractors) funds contributed by the members in stocks and securities, and to collect income from such investments and turn over such income, less expenses, to the members.

House bill

No provision.

Senate amendment

Under the Senate amendment, a cooperative service organization comprised solely of members that are tax-exempt private foundations and community foundations[41] is treated as organized and operated exclusively for charitable purposes if: (1) it has at least 20 members; (2) no one member holds (after the organization's second taxable year) more than 10 percent (by value) of the interests in the organization; (3) it is organized and controlled by its members, but no one member by itself controls the organization or any other member; (4) the members are permitted to dismiss any of the organization's investment advisors, if (following reasonable notice) members holding a majority of interest in the account managed by such advisor vote to remove such advisor; and (5) the organization is organized and operated solely to hold, commingle, and collectively invest and reinvest (including arranging for investment services by independent contractors) funds contributed by the members in stocks and securities, and to collect income from such investments and turn over such income, less expenses, to the members. To qualify for tax-exempt status under present-law section 501(c)(3), a cooperative service organization described in the provision also must satisfy the other applicable requirements of that section (e.g., prohibition of private inurement, political activities, and substantial lobbying).

A cooperative service organization meeting the criteria of the proposal will be subject to the present-law excise tax provisions applicable to private foundations (e.g., sec. 4941 rules governing self-dealing arrangements), other than sections 4940 and 4942. In addition, each member's allocable share (whether or not distributed) of the capital gain net income and gross investment income of the organization for any taxable year of the organization will be treated, for purposes of the excise tax imposed under present-law section 4940, as capital gain net income and gross investment income of the member for the taxable year of such member in which the taxable year of the organization ends.

Effective date.—Taxable years ending after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

C. EXCLUSION FROM UBIT FOR CERTAIN CORPORATE SPONSORSHIP PAYMENTS (SEC. 12702 OF THE SENATE AMENDMENT)

Present law

Although generally exempt from Federal income tax, tax-exempt organizations are subject to the unrelated business income tax ("UBIT") on income derived from a trade or business regularly carried on that is not substantially related to the performance of the organization's tax-exempt functions (secs. 511–514). Contributions or gifts received by tax-exempt organizations generally are not subject to the UBIT. However, present-law section 513(c) provides that an activity (such as advertising) does not lose its identity as a separate trade or business merely because it is carried on within a larger complex of other endeavors.[42] If a tax-exempt organization receives sponsorship payments in connection with an event or other activity, the solicitation and receipt of such sponsorship payments may be treated as a separate activity. The Internal Revenue Service (IRS) has taken the position that, under some circumstances, such sponsorship payments are subject to the UBIT.[43]

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[39] In addition, because individuals may be both members of and disqualified persons with respect to a non-exclusive applicable tax-exempt organization (e.g., a museum or neighborhood civic organization) and receive certain benefits (e.g., free admission, discounted gift shop purchases) in their capacity as members (rather than in their capacity as disqualified persons), the conferees intend that the Treasury Department provide guidance clarifying that such membership benefits may be excluded from consideration under the private inurement proscription and intermediate sanction rules.

[40] The conferees are aware that the IRS has issued guidance indicating that all physicians are considered "insiders" for purposes of applying the private inurement proscription. The conferees intend that physicians will be disqualified persons only if they are in a position to exercise substantial authority over the affairs of an organization.

[41] For purposes of the provision, "community foundations" are a form of charitable trust or fund (which generally are established to attract large contributions of a capital or endowment nature for the benefit of a particular community or area) as to which section 170(b)(1)(A)(vi). See Teas. Reg. sec. 1.170A–9(e)(10).

House Bill

No provision.

Senate amendment

The Senate amendment provides that qualified sponsorship payments received by a tax-exempt organization (or State college or university described in section 511(a)(2)(B)) are exempt from the UBIT.

The Senate amendment defines "qualified sponsorship payments" as any payment made by a person engaged in a trade or business with respect to which the person will receive no substantial return benefit other than the use or acknowledgment of the name or logo (or product lines) of the person's trade or business in connection with the organization's activities.[44] Such a use or acknowledgment does *not* include advertising of such person's products or services — meaning qualitative or comparative language, price information or other indications of savings or value, or an endorsement or other inducement to purchase, sell, or use such products or services. Thus, for example, if, in return for receiving a sponsorship payment, an organization promises to use the sponsor's name or logo in acknowledging the sponsor's support for an educational or fundraising event conducted by the organization, such payment would not be subject to the UBIT. In contrast, if the organization provides advertising of a sponsor's products, the payment made to the organization by the sponsor in order to receive such advertising would be subject to the UBIT (provided that the other, present-law requirements for UBIT liability are satisfied).

The Senate amendment specifically provides that a qualified sponsorship payment does not include any payment where the amount of such payment is contingent, by contract or otherwise, upon the level of attendance at an event, broadcast ratings, or other factors indicating the degree of public exposure to an activity. However, the fact that a sponsorship payment is contingent upon an event actually taking place or being broadcast, in and of itself, does not cause the payment to fail to be a qualified sponsorship payment. Moreover, mere distribution or display of a sponsor's products by the sponsor or the tax-exempt organization to the general public at a sponsored event, whether for free or for remuneration, is considered to be "use or acknowledgment" of the sponsor's product lines (as opposed to advertising), and thus will not affect the determination of whether a payment made by the sponsor is a qualified sponsorship payment.

The Senate amendment does not apply to the sale of advertising or acknowledgments in tax-exempt organization periodicals. For this purpose, the term "periodical" means regularly scheduled and printed material that is not related to and primarily distributed in connection with a specific sponsored event. For example, the provision does not apply to payments that lead to acknowledgments in a monthly journal, but does apply if a sponsor receives an acknowledgment in a program or brochure distributed at a sponsored event.

The Senate amendment specifically provides that, to the extent that a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, such portion of the payment will be treated as a separate payment. Thus, if a sponsorship payment made to a tax-exempt organization entitles the sponsor to both product advertising *and* use or acknowledgment of the sponsor's name or logo by the organization, then the UBIT would not apply to the amount of such payment that exceeds the fair market value of the product advertising provided to the sponsor. Moreover, the provision of facilities, services or other privileges by an exempt organization to a sponsor or the sponsor's designees (e.g., complimentary tickets, pro-am playing spots in golf tournaments, or receptions for major donors) in connection with a sponsorship payment will not affect the determination of whether the payment is a qualified sponsorship payment. Rather, the provision of such goods or services will be evaluated as a separate transaction in determining whether the organization has unrelated business taxable income from the event. In general, if such services or facilities do not constitute a substantial return benefit or if the provision of such services or facilities is a related business activity, then the payments attributable to such services or facilities will not be subject to the UBIT.

The exemption provided by the Senate amendment is in addition to other present-law exceptions from the UBIT (e.g., the exceptions for activities substantially all the work for which is performed by volunteers and for activities not regularly carried on). No inference is intended as to whether any sponsorship payment received prior to 1996 was subject to the UBIT.

Effective date.—The provision applies to qualified sponsorship payments solicited or received after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment, except that the conference agreement clarifies that (1) the UBIT exception provided by the provision does not apply to any payment which entitles the payor to an acknowledgment or advertising in regularly scheduled and printed material, but only if such printed material is *published by (or on behalf of) the payee organization* and is not related to and primarily distributed in connection with a specific event conducted by the payee organization, and (2) just as the provision of facilities, services or other privileges by a tax-exempt organization to a sponsor or the sponsor's designees (complimentary tickets, pro-am playing spots in golf tournaments, or receptions for major donors) will be treated as a separate transaction that does not affect the determination of whether a sponsorship payment is a qualified sponsorship payment, a sponsor's receipt of a license to use an intangible asset (e.g., trademark, logo, or designation) of the tax-exempt organization likewise will be treated as separate from the qualified sponsorship transaction in determining whether the organization has unrelated business taxable income.[45]

D. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS(SEC. 14584 OF THE HOUSE BILL AND SEC. 12703 OF THE SENATE AMENDMENT)

Present law

Tax-exempt organizations generally are subject to the unrelated business income tax ("UBIT") on income derived from a trade or business regularly carried on that is not substantially related to the performance of the organization's tax-exempt functions (secs. 511–514). Dues payments made to a membership organization generally are not subject to the UBIT. However, several courts have held that, with respect to postal labor organizations, dues payments were subject to the UBIT when received from individuals who were not postal workers but who became "associate" members for the purpose of obtaining health insurance available to members of the organization. *See National League of Postmasters of the United States* v. *Commissioner*, No. 8032–93, T.C. Memo (May 11, 1995); *American Postal Workers Union, AFL–CIO* v. *United States*, 925 F.2d 480 (D.C. Cir. 1991); *National Association of Postal Supervisors* v. *United States*, 944 F.2d 859 (Fed. Cir. 1991).

In Rev. Proc. 95-21 (issued March 23, 1995), the IRS set forth its position regarding when associate member dues payments received by an organization described in section 501(c)(5) will be treated as subject to the UBIT. The IRS stated that dues payments from associate members will not be treated as subject to UBIT unless, for the relevant period, "the associate member category has been formed or availed of for the principal purpose of producing unrelated business income." Thus, under Rev. Proc. 95–21, the focus of the inquiry is upon the organization's purposes in forming the associate member category (and whether the purposes of that category of membership are substantially related to the organization's exempt purposes other than through the production of income), rather than upon the motive of the individuals who join as associate members.

House bill

Under the House bill, if an agricultural or horticultural organization described in section 501(c)(5) requires annual dues not exceeding $100 to be paid in order to be a member of such organization, then in no event will any portion of such dues be subject to the UBIT by reason of any benefits or privileges to which members of such organization are entitled. For taxable years beginning after 1995, the $100 amount will be indexed for inflation. The term "dues" is defined as "any payment required to be made in order to be recognized by the organization as a member of the organization." Thus, if a person is recognized as a member of an organization by virtue of having paid annual dues for his or her membership, then any subsequent payments made by that person during the year to purchase another membership in the same organization would not be within the scope of the provision.

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[42] See *United States v. American of Physicians*, 475 U.S. 834 (1986) (holding that activity of selling advertising in medical journal was not substantially related to the organization's exempt purposes and, as a separate business under section 513(c), was subject to tax).

[43] See Prop. Treas. Reg. sec. 1.513–4 (issued January 19, 1993, EE–74–92, IRB 1993–7, 71). These proposed regulations generally exclude from the UBIT financial arrangements under which the tax-exempt organization provides so-called "institutional" or "good will" advertising to a sponsor (i.e., arrangements under which a sponsor's name, logo, or product line is acknowledged by the tax-exempt organization). However, specific product advertising (e.g., "comparative or qualitative descriptions of the sponsor's products") provided by a tax-exempt organization on behalf of a sponsor is not shielded from the UBIT under the proposed regulations.

[44] In determining whether a payment is a qualified sponsorship payment, it is irrelevant whether the sponsored activity is related or unrelated to the organization's exempt purpose.

[45] The conferees expect that, under present-law UBIT rules (see Rev. Rul. 81–178, 1981–2 C.B. 135), royalty income derived from licensing trademarks, emblems, and designations of a qualified amateur sports organization described in section 501(j)(2) (e.g., the U.S. Olympic Committee), as well as income received by such organizations from broadcasting, filming, and videotaping sports competitions and related events, will be treated as exempt from the UBIT. This exemption from the UBIT should not be affected by the fact that an amateur sports organization undertakes legal or other actions to protect the exclusivity of a licensing arrangement, or to prevent third parties from improperly using the organization's trademarks or representing or implying that such parties are an official sponsor of (or otherwise affiliated with) the organization or its competitive events.

Effective date.—The provision applies to taxable years beginning after December 31, 1994.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.[46]

E. REPEAL TAX CREDIT FOR CONTRIBUTIONS TO SPECIAL COMMUNITY DEVELOPMENT CORPORATIONS (SEC. 13637 OF THE HOUSE BILL AND SEC. 12704 OF THE SENATE AMENDMENT)

Present law

Taxpayers are entitled to claim a tax credit for qualified contributions made to one of 20 non-profit community development corporations (CDCs) selected by the Secretary of Housing and Urban Development (HUD) to provide assistance in economically distressed areas. A qualified contribution means a transfer of cash to a selected CDC (made in the form of an equity investment or loan) which is made available for use by the CDC for at least 10 years to provide employment and business opportunities to low-income residents who live in an area where (1) the unemployment rate is not less than the national unemployment rate and (2) the median family income does not exceed 80 percent of the median gross income of residents of the jurisdiction of the local government which includes such area.[47]

If a taxpayer makes a qualified contribution, the credit may be claimed by the taxpayer for each taxable year during the 10-year period beginning with the taxable year during which the contribution was made. The credit that may be claimed for each year is equal to 5 percent of the amount of the contribution to the CDC. Thus, during the 10-year credit period, the taxpayer may claim aggregate credit amounts totaling 50 percent of his or her contribution. The aggregate amount of contributions that may be designated by any one CDC as eligible for the credit may not exceed $2 million. (Consequently, a total amount of $40 million in contributions will be eligible for the credit with respect to all 20 selected CDCs—and the maximum credit amounts will total $20 million over the 10-year credit period.)

On June 30, 1994, the Secretary of HUD announced the 20 CDCs selected to receive contributions that qualify for the credit. The eligible CDCs are located in the following areas: (1) Atlanta, (2) Baltimore, (3) Boston, (4) Chicago, (5) Cleveland, (6) Dallas, (7) Washington D.C., (8) Los Angeles, (9) Memphis, (10) Miami, (11) Brooklyn, (12) Newark, (13) Watsonville, Ca., (14) London, Ky., (15) Wiscasset, Maine, (16) Greenville, Miss., (17) Mayville, N.Y., (18) Barnesboro, Pa., (19) San Antonio, Texas, and (20) Christiansburg, Va.

House bill

The House bill repeals the special tax credit for qualified contributions to selected community development corporations.

Effective date.—The provision is effective for contributions made after the date of enactment (other than a contribution made pursuant to a legally enforceable agreement to make such contribution, if such agreement is in effect on the date of enactment).

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

F. TAX GAMBLING INCOME OF INDIAN TRIBES; REPEAL TARGETED EXEMPTION FROM UBIT FOR GAMBLING IN CERTAIN STATES (SECS. 13631–13632 OF THE HOUSE BILL)

Present law

Tax treatment of Indian tribes

There is no specific statutory provision governing the Federal income tax liability of Indian tribes.[48] However, the IRS has long taken the position that Indian tribes, as well as wholly owned tribal corporations chartered under Federal law, are not taxable entities and, thus, are immune from Federal income taxes. (See Rev. Rul. 67-284, 1967-2 C.B. 55; Rev. Rul. 81-295, 1981-2 C.B. 15.) More recently, the IRS has ruled that any income earned by an unincorporated Indian tribe or Federally chartered tribal corporation is not subject to Federal income tax, regardless of whether the activities that produced the income are conducted on or off the tribe's reservation. (See Rev. Rul. 94-16, 1994-12 I.R.B. 1; Rev. Rul. 94-65, 1994-42 I.R.B. 10.[49]) In ordinary matters not governed by specific treaties or remedial legislation, individual members of Indian tribes are subject to the payment of Federal income tax (even if the income is distributed to individual tribal members out of income otherwise immune from tax when first received by the tribe).[50]

Tribal governments and corporations, as well as individual Indians and their property, generally are exempt from State taxation within their reservations, unless Congress clearly manifests its consent to such taxation.[51] In contrast, property and income earned by Indians outside the reservation generally have been held to be subject to State taxation.[52] In addition, the Supreme Court has upheld a State's right to impose taxes on commercial activities conducted on reservation lands, provided that the legal incidence of the tax falls on non-Indians and the balance of Federal, State, and tribal interests favors the State.[53]

In 1993, Congress enacted two Federal tax incentives for commercial activities conducted (by Indians or non-Indians) on any Indian reservation. These tax incentives are: (1) enhanced accelerated depreciation (generally, 60 percent of the normal recovery period) for certain property used in the conduct of a trade or business on a reservation (and certain connecting infrastructure property); and (2) a 20-percent incremental wage credit for certain wages and health insurance costs (up to $20,000 per employee) paid to tribal members and spouses who work on, and live on or near, a reservation. Neither of these tax incentives is available with respect to gambling activities (secs. 45A and 168(j)).

Taxation of gambling activities of nonprofit organizations

Although generally exempt from Federal income tax, tax-exempt organizations are subject to the unrelated business income tax (UBIT) on income derived from a trade or business regularly carried on that is not substantially related to the performance of the organization's tax- exempt functions (secs. 511-514).[54] Certain income, however, is exempted from the UBIT (such as interest, dividends, royalties, and certain rents), unless derived from debt-financed property (sec. 512(b)). Other exemptions from the UBIT are provided for activities in which substantially all the work is performed by volunteers and for income from the sale of donated goods (sec. 513(a)). In addition, a specific exemption from the UBIT is provided for bingo games conducted by tax-exempt organizations, provided that the conducting of the bingo games is not an activity ordinarily carried out on a commercial basis and the conducting of which does not violate any State or local law (sec. 513(f)). A specific exemption from the UBIT also is provided for qualified public entertainment activities (meaning entertainment or recreation activities of a kind traditionally conducted at fairs or expositions promoting agricultural and educational purposes) conducted by an organization described in section 501(c)(3), (c)(4), or (c)(5) which regularly conducts an agricultural and educational fair or exposition as one of its substantial exempt purposes (sec. 513(d)).[55]

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[46] The conferees intend that, with respect to dues payments received prior to the effective date of the provision, general UBIT rules under prior law whould be applied in a manner consistent with the provision.

[47] The contribution to the CDC must be available for use by the CDC for at least ten years, but need not meet the requirements of a "contribution or gift" for purposes of section 170. In other words, a contribution eligible for the credit may be made in the form of a 10-year loan (or other long-term investment), the principal of which is to be returned to the taxpayer after the 10-year period. However, in the case of a donation of cash made by a taxpayer to an eligible CDC, the taxpayer is allowed to claim a charitable contribution deduction (subject to present-law rules under section 170), in addition to the special credit for qualified contributions to a selected CDC.

[48] Section 7871 provides that Indian tribes are treated as States for certain limited tax purposes, such as for purposes of the issuance of certain tax-exempt bonds, certain excise tax exemptions, and for eligibility to receive deductible charitable contributions.

[49] These rulings further hold, however, that a corporation organized by an Indian tribe under State law is subject to Federal income tax on the income earned from commercial activities conducted on or off the tribe's reservation.

Legal commentators generally have concluded that "[u]nder this so-called Indian Commerce Clause [article I, section 8 of the Constitution] and Supreme Court cases, there is little constitutional limitation on the ability of the Federal government to tax Indian tribes or tribal members." Aprill, Ellen P., "Tribal Bonds: Indian Sovereignty and the Tax Legislative Process," 46 *Admin. L. Rev.* 333, 334 (1994).

[50] See *Squire* v. *Capoeman*, 351 U.S. 1, 6 (1956). One exception to this general rule is the exclusion from income provided for income received by Indians from the exercise of certain fishing rights guaranteed by treaties, Federal Statute or Executive order (sec. 7873). See also 25 U.S.C. sections 1401–1407 (funds appropriated in satisfaction of a judgment of the United States Court of Federal Claims in favor of an Indian tribe which are then distributed per capita to tribal members pursuant to a plan approved by the Secretary of Interior are exempt from Federal income taxes); 25 U.S.C. section 117b(a) (per capital distributions made to tribal members from Indian trust fund revenues are exempt from tax if the Secretary of the interior approves of such distributions).

[51] See, e.g., *Oklahoma Tax Comm'n* v. *Chickasaw Nation*, 115 S. Ct. 2214 (1995); *Montana* v. *Blackfeet Tribe of Indians*, 471, U.S. 759 (1985); *McClanahan* v. *Arizona State Tax Comm'n*, 411 U.S. 164 (1973).

[52] See, e.g., *Mescalero Apache Tribe* v. *Jones*, 411 U.S. 145 (1973) (tribe held to be subject to State gross receipts tax on income earned from a ski resort operated by the tribe off-reservation). The Supreme Court also has ruled that a State may impose income tax on members of an Indian tribe who are employed by the tribe on tribal lands but who reside in the State outside of Indian country. *Oklahoma Tax Comm'n* v. *Chickasaw Nation, supra*.

[53] See *Oklahoma Tax Comm'n* v. *Chikasaw Nation, Supra; Cotton Petroleum* v. *New Mexico*, 490 U.S. 163 (1989) (upholding imposition of State severance tax on private producers of oil and gas on reservation lands).

[54] The UBIT applies not only to private, tax-exempt entities but also to colleges and universities that are agencies or instrumentalities of (or are owned or operated by) a State or local government or Indian tribal government (secs. 511(a)(2)(B) and 7871(a)(5)).

In *South End Italian Independent Club, Inc.* v. *Commissioner*, 87 T.C. 168 (1986), *acq.* 1987-2 C.B. 1, the court held that gambling profits of a social club described in section 501(c)(7) that were required by State law to be used for charitable purposes were fully deductible under section 162 in computing the UBIT liability of the social club. The effect of this decision was to exempt gambling income of that social club from UBIT. The IRS has indicated that, until further guidance is available with respect to this issue, the issue of the deductibility of amounts required under State law to be used for charitable or other so-called "lawful" purposes should be resolved consistent with the *South End* case, regardless of whether the gaming proceeds are donated to other charitable organizations or spent internally on the organization's own charitable activities.[56]

House bill

Tax treatment of Indian tribal gaming income

The House bill subjects to Federal income tax as unrelated business income ("UBI") income earned by an Indian tribe, or any corporate entity that is a tax-immune or tax-exempt entity by reason of being owned or controlled by an Indian tribe, from the conduct of class II or class III gaming activities (as defined under the Indian Gaming Regulatory Act, 25 U.S.C. secs. 2701-2721). Thus, Indian tribes will be subject to Federal income tax on income derived from class II gaming operations (e.g., bingo, pull-tabs, lotto) or class III gaming operations (e.g., a casino operated pursuant to a compact between the State government and Indian tribe). As under present-law UBIT rules, a gaming activity will be subject to tax under the provision only if the activity is regularly carried on.

Under the House bill, if an Indian tribe is required (by Federal, State, or local law) to use any portion of the net proceeds of gaming activities for charitable or other specified purposes, any portion so used may be deductible only as a charitable contribution, and (under present-law sec. 512(b)(10)) such deduction may not exceed 10 percent of the taxable income from the gaming activities. This 10-percent limitation, however, does not apply to any proceeds from gaming activities that are required to be paid as general revenues to the United States or any State or subdivision of a State (which generally will be fully deductible in computing the tribe's taxable income from gaming).

Repeal of UBIT exemption for gambling in certain States

In addition, the House bill repeals the special, off-Code provision that exempts from the UBIT gaming income earned by nonprofit organizations in North Dakota. With respect to other gaming activities conducted by tax-exempt organizations, the Treasury Department is directed to conduct a study on the nature and extent of gaming activities conducted by organizations exempt from tax under section 501(a), including an examination of: (1) the types of gaming activities (e.g., bingo, pull tabs, casino nights) engaged in by charities and other nonprofit organizations and the frequency of such activities; (2) the dollar volume of such gaming activities; (3) the nature and extent of the involvement of for-profit entities and private parties in the management or operation of gaming activities of nonprofits; (4) competition between taxable gaming activities and gaming activities that are exempt from Federal income tax; and (5) an analysis of the present-law tax treatment of gaming activities of tax-exempt organizations and any recommendations for change, including examination of the *South End* decision and special UBIT exception for bingo games. The Treasury Department is required to report the results of this study to Congress no later than July 1, 1996.

Effective date

The provision is effective on and after January 1, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

IX. CORPORATE AND OTHER REFURMS AND MISCELLANEOUS PROVISIONS

1. REFORM THE TAX TREATMENT OF CERTAIN CORPORATE STOCK REDEMPTIONS AND OTHER EXTRAORDINARY DIVIDENDS (SEC. 13601 OF THE HOUSE BILL AND SEC. 12801 OF THE SENATE AMENDMENT)

Present law

A corporate shareholder generally can deduct at least 70 percent of a dividend received from another corporation. This dividends received deduction is 80 percent if the corporate shareholder owns at least 20 percent of the distributing corporation and generally 100 percent if the shareholder owns at least 80 percent of the distributing corporation.

Section 1059 of the Code requires a corporate shareholder that receives an "extraordinary dividend" to reduce the basis of the stock with respect to which the dividend was received by the nontaxed portion of the dividend. Whether a dividend is "extraordinary" is determined, among other things, by reference to the size of the dividend in relation to the adjusted basis of the shareholder's stock. Also, a dividend resulting from a non pro rata redemption or a partial liquidation is an extraordinary dividend. If the reduction in basis of stock exceeds the basis in the stock with respect to which an extraordinary dividend is received, the excess is taxed as gain on the sale or disposition of such stock, but not until that time (sec. 1059(a)(2)). The Treasury Department has general regulatory authority to carry out the purposes of the section.

Except as provided in regulations, the extraordinary dividend provisions do not apply to result in a double reduction in basis in the case of distributions between members of an affiliated group filing consolidated returns, where the dividend is eliminated or excluded under the consolidated return regulations. Double inclusion of earnings and profits (i.e., from both the dividend and from gain on the disposition of stock with a reduced basis) also should generally be prevented.[57] Treasury regulations provide for application of the provision when a corporation is a partner in a partnership that receives a distribution.[58]

In general, a distribution in redemption of stock is treated as a dividend, rather than as a sale of the stock, if it is essentially equivalent to a dividend (sec. 302). A redemption of the stock of a shareholder generally is essentially equivalent to a dividend if it does not result in a meaningful reduction in the shareholder's proportionate interest in the distributing corporation. Section 302(b) also contains several specific tests (e.g., a substantial reduction computation and a termination test) to identify redemptions that are not essentially equivalent to dividends. The determination whether a redemption is essentially equivalent to a dividend includes reference to the constructive ownership rules of section 318, including the option attribution rules of section 318(a)(4). The rules relating to treatment of cash or other property received in a reorganization contain a similar reference (sec. 356(a)(2)).

House bill

The House bill provides that, except as provided in regulations, a corporate shareholder will recognize gain immediately with respect to any redemption treated as a dividend (in whole or in part) when the nontaxed portion of the dividend exceeds the basis of the shares surrendered, if the redemption is treated as a dividend due to options being counted as stock ownership.[59]

In addition, the House bill requires immediate gain recognition whenever the basis of stock with respect to which any extraordinary dividend was received is reduced below zero.

Reorganizations or other exchanges involving amounts that are treated as dividends under section 356(a)(2) of the Code are treated as redemptions for purposes of applying the rules relating to redemptions under section 1059(e). For example, if a recapitalization or other transaction that involves a dividend under section 356 has the effect of a non pro rata redemption or is treated as a dividend due to options being counted as stock, the rules of section 1059 apply. Redemptions of shares (or other extraordinary dividends on shares) held by a partnership will be subject to section 1059 to the extent there are corporate partners (e.g., appropriate adjustments to the basis of the shares held by the partnership and to the basis of the corporate partner's partnership interest will be required).

Under continuing section 1059(g) of present law, the Treasury Department is authorized to issue regulations where necessary to carry out the purposes and prevent the avoidance of the bill.

Effective date.—The provision is generally effective for distributions after May 3, 1995, unless made pursuant to the terms of a written binding contract in effect on that date, or a tender offer outstanding on that date. However, in applying the new gain recognition rules to any distribution that is not a partial liquidation, a non pro rata redemption, or a redemption that is treated as a dividend by reason of options, September 13, 1995 is substituted for May 3, 1995 in applying the transition rules.

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[55] In addition, section 311 of the Deficit Reduction Act of 1984 (as modified by the Tax Reform Act of 1986) provides a special, off-Code exemption from the UBIT for games of chance conducted by nonprofit organizations in the State of North Dakota.

[56] See IRS, *Exempt Organizations: Technical Instruction Program for FY 1996* (Training 4277-048 (7-95)) at page 96.

[57] See, H.R. Rep. 99-841, II-166, 99th Cong. 2d Sess. (Sept. 18, 1986).

[58] See, Treas. Reg. sec. 1.701-2(f), Example (2).

[59] Thus, for example, where a portion of such a distribution would not have been treated as a dividend due to insufficient earnings and profits, the rule applies to the portion treated as a dividend.

No inference is intended regarding the tax treatment under present law of any transaction within the scope of the provision, including transactions utilizing options.

Senate amendment

The Senate amendment is the same as the House bill, except for the effective date.

Effective date.—The effective date is generally the same as the House bill, except that there is no transition for distributions pursuant to tender offers outstanding on the relevant date.

Conference agreement

The conference agreement follows the House bill.

In addition, the conferees wish to clarify that no inference is intended regarding the rules under present law (or in any case where the treatment is not specified in the provision) for determining the shares of stock with respect to which a dividend is received or that experience a basis reduction.

2. REQUIRE CORPORATE TAX SHELTER REPORTING (SEC. 13602 OF THE HOUSE BILL AND SEC. 12802 OF THE SENATE AMENDMENT)

Present law

An organizer of a tax shelter is required to register the shelter with the IRS (sec. 6111). If the principal organizer does not do so, the duty may fall upon any other participant in the organization of the shelter or any person participating in its sale or management. The shelter's identification number must be furnished to each investor who purchases or acquires an interest in the shelter. Failure to furnish this number to the tax shelter investors will subject the organizer to a $100 penalty for each such failure (sec. 6707(b)).

A penalty may be imposed against an organizer who fails without reasonable cause to timely register the shelter or who provides false or incomplete information with respect to it. The penalty is the greater of one percent of the aggregate amount invested in the shelter or $500. Any person claiming any tax benefit with respect to a shelter must report its registration number on her return. Failure to do so without reasonable cause will subject that person to a $250 penalty (sec. 6707(b)(2)).

A person who organizes or sells an interest in a tax shelter subject to the registration rule or in any other potentially abusive plan or arrangement must maintain a list of the investors (sec. 6112). A $50 penalty may be assessed for each name omitted from the list. The maximum penalty per year is $100,000 (sec. 6708).

For this purpose, a tax shelter is defined as any investment that meets two requirements. First, the investment must be (1) required to be registered under a Federal or state law regulating securities, (2) sold pursuant to an exemption from registration requiring the filing of a notice with a Federal or state agency regulating the offering or sale of securities, or (3) a substantial investment. Second, it must be reasonable to infer that the ratio of deductions and 350 percent of credits to investment for any investor (i.e., the tax shelter ratio) may be greater than two to one as of the close of any of the first five years ending after the date on which the investment is offered for sale. An investment that meets these requirements will be considered a tax shelter regardless of whether it is marketed or customarily designated as a tax shelter (sec. 6111(c)(1)).

House bill

The House bill requires an organizer of a corporate tax shelter to register the shelter with the Secretary. Registration is required not later than the next business day after the day when the tax shelter is first offered to potential users. If an organizer is not a U.S. person, or if a required registration is not otherwise made, then any U.S. participant is required to register the shelter.

A corporate tax shelter is any investment, plan, arrangement or transaction: first, that has a significant purpose of tax avoidance or evasion by a corporate participant; second, that is offered to any potential participant under conditions of confidentiality; and third, for which the tax shelter organizers may receive total fees in excess of $100,000.

A transaction is offered under conditions of confidentiality if: (1) an offeree (or any person acting on its behalf) has an understanding or agreement with or for the benefit of any promoter to restrict or limit its disclosure of the transaction or any significant tax features of the transaction; or (2) the promoter claims, knows or has reason to know (or the promoter causes another person to claim or otherwise knows or has reason to know that a party other than the potential offeree claims) that the transaction (or one or more aspects of its structure) is proprietary to the promoter or any party other than the offeree, or is otherwise protected from disclosure or use. The promoter includes specified related parties.

Registration will require the submission of information identifying and describing the tax shelter and the tax benefits of the tax shelter, as well as such other information as the Treasury Department may require.

Tax shelter promoters are required to maintain lists of those who have signed confidentiality agreements, or otherwise have been subjected to nondisclosure requirements, with respect to particular tax shelters. In addition, promoters must retain lists of those paying fees with respect to plans or arrangements that have previously been registered (even though the particular party may not have been subject to confidentiality restrictions).

All registrations will be treated as taxpayer information under the provisions of section 6103 and will therefore not be subject to any public disclosure.

The penalty for failing to timely register a corporate tax shelter is the greater of $10,000 or 50 percent of the fees payable to any promoter with respect to offerings prior to the date of late registration (i.e., this part of the penalty does not apply to fee payments with respect to offerings after late registration). A similar penalty is applicable to actual participants in any corporate tax shelter who were required to register the tax shelter but did not. With respect to participants, however, the 50-percent penalty is based only on fees paid by that participant. Intentional disregard of the requirement to register by either a promoter or a participant increases the 50-percent penalty to 75 percent of the applicable fees.

Effective date.—The provision applies to any tax shelter offered to potential participants after the date of enactment. No filings are due, however, until the Treasury Department issues guidance with respect to the filing requirements.

Senate amendment

The Senate amendment is the same as the House bill, except that the Senate amendment provides that registration is not required if the U.S. participant notifies the promoter in writing not later than the seventh day after discussions began that the U.S. participant will not (and in fact does not) participate in the shelter. The Senate amendment also clarifies that a significant purpose of the structure of the transaction must be tax avoidance or evasion. The Senate amendment also adds a definition of related parties.

Effective date.—Same as the House bill.

Conference agreement

The conference agreement follows the Senate amendment, except that the seven-day period is modified to be a 90-day period.

A transaction is subject to this provision only if "a significant purpose" of the structure of the transaction is the avoidance or evasion of tax for a corporation (including a corporation that participates indirectly, for example, through a partnership, trust, or other non-corporate entity). It is not intended that registration will apply merely because tax consequences have been considered in structuring a transaction. The provision would not apply to a transaction where tax considerations are merely incidental and unimportant to the structure of the transaction. A "significant" purpose, however, need not be the only, or a "principal," purpose of the structure of a transaction in order for the provision to apply.

The existence of conditions of confidentiality, including proprietary claims or an agreement or understanding that limits disclosure by the participant or other person (such as the participant's advisors), shall be determined in light of all the facts and circumstances. Such a claim, understanding, or agreement need not be in writing, nor must it be legally enforceable under applicable state or federal law. Moreover, a claim, understanding, or agreement need not be explicit if, for example, a past pattern of dealings suggests that the participant or its advisors will be limited from, or be penalized by the promoter for, disclosure. The term "promoter" includes agents and professional advisors whether or not a formal principal-agent relationship exists.

Conditions of confidentiality include arrangements that limit the participant, or its agents, advisors, or other persons acting on its behalf, from disclosing the transaction or any significant tax features of the transaction. If a taxpayer contemplating a transaction consults a tax attorney for advice on structuring the anticipated transaction, the fact that such advice may be protected from disclosure by the attorney under the attorney-client privilege generally would not by itself bring the transaction within the ambit of this provision, because the privilege does not restrict the client's disclosure of the details of the structure of a transaction.

By contrast, this provision would apply where a tax avoidance transaction is promoted by an attorney to potential participants under conditions that limit potential participants from disclosing the structure of the transaction or any significant tax features of the transaction. Similarly, registration could be required, for example, in cases where a tax shelter is promoted through attorneys in an effort to avoid disclosure by the participant or its agents or advisors. A transaction will not be treated as proprietary merely because a financial advisor hopes to be rewarded for the time spent structuring the transaction.

The conferees encourage Treasury to consider exercising its existing authority under section 6111(e)(3) to consider the effects of the securities laws and to exempt specific kinds of transactions from the application of the new registration requirement in appropriate cases, provided that there is not potential for abuse. In addition, Treasury should consider issuing guidance that would allow the Internal Revenue Service to exercise discretion in (1) excluding from the penalty calculation fees received by the promoter which are not, directly or indirectly, attributable to the tax shelter, and (2) abating penalties in appropriate cases for reasonable cause. Treasury may issue such guidance in a form other than regulations (such as by rulings or revenue procedures).

Effective date.—The provision applies to any tax shelter offered to potential participants after the date the Treasury prescribes guidance with respect to the filing requirements. After the issuance of such guidance, the conferees anticipate that the Treasury will issue proposed regulations on this provision, which will give interested parties an opportunity to comment formally on Treasury's guidance.

3. DISALLOW INTEREST DEDUCTION FOR CORPORATE-OWNED LIFE INSURANCE POLICY LOANS (SEC. 13603 OF THE HOUSE BILL AND SEC. 12803 OF THE SENATE AMENDMENT)

Present law

No Federal income tax generally is imposed on a policyholder with respect to the earnings under a life insurance contract ("inside buildup").[60] Further, an exclusion from Federal income tax is provided for amounts received under a life insurance contract paid by reason of the death of the insured (sec. 101(a)). The policyholder may borrow with respect to the life insurance contract without affecting these exclusions, subject to certain limitations.

The limitations on borrowing with respect to a life insurance contract under present law provide that no deduction is allowed for any interest paid or accrued on any indebtedness with respect to one or more life insurance policies owned by the taxpayer covering the life of any individual who (1) is an officer or employee of, or (2) is financially interested in, any trade or business carried on by the taxpayer to the extent that the aggregate amount of such debt with respect to policies covering the individual exceeds $50,000 (sec. 264(a)(4)).

Further, no deduction is allowed for any amount paid or accrued on debt incurred or continued to purchase or carry a life insurance, endowment or annuity contract pursuant to a plan of purchase that contemplates the systematic direct or indirect borrowing of part or all of the increases in the cash value of the contract.[61] An exception to the latter rule is provided, permitting deductibility of interest on bona fide debt that is part of such a plan, if no part of 4 of the annual premiums due during the first 7 years is paid by means of debt (the "4-out-of-7 rule") (sec. 264(c)(1)). Provided the transaction gives rise to debt for Federal income tax purposes, and provided the 4-out-of-7 rule is met,[62] a company may under present law borrow up to $50,000 per employee, officer, or financially interested person to purchase or carry a life insurance contract covering such a person, and is not precluded under section 264 from deducting the interest on the debt, even though the earnings inside the life insurance contract (inside buildup) are tax-free, and in fact the taxpayer has full use of the borrowed funds.

Under the House bill, no deduction is allowed for interest paid or accrued on any indebtedness with respect to one or more life insurance policies or annuity or endowment contracts owned by the taxpayer covering any individual who is (1) an officer or employee of, or (2) financially interested in any trade or business carried on by the taxpayer, regardless of the aggregate amount of debt with respect to policies or contracts covering the individual.[63]

Effective date.—The provision is effective with respect to interest paid or accrued after December 31, 1995 (subject to the phase-in).

The provision is phased in over a 4-year period. Under the phase-in, a percentage of the interest deduction that would otherwise be disallowed is nevertheless allowed. The interest deduction allowed under the phase-in is for interest on debt incurred before September 18, 1995, with respect to a life insurance policy that was in effect on that date and that covers only the individual who was insured under that policy on that date. Only interest that would have been allowed as a deduction but for the amendment made by the bill is allowed under the phase-in.

During the 4-year phase-in period, the percentage of the deduction for interest that is disallowed for periods in 1996 is 20 percent; in 1997, 40 percent; in 1998, 60 percent; and in 1999, 80 percent. No deduction for interest is allowed under the phase-in after 1999. For taxpayers whose taxable year is not the calendar year, interest accrued in the portion of the taxable year that falls during any calendar year in the 4-calendar-year phase-in period is allowed in accordance with the percentage for that calendar year.

The House bill provides a special 4-year income-spreading rule for certain amounts received under a contract, interest on debt under which was allowed as a deduction prior to December 31, 1995, but is disallowed under the provision. The 4-year income-spreading rule applies for any amount that is received under such a contract on the complete surrender, redemption or maturity of the contract in 1996, or in full discharge of the obligation under the contract that is in the nature of a refund of the consideration paid for the contract in 1996, to the extent the amount received is included in the taxpayer's income for the taxable year in which such event occurs. Under the special 4-year income-spreading rule, the amount included in income upon any such event in 1996 is includable ratably over the first four taxable years beginning with the taxable year the amount would otherwise have been includable. Utilization of this 4-year income-spreading rule does not cause interest paid or accrued prior to January 1, 1996, to be nondeductible solely by reason of failure to meet the 4-out-of-7 rule.

The provision does not apply to interest on debt with respect to contracts purchased on or before June 20, 1986 (thus continuing the effective date provision of the $50,000 limitation enacted in the 1986 Act).[64]

No inference is intended as to the treatment of interest paid or accrued under present law.

Senate Amendment

The Senate amendment is the same as the House bill, except that the Senate amendment provides (1) an exception for key person insurance, (2) different effective date rules, and (3) a different phase-in rule.

An exception is provided retaining present law for interest on indebtedness with respect to life insurance policies covering up to 25 key persons. A key person is an individual who is either an officer or a 20-percent owner of the taxpayer. The number of individuals that can be treated as key persons may not exceed the greater of (1) five individuals, or (2) the lesser of 5 percent of the total number of officers and employees of the taxpayer, or 25 individuals. Interest paid or accrued on debt with respect to a life insurance contract covering a key person is deductible only to the extent the rate of interest does not exceed Moody's Corporate Bond Yield Average—Monthly Average Corporates for each month interest is paid or accrued.

Effective date.—With respect to debt incurred after December 31, 1995, no deduction is allowed for interest paid or accrued after December 31, 1995, except with respect to policies that satisfy the key person exception.

A phase-in rule is provided under the Senate amendment. With respect to debt incurred on or before December 31, 1995, any otherwise deductible interest paid or accrued after October 13, 1995, and before January 1, 2001, is allowed to the extent the rate of interest does not exceed the lesser of (1) the borrowing rate specified in the contract as of October 13, 1995, or (2) a percentage of Moody's Corporate Bond Yield Average—Monthly Average Corporates for each month the interest is paid or accrued. For interest paid or accrued after October 13, 1995, and before January 1, 1997, the percentage of the Moody's rate is 100 percent; for interest paid or accrued in 1997, the percentage is 95 percent; for 1998, the percentage is 90 percent; for 1999, the percentage is 85 percent; for 2000, the percentage is 80 percent; and for 2001 and thereafter, the percentage is 0 percent. Only interest that would have been allowed as a deduction but for the amendment made by the bill is allowed under the phase-in.

Any amount included in income during 1996, 1997, 1998, 1999, 2000 or 2001, that is received under a contract described in the proposal on the complete surrender, redemption or maturity of the contract or in full discharge of the obligation under the contract that is in the nature of a refund of the consideration paid for the contract, is includable ratably over the first four taxable years beginning with the taxable year the amount would otherwise have been includable. Utilization of this 4-year income-spreading rule does not cause interest paid or accrued prior to January 1, 2001, to be nondeductible solely by reason of failure to meet the 4- out-of-7 rule. Similarly, utilization of this 4-year income-spreading rule does not cause interest paid or accrued prior to January 1, 2001, to be nondeductible solely by reason of causing the contract to be treated as a single premium contract within the meaning of section 264(b)(1) (i.e., a contract in which substantially all of the premiums are paid within 4 years after the date of purchase). In addition, the lapse of a contract after October 13, 1995, due to nonpayment of premiums, does not cause interest paid or accrued prior to January 1, 2001, to be nondeductible solely by reason of causing the contract to be treated as a single premium contract within the meaning of section 264(b)(1) or by reason of failure to meet the 4-out-of-7 rule.

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[60] This favorable tax treatment is available only if a life insurance contract meets certain requirements designed to limit the investment character of the contract (sec. 7702). Distributions from a life insurance contract (other than a modified endowment contract) that are made prior to the death of the insured generally are includable in income, to the extent that the amounts distributed exceed the taxpayer's basis in the contract; such distributions generally are treated first as a tax-free recovery of basis, and then as income (sec. 72(e)). In the case of a modified endowment contract, however, in general, distributions are treated as income first, loans are treated as distributions (i.e., income rather than basis recovery first), and an additional ten percent tax is imposed on the income portion of distributions made before age 59½ and in certain other circumstances (secs. 72 (e) and (v)). A modified endowment contract is a life insurance contract that does not meet a statutory "7-pay" test, i.e., generally is funded more rapidly than seven annual level premiums (sec. 7702A).

[61] The statute provides that the $50,000 limitation applies only with respect to contracts purchased after June 20, 1986. However, additional limitations are imposed on the deductibility of interest with respect to single premium contracts (sec. 264(a)(2)), and on the deductibility of premiums paid on a life insurance contract covering the life of any officer or employee or person financially interested in a trade or business of the taxpayer when the taxpayer is directly or indirectly a beneficiary under the contract (sec. 264(a)(1)).

[62] Interest deductions are disallowed if any of the disallowance rules of section 264(a)(2)–(4) apply. The disallowance rule of section 264(a)(3) is not applicable if one of the exceptions of section 264(c), such as the 4-out-of-7 rule (sec. 264(c)(1)) is satisfied. In addition to the specific disallowance rules of section 264, generally applicable principles of tax law apply.

[63] The provisions disallow the deduction for interest even if the deduction would not be disallowed under any other rule. Thus, for example, if a deduction would not be disallowed under section 264(a)(3) because the 4-out-of-7 rule is met, this provision nevertheless disallows the deduction.

[64] This rule has the same meaning under the House bill as its meaning under the 1986 Act.

In the case of an insurance company, the unamortized balance of policy expenses attributable to a contract with respect to which the 4-year income-spreading treatment is allowed to the policyholder is deductible in the year in which the transaction giving rise to income- spreading occurs.

The provision generally does not apply to interest on debt with respect to contracts purchased on or before June 20, 1986 (thus continuing the effective date provision of the $50,000 limitation enacted in the 1986 Act), except that interest on such contracts paid or accrued after October 13, 1995, is allowable only to the extent the rate of interest does not exceed Moody's Corporate Bond Yield Average—Monthly Average Corporates for the month the interest is paid or accrued.

Under the Senate amendment, there is no inference as to the tax treatment of interest paid or accrued under present law.

Conference Agreement

The conference agreement follows the Senate amendment, with modifications.

The conference agreement provides that, under the key person exception, the number of individuals that can be treated as key persons may not exceed the greater of (1) five individuals, or (2) the lesser of 5 percent of the total number of officers and employees of the taxpayer, or 10 individuals.

The phase-in rule is modified under the conference agreement. The conference agreement provides that with respect to debt incurred on or before December 31, 1995,[65] any otherwise deductible interest paid or accrued after October 13, 1995, and before January 1, 1999, is allowed to the extent the rate of interest does not exceed the lesser of (1) the borrowing rate specified in the contract as of October 13, 1995, or (2) a percentage of Moody's Corporate Bond Yield Average—Monthly Average Corporates for each month the interest is paid or accrued. Under the conference agreement, for interest paid or accrued after October 13, 1995, and before January 1, 1996, the percentage of the Moody's rate is 100 percent; for interest paid or accrued in 1996, the percentage is 90 percent; for interest paid or accrued in 1997, the percentage is 80 percent; for 1998, the percentage is 70 percent; for 1999 and thereafter, the percentage is 0 percent. As under the Senate amendment, only interest that would have been allowed as a deduction but for the provision is allowed under the phase-in.

The conference agreement further provides that during the phase-in period, interest that is deductible does not include interest on borrowings by the taxpayer with respect to contracts on the lives of more than 20,000 insured individuals, effective for interest paid or accrued after December 31, 1995. For this purpose, all persons treated as a single employer are treated as one taxpayer.

The conference agreement provides an exception under the effective date with respect to any life insurance contract entered into during 1994 or 1995. In the case of such contracts, with respect to debt incurred before January 1, 1997, no deduction is allowed for interest paid or accrued after December 31, 1996, except with respect to policies that satisfy the key person exception, and except as provided under the phase-in rule. Thus, with respect to interest on amounts borrowed during 1996 with respect to such a contract, the phase-in rule applies, capping the rate for determining the amount of deductible interest at the lesser of (1) the borrowing rate specified in the contract as of October 13, 1995, or (2) the applicable percentage of Moody's Corporate Bond Yield Average—Monthly Average Corporates for each month the interest is paid or accrued. For example, for interest paid or accrued in 1996 on amounts borrowed in 1996 with respect to such a contract, the applicable percentage is 90 percent.

Under the conference agreement, the provision generally does not apply to interest on debt with respect to contracts purchased on or before June 20, 1986 (thus continuing the effective date provision of the $50,000 limitation enacted in the 1986 Act). If such a contract provides for a fixed rate of interest, then interest on such a contract paid or accrued after October 13, 1995, is allowable only to the extent the fixed rate of interest does not exceed Moody's Corporate Bond Yield Average—Monthly Average Corporates for the month in which the contract was purchased. If such a contract does not provide for a fixed rate of interest, then interest on such a contract paid or accrued after October 13, 1995, is allowable only to the extent the rate of interest for each fixed period selected by the taxpayer does not exceed Moody's Corporate Bond Yield Average—Monthly Average Corporates, for the month immediately preceding the beginning of the fixed period.[66] The fixed period must be 12 months or less.

4. PHASE-OUT PREFERENTIAL TAX DEFERRAL FOR CERTAIN LARGE FARM CORPORATIONS REQUIRED TO USE ACCRUAL ACCOUNTING (SEC. 13604 OF THE HOUSE BILL AND SEC. 12804 OF THE SENATE AMENDMENT)

Present Law

A corporation (or a partnership with a corporate partner) engaged in the trade or business of farming must use an accrual method of accounting for such activities unless such corporation (or partnership), for each prior taxable year beginning after December 31, 1975, did not have gross receipts exceeding $1 million. If a farm corporation is required to change its method of accounting, the section 481 adjustment resulting from such change is included in gross income ratably over a 10-year period, beginning with the year of change. This rule does not apply to a family farm corporation.

A family corporation (or a partnership with a family corporation as a partner) is required to use an accrual method of accounting for its farming business unless, for each prior taxable year beginning after December 31, 1985, such corporation (and any predecessor corporation) did not have gross receipts exceeding $25 million. A family corporation is one where 50 percent or more of the stock of the corporation is held by one (or in some limited cases, two or three) families.

A family farm corporation that must change to an accrual method of accounting as a result of the 1987 Act provision is to establish a suspense account in lieu of including the entire amount of the section 481 adjustment in gross income. The amount of the suspense account is required to be included in gross income if the corporation ceases to be a family corporation or to the extent the gross receipts of the corporation declines.

House Bill

The House bill repeals the ability of a family farm corporation to establish a suspense account when it is required to change to an accrual method of accounting. Thus, under the House bill, any family farm corporation required to change to an accrual method of accounting would include in gross income the section 481 adjustment applicable to the change ratably over a 10-year period beginning with the year of change. In addition, any taxpayer with an existing suspense account is required to include the account in gross income ratably over a 20-year period beginning in the first taxable year beginning after September 13, 1995, subject to the present-law requirements to include all or a portion of the account in income more rapidly in certain circumstances.

Effective date.—The provision is effective for taxable years ending after September 13, 1995.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

5. PHASED-IN REPEAL OF SECTION 936 CREDIT (SEC. 13605 OF THE HOUSE BILL AND SEC. 12805 OF THE SENATE AMENDMENT)

Present Law

Certain domestic corporations with business operations in the U.S. possessions (including, for this purpose, Puerto Rico and the U.S. Virgin Islands) may elect the section 936 credit which generally eliminates the U.S. tax on certain income related to their operations in the possessions. In contrast to the foreign tax credit, the possessions tax credit is a "tax sparing" credit. That is, the credit is granted whether or not the electing corporation pays income tax to the possession. Income exempt from U.S. tax under this provision falls into two broad categories: (1) possession business income, which is derived from the active conduct of a trade or business within a U.S. possession or from the sale or exchange of substantially all of the assets that were used in such a trade or business; and (2) qualified possession source investment income ("QPSII"), which is attributable to the investment in the possession or in certain Caribbean Basin countries of funds derived from the active conduct of a possession business.

In order to qualify for the section 936 credit for a taxable year, a domestic corporation must satisfy two conditions. First, the corporation must derive at least 80 percent of its gross income for the three-year period immediately preceding the close of the taxable year from sources within a possession.

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[65] The conference agreement provides an exception under the effective date with respect to any life insurance contract entered into in 1994 or 1995, as described below.

[66] It is intended that conforming a contract to satisfy this interest rate limitation not be treated as a material modification for purposes of this grandfather rule or sections 101(f), 7702 or 7702A. No inference is intended as to whether such a change is a material modification.

Second, the corporation must derive at least 75 percent of its gross income for that same period from the active conduct of a possession business.

A domestic corporation that has elected the section 936 credit and that satisfies these two conditions for a taxable year generally is entitled to a credit equal to the U.S. tax attributable to the sum of the taxpayer's possession business income and its QPSII. However, the amount of the credit attributable to possession business income is subject to the limitations enacted by the Omnibus Budget Reconciliation Act of 1993 ("1993 Act"). Under the economic activity limit, the amount of the credit with respect to such income cannot exceed the sum of a portion of the taxpayer's wage and fringe benefit expenses and depreciation allowances (plus, in certain cases, possession income taxes). In the alternative, the taxpayer may elect to apply a limit equal to the applicable percentage of the credit that would otherwise be allowable with respect to possession business income; the applicable percentage is phased down, beginning at 60 percent for 1994 and reaching 40 percent for 1998 and thereafter. The amount of the section 936 credit attributable to QPSII is not subject to these limitations.

House Bill

The House bill generally repeals the section 936 credit for taxable years beginning after December 31, 1995. However, a corporation that is an existing credit claimant is eligible to claim section 936 credits for an additional 10 years under a grandfather rule.

A corporation is an existing credit claimant if it claimed the section 936 credit for any of its base period years (as defined below). A corporation that adds a substantial new line of business after September 13, 1995, ceases to be an existing credit claimant as of the beginning of the taxable year in which it adds such new line of business. A corporation that is an existing credit claimant is eligible to claim credits during the grandfather period with respect to operations in any possession.

The corporation's possession income eligible for the section 936 credit for each year in the grandfather period is subject to a cap computed based on the corporation's possession income for the base period years ("average adjusted base period possession income"). A corporation's possession income equals the sum of its possession business income and QPSII. Average adjusted base period possession income is the average of the adjusted possession income for each of the corporation's base period years. For purposes of this computation, the possession income for each of the base period years is adjusted by an inflation factor reflecting inflation from such year to the year to which the cap is being applied. In addition, as a proxy for real growth in income throughout the base period, the inflation factor is increased by 5 percentage points compounded for each year from such year to the corporation's first taxable year beginning on or after September 13, 1995.

The corporation's base period years generally are 3 of the corporation's 5 most recent taxable years ending before September 13, 1995, determined by disregarding the years in which such adjusted possession incomes were highest and lowest. For this purpose, only years in which the corporation had significant possession income are taken into account. A corporation is considered to have significant possession income for a taxable year if such income exceeds 2% of the corporation's possession income for each of the 6 taxable years ending with the first taxable year ending on or after September 13, 1995. If the corporation has significant possession income for only 4 of the 5 most recent taxable years ending before September 13, 1995, then the base period years are determined by disregarding the year in which the corporation's possession income was lowest. If the corporation has significant possession income for only 3 years or fewer of such 5 years, then the base period years are all such years. If there is no year of such 5 years in which the corporation has significant possession income, then the corporation may use as its base period its first taxable year ending on or after September 13, 1995; for this purpose, the amount of possession income taken into account is the annualized amount of such income for the portion of the year ended August 31, 1995, adjusted for inflation. As an alternative, a corporation may elect to use as its base period its taxable year ending in 1992.

If a corporation's possession income for a year during the grandfather period exceeds its income cap, then the corporation's possession income for purposes of computing its section 936 credit is an amount equal to the cap. The reduction in the corporation's income to the amount of the cap is allocated between its possession business income and its QPSII for the year to which the cap is being applied based on the relative amounts of the corporation's possession business income and QPSII for such year. In determining the corporation's section 936 credit, the economic activity limit or applicable percentage limit is applied to the corporation's possession business income as reduced to reflect the application of the cap.

Effective date.—The provision in the House bill is effective for taxable years beginning after December 31, 1995.

Senate Amendment

The Senate amendment also generally repeals the section 936 credit for taxable years beginning after December 31, 1995. However, a corporation that is an existing credit claimant with respect to a possession is eligible to claim section 936 credits for a transition period under a grandfather rule.

A corporation is an existing credit claimant with respect to a particular possession if it is engaged in the active conduct of business in such possession on October 13, 1995, and it has elected the benefits of section 936 for its taxable year that includes such date. A corporation is treated as engaged in the active conduct of a business on such date if it is engaged in such active conduct before January 1, 1996, and it has a binding contract with respect to such business on October 13, 1995. A corporation that adds a substantial new line of business after October 13, 1995, ceases to be an existing credit claimant with respect to such possession as of the beginning of the taxable year in which it adds such new line of business. A corporation that is an existing credit claimant with respect to a possession (or possessions) is eligible to claim credits during the grandfather period only with respect to operations in such possession (or possessions).

The length of the grandfather period depends upon the type of income with respect to which the section 936 credit is being claimed. The grandfather period for the section 936 credit attributable to business income is six years, with the section 936 credit attributable to business income eliminated for taxable years beginning after December 31, 2001. The computation of the section 936 credit attributable to possession business income during the grandfather period depends upon whether the corporation has in effect an election to use the applicable percentage limit. For corporations using the economic activity limit, present law continues to apply in computing the section 936 credit attributable to possession business income throughout the grandfather period. For corporations using the applicable percentage limit, present law continues to apply in computing the section 936 credit attributable to possession business income through the taxable year beginning in 1998. For taxable years beginning in 1999 through 2001, the section 936 credit attributable to possession business income (determined under the applicable percentage limit) is limited to the following percentage of the amount otherwise determined: for 1999, 75 percent; for 2000, 50 percent; and for 2001, 25 percent. A corporation that elected to use the applicable percentage limit is permitted to revoke such election, provided that the revocation is made not later than with respect to the corporation's first taxable year beginning after December 31, 1996.

The grandfather period for the section 936 credit attributable to QPSII is five years, with the section 936 credit attributable to QPSII eliminated for taxable years beginning after December 31, 2000. For taxable years during the grandfather period, the section 936 credit attributable to QPSII is available only for income derived from a qualifying asset (provided that such income would otherwise qualify as QPSII under present law). A qualifying asset is an asset held by the corporation on October 13, 1995, or an asset that was purchased through the rollover of the proceeds of such an asset or its successor assets. For taxable years beginning in 1996 through 2000, income that would otherwise qualify as QPSII and that is derived from a qualifying asset is eligible for the section 936 credit attributable to QPSII only through the date that the asset, if distributed, would be eligible for the maximum reduction in local taxes (as determined under local law in effect on October 13, 1995).

Under the Senate amendment, a special grandfather rule applies to corporations that are existing credit claimants with respect to Guam, American Samoa or the Commonwealth of the Northern Mariana Islands. A corporation that is an existing credit claimant with respect to such a possession continues to determine its section 936 credit with respect to operations in such possession under present law for its taxable years beginning before January 1, 2006.

Effective date.—The provision in the Senate amendment is effective on date of enactment.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment with modifications and clarifications. The conference agreement generally repeals the section 936 credit for taxable years beginning after December 31, 1995. However, the conference agreement provides grandfather rules under which a corporation that is an existing credit claimant is eligible to claim section 936 credits for a transition period. As under the Senate amendment, a special transition rule applies to the section 936 credit attributable to operations in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

For taxable years beginning after December 31, 1995, the section 936 credit applies only to a corporation that qualifies as an existing credit claimant (as defined below). A corporation that is an existing credit claimant is subject to the limitations described below in determining the section 936 credit for taxable years beginning after December 31, 1995.

The section 936 credit attributable to QPSII is eliminated for taxable years beginning after December 31, 1995. For taxable years beginning after December 31, 1995, the section 936 credit is available only with respect to possession business income. The computation of the section 936 credit attributable to possession business income during the grandfather period depends upon whether the corporation is using the economic activity limit or the applicable percentage limit.

For corporations that are existing credit claimants and that use the economic activity limit, the section 936 credit attributable to possession business income (determined under the economic activity limit) continues to be determined as under present law for taxable years beginning after December 31, 1995 and before January 1, 2002. For taxable years beginning after December 31, 2001 and before January 1, 2006, the corporation's possession business income that is eligible for the section 936 credit is subject to a cap computed as described below. For taxable years beginning in 2006 and thereafter, the section 936 credit attributable to possession business income (determined under the economic activity limit) is eliminated.

For corporations that are existing credit claimants and that elected to use the applicable percentage limit and not to use the economic activity limit, the section 936 credit attributable to possession business income continues to be determined as under present law for taxable years beginning after December 31, 1995 and before January 1, 1998. For taxable years beginning after December 31, 1997 and before January 1, 2006, the corporation's possession business income that is eligible for the section 936 credit is subject to a cap computed as described below. For taxable years beginning in 2006 and thereafter, the section 936 credit attributable to possession business income (determined under the applicable percentage limit) is eliminated.

A corporation that had elected to use the applicable percentage limit is permitted to revoke that election under present law. Under the conference agreement, as under the Senate amendment, such a revocation must be made not later than with respect to the first taxable year beginning after December 31, 1996; such revocation, if made, applies to such taxable year and to all subsequent taxable years. Accordingly, a corporation that had an election in effect to use the applicable percentage limit could revoke such election effective for its taxable year beginning in 1997 and thereafter; such corporation would continue to use the applicable percentage limit for its taxable year beginning in 1996 and would use the economic activity limit for its taxable year beginning in 1997 and thereafter.

The cap on a corporation's possession business income that is eligible for the section 936 credit is computed based on the corporation's possession business income for the base period years ("average adjusted base period possession business income"). Average adjusted base period possession business income is the average of the adjusted possession business income for each of the corporation's base period years. For the purpose of this computation, the corporation's possession business income for a base period year is adjusted by an inflation factor that reflects inflation from such year to 1995. In addition, as a proxy for real growth in income throughout the base period, the inflation factor is increased by 5 percentage points compounded for each year from such year to the corporation's first taxable year beginning on or after October 14, 1995.

The corporation's base period years generally are three of the corporation's five most recent years ending before October 14, 1995, determined by disregarding the taxable years in which the adjusted possession business incomes were highest and lowest. For purposes of this computation, only years in which the corporation had significant possession business income are taken into account. A corporation is considered to have significant possession business income for a taxable year if such income exceeds 2 percent of the corporation's possession business income for the each of the six taxable years ending with the first taxable year ending on or after October 14, 1995. If the corporation has significant possession business income for only four of the five most recent taxable years ending before October 14, 1995, the base period years are determined by disregarding the year in which the corporation's possession business income was lowest. If the corporation has significant possession business income for three years or fewer of such five years, then the base period years are all such years. If there is no year of such five taxable years in which the corporation has significant possession business income, then the corporation may use as its base period its first taxable year ending on or after October 14, 1995; for this purpose, the amount of possession business income taken into account would be the annualized amount of such income for the portion of the year ended September 30, 1995.

As one alternative, the corporation may elect to use its taxable year ending in 1992 as its base period (with the adjusted possession business income for such year constituting its cap). As another alternative, the corporation may elect to use as its cap the annualized amount of its possession business income for the first ten months of calendar year 1995, calculated by excluding any extraordinary items (as determined under generally accepted accounting principles) for such period. For this purpose, the conferees intend that transactions with a related party that are not in the ordinary course of business will be considered to be extraordinary items.

If a corporation's possession business income in a year for which the cap is applicable exceeds the cap, then the corporation's possession business income for purposes of computing its section 936 credit for the year is an amount equal to the cap. The corporation's section 936 credit continues to be subject to either the economic activity limit or the applicable percentage limit, with such limit applied to the corporation's possession business income as reduced to reflect the application of the cap.

A corporation is an existing credit claimant if (1) the corporation is engaged in the active conduct of a trade or business within a possession on October 13, 1995, and (2) the corporation has elected the benefits of section 936 pursuant to an election which is in effect for its taxable year that includes October 13, 1995. A corporation that adds a substantial new line of business after October 13, 1995, ceases to be an existing credit claimant as of the beginning of the taxable year during which such new line of business is added.

For purposes of these rules, a corporation is treated as engaged in the active conduct of a trade or business within a possession on October 13, 1995, if such corporation is engaged in the active conduct of such trade or business before January 1, 1996, and such corporation has in effect on October 13, 1995, a binding contract for the acquisition of assets to be used in, or the sale of property to be produced in, such trade or business. For example, if a corporation has in effect on October 13, 1995, binding contracts for the lease of a facility and the purchase of machinery to be used in a manufacturing business in a possession and if the corporation begins actively conducting that manufacturing business in the possession before January 1, 1996, that corporation is an existing credit claimant. A change in the ownership of a corporation will not affect its status as an existing credit claimant.

In determining whether a corporation has added a substantial new line of business, the conferees intend that principles similar to those reflected in Treas. Reg. section 1.7704-2(d) (relating to the transition rules for existing publicly traded partnerships) will apply. For example, a corporation that modifies its current production methods, expands existing facilities, or adds new facilities to support the production of its current product lines and products within the same four-digit Industry Number Standard Industrial Classification Code (Industry SIC Code) will not be considered to have added a substantial new line of business. In this regard, the conferees intend that the fact that a business which is added is assigned a different four-digit Industry SIC Code than is assigned to an existing business of the corporation will not automatically cause the corporation to be considered to have added a new line of business. For example, a pharmaceutical corporation that begins manufacturing a new drug will not be considered to have added a new line of business. Moreover, a pharmaceutical corporation that begins to manufacture a complete product from the bulk active chemical through the finished dosage form, a process that may be assigned two separate four-digit Industry SIC Codes, will not be considered to have added a new line of business even though it was previously engaged in activities that involved only a portion of the entire manufacturing process from bulk chemicals to finished dosages.

A special transition rule applies to the section 936 credit with respect to operations in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Income attributable to operations in these possessions is not taken into account in computing the income cap described above. A corporation is considered to be an existing credit claimant with respect to one of these possessions if the corporation is an existing credit claimant and is engaged in the active conduct of a trade or business within such possession on October 13, 1995 (or is treated as so engaged under the binding contract rule described above). For any taxable year beginning after December 31, 1995, a corporation that is not an existing credit claimant with respect to one of these possessions for such year is not entitled to the section 936 credit with respect to operations in such possession. For any taxable year beginning after December 31, 1995, and before January 1, 2006, a corporation that is an existing credit claimant with respect to one of these possessions for such year continues to determine its section 936 credit with respect to operations in such possession as under present law. For taxable years beginning in 2006 and thereafter, the section 936 credit with respect to operations in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands is eliminated.

6. CORPORATE ACCOUNTING—REFORM OF INCOME FORECAST METHOD (SEC. 13604 OF THE HOUSE BILL AND SEC. 12806 OF THE SENATE AMENDMENT)

Present Law

A taxpayer generally must capitalize the cost of property used in a trade or business and recover such cost over time through allowances for depreciation or amortization. The cost of a film, video tape, or similar property that is produced by the taxpayer or is acquired on a "stand-alone" basis by the taxpayer may not be recovered pursuant to either the general depreciation provisions of section 168 or the intangible amortization provisions of section 197. The cost of such property may be depreciated under the "income forecast" method. The income forecast method also has been held to be applicable for computing depreciation deductions for television shows, books, patents, master sound recordings and video games.

Under the income forecast method, the depreciation deduction for a taxable year for a property is determined by multiplying the cost of the property (less estimated salvage value) by a fraction, the numerator of which is the income generated by the property during the year and the denominator of which is the total forecasted or estimated income to be derived from the property during its useful life. The total forecasted or estimated income to be derived from a property is to be based on the conditions known to exist at the end of the period for which depreciation is claimed. This estimate can be revised upward or downward at the end of a subsequent taxable period based on additional information that becomes available after the last prior estimate. These revisions, however, do not affect the amount of depreciation claimed in a prior taxable year.

In the case of a film, income to be taken into account under the income forecast method means income from the film less the expense of distributing the film, including estimated income from foreign distribution or other exploitation of the film. In the case of a motion picture released for theatrical exhibition, income does not include estimated income from future television exhibition of the film (unless an arrangement for domestic television exhibition has been entered into before the film has been depreciated to its reasonable salvage value). In the case of a series or a motion picture produced for television exhibition, income does not include estimated income from domestic syndication of the series or the film (unless an arrangement for syndication has been entered into before the series or film has been depreciated to its reasonable salvage value). The Internal Revenue Service also has ruled that income does not include net merchandising revenue received from the exploitation of film characters.

House Bill

The House bill makes several amendments to the income forecast method of determining depreciation deductions.

First, the House bill provides that income to be taken into account under the income forecast method includes all estimated income derived from use of the property. In the case of a film, television show, or similar property, such income includes, but would not necessarily be limited to, income from foreign and domestic theatrical, television, and other releases and syndications; video tape releases, sales, rentals, and syndications; and the exploitation of film or program characters, prints, scripts, and scores. Pursuant to a special rule, if a taxpayer produces a television series and initially does not anticipate syndicating the episodes from the series, the forecasted income for the episodes of the first three years of the series need not take into account any future syndication fees (unless the taxpayer reasonably anticipates syndicating such episodes during such period).

In addition, the cost of property subject to depreciation only includes amounts that satisfy the economic performance standard of section 461(h). Any costs that are taken into account after the property is placed in service are treated as a separate piece of property to the extent (1) such amounts are significant and are expected to give rise to a significant increase in the income from the property that was not included in the estimated income from the property, or (2) such costs are incurred more than 10 years after the property was placed in service. Except as provided in regulations, any costs that are not recovered by the end of the tenth taxable year after the property was placed in service may be taken into account as depreciation in such year.

Further, taxpayers that claim depreciation deductions under the income forecast method are required to pay (or would receive) interest based on the recalculation of depreciation under a "look-back" method. The "look-back" method is applied in any "recomputation year" by: (1) comparing depreciation deductions that had been claimed in prior periods to depreciation deductions that would have been claimed had the taxpayer used actual, rather than estimated, total income from the property; (2) determining the hypothetical overpayment or underpayment of tax based on this recalculated depreciation; and (3) applying the overpayment rate of section 6621. Except as provided in regulations, a "recomputation year" would be the third and tenth taxable year after the taxable year the property was placed in service unless the actual income from the property for each taxable year ending with or before the close of such years was within 10 percent of the estimated income from the property for such years. The Secretary of the Treasury has the authority to allow a taxpayer to delay the initial application of the look-back method where the taxpayer may be expected to have significant income from the property after the third taxable year after the taxable year the property was placed in service (e.g., the Treasury Secretary may exercise such authority where the depreciable life of the property is expected to be longer than three years). In applying the look-back method, any cost that is taken into account after the property was placed in service may be taken into account by discounting (using the Federal mid-term rate determined under sec. 1274(d) as of the time the costs were taken into account) such cost to its value as of the date the property was placed in service. Property with an adjusted basis of $100,000 or less when the property was placed in service is not subject to the look-back method.

Effective date.—The provision is effective for property placed in service after September 13, 1995, unless placed in service pursuant to a binding written contract in effect before such date and all times thereafter.

Senate amendment

The Senate amendment follows the House bill, with certain modifications.

First, the Senate amendment provides that estimated income to be taken into account under the income forecast method includes all income earned in connection with the property before the close of the tenth taxable year following the taxable year in which the property was placed in service. This 11-year rule also will apply for purposes of the look-back method.

Second, income from the exploitation of characters is expected to be limited to income from licensing and similar agreements with third parties and sales of tangible property incorporating such characters.

Third, the special rule that applies to the syndication of a television series will apply such that the forecasted income for the episodes of the first three years of the series need not take into account any future syndication fees (unless the taxpayer has an arrangement to syndicate such episodes during such period).

Fourth, the Senate amendment clarifies the application of the economic performance standard of section 461(h).

Effective date.—Same as the House bill.

Conference agreement

The conference agreement follows the Senate amendment, with the following modifications.

The conference agreement provides that estimated income to be taken into account under the income forecast method includes all income earned before the close of the tenth taxable year following the taxable year in which the property was placed in service in connection with the ultimate use of the property by, or the ultimate sale of merchandise to, unrelated parties (as defined in sec. 267(b)). This rule also will apply for purposes of the look-back method. The conferees wish to clarify that the Secretary of the Treasury has the authority to issue regulations that provide anti-abuse rules to address the improper timing of earnings.

The conferees also wish to clarify that income earned by a taxpayer in connection with a property subject to the income forecast method does not include income earned from a related party. However, certain income earned by the related party from unrelated persons in connection with the property must be taken into account by the taxpayer. For example, if a taxpayer licenses the use of property subject to the income forecast method to a member of the taxpayer's affiliated group and such member sublicenses similar rights to an unrelated third party, the licensing agreement between the affiliated members would be ignored, and the sublicensing agreement with the unrelated third party would be taken into account, for purposes of the applying the income forecast method to the taxpayer's property. In addition, the conferees wish to clarify that, for purposes of the income forecast method, the Secretary of the Treasury has the authority to allocate properly income under section 482 or any other applicable present-law provision with respect to agreements, arrangements, or transactions between the taxpayer and any other related parties.

Further, the conferees wish to clarify that in applying the economic performance rules of section 461(h) in determining the cost of property subject to the income forecast method, the recurring item exception of section 461(h)(3) shall apply in a manner similar to the way such exception applies under present law. Thus, expenditures that relate to an item of property that are incurred in the taxable year following the taxable year in which the property is placed in service may be taken into account in the year the property is placed in service to the extent such expenditures meet the recurring item exception for such year.

7. REPEAL 50-PERCENT INTEREST INCOME EXCLUSION FOR FINANCIAL INSTITUTION LOANS TO ESOPS (SEC. 12807 OF THE SENATE AMENDMENT)

Present law

A bank, insurance company, regulated investment company, or a corporation actively engaged in the business of lending money may generally exclude from gross income 50 percent of interest received on an ESOP loan (sec. 133). The 50-percent interest exclusion only applies if: (1) immediately after the acquisition of securities with the loan proceeds, the ESOP owns more than 50 percent of the outstanding stock or more than 50 percent of the total value of all outstanding stock of the corporation; (2) the ESOP loan term will not exceed 15 years; and (3) the ESOP provides for full pass-through voting to participants on all allocated shares acquired or transferred in connection with the loan.

House bill

No provision.

Senate amendment

The Senate amendment repeals the 50-percent interest exclusion with respect to ESOP loans.

Effective date.—The provision generally is effective with respect to loans made after October 13, 1995. The repeal of the 50-percent interest exclusion does not apply to the refinancing of an ESOP loan originally made on or before October 13, 1995, provided: (1) such refinancing loan otherwise meets the requirements of section 133 in effect on or before October 13, 1995; (2) the outstanding principal amount of the loan is not increased; and (3) the term of the refinancing loan does not extend beyond the term of the original ESOP loan.

Conference agreement

The conference agreement follows the Senate amendment.

8. CORPORATE PENSION TRANSFERS (SEC. 13607 OF THE HOUSE BILL)

Present law

In general

Under present law, defined benefit pension plan assets generally may not revert to an employer prior to the termination of the plan and the satisfaction of all plan liabilities. Any assets that revert to the employer upon such termination are includible in the gross income of the employer and subject to an excise tax. The rate of the excise tax generally is 20 percent and is increased to 50 percent unless the employer maintains a replacement plan or makes certain benefit increases in connection with the plan termination.

Transfers from ongoing plans

Under section 420 of the Code and under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), employers may transfer excess assets in an overfunded defined benefit pension plan (other than a multiemployer plan) to pay certain retiree health liabilities. The assets transferred are not includible in the gross income of the employer and are not subject to the excise tax on reversions. The employer is not entitled to deduct retiree health benefits paid with transferred assets. Any transferred amounts not used for retiree health benefits for the year of transfer are required to be returned to the pension plan (with earnings). Returned amounts are not includible in income and are subject to the 20-percent excise tax.

Transfer requirements

A section 420 transfer is subject to a vesting requirement, an asset cushion requirement, and a notice requirement.

Vesting requirement

Under the vesting requirement, the accrued retirement benefits of plan participants (including participants who separated from service during the 1-year period ending on the date of transfer) must be nonforfeitable as if the plan terminated immediately before the transfer.

Asset cushion requirement

Under the asset cushion requirement, excess assets are defined to be the excess of the value of plan assets over the greater of (1) the plan's full funding limit, or (2) 125 percent of current liability. Excess assets are determined as of the most recent plan valuation date preceding the transfer. Thus, a transfer can only be made from a plan that is at least at the full funding limit and to which deductible employer contributions can no longer be made.

Notice requirement

An employer is required to notify plan participants 60 days before a transfer occurs.

Expiration of provision

Section 420 was originally adopted for a 5-year period, through 1995. It was extended in the implementing legislation for the General Agreement on Tariffs and Trade ("GATT") for an additional 5 years, through 2000.

House bill

Transfers from ongoing plans

Under the House bill, section 420 is expanded to permit a qualified transfer of excess assets from a defined benefit pension plan (other than a multiemployer plan) to the employer, without limitation on the use of the excess assets. Amounts transferred are includible in the gross income of the employer and generally subject to a 6.5 percent excise tax. No excise tax applies in the case of transfers occurring before July 1, 1996.

Transfer requirements

Vesting requirement

Same as present law.

Asset cushion requirement

Same as present law, except that excess assets are determined as of whichever of the following dates results in a lower value of excess assets: (1) January 1, 1995, or the last plan valuation date preceding January 1, 1995, or (2) the most recent plan valuation date preceding the transfer.

Notice requirement

Same as present law.

Expiration of provision

Same as present law.

Effective date

January 1, 1995.

Senate amendment

No provision. (However, the Senate Finance Committee adopted a proposal similar to, but more limited than, the House bill. Under that proposal, transfers of excess pension assets could have been made to pay for qualified retirement benefits, accident and health benefits, disability benefits, educational assistance, and dependent care assistance (i.e., broad-based ERISA-covered plans). The amount transferred would have been includible in the gross income of the employer. No excise tax would have applied. The present-law asset cushion would have applied. The proposal would have been effective with respect to amounts transferred on or after the date of enactment in taxable years beginning before January 1, 2002. The proposal was deleted by a Senate floor amendment.)

Conference agreement

In general

The conference agreement follows the House bill, with several modifications. Under the conference agreement, section 420 is expanded to permit a transfer of excess assets from a defined benefit pension plan (other than a multiemployer plan) to pay for certain employee benefits that are provided to a broad group of employees and regulated under ERISA and the Internal Revenue Code. The amount transferred is includible in the gross income of the employer, but is not subject to the excise tax on reversions. The conference agreement modifies the definition of excess assets, both for purposes of transfers under present-law section 420, as well as for purposes of the transfers allowed under the provision. The conference agreement also provides that an employer cannot make a transfer under the provision or present law if the employer has filed or has had filed against it (as of the date of transfer) a petition seeking liquidation in bankruptcy under title 11 of the U.S. Code, or under similar State or Federal law. The modifications to section 420 are not intended to affect the ability under present law to transfer assets within a defined benefit pension plan under section 414(k).

Transfer requirements

Vesting requirement

Same as the House bill.

Asset cushion requirement

The conference agreement modifies the asset cushion requirement both with respect to transfers under present-law section 420, as well as with respect to the expanded transfers under the provision. Under the provision, excess assets are defined as the excess of the value of plan assets over the greater of (1) 125 percent of termination liability, or (2) the plan's accrued liability. Accrued liability is determined as under the full-funding limitation (without regard to the 150 percent of current liability cap). Termination liability is generally defined as under section 414(l) of the Code. However, for this purpose, the actuarial assumptions used are those used by the Pension Benefit Guaranty Corporation ("PBGC") for single-employer plan termination purposes under title IV of ERISA. It is expected that the PBGC will continue to calculate its termination liability assumptions under its current methodology. Excess assets are determined as of the date of transfer.

Notice requirement

Same as present law.

Use of excess assets

The total amount of excess pension assets which can be transferred during any year cannot exceed the amount the employer would be able to deduct for the year of transfer (determined on a controlled group basis) for qualified employee benefits. Qualified employee benefits are defined as qualified retirement plan benefits, accident and health benefits, disability benefits, educational assistance, and dependent care assistance. For example, under the conference agreement, excess pension assets can be transferred from an overfunded pension plan maintained by an employer to an underfunded pension plan maintained by the same employer.

Transferred amounts (and income thereon) that are not used to pay for qualified employee benefits for the year of transfer must be returned to the pension plan. Income on returned amounts is calculated using the short-term applicable Federal rate. Amounts returned are not includible in the gross income of the employer, but are subject to the

20-percent excise tax on reversions. No deduction is allowed with respect to returned amounts (and income thereon).

Expiration of provision

Transfers for qualified employee benefits cannot be made in taxable years beginning after December 31, 2001.

Effective date

The provision is effective with respect to transfers on and after the date of enactment, except that the changes with respect to transfers under present-law section 420 are effective with respect to transfers occurring after December 31, 1995.

9. MODIFY EXCLUSION OF DAMAGES RECEIVED ON ACCOUNT OF PERSONAL INJURY OR SICKNESS (SEC. 13611 OF THE HOUSE BILL AND SEC. 12811 OF THE SENATE AMENDMENT)

Present law

Under present law, gross income does not include any damages received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal injury or sickness (sec. 104(a)(2)).

The exclusion from gross income of damages received on account of personal injury or sickness specifically does not apply to punitive damages received in connection with a case not involving physical injury or sickness. Courts presently differ as to whether the exclusion applies to punitive damages received in connection with a case involving a physical injury or physical sickness. Certain States provide that, in the case of claims under a wrongful death statute, only punitive damages may be awarded.

Courts have interpreted the exclusion from gross income of damages received on account of personal injury or sickness broadly in some cases to cover awards for personal injury that do not relate to a physical injury or sickness. For example, some courts have held that the exclusion applies to damages in cases involving certain forms of employment discrimination and injury to reputation where there is no physical injury or sickness. The damages received in these cases generally consist of back pay and other awards intended to compensate the claimant for lost wages or lost profits. The Supreme Court recently held that damages received based on a claim under the Age Discrimination in Employment Act could not be excluded from income.[67] In light of the Supreme Court decision, the Internal Revenue Service has suspended existing guidance on the tax treatment of damages received on account of other forms of employment discrimination.

House bill

Include in income all punitive damages

The House bill provides that the exclusion from gross income does not apply to any punitive damages received on account of personal injury or sickness whether or not related to a physical injury or physical sickness. The House bill intends no inference as to the application of the exclusion to punitive damages received prior to the effective date of the bill in connection with a case involving a physical injury or physical sickness.

Include in income damage recoveries for nonphysical injuries

The House bill provides that the exclusion from gross income only applies to damages received on account of a personal physical injury or physical sickness. If an action has its origin in a physical injury or physical sickness, then all damages (other than punitive damages) that flow therefrom are treated as payments received on account of physical injury or physical sickness whether or not the recipient of the damages is the injured party. For example, damages (other than punitive damages) received by an individual on account of a claim for loss of consortium due to the physical injury or physical sickness of such individual's spouse are excludable from gross income. In addition, damages (other than punitive damages) received on account of a claim of wrongful death continue to be excludable from taxable income as under present law.

The House bill also specifically provides that emotional distress is not considered a physical injury or physical sickness. Thus, the exclusion from gross income does not apply to any damages received (other than for medical expenses as discussed below) based on a claim of employment discrimination or injury to reputation accompanied by a claim of emotional distress. Because all damages received on account of physical injury or physical sickness are excludable from gross income, the exclusion from gross income does apply to any damages received based on a claim of emotional distress that is attributable to a physical injury or physical sickness. In addition, the exclusion from gross income specifically does apply to the amount of damages received that is not in excess of the amount paid for medical care attributable to emotional distress.

Effective date.—The provisions generally are effective with respect to amounts received after December 31, 1995. The provisions do not apply to amounts received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

Senate amendment

Same as the House bill, except that the exclusion from gross income applies to punitive damages received in a wrongful death action, provided that the applicable State law (as in effect on September 13, 1995 without regard to subsequent modification) provides, or has been construed to provide by a court decision issued on or before such date, that only punitive damages may be awarded in a wrongful death action.

Conference agreement

The conference agreement follows the Senate amendment, except the conference agreement clarifies that the special rule contained in the Senate amendment pertaining to punitive damages received in a wrongful death action only applies if the punitive damages received would have been excludable from gross income under the law in effect before February 1, 1996.

10. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS (SEC. 13612 OF THE HOUSE BILL AND SEC. 12812 OF THE SENATE AMENDMENT)

Present law

Information reporting is required by persons engaged in a trade or business and making payments in the course of that trade or business of "rent, salaries, wages, . . . or other fixed or determinable gains, profits, and income" (Code sec. 6041(a)). Treas. Reg. sec. 1.6041-1(d)(2) provides that attorney's fees are required to be reported if they are paid by a person in a trade or business in the course of a trade or business. Reporting is required to be done on Form 1099-Misc. If, on the other hand, the payment is a gross amount and it is not known what portion is the attorney's fee, no reporting is required on any portion of the payment.

House bill

The House bill requires gross proceeds reporting on all payments to attorneys made by a trade or business in the course of that trade or business. It is anticipated that gross proceeds reporting would be required on Form 1099-B (currently used by brokers to report gross proceeds). The only exception to this new reporting requirement is for any payments reported on either Form 1099-Misc under section 6041 (reports of payment of income) or on Form W-2 under section 6051 (payments of wages).

In addition, the present exception in the regulations exempting from reporting any payments made to corporations will not apply to payments made to attorneys. Treas. Reg. sec. 1.6041-3(c) exempts payments to corporations generally (although payments to most corporations providing medical services must be reported). Reporting is required under both Code sections 6041 and 6045 (as proposed) for payments to corporations that provide legal services. The exception of Treas. Reg. sec. 1.6041-3(g) exempting from reporting payments of salaries or profits paid or distributed by a partnership to the individual partners will continue to apply to both sections (since these amounts are required to reported on Form K-1).

Effective date.—The provision is effective for payments made after December 31, 1995. Consequently, the first information reports will be filed with the IRS (and copies will be provided to recipients of the payments) in 1997, with respect to payments made in 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with several clarifications. First, the conferees clarify that the provision applies to payments made to attorneys regardless of whether the attorney is the exclusive payee. Second, the conferees clarify that payments to law firms are payments to attorneys, and therefore are subject to this reporting provision. Third, the conferees clarify that attorneys must promptly supply their TINs to persons required to file these information reports, pursuant to section 6109. Failure to do so could result in the attorney being subject to penalty under section 6723 and the payments being subject to backup withholding under section 3406. Fourth, the conferees clarify their intent that the IRS administer this provision so that there is no overlap between reporting under section 6041 and reporting under section 6045. For example, if two payments are simultaneously made to an attorney, one of which represents the attorney's fee and the second of which represents the settlement with the attorney's client, the first payment will be reported under section 6041 and the second payment will not be reported under either section 6041 or section 6045, since it is known that the entire payment represents the settlement with the client (and therefore no portion of it represents income to the attorney).

Effective date.—The provision is effective for payments made after December 31, 1996. Consequently, the first information reports will be filed with the IRS (and copies will be provided to recipients of the payments) in 1998, with respect to payments made in 1997.

11. EXPATRIATION TAX PROVISIONS (SECS. 13616–13618 OF THE HOUSE BILL AND SECS. 12441–12442 OF THE SENATE AMENDMENT)

Present law

Individuals who relinquish U.S. citizenship with a principal purpose of avoiding U.S. taxes are subject to special tax provisions for 10 years after expatriation. The determination of who is a U.S. citizen for tax purposes, and when such citizenship is lost, is governed by the provisions of the Immigration and Nationality Act, 8 U.S.C. section 1401, et. seq.

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[67] *Schleier* v. *Commissioner*, 115 S. Ct. 2159 (1995).

An individual who relinquishes his U.S. citizenship with a principal purpose of avoiding U.S. taxes is subject to tax on his or her U.S. source income at the rates applicable to U.S. citizens, rather than the rates applicable to other non-resident aliens, for 10 years after expatriation. In addition, the scope of items treated as U.S. source income for this purpose is broader than those items generally considered to be U.S. source income. For example, gains on the sale of personal property located in the United States and gains on the sale or exchange of stock or securities issued by U.S. persons are treated as U.S. source income. This alternative method of income taxation applies only if it results in a higher U.S. tax liability.

Rules applicable in the estate and gift tax contexts expand the categories of items that are subject to the gift and estate taxes in the case of a U.S. citizen who relinquished citizenship with a principal purpose of avoiding U.S. taxes within the 10-year period ending on the date of the transfer. For example, U.S. property held through a foreign corporation controlled by such individual and related persons is included in his or her estate and gifts of U.S.-situs intangible property by such individual are subject to the gift tax.

House bill

Overview

The House bill expands and substantially strengthens in several ways the present-law provisions that subject U.S. citizens who lose their citizenship for tax avoidance purposes to special tax rules for 10 years after such loss of citizenship (secs. 877, 2107, and 2501(a)(3)). First, the House bill extends the expatriation tax provisions to apply not only to U.S. citizens who lose their citizenship but also to certain long-term residents of the United States whose U.S. residency is terminated. Second, the House bill subjects certain individuals to the expatriation tax provisions without inquiry as to their motive for losing their U.S. citizenship or residency, but allows certain categories of citizens to show an absence of tax-avoidance motives if they request a ruling from the Secretary of the Treasury as to whether the loss of citizenship had a principal purpose of tax avoidance. Third, the House bill expands the categories of income and gains that are treated as U.S. source (and therefore subject to U.S. income tax under section 877) if earned by an individual who is subject to the expatriation tax provisions and includes provisions designed to eliminate the ability to engage in certain transactions that under current law partially or completely circumvent the 10-year reach of section 877. Further, the House bill provides relief from double taxation in circumstances where another country imposes tax on items that would be subject to U.S. tax under the expatriation tax provisions.

The House bill also contains provisions to enhance compliance with the expatriation tax provisions. The House bill imposes information reporting obligations on U.S. citizens who lose their citizenship and long-term residents whose U.S. residency is terminated at the time of expatriation. In addition, the House bill directs the Treasury Department to undertake a study regarding compliance by individuals living abroad with their U.S. tax reporting obligations and to make recommendations with respect to improving such compliance.

Individuals covered

The present-law expatriation tax provisions apply only to certain U.S. citizens who lose their citizenship. The House bill extends these expatriation tax provisions to apply also to long-term residents of the United States whose U.S. residency is terminated. For this purpose, a long-term resident is any individual who was a lawful permanent resident of the United States for at least 8 out of the 15 taxable years ending with the year in which such termination occurs. In applying this 8-year test, an individual is not considered to be a lawful permanent resident for any year in which the individual is taxed as a resident of another country under a treaty tie-breaker rule. An individual's U.S. residency is considered to be terminated when either the individual ceases to be a lawful permanent resident pursuant to section 7701(b)(6) (i.e., the individual loses his or her green-card status) or the individual is treated as a resident of another country under a tie-breaker provision of a tax treaty (and the individual does not elect to waive the benefits of such treaty). Furthermore, a long-term resident may elect to use the fair market value basis of property on the date the individual became a U.S. resident (rather than the property's historical basis) to determine the amount of gain subject to the expatriation tax provisions if the asset is sold within the 10-year period.

Under present law, the expatriation tax provisions are applicable to a U.S. citizen who loses his or her citizenship unless such loss did not have as a principal purpose the avoidance of taxes. Under the House bill, U.S. citizens who lose their citizenship and long-term residents whose U.S. residency is terminated are generally treated as having lost such citizenship or terminated such residency with a principal purpose of the avoidance of taxes if either: (1) the individual's average annual U.S. Federal income tax liability for the 5 taxable years ending before the date of such loss or termination is greater than $100,000 (the "tax liability test"), or (2) the individual's net worth as of the date of such loss or termination is $500,000 or more (the "net worth test"). The dollar amount thresholds contained in the tax liability test and the net worth test are indexed for inflation in the case of a loss of citizenship or termination of residency occurring in any calendar year after 1996. An individual who falls below the thresholds specified in both the tax liability test and the net worth test is subject to the expatriation tax provisions unless the individual's loss of citizenship or termination of residency did not have as a principal purpose the avoidance of tax (as under present law in the case of U.S. citizens).

A U.S. citizen, who loses his or her citizenship and who satisfies either the tax liability test or the net worth test, is not subject to the expatriation tax provisions if such individual can demonstrate that he or she did not have a principal purpose of tax avoidance and the individual is within one of the following categories: (1) the individual was born with dual citizenship and retains only the non-U.S. citizenship; (2) the individual becomes a citizen of the country in which the individual, the individual's spouse, or one of the individual's parents, was born; (3) the individual was present in the United States for no more than 30 days during any year in the 10-year period immediately preceding the date of his or her loss of citizenship; (4) the individual relinquishes his or her citizenship before reaching age 18½; or (5) any other category of individuals prescribed by Treasury regulations. In all of these situations, the individual would have been subject to tax on his or her worldwide income (as are all U.S. citizens) until the time of expatriation. In order to qualify for one of these exceptions, the former U.S. citizen must, within one year from the date of loss of citizenship, submit a ruling request for a determination by the Secretary of the Treasury as to whether such loss had as one of its principal purposes the avoidance of taxes. A former U.S. citizen who submits such a ruling request is entitled to challenge an adverse determination by the Secretary of the Treasury. However, a former U.S. citizen who fails to submit a timely ruling request is not eligible for these exceptions. It is expected that in making a determination as to the presence of a principal purpose of tax avoidance, the Secretary of the Treasury will take into account factors such as the substantiality of the former citizen's ties to the United States (including ownership of U.S. assets) prior to expatriation, the retention of U.S. citizenship by the former citizen's spouse, and the extent to which the former citizen resides in a country that imposes little or no tax.

The foregoing exceptions are not available to long-term residents whose U.S. residency is terminated. However, the House bill authorizes the Secretary of the Treasury to prescribe regulations to exempt certain categories of long-term residents from the House bill's provisions.

Items subject to section 877

Under section 877, an individual covered by the expatriation tax provisions is subject to tax on U.S. source income and gains for a 10-year period after expatriation at the graduated rates applicable to U.S. citizens.[68] The tax under section 877 applies to U.S. source income and gains of the individual for the 10-year period, without regard to whether the property giving rise to such income or gains was acquired before or after the date the individual became subject to the expatriation tax provisions. For example, a U.S. citizen who inherits an appreciated asset immediately before losing citizenship and disposes of the asset immediately after such loss would not recognize any taxable gain on such disposition (because of the date of death fair market value basis accorded to inherited assets), but the individual would continue to be subject to tax under section 877 on the income or gain derived from any U.S. property acquired with the proceeds from such disposition.

In addition, section 877 currently recharacterizes as U.S. source income certain gains of individuals who are subject to the expatriation tax provisions, thereby subjecting such individuals to U.S. income tax on such gains. Under this rule, gain on the sale or exchange of stock of a U.S. corporation or debt of a U.S. person is treated as U.S. source income. In this regard, under current law, the substitution of a foreign obligor for a U.S. obligor is generally treated as a taxable exchange of the debt instrument, and therefore any gain on such exchange is subject to tax under section 877. The House bill extends this recharacterization to income and gains derived from property obtained in certain transactions on which gain or loss is not recognized under present law. An individual covered by section 877 who exchanges property that would produce U.S. source income for property that would produce foreign source income is required to recognize immediately as U.S. source income any gain on such exchange (determined as if the property had been sold for its fair market value on such date). To the extent gain is recognized under this provision, the property would be accorded the step-up in basis provided under current law. This rule requiring immediate gain recognition does not apply if the individual enters into an agreement with the Secretary of the Treasury specifying that any income or gains derived from the property received in the exchange during the 10-year period after the loss of citizenship (or termination of U.S. residency, as applicable) would be treated as U.S. source income. Such a gain recognition agreement terminates if the property transferred in the exchange is disposed of by the acquiror, and any gain that had not been recognized by reason of such agreement is recognized as U.S. source as of such date. It is expected that a gain recognition agreement would be entered into not later than the due date for the tax return for the year of the exchange. In this regard, the Secretary of the Treasury is authorized to issue regulations providing similar treatment for nonrecognition transactions that occur within 5 years immediately prior to the date of loss of citizenship (or termination of U.S. residency, as applicable).

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[68] Under present law, all nonresident aliens (including expatriates) are subject to U.S. income tax at graduated rates on certain types of income. Such income includes income effectively connected with a U.S. trade or business and gains from the disposition of interests in U.S. real property. For example, compensation (including deferred compensation) paid with respect to services performed in the United States is subject to such tax. Thus, under current law, a U.S. citizen who earns a stock option while employed in the United States and delays the exercise of such option until after such individual loses his or her citizenship is subject to U.S. tax on the compensation income recognized upon exercise of the stock option (even if the stock received upon the exercise is stock in foreign corporation).

The Secretary of Treasury is authorized to issue regulations to treat removal of tangible personal property from the United States, and other circumstances that result in a conversion of U.S. source income to foreign source income without recognition of any unrealized gain, as exchanges for purposes of computing gain subject to section 877. The taxpayer may defer the recognition of the gain if he or she enters into a gain recognition agreement as described above. For example, a former citizen who removes appreciated artwork that he or she owns from the United States could be subject to immediate tax on the appreciation under this provision unless the individual enters into a gain recognition agreement.

The foregoing rules regarding the treatment under section 877 of nonrecognition transactions are illustrated by the following examples: Ms. A loses her U.S. citizenship on January 1, 1996, and is subject to section 877. On June 30, 1997, Ms. A transfers the stock she owns in a U.S. corporation, USCo, to a wholly-owned foreign corporation, FCo, in a transaction that qualifies for tax-free treatment under section 351. At the time of such transfer, A's basis in the stock of USCo is $100,000 and the fair market value of the stock is $150,000. Under present law, Ms. A. would not be subject to U.S. tax on the $50,000 of gain realized on the exchange. Moreover, Ms. A would not be subject to U.S. tax on any distribution of the proceeds from a subsequent disposition of the USCo stock by FCo. Under the House bill, if Ms. A does not enter into a gain recognition agreement with the Secretary of the Treasury, Ms. A would be deemed to have sold the USCo stock for $150,000 on the date of the transfer, and would be subject to U.S. tax in 1997 on the $50,000 of gain realized. Alternatively, if Ms. A enters into a gain recognition agreement, she would not be required to recognize for U.S. tax purposes in 1997 the $50,000 of gain realized upon the transfer of the USCo stock to FCo. However, under the gain recognition agreement, for the 10-year period ending on December 31, 2005, any income (e.g., dividends) or gain with respect to the FCo stock would be treated as U.S. source, and therefore Ms. A would be subject to tax on such income or gain under section 877. If FCo disposes of the USCo stock on January 1, 2002, Ms. A's gain recognition agreement would terminate on such date, and Ms. A would be required to recognize as U.S. source income at that time the $50,000 of gain that she previously deferred under the gain recognition agreement. (The amount of gain required to be recognized by Ms. A in this situation would not be affected by any changes in the value of the USCo stock since her June 30, 1997 transfer of such stock to FCo.)

The House bill also extends the recharacterization rules of section 877 to treat as U.S. source any income and gains derived from stock in a foreign corporation if the individual losing citizenship or terminating residency owns, directly or indirectly, more than 50 percent of the vote or value of the stock of the corporation on the date of such loss or termination or at any time during the 2 years preceding such date. Such income and gains are recharacterized as U.S. source only to the extent of the amount of earnings and profits attributable to such stock earned or accumulated prior to the date of loss of citizenship (or termination of residency, as applicable) and while such ownership requirement is satisfied.

The following example illustrates this rule: Mr. B loses his U.S. citizenship on July 1, 1996 and is subject to section 877. Mr. B has owned all of the stock of a foreign corporation, FCo, since its incorporation in 1991. As of FCo's December 31, 1995 year-end, FCo has accumulated earnings and profits of $500,000. FCo has earnings and profits of $100,000 for 1996 and does not have any subpart F income (as defined in sec. 952). FCo makes a $100,000 distribution to Mr. B in each of 1997 and 1998. On January 1, 1999, Mr. B disposes of all his stock of FCo and realizes $400,000 of gain. Under present law, neither the distributions from FCo nor the gain on the disposition of the FCo stock would be subject to U.S. tax. Under the House bill, the distributions from FCo and the gain on the sale of the stock of FCo would be treated as U.S. source income and would be taxed to Mr. B under section 877, subject to the earnings and profits limitation. For this purpose, the amount of FCo's earnings and profits for 1996 is prorated based on the number of days during 1996 that Mr. B is a U.S. citizen. Thus, the amount of FCo's earnings and profits earned or accumulated before Mr. B's loss of citizenship is $550,000. Accordingly, the $100,000 distributions from FCo in 1997 and 1998 would be treated as U.S. source income taxable to Mr. B under section 877 in such years. In addition, $350,000 of the gain realized from the sale of the stock of FCo in 1999 would be treated as U.S. source income taxable to Mr. B under section 877 in that year.

Special rule for shift in risks of ownership

Section 877 applies to income and gains for the 10-year period following the loss of citizenship (or termination of residency, as applicable). For purposes of applying section 877, the House bill suspends this 10-year period for gains derived from a particular property during any period in which the individual's risk of loss with respect to such property is substantially diminished. For example, Ms. C loses her citizenship on January 1, 1996 and is subject to section 877. On that date Ms. C owns 10,000 shares of stock of a U.S. corporation, USCo, with a value of $1 million. On the same date Ms. C enters into an equity swap with respect to such USCo stock with a 5-year term. Under the transaction, Ms. C will transfer to the counterparty an amount equal to the dividends on the USCo stock and any increase in the value of the USCo stock for the 5-year period. The counter-party will transfer to Ms. C an amount equal to a market rate of interest on $1 million and any decrease in the value of the USCo stock for the same period. Ms. C's risk of loss with respect to the USCo stock is substantially diminished during the 5-year period in which the equity swap is in effect, and therefore, under the House bill, the 10-year period under section 877 is suspended during such period. Accordingly, under the House bill, if Ms. C sells her USCo stock for a gain on January 1, 2010, such gain would be treated as U.S. source income taxable to Ms. C under section 877. Such gain would not be subject to U.S. tax under present law.

Double tax relief

In order to avoid the double taxation of individuals subject to the expatriation tax provisions, the House bill provides a credit against the U.S. tax imposed under such provisions for any foreign income, gift, estate or similar taxes paid with respect to the items subject to such taxation. This credit is available only against the tax imposed solely as a result of the expatriation tax provisions, and is not available to be used to offset any other U.S. tax liability. For example, Mr. D loses his citizenship on January 1, 1996 and is subject to section 877. Mr. D becomes a resident of Country X. During 1996, Mr. D recognizes a $100,000 gain upon the sale of stock a U.S. corporation, USCo. Country X imposes $20,000 tax on this capital gain. But for the double tax relief provision, Mr. D would be subject to tax of $28,000 on this gain under section 877. However, Mr. D 's U.S. tax under section 877 would be reduced by the $20,000 of foreign tax paid, and Mr. D 's resulting U.S. tax on this gain would be $8,000.

Effect on tax treaties

While it is believed that the expatriation tax provisions, as amended by the House bill, are generally consistent with the underlying principles of income tax treaties to the extent the House bill provides a foreign tax credit for items taxed by another country, it is intended that the purpose of the expatriation tax provisions, as amended, not be defeated by any treaty provision. The Treasury Department is expected to review all outstanding treaties to determine whether the expatriation tax provisions, as revised, potentially conflict with treaty provisions and to eliminate any such potential conflicts through renegotiation of the affected treaties as necessary. Beginning on the tenth anniversary of the enactment of the House bill, any conflicting treaty provisions that remain in force would take precedence over the expatriation tax provisions as revised.

Required information reporting and sharing

Under the House bill, a U.S. citizen who loses his or her citizenship is required to provide a statement to the State Department (or other designated government entity) which includes the individual's social security number, forwarding foreign address, new country of residence and citizenship and, in the case of individuals with a net worth of at least $500,000, a balance sheet. The entity to which such statement is to be provided is required to provide to the Secretary of the Treasury copies of all statements received and the names of individuals who refuse to provide such statements. A long-term resident whose U.S. residency is terminated is required to attach a similar statement to his or her U.S. income tax return for the year of such termination. An individual's failure to provide the required statement results in the imposition of a penalty for each year the failure continues equal to the greater of (1) 5 percent of the individual's expatriation tax liability for such year, or (2) $1,000.

The House bill requires the State Department to provide the Secretary of the Treasury with a copy of each certificate of loss of nationality (CLN) approved by the State Department. Similarly, the House bill requires the agency administering the immigration laws to provide the Secretary of the Treasury with the name of each individual whose status as a lawful permanent resident has been revoked or has been determined to have been abandoned.

Further, the House bill requires the Secretary of the Treasury to publish in the Federal Register the names of all former U.S. citizens from whom it receives the required statements or whose names it receives under the foregoing information-sharing provisions.

Treasury report on tax compliance by U.S. citizens and residents living abroad

The Treasury Department is directed to undertake a study on the tax compliance of U.S. citizens and green-card holders residing outside the United States and to make recommendations regarding the improvement of such compliance. The findings of such study and such recommendations are required to be reported to the House Committee on Ways and Means and the Senate Committee on Finance within 90 days of the date of enactment.

During the course of the Joint Committee on Taxation staff study on expatriation, a specific issue was identified regarding the difficulty in determining when a U.S. citizen has committed an expatriating act with the requisite intent, and thus no longer has the obligation to continue to pay U.S. taxes on his or her worldwide income due to the fact that the individual is no longer a U.S. citizen. Neither the Immigration and Nationality Act nor any other Federal law requires an individual to request a CLN within a specified amount of time after an expatriating act has been committed, even though the expatriating act terminates the status of the individual as a U.S. citizen for all purposes, including the status of being subject to U.S. tax on worldwide income. Accordingly, it is anticipated that the Treasury report, in evaluating whether improved coordination between executive branch agencies could improve compliance with the requirements of the Internal Revenue Code, will review the process through which the State Department determines when citizenship has been lost, and make recommendations regarding changes to such process to recognize the importance of such date for tax purposes. In particular, it is anticipated that the Treasury Department will explore ways of working with the State Department to insure that the State Department will not issue a CLN confirming the commission of an expatriating act with the requisite intent necessary to terminate citizenship in the absence of adequate evidence of both the occurrence of the expatriating act (e.g., the joining of a foreign army) and the existence of the requisite intent.

Effective date

The expatriation tax provisions as modified by the House bill generally apply to any individual who loses U.S. citizenship on or after February 6, 1995, and any long-term residents whose U.S. residency is terminated on or after June 13, 1995. For citizens, the determination of the date of loss of citizenship remains the same as under present law (i.e., the date of loss of citizenship is the date of the expatriating act). However, a special transition rule applies to individuals who committed an expatriating act within one year prior to February 6, 1995, but had not applied for a CLN as of such date. Such an individual is subject to the expatriation tax provisions as amended by the House bill as of the date of application for the CLN, but is not retroactively liable for U.S. income taxes on his or her worldwide income. In order to qualify for the exceptions provided for individuals who fall within one of the specified categories, such individual is required to submit a ruling request within 1 year after the date of enactment of the House bill.

The special transition rule is illustrated by the following example. Mr. E joined a foreign army on October 1, 1994 with the intent to relinquish his U.S. citizenship, but Mr. E does not apply for a CLN until October 1, 1995. Mr. E would be subject to the expatriation tax provisions (as amended) for the 10-year period beginning on October 1, 1995. Moreover, if Mr. E falls within one of the specified categories (i.e., Mr. E is age 18 when he joins the foreign army), in order to qualify for the exception provided for such individuals, Mr. E would be required to submit his ruling request within 1 year after the date of enactment of the House bill. Mr. E would not, however, be liable for U.S. income taxes on his worldwide income for any period after October 1, 1994.

Senate amendment

In general

The Senate amendment replaces the present-law expatriation income tax rules with rules that generally subject certain U.S. citizens who relinquish their U.S. citizenship and certain long-term U.S. residents who relinquish their U.S. residency to tax on the net unrealized gain in their property as if such property were sold for fair market value on the expatriation date. The Senate amendment also imposes information reporting obligations on U.S. citizens who relinquish their citizenship and long-term residents whose U.S. residency is terminated.

Individuals covered

The Senate amendment applies the expatriation tax to certain U.S. citizens and long-term residents who terminate their U.S. citizenship or residency. For this purpose, a long-term resident is any individual who was a lawful permanent resident of the United States for at least 8 out of the 15 taxable years ending with the year in which the termination of residency occurs. In applying this 8-year test, an individual is not considered to be a lawful permanent resident of the United States for any year in which the individual is taxed as a resident of another country under a treaty tie-breaker rule. An individual's U.S. residency is considered to be terminated when either the individual ceases to be a lawful permanent resident pursuant to section 7701(b)(6) (i.e., the individual loses his or her green-card status) or the individual is treated as a resident of another country under a tie-breaker provision of a tax treaty (and the individual does not elect to waive the benefits of such treaty).

The expatriation tax under the Senate amendment applies only to individuals whose average income tax liability or net worth exceeds specified levels. U.S. citizens who lose their citizenship and long-term residents who terminate U.S. residency are subject to the expatriation tax if they meet either of the following tests: (1) the individual's average annual U.S. Federal income tax liability for the 5 taxable years ending before the date of such loss or termination is greater than $100,000, or (2) the individual's net worth as of the date of such loss or termination is $500,000 or more. The dollar amount thresholds contained in these tests are indexed for inflation in the case of a loss of citizenship or termination of residency occurring in any calendar year after 1996.

Exceptions from the expatriation tax under the Senate amendment are provided for individuals in two situations. The first exception applies to an individual who was born with citizenship both in the United States and in another country, provided that (1) as of the date of relinquishment of U.S. citizenship the individual continues to be a citizen of, and is taxed as a resident of, such other country, and (2) the individual was a resident of the United States for no more than 8 out of the 15 taxable years ending with the year in which the relinquishment of U.S. citizenship occurred. The second exception applies to a U.S. citizen who relinquishes citizenship before reaching age 18-½, provided that the individual was a resident of the United States for no more than 5 taxable years before such relinquishment.

Deemed sale of property upon expatriation

Under the Senate amendment, individuals who are subject to the expatriation tax generally are treated as having sold all of their property at fair market value immediately prior to the relinquishment of citizenship or termination of residency. Gain or loss from the deemed sale of property is recognized at that time, generally without regard to provisions of the Code that would otherwise provide nonrecognition treatment. The net gain, if any, on the deemed sale of all such property is subject to U.S. tax at such time to the extent it exceeds $600,000 ($1.2 million in the case of married individuals filing a joint return, both of whom expatriate).

The deemed sale rule of the Senate amendment generally applies to all property interests held by the individual on the date of relinquishment of citizenship or termination of residency, provided that the gain on such property interest would be includible in the individual's gross income if such property interest were sold for its fair market value on such date. Special rules apply in the case of trust interests (see "Interests in trusts," below). U.S. real property interests, which remain subject to U.S. taxing jurisdiction in the hands of nonresident aliens, generally are excepted from the Senate amendment. An exception also applies to interests in qualified retirement plans and, subject to a limit of $500,000, interests in certain foreign pension plans as prescribed by regulations. The Secretary of the Treasury is authorized to issue regulations exempting other property interests as appropriate. For example, an exclusion may be provided for an interest in a nonqualified compensation plan of a U.S. employer, where payments from such plan to the individual following expatriation would continue to be subject to U.S. withholding tax.

Under the Senate amendment, an individual who is subject to the expatriation tax is required to pay a tentative tax equal to the amount of tax that would be due for a hypothetical short tax year ending on the date the individual relinquished citizenship or terminated residency. Thus, the tentative tax is based on all the income, gain, deductions, loss and credits of the individual for the year through such date, including amounts realized from the deemed sale of property. The tentative tax is due on the 90th day after the date of relinquishment of citizenship or termination of residency.

Deferral of payment of tax

Under the Senate amendment, an individual is permitted to elect to defer payment of the expatriation tax with respect to the deemed sale of any property. Under this election, the expatriation tax with respect to a particular property, plus interest thereon, is due when the property is subsequently disposed of. For this purpose, except as provided in regulations, the disposition of property in a nonrecognition transaction constitutes a disposition. In addition, if an individual holds property until his or her death, the individual is treated as having disposed of the property immediately before death. In order to elect deferral of the expatriation tax, the individual is required to provide adequate security to ensure that the deferred expatriation tax and interest ultimately will be paid. A bond in the amount of the deferred tax and interest constitutes adequate security. Other security mechanisms are also permitted provided that the individual establishes to the satisfaction of the Secretary of the Treasury that the security is adequate. In the event that the security provided with respect to a particular property subsequently becomes inadequate and the individual fails to correct such situation, the deferred expatriation tax and interest with respect to such property will become due. As a further condition to making this election, the individual is required to consent to the waiver of any treaty rights that would preclude the collection of the expatriation tax.

Interests in trusts

In general

Under the Senate amendment, special rules apply to trust interests held by the individual at the time of relinquishment of citizenship or termination of residency. The treatment of trust interests depends upon whether the trust is a qualified trust. For this purpose, a "qualified trust" is a trust that is organized under and governed by U.S. law and that is required by its instruments to have at least one U.S. trustee.

Constructive ownership rules apply to a trust beneficiary that is a corporation, partnership, trust or estate. In such cases, the shareholders, partners or beneficiaries of the entity are deemed to be the direct beneficiaries of the trust for purposes of applying these provisions. In addition, an individual who holds (or who is treated as holding) a trust interest at the time of relinquishment of citizenship or termination of residency is required to disclose on his or her tax return the methodology used to determine his or her interest in the trust, and whether such individual knows (or has reason to know) that any other beneficiary of the trust uses a different method.

Nonqualified trusts

If an individual holds an interest in a trust that is not a qualified trust, a special rule applies for purposes of determining the amount of the expatriation tax due with respect to such trust interest. The individual's interest in the trust is treated as a separate trust consisting of the trust assets allocable to such interest. Such separate trust is treated as having sold its assets as of the date of relinquishment of citizenship or termination of residency and having distributed all proceeds to the individual, and the individual is treated as having recontributed such proceeds to the trust. The individual is subject to the expatriation tax with respect to any net income or gain arising from the deemed distribution from the trust. The election to defer payment is available for the expatriation tax attributable to a nonqualified trust interest.

A beneficiary's interest in a nonqualified trust is determined on the basis of all facts and circumstances. These include the terms of the trust instrument itself, any letter of wishes or similar document, historical patterns of trust distributions, and the role of any trust protector or similar advisor.

Qualified trusts

If the individual has an interest in a qualified trust, a different set of rules applies. Under these rules, the amount of unrealized gain allocable to the individual's trust interest is calculated at the time of expatriation. In determining this amount, all contingencies and discretionary interests are assumed to be resolved in the individual's favor (i.e., the individual is allocated the maximum amount that he or she potentially could receive under the terms of the trust instrument). The expatriation tax imposed on such gains generally is collected when the individual receives distributions from the trust, or, if earlier, upon the individual's death. Interest is charged for the period between the date of expatriation and the date on which the tax is paid.

If an individual has an interest in a qualified trust, the individual is subject to expatriation tax upon the receipt of any distribution from the trust. Such distributions may also be subject to U.S. income tax. For any distribution from a qualified trust made to an individual after he or she has expatriated, expatriation tax is imposed in an amount equal to the amount of the distribution multiplied by the highest tax rate generally applicable to trusts and estates, but in no event will the tax imposed exceed the deferred tax amount with respect to such trust interest. The "deferred tax amount" would be equal to (1) the tax calculated with respect to the unrealized gain allocable to the trust interest at the time of expatriation, (2) increased by interest thereon, and (3) reduced by the tax imposed under this provision with respect to prior trust distributions to the individual.

If an individual's interest in a trust is vested as of the expatriation date (e.g., if the individual's interest in the trust is non-contingent and non-discretionary), the gain allocable to the individual's trust interest is determined based on the trust assets allocable to his or her trust interest. If the individual's interest in the trust is not vested as of the expatriation date (e.g., if the individual's trust interest is a contingent or discretionary interest), the gain allocable to his or her trust interest is determined based on all of the trust assets that could be allocable to his or her trust interest, determined by resolving all contingencies and discretionary powers in the individual's favor. In the case where more than one trust beneficiary is subject to the expatriation tax with respect to trust interests that are not vested, the rules are intended to apply so that the same unrealized gain with respect to assets in the trust is not taxed to both individuals.

If the individual disposes of his or her trust interest, the trust ceases to be a qualified trust, or the individual dies, expatriation tax is imposed as of such date. The amount of such tax equal to the lesser of (1) the tax calculated under the rules for nonqualified trust interests applied as of such date or (2) the deferred tax amount with respect to the trust interest as of such date.

If the individual agrees to waive any treaty rights that would preclude collection of the tax, the tax is imposed under this provision with respect to distributions from a qualified trust to the individual deducted and withheld from distributions. If the individual does not agree to such a waiver of treaty rights, the tax with respect to distributions to the individual is imposed on the trust, the trustee is personally liable therefor, and any other beneficiary of the trust has a right of contribution against such individual with respect to such tax. Similarly, in the case of the tax imposed in connection with an individual's disposition of a trust interest, the individual's death while holding a trust interest or the individual's holding of an interest in a trust that ceases to be qualified, the tax is imposed on the trust, the trustee is personally liable therefor, and any other beneficiary of the trust has a right of contribution against such individual with respect to such tax.

Election to be treated as a U.S. citizen

Under the Senate amendment, an individual is permitted to make an irrevocable election to continue to be taxed as a U.S. citizen with respect to all property that otherwise is covered by the expatriation tax. This election is an "all-or-nothing" election; an individual is not permitted to elect this treatment for some property but not other property. The election, if made, applies to all property that would be subject to the expatriation tax and to any property the basis of which is determined by reference to such property. Under this election, the individual continues to pay U.S. income taxes at the rates applicable to U.S. citizens following expatriation on any income generated by the property and on any gain realized on the disposition of the property, as well as any excise tax imposed with respect to the property (see, e.g., sec. 1491). In addition, the property continues to be subject to U.S. gift, estate, and generation-skipping transfer taxes. However, the amount of any transfer tax so imposed is limited to the amount of income tax that would have been due if the property had been sold for its fair market value immediately before the transfer or death. The $600,000 exclusion provided with respect to the expatriation tax under the Senate amendment is available to reduce the tax imposed by reason of this election. In order to make this election, the taxpayer is required to waive any treaty rights that would preclude the collection of the tax. The individual is also required to provide security to ensure payment of the tax under this election in such form, manner, and amount as the Secretary of the Treasury requires.

Date of relinquishment of citizenship

Under the Senate amendment, an individual is treated as having relinquished U.S. citizenship on the date that the individual first makes known to a U.S. government or consular officer his or her intention to relinquish U.S. citizenship. Thus, a U.S. citizen who relinquishes citizenship by formally renouncing his or her U.S. nationality before a diplomatic or consular officer of the United States is treated as having relinquished citizenship on that date, provided that the renunciation is later confirmed by the issuance of a CLN. A U.S. citizen who furnishes to the State Department a signed statement of voluntary relinquishment of U.S. nationality confirming the performance of an expatriating act with the requisite interest to relinquish his or her citizenship is treated as having relinquished his or her citizenship on the date the statement is so furnished (regardless of when the expatriating act was performed), provided that the voluntary relinquishment is later confirmed by the issuance of a CLN. If neither of these circumstances exist, the individual is treated as having relinquished citizenship on the date a CLN is issued or a certificate of naturalization is cancelled. The date of relinquishment of citizenship determined under the Senate amendment applies for all tax purposes.

Effect on present-law expatriation provisions

Under the Senate amendment, the present-law income tax provisions with respect to U.S. citizens who expatriate with a principal purpose of avoiding tax (sec. 877) and certain aliens who have a break in residency status (sec. 7701(b)(10)) do apply to U.S. citizens who are treated as relinquishing their citizenship on or after February 6, 1995 or to long-term U.S. residents who terminate their residency on or after such date. The special estate and gift tax provisions with respect to individuals who expatriate with a principal purpose of avoiding tax (secs. 2107 and 2501(a)(3)), however, continue to apply; a credit against the tax imposed solely by reason of such special provisions is allowed for the expatriation tax imposed with respect to the same property.

Treatment of gifts and inheritances from an expatriate

Under the Senate amendment, the exclusion from income provided in section 102 does not apply to the value of any property received by gift or inheritance from an individual who was subject to the expatriation tax (i.e., an individual who relinquished citizenship or terminated residency and to whom the expatriation tax was applicable). Accordingly, a U.S. taxpayer who receives a gift or inheritance from such an individual is required to include the value of such gift or inheritance in gross income and is subject to U.S. income tax on such amount.

Required information reporting and sharing

Under the Senate amendment, an individual who relinquishes citizenship or terminates residency is required to provide a statement which includes the individual's social security number, forwarding foreign address, new country of residence and citizenship and, in the case of individuals with a net worth of at least $500,000, a balance sheet. In the case of a former citizen, such statement is due not later than the date the individual's citizenship is treated as relinquished and is to be provided to the State Department (or other government entity involved in the administration of such relinquishment). The entity to which the statement is to be provided by former citizens is required to provide to the Secretary of the Treasury copies of all statements received and the names of individuals who refuse to provide such statements. In the case of a former long-term resident, the statement is provided to the Secretary of the Treasury with the individual's tax return for the year in which the individual's U.S. residency is terminated. An individual's failure to provide the statement required under this provision results in the imposition of a penalty for each year the failure continues equal to the greater of (1) 5 percent of the individual's expatriation tax liability for such year or (2) $1,000.

The Senate amendment requires the State Department to provide the Secretary of the Treasury with a copy of each CLN approved by the State Department. Similarly, the Senate amendment requires the agency administering the immigration laws to provide the Secretary of the Treasury with the name of each individual whose status as a lawful permanent resident has been revoked or has been determined to have been abandoned.

Further, the Senate amendment requires the Secretary of the Treasury to publish in the Federal Register the names of all former U.S. citizens with respect to whom it receives the required statements or whose names it receives under the foregoing information-sharing provisions.

Effective date

The provision is effective for U.S. citizens whose date of relinquishment of citizenship (as determined under the Senate amendment, see "Date of relinquishment of citizenship" above) occurs on or after February 6, 1995. Similarly, the provision is effective for long-term residents who terminate their U.S. residency on or after February 6, 1995.

U.S. citizens who committed an expatriating act with the requisite intent to relinquish their U.S. citizenship prior to February 6, 1995, but whose date of relinquishment of citizenship (as determined under the Senate amendment) does not occur until after such date, are subject to the expatriation tax under the Senate amendment as of date of relinquishment of citizenship. However, the individual is not subject retroactively to worldwide tax as a U.S. citizen for the period after he or she committed the expatriating act (and therefore ceased being a U.S. citizen for tax purposes under present law). Such an individual continues to be subject to the expatriation tax imposed by present-law section 877 until the individual's date of relinquishment of citizenship (at which time the individual would be subject to the expatriation tax of the Senate amendment). The rules described in this paragraph do not apply to an individual who committed an expatriating act prior to February 6, 1995, but did not do so with the requisite intent to relinquish his or her U.S. citizenship.

The tentative tax is not required to be paid, and the reporting requirements would not be required to be met, until 90 days after the date of enactment. Such provisions apply to all individuals whose date of relinquishment of U.S. citizenship or termination of U.S. residency occurs on or after February 6, 1995.

Conference agreement

The conference agreement follows the House bill with modifications. Under the conference agreement, the expatriation tax provisions apply both to U.S. citizens who lose citizenship on or after February 6, 1995, and to long-term residents whose U.S. residency is terminated on or after February 6, 1995. The information reporting provisions apply to U.S. citizens who lose citizenship and long-term residents whose U.S. residency is terminated on or after February 6, 1995. The conference agreement does not include the provisions of the House bill with respect to the publication of the names of expatriates in the Federal Register and the direction to the Treasury Department to study tax compliance by individuals living abroad.

12. REPEAL ADVANCE REFUNDS OF DIESEL FUEL TAX FOR DIESEL AUTOMOBILES, VANS, AND LIGHT TRUCKS (SEC. 13638 OF THE HOUSE BILL AND SEC. 12831 OF THE SENATE AMENDMENT)

Present law

Excise taxes are imposed on gasoline (11.5 cents per gallon) and diesel fuel (17.5 cents per gallon) to fund the Federal Highway Trust Fund. Before 1985, the gasoline and diesel fuel tax rates were the same. The predominate highway use of diesel fuel is by trucks. In 1984, the diesel excise tax rate was increased above the gasoline tax rate as the revenue offset for a reduction in the annual heavy truck excise tax. Because automobiles, vans, and light trucks did not benefit from the use tax reduction, a provision was enacted allowing first purchasers of model year 1979 and later diesel-powered automobiles, vans, and light trucks a tax credit to offset this increased diesel fuel tax. The credit is $102 for automobiles, and $198 for vans and light trucks.

House bill

The House bill repeals the advance refunds of diesel tax for purchasers of diesel- powered automobiles, vans, and light trucks.

Effective date.—Vehicles purchased after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

13. REPEAL WINE AND FLAVORS TAX CREDIT (SEC. 12832 OF THE SENATE AMENDMENT)

Present law

Producers of distilled spirits are allowed a tax credit for the alcohol contained in products that are (1) derived from fruit (i.e., "wine") or (2) attributable to certain flavorings.

House bill

No provision.

Senate amendment

The Senate amendment repeals the wine and flavors tax credit (i.e., taxes all alcohol in distilled spirits products at the statutory $13.50-per-proof-gallon rate).

Effective date.—January 1, 1996.

Conference agreement

The conference agreement does not include the Senate amendment.

14. MODIFICATIONS TO THE EXCISE TAX ON OZONE-DEPLETING CHEMICALS (SEC. 12833 OF THE SENATE AMENDMENT)

Present law

An excise tax is imposed on the sale or use by the manufacturer or importer of certain ozone-depleting chemicals (Code sec. 4681). Taxable chemicals that are recovered and recycled within the United States are exempt from tax.

House bill

No provision.

Senate amendment

The Senate amendment extends the exemption from tax for domestically recovered and recycled ozone-depleting chemicals to imported recycled halons. The exemption for imported recycled halons applies only to such chemicals imported from countries that are signatories to the Montreal Protocol.

Effective date.—Date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

15. ALLOW CERTAIN PERSONS TO ELECT NOT TO BE ELIGIBLE FOR FUTURE TAX-EXEMPT BOND FINANCING (SEC. 12834 OF THE SENATE AMENDMENT)

Present law

Tax-exempt bonds may be issued to benefit private businesses engaged in the furnishing of electric energy or gas if the business' service area does not exceed (1) two contiguous counties or (2) a city and one contiguous county. These businesses are described as engaged in the local furnishing of electricity or gas.

If certain disqualifying events occur after these and other private activity tax- exempt bonds are issued, (1) interest on the bonds may become taxable, and (2) interest paid by the private parties on bond-financed loans becomes nondeductible. Expansion of the service area of a person engaged in these local furnishing activities beyond the permitted geographic areas, described above, is a disqualifying event.

House bill

No provision.

Senate amendment

The Senate amendment allows private businesses engaged in the local furnishing of electricity or gas to expand their service areas beyond the geographic bounds allowed under present law without penalty if:

(1) No additional tax-exempt bonds are issued after the date of the amendment's enactment for any facilities to be used by them;

(2) Outstanding tax-exempt bonds benefiting the electing persons are redeemed on the earliest date allowed under the bond documents; and

(3) No tax-exempt bonds are used to finance the service area expansion.

In addition, availability of tax-exempt private activity bond financing under the exception for facilities of private persons engaged in the local furnishing of electricity or gas is limited to financing for facilities used in qualified businesses being conducted by such persons on the date of the amendment's enactment.

Effective date.—Date of enactment.

Conference agreement

The conference agreement follows the Senate amendment. The conferees wish to clarify two points regarding this provision. First, an election to terminate a person's status as engaged in the local furnishing of electricity or gas is independent of, and has no relation to, the determination of whether transmission of electricity pursuant to certain Federal Energy Regulatory Commission orders (sec. 142(f)(2)) violates the local furnishing exception. Second, the provision precluding new entities from qualifying as engaged in the local furnishing of electricity or gas is not intended to preclude qualification of successor entities resulting from corporate reorganizations where the area served remains unchanged and there is common ownership of both the predecessor and successor entities.

16. TAX-EXEMPT BONDS FOR THE SALE OF ALASKA POWER ADMINISTRATION FACILITY (SEC. 12835 OF THE SENATE AMENDMENT)

Present law

Tax-exempt bonds may be issued for the benefit of certain private electric utilities. If the bonds are used to finance acquisition of existing property by these utilities, a minimum amount of rehabilitation must be performed on the property as a condition of receiving the tax-exempt bond financing.

House bill

No provision.

Senate amendment

The Senate amendment waives the rehabilitation requirement in the case of bonds to be issued as part of sale of the Snettisham facility by the Alaska Power Administration.

Effective date.—Bonds issued after date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

17. MODIFY TREATMENT OF FOREIGN TRUSTS (SECS. 12841-12846 OF THE SENATE AMENDMENT)

Present law

Inbound foreign grantor trust rules

Under the grantor trust rules (secs. 671-679), a grantor that retains certain rights or powers generally is treated as the owner of the trust's assets without regard to whether the grantor is a domestic or foreign person. Under these rules, U.S. trust beneficiaries can avoid U.S. tax on distributions from a trust where a foreign grantor is treated as owner of the trust, even though no tax may be imposed on the trust income by any jurisdiction. In addition, a special rule treats a U.S. beneficiary of an inbound grantor trust who transferred property to the foreign grantor by gift of a portion of the trust as a grantor of the trust to the extent of the transfer.

Foreign nongrantor trust rules

Under the accumulation distribution rules (which generally apply to distributions from a trust in excess of the trust's distributable net income for the taxable year), a distribution by a foreign nongrantor trust of previously accumulated income generally is taxed at the U.S. beneficiary's average marginal rate for the prior 5 years, plus interest (secs. 666, 667). Interest is computed at a fixed annual rate of 6 percent, with no compounding (sec. 668). If adequate records of the trust are not available to determine the proper application of the rules relating to accumulation distributions to any distribution from a trust, the distribution is treated as an accumulation distribution out of income earned during the first year of the trust (sec. 666(d)).

If a foreign nongrantor trust makes a loan to one of its beneficiaries, the principal of such a loan generally is not taxable as income to the beneficiary.

Outbound foreign grantor trust rules

Under the grantor trust rules, a U.S. person who transfers property to a foreign trust generally is treated as the owner of the portion of the trust comprising that property for any taxable year in which there is a U.S. beneficiary of any portion of the trust (sec. 679(a)). This treatment generally does not apply, however, to transfers by reason of death, to transfers made before the transferor became a U.S. person, or to sales or exchanges of property at fair market value where gain is recognized to the transferor.

Residence of estates and trusts

An estate or trust is treated as foreign if it is not subject to U.S. income taxation on its income that is neither derived from U.S. sources nor effectively connected with the conduct of a U.S. trade or business. Thus, if a trust is taxed in a manner similar to a nonresident alien individual, it is considered to be a foreign trust. Any other estate or trust is treated as domestic.

Section 1491 generally imposes a 35-percent excise tax on a U.S. person that transfers appreciated property to certain foreign entities, including a foreign trust. In the case of a domestic trust that changes its situs and becomes a foreign trust, it is unclear whether property has been transferred from a U.S. person to a foreign entity, and, thus, whether the transfer is subject to the excise tax.

Information reporting requirements and associated penalties

Any U.S. person who creates a foreign trust or transfers money or property to a foreign trust is required to report that event to the IRS without regard to whether the trust is a grantor or a nongrantor trust. Similarly, any U.S. person who transfers property to a foreign trust that has one or more U.S. beneficiaries is required to report annually to the IRS. In addition, if the transfer of any appreciated property by a U.S. person is subject to section 1491, the transferor is required to report the transfer to the IRS.

Any person who fails to file a required report with respect to the creation of, or a transfer to, a foreign trust may be subjected to a penalty of 5 percent of the amount transferred to the foreign trust. Similarly, any person who fails to file a required annual report with respect to a foreign trust with U.S. beneficiaries may be subjected to a penalty of 5 percent of the value of the corpus of the trust at the close of the taxable year. The maximum amount of the penalty imposed under either case may not exceed $1,000. A reasonable cause exception is available.

Reporting of certain foreign gifts

There is no requirement to report gifts or bequests from foreign sources.

House bill

No provision.

Senate amendment

Inbound foreign grantor trust rules

The Senate amendment generally applies the grantor trust rules only to the extent that they result, directly or indirectly, in amounts being currently taken into account in computing the income of a U.S. citizen or resident or a domestic corporation. Certain exceptions apply to this general rule. Under the exceptions, the general rule does not apply in the case of revocable trusts and trusts where the only amounts distributable during the lifetime of the grantor are to the grantor or the grantor's spouse. These exceptions do not apply to the extent of gifts made by a U.S. beneficiary of the trust to the foreign grantor. The provision also does not apply to trusts established to pay compensation, and certain trusts in existence as of September 19, 1995 provided such trust is treated as owned by the grantor or another person under section 676 or 677 (other than sec. 677(a)(3)). The exception does not apply to the portion of any such trust attributable to any transfers made after September 19, 1995.

Effective date.—The provision is effective on the date of enactment.

Foreign nongrantor trust rules

Under the Senate amendment, the interest rate applicable to accumulation distributions from foreign nongrantor trusts is the interest rate applicable to underpayments of tax under section 6621(a)(2), with compounding. Simple interest continues to accrue at the rate of 6 percent through 1995. Beginning on January 1, 1996, compound interest based on the underpayment rate will be imposed on tax amounts determined under the accumulation distribution rules and the total simple interest for pre-1996 periods, if any. For purposes of computing the interest charge, the accumulation distribution is allocated proportionately to prior trust years in which the trust has undistributed net income (and the beneficiary receiving the distribution was a U.S. citizen or resident), rather than to the earliest of such years.

Effective date.—The provision applies to distributions after the date of enactment.

Under the Senate amendment, the full amount of a loan of cash or marketable securities by the foreign nongrantor trust to a U.S. grantor or a U.S. beneficiary (or a U.S. person related to such a grantor or beneficiary) is treated as distributed to the grantor or beneficiary, even if the loan bears interest at an adequate rate and is subsequently repaid.

Effective date.—The provision applies to loans made after September 19, 1995.

Outbound foreign grantor trust rules

The Senate amendment treats a nonresident alien individual who transfers property to a foreign trust and then becomes a U.S. resident within 5 years after the transfer as making a transfer to the foreign trust on his residency starting date. Under the Senate amendment, in determining whether a foreign trust paid fair market value to the transferor for property transferred to the trust, obligations issued by the trust, by any grantor or beneficiary of the trust, or by any person related to any grantor or beneficiary generally are not taken into account except as provided in regulations. The Senate amendment grants broad authority to the Secretary of the Treasury to treat anyone who was a U.S. person at any time during the existence of the trust as a U.S. person in determining whether there are U.S. beneficiaries of the trust.

Effective date.—The provision applies to transfers of property after February 6, 1995.

Residence of estates and trusts

The Senate amendment establishes a two-part objective test for determining whether a trust is foreign or domestic for tax purposes. If both parts of the test are satisfied, the trust is treated as domestic. Only the first part of the test applies to estates. First, if a U.S. court exercises primary supervision over the administration of the estate or trust, the estate or trust is treated as domestic. Second, if one or more U.S. fiduciaries have the authority to control all substantial decisions of the trust, the trust is treated as domestic.

Under the Senate amendment, if a domestic trust changes its situs and becomes a foreign trust, the trust is treated as having made a transfer of its assets to the foreign trust and is subject to the 35-percent excise tax imposed by present-law section 1491 unless one of the exceptions to this excise tax is applicable.

Effective date.—The provision modifying the rules to determine the residence of a trust or estate is effective for taxable years beginning after December 31, 1996. A trustee may elect to apply the provision to taxable years ending after the date of enactment. The amendment to section 1491 is effective on the date of enactment.

Information reporting requirements and associated penalties

Under the Senate amendment, the grantor, transferor or executor (the "responsible party") is required to notify the Treasury department upon the occurrence of certain reportable events: the creation of a foreign trust by a U.S. person, the transfer of money or property to a foreign trust by a U.S. person and the death of a U.S. citizen or U.S. resident if any portion of a foreign trust was included in the gross estate of the decedent. In addition, a U.S. owner of any portion of a foreign trust is required to ensure that the trust files an annual report with the Treasury department to provide full accounting of all the trust activities for the taxable year. Finally, any U.S. person who receives any distribution from a foreign trust is required to file a notice with the Treasury department to report the aggregate amount of the distributions received during the taxable year.

The Senate amendment provides that if a U.S. owner of any portion of a foreign trust fails to appoint a limited U.S. agent to accept service of process with respect to requests and summons by the Secretary of the Treasury in connection with tax treatment of items related to the trust, the Secretary of the Treasury may determine, in its sole discretion, the amount to be taken into account by a U.S. person under the grantor trust rules. In cases where adequate records are not provided to the Treasury department to determine the proper treatment of any distributions from a foreign trust, the distribution includible in the gross income of the distributee will be treated as an accumulation distribution from a foreign trust, unless the foreign trust elects to have a U.S. agent for the limited purpose of accepting service of process (as described above).

Under the Senate amendment, a person who fails to provide the required notice in cases involving the transfer of property to any foreign trust, or a distribution by a foreign trust to a U.S. person, is subject to an initial penalty equal to 35 percent of the "gross reportable amount" (generally the value of the property involved in the transaction). A failure to provide an annual reporting of trust activities will result in an initial penalty equal to 5 percent of the gross reportable amount. An additional $10,000 penalty is imposed for continued failure for each 30-day period beginning 90 days after the Secretary of the Treasury notifies the responsible party of such failure. Such penalties are subject to a reasonable cause exception. In no event will the total amount of penalties exceed the gross reportable amount.

Effective date.—The reporting requirements and applicable penalties generally apply to reportable events occurring or distributions received after the date of enactment. The annual reporting requirement and penalties applicable to U.S. grantors apply to taxable years of such persons beginning after the date of enactment.

Reporting of certain foreign gifts

The Senate amendment generally requires any U.S. person (other than certain tax-exempt organizations) that receives purported gifts or bequests from foreign sources totaling more than $10,000 during the taxable year to report them to the Treasury department. If the U.S. person fails, without reasonable cause, to report foreign gifts as required, the U.S. person will be subject to a penalty equal to 5 percent of the amount of the gift for each month that the failure continues, with the total penalty not to exceed 25 percent of such amount. In addition, certain sanctions may apply.

Effective date.—This provision applies to amounts received after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, with modifications and clarifications.

Inbound foreign grantor trust rules

The conference agreement clarifies that a foreign corporation that is otherwise a passive foreign investment company ("PFIC") as defined in section 1296 may not avoid PFIC characterization under the grantor trust rules (e.g., by transferring its assets to a grantor trust).

The conference agreement modifies the Senate amendment by providing that the rule which treats a U.S. beneficiary of an inbound grantor trust who transferred property to the foreign grantor by gift as a grantor of the trust to the extent of the transfer applies without regard to whether the foreign grantor would otherwise be treated as the owner of any portion of such trust. This provision is designed to prevent the use of pre-immigration gifts to avoid the application of the grantor trust rules.

Foreign nongrantor trust rules

Under the Senate amendment, the full amount of a loan of cash or marketable securities by a foreign nongrantor trust to a U.S. grantor or a U.S. beneficiary (or a U.S. person related to such a grantor or beneficiary) is treated as distributed to the grantor or beneficiary, even if the loan bears interest at an adequate rate and is subsequently repaid. The conference agreement provides that the Secretary of the Treasury may prescribe regulations providing exceptions to this rule. The conferees intend that a loan that bears arm's-length terms would qualify for such an exception.

Outbound foreign grantor trust rules

Under the Senate amendment, in determining whether a foreign trust paid fair market value to the transferor for property transferred to the trust, obligations issued by the trust, by any grantor or beneficiary of the trust, or by any person related to any grantor or beneficiary generally are not taken into account except as provided in regulations. The conferees intend to clarify that an obligation that bears arm's-length terms would qualify for such an exception.

The conference agreement deletes the provision of the Senate amendment that grants broad authority to the Secretary of the Treasury to treat anyone who was a U.S. person at any time during the existence of the trust as a U.S. person in determining whether there are U.S. beneficiaries of the trust.

Information reporting requirements and associated reporting penalties

Transfers to certain nonexempt trusts

The Senate amendment requires the grantor, transferor, or executor to notify the Treasury department upon the occurrence of certain reportable events: the creation of a foreign trust by a U.S. person, the transfer of money or property to a foreign trust by a U.S. person, and the death of a U.S. citizen or U.S. resident if any portion of a foreign trust was included in the gross estate of the decedent. The conference agreement modifies the Senate amendment and excludes from the definition of reportable events any such occurrence with respect to a nonexempt employees' trust that is described in section 402(b).

Sanction for failure to appoint limited U.S. agent

The Senate amendment provides that if a U.S. owner of any portion of a foreign trust fails to appoint a limited U.S. agent to accept service of process with respect to requests and summons by the Secretary of the Treasury in connection with the tax treatment of items related to the trust, the Secretary of the Treasury may determine, in its sole discretion, the amount to be taken into account by a U.S. person under the grantor trust rules. Under the conference agreement, in cases where a U.S. grantor of a foreign trust does not appoint such a limited agent, the Secretary of the Treasury may determine the amount to be taken into account by a U.S. person under the grantor trust rules. In this regard, the conferees intend that the Treasury Secretary's exercise of its authority to make such a determination will be subject to judicial review under an arbitrary or capricious standard, which accordingly provides a high degree of deference to such determination.

Sanction for failure to maintain adequate records

The conference agreement clarifies the provision of the Senate amendment which provides that in cases where adequate records are not provided to the Treasury department to determine the proper treatment of any distributions from a foreign trust, the distribution includible in the gross income of the distributee generally will be treated as an accumulation distribution includible in the gross income of the distributee from a foreign trust. Under the conference agreement, when a U.S. distributee does not provide sufficient records, the accumulation distribution is deemed to come from the trust's average year (i.e., the number of years that the trust has been in existence divided by two) for purposes of computing the interest charge applicable to such distribution.

Reporting of certain foreign gifts

The Senate amendment generally requires any U.S. person (other than certain tax-exempt organizations) that receives purported gifts or bequests from foreign sources totaling more than $10,000 during the taxable year to report them to the Treasury department. Under the conference agreement, the threshold for this reporting requirement is indexed for inflation.

18. TREATMENT OF FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS ("FASITS") (SEC. 12851 OF THE SENATE AMENDMENT)

Present law

An individual can own income-producing assets directly, or indirectly through an entity (i.e., a corporation, partnership, or trust). Where an individual owns assets through an entity (e.g., a corporation), the nature of the interest in the entity (e.g., stock of a corporation) is different than the nature of the assets held by the entity (e.g., assets of the corporation).

Securitization is the process of converting one type of asset into another and generally involves the use of an entity separate from the underlying assets. In the case of securitization of debt instruments, the instruments created in the securitization typically have different maturities and characteristics than the debt instruments that are securitized.

Entities used in securitization include entities that are subject to tax (e.g., a corporation), conduit entities that generally are not subject to tax (e.g., a partnership, grantor trust, or real estate mortgage investment conduit ("REMIC")), or partial-conduit entities that generally are subject to tax only to the extent income is not distributed to owners (e.g., a trust, real estate investment trust ("REIT"), or regulated investment company ("RIC")).

There is no statutory entity that facilitates the securitization of revolving, nonmortgage debt obligations.

House bill

No provision.

Senate amendment

The Senate amendment creates a new type of statutory entity called a "financial asset securitization investment trust" ("FASIT") that facilitates the securitization of debt obligations such as credit card receivables, home equity loans, and auto loans. A FASIT generally will not be taxable; the FASIT's taxable income or net loss will flow through to the owner of the FASIT.

The ownership interest of a FASIT generally will be required to be entirely held by a single domestic C corporation. In addition, a FASIT generally may hold only qualified debt obligations, and certain other specified assets, and will be subject to certain restrictions on its activities. An entity that qualifies as a FASIT can issue instruments that meet certain specified requirements and treat those instruments as debt for Federal income tax purposes. Instruments issued by a FASIT bearing yields to maturity over 5 percentage points above the yield to maturity on specified United States government obligations (i.e., "high-yield interests") may be held only by domestic C corporations that are not exempt from income tax.

Effective date.—The provisions take effect on the date of enactment.

Conference agreement

In general

The conference agreement adopts the provisions of the Senate amendment with modifications. Thus, the conference agreement creates a new type of statutory entity called a "financial asset securitization investment trust" ("FASIT") that facilitates the securitization of debt obligations such as credit card receivables, home equity loans, and auto loans. A FASIT generally will not be taxable; the FASIT's taxable income or net loss will flow through to the owner of the FASIT.

The ownership interest of a FASIT generally will be required to be entirely held by a single domestic C corporation. The conferees expect that the Treasury Department will issue guidance on how this rule would apply to cases in which the entity that owns the FASIT join in the filing of a consolidated return with other members of the group that wish to hold an ownership interest in the FASIT. In addition, a FASIT generally may hold only qualified debt obligations, and certain other specified assets, and will be subject to certain restrictions on its activities. An entity that qualifies as a FASIT can issue instruments that meet certain specified requirements and treat those instruments as debt for Federal income tax purposes. Instruments issued by a FASIT bearing yields to maturity over 5 percentage points above the yield to maturity on specified United States government obligations (i.e., "high-yield interests") may be held only by domestic C corporations that are not exempt from income tax.

Qualification as a FASIT

In general

To qualify as a FASIT an entity must: (1) make an election to be treated as a FASIT for the year of the election and all subsequent years; (2) have assets substantially all of which (including assets that the FASIT is treated as owning because they support regular interests) are specified types called "permitted assets;" (3) have non-ownership interests be certain specified types of debt instruments called "regular interests"; (4) have a single ownership interest which is held by an "eligible holder"; and (5) not qualify as a RIC.[69]

Election to be a FASIT

Once an election to be a FASIT is made, the election applies for that year and all subsequent years until the entity ceases to be a FASIT.[70] Once an entity ceases to be a FASIT, it is not a FASIT for that year or any subsequent year. Nonetheless, an entity can continue to be a FASIT where the Treasury Department determines that the entity inadvertently ceases to be a FASIT, steps are taken reasonably soon after it is discovered that the entity ceased being a FASIT so that it again qualifies as a FASIT, and the FASIT and its owner take those steps that the Treasury Department deems necessary. If an election to be a FASIT is made after the initial year of an entity, all of the assets in the entity at the time of the FASIT election are deemed contributed to the FASIT at that time and, accordingly, any gain (but not loss) on such assets will be recognized at that time.

Permitted assets

In general.—For an entity or arrangement to qualify as a FASIT, substantially all of its assets must consist of the following "permitted assets":[71] (1) cash and cash equivalents;[72] (2) certain permitted debt instruments; (3) certain foreclosure property; (4) certain instruments or contracts that represent a hedge or guarantee of debt held or issued by the FASIT; and (5) contract rights to acquire permitted debt instruments or hedges. A FASIT must meet the asset test at the 90th day after its formation and at all times thereafter. Permitted assets may be acquired at any time by a FASIT, including any time after its formation.

Permitted debt instruments.—A debt instrument will be a permitted asset only if the instrument is indebtedness for Federal income tax purposes and it bears (1) fixed interest or (2) variable interest of a type that relates to qualified variable rate debt (as defined in Treasury regulations prescribed under sec. 860G(a)(1)(B)). Except for cash equivalents, permitted debt obligations cannot be obligations issued, directly or indirectly, by the owner of the FASIT or a related person.

Foreclosure property.—Permitted assets include property acquired on default (or imminent default) of debt instruments held by the FASIT that would be foreclosure property to a REIT (under sec. 856(e)) or would be foreclosure property to a REIT but for certain leases entered into or construction performed (as described in sec. 856(e)(4)) while held by the FASIT.

Hedges.—Permitted assets include interest rate or foreign currency notional principal contracts, letters of credit, insurance, guarantees against payment defaults, or other similar instruments as permitted under Treasury regulations, which are reasonably required to guarantee or hedge against the FASIT's risks associated with being the obligor of regular interests.

"Regular interests" of a FASIT

Under the conference agreement, "regular interests," including "high-yield interests," of a FASIT are treated as debt for Federal income tax purposes regardless of whether instruments with similar terms issued by non-FASITs might be characterized as equity under general tax principles. To be treated as a "regular interest," an instrument must have fixed terms and must: (1) unconditionally entitle the holder to receive a specified principal amount; (2) pay interest that is based on (a) one or more rates that are fixed, (b) rates that measure contemporaneous variations in the cost of newly borrowed funds, or (c) to the extent permitted by Treasury regulations, variable rates allowed to regular interests of a REMIC if the FASIT would otherwise qualify as a REMIC; (3) have a term to maturity of no more than 30 years, except as permitted by Treasury regulations; (4) be issued to the public with a premium of not more than 25 percent of its stated principal amount; and (5) have a yield to maturity at issue of no more than 5 percentage points above the applicable Federal rate (AFR) for the calendar month in which the instrument is issued.

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[69] The Senate amendment also required that an entity cannot be a FASIT if any person other than the FASIT's owner holds the right to receive excess servicing fees with respect to permitted debt instruments. The conference agreement deleted this requirement in favor of a requirement that gain on retained servicing fees and other stripped interests be recognized.

[70] The Senate amendment required that the election to be a FASIT must be made on its return for its first year. The conference agreement deleted this rule.

[71] The conference agreement deleted the provision in the Senate amendment that included a partnership interest as a permitted asset if all of the assets of the partnership are permitted debt instruments and the partnership interest provides the partner with an undivided interest in those permitted debt instruments.

[72] The Senate amendment provided that permitted assets included investments of amounts received from permitted debt obligations for a temporary period before distributions to regular and ownership interests in the FASIT. The conference agreement expanded the definition of permitted assets to include cash and cash equivalents and deleted the category for temporary period investments.

A FASIT also may issue high-yield debt instruments, which includes any debt instrument issued by a FASIT that meets the second and third conditions described above, so long as such interests are not held by a disqualified holder. A "disqualified holder" generally is any holder other than (1) a domestic C corporation that does not qualify as a RIC, REIT, REMIC, or cooperative[73] or (2) a dealer who acquires FASIT debt for resale to customers in the ordinary course of business.[74] An excise tax is imposed at the highest corporate rate on a dealer if there is a change in dealer status or if the holding of the instrument is for investment purposes. A 31-day grace period is granted before ownership of an interest held by a dealer generally could be treated as held by the FASIT owner for investment purposes.

Permitted ownership holder

A permitted holder of the ownership interest in a FASIT generally is a non-exempt domestic C corporation, other than a corporation that qualifies as a RIC, REIT, REMIC, or cooperative.

Transfers to non-permitted holders of high-yield interest

A transfer of a high-yield interest to a disqualified holder is to be ignored for Federal income tax purposes. Thus, such a transferor will continue to be liable for any taxes due with respect to the transferred interest.

Taxation of a FASIT

In general

A FASIT generally is not subject to tax. Instead, all of the FASIT's assets and liabilities are treated as assets and liabilities of the FASIT's owner and any income, gain, deduction or loss of the FASIT is allocable directly to its owner.[75] Any securities held by the FASIT that are treated as held its owner are treated as held for investment. The taxable income of a FASIT is calculated using an accrual method of accounting. The constant yield method and principles that apply for purposes of determining OID accrual on debt obligations whose principal is subject to acceleration apply to all debt obligations held by a FASIT to calculate the FASIT's interest and discount income and premium deductions or adjustments. For this purpose, a FASIT's income does not include any income subject to the 100-percent penalty excise tax on prohibited transactions and a deduction is allowed for the corporate tax paid on income from foreclosure property.

Income from foreclosure property

A FASIT is subject to tax at the highest corporate rate on net income from any foreclosure property that was acquired in connection with the default or imminent default of a permitted debt obligation. For this purpose, property is foreclosure property if it would be foreclosure property to a REIT, determined without the special rules for leased property or property under construction (sec. 856(e)(4)). Foreclosure property does not include property acquired pursuant to a security interest that was created for the principal purpose of having the FASIT acquire such property.

Income from prohibited transactions

In addition to any tax on foreclosure property, a FASIT is required to pay a penalty excise tax equal to 100 percent of net income derived from (1) an asset that is not a permitted asset, (2) any disposition of an asset other than a permitted disposition, (3) any income attributable to loans originated by the FASIT,[76] and (4) compensation for services (other than fees for a waiver, amendment, or consent under permitted assets not acquired through foreclosure). A permitted disposition is any disposition (1) arising from complete liquidation of a class of regular interests (i.e., a qualified liquidation), (2) incident to the foreclosure, default, or imminent default of the asset, (3) incident to the bankruptcy or insolvency of the FASIT, (4) necessary to avoid a default on any indebtedness of the FASIT attributable to a default (or imminent default) on an asset of the FASIT, (4) to facilitate a clean-up call, or (5) to substitute a permitted debt instrument for another such instrument in order to reduce over-collateralization where a principal purpose of the disposition was not to avoid recognition of gain arising from an increase in its market value after its acquisition by the FASIT.

Taxation of interests in the FASIT

Taxation of holders of regular interests

In general.—A holder of a regular interest, including a high-yield interest, is taxed in the same manner as a holder of any other debt instrument, except that the regular interest holder is required to account for income relating to the interest on an accrual method of accounting, regardless of the method of accounting otherwise used by the holder.

High-yield interests.—Holders of high-yield interests are not allowed to use net operating losses to offset any income derived from the high-yield debt. Any net operating loss carryover shall be computed by disregarding any income arising by reason of the disallowed loss.

In addition, a transfer of a high-yield interest to a disqualified holder is not recognized for Federal income tax purposes such that the transferor will continue to be taxed on the income from the high-yield interest unless the transferee provides the transferor with an affidavit that the transferee is not a disqualified person or the Treasury Secretary determines that the high-yield interest is no longer held by a disqualified person and a corporate tax has been paid on the income from the high-yield interest while it was held by a disqualified person. High-yield interests may be held without a corporate tax being imposed on the income from the high-yield interest where the interest is held by a dealer in securities who acquired such high-yield interest for sale in the ordinary course of his business as a securities dealer. In such a case, a corporate tax is imposed on such a dealer if his reason for holding the high-yield interest changes to investment. There is a presumption that the dealer has not changed his intent for holding high-yield instruments to investment for the first 31 days he holds such interests unless such holding is part of a plan to avoid the restriction on holding of high-yield interests by disqualified persons.

Where a pass-through entity (other than a FASIT) issues either debt or equity instruments that are supported by regular interests in a FASIT and such instruments bear a yield to maturity greater than the yield on the regular interests or the applicable Federal rate plus 5 percentage points, then an excise tax is imposed on the pass-through entity at a rate equal to the highest corporate rate on the income of any holder of such instrument attributable to the regular interests.[77]

Taxation of holder of ownership interest

All of the FASIT's assets and liabilities are treated as assets and liabilities of the holder of a FASIT ownership interest and that owner takes into account all of the FASIT's income, gain, deduction, or loss in computing its taxable income or net loss for the taxable year. The character of the income to the holder of an ownership interest is the same as its character to the FASIT, except tax-exempt interest is taken into income of the holder as ordinary income.

Losses on assets contributed to the FASIT are not allowed upon their contribution, but may be allowed to the FASIT owner upon their disposition by the FASIT. A special rule provides that the holder of a FASIT ownership interest cannot offset income from the FASIT ownership interest with any other losses. Any net operating loss carryover of the FASIT owner shall be computed by disregarding any income arising by reason of a disallowed loss.

For purposes of the alternative minimum tax, the owner's taxable income is determined without regard to the minimum FASIT income. The alternative minimum taxable income of the FASIT owner cannot be less than the FASIT income for that year, and the alternative minimum tax net operating loss deduction is computed without regard to the minimum FASIT income.

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[73] The Senate amendment did not include cooperatives as a disqualified holder. The conferees believe that cooperatives also should be treated as disqualified holders since cooperatives, like RICs and REITs, are treated as pass-through entities and, also like the owners of RIC's and REITs, the cooperative's members and patrons need not be C corporations.

[74] The Senate amendment also excluded from a disqualified holder a dealer in goods and services provided that the permitted debt instruments in the FASIT exclusively were loans made by a dealer in the ordinary course of his business to finance the dealer's goods or services. The conference agreement deleted this rule. In addition, in the case of a securities dealer which may be an eligible holder, the conferees understand that the mark-to-market rule of section 475 will not apply to an ownership interest in a FASIT or assets held in the FASIT.

[75] The Senate amendment required that the taxable income of a FASIT generally is calculated as if it were a partnership. The conference agreement deleted this rule in favor of a rule stating that the FASIT's owner include all of the FASIT's assets, liabilities, income, gain, deductions, losses and credits in computing its Federal income tax since the Senate amendment's partnership rule might result in unexpected erroneous consequences where the FASIT can have only one owner. The conference agreement retained the rule of the Senate amendment that treats tax-exempt interest to the FASIT as taxable ordinary income to the FASIT owner. The Senate amendment required that the FASIT have the same taxable year as its owner. The conference agreement deleted this requirement as unnecessary in light of the conference agreement's adoption of a flow-through rule in lieu of the partnership rule.

[76] The conference agreement added this rule.

[77] The conference agreement added this provision.

Transfers to and distributions from FASITs

Gain generally is recognized immediately by the owner of the FASIT upon the transfer of assets to a FASIT. Assets that are acquired by the FASIT from someone other than its owner are treated as if they were acquired by the owner and then contributed to the FASIT. In addition, any assets of the FASIT owner or a related person that are used to support FASIT regular interests are treated as contributed to the FASIT and thus also are treated as sold at the earliest date that such assets support any FASIT's regular interests.[78] To the extent provided by Treasury regulations, gain recognition on the contributed assets may be deferred until such assets support regular interests issued by the FASIT or any indebtedness of the owner or related person. These regulations may adjust other statutory FASIT provisions to the extent such provisions are inconsistent with such regulations. For example, such regulations may disqualify certain assets as permitted assets.

A distribution of assets by a FASIT with respect to a regular or ownership interest generally is treated as a sale of the assets and distribution of the sale proceeds. The conferees understand that gain may be recognized if the FASIT distributes assets to retire a regular interest because such a transaction is treated as a sale or exchange.

The basis of any FASIT asset is increased by the amount of the taxable gain recognized on the contribution of the assets to, or distribution of the assets from, the FASIT.

Valuation rules

In general, except in the case of debt instruments, the value of FASIT assets is their fair market value. The conference agreement contain special rules for valuing debt instruments for purposes of computing gain on the transfer to or from a FASIT.[79] Under these rules, the value of debt instruments generally is the sum of the present values of the reasonably expected cash flows from such obligations discounted over the weighted average life of such assets. The discount rate is 120 percent of the applicable Federal rate, compounded semiannually, or such other rate that the Treasury Secretary shall prescribe by regulations.[80] For purposes of determining the value of a pool of revolving loan accounts having substantially the same terms, each extension of credit (other than the accrual of interest) is treated as a separate debt instrument and the maturity of the instruments is determined using the reasonably anticipated periodic payment rate at which principal payments will be made as a proportion of their aggregate outstanding principal balances assuming that payments are applied to the earliest credit extensions. The conferees understand that reasonably expected cash flows from loans will reflect nonpayments (i.e., losses) and early payments (i.e., prepayments), but not costs of servicing the loans.

Related person

For purposes of the FASIT rules, a person is related to another person if that person bears a relationship to the other person specified in sections 267(b) or 707(b)(1), using a 20-percent ownership test instead of the 50-percent test, or such persons are engaged in trades or businesses under common control as determined under sections 52(a) or (b).

Effective date

The provisions of the conference agreement take effect on the date of enactment.

19. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION FOR WATER UTILITIES (SEC. 12861(A) OF THE SENATE AMENDMENT)

Present and prior law

The gross income of a corporation does not include contributions to its capital. A contribution to the capital of a corporation does not include any contribution in aid of construction or any other contribution as a customer or potential customer.

Prior to the enactment of the Tax Reform Act of 1986 ("1986 Act"), a regulated public utility that provided electric energy, gas, water, or sewage disposal services was allowed to treat any amount of money or property received from any person as a tax-free contribution to its capital so long as such amount: (1) was a contribution in aid of construction; and (2) was not included in the taxpayer's rate base for rate-making purposes. A contribution in aid of construction did not include a connection fee. The basis of any property acquired with a contribution in aid of construction was zero.

If the contribution was in property other than electric energy, gas, steam, water, or sewerage disposal facilities, such contribution was not includible in the utility's gross income so long as: (1) an amount at least equal to the amount of the contribution was expended for the acquisition or construction of tangible property that was used predominantly in the trade or business of furnishing utility services; (2) the expenditure occurred before the end of the second taxable year after the year that the contribution was received; and (3) certain records were kept with respect to the contribution and the expenditure. In addition, the statute of limitations for the assessment of deficiencies was extended in the case of these contributions.

These rules were repealed by the 1986 Act. Thus, after the 1986 Act, the receipt by a utility of a contribution in aid of construction is includible in the gross income of the utility, and the basis of property received or constructed pursuant to the contribution is not reduced.

House bill

No provision.

Senate amendment

The Senate amendment restores the contributions in aid of construction provisions that were repealed by the 1986 Act for regulated public utilities that provide water or sewerage disposal services.

Effective date.—The provision is effective for amounts received after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

20. REQUIRE WATER UTILITY PROPERTY TO BE DEPRECIATED OVER 25 YEARS (SEC. 12861(B) OF THE SENATE AMENDMENT)

Present law

Property used by a water utility in the gathering, treatment, and commercial distribution of water and municipal sewers are depreciated over a 20-year period for regular tax purposes. The depreciation method generally applicable to property with a recovery period of 20 years is the 150-percent declining balance method (switching to the straight-line method in the year that maximizes the depreciation deduction). The straight-line method applies to property with a recovery period over 20 years.

House bill

No provision.

Senate amendment

The Senate amendment provides that water utility property will be depreciated using a 25-year recovery period and the straight-line method for regular tax purposes. For this purpose, "water utility property" means (1) property that is an integral part of the gathering, treatment, or commercial distribution of water, and that, without regard to the proposal, would have had a recovery period of 20 years and (2) any municipal sewer. Such property generally is described in Asset Classes 49.3 and 51 of Revenue Procedure 87-56, 1987-2 C.B. 674. The Senate amendment does not change the class lives of water utility property for purposes of the alternative depreciation system of section 168(g).

Effective date.—The provision is effective for property placed in service after the date of enactment, other than property placed in service pursuant to a binding contract in effect on such date and at all times thereafter before the property is placed in service.

Conference agreement

The conference agreement follows the Senate amendment.

21. ALLOW AMORTIZATION FOR INTRASTATE OPERATING RIGHTS OF MOTOR CARRIERS (SEC. 12862 OF THE SENATE AMENDMENT)

Present law and background

A taxpayer is allowed to write-off and deduct the adjusted basis of property used in trade or business when such property becomes worthless (sec. 165). A deduction is not allowed if the property merely loses value but does not become worthless. For example, in *CRST, Inc.*, 909 F2d. 1146 (8th Cir. 1990), a motor carrier was denied a worthlessness deduction for the basis of operating authorities that had become less valuable, but not worthless, due to deregulation.

Effective January 1, 1995, section 601 of the Federal Aviation Administration Authorization Act of 1994 preempts and prohibits State regulation of the price, route, or service of intrastate operations of motor carriers. In 1980, Congress similarly deregulated the operation of interstate motor carriers. Pursuant to section 266 of the Economic Recovery Tax Act of 1981, Congress allowed taxpayers who held operating authorities as of the effective date of such deregulation to amortize the adjusted basis of the authorities over a 60-month period.

House bill

No provision.

Senate amendment

The Senate amendment allows a taxpayer who held, on January 1, 1995, one or more operating authorities that were preempted by section 601 of the Federal Aviation Administration Authorization Act of 1994, to amortize the aggregate adjusted bases of such authorities ratably (i.e., on straight-line basis) over the 36-month period beginning January 1, 1995. The amortization deductions provided under the amendment are treated as depreciation deductions for purposes of the Internal Revenue Code.

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[78] The Senate amendment directly reached that result since it provided that any assets of the FASIT's owner or its related person are treated as sold at the earliest date that such assets support of the FASIT's regular interests.

[79] The Senate amendment provided that the valuation rules only applied in determining the value of assets contributed to the FASIT. The conference agreement extended the valuation rules to distributions from a FASIT.

[80] The Senate amendment provided that the discount rate be 130 percent of the applicable Federal rate (AFR). Since the conference agreement allows the reasonably expected cash flows to reflect losses, the conferees believe that the proper rate to discount those net cash flows should be 120 percent of the AFR.

Effective date.—The provision is effective for taxable years ending on or after January 1, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

22. ESTABLISH 15-YEAR RECOVERY PERIOD FOR RETAIL MOTOR FUELS OUTLET STORES (SEC. 12863 OF THE SENATE AMENDMENT)

Present law

Under present law, property used in the retail gasoline trade is depreciated under section 168 using a 15-year recovery period and the 150-percent declining balance method. Nonresidential real property (such as a convenience store) is depreciated using a 39-year recovery period and the straight-line method. It is understood that taxpayers generally have taken the position that convenience stores and other buildings installed at retail motor fuels outlets have a 15-year recovery period. The IRS, in a position described in a recent Coordinated Issues Paper, generally limits the application of the 15-year recovery period to instances where the structure: (1) is 1,400 square feet or less or (2) meets a 50-percent test. The 50-percent test is met if: (1) 50 percent or more of the gross revenues that are generated from the building are derived from petroleum sales *and* (2) 50 percent or more of the floor space in the building is devoted to petroleum marketing sales.

House bill

No provision.

Senate amendment

The Senate amendment provides that 15-year property includes any section 1250 property (generally, depreciable real property) that is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet). A retail motor fuels outlet does not include any facility related to petroleum or natural gas trunk pipelines or to any section 1250 property used only to an insubstantial extent in the retail marketing of petroleum or petroleum products.

Effective date.—The provision is effective for property placed in service before, on, or after the date of enactment and to which the amendments made by section 201 of the Tax Reform Act of 1986 apply (i.e., property subject to the modified Accelerated Cost Recovery System of sec. 168). The taxpayer may elect to forego the application of the provision for any property placed in service prior to the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, with modifications.

The conference agreement provides a 20-year class life for retail motor fuels outlets for purposes of the alternative depreciation system of section 168(g).

In addition, the conferees wish to clarify what types of property qualify as a retail motor fuels outlet. Section 1250 property will so qualify if it meets a 50-percent test. The 50-percent test is met if : (1) 50 percent or more of the gross revenues that are generated from the property are derived from petroleum sales or (2) 50 percent or more of the floor space in the property is devoted to petroleum marketing sales. The conferees intend that the determination of whether either prong of this test is met will be made pursuant to the recent Coordinated Issue Paper. Property not meeting the test will not qualify as a retail motor fuels outlet. For property placed in service in taxable years that end after the date of enactment, the determination of whether the property meets the 50-percent test generally will be made in the year the property is placed in service. However, the test may be applied in the subsequent taxable year if the property is placed in service near the end of the taxable year and the use of the property during such short period is not representative of the subsequent use of the property. The conferees intend that with respect to property placed in service in taxable years that ended before the date of enactment of the provision, the determination of whether the property meets the 50-percent test generally will be made in a manner consistent with the manner in which the 50-percent test of the current Coordinated Issues Paper is applied (but by substituting the disjunctive test of the conference agreement for the present conjunctive test of the Paper). The conferees also intend that if property meets (or fails to meet) the 50-percent test but subsequently fails to meet (or meets) such test for more than a temporary period, such failure (or qualification) may be treated as a change in the use of property to which section 168(I)(5) applies.

In addition, property the size of which is 1,400 square feet or less also will qualify if such property would have qualified under the current Coordinated Issues Paper.

23. APPLICATION OF FAILURE-TO-PAY PENALTY TO SUBSTITUTE RETURNS (SEC. 13639 OF THE HOUSE BILL AND SEC. 12871 OF THE SENATE AMENDMENT)

Present law

Section 6651(a)(2) provides that the IRS may assess a penalty for failure to pay tax from the due date of the return until the tax is paid. If no return is filed by the taxpayer and the IRS files a substitute return under section 6020, the tax on which the penalty is measured is considered a deficiency assessable under section 6212 or 6213, and the failure to pay penalty begins to accumulate 10 days after the IRS sends the taxpayer a notice and demand for payment of the tax.

House bill

The House bill applies the failure to file penalty to substitute returns in the same manner as the penalty applies to delinquent filers.

Effective date.—The provision applies in the case of any return the due date for which (determined without regard to extensions) is after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

24. REPEAL EXEMPTION FOR WITHHOLDING ON GAMBLING WINNINGS FROM BINGO AND KENO WHERE PROCEEDS EXCEED $5,000 (SEC. 13633 OF THE HOUSE BILL AND SEC. 12872 OF THE SENATE AMENDMENT)

Present law

In general, proceeds from a wagering transaction are subject to withholding at a rate of 28 percent if the proceeds exceed $5,000 and are at least 300 times as large as the amount wagered. No withholding tax is imposed on winnings from bingo or keno.

House bill

The House bill imposes withholding on proceeds from bingo or keno wagering transactions at a rate of 28 percent if such proceeds exceed $5,000, regardless of the odds of the wager.

Effective date.—The provision is effective on January 1, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

25. TREATMENT OF CERTAIN GAINS AND LOSSES OF LIFE INSURANCE COMPANIES UNDER SECTION 818(B) (SEC. 12873 OF THE SENATE AMENDMENT)

Present law

In the case of a taxpayer that is a corporation, losses from the sale or exchange of a capital asset generally are allowed only to the extent of gains from such sales or exchanges (sec. 1211(a)). A loss on the sale or exchange of property used in the trade or business of the taxpayer, however, is treated as an ordinary loss, rather than as a loss from the sale or exchange of a capital asset (secs. 1221(2)). In addition, if losses from property used in the trade or business equal or exceed a taxpayer's gains from such property, then the gains and losses are treated as ordinary (sec. 1231).

A special limitation on ordinary loss treatment applies in the case of a life insurance company, under section 818(b). Section 818(b) provides that property used in the trade or business includes only property used in carrying on an insurance business. Thus, for example, a loss on the sale or exchange of real estate that is held by a life insurance company and that is not used in the insurance business is treated as a capital loss, and is allowed only to the extent of the taxpayer's capital gain.

Capital losses of a corporation generally may be carried back to each of the three taxable years preceding the loss year, and forward to each of the five taxable years succeeding the loss year (sec. 1212).

House bill

No provision.

Senate amendment

Under the Senate amendment, capital loss treatment under present-law section 818(b) does not apply to 85 percent of a life insurance company's losses from the sale or exchange of foreclosed real estate. Losses from such property are treated as ordinary losses allowable in equal amounts over each of the first 10 taxable years following the year of disposition. Present-law capital loss treatment under section 818(b) is retained for the remaining 15 percent of such losses. Foreclosure property means real property used in the trade or business that is acquired by a life insurance company as the result of (1) such company having bid on such property at foreclosure, or (2) such company having otherwise reduced such property to ownership or possession by agreement or process of law, after there was a default (or default was imminent) on indebtedness which such property secured.

Effective date.—The provision is effective for taxable years beginning after December 31, 1994.

Conference agreement

The conference agreement follows the Senate amendment, with modifications.

Under the conference agreement, a life insurance company may elect ordinary loss treatment for up to 20 percent of the losses for a taxable year from the sale or exchange of foreclosure property. The amount of the loss from foreclosure property for which the taxpayer elects ordinary loss treatment is amortized and recognized ratably over the 10- taxable-year period beginning with the taxable year following the taxable year in which the sale or exchange of the foreclosure property occurred.

Two further elections are provided under the conference agreement, in addition to the first election under the provision described in the previous paragraph. Under the second election, the taxpayer may elect for any of the taxable years in a "change period" to change the percentage of the loss from sale or exchange of foreclosure property that was treated as ordinary loss and amortized over a 10-taxable-year period. In no event may the percentage exceed 20 percent of the loss from sale or exchange of foreclosure property for the taxable year of such sale or exchange. If the taxpayer elects to change the percentage, the changed percentage is treated as if it were the percentage the taxpayer elected in the year of the sale or exchange of the foreclosure property. Proper adjustments must be made for all taxable years to reflect the change. The "change period" is the 3-taxable-year period following the taxable year in which the sale or exchange of the foreclosure property occurred.

For purposes of the statute of limitations only, any such change in the percentage made during the "change period" is treated as a capital loss carryback from the year of the change.

The conference agreement provides a third election. The taxpayer may elect to treat as a capital loss arising in the taxable year of this third election any unused amount of an ordinary loss from sale or exchange of foreclosure property that was amortized over a 10-taxable-year period under the provision. The unused amount of such a loss is the amount of the amortizable portion of the loss that has not been recognized as of the close of the preceding taxable year. This third election may be made only for any taxable year in the 5-taxable-year period following the taxable year in which the sale or exchange of the foreclosure property occurred.[81]

An ordering rule is provided under the third election. The unused amount of the loss is treated as coming first from the last taxable year in the 10-taxable year period of amortization, and then from each preceding taxable year in reverse chronological order.

Any of the elections under the provision must be made on or before the due date (including extensions) for the tax return of the taxable year of the election.

The definition of foreclosure property and the effective date are the same as provided in the Senate amendment.

26. CLARIFY TREATMENT OF NEWSPAPER DISTRIBUTORS AND CARRIERS AS DIRECT SELLERS (SEC. 12874 OF THE SENATE AMENDMENT)

Present law

For Federal tax purposes, there are two classifications of workers: a worker is either an employee of the service recipient or an independent contractor. Significant tax consequences result from the classification of a worker as an employee or independent contractor. These differences relate to withholding and employment tax requirements, as well as the ability to exclude certain types of compensation from income or take tax deductions for certain expenses. Some of these consequences favor employee status, while others favor independent contractor status. For example, an employee may exclude from gross income employer-provided benefits such as pension, health, and group-term life insurance benefits. On the other hand, an independent contractor can establish his or her own pension plan and deduct contributions to the plan. An independent contractor also has greater ability to deduct work-related expenses.

Under present law, the determination of whether a worker is an employee or an independent contractor is generally made under a 20-factor common-law facts and circumstances test that seeks to determine whether the service provider is subject to the control of the service recipient, not only as to the nature of the work performed, but the circumstances under which it is performed. Under a special safe harbor rule (sec. 530 of the Revenue Act of 1978), a service recipient may treat a worker as an independent contractor for employment tax purposes even though the worker is an employee under the common-law test if the service recipient has a reasonable basis for treating the worker as an independent contractor and certain other requirements are met.

In addition to the 20-factor common-law test, there are also some persons who are treated by statute as either employees or independent contractors. For example, "direct sellers" are deemed to be independent contractors. A direct seller is a person engaged in the trade or business of selling consumer products in the home or otherwise than in a permanent retail establishment, if substantially all the remuneration for the performance of the services is directly related to sales or other output rather than to the number of hours worked, and the services performed by the person are performed pursuant to a written contract between such person and the service recipient and such contract provides that the person will not be treated as an employee for Federal tax purposes.

The newspaper industry has generally taken the position that newspaper distributors and carriers should be treated as direct sellers for income and employment tax purposes. The Internal Revenue Service has generally taken the position that the direct seller rules do not apply to newspaper distributors and carriers operating under an agency distribution system (i.e., where the publisher retains title to the newspapers).

House bill

No provision.

Senate amendment

The Senate amendment clarifies the treatment of qualifying newspaper distributors and carriers as direct sellers. Under the Senate amendment, a person engaged in the trade or business of the delivery or distribution of newspapers or shopping news (including any services that are directly related to such trade or business such as solicitation of customers or collection of receipts) qualifies as a direct seller, provided substantially all the remuneration for the performance of the services is directly related to sales or other output rather than to the number of hours worked, and the services performed by the person are performed pursuant to a written contract between such person and the service recipient and such contract provides that the person will not be treated as an employee for Federal tax purposes. The provision is intended to apply to newspaper distributors and carriers whether or not they hire others to assist in the delivery of newspapers. The provision also applies to newspaper distributors and carriers operating under either a buy-sell distribution system (i.e., where the newspaper distributors or carriers purchase the newspapers from the publisher) or an agency distribution system. For example, newspaper distributors and carriers operating under an agency distribution system who are paid based on the number of papers delivered and have an appropriate written agreement qualify as direct sellers. The status of newspaper distributors and carriers who do not qualify as direct sellers under the proposal continues to be determined under present-law rules. No inference is intended with respect to the employment status of newspaper distributors and carriers prior to the effective date of the provision.

Effective date.—The provision is effective with respect to services performed after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment. This provision is intended to clarify the worker classification issue for income and employment taxes only. The conferees do not intend this provision to have any impact whatsoever on the interpretation or applicability of Federal, State, or local labor laws.

27. ALLOW BANK COMMON TRUST FUNDS TO TRANSFER ASSETS TO REGULATED INVESTMENT COMPANIES WITHOUT TAXATION (SEC. 12875 OF THE SENATE AMENDMENT)

Present law

The common trust fund of a bank is not subject to tax and is not treated as a corporation. Each participant in a common trust fund includes his proportional share of common trust fund income, whether or not the income is distributed or distributable. Participants generally treat their admission to the fund as the purchase of an interest. Withdrawals from the fund generally are treated as the sale of an interest by the participant.

A RIC also is treated as a conduit for Federal income tax purposes. Present law is unclear as to the tax consequences when a common trust fund transfers its assets to one or more RICs.

House bill

No provision.

Senate amendment

The Senate amendment permits a common trust fund to transfer substantially all of its assets to one or more RICs without gain or loss being recognized by the fund or its participants. The fund must transfer its assets to the RICs solely in exchange for shares of the RICs, and the fund must then distribute the RIC shares to the fund's participants in exchange for the participant's interests in the fund.

The basis of any asset that is received by a RIC will be the basis of the asset in the hands of the fund prior to transfer. In addition, the basis of any RIC shares that are received by a fund participant will be an allocable portion of the participant's basis in the interests exchanged.

Effective date.—Transfers after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

28. REMOVE BUSINESS EXCLUSION FOR ENERGY SUBSIDIES PROVIDED BY PUBLIC UTILITIES (SEC. 13622 OF THE HOUSE BILL)

Present law

Internal Revenue Code section 136, as added by the Energy Policy Act of 1992, provides an exclusion from the gross income of a customer of a public utility for the value of any subsidy provided by the utility for the purchase or installation of an energy conservation measure with respect to a dwelling unit (as defined by sec. 280A(f)(1)). In addition, for subsidies received after 1994, section 136 provides a partial exclusion from gross income for the value of any subsidy provided by a utility for the purchase or installation of an energy conservation measure with respect to property that is not a dwelling unit. The amount of the exclusion is 40 percent of the value for subsidies received in 1995, 50 percent of the value for subsidies received in 1996, and 65 percent of the value for subsidies received after 1996.

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[81] This period parallels the 5-year period during which the taxpayer could have carried forward the loss, had it been a capital loss.

For this purpose, an energy conservation measure is any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to property. With respect to property other than a dwelling unit, an energy conservation measure includes "specially defined energy property" (generally, property described in sec. 48(l)(5) of the Code as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

The exclusion does not apply to payments made to or from a qualified cogeneration facility or a qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.

Section 136 denies a deduction or credit to a taxpayer (or in appropriate cases requires a reduction in the adjusted basis of property of a taxpayer) for any expenditure to the extent that a subsidy related to the expenditure was excluded from the gross income of the taxpayer.

House bill

The House bill repeals the partial exclusion for any subsidy provided by a utility for the purchase or installation of an energy conservation measure with respect to property that is not a dwelling unit.

Effective date.—The provision is effective for subsidies received after September 13, 1995, unless received pursuant to a binding written contract in effect on that date and all times thereafter.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, except that the provision is effective for subsidies received after December 31, 1995, unless received pursuant to a binding written contract in effect on September 13, 1995, and all times thereafter.

29. REQUIRE TAXPAYERS TO INCLUDE RENTAL VALUE OF RESIDENCE IN INCOME WITHOUT REGARD TO PERIOD OF RENTAL (SEC. 13640 OF THE HOUSE BILL)

Present law

Gross income for purposes of the Internal Revenue Code generally includes all income from whatever source derived, including rents. The Code (sec. 280A(g)) provides a *de minimis* exception to this rule where a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year. In this case, the income from such rental is not included in gross income and no deductions arising from such rental use are allowed as a deduction.

House bill

The House bill repeals the 15-day rule of section 280A(g). It also provides that no reduction in basis is required if the taxpayer: (1) rented the dwelling unit for less than 15 days during the taxable year and (2) did not claim depreciation on the dwelling unit for the period of rental.

Effective date.—Taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

30. ALLOW CONVERSION OF SCHOLARSHIP FUNDING CORPORATION TO TAXABLE CORPORATION (SEC. 13641 OF THE HOUSE BILL)

Present law

Qualified scholarship funding corporations are nonprofit corporations established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965 (sec. 150(d)). In addition, a qualified scholarship funding corporation must be required by its corporate charter and bylaws, or under State law, to devote any income (after payment of expenses, debt service and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the United States.

In general, State and local government bonds issued to finance private loans (e.g., student loans) are taxable private activity bonds. However, interest on qualified student loan bonds is tax-exempt. Qualified scholarship funding corporations are eligible issuers of qualified student loan bonds.

The Internal Revenue Code restricts the direct and indirect investment of bond proceeds in higher yielding investments and requires that profits on investments that are unrelated to the government purpose for which the bonds are issued be rebated to the United States. Special allowance payments (SAP) made by the Department of Education are treated as interest on notes and, therefore, are permitted arbitrage that need not be rebated to the United States.

Generally, a private foundation and disqualified persons may, in the aggregate, own 20 percent of the voting stock of a functionally unrelated corporation.

House bill

In general.—The House bill provides that a nonprofit student loan funding corporation may elect to cease its status as a qualified scholarship funding corporation. If the corporation meets the requirements outlined below, such an election will not cause any bond outstanding as of the date of the issuer's election and any bond issued to refund such a bond to fail to be a qualified student loan bond. Once made, an election may be revoked only with the consent of the Secretary of Treasury. After making the election, the issuer is not authorized to issue any new bonds.

Requirements.—First, upon making the election, the issuer is required to transfer all of the student loan notes to another, taxable, corporation in exchange for senior stock of such corporation within a reasonable period of time after the election is made. Immediately after the transfer, the issuer, and any other issuer who made the election, is required to hold all of the senior stock of the corporation. Senior stock is stock whose rights to dividends, liquidation or redemption rights are not inferior to those of any other class of stock and that (1) participates pro rata and fully in the equity value of any other common stock of the corporation, (2) has the right to payments receivable in liquidation prior to any other stock in the corporation, (3) upon liquidation or redemption, has a fixed right to receive the greater of (a) the fair market value of the stock at the date of liquidation or redemption or (b) the net fair market value of all assets transferred to the corporation by the issuer, and (4) has a right to require its redemption by a date which is not later than 10 years after the date that the election is made.

Second, the transferee corporation is required to assume or otherwise provide for the payment of all the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election.

Third, immediately after the transfer, the issuer (i.e., the nonprofit student loan funding corporation) is required to become a charitable organization (described in section 501(c)(3) that is exempt from tax under section 501(a)), at least 80 percent of the members of its board of directors must be independent members, and it must hold all of the senior stock of the corporation.

Excess business holdings.—For purposes of the excess business holding restrictions imposed on a private foundation, the charity would not be required to divest its ownership in a corporation most of whose assets are student loan notes incurred under the Higher Education Act of 1965.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

31. APPLY LOOK-THROUGH RULE FOR PURPOSES OF CHARACTERIZING CERTAIN SUBPART F INSURANCE INCOME AS UNRELATED BUSINESS TAXABLE INCOME (SEC. 13642 OF THE HOUSE BILL)

Present law

An organization that is exempt from tax by reason of Code section 501(a) (e.g., a charity, business league, or qualified pension trust) is nonetheless subject to tax on its unrelated business taxable income (UBTI) (sec. 511). Unrelated business taxable income generally excludes dividend income (sec. 512(b)(1)).

Special rules apply to a tax-exempt organization described in section 501(c)(3) or (c)(4) (i.e., a charity or social welfare organization) that is engaged in commercial-type insurance activities. Such activities are treated as an unrelated trade or business and the tax-exempt organization is subject to tax on the income from such insurance activities (including investment income that might otherwise be excluded from the definition of unrelated business taxable income) under subchapter L (sec. 501(m)(2)).[82] Accordingly, a tax-exempt organization described in section 501(c)(3) or (c)(4) is generally subject to tax on its income from commercial-type insurance activities in the same manner as a taxable insurance company.

A tax-exempt organization that conducts insurance activities through a foreign corporation is not subject to U.S. tax with respect to such activities. Under the subpart F rules, the United States shareholders (as defined in sec. 951(b)) of a controlled foreign corporation (CFC) are required to include in income currently their shares of certain income of the CFC, whether or not such income is actually distributed to the shareholders. This current inclusion rule applies to certain insurance income of the CFC (sec. 953). However, income inclusions under subpart F have been characterized as dividends for unrelated business income tax purposes.[83] Accordingly, insurance income earned by the CFC that is includible in income currently under subpart F by the taxable United States shareholders of the CFC is excluded from unrelated business taxable income in the case of a shareholder that is a tax-exempt organization.

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[82] If the commercial-type insurance activities constitute a substantial part of the organization's activities, the organization will not be tax-exempt under section 501 (c)(3) or (c)(4) (sec. 501(m)(1)).

House bill

The House bill applies a look-through rule in characterizing certain subpart F insurance income for unrelated business income tax purposes. The look-through rule applies to amounts that constitute insurance income currently includible in gross income under the subpart F rules and that are not attributable to the insurance of risks of (1) the tax-exempt organization itself, (2) tax-exempt affiliates of such organization, and (3) directors, officers, or employees of such organization or such affiliates if the insurance covers solely risks associated with the performance of services for the benefit of such organization or affiliates. Such amounts are treated as income from an unrelated trade or business to the extent such amounts would constitute income from an unrelated trade or business if received directly by the tax-exempt organization. Deductions connected with amounts treated as unrelated business taxable income are allowed to the same extent as such deductions are allowed to a taxable entity.

Effective date.—The provision applies to amounts includible in gross income in taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with modifications. Under the conference agreement, the look-through rule applies to amounts that constitute insurance income currently includible in gross income under the subpart F rules and that are not attributable to the insurance of risks of (1) the tax-exempt organization itself, (2) certain tax-exempt affiliates of such organization, and (3) any individual who performs services for the benefit of the tax-exempt organization (or certain tax-exempt affiliates) provided that the insurance covers primarily risks associated with the individual's performance of services for the benefit of the tax-exempt organization (or tax-exempt affiliates). The conferees intend that the determination of whether insurance covers primarily risks associated with the performance of services for the benefit of the tax-exempt organization or its tax-exempt affiliates is to be based on all the facts and circumstances. The conferees further intend that a safe harbor be provided under which this "primarily" requirement will be considered to be satisfied where at least 80 percent of the services covered by the insurance are performed by the insured individual for the benefit of the tax-exempt organization or its tax-exempt affiliates.

The conference agreement clarifies that, for purposes of this provision, a tax-exempt organization is an affiliate of another tax-exempt organization if (1) the two organizations have significant common purposes and substantial common membership or (2) the two organizations have directly or indirectly substantial common direction or control.

Finally, the conferees clarify the operation of the look-through rule in the case of a CFC that insures the risks of multiple shareholders of the CFC, one or more of which are tax-exempt organizations. The specified exceptions from the look-through rule apply on a shareholder by shareholder basis. Accordingly, if the subpart F insurance income allocable to a tax-exempt organization includes both income attributable to the insurance of risks of the organization itself and income attributable to the insurance of risks of another shareholder that is not a tax-exempt affiliate of such organization, the look-through rule applies only to that portion of the income that represents income attributable to the insurance of risks of such other shareholder (and does not apply to the portion of the income that represents income attributable to the insurance of risks of the organization itself). In this regard, the conferees intend that if the CFC serves as a vehicle for the separate funding by each shareholder of its risks or liabilities for claims, without any pooling of a shareholder's risks or liabilities for claims with those of another shareholder either directly or through reinsurance, allocations that fairly reflect such arrangement will be respected for purposes of applying the look-through rule.

32. $1 MILLION COMPENSATION DEDUCTION LIMIT EXTENDED TO ALL EMPLOYEES (SEC. 12878 OF THE SENATE AMENDMENT)

Present law

Under present law, the otherwise allowable deduction for compensation paid or accrued with respect to a covered employee of a publicly held corporation is limited to no more than $1 million per year. A person is a covered employee if (1) they are the chief executive officer of the corporation, or (2) their total compensation is required to be reported for the taxable year under the Securities Exchange Act of 1934 because the employee is one of the 4 highest compensated officers for the year (other than the chief executive officer). The deduction limitation applies to (1) all remuneration for services, including cash and the cash value of all remuneration paid in a form other than cash, other than remuneration payable on a commission basis, (2) certain performance-based compensation, (3) payments to a tax-qualified retirement plan, and (4) amounts excludable from the executive's gross income (e.g., health benefits).

House bill

No provision.

Senate amendment

Under the Senate amendment, the denial of the deduction for compensation is extended to compensation of all employees, other than employees of personal service corporations. The definition of compensation subject to the deduction denial is not modified.

The Commissioner of Social Security is to increase the amount of earnings that an individual may receive and still qualify for full social security benefits by an amount which takes into account the revenues resulting from the expansion of the compensation deduction denial.

Effective date.—The expansion of the deduction denial applies to taxable years beginning after December 31, 1995, except that it does not apply to remuneration payable under a written binding contract in effect on October 25, 1995, and which was not modified thereafter in any material respect before the remuneration was paid.

Conference agreement

The conference agreement does not include the Senate amendment provision.

33. SENSE OF THE SENATE REGARDING AN INCREASE IN THE SOCIAL SECURITY EARNINGS LIMIT (SEC. 12879 OF THE SENATE AMENDMENT)

Present law

In 1995, social security beneficiaries aged 62 to 64 lose $1 in benefits for each $2 of earnings from work in excess of $8,160. Social security beneficiaries aged 65 to 69 lose $1 in benefits for each $3 of earnings from work in excess of $11,280. These earnings limits are indexed for inflation.

House bill

No provision.

Senate amendment

The Senate amendment expresses the sense of the Senate that Congress intends to pass legislation before the end of 1995 to raise the social security earnings limit for social security beneficiaries aged 65 to 69 in a manner that will insure the financial integrity of the social security trust funds and that will be consistent with the goal of achieving a balanced Federal budget in seven years.

Conference agreement

The conference agreement does not include the Senate amendment.

34. INCREASE DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL HOURS OF SERVICE LIMITATIONS (SEC. 12880(A) OF THE SENATE AMENDMENT)

Present law

In general, 50 percent of meal and entertainment expenses incurred in connection with a trade or business that are ordinary and necessary (and not lavish or extravagant) are deductible (sec. 274). Food or beverage expenses are fully deductible provided that they are (1) required by Federal law to be provided to crew members of a commercial vessel, (2) provided to crew members of similar commercial vessels not operated on the oceans, or (3) provided on certain oil or gas platforms or drilling rigs.

House bill

No provision.

Senate amendment

The Senate amendment provides that 80 percent of meal expenses are deductible with respect to food or beverages consumed by an individual during, or incident to, any period of duty subject to the hours of service limitations of the Department of Transportation. There are four general groupings of individuals subject to these limitations. The first is certain air transportation employees, such as pilots, crew, dispatchers, mechanics, and control tower operators, pursuant to Federal

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[83] The Internal Revenue Service has concluded in private letter rulings, which are not to be used or cited as precedent, that subpart F inclusions are treated as dividends received by the United States shareholder (a tax-exempt entity) for purposes of computing the shareholder's UBTI (see LTRs 9407007 (November 12, 1993), 9027051 (April 13, 1990), 9024086 (March 22, 1990), 9024026 (March 15, 1990), 8922047 (March 6, 1989), 8836037 (June 14, 1988), 8819034 (February 10, 1988)). However, the IRS issued one private ruling in which it concluded that subpart F inclusions are treated as if the underlying income were realized directly by the United States shareholder (a tax-exempt entity) for purposes of computing the shareholder's UBTI (see LTR 9043039 (July 30, 1990)). This ruling gave no explanation for the IRS's departure from the position in its prior rulings, and the IRS reiterated in a subsequent ruling the position that subpart F inclusions are characterized as dividends for purposes of computing UBTI. Moreover, the application of the look-through rule in the ruling in question did not affect the ultimate result in the ruling because the income to which the subpart F inclusion was attributable was of a type that was excludible from UBTI. The conferees believe that LTR 9043039 (July 30, 1990) is incorrect in its application of a look-through rule in characterizing income inclusions under subpart F for unrelated business income tax purposes.

Aviation Administration regulations. The second is interstate truck and bus drivers, pursuant to Department of Transportation regulations. The third is certain railroad employees, such as engineers, conductors, train crews, dispatchers, and control operations personnel, pursuant to Federal Railroad Administration regulations. The fourth is certain merchant mariners, pursuant to Coast Guard regulations.

Effective date.—The provision is effective for taxable years beginning after December 31, 1995.

Conference agreement

The conference agreement does not include the Senate amendment.

35. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE OF CERTAIN NONFINANCIAL INSTITUTIONS (SEC. 12880(B) OF THE SENATE AMENDMENT)

Present law

For foreign tax credit purposes, taxpayers generally are required to allocate and apportion interest expense between U.S. and foreign source income based on the proportion of the taxpayer's total assets in each location. Such allocation and apportionment is required to be made for affiliated groups (as defined in sec. 864(e)(5)) as a whole rather than on a subsidiary-by-subsidiary basis. However, certain types of financial institutions that are members of an affiliated group are treated as members of a separate affiliated group for purposes of the allocation and apportionment of interest expense (sec. 864(e)(5)(B)). Section 1215(c)(5) of the Tax Reform Act of 1986 (P.L. 99- 514, 100 Stat. 2548) includes a targeted rule which treats a certain corporation as a financial institution for this purpose.

House bill

No provision.

Senate amendment

The Senate amendment repeals the targeted rule of section 1215(c)(5) of the Tax Reform Act of 1986.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

36. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS (SEC. 12881 OF THE SENATE AMENDMENT)

Present law

Under present law, gain recognized upon the sale of farm assets is generally includible in the gross income of the taxpayer. There is no provision under present law for deferring the recognition of such gain by making contributions to an asset rollover account.

House bill

No provision.

Senate amendment

In general

Under the Senate amendment, a taxpayer who has a qualified net farm gain from the sale of a qualified farm asset may, at the taxpayer's election, recognize the gain from such sale only to the extent the gain exceeds the contributions to one or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

Contributions to an asset rollover account

No deductions are permitted with respect to contributions to an asset rollover account. Contributions to an asset rollover account are subject to an annual limit and a lifetime limit. Under the annual limit, the total contributions that can be made to an asset rollover account in a taxable year cannot exceed 100 percent of the lesser of (1) the qualified net farm gain for the taxable year, or (2) an amount equal to the number of years the taxpayer is a qualified farmer times $10,000 ($20,000 for years the taxpayer files a joint return). The Secretary may reduce the 100 percent in the preceding sentence to a lower percentage to the extent necessary if the reduction in Federal receipts as a result of this provision exceeds the increases in Federal receipts resulting from the amendments made by section 12882 (disposition of stock in domestic corporations by 10-percent foreign shareholders) and section 12883 (limitation on treaty benefits) of the Balanced Budget Reconciliation Act of 1995 (as passed by the Senate). Qualified net farm gain is, for the taxable year, the lesser of (1) the net capital gain of the taxpayer, or (2) the net capital gain only taking into account gain in connection with a disposition of a qualified farm asset. Qualified farm asset means an asset used by a qualified farmer in the active conduct of the trade or business of farming. A qualified farmer is a taxpayer who (1) during the 5-year period ending on the date of the disposition of the qualified farm asset materially participated in the trade or business of farming, and (2) owned (or the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period. Under the lifetime limit on contributions to an asset rollover account, the aggregate amount for all taxable years that can be contributed to all asset rollover accounts by an individual cannot exceed $500,000 ($250,000 in the case of a separate return filed by a married individual), reduced by the amount by which the aggregate value of assets held in all individual retirement arrangements ("IRAs") by the individual exceeds $100,000. The lifetime limit is applied as of the close of the taxable year in which a contribution to an asset rollover account is made. To the extent contributions to an asset rollover account exceed the annual or lifetime limits, such excess contributions are subject to a 6-percent excise tax.

Definition and tax treatment of an asset rollover account

In general, an asset rollover account is treated in the same manner as an IRA. Consequently, earnings are not currently includible in income. Amounts in an asset rollover account are includible in income when withdrawn. In addition, the 10-percent additional tax on early distributions applies, unless the distribution is made after the individual attains age 59-½, dies, or becomes disabled, or the distribution is paid in the form of a life annuity. Amounts in an asset rollover account may be rolled over to another asset rollover account without income inclusion.

Reporting

Any individual who makes a contribution to an asset rollover account or receives a distribution from such account is required to include such information on the individual's Federal income tax return as the Secretary may prescribe. Such information is the same information required by the Secretary to be reported by individuals making nondeductible contributions to an IRA.

Effective date

The provision applies to sales and exchanges after the date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

37. TAXATION OF CERTAIN STOCK GAINS OF FOREIGN PERSONS (SECS. 12882 AND 12883 OF THE SENATE AMENDMENT)

Present law

Disposition of stock in domestic corporations

Foreign persons generally are subject to a 30-percent U.S. tax on dividends received from a U.S. corporation. Foreign persons generally are not subject to U.S. tax on gain realized on the disposition of stock in a U.S. corporation (other than a U.S. real property holding corporation), unless the gain is effectively connected with the conduct of a trade or business in the United States. Many U.S. income tax treaties contain provisions that preclude the imposition of U.S. tax on such gains realized by treaty-country residents.

Limitation on treaty benefits

The United States has entered into bilateral income tax treaties with many foreign countries. A function served by these treaties is to reduce the U.S. tax on U.S. source income earned by a resident of a treaty country. Tax treaty abuse (or "treaty shopping") occurs when a person who is not a resident of either country seeks certain benefits under the income tax treaty between the two countries. Newer treaties negotiated by the United States usually contain a "Limitation on Benefit" article that may deny treaty benefits to foreign persons that wish to "treaty-shop" the U.S. treaty network. However, not all of the U.S. income tax treaties now in force contain such an article.

House bill

No provision.

Senate amendment

Disposition of stock in domestic corporations

Under the Senate amendment, where a foreign person owns, or has owned at any time during the previous 5 years, 10 percent or more of the stock in a U.S. corporation, gain or loss from the disposition of the stock is subject to U.S. income tax at graduated rates. Constructive ownership rules apply in determining whether a foreign person is a 10-percent shareholder. In addition, certain ownership interests are treated as stock for purposes of this provision.

Certain nonrecognition provisions that would otherwise apply to dispositions of U.S. stock are suspended, and the Secretary of the Treasury is authorized to prescribe regulations providing the extent to which nonrecognition provisions will apply for purposes of this provision. Special alternative minimum tax rules apply in the case of nonresident aliens who recognize net gains on dispositions of stock that are subject to this provision.

This tax generally is collected through withholding at the rate of 10 percent of the proceeds of the disposition giving rise to the liability. Exceptions apply in cases of dispositions of stock that is regularly traded on an established securities market. Amounts withheld in excess of the tax liability are refundable.

This provision does not override any current U.S. income tax treaty obligations. However, in certain cases where a treaty prevents the imposition of U.S. tax on stock gains of a qualified resident of a treaty country (as defined below), the provision treats as dividends gain resulting from any distribution in liquidation or redemption that would (but for the treaty) be subject to U.S. tax. Dividend treatment only applies to such gain to the extent of the earnings and profits of the distributing corporation which are attributable to the stock with respect to which the distribution is made.

Effective date.—The provision generally is effective for dispositions after December 31, 1995. The withholding requirements are applicable only to dispositions occurring 6 months or more after the date of enactment.

Limitation on treaty benefits

The Senate amendment imposes a qualified resident requirement as a prerequisite for the reduction of U.S. tax on a foreign entity under any treaty. For this purpose, a foreign entity that is a resident of a foreign country is a qualified resident of such country unless (1) 50 percent or more (by value) of the interests in such entity are owned (directly or indirectly) by individuals who are not residents of such country or citizens or residents of the United States, or (2) 50 percent or more of the entity's income is used (directly or indirectly) to meet liabilities to persons who are not residents of the foreign country or citizens or residents of the United States. Special rules apply in the case of entities that are publicly traded or that are wholly-owned by publicly-traded corporations. The Secretary of the Treasury may, in certain cases, treat a foreign entity as a qualified resident.

In addition, the Senate amendment provides that no person is entitled to benefits granted by the United States under a treaty with respect to any income that bears a significantly lower tax under the laws of the other treaty country than similar income arising from sources within such foreign country derived by residents of such foreign country.

Effective date.—The provision takes effect on January 1, 1996, and applies to any treaty whether entered into before, on, or after such date.

Conference agreement

The conference agreement does not include the Senate amendment.

38. TREATMENT OF BAD DEBT DEDUCTIONS OF THRIFT INSTITUTIONS (H.R. 2494 AND SEC. 12884 OF THE SENATE AMENDMENT)

Present Law and Background

Reserve method of accounting for bad debts of thrift institutions

Generally, a taxpayer engaged in a trade or business may deduct the amount of any debt that becomes wholly or partially worthless during the year (the "specific charge-off" method of sec. 166). Certain thrift institutions (building and loan associations, mutual savings banks, or cooperative banks) are allowed deductions for bad debts under rules more favorable than those granted to other taxpayers (and more favorable than the rules applicable to other financial institutions). Qualified thrift institutions may compute deductions for bad debts using either the specific charge-off method or the reserve method of section 593. To qualify for this reserve method, a thrift institution must meet an asset test, requiring that 60 percent of its assets consist of "qualifying assets" (generally cash, government obligations, and loans secured by residential real property). This percentage must be computed at the close of the taxable year, or at the option of the taxpayer, as the annual average of monthly, quarterly, or semiannual computations of similar percentages.

If a thrift institution uses the reserve method of accounting, it must establish and maintain a reserve for bad debts and charge actual losses against the reserve, and is allowed a deduction for annual additions to restore the reserve to its permitted balance. Under section 593, a thrift institution annually may elect to calculate its addition to its bad debt reserve under either (1) the "percentage of taxable income" method applicable only to thrift institutions, or (2) the "experience" method that also is available to small banks.

Under the "percentage of taxable income" method, a thrift institution generally is allowed a deduction for an addition to its bad debt reserve equal to 8 percent of its taxable income (determined without regard to this deduction and with additional adjustments). Under the experience method, a thrift institution generally is allowed a deduction for an addition to its bad debt reserve equal to the greater of: (1) an amount based on its actual average experience for losses in the current and five preceding taxable years, or (2) an amount necessary to restore the reserve to its balance as of the close of the base year. For taxable years beginning before 1988, the "base year" was the last taxable year before the most recent adoption of the experience method (i.e., generally, the last year the taxpayer was on the percentage of taxable income method). For taxable years beginning after 1987, the base year is the last taxable year beginning before 1988. Prior to 1988, computing bad debts under a "base year" rule allowed a thrift institution to claim a deduction for bad debts for an amount at least equal to the institution's actual losses that were incurred during the taxable year.

Bad debt methods of commercial banks

A small commercial bank (i.e., one with adjusted bases of assets of $500 million or less) may use the experience method or the specific charge-off method for purposes of computing its deduction for bad debts. A large commercial bank only may use the specific charge-off method of section 166. If a small bank becomes a large bank, it must recapture its existing bad debt reserve (i.e., include the amount of the reserve in income) through one of two elective methods. Under the 4-year recapture method, the bank generally includes 10 percent of the reserve in income in the first taxable year, 20 percent in the second year, 30 percent in the third year, and 40 percent in the fourth year. Under the cut-off method, the bank generally neither restores its bad debt reserve to income nor may it deduct losses relating to loans held by the bank as of the date of the required change in the method of accounting. Rather, the amount of such losses are charged against and reduce the existing bad debt reserve; any losses in excess of the reserve are deductible. Any reserve balance in excess of the balance of related loans is includible in income.

Recapture of bad debt reserves by thrift institutions

If a thrift institution becomes a commercial bank, or if the institution fails to satisfy the 60-percent qualified asset test, it is required to change its method of accounting for bad debts and, under proposed Treasury regulations,[84] is required to recapture its bad debt reserve. The percentage-of-taxable-income portion of the reserve generally is included in income ratably over a 6-taxable year period. The experience method portion of the reserve is not restored to income if the former thrift institution qualifies as a small bank. If the former thrift institution is treated as a large bank, the experience method portion of the reserve is restored to income ratably over a 6-taxable year period, or under the 4-year recapture method or the cut-off method described above.

In addition, a thrift institution may be subject to a form of reserve recapture even if the institution continues to qualify for the percentage of taxable income method. Specifically, if a thrift institution distributes to its shareholders an amount in excess of its post-1951 earnings and profits, such excess is deemed to be distributed from the institution's bad debt reserve and is restored to income. In the case of any distribution in redemption of stock or in partial or complete liquidation of an institution, the distribution is treated as first coming out of the bad debt reserves of the institution (sec. 593(e)).

Proposed banking legislation (H.R. 2491)

Treatment of thrift institutions under H.R. 2491

Title II (Chapter 2, subtitle B) of H.R. 2491, which passed the House of Representatives on October 26, 1995, would require savings and loan institutions to forego their Federal thrift charters and become either State-chartered depository institutions or Federally-chartered banks. Under proposed Treasury regulations, if a thrift institution becomes a bank, the institution would be required to recapture all or a portion of its bad debt reserve. As described in detail below, the conferees understand that such recapture would require the institution immediately to record, for financial accounting purposes, a current or deferred tax liability for the amount of bad debt recapture for which liabilities previously had not been recorded (generally, with respect to the pre-1988 reserves), regardless of when such recapture is taken into account for Federal income tax purposes. The conferees further understand that the recording of this liability generally would decrease the regulatory capital of the new bank.

Financial accounting treatment of tax reserves of bad debts of thrift institutions

In general, for financial accounting purposes, a corporation must record a deferred tax liability with respect to items that are deductible for tax purposes in a period earlier than they are expensed for book purposes. The deferred tax liability signifies that, although a corporation may be reducing its current tax expense because of the accelerated tax deduction, the corporation will become liable for tax in a future period when the timing item "reverses" (i.e., when the item is expensed for book purposes but for which the tax deduction had already been allowed). Under the applicable accounting standard (Accounting Principles Board Opinion 23), deferred tax liabilities generally were not required for pre-1988 tax deductions attributable to the bad debt reserve method of thrift institutions because the potential reversal of the bad debt reserve was indefinite (i.e., generally, a reversal only would occur by operation of sec. 593(e), a condition within the control of a thrift institution). However, the establishment of 1987 as a base year increased the likelihood of bad debt reserve reversals with respect to post-1987 additions to the reserve and the conferees understand that thrift institutions generally have recorded deferred tax liabilities for these additions under the current generally accepted accounting principles.[85]

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[84] Prop. Treas. reg. sec. 1.593-13.

[85] For taxable years beginning before 1988, the base year balance of a thrift institution was the reserve balance whenever the institution changed from one bad debt method to another (e.g., from the percentage of taxable income method to the experience method). How the establishment of 1987 as a permanent base year changed the nature of the bad debt reserves of thrift institutions between pre-1988 years and post-1987 years (which, in turn, contributed to the change in the financial accounting treatment of such reserves) can be illustrated by the following example:

House bill

No provision in H.R. 2491. However, on November 7, 1995, the Committee on Ways and Means reported, with an amendment, H.R. 2494 (the "Thrift Charter Conversion Act of 1995").[86] The provisions of H.R. 2494 are described below.

Repeal of section 593

The House bill repeals the section 593 reserve method of accounting for bad debts by thrift institutions, effective for taxable years beginning after 1995. Under the House bill, thrift institutions that qualify as small banks are allowed to utilize the experience method applicable to such institutions, while thrift institutions that are treated as large banks are required to use only the specific charge-off method.

Treatment of recapture of bad debt reserves

In general

A thrift institution required to change its method of computing reserves for bad debts will treat such change as a change in a method of accounting, initiated by the taxpayer, and having been made with the consent of the Secretary of the Treasury. Any section 481(a) adjustment required to be taken into account with respect to such change generally will be determined solely with respect to the "applicable excess reserves" of the taxpayer. The amount of applicable excess reserves shall be taken into account ratably over a 6-taxable year period, beginning with the first taxable year beginning after 1995, subject to the residential loan requirement described below. In the case of a thrift institution that becomes a "large bank" (as determined under sec. 585(c)(2)), the amount of the institution's applicable excess reserves will be the excess of (1) the balance of its reserves described in section 593(c)(1) (i.e., its supplemental reserve for losses on loans, its reserve for losses on qualifying real property loans, and its reserve for losses on nonqualifying loans) as of the close of its last taxable year beginning before January 1, 1996, over (2) the balance of such reserves as of the close of its last taxable year beginning before January 1, 1988 (i.e., the "pre-1988 reserves"). Similar rules are provided for "small banks" and for small banks that subsequently become large banks.

The balance of the pre-1988 reserves will continue to be subject to the provisions of present-law section 593(e) (requiring recapture in the case of certain excess distributions to, and redemptions of, shareholders).

Residential loan requirement

Under a special rule, if the taxpayer meets the "residential loan requirement" for any taxable year beginning after December 31, 1995, the recapture of the applicable excess reserves otherwise to be taken into account as a section 481(a) adjustment for such year will be suspended. A taxpayer generally meets the residential loan requirement if, for any taxable year, the principal amount of residential loans made by the taxpayer during the year is not less than its base amount. A taxpayer will be deemed to meet the residential loan requirement for any taxable year beginning after December 31, 1997, if the taxpayer met the requirement for the two preceding years (determined without the application of this special, two-out-of-three rule). For the first taxable year beginning after December 31, 1995, the "base amount" for a taxpayer generally means the average of the principal amounts of the residential loans made by the taxpayer during the six most recent taxable years beginning before January 1, 1996. For taxable years beginning after December 31, 1996, the base amount is indexed for inflation.

Treatment of special assessments

The House bill also provides for the deductibility of certain special assessments to be paid by thrift institutions to the Savings Association Insurance Fund ("SAIF") pursuant to a provision of Title II of H.R. 2491.

Effective date

The provision of H.R. 2494 relating to the deduction for bad debts by thrift institutions generally is effective for taxable years beginning after December 31, 1995. The provision of H.R. 2494 relating to the treatment of the special assessments to be paid to the SAIF is effective upon enactment.

Senate amendment

The Senate amendment contains a Sense of the Senate that, in order to further national banking policy and assist in the conversion of thrift charters to bank charters, Code section 593 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift institution.

Conference agreement

The conference agreement includes the following.

Repeal of section 593

The conference agreement repeals the section 593 reserve method of accounting for bad debts by thrift institutions, effective for taxable years beginning after 1995. Thrift institutions that qualify as small banks are allowed to utilize the experience method applicable to such institutions, while thrift institutions that are treated as large banks are required to use only the specific charge-off method. Thus, the percentage of taxable income method of accounting for bad debts is no longer available for any financial institution. The conference agreement also repeals the following present-law provisions that only apply to thrift institutions to which section 593 applies: (1) the denial of a portion of certain tax credits to a thrift institution (sec. 50(d)(1)); (2) the special rules with respect to the foreclosure of property securing loans of a thrift institution (sec. 595); (3) the reduction in the dividends received reduction of a thrift institution (sec. 596); and (4) the ability of a thrift institution to use a net operating loss to offset its income from a residual interest in a REMIC.

Treatment of recapture of bad debt reserves

In general

A thrift institution required to change its method of computing reserves for bad debts will treat such change as a change in a method of accounting, initiated by the taxpayer, and having been made with the consent of the Secretary of the Treasury.[87] Any section 481(a) adjustment required to be taken into account with respect to such change generally will be determined solely with respect to the "applicable excess reserves" of the taxpayer. The amount of applicable excess reserves shall be taken into account ratably over a 6-taxable year period, beginning with the first taxable year beginning after 1995, subject to the residential loan requirement described below. In the case of a thrift institution that becomes a "large bank" (as determined under sec. 585(c)(2)), the amount of the institution's applicable excess reserves generally is the excess of (1) the balance of its reserves described in section 593(c)(1) (i.e., its supplemental reserve for losses on loans, its reserve for losses on qualifying real property loans, and its reserve for losses on nonqualifying loans) as of the close of its last taxable year beginning before January 1, 1996, over (2) the balance of such reserves as of the close of its last taxable year beginning before January 1, 1988 (i.e., the "pre-1988 reserves").[88] Thus, a thrift institution that is treated as a large bank generally is required to recapture its post-1987 additions to its bad debt reserves, whether such additions are made pursuant to the percentage of taxable income method or the experience method. The timing of this recapture may be delayed for a two-year period to the extent the residential loan requirement described below applies.

In the case of a thrift institution that becomes a "small bank" (as determined under sec. 585(c)(2)), the amount of the institution's applicable excess reserves will be the excess of (1) the balance of its reserves described in section 593(c)(1) as of the close of its last taxable year beginning before January 1, 1996, over (2) the greater of the balance of: (a) its pre-1988 reserves or (b) what the institution's reserves would have been at the close of its last taxable year beginning before January 1, 1996, had the institution always used the experience method described in section 585(b)(2)(A) (i.e., the six-year average method). For purposes of the future application of section 585, the beginning balance of the

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Assume that a thrift institution ("T") always had used the percentage of taxable income ("PHI") method to deduct bad debts through 1986 when its reserve balance was $10,000. Further assume that in 1987, T: (1) has insufficient taxable income to use the PHI method, (2) has actual bad debt losses of $1,000, and (3) under the six-year average formula of the experience method, would be allowed a deduction of $900. Under these facts, T would be allowed a bad debt deduction of $1,000 (rather than $900) in 1987 because $1,000 is the amount necessary to restore the reserve to its base year (PHI) level. Specifically, in 1987, T would charge the year-end 1986 reserve of $10,000 for the $1,000 actual loss and then add (and deduct) $1,000 to the reserve so that the balance of the reserve at year end 1987 is once again $10,000. Thus, T's former PHI deductions, which gave rise to the $10,000 reserve balance, generally would not be restored to income (unless subject to sec. 593(e)).

Further assume that in 1988, T has sufficient taxable income to be allowed a PHI deduction of $1,500, increasing the balance of the reserve to $11,500 at year-end 1988. Further assume that in 1989, T: (1) again has insufficient taxable income to use the PHI method, (2) has actual bad debts of $2,500, and (3) under the six-year average formula of the experience method would be allowed a deduction of $900. Under these facts, T would be allowed a deduction of $1,000 (i.e., the amount necessary to in the restore the reserve to its base year (year-end 1987) level). Specifically, T would charge the year-end 1988 reserve balance of $11,500 for the $2,500 actual loss and then add (and deduct) $1,000 to the reserve to restore the balance to the $10,000 base year amount. Thus, T's post-1987 PHI deduction of $1,500 is restored to income (i.e., T actually had losses of $2,500 in 1989, but only was allowed to deduct $1,000).

[86] H. Rept. 104-324.

[87] A thrift institution that uses a reserve method described in sec. 593 will be deemed to have changed its method of computing reserves for bad debts even though such institution will be allowed to use the reserve method of section 585. Similarly, a large thrift institution will be deemed to have changed its method of computing reserves for bad debts even though such institution used the experience-method portion of sec. 593 in lieu of the percentage-of-taxable-income method of sec. 593.

[88] The balance of a taxpayer's pre-1988 reserves is reduced if the taxpayer's loan portfolio had decreased since 1988. The balance of a taxpayer's pre-1988 reserves is reduced by multiplying such balance by the ratio of the balance of the taxpayer's loans outstanding at the close of the last taxable beginning before 1996, to the balance of the taxpayer's loans outstanding at the close of the last taxable beginning before 1988. This reduction is required for both large and small banks.

small bank's reserve for its first taxable year beginning after December 31, 1995, will be the greater of the two amounts described in (2) in the preceding sentence, and the balance of the reserve at the close of the base year (for purposes of sec. 585(b)(2)(B)) will be the amount of its pre-1988 reserves. The residential loan requirement described below also applies to small banks. If such small bank later becomes a large bank, any section 481(a) adjustment amount required to be taken into account under section 585(c)(3) will not include any portion of the bank's pre-1988 reserve. Similarly, if the bank elects the cut-off method to implement its conversion to large bank status, the amount of the reserve against which the bank charges its actual losses will not include any portion of the bank's pre-1988 reserve and the amount by which the pre-1988 reserve exceeds actual losses will not be included in gross income.

The balance of the pre-1988 reserves is subject to the provisions of present-law section 593(e) (requiring recapture in the case of certain excess distributions to, and redemptions of, shareholders). Thus, section 593(e) will continue to apply to an institution regardless of whether the institution becomes a bank or remains a thrift institution. In addition, the balance of the pre-1988 reserve will be treated as a tax attribute to which section 381 applies. Treasury regulations are expected to provide rules for the continued application of section 593(e) in the case of mergers, acquisitions, spin-offs, and other reorganizations of thrift and other institutions. The conferees believe that any such regulations should provide that if the stock of an institution with a pre-1988 reserve is acquired by another depository institution, the pre-1988 reserve will not be restored to income by reason of the acquisition. Similarly, if an institution with a pre-1988 reserve is merged or liquidated tax-free into a bank, the pre-1988 reserve should not be restored to income by reason of the merger or liquidation.[89] Rather, the bank will inherit the pre-1988 reserve and the post-1951 earnings and profits of the former thrift institution and section 593(e) will apply to the bank as if it were a thrift institution. That is, the pre-1988 reserve will be restored into income in the case of any distribution in redemption of the stock of the bank or in partial or complete liquidation of the bank following the merger or liquidation. In the case of any other distribution, the pre-1988 reserve will not be restored to income unless the distribution is in excess of the sum of the post-1951 earnings and profits inherited from the thrift institution and the post-1913 earnings and profits of the acquiring bank.[90] Treasury regulations should address the case where the shareholders of an institution with a pre-1988 reserve are "cashed out" in a taxable merger of the institution and a bank. Such regulations may provide that the pre-1988 reserve may be restored to income if such redemption represents a concealed distribution from the former thrift institution. For example, cash received by former thrift shareholders pursuant to a taxable reverse merger may represent a concealed distribution if, immediately preceding the merger, the acquiring bank had no available resources to distribute and its existing debt structure, indenture restrictions, financial condition, or regulatory capital requirements precluded it from borrowing money for purposes of making the cash payment to the former thrift shareholders. Treasury regulations also should address the treatment of boot received in a tax-free reorganization. No inference is intended as to the application of section 593(e) to these and similar transactions under present law.

Further, if a taxpayer no longer qualifies as a bank (as defined by sec. 581), the balance of the taxpayer's pre-1988 reserve is restored to income ratably over a 6-year period, beginning in the taxable year the taxpayer no longer qualifies as a bank.

Residential loan requirement

Under a special rule, if the taxpayer meets the "residential loan requirement" for a taxable year, the recapture of the applicable excess reserves otherwise required to be taken into account as a section 481(a) adjustment for such year will be suspended. A taxpayer meets the residential loan requirement if, for the taxable year, the principal amount of residential loans made by the taxpayer during the year is not less than its base amount. The residential loan requirement is applicable only for taxable years that begin after December 31, 1995, and before January 1, 1998, and must be applied separately with respect to each such year. Thus, all taxpayers are required to recapture their applicable excess reserves within six, seven, or eight years after the effective date of the provision.

The "base amount" of a taxpayer means the average of the principal amounts of the residential loans made by the taxpayer during the six most recent taxable years beginning before January 1, 1996. At the election of the taxpayer, the base amount may be computed by disregarding the taxable years within that 6-year period in which the principal amounts of loans made during such years were highest and lowest. This election must be made for the first taxable year beginning after December 31, 1995, and applies to the succeeding taxable year unless revoked with the consent of the Secretary of the Treasury or his delegate.

For purposes of the residential loan requirement, a loan will be deemed to be "made" by a financial institution to the extent the institution is, in fact, the principal source of the loan financing. Thus, any loan only can be "made" once. The conferees expect that loans "made" by a financial institution may include, but are not limited to, loans (1) originated directly by the institution through its place of business or its employees, (2) closed in the name of the institution, (3) originated by a broker that acts as an agent for the institution, and (4) originated by another person (other than a financial institution) and that are acquired by the institution pursuant to a preexisting, enforceable agreement to acquire such loans. In addition, Treasury regulations also may provide that loans "made" by a financial institution may include loans originated by another person (other than a financial institution) acquired by the institution soon after origination if such acquisition is pursuant to a customary practice of acquiring such loans from such person. A loan acquired by a financial institution from another financial institution generally will be considered to be made by the transferor rather than the transferee of the loan; however, such loan may be completely disregarded if a principal purpose of the transfer was to allow the transferor to meet the residential loan requirement. A loan may be considered to be made by a financial institution even if such institution has an arrangement to transfer such loan to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

For purposes of the residential loan requirement, a "residential loan" is a loan described in section 7701(a)(19)(C)(v) (generally, loans secured by residential real and church property and certain mobile homes),[91] but only to the extent the loan is made to the owner of the property to acquire, construct, or improve the property. Thus, mortgage refinancings and home equity loans are not considered to be residential loans, except to the extent the proceeds of the loan are used to acquire, construct, or improve qualified residential real property. The conferees understand that pursuant to the Home Mortgage Disclosure Act, financial institutions are required to disclose the purpose for which loans are made. The conferees further understand that for purposes of this disclosure, institutions are required to classify loans as home purchase loans, home improvement loans, refinancings, and multifamily dwelling loans (whether for purchase, improvement or refinancing of such property). The conferees expect that taxpayers (and the Secretary of the Treasury in promulgating guidance) may take such reporting into account, and make such adjustments as are appropriate,[92] in determining: (1) whether or not a loan qualifies as a "residential loan" and (2) whether the institution "made" the loan. A taxpayer must use consistent standards for determining whether loans qualify as residential loans made by the institution both for purposes of determining its base amount and for purposes of determining whether it met the residential loan requirement for a taxable year.

The residential loan requirement is determined on a controlled group basis. Thus, for example, if a controlled group consists of two thrift institutions with applicable excess reserves that are wholly-owned by a bank, the residential loan requirement will be met (or not met) with respect to both thrift institutions by comparing the principal amount of the residential loans made by all three members of the group during the taxable year to the group's base amount. The group's base amount will be the average principal amount of residential loans made by all three members of the group during the base period. The election to disregard the high and low taxable years during the 6-year base period also would be applied on a controlled group basis (i.e., generally by treating the members of the group as one taxpayer so that all members of the group must join in the election, and the same corresponding years of each member would be so disregarded).

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[89] The issue of whether section 593(e) applies in cases where a thrift institution is merged into a bank generally does not arise under present law because such merger results in a charter change and, under proposed Treasury regulations, requires full bad debt reserve recapture.

[90] If the acquiring bank is a former thrift itself and the pre-1988 reserves of neither institution are restored to income pursuant to the merger, the conferees expect that the pre-1988 reserves and the post-1951 earnings and profits of the two institutions will be combined for purposes of the continued application of sec. 593(e) with respect to the combined institution.

[91] For this purpose, as under present law, if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan will be deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). In additions, loans made to finance the acquisition or development of land will be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary of the Treasury, there is a reasonable assurance that the property will become residential real property within a period of three years from the date of acquisition of the land.

[92] For example, adjustments will be required with respect to the reporting of multifamily dwellings in order to distinguish home purchase, home improvement, and refinancing loans.

The balance of a taxpayer's applicable excess reserve is treated as a tax attribute to which section 381 applies. Thus, if an institution with an applicable excess reserve is acquired in a tax-free reorganization, the balance of such reserve will not be immediately restored to income but will continue to be subject to the residential loan requirement in the hands of the acquirer. Treasury regulations may provide rules for the application of the residential loan requirement in the case of mergers, acquisitions, and other reorganizations of thrift and other institutions. The conferees expect that if a financial institution joins or merges into (or leaves) a group of financial institutions, the base amount of the acquiring (or remaining) group will be appropriately adjusted to reflect the base amount of the acquired (or departing) institution for purposes of determining whether the group meets the residential loan requirement for the year of the acquisition (or departure) and subsequent years. Similarly, if a controlled group of institutions had made an election to disregard its high and low years in computing its base amount, it is anticipated that such election shall be binding on any institution that subsequently joins the group and the election shall be applied to the new member by disregarding the high and low years of the new member even if such years do not correspond to the years applicable to the other members of the group.

Treatment of conversions to credit unions

The conference agreement provides that if a thrift institution to which the repeal of section 593 applies becomes a credit union (as described in sec. 501(c)(14)(A)), the credit union will be treated as a institution that is not a bank and any section 481(a) adjustment required to be included in gross income will be treated as derived from an unrelated trade or business. Thus, if a thrift institution becomes a credit union in its first taxable year beginning after December 31, 1995, the entire balance of the institution's bad debt reserve will be included in income, and subject to tax, over a 6-year period beginning with such taxable year. No inference is intended as to the Federal income tax treatment of any other aspect of the conversion of a financial institution to a credit union.

Treatment of special assessments

The conferees did not adopt the provision of H.R. 2494 that provided for the deductibility of certain special assessments to be paid to the SAIF. The conferees understand that it is the view of the Department of the Treasury that such payments would be deductible under present law.[93] The conferees understand that the Treasury analysis is based, in part, upon the fact that the proposed special assessments are designed to provide SAIF coverage for 1996. As such, the conferees believe that a special statutory provision providing deductibility is unnecessary and the special assessments should give rise to deductions to which section 172(f) does not apply.[94]

Effective date

The repeal of section 593 is effective for taxable years beginning after December 31, 1995. The repeal of section 595 is effective for property acquired in taxable years beginning after December 31, 1995.

39. LIMITATION ON STATE INCOME TAXATION OF CERTAIN PENSION INCOME (H.R. 394 AND SEC. 12944 OF THE SENATE AMENDMENT)

Present Law

Certain State laws provide that some or all retirement income is included in income for State income tax purposes if the income was earned within the State, even though the individual resides outside the State when the retirement income is actually received. Some States achieve this result through general rules that tax income earned within the State, whereas others have explicit provisions regarding retirement income.

House bill

No provision in H.R. 2491. However, on October 31, 1995, the House Committee on the Judiciary ordered favorably H.R. 394, which would amend title 4 of the United States Code (entitled "Flag and Seal, Seat of Government, and the States"), to prohibit any State, including any political subdivision of a State, the District of Columbia, and the possessions of the United States, from imposing income tax on any retirement income of any individual who is not a resident or domiciliary of the State. For this purpose, retirement income would include any income from a qualified retirement or annuity plan, a simplified employee pension, a tax-sheltered annuity plan, an eligible deferred compensation plan of a tax-exempt or State and local government, an individual retirement arrangement, a governmental plan, a trust created before June 25, 1959, and that is part of a plan funded only by employee contributions, and certain retired or retainer pay of a member or former member of the uniformed services. The term retirement income also would include income from a nonqualified deferred compensation plan, provided such income is part of a series of substantially equal periodic payments made over (1) the life or life expectancy of the recipient (or the joint lives or life expectancies of the recipient and the recipient's beneficiary), or (2) a period not less than 10 years. The preceding sentence would not apply to a plan, program, or arrangement which provides benefits in excess of certain limitations contained in the Code on benefits provided under qualified retirement plans. The provision would not apply to any retirement income received by an individual who renounces his or her United States citizenship for reasons of avoiding Federal and State income taxation (as determined by the Attorney General). The Attorney General would publish quarterly a list of such individuals in the Federal Register. The provision would have no effect on the application of the provision in the Employee Retirement Income Security Act of 1974 ("ERISA") that generally preempts State laws.

Effective date.—H.R. 394 would be effective with respect to amounts received after December 31, 1994.

Senate amendment

The Senate amendment amends title 4 of the United States Code (entitled "Flag and Seal, Seat of Government, and the States"), to prohibit any State, including any political subdivision of a State, the District of Columbia, and the possessions of the United States, from imposing income tax on any retirement income of any individual who is not a resident or domiciliary of the State. For this purpose, retirement income includes any income from a qualified retirement or annuity plan, a simplified employee pension, a tax-sheltered annuity plan, an eligible deferred compensation plan of a tax-exempt or State and local government, an individual retirement arrangement, a governmental plan, a trust created before June 25, 1959, and that is part of a plan funded only by employee contributions, and certain retired or retainer pay of a member or former member of the uniformed services. The term retirement income also includes income from a nonqualified deferred compensation plan, provided such income is part of a series of substantially equal periodic payments made over (1) the life or life expectancy of the recipient (or the joint lives or life expectancies of the recipient and the recipient's beneficiary), or (2) a period not less than 10 years. The provision has no effect on the application of the provision in the Employee Retirement Income Security Act of 1974 ("ERISA") that generally preempts State laws.

Effective date.—The provision applies to amounts received after December 31, 1994.

Conference agreement

The conference agreement does not include the Senate amendment.

40. COAL INDUSTRY RETIREE HEALTH SECURITY (SEC. 13901 OF THE HOUSE BILL)

Present law

The financing of retiree health benefits previously provided by the United Mine Workers of America ("UMWA") 1950 and 1974 Benefit Funds was substantially revised by the Energy Policy Act of 1992 (H.R. 776, P.L. 102-486), enacted October 24, 1992. The relevant provisions, contained in the Coal Industry Retiree Health Benefit Act of 1992 (the "Coal Act"), created two new UMWA retiree health benefit funds and completely changed the financing mechanism. The two funds, known as the UMWA Combined Benefit Fund (the "Combined Fund") and the UMWA 1992 Benefit Plan, service beneficiaries who retired on or before September 30, 1994. The Combined Fund provides benefits to coal miners (and their beneficiaries) who retired on or before July 20, 1992, and the 1992 UMWA Benefit Plan provides benefits to coal miners (and their beneficiaries) who retired between July 21, 1992, and September 30, 1994, and (1) would have been eligible for benefits under the Combined Fund had they retired earlier, or (2) whose last employer does not provide the benefits promised under a 1978 or later collective bargaining agreement. No provision was made for employees who retired or will retire after September 30, 1994. Future retirees will remain dependent on the provisions of future collective bargaining agreements.

Under the Coal Act, which supersedes the retiree health benefits financing provisions of the 1988 National Bituminous Coal Wage Agreement ("NBCWA"), a company is charged an insurance premium based on the number of beneficiaries assigned to the company in its role as the retiree's "last signatory employer." Under what are referred to as the "reachback" provisions of the Coal Act, companies responsible for paying premiums include any company that had signed any NBCWA since 1946 or any related company as defined under the Act. To cover the costs associated with beneficiaries who cannot be assigned, up to $70 million per year is transferred into the Combined Fund. The first three transfers came from the surplus in the UMWA 1950 Pension Plan. Subsequent transfers will be made from the interest earnings of the Federal Abandoned Mine Reclamation Fund. If costs for unassigned beneficiaries exceed the annual transfer, they can be allocated to the companies in proportion to their share of assigned beneficiaries. If, for any plan year, there is a shortfall in the Combined Fund, the insurance premiums payable by companies for the following plan year are proportionally increased.

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[93] See, e.g., the testimony of Cynthia G. Beerbower, Deputy Assistant Secretary (Tax Policy) Department of the Treasury, on H.R. 2494 before the House Committee on Ways and Means, October 26, 1995.

[94] Under present law, net operating losses can be carried back three years. Section 172(f) allows "specified liability losses" to be carried back ten years. Specified liability losses include amounts allowable as deductions with respect to product liabilities or with respect to certain acts (or failures to act) that occurred more than three years ago.

The per beneficiary insurance premium is calculated each year by the Commissioner of the Social Security Administration, and is based on a base insurance premium increased each year for medical inflation. The base insurance premium is equal to the payments from the 1950 UMWA and 1974 UMWA Benefit Plans for health benefits (including administrative costs) for the plan year beginning July 1, 1991, divided by the number of individuals covered by such plans. The base insurance premium was determined initially by the Secretary of Health and Human Services to be equal to $2,116.67 per beneficiary. There has been some dispute regarding the initial determination of the base insurance premium, and on June 2, 1995, a United States District Court in Alabama granted summary judgment on behalf of eight companies holding that the Secretary of Health and Human Services misapplied the provisions of the Coal Act in initially determining the base insurance premium.[95] This decision is currently on appeal.

Under present law, the Coal Act does not require the trustees of the Combined Fund to disclose any information pertaining to the financial solvency and operational status of the Combined Fund to companies required to pay insurance premiums to the Combined Fund.

House bill

The House bill exempts from the Coal Act's provisions companies that did not sign the 1988 NBCWA (or an agreement (other than the National Coal Mine Construction Agreement and the Coal Haulers' Agreement) containing pension and health care contribution and benefit provisions identical to the 1988 NBCWA) and companies who made withdrawal liability payments under the terms of the 1988 NBCWA. Such companies are no longer obligated to pay insurance premiums to the Combined Fund or the 1992 UMWA Benefit Plan. Beneficiaries allocated to these companies are reallocated to the unassigned pool. To the extent the insurance premiums associated with these unassigned beneficiaries are not paid from amounts transferred from the Federal Abandoned Mine Reclamation Fund, the insurance premiums will be allocated to the companies that signed the 1988 NBCWA (or an agreement (other than the National Coal Mine Construction Agreement and the Coal Haulers' Agreement) containing pension and health care contribution and benefit provisions identical to the 1988 NBCWA) in proportion to their share of assigned beneficiaries. As under present law, if, for any plan year, there is a shortfall in the Combined Fund, the insurance premiums payable by companies for the following plan year are proportionally increased.

The House bill also provides that the trustees of the Combined Fund must provide to any company required to pay insurance premiums to the Combined Fund, within 30 days of a written request, information regarding the financial and operational status of the Combined Fund.

Effective date.—The provision is effective with respect to plan years beginning after September 30, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

41. MODIFICATION OF LUXURY EXCISE TAX ON AUTOMOBILES

Present law

Present law imposes a 10-percent excise tax on that amount of an automobile's sales price in excess of $32,000. The $32,000 threshold is indexed for inflation. The tax is scheduled to expire after December 31, 1999.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement extends the luxury excise tax on automobiles through December 31, 2002, and reduces the rate of tax by one percentage point per year beginning in 1996. Thus, the rate of tax for 1996 is nine percent; for 1997, eight percent; for 1998, seven percent; for 1999, six percent; for 2000, five percent; for 2001, four percent; and for 2002, three percent. The conference agreement provides that the luxury tax on automobiles expires after December 31, 2002.

Effective date.—The provision is effective on January 1, 1996.

X. TECHNICAL CORRECTIONS PROVISIONS

A. TECHNICAL CORRECTIONS TO THE REVENUE RECONCILIATION ACT OF 1990 (SEC. 6602 OF H.R. 1215)

House bill

1. Application of the 2.5-cents-per-gallon tax on fuel used in rail transportation to States and local governments (sec. 6602(b)(2))

The House bill clarifies that the 2.5-cents-per-gallon tax on fuel used in rail transportation does not apply to such uses by States and local governments.

2. Small winery production credit and bonding requirements (secs. 6602(b)(5), (6), and (7))

The House bill clarifies that wine produced by eligible small wineries may be transferred without payment of tax to bonded warehouses that become liable for payment of the wine excise tax without losing credit eligibility.

3. Deposits of Railroad Retirement Tax Act taxes (sec. 6602(c)(3))

The House bill conforms the Internal Revenue Code to the provision in the Railroad Retirement Solvency Act of 1993 that applies the deposit rules for income taxes withheld from employees' wages and FICA taxes to Railroad Retirement Tax Act taxes.

4. Treatment of salvage and subrogation of property and casualty insurance companies (sec. 6602(c)(4))

The House bill makes adjustments to the calculation of a property and casualty insurance company's earnings and profits, so as to equalize the treatment of companies that did, and those that did not, take into account estimated salvage and subrogation recoverable in determining losses incurred prior to 1990.

5. Information with respect to certain foreign-owned or foreign corporations: Suspension of statute of limitations during certain judicial proceedings (sec. 6602(c)(5))

The House bill modifies the provisions in sections 6038A and 6038C that suspend the statute of limitations to clarify that the suspension applies to any taxable year the determination of the amount of tax imposed for which is affected by the transaction or item to which the summons relates.

6. Rate of interest for large corporate underpayments (secs. 6602(c)(6) and (7))

The House bill provides that an IRS notice that is later withdrawn because it was issued in error does not trigger the higher rate of interest applicable to certain corporate underpayments.

7. Research credit provision: Effective date for repeal of special proration rule (sec. 6602(d)(1))

The bill repeals for all taxable years ending after December 31, 1989, the special proration rule for certain qualified research provided for by the 1989 Act.

8. Energy tax provision: Alternative minimum tax adjustment based on energy preferences (secs. 6602(e)(1) and (4))

The House bill clarifies that the amount of alternative tax net operating loss that is utilized in any taxable year is to be appropriately adjusted to take into account the amount of special energy deduction claimed for that year.

The House bill also provides that the ACE adjustment for taxable years beginning in 1991 and 1992 is to be computed without regard to the special energy deduction.

9. Estate tax freezes (sec. 6602(f))

Chapter 14 of the Code contains rules that supersede the willing buyer, willing seller standard for valuation of preferred interest in corporations and partnerships, property held in trust, and term interests in property.

The House bill provides that an applicable retained interest conferring a distribution right to qualified payments with respect to which there is no liquidation, put, call, or conversion right is valued without regard to section 2701. The House bill also provides that the retention of such right gives rise to potential inclusion in the transfer tax base.

The House bill modifies the definition of junior equity interest by granting regulatory authority to treat a partnership interest with rights that are junior with respect to either income or capital as a junior equity interest. The House bill also modifies the definition of distribution right by replacing the junior equity interest exception with an exception for a right under an interest that is junior to the rights of the transferred interest.

The House bill modifies the rules for electing into or out of qualified payment treatment. A dividend payable on a periodic basis and at a fixed rate under a cumulative preferred stock held by the transferor is treated as a qualified payment unless the transferor elects otherwise. If held by an applicable family member, such stock is not treated as a qualified payment unless the holder so elects. In addition, a transferor or applicable family member holding any other distribution right may treat such right as a qualified payment to be paid in the amounts and at the times specified in the election.

The House bill grants the Treasury Department regulatory authority to make subsequent transfer tax adjustments to reflect the inclusion of unpaid amounts with respect to a qualified payment. The House bill treats a transfer to a spouse falling under the annual exclusion the same as a transfer qualifying for the marital deduction. The bill also clarifies that the inclusion continues to apply if an applicable family member transfers a right to qualified payments to the transferor. Under the House bill, the election to treat a distribution as giving rise to an inclusion results in an inclusion only with respect to the payment for which the election is made.

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[95] *National Coal Association v. Shalala* (No. CV94-H-780-S, Slip opinion (N.D. Ala. June 2, 1995)). As a result of this decision, the Social Security Administration, which is responsible for calculating the annual insurance premium, set the annual insurance premium for the 1996 Combined Fund year (beginning October 1, 1995) at $2,200.53 per beneficiary. According to the Social Security Administration, if the decision is overturned, the per beneficiary insurance premium would rise to $2,454.05.

The House bill conforms section 2702 to existing regulatory terminology by substituting the term "incomplete gift" for "incomplete transfer." In addition, the House bill limits the exception for incomplete gifts to instances in which the entire gift is incomplete. The Treasury Department is granted regulatory authority, however, to create additional exceptions not inconsistent with the purposes of the section.

10. Conforming amendments to the repeal of the General Utilities doctrine (secs. 6602(g)(1) and (2))

The House bill makes three conforming changes to the Code with respect to the repeal of the General Utilities doctrine. Two of the changes affect section 1248: the first includes a reference to section 355(c)(1) and the second clarifies that, with respect to any transaction in which a U.S. person is treated as realizing gain from the sale or exchange of stock of a controlled foreign corporation, the U.S. person shall be treated as having sold or exchanged the stock for purposes of applying section 1248. The third change repeals section 897(f) as deadwood.

11. Prohibited transaction rules (sec. 6602(g)(3))

The House bill conforms the statutory language to legislative intent by providing that transactions that are exempt from the prohibited transaction rules of the Employee Retirement Income Security Act of 1974 ("ERISA") by reason of ERISA section 408(b)(12) are also exempt from the prohibited transaction rules of the Code.

12. Effective date of LIFO adjustment for purposes of computing adjusted current earnings (sec. 6602(g)(4))

The House bill clarifies that the calculation of the LIFO adjustment of the adjusted current earnings component of the corporate alternative minimum tax would be effective with respect to adjustments occurring in taxable years beginning after December 31, 1989.

13. Low-income housing tax credit (sec. 6602(g)(5))

The House bill repeals a 1990 technical correction regarding treatment of low- income housing buildings financed with tax-exempt bonds. The House bill provides, however, that pre-1989 Act law will apply to a bond-financed building if the owner of the building establishes to the satisfaction of the Secretary of the Treasury reasonable reliance upon the 1990 technical correction.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provisions.

B. TECHNICAL CORRECTIONS TO THE REVENUE RECONCILIATION ACT OF 1993 (SEC. 6603 OF H.R. 1215)

House bill

1. Treatment of full-time students under the low-income housing credit (sec. 6603(b))

The House bill provides that the full-time student provision is effective on the date of enactment of the Revenue Reconciliation Act of 1993 ("1993 Act").

2. Indexation of threshold applicable to excise tax on luxury automobiles (sec. 6603(c))

The House bill corrects the application of the indexing adjustment applicable to the threshold above which the excise tax on luxury automobiles is to apply so that the adjustment calculated for a given calendar year applies for that calendar year rather than in the subsequent calendar year. The House bill is effective on the date of enactment of this act.

3. Indexation of the limitation based on modified adjusted gross income for income from United States savings bonds used to pay higher education tuition and fees (sec. 6603(d))

The House bill corrects the indexing of the $60,000 ($40,000 for taxpayers filing as single) threshold to provide that the thresholds be indexed for inflation after 1989.

4. Reporting and notification requirements for lobbying and political expenditures of tax-exempt organizations (sec. 6603(g))

Tax-exempt organizations that incur political expenditures are subject to tax under section 527(f). Section 6033(e) requires tax-exempt organizations (other than charities) to (1) report on their annual information returns both the total amount of their lobbying and political expenditures, and the total amount of dues payments allocable to such expenditures, and (2) provide notice to their members of the portion of dues allocable to lobbying and political expenditures (so that such amounts are not deductible to members), or the organization may elect to pay a proxy tax on its lobbying and political expenditures, up to the amount of its dues receipts. The House bill amends section 6033(e) to clarify that any political expenditures on which tax is paid pursuant to section 527(f) are not subject to the reporting and notification requirements of section 6033(e). In addition, the House bill clarifies that the reporting and notification requirements of section 6033(e) apply to organizations exempt from tax under section 501(a), other than charities described in section 501(c)(3).

5. Estimated tax rules for certain tax-exempt organizations (sec. 6603(h))

The House bill clarifies that the Revenue Reconciliation Act of 1993 did not change the method by which a tax-exempt organization annualizes its current year tax liability for purposes of avoiding an underpayment of estimated tax.

6. Current taxation of certain earnings of controlled foreign corporations—application of foreign tax credit limitation (sec. 6603(I)(1))

The House bill clarifies that a U.S. shareholder's inclusion of a controlled foreign corporation's earnings invested in excess passive assets is treated like a dividend for purposes of the foreign tax credit limitation.

7. Current taxation of certain earnings of controlled foreign corporations—measurement of accumulated earnings (sec. 6603(I)(2))

The House bill clarifies that the accumulated earnings and profits of a controlled foreign corporation taken into account for purposes of determining the foreign corporation's earnings invested in excess passive assets do not include any deficit in accumulated earnings and profits, and do not include current earnings (which are taken into account separately).

8. Current taxation of certain earnings of controlled foreign corporations—aggregation and look-through rules (sec. 6603(I)(3))

The House bill clarifies that, within the regulatory authority provided to the Secretary of the Treasury under the 1993 Act, regulations are specifically authorized to coordinate the CFC group treatment and look-through treatment applicable for purposes of determining a foreign corporation's earnings invested in excess passive assets. Pending the promulgation of guidance by the Secretary, it is intended that taxpayers be permitted to coordinate such treatment using any reasonable method for taking assets into account only once, so long as the method is consistently applied to all controlled foreign corporations (whether or not members of any CFC group) in all taxable years.

9. Treatment of certain leased assets for PFIC purposes (sec. 6603(I)(5))

The House bill clarifies that, in the case of any item of property leased by a foreign corporation and treated as an asset actually owned by the foreign corporation in measuring the assets of the foreign corporation for purposes of the PFIC asset test, the amount taken into account with respect to the leased property is the amount determined under the 1993 Act's special measurement rule, which is based on the unamortized portion of the present value of the payments under the lease for the use of the property.

10. Amortization of goodwill and certain other intangibles (sec. 6603(k))

The House bill clarifies the antichurning rules of the 1993 Act amortization of intangibles provision. It is clarified that when a taxpayer and its related parties have made an election to apply the 1993 Act to all acquisitions after July 25, 1991, the antichurning rules will not apply when property acquired from an unrelated party after July 25, 1991 (and not subject to the antichurning rules in the hands of the acquirer) is transferred to a taxpayer related to the acquirer after the date of enactment of the 1993 Act.

11. Empowerment zones and eligibility of small farms for tax incentives (sec. 6603(l))

The bill provides that the $500,000 asset test for determining whether a farm is eligible for section 179 expensing in an empowerment zone and expanded tax-exempt financing benefits in an empowerment zone or enterprise community is applied based on assets of the farm at the end of the current taxable year.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment, except with respect to the indexation of the threshold applicable to the excise tax on luxury automobiles (item B.2., above). With respect to the indexation of the threshold applicable to the excise tax on luxury automobiles, the conference agreement follows the House bill.

C. OTHER TAX TECHNICAL CORRECTIONS (SEC. 6604 OF H.R. 1215)

House bill

1. Hedge bonds (sec. 6604(b))

The House bill clarifies that the 30-day exception for temporary investments of investment earnings applies to amounts (i.e., principal and earnings thereon) temporarily invested during the 30-day period immediately preceding redemption of the bonds as well as such periods preceding reinvestment of the proceeds.

2. Withholding on distributions from U.S. real property holding companies (sec. 6604(c))

The House bill clarifies that withholding requirements under section 1445 apply to any section 301 distribution to a foreign person by a domestic corporation that is or was a U.S. real property holding corporation which distribution is not made out of the corporation's earnings and profits and is therefore treated as an amount received in a sale or exchange of a U.S. real property interest. The provision is effective for distributions made after the date of enactment of the bill.

3. Treatment of credits attributable to working interests in oil and gas properties (sec. 6604(d))

A working interest in an oil and gas property which does not limit the liability of the taxpayer is not a "passive activity" for purposes of the passive loss rules (sec. 469). However, if any loss from an activity is treated as not being a passive loss by reason of being from a working interest, any net income from the activity in subsequent years is not treated as income from a passive activity, notwithstanding that the activity may otherwise have become passive with respect to the taxpayer.

The House bill clarifies that any credit attributable to a working interest in an oil and gas property, in a taxable year in which the activity is no longer treated as not being passive activity, will not be treated as attributable to a passive activity to the extent of any tax allocable to the net income from the activity for the taxable year.

4. Clarification of passive loss disposition rule (sec. 6604(e))

The House bill clarifies the rule relating to the computation of the overall loss allowed upon the disposition of a passive activity under the passive loss rules.

5. Estate tax unified credit allowed nonresident aliens under treaty (sec. 6604(f)(1))

The House bill clarifies that in determining the pro rata unified credit required by treaty, property exempted by the treaty from U.S. estate tax is not treated as situated in the United States. The provision is effective on the date of enactment.

6. Limitation on deduction for certain interest paid by corporation to related person (sec. 6604(f)(2))

The House bill clarifies that, under the earnings stripping provision, excess interest carried forward from a year in which the debt-equity ratio threshold is exceeded may be deducted in a subsequent year in which that threshold is not exceeded, but only to the extent that such interest would not otherwise be treated as excess interest expense in the carryforward year. The provision is effective as if included in the amendments made by section 7210(a) of the 1989 Act.

7. Branch-level interest tax (sec. 6604(f)(3))

The House bill clarifies that where an interest expense of a foreign corporation is allocable to U.S. effectively connected income, but that interest expense would not have been fully deductible for tax purposes under another Code provision had it been paid by a U.S. corporation, such interest is nonetheless treated for branch level interest tax purposes like a payment by a U.S. corporation to a foreign corporate parent. Similarly, with regard to the Treasury's regulatory authority to treat an interest payment by a foreign corporation's U.S. branch as though not paid by a U.S. person for source and withholding purposes, the bill clarifies that the authority extends to interest payments in excess of those reasonably expected to be allocable to U.S. effectively connected income of the foreign corporation. These provisions are effective as if they were made by the Tax Reform Act of 1986 ("1986 Act").

8. Determination of source in case of sales of inventory property (sec. 6604(f)(4))

The House bill clarifies that, to the extent that the Secretary of the Treasury had general regulatory authority to provide rules for the sourcing of income from the sales of personal property prior to the 1986 Act, the Secretary of the Treasury retains that authority under present law with respect to inventory property. The provision is effective as if it were included in the 1986 Act.

9. Repeal of obsolete provisions (sec. 6604(f)(5))

The House bill repeals as obsolete the information reporting requirements of sections 6038 and 6038A relating to section 453C.

10. Clarification of certain stadium bond transition rule in Tax Reform Act of 1986 (sec. 6604(g))

The House bill permits the residual interest in the stadium currently held by the City of Cleveland to be assigned to Cuyahoga County, Ohio (the county in which both Cleveland and the stadium are located) because of a change in Ohio State law prior to issuance of the bonds. The House bill does not extend the time for issuing the bonds or otherwise affect the amount of bonds or the location or design of the stadium.

11. Health care continuation rules (sec. 6604(h))

The 1989 Act amended the health care continuation rules to provide that if a covered employee is entitled to Medicare and within 18 months of such entitlement separates from service or has a reduction in hours, the duration of continuation coverage for the spouse and dependents is 36 months from the date the covered employee became entitled to Medicare. One possible unintended interpretation of the statutory language, however, would permit continuation coverage for up to 54 months. The House bill amends the Code (sec. 4980B), title I of the Employee Retirement Income Security Act of 1974 (sec. 602), and the Public Health Service Act (sec. 2202(2)(A)), to limit the continuation coverage in such cases to no more than 36 months. The provision is effective for plan years beginning after December 31, 1989.

12. Taxation of excess inclusions of a residual interest in a REMIC for taxpayers subject to alternative minimum tax with net operating losses (sec. 6604(I))

The House bill provides the following three rules for determining the alternative minimum taxable income of a taxpayer that is not a thrift institution that holds residual interests in a REMIC: (1) the alternative minimum taxable income of such a taxpayer is computed without regard to the REMIC rule that taxable income cannot be less than the amount of excess inclusions; (2) the alternative minimum taxable income of such a taxpayer for a taxable year cannot be less than the excess inclusions of the residual interests for that year; and (3) the amount of any alternative minimum tax net operating loss deduction of such a taxpayer is computed without regard to any excess inclusions. The provision is effective for all taxable years beginning after December 31, 1986, unless the taxpayer elects to apply the rules of the bill only to taxable years beginning after the date of enactment.

13. Application of harbor maintenance tax to Alaska and Hawaii ship passengers (sec. 6604(j))

The House bill clarifies that the harbor maintenance tax does not apply to passenger fares where the passengers are transported on U.S. flag vessels operating solely within the State waters of Alaska or Hawaii and adjacent international waters (i.e., leaving and returning to a port in the same State without stopping elsewhere). The provision is effective as of April 1, 1987 (the effective date of the tax).

14. Modify effective date provision relating to the Energy Policy Act of 1992 (sec. 6604(k))

The House bill corrects several cross-references in the Energy Policy Act of 1992, and also clarifies the relationship between the basis adjustment rules for the electric vehicle credit (sec. 30(d)(1) and the alternative minimum tax.

15. Determination of unrecovered investment in annuity contract (sec. 6604(m))

In the case of an annuity contract with a refund feature, the House bill modifies the definition of the unrecovered investment in the contract, so that the entire investment in the contract can be recovered tax-free.

16. Election by parent to claim unearned income of certain children on parent's return (sec. 6604(n))

The House bill provides for adjustments for inflation, effective for taxable years beginning after December 31, 1994.

17. Exclusion from income for combat zone compensation (sec. 6604(o)(4))

The House bill changes obsolete references to "combat pay" to references to "combat zone compensation."

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provisions.

D. ADDITIONAL TAX TECHNICAL CORRECTIONS (SECS. 13401-13405 OF THE HOUSE BILL)

House bill

1. Reporting of real estate transactions (sec. 13401)

The House bill clarifies that real estate reporting persons may take into account the cost of complying with the reporting requirements of Code section 6045 in establishing charges for their services, so long as a separately listed charge for such costs is not made.

2. Clarification of denial of deduction for stock redemption expenses (sec. 13402)

The House bill clarifies that amounts properly allocable to indebtedness on which interest is deductible and properly amortized over the term of that indebtedness are not subject to the provision of section 162(k) denying a deduction for any amount paid or incurred by a corporation in connection with the redemption of its stock. This clarification is effective as if included in the 1986 Act.

In addition, the House bill clarifies that the rules of section 162(k) apply to any acquisition of its stock by a corporation or by a party that has a relationship to the corporation described in section 465(b)(3)(C)(which applies a more than 10-percent relationship test in certain cases). These clarifications apply to amounts paid or incurred after September 13, 1995.

3. Clarification of depreciation class for certain energy property (sec. 13403)

The House bill clarifies that solar or wind property owned by a public utility may qualify as 5-year MACRS property.

4. Treatment of certain veterans' reemployment rights (sec. 13405)

The House bill conforms the Internal Revenue Code provisions relating to tax-qualified retirement plans to the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), which provides for the rights of reemployed veterans. Thus, under the House bill, the tax-qualified status of a plan will not be affected merely because the plan provides benefits to a reemployed veteran as required or authorized by USERRA. The provision is effective as of December 12, 1994, the effective date of the benefits-related provisions of USERRA.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provisions.

E. TREAT QUALIFIED FOOTBALL COACHES PLAN AS MULTIEMPLOYER PENSION PLAN FOR PURPOSES OF THE INTERNAL REVENUE CODE

(SEC. 6604(L) OF THE HOUSE BILL AND SEC. 12705 OF THE SENATE AMENDMENT)

Present law

Under present law, a tax-qualified pension plan (including a qualified cash or deferred arrangement) must be maintained for the exclusive benefit of the employees and their beneficiaries covered under the plan.

The American Football Coaches Association ("AFCA") is a tax-exempt organization described in section 501(c)(6) of the Code. The members of the AFCA include college coaches, athletic directors, and high school coaches. The participating members of the AFCA are not employees of the organization. The AFCA maintains a cash or deferred arrangement (i.e., a "401(k) plan") on behalf of participating members.

The Employee Retirement Income Security Act of 1974 ("ERISA"), as amended by the Continuing Appropriations for Fiscal Year 1988, provides that, for purposes of the labor law provisions of ERISA, a qualified football coaches plan generally is treated as a multiemployer plan and may include a qualified cash or deferred arrangement. Under ERISA, a qualified football coaches plan is defined as any defined contribution plan established and maintained by an organization described in Code section 501(c)(6), the membership of which consists entirely of individuals who primarily coach football as full-time employees of 4-year colleges or universities, if the organization was in existence on September 18, 1986. This definition is generally intended to apply to the AFCA.

However, the Omnibus Budget Reconciliation Act of 1987 provided that certain provisions of ERISA are not applicable in interpreting the Internal Revenue Code, except to the extent specifically provided in the Code or as determined by the Secretary of the Treasury.

The Internal Revenue Service determined that the cash or deferred arrangement maintained by the AFCA is not a qualified cash or deferred arrangement under the Internal Revenue Code. In making this determination, the IRS also observed that the AFCA plan may also violate a number of provisions of the Code. For example, the Code requires that a qualified plan be maintained for the benefit of employees, but the coaches are not employees of the AFCA.

House bill

Under the House bill, a correction to the Continuing Appropriations for Fiscal Year 1988 provides that a qualified football coaches plan (as defined in ERISA) is eligible to maintain a qualified cash or deferred arrangement under the Internal Revenue Code on behalf of the football coaches belonging to the AFCA.

Effective date.—The provision generally is effective as if included in the Continuing Appropriations for Fiscal Year 1988 (i.e., years beginning after December 22, 1987).

Senate amendment

Same as the House bill, except that in order for the plan to be reinstated as a qualified football coaches plan, a $25,000 excise tax is imposed on the plan.

Effective date.—Same as the House bill, except that the excise tax is required to be paid in the first plan year beginning after the date of enactment.

Conference agreement

The conference agreement does not include the House bill or Senate amendment provision.

XI. SIMPLIFICATION PROVISIONS RELATING TO INDIVIDUALS

1. PROVISIONS RELATING TO ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE (SECS. 14101-14102 OF THE HOUSE BILL)

Present law

In general.—No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.

Multiple rollovers.—In general, nonrecognition treatment is available only once during any two-year period. In addition, if the taxpayer purchases more than one residence during the replacement period and such residences are each used as the taxpayer's principal residence within two years after the date of sale of the old residence, only the last residence so used is treated as the replacement residence.

Special rules apply, however, if residences are sold in order to relocate for employment reasons. First, the number of times nonrecognition treatment is available during a two-year period is not limited. Second, if a residence is sold within two years after the sale of the old residence, the residence sold is treated as the last residence used by the taxpayer and thus as the only replacement residence.

Rollovers in the case of divorce or separation.—The determination whether property is used by a taxpayer as a principal residence depends upon all the facts and circumstances in each case, including the good faith of the taxpayer. No safe harbor is provided for sales of principal residences incident to divorce or marital separation.

House bill

Multiple rollovers.—Gain is rolled over from one residence to another residence in the order the residences are purchased and used, regardless of the taxpayer's reasons for the sale of the old residence. In addition, gain may be rolled over more than once within a two-year period. Thus, the rules that formerly applied only if a taxpayer sold his residence in order to relocate for employment purposes will apply in all cases. As under present law, the basis of each succeeding residence is reduced by the amount of gain not recognized on the sale of the prior residence.

Rollovers in the case of divorce or separation.—The House bill provides a safe harbor in the determination of principal residence in certain cases incident to divorce or marital separation. Specifically, the House bill provides that a residence is treated as the taxpayer's principal residence at the time of sale if (1) the residence is sold pursuant to a divorce or marital separation and (2) the taxpayer used such residence as his or her principal residence at any time during the two-year period ending on the date of sale.

Effective date.—Sales of old residences (within the meaning of sec. 1034) after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR CERTAIN SPOUSES (SEC. 14103 OF THE HOUSE BILL)

Present law

In general, a taxpayer may exclude from gross income up to $125,000 of gain from the sale or exchange of a principal residence if the taxpayer (1) has attained age 55 before the sale, and (2) has used the residence as a principal residence for three or more years of the five years preceding the sale. This election is allowed only once in a lifetime unless all previous elections are revoked. For these purposes, sales on or before July 26, 1978 are not counted against the once in a lifetime limit.

House bill

The House bill allows an exclusion to an individual who otherwise qualifies for an exclusion under section 121 of the Code but for a marriage to a spouse with an existing election in effect. The exclusion will only be available if the individual held the property which is the subject of the exclusion for at least three years prior to marrying the spouse with the existing election.

Effective date.—Sales or exchanges after September 13, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. PAYMENT OF TAXES BY COMMERCIALLY ACCEPTABLE MEANS (SEC. 14111 OF THE HOUSE BILL)

Present law

Payment of taxes may be made by checks or money orders, to the extent and under the conditions provided by regulations.

House bill

The House bill allows the IRS to accept payment by any commercially acceptable means that the Secretary deems appropriate, to the extent and under the conditions provided in Treasury regulations.

Effective date.—Nine months after the date of enactment. The IRS may, in this interim period, conduct internal tests and negotiate with card issuers, but may not accept credit or debit cards for payment of tax liability.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

4. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS (SEC. 14112 OF THE HOUSE BILL)

Present law

In order to compute the foreign tax credit, a taxpayer computes foreign source taxable income and foreign taxes paid in each of the applicable separate foreign tax credit limitation categories. In the case of an individual, this requires the filing of IRS Form 1116, designed to elicit sufficient information to perform the necessary calculations.

House bill

The House bill allows individuals with no more than $200 ($400 in the case of married persons filing jointly) of creditable foreign taxes, and no foreign source income other than passive income, to elect a simplified foreign tax credit limitation equal to the lesser of 25 percent of the individual's foreign source gross income or the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year. For this purpose, passive income is defined to include all types of income that is foreign personal holding company income under the subpart F rules, provided that the income is shown on a payee statement furnished to the individual. Under the election, a credit is allowed only for taxes shown on a payee statement.

Effective date.—Taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

5. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES (SEC. 14113 OF THE HOUSE BILL)

Present law

When a U.S. taxpayer with a U.S. dollar functional currency makes a payment in a foreign currency, gain or loss (referred to as "exchange gain or loss") arises from any change in the value of the foreign currency relative to the U.S. dollar between the time the currency was acquired (or the obligation to pay was incurred) and the time that the payment is made. The 1986 Act provisions designed to clarify the treatment of currency transactions, primarily found in section 988, apply to transactions entered into by an individual only to the extent that expenses attributable to such transactions will be deductible under section 162 (as a trade or business expense) or section 212 (as an expense of producing income, other than expenses incurred in connection with the determination, collection, or refund of taxes). Therefore, the principles of pre-1986 law continue to apply to personal currency transactions.

House bill

In a case where an individual acquires nonfunctional currency and then disposes of it in a personal transaction, and where exchange rates have changed in the intervening period, the House bill provides for nonrecognition of an individual's resulting exchange gain provided that such gain does not exceed $200. The House bill does not change the treatment of resulting exchange losses.

Effective date.—Taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

6. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS (SEC. 14114 OF THE HOUSE BILL)

Present law

A taxpayer who uses his or her automobile for business purposes may deduct the business portion of the actual operation and maintenance expenses of the vehicle, plus depreciation (subject to the limitations of sec. 280F). Alternatively, the taxpayer may elect to utilize a standard mileage rate in computing the deduction allowable for business use of an automobile that has not been fully depreciated. Under this election, the taxpayer's deduction equals the applicable rate multiplied by the number of miles driven for business purposes and is taken in lieu of deductions for depreciation and actual operation and maintenance expenses.

An employee of the U.S. Postal Service may compute his deduction for business use of an automobile in performing services involving the collection and delivery of mail on a rural route by using, for all business use mileage, 150 percent of the standard mileage rate.

House bill

The House bill repeals the special rate for Postal Service employees of 150 percent of the standard mileage rate. In its place, the House bill provides that the rate of reimbursement provided by the Postal Service to rural letter carriers is considered to be equivalent to their expenses. The rate of reimbursement that is considered to be equivalent to their expenses is the rate of reimbursement contained in the 1991 collective bargaining agreement, which may in the future be increased by no more than the rate of inflation.

Effective date.—Taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

7. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDED FROM GROSS INCOME (SEC. 14115 OF THE HOUSE BILL)

Present law

Gross income does not include certain combat pay of members of the Armed Forces (Code sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from gross income. In the case of commissioned officers, these exclusions from income are limited to $500 per month of military pay.

There is no income tax withholding with respect to military pay for a month in which a member of the Armed Forces of the United States is entitled to the benefits of section 112 (sec. 3401(a)(2)). With respect to enlisted personnel, this income tax withholding rule parallels the exclusion from income under section 112: there is total exemption from income tax withholding and total exclusion from income. With respect to officers, however, the withholding rule is not parallel: there is total exemption from income tax withholding, although the exclusion from income is limited to $500 per month.

House bill

The House bill makes the income tax withholding exemption rules parallel to the rules providing an exclusion from income for combat pay.

Effective date.—Remuneration paid after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

8. TREATMENT OF TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS (SEC. 14116 OF THE HOUSE BILL)

Present law

Unreimbursed ordinary and necessary travel expenses paid or incurred by an individual in connection with temporary employment away from home are generally deductible, subject to the two-percent floor on miscellaneous itemized deductions. Travel expenses paid or incurred in connection with indefinite employment away from home, however, are not deductible. A taxpayer's employment away from home in a single location is indefinite rather than temporary if it lasts for one year or more; thus, no deduction is permitted for travel expenses paid or incurred in connection with such employment (sec. 162(a)). If a taxpayer's employment away from home in a single location lasts for less than one year, whether such employment is temporary or indefinite is determined on the basis of the facts and circumstances.

House bill

The one-year limitation with respect to deductibility of expenses while temporarily away from home does not include any period during which a Federal employee is certified by the Attorney General (or the Attorney General's designee) as traveling on behalf of the Federal Government in a temporary duty status to investigate or provide support services for the investigation of a Federal crime. Thus, expenses for these individuals during these periods are fully deductible, regardless of the length of the period for which certification is given (provided that the other requirements for deductibility are satisfied).

Effective date.—Taxable years ending after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

XII. PENSION SIMPLIFICATION PROVISIONS

A. SIMPLIFIED DISTRIBUTION RULES (SECS. 14201-14204 OF THE HOUSE BILL AND SECS. 12911-12914 OF THE SENATE AMENDMENT)

Present law

In general, a distribution of benefits from a tax-favored retirement arrangement (i.e., a qualified plan) generally is includible in gross income in the year it is paid or distributed under the rules relating to the taxation of annuities. A qualified plan includes a qualified pension plan, a qualified annuity plan, and a tax-sheltered annuity contract (sec. 403(b) annuity).

Lump-sum distributions

Lump-sum distributions from qualified plans and annuities are eligible for special 5-year forward averaging. In general, a lump-sum distribution is a distribution within one taxable year of the balance to the credit of an employee that becomes payable to the recipient first, on account of the death of the employee, second, after the employee attains age 59½, third, on account of the employee's separation from service, or fourth, in the case of self-employed individuals, on account of disability. Lump-sum treatment is not available for distributions from a tax-sheltered annuity.

A taxpayer is permitted to make an election with respect to a lump-sum distribution received on or after the employee attains age 59½ to use 5-year forward income averaging under the tax rates in effect for the taxable year in which the distribution is made. In general, this election allows the taxpayer to pay a separate tax on the lump-sum distribution that approximates the tax that would be due if the lump-sum distribution were received in 5 equal installments. If the election is made, the taxpayer is entitled to deduct the amount of the lump-sum distribution from gross income. Only one such election on or after age 59½ may be made with respect to any employee.

$5,000 exclusion for employer-provided death benefits

Under present law, the beneficiary or estate of a deceased employee generally can exclude up to $5,000 in benefits paid by or on behalf of an employer by reason of the employee's death (sec. 101(b)).

Recovery of basis

Amounts received as an annuity under a qualified plan generally are includible in income in the year received, except to the extent they represent the return of the recipient's investment in the contract (i.e., basis). Under present law, a pro-rata basis recovery rule generally applies, so that the portion of any annuity payment that represents nontaxable return of basis is determined by applying an exclusion ratio equal to the employee's total investment in the contract divided by the total expected payments over the term of the annuity.

Under a simplified alternative method provided by the IRS, the taxable portion of qualifying annuity payments is determined under a simplified exclusion ratio method.

In no event can the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

Required distributions

Present law provides uniform minimum distribution rules generally applicable to all types of tax-favored retirement vehicles, including qualified plans and annuities, IRAs, and tax-sheltered annuities.

Under present law, a qualified plan is required to provide that the entire interest of each participant will be distributed beginning no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date is generally April 1 of the calendar year following the calendar year in which the plan participant or IRA owner attains age 70½. In the case of a governmental plan or a church plan, the required beginning date is the later of first, such April 1, or second, the April 1 of the year following the year in which the participant retires.

House bill

Lump-sum distributions

The House bill repeals 5-year averaging for lump-sum distributions from qualified plans. Thus, the bill repeals the separate tax paid on a lump-sum distribution and also repeals the deduction from gross income for taxpayers who elect to pay the separate tax on a lump-sum distribution. The bill preserves the transition rules adopted in the Tax Reform Act of 1986.

Effective date.—Taxable years beginning after December 31, 1995.

$5,000 exclusion for employer-provided death benefits

The House bill repeals the $5,000 exclusion for employer-provided death benefits.

Effective date.—Taxable years beginning after December 31, 1995.

Recovery of basis

The House bill provides that basis recovery on payments from qualified plans generally is determined under a method similar to the present-law simplified alternative method provided by the IRS. The portion of each annuity payment that represents a return of basis is equal to the employee's total basis as of the annuity starting date, divided by the number of anticipated payments under the following table:

Age:	Number of payments:
Not more than 55	300
56-60	260
61-65	240
66-70	170
More than 70	120

Effective date.—Annuity starting dates after December 31, 1995.

Required distributions

The House bill modifies the rule that requires all participants in qualified plans to commence distributions by age 70½ without regard to whether the participant is still employed by the employer and generally replaces it with the rule in effect prior to the Tax Reform Act of 1986. Under the House bill, distributions generally are required to begin by April 1 of the calendar year following the later of first, the calendar year in which the employee attains age 70½ or second, the calendar year in which the employee retires. However, in the case of a 5-percent owner of the employer, distributions are required to begin no later than the April 1 of the calendar year following the year in which the 5-percent owner attains age 70½.

In addition, in the case of an employee (other than a 5-percent owner) who retires in a calendar year after attaining age 70½, the bill generally requires the employee's accrued benefit to be actuarially increased to take into account the period after age 70½ in which the employee was not receiving benefits under the plan. Thus, under the House bill, the employee's accrued benefit is required to reflect the value of benefits that the employee would have received if the employee had retired at age 70½ and had begun receiving benefits at that time.

The actuarial adjustment rule and the rule requiring 5-percent owners to begin distributions after attainment of age 70½ do not apply, under the House bill, in the case of a governmental plan or church plan.

Effective date.—Years beginning after December 31, 1995.

Senate amendment

Lump-sum distributions

The Senate amendment is the same as the House bill.

Effective date.—Taxable years beginning after December 31, 1998.

$5,000 exclusion for employer-provided death benefits

The Senate amendment is the same as the House bill.

Recovery of basis

The Senate amendment is the same as the House bill, except that the number of anticipated payments is determined under the following table:

Age:	Number of payments:
Not more than 55	360
56-60	310
61-65	260
66-70	210
More than 70	160

Effective date.—Same as House bill.

Required distributions

The Senate amendment is the same as the House bill.

Conference agreement

Lump-sum distributions

The conference agreement follows the Senate amendment.

$5,000 exclusion for employer-provided death benefits

The conference agreement follows the House bill and the Senate amendment.

Recovery of basis

The conference agreement follows the Senate amendment.

Required distributions

The conference agreement follows the House bill and the Senate amendment.

B. Increased Access to Pension Plans

1. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS (SEC. 14211 OF THE HOUSE BILL)

Present Law

Certain employers (other than tax-exempt and governmental employers) can establish a simplified employee pension ("SEP") for the benefit of their employees under which the employees can elect to have contributions made to the SEP or to receive the contributions in cash. The amounts the employee elects to have contributed to the SEP are not currently includible in income.

The election to have amounts contributed to a SEP or received in cash is available only if at least 50 percent of the eligible employees of the employer elect to have amounts contributed to the SEP. In addition, such election is available for a taxable year only if the employer maintaining the SEP had 25 or fewer eligible employees at all times during the prior taxable year.

Elective deferrals under SEPs are subject to a special nondiscrimination test.

House Bill

The House bill modifies the rules relating to salary reduction SEPs by providing that such SEPs may be established by employers with 100 or fewer employees. The House bill repeals the requirement that at least 50 percent of eligible employees actually participate in a salary reduction SEP. The House bill modifies the special nondiscrimination test applicable to elective deferred under SEPs and permits a salary reduction SEP to satisfy the design-based safe harbor available to qualified cash or deferred arrangements (see C.3., below).

Effective date.—Years beginning after December 31, 1995.

Senate Amendment

No provision. However, the Senate amendment adopts a new type of retirement plan (called a "SIMPLE" retirement plan) (see the description in II.B., above).

Conference Agreement

The conference agreement does not include the House bill provision.

2. STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(K) (SEC. 14212 OF THE HOUSE BILL AND SEC. 12917 OF THE SENATE AMENDMENT)

Present Law

Under present law, tax-exempt and State and local government organizations are generally prohibited from establishing qualified cash or deferred arrangements (sec. 401(k) plans). Qualified cash or deferred arrangements (1) of rural cooperatives, (2) adopted by State and local governments before May 6, 1986, or (3) adopted by tax-exempt organizations before July 2, 1986, are not subject to this prohibition.

House Bill

The House bill allows tax-exempt organizations and State and local governments and their agencies and instrumentalities to maintain qualified cash or deferred arrangements, unless the entity maintains a section 457 plan.

Tax-exempt and governmental plans eligible to maintain qualified cash or deferred arrangements under present law are not be subject to the prohibition on maintaining such a plan if the entity maintains a section 457 plan.

Effective date.—Years beginning after December 31, 1996.

Senate amendment

The Senate amendment permits organizations exempt from tax (other than an organization described in sec. 501(c)(3)) to maintain qualified cash or deferred arrangements.

Effective date.—Years beginning after December 31, 1997.

Conference agreement

The conference agreement follows the Senate amendment, except that the provision applies to all tax-exempt organizations (including, for this purpose, Indian tribes). The conference report retains the present-law prohibition in the maintenance of cash or deferred arrangements by State and local governments, (except to the extent it may apply to Indian tribes).

Effective date.—Years beginning after December 31, 1996.

3. TAX CREDIT FOR PENSION PLAN START-UP COSTS OF SMALL EMPLOYERS (SEC. 12916 OF THE SENATE AMENDMENT)

Present law

An employer is generally entitled to deduct ordinary and necessary business expenses, including expenses associated with establishing pension plans.

House Bill

No provision.

Senate amendment

In lieu of the present-law deduction, small employers would be entitled to a credit with respect to the expenses of establishing a SIMPLE retirement plan (see the description in II.B., above). The credit equals 50 percent of the start-up costs of establishing the plan up to a maximum credit of $500.

The credit is not available to an employer that made contributions to a qualified plan (or a SIMPLE plan) during the 2 years preceding the year in question. In addition, the credit is not available to employers substantially all of the activities of which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting.

Effective date.—Costs incurred after the date of enactment in taxable years ending after that date.

Conference agreement

The conference agreement does not include the Senate amendment.

C. NONDISCRIMINATION PROVISIONS

1. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES AND FAMILY AGGREGATION RULES (SECS. 14221-14222 OF THE HOUSE BILL AND SEC. 12901 OF THE SENATE AMENDMENT)

Present law

Definition of highly compensated employee

An employee, including a self-employed individual, is treated as highly compensated if, at any time during the year or the preceding year, the employee (1) was a 5-percent owner of the employer, (2) received more than $100,000 (for 1995) in annual compensation from the employer, (3) received more than $66,000 (for 1995) in annual compensation from the employer and was one of the top-paid 20 percent of employees during the same year, or (4) was an officer of the employer who received compensation in excess of $60,000 (for 1995). If, for any year, no officer has compensation in excess of the threshold, then the highest paid officer of the employer is treated as a highly compensated employee.

Family aggregation rules

A special rule applies with respect to the treatment of family members of certain highly compensated employees for purposes of the nondiscrimination rules applicable to qualified plans. Under the special rule, if an employee is a family member of either a 5-percent owner or 1 of the top-10 highly compensated employees by compensation, then any compensation paid to such family member and any contribution or benefit under the plan on behalf of such family member is aggregated with the compensation paid and contributions or benefits on behalf of the 5-percent owner or the highly compensated employee in the top-10 employees by the compensation. Therefore, such family member and employee are treated as a single highly compensated employee. An individual is considered a family member if, with respect to an employee, the individual is a spouse, lineal ascendant or descendant, or spouses of a lineal ascendant or descendant of the employee.

Similar family aggregation rules apply with respect to the $150,000 (for 1995) limit on compensation that may be taken into account under a qualified plan (sec. 401(a)(17)) and for deduction purposes (sec. 404(1)). However, under such provisions, only the spouse of the employee and lineal descendants of the employee who have not attained the age 19 are taken into account.

House bill

Definition of highly compensated employee

Under the House bill, an employee is highly compensated if the employee (1) was a 5-percent owner of the employer at any time during the year or the preceding year or (2) had compensation for the preceding year in excess of $80,000 (indexed for inflation). The House bill repeals the rule requiring the highest paid officer to be treated as a highly compensated employee.

Effective date.—Years beginning after December 31, 1995.

Family aggregation rules

The House bill repeals the family aggregation rules.

Effective date.—The provision is effective for years beginning after December 31, 1995.

Senate amendment

Definition of highly compensated employee

Under the Senate amendment, an employee is highly compensated if the employee (1) was a 5-percent owner of the employer at any time during the year or the preceding year, (2) had compensation for the preceding year in excess of $80,000 (indexed for inflation), or (3) was the most highly compensated officer of the employer for the preceding year. The rule providing that the most highly compensated officer is a highly compensated employees does not apply to plans maintained by tax-exempt or State and local governmental organizations for purposes of applying the nondiscrimination tests applicable to cash or deferred arrangements.

Effective date.—Years beginning after December 31, 1996.

Family aggregation rules

The Senate amendment is the same as the House bill.

Conference agreement

Definition of highly compensated employee

The conference agreement follows the House bill, except that an employee with compensation for the preceding year in excess of $80,000 (indexed for inflation) is not considered highly compensated unless the employee was in the top 20 percent of employees by compensation for such year.

Family aggregation rules

The conference agreement follows the House bill and the Senate amendment.

2. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS (SEC. 14223 OF THE BILL AND SEC. 12903 OF THE SENATE AMENDMENT)

Present law

Under present law, a plan is not a qualified plan unless it benefits no fewer than the lesser of (a) 50 employees of the employer or (b) 40 percent of all employees of the employer (sec. 401(a)(26)). This requirement may not be satisfied by aggregating comparable plans, but may be applied separately to different lines of business of the employer. A line of business of the employer does not qualify as a separate line of business unless it has at least 50 employees.

House bill

The bill provides that the minimum participation rule applies only to defined benefit pension plans. In addition, the bill provides that a defined benefit pension plan does not satisfy the rule unless it benefits no fewer than the lesser of first, 50 employees or second, the greater of (a) 40 percent of all employees of the employer or (b) 2 employees (1 employee if there is only 1 employee).

The bill provides that the requirement that a line of business has at least 50 employees does not apply in determining whether a plan satisfies the minimum participation rule on a separate line of business basis.

Effective date.—The provision is effective for years beginning after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS (SEC. 14224 OF THE HOUSE BILL AND SEC. 12904 OF THE SENATE AMENDMENT)

Present law

Under present law, a special nondiscrimination test applies to qualified cash or deferred arrangements. The special nondiscrimination test is satisfied if the actual deferral percentage (ADP) for eligible highly compensated employees for a plan year is equal to or less than either (1) 125 percent of the ADP of all nonhighly compensated employees eligible to defer under the arrangement or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points.

Employer matching contributions and after-tax employee contributions under qualified defined contribution plans are subject to a special nondiscrimination test similar to the special nondiscrimination test applicable to qualified cash or deferred arrangements.

A plan that would otherwise fail to meet the special nondiscrimination test for qualified cash or deferred arrangements is not treated as failing such test if excess contributions (with allocable income) are distributed to the employee or, in accordance with Treasury regulations, recharacterized as after-tax employee contributions. For purposes of this rule, in determining the amount of excess contributions and the employees to whom they are allocated, the elective deferrals of highly compensated employees are reduced in the order of their actual deferral percentage beginning with those highly compensated employees with the highest actual deferral percentages. A similar rule applies to matching contributions.

House bill

Prior-year data.—The House bill modifies the special nondiscrimination tests applicable to elective deferrals and employer matching and after-tax employee contributions to provide that the maximum permitted actual deferral percentage for highly compensated employees for the year is determined by reference to the actual deferral percentage for nonhighly compensated employees for the preceding, rather than the current, year. A special rule applies for the first plan year.

Safe harbor for cash or deferred arrangements.—The bill provides that a cash or deferred arrangement satisfies the special nondiscrimination tests if the plan satisfies one of two contribution requirements and satisfies a notice requirement.

A plan satisfies the contribution requirements under the safe harbor rule for qualified cash or deferred arrangements if the plan either first, satisfies a matching contribution requirement or second, the employer makes a nonelective contribution to a defined contribution plan of at least 3 percent of an employee's compensation on behalf of each nonhighly compensated employee who is eligible to participate in the arrangement without regard to whether the employee makes elective contributions under the arrangement.

A plan satisfies the matching contribution requirement if, under the arrangement: First, the employer makes a matching contribution on behalf of each nonhighly compensated employee that is equal to (a) 100 percent of the employee's elective contributions up to 3 percent of compensation and (b) 50 percent of the employee's elective contributions from 3 to 5 percent of compensation; and second, the level of match for highly compensated employees is not greater than the match rate for nonhighly compensated employees at any level of compensation.

Alternatively, if the matching contribution requirement is not satisfied at some level of employee compensation, the requirement is deemed to be satisfied if first, the level of employer matching contributions does not increase as employee elective contributions increase and second, the aggregate amount of matching contributions with respect to elective contributions up to that level of compensation at least equals the amount of matching contributions that would be made if matching contributions satisfied the percentage requirements. For example, the alternative test would be satisfied if an employer matches 125 percent of an employee's elective contributions up to the first 3 percent of compensation, 25 percent of elective deferrals from 3 to 4 percent of compensation, and provides no match thereafter. This is because the employer match does not increase and the aggregate amount of matching contributions is at least equal to the matching contributions required under the general safe harbor rule.

Employer matching and nonelective contributions used to satisfy the contribution requirements of the safe harbor rules are required to be nonforfeitable and subject to the restrictions on withdrawals that apply to an employee's elective deferrals under a qualified cash or deferred arrangement (sec. 401(k)(2)(B) and (C)).

The notice requirement is satisfied if each employee eligible to participate in the arrangement is given written notice, within a reasonable period before any year, of the employee's rights and obligations under the arrangement.

Alternative method of satisfying special nondiscrimination test for matching contributions.—The bill provides a safe harbor method of satisfying the special nondiscrimination test applicable to employer matching contributions. Under this safe harbor, a plan is treated as meeting the special nondiscrimination test if first, the plan meets the contribution and notice requirements applicable under the safe harbor method of satisfying the special nondiscrimination requirement for qualified cash or deferred arrangements, and second, the plan satisfies a special limitation on matching contributions. After-tax employee contributions are tested separately under the ACP test.

The limitation on matching contributions is satisfied if first, the matching contributions on behalf of any employee may not be made with respect to employee contributions or elective deferrals in excess of 6 percent of compensation and second, the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase.

Simplified employee pensions.—The bill modifies the present-law nondiscrimination test applicable to salary reduction SEPs to provide that the average of deferral percentages for all nonhighly compensated employees for the preceding, rather than the current, year is to be used. In addition, the bill permits a salary reduction SEP to satisfy the qualified cash or deferred arrangement safe harbor nondiscrimination test.

Distribution of excess contributions.—The House bill provides that the total amount of excess contributions is determined as under present law, but the distribution of excess contributions is required to be made on the basis of the amount of contribution by, or on behalf of, each highly compensated employee. Thus, excess contributions are deemed attributable first to those highly compensated employees who have the greatest dollar amount of elective deferrals.

Effective date.—Years beginning after December 31, 1995.

Senate amendment

Prior-year data.—Same as the House bill, except that an employer is allowed to elect to use current year actual deferral percentages. Such an election can be revoked only as provided by the Secretary.

Safe harbor for cash or deferred arrangements.—Same as House bill.

Alternative method of satisfying special nondiscrimination test for matching contributions.—Same as House bill, except that an employer is allowed to elect to use current year actual deferral percentages. Such an election can be revoked only as provided by the Secretary.

Simplified employee pensions.—No provision. However, the Senate amendment adopts a new type of retirement plan (called a "SIMPLE" retirement plan) (see the description in II.B., above).

Distribution of excess contributions.—No provision.

Effective date.—Years beginning after December 31, 1998.

Conference agreement

The conference agreement follows the Senate amendment, except that it includes the House bill provision providing that allocations of excess contributions are to be made on the basis of the amount of contribution by, or on behalf of, each highly compensated employee.

Effective date.—The safe harbor for cash or deferred arrangements and the alternative method of satisfying the special nondiscrimination test for matching contributions are effective for plan years beginning after December 31, 1998. The provision relating to the distribution of excess contributions is effective for plan years beginning after December 31, 1995.

4. DEFINITION OF COMPENSATION FOR PURPOSES OF THE LIMITS ON CONTRIBUTIONS AND BENEFITS (SEC. 12902 OF THE SENATE AMENDMENT)

Present law

Present law imposes limits on contributions and benefits under qualified plans based on the type of plan. For purposes of these limits, present law provides that the definition of compensation generally does not include elective employee contributions to certain employee benefit plans.

House Bill

No provision.

Senate amendment

The Senate amendment provides that elective deferrals to section 401(k) plans and similar arrangements, elective contributions to nonqualified deferred compensation plans of tax-exempt employers and State and local governments (sec. 457 plans), and salary reduction contributions to a cafeteria plan are considered compensation for purposes of the limits on contributions and benefits.

Effective date.—Years beginning after December 31, 1997.

Conference agreement

The conference agreement follows the Senate amendment.

D. MISCELLANEOUS PENSION SIMPLIFICATION

1. TREATMENT OF LEASED EMPLOYEES (SEC. 14231 OF THE HOUSE BILL AND SEC. 12931 OF THE SENATE AMENDMENT)

Present law

An individual (a leased employee) who performs services for another person (the recipient) may be required to be treated as the recipient's employee for various employee benefit provisions, if the services are performed pursuant to an agreement between the recipient and any other person (the leasing organization) who is otherwise treated as the individual's employer (sec. 414(n)). The individual is to be treated as the recipient's employee only if the individual has performed services for the recipient on a substantially full-time basis for a year, and the services are of a type historically performed by employees in the recipient's business field.

An individual who otherwise would be treated as a recipient's leased employee will not be treated as such an employee if the individual participates in a safe harbor plan maintained by the leasing organization meeting certain requirements. Each leased employee is to be treated as an employee of the recipient, regardless of the existence of a safe harbor plan, if more than 20 percent of an employer's nonhighly compensated workforce are leased.

House bill

Under the House bill, the present-law "historically performed" test is replaced with a new rule under which an individual is not considered a leased employee unless the services are performed under significant direction or control by the recipient.

Effective date.—The provision is effective for years beginning after December 31, 1995, except that the changes do not apply to relationships that have been previously determined by an IRS ruling not to involve leased employees. In applying the leased employee rules to years beginning before the effective date, it is intended that the Secretary use a reasonable interpretation of the statute to apply the leasing rules to prevent abuse.

Senate amendment

Under the Senate amendment, the present-law "historically performed" test is replaced with a new rule under which an individual is not considered a leased employee unless the individual's services are performed under the primary direction or control of the service recipient.

Effective date.—Same as House bill.

Conference agreement

The conference agreement follows the Senate amendment. Consequently, an individual is not considered a leased employee unless the individual's services are performed under primary direction or control by the service recipient. As under present law, the determination of whether someone is a leased employee is made after determining whether the individual is a common-law employee of the recipient. Thus, an individual who is not a common-law employee of the service recipient could nevertheless be a leased employee of the service recipient. Similarly, the fact that a person is or is not found to perform services under primary direction or control of the recipient for purposes of the employee leasing rules is not determinative of whether the person is or is not a common- law employee of the recipient.

Whether services are performed by an individual under primary direction or control by the service recipient depends on the facts and circumstances. In general, primary direction and control means that the service recipient exercises the majority of direction and control over the individual. Factors that are relevant in determining whether primary direction or control exists include whether the individual is required to comply with instructions of the service recipient about when, where, and how he or she is to perform the services, whether the services must be performed by a particular person, whether the individual is subject to the supervision of the service recipient, and whether the individual must perform services in the order or sequence set by the service recipient. Factors that generally are not relevant in determining whether such direction or control exists include whether the service recipient has the right to hire or fire the individual and whether the individual works for others.

For example, an individual who works under the direct supervision of the service recipient would be considered to be subject to primary direction or control of the service recipient even if another company hired and trained the individual, had the ultimate (but unexercised) legal right to control the individual, paid his wages, withheld his employment and income taxes, and had the exclusive right to fire him. Thus, for example, temporary secretaries, receptionists, word processing personnel and similar office personnel who are subject to the day-to-day control of the employer in essentially the same manner as a common law employee are treated as leased employees if the period of service threshold is reached.

On the other hand, an individual who is a common-law employee of Company A who performs services for Company B on the business premises of Company B under the supervision of Company A would generally not be considered to be under primary direction or control of Company B. The supervision by Company A must be more than nominal, however, and not merely a mechanism to avoid the literal language of the direction or control test.

An example of the situation in the preceding paragraph might be a work crew that comes into a factory to install, repair, maintain, or modify equipment or machinery at the factory. The work crew includes a supervisor who is an employee of the equipment (or equipment repair) company and who has the authority to direct and control the crew, and who actually does exercise such direction and control. In this situation, the supervisor and his or her crew are required to comply with the safety and environmental precautions of the manufacturer. As another example, certain professionals (e.g., attorneys, accountants, actuaries, doctors, computer programmers, systems analysts, and engineers) who regularly make use of their own judgement and discretion on matters of importance in the performance of their services and are guided by professional or industry standards, are not leased employees merely because the service recipient requires the services to be performed on site and according to certain stages and timetables.

Under the direction or control test, clerical and similar support staff (e.g., secretaries and nurses in a doctor's office) generally would be considered to be subject to primary direction or control of the service recipient and would be leased employees provided the other requirements of section 414(n) are met. On the other hand, outside professionals who maintain their own businesses (e.g., lawyers and accountants) generally would not be considered to be subject to such primary direction or control.

In many cases, the "historically performed" test is overly broad, and results in the unintended treatment of individuals as leased employees. One of the principal purposes for changing the leased employee rules is to relieve the unnecessary hardship and uncertainty created for employers in these circumstances. However, it is not intended that the direction or control test enable employers to engage in abusive practices. Thus, it is intended that the Secretary interpret and apply the leased employee rules in a manner so as to prevent abuses. This ability to prevent abuses under the leasing rules is in addition to the present-law authority of the Secretary under section 414(o). For example, one potentially abusive situation exists where the benefit arrangements of the service recipient overwhelmingly favor its highly compensated employees, the employer has no or very few nonhighly compensated common-law employees, yet the employer makes substantial use of the services of nonhighly compensated individuals who are not its common-law employees.

The conferees do not intend this provision to have any impact whatsoever on the interpretation or applicability of Federal, State, or local labor laws.

2. PLANS COVERING SELF-EMPLOYED INDIVIDUALS (SEC. 14232 OF THE HOUSE BILL AND SEC. 12932 OF THE SENATE AMENDMENT)

Present law

Prior to the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA"), different rules applied to retirement plans maintained by incorporated employers and unincorporated employers (such as partnerships and sole proprietors). In general, plans maintained by unincorporated employers were subject to special rules in addition to the other qualification requirements of the Code. Most, but not all, of this disparity was eliminated by TEFRA. Under present law, certain special aggregation rules apply to plans maintained by owner employees of unincorporated businesses that do not apply to other qualified plans (sec. 401(d)(1) and (2)).

House bill

The bill eliminates the special aggregation rules that apply to plans maintained by self-employed individuals that do not apply to other qualified plans.

Effective date.—The provision is effective for years beginning after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS (SEC. 14233 OF THE HOUSE BILL AND SEC. 12933 OF THE SENATE AMENDMENT)

Present law

Under present law, except in the case of multiemployer plans, a plan is not a qualified plan unless a participant's employer-provided benefit vests at least as rapidly as under one of two alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of the participant's accrued benefit derived from employer contributions upon the participant's completion of 5 years of service. A plan satisfies the second schedule if a participant has a nonforfeitable right to at least 20 percent of the participant's accrued benefit derived from employer contributions after 3 years of service, 40 percent at the end of 4 years of service, 60 percent at the end of 5 years of service, 80 percent at the end of 6 years of service, and 100 percent at the end of 7 years of service.

In the case of a multiemployer plan, a participant's accrued benefit derived from employer contributions is required to be 100-percent vested no later than upon the participant's completion of 10 years of service. This special rule applies only to employees covered by the plan pursuant to a collective bargaining agreement.

House bill

The bill conforms the vesting rules for multiemployer plans to the rules applicable to other qualified plans.

Effective date.—The provision is effective for plan years beginning on or after the earlier of (1) the later of January 1, 1996, or the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates, or (2) January 1, 1998, with respect to participants with an hour of service after the effective date.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

4. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS (SEC. 14232 OF THE HOUSE BILL AND SEC. 12938 OF THE SENATE AMENDMENT)

Present law

A qualified cash or deferred arrangement can permit withdrawals of employee elective deferrals only after the earlier of (1) the participant's separation from service, death, or disability, (2) termination of the arrangement, or (3) in the case of a profit-sharing or stock bonus plan, the attainment of age 59½ or the occurrence of a hardship of the participant. In the case of a money purchase pension plan, including a rural cooperative plan, withdrawals by participants cannot occur upon attainment of age 59½ or upon hardship.

House bill

The House bill provides that a rural cooperative plan that includes a cash or deferred arrangement may permit distributions to plan participants after the attainment of age 59½.

Effective date.—Distributions after December 31, 1995.

Senate amendment

Same as House bill, except that withdrawals are also permitted on account of hardship. In addition, the definition of a rural cooperative is expanded to include certain public utility districts, a national association of rural cooperatives, and any other organization providing services related to the activities of rural cooperatives, but only in the case of a plan with respect to which substantially all of the organizations maintaining are rural cooperatives.

Effective date.—Distributions after the date of enactment. The modifications to the definition of a rural cooperative applies to plan years beginning after December 31, 1994.

Conference agreement

The conference agreement follows the Senate amendment, except that the definition of rural cooperative does not include any other organization providing services related to the activities of rural cooperatives.[96]

5. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415 (SEC. 14235 OF THE HOUSE BILL AND SEC. 12935 OF THE SENATE AMENDMENT)

Present law

Present law imposes limits on contributions and benefits under qualified plans based on the type of plan (sec. 415). Certain special rules apply to State and local governmental plans under which such plans may provide benefits greater than those permitted by the limits on benefits applicable to plans maintained by private employers.

In the case of defined benefit pension plans, the limit on the annual retirement benefit is the lesser of (1) 100 percent of compensation or (2) $120,000 (indexed for inflation). The dollar limit is reduced in the case of early retirement or if the employee has less than 10 years of plan participation.

House bill

The House bill makes the following modifications to the limits on contributions and benefits as applied to governmental plans:

(1) compensation includes employer contributions to certain plans under a salary reduction arrangement;

(2) the 100 percent of compensation limitation on defined benefit pension plan benefits does not apply; and

(3) the early retirement reduction and the 10-year phase in of the defined benefit plan dollar limit do not apply to certain disability and survivor benefits.

The House bill also permits State and local government employers to maintain excess benefit plans without regard to the limits on unfunded deferred compensation arrangements of State and local government employers (sec. 457).

Effective date.—Years beginning on or after January 1, 1996. Governmental plans are treated as if in compliance with the requirements of section 415 for years beginning before January 1, 1996.

Senate amendment

The Senate amendment is the same as the House bill, except that the exemption from the 100 percent of compensation limit does not apply to State legislators. The modification of the definition of compensation to include contributions under a salary reduction agreement is contained in another provision (see C.4., above) and applies to all employers.

Effective date.—Years beginning on or after January 1, 1995. With respect to governmental plans, no inference is intended with respect to prior years.

Conference agreement

The conference agreement follows the House bill, except the provision is effective for years beginning after December 31, 1994. The provision should not be construed to infer that a governmental plan fails to satisfy the requirements of section 415 with respect to years beginning before January 1, 1995. With respect to years before the effective date of this provision, the Secretary is directed to enforce the requirements of section 415 consistent with the amendments in this provision.

6. UNIFORM RETIREMENT AGE (SEC. 14236 OF THE BILL AND SEC. 12940 OF THE SENATE AMENDMENT)

Present law

A qualified plan generally must provide that payment of benefits under the plan must begin no later than 60 days after the end of the plan year in which the participant reaches age 65. Also, for purpose of the vesting and benefit accrual rules, normal retirement age generally can be no later than age 65. For purposes of applying the limits on contributions and benefits (sec. 415), Social Security retirement age is generally used as retirement age. The Social Security retirement age as used for such purposes is presently age 65, but is scheduled to gradually increase.

House bill

The bill provides that for purposes of the general nondiscrimination rule (sec. 401(a)(4)) the Social Security retirement age (as defined in sec. 415) is a uniform retirement age and that subsidized early retirement benefits and joint and survivor annuities are not treated as not being available to employees on the same terms merely because they are based on an employee's Social Security retirement age (as defined in sec. 415).

Effective date.—The provision is effective for years beginning after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

7. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS (SEC. 14237 OF THE HOUSE BILL)

Present law

Any person who fails to file an information report with the IRS on or before the prescribed filing date is subject to penalties for each failure. A different, flat-amount penalty applies for each failure to provide information reports to the IRS or statements to payees relating to pension payments.

House bill

The House bill incorporates into the general penalty structure the penalties for failure to provide information reports relating to pension payments to the IRS and to recipients.

Effective date.—Returns and statements the due date for which is after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

8. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES (SEC. 14238 OF THE HOUSE BILL AND SEC. 12937 OF THE SENATE AMENDMENT)

Present law

Under present law, an employer may elect to continue deductible contributions to a defined contribution plan on behalf of an employee who is permanently and totally disabled. For purposes of the limit on annual additions (sec. 415(c)), the compensation of a disabled employee is deemed to be equal to the annualized compensation of the employee prior to the employee's becoming disabled. Contributions are not permitted on behalf of disabled employees who were officers, owners, or highly compensated before they became disabled.

House bill

The bill provides that the special rule for contributions on behalf of disabled employees is applicable without an employer election and to highly compensated employees if the defined contribution plan provides for the continuation of contributions on behalf of all participants who are permanently and totally disabled.

Effective date.—The provision applies to years beginning after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

9. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS (SEC. 14239 OF THE HOUSE BILL AND SEC. 12936 OF THE SENATE AMENDMENT)

Present law

Under a section 457 plan, an employee who elects to defer the receipt of current compensation is taxed on the amounts deferred when such amounts are paid or made available. The maximum annual deferral under such a plan is the lesser of (1) $7,500 or (2) 33⅓ percent of compensation (net of the deferral).

Amounts deferred under a section 457 plan may not be made available to an employee before the earlier of (1) the calendar year in which the participant attains age 70½, (2) when the participant is separated from the service with the employer, or (3) when the participant is faced with an unforeseeable emergency.

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[96] Of course, such organizations may be eligible to maintain a qualified cash or deferred arrangement under the provision of the conference agreement allowing tax-exempt employers to maintain cash or deferred arrangements.

Benefits under a section 457 plan are not treated as made available if the participant may elect to receive a lump sum payable after separation from service and within 60 days of the election. This exception is available only if the total amount payable to the participant under the plan does not exceed $3,500 and no additional amounts may be deferred under the plan with respect to the participant.

House bill

The House bill makes three changes to the rules governing section 457 plans.

(1) The bill permits in-service distributions of accounts that do not exceed $3,500 under certain circumstances.

(2) The bill increases the number of elections that can be made with respect to the time distributions must begin under the plan.

(3) The bill provides for indexing of the dollar limit on deferrals. No rounding rules apply to such indexing.

Effective date.—Taxable years beginning after December 31, 1995.

Senate amendment

Same as the House bill, except that a rounding rule applies to the indexing of the dollar limits on deferrals.

Effective date.—Same as House bill.

Conference agreement

Same as the Senate amendment, except when indexing the dollar limit on deferrals, the limit is rounded to the next lowest multiple of $500.

10. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS (SEC. 14240 OF THE HOUSE BILL)

Present law

Until deferrals under a section 457 plan are made available to a plan participant, such amounts deferred, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights must remain solely the property and rights of the employer, subject only to the claims of the employer's general creditors.

House bill

Under the House bill, all amounts deferred under a section 457 plan maintained by a State and local governmental employer are to be held in trust (or custodial account or annuity contract) for the exclusive benefit of employees. The trust (or custodial account or annuity contract) is provided tax-exempt status. Amounts are not considered made available merely because they are held in a trust, custodial account, or annuity contract.

Effective date.—Generally effective with respect to plan assets held on or after the date of enactment. In the case of assets held within the 90-day period after the date of enactment, the provision does not apply until such 90th day.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—Generally effective with respect to amounts held on or after the date of enactment. In the case of amounts deferred before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature beginning after the date of enactment, a trust need not be established by reason of this provision before such first day. In the case of a State that has a 2-year legislative session, each year of such session is deemed to be a separate regular session of the State legislature.

11. CORRECTION OF GATT INTEREST AND MORTALITY RATE PROVISIONS IN THE RETIREMENT PROTECTION ACT (SEC. 14241 OF THE HOUSE BILL)

Present law

The Retirement Protection Act of 1994, enacted as part of the implementing legislation for the General Agreement on Tariffs and Trade (GATT), modified the actuarial assumptions that must be used in adjusting benefits and limitations. In general, in adjusting a benefit that is payable in a form other than a straight life annuity and in adjusting the dollar limitation if benefits begin before Social Security retirement age, the interest rate to be used cannot be less than the greater of 5 percent or the rate specified in the plan. Under the Retirement Protection Act, if the benefit is payable in a form subject to the requirements of section 417(e)(3), then the interest rate on 30-year Treasury securities is substituted for 5 percent. Also under the Retirement Protection Act, for purposes of adjusting any limit or benefit, the mortality table prescribed by the Secretary must be used.

This provision of the Retirement Protection Act is generally effective as of the first day of the first limitation year beginning in 1995.

The Retirement Protection Act made similar changes to the interest rate and mortality assumptions used to calculate the value of lump-sum distributions for purposes of the rule permitting involuntary dispositions of certain accrued benefits. In the case of a plan adopted and in effect before December 8, 1995, those provisions do not apply before the earlier of (1) the date a plan amendment applying the new assumption is adopted or made effective (whichever is later), or (2) the first day of the first plan years beginning after December 31, 1999.

House bill

The House bill conforms the effective date of the new interest rate and mortality assumptions that must be used under section 415 to calculate the limits on benefits and contributions to the effective date of the provision relating to the calculation of lump-sum distributions. This rule applies only in the case of plans that were adopted and in effect before the date of enactment of the Retirement Protection Act (December 8, 1994).

To the extent plans have already been amended to reflect the new assumptions, plan sponsors are permitted within 1 year of the date of enactment to amend the plan to reverse retroactively such amendment.

Effective date.—Effective as if included in the Retirement Protection Act.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, except the provision repeals the Retirement Protection Act provision which requires that if the benefit is payable in a form subject to the requirements of section 417(e)(3) (e.g., lump sum), then the interest rate to be used to reduce the dollar limit on benefits under section 415 cannot be less than the greater of the rate on 30-year Treasury securities or the rate specified in the plan. Consequently, regardless of the form of benefit, the interest rate to be used cannot be less than the greater of 5 percent or the rate specified in the plan.

Effective date.—Same as the House bill.

12. MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED UNDER SECTION 403(B)(SEC. 14242 OF THE BILL AND SEC. 12941 OF THE SENATE AMENDMENT)

Present law

Under Treasury regulations, a participant in a tax-sheltered annuity plan (sec. 403(b)) is not permitted to enter into more than one salary reduction agreement in any taxable year. These regulations further provide that a salary reduction agreement is effective only with respect to amounts "earned" after the agreement becomes effective, and that a salary reduction agreement must be irrevocable with respect to amounts earned while the agreement is in effect.

These restrictions do not apply to other elective deferral arrangements such as a qualified cash or deferred arrangement (sec. 401(k)). Under Treasury regulations, participants in a qualified cash or deferred arrangement may enter into more than one salary reduction agreement in a taxable year, such an agreement is effective with respect to compensation currently available to the participant after the agreement becomes effective even though previously "earned," and the agreement may be revoked by the participant.

House bill

The bill provides that for participants in a tax-sheltered annuity plan, the frequency that a salary reduction agreement may be entered into, the compensation to which such agreement applies, and the ability to revoke such agreement shall be determined under the rules applicable to qualified cash or deferred arrangements.

Effective date.—The provision is effective for taxable years beginning after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

13. WAIVER OF MINIMUM WAITING PERIOD FOR QUALIFIED PLAN DISTRIBUTIONS (SEC. 14243 OF THE HOUSE BILL)

Present law

Under present law, in the case of a qualified joint and survivor annuity, a written explanation of the form of benefit must generally be provided to participants no less than 30 days and no more than 90 days before the annuity starting day. Even if a participant has elected to waive the qualified joint and survivor annuity and the spouse has consented to the distribution, the distribution from the plan cannot be made until 30 days after the written explanation was provided to the participant.[97]

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[97] On September 15, 1995, Treasury issued temporary regulations (T.D. 8620) which provide that a plan may permit a participant to elect (with any applicable spousal consent) a distribution with an annuity starting date before 30 days have elapsed since the explanation was provided, as long as the distribution commences more than seven days after the explanation was provided. Consequently, even if the participant (and spouse, if applicable) has elected to waive the minimum waiting period for receiving a qualified plan distribution, the distribution from the plan cannot be made until seven days have elapsed since the explanation was provided to the participant.

House bill

The House bill provides that the minimum period between the date the explanation of the qualified joint and survivor annuity is provided and the annuity starting date does not apply if it is waived by the participant and, if applicable, the participant's spouse. For example, if the participant has not elected to waive the qualified joint and survivor annuity, only the participant need waive the minimum waiting period.

Effective date.—The provision is effective with respect to plan years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

14. REPEAL OF COMBINED PLAN LIMIT (SEC. 14244 OF THE HOUSE BILL AND SEC. 12921 OF THE SENATE AMENDMENT)

Present law

Present law provides limits on contributions and benefits under qualified plans based on the type of plan, i.e., based on whether the plan is a defined contribution plan or a defined benefit pension plan.

Combined plan limit.—An overall limit applies if an individual is a participant in both a defined benefit pension plan and a defined contribution plan (the combined plan limit).

Excess distribution tax.—Present law imposes a 15-percent excise tax on excess distributions from qualified retirement plans, tax-sheltered annuities, and IRAs. Excess distributions are generally the aggregate amount of retirement distributions from such plans during any calendar year in excess of $150,000 (or $750,000 in the case of a lump- sum distribution). An additional 15-percent estate tax is also imposed on an individual's excess retirement accumulation.

House bill

Combined plan limit.—The House bill repeals the combined plan limit.

Effective date.—Limitation years beginning after December 31, 1996.

Excess distribution tax.—No provision.

Senate amendment

Combined plan limit.—Same as House bill, except that the repeal of the combined plan limit would not apply with respect to plans maintained by professional service employers (an employer substantially all of the activities of which are in the fields of architecture, science, health, law, performing arts, financial services, actuarial services, engineering, accounting, and consulting).

Effective date.—Limitation years beginning after December 31, 1998.

Excess distribution tax.—Until the repeal of the combined plan limit is effective, the Senate amendment suspends the excise tax on excess distributions. The additional estate tax on excess accumulations continues to apply.

Effective date.—Distributions in 1996, 1997, and 1998.

Conference agreement

Combined plan limit.—The conference agreement follows the House bill, effective with respect to limitation years beginning after December 31, 1998.

Excess distribution tax.—The conference agreement follows the Senate amendment.

15. DATE FOR ADOPTION OF PLAN AMENDMENTS (SEC. 14245 OF THE HOUSE BILL AND SEC. 12914 OF THE SENATE AMENDMENT)

Present law

Plan amendments to reflect amendments to the law generally must be made by the time prescribed by law for filing the income tax return of the employer for the employer's taxable year in which the change in law occurs.

House bill

The House bill generally provides that any plan amendments required by the bill are not required to be made before the first plan year beginning on or after January 1, 1997.

Effective date.—Date of enactment.

Senate amendment

Same as the House bill, except that the date for plan amendments is extended to the first plan year beginning on or after January 1, 1999, in the case of a governmental plan.

Effective date.—Same as House bill.

Conference agreement

The conference agreement does not include the House bill or the Senate amendment.

16. FULL FUNDING LIMITATION OF MULTIEMPLOYER PLANS (SEC. 12934 OF THE SENATE AMENDMENT)

Present law

An employer may make deductible contributions to a defined benefit pension plan up to the full funding limitation. The full funding limitation is generally defined as the lesser of (1) the accrued liability under the plan or (2) 150 percent of the plan's current liability. Valuation of defined benefit pension plans are required annually.

House bill

No provision.

Senate amendment

The Senate amendment provides that the 150 percent of current liability limitation does not apply to multiemployer plans. In addition, the amendment repeals the annual valuation requirement for multiemployer plans and applies the prior-law rule that valuations generally be performed at least every 3 years.

Effective date.—Years beginning after December 31, 1997.

Conference agreement

The conference agreement does not include the Senate amendment.

17. LIMITS ON CONTRIBUTIONS AND BENEFITS UNDER MULTIEMPLOYER PLANS (SEC. 12935 OF THE SENATE AMENDMENT)

Present law

Present law imposes limits on contributions and benefits under qualified plans based on the type of plan (sec. 415). In the case of a defined benefit pension plan, the limit on the annual retirement benefit is the lesser of (1) 100 percent of compensation or (2) $120,000 (indexed for inflation). The dollar limit is reduced in the case of early retirement or if the employee has less than 10 years of plan participation.

House bill

No provision.

Senate amendment

Under the Senate amendment, in the case of a multiemployer plan, the 100 percent of compensation limit, the early retirement reduction, and the 10-year phase in of the defined benefit plan dollar limit do not apply.

Effective date.—Years beginning after December 31, 1995.

Conference agreement

The conference agreement does not include the Senate amendment.

18. TENURED FACULTY (SEC. 12939 OF THE SENATE AMENDMENT)

Present law

Under a section 457 plan, an employee who elects to defer the receipt of current compensation is taxed on the amounts deferred when such amounts are paid or made available. The maximum annual deferral under such a plan is the lesser of (1) $7,500 or (2) 33½ percent of compensation (net of the deferral).

House bill

No provision.

Senate amendment

The Senate amendment provides that the limits of section 457 do not apply to eligible faculty voluntary retirement incentive pay. In order to qualify for the exception, the payments must be made to employees who elect, during a specified period of time of limited duration (as established by the employer) to retire early, the total amount of he payments cannot exceed twice the individual's annual compensation and all such payments to the employee must be completed within 5 years after the employee's termination of employment.

Effective date.—Years beginning after December 31, 1995.

Conference agreement

The conference agreement does not include the Senate amendment.

19. APPLICATION OF ELECTIVE DEFERRAL LIMIT TO SECTION 403(B) PLANS (SEC. 12941 OF THE SENATE AMENDMENT)

Present law

A tax-sheltered annuity plan must provide that elective deferrals made under the plan on behalf of an employee may not exceed the annual limit on elective deferrals ($9,500 for 1995). Plans that do not comply with this requirement may lose their tax-favored status.

House bill

No provision.

Senate amendment

The Senate amendment eliminates the requirement that a tax-sheltered annuity plan must provide that elective deferrals under the plan may not exceed the annual limit on elective deferrals. As under present law, employees who make elective deferrals in excess of the annual limit must include such amounts in their taxable income.

Effective date.—The provision is effective with respect to plan years beginning after December 31, 1995.

Conference agreement

Under the conference agreement, each tax-sheltered annuity contract, not the tax-sheltered annuity plan, must provide that elective deferrals made under the contract may not exceed the annual limit on elective deferrals. It is intended that the contract terms be given effect in order for this requirement to be satisfied. Thus, for example, if the annuity contract issuer takes no steps to ensure that deferrals under the contract do not exceed the applicable limit, then the contract will not be treated as satisfying section 403(b). The provision is intended to make clear that the exclusion of elective deferrals from gross income by employees who have not exceeded the annual limit on elective deferrals will not be affected to the extent other employees exceed the annual limit. However, if the occurrence of an uncorrected elective deferral made by an employee is attributable to reasonable error, the contract does not fail to satisfy section 403(b), and only the portion of the elective deferral in excess of the annual limit is includible in gross income.

Effective date.—Years beginning after December 31, 1995.

20. TREATMENT OF INDIAN TRIBAL GOVERNMENTS UNDER SECTION 403(B) (SEC. 12941 OF THE SENATE AMENDMENT)

Present law

Under present law, certain tax-exempt employers and certain State and local government educational organizations are permitted to maintain tax-sheltered annuity plans (sec. 403(b). Indian tribal governments are treated as States for this purpose, so certain educational organizations associated with a tribal government are eligible to maintain tax-sheltered annuity plans.

House bill

No provision.

Senate Amendment

The Senate amendment provides that any 403(b) annuity contract purchased in a plan year beginning before January 1, 1995.

Effective date.—Date of enactment.

Conference agreement

The conference agreement follows the Senate amendment and also provides that such contracts may be rolled over into a section 401(k) plan maintained by the Indian tribal government pursuant to the conference agreement.

21. TAX ON PROHIBITED TRANSACTIONS (SEC. 12942 OF THE SENATE AMENDMENT)

Present law

Present law prohibits certain transactions (prohibited transactions) between a qualified pension plan and a disqualified person in order to prevent persons with a close relationship to the qualified plan from using that relationship to the detriment of plan participants and beneficiaries. A two-tier excise tax is imposed on prohibited transactions. The initial level tax is equal to 5 percent of the amount involved with respect to the transaction. If the transaction is not corrected within a certain period, a tax equal to 100 percent of the amount involved may be imposed.

House bill

No provision.

Senate amendment

The Senate amendment increases the initial-level prohibited transaction tax from 5 percent to 10 percent.

Effective date.—Transactions occurring after December 31, 1995.

Conference Agreement

The conference agreement follows the Senate amendment.

E. SPECIAL RULES FOR CHURCH PENSION PLANS (SECS. 12951–12968 OF THE SENATE AMENDMENT)

Present law

In general, a church plan is a pension plan established and maintained for employees (or their beneficiaries) by a church or a church convention or association of churches that is exempt from tax (sec. 414(e)). Church plans include plans maintained by an organization, whether a corporation or otherwise, that has as its principal purpose or function the administration or funding of a plan or program for providing retirement or welfare benefits for the employees of the church or convention or association of churches. For most purposes, employees of a church include any minister, regardless of the source of his or her compensation, and an employee of an organization which is exempt from tax and which is controlled by or associated with a church or a convention or association of churches.

Plans maintained by churches and certain church-controlled organizations are exempt from certain of the requirements applicable to pension plans under the code pursuant to the Employee Retirement Income Security Act of 1974 (as amended) ("ERISA"). For example, such plans are not subject to ERISA's vesting, coverage, and funding requirements. In some cases, such plans are subject to provisions in effect before the enactment of ERISA. Church plans may elect to waive the exemption from the qualification rules (sec. 410(d)). Electing plans become subject to all the tax Code (sec. 401(a)) qualification requirements. Title I of ERISA, the excise tax on prohibited transactions, and participation in the pension plan termination insurance program administered by the Pension Benefit Guaranty Corporation.

Certain eligible employers may maintain tax-sheltered annuity plans (sec. 403(b)). These plans provide tax-deferred retirement savings for employees of public education institutions and employees of certain tax-exempt organizations (including churches and certain organizations associated with churches). In addition to tax-sheltered annuities, alternative funding mechanisms that provide similar tax benefits include church-maintained retirement income accounts (sec. 403(b)(9)).

House bill

No provision.

Senate amendment

In general, the Senate amendment revises the rules relating to church-maintained qualified retirement plans. In addition, the Senate amendment modifies the rules relating to employee annuity contracts and retirement income accounts maintained for the benefit of church employees. The Senate amendment also provides that all retirement benefits of ministers are not subject to self-employment taxes.

No inference is intended with respect to the application of the present-law rules to church-maintained qualified retirement plans.

Effective date.—The provisions of the Senate amendment providing special rules for church plans are generally effective for years beginning after December 31, 1994.

Conference agreement

The conference agreement does not include the Senate amendment.

XIII. PARTNERSHIP SIMPLIFICATION PROVISIONS

A. GENERAL PROVISIONS

1. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS (SEC. 14301 OF THE HOUSE BILL)

Present law

A partnership generally is treated as a conduit for Federal income tax purposes. Each partner takes into account separately his distributive share of the partnership's items of income, gain, loss, deduction or credit. The character of an item is the same as if it had been directly realized or incurred by the partner. Limitations affecting the computation of taxable income generally apply at the partner level.

The taxable income of a partnership is computed in the same manner as that of an individual, except that no deduction is permitted for personal exemptions, foreign taxes, charitable contributions, net operating losses, certain itemized deductions, or depletion. Elections affecting the computation of taxable income derived from a partnership are made by the partnership, except for certain elections such as those relating to discharge of indebtedness income and the foreign tax credit.

Taxpayers involved in the search for and extraction of crude oil and natural gas are subject to certain special tax rules. As a result, in the case of partnerships engaged in such activities, certain specific information is separately reported to partners.

House bill

The House bill modifies the tax treatment of a large partnership (generally, a partnership with at least 250 partners, or an electing partnership with at least 100 partners) and its partners. The provision provides that each partner takes into account separately the partner's distributive share of the following items, which are determined at the partnership level: (1) taxable income or loss from passive loss limitation activities; (2) taxable income or loss from other activities (e.g., portfolio income or loss); (3) net capital gain or loss to the extent allocable to passive loss limitation activities and other activities; (4) tax-exempt interest; (5) net alternative minimum tax adjustment separately computed for passive loss limitation activities and other activities; (6) general credits; (7) low-income housing credit; (8) rehabilitation credit; (9) credit for producing fuel from a nonconventional source; (10) creditable foreign taxes and foreign source items; and (11) any other items to the extent that the Secretary determines that separate treatment of such items is appropriate.[98] Separate treatment may be appropriate, for example, should changes in the law necessitate such treatment for any items.

Under the House bill, the taxable income of a large partnership is computed in the same manner as that of an individual, except that the items described above are separately stated and certain modifications are made. These modifications include disallowing the deduction for personal exemptions, the net operating loss deduction and certain itemized deductions.[99] All limitations and other provisions affecting the computation of taxable income or any credit (except for the at risk, passive loss and itemized deduction limitations, and any other provision specified in regulations) are applied at the partnership (and not the partner) level.

All elections affecting the computation of taxable income or any credit generally are made by the partnership.

A "large partnership" is any partnership with at least 250 partners in any preceding taxable year beginning after December 31, 1995.[100] Any partnership treated as a large partnership for a taxable year is so treated for all succeeding years, even if the number of partners falls below 250. Regulations may provide, however, that if the number of partners in any taxable year falls below 100, the partnership is not treated as a large partnership. Partnerships with at least 100 partners can elect to be treated as large partnerships. The election applies to the year for which made and all subsequent years and cannot be revoked without the Secretary's consent.

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[98] In determining the amounts required to be separately taken into account by a partner, those provisions of the large partnership rules governing computations of taxable income would be applied separately with respect to that partner by taking into account that partner's distributive share of the partnership's items of income, gain, loss, deduction or credit. This rule permits partnerships to make otherwise valid special allocations of partnership items to partners.

[99] A large partnership would be allowed a deduction under section 212 for expenses incurred for the production of income, subject ot 70-percent disallowance. No income from a large partnership would be treated as fishing or farming income.

[100] The number of partners is determined by counting only persons directly holding partnership interests in the taxable year, including persons holding through nominees; persons holding indirectly (e.g., through another partnership) are not counted. It is not necessary for a partnership to have 250 or more partners at any one time in a taxable year for the partnership to constitute a large partnership.

Service partnerships.—A large partnership does not include any partnership if substantially all the partners are: (1) individuals performing substantial services in connection with the partnership's activities, or personal service corporations the owner-employees of which perform such services; (2) retired partners who had performed such services; or (3) spouses of partners who had performed such services. In addition, the term "partner" does not include any individual performing substantial services in connection with the partnership's activities and holding a partnership interest, or an individual who formerly performed such services and who held a partnership interest at the time the individual performed such services.

Commodity partnerships.—The large partnership rules do not apply to any partnership the principal activity of which is the buying and selling of commodities (not described in sec. 1221(1)), or options, futures or forwards with respect to commodities.

Partnerships holding oil and gas properties.—In general, a large partnership that otherwise meets the qualifications for simplified reporting is not required to report information to its partners under the rules of that regime if it is substantially engaged in oil and gas related activities. Rather, such a partnership continues to report information to its partners as under present law. The bill permits such a partnership, however, to elect to utilize the simplified reporting regime, as modified for oil and gas purposes. If an election is made for any taxable year, it will also apply for all subsequent taxable years unless revoked with the consent of the Secretary.

A partnership is considered to be substantially engaged in oil and gas activities if at least 25 percent of the average value of its assets during the taxable year consists of oil or gas properties.[101] In making this determination, a partnership is treated as owning its proportionate share of assets of any partnership in which it holds an interest.

The bill provides special rules for large partnerships with oil and gas activities that operate under the simplified reporting regime (i.e., either (1) large partnerships that are substantially engaged in oil and gas activities and which elect to use the regime, or (2) large partnerships that are not substantially engaged in oil and gas operations, but do have some oil and gas activities).

Effective date.—Partnership taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with a modification of the definition of a partnership to which the simplified flow-through rules apply. Under the conference agreement, a partnership to which these rules apply is an electing large partnership, which is defined as any partnership that elects under the provision, if the number of partners in the preceding partnership taxable year is 100 or more. To the extent so provided in regulations, if the number of partners in any taxable year falls below 100, the partnership is not treated as a large partnership. The conference agreement retains the House bill rules relating to service partnerships, commodity partnerships, and partnerships holding oil and gas properties.

2. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS (SEC. 14302 OF THE HOUSE BILL)

Present law

The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") established unified audit rules applicable to all but certain small (10 or fewer partners) partnerships. These rules require the tax treatment of all "partnership items" to be determined at the partnership, rather than the partner, level. Partnership items are those items that are more appropriately determined at the partnership level than at the partner level, as provided by regulations.

Under the TEFRA rules, a partner must report all partnership items consistently with the partnership return or must notify the IRS of any inconsistency. If a partner fails to report any partnership item consistently with the partnership return, the IRS may make a computational adjustment and immediately assess any additional tax that results.

Under the TEFRA rules, a partner must report all partnership items consistently with the partnership return or must notify the IRS of any inconsistency. If a partner fails to report any partnership item consistently with the partnership return, the IRS may make a computational adjustment and immediately assess any additional tax that results.

The IRS may challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. But the IRS must still assess any resulting deficiency against each of the taxpayers who were partners in the year in which the understatement of tax liability arose.

The IRS generally is required to give notice of the beginning of partnership-level administrative proceedings and any resulting administrative adjustment to all partners whose names and addresses are furnished to the IRS. For partnerships with more than 100 partners, however, the IRS generally is not required to give notice to any partner whose profits interest is less than one percent.

House bill

The House bill creates a new audit system for large partnerships. The provision defines "large partnership" the same way for audit and reporting purposes (generally partnerships with at least 250 partners) except that certain oil and gas partnerships exempted from the large partnership reporting requirements are large partnerships for the audit rules.

As under present law, large partnerships and their partners are subject to unified audit rules. Thus, the tax treatment of "partnership items" are determined at the partnership, rather than the partner, level. The term "partnership items" is defined as under present law.

Unlike present law, however, partnership adjustments generally will flow through to the partners for the year in which the adjustment takes effect. Thus, the current-year partners' share of current-year partnership items of income, gains, losses, deductions, or credits will be adjusted to reflect partnership adjustments that take effect in that year. The adjustments generally will not affect prior-year returns of any partners (except in the case of changes to any partner's distributive shares).

In lieu of flowing an adjustment through to its partners, the partnership may elect to pay an imputed underpayment. The imputed underpayment generally is calculated by netting the adjustments to the income and loss items of the partnership and multiplying that amount by the highest tax rate (whether individual or corporate). A partner may not file a claim for credit or refund of his allocable share of the payment. A partnership may make this election only if it meets requirements set forth in Treasury regulations designed to ensure payment (for example, in the case of a foreign partnership).

Effective date.—Partnership taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

3. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS (SEC. 14303 OF THE HOUSE BILL)

Present law

A partnership required to file an income tax return with the Internal Revenue Service must also furnish an information return to each of its partners on or before the day on which the income tax return for the year is required to be filed, including extensions. Under regulations, a partnership must file its income tax return on or before the fifteenth day of the fourth month following the end of the partnership's taxable year (on or before April 15, for calendar year partnerships). This is the same deadline by which most individual partners must file their tax returns.

House bill

The House bill provides that a large partnership must furnish information returns to partners by the first March 15 following the close of the partnership's taxable year. Large partnerships are only those partnerships subject to the simplified reporting rules for large partnerships (generally, those with at least 250 partners, or electing partnerships with at least 100 partners).

The provision also provides that, if the partnership is required to provide copies of the information returns to the Internal Revenue Service on magnetic media, each schedule (such as each Schedule K-1) with respect to each partner is treated as a separate information return with respect to the corrective periods and penalties that are generally applicable to all information returns.

Effective date.—Partnership taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

4. PARTNERSHIP RETURNS REQUIRED ON MAGNETIC MEDIA (SEC. 14304 OF THE HOUSE BILL)

Present law

Partnerships are permitted, but not required, to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

House bill

The bill provides generally that any partnership is required to provide the tax return of the partnership (Form 1065), as well as copies of the schedule sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media. An exception is provided for partnerships with 100 or fewer partners.

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[101] For this purpose, "oil or gas properties" means the mineral interests in oil gas which are of a character with respect to which a deduction for depletion is allowable under section 611.

Effective date.—Partnership taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

5. TREATMENT OF PARTNERSHIP ITEMS OF INDIVIDUAL RETIREMENT ACCOUNTS (SEC. 14305 OF THE HOUSE BILL)

Present law

Return filing requirements

An individual retirement account ("IRA") is a trust which generally is exempt from taxation except for the taxes imposed on income from an unrelated trade or business. A fiduciary of a trust that is exempt from taxation (but subject to the taxes imposed on income from an unrelated trade or business) generally is required to file a return on behalf of the trust for a taxable year if the trust has gross income of $1,000 or more included in computing unrelated business taxable income for that year (Treas. Reg. sec. 1.6012–3(a)(5)).

Unrelated business taxable income is the gross income (including gross income from a partnership) derived by an exempt organization from an unrelated trade or business, less certain deductions which are directly connected with the carrying on of such trade or business (sec. 512(a)(1). In calculating unrelated business taxable income, exempt organizations (including IRAs) generally also are permitted a specific deduction of $1,000 (sec. 512(b)(12)).

Unified audits of partnerships

All but certain small partnerships are subject to unified audit rules established by the Tax Equity and Fiscal Responsibility Act of 1982. These rules require the tax treatment of all "partnership items" to be determined at the partnership, rather than the partner, level. Partnership items are those items that are more appropriately determined at the partnership level than at the partner level, including such items as gross income and deductions of the partnership.

House bill

The House bill modifies the filing threshold for an IRA with an interest in a partnership that is subject to the partnership-level audit rules. A fiduciary of such an IRA could treat the trust's share of partnership taxable income as gross income, for purposes of determining whether the trust meets the $1,000 gross income filing threshold. A fiduciary of an IRA that receives taxable income from a partnership that is subject to partnership-level audit rules of less than $1,000 (before the $1,000 specific deduction) is not required to file an income tax return if the IRA does not have any other income from an unrelated trade or business.

Effective date.—Taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

B. OTHER PARTNERSHIP AUDIT RULES

1. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS (SEC. 14311 OF THE HOUSE BILL)

Present law

Partnership proceedings under rules enacted in TEFRA[102] must be kept separate from deficiency proceedings involving the partners in their individual capacities. Prior to the Tax Court's opinion in *Munro* v. *Commissioner*, 92 T.C. 71 (1989), the IRS computed deficiencies by assuming that all items that were subject to the TEFRA partnership procedures were correctly reported on the taxpayer's return. However, where the losses claimed from TEFRA partnerships were so large that they offset any proposed adjustments to nonpartnership items, no deficiency could arise from a non-TEFRA proceeding, and if the partnership losses were subsequently disallowed in a partnership proceeding, the non-TEFRA adjustments might be uncollectible because of the expiration of the statute of limitations with respect to nonpartnership items.

Faced with this situation in *Munro*, the IRS issued a notice of deficiency to the taxpayer that presumptively disallowed the taxpayer's TEFRA partnership losses for computational purposes only. Although the Tax Court ruled that a deficiency existed and that the court had jurisdiction to hear the case, the court disapproved of the methodology used by the IRS to compute the deficiency. Specifically, the court held that partnership items (whether income, loss, deduction, or credit) included on a taxpayer's return must be completely ignored in determining whether a deficiency exists that is attributable to nonpartnership items.

House bill

The House bill overrules *Munro* and allow the IRS to return to its prior practice of computing deficiencies by assuming that all TEFRA items whose treatment has not been finally determined had been correctly reported on the taxpayer's return. This eliminates the need to do special computations that involve the removal of TEFRA items from a taxpayer's return, and will restore to taxpayers a prepayment forum with respect to the TEFRA items. In addition, the provision provides a special rule to address the factual situation presented in *Munro*.

Specifically, the House bill provides a declaratory judgment procedure in the Tax Court for adjustments to an oversheltered return. An oversheltered return is a return that shows no taxable income and a net loss from TEFRA partnerships. In such a case, the IRS is authorized to issue a notice of adjustment with respect to non-TEFRA items, notwithstanding that no deficiency would result from the adjustment. However, the IRS could only issue such a notice if a deficiency would have arisen in the absence of the net loss from TEFRA partnerships.

The Tax Court is granted jurisdiction to determine the correctness of such an adjustment as well as to make a declaration with respect to any other item for the taxable year to which the notice of adjustment relates, except for partnership items and affected items which require partner-level determinations. No tax is due upon such a determination, but a decision of the Tax Court is treated as a final decision, permitting an appeal of the decision by either the taxpayer or the IRS. An adjustment determined to be correct would thus have the effect of increasing the taxable income that is deemed to have been reported on the taxpayer's return. If the taxpayer's partnership items were then adjusted in a subsequent proceeding, the IRS has preserved its ability to collect tax on any increased deficiency attributable to the nonpartnership items.

Alternatively, if the taxpayer chooses not to contest the notice of adjustment within the 90-day period, the bill provides that when the taxpayer's partnership items are finally determined, the taxpayer has the right to file a refund claim for tax attributable to the items adjusted by the earlier notice of adjustment for the taxable year. Although a refund claim is not generally permitted with respect to a deficiency arising from a TEFRA proceeding, such a rule is appropriate with respect to a defaulted notice of adjustment because taxpayers may not challenge such a notice when issued since it does not require the payment of additional tax.

In addition, the House bill incorporates a number of provisions intended to clarify the coordination between TEFRA audit proceedings and individual deficiency proceedings. Under these provisions, any adjustment with respect to a non-partnership item that caused an increase in tax liability with respect to a partnership item would be treated as a computational adjustment and assessed after the conclusion of the TEFRA proceeding. Accordingly, deficiency procedures do not apply with respect to this increase in tax liability, and the statute of limitations applicable to TEFRA proceedings are controlling.

Effective date.—Partnership taxable years ending after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

2. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED (SEC. 14312 OF THE HOUSE BILL)

Present law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership item is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

House bill

The House bill permits the IRS to apply the TEFRA audit procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply. Similarly, the provision permits the IRS to apply the normal deficiency procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply.

Effective date.—Partnership taxable years ending after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

3. PROVISIONS RELATING TO STATUTE OF LIMITATIONS

A. SUSPEND STATUTE WHEN AN UNTIMELY PETITION IS FILED (SEC. 14313(A) OF THE HOUSE BILL)

Present law

In a deficiency case, section 6503(a) provides that if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, the period of limitations on assessment and collection is suspended until the decision of the Tax Court becomes final, and for 60 days thereafter. The counterpart to this provision with respect to TEFRA cases is contained in section 6229(d). That section provides that the period of limitations is suspended for the period during which an action may be brought under section 6226 and, if an action is brought during such period, until the decision of the court becomes final, and for 1 year thereafter. As a result of this difference in language, the running of the statute of limitations in a TEFRA case will only be tolled by the filing of a timely petition whereas in a deficiency case, the statute of limitations is tolled by the filing of any petition, regardless of whether the petition is timely.

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[102] Tax Equity and Fiscal Responsibility Act of 1982.

House bill

The House bill conforms the suspension rule for the filing of petitions in TEFRA cases with the rule under section 6503(a) pertaining to deficiency cases. Under the provision, the statute of limitations in TEFRA cases is suspended by the filing of any petition under section 6226, regardless of whether the petition is timely or valid, and the suspension will remain in effect until the decision of the court becomes final, and for one year thereafter. Hence, if the statute of limitations is open at the time that an untimely petition is filed, the limitations period would no longer continue to run and possibly expire while the action is pending before the court.

Effective date.—All cases in which the period of limitations has not expired under present law as of the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

B. SUSPEND STATUTE OF LIMITATIONS DURING BANKRUPTCY PROCEEDINGS (SEC. 14313(B) OF THE HOUSE BILL)

Present law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6503(h) provides for the suspension of the limitations period during the pendency of a bankruptcy proceeding. However, this provision only applies to the limitations periods provided in sections 6501 and 6502.

Under present law, because the suspension provision in section 6503(h) applies only to the limitations periods provided in section 6501 and 6502, some uncertainty exists as to whether section 6503(h) applies to suspend the limitations period pertaining to converted items provided in section 6229(f) when a petition naming a partner as a debtor in a bankruptcy proceeding is filed. As a result, the limitations period provided in section 6229(f) may continue to run during the pendency of the bankruptcy proceeding, notwithstanding that the IRS is prohibited from making an assessment against the debtor because of the automatic stay provisions of the Bankruptcy Code.

House bill

The House bill clarifies that the statute of limitations is suspended for a partner who is named in a bankruptcy petition. The suspension period is for the entire period during which the IRS is prohibited by reason of the bankruptcy proceeding from making an assessment, and for 60 days thereafter. The provision does not purport to create any inference as to the proper interpretation of present law.

Effective date.—All cases in which the period of limitations has not expired under present law as of the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

C. EXTEND STATUTE OF LIMITATIONS FOR BANKRUPT TMPS (SEC. 14313(C) OF THE HOUSE BILL)

Present law

Section 6229(b)(1)(B) provides that the statute of limitations is extended with respect to all partners in the partnership by an agreement entered into between the tax matters partner (TMP) and the IRS. However, Temp. Treas. Reg. secs. 301.6231(a)(7)–1T(l)(4) and 301.6231(c)–7T(a) provide that upon the filing of a petition naming a partner as a debtor in a bankruptcy proceeding, that partner's partnership items convert to nonpartnership items, and if the debtor was the tax matters partner, such status terminates. These rules are necessary because of the automatic stay provision contained in 11 U.S.C. sec. 362(a)(8). As a result, if a consent to extend the statute of limitations is signed by a person who would be the TMP but for the fact that at the time that the agreement is executed the person was a debtor in a bankruptcy proceeding, the consent would not be binding on the other partners because the person signing the agreement was no longer the TMP at the time that the agreement was executed.

House bill

The House bill provides that unless the IRS is notified of a bankruptcy proceeding in accordance with regulations, the IRS can rely on a statute extension signed by a person who is the tax matters partner but for the fact that said person was in bankruptcy at the time that the person signed the agreement. Statute extensions granted by a bankrupt TMP in these cases are binding on all of the partners in the partnership. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective date.—Effective for extension agreements entered into after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

4. EXPANSION OF SMALL PARTNERSHIP EXCEPTION (SEC. 14314 OF THE HOUSE BILL)

Present law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership item is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

House bill

The House bill permits a small partnership to have a C corporation as a partner or to specially allocate items without jeopardizing its exception from the TEFRA rules. However, the provision retains the prohibition of present law against having a flow-through entity (other than an estate of a deceased partner) as a partner for purposes of qualifying for the small partnership exception.

Effective date.—Partnership taxable years ending after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

5. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1-YEAR LIMITATION ON ASSESSMENT (SEC. 14315 OF THE HOUSE BILL)

Present law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6231(b)(1)(C) provides that the partnership items of a partner for a partnership taxable year become nonpartnership items as of the date the partner enters into a settlement agreement with the IRS with respect to such items.

House bill

The House bill provides that if a partner and the IRS enter into a settlement agreement with respect to some but not all of the partnership items in dispute for a partnership taxable year and other partnership items remain in dispute, the period for assessing any tax attributable to the settled items is determined as if such agreement had not been entered into. Consequently, the limitations period that is applicable to the last item to be resolved for the partnership taxable year is controlling with respect to all disputed partnership items for the partnership taxable year. The provision does not purport to create any inference as to the proper interpretation of present law.

Effective date.—Settlements entered into after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

6. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT (SEC. 14316 OF THE HOUSE BILL)

Present law

If an agreement extending the statute is entered into with respect to a non-TEFRA statute of limitations, that agreement also extends the statute of limitations for filing refund claims (sec. 6511(c)). There is no comparable provision for extending the time for filing refund claims with respect to partnership items subject to the TEFRA partnership rules.

House bill

The House bill provides that if a TEFRA statute extension agreement is entered into, that agreement also extends the statute of limitations for filing refund claims attributable to partnership items or affected items until 6 months after the expiration of the limitations period for assessments.

Effective date.—Effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

7. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS (SEC. 14317 OF THE HOUSE BILL)

Present law

In general, an innocent spouse may be relieved of liability for tax, penalties and interest if certain conditions are met (sec.

6013(e)). However, existing law does not provide the spouse of a partner in a TEFRA partnership with a judicial forum to raise the innocent spouse defense with respect to any tax or interest that relates to an investment in a TEFRA partnership.

House bill

The House bill provides both a prepayment forum and a refund forum for raising the innocent spouse defense in TEFRA cases.

With respect to a prepayment forum, the provision provides that within 60 days of the date that a notice of computational adjustment relating to partnership items is mailed to the spouse of a partner, the spouse could request that the assessment be abated. Upon receipt of such a request, the assessment is abated and any reassessment will be subject to the deficiency procedures. If an abatement is requested, the statute of limitations does not expire before the date which is 60 days after the date of the abatement. If the spouse files a petition with the Tax Court, the Tax Court only has jurisdiction to determine whether the requirements of section 6013(e) have been satisfied. In making this determination, the treatment of the partnership items that gave rise to the liability in question is conclusive.

Alternatively, the House bill provides that the spouse of a partner could file a claim for refund to raise the innocent spouse defense. The claim has to be filed within 6 months from the date that the notice of computational adjustment is mailed to the spouse. If the claim is not allowed, the spouse could file a refund action. For purposes of any claim or suit under this provision, the treatment of the partnership items that gave rise to the liability in question is conclusive.

Effective date.—Effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

8. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL (SEC. 14318 OF THE HOUSE BILL)

Present law

Partnership items include only items that are required to be taken into account under the income tax subtitle. Penalties are not partnership items since they are contained in the procedure and administration subtitle. As a result, penalties may only be asserted against a partner through the application of the deficiency procedures following the completion of the partnership-level proceeding.

House bill

The House bill provides that the partnership-level proceeding is to include a determination of the applicability of penalties at the partnership level. However, the provision allows partners to raise any partner-level defenses in a refund forum.

Effective date.—Effective for partnership taxable years ending after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

9. PROVISIONS RELATING TO TAX COURT JURISDICTION (SEC. 14319 OF THE HOUSE BILL)

Present law

Improper assessment and collection activities by the IRS during the 150-day period for filing a petition or during the pendency of any Tax Court proceeding, "may be enjoined in the proper court." Present law may be unclear as to whether this includes the Tax Court.

For a partner other than the Tax Matters Partner to be eligible to file a petition for redetermination of partnership items in any court or to participate in an existing case, the period for assessing any tax attributable to the partnership items of that partner must not have expired. Since such a partner would only be treated as a party to the action if the statute of limitations with respect to them was still open, the law is unclear whether the partner would have standing to assert that the statute of limitations had expired with respect to them.

House bill

The House bill clarifies that an action to enjoin premature assessments of deficiencies attributable to partnership items may be brought in the Tax Court. The provision also permits a partner to participate in an action or file a petition for the sole purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired for that person. Additionally, the provision clarifies that the Tax Court has overpayment jurisdiction with respect to affected items.

Effective date.—Effective for partnership taxable years ending after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

10. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS (SEC. 14320 OF THE HOUSE BILL)

Present law

The Tax Matters Partner is given the exclusive right to file a petition for a readjustment of partnership items within the 90-day period after the issuance of the notice of a final partnership administrative adjustment (FPAA). If the Tax Matters Partner does not file a petition within the 90-day period, certain other partners are permitted to file a petition within the 60-day period after the close of the 90-day period. There are ordering rules for determining which action goes forward and for dismissing other actions.

House bill

The House bill treats premature petitions filed by certain partners within the 90-day period as being filed on the last day of the following 60-day period under specified circumstances, thus affording the partnership with an opportunity for judicial review that is not available under present law.

Effective date.—Effective with respect to petitions filed after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

11. BONDS IN CASE OF APPEALS FROM CERTAIN PROCEEDINGS (SEC. 14321 OF THE HOUSE BILL)

Present law

A bond must be filed to stay the collection of deficiencies pending the appeal of the Tax Court's decision in a TEFRA proceeding. The amount of the bond must be based on the court's estimate of the aggregate deficiencies of the partners.

House bill

The House bill clarifies that the amount of the bond should be based on the Tax Court's estimate of the aggregate liability of the parties to the action (and not all of the partners in the partnership). For purposes of this provision, the amount of the bond could be estimated by applying the highest individual rate to the total adjustments determined by the Tax Court and doubling that amount to take into account interest and penalties.

Effective date.—Effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

12. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM CERTAIN SETTLEMENTS (SEC. 14322 OF THE HOUSE BILL)

Present law

Interest on a deficiency generally is suspended when a taxpayer executes a settlement agreement with the IRS and waives the restrictions on assessments and collections, and the IRS does not issue a notice and demand for payment of such deficiency within 30 days. Interest on a deficiency that results from an adjustment of partnership items in TEFRA proceedings, however, is not suspended.

House bill

The House bill suspends interest where there is a delay in making a computational adjustment relating to a TEFRA settlement.

Effective date.—Effective with respect to adjustments relating to taxable years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

13. SPECIAL RULES FOR ADMINISTRATIVE ADJUSTMENT REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES (SEC. 14323 OF THE HOUSE BILL)

Present law

The non-TEFRA statute of limitations for filing a claim for credit or refund generally is the later of (1) three years from the date the return in question was filed or (2) two years from the date the claimed tax was paid, whichever is later (sec. 6511(b)). However, an extended period of time, seven years from the date the return was due, is provided for filing a claim for refund of an overpayment resulting from a deduction for a worthless security or bad debt (sec. 6511(d)).

Under the TEFRA partnership rules, a request for administrative adjustment ("RAA") must be filed within three years after the later of (1) the date the partnership return was filed or (2) the due date of the partnership return (determined without regard to extensions) (sec. 6227(a)(1)). In addition, the request must be filed before a final partnership administrative adjustment ("FPAA") is mailed for the taxable year (sec. 6227(a)(2)). There is no special provision for extending the time for filing an RAA that relates to a deduction for a worthless security or an entirely worthless bad debt.

House bill

The House bill extends the time for the filing of an RAA relating to the deduction by a partnership for a worthless security or bad debt. In these circumstances, in lieu of the three-year period provided in sec. 6227(a)(1), the period for filing an RAA is seven years from the date the partnership return was due with respect to which the request is made (determined without regard to extensions). The RAA is still required to be filed before the FPAA is mailed for the taxable year.

Effective date.—Effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

XIV. FOREIGN SIMPLIFICATION PROVISIONS

A. MODIFICATION OF PASSIVE FOREIGN INVESTMENT COMPANY PROVISIONS TO ELIMINATE OVERLAP WITH SUBPART F AND TO ALLOW MARK-TO-MARKET ELECTION (SECS. 14401–14404 OF THE HOUSE BILL)

Present law

Under the rules of subpart F (secs. 951–964), certain 10-percent U.S. shareholders of a controlled foreign corporation (CFC) are required to include in income currently their shares of certain earnings of the CFC.

U.S. shareholders of a passive foreign investment company (PFIC) are subject to tax and an interest charge reflecting the value of deferral when earnings of the PFIC are included in the shareholders' income upon a distribution from the PFIC or a disposition of the PFIC stock. Alternatively, the U.S. shareholders may elect to include in income currently their shares of the PFIC's earnings.

A foreign corporation is a PFIC if it satisfies a passive income test or a passive asset test. A foreign corporation that is a CFC may also be a PFIC.

House bill

Elimination of overlap between subpart F and the PFIC provisions

In the case of a PFIC that is also a CFC, the House bill generally treats the corporation as not a PFIC with respect to certain 10-percent shareholders. This rule applies if the corporation is a CFC (within the meaning of section 957(a)) and the shareholder is a U.S. shareholder (within the meaning of section 951(b)) of such corporation (i.e., if the shareholder is subject to the current inclusion rules of subpart F with respect to such corporation). Moreover, the rule applies for that portion of the shareholder's holding period with respect to the corporation's stock which is after December 31, 1995 and during which the corporation is a CFC and the shareholder is a U.S. shareholder. Accordingly, a shareholder that is subject to current inclusion under the subpart F rules with respect to stock of a PFIC that is also a CFC generally is not also subject to the PFIC provisions with respect to the same stock. As under present law, the PFIC provisions continue to apply in the case of a PFIC that is also a CFC to shareholders that are not subject to subpart F (i.e., to shareholders that are U.S. persons and that own (directly, indirectly, or constructively) less than 10 percent of the corporation's stock by vote).

If a shareholder of a PFIC is subject to the rules applicable to nonqualified funds before becoming eligible for the special rules provided under the House bill for shareholders that are subject to subpart F, the stock held by such shareholder continues to be treated as PFIC stock unless the shareholder makes an election to pay tax and an interest charge with respect to the unrealized appreciation in the stock or the accumulated earnings of the corporation. This rule, which applies under current law to PFICs that had been nonqualified funds and that cease to satisfy the tests for PFIC status, prevents the shareholder from avoiding the interest charge imposed by the PFIC rules with respect to amounts accumulated by the PFIC while the shareholder held stock of the corporation but before the shareholder was subject to subpart F.

If a shareholder is not subject to the PFIC provisions because the shareholder is subject to subpart F and the shareholder subsequently ceases to be subject to subpart F with respect to the corporation, for purposes of the PFIC provisions, the shareholder's holding period for such stock is treated as beginning immediately after such cessation. Accordingly, in applying the rules applicable to PFICs that are not qualified electing funds, the earnings of the corporation are not attributed to the period during which the shareholder was subject to subpart F with respect to the corporation and was not subject to the PFIC provisions.

Mark-to-market election

The House bill allows a shareholder of a PFIC to make a mark-to-market election with respect to the stock of the PFIC, provided that such stock is marketable (as defined below). Under such an election, the shareholder includes in income each year an amount equal to the excess, if any, of the fair market value of the PFIC stock as of the close of the taxable year over the shareholder's adjusted basis in such stock. The shareholder is allowed a deduction for the excess, if any, of the adjusted basis of the PFIC stock over its fair market value as of the close of the taxable year. However, deductions are allowable under this rule only to the extent of the excess, if any, of the total amount of mark-to-market gains with respect to the stock included by the shareholder for prior taxable years over the amount of mark-to-market losses with respect to such stock that were allowed as deductions for prior taxable years.

The election provided in the House bill is available only for PFIC stock that is "marketable." For this purpose, PFIC stock is considered marketable if it is regularly traded on a national securities exchange that is registered with the Securities and Exchange Commission or on the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934. In addition, PFIC stock is considered marketable if it is regularly traded on any exchange or market that the Secretary of the Treasury determines has rules sufficient to ensure that the market price represents a legitimate and sound fair market value. In identifying foreign exchanges that qualify for these purposes, it is intended that the Secretary not be required to include exchanges that satisfy standards established under Federal securities law and regulations. Any option on stock that is considered marketable under the foregoing rules is treated as marketable, to the extent provided in regulations. It is intended that the Secretary may adopt a definition of the term "regularly traded" that differs from definitions provided for other purposes under the Code. Further, it is intended that the Secretary not be bound by definitions applied for purposes of enforcing other laws, including securities laws. PFIC stock also is treated as marketable, to the extent provided in regulations, if the PFIC offers for sale (or has outstanding) stock of which it is the issuer and which is redeemable at its net asset value in a manner comparable to a U.S. regulated investment company (RIC).

In addition, the House bill treats as marketable any PFIC stock owned by a RIC that offers for sale (or has outstanding) any stock of which it is the issuer and which is redeemable at its net asset value. It is believed that the RIC's determination of PFIC stock value for this non-tax purpose would ensure a sufficiently accurate determination of the fair market value of the PFIC stock owned by the RIC. The House bill also treats as marketable any PFIC stock held by any other RIC that otherwise publishes net asset valuations at least annually, except to the extent provided in regulations. It is believed that even for RICs that do not make a market in their own stock, but that do regularly report their net asset values in compliance with the securities laws, inaccurate valuation may bring exposure to legal liabilities, and this exposure may ensure the reliability of the values such RICs assign to the PFIC stock they hold. However, it is intended that Treasury regulations will disallow marketable treatment for nonmarketable PFIC stock held by a RIC that is not required to perform such net asset valuation at the close of each taxable year, that does not publish such valuation, or that otherwise does not provide what the Secretary regards as sufficient indicia of the reliability of its valuations.

The shareholder's adjusted basis in the PFIC stock is adjusted to reflect the amounts included or deducted under this election. In the case of stock owned indirectly by a U.S. person through a foreign entity (as discussed below), the basis adjustments for mark-to-market gains and losses apply to the basis of the PFIC in the hands of the intermediary owner, but only for purposes of the subsequent application of the PFIC rules to the tax treatment of the indirect U.S. owner. In addition, similar basis adjustments are made to the adjusted basis of the property actually held by the U.S. person by reason of which the U.S. person is treated as owning PFIC stock.

Amounts included in income pursuant to a mark-to-market election, as well as gain on the actual sale or other disposition of the PFIC stock, are treated as ordinary income[103] Ordinary loss treatment also applies to the deductible portion of any mark-to-market loss on PFIC stock, as well as to any loss realized on the actual sale or other disposition of PFIC stock to the extent that the amount of such loss does not exceed the net mark-to-market gains previously included with respect to such stock. The source of amounts with respect to a mark-to-market election generally is determined in the same manner as if such amounts were gain or loss from the sale of stock in the PFIC.

An election to mark to market applies to the taxable year for which made and all subsequent taxable years, unless the PFIC stock ceases to be marketable or the Secretary of the Treasury consents to the revocation of such election.

Under constructive ownership rules, U.S. persons that own PFIC stock through certain foreign entities may make this election with respect to the PFIC. These constructive ownership rules apply to treat PFIC stock owned directly or indirectly by or for a foreign partnership, trust, or estate as owned proportionately by the partners or beneficiaries, except as provided in regulations.[104] Stock in a PFIC that is thus treated as owned by a person is treated as actually owned by that person for purposes of again applying the constructive ownership rules. In the case of a U.S. person that is treated as owning PFIC stock by application of this constructive ownership rule, any disposition by the U.S. person or by any other person that results in the U.S. person being treated as no longer owning the PFIC stock, as well as any disposition by the person actually owning the PFIC stock, is treated as a disposition by the U.S. person of the PFIC stock.

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[103] For purposes of the rules under section 851(b) regarding eligibility as a RIC, income includible pursuant to the election is treated as a dividend.

[104] For this purpose, it is intended that proportionate ownership will be determined by taking into account any special or discretionary allocations of

In addition, a CFC that owns stock in a PFIC is treated as a U.S. person that may make the election with respect to such PFIC stock. Any amount includible (or deductible) in the CFC's gross income pursuant to this mark-to-market election is treated as foreign personal holding company income (or a deduction allocable to foreign personal holding company income). The source of such amounts, however, is determined by reference to the actual residence of the CFC.

In the case of a taxpayer that makes the mark-to-market election with respect to stock in a PFIC that is a nonqualified fund after the beginning of the taxpayer's holding period with respect to such stock, a coordination rule applies to ensure that the taxpayer does not avoid the interest charge with respect to amounts attributable to periods before such election. A similar rule applies to RICs that make the mark-to-market election under the House bill after the beginning of their holding period with respect to PFIC stock (to the extent that the regulated investment company had not previously marked to market the stock of the PFIC).

Except as provided in the coordination rules described above, the rules of section 1291 (with respect to nonqualified funds) do not apply to a shareholder of a PFIC if a mark-to-market election is in effect for the shareholder's taxable year. Moreover, in applying section 1291 in a case where a mark-to-market election was in effect for any prior taxable year, the shareholder's holding period for the PFIC stock is treated as beginning immediately after the last taxable year for which such election applied.

A special rule applicable in the case of a PFIC shareholder that becomes a U.S. person treats the adjusted basis of any PFIC stock held by such person on the first day of the year in which such shareholder becomes a U.S. person as equal to the greater of its fair market value on such date or its adjusted basis on such date. Such rule applies only for purposes of the mark-to-market election. This rule ensures that the appreciation in the stock's value prior to the time that the shareholder becomes subject to the U.S. tax jurisdiction is not subject to U.S. tax under the mark-to-market election.

Clarifications of definition of passive income

The House bill clarifies the definition of passive income for purposes of the PFIC provisions in two respects. First, the House bill clarifies that the same-country exceptions from the definition of foreign personal holding company income in section 954(c) do not apply in determining passive income for purposes of the PFIC definition.[105] Second, the House bill clarifies that foreign trade income of a foreign sales corporation does not constitute passive income for purposes of the PFIC definition.

Effective date

The provision is effective for taxable years of U.S. persons beginning after December 31, 1995, and taxable years of foreign corporations ending with or within such taxable years of U.S. persons.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

1. GENERAL PROVISIONS AFFECTING TREATMENT OF CONTROLLED FOREIGN CORPORATIONS (SECS. 14411–14413 OF THE HOUSE BILL)

Present law

If an upper-tier controlled foreign corporation ("CFC") sells stock of a lower-tier CFC, the gain generally is included in the income of certain U.S. shareholders as subpart F income and the U.S. shareholder's basis in the stock of the first-tier CFC is increased to account for the inclusion. The inclusion is not characterized for foreign tax credit limitation purposes by reference to the nature of the income of the lower-tier CFC; instead it generally is characterized as passive income.

For foreign tax credit limitation purposes, a CFC is not treated as a noncontrolled section 902 corporation with respect to any distribution out of its earnings and profits for periods during which it was a CFC and, except as provided in regulations, the recipient of the distribution was a U.S. shareholder in such corporation.

If subpart F income of a lower-tier CFC is included in the gross income of a U.S. shareholder, no provision of present law allows adjustment of the basis of the upper-tier CFC's stock in the lower-tier CFC.

The subpart F income earned by a foreign corporation during its taxable year is taxed to the persons who are U.S. shareholders of the corporation on the last day, in that year, on which the corporation is a CFC. In the case of a U.S. shareholder who acquired stock in a CFC during the year, such inclusions are reduced by all or a portion of the amount of dividends paid in that year by the foreign corporation to any person other than the acquirer with respect to that stock.

If in a year after the year of income inclusion under the subpart F provisions of the Code, a U.S. shareholder in the CFC receives a distribution from the corporation, the distribution may be deemed to come first out of the corporation's previously taxed income and, therefore, may be excluded from the U.S. shareholder's income. However, a distribution by a foreign corporation to a domestic corporation of earnings and profits previously taxed under subpart F is treated as an actual dividend, solely for purposes of determining the indirect foreign tax credit available to the domestic corporation.

As a general rule, subpart F income does not include income earned from sources within the United States if the income is effectively connected with the conduct of a U.S. trade or business by the CFC. This general rule does not apply, however, if the income is exempt from, or subject to a reduced rate of, U.S. tax pursuant to a provision of a U.S. treaty.

A U.S. corporation that owns at least 10 percent of the voting stock of a foreign corporation is treated as if it had paid a share of the foreign income taxes paid by the foreign corporation in the year in which the foreign corporation's earnings and profits become subject to U.S. tax as dividend income of the U.S. shareholder. A U.S. corporation also may be deemed to have paid taxes paid by a second- or third-tier foreign corporation if certain conditions are satisfied.

House bill

Lower-tier controlled foreign corporations

Characterization of gain on stock disposition

The House bill provides that if a CFC is treated as having gain from the sale or exchange of stock in a foreign corporation, the gain is treated as a dividend to the same extent that it would have been so treated under section 1248 if the CFC were a U.S. person. This provision, however, does not affect the determination of whether the corporation whose stock is sold or exchanged is a CFC.

Thus, for example, if a U.S. corporation owns 100 percent of the stock a foreign corporation, which owns 100 percent of the stock of a second foreign corporation, then under the House bill, any gain of the first corporation upon a sale or exchange of stock of the second corporation is treated as a dividend for purposes of subpart F income inclusions to the U.S. shareholder, to the extent of earnings and profits of the second corporation attributable to periods in which the first foreign corporation owned the stock of the second foreign corporation while the latter was a CFC with respect to the U.S. shareholder.

As another example, assume that the U.S. corporation has always owned 40 percent of the voting stock and 60 percent of the value of all of the stock of a foreign corporation, which has always owned 40 percent of the voting stock and 60 percent of the value of all of the stock of a second foreign corporation. All the other stock of the foreign corporations has always been owned by foreign individuals unrelated to the U.S. corporation. In this case, the second foreign corporation has never been a CFC. Therefore, none of the gain of the first corporation upon a sale of stock of the second corporation is treated as a dividend.

Gain on disposition of stock in a related corporation created or organized under the laws of, and having a substantial part of its assets in a trade or business in, the same foreign country as the gain recipient, even if recharacterized as a dividend under the House bill, is not excluded from foreign personal holding company income under the same-country exception that applies to actual dividends.

The House bill provides that for purposes of this provision, a CFC is treated as having sold or exchanged stock if, under any provision of subtitle A of the Code, the CFC is treated as having gain from the sale or exchange of such stock. Thus, for example, if a CFC distributes to its shareholder stock in a foreign corporation, and the distribution results in gain being recognized by the CFC under section 311(b) as if the stock were sold to the shareholder for fair market value, the House bill makes clear that for purposes of this provision, the CFC is treated as having sold or exchanged the stock.

The House bill also repeals a provision added to the Code by the Technical and Miscellaneous Revenue Act of 1988[106] (the "1988 Act") that, except as provided by regulations, requires a recipient of a distribution from a CFC to have been a United States shareholder of that CFC for the period during which the earnings and profits which

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the distributions or gains with respect to the PFIC stock.

[105] H. Rept. No. 100-795, 100th Cong., 2d Sess. 272 (1988); S. Rept. No. 100-445, 100th Cong., 2d Sess. 285 (1988).

[106] P.L. 100-647, section 1012(a)(10).

gave rise to the distribution were generated in order to avoid treating the distribution as one coming from a noncontrolled section 902 corporation. Thus, under the House bill, a CFC is not treated as a noncontrolled section 902 corporation with respect to any distribution out of its earnings and profits for periods during which it was a CFC, whether or not the recipient of the distribution was a U.S. shareholder of the corporation when the earnings and profits giving rise to the distribution were generated.

Adjustments to basis of stock

The House bill also provides that when a lower-tier CFC earns subpart F income, and stock in that corporation is later disposed of by an upper-tier CFC, the resulting income inclusion of the U.S. shareholders are, under regulations, adjusted to account for previous inclusions, in a manner similar to the adjustments currently provided to the basis of stock in a first-tier CFC. Thus, just as the basis of a U.S. shareholder in a first-tier CFC rises when subpart F income is earned and falls when previously taxed income is distributed, so as to avoid double taxation of the income on a later disposition of the stock of that company, then it is intended that by regulation the subpart F income from gain on the disposition of a lower-tier CFC generally would be reduced by income inclusions of earnings that were not subsequently distributed by the lower-tier CFC. It is intended that the Secretary will have sufficient flexibility in promulgating regulations under this provision to permit adjustments only in those cases where, by virtue of the historical ownership structure of the corporations involved, the Secretary is satisfied that the inclusions for which adjustments are to be made can be clearly identified.

For example, assume that a U.S. person is the owner of all of the stock of a first-tier CFC which, in turn, is the sole shareholder of a second-tier CFC. In year 1, the second-tier CFC earns $100 of subpart F income which is included in the U.S. person's gross income for that year. In year 2, the first-tier CFC disposes of the second-tier CFC's stock and recognizes $300 of income with respect to the disposition. All of that income would constitute subpart F foreign personal holding company income. Under the House bill, the Secretary is granted regulatory authority to reduce the U.S. person's year 2 subpart F inclusion by $100—the amount of year 1 subpart F income of the second-tier CFC that was included, in that year, in the U.S. person's gross income. Such an adjustment would, in effect, allow for a step-up in the basis of the stock of the second-tier CFC to the extent of its subpart F income previously included in the U.S. person's gross income.

As another example, assume the same facts as in the preceding paragraph except that in year 2, the first-tier CFC distributes the stock of the second-tier CFC to the U.S. person. Assume that as a result of the distribution, the first-tier CFC recognizes taxable income of $300 under section 311(b). This income represents subpart F income, $100 of which is due to no adjustment having been made to the basis of the second-tier CFC's stock for its year 1 subpart F income. The House bill contemplates that in such a situation, the $300 of subpart F income would be reduced under regulations to $200 to account for the year 1 subpart F income inclusion.

Subpart F inclusions in year of acquisition

If a U.S. shareholder acquires the stock of a CFC from another U.S. shareholder during a taxable year of the CFC in which it earns subpart F income, the House bill reduces the acquirer's subpart F income inclusion for that year by a portion of the amount of the dividend deemed (under sec. 1248) to be received by the transferor. The portion by which the inclusion is reduced (as is currently the case if a dividend was paid to the previous owner of the stock) would not exceed the lesser of the amount of dividends with respect to such stock deemed received (under sec. 1248) by other persons during the year or the amount determined by multiplying the subpart F income for the year by the proportion of the year during which the acquiring shareholder did not own the stock.

Distributions of previously taxed income

The House bill clarifies the appropriate scope of regulatory authority with respect to the treatment of cross-chain section 304 dividends out of the earnings of CFCs that were previously included in the income of a U.S. shareholder under subpart F. The House bill contemplates that in such a case, the Secretary in his discretion may by regulation treat such dividends as distributions of previously taxed income, with appropriate basis adjustments. It is also anticipated that other occasions may arise where the exercise of similar regulatory authority may be appropriate to avoid double income inclusions, or an inclusion or exclusion of income without a corresponding basis adjustment. Therefore, the House bill provides that, in addition to cases involving section 304, the Secretary may by regulation modify the application of subpart F in any other case where there would otherwise be a multiple inclusion of any item of income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of the structure of a U.S. shareholder's holdings in CFCs or by reason of other circumstances. The House bill is not intended to create any inference as to the application of present law in these cases.

Treatment of United States income earned by a controlled foreign corporation

The House bill provides that an exemption or reduction by treaty of the branch profits tax that would be imposed under section 884 on a CFC does not affect the general statutory exemption from subpart F income that is granted for U.S. source effectively connected income. For example, assume a CFC earns income of a type that generally would be subpart F income, and that income is earned from sources within the United States in connection with business operations therein. Further assume that repatriation of that income is exempted from the U.S. branch profits tax under a provision of an applicable U.S. income tax treaty. The House bill provides that, notwithstanding the treaty's effect on the branch tax, the income is not treated as subpart F income as long as it is not exempt from U.S. taxation (or subject to a reduced rate of tax) under any other treaty provision.

Extension of indirect foreign tax credit

The House bill extends the application of the indirect foreign tax credit (secs. 902 and 960) to certain taxes paid or accrued by certain fourth-, fifth-, and sixth-tier foreign corporations. In general, three requirements must be satisfied by a foreign company at any of these tiers to qualify for the credit. First, the company must be a CFC. Second, the domestic corporation referred to in section 902(a) must be a U.S. shareholder (as defined in sec. 951(b)) with respect to the foreign company. Third, the product of the percentage ownership of voting stock at each level from the U.S. corporation down must equal at least 5 percent. The House bill limits the application of the indirect foreign tax credit below the third tier to taxes paid or incurred in taxable years during which the payor is a CFC. No inference is intended as to the availability of indirect foreign tax credits, under present law, for taxes paid by foreign corporations in the first three tiers, for periods prior to the time when the present-law ownership requirements were met as to those corporations. All foreign taxes paid below the sixth tier of foreign corporations remain ineligible for the indirect foreign tax credit.

Effective dates

Lower-tier controlled foreign corporations.—The provision of the House bill that treats gains on dispositions of stock in lower-tier CFCs as dividends under section 1248 principles applies to gains recognized on transactions occurring after the date of enactment of the House bill.

The provision that expands look-through treatment, for foreign tax credit limitation purposes, of dividends from CFCs, is effective for distributions after the date of enactment.

The provision that provides for regulatory adjustments to U.S. shareholder inclusions, with respect to gains of CFCs from dispositions of stock in lower-tier CFCs the earnings of which have been previously taxed under the subpart F provisions of the Code, is effective for determining inclusions for taxable years of U.S. shareholders beginning after December 31, 1995. Thus, the House bill permits regulatory adjustments to an inclusion occurring after the effective date to account for income previously taxed under the subpart F provisions occurring both prior to and subsequent to the effective date of the provision.

Subpart F inclusions in year of acquisition.—The provision that permits dispositions of stock to be taken into consideration in determining a U.S. shareholder's subpart F inclusion for a taxable year is effective with respect to dispositions occurring after the date of enactment.

Distributions of previously taxed income.—The provision that allows the Secretary to make regulatory adjustments to avoid double inclusions in cases such as those to which section 304 applies takes effect on the date of enactment.

Treatment of United States source income earned by a controlled foreign corporation.—The provision concerning the effect of treaty exemptions from, or reductions of, the branch profits tax on the determination of subpart F income is effective for taxable years beginning after December 31, 1986.

Extension of indirect foreign tax credit.—The provision that extends application of the indirect foreign tax credit to certain CFCs below the third tier is effective for foreign taxes paid or incurred by CFCs for taxable years of such corporations beginning after the date of enactment.

In the case of any chain of foreign corporations the taxes of which would be eligible for the indirect foreign tax credit, under present law or under the House bill, but for the denial of indirect credits below the third or sixth tier, as the case may be, no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of enactment shall have the effect of permitting taxes to be taken into account under the indirect foreign tax credit provisions of the Code which could not have been taken into account under those provisions but for such transaction. As one example, no such transaction shall have the effect of permitting credits for taxes which, but for such transaction, would have been noncreditable (given the effective date provisions of the House bill) because they are taxes of a fourth-, fifth-, or sixth-tier corporation for a year beginning before the date that the House bill is enacted. No inference is intended regarding the creditability or noncreditability of such taxes under present law.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. REPEAL OF EXCESS PASSIVE ASSETS PROVISION (SEC. 14414 OF THE HOUSE BILL)

Present law

Under the rules of subpart F (secs. 951-964), certain 10-percent U.S. shareholders of a controlled foreign corporation (CFC) are required to include in income currently for U.S. tax purposes certain earnings of the CFC, whether or not such earnings are actually distributed currently to the shareholders. The 10-percent U.S. shareholders of a CFC are subject to current U.S. tax on their shares of certain income earned by the CFC (referred to as "subpart F income"). The 10-percent U.S. shareholders are also subject to current U.S. tax on their shares of the CFC's earnings to the extent such earnings are invested by the CFC in certain U.S. property.

In addition to these current inclusion rules, the Omnibus Budget Reconciliation Act of 1993 enacted section 956A, which applies another current inclusion rule to U.S. shareholders of a CFC. Section 956A requires the 10-percent U.S. shareholders of a CFC to include in income currently their shares of the CFC's earnings to the extent such earnings are invested by the CFC in excess passive assets. A CFC generally is treated as having excess passive assets if the average of the amounts of its passive assets exceeds 25 percent of the average of the amounts of its total assets; this calculation requires a quarterly determination of the CFC's passive assets and total assets.

House bill

The House bill repeals section 956A.

Effective date.—The provision applies to taxable years of U.S. shareholders beginning after September 30, 1995, and taxable years of foreign corporations ending with or within such taxable years of U.S. shareholders.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

C. OTHER FOREIGN PROVISIONS

1. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES (SEC. 14421 OF THE HOUSE BILL)

Present law

Translation of certain accrued foreign taxes

Foreign income taxes paid in foreign currencies are required to be translated into U.S. dollar amounts using the exchange rate as of the time such taxes are paid to the foreign country or U.S. possession (sec. 986(a)(1)). This rule applies to foreign taxes paid directly by U.S. taxpayers, which taxes are creditable only in the year paid or accrued (or during a carryover period), and to foreign taxes paid by foreign corporations that are deemed paid by a U.S. corporation, and hence creditable, in the year that the U.S. corporation receives a dividend or has an income inclusion.

Redetermination of foreign taxes

For taxpayers who utilize the accrual basis of accounting for determining creditable foreign taxes, accrued and unpaid foreign tax liabilities denominated in foreign currencies are translated into U.S. dollar amounts at the exchange rate as of the last day of the taxable year of accrual.[107] In certain cases where a difference exists between the dollar value of accrued foreign taxes and the dollar value of those taxes when paid, a redetermination (or adjustment) of foreign taxes is required.[108] Generally, such an adjustment may be attributable to one of three causes: (1) a refund of foreign taxes, (2) a difference between the amount of foreign currency units actually paid and the amount of foreign currency units accrued, and (3) fluctuations in the value of the foreign currency relative to the dollar between the date of accrual and the date of payment.

A redetermination of foreign tax paid or accrued directly by a U.S. person requires notification of the Internal Revenue Service and a redetermination of U.S. tax liability for the taxable year for which the foreign tax was claimed as a credit. Exceptions to this rule apply for de minimis amounts of foreign tax redetermination.[109] In the case of a redetermination of foreign taxes that qualify for the indirect foreign tax credit under sections 902 and 960, taxpayers generally are required to make appropriate adjustments to the relevant pools of earnings and profits and foreign taxes.[110]

House bill

In general

The House bill sets forth two sets of operating rules for the translation of foreign taxes. The first set establishes new rules for the translation of certain accrued foreign taxes. The other set modifies the rules of present law for translating all other foreign taxes.

Translation of foreign taxes

Translation of certain accrued foreign taxes

The House bill permits taxpayers who utilize the accrual basis of accounting for determining creditable foreign taxes to translate their foreign taxes at the average exchange rate for the taxable year to which such taxes relate, provided such taxes are actually paid no later than the date that is 2 years after the close of the year to which such taxes relate. This rule does not apply (1) with respect to taxes of an accrual-basis taxpayer that are actually paid in a taxable year prior to the year to which they relate, or (2) to tax payments that are denominated in a hyperinflationary currency (as defined in Treas. Reg. Sec. 1.985–1(b)(2)(D)(ii)). In addition, as discussed in detail below, this set of rules does not apply to, and thus a redetermination of foreign tax is required for, any foreign income tax paid after the date two years after the close of the taxable year to which such taxes relate.

For example, assume that in year 1 a taxpayer accrues 1,000 units of foreign tax that relate to year 1. Further assume that as of the end of year 1 the tax is unpaid and the currency involved is not hyperinflationary. In this case, the House bill provides that the taxpayer would translate 1,000 units of accrued foreign tax into U.S. dollars at the average exchange rate for year 1.[111] If the 1,000 units of tax were paid by the taxpayer in either year 2 or year 3, no redetermination of foreign tax would be required. If any portion of the tax so accrued remained unpaid as of the end of year 3, however, the taxpayer would be required to redetermine its foreign tax accrued in year 1 to account for the accrued but unpaid tax.

As another example, assume a taxpayer accrues 1,000 units of foreign tax in year 2, but pays the tax in year 1. Also assume that the tax relates to year 2. In this case, the taxpayer would translate the tax using the exchange rate as of the time the tax is paid (i.e., using the applicable year 1 exchange rate) since the tax is paid in a year prior to the year to which it relates.

As an illustration of what is meant by the taxable year to which taxes relate, assume that a foreign corporation is charged by a foreign government with an income tax of 100 units for 1996. Assume that the currency involved is not hyperinflationary. Due to a contest between the foreign government and the corporation that ends in 1996, the 100 units of tax are not paid until 1997. Assume that under the U.S. rules governing accrual, the foreign tax accrues for 1996 but does not do so until 1997.[112] Under the House bill, the taxes would be translated at the rate in effect for 1996, because the taxes relate to 1996, even though they did not accrue until 1997. If instead the contest was over in 1999 and the taxes were accrued and paid at that time, the translation rate used would be that of 1999, rather than 1996, because 1999 is more than 2 years after the end of 1996. Now assume that the contest was over in 2001, but the taxes were deposited in 1997 and not accrued until 2001. These taxes are paid before the beginning of the year in which the taxes were accrued (2001), but after the year to which the taxes relate (1996). In this case, under the House bill, the taxes would be translated at the rate for the year (1996) to which the taxes relate. If the taxes are instead paid in 1999, they would be translated at the relevant rate for 1999 because 1999 is more than 2 years after the end of 1996.

As an additional illustration of what is meant under the House bill as the taxable year to which taxes relate, assume that a foreign corporation accrues a foreign income tax of 100 units of non-hyperinflationary currency for 1996. Further assume that the actual amount of foreign tax liability of the foreign corporation for 1996 is 110 units, all of which is paid in 1997. Under the House bill, the 110 units of foreign tax are translated at the rate in effect for 1996 because the taxes relate to 1996, even though the total tax liability for that year was not actually accrued by the taxpayer in 1996.

Finally, assume that under foreign law, a foreign income tax liability accrues in 2001 under a long-term contract method of accounting, but advance deposits of that liability accruing in 2001 are made in each of the years 1997 through 2000. Under the House bill, it is intended that if the payments in 1997 through 2000 are treated as relating to 2001, these payments are nevertheless to be translated at the relevant rates for 1997 through 2000. Although the House bill provides a rule for translation of the taxes in this case, no change is intended as to the application of present law accounting rules for determining the year for which the taxes are eligible for credit or deduction for U.S. income tax purposes.

Translation of all other foreign taxes

Foreign taxes not eligible for application of the preceding rules generally are translated into U.S. dollars using the exchange rates as of the time such taxes are paid. The House bill grants the Secretary of the Treasury authority to issue regulations that would allow foreign tax payments made by a foreign corporation or by a foreign branch of a U.S. person to be translated into U.S. dollar amounts using an average U.S. dollar exchange rate for a specified period. It is anticipated that the applicable average exchange rate would be the rate as published by a qualified source of exchange rate information for the period during which the tax payments were made.

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[107] Temp. Treas. Reg. sec. 1.905–3T(b)(1).

[108] Temp. Treas. Reg. sec. 1.905–3T(c).

[109] Temp. Treas. Reg. sec. 1.905–3T(d)(1).

[110] Temp. Treas. Reg. sec. 1.905–3T(d)(2); Notice 90–26, 1990–1 C.B. 336.

[111] The same result would occur if the 1,000 units of tax were both accrued and paid in year 1.

[112] See, e.g., Rev. Rul. 84-125, 1984-2 C.B. 125.

Redetermination of foreign taxes

As revised by the House bill, section 905(c) of the Code defines a foreign tax redetermination to include: (1) a refund of foreign taxes, (2) a difference between accrued taxes when paid and the amounts claimed as credits by the taxpayer, and (3) accrued taxes not paid before the date two years after the close of the taxable year to which such taxes relate. Thus, for example, the House bill provides that if at the close of the second taxable year after the close of the taxable year to which an accrued tax relates, any portion of the tax so accrued has not yet been paid, a foreign tax redetermination under section 905(c) is required for the amount representing the unpaid portion of that accrued tax. That is, the accrual of any tax that is unpaid as of that date would be retroactively denied. In cases where a redetermination is required, as under present law, the House bill specifies that the taxpayer must notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

The House bill provides that in the case of accrued taxes not paid within the date two years after the close of the taxable year to which such taxes relate, whether or not such taxes were previously accrued, any such taxes if subsequently paid are taken into account for the taxable year in which paid, and no redetermination with respect to the original year of accrual is required on account of such payment. In such a case, those taxes would be translated into U.S. dollar amounts using the exchange rates in effect for the period during which such taxes are paid. Nothing in the House bill is intended to change present law as to the length of time after the year to which the redetermination relates within which redetermination may be made or required.[113]

Effective date

The provision is effective for taxes paid (in the case of taxpayers using the cash basis for determining the foreign tax credit) or accrued (in the case of taxpayers using the accrual basis for determining the foreign tax credit) in taxable years beginning after December 31, 1995.

With respect to taxes of an accrual-basis taxpayer that relate to a taxable year beginning before January 1, 1996, the return for which (if one were due) would not yet be due on date of enactment of the House bill (taking into account extensions of time to file), it is contemplated that the Secretary would, in appropriate circumstances, provide taxpayers with a reasonable average-rate method for translating such taxes that are not paid until after the effective date of the House bill.

The House bill's changes to the foreign tax redetermination rules apply to taxes which relate to taxable years beginning after December 31, 1995. Thus, for example, the redetermination rules under the House bill do not apply to a foreign tax that relates to a taxable year beginning in or before 1995, even though the tax does not properly accrue until a taxable year beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

2. ELECTION TO USE SIMPLIFIED FOREIGN TAX CREDIT LIMITATION UNDER THE ALTERNATIVE MINIMUM TAX (SEC. 14422 OF THE HOUSE BILL)

Present law

Foreign tax credit limitations must be computed both for regular tax purposes and alternative minimum tax (AMT) purposes. Each foreign tax credit limitation computation requires the allocation and apportionment of deductions between foreign source income and U.S. source income.

House bill

The House bill permits taxpayers to elect to use as their AMT foreign tax credit limitation fraction the ratio of foreign source *regular* taxable income to entire alternative minimum taxable income, rather than the ratio of foreign source *alternative minimum* taxable income to entire alternative minimum taxable income. Foreign source *regular* taxable income is used only to the extent it does not exceed entire alternative minimum taxable income.

The election must be made for the first taxable year beginning after December 31, 1995, for which the taxpayer claims an AMT foreign tax credit. It is intended that a taxpayer be treated, for this purpose, as claiming an AMT foreign tax credit for any taxable year for which the taxpayer chooses to have the benefits of the foreign tax credit and in which the taxpayer is subject to the alternative minimum tax or would be subject to the alternative minimum tax but for the availability of the AMT foreign tax credit. Once made, the election applies to all subsequent taxable years, and may be revoked only with consent.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

3. TREATMENT OF INBOUND AND OUTBOUND TRANSFERS (SECS. 14423–14424 OF THE HOUSE BILL)

Present law

Outbound transfers

If a U.S. person transfers property to a foreign corporation in connection with certain corporate organizations, reorganizations, or liquidations, the foreign corporation will not, for purposes of determining the extent to which gain is recognized on such transfer, be considered to be a corporation (sec. 367(a)(1)). Various exceptions to the operation of this rule are provided, including a broad grant of authority to provide exceptions by regulation. Because corporate status is essential to qualify for the tax-free organization, reorganization, and liquidation provisions, failure to satisfy the requirements of section 367 could result in the recognition of gain to the participant corporations and shareholders.

An excise tax is imposed on outbound transfers that might not constitute income tax recognition events even after imposition of the anti-avoidance income tax rule adopted for corporate transactions. The excise tax generally applies on transfers of property by a U.S. person to a foreign corporation—as paid-in surplus or as a contribution to capital—or to a foreign estate, trust, or partnership.[114] The tax is 35 percent of the amount of gain inherent in the property transferred, but not recognized for income tax purposes at the time of the transfer (sec. 1491). For income tax purposes, the basis of the appreciated property whose transfer triggers the tax is not increased to account for imposition of the tax.

The excise tax does not apply in certain cases where the transferee is exempt from U.S. tax under Code sections 501–505 (sec. 1492(1)). In addition, the excise tax does not apply in some cases where income tax rules governing outbound transfers apply, either by their terms or by the election of the taxpayer. Thus, the excise tax does not apply to a transfer described in section 367, or to a transfer not described in section 367 but with respect to which the taxpayer elects (before the transfer) the application of principles similar to the principles of section 367 (sec. 1492(2)).

In addition, a taxpayer may elect (under regulations prescribed by the Secretary) to treat a transfer described in section 1491 as a sale or exchange of the property transferred and to recognize as gain (but not loss) in the year of the transfer the excess of the fair market value of the property transferred over the adjusted basis (for determining gain) of the property in the hands of the transferor (sec. 1057). To the extent that gain is recognized pursuant to the election in the year of the transfer, the transfer is not subject to the excise tax, and the basis of the property in the hands of the transferee will be increased by the amount of gain recognized (sec. 1492(3)). The legislative history of the elective income recognition provision indicates that the making of an election which has as one of its principle purposes the avoidance of Federal income taxes is not permitted.[115]

The excise tax is due at the time of the transfer (sec. 1494(a)). Under regulations, the excise tax may be abated, remitted, or refunded if the taxpayer, after the transfer, elects the application of principles similar to the principles of section 367 (sec. 1494(b)).

Inbound transfers

Section 367(b) provides, in part, that in the case of certain exchanges in connection with which there is no transfer of property described in section 367(a)(1), a foreign corporation will be considered to be a corporation except to the extent provided in regulations which are necessary or appropriate to prevent the avoidance of Federal income taxes.

Although it is clear that absence of a toll charge on accumulated earnings of a foreign corporation upon liquidation or reorganization into a U.S. corporation leads to avoidance of tax, and Congress in 1976 noted without disapproval the adoption of IRS positions that would prevent the avoidance of tax in these cases,[116] neither section 367(b) as revised in 1976, nor its predecessors, were drafted in such a way that directly causes tax to be imposed on foreign earnings.

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[113] See section 6501(c)(5). See also, e.g., *Pacific Metals Corp.* v. *Commissioner*, 1 T.C. 1028 (1943); *Texas Co. (Caribbean Ltd.* v. *Commissioner*, 12 T.C. 925 (1949).

[114] The Internal Revenue Service has in the past wavered on the question whether this tax applies to a transfer to a foreign trust with respect to which the transferor is treated as the owner under the grantor trust rules. Compare Rev. Rul. 69–450, 1969–2 C.B. 168 (holding that such a transfer is subject to tax under section 1491); with Rev. Rul. 87–61, 1987–2 C.B. 219 (revoking Rev. Rul. 69–450, and holding that such a transfer is *not* subject to tax under section 1491).

[115] Staff on the Joint Committee on Taxation, 94th Cong., 2d Sess., *General Explanation of the Tax Reform Act of 1976*, at 226 (1976).

For example, assume that a U.S. corporation owns 100 percent of the stock of a liquidating foreign corporation, and, pursuant to regulations under section 367(b), the foreign corporation is not treated as a corporation for purposes of section 332. In that case, the U.S. corporation would be required under the Code to recognize the difference between the basis and the value of its stock in the foreign corporation. That gain, however, may be more or less than the accumulated earnings of the foreign corporation attributable to the period when the U.S. corporation owned the stock of the foreign corporation.

Perhaps as a result, neither the present temporary regulations nor the proposed regulations under section 367(b) mandate a tax based on the accumulated earnings of a foreign corporation that liquidates or reorganizes into a U.S. corporation. The temporary regulations allow the taxpayer to elect treatment of the foreign corporation as a corporation if the tax on earnings is paid. If the taxpayer chooses not to make the election, the foreign corporation is not treated as a corporation under the relevant nonrecognition provision (e.g., sec. 332, 354), but is treated as a corporation for other purposes, such as for purposes of the basis rules (secs. 334, 358, 362), and carryover provisions (sec. 381) (Temp. Treas. Reg. secs. 7.367(b)–5(b) and 7.367(b)–7(c)(2)). The proposed regulations generally require that the foreign corporation be treated as a corporation, and permit the taxpayer to elect either to pay the tax on earnings, or to pay tax on the gain; but if the latter option is chosen, adjustments must be made to either net operating loss carryovers, capital loss carryovers, or asset bases (Proposed Treas. Reg. sec. 1.367(b)–3(b)(2)).

House bill

Outbound transfers

The House bill repeals the excise tax on outbound transfers. In its place, the House bill requires the full recognition of gain on a transfer of property by a U.S. person to a foreign corporation as either paid-in surplus or a contribution to capital, or to a foreign estate, trust, or partnership. Under the House bill, the Secretary of the Treasury may, however, provide regulations under which principles similar to the principles of section 367 would apply to any such transfer in lieu of the application of the full recognition rule. Moreover, the Secretary may provide rules under which recognition of gain would not be triggered by section 1491 in cases where the Secretary is satisfied that application of other Code rules (such as those relating to partnerships or trusts) would prevent the avoidance of tax consistent with the purposes of the bill. Full recognition of gain is also avoided in the case of a transfer described in section 367. It is anticipated that, prior to the promulgation of regulations, the Secretary generally will continue to permit taxpayers to elect the application of principles similar to the principles of section 367, provided the election is made by the time for filing the income tax return for the taxable year of the transfer.

Inbound transfers

The House bill provides that in the case of certain corporate organizations, reorganizations, and liquidations described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a condition for nonrecognition by a party to the transaction, income is recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This provision is limited in its application, under the House bill, so as not to apply to a transaction in which the foreign corporation is not treated as a corporation under section 367(a)(1). Thus, the House bill permits the Secretary to provide by regulations for recognition of income, without regard to the amount of gain that would be recognized in the absence of the relevant nonrecognition provision listed above. As under current law, such regulations will be subject to normal court review as to whether they are necessary or appropriate for the prevention of avoidance of Federal income taxes.

In addition, the House bill clarifies that rules for income recognition under section 367(b) may also be applied in a case involving a transfer literally described in section 367(a)(1), where necessary or appropriate to prevent the avoidance of Federal income taxes.

Effective date

The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not contain the House bill provision.

4. MODIFICATION OF REPORTING THRESHOLD FOR STOCK OWNERSHIP OF A FOREIGN CORPORATION (SEC. 14425 OF THE HOUSE BILL)

Present law

Section 6046 mandates the filing of information returns on behalf of a foreign corporation by certain U.S. persons upon the occurrence of certain events. U.S. persons required to file these information returns include those who own or acquire 5 percent or more of the value of the stock of a foreign corporation.

House bill

The House bill increases the reporting threshold for stock ownership of a foreign corporation under section 6046 from 5 percent (based on value) to 10 percent (based on vote or value).

Effective date.—The provision is effective for reportable transactions occurring after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

5. APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS (SEC. 14426 OF THE HOUSE BILL)

Present law

The uniform capitalization rules, which require certain direct and indirect costs allocable to property to be capitalized or included in inventory, generally apply in computing taxable income and earnings and profits of domestic and foreign taxpayers.

House bill

The House bill reduces the number of foreign corporations that are required to apply the uniform capitalization rules under section 263A. Under the House bill, a foreign corporation is subject to the uniform capitalization rules only with respect to the determination of (1) its tax liability with respect to its U.S. trade or business and (2) the tax liability of its U.S. shareholders under the subpart F provisions of the Code. However, it is intended that a foreign corporation that is not required to apply the uniform capitalization rules, under the House bill may nevertheless continue to apply such rules.

Exemption from uniform capitalization rules under the House bill constitutes a change of the accounting method of the foreign corporation adopted with the consent of the Secretary of the Treasury. No section 481(a) adjustment will arise in connection with such change; instead, the "cut-off method" is applicable. Under the cut-off method, the value of the beginning inventory of an affected taxpayer includes amounts properly capitalized in a previous year under the uniform capitalization rules, and the taxpayer would not apply the uniform capitalization rules with respect to inventory acquired or produced during the year for which the election is in effect.

Effective date.—The provision is effective for taxable years of the foreign corporation beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

6. PRIZES AND AWARDS RECEIVED BY A NONRESIDENT ALIEN RELATING TO AMATEUR SPORTS COMPETITIONS HELD IN THE UNITED STATES (SEC. 14427 OF HOUSE BILL)

Present law

Amounts received by a nonresident alien as prizes or awards associated with athletic competitions held in the United States are generally treated as services income subject to U.S. income tax. A limited exception is available for U.S. source compensation income not exceeding $3,000 if certain criteria are satisfied.

House bill

The House bill treats prizes and awards received by a nonresident alien with respect to his or her participation in an amateur sports competition held within the United States as foreign source income if the recipient does not perform any services for the prize or award. Thus, the value of the prize or award would be exempt from U.S. income tax. For this purpose, "amateur sports competition" means any competition in which the only prizes awarded by the sponsors are of nominal value. It is intended that medals that are awarded in athletic competitions and that contain small amounts of precious or semiprecious metals, such as Olympic medals, be considered to be of nominal value for purposes of this provision.

Effective date.—The provision is effective for prizes and awards received on or after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

7. TREATMENT FOR ESTATE TAX PURPOSES OF SHORT-TERM OBLIGATIONS HELD BY NONRESIDENT ALIENS (SEC. 14428 OF HOUSE BILL)

Present law

The United States imposes estate tax on assets of noncitizen nonresidents that are situated in the United States at the time of the individual's death. Special rules apply to treat certain bank deposits and debt instruments the income from which qualifies for the bank deposit interest exemption or the portfolio interest exemption as property from without the United States so that these items are excluded from the U.S. gross estate of a nonresident not a citizen of the United States. However, no equivalent exemption is available from the U.S. estate tax for obligations held by a noncitizen nonresident that generate short-term original issue discount ("OID") despite the fact that such income also is exempt from U.S. income tax in the hands of the nonresident recipient.

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[116] E.g., *id.* at 264.

House bill

The House bill treats any debt obligation the income from which would be eligible for the exemption for short-term OID obligations under section 871(g)(1)(B)(I) held by a decedent on the date of his or her death as property situated outside of the United States in determining the U.S. estate tax liability of a nonresident not a U.S. citizen. However, a short-term OID obligation the income from which is effectively connected with a U.S. trade or business conducted by the decedent is not subject to this rule.

Effective date.—The provision is effective for estates of decedents dying after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

XV. OTHER INCOME TAX SIMPLIFICATION PROVISIONS

A. PROVISIONS RELATING TO S CORPORATIONS

1. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS (SEC. 14501 OF THE HOUSE BILL)

Present law

The taxable income or loss of an S corporation is taken into account by the corporation's shareholders, rather than by the entity, whether or not such income is distributed. A small business corporation may elect to be treated as an S corporation. A "small business corporation" is defined as a domestic corporation which is not an ineligible corporation and which does not have (1) more than 35 shareholders, (2) as a shareholder, a person (other than certain trusts or estates) who is not an individual, (3) a nonresident alien as a shareholder, and (4) more than one class of stock. For purposes of the 35-shareholder limitation, a husband and wife are treated as one shareholder.

House bill

The House bill increases maximum number of eligible shareholders from 35 to 75.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. ELECTING SMALL BUSINESS TRUSTS (SEC. 14502 OF THE HOUSE BILL)

Present law

Under present law, trusts other than grantor trusts, voting trusts, certain testamentary trusts and "qualified subchapter S trusts" may not be shareholders in a S corporation. A "qualified subchapter S trust" is a trust which, under its terms, (1) is required to have only one current income beneficiary (for life), (2) any corpus distributed during the life of the beneficiary must be distributed to the beneficiary, (3) the beneficiary's income interest must terminate at the earlier of the beneficiary's death or the termination of the trust, and (4) if the trust terminates during the beneficiary's life, the trust assets must be distributed to the beneficiary. All the income (as defined for local law purposes) must be currently distributed to that beneficiary. The beneficiary is treated as the owner of the portion of the trust consisting of the stock in the S corporation.

House bill

In general

The House bill allows stock in an S corporation to be held by certain trusts ("electing small business trusts"). In order to qualify for this treatment, all beneficiaries of the trust must be individuals or estates eligible to be S corporation shareholders, except that charitable organizations may hold contingent remainder interests. No interest in the trust may be acquired by purchase. For this purpose, "purchase" means any acquisition of property with a cost basis (determined under sec. 1012). Thus, interests in the trust must be acquired by reason of gift, bequest, etc. A trust must elect to be treated as an electing small business trust.

Each potential current beneficiary of the trust is counted as a shareholder for purposes of the proposed 75 shareholder limitation (or if there were no potential current beneficiaries, the trust would be treated as the shareholder). A potential current income beneficiary means any person, with respect to the applicable period, who is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust.

Treatment of items relating to S corporation stock

The portion of the trust which consists of stock in one or more S corporations is treated as a separate trust for purposes of computing the income tax attributable to the S corporation stock held by the trust. The trust is taxed at the highest individual rate (currently, 39.6 percent on ordinary income and 28 percent on net capital gain) on this portion of the trust's income. The taxable income attributable to this portion includes (1) the items of income, loss, or deduction allocated to it as an S corporation shareholder under the rules of subchapter S, (2) gain or loss from the sale of the S corporation stock, and (3) to the extent provided in regulations, any state or local income taxes and administrative expenses of the trust properly allocable to the S corporation stock. Otherwise allowable capital losses are allowed only to the extent of capital gains.

In computing the trust's income tax on this portion of the trust, no deduction is allowed for amounts distributed to beneficiaries, and no deduction or credit is allowed for any item other than the items described above. This income is not included in the distributable net income of the trust, and thus is not included in the beneficiaries' income. No item relating to the S corporation stock could be apportioned to any beneficiary.

On the termination of all or any portion of an electing small business trust the loss carryovers or excess deductions referred to in section 642(h) is taken into account by the entire trust, subject to the usual rules on termination of the entire trust.

Treatment of remainder of items held by trust

In determining the tax liability with regard to the remaining portion of the trust, the items taken into account by the subchapter S portion of the trust are disregarded. Although distributions from the trust are deductible in computing the taxable income on this portion of the trust, under the usual rules of subchapter J, the trust's distributable net income does not include any income attributable to the S corporation stock.

Termination of trust and conforming amendment applicable to all trusts

Where the trust terminates before the end of the S corporation's taxable year, the trust takes into account its pro rata share of S corporation items for its final year. The bill makes a conforming amendment applicable to all trusts and estates clarifying that this is the present-law treatment of trusts and estates that terminate before the end of the S corporation's taxable year.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS (SEC. 14503 OF THE HOUSE)

Present law

Under present law, trusts other than grantor trusts, voting trusts, certain testamentary trusts and "qualified subchapter S trusts" may not be shareholders in a S corporation. A grantor trust may remain an S corporation shareholder for 60 days after the death of the grantor. The 60-day period is extended to two years if the entire corpus of the trust is includible in the gross estate of the deemed owner. In addition, a trust may be an S corporation shareholder for 60 days after the transfer of S corporation pursuant to a will.

House bill

The House bill expands the post-death holding period to two years for all testamentary trusts.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT (SEC. 14504 OF THE HOUSE BILL)

Present law

A small business corporation eligible to be an S corporation may not have more than one class of stock. Certain debt ("straight debt") is not treated as a second class of stock so long as such debt is an unconditional promise to pay on demand or on a specified date a sum certain in money if: (1) the interest rate (and interest payment dates) are not contingent on profits, the borrower's discretion, or similar factors; (2) there is no convertibility (directly or indirectly) into stock, and (3) the creditor is an individual (other than a nonresident alien), an estate, or certain qualified trusts.

House bill

The definition of "straight debt" is expanded to include debt held by creditors, other than individuals, that are actively and regularly engaged in the business of lending money.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

5. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS (SEC. 14505 OF THE HOUSE BILL)

Present law

Under present law, if the Internal Revenue Service ("IRS") determines that a corporation's Subchapter S election is inadvertently terminated, the IRS can waive the effect of the terminating event for any period if the corporation timely corrects the event and if the corporation and shareholders agree to be treated as if the election had been in effect for that period. Such waivers generally are obtained through the issuance of a private letter ruling. Present law does not grant the IRS the ability to waive the effect of an inadvertent invalid Subchapter S election.

In addition, under present law, a small business corporation must elect to be an S corporation no later than the 15th day of the third month of the taxable year for which the election is effective. The IRS may not validate a late election.

House bill

Under the House bill, the authority of the IRS to waive the effect of an inadvertent termination is extended to allow the Service to waive the effect of an invalid election caused by an inadvertent failure to qualify as a small business corporation or to obtain the required shareholder consents (including elections regarding qualified subchapter S trusts), or both. The House bill also allows the IRS to treat a late Subchapter S election as timely where the Service determines that there was reasonable cause for the failure to make the election timely. It is intended that the IRS be reasonable in exercising this authority and apply standards that are similar to those applied under present law to inadvertent subchapter S terminations and other late or invalid elections.

Effective date.—The provision applies to taxable years beginning after December 31, 1982.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill. The conferees wish to clarify that the IRS may exercise its authority to treat a late election as timely in cases where the taxpayer never filed an election and the Service determines that there was reasonable cause for the failure to make the election.

6. AGREEMENT TO TERMINATE YEAR (SEC. 14506 OF THE HOUSE BILL)

Present law

In general, each item of S corporation income, deduction and loss is allocated to shareholders on a per-share, per-day basis. However, if any shareholder terminates his or her interest in an S corporation during a taxable year, the S corporation, with the consent of all its shareholders, may elect to allocate S corporation items by closing its books as of the date of such termination rather than apply the per-share, per-day rule.

House bill

The House bill provides that, under regulations to be prescribed by the Secretary of the Treasury, the election to close the books of the S corporation upon the termination of a shareholder's interest is made by all affected shareholders and the corporation, rather than by all shareholders. The closing of the books applies only to the affected shareholders. For this purpose, "affected shareholders" means any shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the year. If a shareholder transferred shares to the corporation, "affected shareholders" includes all persons who were shareholders during the year.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

7. EXPANSION OF POST-TERMINATION TRANSITION PERIOD (SEC. 14507 OF THE HOUSE BILL)

Present law

Distributions made by a former S corporation during its post-termination period are treated in the same manner as if the distributions were made by an S corporation (e.g., treated by shareholders as nontaxable distributions to the extent of the accumulated adjustment account). Distributions made after the post-termination period are generally treated as made by a C corporation (i.e., treated by shareholders as taxable dividends to the extent of earnings and profits).

The "post-termination period" is the period beginning on the day after the last day of the last taxable year of the S corporation and ending on the later of: (1) a date that is one year later, or (2) the due date for filing the return for the last taxable year and the 120-day period beginning on the date of a determination that the corporation's S corporation election had terminated for a previous taxable year.

In addition, the audit procedures adopted by the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") with respect to partnerships also apply to S corporations. Thus, the tax treatment of items is determined at the corporate, rather than individual level.

House bill

The present-law definition of post-termination period is expanded to include the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer that follows the termination of the S corporation's election and that adjusts a subchapter S item of income, loss or deduction of the S corporation during the S period. In addition, the definition of "determination" is expanded to include a final disposition of the Secretary of the Treasury of a claim for refund and, under regulations, certain agreements between the Secretary and any person, relating to the tax liability of the person.

In addition, the House bill repeals the TEFRA audit provisions applicable to S corporations and would provide other rules to require consistency between the returns of the S corporation and its shareholders.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

8. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES (SEC. 14508 OF THE HOUSE BILL)

Present law

A small business corporation may not be a member of an affiliated group of corporations (other than by reason of ownership in certain inactive corporations). Thus, an S corporation may not own 80 percent or more of the stock of another corporation (whether an S corporation or a C corporation).

In addition, a small business corporation may not have as a shareholder another corporation (whether an S corporation or a C corporation).

House bill

An S corporation is allowed to own 80 percent or more of the stock of a C corporation. The C corporation subsidiary could elect to join in the filing of a consolidated return with its affiliated C corporations. An S corporation is not allowed to join in such election. Dividends received by an S corporation from a C corporation in which the S corporation has an 80 percent or greater ownership stake is not treated as passive investment income for purposes of sections 1362 and 1375 to the extent the dividends are attributable to the earnings and profits of the C corporation derived from the active conduct of a trade or business.

In addition, an S corporation is allowed to own a qualified subchapter S subsidiary. The term "qualified subchapter S subsidiary" means a domestic corporation that is not an ineligible corporation (i.e., a corporation that would be eligible to be an S corporation if the stock of the corporation were held directly by the shareholders of its parent S corporation) if (1) 100 percent of the stock of the subsidiary were held by its S corporation parent and (2) for which the parent elects to treat as a qualified subchapter S subsidiary. Under the election, the qualified subchapter S subsidiary is not treated as a separate corporation and all the assets, liabilities, and items of income, deduction, and credit of the subsidiary are treated as the assets, liabilities, and items of income, deduction, and credit of the parent S corporation.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

9. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS (SEC. 14509 OF THE HOUSE BILL)

Present law

Under present law, the amount of loss an S corporation shareholder may take into account for a taxable year cannot exceed the sum of the shareholder's adjusted basis in his or her stock of the corporation and the adjusted basis in any indebtedness of the corporation to the shareholder. Any excess loss is carried forward.

Any distribution to a shareholder by an S corporation generally is tax-free to the shareholder to the extent of the shareholder's adjusted basis of his or her stock. The shareholder's adjusted basis is reduced by the tax-free amount of the distribution. Any distribution in excess of the shareholder's adjusted basis is treated as gain from the sale or exchange of property.

Under present law, income (whether or not taxable) and expenses (whether or not deductible) serve, respectively, to increase and decrease an S corporation shareholder's basis in the stock of the corporation. These rules require that the adjustments to basis for items of both income and loss for any taxable year apply before the adjustment for distributions applies.

These rules limiting losses and allowing tax-free distributions up to the amount of the shareholder's adjusted basis are similar in certain respects to the rules governing the treatment of losses and cash distributions by partnerships. Under the partnership rules (unlike the S corporation rules), for any taxable year, a partner's basis is first increased by items of income, then decreased by distributions, and finally is decreased by losses for that year.

In addition, if the S corporation has accumulated earnings and profits, any distribution in excess of the amount in an "accumulated adjustments account" will be treated as a dividend (to the extent of the accumulated earnings and profits). A dividend distribution does not reduce the adjusted basis of the shareholder's stock. The "accumulated adjustments account" generally is the amount of the accumulated undistributed post-1982 gross income less deductions.

House bill

The House bill provides that the adjustments for distributions made by an S corporation during a taxable year are taken into account before applying the loss limitation for the year. Thus, distributions during a year reduce the adjusted basis for purposes of determining the allowable loss for the year, but the loss for a year does not reduce the adjusted basis for purposes of determining the tax status of the distributions made during that year.

The House bill also provides that in determining the amount in the accumulated adjustment account for purposes of determining the tax treatment of distributions made during a taxable year by an S corporation having accumulated earnings and profits, net negative adjustments (i.e., the excess of losses and deductions over income) for that taxable year are disregarded.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

10. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C (SEC. 14510 OF THE HOUSE BILL)

Present law

Present law contains several provisions relating to the treatment of S corporations as corporations generally for purposes of the Internal Revenue Code.

First, under present law, the taxable income of an S corporation is computed in the same manner as in the case of an individual (sec. 1363(b)). Under this rule, the provisions of the Code governing the computation of taxable income which are applicable only to corporations, such as the dividends received deduction, do not apply to S corporations.

Second, except as otherwise provided by the Internal Revenue Code and except to the extent inconsistent with subchapter S, subchapter C (i.e., the rules relating to corporate distributions and adjustments) applies to an S corporation and its shareholders (sec. 1371(a)(1)). Under this second rule, provisions such as the corporate reorganization provisions apply to S corporations. Thus, a C corporation may merge into an S corporation tax-free.

Finally, an S corporation in its capacity as a shareholder of another corporation is treated as an individual for purposes of subchapter C (sec. 1371(a)(2)). In 1988, the Internal Revenue Service took the position that this rule prevents the tax-free liquidation of a C corporation into an S corporation because a C corporation cannot liquidate tax-free when owned by an individual shareholder.[117] In 1992, the Internal Revenue Service reversed its position, stating that the prior ruling was incorrect.[118]

House bill

The House bill repeals the rule that treats an S corporation in its capacity as a shareholder of another corporation as an individual. Thus, the provision clarifies that the liquidation of a C corporation into an S corporation will be governed by the generally applicable subchapter C rules, including the provisions of sections 332 and 337 allowing the tax-free liquidation of a corporation into its parent corporation. Following a tax-free liquidation, the built-in gains of the liquidating corporation may later be subject to tax under section 1374 upon a subsequent disposition. An S corporation also will be eligible to make a section 338 election (assuming all the requirements are otherwise met), resulting in immediate recognition of all the acquired C corporation's gains and losses (and the resulting imposition of a tax).

The repeal of this rule does not change the general rule governing the computation of income of an S corporation. For example, it does not allow an S corporation, or its shareholders, to claim a dividends received deduction with respect to dividends received by the S corporation, or to treat any item of income or deduction in a manner inconsistent with the treatment accorded to individual taxpayers.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

11. ELIMINATION OF CERTAIN EARNINGS AND PROFITS (SEC. 14511 OF THE HOUSE BILL)

Present law

Under present law, the accumulated earnings and profits of a corporation are not increased for any year in which an election to be treated as an S corporation is in effect. However, under the subchapter S rules in effect before revision in 1982, a corporation electing subchapter S for a taxable year increased its accumulated earnings and profits if its earnings and profits for the year exceeded both its taxable income for the year and its distributions out of that year's earnings and profits. As a result of this rule, a shareholder may later be required to include in his or her income the accumulated earnings and profits when it is distributed by the corporation. The 1982 revision to subchapter S repealed this rule for earnings attributable to taxable years beginning after 1982 but did not do so for previously accumulated S corporation earnings and profits.

House bill

The House bill provides that if a corporation is an S corporation for its first taxable year beginning after December 31, 1995, the accumulated earnings and profits of the corporation as of the beginning of that year is reduced by the accumulated earnings and profits (if any) accumulated in any taxable year beginning before January 1, 1983, for which the corporation was an electing small business corporation under subchapter S. Thus, such a corporation's accumulated earnings and profits are solely attributable to taxable years for which an S election was not in effect. This rule is generally consistent with the change adopted in 1982 limiting the S shareholder's taxable income attributable to S corporation earnings to his or her share of the taxable income of the S corporation.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

12. CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER THE AT-RISK RULES (SEC. 14512 OF THE HOUSE BILL)

Present law

Under section 1366, the amount of loss an S corporation shareholder may take into account cannot exceed the sum of the shareholder's adjusted basis in his or her stock of the corporation and the unadjusted basis in any indebtedness of the corporation to the shareholder. Any disallowed loss is carried forward to the next taxable year. Any loss that is disallowed for the last taxable year of the S corporation may be carried forward to the post-termination period. The "post-termination period" is the period beginning on the day after the last day of the last taxable year of the S corporation and ending on the later of: (1) a date that is one year later, or (2) the due date for filing the return for the last taxable year and the 120-day period beginning on the date of a determination that the corporation's S corporation election had terminated for a previous taxable year.

In addition, under section 465, a shareholder of an S corporation may not deduct losses that are flowed through from the corporation to the extent the shareholder is not "at-risk" with respect to the loss. Any loss not deductible in one taxable year because of the at-risk rules is carried forward to the next taxable year.

House bill

Losses of an S corporation that are suspended under the at-risk rules of section 465 are carried forward to the S corporation's post-termination period.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

13. ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME (SEC. 14513 OF THE HOUSE BILL)

Present law

Income in respect to a decedent ("IRD") generally consists of items of gross income that accrued during the decedent's lifetime but were not includible in the decedent's income before his or her death under his or her method of accounting. IRD is includible in the income of the person acquiring the right to receive such item. A deduction for the estate tax attributable to an item of IRD is allowed to such person (sec. 691(c)). The cost or basis of property acquired from a decedent is its fair market value at the date of death (or alternate valuation date if that date is elected for estate tax purposes). This basis is often referred to as a "stepped-up basis." Property that constitutes a right to receive IRD does not receive a stepped-up basis.

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[117] PLR 8818049, (Feb. 10, 1988).

[118] PLR 9245004, (July 28, 1992).

The basis of a partnership interest or corporate stock acquired from a decedent generally is stepped-up at death. Under Treasury regulations, the basis of a partnership interest acquired from a decedent is reduced to the extent that its value is attributable to items constituting IRD (Treas. reg. sec. 1.742-1). This rule insures that the items of IRD held by a partnership are not later offset by a loss arising from a stepped-up basis. Although S corporation income is taxed to its shareholders in a manner similar to the taxation of a partnership and its partners, no comparable regulation requires a reduction in the basis of stock in an S corporation acquired from a decedent where the S corporation holds items of IRD.

House bill

The House bill provides that a person acquiring stock in an S corporation from a decedent would treat as IRD his or her pro rata share of any item of income of the corporation that would have been IRD if that item had been acquired directly from the decedent. Where an item is treated as IRD, a deduction for the estate tax attributable to the item generally will be allowed under the provisions of section 691(c). The stepped-up basis in the stock in an S corporation acquired from a decedent is reduced by the extent to which the value of the stock is attributable to items consisting of IRD. This basis rule is comparable to the present-law partnership rule.

Effective date.—The provision applies with respect to decedents dying after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

14. S CORPORATIONS ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS (SEC. 14514 OF THE HOUSE BILL)

Present law

Under present-law section 1237, a lot or parcel of land held by a taxpayer *other than a corporation* generally is not treated as ordinary income property solely by reason of the land being subdivided if: (1) such parcel had not previously been held as ordinary income property and if in the year of sale, the taxpayer did not hold other real property; (2) no substantial improvement has been made on the land by the taxpayer, a related party, a lessee, or a government; and (3) the land has been held by the taxpayer for five years.

House bill

The House bill allows the present-law capital gains presumption in the case of land held by an S corporation. It is expected that rules similar to the attribution rules for partnerships will apply to S corporation (Treas. reg. sec. 1.1237-1(b)(3)).

Effective date.—The provision is effective for sales in taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

15. REELECTING SUBCHAPTER S STATUS (SEC. 14515 OF THE HOUSE BILL)

Present law

A small business corporation that terminates its subchapter S election (whether by revocation or otherwise) may not make another election to be an S corporation for five taxable years unless the Secretary of the Treasury consents to such election.

House bill

For purposes of the five-year rule, any termination of subchapter S status in effect immediately before the date of enactment of the proposal is not be taken into account. Thus, any small business corporation that had terminated its S corporation election within the five-year period before the date of enactment may re-elect subchapter S status upon enactment of the bill without the consent of the Secretary of the Treasury.

Effective date.—The provision is effective upon the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. PROVISIONS RELATING TO REGULATED INVESTMENT COMPANIES ("RICS") AND REAL ESTATE INVESTMENT TRUSTS ("REITS")

1. REPEAL THE SHORT-SHORT TEST FOR REGULATED INVESTMENT COMPANIES (SEC. 14521 OF THE HOUSE BILL)

Present law

A regulated investment company ("RIC") generally is treated as a conduit for Federal income tax purposes.

Among other requirements, to be a RIC a corporation must derive less than 30 percent of its gross income from the sale or disposition of certain investments (including stock, securities, options, futures, and forward contracts) held less than three months (the "short-short test").

House bill

The House bill repeals the short-short test.

Effective date.—Taxable years ending after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. MODIFICATIONS OF RULES FOR REAL ESTATE INVESTMENT TRUSTS (SECS. 14531–14543 OF THE HOUSE BILL)

Present law

In general, a real estate investment trust ("REIT") is an entity that receives most of its income from passive real estate related investments and that receives conduit treatment for income that is distributed to shareholders.

Election to be treated as a REIT

A newly-electing entity generally cannot have earnings and profits accumulated from any year in which the entity was in existence and not treated as a real estate investment trust. To satisfy this requirement, the entity must distribute, during its first REIT taxable year, any earnings and profits that were accumulated in non-REIT years. For this purpose, distributions by the entity generally are treated as being made from the most recently accumulated earnings and profits.

Taxation of REITs

Capital gains.—A REIT that has a net capital gain for a taxable year generally is subject to tax on such capital gain under the capital gains tax regime generally applicable to corporations. However, a REIT may diminish or eliminate its tax liability attributable to such capital gain by paying a "capital gain dividend" to its shareholders. Shareholders who receive capital gain dividends treat the amount of such dividends as long-term capital gain regardless of their holding period of the stock.

Income from foreclosure property.—In addition to tax on its REIT taxable income, a REIT is subject to tax at the highest rate of tax paid by corporations on its net income from foreclosure property. Foreclosure property is any real property or personal property incident to such real property that is acquired by a REIT as a result of default or imminent default on a lease of such property or indebtedness secured by such property, provided that (unless acquired as foreclosure property), such property was not held by the REIT for sale to customers. A property generally may be treated as foreclosure property for a period of two years after the date the property is acquired by the REIT.

Income or loss from prohibited transactions.—A 100-percent tax is imposed on the net income of a REIT from "prohibited transactions." A prohibited transaction is the sale or other disposition of property described in section 1221(1) of the Code (property held for sale in the ordinary course of a trade or business) other than foreclosure property. A safe harbor is provided for certain sales that otherwise might be considered prohibited transactions. The safe harbor is limited to seven or fewer sales a year or, alternatively, any number of sales provided that the aggregate adjusted basis of the property sold does not exceed 10 percent of the aggregate basis of all the REIT's assets at the beginning of the REIT's taxable year.

Organizational structure requirements

To qualify as a REIT, an entity must be for its entire taxable year a corporation or an unincorporated trust or association that would be taxable as a domestic corporation but for the REIT provisions, and must be managed by one or more trustees. Except for the first taxable year for which an entity elects to be a REIT, the beneficial ownership of the entity must be held by 100 or more persons, and the entity may not be so closely held by individuals that it would be treated as a personal holding company. A REIT is disqualified for any year in which it does not comply with regulations to ascertain the actual ownership of the REIT's outstanding shares.

Income requirements

In general.—In order for an entity to qualify as a REIT, at least 95 percent of its gross income generally must be derived from certain passive sources (the "95-percent test"). In addition, at least 75 percent of its income generally must be from certain real estate sources (the "75-percent test"), including rents from real property.

In addition, less than 30 percent of the entity's gross income may be derived from gain from the sale or other disposition of stock or securities held for less than one year, real property held less than four years , and property that is sold or disposed of in a prohibited transaction.

Definition of rents.—For purposes of the income requirements, rents from real property generally include rents from interests in real property, charges for services customarily rendered or furnished in connection with the rental of real property, whether or not such charges are separately stated, and rent attributable to personal property that is leased under or in connection with a lease of real property, but only if the rent attributable to such personal property does not exceed 15 percent of the total rent for the year under the lease.

Hedging instruments.—Interest rate swaps or cap agreements that protect a REIT from interest rate fluctuations on variable rate debt incurred to acquire or carry real property are treated as securities under the 30-percent test and payments under these agreements are treated as qualifying under the 95-percent test.

Asset requirements

REIT subsidiaries.—A subsidiary of a REIT is a qualified REIT subsidiary if and only if 100 percent of the subsidiary's stock is owned by the REIT at all times that the subsidiary is in existence. If at any time the REIT ceases to own 100 percent of the stock of the subsidiary, or if the REIT ceases to qualify for (or revokes an election of) REIT status, such subsidiary is treated as a new corporation that acquired all of its assets in exchange for its stock (and assumption of liabilities) immediately before the time that the REIT ceased to own 100 percent of the subsidiary's stock, or ceased to be a REIT as the case may be.

Distribution requirements

To satisfy the distribution requirement, a REIT must distribute as dividends to its shareholders during the taxable year an amount equal to or exceeding (1) the sum of 95 percent of its REITTI other than net capital gain income and 95 percent of the excess of its net income from foreclosure property over the tax imposed on that income minus (2) certain excess noncash income.

Excess noncash items include: (1) the excess of the amounts that the REIT is required to include in income under section 467 with respect to certain rental agreements involving deferred rents, over the amounts that the REIT otherwise would recognize under its regular method of accounting; (2) in the case of a REIT using the cash method of accounting, the excess of the amount of original issue discount and coupon interest that the REIT is required to take into account with respect to a loan to which section 1274 applies, over the amount of money and fair market value of other property received with respect to the loan; and (3) income arising from the disposition of a real estate asset in certain transactions that failed to qualify as like-kind exchanges under section 1031.

House bill

Election to be treated as a REIT

The House bill changes the ordering rule for purposes of the requirement that newly-electing REITs distribute earnings and profits that were accumulated in non-REIT years. Under the House bill, distributions of accumulated earnings and profits generally would be treated as made from the entity's earliest accumulated earnings and profits.

Taxation of REITs

Capital gains.—The House bill permits a REIT to elect to retain and pay income tax on net long-term capital gains it received during the tax year.

Income from foreclosure property.—The House bill lengthens the original grace period for foreclosure property until the last day of the third full taxable year following the election. The grace period also could be extended for an additional three years by filing a request to the IRS. Under the House bill, a REIT could revoke an election to treat property as foreclosure property for any taxable year by filing a revocation on or before its due date for filing its tax return.

The House bill conforms the definition of independent contractor for purposes of the foreclosure property rule to the definition of independent contractor for purposes of the general rules.

Income or loss from prohibited transactions.—The House bill excludes from the prohibited sales rules property that was involuntarily converted.

Organizational structure requirements

The House bill replaces the rule that disqualifies a REIT for any year in which the REIT failed to comply with regulations to ascertain its ownership, with an intermediate penalty for failing to do so. Under the House bill, the penalty is $25,000 ($50,000 for intentional violations) for any year in which the REIT did not comply with the ownership regulations.

In addition, a REIT that complied with the regulations for ascertaining its ownership, and which did not know, or have reason to know, that it was so closely held as to be classified as a personal holding company, is not to be treated as a personal holding company.

Income requirements

In general.—The House bill repeals the rule that requires less than 30 percent of a REIT's gross income be derived from gain from the sale or other disposition of stock or securities held for less than one year, certain real property held less than four years, and property that is sold or disposed of in a prohibited transaction.

Definition of rents.—The House bill permits a REIT to render a de minimis amount of impermissible services to tenants, or in connection with the management of property, and still treat amounts received with respect to that property as rent.

The House bill modifies the attribution to partnerships for purposes of defining rent, so that attribution would occur only when a partner owns a 25 percent or greater interest in the partnership.

Hedging instruments.—Under the House bill, income from all hedges that reduce the interest rate risk of REIT liabilities, not just from interest rate swaps and caps, is treated as qualifying under the 95-percent test.

Asset requirements

REIT subsidiaries.—The House bill permits any wholly-owned corporation of a REIT to be treated as a qualified subsidiary, regardless of whether the corporation had always been owned by the REIT. In addition, any pre-REIT earnings and profits of the subsidiary must be distributed before the end of the REIT's taxable year.

Distribution requirements

The House bill (1) expands the class of excess noncash items to include income from the cancellation of indebtedness and (2) extends the treatment of original issue discount and coupon interest as excess noncash items to REITs that use an accrual method of taxation.

Effective date.—Taxable years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provisions.

C. ACCOUNTING PROVISIONS

1. MODIFICATIONS TO THE LOOK-BACK METHOD FOR LONG-TERM CONTRACTS (SEC. 14551 OF THE HOUSE BILL)

Present law

Taxpayers engaged in the production of property under a long-term contract generally must compute income from the contract under the percentage of completion method. Under the percentage of completion method, a taxpayer must include in gross income for any taxable year an amount that is based on the product of (1) the gross contract price and (2) the percentage of the contract completed as of the end of the year. The percentage of the contract completed as of the end of the year is determined by comparing costs incurred with respect to the contract as of the end of the year with estimated total contract costs.

Because the percentage of completion method relies upon estimated, rather than actual, contract price and costs to determine gross income for any taxable year, a "look-back method" is applied in the year a contract is completed in order to compensate the taxpayer (or the Internal Revenue Service) for the acceleration (or deferral) of taxes paid over the contract term. The first step of the look-back method is to reapply the percentage of completion method using actual contract price and costs rather than estimated contract price and costs. The second step generally requires the taxpayer to recompute its tax liability for each year of the contract using gross income as reallocated under the look-back method. If there is any difference between the recomputed tax liability and the tax liability as previously determined for a year, such difference is treated as a hypothetical underpayment or overpayment of tax to which the taxpayer applies a rate of interest equal to the overpayment rate, compounded daily. The taxpayer receives (or pays) interest if the net amount of interest applicable to hypothetical overpayments exceeds (or is less than) the amount of interest applicable to hypothetical underpayments. The look-back method must be reapplied for any item of income or cost that is properly taken into account after the completion of the contract.

House bill

The House bill provides that a taxpayer may elect not to apply the look-back method with respect to a long-term contract if for each prior contract year, the cumulative taxable income (or loss) under the contract as determined using estimated contract price and costs is within 10 percent of the cumulative taxable income (or loss) as determined using actual contract price and costs. The bill also provides that a taxpayer may elect not to reapply the look-back method with respect to a contract if, as of the close of any taxable year after the year the contract is completed, the cumulative taxable income (or loss) under the contract is within 10 percent of the cumulative look-back income (or loss) as of the close of the most recent year in which the look-back method was applied (or would have applied but for the other de minimis exception described above). Finally, the bill reduces the number of interest rates applicable under the look-back method.

Effective date.—The provision applies to contracts completed in taxable years ending after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. APPLICATION OF MARK-TO-MARKET ACCOUNTING METHOD TO TRADERS IN SECURITIES (SEC. 14552 OF THE HOUSE BILL)

Present law

A dealer in securities must compute its income pursuant to a "mark-to-market" method of accounting prescribed by section 475.

Under section 475, any security that is inventory in the hands of a dealer must be included in inventory at its fair market value and any security that is that is not inventory in the hands of a dealer and that is held at year end shall be treated as sold for its fair market value. For this purpose, a "dealer in securities" is any person who (1) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business, or (2) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

Traders in securities generally are taxpayers who derive their income principally from the active sale or exchange of securities on the market (rather than to customers, as in the case of a dealer in securities). Section 475 does not explicitly apply to traders in securities. In general, there are no specific statutory provisions that mandate the use of an overall method of accounting by traders. Thus, traders generally account for gains and losses on trading securities when the securities are sold, rather than marking the securities to market, for Federal income tax purposes.

House bill

The House bill provides that a trader in securities may, with the consent of the Secretary of the Treasury, elect to change its method of accounting to adopt a mark-to-market method for its trading activities. Such method may be based on the provisions of present-law section 475, modified to clearly reflect the income of the taxpayer. The adoption of a mark-to-market method of accounting may not change the character of the gain or loss with respect to the securities.

Effective date.—The provision is effective for taxable years ending on or after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. MODIFICATION OF RULING AMOUNTS FOR NUCLEAR DECOMMISSIONING COSTS (SEC. 14553 OF THE HOUSE BILL)

Present law

Under the economic performance rules, a deduction for accrual basis taxpayers generally is deferred until there is economic performance for the item for which the deduction is claimed (sec. 461(h)). Present law contains an exception to the economic performance rules under which a taxpayer responsible for nuclear power plant decommissioning may elect to deduct contributions made to a qualified nuclear decommissioning fund (sec. 468A).

A qualified decommissioning fund is a segregated fund established by the taxpayer that is used exclusively for the payment of decommissioning costs, taxes on fund income, payment of management costs of the fund, and investment in certain types of investments. Contributions to the fund are deductible in the year made to the extent that these amounts were collected as part of the cost of service to ratepayers. Withdrawals of funds by the taxpayer to pay for decommissioning expenses are included in income at that time, but the taxpayer also is entitled to a deduction at that time for decommissioning expenses as economic performance for those costs occurs. A 20-percent tax rate applies to the taxable income of the fund.

In order to prevent accumulations of funds over the remaining life of the plant in excess of those required to pay future decommissioning costs and to ensure that contributions to the funds are not deducted more rapidly than level funding, taxpayers are required to obtain a ruling from the IRS to establish the maximum contribution that may be made to the fund. Taxpayers are required to obtain subsequent rulings to reflect changes in the ruling amount in certain instances.

House bill

The House bill repeals the requirement that a taxpayer obtain certain rulings from the IRS in order to deduct contributions to a nuclear decommissioning fund. Under the House bill, a taxpayer is required to obtain an initial ruling to determine its maximum deduction for contributions to a fund, but is not required to obtain subsequent rulings if such amounts are not substantially modified. The taxpayer is required to notify the Secretary of the Treasury whenever the ruling amount is modified.

Effective date.—The provision applies to modifications after the date of enactment

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. ELECTION OF ALTERNATIVE TAXABLE YEARS BY PARTNERSHIPS AND S CORPORATIONS (SEC. 14554 OF THE HOUSE BILL)

Present law

The taxable income of a partnership or an S corporation (a "flow-thru entity") generally is reported by the partnership's partners or the corporation's shareholders (the "owners") in the taxable year within which the taxable year of the flow-thru entity ends. As a result, if a flow-thru entity uses a taxable year that is the same as the taxable year of its owners, the owners will report income earned by the entity in the year that the income is earned. If a flow-thru entity uses a taxable year that is different than the taxable year of its owners, the owners will defer reporting a portion of the income earned by the entity until the year following the year the income was earned. In order to avoid this deferral, under present law, a flow-through entity generally must use a taxable year that corresponds to the taxable years of its owners (i.e., generally, the calendar year in the case of an entity owned by individuals).

However, under certain circumstances, deferral through use of a fiscal year is permitted (sec. 444). A flow-thru entity may use a fiscal year that it used prior to 1987 or a fiscal year that provides up to a 3-month deferral so long as it makes a payment equal to the income attributable to the deferral period times the highest individual tax rate plus 1 percentage point (currently, 40.6 percent). Such payments remain on deposit and may be refunded if the income of the entity for the deferral period diminishes or the entity abandons its fiscal year (sec. 7519).

House bill

The House bill allows any flow-thru entity to use a fiscal year so long as the entity makes quarterly estimated tax payments at an applicable rate. These estimated tax payments are treated as estimated tax payments of the owners of the flow-thru entity for the owners' taxable year in which the fiscal year ends. Estimated tax payments are not required for a taxable year if the amount of aggregate payments otherwise due is $5,000 or less.

In determining its quarterly estimated tax payments, the entity may use (1) the 100-percent method, (2) the 110-percent method, or (3) the annualization method. Under the 100-percent method, the required quarterly installment is one-quarter of the product of the entity's applicable income for the current year and the applicable rate. Under the 110- percent method, the required quarterly installment is one-quarter of 110 percent of the product of the entity's applicable income for the preceding year and the applicable rate. The 110-percent method is not available if the entity's current year applicable income exceeds its preceding-year applicable income by more than $750,000. Under the annualization method, the required quarterly installment is one-quarter of the product of the entity's annualized applicable income and the applicable rate. "Applicable income" is determined by taking the entity's items into account under subchapter K or S, as the case may be, with certain adjustments. The "applicable rate" is 34 percent, unless the flow-thru entity is a "high income average entity," in which case the applicable rate is 39.6 percent. A "high average income entity" is one where the average applicable income of the 2-percent owners for the preceding year was at least $250,000 or, in the case of a partnership, the applicable income for the preceding year was at least $10,000,000.

A flow-thru entity is not allowed to make a new election under present-law section 444. An entity that currently has a section 444 election in effect may (1) retain the election or (2) revoke the election and receive a refund of its deposit, or (3) make a new section 444 election and treat its deposit as a payment of estimated tax under the provision.

Effective date.—The provision is effective for taxable years beginning after December 31, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

D. TAX-EXEMPT BOND PROVISIONS

1. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE (SEC. 14561 OF THE HOUSE BILL)

Present law

Generally, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. No rebate is required six months after issuance by issuers of certain governmental bonds and qualified 501(c)(3) bonds if (1) all proceeds other than an amount not exceeding the lesser of five percent or $100,000 are spent within six months and (2) the remaining proceeds are spent within one year after the bonds are issued.

House bill

The House bill repeals the $100,000 limit on proceeds that may remain unspent after six months for certain governmental and qualified 501(c)(3) bonds.

Effective date.—Bonds issued after the date of enactment.

Senate agreement

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

2. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES (SEC. 14562 OF THE HOUSE BILL)

Present law

In general, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. An exception is provided for certain construction bond issues if the available construction proceeds of the issue are spent at minimum specified rates during the 24-month period after the bonds are issued. The exception does not apply to bond proceeds invested after the 24-month expenditure period as part of a bona fide debt service fund.

House bill

The House bill exempts earnings on bond proceeds invested in bona fide debt service funds from the arbitrage rebate requirement and the penalty requirement of the 24-month exception if the spending requirements of that exception are otherwise satisfied.

Effective date.—Bonds issued after the date of enactment.

Senate agreement

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

3. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS (SEC. 14563 OF THE HOUSE BILL)

Present law

With certain exceptions, present law limits the amount of the proceeds of private activity bonds (other than qualified 501(c)(3) bonds) that may be invested at materially higher yields at any time during a bond year to 150 percent of the debt service for that bond year. (Any profits earned from higher yielding investments generally must be rebated to the Federal government.)

House bill

The House bill repeals the 150-percent of debt service yield restriction.

Effective date.—Bonds issued after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. REPEAL OF EXPIRED TAX-EXEMPT BOND PROVISIONS (SEC. 14564 OF THE HOUSE BILL)

Present law

Present law includes two special exceptions to the arbitrage rebate and pooled financing temporary period rules for certain qualified student loan bonds. These exceptions applied only to bonds issued before January 1, 1989.

House bill

The House bill repeals these special exceptions as "deadwood."

Effective date.—Date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

E. INSURANCE PROVISIONS

1. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES (SEC. 14571 OF THE HOUSE BILL AND SEC. 12877 OF THE SENATE AMENDMENT)

Present law

Life insurance companies are allowed a deduction for any net increase in reserves and are required to include in income any net decrease in reserves. The reserve of a life insurance company for any contract is the greater of the net surrender value of the contract or the reserve determined under Federally prescribed rules. In no event, however, may the amount of the reserve for tax purposes for any contract at any time exceed the amount of the reserve for annual statement purposes.

Special rules are provided in the case of a variable contract. Under these rules, the reserve for a variable contract is adjusted by (1) subtracting any amount that has been added to the reserve by reason of appreciation in the value of assets underlying such contract, and (2) adding any amount that has been subtracted from the reserve by reason of depreciation in the value of assets underlying such contract. In addition, the basis of each asset underlying a variable contract is adjusted for appreciation or depreciation to the extent the reserve is adjusted.

A variable contract generally is defined as any annuity or life insurance contract (1) that provides for the allocation of all or part of the amounts received under the contract to an account that is segregated from the general asset accounts of the company, and (2) under which, in the case of an annuity contract, the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account, or, in the case of a life insurance contract, the amount of the death benefit (or the period of coverage) is adjusted on the basis of the investment return and the market value of the segregated asset account. A pension plan contract that is not a life, accident, or health, property, casualty, or liability insurance contract is treated as an annuity contract for purposes of this definition.

House bill

The House bill provides that a variable contract is to include a contract that provides for the funding of group term life or group accident and health insurance on retired lives if: (1) the contract provides for the allocation of all or part of the amounts received under the contract to an account that is segregated from the general asset account of the company; and (2) the amounts paid in, or the amounts paid out, under the contract reflect the investment return and the market value of the segregated asset account underlying the contract.

Thus, the reserve for such a contract is to be adjusted by (1) subtracting any amount that has been added to the reserve by reason of appreciation in the value of assets underlying such contract, and (2) adding any amount that has been subtracted from the reserve by reason of depreciation in the value of assets underlying such contract. In addition, the basis of each asset underlying the contract is to be adjusted for appreciation or depreciation to the extent that the reserve is adjusted.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. TREATMENT OF MODIFIED GUARANTEED CONTRACTS (SEC. 14572 OF THE HOUSE BILL AND SEC. 12878 OF THE SENATE AMENDMENT)

Present law

Life insurance companies are allowed a deduction for any net increase in reserves and are required to include in income any net decrease in reserves. The reserve of a life insurance company for any contract is the greater of the net surrender value of the contract or the reserve determined under Federally prescribed rules. The net surrender value of a contract is the cash surrender value reduced by any surrender penalty, except that any market value adjustment required on surrender is not taken into account. In no event, however, may the amount of the reserve for tax purposes for any contract at any time exceed the amount of the reserve for annual statement purposes.

In general, assets held for investment are treated as capital assets. Any gain or loss from the sale or exchange of a capital asset is treated as a capital gain or loss and is taken into account for the taxable year in which the asset is sold or exchanged.

House bill

The House bill generally applies a mark-to-market regime to assets held as part of a segregated account under a modified guaranteed contract issued by a life insurance company. Gain or loss with respect to such assets held as of the close of any taxable year are taken into account for that year (even though the assets have not been sold or exchanged),[119] and are treated as ordinary. If gain or loss is taken into account by reason of the mark-to-market requirement, then the amount of gain or loss subsequently realized as a result of sale, exchange, or other disposition of the asset, or as a result of the application of the mark-to-market requirement is appropriately adjusted to reflect such gain or loss. In addition, the reserve for a modified guaranteed contract is determined by taking into account the market value adjustment required on surrender of the contract.

A modified guaranteed contract is defined as any life insurance contract, annuity contract or pension plan contract[120] that is not a variable contract (within the meaning of Code section 817), and that satisfies the following requirements. All or a part of the amounts received under the contract must be allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time by reference to market values.

The Treasury Department is authorized to issue regulations or other guidance under the provision.

Effective date.—The provision applies to taxable years beginning after December 31, 1995. A taxpayer that is required to (1) change its calculation of reserves to take into account market value adjustments and (2) mark to market its segregated assets in order to comply with the requirements of the provision is treated as having initiated changes in method of accounting and as having received the consent of the Treasury Department to make such changes.

The section 481(a) adjustments required by reason of the changes in method of accounting are to be combined and taken into account as a single net adjustment for the taxpayer's first taxable year beginning after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

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[119] The wash sale rules of section 1091 of the Code are not to apply to any loss that is required to be taken into account solely by reason of the mark-to-market requirement.

[120] The provision applies only to a pension plan contract that is not a life, accident or health, property, casualty, or liability contract.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with clarifications.

Under the House bill and the Senate amendment, the reserves for a modified guaranteed contract must be valued at market for annual statement purposes and the Federally prescribed reserve for the contract under section 807(d)(2) must be valued at market. The Senate Finance committee report provides that for this purpose, reserves are valued at market if they are calculated using a current market rate of interest, as of the reserve valuation date, that is appropriate for the obligations under the contract to which the reserve relates.

The House bill and the Senate amendment also provide that the Treasury Department is authorized to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B) and 812 with respect to modified guaranteed contracts annually, calculating such rates as appropriate for modified guaranteed contracts. For example, it may be appropriate to take into account the yield on the assets underlying the contract in determining such rates.

The conference agreement clarifies that the Treasury Department has discretion to determine an appropriate rate that is a current market rate, which could be determined, for example, either by using a rate that is appropriate for the obligations under the contract to which the reserve relates, or by taking into account the yield on the assets underlying the contract.

The conferees intend that the Treasury Department may exercise this authority by issuing a periodic announcement of the appropriate market interest rates or formula for determining such rates.

3. MINIMUM TAX TREATMENT OF CERTAIN PROPERTY AND CASUALTY INSURANCE COMPANIES (SEC. 14573 OF THE HOUSE BILL)

Present law

Property and casualty insurance companies whose net written premiums (or if greater, direct written premiums) for the taxable year exceed $350,000 but do not exceed $1,200,000 may elect to be taxed only on taxable investment income for regular tax purposes, without regard to underwriting income or expense (sec. 831(b)).

This election does not apply for alternative minimum tax purposes. All corporations, including insurance companies, are subject to an alternative minimum tax. Alternative minimum taxable income is increased by 75 percent of the excess of adjusted current earnings over alternative minimum taxable income (determined without regard to this adjustment and without regard to net operating losses).

House bill

The House bill provides that a property and casualty insurance company that elects for regular tax purposes to be taxed only on taxable investment income determines its adjusted current earnings under the alternative minimum tax without regard to any amount not taken into account in determining its gross investment income under section 834(b). Thus, adjusted current earnings of an electing company is determined without regard to underwriting income (or underwriting expense, as provided in sec. 56(g)(4)(B)(I)(II)).

Effective date.—Taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

F. OTHER PROVISIONS

1. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER (SEC. 14581 OF THE HOUSE BILL)

Present law

The partnership taxable year closes with respect to a partner whose entire interest is sold, exchanged or liquidated, but generally not upon the death of a partner. A decedent's entire share of items of income, gain, loss, deduction and credit for the partnership taxable year in which death occurs is taxed to the decedent's estate or successor in interest, rather than to the decedent on his or her final tax return. See *Estate of Hesse* v. *Commissioner*, 74 T.C. 1307, 1311 (1980).

House bill

The House bill provides that the taxable year of a partnership closes with respect to a partner whose entire interest in the partnership terminates, whether by death, liquidation or otherwise. The provision is not intended to change present law with respect to the effect upon the partnership taxable year of a transfer of a partnership interest by a debtor to the debtor's estate (under Chapters 7 or 11 of Title 11, relating to bankruptcy).

Effective date.—Partnership taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. TAX CREDIT FOR SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS (SEC. 14582 OF THE HOUSE BILL)

Present law

Employee tip income is treated as employer-provided wages for purposes of the Federal Insurance Contributions Act ("FICA"). Employees are required to report to the employer the amount of tips received. The Omnibus Budget Reconciliation Act of 1993 ("OBRA 1993") provided a business tax credit with respect to certain employer FICA taxes paid with respect to tips treated as paid by the employer. The credit applies to tips received from customers in connection with the provision of food or beverages for consumption on the premises of an establishment with respect to which the tipping of employees is customary. OBRA 1993 provided that the FICA tip credit is effective for taxes paid after December 31, 1993. Temporary Treasury regulations provide that the tax credit is available only with respect to tips reported by the employee. The temporary regulations also provide that the credit is effective for FICA taxes paid by an employer after December 31, 1993, with respect to tips received for services performed after December 31, 1993.

House bill

The House bill clarifies the credit with respect to employer FICA taxes paid on tips by providing that the credit is available whether or not the employee reported the tips and that the credit is effective with respect to taxes paid after December 31, 1993, regardless of when the services with respect to which the tips are received were performed.

Effective date.—The provision is effective as if included in OBRA 1993.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. DUE DATE FOR FIRST QUARTER ESTIMATED TAX PAYMENTS BY PRIVATE FOUNDATIONS (SEC. 14583 OF THE HOUSE BILL)

Present law

Under section 4940, tax-exempt private foundations generally are required to pay an excise tax equal to two percent of their net investment income for the taxable year. Under section 6655(g)(3), private foundations are required to pay estimated tax with respect to their excise tax liability under section 4940 (as well as any unrelated business income tax (UBIT) liability under section 511).[121] Section 6655(c) provides that this estimated tax is payable in quarterly installments and that, for calendar-year foundations, the first quarterly installment is due on April 15th. Under section 6655(I), foundations with taxable years other than the calendar year must make their quarterly estimated tax payments no later than the dates in their fiscal years that correspond to the dates applicable to calendar-year foundations.

House bill

The House bill amends section 6655(g)(3) to provide that a calendar-year foundation's first-quarter estimated tax payment is due on May 15th (which is the same day that its annual return, Form 990-PF, for the preceding year is due). As a result of the operation of present-law section 6655(I), fiscal-year foundations will be required to make their first-quarter estimated tax payment no later than the 15th day of the fifth month of their taxable year.

Effective date.—Taxable years beginning after 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

XVI. SIMPLIFICATION PROVISIONS RELATING TO ESTATES, GIFTS, AND TRUSTS

A. ESTATE AND TRUST INCOME TAX PROVISIONS

1. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE (SEC. 14601 OF THE HOUSE BILL)

Present law

While both estates and revocable inter vivos trusts perform essentially the same function of administering the disposition of the decedent's property after the testator or grantor's death, numerous differences presently exist between the income tax treatment of estates and revocable trusts.

House bill

The House bill provides an irrevocable election to treat a qualified revocable trust as part of the decedent's estate for Federal income tax purposes. This elective treatment is effective from the date of the decedent's death until two years after his or her death (if no estate tax return is required) or six months after the final determination of estate tax liability (if an estate tax return is required).

Effective date.—Effective for decedents dying after the date of enactment.

Senate amendment

No provision.

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[121] Generally, the amount of the first quarter payment must be at least 25 percent of the lesser of (1) the preceding year's tax liability, as shown on the foundation's Form 990-PF, or (2) 95 percent of the foundation's current-year tax liability.

Conference agreement

The conference agreement follows the House bill, with technical modifications that (1) provide an election for a revocable trust to be treated as an estate in cases where there is no taxable estate; and (2) permit the election to be made in cases where only a portion of a revocable trust is treated as owned by the decedent.

2. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAXABLE YEAR OF ESTATE (SEC. 14602 OF THE HOUSE BILL)

Present law

Under the "65-day rule," a trust may elect to treat distributions paid within 65 days after the close of its taxable year as paid on the last day of its taxable year (sec. 663(b)). The 65-day rule is not applicable to estates.

House bill

The House bill extends application of the 65-day rule to distributions by estates. Thus, an executor can elect to treat distributions paid within 65 days after the close of the estate's taxable year as having been paid on the last day of such taxable year.

Effective date.—Effective for taxable years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. SEPARATE SHARE RULES AVAILABLE TO ESTATES (SEC. 14603 OF THE HOUSE BILL)

Present law

Trusts with more than one beneficiary must use the "separate share" rule under which different tax treatment is accorded to distributions to different beneficiaries to reflect the income earned by different shares of the trust's corpus (sec. 663(c)). The separate share rule does not apply to estates.

House bill

The House bill extends the application of the separate share rule to estates. There are separate shares in an estate when the governing instrument of the estate creates separate economic interests in one beneficiary or class of beneficiaries such that the economic interests of those beneficiaries are not affected by economic interests accruing to another separate beneficiary or class of beneficiaries.

Effective date.—Effective for decedents dying after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. EXECUTOR OF ESTATE AND BENEFICIARIES TREATED AS RELATED PERSONS FOR DISALLOWANCE OF LOSSES, ETC. (SEC. 14604 OF THE HOUSE BILL)

Present law

Section 267 disallows a deduction for any loss on the sale of an asset to a person related to the taxpayer. Section 1239 disallows capital gain treatment on the sale of depreciable property to a related person. Neither section 267 or section 1239 presently treat an estate and a beneficiary of the estate as related persons.

House bill

An estate and a beneficiary of that estate are treated as related persons for purposes of sections 267 and 1239, except in the case of a sale or exchange in satisfaction of a pecuniary bequest.

Effective date.—Effective for taxable years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

5. LIMITATION ON TAXABLE YEAR OF ESTATES (SEC. 14605 OF THE HOUSE BILL)

Present law

Trusts are required to use a calendar year and, consequently, income of a trust that is distributed to a calendar-year beneficiary in the year earned is taxed to the beneficiary in the year earned. In contrast, estates are allowed to use any fiscal year and, consequently, the taxation of distributions to a calendar-year beneficiary in up to the last 11 months of the calendar year can be deferred until the next taxable year depending upon the fiscal year selected.

House bill

The House bill limits the taxable year of an estate to a year ending on October 31, November 30, or December 31. Thus, the maximum deferral allowable to a calendar-year beneficiary is with respect to distributions made in the last two months of the calendar year.

Effective date.—Effective for decedents dying after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

6. REPEAL OF CERTAIN THROWBACK RULES APPLICABLE TO DOMESTIC TRUSTS (SEC. 14606 OF THE HOUSE BILL)

Present law

Nongrantor trusts are subject to a separate graduated tax rate structure which historically has permitted accumulated trust income to be taxed at lower rates than the rates applicable to trust beneficiaries. Under the so-called "throwback" rules, the distribution of previously accumulated trust income to a beneficiary is subject to tax (in addition to any tax paid by the trust on that income) where the beneficiary's average top marginal rate in the previous five years is higher than that of the trust.

Under section 644, if property is sold within two years of its contribution to a trust, the gain that would have been recognized had the contributor sold the property is taxed at the contributor's marginal tax rates. In effect, section 644 treats such gains as if the contributor had realized the gain and then transferred the net after-tax proceeds from the sale to the trust as corpus.

House bill

The House bill exempts from the throwback rules amounts distributed by a domestic trust after December 31, 1995. The provision also provides that precontribution gain on property sold by a domestic trust no longer is subject to section 644 (i.e., taxed at the contributor's marginal tax rates).

Effective date.—The provision with respect to the throwback rules is effective for distributions made in taxable years beginning after December 31, 1995. The modification to section 644 applies to sales or exchanges after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

7. TREATMENT OF FUNERAL TRUSTS (SEC. 14607 OF THE HOUSE BILL)

Present law

A pre-need funeral trust is an arrangement where an individual purchases funeral services or merchandise in advance of the individual's death. The individual enters into a contract with the provider of such services or merchandise whereby the individual selects the services or merchandise to be provided upon his or her death, and agrees to pay for them in advance of his or her death. Such amounts (or a portion thereof) are held in trust during the individual's lifetime and are paid to the seller upon the individual's death.

Under present law, pre-need funeral trusts generally are treated as grantor trusts, and the annual income earned by such trusts is taxed to the purchaser/grantor of the trust. Rev. Rul. 87-127. Any amount received from the trust by the seller (as payment for services or merchandise) is includible in the gross income of the seller.

House bill

The House bill allows the trustee of a pre-need funeral trust to elect special tax treatment for such a trust, to the extent the trust would otherwise be treated as a grantor trust. A qualified funeral trust is defined as one which meets the following requirements: (1) the trust arises as the result of a contract between a person engaged in the trade or business of providing funeral or burial services or merchandise and one or more individuals to have such services or property provided upon such individuals' death; (2) the only beneficiaries of the trust are individuals who have entered into contracts to have such services or merchandise provided upon their death; (3) the only contributions to the trust are contributions by or for the benefit of the trust beneficiaries; (4) the trust's only purpose is to hold and invest funds that will be used to make payments for funeral or burial services or merchandise for the trust beneficiaries; and (5) the trust has not accepted contributions totaling more than $5,000 by or for the benefit of any individual.

The trustee's election to have this provision apply to a qualified funeral trust is to be made separately with respect to each purchaser's trust. The amount of tax paid with respect to each purchaser's trust is determined in accordance with the income tax rate schedule generally applicable to estates and trusts (Code sec. 1(e)), but no deduction is allowed under section 642(b). The tax on the annual earnings of the trust is payable by the trustee.

Effective date.—Effective for taxable years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with the modification that a qualified funeral trust may accept aggregate contributions of up to $7,000 by or for the benefit of any individual.

B. ESTATE AND GIFT TAX PROVISIONS

1. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY (SEC. 14611 OF THE HOUSE BILL)

Present law

For estate and gift tax purposes, a marital deduction is allowed for qualified terminable interest property (QTIP). Such property generally is included in the surviving spouse's gross estate upon his or her death. The surviving spouse's estate is entitled to recover the portion of the estate tax attributable to inclusion of QTIP from the person receiving the property, unless the spouse directs otherwise by will (sec. 2207A). For this purpose, a will provision specifying that all taxes shall be paid by the estate is sufficient to waive the right of recovery.

A decedent's gross estate includes the value of previously transferred property in which the decedent retains enjoyment or the right to income (sec. 2036). The estate is entitled to recover from the person receiving the property a portion of the estate tax attributable to the inclusion (sec. 2207B). This right may be waived only by a provision in the will (or revocable trust) specifically referring to section 2207B.

House bill

The House bill provides that the right of recovery with respect to QTIP is waived only to the extent that language in the decedent's will or revocable trust specifically so indicates (e.g., by a specific reference to QTIP, the QTIP trust, section 2044, or section 2207A). Thus, a general provision specifying that all taxes be paid by the estate is no longer sufficient to waive the right of recovery.

The House bill also provides that the right of contribution for property over which the decedent retained enjoyment or the right to income is waived by a specific indication in the decedent's will or revocable trust, but specific reference to section 2207B is no longer required.

Effective date.—Effective for decedents dying after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH (SEC. 14612 OF THE HOUSE BILL)

Present law

A taxpayer may exclude $10,000 of gifts of present interests in property made to each donee during a calendar year. Certain transfers made from a revocable trust within three years of death may be included in the decedent's gross estate even though such transfers would qualify for the annual $10,000 exclusion if made by the decedent directly.

House bill

The House bill provides that a transfer from a revocable trust is treated as if made directly by the grantor. Thus, an annual exclusion gift from such trust is not included in the gross estate.

Effective date.—Effective for decedents dying after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES (SEC. 14613 OF THE HOUSE BILL)

Present law

A marital deduction is allowed for qualified terminal interest property ("QTIP"). Property is QTIP only if the surviving spouse is entitled to all income from the property for life, payable at least annually. QTIP generally is includible in the surviving spouse's gross estate.

The United States Tax Court has held that, in order to satisfy the QTIP requirements, the income accumulating between the last distribution date and the date of the surviving spouse's death (the "accumulated income") must be paid to the spouse's estate or be subject to a power of appointment held by the spouse. In contrast, proposed Treasury regulations presently provide that the QTIP requirements may be satisfied even if the accumulated income is not required to be distributed to the surviving spouse or the surviving spouse's estate.

House bill

The House bill provides that property does not fail to be QTIP solely because the accumulated income is not required to be distributed to the surviving spouse. Such income is includible in the surviving spouse's gross estate.

Effective date.—Effective for decedents dying, and gifts made, after the date of enactment. However, the bill does not include in the surviving spouse's gross estate property transferred before the date of enactment for which no marital deduction was claimed.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. TRANSITIONAL RULE UNDER SECTION 2056A (SEC. 14614 OF THE HOUSE BILL)

Present law

A "marital deduction" generally is allowed for estate and gift tax purposes for the value of property passing to a spouse. The marital deduction is not available for property passing to an alien spouse outside a qualified domestic trust ("QDT"). An estate tax generally is imposed on corpus distributions from a QDT.

A QDT was originally defined as a trust that, among other things, required all trustees be U.S. citizens or domestic corporations. This provision was later modified to require that at least one trustee be a U.S. citizen or domestic corporation and that no corpus distribution be made unless such trustee has the right to withhold any estate tax imposed on the distribution (the "withholding requirement").

House bill

A trust created before the enactment of the Omnibus Budget Reconciliation Act of 1990 is treated as satisfying the withholding requirement if its governing instrument requires that all trustees be U.S. citizens or domestic corporations.

Effective date.—The provision applies as if included in the Omnibus Budget Reconciliation Act of 1990.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

5. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A (SEC. 14615 OF THE HOUSE BILL)

Present law

For estate tax purposes, an executor may elect to value certain real property used in farming or other closely held business operations at its current use value rather than its highest and best use (sec. 2032A). A written agreement signed by each person who has an interest in the property must be filed with the election.

In 1984, section 2032A was amended to provide that if an executor makes a timely election that substantially complies with Treasury regulations, but fails to provide all required information or the signatures of all persons required to enter into the agreement, the executor may supply the missing information within a reasonable period of time (not exceeding 90 days) after notification by the Treasury Department.

House bill

The House bill extends the procedures allowing subsequent submission of information to any executor who makes a timely election and submits the recapture agreement, without regard to substantial compliance with the Treasury regulations. Thus, the bill allows a technically defective current use valuation election to be corrected if the executor supplies the missing information or signatures within a reasonable period of time (not exceeding 90 days) after notification by the Treasury Department.

Effective date.—The provision applies to decedents dying after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill. The conferees believe that the Treasury Department has taken an unnecessarily restrictive view of the 1984 amendment to section 2032A and intend no inference that the Treasury Department lacks the power, under the law in effect prior to enactment of the conference agreement, to correct the situation addressed by this provision. The conferees intend that, with respect to technically defective 2032A elections made prior to the date of enactment, prior law should be applied in a manner consistent with the provision.

6. UNIFIED CREDIT OF DECEDENT INCREASED BY UNIFIED CREDIT OF SPOUSE USED ON SPLIT GIFT INCLUDED IN DECEDENT'S GROSS ESTATE (SEC. 14616 OF THE HOUSE BILL)

Present law

The estate tax is imposed on all of the assets held by the decedent at his death, including the value of property previously transferred by the decedent in which the decedent retained certain powers or interests, e.g., sections 2036 (transfers with retained life estate), 2037 (transfers taking effect at death), 2038 (revocable transfers), or 2042 (proceeds of life insurance). Under section 2035, the estate tax also would apply with respect to property in which such a retained power or interest is transferred within three years of death.

Under section 2513, spouses may elect to treat a gift made by one spouse to a third person as made one-half by each spouse (i.e., "gift-splitting").

House bill

With respect to any split-gift property that is subsequently included in the estate of the transferor spouse under sections 2035, 2036, 2037 or 2038, the House bill increases the unified credit allowable to the transferor spouse's estate by the amount of the unified credit previously allowed to the nontransferor spouse with respect to the split gift.

Effective date.—The provision applies to gifts made after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

7. REFORMATION OF DEFECTIVE BEQUESTS, ETC. TO SPOUSE OF DECEDENT (SEC. 14617 OF THE HOUSE BILL)

Present law

A marital deduction generally is allowed for estate and gift tax purposes for the value of property passing to a spouse. However, "terminable interest" property (i.e., an interest in property that will terminate or fail) transferred to a spouse generally will only qualify for the marital deduction under certain special rules designed to ensure that there will be an estate or gift tax to the transferee spouse on unspent transferred proceeds.

One of the special terminable interest rules allows a marital deduction where the decedent transfers property to a "power of appointment trust," i.e., a trust that is required to pay income to the surviving spouse and over which the surviving spouse has a general power of appointment at that spouse's death (sec. 2056(b)(5)). Another special rule called the "qualified terminable interest property" rule ("QTIP") generally permits a marital deduction for transfers by the decedent to a trust that is required to distribute all income to the surviving spouse for life at least annually and an election is made to subject the transferee spouse to transfer tax on the trust property.

To qualify for the marital deduction, a power of appointment trust or QTIP trust must meet certain specific requirements. If there is a technical defect in meeting those requirements, the marital deduction may be lost.

House bill

The House bill allows the marital deduction with respect to a defective power of appointment or QTIP trust if there is a "qualified reformation" of the trust that changes the governing instrument in a manner that corrects the defect. Where a reformation proceeding is commenced after the due date for the estate tax return (including extensions), the reformation qualifies only if, prior to reformation, the governing instrument provides (1) that the surviving spouse is entitled to all income from the property for life, and (2) no person other than the surviving spouse is entitled to any distributions during the surviving spouse's life. With respect to QTIP, an election to qualify must be made by the executor on the estate tax return as required by section 2056(b)(7)(B)(v).

The determination as to whether the property qualifies for the marital deduction is made either as of the due date for filing the estate or gift tax return (including any extensions) or the time that changes are completed pursuant to a reformation proceeding. The statute of limitations is extended with respect to the estate or gift tax attributable to the trust property until one year after the date the Treasury Department is notified that a qualified reformation has been completed or that the reformation proceeding has otherwise terminated.

Effective date.—The provision applies to decedents dying after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

8. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX PURPOSES AFTER EXPIRATION OF STATUTE OF LIMITATIONS (SEC. 14618 OF THE HOUSE BILL)

Present law

The Federal estate and gift taxes are unified so that a single progressive rate schedule is applied to an individual's cumulative gifts and bequests. The tax on gifts made in a particular year is computed by determining the tax on the sum of the taxable gifts made that year and all prior years and then subtracting the tax on the prior years' taxable gifts and the unified credit. Similarly, the estate tax is computed by determining the tax on the sum of the taxable estate and prior taxable gifts and then subtracting the tax on taxable gifts and the unified credit. Under a special rule applicable to the computation of the gift tax (sec. 2504(c)), the value of gifts made in prior years is the value that was used to determine the prior year's gift tax. There is no comparable rule in the case of the computation of the estate tax.

Generally, any estate or gift tax must be assessed within three years after the filing of the return. No proceeding in a court for the collection of an estate or gift tax can be begun without an assessment within the three-year period. If no return is filed, the tax may be assessed, or a suit commenced to collect the tax without assessment, at any time. If an estate or gift tax return is filed, and the amount of unreported items exceeds 25 percent of the amount of the reported items, the tax may be assessed or a suit commenced to collect the tax without assessment, within six years after the return was filed (sec. 6501).

Commencement of the statute of limitations generally does not require that a particular gift be disclosed. A special rule, however, applies to certain gifts that are valued under the special valuation rules of Chapter 14. The gift tax statute of limitations runs for such a gift only if it is disclosed on a gift tax return in a manner adequate to apprise the Secretary of the Treasury of the nature of the item.

Most courts have permitted the Commissioner to redetermine the value of a gift for which the statute of limitations period for the gift tax has expired in order to determine the appropriate tax rate bracket and unified credit for the estate tax.

House bill

The House bill provides that a gift for which the limitations period has passed cannot be revalued for purposes of determining the applicable estate tax bracket and available unified credit. For gifts made in calendar years after the date of enactment, the House bill also extends the special rule governing gifts valued under Chapter 14 to all gifts. Thus, the statute of limitations will not run on an inadequately disclosed transfer in calendar years after the date of enactment, regardless of whether a gift tax return was filed for other transfers in that same year.

It is intended that, in order to revalue a gift that has been adequately disclosed on a gift tax return, the IRS must issue a final notice of redetermination of value (a "final notice") within the statute of limitations applicable to the gift for gift tax purposes (generally, three years). This rule is applicable even where the value of the gift as shown on the return does not result in any gift tax being owed (e.g., through use of the unified credit). It also is anticipated that the IRS will develop an administrative appeals process whereby a taxpayer can challenge a redetermination of value by the IRS prior to issuance of a final notice.

A taxpayer who is mailed a final notice may challenge the redetermined value of the gift (as contained in the final notice) by filing a motion for a declaratory judgment with the United States Tax Court. The motion must be filed on or before 90 days from the date that the final notice was mailed. The statute of limitations is tolled during the pendency of the Tax Court proceeding.

Effective date.—The provision generally applies to gifts made after the date of enactment. The extension of the special rule under chapter 14 to all gifts applies to gifts made in calendar years after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

9. CLARIFICATIONS RELATING TO DISCLAIMERS (SEC. 14619 OF THE HOUSE BILL)

Present law

Historically, there must be acceptance of a gift in order for the gift to be completed under State law and there is no taxable gift for Federal gift tax purposes unless there is a completed gift. Most States have rules that provide that, where there is a disclaimer of a gift, the property passes to the person who is entitled to the property had the disclaiming party died before the purported transfer.

Under section 2518, a State law type disclaimer is effective for Federal transfer tax purposes if it is an irrevocable and unqualified refusal to accept an interest in property and certain other requirements are satisfied. One of these other requirements is that the disclaimer generally must be made in writing not later than nine months after the transfer creating the interest occurs. Section 2518 is not presently effective for Federal tax purposes other than transfer taxes.

Certain transfers of property also can be treated as qualified disclaimers under section 2518. In order to qualify, these transfer-type disclaimers must be a written transfer of the disclaimant's "entire interest in the property" to persons who would have received the property had there been a valid disclaimer under State law (sec. 2518(c)(3)). Like other disclaimers, the transfer-type disclaimer generally must be made within nine months of the transfer creating the interest.

House bill

The House bill allows a transfer-type disclaimer of an "undivided portion" of the disclaimant transferor's interest in property to qualify under section 2518. The House bill also allows a spouse to make a qualified transfer-type disclaimer where the disclaimed property is transferred to a trust in which the disclaimant spouse has an interest (e.g., a credit shelter trust). Finally, the House bill provides that a qualified disclaimer for transfer tax purposes under section 2518 also is effective for Federal income tax purposes (e.g., disclaimers of interests in annuities and income in respect of a decedent).

Effective date.—The provision applies to disclaimers made after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

10. CLARIFICATION OF TREATMENT OF SURVIVOR ANNUITIES UNDER QUALIFIED TERMINABLE INTEREST RULES (SEC. 14620 OF THE HOUSE BILL)

Present law

Under State community property laws, each spouse owns an undivided one-half interest in each community property asset. In community property States, a nonparticipant spouse may be treated as having a vested community property interest in his or her spouse's qualified plan, individual retirement arrangement, or simplified employee pension plan.

A survivorship interest in an annuity interest arising out of the decedent's employment that is includible his or her estate (under section 2039) that passes to the nonparticipant spouse is treated as a deductible marital transfer under the qualified terminable interest property ("QTIP") rules unless the executor of the decedent's estate elects otherwise (sec. 2056(b)(7)(C)). Thus, in noncommunity property States, no estate tax generally is imposed on such survivor annuity interests in the non-surviving spouse's estate. In contrast, an interest of the nonparticipant spouse arising under community property laws in an annuity derived from the employment of his or her spouse is includible in his or her estate under section 2033 and, therefore, may not qualify as a deductible transfer to his or her surviving spouse under the QTIP rules.

House bill

The House bill clarifies that the marital deduction is available with respect to a nonparticipant spouse's interest in an annuity attributable to community property laws where he or she predeceases the participant spouse. Under the House bill, the nonparticipant spouse's interest in an annuity arising under the community property laws of a State that passes to the surviving participant spouse may qualify for treatment as QTIP under section 2056(b)(7).

Effective date.—The provision applies to decedents dying, or waivers, transfers and disclaimers made, after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

11. TREATMENT UNDER QUALIFIED DOMESTIC TRUST RULES OF FORMS OF OWNERSHIP WHICH ARE NOT TRUSTS (SEC. 14621 OF THE HOUSE BILL)

Present law

A marital deduction generally is allowed for estate and gift tax purposes for the value of property passing to a spouse. The marital deduction is not available for property passing to an alien spouse outside a qualified domestic trust ("QDT"). An estate tax generally is imposed on corpus distributions from a QDT.

Trusts are not permitted in some countries (e.g., many civil law countries). As a result, it is not possible to create a QDT in those countries.

House bill

The House bill provides the Treasury Department with regulatory authority to treat as trusts legal arrangements that have substantially the same effect as a trust. It is anticipated that such regulations, if any, would only permit a marital deduction with respect to non-trust arrangements under which the U.S. would retain jurisdiction and adequate security to impose U.S. transfer tax on transfers by the surviving spouse of the property transferred by the decedent.

Effective date.—The provision applies to decedents dying after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

12. AUTHORITY TO WAIVE REQUIREMENT OF UNITED STATES TRUSTEE FOR QUALIFIED DOMESTIC TRUSTS (SEC. 14622 OF THE HOUSE BILL)

Present law

In order for a trust to be a QDT, a U.S. trustee must have the power to approve all corpus distributions from the trust. In some countries, trusts may be prohibited from having a U.S. trustee (e.g., some countries do not allow real property to be placed in trust if a U.S. trustee must approve distributions from the trust.) As a result, such trusts cannot qualify as a QDT.

House bill

In order to permit the establishment of a QDT in those situations where a country prohibits a trust from having a U.S. trustee, the House bill provides the Treasury Department with regulatory authority to waive the requirement that a QDT have a U.S. trustee. It is anticipated that such regulations, if any, provide an alternative mechanism under which the U.S. would retain jurisdiction and adequate security to impose U.S. transfer tax on transfers by the surviving spouse of the property transferred by the decedent.

Effective date.—The provision applies to decedents dying after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

C. GENERATION-SKIPPING TAX PROVISIONS

1. SEVERING OF TRUSTS HOLDING PROPERTY HAVING AN INCLUSION RATIO OF GREATER THAN ZERO (SEC. 14631 OF THE HOUSE BILL)

Present law

A generation-skipping transfer tax ("GST" tax) generally is imposed on transfers to an individual who is in more than one generation below that of the transferor. An exemption of $1 million is provided for each person making generation-skipping transfers. The transferor (or his or her executor) may allocate the exemption to transferred property. If the value of the transferred property exceeds the amount of the GST exemption allocated to that property, an "inclusion ratio" and an "exclusion ratio" are determined with respect to the property. The exclusion ratio is equal to the amount of the GST exemption allocated to the property divided by the value of the property. The inclusion ration is equal to one minus the exclusion ratio. For any taxable event that occurs with respect to the property, the amount of GST tax generally is determined by multiplying highest estate tax rate by the inclusion ratio and the value of the taxable property at the time of the taxable event.

House bill

If a trust with an inclusion ratio of greater than zero is severed into two separate trusts, the bill allows the trustee to elect to treat one of the separate trusts as having an inclusion ratio of zero and the other separate trust as having an inclusion ratio of one. To qualify for this treatment, the separate trust with the inclusion ratio of one must receive an interest in each property held by the single trust (prior to severance) equal to the single trust's inclusion ratio, except to the extent otherwise provided by Treasury regulation. The remaining interests in each property will be transferred to the separate trust with the inclusion ratio of zero.

Effective date.—The provision is effective for severances of trusts occurring after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

2. CLARIFICATION OF WHO IS TRANSFEROR WHERE SUBSEQUENT GIFT BY REASON OF POWER OF APPOINTMENT (SEC. 14632 OF THE HOUSE BILL)

Present law

The exercise or release of a general power of appointment (e.g., a power of withdrawal) generally is treated as a transfer of property by the person who possesses such power (sec. 2514(b)). Under section 2514(e), the lapse of a general power of appointment also is treated as a taxable transfer except to the extent that the power does not exceed the greater of $5,000 or five percent of the fair market value of the property with respect to which the power could have been exercised.

House bill

The House bill clarifies that an individual cannot be treated as a "transferor" with respect to any portion of property with respect to which another person is treated as the "transferor" by reason of the exercise, release or lapse of a general power of appointment with respect to such property.

Effective date.—The provision applies to the exercise, release or lapse of a general power of appointment occurring after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision, because the conferees believe that the House provision reflects present law.

3. TAXABLE TERMINATION NOT TO INCLUDE DIRECT SKIPS (SEC. 14633 OF THE HOUSE BILL)

Present law

A generation-skipping transfer tax ("GST" tax) generally is imposed on transfers to an individual who is in more than one generation below that of the transferor. Transfers subject to the GST tax include direct skips, taxable terminations and taxable distributions. For this purpose, a direct skip is any transfer subject to estate or gift tax of an interest in property to a skip person (sec. 2612(c)(1)). A taxable termination is a termination (by death, lapse of time, release of power, or otherwise) of an interest in property held in trust unless, immediately after such termination, a non-skip person has an interest in the property, or unless at no time after the termination may a distribution (including a distribution upon termination) be made from the trust to a skip person (sec. 2612(a)). A taxable distribution is a distribution from a trust to a skip person (other than a taxable termination or a direct skip)(sec. 2612(b)).

Direct skips are subject to less GST tax than taxable terminations and distributions since the GST tax on direct skips is paid by the transferor (sec. 2603(a)(3)) and, therefore, the tax base for a direct skip is tax exclusive (like the Federal gift tax), while the GST tax on taxable terminations and distributions is paid by the trust or beneficiary (secs. 2603(a)(1) & (2)) and, therefore, the tax base on taxable terminations and distributions is tax inclusive (like the Federal estate tax).

House bill

The House bill provides that, when a transfer is described as both a direct skip and a taxable termination, the transaction will be treated as a direct skip (i.e., treatment as a direct skip takes precedence over treatment as a taxable termination).

Effective date.—Effective for generation skipping transfers occurring after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

XVII. EXCISE TAX SIMPLIFICATION PROVISIONS

A. PROVISIONS RELATING TO DISTILLED SPIRITS, WINES, AND BEER (SECS. 14701-14711 OF THE HOUSE BILL)

Present law

Credit or refund for imported distilled spirits returned bonded premises.—When tax-paid distilled spirits which have been withdrawn from bonded premises of a distilled spirits plant are returned for destruction or redistilling, the excise tax is refunded. This provision does not apply to imported bottled distilled spirits because they are withdrawn from customs custody and not from bonded premises of a distilled spirits plant.

Authority to cancel or credit bonds without submission of records.—Bond generally must be furnished to the Treasury Department when distilled spirits are removed from bonded premises of a distilled spirits plant for exportation without payment of tax. These bonds are canceled or credited when evidence is submitted to the Treasury that the distilled spirits have been exported.

Required maintenance of records on premises of distilled spirits plant.—Distilled spirits plant proprietors are required to maintain records of their production, storage, denaturation, and other processing activities on the premises where the operations covered by the records are carried out.

Transfers from breweries to distilled spirits plants.—Under present law, beer may be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, but only if the brewery is contiguous to the distilled spirits plant.

Requirement that wholesale dealers in liquors post sign.—Wholesale liquor dealers (i.e., dealers, other than wholesale dealers in beer alone) are required to post a sign conspicuously on the outside of their place of business indicating that they are wholesale liquor dealers.

Refund of tax on wine returned to bond.—When unmerchantable wine is returned to bonded production premises, tax that has been paid is returned or credited to the proprietor of the bonded wine cellar to which the wine is delivered.

Use of ameliorating material in certain wines.—Tax law rules govern the extent to which ameliorating material (e.g., sugar) may be added to wines made from high acid fruits and the product still be labeled as a standard, natural wine.

Domestically produced beer for use by foreign embassies, etc.—Distilled spirits, wine, and imported beer may be removed from bond, without payment of tax, for transfer to any customs bonded warehouse for storage pending removal for the official or family use of representatives of foreign governments or public international organizations. No such provision exists under present law for domestically produced beer.

Withdrawal of beer for destruction.—Present law does not specifically permit beer to be removed from a brewery for destruction without payment of tax.

Records of exportation of beer.—Present law provides that a brewer is allowed a refund of tax paid on exported beer upon submission to Treasury Department of certain records indicating that the beer has been exported.

Transfer to brewery of beer imported in bulk.—Imported beer brought into the United States in bulk containers may not be transferred from customs custody to brewery premises without payment of tax. Under certain circumstances, distilled spirits imported into the United States in bulk containers may be transferred from customs custody to bonded premises of a distilled spirits plant where bottling will occur without payment of tax.

House bill

Credit or refund for imported bottled distilled spirits returned to bonded premises.—The House bill conforms the procedures for refunds of tax collected on imported bottled distilled spirits returned to bonded premises to the rules for domestically produced and imported bulk distilled spirits.

Authority to cancel or credit bonds without submission of records.—The House bill authorizes the Treasury Department to permit records of exportation to be maintained by the exporter, rather than requiring submission of proof of exportation to Treasury in all cases.

Repeal of required maintenance of records on premises of distilled spirits plant.—The House bill permits distilled spirits plant proprietors to maintain records of their activities at locations other than the premises where the operations covered by the records are carried out (e.g., corporate headquarters) provided that the records are available for inspection by the Treasury Department during business hours.

Fermented material from any brewery may be received at a distilled spirits plant.—The House bill allows beer to be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, regardless of whether the brewery is contiguous to the distilled spirits plant.

Repeal of requirement that wholesale dealers in liquors post sign.—The House bill repeals the requirement that wholesale liquor dealers post a sign outside their place of business indicating that they are wholesale liquor dealers.

Refund of tax on wine returned to bond not limited to unmerchantable wine.—The House bill repeals the requirement that wine returned to bonded premises be "unmerchantable" in order for tax to be refunded to the proprietor of the bonded wine cellar to which the wine is delivered.

Use of additional ameliorating material in certain wines.—The House bill modifies the wine labeling restrictions to allow any wine made exclusively from a fruit or berry with a natural fixed acid or made exclusively from a fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) to contain a volume of ameliorating material not in excess of 60 percent.

Domestically produced beer may be withdrawn free of tax for use by foreign embassies, etc.—The House bill extends to domestically produced beer the present-law rule which permits other alcoholic beverages to be withdrawn from the place of production without payment of tax for the official or family use of representatives of foreign governments or public international organizations.

Beer may be withdrawn free of tax for destruction.—The House bill permits beer to be removed from a brewery without payment of tax for destruction, subject to Treasury Department regulations.

Authority to allow drawback on exported beer without submission of records.—The House bill repeals the present-law requirement that proof of exportation be submitted to the Treasury Department in all cases as a condition of receiving a refund of tax.

Transfer to brewery of beer imported in bulk without payment of tax.—The House bill extends the present-law rule applicable to distilled spirits imported into the United States in bulk containers to beer imported into the United States in bulk containers.

Effective date.—Beginning 180 days after date of enactment. (The provision deleting the requirement that wholesale liquor dealers post a sign outside their place of business is effective on the date of the bill's enactment.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with a modification deleting the following provisions:

(1) Authority for the Bureau of Alcohol, Tobacco, and Firearms ("BATF") to cancel or credit bonds without submission of records;

(2) Repeal of required maintenance of records on premises of distilled spirits plant;

(3) Repeal of requirement that wholesale dealers in liquors post sign;

(4) Relaxation of rules on use of ameliorating material in certain wines;

(5) Provision allowing domestically produced beer to be withdrawn free of tax for use by foreign embassies; and

(6) Authority for BATF to allow drawback on exported beer without submission of records.

B. CONSOLIDATION OF TAXES ON AVIATION GASOLINE (SEC. 14721 OF THE HOUSE BILL)

Present law

Gasoline used in noncommercial (not for hire) aviation is subject to a 19.4-cents-per-gallon excise tax. 18.4 cents per gallon of this tax is collected when the gasoline is removed from a pipeline or barge terminal. The remaining 1 cent per gallon is imposed at the retail level.

House bill

The House bill consolidates imposition of the aviation gasoline excise tax, with the entire 19.4-cents-per-gallon rate being imposed when the gasoline is removed from a terminal facility.

Effective date.—Sales or uses beginning on or after January 1, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

C. OTHER EXCISE TAX PROVISIONS

1. AUTHORITY TO GRANT EXEMPTIONS FROM EXCISE TAX REGISTRATION REQUIREMENTS (SEC. 14731 OF THE HOUSE BILL)

Present law

Certain sales for exempt use of articles subject to Federal excise taxes may not be made without payment of tax unless the manufacturer, the first purchaser, and the second purchaser (if any), are all registered under regulations prescribed by the Secretary of Treasury.

House bill

The House bill allows the IRS to provide exemptions from generally applicable excise tax registration requirements for certain classes of taxpayers (rather than only all taxpayers or individually identified taxpayers).

Effective date.—Sales occurring after 180 days after date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

2. CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE UNDER RETAIL SALES TAX ON HEAVY TRUCKS (SEC. 14732 OF THE HOUSE BILL)

Present law

A 12-percent excise tax is imposed on the sale of trucks, tractors, and trailers having a gross vehicle weight in excess of specified amounts. The tax is imposed on the first retail sale of a taxable vehicle or addition thereto.

Generally, repairs of used vehicles are treated as remanufacture (giving rise to tax on the entire vehicle) if certain tests are met.

The mere addition of a fifth wheel to a taxable truck is not treated as remanufacture, although the fifth wheel itself would be taxed.

House bill

The House bill clarifies that the following activities do not constitute remanufacture when performed on a used truck or tractor chassis:

(1) removal of a fifth wheel and addition of a power take-off, hoist, and dump body; or

(2) simple addition of a power take-off, hoist, and dump body.

These activities will remain taxable to the extent of the modifications made.

Effective date.—Date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. REPEAL OF EXPIRED EXCISE TAX PROVISIONS (SEC. 14734 OF THE HOUSE BILL)

Present law

Temporary reduction in tax on piggyback trailers

Piggyback trailers and semitrailers sold within the one-year period beginning on July 18, 1984, were permitted a temporary reduction in the retail excise tax rate on trailers.

Expiration of excise tax on deep seabed minerals

The Deep Seabed Mineral Resources Act (Public Law 96-283) imposed an excise tax on certain hard minerals mined on the deep seabed. The tax revenues were intended to fund obligations of the United States under a contemplated Law of the Sea Convention. Because the United States did not sign the treaty, this excise tax never became effective and the tax expired after June 28, 1990.

House bill

The House bill repeals the expired tax reduction for piggy back trailers and the excise tax on deep seabed hard minerals as "deadwood."

Effective date.—Date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

XVIII. ADMINISTRATIVE SIMPLIFICATION PROVISIONS

A. GENERAL PROVISIONS

1. REPEAL OF AUTHORITY TO DISCLOSE WHETHER A PROSPECTIVE JUROR HAS BEEN AUDITED (SEC. 14801 OF THE HOUSE BILL)

Present law

In connection with a civil or criminal tax proceeding to which the United States is a party, the Secretary must disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service (sec. 6103(h)(5)).

House bill

The House bill repeals the requirement that the Secretary disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service.

Effective date.—The provision is effective for judicial proceedings pending on, or commenced after, the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

2. CLARIFICATION OF STATUTE OF LIMITATIONS (SEC. 14802 OF THE HOUSE BILL)

Present law

Passthrough entities (such as S corporations, partnerships, and certain trusts) generally are not subject to income tax on their taxable income. Instead, these entities file information returns and the entities' shareholders (or beneficial owners) report their pro rata share of the gross income and are liable for any taxes due.

Some believe that, prior to 1993, it may have been unclear as to whether the statute of limitations for adjustments that arise from distributions from passthrough entities should be applied at the entity or individual level (i.e., whether the 3-year statute of limitations for assessments runs from the time that the entity files its information return or from the time that a shareholder timely files his or her income tax return). In 1993, the Supreme Court held that the limitations period for assessing the income tax liability of an S corporation shareholder runs from the date the shareholder's return is filed (*Bufferd v. Comm.*, 113 S. Ct. 927 (1993)).

House bill

The House bill clarifies that the return that starts the running of the statute of limitations for a taxpayer is the return of the taxpayer and not the return of another person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit.

Effective date.—The provision is effective for taxable years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

3. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS (SEC. 14803 OF THE HOUSE BILL)

Present law

The interest rate on a large corporate underpayment of tax is the Federal short-term rate plus five percentage points. A large corporate underpayment is any underpayment by a subchapter C corporation of any tax imposed for any taxable period, if the amount of such underpayment for such period exceeds $100,000. The large corporate underpayment rate generally applies to periods beginning 30 days after the earlier of the date on which the first letter of proposed deficiency, a statutory notice of deficiency, or a nondeficiency letter or notice of assessment or proposed assessment is sent. For this purpose, a letter or notice is disregarded if the taxpayer makes a payment equal to the amount shown on the letter or notice within that 30-day period.

House bill

For purposes of determining the period to which the large corporate underpayment rate applies, any letter or notice is disregarded if the amount of the deficiency, proposed deficiency, assessment, or proposed assessment set forth in the letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).

Effective date.—The provision is effective for purposes of determining interest for periods after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. CLARIFICATION OF AUTHORITY TO WITHHOLD PUERTO RICO INCOME TAXES FROM SALARIES OF FEDERAL EMPLOYEES (SEC. 14804 OF THE HOUSE BILL)

Present law

If State law provides generally for the withholding of State income taxes from the wages of employees in a State, the Secretary of the Treasury shall (upon the request of the State) enter into an agreement with the State providing for the withholding of State income taxes from the wages of Federal employees in the State. For this purpose, a State is a State, territory, or possession of the United States. The Court of Appeals for the Federal Circuit recently held in *Romero v. United States* (38 F. 3d 1204 (1994)) that Puerto Rico was not encompassed within this definition; consequently, the court invalidated an agreement between the Secretary of the Treasury and Puerto Rico that provided for the withholding of Puerto Rico income taxes from the wages of Federal employees.

House bill

The House bill makes any Commonwealth eligible to enter into an agreement with the Secretary of the Treasury that would provide for income tax withholding from the wages of Federal employees.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

B. TAX COURT PROCEDURES

1. OVERPAYMENT DETERMINATIONS OF TAX COURT (SEC. 14811 OF THE HOUSE BILL)

Present law

The Tax Court may order the refund of an overpayment determined by the Court, plus interest, if the IRS fails to refund such overpayment and interest within 120 days after the Court's decision becomes final. Whether such an order is appealable is uncertain.

In addition, it is unclear whether the Tax Court has jurisdiction over the validity or merits of certain credits or offsets (e.g., providing for collection of student loans, child support, etc.) made by the IRS that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

House bill

The House bill clarifies that an order to refund an overpayment is appealable in the same manner as a decision of the Tax Court. The House bill also clarifies that the Tax Court does not have jurisdiction over the validity or merits of the credits or offsets that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

2. AWARDING OF ADMINISTRATIVE COSTS (SEC. 14812 OF THE HOUSE BILL)

Present law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

No time limit is specified for the taxpayer to apply to the IRS for an award of administrative costs. In addition, no time limit is specified for a taxpayer to appeal to the Tax Court an IRS decision denying an award of administrative costs. Finally, the procedural rules for adjudicating a denial of administrative costs are unclear.

House bill

The House bill provides that a taxpayer who seeks an award of administrative costs must apply for such costs within 90 days of the date on which the taxpayer was determined to be a prevailing party. The House bill also provides that a taxpayer who seeks to appeal an IRS denial of an administrative cost award must petition the Tax Court within 90 days after the date that the IRS mails the denial notice.

The House bill clarifies that dispositions by the Tax Court of petitions relating only to administrative costs are to be reviewed in the same manner as other decisions of the Tax Court.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

3. REDETERMINATION OF INTEREST PURSUANT TO MOTION (SEC. 14813 OF THE HOUSE BILL)

Present law

A taxpayer may seek a redetermination of interest after certain decisions of the Tax Court have become final by filing a petition with the Tax Court.

House bill

The House bill provides that a taxpayer must file a "motion" (rather than a "petition") to seek a redetermination of interest in the Tax Court.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

4. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS (SEC. 14814 OF THE HOUSE BILL)

Present law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding. A person who substantially prevails must meet certain net worth requirements to be eligible for an award of administrative or litigation costs. In general, only an individual whose net worth does not exceed $2,000,000 is eligible for an award, and only a corporation or partnership whose net worth does not exceed $7,000,000 is eligible for an award. (The net worth determination with respect to a partnership or S corporation applies to all actions that are in substance partnership actions or S corporation actions, including unified entity-level proceedings under sections 6226 or 6228, that are nominally brought in the name of a partner or a shareholder.)

House bill

The House bill provides that the net worth limitations currently applicable to individuals also apply to estates and trusts. The House bill also provides that individuals who file a joint tax return shall be treated as one individual for purposes of computing the net worth limitations. Consequently, the net worths of both spouses are aggregated for purposes of this computation. An exception to this rule is provided in the case of a spouse otherwise qualifying for innocent spouse relief.

Effective date.—The provision applies to proceedings commenced after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

C. AUTHORITY FOR COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES (SEC. 14821 OF THE HOUSE BILL)

Present law

The IRS is generally not authorized to provide services to non-Federal agencies even if the cost is reimbursed (62 Comp. Gen. 323, 335 (1983)).

House bill

The House bill provides that the Secretary is authorized to enter into cooperative agreements with State tax authorities to enhance joint tax administration. These agreements may include (1) joint filing of Federal and State income tax returns, (2) single processing of these returns, and (3) joint collection of taxes (other than Federal income taxes).

The House bill provides that these agreements may require reimbursement for services provided by either party to the agreement. Any funds appropriated for tax administration may be used to carry out the responsibilities of the IRS under these agreements, and any reimbursement received under an agreement would be credited to the amount appropriated.

No agreement may be entered into that does not provide for the protection of confidentiality of taxpayer information that is required by section 6103.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

XIX. PUBLIC DEBT PROVISIONS

1. PUBLIC DEBT REDUCTION TRUST FUND (SECS. 6341 AND 6343 OF H.R. 1215)

Present law

The Presidential Election Campaign Fund ("Campaign Fund") provides for public financing of a portion of qualified Presidential election campaign expenditures and certain convention costs (sec. 9001 et seq.) The Campaign Fund is financed through the voluntary designation by individual taxpayers on their Federal income tax returns of $3 of tax liability, which is commonly known as the Presidential election campaign checkoff (sec. 6096). This checkoff can be made only by individuals (not corporations) and does not affect the individual's tax liability. The Treasury Department accumulates revenues in the Campaign Fund over a four-year period and then disburses funds to eligible candidates for President, Vice President, and conventions during the Presidential election year.

Individuals who itemize deductions (as well as corporations) are allowed a deduction, subject to certain limitations, for contributions made to qualified charitable organizations or to Federal, State, and local governments. Instructions to IRS income tax forms inform taxpayers that they may make a gift to the Federal Government to reduce the public debt by enclosing with their return a separate check made payable to the "Bureau of Public Debt." In addition, various public laws provide that contributions to specific Federal entities or programs are regarded as gifts to the United States. Such contributions to the Bureau of Public Debt and to specific Federal entities or programs are deductible if the donor itemizes deductions for the year in which the contribution is made.

House bill

Under the House bill, individual taxpayers will be allowed to designate an amount up to 10 percent of their Federal income tax liability for a taxable year to be earmarked to reduce the Federal public debt. Such a designation may be made only at the time the taxpayer files his or her income tax return for a particular taxable year. An individual's decision whether or not to make a designation under the provision will not affect his or her tax liability. If an individual has no Federal income tax liability for a taxable year—i.e., the individual owes no Federal income tax after claiming allowable credits (other than the EITC) and any designation to the Presidential Election Campaign Fund—then such individual will not be allowed to make a designation to reduce the Federal debt on his or her return for that year.

Under the House bill, amounts earmarked by taxpayers to reduce the public debt will be transferred into a Public Debt Reduction Trust Fund, which will be used only to retire or purchase Federal securities (other than obligations held by the Social Security Trust Fund, the Civil Service Retirement and Disability Fund, and the Department of Defense Military Retirement Fund). Related provisions (contained in another section of the House bill) require either specific spending cuts or an across-the-board sequestration in Federal spending (with certain exceptions) to match the amounts designated by taxpayers for debt reduction.

Effective date.—The provision is effective for taxable years ending after the date of enactment, and will remain in effect until the entire outstanding Federal public debt is retired.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

2. INCREASE IN THE PUBLIC DEBT LIMIT (SEC. 13801 OF THE HOUSE BILL AND SEC. 7471 OF THE SENATE AMENDMENT)

Present law

The statutory limit on the public debt currently is $4.9 trillion.

House bill

The House bill increases the statutory limit on the public debt to $5.5 trillion.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

XX. ADJUSTMENT TO CONTRACT WITH AMERICA TAX RELIEF ACT (SEC. 19002 OF THE HOUSE BILL)

Present law

No provision.

House bill

In order to bring the budget reconciliation bill into compliance with the budget resolution, the House bill generally provides various adjustments to the provisions of the Contract with America Tax Relief Act of 1995. (Title VI of H.R. 1215, as passed by the House, with certain modifications, and incorporated in the House bill by reference.)

In general, the effects of the changes in income and estate tax liability occurring as a result of the provisions of the Contract With America Tax Relief Act would be changed by 27 percent, with the following exceptions.

In the case of capital gains, the benefit of the corporate rate reduction on, and the individual deduction for, capital gain income would be reduced by 15 percent for 1995 and by 31 percent for 1996 and thereafter. In the case of the indexing of the basis of capital assets, the adjustment to basis would be reduced by 31 percent for 1996 and thereafter.

In the case of American Dream Savings accounts, taxpayers would be entitled to 69 percent of the benefits of the American Dream Savings accounts to which they otherwise are entitled.

In the case of the alternative minimum tax, after 1994, depreciation would no longer be treated as a preference item in the case of individuals and the alternative minimum tax rate applicable to corporations would be zero. The effects of this modification would be suspended for taxable years beginning in 1995 and 1996. Thus, for the first three taxable years beginning after 1996, taxpayers would be entitled to a refund equal to 1/3 of the amount of minimum tax paid by corporations and the amount of minimum tax liability attributable to depreciation in the case of individual taxpayers for taxable year beginning in 1995 and 1996.

The provisions relating to neutral cost recovery would be deleted.

Effective date.—Date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

XXI. TRADE PROVISIONS

A. TECHNICAL CORRECTIONS AND MISCELLANEOUS TRADE PROVISIONS

Present law

1. Section 642(c) of the Customs Modernization Act provides for interest accrual on entries from the date of deposit to the date of liquidation or reliquidation. Under this authority, interest is collected or refunded, as appropriate. Section 642 of the Customs Modernization Act does not include an effective date.

2a. Section 509(a) of the Tariff Act of 1930 provides the U.S. Customs Service the authority to examine books and summon witnesses in its investigations and inquiries.

2b. Section 7 of the Tariff Act of 1930 requires certificates of importation for alcoholic beverages on small vessels.

2c. Section 434 of the Tariff Act of 1930 requires every vessel entering the U.S. to present a manifest in compliance with Customs regulations.

2d. Section 484(a)(1) of the Tariff Act of 1930 provides requirements for the entry of merchandise.

2e. Section 592 of the Tariff Act of 1930 provides rules for the imposition of penalties for fraud, negligence, and gross negligence.

2f. Section 592(d) of the Tariff Act of 1930 provides for the restoration of lawful duties if the U.S. has been deprived of such in the event of a violation.

2g. Section 401 of the Tariff Act of 1930 provides miscellaneous definitions and section 508 of the Tariff Act of 1930 provides the requirements, time periods and limitations for recordkeeping related to importing.

2h. Section 504 of the Tariff Act of 1930 provides for limitations on liquidation of entries.

2i. Section 321(a)(2)(B) of the Tariff Act of 1930 originally applied to returning residents arriving from foreign countries other than the insular possessions but, due to a split in tariff classification numbers, the tariff numbers applicable to returning residents arriving from a foreign country were inadvertently dropped.

2j. Section 631(a) of the Tariff Act of 1930 provides for the use of private collection agencies to recover indebtedness arising under the customs laws and owed to the U.S.

2k. Section 509 of the Tariff Act of 1930 provides Customs with the authority to examine books and summon witnesses in its investigations and inquiries.

2l. Section 515 of the Tariff Act of 1930 provides for reviews of protests, administrative review, modifications of decisions, and requests for accelerated dispositions.

3. Section 111(b) of the Customs and Trade Act of 1990 provides that, in the case of agricultural products of the United States processed and packed in foreign trade zones, the ad valorem merchandise processing fee (MPF) shall be applied solely to the value of the foreign material used to make the container; it exempts the value of the domestic agricultural products from the MPF. The U.S. Customs Service has ruled that, for all products not covered by this provision and in the absence of an express provision to the contrary, the MPF would be assessed on both the domestic and foreign value of the merchandise entering from foreign trade zones.

4. Subsection (b) of section 484H of the Customs and Trade Act of 1990 provides for the transportation in bond of Canadian lottery material.

5. Section 213(h) of the Caribbean Basin Economic Recovery Act (CBERA) and section 204(c)(1) of the Andean Trade Preference Act (ATPA) provide for duty reductions on certain handbags, luggage, flat goods, work gloves, and leather wearing apparel.

6. Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) authorizes the Customs Service to provide reimbursable services to air couriers operating in express consignment carrier facilities and in centralized hub facilities. Customs has interpreted the present statute to prevent Customs from providing reimbursable services to centralized hub facilities during daytime hours.

7. Section 313(r) of the Tariff Act of 1930 requires that a drawback entry and all documents necessary to complete a drawback claim, including those issued by the Customs Service, shall be filed or applied for, as applicable, within three years after the date of exportation or destruction of the articles on which a drawback is claimed. Customs has no discretion to extend the deadline.

8. Sections 514 and 520 of the Tariff Act of 1930 provide for protests against decisions of the Customs Service, and refunds and errors, respectively.

9. Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States provides for temporary reductions in rates of duty. Heading 9902.98.04 provides for the duty-free entry of the personal effects, equipment and other materials of participants in, officials of, or accredited members of delegations to world athletic events including the XXVI Summer Olympiad and the 1996 Atlanta Paralympic Games.

10a. Section 313(s)(2)(B) of the Tariff Act of 1930 provides that a drawback successor may designate imported merchandise or certain other merchandise for which the successor received, before the date of succession, from the person who imported and paid any duty due on the imported merchandise, a certificate of delivery transferring the merchandise to the successor.

10b. Section 301(c)(4) of the Trade Act of 1974 provides the authority for the United States Trade Representative to carry out mandatory and discretionary trade actions under section 301 of the Trade Act of 1974.

11. Section 405(b) of the Uruguay Round Agreements Act provides the authority for the President to impose a duty with respect to a special safeguard agricultural good.

12. General Note 6 of the Harmonized Tariff Schedule of the United States provides guidelines for those articles eligible for duty-free treatment pursuant to the Agreement on Trade in Civil Aircraft.

13. Section 484E(b)(2)(B) of the Customs and Trade Act of 1990 provides for a temporary exemption from duties imposed on the foreign repair of vessels.

14. Section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 provides for limitations on the collection of fees for Customs services.

15. Subheading 2933.90.02 of the Harmonized Tariff Schedule of the United States provides for the entry of heterocyclic compounds with nitrogen hetero-atom(s) only; nucleic acids and their salts.

16. Section 304 of the Tariff Act of 1930 requires that, with certain exceptions, every article of foreign origin imported into the United States, or its container, must be marked with the country of origin of the article.

17. Section 514 of the Tariff Act of 1930, as amended, outlines rules for protest against decisions of the Customs Service.

18. The Uruguay Round Agreements Act amended section 310 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988, to extend a revised "Super 301" procedure to review trade expansion priorities and identify priority foreign practices for the year 1995.

House Bill

1. Section 12001 of the House bill amends section 505(c) of the Tariff Act of 1930 to provide an exemption for interest accrual on

duty paid or owed where an entry is liquidated or reliquidated due to an importer's claim for preference tariff treatment under the NAFTA. Further, the House bill amends section 642 to provide that this section is effective for claims made on or after April 25, 1995.

2a. Section 12002(a) amends section 509(a)(2) of the Tariff Act of 1930 to make a technical correction to a citation.

2b. Section 12002(b) repeals section 7 of the Tariff Act of 1930, which is an obsolete statute.

2c. Section 12002(c) amends section 431(c)(1) of the Tariff Act of 1930 to clarify that section 434 refers to vessel manifests and does not include any other types of manifests.

2d. Section 12002(d) amends section 484(a)(1) of the Tariff Act of 1930 to delete an obsolete statutory reference regarding the requirements for the entry of merchandise.

2e. Section 12002(e) amends section 592 of the Tariff Act of 1930 to replace references to "lawful duties" with "lawful duties, fees and taxes," as appropriate in order to recognize that Customs collects fees and taxes, as well as duties.

2f. Section 12002(f) amends section 592(d) of the Tariff Act of 1930 to require the restoration of duties, fees, and taxes if the U.S. was deprived of any duties, fees, or taxes.

2g. Section 12002(g) amends sections 401(s) and 508(c)(1) of the Tariff Act of 1930 to clarify that a reconciliation should be treated as an entry for purposes of recordkeeping laws. Thus, records pertaining to reconciliation should be retained for a period of five years from the date of filing of the reconciliation.

2h. Section 12002(h) amends section 504(d) of the Tariff Act of 1930 to ensure that an entry whose liquidation is suspended is not liquidated when the suspension is removed where an extension of liquidation is issued.

2i. Section 12002(i) amends section 321(a)(2)(B) of the Tariff Act of 1930 to allow Customs to apply administrative exemptions to returning residents arriving from foreign countries other than insular possessions.

2j. Section 12002(j) amends section 631(a) of the Tariff Act of 1930 to clarify that compensation paid to debt collection agencies applies to debts owed to Customs.

2k. Section 12002(k) amends section 509(b) of the Tariff Act of 1930 to delete "appropriate regional commissioner" and substitute "officer designated pursuant to regulations."

2l. Section 12002(l) amends section 515(d) of the Tariff Act of 1930 to delete "district director" and substitute "port director."

3. Section 12003 amends section 111(b) of the Customs and Trade Act of 1990 and section 13031(b)(8) of the Consolidated Omnibus Reconciliation Act of 1985 to clarify that the MPF is to be applied only to the foreign value of merchandise entered from a foreign trade zone. Further, the House bill provides that the provision made by section 111(b)(2)(D)(iv) of the Customs and Trade Act of 1990 regarding the application of the MPF to processed agricultural products will also apply to all entries for which liquidation has not been finalized from foreign trade zones.

4. Section 12004 amends subsection (b) of section 484H of the Customs and Trade Act of 1990 to replace the phrase "entered or withdrawn from warehouse for consumption" in the "Effective Date" section with "entered for transportation in bond." This is necessary to clarify that Canadian lottery material is not entered into the U.S. for consumption.

5. Section 12005 amends section 213(h)(1) of the CBERA and 204(c)(1) of the ATPA to clarify that, effective 15 days after the date of enactment, the duty reductions specified in these sections do not apply to such articles made of textiles and subject to textile agreements.

6. Section 12006 amends section 13031(b)(9)(A) of the COBRA to clarify that Customs may provide daytime reimbursable services to centralized hub facilities during daytime hours. The provision also clarifies that Customs may be reimbursed for all services related to the determination to release cargo, and not just "inspectional" services. These services are reimbursable regardless of whether or not they are performed on site.

7. Section 12007 amends section 313(r) of the Tariff Act of 1930 to permit a one-year extension for filing drawback claims in cases where the President has declared a major disaster on or after January 1, 1994, and the claimant files a request for such extension with the Customs Service within one year from the date the claim is filed.

8. Section 12008 provides for the liquidation or reliquidation of certain entries in accordance with an administrative review by the International Trade Administration. The bill provides that any amounts owed by the United States pursuant to the liquidation or reliquidation of these entries shall be paid within 90 days after such liquidation or reliquidation.

9. Section 12009 adds subheading 9902.98.05 to provide for the duty-free entry of the personal effects, equipment and other materials of participants in, officials of, or accredited members of delegations to the 1998 Goodwill Games.

10. Section 12010 amends 313(s)(2)(B) of the Tariff Act of 1930 and section 301(c)(4) of the Trade Act of 1974 (19 U.S.C. 2411(c)(4)) to make technical corrections to language in the provisions.

11. Section 12011 amends section 405(b) of the Uruguay Round Agreements Act to make a technical correction to a citation.

12. Section 12012 amends General Note 6 of the Harmonized Tariff Schedule of the United States to allow for the electronic filing of civil aircraft parts certifications.

13. Section 12013 amends section 484E(b)(2)(B) of the Customs and Trade Act of 1990 to extend the temporary exemption for those entries made after December 31, 1992 and before January 1, 1995.

14. Section 12014 amends section 13031(b) of the COBRA to clarify the application of section 521 of the North American Free Trade Agreement Implementation Act to provide for the collection of fees only one time in the course of a single voyage for a passenger aboard a commercial vessel.

15. Section 12015 amends subheading 2933.90.02 of the Harmonized Tariff Schedule of the United States to strike Quizalofop-ethyl.

16. Section 12016 amends section 304 of the Tariff Act of 1930 to exempt certain metal forgings for hand tools, coffee products, teas and spices from country of origin marking requirements.

17. Section 12017 instructs the Customs Service to treat the re-entry of a single entry of four warp-knitting machines from Venezuela as a duty-free entry, and to refund any duties, with interest, which the company has paid as a result of the improper classification.

18. Section 12018 extends Super 301 (section 310 of the Trade Act of 1974), in its revised form, through the year 2000.

Senate amendment

No provision.

Conference agreement

The House recedes.

B. GENERALIZED SYSTEM OF PREFERENCES

1. BASIC AUTHORITY (SEC. 501)

Present law

Title V of the Trade Act of 1974, as amended, (Generalized System of Preferences) grants authority to the President to provide duty-free treatment on imports of eligible articles from designated beneficiary developing countries (BDCs), subject to certain conditions and limitations. Section 505(a) of the Trade Act of 1974 provides that no duty-free treatment under Title V shall remain in effect after July 31, 1995.

House bill

The House bill amends section 505(a) of the Trade Act of 1974 to authorize an extension through December 31, 1997. It also provides that, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry a) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, and b) that was made after July 31, 1995, and before the enactment of this Act, shall be liquidated or reliquidated as free of duty and the Secretary of Treasury shall refund any duty paid, upon proper request filed with the appropriate customs officer, within 180 days after the date of enactment.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment to authorize an extension of the Generalized System of Preferences (GSP) through December 31, 1996.

2. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES

Present law

Section 502 sets forth both the procedures for designating countries as Beneficiary Developing Countries (BDCs) and the conditions of such designation. This section establishes conditions for designation which are mandatory and others which are discretionary. With regard to mandatory conditions, the President is prohibited from designating any country for GSP benefits which is a developed country listed in 502(b).

House bill

The House bill amends the definition of country to include "any territory" and deletes the reference in 502(b) to Austria, Finland, and Sweden which are now European Union Member states.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

3. MANDATORY CONDITIONS

Present Law

Under section 502(c) the President is prohibited from designating as a BDC a country which:

(1) is a Communist country, unless (a) its products receive non-discriminatory most-favored-nation (MFN) treatment, (b) it is a GATT Contracting Party and a member of the International Monetary Fund (IMF), and (c) it is not dominated or controlled by international communism;

(2) is an OPEC member, or a party to another arrangement, and participates in an action the effect of which is to withhold supplies of vital commodity resources from international trade or raise their price to an unreasonable level and to cause disruption of the world economy, subject to trade agreement exemptions consistent with objectives under the Trade Act of 1974;

(3) affords "reverse preferences" having or likely to have a significant adverse effect on U.S. commerce, unless the President receives satisfactory assurances of elimination before January 1, 1976;

(4) has nationalized or expropriated U.S. property, or taken similar actions, unless compensation is made, being negotiated, or in arbitration;

(5) fails to recognize as binding or enforce arbitral awards in favor of U.S. citizens;

(6) aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism;

(7) has not taken or is not taking steps to afford internationally recognized worker rights to its workers.

House Bill

The House bill retains present law, except, with respect to mandatory conditions: in (1)(b), replace "is a GATT contracting party" with "is a Member of the World Trade Organization."; in (2), delete the reference to OPEC member and the exemption authority; in (3), delete the satisfactory assurances exemption for reverse preferences.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

4. DISCRETIONARY CRITERIA

Present law

Under section 502(c) the President must take into account a list of factors in determining whether to designate a country a BDC, including the extent to which the country is providing adequate and effective intellectual property protection.

House bill

The House bill substitutes "whether or not" for "the extent to which" in the intellectual property rights criterion, and clarifies that such protection may not be provided notwithstanding compliance with the Uruguay Round TRIPs Agreement. The bill also adds new discretionary criteria for country designation. In determining whether to designate any country as a beneficiary developing country under this title, the President must take into account the extent to which such country fails to cooperate with the United States in preventing the proliferation of nuclear weapons, nuclear weapons components, and nuclear weapons delivery systems and in preventing illegal drug trafficking.

Senate amendment

No provision.

Conference agreement

The House recedes.

5. GRADUATION OF BDCS

Present law

Countries are graduated from GSP eligibility if the per capita GNP of any BDC for any year exceeds a dollar limit ($11,800 in 1994), indexed annually under a formula from $8,500 in 1984. When the income level reaches this amount, such country is subject to a 25, rather than 50, percent competitive need import share limit on all eligible articles for up to the following two years. After that time, the country is no longer treated as a BDC.

House bill

Under the House bill, if the President determines that a beneficiary developing country has become a "high income" country as designated by the World Bank (about $8,600 per capita GNP in 1993), the President would be required to remove the country from eligibility under the program. The bill would eliminate the 25 percent competitive need limit during the two-year phase-out period.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

6. DESIGNATION OF ELIGIBLE ARTICLES

Present law

Under Section 503 the President may not designate any article as GSP eligible within the following categories of import-sensitive articles:

1. textile and apparel articles which are subject to textile agreements;

2. watches, except watches entered after June 30, 1989 that the President determines will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or U.S. insular possessions;

3. import-sensitive electronic articles;

4. import-sensitive steel articles;

5. footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not GSP eligible articles on April 1, 1984;

6. import-sensitive semi-manufactured and manufactured glass products; and

7. any other articles the President determines to be import-sensitive in the context of GSP.

House bill

The House bill retains all provisions of present law, except, with respect to changes in the following statutory exemptions: in (1), it replaces the present provision with exemption of textile and apparel articles which were not GSP eligible on January 1, 1994; in (2), it deletes statutory exemption for watches; in (5), it applies exemption to footwear and related articles which were not GSP eligible on January 1, 1995.

The House bill also prohibits consideration of an article for designation of eligibility for three years following formal consideration and denial of that article. Further, the House bill provides specific authority for the President to designate any article that is the growth, product, or manufacture of a least-developed developing country (LDDC) as an eligible article with respect to imports from LDDCs, if the President determines such an article is not import-sensitive in the context of imports from LDDCs. This authority does not apply to statutorily exempt articles. LDDC designations are to be based upon the overall statutory considerations and discretionary designation criteria.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment to preserve the statutory exemption for watches in current law.

7. LIMITS ON PREFERENTIAL AUTHORITY

Present law

Under Section 504 of the Trade Act of 1974, the President may withdraw, suspend, or limit GSP duty-free treatment with respect to any article or any country, after considering the overall GSP and discretionary BDC designation factors. The President shall withdraw or suspend the BDC designation of any country if he determines that, as a result of changed circumstances, the country would be barred from designation.

House bill

The House bill adds a requirement that, except in exceptional circumstances, the President may not take action to withdraw, suspend, or terminate or limit GSP treatment with respect to any country without first providing a period for the submission of public comments.

Senate amendment

No provision.

Conference agreement

The House recedes.

8. COMPETITIVE NEED LIMITS

Present law

Whenever the President determines that exports by any BDC to the United States of a GSP eligible article during any year—

1. exceed a dollar limit ($114 million in 1994) based on $25 million adjusted annually relative to changes in the U.S. GNP since 1974, or

2. equal or exceed a 50 percent share of the total value of U.S. imports of the article, then, no later than July 1 of the next year, such country is NOT treated as a BDC with respect to such article.

Not later than January 4, 1987, and periodically thereafter, the President must conduct a general review of eligible articles and, if he determines that a BDC has demonstrated a sufficient degree of competitiveness relative to other BDCs on any eligible article, then a lower competitive need dollar limit ($41.9 million in 1993, indexed annually from 1984 base) and 25 percent total import share limit apply.

House bill

The House bill reduces the basic competitive need limit to $75 million for any year beginning January 1, 1996, and substitutes a standard annual increase of $5 million for the indexing formula in current law. The House bill preserves the 50 percent market share competitive need limit. The House bill deletes the general review requirements and lower limits.

Senate amendment

No provision.

Conference Agreement

The Senate recedes.

9. AUTHORITY TO WAIVE COMPETITIVE NEED LIMITS

Present law

The President may waive the dollar and import share competitive need limits on any eligible article of any BDC if he (1) receives International Trade Commission (ITC) advice on the likely effect of the waiver; (2) determines, based on the overall GSP and discretionary country designation considerations and the ITC advice, that the waiver is in the U.S. national economic interest; and (3) publishes the determination in the Federal Register.

The import share competitive need limit may be disregarded if total U.S. imports of the eligible article during the preceding year do not exceed a de minimis amount of $5 million adjusted annually ($13.4 million in 1994) according to changes in U.S. GNP since 1979. The import share limit does not apply to any eligible article that was not produced in the United States as of January 3, 1985.

House bill

The House bill retains the present waiver authority and updates January 3, 1985 for no U.S. production to January 1, 1995. The House bill also retains the de minimis import provision, but substitutes $13 million in 1995 and a standard annual increase of $500,000 beginning January 1, 1996 for the indexing formula in current law. Further, the House bill provides for the refund of duties paid on buffalo leather from Thailand during the month of July 1995.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment to strike the refund of duties paid on buffalo leather from Thailand.

10. OTHER PROVISIONS OF CURRENT LAW

Present law

Under section 504(c)(3)(D) of the Trade Act of 1974, the President may not exercise the competitive need waiver authority in any year on imports of eligible articles exceeding:

1. 30 percent of total GSP duty-free imports during the preceding year, or
2. 15 percent of total GSP duty-free imports during the preceding year from BDCs which had (a) a per capita GNP of $5,000 or more, or (b) exported to the United States more than 10 percent of total GSP duty-free imports during that year.

The President may waive competitive need limits in certain cases where there has been a historical preferential trade relationship between the United States and that country.

Appropriate U.S. agencies must assist BDCs to develop policies to assure that their agriculture sectors are not directed to export markets to the detriment of foodstuff production for their citizens.

House bill

The House bill deletes provisions in current law regarding waiver trade limits, historical preferences, and agriculture production.

Senate amendment

No provision.

Conference agreement

The House recedes.

C. TRADE ADJUSTMENT ASSISTANCE PROGRAMS

MODIFICATION OF TRADE ADJUSTMENT ASSISTANCE

Present Law

Title II of the Trade Act of 1974 authorizes Trade Adjustment Assistance (TAA) programs for workers and firms adversely affected by increased imports. Eligibility of workers and firms is certified by the Employment and Training Administration (ETA) of the Department of Labor, and the Economic Development Administration (EDA) of the Department of Commerce, respectively.

Subchapter D of chapter 2 of Title II of the Trade Act of 1974 establishes TAA programs for workers adversely affected by increased imports or production relocation associated with the implementation of the North American Free Trade Agreement (NAFTA).

Workers certified by the Secretary of Labor for approved training qualify for Trade Adjustment Allowance (TRA) payments, following their exhaustion of unemployment insurance (UI) benefits, equal to their weekly UI amount for up to 52 weeks of UI and TRA combined. Workers may receive an additional 26 weeks of TRA benefits to complete approved training. Workers must enter training unless a waiver is granted by the Secretary of Labor where it is not feasible or appropriate to approve a training program.

Certified workers under NAFTA-related TAA receive training allowances in the same manner and to the same extent as workers under general TAA. However, certified workers must enroll in a training program within six weeks of certification, and the Secretary of Labor may not waive training requirements. Under both general TAA and NAFTA-related TAA, certified workers may receive job search and relocation allowances.

The "cap" on payments for training under general worker TAA for any fiscal year is $80 million, except for fiscal year 1997, during which the "cap" is $70 million. Under the NAFTA- related programs, the "cap" on payments for training for any fiscal year is $30 million.

Under TAA for firms, the Commerce Department provides eligible firms with technical assistance to prepare and implement economic adjustment plans, or for industry-wide assistance through twelve regional Trade Adjustment Assistance Centers (TAACs).

Appropriations for TAA for workers and TAA for firms are authorized through fiscal year 1998. These programs and NAFTA-related TAA programs terminate after fiscal year 1998.

House bill

Section 12201 of the House bill amends general TAA so that waivers of the training requirement may be granted only where a training program is not available. The effective date for this provision is October 1, 1996. The House bill also eliminates relocation allowances for both general TAA and NAFTA-related TAA eligible workers. The effective date for this provision is October 1, 1996. Lastly, the House bill would extend authorization of appropriations for general TAA for workers and TAA for firms through fiscal year 2000, after which the programs terminate. NAFTA-related TAA is authorized through fiscal year 1998 as under present law. No benefits may be granted under either the general worker TAA programs or TAA for firms after September 30, 2000.

Senate amendment

No provision.

Conference agreement

The House recedes.

TITLE XII—TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION; ASSET SALES; WELFARE; AND OTHER PROVISIONS

SUBTITLE A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

1. OBJECTIVES

Present law

To provide for the general welfare by...enabling the several States to make more adequate provision for...dependent children... (Social Security Act, 1935)

House bill

To restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence.

Senate amendment

To enhance support and work opportunities for families with children, reduce welfare dependence, and control welfare spending.

Conference agreement

The conference agreement follows the House bill and the Senate amendment as follows: To restore the American family, enhance support and work opportunities for families with children, reduce out-of-wedlock pregnancies, reduce welfare dependence, and control welfare spending.

2. SHORT TITLE

Present law

Not applicable.

House bill

The Personal Responsibility Act of 1995.

Senate amendment

The Work Opportunity Act of 1995.

Conference agreement

The conference agreement follows the House bill and the Senate amendment as follows: The Personal Responsibility and Work Opportunity Act of 1995.

3. SENSE OF THE CONGRESS ON FAMILIES

Present law

No provision.

House bill

It is the sense of the Congress that marriage is the foundation of a successful society, and an essential social institution which promotes the interests of children and society at large. The negative consequences of an out-of-wedlock birth on the child, the mother, and society are well documented. Yet the nation suffers unprecedented and growing levels of illegitimacy. In light of this crisis, the reduction of out-of-wedlock births is an important government interest and the policy contained in provisions of this title address the crisis.

Senate amendment

Congress finds that marriage is the foundation of a successful society and an essential institution that promotes the interests of children. Promotion of responsible fatherhood and motherhood is integral to successful child-rearing and well-being of children. It is the sense of Congress that prevention of out-of-wedlock pregnancy and reduction in out-of-wedlock birth are very important government interests and that the policy contained in provisions of this title is intended to address the crisis.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

4. GRANTS TO STATES FOR NEEDY FAMILIES

A. PURPOSE

Present law

Title IV-A, which provides grants to States for aid and services to needy families with children (AFDC), is designed to encourage care of dependent children in their own homes by enabling States to provide cash aid and services, maintain and strengthen family life, and help parents attain maximum self-support consistent with maintaining parental care and protection.

House bill

Block grants for temporary assistance for needy families (Title IV-A) are established to increase the flexibility of States in operating a program designed to:

(1) provide assistance to needy families so that children may be cared for in their homes or in the homes of relatives;

(2) end the dependence of needy parents on government benefits by promoting work and marriage; and

(3) discourage out-of-wedlock births.

Senate Amendment

Block grants for temporary assistance for needy families (Title IV-A) are established to increase the flexibility of States in operating a program designed to:

(1) provide assistance to needy families with minor children;

(2) provide job preparation and opportunities for such families; and

(3) prevent and reduce the incidence of out-of-wedlock pregnancies, with a special emphasis on teen pregnancies, and establish annual goals for preventing and reducing these

pregnancies for fiscal years 1996 through 2000.

Conference Agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

B. Eligible States; State Plan

Present Law

A State must have an approved State plan for aid and services to needy families containing 43 provisions, ranging from single-agency administration to overpayment recovery rules. State plans explain the aid and services that are offered by the State. Aid is defined as money payments. For most parents without a child under age 3, States must provide education, work, or training under the JOBS program to help needy families with children avoid long-term welfare dependence. To receive Federal funds, States must share in program costs. The Federal share of costs (matching rate) varies among States and is inversely related to the square of State per capita income. For AFDC benefits and child care, the Medicaid matching rate is used. This rate now ranges from 50 percent to 79 percent among States and averages about 55%. For JOBS activities, the rate averages 60%; for administrative costs, 50%. In fiscal year 1995, 20 percent of employable (nonexempt) adult recipients must participate in education, work, or training under JOBS, and at least one parent in 50 percent of unemployed-parent families must participate at least 16 hours weekly in an unpaid work experience or other work program. States must restrict disclosure of information to purposes directly connected to administration of the program and to any connected investigation, prosecution, legal proceeding or audit. Each State must offer family planning services to all "appropriate" cases, including minors considered sexually active. States may not require acceptance of these services. States must have in effect an approved child support program. States must also have an approved plan for foster care and adoption assistance. States must have an income and verification system (covering AFDC, Medicaid, unemployment compensation, food stamps, and—in outlying areas—adult cash aid) in accordance with Sec. 1137 of the Social Security Act.

House bill

An "eligible State" is a State that, during the 3-year period immediately preceding the fiscal year, had submitted a plan to the Secretary of HHS for approval. The plan must include:

(1) A written document describing how the State will:

a. conduct a program that provides cash benefits to needy families with children, and provides parents with help in preparing for and obtaining employment and becoming self-sufficient;

b. require at least one parent in a family that has received benefits for 24 months to engage in work activities defined by the State;

c. ensure that parents engage in work activities in accord with section 404;

d. treat interstate immigrants, if their benefits differ from State residents;

e. take such reasonable steps as State deems necessary to restrict use and disclosure of information about recipients;

f. take actions to reduce out-of-wedlock pregnancies, including helping unmarried mothers and fathers avoid subsequent pregnancies and provide care for their children; and

g. reduce teen pregnancy, including through the provision of education and counseling to male and female teens.

(2) Certification by the Governor that the State will operate a child support enforcement program.

(3) Certification by the Governor that the State will operate a child protection program, including a foster care and adoption program.

(4) The Secretary shall determine whether the State plan contains the material required.

Senate amendment

An "eligible State" is a State that annually submits to the Secretary: an outline of its program; a 3-year strategic plan; various certifications on programs offered by the State; and an estimate of State and local expenditures. The detailed requirements of State plan submissions to the Secretary are:

(1) A written document outlining how the State intends to:

a. provide aid to needy families with at least one minor child (or any expectant family); and provide a parent or (other) caretaker in these families with work activities and support services to enable them to leave the program and become self-sufficient;

b. conduct a program designed to serve all political subdivisions;

c. provide a parent or caretaker in such families with work experience, assistance in finding employment, and other work preparation activities and support services that the State considers appropriate to enable such families to leave the program and become self-sufficient;

d. require a parent or caretaker to engage in work, as defined by the State, after 24 months of benefits, or, if earlier, when the State finds the person ready for work (see i. below for community service rule after 3 months of benefits);

e. satisfy the minimum participation rate specified in section 404;

f. treat families with minor children moving into the State; and noncitizens of the U.S.;

g. safeguard and restrict use and disclosure of information about recipients;

h. establish goals and take action to prevent and reduce out-of-wedlock pregnancies, with emphasis on teenage pregnancies; and

i. unless the State opts out by notice to the Secretary, require participation in community service (with hours and tasks set by the State), after 3 months of benefits, by a parent or caretaker not exempt from work requirements (effective 2 years after enactment).

(2) A strategic plan that shall include:

a. a description of the goals of the 3-year strategic plan, including outcome-related goals of, and benchmarks for, program activities;

b. a description of how the above goals and benchmarks will be achieved, or progress made toward them, in the current year;

c. a description of performance indicators to be used in measuring/assessing output service levels and outcomes of activities;

d. information on external factors that could significantly affect attainment of goals and benchmarks;

e. information on a mechanism for conducting program evaluation, for use in comparing results with goals and benchmarks;

f. information on how minimum participation rates specified in section 404 will be satisfied; and

g. an estimate of the total amount of State and local expenditures under the program for the current fiscal year.

(3) Certification that the State will operate a child support enforcement program.

(4) Certification that the State will operate child protection programs, including a foster care and adoption programs, under parts B and E.

(5) Certification by the Chief Executive Officer that State will participate during the fiscal year in the income and eligibility verification system (IEVS) required by Section 1137 of Social Security Act.

(6) Certification by the Chief Executive Officer specifying which State agency or agencies will administer and supervise the program and ensuring that local governments and private sector organizations have been consulted about the plan and design of welfare services in the State.

(7) Certification by the Chief Executive Officer that the State shall provide the Secretary with required reports.

(8) Estimate of the total amount of State and local expenditures under the State program for the fiscal year.

(9) The Chief Executive Officer must certify that the State will provide Indians in each tribe that does not have a tribal family assistance plan with equitable access to assistance under the State block grant program.

(10) The State shall make available to the public a summary of the State plan and shall provide a copy to the "approved entity" conducting the audit of State expenditures from the block grant.

Conference Agreement

An "eligible State" is a State that once every two years submits to the Secretary an outline of its program and various certifications on programs offered by the State. The detailed requirements of State plan submissions to the Secretary are:

(1) A written document describing how the State will:

a. conduct a program that provides assistance to needy families with children (or families that include a pregnant mother) and provides parents with job preparation, work and support services to enable them to leave the program and become self-sufficient;

b. conduct a program designed to serve all political subdivisions;

c. require a parent or caretaker to engage in work, as defined by the State, after 24 months of benefits, or, if earlier, when the State finds the person ready for work;

d. ensure that families engage in work activities in accord with section 404;

e. treat families moving into the State from another State, if such families are to be treated differently than other families;

f. take such reasonable steps as State deems necessary to safeguard and restrict the use and disclosure of information about recipients;

g. establish goals and take action to prevent and reduce out-of-wedlock pregnancies, with emphasis on teenage pregnancies; and

h. treat noncitizens, if the State and local benefits for which they may be eligible will be different than those available to citizens.

(2) Certification by the chief executive officer that the State operate a child support enforcement program;

(3) Certification by the chief executive officer that the State will operate a child protection program and a foster care and adoption program under part B;

(4) Certification by the chief executive officer specifying which State agency or agencies will administer and supervise the program and ensuring that local governments and private sector organizations have had 60 days to submit comments about the plan and the design of welfare services in the State;

(5) Certification by the chief executive officer that the State will provide Indians in each tribe that does not have a tribal family assistance plan with equitable access to assistance under the program; and

(6) The State shall make available to the public a summary of the State plan.

For purposes of this section, the term "Eligibile State" means, with respect to fiscal year 1996, a State that has submitted to the Secretary the plan described above within 3 months after the date of enactment.

C. PAYMENTS TO STATES

ENTITLEMENTS

Present law

AFDC entitles States to Federal matching funds. Current law provides permanent authority for appropriations without limit for grants to States for AFDC benefits, administration, and AFDC-related child care. Over the years, because of court rulings, AFDC has evolved into an entitlement for individuals to receive cash benefits. In general, States must give AFDC to all persons whose income and resources are below State-set limits if they are in a class or category eligible under Federal rules.

There is no grants increased to reward states that reduce of out-of-wedlock births (illegitimacy ratio).

There is no adjustment for population growth. Instead, current law provides unlimited matching funds. When AFDC enrollment climbs, Federal funding automatically rises.

There is no adjustment for emergency assistance (EA) plan amendments. Current law provides unlimited matching funds for EA expenditures.

There is no job placement performance bonus, performance bonus, or high performance bonus.

The law imposes an aggregate ceiling on matching funds for AFDC, adult cash welfare (aged, blind, disabled), and foster care and adoption assistance in Guam, Puerto Rico, the Virgin Islands, and American Samoa (AFDC, foster care, and adoption assistance only). (Sec. 1108(a) and (d) of the Social Security Act.) The Federal matching rate is 75%, except for adoption assistance and foster care maintenance payments, whose matching rate is 50%. (Note: American Samoa has not implemented AFDC). Separate funding ceilings apply to matching funds for AFDC family planning services (75% Federal) and for Medicaid (50% Federal) in each territory (sec. 1108(b) and (c) of the Social Security Act). The outlying areas listed above are entitled to JOBS matching funds (75% Federal), allocated on the same basis as States (by share of AFDC adult recipients). (Sec. 403(1)(1)(A) of the Social Security Act.)

Indian tribes and Alaska native organizations receive no special treatment regarding AFDC, and tribes and native organizations do not administer AFDC funds. Indian and Alaska families with children receive AFDC benefits on the same terms as other families in their States or from State or local AFDC agencies. More than 80 tribes and native organizations in 24 States are JOBS grantees, having applied to conduct JOBS within 6 months of enactment of the law establishing it. Their allocation of JOBS funds is based on the percentage of AFDC adult recipients within the State who are in the tribal service area. Their JOBS allocation is subtracted from that of their State. JOBS funds granted to Indians and Alaska natives are 100% Federal, requiring no matching. Further, their JOBS programs need not meet participation rules of the regular JOBS program. In fiscal year 1995 the estimated allocation of JOBS funds for these groups totaled $8.9 million.

House Bill

Each eligible State is entitled to receive a grant from the Secretary for each of 5 fiscal years (1996–2000) in the amount equal to the State family assistance grant for the fiscal year. There is no individual entitlement (implicit in bill). For each fiscal year beginning with 1998, a State's grant amount is increased by 5 percent if the State illegitimacy ratio is 1 percentage point lower in that year than its 1995 illegitimacy ratio; the State grant is increased 10 percent if the illegitimacy ratio is 2 or more percentage points lower than its 1995 illegitimacy ratio. In 1997, 1998, 1999, and 2000, a State's grant amount is increased by the State's percentage share of national population growth among growing States multiplied by $100 million. States that have negative population growth are omitted from the calculation. The House bill entitles territories to a cash block grant for temporary assistance to needy families (on same basis as States). It repeals AFDC and foster care/adoption assistance (and, accordingly, territorial ceilings for them and for AFDC family planning). (Sec. 104(e)(1) of H.R. 4.) It establishes new separate territorial ceilings for adult cash welfare. The bill retains territorial ceilings for Medicaid, but repeals ceilings for AFDC family planning (along with AFDC itself). As noted, the bill repeals JOBS. The basic cash block grant for outlying areas includes base-year level JOBS funds. Indian tribes and Alaska native organizations receive no special treatment regarding the cash block grant that will replace AFDC. Tribes and native organizations would not administer the new grants. The bill repeals JOBS (sec. 104(c)), and the basic cash block grant includes base-year level JOBS funds of each State (those funds include ones earmarked previously for administration by Indian tribes and Alaska native organizations). Tribes and native organizations would not administer the new grants.

Senate Amendment

The Secretary is required to pay each eligible State for each of 5 fiscal years (1996 - 2000) a grant equal to the State family assistance grant for the fiscal year. The amendment states that no person is entitled to any assistance under Title IV–A. For fiscal years 1998, 1999 and 2000, a State's grant amount is increased if the State illegitimacy ratio is at least 1 percentage point lower than its 1995 illegitimacy ratio and the State rate of "induced pregnancy terminations" is no higher than in 1995. The bonus equals $25 times the number of children in the State in families with income below the poverty line, according to the most recently available Census data. The bonus is $50 per poor child if the illegitimacy ratio is at least 2 percentage points lower and the abortion rate no higher than in 1995. The bonus shall not be paid if the Secretary finds that the illegitimacy ratio declined, or the abortion rate held steady, because of a change in State reporting methods. The amendment authorizes to be appropriated, and appropriates, sums necessary for these grants. For each of fiscal years 1997, 1998, 1999, and 2000, qualifying States shall receive a supplemental grant amount equal to 2.5 percent of the block grant received in the preceding fiscal year. For this purpose, a qualifying State is one with an average level of State welfare spending per poor person in the preceding fiscal year below the national average and with an estimated rate of State population growth above the average growth rate for all States for the most recent fiscal year for which information is available. Additionally, States whose population rose more than 10% from April 1, 1990, to July 1, 1994, are deemed eligible, as are States with a fiscal year 1996 level of State welfare spending per poor person that is less than 35 percent of the national average level. State welfare spending per poor person is defined as the State cash block grant divided by the number of persons in the State who had an income below the poverty line, according to the 1990 decennial census. For these grants, a total of $878 million is authorized to be appropriated, and is appropriated to be spent in 1997, 1998, 1999, and 2000. The Senate amendment makes available up to a total of $800 million for grants for years fiscal year 1996 through fiscal year 2000 equal to increased EA expenditures in fiscal year 1995 attributable to State EA plan amendments made during fiscal year 1994. If this amount is insufficient, State EA adjustment grants are to be reduced proportionately. For each of 2 years (fiscal years 1998 and 1999) the Secretary shall pay a job placement performance bonus to eligible States. This bonus fund shall equal 3% of the national cash block grant for fiscal year 1998 and 4% for fiscal year 1999. The DHHS Secretary shall develop a formula for allocating funds to States on the basis of the number of families who, during the previous year, lost eligibility for continued aid from the cash block grant program because of obtaining unsubsidized employment. The formula must provide a larger bonus for families who remain employed for longer periods or who are at greater risk of long-term welfare enrollment and take into account each State or geographic area's unemployment condition. For fiscal year 2000, the Secretary shall pay a performance bonus to each qualified State. To qualify for a performance bonus, a State must exceed overall average performance of all States in a measurement category (in the time period starting 6 months after enactment and ending on September 30, 1999) or improve its own performance in a category by at least 15% over that of fiscal year 1994. The 5 measurement categories are: reduction in average length of time families receive cash aid, increase in the percentage of recipient families that receive child support payments, increase in the number of families who lose eligibility for continued cash aid as a result of unsubsidized work, increase in earnings of recipient families, and reduction in percentage of families that become re-eligible for cash aid within 18 months after leaving the program. The bonus fund shall equal 5% of the national cash block grant and is to be deducted from that grant (by reducing each State's fiscal year 2000 grant by 5%). For fiscal year 2000, in addition, "high performance" States shall be entitled to a share of a high performance bonus fund. Appropriated for the high performance bonus fund is an amount equal to penalties imposed on States (and "collected" by reductions in State grants) for FYs 1996–1999. High performance bonuses will be awarded for each of the 5 measurement categories to the 5 States with the highest percentage of improvement over their fiscal year 94 baseline in the category and to the 5 States with the highest overall average performance in the category. Retains but increases aggregate ceilings in each of the territories for cash aid to needy families, cash aid to needy aged, blind or disabled adults, and foster care/adoption assistance. Ends requirement that territories share cost of cash aid for needy families. Ceilings for Puerto Rico, Guam, and the Virgin Islands would rise by $19.521 million (representing a 12.5 percent increase in the old ceilings, plus $8.446 million for their fiscal year 1994 JOBS funds). Retains territorial ceilings for Medicaid, but repeals ceilings for AFDC family planning (along with AFDC itself). The Senate amendment repeals JOBS, but increases ceilings for the outlying areas to include their base-year level JOBS funds. The Senate amendment allows block grant funds to be directly administered by Indian tribes and Alaska native organizations. The amount is the total of Federal AFDC payments to the State for fiscal year 1994 attributable to Indian families. The Senate amendment requires the DHHS Secretary to continue to pay Indian tribes and Alaska native organizations that have been JOBS grantees an annual grant equal to the amount they received in fiscal year 95 for JOBS for each of fiscal years 1996, 1997, 1998, 1999 and 2000. For this purpose it appropriates $7,638,474 for each year. These funds are separate from, and in addition to, the national cash block grant.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment on grants for family assistance, so that each eligible State is entitled to receive a grant equal to the State family assistance grant from the Secretary for each of 5 fiscal years (1996-2000). With respect to the Senate amendment's explicit statement that no person is entitled to any assistance under Title IV-A of the Social Security Act, this provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

The conference agreement follows the House bill with respect to the amount of Grant Increases to Reward States that Reduce Out-of-Wedlock births (namely grant increases of 5% and 10%, based on reductions in illegitimacy). The conference agreement follows the Senate amendment with respect to the determination of how States may qualify for grant increases for this purpose, including the prohibition on a State's receiving a grant increase for this purpose if the State rate of induced pregnancy terminations is higher than in 1995.

For purposes of this part, the Secretary is to disregard changes in rates of illegitimacy due to a change in State methods of reporting such data.

The conference agreement generally follows the Senate amendment with regard to the Adjustment for Population Growth, with the modification that $800 million is authorized and appropriated for this purpose.

The conference agreement follows the House bill regarding the adjustment for Emergency Assistance Plan Amendments.

The conference agreement follows the House bill regarding the Job Placement Performance Bonus.

The conference agreement follows the Senate amendment regarding the Performance Bonus, except that States that are most successful or most improved in moving families off welfare into work may reduce their 75 percent State maintenance of effort requirement by up to 8 percentage points.

The conference agreement follows the House bill regarding the High Performance Bonus.

The conference agreement generally follows the Senate amendment regarding the treatment of outlying areas, with certain modifications to the aggregate ceilings on cash benefits for the specified territories.

The conference agreement generally follows the Senate amendment regarding the treatment of Indian tribes and Alaska native organizations, except that these groups will receive benefits through their State's block grant in fiscal year 1996 and will be eligible to receive separate payments in fiscal year 1997 and thereafter. With regard to the specific provision outlining the purpose of the section providing for direct funding and administration by Indian tribes, this provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

Definitions

Present Law

AFDC law defines "State" to include the 50 States, the District of Columbia, Puerto Rico, Virgin Islands, Guam, and American Samoa. However, special funding ceilings apply to them.

House Bill

The "State family assistance grant" is determined by the greater of (1) the average of Federal obligations to the State for selected programs (AFDC benefits and administration, Emergency Assistance, and JOBS) authorized by Title IV-A for fiscal years 1992-1994; or (2) the amount of Federal obligations for fiscal year 1994, multiplied by the total amount of State outlays for these programs for fiscal year 1994, divided by the amount of Federal obligations for fiscal year 1994. The selected programs are all those authorized under Title IV-A of current law except the day care programs (the at-risk program, AFDC/JOBS day care, and transitional day care). If the sum of all the State shares, as calculated here, exceeds (or falls short of) the national block grant amount below ((2)(b)), each State's share will be reduced (or increased) proportionately.

In each fiscal year between 1996 and 2000, the "National Block Grant Amount" available to all eligible States will be equal to $15,390,296,000.

The State's "Illegitimacy Ratio" for a fiscal year is the sum of the number of out-of-wedlock births that occurred in the State during the most recent fiscal year for which the data are available and the amount, if any, by which the number of abortions performed in the State during the most recent year for which information is available exceeds the number of abortions performed in the State during the fiscal year that immediately precedes such most recent fiscal year, divided by the number of births that occurred in the State for the most recent fiscal year.

The term "State" includes the 50 States, the District of Columbia, Puerto Rico, Virgin Islands, Guam, and American Samoa.

Senate Amendment

The State share of the block grant for each year equals the total Federal payments to the State under Title IV-A in Fiscal Year 1994 (for AFDC benefits and administration, Emergency Assistance, JOBS, and three child care programs— AFDC/JOBS child care, "transitional" child care, and "at-risk child care"); reduced by any amount set aside for tribal family assistance programs in the State and (fiscal year 2000 only) by 5% (for the performance bonus fund) and increased by the amount, if any, of increased fiscal year 95 Emergency Assistance spending attributable to fiscal year 94 amendments.

The block grant amount is $16,803,769,000. (Note: A major reason for the difference between the House and Senate block grant amount is that the House removed mandatory child care funds currently authorized under Title IV-A and placed most of the money in a separate discretionary child care block grant, while the Senate kept IV-A child care funds in the cash block grant but earmarked them for child care.)

The term "illegitimacy ratio" means the number of out-of-wedlock births that occurred in the State during the most recent fiscal year for which the data are available, divided by the number of births that occurred in the State during the most recent fiscal year for which the data are available.

The term "State" is identical to the House bill. However, for supplemental grants for population increases, the term "State" applies only to the 50 States.

In general, the terms "Indian," "Indian tribe," and "tribal organization" have the meaning given by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b). The Senate amendment provides that only 12 specified regional non-profit corporations of Alaska natives can administer tribal family assistance grants.

Conference Agreement

The conference agreement follows the House bill with regard to the State family assistance grant, except that the State share of the block grant is determined by the greater of (1) the average of Federal payments for fiscal years 1992-94; (2) Federal payments in fiscal year 1994; or (3) Federal payments in fiscal year 1995. House conferees recede with regard to the proportionate reduction in State shares included in the House bill. For all programs except JOBS, Federal payments represent the Federal share of a State's total expenditures on these programs, as reported by the States. For JOBS, the payment represents the grant amount.

The conference agreement follows the Senate amendment regarding the definition of a State's Illegitimacy Ratio

The conference agreement follows the House bill and Senate amendment regarding the definition of "State", but the House recedes to the Senate so that, for purposes of the supplemental grants for population increases only, the term "State" applies only to the 50 States and the District of Columbia.

The conference agreement follows the Senate amendment regarding the definition of "Indian."

Use of Grant

Present Law

AFDC and JOBS funds are to be used in conformity with State plans. A State may replace a caretaker relative with a protective payee or a guardian or legal representative.

Current law sets aside some JOBS funds (deducting them from State allocations) for Indian tribes and Native Alaska organizations. See (4)(C)(1)(f).

Regulations permit States to receive Federal reimbursement funds (50% administrative cost-sharing rate) for operation of electronic benefit systems. To do so, States must receive advance approval from DHHS and must comply with automatic data processing rules.

House bill

States may use funds in any manner reasonably calculated to accomplish the purpose of this part (except for prohibitions listed below under (4)(F)). No part of the grant may be used to provide medical services. Explicitly allowed are noncash aid to mothers under the age of 18 and assistance to low-income households for heating and cooling costs.

The House bill has no set-aside provision.

In the case of families that have lived in a State for less than 12 months, States are authorized to provide them with the benefit level of the State from which they moved.

States may transfer up to 30 percent of the funds paid to the State under this section to any or all of the following: (1) child protection block grant; (2) social services block grant under title XX of the Social Security Act; (3) any food and nutrition block grant passed during the 104th Congress; and (4) the child care and development block grant program. Rules of the recipient program will apply to the transferred funds.

States are allowed to reserve some block grant funds received for any fiscal year for the purpose of providing emergency assistance under the block grant program.

States are encouraged to implement an electronic benefit transfer system for providing assistance under the State program funded under this part, and may use the grant for such purpose. In general, exempts State and local government electronic transfers of need-based benefits from certain rules issued by the Federal Reserve Board regarding electronic fund transfers, (i.e., Regulation E, which limits liability of cardholders).

Senate amendment

States may use funds in any manner reasonably calculated to accomplish the purpose of this part, provided that administrative costs not exceed 15% of the State's grant (except for prohibitions listed below, under section F).

The following rules apply to set-asides under the Senate amendment: (1) maintains current law set-asides for JOBS funding for Indian tribes and Alaska native organizations; (2) from the national cash block grant, the Senate amendment earmarks for child care annually the amount paid with Federal funds in fiscal year 1994 for AFDC-related child care (about $980 million); and (3) for the Performance fund (fiscal year 2000 only), each State's share of the family assistance block grant shall be reduced by 5%. These set-aside funds are to finance fiscal year 2000 performance bonuses.

With regard to the treatment of "interstate immigrants", the Senate amendment includes a similar provision, with slight differences in wording, in relation to the House bill.

States may transfer up to 30 percent of block grant funds to the child care and development block grant program.

A State may reserve amounts paid to the State for any fiscal year for the purpose of providing assistance under this part. Reserve funds can be used in any fiscal year. Any funds set aside for child care, if reserved, must be used only for child care.

States may use a portion of the temporary assistance block grant to make payments (or provide job placement vouchers) to State-approved agencies that provide employment services to recipients of cash aid.

Conference agreement

The conference agreement follows the House bill and Senate amendment with respect to the general uses of the grant, clarifying that the grant may be used in any manner reasonably calculated to increase the flexibility of States in operating a program designed to: (1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and (4) encourage the formation and maintenance of two-parent families.

The conference agreement follows the Senate amendment's 15% cap on administrative spending. However, spending for information technology and computerization needed to implement the tracking and monitoring required by this title are excluded from this limitation.

The conference agreement follows the House bill with regard to set-asides for child care and the performance fund, and follows the Senate amendment with regard to the set-aside for Indians.

It is the intent of the conferees that States be permitted to determine the treatment of interstate immigrants, including whether to provide such persons with benefits equaling those they would have received in their former State, for a period of up to 12 months. A provision specifically authorizing such treatment was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

The conference agreement follows the House bill with regard to transfer of funds.

The conference agreement follows the Senate amendment on reservation of funds. The conference agreement follows the House bill with regard to the Electronic Benefit Transfer System.

The conference agreement follows the Senate amendment on the authority of States to use funds to operate an employment placement program.

COST-SHARING

Present law

Current law requires States to share program costs. For administrative costs the rate is 50%. For other costs it varies among States (and, within limits, is inversely related to the square of State per capita income, compared to the square of national per capita income). For AFDC benefits and AFDC-related child care, the Medicaid Federal matching rate is used; it now ranges among States from a floor of 50% to 79%. For JOBS activities, the law provides an "enhanced" rate, ranging from 60% to 79%.

House bill

No cost-sharing required.

Senate amendment

The Senate amendment requires State cost-sharing (maintenance of effort) for the temporary assistance block grant for 4 years, starting in fiscal year 1997. To receive the full grant for one of these years, States must spend in the preceding year from their own funds under their temporary assistance program at least 80% of the amount they spent in fiscal year 1994 on the replaced programs—AFDC benefits, AFDC-related child care, Emergency Assistance, and JOBS. Grants are to be reduced one dollar for each dollar by which a State falls short of this requirement. Cost-sharing also is required for "contingency" funds and additional child care funds. For contingency funds States must spend at least 100% of fiscal year 1994 expenditures on programs replaced by the cash block grant. For additional child care funds they must spend at least 100% of fiscal year 1994 expenditures on AFDC-related child care.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that States must spend at least 75 percent of the amount they spent in fiscal year 1995.

TIMING OF PAYMENTS

Present law

The Secretary pays AFDC funds to the State on a quarterly basis.

House bill

The Secretary shall make each grant payable to a State in quarterly installments.

Senate amendment

Similar to the House provision.

Conference agreement

The conference agreement follows the House bill.

PENALTIES

Present law

If the Secretary finds that a State has failed to comply with the State plan, she is to withhold all payments from the State (or limit payments to categories not affected by noncompliance).

There is no specific penalty for failure to submit a report, although the general noncompliance penalty could apply.

The Secretary is to reduce payments by 1% for failure to offer and provide family planning services to all appropriate AFDC recipients who request them.

Except as expressly provided, the Secretary may not regulate the conduct of the States or enforce any provisions of this paragraph.

The penalty against a State for noncompliance with child support enforcement rules—loss of AFDC matching funds—shall be suspended if a State submits and implements a corrective action plan.

House bill

The Secretary shall reduce the funds paid to a State by any amount found by audit to be in violation of this part, but the Secretary cannot reduce any quarterly payment by more than 25 percent. If necessary, funds will be withheld from the State's payments during the following year.

The Secretary must reduce by 3 percent the amount otherwise payable to a State for a fiscal year if the State has not submitted the annual report regarding the use of block grant funds within 6 months after the end of the immediately preceding fiscal year. The penalty is rescinded if the report has been submitted within 12 months.

The Secretary must reduce by 1 percent the amount of a State's annual grant if the State fails to participate in the IEVS designed to reduce welfare fraud.

With regard to failure to offer and provide family planning services, there is no penalty specified, but States are allowed to use block grant funds to pay for family planning services.

Except as expressly provided, the Secretary may not regulate the conduct of States under Part A of Title IV or enforce any provision of it.

There is no provision in the House bill regarding overdue repayments to the Federal rainy day loan fund, which is described below.

Senate amendment

For all penalties, the Secretary may not impose any of the penalties if she finds the State had reasonable cause for its failure to comply with the relevant provision. The State must spend on the block grant program a sum of its own funds to equal the amount of withheld Federal dollars. No quarterly payment may be reduced more than 25%. If necessary, penalty funds will be withheld from the State's payment for the next year. Except for the first item, all penalties take effect October 1, 1996.

The Secretary shall reduce funds paid to a State by any amount found by audit to be in violation of this part. If the State does not prove to the Secretary that the unlawful expenditure was not made intentionally, the

Secretary shall impose an additional penalty of 5 percent of the basic block grant.

If a State fails to submit the annual report required by sec. 409 within 6 months after the end of a fiscal year, the Secretary shall reduce by 5 percent the amount otherwise payable to the State for the next year. However, the penalty shall be rescinded if the State submits the report before the end of the year in which the report was due.

The Secretary shall reduce by not more than 5 percent the annual grant of a State, if the State fails to participate in the IEVS designed to reduce welfare fraud.

If the Secretary determines that a State does not enforce penalties requested by the Title IV–D child support enforcement agency against recipients of cash aid who fail to cooperate in establishing paternity in accordance with Part D, the Secretary shall reduce the cash assistance block grant by not more than 5 percent.

Except as expressly provided, neither the DHHS Secretary nor the Treasury Secretary may regulate the conduct of States under Part A of Title IV nor enforce any provision of it.

If a State fails to pay any amount borrowed from the Federal Loan Fund for State Welfare Programs within the maturity period, plus any interest owed, the Secretary shall reduce the State's cash assistance block grant for the immediately succeeding fiscal year quarter by the outstanding loan amount, plus the interest owed on it. The Secretary may not forgive these overdue debts.

The Senate amendment requires the Federal government, before assessing a penalty against a State under any program established or modified by the act, to notify the State about the violation and allow it to enter into a corrective compliance plan within 60 days after notification. The Federal government shall have 60 days to accept or reject the plan; if it accepts the plan, and if the State corrects the violation, no penalty shall be assessed. If the State fails to make a timely correction, some or all of the penalty shall be assessed. An alternate corrective action section requires a State to correct the violation pursuant to its plan within 90 days after the Federal government accepts the plan.

Conference agreement

The conference agreement follows the Senate amendment on the general conditions for setting penalties (i.e. penalties may not be imposed if the Secretary finds the State had reasonable cause for its failure to comply; the State must spend on the block grant program a sum of its own funds to equal the amount of withheld Federal dollars; no quarterly payment may be reduced more than 25%; if necessary, penalty funds will be withheld from the State's payment for the next year; and that, except for the first item, all penalties take effect October 1, 1996).

The conference agreement follows the Senate amendment on penalties for use of the grant for unauthorized purposes. The conference agreement follows the House bill and the Senate amendment regarding penalties for State failure to submit the required report, except that the penalty is to be 4 percent. The conference agreement follows the House bill and the Senate amendment regarding penalties for State failure to participate in IEVS, except that the penalty is to be 2 percent.

The conference agreement follows the Senate amendment on penalties for State failure to cooperate on child support enforcement. The conference agreement follows the House bill and the Senate amendment regarding penalties for failure to offer and provide family planning services. The conference agreement includes penalties for failure to satisfy minimum work participation rates. The conference agreement follows the Senate amendment regarding the limitation of Federal authority.

The conference agreement follows the Senate amendment regarding the penalty for failure to timely repay the Federal loan fund for State welfare programs. The conference agreement follows the Senate amendment regarding the Corrective Action Plan.

FEDERAL RAINY DAY LOAN FUND

Present law

No provision. Instead, current law provides unlimited matching funds.

House bill

The Federal government will establish a fund of $1 billion modeled on the Federal Unemployment Account, which is part of the Unemployment Compensation system. The fund is to be administered by the Secretary of Health and Human Services, who must deposit into the fund any principal or interest payments received with respect to a loan made under this provision. Funds are to remain available without fiscal year limitation for the purpose of making loans and receiving payments of principal and interest. States must repay their loans, with interest, within 3 years. The rate of interest will equal the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan. At any given time, no State can borrow more from the fund than half its annual share of block grant funds or $100 million, whichever is less. States may borrow from the fund if their total unemployment rate for any given 3 month period is more than 6.5 percent and is at least 110 percent of the same measure in the corresponding quarter of the previous 2 years.

Senate amendment

Establishes a $1.7 billion revolving loan fund called the "Federal Loan Fund for State Welfare Programs." The Secretary shall make loans, and the rate of interest will equal the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan. Ineligible are States that have been penalized for misspending block grant funds as determined by an audit. Loans are to mature in 3 years, at the latest, and the maximum amount loaned to a State cannot exceed 10 percent of its basic block grant, and States face penalties for failing to make timely payments on their loan.

Conference agreement

The conference agreement follows the Senate amendment.

CONTINGENCY FUND (FOR STATES WITH HIGH UNEMPLOYMENT)

Present law

No provision. Current law provides unlimited matching funds.

House bill

No provision.

Senate amendment

Establishes a "Contingency Fund for State Welfare Programs" and appropriates funds of up to $1 billion for a total period of 7 years (fiscal year 1996–2002). The fund would provide matching grants (at the Medicaid matching rate) to States that have unemployment rates above specified levels, provided they first spent from their own funds a yearly sum at least equal to their fiscal year 1994 expenditures on AFDC, AFDC-related child care, Emergency Assistance, and JOBS. The maximum contingency grant could not exceed 20 percent of a State's temporary assistance block grant. Eligible would be States that met the maintenance of effort requirement and had an average rate of total unemployment, seasonally adjusted, of at least 6.5 percent during the most recent 3 months with published data and a rate at least 10 percent above that of either or both of the corresponding 3-month periods in the 2 preceding calendar years.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that $800 million is appropriated for this purpose. The provision requiring the Secretary of the Treasury to annually report to Congress on the status of the fund was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

ADDITIONAL DAY CARE FUNDS

Present law

No provision. Current law provides unlimited matching funds for AFDC/JOBS child care and transitional child care (but a capped amount for "at-risk" care).

House bill

No provision.

Senate amendment

The Senate amendment authorizes to be appropriated, and appropriates, $3 billion in matching grants to States for the 5-year period beginning in fiscal year 1996 for child care assistance (in addition to Federal funds set aside for child care in the family assistance block grant). The funds, which are allocated among the States on the basis of their share of the nation's child population, are to be used to reimburse a State, at the Medicaid matching rate, for child care spending in a fiscal year that exceeds its share of child care set-aside funds (100 percent Federal) plus the amount it spent from its own funds in fiscal year 1994 for AFDC/JOBS child care, transitional child care, and at-risk child care. Funds are to be used only for child care assistance under Part IV–A. In the last quarter of the fiscal year, fiscal year 2000, if any portion of a State allotment is not used, the Secretary shall make it available to applicant States. Notwithstanding section 658T of the Child Care and Development Block Grant Act, the State agency administering the family assistance block grant shall determine eligibility for all child care assistance provided under Title IV–A. (For budget scoring, the Amendment states that the baseline shall assume that no grant will be made after fiscal year 2000.)

Conference agreement

See discussion in Subtitle I of the conference agreement under Child Care and Development Block Grant.

D. CONTRACTS/CLIENT AGREEMENTS

TERMS

Present law

After assessing the needs and skills of recipients and developing an employability plan, States may require JOBS participants to negotiate and enter into an agreement that specifies their obligations.

House bill

No provision.

Senate amendment

States must assess, through a case manager, the skills of each parent for use in developing and negotiating a personal responsibility contract (PRC). Each recipient family must enter into a contract developed by the State or into a limited benefit plan. The PRC means a binding contract outlining steps to be taken by the family and State to get the family "off of welfare" and specifying a negotiated time-limited period of eligibility for cash aid. An alternate provision requires the case manager to consult with the parent applicant (client) in developing a PRC, lists client activities that the PRC might require, specifies that clients must agree to accept a bona fide offer of an unsubsidized full-time job unless they have good cause not to, but does not require a time limit in the PRC nor make provision for a limited benefit plan. A State may exempt a battered person from entering into a PRC if its terms would endanger his/her well-being.

Conference agreement

The conference agreement follows the House bill.

PENALTIES

Present law

No provision.

House bill

No provision.

Senate amendment

The PRC is to provide that if a family fails to comply with its terms, the family automatically will enter into a limited benefit plan (with a reduced benefit and later termination of aid, in accordance with a schedule determined by the State). If the State agency violates the PRC, the contract shall be invalid. The State is to establish a procedure, including the opportunity for hearing, to resolve disputes concerning participation in the PRC. The alternate PRC language provides these penalties: for the first act of noncompliance with the PRC, 33 percent reduction in the family's benefit for one month; for the second act, 66 percent reduction for 3 months; for third and subsequent acts of noncompliance, loss of eligibility for 6 months. Job refusal without good cause is treated as a third violation. However, in no case shall the penalty period extend beyond the duration of noncompliance.

Conference agreement

The conference agreement follows the House bill.

E. MANDATORY WORK REQUIREMENTS

WORK ACTIVITIES

Present law

JOBS programs must include specified educational activities (high school or equivalent education, basic and remedial education, and education for those with limited English proficiency); job skills training, job readiness activities, and job development and placement. In addition, States must offer at least two of these four items: group and individual job search; on-the-job training; work supplementation or community work experience program (CWEP) (or another work experience program approved by the DHHS Secretary). The State also may offer postsecondary education in "appropriate" cases.

House bill

"Work activities" are defined as unsubsidized employment, subsidized employment, subsidized public sector employment or work experience, on-the-job training, job search, education and training directly related to employment, and jobs skills training directly related to employment. Satisfactory attendance at secondary school, at State option, may be included as a work activity for a parent under 20 who has not completed high school.

Senate amendment

Establishes this list of work activities: unsubsidized employment, subsidized employment, on-the-job training, community service programs, job search (first 4 weeks only) and vocational educational training (12 months maximum). For work participation requirements, the proportion of persons counted as engaged in "work" through participation in vocational educational training cannot exceed 25 percent. For each tribe receiving a family assistance block grant, the Secretary, with participation of Indian tribes, shall establish minimum work participation rules, appropriate time limits for benefits, and penalties, similar to the general family assistance rules but consistent with the economic conditions and resources of the tribe.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with the modification that, for the work participation requirements, the proportion of persons counted as engaged in work through participation in vocational education cannot exceed 20 percent.

Participation Requirements: All Families

Present law

The following minimum percentage of nonexempt AFDC families must participate in JOBS:

Fiscal year:	Minimum percentage
1995 (last year)	20
1996 and thereafter	[1]0

[1] No requirement.

Exempt from JOBS are parents whose youngest child is under 3 (1, at State option). Other exemptions include persons who are ill, incapacitated or needed at home because of illness or incapacity of another person. Also exempt are parents of a child under 6, unless the State guarantees child care and requires no more than 20 hours weekly of JOBS activity.

Participation rates are calculated for each month. A State's rate, expressed as a percentage, equals the number of actual JOBS participants divided by the number of AFDC recipients required to participate (non-exempt from JOBS).

In calculating a State's overall JOBS participation rate, a standard of 20 hours per week is used. The welfare agency is to count as participants the largest number of persons whose combined and averaged hours in JOBS activities during the month equal 20 per week.

The law requires States to guarantee child care when needed for JOBS participants and for other AFDC parents in approved education and training activities. Regulations require States to guarantee care for children under age 13 (older if incapable of self-care) to the extent that it is needed to permit the parent to work, train, or attend school. States must continue child care benefits for 1 year to ex-AFDC working families, but must charge them an income-related fee.

House bill

The following minimum percentages of all families receiving cash assistance must engage in work activities:

Fiscal year:	Minimum percentage
1996	10
1997	15
1998	20
1999	25
2000	27
2001	29
2002	40
2003 or thereafter	50

If States achieve net caseload reductions, they receive credit for the number of families by which the caseload is reduced for purposes of meeting the overall family participation requirements. The minimum participation rate shall be reduced by the percentage by which the number of recipient families during the fiscal year falls below the number of AFDC families in fiscal year 1995, except to the extent that the Secretary determines that the caseload reduction was required by terms of Federal law.

The fiscal year participation rates are the average of the rates for each month during the year. The monthly participation rates are measured by the number of recipient families in which an individual is engaged in work activities for the month, divided by the total number of recipient families that include a person who is 18 or older.

To be counted as engaged in work activities for a month, the recipient must be making progress in qualified activities for at least the minimum average number of hours per week shown in the table below. Of these hours, at least 20 hours must be spent in unsubsidized employment, subsidized private sector employment, subsidized public sector employment, work experience, or on-the-job training. During the first 4 weeks of required work activity, hourly credit also is given for job search and job readiness assistance.

Fiscal year	Minimum average hours weekly
1996	20
1997	20
1998	20
1999	25
2000	30
2001	30
2002	35
2003 or thereafter	35

Although a person must work at least 20 hours weekly in order for any hours of their training or education to count toward required participation, the bill does not prohibit a State from offering cash recipients an opportunity to participate in education or training before requiring them to work. In this case, however, participation does not count toward fulfillment of the State mandatory participation rate. Note: although the above table is in a paragraph entitled "requirements applicable to all families receiving assistance," another paragraph establishes a higher hourly requirement (35 hours weekly) in all years for 2-parent families. See below.

Senate amendment

The following minimum percentages of all families receiving cash assistance (except those with a child under 1, if exempted by the State) must participate in work activities:

Fiscal year	Minimum percentage
1996	25
1997	30
1998	35
1999	40
2000 or thereafter	50

The Secretary is directed to prescribe regulations for reducing the minimum participation rate required for a State if its caseload under the new program is smaller than in the final year of AFDC, but not if the decrease was required by Federal law or results from changes in eligibility criteria adopted by the State. With these qualifications, the regulations are to reduce the participation rate by the number of percentage points, if any, by which the caseload in a fiscal year is smaller than in fiscal year 1995.

States may exempt a parent or caretaker relative of a child under one year old and may exclude them from the participation rate calculation. States may exempt a battered person if their well-being would be endangered by a work requirement.

As in the House bill, the fiscal year participation rate is the average of the rates for each month of the year. However, overall monthly rates are measured by adding (1) the number of recipient families with an adult engaged in work for the month, (2) the number subject to a work refusal penalty in the month (if not subject to the penalty for more than 3 months out of the preceding 12), and (3) the number who worked their way off the program in the previous 6 months and that include an adult who is working for the month, and then dividing this total by the number of families enrolled in the program during the month that include an adult recipient. States have the option to include in the calculation of monthly participation rates families who receive assistance under a tribal family assistance plan if the Indian or Alaska Native is participating in work under standards comparable to those of the State for being engaged in work.

To be counted as engaged in work for a month, an adult must be participating in work for at least the minimum average number of hours per week shown in the table below (of which not fewer than 20 hours per week are attributable to a work activity). See list of work activities above.

Exception to the table: In fiscal year 1999 and thereafter, when required weekly hours rise above 20, a State may count a single parent with a child under age 6 as engaged in work for a month if the parent works an average of 20 hours weekly. Also, community service participants may be treated as engaged in work if they provide child care services for another participant for the number of hours deemed appropriate by the State.

Fiscal year	*Minimum average hours weekly*
1996	20
1997	20
1998	20
1999	25
2000	30
2001	30
2002	35
2003 or thereafter	35

Note: Although the above table is in a paragraph entitled "all families," another paragraph establishes a higher hourly requirement (35 hours weekly) in all years for 2-parent families. See below.

The Senate amendment states that nothing in sec. 421 (amounts for child care) shall be construed to provide an entitlement to child care services to any child.

Conference agreement

The conference agreement follows the House bill and the Senate amendment as follows:

The following minimum percentages of all families receiving cash assistance must participate in work activities:

Fiscal year	*Minimum percentage*
1996	15
1997	20
1998	25
1999	30
2000	35
2001	40
2002 or thereafter	50.

The conference agreement generally follows the Senate amendment regarding reduction in the participation rate, with the modification that regulations shall not take into account families diverted from the State program as a result of differences in eligibility criteria under the State program (in comparison with the AFDC program that operated prior to the date of enactment). The regulations shall place the burden on the Secretary to prove that families were diverted as a direct result of differences in eligibility criteria.

The conference agreement follows the House bill regarding exemptions from the work requirement for battered individuals. The provision regarding the state option to exempt families with a child under 1 was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

The conference agreement follows the House bill and the Senate amendment regarding the calculation of the fiscal year rate. The conference agreement generally follows the Senate amendment regarding the calculation of monthly rates, except that the Senate recedes on counting people who have worked their way off the rolls in the previous 6 months and including sanctioned individuals in the numerator; conferees agree that sanctioned persons are to be subtracted from the denominator in determining monthly rates.

The conference agreement follows the House bill with regard to the number counted as engaged in work, except that the phrase "making progress in qualified activities" is replaced with "participating in qualified activities".

PARTICIPATION REQUIREMENTS: TWO-PARENT FAMILIES

Present law

The following minimum percentages of two-parent families receiving cash assistance must participate in specified work activities:

Fiscal year	*Minimum percentage*
1995	50
1996	60
1997	75
1998 (last year)	75
1999 and thereafter (no requirement)	0

Participation rates for a month equal the number of parents who participate divided by the number of principal earners in AFDC–UP families (but excluding families who received aid for 2 months or less, if one parent engaged in intensive job search).

One parent in the 2-parent family must participate at least 16 hours weekly in on-the-job training, work supplementation, community work experience program, or a State-designed work program.

House bill

The following minimum percentages of two-parent families receiving cash assistance must engage in work activities:

Fiscal year	*Minimum percentage*
1996	50
1997	50
1998	90
1999 and thereafter	90

Participation rates for a month are measured by the number of two-parent recipient families in which at least one adult is engaged in work activities for the month, divided by the total number of two-parent families that received cash aid during the month.

An adult in a 2-parent family is engaged in work activities when making progress in them for 35 hours per week, at least 30 of which are in unsubsidized employment, subsidized private sector employment, subsidized public sector employment, work experience, or on-the-job training (or job search and job readiness assistance for the first 4 weeks only).

Senate amendment

The following minimum percentages of two-parent families receiving cash assistance must participate in work:

Fiscal year	*Minimum percentage*
1996	60
1997	75
1998	75
1999 and thereafter	90

Participation rates for 2-parent families are measured (like those for all families) by adding (1) the number of 2-parent recipient families with an adult engaged in work for the month; (2) the number of 2-parent families subject to a work refusal penalty in the month (if not subject to the penalty for more than 3 months out of the preceding 12); and (3) the number of 2-parent families who worked their way off the program in the previous 6 months and that include an adult who is working for the month, and then dividing this total by the number of 2-parent families enrolled in the program during the month that include an adult recipient.

An adult in a 2-parent family must participate in work for at least 35 hours per week during the month, and at least 30 hours weekly must be attributable to one or more of the 6 work activities listed above in "4.E. Mandatory Work Requirements," above.

Conference agreement

The conference agreement follows the House bill and Senate amendment so that the following minimum percentages of two-parent families receiving cash assistance must participate in specified work activities:

Fiscal year	*Minimum percentage*
1996	50
1997	75
1998	75
1999 and thereafter	90

With regard to participation rates for a month, the conference agreement for 2-parent families matches the agreement for all families described above, so that the rates equal the number of two-parent recipient families in which at least one adult is engaged in work activities for the month, divided by the total number of two-parent families that received cash assistance minus sanctioned persons.

The conference agreement follows the House bill and the Senate amendment regarding creditable activities, except the Senate recedes so that the percentage of the caseload able to be counted as engaged in a work activity through vocational education training cannot exceed 20 percent.

PENALTIES

Present law

For failure to meet JOBS requirements without good cause, AFDC benefits are denied to the offending parent and payments for the children are made to a third party.

In a 2-parent family, failure of 1 parent to meet JOBS requirements without good cause results in denial of benefits for both parents (unless the other parent participates) and third-party payment on behalf of the children. Repeated failures to comply bring potentially longer penalty periods.

If a State fails to achieve the two required participation rates (overall and for 2-parent families), the Federal reimbursement rate for its JOBS spending (which ranges among States from 60% to 79% for most JOBS costs) is to be reduced to 50%.

House bill

If recipients refuse to participate in required work activities, their cash assistance is reduced by an amount to be determined by individual States, subject to good cause and other exceptions that the State may establish.

Recipients in two-parent families who fail to work the required number of hours receive the proportion of their monthly cash grant that equals the proportion of required work hours they actually worked during the month, or less at State option.

No officer or employee of the Federal government may regulate the conduct of States under this paragraph (about penalties against individuals) or enforce this paragraph against any State.

States not meeting the required participation rates have their overall grant (calculated without the bonus for reducing out-of-wedlock births and before other penalties listed in C(5) above) reduced by up to 5 percent the following fiscal year; penalties shall be based on the degree of noncompliance as determined by the Secretary.

Senate amendment

If an adult recipient refuses to engage in required work, the State shall reduce the amount of assistance to the family pro rata (or more, at State option) with respect to the period of work refusal, or shall discontinue aid, subject to good cause and other exceptions that the State may establish. A State may not penalize a single parent caring for a child under age 6 for refusal to work if the parent has a demonstrated inability to obtain needed child care. Penalties against individuals in 2-parent families follow those against individuals, except that the penalties may apply against parents of children under 6 who refuse to work due to an inability to obtain child care.

No specific provision about regulation of penalties against individuals. However, the amendment provides that neither the DHHS Secretary nor the Treasury Secretary may regulate the conduct of States under Title IV–A or enforce any of its provisions, except to the extent expressly provided in the Act.

If a State fails to meet minimum work participation rates, the Secretary is to reduce the family assistance block grant as follows: For the first year of failure, by 5% (applied in the next year); for subsequent years of failure, by an additional 5% (thus, by 5.25%). The Secretary shall impose reductions on the basis of the degree of noncompliance.

Conference agreement

The conference agreement follows the Senate amendment regarding penalties against individuals, except with the modification that the burden of proof to demonstrate an inability to find needed child care rests on the parent of a child under age 6. The conference agreement follows the Senate amendment regarding penalties against individuals in two-parent families.

The conference agreement follows the House bill on penalties against States not meeting work requirements, except the House recedes to the Senate on corrective action provisions.

RULE OF INTERPRETATION (CONCERNING EDUCATION AND TRAINING)

Present law

JOBS programs must include specified educational activities and job skills training.

House bill

This part does not prohibit a State from establishing a program for recipients that involves education and training.

Senate amendment

No explicit statement. However, the amendment qualifies vocational educational training as a "work activity," with a 12-month maximum and a limit on the proportion of vocational educational trainees who can be counted in calculating work participation rates.

Conference agreement

The House recedes, so no specific provision.

RESEARCH (ABOUT WORK PROGRAMS)

Present law

Authorizes States to make "initial" evaluations (in fiscal year 1991) of demographic characteristics of JOBS participants and requires the DHHS Secretary, in consultation with the Labor Secretary, to assist the States as needed.

House bill

The Secretary is to conduct research on the costs and benefits of mandatory work requirements in the Act, and to evaluate promising State approaches in employing welfare recipients. See also "Research, Evaluations, and National Studies" below.

Senate amendment

The Secretary is to conduct research on the costs, benefits, and effects of operating different State programs of temporary assistance to needy families, including their time limits. Research shall include studies of effects on employment rates. See also "Research, Evaluations, and National Studies" below.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment.

EVALUATION OF INNOVATIVE APPROACHES TO EMPLOYING RECIPIENTS OF ASSISTANCE

Present law

No provision.

House bill

The Secretary shall evaluate innovative approaches by the States to employ recipients of assistance.

Senate amendment

The Secretary may assist States in developing, and shall evaluate innovative approaches for reducing welfare dependency and increasing the well-being of minor children, using random assignments in these evaluations "to the maximum extent feasible."

Conference agreement

The conference agreement follows the Senate amendment.

ANNUAL RANKING OF STATES AND REVIEW OF WORK PROGRAMS

Present law

No provision.

House bill

The Secretary must annually rank the States in the order of their success in moving recipients into long-term private sector jobs, and review the 3 most and 3 least successful programs. HHS will develop these rankings based on data collected under the bill.

Senate amendment

Taking account of the number of poor children in the State and funds provided for them, the Secretary of HHS shall rank the States annually in the order of their success in placing recipients into long-term private sector jobs, reducing the overall caseload, and, when a practicable method for calculation becomes available, diverting persons from application and entry into the program. The Secretary shall review the 3 most and 3 least successful programs that provide work experience, help in finding jobs, and provide other support services to enable families to become independent of the program.

Conference agreement

The conference agreement follows the House bill.

ANNUAL RANKING OF STATES AND REVIEW OF OUT-OF-WEDLOCK BIRTHS

Present law

No provision.

House bill

No provision.

Senate amendment

The Secretary also is to annually rank States in the order of their success in reducing out-of-wedlock births and to review the programs of the 5 ranked highest and 5 ranked lowest in decreasing their absolute out-of-wedlock birth ratios (defined as the total number of out-of-wedlock births in families receiving cash assistance, divided by the total number of births in recipient families).

Conference agreement

The conference agreement follows the Senate amendment.

SENSE OF CONGRESS ON WORK PRIORITY FOR MOTHERS WITHOUT YOUNG CHILDREN

Present law

No provision.

House bill

It is the sense of Congress that States should give highest priority to requiring families with older preschool children or school-aged children to engage in work activities.

Senate amendment

Adds to highest priority group "adults in 2-parent families and adults in single-parent families with children that are older than preschool age."

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

WORK/SCHOOL REQUIREMENTS FOR NONCUSTODIAL PARENTS

Present law

The Secretary shall permit up to 5 States, on a voluntary or mandatory basis, to provide JOBS services to unemployed noncustodial parents unable to pay child support.

House bill

States must adopt procedures to ensure that persons owing past-due support to a child (or to a child and parent) receiving Title IV–A either work or have a plan for payment of that support. They must seek a court order requiring the parent to make payment, in accordance with a court-approved plan to work (unless incapacitated). It is the sense of Congress that States should require non-custodial, non-supporting parents under age 18 to fulfill community work obligations and attend appropriate parenting or money management classes after school.

Senate amendment

States must seek a court order or administrative order requiring a person who owes support to a child receiving Title IV–D services to pay the support in accordance with a court-approved plan or to work (unless incapacitated).

Conference agreement

The conference agreement follows the House bill, except that the sense of Congress that States should require non-custodial, non-supporting parents under age 18 to fulfill community work obligations and attend appropriate parenting or money management classes after school was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

DELIVERY OF WORK ACTIVITIES

Present law

Current law permits States to carry out JOBS programs directly or through arrangement or under contracts with administrative entities under the Job Training Partnership Act (JTPA), with State and local educational agencies or with private organizations, including community-based organizations as defined in JTPA (Section 485(A) of Social Security Act.

House bill

No provision.

Senate amendment

Requires that work activities for recipients of the temporary family assistance program be delivered through the statewide workforce development system that was earlier included in the Work Opportunity Act, unless a required activity is not available locally through the statewide workforce development system. However, as passed, the amendment does not include the workforce development title.

Conference agreement

The conference agreement follows the House bill.

DISPLACEMENT OF WORKERS

Present law

Under JOBS law, no work assignment may displace any currently employer worker or position (including partial displacement such as a reduction in hours of non-overtime work, wages, or employment benefits). Nor may a JOBS participant fill a position vacant because of layoff or because the employer has reduced the workforce with the effect of creating a position to be subsidized.

House bill

No provision.

Senate amendment

Provides that no adult in a Title IV–A work activity shall be employed or assigned when another person is on layoff from the same or a substantially equivalent job, or when the employer has terminated the employment of a regular worker or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy thus created with a subsidized worker. This provision does not preempt or supersede any State or local law providing greater protection from displacement.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

F. PROHIBITIONS

FAMILIES WITHOUT A MINOR CHILD

Present law

Only families with dependent children (under age 18, or 19 at State option if the child is still in secondary school or in the equivalent level of vocational or technical training) can participate in the program.

House bill

Only families with minor children (under 18 years of age or under 19 years of age for full-time students in a secondary school or the equivalent) can participate in the program.

Senate amendment

Similar to House bill, but specifies that the minor children must live with their parent or other caretaker relative.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with the modification that a pregnant individual may receive assistance under the block grant.

ASSISTANCE FOR ALIENS

Present law

Illegal aliens are ineligible, but legal aliens and others permanently residing under color of law are eligible for Federal means-tested benefit programs. States must operate a System for Verification of Eligibility (SAVE) for determination of immigration or citizenship status of applicants and must verify the immigration status of aliens with the Immigration and Naturalization Service.

House bill

Block grant funds may not be used to provide cash benefits to a non-citizen unless the individual is a refugee under section 207 of the Immigration and Nationality Act who has been in the U.S. for under 5 years, a legal permanent resident over age 75 who has lived in the U.S. at least 5 years, a veteran (or the spouse or unmarried dependent child of a veteran) honorably discharged from the U.S. Armed Forces, or a legal permanent resident unable because of disability or mental impairment to comply with certain naturalization requirements. In addition, legal permanent residents who are current beneficiaries retain eligibility for the first year after enactment.

Senate amendment

Aliens entering after enactment are barred from receiving benefits for 5 years, with exceptions similar to House bill. Separately, States have the option to deny non-citizens benefits using block grant funds. Eligibility may be affected by changes in the sponsor-to-alien deeming provisions. These changes may affect their eligibility even after aliens have attained citizenship.

Conference agreement

The conference agreement generally follows the Senate amendment so that noncitizens arriving after the date of enactment may not receive benefits from the block grant during their first 5 years in the U.S.; the conference agreement modifies the Senate amendment so that there is a State option to provide block grant assistance to noncitizens currently residing in the U.S., except that noncitizens receiving AFDC benefits on the date of enactment would continue to be eligible to receive block grant benefits until January 1, 1997. The conference agreement makes specific exceptions to these restrictions for refugees, asylees, veterans and active duty military, and aliens who have worked at least 40 calendar quarters as defined under title II of the Social Security Act. For further details see Subtitle D: Noncitizens.

No Cash Assistance for Out-of-Wedlock Births

Present law

No provision forbidding eligibility. Current law permits a State to provide AFDC to an unwed mother under 18 and her child only if they live with their parent or another adult relative or in another adult-supervised supportive arrangement; exceptions are allowed (Sec. 402(A)).

AFDC law has no provision directly comparable for funding second-chance homes.

AFDC law requires States, to the extent resources permit, to require mothers under age 20 who failed to complete high school to participate in an educational activity, even if they otherwise would be exempt because of having a child under age 3 (or, at State option, under age 1). However, States may exempt some school dropout mothers under 18 years old from this requirement.

House bill

Temporary Assistance to Needy Families Block Grant funds may not be used to provide cash benefits to a child born out-of-wedlock to a mother under age 18 or to the mother until the mother reaches age 18. States must exempt mothers to whom children are born as a result of rape or incest. Block grant funds can be used to provide non-cash (e.g. voucher) assistance to young mothers and their children.

Senate amendment

Explicitly permits States to decide whether or not to give assistance to a child born out-of-wedlock to a mother under 18 years old, and to the mother until she reaches 18. However, if a State elects to extend assistance to these families, the minor mother must live with a parent, legal guardian or other adult relative unless they have no such appropriate relative or the State agency determines (1) that they had suffered, or might suffer, harm in the relative's home or (2) that the requirement should be waived for the sake of the child.

The State shall provide or assist a minor mother in finding a suitable home, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement. The amendment authorizes to be appropriated, and appropriates funding for second-chance homes for unmarried teenage parents ($25 million yearly for FYs 1996 and 1997 and $20 million yearly for FYs 1998-2000).

Further, if a State aids these unwed minor mothers, it must require those who have not completed high school, or its equivalent, to attend school unless their child is under 12 weeks old. If the mother fails to attend high school or an approved alternative training program, the State must reduce her benefit or end it.

Conference agreement

The conference agreement generally follows the Senate amendment, except that the provision extending a state option to deny cash assistance for out-of-wedlock births was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974). With regard to second chance homes, the conference agreement follows the Senate amendment except that funding is authorized but not appropriated for this purpose. The conference agreement follows the Senate amendment regarding the school requirement for unwed minor mothers.

No Additional Assistance for Additional Children

Present law

No provision.

House bill

Block grant funds may not be used to provide additional cash benefits for a child born to a recipient of cash welfare benefits, or an individual who received cash benefits at any time during the 10-month period ending with the birth of the child. Mothers to whom children are born as a result of rape or incest are exempted. Block grant funds can be used to provide non-cash (voucher) assistance to young mothers and their children.

Senate amendment

Explicitly permits States to deny aid to child born to a mother already receiving aid under the program or to one who received benefits from the program at any time during the 10 months ending with the baby's birth.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with the modification that the States may exempt up to 50% of their caseload from the 60-month limit.

No Assistance for More Than 5 Years

Present law

No provision.

House bill

Block grant funds may not be used to provide cash benefits for the family of an individual who, after attaining 18 years of age, has received block grant funds for 60 months, whether or not successive; States are permitted to provide hardship exemptions from the 60-month time limit for up to 10 percent of their caseload.

Senate amendment

Block grant funds may not be used to provide cash benefits for the family of a person who has received block grant aid for 60 months (or less at State option), whether or not consecutive. States may give hardship exemptions to up to 20 percent of their caseload. (Exempted from the 60-month time limit is a person who received aid as a minor child and who later applied as the head of her own household with a minor child.)

Conference agreement

The conference agreement follows the Senate amendment, with the modification that no assistance may be provided beyond 5 years and that States may exempt up to 15 percent of their caseload from this limit. Battered individuals may qualify for this exemption, but States are not required to exempt such individuals.

No Assistance for Families Not Cooperating with Paternity Establishment

Present law

As a condition of eligibility, applicants or recipients must cooperate in establishing paternity of a child born out-of-wedlock, in obtaining support payments, and in identifying any third party who may be liable to pay for medical care and services for the child.

House bill

Block grant funds may not be used to provide cash benefits to persons who fail to cooperate with the State child support enforcement agency in establishing the paternity of any child of the individual; the child support agency defines cooperation.

Senate amendment

Maintains current law. In addition, see "Payments To States" for penalty against a State that fails to enforce penalty requested by the IV–D agency against a person who does not cooperate in establishing paternity.

Conference agreement

The conference agreement follows the Senate amendment with the modification that States must deny a parent's share of the family welfare benefit if the parent fails to cooperate; the State may deny benefits to the entire family for failure to cooperate.

No Assistance for Families Not Assigning Support Rights to the State

Present law

As a condition of AFDC eligibility, applicants must assign child support and spousal support rights to the State.

House bill

Block grant funds may not be used to provide cash benefits to a family with an adult who has not assigned to the State rights to child support or spousal support.

Senate amendment

Gives States the option to require applicants for temporary family assistance (and recipients) to assign child support and spousal support rights to the State.

Conference agreement

The conference agreement follows the House bill.

Withholding Portion of Aid for Child Whose Paternity is Not Established

Present law

No provision.

House bill

If, at the time a family applies for assistance, the paternity of a child in the family has not been established, the State must impose a financial penalty ($50 or 15 percent of the monthly benefits of a family of that size, whichever the State chooses) until the paternity of the child is established. Once paternity is established, all the money withheld as a penalty must be remitted to the family if it is still eligible for aid. Mothers to whom children are born as a result of rape or incest are exempted from this penalty. Provision effective 1 year after enactment (2 years at State option).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with the modification that States may impose a financial penalty if paternity is not established.

Denial of Benefits to Persons Who Fraudulently Received Aid in Two States

Present law

No provision.

House bill

Ineligible for block grant assistance for 10 years is any individual convicted of having fraudulently misrepresented residence (or found by a State to have made a fraudulent statement) in order to obtain benefits or services from two or more States from the block grant, Medicaid, Food Stamps, or Supplemental Security Income.

Senate amendment

Ineligible for block grant assistance for 10 years is any person convicted in Federal court or State court of having fraudulently misrepresented residence in order to obtain benefits or services from two or more States from the cash block grant, Medicaid, Food Stamps, or Supplemental Security Income.

Conference agreement

The conference agreement follows the Senate amendment.

Denial of Aid for Fugitive Felons, Probation and Parole Violators

Present law

No provision.

House bill

No assistance may be provided to an individual who is fleeing to avoid prosecution, custody or confinement after conviction for a crime (or an attempt to commit a crime) that is a felony (or, in New Jersey, a high misdemeanor), or who violates probation or parole imposed under Federal or State law.

Any safeguards established by the State against use or disclosure of information about individual recipients shall not prevent the agency, under certain conditions, from providing the address of a recipient to a law enforcement officer who is pursuing a fugitive felon or parole or probation violator. This provision applies also to a recipient sought by an officer not because he is a fugitive but because he has information that the officer says is necessary for his official duties. In both cases the officer must notify the State that location or apprehension of the recipient is within his official duties.

Senate amendment

A State shall furnish law enforcement officers, upon their request, the address, social security number, and photograph (if available) of any recipient if the officers notify the agency that the recipient is a fugitive felon, or a violator of probation or parole, or that he has information needed by the officers to perform their duties, and that the location or apprehension of the recipient is within the officers' official duties.

Conference agreement

The conference agreement follows the House bill.

NO ASSISTANCE FOR MINOR CHILDREN WHO ARE ABSENT, OR RELATIVES WHO FAIL TO NOTIFY AGENCY OF CHILD'S ABSENCE

Present law

Regulations allow benefits to continue for children who are "temporarily absent" from home.

House bill

No assistance may be provided for a minor child who has been absent from the home for 45 consecutive days or, at State option, between 30 and 90 consecutive days. States may establish a good cause exemption as long as it is detailed in the State report to the Secretary. No assistance can be given to a parent or caretaker who fails to report a missing minor child within 5 days of the time it is clear that the child is absent.

Senate amendment

Similar provision to House bill, with different wording.

Conference agreement

The conference agreement follows the House bill.

G. INCOME/RESOURCE LIMITS, TREATMENT OF EARNINGS AND OTHER INCOME RESOURCE LIMITS

Present law

$1,000 per family in counted resources (excluding home and some of the value of an auto, funeral arrangements, burial plots, real property that the family is attempting to sell, and—for two months—refunds of the Earned Income Tax Credit (EITC)).

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

INCOME LIMITS

Present law

Gross family income limit: 185% of the State standard of need.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

EARNINGS

Present law

Mandatory disregard: during first 4 months of a job, $120 and one-third, plus child care costs up to a limit; next 8 months, $120 plus child care; after 12 months, $90 plus child care.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

EARNED INCOME TAX CREDIT

Present law

Mandatory disregard: advance EITC payments must be disregarded.

House bill

Repeals mandatory EITC disregard (a provision of AFDC law). States would set policy about treatment of EITC payments by block grant program.

Senate amendment

Provision is identical to House position.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

CHILD SUPPORT

Present law

Mandatory disregard: first $50 monthly in child support collections is passed through to the family. In some States, child support payments that fill some or all of the gap between payment and need standard must be ignored.

House bill

In determining a family's eligibility and payment amount under the block grant, a State may not disregard child support collected by the State and distributed to the family.

Senate amendment

State option. Repeals required disregard of the first $50 monthly in child support collections distributed to the family (a provision of AFDC law).

Conference agreement

The conference agreement follows the Senate amendment.

OTHER CASH AID

Present law

AFDC benefits may not be paid to a recipient of old-age assistance (predecessor to Supplemental Security Income (SSI) and now available only in Puerto Rico, Guam, and the U.S. Virgin Islands), SSI, or AFDC foster care payments.

House bill

If block grant funds are used to provide payments to a recipient of old-age assistance, SSI, or payments under the Child Protection Block grant, a State may not disregard these other payments in determining a family's eligibility for and payment amount from the block grant.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

H. VARIOUS PROCEDURAL AND POLICY RULES

STATEWIDE REQUIREMENT

Present law

AFDC must be available in all political subdivisions, and, if administered by them, be mandatory upon them.

House bill

No provision.

Senate amendment

Under the State plan, a State must outline how it intends to conduct a family assistance program "designed to serve all political subdivisions in the State."

Conference agreement

The conference agreement follows the Senate amendment.

SINGLE STATE AGENCY

Present law

Single agency must administer or supervise administration of the plan.

House bill

No provision.

Senate amendment

The State's Chief Executive Officer must certify which State agency or agencies are responsible for administration and supervision of the program for the fiscal year.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that public and local agencies must have 60 days to submit comments.

STATE COST SHARING

Present law

State must share in program costs.

House bill

No provision.

Senate amendment

For the basic temporary assistance block grant, for 4 years, for "contingency" funds, and for additional child care funds (beyond those earmarked in the block grant) States must share in program costs.

Conference agreement

The conference agreement generally follows the Senate amendment, with modifications to the amount of required state cost sharing.

AID TO ALL ELIGIBLES

Present law

State must furnish aid to eligible persons with reasonable promptness and give opportunity to make application to all wishing it.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

FAIR HEARING

Present law

State must give fair hearing opportunity to person whose claim is denied or not acted upon promptly.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

ADMINISTRATIVE METHODS

Present law

State must adopt administrative methods found necessary by the Secretary.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Zero Benefit Below $10, Rounding Benefits

Present law

State cannot pay AFDC below $10 monthly and must round down to the next lower dollar both the need standard and the benefit.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Pre-Eligibility Fraud Detection

Present law

State must have measures to detect fraudulent applications for AFDC before establishment of eligibility.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Correction of Erroneous Payments

Present law

State must promptly correct overpayments and underpayments.

House Bill

No provision.

Senate amendment

Requires the Treasury Secretary, upon notification from a State that it has overpaid a former recipient of temporary cash assistance and has attempted unsuccessfully to collect the overpayment, to collect the sum from Federal tax refunds.

Conference agreement

The conference agreement follows the Senate amendment.

Appeal Procedure (for States)

Present law

Current law (sec. 1116 of the Social Security Act) entitles a State to a reconsideration, which DHHS must grant upon request, of any disallowed reimbursement claim for an item or class of items. The section also provides for administrative and judicial review, upon petition of a State, of DHHS decisions about approval of State plans. At the option of a State, any plan amendment may be treated as the submission of a new plan.

House bill

Repeals reference to Title IV–A in section 1116.

Senate amendment

Requires the Secretary to notify the Governor of a State of any adverse decision or action under Title IV–A, including any decision about the State's plan or imposition of a penalty. Provides for administrative review by a Departmental Appeals Board within DHHS and requires a Board decision within 60 days after an appeal is filed. Provides for judicial review (by a United States district court) within 90 days after a final decision by the Board. The Amendment also repeals the reference to Title IV–A in section 1116.

Conference agreement

The conference agreement follows the Senate amendment.

I. Quality Control/Audits

Present law

The Secretary must operate a quality control system to determine the amount of Federal matching funds to be disallowed, if any, because of erroneous payments. The law also prescribes penalties for payment error rates above the national average. AFDC payments to States are subject to audits conducted under the Single Audit Act [Ch. 75, Title 31, U.S.C.]

House bill

Family assistance block grants are subject to the Single Audit Act. If an audit conducted under this Act finds that a State has used block grant funds in violation of the law, its grant for the next year is to be reduced by that amount (but no quarterly payment is to be reduced by more than one-fourth).

Senate amendment

Requires a State to offset loss of Federal funds with its own, maintaining the full block grant level. Also, the penalty shall not be imposed if the State proves to the Secretary that the violation was not intentional, and if the State implements an approved corrective action plan. Each State must audit its cash block grant expenditures annually and submit a copy to the State legislature, Treasury Secretary and DHHS Secretary. The audit must be conducted by an entity that is independent from any agency administering activities under title IV–A. Further, the DHHS Secretary is to develop a quality assurance system of data collection and reporting.Also subject to the Single Audit Act.

Conference agreement

The conference agreement follows the House bill regarding audits to review States' use of funds. See also Penalties, e.g. against States misusing funds and against States failing to meet work requirements.

J. Data Collection and Reporting

Reporting Requirements

Present law

States are required to report the average monthly number of families in each JOBS activity, their types, amounts spent per family, length of JOBS participation and the number of families aided with AFDC/JOBS child care services, the kinds of child care services provided, and sliding fee schedules. States that disallow AFDC for minor mothers in their own living quarters are required to report the number living in their parent's home or in another supervised arrangement. States also must report data (including numbers aided, types of families, how long aided, payments made) for families who receive transitional Medicaid benefits. DHHS collects data about demographic characteristics and financial circumstances of AFDC families from its National Integrated Quality Control System (NIQCS) and publishes State and national information that represents average monthly amounts for a fiscal year. The NIQCS uses monthly samples of AFDC cases.

House bill

States are required, not later than 6 months after the end of each fiscal year, to transmit to the Secretary the following aggregate information on families receiving block grant benefits during the fiscal year:

(a) the number of adults receiving assistance;

(b) the number of children receiving assistance and the average age of children;

(c) the employment status and average earnings of employed adults;

(d) the number of one-parent families in which the sole parent is a widow or widower, is divorced, is separated, or is never married;

(e) the age, race, educational attainment, and employment status of parents;

(f) the average assistance provided to families;

(g) whether, at the time of application, the families or anyone in the families receive benefits from the following public programs: (1) Housing (2) Food Stamps (3) Head Start (4) Job Training;

(h) the number of months the families have been on welfare during their current spell;

(i) the total number of months for which benefits have been provided to the families;

(j) data necessary to indicate whether the State is in compliance with the State's plan;

(k) the components of any employment and training activities, and the average monthly number of adults in each component; and

(l) the number of part-time and full-time job placements made by the program, the number of cases with reduced assistance, and the number of cases closed due to employment.

Senate amendment

States are required to make quarterly reports based on sample case records providing disaggregated data for the quality assurance system, including:

(a) age of adults and children (including pregnant women) in each family;

(b) marital and familial status of each family member (including whether family includes 2 parents and whether child is living with an adult relative other than a parent);

(c) gender, educational level, work experience, and race of each family head;

(d) health status of each family member (including whether any is seriously ill, disabled, or incapacitated and is being care for by another family member);

(e) type and amount of any benefit or assistance received, including amount of and reason for any benefit reduction, and if help is ended, whether this is because of employment, sanction, or time limit;

(f) any benefit or assistance received by a family member with respect to housing, food stamps, job training, or Head Start;

(g) number of months since the family's most recent application for aid, and if application was denied, the reason;

(h) number of times a family applied for and received aid from the cash block grant program and the number of months were received in each "spell" of assistance;

(i) employment status of adults in family (including hours worked and amount earned);

(j) date on which an adult family member began to engage in work, hours worked, work activity performed, amount of child care assistance, if any;

(k) number of persons in each family receiving, and the number not receiving, assistance, and the relationship of each person to the youngest child in the family;

(l) citizenship status of each family member;

(m) housing arrangement of each family member;

(n) amount of unearned income, child support; assets and other financial factors relevant to eligibility;

(o) location in the State of each recipient family; and

(p) any other data determined by Secretary to be necessary for efficient and effective administration.

States are required to report the following aggregated monthly data about families who received temporary family assistance for each month in the calendar quarter preceding the one in which the data are submitted, families applying for assistance in the preceding quarter, and families that became ineligible for aid during that quarter: (1) number of families, (2) number of adults in each family, (3) number of children in each family, and (4) number of families whose assistance ended because of employment, sanctions, or time limits.

The Secretary shall determine appropriate subsets of the data listed above that a State is required to submit regarding applicant and no-longer eligible families.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, except that provisions that make reference to "race" are dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

Authority of States to Use Estimates

Present law

The National Integrated Quality Control System (above) uses monthly samples of AFDC cases. JOBS regulations require States to submit a sample of monthly unaggregated case record data.

House bill

States may use scientifically acceptable sampling methods to estimate the data elements required for annual reports.

Senate amendment

The Secretary shall provide States with case sampling plans and data collection procedures deemed necessary for statistically valid estimates.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, and clarifies that the Secretary may, in the case of States that use sampling methods, challenge the sampling plan as scientifically invalid.

Other State Reporting Requirements

Present law

Regulations require each State to submit quarterly estimates of the total amount (and the Federal share) of expenditures for AFDC benefits and administration.

Required quarterly reports include estimates of the Federal share of child support collections made by the State; see above for transitional child care and Medicaid reporting requirements.

House bill

The report submitted by the State each fiscal year must also include:

(1) a statement of the percentage of the funds paid to the State that are used to cover administrative costs or overhead;

(2) a statement of the total amount expended by the State during the fiscal year on programs for needy families; and

(3) the number of noncustodial parents in the State who participated in work activities as defined in the bill during the fiscal year.

Senate amendment

The report required by a State for a fiscal year must include:

(1) a statement of the total amount and percentage of Federal funds paid to the State under Title IV–A that are used for administrative costs or overhead;

(2) a statement of the total amount of State funds expended on programs for the needy;

(3) the number of noncustodial parents who participated in work activities during the fiscal year;

(4) the total amount of child support collected by the State IV-D agency on behalf of a family in the cash assistance program;

(5) the total amount spent by the State for child care under Title IV-A, with a description of the types of care, including transitional care for families who no longer receive assistance because of work and "at-risk" care for persons who otherwise might become eligible for assistance; and

(6) the total amount spent by the State for providing transitional services to a family that no longer receive assistance because of employment, along with a description of those services.

Conference agreement

The conference agreement follows the House bill and Senate amendment as follows:

(1) administrative funds—follow House bill;

(2) State spending—follow House bill;

(3) noncustodial parent—follow House bill;

(4) child support—follow House bill;

(5) child care—follow House bill; and

(6) transition services—follow Senate amendment.

K. Reports Required by DHHS Secretary

Present Law

The law requires the DHHS Secretary to report promptly to Congress the results of State reevaluations of AFDC need standards and payment standards required at least every 3 years. The Secretary is to annually compile and submit to Congress annual State reports on at-risk child care. The Family Support Act required the Secretary to submit recommendations regarding JOBS performance standards by a deadline that was extended.

House bill

The DHHS Secretary must report to Congress within 6 months on the status of automatic data processing systems in the States and on what would be required to produce a system capable of tracking participants in public programs over time and checking case records across States to determine whether some individuals are participating in public programs in more than one State. The report should include a plan for building on the current automatic data processing system to produce a system capable of performing these funcitions as well as an estimate of the time required to put the system in place and the cost of the system.

The DHHS Secretary must report to Congress within 6 months on the status of automatic data processing systems in the States and on what would be required to produce a system capable of tracking participants in public programs over time and checking case records across States to determine whether some individuals are participating in public programs in more than one State. The report should include a plan for building on the current automatic data processing system to produce a system capable of performing these functions as well as an estimate of the time required to put the system in place and the cost of the system. The DHHS Secretary must, to the extent feasible, produce and publish for each State, county, and local unit of government for which data have been compiled in the most recent census of population, and for each school district, data about the incidence of poverty. Data shall include, for each school district, the number of children age 5 to 17 inclusive, in families below the poverty level, and, for each State and county for which data have been compiled by the Census Bureau, the number of persons aged 65 or older. Data shall be published for each State, county and local unit of government in 1996 and at least every second year thereafter; and for each school district, in 1998 and at least every second year thereafter. Data may be produced by means of sampling, estimation, or any other method that the Secretary determines will produce current, comprehensive, and reliable information. If reliable data could not be otherwise produced, the Secretary is given authority to aggregate school districts. The DHHS Secretary is to consult with the Secretary of Education in producing data about school districts. If unable to produce and publish the required data, the Secretary must submit a report to the President of the Senate and the Speaker of the House not later than 90 days before the start of the following year, enumerating each government or school district excluded and giving the reason for the exclusion.

Senate amendment

The Secretary must, in cooperation with the States, study and analyze measures of program outcomes (as an alternative to minimum participation rates) for evaluating the success of State block grant programs in helping recipients leave welfare. The study must include a determination of whether outcomes measures should be applied on a State or national basis and a preliminary assessment of the job placement performance bonus established in the Act. The Secretary must report findings to the Committee on Finance and the Committee on Ways and Means not later than September 30, 1998.

The Secretary is to report by Dec. 31, 1997, to the Committee on Ways and Means and the Committee on Economic and Educational Opportunities of the House and the Committee on Finance, the Committee on Labor and Human Resources, and the Special Committee on Aging of the Senate setting forth findings of a study on the effects of welfare changes made by the Act on grandparents who are primary caregivers for their grandchildren. The study is to identify barriers to participation in public programs by grandparent caregivers, including inconsistent policies, standards, and definitions of programs providing medical aid, cash, child support enforcement, and foster care.

Not later than March 31, 1998, and each fiscal year thereafter, the Secretary shall send Congress a report describing:

(1) whether States are meeting minimum participation rates and whether they are meeting objectives of increasing employment and earnings of needy families, increasing child support collections, and decreasing out-of-wedlock pregnancies and child poverty;

(2) demographic and financial characteristics of applicant families, recipient families, and those no longer ineligible for temporary family assistance;

(3) characteristics of each State program of temporary family assistance; and

(4) trends in employment and earnings of needy families with minor children.

Conference agreement

The conference agreement follows the House bill and Senate amendment as follows:

(1) data processing—follow House bill;

(2) poverty—follow Senate amendment;

(3) alternatives—the provision in the Senate amendment was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974);

(4) grandparents—follow House bill; and

(5) State progress—follows Senate amendment with the modification that in evaluating innovative approaches to reducing welfare dependency, attention should be paid to welfare recipients who suffer from substance abuse or addiction.

L. Research, Evaluations, and National Studies

Present law

The law authorizes $5 million annually for cooperative research or demonstration projects, such as those relating to the prevention and reduction of dependency.

House bill

The Secretary may conduct research on the effects, costs, benefits, and caseloads of State programs funded under this part. The Secretary may assist the States in developing, and shall evaluate (using random assignment to experimental and control groups to the maximum extent feasible), innovative approaches to employing recipients of cash aid under this part. The Secretary may conduct studies of the welfare caseloads of States operating welfare reform programs. The Secretary shall develop innovative methods of disseminating information on research, evaluations, and studies.

Senate amendment

The Secretary may conduct research on the effects, benefits, and costs of operating different State programs of Temporary Assistance to Needy Families, including time limits for eligibility. The research shall include studies on the effects of different programs and the operation of the programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other appropriate area. The Secretary may assist States in developing, and shall evaluate innovative approaches for reducing welfare dependency and increasing the well-being of minor children, using random assignments in these evaluations "to the maximum extent feasible."

The Secretary shall develop innovative methods of disseminating information on research, evaluations, and studies, including ways to facilitate sharing of information via computers and other technologies. The Senate amendment makes a State eligible to receive funding to evaluate its family assistance program if it submits an evaluation design determined by the Secretary to be rigorous and likely to yield credible and useful information. The State must pay 10 percent of the study's cost, unless the Secretary waives this rule. For these State-initiated evaluation studies of the family assistance program (and for costs of operating and evaluating demonstration projects begun under the AFDC waiver process) the amendment authorizes to be appropriated, and appropriates, a total of $20 million annually for 5 years (FYs 1996-2000).

Conference agreement

The conference agreement follows the Senate amendment except that $15 million is appropriated annually for this purpose.

M. WAIVERS

Present law

The law authorizes DHHS Secretary to waive specified requirements of State AFDC plans in order to enable a State to carry out any experimental, pilot, or demonstration project that the Secretary judges likely to assist in promoting the program's objective. (Sec. 1115 of Social Security Act) Some 34 States have received waivers from the Clinton Administration for welfare reforms of their own.

House bill

Repeals AFDC. Also, expressly repeals authority for waiver of specified provisions of

AFDC law (Sec. 402, State plan requirements, and Sec. 403, terms of payment to States) for demonstration projects.

Senate amendment

Provides that terms of AFDC waivers in effect, or approved, as of October 1, 1995, will continue until their expiration, except that beginning with fiscal year 1996 a State operating under a waiver shall receive the block grant described under Section 403 in lieu of any other payment provided for in the waiver. The amendment gives States the option to terminate waivers before their expiration, but requires that early-ended projects be summarized. The amendment provides that a State that submits a request to end a waiver by January 1, 1996, or 90 days after adjournment of the first regular session of the State legislature that begins after the date of enactment, shall be held harmless for accrued cost neutrality liabilities incurred under the waiver.

The Secretary is directed to encourage any State now operating a waiver to continue the project and to evaluate its result or effect. The amendment allows a State to elect to continue one or more individual waivers.

Conference agreement

The conference agreement follows the Senate amendment.

N. Studies by the Census Bureau

Present law

No provision.

House bill

The Census Bureau must expand the Survey of Income and Program Participation to evaluate the impact of welfare reforms made by this title on a random national sample of recipients and, as appropriate, other low-income families. The study should focus on the impact of welfare reform on children and families, and should pay particular attention to the issues of out-of-wedlock birth, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells. Ten million dollars per year for 4 years in entitlement funds are authorized for this study.

Senate amendment

Expansion of SIPP is identical to House provision.

In addition, the Secretary of Commerce shall expand the Census Bureau's question (for the decennial census and mid-decade census) concerning households with both grandparents and their grandchildren so as to distinguish between households in which a grandparent temporarily provides a home and those where the grandparent serves as primary caregiver.

Conference agreement

The conference agreement follows the House bill regarding the expansion of SIPP to evaluate welfare programs. The provision in the Senate amendment regarding census data on grandparents as caregivers was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

O. SERVICES FROM CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS

Present law

The Child Care and Development Block Grant Act prohibits use of any financial assistance provided through any grant or contract for any sectarian purpose or activity. In general, it requires religious nondiscrimination, but it does allow a sectarian organization to require employees to adhere to its religious tenets and teachings.

House bill

No provision.

Senate amendment

Authorizes States to administer and provide family assistance services (and services under Supplemental Security Income and public housing) through contracts with charitable, religious, or private organizations. Authorizes States to pay recipients by means of certificates, vouchers, or other forms of disbursement that are redeemable with these private organizations. States that religious organizations are eligible, on the same basis as any other private organization, to provide assistance as contractors or to accept certificates and vouchers so long as their programs "are implemented consistent with" the Establishment Clause of the Constitution. Stipulates that any religious organization with a contract to provide welfare services shall retain independence from all units of government and that such a religious organization (or one that redeems welfare certificates) may require employees who render service related to the contract or certificates to adhere to the religious tenets and teaching of the organization and to its rules, if any, regarding use of drugs or alcohol. Provides that, except as otherwise allowed by law, a religious organization administering the program may not discriminate against beneficiaries on the basis of religious belief, or refusal to participate in a religious practice. Requires States to provide an alternative provider for a beneficiary who objects to the religious character of the designated organization. Provides that no funds provided directly to institutions or organizations to provide services and administer programs shall be spent for sectarian worship or instruction, but does not apply this limitation to financial assistance in the form of certificates or vouchers, if the beneficiary may choose where the aid is redeemed.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

5. TRANSFERS

A. CHILD SUPPORT PENALTIES

Present law

If a State's child support plan fails to comply substantially with Federal requirements, the Secretary is to reduce its AFDC matching funds by percentages that rise for successive violations (Sec. 403(h) of the Social Security Act).

House bill

The provision for child support review penalties—loss of Federal payments for cash assistance—now found in 403(h) of part A of the Social Security Act is retained in the block grant.

Senate amendment

No provision. However, there is a penalty assessed against States for failure to enforce penalties requested by child support agency against recipients who do not cooperate in establishing paternity.

Conference agreement

The conference agreement follows the House bill.

B. ASSISTANT SECRETARY FOR FAMILY SUPPORT

Present law

An Assistant Secretary for Family Support, appointed by the President by and with consent of the Senate, is to administer AFDC, child support enforcement, and the Jobs Opportunities and Basic Skills (JOBS) program.

House bill

The provision for an Assistant Secretary for Family Support now found in section 417 of Part A of the Social Security Act is retained in the block grant (as sec. 409), but modified to remove the reference to JOBS (which the House bill repeals).

Senate amendment

Identical provision placed in sec. 415.

Conference agreement

The conference agreement follows the House bill.

6. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

Present law

No provision.

House bill

This section makes a series of technical amendments that conform the provisions of the House bill with various titles of the Social Security Act and provide for the repeal of Part F of Title IV (the JOBS program).

Senate amendment

This section makes a series of amendments that conform provisions of the Senate amendment with various titles of the Social Security Act.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, with changes made as appropriate.

7. CONFORMING AMENDMENTS TO OTHER LAWS

Present law

No provision.

House bill

This section makes a series of technical amendments to conform provisions of the House bill to the Internal Revenue Code, the Omnibus Reconciliation Act of 1987, the Housing and Urban-Rural Recovery Act of 1983, the Tax Equity and Fiscal Responsibility Act of 1982, and the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

Senate amendment

Section 107 makes a series of amendments that conform provisions of the Senate amendment to the Food Stamp Act, the Agriculture and Consumer Protection Act, the National School Lunch Act, and the Child Nutrition Act.

Section 108 makes a series of amendments that conform provisions of the Senate amendment to the Unemployment Compensation Amendments of 1976, the Omnibus Budget Reconciliation Act of 1987, the House and Urban-Rural Recovery Act of 1983, the Tax Equity and Fiscal Responsibility Act of 1982, the Social Security Amendments of 1967, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, the Higher Education Act of 1965, the Carl D. Perkins Vocational and Applied Technology Education Act, the Elementary and Secondary Education Act of 1965, Public Law 99-88, the Internal Revenue Code of 1986, the Wagner-Peyser Act, the Job Training Partnership Act, the Low-Income Home Energy Assistance Act of 1981, the Family Support Act of 1988, the Balanced Budget and Emergency Deficit Control Act of 1985, the Immigration and Nationality Act, the Head Start Act, and the School-to-Work Opportunities Act of 1994.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, with changes made as appropriate.

8. CONTINUED APPLICATION OF CURRENT STANDARDS UNDER MEDICAID PROGRAM

Present law

States must continue Medicaid (or pay premiums for employer-provided health insurance) for 6 months to a family that loses AFDC eligibility because of hours of, or income from, work of the caretaker relative, or because of loss of the earned income disregard after 4 months of work. States must offer an additional 6 months of medical assistance, for which it may require a premium payment if the family's income after child care expenses is not above the poverty guideline. For extended medical aid, families must submit specified reports. States must continue Medicaid for 4 months to those who lose AFDC because of increased child or spousal support.

House bill

Although AFDC would be repealed, its standards would continue to be used by the Medicaid program. States would have to give Medicaid to families who would have received AFDC if it still existed as in effect on March 7, 1995. The frozen AFDC rules would govern Medicaid eligibility for both recipients and non-recipients of the new block grant funds, including those categorically ineligible for cash benefits.

Senate amendment

Same as House provision except for date at which AFDC rules would be "frozen" (June 1, 1995, rather than March 7, 1995). If an AFDC waiver (as of June 1, 1995) affects Medicaid eligibility, the State has the option to continue to apply the waiver in regard to Medicaid after the date when the waiver otherwise would end.

Conference agreement

The conference agreement follows the House bill and the Senate amendment with the clarification that States will determine Medicaid eligibility for recipients of block grant assistance (in conformity with other pending Medicaid changes).

9. EFFECTIVE DATES

Present law

No provision.

House bill

The amendments and repeals made by this title take effect on October 1, 1995. The authority to reduce assistance for certain families that include a child whose paternity is not established will begin 1 year after the effective date or, at the option of the State, 2 years after the effective date.

Amendments made by Title I (Block Grants for Temporary Assistance for Needy Families) shall not apply to powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, or services provided (under AFDC) before the effective date of the Act. Nor shall amendments of the bill apply to administrative actions and proceedings commenced or authorized before the effective date of the bill.

Senate amendment

AFDC is repealed effective October 1, 1995. Family assistance block grant provisions also take effect October 1, 1995 (except for penalties, most of which are effective October 1, 1996), but expire on September 30, 2000. A State may continue to operate its AFDC program for 9 months, until June 30, 1996. If it does so, its fiscal year 1996 cash block grant under the new program shall be reduced by the amount of Federal matching funds received for that year for AFDC expenditures.

Conference agreement

The conference agreement follows the Senate amendment.

10. MISCELLANEOUS

A. COUNTY AUTHORITY FOR DEMONSTRATION PROJECTS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the DHHS Secretary and the Agriculture Secretary jointly to enter into negotiations with all counties having a population greater than 500,000 that desire to conduct a demonstration project in which: (1) the county shall have the authority and duty to administer the operation of the family assistance program as if the county were considered a State; (2) the State shall pass through directly to the county the portion of the block grant that the State determines is attributable to the residents of the county; and (3) the project shall last 5 years.

To be eligible: (1) a county already must be administering the Title IV–A program; (2) must represent less than 25 percent of the State's total welfare caseload; and (3) the State must have more than one county with a population of greater than 500,000.

Not later than 6 months after the end of a county demonstration project, the two Secretaries shall send a report to Congress that includes a description of the project, its rules, and innovations (if any).

Conference agreement

The conference agreement follows the House bill.

B. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the Treasury Secretary, upon notification from a State that it has overpaid a former recipient of temporary cash assistance and has attempted unsuccessfully to collect the overpayment, to collect the sum from Federal tax refunds.

Conference agreement

The conference agreement follows the Senate amendment.

C. TAMPER-PROOF SOCIAL SECURITY CARD

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the Commissioner of Social Security to develop a prototype of a counterfeit-resistant social security card. The card must be made of a durable, tamper-resistant material such as plastic or polyester, employ technologies that provide security features, and be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status. The Commissioner is to report to Congress on the cost of issuing a tamper-proof card for all persons over a 3-, 5-, and 10-year period. Copies of the report, along with a facsimile of the prototype card, shall be submitted to the Committees on Ways and Means and Judiciary of the House and the Committees on Finance and Judiciary of the Senate within one year of enactment.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

D. DISCLOSURE OF RECEIPT OF FEDERAL FUNDS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires disclosure of specified public funds received by 501(c) organizations, which are non-profit and tax-exempt. When a 501(c) organization that accepts Federal funds under the Work Opportunity Act makes any communication that intends to promote public support or opposition to any governmental policy (Federal, State or local) through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public advertising, the communication must state: "This was prepared and paid for by an organization that accepts taxpayer dollars".

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

E. PROJECTS TO EXPAND JOB OPPORTUNITIES FOR CERTAIN LOW-INCOME INDIVIDUALS (JOLI)

Present law

The Family Support Act of 1988 (Sec. 505) directed the Secretary to enter into agreement with between 5 and 10 nonprofit organizations to conduct demonstrations to create job opportunities for AFDC recipients and other low-income persons. For these projects, $6.5 million was authorized to be appropriated for each fiscal year, 1990–1992.

House bill

No provision.

Senate amendment

Strikes the word "demonstration" from the description of these projects and converts them to grant status. It requires the Secretary to enter into agreements with nonprofit organizations to conduct projects to create job opportunities for recipients of family assistance and other persons with income below the poverty guideline. It authorizes appropriations of $25 million annually for these projects.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

F. DEMONSTRATION PROJECTS TO EXPAND USE OF SCHOOLS

Present law

The 21st Century Community Learning Centers Act (established by P.L. 103–382) makes available funds directly to rural or inner-city schools, or consortia of them, to act as centers for providing education and human resources services. Services allowed include: literacy education, parenting skills education, employment counseling, training and placement. The Elementary and Secondary Education Act includes a program called "Extended Time for Learning and Longer School Year," which supports local educational agencies' efforts to lengthen learning time. Grantees may engage other community members in these efforts.

House bill

No provision.

Senate amendment

The Secretary of Education is required to make grants to not more than 5 States for demonstration grants to increase the number of hours when public school facilities are available for use. Schools selected must have a significant percentage of students receiving family assistance benefits. The longer hours are intended to enable volunteers and parents or professionals paid from other sources to teach, tutor, coach, organize, advise, or monitor students. Grants are intended also to make school facilities available for clubs, civic associations, Boy and Girl Scouts and other groups. The amendment authorizes $10 million annually (FYs 1996–2000) for grants plus $1 million annually for administration by the Secretary.

Conference agreement

The conference agreement follows the House bill.

G. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS

Present law

No provision.

House bill

No provision.

Senate amendment

Not later than 90 days after enactment of this Act, the Secretary must submit to the appropriate committees of Congress a legislative proposal providing for technical and conforming amendments.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

SUBTITLE B—SUPPLEMENTAL SECURITY INCOME

CHAPTER 1—ELIGIBILITY RESTRICTIONS

1. DENIAL OF SUPPLEMENTAL SECURITY INCOME BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS

A. IN GENERAL

Present law

Individuals whose drug addiction or alcoholism is a contributing factor material to their disability are eligible to receive SSI cash benefits for up to three years if they meet SSI income and resource requirements. These recipients must have a representative payee, must participate in an approved treatment program when available and appropriate, and must allow their participation in a treatment program to be monitored. Medicaid benefits continue beyond the 3-year limit, as long as the individual remains disabled, unless the individual was expelled from SSI for failure to participate in a treatment program.

House bill

Under the House provision, an individual is not considered disabled if drug addiction or alcoholism is a contributing factor material to his or her disability. Individuals with drug addiction and/or alcoholism who cannot qualify based on another disabling condition will not be eligible for SSI benefits.

Senate amendment

Identical to House bill.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

B. REPRESENTATIVE PAYEE REQUIREMENTS

Present law

SSI law requires that the SSI payments of individuals whose drug addiction or alcoholism is a contributing factor material to their disability must be made to another individual, or an appropriate public or private organization (i.e., the individual's "representative payee") for the use and benefit of the individual or eligible spouse.

House bill

No provision.

Senate amendment

Under the Senate amendment, if a disabled person also has an alcoholism or drug addiction condition (as determined by the Commissioner of Social Security), their SSI checks must be sent to a representative payee.

Conference agreement

The conference agreement generally follows the Senate amendment with modification to require that a representative payee be appointed only in those cases in which the Commissioner determines that payment to a representative payee would serve the interest of the beneficiary because such individual also has an alcoholism or drug addiction condition that prevents such individual from managing his or her own benefits.

C. TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION

Present law

Federal law requires SSI recipients whose drug addiction or alcoholism is a contributing factor material to their disability to undergo appropriate treatment, if it is available.

House bill

No provision.

Senate amendment

The Senate amendment requires the Commissioner of Social Security to refer to the appropriate State agency administering the State plan for substance abuse services any disabled SSI recipient who is identified as having an alcoholism or drug addiction condition. Any individual who refuses to accept the referred services without good cause is no longer eligible for SSI benefits.

Conference agreement

The conference agreement follows the Senate amendment with modification to require that only those SSI disability recipients who are unable to manage their own benefits as a result of an alcoholism or drug addiction condition be referred to the State agencies administering such treatment. While additional treatment funds are being provided to States in a separate provision, it is not the intent of the conferees that States are required to provide treatment.

Although this legislation eliminates drug addiction and alcoholism as the basis for awarding disability benefits to an SSI claimant, the conferees believe it is important that SSI recipients with severe drug or alcohol abuse continue to be referred to treatment sources. While the conferees do not expect that the Commissioner will routinely inquire in all representative payee cases whether drug addiction or alcoholism causes an individual's inability to manage his or her own affairs, it is expected that whenever there is any indication that this may be the case, the Commissioner will investigate to determine whether referral is appropriate.

D. CONFORMING AMENDMENTS

E. FUNDING OF CERTAIN PROGRAMS FOR DRUG ADDICTS AND ALCOHOLICS

Present law

SSI cash benefits are limited to 3 years for recipients whose drug addiction or alcoholism is a contributing factor material to their disability. These individuals must undergo "appropriate substance abuse treatment." While the Social Security Administration currently contracts with agencies for referral, monitoring and reporting of compliance with treatment, it does not pay for treatment. Medicaid benefits are to continue beyond the 3-year limit, as long as the individual remains disabled, unless the individual was expelled from SSI for noncompliance with treatment.

House bill

For four years beginning with fiscal year 1997, $100 million of the savings realized from denying cash SSI payments and Medicaid coverage to individuals whose drug addiction or alcoholism is a contributing factor material to their disability will be targeted to drug treatment and drug abuse research. Each year, $95 million will be expended through the Federal Capacity Expansion Program (CEP) to expand drug treatment availability and $5 million will be allocated to the National Institute on Drug Abuse to be expended solely on the medication development project to improve drug abuse and drug treatment research.

Senate amendment

For two years beginning with fiscal year 1997, $50 million will be spent to fund additional drug (including alcohol) treatment programs and services through Substance Abuse Prevention and Treatment Block Grant. The conferees expect that States will use funds made available under this provision to provide treatment to current and former SSI recipients as their first priority.

Conference agreement

The conference agreement follows the Senate amendment.

F. EFFECTIVE DATE

Present law

Not applicable.

House bill

This section of the bill becomes effective on October 1, 1995, and applies with respect to months beginning on or after that date.

Senate amendment

Generally, changes apply to applicants for benefits for months beginning on or after the date of enactment. An individual receiving benefits on the date of enactment whose eligibility would end would continue to be eligible for benefits until January 1, 1997. The Commissioner of Social Security shall notify individuals losing eligibility within three months of the date of enactment.

In addition, in the case of an individual with an alcoholism or drug addiction condition who is receiving SSI benefits on the date of enactment, the representative payee requirement will apply on or after the first continuing disability review occurring after enactment. For recipients with an addiction who are over the age of 65, the Commissioner will determine appropriate representative payee requirements.

Conference agreement

The conference agreement follows the Senate amendment with modification that the referral to treatment requirement for an individual with an alcoholism or drug addiction condition receiving benefits on the date of enactment will apply on or after the first continuing disability review occurring after enactment.

Reapplication

Present law

Not applicable.

House bill

No provision.

Senate amendment

Individuals receiving SSI benefits on the date of enactment who are notified of their termination of eligibility and who desire to reapply for benefits must do so within four months after the date of enactment. The Commissioner of Social Security will determine within one year after the date of enactment the eligibility of individuals who reapply.

Conference agreement

The conference agreement generally follows the Senate amendment with technical modification.

2. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES

Refer to Title I.

3. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATIONS

Refer to Title I.

CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

1. DEFINITION AND ELIGIBILITY RULES

A. DEFINITION OF CHILDHOOD DISABILITY

Comparable Severity Repealed

Present law

A needy individual under age 18 is determined eligible for SSI "if he suffers from any medically determinable physical or mental impairment of comparable severity" with that of an adult considered work disabled and otherwise eligible for SSI benefits.

House bill

The "comparable severity" test in statute for determining disability of children (defined as individuals under 18) is repealed.

Senate amendment

Similar to the House bill.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

DISABILITY DEFINITION

Present law

There is no definition of childhood disability in the statute. Under current disability evaluation procedures, to be found disabled, a child must have a medically determinable physical or mental impairment that substantially reduces his or her ability to independently and effectively engage in age-appropriate activities. This impairment must be expected to result in death or to last for a continuous period of not less than 12 months.

House bill

Eligibility, as determined by the Commissioner of Social Security, for cash benefits or new medical or non-medical services described below will be based solely on: (1) meeting the non-disability-related requirement for eligibility; (2) meeting or equalling the current Listing of Impairments set forth in the Code of Federal Regulations (i.e., the Listing which is currently in regulations is to be codified in statute); and (3) being a disabled SSI recipient in the month prior to this provision's effective date or being in a hospital, skilled nursing facility, residential treatment facility, intermediate care facility for the mentally retarded, or otherwise would be placed in such a facility if the child were not receiving personal assistance necessitated by the impairment. Personal assistance refers to assistance with activities of daily living such as eating and toileting.

Senate amendment

Adds a new statutory definition of childhood disability. An individual under the age of 18 is considered disabled for the purposes of this section if the individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

Conference agreement

The conference agreement follows the Senate amendment with technical modification and provides that the Commissioner of Social Security shall submit for review to the committees of jurisdiction in the Congress any final regulation with supporting documentation pertaining to the eligibility of individuals under age 18 for SSI benefits at least 45 days before the effective date of such regulation.

By this definition, the conferees intend that only needy children with severe disabilities be eligible for children's SSI and that the Listing and other disability determination regulations as modified by the conference agreement properly reflect the severity of disability contemplated by the statutory definition. In those areas of the Listing that involve domains of functioning, the conferees expect no less than two marked limitations in no fewer than two domains or extreme limitations in at least one domain as the standard for qualification. The conferees are also aware that the Social Security Administration uses the term "severe" to often mean "other than minor" in an initial screening procedure for disability determination and in other places. The conferees, however, use the term "severe" in its common sense meaning.

The conferees do not intend to suggest by this definition of childhood disability that every child need be especially evaluated for functional limitations, or that this definition creates a supposition for any such examination. Under current procedures for writing individual listings, level of functioning is an explicit consideration in deciding which impairment, with what medical or other findings, are of sufficient severity to be included in the Listing. Nonetheless, the conferees do not intend to limit the use of functional assessments and functional information, if reflecting sufficient severity and are otherwise appropriate.

B. CHANGES TO CHILDHOOD SSI REGULATIONS

Reliance on "Listing of Impairments"

Present law

Under the disability determination process for children, individuals whose impairments do not meet or equal the "Listing of Impairments" in Federal regulations are subject to an "Individualized Functional Assessment (IFA)". This assessment examines whether the child can engage in age-appropriate activities effectively. If the child cannot, he or she is determined disabled.

House bill

The Commissioner of Social Security must annually report to Congress on the Listings and recommend any needed revisions. Individualized functional assessments are no longer grounds for determination of disability.

Senate amendment

The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in the Code of Federal Regulations.

Conference agreement

The conference agreement follows the Senate amendment. The conferees agree that a significant amount of the growth of the children's SSI program resulted from regulations issued in 1991 by the Social Security Administration establishing the individualized functional assessment which liberalized program eligibility criteria beyond Congressional intent. Children with modest conditions or impairments were made eligible for SSI due to the individualized functional assessment, and therefore should not be eligible for SSI benefits.

MULTIPLE REFERENCES TO "MALADAPTIVE BEHAVIOR" ELIMINATED

Present law

Under the disability determination process for children, the Social Security Administration first determines if a child meets or equals the Listings of Impairments. Under the Listings that relate to mental disorders, maladaptive behavior may be scored twice, in domains of social functioning and of personal/behavior functioning.

House bill

No provision.

Senate amendment

Requires the Commissioner of Social Security to eliminate references in the Listing to maladaptive behavior among medical criteria for evaluation of mental and emotional disorders in the domain of personal/behavioral function.

Conference agreement

The conference agreement follows the Senate amendment.

C. AMOUNT OF BENEFITS

Present law

A child who is determined to be disabled and who is eligible on the basis of his income and resources shall be paid benefits. If the child lives at home, the parents' financial resources are deemed available to the child. If the same child is institutionalized, after the first month away from home only the child's own financial resources are deemed to be available for the child's care. The child may then qualify for a reduced ("personal needs allowance") SSI benefit and for Medicaid coverage. Because of these "deeming" rules, some children who could have been cared for at home might remain in institutions because, if they were to return home, they would lose Medicaid benefits. Medicaid "waivers" allow States to disregard the deeming rule, provide Medicaid coverage, and pay for support services to help families keep children at home.

House bill

Children may be eligible for cash SSI payments in one of three circumstances:

(1) if a child who is currently (defined as during the month prior to the first month for which this provision takes effect) receiving cash SSI payments by reason of disability will continue to be eligible for cash SSI benefits if the child has an impairment that meets or equals an impairment specified in the Listing of Impairments. Children receiving cash benefits under the grandfather provision whose financial eligibility is suspended would continue to receive cash benefits if financial eligibility is restored;

(2) for all other children, a child may only receive cash SSI payments if the child has an impairment which meets or equals an impairment specified in the Listings of Impairments cited above, and is either in a hospital, skilled nursing facility, residential treatment facility, intermediate care facility for the mentally retarded, or otherwise would be placed in such a facility if the child

were not receiving personal assistance necessitated by the impairment. Personal assistance refers to assistance with activities of daily living such as eating and toileting; and

(3) if a child who is overseas as a dependent of a member of the U.S. Armed Forces and who is eligible for block grant services but not eligible for cash benefits under the new criteria shall be eligible for cash benefits. Cash benefits cease when the child returns to the United States.

Senate amendment

No provision.

Conference agreement

The conference agreement follows a modified version of the House bill. Once an eligible child is determined to meet the definition of disability, the amount of the individual's cash benefit will be based on whether the child meets the newly developed criteria for needing personal assistance enabling the child to remain with their family at home. This criteria is as follows:

For a child under age 6—such individual has a medical impairment that severely limits the individual's ability to function in a manner appropriate to individuals of the same age and who without special personal assistance would require specialized care outside the individual's home; or

For a child age 6 or over—such individual requires personal care assistance with: (a) at least two activities of daily living, (b) continual 24-hour supervision or monitoring to avoid causing injury or harm to self or others, or (c) the administration of medical treatment; and who without such assistance would require full-time or part-time specialized care outside the individual's home.

The conferees have provided a different definition of the eligibility for children under age 6 and over age 6 because of the differing expectations of age appropriate behavior for children above and below this age. As described below, the conferees have requested the Commissioner of Social Security to undertake a study on ways to improve these definitions and the disability determination process.

Children with disabilities meeting this criteria will receive 100 percent of the benefit amount provided by current law. Disabled children who do not meet this criteria will receive seventy-five percent of the benefit amount provided by current law. The conferees note that the SSI benefit under either tier is very generous. In 1995, the average SSI benefit for a child recipient is $5,040. Seventy-five percent of that benefit would be $3,780. Both the maximum children's SSI benefit or seventy-five percent of the maximum benefit is greater than the maximum 1995 AFDC benefit for a family of three in many States.

The conferees acknowledge that many families of disabled children incur expenses beyond those by families of nondisabled children. However, the conferees agree that the extra expenses related to a child's disability vary widely depending on the nature and degree of disability and the availability of Federal, State, and local health care and/or disability programs. In order to reduce the inequity of the current system which provides one benefit level to all families without regard to additional disability-related financial needs, the conferees agree to establish a two-tiered benefit system. The higher tier is intended for families of children with the most severe disabilities who require full or part-time personal assistance which would prevent a parent from working full-time or which would require the presence of a personal assistance provider.

The conferees also believe that Congress should investigate whether the unmet needs of families of disabled children could be better and more efficiently met through services, such as mental health treatment or purchase of items of assistive technology, rather than cash payments. In the 23 years since the SSI program was created, substantial new Federal programs have been authorized to assist children with disabilities, including Federal, State and local funding of special education and expansion of Medicaid. The impact of these programs on cash needs of children with disabilities merits further investigation by Congress. In order to have better data on the cost incurred by a family with a disabled child, the conferees request that the General Accounting Office undertake a study of the extra expenses incurred by such families with a child receiving SSI benefits, including what expenses are covered by other benefits such children receive through Federal, State, and local programs, and the lost income to families because of care they provide their child.

Lastly, the conferees remain concerned about the adequacy of the Listing of Impairments. The conferees strongly urge the Social Security Administration to contract with the National Academy of Sciences, or another independent entity, to conduct a study aimed at improving both the process of disability determination and the validity of the Listing of Impairments in light of current scientific knowledge.

D. EFFECTIVE DATE

Present law

Not applicable.

House bill

Changes apply to benefits for months beginning ninety or more days after enactment, without regard to whether regulations have been issued. Recipients of SSI cash benefits during the month of enactment who would lose eligibility under the House bill may continue to receive SSI benefits for up to 6 months.

Senate amendment

The Senate amendment changes apply to applicants for months beginning on or after the date of enactment, without regard to whether regulations have been issued. However, the Commissioner must issue necessary regulations within two months of enactment. For child SSI recipients who were eligible for SSI on the date of enactment but who would lose eligibility under the Senate amendment, the changes would not take effect until January 1, 1997. The Commissioner is to redetermine the eligibility of these persons within one year of enactment.

Conference agreement

The conference agreement follows the Senate amendment with modification that the effective date for the two-tiered benefit system is January 1, 1997, for current recipients and new applications. The conferees agreed to require the Commissioner to report to Congress within 180 days regarding the progress made in implementing the SSI children's provisions, however this provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

NOTICE

Present law

Not applicable.

House bill

Not later than one month after the date of enactment, the Commissioner must notify individuals whose eligibility for SSI benefits will terminate.

Senate amendment

Within three months of enactment, the Commissioner must notify individuals whose eligibility for SSI benefits will terminate.

Conference agreement

The conference agreement follows the Senate amendment.

NEW PROVISION FOR ADMINISTRATIVE FUNDS FOR THE SOCIAL SECURITY ADMINISTRATION

Present law

Not applicable.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conferees recognize that implementation of the SSI provisions by the Social Security Administration is a big job and have provided $300 million to assist the agency meeting their obligations. The conferees are very mindful of the problems encountered by the Social Security Administration in the early 1980s in conducting a large number of redeterminations and continuing disability reviews, and strongly urge the Commissioner to conduct the redeterminations and continuing disability reviews required in this bill in an orderly and careful manner.

BLOCK GRANTS TO STATES FOR CHILDREN WITH DISABILITIES

ENTITLEMENT TO GRANTS

Present law

Not applicable.

House bill

Each State that meets the requirements listed below for fiscal year 1997 or later years shall be entitled to receive a grant equal to the State's allotment for that fiscal year. The Commissioner of Social Security will make block grants to States for the purpose of providing specified medical and non-medical benefits for children who have an impairment which meets or equals an impairment specified in the Listing of Impairments. Grants are an entitlement to eligible States on behalf of qualifying children, not an entitlement to any such child.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

REQUIREMENTS

Present law

Not applicable.

House bill

Each State must establish a program to provide block grant services. The State will submit to the Commissioner an application for the grant. In the application, the State agrees it must spend grant funds to provide authorized services designed to meet the unique needs of qualifying children. The application must also contain information, agreements, and assurances required by the Commissioner. In providing authorized services, States will make every reasonable effort to obtain payment for the services from other Federal or State programs that provide such services. States will expend the grant only to the extent that payments from other programs are not available.

In order to receive a block grant under this section, the State must agree to maintain non-Federal spending for any purposes designed to meet the needs of qualifying children with physical or mental impairments.

States have discretion to select the purposes for which the State expends non-Federal amounts, within the purposes of providing for the needs of qualifying children. The Consumer Price Index will be used to adjust for inflation in judging whether the State meets the maintenance of effort requirements in future years.

No child who has an impairment which meets or equals an impairment specified in the Listing of Impairments will be denied the opportunity to apply for services and to have his or her case assessed to determine the child's service needs.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

AUTHORITY OF STATE

Present law

Not applicable.

House bill

The following decisions are in the discretion of a State:

(1) which authorized services to provide;

(2) who among qualifying children receives services; and

(3) the number of services provided a qualifying child and their duration.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

AUTHORIZED SERVICES

Present law

Not applicable.

House bill

The Commissioner shall issue regulations designating the purposes for which grants may be spent by States. The Commissioner must ensure that services on the list are designed to meet the unique needs of qualifying children that arise from their physical and mental impairments, that both medical and non-medical services are included, and that cash assistance is not available through the block grant.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

GENERAL PROVISIONS

Present law

Not applicable.

House bill

Necessary regulations are to be issued, but payments under the block grant must begin not later than January 1, 1997, regardless of whether final rules have been issued.

The value of the authorized services provided through the block grant cannot be taken into account in determining eligibility for, or the amount of, benefits or services under any Federal or Federally-assisted program. For the purposes of Medicaid, each qualifying child shall be considered to be a recipient of Supplemental Security Income benefits under this title.

States are encouraged to use an existing delivery system to administer block grant services.

States that do not participate in offering block grant services are not permitted to use social security numbers in the administration of any tax, public assistance, driver's license or motor vehicle registration law. (Because of the extreme duress this would impose on States, this is regarded as effectively a "requirement.")

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

DEFINITIONS

Present law

Not applicable.

House bill

A State's "Allotment" of block grant funds equals the product of 75 percent of the average cash SSI benefit in the State and the number of children in the State receiving non-cash SSI benefits under this section.

"Authorized Service" means each service authorized by the Commissioner.

A "Qualifying Child" means an individual under 18 years of age who is eligible for cash benefits under this title by reason of disability; or an individual under 18 years of age who is eligible for SSI non-cash benefits as described above. The Commissioner will determine whether individuals meet the criteria to be eligible for block grant services.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

EFFECTIVE DATE

Present law

Not applicable.

House bill

Block grants are available to eligible States beginning in fiscal year 1997.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

2. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS

A. CONTINUING DISABILITY REVIEWS FOR CERTAIN CHILDREN

Present law

Federal law requires that SSI recipients be subject to a Continuing Disability Review (CDR) at least once every 3 years, except for recipients whose impairments are judged to be permanent. The Commissioner is required to conduct periodic CDRs of at least 100,000 disabled SSI recipients per year for a period of 3 years (i.e., fiscal year 1996–1998) and report to Congress on CDRs for disabled SSI recipients no later than October 1, 1998.

House bill

In addition to the provisions of current law, at least once every 3 years the Commissioner must conduct CDRs for SSI benefits of children receiving benefits. For children who are eligible for benefits and whose medical condition is not expected to improve, the requirement to perform such reviews does not apply.

Senate amendment

Same as the House bill, with minor differences in wording. At the time of review the parent or guardian must present evidence demonstrating that the recipient is and has been receiving appropriate treatment for his or her disability.

Conference agreement

The conference agreement generally follows the Senate amendment with modification requiring evidence of needed treatment for continued representative payee status.

B. DISABILITY REVIEW REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE

Present law

Current law also specifies that the Commissioner must reevaluate under adult disability criteria the eligibility of at least one-third of SSI children who turn age 18 in each of the fiscal years 1996, 1997, and 1998 (the CDR must be completed before these children reach age 19) and report to Congress no later than October 1, 1998, on CDRs for disabled children.

House bill

The eligibility for all children qualifying for SSI benefits must be redetermined using the adult criteria within one year after turning 18 years of age. The review will be considered a substitute for any other review required under the changes made in this section.

Not later than October 1, 1998, the Commissioner of Social Security must submit to the House Committee on Ways and Means and the Senate Committee on Finance a report on disability reviews for children enrolled in SSI.

The "minimum number of reviews" and the "sunset" provisions of section 207 of the Social Security Independence and Program Improvements Act of 1994 are eliminated.

Senate amendment

Same as the House bill with differences in wording. Like the House bill, the Senate amendment repeals section 207 of the Social Security Independence and Program Improvements Act of 1994.

Conference agreement

The conference agreement generally follows the House bill with modification that the Commissioner does not have to submit a report to Congress on disability reviews for SSI children.

C. DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES WHO HAVE RECEIVED SSI BENEFITS FOR 12 MONTHS

Present law

Not applicable.

House bill

A review for continuing disability must be performed for all children qualifying for SSI due to low birth weight when the child has received benefits for 12 months.

Senate amendment

A review must be conducted 12 months after the birth of a child whose low birth weight is a contributing factor to the child's disability. At the time of review, the parent or guardian must present evidence demonstrating that the recipient is and has been receiving appropriate treatment for his or her disability.

Conference agreement

The conference agreement follows the Senate amendment with modification requiring evidence of needed treatment for continued representative payee status.

D. EFFECTIVE DATE

Present law

Not applicable.

House bill

This section applies to benefits for months beginning ninety or more days after enactment, regardless of whether regulations have been issued.

Senate amendment

Applies to benefits for months beginning on or after the date of enactment, regardless of whether regulations have been issued.

Conference agreement

The conference agreement follows the Senate amendment.

3. ADDITIONAL ACCOUNTABILITY REQUIREMENTS

A. Disposal of Assets

Present law

No provision. There is a transfer of assets provision in Medicaid law that is similar to H.R. 4 provision (Sec. 1917(c) of the Social Security Act).

House bill

The House bill delays eligibility for any child applicant whose parents or guardians, in order to qualify a child for benefits, dispose of assets for less than fair market value within 36 months of the date of application. The provision stipulates that any assets in a trust in which the child (i.e., parent or representative payee) has control shall be considered assets of the child and subject to the 36-month "look-back" rule. The delay (in months) is equal to the amount of assets divided by the SSI standard benefit.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with technical modifications.

Requirement to Establish Account

Present law

Not applicable.

House bill

No provision.

Senate amendment

At the request of the representative payee (i.e., the parent), the Commissioner of Social Security may pay any lump sum payment for the benefit of a child into a dedicated savings account for the purpose of covering the costs of needs related to the child's disability and/or increasing the child's independence. The dedicated savings account could only be used to purchase education and job skills training, special equipment or housing modifications related to the child's disability, and appropriate therapy and rehabilitation. The funds in these accounts would not be counted as resources in determining SSI eligibility. This provision would take effect upon enactment.

Conference agreement

The conference agreement generally follows the Senate amendment with modification requiring the dedicated savings account (instead of it being optional at the request of the representative payee), expanding the list of allowable expenses, and requiring the Commissioner to establish a system for accountability monitoring.

CONFORMING AMENDMENTS

Present law

Not applicable.

House bill

The House bill makes a number of conforming amendments, reflecting the addition of non-cash SSI benefits as described above.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate Amendment (i.e., no provision).

IMPROVEMENTS TO DISABILITY EVALUATIONS FOR CHILDREN

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Senate amendment directs the Commissioner of Social Security, within sixty days of enactment, to issue a request for comments in the Federal Register regarding improvements in the disability evaluation and determination procedures for children under age 18. The Commissioner must review the comments and issue regulations implementing changes within 18 months after enactment.

Conference agreement

The conference agreement follows the House bill (i.e., no provision).

TEMPORARY ELIGIBILITY FOR CASH BENEFITS FOR POOR DISABLED CHILDREN RESIDING IN STATES APPLYING ALTERNATIVE INCOME ELIGIBILITY STANDARDS UNDER MEDICAID

Present law

States generally are required to provide Medicaid coverage for recipients of SSI. However, States may use more restrictive eligibility standards for Medicaid than those for SSI if they were using those standards on January 1, 1972 (before implementation of SSI). States that have chosen to apply at least one more restrictive standard are known as "section 209(b)" States, after the section of the Social Security Amendments of 1972 (P.L. 92–603) that established the option. These States may vary in their definition of disability, or in their standards related to income or resources. There are 12 section 209(b) States: Connecticut, Hawaii, Illinois, Indiana, Minnesota, Missouri, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, and Virginia.

House bill

The House bill provides for temporary eligibility for cash SSI benefits (through the end of fiscal year 1996) for children who live in States that apply alternative income eligibility standards under Medicaid (also known as "209(b)" States).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

4. REDUCTION OF CASH BENEFITS PAYABLE TO INSTITUTIONALIZED CHILDREN WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE

Present law

Federal law stipulates that when an individual enters a hospital or other medical institution in which more than half of the bill is paid by the Medicaid program, his or her monthly SSI benefit standard is reduced to $30 per month. This personal needs allowance is intended to pay for small personal expenses, with the cost of maintenance and medical care provided by the Medicaid program.

House bill

Cash SSI payments to institutionalized children would be reduced for those whose medical costs are covered by private insurance.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

ADDITIONAL ACCOUNTABILITY REQUIREMENTS FOR PARENTS OR GUARDIANS

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Senate amendment requires a disabled child's representative payee (usually the parent) to document expenditures. These expenditures would be subject to increased review by the Social Security Administration. Effective for benefits paid after enactment.

Conference agreement

The conference agreement follows the House bill (i.e., no provision).

5. REGULATIONS

Present law

Not applicable.

House bill

The Commissioner of Social Security and the Secretary of HHS will prescribe necessary regulations within three months after enactment of this Act.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

EXAMINATION OF MENTAL LISTINGS USED TO DETERMINE ELIGIBILITY OF CHILDREN FOR SSI BENEFITS BY REASON OF DISABILITY

Present law

Section 202 of the Social Security Independence and Program Improvements Act of 1994 established a Childhood Disability Commission to study the desirability and methods of increasing the extent to which benefits are used in the effort to assist disabled children in achieving independence and engaging in substantial gainful activity. The Commission was also charged with examining the effects of the SSI program on disabled children and their families.

House bill

The Childhood Disability Commission must review the mental listings used by the Social Security Administration to determine child SSI eligibility. The Commission should conduct this investigation to ensure that the criteria in these listings are appropriate and that SSI eligibility is limited to children with serious disabilities for whom Federal assistance is necessary to improve the child's condition or quality of life.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision) due to the Childhood Disability Commission having completed their final report.

LIMITATION ON PAYMENTS TO PUERTO RICO, THE U.S. VIRGIN ISLANDS AND GUAM UNDER PROGRAMS OF AID TO THE AGED, BLIND, OR DISABLED

Refer to Title I.

REPEAL OF MAINTENANCE OF EFFORT REQUIREMENT APPLICABLE TO OPTIONAL STATE PROGRAMS FOR SUPPLEMENTATION OF SSI BENEFITS

Present law

Since the beginning of the SSI program, States have had the option to supplement (with State funds) the Federal SSI payment. The purpose of section 1618 was to encourage States to pass along to SSI recipients the amount of any Federal SSI benefit increase. Under section 1618, a State that is found to be not in compliance with the "pass along/maintenance of effort provision" is subject to loss of its Medicaid reimbursements. Section 1618 allows States to comply with the "pass along/ maintenance of effort" provision by either maintaining their State supplementary payment levels at or above 1983 levels or by maintaining total annual expenditures for supplementary payments (including any Federal cost-of-living adjustment) at a level at least equal to the prior 12-month period, provided the State was in compliance for that period. In effect, section 1618 requires that once a State elects to provide supplementary payments it must continue to do so. [Sec. 1618 of the Social Security Act]

House bill

The House bill repeals the maintenance of effort requirements (Sec. 1618) applicable to optional State programs for supplementation of SSI benefits effective date of enactment.

Senate amendment

Similar to the House bill.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

LIMITED ELIGIBILITY OF NONCITIZENS FOR SSI BENEFITS

Refer to Title IV.

ANNUAL REPORT ON SSI

Present law

To date, the Department of Health and Human Services and now the Social Security Administration have collected, compiled, and published annual and monthly SSI data, but Federal law does not require an annual report on the SSI program.

House bill

No provision.

Senate amendment

The Senate amendment requires the Commissioner of Social Security to prepare and provide to the President and the Congress an annual report on the SSI program, which includes specified information and data. The report is due May 30 of each year.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

STUDY OF DISABILITY DETERMINATION PROCESS

Present law

Not applicable.

House bill

No provision.

Senate amendment

Within 90 days of enactment, the Commissioner must contract with the National Academy of Sciences or another independent entity to conduct a comprehensive study of the disability determination process for SSI and SSDI. The study must examine the validity, reliability and consistency with current scientific standards of the Listings of Impairments cited above.

The study must also examine the appropriateness of the definitions of disability (and possible alternatives) used in connection with SSI and SSDI; and the operation of the disability determination process, including the appropriate method of performing comprehensive assessments of individuals under age 18 with physical or mental impairments.

The Commissioner must issue interim and final reports of the findings and recommendations of the study within 18 months and 24 months, respectively, from the date of contract for the study.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

GENERAL ACCOUNTING OFFICE STUDY

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Senate amendment requires the General Accounting Office to study and report on the impact of title II of the Senate amendment on the SSI program by January 1, 1998.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

NATIONAL COMMISSION ON THE FUTURE OF DISABILITY

A. ESTABLISHMENT

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission is established and expenses are to be paid from funds appropriated to the Social Security Administration.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

B. DUTIES

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission must study all matters related to the nature, purpose and adequacy of all Federal programs for the disabled, and especially SSI and SSDI.

The Commission must examine: projected growth in the number of individuals with disabilities and the implications for program planning; possible performance standards for disability programs; the adequacy of Federal rehabilitation research and training; and the adequacy of policy research available to the Federal government and possible improvements.

The Commission must submit to the President and the proper Congressional committees recommendations and possible legislative proposals effecting needed program changes.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

C. MEMBERSHIP

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission is to be composed of 15 members, appointed by the President and Congressional leadership. Members are to be chosen based on their education, training or experience, with consideration for representing the diversity of individuals with disabilities in the U.S.

The Comptroller General must serve as an ex officio member of the Commission to advise on the methodology of the study. With the exception of the Comptroller General, no officer or employee of any government may serve on the Commission.

Members are to be appointed not later than 60 days after enactment. Members serve for the life of the Commission, which will be headquartered in D.C. and meet at least quarterly.

The Senate amendment includes a number of specific requirements on the Commission regarding quorums, the naming of chairpersons, member replacement, and benefits.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

D. STAFF AND SUPPORT SERVICES

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission will have a director, appointed by the Chair, and appropriate staff, resources, and facilities.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

E. POWERS

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission may conduct public hearings and obtain information from Federal agencies necessary to perform its duties.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

F. REPORTS

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission must issue an interim report to Congress and the President not later than 1 year prior to terminating. A final public report must be submitted prior to termination.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

G. TERMINATION

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission will terminate 2 years after first having met and named a chair and vice chair.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

CHAPTER 6—RETIREMENT AGE ELIGIBILITY

13. ELIGIBILITY FOR SSI BENEFITS BASED ON SOCIAL SECURITY RETIREMENT AGE

Present law

The SSI program guarantees a minimum level of cash income to all aged, blind, or disabled persons with limited resources. The SSI program defines "aged" as persons age 65 and older.

House bill

No provision.

Senate amendment

The Senate amendment deletes references to age 65 and instead defines as "aged" those persons who reach "retirement age" as defined by the Social Security program. The Social Security "retirement age"—the age at which retired workers receive benefits that are not reduced for "early retirement"—gradually will rise from 65 to 67. It will do so in two steps. First, the retirement age will increase by 2 months for each year that a person was born after 1937, until it reaches age 66 for those born in 1943 (i.e., those who attain age 66 in 2009). Second, it will again increase by 2 months for each year that a person was born after 1954 until it reaches age 67 for those born after 1959.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

SUBTITLE C—CHILD SUPPORT ENFORCEMENT

CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

1. REFERENCES

Present law

No provision.

House bill

Any reference in this title expressed in terms of an amendment to or repeal of a section or other provision is made to the Social Security Act.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES

Present law

States are required to establish paternity for children born out of wedlock if they are recipients of AFDC or Medicaid, and to obtain child and spousal support payments from noncustodial parents of children receiving AFDC, Medicaid benefits, or foster care maintenance payments. States must provide child support collection or paternity determination services to persons not otherwise eligible if the person applies for services. Federal law requires States to cooperate with other States in establishing paternity (if necessary), locating absent parents, collecting child support payments, and carrying out other child support enforcement functions.

House bill

States must provide services, including paternity establishment and establishment, modification, or enforcement of support obligations, for children receiving benefits under part A (Temporary Assistance for Needy Families block grant-TANF), part B (child protection block grant), Medicaid, and any child of an individual who applies for services. States must enforce support obligations with respect to children in their caseload and the custodial parents of such children. States must also make child support enforcement services available to nonresidents on the same terms as to residents. The provision also makes minor technical amendments to SSA section 454.

Senate amendment

Similar to House provision with one exception: instead of reference to part B as in House bill, reference is to part E-foster care and adoption assistance.

Conference agreement

The conference agreement follows the House bill and Senate amendment except the House recedes by agreeing States be required to provide child support services only to children actually receiving foster care payments.

3. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS

A. DISTRIBUTION OF COLLECTED SUPPORT

Present law

To receive AFDC benefits, a custodial parent must assign to the State her right to collect child support payments. This assignment covers current support and any arrearages, and lasts as long as the family receives AFDC. Federal law requires that child support collections be distributed as follows: First, up to the first $50 in current support is paid to the AFDC family (a "disregard" that does not affect the family's AFDC benefit or eligibility status). Second, the Federal and State governments are reimbursed for the AFDC benefit paid to the family in that month. Third, if there is money left, the family receives it up to the amount of the current month's child support obligation. Fourth, if there is still money left, the State keeps it to reimburse itself for any arrearages owed to it under the AFDC assignment (with appropriate reimbursement of the Federal share of the collection to the Federal government). If no arrearages are owed the State, the money is used to pay arrearages to the family; such moneys are considered income under the AFDC program and would reduce the family's AFDC benefit.

House bill

To receive funds from the Temporary Assistance for Needy Families (TANF) block grant, a custodial parents must assign to the State their right to child support payments. (p. 39) The bill ends the $50 child support disregard to (TANF) families. Families receiving cash assistance—States are given the option of passing the entire child support payment through to families. If States elect this option, they must pay the Federal share of the collection to the Federal government. Families that formerly received cash assistance—Current child support payments go to the family. Payments on arrearages that accrued before or after the custodial parent received cash assistance are paid to the family first if the family leaves welfare. Only after all arrearages owed to the custodial parent and children have been repaid are arrearages owed to the State and Federal government repaid. Payments on arrearages that accrued while the family received assistance must be retained by the State. The State is required to keep the State share of the collected amount, and pay to the Federal government the Federal share of the amount collected (to the extent necessary to reimburse amounts paid to the family as cash assistance). As a general rule, States must pay to the Federal government the Federal share of child support collections for parents on the Temporary Family Assistance program. This share is calculated using the State's Medicaid match rate in effect in 1995 or in subsequent years, whichever is greater. Families that never received cash assistance—All child support payments go directly to the family.

Senate amendment

Any rights to child support that were assigned to the State before the effective date of the amendment are to remain so assigned. Gives States the option of requiring TANF applicants and recipients to assign to the State their rights to child support payments. The amendment eliminates references (in both the TANF block grant title of the amendment and the CSE title) to the $50 child support disregard, but does not explicitly eliminate the $50 child support disregard—Families receiving cash assistance—States are given the option of passing the entire child support payment through to families. If States elect this option, they must pay the Federal share of the collection to the Federal government. Families that formerly received cash assistance—Current child support payments go to the family. Payments on arrearages that accrued after the custodial parent left welfare are paid to the family. With respect to payments on arrearages that accrued before or while the family received assistance, the State may retain all or part of the State share, and if the State does so, it must retain and pay to the Federal Government the Federal share (to the extent the amount retained does not exceed the cash assistance paid to the family). The Federal share is calculated using the State's Medicaid match rate in effect in 1995 or in subsequent years, whichever is greater. Families that never received cash assistance—All child support payments go directly to the family. In addition, in the case of a family receiving cash assistance from an Indian tribe, the child support collection is to be distributed according to the agreement specified in the State plan.

Conference agreement

The conference agreement modifies the House bill and Senate amendment as follows: (1) the $50 passthrough is ended; (2) beginning October 1, 1997, arrearages that accumulate during the period after the family leaves welfare and that are paid through the tax intercept are paid to the State; payments made by any other method are paid to the family; and (3) beginning October 1, 2000, arrearages that accumulated during the period before the mother went on welfare and that are paid through the tax intercept are paid to the State; arrearage payments made by any other method are paid to the family. Conferees also agree that if the amount of pre-welfare arrearages paid to the family exceeds the amount saved by a given State by ending the $50 passthrough and by other methods of improving collections contained in this legislation, the Federal government will pay that State an amount equal to the difference between pre-welfare arrearage payments to the family and State savings caused by this legislation. Finally, child support assignment rules are modified to conform to the changes described above in distribution rules.

B. CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE

Present law

Federal law requires States to continue providing child support enforcement services to AFDC, Medicaid, and foster care families who no longer qualify for AFDC benefits on the same basis as in the case of those who receive benefits or services, except that no application or request for services is required.

House bill

When families leave the TANF program, States are required to continue providing child support enforcement services to them subject to the same conditions and on the same basis as in the case of individuals who receive assistance.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

C. EFFECTIVE DATE

Present law

No provision.

House bill

The effective date for provisions relating to distribution of support collected for families who formerly received cash assistance is October 1, 1995. For all others it is October 1, 1999.

Senate amendment

The effective date for distribution of support collected for families receiving cash assistance is October 1, 1999. The effective date for the clerical amendments and provisions relating to the distribution of child support collected for families who formerly received cash assistance or who never received cash assistance is October 1, 1995.

Conference agreement

The effective date for ending the $50 pass-through is October 1, 1996 or sooner at State option. The effective date for implementing the new distribution rules applying to post-welfare arrearages is October 1, 1997; for pre-welfare arrearages, the effective date is October 1, 2000.

4. PRIVACY SAFEGUARDS

Present law

Federal law limits the use or disclosure of information concerning recipients of Child Support Enforcement Services to purposes connected with administering specified Federal welfare programs.

House bill

States must implement safeguards against unauthorized use or disclosure of information related to proceedings or actions to establish paternity or to enforce child support. These safeguards must include prohibitions on release of information where there is a protective order or where the State has reason to believe a party is at risk of physical or emotional harm from the other party. This provision is effective October 1, 1997.

Senate amendment

Identical provision.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

5. RIGHTS TO NOTIFICATION AND HEARING

Present law

Most States have procedural due process requirements with respect to wage withholding. Federal law requires States to carry out withholding in full compliance with all procedural due process requirements of the State.

House bill

No provision.

Senate amendment

Parties to child support cases under Title IV–D must receive notice of proceedings in which child support is established or modified and must receive a copy of orders establishing or modifying child support within 14 days of issuance. Individuals served by the child support program must also have access to a fair hearing or other complaint procedures. These rules and procedures become effective on October 1, 1997.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

CHAPTER 2—LOCATE AND CASE TRACKING

6. STATE CASE REGISTRY

A. CONTENTS

Present law

No provision.

House bill

The automated State Case Registry must contain a record on each case in which services are being provided by the State agency, as well as each support order established or modified in the State on or after October 1, 1998.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. LINKING OF LOCAL REGISTRIES

Present law

No provision.

House bill

The Registry may be established by linking local case registries of support orders through an automated information network.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. USE OF STANDARDIZED DATA ELEMENTS

Present law

No provision.

House bill

The registry record will contain data elements on both parents, such as names, Social Security numbers and other uniform identification numbers, dates of birth, case identification numbers, and any other data the Secretary may require.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

D. PAYMENT RECORDS

Present law

Federal law, with respect to wage withholding, requires that wage withholding be administered by a public agency capable of documenting payments of support and tracking and monitoring such payments.

House bill

Each case record will contain the amount of support owed under the order and other amounts due or overdue, any amounts that have been collected and distributed, the birth date of any child for whom the order requires the provision of support, and the amount of any lien imposed by the State.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

E. UPDATING AND MONITORING

Present law

Federal law requires that child support orders be reviewed and adjusted, as appropriate, at least once every 3 years.

House bill

The State agency operating the registry will promptly establish and maintain and regularly update case records in the registry with respect to which services are being provided under the State plan. Updating will be based on administrative actions and administrative and judicial proceedings and orders relating to paternity and support, as well as information obtained from comparison with Federal, State, and local sources of information, information on support collections and distributions, and any other relevant information.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

F. INFORMATION COMPARISONS AND OTHER DISCLOSURES

Present law

No provision.

House bill

The State automated system will be used to extract data for purposes of sharing and matching with Federal and State data bases and locator services, including the Federal Case Registry of Child Support Orders, the Federal Parent Locator Service, Temporary Assistance for Needy Families and Medicaid agencies, and intra- and interstate information comparisons.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

7. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS

A. STATE DISBURSEMENT UNIT

Present law

No provision. But States may provide that, at the request of either parent, child support payments be made through the child support enforcement agency or the agency that administers the State's income withholding system regardless of whether there is an arrearage. States must charge the parent who requests child support services a fee equal to the cost incurred by the State for these services, up to a maximum of $25 per year.

House bill

By October 1, 1998, State child support agencies are required to operate a centralized, automated unit for collection and disbursement of payments on child support orders enforced by the child support agency. The specifics of how States will establish and operate their State Disbursement Unit must be outlined in the State plan.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. OPERATION

Present law

No provision.

House bill

The State Disbursement Unit must be operated directly by the State agency, by two or more State agencies under a regional cooperative agreement, or by a contractor responsible directly to the State agency.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. LINKING OF LOCAL DISBURSEMENT UNITS

Present law

No provision.

House bill

The State Disbursement Unit may be established by linking local disbursement units through an automated information network. The Secretary must agree that the system will not cost more nor take more time to establish than a centralized system. In addition, employers shall be given one location per State to which income withholding is sent.

Senate amendment

Similar provision except that whereas the House requires only that the system not cost more or take more time to establish, the Senate adds the condition that the system also cannot take more time to operate.

Conference agreement

The House recedes to the Senate provision allowing States to establish their State Disbursement Unit by linking local disbursement units only if linking units does not cost more money nor take more time to establish and to operate.

D. REQUIRED PROCEDURES

Present law

No provision.

House bill

The Disbursement Unit will be used to collect and disburse support payments, to generate orders and notices of withholding to employers, to keep an accurate identification of payments, to promptly distribute money to custodial parents or other States, and to furnish parents with a record of the current status of support payments. The Unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

E. TIMING OF DISBURSEMENTS

Present law

No provision.

House bill

The Disbursement Unit must distribute all amounts payable within 2 business days after receiving money and identifying information from the employer or other source of periodic income, if sufficient information identifying the payee is provided.

Senate amendment

Similar to House provision, except permits the retention of arrearages in the case of appeals until they are resolved.

Conference agreement

The Conference agreement follows the House bill and Senate amendment except that the House recedes to the Senate requirement that States be allowed to retain arrearages in the case of appeals until they are resolved.

F. USE OF AUTOMATED SYSTEM

Present law

No provision.

House bill

States must use their automated system to facilitate collection and disbursement including at least:

(1) transmission of orders and notices to employers within 2 days after receipt of the withholding notice;

(2) monitoring to identify missed payments of support; and

(3) automatic use of enforcement procedures when payments are missed.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

G. EFFECTIVE DATE

Present law

No provision.

House bill

This section of the bill will go into effect on October 1, 1998.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

8. STATE DIRECTORY OF NEW HIRES

A. STATE PLAN REQUIREMENT

Present law

No provision.

House bill

State plans must include the provision that by October 1, 1997 States will operate a Directory of New Hires (as outlined below).

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. ESTABLISHMENT

Present law

No provision.

House bill

States are required to establish a State Directory of New Hires to which employers and labor organizations in the State must furnish a report for each newly hired employee, unless reporting could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission as determined by the head of an agency.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment with the clarification that States that already have new hire reporting laws may continue to follow the provisions of their own law until October 1, 1996, at which time States must conform to Federal law.

C. EMPLOYER INFORMATION

Present law

No provision.

House bill

Employers must furnish to the State Directory of New Hires the name, address, and Social Security number of every new employee and the name and identification number of the employer. Multistate employers may report to the State in which they have the most employees.

Senate amendment

Similar to House provision, but allows multistate employers to report to the State they designate. The employer must notify the DHHS Secretary as to the name of the designated State.

Conference agreement

The conference agreement follows the House bill and the Senate amendment except that the House recedes to the Senate provision allowing multistate employers to report to the State of their choice. Employers must notify the Secretary of the name of the designated State.

D. TIMING OF REPORT

Present law

No provision.

House bill

Employers must report new hire information within 15 days of the hire or on the date the employee first receives wages.

Senate amendment

Employers must report new hire information within 30 days of the hire or if the employer reports by magnetic or electronic means, the employer can report by the first business day of the week following the date on which the employee first receives wages.

Conference agreement

Conferees agree on two general rules for timing of new hire reports. First, except as noted below, employers must report new hire information within 20 days of the date of hire.

E. REPORTING FORMAT AND METHOD

Present law

No provision.

House bill

The report required in this section will be made on a W–4 form or the equivalent, and can be transmitted magnetically, electronically, or by first class mail.

Senate amendment

Similar to House provision, but only allows the report to be filed on a W–4 form, not the equivalent.

Conference agreement

The conferees agreed to follow both the House and Senate provisions except that the Senate would recede to the House provision allowing employers, at their option, to use an equivalent form. The decision of which reporting method to use is entirely up to employers.

F. CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS

Present law

In general, no provision.

Section 1128 of the Social Security Act is an antifraud provision which excludes individuals and entities that have committed fraud from participation in Medicare and State health care programs. Section 1128A pertains to civil monetary penalties and describes the appropriate procedures and proceedings for such penalties.

House bill

An employer failing to make a timely report is subject to a $25 fine for each unreported employee. There is also a $500 penalty on employers for every employee for whom they do not transmit a W–4 form if, under the laws of the State, there is shown to be a conspiracy between the employer and the employee to prevent the proper information from being filed.

The House bill makes several but not all provisions of section 1128 applicable to employers that violate reporting requirements.

Senate amendment

States have the option of setting a civil money penalty which shall be not less than

$25 or $500 if, under State law, the failure is the result of a conspiracy between the employer and employee. The Senate amendment does not make any provisions of section 1128 applicable to employers.

Conference agreement

The conference agreement follows both the House and Senate provisions except that the House recedes to the Senate provision of making the penalties a State option.

G. ENTRY OF NEW HIRE INFORMATION

Present law

No provision.

House bill

No provision.

Senate amendment

New hire information must be entered into the State data base within 5 business days of receipt from employer.

Conference agreement

The House recedes to the Senate requirement of requiring States to enter New Hire information in their data base within 5 business days.

H. INFORMATION COMPARISONS

Present law

No provision.

House bill

By October 1, 1997, each State Directory of New Hires must conduct automated matches of the Social Security numbers of reported employees against the Social Security numbers of records in the State Case Registry being enforced by the State agency and report the name, Social Security number, and employer identification number on matches to the State child support agency.

Senate amendment

Similar to House provision, except requires comparisons to begin by October 1, 1998 rather than 1997.

Conference agreement

Conferees agreed to follow the House and Senate provisions but to compromise on the date by which comparisons must begin by adopting a May 1, 1998 effective date.

I. TRANSMISSION OF INFORMATION

Present law

No provision.

House bill

Within two business days of the entry of data in the registry, the State must transmit a withholding order directing the employer to withhold wages in accord with the child support order. Within four days, the State Directory of New Hires must furnish employee information to the National Directory of New Hires for matching with the records of other State case registries. The State Directory of New Hires must also report quarterly to the National Directory of New Hires information on wages and unemployment compensation taken from the quarterly report to the Secretary of Labor now required by Title III of the Social Security Act.

Senate amendment

Similar to House provision, except requires State Directory to report to the National Directory within two, rather than four, days.

Conference agreement

The conference agreement is to follow the House and Senate provisions and to compromise on the reporting date by allowing States three days to report to the National Directory of New Hires.

J. OTHER USES OF NEW HIRE INFORMATION

Present law

No provision.

House bill

The State child support agency must use the new hire information for purposes of establishing paternity as well as establishing, modifying, and enforcing child support obligations. New hire information (pursuant to section 1137 of the Social Security Act) must also be disclosed to the State agency administering the Temporary Assistance for Needy Families, Medicaid, Unemployment Compensation, Food Stamp, SSI, and territorial cash assistance programs for income eligibility verification, and to State agencies administering unemployment and workers' compensation programs to assist determinations of the allowability of claims.

Senate amendment

Similar to House provision, except requires State and local government agencies to be included in quarterly wage reporting unless the agency performs intelligence or counterintelligence functions and it is determined that wage reporting could endanger the safety of the employee or compromise the investigation or intelligence mission.

Conference agreement

The conference agreement follows the House and Senate provisions except that the House recedes to the Senate provision allowing State and local government agencies to exempt employees doing intelligence or counterintelligence work whose safety might be compromised by the reporting.

9. AMENDMENTS CONCERNING INCOME WITHHOLDING

Present law

Since November 1, 1990, all new or modified child support orders that were being enforced by the State's child support enforcement agency have been subject to immediate income withholding. If the noncustodial parent's wages are not subject to income withholding (pursuant to the November 1, 1990 provision), such parent's wages would become subject to withholding on the date when support payments are 30 days past due. Since January 1, 1994, the law has required States to use immediate income withholding for all new support orders, regardless of whether a parent has applied for child support enforcement services. There are two circumstances in which income withholding does not apply: 1) one of the parents demonstrates and the court or administrative agency finds that there is good cause not to do so, or 2) a written agreement is reached between both parents which provides for an alternative arrangement. States must implement procedures under which income withholding for child support can occur without the need for any amendment to the support order or for any further action by the court or administrative entity that issued the order. States are also required to implement income withholding in full compliance with all procedural due process requirements of the State, and States must send advance notice to each nonresident parent to whom income withholding applies (with an exception for some States that had income withholding before enactment of this provision that met State due process requirements). States must extend their income withholding systems to include out-of-State support orders.

House bill

States must have laws providing that all child support orders issued or modified before October 1, 1996, which are not otherwise subject to income withholding, will become subject to income withholding immediately if arrearages occur, without the need for judicial or administrative hearing. State law must also allow the child support agency to execute a withholding order through electronic means and without advance notice to the obligor. Employers must remit to the State disbursement unit income withheld within 2 working days after the date such amount would have been paid or credited to the employee.

Senate amendment

Similar to House provision, but requires all child support orders which are not part of the State IV-D program to be processed through the State disbursement unit. In addition, States must notify noncustodial parents that income withholding has commenced and inform them of procedures for contesting income withholding.

Conference agreement

The conference agreement follows the House and Senate provisions except that the House recedes to the Senate provision requiring all child support orders which are not part of the State IV-D program to be processed through the State disbursement unit. In addition, States must notify noncustodial parents that income withholding has commenced and inform them of procedures for contesting income withholding.

10. LOCATOR INFORMATION FROM INTERSTATE NETWORKS

Present law

No provision.

House bill

All State and the Federal Child Support Enforcement agencies must have access to the motor vehicle and law enforcement locator systems of all States.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

11. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE

A. EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS

Present law

The law requires that the Federal Parent Locator Service (FPLS) be used to obtain and transmit information about the location of any absent parent when that information is to be used for the purpose of enforcing child support.

House bill

The purposes of the Federal Parent Locator Service are expanded. For the purposes of establishing parentage, establishing support orders or modifying them, or enforcing support orders, the Federal Parent Locator Service will provide information to locate individuals who owe child support or against whom an obligation is sought or to whom such an obligation is owed. Information in the FPLS includes Social Security number, address, name and address of employer, and wages and employee benefits (including information about health care coverage).

Senate amendment

Similar to House provision, except clarifies current law by stating that information from the Federal Parent Locator Service can be used to enforce visitation orders. Senate also allows FPLS to contain and provide information on assets and debts.

Conference agreement

The conference agreement is similar to both the House bill and the Senate amendment. The agreement clarifies the statute so that nonresident parents are given access to information from the FPLS if these requests are made through a court or through the State child support agency.

B. REIMBURSEMENTS

Present law

Federal law requires that any department or agency of the United States must be reimbursed for costs incurred for providing requested information to the FPLS.

House bill

The Secretary is authorized to set reasonable rates for reimbursing Federal and State agencies for the costs of providing information to the FPLS and to set reimbursement rates that State and Federal agencies that use information from the FPLS must pay to the Secretary.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. NEW COMPONENTS OF FPLS

(1) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS

Present law

No provision.

House bill

The House bill establishes within the FPLS an automated registry known as the Federal Case Registry of Child Support Orders. The Federal Case Registry contains abstracts of child support orders and other information specified by the Secretary (such as names, Social Security numbers or other uniform identification numbers, State case identification numbers, wages or other income, and rights to health care coverage) to identify individuals who owe or are owed support (or for or against whom support is sought to be established), and the State which has the case. States must begin reporting this information in accord with regulations issued by the Secretary, by October 1, 1998.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

(2) NATIONAL DIRECTORY OF NEW HIRES

Present law

No provision.

House bill

The House bill establishes within the FPLS a National Directory of New Hires containing information supplied by State Directories of New Hires, beginning October 1, 1996. When fully implemented, the Federal Directory of New Hires will contain identifying information on virtually every person who is hired in the United States. In addition, the FPLS will contain quarterly data supplied by the State Directory of New Hires on wages and Unemployment Compensation paid. The Secretary of the Treasury must have access to information in the Federal Directory of New Hires for the purpose of administering section 32 of the Internal Revenue Code and the Earned Income Tax Credit.

Senate amendment

The Senate provision is similar to the House provision with two exceptions: 1) the Senate amendment includes the requirement that the information for the National Directory of New Hires must be entered within 2 days of receipt; and2) the Senate amendment requires the DHHS Secretary to maintain within the National Directory of New Hires a list of multistate employers who choose a State to send their report to and the name of the State so designated.

Conference agreement

Conferees agree to follow both the House bill and Senate amendment except that the House recedes on the points of difference. Thus, the National Directory must enter new information within 2 days and the Secretary must maintain a list of the States to which multistate employers send their new hire information.

D. INFORMATION COMPARISONS AND OTHER DISCLOSURES

Present law

Upon request, the Secretary must provide to an "authorized person" (i.e., an employee or attorney of a child support agency, a court with jurisdiction over the parties involved, the custodial parent, legal guardian, or attorney of the child) the most recent address and place of employment of any absent parent if the information is contained in the records of the Department of Health and Human Services, or can be obtained from any other department or agency of the United States or of any State. The FPLS also can be used in connection with the enforcement or determination of child custody and in cases of parental kidnapping. Federal law requires the Secretary of Labor and the Secretary of Health and Human Services to enter into an agreement to give the FPLS prompt access to wage and unemployment compensation claims information useful in locating a noncustodial parent or his employer.

House bill

The Secretary must verify the accuracy of the name, Social Security number, birth date, and employer identification number of individuals in the Federal Parent Locator Service with the Social Security Administration. The Secretary is required to match data in the National Directory of New Hires against the child support order abstracts in the Federal Case Registry at least every 2 working days and to report information obtained from matches to the State child support agency responsible for the case within 2 days. The information is to be used for purposes of locating individuals to establish paternity, and to establish, modify, or enforce child support orders. The Secretary may also compare information across all components of the FPLS to the extent and with the frequency that the Secretary determines will be effective. The Secretary will share information from the FPLS with several potential users including State agencies administering the Temporary Assistance for Needy Families program, the Commissioner of Social Security (to determine the accuracy of Social Security and Supplemental Security Income), and researchers under some circumstances.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

E. FEES

Present law

"Authorized persons" who request information from FPLS must be charged a fee.

House bill

The Secretary must reimburse the Commissioner of Social Security for costs incurred in performing verification of Social Security information and to States for submitting information on New Hires. States or Federal agencies that use information from FPLS must pay fees established by the Secretary.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

F. RESTRICTION ON DISCLOSURE AND USE

Present law

Federal law stipulates that no information shall be disclosed if the disclosure would contravene the national policy or security interests of the United States or the confidentiality of Census data.

House bill

Information from the FPLS cannot be used for purposes other than those provided in this section, subject to section 6103 of the Internal Revenue Code.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

G. INFORMATION INTEGRITY AND SECURITY

Present law

No provision.

House bill

The Secretary must establish and use safeguards to ensure the accuracy and completeness of information from the FPLS and restrict access to confidential information in the FPLS to authorized persons and purposes.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

H. QUARTERLY WAGE REPORTING

Present law

Requires the Secretary of Labor to provide prompt access for the DHHS Secretary to wage and unemployment compensation claims information and data maintained by the Labor Department or State employment security agencies.

House bill

No provision.

Senate amendment

Each department in U.S. shall submit name, Social Security number and wages paid the employee, on a quarterly basis to the FPLS. Quarterly wage reporting shall not be filed for a Federal or State employee performing intelligence or counter-intelligence functions, if it is determined that filing such a report could endanger the employee or compromise an ongoing investigation.

Conference agreement

The conference agreement follows the Senate amendment.

I. CONFORMING AMENDMENTS

Present law

No provision.

House bill

This section makes several conforming amendments to Titles III and IV of the Social Security Act and the Federal Unemployment Tax Act.

Senate amendment

Similar to House provision, except amends section 303(h) to require State unemployment insurance agencies to report quarterly wage information to the Secretary of HHS or suffer financial penalties, while the House bill amends section 303(a) and simply requires quarterly reports to the Secretary of HHS.

Conference agreement

Conferees agreed to follow both the House and Senate provisions but to follow the Senate amendment by requiring State unemployment insurance agencies to file quarterly wage reports with the Secretary or pay penalties.

J. AUTHORIZED PERSON FOR INFORMATION REGARDING VISITATION RIGHTS

Present law

FPLS can also be used to provide information to authorized individuals and agencies making or entering a child custody order (see Sec. 463 of Social Security Act).

House bill

No provision.

Senate amendment

Expands functions of FPLS by requiring that information be made available to noncustodial parents for purposes of seeking or enforcing child visitation orders.

Conference agreement

The House recedes to the Senate amendment on this provision but with the agreement that nonresident parents cannot obtain information directly from the FPLS but must present their request through the courts or through the State child support agency. In addition, the agreement requires State child support agencies to treat requests for information from nonresident parents on the same basis and with the same priority as requests from resident parents.

12. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT

Present law

Federal law requires that in the administration of any law involving the issuance of a birth certificate, States must require each parent to furnish their Social Security number for the birth records. The State is required to make such numbers available to child support agencies in accordance with Federal or State law. States may not place Social Security numbers directly on birth certificates.

House bill

States must have laws requiring that Social Security numbers be placed on applications for professional licenses, commercial drivers licenses, and occupational licenses, marriage licenses, and in the records for divorce decrees, child support orders, and paternity determination or acknowledgment orders. Individuals who die will have their Social Security number placed in the records relating to the death and recorded on the death certificate. There are several conforming amendments.

Senate amendment

Similar to House provision, except gives States the option of not including Social Security numbers on applications for licenses and bars the placement of Social Security numbers on marriage licenses.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment except that the House recedes to the Senate requirements that States have the option of not including Social Security numbers on applications and that States be barred from placing Social Security numbers on marriage licenses.

CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES

13. ADOPTION OF UNIFORM STATE LAWS

Present law

States have several options available for pursuing interstate child support cases including direct income withholding, interstate income withholding, and long-arm statutes which require the use of the court system in the State of the custodial parent. In addition, States use the Uniform Reciprocal Enforcement of Support Act (URESA) and the Revised Uniform Reciprocal Enforcement of Support Act (RURESA) to conduct interstate cases. Moreover, Federal law imposes a Federal criminal penalty for the willful failure to pay past-due child support to a child who resides in a State other than the State of the obligor. In 1992, the National Conference of Commissioners on State Uniform Laws approved a new model State law for handling interstate CSE cases. The new Uniform Interstate Family Support Act (UIFSA) is designed to deal with desertion and nonsupport by instituting uniform laws in all 50 States that limit control of a child support case to a single State. This approach ensures that only one child support order from one court or child support agency will be in effect at any given time. It also helps to eliminate jurisdictional disputes between States that are impediments to locating parents and enforcing child support orders across State lines. As of March, 1995, 23 States had enacted UIFSA, 15 verbatim and 8 with minor changes.

House bill

By January 1, 1997, all States must have enacted the Uniform Interstate Family Support Act (UIFSA) and have the procedures required for its implementation in effect. States are required to apply UIFSA to any case involving an order established or modified in one State that is sought to be modified in another State. States must also have a new provision on long-arm statutes and petitioning for modifications of orders, and are required to recognize as valid any method of service of process used in another State that is valid in that State.

Senate amendment

Similar to House provision, except permits but does not require States to apply UIFSA to all interstate cases.

Conference agreement

The conference agreement is that States must adopt UIFSA by January 1, 1998. The House recedes to the Senate on when UIFSA is used.

14. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS

Present law

Federal law requires States to treat past-due support obligations as final judgments that are entitled to full faith and credit in every State. This means that a person who has a support order in one State does not have to obtain a second order in another State to obtain support due should the debtor parent move from the issuing court's jurisdiction. P.L. 103-383 restricts a State court's ability to modify a support order issued by another State unless the child and the custodial parent have moved to the State where the modification is sought or have agreed to the modification.

House bill

The provision clarifies the definition of a child's home State, makes several revisions to ensure that full faith and credit laws can be applied consistently with UIFSA, and clarifies the rules regarding which child support orders States must honor when there is more than one order.

Senate amendment

Similar to House provision.

Conference agreement

The conference agreement follows both the House and Senate provisions but the House recedes on "more than 1 court".

15. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES

Present law

No provision.

House bill

States are required to have laws that permit them to send orders to and receive orders from other States without registering the underlying order unless the enforcement action is contested by the obligor on the grounds of mistake of fact or invalid order. The transmission of the order itself serves as certification to the responding State of the arrears amount and of the fact that the initiating State met all procedural due process requirements. No court action is required or permitted by the responding State. In addition, each responding State must, without requiring the case to be transferred to their State, match the case against its data bases, take appropriate action if a match occurs, and send the collections, if any, to the initiating State. States must keep records of the number of requests they receive, the number of cases that result in a collection, and the amount collected. States must respond to interstate requests within 5 days.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

16. USE OF FORMS IN INTERSTATE ENFORCEMENT

Present law

No provision.

House bill

The Secretary must issue forms that States must use for income withholding, for imposing liens, and for issuing administrative subpoenas in interstate cases. The forms must be issued by June 30, 1996 and States must be using the forms by October 1, 1996.

Senate amendment

Requires the DHHS Secretary to establish an advisory committee which must include State child support directors, and not later than June 30, 1996, after consultation with the advisory committee to issue forms that States must use for income withholding, for imposing liens, and for issuing administrative subpoenas in interstate cases. The forms must be issued by June 30, 1996 and States must be using the forms by October 1, 1996.

Conference agreement

Conferees agree to follow both the House and Senate provisions with a compromise on requiring the Secretary to consult with States. Rather than forming an advisory committee, the conference agreement requires the Secretary to consult with States before issuing the interstate forms. It is the intention of conferees to facilitate timely issuance of the forms but also to mandate that the Secretary work closely with State child support directors in developing the forms.

17. STATE LAWS PROVIDING EXPEDITED PROCEDURES

A. Administrative Action by State Agency

Present law

States must have procedures under which expedited processes are in effect under the

State judicial system or under State administrative processes for obtaining and enforcing support orders and for establishing paternity.

House Bill

States must adopt a series of procedures to expedite both the establishment of paternity and the establishment, enforcement, and modification of support. These procedures provide for: (1) ordering genetic testing in appropriate cases; (2) entering a default order upon a showing of service of process and any other showing required by State law to establish paternity if the putative father refuses to submit to genetic testing and to establish or modify a support order when a parent fails to appear for a hearing; (3) issuing subpoenas to obtain information necessary to establish, modify or enforce an order, with appropriate sanctions for failure to respond to the subpoena; (4) obtaining access to records including: records of other State and local government agencies, law enforcement records, and corrections records, including automated access to records maintained in automated data bases; (5) directing the parties to pay support to the appropriate government entity; (6) ordering income withholding; (7) securing assets to satisfy arrearages by intercepting or seizing periodic or lump sum payments from States or local agencies; these payments include Unemployment Compensation, workers' compensation, judgements, settlements, lottery winnings, assets held by financial institutions, and public and private retirement funds; and (8) increasing automatically the monthly support due to include amounts to offset arrears.

Senate amendment

Similar to House provision, except requires States to include the following additional procedures: (1) requiring all entities in the State (including for-profit, nonprofit, and governmental employers) to provide information on employment, compensation and benefits of any employee or contractor in response to a request from the State IV–D agency; (2) obtaining access to a variety of public and private records including: vital statistics, State and local tax records, real and personal property, occupational and professional licenses and records concerning ownership and control of corporations, partnerships and other business entities, employment security records, public assistance records, motor vehicle records, corrections records, customer records of public utilities and cable TV companies, and records of financial institutions; (3) imposing liens to force the sale of property and distribution of proceeds; (4) requiring financial institutions (subject to the limitation on liabilities arising from affording such access) to provide information held by them on individuals who owe or are owed child support (or against or with respect to whom a support obligation is sought) to State child support agencies; and (5) requiring that due process safeguards be followed.

The amendment does not include the House provision regarding default orders in paternity cases upon a showing of service of process.

Conference agreement

The House recedes to the Senate on the five additional expedited procedures and includes the House provision regarding default orders in paternity cases upon a showing of service of process.

B. Substantive and Procedural Rules

Present law

Federal regulations provide a number of safeguards, such as requiring that the due process rights of the parties involved be protected.

House bill

States must follow a series of procedural rules that apply to all of the expedited procedures outlined in the preceding section:

(1) Locator Information and Notice—requires parties in paternity and child support actions to file and update information about identity, address, and employer with the tribunal and with the State Case Registry upon entry of the order. The tribunal can deem due process requirements for notice and service of process to be met in any subsequent action upon delivery of written notice to the most recent residential or employer address filed with the tribunal.

(2) Statewide Jurisdiction—grants the child support agency and any administrative or judicial tribunal with authority to hear child support and paternity cases, to exert Statewide jurisdiction over the parties, and to grant orders that have Statewide effect; also permits transfer of cases between administrative areas without additional filing or service of process.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment except House recede to Senate language by replacing the term "administrative areas" with the term "local jurisdictions" in the section on Statewide jurisdiction.

C. Automation of State Agency Functions

Present law

No provision.

House bill

The automated systems being developed by States are to be used, to the maximum extent possible, to implement the expedited procedures.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Chapter 4—Paternity Establishment

18. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT

A. Establishment Process Available From Birth Until Age 18

Present law

Federal law requires States to strengthen their paternity establishment laws by requiring that paternity may be established until the child reaches age 18. As of August 16, 1984, these procedures would apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because of statute of limitations of less than 18 years was then in effect in the State.

House bill

Same as current law.

Senate Amendment

Similar to House provision, except requires that paternity may be established until age 21 rather than 18.

Conference agreement

The Senate recedes so that States are required to have laws that permit paternity establishment until at least age 18 (or a higher limit at State option).

B. Procedures Concerning Genetic Testing

Present law

Federal law requires States to implement laws under which the child and all other parties must undergo genetic testing upon the request of a party in contested cases.

House bill

The child and all other parties must undergo genetic testing upon the request of a party, where the request is supported by a sworn statement establishing a reasonable possibility of parentage or nonparentage. When the tests are ordered by the State agency, States must pay for the costs, subject to recoupment at State option from the father if paternity is established.

Senate amendment

Similar provision. House mandates genetic tests in certain cases while Senate allows States with laws against genetic testing in some cases to follow State law.

Conference agreement

The conference agreement follows both House and Senate provisions but the House recedes on the provision allowing States to exempt certain cases from the requirement for mandatory genetic testing. No State exemption, however, can permit a putative father to avoid paternity establishment procedures.

C. Voluntary Paternity Acknowledgment

Present law

Federal law requires States to implement procedures for a simple civil process for voluntary paternity acknowledgment, including hospital-based programs.

House bill

(1) Simple Civil Process. States must have procedures that create a simple civil process for voluntary acknowledging paternity under which benefits, rights and responsibilities of acknowledgement are explained to unwed parents;

(2) Hospital Program. States must have procedures that establish a paternity acknowledgement program through hospitals and birth record agencies (and other agencies as designated by the Secretary).

(3) Paternity Services. States must have procedures that require the agency responsible for maintaining birth records to offer voluntary paternity establishment services. The Secretary must issue regulations, including regulations on other State agencies that may offer voluntary paternity acknowledgement services and the conditions such agencies must meet.

(4) Affidavit. States must have procedures that require agencies to use a uniform affidavit developed by the Secretary that is entitled to full faith and credit in any other State.

Senate amendment

(1) Simple Civil Process. Similar to House provision; Senate does not include language requiring that the explanation of alternatives, legal consequences, and rights and responsibilities be "in a language that each can understand".

(2) Hospital Program. Similar to House provision, except States must also establish good cause exceptions for not trying to establish paternity.

(3) Paternity Services. Identical to House provision.

(4) Affidavit. Similar provision but Senate amendment allows States to develop their own voluntary paternity acknowledgement form as long as they follow all the basic elements of a form developed by the Secretary.

Conference agreement

(1) Simple Civil Process. The conference agreement follows the House and Senate provisions except the House agrees to drop its requirement that the explanation be "in a

language that each [parent] can understand".

(2) Hospital Program. Conferees agree to follow the House and Senate provisions but with a modification of the Senate language on "good cause" exceptions so that such exceptions become a State option.

(3) Paternity Services. The conference agreement follows the House bill and the Senate amendment.

(4) Affidavit. The House recedes to allow States to develop their own voluntary acknowledgment form as long as the form contains all the basic elements of a form developed by the Secretary.

D. Status of Signed Paternity Acknowledgment

Present law

Federal law requires States to implement procedures under which the voluntary acknowledgment of paternity creates a rebuttable presumption, or at State option, a conclusive presumption of paternity.

House bill

(1) Legal Finding. States must have procedures under which a signed acknowledgement of paternity is considered a legal finding of paternity unless rescinded within 60 days.

(2) Contest. States must have procedures under which a paternity acknowledgment can be challenged in court only on the basis of fraud, duress, or material mistake of fact.

(3) Rescission. States must have procedures under which minors who sign a voluntary paternity acknowledgement are allowed to rescind it until age 18 or the date of the first proceeding to establish a support order, visitation, or custody rights.

Senate amendment

(1) Legal Finding. Adds the requirement that the name of the father appear in the birth records only if there is a paternity acknowledgement signed by both parents or paternity has been established by court order;

(2) Contest. Identical to House provision.

(3) Rescission. No provision.

Conference agreement

(1) Legal Finding. The House recedes to the Senate requirement that the father's name appear in the birth records only if certain conditions are met;

(2) Contest. The conference agreement follows the House bill and the Senate amendment.

(3) Rescission. The House agrees to drop the rescission requirement, thereby leaving this decision up to States.

E. Bar on Acknowledgment Ratification Proceedings

Present Law

Federal law requires States to implement procedures under which such voluntary acknowledgment is admissible as evidence of paternity and the voluntary acknowledgment of paternity must be recognized as a basis for seeking a support order without requiring any further proceedings to establish paternity.

House bill

No judicial or administrative proceedings are required or permitted to ratify a paternity acknowledgement which is not challenged by the parents.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

F. Admissibility of Genetic Testing Results

Present law

Federal law requires States to implement procedures which provide that any objection to genetic testing results must be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence. If no objection is made, the test results must be admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

House bill

States must have procedures for admitting into evidence accredited genetic tests, unless any objection is made within a specified number of days, and if no objection is made, clarifying that test results are admissible without the need for foundation or other testimony.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

G. PRESUMPTION OF PATERNITY IN CERTAIN CASES

Present law

Federal law requires States to implement procedures which create a rebuttable or, at State option, conclusive presumption of paternity based on genetic testing results indicating a threshold probability that the alleged father is the father of the child.

House bill

States must have laws that create a rebuttable or, at State option, conclusive presumption of paternity when results from genetic testing indicate a threshold probability that the alleged father is the father of the child.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

H. DEFAULT ORDERS

Present law

Federal law requires States to implement procedures that require a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

House bill

A default order must be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by the State law.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

I. NO RIGHT TO JURY TRIAL

Present law

No provision.

House bill

State laws must state that parties in a contested paternity action are not entitled to a jury trial.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

J. TEMPORARY SUPPORT BASED ON PROBABLE PATERNITY

Present law

No provision.

House bill

Upon motion of a party, State law must require issuance of a temporary support order pending an administrative or judicial determination of parentage if paternity is indicated by genetic testing or other clear and convincing evidence.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

K. PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS

Present Law

No provision.

House bill

Bills for pregnancy, childbirth, and genetic testing must be admissible in judicial proceedings without foundation testimony.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

L. STANDING OF PUTATIVE FATHERS

Present law

No provision.

House bill

Putative fathers must have a reasonable opportunity to initiate paternity action.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

M. FILING OF ACKNOWLEDGMENTS AND ADJUDICATIONS IN STATE REGISTRY

Present law

No provision.

House bill

Both voluntary acknowledgements and adjudications of paternity must be filed with the State registry of birth records for data matches with the central Case Registry of Child Support Orders established by the State.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

N. NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT

Present law

No provision.

House bill

The Secretary is required to develop an affidavit to be used for voluntary acknowledgement of paternity which includes the Social Security number of each parent.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House and Senate provisions but includes a clarification that the Secretary, after consulting with the State child support directors, should list the common elements that States must include on their forms.

19. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT

Present law

States are required to regularly and frequently publicize, through public service announcements, the availability of child support enforcement services.

House Bill

States must publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

20. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

Present law

AFDC applicants and recipients are required to cooperate with the State in establishing the paternity of a child and in obtaining child support payments unless the applicant or recipient is found to have good cause for refusing to cooperate. Under the "good cause" regulations, the child support agency may determine that it is against the best interests of the child to seek to establish paternity in cases involving incest, rape, or pending procedures for adoption. Moreover, the agency may determine that it is against the best interest of the child to require the mother to cooperate if it is anticipated that such cooperation will result in the physical or emotional harm of the child, parent, or caretaker relative.

House bill

Individuals who apply for or receive public assistance under the Temporary Assistance for Needy Families program must cooperate with child support enforcement efforts (establishing paternity, establishing, modifying or enforcing a support order) by providing specific identifying information about the other parent, unless the applicant or recipient is found to have good cause for refusing to cooperate. "Good cause" is defined by States. States may also require the applicant and child to submit to genetic testing. (See also Prohibitions in Title I, Section 101 of the House bill.)

Senate amendment

The Senate provision is similar to the House provision except the Senate amendment places additional specific requirements on State procedures. These include requiring the custodial parent to appear at interviews, hearings, and legal proceedings; requiring the State child support agency to notify the custodial parent and the IV–A and Medicaid agencies of whether she is cooperating and if not what she must do to cooperate; and requiring that when determining the custodial parent's cooperation States take into account the best interests of the child. Also requires the individual and the child to submit to genetic tests pursuant to a judicial or administrative order. Responsibility for determining failure to cooperate is shifted from the agency that administers the Temporary Assistance program to the agency that administers the child support program.

Conference agreement

The House recedes to the Senate's additional requirements for cooperation by adults applying for or receiving IV–A benefits.

CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING

21. FEDERAL MATCHING PAYMENTS

Present law

The Federal Government currently reimburses each State at the rate of 66 percent for the cost of administering its child support enforcement program. The Federal Government also reimburses States 90 percent of the laboratory costs of establishing paternity, and through fiscal year 1995, 90 percent of the costs of developing comprehensive Statewide automated systems. (There is no maintenance of effort provision in current law.)

House bill

The Federal matching payment for child support activities is maintained at 66 percent. The bill also adds a maintenance of effort requirement that the non-Federal share of IV–D funding for fiscal year 1997 and succeeding years not be less than such funding for fiscal year 1996.

Senate amendment

No provision. Maintains present law with respect to the Federal match rate of 66 percent.

Conference Agreement

The conference agreement follows the Senate amendment.

22. PERFORMANCE-BASED INCENTIVES AND PENALTIES

A. INCENTIVE ADJUSTMENTS TO FEDERAL MATCHING RATE

Present law

The Federal government reimburses approved administrative expenditures of States at a rate of 66%. In addition, the Federal government pays States an incentive amount ranging from 6 percent to 10 percent of both AFDC and non-AFDC collections.

House bill

Beginning in 1999, a new incentive system will reward good State performance by increasing the State's basic matching rate by up to 12 percentage points for outstanding performance in establishing paternity and by up to an additional 12 percentage points for overall performance (as measured by the percentage of cases that have support orders, the percentage of cases in which support is being paid, the ratio of child support collected to child support due, and cost-effectiveness). The Secretary will design the specific features of the system. In doing so, she will maintain overall Federal reimbursement of State programs through the combined matching rate and incentives at the level projected for the current combined matching and incentive payments to States. The effect of this provision is to change Federal financing so that relatively more Federal dollars will be awarded to States for good performance. The State must spend the money from incentive payments on their child support enforcement program.

Senate amendment

As under current law, the Senate amendment provides for an incentive payment to States, the funds for which come from the reimbursement of cash welfare payments to the Federal Government that is the Federal share of child support collections paid on behalf of families. Not later than 60 days after enactment, the DHHS Secretary is required to establish a committee, which must include State child support directors, which must develop for the Secretary's approval a formula for the distribution of incentive payments to the States. The State's incentive payment is based on its comparative performance as measured by five criteria and seven factors that are stipulated in the amendment.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

B. CONFORMING AMENDMENTS

Present law

No provision.

House bill

Two conforming amendments are made in Section 454 of the Social Security Act.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the two conforming amendments in the House bill.

C. CALCULATION OF IV–D PATERNITY ESTABLISHMENT PERCENTAGE

Present law

States are required to meet Federal standards for the establishment of paternity. The standard relates to the percentage obtained by dividing the number of children in the State who are born out of wedlock, are receiving AFDC or child support enforcement services, and for whom paternity has been established by the number of children who are born out of wedlock and are receiving AFDC or child support enforcement services. To meet Federal requirements, this percentage in a State must be at least 75 percent or meet the following standards of improvement from the preceding year: 1) if the State paternity establishment ratio is between 50 and 75 percent, the State ratio must increase by 3 or more percentage points from the ratio of the preceding year; 2) if the State ratio is between 45 and 50, the ratio must increase at least 4 percentage points; 3) if the State ratio is between 40 and 45 percent, it must increase at least 5 percentage points; and 4) if the State ratio is below 40 percent, it must increase at least 6 percentage points. If an audit finds that the State's child support enforcement program has not substantially complied with the requirements of its State plan, the State is subject to a penalty. In accord with this penalty, the Secretary must reduce a State's AFDC benefit payment by not less than 1 percent nor more than 2 percent for the first failure to comply; by not less than 2 percent nor more than 3 percent for the second consecutive failure to comply; and by not less than 3 percent nor more than 5 percent for third or subsequent consecutive failure to comply.

House bill

The IV–D paternity establishment percentage for a fiscal year is equal to: (1) the total number of children in the State who were born out-of-wedlock, who have not reached age 1 and for whom paternity is acknowledged or established during the fiscal year, divided by (2) the total number of children born out-of-wedlock in the State during the fiscal year. The requirements for meeting the standard are the same as current law except the 75 percent rule is increased to 90 percent. The noncompliance provisions of the child support program are modified so that the Secretary must take overall program performance into account and the minimum paternity establishment percentage is raised from 75 to 90.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

D. EFFECTIVE DATES

Present law

No provision.

House bill

The new incentive payments go into effect on October 1, 1997, but procedures for computing the State incentive payments are not actually based on the new system until fiscal year 1999; the changes in penalty procedure become effective upon enactment.

Senate amendment

Effective upon enactment, except present law applies for purposes of incentive payments for fiscal years before fiscal year 2000.

Conference agreement

Effective upon enactment.

23. FEDERAL AND STATE REVIEWS AND AUDITS

A. STATE AGENCY ACTIVITIES

Present law

States are required to maintain a full record of child support collections and disbursements and to maintain an adequate reporting system.

House bill

States are required to annually review and report to the Secretary, using data from their automatic data processing system, both information adequate to determine the State's compliance with Federal requirements for expedited procedures and timely case processing as well as the information necessary to calculate their levels of accomplishment and rates of improvement on the performance indicators in the bill.

Senate amendment

Similar to House provision, except does not include requirement that States submit process information on State compliance with Federal mandates on timely case processing.

Conference agreement

The conference agreement follows both the House and Senate provisions but the House recedes on its requirement that States submit information on timely case processing.

B. FEDERAL ACTIVITIES

Present law

The Secretary must collect and maintain, on a fiscal year basis, up-to-date State-by-State statistics on each of the services provided under the child support enforcement program. The Secretary is also required to evaluate the implementation of State child support enforcement programs and conduct audits of these programs as necessary, but not less often than once every 3 years (or annually if a State has been found to be out of compliance with program rules).

House bill

The Secretary is required to determine the amount (if any) of incentives or penalties. The Secretary must also review State reports on compliance with Federal requirements and provide States with recommendations for corrective action. Audits must be conducted at least once every 3 years, or more often in the case of States that fail to meet Federal requirements. The purpose of the audits is to assess the completeness, reliability, accuracy, and security of data reported for use in calculating the performance indicators and to assess the adequacy of financial management of the State program.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

C. EFFECTIVE DATE

Present law

No provision.

House bill

These provisions take effect beginning with the calendar quarter that begins 12 months after enactment.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

24. REQUIRED REPORTING PROCEDURES

Present law

The Secretary is required to assist States in establishing adequate reporting procedures and must maintain records of child support enforcement operations and of amounts collected and disbursed, including costs incurred in collecting support payments.

House bill

The Secretary is required to establish procedures and uniform definitions for State collection and reporting of information necessary to measure State compliance with expedited processes and timely case processing.

Senate amendment

Similar to House provision, except does not mention timely case processing.

Conference agreement

The conference agreement follows both the House and Senate provisions except, as in the State Agency Activities provision (see 23A above), the House recedes by dropping State reports on timely case processing.

25. AUTOMATED DATA PROCESSING REQUIREMENTS

A. IN GENERAL

Present law

Federal law (P.L. 104-35) requires that by October 1, 1997, States have an operational automated data processing and information retrieval system designed to control, account for, and monitor all factors in the support enforcement and paternity determination process, the collection and distribution of support payments, and the costs of all services rendered.

House bill

States are required to have a single Statewide automated data processing and information retrieval system which has the capacity to perform the necessary functions, as described in this section.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

B. PROGRAM MANAGEMENT

Present law

Federal law requires that the automated data processing system be capable of providing management information on all IV-D cases from initial referral or application through collection and enforcement.

House bill

The State data system must be used to perform functions the Secretary specifies, including controlling and accounting for the use of Federal, State, and local funds and maintaining the data necessary to meet Federal reporting requirements in carrying out the program.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

C. CALCULATION OF PERFORMANCE INDICATORS

Present law

No provision.

House bill

The automated system must maintain the requisite data for Federal reporting, calculate the State's performance for purposes of the incentive and penalty provisions, and have in place systems controls to ensure the completeness, reliability, and accuracy of the data.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

D. INFORMATION INTEGRITY AND SECURITY

Present law

Federal law requires that the automated data processing system be capable of providing security against unauthorized access to, or use of, the data in such system.

House bill

The State agency must have safeguards to protect the integrity, accuracy, and completeness of, and access to, data in the automated systems (including restricting access to passwords, monitoring of access to and use of the system, training, and imposing penalties).

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

E. REGULATIONS

Present law

No provision.

House bill

The Secretary shall prescribe final regulations for implementation of this section no later than 2 years after the date of the enactment of this Act.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

F. IMPLEMENTATION TIMETABLE

Present law

No provision.

House bill

The statutory provisions for State implementation of Federal automatic data processing requirements are revised to provide that, first, all requirements enacted on or before the date of enactment of the Family Support Act of 1988 are to be met by October 1, 1995. The requirements enacted on or before the date of enactment of this bill must be met by October 1, 1999. The October 1, 1999 deadline will be extended by one day for each day by which the Secretary fails to meet the 2-year deadline for regulations.

Senate amendment

Similar to House provision, except allows States to meet requirements of the Family Support Act by October 1, 1997 rather than 1995.

Conference agreement

The conference agreement follows both House and Senate provisions but the completion date for data requirements imposed on States by the Family Support Act follows the Senate provision of October 1, 1997.

G. SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS

Present law

The Federal Government, through FY 1995, reimburses States at a 90 percent matching rate for the costs of developing comprehensive Statewide automated systems.

House bill

The Federal government will provide 90 percent matching funds for fiscal year 1996 that will be applied to all State activities related to developing a comprehensive Statewide automated system. For fiscal years 1997 through 2001, the matching rate for the provisions of this bill and other authorized provisions will be the higher of 80 percent or the matching rate generally applicable to the State IV–D program, including incentive payments (which could be as high as 90 percent).

Senate amendment

Similar provision except Senate amendment continues the 90 percent matching rate for 1996 and 1997 in the case of provisions outlined in advanced planning documents submitted before May 1, 1995.

Conference agreement

The conference agreement follows the House bill and Senate amendment but the House recedes on the provision to continue 90 percent reimbursement of data processing activities that were included in any advanced planning document submitted by States and approved by the Secretary before May 1, 1995. The 90 percent funding, which continues through October 1, 1997, includes approved expenditures by States that were made between October 1, 1995 and the date of passage of this legislation.

H. TEMPORARY LIMITATION ON PAYMENTS UNDER SPECIAL FEDERAL MATCHING RATE

Present law

No provision.

House bill

The Secretary must create procedures to cap these payments at $260,000,000 over 5 years (fiscal year 1996–2000) to be distributed among States by a formula set in regulations which takes into account the relative size of State caseloads and the level of automation needed to meet applicable automatic data processing requirements.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment, except the limitation on payments is increased from $260,000,000 to $400,000,000.

26. TECHNICAL ASSISTANCE

Present law

Annual appropriations are made to cover the expenses of the Administration for Children and Families, which includes the Federal Office of Child Support Enforcement (OCSE). Among OCSE's administrative expenses are the costs of providing technical assistance to the States.

House bill

The Secretary can use 1 percent of the Federal share of child support collections on behalf of families in the Temporary Assistance for Needy Families program the preceding year to provide technical assistance to the States. Technical assistance can include training of State and Federal staff, research and demonstration programs, and special projects of regional or national significance. The Secretary must use up to 2 percent of the Federal share of collections for operation of the Federal Parent Locator Service to the extent that costs of the Parent Locator Service are not recovered by user fees.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

27. REPORTS AND DATA COLLECTION BY THE SECRETARY

Present law

The Secretary is required to submit to Congress, not later than 3 months after the end of the fiscal year, a complete report on all child support enforcement activities.

House bill

In addition to current reporting requirements, the Secretary is required to report the following data to Congress in her annual report each fiscal year:

(1) the total amount of child support payments collected;

(2) the cost to the State and Federal governments of furnishing child support services;

(3) the number of cases involving families that became ineligible for aid under part A with respect to whom a child support payment was received:

(4) the total amount of current support collected and distributed;

(5) the total amount of past due support collected and distributed as arrearages; and

(6) the total amount of support due and unpaid for all fiscal years.

These requirements apply to fiscal year 1996 and succeeding fiscal years.

Senate amendment

Similar to House provision, except requires the Secretary to include information on the degree to which States met Federal statutory time limits in responding to interstate requests and in distributing child support collections.

Conference agreement

Conferees agree to follow the provisions in both bills except that the House recedes on the additional requirements the Senate included in the Secretary's report to Congress.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

28. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION

Present law

No provision.

House bill

No provision.

Senate amendment

Establishes a National Child Support Guidelines Commission that is responsible for deciding whether it is appropriate to develop national child support guidelines for consideration by the Congress or for adoption by individual States and the benefits and deficiencies of such models. Several matters the Commission must consider, such as the feasibility of adapting uniform terms in all child support orders, are outlined. The Commission is to be comprised of 12 individuals, 2 each appointed by the Chairman of Finance and Ways and Means, 1 each by the ranking member of Finance and Ways and Means, and 6 by the Secretary. The Commission report must be issued within 2 years.

Conference agreement

The Senate recedes to the House provision of no National Guidelines Commission.

29. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS

Present law

A child support order legally obligates noncustodial parents to provide financial support for their child and stipulates the amount of the obligation and how it is to be paid. In 1984, P.L. 98–378 required States to establish guidelines for establishing child support orders. In 1988, P.L. 100–485 made the guidelines binding on judges and other officials who had authority to establish support orders. P.L. 100–485 also required States to review and adjust individual child support orders once every 3 years under some circumstances. States are required to notify both resident and nonresident parents of their right to a review.

House bill

States must review and, as appropriate, adjust the support order every 3 years. States may adjust child support orders by either applying the State guidelines and updating the reward amount or by applying a cost of living increase to the order. Both parties must be given 30 days after notice of adjustment to contest the results. States may use automated methods to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders based on the threshold established by the State. States must also review and, upon a showing of a change in circumstances, adjust orders pursuant to the child support guidelines upon request of a party. States are required to give parties one notice of their right to request review and adjustment, which may be included in the order establishing the support amount.

Senate amendment

Similar to House provision, except adds that review and adjustment must be done "upon the request of either parent or the State." If neither parent requests a review, States have the option of avoiding the 3-year review requirement.

Conference agreement

Conferees agree to follow the House and Senate provisions with one exception. The House recedes to the Senate provision that States are not required to conduct reviews unless requested by either parent but with the additional requirement that States inform mothers at least once every 3 years in writing of their right to a review.

30. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT

Present law

P.L. 102–537 amends the Fair Credit Act to require consumer reporting agencies to include in any consumer report information on child support delinquencies provided by or verified by a child support enforcement agency, which antedates the report by 7 years.

House bill

This section amends the Fair Credit Reporting Act. In response to a request by the head of a State or local child support agency (or a State or local government official authorized by the head of such an agency), consumer credit agencies must release information if the person making the request:

certifies that the consumer report is needed to establish an individual's capacity to make child support payments or determine the level of payments; gives the consumer credit agency 10 days notice that the report is being requested; and provides assurances that the consumer report will be kept confidential, will be used solely for child support purposes, and will not be used in connection with any other civil, administrative, or criminal proceeding or for any other purpose. Consumer reporting agencies must also give reports to a child support agency for use to set an initial or modified award.

Senate amendment

Similar to House provision, except requires that the consumer must have been shown to be the father (i.e., paternity must be established).

Conference agreement

The conference agreement follows both the House and Senate provisions except that the House receded to the Senate requirement that the consumer must have been shown to be the father.

31. NONLIABILITY FOR DEPOSITORY INSTITUTIONS PROVIDING FINANCIAL RECORDS

Present law

No provision.

House bill

No provision.

Senate amendment

Depository institutions are not liable for information provided to child support agencies. Child support agencies can disclose information obtained from depository institutions only for child support purposes. Individuals who knowingly disclose information from financial records can have civil actions brought against them in Federal district court; the maximum penalty is $1,000 for each disclosure or actual damages plus, in the case of "willful disclosure" resulting from "gross negligence," punitive damages, plus the costs of the action.

Conference agreement

The House recedes to the Senate requirement that Sates have laws protecting depository institutions when information is provided to child support agencies.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

32. FEDERAL INCOME TAX REFUND OFFSET

A. CHANGED ORDER OF REFUND DISTRIBUTION UNDER INTERNAL REVENUE CODE

Present law

Since 1981 in AFDC cases, and 1984 in non-AFDC cases, Federal law has required States to implement procedures under which child support agencies can collect child support arrearages through the interception of Federal income tax refunds.

Child support arrearages obtained through Federal income tax refunds are distributed to the State and are retained by the State for arrearages owed to it under the AFDC assignment. States must reimburse the Federal government for their share of these arrearage payments. If no arrearages are owed the State, the money is used to pay arrearages to the family.

House bill

The Internal Revenue Code is amended so that offsets of child support arrears owed to individuals take priority over most debts owed Federal agencies. Proceeds from tax intercepts will be distributed as follows:

(1) for Federal education debts and debts to the Department of Health and Human Services;

(2) for child support owed to individuals;

(3) for child support arrearages owed to State governments; and

(4) for other Federal debts.

The provision also amends the Internal Revenue Code so that the order of priority for distribution of tax offsets follows the distribution rules for child support payments specified in subtitle A of this bill.

Senate amendment

No provision.

Conference agreement

The House recedes to the Senate so that the order of payments from tax intercepts remains unchanged. This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

B. ELIMINATION OF DISPARITIES IN TREATMENT OF ASSIGNED AND NON-ASSIGNED ARREARAGES

Present law

Federal rules set different criteria for AFDC and non-AFDC cases. For example, in AFDC cases arrearages may be collected through the income tax offset program regardless of the child's age. In non-AFDC cases, the tax offset program can be used only if the postminor child is disabled (pursuant to the meaning of disability under titles II or XVI of the SSA). Moreover, the arrearage in AFDC cases must be only $150 or more, whereas the arrearage in non-AFDC cases must be at least $500.

House bill

The bill eliminates disparate treatment of families not receiving public assistance by repealing provisions applicable only to support arrears not assigned to the State. The Secretary of the Treasury is given access to information in the National Directory of new Hires for tax purposes.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

33. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES

Present law

If the amount of overdue child support is at least $750, the Internal Revenue Service can enforce the child support obligation through its regular collection process, which may include seizure of property, freezing accounts, or use of other procedures if the child support enforcement agencies requests assistance according to prescribed rules (e.g., certifying that the delinquency is at least $750, etc.)

House bill

No provision.

Senate amendment

Amends the Internal Revenue Code so that no additional fees can be assessed for adjustment to previously certified amounts for the same obligor, effective October 1, 1997.

Conference agreement

The House recedes to the Senate requirement that IRS cannot charge additional fees in the case of a previously certified amount for the same obligor.

34. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES

A. CONSOLIDATION AND STREAMLINING OF AUTHORITIES

Present law

Federal law allows the wages of Federal employees to be garnished to enforce legal obligations for child support or alimony. Federal law provides that moneys payable by the United States to any individual are subject to being garnished in order to meet an individual's legal obligation to provide child support or make alimony payments. An executive order issued 2/27/95 establishes the Federal government as a model employer in promoting and facilitating the establishment and enforcement of child support.

By Executive Order on 2/27/95, all Federal agencies, including the Uniformed Services, are required to cooperate fully in efforts to establish paternity and child support and to enforce the collection of child and medical support. All Federal agencies are to review their wage withholding procedures to ensure that they are in full compliance.

Beginning no later than July 1, 1995, the Director of the Office of Personal Management must publish annually in the Federal Register the list of agents (and their addresses) designated to receive service of withholding notices for Federal employees.

Federal law states that neither the United States nor any disbursing officer or government entity shall be liable with respect to any payment made from moneys due or payable from the United States pursuant to the legal process.

Federal law provides that money that may be garnished includes compensation for personal services, whether such compensation is denominated as wages, salary, commission, bonus, pay, or otherwise, and includes but is not limited to, severance pay, sick pay, incentive payments, and periodic payments.

Includes definitions of "United States", "child support", "alimony", "private person", and "legal process".

House bill

Federal Employees are subject to wage withholding and other actions taken against them by State Child Support Enforcement Agencies.

Federal agencies are responsible for wage withholding and other child support actions taken by the State as if they were a private employer.

The head of each Federal agency must designate an agent and place the agent's name, title, address, and telephone number in the Federal Register annually. The agent must, upon receipt of process, send written notice to the individual involved as soon as possible, but no later than 15 days, and to comply with any notice of wage withholding or respond to other process within 30 days.

Amends existing law governing allocation of moneys owed by a Federal employee to give priority to child support, to require allocation of available funds, up to the amount owed, among child support claimants, and to allocate remaining funds to other claimants on a first-come, first-served basis.

A government entity served with notice of process for enforcement of child support is not required to change its normal pay and disbursement cycle to comply with the legal process.

Similar to current law, the U.S., the government of the District of Columbia, and disbursing officers are not liable for child support payments made in accord with this section; nor is any Federal employee subject to disciplinary action or civil or criminal liability for disclosing information while carrying out the provisions of this section.

The President has the authority to promulgate regulations to implement this section as it applies to Federal employees of the Administrative branch of government; the President Pro Tempore of the Senate and Speaker of the House can issue regulations governing their employees; and the Chief Justice can issue regulations applicable to the Judicial branch.

This section broadens the definition of income to include funds such as insurance benefits, retirement and pension pay, survivor's benefits, compensation for death and black lung disease, veteran's benefits, and workers' compensation; but to exclude from income funds paid to defray expenses incurred in carrying out job duties, owed to the U.S., used to pay Federal employment taxes and fines and forfeitures ordered by court martial, withheld for tax purposes, used for health insurance or life insurance premiums, normal retirement contributions, or life insurance premiums.

This section includes definitions of "United States", "child support", "alimony", "private person", and "legal process".

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. CONFORMING AMENDMENTS

Present law

No provision.

House bill

This section includes conforming amendments to Title IV of the Social Security Act and Title 5 of the United States Code.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. MILITARY RETIRED AND RETAINER PAY

Present law

No provision.

House bill

This section expands the definition of court to include an administrative or judicial tribunal which includes the child support enforcement agency.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

D. EFFECTIVE DATE

Present law

No provision.

House bill

This section goes into effect 6 months after the date of enactment.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

35. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES

A. AVAILABILITY OF LOCATOR INFORMATION

Present law

The Executive Order issued 2/27/95 requires a study which would include recommendations related to how to improve service of process for civilian employees and members of the Uniformed Services stationed outside of the United States.

House bill

The Secretary of Defense must establish a central personnel locator service that contains residential or, in specified instances, duty addresses of every member of the Armed Services (including retirees, the National Guard, and the Reserves). The locator service must be updated within 30 days of the time an individual establishes a new address. Information from the locator service must be made available to the Federal Parent Locator Service.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS

Present law

No provision.

House bill

The Secretary of Defense must issue regulations to facilitate granting of leave for members of the Armed Services to attend hearings to establish paternity or to establish child support orders.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS

Present law

Federal law requires allotments from the pay and allowances of any member of the uniformed service when the member fails to pay child (or child and spousal) support payments.

House bill

The Secretary of each branch of the Armed Forces (including retirees, the Coast Guard, the National Guard, and the Reserves) is required to make child support payments directly to any State to which a custodial parent has assigned support rights as a condition of receiving public assistance. The Secretary of Defense must also ensure that payments to satisfy current support or child support arrears are made from disposable retirement pay. Payroll deductions must begin within 30 days or the first pay period after 30 days of receiving a wage withholding order.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

36. VOIDING OF FRAUDULENT TRANSFERS

Present law

No provision.

House bill

States must have in effect the Uniform Fraudulent Conveyance Act of 1981, the Uniform Fraudulent Transfer Act of 1984, or an equivalent law providing for voiding transfers of income or property in order to avoid payment of child support.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

37. SENSE OF THE CONGRESS THAT STATES SHOULD SUSPEND DRIVERS', BUSINESS, AND OCCUPATIONAL LICENSES OF PERSONS OWING PAST-DUE CHILD SUPPORT

Present law

No provision.

House bill

It is the sense of Congress that each State should suspend any driver's license, business license, or occupational license issued to any person who owes past-due child support.

Senate amendment

No provision.

Conference agreement

House recedes (no provision).

38. WORK REQUIREMENT FOR PERSONS OWING PAST-DUE CHILD SUPPORT

Present law

P.L. 100–485 required the Secretary to grant waivers to up to 5 States allowing them to provide JOBS services on a voluntary or mandatory basis to noncustodial parents who are unemployed and unable to meet their child support obligations. (In their report the conferees noted that the demonstrations would not grant any new powers to the States to require participation by noncustodial parents. The demonstrations were to be evaluated.

House bill

States must have laws that direct courts to order individuals owing past-due child support for a child receiving assistance under the Temporary Family Assistance program either to pay the support due or to participate in work activities. "Past-due support" is defined.

Senate amendment

Similar to House provision, except refers to "support" rather than "past-due support."

Conference agreement

Conferees agree to follow the House and Senate provisions except that the Senate recedes to the House provision that work apply only to nonresident parents owing past-due support.

39. DEFINITION OF SUPPORT ORDER

Present law

No provision.

House bill

A support order is defined as an order issued by a court or an administrative process established under State law that requires support of a child or of a child and the parent with whom the child lives.

Senate amendment

A support order is defined as a judgement, decree, or order (whether temporary, final, or subject to modification) issued by a court or an administrative agency for the support (monetary support, health care, arrearages, or reimbursement) of a child (including a child who has reached the age of majority under State law) or of a child and the parent with whom the child lives.

Conference agreement

The House recedes to the Senate definition of a support order.

40. REPORTING ARREARAGE TO CREDIT BUREAUS

Present law

Federal law requires States to implement procedures which require them to periodically report to consumer reporting agencies the name of debtor parents owing at least 2 months of overdue child support and the amount of child support overdue. However, if the amount overdue is less than $1,000, information regarding it shall be made available only at the option of the State. Moreover, any information may only be made available after the noncustodial parent has been notified of the proposed action and has been given reasonable opportunity to contest the accuracy of the information. States are permitted to charge consumer reporting agencies that request child support arrearage information for a fee, not to exceed the actual cost.

House bill

No provision.

Senate amendment

States are required to have procedures to periodically report to consumer credit reporting agencies the name of any noncustodial parent who is delinquent in the payment of support and the amount of overdue support owed by the parent.

Conference agreement

The House recedes to the Senate requirement that States periodically report to consumer credit reporting agencies.

41. LIENS

Present law

Federal law requires States to implement procedures under which liens are imposed against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State.

House bill

States are required to have procedures to accord full faith and credit and to enforce in accordance with State law a lien from another State. The lien must be accompanied by a certification from the State issuing the lien of the amount of overdue support and a certification that due process requirements have been met. The second State is not required to register the underlying order, unless contested on the grounds of mistake of fact.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

42. STATE LAW AUTHORIZING SUSPENSION OF LICENSES

Present law

No provision.

House bill

States have the authority to withhold, suspend, or restrict the use of drivers' licenses, professional and occupational licenses, and recreational licenses of individuals owing past-due support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

43. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT

Present law

No provision.

House bill

No provision.

Senate amendment

If an individual owes arrearages in excess of $5,000 of child support, the Secretary of HHS must request that the State Department deny, revoke, or limit the individual's passport. State child support agencies must have procedures for certifying arrearages in excess of $5,000 and for notifying individuals who are in arrears.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

44. INTERNATIONAL CHILD SUPPORT ENFORCEMENT

Present law

The United States has not signed any of the major treaties regarding international support enforcement. Pursuant to the Uniform Reciprocal Enforcement of Support Act (URESA), most States have reciprocal agreements with at least one foreign country regarding reciprocal enforcement of support orders. States do not have the power to enter into treaties.

House bill

No provision.

Senate amendment

The Secretary of State is authorized to negotiate reciprocal agreements with foreign nations on behalf of the States, territories, and possessions of the United States regarding the international enforcement of child support obligations.

Conference agreement

The conference agreement follows the Senate amendment with substantial modification. The Secretary of State, with concurrence of the Secretary of HHS, is authorized to declare reciprocity with foreign countries having requisite procedures for establishing and enforcing support orders. The Secretary may revoke reciprocity if she determines that the enforcement procedures do not continue to meet the requisite criteria.

The requirements for reciprocity include procedures in the foreign country for U.S. residents—available at no cost—to establish parentage, to establish and enforce support orders for children and custodial parents, and to distribute payments.

The Secretary of HHS is required to facilitate enforcement services in international cases involving residents of the U.S. and of foreign reciprocating countries, including developing uniform forms and procedures, and providing information from the FPLS on the State of residence of the obligor.

Where there is no Federal reciprocity agreement, States are permitted to enter into reciprocal agreements with foreign countries.

The State plan must provide that request for services in international cases be treated the same as interstate cases, except that no application will be required and no costs will be assessed against the foreign country or the obligee (costs may be assessed at State option against the obligor).

45. DENIAL OF MEANS-TESTED FEDERAL BENEFITS TO NONCUSTODIAL PARENTS WHO ARE DELINQUENT IN PAYING CHILD SUPPORT

Present law

No provision.

House bill

No provision.

Senate amendment

Noncustodial parents who are more than 2 months delinquent in paying child support are not eligible to receive means-tested Federal benefits.

Conference agreement

Senate recede (no provision).

46. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES

Present law

There are about 340 Federally recognized Indian tribes in the 48 contiguous States. Among these tribes there are approximately 130 tribal courts and 17 Courts of Indian Offenses. Most tribal codes authorize their courts to hear parentage and child support matters that involve at least one member of the tribe or person living on the reservation. This jurisdiction may be exclusive or concurrent with State court jurisdiction, depending on specified circumstances.

House bill

No provision.

Senate amendment

Requires States to make reasonable efforts to enter into cooperative agreements with an Indian tribe or organization if the tribe or organization has an established tribal court system to establish paternity, establish and enforce support orders, and enter support orders in accordance with guidelines established by the tribe or organization. Such agreements shall provide for the cooperative delivery of child support enforcement services in Indian country and for the forwarding of all funds collected by the tribe or organization to the State agency, or conversely, by the State agency to the tribe or organization, which shall distribute the funds according to the agreement. The DHHS Secretary in appropriate cases is authorized to send Federal funds directly to the tribe or organization.

Conference agreement

Senate recede (no provision).

47. FINANCIAL INSTITUTION DATA MATCHES

Present law

No provision.

House bill

No provision.

Senate amendment

States are required to implement procedures under which the State child support agency shall enter into agreements with financial institutions doing business within the State to develop and operate a data match system, using automated data exchanges to the maximum extent feasible, in which such financial institutions are required to provide for each calendar quarter the name, address, Social Security number, and other identifying information for each noncustodial parent identified by the State who has an account at the institution and, in response to a notice of lien or levy, to encumber or surrender assets held by the institution on behalf of the noncustodial parent who is subject to the child support lien. Includes definition of the term "financial institution."

Conference agreement

Conferees agree that the House recede to the Senate requirement that States perform data matches on information supplied by financial institutions in the case of parents who owe past-due child support and have liens against them.

48. ENFORCEMENT OF ORDERS AGAINST PATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS

Present law

No provision. However, Wisconsin and Hawaii have State laws that make grandparents financially responsible for their minor children's dependents.

House bill

No provision.

Senate amendment

States would be required to implement procedures under which any child support order enforced by a child support enforcement agency would be enforceable against the paternal grandparents of a minor father if the child's minor mother were receiving benefits from the Temporary Assistance for Needy Families block grant program.

Conference agreement

The House recedes to the Senate requirement that paternal grandparents be held accountable for paying child support in the case of minor mother with children being supported by benefits from the Temporary Assistance for Needy Families block grant, or that the maternal grandparents be held accountable for paying child support in the case of a minor father raising children who receive benefits from the Temporary Assistance for Needy Families block grant.

CHAPTER 8—MEDICAL SUPPORT

49. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER

Present law

P.L. 103-66 requires States to adopt laws to require health insurers and employers to enforce orders for medical and child support and forbids health insurers from denying coverage to children who are not living with the covered individual or who were born outside of marriage. Under P.L. 103-66, group health plans are required to honor "qualified medical child support orders."

House bill

This provision expands the definition of medical child support order in ERISA to clarify that any judgement, decree, or order that is issued by a court of competent jurisdiction or by an administrative adjudication has the force and effect of law.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

50. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE

Present law

Federal law requires the Secretary to require IV-D agencies to petition for the inclusion of medical support as part of child support whenever health care coverage is available to the noncustodial parent at reasonable cost.

House bill

No provision.

Senate amendment

All orders enforced under this part must include a provision for health care coverage. If the noncustodial parent changes jobs and the new employer provides health coverage, the State must send notice of coverage, which shall operate to enroll the child in the health plan, to the new employer.

Conference agreement

The House recedes to the Senate provision on medical care coverage provided to children by nonresident parents changing jobs.

CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-RESIDENTIAL PARENTS

51. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS

A. IN GENERAL

Present law

In 1988, Congress authorized the Secretary to fund for fiscal year 1990 and fiscal year 1991 demonstration projects by States to help divorcing or never-married parents cooperate with each other, especially in arranging for visits between the child and the nonresident parent.

House bill

The bill authorizes grants to States for access and visitation programs including mediation, counseling, education, development of parenting plans, and visitation enforcement. Visitation enforcement can include monitoring, supervision, neutral drop-off and pickup, and development of guidelines for visitation and alternative custody agreements. States are required to monitor and evaluate their programs and are given the authority to subcontract the program to courts, local public agencies, or private non-profit agencies. Programs operating under the grant do not have to be Statewide. Funding is authorized as capped spending under section IV-D of the Social Security Act. Projects are required to supplement rather than supplant State funds.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. AMOUNT OF GRANT

Present law

No provision.

House bill

The amount of the grant to a State is equal to either 90 percent of the State expenditures during the year for access and visitation programs or the allotment for the State for the fiscal year.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. ALLOTMENT TO STATES

Present law

No provision.

House bill

The allotment to the State bears the same ratio to the amount appropriated for the fiscal year as the number of children living in the State with one biological parent divided by the national number of children living with one biological parent. The Administration for Children and Families must adjust allotments to ensure that no State is allotted less than $50,000 for fiscal years 1996 or 1997 or less than $100,000 for any year after 1997.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

D. STATE ADMINISTRATION

Present law

No provision.

House bill

States may use the money to create their own programs or to fund grant programs with courts, local public agencies, or nonprofit organizations. The programs do not need to be Statewide. States must monitor, evaluate, and report on their programs in accord with the regulations issued by the Secretary.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

CHAPTER 10—EFFECT OF ENACTMENT

52. EFFECTIVE DATES

Present law

No provision.

House bill

Except as noted in the text of the bill for specific provisions, the general effective date for provisions in the bill is October 1, 1996. However, given that many of the changes required by this bill must be approved by State Legislatures, the bill contains a grace period tied to the meeting schedule of State Legislatures. In any given State, the bill becomes effective either on October 1, 1996 or on the first day of the first calendar quarter after the close of the first regular session of the State Legislature that begins after the date of enactment of the bill. In the case of States that require a constitutional amendment to comply with the requirements of the bill, the grace period is extended either 1 year after the effective date of the necessary State constitutional amendment or 5 years after the date of enactment of the bill.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

SUBTITLE D—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

1. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION

Present law

No provision.

House bill

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(i) Self-sufficiency has been a basic principle of U.S. immigration law since this country's earliest immigration statutes;

(ii) It continues to be the immigration policy of the U.S. that aliens within the nation's borders depend not on public resources, but rely on their own capabilities and the resources of their families and sponsors and that the availability of public benefits not constitute an incentive for immigration;

(iii) Aliens have been applying for and receiving public benefits at increasing rates;

(iv) Current eligibility rules and unenforceable financial support agreements have proved incapable of assuring that individual aliens not burden the public benefits system;

(v) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements to assure that aliens become self-reliant; and

(vi) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

Senate amendment

No provision.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

CHAPTER 1—ELIGIBILITY FOR FEDERAL BENEFITS PROGRAMS

2. INELIGIBILITY OF ILLEGAL ALIENS FOR CERTAIN FEDERAL BENEFITS PROGRAMS

Present law

Current law limits alien eligibility for most major Federal assistance programs, including restrictions on, among other programs, Supplemental Security Income, Aid to Families with Dependent Children, housing assistance, and Food Stamps Programs. Current law is silent on alienage under, among other programs, school lunch and nutrition, Special Supplemental Food Program for Women, Infants, and Children (WIC), Head Start, migrant health centers, and the earned income tax credit.

Under the programs with restrictions, benefits are generally allowed for permanent resident aliens (also referred to as immigrants and green card holders), refugees, asylees, and parolees, but benefits (other than emergency Medicaid) are denied to nonimmigrants (or aliens lawfully admitted as, e.g., tourists, students, or temporary workers) and illegal aliens. Benefits are permitted under AFDC, SSI, unemployment compensation, and nonemergency Medicaid to other aliens permanently residing in the U.S. under color of law (PRUCOL).

House bill

Any alien who is not lawfully present in the U.S. shall not be eligible for any Federal means-tested public benefits program, with the exception of non-cash, in-kind emergency assistance, including emergency medical services. Housing-related assistance, which allows limited assistance for households containing both eligible and ineligible individuals, remains prohibited as under current law.

The Attorney General is to decide which aliens are lawfully present for purposes of benefit eligibility. In doing so, the Attorney General is not required to consider an alien to be lawfully present solely because the alien is considered to be permanently residing under color of law (PRUCOL) under current standards.

Senate amendment

Any individual who is not lawfully present in the U.S. is ineligible for any Federal benefit other than: emergency medical services under Medicaid; short-term emergency disaster relief; assistance under the National School Lunch Act or the Child Nutrition Act of 1966; and public health assistance for immunizations and, if found necessary by HHS, testing for and treatment of communicable diseases. Similarly, States which administer a Federally-funded benefit program (or provide benefits pursuant to such a program) are not required to assist aliens who are not lawfully present.

An individual is lawfully present for purposes of qualifying for benefits if the individual is a citizen, non-citizen national (i.e. American Samoan), permanent resident alien, refugee, asylee (including an alien who has had his/her deportation stayed because it would return the alien to a country which would persecute him/her), or an alien who has been paroled into the U.S. by the Attorney General for at least 1 year.

Noncitizens are not lawfully present for the purposes of the SSI program merely because they are considered to be permanently residing under color of law (PRUCOL).

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, except that aliens who are not lawfully present in the U.S. and nonimmigrants and aliens paroled into the U.S. for a period of less than 1 year as described below are grouped together and defined as classes "not qualified" to receive most mandatory Federal public benefits. However, even these "non-qualified" aliens may continue to receive: short-term, in-kind, emergency disaster relief; emergency medical services under Medicaid; public health assistance for immunizations and testing and treatment to prevent the spread of communicable diseases; and programs specified by the Attorney General as necessary to protect life and safety, such as soup kitchens and crisis counseling. With regard to public housing assistance, non-qualified aliens receiving benefits on the date of enactment will continue to be treated as they are under current law.

The conference agreement follows the Senate amendment regarding the definition of Federal public benefits for this and subsequent sections, namely: any mandatory grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by directly appropriated funds of the United States; and any mandatory retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family by an agency of the U.S. or by directly appropriated funds of the U.S.

The allowance for treatment of communicable diseases is very narrow. The conferees intend that it only apply where absolutely necessary to prevent the spread of such diseases. This is only a stop-gap measure until the deportation of a person or persons unlawfully here. It is not intended to provide authority for continued treatment of such diseases for a long term.

The allowance for emergency medical services under Medicaid is very narrow. The conferees intend that it only apply to medical care that is strictly of an emergency nature, such as medical treatment administered in an emergency room, critical care unit, or intensive care unit. The conferees do not intend that emergency medical services include pre-natal or delivery care assistance that is not strictly of an emergency nature as specified herein.

The intent of the conferees is that title I, part A of the Elementary and Secondary Education Act would not be affected by section 12401 because the benefit is not provided to an individual, household, or family eligibility unit.

The conferees believe that, as a matter of national immigration policy regarding immigration and welfare, self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

It continues to be the immigration policy of the United States that aliens within the nation's borders not depend on taxpayer-funded public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations. The availability of taxpayer-funded public benefits should not constitute an incentive for immigration to the United States.

Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates. Current eligibility rules for public benefits and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

The conferees further believe that it is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy. It is also a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits. Finally, with respect to the State authority to make determinations concerning alien eligibility for public benefits in this subtitle, a State that chooses to follow the Federal classifications in determining the eligibility of aliens for public benefits shall be considered to have chosen the least restrictive means available for achieving the compelling government interest of assuring that aliens be self-reliant in accordance with national immigration policy.

3. INELIGIBILITY OF NONIMMIGRANTS, ASYLEES, AND PAROLEES FOR CERTAIN FEDERAL BENEFITS PROGRAMS

A. IN GENERAL

Present law

The Immigration and Nationality Act lists 19 categories of nonimmigrant aliens, including tourists, business visitors, foreign students, exchange visitors, temporary workers, and diplomats. Aliens granted political asylum and aliens allowed into the U.S. under the Attorney General's discretionary parole power are not among the nonimmigrant categories. Nonimmigrants generally are denied benefits under public benefits programs that have alienage restrictions. By contrast, asylees and parolees are not disqualified.

House bill

Aliens who are lawfully in the U.S. as nonimmigrants are ineligible for means-tested Federal benefits, other than the programs excepted below. Nonimmigrants admitted as temporary agricultural workers are not to be treated as nonimmigrants for public benefits purposes, but rather are to be treated as immigrants. Other aliens who also are not to be treated as nonimmigrants include aliens granted asylum and aliens paroled into the U.S. for 1 year or longer. However, aliens paroled into the U.S. for a period briefer than 1 year are subject to the nonimmigrant restrictions.

Senate amendment

Nonimmigrant aliens are not considered lawfully present for Federal benefits purposes, and are thus ineligible for any Federal benefit other than the programs specifically excepted below.

Conference agreement

The conference agreement generally follows the Senate amendment, as described in section 2 above.

The conferees believe that, as a matter of national immigration policy regarding immigration and welfare, self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

It continues to be the immigration policy of the United States that aliens within the nation's borders not depend on mandatory taxpayer-funded public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations. The availability of taxpayer-funded public benefits should not constitute an incentive for immigration to the United States.

Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates. Current eligibility rules for public benefits and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

The conferees further believe that it is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy. It is also a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits. Finally, with respect to the State authority to make determinations concerning alien eligibility for public benefits in this subtitle, a State that chooses to follow the Federal classifications in determining the eligibility of aliens for public benefits shall be considered to have chosen the least restrictive means available for achieving the compelling government interest of assuring that aliens be self-reliant in accordance with national immigration policy.

B. EXCEPTED PROGRAMS

Present law

Of Federal programs with alien eligibility restrictions, nonimmigrants are eligible for emergency services under Medicaid. Temporary agricultural workers may receive legal services funded through the Legal Services Corporation with respect to their wages, housing, and other employment rights covered by their employment contract. Those nonimmigrants whose wages are not exempt from unemployment taxes (FUTA) may qualify for unemployment compensation under certain circumstances.

House bill

Exception to the bill's blanket denial of Federal means-tested assistance to nonimmigrants is made for Emergency Assistance, including non-cash emergency medical services. Housing-related assistance is not covered by the bill's general rule, but rather existing restrictions under housing programs are to continue to apply. These restrictions deny assisted housing to nonimmigrants except as they may incidentally benefit as members of mixed families. However, all aliens granted parole are eligible for housing assistance.

Senate amendment

Permits nonimmigrants (and all others who are not lawfully present) to receive: emergency medical services under Medicaid; short-term emergency disaster relief; school lunch and child nutrition assistance; and public health assistance for immunizations and, if found necessary by HHS, testing for and treatment of communicable diseases.

Conference agreement

The conference agreement generally follows the Senate amendment, as described in section 2 above.

The allowance for treatment of communicable diseases is very narrow. The conferees intend that it only apply where absolutely necessary to prevent the spread of such diseases. This is only a stop-gap measure until the deportation of a person or persons unlawfully here. It is *not* intended to provide authority for continued treatment of such diseases for a long term.

The allowance for emergency medical services under Medicaid is very narrow. The conferees intend that it only apply to medical care that is *strictly* of an emergency nature, such as medical treatment administered in an emergency room, critical care unit, or intensive care unit. The conferees do not intend that emergency medical services include pre-natal or delivery care assistance that is not strictly of an emergency nature as specified herein.

C. TREATMENT OF ALIENS PAROLED INTO THE U.S.

Present law

In some cases, aliens paroled into the U.S. are entitled to public benefits while they remain in parole status.

House bill

Aliens paroled into the U.S. for less than 1 year are treated as nonimmigrants for benefits purposes (i.e., general ineligibility) but aliens paroled into the U.S. for longer than 1 year are treated as immigrants (i.e. somewhat broader, but still limited, eligibility).

Senate amendment

Aliens who have been paroled into the U.S. for a period of less than 1 year are not considered to be lawfully present for benefits purposes and therefore are generally ineligible for benefits. (Aliens who have been paroled into the U.S. for a period of 1 year or longer are considered to be lawfully present.)

Conference agreement

The conference agreement generally follows the Senate amendment, as described in section 2 above.

4. LIMITED ELIGIBILITY OF LAWFULLY PRESENT ALIENS (OTHER THAN NONIMMIGRANTS) FOR FEDERAL BENEFITS

A. IN GENERAL

Present law

With the exception of certain buy-in rights under Medicare, immigrants (or aliens lawfully admitted for permanent residence) are eligible for major Federal benefits, but the ability of some immigrants to meet the needs tests for SSI, AFDC, and food stamps may be affected by the sponsor-to-alien deeming provisions discussed below. Refugees, asylees, and parolees also generally are eligible. Benefits are permitted under AFDC, SSI, unemployment compensation, and non-emergency Medicaid to other aliens permanently residing in the U.S. under color of law (PRUCOL).

House bill

With certain specific exceptions noted below, any alien who is lawfully present in the U.S. shall not be eligible for any of the following Federal means-tested public benefits programs (except as they provide non-cash, in-kind emergency services): Supplemental Security Income, Temporary Assistance for Needy Families, Social Services Block Grant (Title XX), Medicaid, and Food Stamps.

Under programs other than the foregoing 5 major benefits programs, the eligibility of lawfully present aliens (other than nonimmigrants) for benefits would continue to be governed by current law as modified by the sponsor-to-alien deeming provisions discussed below. The Attorney General is to determine which aliens are "lawfully present" and is not bound in doing so by current interpretations of "PRUCOL", or "permanently residing under color of law."

Senate amendment

Expect for specific classes noted below, all aliens are to be denied SSI.

Except for specific classes and programs noted below, all aliens arriving after enactment are ineligible for all Federal needs-based assistance for 5 years after entry.

Except for specific classes and programs noted below, States may deny noncitizens need-based assistance funded by the Federal Government (e.g., Temporary Assistance for Needy Families and similar block grants).

For lawfully present aliens who are in the U.S. on the date of enactment and who have been here 5 years, current rules will continue to apply to programs other than SSI, except as eligibility may be affected by the State option to deny noncitizens needs-based assistance funded by Federal funds.

Conference agreement

The conference agreement follows the House bill and the Senate amendment with the following modifications:

(1) current resident aliens and those arriving after enactment (with the exception of the specific classes described below) may not receive SSI or food stamps until attaining citizenship or working long enough (that is, at least 10 years) to qualify for Social Security retirement benefits;

(2) aliens have no entitlement to benefits;

(3) States have the option of providing benefits to lawfully present aliens under the TANF, Medicaid, or Title XX programs; and

(4) new entrants are denied benefits under all mandatory Federal means-tested programs for five years after their entry into the U.S. with the exception of those programs described in section (4)(B) below.

B. EXCEPTED PROGRAMS

Present law

Not applicable. (See above.)

House bill

Only exception is for non-cash, in-kind emergency services, as described above.

Senate amendment

The 5-year bar on Federally-funded assistance to new arrivals does not apply to:

(1) emergency medical services under Medicaid;

(2) short-term emergency disaster relief;

(3) assistance under the National School Lunch Act or the Child Nutrition Act of 1966;

(4) the Head Start program;

(5) foster care and adoption assistance (but foster parents or adoptive parents cannot be aliens who are ineligible for benefits due to this provision);

(6) public health assistance for immunizations and, if found necessary by HHS, testing for and treatment of communicable diseases; and

(7) programs specified by the Attorney General that (i) deliver services at the community level, (ii) do not condition assistance on the recipient's income or resources, and (iii) are necessary to protect life, safety, or public health (e.g. soup kitchens).

States may deny needs-based assistance funded by the Federal government to all noncitizens except (1) programs described above in 1, 2, 3, 4, 6, or 7; or (2) assistance to noncitizens in the classes described below.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that the following programs are also excepted: (1) programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, and (2) means-tested programs under the Elementary and Secondary Education Act of 1965.

C. EXCEPTED CLASSES

Present law

Not applicable. (See above.)

House bill

Excepted are: (i) refugees during their first 5 years in the U.S; (ii) aliens who have been lawfully admitted to the U.S. for permanent residence, are over 75 years of age, and have resided in U.S. for at least 5 years; (iii) honorably discharged veterans and active duty personnel or their spouses and unmarried dependent children lawfully residing in any State or territory or possession of the U.S.; (iv) aliens lawfully residing in any State or Territory or Possession of the U.S. during the first year of enactment; and (v) immigrants who are unable to comply with naturalization requirements because of disability or mental impairment.

Senate amendment

Excepted are: (i) refugees during their first 5 years in the U.S.; (ii) honorably discharged veterans (if determined by the Attorney General to be lawfully present), and their spouses and unmarried dependent children; (iii) aliens receiving SSI benefits on the date of enactment (whose eligibility would end) will remain eligible for SSI until January 1, 1997; (iv) asylees (including those who have had deportation stayed because it would return them to a country which would persecute them) during their first 5 years in the U.S.; (v) noncitizens who have worked long enough to be fully insured for Social Security or disability insurance benefits are exempt from the ban on SSI and the prospective 5 year ban; and (vi) agencies may exempt individuals who have been battered or subjected to extreme cruelty from the denial of State-administered Federal benefits (and the sponsor-alien "deeming" provision discussed below) if the resulting denial of assistance will endanger their well-being.

Conference agreement

The conference agreement follows the House bill and the Senate amendment so that the following classes are excepted:

(1) refugees (during their first 5 years in the U.S.), asylees (for 5 years after being adjudicated as an asylee), and aliens whose deportation has been withheld (during their first 5 years after their deportation has been withheld);

(2) aliens who have been lawfully admitted to the U.S. for permanent residence and have worked at least 40 quarters (that is, at least 10 years which is currently the criteria for eligibility for Social Security retirement benefits), when a worker reaches retirement age;

(3) honorably discharged veterans and active duty personnel or their spouses and unmarried dependent children lawfully residing in any State, territory, or possession of the U.S.; and

(4) lawfully present aliens receiving SSI or food stamps on the date of enactment, whose eligibility would end January 1, 1997.

D. EFFECTIVE DATE(S)

Present law

Not applicable.

House bill

In general, applies to applicants for benefits after the date of enactment. For current residents of the U.S. on the date of enactment, restriction on eligibility does not apply until 1 year after enactment.

Senate amendment

In general, applies to benefits on or after the date of enactment. Current SSI recipients lose eligibility after January 1, 1997. The Attorney General must adopt regulations to verify the eligibility of applicants for Federal benefits no later than 18 months after enactment. States must have a verification system that complies with these regulations within 24 months of their adoption.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that the eligibility of current resident noncitizens receiving SSI and food stamps on the date of enactment ends for months beginning on or after January 1, 1997.

E. REAPPLICATION

Present law

An individual who is eligible for SSI but who thereafter becomes ineligible for a period of 12 consecutive months must reapply for benefits.

House bill

No provision.

Senate amendment

Individuals receiving SSI benefits on the date of enactment who are notified of their termination of eligibility may reapply for benefits within 4 months after the date of enactment. The Commissioner of Social Security shall determine within 1 year of enactment the eligibility of individuals who reapply within 1 year after enactment.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that similar reapplication procedures are established with regard to food stamps.

5. NOTIFICATION

Present law

Under regulation, individual advance written notice must be given of an intent to suspend, reduce, or terminate SSI benefits.

House bill

Each Federal Agency that administers an affected program shall post information and provide general notification to the public and to program recipients of changes regarding eligibility.

Senate amendment

The Commissioner of Social Security shall notify noncitizens made ineligible for SSI benefits within 3 months after the date of enactment.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

6. VERIFICATION AND INFORMATION SHARING

Present law

State agencies that administer most major Federal programs with alienage restrictions generally use the SAVE (Systematic Alien Verification for Entitlements) system to verify the immigration status of aliens applying for benefits.

AFDC and SSI require safeguards that restrict the use or disclosure of information concerning applicants or recipients to purposes connected to the administration of needs-based Federal programs.

House bill

No provision.

Senate amendment

The Attorney General must adopt regulations to verify the lawful presence of applicants for Federal benefits no later than 18 months after enactment. States must have a verification system that complies with these regulations within 24 months of their adoption.

The agencies which administer SSI, housing assistance programs under the United States Housing Act of 1937, or block grants for temporary assistance for needy families (the successor program to AFDC) are required to furnish information to the Immigration and Naturalization Service (INS) about aliens they know to be unlawfully in the United States at least 4 times annually and upon INS request.

Conference agreement

The conference agreement follows the Senate amendment, except with regard to agencies required to furnish information to the INS, which was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

CHAPTER 2—ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS

7. INELIGIBILITY OF ILLEGAL ALIENS FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS

Present law

Under Plyler v. Doe (457 U.S. 202 (1982)), States may not deny illegal alien children access to a public elementary education. However, the narrow 5-4 Supreme Court decision may imply that illegal aliens may be denied at least some State benefits and that Congress may influence the eligibility of illegal aliens for State benefits. Many, but not all, State general assistance laws currently deny illegal aliens means-tested general assistance.

House bill

No alien who is not lawfully present in the U.S. shall be eligible for any State and local means-tested public benefits programs (see definitions below). The only exception is emergency medical services.

Senate amendment

No provision affects programs wholly administered and funded by State or local governments. Aliens who are not lawfully present are ineligible for benefits paid with Federal funds under State-administered programs (or paid with State funds pursuant to such programs).

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

8. INELIGIBILITY OF NONIMMIGRANTS FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS

Present law

Currently, there is no Federal law barring nonimmigrants from State and local needs-based programs. In general, States are restricted in denying assistance to nonimmigrants where the denial is inconsistent with the terms under which the nonimmigrants were admitted. Where a denial of benefits is not inconsistent with Federal immigration law, however, States have broader authority to deny benefits and States often do deny certain benefits to nonimmigrants. Also, aliens in most nonimmigrant categories generally may have difficulty qualifying for many State and local benefits because of requirements that they be State "residents."

House bill

No alien who is lawfully present in the U.S. as a non-immigrant shall be eligible for any State and local means-tested public benefit programs. Exceptions for: non-cash emergency assistance (including emergency medical services) aliens granted asylum, and certain temporary agricultural workers who are treated as immigrants for purposes of application for State and local means-tested benefits (see below). Aliens paroled into the U.S. for a period of less than 1 year are considered to be nonimmigrants under this part.

Senate amendment

No provision affects programs wholly administered and funded by State or local governments. Nonimmigrants are not considered to be lawfully present for Federal benefits purposes and are thus ineligible for benefits paid with Federal funds under State-administered programs (or paid with State funds pursuant to such programs).

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

9. STATE AUTHORITY TO LIMIT ELIGIBILITY OF IMMIGRANTS FOR STATE AND LOCAL MEANS-TESTED PUBLIC BENEFITS PROGRAMS

Present Law

Under Graham *v.* Richardson (403 U.S. 365 (1971)), States are barred from denying legal permanent residents from State-funded assistance that is provided to equally needy citizens.

House bill

States are authorized to determine eligibility requirements for aliens who are lawfully present in the U.S. for any State and local means-tested public benefit program (other than non-cash emergency assistance, including emergency medical services), with exception of:

(i) refugees during their first 5 years in the U.S.;

(ii) Aliens who have been lawfully admitted to the U.S. for permanent residence, are over 75 years of age, and have resided in U.S. for five years;

(iii) Honorably discharged veterans and active duty personnel or their spouses and unmarried dependent children lawfully residing in any State or territory or possession of the U.S.; and

(iv) Aliens lawfully residing in any State or Territory or possession of the U.S. during the first year after the date of enactment. Aliens lawfully present would remain eligible for emergency medical services.

In addition to enhancing State discretion to impose alienage restrictions, eligibility for State and local needs-based benefits also would be restricted by application of new sponsor-to-alien deeming requirements discussed below.

Senate amendment

No provision restricts benefits wholly funded by State or local governments, but States may use the sponsor-alien deeming provisions, described below, to determine whether a sponsored individual qualifies for assistance under such a program.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

CHAPTER 3—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

10. REQUIREMENTS FOR AFFIDAVITS OF SUPPORT

A. WHEN REQUIRED AND ENFORCEABILITY

Present law

Administrative authorities may request an affidavit of support on behalf of an alien seeking permanent residency. Requirements for affidavits of support are not specified under current law.

Under the Immigration and Nationality Act, an alien who is likely to become a public charge may be excluded from entry unless this restriction is waived, as is the case for refugees. By regulation and administrative practice, the State Department and the Immigration and Naturalization Service permit a prospective permanent resident alien (also immigrant or green card holder) who otherwise would be excluded as a public charge (i.e., insufficient means or prospective income) to overcome exclusion through an affidavit of support or similar document executed by a individual in the U.S. Individuals who execute affidavits of support commonly are called sponsors, even though that term also is used under immigration practice to refer to individuals and other entities who undertake various other acts (e.g., file a visa preference petition for a relative or prospective employee or undertake to resettle individuals who enter in refugee status) and who may or may not also execute affidavits of support. About one-half of the aliens who obtain legal permanent resident status have had affidavits of support filed on their behalf.

Various State court decisions and decisions by immigration courts have held that these affidavits, as currently constituted, do not impose a binding obligation on the sponsor to reimburse State agencies providing aid to the sponsored alien.

House bill

When affidavits of support are required, they must comply with the following:

(A) no affidavit of support may be accepted to overcome a public charge exclusion unless the affidavit is executed as a contract that is legally enforceable against the sponsor by the Federal government and by any State or local government with respect to any means-tested benefits paid to the sponsored alien before the alien becomes a citizen. However, affidavits of support are not to be construed to provide any right to sponsored aliens;

(B) any Federal, State or local means-tested benefits paid to sponsored alien;

(C) to qualify to execute an affidavit of support, an individual must be within the definition of sponsor set out in item G(1), below;

(D) governmental entities that provide benefits may seek reimbursement up to 10 years after a sponsored alien last receives benefits. In the affidavit of support, the sponsor must agree to submit to the jurisdiction of any Federal or State court regarding reimbursement of the cost of benefits received by the alien; and

(E) sponsorship extends until alien becomes a citizen.

Senate amendment

When affidavits of support are required, they must comply with the following:

(A) no affidavit of support may be relied upon to overcome a public charge exclusion unless the affidavit is executed as a contract that is legally enforceable against the sponsor by the sponsored alien and by Federal, State, and local governmental entities that provide the sponsored alien with means-tested assistance during the support period described below;

(B) programs for which reimbursement shall be requested are: (1) AFDC or its successor; (2) Medicaid; (3) Food Stamps; (4) SSI; (5) any State general assistance program; and (6) and other Federal, State or local need-based program. However, governmental entities cannot seek reimbursement with respect to (1) emergency medical services under Medicaid; (2) short-term emergency disaster relief; (3) assistance provided under the National School Lunch Act or the Child Nutrition Act of 1966; (4) the Head Start program; (5) public health assistance for immunizations and, if determined necessary by HHS, testing for or treatment of communicable diseases; and (6) programs specified by the Attorney General that (i) deliver services at the community level, (ii) do not condition assistance on the recipient's income or resources, and (iii) are necessary to protect life, safety, or public health (e.g., soup kitchens);

(C) to qualify to execute an affidavit of support, an individual must be within the definition of sponsor set out in item G(1), below;

(D) governmental entities may seek reimbursement of other means-tested assistance up to 10 years after a sponsored alien last receives benefits. In the affidavit of support, the sponsor must agree to submit to the jurisdiction of any Federal or State court regarding reimbursement of the cost of benefits received by the alien; and

(E) sponsor must agree in the affidavit of support to provide sufficient financial support so that the sponsored individual will not become a public charge until the individual has worked in the U.S. for 40 qualifying quarters, regardless of whether the individual chooses to naturalize or not. A qualifying quarter is a 3-month period (1) which counts as a quarter for the purposes of social security coverage, (2) during which the individual did not receive needs-based assistance, and (3) which occurs in a tax year for which the individual had income tax liability.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment as follows:

When affidavits of support are required, they must comply with the following:

(A) no affidavit of support may be accepted to overcome a public charge exclusion unless the affidavit is executed as a contract that is legally enforceable against the sponsor by the Federal government with respect to any mandatory means-tested benefits paid to the sponsored alien before the alien becomes a citizen. However, affidavits of support are not to be construed to provide any right to sponsored aliens;

(B) programs for which reimbursement shall be requested are: (1) AFDC or its successor; (2) Medicaid; (3) Food Stamps; (4) SSI; and (5) other mandatory Federal need-based programs. However, governmental entities cannot seek reimbursement with respect to (1) emergency medical services under Medicaid; (2) short-term emergency disaster relief; (3) assistance provided under the National School Lunch Act or the Child Nutrition Act of 1966; (4) the Head Start program; (5) public health assistance for immunizations and, if determined necessary by HHS, testing for or treatment of communicable diseases; (6) programs specified by the Attorney General that (i) deliver services at the community level, (ii) do not condition assistance on the recipient's income or resources, and (iii) are necessary to protect life, safety, or public health (e.g., soup kitchens); and (7) postsecondary education benefits (however, in the event a permanent resident alien applies for Federal student loans, the sponsor or citizen must cosign the loan);

(C) to qualify to execute an affidavit of support, an individual must be within the definition of sponsor set out in item G(1) below;

(D) governmental entities that provide benefits may seek reimbursement up to 10 years after a sponsored alien last receives benefits. In the affidavit of support, the sponsor must agree to submit to the jurisdiction of any Federal or State court regarding reimbursement of the cost of benefits received by the alien; and

(E) sponsorship extends until alien becomes a citizen.

The allowance for treatment of communicable diseases is very narrow. The conferees intend that it only apply where absolutely necessary to prevent the spread of such diseases. This is only a stop-gap measure until the deportation of a person or persons unlawfully here. It is not intended to provide authority for continued treatment of such diseases for a long term.

The allowance for emergency medical services under Medicaid is very narrow. The conferees intend that it only apply to medical care that is strictly of an emergency nature, such as medical treatment administered in an emergency room, critical care unit, or intensive care unit. The conferees do not intend that emergency medical services include pre-natal or delivery care assistance that is not strictly of an emergency nature as specified herein.

B. FORMS

Present law

No statutory provision. The Department of Justice issues a form (Form I-134) that complies with current sponsorship guidelines.

House bill

The Attorney General, in consultation with the Secretary of State and the Secretary of HHS, shall formulate an affidavit of support within 90 days after enactment, consistent with this section.

Senate amendment

The Attorney General, the Secretary of State, and the Secretary of HHS shall jointly formulate an affidavit of support within 90 days after enactment, consistent with this section.

Conference agreement

The conference agreement follows the House bill.

C. STATUTORY CONSTRUCTION

Present law

No provision.

House bill

Nothing in this section shall be construed to grant third party beneficiary rights to any sponsored alien under an affidavit of support.

Senate amendment

The Senate amendment expressly requires that affidavits of support permit sponsored individuals to enforce support obligations of their sponsors as contained in the affidavits.

Conference agreement

The conference agreement follows the Senate amendment.

D. NOTIFICATION OF CHANGE OF ADDRESS

Present law

There is no express requirement under current administrative practice that sponsors inform welfare agencies of a change in address. However, a sponsored alien who applies for benefits for which deeming is required must provide various information regarding the alien's sponsor.

House bill

Until they no longer are potentially liable for reimbursement of benefits paid to sponsored aliens, sponsors must notify welfare agencies of any change of their address within 30 days of moving. Failure to notify may result in a civil penalty of up to $2000 or, if the failure occurs after knowledge that the sponsored alien has received a reimbursable benefit, of up to $5000.

Senate amendment

Until they no longer are potentially liable for reimbursement of benefits paid to sponsored individuals, sponsors must notify the Attorney General and the State, district, territory or possession in which the sponsored individual resides of any change of their address within 30 days of moving. Failure to notify may result in a civil penalty of up to $2000 or, if the failure occurs after knowledge that the sponsored individual has received a reimbursable benefit, of up to $5000.

Conference agreement

The conference agreement follows the Senate amendment.

E. REIMBURSEMENT PROCEDURES

Present law

Various State court decisions and decisions by immigration courts have held that these affidavits, as currently constituted, do not impose a binding obligation on the sponsor to reimburse State agencies providing aid to the sponsored alien.

House bill

If a sponsored alien receives any benefit under any means-tested public assistance program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance. Thereafter the official may seek reimbursement in court if the sponsor fails to respond within 45 days of the request that the sponsor is willing to begin repayments. The official also may seek reimbursement through the courts within 60 days after a sponsor fails to comply with the terms of repayment. The Attorney General in consultation with the Secretary of HHS, shall prescribe regulations on requesting reimbursement. No action may be brought later than 10 years after the alien last received benefits.

Senate amendment

Upon notification that a sponsored individual has received a reimbursable need-based benefit (see above), the appropriate government official shall request reimbursement in accordance with the same procedures and limitations that are in the House bill. The Commissioner of Social Security is to prescribe regulations for requesting reimbursement from sponsors, and such regulations must include the notification of sponsors (at their last known address) by certified mail.

Conference agreement

The conference agreement follows the House bill.

F. JURISDICTION

Present law

State law sets forth which types of cases its courts will hear, subject to due process requirements on minimal connections between activities, people, or property within the State and the matter being litigated.

House bill

No provision.

Senate amendment

No State court shall decline for lack of jurisdiction to hear any action brought against a sponsor for reimbursement for the cost of any benefit if the sponsored individual received public assistance while residing in the State.

Conference agreement

The conference agreement follows the Senate amendment. The conferees intend that both Federal and State courts have jurisdiction over reimbursement actions against a sponsor.

G. DEFINITIONS

Present law

No provision.

House bill

A "Sponsor" is an individual who (1) is a citizen or national of the U.S. or an alien who is lawfully admitted to the U.S. for permanent residence; (2) is at least 18 years of age; and (3) resides in any State.

A "Means-Tested Public Benefits Program" is a program of public benefits of the Federal, State or local government in which eligibility or the amount of benefits or both are determined on the basis of income, resources, or financial need.

Senate amendment

A "Sponsor" is an individual who (1) is a citizen or national of the U.S. or an alien who is lawfully admitted to the U.S. for permanent residence; (2) is at least 18 years of age; (3) resides in any State or U.S. territory; and (4) is able to demonstrate (through evidence which includes attested copies of tax returns for the 2 most recent tax years) the means to maintain an income equal to 200% of the Federal poverty line for the individual and the individual's family, including the person sponsored.

"Federal Poverty Line" has the same meaning as in section 673(2) of the Community Services Block Grant Act.

A "Qualifying Quarter" is a 3-month period (1) in which the sponsored individual earned at least the minimum necessary for the period to count as one of 40 calendar quarters required to qualify for Social Security retirement benefits; (2) during which the sponsored individual did not receive need-based public assistance; and (3) which falls within a tax year for which the sponsored individual had income tax liability.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, except that the sponsor is not required to demonstrate the means to maintain an income equal to 200% of the poverty level and the Senate recedes on the conditions that a qualifying quarter is (1) one in which the sponsored individual did not receive need-based public assistance, and (2) which falls within a tax year for which the sponsored individual has tax liability. The sponsor must also be the person petitioning for the alien's admission.

H. CLERICAL AMENDMENT

Present law

Not applicable.

House bill

A minor clerical amendment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

I. EFFECTIVE DATE

Present law

Not applicable.

House bill

The changes regarding affidavits of support shall apply to affidavits of support executed no earlier than 60 days or later than 90 days after the Attorney General promulgates the form.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

11. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO SPONSORED IMMIGRANTS

A. FEDERAL BENEFITS

Present law

In determining whether an alien meets the means test for Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), and Food Stamps, the resources and income of an individual who filed an affidavit of support for the alien (and the income and resources of the individual's spouse) are taken into account during a designated period after entry.

House bill

During the applicable deeming period, the income and resources of an individual who files a binding affidavit of support (as required above) for an alien (and the income and resources of the individual's spouse) are to be taken into account under all Federal means-tested programs (with the exception of housing-related assistance) in determining a sponsored alien's neediness. Current law remains effective for aliens whose sponsors filed affidavits before the new affidavit requirements become effective (60–90 days after enactment).

Senate amendment

During the applicable deeming period, the income and resources of an individual who filed an affidavit of support for an alien (and the income and resources of the individual's spouse) are to be taken into account under all Federally-funded means-tested programs (with the exception of the programs below) in determining the sponsored individual's neediness.

Excepted programs are (1) emergency Medicaid services; (2) short-term emergency disaster relief; (3) assistance provided under the National School Lunch Act or the Child Nutrition Act of 1966; (4) the Head Start program; (5) public health assistance for immunizations and, if determined by HHS, testing for or treatment of communicable diseases; and (6) programs specified by the Attorney General that (i) deliver services at the community level, (ii) do not condition assistance on the recipient's income or resources, and (iii) are necessary to protect life, safety, or public health (e.g. soup kitchens).

Individuals who are exempt from deeming include (1) honorably discharged legal alien veterans and their spouses and unmarried children; (2) refugees; (3) asylees (including aliens who have had their deportation stayed because it would return them to a country which will persecute them); and (4) individuals who have been battered or subjected to extreme cruelty, if application of deeming would endanger their well-being.

Conference Agreement

The conference agreement follows the Senate amendment, except that post-secondary education is included as an excepted program and battered individuals are not included as an excepted class.

The allowance for treatment of communicable diseases is very narrow. The conferees intend that it only apply where absolutely necessary to prevent the spread of such diseases. This is only a stop-gap measure until the deportation of a person or persons unlawfully here. It is *not* intended to provide authority for continued treatment of such diseases for a long term.

The allowance for emergency medical services under Medicaid is very narrow. The conferees intend that it only apply to medical care that is *strictly* of an emergency nature, such as medical treatment administered in an emergency room, critical care unit, or intensive care unit. The conferees do not intend that emergency medical services include pre-natal or delivery care assistance that is not strictly of an emergency nature as specified herein.

B. AMOUNT OF INCOME AND RESOURCES DEEMED

Present law

While the offset formulas vary among the programs, the amount of income and resources deemed under AFDC, SSI, and Food Stamps is reduced by certain offsets to provide for some of the sponsor's own needs.

House bill

The full income and resources of the sponsor and the sponsor's spouse are deemed to be that of the sponsored alien.

Senate amendment

If an agency determines that a sponsored individual would not be able to obtain food and shelter without the agency's assistance (taking into account the income and resources actually provided to the individual by the sponsor and others), then deeming will not apply for a period of 12 months and the agency need take into account during this period only the amount of support the sponsor actually provides.

If the address of the sponsor is unknown to the sponsored individual, then assistance is provided until 12 months after the sponsor is located.

Conference agreement

The conference agreement follows the House bill.

C. LENGTH OF DEEMING PERIOD

Present law

For AFDC and Food Stamps, sponsor-to-alien deeming applies to a sponsored alien seeking assistance within 3 years of entry. Until September 1996, sponsor-to-alien deeming applies to a sponsored alien seeking SSI within 5 years of entry.

House bill

For aliens whose sponsors have filed binding affidavits of support as required above, the sponsors' income and resources are deemed to the alien until the alien becomes a citizen. Current law remains effective for aliens whose sponsors filed affidavits before the new affidavit requirements become effective (60–90 days after enactment).

Senate amendment

Deeming applies until the immigrant has worked 40 qualifying quarters (the period of time future sponsors must agree to support the immigrant) or for 5 years from the alien's arrival in the U.S. (for current noncitizens), whichever is longer. Deeming continues until the above requirements are met, regardless of whether the immigrant naturalizes or not. [A qualifying quarter is a 3-month period (1) in which the sponsored individual earned at least the minimum necessary for the period to count as one of 40 calendar quarters required to qualify for Social Security retirement benefits; (2) during which the sponsored individual did not receive need-based public assistance; and (3) which falls within a tax year for which the sponsored individual had income tax liability.]

Conference agreement

The conference agreement follows the House bill.

D. STATE AND LOCAL BENEFITS

Present law

The highest courts of at least 2 States have held that the Supreme Court decision barring State discrimination against legal aliens in providing State benefits (*Graham* v. *Richardson*, 403 U.S. 365 (1971)) prohibits State sponsor-to-alien deeming requirements for State benefits.

House bill

In determining the eligibility and amount of benefits of an alien for any State or local means-tested public benefit program, the income and resources of the alien shall be deemed to include the income and resources of their sponsor (and their sponsor's spouse). Housing related assistance continues to be treated as under current law.

Senate amendment

With the exception of those programs exempted from all benefit restrictions (see above) and those aliens exempt from deeming requirements, States and local governments may deem a sponsor's income and resources (and those of the sponsor's spouse) to a sponsored individual in determining eligibility for and the amount of needs-based benefits. State deeming provisions must also provide for temporary assistance if the sponsor is not assisting the sponsored individual or cannot be located.

Conference agreement

The conference agreement follows the Senate amendment. This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

CHAPTER 4—GENERAL PROVISIONS

12. DEFINITIONS

A. IN GENERAL

Present law

Federal assistance programs that have alien eligibility restrictions generally reference specific classes defined in the Immigration and Nationality Act.

House bill

Unless otherwise provided, the terms used in this title have the same meaning as defined in Section 101(a) of the Immigration and Nationality Act.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. LAWFUL PRESENCE

Present law

Some programs allow benefits for otherwise eligible aliens who are "permanently residing under color of law (PRUCOL)." This term is not defined under the Immigration and Nationality Act, and there has been some inconsistency in determining which classes of aliens fit within the PRUCOL standard.

House bill

For purposes of this Title, the determination of whether an alien is lawfully present in the U.S. shall be made in accordance with regulations issued by the Attorney General. An alien shall not be considered to be lawfully present in the U.S. merely because the alien may be considered to be permanently residing in the U.S. under color of law ("PRUCOL") for purposes of any particular program.

Senate amendment

An individual is lawfully present if the individual is a citizen, non-citizen national (i.e. American Samoan), permanent resident alien, refugee, asylee (including an alien who has had his/her deportation stayed because it would return him/her to a country which would persecute him/her), or an alien who has been paroled into the U.S. by the Attorney General for at least 1 year. Individuals who are not lawfully present are ineligible for any Federal benefit.

Conference agreement

The conference agreement follows the Senate amendment with a modification that eligibility is determined by specific classes of aliens, not whether noncitizens are "lawfully present."

C. STATE

Present law

There is no single definition of "State" for purposes of alien eligibility under Federal assistance programs. The Immigration and Nationality Act defines "State" to include the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

House bill

The term "State" includes the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

D. PUBLIC BENEFITS PROGRAMS

Present law

No provision.

House bill

A "Means-Tested Program" is a program of public benefits of the Federal government in which eligibility for benefits under the program, or the amount of benefits, or both, are determined on basis of income, resources or financial need.

A "Federal Means-Tested Public Benefits Program" is a means-tested public benefit program of (or contributed to by) the Federal Government under which the Federal Government establishes standards for eligibility.

A "State Means-Tested Public Benefits Program" is a means-tested program of a State or political subdivision under which the State or political subdivision specifies the standards of eligibility, and does not include any Federal means-tested public benefits program.

Senate amendment

"Federal Benefit" means any grant, contract loan, professional or commercial license, retirement benefit, health or disability benefit, public housing, food stamps, higher education benefits, unemployment benefit, or any similar benefit provided by a Federal agency or with appropriated Federal funds. (Individuals who are not lawfully present are ineligible for Federal benefits.)

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

13. CONSTRUCTION

Present law

Not applicable.

House bill

Nothing in this title shall be construed as addressing alien eligibility for governmental programs that are not means-tested public benefits programs.

Senate amendment

The Senate amendment's bar to Federal benefits for individuals who are not lawfully present covers a wide range of contracts, grants, licenses, and other assistance that is not means-tested.

Conference agreement

The conference agreement follows the House bill with a clarification that the subtitle is silent on alien eligibility for a basic public elementary education as determined by the U.S. Supreme Court in *Plyler* v. *Doe*, 457 U.S. 202 (1982).

SUBTITLE E—CONFORMING AMENDMENTS

14. CONFORMING AMENDMENTS RELATING TO ASSISTED HOUSING

Present law

No provision.

House bill

A series of technical and conforming amendments.

Senate amendment

A series of technical and conforming amendments.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

SUBTITLE E—REDUCTION IN FEDERAL GOVERNMENT POSITIONS

This Subtitle was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

SUBTITLE F—HOUSING

This Subtitle was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

SUBTITLE F—NATIONAL DEFENSE STOCKPILE DISPOSAL OF CERTAIN MATERIALS IN THE NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION

House bill

Section 8021 of the House bill contained a provision that would authorize disposal of certain materials from the National Defense Stockpile.

Senate amendment

Section 2001 of the Senate amendment contained a similar provision.

Conference agreement

The conferees agree to a provision that would require disposal of certain materials, to result in receipts to the general fund of the Treasury equal to $649.0 million by the year 2002. The disposal authority of this provision would be considered new disposal authority, meaning that it is in addition to any other disposal authority provided by law, and the authority would expire after achieving the $649.0 million revenue target. The provision would require the President to dispose of materials previously authorized for disposal under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h).

The conferees are confident that the Department of Defense process for conducting such disposals, to include review by the Market Impact Committee, will continue to ensure an orderly and successful disposal of Stockpile materials.

SUBTITLE G—CHILD PROTECTION BLOCK GRANT PROGRAM AND FOSTER CARE AND ADOPTION ASSISTANCE

1. ESTABLISHMENT OF PROGRAM

A. Purpose

Present law

Child Welfare Services, now provided for in Title IV–B of the Social Security Act, are designed to help States provide child welfare services, family preservation and community-based family support services, and improve State court procedures related to child welfare.

Title IV–E Foster Care and Title IV–E Adoption Assistance are intended to help States finance foster care and adoption assistance maintenance payments, administration, child placement services, and training related to foster care and adoption assistance.

The purpose of the Title IV–E Independent Living program is to help older foster children make the transition to independent living.

House bill

The House provision replaces Title IV–B and Title IV–E of the Social Security Act and several additional programs (see below) by establishing a block grant to enable eligible States to carry out child protection programs to:

(1) identify and assist families at risk of abusing or neglecting their children;

(2) operate a system for receiving reports of abuse or neglect of children;

(3) investigate families reported to abuse or neglect their children;

(4) provide support, treatment, and family preservation services to families which are, or are at risk of, abusing or neglecting their children;

(5) support children who must be removed from or who cannot live with their families;

(6) make timely decisions about permanent living arrangements for children who must be removed from or who cannot live with their families; and

(7) provide for continuing evaluation and improvement of child protection laws, regulations, and services.

Additional programs to be replaced are: the Child Abuse Prevention and Treatment Act; the Abandoned Infants Assistance Act; adoption opportunities under the Child Abuse Prevention and Treatment and Adoption Reform Act; family support centers under the McKinney Homeless Assistance Act; grants to improve investigation and prosecution of child abuse cases, and children's advocacy centers under the Victims of Child Abuse Act; crisis nurseries under the Temporary Child Care and Crisis Nurseries Act; and Family Unification under Section 8 of the Housing Act.

Senate amendment

The Senate amendment would leave intact child welfare services, foster care, adoption assistance and independent living, which are permanently authorized under Titles IV–B and IV–E of the Social Security Act. The Senate amendment would reauthorize the Child Abuse Prevention and Treatment Act; adoption opportunities; abandoned infants assistance; missing children's assistance; investigation and prosecution grants, and children's advocacy centers under the Victims of Child Abuse Act. The amendment would repeal both the Temporary Child Care and Crisis Nurseries Act and the Family Support Centers under the McKinney Homeless Assistance Act.

The Senate amendment gives the Secretary authority under CAPTA to make grants to the States for purposes of assisting the States in improving the child protective service system of each State in:

(1) screening intake, assessing, and investigating of reports of abuse and neglect;

(2) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations;

(3) improving case management and delivery of services;

(4) enhancing the general child protection system by improving risk and safety assessment tools and protocols and automation systems;

(5) developing, strengthening, and facilitating training opportunities and requirements for individuals overseeing and providing services to children and their families;

(6) developing and facilitating training protocols for individuals mandated to report child abuse or neglect;

(7) developing, strengthening, and supporting child abuse and neglect prevention, treatment, and research programs in the public and private sectors;

(8) developing, implementing, or operating information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions; and

(9) developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

B. Eligible States

Eligible State

Present law

To be eligible for funding under Title IV–B and IV–E, States must have State plans (developed jointly with the Secretary under title IV–B, and approved by the Secretary under Title IV–E).

House bill

An "Eligible State" is one that, during the 3-year period that ends on October 1 of the fiscal year, has submitted to the Secretary a plan that describes how the State intends to pursue the purposes described above.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact. See Item 6.I., below, for summary of State eligibility under CAPTA.

Conference agreement

An "Eligible State" is one that has submitted to the Secretary, not later than October 1, 1996 and every three years thereafter, a plan (as described below) which has been signed by the Chief Executive officer of the State.

Outline of Child Protection Program

Present law

States must have a child welfare services plan developed jointly by the Secretary and the relevant State agency which provides for single agency administration and describe services to be provided and geographic areas where services will be available, among numerous other requirements. To receive their full allotment of incentive funds under Title IV–B, States also must comply with extensive Federal Section 427 protections. The State plan also must meet many other requirements, such as setting forth a 5-year statement of goals for family preservation and family support and assuring the review of progress toward those goals. For foster care and adoption assistance, States must submit for approval a Title IV–E plan providing for a foster care and adoption assistance program and satisfying numerous requirements. The Child Abuse Prevention and Treatment Act requires States to have in effect a law for reporting known and suspected child abuse and neglect as well as providing for prompt investigation of child abuse and neglect reports, among many other requirements.

House bill

A State plan must include the following outline of Child Protection Program including procedures to be used for:

a. receiving reports of child abuse or neglect;

b. investigating such reports;

c. protecting children in families in which child abuse or neglect is found to have occurred;

d. removing children from dangerous settings;

e. protecting children in foster care;

f. promoting timely adoptions;

g. protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents if such relatives meet all relevant standards;

h. preventing child abuse and neglect; and

i. establishing and responding to citizen review panels.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact. CAPTA requires a 5-year plan that is coordinated with the State plan for child welfare services and family preservation. For amendments to CAPTA requirements, see Section 6 of this document, below.

Conference agreement

A State plan must include information on the Child Protection Program including procedures to be used for:

a. receiving and assessing reports of child abuse or neglect;

b. investigating such reports;

c. with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain.

d. protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

e. providing training for individuals mandated to report suspected cases of child abuse or neglect;

f. protecting children in foster care;

g. promoting timely adoptions;

h. protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents if such relatives meet all relevant standards;

h. providing services aimed at preventing child abuse and neglect; and

i. establishing and responding to citizen review panels.

Certifications

Present law

To receive funds under the Child Abuse Prevention and Treatment Act, States must have a law in effect that provides for reporting of known and suspected instances of child abuse and neglect and provides immunity from prosecution for reporters of abuse or neglect. States also must have a program to investigate allegations of abuse or neglect, must preserve confidentiality of records, provide that every abused or neglected child involved in a court proceeding is represented by a guardian ad litem. To receive funding under Title IV–B and IV–E of the Social Security Act, States must comply with certain procedures for removal of children from their families when necessary, and must develop case plans for each child that are reviewed at least every six months and contain specified information.

House bill

Also included in the submitted plan must be the following certifications:

a. certification of State law requiring reporting of child abuse and neglect;

b. certification of State program to investigate child abuse and neglect cases;

c. certification of State procedures for removal and placement of abused or neglected children;

d. certification of State procedures for developing and reviewing written plans for permanent placement of each child removed from the family that:

1) specifies the goal for achieving a permanent placement for the child in a timely fashion;

2) ensures that the plan is reviewed every 6 months; and

3) ensures that information about the child is gathered regularly and placed in the case record;

e. certification that when the State begins operating under the block grant on or after October 1, 1995, families receiving adoption assistance payments at that time continue to receive adoption assistance payments;

f. certification of State program to provide Independent Living services to 16–19 year old youths (at State option to age 21) who are in the foster care system but have no family to turn to for support;

g. certification of State procedures to respond to reporting of medical neglect of disabled infants; and

h. a declaration of State child welfare goals; States must, within 3 years of the date of passage, report quantifiable information on whether they are making progress toward achieving their self-defined child protection goals. (See Data Collection and Reporting, item G. below).

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact. CAPTA requires several certifications, many of which are identical to those outlined for the House bill. For amendments to CAPTA requirements, see Section 6 of this document, below.

Conference agreement

The following certifications must be included in the State plan:

(1) certification of State law requiring reporting of child abuse and neglect;

(2) certification of State procedures for the immediate screening, safety assessment, and prompt investigation of such reports;

(3) certification of State procedures for the removal and placement of abused or neglected children;

(4) certification of State laws requiring immunity from prosecution under State and local laws for individuals making good faith reports of suspected or known cases of child abuse or neglect;

(5) certification of State law and procedures for expungement of any public records on false or unsubstantiated cases;

(6) certification of State laws and procedures affording individuals an opportunity to appeal an official finding of abuse or neglect;

(7) certification of State procedures for developing and reviewing written plans for permanent placement of each child removed from the family that:

(A) specifies the goal for achieving a permanent placement for the child in a timely fashion;

(B) ensures that the plan is reviewed every 6 months; and

(C) ensures that information about the child is gathered regularly and placed in the case record;

(8) certification of State program to provide Independent Living services to 16–19 year old youths (at State option to age 21) who are in the foster care system but have no family to turn to for support;

(9) certification of State procedures to respond to reporting of medical neglect of disabled infants;

(10) a declaration of quantifiable State child welfare goals;

(11) with respect to fiscal years beginning on or after April 1, 1996, certification that—

(A) the State has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

(i) the appropriateness of, and necessity for, the foster care placement;

(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

(B) is operating to the satisfaction of the Secretary—

(i) a statewide information system on children who are or have been in foster care in the last year;

(ii) a case review system for each child receiving foster care under the supervision of the State;

(iii) a service program designed to help children—

(I) return to families from which they have been removed; or

(II) be placed for adoption

(iv) a preplacement preventive service program; and

(C) has reviewed (or, will review by October 1, 1997) State policies and procedures in effect for children abandoned at birth; and is implementing (or, will implement by October 1, 1997) such policies or procedures to enable permanent decisions to be made expeditiously with respect to the placement of such children.

(12) certification of reasonable efforts to prevent placement of children in foster care; and

(13) certification of cooperative efforts to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments.

Determinations

Present law

State Title IV-B plans are developed jointly with the Secretary. State Title IV-E plans must be approved by the Secretary. The Secretary must approve any plan that complies with statutory provisions.

House bill

The Secretary of HHS must determine whether the State plan includes all of the elements required above but cannot add new elements or review the adequacy of State procedures. The Secretary may not require a State to alter its child protection law regarding determination of the adequacy, type and timing of health care.

Senate amendment

No directly comparable provision in Titles IV-B or IV-E. Current law would remain intact. See item 6.N., below for description of similar CAPTA provision on medical care.

Conference agreement

The Secretary of HHS must determine whether the State plan includes the required materials and certifications (except material related to the certification of State procedures to respond to reporting of medical neglect of disabled infants). The Secretary cannot add new elements beyond those listed above.

C. Grants to States for Child Protection

Entitlement

Present law

Titles IV-B and IV-E of the Social Security Act contain several types of funding, including substantial entitlement funding, for helping States provide assistance to troubled families and their children.

House bill

The block grant money is guaranteed funding to States. Each eligible State is entitled to receive from the Secretary an amount equal to the State share of the Child Protection Grant amount for fiscal years 1996 through 2000.

Senate amendment

No directly comparable provision in Titles IV-B or IV-E. Current law would remain intact. See item 6, below for description of similar CAPTA provision.

Conference agreement

As explained above, the Child Protection Block Grant includes a capped entitlement component for States. Each eligible State is entitled to receive from the Secretary an amount equal to the State share of the Child Protection Grant amount which increases from $1.938 billion in 1996 to $2.593 in 2002. In addition, each eligible State is entitled to receive reimbursements, on an open-ended basis, for the State share of allowable expenditures on eligible children placed in qualified foster care and adoption.

Child Protection Grant Amount

Present law

Federal funds for child welfare and child protection activities consist both of direct spending under Titles IV-B and IV-E of the Social Security Act, and appropriated funds under Title IV-B of the Social Security Act and selected additional programs, including the Child Abuse Prevention and Treatment Act. (For additional programs, see Item 1.A. of this document, above.)

House bill

The Child Protection Grant amount is composed of both a direct spending component and an appropriated component as follows: $3.930 billion in 1996, $4.195 billion in 1997, $4.507 billion in 1998, $4.767 billion in 1999, and $5.071 billion in 2000 in direct spending; and $486 million in each year 1996-2000 in appropriated spending.

Senate amendment

No directly comparable provision in Titles IV-B or IV-E. Current law would remain intact. The amendment authorizes a total of $263 million for fiscal year 1996 and such sums as necessary for fiscal year 1997 through fiscal year 2000 for State grants, State demonstration projects, discretionary activities and community-based family resource and support grants under CAPTA; adoption opportunities grants; and abandoned infants assistance grants.

Conference agreement

The conference agreement generally follows the House bill, with the modification that the discretionary component of the block grant was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

State Share

Present law

No specific allocation formula governs the allocation of foster care and adoption assistance funds to States; States are reimbursed on an open-ended entitlement basis for eligible expenditures on behalf of eligible children. Independent living allocations to States are based on each State's share of Title IV-E foster children in fiscal year 1984. Family violence grants are awarded on the basis of State population. [Note: The family violence program would not be repealed by H.R. 4.] Child abuse State grants and community-based family resource grants are awarded on the basis of population under the age of 18. State allocations for child welfare services under Title IV-B are based on per capita income and population age 21 and under.

House bill

"State Share" means each State receives the same proportion of the block grant each year as it received of payments to States by the Federal government for the following selected child welfare programs in either the average of years 1992 through 1994 or in 1994, whichever is greater:

a. foster care maintenance, administration, and training;

b. adoption assistance maintenance, administration, and training;

c. title IV-E independent living awards;

d. family violence and prevention services;

e. child abuse State grants;

f. child abuse community-based prevention grants; and

g. child welfare services.

Senate amendment

No directly comparable provision in Titles IV-B or IV-E. Current law would remain intact. See Item 6, below, for description of similar CAPTA provision.

Conference agreement

The conference agreement follows the House bill, except the selected child welfare programs on which the State share is to be based are:

1) foster care administration and training;

2) adoption assistance administration and training;

3) child welfare services;

4) family preservation and family support; and

5) independent living services.

Definition of State

Present law

Under Titles IV-B and IV-E of the Social Security Act, "State" means the 50 States and the District of Columbia. The Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa receive funds through set-asides and under special rules.

House bill

"State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa.

Senate amendment

No directly comparable provision in Titles IV-B or IV-E. Current law would remain intact.

Conference agreement

"State" includes the several States and the District of Columbia. The territories will carry out a child protection program in accordance with this part; entitlement funding is provided under section 1108 of the Social Security Act.

Use of Grant

Present law

Funds must be used for: "protecting and promoting the welfare of children . . . preventing unnecessary separation of children from their families . . .restoring children to their families if they have been removed . . . family preservation services . . . community-based family support services to promote the well-being of children and families and to increase parents' confidence and competence." Foster care maintenance and adoption assistance payments are an open-ended entitlement to individuals.

House bill

A State to which funds are paid under this section may use such funds in any manner that the State deems appropriate to accomplish the purposes of this part. Permissible spending includes, but is not limited to: abuse and neglect reporting systems, abuse and neglect prevention, family preservation, foster care, adoption, program administration, and training.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact. CAPTA grants can be used for improving child protective services, investigation and reporting of abuse and neglect, case management and delivery of services to children and families, training for service providers and abuse reporters, demonstration projects, kinship care arrangements, abuse and neglect prevention, and similar activities.

Conference agreement

The conference agreement follows the House bill. A State to which funds are paid under this section may use such funds in any manner that the State deems appropriate to accomplish the purposes of this part.

Transfer of Funds

Present law

No provision.

House bill

In fiscal year 1998 and succeeding years, States may transfer up to 30% of funds paid under this section for activities under any or all of the following: the temporary assistance for needy families block grant; the social services block grant under Title XX of the Social Security Act; the child care and development block grant; and any food and nutrition or employment and training grants enacted during the 104th Congress. Rules of the recipient program will apply to the transferred funds. Funds may be transferred into the Child Protection Block Grant from other block grants and are then subject to the rules of this part.

Senate amendment

No provision.

Conference agreement

Conferees agree that no funds can be transferred out of the block grant.

Timing of Expenditures

Present law

Provisions vary under programs to be replaced. Under Title IV–E, States have up to two fiscal years in which to claim reimbursement for expenditures.

House bill

A State to which funds are paid under this section for a fiscal year shall expend such funds not later than the end of the immediately succeeding fiscal year.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact.

Conference agreement

The conference agreement follows the House bill.

Rule of Interpretation

Present law

For-profit foster care providers are not eligible for Federal funding under Title IV–E.

House bill

Nothing in this act shall preclude for-profit short- and long-term foster care facilities from being eligible to receive funds from this block grant.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Timing of Payments

Present law

Under Title IV–B, the Secretary makes payments to States periodically. Under Title IV–E, the Secretary reimburses States for expenditures on a quarterly basis.

House bill

The Secretary must make payments on a quarterly basis.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact.

Conference agreement

The conference agreement follows the House bill.

Penalties

Present law

States that do not comply with Section 427 child protections may not receive their share of Title IV–B appropriations above $141 million. However, effective April 1, 1996, these protections are to become State plan requirements and the incentive funding mechanism will no longer be in effect. Section 1123 of the Social Security Act requires the Secretary to establish by regulation a new Federal review system for child welfare, which would allow penalties for misuse of funds.

House bill

The Secretary must reduce amounts otherwise payable to a State by any amount which an audit conducted under the Single Audit Act finds has been used in violation of this part. The Secretary, however, shall not reduce any quarterly payment by more than 25 percent. The amount of misspent funds will be withheld from the State's payments during the following year, if necessary, to recover the full amount of the penalty.

If an audit conducted pursuant to the Single Audit Act finds that a State has reduced its level of expenditures in fiscal year 1996 or 1997 below its level of non-Federal expenditures in fiscal year 1995 under Title IV–B or Title IV–E, the Secretary must reduce subsequent amounts otherwise payable to the State by an amount equal to the difference between State spending in fiscal year 1995 and the current year.

The Secretary must reduce by 3 percent the amount otherwise payable to a State for a fiscal year if the State has not submitted a report required (see item 7 below) for the immediately preceding fiscal year within 6 months after the end of the year. The penalty may be rescinded if the report is submitted within 12 months after the end of the year.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact.

Conference agreement

The conference agreement follows the House bill, except that an additional penalty equal to 5% of a State's block grant amount will be imposed in cases where the Secretary finds that funds have been spent in violation of the part, or where a State has failed to meet its maintenance-of-effort requirement. States will be required to maintain 100% of their fiscal year 1995 non-Federal expenditure level in fiscal year 1996 and 1997, and 75% of such expenditures in subsequent years.

The agreement provides that the Secretary may not impose a penalty if she determines that the State has reasonable cause for failing to comply with the requirement. Further, a State must be informed before any penalty is imposed and be given an opportunity to enter into a corrective compliance plan. The agreement provides a series of deadlines for submission of such corrective compliance plans, and review by the Federal government.

Limitation on Federal Authority

Present law

See above.

House bill

Except as expressly provided in this part, the Secretary may not regulate the conduct of States under this part or enforce any provision of this part.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact.

Conference agreement

The conference agreement follows the House bill.

D. Child Protection Standards

Present law

In order to receive its full share of appropriations for child welfare services under subpart 1 of Title IV–B, each State must meet section 427 protections, including requirements that it: conduct an inventory of children in foster care; operate a tracking system for all children in foster care; operate a case review system for all children in foster care; and conduct a service program to reunite foster children with their families if appropriate, or be placed for adoption or another permanent placement. In addition, if Federal appropriations for the program reach $325 million for two consecutive years, States also must implement a preplacement preventive services program to help children remain with their families. [This funding level has never been reached.] Effective April 1, 1996, these provisions are scheduled to become mandatory State plan requirements, rather than funding incentives, under legislation enacted on Oct. 31, 1994 (P.L. 103–432). States also will be required to review their policies and procedures regarding abandoned children and to implement policies and procedures considered necessary to enable permanent decisions to be made expeditiously with regard to placement of such children.

House bill

The following standards are included in the bill to indicate what States must do to assure the protection of children and to provide guidance to the Citizen Review Panels:

a. the primary standard by which child welfare system shall be judged is the protection of children;

b. each State shall investigate reports of abuse and neglect promptly;

c. children removed from their homes shall have a permanency plan and a dispositional hearing within 3 months after a fact-finding hearing; and

d. all child protection cases with an out-of-home placement shall be reviewed every 6 months unless the child is already in a long-term placement.

A State receiving funds from this block grant may consider: establishing a new type of permanent foster care placement referred to as "kinship care" in which adult relatives would be the preferred placement option if they met all relevant standards, and could receive needs-based payments and supportive services; and, in placing children for adoption, giving preference to adult relatives who meet applicable standards.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact. CAPTA requires a number of certifications by the State, including several that are similar to standards in the House block grant. For details see Item 6.I., below.

No directly comparable provision in Titles IV–B or IV–E. Under CAPTA, the Secretary may award grants to public entities to develop or implement procedures using adult relatives as the preferred placement for children removed from their home; see item 6.H. below.

Conference agreement

In order for a State to receive foster care maintenance payments such State must certify that it has conducted an inventory of children in foster care; is operating a tracking system for all children in foster care; is operating a case review system for all children in foster care; and conducting a service program to reunite foster children with their families if appropriate, or be placed for adoption or another permanent placement.

Effective April 1, 1996, these provisions are scheduled to become mandatory State plan requirements, rather than funding incentives, under legislation enacted on Oct. 31, 1994 (P.L. 103–432). States also will be required to review their policies and procedures regarding abandoned children and to implement policies and procedures considered necessary to enable permanent decisions to be made expeditiously with regard to placement of such children.

E. CITIZEN REVIEW PANELS

Present law

No provision.

House bill

Each State to which funds are paid under this part must have at least three Citizen Review Panels. Each Panel is to be broadly representative of the community from which it is drawn.

The Panels, which must meet at least quarterly, are charged with the responsibility of reviewing cases from the child welfare system to determine whether State and local agencies receiving funds under this program are carrying out activities in accord with the State plan, are achieving the child protection standards, and are meeting any other child welfare criteria that the Panels consider important.

The members and staff of any Panel must not disclose to any person or government agency any information about specific cases. States must afford a Panel access to any information on any case that the Panel desires to review, and shall provide the Panels with staff assistance in performing their duties.

Panels must produce a public report after each meeting and States must include information in their annual report detailing their responses to the panel report and recommendations. (See Data Collection and Reporting, item G. below.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

F. CLEARINGHOUSE AND HOTLINE FOR MISSING AND RUNAWAY CHILDREN

Present law

The Missing Children's Assistance Act, authorized as part of the Juvenile Justice and Delinquency Prevention Act, authorizes a toll-free hotline and national clearinghouse to collect and disseminate information about missing children.

House bill

The Attorney General of the United States shall have the authority to establish and operate a national information clearinghouse, including a 24-hour toll free telephone hotline, for information on missing children cases. An appropriation not to exceed $7 million per fiscal year is authorized for this purpose.

Senate amendment

Reauthorizes the Missing Children's Assistance Act through fiscal year 1997 (see Item 12.A. of this document, below).

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

G. DATA COLLECTION AND REPORTING

Present law

States are not required to report specific child welfare data. Section 479 requires the Secretary to publish regulations that implement a system for the collection of adoption and foster care data. These regulations were published as final on Dec. 22, 1993, and are mandatory for all States. In addition, section 13713 of the Omnibus Budget Reconciliation Act of 1993 (P.L. 103–66) makes available enhanced Federal matching funds (75 percent Federal match instead of 50 percent) for planning, design, development and installation of statewide automated child welfare information systems. Regulations governing these systems were published on Dec. 22, 1993, and May 19, 1995. The enhanced match expires after Sept. 30, 1996.

House bill

Three years after the effective date and annually thereafter, each State to which funds are paid under this part must submit to the Secretary a report containing quantitative information on the extent to which the State is making progress toward its child protection program goals (as described above).

Each State to which funds are paid under this part must annually submit to the Secretary of Health and Human Services a report that includes the following annual statistics:

(1) the number of children reported to the State during the year as abused or neglected;

(2) of the number of reported cases of abuse or neglect, the number that were substantiated;

(3) of the number of reported cases that were substantiated, (a) the number that received no services under the State program funded under this part; (b) the number that received services under the State program funded under this part; and (c) the number removed from their families;

(4) the number of families that received preventive services from the State;

(5) the number of children who entered foster care under the responsibility of the State;

(6) the number of children who exited foster care under the responsibility of the State;

(7) types of foster care placements made by State and the number of children in each type of care;

(8) average length of foster care placements made by State;

(9) the age, ethnicity, gender, and family income of children placed in foster care under the responsibility of the State;

(10) the number of children in foster care for whom the State has the goal of adoption;

(11) the number of children in foster care under the responsibility of the State who were freed for adoption;

(12) the number of children in foster care under the responsibility of the State whose adoptions were finalized;

(13) the number of disrupted adoptions in the State;

(14) quantitative measurements showing whether the State is making progress toward the child protection goals identified by the State;

(15) the number of infants abandoned during the year, the number of these infants who were adopted, and the length of time between abandonment and legal adoption;

(16) the number of deaths of children occurring while said children were in custody of the State;

(17) the number of deaths of children resulting from child abuse or neglect;

(18) the number of children served by the State Independent Living program;

(19) other information which the Secretary and a majority of the States agree is appropriate to collect for purposes of this part; and

(20) the response of the State to findings and recommendations of the citizen review panels.

States may fulfill the data collection and reporting requirements by collecting the required information on either individual children and families receiving child protection services or by using scientific statistical sampling methods.

Within 6 months after the end of each fiscal year, the Secretary must prepare an annual report on State data for Congress and the public.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact. States receiving CAPTA grants must submit annual data reports to the Secretary (see Item 6.I, below). CAPTA requires States to report 10 data elements, many of which are substantially similar to the House reporting requirements.

Requires the Secretary, in administering CAPTA, to prepare annual reports, based on State data, for Congress and the national information clearinghouse on child abuse and neglect. (See Item 6.I, below.) Requires Secretary in 6 months after receiving State reports to prepare and submit annual report to Congress.

Conference agreement

The conference agreement follows the House bill with regard to annual State reports containing quantitative information showing progress toward achieving State child protection goals.

Of all children receiving publicly-supported child welfare services, the following information shall be reported every 6 months:

(1) whether the child received services under the programs funded under this part:

(2) the age, gender, and family income of the parents and child;

(3) county of residence;

(4) whether the child was removed from the family;

(5) whether the child entered foster care under the responsibility of the State:

(6) the type of out-of-home care in which the child was placed (institution, group home, family foster care, or relative placement);

(7) the child's permanency planning goal, such as family reunification, adoption, or independent living;

(8) whether the child was freed for adoption;

(9) whether the child exited from foster care, and, if so, the reason for the exit, such as return to family, placement with relatives, adoption, independent living, or death.

References to race in the information that is reported annually by States was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

States may be required to report other information approved by the Secretary and agreed to by a majority of States, including information necessary to assure a smooth transition from AFCARS and NCANDS to the data reporting system required by this legislation.

States must also submit the following aggregate data annually:

(1) the number of children reported to the State during the year as alleged victims of abuse or neglect;

(2) the number of children for whom an investigation of alleged maltreatment resulted in a determination of substantiated abuse or neglect, the number for whom maltreatment was unsubstantiated, determined to be false;

(3) the number of families that received preventive services;

(4) the number of infants abandoned during the year, the number of these infants who were adopted, and the length of time between abandonment and adoption;

(5) the number of deaths resulting from child abuse or neglect;

(6) the number of deaths of children occurring while children were in custody of the State;

(7) the number of children served by the State Independent Living Program

(8) quantitative measurements showing whether the State is making progress toward the child protection goals identified by the State;

(9) types of maltreatment suffered by victims of abuse and neglect;

(10) number of abused and neglected children receiving services;

(11) average length of stay in out-of-home care;

(12) the response of the State to findings and recommendations of the citizen review panels; and

(13) other information which the Secretary and a majority of States agree is appropriated to collect for purposes of this part.

States may fulfill the data collection and reporting requirements by collecting the required information on either individual children and families receiving child protection services or by using scientific statistical sampling methods. If States use sampling, the Secretary must review and approve their methods.

The requirement that the Secretary prepare an annual report on State data for Congress and the public was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

H. RESEARCH AND TRAINING

Present law

Current law authorizes appropriations for research under Title IV–B of the Social Security Act and the Child Abuse Prevention and Treatment Act. In fiscal year 1995, $6 million is appropriated under Title IV–B and $9 million under CAPTA.

House bill

An appropriation of $10 million per year is authorized for the Secretary to spend at her discretion on research and training in child welfare.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law under Title IV–B would remain intact, and CAPTA would be reauthorized. Although CAPTA has no separate authorization for research and training, the Secretary has discretionary authority to conduct research and training. For details see Item 6.G., below.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

I. NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE

Present law

No provision.

House bill

The Secretary is provided with $6 million per year for fiscal years 1996–2000 to conduct a national random-sample study of child welfare. The study will have a longitudinal component, yield data reliable at the State level for as many States as the Secretary determines is feasible, and should alternate data collection in small States from year-to-year to yield an occasional picture of child welfare in small States. The Secretary has discretion in drawing the sample and in selecting measures, but should carefully consider selecting the sample from all cases of confirmed abuse and neglect and then following each case over several years while obtaining such measures as type of abuse or neglect involved, frequency of contact with agencies, whether the child was separated from the family, types and characteristics of out-of-home placements, number of placements, and average length of placement. The Secretary must prepare occasional reports on this study and make them available to the public. The reports should summarize and compare the results of this study with the data reported by States. Written reports or tapes of the raw data from the study should be made available to the public at a fee the Secretary thinks appropriate.

Senate amendment

No provision.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

J. REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION

Present law

State law governs adoption and foster care placement. Forty three States permit race matching either in regulation, statute, policy or practice. The Metzenbaum Multiethnic Placement Act of 1994 permits States to consider race and ethnicity in selecting a foster care or adoptive home, but States cannot delay or deny the placement of the child solely on the basis of race, color or national origin.

Noncompliance with the Metzenbaum Act is deemed a violation of title VI of the Civil Rights Act.

House bill

Section 553 of the Howard M. Metzenbaum Multiethnic Placement Act of 1994 is repealed. (See conforming amendments, item 2 below.) In addition, a State or other entity that receives Federal assistance may not deny to any person the opportunity to become an adoptive or a foster parent on the basis of the race, color, or national origin of the person or of the child involved. Similarly, no State or other entity receiving Federal funds can delay or deny the placement of a child for adoption or foster care, or otherwise discriminate in making a placement decision, on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved.

A State or other entity that violates this provision during a period shall remit to the Secretary all funds that were paid to the State or entity during the period.

An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

Senate amendment

No provision.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

2. CONFORMING AMENDMENTS

Present law

No provision.

House bill

This section contains technical amendments that conform provisions of the bill to Titles IV–D and XVI of the Social Security Act, and to the Omnibus Budget Reconciliation Act of 1986, and provide for the repeal of Section 553 of the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Title IV–E of the Social Security Act, section 13712 of the Omnibus Budget Reconciliation Act of 1993, and subtitle C of Title 17 of the Violent Crime Control and Law Enforcement Act of 1994. (Under section 371 of Title III–C of the House bill, the following additional programs are repealed related to the Child Protection Block Grant: abandoned infants assistance, the Child Abuse Prevention and Treatment Act, adoption opportunities, crisis nurseries, missing children's assistance, family support centers, certain activities under the Victims of Child Abuse Act, and Family Unification under the Housing Act.)

Senate amendment

No provision.

Conference agreement

The provision requiring the Secretary of HHS to submit, within 90 days of enactment, a legislative proposal providing necessary technical and conforming amendments was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

The agreement also repeals Title IV–E of the Social Security Act and section 13712 of the Omnibus Budget Reconciliation Act of 1993, and makes a conforming amendment to section 9442(4) of the Omnibus Budget Reconciliation Act of 1986. Additional repeals and technical amendments are described below.

3. CONTINUED APPLICATION OF CURRENT STANDARDS UNDER MEDICAID PROGRAM

Present law

Children for whom Federal foster care payments are made are deemed to be "dependent children" for purposes of Medicaid eligibility.

House bill

Conforms Medicaid coverage of this title with title I of the House bill. In general, the Medicaid provision is designed to ensure that individuals who receive Medicaid coverage under current law will continue to be covered after passage of H.R.4. Here is a summary of Medicaid provision from title I: "An individual who on enactment was receiving AFDC, was eligible for medical assistance under the State plan under this title, and would be eligible to receive aid or assistance under a State plan approved under part A of title IV but for the prohibition on grant funds being used to provide assistance to noncitizens, minor unwed mothers or their children, or children born to families already on welfare, would continue to be eligible for Medicaid. Families leaving welfare for work would also continue to receive the 1-year Medicaid transition benefit."

Senate amendment

No provision.

Conference agreement

See Medicaid Section.

4. EFFECTIVE DATE

Present law

No provision.

House bill

Unless otherwise indicated in particular sections of the bill, the amendments and repeals made by this title take effect on October 1, 1995. The amendments shall not apply with respect to powers, duties, functions, rights, claims, penalties, or obligations applicable to aid or services provided before the effective date, or to administrative actions and proceedings commenced, or authorized to be commenced, before the effective date.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, and also provides a transition rule that allows States to continue current programs under Titles IV-B and IV-E of the Social Security Act until June 30, 1996, and provides for a corresponding reduction in the payment made to such States from the new program created by this legislation. The agreement also contains provisions related to the closing out of accounts for programs that are ended or substantially modified.

5. SENSE OF THE CONGRESS REGARDING TIMELY ADOPTION OF CHILDREN

Present law

No provision.

House bill

It is the sense of the Congress that:

(1) too many adoptable children are spending too much time in foster care;

(2) States must increase the number of waiting children being adopted in a timely manner;

(3) Studies have shown that States would save significant amounts of money if they offered incentives to families to adopt special needs children who would otherwise require foster care;

(4) States should allocate sufficient funds for adoption and medical assistance to encourage families to adopt children who are languishing in foster care;

(5) States should offer incentives for families that adopt special needs children to make adoption more affordable for middle-income families;

(6) States should strive to provide children removed from their biological parents with a single foster care placement and case team and to conclude an adoption of the child, when adoption is the goal, within one year of the child's placement in foster care; and

(7) States should participate in programs to enable maximum visibility of waiting children to potential parents, including a nationwide computer network to disseminate information on children eligible for adoption.

Senate amendment

Title VIII of the Senate amendment addresses adoption issues. See Section 13, below.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

6. CHILD ABUSE PREVENTION AND TREATMENT; GENERAL PROGRAM

A. REFERENCE

Present law

No provision.

House bill

No provision.

Senate amendment

Provides that, unless otherwise indicated, any amendments or repeals should be considered to apply to the Child Abuse Prevention and Treatment Act (CAPTA).

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

B. FINDINGS

Present law

Section 2 of CAPTA contains findings with regard to the scope of child abuse and neglect, the need for a comprehensive approach to address child abuse and neglect, various goals with regard to national policy, and the appropriate Federal role in this area.

House bill

No provision.

Senate amendment

Amends section 2 to update findings with regard to the scope of child abuse and neglect and to make minor changes, including change of references from "child protection" to "child and family protection."

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

C. OFFICE OF CHILD ABUSE AND NEGLECT

Present law

Section 101 of CAPTA requires the Secretary of HHS to establish a National Center on Child Abuse and Neglect.

House bill

No provision.

Senate amendment

Amends section 101 to allow the Secretary of HHS to establish an Office on Child Abuse and Neglect which would be responsible for executing and coordinating the functions and activities authorized by CAPTA. Repeals current mandate for a National Center on Child Abuse and Neglect.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

D. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

Present law

Section 102 of CAPTA requires the Secretary to appoint a U.S. Advisory Board on Child Abuse and Neglect, and specifies the composition and duties of the board.

House bill

No provision.

Senate amendment

Amends section 102 by repealing current mandate for a U.S. Advisory Board on Child Abuse and Neglect, and instead allows the Secretary of HHS to appoint an advisory board to make recommendations concerning child abuse and neglect issues. Duties of the new board would include making recommendations on coordination of Federal, State and local child abuse and neglect activities with similar activities regarding family violence at those levels; specific modifications needed in Federal and State laws to reduce the number of unfounded or unsubstantiated cases of child maltreatment; and modifications needed to facilitate coordinated data collection with respect to child protection and child welfare.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

E. REPEAL OF INTERAGENCY TASK FORCE

Present law

Section 103 of CAPTA requires the Secretary to establish an Interagency Task Force on Child Abuse and Neglect.

House bill

No provision.

Senate amendment

Repeals section 103 of CAPTA.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

F. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE AND NEGLECT

Present law

Section 104 of CAPTA requires the Secretary to establish a national clearinghouse for information relating to child abuse and neglect.

House bill

No provision.

Senate amendment

Amends section 104 to retain authorization for a national information clearinghouse on child abuse and neglect, and expands the duties of the clearinghouse to include collecting data on false and unsubstantiated reports and deaths resulting from child abuse and neglect, and, through a national data collection and analysis program, to collect and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case specific, and integrated with other case-based foster care and adoption data collected by HHS.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

G. RESEARCH, EVALUATION AND ASSISTANCE ACTIVITIES

Present law

Section 105 of CAPTA authorizes the Secretary, through the National Center, to conduct research and technical assistance related to child abuse and neglect.

House bill

Authorizes appropriations of $10 million annually for the Secretary to conduct research and training related to child welfare. (See Item 1.H., above).

Senate amendment

Amends section 105 to restructure the research activities function of the Secretary of HHS by deleting references to the National

Center and by requiring research on additional issues, including substantiated and unsubstantiated reported child abuse cases. Authorizes technical assistance to include evaluation or identification of: various methods for investigation, assessment, and prosecution of child physical and sexual abuse cases; ways to mitigate psychological trauma to child victims; and effective programs carried out under CAPTA. Allows the Secretary of HHS to provide for dissemination of information related to various training resources available at the State and local levels. Continues authorization for a formal peer review process which utilizes scientifically valid review criteria.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

H. GRANTS FOR DEMONSTRATION PROGRAMS

Present law

Section 106 of CAPTA authorizes the Secretary to make grants to public agencies and private nonprofit organizations for demonstration or service programs or projects, that must include an evaluation component; resource centers; and discretionary grants that may be used for a variety of purposes.

House bill

No provision.

Senate amendment

Amends section 106 to retain authority for the demonstration grants program and to change the criteria for awarding grants. Authorizes the following purposes for demonstration programs and projects: training programs, mutual support and self-help programs for parents, innovative programs that use collaborative partnerships between various agencies to allow for establishment of a triage system in responding to child abuse and neglect reports; kinship care programs, and supervised visitation centers for families where there has been child abuse or domestic violence. All demonstration projects will be evaluated for their effectiveness.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

I. STATE GRANTS FOR PREVENTION AND TREATMENT PROGRAMS

Present law

Section 107 of CAPTA authorizes the Secretary to make development and operation grants to States to assist them in improving their child protective service systems. States must meet certain eligibility requirements, which include having a State law in effect providing for reporting of child abuse or neglect allegations and providing immunity from prosecution for reporters of abuse or neglect.

Requires that States have in place procedures for responding to reports of medical neglect, including instances of withholding medically indicated treatment from disabled infants with life-threatening conditions.

House bill

States would receive Child Protection Block Grants, which would be used for child protective service systems, among other related activities. To receive block grants, States must certify that they have in effect a State law for reporting of child abuse or neglect, a program to investigate child abuse and neglect reports, and procedures to respond to reporting of medical neglect of disabled infants among other requirements. (See Item 1.B. (2) and (3), above.)

Requires States participating in the Child Protection Block Grant to submit detailed annual data reports to the Secretary. (See Item 1.G.2., above.) The Secretary would prepare annual reports for Congress. (See Item 1.G.4., above.)

Senate amendment

Revises section 107. Under revised eligibility requirements, States would provide an assurance or certification, signed by the chief executive officer of the State, that the State has a law or statewide program relating to procedures for: reporting of known and suspected instances of child abuse and neglect; immediate screening, safety assessment, and prompt investigation of such reports; procedures for immediate steps to be taken to protect the safety of children; provisions for immunity from prosecution for individuals making good faith reports of child abuse; methods for preserving confidentiality of records; requirements for the prompt disclosure of relevant information to appropriate entities working to protect children; the cooperation of law enforcement officials, court personnel and human services agencies; provision for the appointment of a guardian ad litem to represent the child in any judicial proceedings; and provisions that facilitate the prompt expungement of unsubstantiated or false child abuse reports.

Requires that States have in place procedures for responding to reports of medical neglect, including instances of withholding medically indicated treatment from disabled infants with life-threatening conditions.

States must have in place, within two years of enactment, provisions by which individuals who disagree with an official finding of abuse or neglect can appeal such a finding.

States would submit a plan every 5 years, instead of 4, demonstrating their eligibility and specifics about how their grant money will be used.

States would be required to work annually with the Secretary to provide, to the maximum extent practicable, a report containing specified data on their child protective service systems, including the number of children reported as abused or neglected, data on substantiation of reports, services provided to reported children, preventive services provided to families, the number of child deaths resulting from abuse or neglect including the number of children who died while in foster care, number of caseworkers responsible for intake and screening, agency response time to abuse or neglect reports, response time with respect to provision of services to families where abuse or neglect has been alleged, and the number of caseworkers relative to the number of reports investigated in the previous year. The Secretary would prepare a report based on State data, to be submitted to Congress and the national information clearinghouse on child abuse and neglect.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

J. REPEAL

Present law

Section 108 of CAPTA authorizes the Secretary to provide training and technical assistance to States.

House bill

No provision.

Senate amendment

Repeals section 108.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

K. MISCELLANEOUS REQUIREMENTS

Present law

Section 110(c) of CAPTA requires the Secretary to ensure that a majority share of assistance under CAPTA is available for discretionary research and demonstration grants.

House bill

No provision.

Senate amendment

Strikes section 110(c).

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

L. DEFINITIONS

Present law

Section 113 of CAPTA contains definitions.

House bill

No provision.

Senate amendment

Amends section 113 to change some definitions. Strikes definitions of "Board" and "Center," and changes the definition of "child abuse and neglect" to mean, at a minimum, "any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm."

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

M. AUTHORIZATION OF APPROPRIATIONS

Present law

Section 114(a) authorizes appropriations for Title I of CAPTA, and specifies how funds are to be allocated among authorized activities. The authorization of appropriations expires at the end of fiscal year 1995.

House bill

The House bill has no funding for CAPTA but includes funding for the Child Protection Block Grant; see sections C.1. and C.2., above.

Senate amendment

Amends section 114(a) to authorize $100 million in fiscal year 1996, and "such sums as necessary" in fiscal years 1997–2000, for Title I of CAPTA. Requires that one-third of funds be spent on discretionary activities and, that of funds reserved for discretionary activities, no more than 40 percent shall be for demonstration projects under section 106.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

N. RULE OF CONSTRUCTION

Present law

No provision.

House bill

No directly comparable provision, but see section 1.B.4., above.

Senate amendment

Establishes a new section of CAPTA that addresses the issue of spiritual treatment of children. The section does not require a parent or legal guardian to provide a child with medical service or treatment, against his or her religious beliefs, nor does it require a State to find, or prohibit a State from finding, abuse or neglect in cases where the parent or guardian relied solely or partially on spiritual means rather than medical treatment, in accordance with their religious beliefs. The section requires a State to have in place authority under State law to pursue any legal remedies necessary to provide medical care or treatment when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life-threatening conditions. Each State has sole discretion over its case-by-case determinations relating to medical neglect.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

O. TECHNICAL AMENDMENT

Present law

No provision.

House bill

No provision.

Senate amendment

Makes a technical amendment to section 1404A of the Victims of Crime Act.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

7. COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS

Present law

Title II of CAPTA authorizes the Secretary to make grants to States for Community-Based Family Resource Programs.

House bill

No provision.

Senate Amendment

Replaces current law with a new Title II to establish Community-Based Family Resource and Support Grants.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

A. PURPOSE AND AUTHORITY

Present law

No provision.

House bill

States could use Child Protection Block Grant allotments for family resource and support services. (See Item 1.C.(5), above.)

Senate amendment

Establishes the purpose of Title II as: to support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs. Authorizes the Secretary of HHS to make grants on a formula basis to entities designated by States as "lead entities."

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

B. ELIGIBILITY

Present law

No provision.

House bill

No provision.

Senate amendment

Establishes eligibility requirements for States to receive grants. States are eligible if:

1) the chief executive officer has designated a lead entity that is an existing public, quasi-public or nonprofit private entity, with priority for the State trust fund advisory board or an existing entity that leverages funds for a broad range of child abuse and neglect prevention activities and family resource programs;

2) the chief executive officer assures that the lead entity will provide or be responsible for providing a network of community-based family resource and support programs and providing direction and oversight to the network; and

3) the chief executive officer assures that the lead entity has a demonstrated commitment to parental participation, a demonstrated ability to work with State and community-based public and private nonprofit organizations, the capacity to provide operational support and training and technical assistance to the statewide network of community-based family resource and support programs, and will integrate its efforts with experienced individuals and organizations.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

C. AMOUNT OF GRANT

Present law

No provision.

House bill

No provision.

Senate amendment

Reserves 1 percent of appropriations for Title II of CAPTA for allotments to Indian tribes and tribal organizations and migrant programs. Remaining funds are allotted to States equally according to the State "minor child amount" and the State "matchable amount." The State minor child amount is based on the State's relative population of children under 18, except that no State can receive less than $250,000. The State matching amount is based on each State's relative amount of funds (including foundation, corporate and other private funding, State revenues and Federal funds) that have been dedicated toward the purposes of this program.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

D. EXISTING AND CONTINUATION GRANTS

Present law

No provision.

House bill

No provision.

Senate amendment

Provides that any State or entity that has a grant, contract, or cooperative agreement in effect on the date of enactment, under the Family Resource and Support Program, the Community-Based Family Resource Program, the Family Support Center Program, the Emergency Child Abuse Prevention Grant Program, or the Temporary Child Care and Crisis Nurseries Program, shall continue to be funded under the original terms through the end of the applicable grant cycle. Also allows the Secretary to continue grants for Family Resource and Support Program grantees and other programs funded under CAPTA on a non-competitive basis, subject to available appropriations, grantee performance, and receipt of required reports.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

E. APPLICATION

Present law

No provision.

House bill

No provision.

Senate amendment

Provides that, to receive grants under Title II, States must submit an application to the Secretary containing information requested by the Secretary, including:

1) a description of the lead entity;

2) a description of how the network of community-based, prevention-focused, family resource and support programs will operate, and how family resource and support services will be integrated into a continuum of preventive services for children and families;

3) an assurance that an inventory of current family resource programs, respite, child abuse and neglect prevention activities, and other family resource programs in the State, and a description of current unmet needs, will be provided;

4) a budget for the State's network of community-based, prevention-focused, family resource and support programs that verifies that the State will spend an amount equal to no less than 20 percent of the amount received under this program (in cash, not in-kind);

5) an assurance that funds received under this Title will supplement and not supplant other State and local public funds designated for the statewide network of family resource and support programs;

6) an assurance that the statewide network of family resource and support programs will maintain cultural diversity, and be culturally competent and socially sensitive and responsive to the needs of families with children with disabilities;

7) an assurance that the State has the capacity to ensure meaningful involvement of parents;

8) a description of the criteria to be used to develop, or select and fund, individual programs to be part of the statewide network;

9) a description of outreach activities that will be used to maximize the participation of racial and ethnic minorities, new immigrant populations, children and adults with disabilities, homeless families and those at risk of homelessness, and members of other under-served or under-represented groups;

10) a plan for providing operational support, training and technical assistance to family resource and support programs;

11) a description of how activities will be evaluated;

12) a description of actions that will be taken to advocate changes in State policies, practices, procedures, and regulations to improve the delivery of family resource and support program services to all children and families; and

13) an assurance that reports will be submitted to the Secretary on time and containing requested information.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

F. LOCAL PROGRAM REQUIREMENTS

Present law

No provision.

House bill

No provision.

Senate amendment

Grants will be used for family resource and support programs that:

1) assess community assets and needs through a planning process that includes parents, local agencies, and private sector representatives;

2) develop a strategy to provide a continuum of preventive, holistic, family-centered services to children and families;

3) provide "core" services, such as parent education, support and self-help, and leadership services, developmental screening of children, outreach, referral and follow-up services; "other core" services, which can be provided directly or through contracts, including respite services; and access to "optional" services, including child care, early childhood development and intervention, services for families with children with disabilities, job readiness, educational services, self-sufficiency and life management skills training, community referral services, and peer counseling

4) develop leadership roles for the meaningful involvement of parents;

5) provide leadership in mobilizing local resources to support family resource and support programs; and

6) participate with other community-based, prevention-focused family resource and support programs in developing and operating the statewide network.

Priority for local grants shall be given to community-based programs serving low-income communities and those serving young parents or parents with young children, and to family resource and support programs previously funded under the programs consolidated by this Title.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

G. PERFORMANCE MEASURES

Present law

No provision.

House bill

No provision.

Senate amendment

States receiving grants must submit reports to the Secretary that:

1) demonstrate effective development of a statewide network of family resource and support programs;

2) supply an inventory and description of services provided to families, including "core" and "optional" services;

3) demonstrate the establishment of new respite and other new family services, and expansion of existing services, to meet identified unmet needs;

4) describe number of families served (including families with children with disabilities), and the involvement of a diverse representation of families in designing, operating and evaluating the statewide network of family resource and support programs;

5) demonstrate a high level of satisfaction among families that have used family resource and support program services;

6) demonstrate innovative funding mechanisms that blend Federal, State, local and private funds, and innovative and interdisciplinary service delivery mechanisms;

7) describe the results of a peer review process conducted under the State program; and

8) demonstrate an implementation plan to ensure continued leadership of parents in family resource and support programs.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

H. NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

Present law

No provision.

House bill

No provision.

Senate amendment

Authorizes the Secretary to allocate such sums as necessary from the amount provided under the State allotment to support State activities related to a peer review process, an information clearinghouse, a yearly symposium, a computerized communication system between State lead entities, and State-to-State technical assistance through biannual conferences.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

I. DEFINITIONS

Present law

No provision.

House bill

No provision.

Senate amendment

Defines the following terms: "children with disabilities," "community referral services," "culturally competent," "family resource and support program," "national network for community-based family resource programs," "outreach services," and "respite services."

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

J. AUTHORIZATION OF APPROPRIATIONS

Present law

No provision.

House bill

No provision.

Senate amendment

Authorizes $108 million for Title II for each of fiscal year 1996–fiscal year 2000.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

8. REPEALS

Present law

No provision.

House bill

Repeals the crisis nurseries portion of Temporary Child Care and Crisis Nurseries; and family support centers under the Stewart B. McKinney Homeless Assistance Act. (See Item 2, above.)

Senate amendment

Repeals the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act. Also repeals family support centers under Subtitle F of Title VII of the Stewart B. McKinney Homeless Assistance Act.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

9. FAMILY VIOLENCE PREVENTION AND SERVICES

A. STATE DEMONSTRATION GRANTS

Present law

No provision.

House bill

No provision.

Senate amendment

Amends section 303(e) of the Family Violence Prevention and Services Act, relating to non-Federal matching requirements.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

B. ALLOTMENTS

Present law

No provision.

House bill

No provision.

Senate amendment

Amends section 304(a)(1) of Family Violence Prevention and Services Act.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

C. AUTHORIZATION OF APPROPRIATIONS

Present law

Section 310 of the Family Violence Prevention and Services Act authorizes appropriations for the program and specifies how funds are to be allocated among activities.

House bill

No provision.

Senate amendment

Amends section 310 of Family Violence Prevention and Services Act to reduce from 80% to 70% the minimum amount of funds to be used for making grants to States for family violence activities. Also requires the Secretary to use not less than 10% of appropriations for grants for State family violence coalitions, and provides that Federal funds made available under this program must be used to supplement and not supplant other Federal, State or local public funds expended for similar activities.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

10. ADOPTION OPPORTUNITIES; REFERENCE

A. FINDINGS AND PURPOSE

Present law

Section 201 of the adoption opportunities program establishes congressional findings with regard to the child welfare population, and declares the program's purpose to facilitate the elimination of barriers to adoption and to provide permanent homes for children who would benefit from adoption, particularly children with special needs.

House bill

REPEALS THE ADOPTION OPPORTUNITIES PROGRAM. (SEE ITEM 2, ABOVE.)

Senate amendment

Amends section 201 of the adoption opportunities program to update congressional findings, and delete references to the promotion of model adoption legislation and procedures.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

B. INFORMATION AND SERVICES

Present law

No provision.

House bill

No provision.

Senate amendment

Amends section 203 of the adoption opportunities program, to require the Secretary of HHS to conduct studies related to kinship care, recruitment of foster and adoptive parents; and to provide technical assistance and resource and referral information related to termination of parental rights, recruitment and retention of adoptive placements, placement of special needs children, provision of pre- and post-placement services, and other assistance to help State and local governments replicate successful adoption-related projects.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

C. AUTHORIZATION OF APPROPRIATIONS

Present law

No provision.

House bill

No provision.

Senate amendment

Authorizes $20 million for fiscal year 1996, and such sums as necessary for each of fiscal year 1997–FY2000, for the adoption opportunities program.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

11. ABANDONED INFANTS ASSISTANCE ACT

Present law

No provision.

House bill

Repeals abandoned infants assistance.

Senate amendment

Authorizes $35 million for each of fiscal year 1995–FY1996, and such sums as necessary for each of fiscal year 1997–FY2000, for abandoned infants assistance.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

12. REAUTHORIZATION OF VARIOUS PROGRAMS

A. MISSING CHILDREN'S ASSISTANCE ACT

Present law

The Missing Children's Assistance Act is authorized through fiscal year 1996.

House bill

Repeals the Missing Children's Assistance Act (see Item 2, above; however, authorizes appropriations of $7 million for the Attorney General to operate an information clearinghouse and telephone hotline for information on missing children (see Item 1.F, above).

Senate amendment

Extends the authorization for the Missing Children's Assistance Act through fiscal year 1997; such sums as necessary are authorized. Provides that the Department of Justice shall use no more than 5 percent of appropriations in a fiscal year to evaluate the program.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

B. VICTIMS OF CHILD ABUSE ACT OF 1990

Present law

Appropriations are authorized through fiscal year 1996 for grants to improve investigation and prosecution of child abuse cases, and for children's advocacy centers, under the Victims of Child Abuse Act.

House bill

Repeals grants to improve investigation and prosecution of child abuse and neglect cases, and children's advocacy centers, under the Victims of Child Abuse Act. (See Item 2, above.)

Senate amendment

Extends the authorization through fiscal year 1997, at such sums as necessary, for these two programs under the Victims of Child Abuse Act.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

13. ADOPTION EXPENSES

A. REFUNDABLE CREDIT FOR ADOPTION EXPENSES

Present law

No provision.

House bill

No provision in H.R. 4, but similar provision in the House-passed H.R. 1215.

Senate amendment

Amends subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, to insert a new section 35, adoption expenses, that would provide a tax credit for expenditures for adoption fees, court costs, attorney fees, and other expenses directly related to a legal and finalized adoption. This dollar-for-dollar tax credit of up to $5,000 per child is reduced for taxpayers with adjusted gross income above $60,000 and is fully phased out at incomes of $100,000. Married couples must file a joint return and the credit is not available for expenditures that contradict State or Federal law. The amendment prohibits double benefits. The amendment will apply to taxable years beginning after Dec. 31, 1995.

Conference agreement

[This provision has been moved to the tax portion of the Reconciliation Act of 1995 and will provide a tax credit for expenditures for adoption fees, court costs, attorney fees, and other expenses directly related to a legal and finalized adoption. This dollar-for-dollar tax credit of up to $5,000 per child is reduced for taxpayers with adjusted gross income above $75,000 and is fully phased out at incomes of $115,000. The credit is not available for expenditures that contradict State or Federal law. The amendment prohibits double benefits with respect to State and local credits, except in cases of "special children". The amendment will apply to taxable years beginning after Dec. 31, 1995 and allow for carry over of up to five years in the event tax liability does not cover the entire credit during a single year.]

B. EXCLUSION OF ADOPTION ASSISTANCE

Present law

No provision.

House bill

No provision.

Senate amendment

Amends part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 by inserting a new section 137, which treats as a tax-free fringe benefit employer-provided adoption assistance benefits, or reimbursement by the employer of qualified adoption expenses, provided the adoptee is physically or mentally incapable of self-care (a "special needs" child). Military adoption assistance benefits for these children also would be free of tax. The amendment will apply to taxable years beginning after Dec. 31, 1995.

Conference agreement

[This provision has been moved to the tax portion of the Reconciliation Act of 1995. This provision treats as a tax-free fringe benefit employer-provided adoption assistance benefits of up to $5,000, or reimbursement by the employer of qualified adoption expenses The amendment will apply to taxable years beginning after Dec. 31, 1995. This benefit is not available if the credit (above) is chosen.]

C. WITHDRAWAL FROM IRA FOR ADOPTION EXPENSES

Present law

No provision.

House bill

No provision.

Senate amendment

Amends subsection (d) of section 408 of the Internal Revenue Code of 1986 to permit tax-free withdrawals from an individual retirement account (IRA) for qualified adoption expenses.

Conference agreement

The Senate recedes.

SUBTITLE H—CHILD CARE

1. GOALS

Present law

No provision.

House bill

Adds the following goals:

(1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within such State;

(2) to promote parental choice to empower working parents to make their own decisions on the child care that best suits their family's needs;

(3) to encourage States to provide consumer education information to help parents make informed choices about child care;

(4) to assist States to provide child care to parents trying to achieve independence from public assistance; and

(5) to assist States in implementing the health, safety, licensing and registration standards established in State regulation.

Senate amendment

No provision.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd

Rule (section 313 of Congressional Budget Act of 1974).

2. AUTHORIZATION OF APPROPRIATIONS

Present law

The authorization of appropriations expires at the end of fiscal year 1995. Appropriations in fiscal year 1995 are $935 million; such sums as necessary are authorized. [Sec. 658B of the CCDBG Act]

[Note: In addition, entitlement funds are available for child care under the AFDC Child Care, Transitional Child Care, and At-Risk Child Care programs authorized by Title IV–A of the Social Security Act.]

House bill

Authorizes appropriations of $2,093 million for each of fiscal year 1996–2000.

[Note: Title I of the House bill repeals the AFDC Child Care, Transitional Child Care, and At-Risk Child Care programs.]

Senate amendment

Authorizes appropriations as follows: $1 billion for fiscal year 1996, and such sums as may be necessary for each of fiscal year 1997–2000.

[Note: Additional funds are provided for child care under Title I of the Senate amendment, to replace the current AFDC Child Care, Transitional Child Care, and At-Risk Child Care programs—$8 billion over 5 years in direct spending.]

Conference agreement

The conference agreement establishes a single child care block grant and State administrative system by adding mandatory funds to the existing Child Care and Development Block Grant (CCDBG). Specifically, one discretionary and two mandatory streams of funding will be consolidated in a reconstituted CCDBG.

The child care funds made available in the Child Care Block Grant total $17 billion over 7 years; $10 billion in mandatory funds ($1.17 billion in fiscal year 1996, $1.24 billion in fiscal year 1997, $1.32 billion in fiscal year 1998, $1.4 billion fiscal year 1999, $1.5 billion in fiscal year 2000, $1.625 billion in fiscal year 2001, and $1.745 in fiscal year 2002) combined with $1 billion each year (fiscal year 1996–FY2002) in discretionary funds.

Each State will receive the amount of funds it received for child care under all of the entitlement programs currently under title IV of the Social Security Act (AFDC Child Care, transitional Child Care, and At-Risk Child Care) in the 1994 fiscal year, or the average amount of funds received for those programs from fiscal year 1992 through fiscal year 1994, which ever is greater. These programs, combined, provide approximately $990 million in mandatory child care funding for the States.

The mandatory funds remaining after the State allocations based on previous years child care allotments will be distributed among the States based on the formula currently used in the title IV–A At-Risk Child Care grant. Specifically, funds will be distributed based on the proportion of the number of children under the age of 13 residing in the State to the number of all of the nation's children under the age of 13. States must provide matching funds in the amount of the fiscal year 1995 State Medicaid rate to receive these funds.

Discretionary funds appropriated for the Child Care Block Grant will be distributed to States based on the current formula for the Child Care and Development Block Grant. This formula utilizes the number of children in low income families and the State per capita income as criteria for the distribution of funds to States. As in current law governing the CCDBG, there is no requirement for the State to provide matching funds to receive an allotment from the discretionary funds appropriated for the Child Care Block Grant.

If a State does not use their full portion of funds, the remaining portion will be redistributed to the States according to section 402(i) (as such section was in effect before October 1, 1995).

For the first year of enactment, States will receive their total allotment (mandatory and discretionary) for child care less any amount States had already spent on Title IV of Social Security child care programs in fiscal year 1996 on the day before enactment.

3. LEAD AGENCY

Present law

Requires the chief executive officer of a State to designate an appropriate State agency to act as the lead agency in administering financial assistance under the Act. [Sec. 658D of the CCDBG Act]

House bill

Changes the term "agency" to "entity."

Senate amendment

Allows the State lead agency to administer financial assistance received under the Act through other "governmental or nongovernmental" agencies (instead of other "State" agencies); requires that "sufficient time and Statewide distribution of the notice" be given of the public hearing on development of the State plan; and strikes language on issues that may be considered during consultation with local governments on development of the State plan.

Conference agreement

The House recedes.

4. APPLICATION AND PLAN

Present law

Requires States to prepare and submit to the Secretary an application that includes a State plan. The initial plan must cover a 3-year period, and subsequent plans must cover a 2-year period. Required contents of the plan include designation of a lead agency; policies and procedures regarding parental choice of providers, unlimited parental access, parental complaints, consumer education, compliance with State and local regulatory requirements, establishment of and compliance with health and safety requirements, review of State licensing and regulatory requirements, and supplementation.

In addition, the State plan must provide that funds will be used for child care services, and that 25% of funds will be reserved for activities to improve the quality of child care and to increase the availability of early childhood development and before- and after-school child care. [Sec. 658E of the CCDBG Act]

Further, State plans must assure that payment rates will be adequate to provide eligible children equal access to child care as compared with children whose families are not eligible for subsidies, and must assure that the State will establish and periodically revise a sliding fee scale that provides for cost sharing by families that receive child care subsidies.

House bill

Requires the State plan to cover a 2-year period. Requires States to provide a detailed description of procedures to be used to assure parental choice of providers. Changes "provide assurances" to "certify" that procedures are in effect within the State to ensure unlimited parental access to children and parental choice; also requires that the State plan provide a detailed description of such procedures. Changes "provide assurances" to "certify" that the State maintains a record of parental complaints, and requires the State to provide a detailed description of how such a record is maintained and made available. Changes the consumer education part of the State plan to require assurances that the State will collect and disseminate consumer education information. Requires that the State certify that providers comply with State and local health, safety and licensing or regulatory requirements and provide a detailed description of such requirements and how they are enforced. Eliminates current law provisions requiring establishment of and compliance with health and safety requirements, review of State licensing and regulatory requirements, notification to HHS when standards are reduced, and supplementation. Eliminates the requirement that unlicensed providers be registered.

Adds a requirement that a summary of the facts relied upon by the State to determine that payment rates are sufficient to ensure equal access to child care is included in the State plan. Eliminates the assurance that the State will establish a sliding fee scale. Also provides that funds, other than amounts transferred under section 658T (see Item 14, below), will be used for child care services, activities to improve the quality and availability of such services, and any other activity that the State deems appropriated to realize the goals specified above (see Item 1). Deletes the current law requirement that States reserve 25% of funds for activities to improve the quality of child care and to increase availability of early childhood development and before- and after-school care.

Requires States to spend no more than 5% on administrative costs.

Senate amendment

Requires the State plan to cover a 2-year period. Replaces the requirement that providers not subject to licensing or regulation be registered with the State, with a requirement that the State implement mechanisms to ensure proper payment to providers. Requires the Secretary to develop minimum standards for Indian tribes and tribal organizations receiving assistance under the Act, in lieu of State or local licensing or regulatory requirements. Eliminates provisions related to reduction in standards and reviews of State licensing and regulatory requirements.

Requires the State plan to describe the manner in which services will be provided to the working poor. Reserves 15% of each State's allotment for activities to improve quality of child care, instead of 25% for both quality improvement and before- and after-school child care services.

Requires States to spend no more than 5% on administrative costs, not including direct service costs. Administrative costs shall not include direct service costs.

Conference agreement

The Senate recedes, with a modification that the States must certify that they have licensing standards for child care which are applied uniformly without regard to whether a child care provider is receiving Federal funds. Nothing in this Act shall either require or prohibit the application of State licensing standards, regulations, or laws to a particular type of child care or child care provider. The Secretary must develop minimum standards for Indian tribes and tribal organizations receiving assistance under this

Act, in lieu of State or local licensing or regulatory requirements. at least 70% of the mandatory funding must be used to provide child care for children in families who are receiving welfare, working their way off welfare, or at risk of becoming welfare dependent. A substantial portion of the discretionary funding for child care authorized under this Act is intended to be used for low-income working families who are not working their way off welfare or at risk of becoming welfare dependent. The State plan must demonstrate how the State is meeting the specific needs of each of these populations.

5. LIMITATION ON STATE ALLOTMENTS

Present law

Prohibits the use of funds for purchase or improvement of land or buildings, except in the case of sectarian agencies or organizations that need to make renovations or repairs in order to comply with specific health and safety requirements that States are required to establish. [Sec. 658F of the CCDBG Act]

House bill

Amends section 658F to make a conforming amendment referring to the elimination of specific health and safety requirements.

Senate amendment

No provision (maintains current law).

Conference agreement

The Senate recedes, with a modification that this Act prohibit the use of funds for purchase or improvement of land or buildings except for Indian tribes or tribal organizations. Indian tribes and tribal organizations may use funds for construction or renovation of facilities, upon the request by the tribe or tribal organization and subject to the approval by the Secretary.

6. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE

Present law

As stated above, 25 percent of State allotments must be reserved for activities to improve child care quality and to increase the availability of early childhood development and before- and after-school child care (see Item 1.D, above). Section 658G specifies how these funds are to be used. Of reserved funds, requires States to use no less than 20% for activities to improve the quality of care, including resource and referral programs, grants or loans to assist providers in meeting State and local standards, monitoring of compliance with licensing and regulatory requirements, training of child care personnel, and improving compensation for child care personnel. [Sec. 658G of the CCDBG Act]

House bill

Repeals the requirement that 25 percent of funds be set aside for quality improvement activities (see Item 5, above). Repeals section 658G regarding the use of these set-aside funds.

Senate amendment

As stated above, reduces quality improvement set-aside to 15 percent (see Item 5, above). Amends section 658G to require States to use their quality improvement set-aside for resource and referral activities, including "providing comprehensive consumer education to parents and the public, referrals that honor parental choice, and activities designed to improve the quality and availability of child care," and for one or more "other activities," which include those listed in the current section 658G, plus activities to increase the availability of before- and after-school care, infant care, and child care between the hours of 5:00 p.m. and 8:00 a.m.

Adds new language to prohibit States from discriminating against providers that wish to participate in resource and referral systems, that are operating legally within the State but that are exempt from State licensing requirements.

Conference agreement

The Senate recedes, with a modification that States retain at least a 3 percent set-aside of the total mandatory and discretionary funding received for child care under this Act for activities designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality and availability of child care, such as resource and referral services.

The House recedes, with a modification to limit the amount of total child care funds made available under this Act for administrative costs to 3 percent. Administrative cost shall not include direct service costs.

7. EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE

Present law

Requires States to use no less than 75 percent of funds reserved for quality improvement for activities to expand and conduct early childhood development programs and before- and after-school child care. [Sec. 658H of the CCDBG Act]

House bill

Repeals section 658H.

Senate amendment

Repeals section 658H.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

8. ADMINISTRATION AND ENFORCEMENT

Present law

Requires the Secretary of Health and Human Services (HHS) to coordinate HHS and other Federal child care activities, to collect and publish a list of State child care standards every 3 years, and to provide technical assistance to States. Requires the Secretary to review, monitor, and enforce compliance with the Act and the State plan by withholding payments and imposing additional sanctions in certain cases. [Sec. 658I of the CCDBG Act]

House bill

Deletes the requirement that the Secretary of HHS collect and publish a list of child care standards every 3 years. Maintains current law for repayment.

Senate amendment

Strikes the current law requirement that the Secretary withhold further payments to a State in case of a finding of noncompliance until the noncompliance is corrected. Instead, authorizes the Secretary, in such cases, to impose additional program requirements on the State, such as a requirement that the State reimburse the Secretary for any improperly spent funds, or the Secretary may deduct from the administrative portion of the State's subsequent allotment an amount equal to or less than the misspent funds, or a combination of such options. The amendment also strikes sections related to additional sanctions and notice of such additional sanctions.

Conference agreement

The House recedes, with a modification that the Secretary may not impose additional program requirements on the State for an improperly spent funds.

9. PAYMENTS

Present law

Provides that payments received by a State for a fiscal year may be expended in that fiscal year or in the succeeding 3 fiscal years. [Sec. 658J of the CCDBG Act]

House bill

Provides that payments received by a State for a fiscal year may be obligated in the fiscal year received or the succeeding fiscal year, instead of expended in the fiscal year received or the succeeding 3 fiscal years.

Senate amendment

No provision (maintains current law).

Conference agreement

The Senate recedes.

10. ANNUAL REPORT AND AUDITS

Present law

Requires each State to prepare and submit to the Secretary every year a report: specifying how funds are used; containing data on the manner in which the child care needs of families in the State are being fulfilled, including information on the number of children served, child care programs in the State, compensation provided to child care staff, and activities to encourage public-private partnerships in child care; describing the extent to which affordability and availability of child care has increased; summarizing findings from a review of State licensing and regulatory requirements, if applicable; explaining any action taken by the State to reduce standards, if applicable; and describing standards and health and safety requirements applied to child care providers in the State, including a description of efforts to improve the quality of child care. [Sec. 658K of the CCDBG Act]

House bill

Changes the title of the section from "Annual Report and Audits" to "Annual Report, Evaluation Plans, and Audits." Changes required data elements in annual reports to include:

(1) the number and ages of children being assisted with funds provided under this subchapter;

(2) with respect to the families of such children:

the number of other children in such families;

the number of such families that include only 1 parent;

the number of such families that include both parents;

the ages of the mothers of such children;

the ages of the fathers of such children;

the sources of the economic resources of such families, including the amount of such resources obtained from (and separately identified as being from)

a. employment, including self-employment;

b. assistance received under part A of title IV of the Social Security Act (SSA);

c. part B of title IV of the SSA;

d. the Child Nutrition Act of 1966;

e. the National School Lunch Act;

f. assistance received under title XVI of the SSA;

g. assistance received under title XIV of the SSA;

h. assistance received under title XIX of the SSA;

i. assistance received under title XX of the SSA; and

j. any other source of economic resources the Secretary determines to be appropriate;

(3) the number of such providers separately identified with respect to each type of child

care provider specified in section 658P(5) that provided child care services obtained with assistance provided under this subchapter;

(4) the cost of child care services and the portion of such cost paid with assistance from this Act;

(5) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided;

(6) the number of parental complaints about child care that were found to have merit and a description of corrective actions taken by the State; and

(7) information on programs to which funds were transferred under section 658T (see item 15, below).

States are also required to present evidence demonstrating that they have State requirements designed to protect the health and safety of children.

Deletes current report requirements on: (1) increasing the affordability and availability of child care; (2) reviewing findings on State licensing and regulatory requirements; and (3) reducing standards.

Requires States to include an evaluation plan in their first annual report due after enactment and every 2 years thereafter, and to include the results of such evaluation in the second annual report due after enactment and every 2 years thereafter. The plan must include an evaluation regarding the extent to which the State has realized the following goals:

(1) promoting parental choice to make their own decisions on the child care that best suits their family's needs;

(2) providing consumer education information to help parents make informed choices about child care;

(3) providing child care to parents trying to achieve independence from public assistance; and

(4) implementing the health, safety, licensing, and registration standards established in State regulations.

Senate amendment

Requires States to submit reports every 2 years, rather than every year, with the first report due no later than December 31, 1996. Requires that States include information on the type of Federal child care and preschool programs serving children in the State, and requires that States describe the extent and manner to which resource and referral activities are being carried out by the State. Strikes the current requirement for information on the type and number of child care programs, providers, caregivers and support personnel in the State, and strikes the provision related to review findings of State licensing and regulatory requirements.

Conference agreement

The Senate recedes, with a modification that the State prepare and submit a data report to the Secretary every six months, and that the report include: (1) family income; (2) county of residence; (3) the sex, age of children receiving benefits; (4) whether the family includes only one parent; (5) the sources o f family income, including the amount obtained from (and separately identified as being from): a) employment, including self-employment; b) Part A cash assistance or other assistance; c) housing assistance; d) food stamps; and e) other; (6) the number of months the family has received benefits; (7) the type of care in which the child was enrolled (family day care, center, own home); (8) whether the provider was a relative; (9) the cost of care; and (10) the average hours per week of care. Annually, the State must submit the following aggregate data: (1) the number of providers separately identified in accord with each type of provider specified in section 658P(5) that received funding under this subchapter; (2) the monthly cost of child care services and the portion of such cost paid with assistance from this Act by type of care; (3) the number and total amount of payments by the State in vouchers, contracts, cash, and disregards from public benefit programs by type of care; (4) the manner in which consumer education information was provided; (5) information on programs from which funds were transferred under 658T; and (6) total number (unduplicated) of children and families served.

States are required to present evidence demonstrating that they have State requirements designed to protect the health and safety of children.

The House recedes on the requirement that States include an evaluation plan in their reports to the Secretary.

Deletes current report requirements on: (1) increasing the affordability and availability of child care; (2) reviewing findings on State licensing and regulatry reauirements; and (3) reducing standards.

11. REPORT BY THE SECRETARY

Present law

Requires the Secretary to prepare and submit an annual report, summarizing and analyzing information provided by States, to the House Education and Labor Committee and the Senate Labor and Human Resources Committee. This report must contain an assessment and, where appropriate, recommendations to Congress regarding efforts that should be taken to improve access of the public to quality and affordable child care. [Sec. 658L of the CCDBG Act]

House bill

Revises the Secretary's report to become a biennial report to the Speaker and the President pro tempore.

Senate amendment

Requires the Secretary to prepare and submit biennial reports, rather than annual, with the first report due no later than July 31, 1997; and replaces the reference to the House Education and Labor Committee with the House Economic and Educational Opportunities Committee.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

12. ALLOTMENTS

Present law

Requires the Secretary to reserve one-half of 1 percent of appropriations for payment to Guam, American Samoa, the Virgin Islands, the Northern Marianas and the Trust Territory of the Pacific Islands. The Secretary also must reserve no more than 3 percent for payment to Indian tribes and tribal organizations with approved applications. Remaining funds are allocated to the States based on the States' proportion of children under age 5 and the number of children receiving free or reduced-price school lunches, as well as the States' per capita income. Any portion of a State's reallotment that the Secretary determines is not needed by the State to carry out its plan for the allotment period, must be reallotted by the Secretary to the other States in the same proportion as the original allotments. [Sec. 658O of the CCDBG Act]

House bill

Maintains the current law set-asides for the Territories and Indian tribes and tribal organizations, except that the Trust Territory of the Pacific Islands is deleted from the set-aside for Territories. Allots remaining funds to States as follows: each State will receive an amount based on its relative share of the aggregate amount of Federal funds received by the State in fiscal year 1994 under the Child Care and Development Block Grant Act, and under child care programs for AFDC recipients and former AFDC recipients and the At-Risk Child Care program under Title IV–A of the Social Security Act. Eliminates reallotment provisions.

Senate amendment

Maintains current law allotment procedures. Amends section 658O(c), related to payments for the benefit of Indian children, to add new provisions allowing the use of funds by Indian tribes or tribal organizations for construction or renovation of facilities, upon request by the tribe or tribal organization and subject to approval by the Secretary. The Secretary may not permit a tribe or tribal organization to use funds for construction or renovation if such use will result in a decrease in the level of child care services. The Secretary is also allowed to reallot to other tribes any tribal allotments that are not expended, which is similar to what happens with unused State allotments.

Conference agreement

The Senate recedes, with a modification that the set-aside for Indian tribes and tribal organizations and Native Hawaiian Organizations is 1 percent of the total funds for child care made available under this Act. Any portion of a State's allotment that the Secretary determines is not needed by the State to carry out its plan for the allotment period must be reallotted by the Secretary to the other States in the same proportion as the original allotments. The Secretary is also allowed to reallot to other tribes any tribal allotments that are expended, which is similar to the process for reallotment to States.

13. DEFINITIONS

Present law

Provides definitions of the following terms: caregiver, child care certificate, elementary school, eligible child, eligible child care provider, family child care provider, Indian tribe, lead agency, parent, secondary school, Secretary, sliding fee scale, State, and tribal organization. [Sec. 658P of the CCDBG Act]

House bill

Includes definitions for lead entity and child care services, and strikes definitions for elementary school, secondary school, and sliding fee scale.

Senate amendment

Revises the definition of eligible child to one whose family income does not exceed 100 percent of the State median, instead of 75 percent.

Adds the following as an allowable use of a child care certificate: "as a deposit for child care services if such a deposit is required of other children being cared for by the provider."

Revise the definition of relative child care provider by adding great grandchild and sibling (if the provider lives in a separate residence) to the list of eligible children; by striking the requirement that such providers be registered; and by requiring such providers to comply with any "applicable" requirements governing child care provided by a relative.

Conference agreement

The House recedes, with a modification that strikes the definition for elementary and secondary school and revises the definition of eligible child to one whose family income does not exceed 85 percent of the State median income.

14. TRANSFER OF FUNDS

Present law

No provision.

House bill

Adds a new section 658T to the CCDBG Act, allowing a State to transfer no more than 20 percent of CCDBG funds to one or more of the following programs:

1. Part A of Title IV of the Social Security Act;
2. Part B of Title IV of the Social Security Act;
3. Child Nutrition Act of 1966;
4. National School Lunch Act; and
5. Title XX of the Social Security Act.

Transferred funds would be subject to the rules of the program to which they are transferred.

Senate amendment

States can transfer up to 30 percent of their cash assistance block grant (title IV–A) into the CCDBG.

Conference agreement

The House recedes, no funds can be transfered out of the Child Care and Development Block Grant.

15. APPLICATION TO OTHER PROGRAMS

Present law

No provision.

House bill

No provision.

Senate amendment

Adds a new section 658T to the CCDBG Act, that requires States that use any Federal funds for child care services to ensure that such services meet the requirements, standards and criteria, with the exception of the 15 percent quality set-aside, of the CCDBG and any regulations issued under the CCDBG. These funds must be administered through a uniform State plan and, to the maximum extent practicable, shall be transferred to the lead agency and integrated into the CCDBG program.

Conference agreement

The Senate recedes.

16. REPEALS AND TECHNICAL AND CONFORMING AMENDMENTS

Present law

Not applicable.

House bill

Repeals the following programs:

(1) Child Development Associate (CDA) Scholarship Assistance;

(2) State Dependent Care Development Grants;

(3) Programs of National Significance under Title X of the Elementary and Secondary Education Assistance Act of 1965 (child care related to Cultural Partnerships for At-Risk Children and Youth, and Urban and Rural Education Assistance); and

(4) Native-Hawaiian Family-Based Education Centers.

[Note: Title I of the House bill also repeals child care assistance provided under current law by Title IV–A of the Social Security Act. This assistance is provided under 3 programs known as AFDC Child Care, Transitional Child Care, and At-Risk Child Care.]

Senate amendment

Repeals CDA Scholarship Assistance and State Dependent Care Development Grants.

Requires the Secretary of HHS, after consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, to prepare and submit to Congress, within 6 months after enactment, a legislative proposal containing technical and conforming amendments that reflect the amendments and repeals made by this Act.

[Note: Title I of the Senate amendment also earmarks and provides additional funds for child care, to replace the AFDC Child Care, Transitional Child Care, and At-Risk Child Care programs.]

Conference agreement

These repeals were dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

SUBTITLE I—CHILD NUTRITION

1. CHILD NUTRITION ACT OF 1966

Present law

Authorizes the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the School Breakfast program, the Special Milk program, assistance to States for child nutrition administrative expenses and nutrition education and training, and school breakfast assistance for Defense Department overseas dependents' schools.

The *WIC program* provides specific nutritious foods to lower-income pregnant, postpartum, and breastfeeding women, and infants and children (up to age 5). Recipients' family income must be below 185% of Federal poverty guidelines, and they must be judged at nutritional risk. Federal funds, set by appropriation levels, are made available to State health agencies under a formula. States then provide funds to local health agencies, which are responsible for day-to-day operations. Funds also are used for food, nutrition assessments and counselling, referrals to other programs, breastfeeding promotion, and a farmers' market program. [Sec. 17 and 21 of the Child Nutrition Act]

Under the *School Breakfast program*, schools choosing to participate in the program receive per-meal Federal cash subsidies for all breakfasts they serve that meet Federal nutrition standards. Subsidies are indexed annually for inflation and differ depending on whether the meal is served free (to children from families with income below 130% of poverty), at a reduced price (to children with family income between 130% and 185% of poverty), or at "full price" (so-called "paid" meals for those with family income above 185% of poverty or who do not apply for free or reduced-price meals). Schools with high proportions of lower-income students get larger per-meal subsidies, and special grants are provided to assist in paying start-up and expansion costs. [Sec. 4 of the Child Nutrition Act]

Under the *Special Milk program*, schools and institutions not otherwise participating in a meal service program (and schools with split sessions for kindergartners) provide milk to all children at a low price or free, and each half-pint served is federally subsidized at a different rate—depending on whether it is served free or not. Provision of free milk is not required. [Sec. 3 of the Child Nutrition Act]

Under the State administrative expense assistance program, grants are made to States to help cover administrative costs associated with child nutrition programs. The amount available each year is 1.5% of Federal cash payments for School Lunch, School Breakfast, Child and Adult Care Food, and Special Milk programs. [Sec. 7 of the Child Nutrition Act]

For nutrition education and training, States are provided with Federal funds for training school food service personnel in food service management, instructing teachers in nutrition education, and teaching children about nutrition. [Sec. 19 of the Child Nutrition Act]

Special provisions are made for Federal assistance for school breakfast programs in Defense Department overseas dependents' schools. [Sec. 20 of the Child Nutrition Act]

House bill

Retains the designation of the Act as the Child Nutrition Act of 1966 and replaces the Act's current provisions with authorization for a Family Nutrition Block Grant Program.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment to:

A. Create an optional State block grant entitled, "CHILD CARE AND SUMMER FOOD SERVICE OPTIONAL BLOCK GRANT."

OPTIONAL BLOCK GRANT—Under the terms of the optional block grant, all States have the option of receiving funds for the Child Care Food and Summer Food Programs through a block grant. For fiscal year 1996, 22 States will have the option to participate. In fiscal year 1997, all States will have the option to participate.

DECISION TO PARTICIPATE—States opting to participate in the block grant may reverse a decision to participate in the block grant once prior to the termination date and only after a two-year period of participation. If a State opts out, such State may resume participation under the summer food service program and the child care food program.

STATE PLAN—States are required to submit a State plan to the Secretary in order to participate in the block grant.

USE OF FUNDS—States must insure that the funds will only be used to provide assistance in providing meals and meal supplements in summer food service facilities and nonresidential child care institutions that are licensed or approved by the Federal Government, the State, or a local government (State option to make payments to sponsoring organizations).

ADMINISTRATIVE EXPENSES—None of the funds under the block grant are to be used for State administrative expenses (States will continue to receive such funds under current SAE provisions).

NUTRITIONAL REQUIREMENTS—States are to provide minimum nutritional requirements for meals and meal supplements based on the most recent tested nutritional research available. Such requirements shall, to the extent practicable, be consistent with the goals of the most recent Dietary Guidelines for Americans. Meals shall provide, on the average over a week, at least ⅓ of the recommended dietary allowance for lunches and dinners and ¼ of the recommended dietary allowance for breakfasts. The Secretary may not impose any additional nutritional requirements beyond those specified in this section.

STATE REVIEW—States will review the meal operations in each participating summer food service facility and nonresidential child care institution no later than two years after implementation of the block grant and at the end of each 5-year period thereafter.

INCOME ELIGIBILITY—The State plan will describe how the block grant will serve specific groups of children in the State. The plan will further describe the income eligibility limitations established for meal and meal supplements. Only children who are members of families with incomes below 185 percent of the poverty line are eligible to participate.

SUMMER FOOD ELIGIBILITY—A summer food service facility may only receive funds if it operates in an area where at least 50 percent of the children are eligible for free or reduce price school meals—or be a residential public or nonprofit private summer camp. Existing summer food service sponsors must to given an opportunity to continue participation.

DOD PARTICIPATION—Nonresidential child care institutions on military installations are eligible to participate on an equitable basis with all other nonresidential child care institutions in the State participating in the block grant. If such facility is licensed or approved by DOD, the State may not require them to be licensed or approved under State or local law.

PRIVACY—States shall provide for safeguarding and restricting the use and disclosure of information about children receiving assistance under this Act. Physical segregation and overt identification of children participating in the block grant is prohibited.

REQUIRED REPORT—In order to participate, States must agree to submit a report to the Secretary each fiscal year describing (a) the number of children receiving assistance; (b) the different types of assistance provided; (c) the extent to which assistance was effective in achieving program goals; (d) the standards and methods used to ensure the nutritional quality of meals and meal supplements and (e) other information the Secretary may reasonably require. Failure to submit the required report will reduce the amounts otherwise payable to a State.

COMPLIANCE—The Secretary is required to review and monitor State compliance and withhold funds to the State with respect to the program or activity for which noncompliance is found, until the Secretary determines the problem has been corrected. The Secretary may seek financial restitution for misused funds.

PAYMENTS TO STATES—Payments to States under the block grant shall be on a quarterly basis and may be expended by the State for the current fiscal year or the succeeding fiscal year.

AUDITS—A yearly audit is required.

ALLOTMENT—In the first year of participation, the Secretary is required to allot to each participating State an amount that is equal to the amount the Secretary projects will be made available to the State to carry out the current law summer food service program and the child care food program for the current fiscal year. In the succeeding years such amount will be adjusted to reflect changes in the Consumer Price Index, series for food away from home and changes in each State's child population.

ALTERNATIVE ASSISTANCE—The Secretary is to arrange for the provision of such assistance and reduce the State allotment accordingly in cases where a State prohibited by law from providing assistance to an eligible sponsoring organization or a DOD domestic dependents' school, as well as States that have substantially failed or are unwilling to provide such assistance.

EVALUATION—No later than three years after the establishment of the block grant the Secretary is to conduct an evaluation and submit a report to Congress, including the comments of the Comptroller General. The report is to include information on the effects of the block grant on the nutritional quality of meals; the income distribution of children served, the difference between implementation of the block grant and implementation of the existing Summer Food program and Child Care Food program.

AUTHORIZATION PERIOD—the block grant option is authorized through September 30, 2002.

B. Streamlining provisions in the Child Nutrition Act of 1966. The following changes are intended to streamline the operation of programs under the Child Nutrition Act.

56. Revise Sec. 19(f)(1)(A), striking clauses (ix)-(xix), eliminating unnecessary stipulations on uses of funds.

57. Strike Sec. 19(f)(1)(B) to eliminate "language appropriate" information provision.

58. Strike Sec. 19(f)(2) and 19(f)(4). Technical and conforming.

63. Revise Sec. 19(i), making discretionary and authorizing appropriations of $10 million per year.

2. AUTHORIZATION FOR FAMILY NUTRITION BLOCK GRANT

A. REQUIREMENT FOR GRANTS

Present law

The Child Nutrition Act (see item 1) and the National School Lunch Act (see item 11) require that the Secretary of Agriculture provide Federal assistance to States for the WIC, Child and Adult Care Food, Summer Food Service, and Special Milk programs, as well as other support (e.g., for State administrative expenses and nutrition education and training), under terms of agreements with States meeting Federal standards.

House bill

Directs the Secretary of Agriculture to provide to each State that submits an annual application in accordance with the revised Child Nutrition Act's requirements (see item 4) an annual family nutrition grant for the purpose of achieving the goals of the Family Nutrition Block Grant Program (see item 2B for the program's goals and item 3 for State allotments).

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional State block grant and making changes to Child Nutrition Act (see Item #1).

B. GOALS

Present law

The Child Nutrition Act declares it the policy of Congress to extend, expand, and strengthen child nutrition programs as a measure to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of agricultural commodities by assisting States through grants and other means to more effectively meet children's nutritional needs. [Sec. 2 of the Child Nutrition Act]

House bill

Establishes the goals of the Family Nutrition Block Grant Program:

(1) to provide nutritional risk assessments, food assistance based on the assessments, and nutrition education and counseling to economically disadvantaged pregnant, postpartum, and breastfeeding women, as well as infants and young children, determined to be at nutritional risk (see item 10 for definitions);

(2) to provide nutritional risk assessments of participating women so that food assistance and nutrition education is provided that meets their specific needs;

(3) to provide nutrition education to participating women to increase their awareness of the foods needed for good health;

(4) to provide food assistance, including nutritious supplements, to participating women in order to reduce the incidence of low-birthweight babies and babies born with birth defects because of nutritional deficiencies;

(5) to provide food assistance, including nutritious supplements, to participating women, infants, and children to ensure their future good health;

(6) to ensure that participating women, infants, and children are referred to other health services, including routine pediatric/obstetric care;

(7) to ensure that children from economically disadvantaged families in day care facilities, family day care homes, homeless shelters, settlement houses, recreational centers, Head Start centers, Even Start programs, and facilities for disabled children receive nutritious meals, supplements, and low-cost milk; (see item 10B for definition of "economically disadvantaged"); and

(8) to provide summer food service programs for children from economically disadvantaged families when school is not in session (see item 10B for definition of "economically disadvantaged").

Senate amendment

No provision.

Conference agreement

Senate recedes, deleting all references to the Special Supplemental Food Program for Women, Infants and Children.

C. TIMING OF PAYMENTS

Present law

No provision.

House bill

Directs that the Secretary of Agriculture make family nutrition grant payments to the States on a quarterly basis.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to the Child Nutrition Act (see Item #1).

3. ALLOTMENT OF FAMILY NUTRITION BLOCK GRANT

Present law

Current activities that may be funded under the House bill's Family Nutrition Block Grant include those now supported by the WIC program, the Homeless Children Nutrition program (authorized under section 17B of the National School Lunch Act), the Child and Adult Care Food program (authorized under section 17 of the National School Lunch Act), the Summer Food Service program (authorized under section 13 of the National School Lunch Act), and the Special Milk program.

Under the WIC program, Federal funds, determined by appropriations levels, are made available to States under a formula that reflects State caseloads, food cost inflation, need (as evidenced by poverty and health indices), and a specified national average per participant grant; in effect, funds are allotted so that each State can maintain its caseload from year to year, and extra money is shared so as to support expanded enrollment in States with greater need.

Under the Homeless Children Nutrition program, Federal funds are made available to existing projects to continue operations and, from any additional amounts, money is provided for new projects or to expand existing projects.

Under the Child and Adult Care Food program, child and adult care centers and family day care homes receive Federal reimbursements for each meal or supplement served at legislatively established, inflation indexed rates.

Under the Summer Food Service program, sponsors receive Federal reimbursements for each meal or supplement served, at legislatively established, inflation indexed rates.

Under the Special Milk program, schools and other participating institutions receive specified, inflation indexed Federal reimbursements for each half-pint of milk served.

House bill

As set forth below, provides for the Secretary of Agriculture to make State allotments of funds appropriated for the Family Nutrition Block Grant.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to child Nutrition Act (see Item #1).

A. FIRST YEAR STATE ALLOTMENTS

Present law

No provisions.

House bill

For the first fiscal year in which grants are made, provides that the Secretary make allotments to States based on the projections of funds each State would receive under current law for the upcoming fiscal year.

Base-Year State Shares: Each State's allotment would be its prior-year share of funds received under the WIC and Homeless Children Nutrition programs, plus its prior-year share of 87.5% of the amounts received under the Child and Adult Care Food, Summer Food Service, and Special Milk programs.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item #1).

B. SECOND YEAR STATE ALLOTMENTS

Present law

No provision.

House bill

For the second fiscal year in which grants are made, provides that (1) 95% of the amount appropriated be allotted according to each State's share of the amount allotted in the first year and (2) 5% of the amount allotted be based on each State's share of the number of individuals receiving assistance under the grant during the 1-year period ending the preceding June 30.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item #1).

C. THIRD AND FOURTH YEAR STATE ALLOTMENTS

Present law

No provision.

House bill

For the third and fourth fiscal years in which grants are made, provides that (1) 90% of the amount appropriated be allotted according to each State's share of the amount allotted in the preceding year and (2) 10% of the amount allotted be based on each State's share of the number of individuals receiving assistance under the grant during the 1-year period ending the preceding June 30.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment allowing an optional family nutrition block grant for summer food and child care food programs only and making changes to the Child Nutrition Act (see Item #1).

D. FIFTH YEAR STATE ALLOTMENTS

Present Law

No provision.

House bill

For the fifth fiscal year in which grants are made, provides that (1) 85% of the amount appropriated be allotted according to each State's share of the amount allotted in the fourth year and (2) 15% of the amount allotted be based on each State's share of the number of individuals receiving assistance under the grant during the 1-year period ending the preceding June 30.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment allowing an optional family nutrition block grant for summer food and child care food programs only (see Item #1).

4. APPLICATION FOR FAMILY NUTRITION GRANTS

Present law

Nutrition requirements for food assistance provided under the current WIC, Child and Adult Care Food, and Summer Food Service programs are established by the Secretary of Agriculture, as are the general standards for determining nutritional risk in women, infants, and children, on the basis of tested nutritional research. [Sec. 17(b)(8) & (14) and (f)(12) of the Child Nutrition Act; Sec. 17(g)(1) and Sec. 13(f) of the National School Lunch Act]

The use/disclosure of information obtained from applications for free/reduced-price meals is limited to those administering/enforcing child nutrition programs, administrators of other health or education programs (with restrictions), and the General Accounting Office and law enforcement officials. [Sec. 9(b)(2) of the National School Lunch Act]

House bill

Provides that the Secretary make a family nutrition grant to a State if it submits an application containing only the following:

(1) an agreement that the State will use the grant in accordance with Family Nutrition Block Grant program requirements (see item 5);

(2) an agreement that the State will set minimum nutrition requirements for food assistance provided under the grant based on the most recent tested nutrition research available (but the requirements may not prohibit the substitution of foods to accommodate medical or other special dietary needs, and would have to be based, at a minimum, on the weekly average nutrient content of school lunches or other standards set by the State);

(3) an agreement that, with respect to assistance to pregnant, postpartum, and breastfeeding women, and infants and children, the State will implement minimum nutrition requirements based on the most recent tested nutritional research available or the model nutrition standards developed by the National Academy of Sciences (see item 8B);

(4) an agreement that the State will take reasonable steps it deems necessary to restrict the use and disclosure of information about those receiving assistance under the grant;

(5) an agreement that the State will not use more than 5% of its grant for administrative costs incurred to provide assistance (costs associated with nutritional risk assessments of pregnant, postpartum, and breastfeeding women, and infants and children, as well as those associated with nutrition education and counseling for these individuals, would not be considered administrative costs subject to the 5% limit); and

(6) an agreement that the State will submit an annual report to the Secretary (see item 6).

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item #1).

5. USE OF AMOUNTS PROVIDED UNDER THE FAMILY NUTRITION BLOCK GRANT

A. ACTIVITIES SUPPORTED

Present law

The *WIC* program provides nutritional risk assessment, specific nutritious foods (under Federal guidelines), nutrition education/counseling, breastfeeding support, and a farmers' market program for lower-income pregnant, postpartum, and breastfeeding women, as well as infants and children (up to age 5). Recipients' family income must be below 185% of poverty, and they must be judged at nutritional risk. [Sec. 17 of the Child Nutrition Act]

The *Special Milk program* provides Federal reimbursement for each half-pint of milk served in schools and other child care institutions not participating in a meal service program (and schools with split sessions for kindergartners). Milk is served at a low price or for free and each half-pint is subsidized at a different rate depending on whether it served free or not. Provision of free milk is not required. [Sec. 3 of the Child Nutrition Act]

The *Child and Adult Care Food* program provides Federal per-meal/supplement reimbursements for all meals and supplements served in public and private nonprofit child care centers, public and private nonprofit adult day care centers, certain for-profit child and adult day care centers, and family day care homes. Reimbursements for meals/supplements served in child/adult care centers differ according to whether they are served free (to children from families with income below 130% of Federal poverty guidelines), at a reduced price (to children with family income between 130% and 185% of the poverty guidelines), or at "full price" (so-called "paid" meals and supplements for those with family income above 185% of poverty or who do not apply for free or reduced price meals/supplements). Reimbursements for meals and supplements served in family day care homes do not vary by the family income of the child, and sponsors of family day care homes receive monthly payments for administrative costs. [Sec. 17 of the National School Lunch Act]

The *Summer Food Service* program provides Federal per meal/supplement reimbursements for all summer meals and supplements served through public and private nonprofit sponsors (including schools and local governments) to children in areas where 50% or more have family income below 185% of the Federal poverty guidelines (are eligible for free or reduced-price school meals). Summer food service subsidies also are provided to public and private nonprofit summer camps and higher education institutions in the National Youth Sports program. [Sec. 13 of the National School Lunch Act]

The *Homeless Children Nutrition* program grants funds to public and private nonprofit sponsors providing food service (meals and supplements), similar to that provided under the Child and Adult Care Food program, to homeless children under age 6 in shelters. [Sec. 17B of the National School Lunch Act] [General Note: In addition to cash reimbursements, Federal commodity assistance is available for the Child and Adult Care Food and Summer Food Service programs.]

House bill

Provides that the Secretary of Agriculture make family nutrition grants to States if they agree to use their grant to:

(1) provide nutritional risk assessment, food assistance based on the assessment, and nutrition education and counseling to economically disadvantaged pregnant, postpartum, and breastfeeding women, and infants and young children, who are determined to be at nutritional risk (see item 10 for definitions);

(2) provide milk in nonprofit nursery schools, child care centers, settlement houses, summer camps, and similar child care settings to children from economically disadvantaged families (see item 10 for definitions) [Note: Under the School-Based Nutrition Block Grant Program, support could be provided for milk served in schools.];

(3) provide food service in institutions and family day care homes providing child care to children from economically disadvantaged families (see item 10 for definitions) [Note: Under the School-Based Nutrition Block Grant Program, support could be provided for child care food service provided through schools. Further Note: Adult-care food service would not be funded under the Family Nutrition Block Grant program.];

(4) provide summer food service to economically disadvantaged children through programs carried out by nonprofit food authorities, local governments, higher education institutions in the National Youth Sports program, and nonprofit summer camps (see item 10 for definitions) [Note: Under the School-Based Nutrition Block Grant Program, support could be provided for summer food service by schools.]; and

(5) provide nutritious meals to pre-school-age homeless children in shelters and other facilities serving the homeless.

[General Note: Federal commodity assistance would not be available for child care food and summer food service activities under the family nutrition grant.]

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item #1).

B. ADDITIONAL REQUIREMENTS FOR ASSISTANCE FOR WOMEN, INFANTS, AND CHILDREN

Present law

Under the WIC program, States must carry out cost containment measures in procuring infant formula (and, where practicable, other foods). Cost containment must be by competitive bidding (selection of a single source offering the lowest price) or another method that yields equal or greater savings. Cost savings (e.g., through manufacturer rebates) may be used by the State for WIC program purposes. The Secretary of Agriculture must provide technical assistance for cost-containment bids and offer to solicit multi-State bids for infant formula and infant cereal. In addition, certain rules against bid-rigging and anti-competitive practices are established. [Sec. 17(b) (17)-(20) and (h) (8) and (9) of the Child Nutrition Act, and Sec. 25 of the National School Lunch Act]

House bill

Requires that each State ensure that not less than 80% of its family nutrition grant is used to provide nutrition risk assessment, food assistance based on the assessment, and nutrition education and counseling to economically disadvantaged pregnant women, postpartum women, breastfeeding women, infants, and young children.

With respect to assistance provided to women, infants, and young children, requires States to establish and carry out a cost containment system for procuring infant formula. Requires States to use cost containment savings for any of the activities supported under their family nutrition grant. Requires States to submit annual reports to the Secretary (1) describing their infant formula cost containment system and (2) estimating the cost savings from the system for the report year compared to savings from the preceding year, where appropriate.

Requires States to ensure that equitable assistance for economically disadvantaged pregnant women, postpartum women, breastfeeding women, infants, and young children is provided to members of the Armed Forces and their dependents, regardless of their State of residence (see item 10 for definitions).

Senate amendment

Includes findings on the success of the WIC program in improving the health status of women, infants, and children and saving Medicaid expenditures, as well as the importance of manufacturer rebates in helping to fund the WIC program. Provides that it is the sense of the Senate that any legislation not eliminate or in any way weaken present competitive bidding requirements for the purchase of infant formula in programs supported with Federal funds.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item #1).

C. CHILD CARE FOOD ASSISTANCE ON MILITARY INSTALLATIONS

Present law

Assisted child care facilities must be licensed under Federal, State, or local rules. [Sec. 17(a)(1) of the National School Lunch Act]

House bill

Requires States to provide equitable assistance under its program for child care facilities to Defense Department child care programs on military installations—to the extent consistent with the number of children in the programs and after consultation with the programs' representatives.

In carrying out programs for child care facilities, bars States from requiring that those on military installations be licensed under State law if they are licensed by the Defense Department.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant (see Item #1).

D. AUTHORITY TO USE FAMILY NUTRITION BLOCK GRANT AMOUNTS FOR OTHER PURPOSES

Present law

No provision.

House bill

Allows States to use not more than 20% of amounts received from a family nutrition block grant for any fiscal year to carry out State programs under other block grants authorized by:

(1) part A of title IV of the Social Security Act (relating to welfare for families with children);

(2) part B of title IV of the Social Security Act (relating to provision of child welfare services);

(3) title XX of the Social Security Act (relating to provision of social services);

(4) the National School Lunch Act (relating to school-based nutrition block grants); and

(5) the Child Care and Development Block Grant.

Provides that States may not transfer funds to other block grants unless the appropriate State agency makes a determination that sufficient amounts will remain available for the fiscal year to carry out activities under the Family Nutrition Block Grant program.

Provides that family nutrition grant amounts States transfer to other block grants (noted above) will not be subject to the requirements of the Family Nutrition Block Grant program under the revised Child Nutrition Act, but will be subject to the requirements that apply to Federal funds provided directly to the block grant to which they are transferred.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant (see Item #1).

6. REPORTS

Present law

No comparable provision.

House bill

Requires that States, as a condition of receiving a family nutrition grant, agree to submit an annual report to the Secretary of Agriculture describing:

(1) the number of individuals receiving assistance under the grant for the reporting (fiscal) year;

(2) the different types of assistance provided;

(3) the extent to which the assistance provided was effective in achieving the goals of the Family Nutrition Block Grant program (see item 2B);

(4) the standards and methods the State is using to ensure the nutritional quality of assistance under the grant;

(5) the number of low-birthweight births in the State in the reporting (fiscal) year compared to the number of low-birthweight births in the previous year; and

(6) any other information that can be reasonably required by the Secretary.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to the Child Nutrition Act (see Item 1).

7. PENALTIES

A. PENALTY FOR VIOLATIONS

Present law

The Child Nutrition and National School Lunch Acts provide penalties for fraud in relation to assistance provided under either Act, grant the Secretary of Agriculture authority to establish and adjust claims against States, and establish a compliance and accountability program to monitor the use of Federal funds. [Sec. 12(g) and Sec. 22 of the National School Lunch Act, and Sec. 16 of the Child Nutrition Act]

House bill

Requires the Secretary of Agriculture to reduce family nutrition grant amounts otherwise payable to a State by any amount paid under the grant that an audit made under the "Single Audit Act" (chapter 75 of title 31 of the United States Code) finds has been used in violation of the revised Child Nutrition Act. However, the Secretary is barred from reducing any quarterly payment to the State by more than 25%.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item 1).

B. PENALTY FOR FAILURE TO SUBMIT A REQUIRED REPORT

Present law

No specific provision.

House bill

Requires the Secretary to reduce by 3% the family nutrition grant amount otherwise payable to a State for any fiscal year if the Secretary determines that the State has not submitted the required annual report (see item 6) for the immediately preceding fiscal year within 6 months after the end of that fiscal year.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item 1).

8. MODEL NUTRITION STANDARDS FOR FOOD ASSISTANCE FOR WOMEN, INFANTS, AND CHILDREN

A. REQUIREMENT

Present law

No comparable provisions. [Note: The Secretary establishes nutrition standards for and foods to be made available under the WIC program; Sec. 17(b)(14) and 17(f)(12) of the Child Nutrition Act.]

House bill

Not later than April 1, 1996, requires the National Academy of Sciences to develop model nutrition standards for food assistance provided to economically disadvantaged pregnant women, postpartum women, breastfeeding women, infants, and young children under the Family Nutrition Block Grant program (see item 10 for definitions). The standards are to be developed by the Food and Nutrition Board of the Academy's Institute of Medicine, in cooperation with pediatricians, obstetricians, nutritionists, and directors of programs providing food assistance, nutrition education and counseling to these women, infants, and children.

The model standards must require that food assistance provided to these women, infants, and children contain nutrients that are lacking in their diets, as determined by nutritional research.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item 1).

B. REPORT TO CONGRESS

Present law

No provision.

House bill

Not later than one year after the model nutrition standards (noted above) are developed, requires the National Academy of Sciences to report to Congress regarding efforts of States to implement them.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item #1).

9. AUTHORIZATION OF APPROPRIATIONS

A. AUTHORIZATION

Present law

Federal appropriations for activities under current law replaced by the House bill's Family Nutrition Block Grant program are authorized at such sums as are necessary, except for the Homeless Children Nutrition program (provided specific amounts). [Sec. 13(r), 17(b), and 17B of the National School Lunch Act; Sec. 3(a) and 4(a) of the Child Nutrition Act]

House bill

Authorizes appropriations for the Family Nutrition Block Grant program under the revised Child Nutrition Act at: $4.606 billion for fiscal year 1996, $4.777 billion for fiscal year 1997, $ $4.936 billion for fiscal year 1998, $5.120 billion for fiscal year 1999, and $5.308 billion for fiscal year 2000.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item 1).

B. AVAILABILITY

Present law

With the exception of funding for the WIC program, appropriations for the activities under current law to be replaced by the Family Nutrition Block Grant program generally cannot be carried over to the next fiscal year.

House bill

Authorizes amounts for the Family Nutrition Block Grant program to remain available until the end of the fiscal year subsequent to the year they were appropriated for.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item 1).

10. DEFINITIONS

A. BREASTFEEDING WOMEN, INFANTS, POSTPARTUM WOMEN, PREGNANT WOMEN, AND YOUNG CHILDREN

Present law

For purposes of the WIC program: (1) breastfeeding women are defined as women up to 1 year postpartum who are breastfeeding their infants; (2) infants are defined as persons under 1 year of age; (3) postpartum women are defined as women up to 6 months after termination of pregnancy; (4) pregnant women are defined as those who have 1 or more fetuses in utero; and (5) young children are persons who have had their first birthday but not attained their fifth birthday. [Sec. 17(b) of the Child Nutrition Act]

House bill

For purposes of State family nutrition grant programs, adopts present-law definitions of breastfeeding women, infants, postpartum women, pregnant women, and young children.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item 1).

B. ECONOMICALLY DISADVANTAGED

Present law

No directly comparable provisions. [Note: Under present law, means tests for assistance apply as follows: (1) for the WIC program, recipients must have family income below 185% of the Federal poverty guidelines (but States may not set standards below poverty); and (2) for those in child and adult care centers under the Child and Adult Care Food program, persons with family income below 130% of poverty are eligible for free meals/supplements, those with family income between 130% and 185% of poverty are eligible for reduced-price meals and supplements, and those with family income above 185% of poverty (or who do not apply for free or reduced-price treatment) are eligible for "paid" (but still subsidized) meals and supplements. No individual income test is applied in the family day care home component of the Child and Adult Care Food program, the Summer Food Service program, the Special Milk program, and the Homeless Children Nutrition program.

House bill

The term "economically disadvantaged" is defined to apply to individuals or families with annual income below 185% of the Federal poverty guidelines. [Note: No assistance under a family nutrition grant (other than aid to homeless children) could be given to those with family income above 185% of poverty.]

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item 1).

C. SCHOOL AND SECRETARY

Present law

"Schools" are defined as public or private nonprofit elementary, intermediate, or secondary schools. The "Secretary" is defined as the Secretary of Agriculture.

House bill

"Schools" and the "Secretary" would, under the Family Nutrition Block Grant program, have the same meaning as in present law.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item #1).

D. STATE

Present law

In general, "State" is defined as the 50 States, the District of Columbia, Puerto Rico, the Northern Marianas, American Samoa, Guam, and the Virgin Islands. In the WIC program, it includes an Indian tribe, band, or group recognized by the Interior Department, an intertribal council or group recognized by the Interior Department, or the Indian Health Service.

House bill

"State" would, under the Family Nutrition Block Grant program have the same meaning as in present law. In addition, Indian tribal organizations (as defined under section 4(l) of the Indian Self-Determination and Education Assistance Act) would be included as States and could apply for grants.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to Child Nutrition Act (see Item #1).

11. NATIONAL SCHOOL LUNCH ACT

Present law

Authorizes the School Lunch, Summer Food Service, Child and Adult Care Food, and Homeless Children Nutrition programs. Also authorizes commodity assistance for child nutrition programs and school lunch assistance for Defense Department overseas dependents' schools.

Under the School Lunch program, schools choosing to participate receive per-meal Federal subsidies for all lunches they serve that meet Federal nutrition standards. Subsidies are indexed annually and differ depending on whether the meal is served free (to children from families with income below 130% of Federal poverty guidelines), at a reduced price (to children with family income between 130% and 185% of poverty), or at "full price" (so-called "paid" lunches for those with family income above 185% of poverty or who do not apply for free or reduced-price meals). Schools with high proportions of free or reduced-price participants receive an additional per-meal subsidy. [Sec. 4 & 11 of the National School Lunch Act]

The Summer Food Service program provides Federal per-meal/supplement reimbursements for all summer meals and supplements served through public and private nonprofit sponsors (including schools and local governments) to children in areas where 50% or more have family income below 185% of the Federal poverty guidelines (are eligible for free or reduced-price school meals). Summer food service subsidies also are provided to public and private nonprofit summer camps and higher education institutions in the National Youth Sports program. [Sec. 13 of the National School Lunch Act]

The Child and Adult Care Food program provides Federal per-meal reimbursements for all meals and supplements served in public and private nonprofit child care centers, public and private nonprofit adult day care centers, certain for-profit child and adult day care centers, and family day care homes. Reimbursements for meals/supplements in centers vary by the recipient's income, but not in family day care homes. Certain schools with after-school care programs also may receive assistance. [Sec. 17 & 17A of the National School Lunch Act] The Homeless Children Nutrition program grants funds to public and private nonprofit sponsors providing food service (meals and supplements), similar to that provided under the Child and Adult Care Food program, to homeless children under age 6 in shelters.

The Agriculture Department is required to provide commodity support for meals served by institutions in the School Lunch, Child and Adult Care Food, and Summer Food Service programs. Schools and other institutions are "entitled" to a specific dollar value of commodities based on the number of meals served. Schools and other institutions also receive "bonus" commodities donated from Federal stocks at the Agriculture Department's discretion. [Sec. 6 & 14 of the National School Lunch Act]

The Secretary of Agriculture is required to make funds available for school lunch programs in Defense Department overseas dependent's schools to the same degree as for other schools (authority for school breakfast programs in these schools is contained in Sec. 20 of the Child Nutrition Act). [Sec. 17A of the National School Lunch Act]

House bill

Retains the designation of the Act as the National School Lunch Act and replaces the Act's current provisions with authority for a School-Based Nutrition Block Grant Program.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment to:

1A. CREATE AN OPTIONAL STATE BLOCK GRANT ENTITLED, "SCHOOL NUTRITION OPTIONAL BLOCK GRANT."

OPTIONAL BLOCK GRANT—Under the terms of the optional block grant, not more than 22 States in fiscal year 1996 and, in succeeding years, all States have the option of receiving funds to carry out programs offering school breakfasts and lunches for all school children under a block grant.

DECISION TO PARTICIPATE—States opting to participate in the block grant may reverse a decision to participate in the block grant once prior to the termination date and only after a two-year period of participation. If a State opts out, such State may resume participation under the school lunch and school breakfast programs and the commodity distribution program.

STATE PLAN—States are required to submit a State plan to the Secretary in order to participate in the block grant.

USE OF FUNDS—Allows States to use funds only for school lunches, breakfasts, and supplements and for the purchase of equipment or improvement of facilities needed to improve school food services.

NONPROFIT OPERATION—School lunch and breakfast programs are to be operated on a nonprofit basis.

ADMINISTRATIVE EXPENSES—None of the funds under the block grant are to be used for State administrative expenses (States will continue to receive such funds under current SAE provisions).

NUTRITIONAL REQUIREMENTS—States are to provide minimum nutritional requirements for meals based on the most recent tested nutritional research available. Such requirements shall, to the extent practicable, be consistent with the goals of the most recent Dietary Guidelines for Americans. Meals shall provide, on the average over a week, at least ⅓ of the recommended dietary allowance for lunches and ¼ of the recommended dietary allowance for breakfasts. The Secretary may not impose any additional nutritional requirements beyond those specified in this section.

STATE REVIEW—States will review the meal operations in each school food authority participating in the block grant no later than two years after implementation of the block grant and at the end of each 5-year period thereafter.

INCOME ELIGIBILITY—The State plan will describe how the block grant will serve specific groups of children in the State. The plan will further describe the income eligibility limitations established for free meals and, if available, for low-cost meals.

FREE MEALS—State's plan are required to offer access to free meals to students who are members of families with incomes at or below 130 percent of poverty and who attend a school participating in the block grant.

CONTINUED PARTICIPATION—Each school participating in the current school lunch and breakfast program in a State opting for a block grant is to be given opportunity to participate in State program under the block grant.

CASH/CLOC—States are required to permit a school district, nonprofit private school or DOD domestic dependents' school to receive commodity assistance in the same form they received such assistance as of January 1, 1987.

PRIVACY—States shall provide for safeguarding and restricting the use and disclosure of information about children receiving assistance under this Act. Physical segregation and overt identification of children participating in the block grant is prohibited.

REQUIRED REPORT—In order to participate, States must agree to submit a report to the Secretary each fiscal year describing (a) the number of children receiving assistance; (b) the different types of assistance provided; (c) the extent to which assistance was effective in achieving program goals; (d) the standards and methods used to ensure the nutritional quality of meals and meal supplements and (e) other information the Secretary can reasonably require. Failure to submit the required report will cause a 3 percent reduction in amounts otherwise payable to a State.

COMPLIANCE—The Secretary is required to review and monitor State compliance and withhold funds to the State with respect to the program or activity for which noncompliance is found, until the Secretary determines the problem has been corrected. The Secretary may seek financial restitution for misused funds.

PAYMENTS TO STATES—Payments to States under the block grant shall be on a quarterly basis and may be expended by the State for the current fiscal year or the succeeding fiscal year.

AUDITS—A yearly audit is required.

ALLOTMENT—In the first year of participation, the Secretary is required to allot to each participating State an amount that is equal to the amount the Secretary projects will be made available to the State to carry out the school lunch and breakfast programs (including commodities) for the current fiscal year. In succeeding years, the amount will equal the amount provided in the preceding fiscal year, adjusted to reflect changes in the consumer price index, services for food away from home, and changes in each State's student enrollment.

COMMODITIES—Not less than 8 percent and not more than 10 percent of the amount of a State's allotment will be in the form of commodities.

ALTERNATIVE ASSISTANCE—Requires the Secretary to arrange for the provision of assistance and reduce State allotments accordingly, in cases where a State is prohibited by law from providing assistance to a nonprofit private school or a DOD domestic dependents' school or if a State has substantially failed or is unwilling to provide such assistance to a nonprofit private school, a DOD domestic dependents' school or a public school.

TRANSITION—A State taking the block grant option may use funds and commodities from the preceding fiscal year under the school lunch and breakfast program to transition into the block grant and may use block grant funds to transition out of the block grant if the State decides to end participation before the end of the fiscal year.

EVALUATION—No later than three years after the establishment of the block grant the Secretary is to conduct an evaluation and submit a report to Congress, including the comments of the Comptroller General. The report is to include information on the effects of the block grant on the nutritional quality of meals; the degree to which children, particularly low income children participated in the block grant, the income distribution of children served and the amount of assistance such children received; the types of meals offered under the block grant; how the implementation of the block grant differs from the implementation of the school lunch and breakfast programs; the effect of the block grant on state and school administrative costs, the effect of the block grant on paperwork.

AUTHORIZATION PERIOD—the block grant option is authorized through September 30, 2002.

B. STREAMLINE PROVISIONS OF THE NATIONAL SCHOOL LUNCH ACT OF 1966

1. Revise Sec. 6(a)(3), striking provision that allows schools to refuse up to 20% of commodities and the related language and conforming reference to fruit and vegetable refusals not counted towards the 20% maximum.

2. Revise Sec. 6(e)(1(E) to eliminate provisions requiring that not less than 75% of assistance be provided in the form of commodities donated to school lunch programs.

3. Revise Sec. 6(e)(2), substituting the first sentence with "Each State agency shall offer and equitably distribute commodities among schools participating in the school lunch program."

4. Strike Sec. 6(f) allowing commodities to be offered to school breakfasts on a per meal basis.

15. Revise Sec. 11(b), striking references to "maximum per lunch amounts."

30. Revise Sec. 13(a)(1) to eliminate reference to expansion.

34. Revise Sec. 13(b)(2) to provide that service institutions that operate as camps or serve meals primarily to migrant children may serve three meals or two meals and one supplement.

35. In Sec. 13, references to the National Youth Sports Program are amended by (1) striking non summer months payments; (2) striking severe needs reimbursements; and (3) requiring that participants be from low-income areas.

36. Revise Sec. 13(f) by permitting children attending a site on school premises operated directly by the authority to refuse not more than one item of a meal without affecting the amount of payments made to the school.

39. Revise Sec. 13(g)(1)(B) by striking second sentence to eliminate technical assistance for those with difficulty maintaining compliance.

56. Revise Sec. 17 by, in the title of the section, striking "and Adult."

57. Revise Sec. 17(a) to eliminate reference to authorization to "expand" programs.

70. Repeal Section 26.

72. Strike Sec. 18(d)(3)(A),(B),(C) to eliminate the universal free pilot.

73. Revise Sec. 18(e) to make the demonstration project for outside school hours discretionary.

12. AUTHORIZATION FOR SCHOOL-BASED NUTRITION BLOCK GRANT

A. ENTITLEMENT

Present law

States are entitled to "performance-based" funding according to the number and type of meals and supplements served under school-based programs authorized by the National School Lunch and Child Nutrition Acts.

House bill

"Entitles" each State that submits an annual application (see item 14) to receive an annual school-based nutrition grant for the purpose of achieving the goals of the School-Based Nutrition Block Grant Program (see item 12D for the program's goals and item 13 for State entitlement allotments).

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

B. REQUIREMENT TO PROVIDE COMMODITIES

Present law

The Secretary of Agriculture is required to ensure that no less than 12% of the total amount of "entitlement" commodity and cash assistance for the School Lunch program is in the form of commodity support (including cash in lieu of commodities in the limited instances where available and administrative costs for procuring commodities). [Sec. 6(g) of the National School Lunch Act]

House bill

Requires that 9% of the amount of assistance available under the school-based block grant be in the form of commodities.

Senate amendment

No directly comparable provision. [Note: See item 26]

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

C. THE SCHOOL-BASED NUTRITION BLOCK GRANT

Present law

Federal funds for activities under existing law replaced by the House bill's school-based grant are authorized at such sums as are necessary and provided based on the number of meals, supplements, and half-pints of milk served.

The Secretary is required to make school lunch and school breakfast funding and commodities available to Defense Department overseas dependents' schools to the same degree as other schools. [Sec. 20 of the National School Lunch Act and Sec. 20 of the Child Nutrition Act]

House bill

Provides that the annual total school-based block grant provided States as their "entitlement" will be: $6.681 billion for fiscal year 1996, $6.956 billion (fiscal year 1997), $7.237 billion (fiscal year 1998), $7.538 billion (fiscal year 1999), and $7.849 billion (fiscal year 2000).

For each fiscal year, requires the Secretary to reserve from the total entitlement an amount determined necessary, in consultation with the Secretary of Defense, to establish and carry out nutritious food service programs at Defense Department overseas dependents' schools.

Permits States to obligate payments under a school-based nutrition grant in the succeeding fiscal year.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

D. GOALS

Present law

The National School Lunch Act declares it the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of agricultural commodities by assisting States through grants and other means in providing support for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs. [Sec. 2 of the National School Lunch Act]

House bill

Establishes the goals of the School-Based Block Grant Program:

(1) to safeguard the health and well-being of children through the provision of nutritious, well-balanced meals and food supplements;

(2) to provide economically disadvantaged children (see item 21B for definition) access to nutritious free or low-cost meals, food supplements, and low-cost milk;

(3) to ensure that children served under the School-Based Block Grant program are receiving the nutrition they require to take advantage of educational opportunities;

(4) to emphasize foods that are naturally good sources of vitamins and minerals over enriched foods and those high in fat or sodium content;

(5) to provide a comprehensive school nutrition program for children; and

(6) to minimize paperwork burdens and administrative expenses for participating schools.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

E. TIMING OF PAYMENTS

Present law

No provision.

House bill

Directs that the Secretary of Agriculture make school-based nutrition grant payments to the States on a quarterly basis.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

13. ALLOTMENT OF SCHOOL-BASED NUTRITION BLOCK GRANT

Present law

Current activities that may be funded under the House bill's School-Based Nutrition Block Grant program include those now supported by the School Lunch and Breakfast programs, and school-sponsored programs under the Child and Adult Care Food program, the Summer Food Service program, and the Special Milk program.

In all cases, "performance funding" is provided for each meal, supplement, or half-pint of milk served by participating schools, at legislatively established, inflation indexed rates.

House bill

As set forth below, provides for the Secretary of Agriculture to make State allotments of the School-Based Nutrition Block Grant entitlement.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

A. FIRST YEAR STATE ALLOTMENTS

Present law

No provisions.

House bill

For the first fiscal year in which grants are made, provides that the Secretary make allotments to States based on the proportion of funds each State received under prior law for the preceding fiscal year.

Base-year State Shares: Each State's allotment would be its prior-year share of funds received under the School Lunch and Breakfast programs, plus 12.5% of the amounts received under the Child and Adult Care Food, Summer Food Service, and Special Milk programs.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

B. SECOND YEAR STATE ALLOTMENTS

Present law

No provision.

House bill

For the second fiscal year in which grants are made, provides that (1) 95% of the total entitlement amount be allotted according to each State's share of the amount allotted in the first year and (2) 5% of the entitlement amount allotted be based on each State's share of the number of meals served under the grant during the 1-year period ending the preceding June 30.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

C. THIRD AND FOURTH YEAR STATE ALLOTMENTS

Present law

No provision.

House bill

For the third and fourth fiscal years in which grants are made, provides that (1) 90% of the total entitlement amount be allotted according to each State's share of the amount allotted in the preceding year and (2) 10% of the entitlement amount allotted be based on each State's share of the number of meals served under the grant during the 1-year period ending the preceding June 30.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

D. FIFTH YEAR STATE ALLOTMENTS

Present law

No provision.

House bill

For the fifth fiscal year in which grants are made, provides that (1) 85% of the total entitlement amount be allotted according to each State's share of the amount allotted in the fourth year and (2) 15% of the entitlement amount allotted be based on each State's share of the number of meals served under the grant during the 1-year period ending the preceding June 30.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant an making changes to National School Lunch Act (see Item 11).

14. APPLICATION FOR SCHOOL-BASED NUTRITION GRANTS

Present law

Nutrition requirements for school-provided meals are established by the Secretary of Agriculture on the basis of tested nutritional research, are not to be construed to prohibit substitution of foods to accommodate medical or other special dietary needs, must, at a minimum, be based on the weekly average nutrient content of school lunches, and may, with certain limits on how schools may be required to implement them, be based on the Federal "Dietary Guidelines for Americans." [Sec. 9(a) and Sec. 12(k) of the National School Lunch Act, and Sec. 4(e) of the Child Nutrition Act]

The use/disclosure of information obtained from applications for free/reduced-price meals is limited to those administering/enforcing child nutrition programs, administrators of other health or education programs (with restrictions), and the General Accounting Office and law enforcement officials. [Sec. 9(b) of the National School Lunch Act]

House bill

Provides that the Secretary make a school-based nutrition grant to a State if it submits an application containing only the following:

(1) an agreement that the State will use the grant in accordance with the School-Based Block Grant program requirements (see item 15);

(2) an agreement that the State will set minimum nutrition requirements for meals provided under the grant based on the most recent tested nutrition research available (but the requirements could not be construed to prohibit the substitution of foods to accommodate medical or other special dietary needs and would have to be based, at a minimum, on the weekly average nutrient content of school lunches or other standards set by the State);

(3) an agreement that, with respect to provision of meals to students, the State will implement minimum nutrition requirements based on the most recent tested nutrition research available or the model nutrition standards developed by the National Academy of Sciences (see item 20);

(4) an agreement that the State will take reasonable steps it deems necessary to restrict the use and disclosure of information about those receiving assistance under the grant;

(5) an agreement that the State will not use more than 2% of its grant for administrative costs incurred to provide assistance; and

(6) an agreement that the State will submit an annual report to the Secretary (see item 16).

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

15. USE OF AMOUNTS PROVIDED UNDER THE SCHOOL-BASED NUTRITION BLOCK GRANT

A. ACTIVITIES SUPPORTED

Present law

The School Lunch and Breakfast programs provide Federal support to schools for nonprofit meal services to schoolchildren. In addition, to a more limited degree, schools offer (and receive Federal subsidies for) after-school food assistance, milk service, and summer food service programs.

House bill

Provides that the Secretary of Agriculture make school-based nutrition grants to States if they agree to use their grant to provide assistance to schools for nutritious food service programs that provide affordable meals and supplements to students, including nonprofit:

(1) school breakfast programs;
(2) school lunch programs;
(3) before and after school supplement programs;
(4) low-cost milk services; and
(5) summer meal programs.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

B. ADDITIONAL REQUIREMENTS

Present law

Under the School Lunch and Breakfast programs, and after-school assistance, milk service, and summer food service programs, schools are provided with specific Federal reimbursements for free and reduced-price meals, supplements, and milk for lower-income children (with family income below 185% of poverty) that are higher than those granted for "paid" meals, supplements, and milk provided those with higher income.

House bill

Requires that each State ensure that not less than 80% of its school-based grant is used to provide free or low-cost meals to economically disadvantaged children (see item 21 for definitions).

Requires that each State ensure that nutritious food service programs are established and carried out in private nonprofit and Defense Department domestic dependents' schools on an equitable basis with programs in public schools in the State—to the extent consistent with the number of children in these schools and after consultation with representatives of the schools (see item 18).

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

C. AUTHORITY TO USE SCHOOL-BASED NUTRITION BLOCK GRANT AMOUNTS FOR OTHER PURPOSES

Present law

No provision.

(2) Sufficient funding

No provision.

(3) Amounts used for other purposes

No provision.

House bill

Allows States to use not more than 20% of amounts received from a school-based nutrition grant for any fiscal year to carry out State programs under other block grants authorized by:

(1) part A of title IV of the Social Security Act (relating to welfare for families with children);

(2) part B of title IV of the Social Security Act (relating to provision of child welfare services);

(3) title XX of the Social Security Act (relating to provision of social services);

(4) the Child Nutrition Act of 1966 (relating to family nutrition block grants); and

(5) the Child Care and Development Block Grant. Provides that States may not transfer funds to other block grants unless the appropriate State agency makes a determination that sufficient funds will remain available for the fiscal year to carry out activities under the School-Based Block Nutrition Block Grant Program.

Provides that school-based nutrition block grant amounts States transfer to other block grants (noted above) will not be subject to the requirements of the School-Based Nutrition Block Grant program under the revised National School Lunch Act, but will be subject to the requirements that apply to Federal funds provided directly to the block grant to which they are transferred.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

D. LIMITATION ON PROVISION OF COMMODITIES

Present law

Certain schools receive cash or commodity letters of credit in lieu of entitlement commodities (so-called "Cash/CLOC" schools). [Sec. 18(b) of the National School Lunch Act]

House bill

Provides that States may not require current Cash/CLOC schools to accept commodities in lieu of cash or commodity letters of credit.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

E. SEGREGATION/IDENTIFICATION OF CHILDREN ELIGIBLE FOR FREE OR LOW-COST MEALS OR SUPPLEMENTS

Present law

Schools may not physically segregate, overtly identify, or otherwise discriminate against any child eligible for free or reduced-price lunches. [Sec. 9(b)(4) of the National School Lunch Act]

House bill

Requires States to ensure that schools receiving school-based nutrition grant assistance do not physically segregate, overtly identify, or otherwise discriminate against children eligible for free or low-cost meals or supplements.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

16. REPORTS

Present law

No comparable provision.

House bill

Requires that States, as a condition of receiving a school-based nutrition grant, agree to submit an annual report to the Secretary of Agriculture describing:

(1) the number of individuals receiving assistance under the grant for the reporting (fiscal) year;

(2) the different types of assistance provided;

(3) the total number of meals served to students under the grant, including the percentage served to economically disadvantaged students;

(4) the extent to which the assistance provided was effective in achieving the goals of the School-Based Nutrition Block Grant program (see item 12D);

(5) the standards and methods the State is using to ensure the nutritional quality of assistance under the grant; and

(6) any other information that can be reasonably required by the Secretary.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

17. PENALTIES

A. PENALTY FOR VIOLATIONS

Present law

[Note: See item 7.]

House bill

Requires the Secretary of Agriculture to reduce the school-based nutrition grant amount otherwise payable to a State by any amount paid under the grant that an audit made under the "Single Audit Act" (chapter 75 of title 31 of the United States Code) finds has been used in violation of the revised National School Lunch Act. However, the Secretary is barred from reducing any quarterly payment to the State by more than 25%.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item #11).

B. PENALTY FOR FAILURE TO SUBMIT A REQUIRED REPORT

Present law

No specific provision.

House bill

Requires the Secretary to reduce by 3% the school-based nutrition grant amount otherwise payable to a State for any fiscal year if the Secretary determines that the State has not submitted the required annual report (see item 16) for the immediately preceding fiscal year within 6 months after the end of the fiscal year.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item #11).

18. FEDERAL ASSISTANCE FOR CHILDREN IN PRIVATE NONPROFIT SCHOOLS AND DEFENSE DEPARTMENT DOMESTIC DEPENDENTS' SCHOOLS

Present law

Where States are by law precluded from providing child nutrition assistance to certain types of schools (e.g. private nonprofit schools), the Secretary is authorized to provide assistance directly.

House bill

If a State is precluded by law from providing assistance under the school-based nutrition grant to nonprofit private schools or Defense Department domestic dependents' schools, or the Secretary has determined that the State has substantially failed or is unwilling to provide assistance to the schools, requires the Secretary to arrange for provision of school-based nutrition assistance to the schools, after consultation with appropriate school representatives. In the case that the Secretary provides assistance to private nonprofit schools or Defense Department domestic dependents' schools, the State's school-based nutrition grant would be reduced to reflect the assistance provided.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item #11).

19. FOOD SERVICE PROGRAMS FOR DEFENSE DEPARTMENT OVERSEAS DEPENDENTS' SCHOOLS

A. ASSISTANCE

Present law

[Note: See item 12C(2)]

House bill

Requires the Secretary to make available to the Secretary of Defense funds and commodities (as determined by the Secretary in consultation with the Secretary of Defense, and reserve from the total school-based grant) for establishing and carrying out nutritious food service programs providing affordable meals and supplements to students in Defense Department overseas dependents' schools.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item # 11).

B. REQUIREMENTS

Present law

Federally subsidized school meal programs in Defense Department overseas dependents' schools must meet the same requirements as programs in domestic schools.

House bill

In carrying out food service programs in Defense Department overseas dependents' schools, requires the Secretary of Defense to (1) ensure that not less than 80% of the assistance is used to provide free or low-cost meals and supplements to economically disadvantaged children (see item 21B for definition) and (2) the schools will implement minimum nutrition requirements in the same way domestic schools receiving assistance under the school-based nutrition grant are required to (including optional use of model nutrition standards).

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item #11).

20. MODEL NUTRITION STANDARDS FOR STUDENT MEALS

A. REQUIREMENT

Present law

No comparable provisions. [Note: The Secretary establishes nutrition standards for school meals.]

House bill

Not later than April 1, 1996, requires the National Academy of Sciences to develop model nutrition standards for meals provided to students under the School-Based Block Grant Program. The standards are to be developed by the Food and Nutrition Board of the Academy's Institute of Medicine, in cooperation with nutritionists and directors of school meal programs.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item #11).

B. REPORT TO CONGRESS

Present law

No provision.

House bill

Not later than one year after the model nutrition standards (noted above) are developed, requires the National Academy of Sciences to report to Congress regarding the efforts of States to implement them.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item #11).

21. DEFINITIONS

A. SCHOOLS AND SECRETARY

Present law

In general, "schools" are defined as public or private nonprofit elementary, intermediate, or secondary schools. The "Secretary" is defined as the Secretary of Agriculture.

House bill

"Schools" and "Secretary" would be defined as having the same meaning as in existing law. In addition, parallel definitions are added for Defense Department domestic and overseas dependents' schools.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

B. ECONOMICALLY DISADVANTAGED

Present law

No directly comparable provision. [Note: Subsidies are provided for free and reduced-price meals served to children with family income under 185% of the Federal poverty guidelines. However, Federal school food service subsidies are not limited to these lower-income children.]

House bill

The term "economically disadvantaged" is defined to apply to individuals or families with annual income below 185% of the Federal poverty guidelines. [Note: Assistance under the School-Based Nutrition grant could be given to children with family income above 185% of poverty.]

Senate Amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item 11).

C. STATE

Present law

In general, for school food programs, "State" is defined as the 50 States, the District of Columbia, Puerto Rico, the Northern Marianas, American Samoa, and the Virgin Islands.

House bill

"State," under the School-Based Nutrition grant, would have the same meaning as in present law, except that Indian tribal organizations (as defined under section 4(l) of the Indian Self-Determination and Education Assistance Act) would be included as States and could apply for grants.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item #11).

22. REPEALERS

Present law

Not applicable.

House bill

Makes conforming technical amendments repealing the Commodity Distribution Reform Act and WIC Amendments of 1987 and the Child Nutrition and WIC Reauthorization Act of 1989.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item #11).

23. EFFECTIVE DATE

Present law

Not applicable.

House bill

Makes amendments replacing Child Nutrition and National School Lunch Act provisions with Family Nutrition and School-Based Nutrition Block Grants effective October 1, 1995.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item #11).

24. APPLICATION OF AMENDMENTS AND REPEALERS

Present law

Not applicable.

House bill

Provides that amendments and repealers associated with replacing Child Nutrition and National School Lunch Act provisions with Family Nutrition and School-Based Nutrition Block Grants not apply with respect to (1) financial assistance provided under prior law and (2) administrative actions or proceedings commenced or authorized to be commenced before the effective date.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant and making changes to National School Lunch Act (see Item #11).

25. TERMINATION OF ADDITIONAL PAYMENTS FOR LUNCHES SERVED IN HIGH FREE AND REDUCED PRICE PARTICIPATION SCHOOLS

Present law

Lunches served by school food authorities where 60 percent or more of the lunches are served free or at a reduced price (to children with family income below 185 percent of the Federal poverty income guidelines) are reimbursed at a rate 2 cents a meal higher than regular subsidy rates. [Sec. 4(b) of the National School Lunch Act]

House bill

No comparable provision.

Senate amendment

Effective July 1, 1996 (the 1996-1997 school year), the extra 2 cent per lunch reimbursement to schools with high rates of free and reduced-price participation.

Conference agreement

House recedes with an amendment to drop by 1 cent the extra 2 cent per lunch reimbursement to schools with high rates of free and reduced price participation effective July 1, 1998, the extra 1 cent reimbursement is eliminated.

26. VALUE OF FOOD ASSISTANCE

Present law

Schools and certain other child nutrition sponsors are "entitled" to commodities valued at a legislatively set, inflation-indexed amount per meal served. The per-meal reimbursement rate is indexed annually to reflect the annual percentage change in a 3-month average value of the Price Index for Food Used in Schools and Institutions, and rounded to the nearest 1/4 cent. [Sec. 6(e) of the National School Lunch Act]

House bill

No directly comparable provision. [Note: See item 12B.]

Senate Amendment

Freezes (for one year) the guaranteed per-meal reimbursement rate for entitlement commodity assistance and revises (by changing rounding rules) the method of calculating this reimbursement rate.

On January 1, 1996, the entitlement commodity reimbursement rate set under current law for the 1995-1996 school year (as rounded to the nearest 1/4 cent) would be rounded down to the nearest lower cent. For the 1996-1997 school year, the rate would be frozen at the rate for the 1995-1996 school year (as rounded down to the nearest lower cent). For the 1997–1998 school year, the rate would be the unrounded rate for the 1995–1996 school year, adjusted for inflation over the most recent 12-month period and rounded down to the nearest lower cent. For following school years, the rate would be the unrounded rate for the preceding year, adjusted for inflation over the most recent 12-month period and rounded down to the nearest lower cent. (p. 348)

[Note: Current-law rules as to the inflation-adjustment factor to be used (i.e., the Price Index for Food Used in Schools and Institutions) are not changed.]

Conference agreement

House recedes with an amendment providing that for the 1996–1997 and 1997–1998 school years the entitlement commodity reimbursement rate is frozen at the rate for the 95-96 school year (as rounded down to the nearest lower cent).

27. LUNCHES, BREAKFASTS, AND SUPPLEMENTS

Present law

"Paid" lunches, breakfasts, and supplements are served to those with family income above 185 percent of the Federal poverty guidelines. Guaranteed Federal reimbursement rates for each paid lunch, breakfast, and supplement are indexed annually to reflect changes in the food away from home series of the Consumer Price Index. When indexed, all reimbursement rates (i.e., for paid, free, and reduced-price meals and supplements) are rounded to the nearest 1/4 cent. Present law establishes reduced price lunch reimbursement rates set at 40 cents less than the free lunch rates, and sets a maximum meal charge of 40 cents for these lunches. [Sec. 11(a) of the National School Lunch Act]

House bill

No comparable provisions.

Senate Amendment

Freezes (for two years) reimbursement rates for paid lunches, breakfasts, and supplements. Revises (by changing rounding rules) the method for calculating reimbursement rates for paid, free, and reduced-price lunches, breakfasts, and supplements. [Note: Reimbursement rates for meals and supplements served in family day care homes and the Summer Food Service program are and would be governed by separate provisions of law (see below).]

On January 1, 1996, reimbursement rates for paid, free, and reduced-price lunches, breakfasts, and supplements set under current law for the 1995–1996 school year (as rounded to the nearest 1/4 cent) would be rounded down to the nearest lower cent. For the 1996–1997 and 1997–1998 school years, the reimbursement rates for paid lunches, breakfasts, and supplements would be frozen at the rates for the 1995–1996 school year (as rounded down to the nearest lower cent). For the 1998–1999 school year, the reimbursement rates for paid lunches, breakfasts, and supplements would be the unrounded rates for the 1995–1996 school year adjusted for inflation over the most recent 12-month period for which data are available, and rounded down to the nearest lower cent. For following school years, the reimbursement rates for paid lunches, breakfasts, and supplements would be the unrounded rates for the preceding year adjusted for inflation over the most recent 12-month period, and rounded down to the nearest lower cent.

Reimbursement rates for free and reduced-price lunches, breakfasts, and supplements would continue to be indexed annually for inflation each school year (i.e., no two-year freeze), but would be rounded down to the nearest lower cent. [Note: Current-law rules as to the inflation-adjustment factor to be used (i.e., the food away from home series of the Consumer Price Index) are not changed.]

Conference agreement

Freezes (for two years) reimbursement rates for paid lunches, breakfasts, and supplements. Revises (by changing rounding rules) the method for calculating reimbursement rates for paid, free, and reduced-price lunches, breakfasts, and supplements. [Note: Reimbursement rates for meals and supplements served in family day care homes and the Summer Food Service program are and would be governed by separate provisions of law (see below).]

On January 1, 1996, reimbursement rates for paid, free, and reduced-price breakfasts and supplements set under current law for the 1995–1996 school year would be rounded down to the nearest one cent. On July 1, 1996, reimbursement rates for paid, free and reduced price lunches would be rounded down to the nearest one cent. For the 1996–1997 and 1997–1998 school years, the reimbursement rates for paid lunches, breakfasts, and supplements would be frozen at the rates for the 1995–1996 school year (as rounded down to the nearest lower cent). For the 1998–1999 school year, the reimbursement rates for paid lunches, breakfasts, and supplements would be the unrounded rates for the 1995–1996 school year adjusted for inflation over the most recent 12-month period for which data are available, and rounded down to the nearest lower cent. For following school years, the reimbursement rates for paid lunches, breakfasts, and supplements would be the unrounded rates for the preceding year adjusted for inflation over the most recent 12-month period, and rounded down to the nearest lower cent.

Reimbursement rates for free and reduced-price lunches, breakfasts, and supplements would continue to be indexed annually for inflation each school year (i.e., no two-year freeze), but would be rounded down to the nearest lower cent. [Note: Current-law rules as to the inflation-adjustment factor to be used (i.e., the food away from home series of the Consumer Price Index) are not changed.]

The differential between free and reduced price lunch reimbursements would be lowered by 5 cents (to 45 cents) effective July 1, 2000, and by an additional 5 cents (to 50 cents) effective July 1, 2001, and corresponding changes would be made to the reduced price meal charge limits.

28. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Present law

Under the Summer Food Service program, all meals and supplements served are federally subsidized at legislatively set, inflation-indexed rates that, for the 1995 summer (set in January 1995), were $2.12 for each lunch/supper, $1.18 for each breakfast, and 55.5 cents for each supplement. In addition, sponsors receive payments for administrative costs based on the number of meals/supplements served. Basic Federal payments for lunches, breakfasts, and supplements are indexed for inflation annually based on the food away from home series of the Consumer Price Index, and rounded to the nearest 1/4 cent. [Sec. 13(b) of the National School Lunch Act]

House bill

No comparable provisions.

Senate Amendment

Establishes new, lower reimbursement rates for meals and supplements served in the Summer Food Service program as follows: $2 for lunches/suppers, $1.20 for breakfasts, and 50 cents for supplements. The new rates would become effective January 1, 1996 (for the 1996 summer program), and be adjusted each January thereafter to reflect changes in the food away from home series of the Consumer Price Index (as under current law). However, while each adjustment would be based on the unrounded rates for the prior 12-month period, it would be rounded down to the nearest cent. [Note: Additional administrative-cost payment rates to sponsors are not affected.]

Conference agreement

House recedes with an amendment establishing new, lower rates for meals and supplements served in the Summer Food service program as follows: $1.82 for lunches served; $1.13 each breakfast served and $.46 for each meal supplement served.

29. SPECIAL MILK PROGRAM

Present law

Under the Special Milk program, the minimum per-half-pint reimbursement rate is indexed annually to reflect changes in the Producer Price Index for Fresh Processed Milk, and rounded to the nearest 1/4 cent. [Sec. 3(a) of the Child Nutrition Act]

House bill

No comparable provisions.

Senate Amendment

Freezes (for one year) the minimum per-half-pint reimbursement rate and revises (by changing rounding rules) the method of calculating the reimbursement rate.

On Jan. 1, 1996, the minimum reimbursement rate set under current law for the 1995–1996 school year (as rounded to the nearest 1/4 cent) would be rounded down to the nearest cent. For the 1996–1997 school year, the minimum reimbursement rate would be frozen at the rate for the 1995–1996 school year (as rounded down to the nearest cent). For the 1997–1998 school year, the minimum reimbursement rate would be the unrounded rate for the 1995–1996 school year adjusted for inflation over the most recent 12-month period for which data are available, and rounded down to the nearest lower cent. For following school years, the minimum reimbursement rate would be the unrounded rate for the preceding year adjusted annually for inflation, and rounded down to the nearest lower cent. [Note: Current-law rules as to the inflation adjustment factor to be used (i.e., the Producer Price Index for Fresh Processed Milk) are not changed.]

Conference agreement

House recedes with an amendment providing that for the 1996–1997 and 1997–1998 school years, the minimum reimbursement rate is frozen at the rate for the 1995–1996 school year (as rounded down to the nearest lower cent).

30. FREE AND REDUCED PRICE BREAKFASTS

Present law

Reimbursement rates for free and reduced-price breakfasts are indexed annually for inflation and rounded to the nearest 1/4 cent. [Sec. 4(b) of the Child Nutrition Act]

House bill

No comparable provision.

Senate Amendment

Requires that annual adjustments to reimbursement rates for free and reduced-price breakfasts be based on the previous year's unrounded rates and, after adjustment for inflation, rounded down to the nearest lower cent.

Conference agreement

House recedes.

31. CONFORMING REIMBURSEMENT FOR PAID BREAKFASTS AND LUNCHES

Present law

The per-meal reimbursement for paid breakfasts (paid meals are those served to children with family income above 185 percent of the Federal poverty income guidelines) is higher than the reimbursement rate for paid lunches—by about 2 cents a meal for the 1995–1996 school year. [Sec. 4(b) of the Child Nutrition Act]

[Note: The paid breakfast reimbursement rate is roughly the same as the current-law paid lunch rate for schools with free and reduced-price participation of 60 percent or more. This special lunch rate would be eliminated under Sec. 401 of the Senate amendment (see item 25).]

House bill

No comparable provision.

Senate Amendment

Requires that the reimbursement rate for paid breakfasts be the same as the rate for paid lunches.

Conference agreement

House recedes.

32. SCHOOL BREAKFAST STARTUP GRANTS

Present law

The Secretary is required to make competitive grants to help defray costs associated with starting or expanding school breakfast and summer food service programs. Funding of $5 million a year is provided through fiscal year 1997; $6 million is provided for fiscal year 1998; and $7 million a year is provided for fiscal year 1999 and each subsequent year. [Sec. 4(g) of the Child Nutrition Act]

House bill

No comparable provision.

Senate Amendment

Repeals the startup/expansion competitive grant program.

Conference agreement

House recedes.

33. NUTRITION EDUCATION AND TRAINING PROGRAMS

Present law

The Secretary is required to make funding available to States for child nutrition program nutrition education and training activities. Funding of $10 million a year is provided. [Sec. 19(i) of the Child Nutrition Act]

House bill

No comparable provision.

Senate amendment

Reduces the amount that must be provided for nutrition education and training to $7 million a year.

Conference agreement

House recedes with an amendment eliminating mandatory status. Authorizes appropriations of $10 million per year.

34. EFFECTIVE DATE

Present law

Not applicable.

House bill

No comparable provision.

Senate amendment

Establishes Oct. 1, 1996 as the effective date for repeal of the startup/expansion competitive grant program and reduction of funding for nutrition education and training.

Conference agreement

House recedes.

36. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Permitting Offer versus Serve

Present law

No provision. [Note: The "offer versus serve" option is permitted in school meal programs.]

House bill

No comparable provision.

Senate amendment

Allows schools operating summer food service programs to permit children attending a site on school premises to refuse one item of a meal without affecting the Federal reimbursement for the meal.

Conference agreement

House recedes.

37. CHILD AND ADULT CARE FOOD PROGRAM

A. PAYMENTS TO SPONSOR EMPLOYEES

Present law

No provision.

House bill

No comparable provision.

Senate amendment

Bars Child and Adult Care Food program sponsoring organizations with more than one employee from basing payments to employees on the number of family/group day care homes recruited, managed, or monitored.

Conference agreement

House recedes.

B. IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS

Present law

Federal reimbursement rates for meals and supplements served in family/group day care homes are standard for all homes, established separately from those for day care centers, not differentiated by the participating children's family income (as is the case for day care centers), and set approximately half-way between reimbursements for free and reduced-price meals/supplements in day care centers. They are indexed for inflation each July 1 (see item 36B(2)), and, for the period July 1995—June 1996, they are: $1.5375 for all lunches/suppers, 84.5 cents for all breakfasts, and 45.75 cents for all supplements. Family/group day care home sponsors also receive separate administrative cost reimbursements based on the number of homes sponsored. [Sec. 17(f) of the National School Lunch Act]

Meal and supplement reimbursements for family/group day care homes are indexed annually to reflect changes in the Consumer Price Index for food away from home and rounded to the nearest 1/4 cent. [Sec. 17(f) of the National School Lunch Act]

House bill

No comparable provisions.

Senate amendment

Restructures reimbursements for meals and supplements served in family/group day care homes. In general, homes would be divided into two "tiers," one of which would receive current-law reimbursements (with indexing adjustments, see item 37B(2) for changes in inflation indexing rules) and the other of which would receive lower reimbursements as set out under the Senate amendment. [Note: Separate payments to sponsors based on the number of homes sponsored are not changed, and current rules barring certain documentation requirements and reimbursements for meals/supplements served to providers' children are retained.]

Tier I homes would be paid the meal/supplement reimbursements for family/group homes in effect on the date of enactment, adjusted on August 1, 1996, and each July 1 thereafter, to reflect inflation for the most recent 12-month period for which data are available.

Tier I homes would be those (1) located in areas, as defined by the Secretary based on Census data, in which at least half of the children are members of households with income below 185 percent of the Federal poverty income guidelines, (2) located in an area served by a school enrolling elementary students in which at least 50 percent of those enrolled are certified eligible for free or reduced-price school meals (i.e., have family income below 185 percent of the Federal poverty guidelines), or (3) operated by a provider whose family income is verified by its sponsoring organization to be below 185 percent of the poverty guidelines.

In general, tier II homes would be paid reimbursements of $1 for each lunch/supper, 30 cents for each breakfast, and 15 cents for each supplement (all substantially below tier I rates), adjusted on July 1, 1997, and each July 1 thereafter, to reflect inflation for the most recent 12-month period for which data are available.

Tier II homes would be homes that do not meet the tier I low-income area/provider standards.

Tier II homes could, at their option, claim higher tier I reimbursement rates under certain conditions: Tier II homes could elect to receive tier I reimbursements for meals/supplements served to children in households with income below 185 percent of the poverty guidelines, if the sponsoring organization collects the necessary income information and makes the appropriate eligibility determinations (in accordance with the Secretary's rules). Tier II homes also could receive tier I reimbursements for children in or subsidized under (or children of parents in or subsidized under) federally or State supported child care or other benefit programs with an income limit that does not exceed 185 percent of the poverty guidelines, and could restrict their claim for tier I reimbursements to these children if they opt not to have income statements collected from parents/caretakers.

The Secretary would be required to prescribe "simplified" meal counting/reporting procedures for use by tier II homes (and their sponsors) that elect to claim tier I reimbursements for children meeting the income or program participation requirements noted above. These procedures could include: (1) setting an annual percentage of meals/supplements to be reimbursed at tier I rates based on the family income of children enrolled during a specific month or other period, (2) placing a home in a reimbursement category based on the percentage of children with household income below 185 percent of poverty, or (3) other procedures determined by the Secretary.

The Secretary also would be permitted to establish minimum requirements for verifying income and program participation for children in tier II homes opting to claim tier I reimbursement rates.

Requires that reimbursements for family/group day care homes be indexed annually to reflect changes in the Consumer Price Index for food at home, based on the unrounded rates for the preceding 12-month period, and then rounded down to the nearest lower cent.

Requires the Secretary to reserve, from amounts available for the Child and Adult Care Food program in fiscal year 1996, $5 million—to provide grants for (1) training, materials, computer and other assistance to sponsoring organization staff and (2) training and other aid to family/group day care homes in implementing the new reimbursement-rate structure directed by the Senate amendment. The funds would be allocated among the States based on their proportion of participating homes, with a minimum of $30,000 as a State's base funding share, and States would not be allowed to retain more than 30 percent of their grant at the State level (passing the remainder to sponsors and providers).

Requires (1) the Secretary to provide State agencies with Census data necessary for determining homes' tier I status and (2) State agencies to provide the data to day care home sponsoring organizations.

Requires State agencies administering school meal programs to provide approved day care home sponsoring organizations a list of schools serving elementary school children in which at least half those enrolled are certified to receive free or reduced-price meals (one test for an area eligible for tier I reimbursements). The data for the list must be collected annually and provided on a timely basis to any requesting approved sponsoring organization.

Provides that, in determining homes' tier I status, State agencies and sponsoring organizations must use the most current data available.

Provides that a determination that a home is located in an area that qualifies it as a tier I home be in effect for three years, unless the State agency determine the area no longer qualifies the home. In the case of a determination made on the basis of Census data, the determination is to be in effect until more recent data are available.

Makes conforming technical amendments recognizing the new structure of family/group day care home reimbursement rates.

Conference agreement

House recedes with an amendment to establish new lower reimbursement rates for tier II homes for meals and supplements as follows: $.90 for each lunch and supper; $.25 for each breakfast; and $.10 for supplements.

C. DISALLOWING MEAL CLAIMS

Present law

No specific provision.

House bill

No comparable provision.

Senate amendment

Makes clear that States and sponsoring organizations may recoup reimbursements to day care home providers for improperly claimed meals/supplements.

Conference agreement

House recedes.

D. ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN

Present law

Provisions of the National School Lunch Act require (1) States to take affirmative action to expand availability of the Child and Adult Care Food program's benefits (including annual notification of all nonparticipating family/group day care home providers), (2) the Secretary to conduct demonstration projects to test approaches to removing or reducing barriers to participation by homes that operate in low-income areas or primarily serve low-income children, (3) the Secretary and States to provide training and technical assistance to sponsoring organizations in reaching low-income children, and (4) the Secretary to instruct States to provide information/training about child health and development through sponsoring organizations. [Sec. 17(k) of the National School Lunch Act]

House bill

No comparable provision.

Senate amendment

Repeals existing "outreach" requirements noted under present law and requires that (1) States provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the Child and Adult Care Food program and (2) the Secretary assist States in carrying out this obligation.

Conference agreement

House recedes.

E. STUDY OF IMPACT OF AMENDMENTS ON PROGRAM PARTICIPATION AND FAMILY DAY CARE LICENSING

Present law

No provision.

House bill

No comparable provision.

Senate amendment

Not later than two years after the date of enactment, requires the Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, to study the impact of the revisions to the Child and Adult Care Food program under the Senate amendment on:

(1) the number of participating family day care homes, day care home sponsoring organizations, and day care homes that are licensed, certified, registered, or approved by each State;

(2) the rate of growth in the number of participating homes, sponsors, and licensed, certified, registered, or approved homes;

(3) the nutritional adequacy/quality of meals served in family day care homes that no longer receive reimbursements or no longer receive "full" reimbursements; and

(4) the proportion of low-income children participating in the program. (p. 377)

Requires each State agency to submit data on (1) the number of participating family day care homes on July 31, 1996, and July 31, 1997, (2) the number of licensed, certified, registered, or approved family day care homes on July 31, 1996, and July 31, 1997, and (3) other matters needed to carry out the study as required by the Secretary.

Conference agreement

House recedes.

F. EFFECTIVE DATE AND REGULATIONS

Present law

Not applicable.

House bill

No comparable provisions.

Senate amendment

Establishes the effective date for changes in the family/group day care home reimbursement structure—August 1, 1996. Other changes affecting the Child and Adult Care Food program would be effective on enactment (e.g., grants to assist in implementation of the changes, limits on payments to sponsors' employees).

Requires that, by February 1, 1996, the Secretary issue interim regulations to implement (1) the changes in the family/group day care home reimbursement structure and (2) existing provisions of law for the use of sponsoring organizations' administrative expense payments for startup/expansion and outreach and recruitment activities. Final regulations would be required by August 1, 1996.

Conference agreement

House recedes.

SUBTITLE J—FOOD STAMPS AND COMMODITY DISTRIBUTION

Food stamp reform

1. DECLARATION OF POLICY

Present law

The Food Stamp Act's declared policy is to safeguard the health and well-being of the Nation's population by raising levels of nutrition among low-income households. To alleviate hunger and malnutrition among low-income households with limited food purchasing power, the Act authorizes the food stamp program to permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing the food purchasing power of all eligible households who apply. [Sec. 2]

House bill

No comparable provision.

Senate amendment

Adds to the existing Food Stamp Act declaration of policy a statement that Congress intends that the food stamp program support the employment focus and family strengthening mission of public welfare and welfare replacement programs by facilitating transition to economic self-sufficiency through work, promoting employment as the primary means of income support and reducing barriers to employment, and maintaining and strengthening healthy family functioning and family life.

Conference agreement

The Conference agreement follows the House bill.

2. SHORT TITLE

Present law

No provision.

House bill

Cites this subtitle as "The Food Stamp Simplification and Reform Act of 1995."

Senate amendment

No comparable provision.

Conference agreement

The Conference agreement follows the House bill.

3. ESTABLISHMENT OF SIMPLIFIED FOOD STAMP PROGRAM

Present law

The Secretary is directed to establish uniform national standards of eligibility for food stamps (with certain variations allowed for Alaska, Hawaii, Guam, the Virgin Islands, and certain administrative rules). States may not impose any other standards of eligibility as a condition for participation in the program. [Sec. 5(b)]

House bill

Permits States to operate a "simplified food stamp program," either statewide or in any political subdivision. Under this program, households receiving regular cash benefits under the Temporary Assistance for Needy Families (TANF) block grant established by title I of the Personal Responsibility Act (replacing the current Aid to Families with Dependent Children (AFDC) program) could be provided food stamp benefits using the rules and procedures established by the State for its TANF block grant program, as an alternative to using regular food stamp rules.

Senate amendment

Explicitly permits non-uniform standards of eligibility. [Note: Also see item 38]

Conference agreement

The Conference agreement follows the Senate amendment.

4. SIMPLIFIED FOOD STAMP PROGRAM

A. BASIC STATE OPTION

Present law

Households composed entirely of AFDC recipients are automatically eligible for food stamps, with few exceptions (e.g., aliens who do not meet the Food Stamp program's more stringent rules barring illegal aliens). [Sec. 5(a)]

As with other households, food stamp benefits for AFDC households are determined under Food Stamp program rules governing counting of income, expense deductions, and procedural requirements.

House bill

[Note: Sec. 542(a) of the House bill adds a new section 24 to the Food Stamp Act containing rules for the Simplified Food Stamp Program.]

If a State elects to exercise its option to use its TANF block grant rules and procedures for food stamp benefits, requires that (1) households in which all members receive regular cash benefits under a TANF block grant program be automatically eligible for food stamps and (2) food stamp benefits for them be determined under rules and procedures established by the State or locality under the State's TANF block grant program or the regular food stamp program.

Senate amendment

[Note: Sec. 342(a) of the Senate amendment adds a new section 24 to the Food Stamp Act containing rules for the Simplified Food Stamp Program]

Permits a State to exercise an option to use rules and procedures established for its family assistance block grant (under title I of the Senate amendment) to determine food stamp benefits for households in which all members receive family assistance block grant aid: (1) households in which all members receive aid under a family assistance block grant program would be automatically eligible for food stamps; and (2) their food stamp benefits could be determined by using rules and procedures established by the State for its family assistance block grant program, regular food stamp program rules and procedures, or a combination of the two. States also would be allowed to apply a single "shelter standard" to households that receive a housing subsidy and another to households that do not.

Conference agreement

The Conference agreement follows the Senate amendment with an amendment deleting the specific reference to use of a single shelter standard.

B. FEDERAL COST CONTROL

Present law

No comparable provisions.

House bill

Requires that, when approving a State's plan to exercise its option for a simplified food stamp program, the Secretary certify that the average per-household food stamp benefit received by participating TANF households is not expected to exceed the average food stamp benefit level for AFDC or TANF recipients in the preceding fiscal year —adjusted for any changes in the "Thrifty Food Plan" (the basis for food stamp benefit levels). The Secretary also is required to compute the "permissible" average per-household benefit for each State or locality exercising the simplified program option.

Requires that, if average food stamp benefits under the simplified program exceed the permissible level (the Thrifty-Food-Plan-adjusted prior year amount), the State must pay the Federal Government the benefit cost of the excess within 90 days of notification.

Senate amendment

Provides that a State may not operate a simplified food stamp program unless it has an approved plan and requires the Secretary to approve any State plan if the Secretary determines it complies with the provisions of law governing the simplified food stamp program option and would not increase Federal costs under the Food Stamp Act. Federal costs for this purpose are defined to exclude research, demonstration, and evaluation costs.

Requires the Secretary to determine whether a State's simplified food stamp program is increasing Federal costs under the Food Stamp Act. In making the determination, the Secretary (1) could not require States to collect or report any information on households not included in the simplified food stamp program and (2) could approve State requests to use alternative accounting periods. If the Secretary determines that a simplified food stamp program has increased Federal costs, the State must be notified by January 1 of the succeeding fiscal year.

If the Secretary determines that a simplified program has increased Federal costs for a two-year period, the State must pay the Federal Government the amount of any increased costs within 90 days of the determination (or have amounts due it for administrative costs reduced).

Conference agreement

The Conference agreement follows the Senate amendment with an amendment. The Secretary must, for each fiscal year, determine whether a simplified program is increasing Federal costs above those incurred under the food stamp program in the fiscal year prior to implementation of the simplified program, adjusted for changes in participation, the non-public-assistance income of participants, and the cost of the Thrifty Food Plan. The Secretary must notify the State of a determination of increased Federal costs, and the State must submit for approval a corrective action plan designed to prevent increased Federal costs. If a State fails to submit a plan or carry out an approved plan, the Secretary must terminate approval of the State's simplified program, and the State is ineligible for future participation under simplified program rules.

C. DISQUALIFICATION

Present law

Households penalized for an intentional failure to comply with a Federal, State, or local welfare program may not, for the duration of the penalty, receive an increased food stamp allotment because their welfare income has been reduced. [Sec. 8(d)]

[Note: This has been interpreted by regulation to apply only to reductions in welfare income due to repayment of overpayments resulting from a welfare violation, although a revision of the regulation is scheduled.]

House bill

Provides that (1) households receiving food stamps under the simplified program option who are sanctioned (disqualified or have their benefits reduced) under a State's TANF program may have the same penalty applied for food stamp purposes and (2) food stamp benefits to households participating under the simplified program option may not be increased as the result of a reduction in their TANF benefits caused by a sanction. Any household disqualified from food stamps as the result of a TANF program sanction would be eligible to apply for food stamps (as a new applicant) after the disqualification period has expired.

Senate amendment

[Note: See items 10 and 43.]

Conference agreement

The Conference agreement follows the Senate amendment.

D. EXTENDING RULES TO "MIXED" HOUSEHOLDS

Present law

No comparable provisions.

House bill

Allows States the further option of applying their TANF rules and procedures to food stamp households in which some, but not all, members receive TANF benefits. These households would not be automatically eligible for food stamps (they would have to meet normal food stamp eligibility rules), but their benefits could be determined under the State's TANF rules and procedures, so long as the Secretary ensures that the State's plan provides for an "equitable" distribution of benefits among all household members.

Senate amendment

No comparable provisions.

Conference agreement

The Conference agreement follows the Senate amendment. The conferees encourage the Secretary to work with States to test methods for applying a single set of rules and procedures to households in which some, but not all, members receive cash welfare benefits under State rules.

E. CASH ASSISTANCE

Present law

No comparable provisions.

House bill

Allows States exercising the simplified program option to pay food stamp benefits in cash to some participating households. Cash benefits could be paid to households with 3 or more consecutive months' earned income of at least $350 a month from a private sector employer.

Provides that: (1) cash assistance in lieu of food stamps be considered the food stamp benefit of the earner's household, (2) the value of food stamp benefits provided in cash be treated as food stamp coupons for taxation and other purposes (i.e., disregarded), and (3) the State opting for cash payments increase the payments (at State expense) to offset the effect of any food sales taxes, unless the Secretary determines it unnecessary because of the limited nature of items taxed (sales taxes on food purchases with food stamp benefits are barred by existing law).

Requires States electing the cash benefit option to submit a written evaluation of the effect of cash assistance after 2 years' operation.

Senate amendment

[Note: See item 55.]

Conference agreement

The Conference agreement follows the Senate amendment.

F. FEDERAL FOOD STAMP RULES

Present law

The Federal Government shares 50% of any State food stamp administrative costs (except that certain States with very low rates of erroneous benefit and eligibility determinations can receive up to 60%). States also may retain certain proportions of any overissued benefits they recoup. Special Federal cost-sharing rules apply in the case of employment and training programs for food stamp recipients. States are subject to a quality control system under which the extent of erroneous benefit and eligibility decisions is measured. Those with high rates of erroneous benefit and eligibility decisions are subject to fiscal sanctions. [Sec. 16]

House bill

Requires States exercising the simplified program option to, at a minimum, comply with certain rules mandated under the Food Stamp Act:

(1) requirements governing issuance procedures for food stamp benefits;

(2) the requirement that benefits be calculated by subtracting 30% of a household's income (as determined by State-established, not Federal, rules under the simplified program option) from the maximum food stamp benefit;

(3) the bar against counting food stamp benefits as income or resources in other programs;

(4) the requirements that State agencies assume responsibility for eligibility certification and issuance of benefits and keep records for inspection and audit;

(5) the bar against discrimination by reason of race, sex, religious creed, national origin, or political beliefs;

(6) requirements related to submission and approval of plans of operation and administration of the food stamp program on Indian reservations;

(7) limits on the use and disclosure of information about food stamp households;

(8) requirements for notice to and fair hearings for aggrieved households (or comparable requirements established by the State under its TANF program);

(9) requirements for submission of reports and other information required by the Secretary;

(10) the requirement to report illegal aliens to the Immigration and Naturalization Service;

(11) requirements for use of certain Federal and State data sources in verifying recipients' eligibility;

(12) requirements to take measures to ensure that households are not receiving duplicate benefits; and

(13) requirements for the provision of social security numbers as a condition of eligibility and for their use by State agencies.

States electing the simplified program option would be subject to normal food stamp program cost-sharing rules.

States electing the simplified option would be subject to the food stamp quality control system (including fiscal sanctions).

Senate amendment

Permits States exercising the option for a simplified food stamp programs to apply rules and procedures under their family assistance block grant, the rules/procedures of the regular food stamp program, or the rules/procedures of one program to certain matters and those of the other in remaining matters. Permits States to standardize food stamp expense "deductions," but, in doing so, States would be required to give consideration to the work expenses, dependent care costs, and shelter costs of participating households.

Otherwise, the Senate amendment is the same as the House bill, except that it also would (1) require that States follow the revised rule in the Senate amendment (see item 43) as to not increasing food stamp benefits when other public assistance benefits are decreased (see item 4C in the House bill), (2) require that eligible households be certified and receive benefits not later than 30 days after application (as now required under the regular food stamp program), and (3) require that States issue "expedited" benefits to very low-income households (as required under the regular food stamp program).

Same as House bill.

Conference agreement

The Conference agreement follows the House bill with an amendment (1) allowing States to standardize deductions and (2) requiring States to follow the revised rule in the Senate amendment as to not increasing food stamp benefits when other public assistance benefits are decreased.

G. STATE PLANS

Present law

No comparable provision.

House bill

Requires that State plans for those States electing to exercise the simplified program option include the rules and procedures to be followed in determining benefits under the option, whether the program will include households in which not all members receive TANF grant benefits, and the method by which the State or political subdivision participating in the simplified program will carry out its quality control obligations.

Senate amendment

Requires that State plans for those States electing to exercise the simplified program option include the rules and procedures to be followed in determining benefits under the option, how the States will address the needs of households with high shelter costs, and a description of the method by which the State will carry out its quality control obligations.

Conference agreement

The Conference agreement follows the Senate amendment.

5. CONFORMING AMENDMENTS: SIMPLIFIED FOOD STAMP PROGRAM

Present law

Allows the Secretary to operate pilot projects similar to the simplified food stamp program State option proposed in the House bill. [Sec. 8(e) and Sec. 17(i)]

House bill

Deletes provisions for pilot projects similar to the simplified food stamp program State option.

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the House bill with an amendment to add necessary conforming amendments.

6. THRIFTY FOOD PLAN

Present law

Maximum monthly food stamp benefits are defined as 103% of the cost of the Agriculture Department's "Thrifty Food Plan," adjusted for food-price inflation each October according to the plan's cost in the immediately preceding June and rounded down to the nearest dollar by household size. [Sec. 3(o)]

House bill

Provides that current maximum monthly food stamp benefits (103% of the cost of the Thrifty Food Plan in June 1994) be increased by 2% a year, beginning with the October 1995 adjustment, and rounded down to the nearest dollar by household size.

Senate amendment

Sets maximum monthly food stamp benefits at 100% of the cost of the Thrifty Food Plan, effective October 1, 1995, adjusted annually, as under existing law and rounded down to the nearest dollar by household size. Requires that the October 1, 1995, adjustment not reduce maximum benefit levels.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment making it effective October 1, 1996.

7. INCOME DEDUCTIONS AND ENERGY ASSISTANCE

A. ENERGY ASSISTANCE

Present law

Payments or allowances for energy assistance provided by State or local law are, under rules set by the Secretary, disregarded ("excluded") as income. [Sec. 5(d)(11) and 5(k)]

Payments or allowances for weatherization assistance are disregarded as energy assistance. [Sec. 5(d)(11) and 5(k)] [Note: Weatherization payments could otherwise be disregarded as lump-sum payments, vendor payments, or reimbursements.]

Federal Low-Income Home Energy Assistance Program (LIHEAP) benefits are disregarded as income. [Sec. 5(d)(11) and 5(k) of the Food Stamp Act and sec. 2605(f) of the Low-Income Home Energy Assistance Act]

Certain utility allowances under Department of Housing and Urban Development (HUD) programs are disregarded. [Sec. 5(d)(11) and 5(k)]

Shelter expense deductions may be claimed for utility costs covered by LIHEAP benefits, but not in the case of other disregarded energy assistance unless the household has additional out-of-pocket expenses. [Sec. 5(e) of the Food Stamp Act and Sec. 2605(f) of the Low-Income Home Energy Assistance Act]

House bill

Requires that State/local energy assistance be counted as income.

Continues to disregard as income payments or allowances for weatherization assistance under a Federal energy assistance program. Other weatherization assistance could be disregarded as lump-sum payments, vendor payments, or reimbursements.

Bars claiming shelter expense deductions for utility costs covered either directly or indirectly by the LIHEAP and other disregarded energy assistance.

Senate Amendment

Requires that State/local energy assistance be counted as income..

Requires an income disregard for one-time payments/allowances under a Federal or State law for the costs of weatherization or emergency repair/replacement of unsafe/inoperative furnaces or other heating/cooling devices.

Counts Federal LIHEAP benefits as income.

Counts HUD utility allowances as income.

Allows claiming shelter expense deductions for utility costs covered directly or indirectly by the LIHEAP and other counted energy assistance.

Conference agreement

The Conference agreement follows the Senate amendment.

B. STANDARD DEDUCTIONS

Present law

For purposes of determining food stamp benefits and eligibility, applicant/recipient households may claim standard deductions from their otherwise countable income. Standard deductions are indexed annually (each October 1) for inflation based on the Consumer Price Index for items other than food and rounded down to the nearest dollar. For fiscal year 1995, standard deductions are set at: $134 a month for the 48 States and the District of Columbia, $229 for Alaska, $189 for

Hawaii, $269 for Guam, and $118 for the Virgin Islands. For fiscal year 1996, they were "scheduled" to rise to: $138, $236, $195, $277, and $122, respectively, but this was barred by the fiscal year 1996 agriculture appropriations act. [Sec. 5(e)]

House bill

Sets standard deductions at their fiscal year 1995 levels, effective October 1, 1995.

Senate amendment

Reduces standard deductions:

(1) for fiscal year 1996, they would be $132, $225, $186, $265, and $116; and

(2) for fiscal year 1997–2002, they would be $124, $211, $174, $248, and $109.

Inflation indexing of standard deductions would resume October 1, 2002 (using existing indexing rules).

Conference agreement

The Conference agreement follows the House bill and continues to set standard deductions at their fiscal year 1995 levels.

C. EARNED INCOME DEDUCTION

Present law

Households may claim a deduction for 20% of any earned income. This deduction is not allowed with respect to any income that a household willfully or fraudulently fails to report in a timely manner (as proven in a fraud hearing proceeding)—i.e., it is not allowed when determining the amount of a benefit overissuance. [Sec. 5(e)]

House bill

Denies an earned income deduction for the food stamp benefit portion of income earned under a work supplementation/support program. [Note: See item 15.]

Senate amendment

Disallows an earned income deduction for any income not reported in a timely manner—i.e., the deduction would not be allowed in determining the amount of any overissued benefits.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment denying an earned income deduction for the public assistance portion of income earned under a work supplementation/support program.

D. EXCESS SHELTER EXPENSE DEDUCTION

Present law

For purposes of determining food stamp benefits and eligibility, applicant/recipient households may claim excess shelter expense deductions from their otherwise countable income—in the amount of any shelter expenses (including utility costs) above 50% of their countable income after all other deductions have been applied. For households with elderly or disabled members, these deductions are unlimited. For other households, they are limited by law through December 1996; limits are lifted as of January 1, 1997. For fiscal year 1995, excess shelter expense deductions were capped at: $231 a month for the 48 States and the District of Columbia, $402 for Alaska, $330 for Hawaii, $280 for Guam, and $171 for the Virgin Islands. For October 1995 through December 1996, the caps rose to $247, $429, $353, $300, and $182, respectively. [Sec. 5(e)]

States may use "standard utility allowances" (as approved by the Secretary) in calculating households' shelter expenses. However, households may claim actual expenses instead of the allowance and may switch between an actual expense claim and the standard allowance at the end of any certification period and one additional time during any 12-month period. [Sec. 5(e)]

House bill

Sets the limits on excess shelter expense deductions at fiscal year 1995 levels.

Senate amendment

Permits States to make the use of standard utility allowances mandatory for all households if (1) the State has developed separate standards that include the cost of heating and cooling and do not include these costs and (2) the Secretary finds that the standards will not result in increased Federal costs.

Removes the option for households to switch between a standard utility allowance and actual costs once during every 12-month period.

Conference agreement

The Conference agreement follows the Senate amendment with an amendment that establishes excess shelter expense deduction limits at the October 1995/December 1996 levels.

E. HOMELESS SHELTER DEDUCTION

Present law

For homeless households not receiving free shelter throughout the month, States may develop a homeless shelter expense estimate (a standard amount) to be used in calculating an excess shelter expense deduction. States must use this amount unless the household verifies higher expenses. The Secretary may prohibit the use of the deduction for households with extremely low shelter costs. The amount is inflation indexed, and, for fiscal year 1995, it is limited to $139 a month; effective October 1, 1995, it is scheduled to rise to $143. [Sec. 11(e)(3)]

House bill

Sets the homeless shelter deduction at the fiscal year 1995 $139 a month and requires that it be used in establishing homeless households' excess shelter expense deductions when they do not receive free shelter throughout the month.

Senate amendment

Same as the House bill, except that States may prohibit the use of the deduction for households with extremely low shelter costs.

Conference agreement

The Conference agreement follows the Senate amendment.

8. VEHICLE ALLOWANCE

A. THRESHOLD FOR COUNTING A VEHICLE'S VALUE

Present law

In determining a household's liquid assets for food stamp eligibility purposes, a vehicle's fair market value in excess of $4,550 is counted. This threshold rose to $4,600 in October 1995 and is scheduled to be annually indexed for inflation beginning in fiscal year 1997. [Sec. 5(g)(2)] [Note: Eligible households may have liquid assets of no more than $2,000 ($3,000 for households with elderly members).]

House bill

Sets the threshold above which the fair market value of a vehicle is counted as an asset at $4,550.

Senate amendment

Eliminates the October 1, 1995 increase in the threshold to $4,600 and requires that the $4,550 threshold begin to be inflation adjusted on October 1, 1996.

Conference agreement

The Conference agreement follows the House bill, with an amendment setting the threshold at $4,600.

B. VEHICLES CARRYING FUEL OR WATER

Present law

In determining a household's liquid assets for food stamp eligibility purposes, the value of a vehicle that the household depends on to carry fuel for heating or water for home use is excluded. [Sec. 5(g)(2)]

House bill

Deletes the asset exclusion for vehicles used to carry fuel or water.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the House bill.

9. WORK REQUIREMENTS

Non-exempt recipients between 16 and 60 are ineligible for food stamps if they refuse to register for employment, refuse to participate in an employment/training program when required to do so by the State, or refuse a job offer meeting minimum standards. [Sec. 6(d)]

Exempt individuals are: (1) those who are not physically or mentally fit, (2) those subject to and complying with a work/training requirement under the AFDC program or the unemployment compensation system (although failure to comply with an AFDC/unemployment system requirement is treated as a failure to comply with food stamp rules, if the requirement is "comparable"), (3) parents and other household members with the responsibility for care of a dependent child under age 6 or an incapacitated person, (4) postsecondary students enrolled at least half-time (separate rules bar eligibility for most postsecondary students who are not working or do not have dependents), (5) regular participants in drug addiction or alcoholic treatment programs, (6) persons employed at least 30 hours a week or receiving the minimum wage equivalent, and (7) persons between 16 and 18 who are not head of household and are in school at least half time. [Sec. 6(d)(1) and (2)]

In addition, if a non-exempt head of household fails to comply with one of the above-noted requirements or voluntarily quits a job without good cause, or if any non-exempt household member is on strike, the entire household is ineligible for food stamps. [Sec. 6(d)(1) and (3)]

A. JOB SEARCH

Present law

As noted above, non-exempt individuals refusing to participate in an employment/training program when required to do so by the State are ineligible for food stamps (if they are head of household, the entire household is ineligible). State-designed employment and training programs may include a requirement to perform job search activities. [Sec. 6(d)(1) and (2)]

House bill

Makes ineligible non-exempt individuals (and their households if they are head of household) who refuse to participate in a State-established job search program. [Note: Able-bodied non-elderly adults without dependents would be subject to new work requirements, see below.]

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

B. COMPARABLE WORK REQUIREMENTS

Present law

As noted above, individuals are exempt from food stamp employment/training requirements if they are subject to and complying with an AFDC or unemployment compensation work/training requirement, and failure to comply with such an AFDC or unemployment compensation requirement is treated as failure to comply with food stamp employment/ training requirements, if the requirement is "comparable." [Sec. 6(d)(2)]

House bill

Requires that failure to comply with an TANF or unemployment compensation system work/training requirement be treated as failure to comply with a food stamp employment/training requirement, whether or not the requirement is "comparable."

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the House bill.

C. NEW WORK REQUIREMENT

Present law

As noted above, non-exempt individuals are ineligible for food stamps if they refuse to participate in an employment/training program when required to do so by the State. [Sec. 6(d)(1)]

House bill

Deletes provisions of law barring eligibility to those refusing to participate in State-established employment/ training programs.

In their place, adds a new work requirement: non-exempt recipients (see below) would be disqualified if they are not employed a minimum of 20 hours a week or are not participating in the work program newly established under the House bill (see below) within 90 days of certification of eligibility.

Allows individuals who have been disqualified under the new work requirement to reestablish food stamp eligibility if they become exempt (under the rules noted immediately below), become employed at least 20 hours a week during any consecutive 30-day period, or participate in a work program (see below).

Exempt from the new requirement would be: (1) those under 18 or over 50, (2) those medically certified as physically or mentally unfit for employment, (3) parents or other household members responsible for the care of a dependent child, and (4) those who are otherwise exempt from work registration and job search rules (see present law description above).

Upon a State's request, allows the Secretary to waive application of the new work requirement for some or all individuals in all or part of a State if the Secretary determines that the area (1) has an unemployment rate over 10% or (2) does not have sufficient jobs to provide employment for those subject to the new requirement. The Secretary would be required to report to the Agriculture Committees the basis for any waiver based on lack of sufficient jobs.

Senate amendment

Adds a new work requirement: non-exempt persons (see below) would be ineligible if, during the preceding 12-month period, they received food stamps for 6 months or more while not working 20 hours or more a week (averaged monthly) or participating in and complying with a work/ training program (see note regarding exemptions below) for at least 20 hours a week.

Exempt from the new requirement would be: (1) those under 18 or over 50, (2) those certified by a physician as physically or mentally unfit for employment, (3) parents or other household members responsible for the care of a dependent, (4) those participating a minimum of 20 hours a week in (and complying with the requirements of) a Job Training Partnership Act (JTPA) program, a Trade Adjustment Assistance Act training program, or a State or local government employment or training program meeting Governor-approved standards, and (5) those otherwise exempt from work registration and job search rules (see present law description above.) [Note: The new work requirement could be met by those participating in and complying with (for 20 hours a week or more) a JTPA program, a Trade Adjustment Assistance training program, or a State/local employment or training program meeting Governor-approved standards (including a food stamp program employment/training activity other than job search or job search training).]

As in the House bill, waivers are allowed, except that the unemployment rate threshold is 8% and the Secretary must report the basis for any waiver.

Provides for a transition to the new work requirement. Prior to October 1, 1996, administrators would not "look back" a full 12 months in determining whether a recipient had been receiving food stamps and not meeting the new requirement; they would look back only to October 1, 1995.

Conference agreement

The Conference agreement follows the House bill, with an amendment. Non-exempt persons (see below) are ineligible if, during the preceding 12-month period, they received food stamps for 4 months or more while not working 20 hours or more a week (averaged monthly), participating in and complying with a work program (see below) for at least 20 hours a week, or participating in a workfare program.

Exempt from the new requirement are: (1) those under 18 or over 50, (2) those medically certified as physically or mentally unfit for employment, (3) parents or other household members responsible for the care of a dependent child, (4) those otherwise exempt from work registration or job search rules (e.g., those caring for incapacitated persons), and (5) pregnant women.

Work programs allowing an exemption are programs under the JTPA or the Trade Adjustment Assistance Act, or employment/ training programs operated or supervised by a State or locality meeting standards approved by the Governor (including a food stamp employment/training program)—except for job search or job search training programs.

Waiver reports are required for any waiver based on unemployment rates (over 10%) or lack of sufficient jobs.

The disqualification imposed by the new work requirement ceases to apply if, during a 30-day period, an individual works 80 hours or more, participates in and complies with a work program for at least 80 hours, or participates in a workfare program. In the subsequent 12-month period, an individual is eligible for food stamps for up to 4 months while not working for at least 20 hours a week, participating in a work program for at least 20 hours a week, or participating in a workfare program.

As in the Senate amendment, a transition to the new work requirement is provided.

D. DISQUALIFICATION

Present law

[Note: See present law description above. In addition, disqualification periods for failure to fulfill work requirements are (1) 2 months or until compliance (whichever is first) for most failures and (2) 90 days in case of a voluntary quit.]

House bill

No comparable provisions. [Note: The House bill creates new disqualification penalties for those covered by its new work requirement.]

Senate amendment

Rewrites and adds to rules governing disqualification for violation of work and employment/training requirements (other than those for the new work requirement noted above).

In addition to existing provisions for disqualification (e.g., job refusal, failure to participate in an employment/training program), makes ineligible (1) individuals who refuse without good cause to provide sufficient information to allow a determination of their employment status or job availability, (2) all individuals (in addition to heads of household) who voluntarily and without good cause quit a job, and (3) individuals who voluntarily and without good cause reduce their work effort (and, after the reduction, are working less than 30 hours a week).

Establishes a new household ineligibility rule: if any individual who is head of household is disqualified under a work rule, the entire household would, at State option, be ineligible for the lesser of the duration of the individual's ineligibility or 180 days—as determined by the State.

Establishes new mandatory minimum work-rule disqualification periods for individuals. For the first violation, individuals would be ineligible until the later of the date they fulfill work rules, for 1 month, or a period (determined by the State) not to exceed 3 months. For the second violation, individuals would be ineligible until the later of the date they fulfill work rules, for 3 months, or a period (determined by the State) not to exceed 6 months. For a third or subsequent violation, individuals would be ineligible until the later of the date they fulfill work rules, 6 months, a date determined by the State, or (at State option) permanently. These disqualification periods also would apply to those failing to meet any workfare requirements.

In establishing good cause, voluntary quits, and reduction of work effort, the Secretary would determine the meaning of the terms. States would determine the meaning of other terms and the procedures for making compliance decisions, but could not make a determination that would be less restrictive than a comparable one under the State's family assistance block grant program.

States would be required to include the standards and procedures they use in making work-rule disqualification/compliance decisions in their State plan.

Conference agreement

The Conference agreement follows the Senate amendment.

E. CARETAKER EXEMPTION

Present law

Parents or other household members with responsibility for the care of a dependent child under age 6 or of an incapacitated person are exempt from food stamp work rules. [Sec. 6(d)(2)]

House bill

No provision.

Senate amendment

Permits States to lower the age at which a child "exempts" a parent/caretaker from 6 to not under the age of 1.

Conference agreement

The Conference agreement follows the Senate amendment.

F. WORK AND EMPLOYMENT/TRAINING PROGRAMS

Present law

States must operate employment and training programs for non-exempt food stamp recipients and place at least 15% of those covered in a program component. Exempt are those listed above and those States opt to exempt under Federal rules. Program components can range from job search or education activities to work experience/ training and "workfare" assignments. [Sec. 6(d)(4)]

Work experience/training program components must limit assignments to projects serving a useful public purpose, use the prior training/ experience of assignees, not provide work that has the effect of replacing others, and provide the same benefits and working conditions provided to other comparable employees. [Sec. 6(d)(4)(B)]

States and political subdivisions also may operate workfare programs under which non-exempt recipients may be required to perform work in return for the minimum wage equivalent of their household's monthly food stamp allotment. In general, those exempt are those listed above (p. 16). [Sec. 20]

Workfare assignments may not have the effect of replacing or preventing the employment of others and must provide the same benefits and working conditions provided to other comparable employees. [Sec. 20(d)]

The total hours of work required of a household under an employment/training program (including workfare) cannot in any month exceed the minimum wage equivalent of the household's monthly food stamp benefit. The total hours of participation in an employment and training program required of any household member cannot in any month exceed 120 hours (when added to other work). And, workfare hours (when added to other work) cannot exceed 30 hours a week for a household member. [Sec. 6(d)(4)(F) and Sec. 20(c)]

Under employment and training programs for food stamp recipients, States must provide or pay for transportation and other costs directly related to participation (up to $25 a month for each participant) and necessary dependent care expenses (in general, up to $175 or $200 a month for each dependent, depending on the dependent's age). Under workfare programs, States must reimburse participants for transportation and other costs directly related to participation (up to $25 a month for each participant). [Sec. 6(d)(4)(I) and Sec. 20 (d)(3)]

House bill

Deletes the requirement for States to operate employment and training programs and current provisions for work experience/training and workfare programs.

Instead, requires the Secretary to permit any State that applies and submits a plan in compliance with the Secretary's guidelines to operate a work program for food stamp recipients subject to the new work requirement (see above) in the State or any political subdivision. A State's work program would require those accepting an offer of a work position in order to maintain food stamp eligibility to perform work on the State or local jurisdiction's behalf, or on behalf of a private nonprofit entity. The Secretary's guidelines would be required to allow States and localities to operate a work program that is consistent and compatible with similar programs they might operate.

Requires that, in order to be approved, a State's work program provide that participants work no more than the minimum wage equivalent of their household's monthly food stamp benefit (i.e., the number of hours equivalent to their household's monthly benefit divided by the minimum wage).

Limits the degree to which a State or locality can assign participants to replace other workers. No State/locality could replace an employed worker with a work program participant, but participants could be placed in (1) new positions, (2) positions that became available during the normal course of business, (3) positions that involve performing work that would otherwise be performed on an overtime basis, or (4) positions that became available by shifting current employees to an alternate position. [Note: States would receive Federal cost sharing for work program participant expenses (see below).]

Senate amendment

Revises the existing requirements for State-operated employment/training programs for food stamp recipients: (1) makes clear the work experience is a purpose of employment/training programs; (2) requires that each component of an employment/ training program be delivered through a "statewide workforce development system," unless the component is not available locally; (3) expands the existing State option to apply work rules to applicants at application to all work requirements, not only job search; (4) removes specific rules governing job search components (i.e., tied to those for the AFDC program); (5) removes provisions for employment/training components related to work experience requiring that they be in public service work and use (to the extent possible) recipients' prior training and experience; (6) removes specific Federal rules as to States' authority to exempt categories and individuals from employment/training requirements; (7) removes the requirement to serve volunteers in employment/training programs; (8) removes the requirement for "conciliation procedures" for resolution of disputes involving participation in an employment or training program; (9) limits employment/training funding provided by the food stamp program for services to AFDC or family assistance block grant funding recipients to the amount used by the State for AFDC recipients in fiscal year 1995; and (10) removes Federal performance standards on States for employment/training programs for food stamp recipients.

Conference agreement

The Conference agreement follows the Senate amendment.

G. FUNDING WORK AND EMPLOYMENT/TRAINING PROGRAMS

Present law

To support employment and training programs for food stamp recipients, States receive a formula share of $75 million a year (based partially on their share of food stamp recipients not exempt from work registration and employment/training requirements and partially on their share of those placed in employment/training program components). Minimum State annual allocations are $50,000.

In addition to its portion of the $75 million annual grant, each State is entitled to (1) 50% of any additional costs incurred, (2) 50% of any transportation or other participant costs paid or incurred up to half of $25 a month for each participant, and (3) 50% of any dependent care costs paid or incurred up to half of certain limits (generally, $175/$200 a month for each dependent, depending on the dependent's age). [Sec. 16(h)]

House bill

To support work programs for food stamp recipients, requires the Secretary to allocate among States and localities operating them $75 million a year, based on their share of recipients subject to the new work requirement (see above). Minimum State allocations would be $50,000.

Requires States to notify the Secretary as to their intention to operate a work program, and requires the Secretary to reallocate unclaimed portions of the $75 million annual grant to other States, as the Secretary deems appropriate and equitable.

Requires that, in addition to its portion of the $75 million annual grant, the Secretary pay each State (1) 50% of any additional costs incurred and (2) 50% of any transportation or other participant costs paid or incurred up to half of $25 a month for each participant.

Allows the Secretary to suspend or cancel some or all payments made to States for the work program, or withdraw approval, on a finding of noncompliance.

Senate amendment

To support employment/training programs for food stamp recipients, requires the Secretary to "reserve for allocation" to States: $77 million for fiscal year 1996, $80 million for fiscal year 1997, $83 million for fiscal year 1998, $86 million for fiscal year 1999, $89 million for fiscal year 2000, $92 million for fiscal year 2001, and $95 million for fiscal year 2002. Allocations would be based on a "reasonable formula" (determined by the Secretary) that gives consideration to States' shares of the population affected by the new work requirement (see above). Minimum State allocations would be $50,000.

Requires reallocations as in the House bill.

Continues existing provisions for payments for additional costs, but adds explicit permission for a 50% Federal share of State case management costs.

Conference agreement

The Conference agreement follows the Senate amendment.

H. Conforming Amendment

Present law

There is authorized a demonstration project similar to the new work requirement in the House bill; it has not been implemented. [Sec. 17(d)]

House bill

Deletes authorization for a demonstration project similar to the new work requirement in the House bill.

Senate amendment

Makes several technical and conforming amendments to employment and training provisions.

Conference agreement

The Conference agreement follows the House bill and makes technical and conforming amendments.

10. COMPARABLE TREATMENT OF DISQUALIFIED INDIVIDUALS

Present law

[Note: See item 4C.]

House bill

Requires that individuals who have been disqualified for noncompliance with requirements under a TANF program not be eligible to participate for food stamps during the disqualification period.

Senate amendment

If an individual is disqualified for failure to perform an action required under a Federal, State, or local welfare/public assistance program, permits States to impose the same disqualification for food stamps.

If a disqualification is imposed under the family assistance block grant, permits States to use the family assistance block grant's rules and procedures to impose the same disqualification for food stamps.

Permits individuals disqualified from food stamps because of failure to perform a required action under another welfare/public assistance program to apply for food stamps as new applicants after the disqualification period has expired—except that a prior disqualification under food stamp work requirements must be considered in determining eligibility.

Requires States to include the guidelines they use in carrying out food stamp disqualification for failure to perform a required action in another welfare/public assistance program in their State plans.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment changing references to welfare or public assistance programs to references to needs-tested public assistance programs.

11. ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS

A. REGULATION E

Present law

The Federal Reserve Board has ruled that, as of March 1997 and with some minor modifications, its "Regulation E" will apply to electronic benefit transfer systems. Regulation E provides certain protections for consumers using cards to access their accounts. It limits the liability of cardholders for unauthorized withdrawals (to $50, if notification is made) and requires periodic account statements and certain error resolution procedures. [*Federal Register* of Mar. 7, 1994]

House bill

[Note: See item 56 for optional block grants for States fully implementing electronic benefit transfer systems.]

Provides that Regulation E not apply to any electronic benefit transfer program (distributing needs-tested benefits) established or administered by States or localities.

Senate amendment

Provides that Regulation E not apply to food stamp benefits delivered through any electronic benefit transfer system.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

B. CHARGING FOR ELECTRONIC BENEFIT TRANSFER CARD REPLACEMENT

Present law

No specific provision.

House bill

No provision.

Senate amendment

Provides that States may charge recipients for the cost of replacing a lost or stolen electronic benefit transfer card and may collect the charge by reducing the recipient's food stamp benefit.

Conference agreement

The Conference agreement follows Senate amendment.

C. PHOTOGRAPHIC IDENTIFICATION

Present law

No provision.

House bill

Requires that each electronic benefit transfer card bear a photograph of the members of the household to which the card is issued.

Senate amendment

Permits States to require that electronic benefit transfer cards contain a photograph of 1 or more household members and requires that, if a State requires a photograph, it shall establish procedures to ensure that other appropriate members of the household and authorized representatives may use the card.

Conference agreement

The Conference agreement follows the Senate amendment.

D. RULES FOR ELECTRONIC BENEFIT TRANSFER SYSTEMS

Present law

State agencies, with the Secretary's approval, may implement on-line electronic benefit transfer systems for delivering food stamp benefits, in lieu of coupons. No State may implement or expand an electronic benefit transfer system without prior approval from the Secretary. States are responsible for 50% of any electronic benefit transfer system costs (as with any benefit issuance system), including equipment and electronic benefit transfer cards. [Sec. 7(i)]

The Secretary's regulations for approval must (1) include standards that require that, in any one year, the operational cost of an electronic benefit transfer system does not exceed costs of prior issuance systems and (2) include system security standards. [Sec. 7(i)]

House bill

Deletes requirements for the Secretary's prior approval, "encourages" State agencies to implement on-line electronic benefit transfer systems for delivering food stamp benefits, and authorizes States to procure and implement these systems (under terms, conditions and designs that the State deems appropriate).

Allows the Secretary to waive, on a State's request, any provision of the Food Stamp Act that prohibits effective implementation of an electronic benefit transfer system for food stamp benefits.

Requires re-issuance and revision of regulations governing food stamp electronic benefit transfer systems (current regulations for approval of these systems were issued in April 1992).

Deletes the requirement that the Secretary's regulations for electronic benefit transfer systems require that costs of the electronic benefit transfer system in any one year not exceed costs of prior issuance systems.

Adds requirements that the Secretary's standards for electronic benefit transfer systems include (1) measures to maximize system security using the most recent technology the State considers appropriate (including personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse) and (2) effective not later than 2 years after enactment, measures that permit electronic benefit transfer systems to differentiate food items that may be acquired with food stamp benefits from those that may not.

Senate amendment

Permits States to implement EBT systems under rules separate from those in existing law as amended, if a State notifies the Secretary of its intent to convert to a statewide system within 3 years of enactment. The Secretary may not provide coupons to a State beginning 3 years after the chief executive gives notification of intent to convert under the EBT option— but the State may extend this deadline by 2 years and the Secretary may grant a waiver of up to 6 months for good cause. [Note: The Secretary is authorized to provide coupons for disaster relief.]

Places requirements on the Secretary under the EBT option. The Secretary must:

(1) assist States in converting to an EBT system and (in consultation with the Inspector General and the Secret Service) inform States about proper security features, management techniques, and counterfeit deterrence;

(2) reimburse States for purchasing and issuing EBT cards [Note: The Secretary may charge recipients (through allotment reduction or otherwise) for the cost of replacing lost or stolen cards, unless stolen by force or threat of force];

(3) assign additional employees to investigate and monitor compliance with EBT and retailer participation rules;

(4) establish a Transition Conversion Account (TCA) to be funded with transaction fees of no more than 2 cents a transaction (maximum of 16 cents a month) taken from each EBT household's benefits [Note: Fees would be imposed during the 10-year period beginning on enactment and placed in the TCA at the beginning of each year during the 10-year period beginning with the first full fiscal year after enactment. They would be imposed to the extent necessary to not increase the Secretary's costs under the EBT option and could not be greater than needed for the purposes of the TCA (see below). Fees could be reduced for households receiving maximum benefits.]

(5) from the TCA and, to the extent necessary, from food stamp appropriations, provide funds to States choosing the EBT option for (1) reasonable purchase and installation costs (including reimbursements to retailers) of single-function point-of-sale equipment to be used only for Federal/State assistance programs, (2) reasonable start-up purchase and installation costs for telephone equipment and connections to the point-of-sale equipment, and (3) modification of existing EBT systems to the extent necessary to operate Statewide or interstate;

(6) from the TCA, provide funds to implement the EBT option and for (1) start-up training, (2) reasonable one-time costs of converting to a system capable of interstate and law enforcement functions, (3) liabilities assumed by the Secretary under the EBT option (e.g., for replaced benefits), and (4) implementing and expanding a nationwide program for compliance with EBT and retailer rules; and

(7) consult with government, food industry, financial services, and food advocacy representatives in the conversion to EBT as to (1) integrating EBT systems into commercial networks, (2) EBT system security, (3) use of laser scanner technology to ensure that only eligible items are purchased, (4) use of EBT system data to identify fraud, (5) means of ensuring confidentiality, (6) using existing terminals and systems to reduce costs, and (7) using EBT systems for multiple benefits.

Places requirements and conditions on States under the EBT option. States:

(1) must take into account generally accepted operating rules based on commercial technology and the need to permit interstate

operations and law enforcement monitoring and investigations;

(2) may use paper-based and other benefit transfer approaches for special-need retailers (located in very rural areas, without access to dependable electricity or regular telephone service, farmers' markets, and house-to-house trade routes);

(3) must purchase and install (or reimburse for) single-function point-of-sale (and related telephone) equipment, usable only for Federal/State assistance, for retailers that do not have point-of-sale EBT equipment and do not intend to obtain it in the near future [Note: Equipment must be capable of interstate operations (based on commercial operating principles) that permit law enforcement monitoring and be capable of giving recipients access to multiple benefits.];

(4) must purchase (or reimburse for) point-of-sale paper-based or alternative benefit transfer equipment for special-need retailers without this equipment who do not intend to obtain it in the near future (equipment would be usable only for Federal/State assistance);

(5) must use competitive bidding systems in purchasing EBT equipment and cards [Note: States may not have purchase agreements conditioned on buying additional services or equipment, the Secretary must monitor prices paid, and the Inspector General must investigate possible wrongdoing.];

(6) must advise recipients how to promptly report lost, stolen, damaged, improperly manufactured, dysfunctional, or destroyed EBT cards;

(7) must not (following the Secretary's regulations) replace benefits lost due to unauthorized use of an EBT card, but recipients would receive replacement benefits for losses caused by (1) force or threat of force, (2) unauthorized use after the State gets notice a card was lost/stolen, or (3) problems with the EBT system [Note: Except for losses caused by force or threat of force, States must reimburse the Secretary for benefit replacements, and States may obtain reimbursement from service providers for losses caused by system problems.];

(8) may require an explanation from recipients on occasions where they report lost or stolen cards or cards are used for an unauthorized transaction;

(9) must, in appropriate circumstances, investigate and act on (through administrative disqualification or court referral) cases of lost or stolen cards or unauthorized use;

(10) must (1) take into account the needs of law enforcement personnel and the need to permit and encourage technological/scientific advances, (2) ensure security is protected, (3) provide for recipient privacy, ease of EBT card use, and access to and service by retailers, (4) provide for financial accountability and system capability for interstate operations and law enforcement monitoring, (5) prohibit retailer participation unless appropriate equipment is operational and reasonably available to recipients, and (6) provide for monitoring and investigation by law enforcement agencies;

(11) must, on a recipient's request, provide, once a month, a statement of benefit transfers and balances for the preceding month; and

(12) must design systems to timely resolve disputes over errors. [Note: Recipients able to obtain error corrections under the system would not be entitled to a fair hearing.].

Provides that retailers may return equipment provided by the State and obtain equipment with their own funds and that the cost of documents or systems under the EBT option may not be imposed on retailers.

Provides that EBT retailer fraud and related activities be governed by the Food Stamp Act and 18 U.S.C. 1029.

Makes technical and conforming amendments and defines electronic benefit transfer system, retail food store, special-need retail food store, and electronic benefit transfer card.

Conference agreement

The Conference agreement follows the House bill, with an amendment. States are required to implement an electronic benefit transfer system ('on-line' or 'off-line') before October 1, 2002, unless the Secretary waives the requirement because a State agency faces unusual barriers to implementation, and States are encouraged to implement an electronic benefit transfer system as soon as practicable. Subject to Federal standards, States are allowed to procure and implement an electronic benefit transfer system under terms, conditions, and design that they consider appropriate, and a new requirement for Federal procurement standards is added. A requirement is added for electronic benefit transfer standards following generally accepted standard operating rules based on commercial technology, the need to permit interstate operation and law enforcement, and the need to permit monitoring and investigations by authorized law enforcement officials. A requirement that regulations regarding replacement of benefits under an electronic benefit transfer system be similar to those in effect for a paper food stamp issuance system is added. Provisions in the House bill that are retained are: a provision deleting the requirement that electronic benefit transfer systems be cost-neutral in any one year, requirements as to measures to maximize security, and a provision requiring measures to permit electronic benefit systems to differentiate among food items (to the extent practicable). The House bill provision allowing the Secretary to waive Food Stamp Act provisions that prohibit effective implementation of electronic benefit transfer systems is deleted.

12. VALUE OF MINIMUM ALLOTMENT

Present law

The minimum monthly allotment for 1- and 2-person households is set at $10. It is scheduled to rise to $15 in fiscal year 1997 or 1998 (depending on food-price inflation). [Sec. 8(a)]

House bill

Sets the minimum monthly allotment for 1- and 2-person households at $10.

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the House bill.

13. INITIAL MONTH BENEFIT DETERMINATION

Present law

Recipient households not fulfilling eligibility recertification requirements in the last month of their certification period are allowed a 1-month "grace period" in which to fulfill the requirements before their benefits are pro-rated (reduced) to reflect the delay in meeting recertification requirements. [Sec. 8(c)(2)(B)]

House bill

For those who do not complete all eligibility recertification requirements in the last month of their certification period, but are then determined eligible after their certification period has expired, requires that they receive reduced benefits in the first month of their new certification period (i.e., their benefits would be pro-rated to the date they met the requirements and were judged eligible).

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the Senate amendment.

14. IMPROVING FOOD STAMP MANAGEMENT

A. QUALITY CONTROL FISCAL SANCTIONS

Present law

States are assessed fiscal sanctions if their "quality control" combined (overpayment and underpayment) error rate for a given fiscal year is higher than the national average for that year. The amount of each State's sanction is determined by using a "sliding scale" so that its penalty assessment reflects the degree to which its combined error rate exceeds the national average tolerance level. In effect, the current system requires that States be sanctioned for a portion of every benefit dollar that exceeds the tolerance level. For example, if the tolerance level were 10% and the State's combined error rate were 12%, or 2 percentage points (20%) above the tolerance level, the State would be assessed a penalty of 2% of benefits issued in the State that year (i.e., 20% of the excess above the threshold). [Sec. 16(c)]

House bill

Requires the assessment of fiscal sanctions if a State's combined error rate is above a tolerance level set at the lowest national average combined error rate ever achieved, plus 1 percentage point. States would be assessed a dollar penalty for each dollar in error above the tolerance level. For example, if a State's combined error rate were 2 percentage points above the lowest ever national average tolerance level, plus 1 percentage point, it would be assessed a penalty of 2% of benefits issued in the State that year.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

B. QUALITY CONTROL ADMINISTRATIVE RULES

Present law

Errors resulting from the application of new regulations are not included in a State's error rate for assessing sanctions during the first 120 days from required implementation of the regulations. [Sec. 16(c)(3)(A)]

Specific time frames are set out for completion of quality control reviews, determining final error rates, and various steps of the appeals process. Administrative law judges are required to consider all grounds for denying a sanction claim against a State, including contentions that a claim should be waived for good cause. [Sec. 16(c)(8)]

For judging to what degree a State should be sanctioned, "good cause" is defined as including: (1) a natural disaster or civil disorder that adversely affects food stamp operations, (2) a strike by State employees who are necessary for food stamp operations, (3) a significant growth in food stamp caseload, (4) a change in the Food Stamp program (or other Federal or State program) that has a substantial adverse impact on the management of the Food Stamp program, and (5) a significant circumstance beyond the control of a State agency. [Sec. 16(c)(9)]

If a State appeals a quality control sanction claim, interest on any unpaid portion of the claim accrues from the date of the decision on the administrative appeal or from a date that is 1 year after the date a bill for the sanction is received, whichever is earlier. [Sec. 13(a)(1)]

House bill

Bars inclusion of errors resulting from the application of new regulations for 60 days (or 90 days at the Secretary's discretion).

Deletes specific time frames for reviews, error rates, and the appeals process. Deletes the directive that administrative law judges consider all grounds for denying a sanction claim against a State.

Deletes the Act's definition of good cause for the quality control system.

Requires that interest on sanction claims begin to accrue from the date of the administrative appeal decision or 2 years after the sanction bill is received, whichever is earlier.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

15. WORK SUPPLEMENTATION OR SUPPORT PROGRAM

Present law

No provisions.

House bill

Permits States having a work supplementation or support program (under which public assistance benefits are provided to employers who hire public assistance recipients and then used to pay part of their wages) to include the cash value of a recipient's household food stamp benefits in the amount paid the employer to subsidize wages paid. Work supplementation/support programs would be required to meet standards set by the Secretary in order to avail themselves of the option to include food stamp benefits. The food stamp benefit value of the supplement could not be considered income for other purposes, and the household of the participating member would not receive regular food stamp allotments while the member was in a work supplementation/support program. States would be required to include any plans for including food stamp recipients in work supplementation or support programs in their State plans.

Senate amendment

Same as the House bill, except (1) a qualified work supplementation/support program may not allow participation of any individual for longer than one year (unless the Secretary approves a longer period), and (2) a qualified work supplementation/support program must be used for hiring and employing new employees.

Conference agreement

The Conference agreement follows the House bill, with an amendment to provide that (1) States must provide a description of how recipients in the program will, within a specific period of time, be moved to employment that is not supplemented or supported and (2) programs not displace employment of those who are not supplemented or supported.

16. OBLIGATIONS AND ALLOTMENTS

Present law

The Food Stamp Act authorizes to be appropriated such sums as are necessary for each fiscal year 1991–1995. [Sec. 18(a)]

House bill

Provides that the amount obligated under the Act will not be in excess of the cost estimate of the Congressional Budget Office for fiscal year 1996, with adjustments for additional fiscal years—in both cases reflecting amendments made by the Personal Responsibility Act.

Requires the Secretary to file reports (each February, April, and July) stating whether there is a need for additional obligational authority and authorizes the Secretary to provide recommendations as to how to equitably achieve spending reductions if allotments must be limited in any fiscal year.

Senate amendment

Authorizes such sums as are necessary through fiscal year 2002.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (sectio 313 of the Congressional Budget Act of 1974).

17. REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM

Present law

The Food Stamp Act requires the Secretary to pay specific sums for Puerto Rico's nutrition assistance block grant for fiscal year 1991–1995. The fiscal year 1995 amount is $1.143 billion. [Sec. 19(a)]

House bill

No provision.

Senate amendment

Requires the following payments for Puerto Rico's nutrition assistance block grant: $1.143 billion for each of fiscal year 1995 and fiscal year 1996, $1.182 billion for fiscal year 1997, $1.223 billion for fiscal year 1998, $1.266 billion for fiscal year 1999, $1.310 billion for fiscal year 2000, $1.343 billion for fiscal year 2001, and $1.376 billion for fiscal year 2002.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment to require the following payments for Puerto Rico's block grant: $1.143 billion for fiscal year 1996, $1.182 billion for fiscal year 1997, $1.223 billion for fiscal year 1998, $1.266 billion for fiscal year 1999, $1.310 billion for fiscal year 2000, $1.357 billion for fiscal year 2001, and $1.404 billion for fiscal year 2002.

18. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS

Present law

No provision.

House bill

Requires the Secretary to establish specific time periods during which retail food stores' and wholesale food concerns' authorization to accept and redeem food stamp coupons (or redeem food stamp benefits through an electronic benefit transfer system) will be valid.

Senate amendment

Permits the Secretary to issue regulations establishing specific time periods during which authorization to accept and redeem food stamp coupons will be valid.

Conference agreement

The Conference agreement follows the House bill.

19. CONDITION PRECEDENT FOR APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

Present law

No provision.

House bill

Provides that no retail food stores or wholesale food concerns be approved for participation in the Food Stamp program unless an Agriculture Department employee (or, whenever possible, a State or local government official designated by the Department) has visited it.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the House bill, with an amendment limiting stores and food concerns that must be visited to those of a type, determined by the Secretary, based on factors that include size, location, and type of items sold.

20. WAITING PERIOD FOR RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS THAT ARE DENIED APPROVAL TO ACCEPT COUPONS

Present law

No provision.

House bill

Provides that retail food stores and wholesale food concerns that have failed to be approved for participation in the Food Stamp program may not submit a new application for approval for 6 months from the date they receive a notice of denial. Current law provisions granting denied retailers and wholesalers a hearing on a refusal are retained.

Senate amendment

Same as the House bill, except that stores and concerns may not submit a new application for 6 months from the date of the denial.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment providing that stores and concerns denied approval because they do not meet the Secretary's approval criteria may not, for at least 6 months, submit a new application. The Secretary is allowed to establish longer waiting periods, including permanent disqualification, that reflect the severity of the basis for denial.

21. DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

Present law

No provision.

House bill

Requires that a retail food store or wholesale food concern that is disqualified from participation in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) also be disqualified from participating in the Food Stamp program for the period of time it is disqualified from the WIC program.

Senate amendment

Requires the Secretary to issue regulations providing criteria for disqualifying from food stamps retail food stores and wholesale food concerns disqualified from the WIC program. Disqualification must be for the same period as under the WIC program, may begin at a later date, and would not be subject to food stamp administrative/judicial review procedures.

Conference agreement

The Conference agreement follows the Senate amendment with a technical amendment.

22. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW

Present law

No provision.

House bill

Requires that, where a retail food store or wholesale food concern has been permanently disqualified (for its third offense or for certain instances of trafficking), the disqualification period will be effective from the date it receives notice of disqualification, pending administrative and judicial review.

Senate amendment

Permits regulations establishing criteria under which authorization of a retail food store or wholesale food concern may be suspended at the time the store/concern is initially found to have committed a violation that would result in permanent disqualification; the suspension may coincide with the period of administrative/judicial review. The Secretary would not be liable for the value of any lost sales during any suspension/disqualification period.

Requires notice in suspension cases. Stipulates that a suspension period remains in effect pending administrative/judicial review and that the suspension period be part of any disqualification imposed.

Removes provisions for courts temporarily staying administrative actions against stores, concerns, and States pending judicial appeal.

Conference agreement

The Conference agreement follows the Senate amendment with an amendment providing that any permanent disqualification of a store or concern be effective from the date the notice of disqualification is received. If the disqualification is reversed through administrative or judicial review, the Secretary is not liable for the value of lost sales during the disqualification period.

23. CRIMINAL FORFEITURE

Present law

"Administrative forfeiture" rules allow the Secretary to subject property involved in a program violation to forfeiture to the United States. [Sec. 15(g)]

House bill

Establishes "criminal forfeiture" rules. Requires courts, in imposing sentence on those convicted of trafficking in food stamp benefits, to order that the person forfeit property to the United States (in addition to any other sentence imposed). Property subject to forfeiture would include all property (real and personal) used in a transaction (or attempted transaction) to commit (or facilitate the commission of) a trafficking violation (other than a misdemeanor); proceeds traceable to the violation also would be subject to forfeiture. An owner's property interest would not be subject to forfeiture if the owner establishes that the violation was committed without the owner's knowledge or consent. (p. 246)

Requires that the proceeds from any sale of forfeited properties, and any money forfeited, be used (1) to reimburse the Justice Department for costs incurred in initiating and completing forfeiture proceedings, (2) to reimburse the Agriculture Department's Office of Inspector General for costs incurred in the law enforcement effort that led to the forfeiture, (3) to reimburse Federal or State law enforcement agencies for costs incurred in the law enforcement effort that led to the forfeiture, and (4) by the Secretary to carry out store approval, reauthorization, and compliance activities.

Senate amendment

Removes provisions for administrative forfeiture for property "intended to be furnished" in trafficking cases.

Establishes "criminal forfeiture" rules similar to those in the House bill, but applied only in trafficking cases involving benefits of $5,000 or more. Property subject to forfeiture would include: (1) food stamp benefits, and any property constituting, derived from, or traceable to any proceeds obtained directly or indirectly as the result of the violation and (2) food stamp benefits, and any property used or intended to be used to commit or facilitate the violation.

Food stamp benefits and property subject to criminal forfeiture, any seizure or disposition of the benefits/property, and any administrative/ judicial proceeding relating to the benefits/property would be subject to forfeiture provisions of the Drug Abuse Prevention and Control Act of 1970 (where consistent with Food Stamp Act provisions). [Note: No specific Food Stamp Act provisions for use of the proceeds from forfeited property are included]

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

24. EXPANDED DEFINITION OF "COUPON"

Present law

The Act defines "coupon" to mean any coupon, stamp, or type of certificate issued under the provisions of the Food Stamp Act. [Sec. 3(d)]

House bill

In order to expand the types of items to which trafficking penalties apply, revises the current definition of "coupon" to include authorization cards, cash or checks issued in lieu of coupons, and "access devices" for electronic benefit transfer systems (including electronic benefit transfer cards and personal identification numbers).

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the Senate amendment.

25. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP REQUIREMENTS

Present law

The disqualification penalty for the first intentional violation of program requirements is 6 months. The penalty for a second intentional violation (and the first violation involving trading of a controlled substance) is 1 year. [Sec. 6(b)(1)]

House bill

Increases the disqualification penalty for a first intentional violation to 1 year. Increases the disqualification penalty for a second intentional violation (and the first violation involving a controlled substance) to 2 years.

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the Senate amendment.

26. DISQUALIFICATION OF CONVICTED INDIVIDUALS

Present law

Permanent disqualification is required for the third intentional violation of program requirements, the second violation involving trading of a controlled substance, and the first violation involving trading of firearms, ammunition, or explosives. [Sec. 6(b)(1)]

House bill

Adds a requirement for permanent disqualification of persons convicted of trafficking in food stamp benefits where the benefits trafficked have a value of $500 or more.

Senate amendment

No comparable provision.

Conference agreement

The Conference agreement follows the House bill, with a technical amendment.

27. CLAIMS COLLECTION

A. FEDERAL INCOME TAX REFUNDS

Present law

Otherwise uncollected overissued benefits may, except for claims arising out of State agency error, may be recovered from Federal pay or pensions. [Sec. 13(d) and Sec. 11(e)(8)]

House bill

Requires collection of otherwise uncollected overissued benefits, other than those arising out of State agency error, from Federal pay or pensions and from Federal income tax refunds.

Senate amendment

Permits collection of all otherwise uncollected overissued benefits from Federal pay or pensions and from Federal income tax refunds.

Conference agreement

The Conference agreement follows the Senate amendment.

B. Authority to Collect Overissuances

Present law

State collection of overissued benefits is limited in certain circumstances. In the case of overissuances due to an intentional program violation, households must agree to repayment by either a reduction in future benefits or cash repayment; States also are required to collect overissuances to these households through other means, such as tax refund or unemployment compensation collections (if a cash repayment or reduction is not forthcoming), unless they demonstrate that the other means are not cost effective. In cases of overissuance because of inadvertent household "error," States must collect the overissuance through a reduction in future benefits—except that households must be given 10 days' notice to elect another means, and collections are limited to 10% of the monthly allotment or $10 a month (whichever would result in faster collection)—and may use other means of collection. In cases of overissuances because of State agency error, States may request repayment or use other means of collection (not including reduction in future benefits). [Sec. 13(b)] States may retain 25% of 'nonfraud' collections not caused by State error and 50% of 'fraud' collections (increased from 10% and 25% on October 1, 1995). [Sec. 16(a)]

House bill

No provisions.

Senate amendment

Replaces existing overissuance collection rules with provisions requiring States to collect any overissuance of benefits by reducing future benefits, withholding unemployment compensation, recovering from Federal pay or income tax refunds, or any other means—unless the State demonstrates that all of the means are not cost effective. Bars the use of future benefit reductions as a claims collection mechanism if it would cause a hardship on the household (as determined by the State) and limits benefit reductions (absent intentional program violations) to the greater of 10% of the monthly benefit or $10 a month. Provides that States must collect overissued benefits in accordance with State-established requirements for notice, electing a means of payment, and setting a schedule for payment.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment (1) deleting the specific bar against collections in hardship cases and (2) setting the percentage of collections (other than in cases of State agency error) that a State may retain at a uniform 25%.

28. DENIAL OF FOOD STAMP BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES

Present law

Disqualification periods ranging from 6 months to permanent disqualification are prescribed for intentional violations of Food Stamp program requirements. [Sec. 6(b)]

House bill

Disqualifies from food stamps for 10 years an individual found to have fraudulently misrepresented the individual's place of residence in order to receive food stamp, Medicaid, TANF, or Supplemental Security Income (SSI) benefits in two or more States.

Senate amendment

Disqualifies from food stamps permanently an individual found to have fraudulently misrepresented the individual's place of residence in order to receive food stamps in two or more States.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment disqualifying from food stamps for 10 years an individual found by a State agency or court to have made a fraudulent misrepresentation of identity or residence in order to receive multiple benefits. The conferees note that State agency hearing processes have sufficient recipient protections to warrant a decision to impose a 10-year disqualification in these cases.

29. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS

Present law

No provision.

House bill

Disqualifies individuals during any period the individual has an unpaid liability that is under a court child support order, unless the court is allowing delayed payments.

Senate amendment

Same as the House bill, except that States are permitted to apply a child support arrears disqualification and compliance with a child support agency payment plan also exempts individuals from disqualification.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment that requires disqualification.

30. ELIMINATION OF FOOD STAMP BENEFITS WITH RESPECT TO FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS

A. Disqualification of Fleeing Felons

Present law

No provision.

House bill

Disqualifies individuals while they are (1) fleeing to avoid prosecution or custody after conviction for a crime (or crime attempt) which is a felony or (2) violating a condition of parole under Federal or State law.

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the Senate amendment with a technical amendment.

B. Exchange of Information

Present law

Requires State agencies to immediately report to the Immigration and Naturalization Service a determination that a food stamp household member is ineligible for food stamps because the individual is present in the United States in violation of the Immigration and Nationality Act. [Sec. 11(e)(17)]

House bill

Requires State food stamp agencies to make available to law enforcement officers the address of a food stamp recipient if the officer furnishes the recipient's name and notifies the agency that (1) the individual is fleeing to avoid prosecution or custody for a felony crime (or attempt) or the individual has information necessary for the officer to conduct official duties, (2) the location or apprehension of the individual is within the officer's official duties, and (3) the request is made in the proper exercise of official duties.

Senate amendment

Similar to the House bill, requires State food stamp agencies to make available to law enforcement officers the address, social security number, and (when available) photograph of a food stamp recipient if the officer furnishes the recipient's name and notifies the agency as stipulated in the House bill.

Requires State agencies to furnish the Immigration and Naturalization Service with the name of, address of, and identifying information on any individual the agency knows is unlawfully in the United States.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

31. EFFECTIVE DATES

Present law

No provision.

House bill

Except for amendments dealing with the Food Stamp program's quality control system (effective October 1, 1994), the food stamp and commodity distribution program amendments made by the Personal Responsibility Act would be effective October 1, 1995.

Senate amendment

Provides that Food Stamp Act amendments would be effective October 1, 1995.

Conference agreement

The Conference agreement provides that (1) provisions affecting deduction levels are effective October 1, 1996, and (2) all other provisions are effective on enactment.

32. SENSE OF CONGRESS

Present law

No provision.

House bill

Provides that it is the sense of Congress that States operating electronic benefit transfer systems to provide food stamp benefits should operate systems that are compatible with each other.

Senate amendment

No provision.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

33. DEFICIT REDUCTION

Present law

No provision.

House bill

Provides that it is the sense of the House Committee on Agriculture that reductions in outlays resulting from Food Stamp Act (and commodity distribution program) provisions of the Personal Responsibility Act not be taken into account for purposes of Section 252 of the Balanced Budget and Emergency Deficit Control Act (relating to enforcement of "pay-as-you-go" provisions of the Budget Act).

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

34. CERTIFICATION PERIOD

Present law

For households subject to periodic (monthly) reporting of their circumstances, eligibility certification periods must be 6–12 months, except that the Secretary may waive this rule to improve program administration. For households receiving federally aided public assistance or general assistance, certification periods must coincide with the certification periods for the other public assistance. For other households, certification periods generally must be not less than 3 months—but they can be (1) up to 12 months for those consisting entirely of unemployable, elderly, or primarily self-employed persons or (2) as short as circumstances require for those with a substantial likelihood of frequent changes in income or other household circumstances and for any household on initial eligibility determination (as judged by the Secretary). The Secretary may waive the maximum 12-month limit to improve program administration. [Sec. 3(c)]

House bill

No provision.

Senate amendment

Replaces existing provisions as to certification periods with a requirement that certification periods not exceed 12 months—but can be up to 24 months if all adult household members are elderly, disabled, or primarily self-employed.

Requires State agencies to have at least 1 personal contact with each certified household every 12 months.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment allowing certification periods of up to 24 months for households whose adult members are all elderly or disabled and deleting the reference to a "personal" contact.

35. TREATMENT OF CHILDREN LIVING AT HOME

Present law

Parents and their children 21 years of age or younger who live together must apply for food stamps as a single household (thereby reducing aggregate household benefits)—except for children who are themselves parents living with their children and children who are married and living with their spouses. [Sec. 3(i)]

House bill

No provision.

Senate amendment

Removes the existing exception for children who are themselves parents living with their children and children who are married and living with their spouses.

Conference agreement

The Conference agreement follows the Senate amendment.

36. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS

Present law

Certain persons who live together may apply for food stamps as separate households (thereby increasing aggregate household benefits) if they (1) are unrelated and purchase food and prepare meals separately or (2) are related but are not spouses or children living with their parents (See item 35). In addition, elderly persons who live with others and cannot purchase food and prepare meals separately because of a substantial disability may apply a separate households as long as their co-residents' income is below prescribed limits (165% of the Federal poverty income guidelines). [Sec. 3(i)]

House bill

No provision.

Senate amendment

Permits States to establish criteria that prescribe when individuals living together, and would otherwise be allowed to apply as separate households, must apply as a single household (without regard to common purchase of food and preparation of meals).

Conference agreement

The Conference agreement follows the Senate amendment.

37. DEFINITION OF HOMELESS INDIVIDUAL

Present law

For food stamp eligibility and benefit determination purposes, a "homeless individual" is a person lacking a fixed/regular nighttime residence or one whose primary nighttime residence is a shelter, a residence intended for those to be institutionalized, a temporary accommodation in the residence of another, or a public or private place not designed to be a regular sleeping accommodation for humans. [Sec. 3(s)]

House bill

No provision.

Senate amendment

Provides that persons whose primary nighttime residence is a temporary accommodation in the home of another may only be considered homeless if the accommodation is for no more than 90 days.

Conference agreement

The Conference agreement follows the Senate amendment.

38. STATE OPTIONS IN REGULATIONS

Present law

The Secretary is directed to establish uniform national standards of eligibility for food stamps (with certain variations allowed for Alaska, Hawaii, Guam, and the Virgin Islands) and in other cases (e.g., imposition of monthly reporting requirements). States may not impose any other standards of eligibility as a condition of participation in the program. [Sec. 5(b)]

House bill

No directly comparable provision. [Note: See item 3.]

Senate amendment

Explicitly permits non-uniform standards of eligibility.

Conference agreement

The Conference agreement follows the Senate amendment.

39. EARNINGS OF STUDENTS

Present law

The earnings of an elementary/secondary student are disregarded as income until the student's 22nd birthday. [Sec. 5(d)(7)]

House bill

No provision.

Senate amendment

Requires that earnings of an elementary/secondary student be counted as income once the student turns age 20.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment requiring that earnings be counted for students who are 19 or younger.

40. BENEFITS FOR ALIENS

A. DEEMING SPONSORS' INCOME AND RESOURCES

Present law

A portion of the income and resources of the sponsor of a lawfully admitted alien must be deemed as available to the sponsored alien for 3 years after the alien's entry. Income is deemed to the extent it exceeds the appropriate food stamp income eligibility limit (130% of the Federal income poverty guidelines); liquid resources are deemed to the extent they exceed $1,500. [Sec. 5(i)]

House bill

No directly comparable provision.

Senate amendment

Extends the deeming period for sponsored legal aliens to 5 years from lawful admittance or the period of time agreed to in the sponsor's affidavit, whichever is longer. [Note: See conference comparison for title IV in the House bill and title V in the Senate amendment.]

Conference agreement

The Conference agreement follows the House bill.

B. COUNTING ALIENS' INCOME AND RESOURCES

Present law

The income (less a pro rata share) and all resources of aliens who are ineligible for food stamps under provisions of the Food Stamp Act are counted as income/ resources to the rest of the household living with the alien. [Sec. 6(f)]

House bill

No provision.

Senate amendment

Permits States to count all of the income and resources of aliens ineligible for food stamps under the provisions of the Food Stamp Act as income/ resources to the rest of the household.

Conference agreement

The Conference agreement follows the Senate amendment.

41. COOPERATION WITH CHILD SUPPORT AGENCIES

A. CUSTODIAL PARENTS

Present law

No provisions.

House bill

No provisions.

Senate amendment

Permits States to disqualify custodial parents of children under the age of 18 who have an absent parent unless the custodial parent cooperates with the State child support agency in establishing the child's paternity and obtaining support for the child and the custodial parent. Cooperation would not be required if the State finds there is good cause (in accordance with Federal standards taking into account the child's best interest). Fees or other costs for services could not be charged.

Conference agreement

The Conference agreement follows the Senate amendment.

B. NON-CUSTODIAL PARENTS

Present law

No provisions.

House bill

No provisions.

Senate amendment

Permits States to disqualify putative or identified non-custodial parents of children under 18 if they refuse to cooperate with the State child support agency in establishing the child's paternity and providing support for the child. The Secretary and the Secretary of Health and Human Services would develop guidelines for what constitutes a refusal to cooperate, and States would develop procedures (using these guidelines) for determining whether there has been a refusal to cooperate. Fees or other costs for services could not be charged. States would be required to provide safeguards to restrict the use of information collected by the child support agency to the purposes for which it was collected.

Conference agreement

The Conference agreement follows the Senate amendment.

42. OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS

Present law

For households applying after the 15th day of the month, States may provide an allotment that is the aggregate of the initial (pro-rated) allotment and the first regular allotment—but combined allotments must be provided to households applying after 15th of the month who are entitled to expedited service. [Sec. 8(c)(3)]

House bill

No provision.

Senate amendment

Makes provision of combined allotments a State option both for regular and expedited service applicants.

Conference agreement

The Conference agreement follows the Senate amendment.

43. FAILURE TO COMPLY WITH OTHER WELFARE AND PUBLIC ASSISTANCE PROGRAMS

Present law

Households penalized for an intentional failure to comply with a Federal, State, or local welfare program may not, for the duration of the penalty, receive an increased food stamp allotment because their welfare income has been reduced. [Sec. 8(d)]

[Note: This has been interpreted by regulation to apply only to reductions in welfare income due to repayment of overpayments resulting from a welfare violation, although a revision of the regulation is scheduled.]

House bill

[Note: See item 4C.]

Senate amendment

Bars increased food stamp allotments because the benefits of a household are reduced under a Federal, State, or local welfare or public assistance program for failure to perform a required action. In carrying out this requirement, States may, in determining food stamp allotments for the duration of the public assistance reduction, use the household's pre-reduction welfare benefits.

Permits States also to reduce the household's food stamp allotment by up to 25%. If the allotment is reduced for failure to perform an action required under a family assistance block grant program, the State may use the rules and procedures of that program to reduce the food stamp allotment.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment changing references to welfare or public assistance programs to references to mean-tested public assistance programs.

44. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN INSTITUTIONS

Present law

Homeless shelters and residential drug or alcoholic treatment centers may be designated as recipients' authorized representatives. [Note: In the case of residential treatment centers, benefits generally are provided to the center.]

House bill

No provision.

Senate amendment

Permits States to divide a month's food stamp benefits between the shelter/center and an individual who leaves the shelter/center.

Permits States to require residents of shelters/centers to designate the shelter/center as authorized representative.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment deleting homeless shelters from those institutions covered by the amendment.

45. OPERATION OF FOOD STAMP OFFICES

A. STATE PLAN REQUIREMENTS

Present law

States must:

(1) allow households contacting the food stamp office in person during office hours to make an oral/written request for aid and receive and file an application on the same day;

(2) use a simplified, uniform federally designed application, unless a waiver is approved;

(3) include certain, specific information in applications;

(4) waive in-person interviews under certain circumstances (they may use telephone interviews or home visits instead);

(5) provide for telephone contact and mail application by households with transportation or similar difficulties;

(6) require an adult representative of the household to certify as to household members' citizenship/alien status;

(6) provide a method of certifying and issuing benefits to homeless households;

(7) assist households in obtaining verification and completing applications;

(8) not require additional verification of currently verified information (unless there is reason to believe that the information is inaccurate, incomplete, or inconsistent);

(9) not deny an application solely because a non-household member fails to cooperate;

(10) process applications if the household meets cooperation requirements;

(11) provide households (at certification and recertification) with a statement of reporting responsibilities;

(12) provide a toll-free or local telephone number at which households may reach State personnel;

(13) display and make available nutrition information; and

(14) use mail issuance in rural areas where low-income households face substantial difficulties in obtaining transportation (with exceptions for high mail losses). [Sec. 11(e)(2), (3), (14), & (25)]

House bill

No provisions.

Senate amendment

Replaces noted existing State plan requirements with requirements that the State:

(1) establish procedures governing the operation of food stamp offices that it determines best serve households in the State, including those with special needs (such as households with elderly or disabled members, those in rural areas, the homeless, households residing on reservations, and households speaking a language other than English);

(2) provide timely, accurate, and fair service to applicants and participants;

(3) permit applicants to apply and participate on the same day they first contact the food stamp office during office hours; and

(4) consider an application filed on the date the applicant submits an application that contains the applicant's name, address, and signature.

Permits States to establish operating procedures that vary for local food stamp offices to reflect regional and local differences.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

B. APPLICATION AND DENIAL PROCEDURES

Present law

A single interview for determining AFDC and food stamp benefits is required. Food stamp applications generally are required to be contained in public assistance applications, and applications and information on how to apply for food stamps must be provided local general assistance applicants. Applicants (including those who have recently lost or been denied public assistance) must be certified eligible for food stamps based on the information in their public assistance casefile (to the extent it is reasonably verified).

No household may be terminated from or denied food stamps solely on the basis that it has been terminated from or denied other public assistance and without a separate food stamp eligibility determination.

House bill

No provisions.

Senate amendment

Deletes noted existing requirements for single interviews, applications, and food stamp determinations based on public assistance information.

Permits disqualification for food stamps based on another public assistance program's disqualification for failure to comply with its rules or regulations.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

46. STATE EMPLOYEE AND TRAINING STANDARDS

Present law

States must employ agency personnel doing food stamp certifications in accordance with current Federal "merit system" standards. States must provide continuing, comprehensive training for all certification personnel. States may undertake intensive training of certification personnel to ensure they are qualified for certifying farming households. States may provide or contract for the provision of training/assistance to persons working with volunteer or nonprofit organizations that provide outreach and eligibility screening activities. [Sec. 11(e)(6)]

House bill

No provision.

Senate amendment

Deletes noted existing provisions for merit system standards and training.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

47. EXPEDITED COUPON SERVICE

Present law

States must provide expedited benefits to applicant households that (1) have gross income under $150 a month (or are "destitute" migrant or seasonal farmworker households) and have liquid resources of no more than $100, (2) homeless households, and (3) households that have combined gross income and liquid resources less than the household's monthly shelter expenses.

Expedited service means providing an allotment no later than 5 days after application. [Sec. 11(e)(9)]

House bill

No provision.

Senate amendment

Deletes noted existing requirements to provide expedited service to the homeless and households with shelter expenses in excess of their income/resources.

Lengthens the period in which expedited benefits must be provided to 7 business days.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment providing that expedited benefits must be provided in 7 calendar days.

48. FAIR HEARINGS

Present law

No provision.

House bill

No provision.

Senate amendment

Permits households to withdraw fair hearing requests orally or in writing. If it is an oral request, the State must provide a written notice to the household confirming the request and providing the household with another chance to request a hearing.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment providing that permission for households to withdraw fair hearing requests orally or in writing is a State option.

49. INCOME AND ELIGIBILITY VERIFICATION SYSTEM

Present law

States must use the "income and eligibility verification systems" established under Sec. 1137 of the Social Security Act to assist in verifying household circumstances; this includes a system for verifying financial circumstances (IEVS) and a system for verifying alien status (SAVE). [Sec. 11(e)(19) of the Food Stamp Act and Sec. 1137 of the Social Security Act.]

House bill

No provision.

Senate amendment

Makes use of IEVS and SAVE optional with the States.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

50. TERMINATION OF FEDERAL MATCH FOR OPTIONAL INFORMATION ACTIVITIES

Present law

If a State opts to conduct informational ("outreach") activities for the food stamp program, the Federal Government shares half the cost. [Sec. 11(e)(1) & Sec. 16(a)]

House bill

No provision.

Senate amendment

Terminates the Federal share of optional State outreach activities. [Note: Sec. 333(b) makes a technical amendment to Sec. 16(g) of the Food Stamp Act.]

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment that does not terminate the Federal share of optional State outreach activities but bar a Federal share for 'recruitment activities.'

51. STANDARDS FOR ADMINISTRATION

Present law

The Secretary is required to (1) establish standards for efficient and effective administration of the program, including standards for review of food stamp office hours to ensure that employed individuals are adequately served, and (2) instruct States to submit reports on administrative actions taken to meet the standards. [Sec. 16(b)]

House bill

No provision.

Senate amendment

Deletes provisions on standards for administration.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

52. WAIVER AUTHORITY

Present law

The Secretary may waive Food Stamp Act requirements to the degree necessary to conduct pilot/demonstration projects, but no project may be implemented that would lower or further restrict food stamp income/resource eligibility standards or benefit levels (other than certain projects involving the payment of the average value of allotments in cash and certain work program demonstrations). [Sec. 17(b)(1)]

House bill

No provision.

Senate amendment

Replaces existing waiver authority with authority for the Secretary to waive Food Stamp Act requirements to the extent necessary to conduct pilot/experimental projects , including those designed to test innovative welfare reform, promote work, and allow conformity with other assistance programs.

Requires that any project involving the payment of benefits in the form of cash maintain the average value of allotments for affected households.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

53. AUTHORIZATION OF PILOT PROJECTS

Present law

Existing pilot projects for the payment of food stamp benefits in the form of cash to households composed of elderly persons or SSI recipients are authorized to continue through October 1, 1995, if a State requests. [Sec. 17(b)(1)]

House bill

No provision.

Senate amendment

Extends the authorization for elderly/SSI cash-out projects through October 1, 2002.

Conference agreement

The Conference agreement follows the Senate amendment.

54. RESPONSE TO WAIVERS

Present law

No provisions.

House bill

No provisions.

Senate amendment

Requires that, not later than 60 days after receiving a demonstration project waiver request, the Secretary (1) approve the request, (2) deny the request and explain any modifications needed for approval, (3) deny the request and explain the grounds for denial, or (4) ask for clarification of the request. If a response is not forthcoming in 60 days, the waiver would be considered approved. If a waiver request is denied, the Secretary must provide a copy of the waiver request and the grounds for denial to the House and Senate Agriculture Committees.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

55. PRIVATE SECTOR EMPLOYMENT INITIATIVES

Present law

No provisions.

House bill

[Note: See item 4E.]

Senate amendment

Allows certain States to operate "private sector employment initiatives" under which food stamp benefits could be paid in cash to some participating households. States would be eligible to operate private sector employment initiatives if not less than 50% of the households that received food stamp benefits in the summer of 1993 also received AFDC benefits. Households would be eligible to receive cash payments if an adult member so elects and (1) has worked in unsubsidized private sector employment for not less than the 90 preceding days, (2) has earned not less than $350 a month from that employment, (3) is eligible to receive family assistance block grant benefits (or was eligible when cash payments were first received and is no longer eligible because of earned income), and (4) is continuing to earn not less than $350 a month from private sector employment. States operating a private sector employment initiative for 2 years must provide a written evaluation of the impact of cash assistance (the content of the evaluation would be determined by the State).

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment requiring States that select this option to increase benefits to compensate for State or local sales taxes on food purchases.

56. OPTIONAL BLOCK GRANTS

Present law

No provisions.

House bill

[Note: Sec. 556 (b) of the House bill adds a new section 25 to the Food Stamp Act containing provisions for an optional block grant.]

Allows States that have fully implemented an electronic benefit transfer system to elect an annual block grant to operate a low-income nutrition assistance program in lieu of the food stamp program.

Grants funds to States electing a block grant—States would receive (1) the greater of: the total fiscal year 1994 amount they received as food stamp benefits; or the fiscal years 1992–1994 average they received as food stamp benefits and (2) the greater of: the fiscal year 1994 Federal share of administrative costs; or the fiscal years 1992–1994 average they received as the Federal share of administrative costs. Grant payments would be made at times and in a manner determined by the Secretary.

Requires annual submission of a State plan specifying the manner in which the block grant nutrition assistance program will be conducted. The plan must:

(1) certify that the State has implemented a State-wide electronic benefit transfer system under Food Stamp Act conditions;

(2) designate a single State agency responsible for administration;

(3) assess the food and nutrition needs of needy persons in the State;

(4) limit assistance to the purchase of food;

(5) describe the persons to whom aid will be provided;

(6) assure that assistance will be provided to the most needy;

(7) assure that applicants for assistance have adequate notice and fair hearing rights comparable to those under the regular food stamp program;

(8) provide that there be no discrimination on the basis of race, sex, religion, national origin, or political beliefs; and

(9) include other information as required by the Secretary.

In general, permits block grant payments to be expended only in the fiscal year in which they are distributed to a State. States may reserve up to 5% of a fiscal year's grant to provide assistance in subsequent years, but reserved funds may not total more than 20% of the total grant received for a fiscal year.

Requires States to keep records concerning block grant program operations and make them available to the Secretary and the Comptroller General.

If the Secretary finds there is substantial failure by a State to comply, requires the Secretary to (1) suspend all or part of a grant payment until the State is determined in substantial compliance, (2) withhold all/part of a grant payment until the Secretary determines that there is no long a failure to comply, or (3) terminate the State's authority to operate a nutrition assistance block grant program.

Requires States to provide for biennial audits of block grant expenditures, provide the Secretary with the audit, and make it available for public inspection.

Requires an annual "activities report" comparing actual spending for nutrition assistance in each fiscal year with the spending predicted in the State plan; the report must be made available for public inspection.

Requires that whoever knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds or property provided or financed under a nutrition assistance block grant be fined not more than $10,000, imprisoned for not more than 5 years, or both.

Requires that the State plan provide that there will be no discrimination on the basis of race, sex, religion, national origin, or political beliefs.

Requires that all assistance provided under the block grant be limited to the purchase of food. [Note: Because the State would have fully implemented an electronic benefit transfer system, benefits would be provided through these systems.]

Senate amendment

[Note: Sec. 343(a) of the Senate amendment adds a new section 25 to the Food Stamp Act containing provisions for an optional block grant]

Requires the Secretary to establish a program to make grants to States, in lieu of the food stamp program, to provide food assistance to needy individuals and families, wage subsidies and payments in return for work for needy individuals, funds to operate an employment and training program for needy individuals, and funds for administrative costs incurred in providing assistance.

Grants funds to States electing a block grant—States would receive (1) the greater of: the total fiscal year 1994 amount they received as food stamp benefits; or the fiscal years 1992–1994 average they received as food stamp benefits and (2) the greater of: the fiscal year 1994 Federal share of administrative costs and employment/ training program costs; or the fiscal years 1992–1994 average they received as the Federal share of administrative costs and employment/training program costs. If total allotments for a fiscal year would exceed the amount of funds made available to provide them, the Secretary is required to reduce allotments on a pro rata basis to the extent necessary. Grant payments would be made by issuing 1 or more letters of credit, with necessary adjustments for overpayments and underpayments.

Requires annual submission of a State plan containing information as required by the Secretary. The plan:

(1) must have an assurance that the State will comply with block grant requirements;

(2) must identify a "lead agency" responsible for administration, development of the plan, and coordination with other programs;

(3) must provide that the State will use grant funds as follows:

(a) to give food assistance to needy persons (other than certain residents of institutions);

(b) at State option, to provide wage subsidies and workfare for needy persons;

(c) to administer an employment and training program for needy persons (and provide reimbursement for support services); and

(d) to pay administrative costs incurred in providing assistance;

(4) must describe how the program will serve specific groups of persons (and how that treatment will differ from the regular food stamp program) including the elderly, migrants or seasonal farmworkers, the homeless, those under the supervision of institutions, those with earnings, and Indians;

(5) must provide that benefits be available statewide;

(6) must provide that applicants and recipients are provided with notice and fair hearing rights;

(7) may coordinate block grant assistance with aid under the family assistance block grant;

(8) may reduce food assistance or otherwise penalize persons or families penalized for violating family assistance block grant rules;

(9) must assess the food and nutrition needs of needy persons in the State;

(10) must describe the income and resource eligibility limits established under the block grant;

(11) must establish a system to ensure that no persons receive block grant benefits in more than 1 jurisdiction;

(12) must provide for safeguarding and restricting the use and disclosure of information about recipients; and

(13) must contain other information as required by the Secretary.

Same as the House bill, except that States may reserve up to 10% a year and reserved funds may not total more than 30% of the total grant received.

Requires the Secretary to review and monitor State compliance with block grant rules and State plans. If the Secretary (after notice and opportunity for a hearing) finds that there has been a failure to substantially comply with the State's plan or the provisions of the block grant, the Secretary must notify the State and no further payments would be made until the Secretary is satisfied that there is no longer a failure to comply or that noncompliance will be promptly corrected.

Allows the Secretary (in cases of noncompliance) to impose other appropriate sanctions on States in addition to, or in lieu of, withholding block grant payments; these sanctions may include recoupment of money improperly spent and disqualification from receipt of a block grant. The Secretary also is required to establish procedures for (1) receiving, processing, and determining the validity of complaints about States' failure to comply with block grant obligations and (2) imposing sanctions. In addition, the Secretary is permitted to withhold not more than 5% of a State's annual allotment if the State does not use an "income and eligibility verification system" established under Sec. 1137 of the Social Security Act.

Requires States to arrange for annual independent audits of block grant expenditures. Each annual audit must include an audit of payment accuracy based on a statistically valid sample and be submitted to the State legislature and the Secretary. States must repay any amounts the audit determines have not been expended in accordance with the State plan, or the Secretary can offset amounts against any other amount paid the State under the block grant.

Provides that a State that elects a food assistance block grant option may subsequently reverse that choice only once.

Finds that the Senate has adopted a resolution that Congress should not enact/adopt any legislation that will increase the number of hungry children, that it is not its intent to cause more children to be hungry, that the food stamp program serves to prevent child hunger, and that a State's election for a food assistance block grant should not serve to increase the number hungry children in the State.

Provides that a State's election for a food assistance block grant be permanently revoked 180 days after the Secretary of Health and Human Services has made 2 successive findings (over a 6-year period) that the "hunger rate" among children is significantly higher in a food assistance block grant State than it would have been if the State had not made the choice.

Specifies procedures for a finding that a State's child hunger rate has risen significantly. Every 3 years, the Secretary must develop data and report with respect to any significant increase in child hunger in States that have elected a food assistance block grant. The Secretary must provide the report to States that have elected a block grant and must provide States with a higher child hunger rate with an opportunity to respond. If the State's response does not result in a reversal of the Secretary's determination that the child hunger rate is significantly higher than it would have been without the State's block grant election, the Secretary must publish a determination that the State's block grant choice is revoked.

Requires States to designate a lead administrative agency. The agency must administer (either directly or through other agencies) the food assistance block grant aid, develop the State plan, hold at least 1 hearing for public comment on the plan, and coordinate food assistance block grant aid with other government assistance. In developing the State plan, the lead agency must consult with local governments and private sector organizations so that services are provided in a manner appropriate to local populations.

Provides that nothing in the new food assistance block grant section of the Food Stamp Act entitles anyone to assistance or limits the right of States to impose additional limits or conditions.

Requires that no funds under the food assistance block grant be spent for the purchase or improvement of land, or for the purchase, construction, or permanent improvement of any building/facility.

Requires that no alien otherwise ineligible to participate in the regular food stamp program be eligible to participate in a food assistance block grant program, and that the income of the sponsor of an alien be counted as in the regular food stamp program.

Requires that (1) no person be eligible to receive food assistance block grant benefits if they do not meet regular food stamp program work requirements and (2) that each State operating a food assistance block grant implement an employment and training program under regular food stamp program rules.

Bars the Secretary from providing assistance for any program, project, or activity under a food assistance block grant if any person with operational responsibilities discriminates because of race, religion, color, national origin, sex, or disability. Also provides for enforcement through title VI of the Civil Rights Act.

Requires that, in each fiscal year, at least 80% of Federal funds expended under a State's block grant be for food assistance and not more than 6% be for administrative expenses. A State could provide food assistance to meet the 80% requirement in any manner it determines appropriate (such as electronic benefit transfers, coupons, or direct provision of commodities), but "food assistance" would be limited to assistance that may only be used to obtain food (as defined in the Food Stamp Act).

Provides that the Secretary may conduct research on the effects and costs of a State food assistance block grant program.

Conference agreement

The Conference agreement follows the House bill with and amendment. States that meet one of three conditions may elect to receive an annual block grant to operate a food assistance program for needy persons in lieu of the food stamp program. Eligible States may opts for a block grant at any time, but, if the State chooses to withdraw from the block grant or is disqualfied, it may not again opt for a block grant. Eligible States include: (1) those that have fully implemented a statewide electronic benefit transfer system, (2) those for which the dollar value of erroneous benefit and eligibility determinations (overpayments, payments to ineligibles, and underpayments) in the food stamp program or their food assistance block grant program is 6% of benefits issued or less (a 'payment error rate' of 6% or less), and (3) those with a payment error rate higher than 6% that agree to contribute, from non-Federal sources, a dollar amount equal to the difference between their payment error rate and a 6% rate to pay for benefits and administration of their food assistance block grant program. A States's payment error rate for block grant purposes is the most recent rate available, as determined by the Secretary.

States electing a block grant would be provided an annual grant equal to: (1) the greater of the fiscal year 1994 amount they received as food stamp benefits, or the 1992-1994 average they received as food stamp benefits and (2) the greater of the fiscal year 1994 Federal share of administrative costs, or the 1992-1994 average they received as the Federal share of administrative costs. However, grants to States with payment error rates above 6 % would be reduced by the amount they are required to contribute (i.e., the dollar amount equal to the difference between their payment error rate and a 6% rate). In general, block grant payments must be expended in the fiscal year for which they were distributed; but States may reserve up to 10% a year, up to a total of 30% of the block grant. If total allotments for a fiscal year would exceed the amount of funds made available to provide them, the Secretary is required to reduce allotments or a pro rata basis to the extent necessary. Grant payments would be made by issuing letters of credit.

Block grant funding may only be used for food assistance and administrative costs related to its provision, and, in each fiscal year, not more than 6% of total funds expended (including State funds required to be spent) may be used for administrative costs.

Each participating block grant State is required to maintain a food stamp quality control program to measure erroneous benefit and eligibility determinations, and block grant States would continue to be subject to the food stamp program's quality control system (including eligibility for incentive payments and imposition of fiscal sanction for very high payment error rates). Each participating State is required to implement an employment and training program under Food Stamp Act terms and conditions and is eligible to receive Federal funding for employment and training activities (in addition to the food stamp block grant amount).

In order to receive a block grant, a State must annually submit a State plan for approval by the Secretary. The State plan must: (1) identify a lead administering agency, (2) describe how and to what extent the State's program serves specific groups (e.g., the elderly, migrant and seasonal farmworkers, the homeless, those with earnings, Indians) and how the treatment differs from their treatment under the food stamp program, (3) provide that benefits are available statewide, (4) provide for notice and an opportunity for a hearing to those adversely affected, (5) assess the food and nutrition needs of needy persons in the State, (6) desribe the State's eligibility standards for assistance under the block grant program, (7) establish a system for exchanging information with other States to verify recipients' identity and the possible receipt of benefits in another State, (8) provide for safeguarding and restricting the use and disclosure of information about recipients, and (9) other information required by the Secretary.

Eligibility for assistance under the block grant is determined by the State, and there is no individual entitlement to assistance. However, certain Federal rules apply: (1) aliens who would not be eligible under the food stamp program are not eligible for block grant aid; and (2) persons and households who would be ineligible under the food stamp program's work rules are not eligible for block grant aid.

If the Secretary finds that there has been a failure to comply with provisions of the block grant or the State's approved plan or finds that, in the operation of any program or activity for which assistance is provided, there is a State failure to comply substantially with block grant provisions—the Secretary must withhold funding, as appropriate, until satisfied there is no longer a failure to comply or that the noncompliance will be promptly corrected. In addition, the Secretary may impose other appropriate penalities, including recoupment of improperly spent money and disqualification from the block grant. States must be provided notice and an opportunity for a hearing in this process.

The Secretary is authorized to conduct research on the effects and costs of a State food assistance block grant.

57. SPECIFIC PERIOD FOR PROHIBITING PARTICIPATION OF STORES BASED ON LACK OF BUSINESS INTEGRITY

Present law

No provision.

House bill

No provision.

Senate amendment

Authorizes the Secretary to issue regulations establishing specific time periods during which retailers/wholesalers that have been denied approval or had approval withdrawn on the basis of "business integrity and reputation" may not submit a new application for approval. The periods established would be required to reflect the severity of the business integrity infractions on which the denial/withdrawal was based.

Conference agreement

See Item 20 above.

58. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION

Present law

No provision.

House bill

No provision.

Senate amendment

Permits the Secretary to require that retailers and wholesalers seeking approval submit relevant income and sales tax filing documents. Permits regulations requiring retailers and wholesalers to provide written authorization for the Secretary to verify all relevant tax filings and to obtain corroborating documentation from other sources in order to verify the accuracy of information provided by retailers and wholesalers.

Conference agreement

The Conference agreement follows the Senate amendment.

59. BASES FOR SUSPENSIONS AND DISQUALIFICATIONS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires criteria for finding violations by retailers and wholesalers (and their suspension or disqualification) on the basis of evidence including on-site investigations, inconsistent redemption data, or electronic benefit transfer system transaction reports.

Conference agreement

The Conference agreement follows the House bill. The Conferees note that the Secretary currently has the authority contained in the Senate amendment.

60. PERMANENT DEBARMENT OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires regulations permanently disqualifying retailers and wholesalers that knowingly submit an application for approval that contains false information about a substantive matter. A permanent disqualification for a knowingly false application would be subject to administrative and judicial review, but the disqualification would remain in effect pending the review.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment permitting the Secretary to disqualify a store or concern, including permanently, upon knowing submission of false information on an application.

61. CATEGORICAL ELIGIBILITY

Present law

Households in which all members are recipients of AFDC are categorically eligible for food stamps. [Sec. 5(a)]

Child support payments received by a household and excluded under the AFDC program may be disregarded for food stamps, at State option and expense. [Sec. 5(d)(13)]

Household members who are AFDC recipients are considered to have met food stamp resource (asset) eligibility standards. [Sec. 5(j)]

Persons who are AFDC recipients are exempt from food stamp rules barring eligibility to most postsecondary students. [Sec. 6(e)]

In general, food stamp eligibility is barred to those with total (gross) household income above 130% of the Federal income poverty guidelines. [Sec. 5(c)]

Political subdivisions electing to operate workfare programs for food stamp recipients may comply with food stamp requirements by operating a workfare program under title IV of the Social Security Act. [Sec. 20(a)]

Households exempt from food stamp work rules because of participation in an AFDC community work experience program are subject to a limit on the number of hours of work—their cash assistance plus food stamps, divided by the minimum wage (but no person can be required to work more than 120 hours a month). [Sec. 20(a)]

House bill

No provision. [Note: TANF households would presumably be categorically eligible for food stamps under existing provisions of law.]

No provision. [Note: TANF recipients would presumably be considered to have met food stamp resource standards under existing provisions of law.]

No provision. [Note: TANF recipients would presumably not be exempt from food stamp postsecondary student rules under existing provisions of law.]

Senate amendment

Provides that households in which all members are recipients of benefits under a

State's family assistance block grant program be categorically eligible for food stamps, if the Secretary determines that the program complies with Secretarial standards that ensure that State program standards are comparable to or more restrictive than those in effect June 1, 1995.

Deletes the existing provision for a State-option child support disregard. [Note: A separate provision (Sec. 5(m) of the Food Stamp Act) providing for State funding of the disregard is not deleted.]

Provides that persons receiving benefits under a State's family assistance block grant program will be considered to have met food stamp resource eligibility standards, if the Secretary determines that the program complies with Secretarial standards that ensure that State program standards are comparable to or more restrictive than those in effect June 1, 1995.

Provides that persons receiving benefits under a State's family assistance block grant program are exempt from food stamp rules barring eligibility to most postsecondary students, if the Secretary determines that the program complies with Secretarial standards that ensure that State program standards are comparable to or more restrictive than those in effect June 1, 1995.

Provides that households may not receive food stamp benefits as the result of eligibility under a State's family assistance block grant program unless the Secretary determines that households with income above 130% of the poverty guidelines are not eligible for the State's program—notwithstanding any other provision of the Food Stamp Act.

Deletes the existing provision allowing compliance with food stamp workfare rules by operating a workfare program under title IV of the Social Security Act.

Deletes the existing rule placing limits on hours worked for food stamp recipients in community work experience programs.

Makes various technical amendments to the Food Stamp Act conforming its existing references to the AFDC program to cite the new family assistance block grant program.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment deleting references to standards comparable to June 1, 1995, and revising various amendments conforming Food Stamp Act references to the AFDC program to the new family assistance block grant program.

62. PROTECTION OF BATTERED INDIVIDUALS

Present law

No provision. [Note: Certain work rules contain a "good cause" exemption.]

House bill

No provision.

Senate amendment

In the case of individuals who were battered or subjected to extreme cruelty, permits States to exempt them from the following provisions of food stamp law (or modify their application) if their physical, mental, or emotional well-being would be endangered:

(1) the requirement that the income and resources of a sponsor of an alien be deemed to the sponsored alien;

(2) the requirement that custodial parents cooperate with child support agencies (as added by the Senate amendment); and

(3) all work requirements (including the new work requirement added by the Senate amendment).

Conference agreement

The Conference agreement follows the House bill. The conferees note that the Food Stamp Act already provides protection to battered individuals in the application of child support enforcement and work rules.

63. RECONCILIATION PROVISIONS

A. TRANSITIONAL HOUSING

Present law

Payments form regular welfare benefits made on behalf of households in transitional housing are disregarded as income. (Sec. 5(k)]

House bill

No provision.

Senate amendment

Deletes disregard of transitional housing payments.

Conference agreement

The Conference agreement follows the Senate amendment.

B. AMERICAN SAMOA

Present law

No provision. [Note: A food assistance program for American Samoa is supported under provisions of law granting Secretarial discretion to extend Agriculture Department programs to American Samoa.]

House bill

No provision.

Senate amendment

Provides for funding of not more than $5.3 million a year through fiscal year 2002 for a nutrition assistance program in American Samoa.

Conference agreement

The Conference agreement follows the Senate amendment.

C. ASSISTANCE FOR COMMUNITY FOOD PROJECTS

Present law

No provision.

House bill

No provision.

Senate amendment

Authorizes $2.5 million a year for community food project grants to meet the food needs of low-income people, increase the self-reliance of communities in providing for their own food needs, and promote comprehensive responses to local food, farm, and nutrition issues.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment making the funding for community food projects mandatory.

COMMODITY DISTRIBUTION

1. SHORT TITLE

Present law

The Emergency Food Assistance Act (EFAA), The Hunger Prevention Act of 1988, The Commodity Distribution Reform Act and WIC Amendments, The Charitable Assistance and Food Bank Act of 1987, The Food Security Act of 1985, The Agriculture and Consumer Protection Act of 1973, and The Food, Agriculture, Conservation, and Trade Act of 1990.

House bill

Combines several existing commodity donation programs and authorities under one title, the Commodity Distribution Act of 1995.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the House bill with an amendment striking the House provision and replacing it with a provision combining the emergency food assistance program (TEFAP) with the soup kitchen/food bank program into one program to be known as the TEFAP. The revised TEFAP is reauthorized through 2002, and the Secretary is required to purchase $300 million of commodities each year through 2002 for distribution through the TEFAP. The requirement to purchase $300 million of commodities is included in the Food Stamp Act authorization for appropriations.

2. AVAILABILITY OF COMMODITIES

Present law

Requires the Secretary to purchase a variety of nutritious and useful commodities using the resources of the CCC or Section 32 to supplement commodities acquired from the excess inventories of CCC for distribution to emergency feeding organizations. [Sec. 214(c) of Emergency Food Assistance Act (EFAA)]

In addition to commodities donated from excess CCC holdings, authorizes the Secretary to donate Section 32 commodities to eligible recipient agencies participating in TEFAP. [Sec. 202(c)]

Requires the Secretary to make available to eligible recipient agencies, CCC commodities in excess of those needed to meet domestic and international obligations and market development and food aid commitments and to carry out farm price and income stabilization features of the AAA of 1938, the AA of 1949, and the CCC Charter. [Sec. 202(a), EFAA]

House bill

For fiscal years 1996–2000, authorizes the Secretary of Agriculture to purchase a variety of nutritious and useful commodities to distribute to the States for purposes laid out in the subtitle.

Similar to current law, but also authorizes the use of Section 32 funds not otherwise used or needed, to purchase, process, and distribute commodities for purposes under the new program.

Leaves current general authority untouched; maintains EFAA requirement but adds language stipulating that donations are to be in addition to authorized Section 32 donations.

Senate amendment

Extends existing law purchasing authorities through fiscal year 2002.

Conference agreement

See Item 1 above.

3. BASIS FOR COMMODITY PURCHASES

Present law

Requires that commodities made available under the EFAA include a variety of items most useful to eligible recipient agencies, including diary products, wheat and wheat products, rice, honey, and cornmeal. [Sec. 202(d), EFAA]

House bill

Requires the Secretary to determine the types, varieties, and amounts of commodities purchased under this subtitle, and to make such purchases, to the maximum extent practicable and appropriate, on the basis of agricultural market conditions, State and distributing agency preferences and needs, and the preferences of recipients.

Senate amendment

No provision.

Conference agreement

See Item 1 above.

4. STATE AND LOCAL SUPPLEMENTATION OF COMMODITIES

Present law

Requires the Secretary to establish procedures by which State and local agencies, charitable institutions, or other person may supplement the commodities distributed under TEFAP for use by emergency feeding organizations with donations of nutritious and wholesome commodities. [Sec. 203D(a), EFAA]

Allows States and emergency feeding organizations to use TEFAP funds, equipment, structures, vehicles, and all other facilities and personnel involved in the storage, handling, and distribution of TEFAP commodities to store, handle, or distribute commodities donated to supplement TEFAP commodities. [Sec. 203D(b), EFAA]

Requires States and emergency feeding organizations to continue to use volunteer workers and commodities and foods donated by charitable and other organizations, to the maximum extent practical, in operating TEFAP.

House bill

Similar to current law except that supplementation applies to all programs eligible to receive commodities under the new program, not just TEFAP.

Similar to current law except it allows use of these sources to all programs eligible to participate in the new program (not just TEFAP), and explicitly identifies the funds that States and eligible agencies may use to help with supplemental commodities as those appropriated for administrative costs under the new Section 519(b).

Same as current law, except substitutes recipient agencies for emergency feeding organizations to reflect expansion of provisions to cover other commodity donation programs as well as TEFAP.

Senate amendment

No provision.

Conference agreement

See Item 1 above.

5. STATE PLAN

Present law

Requires Secretary to expedite the distribution of commodities to agencies designated by the Governor, or directly distribute commodities to eligible recipient agencies engaged in national commodity processing; allows States to give priority to donations to existing food bank networks serving low-income households. Requires States to expeditiously distribute commodities to eligible recipient agencies, and to encourage distribution to rural areas. Also requires States to distribute commodities only to agencies that serve needy persons and to set their own need criteria, with the approval of the Secretary. [Sec. 203B(a) and (c) of EFAA]

House bill

Requires that States seeking commodities under this program submit a plan of operation and administration every four years for approval by the Secretary and allows amendment of the plan at any time.

Requires that, at a minimum, the State receiving commodities include in its plan:

designation of the State agency responsible for distributing commodities;

the plan of operation and administration to expeditiously distribute commodities in amounts requested by eligible recipient agencies;

the standards of eligibility for recipient agencies; and

the individual or household eligibility standards for commodity recipients, which shall require that they be needy, and residing in the geographic location served by the recipient agency.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the House bill.

6. ADVISORY BOARD

Present law

No provision.

House bill

Requires the Secretary to encourage States to establish advisory boards consisting of representatives of all interested entities, public and private, in the distribution of commodities.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the House bill.

7. COOPERATIVE AGREEMENTS/TRANSFERS

Present law

Permits States receiving TEFAP commodities to enter into cooperative agreements with agencies of other States to jointly provide commodities serving eligible recipients from each State in a single area, or to transfer commodities. [Sec. 203B(d)]

House bill

Similar to current law, except adds language specifying that the State may advise the Secretary of such agreements and transfers. Note: Because the new commodity distribution program covers more than TEFAP agencies, this represents a new provision for other recipient agencies now receiving commodities (e.g. CSFP, charitable institutions).

Senate amendment

No provision.

Conference agreement

See Item 1 above.

8. ALLOCATION OF COMMODITIES TO STATES

Present law

Requires Secretary to allocate commodities purchased for TEFAP to States in the following proportions:

60% of the value of commodities available based on each State's proportion of the national total of persons with incomes below the poverty line; and

40% based on each State's proportion of the national total of the average monthly number of unemployed persons.

House bill

Similar to current law as relates to allocation of TEFAP commodities. CSFP commodities are exempted from the allocation method, however, other recipient agencies currently receiving commodities under authority other than the EFAA (e.g. charitable institutions) are covered by the allocation formula.

Senate amendment

No provision.

Conference agreement

See Item 1 above.

9. NOTIFICATION

Present law

Requires the Secretary to notify each State of the amount of commodities it is allotted to receive. Requires each State to notify the Secretary promptly if it will not accept commodities available to it, and requires the Secretary to reallocate and distribute such commodities as he deems appropriate and equitable. Further requires the Secretary to establish procedures to permit State to decline portions of commodity allocations during each fiscal year and to reallocate and distribute such commodities, as deemed appropriate and equitable. [Sec. 214(g), EFAA]

House bill

Same as current law, except applies to all eligible agencies receiving commodities, not just TEFAP agencies.

Senate amendment

No provision.

Conference agreement

See Item 1 above.

10. DISASTERS

Present law

Permits the Secretary to request that States consider assisting other States where substantial numbers of persons have been affected by drought, flood, hurricane or other natural disasters by allowing the Secretary to reallocate commodities to those States affected by such disasters. [Sec. 214(g), EFAA]

House bill

Same as current law.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

11. NATIONAL COMMODITY PROCESSING

Present Law

Requires through fiscal year 1995 that the Secretary encourage agreements with private companies for reprocessing into end-use products those commodities donated at no charge to nutrition programs. [Sec. 1114(a)(2)(A) of Agriculture and Food Act of 1981]

House bill

No provision.

Senate amendment

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

Conference agreement

The Conference agreement follows the Senate amendment.

12. PURCHASES AND TIMING

Present law

Requires that in each fiscal year, the Secretary purchase commodities at times and under conditions determined appropriate; deliver such commodities at reasonable intervals to States (but no later than the end of the fiscal year), based on the allocation formula, and entitles each State to the additional commodities purchased for TEFAP in amounts based on the allocation formula. [Sec. 214(h), EFAA]

House bill

Similar to current law except for reference to CSFP, deletion of language relating to "additional" commodities, and requirement that commodities be delivered by December 31 of the following fiscal year.

Senate amendment

No provision.

Conference agreement

See Item 1 above.

13. PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES

A. EMERGENCY FEEDING ORGANIZATIONS

Present law

Requires States to give priority for commodities to emergency feeding organizations if sufficient commodities are not available to meet requests of all eligible agencies, and encourages States to distribute commodities to rural areas. [Sec. 203B(b), EFAA]

House bill

Requires that in distributing commodities allocated under this section for other than CSFP, the State agency offer its full allocation of commodities to emergency feeding organizations.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

B. CHARITABLE INSTITUTIONS

Present law

No provision.

House bill

Permits States agencies to distribute commodities that are not able to be used by emergency feeding organizations to charitable institutions (excluding penal institutions) that do not receive commodities as emergency feeding organizations.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

C. OTHER ELIGIBLE AGENCIES

Present law

No provision.

House bill

Permits the State agency to distribute commodities that are not able to be used by emergency feeding organizations or other charitable institutions to other eligible recipient agencies not receiving commodities under the previous distributions.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

14. INITIAL PROCESSING COSTS

Present law

Permits the Secretary to use CCC funds to pay the cost of initial processing and packaging of commodities distributed under this Act into forms and quantities the Secretary determines are suitable for use by individual households or institutional use. Permits payment in the form of commodities equal in value to the cost, and requires the Secretary to ensure that such payments in kind do not displace commercial sales. [Sec. 203A, EFAA]

House bill

Similar to present law, except substitutes term "eligible recipient agencies" for "institutional use."

Senate amendment

No provision.

Conference agreement

See Item #1 above.

15. ASSURANCES; ANTICIPATED USE

Present law

Requires the Secretary to take precautions to assure that eligible recipient agencies and persons receiving commodities do not diminish their normal expenditures for food because of receipt of commodities, and to ensure that commodities made available under the Act do not displace commercial sales. Prohibits Secretary from donating commodities in a quantity or manner that will substitute for agricultural produce that otherwise would be purchased in the market. Requires Secretary to submit a report to the Congress each year on whether and to what extent displacement or substitution is occurring. [Sec. 203C(a)]

House bill

Similar to current law but does not refer to individual displacement or substitutions or prohibit donation in a quantity or manner that might interfere with market sales. Also sets December 1997, and at least every two years thereafter as the dates for displacement reports.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

16. WASTE

Present law

Requires that the Secretary purchase and distribute commodities in quantities that can be consumed without waste, and prohibits eligible recipient agencies receiving commodities under this Act from receiving commodities in excess of anticipated use (based on inventory records and controls), or in excess of their ability to accept and store. [Sec. 203C(b)]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

17. AUTHORIZATION OF APPROPRIATIONS

A. COMMODITY PURCHASES

Present law

Authorizes $175 million for fiscal year 1991, $190 million for fiscal year 1992, and $220 million for each of fiscal year 1993–1995 to purchase, process and distribute additional commodities to TEFAP agencies. [Sec. 214(e)]

House bill

Authorizes $260 million annually for each of fiscal years 1996 through 2000 to purchase, process, and distribute commodities to States for distribution to eligible recipient agencies, which include charitable institutions and CSFP agencies, as well as TEFAP agencies.

Senate amendment

Extends funding authority for commodity purchases at $220 million annually through fiscal year 2002.

Conference agreement

See Item #1 above.

B. ADMINISTRATIVE FUNDING

Present law

Authorizes $50 million for fiscal year 1991–95 for the Secretary to make available to States for State and local payments of costs associated with the distribution of commodities by eligible recipient agencies. Requires Secretary to allocate funds to States on advance basis in the same proportion as the proportion each State receives of allocated commodities, and requires the Secretary to reallocate funds not able to be used by a State to other States in an appropriate and equitable manner. Permits States to use funds for costs associated with the distribution of additional commodities purchased for the program and for soup kitchens and food banks. [Sec. 204(a)(1)]

House bill

Authorizes $40 million annually for each of fiscal years 1996 through 2000 for payments to States and local agencies (except for the CSFP) for the costs associated with transporting storing, and handling commodities other than those distributed to CSFP agencies. Same as current law with respect to allocations and reallocations, and advanced funding. No specific reference to soup kitchens and food banks, which are included as eligible recipient agencies.

Senate amendment

Extends authority for administrative funding at $50 million annually through fiscal year 2002.

Conference agreement

The Conference agreement follows the Senate amendment with an amendment providing that administrative funds may be used for processing, transporting, or distributing commodities other than TEFAP commodities.

18. LOCAL ADMINISTRATIVE PAYMENTS

Present law

Requires each State to make available not less than 40% of the funds it receives for administrative costs in each fiscal year to pay for, or provide advance payments to eligible recipient agencies, for allowable expenses incurred by such agencies in distributing commodities to needy persons. Defines "allowable expenses" to include the costs of transporting, storing, handling, repackaging and distributing commodities after receipt by the eligible recipient agency; costs associated with eligibility, verification, and documentation of eligibility; costs of providing information to commodity recipients on appropriate storage and preparation of commodities; and costs of recordkeeping, auditing, and other required administrative procedures. [Sec. 204(a)(2), EFAA]

House bill

Same as current law except also applies to non–TEFAP agencies.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

19. STATE COVERAGE OF LOCAL COSTS

Present law

Requires that amounts of funding that States use to cover the allowable expenses of eligible recipient agencies be counted toward the amount a State must make available from administrative funding provided under this Act for eligible recipient agencies. [Sec. 204(a)(2), EFAA]

House bill

Same as present law except that it references the CSFP, which is excluded from this rule.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

20. FINANCIAL REPORTS

Present law

Requires States receiving funds to submit financial reports on a regular basis to the Secretary on the use of such funds and prohibits any such funds from being used by States for costs other than those used to the distribution of commodities by eligible recipient agencies. [Sec. 204(a)(3), EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

21. NON-FEDERAL MATCHING FUNDS

Present law

Requires that each State receiving administrative funds under this subsection provide cash or in-kind contributions from non-Federal sources in an amount equal to the amount of Federal administrative funds it receives that are not distributed to eligible recipient agencies or used to cover the expenses of such agencies. Permits States to receive administrative funding prior to satisfying the matching requirement, based on their estimated contribution, and requires the Secretary to periodically reconcile estimated and actual contributions to correct for overpayments and underpayments. [Sec. 204(a)(4), EFAA]

House bill

Same as present law, except excludes administrative funds distributed for the CSFP from the non-Federal matching requirements and rules.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

22. FEDERAL CHARGES

Present law

Prohibits any charge against the appropriations authorized by this section for the value of commodities donated for the purposes of this Act, or for the funds used by the CCC for the costs of initial processing, packaging, and delivery of program commodities to the States. [Sec. 204(b), EFAA]

House bill

Similar to present law except it applies the prohibition to bonus donations of Section 32 and CCC commodities, as well as those bought for the program.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

23. STATE CHARGES

Present law

Prohibits States from charging for commodities made available to eligible recipient agencies and from passing along the cost of matching requirements. [Sec. 204(a)(5), EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

24. MANDATORY FUNDING FOR NUTRITION PROGRAM COMMODITIES

Present law

For each of fiscal years 1994–1996, requires $230,000 of Treasury funds not otherwise appropriated to be provided to the Secretary to purchase, process and distribute commodities that are low in saturated fats, sodium, and sugar, and a good source of calcium, protein, and other nutrients to 2 States, selected by the Secretary, to carry out a three year project to improve the health of low-income participants of TEFAP. Requires that commodities be easy for low-income families to store, use, and handle, and include low-sodium peanut butter, low-fat and low sodium cheeses and canned meats, fruits, and vegetables. Also requires that $5000 of the amount provided be given to each of the participating States to help with administrative costs. [Sec. 13962 of OBRA, 1993]

House bill

No provision.

Senate amendment

Extends this requirement through fiscal year 2002.

Conference agreement

The Conference agreement follows the House bill.

25. COMMODITY SUPPLEMENTAL FOOD PROGRAM (CSFP)—AUTHORIZATION

Present law

For each of fiscal years 1991–1995, authorizes the Secretary to purchase and distribute sufficient agricultural commodities with appropriated funds to maintain the traditional level of assistance for food programs including the supplemental food programs for women, infants, children, and the elderly. [Sec. 4(a), Agriculture and Consumer Protection Act of 1973]

House bill

Requires that $94.5 million of the amount appropriated for programs under this subtitle for the period fiscal year 1996–2000 be used each fiscal year to purchase and distribute commodities to supplemental feeding programs for women, infants, and children, or elderly individuals participating in the commodity supplemental food program.

Senate amendment

Extends appropriations authority through fiscal year 2002.

Conference agreement

This provision was dropped from the Reconcilation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

26. CSFP ADMINISTRATIVE FUNDING

Present law

Requires the Secretary to provide administrative funds to State and local agencies administering the CSFP for each of fiscal years 1991–1995. Authorizes appropriations in an amount equal to not more than 20% of the value of commodities purchased for the program. [Sec. 5(a), Agriculture and Consumer Protection Act of 1973]

Defines administrative costs to include expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration (including staff, warehouse, and transportation personnel, insurance and administration of the State or local office. [Sec. 5(c), Agriculture and Consumer Protection Act of 1973]

House bill

Requires that not more than 20% of the funds made available for commodity purchase and distribution for the CSFP be made available to States for the State and local payments of costs associated with the distribution of commodities by CSFP agencies.

Senate amendment

Extends present law authority through fiscal year 2002.

Conference agreement

The Conference agreement follows the Senate amendment.

27. CSFP—COMMODITY PURCHASES AND ADVANCE WARNING

Present law

Permits the Secretary to determine the types, varieties, and amounts of commodities purchased for the CSFP, but requires the Secretary to report to the House and Senate Agriculture Committees plans for significant changes from commodities available or planned at the beginning of the fiscal year before implementing such changes.

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

28. CHEESE AND NONFAT DRY MILK

Present law

In each of fiscal years 1991–1995, the CCC is required to provide at least 9 million pounds of cheese and 4 million pounds of nonfat dry milk (to the extent inventory levels permit), for the Secretary to use, before the end of each fiscal year, to carry out the CSFP. [Sec. 5(d)(2), Agriculture and Consumer Protection Act of 1973]

House bill

Implements this present law provision for fiscal years 1996–2000, otherwise it is exactly the same as present law.

Senate amendment

Extends present law provision through fiscal year 2002.

Conference agreement

The Conference agreement follows the Senate amendment.

29. ADDITIONAL CSFP SITES

Present law

Requires the Secretary to approve additional sites each fiscal year, including sites serving the elderly, in areas where the program does not operate to the full extent that applications can be approved within the funding available, and without reducing participation levels (including the elderly) in areas where the program is in effect. [Sec. 5(f), Agriculture and Consumer Protection Act of 1973]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

30. ADDITIONAL RECIPIENTS

Present law

Permits a local agency to serve low-income elderly persons, with the approval of the Secretary, if it determines that the amount of assistance it receives is more than is needed to provide assistance to women, infants and children. [Sec. 5(g), Agriculture and Consumer Protection Act of 1973]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

31. COMMODITY PRICE INCREASES

Present law

Requires the Secretary to determine the decline in the number of persons able to be served by the CSFP if the price of one or more commodities purchased for the program is significantly higher than expected; to promptly notify State agencies operating programs of the decline; and ensure that State agencies notify local agencies of the decline. [Sec. 5(j)(1) and (2), Agriculture and Consumer Protection Act of 1973]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

32. AFFECT OF CSFP COMMODITIES ON OTHER RECIPIENT AGENCIES

Present law

No provision.

House bill

Stipulates that commodities distributed to CSFP agencies under this section not be considered when determining commodity allocations to States for other eligible recipient agencies receiving commodities under this Act, or in following the priority for distribution of commodities to such agencies.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

33. COMMODITIES NOT INCOME

Present law

Specifies that commodities distributed under this Act not be considered income or resources for any purposes under Federal, State, or local law. [Sec. 206, EFAA]

House bill

Similar to present law, but narrower. Specifies that receipt of commodities cannot be considered in "determining eligibility for any Federal, State, or local "means-tested program," instead of the broader "any purposes" outlined in present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

34. PROHIBITION ON STATE CHARGES

Present law

Prohibits States from charging eligible recipient agencies any amount that exceeds the difference between the State's direct costs of storing and transporting commodities to recipient agencies and the amount of funds provided for this purpose by the Secretary. [Sec. 208, EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

35. DEFINITIONS

A. AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS

Present law

The average monthly number of unemployed persons within a State in the most recent fiscal year for which information is available, as determined by the Bureau of Labor Statistics of the Department of Labor. [Sec. 2143(b), EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the House bill with an amendment providing that all definitions included in the TEFAP and soup kitchen/food bank program will be included in the revised TEFAP.

B. ELDERLY PERSONS

Present law

No provision.

House bill

Defines "elderly persons" to mean persons 60 years or older.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

C. ELIGIBLE RECIPIENT AGENCIES; EMERGENCY FEEDING ORGANIZATIONS

Present law

Combines definition of "eligible recipient agencies" and "emergency feeding organizations, as follows: "Eligible recipient agency" means public or non-profit organizations that administer activities or projects providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons (including those in charitable institutions, food banks, hunger centers, soup kitchens, and similar non-profit recipient agencies (hereinafter referred to as "emergency feeding organizations"); and school lunch, summer camps, and child nutrition meal service, elderly feeding programs, CSFP, charitable institutions for the needy, and disaster relief. [Sec. 201A, EFAA]

House bill

Similar to present law, but separates into two separate definitions, as follows: Defines "eligible recipient agency" to mean a public or non-profit organization that administers:

an institution operating a CSFP;

an emergency feeding organization (EFO);

a charitable institution (including a hospital and a retirement home, but excluding a penal institution) serving needy persons;

a summer camp for children or a child nutrition food service program;

an elderly feeding program; or

a disaster relief program.

Defines "emergency feeding organization" to mean public or private organizations that administer activities and projects (including charitable institutions, food banks and pantries, hunger relief centers, soup kitchens, or similar non-profit eligible agencies) providing nutrition assistance to relieve situations of emergency and distress by providing food to needy persons, including low-income and unemployed persons.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

D. FOOD BANK

Present law

The term "food bank" means a public and charitable institution that maintains an established operation providing food to food pantries, soup kitchens, hunger relief centers, or other feeding centers that provide meals or food to feed needy persons on a regular basis as an integral part of their normal activity. [Sec. 110, Hunger Prevention Act of 1988]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

E. FOOD PANTRY

Present law

Defines "food pantry" to mean a public or private nonprofit organization distributing food (including other than USDA food) to low-income and unemployed households to relieve situations of emergency and distress. [Sec. 110, Hunger Prevention Act of 1988]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

F. NEEDY PERSONS

Present law

No provision.

House bill

Defines "needy persons" to mean individuals who have low incomes or are unemployed as determined by the State, as long as this is not higher than 185% of the poverty line; households certified as food stamp participants or individuals participating in other Federally-supported means-tested programs.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

G. POVERTY LINE

Present law

The term "poverty line" is the same as the term used in Section 673(2) of the Community Services Block Grant Act (42 U.S.C.9902(2)). [Sec. 110, Hunger Prevention Act]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

H. SOUP KITCHEN

Present law

The term "soup kitchen" means a public and charitable institution that, as an integral part of its normal activities, maintains an established feeding operation for needy homeless persons on a regular basis. [Sec. 110, Hunger Prevention Act]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

36. REGULATIONS

Present law

Requires the Secretary to issue regulations within 30 days to implement this subtitle; to minimize to the extent practicable the regulatory, recordkeeping and paperwork requirements imposed on eligible recipient agencies, to publish in the Federal Register as early as feasible, but not later than the beginning of each fiscal year, an estimate of the types and quantities of commodities anticipated to be available; and to include in regulations provisions that set standards relating to liability for commodity losses when there is no evidence of negligence or fraud, and establish conditions for payment to cover such losses, taking into account the special needs and circumstances of the recipient agencies. [Sec. 210, EFAA]

House bill

Similar to present law except provides 120 days for Secretary to issue regulations and includes reference to "non-binding" nature of Secretary's estimates of donations.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

37. FINALITY OF DETERMINATIONS

Present law

Specifies that determinations made by the Secretary concerning the types and quantities of commodities donated under this subtitle, when in conformance with applicable regulations, be final and conclusive and not reviewable by any other officer or agency of the Government. [Sec. 211, EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

38. PROHIBITION ON SALE OF COMMODITIES

Present law

Prohibits the sale or disposal of commodities in commercial channels in any form, except as permitted under Section 517 for in-kind payment of initial processing costs by the CCC. [Sec. 205(b), EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

39. SETTLEMENT OF CLAIMS

Present law

Gives the Secretary or designee authority to determine the amount of, settle and adjust any claim arising under this subtitle, and waive any claim when the Secretary determines it will serve the purposes of this Act. Specifies that nothing in this Act diminishes the authority of the Attorney General to conduct litigation on behalf of the United States. [Sec. 215, EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

40. REPEALERS AND AMENDMENTS

Present law

No provision.

House bill

Repeals the Emergency Food Assistance Act of 1983.

In the Hunger Prevention Act of 1988, strikes Section 110 (soup kitchens and food banks); Subtitle C of Title II (Food processing and distribution); and Section 502 (food bank demonstration project).

Strikes Section 4 of the Commodity Distribution Reform Act of 1987 (Food bank demonstration).

Strikes Section 3 of the Charitable Assistance and Food Bank Act of 1987.

Amends the Food Security At of 1985 by striking Section 1571, and striking Section 4 of the Agriculture and Consumer Protection Act (CSFP) and inserting Section 110 of the Commodity Distribution Act of 1995.

In the Agriculture and Consumer Protection Act of 1973: In Section 4(a) strikes "institutions (including hospitals and facilities caring for needy infants and children) supplemental feeding programs serving women, infants, and children, and elderly, or both, wherever located, disaster areas, summer camps for children" and inserting "disaster areas;" In subsection 4(c) strikes "the Emergency Food Assistance Act of 1983" and inserts "The Commodity Distribution Act of 1995"; and strikes Section 5.

In the Food Agriculture, Conservation, and Trade Act of 1990, strikes Section 1773(f).

Senate amendment

No provision.

Conference agreement

This provision was dropped from the Reconcilation bill because it violates the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

SUBTITLE K—MISCELLANEOUS

1. EXPENDITURE OF FEDERAL FUNDS IN ACCORDANCE WITH LAWS AND PROCEDURES APPLICABLE TO EXPENDITURE OF STATE FUNDS

Present law

According to the National Conference of State Legislatures, there currently are six States in which Federal funds go to the Governor rather than the State legislature. Those States are Arizona, Colorado, Connecticut, Delaware, New Mexico, and Oklahoma.

House bill

No provision.

Senate amendment

Stipulates that funds from certain Federal block grants to the States are to be expended in accordance with the laws and procedures applicable to the expenditure of the State's own resources (i.e., appropriated through the State legislature in all States). This provision applies to the following block grants: temporary assistance to needy families block grant under title I, the optional State food assistance block grant under title III, and the child care block grant under title VI of the Senate amendment. Thus, in the States in which the Governor previously had control over Federal funds, the State legislatures now would have control.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

2. ELIMINATION OF HOUSING ASSISTANCE WITH RESPECT TO FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS

Present law

No provision.

House bill

No provision.

Senate amendment

Ends eligibility for public housing and Section 8 housing assistance of a person who is fleeing to avoid prosecution after conviction for a crime, or attempt to commit a crime, that is a felony where committed (or, in the case of New Jersey, is a high misdemeanor), or who is violating a condition of probation or parole. The amendment states that the person's flight shall be cause for immediate termination of their housing aid.

Requires specified public housing agencies to furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, social security number, and photograph (if applicable) of any SSI recipient, if the officer furnishes the public housing agency with the person's name and notifies the agency that the recipient is a fugitive felon (or in the case of New Jersey a person fleeing because of a high misdemeanor) or a probation or parole violator or that the person has information that is necessary for the officer to conduct his official duties, and the location or apprehension of the recipient is within the officer's official duties.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

3. SENSE OF THE SENATE REGARDING ENTERPRISE ZONES

Present law

No specific provision. However, as stated, the provisions outlined in the Sense of the Senate language already can be done under present law.

House bill

No provision.

Senate amendment

Outlines findings related to urban centers and empowerment zones and includes sense of the Senate language that urges the 104th Congress to pass an enterprise zone bill that provides Federal tax incentives to increase the formation and expansion of small businesses and to promote commercial revitalization; allows localities to request waivers to accomplish the objectives of the enterprise zones; encourages resident management of public housing and home ownership of public housing; and authorizes pilot projects in designated enterprise zones to expand the educational opportunities for elementary and secondary school children.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

4. SENSE OF THE SENATE REGARDING THE INABILITY OF THE NON-CUSTODIAL PARENT TO PAY CHILD SUPPORT

Present law

No provision.

House bill

No provision.

Senate amendment

It is the Sense of the Senate that States should pursue child support payments under all circumstances even if the noncustodial parent is unemployed or his or her whereabouts are unknown; and that States are encouraged to pursue pilot programs in which the parents of a minor non-custodial parent who refuses or is unable to pay child support contribute to the child support owed.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

5. FOOD STAMP ELIGIBILITY

Present law

For purposes of determining eligibility and benefits under the Food Stamp program, the income—less a pro rata share—and financial resources of an ineligible alien are included in the income and resources of the household of which the alien is a member. [Sec. 6(f) of the Food Stamp Act]

House bill

No provision.

Senate amendment

Permits States to include all of an ineligible alien's income and resource in the income and resources of the household of which the alien is a member. (Note: This provision applies only to those aliens made ineligible under present food stamp law, not to those who might be made ineligible for food stamps under new provisions in the Senate amendment.)

Conference agreement

The conference agreement follows the Senate amendment.

6. SENSE OF THE SENATE ON LEGISLATIVE ACCOUNTABILITY FOR UNFUNDED MANDATES IN WELFARE REFORM LEGISLATION

Present law

P.L. 104–4, the Unfunded Mandates Reform Act of 1995, enacted March 22, 1995, responds to the concern of many State and local officials regarding costs placed upon them by "unfunded mandates." The Act addresses this issue by requiring the Congressional Budget Office (CBO) to estimate the costs to State, local, and tribal governments and the private sector of unfunded intergovernmental mandates that exceed a specified amount and to make the information available to the Congress before a final vote on a given piece of legislation is taken.

House bill

No provision.

Senate amendment

Includes the "purposes" section of P.L. 104–4 as findings and states that it is the Sense of the Senate that before the Senate acts on the conference agreement on H.R. 4 (or any other welfare reform legislation), CBO include in its 7-year estimates the costs to States of meeting all work requirements (and other requirements) in the conference agreement, including those for single-parent families, two-parent families, and those who have received cash assistance for 2 years; the resources available to the State to meet these work requirements and what States are projected to spend under current welfare law; and the amount of additional revenue needed by the States to meet the work requirements. In addition, the Senate would like CBO to estimate how many States would pay a penalty rather than raise the additional revenue needed to comply with the specified work requirements.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

7. SENSE OF THE SENATE REGARDING COMPETITIVE BIDDING FOR INFANT FORMULA

Present law

Under the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), States must carry out cost containment measures in procuring infant formula (and, where practicable, other foods). Cost containment must be by competitive bidding or another method that yields equal or greater savings. Any cost savings may be used by the State for WIC program purposes. [Sec. 17(b) and (h) of the Child Nutrition Act]

House bill

With respect to assistance provided to women, infants, and young children under the Family Nutrition Block Grant, States are required to establish and carry out a cost containment system for procuring infant formula. States must use cost containment savings for any of the activities supported under the Family Nutrition Block Grant and must report on their system and the estimated cost savings compared to the previous year.

Senate amendment

Includes findings on the success of the WIC program in: improving the health status of women, infants, and children, saving Medicaid expenditures, and establishing the importance of infant formula manufacture rebates in helping to fund the WIC program. The amendment states that it is the sense of the Senate that any legislation enacted by Congress must not eliminate or in any way weaken present competitive bidding requirements for the purchase of infant formula in programs supported with Federal funds.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

8. ESTABLISHING NATIONAL GOALS TO PREVENT TEENAGE PREGNANCIES

A. GOALS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the Secretary of HHS to establish and implement by January 1, 1997, a strategy for:

(1) preventing an additional 2% of out-of-wedlock teenage pregnancies a year; and

(2) assuring that at least 25% of U.S. communities have teenage pregnancy programs in place.

HHS is required to report to Congress by June 30, 1998, on progress made toward meeting these 2 goals.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

B. PREVENTION PROGRAMS

Present law

The Social Services block grant (SSBG) (sec. 2002 of SSA, 42 USC 1397a) entitles States to an allotment for services not limited to, but including: child day care; protective services for children and adults; services for children and adults in foster care; home management services; adult day care; transportation; family planning services; training and related services; employment services; information, referral and counseling; meal preparation and delivery; health support services; and, combinations of services to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, alcoholics, and drug addicts. Also, Title XX of the Public Health Service Act establishes the Adolescent Family Life (AFL) program to encourage adolescents to delay sexual activity and to provide services to alleviate the problems surrounding adolescent parenthood. One-third of all funding for AFL program services go to projects that provide "prevention services." The purpose of the prevention component is to find effective means within the context of the family of reaching adolescents, both male and female, before they become sexually active to maximize the guidance and support of parents and other family members in promoting abstinence from adolescent premarital sexual relations. (The fiscal year 1995 appropriation for AFL was $6.7 million.)

House bill

No provision.

Senate amendment

Amends the Social Services block grant (SSBG) (sec. 2002 of the Social Security Act) to require the Secretary to conduct a study of the relative effectiveness of different State programs to prevent out-of-wedlock and teenage pregnancies and to require States conducting programs under this provision to provide data required by the Secretary to evaluate these programs.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

9. SENSE OF THE SENATE REGARDING ENFORCEMENT OF STATUTORY RAPE LAWS

Present law

No provision.

House bill

No provision.

Senate amendment

Includes Sense of the Senate that States and local jurisdictions should aggressively enforce statutory rape laws.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

10. SANCTIONING FOR TESTING POSITIVE FOR CONTROLLED SUBSTANCES

Present law

Eligibility and benefit status for most of the Federal welfare programs are not affected by a recipient's use of illegal drugs. Even under the SSI program, as long as a recipient who is classified as a drug addict or alcoholic participates in an approved treatment plan when so directed and allows his or her treatment to be monitored, he or she is in compliance with the SSI rules, and in most cases the SSI benefit would continue without interruption.

House bill

No provision.

Senate amendment

Stipulates that States shall not be prohibited by the Federal Government from sanctioning welfare recipients who test positive for use of controlled substances.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

11. ABSTINENCE EDUCATION

Present law

The Maternal and Child Health (MCH) block grants (title V of the SSA, 42 USC 701) provides grants to States and insular areas to fund a broad range of preventive health and primary care activities to improve the health status of mothers and children, with a special emphasis on those with low income or with limited availability of health services. Sec. 502 includes a set-aside program for projects of national or regional significance. (The fiscal year 1995 appropriation for MCH was $684 million.) See also: Title XX of the Public Health Service Act establishes the

Adolescent Family Life (AFL) program to encourage adolescents to delay sexual activity and to provide services to alleviate the problems surrounding adolescent parenthood. One-third of all funding for AFL program services go to projects that provide "prevention services." The purpose of the prevention component is to find effective means within the context of the family of reaching adolescents, both male and female, before they become sexually active to maximize the guidance and support of parents and other family members in promoting abstinence from adolescent premarital sexual relations. (The fiscal year 1995 appropriation for AFL was $6.7 million.)

House bill

No provision.

Senate amendment

Amends the Maternal and Child Health (MCH) block grants (title V of the SSA) to set aside $75 million to provide abstinence education—defined as an educational or motivational program that has abstaining from sexual activity as its exclusive purpose—and to provide at the option of the State mentoring, counseling and adult supervision to promote abstinence with a focus on those groups most likely to bear children out-of-wedlock. Also increases the authorization level of MCH to $761 million.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

12. SCORING

Present law

In 1985, Congress passed legislation aimed at bringing the Federal budget into balance by the early 1990's. That legislation, the Balanced Budget and Emergency Deficit Control Act of 1985, commonly referred to as Gramm-Rudman-Hollings Act after its primary sponsors, establishes a series of declining annual deficit targets and creates a process (known as sequestration) intended to insure that the deficit targets are adhered to even if Congress and the President fail to reduce the deficit sufficiently through legislative action. Under the sequestration process, across-the-board reductions in spending for many Federal programs are made automatically toward the start of the fiscal year if the deficit for that year is estimated to exceed the statutory target.

House bill

The House bill specifies that the discretionary spending limits in the Balanced Budget and Emergency Deficit Control Act of 1985 are to be adjusted each year based on actual appropriations compared to the level appropriated for fiscal year 1995. Thus, if appropriations equaled the authorized amounts, the discretionary spending limits would be increased by the difference between the authorization level under H.R. 4 and the 1995 appropriation. (Under the House bill AFDC-related child care expenditures would change from mandatory spending to discretionary spending.)

Senate amendment

No provision.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

13. PROVISIONS TO ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS

Present law

In 1978, Congress passed the Electronic Fund Transfer Act to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer systems and required the Federal Reserve Board to develop implementing regulations, which generally are referred to as Regulation E.

House bill

The House bill exempts from Regulation E requirements any electronic benefit transfer program (distributing needs-tested benefits) established under State or local law or administered by a State or local government.

Senate amendment

See Sec. 320 in Senate amendment, which exempts from Regulation E any food stamp electronic benefit transfers.

Conference agreement

This provision was dropped from the Reconciliation bill because it violates the Byrd Rule (section 313 of Congressional Budget Act of 1974).

13. SOCIAL SERVICES BLOCK GRANT

Present law

The Social Services Block Grant (Title XX) provides funds to States in order to provide a wide variety of social services, including:

(1) Child care;

(2) Family planning;

(3) Protective services for children and adults;

(4) Services for children and adults on foster care; and

(5) Employment services.

States have wide discretion over how they use Social Services Block Grant funds. States set their own eligibility requirements and are allowed to transfer up to 10 percent of their allotment to certain Federal health block grants, and for low-income home energy assistance (LIHEAP).

States can also use their block grant funds for staff training in the field of social services. This includes training at workshops, conferences, seminars, and educational institutions.

Funding for the Social Services Block Grant is capped at $2.8 billion a year. Funds are allocated among States according to the State's share of its total population. No State matching funds are required to receive Social Services Block Grant money.

House bill

No provision.

Senate amendment

Beginning in fiscal year 1997, the Social Services Block Grant will be reduced by 20 percent.

Conference agreement

The House recedes.

SUBTITLE L—REFORM OF THE EARNED INCOME CREDIT (SECS. 13701–13703 OF THE HOUSE BILL AND SECS. 7460–7466 OF THE SENATE AMENDMENT)

Present law

In general

Certain eligible low-income workers are entitled to claim a refundable credit on their income tax return. The amount of the credit an eligible individual may claim depends upon whether the individual has one, more than one, or no qualifying children and is determined by multiplying the credit rate by the individual's earned income up to an earned income threshold. The maximum amount of the credit is the product of the credit rate and the earned income threshold. For individuals with earned income (or adjusted gross income (AGI), if greater) in excess of the phaseout threshold, the maximum credit amount is reduced by the phaseout rate multiplied by the amount of earned income (or AGI, if greater) in excess of the phaseout threshold. For individuals with earned income (or AGI, if greater) in excess of the phaseout limit, no credit is allowed.

For taxable years beginning after December 31, 1995, an individual is not eligible for the credit if the aggregate amount of "disqualified income" of the individual for the taxable year exceeds $2,350. Disqualified income is the sum of:

(1) interest (taxable and tax-exempt),

(2) dividends, and

(3) net rent and royalty income (if greater than zero).

The parameters for the credit depend upon the number of qualifying children the individual claims. For 1996, the parameters are given in the following table (dollar amounts are projections expressed in 1996 dollars):

	Two or more qualifying children	One qualifying child	No qualifying children
Credit rate (percent)	40.00	34.00	7.65
Phaseout rate (percent)	21.06	15.98	7.65
Earned income threshold	$8,910	$6,340	$4,230
Maximum credit	3,564	2,156	324
Phaseout threshold	11,630	11,630	5,290
Phaseout limit	28,553	25,119	9,520

For years after 1996, the credit rates and the phaseout rates will be the same as in the preceding table. The earned income threshold and the phaseout thresholds are indexed for inflation; because the phaseout limit depends on those amounts as well as the phaseout rate and the credit rate, the phaseout limit will also increase if there is inflation.

In order to claim the credit, an individual must either have a qualifying child or meet other requirements. A qualifying child must meet a relationship test, an age test, an identification test, and a residence test. In order to claim the credit without a qualifying child, an individual must not be a dependent and must be over age 24 and under age 65.

To satisfy the identification test, individuals must include on their tax return the name and age of each qualifying child. For returns filed with respect to tax year 1996, individuals must provide a taxpayer identification number (TIN) for all qualifying children born on or before November 30, 1996. For returns filed with respect to tax year 1997 and all subsequent years, individuals must provide TINs for all qualifying children, regardless of their age. An individual's TIN is generally that individual's social security number.

Mathematical errors

The IRS may summarily assess additional tax due as a result of a mathematical error without sending the taxpayer a notice of deficiency and giving the taxpayer an opportunity to petition the Tax Court. Where the IRS uses the summary assessment procedure for mathematical or clerical errors, the taxpayer must be given an explanation of the asserted error and a period of 60 days to request that the IRS abate its assessment. The IRS may not proceed to collect the amount of the assessment until the taxpayer has agreed to it or has allowed the 60-day period for objecting to expire. If the taxpayer files a request for abatement of the assessment specified in the notice, the IRS must abate the assessment. Any reassessment of the abated amount is subject to the ordinary deficiency procedures. The request for abatement of the assessment is the only procedure a taxpayer may use prior to paying the assessed amount in order to contest an assessment arising out of a mathematical or clerical error. Once the assessment is satisfied, however, the taxpayer may file a claim for refund if the taxpayer believes the assessment was made in error.

Return preparer penalties

An income tax return preparer is subject to a penalty of $250 if any part of an understatement of tax on a return or refund claim is due to the return preparer taking a position for which there was not a realistic possibility of the position being sustained. The return preparer must have known (or reasonably should have known) of the unrealistic position and not disclosed that position. In addition, an income tax return preparer is subject to a penalty of $1,000 if any part of an understatement of tax on a return or refund claim is due to the return preparer's willful attempt in any manner to understate tax or to the return preparer's negligent or intentional disregard of rules and regulations. An income tax return preparer is also subject to a penalty of $50 for each failure to (1) furnish a copy of a return or refund claim to the taxpayer, (2) sign the return or refund claim, (3) furnish his or her identifying number, (4) furnish certain copies or lists of returns or refund claims, or (5) file certain information returns regarding his or her employees. In addition, tax return preparers who endorse or negotiate checks made to taxpayers pay a penalty of $500 for each check endorsed or cashed.

House bill

Deny eligibility for individuals without qualifying children

In order to claim the credit, an individual must have a qualifying child.

Modify definition of adjusted gross income used for phasing out the credit

The House bill modifies the definition of AGI used for phasing out the credit by including the following items:

(1) Social Security benefits not subject to income tax, and

(2) nontaxable distributions from pensions, annuities, and individual retirement arrangements (but only if not rolled over into similar vehicles during the applicable rollover period).

Credit rate for individuals with two or more qualifying children

No provision.

Phaseout of the credit

The phaseout rate of the credit is increased to 23 percent for individuals with two or more qualifying children and to 18 percent for individuals with one qualifying child. With these changes, the parameters of the credit for 1996 will be as follows:

	Two or more qualifying children	One qualifying child
Credit rate (percent)	40.00	34.00
Phaseout rate (percent)	23.00	18.00
Earned income threshold	$8,910	$6,340
Maximum credit	3,564	2,156
Phaseout threshold	11,630	11,630
Phaseout limit	27,126	23,608

For years after 1996, the credit rates and the phaseout rates will be the same as in the preceding table. The dollar values will continue to be indexed, as under present law.

Expand definition of disqualified income

No provision.

Deny credit to individuals not authorized to be employed in the United States

Under the House bill, individuals are not eligible for the credit if they do not include their taxpayer identification number (and, if married, their spouse's taxpayer identification number) on their tax return. Solely for these purposes and for purposes of the present-law identification test for a qualifying child, a taxpayer identification number is defined as a social security number issued to an individual by the Social Security Administration other than a number issued under section 205(c)(2)(B)(i)(II) (or that portion of sec. 205(c)(2)(B)(i)(III) relating to it) of the Social Security Act (regarding the issuance of a number to an individual applying for or receiving Federally funded benefits).

Use mathematical error procedures for certain omissions

If an individual fails to provide a correct taxpayer identification number, such omission will be treated as a mathematical or clerical error. If an individual who claims the credit with respect to net earnings from self-employment fails to pay the proper amount of self-employment tax on such net earnings, the failure will be treated as a mathematical or clerical error.

Increase return preparer penalties

No provision.

Effective date

The provision is effective for taxable years beginning after December 31, 1995.

Senate amendment

Deny eligibility for individuals without qualifying children

The Senate amendment is the same as the House bill.

Modify definition of adjusted gross income used for phasing out the credit

The Senate amendment modifies the definition of AGI used for phasing out the credit by including certain nontaxable income and by disregarding certain losses. The nontaxable items included are:

(1) tax-exempt interest,

(2) Social Security benefits not subject to income tax,

(3) nontaxable distributions from pensions, annuities, and individual retirement arrangements (but only if not rolled over into similar vehicles during the applicable rollover period), and

(4) child support payments received pursuant to a divorce or separation instrument, but only in excess of $6,000.

The losses disregarded are:

(1) net capital losses (if greater than zero),

(2) net losses from sole proprietorships (other than in farming),

(3) net losses from sole proprietorships in farming,

(4) net losses from other trades and businesses,

(5) net losses from nonbusiness rents and royalties,

(6) net losses from trusts and estates, and

(7) net operating losses.

Credit rate for individuals with two or more qualifying children

The increase in the credit rate for individuals with two or more qualifying children that was supposed to take effect for 1996 is repealed. Thus, for 1996 and following years the credit rate for individuals with two or more qualifying children is 36 percent.

Phaseout of the credit

The Senate amendment changes the method of phasing out the credit. Rather than specifying a phaseout rate (which, given a maximum credit that is indexed for inflation, results in a phaseout range that increases with inflation), the size of the phaseout range is fixed in nominal dollars. The maximum amount of credit that may be claimed by an individual is reduced by a certain percentage for each $100 (or portion thereof) by which the individual's earned income (or modified AGI, if greater) exceeds the applicable phaseout threshold. For individuals with one qualifying child, the applicable percentage is 0.86 percent, meaning that the credit is phased out over a $11,600 range. For individuals with two or more qualifying children, the applicable percentage is 0.66 percent, meaning that the credit is phased out over a $15,100 range. The size of these phaseout ranges is not indexed for inflation, although the phaseout thresholds continue to be indexed for inflation.

With these changes, the parameters of the credit for 1996 are as follows:

	Two or more qualifying children	One qualifying child
Credit rate (percent)	36	34
Earned income threshold	$8,910	$6,340
Maximum credit	3,208	2,156
Phaseout threshold	11,630	11,630
Phaseout limit	26,730	23,230

For years after 1996, the credit rates will be the same as in the preceding table. The dollar values for the earned income threshold and the phaseout threshold will continue to be indexed, as under present law. The phaseout limit will always be $15,100 greater than the phaseout threshold for individuals with two or more qualifying children and will always be $11,600 greater than the phaseout threshold for individuals with one qualifying child.

Expand definition of disqualified income

For purposes of the disqualified income test for taxable years beginning after December 31, 1995, the following items would be added to the definition of disqualified income: net capital gain income (if greater than zero) and net passive income (if greater than zero).

Deny credit to individuals not authorized to be employed in the United States

The Senate amendment is the same as the House bill.

Use mathematical error procedures for certain omissions

The Senate amendment is the same as the House bill.

Increase return preparer penalties

The Senate amendment doubles the civil penalties applicable to income tax return preparers. Also, the Secretary of the Treasury is encouraged to use the maximum feasible review process to insure that originators of electronic income tax returns involving the credit comply with the law.

Effective date

The effective date is the same as the House bill.

Conference agreement

Deny eligibility for individuals without qualifying children

The conference agreement follows the House bill and the Senate amendment.

Modify definition of adjusted gross income used for phasing out the credit

The conference agreement follows the Senate amendment.

Credit rate for individuals with two or more qualifying children

The conference agreement provides that the credit rate for individuals with two or more qualifying children is maintained at 36 percent for 1996 and future years. The base to which this rate is applied, however, is changed for some individuals. In general, the maximum amount of the credit an eligible individual with two or more qualifying children may claim is determined by multiplying an enhancement factor times the credit rate times the individual's earned income up to the earned income threshold.

For married couples filing joint returns for whom earned income (or modified AGI, if greater) is less than or equal to $17,000, the enhancement factor is 10/9ths. For married couples filing joint returns for whom earned income (or modified AGI, if greater) is greater than $21,000, the enhancement factor is 1. For married couples filing joint returns for whom earned income (or modified AGI, if greater) is greater than $17,000 but less than or equal to $21,000, the enhancement factor is ratably reduced from 10/9ths to 1. For example, a married couple filing a joint return with an earned income (and modified AGI) of $18,000 has an income one-fourth [= ($18,000 - $17,000)/($21,000 - $17,000)] of the way into the ratable reduction. Thus, the enhancement factor for this couple is 13/12ths [= (10/9) - (1/4)((10/9) - 1)]. The $17,000 and $21,000 amounts are indexed for inflation after 1996.

For unmarried individuals for whom earned income (or modified AGI, if greater) is less than or equal to $14,000, the enhancement factor is 10/9ths. For unmarried individuals for whom earned income (or modified AGI, if greater) is greater than $18,000, the enhancement factor is 1. For unmarried individuals for whom earned income (or modified AGI, if greater) is greater than $14,000 but less than or equal to $18,000, the enhancement factor is ratably reduced from 10/9ths to 1. For example, an unmarried individual with an earned income (and modified AGI) of $16,500 has an income five-eighths [= ($16,500 - $14,000)/($18,000 - $14,000)] of the way into the ratable reduction. Thus, the enhancement factor for this individual is 25/24ths [= (10/9) - (5/8)((10/9) - 1)]. The $14,000 and $18,000 amounts are indexed for inflation after 1996.

The conferees do not intend that individuals will have to do the above calculations to determine enhancement factors; these rules will be reflected in the credit tables provided with the tax return materials.

Phaseout of the credit

The conference agreement increases the phaseout rate of the credit for individuals with earned income (or modified AGI, if greater) in excess of a second-tier phaseout threshold. For individuals with two or more qualifying children, the second-tier phaseout threshold is $17,750 and the phaseout rate for income in excess of that threshold is 25 percent. For individuals with one qualifying child, the second-tier phaseout threshold is $14,850 and the phaseout rate for income in excess of that threshold is 20 percent. These second-tier phaseout thresholds are indexed for inflation after 1996. The phaseout rate applied to income between the present-law phaseout threshold and the new, second-tier phaseout threshold is the same as would apply under present law for 1996 and future years. With these changes, the parameters of the credit for 1996 will be as follows:

	Two or more qualifying children	One qualifying child
Credit rate[1]	36.00	34.00
Earned income threshold	$8,910	$6,340
Maximum credit	$3,564	$2,156
First-tier phaseout threshold	$11,630	$11,630
First-tier phaseout rate (percent)	21.06	15.98
Second-tier phaseout threshold	$17,750	$14,850
Second-tier phaseout rate (percent)	25.00	20.00
Phaseout limit	$25,425	$23,055

[1] Subject to enhancement factor for individuals with two or more qualifying children.

For years after 1996, the credit rates and the phaseout rates will be the same as in the preceding table. The dollar values will continue to be indexed, as under present law.

Expand definition of disqualified income

The conference agreement follows the Senate amendment, except that net capital gain income would not be added to the definition of disqualified income.

Deny credit to individuals not authorized to be employed in the United States

The conference agreement follows the House bill and the Senate amendment.

Use mathematical error procedures for certain omissions

The conference agreement follows the House bill and the Senate amendment.

Increase return preparer penalties

The conference agreement doubles the civil penalties applicable to income tax return preparers. The conferees encourage the Secretary of the Treasury to use the maximum feasible review process to insure that originators of electronic income tax returns involving the credit comply with the law.

Effective date

The conference agreement follows the House bill and the Senate amendment.

MISCELLANEOUS PROVISIONS

Foreign affairs and related provisions

FOREIGN AFFAIRS AGENCIES CONSOLIDATION

House bill

Section 6002 of the House bill would have enacted into law division A of H.R. 1561, the Foreign Affairs Agencies Consolidation Act of 1995. The Act reforms the foreign affairs institutions that have grown up over the last forty years and adapts them to the requirements of the post-Cold War era.

Senate amendment

The Senate amendment contained no comparable provision.

Conference agreement

The conferences concluded that the application of the Byrd Rule (section 313 of the Congressional Budget Act) against the relevant provision of the House bill could not be avoided if reported as part of the conference agreement and, accordingly, agreed to omit the provision from the conference agreement.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT OF 1995

House bill

The House bill would have enacted legislation identical to H.R. 927, as passed by the House of Representatives. H.R. 927 would reaffirm the U.S. policy continuing the economic and political isolation of the Castro regime and would protect the property interests of U.S. citizens whose property was confiscated by that regime. The bill would also have required immediate planning for U.S. support for a democratic transition in Cuba.

Senate amendment

Senate amendment contained no comparable provision.

Conference agreement

The conferences concluded that the application of the Byrd Rule (section 313 of the Congressional Budget Act) against the relevant provision of the House bill could not be avoided if reported as part of the conference agreement and, accordingly, agreed to omit the provision from the conference agreement.

LEASE-PURCHASE

House bill

The House bill contained no comparable provision.

Senate amendment

The Senate amendment would authorize the Department of State to acquire housing and other facilities overseas through lease-purchase arrangements. Authority is granted only within appropriated amounts and upon certification that the arrangement will result in less cost than direct purchase or construction.

Conference agreement

The conferences concluded that this provision would likely be subject to the application of the Byrd Rule (section 313 of the Congressional Budget Act) and, accordingly, agreed to omit the provision from the conference agreement.

BUDGET ENFORCEMENT

DISCRETIONARY SPENDING LIMITS

House bill

Reduces the discretionary spending limits from current law levels for fiscal years 1996, 1997, and 1998. Extends spending limits through fiscal year 2002. Further reduces spending limits by $12 billion for 1997-2002 levels in budget resolution conference report.

Senate amendment

There is no comparable provision in the Senate amendment.

Conference agreement

House recedes to Senate. Language would violate the Byrd Rule.

CRIME TRUST FUND SPENDING LEVELS

House bill

Reduces spending limits for programs authorized by last year's crime bill, P.L. 103-322, in fiscal years 1996, 1997, 1998. The bill also extends enforcement of the spending limit on these programs through fiscal year 2000.

Senate amendment

There is no comparable provision in the Senate amendment.

Conference agreement

House recedes to Senate. Language would violate the Byrd Rule.

SPECIAL ADJUSTMENT

House bill

Eliminates special adjustment in the discretionary spending limits for changes in inflation.

Senate amendment

There is no comparable provision in the Senate amendment.

Conference agreement

House recedes to Senate. Language would violate the Byrd Rule.

PAYGO EXTENSION

House bill

Permanently extends PAY-AS-YOU-GO requirements for entitlement and legislation. Specifies that PAYGO requirements for any bill extend for four years after the date of enactment.

Senate amendment

There is no comparable provision in the Senate amendment.

Conference agreement

House recedes to Senate. Language would violate the Byrd Rule.

DISCRETIONARY SPENDING ADJUSTMENT FOR H.R. 4

House bill

Provides adjustment in the discretionary spending limits to accommodate funding for two categorical grants that would be subject to appropriations in the House-passed welfare reform bill, H.R. 4, but were previously funded as entitlement (outside the discretionary spending limits). Adjustment provides the Appropriations Committee with the necessary resources to fund the program while guaranteeing that the funds will actually be used for the specified welfare programs.

Senate amendment

There is no comparable provision in the Senate amendment.

Conference agreement

House recedes to Senate. Language would violate the Byrd Rule.

CHAMPUS SEQUESTRATION EXEMPTION

House bill

Allows President to effectively exempt from sequestration personnel accounts used to fund CHAMPUS (the account would be subject to sequestration, but could be replenished with funds from other DoD accounts).

Senate amendment

There is no comparable provision in the Senate amendment.

Conference agreement

House recedes to Senate. Language would violate the Byrd Rule.

SEQUESTRATION OF DOD ACCOUNTS

House bill

Specifies that any sequester effecting DoD accounts be across the accounts identified in the DoD appropriations bill.

Senate amendment

There is no comparable provision in the Senate amendment.

Conference agreement

House recedes to Senate. Language would violate the Byrd Rule.

DIRECT STUDENT LOAN SCORING

House bill

Puts direct student loans and loan guarantees on an equivalent budgetary basis by stipulating that the administrative costs of direct student loan must be included in the cost estimates used to enforce PAYGO and the discretionary spending limits.

Senate amendment

There is no comparable provision in the Senate amendment.

Conference agreement

House recedes to Senate. Language would violate the Byrd Rule.

RELATIONSHIP OF DISCRETIONARY SPENDING AND PAYGO

House bill

Provides that in the 104th Congress any reduction in the discretionary spending limits shall be treated as a reduction in the deficit under PAYGO procedures. Effectively allows the revenue loss from tax cuts to be offset, in part, by a reduction in discretionary spending.

Senate amendment

There is no comparable provision in the Senate amendment.

Conference agreement

House recedes to Senate. Language would violate the Byrd Rule.

MEDICARE SAVINGS PRECLUDED FROM PAY-GO

House bill

Provides that none of the savings from Medicare reforms can be counted for PAYGO purposes. Effectively precludes using the deficit reduction resulting from Medicare changes to offset the revenue loss from the tax cuts.

Senate amendment

There is no comparable provision in the Senate amendment.

Conference agreement

House recedes to the Senate. Language would violate the Byrd Rule.

GENERATIONAL ACCOUNTING

House bill

There is no comparable provision in the House bill.

Senate amendment

Requires the President's Budget to include an analysis of the generational accounting consequences of the budget.

Conference agreement

Senate recedes to the House. Language would violate the Byrd Rule.

For consideration of the House bill and the Senate amendment, and modifications committed to conference:

John R. Kasich,
Robert S. Walker,
Dick Armey,
Tom DeLay,
John Boehner,

As additional conferees from the Committee on the Budget, for consideration of title XX of the House bill, and modifications committed to conference:

Jim Kolbe,
Christopher Shays,
Dave Hobson,

As additional conferees from the Committee on Agriculture, for consideration of title I of the House bill, and subtitles A–C of title I of the Senate amendment, and modifications committed to conference:

Pat Roberts,
Bill Emerson,

As additional conferees from the Committee on Banking and Financial Services, for consideration of title II of the House bill, and title III of the Senate amendment, and modifications committed to conference:

James A. Leach,
Bill McCollum,
Marge Roukema,

As additional conferees from the Committee on Commerce, for consideration of title III of the House bill, and subtitle A of title IV, subtitles A and G of title V, and section 6004 of the Senate amendment, and modifications committed to conference:

Tom Bliley,
Michael Bilirabis
Dan Schaefer,

As additional conferees from the Committee on Commerce, for consideration of title XV of the House bill, and subtitle A of title VII of the Senate amendment, and modifications committed to conference:

Tom Bliley,
Michael Bilirakis,
J. Dennis Hastert,
James Greenwood,

As additional conferees from the Committee on Commerce, for consideration of title XVI of the House bill, and subtitle B of title VII of the Senate amendment, and modifications committed to conference:

Tom Bliley,
Michael Bilirakis,
Billy Tauzin,
Joe Barton,
Bill Paxon,
J. Dennis Hastert,
James Greenwood,
Ralph M. Hall,

As additional conferees from the Committee on Economic and Educational Opportunities, for consideration of title IV of the House bill, and title X of the Senate amendment, and modifications committed to conference:

William F. Goodling,
Buck McKeon,

As additional conferees from the Committee on Government Reform and Oversight, for consideration of title V of the House bill, and title VIII and sections 13001 and 13003 of the Senate amendment, and modifications committed to conference:

Bill Clinger,
Steven Schiff,

As additional conferees from the Committee on International Relations, for consideration of title VI of the House bill, and section 13002 of the Senate amendment, and modifications committed to conference:

Ben Gilman,
Dan Burton,

As additional conferees from the Committee on the Judiciary, for consideration of title VII of the House bill, and title IX and section 12944 of the Senate amendment, and modifications committed to conference:

Henry Hyde,
Carlos J. Moorhead,

As additional conferees from the Committee on National Security, for consideration of title VIII of the House bill, and title II of the Senate amendment, and modifications committed to conference:

Floyd Spence,
Duncan Hunter,

As additional conferees from the Committee on Resources, for consideration of title IX of the House bill, and title V (except subtitles A and G) of the Senate amendment, and modifications committed to conference:

Don Young,
Billy Tauzin,

As additional conferees from the Committee on Transportation and Infrastructure, for consideration of title X of the House bill, and subtitles B and C of title IV and title VI (except section 6004) of the Senate amendment, and modifications committed to conference:

Bud Shuster,
Bill Clinger,

As additional conferees from the Committee on Veterans' Affairs, for consideration of title XI of the House bill, and title XI of the Senate amendment, and modifications committed to conference:

Robert Stump,
Tim Hutchinson,
G.V. Montgomery,

As additional conferees from the Committee on Ways and Means, for consideration of titles XII, XIII, XIV, and XIX of the House bill, and subtitles H and I of title VII and title XII (except section 12944) of the Senate amendment, and modifications committed to conference:

Bill Archer,
Phil Crane,
Wm. Thomas,
E. Clay Shaw, Jr.,
Jim Bunning,

As additional conferees from the Committee on Ways and Means, for consideration of title XV of the House bill, and subtitle A of title VII of the Senate amendment, and modifications committed to conference:

BILL ARCHER,
WM. THOMAS,
NANCY L. JOHNSON,
JIM MCCRERY,
Managers on the Part of the House.

From the Committee on the Budget for consideration of all titles:

PETE V. DOMENICI,
CHUCK GRASSLEY,

From the Committee on Agricuture, Nutrition, and Forestry:

DICK LUGAR
(for consideration of all of title I),
BOB DOLE
(for consideration of all of title I),
JESSE HELMS
(for consideration of section 113 and subtitle D),
THAD COCHRAN
(for consideration of title I, except sections 1106, 1108, 1113, and subtitle D),
LARRY E. CRAIG
(for consideration of sections 1106 and 1108),

From the Committee on Armed Services:

STROM THURMOND,
JOHN MCCAIN,

From the Committee on Banking, Housing and Urban Affairs:

ALFONSE M. D'AMATO,
PHIL GRAMM,

From the Committee on Commerce, Science, and Transportation:

LARRY PRESSLER,
TED STEVENS,
JOHN MCCAIN,

From the Committee on Energy and Natural Resources:

FRANK H. MURKOWSKI,
MARK O. HATFIELD,
DON NICKLES,

From the Committee on Environment and Public Works:

JOHN H. CHAFEE,
JOHN WARNER,
BOB SMITH,

From the Committee on Finance:

WILLIAM V. ROTH, JR.,
BOB DOLE,

From the Committee on Governmental Affairs (and for consideration of the title of the House bill relating solely to abolishing the Department of Commerce):

TED STEVENS,
FRED THOMPSON,

From the Committee on the Judiciary:

ORRIN HATCH,
CHUCK GRASSLEY,

From the Committee on Labor and Human Resources:

NANCY LANDON KASSEBAUM,
DAN COATS,
BILL FRIST,

From the Committee on Veterans Affairs:

ALAN K. SIMPSON,
FRANK H. MURKOWSKI,
Managers on the Part of the Senate.

GENERAL LEAVE

Mr. CHRISTENSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on House Joint Resolution 122.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HOUGHTON (at the request of Mr. ARMEY) for today, on account of illness.

Mr. YATES (at the request of Mr. GEPHARDT) after 6:30 p.m. on Wednesday, November 15, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE) to revise and extend their remarks and include extraneous material:)

Mr. THOMPSON, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

Mr. HILLIARD, for 5 minutes, today.

Mr. DIXON, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Mr. DOGGETT, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. BARRETT of Wisconsin, for 5 minutes, today.

Mrs. THURMAN, for 5 minutes, today.

(The following Members (at the request of Mr. EHRLICH) to revise and extend their remarks and include extraneous material:)

Mr. SCARBOROUGH, for 5 minutes each day, today and November 16.

Mr. GOSS, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, on November 16.

Mr. BARR, for 5 minutes, today.

Mr. SANFORD, for 5 minutes, today.

Mr. KIM, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. LONGLEY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. JACKSON-LEE) and to include extraneous matter:)

Mr. STOKES in two instances.

Ms. EDDIE BERNICE JOHNSON of Texas.

Mr. COYNE in two instances.

Mr. WILLIAMS.

Mr. HAMILTON.

Mr. POSHARD.

Mr. TORRES.

Mrs. MINK of Hawaii.

Ms. LOFGREN.

Mrs. COLLINS of Illinois.

Mr. HALL of Texas.

Mr. JOHNSON of South Dakota.

(The following Members (at the request of Mr. EHRLICH) and to include extraneous matter:)

Mr. PACKARD.

Mr. ZELIFF.

Mr. RAMSTAD.

Mr. SMITH of Michigan.

Mr. ROBERTS.

Mr. DAVIS.

Mr. BEREUTER.

Mrs. MYRICK.

Mr. SMITH of New Jersey.

Mr. SOLOMON.

Mr. METCALF.

(The following Members (at the request of Mr. CHRISTENSEN) and to include extraneous matter:)

Mr. FARR.

Mr. SOLOMON.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2002. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 395. An act to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 2002. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 10, 1996, and for other purposes.

ADJOURNMENT

Mr. CHRISTENSEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 11 minutes a.m.), the House adjourned until today, Thursday, November 16, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from

the Speaker's table and referred as follows:

1685. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled "National Annual Industrial Sulfur Dioxide Emission Trends, 1995–2015," pursuant to Public Law 101–549, section 406(a) (104 Stat. 2632); to the Committee on Commerce.

1686. A letter from the Chairman, Broadcasting Board of Governors, transmitting the Board's annual report on the location of administrative, managerial, and technical staff; and salary, benefits, and personnel classifications of Radio Free Europe/Radio Liberty, pursuant to 22 U.S.C. 6207(b)(2); to the Committee on International Relations.

1687. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of a Presidential Determination with respect to suspending restrictions on United States relations with the Palestine Liberation Organization, pursuant to section 583(a) of the Middle East Peace Facilitation Act of 1994, as amended; to the Committee on International Relations.

1688. A letter from the Director, U.S. Information Agency, transmitting a report regarding the establishment and operation of Radio Free Asia, pursuant to Public Law 103–236, section 309(d)(1)(B) (108 Stat. 440); to the Committee on International Relations.

1689. A letter from the Secretary of Health and Human Services, transmitting a report of surplus real property transferred or leased for public health purposes in fiscal year 1994, pursuant to 40 U.S.C. 484(o); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SOLOMON: Committee on Rules. House Resolution 268. Resolution providing for consideration of the resolution (H. Res. 250) to amend the Rules of the House of Representatives to provide for gift reform (Rept. 104–341). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 269. Resolution providing for consideration of the bill (H.R. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes (Rept. 104–342). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 270. Resolution providing for consideration of the joint resolution (H.J. Res. 122) making further continuing appropriations for the fiscal year 1996, and for other purposes (Rept. 104–343). Referred to the House Calendar.

Mr. YOUNG of Florida: Committee of Conference. Conference report on H.R. 2126. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–344). Ordered to be printed.

Mr. SHUSTER: Committee on Conference. Conference report on S. 440. An act to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes (Rept. 104–345). Ordered to be printed.

Mr. McINNIS: Committee on Rules. House Resolution 271. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2126) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–346). Referred to the House Calendar.

Mr. KASICH: Committee on Conference. Conference report on H.R. 2491. A bill to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996 (Rept. 104–347). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. OBERSTAR:

H.R. 2636. A bill to transfer jurisdiction over certain parcels of Federal real property located in the District of Columbia, and for other purposes; to the Committee on Resources, and in addition to the Committees on Transportation and Infrastructure, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILBRAY (for himself, Mr. BARTON of Texas, Mr. PACKARD, Mr. HUNTER, and Mr. CUNNINGHAM):

H.R. 2637. A bill to provide for a study of certain cross-border sources of air pollution; to the Committee on Commerce.

By Mr. BLUTE:

H.R. 2638. A bill to amend the Federal Election Campaign Act of 1971 to lower the maximum amount of contributions a multicandidate political committee may make to a House of Representatives candidate, and for other purposes; to the Committee on House Oversight.

By Mr. DINGELL:

H.R. 2639. A bill to provide that Members of Congress shall not be paid during Federal Government shutdowns, and for other purposes; to the Committee on House Oversight.

By Mr. GORDON:

H.R. 2640. A bill to prohibit Federal agencies from planning the sale of the Southeastern Power Administration; to the Committee on Resources.

By Mr. McCOLLUM:

H.R. 2641. A bill to amend title 28, United States code, to provide for appointment of U.S. marshals by the Director of the U.S. Marshals Service; to the Committee on the Judiciary.

By Mr. RIGGS:

H.R. 2642. A bill to provide for the conveyance of the U.S.S. *Hoga* to the city of Eureka, CA; to the Committee on National Security.

H.R. 2643. A bill to direct the Secretary of Transportation to convey the Point Arena Light Station to Point Arena Lighthouse Keepers, Inc., at such time as the Secretary determines the light station to be excess to the needs of the Coast Guard; to the Committee on Transportation and Infrastructure.

By Mr. ROBERTS (for himself and Mr. BROWNBACK):

H.R. 2644. A bill to provide for the transfer of the Missouri River Basin, Pick-Sloan Project facilities in the States of Kansas and Nebraska, and for other purposes; to the Committee on Resources.

By Mr. THORNBERRY:

H.R. 2645. A bill to permit freon to be used for home, automobile, and agricultural air conditioning equipment; to the Committee on Commerce.

By Mr. OBEY (for himself, Mr. ABERCROMBIE, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. BECERRA, Mr. BEILENSON, Mr. BENTSEN, Mr. BERMAN, Mr. BEVILL, Mr. BISHOP, Mr. BONIOR, Mr. BORSKI, Mr. BROWDER, Ms. BROWN of Florida, Mr. BROWN of Ohio, Mr. BROWN of California, Mr. BRYANT of Texas, Mr. CARDIN, Mr. CHAPMAN, Mrs. CLAYTON, Mr. CLEMENT, Mr. CLYBURN, Mr. COLEMAN, Miss COLLINS of Michigan, Mr. CONYERS, Mr. COYNE, Mr. CRAMER, Ms. DANNER, Mr. DEFAZIO, Ms. DELAURO, Mr. DELLUMS, Mr. DICKS, Mr. DINGELL, Mr. DIXON, Mr. DOGGETT, Mr. DOOLEY, Mr. DOYLE, Mr. DURBIN, Mr. EDWARDS, Mr. ENGEL, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR, Mr. FATTAH, Mr. FAZIO of California, Mr. FILNER, Mr. FLAKE, Mr. FOGLIETTA, Mr. FORD, Mr. FRANK of Massachusetts, Mr. FRAZER, Mr. FROST, Ms. FURSE, Mr. GEPHARDT, Mr. PETE GEREN of Texas, Mr. GIBBONS, Mr. GONZALEZ, Mr. GORDON, Mr. GENE GREEN of Texas, Mr. GUTIERREZ, Mr. HALL of Texas, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. HEFNER, Mr. HILLIARD, Mr. HINCHEY, Mr. HOLDEN, Mr. HOYER, Ms. JACKSON-LEE, Mr. JEFFERSON, Mr. JOHNSON of South Dakota, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSTON of Florida, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KENNEDY of Massachusetts, Mrs. KENNELLY, Mr. KILDEE, Mr. KLECZKA, Mr. KLINK, Mr. LAFALCE, Mr. LANTOS, Mr. LEVIN, Mr. LEWIS of Georgia, Mrs. LINCOLN, Ms. LOFGREN, Mrs. LOWEY, Mr. LUTHER, Mrs. MALONEY, Mr. MANTON, Mr. MARKEY, Mr. MARTINEZ, Mr. MASCARA, Mr. MATSUI, Ms. MCCARTHY, Mr. MCDERMOTT, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. MFUME, Mr. MILLER of California, Mr. MINGE, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MONTGOMERY, Mr. MORAN, Mr. NADLER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. ORTIZ, Mr. ORTON, Mr. OWENS, Mr. PALLONE, Mr. PASTOR, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PETERSON of Florida, Mr. POMEROY, Mr. POSHARD, Mr. RAHALL, Mr. RANGEL, Mr. REED, Mr. RICHARDSON, Ms. RIVERS, Mr. ROEMER, Mr. ROSE, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SABO, Mr. SANDERS, Mr. SAWYER, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SCOTT, Mr. SERRANO, Mr. SKAGGS, Ms. SLAUGHTER, Mr. STARK, Mr. STENHOLM, Mr. STOKES, Mr. STUDDS, Mr. STUPAK, Mr. TEJEDA, Mr. THOMPSON, Mr. THORNTON, Mrs. THURMAN, Mr. TORRES, Mr. TOWNS, Mr. TRAFICANT, Mr. TUCKER, Ms. VELÁZQUEZ, Mr. VENTO, Mr. WARD, Ms. WATERS, Mr. WATT of North Carolina, Mr. WAXMAN, Mr. WILLIAMS, Mr. WILSON, Mr. WISE, Ms. WOOLSEY, Mr. WYNN, and Mr. YATES):

H.J. Res. 120. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. HYDE (for himself, Mr. CANADY, and Mr. GOODLATTE):

H.J. Res. 121. Joint resolution proposing an amendment to the Constitution of the United States in order to secure the unalienable right of the people to acknowledge, worship, and serve their Creator, according to the dictates of conscience; to the Committee on the Judiciary.

By Mr. LIVINGSTON:

H.J. Res. 122. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENSIGN (for himself, Mr. HAYWORTH, Mr. BROWNBACK, Mrs. SMITH of Washington, Mr. ENGLISH of Pennsylvania, Mr. GRAHAM, Mr. SOUDER, Mr. CHRISTENSEN, Mr. FOLEY, and Ms. DUNN of Washington):

H. Con. Res. 113. Concurrent resolution expressing the sense of the Congress that it would be inappropriate for the President, the Vice President, and Members of Congress to continue to receive pay during the period of a Government shutdown; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 109: Mr. SAXTON, Mr. MINGE, Mr. CALVERT, Mr. HORN, Mr. MANTON, Mr. GORDON, and Mr. THORNTON.

H.R. 142: Mr. BEREUTER.

H.R. 580: Mr. QUILLEN.

H.R. 753: Mr. STUMP.

H.R. 773: Mr. TORRICELLI.

H.R. 784: Mr. KINGSTON and Mr. TATE.

H.R. 1278: Miss COLLINS of Michigan, Mr. MARKEY, and Mrs. CLAYTON.

H.R. 1423: Mr. YATES, Mrs. COLLINS of Illinois, Mr. GEJDENSON, and Mr. FARR.

H.R. 1500: Mr. LEACH, Mr. SCHUMER, Ms. WATERS, Mr. THOMPSON, and Mr. ANDREWS.

H.R. 1619: Mr. TATE and Mr. FARR.

H.R. 1884: Mr. MANTON and Mr. THOMPSON.

H.R. 1907: Mr. SMITH of Texas, Mr. PETERSON of Minnesota, Mr. FOX, Mr. SOUDER, Mr. STOCKMAN, Mr. GUTKNECHT, Mr. CHRYSLER, Mr. KLUG, Mr. EHRLICH, MR. MCHUGH, Mr. HASTERT, Mr. BURTON of Indiana, and Mr. ROHRABACHER.

H.R. 1963: Mr. FILNER.

H.R. 1993: Mr. BACHUS and Mr. PETRI.

H.R. 2003: Mr. LEWIS of Georgia.

H.R. 2027: Mr. MANTON.

H.R. 2036: Mr. BILBRAY.

H.R. 2098: Mr. BACHUS.

H.R. 2179: Mr. RIGGS.

H.R. 2228: Mr. BROWN of California.

H.R. 2261: Mr. POMEROY.

H.R. 2338: Mr. EHLERS.

H.R. 2341: Mr. SMITH of Texas.

H.R. 2454: Mr. SOUDER.

H.R. 2455: Mr. SOUDER.

H.R. 2456: Mr. SOUDER.

H.R. 2463: Mr. ACKERMAN and Mr. JOHNSTON of Florida.

H.R. 2507: Mr. SENSENBRENNER.

H.R. 2508: Mr. GEJDENSON, Mr. DURBIN, Mr. RAHALL, Ms. FURSE, Mr. FROST, and Mr. HANCOCK.

H.R. 2522: Mr. EDWARDS, Mrs. CHENOWETH, and Mr. FROST.

H.R. 2535: Mr. DOOLITTLE.

H.R. 2540: Mr. LIVINGSTON, Mr. BARTON of Texas, Mr. TIAHRT, Mrs. MYRICK, Mr. POSHARD, and Mr. HANSEN.

H.R. 2571: Mr. GENE GREEN of Texas.

H.R. 2579: Mr. MANTON, Mr. JOHNSON of South Dakota, Mr. BUNN of Oregon, Mr. KENNEDY of Rhode Island, and Mr. DICKEY.

H.R. 2599: Mr. HORN.

H.R. 2632: Mr. WELLER, Mr. FOX, Mr. EVERETT, Mr. JONES, Mr. BARR, Mr. STEARNS, Mr. NEY, Mr. COBURN, Mr. BACHUS, Mr. THORNBERRY, Mr. HANSEN, Mr. COOLEY, Mr. BUYER, Mr. HAYWORTH, Mr. QUINN, Mr. SOLOMON, Mr. CUNNINGHAM, and Mr. CHAMBLISS.

H.J. Res. 117: Mrs. CODLINS of Illinois.

H.J. Res. 118: Mr. ABERCROMBIE, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. BECERRA, Mr. BEILENSON, Mr. BENTSEN, Mr. BERMAN, Mr. BEVILL, Mr. BISHOP, Mr. BONIOR, Mr. BORSKI, Mr. BROWDER, Ms. BROWN of Florida, Mr. BROWN of Ohio, Mr. BROWN of California, Mr. BRYANT of Texas, Mr. CARDIN, Mr. CHAPMAN, Mrs. CLAYTON, Mr. CLEMENT, Mr. CLYBURN, Mr. COLEMAN, Miss COLLINS of Michigan, Mr. CONYERS, Mr. COYNE, Mr. CRAMER, Ms. DANNER, MR. DEFAZIO, Ms. DELAURO, Mr. DELLUMS, Mr. DICKS, Mr. DINGELL, Mr. DIXON, Mr. DOGGETT, Mr. DOOLEY, Mr. DOYLE, Mr. DURBIN, Mr. EDWARDS, Mr. ENGEL, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR, Mr. FATTAH, Mr. FAZIO of California, Mr. FILNER, Mr. FLAKE, Mr. FOGLIETTA, Mr. FORD, Mr. FRANK of Massachusetts, Mr. FRAZER, Mr. FROST, Ms. FURSE, Mr. GEPHARDT, Mr. PETE GEREN of Texas, Mr. GIBBONS, Mr. GONZALEZ, Mr. GORDON, Mr. GENE GREEN of Texas, Mr. GUTIERREZ, Mr. HALL of Texas, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. HEFNER, Mr. HILLIARD, Mr. HINCHEY, Mr. HOLDEN, Mr. HOYER, Ms. JACKSON-LEE, Mr. JEFFERSON, Mr. JOHNSON of South Dakota, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSTON of Florida, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KENNEDY of Massachusetts, Mrs. KENNELLY, Mr. KILDEE, Mr. KLECZKA, Mr. KLINK, Mr. LAFALCE, Mr. LANTOS, Mr. LEVIN, Mr. LEWIS of Georgia, Mrs. LINCOLN, Ms. LOFGREN, Mrs. LOWEY, Mr. LUTHER, Mrs. MALONEY, Mr. MANTON, Mr. MARKEY, Mr. MARTINEZ, Mr. MASCARA, Mr. MATSUI, Ms. MCCARTHY, Mr. MCDERMOTT, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. MFUME, Mr. MILLER of California, Mr. MINGE, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MONTGOMERY, Mr. MORAN, Mr. NADLER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. ORTIZ, Mr. ORTON, Mr. OWENS, Mr. PALLONE, Mr. PASTOR, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PETERSON of Florida, Mr. PETERSON of Minnesota, Mr. POMEROY, Mr. POSHARD, Mr. RAHALL, Mr. RANGEL, Mr. REED, Mr. RICHARDSON, Ms. RIVERS, Mr. ROEMER, Mr. ROSE, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SABO, Mr. SANDERS, Mr. SAWYER, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SCOTT, Mr. SERRANO, Mr. SKAGGS, Ms. SLAUGHTER, Mr. STARK, Mr. STENHOLM, Mr. STOKES, Mr. STUDDS, Mr. STUPAK, Mr. TEJEDA, Mr. THOMPSON, Mr. THORNTON, Mrs. THURMAN, Mr. TORRES, Mr. TOWNS, Mr. TRAFICANT, Mr. TUCKER, Ms. VELÁZQUEZ, Mr. VENTO, Mr. WARD, Ms. WATERS, Mr. WATT of North Carolina, Mr. WAXMAN, Mr. WILLIAMS, Mr. WILSON, Mr. WISE, Ms. WOOLSEY, Mr. WYNN, and Mr. YATES.

H. Con. Res. 21: Mr. BORSKI.

H. Con. Res. 51: Mr. CLYBURN and Mr. PORTER.

H. Con. Res. 102: Mr. MATSUI, Mr. LEWIS of Georgia, Mr. HASTINGS of Florida, Mrs. LOWEY, Mr. LEVIN, Mr. MCNULTY, Mr. MANTON, Mr. HALL of Ohio, and Mr. GUNDERSON.

H. Con. Res. 110: Mr. BARRETT of Wisconsin, Mr. STUPAK, and Mr. WAXMAN.

H. Res. 264: Mr. BARTLETT of Maryland, Mr. COOLEY, Mr. FIELDS of Texas, Mr. LEWIS of California, Mr. NEY, Mr. OXLEY, Mr. TAYLOR of North Carolina, Mr. CALVERT, Mr. COBLE, Mr. LAHOOD, Mr. POMBO, Mr. ROHRABACHER, Mr. SPENCE, Mr. ZELIFF, Ms. BROWN of Florida, and Mr. STEARNS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 707: Mr. METCALF.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2564

OFFERED BY: MR. CLINGER

AMENDMENT NO. 3: Beginning on page 25, redesignate sections 8 through 24 as sections 9 through 25, respectively, strike "this Act" each place it occurs and insert "this Act (other than section 8)", and insert after line 2 the following:

SEC. 8. PROHIBITION ON USE OF APPROPRIATIONS FOR LOBBYING.

(a) IN GENERAL.—Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following new section:

"§1354. Prohibition on lobbying by Federal agencies

"(a) PROHIBITION.—Except as provided in subsection (b), until or unless such activity has been specifically authorized by an Act of Congress and notwithstanding any other provision of law, no funds made available to any Federal agency, by appropriation or otherwise, shall be used by such agency for any activity (including the preparation, publication, distribution, or use of any kit, pamphlet, booklet, public presentation, news release, radio, television, or film presentation, video, or other written or oral statement) that is intended to promote public support or opposition to any legislative proposal (including the confirmation of the nomination of a public official or the ratification of a treaty) on which congressional action is not complete.

"(b) CONSTRUCTION.—

(1) COMMUNICATIONS.—Subsection (a) shall not be construed to prevent officers or employees of Federal agencies from communicating directly to Members of Congress, through the proper official channels, their requests for legislation or appropriations that they deem necessary for the efficient conduct of the public business or from responding to requests for information made by Members of Congress.

"(2) OFFICIALS.—Subsection (a) shall not be construed to prevent the President, Vice President, any Federal agency official whose appointment is confirmed by the Senate, any official in the Executive Office of the President directly appointed by the President or Vice President, or the head of any Federal agency described in paragraph (2) or (3) of subsection (d), from communicating with the American public, through radio, television, or other public communication media, on the views of the President for or against any pending legislative proposal. The preceding sentence shall not permit any such official to delegate to another person the authority to make communications subject to the exemption provided by such sentence.

"(c) COMPTROLLER GENERAL.—

"(1) ASSISTANCE OF INSPECTOR GENERAL.—In exercising the authority provided in section 712, as applied to this section, the Comptroller General may obtain, without reimbursement from the Comptroller General, the assistance of the Inspector General within whose Federal agency activity prohibited by subsection (a) of this section is under review.

"(2) EVALUATION.—One year after the date of the enactment of this section, the Comptroller General shall report to the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate on the implementation of this section.

"(3) ANNUAL REPORT.—The Comptroller General shall, in the annual report under section 719(a), include summaries of investigations undertaken by the Comptroller General with respect to subsection (a).

"(d) DEFINITION.—For purpose of this section, the term 'Federal agency' means—

"(1) any executive agency, within the meaning of section 105 of title 5;

"(2) any government-sponsored enterprise, within the meaning of section 3(8) of the Congressional Budget Act of 1974; and

"(3) any private corporation created by a law of the United States for which the Congress appropriates funds.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1353 the following new item:

"1354. Prohibition on lobbying by Federal agencies.".

(c) APPLICABILITY.—The amendments made by this section shall apply to the use of funds after the date of the enactment of this Act, including funds appropriated or received on or before such date.

H.R. 2564

OFFERED BY: MR. DEFAZIO

AMENDMENT NO. 4: At the appropriate point in the bill:

SEC. . RECORD OF VISITS BY LOBBYISTS.

Each Member of the House of Representatives and the Senate shall keep a record available to any member of the public, in which shall be recorded each visit to such Member by an individual who is registered under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267). Such record shall include the date of the visit recorded, the name and affiliation of the individual who made the visit, and the subject of the visit to such Member. At the end of each calendar quarter, such record shall be transmitted to the Clerk of the House of Representatives.

SEC. . EFFECTIVE DATE.

Section shall take effect on January 1, 1996.

H.R. 2564

OFFERED BY: MR. DINGELL

AMENDMENT NO. 5: Add at the end of section 14 the following:

(d) MISUSE OF NAME.—

(1) AMENDMENT.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1035. Misappropriation of Person's Name in Connection with Lobbying Contact

"Whoever falsely uses or employs the name of any person, or causes such name to be falsely used or employed, in any telegram, letter, other printed or written matter, or electronic communication intended or designed to influence in any manner a Member of Congress to favor or oppose, by vote or otherwise, any legislation before the Congress or any nomination pending before the Senate, whether before or after the introduction of such legislation or the submission of such nomination, for the purpose of conveying the impression that such person authorized such use or employment of the person's name shall be fined under this title or imprisoned for not more than one year, or both.".

(2) CONFORMING AMENDMENT.—The table of sections for such chapter 47 is amended by adding at the end the following:

"1035. Misappropriation of person's name in connection with lobbying contact.".

H.R. 2564

OFFERED BY: MR. FOX OF PENNSYLVANIA

AMENDMENT NO. 6: Page 23, insert after line 2 the following:

(d) PROHIBITION ON GIFTS.—

(1) IN GENERAL.—No lobbyist who is registered under section 4 may provide any gift to a Member of the House of Representatives, a Senator, or an officer or employee of the House of Representatives or the Senate unless the lobbyist is related to the Member, Senator, or officer or employee.

(2) DEFINITION.—For the purpose of paragraph (1), the term "gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(3) EXCEPTION.—The restriction in paragraph (1) shall not apply to the following:

(A) Anything for which the Member, Senator, officer, or employee pays the market value, or does not use and promptly returns to the donor.

(B) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, a contribution for election to a State or local government office limited as prescribed by section 301(8)(B) of such Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(C) A gift from a relative as described in section 109(5) of title I of the Ethics in Government Act of 1978 (Public Law 95-521).

(D)(i) Anything provided by an individual on the basis of a personal friendship unless the Member, Senator, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, Senator, officer, or employee and not because of the personal friendship.

(ii) In determining whether a gift is provided on the basis of personal friendship, the Member, Senator, officer, or employee shall consider the circumstances under which the gift was offered, such as:

(I) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between such individuals.

(II) Whether to the actual knowledge of the Member, Senator, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

(III) Whether to the actual knowledge of the Member, Senator, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.

(E) A contribution or other payment to a legal expense fund established for the benefit of a Member, Senator, officer, or employee that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct.

(F) Any gift from another Member, Senator, officer, or employee of the Senate or the House of Representatives.

(G) Food, refreshments, lodging, and other benefits—

(i) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, Senator, officer, or employee as an officeholder) of the Member, Senator, officer, or employee, or the spouse of the Member, Senator, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, Senator, officer, or employee and are customarily provided to others in similar circumstances;

(ii) customarily provided by a prospective employer in connection with bona fide employment discussions; or

(iii) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

(H) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(I) Informational materials that are sent to the office of the Member, Senator, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

(J) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

(K) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

(L) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

(M) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, Senator, officer, or employee, if such training is in the interest of the Senate or House of Representatives.

(N) Bequests, inheritances, and other transfers at death.

(O) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

(P) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

(Q) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act) of an individual other than a registered lobbyist or agent of a foreign principal.

(R) Free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event provided by the sponsor of the event.

(S) Opportunities and benefits which are—

(i) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

(ii) offered to members of a group or class in which membership is unrelated to congressional employment;

(iii) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

(iv) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

(v) in the form of loans from banks and other financial institutions on terms generally available to the public; or

(vi) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(T) A plaque, trophy, or other item that is substantially commemorative in nature and which is intended solely for presentation.

(U) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

H.R. 2564

OFFERED BY: MR. UPTON

AMENDMENT NO. 7: Page 39, redesignate sections 22 through 24 as sections 23 through 25, respectively, and insert after line 10 on page 39 the following:

SEC. 22. PERMANENT RESTRICTION ON REPRESENTING FOREIGN GOVERNMENTS.

(a) RESTRICTION.—Section 207(f) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "Any" and inserting "Subject to paragraph (2), any";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(3) by inserting after paragraph (1) the following:

"(2) ADDITIONAL RESTRICTIONS FOR MEMBERS OF CONGRESS.—Any person who is a Member of Congress and who, after that person leaves office as such Member—

"(A) represents a foreign government before any officer or employee of any department or agency of the United States with the intent to influence a decision of such officer or employee in carrying out the officer's or employee's official duties; or

"(B) aids or advises a foreign government with the intent to influence a decision of any officer or employee of the United States in carrying out the officer's or employee's official duties;

shall be punished as provided in section 216 of this title.".

(b) DEFINITIONS.—Section 207(f)(4) of title 18, United States Code, as redesignated by subsection (a)(2) of this section, is amended to read as follows:

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'foreign entity' means the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938 or a foreign political party as defined in section 1(f) of that Act; and

"(B) the term 'foreign government' means the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

(2) APPLICABILITY.—The amendments made by this section shall apply to any person whose service as a Member of Congress (as defined in section 202(d) of title 18, United States Code) terminates before, on, or after the effective date set forth in paragraph (1), but shall not apply to activities prohibited by such amendments which are conducted before such effective date.

EXTENSIONS OF REMARKS

A POSITIVE ASPECT TO THE MEDIGRANT DISCUSSION

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. GINGRICH. Mr. Speaker, I would like to encourage my colleagues to support the principles of home- and community-based services for the disabled and to urge States to consider these services as part of State initiatives to reform Medicaid through the MediGrant proposal.

I have had a longstanding admiration for the ability of our Nation's disabled to bear the burdens imposed on their day-to-day lives and the difficulties they face. It is no wonder that individuals affected by disabilities, as well as their families and friends, have sought greater access to long-awaited advancements in providing care for the disabled. Although this process has been slow at times, we are beginning to see a mindset emerge that encourages personal liberties, not discourages them.

I practice a management technique based on listen, learn, help, and lead. Well, I have listened to the disabled around the Nation and in the 6th Congressional District of Georgia where I have appointed a task force on disabilities. This task force has developed ideas that I think are thoughtful in addressing the needs of the disabled and which add a tremendously positive aspect to the MediGrant discussion.

The task force believes that there currently exists a bias in Medicaid toward institutionalization and away from home- and community-based services. While there are circumstances where institutionalization is the only viable choice, the task force believes that home- and community-based services should be the first option when appropriate for people with disabilities. I share in their assertion that no person should be forced into an institution to receive services that can be more effectively and more economically delivered in the home or community.

The task force points to the fact that 31 percent of the current Medicaid budget goes to institutional long-term care and only 6 percent goes to community-based long-term care. Furthermore, they assert that the average cost of nursing home care per person is $38,000 annually and that allowing persons to remain in their homes and communities is more economical, as well as more humane.

I hope that my colleagues will carefully consider these ideas on behalf of their constituents and help to empower individuals to realize their maximum freedoms and potentials.

GIFT BAN LEGISLATION

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of legislation sponsored by my Texas colleague, Representative JOHN BRYANT, to require lobbyists to register with the House and Senate and make conforming changes to the Rules of the House of Representatives with regard to restrictions on gifts given by lobbyists. In light of my support of this legislation, I have agreed to sign a discharge petition to bring this legislation to the floor of the House for consideration.

In the past, I have not signed discharge petitions. It is my belief that such devices are generally harmful to the legislative process, as they call for the avoidance of the committee system which serves our Government well. However, because of the majority's disdain for that very process, and the lack of consideration given to the attempts to bring the legislation before the appropriate committees for action, this extreme step has become necessary. Therefore, I will add my name to those seeking to bring the legislation before the House.

Additionally, Mr. Speaker, I have added my name as a cosponsor to House Resolution 264, legislation sponsored by Republican Representative BURTON. This bill, which I hope will be up for a vote this week on the floor of the House, would require greater disclosure of gifts given to Members of Congress. I support the bill as a bipartisan solution to the need for comprehensive gift legislation. Under the Burton bill, Members are required to disclose all gifts and meals received which are worth more than $50. The bill makes other appropriate changes to the Rules of the House regarding this issue.

TRIBUTE TO HARRY A. SCARR

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. ZELIFF. Mr. Speaker, I would like to take a moment today to note the unexpected passing of Mr. Harry Scarr, the Deputy Director of the Bureau of the Census.

Immediately prior to his position as Deputy Director, Mr. Scarr served as the Bureau's Acting Director for almost 22 months. In 1988, Mr. Scarr received the Department of Commerce's highest award, a Gold Medal, for his contributions to Federal economic statistics and to the preparation for the 1990 census.

Mr. Scarr's 25 years of dedicated service to the Federal Government includes tenures at the Department of Commerce, the Department of Justice, the Immigration and Naturalization Service, and the National Institute of Mental Health. Having received his degrees from the University of Michigan and Harvard University, and having taught at the University of Pennsylvania's Wharton School, Mr. Scarr chose a career in Federal service. His distinguished career is an example for all. He was among the best and brightest, and nobly chose Federal service.

As chairman of the subcommittee which exercises oversight over the Bureau of the Census, I was looking forward to working with Mr. Scarr. The Census Bureau will greatly miss his expertise and knowledge as it prepares for the 2000 census. I offer my condolences to the family of Mr. Scarr and his fellow workers at the Bureau.

CONGRATULATIONS TO BISHOP ANTHONY M. PILLA: CHOSEN AS PRESIDENT OF CATHOLIC BISHOPS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. STOKES. Mr. Speaker, I am pleased to extend congratulations to Bishop Anthony M. Pilla, a resident of my congressional district and leader of the Diocese of Cleveland. On yesterday, Bishop Pilla was elected as the new president of the National Conference of Catholic Bishops. In this influential post, he will serve as the chief spokesman for the Catholic Church and provide leadership for its 60 million American parishioners. Previously, Bishop Pilla served as vice president of this distinguished organization. On behalf of the residents of the 11th Congressional District, we express our strong support and encouragement to Bishop Pilla as he assumes the presidency.

Since 1980, Bishop Anthony Pilla has led the Diocese of Cleveland. Throughout his tenure, he has been outspoken on the social, political, and religious issues confronting our community and the Nation. His strong leadership and dedication has earned him the respect of the entire community. He is not only admired, but he is an individual of the highest integrity and commitment.

As he assumes the helm of the National Conference of Catholic Bishops, Bishop Pilla does so with the full support of the organization. In the election, he garnered 170 of the 238 votes cast, and bested 10 other candidates to win the 3-year presidency.

Mr. Speaker, on Friday, November 17, 1995, the Cleveland community will express its pride in Bishop Anthony Pilla with a Mass being held in his honor. I take pride in expressing my personal congratulations to Bishop Pilla. He is someone whom I greatly admire, and I wish him well as he assumes this major post.

PICK-SLOAN PROJECT FACILITIES TRANSFER ACT

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. ROBERTS. Mr. Speaker, one of the key reform goals of this Congress is to examine all aspects of the Federal Government's involvement in the day-to-day lives of our citizens, and determine which of those Federal roles would be more efficiently managed on the local level and/or by the private sector. The portions of the Pick-Sloan project in Kansas and Nebraska, appear to fit this category.

However, the procedures established that allow the Bureau of Reclamation to transfer title—and the management and financial responsibilities—to the irrigation districts are often contentious and inordinately time consuming.

Today I am introducing a bill to expedite this process and so all interested parties can raise their issues and concerns relative to the title transfer of the Kansas and Nebraska Pick-Sloan projects. There are sure to be provisions in this bill that some may find problematic. The introduction of this legislation will encourage a comprehensive discussion on this transfer to ensure all appropriate issues are adequately addressed.

The Missouri River Basin, Kansas and Nebraska, Pick-Sloan Facilities Transfer Act will contribute to our continuing efforts to reduce and reform the role of the Federal Government. And by the consideration of this act, Congress will provide an opportunity for all interested parties to register their concerns so they can be properly addressed.

TRIBUTE TO FATHER PAUL STAUD

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. COYNE. Mr. Speaker, I rise today to pay tribute to Father Paul R. Staud, the parochial vicar at Saint Malachy Parish in Coraopolis, PA. Father Paul will celebrate 25 years of service in the priesthood with an afternoon liturgy at Saint Malachy on November 26, 1995.

Father Paul was ordained at Holy Innocents Church in Sheraden, PA, on October 31, 1970. He studied at Assumption School, Avalon High School, Point Park College, Saint Gregory Seminary in Cincinnati, John Carroll University, and Saint Vincent Seminary.

Father Paul has been parochial vicar at Saint Malachy Parish since November 1991. His service to the parish has been exemplary.

His service to the church has also included stints as parochial vicar at Holy Innocents Church [from 1970 to 1974], Saint Theresa Church in Munhall, PA [from 1974 to 1975], Saint Veronica Church in Ambridge, PA [from 1975 to 1978], and Saint Joseph Church in Mount Oliver, PA [from 1978 to 1983]. He subsequently served as pastor at Saint Alphonsus Church in Murrinsville, PA, and at Epiphany Church in Boyers, PA, from 1983 to 1991, and he was also in residence at Saint Columbkille Church in Imperial, PA, in 1991.

Father Paul was deanery director of religious education at the South Pittsburgh Deanery from 1979 to 1983, and deanery director of the Butler Deanery in Butler, PA, from 1984 to 1991. Father Paul has been a master catechist for the diocese since 1979, and he is currently the program manager for religious education at Saint Malachy.

Father Paul has provided 25 years of dedicated service to many of the Catholic parishes of southwestern Pennsylvania. I want to congratulate Father Paul on his silver anniversary.

THANK YOU MRS. RUTH MACDONALD FOR YOUR YEARS OF DEDICATED PUBLIC SERVICE

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. POSHARD. Mr. Speaker, I rise today to thank Mrs. Ruth Macdonald of McLeansboro, IL for her years of dedicated public service to the people of Hamilton County. In 1976 she was elected as Hamilton County coroner. Three years later Ruth was appointed circuit clerk, and was elected to that position in 1980. She subsequently was re-elected in 1984, 1988, and 1992. Ruth retired on July 31, 1995 after serving 16 years as the Hamilton County circuit clerk.

A native of Kentucky, Ruth moved to McLeansboro in 1959 with her husband and three children. Since her arrival in southern Illinois Ruth has worked hard to ensure that her family and neighbors live in a community that strives for excellence. Through her tireless efforts as a mother and public servant she has helped her children excel and contribute to their communities. Ruth's daughter, Alice, is a circuit court judge in Wayne County, IL; her son, John, is an engineer in Cincinnati, OH; and her son, James, is a professor at Weber State University in Ogden, UT.

Mr. Speaker, until the 1992 election, Hamilton County still used paper ballots. Many times the election results were not known until noon the following day, and it was Ruth's office that would remain open to the public around the clock on primary and general election nights, serving coffee and food to those interested in the election outcome.

There is no question Ruth Macdonald has been a public servant of the highest standards, and she will be missed as circuit clerk. I take great pride in honoring her service to the citizens of Hamilton County and all others she served. Ruth Macdonald has set a very good example for all of us to follow, and I wish her the very best as she begins her retirement.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1995

HON. JACK METCALF

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. METCALF. Mr. Speaker, I would like to thank Mr. CASTLE, my good friend and chairman of the Subcommittee on Domestic and International Monetary Policy, for allowing me to discuss some issues about the Defense Production Act.

The Defense Production Act has been an important tool for acquiring needed equipment and technology for our Armed Forces in the event of a national emergency. Yet, the Defense Production Act is a multi-issue law. Much of this expansive act deals with advising and working with commercial activities to study, invent, and produce materials that could be used in the event of wartime activity.

When the DPA came up in subcommittee, concerns were raised by other Members and myself. Besides the continuance of authorizing funds for such an outdated, all-encompassing and convoluted act—it also has sweeping authority given to the President. This nebulous language must be cleared to set a direct mission for use of DPA authority. What we have now can be interpreted as essentially a War Powers Act clothed in 1950's post-World War II language—language that gives heavy leeway to the executive branch.

Make no mistake, I am not favoring withholding vital equipment from our Armed Forces and thus I am favoring reappropriating this bill, but the report language fostered for this bill mandates the executive branch to review and to reform the outdated language and to set clear the mission for the DPA. It requires the President to provide an interim report and a final report before appropriations end in 1998. The goal of this report language is to help refine the bill, provide what is necessary for the Armed Forces by Presidential order, and to set a direction for a rewrite of the legislation before the next appropriation cycle.

Maintaining vital procurement in times of national emergency is imperative—but modernizing statutes to ensure proper legality is also extremely critical.

GOVERNMENT SHUTDOWN

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. PACKARD. Mr. Speaker, it absolutely galls me that the President has chosen to play politics and shut down the Federal Government rather than join us in making a downpayment on a balanced budget and a brighter future for our children.

The Government shutdown is solely on the President's shoulders. He has provided no leadership and no plan for a balanced budget. Despite his rhetoric to the contrary, the President has no balanced budget. Never has.

I urge my colleagues not to give in to the scare tactics propagated by the White House.

We need to stay our course and pass the remaining bills necessary to balance the budget. We must remain committed to real reform—reform in welfare, reform in Medicare, and tax cuts for families. Once we have completed the bills, it is up to the President to do what is right and sign on for the future of America.

We have a promise to keep to America. A year ago this month, we promised to end business as usual in Government. The American people are counting on us.

IN MEMORY OF JOHN BEN SHEPPERD

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. HALL of Texas. Mr. Speaker, during the recent dedication of the Korean War Memorial and during last weekend's Veteran's Day memorial ceremonies in east Texas, I was reminded of the oratorical prowess of a legendary Texan and former constituent of mine, the late John Ben Shepperd (1915–90). John Ben was one of the first statewide officials that I met when I first entered politics in the 1950's. He was a kind and considerate man—so capable of friendship—and so strong as a leader.

The caption on the Korean War Memorial, "Freedom Is Not Free," is a phrase that was coined by John Ben in the late 1940's and used in hundreds of public appearances during his civic and political career. In 1953 he published an excerpt of his speeches and entitled the booklet, "Freedom Is Not Free." This and his book, "Freedom's Advocate," won him the coveted George Washington Medal from the Freedom Foundation of Valley Forge, PA.

John Ben would have been pleased and proud to see his language used to memorialize the sacrifices of American soldiers who defended freedom in distant parts of the globe, and I am sure that this pleases his widow, Mamie Shepperd, who lives in my district in Gladewater, TX. He would have joined in the praise and recognition, which is so long overdue.

John Ben was one of America's strongest advocates of democracy. He often reminded us that freedom is not a gift to be enjoyed, but an ideal that must be defended. He continually called on every citizen to uphold and promote our system of government and free enterprise.

In 1948, as president of the U.S. Junior Chamber of Commerce, John Ben organized the "Freedom Flight." According to Jaycee archives, he traveled over 250,000 miles and gave three hundred speeches heard by a quarter of a million people. As Texas Secretary of State and attorney general from 1950 to 1957, he continued to be an eloquent spokesman for democracy.

John Ben had a special concern for young Americans. According to our former colleague, the Hon. Jake Pickle, who first knew John Ben at the University of Texas, he passionately cared that future generations should understand their roots in order to appreciate the American legacy of democracy and heroism.

John Ben's phrase, "Freedom is Not Free," on the Korean Memorial is a stirring reminder to future generations and a fitting tribute to a dynamic Texan. Mr. Speaker, John Ben Shepperd leaves behind a powerful legacy that serves as an inspiration to us all. I ask my colleagues to join me today in paying tribute to this outstanding American. His contributions to freedom's cause cannot be forgotten.

TRIBUTE TO BOY SCOUT TROOP 283

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. RAMSTAD. Mr. Speaker, I rise today to pay tribute to the proud history, rich tradition and remarkable accomplishments of Boy Scout Troop 283 of Wayzata, MN, in my Third Congressional District.

This Sunday, November 19, Troop 283 will be celebrating its 80th anniversary.

I am particularly proud of Boy Scout Troop 283 since it is based at my own Wayzata Community Church. I know the great work this troop has done and its commitment to excellence.

Boy Scout Troop 283 has represented the highest standards in Scouting for eight decades. The hundreds of Scouts and their many volunteer leaders have displayed an inspiring dedication through these past 80 years which has had a powerful and positive impact on the quality of life in our area.

The young people of today, who now more than ever need strong adult guidance and parental involvement in learning valuable skills that will help them mature into good citizens, have been extremely well served by the generous and dedicated volunteers and parents who have led Troop 283 through the years.

Troop 283's emphasis on providing our young people with positive role models, the importance of community service to help people in the need and protect the environment, and the critical value of exercising active, good citizenship has been truly remarkable. There is no price you can place on that kind of public service, leadership, and good citizenship.

The participation of adult volunteers and the Scouts of Troop 283 will continue to make a huge difference in the future of our community, State, and Nation. These young people are tomorrow's leaders and they are getting the skills, knowledge, moral guidance, and inspiration they need to keep America the greatest country in the world and a lighthouse for freedom and liberty into the 21st century.

Everyone who has been involved with Boy Scout Troop 283 through the years is to be congratulated on their invaluable 80-year investment in the future of our Nation. Troop 283 has our deepest admiration and sincerest gratitude for a job well done, as well as our best wishes for the future.

On behalf of all the people in our area, I wholeheartedly thank Boy Scout Troop 283 for its contributions to making our area a great place to live, work, and raise a family.

SALUTE TO AMERICORPS PARTICIPANTS OF SOUTH DAKOTA

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise today to commend the participants of the second AmeriCorps team in South Dakota. On October 24, 1995, at an Oath of Service ceremony in Rosebud, SD, 15 dedicated individuals committed themselves to 1 year of community service in South Dakota as participants in the AmeriCorps Program. I strongly support the concept of national community service, and I commend each of the participants who will provide much needed assistance to communities all over the country.

The AmeriCorps team will be working on two projects both of which will help rebuild rural America and protect the environment. The first project, headquartered at the Bad River watershed area in Ft. Pierre, SD, involves five members of the AmeriCorps team, and focuses on range and water quality improvements, as well as youth and adult education projects. The second project on the Rosebud Reservation involves a 10-member team which is helping with locally identified projects. These projects include range improvement, water quality activities, and other locally identified natural resource improvement projects.

I am confident that the experiences of the participants as members of AmeriCorps will establish a lasting ethic of civic duty in each of them. Therefore, Mr. Speaker, I wish to recognize each member of the second AmeriCorps team of South Dakota: Matthew Blumer, Ft. Pierre, SD; Kevin Boyd, Rosebud, SD; Roger Brush Breaker, Rosebud, SD; Michele Edelbach, Ft. Pierre, SD; Harvey Elk Looks Back, Rosebud, SD; Paula Hoerner, Ft. Pierre, SD; Kathy Knife, Rosebud, SD; Lester Leader Charge, Rosebud, SD; Joseph Nichols, Ft. Pierre, SD; Clarence Poorman, Rosebud, SD; Pat Buscher, Ft. Pierre, SD; John Sitting Bear, Rosebud, SD; Melvin Staples, Rosebud, SD; Richard Traversie, Rosebud, SD; and Emily White Hat, Rosebud, SD. I am confident that the work of these individuals will not only provide much-needed assistance to the Rosebud Reservation and the Bad River watershed project, but also that the next year will be immensely rewarding for each of the participants. I congratulate each participant on their commitment to service and to furthering their education—I firmly believe that education is essential to a productive life and vital to American efforts to remain a first-class economic power.

Today, I would also like to commend the USDA for its innovative and extensive participation in AmeriCorps, and the members of the Rosebud Sioux Tribe. AmeriCorp-Team USDA provides for a truly unique partnership involving tribal, State, and Federal Government, and this effort will address a lot of the traditional native concerns for the environment. So, as the GOP threatens to terminate funding for AmeriCorp, I am proud that rural enhancement and environmental protection is taking place in the great State of South Dakota and I believe that these programs are examples of why the continuation of the AmeriCorps program is critically important.

IN APPRECIATION OF DR. HARRY SCARR

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, I join with Chairman BILL CLINGER in expressing our deepest sympathy to the wife and children of Dr. Harry Scarr, the Deputy Director of the Census Bureau.

Dr. Scarr is one of those outstanding individuals who devoted his professional time and energies to making the Federal Government work better to serve the public. Trained at Harvard and the University of Michigan, Dr. Scarr chose to devote his considerable talent to public service, and we are all the better for it.

There are a number of sensitive positions in the Federal Government that require a manager with both skill and tact. Dr. Scarr held several of those posts. During the 1970's he worked at the Department of Justice guiding policy and planning decisions for research and statistics on the Federal Justice System. Among the positions he held there were the assistant director in the Office of Policy and Planning, administrator of the Federal Justice Research Program, and Director of the Bureau of Justice Statistics.

In the 1980's he moved to the Department of Commerce Economic and Statistics Administration. He subsequently was appointed Deputy and then Acting Director of the Census Bureau. Dr. Scarr brought stability to the Census Bureau which was without a director for a year and a half.

The Federal Government has many dedicated and hard working employees. The dedication and contribution of Dr. Harry Scarr was among its best.

IN RECOGNITION OF THE SECOND SOUTH CENTRAL LEADERSHIP PROGRAM GRADUATION CEREMONY

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. TORRES. Mr. Speaker, on November 17, 1995, the Mexican American Legal Defense and Educational Fund [MALDEF] will hold its second South Central Leadership Program Graduation Ceremony. At the ceremony, 100 graduates of the program will be honored for their successful completion of the program and dedication to community service in the South Central Los Angeles area.

This year were four projects: the Youth and Parent Empowerment Conference, the Citizenship Conference, the Economic Development Conference, and Alternative Methods for Education. The Youth and Parent Empowerment Conference deserves special merit for its collaborative effort with the leadership development in inter-ethnic relations program. The Citizenship Conference, with assistance from the National Association of Appointed and Elected Officials [NALEO], resulted in the processing of more than 100 applications for citizenship. The Economic Development Conference, working with L.A. Councilman Mark Ridley Thomas' district 8, enlisted several organizations, such as Bank of America, the Mexican American Opportunities Foundation, and the University of Southern California, to name a few, and designed new strategies and opportunities for local economic growth. The alternative method for education project, using the Montessori School Model, shared the successes of the tested and innovative approach to education.

The South Central Leadership Program is another example of MALDEF's efforts to help the Latino community build and strengthen the social, economic, and political infrastructure in this neglected area of Los Angeles. Through the program's grassroots leadership training and support of existing and emerging community based organizations, MALDEF plays an important role in opening new doors of access for Latinos.

Mr. Speaker, I ask my colleagues to join me today in honoring these distinguished graduates. From the Technical Assistance Program the graduates are: Maria Alvarez; Marina Alvarez; Sonia Alvarez; Rosa Avelar; Gloria Barragan; Maria Campos; Kwame Cooper; Eduardo Cordero; Jeanette Lopez Escobar; Maria Flores; Grace Galindo; Rudy Garavito; Maria Gonzales; Vivian Harmon; Ramiro Hernandez; Letisia Mauricio; Bertha Melgoza; Gloria Mendez; Dina Moreno; Maria T. Palacios; Faustina Palomares; Yolanda Perales; Eduardo Peregrina; Sonia Ramos; Ana Maria Rodriguez; Irma Rodriguez; Maria Rubalcava; Gloria Saldana; Reina Schmitz; Leticia Vega; Laura Villegas, and Enrique Carrillo.

Graduating from the Leaders of the Future Program are: Gloria Barragan; Maria Campos; Magdalena Cervantes; Maria Dubon; Maria Gonzalez; Evelia Landaverde; Margarita Landeros; Rosalia Lucero; Gloria Mendez; Ana Alicia Munoz; Sara Olivera; Eduardo Peregrina; Guillermina Pereź; Alicia Ramirez; Estela Tortoledo; Hermelinda Gonzalez; Sonia Alvarez; Maria Alvarez; Wendy Rivera; Laura Villegas; Fermin Rivera; Marina Meraz; Ivone Garcia; Maria Palacios; Ana Maria Rodriguez; Enrique Carrillo; Marcos Aguilar; Pastel Mireles; Maria Ortiz, and Salvador Rios.

IN HONOR OF S. REID GUSTAFSON

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Ms. LOFGREN. Mr. Speaker, it is a distinct privilege for me to rise today to recognize and honor S. Reid Gustafson, a man who, for many years, has contributed greatly to the community of Santa Clara County, CA.

On Tuesday, the 21st of November, 1995, Mr. Gustafson is being honored as the 1995 Distinguished Citizen, at the 21st Annual Distinguished Citizen Award Dinner of the Santa Clara County Council of the Boy Scouts of America. The dinner will take place in the Imperial Ballroom of the Fairmont Hotel in San Jose, CA. I am honored to join with the Santa Clara County Council of the Boy Scouts of America in congratulating Mr. Gustafson on this momentous occasion.

As the Santa Clara County Council of the Boy Scouts of America has noted in their event program from the Distinguished Citizen Award Dinner, Mr. Gustafson is, "a person who exemplifies a commitment to the community, integrity and leadership." Those who know Reid Gustafson know that his spirit and dogged commitment of the community make it a better place for all of us to live and work.

By profession, Mr. Gustafson is a leader in the housing industry, having been president of Shea Holmes of northern California for the last 12 years. In spite of a very busy work schedule, Mr. Gustafson has also found the time to become involved in numerous community programs and activities, and is a role model for all of us in terms of his outstanding commitment to community service. From a personal standpoint, I admire Reid Gustafson very much for this dedication to the people of Santa Clara County.

Mr. Gustafson's extensive community involvement includes serving as the current chairman of the Board of Directors of the San Jose Symphony. Mr. Gustafson also serves on the board of directors of the San Jose Metropolitan Chamber of Commerce, and is a past chairman of the board of managers for the central branch of the YMCA in Santa Clara County.

Mr. Speaker, I also want to honor Mr. Gustafson for the very important role he has played in raising funds for many outstanding community based programs. Through Shea Holmes, Mr. Gustafson has played an integral part in supporting such worthy organizations as the Boy Scouts of Santa Clara County, the YMCA Current Support Campaign, the Crippled Children's Society and the new Children's Shelter of Santa Clara County.

Throughout his career, Mr. Gustafson has served on numerous building industry associations, and has helped to shape the planning of numerous homes and communities throughout California. He has served as the past chairman of the board of directors of the Building Industry Association of northern California, and has also served on the boards of both the State and National Homebuilders' Association. In addition, Mr. Gustafson has served as a commissioner on the Bay Vision 20/20 Taskforce, a key regional planning body in northern California.

Mr. Speaker, I would like to invite you and my colleagues in the House of Representatives to join with me in expressing gratitude and appreciation to Reid Gustafson for his efforts to make our community a better place. I also would like to thank the Santa Clara Council of the Boy Scouts of America for their outstanding leadership in our community, and for giving me the opportunity to share in their recognition of Reid Gustafson as the 1995 Distinguished Citizen Award recipient.

THE FIFTIETH ANNIVERSARY OF HOLY CROSS POST NO. 417 CATHOLIC WAR VETERANS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to pay tribute to the Catholic War Veterans, Holy Cross Post 417 in Trenton, NJ on the 50th anniversary of their founding.

Mr. Speaker, in the fall of 1945, shortly after the surrender of Japan, the young men of Holy Cross Parish, like young men all across the country including my dad who was a combat veteran in the South Pacific began returning from the Armed Forces. At a young age they had stood up to aggression and prevailed. Now they were home, and anxious to get on with their lives that had been interrupted by tyranny. Monsignor Francis Kasprowicz, pastor of Holy Cross Parish took a great interest and concern for the young veterans. So he granted permission to have a Catholic War Veterans Post formed in the Parish. This interest in our returning servicemen led to the founding of Catholic War Veterans, Holy Cross Post 417.

Over the years, Post 417 has opened membership to all those who served in the Armed Forces during World War II, the Korean and Vietnam wars, and beyond. During those years they have been honored for having the largest membership of any post in New Jersey. Others have fallen by the roadside, but Post 417 continues to serve the veterans, not only in Holy Cross Parish, but in all of Mercer County, NJ.

That service is found in the Post Catholic Action and Americanism programs which are year round efforts. Post 417's Palm Sunday Breakfast, Wafer Supper, Fifth Sunday Corporate Communions, Memorial Day Mass, Veterans and Pearl Harbor Day Services are annual events. A Christmas party and an Easter egg hunt are also held yearly for the children of members of the Post as well as the children of auxiliary members.

The Welfare Program also plays an important role in Holy Cross Post 417. Members give of their time to visit disabled veterans at the VA home in Menlo Park, NJ. Often they will play bingo and provide refreshments during their visits with the veterans. The Post holds an annual Cross of Peace collection and they send cards to sick veterans.

The Post organized a Ladies Auxiliary in 1949. They have grown to become not only the largest auxiliary in the State, but also the largest auxiliary in the Nation. The members of Post 417 are well aware that their programs would not be possible without the assistance of their impressive auxiliary.

Mr. Speaker, many influential voices on the American scene today are of the opinion that the United States' greatest ailment is not a lack of wealth, or opportunity. Rather, they see a breakdown in the communal bonds that give people a sense of belonging in an otherwise uncertain and often hostile world. Few would argue with these voices that a sense of community is essential to a cohesive society. Obviously the family must provide the primary bulwark—grounding the individual with a sense that they are not alone in the world. But it is difficult for the family alone to enrich life with the kind of meaning and fraternity we all crave. Certainly careers and Government services can not fill the void either. It is precisely organizations such as Catholic War Veteran, Holy Cross Post 417 which best link us all with the larger community that exists beyond our homes and individual lives.

Post 417, by their long record of involvement in our community is a model of exactly the type of organization which brings us all together in a stable and free society. The service and fellowship they provide to each other, as well as numerous other veterans of our Nation's armed conflicts, certainly yield countless benefits to us all as members of the human family and residents of central New Jersey. We are all truly blessed for their 50 years of service to, as their motto proclaims, God, Country, and Home.

Catholic War Veterans, Holy Cross Post 417, I salute you and all your members both living and deceased on your first half-century of service and wish you the best of success for the many, many years your future surely holds.

FINALLY, BUSINESS AS UN-USUAL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. SOLOMON. Mr. Speaker, let's cut right through the political fog and rhetoric and take a good, objective look at what is actually driving the budget impasse and showdown we are currently embroiled in with President Clinton. The heart of the debate boils down to ideology and principles. Are we going to reign in the role of the Federal Government or not? It has been 40 long years of Democrat rule in the House of Representatives. In that time, the welfare state has ballooned out of control because the answer to all the societal problems is to spend more, more, more.

Well, Mr. Speaker, all we need to do is look at the indisputable facts. As Federal spending skyrocketed, so too has crime and violent crime, drug use, illegitimate children, fatherless homes, and the number of welfare recipients. These trends are indicative of the degree to which the very fabric of American ideals have been shredded. But what was it that actually ripped and tore at the core principles and values upon which this Nation was founded? Clearly, the policies of the welfare state are at the root of this destruction. Now, the only questions that remain are what made the welfare state such a failure and how do we fix it.

This is the crux of the current debate and what makes this moment truly historic. The overwhelming majority of the American public can tell you that the root cause is the inherent message of the welfare state that people not only can get, but deserve, something for nothing. Even President Clinton knows this is the popular opinion. He campaigned on real welfare reform and being tough on crime and drugs yet this week he has said he will veto the Republican proposal to bring real reform to the welfare state and the facts show that drug use is on an undeniable upswing. He has said he is for a balanced budget but now he refuses to even commit to one, yet alone act on it. Why? Because in reality, he is entrenched in this failed ideology along with all the leftist leaders of the Democrat Party. He is entrenched in this bureaucratic mindset which resists change at all costs, even when the American public recognizes and has demanded such change. That's why people are leaving the party in droves.

Mr. Speaker, it is indeed unfortunate that political pandering, class warfare and outright scare tactics are the only responses they have left because their only core principles are tax and spend. However, I would like to submit to the RECORD an editorial from the Wall Street Journal of November 13, 1995, which cuts right to the chase. I hope we can all take their lead and keep an eye on the real debate because it is a truly momentous period in American history.

[From the Wall Street Journal, Nov. 13, 1995]

REVIEW AND OUTLOOK—AT LAST, A CHOICE

So President Clinton vows to shut down the federal government tomorrow if Republican majorities in Congress don't bow to his budget will. Well, be our guest. By all means, let's shut down "non-essential" parts of the government and see if anyone cares.

At least a shutdown might focus Americans, and maybe even a bored media, on the real stakes in this year's budget debate: Is the United States, for the first time since the 1920s, going to rein in the federal government, or not? This is the heart of the matter. The rest is political fog.

Republicans are close to putting on Mr. Clinton's desk a bill that does more or less what they promised to do last November. For the first time in decades, Congress would actually cut some spending. A few parts of Leviathan would even go out of business. The tax burden would ease. Welfare policy would be opened up to 50 state experiments. And so on.

Readers of these columns know we've criticized some parts of this GOP budget. We wish it cut more spending, especially on pet Congressional fiefs, and that it cut taxes in a way that better promoted economic growth. We wish a lot of things, But if this effort fails, the alternative isn't a better budget. The alternative is a victory for the Beltway status quo. That's why this budget fight really is a seminal moment in American politics.

Precisely because Bill Clinton knows this, he wants to delay or obfuscate the real choice. They very last thing he wants is to have to decide whether to sign or veto this budget. For months, ever since Dick Morris came back as his strategist, Mr. Clinton has had it both ways. He claims to be for all of the things the public wants—tax cuts, a balanced budget, welfare reform—but he hasn't had to do anything to prove it.

Meanwhile, his left wing has come down on him with a wrath usually reserved for Republicans. Marian Wright Edelman, Hillary Clinton's mentor and mother superior of the welfare state, wrote an open letter all but accusing Mr. Clinton of child abuse for endorsing a welfare bill that got 35 Democratic votes in the Senate.

So Mr. Clinton has, for now, dropped his compromise budget zig and adopted an opposition zag. His advisers are openly bragging that this will help him on the "character" issue. If he vetoes the budget, he'll lose his reputation for flip-flopping! At least, we suppose, until the Dec. 15 filing deadline for the New Hampshire primary, after which the left won't be able to field a challenger against him.

Which brings us back to the real issue of reining in government. On this score the GOP budget is hardly radical. Over seven years, it would shrink federal spending's share of the economy only slightly—to 18.5% of GDP in fiscal 2002, from 21.7% in 1995, says the Congressional Budget Office. Total federal spending would continue to rise.

We repeat: Total spending would rise—to $1.844 trillion in 2002 from $1.530 trillion.

Tax revenues would climb even faster—to $1.853 trillion from $1.355 trillion in 1995. As a share of the economy, taxes would fall only slightly—to 18.6% of GDP in 2002 from 19.3% this year. Taxation's share of GDP has stayed remarkably near 19% for 20 years now, so this is no great change either. Congress is merely bringing its spending into line with the maximum tax burden Americans seem willing to pay.

It's hard to know what Mr. Clinton means whey he says this budget is "extreme." Does he want Congress to spend $1.9 trillion a year, or $2 trillion, or what? How much is enough?

The president has been most shameless on Medicare and Medicaid, which are growing by 10% a year. Under current law these and other entitlements plus interest are growing so fast they will consume all federal tax revenues by 2012. Every dime. There'll be nothing left for defense or education or anything else Mr. Clinton claims to value.

The logic of Mr. Clinton's demagoguery is that taxes will have to go up, sooner or later. Medicare is financed in part by a payroll tax that in 1937 was 2% on incomes up to $3,000. Today it is 15.3% on $62,600 of income. How high does Mr. Clinton want the payroll tax to go if he doesn't want to accept Republican reforms? And by the way, where are the budget scolds (Warren Rudman, Pete Peterson, David Broder) who've griped for years that politicians lack the courage to tackle middle-class entitlements? When Republicans finally do it, they temporize.

These are the real stakes in this budget debate. They have been obscured by a president who wants to change the subject. And by a media class which decries political "bickering" while ignoring the substance of the debate. The shouting is so loud inside Washington this year precisely because this is the first budget in years that is not business as usual. Mr. President, it's time to choose.

100TH ANNIVERSARY OF TEMPLE ISRAEL

HON. SUE MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mrs. MYRICK. Mr. Speaker, I insert the following for the RECORD:

In the United States House of Representatives November 18, 1995.

Whereas Temple Israel in Charlotte, North Carolina is celebrating its 100th Anniversary; and

Whereas Temple Israel is the oldest and largest Conservative congregation in the Carolinas; existing to strengthen Judaism through worship, study, celebration and the promotion of human well-being; and

Whereas Temple Israel has been an integral part of the Jewish community in Charlotte and surrounding areas, and has given her congregants a warm environment in which to expand their minds, hearts, and souls; and

Now, Therefore I, Sue Myrick, Member of Congress for North Carolina's 9th District of Congress, do honor the congregation and of the Temple Israel as it celebrates 100 years of spiritual growth; and heartily congratulate the entire synagogue family. Best wishes for continued success, health and happiness; and

In Witness Whereof I have hereunto set my hand this Seventeenth day of November, Nineteen Hundred and Ninety-Five.

OUTRAGE OVER CONTINUING RESOLUTION

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Ms. JACKSON-LEE. Mr. Speaker, I rise today to express my outrage over the continuing resolution shutdown of the Federal Government and the furlough of 800,000 Federal employees nationwide. No American is being left unaffected. The House leadership is holding the American people hostage to a radical philosophy that has little credibility. Some of the services that all Americans depend upon are now unavailable. An example of these services include the following:

The Social Security Administration can no longer accept any new applications for benefits.

The Veterans' Administration is unable to issue benefit payments for December 1, 1995.

Individuals cannot receive passports.

Federal Home Administration cannot make housing loans.

National parks and the Smithsonian Institution are closed.

In Houston, 2,200 Federal employees at Johnson Space Center have been furloughed.

The House considered another continuing resolution today that eliminates some of the extraneous provisions such as the increase in Medicare part B premiums that caused the President to veto the second continuing resolution. I still have some concerns about this new continuing resolution because of some of the assumptions used in drafting the bill. It remains to be seen whether President Clinton will veto this resolution.

The ironic aspect of this shutdown is that the Federal Government is not saving any money. When a budget impasse occurred in 1990 and the Government shutdown over the Columbus Day weekend, it cost $1.6 million. According to White House Budget Director Alice Rivlin, the Government incurs expenses to secure vacant Federal buildings, pay penalties on contracts that cannot be honored and expenses to reimburse furloughed Federal employees since those employees that are usually paid for the time away from the office.

I would like to remind my colleagues that Americans are closely watching these deliberations. A USA Today/CNN? gallup poll taken yesterday indicated that 49 percent of those individuals survey blame the Republican leadership for the shutdown.

Moreover, 61 percent of those individuals are angry about the impasse. Forty-nine percent prefer the Democratic Party's approach to reducing the Federal deficit and maintaining critical Federal programs. Finally, 48 percent of the respondents approve of the President's handling of the budget negotiations whereas only 22 percent of the respondents agree with the manner in which the Speaker of the House has handled the negotiations.

Therefore, we must end the political posturing and end the disruption of the lives of millions of Americans. Another issue is the impending default by the Federal Government on its debt obligations. A major interest payment on the Federal debt is due today. We like to boast that we are a superpower and that the world should look to us for leadership. We are a poor example for the rest of the world if we allow the Federal Government to be in default. This is unacceptable to the American people. It should be unacceptable to every Member of the House of Representatives. We must pass legislation to extend the debt ceiling without delay. And we should pass a streamlined continuing resolution to get America working again.

MONTEREY BAY AND LANGUAGE LEARNING

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. FARR. Mr. Speaker, on November 1, 1995, I had the honor of introducing a resolution heralding the Monterey Language Capital of the World initiative.

H. Res. 266 commends the Monterey Bay public-private partnership for its recognition of the unique language resources that are located in the 17th Congressional District and its strong commitment to promoting language diversity.

Monterey is directly involved with 25 percent of the Nation's postsecondary learning in languages other than English. What Research Triangle Park is to applied academics, what Silicon Valley is to high technology, Monterey Bay will be to language learning.

California's central coast has a rich heritage of professional language resources, including: the Defense Language Institute, the U.S. Naval Postgraduate School, the AT&T Language Line Services, the Monterey Institute of International Studies, California State University at Monterey Bay, the University of California at Santa Cruz, Monterey Peninsula College, CTB McGraw-Hill, and American Global Studies Institute.

One of my earliest initiatives after being elected in 1993 was to convene a higher education summit in the district. The participants—CSUMB, USSC, Monterey Peninsula College, MIIS—all agreed to hammer out a language memorandum of understanding whereby the educational institutions agreed to share resources in language training.

In order to make the Defense Language Institute a participant in the Language MOU, I secured passage of a provision in the fiscal year 1994 defense bill which allows civilians to attend the DLI. With a faculty of 900 and a student body of 3,000, DLI is the largest language training institution in the world. It has been located in Monterey since 1946, and teaches foreign languages to other Federal agencies like the FBI, NASA, and the DEA. For instance, when an American astronaut participates in a joint United States-Russian space mission, he has been trained in Russian at the DLA so that he can talk to his mission counterpart.

The U.S. Naval Postgraduate School provides professional, service-oriented educational programs for the U.S. Armed Forces and foreign militaries, and has played host to students from more than 100 nations. While no foreign languages are taught at the NPGS, its students learn other languages at DLI and contribute to the multicultural fabric of Monterey.

The AT&T Language Line Services, the largest provider of telephone-based language services in the world, provides around the clock interpretation for business, emergency service providers, communities and institutions across the United States and Canada, and the United Kingdom in 140 languages.

It was created from the vision of a former San Jose police officer who saw the critical need for law enforcement officers to be able to communicate with the people they served.

AT&T bought the service in 1989. Eighty percent of major hospitals in the United States and more than 45 percent of all hospitals subscribe to the service, as do the INS, the U.S. Coast Guard, the SBA, and most major insurance companies and financial institutions throughout the United States. In fact, at my suggestion the attending physician of U.S. Congress subscribes to the service in order to be able to communicate with any foreign speaking tourists who may require medical treatment while visiting the U.S. Capital.

The Monterey Institute of International Studies has an extensive graduate school curriculum that includes the only master's degree in translation and interpretation in the Western Hemisphere. It was established in 1955 to teach modern languages in their cultural context. The programs at the MIIS are designed to develop bilingual professionals, integrating advanced foreign language education into professional programs in business, public administration and policy studies.

California State University at Monterey Bay will house the new Center for Intensive Language and Culture and an Institute of Collaborative Human Services that will provide nonemergency telephone help, like 911, for non-English speakers.

Working with the AT&T Language Line Services for simultaneous translation, CSUMB, which just opened this fall, will expand its basic language programs for teaching students enrolled overseas. It is these types of innovative, collaborative partnerships that reinforce Monterey's foundation as the language capital of the world.

Monterey Peninsula College offers eight foreign languages, a significant number for a 2-year community college, including Arabic, Mandarin Chinese, Japanese, and Russian. It is committed to maintaining a strong language department with emphasis on Pacific rim languages, in keeping with international economic trends for business and commerce.

What is unique abouth this public-private initiative is that all the language resources interface with each other to create a seamless language web. For example, graduates of the MIIS work at the AT&T Language Line and at the DLI. CSUMB will employ faculty from the DLI and MIIS to teach language classes. Some NPGS students may be assigned to the DLI for specific language training classes.

Moreover, there are very sound economic reasons to promote language diversity, particularly as they relate to the travel and tourism industry, the Nation's second largest employer which provides more than 13 million jobs.

For instance, did you know that: $58 billion in Federal, State and local tax revenues were generated through travel and tourism in 1994; the typical American household spends $3,900 per year on travel; the World Tourism Organization projects that in the year 2000, more than 661 million people will travel internationally; and international visitor spending now accounts for over 14 percent of all travel expenditures in the United States, compared to 5 percent in 1983.

What these statistics indicate to me is that we must compete aggressively for the international travel and tourism dollar and the international traveler—who is most likely multilingual. We can only do that by strengthening our commitment to language training and encourage language development in the citizenry of our own country.

I encourage my colleagues to cosponsor H. Res. 266 and to support your local language resources to ensure continued U.S. global leadership and enhance U.S. economic competiveness.

PARTIAL SHUTDOWN OF GOVERNMENT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 15, 1995

Mr. BEREUTER. Mr. Speaker, this Member highly commends to his colleagues this editorial which appeared in the Omaha World-Herald on Nov. 15, 1995.

[From the Omaha World-Herald, Nov. 15, 1995]

PARTIAL SHUTDOWN OF GOVERNMENT RESULT OF DEMOCRATIC SCARE TACTICS

Government workers and the public were plunged into unnecessary inconvenience by a partial government shutdown Tuesday. The reason: President Clinton put politics ahead of the public.

Clinton vetoed a stopgap spending bill that would have temporarily kept the museums open, the passport office functioning and the national parks in full operation. The "continuing resolution" that would let the government go on spending was needed because the White House and Congress haven't passed a final budget for the fiscal year that began Oct. 1.

The president had been saying for days that he couldn't sign the stopgap spending bill because it contained an increase in the monthly premium paid by retirees for Medicare. Then, as Republican Sen. Pete Domenici offered a compromise on the Medicare premium issue, Clinton added that he also objected to decreases in some other spending programs, including his pet, Ameri-Corps. Of the Medicare change, he said that the price of signing the bill was too high "if America must close down access to . . . affordable health care for our seniors."

Of course the legislation would do nothing of the kind. Clinton's words were a reflection of a cynical and deceptive campaign that Democrats are waging. They try to scare retirees by saying that the Republicans are out to eliminate Social Security and Medicare. This cruel Democratic distortion deserves strong condemnation. In addition, as Republican Sen. Bob Dole pointed out, Clinton has been "playing the Medi-scare game all weekend. That wasn't their real problem. It was cutting spending."

Republicans are proposing a reasonable change. They want to cancel a 1990 Democratic-sponsored measure that, left alone, would have the unintended effect of reducing the monthly premium for Medicare. Without action, the monthly payment would drop from $46.10 to $42.50 as of Jan. 1. The GOP wants to raise the payment to $53.50, thereby keeping the current recipient-funded portion of the program costs at 31.5 percent. Domenici came a long way around by offering to freeze premiums at $46.10.

The increase to $53.50 would prevent a larger burden from shifting to the taxpayers and prepare the way for the long-term adjustments that the public is going to have to make to keep Medicare solvent.

Taxpayers should applaud this responsible suggestion. General-fund expenditures must be cut wherever possible if the budget is ever going to be balanced. Certainly this is no time to be reducing the amount of money that retirees are asked to contribute to the insurance program from which they benefit.

Furthermore, the logical time to make the change is now. To leave it until Clinton and the GOP hammered out all their differences could mean that the rate would drop in January. That would make it even harder to raise it later.

The increased payment by retirees would not be substantial. An average Social Security recipient would be $10.60 ahead each month after collecting the Social Security cost-of-living increase and having the higher Medicare premium withheld.

But Clinton said it was preferable to furlough hundreds of thousands of federal employees Tuesday, suspending a wide variety of services for the public. He made it sound as though he did that to preserve hospital care for the elderly, or to avoid driving them into bankruptcy. He said he cast the veto because he refused to "destroy" Medicare.

Such talk is highly misleading. It frightens people unnecessarily. It tarnishes public debate by creating anger and suspicion that are unwarranted by the facts. President Clinton is known to have advisers who want him to project a more centrist, more reasonable image in the hope of winning moderate support in the next election. If he is ever to succeed at that, he must first learn to keep his Medicare demagoguery under control.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference.

This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, November 16, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 17

9:00 a.m.
Judiciary
To hold hearings on H.R. 1833, Partial-birth Abortion Ban Act.
SH-216

10:00 a.m.
Commission on Security and Cooperation in Europe
To hold a briefing on the biennial Implementation Review Meeting on Human Dimension Issues held last month in Warsaw, Poland.
SD-562

NOVEMBER 29

10:00 a.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings on issues relating to franchise relocation in professional sports.
SD-226

NOVEMBER 30

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

DECEMBER 5

10:00 a.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings on S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.
SD-226

DECEMBER 6

9:30 a.m.
Indian Affairs
To hold oversight hearings on the implementation of the Native American Graves Protection and Repatriation Act (P.L. 101- 601).
SR-485

CANCELLATIONS

NOVEMBER 16

10:00 a.m.
Special on Special Committee
To Investigate Whitewater Development Corporation and Related Matters
To continue hearings to examine certain issues relative to the Whitewater Development Corporation, focusing on the handling of certain documents following the death of Deputy White House Counsel Vincent Foster.
SH-216

NOVEMBER 17

10:00 a.m.
Special on Special Committee
To Investigate Whitewater Development Corporation and Related Matters
To continue hearings to examine certain issues relative to the Whitewater Development Corporation, focusing on the handling of certain documents following the death of Deputy White House Counsel Vincent Foster.
SH-216

POSTPONEMENTS

NOVEMBER 16

9:30 a.m.
Foreign Relations
African Affairs Subcommittee
To hold hearings to examine United States policy toward Angola.
SD-419

2:00 p.m.
Judiciary
Immigration Subcommittee
Business meeting, to mark up S. 1394, to reform the legal immigration of immigrants and nonimmigrants to the United States.
SD-226

SENATE—*Thursday, November 16, 1995*

The Senate met at 9 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord God, You are the light of truth for those who know You, the security of those who love You, the strength of those who trust You, the patience of those who wait on You, and the courage of those who serve You. Fill this Senate Chamber with Your presence. May all that we say and do here today be said and done with an acute awareness of our accountability to You. Help us to ask, "What would the Lord do?" and then, "Lord, what do You want us to do?" In our present impasse over the Federal budget, give us long fuses to our tempers and a long view for our vision of the future of America. We invite You not only to dwell in this place but in our minds so that we can think Your thoughts and discover Your solutions. In the name of our Lord. Amen.

The PRESIDENT pro tempore. The able Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the Senate has before it what?

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1996

The PRESIDING OFFICER. The Senate will now consider House Joint Resolution 122, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 122) making further continuing appropriations for the fiscal year 1996, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. HATFIELD. Mr. President, the Senate now has under consideration House Joint Resolution 122, making further continuing appropriations for fiscal year 1996. The resolution provides authority to obligate funds for programs and activities normally funded in the nine regular appropriations bills not yet signed into law. The rate of operations is to be the lowest of the current rate, the rate proposed by the Senate or the rate proposed by the House. Programs and activities terminated or significantly reduced under that formulation may be maintained at a rate not to exceed 60 percent of the current rate. And the rate of operations may be adjusted further to avoid reductions in force.

The expiration date of this continuing resolution is December 5, 1995. This resolution does not include the provision relative to Medicare part B premiums that was in the measure vetoed by the President on Monday. Let me emphasize, that has been removed. That was the great focus of debate and discussion on that first continuing resolution. That is gone.

Instead, there is included the following provision which I will read in its entirety.

Section 301 of this continuing resolution:

> (a) The President and the Congress shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the fiscal year 2002 as scored by the nonpartisan Congressional Budget Office.
>
> (b) The unified balanced budget in subsection (a) shall be based on the most current economic and technical assumptions of the Congressional Budget Office.

That is it. Nothing more. Simple, straightforward. Mr. President, I want to say, in adopting this resolution, we are simply recommending and committing ourselves to a balanced budget. That is a commitment I believe we all share.

There is nothing in this resolution, Mr. President, that says we will achieve balance with tax increases or with tax cuts. There is nothing here that says whether defense spending will rise or fall. There is no mention of Medicare or COLA's or highways or education or the environment. We will have our arguments about all of those things, but we ought to be able to agree that we will balance the budget. That is all we are committing ourselves to.

And in stipulating that our efforts should be measured by the Congressional Budget Office, we are only restating what we are already required to do and what the President of the United States, Mr. Clinton himself, asked us to do in his address to a joint session of Congress some time ago. We cannot bring any proposal to this floor that has not been scored by the Congressional Budget Office. The President has agreed to that.

As one of those who voted against the constitutional amendment requiring a balanced budget, I argued that we did not need to encumber the Constitution when we could achieve balance within legislation. Members on the other side of the aisle argued the same. I still hold that position, and I ask my colleagues who stood with me to stand with me in voting for this continuing resolution.

I am very interested to hear responses. I cannot understand how anybody can stand on this floor or before the American public and say they are against balancing the budget. We say 2002, and we only say the Congressional Budget Office shall do as is required to be done to score proposals. How can anyone oppose this continuing resolution, unless they have turned their back on the very principle of balancing the budget?

Now, if that is so, so be it, but let us be honest and frank with one another. This stalemate we are in now is unnecessary, and we can end it. At the same time, we can commit ourselves to the American public that is expecting us to give some kind of a statement as to when we are going to balance the budget.

So let us not get into all these byways and these sidetracks about Medicare and education and all those things. My position is well known on those social programs. I would have liked to have written perhaps a certain major reduction in military spending, but that is a personal view. I will argue that at some other time. But on this continuing resolution, let us put the Government back on track, let us end the stalemate, let us say to the American people we have a separation of powers, but at the same time we can unite ourselves, regardless of our party, regardless of the branch of Government, to a simple goal of balancing the budget by 2002. I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend from Oregon for his opening remarks, and I am pleased that we are at least getting to this so-called continuing resolution. I hope that we can move on it in an expeditious fashion, because after we move on it and after it passes the Senate, as it is foreordained that it will given the commitment that the

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

majority in the House and Senate have expressed; everyone knows it is going to the President. Everyone knows when it gets to the President, he is going to veto it.

So we continue the charade that we have been going through now for entirely too long. This is the third day of the Government shutdown. Tomorrow will be the fourth day and the day after that will be the fifth.

Mr. President, it seems to me it is time we begin to get serious about this and stop the charades, but nevertheless, under the process, we must go through it.

The real issue, I suggest, before us today is whether the Congress of the United States wants to stop acting like a bunch of spoiled children and start acting like adults. On the way in this morning, I was treated to a radio program that was unbelievable. It said that the Speaker of the House of Representatives said that he was very upset, piqued by not being treated properly by the President en route to the funeral in Israel. Someone suggested that probably that was not a proper way to act, and I believe the words by the Speaker were something like, "Well, it may be petty, but it's human."

That is a sad commentary, indeed, but probably sums up much better than I could in any words how ridiculous this whole process is.

We have this continuing resolution which was just explained by the leader of the Appropriations Committee. I simply say to my friend that regardless of how well-intentioned this continuing resolution is—and as yet I have not even seen the numbers, but as I understand it, it is a continuing resolution to continue the Government of the United States and get people back to work until sometime in December; is that correct?

Mr. HATFIELD. December 5.

Mr. EXON. I have been advised, for the record, on the 5th of December.

Mr. HATFIELD. Will the Senator yield for a moment for me to give a little further explanation?

Mr. EXON. Yes.

Mr. HATFIELD. Mr. President, as you well know, we have 13 appropriations bills. We now have 7 of those 13 bills that are in the process of being sent down to the White House that we expect to be signed. We have had three or four signed by now: transportation, energy and water, the military construction, and the agriculture bills. We have acted upon foreign operations, and we will be acting today probably on Treasury-Post Office. We have already acted on the legislative.

In other words, I think we will have by, hopefully, the end of today seven of these bills on the President's desk signed into law. That means we have the remaining bills. The Defense bill we hope to have acted upon today, the conference, to reach some kind of a conclusion. HUD is meeting today. In other words, December 5 has a very specific reason; we believe that we can get the rest of these appropriations bills completed. And we have stripped things from those bills that have been unacceptable by the President, as the Istook amendment on the Treasury-Post Office, as abortion language that was on the foreign operations bill. So what I am saying is simply that by the December 5 deadline, we expect to have all of those 13 bills completed and, hopefully, signed by the President.

As the Senator knows, as the President signs each one of these bills, that part of the Government drops out of this particular stalemate, because that means that money has been appropriated and approved by the President.

So we are hoping to have all 13 of those bills completed by December 5.

As I say, we hope to have seven signed within the hours of today, or maybe early tomorrow. That is all out of the continuing resolution, all seven of those bills. As we pass each succeeding bill, that will be removed from the continuing resolution, and that part of the Government will be back in full operation, like the energy and water, and agriculture, and so forth, that we have now assigned, and transportation. So that is the reason for the December 5.

Mr. EXON. I appreciate the explanation by my friend. Another way of saying that is that you were hopeful that in the next few hours, or in the next few days at least, that seven of the 13, or roughly half of the appropriations bills, will have been completed and, hopefully, signed by the President.

Mr. HATFIELD. Yes, of which we have four of those seven now signed by the President.

Mr. EXON. Now, another way of saying that is that we only finished approximately half of the 13 key appropriations bills and presented them to the President, is that correct? Or we will in the next day or so?

Mr. HATFIELD. Yes. Let me further explain that the real problem we have had with appropriations in this particular year is—there are a number of reasons, but let me give you two major reasons. As the Committee on the Budget, on which the Senator serves as the ranking member, presented the budget resolution to this Congress, it called for about a $22 billion reduction in nondefense discretionary programs. Therefore, all of the nondefense programs had to make a rather serious and severe reduction, and the judgments on that have certainly varied. And so we have faced a dollar question, a reduction of dollars. I would like to have had far less in the defense spending. But somehow, the Budget Committee and the bodies, the House and the Senate, have agreed that that is not part of our great reduction scheme. But rather, it is going to be the nondefense programs—education programs, health programs, welfare programs, and so forth. So the committee had to make those judgments.

The second problem we have faced—and there are not sufficient dollars to meet the needs on the level of spending that the President has requested or wants—but the other problem we have had increasingly over the years, as the Senator knows, is that nonappropriation matters have been piggybacked on appropriation bills—abortion, school prayer, striker replacement, on and on I could go about legislative matters on the appropriations bills. We could have handled a number of these bills far faster if we had not had to deal with the riders. That has been the second factor. We had an abortion issue on three separate appropriation bills, with a little different wording, a little different application, and so forth and so on. You know how hot an item that is. I happen to be pro-life. The Senator happens to be pro-choice, but nevertheless——

Mr. EXON. Let me correct the Senator, so that we keep the record straight.

Mr. HATFIELD. I will just say that some Senators are pro-life and some are pro-choice.

Mr. EXON. To advise and correct the RECORD, this Senator has, I think, been generally along the same line with the Senator from Oregon. I am a pro-life Senator, not a pro-choice Senator. Let us correct the RECORD.

Mr. HATFIELD. I will correct the RECORD, as well, by saying that the Senator and I have agreement on that. We do not share that same agreement, of course, with other views here in the Senate. Consequently, what I am saying is that that issue has been a very contentious issue over the years. As a consequence, it has slowed the whole process of appropriations down.

Those are the reasons that we are at this point in time relating to the appropriations process. We are hoping to strip the riders, as we have been doing, or modify them, or amend them, to make them acceptable downtown in the White House.

So I just wanted to indicate again why, from the appropriations point of view, we happen to be in this situation today and are fast trying to extricate ourselves from it, as indicated by the fact that we have seven bills on the President's desk, four of them signed, and how we hope to get the others down to the President within the period between now and December 5.

Mr. EXON. Let me further inquire of the chairman of the Appropriations Committee, with whom I have worked very long and very well over the years. I believe that the Senator from Oregon has been on the Appropriations Committee nearly all of the time he has served with great distinction in the U.S. Senate.

Does the Senator from Oregon ever recall a time when we have been this far behind in passing appropriations bills, regardless of what the reason was for the delay?

Mr. HATFIELD. Oh, yes. I would say that back in the 1980's we had a CR that went a whole year. We could not resolve those problems. We had other CR's. We had probably three or four in a period from 1981 to 1985, short-term CR's. We had the Government shut down for a couple of days. This is not new. It is not the way to do business.

Mr. EXON. I thank my friend. Again, I will proceed with my remarks.

I was saying, Mr. President, I was disappointed in the fact that we have delay upon delay upon delay, and we are going through charades, as we are going through today on this continuing resolution that is going to be passed, very likely, and vetoed by the President.

So this is an exercise in futility, unfortunately, at a time when the Nation is wanting. I simply say, Mr. President, that in negotiations during the last few days, myself and others have been pleading, and the administration has been pleading, with the Republican majority to just give us a clean continuing resolution. By "clean", I mean every extraneous measure, or thought, or condition, or concept would be thrown off, and we would just have a continuing resolution for 24 hours, or 48 hours. That was rejected. I was mystified by that because I could not understand how any reasonable group of people, regardless of their political affiliation, would not agree that it was wise to continue the normal functions of Government, at least for a short period of time, while we continued to negotiate.

I now understand why we were turned down flatly on what would appear to any reasonable person as the course of action which could be taken. It was because the Speaker of the House of Representatives, and others, clearly had in their hip pocket this new, ludicrous plan that they knew it would not open up Government once again, but it might give them, on a political scale, some advantage, or an up-bump in the polls that have been quite devastating to the Speaker and others in the last few weeks.

The measure before us today is a farce. It is game playing. It is not the way to do business, and it is not doing business; it is playing politics. Grown-ups know that it is a childish game to shut down the Government in order to blackmail the President into accepting extreme measures, the extreme Republican budget, and trying to make excuses for why they are doing it.

The sad part is that this game has real consequences to real people. Hundreds of thousands of Federal workers do not know whether they are going to be able to pay their bills. Thousands of Americans who are entitled to sign up for Social Security are not able to do so because no one is at work to process the new legitimate claims. Thousands of veterans who should be signing up for new benefits that they have earned are not able to do so because Government is not on the job. Thousands of Federal contractors are not being paid, but the Government has agreed to pay them.

According to press reports, for example, Mr. President, 39 illegal immigrants—I repeat, Mr. President, according to press reports, 39 illegal immigrants—were detained, as they should have been, and sent on their merry way, smiling and laughing on Tuesday because the Government was shut down. It left the Immigration and Naturalization Services shorthanded.

Another matter, the Colorado State Police stopped a van, called INS, and was informed they would be unable to investigate because they lacked the manpower to do so because the staff had been furloughed.

This is no way to run the Government. What we should do is pass a clean continuing resolution to allow the Government to serve the people, pay its bills, and do so in a timely fashion. That is our duty.

The majority wants to set the terms for the coming negotiations on the deficit reduction bill. All this political posturing about how to do the big deficit reduction bill is just a transparent attempt, I suggest, to coerce the President to weakening his negotiating position before—before—negotiations even begin.

The responsible thing to do, of course, would be to pass a clean continuing resolution for either a shorter or a longer number of days and allow the Republicans to get the extreme budget proposals that they are pushing out of their system, because they are not going to prevail.

We should let the President go ahead and veto these bills, which is what he is going to do, and then and only then start some real serious negotiations where people of good will can sit down and say, "We are not, any of us, going to get exactly what we want". Through negotiations and compromise, we can do our job as we were sent here to do.

In these real negotiations, everything should be on the table. Let me repeat that, Mr. President, because that is not the mode that we are operating under now. In these real negotiations to come that I am quite prepared for at this time, and will have some recommendations to make at the proper time that I think might be an important step toward bringing us together—bringing us together—these real negotiations have to start with everything being laid on the table. Otherwise, we will not get anything done.

The length of time it takes to balance should be on the table, along with everything else. The economic assumptions that we use should be on the table. What do we need to make the extreme cuts in Medicare that the Republicans advocate should be on the table, and will be on the table. At least I am pleased that the Republicans at this very late hour have taken the Medicare matter off the table temporarily.

Also on the table should be whether we want to give tax breaks to the wealthiest among us. That has to be on the table. Let me tell my colleagues, I have run the numbers on this budget and I have been trying to figure out a way to get to a balanced budget. I do not agree with the White House with regard to a 7-year budget. I think we can come to agreement to balance a budget by 7 years.

I believe under the proper circumstances we would be able to convince the President to sign such a measure if we can put everything on the table and if we can sit down as adults and reach a compromise.

I must say, Mr. President, that if the Republicans continue to insist—I repeat this, if the Republicans continue to insist—on a $245 billion tax break for the wealthy, and if they continue to insist on using CBO assumptions only and purely, there is no way that we can get to a balance in 7 years without extreme and deep cuts in Medicare, in nursing home care, nursing homes, and in education.

We hold out the hand, the offer of compromise, once again. After we get through with this ridiculous exercise that is going nowhere today, maybe we can get to that point tomorrow or the next day or the day after that.

I am proud, and the President is right to oppose such a budget. I support him in that. Passing of the continuing resolution that has just been offered to us from the House of Representatives would tie the President's hands to such an extent that it would be almost impossible to start meaningful negotiations on a compromise.

Therefore, I will strenuously oppose this continuing resolution and hope that we can move it along to a fair and honest role that can pass both Houses and receive the President's signature, and stop this charade and game playing. I yield the floor.

Mr. GREGG. Mr. President, I have listened to the Senator from Nebraska, whom I greatly admire as ranking member of the Budget Committee, and from what I have heard him say, I can understand no reason why he would not vote for this resolution.

This resolution does not use specifics as to how we reach a balanced budget. It does not say that we must follow the outline laid down by the Republicans on our side of the aisle—which outline I happen to think is a fairly reasonable one.

The Senator from Nebraska has characterized it as "extremist," but I do not know what is extreme about balancing a budget over 7 years, allowing the Government to grow by 3 percent over that period of time, allowing Medicare to grow by 6.5 percent, or $349 billion, over that time, allowing Medicaid to grow by about 5.4 to 5 percent or $146 billion over that period of time, saying to senior citizens, "We will spend $4,800 on you today but in the year 2002 we will spend $6,700 on your health care." Those are hardly extreme positions. They are fairly reasonable positions, and they allow us to reach a balanced budget by slowing the rate of growth of the Federal Government.

If you allow the terminology of the Senator from Nebraska to apply—"extremism"; this is what is being used often on the other side as a reason for rejecting a balanced budget—even if you accepted what the Senator from Nebraska has said that he would, however, be willing to agree to a budget which reaches balance in 7 years and that that is a doable event—he does not like our budget but it is a doable event.

What this continuing resolution says is, "Let's reach a balanced budget in 7 years." It does not say how. It does not give specifics. It does not bind the President or the Members of the other party to a specific glidepath to reaching that balanced budget. It simply says the President and the Congress shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the fiscal year 2002 as scored by the nonpartisan Congressional Budget Office.

Therefore, all it is saying is that we have to reach a balanced budget by the year 2002. It is not saying how we reach a balanced budget. It is not demanding a certain set of specifics be used for reaching that balanced budget. It simply is saying, during the term of this Congress, during our watch, we must put in place a balanced budget that is scored by the Congressional Budget Office which, of course, is what the President initially said he would use as a scoring agency.

Therefore, when the Senator from Nebraska, the ranking member of the Budget Committee, gets up and states he is for a balanced budget in 7 years, it seems to me he should be comfortable with this resolution which says exactly that: Let us reach a balanced budget in 7 years. It does not say let us reach the Republican game plan for a balanced budget, it says let us reach a balanced budget in 7 years. So, I do not see this resolution as being on the extreme. In fact, this resolution is right in the mainstream of the comments made by the distinguished Senator.

The further comments were made that it is ludicrous, and there is an attitude of futility here, in pursuing a balanced budget under these types of terms. Why is it ludicrous? Why is it futile to bind the Congress and the President to reaching a balanced budget in 7 years? We are not saying, in this resolution, you have to cut this program, you have to cut that program, you have to slow the rate of growth in this program, you have to raise this tax or cut that tax. We are just saying let us do it. Let us agree we are going to do it, we are going to balance the budget in 7 years. What could be ludicrous or futile about that? That seems like a fairly constructive statement. It is a statement which I suspect most Americans would say is maybe too passive on the issue of reaching a balanced budget. I suspect most Americans would like us to say specifically how we are going to do it.

We as Republicans have. We have laid down a plan for that. From the other side we have not seen such a plan, but we have heard statements, like the Senator from Nebraska's, saying they would agree to balance the budget in 7 years. So all we have done in this continuing resolution is say: All right, let us take one little baby step on the road to balancing the budget. Let us, as a Congress, agree, with the President's support, that we shall balance the budget in 7 years. Let us not get into specifics, but let us just take this little step into the water. Let us put our toes in the water, the water of a balanced budget, and say we are going to commit to it. That is neither ludicrous nor futile. That is what we are supposed to be doing as a Government. We do not say do it in 4 years or 5 years, which is what the President originally said he would do when he ran for this office, and what many of us would like to do. We say 7 years, which is a fairly reasonable timeframe.

During this period of 3 weeks, while we will be functioning under the continuing resolution, we have not unfairly impacted the spending accounts of this country. We have simply set up a structure which says we will spend at the levels, the lower levels of either the House or the Senate numbers. Or, if there is no spending on a program, we will have it function at 60 percent of its level, which is a fairly reasonable thing to do when we are talking about a short timeframe.

Why would you want to excessively fund programs over their funding levels which have been laid out in the appropriations bills as they have been coming through? It would be unreasonable to fund them at the higher level. It would be inconsistent with good government to fund them at a higher level when we as a Congress may choose the lower level when we finally pass the appropriating bills. So it is the safer and more thoughtful course to take the lower level.

Thus, this is a resolution which really does not do a whole lot. As I say, it just puts our toe in the water of the balanced budget issue. In fact, I happen to think it is far too weak. I have serious reservations about it. I personally am on the borderline of whether I even want to vote for something that is this weak on the issue of balancing the budget.

But the fact is, it is not extreme, it is not futile, and it is not ludicrous to suggest the Congress, the 104th Congress, should commit with the President on this resolution that we are going to balance the budget by the year 2002. That is not only not extreme, ludicrous, or futile, that is our job. That is what we should be doing. That is what the American people hired us for. And therefore I take a bit of exception to the statements of the Senator from Nebraska and ask him to review those statements in the context of the resolution. I think if he does, he will come to the conclusion he can support this resolution.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to join those who expressed their reservation in opposition to the proposal that passed the House of Representatives last evening, some 16 pages or 17 pages of continuing resolution plus the words that have been mentioned in reference to the balanced budget.

I think it is only appropriate to look at where we are today to understand why the President is deeply concerned about signing this particular proposal. We have to really understand what the significance of all of this means, beyond just the words which are included in the continuing resolution. We have to look back at the fact that, in the spring of last year, the Speaker of the House had indicated what was going to happen in the late fall, that there would be a clash between the executive branch and the Congress on a budget for this country, and that he planned to shut the Government down to get his way. He has said that repeatedly, in the spring and in the early fall. My colleagues have included those statements in the RECORD.

Effectively, to sum up what the Speaker was talking about, Speaker GINGRICH's at-all-cost strategy shows little hint of compromise or common ground. For months he has implemented a strategy to blackmail the American people and the President into accepting his budget priorities. We have to consider all of the statements that were made by the Speaker predicting where we were going to be in the fall, the impasse that we find ourselves in today. That was all predicted. It is part of a plan. It was his intent to do so and this is where we are today as a result of that intransigence. This crisis we are facing today was predicted and planned by the Speaker and other Republican leaders. So no one should suddenly be surprised that we have this situation, because we have had a long period of notice.

Now it was not only the statements of the Speaker, but it has been how the House and the Appropriations Committee have been dealing with their business. Up to just a day or two ago, only 4 of the 13 appropriations bills were actually sent to and signed by the President of the United States.

I listened with interest to my good friend from Oregon, the chairman of the Appropriations Committee, who said we will be up to almost half in the next couple of days. The fact of the matter remains that, of the major appropriations bills that deal with the heavy commitments of the Federal Government, about 80 percent have not been sent down to the President. So we find, on the one hand, the prediction by the Speaker of the House of Representatives of the United States saying we will have this train wreck, we will slow or stop the Government—repeatedly stating that. And with the other actions of the Speaker—because, as all of us know, those appropriations initiate over in the House of Representatives—we know we are going to have, effectively, the crisis, because he is not going to pass the appropriations bills. If you do not pass the appropriations bills you have the continuing resolution.

It was by design and intent, design and intent by Republican leadership, that we were going to have crisis—both by the statements and by the failure of the appropriations process and the leadership in the House of Representatives in sending those appropriations over here.

I would just add, as I heard the chairman of the Appropriations Committee say, "then there were so many riders that were put on those bills." Who is in charge here? Who put the riders on? They could not get on if they had not had the support of our Republican friends and colleagues. And, as we know, the tradition of this institution is we do not provide legislative matters on appropriations. We never used to. We do this year, because of the majority, and that has slowed the whole process down.

But, Mr. President, the Republican leadership understood that would be the direct impact of adding rider after rider on appropriations. The conferences have not done their work. They have not finished the appropriations and set them down and had them completed. So, where we are today should not surprise any Member here. It will become increasingly clear to the American public why we are here, and who intended us to be here with this particular crisis.

Mr. President, I listened last night to the debate over in the House of Representatives. I am mindful what is going to be on the floor of the Senate tomorrow—the Republican budget, the reflection of their priorities. You know something, Mr. President, in 24 hours we will probably have here on the floor of the U.S. Senate those same cuts in Medicare that were included in the continuing resolution. I mean come on, colleagues. We know exactly what is going on here. They are not even going to wait 24 hours. We are going to have the same cuts in Medicare that were included in the continuing resolution, tomorrow, on the floor of the U.S. Senate. What is the idea? They say, let us work this out together, we are coming with clean hands, and we are prepared to work with the President of the United States on a balanced budget—but they still bring their cuts in the Medicare Program.

This is a back-door cut in Medicare, and every senior citizen ought to know about it. And 24 hours from now we will have that budget with those cuts on the floor of the U.S. Senate We will have the budget with those tax breaks for the wealthiest individuals. And we will have the cuts in education programs on the floor of the U.S. Senate. We are going to have to have it within 24 hours.

So spare us the arguments my friends, the Republicans, that you just want to work this out with the President of the United States. Why did you not work out the budget with the President of the United States? Why did you not sit down and say, "All right. This is acceptable, and can't we work this out in order to move toward a balanced budget?" He is committed to do that, but we never had that opportunity. We never had that negotiation.

As has been stated repeatedly on the floor by the relevant committee chairman, most of the Democrats were not included in the conferences. They never had a chance to express an opinion. We were reduced the other night to a situation where Members could not address this body, or talk for their constituents in their State about what was really happening around the consideration of the budget.

Last night I took the time to watch that debate over in the House of Representatives. There was not one single Republican, not one, that stood up and said, with the passage of this proposal we are prepared to take Medicare off the table. Not one. Not one of them said, pass this resolution and we will reconsider our tax breaks for the wealthy. Not one. Not one of them said, pass this particular resolution and we will reconsider the severe cuts in the education programs that will put a dollar sign on every college door in this country that says "Only the Wealthy Need Apply." In 3 hours of debate, not one of them said we are going to reconsider our position on tax cuts and Medicare cuts. Not one.

So what are we left with? We are left with the language that we heard from a number of our Republican colleagues last night. They said, let us give the President a message. Let us put him on the spot. Let us drop this on the door of the President of the United States—over and over again.

So we ought to understand where we are, and why the President is absolutely correct in vetoing this measure. Mr. President, passage of this measure is just another indication that there will be cuts in the Medicare Program. Make no mistake about it. Do not listen to this Senator. Just take the time to listen to the debate tomorrow on the floor of the U.S. Senate. That is a better indication of where the Republican priorities are than all of the speeches that are made here this morning, this afternoon, and maybe even this evening. They can say, we are really just trying to do what the President says he wants to do. And they can say, all you have to do is put your toe in the water and move us toward a balanced budget. But that is hogwash. And every senior citizen ought to know about it. Their plan means an increase in premiums. It means an increase in the deductible. It means an increase in the copayments. It means a diminution of quality of health care. And it means taking away from the seniors their ability to choose their doctors.

So when our colleagues say, we want to go back to the basics, and we want to work this out with the President, we are really approaching this with good faith on that—that just does not fly, not when you look at the facts.

In the meantime, Mr. President, we see where we have gone with our Republican friends. They say everything is on the table. Yet, in this continuing resolution—they cut the heart out of many of the education programs which are essential to improving the quality of education for the young people of this country.

They reduce the Goals 2000 legislation. They cut it by some 40-percent. That is a block grant that makes sense. That says that 90 percent of the funds to improve and enhance the education of the young people of this country are going to go to the local school districts, go to the parents, go to the teachers, go to the school boards, and let the local communities help develop a program to increase academic achievement. It goes for education at the local level. It passed overwhelmingly with Republicans and Democrats alike last year. And nonetheless, because it was a President Clinton initiative on education, it was zeroed out in the House of Representatives—abandoned. Now it hobbles along under this particular resolution reduced from the previous resolution of the Republicans that left it at 90 percent. Now it is going to be funded at 60 percent—a 40-percent cut, Mr. President.

What will the Republican resolution be on December 6? This resolution only goes to December 5. And we have that kind of a cut from 90 percent. We cut it 40 percent in this continuing resolution. That is unacceptable.

You take safe and drug-free schools. How many times do we listen to our Republican colleagues talk about the problems of substance abuse, and here they are cutting out a significant program. That is not the answer. All of us understand from various hearings on these programs, you need not only a program in the schools, but you need after-school programs, and preschool programs. You need employment, you need sports, you need a variety of different activities to involve young people in this country. Safe and drug free schools and communities has been an effective program in many schools—and it is cut by 40 percent.

Take the funding for new technology for schools, which is already available to so many children in many of the private schools in this country. Effectively, that program is gutted—cut by 40 percent. Making new technology available in the public schools of this country is being cut by 40 percent.

Take the Eisenhower Professional Development Program. It is one of the very best teacher training programs in the Nation. It enhances the academic achievement and accomplishments of teachers and offers a wide range of new courses to strengthen their academic background and overall experience so that they can be better teachers in the classrooms across the country. That program is cut by 40 percent.

Then the Perkins Loan Program, which is an additional college loan program to help the students of this country pursue their education is cut by 40 percent. These are cuts in efforts to reform the basic education programs, cuts in technology, cuts again in help and assistance for those that are pursuing higher education.

And the summer jobs for youth is cut 40 percent. I guess an awful lot of those teenagers cannot vote. This program is zeroed out in the House of Representatives—summer jobs for youth, a program that makes a big difference to many of the young people in this country, and in urban and rural areas alike. Major cities, such as Boston, receive extensive matches in funds by the private sector. There is an effective recruiting mechanism for young students in the inner cities to find employment as they work in the summer jobs. They then work for many of these companies and corporations in the cities. This important effort is cut by 40 percent.

So there it is, Mr. President. That is what we are being asked to do. On the one hand, we are going to hear the same statements repeatedly today. They will say, let us just ask the President to work with us on a balanced budget. But every single Member in this body knows that we are facing the Republican budget tomorrow that cuts the Medicare Program, provides tax breaks for wealthy individuals, and cuts education.

If they were serious, they would have said, let us work out the priorities in those areas. Let us really move to a bipartisan balanced budget. Let us find out what we can do working together, and then have the opportunity to get beyond what the Speaker of the House called a train wreck. A train wreck that he predicted and an event that he effectively implemented by failing to provide leadership to ensure the timely completion of the appropriations bills. Let us not fool the American people, Mr. President. We know what is happening here.

They are just trying to score the political points, trying to put something to the President of the United States. They will not say today, all right, we will reconsider our tax cut.

I am going to watch today and see whether any Member who supports this proposal will say, look, we are operating in good faith. We will reconsider our tax cut for the wealthiest individuals. We will reconsider that. We will consider the Democrats' position on the Medicare Program and their wish to ensure its financial stability to the outer years. We will reconsider our $270 billion, and we will reconcile that with your $87 billion. We will look at that. We are serious about today. We will meet with you all during the day with our Budget Committee to consider some of the Democratic priorities. And we will also take another look at these extraordinary cuts that have been made in education. We have addressed the education issues. We have had some success in restoring them here. But do you think that is reflected in the continuing resolution? Absolutely not.

So, Mr. President, I think we all understand what is at risk here. The President is wise to reject this. But the President should challenge Republicans and Democrats alike to sit down and work this out. We have no preconditions, no preconditions to moving toward a balanced budget, as has been repeated by the President and leaders, every Member of this side. They are for the balanced budget, but not for the Republican priorities.

That is the problem. The Republicans are saying, oh well, you have to vote for this because it says balanced budget but we are going to stick it to the elderly on the Medicare cuts, and we are going to stick it to the children, and we are going to enhance the wealthiest corporations and richest individuals with unjustified tax breaks. That is wrong. This resolution should be defeated.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, I thank the Chair for recognizing me. I wish to say for Republicans on our side so they will understand, this is an appropriations matter. Chairman HATFIELD is going to be managing the bill. There are no time limits thus far. So if Senators think that we can allocate time, there is no allocation. It is a question of the Chair observing the precedents of the Senate in recognizing Senators either to speak or offer amendments. So everyone should know I do not think I can get them time if they just call on the phone. There is open debate unless and until we reach some unanimous-consent agreement with reference to the situation.

Mr. President, I wish to make a couple of points rather than go into a lot of detail. The Senator from Massachusetts [Mr. KENNEDY] has failed to mention to the American people one thing. As he goes through a litany of reductions and cuts, he failed to tell the American people what we have before us is a 19-day bill—one-nine, 19 days.

For the next 19 days, if this is signed, the U.S. Government will continue to operate under an interim funding program described in this bill. This is not a year. This is 19 days. So all the comments about what is being reduced in expenditures, how much we are asking programs to take a cut is for the next 19 days, and until we finally reach a conclusion between the President and the Congress on the full year, this 19 days is a very insignificant portion of what is going to be funded and how things are going to come out.

It is generally and historically true around here that when the Congress and the Presidents are battling over expenditures continuing resolutions are funded at less than what you finally agree to do. So as to make the point, in this case we want to spend less overall rather than more. The problem we have is that some Democrats—and of late it seems the President joins with them—just want to spend more money rather than less while they are talking about reducing the deficit. So let us make sure that everybody understands, whoever comes to the floor from whichever side of the aisle during the next 3 or 4 hours and talks about what is being cut on the appropriations side, we are talking about an interim, short-term funding measure for 19 days. We are not talking about the entire year. We are not talking about final appropriations numbers.

For those who wonder about not getting all the appropriations bills done on time, let me suggest that the very last Democratic Senate with a Republican President had six continuing resolutions. If I recall, we have had one, so far. They had six to make their case to a President and then eventually were able to work something out. So it is not untoward or unexpected or something we have invented. At the end of the year, when you are arguing over important differences, frequently you have short-term extensions of the appropriations bills while you attempt to get something worked out.

Let us talk about getting something worked out and why we are here today. We are here today because we want to open the Government, put the people back to work, have a 19-day extension of funding, and then presumably the day after tomorrow we will pass a Balanced Budget Act of 1995. We will send that to the President. He has said he will veto it, and then we are left with nothing. We are left with no serious deficit reduction. Presumably, according to the President, he would like to work with us then. He submits that he would like a budget, a short-term appropriations bill that says, look, give us the right kind of funding, do not worry about that, and let us just state in there that we are going to get together after all of these vetoes and we are going to work on the budget. Then and there we are going to agree on when it is going to be balanced, and then and there we are going to agree on what economic assumptions we are going to use.

I see that as the end of a balanced budget. There is no chance you can work anything out that way. With the differences that exist, if there is not some kind of a benchmark that guides and leads those negotiations, you will be nowhere and probably nowhere forever.

Having said that, let me suggest that there is going to be a lot of debate on the other side of the aisle on how onerous and difficult this 7-year balanced budget using real economics is. There is going to be a lot of debate that the Republican agenda is mandated by this balanced-budget-in-7-years portion of this bill. Neither is true. This is not a balanced budget amendment that says how we will get to balance, when we start negotiating with the President.

It is not how we get there. It is whether we get there. It is not how we get there. It is whether we get there. The truth of the matter is that all the ideas for spending more money, for reducing the tax cuts, for saving every program that everybody wants to stand up and say we ought to save, they are all on the table. When the President comes to that meeting with his experts talking about this issue, they are all on the table. There is no agenda that is predetermined. Whatever any Member of the House or Senate says, the language is clear. Republicans do not dictate the agenda and the President does not. The benchmark is that we will all start with one premise, 7 years, and we will balance.

It seems to me that the President and others are saying we do not know if we can do a balanced budget in 7 years using real economics. Let me suggest there are 71 Senators that have said we can and have voted for a plan to do it.

Nineteen Democratic Senators voted for a plan, a bill, that says we should have balance in 7 years using real economics. Nineteen of them, added to the 52 Republican Senators, my arithmetic says that is 71. So, 71 have said it can be done. Nineteen say, "Do it a different way." Fifty-two say, "Do it the Republican way."

It is my understanding that last night 48 Democrats joined the Republicans in recommending this to the President. Previous balanced budgets this year voted on by the House, 299 House Members, considering two different plans, one by Democrats and one by Republicans, voted for a balanced budget in 7 years using real economics. What is the President afraid of? What are Democrats afraid of in terms of a 7-year balanced budget that says, "We aren't telling you how, we're just telling you whether we have a balanced budget or not"?

Having said that, Mr. President, I would like now to just read a few comments from The Washington Post editorial of this morning. Mr. President, it is called, "The Real Default." It is about half a page. I might suspect some would say, "If it's the Washington Post, they are probably saying the Republicans are 'in default.'" I regret to tell you Democrats, it is not us that they say are in default. It is the President and the Democratic leadership that this says are in default. I would like to just read a little bit of it.

> The budget deficit is the central problem of the Federal Government and one from which many of the country's other, most difficult problems flow. The deficit is largely driven in turn by the cost of the great entitlements that go not to small special classes of rich or poor but across the board to almost all Americans in time. The most important of these are the principal social programs for the elderly, Social Security and Medicare. In fiscal terms, Medicare is currently the greatest threat and the chief offender.
>
> Bill Clinton and the congressional Democrats were handed an unusual chance this year to deal constructively with the effect of Medicare on the deficit, and they blew it. The chance came in the form of the congressional Republican plan to balance the budget over 7 years. Some other aspects of that plan deserve to be resisted, but the Republican proposal to get at the deficit partly by confronting the cost of Medicare [and its own default] deserves support. The Democrats, led by the president, chose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that's where the votes are and the way to derail the Republican proposals generally. The President was still doing it this week; a Republican proposal to increase Medicare premiums was one of the reasons he alleged for the veto that has shut down the government—and never mind [says the editorial] that he himself, in his own budget, would countenance a similar increase.
>
> We've said some of this before; it gets more serious. If the Democrats play the Medicare card and win, they will have set back for years, for the worst of political reasons, the very cost of rational government in behalf of which they profess to be behaving. Politically, they will have helped to lock in place the enormous financial pressure that they themselves are first to deplore on so many other Federal programs, not least the programs for the poor. That's the real default that could occur this year. In the end, the Treasury will meet its financial obligations. You can be pretty sure of that. The question is whether the president and the Democrats will meet or flee their obligations of a different kind. On the strength of the record so far, you would have to bet on flight.

Now, there is much more. I ask unanimous consent that this editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 16, 1995]

THE REAL DEFAULT

The budget deficit is the central problem of the federal government and one from which many of the country's other, most difficult problems flow. The deficit is largely driven in turn by the cost of the great entitlements that go not to small special classes of rich or poor but across the board to almost all Americans in time. The most important of these are the principal social insurance programs for the elderly, Social Security and Medicare. In fiscal terms, Medicare is currently the greatest threat and chief offender.

Bill Clinton and the congressional Democrats were handed an unusual chance this year to deal constructively with the effect of Medicare on the deficit, and they blew it. The chance came in the form of the congressional Republican plan to balance the budget over seven years. Some other aspects of that plan deserved to be resisted, but the Republican proposal to get at the deficit partly by confronting the cost of Medicare deserved support. The Democrats, led by the president, chose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that's where the votes are and the way to derail the Republican proposals generally. The president was still doing it this week; a Republican proposal to increase Medicare premiums was one of the reasons he alleged for the veto that has shut down the government—and never mind that he himself, in his own budget, would countenance a similar increase.

We've said some of this before; it gets more serious. If the Democrats play the Medicare card and win they will have set back for years, for the worst of political reasons, the very cause of rational government in behalf of which they profess to be behaving. Politically, they will have helped to lock in place the enormous financial pressure that they themselves are first to deplore on so many other federal programs, not least the programs for poor. That's the real default that could occur this year. In the end, the Treasury will meet its financial obligations. You can be pretty sure of that. The question is whether the president and the Democrats will meet or flee their obligations of a different kind. On the strength of the record so far, you'd have to bet on flight.

You'll hear the argument from some that this is a phony issue; they contend that the deficit isn't that great a problem. The people who make this argument are whistling past a graveyard that they themselves most likely helped to dig. The national debt in 1980 was less than $1 trillion. That was the sum of all the deficits the government had previously incurred—the whole two centuries' worth. The debt now, a fun-filled 15 years later, is five times that and rising at a rate approaching $1 trillion a presidential term. Interest costs are a seventh of the budget, by themselves now a quarter of a trillion dollars a year and rising; we are paying not just for the government we have but for the government we had and didn't pay for earlier.

The blamesters, or some of them, will tell you Ronald Reagan did it, and his low-tax, credit-card philosophy of government surely played its part. The Democratic Congresses that ratified his budgets and often went him one better on tax cuts and spending increases played their part as well. Various sections of the budget are also favorite punching bags, depending who is doing the punching. You will hear it said that someone's taxes ought to be higher (generally someone else's), or that defense should be cut, or welfare, or farm price supports or the cost of the bureaucracy. But even Draconian cuts in any or all of these areas would be insufficient to the problem and, because dwelling on them is a way of pretending the real deficit-generating costs don't exist, beside the point as well.

What you don't hear said in all this talk of which programs should take the hit, since the subject is so much harder politically to confront, is that the principal business of the federal government has become elder-care. Aid to the elderly, principally through Social Security and Medicare, is now a third of all spending and half of all for other than interest on the debt and defense. That aid is one of the major social accomplishments of the past 30 years; the poverty rate for the elderly is now, famously, well below the rate for the society as a whole. It is also an enormous and perhaps unsustainable cost that can only become more so as the baby-boomers shortly begin to retire. How does the society deal with it?

The Republicans stepped up to this as part of their proposal to balance the budget. About a fourth of their spending cuts would come from Medicare. It took guts to propose that. You may remember the time, not that many months ago, when the village wisdom was that, whatever else they proposed, they'd never take on Medicare this way. There were too many votes at stake. We don't mean to suggest by this that their proposal with regard to Medicare is perfect—it most emphatically is not, as we ourselves have said as much at some length in this space. So they ought to be argued with, and ways should be found to take the good of their ideas while rejecting the bad.

But that's not what the president and congressional Democrats have done. They've trashed the whole proposal as destructive, taken to the air waves with a slick scare program about it, championing themselves as noble defenders of those about to be victimized. They—the Republicans—want to take away your Medicare; that's the insistent PR message that Democrats have been drumming into the elderly and the children of the elderly all year. The Democrats used to complain that the Republicans used wedge issues; this is the super wedge. And it's wrong. In the long run, if it succeeds, the tactic will make it harder to achieve not just the right fiscal result but the right social result. The lesson to future politicians will be that you reach out to restructure Medicare at your peril. The result will be to crowd out of the budget other programs for less popular or powerful constituencies—we have in mind the poor—that the Democrats claim they are committed to protect.

There's a way to get the deficit down without doing enormous social harm. It isn't rocket science. You spread the burden as widely as possible. Among much else, that means including the broad and, in some respects, inflated middle-class entitlements in the cuts. That's the direction in which the president ought to be leading and the congressional Democrats following. To do otherwise is to hide, to lull the public and to perpetuate the budget problem they profess to be trying to solve. Let us say it again: If that's what happens, it will be the real default.

Mr. DOMENICI. Now, Mr. President, I want to repeat to every Democratic Senator here, to the President of the United States, this continuing resolution in this very simple language:

> The President and Congress shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the fiscal year 2002 as scored by the nonpartisan Congressional Budget Office.
>
> The unified balanced budget in subsection (a) shall be based on the most current economic and technical assumptions of the Congressional Budget Office.

If ever there was a simple statement of whether or not we intend, whether or not we as a Congress, intend, and the President, as our leader, intends to stop spending our children's, grandchildren's, and unborn children's wealth to pay for programs of today, there could not be a better statement than that. Do you want to continue that or not?

I have been at it for a long time. I have been unsure from time to time when we could reach a balanced budget. But, Mr. President, and fellow Senators, I am absolutely convinced, and 19 Democrats backed this, and 299 House Members have voted it, that 7 years is ample time to get rid of the legacy of debt, and pass on a legacy of opportunity to our children. I am absolutely convinced it can be done.

For those who would argue we are trying to force our agenda, then I submit this is the people's agenda, 7 years using real economics. It is not a Republican agenda. And we are not even saying how you should do it. We are saying that we ought to continue this Government of America, put our people back to work, but we ought to make a commitment to the American people, and our President ought to join us. He has said he wants a balanced budget. And at one point he said 5 years. At one point he said 10 years. At another point he said 9 years, maybe 8.

Mr. President, you have to seriously consider what you are saying when you say, "We will not do one thing with the Republicans. We will not negotiate," if they say let us start with a very basic marker of a balanced budget in 7 years.

Mr. SANTORUM. Will the Senator from New Mexico yield for a question?

Mr. DOMENICI. I would be pleased to yield without losing my right to the floor.

Mr. SANTORUM. Mr. President, it is my understanding that anyone who votes for this resolution will not be voting for a tax cut or promise to vote for a tax cut, will not be voting for a reduction in Medicare spending, will not be voting for a reduction in Medicaid spending and will not be voting for any of the specifics that are laid out in the Republican budget? None of that is referenced in the continuing resolution; is that correct?

Mr. DOMENICI. The Senator from Pennsylvania is absolutely correct.

Mr. SANTORUM. No one can make the claim they are voting against this because they are against the Republican budget as outlined; is that correct?

Mr. DOMENICI. That is correct. I might put it another way. Nineteen Democratic Senators offered their own plan to balance the budget at the same time as the Republicans using the same economics. If that is what the Democrats want when we go meet with the President, and if that is what the President wants, it has the exact same validity and the exact same merit as the Republican budget.

Mr. SANTORUM. One additional question. The only other thing, other than saying we are to balance the budget in 7 years, is that we will use the Congressional Budget Office as the final arbiter; is that not correct?

Mr. DOMENICI. That is correct.

Mr. SANTORUM. Has there ever been objection by the other side using the Congressional Budget Office as the final arbiter that you are aware of?

Mr. DOMENICI. I am not going to say I never heard anyone on the other side of the aisle object to using the Congressional Budget Office, because they might have, but let me tell you, never in the Budget Committee as we debated this did I hear any of my good friends on the Democratic side, including their leader in the budget matters, say that we ought to depart this year or last year from the Congressional Budget Office's economics. I have not heard that.

Mr. SANTORUM. My understanding is that the Democratic leader said on June 25, "We will come to whatever accommodations that are to ensure that CBO is the final arbiter of the numbers." So that is the Democratic leader speaking.

I just want to know if anybody else has spoken differently, to your knowledge?

Mr. DOMENICI. I know of none.

Mr. DORGAN. Will the Senator yield for a question?

Mr. DOMENICI. I will be pleased to.

Mr. DORGAN. I thought I heard the discussion suggested that the only other change with CBO is also the case that this 15-page continuing resolution cuts by 40 percent some programs, including, for example, low-income energy assistance. It is now wintertime, of course. I come from a State that gets pretty cold. Some low-income folks get energy assistance. Does this not cut that by 40 percent? Is that not a change? I am using that as one example. Would that not be an example of other changes you put in this 15-page document?

Mr. DOMENICI. Might I answer the Senator this way. You were not on the floor, I believe, so I will answer again. This document does not run Government for the entire year of 1996. It runs Government for 19 days. And during those 19 days, those who are managing the programs cannot spend on the program you described at more than a rate of 60 percent of current program funding, but it does not set the year-long funding for those programs.

Continuing resolutions are for a short period of time only. I add, it will be for 19 days. I cannot conceive that that would be the level in the long run that we would be at. That is what we still have to work out, and that is what continuing resolutions are for.

I thank you for the question, and anybody who has questions on all the other 10 programs, the answer is the same. It does not eliminate anything. It does not set the pattern for the full year. It says 19 days from now. That is until December 5.

Mr. DORGAN. Will the Senator yield for one additional question?

Mr. DOMENICI. Yes.

Mr. DORGAN. That is a change from previous CR's where it was 90 percent. It will now be 60 percent, so the cut would be 40 percent of things like star schools, low-income energy, et cetera.

Mr. DOMENICI. It is; yes. Frankly, when you are involved in this kind of situation in trying to get something done, it is not unusual that continuing resolutions change each time, seeing if some headway can be made about the loggerhead situation by adjusting it. That has been done before.

Now, Mr. President, I want to continue on. I want to talk a little bit about what I think is the real problem. First of all, I think the problem is that the President of the United States has committed to a balanced budget, and what I am saying I do not say about Democratic Senators. They had some very serious proposals, and I believe they tried very hard—19 of them—to get a balanced budget. I believe Senator EXON would clearly try to get a balanced budget in 7 years and achieve it.

But what I think the problem is, is that the President of the United States does not want to tell anybody how much money he wants to spend. The issue is how much do you want to spend in the next 7 years, not how much you want to cut taxes.

The Senator from Pennsylvania is correct, if you vote for this, the President can go to the table saying, "I don't want any taxes." And I repeat that. He can go to the table saying, "I don't want to cut one bit of education. I want it to increase education instead of it being frozen or reduced." This does not obligate any specifics.

What I believe is the case is that the President is not prepared to tell the American people how much he wants to spend. It is spending that is ruining America's future. It is spending too much that brings the Washington Post to saying, "The budget deficit is the central problem of the Federal Government and one from which many of the country's other most difficult problems flow."

Deficits do not come from the air. They come from spending more than you take in, and I believe if the President and his experts will sit down in a room between now and the time we finally send this bill to them and ask themselves seriously—forget the Republican agenda—"How much do we want to spend?" They do not have to tell anybody, but I believe they will come to one of two conclusions: One, they want to spend too much and, therefore, cannot agree to this, or, to their amazement, they will find under their priorities they can easily get a balanced budget by the year 2002.

I believe that without a question. In fact, I will volunteer to sit down with them and use their priorities. How much more do you really want in education? It is annually appropriated, but let us just put it on the table. I say to my colleague, Senator COCHRAN, put it on there. How much more do you want in the Environmental Protection Agency? Put it on the table. Not very big budget items. Put some more on that they have been talking about. Put them on the table.

Look at this resolution: "The unified balanced budget shall be based on the most current economic and technical assumptions of the Congressional Budget Office."

We did not use those because we kept our budget resolution to the April ones. But, Mr. President, I say to my fellow Democrats, I ask that you look at those. See how much more that gives us to spend. I will guess $30 billion. Your priorities can be plugged into those, but why in the world, with the effort that has gone forth and with over 85 percent of Americans wanting a balanced budget, why would the President not commit and why would Democratic Senators not vote for a very basic, simple cornerstone for the beginning of serious negotiations by the Executive and the Congress, and there are no other conditions? Right?

It does not say how we get there. It does not say what committee does it. It does not say which programs are in, which are out. Very, very simple: Do you want to agree to the cornerstone of fiscal sanity, which is 7 years using real economics, and sit down and do it? As a matter of fact, I would assume that if it turns out to be impossible, that it would turn out to be impossible because there is great justification on the part of the President not to do it and even that the American people might buy in after serious negotiations.

Nobody goes to jail. Nobody is run out of office. It just says the Congress and the President shall do this. We cannot tie our President's hands. We can just say let us get on with this.

Let me put into my last thoughts—this idea is sort of budgetese and hard to talk about—but whose economic assumptions should you use? Let me try to draw a distinction that maybe everybody can understand. We created an institution called the Congressional Budget Office, led by Democrats and Republicans. I am very pleased to say to this day to this Senator's satisfaction, and in my opinion, they are very objective and they are very good. Nobody owns them. They do not work for the majority or the minority or the President. They have a cadre of economists that are as good as any. They have number crunchers that are the best.

Why did we do that and why did we tell them to do their work and to give it to the U.S. Congress? Because we wanted a neutral, objective evaluator of the realities of the American economy, especially if you had to do some predicting.

Nobody is going to take the floor and say that they are inferior to the President's people who do the same kind of work. Most will say they are superior to the President's people. Most will get the record out and say they are right more times than any of the others, which is true.

What is this battle about? The President of the United States got up at a joint session of Congress. He had his first budget before us as President. In that budget, he used what? Congressional Budget Office assumptions. He bragged about it, and he said that we are not cooking the books anymore. I am paraphrasing. We are not cooking the books anymore. No more smoke and mirrors. We are using the real authenticator of economics.

Who was it he was talking about? The Congressional Budget Office. He directed that sort of at Republicans that night. At least we took it that way. The Democrats cheered. Republicans sort of said, I guess he is picking on us.

The very next year, the President of the United States, for some reason, said, "I am not using them anymore. I am going to use my own people." Everybody should understand that those who do this work for the President work for him. The Office of Management and Budget Director is appointed by the President. We confirmed him. His Chief of Economics, head of that council, he picks them. The Secretary of the Treasury, he picks them.

Why did we create CBO? Because we were not too sure that when it came to these kinds of things, that you would not just lean a little bit toward your boss, right? We think some of those did that for Ronald Reagan, and we were the ones that took it in the neck for it. We had to end up saying we do not like these magic asterisks anymore and rosy economics.

So, for some reason—I think I now know why—the President, after 1 year, changed his mind, and he produced a budget that used different economic assumptions—growth, interest rates, and how much programs would cost, such as Medicare and Medicaid. He did that with his people and said, "If you want to use the Congressional Budget Office up there on the Hill, that is your business." But it turns out, right now, that it happens to be everybody's business because, essentially, if you use what the President's own people did for him, you have a no-pain budget. You do not have to change things very much because you pick up great savings because of assumptions. You even save a huge amount of money on Medicare and Medicaid without changing anything. You do not change a sentence in the law, put a new period in; you just assume more savings and then the program costs less.

I must say, I really wish that, before I went to the trouble of producing the budget that we are going to bring up the day after tomorrow and that we voted on here, somebody would have given me a present. What kind of present? A $475 billion present saying you do not have to worry about $475 billion of these reforms and restraints and reductions, because we just found them. Where did you find them? We found them because the President's men, the President's workers, the President's OMB Director found them by changing the books.

Now, I understand—and there is no inference that there is anything illegal about this at all—they have their views, and they are competent, smart, informed people. But the truth of the matter is that they work for the President and the Congressional Budget Office does not, nor does it work for Republicans. They have been more right than wrong, and we have been burned many times using economic assumptions that turn out not to be right.

Mr. CONRAD. Will the Senator yield for a question?

Mr. SANTORUM. Will the Senator yield?

Mr. DOMENICI. I yield to the Senator from Pennsylvania.

Mr. SANTORUM. What I think I am hearing from Members on the other side is they are trying to find a reason to vote against this continuing resolution. They may not be comfortable with voting against it because it balances the budget in 7 years or because we are using Congressional Budget Office scoring. But some are trying to find a reduction in the expenditure levels in the continuing resolution as a reason to vote against this continuing resolution.

I want to ask the Senator, who I know is on the Appropriations Committee—and I conferred with the Senator from Mississippi, who is also on the committee—is it not a custom that when a continuing resolution is passed, in that continuing resolution you use the lower of the House- or Senate-passed levels of spending for the various programs, and that becomes the continuing resolution? Is that not the custom of continuing resolutions, I ask the Senator from New Mexico?

Mr. DOMENICI. While I was not intimately involved in the process that developed that theory, it actually has a name. It is called the Michel rule, which is from the former minority leader in the House, Representative Michel, because at a point in time when he was in his leadership role, we were confronted with a Republican President and a Democratic Congress, and they were trying to work together to get some time, like we are, in a continuing resolution. Bob Michel suggested the lower of either House for this short interval, and it has thus been known as the Michel rule. So that is the case. That has been the practice.

Mr. SANTORUM. This bill conforms with the Michel rule?

Mr. DOMENICI. Right.

Mr. SANTORUM. Have Members on both sides voted for CR's that do that?

Mr. DOMENICI. Yes. We have to lay that on the table. There is a slight addition because there are programs that are zeroed out in the Michel rule application. The House feels strongly about those. The President feels strongly about those. And so rather than using the Michel rule, which would have said the lower of either means zero, we have compromised at 60 percent for the next 19 days.

Mr. SANTORUM. So actually we are even spending more money than the Michel rule would require because we are taking programs that would have been zeroed out because the House zeroed out those programs. They are spending 60 percent just to continue those programs during this period of time. So, in fact, we are being more generous than previous CR's would have been; is that correct?

Mr. DOMENICI. Yes, in the sense that if you had a zero and applied the Michel rule, that would be the lowest possible one. So it would be zeroed out. I do not know if there has ever been any such zeroing out in a continuing resolution applying the Michel rule. Maybe the Senator from Mississippi knows that.

Mr. SARBANES. Will the Senator yield for a question on that point?

Mr. DOMENICI. Yes.

Mr. SARBANES. The Michel rule never applied to a set of facts in which you were zeroing out programs.

Mr. DOMENICI. I just said that.

Mr. SARBANES. That is absolutely right. So the response to the question put from the Senator from Pennsylvania is contrary to his assertion. The Michel rule never reached the matter we are confronting with all the zeroing out of these very important programs, including the Low-Income Home Energy Assistance Program, which the Senator from North Dakota made reference to earlier.

Mr. CONRAD. Will the Senator yield for a question?

Mr. DOMENICI. I say, first, to Senator SARBANES, one might put it another way and be just as accurate as your statement. One might say that the Michel rule has to be modified because, as it was applied, there were no zeroing out of program funding. So it is being modified. And we are modifying it and saying 60 percent funding for a temporary period of 19 days. That is one way to say it. I think that is what we are acknowledging.

Mr. CONRAD. If the Senator will yield for a quick question, I ask if the Senator from New Mexico is aware that, this morning, the Wall Street Journal has endorsed the economic assumptions of the President, rather than the economic assumptions of the Congressional Budget Office. The Wall Street Journal this morning said: "While the Congressional Budget Office predicted 2.3 percent annual economic growth, OMB boosted it to 2.5 percent." And, interestingly enough, the Wall Street Journal, this morning, said: "In our view, both growth assumptions are overly pessimistic. Corporate profits look fairly cheerful. There is no reason the economy should not grow at 3 percent," according to the Wall Street Journal. "Government policies, whether monetary or fiscal, should not be designed to foreclose this result."

I wanted to know if the Senator from New Mexico was aware that the Wall Street Journal—this is perhaps the most conservative journal in the country with respect to these issues—has this morning endorsed the economic assumptions of the Office of Management and Budget—if you look at the last 2 years.

I further ask, is it not true that the actual results of economic growth have exceeded both CBO and OMB assumptions, and that the actual results on deficit reduction have been better—the actual results—than CBO or OMB assumptions?

In fact, both have been overly conservative, and that perhaps the Wall Street Journal has got it right in that both OMB and CBO are overly conservative.

Mr. DOMENICI. Is that the question?

Mr. CONRAD. That is the question.

Was the Senator aware the Wall Street Journal has endorsed the President's economic assumptions, saying that both OMB and CBO are overly pessimistic?

Mr. DOMENICI. I was not aware, but it does not surprise me. I have the greatest respect for the Wall Street Journal but their charter is not to balance the budget. Our charter is to balance the budget. Theirs is to write editorials and make assessments and predictions. They are good at it.

The fact of the matter is if you put to the American people in language they could understand, if you are going to work at a balanced budget would you want to take a chance on using a rosy economic scenario and pulling us in again, or do you want to be more conservative?

If the conservative economics are right, lo and behold, we will have a nice surplus. Is that all so bad? Especially when you look at what we have do to get there, and if the Democrats will look at what we have done to get there, and apply their priorities on it, you get to a balanced budget using the Congressional Budget Office's more conservative, historically more accurate, economic assumptions than those prepared either by OMB or confirmed by the Wall Street Journal in their opinion as being more appropriate.

Now, Mr. President——

Mr. WELLSTONE. Will the Senator yield?

Mr. DOMENICI. Sure.

Mr. WELLSTONE. I have tremendous respect for the Senator and I want to ask one thing. There are a number of us here who are anxious to be part of the debate. Will the Senator hold the floor longer, or is there an opportunity to have this debate, I think many of us would like to have?

Mr. DOMENICI. I am fully aware you want to debate, and I am sure we will debate and I will be through very soon.

Mr. WELLSTONE. I thank my colleague.

Mr. DOMENICI. Mr. President, let me just give you, the people listening and those who at least understand where I am coming from, my last observations.

Mr. President, I want to give my last observation of the situation: It is going to be very difficult to get a balanced budget. Once the President has vetoed the Balanced Budget Act we will present, it will be very difficult. Then there is no game plan and we will have to sit down as best we can and see if we can put one together.

I predict with almost certainty that if we do not have at least a cornerstone from which to start that work of a balanced budget in 7 years with agreed-upon economics, I submit it will never happen. I sense that in my discussions with people from the White House.

The differences are so severe that we will be all over the lot, and without 7 years staring us in the face and agreed upon priorities—and I say "agreed upon" because they are not ours at that point, they are negotiable—we will not get there.

Senators on your side want to debate things, and I wonder, is Senator EXON the manager?

Mr. EXON. There are no time restraints. It is open season, so to speak.

I believe the Senator from North Dakota was very, very early, but it is up to the Chair.

The PRESIDING OFFICER. Does the Senator yield?

Mr. DOMENICI. I did not yield because of the nature of this amendment that is pending and the fact that it can be amended. I have to either ask that there be no amendments to it for the next 30 minutes or 40 minutes or an hour or I will have to bring the Republican leader to the floor.

Mr. EXON. Would the chairman of the committee please restate the request.

Mr. DOMENICI. If I give up the floor without getting the majority leader to the floor so I can talk to him, could we have an agreement for the next hour we will debate and there will be no amendments?

Mr. EXON. There are some amendments that we want to offer. I simply inquire—we could not agree to that without further consideration.

The floor is open to amendments at any time.

Mr. DOMENICI. I was unaware of a conversation between the majority leader and your leader that has already occurred that straightens out my problem, so I yield the floor.

Mr. DORGAN. Mr. President, I have listened for some while this morning, and I will respond to some of the discussion that I have heard.

This is either, in theatrical terms, a comedy or tragedy. I suppose some view it both ways.

A comedy—I came to the Capitol this morning to see a newspaper that says "Cry Baby," and a newspaper saying that the Speaker had a tantrum and closed down the Government because Clinton made him sit at the back of the plane.

I do not know the veracity of the news piece but the quote that is in this piece says, claiming that Clinton refused to open budget talks and snubbed him aboard Air Force One, GINGRICH said, "That's part of why you ended up with us sending down a tougher stopgap spending bill."

Well, I hope that is not the case. I hope that is just hyperbole, but if it is the case, it truly is comedy—low-grade comedy. It does not make any sense for this country to be in this situation. The tragedy is this affects a lot of people in a lot of significant ways.

I know that truth is often the first casualty in debates like this. I know that on the floor of the Senate there are people today who will work very hard to make the case that this debate is about whether we should balance the budget.

We will see contortions and acrobatic approaches today that suggest this is only about whether we should balance the budget. It is not about that at all.

Of course we should balance the budget. Of course we should balance the budget. I do not think anyone in here disagrees with that. That ought to be the goal.

The question is, how do you balance the budget? What approach do you use to balance the budget? I know that we will have people for the next hour who will say the debate here is about CBO versus OMB. I bet a lot of people do not understand the interests of that—CBO versus OMB. I do not care whether it is CBO, OMB, AT&T, or the NFL.

That is not the issue with me. What I do care about is the notion that people are bringing legislative initiatives to this floor to—they say—balance the budget, in a manner that cuts health care for the elderly and the vulnerable in our country, takes kids off the Head Start Program. It does dozens of things to the more vulnerable parts of our society and then rewards others with tax breaks.

As long as people are coming to this floor saying what we need to do is borrow money to give a tax break, some $245 billion, 80 percent of which will go to the top 20 percent of the income earners, as long as people are saying we must do that, and in order to pay for all of that, we ought to take a big hunk out of Medicare, Medicaid, education, low-income energy assistance for poor people, when they are trying to heat their homes during the winter as an example, I am not going to be interested in talking about CBO versus OMB.

I am for 7 years. That is fine. If we can do it quicker, that is fine as well. The fact is, we ought to do it the right way, and the right way is not to borrow money to give a tax cut which will reward the privileged in this country.

There was an article the other day that described in summary what we are facing here. The "how to balance the budget," represented by the priorities of the road map already given us by the majority party, is to do it this way. It says, you take a roomful of people and have that roomful of people represent the population of the United States. Then you divide them. You take the 20 percent of your room that have the lowest incomes and you put them on this side of the room in chairs. You say: You sit over there because you have the lowest income in the room, you 20 percent. Now we are going to cut spending in a way that says you 20 percent with the lowest incomes get 80 percent of the spending cuts. You bear the burden of 80 percent of all we are going to do on the spending cut side.

In the same room you say: By the way, we would like to take the 20 percent that have the highest incomes in this room and put them over here in chairs on this side of the room. Then you go over to them and say: By the way, we have good news for you. You 20 percent with the highest incomes in this little room of ours, we are going to give you 80 percent of the tax cut.

Now we have our room divided, a microcosm of our country. We have the 20 percent of the lowest income earners on this side of the room and we have 60 percent in the middle and then we have the 20 percent of the highest income earners on the other side of the room. And we have said: You folks that do not have much, we are going to make things a lot worse for you because you are going to take 80 percent of the spending cuts, that is what we are saddling you with. And you folks that have the most, we are going to reward you with 80 percent of the tax cuts. That is what we are facing. That is the road map.

Mr. COCHRAN. Will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield when I have finished, if I have any time left, but I have just begun my statement——

Mr. COCHRAN. Let me just ask, about the tax cut——

Mr. DORGAN. We were generous with the Senator from New Mexico, who had the floor for some while——

Mr. COCHRAN. He yielded to you for a question.

Mr. DORGAN. All right. I will yield for a question of——

Mr. COCHRAN. I was just going to ask the Senator if there is any tax cut in this bill? This is a continuing resolution that provides, is it not true, for 3 weeks for a cooling-off period to fund Government and get everybody back in the agencies and departments? There is not anything in this resolution that would require any tax to be cut, is that not true?

Mr. DORGAN. I get your question. Let me ask you a question. Would you agree to balance this budget without a tax cut so you are not borrowing money to give a tax cut to the wealthy?

Mr. COCHRAN. We are not debating how we get to the balanced budget, is my response. That is what you are trying to convert this into, is a debate over tax cuts. This is a debate on getting the Government functioning, is it not true? That is what the continuing resolution is about.

Mr. DORGAN. Let me reclaim my time. We already know what your plan is. It has been on the floor twice, just as recently as a couple of weeks ago. It includes a tax cut. We know that.

My question to you, Senator COCHRAN, was would you agree to balance this budget without giving a tax cut? Because the fact is, every single dollar of tax cut you are going to borrow.

I simply ask that question of you.

Mr. COCHRAN. I will be happy to respond to my good friend. This is not a debate over how we balance the budget. It is a debate over whether or not we ought to commit ourselves to working together to achieve a balanced budget. That is the provision in this resolution.

Mr. DORGAN. I appreciate the Senator's response. The fact is, he did not answer my question. The reason he did not answer my question, he and I both know, is that you have no intention, the majority party has no intention and never has had an intention, of bringing a balanced budget resolution to the floor of the Senate that does not include a big tax cut that will, in most cases, reward the most privileged of people in our country and every single dollar of the tax cut you are going to borrow. The fact is, every dollar that is given as a tax cut to someone during the next 7 years will be a dollar that is borrowed and increases this country's debt. If you call that conservative economics, I do not know what school teaches it.

The fact is, we know what the plan is. So to come here and say this is about 7 years and CBO and put blinders on—here is the journey. Do not remember, by the way, where we have taken you in the past. We know exactly what that journey is about and we know all of the stops along the way.

Among those stops are a very significant tax cut, because that is the centerpole in the tent on the contract for America. The fact is, the American people are a lot smarter than a lot of the folks running around town. They understand that, when the job in front of you is to balance the Federal budget, you roll up your sleeves and you talk about how you do it. They also understand that those who roll up their sleeves and talk about a tax cut while you are up to your neck in debt do no service to the future of this country.

I know it is popular. I know why my colleagues, some of my colleagues on the House and Senate side, want to talk about tax cuts. Because it is enormously popular. I have a couple of kids who want to eat desert first every single meal. I know why they want to do that. And I know why you all want to talk about tax cuts. But you all know, if you are honest, that every single dollar of the tax cut will be borrowed.

Let me just suggest a couple of other points about the tax cut. We do not know what this tax cut is going to be, but let me give some examples of what it can be.

In the House of Representatives, they give a $2 million tax cut apiece for 2,000 corporations by eliminating something called the alternative minimum tax. That does not mean much to anybody. Eliminate the AMT. That is pretty foreign stuff. Nobody knows what that means.

What it means is this. In the old days we used to read stories about a corporation that would make $2 billion in income and guess what they paid in taxes? Zero. Nothing. Then we put together something called an alternative minimum tax, to say that is not fair. If you make $2 billion, and somebody goes out and works 8 or 10 hours a day and makes $8 or $10 an hour, guess what? They have to take a shower at night and fill out a tax return and they are going to pay a tax. It is not fair, if you make $2 billion and pay zero, so we are going to have an alternative minimum tax.

Our friends in the House said we do not want an alternative minimum tax. Why should we want those big interests to start paying taxes again? Let us eliminate that. Let us give 2,000 corporations $2 million each in tax breaks and then let us tell 55,000 kids we cannot afford Head Start for them. Tell them we cannot afford a Head Start Program for you.

In this bill—you know, it is interesting. We are told this is an innocent little piece of legislation. The only thing that matters on this piece of legislation is the last page, page 15, which talks about 7 years and CBO.

What about page 9? I wonder if somebody wants to talk about page 9. Page 9 says the Star Schools Program—which deals with math and education and science, in which we are going to try to boost America's schools—that program we ought to get rid of. What we do is we cut funding 40 percent on the Star Schools Program. And the Senator from New Mexico says, that is only for 19 days; what are you concerned about? Cut Star Schools by only 40 percent for 19 days.

Do you know something? The same people who bring us these priorities, cutting Star Schools, and call themselves conservatives and say they want to balance the budget, are off trying to build star wars for $48 billion, building an astrodome over America. The Soviet Union is gone, but now we want to build an astrodome over America for $48 billion because, when it comes to star wars, the sky is the limit. We have plenty of money. Let us spend it like it is Saturday night and we have unlimited credit cards. But when it comes to Star Schools, we are sorry, it is just not in the rank of priorities for us.

I somehow do not understand the priorities. We are here, not by accident. This is an engineered circumstance. All of us know that. I have read before, but I want to read again, statements by the Speaker last April. He vowed "to create a titanic legislative standoff with President Clinton by adding vetoed bills to must-pass legislation increasing the national debt ceiling."

This is not an accident. We are not here by some trick of fate. This is a deliberate, engineered shutdown. Why? I guess—I do not know. Maybe it is because somebody was not invited to get off the front of the airplane and he got piqued. It is human. Maybe it is petty. Maybe it is human. Or maybe because there is a genuine difference in priorities.

I guess they want the debate today to be a debate about 7 years CBO. Seven years does not matter to me. Six years will be fine, as far as I am concerned. If we get good economic growth, maybe get some moderation of health care prices, we can do it faster than 7 years. But the fact is, the differences between us are differences in priorities, very substantial differences in priorities.

Just a couple of other quick points. We have heard a lot already this morning, and we will hear all day, that they have a plan to balance the budget. Of course they do not have a plan to balance the budget. The Congressional Budget Office says their plan results in a $110 billion deficit in the year 2002. I hope the Senator from South Carolina, who is on the floor, will address this as well. What a fraud. It does not balance the budget and never has. The only way they address it is to take money from the Social Security trust funds, move it over, and then claim after they have taken the money they have balanced the budget.

Everybody in this room knows it is a sham. I said it in 1983 and offered an amendment in the Ways and Means Committee in the House in 1983, and said: This is what they are going to do with the Social Security surplus if it is not protected. And 12 years later, sure enough, every single year they have done it. So they say we have a balanced budget. Sure they do.

They got to a balanced budget by, in my judgment, dishonestly using Social Security trust funds in the operating budget, No. 1; No. 2, borrowing money to give a tax cut, 80 percent of which will go to the top 20 percent of the income earners in the country.

The fact is this is all about special interest, all about big money. I come from a rural area. I know about the sound of hogs in a corn crib and feeding. I tell you. This is all about feeding. It is about who gets helped and who gets hurt, who gets saddled with the cost and who gets the benefit.

And predictably when you look at winners and losers—not whether we balance the budget but who wins and who loses under this plan—it is pretty clear.

There is an old song by Bob Wills.

Mr. COCHRAN. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. COATS). Does the Senator yield?

Mr. DORGAN. I will not yield.

There is an old song by Bob Wills and the Texas Playboys that I have used on the floor before with lyrics that I think are appropriate to these priorities. "The little bee sucks the blossom, and the big bee gets the honey. The little guy picks the cotton, and the big guy gets the money." That is what this is about. This is about queen bees and big guys. Guess who ends up with all the money, and guess who winds up with all the hurt?

What we ought to do—all of us—is get in a room and talk about what works and what does not. Who needs help and who does not? How do we move our country ahead? What kind of incentives provide opportunity and growth? All of those things are important to everyone of us in this room. Our differences at this point are over priorities, and choices. And honestly I think there are some who do not want them solved. I understand that. There are some who are piqued. There are some who are upset about what end of a plane they got off of at some point. But there are others, myself included, who believe it is worthy to balance this budget. It is important to the country to do it, but to do it with the right choices and the right priorities so that all of the American people benefit from this exercise.

I am happy to yield.

Mr. COCHRAN. I thank the distinguished Senator for yielding.

My question was simply to refer to the statement he made, and to ask him whether or not on the Star Schools issue he realized that in the Senate committee that has jurisdiction over education we recommend in the bill that we tried to call up the other day that Star Schools be funded at the same level that it was funded last year; that the House provided no funding in their bill. And the suggestion of the Senator from North Dakota though this continuing resolution, if it passed, would zero out Star Schools. The program is forward funded anyway. But in the Senate bill, which the Democrats refused to let us bring up when they refused to permit us to agree to the motion to proceed to the bill, would fund that program at the same level that was funded at last year.

Mr. DORGAN. The Senator is correct. He is also correct that the House version of the appropriations bill zeroed it out. I guess I have little faith that rather than getting the best of each we will probably get the worst of both.

So I think that when you come to this floor saying that the Star Schools Program shall have a reduction in funding of 40 percent, which is what I said, the Star Schools Program be reduced by 40 percent in this continuing resolution at the same time that we have a bunch of folks who are genuflecting trying to build a star wars program that will cost $48 billion. I am scratching my head. Who sees the bigger picture for our country—those who want the best in schools and kids, or those who want to build a star wars project with money we do not need and do not have?

That is the only point I was trying to make. That is why I think this is truly about choices. This it about priorities. This is a very worthy debate. We ought not have it while the Government is shut down. There ought to be, in my judgment, more thoughtful programs keeping the Government open trying the prioritize as we balance the budget, and, yes, in 7 years. That is fine with me. Score keeping is not the issue here. It seems to me that it is choices and priorities.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. DORGAN. Yes.

Mr. SARBANES. Is the article to which the Senator was referring the one from the New York Daily News that starts out "House Speaker Newt Gingrich admitted yesterday that he provoked the government shutdown in a fit of pique over how President Clinton treated him on last week's trip to Israel"?

Later on it says, "And so, Gingrich's wounded pride fueled the shutdown that forced the furlough of 800,000 Federal workers and closed nonessential services—costing taxpayers hundreds of millions of dollars."

Is that the article?

Mr. DORGAN. That is the article to which I was referring to.

Mr. SARBANES. Mr. President, I ask unanimous consent that article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Daily News, Nov. 16, 1995]

CRY BABY—NEWT'S TANTRUM: HE CLOSED DOWN THE GOVERNMENT BECAUSE CLINTON MADE HIM SIT AT BACK OF PLANE

(By Timothy Clifford and Dave Eisenstadt)

WASHINGTON.—House Speaker Newt Gingrich admitted yesterday that he provoked the government shutdown in a fit of pique over how President Clinton treated him on last week's trip to Israel.

Claiming that Clinton refused to open budget talks and snubbed him and Senate GOP Leader Bob Dole (Kan.) aboard Air Force One, Gingrich (R-Ga.) said, "That's part of why you ended up with us sending down a tougher [stopgap spending bill]."

On Monday night, Clinton vetoed the GOP bill that would have kept the government running through Dec. 1.

Clinton rejected the measure because Gingrich and Dole put in provisions that would have raised Medicare premiums and cut deeply into education and environmental programs.

And so, Gingrich's wounded pride fueled the shutdown that forced the furlough of 800,000 federal workers and closed nonessential services—costing taxpayers hundreds of millions of dollars.

Even though Gingrich and Dole spent 25 hours flying to and from Israeli Prime Minister Yitzhak Rabin's funeral, the speaker groused that they never talked about the budget.

And Gingrich told reporters that White House staffers ushered him and Dole off the back of the aircraft on their return—far from the media cameras focused on Clinton and former Presidents George Bush and Jimmy Carter walking out the front.

"You just wonder, where is their sense of manners, where is their sense of courtesy?" Gingrich told reporters. "I don't know. Was it just a sign of utter incompetence or lack of consideration, or was it a deliberate strategy of insult?"

Despite conceding that his complaints sounded "petty," Gingrich argued, "We think they were sending us a deliberate signal that they're not going to negotiate; they don't care what we are doing, that they have, in fact, decided on their path and that is the path of confrontation."

Democrats immediately ridiculed Gingrich—saying that the President let the speaker bring his wife on the trip.

"I'm amazed that he would be the biggest whiner," Senate Democratic Leader Tom Daschle (S.D.) said. "We'll give him another flight over there, and the President can play cards with him. . . . It's crazy."

And Clinton spokesman Mike McCurry said, "You all know that they were going to mourn a death by assassination of the Israeli Prime Minister Yitzhak Rabin. And the speaker was treated with utmost courtesy."

Dole distanced himself from Gingrich's outrage, joking about the incident.

"We got in on the front exit, went out the rear exit," Dole told reporters. "Maybe that's just the normal rotation."

Slightly backing down last night, Gingrich and Dole proposed a new stopgap funding bill without the controversial Medicare provision.

But the measure also would force Clinton to accept balancing the budget in seven years and retains the cuts to environmental and educational programs.

The White House immediately announced that Clinton would veto that bill.

With polls showing public support for his stand, Clinton told CBS television that he would not cave to the Republicans. "I'm not going to do it, even if it's 90 days, 120 days or 180 days. If we take it right into the next election, let the American people decide," the President said.

Meanwhile, Treasury Secretary Robert Rubin took more than $60 billion from two Civil Service retirement funds to stave off the first default in U.S. history.

Clinton vetoed the GOP's debt limit extension Monday, forcing Rubin to take the extraordinary action that guarantees that the U.S. can pay its bills through the new year.

The financial markets showed approval of Rubin's actions, but the Federal Reserve failed to cut interest rates as many expected it would.

Mr. SARBANES. Mr. President, is the Senator familiar with the articles which appeared in today's Post and today's Baltimore Sun, one headed "Underlying Gingrich's Stance Is His Pique About President," and the other one, "Gingrich links stalemate to perceived Clinton snub."

This is an absolute tragedy. You have 800,000 employees out of work, services cut down at great expense, and it is all because the Speaker has had a fit of pique about this matter.

Mr. President, I ask unanimous consent that those articles be printed in the RECORD as well, along with a column by Lars-Erik Nelson, of the New York Daily News, headed "Crisis reveals Newt depths of pettiness."

This is incredible. The Speaker himself at a breakfast in effect conceded that this provoked him into taking this action.

The PRESIDING OFFICER. The Chair informs the Senator from Maryland that the Senator from North Dakota has the floor.

Mr. SARBANES. That is right. I am finished.

I ask unanimous consent that the articles to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 16, 1995]

UNDERLYING GINGRICH'S STANCE IS HIS PIQUE ABOUT PRESIDENT

(By John E. Yang)

The budget battle between President Clinton and Congress turns on many things, but House Speaker Newt Gingrich keeps coming back to that long plane flight back from Israel when he says the president ignored and insulted him.

Gingrich (R-Ga.) yesterday said the tough terms of the interim spending bill Clinton vetoed Monday night, triggering a partial government shutdown, were partly the result of pique he and Senate Majority Leader Robert J. Dole (R-Kan.) felt on Air Force One during the long round-trip flight to Jerusalem for the funeral of Israeli Prime Minister Yitzhak Rabin.

"This is petty," he told reporters. "[But] you land at Andrews [Air Force Base] and you've been on the plane for 25 hours and nobody has talked to you and they ask you to get off the plane by the back ramp. . . . You just wonder, where is their sense of manners? Where is their sense of courtesy?"

At a breakfast with reporters, Gingrich delivered an almost stream-of-consciousness analysis of the current political crisis, a candid performance he said he knew his press secretary would not like. Gingrich alternately and astutely described how his party was positioned in the current debate over the budget, and angrily relived—at length—the disrespect he felt he suffered at the president's hands aboard Air Force One. He said that the fact that Clinton did not speak to him or Dole during the trip to and from Jerusalem is "part of why you ended up with us sending down a tougher" interim spending bill.

"It's petty . . . but I think it's human."

Gingrich's comments brought immediate disdain from Democrats. Senate Minority Leader Thomas A. Daschle (D-S.D.) who was also on the trip to attend Rabin's funeral, called on Gingrich to "quit the whinning—let's get on with the real business here."

And White House press secretary Michael McCurry reacted with mock disbelief when asked about Gingrich's allegations of disrespect on the part of the president.

"You all know that they were going to mourn the death by assassination of the Israeli prime minister, Yitzhak Rabin," McCurry told reporters at his daily briefing. "And the speaker was treated with utmost courtesy. In fact, so much courtesy that his wife was invited when other wives of this delegation were not invited. And until someone shows me these words in black and white. I will refuse to believe that the speaker said anything that as you described it as so petty. . . . I just fail to believe the speaker would somehow connect this to the current budget crisis.".

As the budget battle intensifies, the bickering between Clinton and congressional Republican leaders is becoming increasingly bitter and personal.

During Monday night's Oval Office meeting between Clinton and congressional leaders, for instance, House Majority Leader Richard K. Armey (R-Tex.) complained about having "to listen to these lies" from the White House, according to a participant.

Clinton responded by saying the congressional Republicans had been worse in their attacks, telling Armey who had criticized Hillary Rodham Clinton during last year's health care debate: "I never, ever have and never expect to criticize your wife or members of your family."

A phone call last Saturday produced complaints of rudeness on the president's part. Dole complained publicly that Clinton had all but hung up on him when he called to discuss a possible budget deal, and Gingrich was angry that Clinton promised to call them back and never did. The White House explained that Clinton was leaving for a Veterans Day event when the Republicans called and that Clinton said then he could talk for only five minutes.

The tension is not surprising. Gingrich is in the midst of the most crucial week yet of his speakership. Not only is he engaged in a high-stakes confrontation with Clinton, but he and his leadership team are struggling to complete work on the massive Republican balanced-budget bill—which leaders vowed would be done last Friday. Gingrich called the measure "central" to Republicans. "It will decide for a generation who we are," he said.

"This is not a game of political chicken . . . this is not a bunch of juveniles," the speaker said. "This is a serious, historic debate and a serious, historic power struggle. . . . That's why there will not be an immediate resolution to this crisis."

Gingrich told reporters that is why the lack of negotiations aboard Air Force One was so serious.

The speaker said the airborne silence was a signal "that they had made a decision because of their political calculation that they wanted a fight. . . . Our calculation was that they hadn't seen us deliberately. . . . Our feelings aren't hurt."

The speaker said the terms of the interim spending bill were toughened because it was clear it would have to pass without Democratic support.

Whether Gingrich took it as an affront or not, the incident became a rallying cry among House Republicans, who rarely failed to mention it when asked about the possibility of working with the administration.

Among the other things on which the budget battle is turning, Gingrich said, is instinct. That, he said, was the basis for the Republicans' demand that the federal budget deficit be eliminated in seven years. Clinton is refusing to accept that time frame and, earlier this year, proposed balancing the budget in 10 years.

"Seven [years] is the longest period in which you can maintain the discipline to insist on it happening," Gingrich said. "Ten [years] allows you to avoid all the decisions that get you to a balanced budget."

Asked on what that was based, the speaker gave a one-word answer: "Intuition."

Gingrich also dismissed polls indicating that more Americans blame congressional Republicans than Clinton for the budget impasse, saying that his party would win in the long run.

Gingrich said the average American "frankly hasn't thought about it, doesn't particularly care. . . . If the choice [of whom to blame] is a vacillating, extremely misleading president who refuses to make any serious decisions, who refuses to tell the truth and shows up on television trying to make you like him by telling you things that aren't true, and a Congress that says in a very firm, adult way: 'Yeah, we're going to balance the budget.' Now of those two, which one is more likely to get blamed?"

But, Gingrich said, the Republicans will prevail. "The public relations fight is easy," he said. "That's why we've ignored it. . . . We're on the right side of history, we're on the right side of this culture."

[From the Baltimore Sun, Nov. 16, 1995]

GINGRICH LINKS STALEMATE TO PERCEIVED CLINTON SNUB

(By Susan Baer)

WASHINGTON.—In remarks that reveal the personal tenor of the budget battle, House Speaker Newt Gingrich suggested yesterday that he and Senate Majority Leader Bob Dole toughened the spending bill that has led to the partial government shutdown because they felt President Clinton snubbed them on a recent plane ride.

At a breakfast session with reporters, Mr. Gingrich said he was insulted and appalled that, on the long trip aboard Air Force One this month to and from the funeral of Israel Prime Minister Yitzhak Rabin, the president failed to invite the Republican leaders to the front of the plane to discuss the budget, and then made them exit at the rear of the plane.

"I think that's part of why you ended up with us sending down a tougher continuing resolution," Mr. Gingrich said.

"This is petty, and I'm going to say up front it's petty, and Tony will probably say that I shouldn't say it, but I think it's human," the speaker added, referring to Tony Blankley, his spokesman.

Mr. Gingrich's remarks suggest that the shabby treatment he perceived helped shape the "continuing resolution," the temporary spending bill that Mr. Clinton vetoed Monday. The bill is at the heart of the budget impasse that has closed parts of the government and furloughed 800,000 federal workers this week.

Mr. Gingrich said he thought "a couple of hours of dialogue" among the three leaders on the plane might have averted the stalemate that has led to the partial government shutdown.

As he has done repeatedly since returning from the Nov. 6 Rabin funeral, Mr. Gingrich railed against Mr. Clinton's treatment of him and Mr. Dole during their 25 hours in flight—specifically the president's decision not to discuss the federal budget with them.

Upon arriving back in Washington, he and Mr. Dole had to exit the plane by the rear door instead of by the front door with Mr. Clinton and former Presidents George Bush and Jimmy Carter.

"When you land at Andrews [Air Base] and you've been on the plane for 25 hours and nobody has talked to you and they ask you to get off by the back ramp so the media won't picture the Senate majority leader and the speaker of the House returning from Israel, you just wonder, where's their sense of manners, where's their sense of courtesy?" the speaker said.

"Had they just been asleep all night and it hadn't occurred to them that maybe Bob Dole deserved the dignity of walking down the front ramp? Forget me—I'm only speaker of the House. But you just have to say to yourself, was it deliberate calculated aloofness or just total incompetence?"

Mike McCurry, Mr. Clinton's spokesman, called Mr. Gingrich's remarks "incomprehensible" and said he could not believe the speaker would connect the trip to the Rabin funeral with the current budget crisis.

When pressed by reporters, Mr. Gingrich tried to dismiss the notion that his tougher negotiating stance on the spending measure was a result of a bruised ego.

Rather, he said, the Republican position was influenced by his sense—stemming from the neglect he and Mr. Dole perceived on the plane ride—that the White House was itching for a fight and was simply not interested in negotiating.

"It was clear to us getting off that airplane they had made a decision because of their political calculations that they wanted a fight," the House speaker said.

During the plane trip, he said, he and Mr. Dole tried to grasp the message of the administration's apparent snub.

"It's like Kremlinology," Mr. Gingrich said. "You have Clintonology. What are they doing? What are the signals? One of the signals was that in 25 hours it was not worthwhile to sit down and talk. One of the signals was, once we arrived back in America, we no longer mattered."

Asked at a news conference whether he, too, was offended by his treatment aboard Air Force One, Mr. Dole said, "I wondered why I went out the rear exit. We went in the front exit. Maybe that's just the normal rotation."

Mr. McCurry said that, during the flight, Mr. Clinton walked back to the Republican leaders to thank them for joining the delegation to Israel. Budget negotiating, Mr. McCurry said, was not the purpose of the trip.

"The president of the United States lost a friend," Mr. McCurry said. "And I don't think he much felt like talking about budget politics with speaker Gingrich, with all due respect."

Mr. McCurry said the speaker was treated with "so much courtesy" on the trip that he was permitted to bring his wife, Marianne, on Air Force One. The privilege was not extended to anyone else in the delegation, including Mr. Bush and Mr. Carter.

Other Democrats, in the heat of the budget stalemate yesterday, seized on the speaker's remarks. South Dakota Sen. Tom Daschle, the Senate minority leader who was also on the trip, said Mr. Gingrich "must have been sleepwalking that night" because the president had spoken with the congressional leaders several times.

Noting Mrs. Gingrich's presence on the plane, Mr. Daschle said: "For a person who was given extra privileges, extra opportunities to experience this extraordinary piece of history, I'm amazed that he would be the biggest whiner."

[From the Daily News, Nov. 16, 1995]

CRISIS REVEALS NEWT DEPTHS OF PETTINESS

(By Lars-Erik Nelson)

WASHINGTON.—Across the breakfast table, House Speaker Newt Gingrich was doing a good imitation of Capt. Queeg at the end of "The Caine Mutiny" court-martial, slowly unraveling into resentment and self-pity.

He was fighting liars, he said. And disrespect. "Forget me, I'm only the speaker of the House," he said. Here was Newt Gingrich, leader of the Republican Revolution and defender of civilization on this planet, forced to sit for 25 hours in the back of Air Force One, waiting for President Clinton to stop by and negotiate a budget deal.

But Clinton never came back. So Gingrich, in his rage, drafted two resolutions that forced Clinton to bring the federal government to a grinding halt.

The extraordinary behind-the-scenes tale Gingrich told yesterday morning at a Christian Science Monitor breakfast is either comedy or tragedy, or junior high school cafeteria intrigue, take your pick. It surely was not what you expect to hear from the stewards of your government.

Gingrich had been invited aboard Air Force One last week to fly to the funeral of Israeli Prime Minister Yitzhak Rabin. With a budget crisis pending, he expected Clinton would take time out during the flight to talk about a possible solution.

But Clinton, who seemed to be genuinely grieving over Rabin's death, stayed up front in a cabin with former Presidents Jimmy Carter and George Bush on both the outward-bound and return trips.

Then, when the plane landed at Andrews Air Force base outside Washington, Gingrich and Senate Majority Leader Bob Dole were asked to deplane by—gasp!—the rear door.

"This is petty," Gingrich confessed. "I'm going to say up front it's petty, but I think it's human. When you land at Andrews and you've been on the plane for 25 hours and nobody has talked to you and they ask you to get off by the back ramp . . . you just wonder, where is their sense of manners, where is their sense of courtesy?"

To Gingrich, the professor of history, this was one of the snubs of the century, ranking, he said, with the time Charles Evans Hughes stiffed Hiram Johnson of the California Progressive Party back in 1916, a slight that cost Hughes the California vote and the presidency. And it was this disrespect, Gingrich continued, that caused him to send the President two temporary financing and spending bills he knew that Clinton would have to veto—thus shutting down the federal government.

As Gingrich spoke, feeling sorrier and sorrier for himself and Dole over their treatment aboard Air Force One, he realized that what he was saying did indeed sound petty. So he changed his tack. "This was not petty," he insisted. "This was an effort on our part to read the White House strategy. . . . It was clear to us coming off that airplane that they had made a decision because of their political calculation that they wanted a fight."

But then again, he wasn't sure. "Was it just a sign of utter incompetence or lack of consideration, or was it a deliberate strategy of insult?" he asked himself. "I don't know which it was."

Either way, the federal government is shut down, 800,000 employes are laid off, the Treasury is scrambling to honor payments on its bonds, the once-in-a-lifetime Johannes Vermeer exhibit at the National Gallery of Art is padlocked, the Statue of Liberty is closed down for the duration and Gingrich, second in line for the presidency, walks around town seeing plots against his dignity.

Well, what about it, George Stephanopoulos? Did you intentionally snub the speaker of the House aboard Air Force One?

"I think the speaker needs a weekend off," Stephanopoulos said. "The President was in mourning for a friend. He had several briefings with the speaker, and the rules for Air Force One are that only the President goes out the front door."

Mr. DORGAN. Mr. President, before I yield the floor, I fervently hope that thoughtful people will sit down, and that we will reason together and compromise on these choices—not on the question of whether we should balance the budget. Of course, we should. Not on the question of 7 years or score keeping—compromise on the question of priorities and choices that allow us to get our fiscal house in order, and allow us to build a better future for this country.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

AMENDMENT NO. 3055

Mr. DASCHLE. Mr. President, I know that there are a number of amendments to be offered. I think it is important that we get on with them.

So, in interest of doing so, I send an amendment to the desk

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Dakota (Mr. DASCHLE) proposes an amendment numbered 3055.

Strike all after the first word and insert the following:

Section 106(C) of Public Law 104-31 is amended by striking "November 13, 1995" and inserting "December 22, 1995".

Mr. DASCHLE. Mr. President, let me first explain the amendment. It very simply says let us get down to business here. Let us put aside all of the debate, all of politics, all of the charges, and let us do first things first. Let us pass a continuing resolution to the 22d of December, about a month, giving us time to work through what we know is going to be an extraordinarily difficult 4 weeks. We know we are going to have more of this debate. We know we are going to have many differences. We know that we are not going to resolve many of them. But we also know that we cannot let all of what is happening out there for the last 48 hours continue day after day after day.

I do not have today's report, Mr. President. But let me give you yesterday's. So far, in just 2 days, 56,000 people have been unable to apply for Social Security benefits—56,000; 3,226 veterans have been unable to file new claims for compensation and pension benefits; 1½ million visitors have been turned away in 2 days from our national parks; 46,000 people have been unable to apply for passports.

Mr. President, I could go on and on. But that is result of what is happening here. Until we resolve the issue of a continuing resolution, we are not going to see changes except for the fact that these are going to get worse and worse and worse. Those are the changes we can expect.

So my amendment simply says this. Let us agree to disagree on all of the other issues for now, and let us at least agree that this cannot go on; that the American people expecting services from the Federal Government ought to get them; that this looks worse and worse, and that we ought to resolve at least this part of it. I do not think that is too much to ask, Mr. President.

So I would hope every Senator could support at least this. That is all we are doing today—offering an amendment that says the Government must continue to function.

What is all the more troubling is what we have just heard in the dialog and in the colloquy on the floor between the distinguished Senators from North Dakota, from Maryland, and others who have laid out what may be the motivation behind this impasse.

It sounds to me more like this impasse is directly a function of the result of a hunch and a grudge on part of the Speaker—a hunch and a grudge, a grudge that somehow he was not given adequate consideration on the plane to Israel. Well, I must tell you—and I will tell my colleagues what I have said repeatedly now in the last week or 10 days on the floor and in public forums throughout the last week and a half. I was in that same room, and I do not know whether this is selected memory or sleepwalking on an airplane or what. The President came back on a number of occasions, talked to us a number of times about the extraordinary nature of the trip itself. We were going to one of the most difficult, one of the most emotional, certainly one of the most memorable occasions that I have had in public life, the burial of a head of State. He came back. We talked at some length about that with the Israeli Ambassador, who, by the way, was also in the room. We had those conversations. The Speaker was there. Why he chooses now not to remember that is something I do not understand.

He came back on other occasions talking about the need to find agreement, the need to breach our differences, the need to find a way with which to resolve the impasse. And when he was finished coming back, the Chief of Staff came back on several occasions and asked about whether or not we could resolve our differences.

I must remind my colleagues, I recall very well when I got the call from the White House that this was a development that had just occurred and could I come back to Washington. I was in South Dakota. Reference was made to spouses, and I was informed that spouses in this situation just were not welcome. And I said I understood. I knew the plane would be crowded. I knew how difficult the trip. I knew all the logistical problems. So I did not challenge whether spouses ought to be there or not. But I am told the Speaker did. The Speaker said: I have got to have my wife there, and she was there. I do not deny her the right. I am glad she was. She is a delightful woman, and I appreciated having the chance to have her on the airplane and for her to experience what we experienced. However, it makes all the more petty, all the more demeaning this whole affair. I do not understand it. And so, Mr. President, I must say that for him to be using this, given the facts, is absolutely incredible.

And then to go beyond just the grudge—the hunch. The hunch. Yesterday morning, the Speaker was asked, on what do you base your calculation that this has to be done in 7 years? What is it about 7 years that you think really drives the need to have a balanced budget in that timeframe? The question was, what do you base it on? His answer? Intuition. Intuition. That is my answer. That is how it is that we have concluded a 7-year balanced budget is the right number of years.

As my colleagues have said and as the Wall Street Journal says again this morning, maybe it is time to privatize these economic projections. I hear arguments on the other side that we ought to privatize everything. Well, there have been seven economic analyses. The CBO is the most conservative of the seven. In 1993, they were so conservative they were $100 billion off in 2 years—$100 billion. And now we are saying we have to use these conservative estimates as we project for the next 7 years in spite of the fact—and I hope everyone just thinks about this for a minute. It is one of the most inexplicable inconsistencies. Maybe our Republican colleagues can enlighten me here—our economic growth for the last 25 years has been 2.5 percent, 2.5 percent.

CBO is projecting economic growth for the next 7 years at 2.3 percent. But we are told—and I think there is a mutual agreement—that if we balance the budget, if we do all the things that we should be doing to spur economic growth, it should be more, not less, than what it has been historically. It ought to be more than 2.3 percent. So what the Republican majority is apparently telling us is that we are going to go through all the pain, all the difficult choices, all these circumstances so that we can enjoy a growth rate less than what we have enjoyed for the last 25 years.

Mr. President, somebody smarter than I has to explain why the American people should buy that. Everyone is entitled to buy their own projections but somebody ought to explain that to the American people. And again I go back to whether or not——

Mr. STEVENS. Mr. President, will the leader yield?

Mr. DASCHLE. I will yield when I finish. I will be happy to yield to the Senator from Alaska as soon as I finish my train of thought.

I will stand by whatever we may ultimately agree to here, but let us be real. Let us be honest. The Government does not have a monopoly on good numbers. If the private sector is telling us not once, not twice, but on five different analyses done about economic growth in the future, if they are all telling us, look, you are missing something here, we think it is a lot better because of what you have been doing, it is going to be a lot better than 2.3 percent, why not consider it? Why not think about it? Why not privatize economic growth? If we are privatizing everything else, let us privatize this, too. Because if we privatize it, we are going to be in a lot better position to better understand the implications of all this than we are right now.

So, Mr. President, that is what this is about. I am very, very disappointed that we have not been able to resolve our differences on the continuing resolution at least. We will have more to say about the balanced budget, but let me just emphasize we have all voted for a balanced budget. Many of us have voted for a balanced budget in 7 years. But to say under any condition you just have to accept the fact that it is going to be 7 years and we will fill in all the blanks later makes me very, very skeptical, frankly.

The Republicans have been very uneasy about the fine print in that 7 years, and now we want to get on to the large print. I think we have to go back to the fine print and look at exactly what we are talking about in 7 years. I hope we can agree to 7 years at some point. But if we do or if we do not, before we are called upon to vote on a 7-year budget, I hope everyone understands it is like buying a house from the curb. We look at it from a distance and it looks like a nice house. It looks like a great house. But what happens when you walk inside? Is it a money pit? Is it a house of horrors? What will that house include? Does it have a roof? Does it have a basement? What will be the definition of this house? What will be the design?

That is something we are going to start working on tomorrow. As early as tomorrow the reconciliation package will be before us. If we have some concern about what this house looks like, maybe it is for good reason, because we have already seen the Senate-passed and the House-passed reconciliation bills. We know what they look like. We know that they cut $270 billion out of Medicare for tax cuts totaling over $200 billion. We know that. We know they cut over $185 billion out of Medicaid. We know that. We know they have made deep cuts in education.

There is a room we ought to look at. Let us walk into the education room for a minute. There on one side of the room I see a lot of cuts directly affecting school programs. I see a loss of student loans to college students. I see a whole array of losses in the education room that I am not prepared to accept.

Then I walk into the working person's room, and I find dramatic cuts in the earned-income tax credit, almost a complete demolition of the EITC.

So the more I walk through this house, Mr. President, I have to tell you it is a house of horrors, and that is why we are very skeptical about whether or not signing on to this house from the curb makes a lot of sense to us regardless—regardless—of whether or not we agree on an amendment by a date certain.

I know a lot of people have asked to speak, and the distinguished Senator from Alaska sought recognition for purposes of yielding for a question. I will be happy to do that. Let me just again state my motive here.

Our motive is simply to say let us have that debate tomorrow. Let us have it on Friday when reconciliation comes. Let us get into next week if we have to, but let us at least agree that the thousands of people—the thousands of people—who are not getting the services that they expect from their Government, services they have paid for in their hard earned taxes, that at least that much we can agree on, that we are going to give those services back to the people who expect them. This amendment provides that. And I hope it will enjoy broad bipartisan support.

Mr. STEVENS. Will the Democratic leader yield?

Mr. CONRAD. Will the Democratic leader yield?

Mr. DASCHLE. I will be happy to yield to the Senator from Alaska since he sought recognition first.

Mr. STEVENS. I listened with interest to the leader on the other side of the aisle. There are two questions I have. There are two parts to the resolution that is before us: One deals with recognizing the economics through the CBO, and the other deals with the date, 7 years.

Could the leader tell me what has happened since the President of the United States stood before us in joint session, and said, "I'm going to rely on the CBO, and ask you to rely on the CBO. Let's get out of this business of having different numbers."

My memory is the Democratic side of the aisle cheered very wildly at that time. What has happened since that time, since the President asked us to rely on the CBO?

Second, my memory is that the President's group that was put together on Medicare said that Medicare would be bankrupt by 2002, that the 7 years came from the Medicare report. And it was the President himself in the first instance that said we should do it within 7 years.

What has happened to change the position of the people on the other side of the aisle from what the President asked us to do, rely on CBO, and what the President's people predicted, that unless we act that Medicare fund will itself be bankrupt by 2002? That is the reason for the 7 years. What has been the change, Mr. Leader?

Mr. DASCHLE. I will be happy to answer both questions of the distinguished Senator from Alaska. And they are good questions.

The first question: I think it is fair to say our confidence has been shaken a little bit when any Government agency happens to make, in a 2-year timeframe, a $100 billion mistake—$100 billion. We said, "We're going to listen to you, but I hope you're going to be right. And if you are not right, would it not make sense to go back and find whether or not there is a better way to calculate whether, as we make one of the most important decisions regarding our spending for the next 7 years, that we not use numbers that are more accurate?" If we are off $100 billion in 2 years, what is that calculated for 7? How much more off are we going to be in 7 years?

So that is the first question. He assumed they could calculate, that they could give us an accurate assumption of what we were going to be experiencing for 2 years. But to be off $100 billion, that sounds like another governmental agency that needs some work.

The answer to the second question is, yes, absolutely we have got to solve the Medicare bankruptcy problem, the problem involving the trust fund. But nothing we are talking about here does that. If we are going to solve the problem with regard to the trust fund, we have only got to deal with part A, and for that we need $89 billion. And, of course, the distinguished Senator from Alaska has read the same trustees' report that we have. The trustees say, "You're going to need $89 billion."

That begs the question, why in the Republican budget do we need $181 billion more than the $89 billion? Why the $270 billion? We know why the $270 billion, because $181 billion of that $270 billion is going for the tax cut, to pay for $200 billion-plus in handouts to those that do not need them. Those are the best answers I can give to the distinguished Senator from Alaska.

Mr. EXON. Will the Senator yield?

Mr. DASCHLE. The Senator from North Dakota was seeking to ask a question. I yield to him.

Mr. CONRAD. I would ask the Senator from South Dakota if he was aware that the Wall Street Journal this morning has endorsed the President's economic assumptions? Was the Senator from South Dakota aware that this morning the Wall Street Journal has said the estimates of both CBO and OMB are overly pessimistic, that both of them are wrong? Based on what? Based on what has actually happened the last 2 years.

I would just ask the ranking member of the Budget Committee, who has brought charts that show the actual results the last 2 years, that demonstrate CBO and OMB have both been wrong with respect to what has actually occurred with economic growth, have both been wrong with respect to deficit reduction.

Mr. DASCHLE. I yield to the Senator from Nebraska, the ranking member of the Budget Committee, because it is directly relevant to the Senator from Alaska's question. Perhaps he can explain the chart.

Mr. EXON. The Senator from Alaska——

Mr. SPECTER. Parliamentary inquiry.

Mr. EXON. The Senator from—

Mr. DASCHLE. Mr. President, who retains the floor?

The PRESIDING OFFICER. The Democratic leader retains the floor.

Mr. DASCHLE. I would yield for a question.

Mr. SPECTER. Parliamentary inquiry.

The PRESIDING OFFICER. The minority leader has the floor.

Mr. EXON. The Senator from Alaska's question was a very good one, and this chart answers it directly. I am confident that the Senator from Alaska did not know about this. He seems to think that the projections of both CBO and OMB are infallible. This chart indicates the opposite and indicates and answers the question of what has happened to projections.

You will note on this particular chart that President Clinton delivers on deficit reduction. When we passed——

Mr. SPECTER. Mr. President, I call for the regular order.

Mr. EXON. Would you kindly direct the Senator from Pennsylvania to follow the rules?

The PRESIDING OFFICER. The Democratic leader has the floor and may only yield for the purpose of a question.

Mr. DASCHLE. Which is what I did. I yielded to the Senator from Nebraska for a question. Part of the question involves an explanation of a chart for which I hope to give an answer as soon as the explanation is complete.

Mr. EXON. May I ask this question of the Democratic leader? Was the Democratic leader aware, as a response to the question asked by the Senator from Alaska, that the reason that we are questioning these projections are that this chart showed very clearly that after the President's deficit-reduction bill, which was projected by both CBO and OMB to be in the range of $275 billion, very close, actually the deficit reduced dramatically less than that, clear down to the $175 billion level? Was the Democratic leader aware of that?

Mr. DASCHLE. I was not aware of it. And I appreciate the Senator from Nebraska's explanation.

Mr. EXON. One more thought that maybe the Senator from Alaska or the Democratic leader indicated——

Mr. DASCHLE. I yield to the Senator from Nebraska for another question.

Mr. EXON. Was the Democratic leader aware, on the projection idea, as to what economic growth has come about? Economic growth is what the article that has been referred to by many Senators this morning with regard to the Wall Street Journal—the economic growths that were predicted both by OMB and CBO, as a result of the President's actions, came at this level. Notice they are almost parallel.

The PRESIDING OFFICER. The Chair would remind the Senator from Nebraska that the Democratic leader has yielded for the purpose of a question.

Mr. EXON. I am asking a question. I am asking a question.

The PRESIDING OFFICER. It did not appear to be.

Mr. EXON. I am asking if the majority leader knew that, in addition to the other chart, on this particular chart the numbers were far, far more than either CBO or OMB had estimated?

Mr. DASCHLE. The Senator from Nebraska makes the point in his question, and I think it goes to the very issue raised by the Senator from North Dakota. They have both been too conservative, not accurate; and as a result, they miss the mark by more than $100 billion.

Mr. SARBANES. Would the Senator yield?

Mr. DASCHLE. I know the Senator from Mississippi has been seeking recognition for purposes of a question. I yield to him at this time.

Mr. COCHRAN. Mr. President, I thank the distinguished Democratic leader.

My question is this: The Democratic leader's amendment seeks to extend the time for the continuing resolution. My question is whether you support the continuing resolution with this change and would recommend that the President sign it.

Mr. DASCHLE. I would recommend—I am not sure I understand the question completely. But if the Senator is asking, would I recommend to the President to sign a clean resolution taking us through December 22, my answer is, of course, yes. I would hope he would sign it.

Mr. COCHRAN. My understanding is that the amendment the distinguished leader has offered has simply extended the date of the resolution, as offered, to well over into December rather than——

Mr. DASCHLE. The Senator is correct.

Mr. COCHRAN. My question is, if this amendment is adopted, that we vote for it, would you recommend it to the President?

Mr. DASCHLE. Yes, he would. He would sign it.

Mr. COCHRAN. Without any change in the content of the resolution?

Mr. LEVIN. No.

Mr. DASCHLE. My amendment modifies their resolution to take out any other references, to take out balanced budgets, to any of the other intentions——

Mr. COCHRAN. I thought it was just changing the date.

Mr. DASCHLE. No. No. I apologize.

Mr. COCHRAN. The Senator is taking out all of the language in the resolution completely?

Mr. DASCHLE. As I said, I describe this as a clean resolution, a resolution that allows us to debate the question of a balanced budget on a time certain, beginning tomorrow during the reconciliation, when we should. This simply says, let us pass a resolution through December 22 at the level of funding we established in the previous continuing resolution.

Mr. COCHRAN. But not making any commitment to achieve a balanced budget?

Mr. DASCHLE. We can make a—absolutely. We would certainly make a commitment. The question is, does it have to be written in as a language specific to CBO as part of the CR, the continuing resolution?

Mr. COCHRAN. And if I could ask.

Mr. DASCHLE. I yield again to the Senator.

Mr. COCHRAN. Does your amendment say there will be a balanced budget in 7 years, that that is the commitment that is being made by the Democrats to achieve a balanced budget in 7 years?

Mr. DASCHLE. I am sorry the distinguished Senator from Mississippi was not listening to my remarks, because I thought I made it very clear. I will be happy to clarify one more time.

We support a balanced budget by a date certain. Many of us could even support a 7-year balanced budget under the right set of circumstances, but we have to know what the house looks like from the inside, not just the outside. And while we are looking at the house, I think it is important that the services of Government continue to be provided.

That is what this does. It allows us to have a good debate about a balanced budget, with all of its ramifications, including Medicare and tax cuts, something you heard us talk about a lot, all of that beginning tomorrow, but it allows the Government to continue to run, as we expect it to run, through December 22.

Mr. SARBANES. Will the Senator yield?

Mr. DASCHLE. I will be happy to yield to the Senator from Maryland.

Mr. SARBANES. As I understand the leader's position, the examination of the rooms within this house—the education room, the Medicare room, Medicaid room, so forth—should take place in the course of considering the reconciliation.

Mr. DASCHLE. Exactly.

Mr. SARBANES. That is the package under which that examination takes place; is that correct?

Mr. DASCHLE. The Senator from Maryland is absolutely correct.

Mr. SARBANES. And that examination should take place in a circumstance in which a gun is not being held at the head of the people conducting the examination by virtue of closing down the Government and terminating all these services. This is a coercive measure which has no place——

Mr. SPECTER. I call the Senator on rule XIX.

Mr. SARBANES. In our consideration; is that not the leader's view?

Mr. DASCHLE. The Senator is correct.

Mr. SARBANES. Let me ask the leader one other question on these estimate figures. Is the leader aware that the blue chip consensus, which is derived from a monthly survey of 50 private sector forecasters, disagrees with CBO and, in fact, agrees with OMB on the forecast? So the private sector forecasters, in effect, do not validate the CBO projections; they agree with the OMB projections. Is the leader aware of that?

Mr. DASCHLE. I was aware of that, and the Senator is right to point it out.

Mr. SARBANES. And furthermore, the CBO projections have been notably short in recent times——

Mr. SPECTER. I call the Senator under rule XIX.

Mr. SARBANES. In terms of hitting the mark with respect to the growth figures; is that not correct?

Mr. DASCHLE. The Senator is correct.

Mr. LEVIN. Will the leader yield?

Mr. DASCHLE. I will be happy to yield for a question from the Senator from Michigan.

Mr. LEVIN. It had been represented a little earlier this morning that there are only two parts of the resolution before us that came over from the House. On one part, we are told that there is a commitment to a 7-year balanced budget, and the other part is that CBO figures would be used. Is it not true that those two parts are only part of title III, which represents less than one page of the CR that came over from the House, and that the other 14 pages contain other significant changes, including 40-percent reductions in low-income home energy assistance; 40-percent reductions during this CR period of 18 days of drug elimination grants; 40-percent reductions of housing for severely distressed folks; VA construction cuts of 40 percent; 40-percent cuts during this period of impact——

The PRESIDING OFFICER. The Chair reminds the Senator from Michigan that the leader has yielded only for the purpose of a question.

Mr. LEVIN. I am in the middle of a question.

The PRESIDING OFFICER. The Chair was not certain about that.

Mr. LEVIN. Is it not also true that this same document that came over from the House, in addition to the two parts of title III that have been referred to, contain 40-percent cuts in dozens of programs during this period of the continuing resolution?

Mr. DASCHLE. The Senator is accurate. That is the case. As the resolution has been presented, not only does it address the issue of whether or not we ought to be confined by numbers which have been demonstrated to be extraordinarily erroneous over the last 2 years, but we are also compelled to vote for dramatic, draconian, extreme cuts in current funding levels.

Mr. President, I do not want to abuse my floor privileges. I know others have sought recognition.

Mr. WELLSTONE. Can I ask the Senator a brief question?

Mr. DASCHLE. I yield for a brief question from the Senator from Minnesota.

Mr. WELLSTONE. Which will require only a very brief answer. My question to the minority leader is as follows: Is the Senator aware that right now some of these programs, like the Low-Income Energy Assistance Program, which my colleague from Pennsylvania has been a very strong advocate for, the funding is not getting out to the cold weather States, and for those States this is an issue right now?

Is the Senator aware that on this continuing resolution, as my colleague from Michigan just stated, we are talking about only 60-percent funding of a very minimum amount nationwide?

And, finally, is the Senator aware—can I please put this in human terms—that as a matter of fact, if we keep this up here, there are people who could go cold and freeze to death? That could happen. Is the Senator aware of that? That is not melodramatic. Is the Senator aware that that could happen?

Mr. DASCHLE. My answer to the Senator from Minnesota is yes, I am aware of that, and that is the reason we are offering this amendment.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Can we agree to vote on this amendment or on a motion to table this amendment, say, at 12:45?

Mr. DASCHLE. Mr. President, I would be willing to enter into that agreement, as long as we have the understanding it is either a tabling motion or up or down; that it is not subject to second degree.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. And equally divide the time. I will say, we will not offer a second-degree amendment. That will give each side additional time to debate. I understand there is one additional amendment.

Mr. DASCHLE. As I understand it, the Senator from South Carolina has asked for the opportunity to offer an amendment, and he would be willing to commit to a relatively short timeframe. So I think it would be three amendments.

Mr. HOLLINGS. Let me indicate, I have been here since 9:30—we all have—and I am not complaining about it, but I do not want any agreement, I say to the distinguished leader, to forego the chance to offer an amendment sometime today and a fair chance to debate it as relative to the unified budget versus using Social Security funds.

We just voted on Monday not to use Social Security funds. Now today it appears by the resolution—and I want to be able to correct it with an amendment—we are going to use Social Security trust funds to balance the budget, and that is just a one-line amendment. I have it drawn, as the Parliamentarian has indicated, where I can present it again and again and again, second degreed or perfecting or otherwise. That is why I am stating this so the majority leader understands the intent of the Senator from South Carolina.

Mr. DOLE. It was impressed on me, which is why I did not file cloture last night, that there would be two amendments offered today. More can be offered. If that is the case, I may get my cloture motion out. If we are going to shut the Government down by filibuster or offering amendments throughout the day, then do not blame this side of the aisle.

Mr. DASCHLE. Mr. President, let me respond to that.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I understand the majority leader's concern. There is absolutely no interest in filibustering this bill. We would agree to time agreements on each of these amendments, as I have indicated. I will enter into those time agreements whenever it is appropriate. We already have a time agreement on the first amendment, and we will do so on the second and third as well.

Mr. CONRAD. Will the leader yield?

Mr. HOLLINGS. I will be glad to enter into a time agreement.

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. CONRAD. Will the Senator yield just for a comment?

Mr. DASCHLE. You can take the floor.

The PRESIDING OFFICER. Does the minority leader yield time? The minority leader is recognized.

Mr. DASCHLE. If I am recognized, I will be happy to yield to the Senator from North Dakota.

The PRESIDING OFFICER. The minority leader can yield for a question.

Mr. DASCHLE. Because of the time agreement, I understand, I will yield such time as he may require to the Senator from North Dakota. As I indicated, it is not our desire to monopolize the floor. There have been people waiting on both sides. I yield to the Senator from North Dakota for a question.

Mr. DOLE. As I understand it, we do have an agreement there will be a vote on or in relation to the pending amendment at 12:45?

The PRESIDING OFFICER. That is the agreement.

Mr. DOLE. And that time is equally divided.

The PRESIDING OFFICER. That is the agreement.

Mr. SPECTER. Was that unanimous-consent agreement entered into?

The PRESIDING OFFICER. Yes, it was.

Mr. DOLE. I yield 10 minutes of that time to the Senator from Pennsylvania, Senator SPECTER, after the exchange between the minority leader and the Senator from North Dakota.

Mr. CONRAD. I thank the Republican leader. I was going to alert the leaders that I, too, have an amendment on which I would be happy to take a short-time agreement. But I think it is important that an additional amendment be offered. I would like the time to do that. I would be happy to take a short-time agreement to do so.

Mr. DASCHLE. Well, we will work that out.

Mr. SARBANES. Will the majority leader yield me 30 seconds to make a point?

Mr. EXON. I yield 30 seconds to the Senator.

Mr. SARBANES. Mr. President, I want to put this in the RECORD. The Government private forecast, fourth quarter to fourth quarter, on GDP growth for 1995 was 2.5 percent. The CBO forecast was 1.3 percent, which fell way short of what the actual growth has been over that period of time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. SPECTER. Mr. President, I have been on the floor for a considerable period of time and on my feet, and I had called Senators to order under rule XIX, where there had been a succession of questions, which I think, fairly stated, really went beyond a question. The rules of the Senate do not permit any Senator, even a leader, to yield to another Senator on the floor for anything other than a question. The proceedings went far beyond a question. I just wanted to make that explanatory statement as to why I was on my feet seeking recognition and seeking that the rules of the Senate be complied with, so that others might have an opportunity to seek recognition.

As I have listened to this debate, Mr. President, I am reminded of the statement by a very distinguished Senator from Maine, Senator Margaret Chase Smith, who made the distinction between the principle of compromise and the compromise of principle.

As I listen to this debate, we are not talking about first amendment issues. We are talking about dollars and cents and some sort of an accommodation. I heard the question raised by the Senator from Minnesota, Senator WELLSTONE, about low-income energy assistance and how it was not being provided to the poor people of America. And he made a reference to what this Senator had been trying to do. I think that characterizes the situation on the Senate floor, where we have a bill on Labor, Health and Human Services, and Education, the subcommittee which I chair, which has not been brought to the floor because there is a filibuster effort by the Democrats on a provision relating to striker replacement. I do not say that in the context of fixing blame on the Democrats, necessarily, because that provision is a substantive provision added on to an appropriation bill by Republicans and we really ought not to use the appropriations process for substantive provisions which are contested.

I think that is what has happened now when we have had the Government shut down for 2 days, and we have had many, many Americans inconvenienced. There has been a recitation of the people who have been inconvenienced—the Social Security beneficiaries cannot apply, and the veterans, and the situation with passports, and immigration issues, and visitors.

I received a call yesterday from my hometown of Philadelphia, where people cannot go to Independence Hall, and they are saying, "What is going on down there?"

Mr. President, I believe we are witnessing a real spectacle in the Congress for the last 2 days. What we have been seeing over the past several years has really been a demise of democracy. When I first ran for public office, not too long ago, 70 to 75 percent of the people of Philadelphia came out to vote in a mayoral election. Last week, we had an election in Philadelphia, and less than half of the people came out because of the disillusionment, disenchantment with what is happening in Washington, DC, inside this beltway, and really around America in the political process. What is happening here—and it is no surprise and it is understandable, in a sense—is this maneuvering for political advantage.

I suggest to my colleagues, both in the Congress and in the executive branch, that nobody is getting any political advantage now. This is not a win-win situation, this is a lose-lose situation for everybody. When Senators come to the floor and decry the issue of political advantage and go on and on about what the Speaker's wife did as a passenger on an airplane, that is hardly going to the issue of what we are trying to do to solve this crisis in Government and this crisis in confidence.

Mr. President, what is really involved here is a question of priorities. I think it is far beyond the issue of pique. I think people do not understand really how tired everybody is in Washington and how tired everybody is around the country about what is going on in Washington. But we have late-night sessions, and many of the people just went to Israel for the sad funeral of Prime Minister Rabin—16 hours over and 16 hours back. There is a certain sense of exhaustion which is working here. We certainly do not want the American people to think that the Government is being run out of a sense of pique or out of a sense of grudge. What we are boiling down to here, Mr. President, I think, is a crystallization of the issues which have to be decided at the next election.

The issue of a balanced budget is one where a lot of lip service is being given on both sides of the aisle. But I suggest that the record is reasonably clear—and it is hard to have a reasonably clear record on anything in Washington, DC—that it is pretty much a party issue, with every Republican, except one, voting for a balanced budget amendment. And on the Democrat side of the aisle, there was substantial disagreement with six Senators last year in favoring a balanced budget amendment, and now not favoring it.

The President of the United States—and not in a harsh rhetoric sense—opposes a constitutional amendment for a balanced budget. We may be clarifying an issue here about having the 7-year timeframe for a balanced budget amendment, as postulated on this continuing resolution. It is my hope that President Clinton will sign a continuing resolution that has two qualifications. One is a 7-year time limit, which, on occasion, he has endorsed, and a second on figures from the Congressional Budget Office, which, again, on occasion, he has endorsed.

Of course, you can raise arguments as to anything on any issue at any time, anyplace, especially around here. But those are not unreasonable conditions to move ahead with a continuing resolution, to get the Government back in operation. If the President decides not to sign that continuing resolution, then I think we have to come to terms, leave the issue for the 1996 election in fairly crystal form, and get this Government running again.

If we come back to basic principles, we all agree that the Congress passes legislation which has to be signed by the President, unless there are two-thirds of each body of the House and Senate that will override a Presidential veto. And if we have a gridlock, if the President is adamant, for whatever reason, and if the Congress is adamant, for whatever reason—and I think the American people see it as a lot of political posturing on both sides and are saying "a plague on both of your houses"—why cannot the Congress of the United States come to terms? This is not freedom of religion; this is not due process of law; these are dollars and cents which, customarily, have been split. If we cannot split them, let us crystallize the issue for the 1996 election. But let us not tie up the Government of the United States in the context where we all look so foolish.

Yesterday, I had my regular weekly radio news conference, and the only question asked was about the stalemate in Washington and the gridlock. I said, candidly, that it was an embarrassment. It was embarrassing to be a Senator when what is happening in

Washington, DC, goes on without any resolution. So I hope, Mr. President, in the first instance, that President Clinton will accept this continuing resolution. It is not too onerous.

There is no commitment as to what is going to appear in all of the rooms discussed by my colleagues within the 7 years. I have been on the floor of this body objecting to the tax cuts at a time when we are seeking to balance the budget and to tighten our belts and we are asking people to take cuts in programs. I have the chairmanship of the appropriations subcommittee covering three big departments:

Education—where we have added $1.6 billion on a Republican bill which is being filibustered by the Democrats. Again, I do not question it, really, because a substantive measure was added on striker replacement.

Health and Human Services—both the House and the Senate have agreed to add substantial funds to the National Institutes of Health on their important research projects. That is being held up because of the bickering. Certainly the President would agree to sign that.

And we cover the Department of Labor. Our subcommittee came back in on a $70 billion discretionary budget and cut $8 billion with a scalpel instead of a meat ax in a way which satisfied the distinguished Senator from Iowa, Senator HARKIN, who has worked with me on that subcommittee.

So we really ought to come to terms here. If there is a limitation of 7 years, it does not say that is going to be done to any one of the departments. There is plenty of time to object at a later stage.

I hope the President will sign a continuing resolution with these two relatively modest limitations. If that does not happen, Mr. President, I hope we heed the words of Margaret Chase Smith and distinguish between what is the principle of compromise as opposed to the compromise of principle and recognize that our Constitution gives the President the veto power and a dominant role, or at least an equal partnership role, unless we have two-thirds to override—which we do not—so that we can end the charade, get the Government going, and crystallize that issue for the 1996 election.

I yield the floor.

Mr. HOLLINGS. Mr. President, I had talked to the distinguished ranking member on the other side of the aisle and asked for 10 minutes but he is not here so I yield myself 10 minutes.

Mr. President, my colleague from Pennsylvania talks about the resolution without smoke and without mirrors.

Let me point to the smoke and let me point to the mirrors. It says here on the last page about commitment to a 7-year balanced budget: "The President and the Congress shall enact legislation to achieve a unified balanced budget."

Now you have the smoke. Now you have the mirrors. This is exactly what the U.S. Senate on Monday—today is only Thursday—exactly what the U.S. Senate on Monday voted 97-2 against, this smoke, this mirror.

Let me quote, since the distinguished Senator from Pennsylvania is here, our late colleague, the distinguished Senator from Pennsylvania, Senator John Heinz.

> Since 1983, when we may have saved the Social Security goose, we have systematically proceeded to melt down and pawn the golden egg. It doesn't take a financial wizard to tell us that spending these reserves on today's bills does not bode well for tomorrow's retirees.

I quote another statement from Senator John Heinz:

> The truth is that Congress, by counting the old-age, survivors and disability income trust funds as part of general revenues, radically distorts the actual financial health of this Nation by pretending that the money paid in by workers to Social Security will never be paid out.

Stating further:

> Mr. President, in all the great jambalaya of frauds surrounding the budget, surely the most reprehensible is the systematic and total ransacking of the Social Security trust fund in order to mask the true size of the deficit.

Now, that is exactly, Mr. President, why I have an amendment at the desk which I will call later in its due time. We have the amendment on the date of December 22, which I favor, but I thank the distinguished leadership for yielding me this time because here on Monday, here on Monday, the distinguished leader stated, when we read in here that "on the Budget Reconciliation Act of 1995, the U.S. Congress agrees to honor section 13301 of the Budget Enforcement Act of 1990 so as not to include in the conference any language that violates that section."

Now, what does that section that Senator Heinz had enacted back and signed into law on November 5, 1990, say? I ask unanimous consent that section 13301 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Subtitle C—Social Security

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

Mr. HOLLINGS. In order to vote for the resolution you have to vote to violate the law. They know it. That is the smoke and that is the mirror.

On Monday, they agreed—in fact, the Senator from New Mexico, the chairman of the Budget Committee talking now about "unified" stated at the time we passed the Heinz-Hollings-Moynihan amendment, "I support taking Social Security out of the budget deficit calculation * * *." Again, on Monday, he voted that way.

It reminds me, Mr. President, of a contest that we had for an insurance company and they wanted a slogan for the new insurance company. The winning slogan we finally got was, "The Capital Life will surely pay if the small print on the back don't take it away."

Now, Mr. President, that is the gamesmanship you see here. That is $636 billion. This is a problem not of technicalities. It is real. For we, at the present moment, owe Social Security $481 billion. Pass this GOP budget and you will use again another $636 billion.

So, come the year 2002 we will say, "Oops, what a smart boy am I. I have made solvent Medicare but, oh, heavens above, I have forced Social Security into bankruptcy. I owe $1 trillion and there is nobody around ready to raise $1 trillion worth of taxes to make the IOU sound."

Let me look at the morning paper here and see exactly what it says. It says:

> Treasury Secretary Robert E. Rubin announced plans yesterday to pull $61.3 billion from two Federal retirement accounts, an unprecedented fiscal move he said was necessary to save the U.S. Government from the first default in its history.
>
> He authorized withdrawal of the entire $21.5 billion held in a Federal savings plan known as the G-fund, and as much as $39.8 billion of the $350 billion in the Civil Service retirement fund. In effect, both funds would be given a temporary IOU that would obligate Treasury to make complete repayment with interest after a permanent increase in the debt limit is finally approved.

Now, Mr. President, that is my point. We should reduce deficits. We should eliminate deficits. We should not move deficits. You move them from the general fund over to the Social Security trust fund. Or as the Secretary of the Treasury did yesterday, you move it from the general fund over into the Civil Service retirement fund. That moving around is absolute trickery and is putting us in such a position that we are no longer allowed the luxury of children and grandchildren arguments.

We will get it through the neck here in about 2 years.

We owe, this minute, trust funds $1.255 trillion—right this minute. If we continue to spend now under this so-called continuing resolution, a unified budget, then we really are going to be up a creek.

Let me tell you who loves this—Wall Street. The financial market. I talked to one of them just earlier this week. They love a unified budget.

Why? Theirs is to make money. And so if you can borrow around from the other Government funds there is less of a burden of borrowing on the New York stock exchange. When we come in for borrowing funds, with the sharp elbows of Government, we shove away other capital investment. They love that. But we have the responsibility of running the Government, not of making money.

This thing was, perhaps, a good idea at one time. But now we have come with the contract and the revolution that says we are not going to have business as usual. We are going to have change.

Do not tell me what Presidents have done, what this President will do. Tell us what we will do to not have business as usual. Namely, adhere to the law—adhere to the principle and policy of not using the trust funds.

That is why there is a lack of trust in Government, if the youngsters coming along see that you are frittering away their retirement funds. I lose trust myself. So there is no mystery to this thing. Let us have an honest budget, without smoke and without mirrors. Let us get right down to the idea, here, that we are not using the Social Security trust fund. It is against the law to do it.

On October 18, if you refer to the CONGRESSIONAL RECORD, the distinguished chairman of the Budget Committee stood on the Senate floor and he said here: I have the certificate, certified of this GOP budget, and we have a $10 billion surplus.

When we reminded her of the law—would you think you would have to remind a Congressional Budget Office Director of the law? Once reminded of the law, June O'Neill, the Director of the Congressional Budget Office, came and said, "Oops, I am sorry. You have a $105 billion deficit." So they went from a $10 billion surplus, in 48 hours, to a $105 billion deficit.

And they talk about CBO figures. That is what destroys the trust in CBO. Because they have gamesmanship there. But let us not have gamesmanship here.

We all voted on Monday to stop the gamesmanship with the Social Security trust funds. Let us again vote for this amendment when it comes up that says: Notwithstanding any other provision of this joint resolution, the 7-year balanced budget passed by the Congress to the President shall not include Social Security trust funds to reduce or apply to the deficit—to effect or obtain a balance.

Mr. President, I retain the remainder of my time and yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. DOLE. I yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EXON. Will the Senator from North Carolina yield for just 30 seconds while the majority leader is on the floor so we can maybe move to some kind of tentative agreement?

Mr. FAIRCLOTH. Yes, I will.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. Charge it to my time.

I advise the Senate that as far as I am able to ascertain at this time on this side of the aisle, we have the amendment pending, offered by the minority leader. There will be a second amendment by the minority leader, and there will be an amendment offered by the Senator from South Carolina.

I would simply say at this time, in order to give us some idea of where we are going, we want to move in an expeditious fashion. How much time, when we get to the amendment that will be offered by the Senator from South Carolina, how much time does he think he would need to further explain his amendment, in addition to the time he has just used?

Mr. HOLLINGS. The Senator indicates an hour, a half-hour to a side, just on this amendment.

Mr. EXON. I ask the majority leader, are there any amendments or second-degree amendments that he is aware of on his side of the aisle?

Mr. DOLE. I am not aware of any at this point.

Mr. EXON. I am simply saying, it seems to me—the majority leader requested a while ago, and the minority leader indicated, too, we want to move expeditiously. It would appear to me that right now we are in a position when we dispose of this at 12:45, we probably—maybe at that time we may be in a position to frame some time agreements, short time agreements, and finish and have final passage on this sometime early in the afternoon.

Mr. DOLE. I hope that is the case, because we would like to move to the Defense appropriations conference report. Then, tomorrow, of course, we will have the Balanced Budget Act of 1995.

I do not know what happens after the CR goes to the White House, if it is vetoed, where we are as far as the Government is concerned. But I will be happy to work with the Senator from Nebraska.

Mr. EXON. I am working with the minority leader. I think we are making some real progress.

I thank my friend from North Carolina for yielding.

Mr. DOLE. Mr. President, I ask that time not come out of the time of the Senator.

The PRESIDING OFFICER. The time is charged to the minority.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the continuing resolution for the very simple reason that all this resolution says is that the Federal Government can reopen if the President agrees to balance the budget in 7 years. It is that simple.

I want to read the precise language. It might have been read before this morning, but it bears repeating.

> The President and the Congress shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the fiscal year 2002 as scored by the non partisan Congressional Budget Office.

This is all the Congress is asking for. We need a commitment from the President to this timetable.

I have to wonder when the President will begin worrying about the taxpayers of this country and the children yet unborn. We are $5 trillion in debt—$5 trillion. Twenty years ago our total debt was $595 billion, and in 20 years we spent $4.5 trillion that we do not have.

It took us 200 years from the founding of this country until 1982 to build a $1 trillion debt. We have spent almost five times that much in the last 12 years.

In the President's 1996 budget, 16 cents of every dollar will be spent to pay interest on the debt. What that equates to is 41 percent of all individual income taxes sent to the Government will be used to pay interest—41 percent. Can we really keep taxing America's hard-earned money to pay interest and run a viable economy? No, we cannot. This has to stop. If we do not do it now, it will never be done. Now is the opportune time.

When he ran for President, President Clinton said he wanted to balance the budget in 5 years. This does it in 7 years. But he made the promise 3 years ago. This is 10 years from the original promise, and he still refuses to sign—says he is going to refuse to sign a 7-year commitment to balance it.

When he ran for President, he said he wanted to cut taxes for the middle class. This budget does that.

When he ran for President, he said he wanted welfare reform and Republicans in Congress are going to give him that. It should be clear the Republicans in Congress are keeping their commitment to the American people. Bill Clinton is not. But this should come as a surprise to no one.

When he ran for Governor of Arkansas in 1990, he said he would not run for President. If only he had kept that promise. If the President was so concerned about having the Government closed, why has he chosen not to negotiate? For 26 hours last week he was on the same plane with Speaker GINGRICH and Majority Leader DOLE: No negotiation.

Finally, in a typical Washington political move, he offered to meet at 10 p.m., 2 hours before the Government shutdown. Not only a typical Washington, but a more typical Clinton maneuver.

I said 2 days ago this President is playing politics at its worst. Instead of doing something good for his country and the future of this country, he is concerned with the poll numbers. His political adviser, Dick Morris, calls it triangulation. This means Clinton is supposed to appear moderate. Really, it is not triangulation; it is strangulation of the Federal Government by no leadership, no principles, and no negotiation. The President is not serious. He is not accepting responsibility. This Congress is.

We have to stop spending money we do not have. We have been doing it for far too long now.

Mr. President, I strongly urge the President of the United States to come to the table and work with the leadership of this Congress. He needs to negotiate in good faith. He needs to negotiate for the good of this country and its future.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, I yield 7 minutes to the Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Chair. I thank the ranking member.

Republicans say they want to balance the budget in 7 years using CBO numbers. The fact is the Republican plan does not balance the budget, according to the Congressional Budget Office.

Mr. President, this is a letter that I received on October 20, 1995, from the head of the Congressional Budget Office pointing out that, if we obey the law—that is, we do not count Social Security trust funds in the calculation—the Republican plan has a $105 billion deficit in 2002. Why is that? It is because the only way the Republican plan achieves balance is to take every penny of Social Security trust fund money over the next 7 years.

The law—this is a copy of the law—specifically precludes that. Ninety-eight Senators voted for this law.

This chart shows the looting of the Social Security trust funds that is going to occur, if we adopt what the Republicans call a balanced budget by 2002. We are going to be taking $636 billion of the Social Security trust fund surplus in order to call it a balanced budget.

Mr. President, that is not a balanced budget by law. It is not a balanced budget by any serious economic standard.

Some say, "Where is your alternative? Why don't the Democrats have an alternative?" Very simply, Mr. President, we do. During the budget resolution, I offered what I called the fair share balanced budget plan. Thirty-nine Senate Democrats voted for it. It achieved more deficit reduction by 2002 than the GOP plan. In fact, it achieved $100 billion more of deficit reduction in that period than the GOP plan, and it achieved true balance in 9 years without counting the Social Security surpluses.

At the same time, it had different priorities. It did not slash Medicare, Medicaid, or education. In fact, we restored more than $100 billion of the $270 billion Republican cut to Medicare. We restored full funding for student loans, and provided additional discretionary funding for education at all levels. We had nutrition and agriculture restored by $24 billion, and veterans restored $5 billion so that we could have a better set of priorities.

But we did have savings out of the spending entitlements. We had $156 billion of savings out of Medicare instead of the Republican plan of $270 billion. We also had savings out of Medicaid.

So we had savings out of the spending entitlements. But we also recognized that the biggest entitlement of all is the tax entitlements. The tax entitlements, as this chart shows, amount to $4 trillion over the next 7 years. It is interesting to compare the tax entitlements—$4 trillion over the next 7 years. The Republicans never want to talk about the tax entitlements. They want to talk about the spending entitlements of Social Security. That is about $3 trillion over the next 7 years. Medicare, that is about $2 trillion over the next 7 years; Medicaid, $1 trillion. But the granddaddy of them all are the tax entitlements, $4 trillion.

In the Democratic plan we said, yes. Slow the growth of the spending entitlements, absolutely—Medicaid and Medicare. But also slow the growth of the tax entitlements to inflation plus 1 percent. That is fair. That asks everybody in our society to contribute to deficit reduction. We don't just put middle class and working families into the front lines in the battle to balance the budget—we also ask the wealthiest among us to contribute to deficit reduction. That means no tax cut until we balance the budget.

Mr. President, we are going to be adding under the Republican plan $1.8 trillion to the national debt over the next 7 years. Why would we be increasing that debt by borrowing money to give a tax reduction that disproportionately goes to wealthiest among us?

Mr. President, we not only have the fair share plan that a group of Democrats offered. We also have the common sense budget plan. On the question again of no tax cut, there is no tax cut because it makes no sense to be adding to the debt, to be digging the hole deeper before we start filling it in.

On the question of the Congressional Budget Office versus OMB, I think it is critically important to understand that the Wall Street Journal this morning made reference to that in their editorial. They said, "The Congressional Budget Office predicts over the next 7 years 2.3 percent economic growth. OMB projects 2.5 percent." Listen to what the Wall Street Journal says. "In our view, both growth assumptions are overly pessimistic. Corporate profits look cheerful. There is no reason this economy should not grow at three percent in good years as it has through much of the past. Government policies, whether monetary or fiscal, should not be designed to foreclose this result."

Why did the Wall Street Journal come to this conclusion? Because they have looked at what actually happened over the last 2 years. And look at what has happened. This shows economic growth. The President's plan projects on the blue line what economic growth would look like. The Congressional Budget Office is the red line. The orange line shows what has actually happened. And what has really happened in the real world is both the Congressional Budget Office and OMB have been too conservative. They have been wrong.

What are the results? Look at the deficit reduction. The President's plan shows the blue line. That is what he was predicting. The red line shows what the Congressional Budget Office was predicting. The yellow line shows what has actually happened. Again, both the Congressional Budget Office and OMB have been wrong.

Let us break the gridlock. Let us agree to a plan to balance the budget, but let us base it on the best estimates of private forecasters. Let us use the blue chip forecasters, and break the gridlock.

I thank the Chair.

Mr. AKAKA. Mr. President, I join my colleagues from both sides of the aisle in condemning the situation that has brought us to the point where the Federal Government has shut down.

The American public should understand one thing about the shutdown: this budget crisis is completely avoidable. It was manufactured by the House Speaker as a tactic to impose his extreme budget priorities on America.

The Speaker's own words illustrate this point. Last April 3, he told reporters that he intended to "create a titanic legislative standoff with President Clinton by adding vetoed bills to must-pass legislation." With the Speaker at the helm, Republicans have put the Federal budget on a collision course with the iceberg.

Congressional Republicans are in the majority in the House and Senate, which gives them the power and votes to keep the Government operating.

Instead, they have shut down the Government and are gambling with our economy and credit rating, in a political game to force a heartless budget on the American people.

Today we have an opportunity to end the budget impasse. Our Democratic leader, Senator DASCHLE, proposed a temporary funding resolution in an effort to get the Federal Government back to work. This would have extended spending authority through December 22.

Unfortunately for the American public, the funding resolution that the Democrats proposed was rejected, and the Government shutdown orchestrated by the Speaker continues.

Senator DASCHLE's amendment provided the best opportunity to end the Government shutdown. This is an amendment that the President can sign. We should pass the Daschle amendment, put an end to this crisis, and begin the important work of negotiating a budget agreement.

How many thousands of veterans will be unable to submit new benefit claims because VA offices remain closed?

How many Americans will be turned away from Social Security offices around the country because no Government workers are available to process their applications? How many millions of visitors must be turned away from our national parks, museums, and monuments before Republicans in Congress will vote to end this stalemate and approve a clean funding resolution?

How many corporations will be unable to conduct business overseas because their executives cannot get their passports renewed?

The Republicans, led by the Speaker, have forced a political showdown at the expense of our needy, elderly, and veterans of our country. What's good about telling senior citizens who want to apply for Social Security or veterans trying to get their benefits processed that they'll have to wait until the Government reopens?

I think it is important that we review the record of the Republican Congress on spending bills.

None of the 13 appropriation bills were passed by the September deadline. All 13 of these bills should have been passed by September 30. Because of this failure, a temporary spending bill is necessary to keep the Government running.

Republicans are trying to use this manufactured funding crisis, which they could easily have avoided, to force an increase in seniors' Medicare premiums and to provide tax breaks for wealthy Americans.

We should say no to political blackmail and yes to a clean CR.

And most importantly, let us get our people back to work.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. COCHRAN. Mr. President, it is my understanding that the majority leader has asked me to control the time on this side of the aisle.

I yield 5 minutes to the distinguished Senator from New Hampshire, Senator GREGG.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. GREGG. Mr. President, I thank the Senator from Mississippi for this time, and I want to respond just briefly to the comments that were just made and make a couple of additional points.

This debate is about whether or not the President wishes to participate in balancing the budget—nothing else. Everything has been taken off of this continuing resolution that the President originally objected to. The only thing that is on this continuing resolution that does not involve day-to-day operation of the Government—remember, this resolution only runs for 19 days—the only thing that is on this resolution is a statement that the President will join with the 104th Congress in a commitment to balancing the budget by the year 2002 using the Congressional Budget Office numbers. It does not say he has to agree to our approach to balancing the budget. If he wants to use the two proposals outlined by the Senator from North Dakota, he can do that.

He can use either of those proposals if he wants to use them. And some of the ideas put forward by the Senator from North Dakota may be ideas upon which we could reach an agreement.

The point is that he has to agree initially. He has to make this initial minor step, small, incremental progress of saying, hey, I wish to balance the budget, too.

That is all we are saying to the President. Just come forward and say I wish to balance the budget, too, in 7 years. Is that an outrageous request? I should not think so since he has already on a number of occasions said he wanted to balance it in 5 years, 6 years, 7 years, 8 years, 9 years. He has been at this position once or twice before during his term of office. We are just asking him that he sort of settle out, settle out, on the idea of 7 years. I think it is a reasonable request.

I do not think most Americans feel 7 years is an unreasonable period of time to get this financial house in order. I think most Americans look at 7 years as maybe an excessive amount of time for us to get our financial house in order. They wonder why we cannot do it a little sooner, but we do not appear to be able to. So we said 7 years.

On the issue of whether or not we use CBO numbers, of course, the opposition to that really is a red herring because the President came to this Congress and he, in rather definitive terms, said he was willing to use CBO numbers in his first statement to this body. And so the opposition to that language is, I think, a bit of a sidetracking exercise because he has already agreed to that.

If the President wants—and the Senator from North Dakota mentioned the tax issues in our budget—he can come up here with a balanced budget which raises taxes. He can do it all with tax increases, and he will be consistent with the language we have asked him to sign on to. We have not said he had to do it by reducing the rate of growth of Government as we have proposed. We suggested that the rate of growth of Government not be cut. We have not done anything that draconian. We have just suggested it grow at 3.3 percent annually, which is more than the rate of growth of the economy.

We have suggested that Medicare be allowed to grow at 6.5 percent; that Medicaid be allowed to grow at 4 percent; that senior citizens be given more choices for their health care options; that the States be given control over welfare, that people who are on welfare be allowed to only stay on it for 5 years during their lifetime, not be on there for an entire experience of their working lifetime; that they be asked to go to work after a couple of years.

These were our suggestions for how you get to a balanced budget. But we are not saying we have all the answers. If the President wants to come up here with a new tax package as he did a year, 2 years ago, when he proposed the largest tax package in history, as a way to get this budget under control, if he wants to duplicate that event, so be it. That is his option. Under this language, it would be consistent with the proposal that we are asking for. All we are saying to the President is, sign on to a balanced budget. Agree that the budget must be balanced.

Mr. CONRAD. Will the Senator yield for a question on that point?

Mr. GREGG. Yes, I yield to the Senator from North Dakota.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator yields.

Mr. CONRAD. I would just ask my colleague from New Hampshire, who I have respect for on this issue, I think the Senator has made serious attempts to make serious proposals to reduce the deficit, and I would ask him, if the President agreed to a 7-year timeframe for balancing the budget but said to us, "I would want to use the blue-chip private forecasters rather than CBO, because it turns out that they have been more accurate over the last 2 years than has CBO or OMB," would the Senator from New Hampshire say that is an unacceptable position?

Mr. GREGG. Well, what the Senator from New Hampshire——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GREGG. The Senator may not be able to say what his position is.

Mr. COCHRAN. Mr. President, I yield the distinguished Senator an additional minute to respond to the question of the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I would say that the President was off on a tangent, and a tangent which is really not necessary to be on because the President already came up here once and said CBO is OK. In fact, he not only said it was OK, he demanded that we follow CBO.

I believe that his initial decision in that area was correct. I just want to hold him to what his initial commitment was, that CBO should be the scorer. I see no reason why we should not use CBO. They are going to be right sometimes, wrong sometimes. Blue chips are going to be right sometimes, wrong sometimes. But at least we are using one acceptable group. The CBO being the group both the President and ourselves have used over the years, it seems reasonable we accept them. Then that standard is one we should all be comfortable with. But the core issue, of course, is he has to agree to balancing the budget in 7 years.

The PRESIDING OFFICER. The time has expired. Who yields time?

Mr. EXON. I yield 7 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

Mr. REID. I thank the Chair.

Mr. President, my office, like most of the offices in this complex, has been besieged with calls from constituents wanting to know why we cannot pass the necessary legislation to keep the Government operating. These calls are not simply coming from people who work for the Federal Government. Most are from people who do not work for the Federal Government. They are not just from people who rely on Government services and programs.

It is interesting that most of the people who call do not identify themselves as Democrats or Republicans. They are just average Americans whose greatest expectation of Government is that it operate to serve the interests of the people, to operate in the interest of serving the taxpayer. They are the kinds of people who pay their taxes. They play by the rules and vote for the person, not for the party. They want to know why this standoff is occurring.

The answer is very simple. The Congress, which is controlled in the House and in the Senate by the Republican Party, has not allowed appropriations bills to go through this body. There are 13 appropriations bills, and they simply have not passed. Everyone knows that the morning news said the transportation appropriations bill was signed and 29,000 Federal workers reported for work today.

The reason Federal workers are not working today is because the appropriations bills have not been completed. I have been here going on 14 years. There has never been anything like this.

When was the House supposed to pass their bills? By June 10. They simply did not do it. They did not pass their bills on time, and, of course, if they do not pass their bills on time, there is no way the Senate can pass its bills on time. The House missed the deadline on every appropriations bill.

We hear all this talk about personal responsibility. Well, what about responsibility of the majority party that rules the House and Senate? Do they not have a responsibility to get us these bills so the Government does not shut down?

The deadlines missed by the House have caused the Senate Appropriations Committee to push back the dates on which they could and should have considered these measures.

While the Senate is not bound by a similar deadline, it is required to complete action on these bills by the end of September. The Senate has had more success than the House in meeting the deadlines, but it still was doing the things at the 11th hour, and after we pass them, of course, there has to be a conference.

It has been a total lack of responsibility by the majority, that is, the Republican Party controlling both bodies.

As of today, only four of these bills, maybe five, have been signed. I do not know what the latest report is. And why were these annual appropriations bills not passed on time? Let me tell you why they were not passed on time. It is because they were stuffed with some of the most controversial, radical proposals in the history of this body, in the history of the other body.

Why do I say that? Rather than going through the ordinary legislative process, they wanted things like any charitable organization, a charity would not be able to lobby Congress even if they paid for it with private funds. That held up two appropriations bills.

How is that for democracy? You cannot even come back here and talk to your Representative even if you pay for it yourself. EPA, the Environmental Protection Agency, 17 different regulations they wanted passed. They put them in appropriations bills. They could not pass these laws changing environmental laws, food safety laws, safe drinking water laws, and clean air laws through the normal course of business. Instead, they engaged in a high stakes gamble.

In one of these bills, they completely rewrote the Housing Act in an appropriations bill. The crime bill, the Commerce-State-Justice bill—they rewrote the crime bill. And abortions held up three bills. Now, Mr. President, I am not an advocate of abortion, but this is not the way to do appropriations bills. Grazing, timber, drilling for oil, all issues that they could not get done in an ordinary legislative process, they stuck on appropriations bills. They would force the President to sign legislation that the majority of Americans oppose for the sake of keeping the Government operating.

This was apparent as far back as April. If you do not believe me, here is what the Speaker of the House of Representatives said in April. He vowed to "create a titanic legislative standoff with President Clinton by adding vetoed bills to must pass legislation increasing the national debt ceiling." This is reported in the Washington Times newspaper, April 3.

He also said, the President "will veto a number of things, and we'll then put them all on debt ceiling. And then he'll decide how big a crisis he wants."

This has been a planned crisis. It is a war, Mr. President, but it is a war that is not being won by the Republicans. Kevin Phillips, a Republican political analyst, said yesterday on public radio:

> If the United States budget deficit problem does represent the fiscal equivalent of war—and maybe it does—then what we are really looking at is one of the most flagrant examples of war profiteering this century has ever seen.

That is what Kevin Phillips said. He said that the only people benefiting are the people with money with this debt crisis. And that is too bad.

We continued to learn today why the Speaker is allowing this standoff to continue. It is not even any longer for scoring political points. It is about ruffled feathers and perceived slights. Remember, he did not get to sit in the front of the airplane when they went to Israel to the funeral of Prime Minister Rabin. He indicated, it is part of why they ended up sending down a tougher interim spending bill. And he is quoted as saying, "it's petty * * * but I think it's human." He has made the CR tougher because he did not get to ride where he wanted to in the airplane going to Israel. Mr. President, I respectfully submit this is just plain petty.

I return to my point that all this could have been avoided if we had done our job and the majority allowed us to vote on appropriations bills. We failed to do that. Now we are at a crisis point. If all this was part of some master plan, it is truly sad, it is truly sad. And even if it was due to simply a lack of diligence or negligence, it is also not excusable. Thousands and thousands of Federal workers are now sitting idle at home because the Speaker feels he was slighted.

The PRESIDING OFFICER. The Chair advises the Senator from Nevada that his time has expired.

Mr. REID. I ask that I be yielded 1 additional minute.

Mr. EXON. I yield 1 additional minute.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

Mr. REID. This not only affects Federal workers, Mr. President, it affects other people, because they, the Federal workers, buy groceries and clothes and cars, and they use the services of small businesspeople. It also, in the short term and especially the long term, is going to hurt the American business community.

This Senator suggests that the Speaker begin to consider the feelings of thousands of public servants and the people that depend on those public servants' paychecks. I think it is important that he consider their feelings, Federal workers who simply want to be able to come to work and get a paycheck on a regular basis and take care of their families. That is what this is all about. It is too bad they are not being recognized because they are really important to the American people.

Mr. EXON. Mr. President, how much time is remaining on each side?

The PRESIDING OFFICER. The Chair advises the Senator from Nebraska has 2 minutes remaining on his side. The Senator from Mississippi has 9½ minutes.

Who yields time?

Mr. EXON. I reserve the remainder of our time.

Mr. COCHRAN. Mr. President, I understood that I yielded 6 minutes to the distinguished Senator from New Hampshire and that that would leave us 10 minutes of time.

The PRESIDING OFFICER. You have about 9½ minutes.

Mr. COCHRAN. I yield 4½ minutes to the distinguished Senator from Utah, [Mr. BENNETT].

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. BENNETT. Mr. President, I listened to the debate here this morning with some interest. I do not have a prepared statement, but I have a few observations I want to make.

First, with respect to this forecasting issue and what should be and should not be in it, I would like to point out one fact that many have ignored with respect to forecasting. This is not a forecast; this is a historical report. Martin Feldstein, writing in the Wall Street Journal, has pointed out the difference between the forecast made 2 years ago for the President's tax increase and the amount of tax actually received is this: The Federal Government has received one-third as much tax revenue as was forecast. Nobody is talking about that. They say the President raised the taxes because he had so much courage and that solved the deficit problem. In fact, the forecasters were off by two-thirds. We got one-third as much money as was forecast.

Now we are being told, "Yeah, the blue chip forecasters are now saying that we will get more money than CBO or OMB say we will get. So why don't we take that forecast?" I will be happy to take that forecast, Mr. President. I will do it in a heartbeat on this condition—that we use the same blue chip forecasters to score the legislation that we pass.

But we are stuck with the CBO whether we like it or not. The CBO scores the Senator from New Mexico on every budget action that he takes. Why do we have one set of numbers for our legislative action and then say we will have another set of numbers for the balanced budget circumstance?

Let us put it out very clearly, Mr. President. If the CBO is wrong and too low, that means that the bill that we pass will bring us to a balanced budget faster than 7 years. That means if the CBO is wrong, we will make the terrible mistake of balancing the budget in 5. But, if the CBO is right and OMB is wrong and we pass the President's program, that means we will balance the budget never.

I have learned since I have come to Washington the true definition of the phrase "the outyears." I never knew what the outyears meant. In Washington, the outyears mean those years that are far out there. Well, in fact, in this debate, Mr. President, the outyears mean never. We have to recognize that if we are going to balance the budget, we have to start now and not depend on a rosy scenario for the outyears, no matter who makes it, whether it is CBO or OMB or the blue chip forecasters or whoever. If we wait for the outyears to make the decision, we will never ever get there. So we must take the first step. We must take it this year. And we must not flinch.

One other thing, Mr. President. The President pounded the pulpit the other day and said some 16 times he believes in a balanced budget. Well, Mr. President, we are going to find out, because some of the political handlers at the White House did not bother to inform the President that the election is next year, not this year. And between now and then he is required by law to send us a budget. And we will see when he sends us his budget in 1997 just how serious he is. And we will see how effective it is because the budget he sent us in 1996—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENNETT. Ten more seconds.

The budget he sent us in 1996 received the resounding vote of 99–0 against it. We will see what he does next year.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. I have 2 minutes left.

The PRESIDING OFFICER. The Senator has 1 minute 44 seconds.

Mr. EXON. Let me first respond to the remarks just made. Why it is necessary that we use realistic assumptions? That is because we are overpenalizing Medicare, we are overpenalizing students, we are overpenalizing people who receive Medicaid. If we are realistic in our assumptions, we do not have to hurt people as much. Also being overlooked by those who talk the argument we have to stay with CBO is the obvious fact that they talk about paying for this in later years. If you look at the Republican budget, you see that they delay all of the hard choices to the fifth, sixth and seventh years.

Mr. President, the amendment before us is simple and direct. It will put the Government back to work. It would allow time for negotiations on the larger budget bill which is going to definitely be tough going, but we need to reduce the deficit. That is the responsible thing for us to do: Adopt the Daschle amendment.

The underlying bill will be vetoed. The underlying bill tries to stack the deck against the President in negotiations to come. The underlying bill is an attempt to force the President to accept the extreme cuts in Medicare and Medicaid and education in the Republican budget bill. It is blackmail, very pure and very simple. The President will use his veto, and properly so, to prevent that from happening.

The President would sign this bill as amended by the pending amendment. So the choice is clear. If Senators want to pass a bill that the President can sign to keep the Government running, then Senators should vote for this amendment. A vote against this amendment is simply a vote to continue the shutdown.

If we are to act responsibly, we must adopt the pending amendment.

The PRESIDING OFFICER. The Chair advises the Senator his time has expired.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. DOLE. Mr. President, I will move to table the pending amendment at the conclusion of my remarks. Somebody sent me—in fact someone from Georgia sent me a fax. I have already written a note to thank him. He included in the comments a quote from Mark Twain. I thought—at least I have not heard it before—maybe some of my colleagues have. Let me quote it:

> In the beginning of a change, the patriot is a scarce man, brave and hated and scorned. When his cause succeeds, however, the timid join him, for then it costs nothing to be a patriot.

I must say, as I get into this debate again about a balanced budget, I think that quotation applies today. This is about change, it is about fundamental change. I am not an advocate of shutting down the Government. I have never been an advocate for shutting down the Government.

But this is an unusual circumstance. We have a President in the White House who said he would balance the budget in 5 years, in 7 years, in 8 years, in 9 years, in 10 years. So we picked 7. Nothing in our balanced budget statement, if you read the language carefully, which is on the last page—in fact, I watched the debate last night on the House side, and I heard Congressman HOYER—I have great respect for him—from Maryland say:

> There is nothing wrong with the first 14 pages of this amendment; it is the last page.

Everything else was OK, all except title III, which is very brief, and let me read it, because we have talked about it, but I am not certain it has been read. All it says is:

> The President and the Congress shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the fiscal year 2002 as scored by the non-partisan Congressional Budget Office.
>
> (b) The unified balance budget in subsection (a) shall be based on the most current economic and technical assumptions of the Congressional Budget Office.

I believe later today the Senator from New Mexico will quote colleagues on the other side who say we ought to use CBO to balance the budget, including the distinguished manager on the other side and the distinguished minority leader. That is all we have said.

Mr. President, there is nothing in here about Medicare, nothing about Social Security, nothing about Medicaid. It is about balancing the budget in 7 years, which 83 percent of the American people support. There is nothing in this that should prevent the President from signing this bill. It says:

> The President and Congress shall enact legislation. * * *

That means we are going to have a lot of discussion, a lot of negotiation or we cannot enact it, he can veto it.

So I hope when final passage comes, we will have some bipartisan support. I watched last night on C-SPAN the House action. I watched as 48 Democrats voted with Republicans, a tremendous victory, a bipartisan victory. And I listened to one Democrat from Virginia, Congressman MORAN, who said it is time we stop this foolishness, the American people want to balance the budget, the Federal employees want to go back to work.

That is all we are asking. It is nothing unreasonable. There is no Medicare. Oh, they beat us up on Medicare, but I must say, I never thought I would be around to read an editorial like this in the Washington Post called "The Real Default." In the Washington Post, believe me of all papers—well, the New York Times might startle me more—but the Washington Post, known by some of us as sort of The Daily Democrat Journal, talking about the real default, demagoguery, lack of leadership on the Democratic side, in effect setting back the cause of balancing the budget for years by trying to make Medicare a scare word with senior citizens.

Somewhere we have lost sight of what we are here to do. Somewhere we have lost sight of what the American people expect of us, and somewhere we have lost sight of what is going to happen next week, next month, next year, and the next century.

We have stepped up to make some tough decisions, and it is not easy. We are doing the heavy lifting, as my colleague from New Mexico said a few days ago. When you are not lifting anything, it is easy.

I just suggest to my colleagues, I am one who would like to resolve this issue. I met with the President the other night. I thought he was one who wanted to resolve the issue. He told us in his first State of the Union Message that CBO numbers are the ones they are using in their budget. I remember Republicans laughed. He looked at us and said, "All those Republicans laughing, remember, they have been more conservative most of the time," the CBO numbers, the Congressional Budget Office numbers.

So I do not think we have done anything here that is so bad. We were told last night on the House floor in debate, "If you just tear off the last page, the President will sign it in a minute." What is wrong with this last page? It does not say he has to sign a balanced budget today, or next week or next month. It says "in the 104th Congress."

And if you watched TV last night and you saw the President saying, "I'm for a 5-year balanced budget," and then, "I'm for a 7-year," "I'm for a 10-year," "I'm for a 9-year," "I'm for an 8-year"—the American people are confused.

So let us send this to the President. Let us not take all day in doing it. Let us get it down to the President of the United States. I believe after reflection, he will sign it. It is a commitment to a 7-year balanced budget. That is all it is. That is what it says in the title, "commitment." It is not a law, it is a commitment.

So I urge my colleagues to table this amendment and to table the other two amendments to be offered and, hopefully, have some bipartisan support on final passage.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. CAMPBELL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 577 Leg.]

YEAS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

So the motion to lay on the table the amendment (No. 3055) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to table the motion.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I understand that Senator HOLLINGS wishes to proceed.

AMENDMENT NO. 3056

(Purpose: To reaffirm the commitment of the Congress not to use the surpluses in the Social Security trust fund to mask the true size of the deficit in any plan for a balanced budget)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk, and I ask the clerk to report my amendment.

The legislative clerk read as follows:

> The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 3056.
>
> Add at the end of the Joint Resolution, the following last section:
>
> SEC. . Notwithstanding any other provision of this Joint Resolution, the seven year balanced budget passed by the Congress to the President shall not include the use of Social Security Trust Funds to reflect a balanced budget.

Mr. HOLLINGS. Mr. President, it was Mark Twain who said the truth is such a precious thing that it should be used very sparingly. As a result, Mr. President, what we have been doing is calling budgets "balanced" when in reality there have been raids, or, as the former Senator from Pennsylvania, John

Heinz, called it, "embezzlement" of the Social Security trust fund.

At the present moment we owe Social Security, due to this lack of truth in budgeting. We owe Social Security $481 billion, and if you duck the proposed reconciliation tomorrow or the GOP budget, you will expend another $636 billion of Social Security trust fund.

Now, what may have been in the original instance an instrument of good, turned into a usurpation and a bankruptcy of Social Security if you have to borrow a few billion dollars. In the morning paper, you see the Secretary of the Treasury, in order to keep from defaulting, the Secretary of the Treasury has borrowed $61.3 billion from the civil service retirement. And they say later on, of course, he has to pay it back with interest—and that is the point. You have to pay Social Security back with interest and at the end of the 7-year budget you will owe.

The PRESIDING OFFICER. Will the Senator withhold a moment? The Senate is not in order.

Mr. BUMPERS. Mr. President, there are nine conversations going on on the floor right now.

The PRESIDING OFFICER. The Chair is aware of it and is trying to get order.

The Senator from South Carolina may proceed.

Mr. HOLLINGS. I thank the distinguished Chair.

At the end of the 7-year period, we will all have to pay back, supposedly, over $1 trillion into the Social Security trust fund, and no one has any idea—not any Senator or House Member—who is going to introduce the increase in taxes to refund the Social Security trust fund.

The remedy for this particular evil is to obey the law. We saw this in the Budget Committee. We tortured over it. We realized this back in 1983 when we passed the Greenspan Commission report making the Social Security trust funds solvent into the middle of the next century, we said, so the children and the grandchildren could count on it.

We raised the taxes and assured everyone—in fact, we could not have done it for defense or for foreign aid or for welfare or for any of the other endeavors of Government. We said we were raising these Social Security taxes to make certain that there was trust in the trust fund through the year 2050.

Having done that, 5 years ago we met in the Budget Committee and realized, look, on an emergency basis, yes, we borrowed from Social Security, maybe $100 billion here, $200 billion there. As Senator Dirksen says, it could easily run into money.

So we voted, on a vote of 20 to 1 in the Budget Committee, that we would stop this nonsense by writing into the law section 13301 of the statutory laws of the United States of America that "thou shalt not use Social Security trust funds to in any way be computed in outlays or revenues of the United States Government or in any way to obscure the size of the deficit." That particular measure passed this body by a vote of 98 to 2. It was signed into law by President George Herbert Walker Bush on November 5, 1990, and no less than reaffirmed in a solemn vote here on the floor of the U.S. Senate on Monday, 3 days ago. We said in the reconciliation—

The PRESIDING OFFICER. The Senator will withhold a moment. We have several other conversations going on on the floor. The Senate will be in order.

Mr. HOLLINGS. We said in the reconciliation instructions that they adhere to the law 13301.

At that particular time, the distinguished chairman of the Budget Committee looked at it. It was Senator GRAHAM of Florida and the Senator from South Carolina who introduced the particular language. We said about the Balanced Budget Reconciliation Act of 1995, and I read, ". . . that the conferees be instructed to honor section 13301 of the Budget Enforcement Act of 1990, and, 2, not to include in the conference report any language that violates this section." And, to that, the distinguished chairman of the Budget Committee, the Senator from New Mexico, said, and I quote: "Mr. President, the first portion of this instruction, we have never violated, so we can be instructed on it. The second section, we have never violated it, so we can be instructed not to."

Absolutely false. That is categorical. We have regularly violated it. And that is the plea, later on, of the distinguished chairman of the Budget Committee, that all the Presidents have done it. All the Congresses have done it. So, the heck with the law. He gets up and says solemnly: We have never violated it. We continue to do so.

The fact that President Reagan reported a budget that way, and President Bush reported a budget that way, President Clinton reported a budget that way, makes no impression on this particular Senator. It is our responsibility to have truth in budgeting. It is our responsibility to adhere to the statutory laws of the United States of America. It is not a technicality of law; it is a fundamental here involved.

Mr. President, I ask unanimous consent to have printed in the RECORD a budget table showing the U.S. budget outlays beginning in 1945, the use of trust funds under President Truman at that particular time, the real deficit, and then, of course, the gross Federal deficit.

When you put together the borrowing from the trust funds that must be replenished, you get the real deficit, the gross Federal debt, and the gross interest costs.

These are all on one page so all the Members cannot dance around and talk about CBO and OMB. These are the figures of the U.S. Government.

I ask unanimous consent they be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGET TABLES

President	Year	U.S. budget (outlays in billions)	Trust funds	Real deficit	Gross Federal debt (billions)	Gross interest
Truman	1945	92.7	5.4	....	260.1	....
	1946	55.2	3.9	−10.9	271.0	....
	1947	34.5	3.4	+13.9	257.1	....
	1948	29.8	3.0	+5.1	252.0	....
	1949	38.8	2.4	−0.6	252.6	....
	1950	42.6	−0.1	−4.3	256.9	....
	1951	45.5	3.7	+1.6	255.3	....
	1952	67.7	3.5	−3.8	259.1	....
	1953	76.1	3.4	−6.9	266.0	....
Eisenhower	1954	70.9	2.0	−4.8	270.8	....
	1955	68.4	1.2	−3.6	274.4	....
	1956	70.6	2.6	+1.7	272.7	....
	1957	76.6	1.8	+0.4	272.3	....
	1958	82.4	0.2	−7.4	279.7	....
	1959	92.1	−1.6	−7.8	287.5	....
	1960	92.2	−0.5	−3.0	290.5	....
	1961	97.7	0.9	−2.1	292.6	....
Kennedy	1962	106.8	−0.3	−10.3	302.9	9.1
	1963	111.3	1.9	−7.4	310.3	9.9
Johnson	1964	118.5	2.7	−5.8	316.1	10.7
	1965	118.2	2.5	−6.2	322.3	11.3
	1966	134.5	1.5	−6.2	328.5	12.0
	1967	157.5	7.1	−11.9	340.4	13.4
	1968	178.1	3.1	−28.3	368.7	14.6
	1969	183.6	−0.3	+2.9	365.8	16.6

BUDGET TABLES—Continued

President	Year	U.S. budget (outlays in billions)	Trust funds	Real deficit	Gross Federal debt (billions)	Gross interest
Nixon	1970	195.6	12.3	−15.1	380.9	19.3
	1971	210.2	4.3	−27.3	408.2	21.0
	1972	230.7	4.3	−27.7	435.9	21.8
	1973	245.7	15.5	−30.4	466.3	24.2
	1974	269.4	11.5	−17.6	483.9	29.3
Ford	1975	332.3	4.8	−58.0	541.9	32.7
	1976	371.8	13.4	−87.1	629.0	37.1
Carter	1977	409.2	23.7	−77.4	706.4	41.9
	1978	458.7	11.0	−70.2	776.6	48.7
	1979	503.5	12.2	−52.9	829.5	59.9
	1980	590.9	5.8	−79.6	909.1	74.8
Reagan	1981	678.2	6.7	−85.7	994.8	95.5
	1982	745.8	14.5	−142.5	1,137.3	117.2
	1983	808.4	26.6	−234.4	1,371.7	128.7
	1984	851.8	7.6	−193.0	1,564.7	153.9
	1985	946.4	40.6	−252.9	1,817.6	178.9
	1986	990.3	81.8	−303.0	2,120.6	190.3
	1987	1,003.9	75.7	−225.5	2,346.1	195.3
	1988	1,064.1	100.0	−255.2	2,601.3	214.1
Bush	1989	1,143.2	114.2	−266.7	2,868.0	240.9
	1990	1,252.7	117.2	−338.6	3,206.6	264.7
	1991	1,323.8	122.7	−391.9	3,598.5	285.5
	1992	1,380.9	113.2	−403.6	4,002.1	292.3
Clinton	1993	1,408.2	94.2	−349.3	4,351.4	292.5
	1994	1,460.6	89.1	−292.3	4,463.7	296.3
	1995	1,518.0	121.9	−283.3	4,927.0	336.0
Estimate	1996	1,602.0	121.8	−311.1	5,238.0	348.0

*Historical tables, Budget of the U.S. Government Fiscal Year 1996; beginning in 1962 CBO's 1995 Economic and Budget Outlook.

Mr. HOLLINGS. Mr. President, as you go down, you will see we have been borrowing sumptuously from trust funds. At the present time—not just owing Social Security the $481 billion—at this very minute, we owe the trust funds of the United States, we owe to the veterans, we owe to the civil service retirees, we owe to the military retirees, we owe, yes, to Medicare. We have been using everybody else's moneys: $1,255,000,000,000.

So, the thrust of using the word "unified" is to obscure just that; that we are already in hock, before we begin the year, $1,255,000,000,000. We are already in hock on a national debt of just about $5 trillion. And, since this is all Presidential campaign politics, whoever the next President is, when he comes to town January a year from now, he will find at least $500 billion spent for absolutely nothing, just for the past profligacy and waste, Congresses for 15 years now are spending over $200 billion more than we have taken in.

Congress has continued to campaign on balanced budgets, and they all tell you on the political stump how they are going to balance the budget. When they come to town, they get into the smoke and the mirrors. There is no question that the smoke and the mirror are just in that one word "unified." Just say "the balanced budget."

I have heard Senators say it is not complicated. You take the revenues that the Government receives, you take the expenditures, or outlays the Government spends, and there is the balance. That is not the way.

Then they want to move deficits. They say, "Wait a minute, when you take the revenues in, the outlays out, and you look at that figure, that is too high for me to run on in the next election. So we will take an amount of money out of the right pocket and put it into the left pocket. We will take $636 billion from Social Security in this budget that we have under consideration and put it in the general fund to make it appear we are balancing the budget."

That is what my particular amendment is. As soon as I caught this word "unified," the attempt has been made to abolish this section 13301. They do not like it. But the Senator from South Carolina watches.

So the balanced budget amendment to the Constitution which I was prepared for, ready for, and have voted for numerous times—and am ready, willing, and able to vote for at this minute—included in section 7 the repeal of section 13301. I caught that earlier in this session this year. I told the distinguished majority leader and our distinguished colleague from Illinois, Senator SIMON, who was sponsoring this, I said, "You got my vote. I understand you got five other Democratic votes in a minute. Just take out the repeal of what John Heinz called embezzlement provisions that protects the Social Security Trust Fund from embezzlement." They will not do it. They were adamant.

Then they figured, "Wait a minute. It is good politics if we try to blame it on one vote—if we fail to pass a constitutional amendment for a balanced budget by one vote—and then take it down and offer it next year during the election year.

I have the same amendment right in my pocket. Everybody has been walking around with the contract in their pocket. My distinguished former majority leader from West Virginia carries the Constitution in his pocket. I carry around in my pocket the Social Security provision—namely, a balanced budget amendment to the Constitution that does not repeal section 13301 of the United States Code.

Mr. President, there are those who love this unified budget that has brought a modicum of dignity and financial expertise to the politician Senator. Because you go up on the financial market, and I am astounded. But still the best of economists, the best of financial officers, the biggest and the best of the banks, are reporting what? A unified budget. They are the ones who want it because they are in the business of making money. And the less pressures of the Federal Government's borrowing in the financial market, the more the interest rates, momentarily, will drop and the ease with which to finance momentarily will grow. And, if they can have the Government itself back in Washington borrowing from each other even though, of course, the debt is up, up, and away to $5 trillion, who cares? This crowd operates on quarterly reports, computers, tenths of a second, moving money around, all around the world. They have no responsibility. The Government, Mr. President, you and I, do.

So, it is fine, momentarily, for the financial markets in reducing the pressure. But we, who have the responsibility of serving here in public office as a public trust, have to cut out the nonsense and playing around with the smoke and mirrors. We have to cut out trying to fool the American people that under, for example, this resolution, you would have a balanced budget when it is unified. Not at all. When it is unified alone from Social Security and $636 billion and over the 7-year period from civil service retirement and military retirees and others, we will borrow another $200 billion. So it will be over $836 billion needed to get to a so-called "paper balance."

Let me tell you about the paper balance because I have to listen to the talk on the other side of the aisle about this historic effort and that we finally are doing the heavy lifting. They have not lifted anything. When we lifted year before last, when we cut

$500 billion in spending, when we taxed cigarettes, when we taxed liquor, when we taxed gasoline and Social Security, when we cut Medicare $57 billion, they wanted lifting? They were out at recess. There was not a single vote on the other side of the aisle in this body, or in the other body.

And they have the unmitigated gall to come and say, "President Clinton does not want a balanced budget." Well, he is the only one that cannot be blamed for it. The distinguished Presiding Officer, this distinguished Senator from South Carolina, may have voted for expenditures that unbalanced the budget, but not President William Jefferson Clinton. He was down in Little Rock doing what? Balancing the budgets. He balanced them for 10 years. That was part of the good record that helped in his election in 1992.

But we instead were engaged in this shabby exercise of growth, growth—that we will just cut out all the revenue and buy the vote with Reaganomics and with President Bush.

It was President Clinton who came to town, yes, to give us a change in direction. I was here under President Lyndon Johnson. He was conscientious about this political charge of guns and butter and runaway government. So with George Mahon and others working in a committee, we called at the very end, in December 1968, the fiscal year running from the 1st of July back to the next year, June 30, and we told the President, "We can cut another $5 billion." He said, "Don't do it." And the budget for the war in Vietnam, for Social Security, for Medicare and all these particular programs was $178 billion.

To show how far we have gotten out of hand, the interest costs for absolutely nothing—no government is obtained there—the interest cost on the national debt this fiscal year is $348 billion, $1 billion a day. But President Johnson not only balanced, but he gave us a $3.2 billion surplus.

President Nixon came to town. We were working with him again on the idea of block grants, incidentally. But in 1973, the OPEC cartel hit. We began to run some $21 billion deficits. President FORD took over, and our friend, President FORD, knew well what the problem was. And he called us all together in a summit. He said, "Let's get our hands on this thing. It is runaway." We held it down to $66 billion. Thereafter, President Carter came to town. He said, "I have to at least reduce this."

Now, you are looking at the author of the first reconciliation bill. I was chairman of the Budget Committee, and I went over on the Friday after President Jimmy Carter was defeated on a Tuesday in November 1980, and I said, "Mr. President, a Democrat is never going to get elected again with this deficit going up, up, and away."

He said, "How much?"

I said, "Mr. President, the Congressional Budget Office has just estimated the deficit is going up to $75 billion."

He said, "Heavens. What are we going to do?"

I said, "There is a fancy word called reconciliation. It means cut—just cut across the board already-approved spending."

He said, "We can do that?"

I said, "If you can just take Harris and McIntyre"—who were working at OMB and the assistant at OMB trying to give away the money to reelect their President—"if you tell them to stay out of the Capitol, I will go to my good liberal friends"—I say that with reverence—"and I will get the votes, and we will cut it back."

And President Carter said, "Go to it."

I came to Warren Magnuson of Washington and Frank Church of Idaho and John Culver of Iowa and George McGovern of South Dakota and Birch Bayh of Indiana and Gaylord Nelson of Wisconsin. I said, "Before you all leave, you have to give me one vote because we have got to prove that we are fiscally responsible." They did, and we reduced the deficit down to $57 billion, just about $58 billion.

Then came to town the leader of them all against waste, fraud, and abuse, President Ronald Wilson Reagan, and he was beginning to put up budgets that we were going to work with. But he got behind the poll, behind the curve. Do not ever fool with polls. That is why I have this particular article on the desk. But getting behind it, he adopted what he had earlier rejected, namely Kemp-Roth. Reaganomics. They termed the name, and we were going to cut out all the revenues.

I stood at this desk—and I saw the distinguished Republican Senator last night—and the Senator from Maryland, Senator Mathias agreed with me, and some 10 other Democrats. We tried to hold the line. We said: Wait a minute; this thing is going to get way out of hand. What is going to grow is these deficits and debts with the very intent that you have in mind and by talking this political nonsense that we will have more sales, we will have more purchases, we will have more sales taxes, more income, more income tax revenues.

"Give the money to the people. They know how to spend it best." That was the political cry. "Get out of the wagon and help us pull" and that kind of nonsense. We are the ones up in the wagon. Who is in the wagon? The Congress has been in this wagon for 15 years. The people outside have been pulling. I am trying to get the Congress out of the wagon—$200 billion a year more than we have taken in for 15 years.

President Reagan said he was going to balance the budget in 1 year. If necessary, I will go get the speech for you. He came to Washington after his inauguration and he said: Whoops, this is way worse than I ever thought. So I will put in a budget that we will balance in 3 years. And just like this paper document that we are going to consider tomorrow—the so-called reconciliation that nothing but a paper document—it reported formally that it would be balanced by the year 1984.

I will include that page that we have for the fiscal year 1984. It says, "Fiscal year, zero," Calendar No. 63, the 97th Congress, first session. I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1982

* * * * *

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is as follows:

Fiscal year 1982: $48,800,000,000;
Fiscal year 1983: $21,400,000,000;
Fiscal year 1984: $0;

* * * * *

Mr. HOLLINGS. Then, Mr. President, we came to one of the wonderful chapters in history, Gramm-Rudman-Hollings. I had worked earlier—and we got to wish him a happy birthday—Senator Howard Baker. Senator Howard Baker was the majority leader, and he tried to help me on the freeze. We could not get the freeze. And so I then got with Senator PHIL GRAMM of Texas and said, "Look, I understand you have an idea of cutting spending across the board."

I remember well as Governor I got a triple A credit rating doing just that. We had truth in budgeting back in South Carolina in 1959. We said that whatever your budget said was going to happen and would have to occur within the expenditures and revenues. If the expenditures ever exceeded the revenues, automatically by law—no discretion—the spending amounts across the board would be cut. And from Standard & Poor's and Moody's, I got a triple A rating ahead of Texas and up to Maryland and before any of the Southern States. I used it as my calling card as a young Governor to carpetbag the North, trying to get industry down. So I feel it keenly.

It is lost now. Why is it lost now? We have Republican administrations that are giving that same nonsense. That is why I would not join them. It is all rhetoric. It is all applesauce. We have lost the triple A credit rating in South Carolina on account of growth.

But be that as it may, Senator GRAMM, Senator RUDMAN and I put in Gramm-Rudman-Hollings. I have the tape from President Reagan giving me The Good Government Award and litany and congratulations and everything else, and, yes, the budgets were going to be balanced because we had truth in budgeting.

And then what happened? We found out that it was too severe, these $37 billion cuts annually, and they went out in the year 1990 to Andrews Air Force Base and repealed Gramm-Rudman-Hollings. I raised a point of order on October the 19th, 1990, at 12:41 a.m., and they voted me down. I said when you get away from the automatic cuts across the board, the sequesters, what you have is so-called spending caps that are pure rhetoric, and you can see what has happened. The spending has gone up, up and away.

So they repealed it at that time. And let us go to the 1990 budget at the time of the repeal. Mr. President, that is the most interesting document for our colleagues on the other side of the aisle to ever look upon for the simple reason that it has an astounding figure to it. It says here for the 101st Congress, Second Session, report 101-820—I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1991

* * * * *

(4)(A) The amounts of the deficits are as follows:

Fiscal year 1991: $143,700,000,000.
Fiscal year 1992: $100,900,000,000.
Fiscal year 1993: $62,000,000,000.
Fiscal year 1994: $14,700,000,000.

(B) The amount of the surplus is as follows:
Fiscal year 1995: $20,500,000,000.

* * * * *

Mr. HOLLINGS. "The appropriate levels of total budget outlays are as follows * * *" And going right down the list, the amount of surplus is as follows: "Fiscal year 1995, $20.5 billion."

So to their crowd saying: "We are carrying the load; we are lifting things," I say you all are doing nothing. They have not voted for anything since Clinton has been in town. They have not passed the appropriations bills. They have not passed the reconciliation. I want to see that lifting.

Be that as it may, this 1990 document is another paper document—a surplus we are supposed to have, this minute, of $20 billion. What is the actual deficit? I put the tables in. The actual real deficit at this particular minute is $283.3 billion instead of a $20 billion surplus.

So every 5 years, in 1981 reflecting one, in 1984 and 1985 reflecting one, in 1990 reflecting a surplus, and here we go again, in with another paper document for another 7 years.

Another day older and deeper in debt. But who will be around 7 years from now? We will have two Presidential elections under this scheme. We will have unrealistic cuts. We have had already cuts in Social Security. You are not going to get $270 billion in Medicare. I do not care what you say or how you vote, we have been cutting.

I have been on this Budget Committee 20-some years, and every year President Reagan, President Bush, and other Presidents, they would come and they would want to cut $5 billion to show they were headed in the right direction. We would have to restore $2 billion or $3 billion. So momentarily, or annually, I should say, we have been cutting billions out of Medicare. So it is under President Clinton who came to town, he cut $57 billion in the year 1993 out of Medicare.

Last year—last year—Mr. President, he proposed a $120 billion cut. Now, let me just as an aside and say a word about Social Security. "For by their fruits shall ye know them." In 1994, last year, I read the so-called report of the board of trustees of the Federal Hospital Insurance Fund. And from page 2:

> The trust fund ratio defined as the ratio of assets at the beginning of the year to disbursements during the year was 131 percent in 1993, and then under the immediate assumptions is projected to decline steadily until the fund is completely exhausted in the year 2001.

Now, mind you me, Mr. President, that this is the same report they are talking about 2002. Last year when they said it was going broke in 2001, they did not even care about it. They went around whining, "What's the matter with health care? We have got the best in the world." There was no proposal to confront that so-called dreadful disaster 7 years from now.

But with President Clinton, not with their votes, President Clinton and the Democratic votes—and the Vice President had to vote—we at least picked up a year with the $57 billion cut. And it was completely rejected, repudiated. The First Lady was ridiculed all last year about health care.

An interesting thing because the distinguished Senator from Texas was saying that with Social Security taxes, they were going to be hunting us down like dogs in the street and shooting us. Like dogs in the street. Oh, they said the whole country was going into inflation. Unemployment was going to soar. Plants were going to close. The economy was going to be in a depression. And they were going to grab us politicians who voted for this and hunt us down like dogs in the street and shoot us.

Well, it was not easy to vote to tax Social Security. But, mind you me, Mr. President, when we taxed it, we said, wait a minute, the revenues from this tax, $25 billion, shall go to—what? Shall go to help making Medicare solvent. We allocated $25 billion to Medicare. Here we had already cut $57 billion.

Here then we had allocated some $25 billion. And you know what the contract crowd did in November? They came in there and said, "Do away with this $25 billion, Medicare," that they now are worried about 7 years from now. Pure theater. An absolute sham.

They, in their contract, increase the deficit of Medicare some $25 billion. They did not help strengthen the Medicare fund. Why is it that we pick out these straw men out here 7 years from now in Medicare, 30 years from now in Social Security, and are not worried about going broke this minute?

We have fiscal cancer. The interest costs—the automatic spending to pay the interest costs on a $5 trillion debt—is going $1 billion a day up, up and away. There is no plan, Democratic or Republican, that says let us cut spending $1 billion a day.

So let us get down to the real facts. The real facts are, in the GOP budget, that for every year they increase spending, the fact is, the present budget—the reconciliation we will vote on tomorrow—will increase spending $53 billion. $53 billion over the present year. A $53 billion increase in spending. You look over at the increase in revenues, and you say, well, maybe we had to spend more. But we took in more. We did have some of that growth. Not so. Not so.

You add up the 7 years, Mr. President. The expenditures, the outlays by CBO. Incidentally, I do not mind CBO figures. I do not mind the 7-year budget. I am prepared to vote for a 7-year budget and CBO figures—so long as it is a true balanced budget and not an embezzlement of Social Security. None of this unified. Do not give old HOLLINGS that. I heard it before. I hear it again. I hear the whine that other Presidents have done it.

We came to town in November, my dear Republican colleagues, for change, not for business as usual, not how Presidents have done it, not how Congress has done it before, but the truth in budgeting. But, Mr. President, the outlays exceed the revenues some $1,052,000,000,000 during that first 7 years. How do you start with a $283.3 billion deficit, increase spending over revenues each year for 7 years, and get a balanced budget?

You cannot. There is no mystery to it. You use smoke and mirrors. In fact, the very authorities they use, they misquote. You look at page 3 of the conference report of Chairman Kasich over in the House side.

I ask unanimous consent that a portion of that report be printed in the RECORD at this particular point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1996

* * * * *

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 1996: $245,600,000,000.

Fiscal year 1997: $234,100,000,000.
Fiscal year 1998: $204,000,000,000.
Fiscal year 1999: $192,900,000,000.
Fiscal year 2000: $181,100,000,000.
Fiscal year 2001: $140,200,000,000.
Fiscal year 2002: $108,400,000,000.

* * * * *

Mr. HOLLINGS. Mr. KASICH there for the 104th Congress, the first session, concurrent resolution for the fiscal budget for the fiscal year 1996. It says fiscal year 2002.

Mr. President, everybody ought to listen. They do not want to hear it: It shows a $108,400,000,000 deficit. Aha. They keep on these weekend shows, morning interviews, the TV, 20-second scripts. Truth in budgeting. But they themselves say in the year 2002, it is a $108,400,000,000 deficit.

And then, of course, June O'Neill, on October 20, 1995. This, incidentally, Mr. President, was subsequent to the October 18 good Government award that the chairman of the Budget Committee came to the floor and gave his budget.

He said, now we have got it certified. Now we have got it certified. And I do not want to just repeat the record of those particular amounts, but he had them all detailed out there on October 18. And he said, the Congressional Budget Office has reviewed our budget that I have just quoted from, and they have found that we have a $10 billion surplus in the year 2002.

I said, wait a minute, I can read. KASICH himself said a $108.4 billion deficit. Where in the world did this $10 billion surplus come from? Two days later, when we admonished the Madam Director to obey the law—to cut out the embezzlement of the Social Security trust—she wrote back meekly.

I ask unanimous consent that that letter be printed in the RECORD, the letter of October 20.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 20, 1995.

Hon. KENT CONRAD,
U.S. Senate, Washington, DC.

DEAR SENATOR: Pursuant to Section 205(a) of the budget resolution for fiscal year 1996 (H. Con. Res. 67), the Congressional Budget Office provided the Chairman of the Senate Budget Committee on October 18 with a projection of the budget deficits or surpluses that would result from enactment of the reconciliation legislation submitted to the Budget Committee. As specified in section 205(a), CBO provided projections (using the economic and technical assumptions underlying the budget resolution and assuming the level of discretionary spending specified in that resolution) of the deficit or surplus of the total budget—that is, the deficit or surplus resulting from all budgetary transactions of the federal government, including Social Security and Postal Service spending and receipts that are designated as off-budget transactions. As stated in the letter to Chairman Domenici, CBO projected that there will be a total-budget surplus of $10 billion in 2002. Excluding an estimated off-budget surplus of $115 billion in 2002 from the calculation, CBO would project an on-budget deficit of $105 billion in 2002. (The letter you received yesterday incorrectly stated these two figures.)

If you wish further details on this projection, we will be pleased to provide them. The staff contact is Jim Horney, who can be reached at 226-2880.

Sincerely,

JUNE E. O'NEILL,
Director.

Mr. HOLLINGS. Mr. President, it shows there, and I read, "CBO would project an on-budget deficit of $105 billion in 2002."

"Peace, peace, everywhere a man cried peace," said Patrick Henry, "But there was no peace." Balance, balance, balance, balance, everywhere men cry balance. There is no balance. There is a deficit.

Let us level with the American people. To quote Mark Twain, "The truth is such a precious thing, it should be used very sparingly."

And that is the credo of this Congress that is up in the wagon trying to get by again and is using the pressures of the Government closedown on itself to get what they cannot get by a majority vote. They could not get a majority vote because—I joined with one on legal services. They do not want, like the gang of 73 over on the House side, to abolish legal services. So we joined in reinstating legal services in the appropriations bill.

Mr. President, they do not want to abolish the Department of Commerce. That is why we had a voice vote to strike the provision that would have abolished the Department of Commerce.

What is happening is they are trying to force feed the White House on measures that they cannot even get a majority vote for.

And they're nagging and crying like children about where they sat on the plane going to a funeral. I do not believe anybody felt much like talking. But our distinguished minority leader, Senator DASCHLE, was there and I believe him, and he recounted the several times that the President came back. That is one thing you cannot accuse President Clinton of is not talking, for God's sake. Heavens above. Where have we come to in this town of ours putting on this show?

I ask unanimous consent to have printed in the RECORD the document "Here we go again," which has the budget tables.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

"Here We Go Again": Senator Ernest F. Hollings

[By fiscal year 1995; in billions of dollars]

Starting in 1995 with:

(a) A deficit of $283.3 Billion for 1995—

Outlays	1,530
Trust Funds	121.9
Unified Deficit	161.4
Real Deficit	−283.3
Gross Interest	336.0

(b) And a debt of $4,927 Billion

How do you balance the budget by:

(a) Increasing spending over revenues $1,801 Billion over seven years?

GOP "SOLID", "NO SMOKE AND MIRRORS" BUDGET PLAN

[In billions of dollars]

Year	CBO outlays	CBO revenues	Cumulative deficits
1996	$1,583	$1,355	−$228
1997	1,624	1,419	−205
1998	1,663	1,478	−185
1999	1,718	1,549	−169
2000	1,779	1,622	−157
2001	1,819	1,701	−118
2002	1,874	1,884	+10
Total	12,060	11,008	−1,052

(b) And increasing the national debt from $4,927.0 Billion to $6,728.0 Billion?

DEBT (OFF CBO's APRIL BASELINE *)

[In billions of dollars]

Year	National debt	Interest costs
1995	$4,927.0	$336.0
1996	5,261.7	369.9
1997	5,551.4	381.6
1998	5,821.6	390.9
1999	6,081.1	404.0
2000	6,331.3	416.1
2001	6,575.9	426.8
2002	6,728.0	436.0
Increase 1995–2002	1,801.0	100.0

* Off CBO's August Baseline.

[In billions of dollars]

	1996	2002
Debt Includes:		
(1) Owed to the Trust Funds	$1,361.8	$2,355.7
(2) Owed to Government Accts.	81.9	([1])
(3) Owed to Additional Borrowing	3,794.3	4,372.7
[Note: No "unified" debt; just total debt]	5,238.0	6,728.4

[1] Included above.

(c) And increasing mandatory spending for interest costs by $100 billion?

How? You don't!

(a) 1996 Budget: Kasich Conference Report, p. 3 −$108 Billion Deficit.

(b) October 20, 1995, CBO Letter from June O'Neill −$105 Billion Deficit.

—You must fabricate a "paper balance" by "smoke and mirrors" and borrowing more: Smoke and Mirrors

(a) Picking up $19 billion by cutting the Consumer Price Index (CPI) by .2%—thereby reducing Social Security Benefits and increasing taxes by increasing "bracket creep".

(b) With impossible spending cuts:

	Billion
Medicare	−$270
Medicaid	−$182
Welfare	−$83

(c) "Backloading" the plan:

—Promising a cut of $347 Billion in FY 2002 when a cut of $45 Billion this year will never materialize.

[In billions of dollars]

2002 CBO Baseline Budget	$1,874	$1,884
This assumes:		
(1) Discretionary Freeze Plus Discretionary Cuts (in 2002)		−$121

[In billions of dollars]

(2) Entitlement Cuts and Interest Savings (in 2002)		−226
[1996 Cuts, $45 B] Spending Reductions (in 2002)		−347
Using SS Trust Fund		−115
Total Reductions (in 2002)		−462
+Increased Borrowing from Tax Cut		−93
Grand total		−555
(d) By increasing revenues by decreasing revenues (tax cut)		245
(e) By borrowing and increasing the debt (1995–2002)		1,801

—Includes $636 billion "embezzlement" of the Social Security Trust Fund.

The Real Problem—

Not Medicare—In Surplus $147 Billion—Paid For

Not Social Security—In Surplus $481 Billion—Paid For

But interest costs on the National debt—are now at almost $1 billion a day and are growing faster than any possible spending cuts

—And Both the Republican Congress and Democratic White House as well as the media are afraid to tell the American people the truth: "A tax increase is necessary."

—Solution: Spending Cuts, Spending Freezes, Tax loophole closings, withholding new programs (AmeriCorps) and a 5% Value Added Tax allocated to the deficit and the debt.

"Here We Go Again"—Promised Balanced Budgets—Continued

	Billion *Billion*
President Reagan (by FY 1984) 1981 Budget	0
President Reagan (by FY 1991) 1985 GRH Budget	0
President Bush (by FY 1995) 1990 Budget	+$20.5

(Mr. STEVENS assumed the chair.)

Mr. HOLLINGS. Mr. President—reading from that document, which use CBO figures—during the 7-year period, the debt actually goes up $1.8 trillion. I have listed down in that document what is owed to the trust fund, what is owed to the Government accounts, and what is owed to additional borrowing. And, of course, interest costs go up from $348 billion to at least $448 billion, but over the 7 years, every expert on Wall Street says interest cost is going up and will exceed $500 billion.

So how do you do it? You do not. Mr. KASICH, the chairman, says you cannot. He records a deficit; the CBO records a deficit. How do you do it? You fabricate a paper balance with smoke and mirrors.

One of the big smokes that has recently surfaced and in 20 years I have not heard this tricky one, is that the CPI, the Consumer Price Index, has been overstated. So we will have less of a CPI and spend the money. You cannot. When you give less to Social Security, you do two things: You cut the benefits, of course, because you are giving less, but more than anything else—and I welcome that—you increase the Social Security surplus. You do not have ready moneys to spend in violation of 13301. You do not have ready moneys for Medicare when you use a different CPI to spend for the deficit. It goes to Medicare, and we are trying to save Medicare. So let us talk sense.

That CPI is a gimmick. Use it if you will, but the result is not to lower the deficit. It is to increase the surplus. On that basis, we need to do that and the Senator from South Carolina would support it. But come down to the reality of Medicare, Medicaid, and welfare. I could go through each one of them. Let us just take welfare.

We say some $83 billion saved in the welfare reform. The House side says $100 billion or so. I can tell you it will cause spending more money.

I have been a Governor. You give me welfare and say, "Governor, now you have to set up a job-of-last-resort system in the government," because they have to work, and I can tell you it is going to be difficult now to get people to work because they have closed down 17 textile plants in South Carolina since NAFTA. There have been at least—and this is last week's figure—92,000 jobs lost. So we are moving our manufacturing overseas like gangbusters and here come welfare recipients.

If you cannot get them a regular job, you have to give them a government job. But to give them a government job, of course, they have to be skilled. So you not only set up a jobs program. You have to set up a skill program. That costs money.

And, oh my gracious, two-thirds of children—the other third are minority mothers, single mothers—are part of the program and you look around and say, "They can't leave the children," so you set up a child care program.

All of this costs money. The intent is splendid. Let us put everybody to work, but let us not kid the taxpayers that we are saving money. What we are doing, and I welcome it, is saving lives. Yes, let us train them, skill them, try to find jobs for them, and that is a worthwhile, necessary Government program. The market is not going to do it. That is the kind of thing we need Government for that they are trying to abolish.

But they abolish their own responsibility, the Gang of 73, by giving it back to the Governors under the chant that "government closest to the people is the best government."

So we will get rid of that responsibility and start cutting the moneys. That is not going to happen.

The worst thing, of course, Mr. President, you see in this document is backloading. When I talk about backloading, if we were to adopt ipso facto the reconciliation bill that they bring out tomorrow, we will have cut or saved, however you look at it, $45 billion, and that is assuming the truth of everything that happened under that particular budget.

We will have cut $45 billion. That has not been easy. We are already at Thanksgiving, and we have not gotten the bill. It is so difficult. Do you know what they say to do in the year 2002? Cut $347 billion. This thing is just to get their attention and get out of town to get the President's election over with next November. They say, "Do not pay attention to it; oh, we'll come back, we'll change it later; it doesn't have any impact on the Presidential election."

They do not have anything there much cut as compared to the enormous task of saving billions of dollars. They put it all in the last 2 years after two Presidential elections. Gamesmanship, smoke and mirrors and, yes, Social Security embezzlement.

Now they embezzled $636 billion. That word embezzlement is from none other than the former Senator of Pennsylvania, Senator John Heinz, when we debated and passed the law.

Now they have another little thing that has come along. They give themselves credit and say we are going to cut taxes. That, if anything, ought to expose the charade, the fraud that we are being asked to adopt. When you come around and you are looking for money and you cut well-conceived programs—education, Head Start, technology, health care, research—they then have the audacity to say we have to buy the vote for next year with this middle-class tax cut. Under the tax cut, we are going to get—like Reaganomics—increased revenues, they say. That is what they say.

Mr. President, we were faced with this 8 years ago in the Budget Committee. We had tried with the freeze during the early eighties. We tried with Gramm-Rudman-Hollings the cuts across the board. We had tried with the tax reform, with Senator Bentsen. In the Tax Reform Act of 1986, we closed the loopholes and then, yes, 8 years ago in 1987, eight of us Senators cold-sober voted what? To increase taxes. We voted for that in the Budget Committee.

I abhor taxes just like everybody else in this land. But we looked and saw what was occurring, and I conferred at that particular time with Dick Darman, the head of OMB for President Bush. I said, "Look, what we need to do is get"—actually, President Reagan was still in, but we were talking to Darman who was coming in—"we need not only freezes, we need not only spending cuts, we need not only loophole closings, but we need all of those and a tax increase." We voted that, allocating it to the deficit and the debt.

I want you to know we did not give up with President Clinton. In February 1993, shortly after his inauguration, I asked for a personal interview with the President of the United States.

And I said, Mr. President, I have been in this thing almost 20 years, and there is no way out. What we really need to do is get what cuts you can get, what savings you can get. But to get on top of this hemorrhage of interest cost spending on the national debt, you are going to need a revenue measure. And on careful consideration, we would suggest a value-added tax.

In fact, I said, "Mr. President, if you take it, I will take the lead." I had just been beat up upon, being reelected in 1992 as "high-tax HOLLINGS." But I said I would take the lead, and we could get the votes, as long as the President is leading. Nobody, for example, on the House side running for reelection is going to throw himself on the tax sword if it is going to be vetoed. One-third of those in the U.S. Senate, running for reelection, are not going to throw themselves on a tax sword if it is going to be vetoed.

So, Mr. President, you are going to have to get it. And he said, "You know, that is interesting, Senator." He said, "Last night I got a call from Lane Kirkland of the AFL-CIO. He was down in Bar Harbor at the annual conference. He said he would favor a 5-percent VAT to get rid of the deficit and the debt."

I said, "Mr. President, happy day. When I testified before the Finance Committee, that was the opposition, and organized labor was talking about the regressivity." They do not talk about the regressivity of spending for nothing. Nothing is more regressive than the present course Government is on and insisting upon raiding trust funds, just to look politically smart. "Come on," I said, "If we have the AFL-CIO, we can really get it done."

The next morning, Mr. President, the President of the United States was out doing his jog, and one of the reporters asked him about some of his thoughts. He said, "I am thinking about a VAT." Well, before he got back to the White House, they were stepping all over us and all the rest of that crowd said, "You're lying, the President overspoke; he did not say it," and everything else. I will show it to you in the newspaper. That ended any effort.

At least the President came back with $500 billion in cuts, increased taxes on gasoline, Social Security, and the least cuts in Medicare and acted very responsibly, which has gotten us into a pretty good economic situation—for the moment. But we have fiscal cancer.

The automatic spending and interest costs on the national debt are eating us alive—are growing each day and cannot be stopped, unless we get rid of this debt and this deficit. Ironically, the only way to get rid of the increased taxes—because that is what the interests costs are. They cannot be avoided, like death and taxes; you have to pay the interest costs. The only way to get rid of the automatic increase in taxes is to increase taxes.

Now, if you understand that, you will understand the predicament the land is in. All of this other thing of force-feeding, whether it is education, whether it is the environment, whether it is Medicare and all, is beyond repair. Why argue here in November 1995 about something that is solvent and paid for like Medicare? Why argue about something that is solvent and paid for like Social Security?

Let us look at the real problem that we are trying to finesse. Let us understand that we are in the same act, same scene. And, as President Reagan said, "Here we go again." We proposed and supported a balanced budget in 1987 we proposed and supported a balanced budget in 1991, and we were supposed to, under Bush in 1990, report a surplus in 1995.

Mr. DORGAN. I wonder if the Senator will yield for a question.

Mr. HOLLINGS. Yes.

Mr. DORGAN. I know Senator HOLLINGS was serving in the Senate in 1983. I was serving in the House of Representatives and was on the Ways and Means Committee when the Social Security reform package was enacted.

I offered an amendment in 1983 in the Ways and Means Committee that failed, but the amendment that I offered—I ask a question about this—said if we are going to incur surpluses in Social Security year by year in order to save for the future, as a deliberate strategy, then we are going to have to put those surpluses aside so they are not used for other purposes, because if they are part of the unified budget, they will get used. So I offered the amendment and the amendment failed. That was 12 years ago. Now, 12 years later, we are back debating this.

Is it not the case that 12 years later we are debating that because what I feared would happen in 1983, and offered an amendment to try to prevent from happening, is happening. The Senator from Pennsylvania said it has happened under Democrats and Republicans. He is absolutely correct. But it is business as usual, and it is wrong. It has been wrong, and it is wrong now. Is that not correct?

Mr. HOLLINGS. That is exactly correct. If anybody heard anything during this week's debate, listen to the Senator from North Dakota. He was there and made the motion. I remember it well.

At that particular time, we were raising taxes on the absolute promise that it would only go for Social Security. If we said at the time we are going to raise taxes for defense and raise taxes for foreign aid and raise taxes for education—in fact at that particular time they were trying to abolish the Department of Education—and raise taxes for any of these other endeavors of Government, you could not have gotten a tax increase. You got it on a solid promise that we were keeping faith under the Social Security fund.

Mr. DORGAN. If the Senator will yield for an additional question, the Senator then, subsequently, in future years, offered an amendment on the floor of the Senate that actually succeeded. It was an amendment similar to what I offered in 1983 and failed in the Ways and Means Committee. Senator HOLLINGS then offered an amendment that subsequently had become law that says you cannot use the Social Security trust fund as part of the unified budget, which meant that when the balanced budget agreement was brought to the floor by the majority party, on page 3 of the agreement, they had the years of the deficits and, in 2002, this document they said was their balanced budget document set deficits in 2002 of, I believe, it was $108 billion.

Now, why would something they called a balanced budget propose a $108 billion deficit in 2002? Is it not because, in fact, the law prevents them from bringing something to the floor that says "zero," especially inasmuch as the law says you cannot use the Social Security trust funds. But by calling it a balanced budget, they know what they are doing; they are using the Social Security trust funds as an offset against other revenue, thereby saying, yes, we balance the budget, but, in fact, they have taken the trust funds to do it, and, in fact, the budget is not in balance at all; is that not the case?

Mr. HOLLINGS. That is the case. Our only chance at getting out of this particular fix is the free press, the media.

I have dutifully called all around the clock. I think at that time President Jefferson said, "As between a free Government and a free press, I would choose the latter." Yes, you can have a free Government, but it will not remain free long unless you have a free media. Right to the point, I have gotten the Washington Post economic writer, I have gotten all the particular people—for example, on "Meet the Press." I have talked to editors and written articles. I keep talking about it, and they keep reporting just like Greenspan, like he is some authority. He represents Wall Street.

Wall Street loves a unified budget. When you say a unified budget, the Government in Washington borrows from itself and not from Wall Street. There is less of a burden on the financial market. So they have a selfish interest involved here, and they do not want to see us, as public servants, start putting this Government on a pay-as-you-go basis. Greenspan has been a lawyer here for 15 years.

I can tell you, in football, I would have had another coach long ago. I got some remarks of his somewhere here. He was talking, just the other day, to some group and he said, "We don't want to be lulled asleep." If there is one person who has lulled us asleep, it has been Alan Greenspan. He talks of unified budgets. He never says, categorically, what the truth is, and that is that you have to get tax revenues in here to do this job. When you are at $1 billion a day, and $348 billion a year, and use $271 billion in defense, you can eliminate defense and you would still have a deficit.

Domestic discretionary spending is the President, Congress, courts, Department of the Interior, Justice, go right around, Commerce, general government. That is $273 billion. You could eliminate it, not just cut it, and you still have a deficit.

We are in a position like the character in "Alice in Wonderland." In order to stay where you are, you have to run as fast as you can; in order to get ahead, you have to run even faster.

No one wants to talk about it. We have fiscal cancer. Once again, we are prepared to lie to the American people. Therein, the Hollings amendment. It is very clear-cut. Do not give us any of this Social Security embezzlement budget. It is not the balanced budget. Read the language. Section 301 of the continuing resolution says the President, the Congress, must enact legislation to achieve a unified balanced budget. That is the trick.

We voted on Monday just exactly not to do that by a vote of 97 to 2. At that particular time, the distinguished chairman of the Budget Committee said the first portion of this instruction "we have never violated, so we can be instructed on it." False. We continually—as he argues, every President, every Congress has given budgets that way and it has been in violation. He knows it.

The second section "we have never violated, so we can be instructed not to." False. We continue to violate it. You come around and you raise a point when he is on the floor, he will say, "Senator, that is what President Clinton does." Do not give me that. I am serious. I expect to be here after President Clinton. Come on. I have been here after all of these Presidents that are running up these deficits.

We are conscientious about it. We do not want to see this charade continue. The only way to make sure that everybody knows when they vote—I will vote for your resolution, Senator, on 7 years; I will vote for CBO figures. Nothing wrong with that. But do not give me the trick, the smoke, the mirror, of unified. That is raiding the trust funds—$636 billion, specifically, of Social Security, $200 billion from the airport and airways trust fund, the highway trust fund, the Medicare trust fund, the Civil Service retirement, your military retirees.

The distinguished Senator from Alaska has that responsibility. You can see the trickery as they do.

Treasury Secretary Robert E. Rubin announced plans yesterday to pull $61.3 billion from two retirement accounts.

He authorized withdrawal of the entire $21.5 billion—in the G-fund, and as much as $39.8 billion of the $350 billion held in the Civil Services retirement fund. In effect, both funds would be given—IOU that would obligate Treasury to make complete repayment with interest after a permanent increase in the debt limit is finally approved.

(Mr. BURNS assumed the chair.)

Mr. STEVENS. Will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. STEVENS. I must say that I am saddened here when the Senator from South Carolina made that statement, because as he knows I am the author of that bill that created those funds just mentioned. It is a defect in the legislation.

We intended that to be available to the administration in the event of a national emergency. We meant a true national emergency.

Mr. HOLLINGS. Not a political war.

Mr. STEVENS. I think this is a political war and an aberration. No administration has done that before.

It is very sad because we saved the taxpayers billions of dollars by creating a separate fund in which employees contribute and the employer matches a portion of that. And, a portion of that is invested in Government securities.

What they have now done is they have reached into funds that employees have put into Government securities, pulled it out, and said, "We can run the Government on it."

This is the worst thing I have seen in the history of the Government's relationship to its employees—to invade the trust funds, and at a loss now, the employees will lose interest.

They will give the employees a chit to pay interest. What will be the interest? The interest paid on the national debt?

That is why we took it out of there, because the national debt is so fluctuating—it, too, is political in a sense.

I think it is unfortunate we have reached a point where that action was taken by the President.

I am enjoying the Senator's comments and my question is this: I heard the Senator from South Carolina say he could support this amendment—this continuing resolution—but did he say with an amendment?

Mr. HOLLINGS. The amendment that is now under the consideration of the body. Namely, it says that the 7-year balanced budget passed by the Congress to the President shall not include Social Security trust fund to reflect a balance.

Very simple. I have copies of it. I will be glad to try to change it around and make it clearer, but I do not know—I wanted to make you an offer you could not refuse. You just voted for it on Monday. Here it is Thursday. That was my intent.

If I do it now, then we will correct this situation and we will all be pulling forward together and finally getting out of Senator GRAMM's wagon of spending $200 billion a year and raiding trust funds, and talking about how intent we are in doing heavy lifting and how Mark Twain, and whether we are patriots and whether we are popular—that is children's talk.

We should do the job. In order to do the job, quit moving deficits. Do not move the deficit from the general fund over to the Social Security. Our idea is to lessen or eliminate deficits, not move them around.

Mr. STEVENS. Mr. President, I think the Senator has a germ of an idea. I am not sure I concur entirely in what he is saying. I do not believe we should have a situation where the balancing of the budget comes about because of a failure to use the Social Security trust fund the way it was intended. Is that the position of the Senator?

Mr. HOLLINGS. My position is it not be used. The budget—so far we had in the Budget Committee, the document by Chairman KASICH of the conference itself on the budget reflects a usage of Social Security trust fund—$636 billion over the 7 years.

Mr. STEVENS. Is that not a restriction? It leaves the money in the trust fund. It does not put it in the Treasury. But we are not transferring to the Treasury.

Mr. HOLLINGS. You are. The law itself says that it cannot be used in that fashion, if I could put my finger on it. That is exactly the law you voted for and I voted for in 1990, that it not be employed in that fashion, to obscure the size of the twist.

We are spending more than we are taking in. That is what we are doing. It is not a technicality about being in the Treasury. Certainly it is in the Treasury, and it should, under our intent of increasing the taxes back in 1983, be embellishing a surplus. Nothing wrong with that.

The fact is with the surplus there, your children and my children can count on their retirement. As it is now, Senator THURMOND and I are holding free on that score but the kids are not. They are caught up because we are using all the money.

We owe $481 billion. If we spend another $636 billion under this budget, thereupon, at 2002 we will all be owing Social Security over $1 trillion, and then they will be coming around on the floor of the Congress saying, "Social Security is busted and we have to save it."

How will you find $1 trillion to save it?

Mr. STEVENS. I have another question. Would the Senator yield for a moment to make a unanimous-consent request on behalf of the leader?

Mr. HOLLINGS. I yield.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON H.R. 2126

Mr. STEVENS. I ask unanimous consent when the Senate considers the Department of Defense appropriations conference report, it be considered under the following time agreement: One hour under the control of the Senator from Hawaii, Mr. INOUYE, with 10 minutes of that time under the control of Senator BINGAMAN, and 20 minutes of that time under control of Senator DORGAN, 1 hour under my control, and 30 minutes under the control of Senator MCCAIN; following a conclusion or yielding back of the time, the Senate proceed to vote on adoption of the conference report.

This has been cleared on both sides, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1996

The Senate continued with the consideration of the joint resolution.

Mr. STEVENS. Mr. President, I have the question, if I might ask my friend?

Mr. HOLLINGS. Yes, sir.

Mr. STEVENS. Because he is a good friend, as a matter of fact.

If we were to vote for your amendment, do you have any indication the President would support it as amended?

Mr. HOLLINGS. It makes no difference to me. I would hate to see a President want to veto that and say I want to raid the Social Security trust fund. He does know politics. I do not think he would hesitate signing that part of it, I can tell you that.

Mr. STEVENS. My question, respectfully, to my friend, is, has he discussed this amendment with the White House.

Mr. HOLLINGS. No. This gentleman is working on his own. This is no White House amendment. I can tell you here and now, if I wait on that crowd over there, we would not get it done.

Mr. President, there is one more thing to be recognized and that is the exception that makes the rule. That is, as I am critical of the media for just going fast asleep on this one, and battling the Greenspan unified nonsense, the one exception is USA Today just about a week ago—10 days ago, November 6, Monday.

I ask unanimous consent this editorial and an October 20 column by Lars-Erik Nelson be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, Nov. 6, 1995]

THE BALANCED-BUDGET MYTH

OUR VIEW: BOTH PARTIES USE SOCIAL SECURITY TO HIDE THE TRUTH ABOUT THE BUDGET; AND IN TIME, THE PUBLIC WILL PAY.

Each day, the debate over balancing the budget produces another dire warning. The cuts are too deep! say the Democrats. Taxes must fall! say the Republicans.

But after they compromise and begin arguing over who won a few weeks from now, one truth will remain: Both sides will be lying, because neither is talking about a truly balanced budget at all.

The non-partisan Congressional Budget Office underscored that point recently. It pointed out that come 2002, when the budget will be "balanced" under Republican plans, the government will still be borrowing more than $100 billion a year. This is done by writing IOUs from the Treasury to Social Security and other trust funds that Congress declares "off-budget."

The bill for this little game won't come due in the political life of President Clinton or much of today's Congress. But the public will pay it soon enough.

To understand, look ahead to 2005. That's just 10 years away, about the time it takes for an 11-year-old child to go from grade school through college.

That year a critical balance tips. Increased costs for Social Security will begin to deplete Congress' cushion. Because the Social Security trust fund is a fiction filled with nothing but government promises to pay, Congress will gradually lose its fudge factor.

By 2013, when the trust fund peaks, taxpayers will feel a hard hit. They'll have to start doing what the trust fund was supposed to do—pay for the retirement of 75 million baby boomers. The budget will plummet into a sea of red ink, with $760 billion a year deficits by 2030. By then the government will have had to double the current 12.4% employer-employee payroll tax to cover Social Security obligations.

That's unaffordable. Yet, neither President Clinton nor leaders of either party in Congress acknowledge reform is needed to avert economic catastrophe. To do so would require Republicans to get off their tax-cut bandwagon and Democrats to accept deeper spending cuts. Both prefer the myths that a budget borrowing from Social Security is balanced and a trust fund filled with IOUs to be paid by today's 11-year-olds has value.

Those are frauds only fundamental reform can fix.

The leaders of Clinton's commission on entitlements—Sen. Robert Kerrey, D-Neb., and former Sen. John Danforth, R-Mo.—last year recommended raising the retirement age to 70 and converting a portion of the current payroll tax into a mandated personal retirement account. The Concord Coalition, a deficit watchdog, has called for cutting benefits to upper-income retirees. Other proposals include taxing all income for Social Security and subjecting all benefits to normal income taxation.

Which measures are best? Only a thorough debate of the various measures can decide. But first political leaders must give up their convenient budget myths and face the fact—a Social Security train wreck is coming, and sooner than they think.

[From the New York Daily News, Oct. 20, 1995]

BORROWING FROM SOC SEC TO AID THE RICH

(By Lars-Erik Nelson)

Washington—See that Social Security deduction on your paycheck? It's the key to the Republican plan to "balance" the federal budget while giving tax cuts to the wealthy.

In 2002, the year Republicans have been promising a balanced budget, they will in fact come up $108 billion short, according to the House Budget Committee's report. The Republican plan makes up the difference by "borrowing"—the late Sen. John Heinz (R-Pa.) called it "embezzling"—from the Social Security trust fund.

By law, Social Security deductions are supposed to be earmarked to pay benefits for future retirees. But for the past dozen years the Social Security surplus has been used to mask the real size of the federal deficit.

The Republican plan continues the embezzlement. In pure accounting terms, the Republicans are right: If the amount of money the government collects in a given year equals the amount that it pays out, the budget is in balance. But borrowing from the trust fund to cover current operating costs means raising taxes on the next generation—our children—to pay back the debt to the trust fund.

In addition, using Social Security deductions to balance the budget means that working people, who cannot escape that FICA deduction on their paychecks, make up the shortfall caused by tax breaks for the wealthy and for business.

"It's the largest transfer of wealth from labor to capital in our history," Sen. Daniel Moynihan (D-N.Y.) said yesterday. "We are using a 15% payroll tax [the combined burden on employer and employee] to pay the interest on Treasury bonds, which are generally not owned by blue-collar workers."

"These guys [the Republicans] don't have any intention of balancing the budget," agreed Sen. Ernest Hollings (D-S.C.). "All they want to do is to get credit for it, make room for a big tax cut and destroy the government."

Republican budget plans are still something of a moving target, with many details being worked out behind closed doors, often in consultation with business lobbyists. "You're really not supposed to understand this until it's too late," one of the lobbyists confessed with a grin yesterday.

But the general outline is clear. The budget plans call for increasing taxes on the lowest-income Americans—those earning under $30,000 a year—primarily by curtailing the Earned Income Tax Credit for working people.

The way the tax cuts are skewed, the wealthiest 12% of Americans share $53 billion in tax breaks; the remaining 88% of taxpayers share $49 billion. Federal spending cuts also hit the low-earners harder than they do upper-income families.

More bad news: En route to their supposedly "balanced budget," the Republicans run annual deficits that will add another $1 trillion to the national debt. That means that in 2002, interest costs—now running at nearly $1 billion a day—will eat up even more of the federal budget, leaving less money for spending on everything else.

Moynihan tried yesterday to strike $245 billion in GOP tax cuts and use the money to reduce the deficit, preserve the EITC and spare some of the proposed cuts in Medicare. He was defeated.

"This is simply the wrong time to cut taxes," Moynihan argued. Republicans did not listen.

As Ronald Reagan's conscience-stricken budget director, David Stockman, observed in identical circumstances just over a dozen years ago, "Now the hogs are really feeding."

Mr. HOLLINGS. Talking about the budget, the editorial says:

> The nonpartisan Congressional Budget Office underscored that point recently. It pointed out that come 2002, when the budget will be "balanced" under the Republican plans, the Government will still be borrowing more than $100 billion a year.

The truth is, it is over $348. But then:

> But after they compromise and begin arguing over who won a few weeks from now, one truth will remain: Both sides will be lying, because neither is talking about a truly balanced budget at all.

That is what I want to do, is repair the lying with this particular amendment. So both sides can be telling the truth and we are not any longer embezzling Social Security.

The title of this one is "A Balanced Budget Myth." There is one particular entity, now, that has the truth and they are after us. I hope all the media will wake up and get after us. Let us start talking sense, rather than who is on top and who is lost and who is popular and what the polls show.

I absolutely, since I have the time here, have learned one thing in 40 years of public service. That is, this political polling is a cancer. Yes, you have to get it. The opposition gets it when you run for office. But if you try to administer, if you try to govern with a poll—I think of the Marshall plan. Mr. President, 14 percent favored the Marshall plan at the time it was adopted. It was overwhelmingly opposed.

I go back as a young House member in my own State legislature, when I offered the sales tax bill and education finance reform to start building up public education in my own home State. Sales tax, at that time, was totally unpopular. As of this minute, if you took a poll in South Carolina on the sales tax, I am convinced the majority, by far, would say they oppose the sales tax.

But, in the 45 years, from 1950 to 1995, not a single bill has been introduced in the legislature to repeal it. The polls would show overwhelmingly it is a popular thing, but the people know if they did repeal it the government would go broke. We would not have any BMW's coming from South Carolina. We would not be correcting the illiteracy. We would not be giving the youngsters an opportunity in public education.

So, let us get away from this cancer, in addition to the interest costs on the national debt, of how well the President or the Congress is up or down in the polls.

We have a job to do. Under this job, let us have truth in budgeting.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I will just repeat what I said a couple of times here on the floor. We talk about who is at fault in these various things, in the impasse we have that has furloughed so many hard-working people. I could not help but think the other day, when I heard the Speaker of the House talking about the kind of discipline they now have in the House and how they are able to move, "We told the American people we would do certain things and by golly we are doing them right on time"—et cetera.

One of the things they did was take over control of both bodies. And one of the things you are supposed to do, and get paid to do, is to pass appropriations bills on time—for example, all 13 by the end of the fiscal year in September. What they have not told the American people is that you have hired us to run the Congress, pay us over $130,000 a year to do that, but we failed to get our work done on time in September. We passed and had signed into law only two of the 13 appropriations bills. Today there are only about 4 of the 13 that have been signed into law. That is why we are debating what kind of continuing resolution we might have.

I cannot remember a time in my 21 years here—and I have been in the Senate, first under Democratic leadership and then under Republican leadership then under Democratic leadership and then under Republican leadership—I cannot remember a time that the Congress has been so derelict in passing and getting signed into law our appropriations bills. That is what has happened. That is why we are in the problem we are in.

Every appropriations bill begins in the other body. It is the other body that has a Speaker who talks of the tremendous control he has over the House and tells us how, now that we have this Contract With America, there is a new majority ruling and they will run things. They ought to at least run the trains on time.

The fact of the matter is, they were a dismal failure in just passing the legislation that Members of Congress are supposed to pass every year. There are certain things we have to do. You raise the flag up on the roof when you go into session. You turn the lights on. You show up for work. And you pass the appropriations bills.

Nobody has been over here filibustering the appropriations bills. Yet, probably it is the most dismal record of passing bills in anybody's memory in Congress. I think they virtually guaranteed we would have this shutdown. I can remember some years we might have gotten 10 of the 13 passed and we had to have a continuing resolution for a week or two, into October, to get the other 2 or 3 passed. But to have nine of them not passed by now? To have nine when you are 6 weeks past the date? If anybody was running a business and had employees who were that tardy, they would fire them all. They would fire them all.

Then we hear on some of the things when he finally does take an interest, when the Speaker has taken an interest—he has taken an interest in one thing, in the farm programs. He has announced to the Senate, which passed a dairy compact 2-to-1, he is just going to take that out. It does not affect his little district in Georgia so, even though it affects all the Northeast, he is just going to take it out. All New England—he is just going to take it out, regardless of the fact the Senate passed it 2 to 1 with Republican and Democratic majorities on it. He will just take it out. He says next time around he will take out anything else that affects us.

Frankly, I would be happy to have the Speaker of the House come up to Vermont and see how hard dairy farmers work. In fact, I guarantee, so he will be in a good mood, he can ride in the front of the airplane and he can come out the front door of the airplane. We will have somebody greet him there. While he will not have the chauffeurs and bodyguards he might have here, I will personally drive him. He can ride right up front. We will give him an ice cream cone and give him anything else he wants. We will make sure we give great attention and deference to him, talk to him whenever he wants. I will shine his shoes, do whatever he feels is his due. He should come up and see just how hard farmers work in Vermont.

He should come up and see how hard farmers work in Vermont. He should come up and see how hard a lot of other people work in Vermont. He should see how hard the Immigration and Naturalization Service works in Vermont for all of us, Republicans and Democrats, and independents alike. He should see how hard the people who run our Forest Service work in Vermont, the people who have been furloughed because of temper tantrums over where he may sit on the airplane. He should see how hard the people work who have to pay the mortgage, have to pay the tuition, and have to pay the children's dental bills. He should see how hard they work, those people now without a job because under his control and his leadership, the majority control, we have one of the most dismal records of passing appropriations bills that I can remember in my 21 years here.

During that whole time I have never, during Democratic Presidents, Republican Presidents, seen the Congress so lax in doing what we are paid $133,000 a year to pass the bills that keep this Government running.

You could vote to change this way or that way. They have the majority. They can pass them in any form they want. But at least pass them. Do it. Get it passed. There has never been a situation like this.

So, in case you start wondering who is at fault, are we at fault? Is the Government closing down because the Speaker did not get the seat he wanted on Air Force One? Most of this country would feel pretty privileged to ride on Air Force One, if they just wanted to go to a funeral or something. Are we closing the Government down for that? Apparently, that is one reason. But the biggest reason even predates that. The biggest reason is people are supposed to keep these things running, and they did not get things done on time. They did not get their work done in time. They have not completed their work, and there we stand.

So I have heard those who are speaking here. The distinguished Senator from South Carolina, former Governor of his State, a good friend, Senator HOLLINGS, made a very good point here.

I simply close with this, Mr. President. Let us not talk about gamesmanship. Let us stop trying to say who is up in the polls this day, who is up in the polls tomorrow, who is going to be running in this Presidential primary, who is going to be running in that, and who is going to have their face on Time, or Newsweek, or U.S. News this week, or who is going to be on there next week. Let us at least do the Government's business. We will vote different ways on different issues. Republicans will vote differently than Democrats on some, and different Democrats will vote differently than each other. Some Republicans will vote differently than each other. But at least get the bills up and get them passed.

Let us do the things we are hired to do. Let us at least pass the basic bills that run the Government as we are hired to do. The new majority may well change what they think the priorities are with the Government. They have the right to do that. But at least get it done.

This is sort of like having somebody who is going to repair the roof on your house before the thunderstorm comes, and they keep coming to you every day and saying, "We will be there. We will be there. Keep paying us. You paid us to fix the roof. We will get there someday. We will get there someday." In the meantime, thunderstorms come.

I ask my friend from North Dakota, is that not so?

Mr. DORGAN. If the Senator will yield for one brief question, I will make it a brief question.

He raises the point about the continuing resolution and where we are at the moment. I made a point on the floor earlier today about two little issues, actually two issues—one little, and one big—that sort of described the dilemma of this continuing resolution. One is a program called star schools, and the other is a program called star wars. I have some additional information.

I was wondering if the Senator from Vermont knows the information. I was unaware of it until I looked into it. Star schools is a tiny little program designed to improve math, science scores, to help schools advance, to help kids, and it is an investment in education to create star schools. It was funded at only $25 million for the whole country. Under this continuing resolution, this program is going to go from $25 million down to $15 million. So it is going to lose 40 percent of its funding because the House wants to kill the whole program.

So this continuing resolution says on star schools you kick 40 percent of the funding out. But another program, star wars—the star wars program for which the administration requested $371 million for R&D. That is all they requested. They requested no money for deployment. The Congress said in their bill let us stick in an extra $300 million for deployment. We invest. You spend that.

So what happened in this continuing resolution? The continuing resolution means that the star wars gets $300 million extra money, and Star Schools gets 40 percent less. If there ever is a vivid description of warped priorities, it is the juxtaposition of star wars and Star Schools. That is what this is about.

I ask the Senator. When people come to the floor and say, "This is a tiny little decision, it is 7 years, and the Congressional Budget Office," is it not true that it is much more than that? Because this continuing resolution, which is 15 pages long, also says to Star Schools, guess what? You are unworthy. We cut you 40 percent, and then allows generously $300 million more for star wars. This is about big guys and little guys, about big interests and little interests. That is what this is all about. Guess what? Is it not true that the big interests get rewarded and the little get penalized?

Mr. LEAHY. It is. I say to my friend that, if we wanted to simply pass a continuing resolution to have the Government continue, we could do that in a one sentence—in one sentence say we will continue the expenditures at whatever percentage until such a time as the appropriations bills are passed. But instead we have not done what the public is led to believe with a simple continuing resolution. But every single piece of special interest legislation that can be packed on in the back room somewhere with no debate. That is what this continuing resolution is. It is a continuing resolution that rewrites the farm bill. It rewrites our education bill. It rewrites health, and does all these things with no hearings, no votes—done in a back room.

Why not do what the American people pay us to do? Bring up each of the appropriations bills, and in those if they want to cut out the money for education and star schools or anything else, then have a vote so that people can look and say, "This Senator voted for the education bill. This Senator voted against the education bill. Here is their reason." Be accountable. But no. We do not do it.

If we are going to have star wars to defend against the Soviet Union, for those who have not been reading the newspapers and do not understand where the Soviet Union is today, then at least have a vote on it. Vote to spend hundreds of millions of dollars of our tax dollars, or vote against it. But stand up and be accountable.

What we are doing is saying we will take care of all these special interests. We will get rid of all these things people might want. But there will not be any fingerprints on them.

It makes me think of the days when I was a prosecuting attorney, and we would come in and realize the burglar had worn gloves. That is what happened here. The burglar is wearing gloves.

I have cast a lot of votes that I knew would be unpopular in this body in the last 20 years. But I am willing to stand up and do them. This is something being done by people who do not even have to vote. Let us vote on it. If we are going to fund a B-2 bomber, vote on it.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. LEAHY. In just a moment, because of my great respect for the Senator from Alaska. He and I serve on the Appropriations Committee. We usually get at least most of the bills passed by the end of September. That is my point.

I, of course, yield to the Senator from Alaska for a question.

Mr. STEVENS. Mr. President, the continuing resolution is even more fair than in the past. In the past we took the lower of the House or the Senate figure. This time there is a 60 percent, in the event that defunded items are in the budget this year. That is much more fair than in the past during the time the Senator's party was controlling the Congress, and we had Republican Presidents. What is more unfair than in the past?

Mr. LEAHY. If I might respond to my friend, the point I make is this. I do not remember a time in this body—and he has been here longer than I—a time under either the Republican leadership in the Senate or the Democratic leadership, under Republican Presidents or Democratic Presidents, that we were so derelict in the number of appropriations bills that have passed—certainly by the middle of November—passed and signed into law. I can remember sometimes we had continuing resolutions for a few. But I can think of sometimes, certainly in the last 3 or 4 years, when we had all thirteen passed.

Mr. STEVENS. Mr. President, if the Senator will yield again, I can remember distinctly the times back in the days when we had the Republican majority in the 1980's when we had the problems with regard to the House, and we had continuing resolutions that had all 13 bills in it.

As a matter of fact——

Mr. LEAHY. For how long? A week?

Mr. STEVENS. It was the Armed Services bill——

Mr. LEAHY. For a week or maybe 2 weeks in October but never mid-November. Never mid-November.

Mr. STEVENS. That is my question to the Senator again. We gave the President a continuing resolution from October 1 until November 13. We are under the second continuing resolution now. As a matter of fact, the resolution before us is again short term. The Senator is making it look like—does the Senator wish the public to understand we have cut those programs in this bill? This does not cut them. It preserves their funding for 2 weeks.

Mr. LEAHY. Mr. President, I yielded for the question. I would say this: Before the Senator from Alaska came in, it was pointed out that we cut Star Schools very substantially in this continuing resolution and increased very substantially star wars beyond what the President——

Mr. STEVENS. Mr. President, will the Senator yield? It is just not true.

Mr. LEAHY. If I could, just for a moment. It is, if you read the continuing resolution. My point is this—and I think the Senator from Alaska would have to agree—never have we been down to mid-November—to mid-November—with so few—in fact, before Monday I think we had only 2 of the 13 appropriations bills signed into law, and on Monday we had signed 3 of the 13. I guess now we sent down another one. But does the Senator from Alaska remember any time under either Republican or Democratic leadership that we were down to mid-November with only two of the appropriations bills signed into law?

Mr. STEVENS. I would be happy to answer that if I may. In 1988, we had a continuing resolution that had all 13 appropriations bills. Three of them had not even been considered by the Senate.

Mr. LEAHY. Was that November 15?

Mr. STEVENS. This was November, yes. Yes. As a matter of fact, it was a time of the Nicaragua contra aid problem, if the Senator will remember. But we had all of them in the bill at one time. And at that time the Senator's party was in the majority.

Mr. LEAHY. But not down this late. Not down this late, I would say to the Senator from Alaska. Not this late into the session.

Mr. STEVENS. As a matter of fact, if the Senator will yield again, the Senator will recall there was a sequestration ordered that year. It was late. We finally had to pass a continuing resolution to suspend the sequestration under the Budget Act.

Mr. President, my question to the Senator is, he implies that we have raised star wars by this bill. We are going to bring to the floor—we just got the agreement now—the Defense Department appropriations bill for this coming year. It deals with the star wars issue. Because of the fact that bill is almost ready to go, it appears that it is higher than the other funding, but the other funding is in another bill. We are continuing the funding for the Star Schools for a 2-week period rather than leave them out altogether.

Does the Senator object to that?

Mr. LEAHY. We have also seen, I would say, Mr. President, in these continuing resolutions, we have even arranged a way to do the LIHEAP program. I will give you some idea of what happens when you do not pass your appropriations bills on time.

The LIHEAP program is to provide heating assistance for those of us in States with severe weather, none more severe than the Senator from Alaska, obviously. But in my own State we have 25- and 35-below-zero days. This is to give heating assistance to the people, aid in heating to the poorest people in our States, to help them weatherize their homes, or whatever else. Not only is the program cut substantially, but it is set up so you can pay out only $1/365$ per day. So, in other words, if you are in Montana or Alaska or Vermont and it is 25 or 30 below zero in January, you are told: Sorry, we do not have enough, but come back in June and we will probably be able to take care of you.

Mr. STEVENS. Will the Senator yield again?

Mr. LEAHY. Of course.

Mr. STEVENS. I remember the time when because of the controversy over the SST we carried through the continuing resolution to the following March. Does the Senator remember that?

Mr. LEAHY. On one bill.

Mr. STEVENS. As a matter of fact, in 1988——

Mr. LEAHY. On one bill.

Mr. STEVENS. When we had that, it was December when we had this.

Mr. LEAHY. I do not remember. I must admit that was before —

Mr. STEVENS. Does the Senator know Star Schools are forward funded? It is not affected by this bill at all.

Mr. LEAHY. The SST, I would say, was before I was old enough to be in the Senate so I will have to take the remembrance of the Senator from Alaska on that.

Mr. STEVENS. Senator THURMOND and I remember that very well. We stepped off the *Mayflower* and voted at that time.

Mr. LEAHY. The SST was before I had reached the constitutional age of 30 to be here.

Mr. STEVENS. Again, will the Senator answer my question? Does he know that Star Schools are forward funded; they are not affected by this bill at all?

Mr. LEAHY. I will tell the Senator to go back to the comments made earlier by the Senator from North Dakota who read the specific chapter and verse.

Mr. STEVENS. I wish I would get a chance to talk to the Senator from North Dakota about that.

Mr. LEAHY. I am sure the Senator will.

Mr. STEVENS. I hope the Senator will not mislead the public here as to the Appropriations Committee, on which we both serve so well. I think we try to do our best. And this bill is a better bill than previous continuing resolutions. It leaves out less programs as a result of its total breadth than have been covered by prior continuing resolutions. Under that circumstance, it should be readily approved by the President.

Mr. LEAHY. Mr. President, I say to my friend from Alaska, I have always enjoyed, and I think enjoyed more, serving on appropriations than any other committee. One of the reasons for that is my relationship with the Senator from Alaska. I know of nobody who works harder. I have no higher respect for anybody than he. And he and I have served on several subcommittees together. I probably now ruined his electoral chances in Alaska by saying nice things about him here.

The fact of the matter is there was no Nicaragua Contra debate, there was no sequestration debate, there were none of these things that stopped us from getting the appropriations bills through, bills that begin in the other body, at the time we are required to, expected to and paid to. That is the end of September.

But when I hear the Speaker of the House tell about how they are able to do all the things they are supposed to do, and they are running things on time and all, the fact of the matter is these bills begin over there and have not gone through at the speed they should, and were all the appropriations bills done, we would not have a Government shutdown. In those areas where we have passed appropriations bills, there are no shutdowns.

All I am saying is let us stop worrying about who sat where on the way to a funeral or who got off which door. Let us get on with the business.

I think the Senator from Alaska may recall this. I started saying in August, in July, that Democrats and Republicans have got to sit down and start figuring out how to get these budgets through; that there will not be a Clinton budget exactly, there will not be a Gingrich budget exactly, there will not be a Stevens or a Leahy budget exactly. But all of us working together could get a budget that might make sense for the country.

I see my friend from New York is here, and he has been waiting at a time when others were waiting, such as my friend from Washington, so I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I rise this afternoon to strongly support and endorse the underlying resolution, House Joint Resolution 122, called the continuing resolution.

I doubt if the American people really know what a continuing resolution is, but let me say one thing. I have no doubt that the American people are absolutely fed up with what they see going on. I have no doubt that the American people do not want us to continue doing business as usual. Some want us to just continue our merry way—spend and spend, tax and tax for programs that they have decided are good for the American people whether they like them or not. We have colleagues here who have said we are going to give the American people health care whether they like it or not. That is the kind of attitude. That is why the people are angry.

People voted for change. They voted for change in 1992. They did. And in 1994, when they saw that it did not happen, they said, by gosh, we want you to change things. We want you to really keep your commitment.

Now, President Clinton, for all his noble politicking—and he is good at it—has a happy facility of forgetting what he says. He will say just about anything to get your vote or to go up in the popularity polls, and then when it becomes a little tough, he goes the other way or conveniently forgets when the pressures from his party come up. When he ran in 1992, he was the new Democrat. He was going to change things. He was going to cut taxes for working middle-class families. That was his promise. Not only was he going to cut taxes, he was going to balance the budget in 5 years—not 7 years, not 10 years—5 years.

Promises made; promises broken. And that is why in 1994 you saw a revolution. People said, we are sick and tired of it. And we want people who are going to go down and do the job. All over the country they sent a message. Wherever there was an open seat, they elected Republicans who said, yes, we are going to cut taxes, cut spending, we are going to let middle-class working families keep their money, and we are going to have less Government—that was the message—and balance the budget over 7 years.

Here you have a President that said, "I'm willing to balance the budget in 5 years." And yet he is having trouble saying, "Yes, I'll do it in 7." Here is a President who said we are going to use the real legitimate figures to ascertain what economic growth is, how much money we owe, how much money we do not. That is called the Congressional Budget Office, CBO. Most Americans do not understand, but here is the President, and he says, "I'm going to balance the budget in 5 years. And I'm going to give tax cuts to working middle-class families. We're going to use the Congressional Budget Office to be the official accounter for whether or not a budget is in balance," and now, 1995, he has forgotten that.

I am proud that those men and women who were elected for change are down here fighting for change. I do not think we are doing a good job in getting the message out. I think we are doing a terrible job. I think the President is beating our pants off. And the media loves him and they play his score. What do we hear? We hear the President sanctimoniously saying, "I have to tell you I'm not going to allow them to cut programs for the senior citizens, Medicare, Medicaid, and give tax breaks to the wealthy." That is hokum, Mr. President. That is just simply an overstatement and an exaggeration that comes down to being untruthful. It is disingenuous.

As a matter of fact, the cuts he has proposed in Medicare, or reducing the rate of growth, in many cases, parallel those that we have put forth, in many cases. Now, let us take a look at the so-called tax cuts for the wealthy.

We have proposed, and the President will not even come to the table to discuss it, a package of $245 billion worth of tax cuts. Here is a famous Governor from my State, a Democrat, who said something many years ago that we should refer to. He said, "Let's look at the record." So we look at the record to see exactly where the so-called tax cuts go. We will find they do not go to the wealthy people. Indeed, 70 percent, $171.46 billion, 70 percent, goes to family relief. I hear all of this jargon and all this talking and all the crocodile tears about "we care about families." Well, we do. We really do. And that is what this tax package puts forth, $171.46 billion in tax relief for the working middle-class families of America.

And indeed, the child tax credit, if you are talking about one person, it is phased out at $70,000; a couple it is phased out at $110,000. So we are talking about giving relief for families under $100,000. Most of them, the bulk of them, fall in this $50,000 to $70,000, $45,000 to $70,000 area. They are not wealthy people. So 70 percent—and let me give you a breakdown.

When we talk about the child tax credit, that means if you have a child you will get back $500 in taxes that you would otherwise pay. A family of three, $1,500. That is pretty good. Families earning $45,000 a year, that means they can keep $1,500 that they can invest, that they can spend, that they can save. They will make a determination, not some bureaucrat down in Washington. I like that. That is $147 billion of the total of $245 billion that just goes to families who have children.

Mr. President, I heard a lot of talk about the marriage penalty. I daresay, many people will say, what are you talking about, a marriage penalty? Under the Tax Code, if a couple gets married, they can have the same incomes, they join, and they wind up paying more than if they lived separate and apart or lived together and were not married. It is called a marriage penalty.

We are talking about trying to bring American families together, helping families. Government cannot do it by way of stepping in itself. But it can relieve some of the inequities, some of the burdens. They can say, if you have children, you are to get $500; if you are going to get married, we are not going to penalize you for getting married. We begin to phase it out. That is a small step. That is $8 billion worth of relief.

Let me ask you, Mr. President, is a child tax credit for the wealthy or is it really going to most working middle-class families? Is phasing out the marriage penalty for the wealthy or is it going to working middle-class families who are being penalized for doing, I guess, that which we want to encourage—people getting married—as opposed to people living together who do not get married paying less taxes? We penalize people for getting married? There was this—ever since I was a kid I heard politicians talking about doing away with this, phasing it out. Here we start to do it. That is $8 billion.

We talk about the homeless and we talk about abandoned children and we talk about those who need help. And almost $2 billion, $1.9 billion, in this family package—you know, you hear "family friendly"—this is a tax-friendly package. It is a tax-friendly package for families. And $2 billion is to be provided for those families who want to adopt children. It seems to me we have had so much in the way of discourse and disagreement as it relates to children, those who are unwanted. And here we provide an opportunity for those families who are willing to take in children, to make it possible for them to pay the cost that otherwise, in many cases, would keep poor families and working middle-class families from adopting a youngster who would have no home, who would be in foster care, who would be a charge of the State. That is $2 billion.

I do not hear anybody—Mr. President, why do you not tell the American people? Do you support giving credits for families who are going to adopt children or are you opposed to it? Are you opposed to a $500 tax credit for children for working families? Are you for it or against it? Do you want to keep the marriage penalty in place? Are you for it or against it? Is that for the wealthy families or is that for middle-class Americans?

Student loans: We provide $1 billion to help. I would like to see it more. And maybe if we got to compromise and sat down with the President, began the work, we would find some more money for students. Mr. President, $1 billion.

Tax deductions for elderly parents living with their children: Do we want to see elderly parents placed as charges of the State who are poor or do we want to provide some incentive for youngsters to keep their elderly parents in their homes? That is almost $1 billion.

We add that up, it is almost $160 billion, Mr. President. Now, let me tell you, I said $171 billion. And 70 percent of all the taxes go to families. I am a little bit short, $11.8 billion short.

IRA's, individual retirement account: One of the things we do is we say, for those spouses who are taking care of children, who are taking care of the home, should they not be entitled to an IRA and not be able to put $2,000 aside for their retirement for the days when they become elderly? Is that something that is used by the wealthy or is it something that will be used by working middle-class families? The vast bulk of that will be working-class families. So $11.8 billion in individual retirement accounts is made available.

So, Mr. President, we come up to $171.46 billion, and 70 percent of the so-called tax cut for the wealthy goes to families. If you make more than $110,000, you do not qualify for most of that or any of that. Where does the balance go? Let me talk to you about some of the balance.

Long-term care insurance: a deduction. All right. Should people be permitted to go out and buy insurance for their long-term care if they have a catastrophe or do you want them to be Government charges? We provide $5.7 billion. A 50 percent deduction for small business insurance, $1 billion. That is $6.7 billion. Small business being able to deduct expenses for purchases of equipment, $3 billion.

Mr. President, I submit to you that when President Clinton says that we are cutting programs to advantage the wealthy, that is just not true. It is disingenuous. And I would debate with the President any time on the business of whether or not we should have a tax cut that is going to help create jobs, because let me tell you something, I—think we do need that.

I think we need a capital gains tax cut. And we do provide for that, and it does and will help creativity, job expansion, capital formation. It will bring about more in the way of jobs and more in the way of revenue. And, indeed, as Al Smith said, "Let's look at the record." It was John F. Kennedy who brought in a capital gains tax cut that produced revenue. Somehow our colleagues like to forget that. If you give business the opportunity to expand, reward people for investment, they will do exactly that, you will get more economic activity, you will get more jobs, you will get more growth.

So, Mr. President, with any reasonable calculations, more than 80 percent of tax cuts that we have provided will go to individuals earning less than $100,000, and those tax breaks that go for capital gains tax cuts, I submit to you, in the fullness of time, will advantage more working people, more middle-class people, more poor people than bigger spending, than larger deficits

I think that President Clinton has an obligation to sign the balanced budget act into law and stop playing political games with the economic well-being of our country, and that is exactly what he is doing. He will be taking a poll in about 2 hours, and his pollster will come in and tell him whether or not he is gaining on extending this politically. If they say he continues to gain, he is going to draw this out. At some point in time the people are going to really make it known they are holding him responsible, too, and maybe then he will begin to bargain in good faith.

I think that is a heck of a way to run Government or make policy. I submit to you that is exactly what is taking place. The American people want us to balance the budget, and what this continuing resolution says is we will give you until December 5 to do exactly that.

Listen to the great commitment it has. It is a commitment that anybody should be willing to sign off on. It continues Government basically at the same spending levels. Oh, you can make an argument that there is a little percent here or there that is out of whack, but it continues the essential programs that people want and need. Then it says in section 301(a):

> The President and the Congress shall enact legislation in the 104th Congress to achieve a unified balanced budget no later than the fiscal year 2002 as scored by the non-partisan Congressional Budget Office.

Putting aside the legalese, that means the President would be committed, he will be making a commitment that he is going to work for a balanced budget over the next 7 years. That is the basis on which we go forward. We do not say it is our numbers, our programs, he has to agree with all our tax cuts and tax programs. But we do say we have to have an honest method of accounting, not pie in the sky.

By the way, I have been here when I have seen pie in the sky. I have been here when Dave Stockman cooked the books and projected economic growth that was unrealistic and interest rates that could absolutely not be achieved. If you want to balance the budget, predict a 4-percent economic growth when, indeed, it is 2.3. That will bring you in tens and tens of billions of dollars of extra revenue. Therefore you say, "I balanced the budget."

You predict the interest rates are going to be lower and you predict billions of dollars. That is why we insist we use an honest scorekeeper, not your scorekeeper or mine—an honest one. If, when the President took office, he said he was going to use the Congressional Budget Office to be that official scorekeeper, what is wrong today? What has changed? Promises made, promises broken. The President says, "When I'm elected, I'm going to cut middle-class taxes." He raised them. Then he had to say, "I made a mistake."

Did he make a mistake when he said we will use the Congressional Budget Office as the official scorekeeper to determine whether or not we are really going to have a balanced budget? What did he mean and when did he mean it? Was he just kidding us when he made that promise to the American people, when he came before and addressed the Congress and said, "We are going to use the CBO"? Was he kidding then and is he serious now, or is he kidding now and was he serious then? Is he jockeying for partisan political advantage, and I fear he is? I think the American people know that.

The American people are not exactly throwing bouquets at us, because I think we have done a poor job in explaining what we are trying to do here. I really do. Whether or not I got off the back of the plane, the beginning of the plane, the side of the plane, they would not even let me on the plane. So what? And let me tell you, I went on a different plane and they did not even want me to go on that plane. They did everything they could to keep me from going. And that is a fact. That is a fact.

You want to talk about partisanship, well, let us put the partisanship away. Let us do the business of the people. I want to tell you something, if this goes on much longer—the American people are fed up. They want a balanced budget, they want us to cut taxes, they want us to give future generations the economic opportunity that they are entitled to. They expect us to make the tough decisions, and if we continue this nonsense, they are going to say "a plague on both your houses," and they will be right. That means we have to stand tall and call them the way we see them, and we also have to be open and ready to deal with the President, but to deal with him honestly, and he has to deal with us honestly and not the political sloganeering.

So, Mr. President, I support the commitment to go forward, to extend, yes, and to continue spending for a limited period of time basically at the same rate for the next 2 weeks provided that the President says he agrees he is committed to balancing the budget using real numbers, using the Congressional Budget Office as the real referees, not my favorite guy or his favorite guy, not someone who is going to cook the books to disadvantage one side as opposed to the other, but an honest scorekeeper. The American people are entitled to that.

I ask the President of the United States, "You tell us why you have changed your mind now, why you want a new referee, your referee to call the game your way? Are you really serious about doing the business of the people and bringing in that impartial referee and getting down to doing the business of the people?" That is what they expect.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I want to commend the Senator from New York for his comments. They are right on. I think he hits the nail right on the head. This is about the future of our children. This is about balancing the budget.

I am glad as a member of the Finance Committee he took on all these assertions to talk about tax cuts for the rich. The Senator from New York is right. These are tax cuts for middle-income families.

The only thing that would not be targeted for tax cuts for middle-income families would be capital gains. The Senator from New York correctly said capital gains reductions are job-creating engines that employ middle-income families. So whether you are giving them a tax break or you are giving them an opportunity to get a job, it is targeted toward families of middle income.

We, obviously, do not do a very good job getting our message out. I keep hearing over and over again—I talk to folks from Pennsylvania who are in the Capitol, I talk to them as they call into my office, whatever the case may be. I explain to them what we do, what we are trying to accomplish here, and they say, "Why doesn't anybody report that?" Well, talk to the national media why they do not report what is in this bill.

The reason we are so passionate about sticking up for a balanced budget over the next 7 years and the reason we care so much about what we are doing here and why we invested all this time in putting this bill together is because we honestly believe that when we pass this into law, the American public will approve in overwhelming numbers what we do. If we thought this was bad policy, I can guarantee no one would be standing here taking on every sacred cow in Washington, DC.

It is amazing to me some suggest this is being done on our side for partisan political advantage. Let me assure you—and if you do not believe me, look at the poll—let me assure you, there is little partisan political advantage in trying to reform Medicare, in trying to reform Medicaid, in trying to make decisions on education. There is no partisan advantage here.

The advantage is it is the right thing for America, for our children, and for our future. This has nothing to do with politics. It has everything to do about the future of this country. It has everything to do about deeply held, passionate policy beliefs about what direction this country should take.

That is what we are debating here. I know this is all sort of seen from the outside as sort of a squabble between the President and Congress and Republicans and Democrats. I assure you that this is not partisan politics. This is a fundamental difference of opinion about what is right for America. We believe what is right for America, which is in the continuing resolution, is a balanced budget—not talking about it, not saying we like it, not saying that, gee, we would like to get there some day, but doing it. Doing it for our children.

I look up in the galleries and walk around here, and there are students around all the time. Sometimes I have to look down. I do not know how Members around here who keep voting for more and more spending, more deficits, more and more passing the buck to future generations, can stare at a kid today and say, "You pay the bill. I get the votes, you pay the bill." That is what is going on. It has been going on here on both sides of the aisle for 25 years. We are trying to say today: Enough. Enough. Let us do the right thing.

This is not hard, Mr. President. Balance the budget using real economic assumptions. How hard is this? You said you wanted to do it. Everything in this resolution, you have made public statements saying you want to do. You want to balance the budget in 7 years. You said that.

Now, I know promises do not mean as much down at the White House as they do up here. See, we believe our promises should be kept. Those of us who ran—and Senator ABRAHAM was here and the Presiding Officer, Senator THOMPSON, ran in 1994—made a promise. We said we were going to come to Washington and change this town, and we were going to, first, balance the budget. We happen to believe promises are made to be kept, not just to get elected. There is a difference here. My dad always told me you do not make promises to get what you want and then go do what you want. You make promises and you give your word. Remember when a handshake used to mean a contract in this country? You gave your word and that meant everything. We did not need all these lawyers filling out all these forms. You gave your word.

There was a day when people listened to a politician who gave them their word, and they actually believed them. Think about that. You watched him give a speech, and you actually believed what they were saying was actually what they were going to do. Nobody believes that anymore. No wonder we have politicians here and politicians down at the White House who just say whatever the polls tell them to say today. No wonder people are sick and tired of this place. No wonder they have no faith in our institutions. Promises do not mean anything.

I think promises do mean something. You ask me why we are stuck in cement over here or standing firm. Because promises mean something. We are going to stand firm. We are going to get a balanced budget. We will get a balanced budget over the next 7 years. We will. I do not know how long it will take, but we will because it is the right thing to do. It is the right thing to do.

The plan we put together, while I agree with it and I think it is an excellent plan, is not everything I want to do. We have a few things on the agriculture side we are not particularly crazy about. Would I do it differently? Absolutely, I would. But we did the best we could. Now, is all that stuff negotiable with the President? Of course, it is.

Mr. GREGG. If the Senator will yield for a question on that point, I was just listening to the President speak.

Mr. SANTORUM. I am sorry I missed it.

Mr. GREGG. He said—and maybe he does not understand this. He said that in order to sign this continuing resolution, "I would have to sign on to the Republican budget."

Now, as I understand this continuing, all it says is that he must agree, or should agree, to join with the Congress in promoting a proposal that reaches balance by 2002, the practical effect of that being he can put forward his proposal and we can put ours forward, and we can reach an agreement.

Is he right, or is my understanding of this right?

Mr. SANTORUM. Some might find this hard to believe, but the President is not being forthcoming in this issue. I know you find it incredible that he is not owning up to the facts.

I asked the chairman of the Budget Committee, Senator DOMENICI, that question earlier. By voting for or signing on to the Republican balanced budget plan, the specifics—the tax cuts, the reductions in the growth of Medicare, the changes in Medicare—does all that then come with signing this? He said, "No, it does not." It says two things. I will read you this. And remember, those of you listening, the President of the United States just said—would you repeat exactly what he said, or paraphrase it?

Mr. GREGG. Without your yielding to the floor——

Mr. SANTORUM. I yield for a question.

Mr. GREGG. He said that to sign this continuing resolution would mean that he would have to commit to the Republican budget proposal.

Mr. SANTORUM. Let me read what this continuing resolution says. Do you want to know who is telling the truth, what promises mean?

> Section 301: The President and the Congress shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the fiscal year 2002 as scored by the nonpartisan Congressional Budget Office.
>
> The unified budget in subsection (a), shall be based on the most current economic and technical assumptions made by the Congressional Budget Office.

That is all it says.

Mr. GREGG. If the Senator will yield for another question.

Mr. SANTORUM. Yes.

Mr. GREGG. Therefore, when the President cited that to sign this continuing resolution, he would have to sign on to the Republican budget, he was wrong. What he should have said was, to sign this continuing resolution means I have to commit to a balanced budget by the year 2002, under any terms I want. That would have been his reason for rejecting this.

Mr. SANTORUM. That would be the only reason you would reject this.

Mr. GREGG. I will ask another question. Earlier today, I heard the Chief of Staff, who used to be the head of the OMB and the Budget Committee in the House, state that the reason they oppose this continuing resolution was because it meant massive cuts in the Medicare Program.

Now, it is my understanding—and I wish the Senator would clarify this for me—first, that this budget resolution deals with discretionary spending, am I not correct? And it deals with Medicare entitlement spending, and this continuing resolution has no impact of any nature on any Medicare spending that is presently occurring, because Medicare spending is an entitlement program, is that correct?

Mr. SANTORUM. The Senator from New Hampshire is exactly correct. To explain, a continuing resolution needs to be passed because we have not gotten it enacted here in the Congress or signed by the President. Discretionary spending—that means spending that is not mandatory, which we have to spend. These are programs that we have to appropriate money for every year. If we do not appropriate that money by October 1, we then have to pass a resolution to continue spending, because if we do not, no spending is permitted. That is on discretionary programs.

Medicare is not a discretionary program. Medicare is a mandatory program. That means the money is spent, whether we have a budget or not. And so when someone says that they will be signing off on reductions in Medicare by signing a continuing resolution, a spending bill, they either fundamentally misunderstand how Government works in this town—and I know the former chairman of the Budget Committee understands how the budget works—or there was a deliberate attempt to mislead and, I would go further, to scare seniors.

There is nothing here—I will read the operative part one more time:

> The President and the Congress shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the year 2002, as scored by the nonpartisan Congressional Budget Office.

Enact legislation. It does not say enact Senate bill such and such, or enact the Republican reconciliation or budget bill. It has enact legislation. Very broad. It does not nail anybody down to anything.

Mr. GREGG. May I ask the Senator another question?

Mr. SANTORUM. I am happy to yield for a question.

Mr. GREGG. If I am to understand this correctly, when the Chief of Staff of the President comes out on the portico of the White House and says to the national press, "The reason we oppose this continuing is because it means cuts in Medicare," he either, one, does not understand how the continuing resolution works—which would be difficult to believe in light of his history as head of OMB and head of the Budget Committee—or alternatively, he is continuing this rather jingoistic theme of trying to scare seniors without substance, which appears to be the policy of this White House relative to this budget process, is that correct?

Mr. SANTORUM. I think the Senator from New Hampshire is correct. I finished last night reading Harry Truman's biography written by David McCullough. Every time I look at the current occupants of the White House and see them get up there and say these kinds of things and deliberately mislead to scare people—this is not enlightening. This is fear. This is just misleading people for fear.

This is from the White House. There are people all over the world who look on the White House as a center of freedom, as sort of this ground that democracy first took hold.

Here we are—have we reached that, have we really reached that low in this country that we cannot sit and have an honest discussion? Do you know what this continuing resolution asks for? An honest discussion. An honest discussion. That is all this is.

A balanced budget in 7 years, sit down and negotiate, using real numbers—not trumped-up numbers, not numbers that wish away problems, but real numbers. An honest discussion.

We have a President who will not even agree to an honest discussion on things he says he wants. We have a President who says he wants to balance the budget. We balance the budget. We want it balanced. We have a President that says he wants to end welfare as we know it. In the budget bill that we have, we end welfare as we know it—frankly, pretty close to what the President had suggested.

We have a lot of things in there that the President actually proposed himself. We really did reach out. I think we—as we did in the Senate bill—got 87 votes on the Senate floor for the welfare reform bill. I think we can get that many for this. We save the Medicare system, which, according to his trustees, his office, is going to go bankrupt in 6 years, 7 years.

He even suggested change. Sure, we can negotiate how much, what to do, but we both agree it has to be brought up. He wanted a middle-income tax cut for families. We provide it. You heard the Senator from New York, a middle-income tax cut for families.

If we were talking massive buildup in defense, huge tax cuts on the wealthy, slashing a bunch of programs, if we were miles apart on this thing, then I think we could have sort of the logjam we are in now. We would be miles apart. Folks, we are not miles apart.

For those who see this as sort of the reason we tried to get elected here, to try to bring this fiscal sanity to Washington and to see that the sides on this issue are so close, yet if you listen to the national media you would think that he is in California and we are in Maine and we are not even talking the same language.

But we are not that far apart. That is the frustrating thing. Not only are we not that far apart, but we are willing to negotiate to come closer.

I know the polls are bad. As I said before, we took on sacred cows. When you take on sacred cows, you have someone standing up at the House—at the White House—out there using that position to scare people, using the Presidency of the United States to scare 81-year-old people. Boy, the power of the White House, the bully pulpit. The moral compass for the world. We are now out to scare people who rely on Social Security and Medicare to make ends meet.

Mr. President, I want to turn now briefly to the Hollings amendment.

I know he has offered this amendment, and I know he sincerely feels very strongly about this.

I find it absolutely incredible for the Senator from South Carolina and the Senator from North Dakota, who was just on the floor every day talking about how the Social Security are being used to "balance the budget."

No. 1, I do not know how you can stand here and talk about, through an accounting measure, the Social Security trust funds are being used when in fact nobody is taking the money out and using it. In fact, that money that is in the Social Security surplus, the trust fund, is being invested in Government bonds and earning interest, right now. And at the same time, right now, the President of the United States is raiding—raiding—the pension funds of Federal employees—raiding them. Not using them for accounting purposes to balance the budget, but literally reaching in there, taking the money out to pay for debt service—raiding the money. Not paying interest, taking the money, physically taking the money.

Now, I have heard a lot of demagoguery around here, but when you say we are in the right because we are not going to use the Social Security trust fund for accounting purposes to determine whether we have a balanced budget or not, that is one thing; but when you have your President at the same time you are making that argument literally raiding trust funds, raiding pension funds—it is like a CEO who is running a corporation and the bank will not lend him any more money. What does he do? He raids the pension fund. Do you know what happens to CEO's where banks will not lend them any more money and that CEO goes into the pension fund and raids the pension fund? They go to jail. They go to jail. We do not raid pension funds in this country. We have a Pension Benefit Guarantee Corporation set up so they do not raid pension funds. Now we have all this whining and gnashing of teeth about using accounting measures to determine whether we balanced the budget on Social Security. And the President is raiding pension funds.

Where are the protestations? Where are the people grieving for the Federal employees who are having their pension funds raided? Where is the other side saying, "Oh, the President should not be doing this."

Mr. HOLLINGS. Will the Senator yield?

Mr. SANTORUM. Wait until I am done.

Mr. HOLLINGS. I protested.

Mr. SANTORUM. You had a chance to vote on that. Senator MOYNIHAN offered an amendment to the debt limit, and in the debt limit we had a provision in there saying we could not do that. We had a provision in there saying you could not raid pension funds to keep the debt going.

Guess what? No protestations over there. They voted to strip it out. And the President vetoed it.

Oh, yes, you can protest. Put the votes down. Put the votes down. Where are the protestations? Raiding pension funds, that is what we are doing.

Let me just summarize it. We have a President, a Chief of Staff of the White House, at the White House today, at the United States of America's White House, out there scaring seniors; at the same time, raiding seniors' pension funds, who are Federal employees. Do you know what they are telling them? Do you know what they are trying to do? "Please trust us, we know what we are doing. Please trust us, we know how to balance this budget. We are protecting you."

Give me a break. Come to the table. Let us work this out. This is an embarrassment. The more this goes on the more embarrassing it is going to get. You are not solving problems, Mr. President. It is time to be President, not to run for President. It is time to be President. It is time to solve problems.

Mr. DOMENICI. Will the Senator yield?

Mr. SANTORUM. I am happy to yield for a question.

Mr. DOMENICI. I wonder if we could get a unanimous consent and have a vote on this particular amendment. I do not know how much longer you would like to speak, but Senator MURRAY would like to speak for 6 minutes. Then we will vote on the Hollings amendment on a motion to table.

I ask unanimous consent that Senator MURRAY be granted 6 minutes and Senator SANTORUM 6 minutes, after which we proceed to a rollcall vote on a table. I ask it be in order at this point to ask for the yeas and nays.

Mr. BUMPERS. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. DOMENICI. Senator, I thought I had gone over and talked to the leader and I thought when I came to the floor, it had been agreed.

Senator MURRAY was the only one on your side that would speak before we voted on this, or I would not have imposed that. We have been on this for a long time. Your side has a lot of time.

How much time would you want? We have another amendment from your side, too, shortly, right now, on this issue. How much time would you need?

Mr. BUMPERS. Senator, I know you want to get this amendment disposed of. I do not want to be an impediment to it. I will take 8 minutes and remove my objection.

Mr. DOMENICI. Can we add 8 minutes for Senator BUMPERS and then proceed with the rest of my request?

Mr. SANTORUM. Give me 3 more minutes to respond.

Mr. DOMENICI. To be equal, we will add 3 minutes to Senator SANTORUM.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask it be in order that I seek the yeas and nays on a motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. And do we have a motion to table, that the yeas and nays have been ordered on?

The PRESIDING OFFICER. The yeas and nays will be ordered.

Mr. DOMENICI. Could I have it in order now, even though there is time, that I ask for the—I move to table.

I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The Senator from Washington.

Mrs. MURRAY. Mr. President, the Federal Government is now in its third day of shutdown, and just like 3 days ago, there certainly is no end in sight and it seems like we in Congress are destined to flounder for a couple of more days because the majority is insisting on debating a continuing resolution that the President has vowed he will veto.

Listening to the rhetoric of the last hour it seems to me this is more about putting somebody into somebody's face than it is about solving problems. It seems like it is more about drawing lines in the sand and calling names than it is in making sure that this country gets moving again.

I have to ask the question, why are we doing this? Why are we not putting together a proposal that we can all agree on, that will get the Government running again, restore public services, and put people back to work?

I heard my colleague from Vermont a short time ago say it does not take 15 pages of paper with a lot of additions. It only takes one sentence to get us back to work again.

I have to remind my colleagues the American people are tired and impatient. They want solutions, not politics and rhetoric. They want to know that Government works for them. They want to feel secure and have faith in their elected officials.

Unfortunately today they are probably watching us in disbelief. They cannot believe we are unable to solve the country's problems.

That concerns me. I want to move forward. I want Congress to get its act together and balance this budget. And the longer we take to do so, the more disaffected our constituents become. We just reinforce in their minds the belief that Congress is unaware of their real needs and concerns. They look at us and they say, "How can those people really understand how difficult it is for me to pay the rent, put food on the table for my kids, or take care of my elderly parents? All they can do in DC is whine and squabble about where they sat on an airplane."

As we muse about Presidential politics and other hi-jinks, we better not forget what this Government shutdown really means. We have all heard the numbers. We know that 30,000 people a day are unable to apply for Medicare. And we know this Government shutdown is costing us $200 million a day in lost productivity.

But the shutdown comes a little closer to home when we put human faces on those numbers. One woman, an attorney from Seattle, called my office yesterday. She is trying to adopt a child in China. For months she has been filling out paperwork and dealing with bureaucratic redtape.

She finally got her plane ticket but because the United States Consulate in China is closed, she cannot get her baby's visa. So she was forced to postpone her trip.

She has no idea when she will finally be united with her new baby daughter. She is a real person. And she is hurting because of what we are doing on this floor.

Last weekend I was in central Washington for the opening of the Yakima Valley Veterans Center. Many of the people I talked to wanted to celebrate the opening of the new center, but because of the pending Government shutdown they were too worried about whether or not they were going to receive their veterans benefits. Today's Spokesman-Review paper ran an article about a young man in Spokane, WA, who quit a stable computer-based job to take his dream job. He was going to become a physical fitness director aboard a cruise ship. The young man was offered the job unexpectedly on November 4. He scrambled to get his paperwork taken care of and a passport in time to sail by November 25.

Unfortunately, this Government is shut down. He cannot get his passport and time is growing short.

I want to read that young man's words into the RECORD. They could not be more to the point. He said:

> This is a dream in my heart that finally manifested. The Government is getting in the way of people's dreams. I've got airplane tickets. Everything is settled. Everything but this last hurdle.

These few people provide just a few examples of what a Government shutdown really means. They are angry and concerned. They have bills to pay, families to care for, business to conduct, and dreams to fulfill. Instead, we are telling them, "not now."

So, Mr. President, I urge my colleagues to act wisely. Let us move on. Let us put together an honest and reasonable continuing resolution that will get this country back on track.

My view is pretty straightforward. As a Member of the Budget Committee and the Appropriations Committee I know I have a job to do. The job is to pass a budget plan and 13 appropriations bills. So far, this Congress has done neither. In fact, just yesterday the House failed to pass the Interior bill for the third time. There are five other bills that have not even made it to this floor yet.

Instead of getting our work done, we are debating a bill we know will be vetoed. It will be vetoed because it stacks the deck against working families and senior citizens in favor of unneeded tax breaks. We are not moving the process forward one bit; we are ensuring that it will go nowhere.

I say it is time to get our work done. We can balance the budget. We can stay true to our priorities. And we can do it without interrupting the lives of regular, everyday people in our States.

All we need to do is pass a clean interim spending bill and then get on with our business of finishing the overall budget.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I saw an article this morning where the Speaker of the House was asked, "What is sacred about 7 years?"

I thought that was a good question. I have been curious about that myself.

And the Speaker said, "Well, it was just intuition. All major decisions are based on intuition."

I do not like the idea of one man's intuition determining the fate of the country. His intuition may not match mine. It may not match anybody's. Frankly, I think intuition is always a fine thing, if a man is getting ready to make an investment. I think his intuition is important in a lot of ways. But when it comes to putting in concrete the time in which the Congress will have to balance the budget, I do not want anybody's intuition. I would like to see some hard figures.

In this particular case, this amendment deals with Social Security. Everybody says we are going to balance the budget by the year 2002. If everything went swimmingly, according to every projection, we would still, in the year 2002, have used $650 billion in Social Security trust funds.

I am not quarreling with that. The Republicans can come back and say, "You did it. This President has done it."

That is all well and true. But it still means there is $650 billion that was used that has to be paid back, just as certainly as the national debt has to be paid back.

I think I have to say the tax cut in this bill is the most repugnant part of it. What in the name of all that is good and holy are we doing cutting taxes $245 billion in the name of deficit reduction? We tried that in 1981.

The Washington Post editorial this morning, which has been cited a number of times here today as though it came right out of the Holy Bible, talks about how the Democrats have been demagoging the Medicare issue, and that Medicare really is in trouble, and that the cost of Medicare continues to go up. That is true. I do not quarrel with the idea that the Medicare system is in considerable trouble and needs to be fixed. I think $270 billion in cuts out of Medicare over the next 7 years is unacceptable.

The thing I find most unacceptable about it is that it is being used to provide a $245 billion tax cut. And for whom? The wealthiest people in America who have not asked for it. But the people who really need it do not get it.

A Post editorial this morning obliquely suggested that the addition of $3 trillion worth of debt during Ronald Reagan and George Bush Presidencies was somehow or other Congress' fault, with no mention of the fact that neither one of them could ever find their veto pen when they were in the President's office. President Reagan never vetoed one single spending bill, Mr. President—not one. All he did was send out millions of letters saying, you know, "I cannot spend a dime that Congress does not appropriate." Congress cannot appropriate anything unless they have 67 votes to overcome his veto. But he looked through his desk drawer time and again and could never find his veto pen.

The U.S. Government now owes four times as much money as it did when he took office. It took 200 years to get to $1 trillion. It took 12 years to get to $4 trillion. The Nobel award-winning economist at MIT said it was the most irresponsible economic policy in the history of the world.

On that tax cut, Mr. President, I made this point yesterday, but I am going to make it every day that I can get the floor. You hear this unctuous, solemn business about the tax credit for our children. There are 5 million households in this country that have 11 million children in them. With those 11 million children and those 5 million households, the parents—not the children—will get a partial or full $500 tax credit. There are 8 million households in this country with 11 million children that will not get one single thin dime.

Mr. SANTORUM. Will the Senator yield for a question?

Mr. BUMPERS. You bet.

Mr. SANTORUM. Why would 8 million households not get it?

Mr. BUMPERS. Because they have not paid income tax.

Mr. SANTORUM. Thank you.

Mr. BUMPERS. A family with a man and a wife and three children making $25,000 a year do not pay any income tax. A man and wife with three children making $100,000 will pay $10,000 to $20,000. They get the full $1,500 refund. The people who need it, the man and wife with three children making $25,000 a year, do not get one red cent.

Mr. SANTORUM. Will the Senator yield for a question?

Mr. BUMPERS. Yes.

Mr. SANTORUM. Does a family of three making $100,000 a year qualify for the EITC?

Mr. BUMPERS. Do they qualify for what?

Mr. SANTORUM. Does a family of three earning $100,000 qualify for the earned income tax credit?

Mr. BUMPERS. Certainly. I hope so.

Mr. SANTORUM. Does a family making $320,000 a year qualify?

Mr. BUMPERS. They used to qualify for it. I do not know whether they are going to or not. That is another $32 billion.

We are not just depriving people of an education. We are not just depriving people of school lunches. We are not just putting another million children in poverty under the welfare bill. We are not just savaging the Medicaid Program for the poorest children in America to have health care. We are also savaging a program that even Ronald Reagan said was the best thing that was ever invented to keep people off welfare. We said "no." No. If you are working for $4.25 an hour and trying to keep body and soul together and stay off welfare, in the past we have said, if you will stay off welfare, we will give you a couple of grand at the end of the year. We are savaging that program.

Mr. President, I agree with the Senator from Pennsylvania on one thing. I do not like taking pension funds. Do you know why we are taking pension funds? Because the Senator from Pennsylvania will not send a debt ceiling to the President that simply said we spent the money, let us pay for it. No. You want to put habeas corpus and regulatory reform on the debt ceiling, of all things. Of course the President vetoed it. I would never have voted for him again if he had not.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, just by way of quickly responding to the earned income tax credit under the conference report that will be coming out, no one, with the exception of families who have no children, no family that has children will get less money under it than they would have gotten under current law. No family will get less money under the earned income tax credit next year than they would have under current law. Some will get more because some qualify also for the tax credit for children. That is in the bill.

So do not talk about slashing the EITC, [the earned income tax credit], for working families. We do not. In fact, the increase that is projected that is in law under the President's 1993 Budget Act—those people at least get that much, and some will get more. Particularly families who are in the $15,000 to $20,000 to $25,000 range will actually get more because some of them actually do pay taxes.

I will be happy to yield the remainder of my time to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, what is the situation on time?

The PRESIDING OFFICER. The Senator has 3 minutes 20 seconds.

Mr. THOMAS. The other side?

The PRESIDING OFFICER. No time.

Mr. THOMAS. Thank you, Mr. President.

Mr. President, it would be interesting, would not it, to look in on this recent conversation, this recent debate if you came from somewhere and you knew nothing about the background of what was going on here? I suppose you would say, "Gosh. What is this all about? What is the issue here?" We are talking about all kinds of things. We are talking about Medicare, slashing Medicare, when in fact it does not slash Medicare. We are talking about raising premiums on Medicare when in fact it does not raise premiums at all. They stay where they are.

You would say, "Gosh. What is happening? What is this?" You would hear this morning the Senator from Nebraska saying this resolution is ridiculous. It deals with balancing the budget. I think you would go on to say there are some principles. What is ridiculous about a principle of balancing a budget that this body has not balanced for 30 years?

It would be interesting to sort of sum up the years that the opposition on that side of the aisle has been in this place and never has balanced a budget. They talked about it. They say now we are for a balanced budget. For 30 years they have not balanced the budget.

You would say, "Gosh. What is going on here?" Everyone who has risen has said, "I am for balancing the budget." And it has not happened. I guess they would say, "What is wrong?" People who ran in the last election particularly said we have a priority to balance the budget. That is what we are talking about doing here.

I guess you might also be surprised at how difficult it would be if you were a newcomer looking at it, and saying, "Gosh. What should be so difficult about balancing the budget?" You do it in your family, and I do it in my family. You do it in my business because you have to. Do you do it in government? Is that not financially and fiscally responsible as we move into a new century? Is it not responsible to balance the budget rather than continuing to charge it to your children and your grandchildren? Is that what it is about? If that is the issue, why are we talking about all of these other things?

A balanced budget is not extraneous. Someone rose this morning and said, "Oh, gosh. This continuing resolution has extraneous materials on it." Balancing the budget is, after all, the key issue. All we are asking is that the President certify that in 7 years he will join us in balancing the budget, and use the Congressional Budget Office numbers that the President said in his State of the Union Message we all needed to use so we all work in the same place. It is not a new idea.

The minority leader, who a short while ago objected to the idea of CBO, stood up not 2 weeks ago and said we all will do whatever accommodation to use CBO numbers.

So I think you would say, gosh, what is it? You would probably soon recognize that part of it is philosophical. There is a difference in view. There is a legitimate view among liberals that we ought to have more Government and more spending. That is a legitimate view. I do not share it. I do not think the majority of people here share it. Nevertheless, there is a populace view that is there.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Ms. SNOWE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 578 Leg.]

YEAS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

So the motion to table the amendment (No. 3056) was agreed to.

Mr. GRAMM. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Order in the Senate, Madam President.

The PRESIDING OFFICER. The Chamber will be in order. May we have order in the Chamber, please?

The Senator from South Carolina is recognized.

Mr. THURMOND. Madam President, life does not often provide second chances, but the Congress is giving President Clinton just that. With this continuing resolution, we are providing the opportunity for him to right the terrible wrong committed by vetoing the previous continuing resolution and shutting down the Government. This resolution will allow the U.S. Government to reopen and remain open while

Congress and the President resolve outstanding issues on the remaining appropriations bills and the Balanced Budget Act.

As a Presidential candidate, and early in his Presidency, President Clinton told the American people that he wanted to balance the budget. Here is his chance to fulfill that pledge, since he has failed to send a balanced budget plan to Congress. President Clinton said he wanted to use Congressional Budget Office numbers. Here is his chance to commit to that. President Clinton recently stated that he raised taxes too much. The Congress will give him a chance to correct that mistake and fulfill his pledge for a middle-class tax break.

Madam President, President Clinton's veto of the previous continuing resolution brought the Federal Government to a standstill. Here is his chance to right that wrong. President Clinton must put aside his reelection concerns and focus on his responsibility to govern. By agreeing to this continuing resolution, he can do the right thing, restore full Government services and put the hundreds of thousands of Federal workers who are facing the holidays without a paycheck back to work immediately.

Congress and the President previously approved a continuing resolution which funded the Government through November 13. The Congress sought to extend it earlier this week, for the purpose of avoiding a shutdown of the Federal Government. We are giving President Clinton another chance to keep the Government operating and to fulfill his promise to balance the budget.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senate minority leader.

AMENDMENT NO. 3057

Mr. DASCHLE. Madam President, subject to the majority leader's intention, as I understand it, we may set this bill aside. But given the informal agreement we had this morning, I now send the second Democratic amendment to the desk—I guess it is the third Democratic amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3057.

Mr. DASCHLE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

Section 106(C) of Public Law 104-31 is amended by striking "November 13, 1995" and inserting "December 22, 1995.

SEC. 2. (a) The President and the Congress shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the fiscal year 2002.

(b) The unified balanced budget in subsection (a) must assure that:

(1) Medicare and Medicaid are not cut to pay for tax breaks; and

(2) Any possible tax cuts shall go only to American families making less than $100,000.

Mr. DASCHLE. I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

APPROPRIATIONS BILLS

Mr. HATFIELD. Madam President, I would just like to give the body a brief report on the process of the Appropriations Committee of the Senate and where our bills are at the moment.

I would like to, first of all, indicate that the Senate Appropriations Committee reported all 13 bills to the floor by September 27. The Senate has acted upon 12 of those 13 bills. I, first of all, say they were reported by September 15, and we acted upon 12 of the 13 in the body by September 27. Right at the moment, four of those bills have been signed into law by the President. We have concluded the conference on three more, and we expect to conclude our conference on VA-HUD and the District of Columbia within either hours or within the next day or two.

So we can say that that is the movement.

There is one bill that has eluded us, and that is the Labor-HHS appropriations bill upon which the Senate has not acted. I want to say further that as we consider the continuing resolution, if this one is passed and vetoed or if the next one is passed and agreed to, we have to have a benchmark in relation to how we are going to fund Labor-HHS.

Up until now, the other side of the aisle has not permitted us to move to bring up the Labor-HHS to be considered here on the floor.

So I think in order that we as the members of the Appropriations Committee—I speak at least for myself—I would like to be able to conclude our job on the Senate side. It has to go to conference, of course, with the House-passed bill.

I would like to propound a unanimous-consent agreement at this time. I ask unanimous-consent that the majority leader, upon consultation with the minority leader, be authorized to call up H.R. 2127, the Labor-HHS appropriations bill for 1996.

Mrs. BOXER. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. There are a number of provisions that are troubling to a number of Senators who believe in a woman's right to choose, and that is one of the reasons why we have had trouble agreeing to bringing up the bill. So I would have to object, unless I knew that those provisions were being handled. So I would object.

The PRESIDING OFFICER. Objection is heard.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996—CONFERENCE REPORT

Mr. DOLE. Madam President, I submit a report of the committee of conference on H.R. 2126 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2126) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 15, 1995.)

Mr. DOLE. Madam President, it is my understanding that this will not take any great length of time. I am also advised that about 400,000 civilians, who might be affected by the Government shutdown, are affected by this bill. Maybe we can pass this bill and get it down to the President.

Unless I misunderstand it, it would be about half the total. It seems to me that it is something we should do as quickly as we can. I do not know the President's intentions with reference to this bill. At least it will be another major appropriations bill that we can send to the President.

I also understand that we have the legislative appropriations bill and the Treasury, Post Office bill, which have been completed, which I think would be sent to the President if there was some indication that he would sign those bills. Again, that would help in some areas, and some of the people who are not essential could come back to work.

In the meantime, I will be discussing the pending legislation with the Democratic leader.

Mr. DASCHLE. Madam President, this is acceptable to our side. I think, also, the foreign operations bill is prepared to be sent. So we are making progress on some of these bills. I think it is important that we get as many done as we can. Some of them are going to be vetoed. This may be one of them. I think it is important to keep the process moving along, and this will accommodate that need.

I yield the floor.

Mr. STEVENS. Madam President, I might state, for the Senate's knowledge, that we have 2½ hours. I do not think we will use the whole 2½ hours. I expect the vote to take place some time right after 6, depending on who else might want to speak.

Just to set the record straight, I had reminded the majority leader of the number of people in the Department of Defense that were affected by the furlough process, and it was our estimate that it was approximately 400,000 that could be affected. I am told that it is somewhere around 260,000 that actually have been furloughed so far. He was correct that approximately 400,000 would be affected by the bill in the long run.

We believe it is in the best interest of all concerned to get the bill passed. I am hopeful that we will get word from the President that he will sign it so we can expedite delivery of the bill to the President.

This is now the conference report on H.R. 2126, the Department of Defense Appropriations Act for 1996. I first want to start off by applauding the House for the expeditious move on this bill today, and I appreciate the support of both leaders for allowing us to bring the bill to the Senate now.

Senator Inouye and I have sought to move this conference report prior to the commencement of the fiscal year on October 1. The original conference report, however, was rejected by the House. That resulted in a substantial delay in bringing the bill before the Senate, and I take part of the responsibility for that. We have been negotiating for a period of time on one particular issue.

Before proceeding further, however, I do want to express my high regard and thanks to the chairman of the House Defense Subcommittee, Congressman Bill Young, for the work he has done on this bill. This has been the first year that he has been the chairman of that subcommittee, and he was the chairman of our conference, and he has shepherded this large and complex bill through the House and then the conference with great skill. His determination to meet the needs of the men and women of the Armed Forces shows throughout the legislation.

I think Members should become aware of this bill because it is a very different defense appropriations bill.

I also recognize the hard work and cooperation of the ranking member on the House side, Congressman Jack Murtha. Senator Inouye and I have worked with Mr. Young and Mr. Murtha for many years now, and we appreciate their willingness to work with us on the tough issues in this bill this year.

Madam President, the conference report before the Senate now closely matches the bill previously filed under the report No. 104261. That report has been available to all Senators since September 25. On that basis, I do not intend to take the Senate's time to detail the contents of the report. Instead, I want to speak to the Senate today on why we need this bill now and why I feel the President should sign this bill.

This pending bill provides about $1.7 billion more for defense than was appropriated in the fiscal year 1995. Taking inflation into account, this amount represents a decline in real spending for the Pentagon. That is the reality of this bill. It really continues, in terms of real dollars, a downward trend in real defense spending for another year.

This further decline in real defense spending comes in the face of increased commitments of the United States overseas, increased deployments overseas, and the determination by the Joint Chiefs that we need more money for modernization for the Department of Defense.

Let me speak first about those overseas deployments. Today, there are 241,000 U.S. military personnel permanently stationed overseas. That does not reflect their dependents. This is military personnel. It also does not reflect the contingency deployment to Bosnia, Iraq, or Haiti. These are the day-to-day demands on the men and women of the Armed Forces. They face these demands constantly.

Last September, we took a trip and met with some of our military people in the British Empire, in London. We found, in many instances, that our pilots, for instance, have been deployed in several different places within 1 year. We are stretching these people to the nth degree almost daily now, in terms of the demands that face the Armed Forces in the United States and throughout the world.

Added to these actual permanent commitments are the additional unplanned and unauthorized contingency missions that the Commander in Chief has sent our military people on.

I ask unanimous consent to have printed in the Record a table that shows the current overseas military deployment.

There being no objection, the material was ordered to be printed in the Record, as follows:

Active Duty, U.S. Military Personnel Overseas

241,000 soldiers, sailors, Air Force personnel and Marines including:

212,000—ashore
29,000—afloat

U.S. Military Personnel in Europe and European Waters

121,000 soldiers, sailors, Air Force personnel, and Marines including:

76,000—in Germany
12,800—in the United Kingdom
11,500—in Italy
7,400—afloat
3,100—in Turkey
2,800—in Spain
2,000—in Iceland
1,700—in Belgium
1,000—in Portugal
734—in The Netherlands
620—in Macedonia
490—in Greece

These totals include the following ongoing operations:

Deny Flight—Bosnia No Fly Zone
Provide Promise—humanitarian airlifts into Bosnia
Sharp Guard—sanctions enforcement in the Adriatic Sea
Able Sentry—Macedonia border observers
Provide Comfort—humanitarian aid to Kurds in Iraq

U.S. Military Personnel in East Asia, the Pacific Region and Pacific Waters

92,000 soldiers, sailors, Air Force personnel, and marines including:

39,600—in Japan
35,800—in Korea
15,600—afloat
320—in Australia

These totals include the following ongoing operations:

Joint Task Force Full Accounting—to determine the fate of American POW's and MIA's
Cope North and Annualex—U.S. and Japanese forces naval and air defense exercises
Foal Eagle—U.S. and Korean forces training exercise

U.S. Military Personnel in the Near East, North Africa and South Asia and Related Waters

6,100 soldiers, sailors, Air Force Personnel, and marines including:

1,400—afloat
1,200—in Egypt
1,050—in Saudi Arabia
900—on Diego Garcia
460—in Bhrain
435—in Kuwait

These totals include the following ongoing operations:

Southern Watch—Southern Iraq No Fly Zone
Vigilant Sentinel—deterring another Iraq invasion of Kuwait
Arabian Gulf Maritime Interdiction Operations—enforcing U.N. sanctions against Iraq
Bright Star—U.S. and Egyptian forces training in Egypt

U.S. Military Personnel in the Western Hemisphere and Related Waters

17,000 soldiers, sailors, Air Force personnel, and Marines including:

8,000—in Panama
4,600—at Guantanamo Bay Naval Station, Cuba
2,500—in Haiti
1,400—afloat

U.S. Military Personnel in Sub-Saharan Africa and Related Waters

3,500 soldiers sailors, Air Force personnel and Marines.

Mr. STEVENS. This is a very interesting chart. I invite Members of the Senate to look at that. I know we cannot print the map. I will not ask to put it in the Record.

We have soldiers, sailors, airmen, and marines in Germany, in the United

Kingdom, Italy, afloat on the seven seas, in Turkey, Spain, Iceland, Belgium, Portugal, Netherlands, Macedonia, and Greece.

We are continuing such as: Deny Flight to the Bosnia no-fly zone; Provide Promise to the humanitarian airlifts in Bosnia; Sharp Guard—this is the sanctions enforcement of the Adriatic Sea; Able Sentry to the Macedonia border; Provide Comfort and humanitarian aid to the Kurds. We have soldiers in Japan, Korea, and afloat in the Pacific.

We have 320 in Australia. We have a whole series of movements going on with regard to North Korea.

In the Near East, Asia, South Asia, 1,400 are afloat; 1,200 are in Egypt; soldiers and sailors and marines are in Saudi Arabia and Diego Garcia, Bahrain, and Kuwait. Southern Watch, the no-fly zone in Iraq, and another deployment to deter a further Iraqi invasion in Kuwait has our men and women serving where they are needed. The Arabian Gulf Maritime Interdiction Operations that enforce the U.N. sanctions on Iraq, and Bright Star, the United States and Egyptian forces that are training in Egypt are just another example.

We have additional forces in Panama and Guantanamo Bay Naval Station in Cuba, Haiti, and another 1,400 afloat down in the Western Hemisphere and related waters. Another 3,500 soldiers and sailors and Air Force personnel are in the sub-Sahara in Africa and other areas in that part of the world.

Now, Madam President, that ought to tell anyone that we are dealing with a situation now that has never been faced before in peacetime. We are the last superpower in the world, and we are acting like one. We have our Armed Forces deployed around the former Yugoslavia, in the Caribbean, in Southwest Asia, and Korea. I am told by the Pentagon, we have 14 ongoing contingency operations.

Just last week five Americans died in Saudi Arabia, the victims of another terrorist attack. Our forces, as I said, are in Saudi Arabia and will remain there because of our commitments for some time.

In my judgment, we cannot have it both ways. We cannot be the world's only remaining superpower and continuously reduce the amount of money available to the men and women who carry out these chores for us around the world. We cannot respond to every world crisis, to every humanitarian crisis with this military force. These forces have to be carefully allocated, and it has to be thought over where we send them, Madam President.

The President has committed United States military personnel to operations in Somalia, Rwanda, the Middle East, Northeast Asia, the Caribbean, and now to the Balkans. But nevertheless, this President has consistently pressed to reduce our military forces, reduce the money for modernization, and reduce the spending for defense.

Madam President, this is a bill that will determine whether or not that stops. Despite its downward trend, we have to turn the corner on modernization in this bill.

We have critics of this bill who say we have too much money. One is the President of the United States. We significantly increased the amount of money that is available to procurement and research and development for the Department of Defense in this bill. We did so to meet the specific priorities identified by the service chiefs themselves. Every significant procurement item in this bill is included in the military's modernization plans except the B–2. I am including the F–22, the F–18, the LHD–7 amphibious assault ship, the third DGG–51 destroyer, the Army's M1–A2 tank upgrade, the Comanche Scout helicopter and multiyear procurement of the Longbow Apache.

We did not come up with these programs. They were not added and thought up by me. The Pentagon has requested them.

Now, what we have done with our modernization initiative is to save taxpayers hundreds of millions of dollars over the next 10 years.

Think of this: In the LHD–7 alone, we are going to save $700 million by continuing that procurement in 1996 rather than postponing it for 4 years. Now, by continuing the ongoing line, we will have another LHD–7 and save $700 million.

More importantly, we are providing equipment to meet military needs now for the people who are being deployed overseas. We are doing this now rather than waiting 10 years to try and modernize the equipment that they are currently using.

Some in the House claim this bill exceeded the amounts requested by the military and the Joint Chiefs. What we have learned since we passed this bill in September is we actually did not go far enough.

Recent press reports indicate that General Shalikashvili's chairman's program assessment for the Department's 1997 budget has determined we should be spending about $60 billion for procurement. The budget presented to the Congress by the President was $39 billion; this bill is $44 billion for procurement. We have increased the President's request, but we are still considerably below the amount that is listed as being the minimum by the Chairman of the Joint Chiefs.

The Chairman's assessment—and this is General Shalikashvili's chairman's program assessment—reflects the decisions by our national military leaders on what we need to meet our defense obligations and to provide the men and women of the Armed Forces the equipment they need to minimize casualties.

Let me add, in my judgment, this is not a political document. I am talking about the Chairman's program assessment. Every member of the Joint Chiefs and every vice chief was appointed by this administration. I, for one, am willing to accept and advocate their judgment.

On this matter, I ask unanimous consent that recent articles from the Washington Post and the Los Angeles Times be printed in the record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. STEVENS. Madam President, for these reasons alone, in my judgment, the President has no alternative but to sign this bill. In our work on this bill the conferees have sought, to the maximum extent possible, to accommodate the concerns of the administration on this bill.

Now, we referred repeatedly to the statements of the administration policy at the request of the Joint Chiefs as we accommodated the President's and his appointees' priorities. In the case of funding for the Nunn-Lugar program, we preserve $300 million for 1996. We have sustained $195 million for the technology reinvestment program, which was a program terminated by the House.

One exception was that the conference provided $493 million to provide one last consideration of additional production of the B–2 bomber. The Senate bill did not, when we passed the bill here before, include funding for the B–2.

We have not voted on the B–2 since the control of the Senate changed to our side of the aisle. The House sustained funding for the B–2 on three separate votes. They were adamant that this bill come back approving their position on the B–2.

While I have some concerns about the affordability of the B–2 in the next few years, this funding permits the President to make a final decision in the 1997 budget. He, of course, has the right to ask for a rescission if he does not want the money in this bill.

An important initiative included in this bill and supported intensely by Secretary Perry is funding for contingency operations. This year, we had to pass a mid-year rescissions bill that realigned over $3 billion to pay for overseas contingency operations. That was because they were not funded in the bill that covered 1995.

In this bill, for the first time, we are providing money at the beginning of a fiscal year for these operations. Madam President, $647 million is funded in this bill for operations in Iraq and Southwest Asia. The Department readily concedes that no moneys were requested in the President's budget for 1996 to pay for these ongoing missions. Everyone agrees we must pay the bills, and we decided to include the money now rather than wait for some supplemental process next year.

Madam President, in my judgment, as I said, this bill must be enacted into law. Looming ahead of us is the potential deployment of United States military forces to Bosnia. This bill makes no provision for that deployment but expresses the strong concern of the conferees about the merit of this mission and the belief that the President should consult and seek the authorization of Congress for any such deployment.

Simply put, however, without the money in this bill, there is no way that the Department of Defense or the President could send 25,000 ground troops to Bosnia.

We cannot have it both ways, Madam President. We cannot be against this bill and also want to send troops to Bosnia without money.

In the view of this Senator, I cannot conceive of the circumstances where the Senate would vote to endorse a deployment of United States forces to Bosnia if there were no funds available to support that mission. This is especially true if those funds were not available for the Department through the 1996 bill that we have before the Senate now.

According to the Pentagon, a full-year mission to Bosnia will cost in excess of $2 billion, and only with the money that is in this bill could that be possible.

Again, we are not crossing that bridge. I, for one, do not support that deployment. However, I do believe we must be up front about it. Let me point out that those who do want to support a deployment of forces to Bosnia ought to realize it would not be possible but for the funding and the way the money is divided in this bill for the functions of the Pentagon.

Let me close with this, Madam President. I hope we can sustain the long-standing tradition of bipartisan action on these defense issues. This bill poses no severe policy issues. It provides funding consistent with the congressional budget resolution and the Appropriations Committee's 602(b) allocation to this subcommittee for the Department of Defense.

Senator INOUYE and I have fought to present this bill on a nonpartisan basis and this conference report reflects that determination. The cooperation and partnership of my friend from Hawaii is still a very essential ingredient to this bill. I have worked with him in the past, and he with me. We have rotated as being chairman of this subcommittee. I continue to thank him for his work and his commitment to the people in the armed services.

I would like to recognize the work of the subcommittee staff. It is a very interesting staff, which enjoys substantial stability as far as professional competence is concerned. They are professional staff. The Senate has benefited from this approach, in my opinion. Jay Kimmit, Peter Lennon, Mary Marshall, John Young, and Mazie Mattson have been stalwarts on the committee staff for several years.

Some of them I brought on the staff when I was chairman before. The Senator from Hawaii maintained them as professional staff, and we have continued with them. They are real professionals.

With the transition this year, Jim Morhard and Sid Ashworth have come from the minority. Susan Hogan and Justin Wheddle have joined the subcommittee staff. All have made contributions to the bill and to the subcommittee. This has been especially true during the conference.

In addition, we have had the assistance of two detailees, Mr. Joe Fenglar and Ms. Sujata Millick.

I might point out, in 1982 Charlie Houy joined the staff of the subcommittee when I was the chairman. His counsel to Senator INOUYE and the members of the subcommittee is invaluable. He now works with Senator INOUYE. It shows the professionalism that we all still value in our relationships. His contribution is invaluable and it is a pleasure to work with him in this new assignment as the minority chief clerk.

Madam President, this is a good bill. I do think it will meet the needs of the men and women of the Armed Forces and our national security. One of the reasons it is a good bill is because of the continued assistance that I have from my good friend, the chief of the majority staff for the subcommittee, Steve Cortese, who is here with me today.

Our bill passed with a strong bipartisan support in the House. In my judgment, the Senate should adopt this bill now and permit the work of the Department of Defense to move forward. The majority leader has made the decision to bring it up now because of its impact on those who have been furloughed under the existing hiatus. I, too, hope the President will sign this bill if we get it to him as soon as possible.

EXHIBIT 1

[From the Washington Post, Nov. 11, 1995]

PENTAGON LEADERS URGE ACCELERATED 50 PERCENT BOOST IN PROCUREMENT

(By Bradley Graham)

The uniformed leaders of the armed forces, worried about aging weapons and equipment after a decade of declining procurement, have recommended a roughly 50 percent jump in spending on purchases over the next two years.

Clinton administration plans call for spreading the same rise over four years. But top military officers are skeptical about ever seeing all the money, noting that past projections have rarely been realized.

So to highlight what they see as an urgent problem, the military chiefs have asked that the Defense Department set a goal of boosting annual defense procurement from about $40 billion at present to $60 billion by fiscal 1998, not 2000 as the administration has proposed. "We now don't expect it to go up like the projection shows it will. It never has before, I don't expect it to now," said Adm. William A. Owens, vice chairman of the Joint Chiefs of Staff. "And secondly, 2000 is too late.

"So our view is, you have to get to $60 billion as soon as you can, and 1998 would be a good year."

The recommendation was included in a budget assessment submitted last month by Gen. John Shalikashvili, chairman of the Joint Chiefs of Staff, to Defense Secretary William J. Perry. It reflected heightened concern about a potential erosion of military capabilities unless purchases are accelerated. It also marked a shift in focus from last year, when the Pentagon, intent on shoring up the current readiness of military units, reduced procurement to cover higher-than-expected operational and maintenance costs. Procurement spending has fallen to its lowest level since 1950, forcing the military services to defer buys of jet fighters, helicopters, ships, trucks and other assets to replace earlier models entering, in some cases, their fourth or even fifth decade of use.

"We are significantly underfunded in the procurement line," Owens said. "Our thrust is to say we must do something, we've got to fix it."

He said the military chiefs are concerned not just about low procurement but a rising "bow wave"—the piling up of postponed programs.

At the same time, Owens indicated the message from the chiefs was not intended to be confrontational or divisive with the Pentagon's civilian leadership, and may have been aimed less at Perry than at the military services themselves. By committing all the chiefs to an ambitious new procurement goal, the memorandum is especially useful to Shalikashvili and Owens in their nascent effort to exercise more central discipline over individual service plans.

The memo, which represents the consensus view of the chiefs and vice chiefs of the Army, Navy, Air Force and Marine Corps as well as regional commanders in chief, is said by Pentagon officials to be short on details about just how to bolster procurement and on what to spend the extra funds. "It's a broad statement, expressing a broad sense of concern," said a senior defense official. "But the details get a little thin."

Shalikashvili makes clear the chiefs do not expect the added funds for modernization to come from higher overall defense spending but rather through cuts in some programs under development and other savings. Even with a Republican-controlled Congress committed to boosting the defense budget, the military leaders are assuming little if any growth in military spending.

Nor are the chiefs suggesting reversing the priority given last year to readiness over procurement—that is, draining funds from the operational and maintenance accounts that support current readiness to pay for more modernization. Rather, the biggest adjustments proposed in the Shalikashvili memo would involve cutting back on competing service programs in such development areas as theater missile defense and unmanned aerial vehicles and reducing modeling and simulation activities.

Even so, these recommended savings would not come close to providing the roughly $20 billion increase in annual procurement the chiefs would like to see between now and 1998. "We acknowledge the answers are not all there," Owens said.

But he expressed confidence that substantially more funds for procurement can be found by eliminating redundant systems, embracing economical high-tech innovations and realizing Pentagon plans to farm out more defense activities to the private sector. Significantly, the chiefs have decided not to look for more savings by shrinking troop levels below the 1.45 million active duty service members called for in the administration's plan.

In its 1996 budget proposal to Congress, the administration provided for $39 billion in military procurement, a drop of 71 percent in inflation-adjusted dollars from the 1985 peak. House and Senate defense appropriation committees have tentatively agreed to raise procurement to $43 billion, but their conference report has yet to win floor approval.

The administration's five-year budget plan envisions a 47 percent increase in modernization spending between 1996 and 2001. But much of that is not projected to materialize until the turn of the century—and assumes still uncertain savings from military base closings and reforms in Pentagon buying procedures. Responding to Shalikashvili in an Oct. 24 memo, Perry agreed that $60 billion in annual procurement "is an appropriate goal" and offered "to work closely with you to accelerate" reaching it.

But Shalikashvili's initiative, known formally as the chairman's program assessment, has come late in the 1997 budget cycle. A final defense budget proposal is due at the White House next month. Perry suggested major adjustments in Pentagon plans would have to wait until next year and depend largely on what more the services have to offer. "I will be particularly interested in seeing your specific program recommendations for achieving efficiencies and funding reductions in programs of lower priority from a warfighting perspective," the secretary wrote. For the chairman of the Joint Chiefs to be weighing into the Pentagon budget debate with his assessment is indicative of an increasingly assertive Joint Chiefs' role in coordinating individual service plans and articulating a consensus view of military requirements. The Shalikashvili memo emerged from the deliberations of the Joint Requirements Oversight Council, a panel headed by Owens and including the services' vice chiefs. Over the past year and a half, Owens has strengthened the panel's role in formulating common investment objectives and reducing overlap among service programs.

[From the Los Angeles Times, Nov. 12, 1995]

JOINT CHIEFS SEEK MORE FUNDS TO UPDATE ARMS

(By Art Pine)

WASHINGTON—Reflecting growing concern over recent reductions in defense spending, the nation's top military leaders have warned that the Pentagon must boost its budget for weapon modernization sooner than planned or risk eroding military preparedness.

In a memo to Defense Secretary William J. Perry, the military service chiefs recommend increasing the modernization budget to $60 billion a year by fiscal 1998, rather than fiscal 2000, as currently anticipated. The budget now stands at $39 billion.

The unusual move by Gen. John M. Shalikashvili, chairman of the Joint Chiefs of Staff, and the heads of the four individual services, is intended to serve as a warning flag, both to the Clinton Administration and to the top generals and admirals involved in putting together the military budget.

Although President Clinton has promised to restore some of the recent defense spending cuts by fiscal 2000, the services say they are being squeezed and have had to use funds from their modernization and procurement budgets to help maintain military readiness.

There has been no immediate indication that the Administration would adopt the Joint Chiefs' recommendation in the fiscal 1997 budget, which is due out early next year. Clinton is already under pressure to hold down spending levels, and an increase of that size would be difficult to grant.

Although Perry pledged in a return memo to Shalikashvili and the other chiefs to "work closely with you to accelerate" the budget increase, officials said the memo has come so late in the budget preparation process that any serious consideration is likely to have to wait until next year.

Military leaders have been warning for months that many of the weapon systems and types of equipment in need of upgrading or replacement were not being modernized on schedule, but there has been little extra money available.

As a result, all four services have put off purchases of a wide array of new and replacement weapons and equipment, from fighter aircraft and helicopters to ships, tanks and trucks. They also have begun falling behind on maintenance.

Clinton asserted last winter that the squeeze on modernization would be temporary and pledged to restore much of the earlier cutbacks by the turn of the century. With pressures on overall federal spending mounting daily, however, military leaders have been skeptical that the White House can come through.

In the fiscal 1996 budget that it sent Congress last January, the Administration requested $39 billion for procurement—a drop of 71% from the 1985 peak, after adjustment for inflation. The Republican-controlled Congress raised that to $43 billion, but the House and Senate bills are stalled in a conference committee.

The Administration and the Joint Chiefs want the individual services to provide at least some of the difference by saving money in other areas, such as eliminating unnecessary programs and transferring some jobs to civilian contractors, but the effort is not yielding much.

Senior military officials insisted that the memo, while strongly worded, is not intended to provoke a confrontation with the Administration.

Critics have been contending for months that the Administration has not been budgeting enough to finance the size of military force that it has said it wants to maintain. The White House insists that it can find the money through savings coming from procurement reforms, but so far those gains have been elusive.

Mr. INOUYE. Madam President, the conference report is before the Senate for its consideration because of the extraordinary leadership and wisdom demonstrated by our chairman, the Senator from Alaska. If it were not for his leadership I think we would still be back in H-140, the conference room.

Madam President, this is a good bill. But before I proceed with my statement, pursuant to the consent agreement reached by this body, I am pleased to provide 20 minutes to the Senator from North Dakota [Mr. DORGAN].

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I appreciate very much the courtesy. I want to say at the outset I understand it is far easier to be critical and to oppose. I regret very much, for that reason, that I cannot vote for this conference report. I have voted for a number of conference reports, defense appropriations, and defense authorization bills. But I want to explain, during this period of time, why I cannot vote for this one.

Before I do that, I would like to respond to something the Senator from Alaska said earlier when I was not on the floor, because it will relate to something I am going to talk about in this conference report. I had spoken about the juxtaposition of Star Schools and Star Wars. I just used it as a metaphor of the choices that we often make.

I pointed out in the continuing resolution that we were about to consider, there is a 40-percent cut in funding in the small Star Schools Program, which is I believe a $25 million program whose funding will be cut to $15 million, a 40-percent cut.

The Senator from Alaska said, since this is forward funded, these schools are not going to be cut. My point was, when you cut something from $25 million to $15 million, the Senator may be right, if they are forward funded they are not cut this year but if you cut the funding, sometime they are going be cut.

The reason the 40 percent was included in the CR, 40-percent cut, 40 percent of funding, was because the House has determined they want to kill the Star Schools Program.

The only reason I raise the point on the floor was, in the priorities that we are involved with here in Congress, it is choosing one versus another. Can we fund this or that or the other thing? What can we afford? What can we not afford?

The point I was making is the Star Wars Program, which I am going to talk about at some length here, is juxtaposed against Star Schools. One we can afford; we have plenty of money for. The other we decide we either want to kill or we want to cut it back. The CR does take it from $25 million to $15 million. At some point in the funding cycle, that is going to affect someone. That was the point I was making.

Let me come to the point of my appearance on the floor on this piece of legislation. We are talking a lot about balanced budgets and spending and a lot of it is theory and debate. But the steps that you take, albeit baby steps, to deal with budget deficits, is when you start spending real money on the floor of the Senate. That is what we are talking about with respect to this bill. This is a spending bill. This is not theory. This is not idle debate. This is a decision about whether we spend money and how we spend money.

Now the question is, Who are the big spenders? Who on this floor wants to cut back on spending? Resist waste? Cut spending where it is inappropriate and unneeded? Let us see. Let us review.

This is the Defense Department. The men and women in our Armed Forces are critically important to preserving liberty in defense of this country. I understand that and salute them. I think they deserve our praise every single day. But all of us know there is waste in the Pentagon. Why else would we hear about $700 hammers and $500 ash trays and $1,800 toilet seats? I know those are some older stories, but there are legendary stories about procurement problems, even in recent times.

But let us talk about the procurement in this bill. This bill is for defense. The Pentagon said, with respect to T–39 trainers, they did not want to buy any. The Congress said, "I am sorry, you are wrong about that. You might not want to buy any but we insist, we want to spend $45 million and we insist you buy 17 T–39 trainers."

The Pentagon said, "We do not need any EA–6 strike aircraft modifications." We said, "We are sorry, you are wrong about that. We insist you spend $165 million."

The Pentagon said, "We do not need two amphibious assault ships." The Congress said, "Well, we must need one." And then the Congress said, "Let us buy two, while we are at it. Let us buy two, one for $900 million and one for $1.3 billion. The sky is the limit. Let us buy two." So you add $2.2 billion.

F–15 fighters. Let us buy six of those. The Pentagon said they did not want to buy any. We said, "Pentagon, you are wrong about that. We insist you buy them."

"F–16 fighter aircraft," we said, "You ought to buy six." We are going to spend money for six of them. The Pentagon did not ask for them. Cargo aircraft, three, $133 million.

Let me get some of the big ones. Black Hawk helicopters, Longbow helicopters. I could go on. M–1 tank upgrades, heavy tactical vehicles. I come from a small hometown. We do not use those terms. It is called trucks; heavy tactical vehicles, trucks, trucks the Pentagon said they did not want, trucks the Pentagon did not order, and the trucks the Pentagon did not need. But guess what? The Congress said let us buy some trucks. Spend the money because we have a credit card. By the way, we want to talk about cutting spending, but we want to buy trucks that nobody asked for.

That is not really the reason I came to the floor. I came to the floor to talk about two big items, the B–2 bombers and Star Wars. B–2 bombers—the administration says let us keep the production line open. Let us keep the production line open. Congress says let us start buying more B–2's. We have 20 of them. Let us buy 20 more. Let us obligate ourselves to spend over $30 billion on B–2 bombers the Pentagon did not ask for.

That is trouble enough. That is not really the reason I came to the floor of the Senate. The reason I came to the floor of the Senate is to talk about Star Wars. The cold war is over. There is no Soviet Union. This afternoon as I speak we are crushing missiles over in the old Soviet Union, drawing down launch vehicles, and destroying warheads as a part of our arms control agreement. But the cold war is not over everywhere. It is not over in this Chamber. The appetite to build things we do not need with money we do not have rests right here on this little line, "national missile defense," albeit Star Wars, ABM. The only one built in the free world was built in North Dakota, my home State. A couple of billion dollars was spent, and 30 days after it was opened and was declared operational it was mothballed. That is the way it works sometimes.

Now that there is no Soviet Union, we are involved in arms control. We are destroying missiles and weapons on both sides. We have a Congress that says to the Pentagon, by the way, we insist that you start deploying a Star Wars Program. We insist that you deploy missiles in the ground by 1999 on an accelerated basis with a space-based component and multiple sites, which will abrogate the ABM Treaty, among other things.

What is this? I do not understand. I guess I missed something. We have people here who say we are out of money and in debt up to our neck. We want to pass an amendment to the Constitution to require us to balance the budget. The very same people bring to the floor of this Senate an unending appetite to spend the public's money—as long as it is not on milk or shelter for kids—to spend the public's money on something called Star wars. I think people can be excused for wondering what kind of air is being breathed in these Chambers. This makes no sense at all.

I mentioned earlier the juxtaposition of priorities. I do it again because—let me remind people what we are talking about this year. If you say it is not related, you do not understand the process. We only have a certain amount of money to spend. Of 55,000 kids, every single one has a name who is going to be told, "We are sorry. You will get kicked out of the Head Start Program." If you come from a low-income family, from a circumstance of disadvantage, tough luck. "We do not have any money for you. No Head Start Program for you, Timmy, Tommy, or James." There are 600,000 kids, low-income, disadvantaged city kids, will be told, "We are sorry. No summer jobs. We cannot afford it. Tough luck." And 2.2 million Americans will be told, "We are sorry. I know we have a low-income home heating program to help you pay the heating bills in the winter in States where you have harsh bitter cold." We say, "We are sorry. Home heating is a luxury. You can do without it."

I wonder if those who say that have been in these sheds or shacks where people sit on the floor with diapers and kids ill-clothed and the wind is howling through the cracks in the walls, and have seen the desperate condition, especially on Indian reservations and elsewhere. Then would you say to these people, "We are sorry. When it is 25 or 30 below, low-income home heating help does not matter. You can do without."

There are dozens and dozens of those kinds of choices. Then we say, "By the way, even though we cannot afford those things—which I happen to think are necessary—the sky is the limit when it comes to ships, planes, and submarines and helicopters that the Pentagon did not order."

But especially galling to me is the resurrection of the star wars program, to decide that we want to start building a monument that will cost $48 billion—$48 billion for a star wars program. We had people bring on the floor of the Senate charts that show us that North Vietnam is a big threat, and Libya is a threat, and Iraq is a threat. Lord wonders how they can sleep at night. Maybe that might be the problem. Maybe those who are so frightened by Qadhafi and others simply are not sleeping, and the result is a proposal to build a star wars program.

Everybody in here who thinks that ought to understand that a far greater threat to this country, if in fact there is a nuclear threat by a rogue nation, is not from a sophisticated intercontinental ballistic missile. It is the threat from a nuclear bomb packed into a suitcase, or put in the trunk of a Yugo car and parked at a New York City dock. Everybody understands that is a much higher potential threat than some rogue nation getting an ICBM. Or what about a glass vial about that big full of the most deadly biological agents known to mankind? Or what about somebody that rents a truck and builds a fertilizer bomb? Do you all think that some rogue terrorist nation is going to get an ICBM and a nuclear tipped warhead so we can spend $48 billion we do not have? Look, this is an appetite that simply cannot be satisfied.

I would vote for this conference report if there were several changes. But I am not going to vote for a conference report at a time when this country is out of money. This country is choking on debt. This country is saying to everybody, tighten your belts. And then we say to those folks who are building a star wars program that we have been planning for 15 years, we know the world has changed, we know the cold war is over, we know there is no Soviet Union, but guess what? The appetite to build a star wars program goes unabated. Frankly, probably one of the locations for the star wars program will be in my home State. I have some folks pretty upset with me. "Why don't you support this? This is jobs." It is not jobs. It is waste. I support things that defend this country, that represent strength and represent the ability to preserve liberty.

But I think when we start making choices, real choices on spending and come to the floor of the Senate with these kind of add-ons—I know the Senator from Arizona was going to talk about some others—but especially add-ons like the B-2 bomber program and a star wars program, I just wonder what people are thinking about.

Again, let me say we will probably be in session tomorrow, Saturday, Sunday, and the rest of the week, over whether you balance the budget in 5 years, 7 years or 10 years. You know, those who want to do that deal with the theory of it. They might just as well get a pipe, eat a croissant with their feet up and ruminate forever about it.

The way you balance the budget is bring spending bills to the floor that cuts spending. This bill adds $7 billion to the President's request for defense, and explained where it is added. But the most significant thing this bill does is it commits this country to two areas of spending—the B-2 bomber and the star wars program that will bleed tens and tens of billions of dollars in the next 5 and 10 years from the taxpayers' pockets in this country for something we do not need.

I am anxious for those who support this bill, for those who say we have plenty of money for star wars but not enough for Head Start, plenty of money for star wars, a star wars program the Secretary of Defense did not ask for, the star wars program the President says we do not need—I am just anxious to see those folks who say we have plenty of money for star wars but not enough for star schools come to the floor again and talk about their appetite to cut spending. If there is an appetite to cut spending, this is a good place to start. We do not have to wait until January. We do not have to wait until December 1. A good time to start would be today at 5:30, if we can get a chance to vote—maybe adding close to $400 million for star wars. It does not seem like a lot of money to some. But if you grow up in a town of 400 people and graduate from a high school class of nine and do not understand much about $400 million, then understand they say we just cannot afford these other little programs that would help folks that are in need, help folks send their kids to college, and help folks do the right thing. Then we start thinking maybe this is not just about the old theoretical debates. Maybe it is once again the same old debate we have every time we discuss money on this floor. Big interest and little interest, and little interest be damned. The big interest, guess what? Start smiling, because in our envelope behind door No. 1 is the big prize for you.

I regret that I cannot vote for this conference agreement. But it seems to me, if all of the angst and all of the energy and all of the anxiety we have heard on the floor of the Senate now for the last several weeks about spending is indeed real, then those who express it should come to this floor and auger in on questions like the B-2 bomber and like the star wars program, and, yes; like the other programs where we have added planes, ships, submarines and helicopters that were not ordered, were not needed, were not asked for. Come to the floor, stand up, and proudly pull up their suspenders and say, "Count me in. I want to cut spending." Or will they come to the floor and just button their suit and say, "Well, here we go. I sure like this kind of spending. Let's add to it. Let's take 7 billion bucks and stuff the Pentagon's pockets and let's decide that is our priority. Not star schools, star wars. That is our priority."

It is, with all due respect to those who believe it is the right thing, a warped priority for this country's future. And I hope that when the dust settles on all of this debate, the American people will understand when some waive their arms and raise their voices and boast to the heavens that they are the ones who are against all the big spending, they are the ones who are between the taxpayers and calamity because they are the ones who want to cut the deficit, they are the ones who want to balance the budget, I hope they will take a look at how they voted on this, an obligation for my kids and yours to ante up $48 billion for a star wars program that does nothing to add security to this country.

Madam President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 31 seconds.

Mr. DORGAN. I would like to reserve the 3 minutes.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Pursuant to the consent agreement, I am pleased to yield 15 minutes to the Senator from New Mexico.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank you and I thank the Senator from Hawaii for his constant courtesy and helpfulness to all of us here in the Senate.

I also regret that I must rise in opposition to this conference report on the Defense appropriations bill. It is clear to me that the bill should be vetoed, and that the President is going to veto it.

Let me quote from a letter that the President sent to Congressman LIVINGSTON dated October 18. It said:

> However, by appropriating $6.9 billion more than I requested, the conference report did not address my fundamental concerns about spending priorities. As the bill now goes back to conference following its defeat on the House floor, it is important that the conferees understand where I stand. Absent a broader agreement with Congress that adequately funds crucial domestic programs in other appropriations bills, I will veto any defense appropriation bill that adds extra billions for defense programs not in my request.

Mr. President, the conferees did not address the President's fundamental concern about misplaced priorities in their second conference. And this conference report, like its predecessor, is full of unrequested, unneeded, and unsustainable add-ons. As for funding of crucial domestic programs in other appropriations bills, particularly the Labor, HHS, the VA-HUD and the Commerce, State, Justice bills, it is absolutely clear that we have made virtually no progress since the President wrote.

The fiasco of closing down the Government has only widened the gulf between the majority party and the President on what our domestic priorities should be. Indeed, the majority party's interest in cutting programs for education, the environment, civilian research, heating assistance for low-income citizens, national service, Indian programs, and many others seems to grow as we proceed through this budget debate.

I voted against the bill when the Senate passed it early in September. I thought it was worthy of a veto then. In my view, the conference has not improved it. In fact, it has made it worse.

This bill has truly become a weapons-for-everybody bill. When it left the Senate, the bill was $6.45 billion above the President's request. It is now $6.9 billion above the President's request. But that figure alone understates the net addition because, according to press reports, the conference report that we are here considering takes back $1 billion that the National Reconnaissance Office, [NRO] had accumulated in unspent funds. That money was spent on unneeded, unrequested, unsustainable weapons that were not in the Senate version of the bill, just as the other $6.9 billion were. If you adjust for the NRO money, this bill is in fact about $8 billion above the President's request, not $7 billion.

The conferees had enough money to buy ships, planes, trucks, helicopters of every description, some of which—like a $20 million Cyclone class patrol craft—were in neither bill prior to going to conference.

The total add-on package is in the range of $10 billion. There are offsets in the range of $2 billion as well.

The obvious question is what is it that justifies this extraordinary increase in defense spending, and I for one cannot point to a threat.

We spend twice as much as all of our potential adversaries combined. If we put together the budgets—our budget with those of our NATO allies and Japan—we and our allies are outspending our potential foes by more than 3 to 1. Of course, it will be argued that much of the additional spending in this bill is somewhere in the Pentagon's budget for the next 6 years. That was the argument that was made for the $1.3 billion HLD–7 amphibious assault ship that the Senate debated when we passed the bill in August. The Navy planned to buy that ship in the year 2001. That will undoubtedly be the argument that is used to justify the $900 million LPD–17 amphibious transport dock which the House insisted on in conference. The Navy planned to buy that in 1998.

Mr. President, this is really an extraordinary argument. Essentially those who make it are saying that they can pick and choose anything in the 6-year plan that the Department of Defense has that helps their State or district and that plan when you add it up totals about $1.6 trillion. Where else in our budgeting this year are we finding the ability to do that? The answer clearly is nowhere. Everywhere but in this case of the Pentagon we cannot find enough for this first year's budget, let alone find money to add $1 billion projects in the States or districts of powerful members of the Republican leadership.

But worse are the programs that do not even fit in the 6-year plan. Some of these have huge budgetary implications. The B–2, which was not in the Senate bill, has an outyear requirement for tens of billions of dollars. National missile defense, which my colleague from North Dakota spoke about, will require tens of billions of additional dollars not in the 6-year plan. There is certainly no money in future year budgets for the Hellfire-2 and the CBU–87 antiarmor munitions. The Pentagon's own inspector general told Congress that we already had enough of these munitions to cover every target in a 2 major regional contingency scenario, and yet the Senate voted to continue to buy these unneeded weapons, and the conferees agreed to spend tens of billions of dollars on them as well.

There certainly is no money in the 6-year plan for most, if not all, of the member interest add-ons in the research and development budget, which always seems to have an outyear requirement that goes on and on. I have in mind items that the Senator from Arizona has on his earmark list, like the curved plate technology program, the Center for Astronomical Adaptive Optics—which presumably should be funded by the National Science Foundation's astronomy program, if at all—the Pacific Software Research Center. There are many others.

It is frankly disconcerting to me that the Technology Re-investment Project, which is a competitive and a cost shared program, was cut by $305 million while noncompetitive, noncost share programs like those I referred to flourish in these supposedly austere budget times. Obviously, austerity stops at the door of the Pentagon as far as this bill is concerned.

Mr. President, we cannot afford these add-ons even under the Republican budget. There is no money in the outyears to sustain the programs. As Congressman OBEY has repeatedly pointed out, the Republican defense budget over the 5-year period from fiscal year 1998 to 2002 is less than the President's. Let me repeat that. The Republican defense budget for fiscal years 1998 to 2002 is less than what the President has asked for. According to an article from the November 6 issue of Aviation Week, the Republican majority is considering reducing the net 7-year addition to the defense budget from $20 to $8 billion in the final negotiations over the budget with the President, whenever that negotiation occurs.

I ask unanimous consent that that article from Aviation Week be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, whatever figure emerges, this bill is inconsistent with it. This bill assumes future Congresses are going to spend tens of billions of dollars more for defense than the Republican budget resolution allows.

The Senate Armed Services Committee earlier this year made clear in its report that it had not designed the authorization bill to be consistent with the realities of the out-year Republican defense budget totals. The committee said on page 3 of its report:

> The Committee remains concerned about the adequacy of funding levels for national defense programs in coming years. * * * Budget levels proposed for future years do not adequately fund even the level of forces required for the Bottom-Up Review Force. * * * The limited progress reflected in this bill cannot be maintained unless future funding is increased.

Mr. President, increasing defense spending above the June budget resolution is not even on the table. Nor should it be. I hear no one in the Republican leadership saying they want to increase defense spending even more. Despite the rhetoric in last year's campaign about the President not spending enough on defense, the fact is all the 7-year Republican defense budget does in its current form is provide a 2-year infusion of pork this year and next followed by 5 years in which Republicans are saying that the President is being a tad too generous to defense. Mr. President, I say we should forgo the pork this year and next. Let us put this money to better use in the domestic appropriations bill, particularly Labor-HHS, VA–HUD, and Commerce-State-Justice, all of which require additional funds to sustain critical programs. I suspect that by the end of this year's budget process, at least some of the unneeded, unrequested, and unsustainable projects will be stripped from this bill.

Mr. President, there are several other provisions which concern me in this bill. When the Senate debated this bill in August, the senior Senator from Arkansas, Senator BUMPERS, offered an amendment to trim the defense export loan guarantee authority in this bill from $15 to $10 billion. The vote to table that amendment was 53 to 47. Yet the conferees came back with $15 billion in loan guarantees for defense exports, to the extent they are authorized. Unfortunately, a loan guarantee provision is included in both the House and Senate versions of the authorization bill. So if there is an authorization bill, this appropriations bill will put the taxpayers at risk to the tune of $15 billion for defaults on payments for defense exports.

Mr. President, when Senator KEMPTHORNE started working on this issue a couple of years ago, he sought authority for a trial program to guarantee about $1 billion in defense exports to a limited number of countries. At that time, it was a subsidized guarantee. Now it is supposed to be paid for by the defense industry itself. But we have moved in 2 short years from a $1 billion trial program to a full-blown $15 billion program of defense export guarantees.

Mr. President, we should not be attempting to prop up our defense industry by turning it into the arms merchant for the world. It is our own troops who will too often be facing off against these weapons. Instead, we should be taking the lead in trying to negotiate arms transfer restraints. There is a historic opportunity with the end of the cold war and with nations across the globe attempting to free up funds for economic development and useful infrastructure to scale back regional arms races. This loan guarantee provision is just bad public policy and I regret it was not at least scaled back by the conferees after the close vote on the Bumpers amendment.

Mr. President, I also regret the cuts made in this bill to the technology reinvestment project and SEMATECH. The $305 million cut in the technology reinvestment project and the $50.5 million cut to SEMATECH in the last year that it was seeking Federal funds, send precisely the wrong signal to the Pentagon's research bureaucracy. The signal is that rather than leveraging the commercial sector in innovative ways to save the taxpayers' money in developing and procuring dual-use technologies, it is OK to hunker down and pursue duplicative, ultimately dead-end research with a military label on it. In fact, not only is it OK, but it is the preferred approach of the congressional majority.

This is again bad public policy which the Pentagon cannot afford to pursue at a time of limited resources and which will come back to haunt us in the next century if it is not soon reversed.

Mr. President, I could go on and on and cite additional problems with this bill. I think the point is well made. And I will not delay the Senate further in discussing the details of the conference report. I urge my colleagues to vote against the bill. I urge the President to carry out his threat to veto the bill. It reflects a set of priorities with which I for one do not want to associate myself at a time when we are doing so much damage to many vital domestic programs.

Mr. President, as stated by the Senator from North Dakota, this bill does make a mockery of all the speeches that I have been hearing here on the Senate floor about deficit reduction, about the need to balance the budget, about the need the tighten our belts. The Congress can and must do better than to ratify the misplaced priorities reflected in this bill.

Mr. President, I ask unanimous consent to have the letter to Mr. LIVINGSTON printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, October 18, 1995.

Hon. BOB LIVINGSTON,
Chairman, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding the conference report on the Fiscal year 1996 Defense Appropriations Act. I want you to know that I appreciate your hard work and leadership on this bill, as well as that of Senators Stevens and Inouye. The Conference Report had many commendable features. For example, a number of policy provisions that raised serious constitutional and national security concerns were satisfactorily resolved in conference, and funding was secured for several programs that were of particular importance to me and to the national security of this country, including the Cooperative Threat Reduction program and the Technology Reinvestment Project.

However, by appropriating $6.9 billion more than I requested, the Conference Report did not address my fundamental concerns about spending priorities. As the bill now goes back to conference following its defeat on the House floor, it is important that the conferees understand where I stand. Absent a broader agreement with Congress that adequately funds crucial domestic programs in other appropriations bills, I will veto any defense appropriations bill that adds extra billions for defense programs not in my request.

I am ready to work with Congress to ensure that we reach that agreement.

Sincerely,

BILL CLINTON.

EXHIBIT 1

[From Aviation Week & Space Technology, Nov. 6, 1995]

DEFICIT HAWKS GAIN, THREATEN DEFENSE HIKES

(By David A. Fulghum/Washington)

U.S. Republican lawmakers are considering a deal that could cut $12 billion from promised defense increases—a key element in the party's Contract With America.

Defense boosters and fiscal conservatives are trying to craft compromise budget language that would make the cuts over the next six years. The Republican leadership is attempting to satisfy lawmakers who believe deficit reduction should take priority over defense increases. The compromise is aimed at gaining passage of the Fiscal 1996 reconciliation bill, catch-all budget legislation that funds the entire federal government.

The compromise defense language is still in flux. But if it survives in the overall reconciliation bill, the Republicans' much ballyhooed $20-billion defense spending hike above the Administration's request could be slashed to only $8 billion, according to a Democratic congressional aide. But a Republican aide said it is not yet clear if all $12 billion in cuts "will be directly translated to defense." Complicating matters, the fate of the reconciliation bill is in serious doubt because of White House and congressional squabbling over the best way to balance the budget.

If the Republican leadership decides for the sake of fiscal peace with its deficit hawks to renege on its promised defense increases, the Pentagon could find it impossible to buy as much new armament as GOP defense hawks would like. That includes C–17 airlifters, B-2 bombers, missile defense, ships and submarines.

Moreover, organized resistance to defense hawks appears to be mounting. A coalition of freshman lawmakers, heavily influenced by Sen. John McCain (R.-Ariz.), has concluded that defense is not a top priority, and they are forming a task force to begin examining the whole issue of defense spending early next year.

"From the reconciliation bill will flow the defense budget top lines," the Democratic congressional staffer said. If there are major cuts, "there will be no money to sustain buying C–17s at a high rate or additional B–2s."

The U.S. military is being unequivocal in its support for purchasing an airlifter fleet made up of 120 McDonnell Douglas C–17s. A plan to buy less expensive C–33/Boeing 747–400 freighters or Lockheed C–5Ds has of late had shrinking support in the Pentagon. However, congressional opponents of purchasing an all-C–17 fleet contend there is still a flicker of interest from the White House in the Boeing 747–400. Consequently, they expect the Pentagon to leave the door open for a mixed purchase at least through the 1996 presidential election.

However, senior defense officials believe that the reasons for buying a mixed fleet have disappeared. The C–141 fleet, which C–17s are to replace, is no longer grounded and is expected to soldier on in decreasing numbers well into the next century. Meanwhile, McDonnell Douglas has transformed the C–17 from a troubled program to an operational and technological success.

Congressional supporters of a mixed fleet point out that a Pentagon recommendation to buy 120 C–17 equivalents is simply an acquisition decision. It does not mean the money is in the long-term defense budget.

"It means they go from standing in the acquisition line to standing in the budget line and that's a whole new ball game," a Democratic staffer said.

Some staffers contend the Air Force can sustain only a $2.5-billion per year investment in airlifters, which would equal only eight C–17s. At that rate, the U.S. Air Force would actually lose airlift capacity until 2007 because of the retirement of C–141. Airlift could be sustained only by buying some high-payload 747–400s, they said. Some congressional and aerospace industry officials thought the Pentagon might keep the C–33 option alive as a goad to McDonnell Douglas to keep C–17 prices down.

Senior defense officials said they do not believe the Defense Acquisition Board (DAB) will sustain the option, choosing instead to use contractual methods to ensure McDonnell Douglas prices stay low. Moreover, Air Force planners believe the defense budget as now projected will allow them to buy C–17s at a greater rate than eight per year, thus avoiding an airlift shortage.

But, there are indications that defense planning could receive some severe jolts. A senior Air Force official candidly admitted that planners are being forced to "look at the issue with blinders on." They have not made budgetary excursions to project what will happen if, for example, they are forced to buy more B–2s. The requirement is considered a likely inclusion in a compromise Fiscal 1996 defense appropriations bill. If the Republican Congress forces the Pentagon to buy more B–2s without additional long-term funding, Air Force leaders will have to rebuild their budgets and likely cut or stretch out C–17 purchases.

But in a move guaranteed to keep the airlifter debate alive, Congressional Budget Office researchers have just completed a study that offers compelling arguments for buying a mix of aircraft to meet the Pentagon's requirement for 120 C–17 equivalents.

"Buying 32 more C–17s plus 30 C–3s would provide the same delivery capability as 80 additional C–17s," the CBO report said. "That option would also be nearly $8 billion cheaper."

CBO researchers said the mix of C–17s and C–33s would cost about $28 billion to buy and operate and would be a better deal if there were adequate room on airfields to land and unload the less maneuverable C–33s.

"If, however, U.S. forces were limited to a few airfields that had a small amount of ramp space [such as Macedonia], the [C–17/C–33 mix] option might not deliver cargo as quickly as would 80 more C–17s," the CBO report said. "And such a combination would not provide as much flexibility to handle specific military missions such as strategic brigade airdrops [flowing directly from the U.S. to a foreign battlefield]."

CBO noted that the first 40 C–17s cost about $300 million each in 1996 dollars but predicted the company light like to achieve a flyaway cost of $203 million each, without government furnished avionics and engines.

ESTIMATED COSTS IN 1996 DOLLARS OF THREE STRATEGIC AIRLIFT OPTIONS

[In millions of dollars]

	1997	1998	1999	2000	2001	Total 1997–2001	Total 1997–2020
Option 1: Buy 80 Additional C–17s							
Quantity purchased	8	8	8	10	12	46	80
Acquisition costs	2,510	2,490	2,430	2,670	2,910	13,010	20,730
Operation and support costs	0	0	50	140	250	440	15,470
Total costs	2,510	2,490	2,480	2,810	3,160	13,450	36,200
Option 2: Buy 65 C5Ds							
Quantity purchased	4	10	12	12	12	50	65
Acquisition costs	[a]2,420	2,010	1,840	1,780	1,630	9,680	11,690
Operation and support costs	0	0	0	120	290	410	15,540
Total costs	2,420	2,010	1,840	1,900	1,920	10,090	27,230
Option 3: Buy 32 Additional C–17s and 30 C–33s							
Quantity of C–17s purchased	8	8	8	8	0	32	32
Quantity of C–33s purchased	1	1	6	6	6	20	30
Acquisition costs	[b]2,930	2,660	3,400	[c]3,120	1,170	13,280	15,470
Operation and Support Costs	0	0	50	140	290	480	12,850
Total costs	2,930	2,660	3,450	3,260	1,460	13,670	28,320

[a] Includes $850 million for the cost of restarting the C–5 production line.

[b] Includes $275 million in costs to develop the C–33.

[c] Cost declines in 2000 because advanced procurement funds are no longer needed for the C–17.

Note: All options exclude any costs associated with procuring or operating the first 40 C–17s.

Source: Congressional Budget Office.

Mr. BINGAMAN. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I am prepared to yield some time to the Senator from Maine. But I want to say to the Senator from New Mexico, I am saddened to hear those comments. I wish we had a little more time. I would be glad to disabuse him of some of the comments he made.

To the contrary, I am sure there are New Mexican men and women around the world in some of these deployments we have made. I will be very interested to see how he is going to vote on the deployment to Bosnia, whether he supported the deployment to Somalia, whether he supported the support for the Kurds, the humanitarian assistance to Bosnia that is going on now or the deployment to Macedonia or the Adriatic blockade or the blockade of Iraq.

I do not see how we can send our people, our young men and women, throughout the world, and then complain we are providing them the equipment they need to survive. And in my judgment, the amount of money in this bill is literally a decline from last year in real terms. And I really think that to request the President to veto this bill, and at the same time to consider deploying forces to the Balkans, is just the height of really—well, I do not want to use the word here on the floor of the Senate.

It boggles my mind to think some people will vote against this bill and then vote to deploy forces to the Balkans.

I yield 5 minutes to the Senator from Maine.

Mr. BINGAMAN. Would the Senator from Alaska yield for a question?

Mr. STEVENS. I will be glad to get to the Senator later on. But I want to yield to the Senator from Maine 4 or 5 minutes.

Mr. COHEN. Mr. President, first let me thank both the Senator from Alaska and the Senator from Hawaii for their efforts in trying to negotiate with their House counterparts. I and other Members have been locked in negotiations for weeks now with our House counterparts on the authorization bill, and we have yet to reach success. And so I appreciate the work that the Senators have put in and, especially, in working out the differences in the funding requirements.

One area that troubles me is the B–2 bomber. For several years now I think we have gone on record as saying no more than 20. We decided that several years ago.

At first there was a notion we had to have a penetrating bomber because after we fired off our ICBM's in an exchange with the Soviet Union, we would need the B–2 bomber to penetrate Soviet air defenses, what remained of them, to go in and hunt down mobile missiles. When that became rather impractical, to say the least, when we finally exposed the rationale for that, the Air Force at that point came back and said, well, we do not really need it as a nuclear penetrating bomber, perhaps we can use it as a conventional bomber.

They used to present us with a chart indicating that the B–2 will replace some—I cannot recall the number now—but somewhere from 40 to 50 aircraft. If you have one B–2, you will not need all these other aircraft. This one B–2 can fly back and over. No jamming aircraft needed, no F–15 escorts, and so on. I said, "Fine, take all the B–2's and eliminate all the other aircraft. We do not want that tradeoff," they said. "We want to have the B–2 and all the other aircraft."

But we are now on the eve of this particular conference report, and once again, we find there is roughly $500 million included for the B–2 bomber. I want to ask a question of my colleague from Alaska as to whether or not it is his and his colleague's intent, the managers of the bill, to open up the B–2 line to start producing more B–2 bombers?

I can tell you why I am concerned about this. We are in the process now of negotiating with the other body. The other body by 3 votes—3 votes—approved additional funds for the B–2 bomber. They want to open up an entire new line to produce another 20 B–2 bombers. That is with life-cycle costs of roughly $30 billion.

I want to know, where is the $30 billion going to come from? Now, I could see some are making the case, saying, "Well, maybe we need to do a little more experimentation here on the B–2, that this is, by the way, 1970's technology. We are moving into the 21st century. We may have to update the B–2 with some new research and development."

I can see the case being made for the purchase of even spare parts for the existing B–2 fleet. But I am really concerned that we might start down the path, an irrevocable path, to build 20 more B–2 bombers, at a cost of $30 billion, and I do not know where the money is going to come from.

So, I want to know from my friend from Alaska as to whether or not the Appropriations Committee is committing itself and committing this body to opening up this line, to taking the cap off, to starting another process of building at least 5, 10, 20, more B–2 bombers. If that is the case, I would have great difficulty with this measure.

Mr. STEVENS. Mr. President, I would say to the Senator from Maine that, as I made the statement in the opening part of this discussion on the bill, we have provided the money for the continuation of the line. The decision will be the President's as to whether that will go forward, or at least it will be with the Armed Services Committee, because we have no authorizing language in the bill. We have just funded it.

It is not within our province to start a multiyear procurement line with an annual appropriations bill. I will say, though—I am constrained to say that 20 B-2 bombers is equivalent to four *Seawolf* submarines. I have fought every *Seawolf* that has come before the Senate, and yet they are going forward. And we need *Seawolf* submarines a lot less than we need B-2 bombers. At least B-2's are force projections and capable of meeting some of our needs on an international basis. The *Seawolf*, in my judgment, is not needed at all. But I tell the Senator that some of these decisions are not made by individual members of either the Armed Services Committee, on which the Senator serves, or the Appropriations Committee, of which I am pleased to chair the subcommittee.

The answer to the question directly is, we have not opened up this line by the language in this bill.

Mr. COHEN. I thank my friend for his comments. I point out this body has gone on record saying no more than 20. Whether or not the Senator agrees with the need for the *Seawolf*—that is a debatable matter obviously—the fact is that the Senate has gone on record that no more than 20 B-2 bombers should be built. And here we are at least opening up the prospect of a new line of more B-2's at a time when, in the outyears, I do not know where the money is going to come from.

I know that the Senator from Alaska, the Senator from Hawaii, have been creative over the years in coming up with money that is necessary to fund our programs. But if you look past the year 2000, I do not know that even he and the Senator from Hawaii can be persuasive enough for their colleagues to say we have to appropriate that kind of money.

By the way, looking at the SCN account, the Navy's shipbuilding and conversion account—and the Senator from Alaska can correct me on this—we have roughly $4 billion in the SCN account. And in order to meet the Navy's needs, by the year 2000, it is going to go up to——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COHEN. Could I have 1 more minute?

Mr. STEVENS. I will be glad to give the Senator 1 more minute, but let me precede that by saying we have provided the money for long lead-time items for the new B-2 line, should the President decide to open it up. We have not funded money for any single B-2.

We have given the administration a chance to revisit the question of keeping the B-2 line open by virtue of making the money available for long-lead-time items for new B-2's should the decision be made to procure them.

Mr. COHEN. I thank my friend.

As I indicated before, we are going to be going in the SCN account, the shipbuilding account, from $4 billion, roughly, up to $15 billion in the year 2000 and beyond to get the ships that the Navy indicates it is going to have to have in order to meet its requirements.

I do not know where that money is going to come from. I do not know how we are going to have enough money in the shipbuilding account at the turn of the century, and I am not sure there will be a Congress willing to vote the money to fund it. That is one reason why I raise the issue on the B-2.

I am at least consoled somewhat by the Senator's statement that it is not the intent of the appropriators to open up a new line but rather it is the intent to leave it up to the President to decide whether he is going to overrule his own Secretary of Defense and Chairman of the Joint Chiefs, both of whom indicated they do not need the B-2 or want it given the cost requirements of the program.

I thank the Senator for yielding me this time.

Mr. STEVENS. Mr. President, I thank the Senator from Maine for his contribution and his comments. Although we were criticized by another Senator on the floor, it is a fact that we have saved money by accelerating the decision to buy the LPD and LHD now. That, in fact, will make room for the outlays that are necessary to carry on the ship procurement that the Senator from Maine has mentioned.

But there is severe strain in the Department's budget in the outyears, and both the President and the Congress have noted that in terms of the last 2 years of the 7-year period. It will be a difficult thing to fund the items that are started, both in the shipbuilding and the aircraft procurement accounts. However, there are decisions that are going to be made, I assume, that will take care of the outyears by the authorizing committee.

Mr. President, the Senator from Arizona has 30 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I yield myself such time as I may consume, and I do not think I will consume the entire time allotted to me, I tell my colleagues.

First of all, I paid close attention to the colloquy between Senator COHEN and the distinguished chairman of the subcommittee, who I believe, along with the Senator from Hawaii, has worked very hard on these issues for many, many years.

I note and I think it is an important aspect of what I am about to say, that since 1985, the defense budgets have declined by 35 percent in real dollars, with another 10 percent decline by the turn of the century.

There is no possible way that we will be able to meet a Bottom-Up Review, a modified Bottom-Up Review or anything resembling it with those kind of numbers staring us in the face, which is one reason why I was a strong supporter of the $7 billion increase in defense spending, because I believe that we are terribly short and facing block obsolescence in items such as sealift, airlift, amphibious capability, tactical air, depot maintenance, that terribly unsexy word, 4 or 5, 6, 10 years behind. Training funds are miserably short. We had a situation not too long ago where the U.S.S. *Inchon* came back from 7 months off the coast of Somalia, was back home approximately 2 weeks and then went out for another 3 months off the coast of Haiti. Mr. President, there is no way you will keep qualified men and women in the military under those kinds of conditions that the crew of the *Inchon* was subjected to.

So, I believe that there is a clear and compelling requirement for us to increase spending, which increases the depth of my bitterness at how we have spent this additional $7 billion. I can identify, and I will in my statement, $4.1 billion, or over 60 percent of this total $7 billion, wasted on projects which do little or nothing to enhance the readiness of our forces today or to modernize our forces to ensure their future readiness.

We live in a very dangerous world. I strongly disagree with the comments of the Senator from North Dakota about the fact, in his view, we do not need to spend money on ballistic missile defense. I think any casual observer of the passing scene will recognize the incredible threat posed by the proliferation of weapons of mass destruction and the means to deliver them. We are finding out that in Iraq, Saddam Hussein was very, very close to having both delivery capability and the weapons needed to have changed that conflict in a most dramatic and significant fashion.

So, I am not arguing for cuts in defense spending, but I am saying this, and I am saying it as much and as sincerely as I have said anything on the floor of this Senate: If we do not stop wasting these tax dollars, if we do not stop this pork barreling, if we do not stop spending money on projects and programs that have no relevance to the post-cold-war era, the American people will not support a minimum level of defense spending.

One of the problems, I have to tell you, Mr. President, is we no longer have a conceptual framework for the threats that face our national security interest. The Bottom-Up Review, in its day, was an important step forward. It is no longer relevant because it cannot be built. There is no way that we are going to maintain the Bottom-Up Review. But what we have to do is ascertain what the threats are to our national security, which I have been over many times on this floor, and what we need to meet those.

The administration has failed to do it, and we in the Congress have failed to recognize them. So, therefore, it opens the door wide to not only pork barreling of additional projects, but also funding of major weapons systems, major commitments to multibillions of dollars in the future years that have no relevance to the threat.

I, obviously, speak specifically of the B–2 bomber and the *Seawolf* submarine. I was pleased to hear that the distinguished subcommittee chairman said this additional $493 million for the B–2, which is in this bill, does not commit us to an additional $36 billion. I have been around here long enough, I have been around here long enough to know that once you get your fist in the tar baby, you do not get out. If we start that line up again, we are not going to shut it down until we have expended an additional $36 billion, which we simply do not have.

Mr. President, I want to also point out, I find it interesting that the President has threatened to veto this bill on the grounds that much of the spending is unneeded and much of it may be wasteful and unrequested items. If he should have ever vetoed a bill, he should have vetoed the military construction appropriations bill.

Did the President miss the fact that there was $700 million added on in the military construction bill which was neither requested nor required, items such as hypervelocity ballistic-range facilities, such as fire stations, such as a foundry renovation at Philadelphia Navy Shipyard that is being closed, such as a dining facility at Fort Bliss, a highway overpass at Fort Sam Houston?

Did the President miss all those? If the President was serious, then the President of the United States would have vetoed the MilCon bill in a New York minute.

What we are doing, I will tell you again, and, as I say, I am dead serious and the reason why I risk offending my hard-working colleagues on these appropriations bills is the American people in 1994 said they do not want any more of this pork barreling and wasteful expenditures on defense and they will not support it. Everyplace I go, it is almost a joke. I am not going to go through all of these tonight, because I have gone through them so many times before.

Earmarks: $5 million grant to the Marine and Environmental Research and Training Station in Oregon for "programs of major importance"; $25 million to the Kaho'olawe Island conveyance, where I am led to understand there is already $50 million sitting idle, not in either bill, not in either bill, it comes out in the conference; $3.4 million for private physicians "who have used and will use the antibacterial treatment method based upon the excretion of dead, decaying spherical bacteria" to work with Walter Reed Army Medical Center for a treatment of Desert Storm Syndrome. That may be a valid requirement. Why did we not discuss it? Why did it appear in the final bill?

Authority to provide free medical care at Army medical facilities in Hawaii to citizens of surrounding islands. I visited Hawaii, I understand that there are needs on the islands around Hawaii for medical care. I also know that there are rural places in my State and there are rural places all over America that do not have medical care either. Why do we not provide free medical care for all of them?

Prohibition on downsizing or disestablishing the 53d weather reconnaissance squadron; prohibition on using Edwards Air Force base as the interim airhead for the National Training Center at Fort Irwin. There is a little more to these than meets the eye.

Somebody wants to have a runway extended at Barstow Daggett Airport when the Army has determined that Edwards Air Force Base is the facility that should be used and has plenty of facilities there.

So how do we beat that? We beat it by prohibiting using Edwards Air Force Base for our people to land and then be transported over to Fort Irwin. It goes on and on. Cleanup of the National Presto Industries site in Eau Claire, WI. I have been through before. It was in litigation in the courts. We had no business providing $15 million for that until the courts had settled it. Then there is $7 million for the Center of Excellence for Research in Ocean Science; $6 million for a Pacific Disaster Center; $1.5 million for the Beaumont Army Medical Center computer support; $3.5 million for distributed manufacturing demonstration project; over $200 million in earmarked medical research projects; a natural gas boiler demonstration, $2 million; earmark for Mississippi Resource Development Center.

Here is one of my favorites: $5.4 million in unrequested funding to continue ongoing efforts with an established small business development center to be administered as in previous years, focused on developing agricultural-based services, such as bioremediation. The committee supports targeted research and development projects and agricultural development activities in zones surrounding military installations.

What in the world does that mean? "The committee supports targeted research and development projects and agricultural development activities in zones surrounding military installations."

Next is $8 million to be "competitive awarded to a qualified Washington, DC, region-based institution of higher education with expertise and programs in computational sciences and informatics capable of conducting research and development that will further efforts to establish an effective metacomputing testbed."

I will not even ask what that means. "The committee urges the Department to provide not less than $8 million in financial and technical support toward the study of neurofibromatosis. The committee urges the Department to provide not less than $1 million in financial and technical support toward the study of Paget's and related bone diseases."

Report language calls for $5 million for instrumented factory for gears; $2.7 million for standard monitoring control system; $10 million for FDS-deployable refurbishment and spares procurement.

The list goes on and on and on and on. I saw the Treasury-Postal appropriations bill that we passed yesterday. It was a clean bill, a good bill. It did not have earmarks, it did not have special projects in it, which was a dramatic change from the previous years. It proved to me that we do not have to have this practice in appropriations bills.

Mr. President, we have 50,000 enlisted families in America in our Armed Forces that are eligible for food stamps. I suggest that if we had additional money, maybe we ought to give them a pay raise—the enlisted people. Maybe we ought to do that and take them off of eligibility for food stamps. Maybe we ought to do a lot more in the way of quality of life and make sure that there are enough ships like U.S.S. *Inchon*, so they do not have to spend 7 months at sea and come back and then go out for another 3 months.

Instead, we make sure that the Reserve and National Guard are not only taken care of, but we also earmark funds and a list of specific equipment for them.

The bill also includes $977.4 million for unrequested Guard and Reserve equipment. While the report allocates the funds among generic categories of miscellaneous equipment for the Reserve components, the report also strongly suggests that priority be given to a long list of specific items. The report also specifies that the funds will be used to buy C–130 and C–126 aircraft, long a staple of congressional add-ons for the Guard and Reserve.

Mr. President, I support the Guard and Reserve. I think the Guard and Reserve are vital components in our ability to defend our Nation. But when we do not have the fundamental basics that our active duty forces need, and the prospects of them getting it any time soon are remote, we have to stop the earmarking.

I want to waste a little more time here on both the B-2 and the *Seawolf*. If this were 1989, before the cold war was over, there would be no stronger supporter on the floor of the Senate than this Senator for both of those programs. The B-2 bomber would have really been a vital and important part of the triad, which I was always supportive of. Now the B-2 bomber is being advertised as some kind of long-range attack weapons delivery system which will be stealthy.

I do not argue that, Mr. President. I really do not argue that at all. I would be curious which commander is going to send an over $1 billion per copy aircraft anywhere in a conventional scenario. I have long recommended that we not put ejection seats into that plane because the pilot that ejected would be the subject of investigation for the rest of his or her natural life.

The fact is that this is an incredibly expensive weapon system for which there is no relevance today in the post-cold war era. What we need in the post-cold war era, Mr. President, is the ability to project power over long distances with an ability to remain there for a significant period of time and have enough firepower to affect the battlefield equation. The B-2 can do a little of that. But we do not have enough of the tactical aircraft, the carriers, amphibious ships, the airlift that were really the fundamental components of that capability. So we have opened the door to another $36 billion over the next 20 years to spend on B-2 bombers.

This, interestingly enough, is despite the objection of the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and even the Chief of Staff of the Air Force. Why does the Chief of Staff of the Air Force, who is a fine and decent man, oppose the B-2 bomber? He opposes it for a broad variety of reasons, and I do not want to put words in his mouth. But one of the reasons is he does not see enough money there in order to fund the F-22, which the Air Force and he believes—and this could be a subject for debate on the floor—are a vital component in our ability to defend the Nation's vital national security interests in the next century. They need a follow-on fighter aircraft. If you siphon off $36 billion in the next 20 years for the B-2 bomber, it is hard for them to see where you will get the money for the F-22.

As far as the *Seawolf* is concerned, Mr. President, it is well known that during the Presidential primary, President Clinton went to Connecticut and said he would support the *Seawolf* submarine. It is clear that this is a jobs program. There is no doubt that there have been tremendous cost overruns. We now have two shipyards that can build nuclear powered submarines. We now have two of them. I can envision no scenario in the future where we have a requirement for two shipyards to build nuclear submarines. But perhaps more important, Mr. President, is that we continue to hear this argument that the former Soviet Union, Russia, today, which cannot meet anywhere near its quota of conscription for the year; estimates are between a quarter and a third of those conscripted show up; they have an incipient revolt in Chechnya on their hands, which has cost them the blood of many hundreds of their young fighting men and women; and their officers, which were moved out, and their families, out of Eastern Europe back into Russia, are living in boxcars.

The state of their military establishment, by all objective observers' estimates, is in a terrible and horrendous condition—not to mention the threat that we have of how we are going to dispose of the nuclear weapons that abound throughout the former Soviet Union.

So, Mr. President, what we are supposed to believe, given the conditions and the threats to Russia's vital national security interest, which they see clearly are as they have been for most of its history in the so-called "near abroad," that they are going to spend an enormous amount of money that they do not have on fast, quiet submarines.

Mr. President, they are not. It does not make any sense. It does not make any sense to believe that the Russians are spending billions of dollars on fast, quiet submarines when they cannot even get their officers out of boxcars into houses, when they cannot make their yearly annual conscription to man their armed forces to any degree whatever, when they are fighting a guerrilla war in Chechnya, when they have problems in practically every part of what the Russians call "near abroad."

I do not believe that the Russian defense experts are so naive and so uninformed that they sit around and say, gee, forget all those problems I just articulated, build some fast, quiet submarines.

Mr. President, we are really doing the American taxpayers a great disservice.

I want to say, finally again, I appreciate the hard work that is done by the members of the Appropriations Committee. I know they have difficult issues to wrestle with. I am sure that, in fairness, the chairman of the subcommittee and the ranking member should bring up the legitimate point that the authorizing committee has so far failed to come up with any legislation, so they have had to make many of these decisions. I think that is a very legitimate statement on the part of the appropriators.

I will say, finally, one more time, Mr. President, and the last time, and mark my words, if we keep doing this, if we keep wasting taxpayers' dollars in this fashion, we are going to lose the confidence of the American people and at some point there will be great resistance to adequately fund our defense forces and we may see a threat posed to our national security that we cannot meet because of our failure to articulate to authorize and to appropriate adequate funding to meet the real threats to our vital national security interests.

I reserve the remainder of my time.

Mr. STEVENS. How much time does the Senator desire?

Mr. GRASSLEY. Ten minutes.

Mr. STEVENS. I yield the Senator 10 minutes, but I do want to thank the Senator from Arizona for his contribution. He does not know how often we use his positions in conference in order to achieve savings—which he does not mention.

Some of the items he mentioned, I think, are legitimate complaints. Others I think have legitimate military value. We can discuss that on the floor.

His last comment is the correct one. We did not have the guidance of the Armed Services Committee this time and we just did our best. I think that is because of some of the problems we face here on the floor.

I yield 10 minutes to the Senator.

Mr. GRASSLEY. Mr. President, I would like to speak briefly on the conference report on the Department of Defense [DOD] appropriation bill.

The amount of money provided in this measure is too high.

I argued for a lower figure when we debated the budget resolution.

And I argued for a lower figure when we debated the defense authorization bill.

The cold war is over.

The Soviet military threat is gone.

We are closing military bases. Our force structure is shrinking.

Defense budgets should be coming down—not going up. But we lost that battle.

For unknown reasons, Congress decided on the higher number, and that's that.

Mr. President, I didn't come here to argue about the size of the defense budget.

I come to the floor to thank my friend from Alaska, Senator STEVENS, for his advice and assistance with the DOD unmatched disbursements problem.

Last year, with the help of my friend from Hawaii, Senator INOUYE, we began the process of trying to fix the $30 billion unmatched disbursement problem.

We established thresholds at which DOD must match disbursements with obligations—before making a payment.

This year, Senator STEVENS helped to reenergize and continue that process. He is helping to keep the pressure on.

And DOD Comptroller John Hamre is doing his part. He's helping, too.

In the coming months, both the General Accounting Office [GAO] and DOD Inspector General [IG] will be conducting detailed reviews of DOD's emerging capability to prematch disbursements.

Next year, at this time, I hope we are in a position to lay out a road map for ratcheting down the thresholds.

Next year, I hope we can move the threshold to zero.

Mr. President, as I have said many times, with $30 billion in unmatched disbursements, there are no effective internal controls over a big chunk of the DOD budget.

That means those accounts are vulnerable to theft and abuse.

Mr. President, we must keep the pressure on and keep moving down the road toward the time when all DOD payments are prematched.

I thank Senator STEVENS, Senator INOUYE, and Mr. John Hamre for their help in trying to fix this problem.

Mr. President, I would also like to seek the advice and assistance of the committee's leadership on another issue.

I am concerned about the possible existence of a slush fund at the Central Intelligence Agency [CIA].

Recent press reports suggest that bureaucrats in just one CIA office—the National Reconnaissance Office [NRO]—accumulated a pool of unspent money that totaled between $1 and $2 billion.

Now, I know that the committee has taken certain steps in this bill to recover some of the money.

The bill also includes restrictive language governing the availability of CIA appropriations.

The restrictive language is embodied in section 8070 of the bill.

I commend the committee for taking these important steps.

However, in my mind, the action taken in the bill is a short-term fix.

We need to get at the root cause of the problem.

We need to understand the mechanisms that allowed bureaucrats in the NRO—and possibly other CIA offices—to accumulate huge sums of money.

And we need to develop a long-term solution.

Mr. President, we must not allow the CIA to accumulate huge sums of money in a honey pot that lies outside of the law.

The CIA must handle unspent appropriations in ways that are consistent with the requirements of title 31 of the United States Code, and in particular, the M account reform law.

Senator ROTH and I have sent a letter on this matter to the committee chairman, Senator HATFIELD.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter to Senator HATFIELD, along with an article from the Washington Post on the same issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 3, 1995.
Hon. MARK O. HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MARK: We are writing to express concern about the possible existence of a slush fund at the Central Intelligence Agency (CIA) and to seek your help in launching an independent review to determine the origins of the money and root cause of the problem.

The source of our concern is a series of reports that appeared recently in the Washington Post and New York Times. These reports suggest that one office within the CIA—the National Reconnaissance Office—has accumulated "a pool of unspent money" that totals between $1 billion and $1.7 billion and that some of these funds may have been used for unauthorized purposes.

In the wake of these disturbing revelations, unnamed intelligence officials readily admitted: "The agency's financial practices were governed by custom, not by written rules. . . . Many of the financial practices were time-honored, but they were not documented. . . . They were just folklore" [New York Times, September 25, 1995, page 11].

On the surface, based solely on these very sketchy news reports, we have to conclude that the CIA's books need more scrutiny. A potential multi-billion dollar slush fund in just one CIA office plus a possible breakdown of discipline and integrity in accounting equals a recipe for abuse.

We must not allow the CIA to accumulate a "pot of gold" that lies outside of the law.

As you may remember, back in the late 1980's, Congress discovered the infamous M account slush fund at the Department of Defense (DOD) and at other agencies as well. The M accounts, which were also known as the "honey pot," were being used by DOD to circumvent the law—primarily the Anti-Deficiency Act (31 USC 1341)—and to fund cost overruns and other unauthorized activities beyond the purview of Congress. DOD, for instance, had stashed at least $50 billion in these accounts.

After holding extensive hearings that examined abusive M account practices as revealed in audit reports prepared by the Inspectors General and General Accounting Office, Congress took decisive steps to close down the entire M account operation.

The M account reform legislation was signed into law by the President on December 5, 1990. It is embodied in Sections 1405 and 1406 of Public Law 101-510. It closed the M accounts, canceled billions in unspent balances in "merged surplus authority," and place strict limits on the availability of "unspent" appropriations of the kind described in the above-mentioned press reports. To the best of my knowledge, this law applies to all government agencies, including the CIA.

The M account reform law in combination with all the other laws governing the use of appropriations—as spelled out in Title 31 of the U.S. Code—are supposed to make it very difficult—if not impossible—to create a slush fund within any government institution.

If the CIA is indeed "hoarding" money, as White House Chief of Staff Leon Panetta has suggested, and stashing it away for a rainy day, then Congress needs to know about it. We should know about it because we have passed a law that is designed to prevent bureaucrats from accumulating money outside of the law. If the CIA has succeeded in doing that, then we would like to understand exactly how it was done. There may be a loophole in the law that needs to be plugged.

For these reasons, we are seeking your advice and assistance on how to initiate an independent review of the CIA's accounting records pertaining to balances of unobligated and unexpended appropriations.

We need to know if the CIA is complying with the M account reform act. Toward that end, certain questions need to be answered: Were the agency's merged surplus and M accounts closed and balances canceled as required by law? Are expired appropriation account balances being canceled after five years as required by law? Is the agency protecting the integrity of expired appropriations accounts as required by law? Have the agency's no-year accounts been handled according to law? No doubt, there are other important questions, but these are the ones that immediately come to mind.

Between August 1991 and October 1992, the GAO conducted an audit of residual M account monies throughout the government. The results of this audit were published in a report entitled "Agencies Actions to Eliminate M Accounts and Merged Surplus Authority" in June 1993, Report Number AFMD-93-7. Unfortunately, the CIA was not among the agencies reviewed. The GAO, we are told, cannot get the access needed to audit CIA accounts. The inability of the GAO to audit the CIA's books leaves a gaping hole in our knowledge regarding government-wide compliance with the M account reform law.

Mark, we would like to feel confident that the monies Congress appropriates for the CIA are being controlled and used in ways that are consistent with the requirements for Title 31 of the U.S. Code, and in particular, the M account reform law.

We have never examined a financial management issue at the CIA and need your advice on how to proceed with such a review.

Your assistance in this matter would be appreciated.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.
WILLIAM V. ROTH, JR.,
U.S. Senator.

[From the Washington Post, Nov. 15, 1995]

DEFENSE GIVES ITS ACCOUNTING SYSTEM A '3'

(By Dana Priest)

Despite efforts to turn around what the Pentagon concedes is an error-prone, cross-eyed financial accounting system, top Defense Department officials yesterday said that on a scale of 1 to 10, the ability to track where $260 billion is spent each year rates only a sorry "3."

"We are far short" of being able to produce clean, auditable annual financial statements, Richard F. Keevey, director of the Defense Finance and Accounting Service, told a congressional panel yesterday.

Summoned by a subcommittee of the House Committee on Government Reform and Oversight—called in part to respond to Washington Post articles about the problem in May—the department's top financial officers and investigators from the General Accounting Office and the inspector general's office explained, defended and criticized the way the department manages the money Congress gives it.

Only three members of the subcommittee showed up, and one only briefly, perhaps a testimony to how arcane and complicated the subject can be.

Chairman Rep. Steve Horn (R-Calif.) described the state of Pentagon bookkeeping as something not even up to the standards of "every Mom and Pop store in America."

"What you're telling us today is a disgrace to the American fighting men and women," said ranking minority member Carolyn B. Maloney (D-N.Y.), her voice rising in frustration before she bolted out the door for a quick floor vote. "I'm sorry, I'm a little upset."

What was upsetting to Maloney and Horn was good news to the Pentagon officials who point out that their accounting problems are decades-old and are only now getting better. For instance:

The accumulated amount of payments that cannot be traced with certainty to particular purchases has fallen from $50 billion in June 1993 to $20.5 billion in September.

The department now refuses to pay any bill larger than $1 million without the proper bookkeeping. The threshold used to be $5 million, although the higher figure still applies to its major, trouble-plagued Columbus, Ohio, check writing center because contractors there complained that a new standard would dramatically slow payments.

On the other hand, department Inspector General Eleanor Hill testified the financial data "for the vast majority of [Defense Department] funds remain essentially not in condition to audit," according to Hill's written statement.

"The same types of system problems and internal control weaknesses that hamper preparation of annual financial statements," she said, "also impair the efficiency of day-to-day operations."

So concerned is the IG's office about the problems that it is deploying 700 auditors to snoop around the finance and auditing areas at the department. Still, it does not expect a significant turnaround until the year 2000, she said.

Mr. GRASSLEY. We are asking for advice on how to initiate an independent review of the CIA's accounting records pertaining to balances of unobligated and unexpended appropriations.

Mr. President, I would like some assurances from the chairman and ranking minority member that they will work with us in developing an acceptable approach to our request.

Our purpose is simple.

We want an independent review of the CIA's unspent balances.

Are they being maintained and controlled according to law?

But how do we do that?

We need the committee's advice and assistance.

We have been told, in news reports, that CIA Director John Deutch is launching his own investigation to review the NRO's "deliberately obscure fiscal practices."

That is fine and dandy.

But that's not an independent review.

I hope the committee will work with us to find a way to conduct an independent review of the CIA's unspent balances.

The taxpayers of this country have a right to know that their money is being spent according to law.

Mr. President, I would also like to ask the committee's leadership these three questions:

First, could the committee conduct an examination of the CIA's appropriations accounts to determine whether they are maintained and controlled as required by law?

Second, could the committee do the job if assisted by knowledgeable personnel from the DOD IG's office and the GAO?

Third, could the DOD IG do the job?

I just hope my two colleagues help us get to the bottom of sense things. I know you have the same concerns I do. But I would like to move forward with this, to make sure we are not—my point is, we are not relying just upon internal CIA investigations to make sure this does not happen. We ought to have some sort of independent, outside group, make sure that the job is being done and done correctly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I welcome the attention of the Senator from Iowa to what we call the classified annex that discusses some of the problems that are raised with regard to the CIA carryforward funds. Others have referred to them as slush funds. I found no slush funds. I have found carryforward funds that represent program changes, programmatic decisions not to spend money but carry the money into the future, and downsizing that led to savings that were from money that was not limited in terms of years.

We have dealt with that. It is not proper, in my opinion, for us to discuss that here. I direct the consideration of the Senator from Iowa to discussing it with the Intelligence Committee. We take our lead from the Intelligence Committee and Armed Services Committee, but this year we did take an extraordinary initiative in dealing with these funds to make sure they would not be carried forward. It is discussed in our classified annex. I invite my colleague's attention to that.

I do not want to delay, if the Senator from South Carolina wishes some time. I am saddened to hear my friend discuss the needs of the Department of Defense, however, in the terms he has. I wish he would see these needs through my eyes. I get tired of seeing pilots fly C-130 E's that were made in 1964. I get tired of flying in VC-137's that were made in 1938. I get tired of going out and watching the people on the flightline go to fly and train in F-14's that were made in the 1970's, the early 1970's.

The 5-ton trucks we have in our Army were made in the 1960's, and we have not replaced them since. The M-1 tanks were made in the 1970's.

You find me any other part of our economy that is asked to train and live in things that are 30 years old. I remember, when I was a young man, how much General Patton criticized the Army because they were training in the 1940's in things that were made in the early 1930's. Our people pray that they train in things that were made in the early 1990's.

Again, I say to my friend, criticize the amount of this money if you wish, but if you do wish to criticize them, then take action to reduce the commitments of our people abroad. I read earlier today the number of our people who are permanently living abroad now. Almost 250,000 Americans plus their dependents live abroad permanently as members of the armed services. There is just no reason for those people to live and be in harm's way. Many of them are daily in harm's way, in equipment that is old. We are trying to upgrade our procurement. That is the basic decision we have made. We are trying to upgrade our research and development. That is another basic decision we made.

Senator INOUYE and I face a severe amount of criticism concerning the amount of money in this bill. We are now in a 7-year, level-funded concept for the Department of Defense. We reached out and brought some of that, from the late 1990's, into this bill because we can save money. We are doing our best to stretch this money out so it will not make additional demands on the American taxpayers.

At the same time, I ask, how many of us are driving home in 1964 cars? If the American public wants us to have a status as a world power, and we are the only world power left; if we want someone in the world to have the capabilities we have; then we must fund our people so they can carry out their responsibilities and live in doing it. We are losing too many people, now, because they are flying and driving in and on vessels that are too old. We are doing our very best to do it, and I do not like to hear Members of the Senate complain about the amount of money we are spending given the commitments.

If you do not like the commitments, then use your power to stop the deployment of our forces abroad. Consider again deployment of forces to Bosnia. Consider whether we need to still have people in Haiti.

Did you know they were supposed to be out by March? They are still there.

Mr. GRASSLEY. They will be there until after the election, because things are going to blow up if they get out, and it will make the President look bad.

Mr. STEVENS. But you have to finance them. If they are not going to get them back and you have to keep them there, keep them there safe. They are still in Rwanda. Around Iraq, we have a no-fly zone. There are young pilots flying over that country every day to prevent them from launching once again and becoming the second largest Air Force in the world.

I tell you, my friend, I understand the Senator from Iowa with regard to the financial management. Incidentally, those problems came about because we brought all the records into

Washington. It used to be if you wanted to audit these things, you could go to Denver, go to San Francisco, go to Panama, go somewhere in the world and find those records.

Five years ago we just consolidated them in Washington. That is still going on. It is true that there are a lot of those disbursements and the record of what was gotten for the disbursements have not been matched up. That is a delay in the computerization program in terms of verifying expenditures once they have been authorized. I agree 100 percent.

We have done more in this bill, I think, than the Senator has ever had done before to meet his objectives, and we agree we ought to have—and by the end of next fiscal year, 1997, I hope we will have—the zero amount there.

We should be able to balance our checkbook. I do not know about the Senator from Iowa, but I still have trouble balancing my checkbook and figuring out what I wrote the check for. I know where I wrote the check that I got something for, but sometimes I do not write down what I write it for. That is what happened at the Department of Defense. No one has brought before us positive fraud or thievery. It is a question of lining up the records of actual acquisitions with regards to authorization for expenditure. We are doing our best to do that.

The other committee which I chair, the Governmental Affairs Committee, will be happy to work with the Senator from Iowa on that matter. I thank him for his consideration. The only thing I wish we would do is look again at the amount of money we need to put up for the armed services, for the people who are doing the job for us to be in harm's way as a superpower. If we do not want to do that, then let us cut the budget. If you want us to do the job we are doing, then you have to fund what these people need, and you have to give them the assistance that will help keep them alive.

Mr. GRASSLEY. Could I please have 2 minutes?

Mr. STEVENS. Yes.

Mr. GRASSLEY. Mr. President, first of all, in Iowa for the benefit of the Senator, I drive a 1961 Oldsmobile 98. So some of us do drive around in old cars.

Mr. STEVENS. Mine is a 1965 Ford.

Mr. GRASSLEY. The second thing is you complimented me for what I was doing on accounting. But you castigated me for what I was saying about the level of expenditures, it seemed to me. My point is they are very, very tied together. It seems to me that before we put more money into the pot, we ought to be able to prove what we are buying, and have a system of accounting that makes sure that every dollar that we put into defense gets us a dollar's worth of defense.

The second thing, and more appropriate to what the Senator from Alaska was saying about the level of expenditure—I think I said this on the floor in the debate originally—but I was told by leaders on military issues in the House of Representatives when we were on the budget—and I am the second senior person on the Budget Committee; so I was involved in those discussions—confidentially they said to me, "CHUCK, you know we have to have about $6 or $7 billion more than what the President wants because we have to take care of our Members. We have to take care of our Members."

Mr. STEVENS. Who said that?

Mr. GRASSLEY. I am not going tell the Senator who said that.

Mr. STEVENS. It was not this Senator.

Mr. GRASSLEY. I am talking about leaders in the other body. "We need $6 or $7 billion to take care of our Members," meaning projects that Members had that they wanted in the Defense budget.

That is just exactly the amount of money that we are above the President's figures. So I figure we have about $6 or $7 billion in here just to take care of a bunch of pork barrelers.

That is what I am complaining about.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. STEVENS. The Senator from South Carolina, if you do not mind, asked us to yield him time. I will do so. Then we would be happy to take care of the Senator from Ohio.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from South Carolina.

How long does the Senator yield?

Mr. STEVENS. Such time as he uses.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to join my colleagues in complimenting Senator STEVENS, the chairman of the Subcommittee on Defense Appropriations and Senator INOUYE, the ranking member of the subcommittee for bringing this conference report to the floor. This has been a difficult conference for them and I congratulate them on their diligence and perseverance in arriving at this conference report.

Mr. President, as I have indicated many times, these conference reports represent compromises made by both the House and Senate. They will never please everyone. There are items in this report that I believe could be better, but on the whole it provides the critical funds to ensure the continued readiness of our forces both in the near term and in the out years.

Mr. President, we may soon have to vote on commiting our forces to maintain the peace agreement in Bosnia. Although I may object to sending the forces, I am confident that they will have the means and training to carry out the mission. I am confident of that fact because over the past years the Congress has provided the funds to ensure their capabilities. The conference report that we are considering today provides the funds to ensure our armed services can continue to fulfill their mission and the tasks that are placed on them by our Nation.

Mr. President, I want to thank my good friends, Senator STEVENS and Senator INOUYE, for their dedication to and support of our Armed Forces. They have brought a sound conference report to the Senate and I urge the Senate to support them and this conference report.

In closing, I want to say this: There is nothing more important to this Nation than to keep a strong defense. It means our very survival. We could do without a lot of things, many things. But we cannot neglect our defense, if we want to maintain this great Nation. Our Constitution provides this country with the greatest freedom of any nation in the world. It provides us with more justice, more opportunity, and more hope than any people have ever been provided in the history of the world. And we want to keep this. But, to keep this, we have to keep a strong defense.

Again, I compliment Senator STEVENS and Senator INOUYE for this fine report.

Mr. President, I yield the floor.

Mr. STEVENS. I reserve the remainder of our time and Senator McCAIN's time under my control.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. I am pleased to yield 2 minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I wanted to comment on Senator GRASSLEY's concern. His concern is very well taken about the fact that we have an inadequate accounting system over at the Defense Department. But let me carry it beyond defense also.

We also have an inadequate accounting system across all of our Government. Governmental Affairs worked on this going back about 7 or 8 years in the late 1980's, and for the first time—it is unbelievable that up until 1990 there was no requirement in the Federal Government to do a bottom-line audit at the end of the year. Some departments did it. Some agencies did it. Some did not. The Defense Department was one that basically did not. We put through a Chief Financial Officer Act; arcane, people did not even show up at hearings because it was such a boring subject. But once we passed that act, as Charles Bowsher, head of the GAO, said, it was probably the "best financial management act that we passed around here in the last 40 years," to quote his words.

Over in Department of Defense, they are trying to get that under control.

But back in the years before that we would not even give them the money to do the upgrades on computers, and so on, to manage their equipment, manage their accounts.

I have been out to the DFAS Center, the Defense Finance and Accounting Service, and have gone through what they go through on trying to decide whether to pay a bill or not. Do you know what they are doing? They go from an office, and they go down the hall to a warehouse. They go down a long line of hundreds of thousands of manila envelopes, folders on metal racks, bring those files back, and lay them out on the table to decide. Yes; we will pay this, or not that, or something else. That is the way much of this work has been done.

They are making great strides. They have even contracted some of this out. I have been out there. I think we are making great strides and John Hamre deserves a lot of credit for taking this on.

Have we solved the problems yet in the time period to 1990? No, we have not. So we do not have the problem solved yet. But we are making progress. Meanwhile, I can quote horror story after horror story about how contractors have sent back in $700 million they said we had not sent bills in for, and things like that.

I wanted to add my support for Senator GRASSLEY's concern. I share his concern. I just want everyone to know that we are making progress in this area. I do not think we will have it by the end of next year, as Senator STEVENS said. It is still a big job over there to get done. We are making a lot of progress in this area. We never required that until 1990.

Mr. STEVENS. I said the end of fiscal 1997.

Mr. GLENN. I misunderstood. I am sorry.

Mrs. MURRAY. Mr. President, I rise today in opposition to the conference report on the Department of Defense appropriations bill, and I would like to take this opportunity to outline several of my concerns.

In the coming year, American families across this country will begin to feel the very real effects of the budget cuts this Congress has made in most of the fiscal year 1996 appropriations bills. Programs across the spectrum are being deeply cut or eliminated in an attempt to eliminate this country's spiraling national debt.

Unfortunately, while the Republican spending bills make deep cuts in programs for children, the poor, veterans, and the elderly, defense spending has been insulated from cuts and, in fact, increased dramatically. The bill before us increases defense spending by $7 billion above the President's request, at a time when we are cutting $270 billion from Medicare, $170 billion from Medicaid, $114 billion from welfare, $36 billion from nutrition programs, and $5 billion from student loans.

Mr. President, I have a deep and strong respect for our Nation's military, which is second to none in the world. Our Armed Forces deserve the gratitude of this Nation for the protection and security they provide to the American people. Congress has an obligation to ensure that our military personnel are adequately compensated for their work, and that they have the best tools possible to work with as they undertake their many and difficult missions.

But in this era of shared sacrifice where no one is spared the budget ax—not children, seniors, nor veterans—I cannot support a bill that goes so far beyond the Pentagon's request for defense spending and fails to cancel even a single major weapons program. This bill is a bad deal for the taxpayer and a bad deal for our military, who will have to live with unrequested and unneeded weapons systems provided for them from a Congress that refuses to take no for an answer.

During the cold war, Americans made sacrifices here at home so that our national resources could be used to defeat communism around the globe. The Berlin Wall fell in 1989, and with it, the Warsaw Pack. The Soviet Union officially dissolved in 1991. We fought the war, and we won.

In the aftermath of the cold war, I believe American families deserve to live in a safer and more stable world. They deserve to know that more of their tax dollars are going to educate their children and police their streets.

Time and again when this body has debated domestic spending bills my Republican colleagues have urged us to have the courage to cut funding for this program or that program—saying they have outlived their usefulness.

So why, Mr. President, does the bill we are voting on today continue funding for several cold war-era programs that have clearly outlived their usefulness? And where, Mr. President, are the calls for courage to terminate programs we cannot afford?

For example, the conference report provides $700 million as a downpayment on a third *Seawolf* nuclear-powered attack submarine. Nearly everyone acknowledges that this third *Seawolf* is not necessary to meet force structure requirements. This program, as my colleagues know, was designed to combat the "great Soviet Navy"—a Navy that is now in port and in serious need of repair.

Supporters of this program claim that construction of this third *Seawolf* is needed to preserve the submarine industrial base. But Mr. President, overall the *Seawolf* program has cost the taxpayers of this Nation $12.9 billion. In this budget climate, it is inexcusable to continue funding the *Seawolf*, especially given the lack of mission for this submarine.

Likewise, it is simply unforgivable that the bill before us resurrects funding for the B-2 bomber program, providing $493 million to keep that program alive. This, despite the fact that several years ago Congress agreed to terminate this program after 20 planes had been built, because Congress recognized that in the aftermath of the cold war, this aircraft lacks a realistic mission.

Nonetheless, it appears that Congress is on a path to fund yet another 20 planes which, according to the Pentagon, will cost $31.5 billion in the coming years. The Pentagon does not want this program, and clearly cannot afford it.

The Pentagon does not want to take on the immense financial obligations of further B-2 procurement—knowing that this unneeded system will take precious and scarce dollars away from other priorities.

Let's keep these issues in perspective. The unmasked for and unneeded funding this bill provides for the B-2 bomber—the $493 million—is more than enough money to pay the tuition, room and board, and book costs of all the undergraduates at the University of Washington for their entire 4 years. That's 20,500 students.

And as I've noted, the money provided this year is just a downpayment on the $31.5 billion that will ultimately be needed to build 20 more planes. For that amount, 1.3 million Washington State residents could get a 4-year education at the University of Washington.

Ironically, the conference report we are considering today fails to fund one program that I believe is a real cost saver for the Pentagon and the taxpayer, and provides an effective response to our Nation's airlift problems. The Non-Developmental Airlift Aircraft Program [NDAA], designated as a pilot program under the Federal Acquisition and Streamlining Act of 1994, is an ideal model that demonstrates how commercial products can support military missions. I am disappointed that the conference committee failed to provide funding for NDAA, which stands to improve our current airlift shortfall and provide several billion dollars in budgetary cost savings.

So, Mr. President, as we ask teachers and students to accept dramatic cuts in education spending, worker training programs, and student loan programs, so too must we find ways to trim our defense budget.

And as we ask preschoolers and their parents to accept deep cuts in Head Start funding, we must find ways to trim our defense budget.

And as we ask rural Americans to accept cuts in mandatory agriculture spending, we must find ways to trim our defense spending.

And as we ask children and the elderly to shoulder billions in Medicare and

Medicaid cuts, we must find ways to trim our defense budget. In America today, one in four children, and one in three infants, are covered by Medicaid.

And as we ask our Nation's scientific community to accept millions in cuts for basic research, we must find ways to cut our defense spending.

In the coming years, the Republican budget blueprint increases the veterans' contribution for GI bill education benefits, and freezes funding for the VA's medical system at the 1995 level for the next 7 years, cutting access to health care for veterans around the Nation. Under the Republican proposal, the VA will be forced to close the equivalent of 35 of its 170 hospitals and deny care to over 1 million of our Nation's vets.

Proponents of this bill point to recent declines in defense spending with alarm. While spending for our military is down from the mid-1980's level, we must keep this trend in perspective. The United States today has the largest military budget and the most powerful military force in the world.

The combined military budgets of Russia, Iraq, China, North Korea, Libya, Iran, Syria, and Cuba total $95 billion annually. That is one-third the level of U.S. defense spending. Each year, the United States spends more than the next nine of the world's biggest military spenders combined.

In fact, this country spends so much for defense, even the Pentagon can't keep track of it all. According to the GAO and the Pentagon's inspector general, as well as the Pentagon's Controller John Hamre, billions of defense dollars are lost year after year due to poor recordkeeping and lax accounting practices at the Department of Defense.

At the very least, Congress should hold defense spending to the President's level until the Pentagon can fix their payment procedures and bring some accountability to the system. We owe that much to the Nation's taxpayers.

But most of all, in order to project strength abroad, we must gain strength here at home. Our national security, in my view, will not be strengthened by yet more guns and missiles. We need to restore global economic leadership. We must invest in our children and their future—in their education and their health. We must rebuild our cities and our infrastructure, and invest in technology and scientific research.

We must ensure that the economy our children inherit in the next century is sound and growing.

So, in closing, Mr. President, it is with regret and disappointment that I must vote "no" on this bill.

Mr. DOLE. Mr. President I am pleased that we are able to consider the Defense appropriations bill conference report today. I commend Chairman STEVENS and Senator INOUYE for their work in hammering out the necessary compromise allowing us to bring this bill to the floor. The Defense appropriations bill, which funds the greatest share of the Nation's defense spending, is one of the most important bills we pass each year.

This year the Republican-led Congress is keeping our promise to the American people to restore our national security. We have turned the corner on defense spending. As a result of the Republican leadership and the hard work of the chairman, Senator STEVENS, we no longer head down the path to a hollow military. Most of the funds Congress added will restore funding for the procurement and research & developments accounts—accounts neglected by the current administration. Without this funding, the armed services face a nearly insurmountable modernization bow wave in the very near future.

The President and administration officials have spoken at length about maintaining readiness, but they've failed to consider the impact of the insufficient funding on the readiness of our forces in the future. This administration has maintained short term readiness at the expense of our future forces. And no one should forget that the President's force plan required significant force enhancements. But those enhancements have not been fielded. The bottom line is that under the Clinton administration, our forces have become smaller, but not more capable.

With this bill the Republican-led Congress sends a very clear message. We have fulfilled our responsibility to provide our forces with the most modern equipment available, ensuring their overwhelming superiority on the battlefield. We have taken steps to ensure that our forces, though smaller, maintain the ability to project power around the world—quickly and decisively. This Congress has taken the lead in protecting both our deployed forces and our home land against ballistic missile attack.

The President and many on the other side of the aisle oppose this bill. But the choice is clear. If you vote for this bill, you vote to restore our national defense. If you vote against it, you vote to continue down the path to a hollow force.

In closing, I again commend the chairman and ranking member for their work on this critical legislation and I urge my colleagues to support it.

Mr. LEAHY. Mr. President, providing funds for our national defense is one of the most important functions we in Congress are entrusted with. I take with particular seriousness my duties on the Appropriations Subcommittee on Defense, since we provide taxpayer dollars for weapons, people, and training.

I have the deepest respect for our subcommittee chairman, Senator STEVENS, and for our ranking member, Senator INOUYE. For many years, whether the Congress is controlled by Republicans or Democrats, the heads of this subcommittee have provided reasoned, nonpartisan leadership on defense issues.

This bill will spend $6.9 billion more than the President's request at a time when virtually every other discretionary spending account is being cut. I would support this expenditure if there were an imminent threat to the Nation, of if there were some glaring deficiency in our defenses. Neither of those conditions have been met, in my judgment. While we are cutting Medicare, school loans, and veterans benefits, this bill spends $493 million for more B-2 bombers that the President didn't request and that the Chairman of the Joint Chiefs of Staff and the Air Force Chief of Staff say they do not want. Twenty more B-2's will cost us $31 billion, and there are no funds in our 5-year defense plan for these planes. This program is questionable from a defense perspective, and especially irresponsible in the larger context of our pursuit of a balanced budget.

I was also disappointed that the House conferees were successful in including restrictions on a woman's right to choose an abortion at Department of Defense medical facilities. This provision has no place on an appropriations bill and I am saddened that the Senate has accepted this provision in conference.

There are other aspects of this bill that I disagree with, but the increased funding, additional B-2 bomber procurement, and antiabortion language caused me to respectfully disagree with my chairman and ranking member, and to vote against this conference report.

Mr. BRADLEY. October 1, Mr. President. Every year, we have until October 1 to pass the 13 necessary spending bills that keep our Government running. This year, when it became clear that Congress would not be able to complete floor action on these bills by this deadline, we passed a continuing resolution to keep the Government running until November 13. Still, the additional 6 weeks proved insufficient for Congress to complete action on these bills.

Our Government is now shut down because Republicans in the House and Republicans in the Senate cannot agree with each other on what should and should not be included in these bills. In large part, the appropriations bills presented before us have been seriously flawed, so much so that Republicans themselves cannot agree on them. As Republican House and Senate conferees continue to bicker in back rooms, several hundred thousand Federal employees are home, waiting for a paycheck that is not coming. The so-called faceless, nameless bureaucrat waits, wondering how he or she will put food on the table, make the next mortgage payment, or prepare for the coming holiday season. Thousands of citizens wait to obtain a passport, a visa, file for Social Security, and so on. Congress has once again failed the American people.

It is time to put this budget impasse behind us. We will only be able to do so if the majority party presents us with fair and responsible spending bills to send to the President's desk.

This brings me to the legislation we now face, the Department of Defense appropriations report. As the Republicans claim to want a balanced budget, they now put before us a defense spending bill bloated beyond one's wildest imagination. Let me remind my colleagues on the opposite side of the aisle that the cold war is over. Let me repeat that. The cold war is over.

We must put an end to outdated notions—outdated notions of America's defense needs and outdated notions of the threats to U.S. security. The Defense appropriations bill reported out of the conference committee is designed for the cold war era—an era that has ended. This budget embodies outdated notions and adopts an outdated approach to our national security. I therefore urge that the conference report be rejected.

Rather than focusing on threats that no longer exist, we must begin focusing on the realities of the present day and the fundamental transformations that are shaping the world and our country. Chief among those transformations are the end of the cold war and our runaway debt. These transformations have enormous political, strategic, and economic implications. They are changing the way we must view the world and the role of the United States in that world.

The end of the cold war, for example, has brought a period of transition. We are no longer faced with a Soviet threat. Rather, we are confronted with a period of transition—a work in progress—as Russia and other countries move to define themselves and their relationships with the United States and the rest of the world. This transition period has brought with it different and very real threats for which we must be prepared. Ethnic conflicts and renegade nuclear proliferation, among others, are threats that must be recognized, met, and defeated.

Economically, these transformations have changed the way that we produce things, the services that are offered and the way that we must compete in global markets to be successful. Jobs have been lost and our enormous debt places very real limits on our spending choices. This has very real implications for U.S. security interests, which obviously depend not only on military power, but on economic power as well. It is crucial that our military power be supported by a strong and vital economy and work force. This in turn requires fiscal responsibility, not the current runaway deficit spending. It also requires difficult choices. In short, we simply cannot afford to waste millions of dollars on outdated programs that will not serve our national security or our economic interests.

But that is precisely what this defense budget does. Rather than directing scarce resources where they are needed, this budget funds exorbitantly expensive and unnecessary programs.

As you will remember, I spoke against the Defense appropriations bill when it was considered by this body in August. Since then, that bill has gone to committee to be reconciled with the House version. What has resulted is even worse than could have been expected. No program was eliminated. Rather, when there were competing budget items in the House and Senate bills, the committee accepted the extravagances of both, never mind that they were redundant or not even necessary in the first place.

Take, for example, the funding of two types of marine amphibious assault ships—the LHD-7 amphibious assault ship included in the Senate bill—a ship that the administration did not even request. In the House bill, funding was provided for the similar PD-17 amphibious assault ship. Rather than choose one or the other, this budget funds both at a cost of almost $2.3 billion. This is fiscal irresponsibility and it is not in our national security interests.

This budget also provides for increases for the B-2 bomber program—an increase that the Pentagon doesn't even want. Indeed, the Pentagon-sponsored May 1995 study opposed any further purchases for this system. But throwing such recommendations to the wind, this budget increases funding by $493 million.

Not only does this budget fund B-2 increases, it provides over $2.2 billion for the competing F-22—a program that the House appropriations subcommittee zeroed out as long ago as 1989 for its highly unrealistic assumptions about funding levels and possibly unrealizable technical goals. Now, the F-22 is 1,300 pounds overweight, its stealth signature is larger than expected and there are questions about its software. But this budget continues to fund it although both the CBO and GAO found that the lower cost F/A-18E/F could do the job.

This budget also provides $700 million for a third *Seawolf* submarine that we simply do not need and that is far too costly. Although the Bush administration proposed halting this program in 1992, we have already funded a second one, and this budget would add a clearly unnecessary third.

This budget provides $757.6 million for the continued development of the V-22 Osprey, a program that the Bush administration tried to kill 4 years ago and whose mission can be performed more cheaply and reliably with the procurement of CH-53E helicopters.

This budget provides $299 million for the Comanche. Not only is the Comanche unproven and experiencing developmental problems, its air combat missions can be performed at a much lower cost by the Apache. Even the Defense Department had proposed limiting this program to the production of two prototypes. But this budget not only continues to fund those prototypes, it increases funding by $100 million over the administration's request for full-scale production.

With all these increases, it is not surprising that this budget exceeds the administration's request by nearly $7 billion. But this increase in funding does not represent an increase in our national security. Rather such fiscal irresponsibility will do more to harm our national security than to improve it.

Too much of this $243 billion Defense budget represents nothing more than a jobs program. It funds defense contractors for weapons that we simply do not need and increases funding for programs like the B-2 against the Pentagon's own recommendations. It is true that the end of the cold war era has required a substantial drop in jobs in the defense sector. Defense jobs will decline from 7.2 million to 4.2 million by 1996. This job loss in the defense industry clearly must be addressed. However, the answer is not found in funding jobs through unnecessary weapons programs.

This is a budget for a time now gone, not a budget for today, let alone tomorrow. I urge my colleagues to join me in rejecting it.

I yield the floor.

Mr. DOMENICI. Mr. President, I rise in strong support of the conference report accompanying H.R. 2126, the 1996 Department of Defense appropriations bill.

I commend the distinguished chairman and ranking member, and all the conferees, for bringing the Senate a bill that meets the most critical needs of the U.S. military for the defense of our Nation.

The conferees have achieved this significant accomplishment even though the Defense Subcommittee contributed additional defense spending authority to both the Energy and Water Development Appropriations Subcommittee, which I chair, and the Military Construction Subcommittee. These subcommittees also fund vital programs related to our national defense.

Mr. President, the conference agreement on defense appropriations provides a total of $243.3 billion in budget authority and $163.2 billion in new outlays for the programs of the Department of Defense in fiscal year 1996.

When outlays from prior-year budget authority and other completed actions are taken into account, the conference agreement provides a total of $243.3 billion in budget authority and $242.9 billion in outlays for fiscal year 1996.

The Senate bill is within the subcommittee's revised section 602(b) allocation for both budget authority and outlays.

Mr. President, I ask unanimous consent that a table showing the relationship of the pending bill to the subcommittee's 602(b) allocation pursuant to the 1996 budget resolution be printed in the RECORD.

I thank the conferees for their consideration of several important items that I brought to their attention.

I urge my colleagues to adopt this bill.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DEFENSE SUBCOMMITTEE SPENDING TOTALS—CONFERENCE REPORT

[Fiscal year 1996, in millions of dollars]

	Budget authority	Outlays
Defense discretionary:		
Outlays from prior-year BA and other actions completed	−50	79,678
H.R. 2126, conference report	243,087	163,009
Scorekeeping adjustment		
Subtotal defense discretionary	243,037	242,688
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed		40
H.R. 2126, conference report		
Scorekeeping adjustment		
Subtotal nondefense discretionary		40
Mandatory:		
Outlays from prior-year BA and other actions completed		
H.R. 2126, conference report	214	214
Adjustment to conform mandatory programs with Budget Resolution assumptions	0	0
Subtotal mandatory	214	214
Adjusted bill total	243,251	242,941
Senate Subcommittee 602(b) allocation:		
Defense discretionary	243,042	243,472
Nondefense discretionary		40
Violent crime reduction trust fund		
Mandatory	214	214
Total allocation	243,256	243,726
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary	−5	−784
Nondefense discretionary		−0
Violent crime reduction trust fund		
Mandatory		
Total allocation	−5	−785

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

RESEARCH EFFORTS AT HISPANIC-SERVING INSTITUTIONS

Mr. DOMENICI. I wonder if I might engage the distinguished chairman in a brief colloquy.

Mr. STEVENS. Certainly. I am always happy to hear from the senior Senator from New Mexico.

Mr. DOMENICI. I thank the chairman. Mr. President, let me begin by acknowledging again the efforts of the chairman and the committee for their diligent and steadfast efforts to produce a fiscal year 1996 Defense appropriations bill.

Furthermore, I would like to acknowledge the committee's support for the historically black college and university and minority institutions [HBCU/MI] account, particularly language within the account that encourages the Department to continue its support for minority institutions, including Hispanic-serving institutions [HSI's], through academic collaborations for research and education related to science and technology. This language carries a considerable amount of importance for the education and research community in my home State of New Mexico.

Three Hispanic-serving institutions in my State; the University of New Mexico, New Mexico State University, and New Mexico Highlands University have teamed up with the University of Puerto Rico, the largest minority institution in the country, to develop an academic program that will foster the growth of Hispanic students in science and technology. This collaboration was created out of the need to strengthen the competitiveness and capabilities of Hispanic students in these fields. Such a collaborative effort will effectively contribute to the development of a critical mass of talent and substantially enhanced research opportunities for DOD that are uniquely available at these institutions. As we look to advance the Department's research capabilities, programs such as the ones established between these fine institutions of higher learning should be encouraged.

Mr. STEVENS. I would note that my colleague makes a strong case in support of this initiative. I, too, understand the importance HBCU/MI programs play in the research efforts and capabilities of the Department.

Mr. DOMENICI. I thank the chairman for his support of the HBCU/MI account and I urge the committee's continued support for future research activities at these institutions related to our national security interests.

BALLISTIC MISSILE DEFENSE ORGANIZATION TECHNOLOGY DEVELOPMENT

Mr. DOMENICI. Mr. Chairman, I would like to discuss an item that concerns the Phillips Laboratory.

Mr. STEVENS. I welcome such a discussion with the senior Senator from New Mexico.

Mr. DOMENICI. I am concerned that language in the report accompanying the Senate-passed Defense appropriation bill, specifically Report 104–124, contains language regarding ballistic missile defense that is subject to misinterpretation. The language states the following:

> In order to optimize follow-on technology development, the Committee directs BMDO to designate the Army Space and Strategic Defense Command (SSDC) as a center of excellence for technology development. The Committee believes that commonality in requirements offers the potential for cost savings through centralized screening and common, technology development, with SSDC functioning as the executive agent to BMDO, to help assure that duplication is avoided, and efficiencies are maximized.

Mr. STEVENS. We certainly would not want this language to be misinterpreted. Would you elaborate on your concerns?

Mr. DOMENICI. One of the goals of this language is to avoid duplication, save funds, and maximize efficiency. These goals are supported by everyone. However, certain aspects of the language, as written, could be misconstrued to mean that Phillips Laboratory missile defense programs and the associated technologies could be transferred to SSDC.

Mr. STEVENS. It was not the intention to transfer any programs. I am told that SSDC works primarily on ground-based systems, while the Phillips Laboratory works primarily on space-base systems. Furthermore, there are a number of order DOD commands and laboratories which can serve BMDO's technology needs in these and other areas.

Mr. DOMENICI. Yes, I agree with the chairman of the Defense Subcommittee. I sought clarification to make clear that the intent is not to move programs. Thus, the proposed space-based laser, the airborne laser, and the supporting space-related technologies should remain at Phillips Laboratory. The laboratory has made great progress in these areas.

Mr. STEVENS. It was never our intention to do otherwise.

Mr. DOMENICI. I thank the Senator and would just like to clarify one additional point. It is clearly not the intent of this language to give any authority to SSDC or BMDO with regard to any Air Force-funded programs at the Phillips Laboratory. It is only intended to have effect on the SSDC and BMDO Programs. Is that the understanding of the distinguished chairman?

Mr. STEVENS. Yes, that is my understanding of the language's intent.

Mr. DOMENICI. I thank the distinguished chairman for the opportunity to be heard on this issue.

Mr. LEVIN. Mr. President, I had hoped we could avoid a train wreck as we try to wrap up our budget and appropriations work. Now I hope we can work together in a bipartisan way to solve these problems, for that is surely what the public wants. And the public wants us to function with common sense in an intelligent way to keep the Government going as we make these decisions.

But the public also knows it does not make sense to be adding $7 billion to the defense budget so we can build more B–2 bombers, F–15 and F–16 fighters, and other equipment that the Pentagon doesn't want, and at the same time threaten to cut education, crime prevention, and other programs that are so critical to the security of our people.

And so I rise to indicate that I cannot support this conference report, as I voted against final passage of the Senate bill several months ago. While the conferees have removed some of the provisions of the bill that I opposed, this bill still has far more total funding than the Pentagon needs and more than the Department of Defense asked for.

The President has already indicated that he would veto the bill. On October 18, in a letter to House Appropriations Committee Chairman LIVINGSTON, where he said:

> . . . by appropriating $6.9 billion more than I requested, the Conference Report did not address my fundamental concerns about spending priorities. . . . Absent a broader agreement with Congress that adequately funds crucial domestic programs in other appropriations bills, I will veto any defense appropriations bill that adds extra billions for defense programs not in my request.

I ask unanimous consent that the full text of the President's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, October 18, 1995.

DEAR MR. CHAIRMAN: Thank you for your letter regarding the conference report on the Fiscal Year 1996 Defense Appropriations Act. I want you to know that I appreciate your hard work and leadership on this bill, as well as that of Senators Stevens and Inouye. The Conference Report had many commendable features. For example, a number of policy provisions that raised serious constitutional and national security concerns were satisfactorily resolved in conference, and funding was secured for several programs that were of particular importance to me and to the national security of this country, including the Cooperative Threat Reduction program and the Technology Reinvestment Project.

However, by appropriating $6.9 billion more than I requested, the Conference Report did not address my fundamental concerns about spending priorities. As the bill now goes back to conference following its defeat on the House floor, it is important that the conferees understand where I stand. Absent a broader agreement with Congress that adequately funds crucial domestic programs in other appropriations bills, I will veto any defense appropriations bill that adds extra billions for defense program not in my request.

I am ready to work with Congress to ensure that we reach that agreement.

Sincerely,

BILL CLINTON.

Mr. LEVIN. Mr. President, that veto writing has been on the wall even longer. Alice Rivlin, OMB Director indicated 10 weeks ago, when this conference report first went before the House, that the President would veto it. I would ask unanimous consent that her letter to House Minority Leader GEPHARDT of September 29, 1995 be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, September 29, 1995.

Hon. RICHARD A. GEPHARDT,
Minority Leader, House of Representatives, Washington, DC.

DEAR MR. LEADER: I understand that the House may consider the conference report on the FY '96 defense appropriations bill today.

As he has shown in his 10-year plan, the President that we can balance the budget and maintain a strong defense without sacrificing critical investments in education and training, science and technology, environmental protection, and other priorities—all of which are essential to raise the standard of living for average Americans. By providing $6.9 billion more than the President requested, however, this bill would divert funds from our needed investment in these critical areas.

Now that the House has passed 12 of the 13 appropriations bills and the Senate all but two, the trade-of between defense and domestic investments are all the more clear. In an environment of limited resources, we have to use available funds as prudently as possible. We simply cannot allocate nearly $7 billion more than we need at this time for defense, and starve our needed investments in education and training and other priorities.

The changes to the bill in conference, while commendable in many instances, do not address the Administration's fundamental concerns about spending priorities. For this reason, in the absence of an agreement between the Administration and Congress resolving these important issues, the President would veto this bill.

Sincerely,

ALICE M. RIVLIN, *Director*.

Mr. LEVIN. The President's original Pentagon budget provided for a strong defense. It funded the priorities of the armed services and recognized that in the post-cold war world we have to prepare for different threats, not conduct business as usual. We cannot afford to buy equipment that is in excess of our military requirements, or make long-term funding commitments that are not sustainable, like signing up for another $30 billion or higher tab for 20 more B-2 bombers. If we follow that course, we are actually robbing from our future security, robbing resources that should go into keeping our troops well-trained and keeping our forces in high readiness and high morale, modernizing equipment in areas we ignored for too long, and continuing research and development on future modernization.

Instead, the conferees have sent us a bill that includes $493 million as a down-payment on what will be at least a $30 billion program to build 20 more B-2 bombers not requested by the Pentagon. Secretary of Defense Perry has been saying all year that we should not add funding for more B-2's. He said, as this bill was taking shape in September that the B-2 money "was put in against my explicit advice."

Was Bill Perry, the acknowledged "father of stealth", alone in his judgment? No, that judgment is shared by the General Shalikashvili, by the Joint Chiefs of Staff, and by the President. The Senate bill did not include that money for B-2's. In fact, it was in the original Defense authorization bill mark of the chairman of the Armed Services Committee, and the committee voted to cut it out, by a strong bipartisan vote of 13-8.

What else did the conferees include that was not requested by the Pentagon and not authorized by the Senate? For 6 new F-16 fighters, $159 million. That is a program we in the Senate have voted to terminate at least three times, including this year. We have a surplus of F-16's in the force; we do not need any more. The conferees included $311 million for 6 new F-15 fighters, also not requested and not authorized by the Senate this year. For an LHD-7 landing ship $1.3 billion that was not even in the 5-year defense plan, but was moved forward for purchase in this appropriations bill.

That is not all. The conference report also doubles the Defense Department's request for national missile defense research, from $370 million to $745 million, and funds a $30 million Antisatellite Weapons Program that was not requested by the Pentagon.

What was not funded in the conference report? Ongoing operations, misnamed "contingencies" by the Pentagon, receive some finding, about $600 million, but not the full $1.1 billion we know we will have to pay in fiscal year 1996 for ongoing operations that are already in place. This shortfall is a direct threat to readiness, precisely the area that so many in Congress expressed concern about just within the last year. Training and maintenance accounts could end up being the source of funds to pay for these operations and that could hurt the readiness of some divisions.

The Technology Reinvestment Program, which is trying to preserve our cutting edge research capability for the future by supporting dual-use development programs on a cost-shared, competitive basis, was slashed by more than half by the conferees to only $195 million. And Mr. President, there is much more.

This conference report is not in step with our priority security requirements; not in step with the priorities of the Joint Chiefs, the Secretary of Defense and the President. It is not fiscally responsible. We can and should do better.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. How much time does the Senator seek?

Mrs. HUTCHISON. Five minutes or three minutes.

The PRESIDING OFFICER. The Senator from Alaska controls 15 minutes and 30 seconds.

Mr. STEVENS. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I want to say that I have been watching this subcommittee deliberation on this very important defense authorization appropriations bill. I know how hard it has been to get this bill through. I have watched the negotiations with the House Members. I have watched the negotiations between the Members. I have heard some of the debate on the floor in the last few hours. Of course, there are things that one Member may not think are the priorities for another Member. But there is an equal force on the other side that does not like something else in it. It is very difficult to bring people together.

But the bottom line here in the big picture is that we have put more into defense appropriations this year than the President sent up here, and we did that in a bipartisan effort because so many of us are concerned that we have a false sense of security, that we are in a safe world, that the United States can pare down its military, and we do not have to be the superpower that is ready in any eventuality. That is not the case. I compliment Senator STEVENS and Senator INOUYE for bringing the parties together and forging a bill that does spend enough money to make sure that we are going into the next century strong.

It is not as strong as I would like it to be. There are other priorities that I might like to see. I understand the concerns of some of the Senators who have spoken here, but the bottom line is, we are a deliberative body and we have to give and take on priorities as long as we meet the cap that we have put in the budget resolution, and that is exactly what we have done here.

So I compliment the two Senators who are the chairman and ranking member of this very important committee.

I want to say especially that one of the concerns that I have that has been met in this bill is something I hope we are going to talk about in the next few days, and that is the sense of the Senate that is a part of this bill which says that "no funds available to the Department of Defense shall be obligated or expended for deployment or participation of United States Armed Forces in any peacekeeping operation in Bosnia and Herzegovina unless such deployment or participation is specifically authorized by a law enacted after the date of enactment of this act."

Now, this excludes the kind of operations we have had this year—the air cover, the participation that we have had on the periphery. That is excluded, but it does have a sense of the Senate that we will not spend funds unless we specifically authorize those funds for that kind of peacekeeping operation.

This is just the beginning of the real debate that is going to come on the floor of this Senate in the next few weeks about what the role of our armed services should be in Bosnia. I am going to argue very forcefully that it is not our role to send American troops on the ground in Bosnia. We are starting that debate tonight when we pass this bill.

We are saying it is the sense of the Senate that we must be consulted and we must pass specific authorization and appropriations before we send our troops in, and that that is for a number of reasons. It is because we have not staked out the United States security interest that would require troops on the ground. It is because we have not staked out that this is going to be the death of NATO if American troops are not on the ground. In fact, I think it is the opposite. I think it is important that we have the strength of NATO by saying exactly what our leadership role will be, and there are many things we can do that do not include our troops on the ground.

So, Mr. President, I am just saying that the sense of the Senate will be passed tonight. It is very important, and I hope the President of the United States is listening to this debate. I hope he is listening to the importance to all of us that he come to Congress for enactment before he sends peacekeeping troops to Bosnia.

I thank the two leaders on this bill. I appreciate what they are doing for this country, and I am going to support the bill wholeheartedly. Thank you, Mr. President.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I yield back all the time on this side.

I ask unanimous consent that following the statement of the Senator from Hawaii, which I understand will take 10 minutes, and I apologize for limiting the time, that the rollcall vote commence at 6:25.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Hawaii.

Mr. INOUYE. Mr. President, the Senator from Georgia [Mr. NUNN] is unable to be with us this afternoon because of circumstances beyond his control, and he has requested that his statement be made a part of the RECORD.

Before I submit the statement, I would like to read from his second paragraph, and I quote:

> This is a good bill, Mr. President, and I believe the Senate should support it and the President should sign it. Senator STEVENS and Senator INOUYE have produced a conference report which addresses our national security needs in a fiscally responsible manner.

(At the request of Mr. INOUYE, the following statement was ordered to be printed in the RECORD):

• Mr. NUNN. Mr. President, I want to start by commending the Senator from Alaska and the Senator from Hawaii for all the hard work I know they have put in to bring this conference report before the Senate.

This is a good bill, Mr. President, and I believe the Senate should support it and the President should sign it. Senator STEVENS and Senator INOUYE have produced a conference report which addresses our national security needs in a fiscally responsible manner. Anybody who has known Senator STEVENS and Senator INOUYE as long as I have would expect nothing less.

This conference report preserves funding for some of the administration's top priorities, such as the Cooperative Threat Reduction Program, the Technology Reinvestment Program known as TRP, and the third *Seawolf* submarine.

The House bill eliminated funding for the *Seawolf* and the TRP, and cut the Cooperative Threat Reduction Program almost in half, so this conference agreement preserves the Senate position on some key items of interest to the administration. This bill also avoids legislative provisions that try to dictate to the President when or how he can deploy our military forces.

As I have stated on many occasions, I believe the defense budget has been cut too far, too fast. Our forces are simply much busier than I believe anyone really anticipated when the Soviet Union and the Warsaw Pact were dissolving. Today our force structure is much smaller than it was 5 years ago. We all agreed that based on the reductions in the threat and the increased warning time for any kind of global conflict, these reductions were prudent and necessary.

But the smaller force we have left is busier than it has ever been. The fact is we simply cannot keep on reducing the defense budget the way we have been. The people are wearing out. The equipment is wearing out. So I think the budget resolution moved us in the right direction by providing for a small increase for defense over the next few years.

I do not think a lot of people realize how small that increase is. First of all, compared to the baseline concept that we use for entitlement programs, defense is not even getting an increase. The amounts provided for defense in the budget resolution over the next 7 years do not even come close to keeping the defense budget as large as it is today, after taking account of inflation. We would need to add at least another $100 billion over the next few years to stay even compared to a so-called current services baseline.

Compared to the administration's plan, the budget resolution increases defense by only $19 billion over the next 7 years, which is equivalent to a 1-percent increase over the administration plan. That is the defense increase

Congress has agreed to. Many of us felt the increase should be larger, especially in the outyears from 2000 through 2002, when defense is projected to be lower under the budget resolution than under the administration's plan. I also recall very well that over the past 5 or 6 years defense was the only part of the budget coming down, so it seems that the principle that defense has to be cut if something else is being cut is not always applied consistently.

Most of the increases in this bill over the administration's plan are in the modernization accounts which are the key to future readiness. We cannot continue to stay in the deep procurement though we have been in for the past few years indefinitely. We have cut procurement deeply to take advantage of the shrinking force structure, but our military can't live off its stock of old capital forever any more than any business could.

I want to briefly discuss the one program that represents two-tenths of 1 percent of the funding in this bill, but that seems to get more discussion than the other 99.8 percent of the programs in this conference report. Many people argue, and I am sure they truly believe, that the B-2 bomber is unaffordable. In my view, Mr. President, the argument that the B-2 is unaffordable is No. 1, false, and No. 2, a false issue.

Over and over I have seen people focus on the price of the B-2 without ever hearing a word about the cost of the collection of systems you would need to do the same job without the B-2. People tend to look at it as if the choice were buying the B-2 or doing nothing. They don't look at the whole picture.

The only real argument I hear from the Defense Department against the B-2 is that they would like to have it but they don't want to give anything up to get it. But that is a false issue, because Congress has made more funds available over the next few years specifically for programs like the B-2. It is not necessary to slow down the modernization of one part of our forces in order to modernize our bombers.

I am disappointed that this conference agreement does not fund the Corps SAM program at the requested level as in the Senate bill. The Corps SAM program represents just 1 percent of the funding for the ballistic missile defense program, and I regret that this conference agreement did not contain full funding for this important program on which we have asked for allied cooperation.

While the modernization accounts always get the most attention, this conference agreement also seeks to protect current readiness by partially funding the cost of ongoing operations which were not included in the administration's budget. The conference agreement includes $647 million to fund the fiscal year 1996 costs of our continuing missions in and around Iraq, operations Provide Comfort in northern Iraq and Southern Watch in southern Iraq. This was one of the administration's highest funding priorities, if not the highest. The conferees added nearly $1 billion to the requested level in the readiness accounts—pesonnel and operation and maintenance—and much of it was to fund these ongoing operations.

In my view, it made no sense to add substantial funds to the defense budget request without taking account of must-pay bills we know we are going to face either this fall or next spring.

By providing funding for these ongoing operations, Congress has not only attempted to avoid a readiness problem in next year, but it may allow us to actually make some progress in one of reducing the backlog of maintenance and repair on our barracks and other facilities where our forces live and work. The bill adds $700 million to the request to reduce the maintenance backlog on barracks and other facilities. This is not the first time Congress has added funding for real property maintenance or depot maintenance.

But what usually happens, and what would most certainly happen this year if we did not set aside funds to cover the cost of these ongoing operations, is that the increases we set aside for maintenance get diverted to cover must-pay bills. I hope that the approach the conferees have taken in this bill will allow us to avoid that trap.

Mr. President, this is not a perfect bill. No bill is. But I think this is a good bill, a bill that should be signed, and I once again commend Senator STEVENS and Senator INOUYE for their leadership.●

Mr. INOUYE. Mr. President, I rise today to offer my support to this conference report. The conference agreement is a good compromise between the interests of the House and Senate. It is truly a bipartisan effort in the long tradition of the Appropriations Committee.

Chairman STEVENS and I worked together with Chairman BILL YOUNG and the ranking member, JACK MURTHA, of the House National Security Subcommittee in formulating the final conference agreement.

It has been a long journey, but the end result is a bill that warrants the support of all my colleagues.

The conference agreement under consideration has three priorities: It protects critical military readiness programs, it fully funds the needs of our men and women in uniform, and also provides a much-needed increase for modernizing our forces.

In total, the conference agreement recommends $243.3 billion for the Department of Defense, an increase of $6.9 billion compared to the President's request.

Mr. President, I want to point out to my colleagues on this side of the aisle, that this bill is consistent with the administration's policy objectives. It does not legislate changes in the ABM Treaty or the Missile Defense Act. It contains no limitation on the President in his conduct of foreign affairs.

One of the most contentious issues to be resolved by the conferees was abortion. On September 29, the House voted against the first conference agreement because of abortion language.

For the past 6 weeks we have worked hard to reach a compromise which can pass both Houses. The conferees agreed last night to incorporate language mirrored on that which both the House and Senate passed yesterday on the Treasury-Postal Service appropriations bill.

The language would allow for abortions to be performed in military hospitals when the life of the woman was endangered or in the case of rape and incest.

Most of my colleagues will remember that both the chairman and I have voted against this policy many times over the past two and a half decades. We are recommending it now because it reflects the policy already agreed to by both bodies.

The bill before you provides $81.5 billion for operation and maintenance to protect the readiness of our forces. This amount is $700 million more than requested by the President. It supports the military personnel levels requested by the President; it funds a 2.4-percent pay raise for our military personnel and increases their basic allowances substantially—all consistent with Senate recommendations.

The bill also raises procurement spending by nearly $6 billion, up to $44 billion.

To those who suggest that the bill provides too much for modernization I would note that, even with these increases, we are still spending less than half of the amount the Senate recommended for procurement 10 years ago.

Throughout this year, Chairman STEVENS and I asked each of the military Chiefs of Staff to meet with the Defense Subcommittee to review the needs of their respective services. The recommendations for procurement spending match these requirements very closely.

Let me also point out that the Joint Chiefs of Staff are reportedly seeking an increase of an additional $60 billion for procurement in future budgets. That amount is $16 billion higher than we recommend in this bill. I think my colleagues should realize that recommendations on procurement in this bill are the minimum that must be provided.

Mr. President, there have been reports that the White House might veto this bill. I hope that this is not correct.

The conferees have gone a long way to resolving the objections that were raised by the President when the bills passed their respective Houses. The policy statements on Bosnia, and abortion have been eliminated. Funding eliminated by the House for technology reinvestment, for cooperative threat reduction, and the *Seawolf* submarine have been restored as requested by the President. The conferees have reduced funds from the House-passed level for missile defense. In each case these recommendations are consistent with White House wishes.

Mr. President, I believe it is essential that we invest in the readiness, quality of life, and modernization programs funded by this bill. I am in full support of this legislation. It is a good, fair, and very important bill. I encourage all of my colleagues to support it.

Mr. President, I just wish to spend 9 minutes commenting on statements made by my colleagues in this debate.

One of my illustrious colleagues stated that he sees no threat on the horizon; why are we spending all of this money, which reminded me of the early days of a war that was fought 50 years ago.

Five days ago, we gathered to commemorate the end, the victorious end of this war, but I also recall those years just before December 7. I was young enough to remember that, Mr. President. A year before December 7, because Members of the Congress did not see the threat which many of us thought was just obvious, we nearly defeated the Selective Service law. It passed by one vote. At the moment of its passage, our merchant vessels were being sunk in the Atlantic Ocean by German submarines, the Germans were rampaging all over Europe, London was being bombed, the Japanese were rampaging all over China, Nanking was being raped, Peking was falling and we saw no threat. And December 7 came as a brutal surprise to many of us. Not to me, Mr. President, and thank God for that one vote, we had the draft.

Two years before December 7, the very famous general from Virginia, General Patton, reported for duty at Fort Benning in Georgia. He was told to organize an armored division. When he got there, he saw 375 tanks. At least they looked like tanks. The only trouble is that over half of them would not roll. They were not operational.

This may sound facetious, but it is not. He called up the War Department and said, "I need some money because these tanks need parts, otherwise they won't move." And the War Department said, "Sorry, sir, we have no money."

Fortunately, General Patton was one of the wealthiest men in the United States at that time. He took his checkbook, went to Sears, Roebuck in Atlanta, GA, and bought parts, and that is how we developed the 1st Armored Division in the United States. Thank God somebody had a checkbook.

One of my colleagues also said that some of these activities that we have funded in this bill were not authorized, were not requested by the President, were not requested by the Senate.

Mr. President, the freedom to criticize, the freedom to disagree, the freedom to discuss, to debate and make decisions are very important in this democracy. This is not a dictatorship. The President does not tell us I want that ship and nothing else.

I want to review history, recent history.

We have been told that the most important weapon system in Desert Storm was the F–117, the Stealth fighter bomber, and if it were not for that, we would have lost lives, many lives, because this Stealth bomber was the one that was able to knock out all of the radar stations, which made it possible for our fighter planes and bombers to go in. It might interest you to know, and I think we should remind ourselves, that the administration and the Pentagon opposed building the F-117. This Congress persisted. I am certain the chairman of the committee remembers that.

Let us take another weapon system that was most important in Desert Storm, the Patriot. If it were not for the Patriots, the casualties on our side would have been at least double. The Patriots were able to knock out the Scuds. Thank God we had the Patriot. The administration opposed it, the Pentagon opposed it, but we in the Congress and in this committee insisted upon it.

In 1978, the President of the United States vetoed a defense appropriations bill that carried the *Nimitz*-class nuclear carrier. It is the most powerful weapon system we have today. Thank God the Congress persisted, and we overrode that veto.

There is another aircraft that my colleague from Alaska is the most knowledgeable expert on, the V–22 Osprey. The Pentagon did not want it. The White House did not want it. This committee insisted upon it. Now everyone wants it.

So, Mr. President, much as we would like to suggest that we are the repository of all wisdom, it is not so. The democracy that we cherish here is made up of many minds, and the wisdom from all of these many minds, hopefully, will reach the right decision. And we would like to believe, Mr. President, that the decision we present to you today is the right decision. I cannot tell you, in all honesty, that there is no pork in this bill. But those who advocate and those who have fought and supported these provisions in their belief that it is essential to our democracy. And, also, I am certain all of us agree that when one enters into a conference, you cannot hope to get everything you want. You can get some of it. You will have to give in to some.

This is the compromise that we have reached. It was not easy, Mr. President. But I think we have done a job that we can stand before our colleagues and say that we have done our best, and we are presenting our best to the Senate of the United States. I notice that my time is up.

I yield the floor.

The PRESIDING OFFICER. The hour of 6:25 having arrived, under the previous order, the yeas and nays having been ordered, the question is on agreeing to the conference report.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Georgia [Mr. NUNN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 579 Leg.]

YEAS—59

Abraham
Akaka
Ashcroft
Bennett
Bond
Breaux
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Johnston
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Pressler
Reid
Robb
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—39

Baucus
Biden
Bingaman
Boxer
Bradley
Brown
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Glenn
Graham
Harkin
Hatfield
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
McCain
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Rockefeller
Roth
Sarbanes
Simon
Wellstone

NOT VOTING—1

Nunn

So the conference report was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Mr. President, I have voted today for the Defense Appropriations Conference Report because I believe it is fundamentally a sound and necessary bill which will fund critical defense functions for the current fiscal year. This bill is not perfect. It funds procurement of a few weapons systems which the Secretary of Defense and the military service chiefs have said they do not need or want; I would have preferred that such systems not be funded. But on balance I believe the right programs are funded, critical modernization for our armed forces will take place, and critical skills of defense workers across the country, including in my State of Connecticut, will be maintained. At the same time, I am very troubled that this appropriations conference report includes language that prohibits abortions in military facilities. My record of opposition to language that creates unfair barriers to legal abortion services is clear. I see no reason why this restrictive provision needed to be included on a defense appropriation bill and I oppose it. No one should misconstrue my vote today for this important appropriations bill—a bill which is even more critical as many defense workers have been furloughed along with thousands of other Federal employees caught up in our current budget crisis.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, parliamentary inquiry, are we back on the continuing resolution?

Mr. FORD. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate is not in order. The Senate will please come to order.

The minority leader is correct.

Mr. DASCHLE. Mr. President, I withdraw my amendment and raise a point of order that the bill violates section 306 of the Congressional Budget Act.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the point of order be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, let me explain. I know it is certainly the intent of colleagues on both sides of the aisle to work through this process and to accommodate what we all want here, and that is an agreement on a continuing resolution at the earliest possible date. It is also my personal view, and the view of most of our colleagues, that the best way to do that, of course, is to send a clean resolution to the President. I offered the point of order in the hope that we could strip away the extraneous matters and get back to what we tried to do this morning, which was to offer a clean continuing resolution.

It appears, however, that that would entail a good deal of parliamentary discussion and negotiation and procedure that, in my view, would be counterproductive, frankly, because it would take us at least through another day.

It was not my intent to surprise the majority leader. I thought we had an understanding about the point of order, and there was some misunderstanding. For that reason, as well, I think it is propitious at this point to pick up where we left off prior to the time the point of order was offered.

So I have discussed the matter with the majority leader, and I am prepared to offer our second amendment, as we had agreed to do earlier today. This would expedite our consideration of the continuing resolution and will allow us to get the bill down to the President, allow us to continue the negotiations in good faith, and to find, at an earlier date rather than a later date, some resolution.

I have no doubt that if this bill goes to the White House, the President will be required to veto this one, as well. So we will be back to where we were prior to the time we offered this.

So I am looking for, and the majority leader is looking for, a way in which to find some resolution. It is in that good-faith effort that I have asked for the unanimous consent.

AMENDMENT NO. 3057

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3057.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

Section 106(c) of Public Law 104-31 is amended by striking "November 13, 1995" and inserting "December 22, 1995".

Section 2. (a) The President and the Congress shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the fiscal year 2002.

(b) The unified balanced budget in subsection (a) must assure that:

(1) Medicare and Medicaid are not cut to pay for tax breaks; and

(2) any possible tax cuts shall go only to American families making less than $100,000.

Mr. DOLE. Mr. President, I will take a minute to thank the Senator from South Dakota. We had a miscommunication, and I will let it go at that. We have to work together. We do not surprise each other. I think we are on the right track.

It is my understanding that the Senator from South Dakota would agree to 40 minutes equally divided, or more?

Mr. DASCHLE. Yes, 40 minutes, I think, is adequate time to consider this amendment.

Mr. DOLE. Prior to a vote or a motion to table in relation to the amendment.

Mr. DASCHLE. As I understand it, there will be no second degree amendments.

Mr. DOLE. Right. I ask unanimous consent that what was just stated be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. It is my understanding, also, that following disposition of this amendment, maybe after some debate, we will go to final passage.

Mr. DASCHLE. That is my understanding, as well.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I yield such time as I may consume.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, this amendment starts where the last amendment left off. It simply says that we ought to have a resolution that takes us at least through the month of December, setting as a target date December 22. That is what the earlier amendment did. This amendment would accomplish the same thing.

Second, it uses the same level of spending for all of those agencies of Government affected as the previous continuing resolution—the same, again, as the amendment we proposed this morning.

So in an effort to accommodate what I hoped would be a very serious negotiation on reconciliation, we would offer this continuing resolution, with the expectation that we could avoid facing another crisis for at least for another 4 weeks. So we start with an appreciation that it is going to take longer than a couple of weeks to resolve all of the outstanding differences that we have with respect to reconciliation. If that is the case, rather than revisiting the issue, let us be serious about a continuing resolution. Let us move this date to a point that is practical, that is prudent, that accepts the fact that we may not be able to finish our work prior to that time.

Second, Mr. President, it simply says if we are going to insist in this resolution that there be a 7-year budget, that we use the 7-year budget timeframe within which to resolve all the other differences, priorities, and circumstances that we have, and then let us do a couple of other things. Let us also, since we are setting some parameters here, decide that we are not going to use the Medicare trust fund as a pool from which to draw resources to pay for a tax cut. Let us not do that. And let us not use this process, this particular piece of legislation, to exacerbate income distribution even more than it is.

In other words, let us not build upon what is already happening in this country, where more and more of the wealth is being shifted to the upper-income levels. And to avoid that, let us assume that there will be a tax break; or let us just say if there is a tax break, the resources we will spend for those tax breaks will all go to those making under $100,000 a year—that is, no tax breaks for those making more than $100,000 a year.

So, Mr. President, that is really what this amendment does. First, it allows us to do our work through December 22. Second, it sets funding levels where they have been in the past continuing resolution. Third, it says if we are going to have a 7-year budget resolution, let us at least recognize that that is a constraint that might warrant a couple of other constraints—the first being the protection of Medicare from cuts to finance tax breaks. We have had votes on it in the past. I think this Senate has been on record now on a number of occasions that it is not right, that it is not acceptable, that it is not something that even some Republicans have indicated they can support—to block the use of Medicare resources for purposes of a tax cut—under any circumstances.

I, frankly, think that is one of the most challenging of all the things that we are going to be facing as we sit down to negotiate a final reconciliation package. How do you pay for the tax cut? I know we are told by CBO that there is going to be roughly a $170 billion dividend. Frankly, I am amazed that we can project a dividend 7 years out without really knowing whether there is going to be a recession or what kind of economic growth there is going to be.

We are going to have less economic growth, I remind my colleagues, using CBO growth projections at 2.3 percent than we have had in the last 25 years. In the last 25 years, we are told that the growth, on the average, was 2.5 percent. So what CBO is telling us is that we are going to have a balanced budget at the end of 7 years, but the growth is only going to be 2.3 percent, two-tenths of a percent less than what we have had historically. That seems inconsistent to me, and it is hard to understand how one generates dividends from that. But let us assume there is a dividend of some $170 billion. The tax cut is over $220 billion. It may even be $245 billion, if our House colleagues have their way.

So the question is: Where does the additional amount of revenue come from? We all know that this is all pretty flexible here. We all know that, in the meantime, before the dividend is realized, that revenue has to come from somewhere because the tax cuts start immediately. Well, the tax cut revenue is going to come from pools of resources already in the budget. And the only pools of resources available are Medicare and Medicaid, to the degree we need large revenue sources to pay for the tax cut.

Mr. President, that has been our concern from the very beginning, a very legitimate concern about paying for tax cuts from revenue that is already dedicated to virtually the most important function, in my view, virtually in the entire budget. The health care of senior citizens, the health care of those who are unemployed, insured only by Medicaid, the health care of those who are going to nursing homes—that is what we are talking about, providing a safety net, some security, to those people who have counted on it now for 30 years.

Mr. President, that is a fundamental question that in our view ought to be addressed. If we are going to set out 7 years as a precondition, it is our view we also ought to set out preconditions about where Medicare and Medicaid resources go.

We recognize the need to bring about trust fund solvency. We are not talking about solvency here. We are talking about $270 billion in cuts, $181 billion more than what the trustees tell us we need for solvency. For what reason? Unfortunately, it is our view, it is to provide the tax cuts that, in our view, simply are not necessary in many cases.

That is the first stipulation.

The second stipulation is that if we are going to have those tax cuts, at least ensure they go to those who have the greatest need. Make sure it is working families whose incomes are already stretched with college and a whole range of difficulties. Make sure they are the ones who are held harmless in all of the cuts and to make sure, to the extent we can, that if we have tax cuts, they go to those working families who need it the most.

I really do not know that somebody making $2 million or $3 million or $4 million needs a tax cut, regardless of the circumstances. I do not think somebody with our income level, regardless of what it may be now under this difficulty we are facing, needs a tax cut.

We do not need a tax cut. And certainly no one making more than $1,000,000 a year needs a tax cut—not if we are really serious about balancing the budget, not if we are really serious about bringing down not only the deficit but the debt.

I have always been curious, and I have never had one of my conservative friends respond to this, are they not as concerned about the aggregate debt as they are about the deficit? The aggregate deficits total $6 trillion.

So even if we reach a balanced budget, we still have $6 trillion of indebtedness out there—$6 trillion. I have not heard one of my Republican colleagues give me any indication as to what they think ought to be done with that.

How are we going to buy down that debt? Are we going to be content to leave it out there to continue to pay the interest on it? It seems to me before we start talking about tax breaks not only should we dedicate our efforts to reducing the deficit but we should dedicate our efforts to reducing the debt as well.

I know my colleague from Massachusetts is here. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has 10 minutes 49 seconds.

Mr. DASCHLE. I am happy to yield to the Senator.

Mr. KENNEDY. I inquire of Senator DASCHLE if he would possibly yield for a question.

Mr. DASCHLE. I am happy to yield to the Senator.

Mr. KENNEDY. It seems to me, and I ask whether the Senator would agree with me, that the President of the United States, when the initial continuing resolution was sent down there, it had the increase of the premium—some $52 billion.

At that time, he vetoed it and our Republican friends said, all right, we will not put in that increase for the premiums. All we are interested in is a balanced budget.

Now we have the real intention of our Republican friends, because I do not know whether the minority leader has had a chance to examine the reconciliation that will be up here on the floor tomorrow which right here on title VIII has all of the premium increases that would have been increased on the continuing resolution, they went through it and said all they were interested in was a balanced budget.

Here we have—tomorrow we will be addressing these issues. Is the Senator familiar that all of those increases in Medicare are going to be part of their program?

The point I am just making is all day long and just recently this evening we heard about the willingness of Mr. GINGRICH and our Republican leader who wanted to get a balanced budget.

Tomorrow we are going to have the $270 billion Medicare cuts, the $52 billion in additional premiums which will result in $2,500 additional premiums, the Medicaid cuts of $180 billion, the student loan cuts of $4.9 billion, and the raid on the pensions which we passed here, 94 to 5—$20 billion raid on worker pensions.

Does the Senator agree with me that this argument that is being made here that we have to pass this this evening and all we are interested in is trying to get the President to sign this so we can have a balanced budget, we are glad to work the priorities out with the President, that is rather a hollow statement and comment given the fact that our Republican friends have worked this out in a closed session with effectively only Republicans participating, and they are doing just what we warned they would do in terms of cutting the Medicare $270 billion and tax breaks for the wealthiest individuals at $240 billion? Does the Senator agree with me that has some inconsistency in terms of what this issue is really all about?

Mr. DASCHLE. The Senator from Massachusetts makes a very, very good point. This is just the beginning.

The real debate will begin perhaps as early as tomorrow when we get the reconciliation package. As the Senator noted, none of us have had the opportunity to see this package yet. It will be on the floor in the next 48 hours at some point.

We know, given what the House did and what the Senate did, there are huge cuts—three times more cuts than we have ever seen before, for Medicare, cuts that go deeply into the program, that go way beyond trust fund solvency, cuts that will be used to create the pool of resources, to create the tax cuts that the Republican majority continues to want to defend.

That is what this is all about.

Mr. KENNEDY. Even if the President signed this resolution tomorrow, these Medicare cuts of $270 billion would still be up here on the floor of the Senate—our senior citizens ought to know it—and there is every indication that the votes are there to pass it.

Mr. DASCHLE. The Senator is right. We may have taken it out of the last continuing resolution. It was dropped from the CR, but it is in the budget reconciliation bill. It is in the permanent legislation. It is in the language that we are going to be voting and debating beginning tomorrow, in all of its detail, spelling out exactly how deeply they are going to cut into the Medicare and Medicaid programs. We will see it tomorrow.

We know it is there tonight. We know that there is a huge cut in Medicare. We know that is the pool of resources from which they will pay for the tax cut. That much we know. All the other details we still do not know.

Mr. KENNEDY. Finally, because I see my friend and colleague, this is one Senator who finds this whole exercise of Mr. GINGRICH and Mr. DOLE to be rather a hollow one. This idea that all you have to do is indicate to us that we are headed for a balanced budget goal and we are quite ready to sit down with you and work out the priorities. I do not know how many times I have heard that on the radio and heard it last night. All the while, the priorities are going to be voted on by this body under a very strict time agreement, which will be $270 billion cuts in the Medicare Program.

I think our senior citizens ought to understand who is standing up for them in this debate. It has been the President. It has been the minority leader. It is the Senator from Nebraska, and I am proud to be supporting their efforts.

Mr. DASCHLE. I thank the Senator for his comments. I yield to the Senator from Nebraska.

Mr. EXON. I want to ask a question, too, of our Democratic leader.

First, we have been hearing on television and here on the floor that the Democrats do not want to balance the budget in 7 years.

I have looked—and I do not think we have emphasized that the very first part of the amendment you have offered says the President and the Congress shall enact legislation in the 104th Congress to achieve a unified balance of the budget no later than fiscal year 2002.

As I understand and interpret that—but I want to hear it from the lips of my leader—here is a case where we are proposing to balance a budget by the year 2002; is that correct?

Mr. DASCHLE. The Senator is correct.

There is a way to balance the budget by the year 2002. The Senator from Nebraska has voted for it. The Senator from South Dakota has voted for it. Many of our colleagues have voted for it.

If you do not have a tax cut, if you use reasonable economic projections about what will happen in the next 7 years, there is a real possibility that you could achieve a meaningful balanced budget in perhaps even less than 7 years.

But it is the Republican insistence on a tax cut, it is the Republican insistence on economic growth projections that go way below what we have experienced historically, for at least the last 25 years, that make many of us very skeptical about whether it is achievable in 7 years.

Mr. EXON. Then the Republican charge that I have heard over and over and over again, that the Democrats simply do not want to balance the budget in 7 years, is blown pretty much sky high with the amendment that you have offered on behalf of the minority?

Mr. DASCHLE. Mr. President, the Senator is absolutely correct. This makes it very clear that it is not our desire to oppose a 7-year balanced budget amendment necessarily. What I said this morning holds this evening. It is our desire to ensure that we have to have some better understanding of what we are talking about here.

We will support a 7-year budget resolution if we know that Medicare is not going to be used to pay for tax cuts; if we know that any tax cuts incorporated into the legislation will be targeted to those making less than $100,000 per year. Those kinds of things are fundamental to our enthusiasm, our level of support for whatever else may have come from the negotiations during reconciliation.

Mr. EXON. If I understand the amendment, then, offered by the Democratic leader, that we just talked about, it provides for balancing the budget by the year 2002; and then second and equally important it says that, if we have a tax cut, that tax cut would be limited to only American families making less than $100,000 a year? So if you made over $100,000 a year you would not get any tax cut, if we have one. If we do have a tax cut all of it goes to those making $100,000 or less, is that correct?

Mr. DASCHLE. The Senator is absolutely correct.

I thank the Senator and I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have just heard a preposterous argument. The Republicans are saying to the President of the United States: Mr. President, we have been working since the beginning of this year to develop a balanced budget that is real, that the true authenticator of economics, the reliable group that the President told us to work with, says is in balance in the year 2002.

The President does not like our priorities. He does not like to give tax cuts, apparently. And perhaps the Democrats do not want to give any tax cuts. So, we are suggesting that here is a compromise. You do what you want, but we are going to vote on what we want. And we will go to conference with you, Mr. President.

You are not bound to anything. If you do not want any taxes you go to the table and say we do not want any. If you do not want to reduce Medicare savings, you go to the table and say you do not want to. If you want to bring the CPI to the table, you bring it to the table. Whatever it is. We are only asking for a commitment that, in 7 years, you will have a balanced budget using conservative economics. So that we will not be burned again, and think we got a balanced budget only to find that we got a lot of it as a gift from economic assumptions that were too high.

For, as the distinguished occupant of the chair has said, if the Office of Management and Budget, which makes it easier to balance the budget because you do not have to cut so much if you have these exciting high economic assumptions—if they happen to be wrong, you never get a balanced budget. That is not the case if we use the economics we propose. If we happen to be wrong you get a surplus. And what would be wrong with that?

That is one argument. But let me repeat it just slightly—just a different way. We have been hearing from the other side: Do not tell the President what to do. We have been trying to say we are not trying to tell him what to do. All we want is a commitment to a balanced budget in 7 years, using real economics. That is all we want. The priorities are up to you. But we have our priorities. We want a vote on them and we want to send them to the American people and send them to you and you veto them. And all we are saying is, this Congress, with the President who is now in the White House, we get together and our only commitment is to produce a balanced budget in 7 years using real economics. There is no other commitment.

The Democrats tonight are saying wait a minute. We would like to tell you what is going to be in that budget in advance, when they have not had to vote on anything. They have not produced a balanced budget. They have not told us what they would restrain and what they would not restrain—I take it back. Mr. President, 19 have; 19 Democrats put a budget before us.

Incidentally, they used the same economics we used and they got a balanced budget. They did not want to cut taxes so they did not cut taxes. But they produced one. What is the discussion about? Now they want to tell us how to run that budget when they have not voted on anything. They have not voted on what to do in Medicare and Medicaid and taxes. And they would like, now, to tell us: Wait a minute, we would like to tell you in advance what we cannot do.

All we are suggesting is, Mr. President, sit down with us, and your team and some Democrats, and just use one benchmark. Do you want a balanced budget in 7 years using real economics? No other test. That is the only issue.

Now, Mr. President, because the issue has been raised about Medicare, Medicaid and taxes, we must speak to them. So let me refresh everybody's recollection.

The Washington Post today lends real credence to why we should vote this particular amendment down and why the people of this country ought to listen to the rhetoric of the last 15 minutes and be very suspicious of what it is really about. This editorial today, by the Washington Post, called "The Real Default" addresses the demagoguery of the President of the United States and the leading Democrats, who choose to make the case to the senior citizens for them not to worry. We do not have to change anything in Medicare. Everything is rosy. And this calls it what it is.

It will destroy any opportunity to get a balanced budget. It will put us in a position where we are living year by year to see whether the senior citizens have a program of health care. Once again, at this point in my debate, I ask unanimous consent to have this editorial printed in the RECORD. I will merely read one part of it.

> We've said some of this before; it gets more serious. If the Democrats play the Medicare card and win, they will have set back for years, for the worst of political reasons, the very cause of rational government in behalf of which they profess to be behaving.

Meaning there will be no chance to fix the budget of the United States.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 16, 1995]

THE REAL DEFAULT

The budget deficit is the central problem of the federal government and one from which many of the country's other, most difficult problems flow. The deficit is largely driven in turn by the cost of the great entitlements that go not to small special classes of rich or poor but across the board to almost all Americans in time. The most important of these are the principal social insurance programs for the elderly, Social Security and Medicare. In fiscal terms, Medicare is currently the greatest threat and chief offender.

Bill Clinton and the congressional Democrats were handed an unusual chance this year to deal constructively with the effect of Medicare on the deficit, and they blew it. The chance came in the form of the congressional Republican plan to balance the budget over seven years. Some other aspects of that plan deserved to be resisted, but the Republican proposal to get at the deficit partly by confronting the cost of Medicare deserved support. The Democrats, led by the president, chose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that's where the votes are and the way to derail the Republican proposals generally. The president was still doing it this week; a Republican proposal to increase Medicare premiums was one of the reasons he alleged for the veto that has shut down the government—and never mind that he himself, in his own budget, would countenance a similar increase.

We've said some of this before; it gets more serious. If the Democrats play the Medicare card and win, they will have set back for years, for the worst of political reasons, the very cause of rational government in behalf of which they profess to be being behaving. Politically, they will have helped to lock in place the enormous financial pressure that they themselves are first to deplore on so many other federal programs, not least the programs for the poor. That's the real default that could occur this year. In the end, the Treasury will meet its financial obligations. You can be pretty sure of that. The question is whether the president and the Democrats will meet or flee their obligations of a different kind. On the strength of the record so far, you'd have to bet on flight.

You'll hear the argument from some that this is a phony issue; they content that the deficit isn't that great a problem. The people who make this argument are whistling past a graveyard that they themselves most likely helped to dig. The national debt in 1980 was less than $1 trillion. That was the sum of all the deficits the government had previously incurred—the whole two centuries' worth. The debt now, a fun-filled 15 years later, is five times that and rising at a rate approaching $1 trillion a presidential term. Interest costs are a seventh of the budget, by themselves now a quarter of a trillion dollars a year and rising; we are paying not just for the government we have but for the government we had and didn't pay for earlier.

The blamesters, or some of them, will tell you Ronald Reagan did it, and his low-tax, credit-card philosophy of government surely played its part. The Democratic Congresses that ratified his budgets and often went him one better on tax cuts and spending increases played their parts as well. Various sections of the budget are also favorite punching bags, depending who is doing the punching. You will hear it said that someone's taxes ought to be higher (generally someone else's), or that defense should be cut, or welfare, or farm price supports or the cost of the bureaucracy. But even Draconian cuts in any or all of these areas would be insufficient to the problem and, because dwelling on them is a way of pretending the real deficit-generating costs don't exist, beside the point as well.

What you don't hear said in all this talk of which programs should take the hit, since the subject is so much harder politically to confront, is that the principal business of the federal government has become elder-care. Aid to the elderly, principally through Social Security and Medicare, is now a third of all spending and half of all for other than interest on the debt and defense. That aid is one of the major social accomplishments of the past 30 years; the poverty rate for the elderly is now, famously, well below the rate for the society as a society as a whole. It is also an enormous and perhaps unsustainable cost that can only become more so as the baby-boomers shortly begin to retire. How does the society deal with it?

The Republicans stepped up to this as part of their proposal to balance the budget. About a fourth of their spending cuts would come from Medicare. It took guts to propose that. You may remember the time, not that many months ago, when the village wisdom was that, whatever else they proposed, they'd never take on Medicare this way. There were too many votes at stake. We don't mean to suggest by this that their proposal with regard to Medicare is perfect—it most emphatically is not, as we ourselves have said as much at some length in this space. So they ought to be argued with, and ways should be found to take the good of their ideas while rejecting the bad.

But that's not what the president and congressional Democrats have done. They've trashed the whole proposal as destructive, taken to the air waves with a slick scare program about it, championing themselves as noble defenders of those about to be victimized. They—the Republicans—want to take away your Medicare; that's the insistent PR message that Democrats have been drumming into the elderly and the children of the elderly all year. The Democrats used to complain that the Republicans used wedge issues; this is the super wedge. And it's wrong. In the long run, if it succeeds, the tactic will make it harder to achieve not just the right fiscal result but the right social result. The lesson to future politicians will be that you reach out to restructure Medicare at your peril. The result will be to crowd out of the budget other programs for less popular or powerful constituencies—we have in mind the poor—that the Democrats claim they are committed to protect.

There's a way to get the deficit down without doing enormous social harm. It isn't rocket science. You spread the burden as

> widely as possible. Among much else, that means including the broad and, in some respects, inflated middle-class entitlements in the cuts. That's the direction in which the president ought to be leading and the congressional Democrats following. To do otherwise is to hide, to lull the public and to perpetuate the budget problem they profess to be trying to solve. Let us say it again: If that's what happens, it will be the real default.

Mr. DOMENICI. Having said that, let me make sure those who are listening tonight do not misunderstand a couple of things.

If you want to know what is in our budget it should not come as a surprise to you. It has been sitting on your desk most of the day. So, tomorrow when we vote, here it is, the Congressional Budget Act. If not all day, it is here now. If you are interested there it is. I will tell you what is in it.

Medicare is not cut. Medicare will grow 7.7 percent a year for the next 7 years; 7.7 percent.

Medicaid will grow at the rate of 5.5 percent a year. Medicaid will grow 42 percent. Would anybody have guessed that from what we are hearing here on the floor of the Senate?

Inflation is at about 2.5 percent. Medicare is going to grow at 7.7 percent. In fact, Medicare spending will go from $178 billion to $294 billion. Medicaid spending, that is the program for the poor, from $89 billion to $127 billion. I do not think either of those, to any Americans listening, are cuts. They are substantial increases and they will suffice and they will have a very valid program for the seniors and the poor people in health care. We will do it more efficiently with more choice.

Having said that, let us talk a minute about preserving the Medicare trust fund. Mr. President, when the seniors and the other side reads this budget, this Balanced Budget Act of 1995, they are going to find something very, very interesting and very exciting for senior citizens.

We made a conscious decision that we wanted to make the trust fund solvent, not for 5 years, or 7 years, but for 15 to 17 years. And you will read in this that every single penny that is saved in Medicare, not just the hospital trust fund savings, every single penny goes into the trust fund to save the health care program for the senior citizens.

So how can we put it in the trust fund and spend it on tax cuts at the same time? Every penny of it is in the trust fund. Somebody might get up and say, "Are you serious, Senator DOMENICI?" We have never done that before. We have never put savings from the general tax fund, which is what pays for part of this, we have never put it in that trust fund. We decided we would because we want to make it solvent for a long enough period of time for us to work on it, not just until the next election, but for 15 to 17 years. You cannot put it in the trust fund for the seniors and spend it for taxes also.

(Mr. SANTORUM assumed the chair.)

Mr. DOMENICI. Mr. President, having said that, let me suggest that we firmly believe in an annual increase in Medicaid, the program for the poor, of 5.5 percent. If you add to it some flexibility in the delivery of it, it will be an excellent program covering more poor people than are covered today because you will have the flexibility of managed care and other delivery systems, which everyone knows are more efficient.

If that is the case and when we are finished with all our budget work we have an economic dividend; that is, a surplus, what would the Democrats have us do with it? I assume, from hearing here on the floor, that they would have us spend it. For I can draw no other conclusions. They would have us spend it.

Mr. BENNETT. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. Let me just finish this thought. I would submit that, if you balance the budget and if you had been fair by the seniors by putting every single savings in the trust fund so their fund is solvent, if you are giving the poor of America a 5.5-percent increase every year for Medicaid and there is a dividend left over of a surplus, I submit that you have an exact case of Republicans versus Democrats.

For what would they do with it? They would spend it. They would say, put it back in the budget and spend it on this, that, or the other. What do we say? Very simple. We say give it back to the taxpayer. And, as a matter of fact, the old tired, wornout argument that they are giving it back to the rich instead of the middle-class, middle-income Americans, is not true. Just find the section on taxes and read it. Some $141 billion of those tax cuts go as tax credits to the American families with children, and no one over $100,000 of earnings gets one penny.

What is wrong with that? You speak of being profamily, which is rhetoric; but you give them back tax dollars to spend, and you are helping them with their family. The only thing conceivably that is for the rich under their rubric is capital gains, which goes to everyone. And that merely says we want you to invest more in America so you can make it grow and have a better economic life for the future.

I will be pleased to yield to my friend.

Mr. BENNETT. Did I hear the Senator correctly say that the growth of Medicare would be 7.7 percent per year?

Mr. DOMENICI. The Senator is correct.

Mr. BENNETT. Does the Senator recall that under the health care proposal offered by George Mitchell last year the growth rate on Medicare was held to 7.1 percent per year?

Mr. DOMENICI. I believe that is right. It was 7.1 or 7.2.

Mr. BENNETT. Is it the Senator's memory that Senator KENNEDY endorsed the 7.1 percent of the President's health care program?

Mr. DOMENICI. My recollection is that he was wholeheartedly in favor of that program.

Mr. BENNETT. Is it the Senator's memory that Senator DASCHLE endorsed the 7.1 percent of Senator Mitchell's proposal?

Mr. DOMENICI. My recollection is that he wholeheartedly supported it.

Mr. BENNETT. Is it the Senator's recollection that the majority of the Democratic Members of the Senate endorsed the 7.1 percent growth rate in Medicare?

Mr. DOMENICI. I believe that is the case.

Mr. BENNETT. Does the Senator not agree with the Senator from Utah in finding it interesting that since we proposed to allow Medicare to grow more rapidly than the President did, more rapidly than the bill endorsed by a majority of the Members of the Democratic Party in the Senate, that we are now being pilloried as those who would slash Medicare?

Mr. DOMENICI. I believe that is an understatement.

Mr. BENNETT. Perhaps we should choose the 7.1 percent level that they endorsed in the previous Congress when they controlled it and thereby slash Medicare a little more.

Mr. DOMENICI. Maybe we would get their support.

Mr. BENNETT. I am not that optimistic.

I thank the Senator for yielding.

Mr. DOMENICI. Mr. President, I want to read one further sentence out of the Washington Post's analysis of the President's position on this.

> Medicare premiums was one of the reasons he alleged for the veto that has shut down the government—and never mind that he himself, in his own budget, would countenance a similar increase.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes 30 seconds.

Mr. DOMENICI. I yield the floor.

Mr. WELLSTONE. Mr. President, I voted earlier today for a clean continuing resolution, which simply extended current funding for a couple of weeks, to open up the Government and allow for budget negotiations to move forward. A simple, clean extension of Federal funding, without all the ideological bells and whistles attached, should have sailed through this place and would have been signed by the President lickety split. But that effort failed.

I intend to vote for the pending Daschle substitute amendment as well, because it is a significant improvement over the Republican version, which would have harsh consequences for a host of federal efforts to protect children, the vulnerable elderly, and other

Americans who have been caught in the middle of this unnecessary budget showdown. Now that the earlier clean continuing resolution has failed, this substitute is the surest, quickest, fairest way remaining to get the Federal Government up and running, and to ensure that Federal parks are opened, Social Security applications are again taken, Veterans and other benefit checks are sent out, passport offices are opened, FBI law enforcement training is renewed, and other key Federal functions are being performed.

This Daschle substitute provides for additional interim funding at a rate of 90 percent for a host of Federal programs that were wiped out altogether by House versions of appropriations bills, and that would otherwise suffer cuts of 40 percent in the Republican version of this bill. These include the Low Income Energy Assistance Program [LIHEAP], education for disadvantaged kids, Goals 2000, Safe and Drug-Free School efforts, regional economic development programs, homeless assistance, and many others. I don't know about other Senators, but energy assistance in my State has completely run out of money, and people are getting their fuel shut off across my state. This is a real crisis, Mr. President, which I described in greater detail earlier this week on the Senate floor. This substitute will help bring an end to this energy assistance crisis.

The substitute also embodies other important principles for which we have fought. For example, it provides that Medicare and Medicaid savings are not to be used to pay for tax cuts. It provides that should any tax cuts be included in a final budget agreement, they should only go to families with incomes under $100,000. While I have opposed broad-based tax cuts before we get the budget into balance, I believe that this provision moves us in the right direction, and will help to ensure that massive Medicare cuts made by the Republicans will not be used to pay for tax breaks for the wealthiest Americans.

Finally, it sets a deadline of December 22, which gives us more time to get our work done: to send to the President the numerous appropriations bills which have been stuck for months in Congress, and to send them to him in a form that he can sign into law.

There is a provision in this substitute that, while it does not have the force of law, suggests that Congress should enact a balanced budget by the year 2002. I have consistently opposed this, observing that since it took us 15 years to get into this mess, starting with the massive Reagan tax cuts and defense build-up of the early 1980's, it will take us more than 7 years to get out of it. The President has also opposed this date, observing rightly that the spending cuts it would require in Medicare, Medicaid, and other areas would be draconian and irresponsible, and would likely destabilize the economy.

I agree. I do not believe that we can get there by 2002 without excessive cuts in Medicare, Medicaid, education, job training, poverty programs, and other key Federal investments in the character, skills, health, and educational opportunities of American families. And we certainly can't do it by then if a majority of my colleagues continue to refuse to scale back defense spending and corporate welfare. But it is true that we must eventually get to balance, and I believe that we can do it; it's just that it will take us 2 or 3 years more than this suggests.

Mr. President, most of us acknowledge that we are here today, in the midst of a Government shutdown, for one major reason: Congress has failed to do its job. Let's do our job tonight, and get this substitute passed and on to the President for his signature. We have so far been able to move only a few appropriations bills to the President this year, and even many of those Republicans in Congress knew would be vetoed.

Let us for a change keep the interests of the American people in mind, get this substitute bill signed into law, and then begin a full and robust debate on the real budget, which slashes Medicare and Medicaid in order to pay for massive tax breaks for Americans wealthiest citizens, starting tomorrow.

I look forward to that debate. I do not believe the extremist proposals put forward by Speaker GINGRICH and his band of merry followers in the House are America's priorities. I do not believe similar proposals contained in the Senate-passed version of the budget bill were America's priorities. I believe this debate, and the elections next year, will bear that out. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I will yield the remainder of our time in a moment to the Senator from California.

I simply thank the chairman of the Budget Committee for finally, at long last, giving us the figures that he has been working on now behind closed doors for weeks, months, if not years, to arrive here—not all day, less than an hour or two ago. We have not had a chance to look at it. But at least tomorrow we will proceed to a debate on this.

I appreciate his giving us the information at least a few hours in advance of the major debate.

I yield the remainder of my time to my colleague from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, anyone who believes the Republicans want to protect Medicare just must be living on another planet. I have to tell you. You go back through history, you will see who voted in Medicare. It was the Democrats.

I listened to NEWT GINGRICH from a couple of weeks ago. He wants Medicare to wither on the vine. The majority leader bragged to a group that he led the charge against Medicare.

So, do not be fooled. If they support Medicare, they ought to now support the Daschle resolution. It says balance the budget in 7 years, but protect Medicare and keep the tax cuts for those earning under $100,000.

They keep saying they love Medicare. They keep saying they want to protect Medicare. They keep saying they want to balance the budget in 7 years. They keep saying they care about the middle class.

This is the moment of truth. Let us come together. I serve on the Budget Committee. I offered some amendments that passed to keep the tax cuts for people earning under $100,000. We all said we were for Medicare.

What does the Daschle resolution simply say? It simply says we will balance the budget in 7 years, and at the same time we will not use those tax cuts. We will not use the cuts in Medicare to fund those tax cuts.

It is a wonderful and should be a bipartisan effort.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. The Wall Street Journal said the assumptions are wrong. I hope we will support Senator DASCHLE.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to leave the floor. I believe the majority leader is en route. He wants to speak for 3 minutes or so. But let me have a few closing remarks.

I say to the Democrats on the other side who have voted to balance the budget in 7 years—and there are 19—I say to them that they ought to vote this down and vote for the Republican resolution which will put the Government back to work and does nothing more than what they have been for. It says during this Congress we will pass the balanced budget amendment. It will be a 7-year budget, and it will use the economics that they used heretofore in their own approaches.

So I ask them to be consistent tonight, and tonight not join with the demagogry of just because it is Republican we can sell the American people that it is anti-senior citizen, that it is anti-poor people.

Let me repeat. The Social Security trust fund will be solvent under this proposal for 15 to 17 years and not one penny of the savings in any part of Medicare will go to tax cuts. It goes into a trust fund for the seniors of America.

Now, you will not hear that tomorrow, and you do not hear that tonight.

But we care about senior citizens, and we want their fund solvent.

We also care about little kids, and maybe we even care more about children that have not been born. And the truth of the matter is, if you listen to that side of the aisle, money grows on trees.

It does not grow on trees. Somebody pays for it. If we do not change things, Mr. President, lo and behold, the money tree will be without money and the children not born will be paying up to 80 percent of their earnings for our bills.

What a wonderful life they will have and how thrilled they will be at the adult leadership of this decade. They will look at us and say: Who were they kidding as they ran around trying to scare seniors while they put America into a bankrupt position where we did not have enough money to pay, so we borrowed it. We were not around when it was paid back so our children and grandchildren have to do it.

Now, I stand pretty proud that after all these years we are on the brink of passing a real balanced budget. But I do not say that the President of the United States must accept that. I say he ought to accept only one thing and so should they, and that is, let us balance this budget. We do not know whose way yet. Maybe half the President's way, half our way. But let us commit ourselves to that, and then let us open Government and let our people go back to work.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute, 50 seconds.

Mr. DOMENICI. Let me close this then, Mr. President.

I remain thoroughly amazed at the President of the United States and his continual day-by-day arguments that the Republicans in the Congress are busy about doing all kinds of actions that will hurt people when we have not seen a balanced budget from him. We have seen everything from a commitment to 5 years, to one that said maybe 10 years, to one with a whole batch of new economics that said maybe 8 years, and yet even tonight he says he will not sign anything that will harm Americans, that will harm seniors, that will hurt the poor, and yet he tells them, I am for a balanced budget.

It just does not ring true. What would ring true would be a very simple gesture when we send this bill to him if he signed it and if the very next day he set up a team and said, let us get this going.

I do not know which budget is coming out of it. I do not know whose priorities will prevail because, after all, the Congress is Republican and the President is Democrat. But we assume in those meetings we would all be Americans. But we cannot go there not knowing where we are supposed to end up. We cannot just say it will all come out all right. We have been at it for years. It has not come out all right. We have had all kinds of meetings. It has not come out all right.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I will use my leader time for as much time as I may consume.

I did not hear all of the remarks of the distinguished Senator from New Mexico, but let me respond to what I did hear.

I know that the Senator from New Mexico has had the opportunity to serve under many Presidents, and he has seen Republicans and Democrats in the White House. He knows what the record is for the 1980's and early 1990's. Frankly, I think there is a difference between talking and doing.

We heard a lot of talk in the 1980's about the importance of a balanced budget, but the fact is we rolled up a deficit five times what we had prior to the time a Republican President took office in 1981—five times, from $800 billion now to almost $6 trillion. So there is a difference between talking and doing.

The Senator from New Mexico did not mention that the United States has the lowest deficit of any country on a per GNP basis, any industrialized country except Norway. We are lower now than every other country. Why? Because the President showed some courage, showed some leadership, was able to convince the Congress in 1993 to take the single biggest step toward deficit reduction that we have seen in decades.

And what happened? We have the best economic growth. We put 7.5 million people to work. We have actually seen a downward trend in the deficit now for 3 years running. That has not happened since the 1940's. So I hope everyone understands what the record is here.

This amendment says we want to continue building on what the President has done for the last 3 years. We recognize that we have to go further. We recognize the job has not been finished. We recognize that we have to set a time certain, and if you want to insist on 7 years, we have no problem with that necessarily. But we also want to recognize that the fundamental investments that this country has made in better health, in better economic opportunities be protected.

That is all we are saying; that it is not an either/or; that we can balance the budget, but we do not have to do it on the backs of senior citizens who need health care. And if we are going to do a tax cut, we do not have to give it to those who do not need it.

That is really what this amendment is saying. We want to balance the budget. We want to continue to work with our Republican colleagues, even though we did not get much help in 1993 when we committed to that plan. We want to make it work now. But we also strongly believe that it is important to commit to the kind of protection, the kind of security, the kind of opportunity that American people now have had since 1965.

This amendment is very simple, and, frankly, I do not know how people could vote against it. If you support a 7-year budget and if you support this concept of not using Medicare to pay for a tax cut, and if you support tax cuts but recognize the need to ensure some economic equity, then you will want to support this amendment.

I yield the floor.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to lay on the table amendment No. 3057. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] and the Senator from Georgia [Mr. NUNN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52 nays 45 as follows:

[Rollcall Vote No. 580 Leg.]

YEAS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—45

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle

Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone

NOT VOTING—2

Moynihan
Nunn

So the motion to lay on the table the amendment (No. 3057) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. ABRAHAM. Mr. President, I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. FEINGOLD. Mr. President, I am voting for the House-passed continuing resolution. As we have debated this measure throughout the day, I supported various amendments which have been proposed which I think were perfectly reasonable, but now the question is whether to vote for or against this continuing resolution. The fatal flaws in the previous version have been removed. Thanks to the President's resolve, Medicare beneficiaries do not face a Medicare premium increase, and I hope and expect the President will continue to persevere with regard to the extremist reconciliation bill, which contains even greater increases for Medicare beneficiaries.

Balancing the Federal budget has been my priority since first coming to the Senate, and this resolution commits us to a legislative approach to reaching that goal by 2002. I ran on that issue. I proposed an 82-plus point plan with specific, balanced cuts to achieve a balanced budget in 5 years, and I was proud to support the President's $600 billion deficit reduction package during the 103d Congress, a package that contained many of the provisions I included in my own plan.

I have also been proud to participate in other deficit reduction efforts, including the bipartisan proposal put together by Senator KERREY (D-Nebraska) and Senator BROWN (R-Colorado), and the package developed under the leadership of Senator KERRY (D-Massachusets).

To me, the language in this continuing resolution means no more and no less than a commitment to achieving a balanced budget by 2002 and it does so without mangling our Constitution. It does not endorse in any way the extremist reconciliation plan that will be before us shortly, a plan which is not based on the goal of a balanced budget but on the reckless, politically self-serving desire of providing a fiscally irresponsible tax cut—tax cuts apparently scheduled to be mailed to voters only days before the 1996 elections.

I firmly believe there is significant bipartisan support in the Senate for a responsible budget measure that achieves a balanced budget in 7 years, or even sooner. Such a plan would reject the reckless $245 billion tax cut, make prudent reforms to our Medicare and Medicaid Programs, and would ask all areas of Federal spending to share in the burden of deficit reduction, including our military, and the special interests that benefit from the massive spending done through the Tax Code.

That is the formula for a budget plan that cannot only be enacted into law, but can be sustained over the entire lifetime of the glidepath to a balanced budget. It is very much like the alternative budget plan I supported that was offered by Senator CONRAD (D-North Dakota) during the budget resolution debate last spring, and is a budget I believe the President would sign. I hope we can soon begin to work toward such a budget.

Mr. ROBB. Mr. President, I rise to announce how I will vote on the pending continuing resolution—and why.

Earlier today I voted for the Democratic "clean" continuing resolution because I believe that is the appropriate way to authorize the continued operation of the government, even though I have long supported the 7-year commitment to balance the budget using CBO numbers. The Republican Majority opposed that amendment, and it was defeated, despite the fact that the lapse in agency spending authority was caused by the failure of Congress to pass the 13 appropriations bills on time.

I also voted for the Democratic substitute which would have required a unified balanced budget in 7 years while assuring that Medicare and Medicaid would not be cut to pay for tax breaks and any tax cuts would go only to families making under $100,000. I supported this amendment even though I have said repeatedly that I do not believe we should pass any new tax cuts at all, no matter how well targeted, until we actually achieve a balanced budget.

But that amendment met the same fate as the first Democratic substitute.

I voted as I did on these Democratic substitutes because I could do so in good faith—and because I wanted to support the President and the minority leader.

But the question before us now is whether to vote for or against a continuing resolution that would end this indefensible partial shutdown of the Federal Government, which has created unnecessary uncertainty for hundreds of thousands of blameless federal workers, generated hardship for countless Americans, disrupted many local economies, and further eroded confidence in our government and its leaders.

I have always said that achieving fiscal discipline would present tough choices. And this vote presents one of these tough choices. I take the minority leader's opposition to this resolution and the President's expected veto very seriously. I would like to continue to support them tonight as I have on so many other occasions. But fiscal responsibility is at the very core of everything I have ever stood for as a public official. And the conditions attached to this pending resolution incorporate precisely the advice I have urged both privately and publicly.

To be sure, it was Congress that precipitated this government shutdown by failing to pass appropriations bills on time. And it then exacerbated the problem by challenging the President of the United States, a President whom I know for a fact has been fully prepared to negotiate seriously on spending priorities for a long time.

And none of this had to happen.

Even though this situation could—and should—have been avoided, emotions are raw today. Too many American families have suffered needless disruption and uncertainty. Too many hardworking federal employees have been held hostage by our actions and denigrated as non-essential, which diminishes the value of their labor and their service to their country. So while I continue to support the position of the President and many of my Democratic colleagues that a "clean" resolution is the appropriate way to proceed, I cannot in good conscience vote against a measure that reflects the kind of fiscal restraint I believe is necessary and would end the protracted agony of so many of the people I represent.

Mr. DOLE. We are now ready for final passage. I wonder if we might get an agreement on debate on final passage. Maybe 30 minutes equally divided, or we could vote and everybody could talk.

By popular demand we will vote. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will read the joint resolution for the third time.

The joint resolution (H.J. Res. 122) was ordered to a third reading, and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] and the Senator from Georgia [Mr. NUNN] are necessarily absent.

The PRESIDING OFFICER (Mr. ASHCROFT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 581 Leg.]

YEAS—60

Abraham
Ashcroft
Baucus
Bennett
Bond
Bradley
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feingold
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Pressler
Robb
Roth
Santorum
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—37

Akaka
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Pell
Pryor
Reid
Rockefeller
Sarbanes
Wellstone

NOT VOTING—2

Moynihan
Nunn

So the joint resolution (H.J. Res. 122) was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. DODD. Mr. President, I ask unanimous consent that on the previous vote on the motion to table by the Senator from New Mexico—I was recorded as voting "aye"—that my vote be recorded as "no."

That will not change the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

TRIBUTE TO JAN MUIRHEAD

Mr. FRIST. Mr. President, I rise today to commend Jan Muirhead, a fellow Tennessean and a former colleague, for her continuing dedication and commitment to serving others. A cardiovascular clinical nurse specialist and coordinator at the Vanderbilt University Medical Center Heart and Lung Transplant Program, Jan has devoted countless hours and a lifetime of energy to her patients.

These patients of all ages came to Vanderbilt knowing that their future literally depends on the availability of a compatible and transplantable heart or lung. They knew if that heart or lung is found, they would surely face a difficult operation and a long recovery. But they also knew that Jan Muirhead was there with them through every step—she has been their nurse, their teacher, their supporter, their counselor, and most of all, their friend.

Mr. President, my friend Jan Muirhead is a native of Memphis, TN. The daughter of a prominent pathologist, helping others is in her blood, in her heart, and in her soul.

Jan has been the anchor for the Heart and Lung Transplant Program at Vanderbilt since its inception in 1985, but her career in public service began years before, in 1975, when she graduated with a bachelor of science in nursing from the University of Kentucky. After graduation, she worked as a staff nurse in Vanderbilt's neonatal intensive care unit and in the surgical intensive care unit. She later joined the department of cardiac and thoracic surgery to work with Dr. Harvey Bender. In 1983, Jan moved to Seattle to get her master's degree in nursing from the University of Washington, where she was awarded the CIBA-GEIGY Award for the outstanding cardiovascular nursing pathway master's student.

After completing her degree at the University of Washington, Jan Muirhead returned to Vanderbilt University Medical Center, where she and Dr. Walter Merrill established the heart transplant program. I joined the program 1 year later, and over the subsequent 8 years had the pleasure and the privilege of working daily with Jan. During that time, I witnessed first-hand her tireless energy, her commitment to others, her enthusiasm for her job, her selfless devotion, and above all, the warmth and dedication she showed to the thousands of patients whose lives she touched.

She recently earned certification as an adult nurse practitioner from Vanderbilt's school of nursing—yet another sign of her continuing commitment to providing the best quality care and the most up-to-date advice. In fact, patient education is one of the most important services Jan provides for patients at Vanderbilt. When a transplant patient is admitted to the medical center, Jan sits down with them, discusses their medical condition, explains how donors are matched, and provides details of the surgical procedure they will undergo when that match is found. She diligently directed the entire postoperative course for the transplant patient. The thought of undergoing transplant surgery and enduring a tough recovery is very scary, but for years, Jan has calmed patients' fears.

Mr. President, Jan Muirhead has also been honored by her colleagues. In 1991, she received the Nursing Research Award in Paris, France, from the International Society for Heart and Lung Transplantation. She has served as secretary and a member of the board of the Middle Tennessee chapter of the American Association of Critical Care Nurses, and in 1994, Jan was chairman of the abstract review committee of the International Society of Heart and Lung Transplantation. She is an active member of the American Heart Association and the Association of Critical Care Nurses. She is the author and principal investigator of numerous articles and chapters on heart disease and transplantation.

Now, Mr. President, my close friend Jan Muirhead leaves Vanderbilt to move to Dallas, TX, where she will participate in a Baylor University outreach program for geriatric patients. So, today, I would like to thank Jan for her outstanding service to her patients and to her community. Her pioneering spirit, her unending commitment, and the unselfish love she has shown toward her patients and her colleagues will be missed at Vanderbilt. I wish her all the best as she embarks on this new venture in her life.

PUBLIC/PRIVATE VENTURES' STUDY

Mr. COATS. Mr. President, I would like to bring to my colleagues attention the exciting results of a 5-year study that public/private ventures released today. As a national board member of Big Brothers/Big Sisters of America, it brings me great pleasure to share with you the news of public/private ventures' study of the Big Bothers/Big Sisters Program—the first ever to assess the impact of youth of any major mentoring program.

At last we have scientifically reliable evidence that proves what we have known intuitively for years—mentoring programs can positively affect young people.

As many of my colleagues know, Big Brothers/Big Sisters is a federated movement of over 500 affiliated agencies located in all 50 States. The Big Brothers/Big Sisters movement began in 1904 to provide one-to-one services to boys and girls in need of additional adult support and guidance. While the environment in which today's youth operate is vastly different than that of 90 years ago, basic core services of Big Brothers/Big Sisters remains the same—to provide responsible, consistent adult role models to children at risk. The need for additional adult support and guidance for our Nation's youth has never been greater, however, than at this time. Currently 38 percent of all of America's children live without their fathers. The Big Brothers/Big Sisters Program presently supervises about 75,000 youth-adult matches, but as the public/private ventures report proves an expansion of the Big Brothers/Big Sisters Program would have a positive effect on our Nation's youth.

The public/private ventures study concludes that young teenagers, who meet regularly with their Big Brother or Sister, are less involved with drugs and alcohol, do better in school and have better relationships with their parents and peers than do youth not in the program. In fact, public/private ventures found that "Littles" who met their "Bigs" regularly were: 46 percent less likely than their peers to start using illegal drugs and 27 percent less likely to start drinking; 52 percent less likely than their peers to skip a day of school and 37 percent less likely to skip a class; more trusting of their parents or guardians, less likely to lie to them, and felt more supported and less criticized by their peers and friends.

Most of the 959 youth in the research sample were between the ages of 10 to 14, nearly 60 percent were members of a minority group, more than 60 percent were boys and most were poor or near poor. Many lived in families with histories of substance abuse and/or domestic violence. They are representative of our Nation's youth placed at-risk. Keeping this in mind, it is evident that the Big Brothers/Big Sisters Program suggests a strategy that the country can build upon to make a difference—especially for youth in single-parent families.

And since mentoring programs work through the efforts of volunteers, only modest funds are necessary to have far-reaching impact. The Big Brothers/Big Sisters Program is an innovative and effective program with the potential of having a substantial positive impact on our Nation's youth with a small investment. That is why I was pleased to include the Character Development Act [CDA] as one of 18 bills in a legislative package which I have called the Project for American Renewal. The Character Development Act will link public schools with local mentoring organizations to give more children the chance to reap the benefits of a one-to-one relationship. The Character Development Act is based on a small, innovative, Federal program known as the Juvenile Mentoring Program [JUMP]. JUMP is a competitive grant program which allows local, nonprofit social service and education agencies to apply cooperatively and directly for grants from the Department of Justice's Office of Juvenile Justice and Delinquency Prevention. These grants are used to establish mentoring services utilizing law enforcement officials and other responsible individuals as mentors.

As we, as policymakers, begin to look at mentoring, we need to keep in mind another telling conclusion of the study. The benefits of mentoring do not occur automatically. If programs are supported by the kind of thorough screening of volunteers, careful matching and extensive supervision required by Big Brothers/Big Sisters, they can be expected to produce similar results. In programs that lack the established infrastructure of the Big Brothers/Big Sisters Program, the one-to-one relationship evaporates too soon to positively affect the youth.

While the study's most dramatic findings are the degree to which participation in Big Brothers/Big Sisters prevents a young person from starting to use drugs and alcohol, the authors also noted the fact that Big Brothers/Big sisters participation produces an unusually broad range of outcomes for youth—improved school behavior and performance and better relationships with friends and family. The Big Brothers/Big Sisters Program results in improvements in attitudes, performance, and behavior—with "littles" one-third less likely than their peers to report hitting someone.

I encourage my colleagues to join me in commending Big Brothers/Big Sisters for their continued commitment to our Nation's youth and recommend to my colleagues that they visit a local affiliate in their State so that they may see for themselves that mentoring can and does indeed work.

IN HONOR OF PRIME MINISTER YITZHAK RABIN

Mr. MOYNIHAN. Mr. President, on October 25, 1995, the Prime Minister of Israel, Yitzhak Rabin, spoke in the Capitol Rotunda at a ceremony commemorating the 3,000th anniversary of the founding of the city of Jerusalem by David. I had the honor to introduce him. I ask unanimous consent to have printed in the RECORD my remarks on that occasion.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR DANIEL PATRICK MOYNIHAN

My pleasant and most appropriate task this afternoon is to introduce one of Jerusalem's most illustrious sons.

History will acknowledge him as the unifier of the city of David—the Chief of Staff whose armies breached the barbed wire and removed the cinder blocks that has sundered the city of peace.

History will honor him as the magnanimous leader of a brave people—brave enough to fight against daunting odds—perhaps even braver still to make peace.

History will remember him as the last of the generation of founders—the intrepid children of a two thousand year dream. Almost certainly, the last Israeli Prime Minister to play a leading role in the War for Independence, he was also the first —and to this day the only—Prime Minister to be born in the Holy Land.

He is a proud son of Jerusalem. As a young man he dreamed of a career as an engineer. But destiny had other plans and he fought and led for almost half a century so that his people could live in peace and security.

Nobel Laureate, statesman, military hero, friend of our nation where he served with distinction as an ambassador in this very city, he honors us today by joining us in our festivities—the Prime Minister of Israel, the Honorable Yitzhak Rabin.

Mr. MOYNIHAN. Mr. President, twelve days later, I, along with many Senate and House colleagues, stood by his casket, first at the Knesset, later on Mount Herzl where he was buried. It was an experience none of us will forget. No one has captured the moment and the momentous consequences better than Mortimer B. Zuckerman, who was there also. I ask unanimous consent that his reflections, "The Light of a Fierce Fire," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the U.S. News & World Report, Nov. 20, 1995]

THE LIGHT OF A FIERCE FIRE

(By Mortimer B. Zuckerman)

The poet was once asked, "If your house was burning and you could save only one thing, what would you save?" The poet answered, "I would save the fire, for without the fire we are nothing."

It was Yitzhak Rabin's destiny not to be saved from the frenzy of a madman. But bullets cannot so easily extinguish what Rabin's bravery and vision ignited, the fire of Israel's commitment to peace. He might so easily have died in the din of battle, this man who made war when he had to. But he died instead amid the clamor of peace, with the acclaim of a mass peace rally of Iraelis still in the air and still in his mind. It would be his last wish that the flame of peace, for which he gave his life, should not be dimmed by anger and despair. His state funeral, for all its sadness, was inspiring as an occasion for the vindication of his hopes, for a new dedication to Israel's security from America and for a demonstration of goodwill by some former Arab enemies.

President Clinton led a bipartisan delegation that included the congressional Republican leadership, former President Bush and former Secretary of State George Shultz. It was more than a respectful gesture of protocol. This was a statement of emotional and psychological support from the most powerful nation in the world to a small, isolated country, living in a perilous neighborhood and in a time of great national trauma: We do more than share your grief, we understand your fears; and we will not desert you as you have so many times in your history been deserted. All Americans could take pride in President Clinton's splendid eulogy; in the uniqueness of America's compassion and friendship that extended beyond a calculation of narrow national interest; in the honor of the hand outstretched at a time of need to an ally and friend. The president rose to the moment. The hundreds of thousands of people who lined the roadside and saw the American delegation were clearly moved.

Of equal significance was the roll call of certain Arab countries (excluding Saudi Arabia) and especially the emotional speech of King Hussein of Jordan. His words referring to Yitzhak and Leah Rabin as "my brother" and "my sister," which Muslims usually reserve for one another, and the tears shed by both the king and his queen, made a deep impression on the Israelis for their humanity and ability to overcome the past. Here, clearly, were keepers of Rabin's flame of peace, continuing a line that began with Egypt's late president Anwar Sadat.

It is hard for outsiders to appreciate the effect on Israelis of the worldwide outpouring of sympathy and condolence, with some 80 nations represented at the funeral. The Israelis are a traumatized people. They have for so long been alone, so long believed they could not rely on anyone but themselves, so long expected the world to stay silent in their times of trouble. The extensive response resonates for a people who remember how the world closed its doors to millions of Jews in the 1930s. Their deaths in the Holocaust were but an obscene multiple of the deaths endured in the crusades and programs of earlier centuries when the Jews were betrayed by those who had the power to save them.

Israel was to be the end of that vulnerable status of perpetual minority, an end to exile and alienation, and a beginning of a normal and natural form of national existence. Israel was home, the new home in the old country, proclaiming that the Jews had formed a self-reliant community and did not need others to fight their battles for them. Now they had their future defined by their own family; the farmer, the kibbutznik, the jet pilot, the shopkeeper, the schoolteacher could coalesce with a traditional language, with their own bible, their own culture. This self-reliance is a matter of great pride. Jews could look after their own family. When the Jews were kidnapped in Entebbe, Uganda, it was the Israelis who took care of it. A Jewish majority could eliminate Jewish vulnerability, and with their own state, the Israelis could, they thought, be like all other nations and like everyone else. The passion for wanting to be normal extended to the notion that to be accepted, Jews did not have to justify themselves by winning the Moral Man of the Year Award every year—at the cost of their own survival. To be 10 percent more moral than other nations would make them a light unto the world; if they were expected to be 50 percent more moral, they would be dead.

And yet Israel cannot be just another secular country. This very land forces the Jews into a dialogue with their religious past. The land was defined through religion, through the divine promise to Abraham, the covenant with the Father and the covenant with the people of Israel. For many religious Zionists, the victory of the Six-Day War, and the subsequent opening to resettlement of the greater land of Israel, were clear signs that God was guiding the secular Zionist revolution toward the ultimate realization of the prophetic vision of history. That is why, for some religious Jews, admitting the existence of a Palestinian nation whose homeland is the Holy Land is tantamount to violating the integrity of the Jewish people's covenantal identity. But the Jews faced a dilemma. They had come home to find peace and safety, only to find that their neighbors also claimed this tiny piece of land as their home. Even worse, how do you share a home with someone who says: "You have no right to be here?"

It is the great contribution of Yitzhak Rabin that has brought a moral answer to this dilemma. There are those Israelis who emphasize self-reliance and remember Rabbi Hillel's saying, "If I am not for myself, who is for me?" Rabin understood Rabbi Hillel had a second part: "When I am for myself, what am I?" He saw that the Jews could not control 2 million Arabs without frequent resort to a violence that would erode the moral and Jewish character of the state and, with that, its support in the world. He sought a new definition of Israeli strength and normalcy that incorporated not just military power but also moral and economic fortitude. He decided to end the Israeli occupation of Palestine and any pretense that Israel cold become a binational state in which one people ruled another.

He was uniquely qualified for this adventure. Those to his political right had the strength but not the will to take a calculated risk for peace. Those to his political left had the will but not the strength. He alone, at the time, had the capacity to persuade the divided and wary Israelis to accept a compromise arrangement with the Palestine Liberation Organization that held great promise for peace but also great risk. But the risk was seen as a risk from the Arabs, not the risk of Jew killing Jew. What the right-wing fanatics were blind to is that their murderous intransigence threatened the state that gave them succor and its necessary acceptance by the world. Without the flame of peace, they would have nothing but bloodshed threatening every Israeli's personal security.

The debate over security in Israel is different from the quarrel with the extremists. Many moderate people all across Israel are concerned about giving up land, because for years their leaders told them this land was essential to their national security. In Israel, security decisions are made in the context of the terrible reality that a single Israeli strategic blunder may mean not only military defeat but a genocidal threat to the very existence of the state—one that the world could not forestall, even if it were willing to. Many Israelis ask: Will the peace process be the beginning of a new future or the beginning of the end?

The Israelis are determined to avoid another genocide, this time in Israel. The decision to exchange lawfully captured territory for the promise of peace from those who have constantly threatened violence is fraught with unprecedented risk. Israel will not survive in this neighborhood by superior morality in the absence of superior real strength. Arab moderation is in direct proportion to Israeli strength. If the Arabs could defeat Israel, who could doubt that sooner or later they would try?

Can Shimon Peres, a durable politician less trusted by Israelis, lead the people in pursuit of Rabin's twin goals of peace and security? He is a consummate international diplomat and served with great distinction as prime minister a decade ago. His ardent desire for peace may be part of his problem, for many people believe he is too eager to cut a deal, too dovish and not skeptical enough about security issues, too wrapped up in his own ambitions. So his challenge is to relieve the worries of Israelis as well as meet the needs of the Palestinians.

In this effort, American support is crucial. Rabin said he was elected to take risks for peace. President Clinton said, "If that is your goal, I will do my best to minimize the risks you must take." That is the fire of friendship and support that will enable Israel to fulfill what Rabin so bravely began.

OUR HATS OFF TO RICHARD EKSTRUM

Mr. PRESSLER. Mr. President, on many occasions I have taken the floor to talk about agriculture in South Dakota. The wonders of American agriculture tell a story that is not told often enough. Individual initiative and determined efforts have led to scientific discoveries that advanced agriculture. The inspirational strength of family, loyalty and faith also have contributed to the wonder that is American agriculture.

In no American workplace is there found greater productivity, cooperation, neighborly concern, creative use of applied science, hard work, and independence than on the farm and ranch. It gives me great pride to witness the ability of our farmers and ranchers to provide abundant and high quality food and fiber for all our citizens and millions of others throughout the world. The story of American farmers and ranchers is truly a wonder of the modern world.

There is the story of Richard Ekstrum of Kimball, SD. This week Richard will be stepping down as President of the South Dakota Farm Bureau. He has held that position since he was first elected to it in 1975. Richard's leadership has helped to shape the vigorous South Dakota livestock industry. His accomplishments are many, too many to list here. But for those of us who know him, it is agreed that his boots will be hard to fill.

Richard Ekstrum has provided me with invaluable advice and counsel throughout my years in the House and Senate. He has been a tireless defender and promoter of South Dakota and American agriculture. After each meeting with him I know exactly what needs to be done. All meetings with him are productive. I will miss his regular advice and leadership, but I am heartened to know he is still just a phone call away.

Richard recently was quoted as saying, "I will always be part of Farm Bureau and Farm Bureau will always be a part of me." Similarly, I would like the RECORD to reflect that Richard Ekstrum will always be a part of South Dakota agriculture, and vice versa.

Richard owns and operates a 3,500 acre general livestock and grain farm near Kimball, SD. He and his two brothers operate this farm, which has a commercial farrow-to-finish hog operation and produces purebred Simmental cattle.

Richard first joined Farm Bureau in 1967 and rose through the ranks of the Brule County Farm Bureau organization to become President of the South Dakota Farm Bureau in 1975. He was elected in 1980 to the Board of Directors of the American Farm Bureau Federation, a position he held for a decade. He has travelled the globe—28 countries in total—to promote and advance American agriculture. He recognizes that the continued strength of American agriculture rests with its ability to compete in the world market place. That is part of the reason why Richard Ekstrum is a recognized and respected national leader in agriculture.

The strength of the Farm Bureau organization is rooted on the farm. The history of the South Dakota Farm Bureau is impressive. As early as 1913, several county Farm Bureaus were organized and operating in South Dakota. In 1917, the operating county Farm Bureaus formed the South Dakota Farm Bureau Federation. Today the South Dakota Farm Bureau is my State's leading agricultural organization and a highly regarded voice for South Dakota farmers and ranchers.

Much of the success of the South Dakota Farm Bureau can be attributed to Richard Ekstrum. Under his leadership the organization witnessed its largest membership growth. Throughout the 1950's and 1960's, membership averaged 3,100 farm families. During the 1970's, its programs were expanded and since 1977 family membership in the South Dakota Farm Bureau has grown each and every year to the point where it represents more than 10,000 South Dakota farm and ranch families.

One of the many programs sponsored by the farm bureau and strongly promoted by Richard is the South Dakota Farm Bureau Young Farmers and Ranchers Committee. This group provides opportunities for greater participation by young, active farmers and ranchers. It helps young farm bureau members analyze their particular agricultural problems and collectively find solutions that best meet their needs. I am very pleased with the success of this program. I have said on many occasions that we need to do more to promote the promise of farming for younger generations. These young people represent the future of South Dakota agriculture.

Richard Ekstrum and the South Dakota Farm Bureau are committed to the goal of improving net farm income and strengthening the quality of rural life. I commend Richard for his loyalty to and hard work for the South Dakota Farm Bureau. He has left his mark on the landscape of South Dakota agriculture and his community. His wife Agnes and his two daughters can be truly proud. I know Richard will continue to be active in his church, in civic and private organizations, the South Dakota Farm Bureau and in South Dakota agriculture.

Richard is known for saying, "Of all the hats that I wear, I like the one of being a farmer the best." Today, on behalf of all South Dakotans, I take my hat off to Richard Ekstrum.

As I stated before, the wonders of American agriculture tell a story that is not told often enough. It is a story of proud Americans, like Richard Ekstrum, who do their part in the world's most proficient industry, day after day. I enjoyed and will continue to tell the many stories of South Dakota men and women who contribute to the greatest story ever told—American agriculture.

TRIBUTE TO THE CHATTANOOGA RONALD McDONALD HOUSE

Mr. FRIST. Mr. President, I rise today to recognize and commend the Chattanooga Ronald McDonald House, which will celebrate its fifth anniversary in a "Blaze of Glory" this weekend.

The Ronald McDonald Houses provide a loving atmosphere for seriously ill children to be close to their families while they are cared for in a nearby hospital. Often, these houses are considered to be the families' home away from home during these hardships. The "House That Love Built," which is the name of the Chattanooga Ronald McDonald House, has assisted almost 1,800 families from 32 States and 2 foreign countries, and is 1 of 162 Ronald McDonald Houses in the United States.

This weekend will mark the fifth anniversary for the Chattanooga Ronald McDonald House. They will celebrate the anniversary by burning the recently resolved mortgage on the house in a "Blaze of Glory." Mr. President, I would like to thank the staff, the more than 300 volunteers and the donors that have made the "House That Love Built" a safe and useful tool in treatment of our catastrophically ill children. Their combined efforts will not go unnoticed, and I wish them well in their celebration this weekend.

OWENSBORO LEGENDS OF RACING HOMECOMING

Mr. FORD. Mr. President, anytime someone from our hometown gains national recognition for their talents, we all feel a sense of pride and ownership—that somehow we've contributed to that success.

I know all those from the city of Owensboro and from Daviess County will be doing their share of boasting during the Owensboro Legends of Racing Homecoming.

It provides us with a chance to show off some of our homegrown talent, and to thank these racers and crew members for representing our community so well in competitions across the country.

I know all Kentuckians are just as proud as I am of Darrell and Michael Waltrip, Jeremy Mayfield, and the Green boys—David, Jeff, and Mark. Any weekend we turn on the television and watch the NASCAR races, we enjoy it that much more knowing that they're successes reflect so well on Owensboro, and our entire State.

Working closely with the NASCAR drivers are nine pit crew members from Owensboro and Daviess County who have achieved the highest level of success in their field. I want to congratulate Jeff Chandler, Kenneth Davis, Kerry Everly, Terry Mayfield, Stephen McCain, Donnie Richeson, Barry Swift, Bobby Waltrip, and Todd Wilkerson for their hard work and excellent performances.

They're part of one of the fastest growing sports today. It's estimated that attendance records will double, with 6 million fans expected to go to the races this year.

These are all men of excellent character, who've demonstrated what can be accomplished with hard work and dedication. I join all Kentuckians in congratulating not only them, but their families, who have stood by and supported these racers and pit crew members over the years. I couldn't be more proud of their achievements, and I wish them continued success in the future.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, November 15, the Federal debt stood at $4,988,340,050,374.57. We are still about $12 billion away from the $5 trillion mark. Unfortunately, we anticipate hitting this mark sometime later this year or early next year.

On a per capita basis, every man, woman and child in America owes $18,935.82 as his or her share of that debt.

CONGRESS WILL PROTECT AMERICA'S VETERANS

Mr. GRAMS. Mr. President, we paused last week, as we do each November 11th, to honor American veterans who have given so much to their country for the cause of freedom. As a nation, we stop on Veterans Day to express our gratitude for their service and their sacrifice. And it is worth questioning whether the freedom which we embrace in America would have spread across the world had those sacrifices not been made.

Because of their profound love for their country, veterans understand better than many people how important it is that we face the problems plaguing this Nation. "Congress is doing exactly what I want it to do, in spite of some who oppose the progress we are making," wrote a disabled veteran from Shoreview, MN, who urged me to continue pressing for a balanced budget.

So in much the same way Americans once united during wartime, we are now united in peace, working together as a nation to create a Government strong enough to meet the needs of its veterans today, while it safeguards the freedom our veterans ensured for us.

That is why I find it so appalling that veterans would be singled out by the President and his administration to be the latest political pawns in their budget maneuverings.

Mr. President, I have received a copy of a press release issued by the Department of Veterans Affairs just 2 days ago, and I am utterly disgusted by the scare tactics it employs and the blatant misrepresentations it contains.

"Nearly 3.6 million veterans, widows, and children may have to wait on their monthly benefits checks due to the Government shutdown," it begins. "Unfortunately, some veterans and their families may become budget casualties," said VA Secretary Jesse Brown.

Suggesting that veterans—many of whom sustained grave injuries and lost close friends and family members in battle—could become casualties themselves, this time of a budget war, is tasteless and extreme. It is shocking to me that the U.S. Government would dishonor our veterans this way, playing on their fears and resorting to these kinds of tactics in an attempt to score political points for the President.

In his press release, Secretary Brown claims that all President Clinton has asked for from Congress is a stopgap spending bill free of controversial riders. That is precisely what Congress will deliver to the President this week—a stopgap bill that gives him the funds he needs to run the Government, and asks him to pledge he will work together with Congress to balance the budget within 7 years. Yet even before he sees our bill, President Clinton is vowing to veto it.

Mr. President, the men and women who have so proudly served in this Nation's Armed Forces will not be left in the cold, and to suggest that the Government would ever allow that to happen is the height of irresponsibility. By signing the temporary spending legislation this Congress is preparing to send to the White House, veterans benefits would be designated as an essential Government service. I urge the President to do so, so that this Nation's veterans will continue to receive their monthly benefit checks on schedule and without delay.

The press release from the Department of Veterans Affairs, however, underscores the lengths this administration is willing to go as they attempt to derail our efforts to balance the budget. But do not be taken in by the political rhetoric—it is inflammatory and it is harsh, but it is nothing but rhetoric. A similar situation occurred earlier this year, when the President tried to gain some political mileage scaring senior citizens with his Medicare misinformation. And so it was only a matter of time before he would go after the Nation's veterans, too.

It is indeed unfortunate that this President is so out of touch with the military and the sacrifices demanded by those who serve in uniform that he would attempt to frighten American veterans in such a manner.

Mr. President, I urge my colleagues to join me in denouncing these desperate tactics. They disgrace our veterans and serve no useful purpose in the very serious debate over the financial future of this great Nation.

REPORT OF PROPOSED LEGISLATION MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1996—MESSAGE FROM THE PRESIDENT—PM 96

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Appropriations.

To the Congress of the United States:

In declaring my intention to disapprove House Joint Resolution 122, the further continuing resolution for fiscal year 1996, I stated my desire to approve promptly a clean extension of the continuing resolution that expired on November 13. Accordingly, I am forwarding the enclosed legislation that would provide for such an extension. This legislation also provides that all Federal employees furloughed during the Government shutdown through no fault of their own will be compensated at their ordinary rate for the period of the furlough.

I urge the Congress to act on this legislation promptly and to return it to me for signing.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 16, 1995.*

MESSAGES FROM THE HOUSE

At 9:02 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 122. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 395. An act to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

At 3:47 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2126) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1598. A communication from the Director of the Defense Finance and Accounting Service, the Department of Defense, transmitting, pursuant to law, a cost comparison study of Vendor Pay function supporting the Defense Commissary Agency; to the Committee on Armed Services.

EC-1599. A communication from the Chairman of the Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the report on the status of internal audit and investigative activities for fiscal year 1995; to the Committee on Armed Services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-466. A resolution adopted by the Salinas City Firefighters of Salinas, CA, relative to the Ward Valley of the East Mojave; to the Committee on Energy and Natural Resources.

POM-467. A petition from the attorney general of the State of Hawaii relative to proposed legislation entitled "The Medicare Preservation Act of 1995"; to the Committee on Finance.

POM-468. A petition from a citizen of the State of Kansas for a redress of grievances; to the Committee on the Judiciary.

POM-469. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on the Judiciary.

"SENATE RESOLUTION NO. 30.

"A resolution to memorialize the Congress of the United States regarding voluntary, individual, unorganized, and non-mandatory prayer in public schools.

"Whereas, the United States of America was founded by men and women with varied religious beliefs and ideals; and

"Whereas, The First Amendment to the United States Constitution states that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . ., which means that the government is prohibited from establishing a state religion. However, no barriers shall be erected against the practice of any religion; and

"Whereas, The establishment clause of the First Amendment was not drafted to protect Americans from religion, rather, its purpose was clearly to protect Americans from governmental mandates with respect to religion; and

"Whereas, The Michigan Legislature strongly believes that reaffirming a right to voluntary, individual, unorganized, and nonmandated prayer in the public schools is an important element of religious choice guaranteed by the constitution, and will reaffirm those religious rights and beliefs upon which the nation was founded: Now, therefore, be it

"*Resolved by the Senate,* That the members of this legislative body memorialize the Congress of the United States to strongly support voluntary, individual, unorganized, and non-mandatory prayer in the public schools of this nation; and be it further

"*Resolved,* That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-470. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION NO. 142

"Whereas, the flag of the United States is the ultimate symbol of our country and it is the unique fiber that holds together a diverse and different people into a nation we call America and the United States; and

"Whereas, as of March, 1995, forty-six states have memorials to the United States Congress urging action to protect the American flag from willful physical desecration and these legislations represent nearly two hundred and twenty-nine million Americans, more than ninety percent of our country's population; and

"Whereas, although the right of free expression is part of the foundation of the United States Constitution, very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency, as well as orderliness and productive value of public debate; and

"Whereas, certain actions, although arguably related to one person's free expression, nevertheless, raise issues concerning public decency, public peace, and the rights of other citizens; and

"Whereas, there are symbols of our national soul such as the Washington Monument, the United States Capitol Building, and memorials to our greatest leaders, which are the property of every American and are therefore worthy of protection from desecration and dishonor; and

"Whereas, the American Flag is a most honorable and worthy banner of a nation which is thankful for its strengths and committed to curing its faults, and remains the destination of millions of immigrants attracted by the universal power of the American ideal; and

"Whereas the law as interpreted by the United States Supreme Court no longer accords to the Stars and Stripes the reverence, respect, and dignity befitting the banner of that most noble experiment of a nation-state; and

"Whereas, it is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes of a proper station under law and decency; and

"Whereas, an increasing number of citizens, individually and collectively, in Hawaii and throughout the nation, have called for action to ban the willful desecration of the American flag; and to ignore the effect of this decision would be an affront to everyone who has been committed to the ideals of our nation in times of war and in times of peace: Now, therefore; be it

"*Resolved by the House of Representatives of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, the Senate concurring*, That this body respectfully requests each member of Hawaii's congressional delegation, with the specific purpose of urging the Congress of the United States to support an amendment to the United States Constitution, for ratification by the states, providing that Congress and the states shall have the power to prohibit the willful physical desecration of the flag of the United States; and; be it further

"*Resolved* That certified copies of this Concurrent Resolution be transmitted to each member of Hawaii's congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1331. A bill to adjust and make uniform the dollar amounts used in title 18 to distinguish between grades of offenses, and for other purposes.

S. 1332. A bill to clarify the application of certain Federal criminal laws to territories, possessions, and commonwealths, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Florence K. Murray, of Rhode Island, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1998.

David Allen Brock, of New Hampshire, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997.

Joseph Francis Baca, of New Mexico, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1998.

Robert Nelson Baldwin, of Virginia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1998.

Frank Policaro, Jr., of Pennsylvania, to be United States Marshal for the Western District of Pennsylvania for the term of 4 years.

D.W. Bransom, Jr., of Texas, to be United States Marshal for the Northern District of Texas for the term of 4 years.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DORGAN (for himself, Mr. BYRD, Mr. HEFLIN, and Mr. CAMPBELL):

S. 1417. A bill to assess the impact of the NAFTA, to require further negotiation of certain provision of the NAFTA, and to provide for the withdrawal from the NAFTA unless certain conditions are met; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. Res. 195. A resolution to honor Frederick C. Branch on the 50th anniversary of his becoming the first African American commissioned officer in the United States Marine Corps; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself, Mr. BYRD, Mr. HEFLIN, and Mr. CAMPBELL):

S. 1417. A bill to assess the impact of the NAFTA, to require further negotiation of certain provision of the NAFTA, and to provide -for the withdrawal from the NAFTA unless certain conditions are met; to the Committee on Finance.

THE NAFTA ACCOUNTABILITY ACT

• Mr. DORGAN. Mr. President, the North American Free-Trade Agreement [NAFTA] has been a total disaster for our Nation. Virtually all of the promises made when it was passed have turned out to be hollow and shallow rhetoric.

We have gone from a trade surplus with Mexico to an unprecedented and unbelievable trade deficit. Our economy is being drained, while jobs, plants, and opportunities move out of this country. It is time to admit that NAFTA is a lemon. When we get a lemon we take it back. We demand that the promises made when it was sold be kept. If not, then our only choice is to withdraw from NAFTA.

This coming Monday will be the 2d anniversary of the passage of the North American Free-Trade Agreement [NAFTA] by the Senate. Today I am pleased to introduce the NAFTA Accountability Act. I am also pleased to have Mr. BYRD, Mr. HEFLIN, and Mr. CAMPBELL as original cosponsors of this legislation.

As we approach the second anniversary of NAFTA, we need to remember the promises of NAFTA. The advocates of this trade agreement promised a more vibrant economy, a stabilized economic framework, more high-paying jobs, increased exports, improved living standards, reduced trade distortions, and improved competitiveness for the United States in global markets.

At the same time we were promised, the environment would be protected, the public welfare would be safeguarded, and basic human rights would be enhanced.

Yet, the facts show that NAFTA just doesn't measure up to its promises. It is clearly evident that NAFTA has been a colossal failure for the American people.

It is what used car dealers politely call a lemon. We have been sold a bill of goods. Like most lemons from a used car lot, it is costing us way more than we expected, and it is not getting us where we want to be going.

It is time to make NAFTA accountable. We need to measure the actual results of NAFTA after 2 years of operation against the promises made to get NAFTA passed.

In fact, we should compare NAFTA's performance against the goals set forth in NAFTA's own preamble and statement of objectives. In introducing the

NAFTA Accountability Act we are setting some benchmarks for NAFTA.

We would establish eight benchmarks. Three of those benchmarks would direct the President to renegotiate critical areas of failure within NAFTA including: Trade deficits, currency exchange rates, and agricultural trade distortions.

Five of those benchmarks would establish specific measurements by which NAFTA would be judged, including: Jobs, wages and living standards; the manufacturing base of our country health and environment; illegal drug traffic; and basic individual rights and freedoms.

If the President cannot renegotiate NAFTA, and if the administration cannot certify that these benchmarks have been met by December 31, 1996, then Congress withdraws its approval of NAFTA.

The record of NAFTA is very clear. We have gone from a trade surplus with Mexico to a trade deficit. In 1992, we had a $5.7 billion trade surplus with Mexico. By the end of this year, we will have at least a $15 billion trade deficit. Some are now estimating that deficit closer to $17 billion. The total trade deficit this year with Mexico and Canada will be over $30 billion.

One of the underlying reasons for the trade deficit has been the devaluation of the Mexican peso. This past week, the peso plunged once again down to a record low of 7.8 pesos to the dollar. it is estimated that the Mexican peso is now being supported through $30 billion in loans, much of it from unwilling U.S. taxpayers.

Another critical front is the trade distortions in agriculture. This past year, Canada exported 85 million bushels of wheat and 75 million bushels of barley into the United States, despite the fact that the United States itself is the major exporter of wheat.

In contrast, you can't move a single bushel of wheat across the Canadian border without being stopped and turned back. In one case a woman who was bringing a grocery sack of wheat across the border into Canada so that she could make some whole wheat bread had to dump out the wheat, before she could enter Canada.

When NAFTA was being debated, its promoters promised at least 220,000 jobs. Those numbers have turned totally upside down. Rather than job gains of 220,000, we have job losses of at least 220,000. Some predict job losses by the end of the year of 300,000 and more.

Recently there was a survey of companies that had said they anticipated job growth under NAFTA. Fully 90 percent of those companies now admit that there has been no job growth with NAFTA.

I think one of the most striking examples of the promise versus the reality of NAFTA, are the estimates made by a trade economist as reported by the Wall Street Journal.

Gary Hufbauer is an economist with the Institute for International Economics. His estimates of job growth were used extensively prior to the passage of NAFTA. In one Wall Street Journal article prior to the passage of NAFTA, he had predicted 130,000 new jobs in 5 years.

In April of this year, Hufbauer had to eat his rosy scenario estimates. Here is what he said in the Wall Street Journal:

> The best estimate for the jobs effect of NAFTA is approximately zero. The lesson for me is to stay away from job forecasting.

Hufbauer was right, he should have stayed away from job forecasting. A couple of weeks ago, Hufbauer revised his estimate again. As reported in the Wall Street Journal, Hufbauer is now saying that the surging trade deficit with Mexico has cost the United States 225,000 jobs.

These are real jobs, and real people losing their jobs. Within the last couple of weeks, we have seen a number of plants closing, jobs moving, and layoffs.

The nation's largest underwear maker—Fruit of the Loom—at the end of October announced the closing of six domestic plants, a cut back at two other plants and lay off of 3,200 workers. A spokesman for the company, Ronald Sorini, was quite candid. He said, "What you are seeing is the cumulative impact of NAFTA and GATT."

Take the case of Tri-Con Industries which operates a car-seat cover plant. Ten days ago, this company announced it was closing its plant and moving its 200 jobs to Mexico.

Another firm, Ditto Apparel, announced this week that it would lay off 215 workers at its Colfax, Louisiana plant. They make private-label jeans at that plant. The personnel director at the plant, a fellow named Don Vann was also very candid.

In speaking of NAFTA and GATT, he said, "I'm telling you, those are the nails that are going to be in the coffin of the apparel industry in this country. It's going to be awfully hard for some people who have been long-term employees here. The sad part is, there is just nothing anyone can do."

Well, I don't agree that there is nothing anyone can do. We can hold NAFTA accountable. We can require that either NAFTA lives up to its promises, or we withdraw from NAFTA.

The NAFTA Accountability Act is simple. If NAFTA does not live up to its promises by December 31, 1996 and if the President does not renegotiate key provisions, then the Congress will withdraw its approval of NAFTA.

Essentially this would be a performance audit. If it doesn't pass muster, then it's "out-the-door buster."

I hope that today's introduction of this bill, will bring about a nationwide grassroots review of the promises and the realities of NAFTA. It is time that America's body politic understood what America's grassroots already feels—NAFTA is undermining their individual and family security, and clouding future opportunities.

While they have a deep concern about our nation's budget deficits, they are just as concerned with our nation's trade deficits. These trade deficits mean lost jobs, fewer opportunities for our families, and deficits in family budgets.

In closing, I would also like to call attention to an excellent article which was recently published in the Journal of Commerce. Dr. Charles W. McMillion, an economist here in Washington, DC has a compelling message about the reality of NAFTA.

Mr. President, I ask unanimous consent that the article be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NAFTA: THIS IS SUCCESS?

(By Charles W. McMillion)

It might seem odd that someone would claim to explain the "reality" of a global trade relationship without mentioning the net export balance, its composition or change over time. But John Manzella does just that as he shows very little interest in the "reality" he claims to present. (Nafta Hasn't Cost America Jobs, October 20)

Manzella asserts that U.S. trade with Mexico under the 1994 Nafta agreement "continues to deliver, on jobs and more." Surely he excludes Mexico from his fantasy, where no one doubts that over one million net jobs have been lost, incomes reduced by 30–50%, the economy in its deepest depression since the 1930s, political and religious leaders murdered and more. . .

But he also does not mention that U.S. net exports to Mexico have been declining since 1992; that the U.S. now faces net export losses to Mexico of well over a billion dollars each month; or that U.S. trade losses to Mexican production are now concentrated in high technology and high value added industries such as electronics and autos.

The fact is that the much celebrated U.S. pre-Nafta surplus of $5.7 billion in net exports to Mexico in 1992 became monthly deficits by the fall of 1994—even before the December, 1994 collapse in Mexico's attempt to maintain its overvalued peso by spending virtually all of its $30 billion in foreign reserves. Now, the peso is supported by $30 billion of "loans," mostly from unwilling U.S. taxpayers. And still the global markets are rapidly devaluing the peso as they have done for the past 20 years. U.S. net export losses to Mexico will reach about −$16 billion in 1995.

Manzella falsely claims that those of us who understand the lunacy of Nafta do not mention U.S. exports to Mexico. In fact, we tediously detail those exports. Most are component parts contracted out for further manufacture in Mexico and re-exported back into the U.S. According to the Government of Mexico, these parts now account for 81% of Mexico's global imports, up from 72% last year, and perhaps 90% of US-made exports to Mexico, up from 75% last year.

Since contracting out work to Mexico is even cheaper now with the peso at market rates, it is not surprising that exports of components to Mexico have continued to rise in 1995. The small fraction of exports of capital goods to Mexico have fallen by −32% as construction of anything other than export platforms has all but collapsed. The almost insignificant export of global consumer goods to Mexico has plunged by −41.5%—far more for any goods made in the U.S.

Exports are usually considered to "create" jobs because making additional goods in the U.S. to sell as exports—a car or a computer—requires hiring additional U.S. labor. However, most U.S. exports of components to Mexico do not represent new production but merely the contracting out of work previously done in New York, Pennsylvania or elsewhere in the U.S. It is therefore quite likely that even so-called U.S. "exports" to Mexico displace far more U.S. jobs than they create.

Manzella claims that the contracting out of component parts to Mexico is a clever government strategy to counter "fierce competition from Asia and Europe." Yet, even with the dollar far weaker in Asia and Europe than ever before in history, U.S. trade losses have skyrocketed faster and higher than ever before. Net export losses for U.S. manufacturing alone soared from −$66 billion in 1992 to a record −$159 billion in 1994, and perhaps −$200 billion in 1995.

In the first eight months of 1995, Mexico has a trade surplus of $10 billion with the U.S. but a trade deficit of −$5.5 billion with Asia, Europe and the rest of the world.

Clearly, increased production by multinational corporations in Mexico is not displacing production and jobs in Asia and Europe but in Mexico and in the U.S.

Manzella's belief that declining net exports under Nafta have created U.S. jobs is based not only on his ignorance of the nature of U.S. exports to Mexico, but also on his strange view that imports do not displace jobs. (Although he discredits his own strange view by noting that ". . . more U.S. jobs and production stay at home" when imports have some U.S.-made content.)

When producers in the U.S. lose sales to imports they are forced to produce less and to eliminate jobs. It is unfortunate that Manzella, as many politicians, has not yet learned this basic fact of business life. But it should not confuse any serious analysis of recent U.S./Mexico trade.

The most recent Department of Commerce calculus is that $1 billion of production supports 16,000 jobs. This would suggest that the U.S. net export loss of about −$16 billion to Mexican production in 1995 would displace over 250,000 jobs. But since most of the $40 billion in U.S. exports to Mexico is not new production but merely contracting out work that was previously done in communities across the U.S., this figure is certainly far too low.

Perhaps even more important is the depressing effect that Nafta has added to the declining purchasing power of U.S. wages. Throughout the economy, workers and their firms have taken further cuts in real pay and benefits to keep their jobs from being contracted out or to lower prices to meet the cycle of reduced demand.

Manzella repeats as fact the claim of embarrassed politicians that Nafta had nothing to do with Mexico's current account and peso crisis last December. Manzella seems to think it was just coincidence that Mexico's external balance became wildly unbalanced immediately after Congress passed fast-track authority for Nafta. Does he believe that after a generation of net capital flight it was coincidence that over $60 billion of hot portfolio "investment" poured into Mexico? Was Mexico's flood of imported component parts just coincidence?

In fact, there is no question but that Nafta created the enormous and unsustainable short-term imbalances in Mexico. For the longer term, Nafta's guarantees to foreign investors are devastating local Mexican producers that must now compete against Walmart, Microsoft and Sony's facilities in Mexico but without their access to global capital. This will continue to undermine employment and earnings in Mexico—and therefore consumer demand—for many years to come.

It is a cruel, political joke to suggest that Nafta is protecting U.S. exports contracting out jobs to Mexico. Furthermore, even the net export U.S. trade deficit with Mexico is already far worse than the previous record—$7.7 billion deficit following Mexico's 1982 crisis. The deficit will be twice as severe for the full year.

Finally, Mr. Manzella cites the gain of large numbers of U.S. jobs during business cycles since 1982 to argue that merchandise trade losses do not cause job loss. He seems unaware that while the U.S. population has grown by 30 million since 1982, and 26 million net new jobs have been created, all of these new jobs have been in the non-traded service sector.

Since 1982, the U.S. has accumulated manufacturing trade losses of $1.3 trillion. Far from creating manufacturing jobs to accommodate our growing population and economy, we have 1,300,000 fewer manufacturing jobs today than in 1982.

Contrary to 18th century theory and modern political rhetoric, U.S. trade with Mexico and other low cost export platforms is destroying millions of high wage, highly productive jobs and replacing them with low wage, low productivity service jobs. It is sharply undermining growth and prosperity for all to provide leverage for a very few to capture increasing shares of a slowing global economy.

Manzella and anyone else who considers Nafta a success, for Mexico or for the U.S., should reconsider their priorities. We can do much better. America should lead the international community in an urgent new effort to address today's new, post-Cold War, information-age realities and to provide growth and prosperity for ourselves and the world.●

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. REID, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 44, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

S. 978

At the request of Mrs. HUTCHISON, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Alabama [Mr. SHELBY], the Senator from Iowa [Mr. GRASSLEY], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Louisiana [Mr. BREAUX], the Senator from Nevada [Mr. REID], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

S. 1220

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 1220, a bill to provide that Members of Congress shall not be paid during Federal Government shutdowns.

S. 1414

At the request of Mrs. HUTCHISON, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Virginia [Mr. WARNER], and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1414, a bill to ensure that payments during fiscal year 1996 of compensation for veterans with service-connected disabilities, of dependency and indemnity compensation for survivors of such veterans, and of other veterans benefits are made regardless of Government financial shortfalls.

SENATE RESOLUTION 195—TO HONOR FREDERICK C. BRANCH

Mr. SANTORUM (for himself and Mr. SPECTER) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 195

Whereas November 10, 1995, marks the 220th anniversary of the founding of the United States Marine Corps;

Whereas November 10, 1995, marks the 50th anniversary of Second Lieutenant Frederick C. Branch becoming the first African American commissioned officer in the United States Marine Corps;

Whereas Second Lieutenant Branch's commissioning has encouraged African Americans and other minorities to become commissioned officers in the United States Marine Corps; and

Whereas Second Lieutenant Branch has dutifully served his country: Now, therefore, be it

Resolved, That the Senate honors Frederick C. Branch on the 50th anniversary of his becoming the first African American commissioned officer in the United States Marine Corps.

Mr. SANTORUM. Mr. President, today I rise with my colleague Senator SPECTER to submit a resolution which pays tribute to Frederick C. Branch, the Marine Corps' first African-American commissioned officer. The fiftieth anniversary of this historic event will be honored tomorrow night in Philadelphia, Pennsylvania. This man's dedication and perseverance paved the way for the some 1,200 African-American Marine Officers serving their country today, 50 years later. I would like to enter into the RECORD a recent article published in The Navy Times which recently celebrated his remarkable career. This article details his determination in becoming a young officer.

Fifty years later, Lt. Branch returns to Quantico, Va.—The Marine Corps first black lieutenant was greeted at

Officer Candidate School by the school's first black commander, 50 years after his commissioning.

Frederick C. Branch, one of the original Montford Point Marines and now a retired science teacher, visited the school where his wife Peggy pinned him with the gold bars of a second lieutenant on Nov. 10, 1945.

Back then, the South was segregated and blacks drank from separate water fountains. "Whenever we left the base, we ran directly into those segregation laws," said Branch, his face framed by peppered hair and moustache and his walk helped slightly by a cane.

During one rail trip, he recalled, he (then a corporal) and 200 other noncommissioned officers were returning to the United States from the South Pacific, where they were stationed in 1944. Stopping at a restaurant, he and two other blacks were not served and were referred to another eatery—literally on the other side of the railroad tracks, he said.

Branch was drafted into the Corps in 1943, and was the first black to graduate from officer training in 1945. Six others preceded him but all were dropped because of injuries or academics, even though all six were college graduates.

It remains a sore spot but nevertheless it did not dissuade him from applying. However, "I did not encounter any flack during training at all," he said.

Branch was a reserve officer but served on active duty and was a battery commander with an anti-aircraft unit at Camp Pendleton. He then took what he learned as a Marine into the schoolhouse in 35 years as an educator.

The Branches' return to Quantico a half-century later saw to a slightly different Corps. The basics of screening and training potential leaders remained the same, although more specialized, he said. And Marine leaders reflect the Nation's ethnic and racial diversity, like Officer Candidate School commanding officer, Col. Al Davis.

"Now officers are integrated," Frederick Branch said. "Here, the commander of OCS is black, and his staff is black and white."

Officer training actually was conducted a short distance away on the Quantico Marine Base, but Branch wanted to visit with school officials and learn a little about today's screening and training of Marine leaders. During a short morning tour, Branch and his wife watched officer candidates training in the ropes and obstacle courses before giving lunch a try at the OCS chow hall.

Branch said he would like to see black representation among officers increase further. But he took note of the advancements in the last few decades that brought a black three-star general and first black aviator, a black two-star general and three brigadier generals, two of whom are on active duty.

"The black officers now have advanced all the way up to three stars, and there is still room for improvement," he said.

Frederick Branch rose to the rank of Captain and proudly fought with his fellow soldiers in Korea before leaving the service in 1972.

AMENDMENTS SUBMITTED

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996 JOINT RESOLUTION

DASCHLE AMENDMENT NO. 3055

Mr. DASCHLE proposed an amendment to the joint resolution (H.J. Res. 122) making further continuing appropriations for the fiscal year 1996, and for other purposes; as follows:

Strike all after the first word and insert the following:

Section 106(C) of Public Law 104-31 is amended by striking "November 13, 1995" and inserting "December 22, 1995".

HOLLINGS (AND OTHERS) AMENDMENT NO. 3056

Mr. HOLLINGS (for himself, Mr. DORGAN, and Mr. REID) proposed an amendment to the joint resolution (H.J. Res. 122), supra; as follows:

Add at the end of the joint resolution, the following last section:

SEC. . Notwithstanding any other provision of this joint resolution, the seven-year balanced budget passed by the Congress to the President shall not include the use of Social Security Trust Funds to reflect a balanced budget.

DASCHLE AMENDMENT NO. 3057

Mr. DASCHLE proposed an amendment to the joint resolution (H.J. Res. 122), supra; as follows:

Strike all after the first word and insert the following:

Section 106(C) of Public Law 104-31 is amended by striking "November 13, 1995" and inserting "December 22, 1995".

Sec. 2. (a) The President and the Congress shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the fiscal year 2002.

(b) The unified balanced budget in subsection (a) must assure that: (1) Medicare and Medicaid are not cut to pay for tax breaks; and (2) any possible tax cuts shall go only to American families making less than $100,000.

ADDITIONAL STATEMENTS

UNITED STATES-JAPAN INSURANCE AGREEMENT

• Mr. BOND. Mr. President, as Chairman of the Subcommittee on International Finance, it is my responsibility to monitor our trade agreements relating to financial services. It is a responsibility we take seriously.

Earlier this year, the subcommittee held a hearing on the WTO negotiations regarding financial services. We heard testimony from both administration and industry representatives. Based on those hearings and close monitoring of the talks, we took a strong position in opposition to the proposal that was put forward. The administration, correctly, took the same position.

In recent weeks, the subcommittee staff has been monitoring the implementation of other agreements including the United States-Japan insurance agreement which is formally known as "Measures by the Government of Japan and the Government of the United States Regarding Insurance." Based on those initial reviews, we have some significant concern regarding implementation of the accord.

Ambassador Mickey Kantor has often emphasized the importance of ensuring faithful implementation of our trade agreements. Great effort is invested in reaching agreements—once the investment is made, vigilance is needed to ensure that they bear fruit in terms of new opportunities for our businesses, U.S. exports, and jobs.

Senators will remember the considerable efforts expended recently by the USTR to conclude accords under the United States-Japan Framework Agreement. More than a year has passed since the first agreements were reached; I believe it is now an appropriate time to conduct an assessment of those initial agreements and what, if anything, they have accomplished.

One of the first agreements reached was the one covering insurance. Japan has the largest life insurance market in the world, and the second largest nonlife market, after the United States. Despite the enormity of this market, all foreign insurers hold less than a 3-percent market share, a far lower share than every other advanced industrialized country. Japan is currently deregulating its insurance market following the Diet's passage of a new insurance business law in July of this year. If pursued in accordance with the bilateral insurance agreement, we can expect deregulation to provide significant new benefits for Japanese consumers and businesses, as well as new opportunities for competitive foreign insurers.

However, developments occurring in Japan today indicate that new threats may be confronting United States insurance interests. These threats can be prevented if the United States-Japan Insurance Agreement is faithfully implemented.

Specific provisions of the insurance agreement were designed to ensure that the interests of foreign insurers were not undermined by the deregulation process. In a letter from Ambassador Kantor to the U.S. insurance industry of October 11, 1994, detailed definitions of the key terms of the agreement were outlined, together with

USTR's expectations of what would result. Full compliance with these terms, as defined in Ambassador Kantor's letter, is essential if the agreement is to achieve its objectives.

Because faithful implementation of this accord is so important, Senator BOXER, the ranking member on the subcommittee, and I recently sent to Ambassador Kantor a letter requesting a detailed and comprehensive report to the committee this month on all actions taken to date by the Government of Japan to implement its obligations under the insurance agreement. It is my hope that the Senate's interest will serve as a constructive influence to help ensure that this important agreement, and other agreements, stay on track and live up to their full potential.

Mr. President, I ask that our letter to Ambassador Kantor, as well as Ambassador Kantor's letter to the U.S. insurance industry of October 11, 1994, be printed in the RECORD.

The letters follow:

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, November 8, 1995.

Hon. MICHAEL KANTOR,
U.S. Trade Representative,
Washington, DC.

DEAR MR. AMBASSADOR: We are writing to share with you our commitment to ensuring full and effective implementation of trade agreements between the United States and Japan. You have often stated it is not enough simply to reach agreements with our trading partners, but that we must also be vigilant in guaranteeing that the rights gained under those agreements are fully realized. We could not agree more strongly.

As part of our Subcommittee's ongoing oversight responsibilities in this regard, we would like to request a detailed report on the results of actions taken to date to implement the commitments defined in the U.S.-Japan Insurance Agreement and in your October 11, 1994 letter to the U.S. insurance industry concerning certain key aspects of the Agreement.

We are concerned about reports that, as the implementation date for the new Japanese Insurance Business Law approaches, developments in Japan may pose serious threats to U.S. insurance interests. For example, plans by large Japanese insurers to enter the "third sector" through newly created subsidiaries, pose both a major commercial threat to U.S. insurers and a probable violation of the insurance agreement. The Subcommittee is particularly concerned about the inadequacy of actions taken to date by the Ministry of Finance to ensure compliance with those provisions related to this activity.

Accordingly, we request you provide a report to the Subcommittee on these and other actions taken to date by the Government of Japan to implement obligations under the agreement, as well as the results of those actions. Please also describe additional actions USTR will take to ensure ongoing implementation of the agreement's other provisions.

We would appreciate receiving your report within the next two weeks so we may proceed with our review. The Subcommittee is considering a future hearing to review the results of various U.S.-Japan trade agreements; your report on the insurance agreement will help us prepare for any such meeting.

We appreciate your efforts on behalf of U.S. insurers, and look forward to your report.

Sincerely,

BARBARA BOXER
CHRISTOPHER S. BOND

THE UNITED STATES TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, October 11, 1994.

Mr. H. EDWARD HANWAY,
Chairman, International Insurance Council,
Washington, DC.

DEAR MR. HANWAY: I am writing to express my sincere appreciation for the industry's support during our negotiations with the Government of Japan on insurance. I am pleased to confirm that we have achieved agreement with the Government of Japan, through which Japan and the United States will undertake "Measures by the Government of the United States and the Government of Japan Regarding Insurance". The goal of the Agreement is to achieve significant improvement in market access in Japan for competitive foreign insurance providers and intermediaries.

With respect to the third sector issue, the Agreement states that:

"With regard to mutual entry[1] of life and non-life insurance companies into the third sector, the MOF intends not to allow such liberalization to be implemented as long as a substantial portion of the life and non-life areas is not deregulated, taking into account the fact that dependency of some medium to small and foreign insurance providers on the third sector is high, and that these medium to small and foreign insurance providers have made the efforts to serve the specific needs of consumers in the third sector. Furthermore, with respect to new or expanded introduction of products in the third sector, it is appropriate to avoid any radical change in the business environment, recognizing that such change should depend on medium to small and foreign insurance providers first having sufficient opportunities (i.e. a reasonable period) to compete on equal terms in major product categories in the life and non-life sectors through the flexibility to differentiate, on the basis of the risk insured, the rates, forms, and distribution of products."

Based on a confirmation made during the negotiations with the Government of Japan, I would like to affirm the following:

(1) with respect to existing large Japanese life and non-life companies, "avoid any radical change" means, among other things, that the Ministry of Finance (MOF) will maintain existing administrative practices concerning the third sector and not allow such companies to expand their third sector presence;

(2) with respect to subsidiaries that existing large Japanese life and non-life companies might form after the new insurance law takes effect, "avoid any radical change" means, among other things, that such subsidiaries will be treated the same as existing large life and non-life Japanese companies and accordingly will not be allowed to surge into the third sector;

(3) "major product categories" includes automobile insurance; and

(4) "a reasonable period" means three years.

With regard to rate and from liberalization, in addition to the specific commitments made in the Agreement, I would like to affirm that:

(1) with respect to the threshold for application of the special discount rate applicable to the large commercial risks of fire insurance, the discount will be reduced from 2 to 1.5 billion yen for factory fire insurance and from 1.5 to 1 billion yen for general fire insurance; and the threshold for storage (warehouse) insurance will be unchanged; and

(2) with respect to the minimum insured amount of the large commercial fire insurance policies to which the deductibles rider can be attached, the minimum insured amount will be decreased from 5 billion yen to 1.5 billion yen.

The Agreement creates binding obligations on the Government of Japan enforceable under U.S. trade laws, such as Section 301 of the Trade Act of 1974, as amended. The Agreement provides for follow-up consultations between the Government of Japan and the United States Government. We expect to hold such consultations twice a year during the first three years upon signing of the Agreement, and annually thereafter. With U.S. insurance industry's assistance, we expect to monitor closely developments in the third sector to ensure that the Government of Japan is in compliance with the Agreement.

We very much appreciate the International Insurance Council's support and assistance during our negotiating efforts and look forward to working with the Council to ensure effective implementation of the Agreement.

Sincerely,

MICHAEL KANTOR.

TREASURY-POSTAL APPROPRIATIONS CONFERENCE REPORT

• Mr. LIEBERMAN. Mr. President, yesterday I voted for the Treasury-Postal appropriations conference report because I believe we must send along appropriations bills to the President since we are now nearly 2 months into the current fiscal year and the Government is shutdown. However, I would like to make it clear that I do not support, and have not supported in the past, the so-called Hyde language in this bill which would prohibit any Federal funding for abortion except in the case of rape, incest, or preserving the life of the mother. I have long felt that if abortions are allowed under our laws, then I can't find justification for limiting the option of Federal employees to obtain health plans that allow such coverage, as most private sector employees have. For this reason, while I voted for this bill given our Government's current dire economic status, I want to make it clear that I am opposed to the Hyde language which appears in this bill and hope there will be an opportunity later to reconsider it.•

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[1] "Mutual entry" means the ability of life insurance companies to introduce existing, new or modified rates, products, or riders in the third sector currently allowed to non-life insurance companies, and the ability of non-life insurance companies to introduce existing, new or modified rates, products, or riders in the third sector currently allowed to life insurance companies.

GOVERNOR SAYS HE'S WORRIED STATE MAY BE TOO DEPENDENT ON GAMBLING

• Mr LUGAR. Mr. President, I ask that the following article be printed in the RECORD.

The article follows:

[From the Associated Press, Sept. 12, 1995]

GOVERNOR SAYS HE'S WORRIED STATE MAY BE TOO DEPENDENT ON GAMBLING

SIOUX CITY, IA.—South Dakota Gov. Bill Janklow said he is worried his state might be getting hooked on gambling revenue.

Janklow said South Dakota has been saturated with gambling. State government is heavily dependent on gambling revenue, with video lottery proceeds accounting for between 15 percent and 17 percent of the general fund budget, Janklow said.

If the economy slows down and people have to limit spending, gambling will be one of the first expenses people cut out, Janklow said. The resulting drop in state revenue would "hit us right between the eyes," Janklow said.

Gambling revenue should have been treated as "one-time money" and not intended to continue each year, Janklow told a meeting of the Sioux City Downtown Rotary club Monday.

But changing the state's reliance on gambling revenue will be difficult, Janklow said. Tax revenues in South Dakota grew at three times the rate of inflation in the nine years before he took office for a third time this year, Janklow said.

If taxes grow at about the same rate as income, people grumble, but do not revolt, Janklow said.

"That's what we had (last year), a revolt," Janklow said.

Voters defeated a ballot measure that would have slashed property taxes by one-third. A property tax cut plan proposed by Janklow and passed by the Legislature promises homeowners and farmers a 20-percent tax cut.

South Dakota's economy will have to grow to offset money lost to the property tax cut, Janklow said.

A few state lawmakers have said a state income tax is the best way to ease South Dakota's financial straits. Janklow said the state's voters will never agree to that.

"Working people are always going to vote no (on an income tax) because they know the government is not going to be honest," Janklow said.•

FURLOUGH OF WORKERS

• Mr. LEVIN. Mr. President, I have decided on a day-to-day basis that my staff will report for work during the partial shutdown of the Federal Government. I have reached this decision for two reasons.

First, the Republican leadership has indicated that Federal workers who are furloughed will be paid retroactively even though they did not work. Since they will be paid, I believe that members of my staff here in Washington and in my offices in Michigan should work for that pay. I ask that a letter to Representative CONSTANCE MORELLA of Maryland from Speaker of the House NEWT GINGRICH and the Senate majority leader be printed in the RECORD at the conclusion of my statement.

Second, during this period of crisis, it is perhaps even more important for my constituents to be able to contact me to express their views, and to seek information and assistance. Many are experiencing difficulties obtaining normal services from the Government because many offices are closed or not at full strength.

The letter follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, November 10, 1995.

Hon. CONSTANCE MORELLA,
106 Cannon House Office Building,
Washington, DC.

DEAR CONNIE: We will be sending soon to President Clinton a bill to continue funding for the federal government through December 1, 1995. Besides providing for government services, this bill also funds federal workers' salaries.

If the President decides to veto this vital legislation to keep government operating, the possibility exists that some federal workers may be furloughed. In the event that this takes place, it is our commitment that federal employees will not be punished as a direct result of the President's decision to veto funding for their salaries. Should this happen, we are committed to restoring any lost wages in a subsequent funding bill.

Again, we want to reasure you that if the President vetoes the continuing resolution and requires federal workers to be furloughed, we are committed to restoring any lost wages retroactively.

Sincerely,

NEWT GINGRICH,
Speaker of the House.
BOB DOLE,
Senate Majority Leader.•

YOUTH VOLUNTEERS—1995

• Mr. BOND. Mr. President, I rise today to pay a special tribute to the 1995 Youth Volunteers at the Harry S. Truman Memorial Veterans' Hospital. I am very pleased to recognize the 41 youth volunteers for their superior service and their fine example of the true spirit of voluntarism.

This past summer, the 1995 Youth Volunteers contributed over 5,700 hours to the hospitalized veterans and staff at the Harry S. Truman Memorial Veterans' Hospital in Columbia, MO. Their hard work and untiring commitment provided valuable assistance to the members of the medical community and demonstrated selfless dedication to those in need.

The Veterans Affairs Voluntary Service commended the 1995 Volunteer Youth at a ceremony on September 23, 1995. It is my great pleasure to congratulate the 1995 Youth Volunteers for their significant accomplishments.

I ask that the names of the volunteers be printed in the RECORD.

YOUTH VOLUNTEERS—1995

The list follows: Gretchen Adibe, Neha Aggarwal, Schann Bryan, Shannon Bryan, Amanda Cochran, Katie Deal, Brian Dube, Sarina Finklestin, Brea Foster, Tiffany Foster, Marsha Grieshaber, John Griffith, Abe Haim, Clint Hake, Amy Hanley, Jeff Heidenreich, Jamie Huggans, Maryke Kelly, Jesse Langley, Laura Loftus, Katie Marienfeld, Gina McGuire, Katie Mitchell, David Mueller, Dennis Payne, Jessica Pike, Chrissy Rahmoeller, Michael Rahmoeller, Justin Redmond, Laura Sanders, Samantha Scheard, Sarita Scheard, Cynthia Singleton, Melissa Smarr, David Staats, Shanta Subramanian, Neda Taj, Laweda Turner, Marlisa Turner, Carley Utterback, Matt Webster.•

HEROISM OF SHARON MANN AND THOMAS PREZKOP

• Mr. KERRY. Mr. President, today I call to the attention of my colleagues two people who have made a difference and saved someone's life. Everyday in communities across America men and women come face to face with life-threatening situations. In most cases, and usually without fanfare or widespread recognition, people make the quick decisions and take the actions that make a difference and save lives. This is the story of two of those people.

On July 14 of this year, Sharon Mann and Thomas Prezkop of Andover, MA were enjoying a Friday night cruise aboard the *Desperado* in Gloucester Harbor when they noticed something out of the ordinary. They heard the sound of an engine racing out of control and in the darkness turned to investigate. From a distance they saw the lights of a small vessel circling and knew that something was wrong. Upon approaching the location they heard a man's cries for help. Closing in on the man's voice, they found Kevin Govoni in the cold water, threw him a life preserver and then pulled him aboard their vessel. Mr. Govoni was in bad shape. The circling vessel had hit him and the propeller had badly slashed his legs. Compounding Mr. Govoni's serious injuries, he was suffering from hypothermia from being immersed in the 50-degree water. Working as a team, Ms. Mann tended to Mr. Govoni by removing his soaked shirt, covering him, and applying first aid to stop the severe bleeding while Mr. Prezkop headed the *Desperado* toward the nearest Coast Guard station and called ahead to have an ambulance waiting.

Upon their arrival at Coast Guard Station Gloucester, Mr. Govoni was transferred by ambulance to a local hospital. In hindsight, it becomes clear that with no other vessels in the vicinity, if Ms. Mann and Mr. Prezkop had simply decided not to get involved, a life could have been lost. However, due to their quick action and excellent judgment, a life has been saved and Mr. Govoni is recovering from his injuries.

Thomas Prezkop and Sharon Mann are real heros—like heros who appear every day in this country. They are the ones whom we should be recognizing and admiring before so-called stars and celebrities. I recognize and salute the actions of Mr. Prezkop and Ms. Mann and I am glad to see that the service that specializes in such rescue, the U.S. Coast Guard, also recognizes a job well done. This Monday, November 30, 1995, the Coast Guard will award Mr. Prezkop and Ms. Mann the Public Service Commendation for demonstrating courage and initiative in saving lives, qualities in keeping with the highest traditions of the Coast Guard. These awards are well deserved. On behalf of the people of Massachusetts, I wish to acknowledge our debt to them and express profound appreciation for their unselfish actions.•

U.S. BUREAU OF MINES

• Mr. BENNETT. I wish to bring to the attention of the chairman of the Interior Appropriations Subcommittee a matter of great importance to the State of Utah—the matter of the impending closure of U.S. Bureau of Mines facilities throughout the United States. The facility in Salt Lake City will be closed and 115 jobs will be lost. The Salt Lake City facility has conducted valuable research in environmental remediation and water research. While I am disappointed that the Senate acceded to House demands that the Bureau of Mines be closed, I also recognize the long-term benefits resulting from the earnest efforts to reduce the budget deficit and downsize the Federal Government. And in recent weeks, a silver lining emerged in the cloud surrounding the closure of the Salt Lake City facility. Mr. President, the chairman will be pleased to learn that efforts are underway right now to make preparations to privatize the Salt Lake City Bureau of Mines facility.

I would be remiss if I did not commend the staff of the Salt Lake City facility for their tremendous efforts to find a viable alternative which will prevent the technical expertise which has been accumulated for years from going to waste. On their own initiative, several employees have prepared a list of options in light of the pending closure. The most promising option and the one that the people of Utah are the most excited about, would permit the privatization of the Bureau of Mines facility. An interested group of investors and the employees of the Bureau of Mines have been in close contact in recent weeks to work out the details. Sufficient funding has been secured and should the facilities be transferred to the State of Utah, the State would in turn take the necessary steps to ensure the continued operation of these facilities under a consortium of private and State interests.

Mr. President, the chairman knows, there is legislative language in H.R. 1977 which grants the Secretary of Interior the authority to convey without reimbursement, the title and all interest of several Bureau of Mines facilities to various State university and government entities. While the Salt Lake City facility is not mentioned directly, the language permits transfer of such facilities as the Secretary deems appropriate. May I ask the chairman if such a transfer would be appropriate for the Salt Lake City facility?

Mr. GORTON. The Senator from Utah raises a very good point. Of course the transfer of the Salt Lake City facility would be appropriate. From what the Senator from Utah has explained to me, this is a unique opportunity to accomplish several goals at once. In keeping with our efforts to downsize the Federal Government, we can privatize certain government services, reducing the burden on the taxpayer while retaining essential research capabilities within the State of Utah. Such a transfer would permit the private sector, State university and the State of Utah to work in a cooperative effort to continue important environmental remediation research efforts.

Mr. BENNETT. Is it the chairman's understanding that this action should occur as soon as possible?

Mr. GORTON. It is my understanding that quick action is essential to the successful transfer of the facilities in Salt Lake City. While the fiscal year 1995 Interior Appropriations Act provides the Secretary of the Interior authority to transfer only certain Bureau facilities, both the House and Senate versions of the fiscal year 1996 Interior bill give the Secretary broader authority to transfer other facilities such as those in Salt Lake City. This authority was requested by the administration, is supported by both the House and Senate, and I have every reason to believe will be signed into law when action on the fiscal year 1996 bill is completed. I would urge the Bureau, the State of Utah, and other entities involved in the proposed transfer of the Salt Lake City facilities to work together in anticipation of this authority being granted. I will do everything in my power to see that the fiscal year 1996 bill is enacted in the coming weeks.

Mr. BENNETT. I thank the chairman for his explanation as well as the excellent manner in which he has managed this bill.•

PRIME MINISTER YIZHAK RABIN

Ms. MOSELEY-BRAUN. Mr. President, like most Americans, I am shocked and grief stricken by the brutal and senseless assassination of Prime Minister Yitzhak Rabin. My heart grieves not only for Israel and its people for the loss of their leader, but for all peace loving peoples in the Middle East. Most especially, my heart grieves for the family of Prime Minister Rabin: his wife Leah, their children and their grandchildren. Our prayers and heartfelt sympathy are with them as they deal with the most personal of life's tragedies in the most public of circumstances.

Father, grandfather, husband, patriot, soldier, statesman, Nobel laureate and peacemaker, Prime Minister Rabin was a man of many parts. He dedicated his life to the service of his country and his life mirrored the evolution of his country. As a young man, his valor in the cause of freedom helped create the State of Israel. As an older man, he defended Israel in battle against enemies that threatened the existence of his homeland. As a senior statesman, he relentlessly pursued the cause of peace with Israel's adversaries with boldness and courage. Perhaps only a person hardened by the experiences of war could put aside anger over the past and undertake the risks of pursuing peace with hostile neighbors.

Mr. President, the world has lost a great leader, and we are all diminished by his passing. He died before fulfilling his dream: peaceful coexistence with all Arab neighbors. The peace process must go forward. We, the world community, must continue and fulfill what he started. We cannot reward this act of extremism by halting or slowing negotiations. We must use this occasion to show all extremists capable of using violence that the killing of Prime Minister Rabin will not frustrate or stop the peace process. We must unite in this time of tragedy and pursue peace with renewed vigor and purpose.

Mr. President, when I heard the news of Prime Minister Rabin's tragic death, I was reminded of the death of another great martyr in the cause of Middle East peace, former President Anwar Sadat of Egypt. The similarities in their lives and the circumstances surrounding their deaths cannot be ignored. Both knew the hardships of war and understood the risks of peace. Both understood the need for honest dialogue with adversaries and the value of compromise. Both were slain at the hands of countrymen who were opposed to their making peace with former enemies. We would do well to learn from their boldness and courage.

Mr. President, Israel deserves our unqualified support at this time of national tragedy. We must make it clear to all who would be opponents and disrupters of peace that we intend to continue and fulfill what Prime Minister Rabin started: conciliation between Israel and its Arab neighbors. This legacy must not be lost with his senseless death.

Tzedek! Tzedek! Terdofe!: Righteousness! Righteousness! you shall pursue!

ELI 1995 ENVIRONMENTAL LEADERSHIP AWARD

• Mr. CHAFEE. Mr. President, last month the Environmental Law Institute [ELI] met here in Washington to bestow its highest honor, the Environmental Leadership Award, to a well known, internationally respected businessman, lawyer, public servant and Republican, Mr. William D. Ruckelshaus.

As many of us in this body know, the Environmental Law Institute has played a major role in shaping environmental policy and law, here in the United States and abroad. Over the past 26 years ELI has provided thoughtful environmental information, research, and policy analysis to a diverse constituency of government, business, and academic interests. Publisher of the Environmental Forum and the Environmental Law Reporter, ELI remains a resource and the place to go for answering the toughest environmental questions.

ELI's 1995 annual award dinner opened with an interesting keynote speech by Dr. Stephan Schmidheiny. Dr. Schmidheiny, chairman of UNOTEC AG, a multinational industrial group, founded the Business Council for Sustainable Development and serves as a director of ABB Asea Brown Boveri, Nestle, and Union Bank of Switzerland. Far from advocating throwing out the environmental baby with the bath water, Dr. Schmidheiny advanced the view that environmentalism makes good business sense. A businessperson himself, he highlighted positive and voluntary steps taken by the business community to live up to environmental responsibilities in an increasingly open and international setting.

Dr. Schmidheiny's remarks proved to be a fine introduction to ELI's 1995 honoree. Bill Ruckelshaus represents everything that is best about business, government service, and commitment to a clean and healthy environment. A former Director of the Federal Bureau of Investigation as well as Deputy Attorney General of the United States. Mr. Ruckelshaus served as the first Administrator of the Environmental Protection Agency. He is currently chairman of the board of Browning-Ferris Industries, Inc., one of the Nation's largest waste management companies. Bill's breadth of experience gives him a unique and valuable perspective on the current state and future of environmental protection in the United States. What's more, his career represents a shining example of the interaction between business and environmental protection.

Mr. Ruckelshaus' acceptance speech underscored the fundamental need for a clean environment and outlined a program to reform our current system of environmental protection. Most importantly, his remarks focused not on tying the Environmental Protection Agency's hands, but allowing EPA to get the environmental job done.

On recent criticism of environmental protection, Mr. Ruckelshaus concluded:

> * * * There is a cottage industry now writing books and articles stating that many of our environmental concerns are a lot of hooey. * * * My answer to that is the same as it has been for a number of years. Our efforts in America are not about controlling a few chemicals or saving a few species. There are more than five billion people on this globe living in under-developed nations who want to live as well as we do materially. And they are going to try to get there. If they all try to get there in the same way we got there, wastefully, scattering pollution, unduly impacting our natural resource base, then all of us are in a world of trouble.

It was a thought-provoking speech from an advocate for both business and the environment—a perspective overshadowed lately by the rush to turn back the calendar to a day that has truly come and gone—when our resources were believed to be limitless and immune from harm. With several environmental statutes currently before the Congress for reauthorization, including the Safe Drinking Water Act, Superfund, and the Clean Water Act, his speech is especially timely. I congratulate Bill for receiving ELI's 1995 Environmental Leadership Award and ask that the text of his remarks as well as Dr. Schmidheiny's be printed in the RECORD.

The material follows:

STOPPING THE PENDULUM

(By William D. Ruckelshaus)

It is conventional for people receiving awards of this nature—for environmental leadership—to make some remarks in favor of the environment, which is usually taken to mean our current system of environmental protection. This might seem to be particularly desirable in a season characterized by the most violent anti-environmental rhetoric in recent memory coming from the Congress. For example, I believe at least one Member has compared the Environmental Protection Agency to the Gestapo. I don't think he meant that as a compliment. My cue as an awardee is to come forth and while away at the forces of darkness, vow to hold the line and protect our environmental progress at all cost and so on. But, at the risk of you taking back this fine award, which I do truly appreciate, I have to tell you that I am disinclined to do that tonight.

Here is why. We are gathered here to celebrate the twenty-fifth anniversary of the Environmental Law Institute. It coincides with the same anniversary of EPA. That's a period representing much of a working lifetime. Some of us have been in the environmental protection business in one way or another for at least that long, or longer, and we should be able to recognize certain repeating patterns. And so we do. We recognize, as perhaps the newer members of Congress do not, that the current rhetorical excess is yet another phase in a dismaying pattern. The anti-environmental push of the nineties is prompted by the pro-environmental excess of the late eighties, which was prompted by the anti-environmental excess of the early eighties, which was prompted by the pro-environmental excess of the seventies, which was prompted. . .but why go on? The pattern is quite clear. The new Congress may believe that it is the vanguard of a permanent change in attitude toward regulation, but unless the past is no longer prologue, then as sure as I am standing here, the pendulum will swing back, and we will see a new era of pro-environmental lurching in the future.

So what is wrong with this picture? Aren't changes in emphasis part of the fabric of democracy? Yes, but in the case of environmental policy, these violent swings of the pendulum have had an unusually devastating—perhaps a uniquely devastating—effect on the executive agency entrusted to carry out whatever environmental policy the nation says it wants. The Environmental Protection Agency is now staggering under the assault of its enemies—while still gravely wounded from the gifts of its friends. That is an exaggeration: the Environmental Protection Agency, like the IRS, has no friends. As far as I can see, there is not coherent politically potent constituency devoted to making sure that the EPA can make the best possible decisions and carry them out effectively.

Currently, some members of Congress seek to stop the Agency from doing what previous Congresses have mandated it do by refusing to give it the funds to act. A little like cheering the launch of an airplane flying from New York to Los Angeles while giving it the gas to reach Chicago, and then decrying the crash in Iowa as further evidence of pilot ineptitude. And we wonder why trust in the EPA has eroded.

The impact of all this on the agency is devastating. EPA suffers from the battered agency syndrome. Domestically, it is hesitant, not sufficiently empowered by Congress to set and pursue meaningful priorities, deluged in paper and lawsuits, and pulled on a dozen different vectors by an ill-assorted and antiquated set of statues. Internationally, it is nowhere near the position it should occupy in global environmental debates as the representatives of the largest industrial nation and one with an enviable track record of environmental improvement: in short, it is an agency paralyzed by the conflict between its statutory mandate and sound public policy, and a public debate which erroneously depicts the social choices in apocalyptic terms.

And this is why I do not wish to join the rhetorical firing line on either side, neither to slash at EPA for doing what Congress told it to do, nor to argue for increased resources and for a defense in the last ditch on behalf of the current array of legislation and regulation. Instead, I would like to take all of us, in a sense, above the smoky battlefield, as in a balloon, and discuss, in the relative quite of the upper, cleaner air, what is really wrong with the American environmental system and what to do about it.

The first step, as in all recovery programs, is to admit that the system is broken, severely broke, broken beyond hope of any easy repair. Repairing it is going to take serious effort, hard work—hard work—hard work, by a great many people, over an extended period of time. Privately, many of you in this room on all sides of this debate have admitted that to me many times. Despite the current rhetoric in this city, there is no simple fix, no sliver bullet; just the opportunity to do a lot of good for our environment and by example to the environment of every place else.

Once we acknowledge that, we can dismiss the strawman problems that those simple fixes are supposed to address, and penetrate to the underlying actual defects. The currently prevailing myth, of course, is that EPA's problems are essentially bureaucratic. "A bureaucracy run amuck," is how it's usually put. And the illustrative text is the EPA horror story, usually featuring an arrogant bureaucrat from the nest of vipers inside the Beltway making some hardworking honest fellow out in the pure heartland of America do something utterly stupid. To accept this view, we must imagine the apocryphal bureaucrat wandering freely through fields of policy and musing, "What can I do today that will really drive them up the wall? If they think they've seen dumb, wait until they see this!"

And naturally, the conclusion from this view of things is that if you can somehow tie up EPA, strip it of resources, burden it with even more legal challenges, you will have gone far towards solving the problem.

Well, in fact, the image of EPA as an overweening bureaucracy is miscast. In fact, if anything, it is an underweening bureaucracy. Any senior EPA official will tell you that the agency has the resources to do not much more than ten percent of the things Congress has charged it to do. In addition, they are not empowered to allocate that ten percent so as to ensure a wise expenditure of the public treasure. The people who run EPA are not so much executives as prisoners of the stringent legislative mandates and court decisions that have been laid down like archaeological strata for the past quarter-century.

Having said that it is also fair to say that we should not be surprised if, having been given Mission Impossible, having been whipped both for doing things and for not doing things, having been prevented from using their judgment like ordinary folks do, the people of EPA get insensitive, thick-skinned and defensive. This is where many of those "can you believe this one" horror stories originate. I have traveled to the Hill with senior EPA officials and listened to Members of Congress rail away about the unreasonable things foisted upon their constituents. Often it was the case that the complaints were justified; and when I asked these EPA officials privately what they thought about the Congressional laments, the response was usually something like, "That's just the role he's forced to play; he's been going on like that for years" or "It goes with the territory". There was often little sense that this expression of Congressional outrage was a problem to be solved by the application of intelligence, cooperation, and creativity. It was like a game, where the rules were crazy and nobody was allowed to win. It is therefore no wonder that EPA representatives occasionally act like the Red Queen in "Alice" when they venture beyond the Beltway to try to do all the impossible things that Congress has told them to do in some 10 massive, separate and uncoordinated statutes. I am not trying to excuse irrational behavior. I'm trying to get us all to understand its root causes.

How have we come to this pass? EPA was launched on a huge wave of public enthusiasm. Its programs have had an enormous and beneficial effect on all our lives. The gross pollution we were all worried about twenty-five years ago is either a memory or under reasonable social control. Why is EPA now the agency everyone loves to hate?

Well, I think there are four reasons, three built into the very core of EPA, and one that results from the peculiarities of our times.

First, there is the belief that pollution is not just a problem to be worked out by society using rational means, but a form of evil. And I think in the early days of environmentalism this was a plausible idea to many of the people drafting the initial set of laws. Industry at that time didn't take environmental degradation seriously, and there was considerable bad faith shown, lies, cheating, and so on. I further think it can be demonstrated that things have changed now, in two respects. First, nearly all major industrial leaders know that environmentalism is here to stay, and so firms wish to avoid charges that they are insensitive polluters, just as they wish to avoid defects in quality. The customers don't like it, and believe it or not, paying attention to the environmental impact of technology or processes benefits the bottom line and therefore has become a permanent factor to be weighed by corporate America.

In addition, the most significant threats to our environment now seem to lie, not with major industrial sites, but in the habits of we ordinary Americans: we like to drive big, powerful cars, use a lot of electricity, generate a lot of waste, enjoy cheap food, live in grassy suburbs and collectively send pollution in massive amounts to often distant airsheds and waterways.

The laws, and the enforcement policies that follow them, are still looking for that evil polluter, and in the same place—major facilities. Since the relative threat from these has decreased, EPA is ever more like the drunk looking for his keys under the lamp-post. More effort, more irritation, less achievement to show.

This phenomenon is directly related to the second major flaw—the commitment to perfection built into the language of our major statutes. In addition to the mistaken belief that absolute safety was both possible and affordable, the theory was that if standards were set extremely high, sometimes on scant scientific evidence, and an extremely tight time frame was set to achieve those standards, then there would be constant pressure on industry and on EPA to make continuous improvements. The nation was committed to a sort of pie in the sky at some future date, a date extended further and further into the future as inevitably EPA missed nearly every deadline set for it. Each time a new generation of clean technology came into use, the response from EPA had to be. "That's great—now do some more", whether that "more" made any sense as a priority or not. It can be argued that the present system has produced significant environmental benefits. True it has; the environment is a good deal less toxic than it once was.

But look at the cost. Even though the environment has improved, EPA and the environmental community are pervaded by a sense of failure. In fact, that failure was foreordained by the promise of an unattainable future. In addition, pursuit of perfection inevitably leads to the pursuit of trivialities, which yield more of those famous EPA horror stories. The business of environmental protection devolves into an endless debate about arcane scientific procedures—one in a million or one in a billion. The important moral force of EPA is frittered away, and still we cannot summon up the energy to deal with real environmental problems. We cannot direct our attention outward to help the global problems crying out for assistance from the most powerful nation on earth. I do not believe this is what we started out to do twenty-five years ago.

The mission impossible of pursuing perfection leads directly to the third quandary—the devolution of all important environmental decisions to the courts. As is well known, nearly every major EPA decision ends up in the judicial system, one result of the determination of the early drafters of our legislation, who were—no surprise here—environmental lawyers, to allow the most liberal provisions for citizen suits. The result has been that most of the environmental protections that are actually—rather than theoretically—put into place are the result not of the deliberations of scientists or engineers or elected representatives or responsible appointed officials, but of consent decrees handed down by judges. A grim irony or poetic justice, depending on your point of view, is the current proposal by the majorities in the House and Senate to allow even more opportunities to block action by way of lawsuit, this time favoring those who would stop EPA action.

I hope I don't offend when I say that when we lawyers get involved, things tend to slow down a bit. That means both that environmental improvement is delayed, sometimes indefinitely, and that all involved in these drawn-out proceedings face crippling, costly uncertainties. The transaction costs of any environmental progress under these conditions are often an appreciable fraction of the costs of the substantive environmental remedies. Superfund is the great exemplar here, a program designed to clean up abandoned dumps that somehow transformed into a program in which the only people allowed to clean up are the consultants and the litigators.

Yes, we built this system, you built it and I built it, that moved America along toward a cleaner environment, but the system is now broken and must be repaired, in some cases, in the teeth of the immediate interests of many in this room. That's one reason why repair will be incredibly hard.

Another and fourth reason is that peculiar quality of our times I mentioned earlier, which is the nearly steady thirty year erosion of trust in all public institutions, particularly those situated here in our nation's capital.

You've all read the polls. People don't trust government, but they don't trust the press or business either. We are down to Walter Cronkite, Mother Teresa and Colin Powell.

At the absolute epicenter of this institutional hell of mistrust is the EPA. This is largely because advocates for address to our environmental problems and their allies in Congress feared for the implementation of their program in the event of a hostile administration, and their antidote was to write stringent mandates, restrictions, and timetables into the EPA's basic statutes. As I've tried to argue here, tying the Administrator's hands in this way does not necessarily advance the achievement of substantive environmental goals; paradoxically, it may even retard them. Promising unachievable perfection simply assures trust eroding failure. And, of course, now we have a Congress that has so far shown itself unwilling to do the hard work necessary for meaningful reform. Instead, it is intent on further snarling a system it sees as another example of liberalism gone wild.

I don't think universally applied risk assessment or cost benefit analysis or refusing to fund mandates from previous Congresses that this Congress doesn't like will pass both Houses and be signed by the President. Nor do I believe the Congress could override a Presidential veto of these approaches to reform. I believe the result will be the much maligned gridlock. In fact, we may already have reached it.

We have to assume that at some time in the future—probably when this current version of gridlock is more apparent—we will be able to deal seriously with the reform we all recognize is needed. What would that reform look like?

First of all it would have to be effective. It must be able to address those problems that a consensus of knowledge and research has identified as the worst environmental risks. This requires an administrative structure capable of marshaling resources to address those problems, in whatever media they occur, and the discretion and flexibility to allocate those resources effectively. This means that Congress is going to have to return to its Constitutional role of setting national policy and providing vigorous oversight, and leave the EPA to get on with implementing that policy, free of direct supervision from 535 administrators.

Second, reform has to produce efficiency. It has to provide the maximum reduction of risk to human health and the environment per dollar invested in controls or incentives. This implies, first, a vast simplification of environmental rule-making. We cannot go on with a system in which the physical volume of the paper necessary to establish a permit approaches the physical volume of the waste to be controlled. Also, some finite well-understood limits should be established for what our society is prepared to pay for a certain level of environmental health, together with some reasonable relationship between what is paid and what we get for it. In other words, environmentalism has to leave the realm of quasi-religion and take its place among the realities of the state, along with national security, social welfare, health and justice—pretty good company, by the way.

Third, the system must better reflect the essential democratic values of our society. The day is past when a dozen or so youngish people can sit in a windowless room in Waterside Mall in Washington D.C. and after a year or so, in the last stages of exhaustion, emerge with a set of absolute commands for a major economic sector. We need a system that reflects the real choices of the American people as to what levels of protection they desire locally for local problems, and that builds upon the basic good sense of communities in balancing their environmental and other social values. Needless to say, no one can be allowed to clean up by loading pollution on to a neighbor, and so the new system has to be carefully designed to be consistent with regional, national and global environmental goals.

Finally, the system has to be fair. It cannot impose an undue burden of either risk or expense on any one portion of the population, or allow the transfer of risk from one place to another without fully informed consent. It cannot, for example, expect private landowners to carry the full cost of species protection, nor can it expect farm workers or people living near industrial plants to suffer inordinate risks for the economic benefit of the general population.

It hardly needs saying that no petty adjustment of the current set of laws can easily achieve these objectives. The nation needs a new, single, unified environmental statute supervised by a single authorizing committee and a single appropriations committee in each house of Congress. Not the 12 laws and 70 committees we now have. I am fully aware of the political difficulty of achieving this nirvana, but it is no more vaulted in aspiration than zero cancer risk with a margin of safety below that—an impossible assignment EPA has labored with for decades.

How to get there is, of course, the problem. The kind of rhetoric we are seeing now on both sides of the debate will not help, nor will the careless budget slashing in which the current Congress is indulging. It almost seems as if many Members of Congress believe that environmental protection is nothing but an aspect of liberalism, and since liberalism is discredited, we can happily return to converting every environmental value we have left into ready cash. In my view, like some of the Democratic Congresses of the past, the Republican Congress is too often promising more than can be delivered, and thereby contributing to the very lack of trust in government that got them elected in the first place. The result of all this could be a cordless bungee jump named Ross Perot.

What one piece of a right answer could look like is slowly emerging from local experiences in this country and from the experience of some other nations. It involves a new sort of consensus process, in which all the significant stakeholders are brought together to hammer out a solution to a set of environmental problems. This approach is particularly applicable to problems confined to specific geographic regions. The critical thing about such a process, and the only way to make it work, is that all participants have to understand that the process is the entire and exclusive theater for decisions, therefore Congress and other legislative bodies have to mandate the process. There will be no appeal, and no way to weasel out of the deal. This is critical; no consensus process can survive the idea that one of the parties can get everything it wants—without compromise—at some other forum.

A process of this type has been used successfully by the state of Washington in working through the competing interests of timber companies, environmentalists, Indian tribes and local communities regarding the cut of timber on state lands. On a large scale, the Netherlands now runs its entire environmental program out of consensus groups covering every major industry and district. Industries can meet national guidelines in just about any way they choose, but they have to play the game. The Dutch call the national plans developed through such processes "coercive voluntary agreements."

Whether a process that seems to work in a small, crowded nation with a long culture of cooperation in the face of danger would work here in a big, mostly empty country, where the tradition is more libertarian, is an open question. But somehow we have to get past this situation where EPA is out there in the boat and everyone else in on the shore jeering as the ship of state floats by. Somehow, we have to use whatever civic consciousness and sense of community we have left to bring all the interests into the same boat and give them an oar. Don't jeer—row! Because if EPA sinks while we watch, we all get pulled under.

A lot of people don't believe this; there is a cottage industry now writing books and articles stating that many of our environmental concerns are a lot on hooey. If that's true, why do we need an effective EPA? My answer to that is the same as it's been for a number of years. Our efforts at environmental improvement in America are not about controlling a few chemicals or saving a few species. There are more than five billion people on this globe living in under-developed nations who want to live as well as we do materially. And they are going to try to get there. If they all try to get there in the same way we got there, wastefully, scattering pollution, unduly impacting our natural resource base, then all of us are in a world of trouble.

Supposing that's not true? Supposing somehow, magically, the global development process will take place and not cause all the terrible things to happen to the environment that some predict? Well, I for one, would be delighted if that were the case. Twenty-five years from now, when they come by the nursing home and say "Ruckelshaus, you were a damn fool about ozone depeletion or fisheries destruction," I'll just smile. Meanwhile, you can call me a conservative old Republican, but I don't care to bet the future of the country, and the planet, and the free institutions we're worked so hard to preserve, on that scenario being true. We need to take the prudent steps necessary to bring the major global problems under control, and we need to lead the world in that effort—because, you know, there is really no one else—and to do that we need effective, efficient and fair governmental institutions, among which is EPA. And we have to begin the hard work of fixing it, or suffer the incalculable consequences of our failure.

REMARKS BY DR. STEPHAN SCHMIDHEINY

Thank you. I was extremely relieved to learn that it is not part of my assignment tonight to say a lot of nice things about Bill Ruckelshaus. I have known him too long, and have so much admiration for his person and his achievements in all his many fields of endeavour that if praise were my assignment we would be here for days.

But I must take this opportunity to thank Bill for the leadership he showed when we were putting together the Business Council for Sustainable Development's report to the 1992 Earth Summit. He always offered compelling logic, and always rallied our less courageous members.

He also gave me an important word of advice on an early draft of the report, in which I had begun with all the usual environmental gloom and doom as a rallying call to action. Bill took me aside, and in the confidential tones an uncle might use to explain sex to a backwards nephew, he said: "Stephan, don't do it that way. Business people stop reading immediately when they come upon bad news. To seduce business people, you have got to start by telling them how good things are going to be. Only then do you add a few side problems, such as the loss of the world's forests, oceans, animals, air and ozone layer."

Now, many of you are lawyers, and I know that lawyers are different. You not only have a higher tolerance for bad news, you actually thrive on it, and make your livelihoods out of it. Even so, I shall start with good news anyway.

The good news is that in many parts of the world business is beginning to live up to its new responsibilities. As markets become more open and more international, business is ever more obliged to see that its activities work for, rather than against, the goal of sustainable development.

The World Business Council for Sustainable Development now consists of more than 120 companies and is still growing. We have spun off national BCSDs in Asia, Eastern Europe, and throughout Latin America. The Councils have been involved in a broad spectrum of activities. The WBCSD has developed a "Joint Implementation" programme in which industrial and developing world companies are cooperating to reduce greenhouse gases in the most internationally cost-effective ways. The BCSD of Columbia, composed of large companies, is showing small companies in such inherently dirty business as tanning and metal plating how they can save money by producing less waste and pollution.

This is a perfect example of the WBCSD paradigm of eco-efficiency—adding ever more value while using ever less resources and producing ever less waste and pollution.

There are many reasons why companies should not get involved in eco-efficiency. First, many governments still actually subsidize waste—the waste of energy, water, forest products, pesticides and fertilizer. Second, even if not subsidized, many environmental resources are priced too low. This is especially true of pollution sinks—such as rivers, soil, and the atmosphere. Thus the act of polluting is just not as expensive to companies in the marketplace as it should be.

I think that these disincentives are fading. I think there are a number of trends pushing companies toward increased eco-efficiency. Taken separately, no single one is convincing. Taken together, they become a powerful force.

In many parts of the world regulations are getting tougher and—more important—enforcement is getting tougher; more and more CEOs are finding themselves in court for non-compliance; more use is being made of economic instruments—taxes, charges and tradable permits—to encourage companies towards constant improvement; banks are more willing to lend to cleaner companies; insurers are more willing to insure cleaner companies; investors are increasingly interested in investing in cleaner companies; the best and the brightest graduates are more willing to work only for cleaner companies; "green consumerism" is becoming more mature, switching from brand loyalty to company loyalty; the general public feels a growing right to have a say in what our companies do; the search for eco-efficiency can motivate a company and its employees to become more innovative on many fronts; eco-efficiency is an excellent avenue for introducing the concept and the practice of Total Quality Management (and indeed it is hard to talk about Total Quality Management without including environmental quality in terms of eco-efficiency); media coverage of pollution and environmental liability problems is becoming more sophisticated—and thus harder for companies to shrug off; many of the people to whom the company directors are related (spouses, children) are becoming more concerned and sophisticated about environment and social issues.

Given the recent antics of the U.S. Congress, you may be surprised to hear me list tougher regulations as a present trend. I shall let Bill Ruckelshaus comment on the activities of the lawmakers here. But I am convinced that the American people will ultimately prove unwilling to return to a time when U.S. rivers caught fire and whole towns had to be abandoned.

Internationally, a recent survey of multinationals by the Economist offered a long list of examples of successful companies involved in eco-efficiency and community development activities: Western chemical companies becoming vigilant in policing the industry to decrease pollution scandals; computer companies pushing for higher environmental standards; accountancy firms helping post-communist countries set up modern accounting systems; and oil companies guaranteeing to build schools and airports and act as green watchdogs in return for drilling rights. All of these activities are so obviously investments in present and future business that, the survey concluded, "it seems that behaving like good corporate citizens makes eminent business sense".

It also noted that multinationals tend to help the countries in which they operate by using international standards wherever they go. "On the whole they find it easier to operate one set of rules everywhere in the world. * * * So multinationals clamor for more global—and usually higher—standards partly because it makes their lives easier, partly because it imposes the same standards on their competitors."

The general philosophy at the WBCSD is that since trends are moving towards greater eco-efficiency, the smart company will back such trends, encouraging governments where they need encouragement, while getting their own corporate houses in order to be ready as eco-efficiency becomes the norm rather than the exception.

This process is reaching into unexpected parts of the business world—such as the financial community. I recently helped to lead a WBCSD Working Group on Financial Markets and Sustainable Development. We had been worried that the financial markets, which much be the engine of any kind of development, might be inherently opposed to the goal of sustainability. We worried that they encourage short-term thinking, that they under-value environmental resources, and that they rigorously discount the future.

Our work—which will be published as a book early next year—found that these fears were largely justified. But we also found a surprising amount of encouraging activity in a financial community. Bankers are moving beyond concern for Super Fund liability to realize that a loan to a dirty company is simply becoming a more risky loan—as dirty companies have more difficulty being financially successful. The fact that many banks have signed a statement committing themselves to support sustainable development is not particularly impressive. That the signers have recently hired an NGO to report on how they are honouring their commitment—now that is impressive.

Insurance companies have become sensitized by liabilities for contaminated industrial sites and by losses due to what looks to them like the first financial effects of global warming. Conservative companies like Munich Re and Swiss Re are—in their demands for government action to limit climate change—sounding more radical than the more militant environmental groups.

Even those professions with reputations as fonts of boredom and conservatism—the accountants and the auditors—are working on new forms of accounting that account for the nature as well as capital.

So, we have dealt with industry: it is improving. We have dealt governments: by advising them to take advice from the more progressive businesses. We have even found cause for hope among the financial community.

That leaves the lawyers. What can be done with the lawyers? I am willing to frankly state that in my personal opinion the greatest threat to the competitiveness of US business is not low foreign wages or Oriental inventiveness; it is the US legal system. First, it adds more and more every year to the cost of doing business. As a whole, it represents a tremendous transaction cost to the US economy and society.

Second, the laws covering the different sectors and concerns—banking, business, energy, agriculture, transportation, taxes—have grown up in such an ad hoc manner that they now positively war with one another. And this, of course, only fans the flames of enthusiasm for litigation. I am often advocating the use of common sense in addressing environmental challenges. At a time when payments to the legal profession routinely exceed those to victims or the actual costs of clean-up, then a move towards more common-sense approaches would appear timely.

I am criticising the US system because I stand on US soil before US lawyers. We in Europe also suffer from legal adhocracy or "piecemealism"; though I do insist that you in the US continue to lead the world in money-wasting litigiousness, as you lead the world in so much else. And I admit that, in this instance, we are genuinely afraid that you may become successful exporters of another US product—your legal system.

I do not offer an answer. But I have been deeply and profoundly impressed with the work of Bill Futrell and the Environmental Law Institute in what they call "sustainable development law". I hope we in Europe can learn from this ELI work. We too need to go back to legal basics, to—as Bill Futrell suggests—organise laws around human activities. We need to develop pollution laws and resource laws that operate in harmony. This would not only produce a more common-sensible set of laws, it might even decrease the growing tendency to seek complex legal solutions to simple business problems.

While speaking of the work of the Institute, I want to acknowledge the help it gave to both the BCSD and the International Chamber of Commerce in these groups' preparations for the Earth Summit.

This occassion tonight has been a great pleasure for me—to have been asked by a most prestigious institution to honour a man not only of great prestige, but of great wisdom, warmth, and incisive humour. Maurice Strong told me that whenever the Brundtland Commission reached a completely hopeless impasse, Bill Ruckelshaus would begin slowly in his deep growl of a voice: "Well, you know, this reminds me of the time * * * " He would tell a funny, carefully considered story; the tension would collapse, and cordial progress would resume.

It is a great joy to be here with you all, and it is always a wonderful treat to be in the same room with Bill Ruckelshaus.•

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

NO BUDGET—NO PAY

Mrs. BOXER. Mr. President, here we are in day four of a partial shutdown of the Federal Government, and the only Federal employees that are not feeling any pain regarding their paychecks are the Members of Congress. We are treated differently, and that is wrong.

I know that twice the U.S. Senate passed my no-budget—no-pay amendment, and we have done it with bipartisanship. We have done it with Senator DOLE and Senator DASCHLE, with the Republican leadership and the Democratic leadership. I am very proud of that. Congressman DURBIN is trying to get this through on the District of Columbia appropriations bill, and we are very hopeful that will occur. But at this point, it is stymied.

I think it is shameful. I think it is embarrassing. I think it is a height of hypocrisy that the Members of Congress, who have caused this problem because we cannot figure it out, are still getting our pay. And I am very pleased that Senator SNOWE has introduced a bill. We have worked on it together, and we are trying very hard to bring it forward because the other efforts of the Senate are not enough at this time.

The problem we face is that one of the amendments we passed is on the District of Columbia bill, and that is stuck. The other one we passed is on reconciliation, and that is not here yet. We continue to get our pay while all other personnel—and Senator HARKIN pointed this out to the Senate yesterday—are not getting their pay.

So I would like to ask unanimous consent that I send to the desk now for its immediate consideration a no budget-no pay bill that will treat the Members of the Senate and the Members of the House exactly like Federal employees, and I hope there will not be any objection because we are on record before and I would like to take us on record now in a separate bill because the American people are disgusted with this situation as, indeed, they should be. And, yes, there are colleagues who are giving their pay to charity. There are colleagues who are putting their pay in escrow. And some are not even talking about it. That is very, very noble. But that does not address the institutional failure here.

So I ask unanimous consent to take up the no budget-no pay bill right now.

Mr. COATS. Mr. President, reserving the right to object, on behalf of several Senators on both sides of the aisle who were informed on the last vote that would be the last vote and have therefore left the Senate Chamber, without commenting on the merits or demerits of the proposition put forward by the Senator from California, I will object on behalf of the Senators who are absent.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON S. 440

Mr. COATS. Mr. President, I ask unanimous consent that at 10 a.m. Friday, November 17, the Senate proceed to the consideration of the conference report to accompany S. 440, the highway system designation bill, and that it be considered under the following limitations during the pendency of the conference report: Senator BIDEN be recognized to make a motion to recommit, with 30 minutes of debate on the motion, and with that time under the control of the Senator BIDEN; that when that time is used or yielded back, the motion to recommit be withdrawn; that there be 60 minutes for debate to be equally divided between Senators CHAFEE and BAUCUS or their designees, 60 minutes under the control of Senator LAUTENBERG or his designee, and 15 minutes of time under the control of Senator GLENN; and that upon the conclusion or yielding back of all time, the Senate proceed to vote on adoption of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, I might ask, Mr. President——

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. This unanimous consent was to take up certain bills tomorrow?

Mr. COATS. A conference report.

Mr. HARKIN. A conference report.

Mr. COATS. S. 440, the highway system designation bill.

Mr. HARKIN. Reserving the right to object, Mr. President, I would like to ask the proponent of the unanimous consent request, the Senator from Indiana objected to taking up the Boxer bill because, he stated, there was an understanding there would be no more votes today. It would seem to me that we could take up the Boxer bill with an understanding we would vote tomorrow, or take it up and add it to this list. I wonder if the Senator would add the Boxer bill to this list to take up tomorrow and we can put a time certain, we can just put an hour of debate on it and vote on it, a half-hour. That would be fine.

Mr. COATS. I would just reply to the Senator from Iowa, there are a number of Senators who have expressed either support for or opposition to this legislation. They are not now in the Chamber because they were informed that the Senate essentially concluded its business. I cannot speak on their behalf or add unanimous consent on their behalf without contacting them. And obviously they have left the Chamber.

Mr. HARKIN. No one contacted this Senator to ask if it was OK to take up these measures tomorrow.

Mr. COATS. It was cleared with the minority leader. It was hotlined to all Senators and has been cleared both by the majority——

Mr. HARKIN. I apologize. If it was, I apologize.

Mr. COATS. I have a second unanimous-consent which has also been hotlined and cleared, just setting the orders for tomorrow. I am not closing out the business of the day.

Mr. HARKIN. I apologize. If it was hotlined, I apologize.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

ORDERS FOR FRIDAY, NOVEMBER 17, 1995

Mr. COATS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. on Friday, November 17; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of the conference report to accompany S. 440, the national highway bill, as under the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COATS. Mr. President, for the information of all Senators, there will be a rollcall vote on the National Highway System conference report on Friday.

The Senate will also consider the Balanced Budget Act conference report during tomorrow's session. That conference report has a statutory limitation of 10 hours of debate. Members can therefore expect a late night session on Friday. Also, additional appropriations conference reports may become available from the House. Therefore, rollcall votes can be expected throughout Friday's session.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

NO BUDGET-NO PAY

Ms. SNOWE. Mr. President, I wish to add a few comments to the issue that the Senator from California raised with respect to legislation that would require that Members of Congress and the President be treated in the same manner as those Federal employees whose pay will be suspended during this period of a shutdown.

I think we all recognize the hardships this poses to the hundreds of thousands of Federal employees across the country. I think at the same time we are experiencing this shutdown, Members of Congress and the President should have their pay suspended.

That is why I have introduced this legislation that complements the legislation introduced by the Senator from California and that is now part of the DC appropriations bill. But until such time as that becomes law, we still have to address this issue with respect to this present shutdown and making it retroactive. I just do not happen to believe that we as Members of Congress and the President should be treated any differently.

I regret that we have not been able to bring this legislation up tonight so that we have a chance to put ourselves in the same position as every other Federal employee. That is what this legislation would do. Interestingly enough, it has the support of 21 Members of this Senate, including the Senate majority leader. I worked with the Senator from California [Mrs. BOXER] on this issue as well.

We should be able to bring up this legislation, and we should be able to vote on it so that we move in the direction of being in the same position, sharing the same difficulties, the same economic hardships as those individuals who see their pay suspended during this period of time.

Unfortunately, we do not know how long this shutdown will continue. Nevertheless, I do not think that we as Members of Congress want to be viewed differently, putting ourselves into another group as we are going through this shutdown. We should not be immune or isolated from those difficulties that Federal employees are now experiencing.

That is true for those employees who work in our offices, and I have 15 such employees who are not working at this moment in time. Why should I not have my pay suspended if their pay is being suspended? I think most of us would agree. So I hope that we will be able to have this opportunity tomorrow to address this issue and to pass this legislation. It is a matter of fairness, and it is a matter of equity.

I hope the President signs the continuing resolution that just passed in the Senate and in the House of Representatives. But if that does not happen, we still would go on into a prolonged shutdown, and I do not think that we should be getting our pay, not experiencing any discomfort, while Federal employees who are not able to work and even those who are still not going to be paid at this moment in time.

So I urge my colleagues to insist that this legislation be considered tomorrow. I appreciate the support that is being given to this issue by the Senate majority leader. In fact, there were 21 of us who sent a letter to the Senate majority leader asking for this legislation to be considered, and he supports that effort. I hope everybody will do so because this is absolutely essential.

I think we are facing enormous difficulties as it is with public confidence in the political process, but I do not think that that confidence should be undermined further by the fact that we are somehow in this separate category, somewhat isolated from the problems that Federal employees are currently facing.

At the beginning of this year, the first piece of legislation that this Congress considered and, indeed, enacted and signed into law by the President was the Congressional Compliance Act that required Congress to abide by the same laws that apply to the rest of this country. I think that this legislation certainly reaffirms that policy and moves us in that direction. It is a matter of fairness. It is a matter of equity. It is right.

So with that, Mr. President, I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I want to join with my colleagues, the Senator from Maine and the Senator from California, in supporting this legislation to have Senators and Congressmen treated the same as all other Federal employees.

I agree with the Senator from Maine on everything she said but for one thing. If the majority leader of the Senate wanted this bill up, he could have brought it up tonight. That is the power of the majority leader. If the majority leader wanted this up tomorrow, he could have included it in the unanimous-consent request to bring it up tomorrow, and we would vote on it tomorrow.

So let us have no doubt about it, it is up to the majority leader whether or not we vote on this or not and no one else on this floor. With that one exception, I agree with everything else the Senator from Maine said.

She was right, as was Senator BOXER, that earlier this year one of the first bills we passed was a bill to make sure that all the laws that apply to other people apply to Members of Congress. We all applauded that, voted for that, that we all live under the same laws. People cannot understand why we had gone so long without doing that, but we did it. But there was one glaring loophole. When it comes to our pocketbook, we want to be treated differently than all other people and all other Federal workers.

As the Senator from California said, there are hundreds of thousands of Federal workers who went home today not knowing that they are not getting paid for the work they do. There are others who are not even going to work and not getting paid. But our pay is automatic. It is like an entitlement. We have an entitlement for our pay. No matter what happens, we continue to get paid.

We just finished a day of activity here, the last vote of the day. There are five Senators left on the floor. Everybody has taken off. They have gone home secure in the knowledge that no matter what happens, the paychecks we get next Monday will be full. We will get paid for every day that we are here.

That is kind of a nice thought, is it not, Mr. President? It is kind of a nice thought to go home in the evening after a long day's work and know that when your next paycheck comes, you are going to get paid. Think about it, think about all those workers, think about our staff people here, think about all the Federal workers, think about the air traffic controllers if you will, Mr. President, who are out there working a very high-stress job, safely guiding aircraft through crowded corridors. It is a high-tense job. It is a job that requires a lot of skill, intense concentration, good judgment and decisiveness. Air traffic controllers put in a hard day's work. Just think, Mr. President, they are going home tonight knowing that next Monday when they get their pay, they will not be paid for the work they did today or the work they did yesterday or the work they did the day before.

How do you think that works on someone's mind? These are people like you and me. They have homes, mortgages, kids in school and illnesses. We are very smug around here, are we not? We are so smug around here because nobody can touch us. We get our pay; we do not care what happens.

I tell you, I think it is one of the grossest things that is going on today in Congress and in the Federal Government that we can shut it down, throw all these people out or force people to come to work, so-called essential people have to go to work but they are not getting paid. I thought we did away with slavery in this country. They have to come to work, but they are not going to get paid. It is just not justifiable.

So I think at least we ought to take up the bill and pass it. It just says if we are not doing our jobs, we do not get paid like other Federal workers until this bill passes. Apply the same rule that applies to air traffic controllers, drug enforcement agents, Medicare fraud investigators, FBI agents, Defense Department personnel—everyone else. Make the same laws apply to us.

You wonder sometimes why people in this country are so cynical about Congress. Well, you do not have to wonder too long when you see what is happening now. So smug around here, we can do all this. We do not care what happens. Send all these workers home. Make them come to work. Tell them they do not get paid.

I see our distinguished majority leader is back on the floor. I think we ought to take up the bill tomorrow and just pass it. I cannot imagine any votes against it. Who would be against applying the same laws to us as apply to other Federal workers so we do not get our pay the same way as anybody else in the Federal Government until this situation is resolved?

When this goes on, I can understand why people are so cynical about the Federal Government, cynical about Congress. All the good that we did earlier this year in passing that Congressional Accountability Act and applying laws to Congress that other people have to live by probably all got flushed down the toilet right now with this kind of action, because people know that we are getting paid. Other people working for the Federal Government are not getting paid. It is not fair, and I think we ought to take up the Snowe bill tomorrow and pass it.

I ask unanimous consent, if I am not a cosponsor, to be added as a cosponsor of that bill. I think we ought to bring it up and pass it as soon as possible. I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

Mr. DOLE. Mr. President, I will just take a minute or two. The Senator from Delaware wishes to speak and then the Senator from Rhode Island, Senator PELL. Are there any other Members on that side who wish to speak? If not, I will put it on automatic pilot.

ORDER FOR RECESS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate stand in recess following the remarks of Senator BIDEN, Senator PELL and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NO BUDGET-NO PAY BILL

Mr. DOLE. Mr. President, let me say, I am a cosponsor of the bill, and I agree we ought to figure out some way to get it passed. I hope that we can resolve that tomorrow. I must say there is opposition, some on each side. I think the American people would feel better about it——

Mrs. BOXER. Will the majority leader yield? I was not aware we had any opposition on our side of the aisle.

Mr. DOLE. Maybe there is none on that side. I will reserve that.

Mrs. BOXER. Because I have been working hard, and I have not come up with anybody who is opposed.

Mr. DOLE. I understand there may be some opposition on this side. We will try to see what happens tomorrow.

A BIPARTISAN MAJORITY

Mr. DOLE. Mr. President, I want to take just a moment to comment on the vote that we just had. It seems to me when the vote is 60 to 37, we pretty much replicated what happened in the House about midnight last night, where 48 Democrats joined Republicans in a bipartisan effort to open up the Government, take the lid off, put people back to work and balance the budget in the next 7 years.

It seems to me that is the best of both worlds. I am very proud of that strong bipartisan majority of 60 Senators who stood up tonight for our Federal workers and for a balanced budget which will mean a brighter future for our children and our grandchildren.

I think we keep losing sight of why we want to balance the budget and why should we be concerned. I must say, we have to keep reminding ourselves, the language we use does not resonate because we keep talking about balanced budget, CR's, debt ceiling extensions, and it does not mean a thing to many people, but their children mean a lot to people and their grandchildren mean a lot, and that is what this debate is all about. It is not about numbers, it is not about a continuing resolution, it is not about a debt ceiling extension, it is not about any of us in this Chamber; it is about trying to do something for a lot of our young people who are going to want to find jobs.

I must say, as I read the Washington Post editorial again and again today—because I could not believe it; it was a good editorial—it talked about the real default, the default of leadership on the other side of the aisle.

I must say, as the Senator from New Mexico said earlier, when you do a lot of heavy lifting, you get a lot of criticism. We have been doing a lot of heavy lifting. We believe the American people gave us somewhat of a mandate to make fundamental change last November, and we have kept our word and our promise. We have worked together, and we have had some bipartisan support, just as we have had tonight. So it is not just a Republican effort. We had a number of Senators join us earlier this year on a balanced budget amendment. We lost by one vote. We hope to bring it up again.

Now, President Clinton says a lot of things at different times and in different ways. Yesterday, at a news conference or in a short statement, he mentioned the phrase "balanced budget" 16 times, by actual count. If the people who watched television last night saw the clips of what he has been saying in the last 2 years, he talked about a 5-year balanced budget when he was a candidate, then maybe 10 years, maybe 9, maybe 8, maybe 7.

Now, I think the President could indicate that he is in good faith by signing this bill. There is nothing in this bill that is going to hamstring the President of the United States. Nothing commits him to do anything, except it says we shall enact a balanced budget amendment in the next 7 years, using CBO estimates—updated CBO estimates—the very estimates that President Clinton asked us to use. CBO is the Congressional Budget Office, for those who do not understand these initials all the time. But when he first spoke to a joint session of Congress, he boasted about using CBO—Congressional Budget Office—figures in his budget and said they had been, as I recall, fairly accurate over the years. And they have been accurate over the years.

So we are not asking too much of the President of the United States. I am not one who advocates shutting down the Government of the United States. I would like to find some resolution, and if we cannot do it with this continuing resolution, maybe we can figure out a way tomorrow to resolve the differences.

What harm does it do the President of the United States to sign a bill that says we will have a balanced budget by the year 2002? He said today on television that he did not mind the 48 Democrats voting with Republicans last night because it was not binding. Well, if it is not binding on the 48 Democrats, why should it be binding on the President of the United States if he signs it?

Again, I want to thank my colleagues tonight who said to our Federal workers that it is time to go back to work, and said to the President of the United States, it is time to balance the budget. Again, I say, as I said earlier today, I do not think it does a lot of good to have press conferences every day where we say one thing and the President says something else. Why do we not sit down together, without the press? We are all adults. I believe the American people are looking to all of us for leadership. So the Government has been shut down Tuesday, Wednesday, Thursday, and it will be shut down tomorrow. Is that enough time? I think it depends on the leadership that we can produce in the next 24 hours. If not, we are going to go into the next week and then into the next week. I do not see much opportunity next week to have any resolution.

So I say, first of all, Mr. President, sign this resolution. It is not a bad resolution. I am told that the only objectionable feature is the balanced budget language, which does not legally bind the President of the United States. It seems to me that we may be very close. If the President would sign that tomorrow, and we send it down tomorrow—and I assume we will—then everybody can come back to work on Monday, and we could go on about the Balanced Budget Act of 1995, which we hope to finish tomorrow night around 10, 11 o'clock, maybe a little later. And then on Saturday morning, we will take up a conference report or two, and then Members could be off with their families for Thanksgiving, as many would like to do.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I ask unanimous consent to include the Senator from Illinois, Senator CAROL MOSELEY-BRAUN, who would like to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware is recognized.

THE SHUTDOWN

Mr. BIDEN. Mr. President, I would like to comment on three items. One, I compliment Senator BOXER and Senator SNOWE for their initiative to treat us like everyone else; that is, if we are working and other Federal employees are working, and they are not getting paid, we should not get paid. Most of the public in our home States do not realize that all of us have voted for that already. We voted for that twice already. Unfortunately, the House of Representatives has either inadvertently or, in fact, refused to bring that up. I will not make a judgment about that. But we have been on record for some time.

I think it makes good sense. I just depart from one comment made by one of our colleagues who supported this initiative. I do not think the Congressmen and Senators are smug about this. The truth about this much of this is artificial. I have been here for 23 years and although we have never had this extent of a crisis, we have shut down for a couple of hours or a day. In every case, it has been standard operating procedure that everybody is made whole. The Federal employees—everybody is made whole.

So I do not think most of our colleagues thought that this sort of stupidity would go on as long as it has. Therefore, I do not think my colleagues sat there and said, "By the way, I know people like the stenographer here, who is working, and I know he is not getting paid, and I do not care; ha, ha, ha, he is not going to get his paycheck." I do not think anybody thought about that.

I want to make this clear. Sometimes, in our zeal, we make it sound like this place is a little more heartless than it is. The truth is that there is an artificial element to this and, in all probability, nobody is going to end up losing a cent in this —unless this does go on for weeks or a month, which none of us wish to happen, and I think probably none of us believe will happen.

Now, sometimes we do stupid things. Sometimes ego and pride and politics and partisanship get in the way and everybody wakes up one morning and says, "My Lord, how did we get here?" I am hopeful that will not happen. That leads me to my second point.

My second point. I have great respect—and I mean this sincerely—for Senator DOLE, the majority leader. I have served with him and next to him for 23 years now. You cannot be around somebody that long and not get some sense of the man, the person. I do not know anybody who is smarter in this place, and I do not know anybody who is a better legislator in this place, or that I have had any better relationship or dealings with than him. I make one distinction in what he said. When he said the President is not bound in any real way if he were to sign the continuing resolution that the Senate sent to him, and he then mentioned the CBO figures, Congressional Budget Office figures—and he did accurately say the President, in the past, had mentioned Congressional Budget Office figures. But whether the President said it in the past or not, we all say things that turn out not to make so much sense sometimes—at least I have.

The truth of the matter is that it is important for the public to know not whose figures are right, but just to understand the debate. There is a fundamental difference in the outcome of a balanced budget and in how much you have to cut to get to a balanced budget, based upon how rapidly the economy grows or does not grow.

Now, the figures are infinitesimally small when you say them. For example, the Congressional Budget Office says the economy will grow, on average, over the next 7 years, at 2.4 percent per year. And along comes the Office of Management and Budget in the executive branch, and they say, no, the economy, over the next 7 years, will grow, on average, 2.6 percent per year. The public up there says, "What is the problem? What difference does it make which number you accept?" Well, I am not saying who is right. By the way, you know that old joke, I say to the former Governor of Missouri, now the Presiding Officer—I am sure he has asked a lot of economists about the impact of what happens in his State. But it reminds me of that joke that used to go like this: Give me a one-armed economist because every economist you speak to, no matter who they are, in their estimates, they say, "On the one hand" it could be this, and "on the other hand" it could be that.

I would love to find a one-armed economist who would only tell me this is what is going to happen.

Well, back to the central point, the difference between a 2.4 and 2.6 growth rate in the economy over 7 years is almost one-half trillion dollars more that would have to be cut from the Federal spending.

Right now if you said to me, I am sitting there and I say "OK, I am President"—I am not President obviously—"I am President." You say to me, "OK, I will agree to balance the budget in 7 years," and I look out there, and I say, "All right."

By the way, what is the magic? Why did we not say 5 years? Why did the Republican Party not say 5? Why did the President say 10? Why did we not pick 6? The truth is, it is of little relevance in terms of a goal. It is a practical relevance in terms of how much you cut and how rapidly you cut.

But back to the central point. I am sitting there as President. You come to me and say, "I have good news. We have signed on to 7 years." Great. That is what I say. "I can do this in 7 years." But the numbers they gave us are that we have to balance everything based upon the economy only growing this fast.

Mr. President, what that means is those cuts, that $1 trillion in cuts you were going to find to balance it over 7 years, you have to find $1.5 trillion. And you say, what does that mean? That means I either have to give no tax cut at all or that means I have to make major cuts in Medicare, or that means I have to make significant cuts in education. And for what? For the want of 1 year? For the want of 2 years?

I lay you 8 to 5, which is what is disturbing me, the American people are way ahead of all of us—the President, the Speaker, the leadership, Democrats, Republicans. They no more believe that we are going to balance the budget in 5 years than 7 years or 7 years than 8. They do not care if it is done in 8 years or in 6 years. They just want to know we are serious and we made a decision.

The glidepath of this Government spending over the next decade is going to be this way—down, and real numbers, real cuts, real changes. That, I agree, there is a mandate to both parties on that. But do you think anybody who sits home and says, "Well, I have been thinking this over. I listened to that debate in Congress, and my grandchildren are going to be put in serious jeopardy if we do this in 10 years instead of 7. This means the health and welfare of my granddaughter."

Do you believe anybody thinks that? What they are sitting home saying is "God, all those guys and women down there, all they do is talk. They keep promising balanced budget amendments. I do not believe they will do it any time." That is what they really say about us all.

The truth is, I have been here 23 years. I have never seen a time—and I say this with total sincerity—where the overwhelming majority of the Members of this body have done anything other than agreed we have to balance the budget, and mean it.

I introduced a balanced budget amendment in 1984 that got nowhere. I am a Democrat that voted for the constitutional amendment to balance the budget. I have introduced on four occasions—four occasions—entire plans to balance a budget, knowing I am not President and I am not the leader, but for illustrative purposes. I tried with Senator GRASSLEY back in the 1980's to freeze all Government spending, including Social Security, including everything.

The truth is the last election did one thing. I do not know whether it really made you guys a majority party for long. I do not know. We will find out. I know one thing it did. What it did was it made sure that there was nobody left on the left in my party who, in fact, said we do not care about moving the budget toward balance.

These folks mean it. We all mean it. The public knows we mean that. I think they look at us and say, "You are all being kind of childish."

For example, I bet—and I should not say this because I do not know whether the Senator from Missouri, the Presiding Officer, would agree—I bet I could find 20 Members at least on the Republican side of the aisle if I were in charge of this outfit—and I am not—we could sit down and say, "Here is the deal. You guys want a balanced budget in 7 years and you want CBO numbers. I want a balanced budget, too, but I do not want to cut as much Medicare as you do. I do not want to cut as much as you do, and I do not want to give as big a tax break as you want."

So we can make a deal, make a deal. We will split the difference between the CBO figure of 2.4 and the OMB figure of 2.6. Take 2.5—that is $250 billion. And make another agreement. Agree I will go for a bigger cut in Medicare. I say we only need to do $89 billion. That is all we need—not $270 billion. I will split the difference with you on that.

You have to make a deal on taxes, too. As much as you want to help wealthy folk, and I want to help them, too, tell them to wait until the end of the line. We will not give them anything. We will not raise their taxes, but we will not give them a tax cut.

Just those gross numbers—by the way, also make a deal, satisfy the President. Do not do this in 10 years. Do it in 8 years. Do not do it in 7—you give a year, we give up 2 years.

Do you think the American public will go home and say, "Boy, they all sold out. Boy, they all do not mean this. Boy, that is ridiculous. Boy, my grandchild is now in real jeopardy. Boy, my child's future I borrowed against now another 18 months"? I think they would say they are finally acting like mature adults.

I respectfully suggest, to go back to the original point I made, the majority leader said, what difference does it make whether it is CBO or OMB? Let me tell the difference. That is like saying to me, "JOE, you got to forge this creek, the Ardent Creek. You have to forge it, and it is 43 feet wide where the rapids are, and you have a hook at the end of the rope."

It makes a difference whether you give me a 48-foot rope or you give me a 38-foot rope whether I can get across that creek. If you give me a 38-foot rope, I cannot make it without getting awful wet and put in danger. Give me a 48-foot rope I can throw that sucker across, hook it around the tree, and have no problem bringing myself across.

That is the fundamental kind of difference between these numbers. These numbers are real. They make a difference.

I might add, the DuPont companies of the world, the Fortune 500 companies of the world who all of us say are better at estimating what will happen than we, they all say the growth rate will be about 2.9 percent per year. They say we will have $1 trillion difference from what the Congressional Budget Office says.

Let me say, if you ask whether I accept a DuPont Co. economist or a Federal bureaucrat's economist, I tell you where I go, this Democrat. If you ask whether I take an economist from Maryland National Bank or from the Chrysler Corp. in my State, I know which I would take. I would take the private sector guy.

What I am told is—and I may be wrong, but I do not think I am—I am told the blue chip analysis, that is taking all the blue chip companies who have analyzed what the growth rate is going to be, the consensus is it is going to be about 2.9 percent per year.

I will tell you what. If we agree to their numbers, I can balance the budget and not cut Medicare and not hurt education and not make the changes I do not want to make and I can do it in 5 years.

This makes a difference. It makes a difference what numbers you pick. Like I said, it is like that rope. You tell me I have to get across a 40-foot creek with rapids and if I slip in the rapids I go over the dam, and you give me a 30-foot rope, I have a problem. You give me a 50-foot rope, I can do it. So the difference here is the length of the rope we are giving the President.

I will conclude by saying the Presiding Officer is the only Republican in the Chamber—and by the way I am not suggesting anybody else should be in the Chamber. All reasonable people are home at 10 minutes to 10 at night, and I do not know why I am doing it, because I am not sure that the four people in here, who are kind enough to be listening to me, are listening. But I would respectfully suggest the following.

The reason why a guy like me is a little bit suspect of the insistence on the CBO numbers is—I will be real blunt with you —I believe this is more than about balancing the budget. I believe this is about eliminating programs, or drastically changing programs that the Republican Party, understandably and defensibly, historically has not liked.

But it can be cloaked in balancing the budget now. Because if you give me the 30-foot rope, I have to get rid of education. I cannot pull education across that creek with me on my back. I cannot take Medicare across that creek with me on my back. I cannot take a lot of things across there—baggage that some of my friends on the Republican side, and some Democrats, do not think we should be doing anyway.

So I think what the President should do—presumptuous of me to suggest what the President should do. But, if the President called up and asked me tonight, Joe, what do you recommend about this? I would pick up the phone and I would call BOB DOLE and NEWT GINGRICH and I would say, Fellows, look, come on down. Let us have a cup of coffee. And I would promise NEWT could sit at the head of the table. I would let him sit behind my desk. And I would say, Here is the deal. Let's make a deal. Let's split the difference on the numbers, not between the private sector, but the two Government bureaucrats who said what the numbers were. Split the difference and let us split the number of years. I will take off 2, you add 1. And let's get back to work, and then let us fight about the details, which is what appropriations bills are about.

I hope we do that. I am not suggesting my particular formula, I say to the Presiding Officer. I am not so presumptuous as to say that is the only way to do it. But I do know one thing. Legislation is the art of compromise, not weakness, compromise, because we have very divergent views.

I have come to know a bit more about the Presiding Officer. He and I have divergent views on a number of issues, but I truly respect him. And I think he respects me. There is no reason why we could not work—I have to give something. You are never going to agree with my philosophy. I am never going to agree with yours, on the whole. So we have to give something.

I do not mean to paint it—I would like it if the Senator from Missouri and I could settle this, but I know neither one of us are in the position to do this. But the larger point is simple. I think it is time for us to sort of—I was going to say act like grown-ups. That implies they have not been. I think it is time to say, OK, everybody has made the point. Let us get back to work. Let us split the difference on these things. Because the truth of the matter is, if the President agreed to an 8-year balanced budget with CBO numbers, or OMB numbers, does anybody believe that means he is less committed to getting to a balanced budget? He locks himself to a balanced budget on those terms.

So the issue is not if. The issue is how. I think we could settle this quickly. I hope we will do it.

My colleagues are here. I will not do it tonight, but I was going to make a statement, and I will do it tomorrow, on a third point. That is Mr. HELMS'—and I love Senator HELMS—outrageous, in my view, holding up of the START Treaty and holding up the Conventional Weapons Treaty. But I will save that for another moment. Maybe the Senator would be on the floor, because I would rather deal with him on the floor. As my colleagues know, I never say anything that references another Senator without telling him first. It is nothing derogatory, but I hope he will reconsider. We are about to lose the START Treaty, and that is the thing that eliminates all those Russian missiles that could be aimed at us again.

My colleagues are waiting to speak. I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

THE LAW OF THE SEA CONVENTION

Mr. PELL. Mr. President, from October 23 to November 3, 1995, the United States was host to an intergovernmental conference convened under the auspices of the U.N. Environment Programme to adopt a Global Programme of Action for the Protection of the Marine Environment from Land Based Sources of Marine Pollution. My colleagues know that I have long had a strong interest in the protection of the environment, and in particular of our oceans. In fact, in 1973, legislation was enacted that I introduced to create the position of Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs. I was pleased that the Congress and the President agreed with my strong feeling that increased cooperation with respect to the protection of our oceans be given greater focus and visibility at the State Department.

As far back as 1977 I introduced a resolution that required countries to conduct environmental impact assessments before carrying out activities that might impact the environment of another country or of a global commons area. The U.N. Environment Programme (UNEP) was to be the recipient of these impact assessments and in July 1995, I introduced Resolution 154 calling on other nations to adopt a similar approach. UNEP has retained its key role in the protection of the environment worldwide and the Washington Conference on Marine Pollution was but the latest example of its ongoing efforts to encourage all countries to cooperate in the protection of the environment.

This Conference was convened as a result of the U.N. Conference on Environment and Development held in Rio de Janeiro in June 1992. It recognized the fact that more than 80 percent of marine pollution originates from terrestrial sources and its aim was to ensure that all the Parties would coordinate their efforts in trying to reduce such sources of pollution. The two outcomes of the Conference were the Global Programme of Action for the Protection of the Marine Environment form Land-Based Activities, adopted at the end of the Conference, and the Washington Declaration, which was adopted by its high-level segment. Both the Programme of Action and the Declaration complement the legal regime set up by the Law of the Sea Convention which was signed by President Clinton and is still pending before the Committee on Foreign Relations.

I wish to call the attention of my colleagues to an article published in the Washington Post on November 4, 1995, which highlights the risks now weighing on our oceans and the need to take urgent action. I ask unanimous consent that this article be included in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. PELL. Mr. President, I have always been a very strong supporter of the Law of the Sea Convention because it sets up a new Constitution for the Oceans and because it is the perfect tool to put an end to such destructive measures as ocean dumping and other forms of direct pollution. In that respect, the Law of the Sea addresses the marine sources of oceans pollution. The Washington Conference aimed to complement this approach by addressing the impact of terrestrial, and indirect, sources of marine pollution. The Programme of Action adopted by the Conference contains a series of practical steps that governments can adopt, while the Washington Declaration provides us with a framework to further our international cooperation.

At the national level, countries can, and should, restrict negative impacts by better and stronger regulation of sewage discharges and by controlling the production and use of pesticides, fertilizers and other persistent organic pollutants that are known to cause considerable damage to marine life. At the international level, cooperation needs to be increased, with a view to imposing more stringent controls on the most dangerous of substances, such as DDT, PCBs, and other persistent organic pollutants. The Washington Declaration recognizes this by calling for the development of a global legally binding instrument for the reduction or elimination of persistent organic pollutants. At this stage, it is still unclear what form such a treaty should and will take, but it is of the utmost importance that the United States become an active participant in these negotiations.

By definition, marine pollution is a global problem, and while it cannot be solved by individual nations, we all have a responsibility to cooperate in attempting to save our oceans. The United States has always been at the forefront of similar efforts in the past and we cannot shrink from our responsibilities in these times of crisis. The Law of the Sea Convention and the Washington Programme of Action are the two vital instruments through which we can finally put an end to the excessive pollution of our oceans. This is a chance for the United States to prove that it really intends to address and solve the very important issue of marine pollution by ratifying the Law of the Sea Convention, by implementing the Programme of Action in earnest, and by becoming a leader in the negotiations of a treaty on the regulation of persistent organic pollutants.

EXHIBIT 1

EXPERTS SEEK GLOBAL TREATY ON TOXIC OCEAN POLLUTANTS

(By Gary Lee)

Alarmed by rising levels of pollution in the world's oceans, a conference of environmental experts from 102 countries yesterday called for new global controls on the use of DDT and 11 other toxic chemicals that are often discharged into waterways.

The Washington gathering, sponsored by the United Nations Environment Program (UNEP), urged industrial and developing countries to negotiate a global treaty restricting the spread of a dozen persistent organic pollutants, a group of industrially produced chemicals that frequently wind up in oceans and other water supplies. Participants in the two-week meeting, which ended yesterday, approved a program of action that included the call for a treaty.

Persistent organic pollutants were targeted for more stringent international regulation because they are highly toxic, remain in the environment for long periods and can spread thousands of miles from the point of emission, conference delegates said.

After accumulating in fish and other marine mammals, such chemicals work their way through the food chain and may eventually be consumed by people. They can cause severe health problems, said Clif Curtis, an adviser to the international environmental organization Greenpeace. Studies have linked some of the compounds to cancer, neurological damage and defects of the reproductive system and immune system in various animals, including humans. Creatures occupying positions near the top of the food chain—such as fish that eat smaller fish, marine mammals, seabirds and humans—are at greater risk of such effects because more of the toxic substances accumulate in their tissues. Greenpeace advocates a worldwide ban on the production and use of persistent organic pollutants.

The campaign for new restrictions on the chemicals is part of a growing movement to save the oceans, considered by many environmentalists to be the world's last underregulated biological frontier, from further degradation.

"The oceans of the world are interdependent," Vice President Gore told the gathering in a speech this week. "The only way to stop the degradation of marine environment from land-based activities is to share the solutions."

"If we're going to take the cleanup of the oceans seriously, [persistent organic pollutants] must be banned," said Salef Diop, an adviser to the Senegalese environment ministry and delegate to the conference.

While the 1982 Law of the Sea Treaty and other international agreements regulate ocean dumping and other forms of direct pollution, the UNEP conference focused on restricting land-based activities that indirectly contribute to the pollution of oceans—such as the use of organic pesticides that are washed into rivers and end up in the ocean.

The conference pointed out in its recommendations that individual countries can help fight ocean pollution through national policies, such as the reduction of sewage discharges and control of pollution from nonpoint sources like farmland. Land-based activities are responsible for 80 percent of ocean pollution, according to Magnus Johannesson, a senior environmental official from Iceland.

The substances pinpointed by the conference as requiring more stringent controls include the pesticides DDT, toxaphene, chlordane, heptachlor, endrin, aldrin, mirex and dieldrin, as well as byproducts of industrial combustion such as dioxins, furans, hexachlorobenzene and the group of chlorinated substances known as polychlorinated biphenyls (PCBs). Although dozens of other chemicals pose a threat to oceans, these 12 are most widely used and most toxic, according to environmentalists.

After controls are in place, others could be added to the list if scientific consensus indicates that they are harmful to marine life, conference delegates said.

The U.S. has already moved to ban the use or spread of many of the compounds, but at least two—chlordane and heptachlor—are still produced by American companies for export abroad, Clinton administration officials said.

Although banned in the United States in 1972, DDT is still widely used in India and some other developing countries to protect crops against insects. Heptachlor and toxaphene are also used heavily in some countries.

Safer alternatives exist, but some research will be needed to determine whether they can be substituted cost-effectively in those countries that still rely on chemicals that end up as persistent organic pollutants, conference delegates said.

THE EXECUTION OF KEN SARO-WIWA

Mr. PELL. Mr. President, last Friday, amid the strong protests of the American and British Governments and countless human rights organizations, the Nigerian Government executed Ken Saro-Wiwa, a noted author, environmentalist and human rights activist, and eight of his colleagues. I must say that these executions represent a flagrant violation of human rights and I am outraged. These executions reflect the refusal of the brutal regime of General Abacha in Nigeria to abide by the most basic international norms. Moreover, such actions deserve a swift and harsh response from the U.S. Government.

Since seizing power in a military coup in June 1993, General Abacha has systematically eliminated any perceived rival by intimidation, lifelong imprisonment and most appallingly, by means of execution. Mr. Saro-Wiwa and his eight colleagues now join the ranks of Nigerians whom the Abacha government has successfully silenced. Despite these brutal deaths, I am confident that the causes for which these leaders died cannot, nor will not, be destroyed.

Ken Saro-Wiwa spent much of his life fighting against the military government and the rampant pollution of the land and water in his home, Ogoniland, caused by unregulated oil production. Threatened by his persistent and popular campaign, the Nigerian Government charged Ken Saro-Wiwa and his colleagues for the murder of four pro-government activists. The State Department and human rights groups report that Mr. Saro-Wiwa was nowhere near the murder scene and was denied a fair chance to defend himself. Further, there is evidence that witnesses were paid to testify against Mr. Saro-Wiwa. Topped with a military tribunal appointed to try the case, Ken Saro-Wiwa never had a chance.

Mr. President, Nigeria is a critically important country for United States interests in Africa. Nigeria has made significant contributions in the course of regional and international affairs, such as its involvement in restoring peace in Liberia, in resolving the regional drug issue, and last year's commutation of the death sentence to life imprisonment for General Obasanjo and other alleged coup plotters.

This latest action, however, undermines international and American confidence in General Abacha's announced transition to democracy. The impact of Nigeria's problems, inflicted primarily by the Abachan regime, threatens to extend throughout West Africa, harming the political and economic prospects of its neighbors. General Abacha's refusal to heed the calls of the international community, including those made from these chambers, demonstrates his unwillingness to engage in quiet diplomacy. Humane principles and a commitment to democratic ideals compel us to respond forcefully to the Abachan regime. While the Clinton administration has called on the United Nations to consider an embargo on sales of military equipment to Nigeria, Congress should consider taking the lead in identifying and enacting strong measures that hurt the Abachan regime.

Mr. President, I would like to conclude with reiterating my outrage at General Abacha and his regime's complete disregard for basic human rights and international legal standards. I believe that relations between our two countries cannot be normalized until the appalling abuse of human rights, especially toward the Ogoni people and their leaders, comes to an end.

Mr. PELL. Mr. President, I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

THE CONTINUING RESOLUTION

Ms. MOSELEY-BRAUN. Mr. President, thank you.

Mr. President, I would like to speak briefly. And I want to be brief because I know the pages are anxious, and so is the Presiding Officer. But I would like to speak for a moment on the continuing resolution, the debate that was just concluded, and make a few brief comments about it. And then I will file a more expansive statement at a later time.

Mr. President, this is the third day of the Government shutdown, and, quite frankly, this is a disgraceful way to conduct the people's business.

The Government is shut down because, in my opinion, macho posturing, pique, and those things are being substituted—attitudes and old grudges are being substituted—for substantive debate and serious-minded search for compromise.

And we are here also because this Congress has not done its work. Over 6 weeks into this fiscal year, and only four appropriations bills are now law. Most of the bills are stalled here in Congress, not because of disputes over funding levels and philosophical debates, and the like, but frankly because of the efforts by the majority party to attach unrelated riders that are designed, in some instances, to erode women's right for choice, or to deregulate pollution, or to cut away workers' collective bargaining rights.

So we have to resort to a continuing resolution. This continuing resolution that we just passed funds the Government for roughly 5 weeks. It also calls on Congress and the President to balance the budget in 7 years.

Frankly, that provision does not belong in the bill. That issue should be left to negotiations between the President and the Congress on the permanent budget, not on this temporary, partial budget.

That was, however, why I supported the amendment offered by the minority leader. And, frankly, that is why I supported the amendment offered by the majority leader. But, quite frankly, it was the wrong place. Quite frankly, also, Mr. President, there is nothing particularly magic in 7 years. What is important is the objective. What is important is meeting our obligation to leave our children something more than a legacy of debt. And what is important is balancing the budget in a way that helps both individual Americans and our country generally.

Mr. President, I believe we can balance the budget while not undermining health care for the elderly or for the poor, without pushing millions of children into poverty, and without denying access to a college education to additional millions of young Americans.

I think it is possible to balance the budget over 7 years in a way that will make the future brighter for our children and that will help create prosperity for all of us. I hope the parties will seek and find common ground with that in mind.

We have to reduce Federal deficits, but there are other objectives that cannot be forgotten. We cannot just on the one hand transfer costs from the Federal balance sheet to the balance sheets and the budgets of American families. We cannot cut back on essential investments in areas like education on which our competitiveness and, therefore, our economic strength, security, and wealth ultimately depend. We cannot make cuts that close more doors to more Americans who are already anxious about their futures, and who are very hard pressed because, while the cost of achieving the American dream is rising, their incomes are not.

Mr. President, this continuing resolution is not a balanced budget plan. It simply buys Congress and the President a little more time to produce a plan. It is all too clear that we need that time because the budget priorities reflected in the reconciliation bill that we will act on tomorrow are clearly mistaken, in my opinion.

That reconciliation bill contains a foolish $245 billion tax cut. And I think one of my colleagues responded by saying to talk about a tax cut at a time that you are talking about reducing the deficit and balancing the budget is like announcing that you are going on a diet and asking someone to pass the dessert.

Even though the President has cut the deficits in half over the last 3 years, given the scope and the extent of our deficit problem, this is not the time for a tax cut. I add, Mr. President, parenthetically with regard to the specific parts of the tax cut—and I serve on the Finance Committee—there is nothing objectionable—well, there is little objectionable—about the tax cut with the specific ingredients in it. But, quite frankly, the tax cut is very much like a chicken in every pot, the oldest political ploy in town, to give a little bit of substance to the constituents. It could not come at a worse time. The timing and context is wrong. I believe it does not belong as part of reconciliation when we are talking about balancing the budget and cutting protections that are vitally dear, if not vital to Americans.

Mr. President, the reconciliation bill that we are going to take up tomorrow unnecessarily jeopardizes the elderly, the poor, the children, and students by asking them for a hugely disproportionate share of budget savings that the bill requires over the next years 7 years while at the same time protecting tax expenditures, and many other business subsidies and loopholes from the clever.

I believe we need a new plan, one that meets the needs of ordinary, hard-working Americans, and one that embraces opportunities for Americans in the future rather than diminishing them. What we need to do, therefore, in my opinion, is to end this temporary budget crisis, and to put the Government back to work.

What we need to do is to defeat the reconciliation bill tomorrow, and vote against it, because we have to, given the technicalities of it, act on it before we can get to the compromise. Kill the reconciliation bill tomorrow, and go back to work on a more balanced, more fair, and more workable budget plan that does not treat millions of Americans as expendable people.

Most of all, we need to act to meet our obligations to the American people by crafting a budget based on their needs, and that is based on the American priorities of all of our community, a budget built on the proposition that people's futures—and not just abstract accounting numbers—is what is really at stake here.

We have a chance to define ourselves as one community, to recognize that we are all in this together, and to fix our budget problems by sharing the sacrifice and addressing our collective needs as Americans.

Mr. President, this Congress can decide to be like so many corporate CEO's, laying off millions of Americans, discarding them, and ignoring the contributions that they have made in the past, and that they can make in the future. Or, we can recognize the truth—that our only permanent asset lies in the talents and the abilities of our people—and we can construct a budget that helps Americans utilize their talents, and create wealth for all of us today, as well as for tomorrow.

Mr. President, in that case, I believe the choice is obvious. I hope we will commit to coming together to find a common ground, and to recognize that we are indeed all in this together, and we need to have a budget that reflects that.

Thank you. I yield the floor.

RECESS UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 10 a.m., Friday, November 17, 1995.

Thereupon, the Senate at 10:09 p.m. recessed until tomorrow, Friday, November 17, 1995, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, November 16, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. INGLIS of South Carolina].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 16, 1995.

I hereby designate the Honorable BOB INGLIS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, as You have blessed each person with the miracles of life and given us opportunities for compassion for others, we pray that by Your spirit, our motives would be purified and our intentions made exemplary. As Your word has commanded us to seek justice and love mercy, remind us to be authentic in our aspirations and faithful in Your service that Your message of respect and understanding will be seen in our lives and be the symbol of our humanity. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Minnesota [Mr. GUTKNECHT] come forward and lead the House in the Pledge of Allegiance?

Mr. GUTKNECHT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minute speeches on each side.

SUPPORT AMERICA BY SUPPORTING THE BALANCED BUDGET ACT

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, the President must have inhaled, because last night he asked the American taxpayers to give him an additional $874 billion of their money for more Government, more taxes, and more spending.

This proves that once again the President has no intention of balancing the Federal budget. He would rather add billions of dollars to our debt.

What the President is doing is reckless. He has replaced leadership, responsibility, and the wishes of the American people with big Government and political games.

If the President is truly for a balanced budget, then he will sign the continuing resolution and join Republicans by embracing a 7-year balanced budget bill that will ensure a strong and secure future for our country. Americans, once again tell the President to support America by supporting the Balanced Budget Act.

TEMPER TANTRUM NO BASIS FOR GOVERNMENT SHUTDOWN

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, I had a traumatic experience on an airplane Monday. I asked for an aisle seat and they gave me a window. The pilot never came back to say hello, and when we landed, I, a Member of Congress, had to walk out with all of the rest of the passengers. So I drafted a bill to shut down Government until the airline apologizes to me. Unfortunately, as a Democrat, I was ignored.

But there is hope, Mr. Speaker. A Republican is fighting for Congressmen whose feelings are hurt on airplanes. NEWT GINGRICH feels bad. He says he was mistreated on the trip to Israel. I quote, "Every President we had ever flown with had us up front. Having to exit through the rear of the plane is part of why you ended up with us sending you down a tougher continuing resolution."

Because our President thought that respecting Yitzhak Rabin's death was more important than stroking NEWT's ego, we must threaten the services of our seniors, our veterans, and our students.

NEWT, have some decency. The future of our Nation is more important than where you sit on an airplane. The next time you throw a temper tantrum, leave the American public out of it.

THE PICTURE IS COMING INTO FOCUS

(Ms. DUNN of Washington asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN of Washington. Mr. Speaker, the Democratic process was never meant to be a smooth process; that is why our Founding Fathers created a system of checks and balances. That is why we have a loyal opposition. That is why we negotiate. But, Mr. Speaker, there comes a time for closure. That time is now.

The picture is coming into focus, Mr. Speaker. One side wants a balanced budget by a date certain; the other side is not even certain about a date. On the one side is Congress, including, as these folks will not tell you, 48 Members of their own conference intent on balancing the budget in 7 years. On the other side is the President.

Mr. President, it is time to come to the table. Do not pick up your walking stick; come join us now and negotiate this 7-year balanced budget. Our children are counting on us.

NAFTA ACCOUNTABILITY ACT TO MEASURE AGREEMENT'S IMPACT

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, today my colleagues and I introduce the NAFTA Accountability Act of 1995 to stand up for the thousands and thousands of workers across our country who are being terminated.

NAFTA promised our country a $12 billion trade surplus. This year we will rack up an historic $40 billion deficit with our two trading partners on the continent. NAFTA promised our people 200,000 new jobs.

It has already cost us over 300,000 lost jobs: Like 3,200 workers at Fruit of the Loom in Alabama, Louisiana, Kentucky, and North Carolina; like 200 workers at Emerson Electric in Indiana; like 120 workers at Alcatel Data Networks in New Jersey; like 127 workers at American Manufacturing Co. in

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Alabama; like 130 workers at Data Products in Georgia; like 220 workers at Woolrich, Inc. in Pennsylvania; like 340 workers at Oxford Industries in Georgia; like 245 workers at Sara Lee in Georgia.

Mr. Speaker, we will continue the list as the week moves on.

TIME FOR THE PRESIDENT TO COMMIT TO A BALANCED BUDGET

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Mr. Speaker, today we will ask only one thing of the President. We will ask that he agree to work with us to balance the budget in 7 years using the numbers of a nonpartisan Congressional Budget Office. It is a basic, simple request, but for some reason he seems very afraid of this commitment.

Mr. Speaker, the President said last night he thinks it will hurt America. Fortunately, some of us know better than that. The hundreds of people calling my office certainly know better than that. They know that the best thing we can do for this country is to make an unmistakable commitment to balance this budget.

That is what we will do. No matter what the President says, no matter how long it takes, we are going to balance this budget in 7 years, and we will do it by controlling spending, saving Medicare, and giving the hard-working people of America back some of the money that was stolen from them by the 103d Congress. The people of the 10th District have my word on this.

WHY CAN WE NOT FIND COMMON GROUND?

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, driving my 11-year-old to school this morning she said, "Mommy, I need to write a term paper, but the D.C. public library is closed. You worked until midnight last night. Why can't you get the Government started again so that my library will open?"

Mr. Speaker, why can't we? Why can't we stop shouting and issuing press releases and instead find common ground? Why can't we pass a continuing resolution this week and then back off and go home and talk to our constituents, not about whether to pass a 7-year balanced budget, but about what should be in it.

There are genuine disagreements among us. If we come back on November 28 and spend 5 or 6 days having an enlightened debate about the Medicare cuts, about tax cuts, about Federal entitlements and block grants. I think our constituents can help us find this common ground that just might get us to passing a 7-year balanced budget. I think we can make our children proud, not just about what we do here, but about how we treat each other.

PRESIDENT SAYS ONE THING AND MEANS ANOTHER

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, so now the President tells us he does not want a balanced budget, and we were wrong to believe him when he said he did. Sure, he campaigned promising a balanced budget in 5 years, and sure, at one point he said he favored a balanced budget in 7 years but how insensitive, how downright mean-spirited, of us to take him at his word. What were we thinking?

Last night, we passed what the President said he wanted, a clean bill with simple language reiterating the President's commitment to a 7-year balanced budget and he's throwing it back in the face of the American people.

But it shouldn't be that surprising. After all, this is the man who said he wanted a middle-class tax cut and then gave us the largest tax increase in history. This is the man who said he wanted to end welfare as we know it and is now fighting us as we try to make welfare reform a reality.

So, you know, on second thought, maybe it's good that the President says he'll veto our balanced budget. Maybe that means he'll sign it and the Government shutdown will end.

REPUBLICANS MEETING IN SECRET

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, the Republicans have been meeting in secret the last few days to hammer out their differences over the budget bill, which they will probably bring to the floor tomorrow. This is the bill that cuts Medicare and effectively destroys Medicare in order to pay for tax cuts for the wealthy.

Mr. Speaker, they have not allowed the Democrats to participate in their secret negotiations, and as a result of that, a bad budget bill, as the New York Times says today, only gets worse.

If I could just read, according to the New York Times, "The House GOP budget will take about $900 worth of benefits on average from families earning less than $30,000, but only $155 from families earning above $100,000. At the same time, it will cut taxes by virtually nothing on the low-income families, but cut them by about $1,600 for high-income families."

The Republicans work in secret and they come up with a budget bill that we will get tomorrow that provides even more tax cuts for wealthy Americans while it destroys Medicare and destroys Medicaid and provides us with a much worse health care system than we have now in America.

MISTREATMENT RESULTS IN GOVERNMENT SHUTDOWN

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, when I heard last night that NEWT GINGRICH said he had shut down the Government because he did not get the right treatment on an airplane, I was amazed. I could not believe it.

Mr. Speaker, today it is true. Here it is in black and white in my hometown paper, the New York Daily News, "Cry baby, Newt's tantrum. He closed down the government because Clinton made him sit at the back."

Well, the only thing one can treat such statements and actions with is humor and verse, so with all due respect to Peter, Paul, and Mary and "Leaving on a Jet Plane," here goes.

> Well, my bags are packed, I am ready to go. I am sitting here on Air Force One, but sitting in the back ain't much fun. They wouldn't give me an aisle seat. The in-flight meal was mystery meat. Where is the guy in charge? I am going to complain. But the President won't talk to me. In light of Israel's tragedy, cutting Medicare is not the first thing on his mind. I am leaving on a jet plane, don't know when you will get paid again. I am leaving on a jet plane, don't know when you will be paid again.

□ 1015

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 264

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Resolution 264.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Is there objection to the request of the gentleman from California.

There was no objection.

THE REAL ISSUE

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, today's headline really says it all: "Clinton, No to GOP Offer To Keep the Government Open."

Mr. Speaker, last night 48 Democrats joined Republicans, broke ranks and resisted the strong-arm tactics of the left-wing liberal Democratic leadership by voting to keep the Government operating and open, and frankly, also voting to balance the budget.

That is really what this issue is all about. Are the American people going to have a balanced budget? Are the American people going to have a government that lives within its means?

Calls and letters that I am receiving from the folks back home are 4 to 1 in favor of balancing the budget and supporting the Republican Congress.

Kathleen Platek from Manhattan, IL: "You're doing a great job. Hang in there to balance the budget."

Ardele Ommem from Bradley, IL: "Support Republican budget. Keep the Government operating. Tell Bill Clinton to go to work."

Jacqueline Jordan from Mokena: "Balance the budget."

Mr. Speaker, the folks back home are watching. They want the Government to balance the budget. That is what this issue is all about.

ACADEMY AWARD WINNER

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, every year we all await the Academy Awards. It really captures our attention to see who is going to be the winner in all the different categories.

Well, there is one category our Speaker has sewn up. There is absolutely no question that NEWT GINGRICH has now absolutely sewn up the category of best performance by a child actor this year. There is only one problem. The Speaker is not a child.

Now that this country has paid dearly for his temper tantrum and paid dearly for his shutting down the Congress, shutting down the whole country because of his little peeve, could we get a performance that is more statesmanlike? I think that is what this country would really like.

But congratulations, Mr. Speaker. If you wanted to be the best child actor, you got it.

AMERICA IS WATCHING

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, today we are here, we have lots of cutesy ideas, we have little statues and we have posters. But, ladies and gentlemen, the people see past that. The people of America know what is stopping this Government.

All your actions here today will not block out in their mind that the Democrats and the President are refusing to work with the Republicans to balance the budget. The President has a chance today to reverse that, and he can sign the new clean CR that we have sent down to the White House. America is watching. The antics on this floor today will not cover up the fact that they want a balanced budget and they want us to hang tough until we do it, for ourselves, for our seniors and for our children. Let us get to it.

COMPROMISE NEEDED IN BUDGET BATTLE

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute.)

Ms. MCKINNEY. Mr. Speaker, if the Republican leadership is so committed to balancing the budget, then why do they not abandon their $245 billion tax cut? Why is it that seniors, students, and the poor have to sacrifice to balance the budget, but America's wealthiest corporations and insurance companies will get a huge windfall?

Clearly, Mr. Speaker, the GOP is using the balanced budget only as a pretext to wage their feudal class-war against seniors and working families. Why do they not go after the $500 billion in corporate welfare, as well as make Germany and Japan pay for their own defense?

Mr. Speaker, if the Republicans agree to abandon their tax cuts and eliminate just $200 billion in corporate welfare, then even I will support their budget.

PRESIDENT CLINTON URGED TO SIGN THE BILL

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, the debate is now clear and the battle is joined. As Paul Harvey has said, Americans hate statistics but Americans know what they expect from us. They want us to put government on a diet and they want us to balance their budget. We are a Nation that gets up early, rolls up our sleeves and gets the job done. To be told that we cannot balance this budget within 7 years is an insult to the intelligence of the American people. You promised to balance the budget in 5 years. Mr. President, if you meant what you said, then sign this bill.

THE HORRIBLE WELFARE BILL

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, with most of the Republican leadership running for the Presidency right now, and running on ego and on meanness, it makes sense that this new majority is sending President Clinton a welfare bill that pushes over 1 million more children into poverty and does nothing, absolutely nothing, to help recipients prepare for jobs that pay a decent wage.

On the other hand, the Democrats have a welfare reform bill that invests in education, in job training, in child care and child support.

Mr. Speaker, when 100 percent of the House Democrats voted for this legislation, we demonstrated that conservatives, moderates, and liberals can agree on reform that guarantees a safety net for children and gets their parents to work.

I ask, why does the crybaby Speaker not cry about real babies? Real babies who are becoming even poorer as a result of this mean-spirited, whining leadership. We must veto this horrible welfare bill.

THE PRESIDENT AND THE TRUTH

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, President Bill Clinton has willfully misled the American public on his plans for the future of America.

During his campaign for President, he said he would support a balanced budget in 5 years. Two years later, he refuses to even consider balancing the budget in seven years.

He said he would end welfare as we know it. Now he says he will veto a bill that ends welfare as we know it. He said he supported tax relief for the American family. But his first budget raised taxes on American families.

Mr. Speaker, President Clinton is to truth what Abraham Lincoln was to lying.

The American people should not believe a word he says, because many times Bill Clinton does not believe the words he is saying.

As President Clinton continues to refuse to open the Government, I urge the American people to focus on these facts. Republicans are going to keep their promises and offer a real balanced budget. Bill Clinton is going to break his promises and fight any balanced budget.

GOVERNMENT SHUTDOWN

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, NEWT GINGRICH and Medicare, the three words you need to understand this mess in Washington. He may really be a crybaby, but NEWT GINGRICH wants to demonstrate he is king of the mountain. And what better way to do that than to issue a royal decree cutting Medicare, even if it takes the taxpayers having to pay for 800,000 Federal employees to have a taxpayer paid vacation. And since the king expects lobbyists to come bearing tribute, it is only natural Speaker GINGRICH would be doing everything he can today to kill our ban on gifts from lobbyists to Members of this Congress just as he killed real lobby regulation last session. And before this week's shutdown and NEWT's paid vacation for 800,000 Federal employees, we already had shut down one institution of this body, shut down with lethargy, shut down with delay.

POINT OF ORDER

Mr. HOKE. Mr. Speaker, point of order. Is it parliamentary to call the Speaker of the House a crybaby?

The SPEAKER pro tempore. Such remarks are not in order and Members should refrain from using such language.

The gentleman may proceed in order.

PARLIAMENTARY INQUIRY

Mr. DOGGETT. Mr. Speaker, parliamentary inquiry. Is it proper to refer to the front page of a newspaper that calls him a crybaby?

POINT OF ORDER

Mr. HOKE. Mr. Speaker, point of order. The chart is demeaning to the House.

Mr. VENTO. Regular order, Mr. Speaker. The gentleman should state his point of order, Mr. Speaker, if he has a point of order.

Mr. HOKE. My point of order is that we are not to have demeaning charts.

Mr. VENTO. Point of order, Mr. Speaker. That is not a point of order.

Mr. HOKE. That is a point of order.

The SPEAKER pro tempore. Will the gentleman suspend?

The Chair rules it is a legitimate point of order. The Chair also rules that the Members must be respectful of other Members and must avoid such referencing of other Members on the floor.

Mr. HOKE. Would the Chair please instruct the Member to take the chart down?

The SPEAKER pro tempore. The gentleman must proceed in order.

PARLIAMENTARY INQUIRY

Mr. DOGGETT. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DOGGETT. Mr. Speaker, so that I may comply with the rules of the House, I understand then that I am not to refer to the Speaker as a crybaby. May I use the term "NEWT's tantrum"?

The SPEAKER pro tempore. In answering the gentleman's question, the Chair would point out to the gentleman that the gentleman should be respectful of all Members of the House and the Speaker as well. The gentleman may not use demonstrations to be disrespectful to any Member or to the Speaker.

Mr. DOGGETT. But the Chair is not suggesting that this Daily News "crybaby" front page has to come down at this point?

Mr. HOKE. Regular order.

The SPEAKER pro tempore. The Chair is suggesting that it should be removed if it is intended to bring disrespect toward a Member of the House.

Mr. DOGGETT. It is not on the House, Mr. Speaker. How much time do I have remaining?

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. DOGGETT. With the parliamentary inquiries? Not with my 1 minute.

The SPEAKER pro tempore. No, with the gentleman's use of time.

Mr. DOGGETT. I thank the Speaker.

BALANCE THE BUDGET

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, last night in an interview, President Clinton was asked this question by Dan Rather: "Are you saying, flat out, that you will veto a bill sent to you that contains only the insistence to balance the budget, you'll veto that?"

The President said, "Yes."

Mr. Speaker, the President has divulged what Republicans in Congress have been saying all along. That is, President Clinton is too closely aligned with the liberal Washington establishment to do what is right for the American people. He is more concerned about spending more money on Government than balancing the budget, and he is more concerned about bureaucracy than our children's future.

The responsibility for this Government rests squarely on the shoulders of President Clinton. He asked for a clean bill. He has one. Now he says he will veto it.

Folks back home have been calling me to hang in there, balance the budget. Well, now it is time for the folks back home to call President Clinton. The number is 202–456–1414.

A GRAVE ERROR

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Acting Speaker, I have not myself been a great defender of the real Speaker. Indeed, I thought the American people were right when they found him to be the most unpopular elected official in America.

But yesterday I was ready to jump to his defense. I do not think people should be disrespectful of the Speaker. When I heard people suggest that Speaker GINGRICH had said that he was going to be tougher in negotiations and do more to shut down the Government because the President had been rude to him, I was ready to leap to his defense.

I said, how can you accuse Speaker GINGRICH, as much as I disagree with him on policy, of being so petty, of being so personal as to say that because the President did not distract himself from the Middle East peace process to come and talk to him and take his mind off having to sit with some other Republicans, how could you claim that this man would then use that as a reason to help shut down the Government?

Of course we have this problem because the Republicans have not passed the appropriations bills. It is their own lack of ability that has led the Health and Human Services Department and the Labor Department not to be there. To compound that with insensitivity is a very grave error.

CHARACTER OF MORNING'S DEBATE

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, what is incredible about this debate this morning, if we call it a debate, is that what we see finally is that the Democrat rhetoric has been reduced simply to petty, the pettiest of ad hominem attacks on the personality of the Speaker.

☐ 1030

And they are doing this because of two things: No. 1, they are embarrassed by the fact 48 of their own Members last night, quite correctly, cast their vote, including a couple that have been down here this morning, although they did not mention it.

And, second, because they are out of ideas, they know it has finally come to showing the liberal agenda against the commonsense agenda.

The only difference in the continuing resolution of last night was a 7-year balanced budget, a commitment to come to the same agreement that every one of these people, when they go back to their districts, talk about. This is the moment of truth, 7 years, scored honestly with honest numbers in an honest way, working together.

The Washington Post got it absolutely right when they said the Democrats, led by the President, chose instead to present themselves as the demagogues that they are.

WHY IS THE GOVERNMENT SHUT DOWN?

(Mr. MILLER of California asked and was given permission to address the House for 1 minute.)

Mr. MILLER of California. Mr. Speaker, the country is asking today: Why is the Government shut down?

The President has made it clear the Government is shut down because he will not yield to the blackmail on Medicare, on Medicaid, on school lunch, on student loans.

What we did not understand is why is the Speaker, why is the Speaker going forward to shut down the Government?

POINT OF ORDER

Mr. KINGSTON. Point of order, Mr. Speaker.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The gentleman will suspend. The gentleman makes a point of order.

Mr. MILLER of California. Why is the Speaker going forward? Because he is angry about his treatment.

Mr. KINGSTON. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will suspend. The gentleman from California will suspend.

Mr. MILLER of California. I have 1 minute to speak.

The SPEAKER pro tempore. The gentleman will suspend.

Mr. MILLER of California. He is upset.

The SPEAKER pro tempore. The gentleman will suspend.

For what purpose does the gentleman from Georgia rise?

Mr. KINGSTON. Mr. Speaker, point of order. Was it not the opinion of the Chair that the chart in the gentleman's hand is out of order?

The SPEAKER pro tempore. The gentleman is correct.

Mr. DOGGETT. Point of order, Mr. Speaker.

Mr. MILLER of California. May I be heard on the point of order?

The SPEAKER pro tempore. The gentleman will suspend.

Mr. KINGSTON. Mr. Speaker, since it is obvious the Democrat Party does not want to play by the rules of the House, would it not be in order to remove the chart from the floor?

Mr. MILLER of California. If I may be heard on the point of order.

Mr. DOGGETT. Point of order, Mr. Speaker. I would like to state my point of order.

Mr. MILLER of California. The point of order——

The SPEAKER pro tempore. The gentleman will suspend. The gentleman from California may be heard on the point of order.

Mr. MILLER of California. The point of order, I believe, is to suggest what, that I am holding the cover of the front page of the New York Daily News?

Mr. KINGSTON. Point of order, Mr. Speaker. He is trying to debate. My point of order and question to the Chair was: Should not that chart be removed from the Chamber, since the Democrats obviously do not have the self-discipline to follow the rules of the House?

Mr. MILLER of California. On the point of order, Mr. Speaker, this chart is in order under the House rules because this chart provides and has provided to 800,000 New Yorkers the explanation of why the Speaker shut down the Government.

Mr. DOGGETT. Point of order, Mr. Speaker; point of order, Mr. Speaker.

The SPEAKER pro tempore. The Chair is prepared to rule on the point of order.

All Members should not use charts that are demeaning to other Members, in order to preserve the decorum of the House.

Mr. DOGGETT. Point of order, Mr. Speaker.

Mr. FRANK of Massachusetts. Mr. Speaker, parliamentary inquiry. When we had a previous objection——

The SPEAKER pro tempore. The gentleman will suspend. The gentleman from Texas was on his feet first.

Mr. DOGGETT. Mr. Speaker, under the rules of the House, if the gentleman or any of the other gentlemen of the majority wish to object to this chart, instead of continuing to interrupt our speakers who use it, the proper approach under the rules is to state an objection. Then we can have a vote on it in the House, and I raise a point of order against these continued obstructions of the orderly debate and ask them to state their objection, if that is what they want, and get a ruling from the Chair.

The SPEAKER pro tempore. The gentleman from Texas will suspend.

The Chair is prepared to rule. The Chair ruled in this case on the point of order that the chart was not in order because it was demeaning to another Member, the Speaker.

Mr. DOGGETT. You have ruled it is out of order? Are you directing us to remove it from the floor?

The SPEAKER pro tempore. That is correct.

Mr. DOGGETT. Then I ask for a vote on that.

Mr. Speaker, I appeal the ruling of the Chair. I appeal the ruling of the Chair that the chart of the front page of the Daily News is out of order.

Mr. KINGSTON. Mr. Speaker, I move to table the motion.

The SPEAKER pro tempore. The question, first, is, shall the decision of the Chair stand as the judgment of the House?

The gentleman from Georgia moves to lay the appeal on the table.

The question is on the motion to table offered by the gentleman from Georgia [Mr. KINGSTON].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. HOKE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. On that, I demand the yeas and nays.

The yeas and nays were ordered.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 231, nays 173, not voting 28, as follows:

[Roll No. 803]

YEAS—231

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—173

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell

Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Velazquez
Vento
Visclosky
Ward
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Wynn
Yates

NOT VOTING—28

Becerra
Clay
Collins (MI)
Condit
Cox
Crane
Dixon
Dornan
Fattah
Fields (LA)
Fields (TX)
Kennedy (MA)
Kleczka
Lofgren
McCrery
Porter
Riggs
Shadegg
Sisisky
Smith (NJ)
Spratt
Torres
Tucker
Volkmer
Waters
Weldon (PA)
Wilson
Wise

□ 1055

Mr. OBERSTAR and Mr. POSHARD changed their vote from "yea" to "nay".

So the motion to table the appeal of the ruling of the Chair was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. COLLINS of Michigan. Mr. Speaker, during rollcall vote No. 803 on tabling the appeal of the Chair, I was unavoidably detained. Had I been present, I would have voted "no".

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members will proceed at this point for four more 1-minute speeches on each side.

CUTE AND CLEVER SPEECHES

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, you know, the Democrats are being so clever today that it makes you think they borrowed some of that $40,000 Hazel O'Leary spent on a PR firm to come up with some good 1-minutes, and I congratulate them only for being cute and clever today, $133,000 a year, and they get their reading material from cartoons. They go to college, they graduate, they go to law school, and what do we get? We get tabloids and cartoons.

□ 1100

Mr. Speaker, I give my one-minute on this side of the aisle today, and although there are only a few yards difference between these lecterns, often there are miles and miles and huge canyons of philosophical distance.

I think it is important that we start talking bipartisanship. Last night, 48 of your Members joined 241 of our Members in saying we are going to put partisan sniping behind us. We are going to put the Federal employees who are out of work back to work. We are going to end the furloughs. We are going to reopen the Social Security services office, the Passport office. We are going to reopen the National Parks, and most of all, 48 of your Members in a bipartisan fashion said yes to balancing the budget in 7 years. In doing this, they did not sell out on welfare; they did not compromise on taxes.

Finally, Mr. Speaker, you all come over to our side; we will talk.

QUIT PLAYING GAMES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, yesterday, Speaker GINGRICH threw a tantrum and revealed the real reason he has shut down the Government—because the President did not pay enough attention to him on Air Force One. The Speaker's outburst at breakfast, gives new meaning to the phrase whine and dine.

Meanwhile, I got a call yesterday from a small businessman who told me that he will have to lay off employees because his business relies on contracts from the Department of Energy and Department of Defense that have not been paid.

Across the country, 56,000 seniors and workers have been denied Social Security benefits, 15,000 veterans have been unable to file compensation, pension and education benefit claims—all because the Speaker did not get his ego stroked on Air Force One.

The Speaker's massive ego gets bruised, so he puts people out of work and denies seniors and veterans their benefits. Mr. Speaker, quit whining, quit playing games with people's lives, and do your job.

THE STRATEGY OF THE LIBERALS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, the strategy of the liberals is very clear here. Let us distract the House. Let us focus on the real issues today. We want to get Government workers back to work. We want to see a balanced budget in 7 years. But I know it is going to be difficult with the Cabinet that the President has.

For example, Secretary O'Leary has been wasting money. According to the GAO, her agency has been ineffective. Then there was Vice President Gore's report that said she was inefficient. Then there was a first class travel, taking a large contingency. Then there was a private investigatory firm that was going to cost us $46,500 of taxpayer dollars, this year.

Well, now we find out she has also hired a media consultant at $277 a day, at taxpayers' expense, to improve her image. She spent $200,000 on this.

Mr. Speaker, it is time for Secretary O'Leary to resign. We need for her to do that just to balance the budget and get these Government workers back to work.

GINGRICH GOP THEME CHANGE

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, what we are seeing today is a Gingrich Republican theme change. A new tune. First of all, the Gingrich Republicans were indifferent and noncaring about the fact that the Government was closing down and that 2.3 million workers were being sent home. But today, that tact that theme of attaching to the necessary funding resolutions because the Republican Congress did not do their work in the first place, now attached to that was the death penalty, environmental problems, Medicare cuts, and other policy changes.

The fact is that now, of course, they are saying they have a clean resolution, a different theme but the fact is, it is just a shell and a pea game. Under this guise of these funding resolutions the Gingrich GOP are attempting to force the same kind of Medicare cuts, the tax breaks for their wealthy friends and the injection of special interests in this process.

The thing is, get your work done, present these policy questions honestly, do not try to cement these provisions and advantages in place to cut Medicare, and to cut education, and the other programs that are so important to American families.

The Gingrich Republican theme change is not going to work. The American people understand what is at the base of the goals no matter how you hide them and note the whining by the Speaker, because he was not treated right on Air Force One. The poll numbers speak for themselves, the American people are not with the Gingrich Republicans. You do not have the economics or the public opinion on your side. So let us pass a truly clean resolution and get on with the real work of this Congress and pass a just budget.

ELIMINATE THE DEPARTMENT OF COMMERCE

(Mr. CHRYSLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRYSLER. Mr. Speaker, there has been a lot of talk about essential and nonessential Federal employees. Many of my constituents are asking why the Federal Government hires employees who are not essential in the first place. I did not.

The Department of Commerce recently sent two-thirds of its employees home because they were deemed nonessential. My bill to dismantle the Commerce Department only eliminated one-third. I guess I did not go far enough, but that is because I am conservative and not extreme.

A recent survey by the Greater Detroit Chamber of Commerce in my home State of Michigan indicated 89 percent of the business leaders there support the dismantling of the department. Business Week magazine agreed by a 2-to-1 margin. When the Clinton administration, former Commerce Secretaries, Michigan business leaders, and the Nation's senior business executives all agree that most of the Department of Commerce is nonessential, then it is time to put the Department of Commerce out of business.

MEMBERS SHOULD NOT BE DENIGRATED

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS. Mr. Speaker, I count myself among the majority in the House who agree that none of us should denigrate any Member of this House, and I personally think that includes showing charts that denigrate Members of this House.

I thought it was therefore ironic when Speaker GINGRICH complained about his seat on Air Force One. We all understand, I believe, that the hallmark of his membership in this House has been verbal abuse, and the denigration of this President and Democratic-elected officials. NEWT GINGRICH has used these words about President Clinton, a previous Speaker of this House, or other Democrats: Sick, nuts, traders, corrupt, thugs. We all remember how he referred to the First Lady of the land. Frankly, NEWT GINGRICH is lucky to even get invited to ride on Air Force One.

GIFT BAN AND LOBBY DISCLOSURE

(Mr. SHAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAYS. Mr. Speaker, on another note, today we will be taking up Gift Ban and Lobby Disclosure, two bills that were passed by the Senate a number of months ago. My plea to this Chamber is that on a bipartisan basis we can pass both bills. I salute the Democrats for pushing these issues before the Chamber, and my Republican colleagues who want to move forward.

I encourage them to vote against the Burton amendment, which, in my view, is a gutting amendment, and will keep things basically the way they are. I encourage them to support the Senate proposal or even better, a total ban, as the Speaker has proposed. On lobby disclosure, we need no amendment to that bill; we can send it on to the President. I understand a number of my colleagues on the Democratic side want to send it to the President. I encourage a number on my side to oppose any amendment and finally get lobbyists to register.

STATUS REPORT NEEDED FROM COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

(Mr. PETERSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Florida. Today, Mr. Speaker, the gentleman from Florida [Mr. JOHNSTON] and I will introduce a privileged resolution calling for a report from the Committee on Standards of Official Conduct concerning the standing complaints against Speaker GINGRICH in that committee. Those complaints have been languishing in that committee for over 14 months. We have no intention to prejudice the outcome of the investigation, nor do we set a timetable for action. We only ask for a status report.

Mr. Speaker, it has been rumored that the majority leader will move to table this resolution today. We hope that we have a good debate on this issue and a vote on this resolution. I remind the Members of this House, the Committee on Standards of Official Conduct is our committee. It does not belong to the Speaker. They owe it to us to have a report as to the findings of their work.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2126, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 271 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 271

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2126) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The gentleman from Colorado [Mr. MCINNIS] is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purpose of debate only.

House Resolution 271 is a straightforward resolution. The proposed rule merely waives all points of order against the conference report and against its consideration. This resolution was reported out of the Committee on Rules by voice vote.

Mr. Speaker, members of this House often stand on the floor and debate whether various programs should be conducted by Federal, State, or even local government. However, Mr. Speaker, if there is one thing that the State governments cannot do, or one thing the local governments cannot do, that is to provide for the national defense, the national security, and the intelligence requirements of the United States of America. The Congress and the President, as Commander in Chief, alone have this obligation. I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support this rule. As every Member is fully aware, this is the second conference agreement on the Department of Defense appropriation. And, while not every Member will agree with every provision in this conference report, the conferees have attempted to address at least one of the major objections to the original report, that being the question of abortion.

Mr. Speaker, we are all well aware that the original conference report was defeated because of opposition from those Members who felt funding levels were too high, as well as those Members who opposed the provisions relating to the abortion. The conferees have modified the abortion language to only allow the procedure to be performed in military hospitals in the cases of rape, incest, and to save the life of the mother. This action has thus removed an objection voiced by at least some of the opponents of the original conference report. While I would have preferred that the conference report maintain its original language on this matter, I do support the conference report and I would urge all Members to do likewise.

The provisions of this report track closely those originally passed by the House and deserve our support. I do not have to tell any Member how important it is to pass this appropriations bill. And, I need not remind Members of our responsibility to act on each and every one of the remaining appropriations bills in order that the Federal Government might be funded for the fiscal year. In spite of the passage of a short-term continuing resolution by the House last night, which may very well be vetoed, we must continue to press forward to fulfill our constitutional responsibilities.

Mr. Speaker, Democrats want to solve this impasse. And I cannot deny that my Republican colleagues share that goal. We—Democrats and Republicans—can go a long way toward resolving this situation by passing this conference report this morning.

Mr. Speaker, I reserve the balance of my time.

☐ 1115

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I cannot believe what we are about to do in this House. Last night, amid much pontificating, this House told the American people that we were going to be committed to balancing the budget within 7 years. Today, as the very first legislative act after that promise, we are being asked to vote for an appropriation bill which adds $7 billion to the President's budget.

That money does not go to the troops. That money does not go to readiness. Because if we in fact take a look at what is happening in this bill on O&M, the major readiness account, it is actually lower than the President's for that account by half a billion dollars, once we deduct Coast Guard funding, which is really a transportation function, once we deduct the adjustment that was made on inflation in this bill but not made on the estimates in the President's budget, and that adjustment should have been made in both legislative vehicles, and once we deduct the contingency fund, $650 million.

This added money is put largely in 3 areas: One is in procurement; well, it is put in two areas largely, procurement and pork.

On procurement, this committee is insisting that we go ahead with the congressional demand to buy 40 B-2 bombers even though the Pentagon itself only wants 20. The cost of one of those bombers is about $1.2 billion. That would pay the undergraduate tuition for every single student at the University of Wisconsin for the next 11 years.

We are being asked to buy the F-22, years early, at a total cost eventually of $70 billion. And people say, oh, we need this, we need a strong defense. Well, of course we need a strong defense, but this chart demonstrates what has happened to our military budget versus Russia's since the Berlin Wall fell.

The red chart shows that the Russian military budget has dropped by about 70 percent. The United States military budget, by that same token, has dropped by about 10 percent. That is hardly reacting to reality.

People say, well, we have to worry about somebody besides Russia. Okay. Let us take every single threat that has been suggested to the United States, from Russia, from China, from Syria, Iraq, Iran, Libya, North Korea, that well-known military powerhouse, Cuba. Add all of the money together, and you know what? We still outspend them militarily by 2½ times. That does not count our NATO allies, and you know, the last time I looked, they were on our side.

So we are being asked to provide this huge bill, yet we are being asked to cut back on housing, cut back on education. We are being asked to squeeze the life's blood out of Social Security and Medicaid, knock hundreds of thousands of Americans out of health insurance because of Medicaid.

This is indeed where the rubber hits the road. Last night was a nice generic promise, but today you have an opportunity to demonstrate whether you were serious or whether you are going to blow a hole in that promise 1 day after you made it.

This country cannot afford to spend $7 billion more than President Clinton wants us to spend on the military budget, if it intends to get to a balanced budget in 7 years. If anybody believes you can do that, you are smoking something that ain't legal.

So I would urge you to recognize reality, recognize that if you are going to make the tough choices that were talked about last night, you might as well start now. You might as well start on this bill. We ought to vote this bill down and keep it down until we get a bill back that reflects the financial crisis which the House declared we were in last night.

I urge Members to vote against this bill. I have talked to the President's chief of staff, 15 minutes ago, and he has told me he is going to veto this bill. There is no sense sending this bill to him. It is a mission in futility. We cannot afford it. We should not be engaged in wasted motion. This bill is a dead duck, and it ought to be.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

I would suggest to the gentleman that just preceded me that to reduce the defense budget in the proportions that he is talking about means we are going to have to have fairly dramatic cuts in personnel. Obviously the largest expenditure in the defense budget is personnel. It is a little ironic to hear the gentleman on one night speaking about how the deficit is making Federal employees be furloughed and the next day suggesting huge cuts in personnel in the military budget.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I would like to correct a statement just made by the previous speaker. The fact is the President's budget does not contain any reductions in personnel. We are not asking for any reductions in personnel. We are asking for reductions in the F-22, the B-2, we are asking for reductions in procurement items. We are not asking for one dime in reduction in personnel.

You have said it—not you but people on your side have said it time and time again. It does not matter how many times you say it. You are wrong each time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield to the gentleman from Colorado.

Mr. McINNIS. I thank the gentleman from Massachusetts for yielding.

If the gentleman is going to get any kind of cuts proportionate to the comparisons on those charts that he is making with Russia, tell me how you are going to get those kinds of cuts by just cutting out the B-2 bomber. You cannot do it.

Mr. FRANK of Massachusetts. I yield to the gentleman from Wisconsin.

Mr. OBEY. What proportion is the gentleman talking about? I am not suggesting we cut our budget the same as Russia.

Mr. McINNIS. Why is the gentleman using the chart?

Mr. OBEY. I am using the chart to show that we can afford, given the fact that we spent 2½ times as much as our enemies, we can afford to hold the budget to the amount the President has asked for. That is $7 billion out of a more than $250 billion budget. That is hardly a big slasher.

Mr. FRANK of Massachusetts. Reclaiming my time, Mr. Speaker, this is a very important debate, because we have been told that we can balance the budget within 7 years and we should vote for that concept of a balanced budget within 7 years and then we can debate how to do it.

But if you pass this appropriations bill today with the excessive and unnecessary procurement that is in it, that the gentleman from Wisconsin has talked about, if you commit to the weapon systems he talked about in those numbers, then you are guaranteeing that if you balance the budget within 7 years, you will drastically reduce spending for a whole lot of areas.

We are in a zero sum game. We all agree that the budget is going to be balanced. There is some question about when. But this is partly why some of us have a problem with being told, "Well, just agree to a balanced budget in 7 years and then we can work it out."

If this appropriation passes, we are committed to a level of expenditure for weapon systems procurements in the tens of billions that will inevitably have to come out of other programs.

What we have is the worst case of cultural lag I have ever seen. For more than 50 years, the United States sensibly led the free world to defend against enemies who were powerful enough to deprive us of our freedom. Fortunately, today in the world, as the gentleman from Wisconsin has documented, we do not have any threat to our physical existence. Yes, it would be convenient to do this, it would be beneficial to do that, but there is a qualitative difference.

What we have here is the old cold war argument where our survival was at stake. Now we have had a transfer. We are not talking about survival. Indeed, people on the other side are opposed to many of the uses for the military. We have the paradox where people on the other side want to spend more and more on the military and use it less and less. I think there is reason to use it less and less.

My final point is this: This is the real foreign aid bill. More money is spent by U.S. taxpayers through this bill to subsidize the economies of other nations than in the foreign aid bill many times over, except that we do not have poor nations here. This is a subsidy to wealthy nations.

The military budgets of Japan and Germany and England and France and Denmark and Norway and the other wealthy nations are a fraction of what they should be. Yesterday's, Tuesday's New York Times has an article about a book which says one reason the rapidly increasingly prosperous Asian nations have done so well is that America has, for free, provided them with defense. So we subsidize their defense while they build up big trade surpluses. We continue, in this bill, the pattern of greatly excessive spending, not for America's military security but in part as a form of foreign aid to the wealthy nations of Europe and Asia.

As a consequence, if you pass this bill, you get into a situation where every dollar spent for the B-2 bomber, for unneeded weapons, weapons the Pentagon does not want, it is only logical it has to come out of medical care, out of education. It is why the Republicans are voting to raise the rents of older people in public housing, which is part of their legislative package.

If we adopt this conference report, we then make it very clear that a balanced budget will consist in substantial part of excessive spending on the military, subsidies to the budgets of Western Europe, subsidies to the budgets of our Asian trading partners. So we defend them, and in return we will make up for those subsidies by cutting medical care, cutting education, cutting housing. It is a very bad deal.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of the benefits of this job is the excitement that we get when we have the opportunity to engage in general debate. But I am a little curious. The gentleman from Massachusetts of course has the opportunity to vote "no" on the conference report, and the gentleman from Massachusetts is going to have an opportunity certainly to engage in bringing his points forward in general debate.

I would yield to the gentleman for an answer to the question: Do you have an objection to the rule passed on voice vote up in the Committee on Rules?

This is the rules debate. Do you have an objection, and the same with the gentleman from Wisconsin, to the specific rule?

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I would say two things.

First, I am debating now because we only have an hour on the overall bill, so I am glad to use the debate time.

But do I have an objection to the rule? In this sense, no rule, no bill. So I object to the rule because of the company it keeps, and if the rule is going to hang around with a bill like that, it is going to damage its reputation.

I would ask the gentleman from Colorado, who has the time, if he would yield to my friend from Wisconsin.

Mr. McINNIS. Mr. Speaker, I reclaim my time and yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I thank the gentleman for asking that question. The fact is that when this bill was before us originally, we had a time limit imposed that prevented us from raising many of the issues that we wanted to raise at that time. So the only time we have had an opportunity to raise these issues has been on the rule today. When we deal with the conference report shortly, we will only have about 20 minutes during which we can explain our concerns about the bill. So that is why we are taking the time on the rule to explain our concerns about the bill.

Mr. McINNIS. Reclaiming my time, the gentleman still has not answered the question: When the final tally comes, do you object to the rule?

I yield for a response to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I frankly accept the fact that the rule is going to pass. I am simply legitimately using the rule on the bill to discuss what is at stake. In my view what we ought to do is defeat the rule so that this bill can go back to committee and get fixed.

□ 1130

Mr. FROST Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in opposition to this bill. This rule obviously would not be necessary with an appropriation bill if we were following the proper procedure, but that seems to be sort of forgotten in the actions of this House in this session.

I rise in opposition to this because I think it is fundamentally a question of misplaced priorities in terms of this Congress and our budgets. The fact is that we do not need just smart weapons in this Nation in order to defend our national security. We need smart people. We need smart soldiers and sailors not just smart weapons.

Look what is happening in this budget. Look at what is happening. We are disinvesting in our total budget in people, in education programs. We are taking the House budget that was passed, removed $10 billion in the next 7 years from scholarships and assistance in terms of education at a time when, you know, the world of work is changing; the world of national security is changing.

What does this bill do? This bill tips the balance in terms of weapons systems. The weapons systems that have tentacles that stretch into every State in this Nation, all of us have employers and some jobs that are related to putting the weapon systems together. But who is going to run those systems?

Economists will tell you, if you want to make your national economy work, you need to have capital, you need to have research and you have to have investment in people. You have to have human resource.

What is happening in our military today is they basically have to take on this task of training themselves. What this bill does is cuts the operation and maintenance budget. You buy all sorts of new weapons systems. In order to keep them bill does is cuts the operation and maintenance budget you buy all sorts of new weapons systems. In order to keep them in the air, keep them functioning, you have to cannibalize those particular aircraft, those weapons systems, to keep them going because of shortfalls in operations and maintenance.

What do you do in terms of the maintenance for the systems. Then there is the question of operation. Who is going to operate them? We have to take up the training task, when we do not have recruits and individuals that have the ability to do the job we will have problems, in the security of this Nation.

So the fact is you shortchange by overloading the appropriation with more weapons systems and too little operations and maintenance. You are shortchanging the operations and maintenance. We all know we can end up buying an aircraft carrier, we can end up buying more B-2 bombers. Who is going to take care of them? They are not going to be readiness ready. They are not going to have a readiness factor in terms of being ready to serve the function in the field. It has been pointed out that in years past, the past 50 years, one could arguably State that we needed the high defense spending many nuclear weapons and other types of weapons systems. That argument, in light of what has happened in recent years, you cannot escape what is the demise of the cold war is not relevant, has occurred today.

These weapons systems are becoming obsolete as we go forward. We are setting a policy path to build more of them in a world environment where many of these sophisticated weapons systems, and I am pleased they will not be used, I hope they will not be used, we cannot use them, but it is a time in history where we need to call on others around the globe to start picking up their own responsibility in terms of their own national defense.

The weapons systems and sophisticated systems that have been under our control in the past are not applicable to many of the situations we have, whether in the former Yugoslavia, whether in North Africa, whether in many other place of conflict around the globe.

It is time, I think, to say "no," to say we do not want this continued American buildup and spendup. We need to bring this in line. We have to bring this in line, in other words, to get into the retrenchment and realignment—the downsizing of the U.S. military budgets.

Yesterday, in Minnesota, 3M Co., which headquarters is in my district, announced the fact they were going to eliminate 5,000 jobs from their company, many of them jobs in Minnesota, good jobs. The fact is that the U.S. military should be facing the same plight we have given them the time, we have given them the dollars.

If these dollars were being spent on a builddown, if they were being spent only on the base realignment and closing and actually moving forward in terms of building it down so we could have a soft landing for many of the people in the military, that would be one thing.

But that is not what this measure is doing. What you are doing is, you are shortchanging, you are shortchanging the operation and maintenance in these type of adjustment dollars that should be present. They have been stripped out of this bill. They are no longer there to help the communities that are impacted. The Nunn-Lugar program to take a part the former Soviet nuclear facilities isn't funded.

That is why I am rising today. You have abandoned that particular process in Russia and in terms of our American communities so that we can get to this with less pain and less risk.

We would like to work with you and help you, but this bill does not do it, and it deserves to be defeated today on this floor.

Mr. McINNIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. YOUNG], the chairman of the subcommittee.

Mr. YOUNG of Florida. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

I did not intend to be involved in the debate on the rule, because that is not what this debate is even about. This is a good rule, a bipartisan rule. We ought to just go ahead and expedite the rule and get to the conference report.

But I really cannot leave unchallenged the issue that we reduced readiness. That is just totally erroneous. We reduced some of the operations and maintenance accounts. That is correct. In fact, we reduced these particular accounts by about $1.7 billion.

Let me tell you where we reduced. Then I want to tell you where we added back for readiness. We reduced the technology reinvestment program. It may be a good program, but it should not necessarily be funded by the Department of Defense. That is one of the reductions that this previous speaker talked about.

We reduced consultants and research centers by $90 million. You know, they refer to them as Beltway Bandits sometimes. We cut that.

The Nunn-Lugar funding to convert Soviet, former Soviet, military industries, well, our understanding is that a lot of that conversion went to a new type of Russian military industry. So we took the money out of that.

The U.N. peacekeeping assessment, $65 million; we should pay our peacekeeping assessments, but it should not come out of this bill. It ought to come out of the State Department bill or it ought to come out of the foreign aid bill, but not the Defense bill.

Another large reduction, $129 million for travel, support aircraft operations. We made these reductions because of Members on that side of the aisle who asked us to do it, and we agreed to those amendments. So, yes, we did make those kinds of reductions.

What did we add back for real readiness and quality-of-life issues for our personnel? We added over $2 billion. The gentleman from Wisconsin [Mr. OBEY] does not like me to repeat this, but I will. We did provide money for the pay raise for the members of the military.

We added funds for housing allowances for members of the military.

We added $322 million to upgrade barracks facilities that are a tragedy. People who might have to go to war and risk their lives should not have to live like that.

We added $170 million for training shortfalls, training moneys that had been borrowed in advance for other contingency operations that had not been approved by Congress, incidentally.

We created a new initiative that even the President thinks is a good idea now, paying for the known contingency operations as we go, to deny access to the air of Saddam Hussein's air forces and to provide comfort for those non-Saddam supporters in Iraq.

We added $647 million for that because that contingency is ongoing, and we ought to pay for it as we go. We ought to be up front and be honest.

So the truth is, yes, we did reduce the operations and maintenance accounts on one hand but we increased them by adding real readiness and quality-of-life on the other hand, and I think that, as we discuss these issues, we really ought to be accurate, and I will do my very best and I know my colleague, the gentleman from Pennsylvania [Mr. MURTHA], will, to make sure the debate remains as accurate as possible.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, let me commend the chairman of the subcommittee and the ranking minority member for many, many good things in this piece of legislation.

But let me also say there are things in here which I find very troubling. We are in the midst of a budget deficit debate here which involves almost impossible choices of things that we have to cut. There are proposals from the Republican side of the aisle for deep cuts in the Medicare Program, deep cuts in programs providing health care for poor children, for elderly people in nursing homes, cuts in education programs, cuts in environmental programs. And here we have a bill where we are being asked to spend $7 billion more than the administration requested.

Let me focus on one particular item of expenditure, the B-2 bomber. The B-2 bomber was designed to fight the Soviet Union. The Soviet Union, as we knew it, no longer exists, and yet the contractor that builds the planes has enough political muscle in the House of

Representatives to force us to add in this bill 20 new B–2 bombers at a cost of $31 billion.

Let me tell you about the B–2 bomber. First, it does not work. This bomber, despite the money we have invested in it, its radar cannot tell the difference between a cloud and a mountain. Now, that is a very difficult problem facing a pilot when you cannot tell the difference.

Second, it costs too much, at least $1.5 billion to $2 billion per plane.

Third, we do not need it, since the Soviet Union is gone.

And, fourth, the Pentagon says they do not want it. But we are still pressing forward with this defense pork barrel for one contractor, $31 billion.

We have to make choices in politics. Let me tell you what I would do with the $31 billion. Personally, I would more than double the investment we make each year in the National Institutes of Health medical research. I honestly believe that families across America would feel much more secure at home knowing that we are spending money looking for a cure for cancer, looking for a cure for AIDS, fighting diseases which ravage families across America and around the world. That is a much more important investment than more B–2 bombers.

Second, I would make certain we do not make the education cut called for by the Gingrich Republicans. They want to cut college student loans by $10 billion while we are building these B–2 bombers. Kids from working families find it tough enough to afford college today. The Republicans are increasing the cost of that college education. Take the $10 billion they would cut, put it into college education.

And, finally, I would give full deductibility to self-employed people, I am talking about small businesses here and farmers, for their health insurance. More and more Americans are starting their own businesses, and that is good for our economy. The biggest single problem they face is the cost of health care. We allow big corporations to duck the full cost. Small companies should be allowed to.

You do those three things with the B–2 bomber money, and I think this country is better off.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

First of all, I think that the previous speaker points out that the President's budget that this conference report comes out above that, I think he should kind of paint the entire picture.

No. 1, this conference report is $746 million less than the House report. No. 2, nearly $400 million less than the bill that we passed a year ago.

Paint the entire picture.

Mr. Speaker, I yield 1¼ minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, the gentleman from Illinois and I have always gotten along. He is a good, robust debater. I like to think I am, too.

But we must be very careful on health issues not to give false hope to people across this country on the AIDS crisis that has now killed more young men in the prime of life than died in combat in World War II. There will never be a cure for the AIDS virus.

I called Dr. Tony Fauci, the head man up at National Institutes of Health. We have to get saying this correctly. We can only hope for a vaccine to keep the humano-immunodeficiency virus locked inside the T-cells for the rest of your life, but once that virus is inside that microscopic T-cell, it is never coming out.

Dr. Fauci himself has slipped over the years. I called him, and he apologizes. The word c-u-r-e can never be applied to the AIDS plague. We hope for a vaccine to extend peoples' lives.

Mr. McINNIS. If the gentleman will yield, may I ask the gentleman's position on the bill?

Mr. DORNAN. I am going to support this bill because of what the gentleman from Illinois missed is the importance of a balanced defense budget in harmony with domestic budgets. However, I will fight like hell for reportability on rape in the military. If a woman or a dependent is raped, how can any Senator tell me that when the Uniform Code of Military Justice is violated, you do not have to report who raped you for your trip home? Outrageous. Never again. This time, yes.

☐ 1145

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, with all this gray hair and 23 years on the Committee on National Security, let us talk about this budget. At a time when dollars are so precious, this thing is $7 billion more than the Joint Chiefs, the President, than anyone asked for; $7 billion more. It is more than the rest of the world is spending on defense. And what are we buying with it? We are buying all sorts of hardware, because those are the special interests with the most gravitas in this town, and that is wrong, at the time we are cutting student loans and cutting health research and cutting all sorts of things.

Now, one of the things that stands out of that whole list of add-ons that we are buying is the B–2 bomber. The B–2 bomber is the son of the B–1 bomber. I was here when Carter said no to the B–1 bomber, and then President Reagan moved in and turned that around and we built this whole fleet of B–1 bombers. Anyone seen them? Anyone seen them anywhere? No, no, no. Every time they take off, it seems they fall out of the sky. Actually, this last weekend we did see them. According to the paper, one B–1 bomber was used as a float on Fifth Avenue during the veterans parade. This has to be the most expensive parade float in the history of America.

Now we are going to add 20 more B–2's than anybody wanted into this budget, and make the American people pay for it. Will the American people feel more secure with their children in college, or having more B–2 bombers? Will the American people fell more secure with health care research funded, or more B–2 bombers? We could go on and on and on with those issues.

Are we really going to stand here and say we have to make tough decisions in every other area of the budget, and then add more to this budget, when we never did that even during the cold war? I never remember adding more to the defense budget than was asked for.

Please, one cannot be a fiscal conservative and vote for this bill.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that is somewhat of an exaggeration by the preceding speaker, that every time the aircraft take off, they fall out of the sky. I think that deserves a correction.

Mr. Speaker, I yield 1 minute to the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, if one looks at the last 24 hours on this floor, it is incredible. We are now advised the President has no intention of balancing the budget. But there is another aspect of that as well. He does not have a budget, he does not have a plan.

I compliment the committee for coming together with a solid approach to dealing with our defense needs; a plan that, despite the fact that defense has been cut 35 to 40 percent in the last 10 years, is stabilizing defense spending and in fact leveling it and decreasing it over the next 7 years.

But we are doing so in the context of a balanced budget. We are recognizing that, yes, there are limits. We cannot spend unlimited amounts of money on everything. We are going to set priorities and spend money where we need to spend it, on the most important issues that we have determined as a Congress.

I think an issue that also needs to be addressed here is that we are going to balance the budget, as remarkable as that may seem to the other side of the aisle.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, I believe very strongly in a strong national defense. I think this country ought to have a defense that allows us to protect all of the interests of the United States of America. I just think that when we look at the reality of what the world is today, we need to recognize that our defense budget this year, this year, before we add an extra $7 billion that the military really did not ask for into the defense budget, will outspend all of our NATO allies, all of the former Soviet States, all of the Eastern European countries, all of the former Soviet Union itself, all of China, all of both Koreas, all of Japan, and the entire Third World. If you put all of their defense budgets together, the United States will spend more.

I would think that maybe we could slide by on $270 or $280 billion a year. But, no, no, that is not good enough, because somehow the Republicans have come up with a notion that if they stand for a stronger national defense, no matter what the number the Democrats put up, as long as you put up a few billion dollars more, you can go out to the American public and say you are for a stronger national defense than the Democrats are for.

You pretend to try to balance the budget, when you know that if you look at the defense needs of this country, the military itself will tell you that the F–22 is not the airplane it needs. The B–2 bomber, we are going to spend money for an extra 20 B–2 bombers this year. Who are the B–2s going to go against? We are going to spend an extra $3.5 billion for star wars.

I am all for theater based national defense systems. We wanted to protect our troops when they go into battle, that is fine with me. I think we ought to do it. We ought to put the research money into making certain we have a good theater based defense system. But a space based star wars system? Nobody in their right mind, not even some of the most radical right-wing Republicans will tell you that star wars will work. It will cost trillions of dollars to defend ourselves against a threat that nobody believes is going to take place.

Why in God's name would anybody send a missile at the United States? They have to send a whole platoon of them in order to be effective. Why would they possibly do that? If they can put a bale of marijuana into a ship and bring it into New York harbor, why would they bother to put all these bombs on a missile? The truth of the matter is, that if we want to have a strong national defense, we ought to go out and build one. But we ought to build one in recognition of what the real threat to the United States is today.

What we are doing is we are spending billions and billions of dollars in national defense that we do not need to spend, and at the same time we are gutting and cutting and hurting the working class people of this country and the poor.

We are saying we do not have enough money for the Healthy Start Program, which deals with the fact we now have children in the United States of America that are dying at rates higher than in most Third World nations. We are willing to jack up the price of the Medicare premium, we are willing to go after the hot meals for senior citizens, we are willing to go after vulnerable people in this country and say we do not have enough money in the budget to help them. But we do have plenty of money in the budget to assist in building some of the most sophisticated weapons systems that this country does not need.

We ought to build a strong national defense, but we ought not to waste money on national defense that could in fact be making this country much stronger in the long run by investing in our most important resource, the American people.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I guess I need to make a couple points, particularly with some of the background that I have got with North Korea. I should advise the preceding speaker that if North Korea, for example, were to launch a nuclear weapon into Tokyo, or, as science progresses and they gain the ability, which they will gain within a very short period of time, to launch a nuclear weapon into the center of San Francisco, it will not take a "whole platoon" of missiles to be effective. The preceding speaker ought to be advised just one of those type of missiles anywhere could be very effective.

I would also like to advise the preceding speaker that when he talks about the working class, first of all, most people I know are in the working class. When I talk to them, they want a strong defense. I agree with the preceding speaker that we need some balance, but I think that some of the remarks are somewhat exaggerated by the speaker, especially in regards to the missile.

I am very curious, hearing the strong comments about this budget, to see just exactly where the preceding speaker thinks the money is going to come from for the deployment by the Democratic President for troops in Bosnia, putting ground troops into Bosnia? I would be interested to see how his vote comes down on the deployment by our President to put those troops in Bosnia.

Mr. Speaker, I yield 10 seconds to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, I would like to point out if our true concern is a single missile going from Korea into Japan, maybe if the gentleman wants to build up a strong Japanese national defense, why do not you ask the Japanese to pay for it, instead of what your budget does, which is to allow us to subsidize it?

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the key here is we are being absolutely ignorant, and in fact we are being malfeasant in office, if we refuse to acknowledge the fact that we have to prepare for defense against missiles. We lucked out, frankly, in Iraq and the Persian Gulf situation. We were able to stop some of those missiles. We need to improve that technology. It is going to happen again.

I might also add, the gentleman and I periodically see each other working out. I would add that the person working out who is in the best shape and who is the strongest person in the facility is the person who spends the most time on it.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the previous speaker mentioned the great investments that we have. We have a lot of great investments. The greatest investment that we make in our national defense are the young Americans, men and women, who wear the uniform, who train to defend this country or our national interests. And one reason that our defense costs are so high is we have an all-volunteer service. We do not have a draft or a conscripted army or military like the other nations that the gentleman is referring to.

In fact, of this $240 billion bill, half of it, nearly half, $120 billion-plus, goes to pay salaries, allowances, and medical care for those young Americans who are prepared at a moment's notice to be deployed wherever the President of the United States might choose to deploy them, and the salaries of the DOD civilian workforce.

So, yes, our costs are higher, because we do not have a draft. We have an all-volunteer military, and we ought not to make those people live like paupers. There are too many of them today who are married and have families that have to rely on food stamps to get by, and that is not right.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I agree with you wholeheartedly. I offered an amendment to try to deal with the fact that we have got too many of our military not being paid enough money. If these funds were dealing with that issue, I would be more than happy to vote for it. I am talking about the $7 billion additional funds that the military itself did not ask for that are put into this budget because of a lot of pork going back into Members' districts.

Mr. YOUNG of Florida. Mr. Speaker, reclaiming my time, when we get to the debate on the bill, we will be happy to address that very specifically. We ought to go ahead and get this rule passed so we can get to the real debate on what is right for the national defense.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just add that the previous speaker on my side of the aisle is absolutely correct. This debate right now is not the general debate on the military expenditures, and that is probably where the rest of this would be more appropriate. This debate is about the rule.

I would remind all of my colleagues in the House Chamber this rule was passed by voice vote in the Committee on Rules when we had a recorded vote on it. It is a conference report, but when the bill came up, it was passed by an overwhelming bipartisan majority. I think it is appropriate to move this on, get to a vote, and go into general debate.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, I just want to reiterate what the gentleman said about this rule. It should be a bipartisan rule. I hope it will pass quickly so that we can move on with the debate on the bill itself.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the rule, and I also will support the bill. I serve on the Committee on National Security. I think this is a good bill. It gives us a strong defense. I hope Members will support the rule and the bill.

Mr. McINNIS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

□ 1200

Mr. SOLOMON. Mr. Speaker, first of all, the reason I am at the Democratic podium is because I used to be over here, back when John F. Kennedy was a great President, and he stood up for America, and he supported a strong defense.

Mr. Speaker, I have been sitting here very patiently listening to this debate and getting ready for the other things we are going to be bringing up in the Commitee on Rules, such as the balanced budget bill and other things. However, I just heard my good friend, the gentleman from Wisconsin [Mr. OBEY], and the gentleman from Illinois [Mr. DURBIN], and others talking about how the Republican plan cuts all of these programs.

When I was debating the balanced budget earlier on as Chairman of the Committee on Rules, I insisted that all of the alternatives that were brought to the floor must bring about a balanced budget, and we told the Democrats that they would have to present one. We told ourselves, we told the President, and when we wrote a rule and brought these alternatives to the floor, all of them were balanced. What a change in concept over what had been happening over these last 40 years.

The Republican budget does balance the budget in 7 years, but as I look through it, I cannot find all of these cuts that everybody is talking about. When you talk about school lunch programs, when you talk about WIC, a very important program, when you talk about Head Start, all of them, I do not find cuts. I find increases in all of these programs. What I do find is that we have really cut the bureacucracy, we have really shrunk the power of the Federal Government and returned it to the States, and to the counties and the towns and the cities and villages and to the local school districts and to the private sector where it belongs.

In other words, getting rid of this huge Federal bureaucracy, that is where you will find the cuts in here, I say to my colleagues, the real cuts, not in programs for the needy.

Mr. Speaker, I heard somebody up here complaining because there was a B-2 bomber on display in a parade in New York City. Well, Mr. Speaker, I support that, because we need to promote pride and patriotism and volunteerism and the love of God. We need to really push those intangibles in this country. That is what Ronald Reagan did. That is what made him a great President.

Mr. Speaker, speaking of Ronald Reagan, I heard my good friend, the gentleman from Massachusetts [Mr. KENNEDY], who does not talk like John Kennedy did, complaining because there is $7 billion in this budget that the military did not ask for. Let me tell the gentleman why the military did not ask for it, because they were intimidated into not asking for it by the President of the United States, the President of the United States who, by his own admission, never had much use for our military. Of course, that, over the years, has always turned my stomach.

Mr. Speaker, you go back to why this country was formed over 200 years ago, and it was formed as a republic of States. It is not a democracy, as such, not a federalist government, it is a republic of States that were joined together, and read the preamble to the Constitution, for the purpose of providing a common defense for these States. For my State and your State. That is really why we are here. Yet this Government has grown so much over the years where we have 37,000 employees in the Department of Commerce, in a Department of Commerce which is no longer an advocate for business and industry, but is there to regulate business and industry.

We have a Department of Energy with 17,000 employees, and has it produced a quart of oil or a gallon of gas? Not in my State, it has not. We have a Department of Education with 6,000 to 7,000 employees. Has that improved education? No, it has not.

The problem with the Republican budget is it does not go far enough. Here is mine that is a 5-year balanced budget, and let me tell you, it cuts those things, the Department of Commerce, the Department of Education, the Department of Energy, but it protected the defense budget of this country.

Mr. Speaker, let me say to my colleagues what the budget bill does before you. Let me go back to 1979. Our military preparedness had reached such an all-time low that our military personnel, overseas, and even in this country, were on food stamps, and we were losing all of our qualified commissioned officers and noncommissioned officers. They could not afford to stay in our military.

Mr. Speaker, we changed all of that in 1981 with the election of Ronald Reagan, and we brought about a concept of peace through strength which rebuilt our military. No longer would we see what happened in 1979 when Jimmy Carter, in order to try to rescue some hostages out of Iran, had to cannibalize 14 helicopter gunships just to get 5 that would work and 3 of those failed, and so did the rescue attempt.

You turn that around and look what happened after we brought down the Iron Curtain and to what happened in the gulf war. Our military personnel went over there with the very best that we could give them. The night vision gear that our troops had that theirs did not allow us to see them. They could not see us, and the casualties were practically zero, because we gave them the very best.

Well, I say to my colleagues, do not think for a minute that the dangers are not out there. Somebody asked, why do we need a B-2 bomber? Well, if North Korea launches a missile into Japan, who is going to be there? We are the world leaders, we have to protect them.

If Iran or Iraq launches a missile into Israel, do you want Israel to pay for it? Just think about this, I say to my colleagues. If you want to preserve this republic of States, we have to provide for a strong military. This budget does. This budget before you gives 9 and 10 and 11 percent increases in readiness, in manpower so that we can keep the young men and women, these great young men and women, so talented, in our military today. It provides for research and development.

I would say to the gentleman from Florida [Mr. YOUNG] that I just admire the gentleman for what he has done there, for the procurements so that we can guarantee, should our troops have to go into Bosnia, 25,000 of them which will go there over my dead body, but should they have to go there, damn it, they better go there with the very best. That is what this bill does, and that is why I want everybody in this Chamber to come over here, and I want you to vote for this rule and vote for the bill, because you are going to be doing it for the young men and women that you will be voting some day to put in harm's way, and you've got to give them the best to do it.

Mr. McINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, speaking of women in the military, last week the new majority actually let the House of Representatives go a whole week without an overt attack on women's reproductive rights, but now they are back at it again. Today, the antichoice forces are hoping to score another victory by denying military women, women who happen to be stationed overseas, access to a safe and legal abortion in a military hospital, even when they will use their own money.

Military women defend our country with their lives. Now their lives will be in jeopardy when they are forced into Third World clinics and unsafe back alleys. Is that what you would want for your daughters? Is that what you would want for your granddaughters? Another day in Washington, another attack on Roe versus Wade. Stand up for military women, for their constitutional right to choose. Vote no on this rule.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am amazed by this testimony. I yield 30 seconds to the gentleman from Florida [Mr. YOUNG], and ask the gentlewoman from California [Ms. WOOLSEY] to stay on the floor.

Mr. YOUNG of Florida. Mr. Speaker, yesterday we passed a Treasury-Postal conference report on the appropriations bill, and the language that the gentlewoman objects to today was the identical language that was in that bill yesterday, which she voted for. I just think that consistency does have some value.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume, simply to say that I agree with the gentleman from Florida, that if one is going to vote one way and talk another way the next day, that is not very consistent.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, yesterday, rather than not vote for a bill that was good in general, I was able to vote against my conscience for women. I did not like doing it; I did it. I do not want to do it again, and I hope the rest of the Congress will not either.

Mr. McINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, I rise to say that I am going to vote for the rule, because I believe that there has been a very favorable compromise on that. However, I am going to take this time to say that this bill is not the right bill for America, because this bill does not do what we think it does.

Mr. Speaker, I believe in readiness, military readiness, I believe in supporting the military personnel, but I do not believe in excess and waste. If this House voted last night for a 7-year balanced budget, it is important to tell the American people that this bill is $8 billion more than the Defense Department needs and $8 billion more than they requested.

If there is anything that I hear when I go home, the question becomes, why are we spending money for the defense of Germany and Japan and many other places? Not because we are not their allies and friends and would not rise with them in a time of real need—not peace time—but the reason why their budgets can be so low is because we are bolstering their defense, and it is certainly pursuant to our historical relationship during World War II.

Mr. Speaker, we are finished with World War II, and have since finished with the Korean war. So I ask my colleagues on this bill, it is important to be prepared, it is important to have the support of military personnel that are well trained. We saw that in Bosnia with the U.S. Captain who was shot down and his acknowledgement of the good training that the military gave him, and I will support that. But not $8 billion extra in trinkets that are not needed.

So I think it is important that we defeat the bill, because we are not doing what we said we would like to do, and that is to balance the budget. We are taking it out of education, we are forcing 1 million of our children and making sure they cannot eat because of the proposed mean welfare reform package. We are taking money from Medicare and Medicaid, and we are not dealing with a reasonable defense program.

Mr. Speaker, listen to the thorough work of the Defense Department. I think they make a lot of sense. They know how to get us ready for war, if necessary. They told us they did not need this extra $8 billion. Let us get some common sense. Let us defeat this bill when it comes to the floor.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to compliment the gentlewoman from Texas, because she has distinguished correctly the difference between this debate and the next debate. She did state that she was going to support the rule, and that is what this debate is about.

As we are nearing the vote, I would urge Members to remember that this is on the rule. We are going to have the general debate in a few minutes.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker and my colleagues, I think it is important that we pass this rule, and we pass it by a large margin. Let me say why.

Mr. Speaker, we just heard the previous speaker say that we should take the advice of the military on the spending issues. Under the Constitution, the most important role of this Congress is to provide for our national defense, to provide for our security. We do not need a Congress if we let these decisions be made by our Department of Defense.

Let me tell my colleagues why we are making these decisions. Just look at the experience we had with Iraq. If they were launching Scud-type missiles with intercontinental ballistic capability at the United States, there would be a whole different theme here today. If we took into consideration the situation with Iran that has bought dozens of submarines. If we took into consideration the dismantling of the former Soviet Union and the largesse arms sales of not just weapons, but weapons systems.

If we look at the policies of this administration who are now talking about selling intercontinental missile parts from the former Soviet Union, republics, on the world market, then we see that this Congress has a responsibility to make those decisions, and if we just remember the experience of the Gulf war when our friends would not even let us fly over their areas or their territories, we see the importance of a B–2 bomber, a B–2 bomber which is going to replace dozens of men and women who would be put at risk who are flying planes that are older than the pilots. We make those decisions. That is the purpose of this Congress, not to listen to people in the Department of Defense or people who want to spend money on other programs that do not provide for national security.

So this is our most important responsibility under the Constitution. That is why this rule is important, and that is why we must pass it by a large margin and send a message to the White House.

Mr. FROST. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, there are differences of opinion on this side of the aisle. Some of our Members are for this conference report, others are not. I urge a yes vote on the rule, and I personally urge a yes vote on the conference report, and I yield back the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Again, the rule was passed by voice vote. We have just heard the comments from the gentleman, and of course, the ranking member on the Committee on Rules. I would urge my colleagues to vote for the rule. We can move right in, get past that, and get into a very healthy general debate.

Mr. Speaker, I yield back the balance of my time and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 372, nays 55, not voting 5, as follows:

[Roll No. 804]

YEAS—372

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Maloney
Manton
Manzullo
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—55

Barrett (WI)
Becerra
Collins (IL)
Conyers
DeFazio
Dellums
Deutsch
Durbin
Evans
Fattah
Fazio
Filner
Frank (MA)
Furse
Gutierrez
Johnston
Lofgren
Lowey
Luther
Markey
Martinez
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Rangel
Roybal-Allard
Rush
Sanders
Schroeder
Stark
Studds
Thurman
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Yates

NOT VOTING—5

Fields (LA)
Moran
Pombo
Tucker
Volkmer

☐ 1236

Mr. HILLIARD AND Mr. PALLONE changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the further conference report on the bill H.R. 2126 and that I may include extraneous and tabular matter.

The SPEAKER pro tempore (Mr. CHAMBLISS). Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON H.R. 2126, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. YOUNG of Florida. Mr. Speaker, pursuant to House Resolution 271, I call up the conference report on the bill (H.R. 2126), making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 271, the further conference report is considered as having been read.

(For further conference report and statement, see proceedings of the House of November 15, 1995, at page H12415.)

The SPEAKER pro tempore. The gentleman from Florida [Mr. YOUNG] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 30 minutes.

Mr. OBEY. Mr. Speaker, it is my understanding the gentleman from Pennsylvania is not opposed to the further conference report. If that is the case, then I would ask, under clause 2 of rule XXVIII, to control one-third of the time.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania oppose the further conference report?

Mr. MURTHA. Mr. Speaker, no, I support the bill.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] will be recognized for one-third of the time.

Mr. OBEY. I thank the Chair.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are presenting a good national defense appropriations bill today. I would say that it did not come easy. It is the work product of a lot of hours on the part of a lot of very serious and credible Members of this Congress in making this bill come together.

We had some 1,700 differences between our bill and the bill passed by the other body, and we were able to resolve all of those without too much difficulty, with one exception that I will mention in just a minute.

But I want to call attention to the members of the subcommittee who worked so diligently in making this possible today. I will mention the gentleman from Pennsylvania [Mr. MCDADE], the chairman of the Committee on Appropriations, the gentleman from Louisiana [Mr. LIVINSGTON], the gentleman from California [Mr. LEWIS], the gentleman from New Mexico [Mr. SKEEN], the gentleman from Ohio [Mr. HOBSON], the gentleman from Texas [Mr. BONILLA], the gentleman from Washington [Mr. NETHERCUTT], the gentleman from Oklahoma [Mr. ISTOOK], and the very distinguished ranking member and former chairman of this subcommittee, who has been a tremendous partner in a bipartisan effort all the way through, the gentleman from Pennsylvania [Mr. MURTHA], and the gentleman from Washington [Mr. DICKS], the gentleman from Texas [Mr. WILSON], the gentleman from North Carolina [Mr. HEFNER], the gentleman from Minnesota [Mr. SABO], and the gentleman from Wisconsin [Mr. OBEY], as the ranking member on the full committee who serves ex-officio on our subcommittee.

We had a lot of difficult decisions to make, and we did that, and to be as brief as I can, Mr. Speaker, this bill, this conference report, is very much similar to the conference report we presented about 7 weeks ago.

But there are two differences I would like to call to your attention. One is the Army is having difficulty meeting the end strength that was directed to them, and if we did not provide the additional money for the Army end strength issue, they would have had to release members of the Army without advanced notice and just put them on the street. So we provided the funding necessary to have the Army meet its end strength targets gradually. We did not add any new money to the bill. We just took the money out of one account and put it into the other account. So we took care of that problem for today.

The big issue and the one that caused us difficulty on the floor the last time this bill was before us was the language dealing with abortion. Now yesterday, when the Treasury-Postal appropriations bill was adopted, it included certain language dealing with abortion. After that passed the House, we went back to our conference and adopted the identical language, and so the language dealing with abortion in this conference report today is the same as it was.

That language, Mr. Speaker, in this conference report today, is identical to that which we passed yesterday on a vote of 374 to 52, and so we believe that the major controversies have been resolved now and we can move expeditiously to deal with this bill.

I might say just briefly, Mr. Speaker, that this has been a bipartisan effort. This legislation provides funding for the defense of our Nation and our national interests. Almost half the money in this bill goes to pay the salaries and the allowances, housing, medical care, et cetera, for those who serve in our military in uniform who are trained and prepared to defend this Nation's interests wherever they might be.

Today, while the world looks at Bosnia and is wondering what is going to happen, the President of the United States has suggested that he intends to send some 20,000 Americans to Bosnia. Those young people need to be taken care of properly, and nearly half of the money in this bill goes to pay their salaries, their housing allowances, medical care, and things of this nature. This has always been a bipartisan effort to provide for national defense.

☐ 1245

It is a little unfortunate that this effort has been allowed to become embroiled in the larger issues of the budget reconciliation, the budget bills, the continuing resolutions. It does not really belong there, because defense properly should be strictly nonpolitical, it should be bipartisan in nature.

The bill we present today is just that. It is nonpolitical, it is bipartisan, and it addresses the needs, as we see it, that our national defense establishment needs to be prepared for whatever contingency there might be.

At this point I would like to submit for the RECORD tables summarizing the conference agreement.

H.R. 2126 - DEPARTMENT OF DEFENSE APPROPRIATIONS, 1996

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I						
MILITARY PERSONNEL						
Military Personnel, Army	20,870,470,000	19,721,408,000	19,884,608,000	19,776,587,000	19,946,187,000	-924,283,000
Military Personnel, Navy	17,752,237,000	16,930,609,000	17,006,383,000	16,979,209,000	17,008,563,000	-743,674,000
Military Personnel, Marine Corps	5,800,071,000	5,677,740,000	5,828,340,000	5,886,540,000	5,885,740,000	+85,669,000
Military Personnel, Air Force	17,388,579,000	17,108,120,000	17,294,820,000	17,156,443,000	17,207,743,000	-180,836,000
Reserve Personnel, Army	2,168,120,000	2,101,366,000	2,122,566,000	2,102,466,000	2,122,466,000	-45,654,000
Reserve Personnel, Navy	1,411,409,000	1,348,223,000	1,350,623,000	1,348,323,000	1,355,523,000	-55,886,000
Reserve Personnel, Marine Corps	350,048,000	361,751,000	368,101,000	364,861,000	378,151,000	+28,103,000
Reserve Personnel, Air Force	771,634,000	782,761,000	783,586,000	783,861,000	784,586,000	+12,952,000
National Guard Personnel, Army	3,350,505,000	3,218,258,000	3,240,856,000	3,222,422,000	3,242,422,000	-108,083,000
National Guard Personnel, Air Force	1,238,429,000	1,246,427,000	1,254,827,000	1,259,627,000	1,259,627,000	+21,198,000
Total, title I, Military Personnel	71,101,502,000	68,496,663,000	69,231,892,000	68,881,029,000	69,191,008,000	-1,910,494,000
TITLE II						
OPERATION AND MAINTENANCE						
Operation and Maintenance, Army	18,443,688,000	18,134,736,000	18,898,131,000	17,947,229,000	18,321,965,000	-121,723,000
(By transfer - National Defense Stockpile & DBOF)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	
Operation and Maintenance, Navy	21,476,170,000	21,175,710,000	20,846,710,000	21,195,301,000	21,279,425,000	-196,745,000
(By transfer - National Defense Stockpile & DBOF)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	
Operation and Maintenance, Marine Corps	2,021,715,000	2,269,722,000	2,506,822,000	2,341,737,000	2,392,522,000	+370,807,000
Operation and Maintenance, Air Force	19,613,927,000	18,206,897,000	18,873,793,000	18,202,437,000	18,561,267,000	-1,052,660,000
(By transfer - Aircraft Procurement, Air Force 1995/1997)	(23,500,000)					(-23,500,000)
(By transfer - National Defense Stockpile & DBOF)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	
Operation and Maintenance, Defense-Wide	10,477,504,000	10,366,782,000	9,908,810,000	9,804,066,000	10,388,595,000	-88,909,000
Operation and Maintenance, Army Reserve	1,237,009,000	1,068,391,000	1,119,191,000	1,068,312,000	1,119,191,000	-117,818,000
Operation and Maintenance, Navy Reserve	846,619,000	826,042,000	841,565,000	826,042,000	859,542,000	+12,923,000
Operation and Maintenance, Marine Corps Reserve	81,862,000	90,283,000	102,079,000	90,283,000	100,283,000	+18,421,000
Operation and Maintenance, Air Force Reserve	1,471,505,000	1,485,947,000	1,518,287,000	1,495,947,000	1,519,287,000	+47,782,000
Operation and Maintenance, Army National Guard	2,424,888,000	2,304,108,000	2,334,487,000	2,381,708,000	2,440,808,000	+15,920,000
Operation and Maintenance, Air National Guard	2,772,928,000	2,712,221,000	2,737,221,000	2,724,021,000	2,776,121,000	+3,193,000
National Board for the Promotion of Rifle Practice, Army	2,544,000					-2,544,000
Court of Military Appeals, Defense	6,126,000	6,521,000	6,521,000	6,521,000	6,521,000	+395,000
Environmental Restoration, Defense	1,480,200,000	1,622,200,000	1,422,200,000	1,487,000,000	1,422,200,000	-58,000,000
Summer Olympics	14,400,000	15,000,000	15,000,000	15,000,000	15,000,000	+600,000
Special Olympics	3,000,000					-3,000,000
Humanitarian Assistance	65,000,000	79,790,000		60,000,000		-65,000,000
Former Soviet Union threat reduction	380,000,000	371,000,000	200,000,000	325,000,000	300,000,000	-80,000,000
Contributions for International Peacekeeping and Peace Enforcement Activities Fund		65,000,000				
Overseas Humanitarian, Disaster, and Civic Aid			50,000,000		50,000,000	+50,000,000
Total, title II, Operation and maintenance	82,819,085,000	80,800,250,000	81,483,817,000	79,940,806,000	81,552,727,000	-1,266,358,000
(By transfer)	(173,500,000)	(150,000,000)	(150,000,000)	(150,000,000)	(150,000,000)	(-23,500,000)
TITLE III						
PROCUREMENT						
Aircraft Procurement, Army	1,028,753,000	1,223,067,000	1,468,067,000	1,498,623,000	1,558,805,000	+530,052,000
Missile Procurement, Army	813,795,000	676,430,000	842,830,000	846,555,000	865,555,000	+51,760,000
Procurement of Weapons and Tracked Combat Vehicles, Army	1,151,914,000	1,296,966,000	1,618,864,000	1,396,264,000	1,652,745,000	+500,831,000
Procurement of Ammunition, Army	1,125,321,000	795,015,000	1,019,315,000	1,090,891,000	1,110,685,000	-14,636,000
Other Procurement, Army	2,649,348,000	2,256,601,000	2,570,125,000	2,760,002,000	2,769,443,000	+120,095,000
Aircraft Procurement, Navy	4,627,645,000	3,886,488,000	4,310,703,000	4,897,393,000	4,589,394,000	-38,251,000
Weapons Procurement, Navy	2,159,080,000	1,787,121,000	1,736,211,000	1,771,421,000	1,669,827,000	-489,253,000
Procurement of Ammunition, Navy and Marine Corps	417,779,000		463,779,000		430,053,000	+12,274,000
Shipbuilding and Conversion, Navy	5,412,464,000	5,061,936,000	5,577,958,000	7,082,001,000	6,643,958,000	+1,231,494,000
(By transfer)	(1,200,000,000)					(-1,200,000,000)
Other Procurement, Navy	3,329,171,000	2,369,080,000	2,460,870,000	2,394,260,000	2,483,581,000	-845,590,000
Procurement, Marine Corps	422,410,000	474,116,000	480,862,000	597,139,000	458,947,000	+36,537,000
Aircraft Procurement, Air Force	6,352,462,000	6,183,869,000	7,140,703,000	7,163,258,000	7,367,983,000	+1,015,521,000
(Transfer to O & M, Air Force)	(-23,500,000)					(+23,500,000)
Missile Procurement, Air Force	3,660,762,000	3,947,711,000	3,223,285,000	3,550,192,000	2,843,931,000	-816,831,000
Procurement of Ammunition, Air Force	288,401,000		321,328,000		338,800,000	+50,399,000
Other Procurement, Air Force	6,959,101,000	6,804,686,000	6,508,425,000	6,540,951,000	6,284,230,000	-674,871,000
Procurement, Defense-Wide	2,058,230,000	2,179,917,000	2,187,085,000	2,114,824,000	2,124,378,000	+66,148,000
National Guard and Reserve Equipment	770,000,000		908,125,000	777,000,000	777,000,000	+7,000,000
Total, title III, Procurement	43,124,836,000	38,882,048,000	42,876,405,000	44,460,774,000	44,069,316,000	+944,480,000
(By transfer)	(1,176,500,000)					(-1,176,500,000)
TITLE IV						
RESEARCH, DEVELOPMENT, TEST AND EVALUATION						
Research, Development, Test and Evaluation, Army	5,478,413,000	4,444,175,000	4,742,150,000	4,839,131,000	4,870,684,000	-607,729,000
Research, Development, Test and Evaluation, Navy	8,727,368,000	8,204,530,000	8,715,461,000	8,282,051,000	8,748,132,000	+20,764,000
Research, Development, Test and Evaluation, Air Force	12,011,372,000	12,598,438,000	13,110,335,000	13,087,369,000	13,126,558,000	+1,115,186,000
Research, Development, Test and Evaluation, Defense-Wide	8,662,942,000	8,802,881,000	9,028,868,000	9,188,784,000	9,411,057,000	+748,115,000

H.R. 2126 - DEPARTMENT OF DEFENSE APPROPRIATIONS, 1996

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Developmental Test and Evaluation, Defense	238,003,000	259,341,000	259,341,000	246,082,000	251,082,000	+13,079,000
Operational Test and Evaluation, Defense	12,501,000	22,587,000	22,587,000	22,587,000	22,587,000	+10,086,000
Total, title IV, Research, Development, Test and Evaluation	35,130,599,000	34,331,963,000	35,879,560,000	35,474,024,000	36,430,109,000	+1,299,510,000
TITLE V						
REVOLVING AND MANAGEMENT FUNDS						
Defense business operations fund	945,238,000	878,700,000	1,573,800,000	1,178,700,000	878,700,000	-66,538,000
National Defense Sealift Fund	724,400,000	974,220,000	974,220,000	1,024,220,000	1,024,220,000	+299,820,000
(Transfer out, prior year funds - SCN)	(-1,200,000,000)					(+1,200,000,000)
Total, title V, Revolving and Management Funds	1,669,638,000	1,852,920,000	2,548,020,000	2,202,920,000	1,902,920,000	+233,282,000
TITLE VI						
OTHER DEPARTMENT OF DEFENSE PROGRAMS						
Defense health program:						
Operation and maintenance	9,614,370,000	9,865,525,000	9,917,125,000	9,908,525,000	9,938,325,000	+323,955,000
Procurement	329,589,000	288,033,000	288,033,000	288,033,000	288,033,000	-41,556,000
Total, Defense Health Program	9,943,959,000	10,153,558,000	10,205,158,000	10,196,558,000	10,226,358,000	+282,399,000
Chemical Agents & Munitions Destruction, Defense: 1/						
Operation and maintenance	355,784,000	393,850,000	393,850,000	353,850,000	353,850,000	-1,934,000
Procurement	198,965,000	299,448,000	299,448,000	224,448,000	265,000,000	+66,035,000
Research, development, test, and evaluation	20,700,000	53,400,000	53,400,000	53,400,000	53,400,000	+32,700,000
Total, Chemical Agents	575,449,000	746,698,000	746,698,000	631,698,000	672,250,000	+96,801,000
Drug Interdiction Defense	721,266,000	680,432,000	688,432,000	680,432,000	688,432,000	-32,834,000
Office of the Inspector General	140,872,000	139,226,000	178,226,000	139,226,000	178,226,000	+37,354,000
Total, title VI, Other Department of Defense Programs	11,381,546,000	11,719,914,000	11,818,514,000	11,847,914,000	11,765,266,000	+383,720,000
TITLE VII						
RELATED AGENCIES						
Central Intelligence Agency Retirement and Disability System Fund	198,000,000	213,900,000	213,900,000	213,900,000	213,900,000	+15,900,000
Community Management Account	92,684,000	93,283,000	75,683,000	98,283,000	90,683,000	-2,001,000
National Security Education Trust Fund	8,500,000	15,000,000		7,500,000	7,500,000	-1,000,000
Total funding available	(-75,000,000)		(-78,100,000)			(+75,000,000)
Rescission			-12,279,000			
Kaho'olawe Island conveyance and Environmental Restoration Trust Fund	50,000,000			25,000,000	25,000,000	-25,000,000
Total, title VII, Related agencies	349,184,000	322,183,000	277,304,000	344,683,000	337,083,000	-12,101,000
TITLE VIII						
GENERAL PROVISIONS						
Additional transfer authority (Sec. 8005)	(2,000,000,000)	(2,000,000,000)	(2,000,000,000)	(2,400,000,000)	(2,400,000,000)	(+400,000,000)
FFRDCs labs (Sec. 8046)	-520,589,000		-90,097,000	-90,000,000	-90,000,000	+430,589,000
Overseas Military Fac. Invest. Recovery	7,086,000					-7,086,000
Guard and Reserve "Overbilling"	67,000,000					-67,000,000
National Science Center, Army (Sec. 8074)	45,000	85,000	85,000	85,000	85,000	+40,000
Sports account, reappropriation	800,000					-800,000
Civil-Mil coop program	8,000,000					-8,000,000
Rongelap Resettlement Trust Fund	5,000,000					-5,000,000
Coast Guard	39,497,000		44,000,000			-39,497,000
Mil retirement fund (COLA accel)	376,000,000					-376,000,000
Defense conversion SMOCTA reapprop	10,000,000					-10,000,000
Phila Naval Shipyard Utility Reconfig Proj	14,200,000					-14,200,000
Contr to International Organizations	-4,561,000					+4,561,000
Payments to the Asia Foundation	5,000,000					-5,000,000
Procurement (rescission)	-304,900,000					+304,900,000
Aircraft procurement, Navy (resc)	-200,000,000					+200,000,000
Burdensharing contribution, misc. receipts	-360,000,000					+360,000,000
Contractor ADP (Sec. 8101)			-30,000,000		-30,000,000	-30,000,000
Transfer of funds (Sec. 8118)			(200,000,000)			
Military Technicans				96,050,000		
Rescissions (Sec. 8083)				-232,244,000	-561,217,000	-561,217,000
Inflation Reestimate (Sec. 8125)					-832,000,000	-832,000,000
Management efficiencies (Sec. 8129)					-442,000,000	-442,000,000
VCX lease termination costs (Sec. 8126)						
Total, title VIII	-857,422,000	85,000	-76,012,000	-226,109,000	-1,955,132,000	-1,097,710,000

H.R. 2126 - DEPARTMENT OF DEFENSE APPROPRIATIONS, 1996

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE IX						
MANAGEMENT FUNDS						
Emergency Response Fund, FY94 supplemental	299,300,000					-299,300,000
Grand total	245,018,068,000	236,386,017,000	244,039,500,000	242,725,841,000	243,293,297,000	-1,724,771,000
BUDGET SCOREKEEPING ADJUSTMENTS						
Fiscal year 1995 adjustments:						
Disposal & lease of DOD real property (Sec. 8066)	8,000,000	8,000,000	8,000,000	8,000,000	8,000,000	
Adjustment for unapprop'd balance transfer (Stockpile)	150,000,000					-150,000,000
Stockpile collections (unappropriated)	-150,000,000					+150,000,000
Emergency Response Fund, FY94 supplemental	-299,300,000					+299,300,000
Rescission of unobligated balances:						
Procurement 1993/1994	-517,000,000					+517,000,000
RDT&E, 1994	-131,600,000					+131,600,000
Sec. 115 of P.L. 104-6:						
Missile procurement, Air Force	(-76,900,000)					(+76,900,000)
RDT&E, Air Force	(76,900,000)					(-76,900,000)
Emergency funding, FY95 supplemental	-2,475,097,000					+2,475,097,000
Burdensharing contribution, misc. receipts		-50,000,000	-50,000,000	-50,000,000	-50,000,000	-50,000,000
Travel and administrative reduction (H.R. 1944)	-50,000,000					+50,000,000
Total adjustments	-3,464,997,000	-42,000,000	-42,000,000	-42,000,000	-42,000,000	+3,422,997,000
RECAPITULATION						
Title I - Military Personnel	71,101,502,000	68,896,663,000	69,231,692,000	68,881,029,000	69,191,006,000	-1,910,494,000
Title II - Operation and Maintenance	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-1,266,558,000
Title III - Procurement	43,124,636,000	38,662,049,000	42,878,405,000	44,460,774,000	44,069,316,000	+944,680,000
Title IV - Research, Development, Test and Evaluation	35,130,599,000	34,331,953,000	35,679,560,000	35,474,024,000	36,430,109,000	+1,299,510,000
Title V - Revolving and Management Funds	1,669,638,000	1,852,920,000	2,548,020,000	2,202,920,000	1,902,920,000	+233,282,000
Title VI - Other Department of Defense Programs	11,381,546,000	11,719,914,000	11,816,514,000	11,647,914,000	11,765,266,000	+383,720,000
Title VII - Related agencies	349,184,000	322,183,000	277,304,000	344,883,000	337,063,000	-12,101,000
Title VIII - General provisions	-857,422,000	86,000	-78,012,000	-226,109,000	-1,955,132,000	-1,097,710,000
(Additional transfer authority)	(2,000,000,000)	(2,000,000,000)	(2,000,000,000)	(2,400,000,000)	(2,400,000,000)	(+400,000,000)
Title IX - Management Funds	299,300,000					-299,300,000
Total, Department of Defense	245,018,068,000	236,386,017,000	244,039,500,000	242,725,841,000	243,293,297,000	-1,724,771,000
Scorekeeping adjustments	-3,464,997,000	-42,000,000	-42,000,000	-42,000,000	-42,000,000	+3,422,997,000
Grand total	241,553,071,000	236,344,017,000	243,997,500,000	242,683,841,000	243,251,297,000	+1,698,226,000
Allocation recap (sec. 602b):						
Mandatory	198,000,000	213,900,000	213,900,000	213,900,000	213,900,000	+15,900,000
Discretionary:						
Non-defense	381,439,000					-381,439,000
Defense	240,973,632,000	236,130,117,000	243,783,600,000	242,469,941,000	243,037,397,000	+2,063,765,000
Total discretionary	241,355,071,000	236,130,117,000	243,783,600,000	242,469,941,000	243,037,397,000	+1,682,326,000
Grand total	241,553,071,000	236,344,017,000	243,997,500,000	242,683,841,000	243,251,297,000	+1,698,226,000

1/ Included in budget under Procurement title.

2/ FY 1995 Enacted includes Supplemental P.L. 104-6 (+$2,709,997,000 in new BA and -$2,259,956,000 in Rescissions).

3/ FY 1995 Enacted includes Rescissions P.L. 104-19 of -$50,000,000 in BA and -$37,500,000 in outlays for Travel reductions.

Mr. YOUNG of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, as I said in debate on the rule about an hour ago, last night this House voted to promise to the American people that we would have a balanced budget within 7 years. Yet today this bill is coming before us $7 billion above the budget request of the Pentagon and the President. We are being required this year to reduce domestic discretionary spending by $24 billion. This bill is $1.7 billion above last year.

Because of the size of this bill and because this is a zero sum game on the appropriations side of the budget, what that means is that the reductions in domestic programs—for things like education, job training, housing, research—those reductions are 50 percent larger than they would have to be if we did not have this budget $7 billion above the President and $1.7 billion above last year.

Now, as I said earlier, the money in this bill above the President's budget did not go into readiness, it did not go into operation and maintenance. It went into procurement, and it went into pork: the double P's.

This chart, as I mentioned before, demonstrates what has happened to the Russian military budget since the Berlin Wall came down. The red bars demonstrate that the Russian military budget has declined by 70 percent since 1989. The U.S. military budget has declined by 10 percent.

Do I think we ought to cut our budget to the level of Russia? No. Do I think that this demonstrates that we have a little margin of safety? You betcha.

Now, people will say, "Well, we have to worry about more than Russia." So, again, as I said during the rule, this chart demonstrates how our military spending stacks up against all of the military spending for our potential military adversaries. Russia, China, Syria, Iraq, Iran, Libya, North Korea, and good old muscle-bound Cuba. We spend 2.5 times as much as they do. That does not count the spending by our NATO allies, and I think it is safe to say they are on our side.

So I make that point to demonstrate that there is no military emergency that requires this expenditure of money under these tough financial situations. I do not think we should be buying twice as many B-2 bombers as the Pentagon wants. I do not think we should be buying the F-22 years early at a cost of $70 billion. I especially do not think we ought to be loosening up on loopholes which allow executive compensation at military contractors corporate headquarters to be paid for by the taxpayer, rather than out of corporate profits.

I have a GAO report which indicates what has happened to executive compensation at corporations that provide military hardware to the United States. We, until this year, limited the amount of that compensation that would be paid for by taxpayers to $250,000 per executive. That is equal to the compensation for the President of the United States, for God's sake. Anything above that amount, the company was supposed to pay for out of its profits.

This year, this House adopted an amendment lowering that amount to $200,000. But in conference, they adopted a loophole which provides an exception if the Office of Federal Procurement Policy establishes in the Federal acquisition regulation's guidance governing the allowability of individual compensation, and those words were added to the conference report, which in effect opens the door to charging taxpayers a whole lot more than $200,000 per executive.

Now, if you take a look what those contractors are paid, you see that a number of these contractors are paid more than $1 million, some $1.6 million, one of them $2.7 million. I would ask, why should those executive salaries be financed to such a gross level by the taxpayers of the United States? We have one corporation, for instance, where the top executive in 1989 was paid $634,000. Today their top paid executive is paid $1.6 million. Another corporation, which laid off 20,000 workers earlier this year, in 1989 they were paying their top executive $764,000. Today they are paying him $2.1 million. Hardly the kind of action you would expect to see in a corporation that is having huge layoffs of average workers.

I do not think the taxpayer wants Uncle Sam to be financing these huge increases in corporate executive salaries for defense contractors when their workers are being laid off. This bill contains a loophole that allows that to happen.

My motion to recommit will simply say that we are going to reimpose the hard limit that this House first proposed; namely, $200,000. Anything above that, if the company wants to pay it, they pay it out of their own corporate profits, not out of taxpayers' pockets.

So that is what I will have in the motion to recommit. I would urge that Members vote for the motion to recommit and against this bill, because given the so-called promise that was made last night to balance the budget in 7 years, we simply cannot afford the spending in this bill.

Mr. MURTHA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, one of the things we do every year in the hearings is to try to adjust the bill, depending on what we consider is the threat, and we work hard at that. I do not think we can depend on our allies to come to our aid in any circumstances. I think we learned after World War I and World War II that if we are not prepared for what we consider the immediate and long-term threat, we could have a problem.

We have cut the defense budget substantially over the years. As a matter of fact, most of the cuts made to the Reagan and Bush budget were made in defense. We cut $155 billion out of defense over that 12-year period. I think that the Iraq war, the war in Saudi Arabia, shows we did cut it in a very sensible way. We cut it in a way that we still had good troops, quality people, and good technology.

Now, lately, we have allowed procurement to start to slip. The reason we had a low number of casualties was the fact that we had superior technology, superior training, and superior troops. And that was a tribute, I think, to the House, and the House can be proud of what happened.

This year, we are starting to get behind again in a number of areas. Real property maintenance, there is a $12 billion backlog. In depot maintenance, there is a $2 billion backlog. All those things are important to readiness. Now, we try periodically to overcome those, but we take the amount of money allocated to us by the budget resolution, and we do the best we can.

The area where we saw slipping dramatically was procurement. We have reduced procurement from $120 billion over a 6- or 7-year period to about $40 billion. Now, $40 billion is a lot of money, and we feel it is well spent, because if we do not keep our industrial base, if we do not have the most modern technology, our people are at risk. Even in an operation like Bosnia, which is not an all-out war, but an area where you need technology to protect our troops, we want to make sure we have the finest equipment available to our troops and there is a minimal risk to them.

I remember in Iran when we sent a helicopter to Iran, we had to borrow spare parts; we had a disaster where a number of Americans were killed because the training was inadequate. As a matter of fact, at that period of time, half the combat aircraft in our arsenal were dead-lined because of lack of spare parts. We do not want that to happen again.

I assess the type of deployments that we have been making is what will continue. Our troops have been denied for long periods of time away from home, the same troops over and over again. Our AWACS airplanes, we have 10,000 people in the Adriatic supporting this long-term commitment we have for humanitarian airlift to Bosnia.

As a matter of fact, it is the longest airlift in the history of the United States. Without that, people would have been starving. We have a commitment there. We have upheld our commitment. But the airplanes are wearing out. As a matter of fact, the 141's, we are flying the wings off of them. We have to reengine a number of KC–135's. As the C–17's come into the arsenal, we need to continue to upgrade the 135's and the 141's.

So we have a problem with procurement. We have a problem with modernization, and we have tried to balance that out.

We also set aside, and this was a suggestion of the chairman, we set aside money for the operations as they go on, for continual flights, the operations in the Adriatic, the continual flights into Bosnia. That is the kind of thing we should be doing so the American people and the Congress know what is going on.

So our military is ready. It is stretched thin, but I think that the amount of money we have appropriated here is just about the right amount. One thing for sure, if the Defense Department does not agree, they will come back and ask for rescissions, and we will adjust that as the year goes on, as they always do.

So I think we have a good bill, and I hope Members will vote for the bill.

One of the issues that came up in the passage of the bill was an issue that the gentleman from Vermont [Mr. SANDERS] brought up. The gentleman got up and brought to our attention the fact that there were a number of people at the highest level being reimbursed because of the build-down and consolidation of these defense companies.

The gentleman was absolutely right. The gentleman believed that we should do something about it. The gentleman believed that in the conference, and we accepted that language, and in the conference we have tried to address that language.

The Defense Department at first did not agree with us. They felt that it was appropriate what they had done. We pointed out to them, the gentleman from Florida [Mr. YOUNG], the chairman, and I pointed out that we felt this was not only bad public policy, but it is something we felt needed to be changed.

We have been negotiating with those folks. We think that we have done the best we could do in order to comply with what the gentleman from Vermont wanted. I would be glad to answer any questions that the gentleman may have about that issue. We appreciate the gentleman's suggestion.

Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont [Mr. SANDERS].

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Mr. SANDERS. Mr. Speaker, I thank the chairman, the gentleman from Florida [Mr. YOUNG], and I thank very much the gentleman from Pennsylvania [Mr. MURTHA] for their cooperation on this issue.

I think the gentleman from Pennsylvania correctly described the situation. It seemed to me, and I think virtually every Member of the U.S. Congress, that there was something wrong in the process when the taxpayers of America were asked to supply $31 million in executive bonuses to the highest ranking officials, who are very, very well paid, of Lockheed and Martin Marietta when they merged.

When I brought that issue to the floor, the gentleman from Florida [Mr. YOUNG] was very gracious, and the gentleman from Pennsylvania [Mr. MURTHA] was very gracious, and they accepted the amendment. Since then, we together fashioned perfecting language to make absolutely clear that the Pentagon ought not to spend $1 of appropriated funds for the Lockheed-Martin payments or any such future payments pursuant to the merger of defense contractors.

The gentleman from Pennsylvania described the fact that during the conference, as I understand it, the Pentagon was a little bit vague abut their willingness to accept this provision. What I would like to do right now is enter into a colloquy with both Mr. YOUNG and Mr. MURTHA, just to make it absolutely clear on the RECORD that our intent is to make certain that not one penny of taxpayer money goes to the merger of Lockheed-Martin and to the bonuses that those chief executives are going to receive.

Would the gentleman from Florida [Mr. YOUNG] want to comment on that?

Mr. MURTHA. Mr. Speaker, I would ask the gentleman from Vermont to let me comment first.

The conferees included a general provision, section 8122, which is intended to ensure that no taxpayer funds be used to pay for special executive bonuses triggered by corporate mergers. The conferees directed the Department to promptly revise its policies and regulations to make it absolutely clear no taxpayers' funds shall be used to reimburse any contractor for special executive bonuses or any other special retention incentive, payments for executives triggered by the corporate merger acquisition, or any other change in corporate control.

Now, this was agreed to by all the conferees. Since then, I guess even before then, the gentleman from Florida [Mr. YOUNG] and I had written to the Secretary of Defense and pointed out that we are very serious about this language and we expect it to be carried out, and they have said to us in private conversations they intend to carry out our direction.

Mr. SANDERS. Mr. Speaker, I would just ask the gentleman from Pennsylvania, then, it is his understanding that from the highest levels of the Pentagon there is an assurance that not one penny of taxpayers' money will go to the merger of Lockheed-Martin? That is your understanding? No golden parachutes for those guys?

Mr. MURTHA. That is exactly right.

Mr. SANDERS. Well, Mr. Speaker, I just want to thank both the chairman and the ranking member for their support on this issue.

Mr. MURTHA. Mr. Speaker, I reserve the balance of my time.

Mr YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM] who himself is an ace fighter pilot.

Mr. CUNNINGHAM. Mr. Speaker, the gentleman from Wisconsin [Mr. OBEY] states that Russia has no Stinger anymore. Last year they dropped five Typhoons——

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I will be happy to yield to the gentleman's time afterwards.

Mr. OBEY. I did not say that. Quote me accurately.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California is recognized.

Mr. CUNNINGHAM. Mr. Speaker, Russia dropped five typhoon nuclear submarines last year. I do believe the gentleman says we do not need to fund the F–22 now, instead of later.

Russia has built, developed, and is flying currently the SU–35. The SU–35 is superior to our F–14 and F–15's today. It cruises at about 1.4 Mach. The F–22 cruises at 1.4 mach. The F–22 carries advanced AMRAAM missile. The SU–35 carries the AA–10, which is much superior to our AMRAAM missile. And when Russia is still developing arms and engaged in global warfare, then, yes, we do have a threat.

If we go to Bosnia for 1 year, estimates are between $3 billion and $6 billion to the United States. The bottom-up review is review that was set forth after the scale-down of our military, the bare bone minimum to be able to fight two conflicts. The GAO has put us at $200 billion below the bottom-up review—$200 billion. And my colleagues on the other side wonder why we are trying to increase defense a little bit.

Mr. Speaker, many of us have given blood and been shot, and a person does not much care what the machine costs if it gives them an advantage over our enemy, if it will bring them home alive instead of in a body bag.

I think what the gentleman from Pennsylvania [Mr. MURTHA] and what the gentleman from Florida [Mr. YOUNG] have done is appropriate to protect our men and women in the armed services. And, by the way, I would say to the gentleman from Wisconsin [Mr. OBEY], it is in the Constitution to do that.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

I would simply point out, the gentleman can talk about all the new Russian fighters he wants. My question is how many of them: 1, 2, 5, 10? We have 700 F–15's and we are going to buy another 400 F–22's. He has to be kidding. Come on.

The other thing I would say is, if the gentleman thinks that the Russian military power is such a powerhouse these days, I have a one-word reply for him, Chechnya. They could not even handle that one.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me time.

I believe it is essential to send this bill back to conference to save at least several billion dollars. In the first place, we should be very clear. My friend from Pennsylvania said we cannot count on our allies coming to our aid. No one has even suggested that. What this says is that America should go to everybody else's aid.

There is a fundamental confusion we have today. We are not now talking about our survival against enemies like the Nazis and the Soviet Union that threatened our very ability to maintain free societies. We are talking about places where it might be useful to intervene, where it would advance things.

Members have said if we intervene we want our troops to be as well armed as possible. Of course, we do. That is not in dispute. The question is will we continue to maintain this position where we are on call for everybody in the world.

I was struck by Tuesday's New York Times, an article about the great success of the Asian newer economies. And it says one reason they have been able to be so successful is America's role in the cold war of defending them gave them a stable structure. It talks about how low their government expenditures were. Sure, because ours were high.

This continues to be the most expensive form of foreign aid in the history of this country, because it subsidizes the military budgets of all of these wealthy nations that then compete with us, that build up trade surpluses; and we say to them do not worry we will take charge. Our disparity in military spending, with all of our allies and competitors, is overwhelming.

Mr. Speaker, it is not simply some erring without cost. This is the greatest of the reverse Houdinis. Houdini used to have other people tie him in knots and his trick was to get out of the knots. That was what Houdini did. Other people tied him up and he got out of the knots.

The politicians' version is the reverse Houdini. They tie themselves up in knots and then say to people gee, we would love to help you, but we are all tied up in knots. We do not really want to cut your Medicare, but we cannot really afford it. We do not really want to make it more expensive for you to go to school and raise what your kid has to pay, but we have not got the money. We wish we could do more about cleaning up the Superfund sites, we wish we did not have to have retroactive liability, but we cannot afford it. This is why we cannot afford it, because of the massive subsidies of France, and Japan, and Germany, and England, and Thailand, and Malaysia, and all those other wealthy and increasingly wealthy nations.

Mr. Speaker, this bill does not have to put anybody in jeopardy. In fact, Members have said what about Bosnia. A majority of Members are apparently prepared to vote not to send the troops to Bosnia. Why then are they insisting on providing the funds to do it? The more we fund this operation, the more money we give them to take care of Bosnia, the less our chance is going to be to block the troops going there.

If, in fact, we do believe there is an over-extension, and I think that is right, and in fact we do believe that it is time the Europeans not came to our aid, I do not want them to come to defend the Mexican border, I do not think we need any troops from them to come here, we need them to do something on their own behalf. Let us stop subsidizing them at the expense of Medicare, education and the environment.

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume.

I want to make sure that all the Members understand. What I am talking about is our own defense. And to develop a fighter and to deploy it to the field takes 16 years. And I sympathize with what the gentleman from California said, since he is the top ace of the Vietnam war, and certainly knows as much about fighter aircraft as anybody in the House. The relationship between having exactly what the pilot needs versus something that is inferior——

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Speaker, I would say to the gentleman it takes almost 5 years just to develop the engine for an airplane. That is the problem with the F–18, the F, right now.

And I would say to my friend, the gentleman from Wisconsin [Mr. OBEY], right now in Bosnia-Herzegovina we are flying our F–18's and our Strike Eagles. The wing life of those airplanes are almost all gone. Those F–18's, they want the CD because they want the top model. That is almost gone.

The Air Force has not bought an airplane in 2 years because they cannot afford it. The F–16 that Captain O'Grady flew. We did not replace that. And to protect our kids in combat and make sure our people on the ground are well protected, we need those, and I thank the gentleman.

Mr. MURTHA. Mr. Speaker, reclaiming my time, I want to make one other point. There is no money in this bill for any troops to be deployed in Bosnia. This is for the ongoing operations that are gong on right now.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Speaker, this conference report is a responsible effort to fund a strong defense. I supported it 7 weeks ago when we first debated it, and I support it now.

Let me make three quick points:

This is not a less dangerous world. Many of us traveled to Jerusalem just last week to pay honor to the visionary peacemaker who was martyred for his cause. Religious fanaticism is increasing all around the world and it takes many forms. We need to be prepared.

Second, the abortion rider has no place in this bill. It caused the House to defeat the conference report when it first came up. It serves to penalize military servicewomen and their dependents and makes it difficult for them to exercise their constitutional rights.

Third, the plus-up in spending is, in my view, appropriate and I'm prepared to defend it in the context of a 7-year balanced budget, which I voted for. Among the items funded are critical procurement including the C–17, the F–18C/D and E/F, defense satellites, and long lead for more B–2 strategic bombers.

Let me comment on the B–2.

We can afford to buy more B–2's and we should. Within the budget resolution profile, money is available as we:

First, retire the expensive, aging B–52 fleet;

Second, buy the cheaper munitions the B–2 uses; and

Third, reap savings from acquisition reform.

Much of the argument against more B–2's assumes the B–52 will remain combat capable through the year 2030. The last B–52H was produced in the early 1960's, so the aircraft will be almost 70 years old in 2030.

If the B–52 were a person at that time, it would be collecting Social Security. Do we want to send our sons and daughters to war in a 70-year-old bomber. I don't think so. I think we want to use the most survivable aircraft possible, an aircraft we have in production right now—B–2.

The cost of the aircraft is a concern to us all. But it is half the cost its opponents estimate.

The B–2 saves us money by using cheaper weapons. The old B–52 and the B–1 use expensive guided missiles and bombs to fly in from standoff orbits. Since the B–2 can go right to even the most heavily defended target, it can use cheaper laser and gravity bombs, which cost about one one-hundredth of the cost of the B–52's weapons.

The new Deputy Defense Secretary testified this May 18 before the Senate Armed Services Committee that, "If I do not have any carriers available for 15 days and I do not have any tactical aircraft in theater and I do not have any means to get tactical aircraft in theater and we have to continue with this MRC scenario, then I am going to need a lot more bombers than I have in the current force." That means B-2's.

We can find further savings in acquisition reform. Last year, Secretary Perry testified that as much as $30 billion could be saved by downsizing and procurement reform over 5 years. Those savings would kick-in just when they are needed most. They would provide more than enough funds for the B-2, within the budget resolution profile.

As the mother of the lockbox, no Member is more committed to deficit reduction than I am. But this is not the way to get smart, prudent deficit reduction.

Mr. Speaker, as a parent of two draft-age children and two younger ones, I am convinced that we must field and fully fund the most effective and survivable weapons systems. The most precious resource this country has is our children. Today, in this House, let us fund the best defense for our children and the men and women who will defend them. Vote for this conference report.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 2 minutes.

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Mr. Speaker, during most of the debate today, we have actually spent more time talking about subjects and matters that are extraneous to national defense items that really have nothing to do with national defense. A lot of those extraneous matters, although they are extremely important, should be done in other legislative bills or appropriations bills, or they could be cone by the States, or they could actually be done maybe in some cases by the cities and the counties.

Mr. Speaker, if there is one thing that this Congress and this President have a responsibility to do that no State can do, that no city or county can do, that is to provide for the defense of this Nation and for our national interests wherever they might be. We are talking about preparing kids in uniform who have volunteered to serve in the military, preparing them to accomplish whatever mission they might be assigned to, and do it effectively, and at the same time give themselves some protection while they are doing it.

So only the Federal Government can do this. The other extraneous materials should not even be a discussion or part of the discussion on the defense appropriations bill.

Mr. Speaker, the gentleman from Wisconsin [Mr. OBEY] keeps bringing that same chart up about how much the Americans spend versus how much somebody else spends. I am going to repeat something again a little bit differently than I did the first time.

Some years ago, a lot of our messages were delivered in music and in songs and in poetry. There was a song where the key phrase went, "and the soldiers get paid $21 a day, once a month." How many are old enough to remember that? Twenty-one dollars a day once a month.

Well, since that time, we have begun to pay our soldiers considerably more, not enough, but a whole lot more than $21 a day once a month. However, the other nations to whom the gentleman from Wisconsin [Mr. OBEY] compares us in our spending, they are still paying $21 a day once a month, because they are conscripts.

Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. NETHERCUTT], a member of the subcommittee.

Mr. NETHERCUTT. Mr. Speaker, I thank the gentleman for yielding time to me.

I am happy to rise in support of this conference report and the important funding provisions that it does contain. I hope that my colleagues and the President will sign this bill, because it will increase our Nation's current and future readiness. It will improve the quality of life of our members of our Armed Forces, and most importantly, it will ensure our long-term security.

The main thing this conference report does is ensure our readiness of our America's Armed Forces. The bill provides for future readiness by reversing a decade of steep decline in weapons procurement. The prior speakers are correct. It takes years and years to get these weapons systems and these procurement systems in place. I hope that we do not have to go to war again, but if we do, we have to give our men and women, our young people in the armed services the best possible equipment possible, and Stealth equipment and technology is the answer for our future.

Captain O'Grady is from my district, and if he had been in a Stealth aircraft, perhaps he would not have been shot down over Bosnia. So that is the importance here. B-2, the F-22, FA-18 aircraft, they are our future and we need to fund them.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BONILLA], another distinguished member of the subcommittee.

Mr. BONILLA. Mr. Speaker, I thank the gentleman from Florida [Mr. YOUNG], the chairman of the committee, and the gentleman from Pennsylvania [Mr. MURTHA], the ranking member.

Mr. Speaker, just a point I would like to make to start out in support of this bill, if the entire Congress worked as cohesively as the members of this subcommittee have worked on this issue, we would be all at home picking out our turkeys at this time.

Mr. Speaker, this is a good bill. It provides adequate, by no means more than necessary, funding for important factions of our military: Pay raises, tank-killers, helicopters, F-22s, and yes, the B-2 bomber. Those of us who have the vision that this bill is not just about this year or next year, it is about the next century and how we are going to protect our country from outside aggressors, some of which may not even have been born yet, but we have to have that vision to preserve our freedom and liberty.

People in this country can walk down the streets safely knowing that foreign aggressors are no threat, and we enjoy the freedom to speak out, freedom of speech, freedom to demonstrate, freedom to express ourselves as conservatives, as liberals, as moderates in this country from all across the Nation. We have enjoyed these freedoms forever, because we are always ready, and we demonstrate to the world through the support of our military that we are going to be ready for anything that might transpire.

For those idealists who sit out there and say, well, there is no threat out there now, lose sight of the vision that this bill is important for the next century as well.

We have to maintain a strong military, because without a strong military, we do not even have an opportunity to talk about preserving programs like HUD or Commerce or any of these other things that people might think are important. If we do not protect ourselves in the future, we are not going to be able to consider any of this stuff. Education will not even be a possibility for us if we are not willing to all stand up and preserve the greatest military that this planet has even seen to make sure that our children are protected well into the next century.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me this time.

Let me just answer the prior speaker. Yes, indeed, we should be talking about threat. To me, the threat is the threat of the debt. The threat of the debt is what people have been talking about here, and this is the one budget that is coming in over $7 billion over what the Joint Chiefs of Staff asked for. We did not even do that during the cold war. So you cannot talk threat of the debt and then turn around with this.

Mr. Speaker, then we also have to say, are the things that we are buying into here threat-based? Are we dealing with what the real threat is?

The real threat today is things like rental cars blowing up, the world center blowing up, the Oklahoma place, radical fundamentalism. How do you use B-2 bombers against that? Then let us look at this post-cold-war world. If you took everything that we owe the United Nations for peacekeeping, for dues, for everything, that would break out to $7 per American. Well, we are not going to pay it, because we think it needs to be reformed, and we could debate how is the best way to get it reformed.

Mr. Speaker, if you take this budget and divide it up per American, this is $1,000 per American, $1,000. Now, is this really dealing with the threat? There is big increases in here for the CIA, but it, of course, does not need reform? I do not think so. There is the B-2 bomber which no one can figure out why we are buying it. We have not even figured out when we are going to use the B-1 bomber or many of the other things.

I think basically what we do by paying and spending all of this money is we are saying to the whole world, let us do it all. We want to continue to be the Atlas and hold up the defense everywhere. If we do this, then I think we cannot complain about the world saying to us, OK, you do everything in Bosnia. You raised your hand. You volunteered to do it. You put all of the money in. We will be voting today to spend more than the rest of the world.

Think of the message that sends. We are volunteering to do it all.

Mr. MURTHA. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of this bill. The subcommittee has done a superb job, and I appreciate them bringing it back, and hopefully in a much more acceptable version than the one that unfortunately was sent back several days ago.

Under the Constitution, this Congress is charged with raising and maintaining the military. I have over the past several years worked to put together a budget that would meet the needs of our military in future years. It is difficult. This year I was successful in putting one together.

I testified before the Committee on the Budget, and I concluded that we needed, over the next 5 years, an additional $44 billion over the administration recommendation. That figure, given by the Committee on the Budget, was at or near what I recommended.

This bill takes care of the soldiers and the sailors and the airmen and the marines; it gives them adequate pay, it helps take care of their families and their needs, and you have to keep those young people in the military. It takes a long time to grow a good staff sergeant, a long time to grow a major, a long time to grow a chief petty officer, a long time to grow a letter commander.

Then we look at what we are asking them to work with. A very aging bomber fleet, other airplanes that no longer are produced, trucks, equipment that is mundane, but yet is old and is wearing out. We need to keep our forces the strongest in this world. This bill helps to do that.

We noticed in the paper just the other day where the Pentagon says there are going to be some $60 billion short on just procurement over the next several years. We must proceed along this line and fully fund the military and take care of our troops.

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would say to my colleagues that it has been said, primarily on this side of the aisle, that this defense appropriations bill is above the level of what the President requested. I would hope that they would bear in mind that while it may be above the level that the President requested, it is not above the level of the things that the members of the Joint Chiefs of Staff have come to us and told us were needed, even though it is beyond what the Commander in Chief ultimately signed up to.

Mr. Speaker, I would also suggest that we on this side of the aisle had a Contract With America, and one of the provisions was to rejuvenate our national defense. This is our opportunity to fulfill that very, very significant part of that contract. This bill is below the budget level; it is a bill that, verifying what the gentleman from Pennsylvania has said, it seeks to do something about the deterioration and the maintenance of our real property and the depot maintenance accounts, which are woefully deficient, and to prevent a degrading of our readiness. This is a bill whose time certainly must today come. Let us get on with it.

Mr. MURTHA. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I once said on the House floor years ago, it has been used several times, why are we spending all of this money on defense, on these B-2's? We cannot see it; they cannot be detected by radar. Why do we not just put out a press release and tell the Soviets we have 500. How would they know anyway?

Well, I have come around full circle, like many of my colleagues have. We know it is not like that really, and after Captain Scott O'Grady, and after Alrich Ames, it does not quite work that way, does it? I voted for military cuts, and quite frankly, we cut an awful lot. I think we have cut too far.

Mr. Speaker, I support this bill, I support this measure. Let me say this to the Congress of the United States, the most urgent duty and responsibility placed on this Congress is our national defense. Folks, we just cannot get it done with the Neighborhood Crime Watch. It is going to cost money, but freedom, freedom is costly.

Now, there are some people who think that there is just some left-wing liberals around here who just want to go on with all of these social programs. Let me say this to the membership of the Democratic Party. We have, and we have always stood, for a strong national defense. When the lives of the American people in the free world are at stake, we then do stand up, and I say today, let us stand up for a couple of chairmen here, past and present, who have done their job. It is not a popular job, but freedom sometimes is very costly. Today is one of those days.

Mr. Speaker, I am proud to stand here in support, and I would like the authorizing committee to look at my bill that would allow the placement of some of these troops falling out of chairs without armrests overseas, placing them on our border, not to make arrests, but to help us to secure our borders as well.

I support this bill, I am proud to support this bill, and I have come full circle on some of these issues, but damn it, if one is wrong on something and one sees something that can be improved, I think it is incumbent upon us to do the right thing, and I am proud to support the bill.

☐ 1330

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I rise in support of this bill and want to compliment, I will call you both chairmen, I respect both of you a lot, if I can do that here on the House floor.

I think that it is a fool's folly to think that he is full of wisdom when he is safe and secure in peace to reduce his strength. In reality, when one is alone in the world, without strength and might, there is a true loss of courage.

This bill addresses the shortfalls in our military readiness and addresses the quality of life issues which we all seek and desire for the men and women in arms. I support this bill.

At a time of what happened on this House floor this morning, when there can be a total breakdown and lack of civility among this body, we can come together in a bipartisan fashion when it comes to the issue of national security. We are going to do that today and we are going to send this bill down to the President, and I believe it is a bill which he should sign, not veto.

God bless this country.

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. WELDON], a member of the Committee on National Security.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise in strong support of this bill, and I want to commend Chairman YOUNG and Vice Chairman MURTHA.

It is a good bill, in an impossible situation. I did not support every weapons system in this bill, but this is the best bill that we could come up with and one that I strongly support.

I want to thank the committee for supporting military personnel, especially our health care system. I can personally attest to its excellence.

I want to thank the committee for its emphasis on missile defense. Contrary to what we have heard on this floor, the threat has not gone away. When Russia goes all the way to the top, when the Norwegians launch a missile, a satellite missile, and activate their entire missile defense system to the point of almost launching an attack against this country, there is something we have to be on the alert for. When the Russians are offering to sell their SS-25 technology to Third World nations, we have to be prepared. When the North Koreans and the Chinese are building missiles that can hit our mainland, we have got to be able to increase missile defense funding, and this bill does that.

I want to thank the committee, also, and I want to say to my colleagues who say we have not cut defense, would you please tell the 1 million members of the UAW, the machinists union, the electrical workers union, that we have not cut their jobs? Would you be the one to tell them? For those who want to support sending our troops to Bosnia, tell us where we are going to get the $1.5 billion that you do not want to support in this bill.

This is a good bill. Let us vote "yes."

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. METCALF].

Mr. METCALF. I thank the gentleman from Florida for yielding me the time, and for his consideration in the last week.

Mr. Speaker, I rise in strong support of H.R. 2126 as reported by the conference committee. Over the past 2 weeks, I was prepared to offer a motion to instruct the conferees on this bill to insist upon the House-passed language restricting the use of funds for a troop deployment in Bosnia without congressional approval.

I did not press that motion because I have been assured that we will vote on the Hefley bill, H.R. 2606, before the Thanksgiving recess. H.R. 2606 will send a clear message to the President that it is unacceptable to fund the deployment of United States troops in Bosnia without congressional approval.

The bill before us, the defense appropriations bill, will end the dangerous downsizing of our military over the past 10 years. I urge my colleagues to support it. I thank the gentleman from Florida for a job well done.

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, first of all I do want to congratulate the committee for following through on the request that we have had to prevent golden parachutes at defense contractor corporations from being paid for by the taxpayer. I think that is long overdue. I congratulate the committee.

I simply want to say again in closing, we voted last night for a balanced budget in 7 years. It is fundamentally inconsistent with that vote for the Congress, the next day, to pass legislation which adds $7 billion to the President's budget for military spending, and adds money above the amount spent last year.

This chart demonstrates that Russia has reduced its spending by over 70 percent. I would point out to the gentleman from Florida that this chart takes into account wage differentials. We have only reduced our military budget by about 10 percent. That hardly indicates to me that we are in a military jam.

The United States will spend $1.3 trillion over the next 5 years. The defense budget in adjusted dollars is higher than it was under Eisenhower, higher than it was in 1975 under Nixon, and even through the cold war. We spend as much as the rest of the world combined; 4 times as much as Russia, almost 17 times as much as the 6 bad guys: Iraq, North Korea, Iran, Libya, Syria, and Cuba. The United States, NATO, and our Asian allies account for 80 percent of all military spending in the world.

I think, with all due respect, that is more than enough. I urge Members to vote "no" on passage, and I urge Members to vote "yes" on the motion to recommit. That motion to recommit will simply eliminate a loophole in the conference report to assure that corporation profit rather than taxpayers' money will be used to pay for executive compensation for military contractors above $200,000. I do not think the taxpayers should be financing multimillion-dollar salaries for these executives while those companies are downsizing their own workers, and while we are downsizing our own budget.

I would simply urge Members to remember that, despite the fact that many people in this House would like to ignore it, this bill is fundamentally related to what happens on Social Security, what happens on Medicare, what happens on education, what happens on housing, what happens on all of the other priorities that we have in our budget.

We simply cannot restore any significant amount of the huge reductions in education, in housing, in environmental protection unless this bill is brought under financial control. Right now it is not. I urge Members to vote "no." I urge members to vote "yes" on the recommit motion.

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume.

I just want to make a couple of comments. I want to compliment the gentleman from Washington [Mr. METCALF] for holding off on his motion on Bosnia because I think we are in a very delicate stage in the negotiations and I think any action by the House at an inappropriate time could endanger the talks that are going on, and I would even appeal in the House that it is delicate and we certainly would not want to send the wrong signal and be responsible for what happens if it turned out the wrong way.

The other thing, I rise to oppose the motion to recommit and say that we worked out the best we could work out with the Senate on the language, on the pension at the recommendations of the gentleman from Vermont [Mr. SANDERS] and the support of the gentleman from Wisconsin [Mr. OBEY]. I would hope that Members would vote against recommittal.

Mr. Speaker, I yield the balance of my time to the gentleman from Washington [Mr. DICKS].

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The gentleman from Washington is recognized for 2 minutes.

Mr. DICKS. Mr. Speaker, I want to compliment the gentleman from Florida [Mr. YOUNG], the chairman, and the gentleman from Pennsylvania [Mr. MURTHA], former chairman of this subcommittee, for an excellent job.

I represent a district in the State of Washington where we have a number of defense bases, McCord Air Force Base, Fort Lewis, Puget Sound Naval Shipyard, Trident Submarine Base, Keyport. Not all of those are exactly in my district but they are on the border of my district, and some inside.

I hope we get this defense bill passed, because thousands of workers, even though we get this essential versus nonessential, but thousands of these workers at these bases have been sent home. The sooner we can pass the defense appropriations bill, get it through the Senate, send it to the President, get it signed, we can get those people back to work.

I agree with those who say today that we now must put a floor under the decline in defense spending. We have been cutting defense every year since 1985. We have cut the budget by about $10 billion per year. In other words, in 1985 we were at $350 billion, today we are at about $250 billion. With that, we have reduced procurement from about $135 billion in 1985 down to $41 to $43 billion this year. This committee puts the money back into procurement. I think that is the next major problem, and the Joint Chiefs have pointed it out.

Today is a day when I think this committee and the House should come together and pass this bill. I think the chairman of the committee and the good staff have done an excellent job.

A number of people have mentioned stealth technology. I will just tell Members this: In the Gulf war, the F-117 proved that stealth technology works. I think it is the best investment we can make to save lives and save money.

I urge my colleagues to stay with the committee, let us pass this bill, and let us get it down to the President and get it signed.

Mr. OBEY. Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. DELLUMS], the distinguished ranking member of the Committee on National Security.

The SPEAKER pro tempore. The gentleman from California is recognized for 4½ minutes.

Mr. DELLUMS. Mr. Speaker, we come to the concluding moments of this debate.

Mr. Speaker, I think perhaps I must preface my remarks by saying the ostensible beauty of this institution is that we can indeed challenge each other intellectually and politically, and that we can differ over the definition of what is a strong national defense.

Having said that, let me try to place this legislation, from my perspective, in proper context.

The cold war is over. Mr. Speaker, ushering in a new era, the post-cold-war world. Uncharted water, unprecedented activity, tremendous challenges, perhaps, as the gentlewoman from California said, danger as well as opportunity.

In the context of the cold war, it was easy for us to understand who we thought our enemies were.

I would assert that the enemy of the post-cold-war world is war itself, and the tremendous challenge and opportunity we have is to give our children who we have been talking about over the past 72 hours and our children's children perhaps the greatest gift that we can give them, a world at peace.

The gentleman from Wisconsin has pointed out eloquently what the spending issues are here.

□ 1345

At this very moment, our spending level, American military budget, is roughly equal to the combined military budget of the rest of the world. That is awesome. When you combine America's military expenditures with the expenditures of our allies, that is, our friends, that exceeds 80 percent of the world's military budget. So less than 20 percent of the so-called enemies, less than 20 percent of the world's military budget spent by them. We outspend our ostensible enemies 4 to 1, absolutely astonishing.

Let us place this bill in that context. What does this bill do in a post-cold-war world where war is now the enemy, where peace is now the challenge, where we have tremendous domestic issues before us? This military budget increases our military expenditures above and beyond requests in excess of $7 billion.

Let us look within that budget to ascertain what they cut. At a time when we have the opportunity to dismantle the dangerous nuclear weapons that have been aimed at us for 40 years in the context of the cold war from the Soviet Union, we cut Nunn-Lugar funds designed to take away the nuclear weapons to, indeed, give a fantastic and awesome gift to our children, and that is a world without the insanity and the madness and the danger of nuclear weaponry. We cut that program.

In the context of the post-cold-war world where every 2 years we are closing military bases and downsizing and communities are experiencing economic dislocation, where the domestic challenges are how do we engage the economic conversion so that those communities can rebound and move into the 21st century, we cut, in this program, technology conversion. It flies in the face of reality. it certainly challenges this gentleman's logic.

What do we increase? We increase programs like the B-2 bomber and other programs. People have spoken eloquently to them. I do not have time to go through those programs and challenge them, but I do want to take the time so to say this: Many of these extraordinary weapons systems, Mr. Speaker, if the truth be told, and I choose to tell it today, have little, if anything, to do with enhancing the nature of our national security. It has to do with the fundamental issue of generating employment in people's communities. And that is real. That for me is not a throw-away line. If someone is building a B-2 bomber, they may agree with my intellectual and political analysis and say, "Ron, I don't think we need a Cold War weapons system that is flying around trying to find a post-cold-war mission. But if you stop my job on Friday, where do I work on Monday?" That is our challenge. But not to keep building B-2's for employment, but developing fiscal, monetary, and budgetary policies designed to generate employment.

I would conclude by saying this: This military budget, in the context of the post-cold-war world, is going in the wrong direction. It should be rejected. Let us come together to march in the 21st century with sanity and reason.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want to congratulate all of those who participated in the debate. It has been a good debate.

I disagree with some of the arguments that I heard from one side or the other, and I know in the heat of debate sometimes we sometimes misspeak unintentionally.

The gentleman who just spoke said that we had cut the effort to denuclearize the former Soviet Union. Not so. The nuclear arms reduction program, chemical weapons destruction, those programs were fully funded.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from California.

Mr. DELLUMS. In the context of the rules debate laid out a list of what you reduced, and you said you reduced Nunn-Lugar in technology conversion. We can go get the record on that.

Mr. YOUNG of Florida. I say to my friend we did not reduce this part of Nunn-Lugar; the part dealing with nuclear destruction and chemical destruction, we did not reduce that part of that program.

First, let me suggest, Mr. Speaker, regarding the motion offered by the gentleman from Wisconsin [Mr. OBEY] to recommit, there will be no debate. I would at this point ask, as the gentleman from Pennsylvania [Mr. MURTHA] has already done, that we handily defeat that motion to recommit and get on with getting this bill passed.

The last few days I have heard a lot of criticism that we cannot get appropriations bills passed. That is what we are trying to do today. We are trying to get a good bipartisan appropriations bill passed to provide for the defense of our Nation.

There are some things in here that are not definitely related to national defense specifically that have been complained about, but let me tell you about an example of one. One thing the Defense Department does not want in this bill is breast cancer research. But we have a lot of women in the military, and we have a lot of men in the military who have wives and daughters, and we provide an adequate sum to accelerate the breast cancer research and treatment program essential to every woman in America because no woman is exempt from breast cancer. We try to do our share.

Other appropriations bills in the last decade have increased every year, increased, except for one. The legislation providing for funding for our national defense has gone down every year for the last 10 years, and, my friends, this year this bill is less than it was last year by $400 million. So this is the 11th year in a row that we have reduced spending on national defense.

But in this bill we are getting a lot more for the defense dollars than we have gotten in a long time. I might say this, that at the same time that we are reducing our spending for national defense, we have a commander in chief who is deploying U.S. troops around the globe anytime that he wants to and, for the most part, without coming to Congress and getting the approval of the Congress.

In fact, at the beginning of this year we had to appropriate over $2 billion to pay for those contingencies that had not been planned for.

One of the big arguments has been we did things in here the Pentagon did not ask for. The gentleman from Wisconsin [Mr. OBEY] had a chart I have seen so many times. I have a scroll here the gentleman from Wisconsin [Mr. OBEY] says he memorized. This scroll reaches across the well. It talks about minor items nobody ever identified, because they are not politically attractive, but minor items that could keep the war effort or defense effort from moving if called upon to do so. So we take care of a lot of those things.

But this one, I just brought this one along to show you. Our President believes we are not doing enough for national defense. You remember this picture. President Clinton said last December he wants more in military spending over the next 6 years. He said even in an era when the public wants a leaner Government, the people of this country expect us to do right by our men and women in uniform. This is exactly what we are doing in this bill: Taking care of the men and women in uniform.

The question has been raised so many times the Pentagon does not want many of the things in this bill. Well, on Veterans Day, believe it or not, November 11, this headline appeared, and this story in the Washington Post, "Pentagon Leaders Urge Accelerated 50 Percent Boost in Procurement." Now, these are not contractors. These are not industry people. These are not defense politicians. These are the guys that fought the war in Desert Storm. These are the people that fought the war in Vietnam, and the actions in Panama and Grenada and places like that.

What do they say? The uniformed leaders of the Armed Forces, worried about aging weapons and equipment, after a decade of declining procurement, have recommended a roughly 50-percent jump in spending on purchases over the next 2 years. The people that have to fight the wars, the ones that we count on to defend this Nation, preserve our security and our freedom and our independence, they say that the 10-year decline in providing for the national defense has got to change.

That is what your war-fighting Pentagon says we ought to be doing.

Mr. Speaker, I ask for a "no" vote on the motion to recommit and a strong "yes" vote on the conference report.

Ms. PELOSI. I rise to oppose the conference report for H.R. 2126, Department of Defense appropriations for fiscal year 1996. On September 29, this House defeated the DOD conference report by a vote of 151 to 267. Since that vote, there have been only minor changes to the contents of this conference report and it should be rejected.

Like the first conference agreement, this conference agreement appropriates a total of $243.4 billion for defense programs—nearly $7 billion more that the administration's request. When combined with the defense-related provisions of other appropriations bills, this Congress will have appropriated nearly $265 billion for defense-related programs during this fiscal year.

My colleagues, these enormous expenditures represent a much greater threat to the security of this country than the former Soviet Union ever did. In order to fund unnecessary weapons systems like the B-2 and the *Seawolf* submarine, we have slashed funding for health care insurance programs, decent and affordable housing, and many higher education opportunities for young Americans.

We should support a level of defense spending necessary to meet our legitimate security needs. We should not support a conference agreement that is filled with corporate pork and wasteful expenditures. Vote "no" on this conference report.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Without objection, the previous question is ordered on the further conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. Is the gentleman opposed to the further conference reports?

Mr. OBEY. I certainly am, Mr. Speaker.

The SPEAKER. pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. OBEY moves to recommit the Conference Report on the bill H.R. 2126 to the Committee on Conference with instructions to the managers on the part of the House to: insist on the inclusion of the provision committed to conference in section 8075 of the House bill as follows: "None of the funds provided in this Act may be obligated for payment on new contracts on which allowable costs charged to the government include payments for individual compensation at a rate in excess of $200,000 per year."

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the question of the adoption of the conference report.

The vote was taken by electronic device, and there were—yeas 121, nays 307, not voting 4, as follows:

[Roll No. 805]

YEAS—121

Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Cooley
Costello
Coyne
Danner
de la Garza
DeFazio
Dellums
Deutsch
Dingell
Dixon
Doggett
Duncan
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gephardt
Green
Gutierrez
Hilliard
Hinchey
Jackson-Lee
Jacobs
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
LaFalce
Lantos
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
Meehan
Mfume
Miller (CA)
Minge
Moakley
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Poshard
Rahall
Rangel
Rivers
Roth
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Serrano
Shays
Slaughter
Stark
Stokes
Studds
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—307

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert

Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meek
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

Chapman
Fields (LA)
Rose
Tucker

☐ 1414

Messrs. FLANAGAN, KLINK, EDWARDS, LIGHTFOOT, CARDIN, SCHUMER, LEWIS of Kentucky, GORDON, FAZIO of California, TEJEDA, and REED changed their vote from "yea" to "nay."

Ms. DANNER, Mrs. ROUKEMA, Mr. MOAKLEY, and Mr. COOLEY changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. McHUGH. Mr. Speaker, on rollcall No. 806, on the way to the Chamber, I was unavoidably detained. Had I been present, I would have voted "yea."

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 270, nays 158, not voting 4, as follows:

[Roll No. 806]

YEAS—270

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Castle
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Clyburn
Coburn
Coleman
Collins (GA)
Combest
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Dunn
Edwards
Ehrlich
Emerson
English
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hobson
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kim
King
Kingston
Klink
Knollenberg
Kolbe
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manton
Manzullo
Martinez
McCollum
McCrery
McDade
McHale
McIntosh
McKeon
McNulty
Meek
Metcalf
Meyers
Mica
Miller (FL)
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Neal
Nethercutt
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Peterson (FL)
Pickett
Pombo
Porter
Pryce
Quillen
Quinn
Radanovich
Reed
Regula
Richardson
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Salmon
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Traficant
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—158

Ackerman
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Blute
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Camp
Cardin
Chabot
Chapman
Clay
Clayton
Clement
Coble
Collins (IL)
Collins (MI)
Condit
Conyers
Cooley
Costello
Coyne
Danner
DeFazio
Dellums
Deutsch
Dingell
Doggett
Doyle
Duncan
Durbin
Ehlers
Engel
Ensign
Eshoo
Evans
Fattah
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Furse
Ganske
Gilman
Gordon
Gutierrez
Gutknecht
Heineman
Hilliard
Hinchey
Hoekstra
Hoke
Jackson-Lee
Jacobs
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kildee
Kleczka
Klug
LaFalce
LaHood
Lantos
Largent
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Markey
Martini
Mascara
Matsui
McCarthy
McDermott
McInnis
McKinney
Meehan
Menendez
Mfume
Miller (CA)
Minge
Moakley
Morella
Nadler
Neumann
Oberstar
Obey
Olver
Orton
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pomeroy
Portman
Poshard
Rahall
Ramstad
Rangel
Riggs
Rivers
Roemer
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sanford
Sawyer
Schroeder
Schumer
Sensenbrenner
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Torricelli
Towns
Upton
Velazquez
Vento
Volkmer
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zeliff
Zimmer

NOT VOTING—4

Fields (LA)
Hayes
McHugh
Tucker

☐ 1423

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 264

Mr. DIXON. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of House Resolution 264.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

(Mr. PETERSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Florida. Mr. Speaker, pursuant to clause 2(a)(1) of rule IX, I hereby give notice of my intention to offer a resolution—on behalf of myself and the gentleman from Florida [Mr. JOHNSTON]—which raises a question of the privileges of the House.

The form of the resolution is as follows:

Whereas the Committee on Standards of Official Conduct is currently considering several ethics complaints against Speaker Newt Gingrich;

Whereas the Committee has traditionally handled such cases by appointing an independent, non-partisan, outside counsel—a procedure which has been adopted in every major ethics case since the Committee was established;

Whereas—although complaints against Speaker Gingrich has been under consideration for more than 14 months—the Committee has failed to appoint an outside counsel;

Whereas the Committee has also deviated from other long-standing precedents and rules of procedure; including its failure to adopt a Resolution of Preliminary Inquiry before calling third-party witnesses and receiving sworn testimony;

Whereas these procedural irregularities—and the unusual delay in the appointment of an independent, outside counsel—have led to widespread concern that the Committee is making special exceptions for the Speaker of the House;

Whereas the integrity of the House depends on the confidence of the American people in the fairness and impartiality of the Committee on Standards of Official Conduct.

Therefore be it resolved that;

The Chairman and Ranking Member of the Committee on Standards of Official Conduct should report to the House, no later than November 28, 1995, concerning:

(1) the status of the Committee's investigation of the complaints against Speaker Gingrich;

(2) the Committee's disposition with regard to the appointment of a non-partisan outside counsel and the scope of the counsel's investigation;

(3) a timetable for Committee action on the complaints.

Mr. Speaker, this is motherhood. This is not to take a prejudicial view of their findings, it is asking for a clear, specific report to this House, of which we stand ready to receive at any time.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designed by the Speaker in the legislative schedule within 2 legislative days of its being properly noticed. The Chair will announce the Chair's designation at a later time.

The Chair's determination as to whether the resolution constitutes a question of privilege will be made at the time designed by the Chair for consideration of the resolution.

HOUSE OF REPRESENTATIVES GIFT REFORM ACT

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 268 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 268

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the resolution (H. Res. 250) to amend the Rules of the House of Representatives to provide for gift reform. The amendments recommended by the Committee on Rules now printed in the resolution are hereby adopted. The previous question shall be considered as ordered on the resolution, as amended, and any amendment thereto to final passage without intervening motion except:

(1) Thirty minutes of debate on the resolution, which shall be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules;

(2) The amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution, if offered by Representative Burton of Indiana or his designee, which shall be considered as read and shall be separately debatable for thirty minutes equally divided and controlled by the proponent and an opponent; and

(3) If the amendment printed in part 1 of the report is rejected or not offered, the amendment printed in part 2 of the report, if offered by Representative Gingrich of Georgia or his designee, which shall be considered as read and shall be separately debatable for thirty minutes equally divided and controlled by the proponent and an opponent. All points of order against the amendments printed in the report are waived. During consideration of the resolution, no question shall be subject to a demand for division of the question.

□ 1430

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for debate purposes only.

Mr. Speaker, House Resolution 268 provides for the consideration of House Resolution 250, the House Gift Reform Rule. The rule provides for 30 minutes of debate equally divided and controlled between myself and the ranking minority member of the Rules Committee. The rule provides that the technical amendments adopted by the Rules Committee are considered as adopted.

Following debate on House Resolution 250, the rule makes in order the consideration of an amendment in the nature of a substitute to be offered by Representative BURTON of Indiana or his designee.

The rule then provides that it is in order, if the Burton substitute is rejected or not offered, to consider an amendment by GINGRICH of Georgia or his designee.

Following the disposition of that amendment, if offered, the House would then vote on final adoption of the resolution as amended.

Mr. Speaker, House Resolution 250 was introduced on October 30 by our Rules Committee colleague, Mrs. WALDHOLTZ of Utah, with a bipartisan group of cosponsors. It is identical to the Senate gift rule adopted on July 28 by a vote of 98 to 0. There are no substantive changes.

An earlier version of the resolution, House Resolution 214, was introduced on September 6 by Mrs. WALDHOLTZ. It amended the existing House gift rule, which is under the exclusive jurisdiction of the Committee on Standards of Official Conduct. Given that committee's heavy workload, the leadership requested that the Rules Committee assume responsibilities for reporting the gift rule.

Mrs. WALDHOLTZ accordingly redrafted her resolution as a new House rule and introduced that version as House Resolution 250 which was referred to our committee.

On October 27, the majority leader held a press conference at which he promised that both the gift rule and the lobbying disclosure bill would be considered by the House not later than today, November 16.

I am pleased that both the majority leader and the Rules Committee have been able to keep to that timetable. I especially want to commend my colleagues for enduring the forced march we put them through over the last 3 weeks to come up to speed on this issue.

We conducted two hearings at which we heard from numerous House Members as well as public witnesses. Then, on Tuesday of this week, we marked-up and reported by unanimous voice vote House Resolution 250 with only minor, technical changes recommended by the chairman and ranking minority member of the ethics committee.

Mr. Speaker, House Resolution 250 would apply a new and tighter gift rule to House Members, officers and employees. Whereas at present, gifts under $50 are not counted towards the annual aggregate of $250 from any source, the new gift rule would lower that exempt threshold to gifts under $10. No formal record-keeping or disclosure is required for gifts of $10 or more—only good faith compliance.

And the proposed new rule also lowers the annual limit for total gifts from the same source in a year from $250 to $100.

And, whereas, at present meals are not counted towards the gift limit, under the proposed new rule, meals of $10 or more would be counted.

The new rule differs from the existing rule in that it does exempt gifts from close personal friends. However, it requires an ethics committee waiver for any gifts from friends that are over $250 in value. And as with the present rule, gifts from relatives are exempt from the limits.

Mr. Speaker, another tough new provision of this proposed gift rule is the more frequent and detailed disclosure of reimbursement from private sources for travel related to a Member's official representation duties. These include making speeches to groups, fact-finding, and substantial participation events.

Whereas the current rule requires annual disclosure and does not require a detailed accounting of reimbursable expenses, the new rule requires that disclosures be filed with the Clerk within 30 days of such travel, and that a good faith estimate be included of total costs for travel, lodging, meals, and other expenses.

Mr. Speaker, I won't go into greater detail at this time on the proposed new rule, since other members of the Rules Committee will be doing so, and there will be further time during debate on the resolution itself.

I would point out to Members that we could have brought House Resolution 250 directly to the floor as privileged motion without a special rule. But, in that case, there would be no opportunity for amendments.

But because it was the strong feeling of many Members on both sides of the aisle that there should be an opportunity to allow for the consideration of alternatives, we have put out this rule that will permit the possible consideration of two such alternatives.

One is by Mr. BURTON of Indiana. It would retain the current $250 annual aggregate on gifts, but would lower the exempt category from gifts under $100 to gifts under $50. Moreover, the Burton substitute would include meals towards the limit if they are $50 or more.

Another major difference between the Burton substitute and the base text is that the Burton substitute would permit Members to be reimbursed for travel for charity events.

Finally, the rule permits the offering of an amendment by the Speaker or his designee that would ban all gifts from persons other than close personal friends or relatives, and gifts of personal hospitality.

In other words—there could be no gifts or meals from people who are not friends or relatives.

The Speaker's amendment would also make clear that Members could take a spouse or dependent child to privately reimbursed, events connected with their official duties—as they now may under existing rules—without having to make a determination that the presence of the wife or child "is appropriate to assist in the representation of the House."

Mr. Speaker, this is a good rule, a fair rule, and one which does allow for both stricter and less strict alternatives than House Resolution 250. I urge adoption of the rule and of the new gift ban reform resolution before us.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am extremely gratified that we are here today to begin the debate on reform of the gift rules. I rise, however, in reluctant support for the rule which has been reported by the Republican majority of the Committee on Rules. Mr. Speaker, for 11 months my Democratic colleagues and I have attempted to bring this issue before the House. Now, when at last the Republican leadership has scheduled this reform for the consideration of the full House, they have stacked the deck.

Mr. Speaker, instead of providing the House with an opportunity to take a clean vote on the Senate-passed gift reform proposal, this rule compels the House to vote down two gift reform amendments before the House ever gets to House Resolution 250, which contains virtually the same language as the Senate measure passed last July. The resolution is sponsored by the gentlelady from Utah [Mrs. WALDHOLTZ], as well as a number of Democrats and Republicans. House Resolution 250, closely resembles the proposal of the gentleman from Texas [Mr. BRYANT], which Democrats have tried to bring to the House on six separate occasions this year. The resolution was reported by the Rules Committee with only minor modifications.

While most observers recognize that the Rules Committee proposition is not perfect, it is clearly far superior to the substitute proposed by the gentleman from Indiana [Mr. BURTON], but also provides far more flexibility for Members than the proposal which may be offered by the Speaker. This rule stacks the deck in such a way that the House will be forced to choose between more of the same—which is the Burton substitute—or a modified zero gift rule—which is what the Speaker's amendment offers. If either one of those propositions prevail, then the Waldholtz bipartisan proposal will never even come to a vote.

Never mind the fact that the Rules Committee held one briefing, two hearings, and one markup on the Waldholtz proposal. Never mind that the Rules Committee proposal was carefully examined by the Standards Committee and contains amendments that were recommended on a bipartisan basis by the Chair and ranking member of that committee. Never mind, Mr. Speaker, that the bipartisan group of Members supporting gift reform asked that House Resolution 250 be quickly sent to the floor and considered without amendment.

So what has the Rules Committee done, Mr. Speaker? In effect, the committee has ignored the product of its own labors and has given us a rule which may very well assure that the Waldholtz proposal may never be voted on directly.

Mr. Speaker, the Democratic Members of the Rules Committee support reform, but we question how we can move toward reform when this rule which puts golf outings ahead of real reform. We will support this rule, but it is a shame that the House is being placed in this position. Yesterday an amendment was offered to this rule which would have allowed for a direct vote on the Waldholtz proposal and every member of the majority—that's right, every Republican Member including Mrs. WALDHOLTZ, the sponsor of the proposal—voted no. I have to ask, What's the problem, Mr. Speaker? Why can't we just take a vote on a proposal which enjoys such wide bipartisan support?

Mr. Speaker, this issue, and the closely linked issue of lobby reform, have enjoyed support from Members both Democratic and Republican, liberal and conservative, senior and junior. Congressional reform is not a partisan issue—it is an issue that matters to all Americans who cherish this House as the House of the people. We cannot let the appearance of impropriety continue to add fuel to the fire of public animosity toward the Congress. If we do not pass the Senate-passed version of gift reform, I fear we will, to a man and a woman, be held in scorn and ridicule.

Mr. Speaker, I would urge my colleagues—those of us who are truly committed to restoring the public's confidence in this institution—to vote to support this rule, but in doing so, I must urge a "no" vote on the Boston proposition. Mr. Speaker, this institution is not held in particularly high regard by the American people, especially at this moment when we are grappling with this budget impasse. I fear that in spite of our good intentions, and those intentions are bipartisan—this rule will force us into a box and our resulting actions will be seen as just more serious business as usual here in Washington.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. GOSS], a distinguished member of the Committee on Rules as well as a member of the Committee on Standards of Official Conduct, who has probably more expertise on these matters than any Member I know.

Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. GOSS] be permitted to manage the remainder of the bill with me.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GOSS. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules, for his confidence. Fortunately, we have staff here who really do know what the Rules of the House are that can help us out, in case I go off track.

I think more important, since we are talking about the rule at this point in the debate, I think it is critical to note that today we are fulfilling a commitment that was made to the House and to the American people that we would debate and vote on the new gift rules for our membership by November 16.

□ 1445

For those like this Member who may have lost track of the days and nights in the midst of all the budget discussions and so forth in the past few days, it just so happens that today is November 16. Promises made, promises kept. I congratulate our leadership for doing that.

I commend the many Members who have worked to bring us to this point, most notably my colleague on the Committee on Rules, the gentlewoman from Utah [Mrs. WALDHOLTZ]. She has persevered under extraordinarily difficult circumstances, and we owe her our thanks. Likewise, I must commend and thank the gentleman from New York [Mr. SOLOMON], my chairman, for his hard work and eminent fairness in handling this issue. It has not been easy.

Mr. Speaker, Thomas Jefferson once said, "When a man assumes the public trust, he should consider himself as public property."

Many Americans subscribe to that philosophy, I among them, and it is for that reason that I support efforts to strengthen and expand our current gift rules. I quickly say that I realize that how you deal with the problem of gifts is a very personal decision for all Members, and I totally respect the rights of how they go about doing it.

Therefore, I think we have come up with a pretty good rule because we have tried to provide for a number of options, hopefully finding a comfortable home for each of the Members' personal preferences that still passes muster with the idea that we are being asked to explore gift reform by the American people.

I believe that most of the Members and staff who work long hours in this Capitol are very honorable and very deserving of the public's confidence. However, I also know from the polls, just general street talk, that the public does not always have great confidence in us, in part because they believe perhaps that we enjoy too many perks and privileges, many of them provided by people who seek special access.

For this reason, since my early days in Congress, my policy for myself and my own office staff has been not to accept any gifts, meals, or travel. Although this policy is personal to me, and it is certainly more stringent than any of the reform versions we are taking under consideration today, I find it has proven to be relatively easy to implement and precluded a lot of difficult decisions that frankly would have been in gray areas that might have raised people's concerns. I know other Members who have practiced the same policy generally agree with those conclusions. Regardless of what we do today, I personally will continue my policy.

Now, gift reform for the entire House, however, is important even if most of the Members adopt their own stringent policies voluntarily. Why? The answer is simple. Because a large number of American people have asked us to take this extra step. Many feel our low approval ratings can be raised only if we do take that kind of a commitment to begin to build back trust. I think building back trust is an important mission for this Congress.

Mr. Speaker, I am pleased that this rule affords Members with differing perspectives on the need and the proper direction of gift reform an opportunity to be heard and issue their debate and their arguments and their persuasion on the approach that they think is best.

I know some Members believe strongly that the approach embodied in House Resolution 250, which is the one that the other body adopted in July, they feel strongly that is the wrong way to go, that will not work. Others believe that that approach does not go far enough, that it will not restrict Members' and staffers' acceptance of gifts and it will not achieve the mission of building credibility.

So we have the chance to debate these points of view and vote first on a bipartisan substitute offered by the gentleman from Indiana [Mr. BURTON], a measure that is designed to emphasize disclosure more than bans. If that should fail, then we will vote on a proposal offered by our Speaker, geared toward a more stringent gift ban than the other body has adopted. If neither alternative should pass, then we will have a vote on House Resolution 250, provisions that are almost identical to the other body's, we have cleaned up some of the minor problems in it, but it is very similar to that, known as the Waldholtz version.

This seems to me to be a very fair and proper way to go. I do not know how we could have done it better and accommodated more views and still brought the matter to the floor. I urge our colleagues' support for this rule so we can get on and examine the versions that we have offered for us.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I thank my friend on the Committee on Rules for yielding me this time.

Mr. Speaker, I rise in support of lobby reform and the rule and the gift reform legislation, the Barrett-Shays-Waldholtz bill before us now, which merely reflects the gift reform bill of the gentleman from Texas [Mr. BRYANT] which we have tried to take up since the beginning of this year.

We cannot begin today without a quick recounting of events that have occurred over this calendar year. Our consideration of lobby and gift reform today characterizes the Republican approach to legislating: take bills which enjoy broad bipartisan support, that were passed by the Senate unanimously, act only when forced to, and then proceed in a partisan manner.

Democrats have offered four previous occasions to consider lobby and gift reforms on the House floor this year, most recently just 3 weeks ago during the consideration of the second legislative branch appropriations bill. On October 25, that bill was pulled from the floor. Why? Because Democrats and reform-minded Republicans had the votes to pass the lobby and gift bills we will consider today. Then and only then did Majority Leader ARMEY make a public commitment to consider these bills today. Did he then take a bipartisan approach? I would argue no.

The Senate-passed lobby bill was not even referred to the committee for 3 months. The lobby reform bill languished at the desk. The Subcommittee on the Constitution did not mark up a lobby bill until hearings were completed, until given the go-ahead by the GOP leadership. The gift reform bill was referred to the partisan Committee on Rules instead of the usual referral to the bipartisan Committee on Standards of Official Conduct. The restrictive rule offered for the gift bill today stems from extensive discussions and votes within the Republican conference, but no consultation with the Democratic leadership ever took place.

So, at the end of the day, is the product improved? Has more bipartisanship on the issue been achieved? Has more bipartisanship on the issue been achieved? Has the House earned its traditional reputation as the more reform-minded of the two bodies? The events speak for themselves.

At the very least, the GOP leadership tactics have cast a shadow over what should have been a straightforward, consensus approach, working hand-in-hand as we did in the last Congress to pass this kind of legislation.

Now the situation has been created where our gift reform product may fall short of the Senate, or our lobby reform bill may be amended, permitting it to bog down in a House-Senate conference committee over amendments that have already shown to be unpopular in the other body. If either of those things happens today, the blame clearly will lie at the feet of the Republican leadership.

I urge my colleagues to adopt the Senate-passed provisions. We should have done so a long time ago.

For my colleagues who want to complicate this issue by saying the limits are too low or charity events will be restricted or record-keeping will be required, I say the American public does not like what it sees in Washington, and we need to set a higher standard and work toward restoring their trust.

I say that not because I am holier than thou. I am no different than any other Member in this institution. I have engaged in all the practices that will be mentioned here today. I am not impugning the motives of any of my colleagues. I think this is the cleanest legislative body anywhere, and I think it has been cleaner every year I have served here.

There is no question in my mind, however, that we need to bring responsibility and accountability to our dealings with lobbyists and our relationships with them. That is the point of these bills that have been brought to this floor finally today. That point should not be obscured by any 11th hour reformers who seek to maintain their own notions of business as usual.

Our mission today is to restore the confidence of the American people in this great institution. Whether we like it or not, the perception exists that this place is too influenced by too close a relationship with those who are paid to influence our decisions.

I urge my colleagues to accept this very unfair rule, yes, accept it anyway, and to defeat the various amendments, and pass the Senate-passed gift and lobby reform provisions.

I know this will be a divisive issue, within both the conference of the Republicans and the caucus of the Democrats. But I think it is in the best tradition of past efforts to reform the institution, and to try to build additional public understanding of the relationships we invariably must have with interest groups and lobbyists, and at the same time reassure each other that our own common standards will be such that we can go to the public and ask for them to reinvest their trust in us.

Many of us have different standards. I do not impugn, as I say, the motives of any. We all have different perspectives as we evaluate where we must be on these issues. But there are other standards that must apply to all of us because we are judged often by the actions of a few.

Mr. Speaker, I urge my colleagues to support the rule.

Mr. GOSS. Mr. Speaker, I yield 2¼ minutes to the distinguished gentleman from the Commonwealth of Virginia [Mr. BATEMAN].

Mr. BATEMAN. I thank the gentleman for yielding me the time.

Mr. Speaker, it would have been much easier for me not to have asked for the time to speak on this issue, on this subject matter. But I think that would have been an act of cowardice for me not to do so.

I know full well that it is politically more comfortable to vote for the most extreme measure pending before us on that subject. But I think that does to this body an enormous disservice. Harken to the words of the gentleman from California who just spoke, who says this is the cleanest institution, legislative body that he knows of and it is getting better all the time. Then why are we flagellating ourselves the way we are doing it?

I could stand before you and tout the virtues of the House Resolution 250 based text that we have before us, but I have looked at it, I have studied it, and it is terribly, terribly flawed.

You should know that what comes to you as the instrument passed by the other body was written on the floor of the other body in an ad hoc, spontaneous kind of way. If we look at that legislation, it shows all the earmarks of the atmosphere in which it was drafted. It is shot full of opportunities for entrapment of Members. It calls for Members exercising, quote, good faith discretion, which is an invitation for those who are most conscientious to deny themselves while inviting those who are least conscientious to go to the limits of the system. It creates the necessity of a recordkeeping that would burden you to the point where it would seriously jeopardize your ability to get the work done for which you were elected.

Mr. Speaker, in 1967 when I first decided to run for public office, I promised myself and my family that it would be more important why I got elected than whether I got elected. I think we should apply that standard as we make our judgments in passing the better gift reform bill.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, gift reform is not a Republican issue. It is not a Democratic issue. It is an issue that strikes at the very core of the integrity of this institution.

The greatest honor in my life is serving in this institution. I have met some of the greatest people I have ever met in my life, and I think virtually every one of those people is dedicated to doing what is right for the American people. I think Congress gets a bad rap when people think we are not here to help. But I also think it is incumbent upon us to do everything we can to make sure the people of this country have confidence in this institution. We must have the people in this country have confidence in the democratic process. In order to do so, that means we are going to have to make some personal sacrifices and I am willing to make those sacrifices. That means we are going to have to say, "I am willing to give up golf trips." That means we are going to have to say, "I am willing to give up unlimited meals worth $50." That means I am going to have to say, yes, it is more important for the integrity of this institution than it is for me to have frills that every one of us wants.

I am human just like everybody else. I would love to have these things. But it is far more important for this institution to have the integrity restored in it.

□ 1500

That is why I think it is important that we are working together today on a bipartisan basis. It is important we move forward.

This is not a perfect bill. You are never going to have a perfect bill in this area, but it is, I think, a bill that moves in the right direction. It is a bill that deserves the support of every person of this institution.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, the gentleman from California talked about fairness. I know we are talking about gift reform, but there was some partisanship put in it.

In 30 years the Republicans did not win but one motion to recommit because the deck was stacked. The king-of-the-hill rule in my first years here, we did not win any, because the deck was stacked.

We are trying to offer three different options. Personally I feel that during the time when the Government is shut down, we have got appropriations bills to do, we have got ,25,000 troops that are looking, by the President, to be sent to Bosnia, it is absolutely ludicrous for us to be doing this at this particular time.

Let us take a look. I am going to support the Burton amendment. I will also support a zero, no trips, no gift, nothing, de nada, rather than partial.

Let me tell you why. Democrats have got a convention coming up in Chicago. Can you imagine when a high school student volunteers time as a gift? Can you imagine someone that drives a car or a flower or anything? There is no way that the people that put on your convention or the people that are involved in it are going to stay out of prison. I guarantee you someone is going to question somebody working somewhere sometime, and that person is going to end up going to jail. I mean, it is absolutely ludicrous.

I have never been on a trip myself, never once, never taken my family. I do not plan on doing it. I would love to go to Mexico where we have a lot of problems in common with California. But I have not done that.

I think probably the most thing I have ever received is a T-shirt or a golf hat. But individually it does not matter.

But I think for us to take and do this partially and the recordkeeping, you say it is insignificant, but I think, I really believe you are going to end up with Members on both sides of this thing in jail just because something is not reported. Somebody drops a book off, which I have received books, I have no idea what they cost. I will log it in. If it comes up over the $10 or $50, like that, somebody could bring it up, and we could end up in a lot of trouble.

I would ask you to support Burton or support zero.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

I ask the gentleman from California, who just spoke, if he would remain at the microphone, if he would.

I know that the legislation is complicated and it is hard to keep track of all the details when things move around. But the gentleman may not have been aware that there is a specific exemption in the bill for political activities. Nothing surrounding the political convention either of the Democratic Party or of the Republican Party is covered under this legislation.

Mr. CUNNINGHAM. If the gentleman will yield, then would a charity gift at a political event be covered?

Mr. FROST. All I can tell the gentleman is the restrictions in this paragraph shall not apply to the following, and then it says a contribution is defined in section 301(a) of the Federal Election Campaign Act of 1971 that is lawfully made under the act, the contribution for election to a State or local government office prescribed by section 301(8)(b) of the act or attendance at a fundraising sponsored by a political organization.

A political convention is obviously sponsored by a political organization. The intent is not to cause problems for either the Republican Party or the Democratic Party at their national conventions.

Mr. CUNNINGHAM. I thank the gentleman.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I have been essentially involved in virtually every reform issue this House has faced since I first came, whether that issue is limiting outside income or requiring financial disclosure or campaign reform or lobbying gift reform. I have not been involved in that because I thought that most Members did not have integrity, I have been involved in it because I know that they do.

Yet, what we have often seen is that many Members in this place have their reputations unjustly besmirched because of the careless or thoughtless actions and sometimes the venal actions of a very small percentage of the Members of this body. I do not believe that we can afford, as an institution or as stewards of the political process, I do not believe that we can afford to have a situation continue in which taxpayers can turn on their television set and see their local Congressman cavorting on a beach with his expenses paid for by lobbyists or golfing with his expenses paid for by lobbyists. The system cannot afford it. That kind of scene turns this country cynical. It robs them of any remaining faith they have left in their political institutions.

We have got to cut off that kind of behavior and that kind of activity. That is why I would urge the House, when they take action today, to support the committee bill, to oppose the Burton amendment.

I respect the gentleman's motives. But I do not respect the judgment that leads one to conclude that we can afford to continue those kinds of relationships. I think that for the good of the country, those kinds of relationships must end, and that is the most important lesson which I think we have to take out of the debate today.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Washington [Mrs. SMITH], who has been one of the principals in bringing this legislation forward.

Mrs. SMITH of Washington. Mr. Speaker, I rise today to commend the Members of the Committee on Rules and the House leadership for allowing gift reform to come to the floor for a vote.

I will be supporting the rule, and I will also be supporting the substitute amendment offered by the Speaker and the base bill underlying this bill.

Just know that if you vote for the Burton amendment, you do not ever get to real reform. The rule is structured in a way that, if Burton passes, you never get the two reform versions, not the total ban and not the bipartisan solution that mirrors the Senate solution. You must vote "no" on Burton first.

Now, why am I supporting both of the underlying bills? A group of freshmen, in a variety of ways, sometimes the same bill, sometimes with others, came together in December and made a decision that we would run against the perceived perception of this place that it was affected by special interests. We ran against incumbents, some of us, saying we would be different, we would not go and be affected by those special interests and that we had to keep our word, see, because we had run on a promise, a contract, and the American people thought that contract included going and cleaning up Congress and changing the perception.

People turn on the TV night after night and see us in warm places with friends on golf trips and have the perception everyone is like that, and since I have been here, I realize that is an exception. It is not the rule.

The hearts are good here. They are well-intentioned. But the people still have little confidence in us.

I urge my colleagues to vote "yes" on the rule, vote "no" on Burton. Burton is introduced by a lot of people with good hearts who believe very strongly that these trips are not harmful. But they are harmful to our image. Vote "no" on Burton and "yes" on the rule.

Mr. FROST. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut [Mrs. DELAURO].

Ms. DELAURO. Mr. Speaker, it is time that we restore the integrity of the House of Representatives by banning gifts to Members of Congress. These gifts threaten the bonds of trust that we need in order to govern in this body.

We are here to do the people's business, and we are compensated very well for that. We do not need paid vacations, frequent-flier miles or free meals to sweeten the deal.

Most of all, Members of Congress do not need lobbyists' paid golf weekends. If Members want to play at Pebble Beach or Augusta, they should do it on their own time and on their own tab.

I am pleased a bipartisan effort is being made to finally ban gifts. I commend my colleagues on the other side of the aisle for their work on this issue. I must register my disappointment that Congress has not acted sooner. In fact, Democrats have tried to bring gift ban measures to the floor of the House 4 times since the first day of this Congress but have been blocked each time.

The House passed a strong gift ban bill last year with a 3-to-1 bipartisan majority, only to see that bill blocked in the Senate. This year, the Senate passed a gift ban 98 to 0. It is time to make sure that the House follows the same strict rules as the Senate.

I urge my colleagues to support the resolution, oppose the Burton amendment or any other changes that would weaken the gift ban, create loopholes for lobbyists or would impede the momentum that has pushed this House toward finally banning unnecessary and harmful gifts.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Utah [Mr. HANSEN], my friend and colleague.

Mr. HANSEN. Mr. Speaker, in this House, there are two things you have to look at. One is perception, and one is reality.

I spent 12 years on the Ethics Committee. In fact, I was the ranking member for the last 2 years of the Ethics Committee. I remember the Jim Wright case well. I remember the case where I was in charge of the Republican side on check cashing—109 Members say they lost their positions because of that.

I also took the time to go back and look at every case that has ever happened since the beginning of Congress on what we have tried in front of the Ethics Committee; somebody hit somebody with a cane, they went outside here and dueled, they spit on each other, they did all kinds of interesting things. But, you know, to this day, whatever the perception is, the reality is there has never been a case before the Ethics Committee because of an honoraria or a gift, never been there.

When I was first here in the early 1980's, we had an interesting time. We said we have got to change this around, and we did not get around to it, however, but in 1989 we did. People, like the gentleman from Indiana [Mr. MEYERS] sitting there, the distinguished gentleman from Ohio [Mr. STOKES], and others, all of us spent hundreds of hours trying to come up with some rules. We got them done. We did away with honoraria. We did away with a lot of things.

Then what happened? We had people come to the floor and say, "We finally did it. We have got it done. We will pacify the American public. They will be happy with this." That was not done behind closed doors. That was done in the open, for everybody to see. All the papers said, "Gee, they finally did it."

Let me just ask the question: How many in here know what we did in 1989? I do not think very many people do. One. Thank you. I appreciate the gentleman from Texas.

Most of the people, though, it is just like saying what is wilderness. Nobody can define that. So we get down to the idea of what have we got; really, why do you not take it and read it before you vote on it? Why do you not find out what we have got before we talk about something else?

There are a lot of ways to skin this cat.

I personally feel we should leave it as it is and say to the American public, "Why do you not go read what we did in 1989? I think you will feel we did a good thing and a good thing for America."

I urge the Members to just let this one go. I am proud of the work that we did in 1989. I see no reason to change it.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, Members of the House, I rise in strong support of this bipartisan effort to reform the rules of the House with respect to gifts.

I, too, will be supporting Speaker GINGRICH's substitute for no gifts. I wish he had treated lobbyists differently than the Girl Scouts, but so be it. I think we are better off with no gifts at all than all of the other problems raised by the exemptions.

I would seriously hope my colleagues would turn down the Burton amendment. This effort at disclosure is not real disclosure. But what it does is take off all the limits between lobbyists and people with unlimited expense accounts and the special access they have to Members of Congress at events, whether they are billed for charity or for any other. You may disclose under the Burton amendment that you went to charity. What you will not disclose is you played with three oil executives or three people from the homebuilders or three people from the banking industry or from the savings-and-loans. That was not chance. That was set up. It was determined ahead of time because that is how they attracted those people to give money to the charity was to promise them that they could play with the Member of Congress and they could spend time with them over a 3-hour, 4-hour, 5-hour period of time.

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That will never be disclosed under the Burton resolution. We ought to turn that down. Because disclosure, disclosure will not solve the problem that we have. The problem that we have is that a group of paid people in this town who do very good work on behalf of their clients, whether it is on behalf of teachers or utility companies or home builders or what have you, they do marvelous work, but because of their access to money, because of their access to privilege, they have access to Members far beyond what our constituents have to us.

That is not fair, in an area where we are competing for ideas and competing for votes and competing to persuade our colleagues to vote one way or another, and that access that is bought by money must be ended. The bipartisan bill does that.

The Speaker's amendment takes it a step further, which I think is worthy of all of our support. Our constituents do not want us to disclose it, they want us to stop it, and they want us to stop it now.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, as a newcomer in this Congress, my concern with many of my Republican colleagues is not that they have tried to change the operation of this House too much, but that they have changed it too little. And with all due respect to my good friend from Florida, I have to say that the Republican leadership really has broken its promise to the American people in this regard.

From day one, when the issue was the relationship between the lobby and the Members of this body, they refused to reform. We tried on January 4, we tried in May, we tried in June, we tried in September, we tried in October, again and again and again. We met a stone wall of resistance to doing anything to change those ties that bind Members of Congress to the lobby.

This year, finally, under pressure from the U.S. Senate, where 98 Members of that Senate voted to reform gift ban, finally it became obvious that some reform was going to have to happen. And I salute those Members, largely new members of the Republican caucus, who have spoken out on this issue, because it is essential that it have bipartisan support.

Yet as recently as this past Sunday on "Meet the Press," Speaker GINGRICH again spoke out against the version of this bill that passed the U.S. Senate. We have a rule today that has been structured to make it as tough as possible to pass a real meaningful rule.

So today we have an opportunity to enact real reform, yet there is yet an amendment up here that would provide little more than the current system. It is essential that we not contract out the operation of this Congress to the lobby, that we rely on the Members of the Congress to do it, and not the gifts from the lobby.

Mr. FROST. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of the rule and for underlying bipartisan bill. Mr. Speaker, we were sent here to give Americans a better life, not to live the good life at the expense of lobbyists. But Congress has played games with gift bans for years, grandstanding against perks, but quietly preserving them.

Today we can stop playing games and pass real gift ban reform, either the Shays-Barrett gift ban bill, or the Gingrich total ban on gifts, or we can keep playing games, especially golf, and pass the Burton substitute. We need to vote against the Burton substitute.

House Resolution 250 is a good, tough gift ban. It limits single gifts to $50 and annual gifts to $100. The Burton substitute is not a gift ban; it is a gift bonanza. It will continue free round trip tickets to charity events; it says a gift under $50 is not really a gift. How many Americans would agree with that?

The only true gift ban bill before us today is the bipartisan Shays-Barrett bill, or Speaker GINGRICH's total ban, but in order to get to them, we need to vote for the rule and against the Burton substitute.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of the rule and of this resolution. It has taken us too long to get to this day.

What we are doing here today is a straightforward change in the House rules to enact a strict ban on gifts to Members from lobbyists and other people with a direct interest in legislation. And, you know what? It is about time. Ross Perot is absolutely right on this one. The system is badly broken and must be fixed today. No more excuses, no more delays.

These two measures, the gift ban and the lobbying disclosure bill, are designed to correct basic faults in the system, a system that has shaken the confidence of the American people and our ability to do what is best for the country, and not what is best for our junketeering buddies.

Mr. Speaker, I do not know of any of my colleagues who can be bought off on an important issue by a trip or a dinner. But the American people perceive Washington to be nothing more than a swamp of back scratching and self-enrichment. Today we can take a step to correct that view. We must act here and now to eliminate the potential for corruption and eliminate even the appearance of junketeering buddies.

Mr. Speaker, some in this Chamber have decided to spread myths and use scare tactics on this bill. But my colleagues, I do not want you to be fooled by the loose talk on this resolution.

I really am looking forward to the day when this House cannot only do what we have to do today, but look forward to the real good government reform that the American people want and deserve, which is campaign financing reform. That will have to wait until next year. But without delay, today, we should defeat the Burton substitute. It kills reform, and support the Shays-Waldholtz-Barrett gift ban.

Mr. Speaker, I submit to you the "Dear Colleague" of the gentleman from Connecticut, Mr. CHRIS SHAYS, the gentlewoman from Utah, Mrs. ENID WALDHOLTZ, and the gentleman from Wisconsin, Mr. TOM BARRETT, which dispels those myths and tells the reality of this bill.

CONGRESS OF THE UNITED STATES,
Washington, DC, November 16, 1995.

GIFT BAN: MYTH VERSUS REALITY, PART 2

DEAR COLLEAGUE: Many questions have arisen recently during the discussion of gift ban legislation. We want to take this opportunity to dispel some of the "myths" you may have heard regarding the resolution.

Myth. This legislation will result in countless innocent members and staff going to jail for accidentally violating the ban.

Reality. H. Res. 250 is a rules change, not a law, and therefore could not result in any criminal violations. Just like the system that exists today, violation of the gift rules would be subject to disciplinary action by the Standards Committee.

Myth. I understand the personal friendship exemption doesn't apply if a gift was paid for with company expenses, or by someone other than my friend. Therefore, I could be in violation even if I don't know that a gift my friend gave me was paid by his company.

Reality. The rule states a member shouldn't apply the personal friendship exemption if "to the actual knowledge of the Member, officer, or employee" someone other than the friend paid for the gift. If you didn't know the gift was not paid for by your friend, you would not be in violation.

Myth. Sometimes my attorney waives a fee for me, just as she does for other clients. Under the H. Res. 250, I wouldn't be allowed to accept this.

Reality. The resolution exempts gifts which are "offered to members of a group or class in which membership is unrelated to congressional employment." As long as your lawyer waives other clients' fees, and is not waiving your fee because you are a Member of Congress, you would not be in violation. This is similar to current rules.

Myth. I understand that personal hospitality is allowed under H.Res. 250, but that the exemption doesn't apply to free lodging at a company-owned resort. If someone invites me to stay at his condo, and I don't know that it's owned by his company, I will be in violation.

Reality. The limitations on gifts of personal hospitality are the same under H.Res. 250 as they are under current rules. You would not be in violation if you did not know the condo was company-owned.

Myth. If my friend invites me to go on his boat or use his jet ski, and I don't know that they're owned by his company, I would be in violation of the rule.

Reality. Again, if you don't know that a gift was paid by a company, you would not be in violation of the rule.

Myth. If someone gave me four tickets worth $20 each for my family to attend a baseball game, I would not be able to accept them, because the cumulative value of $80 exceeds the $50 limit.

Reality. The Standards Committee currently applies a "simultaneous gift rule" which would continue under H.Res. 250. Under this rule, the tickets would each be considered separate gifts and could be accepted as long as each ticket's value did not exceed $50. The total value of all tickets could not exceed $100.

Myth. Sometimes there's a charity event in my district, such as a 10K run or a tennis tournament, and the fee is waived for me. Under H.Res. 250, I couldn't participate in such events and have the fee waived.

Reality. This is not true. The resolution allows members to accept free attendance at a charity event, offered by the event's sponsor. You would not be able to accept free airfare to or lodging at a charity event.

Myth. Under the resolution, a gift to a staff member would count toward the member's limit.

Reality. A gift to a staff member does not count towards his/her member's limit, it would count toward the staff member's limit.

Myth. Sometimes I take courses or lessons and the fee is waived. Under H.Res. 250, I won't be able to do this.

Reality. Training is exempt under H.Res. 250 if such training is in the "interest of the House". The Standards Committee could determine if a class is in the interest of the House.

Myth. Unpaid interns would be banned under the legislation.

Reality. This is not true. Regulations regarding the service of interns already exist in House rules. H.Res. 250 does not affect these rules.

Myth. Use of government tennis courts and weight rooms would be banned.

Reality. This is not true, for two main reasons. Under the resolution "Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract" is exempt. In addition, opportunities which are "offered to members of an organization . . . in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size" are allowed.

Myth. I will not be able to take tickets to any game, even if it is a university in my district.

Reality. If the tickets are worth less than $50 each, they can be accepted. The cost of the tickets would count toward the aggregate $100 annual gift limit.

Myth. If an unsolicited gift basket comes into my office I will be in violation of the gift ban.

Reality. Provided the gift basket is worth less than $50, it can be accepted. The cost of the gift basket would count toward the aggregate $100 annual limit. If it is worth more than $50, the resolution states "if it is not practical to return a gift because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed."

Myth. If the Chamber of Commerce has a lunch, I won't be able to go and interact with my constituents.

Reality. Food and attendance at a widely-attended event is exempt from the ban.

Myth. I will never be able to go on a fact-finding trip to gain information that I need to do my job. In addition, my constituents will not be able to invite anyone but me to speak at their events—even if there is another member of Congress who is more knowledgeable on the issue than I am.

Reality. Travel may be accepted from anyone other than a registered lobbyist, as long as it is specifically related to official business. The travel must be publicly disclosed, and entertainment cannot be paid for unless it is provided to all attendees regardless of Congressional employment. Activities which are substantially recreational in nature cannot be paid for.

Myth. My staff and I will spend countless hours on paperwork requirements required by this resolution.

Reality. There are no record-keeping requirements included in H. Res. 250. The only additional requirement is further disclosure on travel.

I hope this is helpful. If you have any questions, call Allison Clinton (Shays), Bryan George (Barrett), or Linda Toy (Waldholtz).

Sincerely,

CHRISTOPHER SHAYS,
TOM BARRETT,
ENID WALDHOLTZ.

Mr. FROST. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Mr. Speaker, I rise in support of this bipartisan bill. Not all lobbying is bad, and not all gifts are given for cynical reasons, but there is no denying that members of Congress are getting too close to lobbyists, and it is up to us to break up the symbolic relationship between legislators and the people hired to influence them.

Many of us were elected promising to change the way Congress does business, because the American people are convinced that Members of Congress take too many free trips, take too many expensive gifts, and have too many free steak dinners.

I am not so sure they are wrong. Just look at all the political wrangling and legislative game playing that has been going on on this issue, all in the name of saving free golf trips and greens fees.

Can you imagine, in the same week that we are closing down the Federal Government, we are thinking about voting to open up free trips for golf and free trips for greens. Last Congress, my freshman class, my Democratic freshman class, led the way of fighting for a gift ban, but that died in the U.S. Senate.

The Republican leadership this year has procrastinated and capitulated and delayed long enough. Working in a bipartisan way, we have this before the floor today. Four times earlier this year we tried to do it through Democratic amendments.

Now is the time to pass it. In the elections last November, voters gave Congress a mandate to change the way Washington does business. It is time to stop the political games and start working together to make this institution more accountable.

Vote against the Burton substitute, and let us vote for real reform. Let us pass it today.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am going to speak on the Burton amendment when it comes up. I have listened with great interest today. All of the Members of Congress who are so concerned about ethics in this House, I wonder if any of them have taken the opportunity to read the law? We are talking about a House rule and the law of the United States which says that anyone who is in Congress who accepts any gift in return for any vote on this floor is subject to imprisonment and removal from office.

If anyone is so pious and so convinced that there are Members of Congress who are taking these bribes, it is their obligation to this Congress to name names, to tell us who is doing this. They are doing this to get a headline back in their district, and they are getting a few, but they are making a tremendous mistake.

So get headlines back in your district, and then go back and tell people who you are talking about. Then bring those names to the Attorney General and let us prosecute them.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I really do not want to prosecute anyone. I simply want to have the U.S. Congress stand up and do their job, and that is to recognize that we are here to do the people's business, and not to be the recipient of all the goodies that may come into our office.

These are honest people here, folks. No one is attempting to prosecute law abiding Members of the U.S. Congress. We know however debate that the in the national arena has been directed at this House improving self-regulation. But this is a simple rule that has a simple face value to it, and that is that we should not accept gifts that may intrude upon the process of government. It simply prohibited gifts except at a certain monetary value. It allows Members to do their job on behalf of the American people, but it says that gift taking from lobbyists and others is just plain wrong. It is a simple fact, and I accept it, and was glad to vote for the rule.

I would ask my colleagues to join together to ensure that the American people will know that this House has cleaned its own self up, that this House is prepared to acknowledge the fact that the business at hand is to save the taxpayers' dollars, and also to be found to be beyond reproach. It is important that we recognize that this is not a harsh rule, simply a fair rule. It is a rule that is simply fair, and simply acknowledges that we are here to work, and to work hard.

Mr. Speaker, I would ask my colleagues to think about what the image has been of this Congress, aside from the fact we have not passed a clean continuing resolution that would allow the Government to keep its doors open, not for us, but for the American people. It is time now then to tell them that we are ready to get down to work and to avoid the aspersions that have been cast upon this Congress that we spend our time taking gifts and not doing work.

It a simple rule, it is a simple process. Clean our own act up. This Congress can do it. Stop the gift. Let us do it today.

Mr. GOSS. Mr. Speaker, I yield 2¼ minutes to the distinguished gentlewoman from Ohio [Ms. PRYCE], my friend and colleagues on the Committee on Rules.

Ms. PRYCE. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, today the House of Representatives will take another important step toward fulfilling our promise to the American people to change the status quo by voting on gift reform legislation.

Now, this is personally satisfying, Mr. Speaker, because many of us in the sophomore class worked very hard since we arrived to bring about meaningful congressional reform, and now we finally have the strength of numbers to do it. I commend my colleagues and the new freshman class for all the hard work they have done to keep this important issue on the front burner, for working with our leadership to bring this to the floor this year.

Mr. Speaker, before I ran for Congress I was a judge, and when I decided to run for this seat, I called my mother and told her. And there was a long silence on the other end of the phone. And I said, "Mother, what do you think?" and she finally said, "Deborah, how could you leave the bench to go to that sleazy place?"

Now, this was my own mother. I have since convinced her that things are not all that bad, but, unfortunately, I do not believe my mother is the only person in America who held this institution in such low esteem.

Now, for too long our constituents have believed that well-funded special interest groups have maintained undue influence over the legislative process. While I firmly believe that the Members and staff of this body conduct the people's business every day with honesty, integrity, and with high ethical standards, there is still a perception, much like my mother's, that Members' decisionmaking is often clouded by acts of generosity extended to them.

☐ 1530

As a result, public confidence in this institution has steadily declined and the taxpayers have issued a renewed challenge to make Congress more open and accountable. As Members of Congress, we have the obligation to respond by setting higher standards for ourselves.

Mr. Speaker, this is a fair and balanced rule. It calls for honest debate on three very different proposals to strengthen current gift restrictions. Each proposal represents its own priorities and represents much hard work and sincere thought and all improve the status quo. I urge adoption of this rule and adoption of pursuant legislation to reform gift reception in this body.

Mr. FROST. Mr. Speaker, I yield such time as she may consume to then gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I rise in support of the rule and the underlying bill and urge Members to support that and vote in opposition to the Burton substitute.

Mr. Speaker, I rise to urge my colleagues to reject the Burton substitute and support a complete ban on gifts.

Since arriving in Congress, I've made it my office policy not to accept any gifts from lobbyists or allow any of my staff to do so. Earlier this year, I was one of 32 Members who signed a Common Cause pledge saying that lobbyists gifts are forbidden in my office.

Now is the time to turn this voluntary pledge into the mandatory House rules for all of us.

It's important because we need to restore pubic trust in Congress and its Members. And there can be no better way to begin this process than by giving up lobbyist-provided meals, tickets, vacations, food baskets, and golf outings that have come to symbolize what's wrong with Washington and the way it operates. These gifts should be flat out eliminated.

Mr. Speaker, the Burton substitute is weak tea when what we need is strong medicine. It's time for Congress to give up gifts from lobbyists and get back to work for those who pay our salaries—the American people. I urge my colleagues to place a complete ban on lobbyist gifts.

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. SHAYS], who has also been in the forefront of this matter.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, this is a debate I have not looked forward to because there are such strong feelings. This is kind of an in-house debate. We talk one way here and the general public on the outside hears and sees something totally different. We do not win friends, but this is a debate that we have to have.

I say we are at the crossroads in this Congress, and I particularly speak out to my Republican freshmen. They came as reformers, and already some of them are getting sucked up into this place. I believe we have to reform gift ban and lobby disclosure, and I believe the time is now.

Mr. Speaker, I salute the gentleman from Texas [Mr. ARMEY] for promising a vote. Little did I realize how many of our conference did not want him to do that. My admiration goes out to him, and the gentleman from New York [Mr. SOLOMON], who I call a seasoned veteran with a freshman heart, and the gentleman from Florida [Mr. GOSS], for the fine work he has done.

I encourage my colleagues as much as I can to defeat the Burton amendment, and I encourage the staff that are watching to wake up their Members and have them realize that if Burton passes, reform is dead. And tomorrow I know what the headlines will say. They will say this Congress is against reform. And if we do support the Burton amendment, we are against reform.

Mr. Speaker, we need to clean up our own House and we need to act quickly. I urge Members to oppose the Burton amendment. I urge Members to consider the Senate amendment, sponsored by the gentlewoman from Utah [Mrs. WALDHOLTZ] and the gentleman from Wisconsin [Mr. BARRETT] and others. It is a fine sensible proposal.

We will also have the opportunity to get rid of all gifts, which may be Members' decision, and something that we ultimately all may do, but we do not get to the Senate proposal, the Barrett proposal, the Waldholtz proposal, we do not get to the Speaker's proposal of no gift if Burton passes. The Burton amendment keeps things the way they are now, except it just discloses how sleazy this place has become.

I urge my colleagues to wake up and understand what this vote is all about. It is about whether we go forward or go backward, and I urge it to happen on a bipartisan basis.

Mr. FROST. Mr. Speaker, at this point I urge adoption of the rule, and I yield back the balance of my time.

Mr. ALLARD. Mr. Speaker, today, I rise in opposition to this rule. It is not often that I rise in opposition to a rule, as I have a great deal of respect for the gentleman from New York, the chairman of the Rules Committee. I rise in opposition to the rule not because I do not favor gift reform, but rather, I believe in the need for effective gift reform. I have always been a strong advocate for congressional reform and believe strongly in the concept of a citizen legislature. If we are to achieve these goals we must pass gift reform legislation that is truly effective. The gentlelady from Utah has proposed such legislation. Unfortunately, if this rule passes, the opportunity to vote on this truly historic piece of legislation will be greatly limited.

This rule, as presented, favors the substitute. If we wish to arrive at a real solution to the gift reform equation, we must be allowed to weigh each measure on its own merits, without the limits of this rule. Any limits placed on debate should allow each of these measures to be brought to the floor individually. This way, the U.S. House of Representatives can begin the process of removing many of the perks Congress has enjoyed over the last 40 years.

I will support the Burton substitute if it is the only piece of gift reform legislation brought to the floor, even though I believe House Resolution 250, the Congressional Gift Reform Act, to be the strongest piece of gift reform legislation presented to date.

Mr. GOSS. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, just make a few points I would like to speak to very quickly.

First of all, we are talking about House rules, not criminal statute. I say that because there are some who have put out some thoughts that there is the potential of going to jail and so forth because of these House rules we are talking about. Breaking the law is always possible and anybody can go to jail and should if they deserve to, but we are talking about the rules of the House here, not about criminal law.

Second, I would like to point out that volunteers have been brought up in some scenarios. They are subject to another rule and not part of this legislation today.

Third, there was talk about a political convention. That is not covered, as my friend from Texas has talked about. There is a specific exemption from that, and, as we know, we separate our official from our campaign functions very carefully and need to continue to do that.

Fourth, this is a bipartisan event. There are participants from both sides of the aisle and many different points of view involved, not only in the base legislation but in the amendments that we will be discussing.

Fifth, I would like to point out that even though some have cast aspersions about GOP's leadership abilities to move this forward, we have only been here 10 months and we have it on the floor on the date we promised. The others who have been here for 40 years perhaps did not come to quite as timely a decision on this. So I think we have done OK.

Sixth, I would like to point out that on page 12 of the committee report, an incorrect reference is made to a restriction on the provision of "free attendance" at a widely attended event, which does not exist in House Resolution 250. For the record, there is no restriction on who may provide free attendance at such an event.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SOLOMON. Mr. Speaker, pursuant to House Resolution 268, I call up the resolution (H. Res. 250) to amend the Rules of the House of Representatives to provide for gift reform, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 268, the amendments printed in House Resolution 250 are adopted.

The gentleman from New York [Mr. SOLOMON] and the gentleman from Texas [Mr. FROST] each will be recognized for 15 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent to divide our 15 minutes equally between myself and the gentleman from Indiana [Mr. BURTON], 7½ minutes each.

I yield to the gentleman from Texas [Mr. FROST] for a similar request.

Mr. FROST. Mr. Speaker, I will yield up to 7½ minutes to opponents of the legislation during this debate. It is not clear as to whether the opponents at this portion of the debate will be asking for the full 7½, but if they do, for purposes of control, I will yield up to 7½ minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York and the gentleman from Texas?

There was no objection.

The gentleman from New York [Mr. SOLOMON] is recognized for 7½ minutes.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 250 is the long-awaited House Gift Reform

Act. This new rule would place tight new limits on the types and value of gifts that Members, officers, and employees may accept.

Mr. Speaker, let me say at the outset that this is a bipartisan effort. We have had people on both sides of the aisle championing these new limits for several years now.

That is not to say that our 1989 Ethics Reform Act did not set significant new standards for all branches of the Federal Government. It did as the gentleman from Utah [Mr. HANSEN] said. We eliminated the honoraria of up to $2,000, that Members used to be able to receive for speeches. It outlawed certain types of outside employment for Members, officers, and employees—such as working with or being affiliated with law firms.

And it banned certain types of gifts from all persons and not just from those having a direct interest in legislation, as was previously the case.

But the resolution before us today continues the ethics reforms we enacted back in 1989.

Moreover, this resolution continues the reform revolution set in motion on the opening day of this Congress when we overhauled the rules and procedures of this House, eliminated scores of committees and subcommittees, and downsized our committee staff by one-third. We shrunk the size of this Congress.

As the chairman of the Rules Committee, and one who has been heavily involved in reform efforts since I came to this body, I pledged that January 4, 1995, was just the beginning, that reform was an ongoing and dynamic process, and that we would continue to reform this institution as long as we were in the majority, and we are doing that today.

Mr. Speaker, I am pleased that we have continued with the reform initiatives that we set in motion on opening day. This gift rule reform resolution is just the latest chapter in that ongoing effort.

I especially want to commend the freshmen Members, like the author of this resolution, the gentlewoman from Utah, Mrs. WALDHOLTZ, an outstanding member of this body, the gentlewoman from Washington, Mrs. LINDA SMITH, the gentleman from Kansas, Mr. SAM BROWNBACK, and especially the gentleman from Connecticut, Mr. CHRIS SHAYS, and a whole host of others.

The people wanted a new Congress with new priorities and a new agenda. And they wanted a Congress that was willing to literally clean its own House.

Notwithstanding the great strides we have made in meeting the demands and expectations of the electorate, there is still a great skepticism and distrust around the country about this Government, and we have to do something about that.

Unfortunately, that public distrust extends to every branch of government, including the Congress. It is not because we have failed, or because this body is filled with dishonest Members. That is certainly not the case. This House is filled with the most honest, bright, and hardworking Members in the history of the Republic.

Notwithstanding that, the people are still skeptical, suspicious, even distrustful of public officials. It is a legacy of the past, and nothing new in our history. The people have seen too many empty promises, too much business as usual, and they want results—sometimes sooner or greater than a democracy can deliver.

Overriding all this is the age-old suspicion that politicians are only out for themselves, are too influenced by special interests, and are too little concerned with the interests of the people.

Mr. Speaker, I am proud to say that this 104th Congress is keeping its promises of the last election. We are about to deliver on the most important of those promises—something all the people want—and that is to balance the budget.

But, until we complete action on that, and the other legislation that we have already passed in this House, there remains that public skepticism and distrust. Do we really mean what we say? Will we really see it all through?

The resolution before us is part and parcel of our congressional reform efforts to dispel those public misperceptions that we are somehow not here to do the people's business, and are somehow beholden to those who supposedly lavish us with gifts.

Mr. Speaker, my colleagues know that is not the case. They know that they will not be returning to this House in the next Congress if they do not put the people first, and carry out the people's mandate and expectations.

So this resolution that significantly tightens up on the House gift and disclosure rules, is not a great sacrifice, because it does not involve any major alteration in our behavior. We do not have to make any significant changes in our behavior or conduct, because most Members do not now take or accept the kind of gifts this rule would prohibit.

But I am convinced that by adopting tighter gift rules and restrictions we will help to convince the people that we are not being unduly influenced by gifts or meals or trips or what have you. Our greatest gift is the continuing trust and support of the people and the privilege they have bestowed upon us to represent them and their interests in the people's House.

Let's give them a gift in return, and that is this small but significant step to help restore the trust of the people in their Representatives. That is not asking too much. It is the least we can do. Let's pass this gift rule and demonstrate that we are indeed worthy of the trust and responsibility the people have placed in us.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Resolution 250. The reform of the gift rules for House Members and staff is a bipartisan issue and one that has been supported for many years by Members of all political stripes and by many citizen organizations. We have, in years past, made significant changes in our rules, but in spite of those reforms, many Members have recognized that there is still a need to continue to change how this institution does business.

Mr. Speaker, I am very gratified that the persistence of the gentleman from Texas [Mr. BRYANT] has finally paid off. His untiring efforts to bring this issue to the full House, along with the efforts of a broad bipartisan coalition of freshman and other junior Members, demonstrates that this issue does not belong to any one political party. My Rules Committee colleague, the gentlewoman from Utah [Mrs. WALDHOLTZ], is to be congratulated for shepherding this issue through the Rules Committee and to the floor today. I also want to thank my friend, the gentleman from Florida [Mr. GOSS], for his steadfast support for bringing this issue to the full House.

And now that the House has finally come to the moment in which it can demonstrate its commitment to reform, I want to urge all of us to think carefully about how we are going to vote today. If, as we all know, there are those in the public who will never be satisfied with what we do here, there are also other Americans who understand that the men and women elected to this institution are honorable and that we are trying to do the right thing. We are here because we want to give something back to this great Nation which has given each and every one of us so much.

Mr. Speaker, the House has three choices today: First, a substitute will be offered by the gentleman from Indiana [Mr. BURTON]. His proposal would leave the current gift rules in place but would require extensive disclosure of any gifts received or any trips taken by Members or their staff. Mr. BURTON's proposal, if I understand it correctly, would impose new disclosure requirements which will allow our constituents to decide if we are unduly influenced by lobbyists and other special interests. I submit, Mr. Speaker, that Mr. BURTON's heart is in the right place, but that his substitute simply does not get the job done. I would urge a no vote on this proposition.

The second proposition may be offered by Speaker GINGRICH if the Burton substitute does not pass. The

Speaker's proposal would zero out accepting gifts. His proposal does, however, contain a number of exceptions which may or may not address the issue of how to deal with small, inexpensive gifts from constituents or other groups.

That proposal is, of course, the proposition reported by the Committee on Rules and which is sponsored by a broad bipartisan coalition. This amendment to the rules of the House reduces the allowable amount of accumulated gifts from any one source from $250 to $100 per year, and prohibits the acceptance of any gift with a value exceeding $50. With certain exceptions, lobbyists are prohibited from giving gifts to Members and staff. But most importantly, this new rule would specifically bar Members from accepting reimbursement for transportation and lodging costs associated with their attendance at charity golf, tennis, and ski tournaments.

This prohibition directly addresses the lifestyle issue which has caused this institution so much unneeded and unwarranted grief. This prohibition is key to the gift rule reform effort.

The proposal reported by the Rules Committee is not perfect, but it is a significant improvement on the current rule. I urge my colleagues to support the bipartisan proposal reported from the Rules Committee.

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Mr. Speaker, I reserve the balance of my time.

Mr. BURTON of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. BARR].

Mr. BARR. Mr. Speaker, I thank the gentleman from Indiana for allowing me to weigh in on a very important topic.

Mr. Speaker, the sound of hands beating against chests today is just deafening. We have before us now something that everybody can beat their chests and say that we cleaning up the cesspool, we are cleaning up the sleaze.

Mr. Speaker, I do not know about the other Members here, but in the 11 months that I have been here I have had a parade of constituents through my offices that are church people, that are members of Little League teams, that are members of Chambers of Commerce, that are members of small and large businesses in my district, and elsewhere in the country, environmental groups, that have an absolute right. They want to come in and see me. They are not coming in with bags of cash. I do not know who my colleagues are hanging out with, those who talk about sleaze and sewers, maybe they are hanging out with a different class of people than I do coming up here from my district in Georgia.

The legislation that we are talking about here today does not address those fundamental issues that we have already addressed that are already addressed in the criminal laws and the ethical regulations in this House.

What we are talking about today is beating our chests and making the public think we are really changing something, when all we are doing is preventing people from coming into our office that may have a baseball cap to show us that they want displayed, because they are proud of something they have done. Now, we have to virtually subject those people to a pat-down search before we allow those people into our office under House Resolution 250 or under the Speaker's legislation, and ask them for a receipt.

One of our staff people cannot go out to dinner, to find some time because they do not have time during the day. They are doing the people's business. They could not go out and have a meal with some folks back home. What we are doing is cutting off our nose to spite our face. We are diverting attention from real issues here. What we are going to end up with is a god-awful piece of legislation that is a lawyer's dream.

Mr. Speaker, I have sat here just trying to focus on one bit of a discussion earlier when we were talking about this rule on whether or not attendance at a political convention is or is not exempted under here. In the space of 2 minutes, we can look through House Resolution 250 and find four different places where it may or may not be covered.

It is a nightmare. Do not pass nightmares, despite the fact that we can beat our chests and make people feel good. The Burton substitute is very proper.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, this is general debate and I will speak again at the time of the introduction of the Burton-Brewster-Clay-Abercrombie amendment, the full disclosure amendment.

Mr. Speaker, the previous speaker just mentioned about beating on chests, and I agree with him entirely. I did not come into this institution as the last person to be sworn in by Tip O'Neill before he retired to have people stand here in the well of the House and say that there is only the "appearance of integrity;" that it is not an honor and a privilege to serve in this House.

Mr. Speaker, I will tell my colleagues if there is a perception out in the country that there are less than honorable people here, it is created by individuals. We cannot account for everybody who comes in here, but the voters see to it whether or not they want those folks to come back in here.

There is nothing in this bill presently before us that provides what our full disclosure amendment provides. As a matter of fact, there is no disclosure provision. I would like to know, all those who have come down here and talked about appearance, restoring integrity, the perception; that it is more important to attack the perception of the House, more important to attack that.

Mr. Speaker, I would like to know all of those who have stood down here so self-righteously proclaiming that they, of course, are ready to assume the mantle of probity; they would not be guilty, not even the odor of mendacity is about their persons.

But for the rest of us, for the rest of us, no disclosure? I would like to know whether any of those Members have taken any money from any source that they now stand here and say they will take no money from in the form of a meal. How about a campaign contribution? I would like to see now many people who are standing down here saying, "Not me, I would not take a meal or anything from a lobbyist." They would not? Mr. Speaker, then they should come down here and let me see what their campaign contribution form looks like.

Now, far be it from me that there is anything wrong with that, but what we are really talking about here is campaign reform, campaign financing. If that is what my colleagues want to attack, attack that.

There is an exception. There is an exception for campaign activities, as was pointed out by the previous speaker. Will somebody please explain to me how we are going to have an exemption for campaign activities, but at the same time say that we are actually passing a gift rule?

Mr. Speaker, I understand the motivation of someone trying to say that they are cleaning the place up. Yet, every single Member who said that also remarked that they were fully believing that the integrity of the House was intact; it was merely the perception that the House does not have that integrity which was in question.

If that is the case, let us be honest. If there is a Member in here that is a thief and a crook, then stand up and say so. That is what we have a Committee on Standards of Official Conduct for and a Justice Department for.

Mr. Speaker, I say let us have full disclosure, just as we do with our Federal election campaign reports. That amendment will be before Members. Then my colleagues can go back to their constituents and say to them, "Yes, you can examine my record, you can examine what I did, and you make a judgment as to whether I am worthy to be in this House."

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. BURTON of Indiana. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I would like to say for those of us who have not worked as hard as others have on this issue, we compliment the gentleman from Indiana [Mr. BURTON] on his work. A lot of people put a lot of dedicated time into this issue.

Mr. Speaker, I think we have to meet three tests if we are going to have an adequate disclosure and gift reform. One is it has to be clear. I think gray areas are the worst enemy of everybody. That is what causes problems.

Second, it has to be easy to administer. We get to the point in some of the proposals where the recordkeeping itself is going to be the issue.

Third, I think it has to meet the commonsense test. I think that the record has been, at least with respect to charities and charitable events, that Members of Congress attending as, whether we call them bait or celebrities or whatever to raise money and to raise help for cancer research, for heart research, and for other good charities, is a good thing; something we should promote and not deny.

Mr. Speaker, I think that the Burton proposal meets the clarity test, the easy-to-administer test, and the commonsense test. That is what I am going to support.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Speaker, this is the third year that we have spent in this House dealing with this issue. We passed it in the last Congress and we passed the conference report. The Senate did the same. As many know, it was filibustered to death in the Senate at the very end. Earlier this year the Senate voted by a margin of 98 to 0 to enact the bill that is before us today.

Mr. Speaker, many, many Members of this House and many, many Members of the other House have worked extremely hard to find a way to put together exactly the kind of bill that the gentleman from California [Mr. HUNTER] was just describing. One that made sense; one that was reasonable; one that we could live with and work with; but one at the same time that would assure the public that Members of this House were not making decisions on laws based upon their social contacts and the free things which they receive from lobbyists, the very people who are hired to influence our decisions.

There is adequate reason for them to be worried about that. If my colleagues turn on any of these television magazine shows any given night of the week, they are likely to see a sordid picture of Members of Congress all decked out in their golf regalia playing golf at some tropical clime for free, accompanied by lobbyists and representatives of some of the biggest and most powerful companies in this country.

Mr. Speaker, I would say to the gentleman from Hawaii [Mr. ABERCROMBIE] I do not believe this place has crooks in it. I do not believe this place deserves what it has been frequently called by its own Speaker, and that is to say the adjective "corrupt." It is not, and I do not believe that it has been in the time that I have been here. But people are given that impression when Members cross the line and spend that much time with lobbyists.

Mr. Speaker, all we have done with this bill is say there is going to be a $50 limit. Members are not going to be able to get free meals every night of the week from the same guy and they cannot fly across country for the purpose of playing golf.

Mr. Speaker, I have spoken to the gentleman from Indiana [Mr. BURTON] about this. He sincerely believes that the role of Members in these charity golf tournaments is a public good and ought not to be curtailed in any way, but the price of that is the confidence of the public in this institution.

The fact of the matter is that when Members go to these charity golf tournaments, there is no secret who is playing golf with them, who is in their foursome, who is spending time with them. It is somebody who wants to be able to influence their decisions in this House.

Mr. Speaker, the public wants us to do away with this. The fact of the matter is that a minor inconvenience for some people, and no inconvenience for the majority of us, is all that will result from passing this bill today.

Mr. Speaker, I strongly urge Members to go ahead and get rid of this last gasp of reactionary talk about the ability of Members to do free things around this institution and around this country. Let us go ahead and pass this bill today and vote against the Burton amendment and let us finish this issue once and for all.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, the Burton amendment is not the end of the world, but the truth is the perception is that it is the end of the world and Members do not want to explain votes around here.

Mr. Speaker, I think the gentleman from Alabama [Mr. CALLAHAN] was right on target. If Members are selling their vote for a luncheon, they are subject to a bribe arrest, thrown out of Congress, and going to jail.

But the bottom line is after it is all over and after we cannibalize Congress once again, the truth and the reality is we will ban gifts, but the same lobbyists who cannot take Members to lunch can give them $5,000 in the primary, $5,000 in the general, and that is not going to be changed, because that will question the fabric of a free participatory democracy.

Full disclosure is not all bad, and I will deal with the perception. But I took this time because in the companion bill where we are talking about lobbying, foreign interests lobby the Congress. In this next bill I have an amendment that sets stricter guidelines and standards and makes sure they have to register so we know who they are.

Mr. Speaker, I have been trying for 4 years to get it out, and everybody says, "We are for it, but not this time, JIM."

Mr. Speaker, I am going to support this cannibalization, but I believe the gentleman from Alabama [Mr. CALLAHAN] is right. We have an awful lot of laws and maybe they ought to be enforced and Congress should stop cannibalizing themselves.

Mr. Speaker, a Congress that must cannibalize itself must be perceived by the Nation as a Congress that might just cannibalize them at some point.

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Mr. BURTON of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY], my good colleague.

Mr. OXLEY. Mr. Speaker, I rise in support of the Burton substitute. Those of us who have been criticized for going to events whether they are charity balls or dinners or golf events or tennis events, whatever it is, on behalf of charity I think have really taken a bum rap. When you talk about perception, the perception is not reality.

I remember one of the events I had an opportunity several years ago to participate in out in Idaho was the charity event where we raised money for cancer research. Those of you who are worried that I was going to be playing with some well-heeled lobbyist, I ended up playing with the head of the Mormon Church. I can say with all honesty that, while it was a wonderful experience, he had very little influence over me other than perhaps some of my language, if I might have missed a put.

The fact is that this effort by the Members is a very honorable one. The gentleman from Indiana, gentleman from Oklahoma, others have participated in these events. I am proud of it. I am proud of the fact that I have had an opportunity to help raise money for charity. I see nothing wrong with it as long as you report it.

The gentleman's efforts to tighten the disclosure and the requirements are perfectly applicable. I do not think anybody should take advantage of this. Understand all of these are reportable. All of these rate public scrutiny, and ultimately our responsibility is to the people who elect us. Those are the people who really count.

That is really what it is all about. That is full disclosure under the Burton approach and allow us then to go and explain it to our constituents. Those are the people that elect us. We are not responsible to other members. We are not responsible to the media.

We are responsible to people who sent us here. That is what the Burton proposal does. It is full disclosure, gives us an opportunity to represent our constituents the way we think they ought to be represented. If they think that we are representing them well, they will return us to office. If they are offended by that, they will kick us out.

Support the Burton amendment.

Mr. FROST. Mr. Speaker, may I inquire of the time remaining?

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The gentleman from Texas [Mr. FROST] has 4 minutes remaining, the gentleman from Florida [Mr. GOSS] has 3½ minutes remaining, and the gentleman from Indiana [Mr. BURTON] has 2½ minutes remaining.

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Mr. BURTON of Indiana. Mr. Speaker, I yield 2½ minutes to the gentleman from Alabama [Mr. CALLAHAN], my dear friend and colleague.

Mr. CALLAHAN. Mr. Speaker, we are faced today with three alternatives. One, we can accept the current bill. No. 2, we can accept the Burton amendment that he is going to offer. Or No. 3 we can accept the Gingrich amendment which will follow the Burton amendment, if it fails, and have zero gifts; maybe that is best.

I stood here and I challenged those of my colleagues that are so passionate in their belief that we are a bunch of corrupt individuals, that it is your constitutional authority to name names. And if you know of anyone who is selling his vote on the floor of this House for a golf game or for a meal or for anything else, it is your constitutional obligation to notify the Attorney General and incarcerate and make this Member who is violating the law be evicted from this House as the law so states.

So our options, as I see it today, a classical example of—a neighbor of mine, Dr. Les Grier, called me last weekend and he said: "SONNY, the Lions Club is having a membership drive. We would like to have you as a member because you are a Member of Congress, and we think we will be able to attract other members."

I said: "Les, I am never there during the week. I cannot come to the meetings. I cannot afford to pay the $400 a year because I am never there to eat the meals." He said: "For you we will waive the annual fees."

So under this provision, I could not even join the Kiwanis Club as an honorary member. That, my friends, is wrong. At least under the Burton bill we would be able to accept these types of activities in our home districts. We would still have to disclose them, as the Burton bill requires, but at least we would not be convicted by an accusation by some opponent or by some individual who might dislike us for any reason.

So I encourage Members today to think what they are doing. Accept the Burton amendment as the best alternative to the three alternatives we are facing here today. Remember that this is a rule of the House that the law of the land requires us, as a member of Congress, not to sell our votes. And regardless of all of these innuendoes and regardless of all of these individuals in this House who are doing this for a headline back at home, it is absolutely wrong.

Mr. FROST. Mr. Speaker, I yield 1 minute and 30 seconds to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, Americans seek genuine reform of this Congress, not another sop or flop. They certainly seek more than the change of a number, which is little more than the substitute provides to change the level at which disclosure must occur. The problem with disclosure, among others, is that too often the beneficiaries of largess receive so many gifts they have trouble keeping track of all of them. I think of one leader in this body who disclosed his custom-made ostrich boots, but until he was asked by a reporter, he forgot that he had a cruise to the Bahamas as well.

Americans do not need to count the number of gifts that people receive and read about more gifts through disclosure, about the level of benevolence of the lobby to the Congress. What they want to read is that this practice has stopped.

I have the utmost respect for my colleague from Hawaii, and he is right that dealing with gifts is only part of the problem. We need to deal with campaign finance reform as well.

My colleagues remember that it was in June that Speaker GINGRICH and President Clinton shook hands on genuine reform, bipartisan reform, up in New Hampshire. It took from June until November for Speaker GINGRICH to answer that handshake, and his proposal was the appointment of a new stall commission to stall any reform on campaign finance until next year.

Do not let the need for one reform get in the way of another reform. Let us do what is right and pass some kind of genuine reform of the lobby and gift laws that the U.S. Senate did on an unanimous and bipartisan basis.

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, I just very briefly want to address several issues that were raised on this side, one dealing with the Lions or the Kiwanis. There is nothing in this bill that is going to prevent someone from going to Lions or Kiwanis events in their district. There are Members talking about criminal law coming into effect. That does not come into effect at all in this bill.

This bill deals with the House rules. There are no criminal sanctions contained in this legislation whatsoever. So I think it is important that we keep the debate on what is really going on here. That is whether or not we should be banning these gifts altogether. No criminal sanctions, you can still go to the Kiwanis breakfasts.

Mr. FROST. Mr. Speaker, we have no further requests during this portion of the debate, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, Abraham Lincoln once said:

> With public sentiment, nothing can fail; without it nothing can succeed.

History has proven this to be true time and again.

And that is why restoring the public's faith in this institution must be a top priority. After all, if the people we work for do not believe in us they will not believe in the decisions we make. Despite the fact that almost every individual Member and staffer are honorable—people do not think very highly of us collectively.

Many think we have been out of touch, living in a different sort of world than they face everyday; the kind of world where gifts and meals and vacations are paid for by someone else. And because of that, they do not have confidence that the decisions we make are always in their best interests.

This is a major problem for us, especially at a time when we are seeking to make the tough choices needed to balance our budget.

Public support is crucial to the success of our mission—and in my view, responsible gift reform is crucial to that public support.

Mr. Speaker, as a member of both the Rules Committee and the Ethics Committee, it has been my chore to learn the details behind the principles at issue in this debate. I have studied current rules, the provisions of House Resolution 250, and the provisions of the alternative proposals we face.

I have listened to questions and comments by dozens of our Members—in public hearings before the Rules Committee, and in one-on-one discussions. I know Members want to do the right thing—and they do have legitimate concern that we develop rules that make sense, that are understandable and effective and will not trip Members up even as they try to comply. In my view, the type of approach our Speaker may bring forward later today—involving a total ban on gifts—is the cleanest and best way to go toward accomplishing those goals. But I also believe that we could make major progress if we adopt House Resolution 250 as reported by our Rules Committee. Even though this measure has some problems, it does accomplish significant change. It gets a handle on most gifts and meals provided to Members and staff by imposing new limits. It provides for greatly expanded and more timely disclosure on travel. And it creates new restrictions on the actions of registered lobbyists.

These are all positive—and I think workable—provisions. I think they deserve support by this House. Our consitutents have asked for such improvements.

Finally, Mr. Speaker, let me say to my friend DAN BURTON, that I understand the concerns he has raised and I respect the effort he has made in crafting an alternative to House Resolution 250. He has some solid ideas, but in my view his alternative is not sufficient to meet the necessity we face.

I worry that Americans will see the $50 threshold as too high and the allowance of travel to recreational charity events as too generous.

As I have throughout this process, I intend to listen carefully to the debate—we have a series of choices: if BURTON is too relaxed or has image problems then vote "no" and consider Speaker GINGRICH's full ban on gifts—if that's too tough then WALDHOLTZ is middle ground. I'll vote "no" on Burton "yes" on Gingrich because I believe that is where America is and I believe that is where we should be, too.

Mr. REED. Mr. Speaker, recent days the new House majority has shown a distinct lack of bipartisanship.

However, today, the Republicans are waking up to the need for reform and are offering legislation to ban gifts to Members of Congress. I urge all of my colleagues to join me in supporting both House Resolution 250 and the Gingrich amendment which will send a strong signal to our constituents that we don't want gifts, we don't need them, and, most importantly, that this House is not for sale.

Regrettably, there are those in this House who do not want reform. They want to continue the practices of the past. They want all Members to be tainted by their need to get free travel and lodging at golf, tennis, and skiing charity events. They would have us believe that Members of Congress somehow deserve different treatment than the average American—this is just plain wrong—and I urge my colleagues to reject it.

Today's vote is long overdue, but there are other reform efforts that need to be acted upon, particularly campaign finance reform.

Last year, I voted for a campaign finance reform bill, supported by Common Cause, which would have set spending limits and reduced the influence of special interests in political campaigns. This bill never made it to the President, but I am hopeful that we can work together in a bipartisan manner to develop a fair campaign finance reform plan this year. We need campaign finance reform if we truly care about changing the nature of politics and encouraging Americans to stay involved in the system.

Mr. Speaker, I urge my colleagues to support true gift ban legislation, and I look forward to passing a campaign finance reform bill. Thank you.

Mr. PORTMAN. Mr. Speaker, I rise in support of Speaker Gingrich's substitute to H. Res. 250, the gift ban legislation. The Speaker's substitute is the only version that would ban all gifts.

This is a tough issue. There is no easy way to monitor or regulate items that we as Members of Congress receive for free.

Once you start down the path of regulating these gifts, which we already have under current law, it gets messy. We must then ask ourselves: Was the gift under ten dollars? Did I report it in a timely manner? Was he or she a lobbyist?

If we've decided it's important to go down this path, I just think it's easier, simpler and safer to establish as a general rule that all gifts should be turned down—there are fewer pitfalls to this path. However, you need two exceptions to make it workable. One, a common sense friends and family exception is necessary. Two, we need a widely attended gathering exception to allow us to attend receptions and accept meals, for example at Rotary speeches and political events.

These exceptions are in this amendment. Even with the common sense exceptions, some wonder whether this path is workable. I think the bright line test is as workable as any other set of rules, and again, is easier and safer to comply with.

I lived under these rules in the Bush White House, where I had the unenviable job of enforcing them, and here in my own Congressional office. I urge my colleagues to support this amendment as the best way to demonstrate that real reform has come to this House.

Ms. JACKSON-LEE. Mr. Speaker, as a servant of the people of the 18th Congressional District of Texas, I strongly support both House Resolution 250 which was sponsored by Congresswoman WALDHOLTZ as well as the amendment offered by Speaker GINGRICH. For many years now, Congress has suffered under the perception by the American public that its Members can be influenced and swayed by gifts from lobbyists and special interest groups. While many Members hold themselves to strict codes of conduct regarding gifts, this bill is an opportunity to strengthen rules which would put to rest all suspicions about the behavior and integrity of all Members.

This bill simply applies good, commonsense rules to the issue. It sets reasonable limits and conditions, as representatives of the people, must accept. Alarmist cries have been raised by some of my colleagues during this debate and I do not agree with, nor do I think they can justify their roars of outrage.

This bill limits to $100 the total annual gift contribution from any one source. It also allows the attendance for members at conferences, dinners or receptions which are appropriate to our duties. To address the matter of charitable activities, may I remind my colleagues that our participation in charity functions are explicitly allowed, but not transportation or lodging. That is responsive to the American people's sense of what our real job is here to work for them.

May I remind those in opposition of this bill that this is indeed a truly bipartisan effort with both sides of the aisle coming together to support this legislation. I cannot believe that what this piece of legislation proposes would not be good for this institution.

Gift reform is something that is long overdue in this legislative body and I believe that it is now time to put to rest all issues regarding the public trust. That trust is the very basis of both our Government and our society. Without the trust of those we represent, we have legitimacy and no Government.

Mr. POSHARD. Mr. Speaker, I rise today in strong support of the Congressional Gift Reform Act. This important resolution would apply more stringent limitations on gifts, meals, entertainment, and travel Members of the House of Representatives and their staff would be permitted to receive.

Americans have long asked Congress to clean itself up and this is an opportunity for us to do just that. As elected Representatives, we have a moral duty to represent our constituents as honorably as possible. It is time to finally put the interests of our Nation and its people ahead of those in Washington with deep pockets.

Current House rules allow Members and staff to receive gifts up to $250 from a single source each year excluding gifts worth less than $100 and all meals. I believe this is unacceptable. Under today's resolution, Members of Congress and staff could not receive a total of $100 in gifts from any one source nor could they accept a single gift or meal with a cost exceeding $50. In addition, the measure bans lobbyists from paying for any travel, regardless of whether it is related to official duties or recreation. While the resolution is not a complete ban on the acceptance of gifts, which I have long supported, I believe it is a strong step in the right direction.

However, during consideration of this resolution, we may have the opportunity to vote on an amendment to completely ban gifts and meals. I encourage my colleagues to join me in supporting this measure, because I believe it would truly reduce the amount of influence lobbyists and special interests have on the legislative process.

Because I support true gift reform, I rise in opposition to the Burton amendment, because it leaves the status quo. It is simply an attempt to gut a bipartisan effort to enact effective gift reform. Under this amendment, Members would still be able to accept $250 in gifts a year and accept free travel and lodging to certain charity events.

Mr. Speaker, thank you for allowing this very bipartisan effort to be considered today. I believe our action on this measure will demonstrate to the American people Congress' sincere effort to reduce the influence of special interests and lobbyists on Capitol Hill.

Mr. CASTLE. Mr. Speaker, the Wall Street Journal recently reported that more than 70 percent of U.S. voters said they couldn't usually trust the government to do the right thing. This is a serious problem. One of the foundations of representative democracy is citizens trusting and having confidence in their elected officials. When trust and confidence dissipates, democracy cannot thrive.

We have an obligation to try and regain the public's trust. This may not be easy, as public figures are scrutinized more carefully in this media age than ever before in our Nation's history. But we must make every effort to conduct ourselves in a way that is above reproach or suspicion. We must systematically and methodically modify our behavior and our institution in ways that reassure the American people.

One of the most obvious ways to strengthen our institution is to address the issue of gifts to Members and staff. The public can see that current congressional gift rules are, quite frankly, farcical. Members and staff are free to accept gifts up to a cumulative value of $250 from anyone. But meals do not count, and gifts under $100 do not count toward the $250 limit. Recreational trips such as golf, tennis, and ski tournaments, which may be charitable but also give lobbyists unique access to Members and staff, are also permitted under current gift rules. It is extremely difficult to convince the public that this unique access does not influence the policy process.

While few, if any, Members or staff are corrupted by a free meal or tickets to a Red Sox game, given the low regard that Americans have for Congress simply must set higher standards for ourselves.

I strongly support House Resolution 250, which prohibits Members and staff from accepting any gift worth more than $50, and from accepting an aggregate of more than $100 worth of gifts from any one source in a year. It does not make the distinctions between whether or not the gift is given here in the District of Columbia, or back home. It does not make distinctions between gifts from lobbyists or nonlobbyists. The rule is clear, concise, and simple, and therefore more likely to be followed than a rule which is cumbersome or confusing.

The legislation in no way prohibits Members from performing their responsibilities to constituents. They will still be able to travel around their State and meet their constituents, eat a hamburger at a barbecue or crab legs at a crab feast, accept tee-shirts, mugs, and other locally produced products.

The bill recognizes that just because we are Members of Congress doesn't mean that we have no life or personal friends, and it contains a reasonable personal hospitality exemption.

Finally, the bill has passed the test of political palatability, as the Senate fought out the battle of compromise last summer and unanimously passed this bill.

Congressman BURTON will offer a substitute amendment to House Resolution 250 that emphasizes full disclosure of gifts rather than banning gifts. Under the Burton substitute, recreational trips would still be permitted, and Members and staff could accept gifts up to a $250 annual limit. The Burton amendment is an improvement over current law, but I believe it does not go far enough, and I intend to vote against it.

Will passage of House Resolution 250 alone restore public confidence in Congress? Perhaps not, but we cannot refuse to act simply because we may not achieve our goal promptly. I urge my colleagues to oppose the Burton amendment and support House Resolution 250 so that we can show the American people that we have heard and respect their clarion call for action.

Mr. LEVIN. Mr. Speaker, you have to wonder, really wonder, why the Burton substitute is before us.

The American people know what they want. They want a restoration of trust in the integrity of government. They want an end to business as usual. They want an end to ski trips and golf tournaments and retreats in the Bahamas where Members cozy up to the special interests.

Today, after nearly a year of stalling, the Republican leadership has finally given us two very clear opportunities to meet those expectations. House Resolution 250 bans charity junkets, imposes though new rules on meals and tickets, and restricts the largesse of lobbyists. We may also apparently have before us a bill banning all gifts, a bill which essentially tracks a rule I have in my office.

But we may never even get to vote on either of those measures. Because the Republican leadership, after trying for nearly a year to dodge this issue, has allowed the gentleman from California [Mr. BURTON] to first offer a far more lenient measure.

If Mr. BURTON'S substitute passes, the bad old status quo would be replaced by a bad new status quo, under which Members could continue to take unlimited $49 meals, day after day after day, because gifts under $50 wouldn't count.

And if Mr. BURTON'S substitute passes, Members could take travel and lodging to golf and tennis tournaments, ski vacations, and fishing trips, so long as the trip is sponsored by a charity and raises at least $1 for the charity.

Do those who back the Burton amendment really think they can fool the American people that golf tournaments and ski events are "substantially recreational"? Do they think they can fool the American people that these events aren't paid for by special interests? Do they think they can fool the American people that there will be no lobbyists on the tennis courts?

I want to change the status quo. House Resolution 250, of which I am a cosponsor, shatters the old ways. Even the proposal offered by Mr. GINGRICH is, for once, neither too extreme nor too ideological. But the Burton proposal is simply the status quo in a new wrapping. There is no way I can support it, and I urge my colleagues to defeat the Burton substitute.

Mr. MARTINI. Mr. Speaker, I rise today in support of the Gingrich amendment to the Gift Ban Reform Act.

We were elected to Congress to conduct the peoples' business. We were not elected to feed at the trough of the Gucci clad lobbyists and special interests that dominate our Nation's Capitol.

If Members of Congress want to enjoy fine dining, golf excursions, and exotic vacations, then they should be willing to pick up the tab.

The American people have grown sick and tired of perks and privileges extended to Members of Congress.

Our constituents do not receive unsolicited gifts and meals and neither should we.

By eliminating the potential for corruption and perception of impropriety, House Resolution 250 will help to restore the American peoples trust in elected officials and the Congress.

It's time to clean up this institution and restore the public confidence in our Nation's leaders.

We have a moral imperative to hold ourselves to a higher standard of conduct then practices of the past.

The American people have demanded a Federal Government that is open and accountable. We need to assure them that all citizens, not just special interest and lobby groups will have access to elected officials.

By passing the Gingrich proposal, we can demonstrate our sincerity and dedication to ensuring that congressional activities are conducted honorably and legitimately.

The overwhelming majority of my colleagues are sincere, hard working, and dedicated public servants. I am not of the opinion that Members of this body are bought and sold over a dinner or golf outing.

However, by eliminating gifts we remove all doubt of impropriety and wrongdoing.

In my opinion this is all about trust and perception. By banning all gifts and junkets, we can prove to our constituents and to the American people that we are, in fact, sincere about cleaning up Congress.

I urge my colleagues to support the Gingrich proposal.

Ms. PELOSI. Mr. Speaker, I rise today to offer my strong support for the gift ban legislation before the House, House Resolution 250.

Twice during the 103d Congress, this House approved similar gift ban legislation by solid bipartisan majorities only to see these measures stalled by filibusters in the other body. I am pleased that the Leadership has seen fit to allow us to consider this important bipartisan legislation offered by Representatives SHAYS, MEEHAN, and BARRETT.

H. Res. 250 would limit the total value of gifts that a Member or staff member could receive to $100 from any one source; only gifts costing more than $10 would count toward this limit.

Furthermore, no Member or staff member could accept an individual gift, including meals or entertainment, that costs more than $50. These provisions would cover all employees of the House, including employees of Members, committees, joint committees, and Leadership offices.

By contrast, the substitute offered by Representative BURTON is a washed-out version of congressional gift reform. Under the Burton substitute, Members could still accept lobbyist trips, go to golf tournaments free of charge, and accept gifts up to $250.

My colleagues, let's take a stand in favor of real gift reform. Vote "yes" on H. Res. 250 and "no" on the Burton substitute.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to the rule, it shall be in order to consider the amendment printed in part 1 of House Report 104-341 if offered by the gentleman from Indiana [Mr. BURTON] or his designee, which shall be considered read and shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent.

If the amendment printed in part 1 of the report is rejected or not offered, it shall be in order to consider the amendment printed in part 2 of the report, if offered by the gentleman from Georgia [Mr. GINGRICH] or his designee, which shall be considered read and shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent.

The text of House Resolution 250, as amended, is as follows:

H. RES. 250

Resolved,

SECTION 1. AMENDMENT TO HOUSE RULES.

Rule LII of the Rules of the House of Representatives is amended to read as follows:

"RULE LII

"GIFT RULE

"1. (a)(1) No Member, officer, or employee of the House of Representatives shall knowingly accept a gift except as provided in this rule.

"(2) A Member, officer, or employee may accept a gift (other than cash or cash equivalent) which the Member, officer, or employee reasonably and in good faith believes to have a value of less than $50, and a cumulative value from one source during a calendar year of less than $100. No gift with a value below $10 shall count toward the $100 annual limit. No formal recordkeeping is required by this subparagraph, but a Member, officer, or employee shall make a good faith effort to comply with this subparagraph.

"(b)(1) For the purpose of this rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(2)(A) A gift to a family member of a Member, officer, or employee, or a gift to any other individual based on that individual's relationship with the Member, officer, or employee, shall be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

"(B) If food or refreshment is provided at the same time and place to both a Member, officer, or employee and the spouse or dependent thereof, only the food or refreshment provided to the Member, officer, or employee shall be treated as a gift for purposes of this rule.

"(c) The restrictions in paragraph (a) shall not apply to the following:

"(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

"(2) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, a lawful contribution for election to a State or local government office or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) A gift from a relative as described in section 109(16) of title I of the Ethics in Government Act of 1978 (Public Law 95–521).

"(4)(A) Anything provided by an individual on the basis of a personal friendship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal friendship.

"(B) In determining whether a gift is provided on the basis of personal friendship, the Member, officer, or employee shall consider the circumstances under which the gift was offered, such as:

"(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between such individuals.

"(ii) Whether to the actual knowledge of the Member, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

"(iii) Whether to the actual knowledge of the Member, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.

"(5) Except as provided in clause 3(c), a contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct.

"(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, transportation, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

"(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

"(12) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(13) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the House of Representatives.

"(14) Bequests, inheritances, and other transfers at death.

"(15) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

"(16) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

"(17) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act) of an individual other than a registered lobbyist or agent of a foreign principal.

"(18) Free attendance at a widely attended event permitted pursuant to paragraph (d).

"(19) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(20) A plaque, trophy, or other item that is substantially commemorative in nature and which is intended for presentation.

"(21) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

"(22) Food or refreshments of a nominal value offered other than as a part of a meal.

"(23) An item of nominal value such as a greeting card, baseball cap, or a T-shirt.

"(d)(1) A Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

"(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

"(2) A Member, officer, or employee who attends an event described in subparagraph (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the House of Representatives.

“(3) A Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

“(4) For purposes of this paragraph, the term ‘free attendance’ may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees.

“(e) No Member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal friendship exception in paragraph (c)(4) unless the Committee on Standards of Official Conduct issues a written determination that such exception applies. No determination under this paragraph is required for gifts given on the basis of the family relationship exception.

“(f) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

“2. (a)(1) A reimbursement (including payment in kind) to a Member, officer, or employee from a private source other than a registered lobbyist or agent of a foreign principal for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the House of Representatives and not a gift prohibited by this rule, if the Member, officer, or employee—

“(A) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

“(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk of the House of Representatives within 30 days after the travel is completed.

“(2) For purposes of paragraph (a)(1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.

“(b) Each advance authorization to accept reimbursement shall be signed by the Member or officer under whose direct supervision the employee works and shall include—

“(1) the name of the employee;

“(2) the name of the person who will make the reimbursement;

“(3) the time, place, and purpose of the travel; and

“(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

“(c) Each disclosure made under paragraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

“(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

“(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

“(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

“(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

“(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in paragraph (d); and

“(6) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

“(d) For the purposes of this clause, the term ‘necessary transportation, lodging, and related expenses’—

“(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of travel time within the United States or 7 days exclusive of travel time outside of the United States unless approved in advance by the Committee on Standards of Official Conduct;

“(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in subparagraph (1);

“(3) does not include expenditures for recreational activities, nor does it include entertainment other than that provided to all attendees as an integral part of the event, except for activities or entertainment otherwise permissible under this rule; and

“(4) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee, subject to a determination signed by the Member or officer (or in the case of an employee, the Member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the House of Representatives.

“(e) The Clerk of the House of Representatives shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to paragraph (a) as soon as possible after they are received.

“3. A gift prohibited by clause 1(a) includes the following:

“(a) Anything provided by a registered lobbyist or an agent of a foreign principal to an entity that is maintained or controlled by a Member, officer, or employee.

“(b) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal on the basis of a designation, recommendation, or other specification of a Member, officer, or employee (not including a mass mailing or other solicitation directed to a broad category of persons or entities), other than a charitable contribution permitted by clause 4.

“(c) A contribution or other payment by a registered lobbyist or an agent of a foreign principal to a legal expense fund established for the benefit of a Member, officer, or employee.

“(d) A financial contribution or expenditure made by a registered lobbyist or an agent of a foreign principal relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of Members, officers, or employees.

“4. (a) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal in lieu of an honorarium to a Member, officer, or employee shall not be considered a gift under this rule if it is reported as provided in paragraph (b).

“(b) A Member, officer, or employee who designates or recommends a contribution to a charitable organization in lieu of honoraria described in paragraph (a) shall report within 30 days after such designation or recommendation to the Clerk of the House of Representatives—

“(1) the name and address of the registered lobbyist who is making the contribution in lieu of honoraria;

“(2) the date and amount of the contribution; and

“(3) the name and address of the charitable organization designated or recommended by the Member.

The Clerk of the House of Representatives shall make public information received pursuant to this paragraph as soon as possible after it is received.

“5. For purposes of this rule—

“(a) the term ‘registered lobbyist’ means a lobbyist registered under the Federal Regulation of Lobbying Act or any successor statute; and

“(b) the term ‘agent of a foreign principal’ means an agent of a foreign principal registered under the Foreign Agents Registration Act.

“6. All the provisions of this rule shall be interpreted and enforced solely by the Committee on Standards of Official Conduct. The Committee on Standards of Official Conduct is authorized to issue guidance on any matter contained in this rule.”.

SEC. 2. ACCEPTANCE OF GIFTS BY THE COMMITTEE ON HOUSE OVERSIGHT.

Clause 4(d) of rule X of the Rules of the House of Representatives is amended by striking “and” at the end of subparagraph (1), by striking the period at the end of subparagraph (2) and inserting “; and”, and by adding after subparagraph (2) the following:

“(3) accepting a gift, other than as otherwise provided by law, if the gift does not involve any duty, burden, or condition, or is not made dependent upon some future performance by the House of Representatives and promulgating regulations to carry out this paragraph.”.

SEC. 3. EFFECTIVE DATE.

This resolution and the amendment made by this resolution shall take effect on and be effective for calendar years beginning on January 1, 1996.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. BURTON of Indiana: Strike all after the resolving clause and insert:

SECTION 1. GIFT DISCLOSURE.

(a) FINANCIAL DISCLOSURE.—Rule XLIV of the Rules of the House of Representatives is amended by adding at the end the following:

“3. Notwithstanding section 102 of the Ethics in Government Act of 1978, each report filed with the Clerk under title I of such Act for calendar year 1996 or any subsequent calendar year shall disclose any gift (including a meal) with a fair market value in excess of $50 (other than personal hospitality of an individual or any gift received from a relative of the reporting individual), as adjusted under section 102(a)(2)(A) of the Ethics in Government Act of 1978.".

(b) GIFT RULE.—Clause 4 of Rule XLIII of the Rules of the House of Representatives is amended by striking "$100" and inserting "$50".

SEC. 2. CONVENTIONS, ETC.

Clause 4 of Rule XLIII of the Rules of the House of Representatives is amended by striking "A Member" and inserting "(a) Except as provided in paragraphs (b), (c), and (d), a Member" and by adding at the end the following:

"(b)(1) A Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

"(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

"(2) A Member, officer, or employee who attends an event described in subparagraph (1) may accept a sponsor's unsolicited offer of free attendance at the event for the spouse or dependent of the Member, officer, or employee.

"(3) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of lodging or transportation or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees.

"(c) A Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event of—

"(1) the event is sponsored by an organization which is listed under section 501(c)(3) of the Internal Revenue Code of 1986;

"(2) all Member, officer, employee, spouse, or dependent-related expenses are paid by the sponsoring organization and not by another corporation or individual;

"(3) the proceeds to charity from the event exceed the costs of the event; and

"(4) the participation contributed in a tangible way to the success of the event.

"(d) The restrictions contained in paragraphs (a), (b), and (c) shall not apply to a Member who is attending an event in the Member's congressional district.".

The SPEAKER pro tempore. Under the rule, the gentleman from Indiana [Mr. BURTON] and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that the time allotted to me be divided between myself and the gentleman from Connecticut [Mr. SHAYS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. SHAYS] will be recognized for 7½ minutes, and the gentleman from Indiana [Mr. BURTON] will be recognized for 7½ minutes.

Mr. FROST. Mr. Speaker, I rise in opposition to the amendment.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] will be recognized for 15 minutes.

Mr. FROST. Mr. Speaker, I ask unanimous consent that 7½ minutes of my time be yielded to the gentleman from Texas [Mr. BRYANT] and the remaining 7½ minutes to the gentleman from Oklahoma [Mr. BREWSTER], and that both gentlemen be allowed to yield time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BRYANT] will be recognized for 7½ minutes, and the gentleman from Oklahoma [Mr. BREWSTER] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

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Mr. BURTON of Indiana. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. DELAY], the Republican whip of the House.

Mr. DELAY. Mr. Speaker, I rise in support of the Burton substitute and in favor of full disclosure.

The time has come that the American people know exactly what their Representatives are doing here in Washington.

Are they feeding at the public trough, taking lobbyist paid vacations, getting wined and dined by special interest groups? Or are they working hard to represent their constituents?

The people, the American people, have a right to know.

Only the Burton substitute will let the American people decide what is appropriate activity and what is inappropriate activity for their Representatives.

Let us not kid ourselves here today. We are beating ourselves on the heads to prove we are pure enough to deserve the people's trust. Some Members are so distrustful of themselves and their colleagues, that they would rather we talk with no one in a casual setting, that we set up an artificial wall between us and the public.

I say the best disinfectant is full disclosure, not complete isolation. We serve our constituents poorly if we believe that all Representatives are on the take and need to be taken away from the public, and we serve no one if we set up an ethics minefield that will only bring further dishonor to this House, for activities that most Americans do every day.

Should it be unethical for a Member of Congress to eat dinner with a constituent?

Why do we not let the people decide what is right and what is wrong? Why do we not just tell the people what gifts we get, through full disclosure, and stop this ridiculous charade of public virtue at the expense of common sense.

The American people sent us here to represent them, not to hide every time they call to join them for dinner. Support full disclosure. Support the integrity of the House. Support the Burton substitute.

Mr. SHAYS. Mr. Speaker, I yield myself 15 seconds to point out that the Burton legislation is not full disclosure. Any gift under $50 is not part of the disclosure; it is not part of any limit. We can have countless numbers of gifts under $50.

Mr. Speaker, I yield 1½ minutes to the gentleman from Kansas [Mr. BROWNBACK].

Mr. BROWNBACK. Mr. Speaker, I thank the distinguished gentleman from Connecticut [Mr. SHAYS] for yielding this time to me.

Mr. Speaker, I rise in opposition to the Burton amendment, and I state as well at the very outset that I think the people that are bringing this amendment and supporting it are doing so in all good faith and what they are trying to do is a positive statement toward this body. I disagree on what they are doing versus another approach, and I also impugn no one's character and suggest that no one is selling their vote for a gift. But to me this issue is about public trust, and the public does not trust when Members of Congress receive expensive gifts, they do not trust that system, and, when we have that failure of trust in a representative democracy, that is a very, very dangerous thing to have.

That is what this issue is about. It is about the issue of public trust and a system and a public that does not trust this system, and that is why I disagree with the Burton amendment even though it is offered in all good faith by the gentleman from Indiana [Mr. BURTON] and those who support it, because it is a disclosure system, but it continues to allow a system of gifts to be able to be given to Members of Congress, a system that the public does not support.

Mr. Speaker, I support rather the Speaker's approach to going to a complete ban on all gifts, and I would urge Members to support that. The Waldholtz approach I think is a good approach as well for as far as it does further limit, but I think it is probably time to do just what the commercial days and just say no to gifts.

Mr. BREWSTER. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman from Oklahoma [Mr. BREWSTER] for yielding this time to me.

The reason that there is a perception of corruption, or whatever variation of the word is going to be used on this floor, has been used on this floor, is it keeps getting repeated here, and so people hear that in the general public even though the same people say we are all honorable except for the thieves and crooks among us, and then they do not say who the thieves and the crooks are.

Now let us get down to what the Burton amendment does, and why I am supporting it, and why a broad spectrum of people are supporting it. This has to do with the charitable events.

Now in real life some of us do try not only to do our duty, but to try to justify our existence by our relationship with our fellow human beings. I founded, along with one of the most conservative people in the Democratic caucus, the honorable gentleman from Alabama [Mr. CRAMER], who started the Children's Advocacy Center in Alabama; I heard about it, and I brought it to the State of Hawaii. We had the first statewide children's advocacy center, and any of my colleagues have been a probation officer like I have been, anybody who served in the Committee on the Judiciary who knows what sexual abuse is of children, knows what the Children's Advocacy Centers have accomplished. It takes children who have been abused and keeps them from being abused further.

Now I am to participate in an event in December. I am going to put on a charitable event for the Children's Advocacy Center, and I have appeared for them in other places around the country. I am going to be there, and I am going to put on a little, one of my famous Blues Brothers, acts. I hope some of my colleagues can catch it sometime. It is terrific, I want to tell my colleagues. If my colleagues think I am good down here, they should see me with my dark glasses and my porkpie hat. Mr. Speaker, a lot of people have a good time when that happens, but the main reason for doing it is to see to it that sexually abused children are no longer molested.

And now I am supposed to withdraw myself from that because of some perception that somebody has conjured up as to what kind of person I am or somebody else is?

Now I will tell my colleagues what else we do from Hawaii. We appear for the Aloha United Way, the United Way, that my colleagues have in their community. We have the Aloha United Way, and we went as a congressional delegation to New York City to ask people who do business in Hawaii to help us with the United Way in Hawaii. Now somebody wants to run against me, and that is what I hear from one Member after another, the reason we cannot vote for this amendment is somebody is going to use it in a campaign commercial against us. Mr. Speaker, I invite anybody who wants to use a campaign commercial against me that I am supporting the United Way to please do so because any idiot that is going to run for office is going to use that for an excuse, and anybody here that cannot contend with an opponent that is going to be against them because they are in favor of charitable events, he deserves, or she deserves, to get elected, and my colleague does not. But I am proud to be associated with these charitable events, I am proud to appear anywhere in the country on their behalf, and I am proud to support the Burton-Clay-Brewster-Abercrombie amendment.

Mr. BRYANT of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, this may be a well-meaning amendment, but it guts the bill.

Mr. Speaker, there are millions of people in this country who are involved in the United Way. There are millions of people in this country who care about abused children. There are millions of people in this country who care about all sorts of very valuable things for our society. But do those people get their airfare paid? Do those people get golf fees paid, green fees paid, that could be $100–$200? No, of course not, of course not, and that is what the issue is here today.

I think that the people in this body are admirable, they are honorable, people, and most of them got elected here because they are involved in their community, and they have been elected for that, and they should continue to be doing that. But they should not have privileges that the people sitting in this gallery, the people sitting in this country, do not have. It is that simple. The people in this country do not want this regulated, they do not want more paperwork, they do not want more bureaucracy. Mr. Speaker, they want this practice stopped, and that is what we should do.

Mr. BURTON of Indiana. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BONO], my dear friend and colleague.

Mr. BONO. Mr. Speaker, this is a sad state of affairs because when people do honorable things, and then somebody writes some bill and says, "You know, you have to stop doing that honorable thing, can't do that anymore;" why? Mr. Speaker, because we are writing this extremely righteous bill that will make us honest. I did not know I was not honest.

Mr. Speaker, it is very sad that we cannot look our constituents in the eye and say, I don't do that, I don't do that, I just do what I do, so I'll be happy to show you or tell you whatever I do. I'll disclose that, but please let me take care of my own ethics, and if I'm not worthy, throw me out. But let me be responsible for myself. Don't make me responsible to some poorly written legislation.

Do my colleagues know that when I read this legislation I said, Well, what about my film festival that I founded in Palm Springs? Can I have my party at my house that the film festival puts on?

They said, "We don't know."

Mr. Speaker, if they do not know, how do we know when we are breaking the law with this bill?

I support the Burton amendment.

Mr. SHAYS. Mr. Speaker, I yield 30 seconds to the gentleman from Washington [Mrs. SMITH].

Mrs. SMITH of Washington. Mr. Speaker, I think it needs to be made very clear that no one says that anyone is doing anything illegal, and there are no criminal penalties in this bill. But I do want to say that over the years, as I have been in politics, I know when I spend time with people like we spend on these charity golf trips that we get real close to the lobbyists that sponsor them. It is the time they get, my colleagues, it is not so much the money. It is the time we spend with them that they have our ear. The American people do not have our ear that long. It is the impression. The American people believe in the last poll that I just read that just came out, 90 percent of the people believe we listen to lobbyists more than the people.

Mr. BREWSTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise today in support of the Burton amendment.

My State of Florida is known as the Sunshine State, not just because of our favorable weather conditions, but because we have led the Nation with our government in sunshine laws. In Florida, you conduct your business in public and you let the people decide if what you are doing is appropriate.

The Burton bill follows the same approach. It keeps the current $250 limit, lowers the threshold from $100 to $50 and draws open the curtains to let the sunshine in.

Everything else we are doing in this Congress is about sending power back to the people. Giving them more control over their government. That is what this bill does. Disclose everything, then let the people decide if their representative is using their office for personal gain. No other bill on the floor today provides the same level of disclosure as the Burton bill. Vote for sunshine, vote for the Burton amendment.

□ 1630

Mr. BRYANT of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I think the gentlewoman from the other side of the aisle put it quite well with reference to this measure. We now have the opportunity to achieve on a true bipartisan basis, finally, real reform. We should not substitute for full reform something that appears to be full reform, done in the name of disclosure, which really does not change the existing law very much at all.

What the American people want is not to hear more of the details of the kind of business as usual that they have rejected. They want to see it stopped once and for all.

Many of these charitable events are done for a most charitable and worthy purpose. The only problem is that so often, it is the Member who gets most of the charity, and not the good cause that the charitable event is for.

There is still no reason that Members of Congress cannot participate in such events, contribute to their community, but the direction and the purpose needs to be for the benefit of the charity, not for the benefit of the Member. We have the opportunity today to make real progress in this area. Let us do it by rejecting this substitute.

Mr. SHAYS. Mr. Speaker, I yield 1½ minutes to my colleague, the gentleman from Wisconsin, Mr. SCOTT KLUG.

Mr. KLUG. Mr. Speaker, I thank my colleague for yielding time to me. I would also like to thank the gentleman from Wisconsin, TOM BARRETT, and the other Members of the bipartisan team who have been working on this bill and similar legislation.

Mr. Speaker, I do not doubt the intentions of my colleagues who are offering the substitute but, Mr. Speaker, you know how the road to hell was eventually paved, and in this case we also know how the cart path at Pebble Beach was paved as well.

Wisconsin's legislature has had a zero gift ban in place for a number of years, and I am not sure how I can tell people in this body, but legislation actually gets passed. Members of the Wisconsin State Legislature get laws into place without accepting alarm clocks and trips and gym bags and tee shirts and all the other bric-a-brac that shows up in our office, and they also manage to play golf and play tennis, but they do so and they pay their own way.

Mr. Speaker, our constituents sent us here to do a number of things. They have sent us here to balance the budget, and we are beginning to work on it this week. They sent us here to eventually pass term limits, and before I leave, I hope Congress will eventually put term limits in place as well. More than anything else, they wanted us to make this a place again that we can be proud of, our constituents back home, and every one of us who serve in this institution as well. I hope we defeat the Burton amendment and pass the substitute offered by the Speaker.

Mr. Speaker, there is one other thing our constituents want us to do, by the way. They want us to pay for our own lunch.

Mr. BREWSTER. Mr. Speaker, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I support the efforts of the gentleman from Indiana [Mr. BURTON] and the gentleman from Oklahoma [Mr. BREWSTER]. I want a tough bill, but I also want to be able to continue to help my friends raise money for charity.

There is a former Congressman around here named Ralph Harding, and Ralph and I and a number of other people have combined under the present system to raise more than $1 million to help fight leukemia in this country. Senator ORRIN HATCH and I do not see things eye to eye politically, but we are good friends, and I have helped ORRIN for a number of years raise hundreds of thousands of dollars for efforts such as child care centers and halfway houses, safe houses for battered spouses down in Utah.

The system works now. I do not get anything out of this, but it works well, and we really ought to protect and shield those charities so that we continue to raise millions of dollars for needy efforts in this country. That is what the gentleman from Indiana [Mr. BURTON] and the gentleman from Oklahoma [Mr. BREWSTER] are trying to do. I support them in their efforts.

I have always worked for strong ethics legislation. I am going to continue to do that by voting for the amendment of the gentleman from Indiana and the gentleman from Oklahoma.

Mr. BRYANT of Texas. Mr. Speaker, I yield 1½ minutes to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Speaker, I would like to make three observations about this legislation. First, those of us that serve in Congress are actually serving in a fiduciary capacity. We represent the people in the congressional districts that sent us. We have a fiduciary relationship with them. It is our obligation to try to observe this in every respect.

Second, I think we should attempt to observe the same standards that are observed in the rest of government. There has been a great deal of criticism of the Supreme Court recently, and judges for accepting trips. As I understand it, the judicial branch is trying to review its rules and tighten things up.

The executive branch has gone through that process and they have a proposal; not a proposal, they have legislation and rules that they live by that are not consistent with what is being urged by the gentleman from Indiana [Mr. BURTON]. Instead, it is the same or very close to the underlying bill and the Senate legislation.

Third, I would like to just briefly comment that access is perhaps the critical thing. People are looking for access to Members of Congress. They want our time. I think we have to try to make sure that our time is given to people, not on the basis of their ability to help finance trips, but instead on the basis of our availability in our office and in our district to meet with them on the merits of the cases.

We certainly have many other areas where reform is needed. At the same time, I think we should avoid impugning the integrity of anyone in the Chamber. I do not question the motives of the gentleman from Indiana [Mr. BURTON]. I think he, too, is interested in improving the caliber of this institution, but we need legislation similar to the Senate's.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan, Mr. PETE HOEKSTRA.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, we have a vision. We want to restore the trust of the American people and the integrity of the legislative process. For the last 11 months we have been pursuing this. We have reformed welfare, Medicare, regulatory reform. We have a whole series of reforms on opening today. Today we are going to finish a couple of more pieces of business.

The Waldholtz bill is reasonable reform guidelines. We have listened to the American people. They said, "Reform these legislative businesses and items, but also restore the process where you are personally enriched." The Waldholtz bill is a reasonable process. It does not ban participation in charities, it does not ban participation in charity events, it just says that when you participate in charities, just like all the other people that are participating in these events, you are expected to be charitable and carry your own weight at these events.

All the Burton bill does is it protects access to Members of Congress through privilege and special interest. It needs to stop. Vote "no" on Burton.

Mr. BREWSTER. Mr. Speaker, I yield myself the remainder of my time.

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. BREWSTER] is recognized for 2½ minutes.

Mr. BREWSTER. Mr. Speaker, I am pleased to stand in support of the Burton full disclosure amendment. I am very concerned with the Congress bashing that is quite popular with certain Members and with the media. It makes me angry to watch the news and continually see honest Members of Congress portrayed as crooks who can be influenced by meals, travel, entertainment, or other gifts in making official decisions.

By even considering this issue, we serve only to reinforce that negative image. People who oppose the Burton bill have called the supporters of the bill the so-called golf and tennis caucus. What I would like to know is how many of those Members who feel it is wrong to accept a cup of coffee from a lobbyist feel it is all right to ask for a $1,000 campaign contribution?

If a Member of Congress can have his or her vote bought for a cup of coffee or a $25 meal, then imagine what happens to that individual when they beg for and receive a $500 campaign contribution, a $1,000 contribution, or even numerous $5,000 contributions. Honesty is not for sale. If a Member feels they can be influenced by someone buying their dinner, they should not go. Neither should they call some lobbyist and ask for a $1,000 campaign contribution.

Mr. Speaker, this is not about keeping golf and tennis trips, this is about restoring credibility to this institution. If it is wrong to play golf with a lobbyist at a charity event, then why do we make it right in this legislation to play at political events that the Democratic Congressional Campaign Committee has, the national Republican Campaign Committee has, and we ask Members to call these same lobbyists asking them to bring money? If the first is wrong, so is the second.

We will never satisfy the people who are pushing this issue. You can fire your staff, take an oath of poverty, and work for free, and you will never satisfy some groups on this issue.

The Burton bill allows our constituents to judge us, not the Ethics Committee, but the people who elected us to come here to start with. Mr. Speaker, the answer to gift reform is reporting and accountability. The answer to gift reform is the Burton full disclosure amendment. I urge my colleagues to support the Burton full disclosure amendment.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tompore. The gentleman from Oklahoma [Mr. BREWSTER] has 15 seconds remaining.

Mr. BRYANT of Texas. Mr. Speaker, I yield 30 seconds to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, it is so simple. Why pass laws to make Members fill out forms to tell what they took from lobbyists? Zero is zero. No complications, no forms, no gifts.

I ask Members to defeat the substitute and vote for real reform.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from Iowa, [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I will vote for gift ban reform. I believe that House Resolution 250 is reasonable, and that the Burton amendment just does not go far enough. I will also vote for the Gingrich amendment, which is a ban on all gifts. The Burton amendment basically allows the current system to continue, and I oppose it. If you are for the status quo, vote for the amendment.

Mr. Speaker, lobbyists represent farmers, unions, teachers, insurers, consumers, and others. They provide information on both sides of issues for the common citizens they represent. I will listen to a lobbyist for farmers, just as I do for an individual farmer, but I do not need a fancy meal in order to be well informed. Vote against the Burton amendment and vote for the Gingrich amendment, or for House Resolution 250, or for both.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the gift ban reform bill and against the Burton amendment. I would just like to make several simple points. First, the current rules which we have are farcical. Why, gifts under $100 do not even count to the $250 cumulative limit we can achieve.

No. 2, the executive branch lives by tough gift rules. Gifts over $20 are banned, and the cumulative value of gifts which can be accepted is $50.

No. 3, this reform bill is not overly restrictive. Gifts over $50 are banned, and gifts under $50 may be accepted up to an aggregate of $100.

Finally, and maybe this is most important of all, the public, our constituents, probably get no unsolicited gifts whatsoever. We are arguing about the amount of the gifts we should get. I think we should not be afraid to restrict ourselves in terms of these gifts. Mr. Speaker, I urge us to consider that.

I would also urge us to look at the fact that the Senate passed this same bill unanimously last year. I would urge us to defeat the Burton bill, to consider the Gingrich amendment, as you please, and to make absolutely sure that we all vote for the reform bill in the name of the public when it comes up at the end of the day.

Mr. BREWSTER. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the amendment.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself the remainder of my time.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BRYANT] is recognized for 3½ minutes.

□ 1645

Mr. BRYANT of Texas. Mr. Speaker, I think it is heartwarming at this contentious time in this House's business to find so many Republicans and Democrats coming forward on the same side, and frankly on both sides, but particularly on the side of reform, because this bill has been a bipartisan effort for three years. I think if we can pass it today intact, it will be a bipartisan credit to this House, one of which we can all be very, very proud.

Mr. Speaker, the refuge that has been taken by the proponents of the Burton amendment in charitable activities I think is clever. In a few ways, maybe it is even deserved. But by and large, I think it is clever, because it suggests that all of these activities are really being done only for the benefit of charities.

The fact of the matter is, there is no prohibition in this bill for charitable activities. None whatsoever. All of the charitable activities that have been referred to which are all very fine efforts can continue to be done.

The fact of the matter is, though, that this particular charitable activity that these Members are talking about does not involve any sacrifice on their part, it involves them being flown by this charity, which is normally a charity activity sponsored by a major corporation that lobbies this House ever day of the week, flown by them clear across the country to a beautiful place to play golf for several days and then home again, and then usually they get a bag of gifts at the same time.

I do not care whether it influences your vote or not. I do not think in most cases it does, but the public sees it that way and the public loses confidence in this institution. Why in the world would anybody come here and ask that they be able to continue playing charity golf at the expense of the reputation of this institution?

The fact of the matter is that the Burton amendment will allow unlimited gifts, unlimited free tickets, unlimited meals, et cetera, from lobbyists as long as they are under $50 all year long.

Do I think that that kind of thing corrupts Members or makes them always vote with the lobbyists? No, but I do know this: It has a regular and certain subconscious effect on anybody to constantly be in the company of somebody else who is paying the bills. That is just human nature.

Mr. Speaker, it is our job here to pass legislation and rules that give the public confidence that we are not legislating in the interests of those people that are hanging around, but we are legislating in the interests of those people that sent us up here and, by the way, pay us a nice salary for doing this job.

I say to my colleagues, if you want to go on these charity golf trips, if you want to be in this activity, pay for it yourself. I urge Members to vote against the Burton amendment. Let us pass this bill and have a bipartisan project that we can be proud of.

Mr. SHAYS. Mr. Speaker, I yield 30 seconds to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, this partial disclosure that is proposed by the gentleman from Indiana [Mr. BURTON], my friend and colleague, has two things in it that I think Members should know about. First of all, we have a fairly significant new disclosure requirement that means reporting any gift over $50, that includes meals, will have to be reported. There is no such provision now, that is something new, and before you vote for this, I would urge that you think about that if you are planning to vote for it.

Second, Mr. Speaker, there is no exemption from disclosure requirements for gifts over $50 from personal friends. Members should know that they and their staff would be required to disclose any gift, including a meal, over $50 from a personal friend. That is also new.

Mr. SHAYS. Mr. Speaker, I yield myself the balance of my time to point out that a vote for the Burton amendment is a vote against reform. It allows gifts of up to $250 each year, or $500 per term. It allows any gifts under $50, countless gifts under $50; it allows paid vacations in the name of charity, in many cases funded by lobbyists.

The passage of the Burton amendment prevents a vote on the Senate bill and the Waldholtz-Barrett bill. It also prevents a vote on the Speaker's bill of no gift. I urge an absolute no vote on the Burton amendment.

Mr. BREWSTER. Mr. Speaker, I yield the remainder of my time to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, this has been a very civilized debate and I appreciate that from all of my colleagues. There are some things, though, that have not been explained that I think need to be explained.

Mr. Speaker, we are not talking about just prohibiting access from lobbyists, we are talking about our constituents' access, because the legislation that the gentlewoman from Utah [Mrs. WALDHOLTZ] and the gentleman from Connecticut [Mr. SHAYS] and others are sponsoring is going to limit access by our constituents. If they come to Washington and want to take us out to lunch or to dinner, we are going to have to say no in many cases, especially if we have a long-term relationship, if they are not a dyed-in-the-wool friend.

In addition to that, my colleagues, remember this: It says, gifts and meals valued at $10 or more count toward the cumulative limit of $100. Now, it says you do not have to keep records on that, but I am telling you that you are going to have to keep records on that, everything over $10. Everything over $10. Now, how many in this place are going to be watching everything over $10?

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Speaker, I would inquire of the gentleman, would it not be just as easy to buy them lunch?

Mr. BURTON of Indiana. Mr. Speaker, reclaiming my time, I would say to the gentleman from Mississippi, of course. The fact of the matter is we have constituents coming in here by the hundreds and everybody here knows that, and if my colleague has the money to buy every one of them lunch, then congratulations. I do not.

The fact of the matter is, you are going to have to keep track of everything over $10, because at some point in the future, you may be called up before the Committee on Standards of Official Conduct, and you are going to have to answer.

Now, in addition to that, remember this: If you violate the ethics laws, and we did not think when we had the House bank scandal we were going to have problems, but we did, and a lot of people were defeated and some even went to jail over it. I am telling you, we are going to have problems with this, and there is going to have to be legal fees paid.

Now, if you go before the Committee on Standards of Official Conduct and you have to plead your case because of some of these improprieties or alleged improprieties, you are going to have to hire an attorney and you are going to have to pay for it and it is going to cost you a lot of money.

Now, let us talk about my bill, my approach. It has been said by the proponents of the Waldholtz bill that they have broad bipartisan support. Well, we have broad bipartisan support on my substitute. We have over 100 cosponsors, because Members, when they find out what they are going to be up against, realize that it is better to have complete and full disclosure than to start worrying about everything over $10 that we are going to have to be accountable for.

Now, what is wrong with full disclosure? Who are we answerable to? Who put us here? Our constituents. Our constituents put us here. If we do something wrong and it is in the paper, they are going to hold us accountable. So what is wrong with disclosing everything?

Mr. Speaker, what my bill says is that everything above $50 we keep track of, if it is a meal or a gift or whatever it is. We keep track of it and we report it on our FEC report. I guarantee you, these people up here are going to be watching our FEC reports because they already do, and if we abuse our privileges in the House, they are going to report it on the front pages of our papers, and we are going to be held accountable by our constituents and maybe even thrown out of office.

So that is the way to handle it. Have full disclosure. Do not mess with this minutia that is going to get us into trouble before the Committee on Standards of Official Conduct.

Now, I would like to talk about these charities. I go to about two of these charity events a year. One is the Danny Thompson event in Sun Valley, ID. I do not even know who I am going to play with when I play in that event, because it is drawn by lottery. You do not know if it is a lobbyist or a businessman or who it is.

So this idea that we are being lobbied all the time is crazy. We have more of these lobbyists in our office every day than we do on the golf course, so that is a bogus argument. The fact of the matter is the Danny Thompson Golf Tournament has raised collectively over $3 million for cancer research, and with the private foundations that give matching funds, that translates into $30 million that has been raised for cancer research. In this past year they found a cure for kids who have lymphatic cancer that is going to save thousands and thousands of young kids' lives.

Now, is the Federal Government going to pick up the tab for that? What is wrong with us playing in a charity event that helps those things and helps those kids? I see nothing wrong with it.

The answer, my friends, is complete and full disclosure. Let those people, let the American people know what we are doing and let them be the judge, not some Committee on Standards of Official Conduct.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Pursuant to the rule, the previous question is ordered on the amendment.

The question is on the amendment in the nature of a substitute offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Speaker pro tempore announced that the nays appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 154, nays 276, not voting 2, as follows:

[Roll No. 807]

YEAS—154

Abercrombie
Allard
Bachus
Baker (CA)
Baker (LA)
Barr
Barton
Bateman
Bevill
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Brown (FL)
Bryant (TN)
Bunn
Bunning
Burr
Burton
Callahan
Calvert
Chambliss
Clay
Clement
Clinger
Clyburn

Coburn
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Cooley
Crane
Crapo
Cubin
Cunningham
Danner
de la Garza
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Ehrlich
Emerson
Everett
Ewing
Fattah
Fields (TX)
Fowler
Frisa
Funderburk
Gekas
Gillmor
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Herger
Hilliard
Hostettler
Houghton
Hunter
Istook
Jefferson
Johnson, E. B.
Johnson, Sam
Jones
Kelly
Kim
King
Kingston
Klink
LaFalce
LaHood
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Livingston
Lucas
Manton
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meek
Mfume
Montgomery
Moorhead
Moran
Murtha
Myers
Nethercutt
Ney
Norwood
Ortiz
Owens
Oxley
Packard
Parker
Pastor
Payne (NJ)
Payne (VA)
Pombo
Quillen
Radanovich
Rangel
Regula
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Saxton
Scarborough
Schaefer
Shuster
Skeen
Spence
Stearns
Stenholm
Stockman
Stump
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Towns
Traficant
Volkmer
Vucanovich
Watt (NC)
Watts (OK)
Whitfield
Wicker
Williams
Wilson
Young (AK)
Zeliff

NAYS—276

Ackerman
Andrews
Archer
Armey
Baesler
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Becerra
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Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Blute
Bonior
Borski
Browder
Brown (CA)
Brown (OH)
Brownback
Bryant (TX)
Buyer
Camp
Canady
Cardin
Castle
Chabot
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Coble
Coleman
Condit
Conyers
Costello
Cox
Coyne
Cramer
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Davis
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Engel
English
Ensign
Eshoo
Evans
Farr
Fawell
Fazio
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
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Gephardt
Geren
Gibbons
Gilchrest
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Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Harman
Hayworth
Hefley
Hefner
Heineman
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hoyer
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klug
Knollenberg
Kolbe
Lantos
Largent
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
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Moakley
Molinari
Mollohan
Morella
Myrick
Nadler
Neal
Neumann
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Pelosi
Peterson (FL)
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Petri
Pickett
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Portman
Poshard
Pryce
Quinn
Rahall
Ramstad
Reed
Richardson
Riggs
Rivers
Roberts
Roemer
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spratt
Stark
Stokes
Studds
Stupak
Talent
Tate
Taylor (MS)
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Upton
Velazquez
Vento
Visclosky
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—2

Fields (LA)
Tucker

• □ 1719

Messrs. LONGLEY, WHITE, NEUMANN, HALL of Texas, WYNN, BUYER, Ms. HARMAN, and Messrs. METCALF, RAHALL, SERRANO, GILCHREST, CONDIT, SISISKY, and CHRYSLER changed their vote from "yea" to "nay."

Mr. OWENS, Ms. DANNER, and Messrs. WATTS of Oklahoma, NETHERCUTT, and ALLARD changed their vote from "nay" to "yea."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

(Mr. GEPHARDT asked and was given permission to speak out of order and address the House for 1 minute.)

LEGISLATIVE PROGRAM

Mr. GEPHARDT. Mr. Speaker, I ask for this time to inquire about the schedule for today and the rest of the week.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the distinguished majority leader and ask about the schedule for the rest of the day and the week.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, of course, the Members are very concerned about what will be our schedule, and we have worked very hard to come to a point where now I can give a pretty good outline of what the rest of the week and the early part of next week will look like.

If the gentleman will continue to yield, it is our hope to finish the Gift Reform Act and the Lobby Disclosure Act this evening, Mr. Speaker. Tomorrow we plan to consider the conference report on the Balanced Budget Act of 1995 and also to consider H.R. 260, legislation regarding American troops in Bosnia.

On Saturday, the House will be in session and voting, beginning about 12 noon.

The House will not be in session on Sunday, but will be in session on Monday and Tuesday.

Given the circumstances, I cannot divine further than next Tuesday, although we will inform Members early next week about the balance of the week, and I thank the gentleman for yielding.

Mr. GEPHARDT. I would like to ask the gentleman if he has a good estimate on when Members might expect to be able to leave here on Saturday afternoon or evening.

Mr. ARMEY. I thank the gentleman for his inquiry. I can only regret that it was not directed to someone else.

But my best estimate is that our work would be completed around 6 on Saturday.

Mr. GEPHARDT. Could the gentleman further inform us what might be on the schedule for Saturday and what time Members might be expected to be here on Monday?

Mr. ARMEY. The most certain thing we would have under consideration on Saturday would be further consideration of the Balanced Budget Act of 1995, upon action of the other body, and then, of course, we have some very important conference reports we would hope to get to on Saturday as well.

Mr. GEPHARDT. On Monday, what time would the gentleman think we might come in?

Mr. ARMEY. I am pleased to announce to my colleagues that we expect no votes before 2 on Monday.

Mr. GEPHARDT. And finally, could the gentleman answer about what would be the estimated time of the first vote on Saturday?

Mr. ARMEY. Saturday, I should think that we would probably have the first vote between 12:30 and 1 o'clock.

Mr. FAZIO of California. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from California.

Mr. FAZIO of California. Mr. Speaker, I thank the gentleman from yielding.

I wonder if we could learn about the activities later this evening. My understanding is that there are some 20 amendments that have been listed as possible amendments to the lobby reform bill which will follow the gift rule. Does the gentleman have a time certain tonight that we would terminate our activities, or do we just go through the evening into the morning hours dealing with the amendments, many of which have been heard but some of which are new?

Mr. ARMEY. I appreciate the gentleman's concern. Let me just say, first of all, of course, it is an open rule, and as is often the case in an open rule with a great many amendments, the managers of the bill can often work things out with the Members with amendments, and that is always the best way to come to an arrangement on time.

What I would propose doing is watching to see how well that progress can go and then perhaps making a decision about completing the bill or perhaps, in fact, giving it further consideration.

It is our hope and our desire to complete the bill tonight, and I am placing a great deal of confidence in the collegiality of the bill managers and the Members with amendments.

Mr. GEPHARDT. One more point or question. With respect, I would just urge the distinguished majority leader to perhaps look at the idea of coming in Saturday a littler earlier so that Members would have a chance, if they were going to go back to their districts on Saturday night, to be able to accomplish that.

Mr. ARMEY. It appears that the gentleman's point is well taken, and I will take it under consideration.

Mr. GEPHARDT. Let me say to the distinguished majority leader that I would hope that it might be possible, and I know the President made statements today, and the Speaker and the Senate majority leader, about trying to figure our way through this business of a continuing appropriation.

If something could be arrived at on Saturday, I assume that if that can be accomplished for a period of time that would get us past Thanksgiving, that we might be able to avoid a session on Monday and Tuesday. I know that is a very tough thing to get done and will take some time. But if that could be done, does the gentleman think we might be able to avoid Monday and Tuesday?

Mr. ARMEY. I believe that it could be possible should an accord be reached on a continuing appropriation, but at this point I have to say we have a very clear and a very important schedule before us that we would intend to work on.

Mr. FAZIO of California. If the gentleman would yield further, I have had some Members suggest that perhaps we could work on Sunday, if it would be possible to be out of here next week; in other words, keep working until we have completed our work. Is there any possibility that that could be entertained?

Mr. ARMEY. At this point, we have no plans to work on Sunday.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. Could the gentleman tell us what the plans are for Wednesday and Thursday for next week? Could the distinguished gentleman from Texas tell us what the plans of the leadership are for Wednesday and Thursday of next week?

Mr. ARMEY. I thank the gentleman for his inquiry.

If I may, if the gentleman would yield further, Mr. Speaker, I hope it is in order for me to make the observation that Sunday is a Sabbath and we try to respect that. In addition, of course, the gentleman, and you are a tough crowd, and, if I may say to the Members, we are, of course, very much cognizant of Thursday, Thanksgiving Day. We are also acutely aware of the fact of the difficulties of traveling on Wednesday prior to Thursday, and we will make every effort we can to find a place where we can close business in order to enable Members to be back in their districts with their families Thanksgiving Day. I will assure the gentleman from Michigan this is a very big priority with us.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I would say to the majority leader, I understand, of course, Saturday is the Sabbath, Sunday is the day of rest for many, as well, and for religious services. But, Mr. Leader, you are well aware that we have now shut down the Government for the longest period of time in history as a result of an impasse between the Congress and the President. Waiting until Monday or Tuesday to try to resolve this will not only put many, many people in the public and private sectors in great distress and trauma, but it also will incur substantially additional costs.

□ 1730

If we could resolve this by the end of the weekend so that the Federal Government could undertake operations on Monday, that would be beneficial for every American and would be in the fiscal best interests of our country, which, of course, are some of the things we have been discussing.

Toward that end, I would hope we would very seriously consider trying to resolve this impasse before the beginning of next week.

Mr. ARMEY. Mr. Speaker, I thank the gentleman, and the gentleman's expression of concern I think is very much a genuine expression and one that can only invoke the most empathic response. The gentleman did, in fact, just last night vote for a continuing resolution that would enable us to resolve the dilemma. We are moving that along as fast as we can to the White House. We are hopeful the President will sign it, in which case we will be exactly where the gentleman wants to go.

Mr. HOYER. In the event though, Mr. Leader, we are not there, what I am urging is that we continue to work with consideration for religious services for all the Members, but in that context, to continue to work straight through, so that we could try to resolve this impasse.

Mr. GEPHARDT. Mr. Speaker, I yield to the gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Speaker, just an alternative thought on the schedule. I know the President and others on the other side have been critical of our not getting out the appropriations bills. Maybe we should just keep going right on up to Thanksgiving to get those appropriations bills out.

Mr. GEPHARDT. I would say to the gentleman, since we do not have our applause meter out here, we cannot decipher that.

Mr. ARMEY. If the gentleman will yield further, may I assure my colleagues, the hourly schedules and daily schedules we have outlined here for the floor, I believe, accommodate quite nicely to everything I can at this time forecast we could have available to bring to the floor within the day's outline. If other opportunities present themselves, we will certainly revisit the schedule and inform Members.

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, there will not be another vote for another 30 minutes or so, so if some of the Members want to leave, they are welcome to.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, as the designee of the gentleman from Georgia [Mr. GINGRICH], I offer an amendment printed in part 2 of House Report 104–341.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SOLOMON: Page 2, line 3, strike "(1)" and strike lines 6 through 15.

Page 7, strike lines 1 through 5, and page 9, strike lines 15 through 16 and redesignate paragraphs (13) through (22) as paragraphs (12) through (21).

Page 10, line 9, insert a period after "individual" and strike "if others" and all that follows through line 12.

Page 13, beginning in line 24 strike "3 days exclusive of travel time within the United States" and insert "4 days within the United States".

Page 14, insert a period after "employee" in line 17 and strike "subject to" and all that follows through line 23.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SOLOMON] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chairman of the Rules Committee, I am obliged to support the position of the committee which was to favorably report House Resolution 250 and urge its adoption. It is a good resolution and one which we can all be proud of.

At the same time, I have an obligation as a Member to support amendments that will help to improve and strengthen this resolution, and the amendment of our distinguished Speaker is such an amendment.

During our hearings on House Resolution 250, I agreed with those House Members and public witnesses who urged us to report to the House the resolution as passed by the Senate. We used that as our guidelines in reporting House Resolution 250 to the House by unanimous voice vote, with only a few technical amendments.

At the same time, I was deeply troubled by the prospect that the $10 exemption for gifts that would count toward the $50 and $100 limits would inadvertently trip up some Members and land them in the Ethics Committee on a frivolous or malicious complaint filed with that committee.

At first we considered raising the exempt threshold to those gifts under $20 which was the exempt limit in last year's bill passed by the House and Senate.

But we did not do that, because too many people would charge that we were weakening the resolution. I therefore came to conclude that the best way to avoid getting into trouble was to adopt the total gift ban recommended by the Speaker.

It retains most of the exceptions contained in the existing resolution including exemptions for gifts from close personal friends and relatives, gifts of personal hospitality, and reimbursements from private sources for travel, in connection with our official duties, such as speech making, factfinding, and substantial participation events.

The two exceptions from the gift rule that are dropped in the Gingrich-Solomon amendment are gifts of home State products made to Members, and their offices, and gifts of nominal value such as t-shirts, baseball caps, coffee mugs, etc. Members can still accept such things as commemorative plaques for their service as Members.

But I think most Members will be much more comfortable with the zero-gift rule proposed by the Speaker, because it does establish that bright line between what is acceptable and what is not acceptable.

There is no need for recordkeeping or disclosure for gifts from persons who are not close personal friends or relatives. You just cannot accept them. Period?

No meals, no free tickets, no bottles of wine, or baskets of fruit or birthday cakes—no matter what their value. What could be more simple than just saying no—in a polite way of course.

I know many Members now have such a policy in their own offices including me and to a person they indicate that it is the easiest policy in the world to live with, because there are no gray areas. If a gift comes into your office from someone who is not a friend, you just refuse to accept it.

I urge support for the Gingrich-Solomon amendment that simply says accept no gifts.

Mr. Speaker, the Gingrich-Solomon amendment also makes another important change in this resolution, and that is to delete the requirement that for a spouse or child to accompany you on a privately reimbursable trip for official business, you must determine and certify that they are, and I quote "appropriate to assist in the representation of the House."

Mr. Speaker, that is demeaning, insulting, and unnecessary language. It is contrary to our family friendly policy that we established this year in this House. One Member of this House put it very bluntly but appropriately when she said: "I don't take my husband with me to represent the House. I take him with me to keep our marriage together."

Mr. Speaker, we don't make speeches to groups and associations for the fun of it. We do so because part of our representational function here is to help educate the public as to what we are doing in this Congress. We can not depend on the media or on people staying glued to C-SPAN for them to know what the Congress is doing.

We have an obligation to keep the people informed as to what legislation we are considering, what our agenda is, and what we have accomplished.

My wife is gracious enough to accompany me on the few trips I do take when I am invited to address associations that represent my constituents.

I do not and will not make it a condition for her accompanying me on those rare occasions that she must somehow prove that she is representing the House to justify her being with me. I want her to be with me because she is my wife and not because she is an ambassador for the House, as important as this institution is.

Mr. Speaker, in conclusion, the Gingrich-Solomon amendment is simple; it is easy to understand; and it is that bright line that is easy to comply with. It says to our Members and to this House that we do not depend on, we do not need, or we certainly do not want any kind of gifts from persons who are not friends or relatives.

It says to our constituents what they expect of us in the first place, and that is that we are willing to adopt, to comply with, and to enforce the strictest of ethical standards.

It says to the American people that there is no question that we are somehow beholden to the gifts of those who may even indirectly try to influence our behavior or voting in this House.

We are here because we believe that this Government is and should be of the people, by the people, and for the people, and, as the people's House, we are here as servants of the people for 2 short years before we must take our records and conduct, back to the people for renewal.

I urge the adoption of the amendment.

□ 1745

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I will manage the time, as I know of no Member who intends to rise in opposition to this amendment on our side.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 15 minutes.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman from Texas for yielding me time, and I thank him for his leadership, along with my good friend, the gentleman from Texas, JOHN BRYANT.

I appreciate the words of the distinguished gentleman from New York and rise to support the Speaker's amendment on this issue because there are just two simple propositions that we need to pay attention to.

This amendment would result in a ban of all underlying gifts, and it would even include, though I come from the great State of Texas and they have some good barbecue, any gifts that come in as home-State products. Simply a fairness issue.

I think it is time now for the U.S. Congress to go right to the line, to go straight to the point. And the point is to ban all gifts. It bans Members from accepting free travel to events that are substantially recreational in nature. Nothing less, nothing more. Simple fairness.

Coming on this House floor on January 4, 1995, as a freshman, that was the first statement I made, a willingness to ban gifts so that we could get on with the people's business. Now we have come to this point on November 16, 1995. I join in supporting what really we should be doing, cleaning the people's House; standing up for what Americans say we should be doing, and that is doing their work. Ban all gifts. It is a good amendment.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Sanibel, FL, PORTER GOSS, one of the very distinguished Members of this body. He is not only a member of our Committee on Rules but he is a longstanding member of the Ethics Committee.

Mr. GOSS. Mr. Speaker, this amendment makes three major changes to the base text of House Resolution 250, leaving the rest of its provisions intact. These changes have the effect of: First, providing a general ban on all gifts—including meals. This proposal does away with the idea of dollar value thresholds—in other words, regardless of the value of a gift or meal, Members and staff would simply not be permitted to accept it. In terms of defining what constitutes a gift, this amendment retains 21 of the 23 exceptions that are in House Resolution 250—most of them commonsense mentions that provide Members with some sense of confidence that they can live normal lives; second, providing a reasonable assurance that Members can make their own decisions about when it is appropriate for them to be accompanied by their spouse or child at an event or on a trip; and third, conforming the domestic travel limit to current House rules of 4 days.

These changes make a lot of sense to me. For Members who are concerned that the dollar thresholds and triggers in House Resolution 250 could entrap Members even as they try to do the right thing. By banning all gifts the bright lines should be very clear. Having had such a policy in my office for 7 years—in fact a policy that goes beyond this proposal, because we accept no travel—I can assure my colleagues that a clear ban is workable. I urge my colleagues to support this approach—it is fair and it will go a long way in helping to restore the public's faith in this body.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan [Ms. RIVERS].

Ms. RIVERS. Mr. Speaker, before I was elected last November, I took the common cause pledge to not accept gifts in my office, and I have adhered to that pledge throughout the time that I have been here. I introduced a bill that would do exactly what this amendment would do, it would say that in Congress we do not take gifts.

Throughout my district, I have talked about the need for Congress to operate in a bipartisan way and for Congress to clean up its House in terms of ethics, and I am pleased to support this effort today, which is both, bipartisan and reflective of our need to put ethics first.

Mr. Speaker, this is really the deimperialization of Congress. We are saying to our Nation that we will not take gifts, we will pay for our own food, we will pay for our own travel, we will pay for our own recreation. This is not revolutionary, it is not unreasonable, it is not unduly burdensome, it is simply the right thing to do. I urge a "yes" vote.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. BROWNBACK], one of the outstanding new Members of this body, one who has led the fight for reform since he arrived here about 11 months ago.

Mr. BROWNBACK. Mr. Speaker, I want to thank the chairman for his kinds words.

Briefly stated, this is a very important reform on trying to reestablish some public trust in elective office. I say this not to impugn anything or anybody at this institution or body, but simply that people do not trust the system. We have to change the system.

I think until we ban gifts completely, they will not trust the system. Indeed, half steps forward may actually take us backward in the public's perception of this body and trust. And that is what this is all about, about public trust.

I urge my colleagues to vote "yes" on this amendment, to just say "no" to gifts, to ban them, and to start to reestablish that public trust in this body.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague on the other side of the aisle for yielding me time, and I also want to compliment the distinguished gentleman, the chairman of the Committee on Rules, for structuring a fair rule, and also for being a partner during the last 3 weeks as we have tried to put together this reform to the gift policy in the House.

It has been a fun time, it has been a learning time, but, most importantly, I think tonight, as we complete this process, we can demonstrate that we have gone through a process of listening to the American people, we have spent a tremendous amount of time listening to Members, Members of both sides of the aisle, and recognize that they have all approached this issue with a lot of emotion, a lot of good will, and a lot of genuine interest in doing the right thing.

Mr. Speaker, I think tonight we will have the opportunity to do the right thing. We will have an opportunity to set a clear, new standard on the gifts that House Members can accept. This does not preclude us from interacting in an effective and efficient way with our constituents, with those that are here to educate us on the issues, this just moves a whole set of concerns, issues that have been associated with how constituents and other individuals may interact with Congress.

We are going to set a new standard. I applaud the Speaker for bringing this idea and this concept to the floor, and I think we have a real opportunity to say the new standard is we will accept no gifts. Our interaction with our constituents, our interaction with those that are here to educate us on the issues will deal purely with the substance of the various issues.

Mr. Speaker, I think this is a good opportunity to set a standard, to set a standard which perhaps the other body will also follow.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut, Mr. CHRIS SHAYS, one of the true leaders of reform in this House.

Mr. SHAYS. Mr. Speaker, I rise in support of the Gingrich amendment to House Resolution 250 and commend the gentleman from Georgia on his valuable contribution to this debate.

A total gift ban, as proposed in the Gingrich amendment, makes sense. It's simple, straightforward and strong.

The American people want gift reform and this amendment goes even further than the Senate-passed rule many of us have been advocating. I thank Speaker GINGRICH for coming forward with this bold proposal, and urge its adoption.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania, Mr. JOHN FOX, another outstanding new Member of this body, another leader in reform since he arrived here 11 months ago.

Mr. FOX of Pennsylvania. Mr. Speaker, no one runs for this office to receive gifts from lobbyists. No one runs for reelection for that purpose. There is a public expectation we should not receive gifts, trips or entertainment. Our citizens do not. We need to help restore the confidence in the House by passing the Gingrich-Solomon amendment. No gifts mean no recordkeeping. The concept is overdue. Please vote for the amendment.

Mr. FROST. Mr. Speaker, may I ask the time remaining on each side.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] has 10½ minutes remaining and the gentleman from New York [Mr. SOLOMON] has 3½ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

☐ 1800

Mr. DURBIN. Mr. Speaker, it was good fortune in life as a college student to go to work for U.S. Senator Paul Douglas of Illinois, a man who literally wrote the book on ethics and government.

He had a gift policy in the early 1960's, where he would not accept a gift of value more than $2.50. He ended up retuning almost everything. Sometimes it created embarrassment and a stir, but it was a standard that he lived by and people respected him for that.

Mr. Speaker, I am going to support this bipartisan effort. It holds Members of Congress to a higher standard, and we should be held to that standard. I have personally established a gift ban in my office and it has been in place for quite some time. This disclosure and the gift-ban provisions here are consistent with that, and I think a good measure for this House to follow. I am sorry it has taken us this long to bring this matter before us.

Mr. Speaker, having said that, now that we have established ourselves a higher standard for Members of Congress, let me suggest that we are in the midst of a governmental crisis where we are holding Members of Congress to a lower standard. I make reference to the bill I introduced, H.R. 1221, "No budget, no pay."

We sent home 800,000 Federal employees without pay while Members of Congress still receive their paychecks. We have said to those widows and dependents of veterans, "You may not get a check December 1, but your Congressman will." We have said to our staff people, "You may not get a check for your services, but your Congressman will."

Frankly, I think this is an outrage. Members of Congress have basically created a political crisis which could be solved in a heartbeat. I frankly think if we turned off the TV cameras and the machines printing congressional checks, this crisis would be over in 15 minutes.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, if I understand this correctly, there are three schools of thought driving the gift ban. The first is that some believe Members of Congress regularly, or even occasionally, sell their vote for a dinner or a golf game. If anyone seriously believes this, instead of bringing a bill to the floor, they should bring a complaint to the Committee on Standards of Official Conduct. I do not think anyone who knows this institution or its Members could believe that this is the case.

The second theory maintains that the problem is not reality; the problem is perception. They think that the people believe that we are easily bribed and we need to prohibit these bribes in order to placate the populace. In other words, they say that on a day when the Government is shut down over budget problems and we are on the brink of entering a conflict in Bosnia, the American people want us to go through this self-flagellation to restore the appearance of integrity. I am not sure that is what we ought to be spending our time on.

The third school of thought maintains that our constituents will reelect us as long as we make a grand show of how terrible this institution or its Members are. If we make it clear to everyone that we are trying to clean this place up and that we are trying to somehow play the integrity guardian of this place, then they will never consider us politicians.

Mr. Speaker, in the Bible it says that hypocrites stand on the street corner and pray out loud. Well, I think we ought to restore the confidence of the public by doing the public good.

Mr. Speaker, I do not go to dinner with lobbyists. I have no interest in gifts. I do not play golf. I do not like to travel. More importantly, I do not take any PAC money. I do not take any money outside the district. I find it ridiculous that the suggestion here is that if Members take a $25 dinner from a lobbyist, they might be bribed, but if they accept $5,000 from a PAC, they will not be bribed.

The only gift, for example, that would interest me right now is that we get our work done, and we can all go home. But, Mr. Speaker, I will vote for this legislation.

Mr. FROST. Mr. Speaker, I yield 1½ minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Speaker, I want to speak in favor of this amendment.

Mr. Speaker, I want to share with the House my own experience in business, because we went through this same challenge in the companies that I founded and ran, and we finally decided that we could tinker around with different ways of trying to deal with the problem, if there is such a problem, of purchasing influence by suppliers through entertainment and gifts.

Mr. Speaker, if, in fact, my colleagues believe that there is an ethical vulnerability, and obviously that is what we are saying because we do have rules in this area already, then the way to really solve it, the way to really end it once and for all, is to create a zero-tolerance standard, because what that does with a zero-tolerance standard is that it draws the brightest of bright lines. It makes it crystal clear on a daily basis. There is absolutely no question in anybody's mind and everyone knows what the standard is.

Mr. Speaker, we are talking about a standard of no gift, zero tolerance, no question. It is crystal clear. It is very simple. So long as Members take on the yoke of representation in this House, Members will know without any question, without any doubt, exactly what their responsibility in this area is with respect to the acceptance of gifts.

Mr. Speaker, that is why I support the amendment. I urge my colleagues to do the same thing, and I hope it passes.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. GRAHAM].

Mr. GRAHAM. Mr. Speaker, it is good to be working on something that we can agree on today and really improve the quality of Government. It is not about whether Members can be bought. That is not the issue here. I respect the Members of this body. Nobody is going to be bought because they go to dinner.

Mr. Speaker, if Members have a propensity to being bought, they can get bought no matter what rules we have. That is not the issue. The issue is to make this body more businesslike and reflect the value system that the American public wants us to adopt.

Mr. Speaker, I came from South Carolina, the legislature there, where we had several people unfortunately go to jail because they did get bought. We had a lot of rules, but they still got bought. We looked at the situation in South Carolina and we said, "Let us adopt bright-line rules and make people feel better about this institution." In South Carolina, legislators cannot take anything from a registered lobbyist.

Mr. Speaker, let me tell my colleagues this: Government still works. Lobbyists do not need to give me anything to tell me about their business interest, to tell me what they would like to happen with their Government. We can sit down and we can talk and I will listen and I will do what I think is best for my district. We do not need money to change hands; we do not need gifts to change hands.

Military officers, and I was one for 6½ years, cannot take anything from the contractors that they deal with.

Mr. Speaker, what we are trying to do is run this place in a more businesslike fashion and restore public trust. The issue is not about being bought. The issue is changing Congress to make sure that we live in a system that is very similar to the average, everyday American.

The gift situation needs to be changed, and I congratulate the Speaker for putting in a zero-tolerance level as the standard. I congratulate the Democratic Party for helping us to get there to restore faith in our Congress. This is a small step forward, but it is a good step forward.

Mr. FROST. Mr. Speaker, how much time do I have remaining.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The gentleman from Texas [Mr. FROST] has 4 minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 3½ minutes remaining.

Mr. FROST. Mr. Speaker, do I understand that the gentleman from New York only has one speaker who will close?

Mr. SOLOMON. Mr. Speaker, that is correct.

Mr. FROST. Mr. Speaker, I yield the remainder of my time to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Speaker, I am glad we are at this point, finally, after all these years of effort on the part of many people on both sides of the aisle, and we are about to prohibit the acceptance of gifts. Mr. Speaker, I think it is right that we do so.

I can only observe that we spent a good part of that 2½ years trying to hammer out a compromise between those who were opposed to doing anything and those of us who wanted a complete ban, and the compromise that we came up with it what is in the bill that is known as the Waldholtz bill before the House today.

Had we known the Speaker was going to come forward with an amendment to take it down to zero, we would have embraced that in the first place. I am glad he has done it. I would point out that his bill, like the underlying bill, has many, many exceptions to it, including gifts from relatives and gifts based on personal friendship, and attendance at lobby-attended events and so forth, which are good exceptions. I support them.

Mr. Speaker, I notice in the gentleman's provisions that he specifically left out of the list of exceptions, items of little intrinsic value, such as baseball caps and greeting cards. I am curious to know, and this is an actual question, not a rhetorical question, if that was intentional. If it was not intentional, I wonder is it would not be a good idea to fix it while we have a chance.

Mr. SOLOMON. Mr. Speaker, if the gentleman would yield, I would say to the gentleman, it was not intentional and we would accept a unanimous consent to remove it.

MODIFICATION OFFERED BY MR. BRYANT OF TEXAS TO THE AMENDMENT OFFERED BY MR. SOLOMON

Mr. BRYANT of Texas. Mr. Speaker, reclaiming my time, if that is appropriate at this time, I ask unanimous consent to do that.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BRYANT of Texas. Mr. Speaker, finally, I would say to the Members of the House it is not only that Lord that works in mysterious ways; it is the U.S. Congress. However we got here, I am glad we are here. We ought to vote for it and be proud of it as a bipartisan product and move on to other business.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. So the Chair can be clear about the impact of that unanimous consent request, the gentleman from New York will suspend one moment so we can make certain of the import of that.

Mr. SOLOMON. Mr. Speaker, I would ask the gentleman from Texas [Mr. BRYANT] I do not know if he has the bill there, but on page 9, lines 21 and 22, there is a section that says, an item of nominal value such as a greeting card, baseball cap, or T-shirt.

Mr. BRYANT of Texas. Yes.

Mr. SOLOMON. And that was the one the gentleman was talking about?

Mr. BRYANT of Texas. That is the one I was referring to.

Mr. SOLOMON. The other item was on page 7, which was donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any other recipient.

Mr. BRYANT of Texas. I would like to include that in the unanimous consent request, although I did not before.

Mr. SOLOMON. The others were taken out for the same reason, unintentionally. If the gentleman from Texas wants to include that, we would accept it.

Mr. BRYANT of Texas. Mr. Speaker, I would do so and if it is not necessary to rearticulate that, I will leave it that way.

Mr. SOLOMON. So that the Speaker and the Clerk understand, on page 7, we are removing lines 7 through 11, and on page 9 we are removing lines 21 and 22. That is the Byrant unanimous consent request.

The SPEAKER pro tempore. The Chair understands this to be the unanimous consent request. The Clerk will read what the Chair understands to be the modification that is being requested.

The Clerk read as follows:

Modification offered by Mr. BRYANT of Texas to the amendment offered by Mr. SOLOMON.

In the second paragraph of the amendment offered by Mr. SOLOMON of New York, strike out Instructions. On page 9, strike lines 21 through 22.

Mr. SOLOMON. And page 7, lines 7 through 11.

POINT OF ORDER

Mr. ABERCROMBIE. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. ABERCROMBIE. Mr. Speaker, is this being made available in writing to the Members?

The SPEAKER pro tempore. The Clerk is attempting to report the modification proposed by the unanimous-consent request.

Mr. ABERCROMBIE. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman reserves the right to object and the gentleman's point of order is noted.

If the gentleman will suspend for a moment while the Chair verifies the unanimous-consent request.

Mr. SOLOMON. I just sent it to the desk.

The SPEAKER pro tempore. The Clerk will now rereport the modification that is the subject of the unanimous-consent request of the gentleman from Texas [Mr. BRYANT], realizing that there is a reservation of objection by the gentleman from Hawaii.

The Clerk read as follows:

Modification offered by Mr. BRYANT of Texas to the amendment offered by Mr. SOLOMON:

Strike out the second paragraph of the instructions.

The SPEAKER pro tempore. Is there objection to the modification offered by the gentleman from Texas [Mr. BRYANT]?

Mr. ABERCROMBIE. Reserving the right to object, Mr. Speaker, could we have it explained once more? Perhaps the gentleman from Texas [Mr. BRYANT] or the gentleman from New York [Mr. SOLOMON] would explain at this juncture precisely what it is that will be allowed or disallowed, whichever makes the most sense in terms of an explanation.

Mr. Speaker, I yield to either the gentleman from Texas or the gentleman from New York.

The SPEAKER pro tempore. The gentleman from Hawaii will suspend. The gentleman from Hawaii has the floor and may yield to whomever he may wish.

Mr. ABERCROMBIE. Mr. Speaker, I yield to the gentleman from Texas [Mr. BRYANT] or the gentleman from New York, if he feels he can contribute to the explanation.

The SPEAKER pro tempore. There is an explanation forthcoming about an important unanimous-consent request.

□ 1815

The gentleman from Hawaii has yielded to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Speaker, the amendment to the bill simply says that there will be no gifts accepted by any Member unless they fall under specific exemptions. Those exemptions are the same exemptions that are in the Senate rules, that are in the underlying rule which the gentleman from Georgia [Mr. GINGRICH] has amended, with two omissions that were inadvertent, one of those is home State products of minimal value for display or distribution, and the other is items of little intrinsic value such as baseball caps or greeting cards. Those were accidentally omitted from the list of exceptions and, accordingly, I made a unanimous-consent request that they be added back into the list of exceptions thereby permitting Members to accept those without worrying about any problems.

Mr. ABERCROMBIE. Mr. Speaker, continuing my reservation of objection, what concerns me here is, the reason I raised the question, the reason that I am doing this is that I am concerned that we are now arriving at a point where we are listing what is proscribed, or are we listing what is included in that which is accepted? If it is not specifically named in this legislation, does that mean then that we run the risk of having it considered something which is forbidden?

Mr. SOLOMON. Mr. Speaker will the gentleman yield?

Mr. ABERCROMBIE. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, the answer is yes.

Mr. BRYANT of Texas. Mr. Speaker, if the gentleman will continue to yield, I am not sure what the gentleman from New York [Mr. SOLOMON] answered yes to. I want to make it very clear.

Mr. ABERCROMBIE. Mr. Speaker, reclaiming my time, I am exactly clear as to what the gentleman from New York [Mr. SOLOMON] just said. Mr. SOLOMON just said that in regard to what you just named—greeting cards and baseball caps—that will now be allowed. Presumably, had that not been included at this point, or the attempt made to include it at this point, you could get greeting cards which would be illegal. You could get baseball caps which would be illegal. The question I asked, and why I am reserving the right to object is, I am trying to find out—excuse me, not I—but if we do not list everything that is allowed, does that mean that that which does not appear in this specific list of exemptions may very well at some point be considered as being illegal and will we have to find that out as we go along?

Mr. NUSSLE. Mr. Speaker, will the gentleman yield?

Mr. ABERCROMBIE. I yield to the gentleman from Iowa.

Mr. NUSSLE. Mr. Speaker, if I could even go one step further than that, I think the beauty of this amendment, prior to this unanimous-consent request, was that it is a clear signal to the lobbyists, do not send anything. Then we do not have to decide. Then there is not a problem.

Now we are saying that baseball caps and other items, other items of minimal value, now it becomes a judgment call not only on the giver but also the receiver as to what else may be included, which goes to the gentleman's point, but also to what is of minimal value.

The beauty of this amendment, which was a gift ban, which exempted out the family and everything else, was that it not only was a suggestion to us but it was a clear signal to those who might want to give. I think that was the beauty of it. I would hope that the gentleman would continue to object.

Mr. ABERCROMBIE. Mr. Speaker, I have not objected yet.

Mr. NUSSLE. If the gentleman does not, I might.

Mr. ABERCROMBIE. Mr. Speaker, I appreciate the editorial clarity, but I am trying to find out here from the chairman of the Committee on Rules, who is now being advised on all sides, Mr. Speaker, I thank you for your patience in this, but I do think it is crucial to the understanding of the bill before us.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). So that Members may have clarity of thought, the gentleman from Hawaii still controls the floor under a reservation of objection.

Mr. BRYANT of Texas. Mr. Speaker, will the gentleman yield?

Mr. ABERCROMBIE. Further reserving the right to object, I yield to the gentleman from Texas.

Mr. BRYANT of Texas. Mr. Speaker, the specific item which was inadvertently left out of the Gingrich amendment said, and it said this for several years in its text, items of little intrinsic value, such as baseball caps and greeting cards. Items of little intrinsic value, we want to leave that in there so there is no problem for any Member. That is all we are trying to do here. My unanimous-consent request, which has been approved by the other side, is simply to leave it in there.

Mr. ABERCROMBIE. Mr. Speaker, we are exchanging these words verbally right now. I am looking at the amendment to House Resolution 250, gift reform. The amendment retains exceptions for, and then it lists quite a number of items. If I understand it correctly, there is now a unanimous-consent request that language be added to that list of exemptions; am I correct?

Mr. SOLOMON. Mr. Speaker, if the gentleman will continue to yield, yes, the gentleman is correct.

Mr. ABERCROMBIE. Mr. Speaker, could the gentleman repeat the language at this time, please.

Mr. SOLOMON. Mr. Speaker, I would be glad to. If the gentleman has the underlying legislation, the proposal before him, on page 7, lines 7 through 11, they are allowed under the underlying legislation. And the Gingrich amendment would prohibit them. This is what the underlying legislation allows.

Mr. ABERCROMBIE. Reclaiming my time, is the gentleman referring to, on page 7, "donations of products from the State."—

Mr. SOLOMON. Mr. Speaker, that is correct.

Mr. ABERCROMBIE. "That a Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient"?

Mr. SOLOMON. Mr. Speaker, if the gentleman will continue to yield, exactly. And then flip the page to page 9.

Mr. ABERCROMBIE. Page 9?

Mr. SOLOMON. Yes, lines 21 and 22.

Mr. ABERCROMBIE. An item of nominal value such as greeting cards, baseball cap or T shirt.

Mr. SOLOMON. Keep in mind "such as."

Mr. ABERCROMBIE. Yes. Now, is it the case that by inadvertence this was left out of the bill?

Mr. SOLOMON. The underlying legislation, it was specifically left in. In other words, as an allowed gift. Under the Gingrich legislation, it was inadvertently prohibited.

Mr. ABERCROMBIE. Mr. Speaker, in the Gingrich legislation that is now before us, it was inadvertently left out; is that correct?

Mr. SOLOMON. Mr. Speaker, that is correct.

Mr. ABERCROMBIE. So if this is accepted, the unanimous consent request is accepted, those two elements that appeared in the underlying bill would now appear in the Gingrich legislation?

Mr. SOLOMON. Mr. Speaker, that is correct.

Mr. ABERCROMBIE. Mr. Speaker, continuing my reservation of objection, it occurs to me that the "such as" may be illustrative, but is it supposed to be illustrative of the amount of money, when we say intrinsic value, are we talking about, is it your understanding, Mr. SOLOMON, that that has a dollar value, when the phrase intrinsic value is utilized to describe—

Mr. SOLOMON. Mr. Speaker, minimal, nominal value, yes.

Mr. Speaker, the gentleman from Georgia [Mr. GINGRICH] our Speaker, has to leave in about 3 minutes. There are 3½ minutes remaining in the debate.

Mr. BRYANT of Texas. Mr. Speaker, I withdraw my unanimous-consent request for the time being.

The SPEAKER pro tempore. The gentleman's request is withdrawn for the time being.

Mr. SOLOMON. Mr. Speaker, on opening day the Speaker of this House directed the Republican Members of this House to reform this Congress. We put through profound changes, such as shrinking the number of committees, subcommittees, eliminating proxy voting and opening up sunshine for these committees. He also directed us to continue the reforms of this House. This is one of them.

Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. GINGRICH], the great Speaker of this House.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding time to me.

Mr. Speaker, I want to thank the gentleman from Texas [Mr. FROST] for the way he handled this this afternoon and enabled Members to participate in a bipartisan manner.

I want to thank the gentleman from Texas [Mr. BRYANT], because the truth is when we first drafted this we did not intend to drop out the T shirt part in particular. Members who go and they try to help with charities and a lot of other things. I appreciate his bringing it to our attention. I hope when I am done he can actually finish working that out with the gentleman from Hawaii and really make that unanimous-consent request a second time.

I also thought, however, that the gentleman from Maryland [Mr. GILCHREST] had a very important point. I want to mention here to the House the testimony I made a few days ago to the House Committee on Government Reform and Oversight about establishing a bipartisan commission to look at the entire fabric of power in the information age, from lobbying to gifts to campaign financing to party financing to independent expenditures, because the truth is, we can ban gifts and then we end up with a PAC giving $5,000. We can outlaw PAC's and then we end up with an independent expenditure of $500,000. There are all sorts of things that go on in the information age that we do not record very well, we do not understand very well. And we are not going to have any one or two reforms that automatically improve it.

I do believe that I had an obligation to offer this amendment. Let me explain why. I think that the Speaker has an obligation to try to protect all the Members of the House. I was told by several members of the Committee on Standards of Official Conduct and several former members of the Committee on Standards of Official Conduct that the rules adopted by the Senate were clearly unenforceable and would in the end end up with Members by the most innocent of just forgetting things over the course of an entire year traveling back and forth to home, the kind of schedules we keep, inadvertently ending up in the kind of violations that would for the first time cause real problems and lead Members to innocently end up either being entrapped or finding themselves in trouble they had no notion of.

The gentleman from Utah [Mr. HANSEN], who had been for many years our ranking member, made the point that we have never actually had an ethics case involving a gift. So at one level one can say, why are we changing it? But if we are going to change it in the direction that the Senate chose, then I think frankly we have an obligation to change it decisively and clearly.

I just think that we have to recognize that there is bipartisan support for trying to figure out how should we operate. We win an election. We are here for 2 years. We serve the people. What should the standards be?

My conclusion was that the simplest, the cleanest and the clearest standard was to say, no gifts. That may well mean what the gentleman from Pennsylvania [Mr. WALKER] was saying a while ago, we may literally have to set up a repository that anonymous gifts end up at go to a charity or to go somewhere because people literally will drop things off. But the rule ought to be, no gifts. Personal friends, yes, Members have every right to have a personal life. Family, yes, we hope Members have a family life. We want you to, despite the recent schedule.

But the fact is that there is a clear line and rather than have all sorts of little nuances and regulations and red tape, I would urge my colleagues to vote for this amendment to end accepting gifts from lobbyists and others who give them the gift because they are a Member of Congress. There is no way around it. They did not get the gift before they were elected, they are not going to get the gift after they leave. That is different from personal friends and it is different from family, and I think it is the right thing, to just end it and take this as step one.

Then I hope the House will join me before the year is out in voting for a bipartisan commission to look at the totality of what we have to do to clean up this system and make it fair for the average American.

The SPEAKER pro tempore. The Chair would advise Members, at this point the gentleman from New York [Mr. SOLOMON] has one-half minute remaining, and the gentleman from Texas [Mr. FROST] has 2 minutes remaining.

The Chair will now entertain the unanimous-consent request.

MODIFICATION OFFERED BY MR. BRYANT OF TEXAS TO THE AMENDMENT OFFERED BY MR. SOLOMON

Mr. BRYANT of Texas. Mr. Speaker, I ask unanimous consent that the language found at page 7, lines 1 through 5, and page 9, lines 15 and 16, be reintroduced as exceptions.

Mr. SOLOMON. Mr. Speaker, the gentleman is on the introduced bill and not on the bill before us. The gentleman should be on the Gingrich amendment.

The SPEAKER pro tempore. The Clerk will report the proposed modification.

Modification offered by Mr. BRYANT of Texas to the Amendment offered by Mr. SOLOMON: Strike out the second paragraph of the amendment.

□ 1830

Mr. BRYANT of Texas. Mr. Speaker, I ask unanimous consent that we do what the Clerk just read.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Is there objection to the request of the gentleman from Texas?

Mr. NUSSLE. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FRANK of Massachusetts. Mr. Speaker, is there any way, under the rule reported out, that the House could amend the pending amendment short of a unanimous-consent request?

Mr. SOLOMON. Not short of a unanimous-consent request.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Mr. FRANK of Massachusetts. So that no amendment would be allowed?

The SPEAKER pro tempore. Only by unanimous consent.

Mr. FROST. Mr. Speaker, I yield back the balance of my time.

PARLIAMENTARY INQUIRIES

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ABERCROMBIE. I would like to know, Mr. Speaker, whether with the objection the possibility of the two items mentioned by the gentleman from New York [Mr. SOLOMON] in response to the request from the gentleman from Texas [Mr. BRYANT] are now out of the Gingrich amendment with respect to that which appears in the underlying bill.

The SPEAKER pro tempore. The Chair is not at liberty to interpret the modification that was suggested.

Mr. ABERCROMBIE. Further parliamentary inquiry, Mr. Speaker, and the reason I am asking is that it may determine how I will vote and, perhaps, others will vote.

The SPEAKER pro tempore. The Chair would advise the gentleman from Hawaii that the modification was not agreed to by unanimous consent.

Mr. ABERCROMBIE. Does that mean, any further parliamentary inquiry because I want to understand the meaning of it, and I think I am entitled to that before I vote, I am entitled to understand it. If everybody else in the room understands it, that is fine; I intend to have a full understanding before I vote.

Mr. Speaker, I ask unanimous consent to extend the time by 2 minutes.

The SPEAKER pro tempore. The Chair would like to make sure all heard the unanimous-consent request. Will the gentleman restate it?

Mr. ABERCROMBIE. It is to extend the time of debate another 2 minutes.

The SPEAKER pro tempore. To be controlled by? Equally divided?

Mr. ABERCROMBIE. By me.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii?

Mr. SOLOMON. Reserving the right to object, Mr. Speaker, we would not object to the time being extended for the gentleman from Texas [Mr. FROST] or for myself, but we could not do it for the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, I think I need to get a clear understanding. I will do it under the parliamentary inquiry, but I thought it might be more in order if there was an opportunity for members to maybe, perhaps, discuss it.

The SPEAKER pro tempore. Then the gentleman from Hawaii has a parliamentary inquiry that is being entertained by the Chair?

Mr. ABERCROMBIE. Mr. Speaker, I will stay with the parliamentary inquiry, and I withdraw my unanimous-consent request.

The SPEAKER pro tempore. The gentleman withdraws his unanimous-consent request.

Mr. ABERCROMBIE. The parliamentary inquiry, Mr. Speaker, is that if I, or anybody else on the floor, wishes to vote for a bill which contains the two elements as enunciated by the gentleman from New York [Mr. SOLOMON] and the gentleman from Texas [Mr. BRYANT], would I then vote against the Gingrich proposal as presently before the body and then vote, should that fail, for the underlying legislation? If I wanted to vote for a bill which contained all of the exemptions listed in the underlying bill, minus those two, which I believe would have been added had there not been objection to the unanimous-consent request made by the gentleman from Texas [Mr. BRYANT]——

The SPEAKER pro tempore. The Chair would advise the gentleman, given a request for regular order, that the gentleman is not stating a proper parliamentary inquiry, but the Chair understands his dilemma. The Chair cannot advise the Member as to the import of this amendment. The Chair can only say it is a modification by unanimous consent.

Mr. ABERCROMBIE. Mr. Speaker, I cannot hear you.

Mr. Speaker, I am doing my best to make a parliamentary inquiry within the boundaries of the rules.

The SPEAKER pro tempore. A parliamentary inquiry is being made by the gentleman from Hawaii. The Chair will entertain that first, and then will take up any others.

The Chair would advise the gentleman from Hawaii that the Chair is not at liberty to interpret the import of any amendments currently pending. The Chair will simply say that a modification was proposed by unanimous-consent request, objection was heard, so the underlying amendment remains the same as it was debated now on the floor.

The gentleman from New York [Mr. SOLOMON] has one-half minute remaining. The gentleman from Texas [Mr. FROST] has yielded back.

It may answer the gentleman from Hawaii's parliamentary inquiry to have the gentleman from New York use that one-half minute.

Mr. ABERCROMBIE. Mr. Speaker, maybe I did not state it correctly, and I will make a further parliamentary inquiry then. There are obviously Members who want to vote.

The SPEAKER pro tempore. The Chair will indulge the gentleman from Hawaii [Mr. ABERCROMBIE] for one more inquiry.

Mr. ABERCROMBIE. Mr. Speaker, I understand that there are Members who are now prepared to vote. I am glad they have all received wisdom. I do not pretend to have it.

My parliamentary inquiry is:

Should the Gingrich proposal as presently before us be defeated, would we then be voting on the underlying legislation which would contain the two elements which do not now exist, as I understand it, in the Gingrich proposal because the unanimous-consent was objected to?

The SPEAKER pro tempore. Without objection, the Clerk will report the pending Solomon amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 2, line 3, strike "(1)" and strike lines 6 through 15.

Page 7, strike lines 1 through 5, and page 9, strike lines 15 through 16 and redesignate paragraphs (13) through (22) as paragraphs (12) through (21).

Page 10, line 9, insert a period after "individual" and strike "if others" and all that follows through line 12.

Page 13, beginning in line 24 strike "3 days exclusive of travel time within the United States" and insert "4 days within the United States".

Page 14, insert a period after "employee" in line 17 and strike "subject to" and all that follows through line 23.

The SPEAKER pro tempore (during the reading). The Chair would advise the gentleman from Hawaii [Mr. ABERCROMBIE] that the Clerk is reading the pending amendment offered by the gentleman from New York [Mr. SOLOMON] as the designee of the gentleman from Georgia [Mr. GINGRICH].

PARLIAMENTARY INQUIRIES

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. I ask the gentleman from Hawaii [Mr. ABERCROMBIE] to listen to my parliamentary inquiry.

Mr. Speaker, is it not a fact that in the Waldholtz legislation pending before us there is an exception which allows Members to accept nominal values such as greeting cards, baseball caps, and T-shirts? The answer is yes.

The SPEAKER pro tempore. The Chair is not at liberty to interpret the underlying amendment, but the gentleman is the offeror of the amendment.

Mr. SOLOMON. Well then, Mr. Speaker, is it not a fact that in the Gingrich amendment it strikes the exception which allows the gentleman from Hawaii to accept a T-shirt?

The SPEAKER pro tempore. The gentleman is not stating a proper parliamentary inquiry.

Mr. FRANK of Massachusetts. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FRANK of Massachusetts. Mr. Speaker, under the new regime have we now debated T-shirts more than we have debated the defense budget today?

The SPEAKER pro tempore. The gentleman has not stated a proper parliamentary inquiry.

The Chair at this point would advise Members that the gentleman from New York [Mr. SOLOMON] has one-half minute remaining in the debate and the gentleman from Texas [Mr. FROST] has yielded back the balance of his time.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time to conclude.

Mr. Speaker, the amendment before us is the Gingrich amendment which does strike the exception which allows Members to accept T-shirts, greeting cards. If the Gingrich amendment passes, it will ban all gifts except those exceptions allowed in the underlying legislation. I would urge Members to vote for the Gingrich amendment.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered on the amendment.

The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 422, noes 8, not voting 2, as follows:

[Roll No. 808]

AYES—422

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler

Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf

Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer

Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—8

Fattah
Hastings (FL)
King
Murtha
Myers
Rahall
Towns
Williams

NOT VOTING—2

Fields (LA)
Tucker

☐ 1900

Mr. RAHALL and Mr. HASTINGS of Florida changed their vote from "aye" to "no."

Messrs. SMITH of Michigan, SANFORD, and LAFALCE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. (Mr. INGLIS of South Carolina). Pursuant to House Resolution 268, the previous question is ordered on the resolution, as amended.

The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 422, noes 6, not voting 4, as follows:

[Roll No. 809]

AYES—422

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen

Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio

Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler

Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf

Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer

Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—6

Fattah
Goodling
King
Myers
Towns
Williams

NOT VOTING—4

Fields (LA)
Murtha
Sabo
Tucker

☐ 1919

So, the resolution, as amended was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SABO. Mr. Speaker, for some reason, my vote was not registered on rollcall vote No. 809, the final passage of the H.R. 250, the Congressional Gift Reform Act as amended. Had my vote been properly recorded, it would have appeared as "aye" on agreeing to the resolution.

PERSONAL EXPLANATION

Mr. GOODLING Mr. Speaker, on rollcall No. 809. After voting "no" on Burton and "yes" on Gingrich, I am positive that I voted "yes" on final passage which was the same as the Gingrich vote. My vote for total gift ban is "yes."

PROVIDING FOR THE CONSIDERATION OF H.R. 2564, LOBBYING DISCLOSURE ACT OF 1995

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 269 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 269

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill of failure to comply with clause 2(l)(6) of rule XI are waived. General debate shall be confined to the bill and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five minute rule. The bill shall be considered as read. All points of order against any amendment printed in the report of the Committee on Rules accompanying this resolution are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except on motion to recommit with or without instructions.

SEC. 2. If H.R. 2564 is passed by the House in a form that is identical to S. 1060, as passed by the Senate, then at any time thereafter it shall be in order without intervention of any point of order to consider the Senate bill in the House. The previous question shall be considered as ordered on the Senate bill to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for the purpose of debate only.

GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution (H. Res. 269) providing for the consideration of the bill (H.R. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, and that I may include extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GOSS. Mr. Speaker, with this rule, the House begins important discussions of reform that will, I hope, assist in restoring the public confidence in this institution and its practices. With this rule we embark on the first of the triumvirate of issues that concern Americans most about the mechanics of how this democracy functions: Lobby reform, gift reform and campaign finance reform. Beginning now with lobby reform, we will work to rewrite an outdated, inadequate and exceedingly vague series of rules pertaining to registered lobbyists and, specifically, public disclosure of their activities.

I am generally an ardent supporter of open rules, and today I bring to the House an open rule for consideration of this lobby reform bill—a rule that should have the support of all members. I should note, however, that in this special case, I have some reservations about what will happen if amendments are adopted to this bill. The reason for my concern is that this issue—lobby reform—has been bottled up in the Congress for years. This year, we have a real chance to break the logjam and send a good bill to the President for signature. The other body has already passed the identical measure we begin with today—and if the House passes the same bill without amendment, the measure could head straight to the White House without further delay. In my view, that would be the optimal result. Although I believe very strongly in the merit of several of the amendments members will hear today—most notably a proposal to restrict lobbying with taxpayer funds by executive branch officials and a proposal to restrict lobbying by organizations that are taxpayer-funded through grants—I intend to vote against all amendments to this bill because of my overriding belief that we've got to get the essence of lobby reform passed and signed into law now. I have learned from past efforts on this and other difficult subjects that, if you load up these bills with new ideas, late in the process, you become spoilers of the good in pursuit of the perfect. I hope my colleagues will consider that as they cast their votes today.

Mr. Speaker, that being said, Members should know that this is a wide open rule, providing that any Member may offer an amendment to H.R. 2564 if that amendment conforms to the standing rules of the House. The rule provides two hours of general debate, equally divided and controlled by the chairman and ranking member of the Judiciary Committee. The rule waives clause 2(l)(6) of rule XI—the 3-day layover rule—against consideration of the bill and it waives all points of order against two amendments printed in the Rules Committee report.

Mr. Speaker, those amendments—one offered by Mr. MCINTOSH and the other offered by Mr. ISTOOK—pertain to disclosure by non-profit organizations that lobby and restrictions on the lobbying activities of federal grantees. It is my understanding that the sponsors of these amendments have received some conflicting advice from the Parliamentarian as to whether or not waivers are actually necessary. However, given the great interest among members in these issues, the majority on the Rules Committee felt that we should provide these waivers just to be sure. The rule further provides one motion to recommit with or without instructions and a procedure to allow for a hook-up with the bill from the other body, should the house pass H.R. 2564 without amendment. Finally, if that hook-up happens, the rule provides one motion to recommit for the bill from the other body.

Mr. Speaker, in closing, let me commend my colleague from Florida, Mr. CANADY, for his hard work on this subject—and for his efforts to reach across party lines and make this a truly bipartisan effort. I think most members are agreed that lobby reform is not—and should not be—a partisan issue, and it is my hope that we will act with dispatch today to get this matter onto the President's desk. Support this rule and the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. HALL of Ohio. Mr. Speaker, I would like to commend my colleague from Florida, Mr. GOSS, as well as my colleagues on the other side of the aisle for bringing this resolution to the floor.

House Resolution 269 is an open rule which will allow full and fair debate on H.R. 2564, a bill which strengthens reporting requirements for lobbyists who contact executive and legislative branch officials and their staff.

As my colleague from Florida has described, this rule provides 2 hours of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

Under this rule, amendments will be allowed under the 5-minute rule, the normal amending process in the House. All Members, on both sides of the aisle, will have the opportunity to offer amendments.

The rule waives all points of order against two amendments. One, by Mr. ISTOOK, would restrict lobbying activities of organizations that receive Federal grants. This amendment is similar to other recent Istook amendments that have been attached to appropriations bills.

The second amendment which receives a waiver is by Mr. MCINTOSH. This amendment establishes new and detailed reporting requirements for nonprofit organizations that lobby Federal, State, or local governments.

The bill is a fair proposal that will give the American people more information about the influences of the legislative process.

Mr. Speaker, this is not a perfect rule. I am disappointed that the Rules Committee waived points of order against the two amendments. I believe that these two amendments should be subject to the same requirement for germaneness that all other amendments must meet.

During committee, Mr. MOAKLEY made a motion to strike the waiver for these two floor amendments. Mr. MOAKLEY'S motion was defeated along nearly a straight party line vote.

However, it is better to be inclusive than too restrictive. Therefore, I urge adoption of this open rule which will permit full debate on this bill and allow Members an opportunity to offer amendments.

□ 1930

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Ohio [Ms. PRYCE], an extremely valued member of the Committee on Rules.

Ms. PRYCE. Mr. Speaker, I am pleased to join my colleague from Sanibel, Florida, Mr. GOSS, in supporting this wide-open rule providing for the consideration of the Lobbying Disclosure Act of 1995. Requiring greater disclosure of lobbying activities in Congress on the executive branch is one of the most important elements of our bipartisan reform agenda, and I congratulate my chairman and colleagues on the Committee on Rules for bringing this bill to the floor under an open amendment process.

I also want to congratulate our leadership for allowing the House to consider lobby reform legislation while we are working very hard to resolve differences over the budget and annual appropriations process. It should be very clear to the American people and to the guardians of the status quo that this Congress is firmly committed to changing the institution.

Under the terms of this fair resolution, any Member can be heard on any germane amendment to the bill at the appropriate time. Almost all of the amendments we discussed in the Committee on Rules yesterday appeared to be germane to this debate and can be offered while the bill is open to amendment under the 5-minute rule.

Mr. Speaker, for nearly 40 years of being in the minority and having very little control over the agenda, Republicans in the House are understandably anxious to press ahead with our agenda. Last year the Republican freshman class put together a bold comprehensive list of congressional reforms, and, despite being in the minority at that time, we were successful in many of our commonsense proposals. This year sophomore Members, as we are, together with the very active reform minded freshman class and with the help of many of our Democratic colleagues we have continued to fight for real change and reform.

As our colleagues will recall, in the first day of the new Congress the House passed a sweeping set of reforms that included everything from banning proxy voting, cutting committee staffs and overhauling the committee system. Following that, we had the first-ever vote on congressional term limits. We passed two very important budget process reform items, a balanced budget constitutional amendment and a workable line-item veto proposal. Today we are about to add to our list of promises kept by passing legislation which requires the full disclosure of efforts by paid lobbyists to influence the decisionmaking process of both executive and legislative branches of government.

Disclosing the activities of those who want to influence the Federal Government is simply a public right-to-know issue. Our constituents want nothing more than to know who is getting paid to lobby their elected Members, how much they are receiving in compensation and who the clients are.

Mr. Speaker, a lot of bipartisan work has gone into crafting this bill. The fact that the Committee on the Judiciary reported it by an overwhelming vote of 30 to zero reflects strong support on both sides of the aisle for enacting meaningful lobby reform this year.

We should not miss the opportunity to give the American people what they want, what they deserve and what they are entitled to. That is more openness and accountability in government. Together with the new gift restrictions that the House overwhelmingly adopted bipartisanly today, this legislation will help reassure the American people that their leaders in Congress are getting the job done without undue influence from special interests.

Finally, Mr. Speaker, let me say that all of us here would like to improve public confidence in government and their elected officials and representatives. The bill soon to come before us will give us the opportunity to do just that by increasing Congress's accountability to the people that we serve. I urge my colleagues to adopt this fair and open rule and pass this legislation.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I want to commend the majority party for bringing the issue. I also want to say that, when we are talking about lobbying, the issue that I would like to address are the foreign lobbyists that lobby our Government on behalf of foreign interests. This issue has been covered under the Foreign Agents Registration Act of 1938 which was promulgated initially to deal with undercover spy operations of Nazi propaganda. Since then, this has changed, folks. Now we have very slick operators who represent trade, industrial and competitive issues. They have been able to avoid the registration, and the law is so archaic, it will not bring it around.

This bill, and I want to give credit to the chairman, does address some of those issues. But it does not go far enough. I give a lot of credit to it, but I am hearing, we are for this, Jim, we are for it for 4 years but not now.

Let me say this. Right now the penalties are so great under this provision, it is like taking a bazooka to kill a gnat, a flee. As a result, the Department of Justice is not pursuing cases where people, literally, do not register. We have had GAO report after GAO report saying that we are just not getting individuals to file and identify themselves. The Traficant bill in essence takes the Foreign Agents Registration Act and technically changes it to the Foreign Interest Registration Act. There are no exemptions. If you represent the interests of a trade issue, you represent a commercial issue, you must register.

The GAO said out of 3,000 possible who should register in their last report, only 775 did register. The Traficant amendment brings about common sense civil penalties for minor infractions. The penalty could be as low as $2,000 for failure to in fact register. But for serious violations and other complications, the Department of Justice can throw the book at them.

We have been offering these exemptions. Let me say this to the majority party. You want to do something about lobbying, Democrats have supported you, but let me tell you what you are doing. If you do not come down tough on those high-powered people that lobby our Government on behalf of foreign governments, we will have failed with the integrity of this particular legislative initiative.

I am asking that my colleagues review my amendment. The leaders are saying, we do not want to complicate this, and the other body, we do not want to get it beat. We like your stuff. If other amendments pass to this bill, this bill is going to carry some different changes. The Traficant amendment should be incorporated without a fight because, my colleagues, we have allowed some powerful lobbyists to influence legislative and government decisions, and they do not even, have not even been registering under our law.

So with that, I would appreciate that any Member who wants information on this to contact my office.

Mr. GOSS. Mr. Speaker, I am not sure whether the gentleman from Ohio needed a waiver or not. I think in an open rule he would be able to proceed.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I would like to first thank the majority leader for scheduling a vote on this very important bill of lobby disclosure and to thank the gentleman from New York [Mr. SOLOMON] and the gentleman from Florida [Mr. GOSS] and the other members of the Committee on Rules for having an open vote.

I am hoping at the end that this bill will remain as it is, unamended and sent directly to the President instead of sent to the Senate where it could likely die. I particularly want to thank the gentleman from Florida [Mr. CANADY] and the gentleman from Massachusetts [Mr. FRANK] for keeping this bill clean in subcommittee and in the full committee.

I just want to weigh in as strongly as I can that lobby disclosure has basically not changed since the late 1940s. In 1946 we passed a lobby disclosure bill. The courts basically gutted that law in the early 1950s. We have, it is estimated, 40- to 60,000 lobbyists in Washington. Only about 4,000 or so are registered. This bill is necessary. The President supports it. The President deserves for us to send it to him rather than back to the Senate. I am hopeful that the chairman of the subcommittee and the ranking member, if there are logical amendments to this bill, are able to hold hearings on those amendments but not incorporate them in this bill.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding to me.

As we did in the last Congress, he and I worked together, and we have achieved some reform, and I believe we will go to achieve it now. I have spoken to the chairman of the subcommittee. I wish things were different and that we had more confidence that, if we sent something back to the other body, it would not just sink into the La Brea tar pits. But given the experience, I am committed and I know more importantly the people, the chairman of subcommittee is committed. There will be a number of amendments offered that many of us will think well of, and it will be our intention I hope to bring out a second bill. But we would like to keep this one free of amendment because that is the difference between simply sending it back to the Senate and having no hope of sending it for signature.

Mr. HALL of Ohio. I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, what the gentleman from Connecticut is saying, I think we have agreement, those of us who have worked on this, we, many of us plan to vote against all amendments, even some that in other contexts we would favor because we want to get a bill to the President. That will then leave us, I think, with the job of having another round of hearings and markup and send a second bill over there.

We do not want to jeopardize this bill. That is why many of us who have been working on this with all of the Perils of Pauline we have been through, we have a chance now to send the lobbying bill to become law before the end of year, and then we will start on the second round.

Mr. SHAYS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Speaker, I would like to thank the gentleman for the incredible work he did on congressional accountability when he was in the majority and also when he was in the minority. We can work on a bipartisan basis, I think, to pass this bill unamended and then to work for logical reform.

Mr. FRANK of Massachusetts. Mr. Speaker, I would say to the gentleman, I agree with him; we can work on a bipartisan basis. It is just not as much fun.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MCHALE].

Mr. MCHALE. Mr. Speaker, it may not be as much fun, but it certainly is more productive. I for one welcome the bipartisan spirit that I am confident will surround this debate.

I rise in strong support of H.R. 2564, the Lobbying Disclosure Act. My words in many ways will echo the bipartisan comments previously made by the gentleman from Florida [Mr. GOSS], the gentleman from Ohio [Mr. HALL], the gentleman from Massachusetts [Mr. FRANK] and the gentlewoman from Ohio [Ms. PRYCE].

Last January I stood at this very microphone and fought with my colleague on behalf of the Congressional Accountability Act when the gentleman from Connecticut [Mr. SHAYS] and I and others said that it was time that Members of Congress should be covered by the same laws that govern all other American citizens. Today's effort on behalf of 2564 is very much in that tradition.

Let me first of all indicate, Mr. Speaker, the quality of the current law. The current lobbying disclosure legislation originally passed in 1946 as noted by my friend, Mr. SHAYS, is in my view totally inadequate. The current law is a piece of legislative Swiss cheese with more holes than substance. Again it has been noted briefly a couple of moments ago out of some 14,000 Washington lobbyists, only 4,000 have been required to register under the provisions of existing law, law that is woefully inadequate to the task at hand. Some 50 years after its enactment, we can do better.

The legislative history of H.R. 2564 is straightforward. The language we are considering today, if we are wise enough not to amend it, is identical to language that passed in the Senate on July 25 in an overwhelming unanimous bipartisan vote, 98 to 0. If we pass language today without amendment, the bill will go straight to the President's desk, and after 50 years of inadequacy on the subject of lobbying disclosure, we will finally have a law that measures up to the task.

The bill covers paid professional lobbyists, those who spend 20 percent or more of their time lobbying and are paid more than $5,000 during a 6-month period. It requires the semiannual report. Documents are to be filed with the Clerk of the House and the Secretary of the Senate and shall be available for full public inspection. Grassroots lobbying activities are protected as they are under the Constitution, and we do not infringe upon those activities in any way.

Finally, Mr. Speaker, let me once again emphasize, this is the type of bipartisan action the American people have requested. Today's legislation reflects great credit on the gentleman from Florida [Mr. CANADY], the gentleman from Massachusetts [Mr. FRANK], and the gentleman from Connecticut [Mr. SHAYS].

I urge an affirmative vote on the rule and the defeat of all amendments.

Mr. SHAYS. Mr. Speaker, will the gentleman yield?

Mr. MCHALE. I yield to the gentleman from Connecticut.

Mr. SHAYS. I thank the gentleman. He introduced this bill identical to what the Senate did and then incorporated his bill and the committee bill.

I just want to thank the gentleman for his leadership on this issue and to say that it has been a pleasure to work with him as well. I am sorry I left him out of my salutes because he deserves to be on the very top.

Mr. MCHALE. Mr. Speaker, I would note that the quality of the bill was much improved when the name of the gentleman from Florida [Mr. CANADY] was moved to the front.

Mr. HALL of Ohio. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. WOOLSEY].

Mr. WOOLSEY. Mr. Speaker, the American people are sick and tired of wealthy special interests peddling influence through the Halls of Congress. We need to change the way Washington works, and we need to do it now.

□ 1945

For too long, Congress has been held hostage by lobbyists trying to force their special interest agendas on the American public. And too often, they are successful.

H.R. 2564 is the first truly comprehensive lobbying reform bill in almost 50 years. This bill will let the American people know who the lobbyists are and how much they are spending to influence Members of Congress.

The Senate passed this important bill unanimously. We don't need to change it. We need to pass it and send it to the President right away. Let us not delay this much needed reform any longer.

Mr. Speaker, it is time to restore faith in American Government. Vote for honest government. Vote for this bill and vote for it without amendment.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, contrary to published reports in the local newspaper this morning, will support this rule. I would add parenthetically that I have received an apology from the newspaper for making a mistake, and that started my day in a very pleasant way, but people have been asking me why I would not support this rule. I am supporting this rule. I urge others to do the same.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

POSTPONING VOTES AND LIMITING DEBATE TIME ON AMENDMENTS TO H.R. 2564, LOBBYING DISCLOSURE ACT OF 1995

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2564 pursuant to House Resolution 269 the Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment, and that the Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than 15 minutes; and further, that debate on each amendment to the bill and any amendments thereto be limited to 30 minutes equally divided and controlled by the proponent of the amendment to the bill and an opponent.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. SKAGGS. Reserving the right to object, Mr. Speaker, and I do not expect that I will object, but I just want to inquire of the gentleman if it is further his understanding that agreement has been reached informally with the proponents of certain of the amendments that have been noticed on this bill that they will not come up tonight, namely the amendment protected by the rule offered by the gentleman from Indiana [Mr. MCINTOSH], the amendment protected in the rule to be offered by the gentleman from Oklahoma [Mr. ISTOOK], and two other amendments offered by the gentleman from Indiana [Mr. MCINTOSH] dealing with the same general subject?

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Speaker, it is my understanding that the gentleman from Oklahoma [Mr. ISTOOK] and the gentleman from Indiana [Mr. MCINTOSH] have both agreed that those amendments would not be brought before the House this evening.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Let me give the gentleman further assurance. It is my guess that there being a significant majority of Members left that have any brains, that within about 20 minutes after this unanimous-consent request there will not be any Members left in this place. Therefore any amendment that is offered would be at the suffrage of people who did not want to suggest the quorum problem, so I would assure my friend, if there was any problem, that all of a sudden we would be deterred by the lack of a quorum.

Mr. SKAGGS. I appreciate the gentleman's further assurances.

Further on my reservation, the ½ hour equally divided debate time that was included in the UC request would apply to each and all amendments to the bill either considered tonight or at such subsequent date as we might resume debate on this legislation; is that correct?

Mr. CANADY of Florida. That is correct.

Mr. FRANK of Massachusetts. Will the gentleman yield to me further under his reservation of objection?

Mr. SKAGGS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Let me say to the gentleman who has been very responsible for this, and I appreciate our ability to work together, while we would have the power under this unanimous-consent request to roll votes when we resumed, I would assume that a spirit of comity would govern whether or not we use that; that is, if there was not agreement on both sides, we would not roll the votes when we come back at it on the next time.

Mr. SKAGGS. Mr. Speaker, I yield to the gentleman from Florida.

Mr. CANADY of Florida. It would certainly be my desire that that power be exercised in consultation with the minority and other interested parties so that the interests of all Members of the House could be fully protected.

Mr. SKAGGS. Further reserving the right to object, and in the same vein, I think, and as I understand it, there are some logical groupings of amendments, and it might make sense to apply some sense of germaneness and mutual relevancy as we look at which might be rolled, and I assume the gentleman would agree to take those kinds of factors into consideration as well.

Mr. CANADY of Florida. Yes; of course the Chair will be making the decisions as to when the rolling of amendments will take place and who will be recognized to offer an amendment, but it would certainly be my desire to work with all Members to take into account those considerations.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman would yield, let me say the subcommittee chairman has been perfectly fair, and I think there is no problem.

Mr. SKAGGS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Tim Sanders, one of his secretaries.

LOBBYING DISCLOSURE ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 269 and rule

XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2564.

□ 1951

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, with Mr. KOLBE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. CANADY] will be recognized for 1 hour, and the gentleman from Massachusetts [Mr. FRANK] will be recognized for 1 hour.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today this House is presented with an historic opportunity to end 40 years of inaction on the issue of lobbying disclosure reform. H.R. 2564, the Lobbying Disclosure Act of 1995, provides for the effective disclosure of those who lobby the executive and legislative branches of Government, what legislation they are attempting to influence, and how much they are being compensated to do so.

An identical measure passed the Senate on July 25 by a vote of 98 to zero. However, the Senate vote should not be taken as a sign that lobbying disclosure reform legislation is a sure bet for even the 104th Congress, which has been far more reform-minded than those which came before. Indeed, for more than 40 years, there is only one word to describe the attempts at meaningful reform of the laws governing disclosure of lobbying activities—that word is "gridlock." Over the years, Congress has tried again and again, but failed again and again, to pass meaningful lobbying disclosure legislation.

The Supreme Court's narrow construction of the 1946 Regulation of Lobbying Act in U.S. versus Harriss unquestionably made the legislation virtually meaningless. But the Court in that same opinion also demonstrated that it was sympathetic to the need for lobbying disclosure. In fact, the Court made it plain that Congress needed to be aware of the activities of interest and pressure groups.

As Chief Justice Earl Warren stated, "The full realization of the American ideal of government by elected representatives depends to no small extent on their ability to properly evaluate * * *" lobbying activities. "Otherwise the voice of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal."

Ironically, in 1950 the staff director of the Joint Committee on the Organization of Congress, George Galloway, said in reference to the 1946 act that "after the lobbying law had been in operation for a few years, experience would reveal any defects in it which could be corrected by amending and strengthening the Act." Unfortunately, Mr. Galloway could not have been more wrong. Yes, the act has revealed its extensive defects. However, every attempt to strengthen the act has turned into an exercise in futility.

The history of lobbying disclosure reform is a history of inaction and stalemate. From 1956 to 1959, major revisions to the Lobbying Act were proposed. No action was taken on those proposals.

In 1965, the Senate's Committee on Rules and Administration issued a report recommending that administration of the Lobbying Act be assigned to the Comptroller General. No action was taken on this recommendation.

In 1967, measures strengthening the Lobbying Act passed the Senate. President Johnson urged the House to take similar action, but the House failed to do so.

In 1970, the Committee on Standards of Official Conduct, newly established in the wake of the Bobby Baker investigations, reported a complex lobbying disclosure bill titled the Legislative Activities Disclosure Act. This major effort at lobbying reform ultimately came to naught.

In 1976, a bill was approved in the Senate, but the House did not act until the final day of the 94th Congress. There was no time to reconcile the different bills passed by each chamber of Congress. Once again nothing was accomplished.

In 1977, the House Judiciary Committee and the full House passed lobbying disclosure legislation, but the Senate bill was held up in committee.

In 1979, the House Judiciary Committee once again reported a measure, but the House leadership held up floor consideration until the Senate showed it could get a bill through committee. The bill never made it through the Senate Committee.

In 1992, after years of study by the Senate Committee on Governmental Affairs, the first version of the Lobbying Disclosure Act was introduced. However, the Senate did not consider the bill in the 102d Congress.

Just last year in the 103d Congress, this House passed a lobbying disclosure reform bill by an overwhelming majority. The Senate passed an identical bill last year, but cloture could not be obtained on the Conference Committee report in the Senate. Thus the effort failed.

In some years as this history shows, one chamber passed lobbying reform and the other chamber then failed to act. In other years, the legislation died in conference between the House and the Senate. At other times, there was simply no movement forward.

The bottom line was always the same: Gridlock. But today this House can end the gridlock. Today this House can pass the Lobbying Disclosure Act without amendment. Today this House can send the Senate-passed bill directly to the President's desk for his signature. This is an historic opportunity we cannot let slip away from us.

The Committee on the Judiciary reported this legislation last week with no amendments and no dissenting votes. Today this House will consider a number of amendments to this bill. Some of the amendments have considerable merit; others have less merit; and a few are quite simply bad ideas.

But all of the amendments have one thing in common: they threaten to derail this important reform bill. If this issue goes back to the Senate, and if history is any guide, we may very well hear nothing more about lobbying reform during this Congress. We should not forsake the good in order to achieve the "perfect" lobbying disclosure reform bill. The risk of derailing this bill is simply too great.

Mr. Chairman, let me briefly describe what this bill does. H.R. 2564 is designed to strengthen public confidence in Government by replacing the existing patchwork of lobbying disclosure laws with a single, uniform statute which covers the activities of paid, professional lobbyists. The Act streamlines disclosure requirements to ensure that meaningful information is provided and requires all paid, professional lobbyists to register and file regular, semiannual reports identifying their clients, the issues on which they lobby, and the amount of their compensation.

□ 2000

It also creates a more effective and equitable system for administering and enforcing the disclosure requirements.

Under the bill, a lobbyist is defined as any individual who is employed or retained for compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a 6-month period.

Lobbyists for hire are exempted from these disclosure requirements if their total income from a particular client does not exceed $5,000 in a semiannual period. "In-house" lobbyists are also exempted from registration if their total lobbying expenses do not exceed $20,000 in a semiannual period.

If we are to succeed today, and as the House continues with consideration of this bill later this week, I urge my colleagues to defeat any and all amendments to this bill so we may send it directly to the President for his signature. If we amend this bill, I fear that history may repeat itself, and this Congress will become just another chapter in the 40-year history of failure to enact meaningful lobbying disclosure reform. Today we have a golden opportunity to move forward to end 40 years of gridlock on this issue. I urge all of my colleagues to support H.R. 2564 without amendment.

Mr. Chairman, I would conclude by thanking a number of Members who have played a critical role in moving this legislation forward. First, I would like to thank the gentleman from Massachusetts [Mr. FRANK], who is the ranking member on the Subcommittee on the Constitution of the Committee on the Judiciary. The gentleman from Massachusetts [Mr. FRANK] has played a key role in moving this legislation through the Committee on the Judiciary and bringing it to the floor today. I want to express my gratitude to him for his diligent efforts on behalf of this important legislation.

I also want to thank my colleague on the Committee on the Judiciary, the gentleman from Texas [Mr. BRYANT]. The gentleman from Texas has worked hard on this legislation for quite a while. In the last Congress he played the key role in moving the legislation forward. Ultimately, that effort failed, but the gentleman from Texas [Mr. BRYANT] has made an invaluable contribution to this whole subject. I want to acknowledge him.

Further, I should thank my colleague, the gentleman from Connecticut [Mr. SHAYS]. Mr. SHAYS has been diligent in pursuing this issue of lobbying disclosure reform as he has pursued the issue of gift reform, and I am grateful to him for his assistance.

I also want to thank the gentleman from Pennsylvania [Mr. MCHALE] for his leadership on this issue, as the House has moved forward with the consideration of it.

Mr. Chairman, this is truly a bipartisan issue. There is strong support for this effort on both the Democratic side of the House and the Republican side of the House. This is not an issue that should be viewed in a partisan way at all. This is an issue about making information available to the American people, so the American people can know what is going on in the corridors of power here in Washington. For too long, lobbying activities have not been disclosed. For too long, there have been questions about the propriety of certain activities. I believe that the best disinfectant is sunlight, and this sort of disclosure law will help eliminate many of the concerns that have been previously expressed.

Mr. Chairman, I look forward to the continued debate on this issue. I believe that this House will rise to the occasion and break the 40 years of gridlock and give the American people the sort of disclosure that they deserve on this important issue.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the generous words of my colleague, the gentleman from Florida [Mr. CANADY]. The subcommittee on which we jointly serve, under his chairmanship, played a very important role in this. There was some resistance to that role when the bill that we are in effect dealing with now, the House version of a Senate bill, when the Senate bill came over it was held at the desk. The Speaker, for reasons that were never made explicit, did not want to refer it to us.

I think it is fair to say that there have been people in this House who were not eager to see this bill become law, but their resistance was overcome by the persistence of a number of Members, and I think it is interesting that the reluctance never quite came out in public. The gentleman from Florida [Mr. CANADY] is right when he said that sunlight can be the best disinfectant.

It was, in fact, important in bringing this bill forward because there were people who wished it would go away, but it did not go away. They were not prepared to confront it.

Legislation very similar to this passed the House in the previous Congress. I think the record that the former Speaker, Tom Foley, compiled in a number of areas has been insufficiently appreciated, particularly in the reform area. Under his Speakership the House did do a version of the Congressional Compliance Act, very close to what is now the law. The House did pass this bill. The two pieces of legislation, some other reforms, campaign finance reform, all ran into problems in the Senate. The procedures of the Senate are part of the problem. The Senate has very different rules than the House, and the filibuster and other rules interfered.

That is why I join the gentleman from Florida [Mr. CANADY], the chairman of the subcommittee, as well as the gentleman from Pennsylvania, the gentleman from Connecticut, the bipartisan group that has been actively advocating this, and my friend, the gentleman from Texas. All of us, Democratic and Republican, who have been advocates of this lobbying reform either through our committee position or through sponsorship of the bill, or both, believe that it is very important that Members join us in voting against amendments.

Mr. Chairman, I want to express my appreciation to the chairman of the Committee on Rules, to the chairman of the full Committee on the Judiciary, and the subcommittee, because they did the honorable thing. It is an open rule. I suppose it is unusual for supporters of a bill to come to the floor and say, "One, we are glad to have an open rule; two, we hope none of the amendments are adopted." But I think that is a position which shows respect for democratic procedures and some confidence in the House.

We do believe that the adoption of amendments, no matter how meritorious, bring this bill back into the kind of perilous back and forth that they have had before. We want to explain to people, people have said, "You are being too cautious. After all, it passed overwhelmingly."

As the gentleman from Florida pointed out in his history, this legislation has the history of receiving more verbal support and less actual support than almost anything. Everybody is for this, but it still dies. Everybody is for it, but something happens to it, so the fact that it was not a close vote in the Senate does not mean that if we amend it and send it back, it will come merrily whispering back here.

This is legislation that a lot of people do not like. If we give them opportunities to trip it up it will be tripped up. We now stand closer to changing the lobbying law in a direction that will improve it than in anybody's memory, because we now have a bill out of the Senate and it is here, and we have the power to send it to the President of the United States for his signature.

Any amendment here, no matter how meritorious, will put this bill back into the Senate and cause the kind of problems that have happened before, because, as I said, it is a bill that has a lot of people laying in ambush for it. So what I want to repeat is what the gentleman from Florida [Mr. CANADY] I know agrees with: We do not believe this is the end to lobbying legislation; indeed, we believe it is the beginning. We could actually pass a bill that makes reforms. We, I think, agree, and others agree with us, not that we have identical views, but we agree that further reform is necessary.

Mr. Chairman, I look forward to a two-step process. We will send this bill to the President and he will sign it, and it will become law. We will show people we can do something. Then we will deal with some of the other very worthwhile amendments that people have had.

Finally, I just want to say that among those who should be given some credit is the chairman of our Democratic Caucus, the gentleman from California, [Mr. FAZIO] who through his role on the Legislative Subcommittee of the Committee on Appropriations pushed hard for this, and it took a lot of people to get it here. It is clearly an improvement.

We should note that, to my knowledge, every organization in the private sector, in the volunteer sector that monitors lobbying from the standpoint of wanting to reform procedures agrees that we should pass this bill. There are people from a range of organizations who came to us and said, "Yes, it could be improved. This could be made better, but do not do that now, please, because we think it is best to send this bill to the President."

So we can tell Members that there is an overwhelming consensus from the advocates of this bill in the House, from those of us on the committee, from the advocates in the voluntary community, from the people who felt we need reform. They overwhelmingly believe that a commitment to true reform is best demonstrated by passing this bill as is, and then, under the leadership of the gentleman from Florida, fairly soon after, starting the process of hearing and markups. We may well have a second bill. However, if we do not get this one forward, I think we risk being added to the list of glorious failures in the effort to reform.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield 5 minutes to the gentleman from Delaware, [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I am not going to take anything close to 5 minutes, with the hour of the night and the work we have been doing. I would just like to second everything we have heard already in the rules discussion, what the gentleman from Massachusetts [Mr. FRANK] has said, what the gentleman from Florida [Mr. CANADY] has said, particularly in the area of not amending this legislation. I do not care how meritorious an amendment could be, it could be fatal to the passage of a very important step in progressing with true lobbying reform.

We have already heard the history here of 50 years of different Members of Congress on both sides of the aisle finding a whole variety of reasons why they are not able to support the basic elements of lobbying reform, disclosure, the things we needed to do in order to make sure that we are dealing with the problem that is perceived, and I think to some degree is a reality, of dealing with lobbyists in the United States of America and in the Congress of the United States of America. I would hope we would all follow that.

I believe this bill before us today meets the basic purpose of lobbying disclosure, which is quite simple: Require people who are paid to lobby Congress to disclose who is paying them, how much they are being paid, and what they are paid to lobby about. It is not much more complicated than that. I congratulate the Senate and the sponsor here for capturing the essence of this.

The bill takes care of this by carefully defining who is a lobbyist and which lobbyist must register; again, something which is, in my view, very imprecise today and ill-defined in the laws of the United States of America. Of course, it makes it very difficult to follow exactly who are the lobbyists, what is the problem, and what should we be doing about it.

I congratulate all of those who have put it together. The bottom line is that the House of Representatives must pass lobbying reform legislation this year that ultimately can be signed into law, and there is no reason for a delay. Through the process tonight and the votes that may be taken on other days as we deal with this particular piece of legislation, we must resist it.

This is a good bill. I am proud to be a cosponsor of it. I encourage all of us to follow it very carefully, to understand what is in it, and as we did with the gift ban reform today, which I think turned out in a way that only a few could dream about before, we can pass this, too, and we will have taken two tremendous strides in making Congress a more respected and better-perceived place by the public, as they look at what we are doing in our jobs here.

Mr. Chairman, I wish the sponsor very good luck with all of this as we deal with this in the days to come, and urge its passage.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BRYANT] who has had more to do with this bill legislatively, I think, than any Member in the House, both in the last session and in this one.

Mr. BRYANT of Texas. Mr. Chairman, I thank the gentleman very much for yielding time to me, and would first like to thank him for his kind remarks and his very hard work on this bill. I would very much like to thank the gentleman from Florida [Mr. CANADY] for his very kind remarks a moment ago.

It is very interesting tonight, this is the second bill in a row that we have taken up in the midst of maybe the most heated, partisan standoff in recent history in the Congress, and while it goes on around us, we have taken up two bills that were totally bipartisan, and I think reflect on the great work this Congress can do when the two sides work together well.

I would like to also say about the gentleman from Florida [Mr. CANADY], his deserves great praise this year. Last year when we were moving it through in the past majority, though, he was also with us from the beginning, even when it was tough, even when at the last it took on kind of a partisan tone. I just want to say thank you to him for being loyal to the cause no matter what happened, and congratulate him for how far he has brought it today.

Mr. Chairman, this bill has no opponents. Therefore, I am not going to talk a long time, but it does have a threat to its success. That is those who, no doubt well-meaning individuals, want to offer amendments. I suspect that many of them are good amendments, things that I would love to vote for, and both the gentleman from Massachusetts and the gentleman from Florida would approve as well. But the fact of the matter is that the history of this effort has already been given tonight by two speakers.

We have tried over and over and over to pass it. We got it all the way through the House to the Senate, to the conference committee, out of the conference committee, back to the Senate, and it was filibustered to death last year. We have a chance this time, a golden opportunity, to actually pass it. If we simply pass it tonight with no amendments, it will then go to the President for signature, and we will have really achieved something that everybody has been trying to achieve for years and years and not been able to do.

What will we have achieved? We will have passed legislation that allows the public to see what is really going on here with regard to lobbying the Congress; now, under this bill, the executive branch as well.

The bill closes a raft of loopholes that are in the existing lobbying laws which are not really very useful in their current state. It covers professional lobbyists, and lawyers cannot get off the hook. They have to register just like nonlawyers, and it exempts anybody who spends less than 20 percent of their time lobbying, so average people who just want to petition their government are not going to be affected by this, nor are the representatives of various institutions who need to come from time to time. A professional lobbyist would have to register, however.

What it requires is disclosure of who is paying how much to whom to lobby which Federal agencies or which Houses of Congress, and on what issues. It requires this disclosure in a simplified way, so the public can inquire and can find out what is really going on in the legislative process.

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I am proud to be associated with the bill. As I said, since it has no opponents, I do not think a lot of time should be taken talking about it, but I strongly urge Members who are considering offering amendments, in view of the fact this is an open rule, not to do so. Because no matter how well meaning they may be, they could be the cause of letting this bill be killed. Because if it goes back, has to go to conference committee, once again I think we will see it go down the drain.

Finally, Mr. Chairman, I want to reiterate my thanks to the gentleman from Florida [Mr. CANADY] and to the gentleman from Massachusetts [Mr. FRANK] and urge Members to vote for the bill against the amendments.

Mr. CANADY of Florida. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, I thank the gentleman from Florida [Mr. CANADY], and I want to associate myself with all the remarks so far.

Mr. Chairman, on March 3, I introduced a freestanding piece of legislation, H.R. 1130, to radically alter how special interests lobby the Federal Government. The bill before us now, H.R. 2564, contains a vital provision of my legislation. This provision, placed in this bill at my behest by Senator SIMPSON, prohibits tax-exempt lobbying organizations, that is 501(c)(4) groups, from receiving Federal funds.

I just was not able to find room for it on the House floor schedule, and the fast train moved by, so Senator SIMPSON was nice enough to accommodate me, and was strongly, if not passionately, for exactly what I was trying to accomplish.

Mr. Chairman, there are over 142,000 of these 501(c)(4) groups, and most of them do good work. They are in the sole business, some of them, however, of lobbying the Federal Government. That is what they were created to do. Collectively, they own over $35 billion in assets. They spend nearly $18 billion each year running their organizations, pursuing their agendas, and pushing their causes.

It is all great. Covered by free speech. But certainly one of the most egregious examples of a conflict of interest that I think I have ever heard of is for political advocacy groups to receive the tax dollars of hard working American citizens. Presidents of some of these 142,000 organizations often reap hundreds of thousands of dollars in salaries.

Just a couple of examples. The President of AARP makes over, way over, $300,000 a year. That is two full Congress people and a chief of staff, who is rather senior. The five senior executives of the Mutual of America Life Insurance Company, and yes, Mr. Chairman, they are a tax-exempt lobbying organization, they make a combined, five people, $2.7 million. Why do they need the hard-earned money of taxpayers? This is an absurdity.

A political advocacy group can now, under current law, lobby Congress to create a new program; and then, once created, apply for and receive Federal funds dispensed through that very same program. Then they come back to Congress and lobby for continued or increased funding of that very same program or a new program.

Of course, these lobbying groups have not successfully manipulated this system by luck. They have argued that no Federal funds they receive are used for lobbying, because, of course, that is against the law. They will also argue that any money they receive is designated for administering of various social programs created by Congress, some good, some not so good, some even counterproductive. But they have many elderly housing and senior citizen employment jobs, for example, at EPA, the Environmental Protection Agency.

What they and their defenders fail to address, and we have seen this happen for decades with the old melted down evil empire, is the fungible nature of money. One dollar from someone else's pocket frees up one dollar in their own pockets. Imagine the outcry if the Michigan militia were to receive Federal dollars from a literacy program to teach children how to read. Reasonable minds would understand that such funds are wholly fungible; and, notwithstanding the arguably deserving nature of the reading program, the militia's political nature should, of course, preclude them as a grantee.

Mr. Chairman, the political nature of tax-exempt lobbying organizations is exactly the point that we should address when it comes to ultimately deciding who gets Federal funding and who does not.

Not long ago outrage was expressed when it was discovered that the Nation of Islam was receiving taxpayer funding. There is no doubt about it, alarm bells would have been ringing, rightly, all over Capitol Hill if the bigoted, the disgraceful, racist KKK was a Federal grantee providing day care or low-income housing.

Whether from the far left of the political spectrum, all the way to the far right, or every stop in between, this provision should stop that. It would cover the National Rifle Association as well as AARP or NCSC. It is my firm belief that political advocacy groups should not receive one penny of taxpayer funds for any program.

Mr. Chairman, the Dornan language in H.R. 2564 puts a stop to this gross example of everything that is wrong with some of the lobbying on this Capitol Hill. I thank the manager of the bill for its inclusion and and I thank everybody for working so hard on this.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentleman very much for yielding time to me.

I would like to join in piling on as far as the praise that ought to be dispensed tonight, not only to floor managers of the bill, the gentlemen at the desks, but also my friend, the gentleman from Texas [Mr. BRYANT], the gentleman from Pennsylvania [Mr. MCHALE], certainly the gentleman from Connecticut [Mr. SHAYS], all of whom deserve the thanks of the Members for pushing this legislation so vigorously.

Mr. Chairman, the gentleman from Oklahoma and the gentleman from Indiana, however, have given notice that they will try to attach their controversial and much traveled Istook-McIntosh amendment to this bill. Do my colleagues remember that amendment? It would create a reporting, paperwork, litigation and bureaucratic nightmare for businesses, charities, civic organizations, churches and other groups.

My colleagues remember that amendment. It would restrict the ability of organizations like the Red Cross and the YMCA to talk to any level of government, State, Federal or local, about the pressing problems this Nation's communities face every day.

It would, in the words of George Will, make lawyers happy. It would erect a litigation-breeding, regulatory regime of baroque complexity regarding political expression, according to noted conservative columnist George Will. Or it represents what former Republican Congressman and former president of the American Conservative Union, Mickey Edwards, calls Big Brother with a vengeance.

Mr. Chairman, my colleagues remember that amendment. Well, it is back. The only thing new is that the proponents have cut the Istook-McIntosh amendment into four pieces to be offered as four amendments to the lobby reform bill before us. I call this approach the Kentucky Fried Chicken method of legislating. You take a whole bill and cut it into pieces hoping that this will somehow make it easier to swallow.

They have pulled their amendment apart hoping it will seem more reasonable. Well. Mr. Chairman, parts is parts. Whether it is one amendment or four amendments, the Istook-McIntosh proposal is still enough to make anyone choke. Or perhaps more accurately, it is enough to strangle any charity in redtape.

The first of the amendments, the Istook offering, would set limits for businesses or other organizations use of their own funds to talk to virtually any government official at any level about nearly anything, including regulations, contracts, loans, permits, renewals, licenses, awards, if that organization, business or nonprofit received any Federal funds.

In addition to businesses and charities, if Members can believe this, these regulated organizations include colleges and universities and State and local governments that use any independent contractors to help them with their government relations.

These regulated organizations, yes, even States and local governments, would be required to file annual reports with the Federal Government detailing every penny they use to talk to any level of government. And on top of that, today's Istook amendment broadly expands the current Tax Code definition of lobbying to include any contact about "a program, policy, or position" of a government agency.

The next serving consists of three McIntosh amendments. One would create a bounty hunter lawsuit system that would encourage harassing lawsuits against tens of thousands of regulated charities, businesses and other groups. This is nothing but a lawyer relief proposal. This amendment incorporates what is called the False Claims Act, which will allow any zealous citizen, regardless of motive, to sue any charity, business or other group claiming some violation of this whole block of Istook-McIntosh regulations, and to collect as a bounty up to 30 percent of the treble damages provided for under the False Claims Act.

So anybody who does not happen to agree, for instance, with Catholic Charities or Planned Parenthood, has every incentive to sue and try to collect money for their trouble.

Another McIntosh amendment would also create an additional paperwork reporting and bureaucratic maze for any organization described under section 501 of the Tax Code, including charities, civic organizations, churches, veterans groups, business groups such as the Chamber of Commerce, and many others if they receive almost anything from the Federal Government. As far as I can figure, virtually all section 501 organizations are likely to be regulated.

These regulated groups would also have to file reports with the Federal Government detailing the use of the group's own funds on political advocacy, lobbying, their endorsements, coalition memberships, the names of those they have hired to do their government relations work, any in-kind support or payments to participate in any initiative or referendum.

Finally, the third McIntosh amendment would create a system that treats any group of 501(c)(4) organizations who happen to use the same name or represent themselves as being affiliated as if they were one single organization for purposes of the limitations and regulations that are contemplated here. This would mean, for instance, that all Rotary Clubs around the country would have to somehow collect from the thousands of local Rotary chapters all of the public policy involvement and spending information and then file it with the Federal Government.

There are many other organizations that would fall into the same trap, including the National Rifle Association, Disabled American Veterans, the National League of Cities, Veterans of Foreign Wars, Ladies Auxiliary, and the International Olympic Commission.

Mr. Chairman, whether this is offered to us in four ugly pieces or one ugly whole, the Istook-McIntosh proposal is a bureaucratic swamp that will interfere with the mission of charities, bog down American businesses, and encourage unnecessary and absolutely pointless litigation. It should be defeated in all its forms. It should be defeated both because of its own lack of merit and because of the effect it and any other amendment will have on the prospects for final enactment of this legislation as has already been well discussed this evening.

Mr. Chairman, I thank the gentleman again for the time.

Mr. CANADY of Florida. Mr. Chairman, I yield 7 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I thank my colleague from Florida for yielding me this time.

I would begin by saying that this is the Lobbying Disclosure Act, and in some of the early debate on this we have heard about the thousands and thousands of lobbyists who frequent the halls of Congress and how only about 4,000 of these folks are registered.

□ 2030

I do want to say something, though, positive about lobbyists. I have not been up here that long. I have been here as a freshman about a year now, and I have found a couple of words that I think are misused and abused quite often. That is the words "lobbyists" and "bureaucrats."

Mr. Chairman, I have found out that these folks are real people. They have beating hearts and they have families and children, and so forth. They work at their jobs very hard. The lobbyists I have found are good people. They represent a lot of people when they come up here to Washington, when they come to our offices. They represent folks back home who do not have the opportunity to visit in Washington and see us personally. They often have good information, education, and they often disagree with each other.

But with that said, Mr. Chairman, I think this bill is very appropriate, and I would support it. I think what we need is more accountability, more sunshine, as the gentleman from Florida [Mr. CANADY] has mentioned, and more disclosure. I think that would be wholesome for this system. I think it has been evidenced by the fact that the other body passed this same bill by a score of 98 to nothing on July 25.

Mr. Chairman, a week or so ago I was proud to be a part of the House Committee on the Judiciary who considered this bill, and again saw a strong bipartisan effort in support of this bill. There were 30 people who voted for it and no one voted against it.

By passing this Lobbying Disclosure Act, I think we can end the business as usual that we see up here and certainly the perception by the folks back home that there is business as usual up here, and it is not good business. We can demonstrate that we want disclosure of lobbying activities and thus improve the level of accountability and the legislative process itself.

Now, I know there is not a lot of disagreement about what is in this bill, but I would like to go over some of it. My colleague, the gentleman from Texas [Mr. BRYANT], indicated that he expected some controversial amendments, but that everyone agrees pretty much what is in the base bill.

Mr. Chairman, I would like to tell the people back in the district that I represent what this bill actually does do, though. It is going to require these lobbyists to identify their clients and the people that they lobby. They will have to register to do that. They will need to disclose the general issues on which they are lobbying, and they will also have to tell how much money they are being paid to do this lobbying.

We have a fine definition of what a lobbyist is. I think it is one that is fair. It does not get into the problem some of the lobbying bills of last year got into, some of the groups that really are not lobbyists, and I do not think we are going to see any type of problem there.

The definition that we have in this bill truly identifies the lobbyist who walks the Halls of Congress, who represents many people up here, who lobbies Congressmen and their staff and who gets paid to do it.

More about this bill. It does not create any new bureaucracy. There is an awful lot of talk about adding more jobs. This does not do that. We use the services of the Clerk of the House and the Secretary of the Senate to implement the disclosure requirements, which will be done on a semiannual basis.

Second, the bill contains no criminal penalties. The lobbyists who knowingly violate this bill may receive civil fines up to $50,000. Third, grassroots lobbying organizations are affected under this legislation. As I mentioned earlier, last year's controversial provisions are not in this bill.

Mr. Chairman, H.R. 2564 also addresses the problem of nonprofit organizations using taxpayer money to lobby and this bill does it in a very clean, simple manner. The bill adopts the Simpson amendment from the other body. Its provisions simply state that 501(c)(4) organizations, which are the lobbying arms of many nonprofit groups, if they engage in lobbying, they are ineligible. They cannot receive Federal funds.

These kinds of nonprofit organizations can choose to lobby and not receive Federal funds, or to receive Federal funds and not lobby. This provision does not affect the normal charities who do not lobby and are identified as 501(c)(3) under the Internal Revenue Code.

Such diverse organizations as the U.S. Chamber of Commerce, the American Association of Association Executives, the American League of Lobbyists, and the Alliance for Justice, all support this legislation.

There is one other part of this particular bill that I do like, and I want to add it as part of my discussion, because I think it is important. Under the current law, our U.S. Trade Representative cannot aid or advise a foreign entity on matters before any officer or employee of any department or agency of the United States within 3 years after the termination of this individual service. What this bill does is make that a lifetime ban for activity on the part of a former trade representative or a deputy trade representative in conducting any of these relationships.

Moreover, it takes the reverse also in determining who is eligible to serve an administration as a deputy trade representative or as a trade representative. It would disqualify any person who has represented a foreign entity or aided or advised a foreign entity in any trade negotiation or trade dispute.

Mr. Chairman, I think altogether we have something here that is a very sound bill and I am proud to rise again in a bipartisan effort to support this very fine lobbying bill and urge my colleagues to vote for it.

Mr. Chairman, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MCHALE], one of the main sponsors of this bill.

Mr. MCHALE. Mr. Chairman, many years ago Lt. Gen. Arthur MacArthur, Gen. Douglas MacArthur's father, wrote to his superiors saying, and I quote:

> I have just been offered $250,000 and the most beautiful woman I have ever seen to betray my trust. I am depositing the money with the Treasury of the United States and request immediate relief from this command. They are getting too close to my price.

Mr. Chairman, the American people are concerned that not every high-ranking official of our Government may have General MacArthur's sense of humor or his high sense of integrity.

Mr. Chairman, H.R. 2564 is the most significant lobbying reform in the last 50 years. The legislation under which we operate this evening has been in effect since 1946. It is woefully inadequate, and there is a bipartisan recognition that the law needs to be reformed and it needs to be reformed tonight.

Under H.R. 2564, paid professional lobbyists will be required to file semiannual reports detailing their identity, their clients, the lobbying issues upon which they have contacted covered officials, and the money spent when contacting Members of Congress, executive agencies, senior staff and, General MacArthur would be pleased to know, high-ranking military officers.

Lobbying is a constitutionally protected activity, but one best exercised with maximum public exposure. In politics, as elsewhere, sunshine is the best disinfectant. Mr. Chairman, I am pleased to stand at this microphone tonight and recognize that on this occasion, one of so many that we have missed during the past 11 months, so many missed opportunities during the 104th Congress, recognize this evening that in a bipartisan effort with the gentleman from Florida [Mr. CANADY], with the gentleman from Massachusetts [Mr. FRANK] seated immediately to my right, the gentleman from Connecticut [Mr. SHAYS] having shepherded this bill from the beginning, and all of these Members having at least allowed my participation, we are about to bring before the membership of this House the most extraordinary change in the lobbying law of the United States considered in the last five decades.

We have done it with, I think, an extraordinary sense of the importance of the ability of the people under the Constitution to petition their government. As pointed out by one of the previous speakers, unlike earlier legislation, we have provided sufficient attention to detail in guaranteeing the right to petition the government, in protecting the rights of grassroots lobbying.

Mr. Chairman, the legislation that we now consider I anticipate will receive the same bipartisan measure of support that it received on July 25 when the Members of the U.S. Senate voted 98 to 0 to pass it. It is critically important for those of us who advocate genuine lobbying reform that we keep the bill clean this evening and that we resist the temptation to adopt any one amendment because, frankly, those who would kill this bill lack the courage to do so on the floor, but might be successful in a conference committee.

Therefore, having experienced that defeat previously, I urge the Members to oppose all amendments, vote for the bill, and send it to the President, where I anticipate he will promptly sign it.

Mr. CANADY of Florida. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. FLANAGAN], the vice chairman of the Subcommittee on the Constitution.

Mr. FLANAGAN. Mr. Chairman, I rise in strong support of H.R. 2564, the Lobbying Disclosure Act of 1995, and urge my colleagues to support it too by opposing all amendments. Any amendment adopted today to this bill could ultimately serve to kill lobbying disclosure reform this year in Congress.

Mr. Chairman, although this bill isn't perfect—in fact, it could go further in controlling and disclosing lobbying activities here in Washington—it is a conscientious, bipartisan attempt to end over a half century of gridlock on this issue. But, I warn you that gridlock will remain if this bill isn't kept clean and, instead, is loaded with extraneous amendments. I would like to remind all of my colleagues, that if a single word is changed to this bill, it will have to go back to the dim, dark dungeons of the other body where many, many bills go, but only a few come back, and even fewer become law.

For over five decades, Congress has tried to enact meaningful lobbying reform proposals, like this one, only to have their efforts thwarted because of House-Senate differences. Just last year, both Chambers of Congress passed different lobbying disclosure bills. However, because those proposals were different and those differences were never rectified in conference, neither of them were ever enacted into law.

Mr. Chairman, given the history of gridlock on this issue, it is important that the Lobbying Disclosure Act we have before us today not be weighed down with extraneous amendments that will only serve to derail real lobbying reform efforts this year and probably in this Congress.

The proposal we are considering today is identical to S. 1060, the other body's lobbying disclosure legislation which passed that Chamber earlier this year by a vote of 98 to 0. The House should now follow the Senate's lead by passing their language today so a bill can be placed on the President's desk this weekend, a bill he will certainly sign into law.

Mr. Chairman, this legislation, which is sponsored by the Republican gentleman from Florida [Mr. CANADY] and the Democratic gentleman from Massachusetts [Mr. FRANK], is a good bill. It is a genuine attempt to impose new disclosure requirements for lobbyists who contact legislative and executive branch officials and their staff, and it deserves the support of every member of the House of Representatives.

Specifically, the bill requires all paid, professional lobbyists who contact Federal Government officials, including Congressmen, or their staff to identify their clients, the general issues on which they lobby, and how much they are paid. Under this bill, lobbyists must register and report semiannually with the Clerk of the House and the Secretary of the Senate so their information is readily available to the public. If lobbyists knowingly fail to register or disclose false information, they will be turned over to the Justice Department where they will be prosecuted and faced with a maximum civil penalty of $50,000.

This bill protects average citizens' right to petition Government by defining a lobbyist as "any individual who is employed or retained for compensation for services that include more than one lobbying contact." This language will ensure that no person's first amendment rights are violated and that genuine grassroots lobbying is exempted from this bill.

With all this said, I again urge my colleagues to withhold from offering or voting for amendments so we can have a strong lobbying disclosure reform law on the books—something that has not occurred in this country in over 40 years.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], a member of the Committee on the Judiciary.

Ms. JACKSON-LEE. Mr. Chairman, I rise to applaud the gentleman from Florida [Mr. CANADY] and the ranking member [Mr. FRANK] and their bipartisan effort to really put forward a very, very good bill.

Mr. Chairman, interestingly enough, one of the many responsibilities that we have in the U.S. Congress and one that I frankly enjoy, is the opportunity to listen to and to interact with those who come to present their issues. Most often, those are individual citizens who have come to express their views about an issue.

If there is an amendment I cherish more, it is certainly the first amendment that protects our right for freedom of expression. However, I think it is extremely important that we recognize that this bill still applauds and affirms that right. This Lobby Disclosure Act, H.R. 2564, a bipartisan legislation, clearly reaffirms what my colleagues have already taken to the floor, the right of lobbyists to present their views on behalf of their clients.

The legislation only requires that lobbyists file semiannual reports on the following which include, the legislation that they are lobbying Members. A simple request. That simply means what is the lobbyist there lobbying the Member about, so that it relates to their responsibilities and their clients' interests.

□ 2045

The amount of income received from clients, the expenses incurred by lobbying organizations and, of course, these reports are to be made public. I think foremost we need to realize that lobbyists are doing their job and they are pressing forward under the first amendment, they rise to express their beliefs or their arguments on behalf of citizens mostly of this country.

This bill is good because it exempts small firms. For example, individuals and lobbying firms that spend less than $5,000 within a 6-month period would be exempted from the bill's registration requirements. In addition, organizations spending less than $20,000 on lobbying expenses during a 6-month period would also be exempted from these requirements.

Furthermore, individuals who spend less than 20 percent of their time on lobbying activities would not have to meet the registration requirements. It strikes a fair balance between the rights of our citizens under the first amendment and the Constitution to express their views.

I always look for a local flavor to legislation, and there is a local flavor to this lobbying bill. There is a good part that responds to the accusations that have been made about lobbyists and lobbyists' activities. But then we have the amendments, the baby Istook amendment that I hope we will reject.

This evening the United Negro College Fund is having a dinner in Houston, an organization that has supported educating youngsters across this Nation. I would imagine if the Istook amendment was passed and if the United Negro College Fund, a national organization, desired to press us on educational issues to educate young people, they would be denied under this amendment. For example, the Ensemble Theater, a local community theater in my community that brings arts to those who might not have the opportunity, if they joined in to a national arts group and wanted to press this Congress under the first amendment to enhance arts dollars, they would be forbidden.

Then the Houston Partnership, an organization that has promoted the city of Houston and encourages international trade, might join into the national Chamber of Commerce and be denied under the Istook amendment or any others.

Then the Clear Lake Economic Council that wanted to fight to preserve the jobs of those citizens at the Johnson Space Center would be denied. And then Hester House, an institution that supports the rights and needs of children in Houston, formerly Congresswoman Barbara Jordan and Mickey Leland grew up in the Hester House. That organization might be denied, under the McIntosh proposal and the baby Istook amendments, to press the point of providing more Medicaid, more health care for our children.

We have got good legislation on the table. We have got a good bill that acknowledges that lobbyists have rights to press constitutional issues, their rights under the first amendment on behalf of their clients. But in fact what may happen to those who will be denied is that important points will not be made, important points from organizations like United Negro College Fund, the Boy Scouts, and the Girl Scouts.

So we need legislation that reaffirms the rights of Americans under the first amendment whether they come to us as lobbyists or come to us as individuals. This sunshine law discloses any questions that we may have through a very fine registration program, through an evidencing of who you represent as a lobbyist and whether in fact you are pressing the issues of your client. That is fair, my colleagues. I will tell you that it is not fair to deny those who would come, who simply want to press their points and organize such as AARP, when we were organizing about the Medicare issue in the U.S. Congress and senior citizens came and organized rallies on the grassy area out front, to deny them that right. That is not the kind of bill that I think these two fine gentlemen have offered. So I would simply say, vote separately for this bill and leave the amendments alone and we will have a fair bill.

Mr. CANADY of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in the strongest possible support of the lobbying reform proposal before us this evening. I applaud the gentleman from Florida and Massachusetts for bringing this bill to the floor. In the 104th Congress, we have passed many reform initiatives, including the Congressional Accountability Act, to make Congress follow the same laws that all Americans must follow.

Earlier this year, the House passed term limits, and earlier tonight we passed gift ban legislation. It is my hope, as someone who refuses all PAC contributions, that we will enact in this Congress campaign finance reform that bans all PAC contributions to House and Senate campaigns.

But tonight we have before us a solid bill to reform the way lobbyists do business in Congress. This important issue has achieved bipartisan support as evidenced by a unanimous vote reporting the legislation out of the Committee on the Judiciary. Hopefully this bipartisan cooperation will spill over into the budget debate and help us reach a balanced budget as well.

Clearly, Americans have many questions about how lobbyists work in Washington, DC. In its current form, this bill does not tie the hands of groups or individuals who seek to make their voice heard in the legislative process. This legislation is simply a more stringent disclosure of lobbyists activities. Under this proposal, registered lobbyists must disclose the congressional Chamber and Federal agencies they approach, the issues they discuss with the relevant officials and the amount of money they spend on their efforts. This is basic commonsense reform.

The freshman and sophomore classes constitute half the Members of this Congress. We came to Washington on a promise to change the way this House, this Congress, and this Federal Government operate. This bill is one more step in fulfilling that commitment.

I would urge my colleagues to pass the bill as written, as any amendment will delay implementation and possibly kill the bill in this Congress. There will be efforts to include other provisions in the general area of lobbying disclosure and reform. But the bill before us tonight is not the vehicle for those additional provisions.

I urge all my colleagues to pass the bill without additional amendments so we will see lobbying reform become law this year.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BARRETT], one of those who has been active on behalf of this bill.

Mr. BARRETT of Nebraska. Mr. Chairman, most Americans who have watched television this week or read newspapers certainly are under the impression that Democrats and Republicans cannot get along at all. It is unfortunate because this is one of those instances where Democrats and Republicans have worked very well together. I think it is important that we point that out to the American people.

I want to pay tribute to the gentleman from Florida [Mr. CANADY] and the gentleman from Connecticut [Mr. SHAYS] on the Republican side, both of whom have been very active on this measure, the gentleman from Massachusetts [Mr. FRANK], the gentleman from Pennsylvania [Mr. MCHALE], and the gentleman from Texas [Mr. BRYANT], who also have been active on the Democratic side.

What we have shown here is, if the two parties have people in them who talk to each other and communicate, we can actually do things that move this country forward. This bill is an excellent example of a bill that will move this country forward because the lobbying disclosure provisions that have already passed the U.S. Senate under unanimous vote in July of this year are provisions that virtually everyone agrees with. These are provisions that will make it easier not only for the American people to know what is going on in Congress but actually make it easier for the lobbyists not to be buried in paperwork.

It provides some streamlining provisions that make more sense, some commonsense proposals that have been introduced into this law. It also requires disclosure of who is paying whom how much to lobby, which Federal agencies and Houses of Congress. It is important for the American people to know who the people are that are sinking dollars into this institution. I think that this is a good step forward.

It also closes some loopholes in existing lobbying registration laws. Probably most importantly, it covers all professional lobbyists. Unfortunately, with the loopholes that we have in the current law, there are too many people who can come and work the halls of this Congress but never have to actually register as lobbyists.

So I applaud all the Members on both sides of aisle who have worked on this measure, and it is my hope that we move forward. I also hope very strongly that we avoid the Istook amendment and other amendments because these amendments will only have the effect of killing this bill.

Mr. CANADY of Florida. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I was prepared this evening to offer an amendment that would permanently ban Members, former Members of Congress forever from lobbying on behalf of a foreign government. I had intended to offer that amendment because I believe very strongly that it is wrong for former Members to use their job here as a revolving door to cash in later on behalf of a foreign government. Currently there is a 1-year ban on that activity, not a lifetime ban.

Americans all across this land are very upset with the role that lobbyists play here in Washington and with good reason. All too often our elected leaders represent perhaps the most influential lobbyists rather than the people who elected them. Executive branch officials, I might note, are in fact barred for life from lobbying on behalf of foreign governments. The underlying bill that we are taking up today, H.R. 2564, also bars U.S. trade officials from representing foreign countries for life.

As we work to restore the public confidence in this Congress, we should apply that same standard to Members who serve here. I feel that we need to encourage folks to become public servants for the right reasons and that reward for helping people while you serve, not using that service to benefit our own pockets. It is not right that taxpayers send their representatives to Washington to fight for them and then that elected official leaves office and perhaps sells that knowledge to another government at the expense of the American people. Each of us were sent here to represent our own districts and our State and certainly our country. And it would be wrong for us to use that experience to represent someplace else.

I understand the debate that is going on tonight. The bill that has come over from the Senate, the committee chairman, subcommittee chair as well as the ranking side prefer no amendments because they want to get this bill through. In a number of private discussions that I have had with Members this evening, I feel that it may be more prudent in fact to offer this at another time on another bill, but in fact in this Congress to get the job done. I might.

Mr. Chairman, I yield to the gentleman from Florida [Mr. CANADY] for some clarification of that.

Mr. CANADY of Florida. Mr. Chairman, let me commend the gentleman on this amendment. I believe that this amendment addresses a very important issue. I believe that it is wrong for Members of Congress who have left the Congress to then run out and find a foreign client, a foreign government to represent here in Washington. I think that is an abuse of the system and something that should not continue.

I believe that we should consider restrictions on that sort of activity. It would be my intention as chairman of the Subcommittee on the Constitution to hold hearings on this subject as well as other related issues that we are not addressing in this bill but which do need to be addressed. I appreciate the gentleman from Michigan.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I appreciate the constructive spirit in which the gentleman is approaching this. I think he has a very good amendment. I have not had a chance to give a lot of thought but it seems very good to me. If I had to vote on it right now, I would vote for it. But I think it will obviously be a useful thing for us to have at the hearings, the markup.

I hope something very much like it will emerge. I believe and I know my friend from Florida agrees. It is very likely that we will want to do another bill because there are a number of good ideas that have come up. I will be urging that we go forward with this, and I am very, very likely to be supporting legislation of the sort the gentleman from Michigan offered. I appreciate the spirit of trying to get this bill through that he would give us a chance to do it in that manner.

Mr. UPTON. Reclaiming my time, I appreciate those comments from both my friends. I would at this point indicate that I will not offer my amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman will continue to yield, let us all hope that he is a role model for our colleagues.

Mr. UPTON. I will not offer therefore my amendment this evening and look forward to working with both gentlemen in the future.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, George Will's conservative credentials are second to none, but in the case of the Istook amendment, even card-carrying conservatives like Mr. Will cannot hold their nose and support this legislation.

This amendment slams the doors of the political process in the faces of the Girl Scouts, Mothers Against Drunk Driving, and thousands of community-based nonprofit organizations across this great Nation. In doing so, it will create untold amounts of government redtape and bureaucracy for America's charities.

Mr. Chairman, we need this lobby reform bill now more than ever. This is a Congress where the NRA writes the gun laws, the polluters write the Clean Water Act, and the Christian Coalition dictates social policy. That's the problem—and the American people know it. But does anyone in this Chamber, or anyone in America, really think that the Girl Scouts and the YMCA have too much power and influence in Washington? Of course not.

Several weeks ago, Mr. Chairman, I was successful in passing legislation in this body that will finally get tough with underage drinking and driving, a crime that claims thousands of lives every year. My zero tolerance legislation was offered with the encouragement, support, and cooperation of Mothers Against Drunk Driving.

As a charity, MADD operates under the existing laws that govern charities, including those which limit advocacy work. However, MADD will be directly impacted by the Istook amendment because it works with the Department of Transportation and the Department of Justice to combat drunk driving and assist the victims of this crime. In the words of MADD's national president, the Istook amendment will have "a chilling effect" on MADD's ability to fulfill its mission.

Mr. Chairman, MADD was started in 1980 Candy Lightner, who in attempting to bring the drunk driver who killed her daughter to justice, found the system rigged against her. Since 1980, it has been MADD's leadership that has been instrumental in curbing the carnage on our roadways. However, had the Istook provision been in effect 15 years ago, MADD would not have been able to bring us to where we are today.

As George Will has stated, the Istook amendment will "erect a litigation-breeding regulatory regime of baroque complexity."

Let's not punish Girls Scouts. Defeat this extremist amendment.

□ 2100

Mr. CANADY of Florida. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut [Mr. SHAYS] who has done more than any other person to move forward with the agenda of reform on gifts and lobbying than any other person in the Congress.

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding this time to me, but there have been so many who have been working on reform, and I think one of the reasons why I have stayed here tonight is it is rather comforting and calming to be in an environment where Republicans and Democrats are working together for a common cause. It may not be as exciting, but it sure is relaxing.

I first want to thank the subcommittee chairman and the ranking member, the gentleman from Florida [Mr. CANADY], the chairman, and the gentleman from Massachusetts [Mr. FRANK], the ranking member, for doing yeoman's work in getting this bill out of their subcommittee intact, identical to the way the Senate passed the bill, getting it through the full committee intact identical to the way the Senate passed this bill, and for good reasons. The Senate passed a fine bill. They passed it way back in July, and candidly we probably would not even be dealing with this legislation today if it was not for the work of Mr. LEVIN and Mr. COHEN and Mr. MCCONNELL, and the work that they did in the Senate in giving us a bill that we can present to the President of the United States if it leaves this Chamber without amendment.

Mr. Chairman, we have one gigantic choice. We can amend the bill and send it to the Senate, where it may pass eventually someday, some year at some time, or we can send it to the President where he will put his signature and for the first time in nearly 50 years we will have an updated and better lobby disclosure bill.

The Lobbying Disclosure Act of 1995 deserves to be made law. It will for the first time require the registration of people who have not been registered before. It will require them to disclose general information about what they do and how much they spend, and I know that in addition to the fine work of the gentleman from Florida [Mr. CANADY] and the gentleman from Massachusetts [Mr. FRANK] he has had a supportive committee on both sides, Republican and Democrat, and I particularly want to thank the gentleman from Tennessee [Mr. BRYANT] and the gentleman from Illinois [Mr. FLANAGAN] and the gentleman from Virginia [Mr. GOODLATTE] for their help, and also the gentleman from Texas [Mr. BRYANT] on the other side of the aisle, the gentleman from Wisconsin [Mr. BARRETT] on the other side of the aisle, the gentleman from Pennsylvania [Mr. MCHALE] on the other side of the aisle. This is legislation that the gentleman from Pennsylvania [Mr. MCHALE introduced in support of what the Senate has done. There really is no excuse for us to cave in and do candidly, and when I say "candidly" it almost sounds like the gentleman's name, candidly to do what unfortunately some in my own leadership want to have happen, they want this bill amended.

Mr. Chairman, for some reason my colleagues want it sent back to the Senate. For some reason they want it to go to conference. I do not understand why. To me it is simply the wrong way to go. There are going to be some excellent proposals made, and it is going to be tempting to go along with those proposals, but we have a chairman and the ranking member of the committee who have agreed to take these good proposals, to take action on them, and bring them back to the floor of the House as a separate bill, and then we can send that bill to the Senate, and let us see what happens.

I would just like to read from the language that accompanied the Lobbying Disclosure Act of 1995, two paragraphs, and one of the things that the gentleman from Florida [Mr. CANADY] pointed out is that in 1991 the General Accounting Office, GAO, found that almost 10,000 of the 13,500 individuals and organizations listed in the book "Washington Representatives" were not registered under the 1946 act. GAO interviewed a small sample of the unregistered Washington representatives listed. Three-quarters of those interviewed contacted both Members of Congress and their staffs, dealt with Federal legislation, and sought to influence the actions of Congress or the executive branch. We have 10,000 of the 13,500 listed as Washington representatives not registered as lobbyists. I mean there is a reason. When we passed the act many years ago in 1946, the Federal Regulation of Lobbying Act of 1946, the Senate, the Supreme Court, significantly weakened that act in 1954 and basically made it pretty much unworkable. The 1946 act requires anybody whose principal purpose is influencing legislation to register with the Clerk of the House or the Secretary of the Senate. It simply is not being done because the Senate gutted that requirement.

So I am concerned a bit about the fact that we will seek and discuss amendments tonight. I am concerned that tomorrow we may just have one vote after another. All it is going to take is just one amendment to basically send this bill back to the Senate. There will be for some reason some people satisfied and happy that we have sent it back to the Senate. For the life of me I do not understand why we would not want to know who is a lobbyist, know what they do, and how much money is involved.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Chairman, I would like to first thank the ranking member of the Committee on the Judiciary, the gentleman from Massachusetts [Mr. FRANK], for yielding me this time. Now I would like to thank the gentleman from Florida [Mr. CANADY] for offering this legislation today, and I would like to rise in support of the Lobbying Disclosure Act of 1995 as it has been introduced. This bill makes important and substantive changes to the current regulations related to the lobbying process. I do have concerns, however, about a particular provision.

For the purposes of clarification of this provision, I would like to enter into a colloquy with the gentleman from Florida [Mr. CANADY], the chairman of the subcommittee and the author of this legislation.

Section 18 of H.R. 2564 prevents 501(c)(4) organizations, as defined under the Internal Revenue Code of 1986 from receiving a Federal "award, grant, contract, loan or any other form" if such organizations want to engage in lobbying activity.

I have been contacted by members of the Disabled American Veterans from my home State of Rhode Island. They are concerned and have expressed concern that section 18 of H.R. 2564 may preclude them from utilizing space at local Veterans Administration facilities. The DAV, the Disabled American Veterans, works for the physical, social, mental, and economic rehabilitation of wounded and disabled veterans, obtains fair and just compensation, adequate medical care, and oftentimes suitable gainful employment for wartime veterans who became disabled in service to our country. They deserve every bit of it.

Annually, the DAV provides assistance to 300,000 veterans and their families—at no charge to the veteran and no charge to the Federal Government. I am concerned that section 18 would place in jeopardy the vital services provided by the DAV.

As my colleagues, the gentleman from Florida [Mr. CANADY] knows, these veterans' organizations often use the facilities, these veterans' facilities, as an opportunity for them to reach out to the same constituency that the veterans' facilities are mandated to reach out to. They do not want to be shut out, and I think that what we want to do is help them help us in the Federal Government do the job that we are trying to do on behalf of our veterans, and I would ask my colleague, the gentleman from Florida [Mr. CANADY] to clarify this section for me.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Rhode Island. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, I thank the gentleman from Rhode Island for yielding, and I appreciate the gentleman's expression of concern on this issue.

Section 18 provides that organizations described in section 501(c)(4) of the Internal Revenue Code which "engage in lobbying activities shall not be eligible for the receipt of Federal funds constituting an award, grant, contract, loan or any other form." It is my understanding that "any other form" as referred to in this section means any other form of Federal funds. It is my intention that use of a borrowed room by the Disabled American Veterans would not constitute receipt of Federal funds and the DAV would not run afoul of this provision.

I believe that this should address the concern raised by the Disabled American Veterans, an organization which does so much to help so many American veterans.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I thank my colleagues for his assistance on this matter, commend him, and look forward to continuing to work with him on behalf of our veterans, and I thank him for his explanation and clarification of this. I think it honors the spirit of what the DAV is trying to do, and I think it also honors the spirit of our bill, so in both of those respects I would like to commend the author, once again like to commend the ranking member, the gentleman from Massachusetts [Mr. FRANK], and I appreciate the opportunity this evening to speak on behalf of the bill.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, I just wanted to continue the colloquy which was very ably started by the gentleman from Rhode Island [Mr. KENNEDY]. I, too, rise to assure the veterans beyond the DAV, to the Purple Heart veterans, American Legion, the VFW, and all other veterans' groups of service men and women who have done so much for our country, when it comes to any activity as described that has been by the gentleman from Rhode Island [Mr. KENNEDY] and other activities that the gentleman from Massachusetts [Mr. FRANK] and I would describe to our colleagues, are all of them, as far as the gentleman is concerned, protected under the legislation and it would not rise to any infraction on their part?

Mr. CANADY of Florida. Mr. Chairman, if the gentleman would yield, that is absolutely correct. This principle would apply to other organizations who are serving in a similar manner.

Mr. FOX of Pennsylvania. I know, because speaking for all 435 Members of this House, and I am sure the 100 Members in the other Chamber, would want to have that protection knowing that the veterans we are trying to serve, work with, would in fact be protected under this legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I just would like to join in and agree, although I should note that presently there are only 433 Members of this House.

Mr. FOX of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. We added a few in this partisan reform Congress.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Chairman, the events of the last week have shaken the public's confidence in this great house.

Now, we have the chance to restore some of that confidence by passing the lobbying disclosure bill.

The time for delay is over.

It is time the public knew who is lobbying who and for how much.

It is time Members stop taking contributions from lobbyists for legal defense funds or charities they control.

The people send us here to represent them in the greatest legislative body ever conceived.

That is what it's all about.

Not the lobbyists.

Not the trips.

Not the gifts.

And the American people know that.

We need to send a clear, bipartisan message that we understand that all of us together and that we know that too.

Finally, we need to reject any amendment that would restrict the ability of businesses, universities, and charitable organizations from using their own money, just because they receive some federal funding.

A lobbying disclosure bill passed the other body 98–0.

Let us pass this bill with the same bipartisan spirit and reject any extremist amendment designed to make it partisan.

Mr. CANADY of Florida. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia [Mr. GOODLATTE], a member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Chairman, I would like to thank the gentleman from Florida [Mr. CANADY], my good friend, the chairman of our subcommittee, and the ranking minority member, the gentleman from Massachusetts [Mr. FRANK] for the strong bipartisan support of this important legislation that we have been struggling for years to bring forward, and I also very much appreciate the very kindly way that this debate has proceeded.

□ 2115

We are in general agreement about this, but I would hope that we would have the same kind of level of debate. Even at times when we are in strong disagreement on the underlying issues, we should never let the debate break down, as it does sometimes.

Congressional reforms have been a major priority since last year's elections. For instance, we have taken steps to clean up sloppy administrative and financial practices in the House of Representatives. We have passed into law the Congressional Accountability Act, making Members of Congress subject to the same laws that we pass and impose on everyone else. Now we are focusing on lobbying reform and rules governing gifts to Members of Congress, which rules we just changed earlier this evening. The people that I talk to feel that lobbyists have too much power and more access to the government than average folks. They are right to feel that way. That is why we are taking strong steps to rein in lobbying activity abuse.

Existing rules governing lobbying are unclear, contain weak enforcement provisions, and lack clear guidance as to who is to register as a lobbyist. This bill will take care of this problem. The main focus of this legislation is to provide for meaningful disclosure by full-time lobbyists. Currently, only those lobbyists who, in their personal judgment, believe it is their principle purpose to lobby must register. In other words, it is up to the individual lobbyist to decide whether or not to register.

This legislation, however, carefully defines the term "lobbyist." Someone who spends more than 20 percent of his or her time engaged in lobbying activities for a client in a 6-month period is considered to be a lobbyist. That person must register with the Clerk of the House and the Secretary of the Senate.

Lobbyists will be required to file a semiannual report which contains information about clients, issues, and Federal agencies in which their lobbying activities are involved, and the ability of the government to enforce lobbying rules is strengthened, but the controversial provisions related to grassroots lobbying contained in last year's bill have been removed, and I think that will be a great reassurance to a great many Americans concerned abut their individual right to contact their Representatives in Congress and make their voice heard. This bill in no way will interfere with that right.

In addition to creating an effective system of disclosure for lobbyists of domestic clients, this bill amends the Foreign Agents Registration Act. That act addresses the disclosure of interests of foreign individuals, corporations, and governments. Under this legislation, major loopholes in these requirements are eliminated, which will greatly enhance the disclosure of lobbying by foreign interests.

The House of Representatives is known as the people's House, and the people's business should be conducted without undue influence. These reforms will help make sure that happens.

Mr. CANADY of Florida. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 2564, the Lobbying Disclosure Act of 1995 and urge my colleagues to approve a clean bill with no further amendment.

My reason for supporting a clean bill is simple. If we pass this bill as is, it goes directly to the President for his signature. If we amend this legislation, it goes back to the Senate and into likely oblivion.

Let's be clear—amending this bill means killing lobby reform for this Congress. And that would be Washington business-as-usual at its worst. The same type of business-as-usual that has kept lobbying reform bottled up for 40 years.

Mr. Chairman, this important legislation requires meaningful disclosure of the activities of paid lobbyists, by requiring more information than ever before, and it covers lobbying of both the Congress and the Executive Branch.

Any individual who receives at least $5,000 from a single client in a 6-month period for lobbying purposes or an organization which spends more than $20,000 in a 6-month period for lobbying activities is required to register semiannually with the Clerk of the House of Representatives and the Secretary of the Senate.

Registered lobbyists must disclose the congressional chamber and federal agencies they approached, the issues they discuss with the officials, and the amount of money they spent on their lobbying effort.

If foreign entities—such as a company or government—are involved, the lobbyist must state this on the disclosure report. All of this information will be easily available to the House and Senate, as well as to the public.

The bill sets up violations guidelines for people who fail to register or disclose false information. The Clerk of the House of Representatives and the Secretary of the Senate must turn over potential violators to the Department of Justice, which will decide whether to prosecute. Lobbyists found guilty face a maximum civil penalty of $50,000 per violation.

H.R. 2564 also: prevents tax deductions for lobbying expenses, which were eliminated in 1993, from being restored; prohibits 501(c)(4) corporations who lobby Congress from receiving federal grants; repeals the Ramspeck Act, which allows former Congressional or judicial employees to obtain civil service employment without taking the civil service exam; prohibits former U.S. trade representatives or deputies, from representing a foreign government, political party, or business; expands the existing financial disclosure statement for Members of Congress by adding more categories to describe the value of personal assets and liabilities.

This legislation includes meaningful reforms of this outdated system. But lets dispell some of the misconceptions surrounding H.R. 2564.

This bill does not: Create a new bureaucracy—Implementation will be carried out by the Clerk of the House and the Secretary of the Senate.

This bill: Contains no criminal penalties—Only lobbyists who knowingly violate the law may be subjected to civil fines.

This bill: Does not cover grass roots lobbying and does not hinder the ability of ordinary citizens to petition Congress.

Mr. Chairman, this bill is not perfect. But we cannot allow the perfect to be the enemy of the very good. We cannot allow this legislation to suffer the same fate as reform bills in the past.

This is serious reform—another important step toward changing Washington's business-as-usual.

I am afraid it is more than reputation. I am afraid that in the minds of many of us here in this body, we are really in need of serious reform, and must dispel any hint or any smell of business as usual.

Let us do the right thing. I urge my colleagues to oppose any amendments to this bill. As meritorious as some may seem, approving any of them means the destruction of the Lobbying Disclosure Act and any reform in this Congress.

Mr. TOWNS. Mr. Chairman, last week during a 216–210 vote on the very same matter, I voted no. Unfortunately, there was some kind of malfunction in the voting machine and my vote was not recorded.

I want to state for the record that my position on the gentleman from Oklahoma's amendment has not changed. I remain opposed to limitations on any of our citizens' right to petition their Government. Simply because you are a university, a business, or a charitable organization should not force you to give up your first amendment rights.

I would urge opposition to this measure by my colleagues. Let us not trample on first amendment protections in an effort to silence critics of the policies promoted by our colleagues across the aisle.

Ms. WOOLSEY. Mr. Chairman, I rise in opposition to the conference report for H.R. 2564, the Defense appropriations bill for fiscal year 1995.

Mr. Chairman, this bill will prohibit military women who are stationed overseas from obtaining an abortion in a military hospital—even if they use their own money to pay for this procedure.

Mr. Chairman, this provision of H.R. 2564 will put the lives of military women in danger, because they will be forced to use third-world clinics or unsafe back alley facilities.

It is true that, as Representative YOUNG pointed our earlier, I voted yesterday for the conference report on H.R. 2020, the Treasury-Postal appropriations bill for fiscal year 1996. I voted for this bill because I know that this measure is necessary to get our Nation's Federal employees back to work.

Under this bill, Federal employees will lose their ability to use their own health insurance to pay for a full range of reproductive services. This is a travesty, and I fought against this provision when it was considered initially by the House.

Nevertheless, I believe that there is a critical difference between the anti-choice provisions in the Defense appropriations bill and the Treasury-Postal appropriations bill.

The difference is that when a military woman needs an abortion, and she is stationed overseas in a third-world nation, the only medical facility which is likely to be clean and safe, with well trained doctors, will be the base Hospital. Plain and simple, I cannot support a bill which denies military women the chance to use the only decent available medical facility.

Today, the anti-choice forces are hoping to score another victory by denying military women, who happen to be stationed overseas, access to a safe and legal abortion.

Military women defend our country with their lives. Now their lives will be in jeopardy if the Defense appropriations conference report passes.

Is this what you would want for your daughter? is this what you would want for your granddaughter?

I urge my colleagues to protect a military woman's constitutional right to reproductive choice. Vote no on the conference report for H.R. 2126.

Mr. DAVIS. Mr. Chairman, I rise in strong support of the Clinger amendment.

The Clinger amendment will save taxpayer dollars and protect career civil servants from being drafted into hardball political advocacy.

Federal workers are routinely being pressured to participate in partisan lobbying campaigns. These lobbying efforts are often offensive to the civil servant's personal values and damaging to his or her career.

What do you think happens to the career employee who expects to serve during numerous Presidencies but who gets caught up in partisan lobbying efforts by his agency? Well, the next administration with a different political stripe comes in and is naturally suspicious of that civil servant's professional judgment and independence.

The Clinger amendment simply says: Let us leave the political talk to presidentially appointed and Senate confirmed appointees and let the dedicated career Federal workers that I represent get their jobs done free of politics.

I am especially alarmed by some of the unsolicited political propaganda that was mailed to all members of the Virginia General Assembly this year by the Environmental Protection Agency. State senators and delegates complained about this junk mail that featured false statements in opposition to the Unfunded Mandates Reform Act of 1995 and some of the regulatory reform initiatives.

I support an open and vigorous exchange of ideas, and I am proud to serve in a body that epitomizes the free exchange of political thought. While there will always be a time and place for political advocacy, our system of government depends on a dedicated corps of civil servants who actually fulfill the mission crafted by Congress and the President—free of being enlisted in partisan lobbying campaigns.

Surely the President, his hundreds of Senate-confirmed appointees, combined with the thousands of nonprofit and forprofit advocacy organizations in this town can adequately express the full range of diverse policy and political opinions without requiring the taxpayer to finance lobbying campaigns by Federal agencies that harm the careers of civil servants.

I urge my colleagues to unanimously support this important amendment offered by the distinguished chairman of the Government Reform and Oversight Committee.

Mr. LEVIN. Mr. Chairman, there are critics of lobbying reform who hold the cynical belief that if this bill can be amended, it will get bogged down in the Senate, and lobby reform will die.

That would be tragic.

I very much believe in the open, democratic system in our Nation where people can communicate with their elected representatives, directly or through others. To do so is an important aspect of our democracy.

I also believe the American public is entitled to know who is lobbying whom, and who is spending how much.

But today the lobbying disclosure system we have is chaotic and badly broken. It has so many loopholes that the public has no clear idea whatsoever about how lobbyists are spending millions of dollars.

If you take the long view, this is our best chance since 1948, when President Truman called for reform of the lobbying disclosure law, to do the job, and do the job right.

This bill is a good bill as it stands. The Senate supported it unanimously and its leaders on this issue played an indispensable role in its design and passage.

The administration today said the President will sign this bill in its current form.

And now, it is our turn. If we do this right, the American people will be able to know what they are entitled to know: Who is paying how much, to whom, to lobby Congress and the executive branch.

All week long, the American people have been given one reason after another to wonder if there is any issue on which the Senate, and the House, and the President can cooperate. This is surely one such issue.

Put that together with gift ban we passed earlier tonight, and I believe we will have taken two very important steps toward restoring trust in the integrity of Government. I sincerely hope campaign finance reform will be next, and soon.

Mr. LATOURETTE. Mr. Chairman, I rise today to speak in support of the Clinger antilobbying amendment, which would prohibit Federal agencies from using appropriated funds to promote public support or opposition for a legislative proposal.

This amendment is not about stifling free speech, it is not about muzzling lobbying activities. What the Clinger amendment is about, ladies and gentlemen, is the Congress laying down the law and saying "It is wrong for us to spend a dime of taxpayer money so Federal agencies can lobby the Congress and attempt to shape legislation to suit that agency's agenda or whims."

As a member of the Transportation and Infrastructure Committee, I saw this practice first hand as we worked on legislation overhauling the Clean Water Act. The Environmental Protection Agency actually allowed its employees to prepare lobbying materials for the committee members. These included factsheets which had little to do with facts. Instead, these were thinly guised agency propaganda filled with political undertones.

One of the arguments that has been advanced is that this amendment is unconstitutional. That argument is without merit.

The constitutional argument apparently has two prongs—one claims that the first amendment is impacted; the other focuses on the separation of powers between this branch and the executive branch.

It's difficult to see how the first amendment guarantees of Federal officials would be impacted. The language isn't as restraining as the Hatch Act; employees on their own dime may enjoy the freedoms of speech, association, expression, and the right to petition. And, if I understand the CRS opinion correctly, nearly identical language has been included in the Interior Department appropriations for about 15 years.

Turning for a moment to the separation of powers issue, clearly the proposed action is within the authority granted to Congress by the Constitution; the administration's constitutional rights are found in article II, section 3—that is, the President shall "take care that the laws are faithfully executed" or to "recommend to Congress' consideration such measures as he deems necessary and expedient."

Chairman Clinger's amendment doesn't restrict the administration's ability to enforce or administer the laws of the United States. It doesn't restrict direct contact with Members, and it exempts the President and his Senate-confirmed appointees so it in no way hampers the President from faithfully executing the laws nor providing suggestions to Congress.

However, Federal agency employees should not be preparing lobbying materials to influence the legislative process. It it's a part of their job description then their job description needs to be rewritten. This is a wildly inappropriate use of taxpayer funds, and we as a Congress should seek to stop it, not just for the 104th Congress, but in the future.

What Chairman CLINGER has proposed is a commonsense amendment. It is not harsh, it is not radical, it does not jeopardize the Constitution or our right to free speech.

I think Americans would be appalled to know that at the Department of Veterans Affairs, employee check stubs contain a message from Secretary Jesse Brown urging opposition to the House budget plan.

That the U.S. Department of the Interior sent a letter to public land constituents indicating opposition to the Livestock Grazing Act.

That the U.S. Corps of Engineers and the U.S. Fish and Wildlife Service assembled a "Taking it Too Far" slide show and panel discussion to oppose the takings legislation.

That the Corporation for American Service [Americorp] published its first annual report containing selected press clips praising Americorp and criticizing congressional action.

Who pays for all this? You, the public. Is this how you want Federal employees to use their time, crafting political propaganda? I don't think so.

The American people know this is wrong, and they should be offended that this practice has been allowed to exist so long without any adequate remedy.

Maybe I could muster up some sympathy for those who oppose this amendment if we were faced with some dire shortage of lobbyists in this town. Of course, that's not the case.

This morning, just out of curiosity's sake, my office called the Office of Records and Registrations to get the latest tally on the number of lobbyists. Right now, we have 6,531 active lobbyist registrants on Capitol Hill; that's more than twice the number of people who live in my hometown, Madison Village, OH.

Of course, it only gets worse. If you tally up the lobbyists who are active registrants with clients, we've got—get this—12,556 lobbyists. And on the inactive, but still registered front, we've got another 37,181 lobbyists.

Forgive me for stating the obvious, but it sounds to me like we've got our lobbying needs covered and we can make do without Federal employees, who do not even register as lobbyists, jumping into the fray. Where I come from, I'd say we've already got more lobbyists here than you can shake a stick at.

Enough's enough. Let the Federal agency employees do their real jobs. Support the Clinger amendment.

Mr. VENTO. Mr. Chairman, I rise in support of House Resolution 250 and H.R. 2564, legislation to strictly limit gifts to Members of Congress and to strengthen the disclosure requirements for professional lobbyists. The positive action before us will incorporate this change into the House rules.

This reform legislation is long overdue. In fact, if not for the Republican parliamentary maneuvering last year, these proposals would already be the law of the land. Unfortunately, in 1994 when the Democratic Congress tried to pass these important congressional reforms, the Senate Republicans blocked our efforts. That is the recent history of this debate. Today, I want to recognize my Republican colleagues' belated conversion and welcome them as they join the Democratic Party's effort to reform how Congress operates and public accountability.

As we consider these proposals today, I would urge my colleagues to resist the temptations to weaken or side track these needed reforms. As we are serious about reforms, we should oppose the Burton amendment to House Resolution 250. That policy path is business as usual wrapped in new disclosure reports and does not merit support.

For too long this year, meaningful congressional reforms have been postponed. A separate important initiative, the Lobbying Disclosure Act, attempts to modernize our Federal lobby registration requirements and is intended to effectively cover all professional lobbyists. This too is similar to a measure that passed the House in the past Congress but again was held up in the Senate and did not become law. While this bill does cover professional lobbyists, grassroots lobbying would not be covered.

Mr. Chairman, it is unfortunate that under the cover of reforming professional lobbying, some Members are seeking to silence legitimate lobbying efforts by nonprofit grassroots organizations. I urge my colleagues to oppose the Istook amendment, it is wrong and its objective is not lobby reform but silencing those with whom some extreme Members of Congress disagree.

I urge my colleagues to join me to defeat this new gag rule. The new Republican majority in Congress may not want to hear from nonprofit and charitable organizations, who so often serve and advocate for people in need, but I want to hear from such groups. These groups surely act as the conscience of those without power. Further, I believe that this is a fight of free expression and such involvement is essential in a free society. The Republicans have been making public policy based on anecdotes and radio talk sound bites. Congress must make public policy on the facts and on information from those individuals on the frontlines. We need the input from the Red Cross, the Children's Defense Fund, and the Catholic Conference of Bishops as we develop policies on welfare, housing, and health care—issues to which these organizations have committed their time and limited funds. I want to hear from the American Lung Association, the Alzheimer's Association, and the American Cancer Society about health research.

The Istook proposal attempts to characterize such groups as publically funded lobbyists and pretends to address a misuse of Federal funds. But Federal law already bans the use of public funds for political advocacy, and the advocates of the new restrictions certainly have not been able to demonstrate that the current law has been violated. The Istook amendment goes far beyond the current law and restricts the recipients' ability to use their own funds for political advocacy. This is purely an attempt to kill the messenger because some Republican Members do not want to hear the message.

I believe that all Americans have the right of free speech. In developing national policy, Congress benefits from the input and experience of all citizens. Whether it be a multibillion dollar corporation, an advocacy group for the homeless, or the individual citizen, their voices should be heard. The Istook amendment sets a dangerous precedent in trying to silence the voice of a key segment of American society—those serving the Americans in need without a voice or means.

In conclusion, I would point out to my colleagues that the most crucial component of congressional reform is left undone. Unless and until we have meaningful political campaign funding reform in place, the special interests will continue to control the agenda.

As with lobbying and gift reform, meaningful campaign reforms have been postponed, blocked by today's majority party and filibustered as a minority in the Senate during the past congressional session. The Congressional Campaign Spending Limit and Election Reform Act, which I supported, represented the most sweeping campaign reform since Congress enacted the Campaign Reform Act in 1974. Since the 1976 Supreme Court decision in Buckley versus Valeo, Congress has had much less ability to control many important aspects of campaign finance reform. This bill would have established a voluntary spending limit for congressional races. In addition, the bill limited the total political action committee [PAC] and wealthy individual contributions each House and Senate candidate could accept and closed other campaign loopholes dealing with independent expenditures, bundling of contributions, disclosure requirements for negative advertising, and soft money. In spite of assurances to address the issue, the Speaker has frustrated action by illogical and partisan delay. Any attempt to implement these reforms for 1996 now appears moot, ironically, in spite of the Speaker's public agreement to set up a commission 6 months ago, which he completely reneged upon.

I urge my colleagues to support the pending reforms and to work for the timely enactment of comprehensive campaign reforms.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, this bill is considered read for amendment under the 5-minute rule.

The text of H.R. 2564 is as follows.

H.R. 2564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lobbying Disclosure Act of 1995".

SEC. 2. FINDINGS.

The Congress finds that—

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak administrative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term "agency" has the meaning given that term in section 551(1) of title 5, United States Code.

(2) CLIENT.—The term "client" means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(3) COVERED EXECUTIVE BRANCH OFFICIAL.—The term "covered executive branch official" means—

(A) the President;

(B) the Vice President;

(C) any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President;

(D) any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive order;

(E) any member of the uniformed services whose pay grade is at or above O–7 under section 201 of title 37, United States Code; and

(F) any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in section 7511(b)(2) of title 5, United States Code.

(4) COVERED LEGISLATIVE BRANCH OFFICIAL.—The term "covered legislative branch official" means—

(A) a Member of Congress;

(B) an elected officer of either House of Congress;

(C) any employee of, or any other individual functioning in the capacity of an employee of—

(i) a Member of Congress;

(ii) a committee of either House of Congress;

(iii) the leadership staff of the House of Representatives or the leadership staff of the Senate;

(iv) a joint committee of Congress; and

(v) a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and

(D) any other legislative branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(5) EMPLOYEE.—The term "employee" means any individual who is an officer, employee, partner, director, or proprietor of a person or entity, but does not include—

(A) independent contractors; or

(B) volunteers who receive no financial or other compensation from the person or entity for their services.

(6) FOREIGN ENTITY.—The term "foreign entity" means a foreign principal (as defined in section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)).

(7) LOBBYING ACTIVITIES.—The term "lobbying activities" means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.

(8) LOBBYING CONTACT.—

(A) DEFINITION.—The term "lobbying contact" means any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to—

(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government;

(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

(B) EXCEPTIONS.—The term "lobbying contact" does not include a communication that is—

(i) made by a public official acting in the public official's official capacity;

(ii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iii) made in a speech, article, publication or other material that is distributed and made available to the public, or through radio, television, cable television, or other medium of mass communication;

(iv) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

(v) a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a covered executive branch official or a covered legislative branch official;

(vi) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

(vii) testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

(viii) information provided in writing in response to an oral or written request by a covered executive branch official or a covered legislative branch official for specific information;

(ix) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency;

(x) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications;

(xi) not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;

(xii) made to an official in an agency with regard to—

(I) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding; or

(II) a filing or proceeding that the Government is specifically required by statute or regulation to maintain or conduct on a confidential basis,

if that agency is charged with responsibility for such proceeding, inquiry, investigation, or filing;

(xiii) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

(xiv) a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(xv) a petition for agency action made in writing and required to be a matter of public record pursuant to established agency procedures;

(xvi) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this clause does not apply to any communication with—

(I) a covered executive branch official, or

(II) a covered legislative branch official (other than the individual's elected Members of Congress or employees who work under such Members' direct supervision),

with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

(xvii) a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989, under the Inspector General Act of 1978, or under another provision of law;

(xviii) made by—

(I) a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return under paragraph 2(A)(i) of section 6033(a) of the Internal Revenue Code of 1986, or

(II) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a); and

(xix) between—

(I) officials of a self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act) that is registered with or established by the Securities and Exchange Commission as required by that Act or a similar organization that is designated by or registered with the Commodities Future Trading Commission as provided under the Commodity Exchange Act; and

(II) the Securities and Exchange Commission or the Commodities Future Trading Commission, respectively;

relating to the regulatory responsibilities of such organization under that Act.

(9) LOBBYING FIRM.—The term "lobbying firm" means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity. The term also includes a self-employed individual who is a lobbyist.

(10) LOBBYIST.—The term "lobbyist" means any individual who is employed or retained by a client for financial or other compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a six month period.

(11) MEDIA ORGANIZATION.—The term "media organization" means a person or entity engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication.

(12) MEMBER OF CONGRESS.—The term "Member of Congress" means a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress.

(13) ORGANIZATION.—The term "organization" means a person or entity other than an individual.

(14) PERSON OR ENTITY.—The term "person or entity" means any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or State or local government.

(15) PUBLIC OFFICIAL.—The term "public official" means any elected official, appointed official, or employee of—

(A) a Federal, State, or local unit of government in the United States other than—

(i) a college or university;

(ii) a government-sponsored enterprise (as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974);

(iii) a public utility that provides gas, electricity, water, or communications;

(iv) a guaranty agency (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j))), including any affiliate of such an agency; or

(v) an agency of any State functioning as a student loan secondary market pursuant to section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F));

(B) a Government corporation (as defined in section 9101 of title 31, United States Code);

(C) an organization of State or local elected or appointed officials other than officials of an entity described in clause (i), (ii), (iii), (iv), or (v) of subparagraph (A);

(D) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(E) a national or State political party or any organizational unit thereof; or

(F) a national, regional, or local unit of any foreign government.

(16) STATE.—The term "State" means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

SEC. 4. REGISTRATION OF LOBBYISTS.

(a) REGISTRATION.—

(1) GENERAL RULE.—No later than 45 days after a lobbyist first makes a lobbying contact or is employed or retained to make a lobbying contact, whichever is earlier, such lobbyist (or, as provided under paragraph (2), the organization employing such lobbyist), shall register with the Secretary of the Senate and the Clerk of the House of Representatives.

(2) EMPLOYER FILING.—Any organization that has 1 or more employees who are lobbyists shall file a single registration under this section on behalf of such employees for each client on whose behalf the employees act as lobbyists.

(3) EXEMPTION.—

(A) GENERAL RULE.—Notwithstanding paragraphs (1) and (2), a person or entity whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed $5,000; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed $20,000,

(as estimated under section 5) in the semiannual period described in section 5(a) during which the registration would be made is not required to register under subsection (a) with respect to such client.

(B) ADJUSTMENT.—The dollar amounts in subparagraph (A) shall be adjusted—

(i) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of enactment of this Act; and

(ii) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,

rounded to the nearest $500.

(b) CONTENTS OF REGISTRATION.—Each registration under this section shall contain—

(1) the name, address, business telephone number, and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name, address, and principal place of business of any organization, other than the client, that—

(A) contributes more than $10,000 toward the lobbying activities of the registrant in a semiannual period described in section 5(a); and

(B) in whole or in major part plans, supervises, or controls such lobbying activities.

(4) the name, address, principal place of business, amount of any contribution of more than $10,000 to the lobbying activities of the registrant, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that—

(A) holds at least 20 percent equitable ownership in the client or any organization identified under paragraph (3);

(B) directly or indirectly, in whole or in major part, plans, supervises, controls, directs, finances, or subsidizes the activities of the client or any organization identified under paragraph (3); or

(C) is an affiliate of the client or any organization identified under paragraph (3) and has a direct interest in the outcome of the lobbying activity;

(5) a statement of—

(A) the general issue areas in which the registrant expects to engage in lobbying activities on behalf of the client; and

(B) to the extent practicable, specific issues that have (as of the date of the registration) already been addressed or are likely to be addressed in lobbying activities; and

(6) the name of each employee of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client and, if any such employee has served as a covered executive branch official or a covered legislative branch official in the 2 years before the date on which such employee first acted (after the date of enactment of this Act) as a lobbyist on behalf of the client, the position in which such employee served.

(c) GUIDELINES FOR REGISTRATION.—

(1) MULTIPLE CLIENTS.—In the case of a registrant making lobbying contacts on behalf of more than 1 client, a separate registration under this section shall be filed for each such client.

(2) MULTIPLE CONTACTS.—A registrant who makes more than 1 lobbying contact for the same client shall file a single registration covering all such lobbying contacts.

(d) TERMINATION OF REGISTRATION.—A registrant who after registration—

(1) is no longer employed or retained by a client to conduct lobbying activities, and

(2) does not anticipate any additional lobbying activities for such client,

may so notify the Secretary of the Senate and the Clerk of the House of Representatives and terminate its registration.

SEC. 5. REPORTS BY REGISTERED LOBBYISTS.

(a) SEMIANNUAL REPORT.—No later than 45 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which a registrant is registered under section 4, each registrant shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives on its lobbying activities during such semiannual period. A separate report shall be filed for each client of the registrant.

(b) CONTENTS OF REPORT.—Each semiannual report filed under subsection (a) shall contain—

(1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(2) for each general issue area in which the registrant engaged in lobbying activities on behalf of the client during the semiannual filing period—

(A) a list of the specific issues upon which a lobbyist employed by the registrant engaged in lobbying activities, including, to the maximum extent practicable, a list of bill numbers and references to specific executive branch actions;

(B) a statement of the Houses of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client;

(C) a list of the employees of the registrant who acted as lobbyists on behalf of the client; and

(D) a description of the interest, if any, of any foreign entity identified under section 4(b)(4) in the specific issues listed under subparagraph (A).

(3) in the case of a lobbying firm, a good faith estimate of the total amount of all income from the client (including any payments to the registrant by any other person for lobbying activities on behalf of the client) during the semiannual period, other than income for matters that are unrelated to lobbying activities; and

(4) in the case of a registrant engaged in lobbying activities on its own behalf, a good faith estimate of the total expenses that the registrant and its employees incurred in connection with lobbying activities during the semiannual filing period.

(c) ESTIMATES OF INCOME OR EXPENSES.—For purposes of this section, estimates of income or expenses shall be made as follows:

(1) Estimates of amounts in excess of $10,000 shall be rounded to the nearest $20,000.

(2) In the event income or expenses do not exceed $10,000, the registrant shall include a statement that income or expenses totaled less than $10,000 for the reporting period.

(3) A registrant that reports lobbying expenditures pursuant to section 6033(b)(8) of the Internal Revenue Code of 1986 may satisfy the requirement to report income or expenses by filing with the Secretary of the Senate and the Clerk of the House of Representatives a copy of the form filed in accordance with section 6033(b)(8).

SEC. 6. DISCLOSURE AND ENFORCEMENT.

The Secretary of the Senate and the Clerk of the House of Representatives shall—

(1) provide guidance and assistance on the registration and reporting requirements of this Act and develop common standards, rules, and procedures for compliance with this Act;

(2) review, and, where necessary, verify and inquire to ensure the accuracy, completeness, and timeliness of registration and reports;

(3) develop filing, coding, and cross-indexing systems to carry out the purpose of this Act, including—

(A) a publicly available list of all registered lobbyists, lobbying firms, and their clients; and

(B) computerized systems designed to minimize the burden of filing and maximize public access to materials filed under this Act;

(4) make available for public inspection and copying at reasonable times the registrations and reports filed under this Act;

(5) retain registrations for a period of at least 6 years after they are terminated and reports for a period of at least 6 years after they are filed;

(6) compile and summarize, with respect to each semiannual period, the information contained in registrations and reports filed with respect to such period in a clear and complete manner;

(7) notify any lobbyist or lobbying firm in writing that may be in noncompliance with this Act; and

(8) notify the United States Attorney for the District of Columbia that a lobbyist or lobbying firm may be in noncompliance with this Act, if the registrant has been notified in writing and has failed to provide an appropriate response within 60 days after notice was given under paragraph (6).

SEC. 7. PENALTIES.

Whoever knowingly fails to—

(1) remedy a defective filing within 60 days after notice of such a defect by the Secretary of the Senate or the Clerk of the House of Representatives; or

(2) comply with any other provision of this Act; shall, upon proof of such knowing violation by a preponderance of the evidence, be subject to a civil fine of not more than $50,000, depending on the extent and gravity of the violation.

SEC. 8. RULES OF CONSTRUCTION.

(a) Constitutional Rights.—Nothing in this Act shall be construed to prohibit or interfere with—

(1) the right to petition the government for the redress of grievances;

(2) the right to express a personal opinion; or

(3) the right of association,

protected by the first amendment to the Constitution.

(b) Prohibition of Activities.—Nothing in this Act shall be construed to prohibit, or to authorize any court to prohibit, lobbying activities or lobbying contacts by any person or entity, regardless of whether such person or entity is in compliance with the requirements of this Act.

(c) Audit and Investigations.—Nothing in this Act shall be construed to grant general audit or investigative authority to the Secretary of the Senate or the Clerk of the House of Representatives.

SEC. 9. AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT.

The Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) is amended—

(1) in section 1—

(A) by striking subsection (j);

(B) in subsection (o) by striking "the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence" and inserting "any activity that the person engaging in believes will, or that the person intends to, in any way influence";

(C) in subsection (p) by striking the semicolon and inserting a period; and

(D) by striking subsection (q);

(2) in section 3(g) (22 U.S.C. 613(g)), by striking "established agency proceedings, whether formal or informal." and inserting "judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.";

(3) in section 3 (22 U.S.C. 613) by adding at the end the following:

"(h) Any agent of a person described in section 1(b)(2) or an entity described in section 1(b)(3) if the agent is required to register and does register under the Lobbying Disclosure Act of 1995 in connection with the agent's representation of such person or entity.";

(4) in section 4(a) (22 U.S.C. 614(a))—

(A) by striking "political propaganda" and inserting "informational materials"; and

(B) by striking "and a statement, duly signed by or on behalf of such an agent, setting forth full information as to the places, times, and extent of such transmittal";

(5) in section 4(b) (22 U.S.C. 614(b))—

(A) in the matter preceding clause (i), by striking "political propaganda" and inserting "informational materials"; and

(B) by striking "(i) in the form of prints, or" and all that follows through the end of the subsection and inserting "without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this subsection.";

(6) in section 4(c) (22 U.S.C. 614(c)), by striking "political propaganda" and inserting "informational materials";

(7) in section 6 (22 U.S.C. 616)—

(A) in subsection (a) by striking "and all statements concerning the distribution of political propaganda";

(B) in subsection (b) by striking ", and one copy of every item of political propaganda"; and

(C) in subsection (c) by striking "copies of political propaganda,";

(8) in section 8 (22 U.S.C. 618)—

(A) in subsection (a)(2) by striking "or in any statement under section 4(a) hereof concerning the distribution of political propaganda"; and

(B) by striking subsection (d); and

(9) in section 11 (22 U.S.C. 621) by striking ", including the nature, sources, and content of political propaganda disseminated or distributed".

SEC. 10. AMENDMENTS TO THE BYRD AMENDMENT.

(a) Revised Certification Requirements.—Section 1352(b) of title 31, United States Code, is amended—

(1) in paragraph (2) by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

"(B) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).";

(2) in paragraph (3) by striking all that follows "loan shall contain" and inserting "the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee."; and

(3) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6).

(b) Removal of Obsolete Reporting Requirement.—Section 1352 of title 31, United States Code, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 11. REPEAL OF CERTAIN LOBBYING PROVISIONS.

(a) Repeal of the Federal Regulation of Lobbying Act.—The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) is repealed.

(b) Repeal of Provisions Relating to Housing Lobbyist Activities.—

(1) Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) is repealed.

(2) Section 536(d) of the Housing Act of 1949 (42 U.S.C. 1490p(d)) is repealed.

SEC. 12. CONFORMING AMENDMENTS TO OTHER STATUTES.

(a) Amendment to Competitiveness Policy Council Act.—Section 5206(e) of the Competitiveness Policy Council Act (15 U.S.C. 4804(e)) is amended by inserting "or a lobbyist for a foreign entity (as the terms 'lobbyist' and 'foreign entity' are defined under section 3 of the Lobbying Disclosure Act of 1995)" after "an agent for a foreign principal".

(b) Amendments to Title 18, United States Code.—Section 219(a) of title 18, United States Code, is amended—

(1) by inserting "or a lobbyist required to register under the Lobbying Disclosure Act of 1995 in connection with the representation of a foreign entity, as defined in section 3(7) of that Act" after "an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938"; and

(2) by striking out ", as amended,".

(c) Amendment to Foreign Service Act of 1980.—Section 602(c) of the Foreign Service Act of 1980 (22 U.S.C. 4002(c)) is amended by inserting "or a lobbyist for a foreign entity (as defined in section 3(7) of the Lobbying Disclosure Act of 1995)" after "an agent of a foreign principal (as defined by section 1(b) of the Foreign Agents Registration Act of 1938)".

SEC. 13. SEVERABILITY.

If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 14. IDENTIFICATION OF CLIENTS AND COVERED OFFICIALS.

(a) Oral Lobbying Contacts.—Any person or entity that makes an oral lobbying contact with a covered legislative branch official or a covered executive branch official shall, on the request of the official at the time of the lobbying contact—

(1) state whether the person or entity is registered under this Act and identify the client on whose behalf the lobbying contact is made; and

(2) state whether such client is a foreign entity and identify any foreign entity required to be disclosed under section 4(b)(4) that has a direct interest in the outcome of the lobbying activity.

(b) Written Lobbying Contacts.—Any person or entity registered under this Act that makes a written lobbying contact (including an electronic communication) with a covered legislative branch official or a covered executive branch official shall—

(1) if the client on whose behalf the lobbying contact was made is a foreign entity, identify such client, state that the client is considered a foreign entity under this Act, and state whether the person making the lobbying contact is registered on behalf of that client under section 4; and

(2) identify any other foreign entity identified pursuant to section 4(b)(4) that has a direct interest in the outcome of the lobbying activity.

(c) Identification as Covered Official.—Upon request by a person or entity making a lobbying contact, the individual who is contacted or the office employing that individual shall indicate whether or not the individual is a covered legislative branch official or a covered executive branch official.

SEC. 15. ESTIMATES BASED ON TAX REPORTING SYSTEM.

(a) Entities Covered by Section 6033(b) of the Internal Revenue Code of 1986.—A registrant that is required to report and does report lobbying expenditures pursuant to section 6033(b)(8) of the Internal Revenue Code of 1986 may—

(1) make a good faith estimate (by category of dollar value) of applicable amounts that would be required to be disclosed under such section for the appropriate semiannual period to meet the requirements of sections 4(a)(3), 5(a)(2), and 5(b)(4); and

(2) in lieu of using the definition of "lobbying activities" in section 3(8) of this Act, consider as lobbying activities only those activities that are influencing legislation as defined in section 4911(d) of the Internal Revenue Code of 1986.

(b) Entities Covered by Section 162(e) of the Internal Revenue Code of 1986.—A registrant that is subject to section 162(e) of the Internal Revenue Code of 1986 may—

(1) make a good faith estimate (by category of dollar value) of applicable amounts that would not be deductible pursuant to

such section for the appropriate semiannual period to meet the requirements of sections 4(a)(3), 5(a)(2), and 5(b)(4); and

(2) in lieu of using the definition of "lobbying activities" in section 3(8) of this Act, consider as lobbying activities only those activities, the costs of which are not deductible pursuant to section 162(e) of the Internal Revenue Code of 1986.

(c) DISCLOSURE OF ESTIMATE.—Any registrant that elects to make estimates required by this Act under the procedures authorized by subsection (a) or (b) for reporting or threshold purposes shall—

(1) inform the Secretary of the Senate and the Clerk of the House of Representatives that the registrant has elected to make its estimates under such procedures; and

(2) make all such estimates, in a given calendar year, under such procedures.

(d) STUDY.—Not later than March 31, 1997, the Comptroller General of the United States shall review reporting by registrants under subsections (a) and (b) and report to the Congress—

(1) the differences between the definition of "lobbying activities" in section 3(8) and the definitions of "lobbying expenditures", "influencing legislation", and related terms in sections 162(e) and 4911 of the Internal Revenue Code of 1986, as each are implemented by regulations;

(2) the impact that any such differences may have on filing and reporting under this Act pursuant to this subsection; and

(3) any changes to this Act or to the appropriate sections of the Internal Revenue Code of 1986 that the Comptroller General may recommend to harmonize the definitions.

SEC. 16. REPEAL OF THE RAMSPECK ACT.

(a) REPEAL.—Subsection (c) of section 3304 of title 5, United States Code, is repealed.

(b) REDESIGNATION.—Subsection (d) of section 3304 of title 5, United States Code, is redesignated as subsection (c).

(c) EFFECTIVE DATE.—The repeal and amendment made by this section shall take effect 2 years after the date of the enactment of this Act.

SEC. 17. EXCEPTED SERVICE AND OTHER EXPERIENCE CONSIDERATIONS FOR COMPETITIVE SERVICE APPOINTMENTS.

(a) IN GENERAL.—Section 3304 of title 5, United States Code (as amended by section 2 of this Act) is further amended by adding at the end thereof the following new subsection:

"(d) The Office of Personnel Management shall promulgate regulations on the manner and extent that experience of an individual in a position other than the competitive service, such as the excepted service (as defined under section 2103) in the legislative or judicial branch, or in any private or nonprofit enterprise, may be considered in making appointments to a position in the competitive service (as defined under section 2102). In promulgating such regulations OPM shall not grant any preference based on the fact of service in the legislative or judicial branch. The regulations shall be consistent with the principles of equitable competition and merit based appointments.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 2 years after the date of the enactment of this Act, except the Office of Personnel Management shall—

(1) conduct a study on excepted service considerations for competitive service appointments relating to such amendment; and

(2) take all necessary actions for the regulations described under such amendment to take effect as final regulations on the effective date of this section.

SEC. 18. EXEMPT ORGANIZATIONS.

An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of Federal funds constituting an award, grant, contract, loan, or any other form.

SEC. 19. AMENDMENT TO THE FOREIGN AGENTS REGISTRATION ACT (PUBLIC LAW 75-583).

Strike section 11 of the Foreign Agents Registration Act of 1938, as amended, and insert in lieu thereof the following:

"SECTION 11. REPORTS TO THE CONGRESS.—The Attorney General shall every six months report to the Congress concerning administration of this Act, including registrations filed pursuant to the Act, and the nature, sources and content of political propaganda disseminated and distributed.".

SEC. 20. DISCLOSURE OF THE VALUE OF ASSETS UNDER THE ETHICS IN GOVERNMENT ACT OF 1978.

(a) INCOME.—Section 102(a)(1)(B) of the Ethics in Government Act of 1978 is amended—

(1) in clause (vii) by striking "or"; and

(2) by striking clause (viii) and inserting the following:

"(viii) greater than $1,000,000 but not more than $5,000,000, or

"(ix) greater than $5,000,000.".

(b) ASSETS AND LIABILITIES.—Section 102(d)(1) of the Ethics in Government Act of 1978 is amended—

(1) in subparagraph (F) by striking "and"; and

(2) by striking subparagraph (G) and inserting the following:

"(G) greater than $1,000,000 but not more than $5,000,000;

"(H) greater than $5,000,000 but not more than $25,000,000;

"(I) greater than $25,000,000 but not more than $50,000,000; and

"(J) greater than $50,000,000.".

(c) EXCEPTION.—Section 102(e)(1) of the Ethics in Government Act of 1978 is amended by adding after subparagraph (E) the following:

"(F) For purposes of this section, categories with amounts or values greater than $1,000,000 set forth in sections 102(a)(1)(B) and 102(d)(1) shall apply to the income, assets, or liabilities of spouses and dependent children only if the income, assets, or liabilities are held jointly with the reporting individual. All other income, assets, or liabilities of the spouse or dependent children required to be reported under this section in an amount or value greater than $1,000,000 shall be categorized only as an amount or value greater than $1,000,000.".

SEC. 21. BAN ON TRADE REPRESENTATIVE REPRESENTING OR ADVISING FOREIGN ENTITIES.

(a) REPRESENTING AFTER SERVICE.—Section 207(f)(2) of title 18, United States Code, is amended by—

(1) inserting "or Deputy United States Trade Representative" after "is the United States Trade Representative"; and

(2) striking "within 3 years" and inserting "at any time".

(b) LIMITATION ON APPOINTMENT AS UNITED STATES TRADE REPRESENTATIVE AND DEPUTY UNITED STATES TRADE REPRESENTATIVE.—Section 141(b) of the Trade Act of 1974 (19 U.S.C. 2171(b)) is amended by adding at the end the following new paragraph:

"(3) LIMITATION ON APPOINTMENTS.—A person who has directly represented, aided, or advised a foreign entity (as defined by section 207(f)(3) of title 18, United States Code) in any trade negotiation, or trade dispute, with the United States may not be appointed as United States Trade Representative or as a Deputy United States Trade Representative.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to an individual appointed as United States Trade Representative or as a Deputy United States Trade Representative on or after the date of enactment of this Act.

SEC. 22. FINANCIAL DISCLOSURE OF INTEREST IN QUALIFIED BLIND TRUST.

(a) IN GENERAL.—Section 102(a) of the Ethics in Government Act of 1978 is amended by adding at the end thereof the following:

"(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust, unless the trust instrument was executed prior to July 24, 1995 and precludes the beneficiary from receiving information on the total cash value of any interest in the qualified blind trust.".

(b) CONFORMING AMENDMENT.—Section 102(d)(1) of the Ethics in Government Act of 1978 is amended by striking "and (5)" and inserting "(5), and (8)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply with respect to reports filed under title I of the Ethics in Government Act of 1978 for calendar year 1996 and thereafter.

SEC. 23. SENSE OF THE SENATE THAT LOBBYING EXPENSES SHOULD REMAIN NONDEDUCTIBLE.

(a) FINDINGS.—The Senate finds that ordinary Americans generally are not allowed to deduct the costs of communicating with their elected representatives.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that lobbying expenses should not be tax deductible.

SEC. 24. EFFECTIVE DATES.

(a) Except as otherwise provided in this section, this Act and the amendments made by this Act shall take effect on January 1, 1996.

(b) The repeals and amendments made under sections 13, 14, 15, and 16 shall take effect as provided under subsection (a), except that such repeals and amendments—

(1) shall not affect any proceeding or suit commenced before the effective date under subsection (a), and in all such proceedings or suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted; and

(2) shall not affect the requirements of Federal agencies to compile, publish, and retain information filed or received before the effective date of such repeals and amendments.

The CHAIRMAN. Pursuant to the order of the House of today, the Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by the resolution.

The Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

Further, debate on each amendment to the bill and any amendments thereto will be limited to 30 minutes, to be equally divided and controlled by the proponent of the amendment and an opponent.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. FOX OF PENNSYLVANIA

Mr. FOX of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FOX Pennsylvania: Page 23, insert after line 2 the following:

(d) PROHIBITION ON GIFTS.—

(1) IN GENERAL.—No lobbyist who is registered under section 4 may provide any gift to a Member of the House of Representatives, a Senator, or an officer or employee of the House of Representatives or the Senate unless the lobbyist is related to the Member, Senator, or officer or employee.

(2) DEFINITION.—For the purpose of paragraph (1), the term "gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(3) EXCEPTION.—The restriction in paragraph (1) shall not apply to the following:

(A) Anything for which the Member, Senator, officer, or employee pays the market value, or does not use and promptly returns to the donor.

(B) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, a contribution for election to a State or local government office limited as prescribed by section 301(8)(B) of such Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(C) A gift from a relative as described in section 109(5) of title I of the Ethics in Government Act of 1978 (Public Law 95–521).

(D)(i) Anything provided by an individual on the basis of a personal friendship unless the Member, Senator, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, Senator, officer, or employee and not because of the personal friendship.

(ii) In determining whether a gift is provided on the basis of personal friendship, the Member, Senator, officer, or employee shall consider the circumstances under which the gift was offered, such as:

(I) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between such individuals.

(II) Whether to the actual knowledge of the Member, Senator, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

(III) Whether to the actual knowledge of the Member, Senator, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.

(E) A contribution or other payment to a legal expense fund established for the benefit of a Member, Senator, officer, or employee that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct.

(F) Any gift from another Member, Senator, officer, or employee of the Senate or the House of Representatives.

(G) Food, refreshments, lodging, and other benefits—

(i) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, Senator, officer, or employee as an officeholder) of the Member, Senator, officer, or employee, or the spouse of the Member, Senator, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, Senator, officer, or employee and are customarily provided to others in similar circumstances;

(ii) customarily provided by a prospective employer in connection with bona fide employment discussions; or

(iii) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

(H) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(I) Informational materials that are sent to the office of the Member, Senator, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

(J) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

(K) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

(L) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

(M) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, Senator, officer, or employee, if such training is in the interest of the Senate or House of Representatives.

(N) Bequests, inheritances, and other transfers at death.

(O) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

(P) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

(Q) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act) of an individual other than a registered lobbyist or agent of a foreign principal.

(R) Free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event provided by the sponsor of the event.

(S) Opportunities and benefits which are—

(i) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

(ii) offered to members of a group or class in which membership is unrelated to congressional employment;

(iii) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

(iv) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

(v) in the form of loans from banks and other financial institutions on terms generally available to the public; or

(vi) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(T) A plaque, trophy, or other item that is substantially commemorative in nature and which is intended solely for presentation.

(U) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

Mr. FOX of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. FRANK of Massachusetts. Mr. Chairman, I reserve a point of order on the amendment. We have not had a chance to see it yet.

The CHAIRMAN. The point of order is preserved.

Pursuant to the order of the House of today, the gentleman from Pennsylvania [Mr. FOX] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. CANADY of Florida. Mr. Chairman, I rise in opposition to the amendment and claim the 15 minutes in opposition.

Mr. Chairman, I yield 7½ minutes of that time to the gentleman from Massachusetts [Mr. FRANK] and ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. FOX] will be recognized for 15 minutes, the gentleman from Florida [Mr. CANADY] will be recognized for 7½ minutes, and the gentleman from Massachusetts [Mr. FRANK] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I first want to say at the outset that H.R. 2564 is a bill whose time has arrived. It would provide for the disclosure of lobbying activities to influence the Federal Government and for ,other purposes, and I think that Members in the Chamber realize that each of those who are here tonight as committee chairs, the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Florida [Mr. CANADY] have done a great deal of work in bringing this legislation forward, and they have my gratitude and that of the other Members, my colleagues, for what they have done to this date.

Mr. Chairman, this legislation is excellent. I have an amendment which I believe is consistent with the bill, and I would say at this time that we have a duty to our constituents to restore accountability to the relationship between lobbyists and Members of Congress. We must work to obtain a higher standard in order to regain the trust of the American people who are sick and tired of business as usual.

My amendment helps to sustain our mission of enacting true lobby reform. The amendment would prohibit registered lobbyists from giving gifts to Members, officers, and employees of Congress. Exemptions apply, including gifts from friends or relatives. Quite simply, the amendment complements House Resolution 250, which was adopted this afternoon, by placing the responsibility on the lobbyist, Mr. Chairman, as opposed to solely on the recipient.

On the floor today we have heard from many Members expressing their frustration with the expansion of gift rules by which they must ethically abide, but without any accountability by the lobbyists. This is quite a disparity, if we are to enact true accountability to the relationships between lobbyists and Members of Congress.

Mr. Chairman, I know that my colleagues are concerned about any amendments that come before this House with regard to this important bill. However, I believe that this amendment is a strengthening provision and not a weakening one. While I endorse all of the provisions in this legislation, I firmly believe that my amendment will made a good bill even better, and we can finally attain the lobby reform we want in this country that will restore the people's trust and confidence in this House, and I believe this amendment will go a long way in maintaining the trust people want to have in their Congress.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would inquire of the gentleman from Massachusetts [Mr. FRANK] whether he will insist on his point of order.

Mr. FRANK of Massachusetts. Mr. Chairman, I will not insist now, I will withdraw it, but I would encourage any Members who do have any amendments to get them to us. I know the gentleman meant no discourtesy, it moved more rapidly than he had anticipated and it was not his fault, but now that we are in the amendment process, any Members who have amendments, if they could get them to us so we could review them for parliamentary purposes, that would expedite things.

Mr. Chairman, I withdraw my reservation of the point of order.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the gentleman's amendment, although I certainly commend the gentleman for his interests in the receipt of gifts by Members of Congress. That is an issue, of course, that has consumed the considerations of the House today as we have moved forward with the passage of a change in the House rules which will essentially prohibit Members from receiving gifts.

In light of that action by the House today, I find that this amendment is a little unusual. I do not know that there is a need for this amendment in light of the action of the House, that the House took earlier this very day.

Let me further say, Mr. chairman, that my primary reason for opposing this amendment, in addition to the fact that it is unnecessary and duplicative of the restrictions that we imposed on ourselves by our own actions earlier today, this amendment, like all the other amendments which are going to be offered, may be offered with the very best of intentions, but if a single one of these amendments is adopted that poses a great threat to this bill. It poses a threat to derail this reform effort.

We have recounted the history of 40 years of inaction and stalemate and gridlock on this subject of lobbying disclosure reform. Now is the time to move beyond the gridlock.

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So, I would urge the Members of the House to vote against the amendment. I would encourage the gentleman to withdraw his amendment, in light of the action taken earlier today by the House on this subject. But, I commend the gentleman for his interest in the issue, and would simply ask that the Members look at this in the proper context.

Mr. Chairman, I know the gentleman is interested in reform, but this amendment, which is advanced in the name of reform, will actually have the potential to derail this major reform effort, so I would oppose the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FOX of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to respond briefly to the point raised with regard to the prior legislation, which was a rule adopted this afternoon under the Gingrich-Solomon amendment.

Mr. Chairman, frankly, while that placed a duty on the Members not to accept gifts from lobbyists, this legislation takes it one step further to protect the Member by saying the lobbyists cannot give us gifts, and rather than have a Member who is trying to comply with the law be entrapped, here under this legislation we would not have lobbyists giving gifts to Members. Mr. Chairman, in the spirit of what is right and fair about Congress, this should not be necessary.

Mr. Chairman, I appreciate the opportunity to clarify.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I appreciate the gentleman's intentions, but I would join with the gentleman from Florida [Mr. CANADY] in opposing this on two grounds. First, it will interfere with the likelihood of this bill becoming law if we send this back to the Senate and we have differences between our gift ban and the Senate ban.

In fact, one of the things we talked about was whether or not Members could receive products from their home State. Now, with the objection of the gentleman from Iowa before, products from the State were ruled out under the gift ban, but they are an exception here. So, we have somewhat of a mismatch between them.

Beyond that, I would say to the gentleman from Pennsylvania, I do not think it is an appropriate thing for us to say, namely, that having passed the rule that said we could not accept these things, we somehow need further protection against the temptation of having them offer them to us.

To say that the Members need further protection because it would be against the rule for the Member to accept it and we therefore, want to make sure the lobbyist does not offer it, I think does the Members a disservice. And as far as the unwary Member, I think the notion of a Member sauntering aimlessly through the halls and being ambushed by a gift-bearing lobbyist and before the Member has time to reject the gift, the Committee on Standards of Official Conduct "police" come and the Member is hauled off to the basement of the Capitol to be made to give up the T-shirt that was now illegal for him to receive, because we are not letting Members have T-shirts. I just think that the notion that we, having adopted a stiff rule that says Members cannot accept gifts, that we need to protect Members against the temptation of people offering them gifts is unwise.

But over and above that, Mr. Chairman, I would hope the gentleman would agree with us then even if he believes that this has merit, and it has some merit, it is not worth the jeopardy we would encounter in the other body if we were to change this. I would just say to the gentleman from Pennsylvania, I have heard us get all tangled up in T-shirts. I can just imagine what the Members of the other body would do.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just make the point that this amendment has been explained as an amendment to protect Members of Congress. I do not think we need protection. I think we can ensure that we follow the Rules of the House. We do not need to impose penalties on people outside the House to ensure that we do not violate our own rules.

It would be quite a shame to pass an amendment to protect Members of the House and, in the process, derail this important reform effort. I think our focus needs to be on protecting the American people and ensuring that the American people have access to the information they are entitled to have about lobbying activities here in Washington. That is what this bill does.

This amendment, although it is very well intended and I respect the gentleman's motives, I know that he is entirely supportive of the legislation and he has no intent to cause harm to it. I believe despite the gentleman's pure intentions, the consequence of adopting this amendment can be very harmful to our effort.

Mr. Chairman, if it is adopted, it will prevent this House from taking up the Senate bill, passing it, and sending it directly to the President. That is the direct result of the adoption of this or any other amendment. I urge that the Members of the House defeat this and all other amendments.

Mr. Chairman, I reserve the balance of my time.

Mr. FOX of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. ENGLISH].

Mr. ENGLISH of Pennsylvania. Mr. Chairman, it is a violation of the law to offer a policeman a bribe, much as it is a violation of the law for the policeman to accept the bribe. I think it is somehow fundamental here that we should sanction this behavior on both ends.

Similarly, if we are serious about a gift ban, I think we should also impose a sanction on the deliberate and intentional giving of a gift that is illegal.

Mr. Chairman, I think that the Fox amendment is a distinct improvement on this underlying bill, which I am a strong supporter of and intend to offer an amendment to as well.

Let me just suggest to the gentlemen who have been making a very eloquent argument here that this bill should be kept pristine, that there should be no role of the House in improving this legislation, may I suggest that we are considering a reform bill here, but not the Pentateuch. There is nothing sacred about the underlying bill.

Mr. Chairman, I think it is incumbent upon us in the House of Representatives to pass the best reform bill that we possibly can. If we have to take that to conference, then we should have the discipline to insist that our conferees come forward with a product that we can approve and send to the White House. I do not think we should skip a step merely out of convenience.

Mr. FOX of Pennsylvania. Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I did want to say that the gentleman said we were arguing this bill was pristine. I did not argue that it was pristine. Indeed, the gentleman from Florida and I think it could benefit from some further amendment.

Mr. Chairman, what we believe is that at this point, we jeopardize the chance to get anything if we amend it. We, therefore, are proposing not that this never be changed, but that we do it in a two-step process; that we get a bill signed into law, and that we immediately begin to take up a second round.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, may I inquire of the Chair regarding the amount of time remaining.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. FOX] has 10 minutes remaining, the gentleman from Florida [Mr. CANADY] has 4 minutes remaining, and the gentleman from Massachusetts [Mr. FRANK] has 4½ minutes remaining.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield my time to the gentleman from Florida [Mr. CANADY].

The CHAIRMAN. The gentleman from Massachusetts yields the time back to the gentleman from Florida.

The gentleman from Florida now has 8½ minutes.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, it is intoxicating to be in an environment where we are working on a bipartisan basis. I did not think so soon I would actually stand up and oppose one of my best friends in Congress, and someone who I have such high respect for, but I oppose the amendment of the gentleman from Pennsylvania [Mr. FOX] primarily based on the fact that he puts in tremendous jeopardy an effort that began in the Senate, came to the Committee on the Judiciary, was passed by the subcommittee and the full committee without amendment, to finally get us to reform the Lobbying Disclosure Act.

Mr. Chairman, if I recall, the gentleman from Pennsylvania was born in 1947. In 1946, before the gentleman was born, was the last time we amended the Lobbying Disclosure Act, and it was gutted in 1954 by the Supreme Court.

Mr. Chairman, we need to get a strong lobby disclosure bill. This amendment, in my judgment, however strongly the gentleman from Pennsylvania and others feel about it, does not merit placing in jeopardy such an important bill that we could send to the Senate if it is not amended.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I just want to say to the gentleman from Connecticut, because he is a good friend, I appreciate his spirit of friendship to other Members. I would point out to the gentleman that under the gift rule, Members are allowed to give other Members presents, so the gentleman from Connecticut can give a birthday present to the gentleman from Pennsylvania, now that he remembers his birthday, and it does not have to be a product of the gentleman's own State.

Mr. SHAYS. Mr. Chairman, reclaiming my time, but I do not want to give him this present.

Mr. FOX of Pennsylvania. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Chairman, first I want to commend my friends and colleagues, the gentleman from Florida [Mr. CANADY] and the gentleman from Massachusetts [Mr. FRANK] and all the Members that have invested so much time in this lobbying reform bill, which is so important to our effort to change how Washington works.

Mr. Chairman, like the gentleman from Pennsylvania [Mr. FOX] who is initiating the amendment that we are considering, this freshman class was elected to change how Washington works and brings a lot of new ideas to the Congress. I think that is what is really important about why I stand in support of the amendment of the gentleman from Pennsylvania.

This amendment prohibits lobbyists from offering gifts to Members of Congress. Think about this. We adopted pretty much a comprehensive gift ban. Nothing. No gifts that Members of Congress can accept, with a few exceptions such as birthdays from personal friends and families. A very limited number of exceptions.

But, Mr. Chairman, I ask my colleagues to think about this. There may be lobbyists out there who may want to take advantage of that rule that we have imposed to set a Member up and somehow offer a gift to a Member of

Congress, so they can turn around and initiate an ethics violation against that Member of Congress for campaign purposes.

What this amendment does, this amendment essentially puts the onus, the burden, on the lobbyist and prohibits them from offering the gift in the first place. There are 435 Members of this body. I recognize that the only Members of this body that had input into this bill so far are members of the Committee on the Judiciary. That does not total 435 Members, and I think it is very important that the sponsors of all the amendments being offered have the full opportunity to offer them and of course the House, the 435 Members of the House have the opportunity to vote on them.

When the vote comes up for the amendment offered by the gentleman from Pennsylvania, I plan to vote "aye" because I believe this is a good idea to prohibit a lobbyist from offering a gift to a Member of Congress. Let us not allow a Member to be put in a bad situation. We made a decision not to accept gifts today. Let us make sure the lobbyists do not offer them.

Mr. CANADY of Florida. Mr. Chairman, I reserve the balance of my time.

Mr. FOX of Pennsylvania. Mr. Chairman, I first of all, I appreciate those Members who spoke in support of the amendment. I do appreciate those who have written the bill and the long history it took to bring this legislation to fruition. As my colleagues know, I strongly support the legislation, as was noted by the author, the gentleman from Florida [Mr. CANADY].

Mr. Chairman, this legislation is excellent. The amendment we think makes it stronger. In fact, I feel certain it does make it stronger. It places an affirmative duty on the lobbyist not to give the gift.

As it was described by the gentleman from Pennsylvania [Mr. ENGLISH] and the gentleman from Illinois [Mr. WELLER], others could thwart that process by in fact leaving gifts at Members' offices and reporting it later for political gain. Mr. Chairman, we know that appearance is reality in politics, and this would keep service with integrity at the forefront.

Mr. Chairman, no one who is offering amendments, I believe, especially mine is not being offered, to thwart the effort. The fact that there has not been amendments to the bill since 1946 is regrettable, but the 104th Congress did not start until January 4 this year, and I am pleased to see that there is a bipartisan effort to move this legislation forward.

The people of the United States have a zero tolerance when it comes to the gifts. My colleagues can see how quickly we passed House Resolution 250 today, because no one believes that those who come to Congress should privately benefit from that experience in the way of gifts or trips or entertainment. No one runs for this office to receive the gifts. No one runs for reelection for that purpose as well.

Mr. Chairman, this is the people's House and the public wants to keep the confidence in our House. By not having gifts, we do not have to worry about the recordkeeping that we will forget because we are too busy trying to get legislation adopted, answering constituent problems, or doing casework, work which is most important.

□ 2145

This is a concept that is long overdue. I believe it is as important as the bill itself to having lobbying disclosure. It is a bipartisan bill. I believe that to maintain the integrity of the office, to make sure it is consistent with H. Res. 250, I believe the amendment is consistent with the bill. It complements the bill. It is given in good faith. I think both the Republican and Democratic floor leaders know of the fact that I come here with the idea of comity, cooperation and to make sure that we are only doing the best for America, for this House and for the ethics that we want to see pursued and upheld. It is in that spirit that the amendment was offered and is being supported by a few of my colleagues and hopefully a great number more tomorrow.

I hope that the makers understand that we all want to see the legislation itself, H.R. 2564, passed and adopted so that we have for the first time the modern improvement and disclosure of lobbying activities in the United States as well as making sure that lobbyists do not offer gifts to Congressmen because that is also not in the spirit of what this Congress is all about.

Mr. Chairman, I yield back the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume. I want to again express my admiration to the gentleman from Pennsylvania. He is a valuable Member of the House. I respect his motivation in bringing forward this amendment.

But I have to consider the history of the way the issue of lobbying disclosure reform has been dealt with. The gentleman from Pennsylvania, who spoke earlier, indicated that the House and the Senate should have an opportunity to work on this issue. I believe.

The fact of the matter is that the House and the Senate have been working on this issue for 40 years, but nothing has happened to pass a law. I do not want us to continue to work on it during this Congress and see the same result that we have seen over the last 40 years. We have seen this history of failure after failure. It is simply time that we break the gridlock. It is time for this Congress on a bipartisan basis to recognize that we have to get the job done, that we may not have a perfect bill, but that we have a bill that moves us forward in a significant way.

If the House adopts amendments, what will happen? I do not have a crystal ball to tell Members for certain how things will flow from that, but I can look at the history of the way this issue has been dealt with. And that history leads me to believe that there is a very great chance that this bill would go back to the Senate and that would be the last we would hear of it.

In this Congress that would be such a shame. We have an historic opportunity to take up this bill, which has come true through the Senate and is identical to the bill that has emerged from the Committee on the Judiciary. We can take up that Senate bill and pass it and put it on the President's desk for him to sign. I believe that the President would sign it. I believe that we can make this reform happen and I believe that is what we should do.

This amendment will interfere with that. I would urge the Members of the House to defeat the amendment offered by my good friend from the State of Pennsylvania.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. FOX].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. FOX of Pennsylvania. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from Pennsylvania [Mr. FOX] will be postponed.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. CLINGER

Mr. CLINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLINGER: Beginning on page 25, redesignate sections 8 through 24 as sections 9 through 25, respectively, strike "this Act" each place it occurs and insert "this Act (other than section 8)", and insert after line 2 the following:

SEC 8. PROHIBITION ON USE OF APPROPRIATIONS FOR LOBBYING.

(a) IN GENERAL.—Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 1354. Prohibition on lobbying by Federal agencies

"(a) PROHIBITION.—Except as provided in subsection (b), until or unless such activity has been specifically authorized by an Act of Congress and notwithstanding any other provision of law, no funds made available to any Federal agency, by appropriation, shall be used by such agency for any activity (including the preparation, publication, distribution, or use of any kit, pamphlet, booklet, public presentation, news release, radio, television, or film presentation, video, or other written or oral statement) that is intended to promote public support or opposition to any legislative proposal (including the confirmation of the nomination of a public official or the ratification of a treaty) on which congressional action is not complete.

"(b) CONSTRUCTION.—

(1) COMMUNICATIONS.—Subsection (a) shall not be construed to prevent officers or employees of Federal agencies from communicating directly to Members of Congress, through the proper official channels, their requests for legislation or appropriations that they deem necessary for the efficient conduct of the public business or from responding to requests for information made by Members of Congress.

"(2) OFFICIALS.—Subsection (a) shall not be construed to prevent the President, Vice President, any Federal agency official whose appointment is confirmed by the Senate, any official in the Executive Office of the President directly appointed by the President or Vice President, or the head of any Federal agency described in paragraph (2) or (3) of subsection (d), from communicating with the American public, through radio, television, or other public communication media, on the views of the President for or against any pending legislative proposal. The preceding sentence shall not permit any such official to delegate to another person the authority to make communications subject to the exemption provided by such sentence.

"(c) COMPTROLLER GENERAL.—

"(1) ASSISTANCE OF INSPECTOR GENERAL.—In exercising the authority provided in section 712, as applied to this section, the Comptroller General may obtain, without reimbursement from the Comptroller General, the assistance of the Inspector General within whose Federal agency activity prohibited by subsection (a) of this section is under review.

"(2) EVALUATION.—One year after the date of the enactment of this section, the Comptroller General shall report to the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate on the implementation of this section.

"(3) ANNUAL REPORT.—The Comptroller General shall, in the annual report under section 719(a), include summaries of investigations undertaken by the Comptroller General with respect to subsection (a).

"(d) DEFINITION.—For purpose of this section, the term 'Federal agency' means—

"(1) any executive agency, within the meaning of section 105 of title 5; and

"(2) any private corporation created by a law of the United States for which the Congress appropriates funds.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1353 the following new item:

"1354. Prohibition on lobbying by Federal agencies.".

(c) APPLICABILITY.—The amendments made by this section shall apply to the use of funds after the date of the enactment of this Act, including funds appropriated or received on or before such date.

Mr. CLINGER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Pennsylvania [Mr. CLINGER] and a Member opposed will each be recognized for 15 minutes.

Mr. CANADY of Florida. Mr. Chairman, I rise in opposition to the amendment and claim the 15 minutes in opposition. I yield 7½ minutes of that time to the gentleman from Massachusetts [Mr. FRANK] and ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes, the gentleman from Florida [Mr. CANADY] will be recognized for 7½ minutes, and the gentleman from Massachusetts [Mr. FRANK] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, at the outset let me say that I want to commend the gentleman from Florida [Mr. CANADY] and the gentleman from Massachusetts [Mr. FRANK] for this legislation. And I know the long hours, months, years almost that has gone into bringing this measure before us tonight.

I am also sensitive to the concerns that they have raised this evening about wanting to keep a clean bill. I can understand their concern that we might again jeopardize the hope of getting true lobby reform legislation. But I would remind the Members of this body that this is an open rule. The Committee on Rules did provide us with an open rule. The amendment which I am bringing forward, I think, fits very admirably into the legislation that is being considered. It is an improving measure. It will definitely strengthen the bill, I think. And I think it also, I would suggest that it would be remiss of us to be intimidated by what the other body may or may not do. I think we need to do our work, do our business here, and trust that the other body will be reasonable in this regard.

I would tell Members at the outset that we have had strong indications from Members of the other body that they would be supportive of the inclusion in this measure.

What we are addressing, Mr. Chairman, in this legislation is a matter of some concern and one that I think is shared by most of the Members of this body. That is, what the executive branch does with taxpayer dollars in the way of lobbying.

Frankly, I got this idea for this amendment because we were receiving many, many concerns from many Members where they had heard from their constituents that they had been exposed to various efforts by one or another executive branch agency to apply grass roots lobbying. Initially it was just a trickle and then it was a flood.

We have had many, many examples of this. As they say, the proof is in the pudding, and we have compiled a top 10 reasons to support the Clinger amendment. And there are examples that include an employee check stub from the Department of Veterans Affairs opposing the House budget plan. Secretary Ron Brown had an invitation to attend a briefing to oppose the Mica commerce legislation.

There was a letter that we received from the National Spa and Pool Institute complaining about receiving lobbying materials from an agency that regulates that industry, namely the EPA. And Members might ask, as certainly I did, is there not a law on the books that would preclude an executive branch agency from lobbying through grass roots organizations to try and bring pressure to bear on the Congress. There is. The law is on the books. It is the Anti-Lobbying Act, passed in 1919. It is a criminal statute. The law itself is very unclear and has been the subject of numerous opinions, often conflicting, on what it means and how broadly it reaches.

During the last 75 years, Mr. Chairman, no one, not one individual, has been prosecuted under this law. Frankly, having the Department of Justice as the enforcing agency is a little bit like having the fox guarding the chicken coop.

The amendment that I am offering is modeled after a provision that has been included, civil provision that has been included in the Interior appropriations bill since 1978. So this is not a partisan issue. This has been applied to Republican administrations since it was put into the Interior appropriations bill in 1978. The amendment covers only Federal agencies and provides that no funds would be used for any activity that is intended to promote public support or opposition to any legislative proposal, including preparation of pamphlets, kits, booklets, et cetera. However Federal officials can continue to communicate directly with Members of Congress and provide information and respond to requests from Members.

In addition, the President, the Vice President, Senate confirmed appointees and other White House officials would be able to continue to communicate positions to the public. This is a reasonable and not an unduly restrictive amendment. The comptroller general would enforce the provisions if the funds have been expended in violation. And in addition, the GAO must report on the implementation of the legislation one year after enactment.

This is good government reform, Mr. Chairman. If we apply lobbying reform to Congress, we should also apply it to the executive branch.

For those who are thinking perhaps this is a partisan effort, and there may be those on the other side who would suggest that there was partisan animus here, I would like to point out that it really is not. Once enacted into law, such a provision would remain through all future administrations, and there were certainly examples we could point to during past years. The Reagan defense department organized defense contractors and spent money on a grass roots campaign to build support for the C-5B. That was wrong. It should not have been allowed to go forward, just as some of the activity that is going on in this administration should not be allowed to go forward.

So, as I said, Mr. Chairman, we do have strong indication the Senate would be willing to accept this. I would stress the fact again, we really should not allow ourselves to be intimidated and allow our business to be thwarted by what the other body may or may not do. I urge support of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to express my admiration for the gentleman from Pennsylvania.

I have looked at this amendment. I think that this amendment does address a real problem that exists. Based on my review of it, I believe it is an idea that I would support. However, I do not believe that this bill should be subjected to this amendment. I think this is the wrong place to bring this up.

This is an issue that is within the jurisdiction of the committee that the gentleman from Pennsylvania chairs. I know that this is an issue on which he has devoted or to which he has devoted a considerable amount of time. I believe that it is an issue which could move forward.

I fully accept that the gentleman here is acting because he believes that this is a problem that needs to be addressed and intends no harm to this bill. But my fear, again, is that, if we look at the history of the way this issue of lobbying disclosure reform has proceeded, we see that there have been many slips along the way that have prevented the ultimate success of various efforts.

Now, I think we can repeat history in this Congress, and I do not know that there is any way that we can be assured that the Senate would accept this language or any other language. That is something that the Senate decides. But what I am concerned about is the very real fact that we have to recognize that there are people who do not want this legislation to pass, people who do not want lobbying disclosure.

I do not believe that the gentleman from Pennsylvania is opposed to this. I believe that he supports the underlying bill. I have every confidence of that. But there are people who wish to see this bill derailed. I have seen evidence of that in a number of different ways. I think we have to be cognizant of that, and we have to be aware that this opportunity can slip away from us.

It is here. We have it. We have a good bill. It is a bill that has wide support. It has support from many of the people who are going to be subjected to the very requirements that are imposed by the bill. It is recognized as a reasonable, responsible approach, and it is something that we can go to the American people with and we can tell them that we are acting to protect their rights. We are acting to ensure that they have the knowledge that they are entitled to have.

I want to make sure that we do that in short order. I wanted to make certain that no amendments are adopted that will prevent us from moving forward to that goal.

Again, I respect the gentleman who is offering the amendment. I appreciate his interest in this issue. Quite frankly, when I spoke of different categories of amendments that would be considered, I said that there were some with merit, some that had less merit, and some that were simply bad ideas. I think that this is one of the amendments that is meritorious because I do believe there are problems. I do not think this is a partisan issue because, as the gentleman said, this would affect the current administration and future administrations. But there is a way to accomplish this goal.

I do not believe the way to accomplish this goal is by threatening the lobbying disclosure bill. This is really a somewhat different issue. It is within the jurisdiction of a different committee. I believe that the gentleman from Pennsylvania [Mr. CLINGER] could move forward with his idea as a separate bill. I believe that the Congress would adopt it.

This is not the time to bring it up. This is not the vehicle. I would urge the Members of the House to reject this amendment so that we can get on with the process of breaking the gridlock that has existed for the last 40 years on lobbying disclosure reform.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

I agree with the thrust of the gentleman from Florida's comments. I would add a couple. Let us stress this is not within the Committee on the Judiciary's jurisdiction, and it is not about the regulation of private lobbyists.

□ 2200

We have a bill brought out by the Committee on the Judiciary that deals with private lobbyists. This has in common the word "lobbying" but it is a different set of issues. This is a potential abuse of public funds by the executive branch. That presents a very different set of issues than the question of disclosure and influence from various private interests, and putting the two together really does not have a great deal of legislative justification except there is a train leaving the station, and people who have a good idea would like to jump to it. That would not necessarily be a problem except that it can jeopardize passage.

The gentleman from Pennsylvania fairly said this is not partisan. This kind of lobbying has been done by Democratic and Republican administrations in the past, they do it in the future, but that is part of the problem because Democratic and Republican administrations will oppose this bill. This is not simply a Senate problem. This invites a veto. It invites a veto from President Clinton, it would have invited a veto from President Bush, it would have invited a veto from President Reagan.

So, I would hope the gentleman from Pennsylvania [Mr. CLINGER], using his chairmanship of the committee, would bring up a piece of legislation separately and let us deal with it, but I acknowledge what he says is true. This is not a partisan one, this is an interbranch one, but we have got a piece of legislation that addresses a real problem that we have been assured, because we have got a letter from the White House, they will sign it. The Senate has passed it. We send it to them, they will sign it.

Now the gentleman asks to add to that a matter not of partisan strife, but of interbranch strive, and to take where we have a consensus bill, to regulate and improve the regulation of private-sector lobbying and add to it a bill, which as my friend from Pennsylvania candidly said, and I agree with him, it is more of an executive branch versus a legislative rather than a partisan one, to add that is to invite a veto or to have people in the Senate who are like this, suddenly become defenders of executive branch prerogative and lobby against it.

So far that reason, because it is a different subject, and because the gentleman from Pennsylvania [Mr. CLINGER] has the ability to bring the bill out—the gentleman from Pennsylvania can bring this bill out at any time, it can come to the floor, we can debate it. I have some questions about some of the substance. It says, for instance, that press releases or oral statements can be done by the direct appointee but they cannot delegate it. As I read this, the problem the way it is drafted is, if the Secretary of State asked a non-Presidential appointee to draft a press release on an issue that was pending before the Congress, that would be a violation. I think that is overdrafted. I would like to deal with that, but let us deal with it in a separate bill brought out by the gentleman's committee, because to take this matter of executive versus legislative prerogative and add it to this other bill is probably more complicated than almost anything else. That is not to go to the merits of it, but it is clearly inviting a veto or a Senate filibuster before we get to a veto, and it will, I think, endanger the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I state at this point that the amendment is germane to the discussion this evening.

Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN], the prime cosponsor of this amendment.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. CLINGER] for yielding this time to me, and indeed I join him in cosponsorship of this amendment. It is a very worthy amendment. I, too, am delighted with the bipartisan nature of this debate tonight and would want to commend all the parties. It is about time for this.

Let me say right up front this is the right place for this amendment. This bill is the right bill for this amendment, and I support this bill as I support this amendment. Why is it the right place for this amendment? This is a bill designed to deal with inappropriate lobbying influences upon this Congress. One of the most inappropriate lobbying influences upon this Congress is a use of taxpayer funds by agencies of our own executive government to influence and indeed to use those funds to hopefully affect the outcome of legislation before this body. The evidences of it are numerous. The outrageous evidences of it have come to the floor only just recently before this body. Examples of it are like the one I would cite where SBA actually sent materials out to small businesses across America to urge them to support, support the Clinton health plan last year, actively lobbying businesses that they are supposed to help organize to engage themselves in a campaign for a proposition before this House and the Senate. Examples like that are numerous.

Second, the inappropriateness of this use of taxpayer funds in support of issues, in opposition to issues, before this Congress is often in collusion with private lobby groups who work before this body to influence the decisions that are made here. Here is a typical example. "Taking it too far, a slide show and panel discussion held at LSU in Baton Rouge." Sponsored by whom? Sponsored by the Coastal Energy and Environmental Resources Center, Sierra Club, Delta Chapter, U.S. Fish and Wildlife Service, and the Corps of Engineers to learn more about regulatory takings and the harmful potential effects of taking bills before the Congress, agencies of our Government using taxpayer funds to work with lobby groups organized to influence legislation before this Congress.

Mr. Chairman, no one, no one should allow that to happen under Democratic or Republican regimes. If ever there was a nonpartisan amendment that was offered in the right place at the right time, this is it. We ought to adopt this amendment. We ought to say affirmatively in the law that agencies of our Government indeed can communicate with Congress, agencies of our Government can indeed express administrative positions to the general public, but no agency ought to use taxpayer funds whether by themselves or in collusion with private lobby groups to influence the outcome of legislation before this body. That ought to be illegal. This amendment makes it illegal.

Mr. CANADY of Florida. Mr. Chairman, I yield to myself such time as I may consume.

Mr. Chairman, the gentleman from Louisiana [Mr. TAUZIN] makes some very important points. He has pointed out some examples which are very troubling. They trouble me, and I believe that the Congress should act to deal with those problems. I simply do not think that this is the right place or the right time, and I would like to follow up on the excellent point that the gentleman from Massachusetts made.

This issue represents a conflict between the legislative branch and the executive branch. It is fraught with the potential for a veto, and I do not believe that lobbying disclosure reform should be held hostage to this issue of executive branch lobbying, and I am afraid that that is what would happen. I am afraid that we would see a scenario in which this bill would be sent to the President, potentially with this in it, if everything went as we would like to have it, and we were able to get it through both houses, it would go to the President, and the President would veto it, and once again we would have failed to address the critical issue of lobbying disclosure reform that the Congress has been working on for 40 years without any product in terms of a new law being passed.

I respect the motivations of the proponents of this amendment, as I have said. I understand that they have identified a real problem, they are looking for a way to address it. But this is not the only vehicle in town. We are seeing a plethora of amendments coming forward, and I will guarantee my colleagues, given the history of this, I do not know that this is such a great vehicle to begin with, given the way this issue has not moved to final passage, so I would urge them maybe to re-evaluate whether this is indeed such a good vehicle.

The point is, if we can keep these amendments off, the House will have the opportunity to send this bill directly to the President, see it passed into law, and in the midst of all the conflict that is going on in Washington now, all the fighting that is going on and the stalemate that we see, and we all have our different views of why that is and who is to blame, but in the midst of that if we could pass this bipartisan reform effort and send it to the President for his signature, I think we would be sending a message to the American people that we can work together.

When we will listen to one another and when we will focus on the good of the American people, we can accomplish something that will benefit the people of this country, and this disclosure effort is good for democracy, it will help restore public confidence in the system of government established by our Constitution, and it will help eliminate some questions that now exist about the lobbying activities that go on in Washington.

So I would urge that we move forward with that effort, and reject this amendment and all other amendments to this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me this time, and I say that I was contemplating not opposing this amendment for two reasons: One, I like it, and second, it is being offered by the chairman of the Committee on Government Reform and Oversight, who is my chairman, and I believe the best chairman in Congress. He has made that committee such an outstanding committee. I hope he does not tell the gentleman from Ohio [Mr. KASICH] that I said that.

My big concern is that this amendment has never had a hearing, never really had the opportunity to be considered, and I would like to encourage my chairman to offer this as a bill, take it up in our committee, allow people on both sides of the aisle to come before the committee, allow the administration to defend some of the outrageous things they have been doing and some that have been done in previous administrations, because this has been an abuse.

What a golden opportunity to set on the record a document that would justify its passage, and so I hope that by the time I wake up tomorrow the chairman of my Committee on Government Reform and Oversight will realize that it really belongs in the Committee on Government Reform and Oversight. This is not the right place or the right time in my judgment to tack on so many amendments to this lobby disclosure bill when it has not passed in over 50 years or 49 years. When nothing has gotten through this Chamber in nearly 50 years, to me it is just to invite a very unfortunate situation, and that is that lobby disclosure will once again be killed.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HORN], chairman of the Subcommittee on Government Management, Information, and Technology.

Mr. HORN. Mr. Chairman, this has been a great day for reform. This is the second great day this year. The first was the first day of this Congress when we applied the workplace laws. Thanks to my colleague, the gentleman from Connecticut [Mr. SHAYS], we got rid of proxies, we cut committee staff, term limits on committee chairs.

Reform is growing in this country. A good example is California. Within 2 months, 100,000 people signed up to start a new reform party in California. People want us to get the job done. Today we had a great victory. The Speaker's proposal to ban all gifts was overwhelmingly adopted except by a handful of Members.

Now we need to finish this day tonight and tomorrow. We ought to accept reasonable amendments. The Clinger amendment is a reasonable amendment. I happen to think the Traficant amendment to deal with foreign lobbyists is a reasonable amendment. I do not think we who have equal bicameral status with the other body should simply tailor things to what we think might or might not be done in the other body. They have to feel the pressure of the people, they will feel the pressure of the people. A President that vetoes this bill because this provision is in it will feel the wrath of the people. So will the Members of the United States Senate feel that wrath.

The fact is here we have a complete misuse of taxpayer money by government officials regardless of party. It goes back for years. We need to hone this in at the source of it, and it is Cabinet officers that are using civil servants that are there to operate programs to stir up kits for them and fliers and all the rest that can be used by lobby groups to come here and tell us the glories of this program or that program.

□ 2215

Let those lobby groups pay their own way. We should not have to be using taxpayer dollars.

Thomas Jefferson had it right when he talked about religious freedom. We ought to be talking about political freedom. We said, in conclusion, "To compel a man to furnish contributions of money for propaganda and opinion which he disbelieves and abhors is sinful and tyrannical." I think Jefferson was right. I think the Clinger amendment comes at the right time. We have a whole series of cases. We do not need to hold a hearing to find that it exists. It exists.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Unfortunately, Mr. Chairman, partisanship does now appear to be rearing its head. We now see a threat to this bill. The gentleman from California was fair and talked about problems in previous administrations and an executive branch problem, but the gentleman who just spoke and the other gentleman used this as a platform to attack the Clinton administration. That is going to unravel this kind of consensus.

There was documentation only about recent problems. Yes, there have been tensions between the executive and the legislative, but the gentleman from California and the gentleman from Louisiana want to make this into a platform for attacking the current administration. No, you are not going to easily get a bill both back again through the other body and then signed by the President when it does this.

I am very surprised to hear my friend, the gentleman from California, say this does not need hearings. Every bill needs hearings and a markup to make sure you get it right. For example, this bill does, it seems to me to say that a press release can only be done if it deals with any pending legislative issue, including a nomination by the Cabinet head himself or herself. It says you cannot delegate this. Saying that you respond to an oral request for an interview, it can only be done by the Cabinet head himself or herself. No legislation does not need a hearing.

I think if this is what we are going to have, that this kind of partisan attack on one administration, no reference, except the gentleman from Pennsylvania, to the fact that this has been done previously, then you are not going to get legislation. If you care about it, you control the subcommittee and the committee, where is your bill? Why did you not bring a bill out? If this is so important, what have you been waiting for? Have your hearing, have your markup, bring a bill and let us debate it, but do not catch a ride on this train when you know it is going to derail it.

The CHAIRMAN. The gentleman from Florida [Mr. CANADY] has the right to close.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Kansas [Mr. TIAHRT].

Mr. TIAHRT. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding time to me.

Mr. Chairman, I think it is very significant to note it has been 40 years since we got to this now. I do not want to wait another 40 years before we get to the part of the problem that we have. I think this Clinger amendment addresses some of the important problems that we have now. I am sorry, I am a freshman here. I do not have a lot of experience on previous administrations. I do want to thank the current administration, because I think they had something to do with me being here.

I have found that there are agencies today that are abusing the system by sending out mailings in the hopes of influencing legislation. These are not individuals, these are not nonprofit groups, these are not private sector companies, these are Federal agencies that are using lobbying money, using money to lobby for more tax dollars to be spent on their agency.

In June this year, the Department of Energy sent out a mailing that was timed in correspondence, they sent out 10,000 of these to private individuals and businesses, at the cost of $3.50 each. June was selected to oppose some current legislation coming out, H.R. 993, the bill to abolish the Department of Energy. Part of the propaganda read, "Dismantling the Department of Energy only is likely to disrupt Secretary O'Leary's efforts to reshape the department and produce meaningful savings."

Let us talk about some of the meaningful expenditures. This is the agency that has over 500 public relations employees, costing taxpayers $25 million. This is the agency that has spent over $46,000 to hire a private investigation firm to develop a list of unfavorable people, and "to work on these people a little." Does that sound like lobbying, to work on these people a little? This is the agency that has hired a personal media consultant for Secretary O'Leary at a cost of $75,000 per year. These are all abuse.

This money does not go toward any valid mission of the Department of Energy, not toward environment management, not toward developing an agency energy policy, not toward finding one drop of oil, not one valid mission. I think it is an abuse of taxpayer dollars. That is why I support the Clinger amendment.

The CHAIRMAN. I would advise Members, the gentleman from Pennsylvania [Mr. CLINGER] has 2½ minutes remaining, the gentleman from Massachusetts [Mr. FRANK] has one-half minute remaining, and the gentleman from Florida [Mr. CANADY] has one-half minute remaining.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield the remainder of my time to the gentleman from Florida [Mr. CANADY].

The CHAIRMAN. The gentleman from Florida [Mr. CANADY] now has 1 minute remaining.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Oregon [Mr. COOLEY].

Mr. COOLEY. Mr. Chairman, I rise in support of the Clinger amendment. For too long executive branch employees have improperly used appropriated funds to foster public support or opposition to pending legislation before Congress. Without a doubt, such activities are a blatant misuse of taxpayers' funds. The Clinger amendment does not impact any other Federal agency, it only targets the Federal Government. We must stop agencies from punching in at work, putting on their lobby hats, and taking taxpayers to the cleaners. The type of activity by the Federal bureaucrats is clearly not legitimate, and the Clinger amendment will halt all this abuse. The Clinger amendment is a key part of real government reform. It is not partisan in any way, and would apply permanently to no matter what administration was in place.

There have been abuses in previous administrations, but nothing has been done. The Department of Justice as the enforcing agency, we are giving a pack of wolves a red-carpet route to the sheep herd.

Federal bureaucracies should not be picking favors to one group or another pursuant to their own self-interest. Their jobs are to carry out the law passed by Congress not give speeches on congressional legislation or play lobbyists.

Enough is enough. I urge my colleagues to support the endeavors and vote on the Clinger amendment. If we do not make the most of this opportunity to hold Federal bureaucracies accountable for fulfilling their proper duty, then we in Congress should be held accountable. Let us not drop the ball on this one, let us support the amendment.

Mr. CLINGER. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 1 minute remaining.

Mr. CLINGER. Mr. Chairman, I am sensitive to the fact that there is concern here about passing true lobby reform. I would point out, however, that we do have time. This is, after all, only the first session of the 104th Congress, so if there is a need to go to a conference, that can be done. May I also say that there are other ways in which this can be done, if in fact this piece of legislation happens to bog down.

Let me just in closing point out some of the organizations that have strongly endorsed this legislation: the National Taxpayers Union, the National Federation of Independent Businessmen, the Chamber of Commerce, the Competitive Enterprise Institute, the National Association of Wholesaler-Distributors, Citizens Against Government Waste, the Chamber of Commerce, and many, many others.

Mr. Chairman, this is an amendment that has broad-based support because the need is very apparent. The abuse that has been throughout many administrations needs to be corrected. This amendment does correct it, does it in a reasonable and very fair way. I would urge support of the amendment.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I ask that the Members of the House keep their eye on the ball as we go through this debate. We have to keep focused on what the underlying bill is about and what we are trying to accomplish in the underlying bill. That is to reform lobbying disclosure, to have meaningful disclosure of lobbying activities that go on here in Washington with the executive branch and the legislative branch.

The gentleman from Pennsylvania [Mr. CLINGER] has what I believe is a good idea, an idea which addresses a real problem, but I believe that his idea should go through the committee process, it should be subjected to the hearing process, there should be a markup, and his idea should move forward as a separate initiative. It only has the potential for derailing this bill which has been worked on for so long by so many different people. I know that is not the gentleman's intention, but I am very much afraid that that may be the consequence if his amendment is adopted. I urge the Members of the House to defeat this proposed amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER].

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. CANADY of Florida. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER] will be postponed.

The point of no quorum is considered withdrawn.

Mr. CANADY of Florida. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore [Mr. FOX of Pennsylvania] having assumed the chair, Mr. KOLBE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT AND WAIVING POINTS OF ORDER AGAINST CORRECTED CONFERENCE REPORT ON H.R. 2491, SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104-348) on the resolution (H. Res. 272) authorizing a specified correction in the form of the conference report to accompany the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, and waiving points of order against the corrected conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2606, PROHIBITION ON FUNDS FOR BOSNIA DEPLOYMENT

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104-349) on the resolution (H. Res. 273) providing for consideration of the bill (H.R. 2606) to prohibit the use of funds appropriated to the Department of Defense from being used for the deployment on the ground of United States Armed Forces in the Republic of Bosnia and Herzegovina as part of any peacekeeping operation, or as part of any implementation force, unless funds for such deployment are specifically appropriated by law, which was referred to the House Calendar and ordered to be printed.

HOUR OF MEETING ON TOMORROW

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, that it adjourn to meet at 9:30 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LOBBYING DISCLOSURE ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 269 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2564.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2564). To provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, with Mr. KOLBE in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER] had been disposed of.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer amendment.

The Clerk read as follows:

Amendment offered by Ms. KAPTUR: Page 39, redesignate sections 22 through 24 as sections 23 through 25, respectively, and insert after line 10 on page 39 the following:

SEC. 22. LIMITATION ON REPRESENTING OR ADVISING CERTAIN FOREIGN ENTITIES.

(a) AMENDMENT.—Section 207(f) of title 18, United States Code, is amended to read as follows:

"(f) RESTRICTIONS RELATING TO FOREIGN ENTITIES.—

"(1) PERMANENT RESTRICTION.—Any person who is an officer or employee described in paragraph (3) and who, after the termination of his or her service or employment as such officer or employee, knowingly acts as an agent or attorney for or otherwise represents or advises, for compensation, a government of a foreign country or a foreign political party, if the representation or advice relates directly to a matter in which the United States is a party or has a direct and substantial interest, shall be punished as provided in section 316 of this title.

"(2) FIVE-YEAR RESTRICTION.—Any person who is an officer or employee described in paragraph (3) and who, within 5 years after the termination of his or her service or employment as such officer or employee, knowingly acts as an agent or attorney for or otherwise represents or advises, for compensation—

"(A) a person outside of the United States, unless such person—

"(i) if an individual, is a citizen of and domiciled within the United States, or

"(ii) if not an individual, is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States, or

"(B) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country,

if the representation or advice relates directly to a matter in which the United States is a party or has a direct and substantial interest, shall be punished as provided in section 216 of this title.

"(3) PERSONS TO WHOM RESTRICTIONS APPLY.—The officers and employees referred to in paragraphs (1) and (2) to whom the restrictions contained in such paragraphs apply are—

"(A) the President of the United States; and

"(B) any person subject to the restrictions contained in subsection (c), (d), or (e).

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'compensation' means any payment, gift, benefit, rewards, favor, or gratuity which is provided, directly or indirectly, for services rendered;

"(B) the term 'government of a foreign country' has the meaning given that term in section 1(e) of the Foreign Agents Registration Act of 1938, as amended;

"(C) the term 'foreign political party' has the meaning given that term in section 1(f) of the Foreign Agents Registration Act of 1938, as amended;

"(D) the term 'United States' means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

"(E) the term 'State' includes the District of Columbia and any commonwealth, territory, or possession of the United States.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendment made by subsection (a) take effect on January 1, 1996.

(2) EFFECT ON EMPLOYMENT.—

(A) The amendment made by subsection (a) do not, except as provided in subparagraph (B), apply to a person whose service as an officer or employee to which such amendment apply terminated before the effective date of such amendment.

(B) Subparagraph (A) does not preclude the application of the amendment made by subsection (a) to a person with respect to service as an officer or employee by that person on or after the effective date of such amendment.

Ms. KAPTUR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

□ 2230

The CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from Ohio [Ms. KAPTUR] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the assistance of our esteemed colleagues, the gentleman from Florida [Mr. CANADY] and the gentleman from Massachusetts [Mr. FRANK] in allowing us to talk about this amendment this evening.

Mr. Chairman, the amendment is one that has been introduced in bill form in this Congress since the year 1985. There have been extensive hearings held on the content of this bill in several Congresses. For various reasons, because of its content and because of the pace of the legislative process, we have never been able to move this language on to a bill that was headed for presidential signature.

The acronym for this bill is FACEIT, the Foreign Agents Compulsory Ethics In Trade Act, and its purpose is to close the revolving door between government service and lobbying on behalf of foreign interests.

Mr. Chairman, our bill introduced with bipartisan support over the last decade, has two parts. The first is to impose a permanent restriction on high-level government officials from representing, aiding, or advising foreign governments and foreign political parties once they leave the employment of the United States and attempt to go back and lobby, advise, the very same clients before the very same agencies that they had worked for.

The second part of this bill would impose a 5-year prohibition on high-level officials against representing, aiding, or advising what we term "foreign interests," and these are defined in the bill as well.

Let me say that in March of 1992, the General Accounting Office published a report which we requested entitled "Former Federal Officials Representing Foreign Interests Before the U.S. Government." That report identified dozens of former high-level Federal officials, those who had served on the White House staff, those who had served at the highest level of Cabinet-level agencies, congressional staff, even some Members of Congress, executive agency officials in various administrations, who left the employment of the people of the United States, and then attempted and are representing foreign interests before the very agencies that they had served in years past.

We, in earlier years, thought it would be sufficient to merely ask for disclosure. In other words, the current law says to people, "If you are conducting this type of activity, all you need to do is register." Well, lo and behold, the GAO found that numerous foreign agents simply do not register at all.

Mr. Chairman, the current law operates much like a sieve with very large holes in it. There is absolutely no enforcement and the disclosure process itself is extremely flawed. Our bill would ensure that our Federal officials are working on behalf of the people of this country and that they serve the government of the United States.

In my own personal experience here, I have seen too many officials of this country use their positions to seek post-employment opportunities. I might just say for the record, and I have said it in public hearings and I have said it here on the floor before, I have experience in my own district.

Mr. Chairman, the way I got into this was a businessman from my own district had come here to Washington, had gone on trade missions around the world with high-level government officials, and divulged certain aspects of his production, the products that he sold, what his competition was, to the government officials that accompanied him on these trade missions.

He came back to Washington 2 years later and he found that the people that he had spoken with were now working for his competition. Mr. Chairman, his question to me, when I met him as a fairly new Member of Congress, he said to me, "Why should I tell you anything?" I said, "Well, I am very interested in what problems you are facing as a businessman trying to move your product into international markets." He had lost complete trust in the government of the United States because of what he had experienced. This is absolutely wrong.

Mr. Chairman, the reason it has been so hard to get this bill passed is because the people conducting these activities make lots and lots of money. Just think about the trade arena. The average person who is serving our government in trade negotiating capacity has a tenure today of less than a year and a half. We are beaten consistently in trade negotiations around the world because we have people who do not have the tenure, experience, and breadth of people negotiating for other countries.

Mr. Chairman, it is possible to work in a position in this government and maybe earn a salary of $100,000 a year, which sounds like big money in Toledo, Ohio, but then those same people can be offered four times as much as that the day after they leave the government to represent the very same clients before the agency that they just left.

Mr. Chairman, that is absolutely wrong. We need to plug the hole in that dike completely and restore integrity to the trademarking and other functions of this government.

The other aspect, what happens inside these agencies where we have people with integrity working very hard, when they see their compadres and compatriots in these agencies merely milking it for what they can get for themselves, it is totally demoralizing to serve in these various agencies and capacities in our government.

So, our purpose in this is to close the revolving door permanently for those who have such high-level knowledge that they can literally compromise the interests of this country, and it is to set a standard of integrity for those who would serve our people, and then try to cash in on it.

We have a cooling off period that we think is realistic in this bill. I think it will restore confidence among people like the businessman from my community who lost his respect for the government of the United States and the people who serve it here in our Nation's Capital.

Mr. Chairman, I would ask for favorable consideration by the committee and express a complete willingness to work with the gentleman from Florida to attach this legislation to this bill, or to work with the gentleman in any manner that could make an idea that is now a decade old a reality for the people of our country.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Florida is recognized for 15 minutes.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say to the gentlewoman from Ohio, I believe that her amendment addresses a very important issue. Earlier this evening, the gentleman from Michigan [Mr. UPTON] was on the floor discussing an amendment that addresses a similar issue. Actually, the same issue in a somewhat different way.

Mr. Chairman, I believe that this is an issue which deserves attention. I believe it should have been addressed before, and it would certainly be my commitment to the gentlewoman from Ohio to do everything I can to see that this issue is addressed, because I believe that there are abuses, and I believe that people are utilizing the knowledge they have gained to disadvantage the Government of the United States. That, I think, is unfortunate. They are using it to benefit foreign interests in a way that certainly is abusive.

So, I would support an effort to address this, and I would tell the gentlewoman that I will do everything I can to hold hearings on this subject. I am opposing all amendments to this bill, because we believe that the time for lobbying disclosure reform is here. We have an historic opportunity to move forward with legislation in the House, and pass a bill which we can send directly to the President for him to sign.

My concern is if we add any amendments, we will derail that effort and, therefore, even amendments that address important issues such as this I must oppose. But, I would certainly tell the gentlewoman I will work with her in any way to see that this issue is addressed in the future.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I do remember and I was chair of the Administrative Law Subcommittee, which then had jurisdiction over this. I remember we began working on it and as we were dealing with some of the difficult issues like appropriately defining foreign entities at the time with international conglomerates, I then left that subcommittee chairmanship.

But, Mr. Chairman, I believed then, and believe now, that the gentlewoman is absolutely right. The gentleman from Michigan had a related issue that dealt specifically with former Members of Congress and he wants to deal with their representation of foreign governments.

The gentleman from Ohio [Mr. TRAFICANT] has had some concerns there. My view is, now that we have a consolidated jurisdiction here, is that one of the bills we should be dealing with as soon as we are through with this, is the notion of bringing out some legislation in the next session that would be a look at this whole question of foreign representation, and particularly the leveraging that people might get in working for our government and using it against them.

I was glad to hear the gentleman from Florida say that. I would be glad to be a participant in that effort. I think the gentlewoman is absolutely right.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I want to thank both the gentleman from Florida [Mr. CANADY] and the gentleman from Massachusetts [Mr. FRANK]. I have to say, I recall my testimony before the subcommittee chaired by the gentleman from Massachusetts, and I was always welcomed. Some of the thinking that we refined in those years has helped us move to this point.

I thank the gentleman for working with us and being so open to us, and I thank the gentleman from Florida for offering to hold hearings on this matter and bringing in other Members who may have related measures.

Mr. Chairman, I think as the audience and American people are listening to us tonight, this is on the minds of a lot of the public. They have questioned why we as a Congress cannot move a measure through here. I think with the strong leadership of the gentleman from Florida and the support of the gentleman from Massachusetts and other Members in this institution, we can really do something and give the 21st century the kind of service here in Washington that our people deserve.

Mr. Chairman, I thank the gentleman from Florida for yielding time to me.

Mr. Chairman, I ask unanimous consent to withdraw my amendment at this point, and ask that we be one of the first witnesses that the gentleman welcomes to his committee when he holds that set of hearings.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. ENGLISH OF PENNSYLVANIA

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ENGLISH of Pennsylvania: Page 39, line 9, strike "**REPRESENTATIVE**" and insert "**OFFICIAL**".

Page 39, line 13, strike "or" and insert a comma and in line 14 insert before the close quotation marks a comma and the following: "Secretary of Commerce, or Commissioner of the International Trade Commission".

Page 39, line 18, strike "APPOINTMENT" through "REPRESENTATIVE" in line 20 and insert "APPOINTMENTS."

Page 40, line 4, strike "or as a" and insert a comma and insert before the first period in line 5 a comma and the following: "Secretary of Commerce, or Commissioner of the International Trade Commission".

Page 40, line 8, strike "or as a" and insert a comma and in line 9 insert before "on" a comma and the following: "Secretary of Commerce, or Commissioner of the International Trade Commission".

Mr. ENGLISH of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Pennsylvania [Mr. ENGLISH] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. CANADY of Florida. Mr. Chairman, I rise in opposition to the amendment, and claim the 15 minutes in opposition. I yield 7½ minutes of that time to the gentleman from Massachusetts [Mr. FRANK], and ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. ENGLISH] will be recognized for 15 minutes, the gentleman from Florida [Mr. CANADY] will be recognized for 7½ minutes, and the gentleman from Massachusetts [Mr. FRANK] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. ENGLISH].

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer an amendment on my own behalf and on behalf of the gentleman from Ohio [Mr. TRAFICANT] a strong supporter of American workers and a strong advocate of a strong trade policy for America.

Mr. Chairman, I rise in strong support of the underlying bill, and I want to say at the outset that I think we need to extend a great deal of credit to the gentleman from Florida and the gentleman from Massachusetts, who are speaking here tonight. I believe the bill before us is a strong one, and I believe on several key points it needs to be strengthened even further.

One of the areas where I believe that this bill strongly merits support is its inclusion of a lifetime ban on the employment of the U.S. Trade Representative or deputy trade representative subsequent to leaving public service by foreign entities. This prohibition is coupled by a prohibition on the appointment of individuals who have aided or advised foreign companies or foreign interests to the position of trade representative or deputy trade representative.

My amendment builds on and amplifies that provision, addressing a significant oversight by extending this ban to the position of Secretary of Commerce and the position of member of the International Trade Commission.

Mr. Chairman, in my view this restriction is very, very important because it addresses a fundamental conflict of interest that exists within our trade hierarchy. Mr. Chairman, we are engaged in a trade war and we cannot allow our generals to trade allegiances on their retirement. If we do so, we compromise the interests of American workers, American farmers, American companies, when we allow trade officials to switch sides of the negotiating table.

In my view, this House has an obligation to block the revolving door that allows the trade talent that we have nurtured to cash in on their expertise at the expense of American workers. My amendment offered here today sends a clear message to the political class in Washington that we will no longer tolerate trade quislings or economic Benedict Arnolds.

□ 2245

In my view, it is appropriate that we extend this restriction to the Secretary of Commerce and to the International Trade Commission, because they play a seminal role in overseeing and administering trade policy in America.

The Secretary of Commerce has responsibility for leading key trade missions. The Secretary is familiar with trade policy and helps shape it. The Secretary of Commerce is familiar with the trade objectives of key American companies and overseas the Eximbank and other key trade programs that we depend on as part of our trade policy. The Secretary of Commerce also plays a significant role in the enforcement of our trade laws.

Similarly, the International Trade Commission provides advice on trade negotiations. The Commission rules on import relief for domestic industries. The Commission also provides for investigations of predatory dumping practices by our competitors.

The Commission advises the president on the domestic consequences of our trade policy and assesses the injury to American workers from imports. Overall, the ITC plays a fundamental role in shaping and administering our trade policy.

I urge my colleagues, recognizing that many of my colleagues would like to keep this bill free of amendment, to consider supporting this amendment to stop U.S. trade officials from using their position from cashing in on their expertise and insider knowledge at the expense of U.S. workers, farmers, companies and jobs.

I urge support of this amendment to stop former government officials from using their specialized knowledge of U.S. trade laws and regulations from benefiting by aiding our competitors. We should insist the employment restrictions in this bill apply to all of our trade officials.

So I urge support for the English-Traficant amendment. And I also urge this House to ultimately support this important piece of lobbying reform legislation which does us great credit.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I believe that the gentleman from Pennsylvania has brought forward an amendment that has considerable merit. Again, my opposition to this amendment does not relate to the substance of the amendment but to the potential impact that this amendment can have on our effort to move forward with reforming lobbyist disclosure in the bill that is before us.

In the bill that is before us, in section 21, there is a ban on the U.S. Trade Representative and the Deputy U.S. Trade Representative from representing, aiding or advising a foreign entity on matters before any officer or employee of any Department or agency of the United States. That is a lifetime ban in the bill.

Under existing law, there is a 3-year ban on the U.S. Trade Representative and a one-year ban on the U.S. Deputy Trade Representative.

The bill that is before the House now also places a limitation on appointments to the post of U.S. Trade Representative and Deputy U.S. Trade Representative by providing that anyone who has represented, aided or advised a foreign entity in any trade negotiation or trade dispute with the United States may not be appointed as U.S. Trade Representative or Deputy U.S. Trade Representative. So it is a two-way sort of prohibition. We are trying to stop the revolving door from going in either direction. That is in the bill.

Those prohibitions which improve and expand on the prohibitions in existing law are applied to the U.S. Trade Representative and Deputy U.S. Trade Representative.

I understand that a strong case can be made for applying similar prohibitions to others, such as the Secretary of Commerce and to Commissioners of the International Trade Commission. I would simply suggest that in this instance, though, what may be a perfect solution to this conflict of interest situation that exists is the enemy of a good solution and a good bill. I understand that that is not the intention of the gentleman from Pennsylvania.

I will say that I have had conversations with the gentleman from Pennsylvania, as we started to move this legislation forward. He has, throughout the process, expressed his support for the legislation. And I know that he is a firm supporter of lobbying disclosure reform.

But I believe that by adopting his amendment, this House would threaten the success of that effort. And after 40 years, I simply think it is time that we move on, we pass a bill and send it to the President. We have that opportunity. Now is the time to act. I do not believe that we need to delay.

For that reason, I must oppose the amendment offered by the gentleman from Pennsylvania, although I recognize his good intentions and the validity of the point behind the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say, I again agree with my friend from Florida. I would make note here, I think this is very much an area where we should be legislating. We had our colleague from Michigan [Mr. UPTON] offer an amendment that has some overlap here. Our colleague from Ohio, to be honest, I think if we were going to move now, I would have a problem because we have not had hearings on this yet. We have a lot of hearings. let me say, at no point will I criticize my friend from Florida for not having had a hearing. Because he has too many hearings. So I will not object to that.

I would say that I would hope and I think it has been very clear here that we set aside a day for hearing and a markup in subcommittee of this whole question of how do you deal with restrictions on representing foreign entity. One of the problems I remember from when we had the hearings was the gentlewoman from Ohio. It is a problem these days to get a good definition of a foreign entity, with the internationally owned conglomerates. That is something which I believe we can do but takes some doing.

We have had three different amendments, all of which I support in concept but have a different angle on this. I would hope that we could defer on this because I know the chairman plans to move on this.

I think one other bill we would probably be dealing with would be a regulation of foreign representation within the United States. We are going to talk some more about the coauthor, the gentleman from Ohio [Mr. TRAFICANT] about the Foreign Agents Registration Act.

I would say to my colleagues, this is of some complexity. I honestly do not think we could adopt all of these amendments now with the assurance that we had not created some problems, some overlap, et cetera. I would hope we could agree that we would have a day, a few days where we would have hearings and then a markup and come out sometime early next spring with a comprehensive billing dealing with the regulation of representation of foreign interests in the United States.

In that spirit, I would vote against this amendment if it comes to a vote now, but I hope I will see it and the gentleman from Michigan and the gentlewoman from Ohio, the other gentleman from Ohio, that we will be able to put together a very comprehensive package of which we can all be proud.

Mr. Chairman, I yield back the balance of my time.

Mr. ENGLISH of Pennsylvania. Mr. Chairman I yield 2 minutes to the very distinguished gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Chairman, earlier in some comments I had made, I commended the gentleman from Florida [Mr. CANADY], and the gentleman from Massachusetts [Mr. FRANK] for their leadership in bringing this bill to the House floor. But I failed also to give credit to some Members that made sure that today's action occurred. That is the leadership of this House.

There are some who called into question whether or not we would have time to deal with gift and lobbying reform this year because of this House's commitment to balancing the budget, which is of course our No. 1 priority to live within our means. But we set aside time to deal with the need for gift and lobbying reform. I particularly want to thank the House Republican leadership for keeping their word.

Now, some have said that, if we do not keep this bill pristine as it came out of the Senate, pristine as it came out of the House Committee on the Judiciary that we may not have lobbying reform. We have a commitment from the House leadership that we are going to have lobbying reform. Should the House decide as a result of some of these good ideas that are being offered in these amendments to improve the bill, I believe that fairly soon we will have a lobbying bill sent to the President. We have to take a couple extra weeks. It could be a better bill and do a better job.

The English-Traficant amendment improves the bill. These are good ideas and, frankly, in an area that needs to be addressed.

The issue that the gentleman from Pennsylvania [Mr. ENGLISH] is trying to address is to eliminate the abuse by former U.S. trade officials using the contacts that they made while they were supposedly representing the United States of America for personal enrichment at the expense of the American worker, whether in Erie, PA or Joliet, IL. The present bill focuses on this problem by expanding existing restrictions on employing former U.S. Trade Representatives and their deputies and foreign entity lobbyists.

Now the bill of course expands the current law. But also I want to point out that the English amendment broadens the bill to include the Secretary of Commerce and Commissioners from the International Trade Commission, people who make extensive contact with foreign interests, and we certainly want to avoid any conflict of interest.

My colleagues, I urge adoption of the English amendment. It just makes sense, if you care about American workers. If you care about American jobs, let us vote for the English amendment.

Mr. CANADY of Florida. Mr. Chairman, I reserve the balance of my time.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. FOX] a very distinguished voice of reform, my colleague.

Mr. FOX of Pennsylvania. Mr. Chairman, I want to also applaud the efforts of the gentleman from Massachusetts [Mr. FRANK], and as well the gentleman from Florida [Mr. CANADY] for their outstanding efforts in making sure that lobbying disclosure reform will be a reality this year for the first time in a number of years. But I also am particularly proud to join with the effort for what Mr. ENGLISH and Mr. TRAFICANT are doing here today as well. That is to make a good bill better by the adoption of the English-Traficant amendment. Mr. ENGLISH has been working with a number of other leaders here in Congress to make sure that business opportunities are enhanced and that ethics are protected.

In that spirit, I come to Members tonight to support H.R. 2564, the Lobbying Disclosure Reform Act. As written, the bill makes crucial steps toward eliminating the abuse by former U.S. trade officials using their contacts for personal enrichment at the expense of the American worker. We applaud the bill's overall improvement of current law. Presently, U.S. Trade Representatives have a 3-year restriction before they can aid or advise a foreign entity on matters before any U.S. official.

This bill does toughen current law by extending the 3-year restriction to a lifetime ban and including the Deputy Trade Representative and preventing the appointment to either position of anyone who has previously aided or advised a foreign entity on trade issues.

But we believe the bill needs to go further. It is more or less a loophole because the Traficant-English amendment will make sure that other officials are included as well. The Secretary of Commerce and the Commissioners of the International Trade Commission are all crucially involved in America's trade. The English-Traficant amendment would include these positions with the bill's restrictions on the U.S. Trade Representative and the Deputy Trade Representative.

The time has come to stop former government trade officials from using their beltway contacts to ride the revolving door from public service to personal profit at the expense of the American people. I would ask my colleagues to strongly support the English-Traficant amendment to the lobbying disclosure reform to make a good bill even better.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think we have made the case here very strongly for this amendment. I think it is very difficult to argue with. I think it is a matter of equity for American workers. It is a matter of sound trade policy.

I think it is something that we need to provide as a fundamental protection to our institutions and to American companies. Let me say that I acknowledge the concerns of the advocates of reform, lobbying reform, who are here today. I want to join with them. I want to push for a good bill, a strong bill.

My sense is that, since we are operating under an open rule, there will be changes in this underlying bill. On that basis, I offer this amendment because I think it is an authentic improvement on this bill and an enhancement of a very important provision that I think is central to any lobbying reform.

The gentlemen who are here tonight have long been pushing lobbying reform, and that has proven to be a Sisyphean task. In Greek mythology, Sisyphus was a figure who was consigned throughout eternity to roll a boulder up a hill only to reach the peak of the hill and have the boulder roll down the other side and be forced to restart the process.

□ 2300

I recognize that lobbying reform is an initiative that has been out there a long time, has moved forward and always at the peak. There has been a failure to get it done. I believe that we need to move forward on this Sisyphean task, and I believe that during this session, with the support of this leadership in the House of Representatives, and on a bipartisan basis, we will be able to achieve fundamental lobbying reform.

Mr. Chairman, I yield back the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, again I want to commend the gentleman from Pennsylvania on his interest in this issue. I am very interested in this issue. I believe that the subject of this amendment and other amendments that have been brought forward tonight on the subject of the revolving door and the representation of foreign interests demands the attention of the Congress, and, as the chairman of the Subcommittee on the Constitution, I certainly intend to do everything I can to see that this issue is addressed. I believe that we need to hold hearings, I believe that we need to have input from a wide range of witnesses on this issue and other related issues, and I believe that we need to act on it. I believe that we should move forward with the legislation on this subject. I cannot tell my colleagues what the exact contours of that should be and exactly how it should be structured, but I believe that in this Congress we should move forward with an initiative on this general subject.

Having said that, I must again make this point, however, that I do not believe that the bill before us in the House tonight is the appropriate vehicle for amendments such as this. There are already provisions in the bill that address this general subject. I think we are taking a step forward in the provisions of the bill by placing a lifetime ban on the U.S. Trade Representative and Deputy U.S. Trade Representative that will prevent them from representing any foreign entity on matters before agencies of the United States. Those individuals play a key role in our policy, our trade policy, and I believe that imposing a lifetime ban on them is a big step forward.

I do not think that we should risk derailing this bill by accepting the amendment offered by the gentleman from Pennsylvania in expanding on the prohibition. I believe that his amendment, the substance of his amendment, should be considered in the regular legislative process. I give my commitment that I will do that, but I must oppose this amendment, as I oppose all other amendments to this bill, because we are at the peak of the mountain now. We are just there, and this is not something that we have been working on in the Congress for a few years. We have been working on this issue in this Congress for 40 years, actually more than 40 years. As long as I have been alive, Congress has been struggling with this issue, acting a little here, a little there, but never bringing anything to completion, never passing a law to address this important need for lobbying disclosure reform. It is time we did that. We should not let some good ideas get in the way of accomplishing this important task.

So, Mr. Chairman, I urge the Members of the House to defeat the amendment offered by the gentleman from Pennsylvania.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. ENGLISH].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from Pennsylvania [Mr. ENGLISH] will be postponed.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. WELLER

Mr. WELLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WELLER: Page 21, line 9, strike "and", in line 14 strike the period and insert "; and", and after line 14 insert the following:

(5) a report of honoraria (as defined in section 505(3) of the Ethics in Government Act of 1978) paid to a media organization or a media organization employee, including when it was provided, to whom it was provided, and its value.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Illinois [Mr. WELLER] and a Member opposed to the amendment will each be recognized for 15 minutes.

Mr. CANADY of Florida. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois [Mr. WELLER] and claim the 15 minutes in opposition.

Mr. Chairman, I yield 7½ minutes of that time to the gentleman from Massachusetts [Mr. FRANK] and I ask unanimous consent that he be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. WELLER] will be recognized for 15 minutes, the gentleman from Florida [Mr. CANADY] will be recognized for 7½ minutes, and the gentleman from Massachusetts [Mr. FRANK] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering an amendment today to a bill that I stand in strong support of, H.R. 2564, the Lobby Reform Act of 1995. It is a good bill, and I offer an amendment which I believe will make a better bill.

According to poll data taken early this spring, the public's trust of the media fared even worse than Congress'. That is why I feel it is imperative that this legislation include disclosure requirements that take into account the role the media plays in political debate and legislative outcomes.

Because a journalists's acceptance of honoraria could influence the type of information he or she will include in his or her report, I am introducing an amendment that will place the burden on lobbyists to disclose all honoraria that are paid to a member of the press, including when it was provided, to whom it was provided and its value. This is a matter of giving the public access to all the information that helps to shape the final outcome of a legislative product.

If I might also note, I am extremely pleased to see our Chamber taking the necessary steps to once and for all prove to the American people that we are dead serious about cleaning house and keeping business on the up and up.

Today, the House will vote and prove to the public that not only is Congress cleaning up its act, but that is requiring the people it does its business with to also clean up their act. I believe that my amendment strengthens H.R.

2564 by providing the public with information regarding what special interest money has been paid to the public's main source of information—the media.

I realize that members of the media may take issue with my amendment. Therefore, I would like to take a moment to address some potential points of contention:

First off, members of the media may argue that this amendment strips members of the process corps of their amendment right. I disagree. To the contrary, what this provides to those members of the media that do not accept honoraria, is a potential endorsement of their objectivity in their reporting of the people's business. This amendment places the burden of disclosure on the lobbying community not the press. The public has the right to know who is receiving special interest money whether it is a Member of Congress or a member of the media. I also want to point out that Members of Congress are prohibited from accepting honoraria.

Also, some may argue that this amendment is not necessary because members of the media should not be held to the same accountability as a Member of Congress. Again, I disagree. The influence that the media holds over the public is insurmountable. As the main link between Washington and the average citizen, every media, every reporter—whether it be written, visual or audio—has an immediate impact on the public's perception of what is going on. The public deserves to know if the information they are receiving is potentially tainted by an honoraria fee of perhaps even the $35,000 paid to the conveyor of the information.

I know what some may be thinking—$35,000—do they really earn that much for a speaking engagement? Yes, in one well publicized instance it caused the American Broadcast Corporation [ABC] to incorporate a tough new office policy in regard to speaking fees. According to Robert Friedman with the St. Petersburg Times, ABC prohibits "staff from accepting a speaking fee from 'any group which you cover or might reasonably expect to cover.'" Obviously some of the media see nondisclosure of honoraria as opening itself up to the potential perception of impropriety.

Mr. Chairman, I insert the following articles into the RECORD at this time.

[From the New Yorker magazine, Sept. 12, 1994]

FEE SPEECH

(By Ken Auletta)

The initial hint of anger from twenty-five or so members of the House Democratic leadership came on an hour-and-a-quarter-long bus ride from Washington to Airlie House, in rural Virginia, one morning last January. They had been asked by the Majority Leader, Richard A. Gephardt, of Missouri, to attend a two-day retreat for the Democratic Message Group, and as the bus rolled southwest the convivial smiles faded. The members of the group began to complain that their message was getting strangled, and they blamed the media. By that afternoon, when the Democrats gathered for the first of five panels composed of both partisans and what were advertised as "guest analysts, not partisan advisers," the complaints were growing louder. The most prominent Democrats in the House—Gephardt; the Majority Whip, David E. Bonior, of Michigan; the current Appropriations Committee chairman, David R. Obey, of Wisconsin; the Democratic Congressional Campaign chairman, Vic Fazio, of California; Rosa L. DeLauro, of Connecticut, who is a friend of President Clinton's; and about twenty others—expressed a common grievance: public figures are victims of a powerful and cynical press corps. A few complained of what they saw as the ethical obtuseness of Sam Donaldson, of ABC, angrily noting that, just four days earlier, "Prime Time Live," the program that Donaldson co-anchors, had attacked the Independent Insurance Agents of America for treating congressional staff people to a Key West junket. Yet several months earlier the same insurance group had paid Donaldson a thirty-thousand-dollar lecture fee.

By four-thirty, when the third panel, ostensibly devoted to the changing role of the media, was set to begin, the Democrats could no longer contain their rage, lumping the press into a single, stereotypical category—you—the same way they complained that the press lumped together all members of Congress.

They kept returning to Donaldson's lecture fees and his public defense that it was ethically acceptable for him to receive fees because he was a private citizen, not an elected official. The Airlie House meeting was off the record, but in a later interview Representative Obey recalled having said of journalists. "What I find most offensive lately is that we get the sanctimonious-Sam defense: 'We're different because we don't write the laws.' Well, they have a hell of a lot more power than I do to affect the laws written."

Representative Robert G. Torricelli, of New Jersey, recalled have said, "What startles many people is to hear television commentators make paid speeches to interest groups and then see them on television commenting on those issues. It's kind of a direct conflict of interest. If it happened in government, it would not be permitted." Torricelli, who has been criticized for realizing a sixty-nine-thousand-dollar profit on a New Jersey savings-and-loan after its chairman advised him to make a timely investment in its stock, says he doesn't understand why journalists don't receive the same scrutiny that people in Congress do. Torricelli brought up an idea that had been discussed at the retreat and that he wanted to explore: federal regulations requiring members of the press to disclose outside income—and most particularly television journalists whose stations are licensed by the government. He said that he would like to see congressional hearings on the matter, and added. "You'd get the votes if you did the hearings. I predict that in the next couple of Congresses you'll get the hearings."

Gephardt is dubious about the legality of compelling press disclosure of outside income, but one thing he is sure about is the anger against the media which is rising within Congress. "Most of us work for more than money," he told me. "We work for self-image. And Congress's self-image has suffered, because, members think, journalistic ethics and standards are not as good as they used to be."

The press panel went on for nearly three hours, long past the designated cocktail hour of six. The congressmen directed their anger at both Brian Lamb, the C-SPAN chairman, and me—we were the two press representatives on the panel—and cited a number of instances of what they considered reportorial abuse. The question that recurred most often was this: Why won't journalists disclose the income they receive from those with special interests?

It is a fair question to ask journalists, who often act as judges of others' character. Over the summer, I asked it of more than fifty prominent media people, or perhaps a fifth of what can fairly be called the media elite—those journalists who, largely on account of television appearances, have a kind of fame similar to that of actors. Not surprisingly, most responded to the question at least as defensively as any politician would. Some of them had raised an eyebrow when President Clinton said he couldn't recall ten- or fifteen-year-old details about Whitewater. Yet many of those I spoke to could not remember where they had given a speech just months ago. And many of them, while they were unequivocal in their commentary on public figures and public issues, seemed eager to dwell on the complexities and nuances of their own outside speaking.

Sam Donaldson, whose annual earnings at ABC are about two million dollars, was forthcoming about his paid speeches: in June, he said that he had given three paid speeches so far this year and had two more scheduled. He would not confirm a report that he gets a lecture fee of as much as thirty thousand dollars. On being asked to identify the three groups he had spoken to, Donaldson—who on the March 27th edition of the Sunday-morning show "This Week with David Brinkley" had ridiculed President Clinton for not remembering that he had once lent twenty thousand dollars to his mother—said he couldn't remember. Then he took a minute to call up the information from his computer. He said that he had spoken at an I.B.M. convention in Palm Springs, to a group of public-information officers, and to the National Association of Retail Druggists. "If I hadn't consulted my computerized date book, I couldn't have told you that I spoke to the National Association of Retail Druggists," he said. "I don't remember these things."

What would Donaldson say to members of Congress who suggest that, like them, he is not strictly a private individual and should make full disclosure of his income from groups that seek to influence legislation?

"First, I don't make laws that govern an industry," he said. "Second, people hire me because they think of me as a celebrity; they believe their members or the people in the audience will be impressed." He went on, "Can you say the same thing about a member of Congress who doesn't even speak—who is hired, in a sense, to go down and play tennis? What is the motive of the group that pays for that?" He paused and then answered his own question: "Their motive, whether they are subtle about it or not, is to make friends with you because they hope that you will be a friend of theirs when it comes time to decide about millions of dollars. Their motive in inviting me is not to make friends with me."

Would he concede that there might be at least an appearance of conflict when he takes money from groups with a stake in, say, health issues?

Donaldson said, "At some point, the issue is: What is the evidence? I believe it's not the appearance of impropriety that's the problem. It's impropriety." Still, Donaldson did concede that he was rethinking his position; and he was aware that his bosses at ABC News were reconsidering their relaxed policy.

Indeed, one of Donaldson's bosses—Paul Friedman, the executive vice-president for news—told me he agreed with the notion that on-air correspondents are not private citizens. "People like Sam have influence that far exceeds that of individual congressmen," Friedman said, echoing Representative Obey's point. "We always worry that lobbyists get special 'access' to members of government. We should also worry that the public might get the idea that special-interest groups are paying for special 'access' to correspondents who talk to millions of Americans."

Unlike Donaldson, who does not duck questions, some commentators chose to say nothing about their lecturing. The syndicated columnist George Will, who appears weekly as a commentator on the Brinkley show, said through an assistant, "We are just in the middle of book production here. Mr. Will is not talking much to anyone." Will is paid twelve thousand five hundred dollars a speech, Alicia C. Shepard reports in a superb article in the May issue of the American Journalism Review.

ABC's Cokie Roberts, who, according to an ABC official, earns between five and six hundred thousand dollars annually as a Washington correspondent and is a regular commentator on the Brinkley show in addition to her duties on National Public Radio, also seems to have a third job, as a paid speaker. Among ABC correspondents who regularly moonlight as speakers, Roberts ranks No. 1. A person who is in a position to know estimates that she earned more than three hundred thousand dollars for speaking appearances in 1993. Last winter, a couple of weeks after the Donaldson-"Prime Time" incident, she asked the Group Health Association of America, before whom she was to speak in mid-February, to donate her reported twenty-thousand-dollar fee to charity. Roberts did not return three phone calls—which suggests that she expects an openness from the Clinton Administration that she rejects for herself. On that March 27th Brinkley show, she described the Administration's behavior concerning Whitewater this way: "All of this now starts to look like they are covering something up."

Brit Hume, the senior ABC White House correspondent, earns about what Roberts does, and is said to trail only Roberts and Donaldson at ABC in lecture earnings. This could not be confirmed by Hume, for he did not return calls.

At CNN, the principal anchor, Bernard Shaw, also declined to be interviewed, and so did three of the loudest critics of Congress and the Clinton Administration; the conservative commentator John McLaughlin, who now takes his "McLaughlin Group" on the road to do a rump version of the show live, often before business groups; and the alternating conservative co-hosts of "Crossfire," Pat Buchanan and John Sununu.

David Brinkley did respond to questions, but not about his speaking income. Like Donaldson and others, he rejected the notion that he was a public figure. Asked what he would say to the question posed by members of Congress at the retreat, Brinkley replied, "It's a specious argument. We are private citizens. We work in the private marketplace. They do not."

And if a member of Congress asked about his speaking fee, which is reported to be eighteen thousand dollars?

"I would tell him it's none of his business," Brinkley said. "I don't feel that I have the right to ask him everything he does in his private life."

The syndicated columnist and television regular Robert Novak, who speaks more frequently than Brinkley, also considers himself a private citizen when it comes to the matter of income disclosure. "I'm not going to tell you how many speeches I do and what my fee is," he said politely. Novak, who has been writing a syndicated column for thirty-one years, is highly visible each weekend on CNN as the co-host of the "Evans & Novak" interview program and as a regular on "The Capital Gang."

What would Novak say to a member of Congress who maintained that he was a quasi-public figure and should be willing to disclose his income from speeches?

"I'm a totally private person," he said. "Anyone who doesn't like me doesn't have to read me. These people, in exchange for power—I have none—they have sacrificed privacy."

In fact, Novak does seem to view his privacy as less than total; he won't accept fees from partisan political groups, and, as a frequent critic of the Israeli government, he will not take fees from Arab-American groups, for fear of creating an appearance of a conflict of interest. Unlike most private citizens, Novak, and most other journalists, will not sign petitions, or donate money to political candidates, or join protest marches.

Colleagues have criticized Novak and Rowland Evans for organizing twice-a-year forums—as they have since 1971—to which they invite between seventy five and a hundred and twenty-five subscribers to their newsletter, many of whom are business and financial analysts. Those attending pay hundreds of dollars—Novak refuses to say how much—for the privilege of listening to public officials speak and answer questions off the record. "You talk about conflicts of interest!" exclaimed Jack Nelson, the Los Angeles Times Washington bureau chief. "It is wrong to have government officials come to speak to businesses and you make money off of it."

Mark Shields, who writes a syndicated column and is the moderator of "The Capital Gang" and a regular commentator on "The MacNeil/Lehrer NewsHour," is a busy paid lecturer. Asked how much he earned from speeches last year, he said, "I haven't even totalled it up." Shields said he probably gives one paid speech a week, adding, "I don't want, for personal reasons, to get into specifics."

Michael Kinsley, who is the liberal co-host of "Crossfire," an essayist for The New Republic and Time, and a contributor to The New Yorker, is also reluctant to be specific. "I'm in the worst of all possible positions," he said. "I do only a little of it. But I can't claim to be a virgin." Kinsley said he appeared about once every two months, but he wouldn't say what groups he spoke to or how much he was paid. "I'm going to do a bit more," he said. "I do staged debates—mini 'Crossfire's'—before business groups. If everyone disclosed, I would."

The New Republic's White House correspondent, Fred Barnes, who is a regular on "The McLaughlin Group" and appears on "CBS This Morning" as a political commentator, speaks more often than Kinsley, giving thirty or forty paid speeches a year, he said, including the "McLaughlin" road show. How would Barnes respond to the question posed by members of Congress?

"They're elected officials," he said. "I'm not an elected official. I'm not in government. I don't deal with taxpayers' money."

Barnes's "McLaughlin" colleague Morton M. Kondracke is the executive editor of Roll Call, which covers Congress. Kondracke said that he gave about thirty-six paid speeches annually, but he would not identify the sponsors or disclose his fee. He believes that columnists have fewer constraints on their speechmaking than so-called objective reporters, since columnists freely expose their opinions.

Gloria Borger, a U.S. News & World Report columnist and frequent "Washington Week in Review" panelist, discloses her income from speeches, but only to her employer. Borger said she gave one or two paid speeches a month, but she wouldn't reveal her fee. "I'm not an elected official," she said.

Like Borger, Wolf Blitzer, CNN's senior White House correspondent, said that he told his news organization about any speeches he made. How many speeches did he make in the last year?

"I would guess four or five," he said, and repeated that each one was cleared through his bureau chief.

What would Blitzer say to a member of Congress who asked how much he made speaking and from which groups?

"I would tell him 'None of your business,'" Blitzer said.

Two other network chief White House correspondents NBC's Andrea Mitchell and CBS's Rira Braver—also do little speaking. "I make few speeches," Mitchell said. "Maybe ten a year. Maybe six or seven a year. I'm very careful about not speaking to groups that involve issues I cover." She declined to say how much she earned. For Braver, the issue was moot. I don't think I did any," she said, referring to paid speeches in the past year.

ABC's "Prime Time Live" correspondent Chris Wallace, who has done several investigative pieces on corporate-sponsored congressional junkets, said he made four or five paid speeches last year. "I don't know exactly," he said. Could he remember his fee?

"I wouldn't say," he replied.

Did he speak to business groups?

"I'm trying to remember the specific groups," he said, and then went on. "One was the Business Council of Canada. Yes, I do speak to business groups."

So what is the difference between Chris Wallace and members of Congress who accept paid junkets?

"I'm a private citizen," he said, "I have no control over public funds, I don't make public policy."

Why did Wallace think that he was invited to speak before business groups?

"They book me because they feel somehow that it adds a little excitement or luster to their event," he said. He has been giving speeches since 1980, he said, and "never once has any group called me afterward and asked me any favor in coverage."

But isn't that what public officials usually say when Wallace corners them about a junket?

Those who underwrite congressional junkets are seeking "access" and "influence," he said, but the people who hire him to make a speech are seeking "entertainment." When I mentioned Wallace's remarks to Norman Pearlstine, the former executive editor of the Wall Street Journal, he said, "By that argument, we ought not to distinguish between news and entertainment, and we ought to merge news into entertainment."

ABC's political and media analyst Jeff Greenfield makes a "rough guess" that he gives fifteen paid speeches a year, many in the form of panels he moderates before various media groups—cable conventions, newspaper or magazine groups, broadcasting and marketing associations—that are concerned with subjects he regularly covers. "It's like 'Nightline,' but it's not on the air," he said. He would not divulge his fee, or how much he earned in the past twelve months from speeches.

Greenfield argued that nearly everything he did could be deemed a potential conflict. "I cover cable, but I cover it for ABC, which is sometimes in conflict with that industry," he said. Could he accept money to write a magazine piece or a book when he might one day report on the magazine publisher or the book industry? He is uneasy with the distinction that newspapers like the Wall Street Journal or the Washington Post make, which is to prohibit daily reporters from giving paid speeches to corporations or trade associations that lobby Congress and have agendas, yet allow paid college speeches. (Even universities have legislative agendas, Greenfield noted.) In trying to escape this ethical maze, Greenfield concluded, "I finally decided that I can't figure out everything that constitutes a conflict."

Eleanor Clift, of Newsweek, who is cast as the beleaguered liberal on "The McLaughlin Group," said that she made between six and eight appearances a year with the group. Her fee for a speech on the West Coast was five thousand dollars, she said, but she would accept less to appear in Washington. She would not disclose her outside speaking income, and said that if a member of Congress were to ask she would say, "I do disclose. I disclose to the people I work for. I don't work for the taxpayers."

Christopher Matthews, a nationally syndicated columnist and Washington bureau chief of the San Francisco Examiner, who is a political commentator for "Good Morning America" and co-host of a nightly program on America's Talking, a new, NBC-owned cable network, told me last June that he gave between forty and fifty speeches a year. He netted between five and six thousand dollars a speech, he said, or between two and three hundred thousand dollars a year. Like many others, he is represented by the Washington Speakers Bureau, and he said that he placed no limitations on corporate or other groups he would appear before. "To be honest, I don't spend a lot of time thinking about it," he said. "I give the same speech."

David S. Broder, of the Washington Post, who has a contract to appear regularly on CNN and on NBC's "Meet the Press," said that he averaged between twelve and twenty-four paid speeches a year, mostly to colleges, and that the speeches are cleared with his editors at the Post. He did not discuss his fee, but Howard Kurtz, the Post's media reporter, said in his recent book "Media Circus" that Broder makes up to seventy-five hundred dollars a speech. Broder said he would support an idea advanced by Albert R. Hunt,the Wall Street Journal's Washington editor, to require disclosure as a condition of receiving a congressional press card. To receive a press card now, David Holmes, the superintendent of the House Press Gallery, told me, journalists are called upon to disclose only if they receive more than five per cent of their income from a single lobbying organization. Hunt said he would like to see the four committees that oversee the issuing of congressional press cards—made up of five to seven journalists each—require full disclosure of any income from groups that lobby Congress. He said he was aware of the bitter battle that was waged in 1988, when one committee issued new application forms for press passes which included space for detailed disclosure of outside income. Irate reporters demanded that the application form be rescinded, and it was. Today, the Journal, along with the Washington Post, is among the publications with the strictest prohibitions on paid speeches. Most journalistic organizations forbid reporters to accept money or invest in the stocks of the industries they cover. But the Journal and the Post have rules against reporters' accepting fees from any groups that lobby Congress or from any for-profit groups.

Hunt, who has television contracts with "The Capital Gang" and "Meet the Press," said that he averaged three or four speeches a year, mostly to colleges and civic groups, and never to corporations or groups that directly petition Congress, and that he received five thousand dollars for most speeches.

William Safire, the *Times* columnist, who is a regular on "Meet the Press," was willing to disclose his lecture income. "I do about fifteen speeches a year for twenty thousand dollars a crack," he said. "A little more for overseas and Hawaii." Where Safire parts company with Hunt is that he sees nothing wrong with accepting fees from corporations. He said that in recent months he had spoken to A.T. & T., the Pharmaceutical Research and Manufacturers of America, and Jewish organizations. Safire said that because he is a columnist his opinions are advertised, not hidden. "I believe firmly in Samuel Johnson's dictum 'No man but a blockhead ever wrote except for money,'" he went on. "I charge for my lectures. I charge for my books. I charge when I go on television. I feel no compunction about it. It fits nicely into my conservative, capitalist—with a capital 'C'—philosophy."

Tim Russert, the host of "Meet the Press," said that he had given "a handful" of paid speeches in the past year, including some to for-profit groups. He said that he had no set fee, and that he was wary of arbitrary distinctions that say lecturing is bad but income from stock dividends is fine. Russert also raised the question of journalists' appearing on shows like "Meet the Press," which, of course, have sponsors. "Is that a conflict? You can drive yourself crazy on this."

Few journalists drive themselves crazy over whether to accept speaking fees from the government they cover. They simply don't. But enticements do come from unusual places. One reporter, who asked to remain anonymous, said that he had recently turned down a ten-thousand dollar speaking fee from the Central Intelligence Agency. A spokesman for the C.I.A., David Christian, explained to me, "We have an Office of Training and Education, and from time to time we invite knowledgeable non-government experts to talk to our people as part of our training program." Does the agency pay for these speeches? "Sometimes we do, and sometimes we don't," he said. Asked for the names of journalists who accepted such fees, Christian said that he was sorry but "the records are scattered."

Time's Washington columnist, Margaret Carlson, who is a regular on "The Capital Gang," laughed when I asked about her income from speeches and said, "My view is that I just got on the gravy train, so I don't want it to end." Carlson said she gave six speeches last year, at an average of five thousand dollars a speech, including a panel appearance in San Francisco before the American Medical Association (with Michael Kinsley, among others). She made a fair distinction between what she did for a fee and what Treasury Secretary Lloyd Bentsen tried to do in 1987, when, as Senate Finance Committee chairman, he charged lobbyists ten thousand dollars a head for the opportunity to join him for breakfast once a month. "We are like monkeys who get up onstage," Carlson said, echoing Chris Wallace. "It's mud wrestling for an hour or an hour and a half, and it's over."

There are journalistic luminaries who make speeches but, for the sake of appearances, do not accept fees. They include the three network-news anchors—NBC's Tom Brokaw, ABC's Peter Jennings and CBS' Dan Rather—all of whom say that they don't charge to speak or they donate their fees to charity. "We don't need the money," Brokaw said. "And we thought it created an appearance of conflict." Others who do not accept fees for speaking are Ted Koppel, of ABC's "Nightline"; Jim Lehrer, of "The MacNeil/Lehrer News Hour"; Bob Schieffer, CBS' chief Washington correspondent and the host of "Face the Nation"; and C-SPAN's Brian Lamb.

ABC's senior Washington correspondent, James Wooten, explained how, in the mid-eighties, he decided to change his ways after a last lucrative weekend: "I had a good agent and I got a day off on Friday and flew out Thursday after the news and did Northwestern University Thursday night for six thousand dollars. Then I got a rental car and drove to Milwaukee, and in midmorning I did Marquette for five or six thousand dollars. In the afternoon, I went to the University of Chicago, to a small symposium, for which I got twenty-five hundred to three thousand dollars. Then I got on a plane Friday night and came home. I had made fifteen thousand dollars, paid the agent three thousand, and had maybe two thousand in expenses. So I made about ten thousand dollars for thirty-six hours. I didn't have a set speech, I just talked off the top of my head." But his conscience told him it was wrong. "It's easy money," Wooten said.

As for me, *The New Yorker* paid my travel expenses to and from the congressional retreat. In the past twelve months, I've given two paid speeches; the first, at New York's Harmonic Club, was to make an opening presentation and to moderate a panel on the battle for control of Paramount Communications, for which I was paid twelve hundred dollars; the second was a speech on the future of the information superhighway at a Manhattan luncheon sponsored by the Baltimore-based investment firm of Alex. Brown & Sons, for which my fee was seventy-five hundred dollars. I don't accept lecture fees from communications organizations.

Like the public figures we cover, journalists would benefit from a system of checks and balances. Journalistic institutions, including *The New Yorker*, too seldom have rigorous rules requiring journalists to check with an editor or an executive before agreeing to make a paid speech; the rules at various institutions for columnists are often even more permissive. Full disclosure provides a disinfectant—the power of shame. A few journalistic institutions, recently shamed, have been taking a second look at their policies. In mid-June, ABC News issued new rules, which specifically prohibit paid speeches to trade associations or to any "for-profit business." ABC's ban—the same one that is in place at the *Wall Street Journal* and the *Washington Post*—prompted Roberts, Donaldson, Brinkley, Wallace, and several other ABC correspondents to protest, and they met in early August with senior news executives. They sought a lifting of the ban, which would allow them to get permission on a case-by-case basis. But a ranking ABC official says. "We can agree to discuss exceptions but not give any. Their basic argument is greed, for Christ's sake!" Andrew Lack, the president of NBC News, said that he plans to convene a meeting of his executives to shape an entirely new speaking policy. "My position is that the more we can discourage our people from speaking for a fee, the better," he said. And CBS News now stipulates that all speaking requests must be cleared with the president or the vice-president of news. Al Vecchione, the president of MacNeil/Lehrer Productions, admitted in June to having been embarrassed by the American Journalism Review piece. "We had a loose policy," he said. "I just finished rewriting our company policy." Henceforth, those associated with the program will no longer accept fees to speak to corporate groups or trade associations that directly lobby the government. The New Yorker, according to its executive editor, Hendrik Hertzberg, is in the process of reviewing its policies.

Those who frequently lecture make a solid point when they say that lecture fees don't buy favorable coverage. But corruption can take subtler forms than the quid pro quo, and the fact that journalists see themselves as selling entertainment rather than influence does not wipe the moral slate clean. The real corruption of "fee speech," perhaps, is not that journalists will do favors for the associations and businesses that pay them speaking fees but that the nexus of television and speaking fees creates what Representative Obey called "an incentive to be even more flamboyant" on TV—and, to a lesser extent, on the printed page. The television talk shows value vividness, pithiness, and predictability. They prefer their panelists reliably pro or con, "liberal" or "conservative," Too much quirkiness can make a show unbalanced; too much complexity can make it dull. Time's Margaret Carlson told me, not entirely in jest, "I was a much more thoughtful person before I went on TV. But I was offered speeches only after I went on TV." Her Time colleague the columnist Hugh Sidey said that when he stopped appearing regularly on television his lecture income shrivelled. Obey wishes that it would shrivel for the rest of the pundit class as well. An attitude of scorn often substitutes for hard work or hard thought and it's difficult to deny that the over-all result of this dynamic is a coarsening of political discourse.

Celebrity journalism and the appearance of conflicts unavoidably erode journalism's claim to public trust. "My view is that you're going to start having character stories about journalists," Jay Rosen, a journalism professor at New York University and the director of the Project on Public Life and the Press, told me recently. "It's inevitable. If I were a big-name Washington journalist, I'd start getting my accounts together. I don't think journalists are private citizens."

[From the American Journalism Review, June 1995]

TAKE THE MONEY AND TALK

(By Alicia C. Shepard)

It's speech time and the Broward County Convention Center in Fort Lauderdale.

ABC News correspondent and NPR commentator Cokie Roberts takes her brown handbag and notebook off of the "reserved" table where she has been sitting, waiting to speak. She steps up to the podium where she is gushingly introduced and greeted with resounding applause.

Framed by palm fronds, Roberts begins her speech to 1,600 South Florida businesswomen attending a Junior League-sponsored seminar. Having just flown in from Washington, D.C., Roberts breaks the news of the hours-old arrest of a suspect in the Oklahoma City bombing. She talks of suffragette Susan B. Anthony, of how she misses the late House Speaker Tip O'Neill, of the Republican takeover on Capitol Hill. Then she gives her listeners the inside scoop on the new members of Congress.

"They are very young," says Roberts, 52. "I'm constantly getting it wrong, assuming they are pages. They're darling. They're wildly adept with a blow dryer and I resent them because they call me ma'am." The audience laughs.

After talking for an hour on "Women and Politics," Roberts answers questions for 20 minutes. One woman asks the veteran correspondent, who has covered Washington since 1978, when there will be a female president.

"I think we'll have a woman president when a woman is elected vice president and we do in the guy," Roberts quips.

This crowd loves her. When Roberts finishes, they stand clapping for several minutes. Roberts poses for a few pictures and is whisked out and driven to the Miami airport for her first-class flight back to Washington.

For her trouble and her time, the Junior League of Greater Fort Lauderdale gave Roberts a check for $35,000. "She's high, very high," says the League's Linda Carter, who lined up the keynote speakers. The two other keynote speakers received around $10,000 each.

The organization sponsored the seminar to raise money for its community projects, using Roberts as a draw. But shelling out $35,000 wouldn't have left much money for, say, the League's foster care or women's substance abuse programs or its efforts to increase organ donors for transplants.

Instead, Roberts tab was covered by a corporate sponsor. JM Family Enterprises. The $4.2 billion firm is an umbrella company for the largest independent American distributor of Toyotas. The second-largest privately held company in Florida, it provides Toyotas to 164 dealerships in five southern states and runs 20 other auto-related companies.

But Roberts doesn't want to talk about the company that paid her fee. She doesn't like to answer the kind of questions she asks politicians. She won't discuss what she's paid, whom she speaks to, why she does it or how it might affect journalism's credibility when she receives more money in an hour-and-a-half from a large corporation than many journalists earn in a year.

"She feels strongly that it's not something that in any way shape or form should be discussed in public." ABC spokeswoman Eileen Murphy said in response to AJR's request for an interview with Roberts.

Roberts' ABC colleague Jeff Greenfield, who also speaks for money, doesn't think it's a good idea to duck the issue. "I think we ought not not talk about it." he says. "I mean that's Cokie's right, obviously," he adds, but "if we want people to answer our questions, then up to a reasonable point, we should answer their questions."

The phenomenon of journalists giving speeches for staggering sums of money continues to dog the profession. Chicago Tribune Washington Bureau Chief James Warren has created a cottage industry criticizing colleagues who speak for fat fees. Washington Post columnist James K. Glassman believes the practice is the "next great American scandal." Iowa Republican Sen. Charles Grassley has denounced it on the Senate floor.

A number of news organizations have drafted new policies to regulate the practice since debate over the issue flared a year ago (see "Talk is Expensive," May 1994). Time magazine is one of the latest to do so, issuing a flat-out ban on honoraria in April. The Society for Professional Journalists, in the process of revising its ethics code, is wrestling with the divisive issue.

The eye-popping sums star journalists receive for their speeches, and the possibility that they may be influenced by them, have drawn heightened attention to the practice, which is largely the province of a relatively small roster of well-paid members of the media elite. Most work for the television networks or the national news weeklies; newspaper reporters, with less public visibility, aren't asked as often.

While the crescendo of criticism has resulted in an official crackdown at several news organizations—as well as talk of new hardline policies at others—it's not clear how effective the new policies are, since no public disclosure system is in place.

Some well-known journalists, columnists and "Crossfire" host Michael Kinsley and U.S. News & World Report's Steven V. Roberts among them, scoff at the criticism. They assert that it's their right as private citizens to offer their services for whatever the market will bear, that new policies won't improve credibility and that the outcry has been blown out of proportion.

But the spectacle of journalists taking big bucks for speeches has emerged as one of the high-profile ethical issues in journalism today.

"Clearly some nerve has been touched," Warren says. "A nerve of pure, utter defensiveness on the part of a journalist trying to rationalize taking [honoraria] for the sake of their bank account because the money is so alluring."

A common route to boarding the lecture gravy train is the political talk show. National television exposure raises a journalist's profile dramatically, enhancing the likelihood of receiving lucrative speaking offers.

The problem is that modulated, objective analysis is not likely to make you a favorite on "The Capital Gang" or "The McLaughlin Group." Instead, reporters who strive for objectivity in their day jobs are often far more opinionated in the TV slugfests.

Time Managing Editor James R. Gaines, who issued his magazine's recent ban on accepting honoraria, sees this as another problem for journalists' credibility, one he plans to address in a future policy shift. "Those journalists say things we wouldn't let them say in the magazine. . . ." says Gaines, whose columnist Margaret Carlson appears frequently on "The Capital Gang." "It's great promotion for the magazine and the magazine's journalists. But I wonder about it when the journalists get into that adversarial atmosphere where provocation is the main currency."

Journalists have been "buckraking" for years, speaking to trade associations, corporations, charities, academic institutions and social groups. But what's changed is the amount they're paid. In the mid-1970s, the fees peaked at $10,000 to $15,000, say agents for speakers bureaus. Today, ABC's Sam Donaldson can get $30,000, ABC's David Brinkley pulls in $18,000 and the New York Times' William Safire can command up to $20,000.

When a $4.2 billion Toyota distributor pays $35,000 for someone like Cokie Roberts, or a trade association pays a high-profile journalist $10,000 or $20,000 for an hour's work, it inevitably raises questions and forces news executives to re-examine their policies.

That's what happened last June at ABC. Richard Wald, senior vice president of news, decided to ban paid speeches to trade associations and for-profit corporations—much to the dismay of some of ABC's best-paid correspondents. As at most news organizations, speaking to colleges and nonprofits is allowed.

When Wald's policy was circulated to 109 employees at ABC, some correspondents howled (see Free Press, September 1994). Protests last August from Roberts, Donaldson, Brinkley, Greenfield, Brit Hume and others succeeded only in delaying implementation of the new guidelines. Wald agreed to "grandfather in" speeches already scheduled through mid-January. After that, if a correspondent speaks to a forbidden group, the money must go to charity.

"Why did we amend it? Fees for speeches are getting to be very large," Wald says. "When we report on matters of national interest, we do not want it to appear that folks who have received a fee are in any way beholden to anybody other than our viewers. Even though I do not believe anybody was every swayed by a speech fee. I do believe that it gives the wrong impression. We deal in impressions."

The new policy has hurt, says ABC White House correspondent Ann Compton. Almost a year in advance, Compton agreed to speak to the American Cotton Council. But this spring, when she spoke to the trade group, she had to turn an honorarium of "several thousand dollars" over to charity. Since the policy went into effect, Compton has turned down six engagements that she previously would have accepted.

"The restrictions how have become so tight, it's closed off some groups and industries that I don't feel I have a conflict with," says Compton, who's been covering the White House off and on since 1974. "It's closed off, frankly, the category of organizations that pay the kind of fees I get." She declines to say what those fees are.

And it has affect her bank account. "I've got four kids . . ." Compton says. "It's cut off a significant portion of income for me."

Some speakers bureaus say ABC's new policy and criticism of the practice have had an impact.

"It has affected us, definitely," says Lori Fish of Keppler Associates in Arlington, Virginia, which represents about two dozen journalists. "More journalists are conscious of the fact that they have to be very particular about which groups they accept honoraria from. On our roster there's been a decrease of some journalists accepting engagements of that sort. It's mainly because of media criticism."

Other bureaus, such as the National Speakers Forum and the William Morris Agency, say they haven't noticed a difference. "I can't say that the criticism has affected us," says Lynn Choquette, a partner at the speakers forum.

Compton, Donaldson and Greenfield still disagree with Wald's policy but, as they say, he's the boss.

"I believe since all of us signed our contracts with the expectation that the former ABC policy would prevail and took that into account when we agreed to sign our contracts for X amount," Donaldson says, "it was not fair to change the policy midstream." Donaldson says he has had to turn down two speech offers.

Greenfield believes the restrictions are unnecessary.

"When I go to speak to a group, the idea that it's like renting a politician to get his ear is not correct," he says. "We are being asked to provide a mix of entertainment and information and keep audiences in their seats at whatever convention so they don't go home and say, 'Jesus, what a boring two-day whatever that was.'"

Most agree it's the size of the honoraria that is fueling debate over the issue. "If you took a decimal point or two away, nobody would care," Greenfield says. "A lot of us are now offered what seems to many people a lot of money. They are entertainment-size sums rather than journalistic sizes."

And Wald has decided "entertainment-size sums" look bad for the network, which has at least a dozen correspondents listed with speakers bureaus. It's not the speeches themselves that trouble Wald. "You can speak to the American Society of Travel Agents or the Electrical Council," he says, "as long as you don't take money from them."

But are ABC officials enforcing the new policy? "My suspicion is they're not, that they are chickenshit and Cokie Roberts will do whatever the hell she wants to do and they don't have the balls to do anything," says the Chicago Tribune's Warren, whose newspaper allows its staff to make paid speeches only to educational institutions.

There's obviously some elasticity in ABC's policy. In April, Greenfield, who covers media and politics, pocketed $12,000 from the National Association of Broadcasters for speaking to 1.000 members and interviewing media giants Rupert Murdoch and Barry Diller for the group. Wald says that was acceptable.

He also says it was fine for Roberts to speak to the Junior League-sponsored business conference in Fort Lauderdale, even though the for-profit JM Family Enterprises paid her fee.

"As long as the speech was arranged by a reasonable group and it carried with it no tinct from anybody, it's okay," says Wald. "I don't care where they [the Junior League] get their money."

Even with its loopholes, ABC has the strictest restrictions among the networks. NBC, CBS and CNN allow correspondents to speak for dollars on a case-by-case basis and require them to check with a supervisor first. Last fall, Andrew Lack, president of NBC News, said he planned to come up with a new policy. NBC spokesperson Lynn Gardner says Lack has drafted the guidelines and will issue them this summer. "The bottom line is that Andrew Lack is generally not in favor of getting high speaking fees," she says.

New Yorker Executive Editor Hendrik Hertzberg also said last fall that his magazine would review its policy, under which writers are supposed to consult with their editors in "questionable cases." The review is still in progress. Hertzberg says it's likely the magazine will have a new policy by the end of the year.

"There's something aesthetically offensive to my idea of journalism for American journalists to be paid $5,000, $10,000 or $20,000 for some canned remarks simply because of his or her celebrity value," Hertzberg says.

Rewriting a policy merely to make public the outside income of media personalities guarantees resistance, if not outright hostility. Just ask John Harwood of the Wall Street Journal's Washington bureau. This year, Harwood was a candidate for a slot on the committee that issues congressional press passes to daily print journalists.

His platform included a promise to have daily correspondents list outside sources of income—not amounts—on their applications for press credentials. Harwood's goal was fuller disclosure of outside income, including speaking fees.

"I'm not trying to argue in all cases it's wrong," says Harwood. "But we make a big to-do about campaign money and benefits lawmakers get from special interests and I'm struck by how many people in our profession also get money from players in the political process."

Harwood believes it's hypocritical that journalists used to go after members of Congress for taking speech fees when journalists do the same thing. (Members of Congress are no longer permitted to accept honoraria.)

"By disclosing the people who pay us," says Harwood, "we let other people who may have a beef with us draw their own conclusions. I don't see why reporters should be afraid of that."

But apparently they are. Harwood lost the election.

"I'm quite certain that's why John lost," says Alan J. Murray, the Journal's Washington bureau chief, who made many phone calls on his reporter's behalf. "There's clearly a lot of resistance," adds Murray, whose newspaper forbids speaking to for-profit companies, political action committees and anyone who lobbies Congress. "Everybody likes John. But I couldn't believe how many people said—even people who I suspect have very little if any speaking incomes—that it's just nobody's business. I just don't buy that."

His sentiment is shared in the Periodical Press Gallery on Capitol Hill, where magazine reporters applying for press credentials must list sources of outside income. But in the Radio-Television Correspondents Gallery, where the big-name network reporters go for press credentials, the issue of disclosing outside income has never come up, says Kenan Block, a "MacNeil/Lehrer NewsHour" producer.

"I've never heard anyone mention it here and I've been here going on 11 years," says Block, who is also chairman of the Radio-Television Correspondents Executive Committee. "I basically feel it's not our place to police the credentialed reporters. If you're speaking on the college circuit or to groups not terribly political in nature, I think, If anything, people are impressed and a bit envious. It's like, 'More power to them.'"

But the issue of journalists' honoraria has been mentioned at Block's program.

Al Vecchione, president of McNeil/Lehrer Productions, says he was "embarrassed" by AJR's story last year and immediately wrote a new policy. The story reported that Robert MacNeil accepted honoraria, although he often spoke for free; partner Jim Lehrer said he had taken fees in the past but had stopped after his children got out of college.

"We changed [our policy] because in reading the various stories and examining our navel, we decided it was not proper," Vecchione says. "While others may do it, we don't think it's proper. Whether in reality it's a violation or not, the perception is there and the perception of it is bad enough."

MacNeil/Lehrer's new policy is not as restrictive as ABC's, however. It says correspondents "should avoid accepting money from individuals, companies, trade associations or organizations that lobby the government or otherwise try to influence issues the NewsHour or other special * * * programs may cover."

As is the case with many of the new, stricter policies, each request to speak is reviewed on a case-by-case basis. That's the policy at many newspapers and at U.S. News.

Newsweek tightened its policy last June. Instead of simply checking with an editor, staffers now have to fill out a form if they want to speak or write freelance articles and submit it to Ann McDaniel, the magazine's chief of correspondents.

"The only reason we formalized the process is because we thought this was becoming more popular than it was 10 years ago," McDaniel says, "We want to make sure [our staff members] are not involved in accepting compensation from people they are very close to. Not because we suspect they can be bought or that there will be any improper behavior but because we want to protect our credibility."

Time, on the other hand, looked at all the media criticism and decided to simply end the practice. In an April 14 memo. Managing Editor Gaines told his staff, "The policy is that you may not do it.

Gaines says the new policy was prompted by "a bunch of things that happened all at once." He adds that "a lot of people were doing cruise ships and appearances and have some portion of their income from that, so their ox is gored."

The ban is not overwhelmingly popular with Time staffers. Several, speaking on a not-for-attribution basis, argue that it's too tough and say they hope to change Gaines' mind. He says that won't happen, although he will amend the policy to allow paid speeches before civic groups, universities and groups that are "clearly not commercial."

"Academic seminars are fine," he says. "If some college wants to pay expenses and a $150 honorarium, I really don't have a problem with that."

Steve Roberts, a senior writer with U.S. News & World Report and Cokie Roberts' husband, is annoyed that some media organizations are being swayed by negative publicity. He says there's been far too much criticism of what he believes is basically an innocuous practice. Roberts says journalists have a right to earn as much as they can by speaking, as long as they are careful about appearances and live by high ethical standards.

"This whole issue has been terribly overblown by a few cranks," Roberts says. "As long as journalists behave honorably and use good sense and don't take money from people they cover, I think it's totally legitimate. In fact, my own news organization encourages it."

U.S. News not only encourages it, but its public relations staff helps its writers get speaking engagements.

Roberts says U.S. News has not been intimidated by the "cranks," who he believes are in part motivated by jealousy. "I think a few people have appointed themselves the critics and watchdogs of our profession. I, for one, resent it."

His chief nemesis is Jim Warren, who came to Washington a year-and-a-half ago to take charge of the Chicago Tribune's bureau. Warren, once the Tribune's media writer, writes a Sunday column that's often peppered with news flashes about which journalist is speaking where and for how much. The column includes a "Cokie Watch." named for Steve Roberts' wife of 28 years, a woman Warren has written reams about but has never net.

"Jim Warren is a reprehensible individual who has attacked me and my wife and other people to advance his own visibility and his own reputation," Roberts asserts. "He's on a crusade to make his own reputation by tearing down others."

While Warren may work hard to boost his bureau's reputation for Washington coverage, he is best known for his outspoken criticism of fellow journalists. Some reporters cheer him on and fax him tips for "Cokie Watch." Others are highly critical and ask who crowned Warren chief of the Washington ethics police.

Even Warren admits his relentless assault has turned him into a caricature.

"I'm now in the Rolodex as inconoclast, badass Tribune bureau chief who writes about Cokie Roberts all the time," says Warren, who in fact doesn't. "But I do get lots of feedback from rank-and-file journalists saying, 'Way to go. You're dead right.' It obviously touches a nerve among readers."

So Warren writes about Cokie and Steve Roberts getting $45,000 from a Chicago bank for a speech and the traveling team of television's "The Capital Gang" sharing $25,000 for a show at Walt Disney World. He throws in parenthetically that Capital Gang member Michael Kinsley "should know better."

Kinsley says he would have agreed a few years ago, but he's changed his tune. He now believes there are no intrinsic ethical problems with taking money for speaking. He does it, he wrote in The New Republic in May, for the money, because it's fun and it boosts his ego.

"Being paid more than you're worth is the American dream," he wrote. "I see a day when we'll all be paid more than we're worth. Meanwhile, though, there's no requirement for journalists, alone among humanity, to deny themselves the occasional fortuitous tastes of this bliss."

To Kinsley, new rules restricting a reporter's right to lecture for largesse don't accomplish much.

"Such rules merely replace the appearance of corruption with the appearance of propriety," he wrote. "What keeps journalists on the straight and narrow most of the time is not a lot of rules about potential conflicts of interest, but the basic reality of our business that a journalist's product it out there for all to see and evaluate."

The problem, critics say, is that without knowing who besides the employer is paying a journalist, the situation isn't quite that clear-cut.

Jonathan Salant, president of the Washington chapter of the Society of Professional Journalists, cites approvingly a remark by former Washington Post Executive Editor Ben Bradlee in AJR's March issue: "If the Insurance Institute of America, if there is such a thing, pays you $10,000 to make a speech, don't tell me you haven't been corrupted. You can say you haven't and you can say you will attack insurance issues in the same way, but you won't. You can't."

Salant thinks SPJ should adopt an absolute ban on speaking fees as it revises its ethics code. Most critics want some kind of public disclosure at the very least.

Says the Wall Street Journal's Murray, "You tell me what is the difference between somebody who works full time for the National Association of Realtors and somebody who takes $40,000 a year in speaking fees from Realtor groups. It's not clear to me there's a big distinction. I'm not saying that because you take $40,000 a year from Realtors that you ought to be thrown out of the profession. But at the very least, you ought to disclose that."

And so Murray is implementing a disclosure policy. By the end of the year, the 40 journalists working in his bureau will be required to list outside income in a report that will be available to the public.

"People are not just cynical about politicians," says Murray. "They are cynical about us. Anything we can do to ease that cynicism is worth doing."

Sen. Grassley applauds the move. Twice he has taken to the floor of the Senate to urge journalists to disclose what they earn on the lecture circuit.

"It's both the amount and doing it," he says. "I say the pay's too much and we want to make sure the fee is disclosed. The average worker in my state gets about $21,000 a year. Imagine what he or she thinks when a journalist gets that much for just one speech?"

Public disclosure, says Grassley, would curtail the practice.

Disclosure is often touted as the answer. Many journalists, such as Kinsley and Wall Street Journal columnist Al Hunt—a television pundit and Murray's predecessor as bureau chief—have said they will disclose their engagements and fees only if their colleagues do so as well.

Other high-priced speakers have equally little enthusiasm for making the information public. "I don't like the idea," says ABC's Greenfield. "I don't like telling people how much I get paid."

But one ABC correspondent says he has no problem with public scrutiny. John Stossel, a reporter on "20/20," voluntarily agreed to disclose some of the "absurd" fees he's earned. Last year and through March of this year Stossel raked in $160,430 for speeches—$135,280 of which was donated to hospital, scholarship and conservation programs.

"I just think secrecy in general is a bad thing," says Stossel, who did not object to ABC's new policy. "We [in the media] do have some power. We do have some influence. That's why I've come to conclude I should disclose, so people can judge whether I can be bought."

(Stossel didn't always embrace this notion so enthusiastically. Last year he told AJR he had received between $2,000 and $10,000 for a luncheon speech, but wouldn't be more precise.)

Brian Lamb, founder and chairman of C-SPAN, has a simpler solution, one that also has been adopted by ABC's Peter Jennings, NBC's Tom Brokaw and CBS' Dan Rather and Connie Chung. They speak, but not for money.

"I never have done it," Lamb says. "It sends out one of those messages that's been sent out of this town for the last 20 years: Everybody does everything for money. When I go out to speak to somebody I want to have the freedom to say exactly what I think. I don't want to have people suspect that I'm here because I'm being paid for it."

On February 20, according to the printed program, Philip Morris executives from around the world would have a chance to listen to Cokie and Steve Roberts at 7 a.m. while enjoying a continental breakfast. "Change in Washington: A Media Perspective with Cokie and Steve Roberts," was the schedule event at the PGA resort in Palm Beach during Philip Morris' three-day invitational golf tournament.

A reporter who sent the program to AJR thought it odd that Cokie Roberts would speak for Philip Morris in light of the network's new policy. Even more surprising, he thought, was that she would speak to a company that's suing ABC for libel over a "Day

One" segment that alleged Philip Morris adds nicotine to cigarettes to keep smokers addicted. The case is scheduled to go to trial in September.

At the last minute, Cokie Roberts was a no-show, says one of the organizers. "Cokie was sick or something" says Nancy Schaub of Event Links, which put on the golf tournament for Philip Morris. "Only Steve Roberts came."

Cokie Roberts won't talk to AJR about why she changed her plans. Perhaps she got Dick Wald's message.

"Of course, it's tempting and it's nice," Wald says of hefty honoraria. "Of course, they [ABC correspondents] have rights as private citizens. It's not an easy road to go down. But there are some things you just shouldn't do and that's one of them."

[From the Columbia Journalism Review, May–June 1995]

Where the Sun Doesn't Shine—Financial Disclosure for Journalists Doesn't Fly

(By Jamie Stiehm)

Journalists don't like to politick on their own behalf; they'd much rather cover politics as a spectator sport. But every so often a few souls in Washington are asked—if not told—by their bureau chiefs to run for the prestigious Standing Committee of Correspondents in one of the congressional press galleries. In the case of the daily newspaper gallery, this is an inner circle, democratically elected, that makes important logistical decisions affecting coverage of both Congress and the national political conventions. Hence the tendency of the bigger newspapers and wire services to exercise their clout to get their people in there.

So this year, chances are that if he had kept quiet, John Harwood of the Wall Street Journal, the only candidate from one of the "Big Four" national newspapers, would have won. But instead, Harwood chose to ignite a controversial issue that has divided the journalistic community ever since Ken Auletta's September 12 New Yorker article made it the talk of the town: whether journalists should disclose to their peers and the public their "outside income"—that is, income earned from speeches and sources other than their day jobs.

"I think it's time we do a better job of disclosing the sort of potential conflicts we so often expose in the case of public officials," Harwood wrote to 2,000 colleagues in a campaign letter. In an interview, he adds, "Given the impact the media have on public policy discussions, we should be willing to subject ourselves to more scrutiny."

This philosophy did not play too well with the masses. As they paid campaign calls around town, Harwood and the Journal's Washington bureau chief, Alan Murray, could hardly help noticing that the disclosure proposal did not excite enthusiasm. "I was surprised," Murray states flatly, "to find out so many of my colleagues oppose the right thing to do."

Yet only a handful of daily gallery members, the so-called celebrity journalists who make substantial money from speaking engagements, would likely have serious outside income to disclose. (Harwood himself says that he earned only $300 last year from an outside source, for a speech he gave to the World Affairs Council.) The vast majority of the gallery members are beat reporters who might reasonably resent what some see as an invasion of privacy. "What business of the gallery is it what my income is?" says Stephen Green, of Copley News Service, who also ran and lost. "People who are paying your salary should decide whether you have a conflict or not." Alan Fram of The Associated Press, the big winner, opposed disclosure partly on the ground that reporters are private citizens, not public officials.

Fram and Green see "philosophical perils," as Green put it, in "licensing" reporters by requiring them to reveal certain facts and activities. "That opens up a door we don't want to walk through," says Fram. "What's the next step? Voting registration?"

Of the three press galleries that accredit reporters on Capitol Hill—the daily, periodical, and radio-TV galleries—only the periodical press gallery requires members to list all sources of earned income. This rule has always applied to the periodical gallery, largely because it receives more applications from people who might be moonlighting as trade association lobbyists, government consultants, or corporate newsletter writers.

Harwood argues that he only wants the daily gallery to do what the periodical gallery already does: put the sources, not the amounts, of outside income on record for any other gallery member to look up. He would go one step further, however, and make records available to the general public, not just journalistic peers: "Put the judgment out there."

Would writing these things down prevent anything impure from taking place? Maybe: environmental lawyers, for example, have found that the most effective laws are the "sunshine" statutes that made certain polluting practices less common simply by requiring companies to report them.

Anyway, the results are in. Out of a field of five, Harwood lost narrowly to the three winners: Fram of AP, Sue Kirchhoff of Reuters, and Bill Welch of USA Today, none of whom share his views. Is financial disclosure for journalists an idea whose time has come? If Harwood's loss is a good sounding of the current state of journalistic opinion, the answer is: not yet.

[From the Rocky Mountain News, Sept. 17, 1995]

Media Morality: Journalists Who Play Loose With Rules Compromise Credibility

Lots of people hate journalists, and who can blame them?

We can be sanctimonious scolds and know-it-all nags.

We're full of unsolicited advice for every politician, police chief, pro athlete and parent, but when somebody turns the spotlight on our own behavior, we can react like Richard Nixon in bunker mode.

We expect leaders of government and private industry to live by rules that we sometimes don't apply to ourselves. We also expect those same leaders to drop what they're doing and talk to us whenever we have questions—often embarrassing ones—for them. But nobody is more defensive or evasive than a journalist who finds herself on the wrong end of the microphone.

Example: ABC News talking head Cokie Roberts recently caught some well-deserved grief for her outrageous speaking fees (such as $35,000 for a quick performance in Fort Lauderdale earlier this year). She became so annoyed with questions about her lucrative sideline that she quit talking to the press about the subject. If Roberts were a politician, she'd be badgered to a frazzle if she tried to get away with such arrogance, but some big-time journalists go easy on their peers.

In recent weeks, though, the extravagant speaking fees pulled down by such celebrity pundits as Roberts, David Brinkley, Michael Kinsley and William Safire have finally penetrated the public's consciousness. As a result, the skittish bosses of some of the new punditocracy have been re-examining their rules.

Roberts' boss at ABC handed down a new policy that prohibits his staff from accepting a speaking fee from "any group which you cover or might reasonably expect to cover" in the future. If journalists could accurately predict what next week's news is going to be, that rule might make some sense. In real life, the rule has done little to curb ABC's speakers-for-hire.

The simpler and more honest rule was the one set down by James Gaines, managing editor of Time: "To be sure that everyone knows our policy on accepting fees and/or expenses for outside speaking engagements . . . I want to make it perfectly clear: The policy is that you may not do it."

This issue is not about forcing Cokie Roberts to get by on the sad little salary that ABC pays her for what is supposed to be her real job. Instead, it is about preserving the most important commodity that she has to offer: credibility.

When you're willing to rent yourself out for $35,000 a night—and worse yet, when you're unwilling to reveal the identities of the customers who have rented you—how can you expect your audience to have any faith in the integrity of your work?

That's not the only way in which the new punditocracy cashes in while compromising its credibility. Another example; Roberts' ABC colleague, George Will, is similarly mum about the various conflicts of interests that he and his lobbyist wife have created for themselves.

When Will writes about the businesses and foreign governments his wife has been paid to represent, he doesn't bother to disclose the connection to his readers. He also didn't let readers in on the depth of his chummy connections with the Reagans and their underlings during their years in power.

This isn't a partisan issue. How are we supposed to trust the objectivity of the celebrity journalists who have spent past Renaissance weekends palling around with Bill and Hillary Clinton at an exclusive South Carolina retreat?

This also isn't an issue limited to a handful of media fat cats. many journalists have to worry about the potential for similar conflict on a smaller scale.

Only a very few of us have to worry about the morality of huge speaking fees. Most of us are underpaid by the standards of other professions and seldom get more than a chicken dinner at the Kiwanis Club for our oratorical efforts.

Even then, we're supposed to get an editor's approval before agreeing to make such an appearance. Still, we humble journalists who never get invited on Crossfire can be self-indulgent other ways:

A few familiar TV faces such as Roberts and Will get all the attention, but there is a glut of lazy, overcautious Washington journalists who cut a symbiotic deal with the city's public officials in which they agree to pretend to take each other seriously.

I once watched a Washington reporter spend two entire workdays planning a dinner party—and he considered it real work—because the party would give him a chance to "network" with administration functionaries.

We can be almost cavalier about "downsizing" at dozens of Fortune 500 corporations, but when a newspaper folds, or when the bloated Los Angeles Times lays off

> some newsroom employees, we treat it like a national disaster. And we may yawn when truckers or textile workers are involved in an extended strike or lockout, but when members of Detroit's newspaper guild find themselves on the picket lines, we can get downright weepy.
>
> We trumpet our Pulitizers and the other prizes of our industry, but we tend to relegate the major awards in other professions to the back pages and tiny print—assuming they're deemed worthy publishing at all.
>
> And more and more "journalists" are making a career out of talking and writing about themselves; their kids, their parents, their hobbies and illnesses and psychic complaints. Journalism used to be about reporting on the lives of other people, but that can take a lot of time and trouble. And besides, our own lives are so fascinating.
>
> Despite this creed, most of the journalists I know are honest and work pretty hard, and their egos are no more insufferable than the average lawyer's, insurance agent's. And journalism offers more creative satisfaction and redeeming social value than most other professions when it's done right. * * *

Mr. Chairman, disclosure is only a solution to this problem, and I would never suggest that members of the press be prohibited from earning outside income. On the contrary, I want to suggest that the public deserves the right to know which members of the press special-interest lobbies have paid money to. Lobbies are required to disclose which Members of Congress they have financial ties to, and they should be required to disclose which members of the press they have paid honoraria to.

Please do not misunderstand, I am not suggesting that organizations such as the Kiwanis or the Lion's Club should have to disclose any honoraria that it pays to a member of the media. My amendment makes clear that only registered lobbyists are required to disclose any honoraria that it makes available to a member of the media.

Further, I do not expect that my amendment will place an onerous burden on the lobby community. The disclosure of all honoraria to members of the media will be incorporated into a report that lobbyist will already be required to submit to the Clerk of the House of Representatives and the Secretary of the Senate.

As for the Senate, that Chamber has already made clear its intentions toward this matter. This summer the Senate passed Senate Resolution 162, recommending that each accredited member of the Senate Press Gallery file an annual public report with the Secretary of the Senate disclosing the member's primary employer and any additional sources and amounts of earned outside income. Well, I am not suggesting that our Chamber enact similar provisions tomorrow, but that we once again reinforce to the public that they are correct—they do have the right to know if there is even the slightest hint of impropriety—whether it be in the halls of Congress or in the newspaper article in their hand.

This is lobbying reform, my colleagues. This amendment strengthens the bill, and I ask for bipartisan support.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this evening I have spoken in opposition to a number of amendments on the grounds that I believe that the amendments would interfere with our success in passing meaningful lobbyist disclosure reform. Some of those amendments are amendments that I would support. I have to say that this is an amendment about which I have some serious doubts. I believe that there are serious first amendment issues that are raised by this amendment, and I respect my colleague, the gentleman from Illinois [Mr. WELLER], and I understand his motivation to address this, some abuses that may have occurred, in a responsible way, however I have a question about where would we stop if we require this sort of disclosure with respect to activities of people in the media? What would be the next sort of disclosure that we would require? Are we going to get involved in a process of policing the media to make certain who is influencing the media and who is not influencing the media?

Mr. Chairman, I think that leads us down a path that is fraught with problems and could lead to a threat to the freedom of the press in this country.

Now I tell my colleagues the truth. I do no like a lot of what the press has to say. I think the media is biased in many respects. But we have a Constitution in this country, and we have protected the freedom of the press that is inconvenient at times. It is inconvenient to those of us who are in public office when we feel that we have been unfairly attacked. But that is the system of government that our Founders gave us, and I believe that on balance that is a very good system, and I would much rather have a free press that is free from time to time to be irresponsible, that is free all the time to be biased, than to have a press that is policed by people sitting in a Chamber such as this, and I am opposed to any effort that would start us down that road.

Now I am also puzzled by this amendment. In some ways it is extremely underinclusive in dealing with the issue that it apparently attempts to address.

□ 2310

The fact of the matter is that people who work for newspapers and other media outlets are employed by persons and corporations that themselves lobby the Congress and have significant interests before the Congress. The people that are paying their salaries have interests in matters here, and many media outlets have lobbyists or hire lobbyists that come before the Congress. So to focus simply on this issue of honoraria given to Members of the press by people who lobby, by registered lobbyists, I do not think addresses the issue that even the gentleman would purport to address.

However, if it did address it, I would still have the concerns that I expressed about the implications that this has for first amendment rights. Again, I understand the gentleman's motivation. I believe that he is motivated with pure motives, but I do not believe that this is the sort of step we should take.

Furthermore, I will guarantee you that this is the sort of amendment that would have a great potential for derailing this bill. I believe that it is the sort of baggage that would virtually guarantee an extended battle over this in a conference committee, and also provoke a Presidential veto of the bill.

This is not an amendment that we need on this bill. I think that if there is any need to look at this issue, it should be looked at in the committee process, and as the chairman of the Subcommittee on the Constitution, with responsibility for issues related to the first amendment, I would be happy to work with the gentleman and look at his concerns, but I believe we need to reject this amendment.

I believe that if we adopted the amendment, we would not only act to impede our progress on this critical issue of lobbying disclosure reform, but we would start moving down a road that could lead to some serious infringements of first amendment rights in this country.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the chairman of the subcommittee has done a very good job of pointing out the substantive problems with this amendment. Let me just add a little bit to his analysis.

Mr. Chairman, we do regulate the relationship lobbyists have to us. In the Senate, they are seeking to regulate the relationship that journalists have to the Senate through getting a credential. This, unfortunately, goes, I think, a step too far in regulation, because it regulates the relationships of two wholly private entities to each other. That is, the gentleman said, should there not be as much accountability on the press as on us? No, not as much because they are private. I would like to be able to make changes there, and I reject those in the press who argue that there should not be any scrutiny of them, et cetera. But there cannot be an equivalent in the way we deal with them officially.

Yes, we have a right to require lobbyists to report on what they do with us.

The Senate has a right, I believe, to require some disclosure on their journalists who get credentials, although you may agree or disagree with the substance. However, this amendment is one in which lobbyists and the press are being regulated. Let us be very explicit, that compulsory disclosure is, of course, a form of regulation. We had the Burton amendment today. It did not pass but it got a lot of votes. What the gentleman from Indiana said was the best way to regulate this is to require disclosure.

We do not have as a Government entity the right, in my judgment, to go to two purely private entities and say, "You must tell us what you are paying that one." I would say, particularly to my friends on the other side who are advocates of more limited government, this would be a very significant expansion of Government regulatory power, to say that we will require the public disclosure of what A pays to B, when neither one of them is in that transaction directly affecting the Government.

Would I like to know it? Sure. I think it would be embarrassing to many journalists if we got that information, and embarrassing journalists is one of my favorite things to do. I like to embarrass journalists. But I do think that we have to abide by the Constitution, and having a Federal regulatory scheme imposed on the relationships of lobbyists who are in the private sector and journalists in the private sector and their private interrelationship does, in my judgment, transgress the first amendment. Therefore, I think this would be a mistake, in addition to the other reasons.

Mr. Chairman, I reserve the balance of my time.

Mr. WELLER. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, my colleagues make reference to the first amendment rights of members of the media. This amendment respects those rights.

To the contrary, this amendment provides to those members of the media that do not accept honoraria, and of course, an endorsement of the fact that there be an objective in their not receiving fees.

The fact is this amendment places the burden of disclosure not on the reporter but on the lobbying community, not the press. The public has a right to know if a reporter is receiving a $30,000 fee, speaking fee, from a lobbying organization, a registered lobbyist, and then does a story, reporting on that very issue important to special interest that the lobbyist represents, the public has the right to know.

□ 2320

This is simply disclosure. No one is stopping that reporter from collecting that speaking fee.

Mr. Chairman, I would like to ask how much time remains?

The CHAIRMAN. The gentleman from Illinois has 8 minutes remaining.

Mr. WELLER. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina, Mr. GRAHAM.

Mr. GRAHAM. Mr. Chairman, the gentleman from Massachusetts has a very keen mind and I think raises a good point. I am a lawyer, and I do not claim to be a constitutional scholar, but I do believe that the purpose of the amendment fits well within what we are trying to do here in Congress.

Mr. Chairman, we are trying to open up the political process so that people can understand how it works, who is involved, and exactly where everyone is coming from. I do believe that it is lawful to regulate lobbying activities in regard to how this body operates. I believe it is an appropriate thing to have lobbyists disclose many facets of their business enterprise, because their efforts are to affect public policy. They have registered. They have set themselves apart as their business, and as their business affects the Nation's business, I think we need to know.

Now, we have come to a time to where the media has taken a very, I think, clear and appropriate role in our society in the political process, but I do not believe that their outside activities, who they associate with in terms of lobbying groups, is beyond disclosing as far as the lobbyists themselves.

If journalists are going to cover the political process and are going to become a quasi-public figures, I know at least many of these people are, they probably do not meet the legal definition of a public figure, I think people in this country would appreciate as much knowledge they could gain about how laws are made and about how the political process is reported.

Unfortunately, every American does not have the ability to hire a lobbyist to come up here and represent their interest in Washington. Many times, the only way to judge the political process and who is telling the truth and who is not and how effective it is is by picking up a newspaper and turning on the television and listening to the media.

Mr. Chairman, I do not believe it is violating anyone's first amendment rights for a lobbyist, whose only role is to affect the political process, to tell us exactly who they are paying and where their money goes in terms of the public policy debate. Certainly, part of the public policy debate is the information we receive through the media, whether it be in print or the airwaves, and that helps the American public better understand the political process and who is involved and what bias may or may not exist.

That is the role of the lobbyist, to come up and affect the legislation and if at the same time they are giving away money to groups that cover the political process, they do not tell the groups what to say or how to say it, but it does give the public information that I think is very vital to judge how effective the process is and exactly who to believe and who not to believe. No one is hurt here. No one is being affected by doing their job effectively. All we want to know is where money goes in the public policy debate.

Mr. WELLER. Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from South Carolina has helped clarify this issue. There are people in this society, obnoxious, irresponsible, biased people, who have a right to tell us, "None of your business."

No, we do not have a right legally to compel two purely private actors to tell us how much money is changing hands between them when no statute is being violated and it is not a question of fraud or bribery. I am surprised that the gentleman does not see that distinction.

Would the public like to know? Of course they would. The public would like to know a lot. Some of what the public would like to know is very important. Some of what the public would like to know bothers me, and I think Bill Bennett was right to talk about some of the trash TV.

But the fact that people would like to know what other people have a right to keep private does not justify legislating it. The gentleman from South Carolina said, one of the gentlemen said, this is going to protect the first amendment rights, maybe it was the gentleman from Illinois, of those reporters who do not take honoraria because it will show how they are being objective.

Mr. Chairman, it is not the business of the Government of the United States to stamp approved or disapproved on people. To say objective or not objective. Verbally, can we say that as Members? Of course we can. But to enact a statute into law that reaches out to the purely private relationships of two people, organization A, that happens to be a lobbyist and, journalist B, and says, "You know, we would love to know how much money you people are paying each other," and compel its disclosure makes a mockery of the notion of limited government and of privacy rights.

The fact is, having a Constitution, having limited government, means exactly that we do not find out things we would like to know. We do not need a Constitution to protect information that nobody cares about. We do not need a Constitution to protect the privacy of people in whom no one is interested. We need a Constitution to limit government, and the notion, the argument, "Well, the media has gotten too big for its britches and is biased," yes, I will stipulate, the media is a pain in the place I should not say here, but that is absolutely irrelevant to whether or not we, by law, say, "You must tell us these things."

It is not simply a first amendment right not to be thrown in prison or beaten or have your property confiscated. There is a right to say to the government, "None of your business. I do not want to tell you. You do not have a right to know. You do not have a right to use the law to find out this information."

So, on this amendment, I hope we will vote it down, not simply because it is going to weight down this bill, but because it really is yielding to a temptation that we should not yield to. The gentleman talked about Sisyphus. Let me talk about Tantalus. Let us remember Tantalus was tied to the table and he could not reach the goodies.

Constitution ties us down. We are Tantalus. The goodies is all this dirt on the press we would love to have, but the Constitution is what ties us down and I do not think we want to try to loosen those bonds.

Mr. WELLER. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania, [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, the disclosure bill before us tonight is a great reform. And to the gentleman from Florida [Mr. CANADY] and to the gentleman from Massachusetts [Mr. FRANK] and those who are here tonight working to move this reform forward, the colleagues on both sides of the aisle are joining together to make sure this bill does pass.

The gentleman from Illinois [Mr. WELLER] has brought forward an amendment he believes will be an additional reform, and I have to tell my colleagues that the gentleman has been someone that as a freshman has been a reformer. He has supported the gift ban. He has worked to make sure the congressional staffs have been reduced and the cost of this institution has been reduced by $150 million.

Mr. Chairman, this is part and parcel of that entire effort, that is making sure we reform Congress. Here we are talking about an amendment which is common sense. It talks about the public's right to know when journalists are receiving honoraria from special interest groups and what effect that has on the objectivity of their position and what they print.

The journalist's acceptance of honoraria could influence the type of information he or she may include in their report, or exclude. We only have to look at the Senate where they have made their intentions clear. The Weller amendment is consistent with the sense-of-the-Senate resolution, which in fact would call for the annual reporting and disclosing of the member's primary employer and any additional sources of income.

Mr. Chairman, I believe what has been said before must be underscored. This amendment only places the burden of disclosure on the lobbying community and not on the press. I ask for support of the Weller amendment.

Mr. WELLER. Mr. Chairman, I reserve the balance of my time.

□ 2330

Mr. FRANK of Massachusetts. Mr. Chairman, I yield my remaining time to the gentleman from Florida [Mr. CANADY].

The CHAIRMAN. The gentleman from Florida [Mr. CANADY] has 4 minutes remaining and has the right to close.

Mr. CANADY of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I first would like to start by thanking you for your fine delegation of responsibilities here. You have been an outstanding acting chairman.

To weigh in on this issue, I consider this a very mischievous amendment because candidly I do not think it will accomplish what the gentleman wants, but I think if it were to be adopted, it would put in serious jeopardy passage of this lobby disclosure bill.

Again, I want to point out to the Members here and for the record that the last time we had any lobby disclosure bill was in 1946. In the early 1950's, the Supreme Court basically gutted that. There was report language brought forward by the committee that points out that those who are listed in the Washington representatives listings of the 13,500 individuals and organizations, 10,000 of them did not register as lobbyists.

The individual who is offering this amendment, I know, is doing it in good faith. I am fed up with hearing Sam Donaldson go after honoraria when we know he accepts so much of it. And if he thinks it affects Members of Congress, of course, it does not affect him. I mean, the same logic should apply to him. I think of him and others, I would love to know how much they are paid.

But it says in this amendment only lobbyists have to disclose. Well, that is a simple wrap to beat. You just simply have someone other than a lobbyist paid that honoraria.

If the gentleman from Illinois [Mr. WELLER] was aware of how hard we have worked to get this on the floor and maybe was aware of how hard it has been to even get our own Republican leadership to schedule debate on this bill and if the gentleman were aware of the attempts to find any amendment to this bill so that it would, in fact, be sent back to the Senate, he might be more sympathetic to why we are finding it so difficult to accept this kind of amendment.

It is true, and I have to agree with the gentleman, 435 Members ultimately have to decide whether this bill gets amended and ultimately killed in the Senate. But I just would try to encourage Members and particularly Mr. WELLER, on this amendment, that this deserves a hearing. This deserves to have the kind of report language that the bill we have before us has, that documents the need and shows how it would in fact be effective or not effective, that documents that it would be, in fact, constitutional, that documents that it would achieve the results that the gentleman desires.

On the basis of the motion, I, too, would like to know what media is paid what, but I do not think this amendment does it. I think it places in serious jeopardy passage of this bill in the Senate.

The CHAIRMAN. The gentleman from Illinois [Mr. WELLER] has 3½ minutes remaining.

Mr. WELLER. Mr. Chairman, I yield 1 minute and 45 seconds to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I will be very brief because I know the hour is late. I simply want to rise and commend the gentleman from Illinois, my good friend, Mr. WELLER. I think he has shown great courage and leadership in bringing this amendment to the attention of his colleagues and to the attention of the American people.

With all due respect to Mr. WELLER, I doubt that this amendment can be passed, but that does not mean that it is a bad thing or it is not something that we should discuss. I think it is very limited in scope.

I personally do not think that it violates freedom of press or the first amendment to the slightest degree. It does not regulate in any manner what someone can write or say, but I would approach this from a little different angle. I would say tonight that any respectable, any ethical journalist would voluntarily comply with this amendment. But so many journalists are quick to criticize but very slow to lead by example.

The best example I know of this was a few years ago, some of us may remember, the Capitol Hill Press Club, their officers voted to require their membership to follow the same disclosure requirements that we as Members of Congress were required to follow. Their membership rose up in arms and by an 80 percent margin voted to impeach their leadership.

There is a real double standard around here, and it is really time for it to end. Efforts like those of the gentleman from Illinois [Mr. WELLER] will help bring that to an end.

Mr. WELLER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in response to the comments of my good friend, the gentleman from Connecticut [Mr. SHAYS], there were a number of us that worked very hard to make sure that this bill came to law. I think a lot of us certainly voiced our concern and priority for bringing these bills to a vote quickly so that the Congress could address them.

A lot of good ideas are being discussed and a lot of good Members have worked hard on lobbying reform. This proposal actually improves the bill. Frankly, it is pretty much a common sense question, Mr. Chairman. Does anyone believe that the public does not have the right to know who is on the payroll of special interests, particularly a registered lobbyist? I believe they do, Mr. Chairman.

This amendment respects the first amendment. Reporters can still be on the speaking circuit. Reporters can still collect speaking fees, some small, some as large as $30,000 or $40,000. And under this amendment, they are not required to disclose that publicly.

The burden is registered lobbyists who disclose the honoraria they pay to members of the media. I think that if a reporter receives a speaker fee and then writes a story or does a story and covers an issue impacting the very issue that is so important to that particular lobbyist, the public has a right to know. This amendment improves the bill.

I ask for bipartisan support.

Mr. CANADY of Florida. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I have the greatest respect for my colleague from Illinois. I understand that he is doing something that he believes is important and is the right thing to do. But I think this is a bad amendment. I think this is an amendment that targets the press in a way that is unacceptable.

Again, I do not approve of everything the press does. I think there is obvious bias there. But I think we are going down a road here that is not a road we want to get on. It is a road that is inconsistent with the values that we hold under the first amendment, and I would urge all the Members of the House to reject this amendment, as well as other amendments, which are going to interfere with passing this legislation and reforming lobbyist disclosure after 40 years of gridlock.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. WELLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WELLER. Mr. Chairman, I demand a recorded vote and, pending that, I make a point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from Illinois will be postponed.

The point of order is considered withdrawn.

Mr. CANADY of Florida. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOX of Pennsylvania) having assumed the chair, Mr. KOLBE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, had come to no resolution thereon.

LEGISLATION PROVIDING FOR CLEAN EXTENSION OF CONTINUING RESOLUTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and the Committee on Government Reform and Oversight and ordered to be printed.

To the Congress of the United States:

In declaring my intention to disapprove House Joint Resolution 122, the further continuing resolution for fiscal year 1996, I stated my desire to approve promptly a clean extension of the continuing resolution that expired on November 13. Accordingly, I am forwarding the enclosed legislation that would provide for such an extension. This legislation also provides that all Federal employees furloughed during the Government shutdown through no fault of their own will be compensated at their ordinary rate for the period of the furlough.

I urge the Congress to act on this legislation promptly and to return it to me for signing.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 16, 1995.*

THE REAL DEFAULT

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include therein extraneous material.)

Mr. SCARBOROUGH. Well, well, well, there they go again. But if we want to talk about something that has gotten out into the public, it is the fact that the Democrats have shamelessly been demagoguing on Medicare to try to scare senior citizens.

Read the Washington Post this morning. It tells you what the real deficit is. It says, it is a deficit in leadership on the President's part and on the House Democrats' part. The Post says, the Democrats, led by the President, choose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that is where the votes are, and that is what the President is still doing this week.

If the Democrats play the Medicare card and win, they will have set back for years, for the worst of political reasons, the very cause of rational government in behalf of which they profess to be behaving. This has finally come out in the open. They know the President's plan does the same thing as our plan. It is indefensible, and the American people, and even the Washington Post, has caught on.

By the way, read the front page. Robert Rubin is now raiding the Federal retirees' trust fund to get out of this crisis. That is the real shame.

[From the Washington Post, Nov. 16, 1995]

THE REAL DEFAULT

The budget deficit is the central problem of the federal government and one from which many of the country's other, most difficult problems flow. The deficit is largely driven in turn by the cost of the great entitlements that go not to small special classes of rich or poor but across the board to almost all Americans in time. The most important of these are the principal social insurance programs for the elderly, Social Security and Medicare. In fiscal terms, Medicare is currently the greatest threat and chief offender.

Bill Clinton and the congressional Democrats were handed an unusual chance this year to deal constructively with the effect of Medicare on the deficit, and they blew it. The chance came in the form of the congressional Republican plan to balance the budget over seven years. Some other aspects of that plan deserved to be resisted, but the Republican proposal to get at the deficit partly by confronting the cost of Medicare deserved support. The Democrats, led by the president, chose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that's where the votes are and the way to derail the Republican proposals generally. The president was still doing it this week; a Republican proposal to increase Medicare premiums was one of the reasons he alleged for the veto that has shut down the government—and never mind that he himself, in his own budget, would countenance a similar increase.

We've said some of this before; it gets more serious. If the Democrats play the Medicare card and win, they will have set back for years, for the worst of political reasons, the very cause of rational government in behalf of which they profess to be behaving. Politically, they will have helped to lock in place the enormous financial pressure that they themselves are first to deplore on so many other federal programs, not least the programs for the poor. That's the real default that could occur this year. In the end, the Treasury will meet its financial obligations. You can be pretty sure of that. The question is whether the president and the Democrats will meet or flee their obligations of a different kind. On the strength of the record so far, you'd have to be on flight.

You'll hear the argument from some that this is a phony issue; they contend that the deficit isn't that great a problem. The people who make this argument are whistling past a graveyard that they themselves most likely helped to dig. The national debt in 1980 was less than $1 trillion. That was the sum of all the deficits the government had previously incurred—the whole two centuries' worth. The debt now, a fun-filled 15 years later, is five times that and rising at a rate approaching $1 trillion a presidential term. Interest costs are a seventh of the budget, by themselves now a quarter of a trillion dollars a year and rising; we are paying not just for the government we have but for the government we had and didn't pay for earlier.

The blamesters, or some of them, will tell you Ronald Reagan did it, and his low-tax, credit-card philosophy of government surely played its part. The Democratic Congresses that ratified his budgets and often went him one better on tax cuts and spending increases played their part as well. Various sections of the budget are also favorite punching bags, depending who is doing the punching. You will hear it said that someone's taxes ought to be higher (generally someone else's), or that defense should be cut, or welfare, or farm price supports or the cost of the bureaucracy. But even Draconian cuts in any or all of these areas would be insufficient to the problem and, because dwelling on them is a way of pretending the real deficit-generating costs don't exist, beside the point as well.

What you don't hear said in all this talk of which programs should take the hit, since the subject is so much harder politically to confront, is that the principal business of the federal government has become elder-care. Aid to the elderly, principally through Social Security and Medicare, is now a third of all spending and half of all for other than interest on the debt and defense. That aid is one of the major social accomplishments of the past 30 years; the poverty rate for the elderly is now, famously, well below the rate for the society as a whole. It is also an enormous and perhaps unsustainable cost that can only become more so as the baby-boomers shortly begin to retire. How does the society deal with it?

The Republicans stepped up to this as part of their proposal to balance the budget. About a fourth of their spending cuts would come from Medicare. It took guts to propose that. You may remember the time, not that many months ago, when the village wisdom was that, whatever else they proposed, they'd never take on Medicare this way. There were too many votes at stake. We don't mean to suggest by this that their proposal with regard to Medicare is perfect—it most emphatically is not, as we ourselves have said as much at some length is this space. So they ought to be argued with, and ways should be found to take the good of their ideas while rejecting the bad.

But that's not what the president and congressional Democrats have done. They've trashed the whole proposal as destructive, taken to the air waves with a slick scare program about it, championing themselves as noble defenders of those about to be victimized. They—the Republicans—want to take away your Medicare; that's the insistent PR message that Democrats have been drumming into the elderly and the children of the elderly all year. The Democrats used to complain that the Republicans used wedge issues; this is the super wedge. And it's wrong. In the long run, if it succeeds, the tactic will make it harder to achieve not just the right fiscal result but the right social result. The lesson to future politicians will be that you reach out to restructure Medicare at your peril. The result will be to crowd out of the budget other programs for less popular or powerful constituencies—we have in mind the poor—that the Democrats claim they are committed to protect.

There's a way to get the deficit down without doing enormous social harm. It isn't rocket science. You spread the burden as widely as possible. Among much else, that means including the broad and, in some respects, inflated middle-class entitlements in the cuts. That's the direction in which the president ought to be leading and the congressional Democrats following. To do otherwise is to hide, to lull the public and to perpetuate the budget problem they profess to be trying to solve. Let us say it again: If that's what happens, it will be the real default.

□ 2340

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

A TURNING POINT IN THE NATION'S HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I do not believe I will take the full 5 minutes, but I want to rise tonight to say that I believe that most people across this country realize that we are at a real turning point in the history of this Nation. I believe that most people realize that, if we do not bring Federal spending under control and put our fiscal house in order now, that we are going to face very severe economic problems in the near future. If we do not do this now, we will never do it unless probably it is too late to make any real difference.

Mr. Speaker, in that regard we often hear speakers say that we are doing this for our children and grandchildren and certainly that is true, but I think it is also accurate to say that we are doing it for the people who are in the prime of their lives right now because we are going to have extremely difficult economic problems and financial problems in the next 6, or 8, or 10 years, if not sooner, if we do not act now.

Mr. Speaker, already the President's own Medicare trustees have said that Medicare will be broke in about 6 years if we do not make major changes now; so that is why we passed a bill a few weeks ago allowing or giving huge increases in Medicare spending but which does slow the growth of Medicare to about twice the rate of inflation, instead of three or four times the rate, in which it does more to fight waste, fraud, and abuse. Even President Clinton said in his meeting with Speaker GINGRICH in New Hampshire, one of the first things he said was that we have to slow the rate of growth in Medicare.

One of the most fascinating things though, Mr. Speaker, that I saw, and I wanted to call this to the attention of my colleagues tonight, appeared in the Washington Post today. Now all of us know that the Washington Post at times acts or seems to act as the house organ for the Democratic Party, and so that is what made it so, I think, amazing, even that they wrote the lead editorial that they had today, and in that editorial the Washington Post said this. The budget deficit is the central problem of the Federal Government and one from which many of the country's other most difficult problems flow, and then the Post went on to say this:

> Bill Clinton and the congressional Democrats were handed an unusual chance this year to deal constructively with the effect of Medicare on the deficit, and they blew it. The chance came in the form of the congressional Republican plan to balance the budget over seven years. Some other aspects of that plan deserved to be resisted, but the Republican proposal to get at the deficit partly by confronting the cost of Medicare deserved support. The Democrats, led by the president, chose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that's where the votes are and the way to derail the Republican proposals generally. The president was still doing it this week.

In addition I have a couple of other things I would like to call some attention to that also appeared today. Dan Thomasson, who is the vice president for Scripps-Howard, an editor of the Scripps-Howard news service, wrote this, and I think this is very accurate, and once again Mr. Thomasson is not known as any conservative or Republican columnist. In fact he is considered, I think, very moderate, and he said that, and in fact he frequently says things that criticize both the Republicans and the Democrats, and he said this. He said:

> "The so-called Republican revolution is being undermined by a political ineptness hard to match in modern history. The result could be a derailing of the best opportunity in three decades to win control over runaway entitlements and to put some sense back in the congressional spending process."

But he goes on to say this, Mr. Speaker, and I think these words are so important for many people to hear. He said:

> "For 30 of the 40 years Democrats controlled Congress before last year's GOP takeover, the majority displayed a constitutional inability to deal with the building budgetary crisis. Any effort to stabilize Social Security, Medicare, Medicaid, pensions and welfare was not only rebuffed; it was labeled as mean-spirited and used to defeat its proponents.
>
> So politically volatile were these issues that few members of Congress from either party would dare to whisper publicly what everyone knew: that unless something was done to control the costs of these huge programs, our economic future was in grave jeopardy."

Mr. Speaker, I think those words are so very important as we consider the debate that we are going through at this time.

Mr. Speaker, I will have more to say about this later on. I see that my time has expired.

EXPLANATION OF PRESIDENT'S DECISION TO FURLOUGH NONESSENTIAL FEDERAL EMPLOYEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine [Mr. LONGLEY] is recognized for 5 minutes.

Mr. LONGLEY. Mr. Speaker, today is day 3 of the President's decision to furlough nonessential Federal employees, and I know that there has got to be a great deal of concern across the country as to exactly what is happening, and I think that we, as Members of Congress, owe it to the public to explain to them in our view what precisely is happening, and I would like to explain the furlough in these terms.

Yesterday was a defining day. It was a defining day in the debate about the role of the Federal Government and the interests of the respective parties in dealing with the problems of Government spending. It was a defining day for the President because he came out and made it clear once and for all that he is opposed to balancing the Federal budget, despite the fact that in his campaign in 1993 he claimed that he could balance, and would balance, the Federal budget in 5 years, despite the fact that in various times he has come out for either a 7-year balanced budget, a 10-year balanced budget, an 8-year balanced budget, or a 9-year balanced budget, or the fact that in January of this year he submitted to this Congress a budget that will never balance, that shows $200 billion a year in deficits as far as the eye can see.

The President, Mr. Speaker, made himself clear last night. He indicated that he is opposed to balancing the budget in 7 years.

□ 2350

It was also a defining day for the Congress. Last night we voted a continuing resolution wherein 277 Members of this body went on record in support of a clean continuing resolution, and when I say clean, I mean a resolution that had as its only condition that the President agree to work with the Congress to balance the Federal budget over the next 7 years, no other condition; no conditions about Medicare, no conditions about tax cuts, no conditions about spending adjustments, nothing, other than one simple agreement and understanding, that we will work together to balance this country's budget over the next 7 years.

Needless to say, that passed by 277 votes, nearly a veto-proof majority. But I also need to chide this House, and bring to its attention the fact that in January of this year we had 300 Members who went in support of a balanced budget amendment that would have required and would require that we balance the Federal budget over 7 years. Of the 300 votes in support of that, we received the votes of 72 Democrats.

I should note that since January, four of those Democrats have crossed the aisle to join the Republican party, precisely because of their commitment and support for the objective of balancing the Federal budget. Nevertheless, of those 68 remaining Democrats who voted for the balanced budget amendment, only 48 last evening voted to actually balance the budget in 7 years, per the terms of the continuing resolution.

Despite all the sweet talk and promises and posturing that the public has witnessed, the fact remains that we must get on a track to balancing the Federal budget, that we need a commitment from the Members of this Congress, a commitment to meet their word and to fulfill the promises that they made in their campaigns. We must get this country on the track to a balanced Federal budget.

This is about whether the Federal Government is going to, once and for all, recognize that there is a limit to what it can spend, a limit to what it can tax, and a limit to what it can regulate. Again, I hope that the President sees the light and is willing to fulfill the commitment that he made in his campaign.

REPUBLICANS IN CONGRESS ARE DETERMINED TO BALANCE THE FEDERAL BUDGET

The SPEAKER pro tempore (Mr. Fox of Pennsylvania). Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, I was elected to the State House in 1974, and began to serve office in 1975. At that time the national debt was about $375 billion. I periodically would pay attention to the spending habits of Congress and note that it would spend more than it raised in revenues.

In the State House, I wondered how Congress could do this, because in the State legislatures, we of course have to balance our budgets. Obviously, a Congress, when times are difficult, during times of war and so on, during times of recession, it is logical that Congress would want to generate economic activity and help bring the economy out of its recession, but Congresses and Presidents collectively, Republicans and Democrats, allowed for deficit spending.

The national debt since that time has grown to $4,900 billion, or $4.9 trillion. When I was elected to Congress in 1987, I joined with a group of Republicans, primarily, and a few Democrats who wanted to end this. At the time our group was about 35 Members. Each year it kept growing, with each election it kept growing more and more and larger and larger, until last year our number was about 160.

Finally, with the election of 1994, we got a bulk of Members, Republicans and Democrats, who voted for the balanced budget amendment, as the gentleman from Maine [Mr. LONGLEY] pointed out, 72 Members on the other side, and every Republican except 1, I think, or 2 in the House. What are we trying to do? The first thing we are trying to do is get our financial House in order and balance our budget.

The second thing we are trying to do is save our trust funds, particularly Medicare, from bankruptcy. The third thing, and it is equally as important, we are trying to transform the social and corporate welfare state into an opportunity society.

This is not easy; if it was easy, it would have been done a long time ago. It is not popular, or it would have been done a long time ago. We are determined to balance our Federal budget, but we are doing it, in many cases, by slowing the growth of spending. We are still allowing programs to grow.

The earned income tax credit, which some of my colleagues on the other side accuse us of wanting to cut, we are going to have it grow from $19.8 billion to $27.5 billion. The school lunch program we are going to have grow from $6.3 billion to over $8 billion. The student loan program is going to grow from $24.5 billion to $36 billion, a 50-percent increase in the student loan. Students are going to grow in the next 5 years from 6.7 million students to 8.4 million. It is a growing program. Medicaid is going to grow from $89.2 billion to $124.3 billion, and Medicare is going to grow from $178 billion to $273 billion. Only in this Chamber and in Washington, when you spend so much more money, do people call it a cut. We are spending more money.

I really appreciate and I really want to thank the Washington Post. It is nice to have a paper that has been pretty hard on us recognizing that the real default is not in this Chamber, it is by the White House, in failing to want to participate in this effort.

When Leon Panetta was a Member of this Chamber, he said, "The only way you are going to control the spending in Congress and our Federal budget is to control the growth of entitlements." We are taking on entitlements. It is not an easy thing to do. No complaints. I am proud of it. I am happy to go to my constituents and explain what we are doing. For instance, with Medicare, we have no copayment increase, no deduction increase. We are allowing the premium to stay at 31.5 percent. The taxpayers will continue to pay 68.5 percent.

We are allowing individuals to stay in their private fee-for-service system that has gone from the 1960's on up, this Blue Cross-Blue Shield program. We are allowing them to stay there, but we are also going to give them a Medi-Plus program. They can get better service if they get into private care. If they leave and get private care and it turns out they do not like it, they have the opportunity every month for the next 24 months to get back into the traditional Medicare program. My point is, I am so proud of what this Republican majority is doing when it comes to dealing with the budget.

Now, would I like the President to weigh in? Yes. I want him to agree to a 7-year balanced budget. But I am not saying he has to agree to our priorities. If he wants to put more money in urban areas, frankly, I hope he does. I would like to join him in that effort. If he thinks that our tax cut should be slightly different, then I hope he does. I would be happy to assist him in that effort.

The bottom line, Mr. Speaker, is that we are going to get our financial house in order, with or without the President's help, but it would be a lot easier with his help.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FRANK of Massachusetts) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.
Mr. CLYBURN, for 5 minutes, today.
Mr. THOMPSON, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Mrs. THURMAN, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. KIM, for 5 minutes, today.
Mr. LONGLEY, for 5 minutes, today.
Mr. RIGGS, for 5 minutes, today.
Mr. ROYCE, for 5 minutes, on November 17.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. SHAYS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FRANK of Massachusetts) and to include extraneous matter:)

Miss COLLINS of Michigan.
Mr. LANTOS.
Mr. HOYER.
Mrs. MALONEY.
Mr. LIPINSKI.
Mr. TRAFICANT.
Mr. KENNEDY of Massachusetts.
Mr. GEJDENSON.
Mrs. COLLINS of Illinois.
Mr. SANDERS.
Mr. PALLONE.

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. DAVIS.
Mr. SHAW.
Mr. FUNDERBURK.
Mr. PACKARD.
Mr. CRANE.
Mr. FIELDS of Texas.
Mr. SCHAEFER.
Mr. RAMSTAD.
Mr. HORN.

(The following Members (at the request of Mr. SHARP) and to include extraneous matter:)

Mr. HEINEMAN.
Mr. PAYNE of Virginia.
Mr. CUNNINGHAM.
Mr. CAMP.

ADJOURNMENT

Mr. SHAYS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 59 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, November 17, 1995, at 9:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1690. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to the United Arab Emerites for defense articles and services (Transmittal No. 96-13), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1691. A letter from the Director, Defense Security Assistance Agency, transmitting a report stating that on November 13, 1995, the deaths of five Americans were caused by a major explosion which occurred in the parking lot of the headquarters, Office of the Program Management-Saudi Arabian National Guard Modernization Program [OPM-SANG], pursuant to 22 U.S.C. 2761(c)(2); to the Committee on International Relations.

1692. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-147, "Safe Streets Anti-Prostitution Temporary Amendment Act of 1995" pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DREIER: Committee on Rules. House Resolution 272. Resolution authorizing a specified correction in the form of the conference report to accompany the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, and waiving points of order against the corrected conference report (Rept. 104-348). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 273. Resolution providing for consideration of the bill (H.R. 2606) to prohibit the use of funds appropriated to the Department of Defense from being used for the deployment on the ground of United States Armed Forces in the Republic of Bosnia and Herzegovina as part of any peacekeeping operation, or as any implementation force, unless funds for such deployment are specifically appropriated by law (Rept. 104-349). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SHAW (for himself and Mr. GILCHREST):

H.R. 2646. A bill to amend the sugar price support program in the Agricultural Act of 1949 to provide for additional assessment with respect to raw cane sugar produced in the Everglades agricultural area in the State of Florida to finance land acquisition projects for the restoration of the Florida Everglades; to the Committee on Agriculture.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. MONTGOMERY, Mr. MILLER of Florida, and Mr. ZIMMER):

H.R. 2647. A bill to amend the Internal Revenue Code of 1986 to terminate the tax subsidies for large producers of ethanol used as a fuel; to the Committee on Ways and Means.

By Mr. FUNDERBURK:

H.R. 2648. A bill to amend the Federal Water Pollution Control Act to require that an application to the Federal Energy Regulatory Commission for a license, license amendment, or permit for an activity that will result in a withdrawal by a State or political subdivision of a State of water from a lake that is situated in two States shall not be granted unless the Governor of the State in which more than 50 percent of the lake, reservoir, or other body of water is situated certifies that the withdrawal will not have an adverse effect on the environment in or economy of that State, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLEGLY (for himself and Mr. WELDON of Pennsylvania):

H.R. 2649. A bill to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers; to the Committee on Government Reform and Oversight.

By Mr. HEINEMAN (for himself, Mr. COBLE, Mr. BRYANT of Tennessee, Mr. CHABOT, and Mr. HOKE):

H.R. 2650. A bill to amend title 18, United States Code, to eliminate certain sentencing inequities for drug offenders; to the Committee on the Judiciary.

By Ms. KAPTUR (for herself, Mr. HUNTER, Mr. DEFAZIO, Mrs. CHENOWETH, Mr. SANDERS, Mr. TRAFICANT, Mr. LIPINSKI, Mr. OBEY, Mr. PALLONE, Ms. VELAZQUEZ, Mr. BROWN of Ohio, Mr. EVANS, Mr. DELLUMS, Mr. FUNDERBURK, Mr. KLINK, Mr. BARCIA of Michigan, Ms. MCKINNEY, Mr. HINCHEY, Mr. STOKES, Mr. BARR, Mr. WAMP, Mrs. MINK of Hawaii, and Mr. CONYERS):

H.R. 2651. A bill to assess the impact of the NAFTA, to require further negotiation of certain provisions of the NAFTA, and to provide for the withdrawal from the NAFTA unless certain conditions are met; to the Committee on Ways and Means.

By Mr. KENNEDY of Massachusetts (for himself, Mr. MEEHAN, Mr. FRANK of Massachusetts, Mr. OBERSTAR, Mr. STARK, Mr. ABERCROMBIE, Mr. BROWN of California, Mr. GONZALEZ, Ms. LOFGREN, Mr. GENE GREEN of Texas, Mr. BROWN of Ohio, Ms. RIVERS, Mr. FROST, Mr. VENTO, Mr. DEFAZIO, Mr. CONYERS, Mr. RANGEL, Mr. BARRETT of Wisconsin, Mr. ACKERMAN, Mr. MORAN, Ms. ESHOO, Mrs. MINK of Hawaii, Mr. FARR, Mr. MCDERMOTT, Mr. MOAKLEY, Mr. MARKEY, Mr. MILLER of California, Mrs. MALONEY, Mr. BOUCHER, Mr. KLUG, Mr. SERRANO, Mr. STUPAK, Mr. GEJDENSON, Mr. JACOBS, Ms. VELAZQUEZ, Mr. TORKILDSEN, Mr. JOHNSTON of Florida, Mr. OLVER, and Ms. MCKINNEY):

H.R. 2652. A bill to close the U.S. Army School of the Americas and establish a U.S. Academy for Democracy and Civil-Military Relations; to the Committee on International Relations, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROSE:

H.R. 2653. A bill to amend the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 to improve the operation of the Government flue-cured and burley tobacco programs; to the Committee on Agriculture.

By Mr. SANDERS (for himself, Mrs. MORELLA, Mr. WYDEN, and Mr. DEFAZIO):

H.R. 2654. A bill to prevent discrimination against victims of abuse in all lines of insurance; to the Committee on Commerce, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON:

H.R. 2655. A bill to amend the Atlantic Striped Bass Conservation Act to authorize the Mid-Atlantic Fishery Management Council to prepare a fishery management plan for Atlantic striped bass under the Magnuson Fishery Conservation and Management Act; to the Committee on Resources.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. HALL of Texas introduced a bill (H.R. 2656) for the relief of Norman M. Werner; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 125: Mr. HINCHEY and Mr. BROWDER.

H.R. 359: Mr. TAYLOR of Mississippi.

H.R. 497: Mr. CAMP, Mr. BEREUTER, Mr. HANCOCK, Mr. DUNCAN, and Mr. GRAHAM.

H.R. 528: Mr. DICKS, Mr. BARTLETT of Maryland, Mr. DEUTSCH, Mr. WARD, Mr. PETRI, Mr. ROMERO-BARCELO, Mr. LEWIS of Kentucky, and Mr. BARRETT of Wisconsin.

H.R. 733: Mrs. VUCANOVICH.

H.R. 784: Mr. RIGGS.

H.R. 911: Mr. BLILEY, Mr. INGLIS of South Carolina, Mr. SPENCE, Mr. CHRYSLER, and Mr. DICKEY.

H.R. 997: Mr. LEWIS of Kentucky and Mr. MORAN.

H.R. 1000: Mr. KLECZKA.

H.R. 1226: Mr. MCINTOSH and Mr. CHRYSLER.

H.R. 1274: Mr. BROWN of California.

H.R. 1363: Mr. COX.

H.R. 1386: Mr. SHADEGG.

H.R. 1448: Mr. EHLERS and Mr. WOLF.

H.R. 1684: Mr. BALLENGER and Mr. CRAPO.

H.R. 1733: Mr. MINGE.

H.R. 1972: Mr. SAXTON, Mr. MANZULLO, Mr. HOBSON, Mr. CHABOT, Mr. BURTON of Indiana, Mr. BOEHLERT, Mr. COLLINS of Georgia, Mr. SISISKY, and Mr. FAWELL.

H.R. 2240: Mr. MILLER of California.

H.R. 2281: Mrs. MALONEY, Mr. CRAMER, Mr. DINGELL, Ms. KAPTUR, Mr. DAVIS, Mr. PETERSON of Minnesota, Mr. GUTIERREZ, and Mr. PETE GEREN of Texas.

H.R. 2326: Mr. STOCKMAN.

H.R. 2327: Mr. PETRI.

H.R. 2341: Mr. LEWIS of Kentucky.

H.R. 2357: Mr. BEREUTER.

H.R. 2458: Mr. METCALF, Mr. EVANS, Mr. BRYANT of Texas, and Mr. SAXTON.

H.R. 2461: Mr. HINCHEY.

H.R. 2481: Mr. MARTINI.

H.R. 2548: Ms. LOFGREN, Mr. EWING, Mr. RADANOVICH, Mr. JOHNSTON of Florida, and Mr. SISISKY.

H.R. 2562: Mr. MANTON and Mr. SOLOMON.

H.R. 2566: Mrs. SCHROEDER.

H.R. 2606: Mr. BARTLETT of Maryland.

H.R. 2618: Mr. STUDDS.

H.R. 2622: Mr. FROST.

H.J. Res. 117: Ms. DANNER.

H. Con. Res. 5: Mr. BEVILL.

H. Con. Res. 47: Mr. DOYLE.

H. Con. Res. 50: Mr. TORRES.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Res. 264: Mr. DIXON and Mr. BERMAN.

EXTENSIONS OF REMARKS

A SMART NATIONAL SECURITY BUDGET

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. CUNNINGHAM. Mr. Speaker, today this body took an important first step in returning sense and security to our national defense. In the best interest of this country and the American people, we have sent a Defense appropriation bill to the President that restores safety and national security while contributing to a balanced Federal budget.

For several years our Nation's defenses have suffered under dwindling Pentagon budgets that were bogged down with frivolous social programs. Today's conference report, like so much of the legislation we are passing in the 104th Congress, represents a dramatic turning of the tide. We are revitalizing readiness. We are restoring our commitment to our military personnel and their families. And we are making the investments necessary to maintain America's standing as the world's most formidable military power.

This bill includes moderate pay raises for the military men and women who work around the clock to keep us safe. Soldiers and sailors feeding their families with food stamps is an unacceptable reality, and it must stop. We also call for upgrades and renovations of military housing across the country. This appropriation also makes smart investments in the cutting-edge equipment that will keep our troops as safe as possible and help keep this country out of war.

Remarkably, this Congress has done all of this while spending $400 million less on defense than the Democrats spent last year. Such a feat could only be accomplished with the sense and conviction of conservative ideals. We have placed a priority on smart spending, spending taxpayer dollars only when and where necessary. Nothing more, nothing less.

Last night, we passed further proof that this Congress is committed to a balanced budget in 7 years. No gimmicks. No excuses. The Defense appropriations conference report represents our contribution to the country's physical security as well as its economic security. The best way to ensure this Nation's survival is to balance the budget, and do it now. If the President of the United States and his Democratic colleagues do not have the guts or the gumption to join us in our effort, they should step aside.

Mr. Speaker, I want to commend Defense Appropriations Subcommittee Chairman YOUNG and full Committee Chairman LIVINGSTON for their outstanding work. I am proud to support the conference report to H.R. 2126. It is one more example of our commitment to spend taxpayer dollars wisely and restore fiscal sanity to the Federal Government.

LAKE GASTON PROTECTION ACT OF 1995

HON. DAVID FUNDERBURK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. FUNDERBURK. Mr. Speaker, today I am pleased to introduce the Lake Gaston Protection Act of 1995. For those members not familiar with this issue, Lake Gaston has been the focal point of a natural resource dispute between the city of Virginia Beach, VA and the State of North Carolina. At issue is whether Virginia Beach should be able to withdraw water from Lake Gaston, which straddles both States, to provide additional drinking water.

This legislation, which was introduced by Senators HELMS and FAIRCLOTH in the other body, stops the withdrawal of water from the lake until the Federal Government slows down and listens to the concerns of thousands of citizens from both North Carolina and Virginia who believes that Virginia Beach's plan threatens the vitality of this resource.

The Federal Energy Regulatory Commission [FERC] approved a permit allowing the daily withdrawal of 60 million gallons from Lake Gaston—FERC officials did not examine the potential negative environmental effects of withdrawing this amount of water from the lake each day. In short, they failed to consider either the environmental problems or the adverse impact on striped bass or other fish species. A sharply reduced quantity of water flowing through the lower Roanoke River basin may very well be harmful to the estuaries of the Albemarle Sound in the spawning of many fish species.

Mr. Speaker, besides the environmental impact, the withdrawal could very well pose dire consequences to the commercial and recreational fishing industry that depends so heavily on an adequate exchange of freshwater and saltwater in the estuary.

The Federal Energy Regulatory Commission should have obtained certification from the State of North Carolina that there would be no degradation of water quality or the environment. Instead, FERC ran roughshod over the concerns of North Carolina.

Mr. Speaker, this bill would require FERC to obtain certification from North Carolina that this project will have no and I emphasize, no adverse impact on the environment or the local economy.

Mr. Speaker, for the record, I believe a brief history of this dispute may be helpful.

Virginia Electric Power Co., on behalf of Virginia Beach, applied to the FERC for permission to construct a water intake on Pea Hill Cove of Lake Gaston and a 76-mile pipeline to withdraw up to 60 million gallons per day.

Both the city of Virginia Beach and the State of North Carolina have marched back and forth in the Federal courts over this issue. North Carolina raised many concerns of water quality and the adverse effects on the downstream ecosystems. North Carolina officials assert that FERC did a far too hasty job on its environmental analysis. FERC allowed only 2 months for the review of the reams of environmental data.

Furthermore North Carolina asserts that FERC staff failed to conduct studies requested by several Federal agencies, including the EPA, U.S. Fish and Wildlife Service, National Marine Fisheries, and independent biologists.

After much litigation, a Federal mediator was appointed by the Federal courts within the past 18 months, to look into the possibility of bringing the State of North Carolina and the city of Virginia Beach to an agreement on the issue.

A final settlement agreement was reached on June 26, and was supported by both Virginia Senators.

Mr. Speaker, the settlement was subject to ratification of an Interstate Compact by both State legislatures and approval by the Congress. According to the officials in North Carolina, this agreement protects the interests of the three North Carolina counties that surround the lake. As of now, neither State has ratified the compact.

The communities that surround the lake in Northampton, Warren, and Halifax Counties in North Carolina are greatly dependent on it to support their economies. According to a November 2, 1993, article in the Lake Gaston Gazette, property owners around the lake paid over $253 million in 1993 real estate and personal property taxes. Also it is estimated that there has been $125 million in new home construction each year.

Mr. Speaker, North Carolina and Virginia have a history of cooperation on matters affecting both States. For example the joint North Carolina and Virginia efforts to stem Lake Gaston's having been infested by hydrilla, an aquatic weed similar to kudzu. These five counties and both State governments have worked together to bring this nuisance weed under control.

If Virginia and the city of Virginia Beach object to this legislation, there is a way out; this proposed law will not apply if and when the June 26 settlement is resurrected and there is an interstate compact. So each State can urge its Governor and legislature to ratify the agreement and the compact. This will give everyone a chance to take a second look at North Carolina's environmental concerns.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO THE WEST BRANCH FARMERS COOPERATIVE

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. CAMP. Mr. Speaker, it is a great pleasure for me to rise today to celebrate the 75th anniversary of the West Branch Farmers Cooperative. The cooperative was recognized on October 28, 1995 at the Knights of Columbus Hall in West Branch, MI.

In 1917, the cooperative began under the direction and inspiration of a few local farmers who desired to decrease the number of middle men between them and their markets. The farmers progressed and organized themselves to form the Ogemaw County Livestock Shippers Association in 1918. Finally, with intense determination and dedication, these men continued the cooperative by revamping its structure in 1946. Today, the cooperative serves not only farmers but retirees, hunters, and pet lovers.

I want to join the people of West Branch in honoring those who fought to preserve the West Branch Farmers Cooperative's existence, services, and achievements. I also wish to thank them for their diligence and perseverance through difficulty and challenging times. I wish the cooperative the best of luck in the future, and look forward to their continued growth and success.

OPPORTUNITY AND CHALLENGE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. CRANE. Mr. Speaker, in celebration of the Republic of China on Taiwan's recent National Day, I wish to draw my colleagues' attention to a fine book authored by Taiwan's Foreign Minister, Fredrick Chien, and most recently published by the Arizona Historical Society, Arizona State University. Entitled "Opportunity and Challenge," this publication of speeches, statements, and interviews by and about Dr. Fredrick Chien is a chronicle of Republic of China's diplomatic travails and successes from 1989 through 1994. During this period, Fredrick Chien confronted challenges and opportunities nearly every day. Shortly after assuming office as Foreign Minister in the summer of 1990, Chien saw Saudi Arabia break off relations with Taiwan and later, South Korea also broke off its relations with Taiwan. Never despairing, Chien adopted a pragmatic approach to foreign relations, helping his country establish ties with new countries or re-establish ties with old friends. Since 1990, the Republic of China has seen its diplomatic fortunes improve, increasing its number of offices abroad and its participation in international organizations. Taipei's campaigns to win international friends are chronicled in the speeches, interviews given or essays written by Fredrick Chien from 1989 through 1994.

Among the many chapters, Chien's "A View from Taipei," first published in the 1991–92 winter issue of Foreign Affairs, is particularly noteworthy. In this article, Chien articulates Republic of China's pragmatic diplomacy which has allowed the Republic of China entry in several important organizations such as the Asian Pacific Economic Cooperations and membership in nearly 800 international organizations. Republic of China's growing international importance is a fact of global life, and exclusion of the Republic of China from official world forums is contrary to contemporary realities, Chien asserts.

What makes this publication different from other similar collections of political speeches and statements is the inclusion of a large number of articles originally written in Chinese and published in Chinese magazines and journals. Here these articles have been expertly translated. Some of these articles discuss Republic of China's pragmatic diplomacy, some focus on Taipei's international aspirations, including Taipei's campign to return to the United Nations, while others offer insights into Taipei's views on its eventual reunification with mainland China. They shed a great deal of insight into Fredrick Chien, the man, versus Fredrick Chien, the policy maker and diplomat.

One particularly noteworthy chapter contains interviews with Fredrick Chien's friends and colleagues. The interviewees provide interesting tidbits about Fredrick, the prodigy diplomat. While Chien's casual acquaintances may consider Chien too serious about his work, most people concur that Chien is a diplomat's diplomat who is always giving his utmost to his country. In fact, Chien's own autobiographical piece, "In the Universe There Is Absolutely No Easy Situation," summarizes Chien's own credo of life:

> I am a public servant and I try my best in everything I do. If one day I discover that I can't contribute any more to my country I will consider giving my post to someone else. Otherwise, I will steadfastly keep to my post, any time and any where.

"Opportunity and Challenge" is a major publication. The materials by and about Foreign Minister Chien have a significance for practicing government officials and historians and other serious students of diplomacy everywhere. I recommend Dr. Chien's book to anyone seeking informed insights into the past, present, and future of the Republic of China on Taiwan.

Congratulations to Dr. Chien personally and to the Republic of China on its 1995 National Day.

RAIDING THE RETIREMENT FUND

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. PACKARD. Mr. Speaker, I want to commend all of my colleagues who stand fast on balancing the budget and protecting retirees.

Republicans passed a bill to prevent the Clinton administration from using trust funds to support Government spending. Our colleagues on the other side of the aisle worked overtime to ensure that the Clinton White House would be able to raid the Social Security trust fund and other retirement funds to fund what the Democrats term "useful" priorities. I do not think most Americans consider $47,000 to investigate journalists or $1.7 million to hire a public relations firm for AmeriCorps—Mr. Clinton's paid volunteers.

Republicans in Congress are working to pass the first balanced budget in a generation and end Government's addiction to higher spending and more taxes. Democrats not only oppose a balanced budget, they voted to allow the administration to raid Social Security. This administration is willing to stop at nothing.

Mr. Speaker, we have to balance the budget honestly, not dip into America's hard-earned savings. I urge my colleagues to continue to stand firm.

HONORING THE 1995 GUM SPRINGS AWARD WINNERS

HON. THOMAS M. DAVIS

OF VIRGINIA

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. DAVIS. Mr. Speaker, it gives my colleague from Virginia, Mr. MORAN, and me great pleasure to rise today to pay tribute to some outstanding citizens from Virginia. These are the people who have been awarded the Gum Springs Community Service Award. The awards will be presented at the Gum Springs Community Development Corporation 30th anniversary celebration on November 16, 1995.

The Gum Springs Community Development Corporation, formerly the Saunders B. Moon Community Action Association, is a private, nonprofit, antipoverty organization founded in 1965 under the Equal Opportunity Act originated as a component of President Lyndon Johnson's War on Poverty.

Calvin Ferguson, an idealistic community activist, is being honored posthumously for his dedication to the improvement of his community and the perpetuation of his neighborhood's history. His contributions during his productive life were many. He worked to establish the Martin Luther King, Jr. Park, with a swimming pool for use by neighborhood families. Mr. Ferguson played a vital role in preserving both the land and history of Gum Springs, including the establishment of Gum Springs Museum project. In addition, he was instrumental in the creation of the senior citizen and youth programs at Gum Springs Community Center.

Albert J. Triplett, Jr., a native of Gum Springs, has made many contributions to the community. He has played an active role in the Big Brother Mentoring Group in Gum Springs. He is founder of the Literacy for Life program for adults in the Gum Springs Community. He is also the coordinator of the male support group of the Gum Springs Children Center and the only male serving on the eight-member Gum Springs Children-Parent Committee.

Jube B. Shiver was inspired by a voice in his sleep in 1960 to "Get up—go build a subdivision." This dream led to the building of

Randall Estates, a unique and successful housing development in Fairfax County which has existed for more than 35 years. Jube has had a long association with Gum Springs. His activities include serving as an area member of the board of directors of the Saunders B. Moon Association and director of the Saunders B. Moon Community Association. During Governor Wilder's term in office, he was appointed to serve as a member of the Virginia Small Business Financial Authority which helped create jobs and guaranteed loans for Virginia residents.

Mr. Speaker, we would also like to recognize Ms. Charlotte H. Branch, executive director of Gum Springs Community Development Corporation. During her 10-year tenure as executive director she has watched the community grow and change, and has the respect of everyone in her community.

Mr. Speaker, we know our colleagues join us in paying tribute to these fine upstanding award winners for 1995. Their contributions to the Gum Springs community have helped all of the residents of that community. Their steadfast commitment is another example of the strong volunteer spirit which so enriches our country.

MILDRED CHEEK BROWN CELEBRATES HER 80TH BIRTHDAY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. FIELDS. Mr. Speaker, I want to take a moment today to recognize a very special woman—Mildred Cheek Brown of Brandywine, MD. Mrs. Brown celebrated her 80th birthday on November 15, and I know you and all of my colleagues join with me in sending her and her family our very warmest wishes of friendship on her birthday.

Four years ago, I had the opportunity to stand here on the floor of the House and recognize Mrs. Brown's husband, Horace F. "Buddy" Brown, on the occasion of his 80th birthday. At the time, I considered it a privilege to have the opportunity to recognize Mr. Brown—if only because he had the good sense to marry Mrs. Brown. I consider it just as great a privilege to bring Mrs. Brown's upcoming 80th birthday to the attention of my colleagues.

Mrs. Brown was born in Hillsborough, NC, a small town located near Durham, one of nine children of Thomas and Electa Cheek. In 1937, Mrs. Brown came to the Washington, DC, area seeking employment. She rented a room in a boarding house and enjoyed meeting many of her neighbors. One neighbor in particular—"Buddy" Brown, who maintained a room in a boarding house next door to the then Miss Cheek—enjoyed her company. After a whirlwind 2-month courtship, Miss Cheek made Mr. Brown a very happy man by agreeing to be his wife.

While many marriage counselors contend that long, happy marriages are the result of long courtships, Mr. And Mrs. Brown might disagree. On October 29, they celebrated their 58th wedding anniversary—proving once again that we should listen more closely to our hearts, and less to counselors.

Throughout most of their married life, Mrs. Brown worked as a homemaker—raising her three children, caring for her husband, and making some of the best vegetable soup, chicken and dumplings, and Pennsylvania Dutch filing ever to come out of a kitchen. In 1965, with her children grown, she went to work fulltime as a bookkeeper for Western Auto, a position she held until she retired in 1980.

For a portion of her life, Mrs. Brown suffered health problems. She survived three bouts of tuberculosis, which required two extended stays at Glen Dale Santorium in addition to one prolonged recovery period at her home. But as anyone who knows her knows, Mrs. Brown is a tender women who can be tough when necessary—such as when confronting a threat to her health. In a battle between tuberculosis and Mrs. Brown, the disease didn't have a chance.

Since her retirement, Mrs. Brown has remained extremely active in her church, Immanuel United Methodist, where she has served as president of the United Methodist Women chapter, and on many church committees. She has also enjoyed spending time with her husband at their home in Brandywine, where they have lived for the past 25 years.

The Brown household is often the scene of many happy family gatherings at which several generations of family members join together. Those family members include Mrs. Brown's children, grandchildren and great-grandchildren. Expected to join Mrs. Brown for her 80th birthday and her children: Frank Brown of Greensboro, NC, and his wife, Sue; Vicki Peckham of Washington, DC, and her husband, Arnold Levine; and Robin Bridges of Churchton, MD.

Also expected are Mrs. Brown's grandchildren—Frank Spasoff and his wife Anne; Chris Brown; Vicky Hawks and her husband Brad; and Emily and Andrew Bridges—as well as her great-grandchildren—Nick and Drew Hawks and Sean Spasoff. Another great-grandson is due in January.

Mr. Speaker, in this age when commitment is not as common as it once was, the 58-year marriage of Mildred and "Buddy" Brown remind all of us of its enduring value. In this age when love for others is often regarded as less important than love of oneself, Mrs. Brown's legacy of caring for her husband, her children, her extended family and her neighbors inspires all of us. And in this age when many proclaim that America's religious tradition is dying, Mrs. Brown's long and distinguished service to her church and its members—particularly its less fortunate members—proves that Christian faith and values are still alive and well.

Mr. Speaker, please join with me in wishing Mrs. Mildred Cheek Brown of Brandywine, MD, a very happy 80th birthday and continued good health. And let us all wish her husband and her family many, many more kettles of Mrs. Brown's delicious vegetable soup.

FOUR WOMEN WHO MADE A DIFFERENCE

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. SCHAEFER. Mr. Speaker, I would like to recognize four women who have played a vital role in the operation of Fitzsimons Army Medical Center in Aurora, CO: Mrs. Lorenza Manresa, Col. Suiko Kumagai, Col. Rita Geis, and Sister Michael Mary Eagan.

Fitzsimons serves nearly one million beneficiaries in a 12-State area and is on the 1995 base closure list. This hospital's long history of care for our Nation's military personnel is exemplified in these four women, all of whom still live—and serve—in the community they served with such dedication. I salute them and offer here a brief description of each woman's selfless contributions.

MRS. LORENZA MANRESA

Mrs. Manresa was born in the Philippines, where she began her nursing career. During World War II, she was attending to patients in a Philippine hospital when the Japanese burst into her ward as part of their invasion of that country. After becoming an American citizen following the war, she served with compassion as a nurse at Fitzsimons for over two decades.

COL. SUIKO KUMAGAI

Col. Kumagai, known to her friends as "Sue," is a Denver native whose long experience includes serving as head of the 901–C medical school at Fitzsimons. Fluent in Japanese, Col. Kumagai taught Japanese personnel English during the Korean war so that they could care for wounded Americans in Osaka.

COL. RITA GEIS

Upon her retirement from active duty during the Vietnam war, Col. Geis was the chief nurse at Fitzsimons, capping 33 years of service to this country's military personnel. Col. Geis is now the historian for the Retired Officers Association and pursues numerous charitable activities. She has been honored by the Denver Archbishop Stafford for her contributions to charity work in the local community.

SISTER MICHAEL MARY EAGAN

Sister Michael Mary has been an nun for 50 years and is celebrating her Golden Jubilee this year. Her experiences reflect a tireless record of service. She is in charge of program development for the Catholic Archdiocese of Denver and is responsible for the Colorado SHARE program, which now boasts of over 200 sites throughout the State. Sister Michael Mary was principal of Cathedral High School in Denver and was the first director of the Aurora Housing Authority. It was at her initiative that the Fletcher Gardens senior housing center was built. She served on the Lowry Air Force Base redevelopment board and plans on contributing her time and talents to the redevelopment of Fitzsimons.

TWO OF OUR MOST BELOVED TREASURES

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. SHAW. Mr. Speaker, I rise today to introduce legislation to provide environmental relief to the Nation by saving two of our greatest national treasures: the Everglades and the Florida Bay. The Florida Everglades is a unique region that enjoys a broad area of subtropical freshwater wetlands, which nourish the tropical marine environment of coastal bays and estuaries. If you travel on the water between the Florida Bay and the Everglades, you will be overwhelmed by the blue-green color of the water. Wildlife has flourished in the Everglades and Florida Bay areas, allowing people to enjoy their unspoiled beauty and profit from its generosity. Unfortunately, the Everglades is the most threatened U.S. national park, and the Florida Bay's lush seagrass meadows are dying as a result of the polluted water dumped into the Everglades by sugar growers. Three acres of Everglades' wetlands die everyday. Clearly, it is time to restore the Everglades-Florida Bay ecosystem for the benefit of the whole Nation.

Let me be clear that the first step in ensuring that the Everglades continues to be one of the Nation's beautiful national parks should be to end the U.S. Sugar Program. If sugar growers were forced to compete in the open market, approximately 20 percent of artificially profitable Everglades agricultural area [EAA] sugarcane production would cease. Thus, this acreage could be purchased and used to store water and reconnect Lake Okeechobee with the Everglades, which would be a major step in restoring the Everglades. We need to take other steps now, however, to protect the Everglades from further pollution and deterioration until we can end the Federal Sugar Program.

Thus, I have introduced a bill which assesses, for the next 5 years or until the Federal price support program for sugar growers is terminated, 2 cents per pound on raw cane sugar grown in the EAA. These funds will be deposited into an account known as the Everglades Agricultural Area Account, which will be used to make grants to the South Florida Water Management District so that it, in conjunction with the State of Florida, may acquire property in the Everglades to restore these national treasures. A 2-cent-per-pound assessment on raw sugar produced in the EAA would raise $350 million over 5 years, which would help purchase land, halt the pollution of the Everglades, and assist in restoring water quality.

After thoroughly researching this pollution crisis in the Florida Everglades, the Corps of Engineers and the South Florida Water Management District have created a plan to save and restore the Everglades. Under this plan, 131,000 acres of land within the southern EAA must be purchased at a cost of $355 million. The money raised by the 2-cent assessment will fund this plan and help save the Everglades.

Sugar growers in the Everglades area have been forced to take steps to improve water quality by implementing best management practices with respect to phosphorous discharge and agreeing to pay approximately $25 an acre over the next 20 years, that will be used to help restore the water quality. The concessions made by the sugar growers under the Everglades Forever Act, however, cap the sugar growers' contribution and do not require them to make full reparation until 2010. That is simply too little too late to save the Everglades.

Sugar growers in the EAA have benefited from Federal and State subsidized water projects that drain water from the Everglades to make this land suitable for sugar production. These water projects have severely injured the Everglades, and therefore it is only right that sugar growers be responsible for the cleanup of the Everglades and pay their fair share for the purchase of these lands.

Mr. Speaker, I urge my colleagues to act now to protect these national treasures by supporting my bill to restore the Everglades to the pristine condition so that it can be enjoyed for generations to come. My bill is fair to the sugar growers who have reaped tremendous benefits from the sugar program at the cost of two of our most beloved but most neglected national treasures: the Everglades and the Florida Bay. It is time for the sugar growers to work with the rest of the Nation to preserve these treasures.

MANDATORY FEDERAL PRISON DRUG TREATMENT ACT OF 1995

HON. FRED HEINEMAN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. HEINEMAN. Mr. Speaker, today I am proud to introduce the Mandatory Federal Prison Drug Treatment Act of 1995. This legislation will restore equity in the way the Federal Bureau of Prisons [BOP] administers its drug treatment program so that drug addicts will stop being rewarded for being addicts.

Instead of rewarding prison drug addicts at the expense of other inmates, the Mandatory Federal Prison Drug Treatment Act provides a proper incentive to recovering addicts to get treatment.

The 1994 crime bill changed the way that the BOP administers its substance abuse treatment programs to allow drug abusers to get out of prison a year earlier than their clean counterparts. For example, two Federal prisoners who are convicted of the same nonviolent offense can receive substantially different sentences.

This inequity is not based on past criminal history. Rather, the prisoners' unequal sentences are the result of one inmate's drug addiction. Unfortunately, the BOP can reward a drug addict by taking a year off his sentence after completion of a drug treatment program. My 38 years in law enforcement tells me that this is simply wrong.

The Mandatory Federal Prison Drug Treatment Act ties successful completion of the drug treatment program to good time. The Sentencing Reform Act of 1984 abolished parole in Federal prisons. Thus, inmates serve the entirety of their sentences, reduced only by credit for satisfactory behavior—good time. This bill simply requires that drug addicts complete the drug treatment program before they can receive any good time credits which they have accrued.

At present there are 99,000 prisoners in custody and control of the BOP. There are over 26,000 prisoners who need treatment.

IN RECOGNITION OF JOHN TURNER, CHAIR, AMERICAN COUNCIL OF LIFE INSURERS

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. RAMSTAD. Mr. Speaker, I rise to recognize the efforts of an outstanding Minnesotan, John Turner, chief executive of Reliastar Financial and the new chair of the American Council of Life Insurers [ACLI].

In his role as chair of the ACLI, John Turner will continue to work to improve the image of the life insurance industry by encouraging the Nation's life insurers to adopt a code of ethical market conduct.

By imposing strict standards on itself, in addition to those State insurance regulators used to police the industry, life insurers will take strides in improving their standing with the public and their customers.

While scandals have damaged the reputation of some life insurance companies and agents in recent years, with John Turner at the helm, Reliastar's image has remained unblemished. In addition, Turner helped the company through some tough financial times in the early 1990's, and its financial position is solid.

I wish John Turner the best as he works with life insurers across the country in the coming months, urging them to embrace higher standards and increased accountability.

If his track record is any indication, John Turner's latest endeavor is sure to be a resounding success.

A TRIBUTE TO LILLIAN LEWIS, AN EXCEPTIONAL LYRICIST

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in congratulating and thanking Lillian Lewis for writing the beautiful lyrics to a song dedicated to Raoul Wallenberg, the meaning of which touched hundreds of people at the very core of their being. Her words truly capture the spiritual essence of Raoul Wallenberg's heroic mission.

The song is called "Wallenberg," and was composed by Henry and Bobbie Shaffner in tribute to Raoul Wallenberg, the Swedish diplomat credited with saving 100,000 Jewish lives in Budapest in 1944. Issuing false passports, hiding people in a multitude of safe houses, and using raw courage and bravado, Wallenberg repeatedly deceived the Nazis and saved lives. Aware of the enormous significance of Wallenberg's deeds, the Shaffners sought unsuccessfully for years for a worthy lyricist.

While attending a meeting of the American Society of Composers, Authors and Publishers, Lillian Lewis, a published lyricist with a major hit by Lou Rawls, was approached by the Shaffners. They spent the evening together, rode home together, and in the end the Shaffners asked Ms. Lewis to write the lyrics to their song.

This request triggered a need in Lillian Lewis to know more about Raoul Wallenberg. She read about him avidly, recognized the exceptional courage and noble qualities that define him, and turned her assignment into a mission of love.

Ms. Lewis was inspired to write the beautiful words that follow herein. The song and her lyrics were performed by the U.S. Army Band, Sfc. Beverly Benda, Soprano, and S. Sgt. Mary Beth Mailand, Harp, at the dedication of the bust of Raoul Wallenberg in the U.S. Capitol on November 2, 1995.

WALLENBERG

Wallenberg, Wallenberg
You're a man of special courage
You risked everything for what you knew was right
Wallenberg, Now the world
Knows the evils you have vanquished
While protecting those who had no way to fight
You came to save the children first
It was as if you knew
That future generations would be living because of you
Wallenberg, You deserve
All the glory due a hero
Your selfless acts are part of history
In countless ways
You've won our praise
Forever,
Wallenberg

EDUCATION FUNDING SUPPORT DAY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. HOYER. Mr. Speaker, our American opportunity society is based on education. But if you don't have the education to compete in today's job market, the words "Opportunity Society" are meaningless. And that's why Federal support for education is so critical.

For example, in Prince Georges County, Carrollton Elementary School is working hard to give all of its students that American opportunity. In order to reach higher education standards, the school needs updated reading and writing materials. The school board has approved the purchase and the contract has been signed—but Federal budget cuts mean that the contract will be canceled.

More than 100 third and fourth grade students at Carrollton are struggling to learn to read. Using Federal funds, the school has provided a teacher to give these children the extra attention they need to catch up with their classmates. The education bill passed by the House, which I opposed, will cause this teacher to loose her job, because the school can't afford to pay her. And in the State of Maryland, 21,000 teachers will lose training in enriched math and science curricula.

Across the fifth district and across the country, parents are worried that their children aren't safe in school. Violence in our schools is rising, and surveys show that one-third of high school seniors use marijuana. Three-quarters of high school seniors drink alcohol. The Federal Safe and Drug-Free Schools Program provides antidrug education and counseling to 39 million children across the country. It also provides for guards and other security measures to make our schools safe. But funding for that program has been cut in half by the Republican education proposals, eliminating antidrug and violence programs in 1,200 Maryland schools.

These cuts will make themselves felt from preschool to graduate school. The Republican plan will cut 48,000 young children from the Head Start rolls in 1996. We know that Head Start is a cost-effective way to provide academic enrichment, nutrition, and basic health care to children who will otherwise start school at a disadvantage and lag behind their peers. Despite a bipartisan commitment to improve Head Start quality and give a Head Start opportunity to as many children as possible, the Republicans have cut Head Start for the first time in the program's history. In Maryland, these cuts mean that more than 1,000 children will be denied the help they need to start school ready to learn. This is unfair, and compromises our children's future.

Also, in Maryland universities, almost 54,000 students who rely on Stafford loans to go to college will see their costs go up. The average Maryland student graduates from college $13,500 in debt. And under Republican budget proposals, that debt will rise by more than $3,000 in additional interest payments. The average graduate student in Maryland will see his or her interest rise by more than $9,000.

America is proud of its opportunity society. We are proud that we send more students to college than any other country. But cuts in Federal education funding jeopardize this proud history.

We all know that simply throwing money at education won't solve the problems our students and schools face. But we also know that cutting education funding when our education system is struggling will only make the problem worse. Cutting support for students is bad educational policy, and bad economic policy. I urge my colleagues to join me in supporting National Education Funding Day.

LAKE GASTON PROTECTION ACT OF 1995

HON. L.F. PAYNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. PAYNE of Virginia. Mr. Speaker, today I am pleased to join as a cosponsor of the Lake Gaston Protection Act of 1995, which was introduced by Congressman DAVID FUNDERBURK. This bill is a companion to identical legislation introduced yesterday in the Senate by Senators HELMS and FAIRCLOTH of North Carolina.

This bill is intended to achieve a fair and equitable solution to a longstanding dispute between the States of North Carolina and Virginia. This dispute centers on Lake Gaston, which is a manmade lake that straddles 34 miles of Virginia's southern border with North Carolina. For more than 10 years, Virginia Beach has been engaged in a fierce legal struggle with North Carolina and southside Virginia over the city's plan to withdraw some 60 million gallons of water per day from Lake Gaston. Pipeline opponents, including my House and Senate colleagues from North Carolina, have used every appropriate means at our disposal to fight this plan.

Those of us who have fought this pipeline have done so because of several fundamental concerns, none of which has been adequately addressed by the Federal Government during the licensure and review of this massive pipeline project.

First, the pipeline poses a direct threat to economic growth and expansion in the huge river basin which empties into Lake Gaston, which is known as the Roanoke River Basin. Anyone involved in economic development knows full well that one of the first questions that a potential business asks when it comes into an area is about the availability of water.

With more than 1,200 manufacturing firms in south central Virginia alone, the region around Lake Gaston has an intensive need for water. Our leading manufacturers—some of whom have faced water use restrictions in the past—are unanimous in opposing the pipeline. They have seen what has happened in other States when industrial users upstream face various restrictions in order to protect water supplies downstream.

One local executive from Danville, VA, told me last spring that concerns about the pipeline might force his firm to look elsewhere when it considers expanding its Danville operations. That is not an isolated case.

Second, pipeline opponents believe that the Federal Energy Regulatory Commission, which issued the final license for this project late last summer, has ignored completely the environmental impacts of this pipeline on the Roanoke River Basin. The environmental impact statement which was prepared for this project was rushed through at breakneck speed. It failed to consider fully the wide range of pipeline alternatives. It relied heavily on facts and studies supplied by the city of Virginia Beach. And other agencies with expertise on a project of this nature were not adequately consulted during the preparation of the EIS. This is particularly true with respect to the Fish and Wildlife Service.

And why are North Carolina and my region of Virginia being asked to potentially forego economic development and to suffer the environmental impacts of the pipeline?

So Virginia Beach, which is Virginia's largest city and certainly one of its most prosperous, can continue to grow and develop. They want to build an 80-mile pipeline across Virginia to withdraw up to 60 million gallons of water that now belongs to the people in North Carolina and Virginia.

The bill that I am cosponsoring today is a fair and equitable means of addressing these concerns. It is a narrowly drawn bill to assure in cases such as this, where a lake staddles the border of two States, that the Governor of the State from which more than 50 percent of the water is withdrawn must certify that the proposed withdrawal will not have adverse environmental impacts on his or her State, as defined by the Clean Water Act. The bill only applies to matters involving a FERC license or license amendment, and the bill is made retroactive to the present controversy.

The bill in essence gives the Governor of the State of North Carolina some authority to certify that a water withdrawal and the construction of facilities associated with it will be in full compliance with the Clean Water Act. This is not a new requirement of the law, but rather a clarification of the proper meaning of section 401 of the act. The certification process is suspended in cases where an interstate compact is in force and applicable to the proposed withdrawal. It is our hope that this provision will encourage the States of North Carolina and Virginia to enter into an interstate compact that is negotiated not by the city of Virginia Beach but by the Commonwealth of Virginia acting on behalf of the interest of all Virginians.

TRIBUTE TO JOHN R. RADEK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. LIPINSKI. Mr. Speaker, I rise today with great sadness at the recent passing of John R. Radek at the age of 77. I, along with the Chicago City Council, have been informed of his passing by Alderman Edward M. Burke.

The president of the family-owned Ready Metal Manufacturing Co. until his retirement a few years ago, John was an engineer and the holder of several patents. He founded his company in his parents' garage on South Knox Avenue, developing sales by walking door to door. Ready Metal eventually grew from a one-man operation, to one employing 500 people.

Working with the McDonald's Corp., John developed the first modern drive-in window, founding Ready Access, a corporate subsidiary of Ready Metal. Through working with Sears & Roebuck, John also designed and patented product-display fixtures and accessories and was honored by Sears several times with its Symbol of Excellence Award for Outstanding Service.

John served as a board member of the Standard Federal Bank. He was also a member of the St. Vincent DePaul Society, the Archbishop Weber Council Knights of Columbus, and the 4th Degree Club.

Mr. Speaker, I extend my condolences to his devoted wife of 55 years, Rose, his daughters, Diana Cicora and Bernadette Arnott, his son, Rick, his brother, Edward, his sister, Bernice Budris, and his 10 grandchildren.

IN TRIBUTE TO THE BAY STATE BANNER

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise to pay tribute to a great institution of journalism in Boston. The Bay State Banner recently celebrated the anniversary of its 30-year commitment to providing information and filling a communication void among the African-American community in Boston.

Thirty years ago, there was no African-American newspaper in Boston and the major media rarely noticed the black community except to report crime. This critical media vacuum kept the community uninformed about major issues affecting its welfare.

The Banner's goal has always been to enable African-Americans to assume responsibility for their own welfare and advancement. In 1965, that meant providing the information necessary to prepare blacks for their new and unaccustomed legal status.

Today, the Bay State Banner still educates, informs, and unites the African-American community in Boston with its legacy of self-empowerment. "Unity, Progress, Let's Do It Ourselves" was the founding slogan and focus of the paper. Boston's black community shares that legacy with the Banner, never shying away from the many challenges it has faced and continues to face. With these challenges, the Banner is needed now as much as ever.

I would like to congratulate them on 30 years of hard work and success, and wish them many more years of continued prosperity.

ARCHBISHOP CUCCARESE TO VISIT NEW YORK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to recognize the imminent arrival in New York of a great leader of the Catholic Church; Msgr. Francesco Cuccarese, Archbishop of Pescara-Penne.

Mr. Speaker, Archbishop Francesco Cuccarese has spent his life in the service of God. He was ordained as a priest over 40 years ago, and ever since, Archbishop Cuccarese has served the church with faith, intelligence, and devotion. His hard work was ultimately recognized when he was elected to the Archdiocese of Aceranza in 1979 and was consecrated as bishop in that same year.

In 1987, he was transferred to Caserta, bearing the title of "Archbishop." In 1990, he was again transferred to the Archdiocese of Pescara-Penne.

Archbishop Cuccarese is well known for his spiritual character. He has tremendous knowledge of cultural, theatrical, and sociological matters, and has always shown concern for Italian-Americans abroad, seeking to further their religious, social, and cultural advancement. In addition, Archbishop Cuccarese is a noted author, with a string of publications to his name which are too numerous to list here.

Archbishop Cuccarese has, in particular, shown special concern for the needy, especially those undergoing health problems. On numerous occasions, he has arranged for those requiring complicated or dangerous treatment to come to the United States so that they can receive the best medical attention possible. He has also worked closely with teenagers and young adults who were suffering from alcohol or drug abuse, and with juvenile delinquents.

I am pleased that so eminent a man will be visiting New York to further his work and the work of the church, and I ask my colleagues to join me in welcoming him to our country.

HAPPY BIRTHDAY MAESTRO VICTOR NORMAN

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. GEJDENSON. Mr. Speaker, on Saturday, November 18, Maestro Victor Norman will celebrate his 90th birthday by conducting his beloved creation, the Eastern Connecticut Symphony Orchestra, for one last time. Maestro Norman planted the seeds of the organization nearly 50 years ago.

Victor Norman was born in Norway and graduated from the Royal Music Conservatory in Copenhagen. After continuing his music education at the Mozarteum Academy, Salzburg, Ecole Normale de Music in Paris, and Paolo Delachi, Milano, Italy, he came to this country in 1940 and received his master of arts degree from the University of Connecticut. He was the assistant to Fritz Busch, conductor of the Danish State Radio Symphony and accompanied him to the Glyndebourne Opera Festival England as an assistant conductor.

In 1946 Maestro Norman founded the New London Civic Orchestra. After becoming conductor of the Willimantic Symphony, the two orchestras merged in 1952 forming the Eastern Connecticut Symphony Orchestra. He remained at its helm in the lean years and resisted any suggestion of disbanding. As a result of his vision and persistence, several successful programs were spawned as a result: Music for Children, the ECS Youth Orchestra, the ECSO Chorus, the Young Artist Award competition, and the award winning Edward MacDowell Festival of American Music.

Maestro Norman was the organist and choir director at Congregational Beth-El for 46 years and regional director of the metropolitan opera auditions for 10 years. Additionally, he served on the New London Board of Education and worked as supervisor of administration in the education department of General Dynamics Electric Boat Division. Not content with a leisurely retirement, Maestro Norman also cofounded the William Billings Institute of American Music, lectured at the University of Connecticut, and 7 years ago founded the National Senior Symphony from which he retired as conductor emeritus.

The citizens of the Second Congressional District of Connecticut owe a great debt of gratitude to the accomplishments and contributions of Maestro Norman. His influence has been felt nationwide with his direct contract with orchestras throughout the country. He will be sorely missed as he moves to New Jersey to live with his son. His rich legacy will be cherished by generations to come. Best of luck and happy birthday.

TRIBUTE TO JAMES MUNROE OLIVER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. TRAFICANT. Mr. Speaker, I rise on behalf of the 17th Congressional District in Ohio to honor James Munroe Oliver—a man of unimpeachable character, considerable talents, and boundless compassion.

Last weekend, the Lord suddenly took Jim from us, but not before he left an indelible impression upon all who came in contact with him. Through his work with countless organizations—from the Youngstown Area Action Council to the National Urban League to the Center for Urban Studies at Youngstown State University—Jim reached out to those who needed him most and gave them everything he had.

Without Jim in their life, who knows where thousands of young people, desperately lacking parental guidance, would be? Who knows how hundreds of families, facing cold, northeast Ohio winters without heat, would have survived? Because Jim came into their lives, they not only had a second chance, but renewed hope to overcome the odds.

It was blessed to know Jim when I was a teenager participating in programs offered through the Hagstrom House, a neighborhood center in Youngstown. Jim's leadership as the center's director had a profound impact on me. Through him I learned to value each and every member of my community. Most importantly, I learned to selflessly give my talents and time to the neediest in our society—to those with nowhere else to turn.

It was Jim who recruited me into public service, serving as my mentor and friend at the action council. Many years later, it was Jim, a one-time parachuter in the U.S. Army, who encouraged me to run for office, to take my place in the great halls of the Capitol. Jim has loyally sat through my cold football games at the University of Pittsburgh, offered sage counsel and advice as I served in Congress and consoled me when my father passed away. Other than my father, Jim and John Hudzik, my coach at Cardinal Mooney High School, were the two most influential people in my life.

Jim recently returned to the Mahoning Valley to help youth living in public housing resist the temptation of drugs and crime. Together with Dr. Gil Peterson, one of the truly gifted members of our community, Jim made extraordinary progress in the short time he was here. The community will sorely miss his presence, but his energy and spirit will continue to live in us all.

I join his beautiful wife Stella and son Zagery in honoring this veteran, father, husband and friend.

THE VICTIMS OF ABUSE INSURANCE PROTECTION ACT

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. SANDERS. Mr. Speaker, today I am unveiling comprehensive legislation that I have authored entitled "The Victims of Abuse Insurance Protection Act." This sweeping legislation will prohibit all forms of insurance discrimination against victims of domestic violence and has been endorsed by the American Bar Association, the American Civil Liberties Union, the National Organization of Women legal defense and education fund, The Women's Law Project, and the American Nurses Association.

We know that insurers use domestic violence as a basis for determining who to cover and how much to charge with respect to health, life, disability, homeowners and auto insurance. Insurance companies give a variety of reasons for denying victims coverage or for charging higher premiums.

Some insurers say domestic violence is a lifestyle choice, like skydiving or window washing on skyscrapers. We know that domestic violence is not a choice, but a crime. We know that victims do not chose to live with their batterers but are often forced to do so for economic and safety reasons. We know that when a victim tries to leave her abuser, violence escalates and her life is at great risk.

What does it mean for an insurance company to deny coverage—to drop coverage—to charge higher rates for victims of domestic violence?

It means that someone who is already scared for her life, someone who wants to get away from her batterer—wants to get help—has one more major reason to fear telling someone, to not leave, to avoid getting help.

If an insurance company treats domestic violence as a preexisting condition, who will tell their doctor that they have been battered? How will a doctor know to refer a victim to appropriate battered women's groups and authorities in the community? Will a doctor have to continue to fear "publicizing" confidential patient information through medical records—information that will likely result in battered women and children losing their insurance?

What is the message we are sending to women? If you try to get help, not only do you have to fear the repercussions from your abuser, but you must also fear losing access to health care for yourself and your family or insurance that provides for your families in case of death or disability. Current practices tell women they are better off not getting help and staying in an abusive situation. It also tells victims that after they have invested thousands of dollars in insurance premiums—they are better off not reporting stolen property, damage to their home or even, as has happened in one case, not get help for a child that has been abused at a day care center.

What does this say about the long-honored, sacred relationship between a doctor and a patient? Basically the insurance companies are making our doctors stool pigeons of sorts, rather than enabling them to honesty identify abuse and help provide trained help and referral services to victims.

And this insurance scheme has created a whole new phenomenon for landlords, relatives, employers, and owners of battered women's shelters. In fact, more and more women's shelters are finding it difficult to get property insurance because they house victims.

Insurance companies are effectively tearing down all the work that has been done over the last 20 years in creating safe havens and assistance for victims of domestic violence.

It is important to understand just how widespread this problem really is. An informal survey by the House Judiciary Committee in 1994 revealed that 8 of the 16 largest insurers in the country were using domestic violence as a factor when deciding whether to issue and how much to charge for insurance.

And while we know that at least 4 million American women were physically abused by boyfriends or husbands in 1993, it is hard to get a true understanding of how many victims are impacted by these practices because insurers are not required to tell applicants the reasons for rejecting them, increasing their premiums, or dropping them altogether.

There are laws prohibiting the practice of refusing to insure or raising the cost of homeowners' insurance in high crime areas, yet insurance companies are not prevented from selecting out high crime homes and discriminating against victims who live there.

That is why I am introducing this legislation today with my colleagues PETER DEFAZIO, CONSTANCE MORELLA, and RON WYDEN. Today we are attempting to put an end to insurance discrimination against victims of domestic violence. We are trying to halt discrimination against hose who hire or house victims of abuse. We are making every effort to protect the most private and sacred information that is shared between a doctor and a patient.

The legislation that we are introducing today will protect victims across this country—many of whom cross State lines to hide from their batterer—from being singled out as uninsurable. If we reinforce our efforts to root out domestic violence and offer protection and counseling for families. It will stop the practice of insurance and medical data base companies from probing through medical records to find reasons to charge more or deny insurance altogether. And finally, the Victims of Abuse Insurance Protection Act gives victims appropriate civil remedies to fight back against this discrimination.

PRIVILEGES OF THE HOUSE RESOLUTION RELATING TO FORGED DOCUMENT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, on Wednesday, November 1, 1995, three of my

Republican colleagues went to the floor during time set aside for special orders. All three speakers spoke about an event that occurred in the subcommittee, in which a document under the purported letterhead of the Alliance for Justice actually had been prepared by the subcommittee chairman's staff.

The titles of those three speeches were, and I quote: "Hearing 'Prop' Incident Does Not Merit Ethics Investigation," "Alliance for Justice," and "Innocent Mistake Transformed Into an Ethics Complaint."

Mr. Speaker, all three speeches dealt with the ethics investigation that is currently pending before the Committee on Standards of Official Conduct.

Under a ruling of the Speaker pro tempore on May 25, 1995, those speeches were inappropriate and should not have been permitted. In that ruling, a Member who had made a reference to a matter relating to Speaker GINGRICH pending before the Committee on Standards of Official Conduct was warned:

> Members should not engage in debate concerning matters that may be pending in the Committee on Standards of Official Conduct.

I would also note that the speeches also attempted to ascribe motivations to the Member who transmitted the ethics complaint. For example, one speaker stated that the motivation was "partisan politics" and another blamed it on a "political culture."

I would note that the precedents of the House rule XIV clearly establish, and I quote from section 749 of the annotations to the House rules, that:

> (6) Members should refrain from references in debate to the motivations of Members who file complaints before the Committee on Standards of Official Conduct.

Although the Speaker has recently been vigorous in enforcing these restrictions during special orders, even on his own initiative, when Members are less likely to be present on the floor to make a point of order, he did not do so on Wednesday night.

Those speakers alluded to remarks made by my Democratic colleagues and by me, which were prior to the receipt by the Committee on Standards of Conduct of a complaint, but I will not directly respond to them, because I respect the Rules of the House which prohibit statements with respect to conduct that is subject to a pending ethics investigation.

On October 25, the House voted to table a resolution offered by the gentlewoman from New York, Mrs. SLAUGHTER, to request that the Speaker investigate this matter and take appropriate action. Instead, the matter is now pending before the Ethics Committee. The appropriate forum for discussing matters such as whether Chairman MCINTOSH was responsible for ethical violations relating to forged documents can no longer be debated on the House floor. We must await the decision by the Ethics Committee. Therefore, I will not address remarks by the Republican Members concerning whether the document in question was a "criminal forgery," or whether the apology of Chairman MCINTOSH was timely.

I will address one final matter, which relates to actions taken by the House and is not the subject of the ethics investigation nor relates to the personalities or conduct of the individuals involved. In his remarks on Wednesday, one of my Republican colleagues made the following statement:

> I would like to expose some of the inaccuracies expressed last week in speeches given by my Democrat colleagues with regards to this incident. I will give them the benefit of the doubt, and assume that they too were errors . . . it was stated that the motion to table Mrs. SLAUGHTER's resolution was voted down twice—when in fact it was only voted down once by the House.

Actually, it is my Republican colleague who is speaking inaccurately. The motion to table Mrs. SLAUGHTER's resolution was not voted down once, nor was it voted down twice. The motion to table Mrs. SLAUGHTER's resolution was adopted. I had made reference to the fact that the House voted twice to table the resolution. I was referring to both the voice vote, and the recorded vote. At no time did I state, as my Republican colleague erroneously stated, that the House voted down the motion to table.

I would like to return the kind words of my Republican colleague, and I too will give him the benefit of the doubt, and assume that his statement was just an error.

TRIBUTE TO CHIEF ANTHONY L. PADUANO

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. PALLONE. Mr. Speaker, I rise to speak about the end of an era on the Jersey Shore as our community pays tribute to Chief Anthony L. Paduano of the Neptune Township, NJ, policy department on the occasion of his retirement. Chief Paduano will be honored in a tribute at the Squire's Pub in West Long Branch, NJ, on Friday, November 17, 1995.

Chief Paduano is a life-long resident of Neptune. He was born in the township and attended the local public schools. After serving as a paratrooper in the 11th Airborne Division, he joined the Neptune Police Department in 1961. Throughout his distinguished career, Chief Paduano has moved up the rank from sergeant to captain to deputy chief. He was appointed chief in 1983, commanding the 65-member police department.

The list of Chief Paduano's accomplishments and associations is a long one: He has been involved with the Monmouth County Police Chief's Association, the board of directors of the Monmouth County Police Academy, the New Jersey Traffic Officers Association, the Monmouth County DWI Strike Force, the Monmouth County Prosecutors Advisory Committee, the Neptune Township PBA, Local 74, and the Fraternal Order of Police, Neptune Township, Lodge 19. In all of these endeavors, Chief Paduano has done far more than to just lend his name; he has been a leader, motivating others through his hard work and his solid example—just as he did every day on the job at the Neptune Police Department. Chief Paduano is also a devoted family man, and it is my pleasure to extend my best wishes to his wife Nancy, their three children and two grandchildren.

It is an honor for me to pay tribute to Chief Paduano on the occasion of his retirement, as well as his having been named the 1995 Man of the Year by the Kiwanis Club of Neptune-Ocean Township. I hope the chief enjoys his retirement, but continues to lend his talents and energy to the betterment of our community.

THE "TOP TEN" REASONS TO SUPPPORT THE CLINGER AMENDMENT WHICH WOULD END THE EXPLOITATION OF CIVIL SERVANTS FOR PARTISAN ENDS

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 16, 1995

Mr. HORN. Mr. Speaker, earlier this evening I urged the adoption of the Clinger amendment to the Lobbying Disclosure Act of 1995–H.R. 2564. That proposal would prohibit the use of taxpayer dollars to develop materials which are "intended to promote public support or opposition to any legislative proposal—including the confirmation of the nomination of a public official or the ratification of a treaty—on which Congressional action is not complete."

We are not trying to stop the appropriate officials from communicating with Congress. We are trying to stop what both Democratic and Republican administrations have done over the last three decades and that is having neutral civil servants ordered to prepare kits, pamphlets, booklets, news releases, and various types of film, radio, and television presentations which are designed for use by various special interest groups. These private groups have a vested interest in preserving in perpetuity a tax-supported Federal program.

I have no objection to any group lobbying for a particular program that it finds of some value. I do have an objection when what should be a private effort is supported with public funds. It is just plain wrong.

Mr. Speaker, I ask that the following exhibits follow my remarks in order to illustrate this growing problem: First, "Top Ten Reasons To Support Clinger Amendment," second, "VA chief uses computers, pay stubs to bash GOP," third, "VA chief terms 'outrageous' GOP 'cheap politics' charge," and fourth, "Secretary of Veterans Affairs Jesse Brown's Taxpayer Paid Messages."

TOP TEN REASONS TO SUPPORT CLINGER AMENDMENT

1. Department of Veterans Affairs—Employee check stub with message from Secretary Jesse Brown urging opposition to House budget plan.
2. Department of Commerce—Secretary Ron Brown's invitation to associations for an "informational" briefing discussing opposition to Congressman Mica's Commerce legislation.
3. Department of Labor—Newsletter sent to hundreds of organizations leading off with a quote that "GOP lawmakers should stop preaching tax breaks for the rich . . ."
4. National Spa and Pool Institute—Letter to EPA Administrator Carol Browner complaining about receipt of lobbying materials warning of the dire consequences of enacting "Contract with America" provisions on Risk Assessment and Regulatory Reform.
5. EPA—E-mail discussing EPA's and environmental groups lobbying strategy for unfunded mandates.

6. Council on Environmental Quality—Widely distributed fact sheet entitled "The Lawbreakers' Bill of Rights" on the Contract with America.

7. Commodity Futures Trading Commission—Letter from Commissioner Dial to Washington Representatives urging them to contact specific members of Congress to oppose bill merging CFTC and SEC.

8. U.S. Department of Interior—Letter to public land constituents indicating opposition to "Livestock Grazing Act."

9. U.S. Corps of Engineers and U.S. Fish and Wildlife Service—"Taking It Too Far" slide show and panel discussion to oppose takings legislation.

10. Corporation For National Service (Americorp)—Published first annual report containing "selected" press clips praising Americorp and criticizing Congressional action.

[From the Washington Times, Nov. 7, 1995]

VA CHIEF USES COMPUTERS, PAY STUBS TO BASH GOP

(By Ruth Larson)

Veterans Affairs Secretary Jesse Brown is using department computers to send anti-Congress notes to his employees and has had messages critical of GOP budget plans printed on their pay stubs.

The messages paint Republican budget proposals as draconian cuts that would devastate the nation's veterans and require massive layoffs at the department.

Congressional Republicans accuse Mr. Brown of using government resources to send blatantly political messages to civil service employees. In any event, they counter, the administration's own budget proposal would mean deeper cuts.

Sen. Alan K. Simpson, Wyoming Republican and chairman of the Senate Veterans Affairs Committee, charged, "The secretary of veterans affairs is playing plenty fast and loose with the facts."

Citing a General Accounting Office budget analysis, he said: "Veterans should not be misled. Veterans are better off under the budget that Secretary Brown is attacking than they are under the president's budget he is defending."

He went on to denounce the secretary's messages as "cheap politics" that "demeans his office."

"What is absolutely unacceptable is his use of taxpayer-funded VA resources to place his purely political message in the hands of every VA employee and on the screen of every single VA computer when it is cranked up every morning," he said Friday on the Senate floor.

"Stump speeches are for out on the road. Mr. Secretary, not for the taxpayers' computers," he said.

VA spokesman Jim Holley issued a statement defending Mr. Brown's actions: "This political attack on the secretary criticizes him for being an advocate for veterans and for sharing with employees information they have every right to know regarding VA programs." He called Mr. Simpson's attack "ironic, when you consider that's what he's supposed to do."

Mr. Brown's messages came to light after VA field office employees complained to their senator. One employee "objects strongly to this [message], feels it is political propaganda," said an internal congressional memo obtained by The Washington Times.

"As federal employees they're not even allowed to express an opinion as to a political party. How can the secretary be allowed [to make] this type of propaganda?" the memo said. Another employee "feels this type of activity is inappropriate, at least, and possibly illegal," the memo said.

Mr. Simpson said that during his 17 years in Congress, "I have never seen a VA administrator or secretary—Democrat or Republican—misuse VA's internal communications methods in this blatant fashion."

"It is wrong," he said. "It should stop."

For months, Mr. Brown has warned veterans groups of the dangers lurking in Republican budgets.

Last week, the VA announced that "hundreds of thousands of veterans could lose access to health care under proposed changes in the Medicare and Medicaid programs now advancing through the Congress, according to a government study."

Republicans complained when they learned that the "government report" on which the study was based was, in fact, a July 1995 report by the Urban Institute, a private, nonprofit policy research group.

In September, the General Accounting Office disputed the Urban Institute's methods and assumptions used in its report—the same techniques used to prepare the VA predictions.

Congressional Republicans argue that veterans actually suffer larger cuts under the administration's proposed budget.

For example, on a CNN broadcast last week, Rep. Tim Hutchinson of Arkansas contended that while his party would save $64. billion in veterans' benefits over seven years, the Clinton administration plans to slow the growth of veterans' benefits by $17.1 billion over 10 years.

Mr. Brown responded: "I don't know where you got that number from. . . . It sounds like someone just made it up." In fact, as Mr. Hutchinson pointed out later in a letter to White House Chief of Staff Leon Panetta, the figure comes from the administration's own fiscal 1996 budget.

Mr. Brown later explained in a letter to Mr. Hutchinson that the $17.1 billion figure represents savings in mandatory VA spending and is "totally irrelevant to veterans' access to health care."

"Since the figure had nothing whatever to do with the subject at hand, I had not been briefed on it, and it sounded, as I said, unfamiliar and, in the context of VA health care, 'made up.'" he said.

BROWN'S COMMENTS

Some comments from Veterans Affairs Secretary Jesse Brown, transmitted to his department's 240,000 employees via electronic mail or printed on their pay stubs.

Secretary's daily message on Aug. 21: "This is what our veterans budget future boils down to: the president has proposed a 10-year plan to eliminate the deficit, while protecting critical programs. He has proposed no new cuts in veterans' entitlements. Congress has adopted a budget resolution outlining a seven-year plan to eliminate the deficit which would be devastating to veterans' programs. * * * The congressional budget resolution effectively freezes VA funding for veterans' health care at 1995 dollar levels for the next seven years.

"This means eliminating 61,000 health care positions by 2002 and denying care to more than a million veterans. This House budget would also cancel plans for two badly needed VA replacement hospitals in central Florida and northern California. When it comes to meeting veterans' needs, gratitude and penny-pinching don't mix."

Excerpt from the secretary's Oct. 6 daily message: "It is important that employees be made fully aware that tens of thousands VA jobs may be eliminated over the next seven years as a result of current budget proposals. I am not calling on you to act, but I think you have the right to know the facts. Stay tuned!"

Excerpt from the secretary's message on a VA pay stub: "The administration and the Congress have outlined dramatically different budget approaches designed to balance the budget, reduce taxes, and create a leaner government. As I have been telling the nation's veterans organizations this summer, the administration's plan is much better for veterans and their families. * * * [House and Senate budget proposals are] nothing but a means test that will push some service-connected veterans into poverty. We hear a lot these days about making sacrifices. We need to point out that veterans and their families have already paid their dues."

Source: CONGRESSIONAL RECORD, Nov. 3.

[From the Washington Times, Nov. 8, 1995]

VA CHIEF TERMS "OUTRAGEOUS" GOP "CHEAP POLITICS" CHARGE

(By Ruth Larson)

Veterans Affairs Secretary Jesse Brown said he will continue telling his employees about the effect of congressional budget proposals, despite congressional Republicans' objections that he was engaging in "cheap politics."

"It's outrageous to suggest that the VA shouldn't tell its 240,000 employees that as many as 61,000 jobs are at risk, or that 41 veterans hospitals may close," Mr. Brown said in a telephone interview yesterday.

Sen. Alan K. Simpson, Wyoming Republican and chairman of the Senate Veterans Affairs Committee, on Friday blasted Mr. Brown's use of VA computers and employee pay stubs to criticize congressional budget proposals and warn of massive layoffs at the department. He accused Mr. Brown of using government resources to send out partisan misinformation.

Mr. Brown countered: "I hope someone tells me that it's not going to happen—that they're not going to lock in our funding at 1995 levels for the next seven years. If somebody would tell me that, I'd apologize—sure, I would," Mr. Brown said.

Asked about Mr. Simpson's assertions that veterans would suffer more under the Clinton administration's proposed budget than under congressional plans, Mr. Brown said, "He's absolutely right."

But he was quick to explain that statement. He said that during the budget process, he'd gone to Mr. Clinton three times to tell him that the administration's governmentwide cutbacks "would have the same effect as what the Republicans are proposing."

Mr. Clinton assured him that he would be able to negotiate the budget every year. "I'll be sure the veterans are treated fairly," he quoted Mr. Clinton as saying.

"We aren't getting the same commitment from Congress. There is no flexibility," Mr. Brown said.

Rep. Bob Stump, Arizona Republican and chairman of the House Veterans Affairs Committee, criticized Mr. Brown for "intentionally misrepresenting and needlessly scaring vulnerable veterans" about Republican budget proposals.

He said in a statement: "The real hypocrisy lies with the Clinton 10-year budget plan which takes nearly three times as much from veterans' programs without balancing the budget."

The Washington Times reported yesterday that some VA field employees had complained that Mr. Brown's messages represented "political propaganda".

Mr. Brown said he had sent out hundreds of daily messages on a variety of subjects to his 240,000 employees. "Out of those hundreds of messages, [Mr. Simpson] chose three."

Mr. Brown said he routinely runs the messages by his general counsel "to make sure they don't violate any laws or ethics requirements, and they've all passed," he said. "We wouldn't do it if it weren't legal."

Administration officials often defend the legality of their actions by saying they stop short of urging employees to contact members of Congress. For example, in one of his messages, Mr. Brown cautioned, "I am not calling on you to act."

"No, not much," Mr. Simpson chided him on Friday. "It does not take a rocket scientist to figure out that many employees might take that as a pretty good hint to take some action."

SECRETARY OF VETERANS AFFAIRS JESSE BROWN'S TAXPAYER PAID MESSAGES

MESSAGE FROM SECRETARY JESSE BROWN PRINTED ON A RECENT VA EMPLOYEE PAY VOUCHER

The Administration and the Congress have outlined dramatically different budget approaches designed to balance the budget, reduce taxes, and create a leaner government. As I have been telling the nation's veterans organizations this summer, the Administration's plan is much better for veterans and their families. The President recommended a good FY 1996 VA budget, with a $1.3 billion increase, including nearly $1 billion for health care. On the other hand, the House of Representatives has approved a plan to increase veterans health care $563 million by taking money from our construction account and preventing us from building badly needed hospitals in Florida and California, hospitals which the President proposed be fully funded. And we will lose some of the money we need to renovate older facilities. The House also voted to stop compensation to some incompetent veterans. This is nothing but a means test that will push some service-connected veterans into poverty. We hear a lot these days about making sacrifices. We need to point out that veterans and their families have already paid their dues.

SECRETARY BROWN'S MESSAGE SENT AUGUST 21, 1995

This is what our veterans' budget future boils down to: the President has proposed a 10-year plan to eliminate the deficit, while protecting critical programs. He has proposed no new cuts in veterans entitlements. Congress has adopted a budget resolution outlining a 7-year plan to eliminate the deficit, which would be devastating to veterans' programs. The President has recommended a $1.3 billion increase in VA's FY96 budget, nearly a billion of which is targeted to veterans' health care. The congressional budget resolution effectively freezes VA funding for veterans' health care at 1995 dollar levels for the next 7 years. This means eliminating 61,000 health care positions by 2002 and denying care to more than a million veterans. The House budget would also cancel plans for two badly needed VA replacement hospitals in central Florida and northern California. When it comes to meeting veterans' needs, gratitude and penny-pinching don't mix.

SECRETARY BROWN'S DAILY MESSAGE ON OCTOBER 6, 1995

I am being attacked publicly for telling you through various forums what is going on with our budget. Rest assured I do not intend to stop. I believe VA employees had a right to know about the pubic and Congressional debate on VA's future and the impact our lawmakers' decisions can have on benefits and services for veterans. Is this a partisan endeavor? Absolutely not! As Secretary of Veterans Affairs, I have a responsibility to keep you informed on issues that affect your careers, livelihood and roles as members of the VA team. And certainly I have the right to let our valued constituency—veterans and their families—know that their programs may be adversely affected. It is important that employees be made fully aware that tens of thousands of VA jobs may be eliminated over the next seven years as a result of current budget proposals. I am not calling on you to act, but I think you have the right to know the facts. Stay tuned!

Source: *Congressional Record*—Senate (November 3, 1995) page S16653.

SENATE—*Friday, November 17, 1995*

(Legislative day of Thursday, November 16, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, Sovereign of this land, our help in ages past and our hope for years to come, we enter into the season of thanksgiving with a great need for the spiritual renewal that takes place when we return to an attitude of gratitude. In the midst of the problems that we face at this time, we need that refreshing rejuvenation that comes when we turn from our trials and focus on thanksgiving for all of Your blessings. You have shown us that gratitude is not only the greatest of all the virtues but the parent of all others. Any achievement without gratitude limps along the road of life; anything we accomplish without giving thanks becomes a source of pride. You desire our gratitude because You know it helps us to grow; other people never tire of feeling the affirmation that is communicated when we express our thankfulness for them; and we know that we require gratitude to avoid being self-serving and arrogant.

O God, we praise You for this Nation of freedom and democracy. We repent of our pride that entertains the idea that we are in charge of the destiny of this land. Grant us the true humility that comes from acknowledging that You are the source of all that we have and are. Now, Lord, we are ready to thank You in advance for Your help in the resolution of the problems we face in this present crisis. In the name of our blessed Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank the distinguished President pro tempore.

SCHEDULE

Mr. WARNER. Mr. President, the majority leader wishes to advise the Senate that this morning the Senate will immediately begin consideration of the conference report to accompany S. 440, the National Highway System bill. There is an overall time agreement of 2 hours and 45 minutes on the conference report. A rollcall vote is expected on the conference report, and Senators should be aware that some of the debate time may be yielded back.

Also, for the information of Senators, the majority leader has announced that we expect to receive from the House this afternoon the Balanced Budget Act of 1995 conference report. There is a 10-hour time limitation on that conference report. All Senators can, therefore, expect votes today, and the Senate is expected to remain in session late into the evening to complete action on the balanced budget conference report.

I yield the floor.

The PRESIDENT pro tempore. The able Senator from Rhode Island is recognized.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT—CONFERENCE REPORT

Mr. CHAFEE. Mr. President, I am very pleased that the conference on the National Highway System bill has reached agreement on the National Highway System Designation Act of 1995. I am prepared to move to that now.

The PRESIDENT pro tempore. The clerk will report the conference report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 15, 1995.)

Mr. CHAFEE. Mr. President, the chairman of the conference was the distinguished senior Senator from Virginia, Senator WARNER. He is the chairman of the subcommittee of the Environment and Public Works Committee that deals with these particular highway matters.

Mr. President, I wish to take this opportunity to thank the distinguished Senator from Virginia [Mr. WARNER] for his very able leadership of this conference. Senator WARNER demonstrated patience and persistence and thoroughness and did a superb job. So I think we are all in Senator WARNER's debt for the outstanding job he did.

I also wish to thank the distinguished Senator from Montana [Mr. BAUCUS], who is the ranking member of both the entire committee, that is, the Environment and Public Works Committee, and also the ranking member of the subcommittee that dealt with this matter. He played a vital role in working out this conference agreement.

I also want to thank the other conferees from our committee; namely, Senators SMITH and KEMPTHORNE, MOYNIHAN, and REID, for their contributions. Because of what they did, we were able to make the progress that is represented by the conference report, which, by the way, emerged from the Environment Committee—the original bill—with a 16-to-nothing vote. Mr. Rodney Slater, Administrator of the Federal Highway Administration, has been very helpful, as was the Secretary of Transportation, Mr. Federico Pēna.

The result of the conference on the National Highway System legislation is a compromise, and I know that there will be comments today about dissatisfaction with certain portions of the report, particularly those dealing with the safety aspects. But nonetheless, like all conferences, they are a compromise. We moved ahead in allowing something over $6 billion in highway funds to now be released to the States.

The purpose of this legislation is to approve the National Highway System which is a network of approximately 160,000 miles of highway in our Nation. The States and localities have chosen these roads as some of their most important ones. The National Highway System represents only 4 percent of the highways in the United States of America but on those 4 percent of the highways 40 percent of the Nation's traveling is done. In other words, these 4 percent of the roads handle 40 percent of the total vehicle miles traveled in our country. These roads connect strategic facilities including our ports, airports, train stations, and military bases. The process to designate the NHS worked well. It is a cooperative process that produced a high degree of consensus among Federal, State, and local officials.

The conference agreement approves the map as submitted by the Secretary and recognizes that this is a changing, dynamic process. And so there will be other changes in the future as State and local officials work with the Secretary of Transportation. The conference agreement preserves the important principles of flexibility that came from the basic highway act that we have which was passed in 1991, called the Intermodal Surface Transportation Efficiency Act, with the pleasing acronym of ISTEA.

In this legislation we passed, paperwork and regulatory burdens have been reduced, additional flexibility has been provided including management systems; metric signing requirements; implementing the transportation enhancement program; designing highways to allow for the preservation of environmental and scenic values; the use of Federal-aid funds for preventive maintenance; and the use of Federal-aid funds for roads that provide connections to intermodal facilities.

What is an intermodel facility? It is a facility that has surface transportation, air transportation, and sea transportation, all blended together and from that some goods move by truck, some move by rail, some move by sea.

Specifically regarding what is called design standards, I believe this provision provides significant new flexibility for the States and new opportunities for public participation. I hope that the Secretary will, in the development of design criteria, make every effort to ensure the full participation of organizations and individuals representing scenic, aesthetic, community, environmental, historic, bicycle, and pedestrian interests. I urge the Secretary of Transportation to make certain that State and local transportation officials are aware of this new flexibility that is provided so that they can take full advantage of it.

This legislation also provides the States with additional financing options to address the needs of the transportation system recognizing that the Federal, State, and local governments' resources are limited.

This conference report includes provisions that address problems that have occurred in the implementation of the Clean Air Act.

One of the most effective measures to reduce air pollution is inspection of the vehicles that are already on the road to make sure that the pollution control equipment on the vehicle is working properly. This vehicle testing program is called inspection and maintenance in the Clean Air Act. Many Americans are familiar with this program because they are required to take the family car to the service station or repair shop once a year to get an emissions inspection. Inspection and maintenance of existing vehicles is now required in more than 60 major urban areas across the country.

The 1990 amendments to the Clean Air Act directed EPA to develop an enhanced vehicle inspection and maintenance program to be carried out in the cities with the worst air pollution problems. Congress mandated that the existing testing programs in these areas be upgraded to get even greater pollution reduction.

EPA issued regulations to implement this part of the 1990 law in November 1992. However, those regulations went farther than Congress had expected or intended. The regulations required that testing be done with expensive, new technology called I/M240. Furthermore, the regulations imposed a penalty on testing programs that used service stations or automobile dealerships or other auto repair facilities to conduct the tests.

In the past, vehicle inspection and maintenance in most States has been carried out through a decentralized network of service stations and repair shops. But these new EPA rules virtually precluded a continuation of that approach. The testing technology is too expensive for most service stations to afford. Any program based on a so-called test-and-repair system faced an automatic 50-percent penalty in the emissions reduction credits EPA would allow.

The States have aggressively resisted these EPA regulations for enhanced programs. Many States have refused to implement it. Other States that initially tried to implement the program are now pulling back. Earlier this week the Governors of five of these States—California, Texas, Virginia, New York, and Pennsylvania—wrote to the majority leader of the Senate and asked for legislative relief from these EPA regulations.

Mr. President, I would ask unanimous consent that the letter from the Governors be printed at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. JEFFORDS). Without objection it is so ordered.

(See exhibit 1.)

Mr. CHAFEE. I am pleased to say that the conference report now before the Senate makes the specific changes in the inspection and maintenance program that the Governors recommend. First, the bill prevents EPA from requiring any State to use the expensive testing technology.

Second, EPA is barred from applying an automatic 50-percent discount to the decentralized, test-and-repair programs that some States have adopted.

And third, the bill allows States to develop innovative programs based on their own estimates of the emissions reductions that will result. As the Governors suggest, the conference report allows these innovative approaches to be put into effect on an interim basis to determine whether they work. If they do, the States can get permanent approval. If not, States will be required to make adjustments to assure that the emissions reductions needed to reach health standards will be achieved. This conference report gives the States a green light to develop programs that will work for their citizens. But it also requires that the States prove that the programs are working before permanent approval is granted.

This conference report addresses all of the issues raised by the Governors in their letter. We have discussed this legislation with EPA and based on those discussions, we are confident that these changes to the program are workable and will provide a sound-basis for enhanced inspection and maintenance programs.

This legislation resolves the problems with inspection and maintenance that the States have raised and should move us rapidly to the day when vehicle testing is an even more effective way to reduce air pollution in the Nation's urban areas.

I am pleased that this legislation continues the ban on new billboards on scenic byways. The conference agreement codifies the Department of Transportation's implementation of the law which prohibits new billboards on scenic byways in scenic areas.

Consistent with Congress' intent in passing ISTEA, the Department of Transportation has prohibited new billboard construction along scenic byways on the interstate and primary systems. In some unusual circumstances, a scenic byway may pass through a heavily industrial or commercial area which does not possess any scenic, cultural, historical, natural, archaeological, or recreational characteristics. In such cases, the Secretary may continue to permit the States to segment those areas out of the designation and to allow new billboards in those undesignated areas.

Where segments are proposed for exclusion, the Secretary has the responsibility to examine these exclusions to ensure that exclusions are, in fact, made on a reasonable basis.

The Secretary of Transportation continues to have the authority to prevent the circumvention of the requirements of section 131(s) and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991.

The Secretary has used his authority and intervened in the past when States have proposed actions that evade the Federal law banning billboards on scenic byways. The Secretary continues to have this authority and has the responsibility to exercise it in those cases where the States are not complying with the billboard ban on scenic byways. The Secretary's authority is described in a legal memorandum from the deputy chief counsel to the Federal Highway Administrator. I ask unanimous consent that this memorandum be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 2.)

Mr. CHAFEE. I regret that this legislation repeals several Federal safety requirements, including the speed limit and the motorcycle helmet requirement and weakens certain truck safety requirements.

Why did that come about? It came about because we had votes in the Chamber of this Senate by some substantial majorities. The body spoke and said they wanted these safety requirements in the hands of the States rather than in the Federal Government—the speed limits on the highways, the requirement that we presently have that motorcyclists wear helmets or that the States will lose some funds. All of that has been turned back to the States. And so now they are responsible for the health and safety of the public traveling on our transportation system. I certainly hope that the States will exercise extreme caution when using these new authorities.

The conference agreement directs the Department of Transportation to collect data and report to Congress regarding the costs of deaths and injuries resulting from motor vehicle crashes in those States that raise the speed limit or change their motorcycle helmet laws. The Department of Transportation collects important safety data and it is more important than ever that this data is collected and analyzed so that information is available to determine the impact of the repeal of the Federal speed limit and motorcycle helmet laws.

The Federal safety laws were repealed on the basis of State's rights. I am certain that State officials are concerned for the safety of the residents of their States. I hope the States that have good safety laws will keep them, and that those who do not will pass effective safety laws recognizing the tremendous benefits of these laws in saving lives and reducing costs.

Finally, I very much regret that we were not able to include the Senate provision which passed by an overwhelming vote of 64 to 36 regarding Amtrak. The NHS bill passed by the Senate would have permitted Governors to use some of their highway money for Amtrak if they desired to do so. It was completely voluntary and would have given the Governors additional flexibility to sue their transportation funds within their own States on Amtrak service. Millions of people around the country rely on the transportation service that Amtrak provides. I believe the flexibility that the Senate provision provided should have been given to the Governors and would have benefited our country's transportation system.

Mr. President, Senator WARNER will be managing this bill with me. He has done such a splendid job in connection with this legislation. So I would like to turn the podium over to Senator WARNER at this time.

EXHIBIT 1

NOVEMBER 13, 1995.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate Capitol, Washington, DC.

DEAR SENATOR DOLE: We are writing to respectfully request your assistance on a matter of great importance to our States—the implementation of the Clean Air Act. We agree that all Americans want and deserve clean air and that the goals of the 1990 Clean Air Act Amendments are commendable. Unfortunately, EPA's implementation of the Act has been particularly burdensome to our States, especially in the area of inspection and maintenance (I/M). Without legislative changes by the Congress in this area, our States will be faced with sanctions, including the withholding of highway money, over the course of the next year to year and a half.

EPA has a bias in favor of bureaucratic test-only programs in granting only 50 percent credit for test-and-repair I/M programs. Rather than encouraging States to develop innovative, creative and effective I/M programs, EPA is forcing States into a one-size-fits-all-program by virtue of its arbitrary 50 percent reduction in emissions credit for test-and-repair programs. States need the flexibility to design effective I/M programs that meets the unique needs of their citizens while meeting the goals of improved air quality. The federal government should set the goals; the States should have the flexibility to meet those goals in a way that makes sense for their citizens.

Unfortunately, it appears unlikely that the congressional authorizing committees will have enough time this session to complete action on legislation addressing implementation problems with the Clean Air Act. Because our States face the threat of sanctions by the end of next year, it is critical that Congress address the I/M issue this session on any appropriate legislative vehicle.

Specifically, our States support language which satisfactorily addresses the EPA bias in granting only 50 percent credit for test-and-repair I/M programs and places the burden of proof on EPA to document any alleged shortcomings it perceives in a test-and-repair I/M program. States need the opportunity to get their proposed emissions inspection programs up and running. If, once in place, the real-world data proves that a program is insufficient, then EPA could require that the State submit a new plan. States should not, however, be prevented from implementing their proposals on the basis of an arbitrary formula.

Thank you for your consideration of our request.

Sincerely,

GEORGE ALLEN,
Governor of Virginia.
PETE WILSON,
Governor of California.
GEORGE W. BUSH,
Governor of Texas.
TOM RIDGE,
Governor of Pennsylvania.
GEORGE F. PATAKI,
Governor of New York.

EXHIBIT 2

DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION,
Washington, DC, November 2, 1995.

Subject: Authority of the Department of Transportation to prevent abuses of 23 U.S.C. 131.

From: Deputy Chief Counsel.

To: Rodney E. Slater, Administrator.

FHWA has indicated to three States that proposed legislative or administrative actions are inconsistent with 23 U.S.C. §131(s). In each case, the State was considering a statute or administrative action which would have removed from their scenic byways all commercial and industrial areas. The blanket exemption of commercial and industrial areas required no judgment about the scenic quality of excluded segments. In each case, we based our action on our general authority to prevent outright circumvention of the requirements of the Highway Beautification Act (HBA). In our judgment, nothing in the language proposed by Senator Warner, either on October 26, or more recently, would impair our authority to prevent such action in the future. For clarity of reference, both draft proposals are attached.

The Department of Transportation has asserted its authority to prevent deliberate circumventions of the requirements of the HBA since 1971. At that time, we asserted our authority to challenge strip zoning undertaken solely to allow for the erection of billboards. We did so in the face of a specific clause in 23 U.S.C. §131(d) asserting that States have full authority under their zoning laws to zone areas for commercial and industrial purposes, and that State action must be accepted for such purposes. Our standards for adequate zoning, which specifically prohibits zoning solely to allow outdoor advertising, are contained in our regulations at 23 C.F.R. §750.708, promulgated in 1975. We have also asserted our general authority to prevent abusive practices on any number of occasions. As early as 1976, the General Counsel prepared an extensive legal opinion to this effect. Our authority to fashion appropriate remedies to accomplish the HBA purposes has been upheld by the Courts on several occasions. See, for example, *South Dakota* v. *Volpe*, 353 F. Supp. 335 (D.S.D. 1973), and *South Dakota* v. *Adams*, 587 F.2d 915 (8th Cir. 1978).

Looking at the language proposed in the two drafts being considered by Senator Warner, we note that the general prohibition of new signs (except those allowed by §131(c)) adjacent to scenic byways on the Interstate or primary system is unchanged in either version. In each case, a qualifying sentence is added which would permit states to exclude from a state designated scenic byway those sections it determines not to be scenic. This language, in itself, contains the basis for exclusions. While it is clear in adopting such an amendment Congress would allocate considerable discretion to the States in making determinations about whether a particular section of highway is or is not scenic under State law, it is not a blanket exclusion. This is similar to the provisions of the provision of §131(d) mentioned above. In both cases, the Department would continue to have the authority to prevent actions which plainly are not related to the purpose of the legislative exemption. Thus, we can now prevent abusive zoning practices, and we will continue to be able to prevent inappropriate exclusions of scenic segments of a scenic byway. The language which provides both the purpose of the exemption and the scope of State discretion is the same in both versions proposed by Senator Warner.

It must be noted that even under §131(s) in its current form, the provision to prevent the erection of new signs applies only to Interstate and Federal aid primary highways that are on State designated scenic byways. No definition or limitation as to what is a State scenic byway is contained in the law. Implicit in its formulation, however, is a reliance on State law definitions. In spite of this implication, we have asserted our authority to prevent abusive interpretations of or amendments to State law in how the State scenic byway program should operate under §131(s).

The ability to intervene to prevent potentially abusive State actions, as we did in Louisiana, Tennessee, or New Mexico, is unchanged under either proposed amendment. These amendments neither add to nor detract from our current ability to generally prohibit abusive practices which have as their purpose the circumvention of the HBA, rather than legitimate exclusions of non-scenic segments of a State designated scenic byway.

EDWARD V.A. KUSSY.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, before the distinguished chairman leaves the floor, first, I want to thank him for his kind remarks on my behalf, and, indeed, on behalf of our staff. I know that the Senator shares my view that this staff here, Jean Lauver and Ann Loomis, are absolutely superb. Rather than thank them at the end, let us thank them at the beginning.

Mr. CHAFEE. I would like to include members of the Democratic staff likewise. I know Senator BAUCUS will touch on that, but we appreciate everyone.

Mr. WARNER. Knowing the chairman's time is short, I think we should address here in a brief colloquy the question of the billboards. I know this is a subject on which the chairman has spent many, many years of hard work. It is the opinion of this Senator that the Senate held firmly throughout these negotiations with respect to the provisions in ISTEA, which established the landmark legislation on the billboards. And at no time did we yield in any way to the House on that.

Mr. CHAFEE. The Senator is quite correct. In the ISTEA legislation of 1991, we had passed a provision dealing with scenic byways. And the provision was that on scenic byways there could be no new billboards; there could be the existing billboards, but no new ones.

The House wanted to greatly weaken those provisions. One of their problems, they said, was that they required segmenting. In other words, a scenic byway might last for 30 miles and then there would be a 3-mile segment that would not be scenic and then there would be another 20 miles. They thought that should be taken care of. That was a legitimate problem, and we addressed that. But in no way was the billboard provision gutted in this legislation.

Mr. President, I want to say to the distinguished Senator from Virginia, I greatly appreciate the way he stood firm, and, indeed, this was the provision that held up this legislation right from the beginning. We were on this legislation for, what?—3 weeks, the conference. The bulk of the matters were settled in the first week, but it was this billboard provision that held things up. We stood our ground and came out with a measure that I believe everybody interested in scenic byways can be pleased with.

Indeed, I would like to just state here the report language, the last sentence in this particular area:

> The Secretary of Transportation has the authority to prevent actions that evade Federal requirements.

In other words, we have not given up the authority of the Secretary in any fashion here.

Mr. WARNER. I thank my distinguished colleague, Mr. President. I ask unanimous consent to have printed in the RECORD at this point an editorial from the New York Times which inaccurately states the matter in which this conference was concluded.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 14, 1995]

BILLBOARD BLIGHT

Billboards bring blight to the highways, but the billboard industry brings cash to members of Congress. That is why Congress is close to undoing a modest achievement in the long struggle to limit the spread of roadways signs. Billboard lobbyists have held up $6 billion in highway construction funds while pressing to repeal a ban on new billboards on roads designated as scenic byways.

Their strategy may be working. The Senate whose highway spending bill did not mention billboards, is yielding to House conferees who insist on gutting a billboard ban enacted only four years ago. At stake is a 1991 Federal program that has encouraged 42 states to designate a modest 15,000 miles of highway—less than 1 percent of all American roads—as scenic byways. Under the program, new billboards are banned. In exchange the states are permitted to advertise the roads as "scenic," which helps attract tourists. They also received Federal funding for roadside cleanups and beautification.

From time to time, the Federal Department of Transportation has granted exemptions for new billboards in commercial or industrial sections—but not nearly enough exemptions to suit Representative Bud Shuster of Pennsylvania, chairman of the House Transportation Committee. Re-elected in 1994 with the help of $67,000 from billboard interests, Mr. Shuster persuaded the House to insert in the transportation spending bill a provision giving states complete discretion.

Senator John Warner of Virginia, negotiating for the Senate's version of the bill, asked Mr. Shuster to drop the billboard provision in return for the Senate's dropping a measure allowing states to use some highway money for passenger railroads. Mr. Shuster rejected that offer and Mr. Warner gave in, saying the highway funding was too important to allow further delay.

Mr. Warner asked only for House agreement on a largely meaningless gesture, language that would show Congress's approval of the way the Transportation Department has been dealing with proposed exemptions. But Chairman Shuster wants even this parliamentary stroking toned down.

The fragile scenic byways program, which depends on Federal-state cooperation and sensitivity toward the environment is now in danger of being picked apart, state by state. The Senate needs to reject this threat to the landscape.

Mr. WARNER. I think the orderly way to proceed would be to now have our distinguished ranking member, the Senator from Montana, who likewise kept a firm hand on this conference as we proceeded to resolve it together with his colleagues. And I want to thank him. He looked after the interests of this bill from its very inception.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I thank the Senator from Virginia for those kinds remarks.

Mr. President, I am very pleased today that finally the Senate is considering the conference report on the National Highway System Designation Act of 1995. This has been long in coming and, I might say, a bit too long because the deadline for Congress to pass this legislation was October 1, some 6 weeks ago. Since that date over $6.5 billion in Federal highway funds have been withheld, that is, they have been withheld from the States, very simply because of our failure, congressional failure, over the past 6 weeks to get this bill passed. It has been around for a couple years.

This has meant delayed contracts. It has meant postponing jobs. Passing this bill today, however, means the States will soon be receiving those funds. That is good news for the States, good news for the thousands of construction workers and others who will benefit from new jobs.

The delay has been the result of some major differences between the House- and the Senate-passed bills. It was not easy to reconcile them, but the leadership of the chairman of the Environment and Public Works Committee, Senator CHAFEE, and the chairman of the conference, Senator WARNER, finally bridged the distance and brought the conference report to us here today.

The report includes a number of important provisions. I will very briefly touch on some of them. But, first, let me put this bill in context. The National Highway System, or NHS, is a network of over 160,000 miles of the Nation's most critical roads. Although they account for only a small part of the total public road miles, these roads carry the bulk of our commerce.

Most importantly, the NHS is really the key to a seamless network that uses all modes of transportation, linking roads to airports, seaports, and rail yards. It will expand economic opportunities in big cities and in small communities. And it will make our businesses more competitive in the global marketplace.

The National Highway System is especially vital, I might say, to rural areas, areas where highways are the only method of transportation. Whether it is the transport of goods and services, traveling for family vacation, or business or taking the kids to college, highways play a vital role in our lives and our jobs, most particularly in rural areas.

For Western States like Montana, we have few alternatives to roads. We do not have the mass transit and water transport systems that many other States depend on. And we will never have them. We are a large State with no big cities. To make matters worse, we have very limited air service. So designation of the National Highway System is vital. Montana has more miles of roads per capita than any other State, and over 3,800 miles of them are included in the NHS. This is about 800 miles more than proposed by the Bush administration.

The additional routes include highway 200 between Great Falls and Missoula and Lewistown going west to Winnett, Jordan, Circle, Sidney, and Fairview; highway 12 from Helena to Garrison Junction; highway 59 from Miles City to Broadus, a very rural part of our State; highway 87 between Billings, Roundup, and Grassrange—you can imagine those are not metropolises—highway 212 from the Crow Agency to Lame Deer and Alzada, even more rural.

These NHS roads link Montana farms and ranches to the Great Lakes and to the Pacific Ocean. These roads get our wheat to Russia and our beef to Japan. In short, they are our economic livelihood.

What is the practical effect of NHS? Most importantly, by identifying these critical roads, States will be able to target their highway dollars to make sure the roads that get the most use are also the safest and most efficient. So the NHS really does set the stage for our transportation future, both in Montana and in the country.

Mr. President, in addition to designating the National Highway System, the conference report also reduces a number of very burdensome regulations and repeals several highway fund sanctions. For example, the conference report repeals the national maximum speed limit. This means that the States can now decide for themselves what the appropriate speed limit should be on their roads without the threat of losing Federal highway funds.

I support the repeal of the speed limit. I strongly believe that the State and local officials are just as deeply concerned about the safety of their citizens as those of us here who serve in Washington. State and local officials will take safety into consideration when deciding the appropriate speed limits. This provision simply recognizes reality, Mr. President; namely, that what may be the appropriate limit in Montana will probably not make sense in New York City.

Let me also point out that the conference report gives Governors a say as to when the repeal goes into effect. Governors will have 10 days after the enactment of the conference report in which to decide whether they want the proposal to go into effect immediately or to be reviewed by the State legislature. If he or she chooses the latter course, the repeal of the speed limit would not take effect until the legislature takes action, otherwise, the repeal would become effective at the end of 10 days.

Another major accomplishment of this bill is the reduction in burdensome paper requirements for the States. For example, States will no longer have to develop six separate management systems or exhaustive planning documents.

These management systems have become a worthless paperwork exercise, particularly for rural States. Yet, failure to develop these systems mean a 10-percent sanction of highway funds. This conference report repeals these requirements and will relieve States of this unnecessary burden.

Mr. President, it has taken the conference almost 2 months to reach this agreement. As I said earlier, this has left the States without highway trust funds for that amount of time. That has been unfortunate and I think unnecessary. However, the Senate will shortly begin the process to resume the flow of highway dollars to the States, and with quick action by the House and the President, States will soon see not only a restoration of highway funds, but the elimination of unnecessary regulations.

So this is a good bill. It is a jobs bill. It is a reform bill. It will be good for Montana and for the country. I urge all my colleagues to support the conference report.

Let me close by, again, thanking my good friends, Senator WARNER and Senator CHAFEE, for their leadership. Without their skill and, I might say, determination, we would not be here today.

Finally, let me add a few words of thanks to the Montana Department of Transportation and the Montana Highway Commission. The advice of people like highway commissioner Tom Forseth, transportation director Marvin Dye, Sandy Straehl, his assistant, and John DeVierno have all been invaluable, and I thank them very much. Most importantly, Mr. President, I thank the people of Montana for their very good advice and help in crafting this legislation.

I also wish to thank the staff for the majority, Jean Lauver and Ann Loomis, for their hard work and dedication on this bill. And, of course, Kathy Ruffalo of my staff who has put in countless hours to bring this bill to where it is.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I again commend the distinguished ranking member, our former chairman of the Environment and Public Works Committee. He had a firm hand on this legislation from its very inception. I certainly join him in acknowledging that many outside groups did make valuable contributions to the formulation of this piece of legislation—in my State, Governor Allen and Secretary Martinez. Indeed, we incorporated into this bill the flexibility of States to look for other means, which I will address later, of financing highway projects. Now that the Federal funding could well be diminished in the years to come, we have to look to alternative methods of financing.

Mr. President, I note the presence of the President pro tempore on the floor. He asked to make a brief statement, and then I will resume mine. At this moment, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, this bill is one of the most comprehensive and important bills for our Nation. It means a lot to all the States in this country. I want to commend Senator CHAFEE, the chairman of the Environment and Public Works Committee, for his good work on this bill, and I want to especially commend the able Senator from Virginia, Senator WARNER, for his great work. He is chairman of the Subcommittee on Highways.

This means a lot to our entire country, and what they have done here is going to improve the highway system of America. I just want to extend my highest commendation to them.

Mr. WARNER. Mr. President, I wish to thank the distinguished senior Senator from South Carolina. I also wish to note that in this bill is a new corridor, a new interstate corridor known as I–73/I–74. The distinguished senior Senator from South Carolina participated, together with his Governor and State highway transportation authorities, in a critical decision as to how this highway, as it exited North Carolina, then traversed the South Carolina road system.

So I wish to thank him for that help in designating exactly how that very important new arterial highway will pass in his State.

Mr. THURMOND. Mr. President, I wish to express my appreciation for the way this worked out. I think it is satisfactory now to North Carolina and South Carolina. With the help of the able Senator from Virginia, this was able to come to pass.

Mr. WARNER. Mr. President, I thank our distinguished colleague.

I am going to start again by acknowledging the absolute superb professional assistance given by Jean Lauver, Ann Loomis, and Kathy Ruffalo, who are present in the Chamber this morning.

I also wish to thank Steve Shimberg, Tom Sliter, Gary Smith, Chris Russell, Alex Washburn, Greg Daines, Larry Dwyer, Linda Jordan, and Ellen Stein for their valuable contributions to this legislation from its inception through this conference report.

As stated by the distinguished chairman and ranking member, with approval of this conference report, we release $6.5 billion in National Highway System and interstate maintenance funds from the Highway Trust Fund to all States. This is not new spending, Mr. President. We are here today and tomorrow addressing spending, but I want to make it very clear, this funding comes from gasoline taxes and other user fees the motoring public—that is when you drive up in your automobile or your truck or other vehicle to that particular gas pump, you pay that Federal gas tax. It goes into this Highway Trust Fund, and that public pays into the fund. It is really their dollars that we are redirecting back to the States such that their Governors and their appropriate highway officials in the State can designate how best to spend those funds on their behalf.

Again, it is funding their citizens have provided for the direct purpose of maintaining a first-rate transportation system. That is my first point, Mr. President.

Throughout this, we preserve the integrity of the Highway Trust Fund. It was a decision in this Chamber relating to the authority of Governors to use part of those funds for the purpose of the Amtrak system. It was the decision of the conference, over which I was privileged to chair, that we would reject that provision, again preserving the integrity of these funds to be used just for the highways, bridges and associated needs connected with road transportation.

Mr. President, I want to commend, again, all who participated in this legislation and proceed now to state that this is a report which is a bipartisan effort on behalf, again, of the minority and majority and also within the administration. There was very valuable participation by Secretary Peña and the Administrator and Deputy Administrator of the Federal Highway Administration.

Rodney Slater, the Administrator, came to my office on many occasions and, indeed, on other occasions, I had to call him late into the night, but he was always there quickly to respond, together with a very well-qualified professional staff, to deal with the many technical issues involved.

I also acknowledge that my working partner in the conference was Congressman SHUSTER, the chairman of the House committee. He has a wealth of knowledge with respect to these issues and, as I said, neither of us blinked. We worked together constructively, recognizing that there were differences between the two Chambers, but in the end, I think we reconciled those differences in a manner that is in the best interest of our Nation's transportation system.

I certainly join Senator CHAFEE in acknowledging that I was disappointed, as was he, with reference to the will of the Senate and the will of the majority, likewise, in the House to take certain measures relating to highway safety and transfer them from Federal decisionmaking authority down to the Governors and the various highway transportation authorities in the States.

I only urge them to look upon the safety considerations very carefully, and particularly those considerations as relate to senior citizens. Senior citizens are finding it increasingly difficult to cope with these modern highways and high speeds, and the differential between car speed and truck speed which occur in some instances.

I hope, and I must say I pray, that the Governors will be ever so careful as they address this new authority as it relates to their several States.

Mr. President, this legislation will move America's transportation system into the next century. It will ensure our competitiveness in a global marketplace by providing for the efficient movement of goods and people.

I want to take a moment to talk about the history of highway legislation in our United States. I found it of great interest, as I went back and read, frankly, the biographies and other writings relating to General Eisenhower.

This bill today is really a reaffirmation of his vision and his early work. It goes way back to 1919, in the aftermath of World War I. Eisenhower did not get to France. It was a matter of great personal disappointment to him. But his then Chief of Staff of the U.S. Army was "Blackjack" Pershing, the general that led the AEF in France in World War I. Pershing, having been elevated to the top job in the U.S. Army, began immediately to look into the future, and he recognized that America, at some point in time, might have to move swiftly military equipment from the east coast to the west coast, or indeed in reverse direction. So he called on a young lieutenant colonel by the name of Eisenhower and said, "Take a convoy of this military equipment," heavy equipment, the very equipment that was used in France, the equipment that the people in our country had not seen, other than through just pictures, "and move it from the east cost to the west coast."

Eisenhower embarked on this mission, and he wrote about it extensively—about the difficulty of maneuvering through certain areas and the limitation of certain bridges. The trip took over 60 days to transit this equipment, and often, on some days, he only managed 5 miles per day.

That left in Eisenhower's mind an indelible need for America, some day, to modernize its road system.

The next chapter occurred when he was Commander in Chief of Allied Forces in Europe. When he, after D-day, first arrived on the European Continent to direct, hands on, his forces, he was amazed, as he would study the maps late into the night, about the rapid movements of the Third Reich forces to reposition themselves to confront the Allied Forces, utilizing the Autobahn system which had been laid down over a period of many years by the Third Reich. I think at that point in time he said we must move America forward. Of course, as we all know, that came about when he ascended to the Presidency.

At that time, he started the National Highway System—55,000 miles. This bill now adds to that original system, which, in large measure, is completed in the bill. The new highway system was designated by the several Governors and the highway boards to make up this modern system we are fortunate to have in our country today. It is perhaps the best to be found anywhere in the world. This system map, which this legislation is approving today, consists of 160,000 miles. States, with the approval of the Secretary of Transportation, have authority to modify these routes, reposing in the Governors and the States the authority to modify these routes for additional miles, as provided in the ISTEA legislation of 1991—without further congressional approval, Mr. President. In other words, we have taken Congress out of some of the traditional roles that we have held onto in past years and given it to the Governors and the States, to give flexibility.

This total mileage of 160,600 miles consists of 44,000 miles of the interstate system, 5,000 miles of high-priority corridors, 15,000 miles of noninterstate strategic highway network routes, and 1,900 miles of strategic highway network connectors.

The remaining 91,000 miles were identified by our States and the Federal Highway Administration. The product of a 2-year dialog between the Federal Highway Administration and the Governors resulted in this map.

The National Highway System ensures a Federal commitment to a limited network of America's most heavily traveled roads. Although representing only 4 percent of the Nation's total highway miles, these roads carry 40 percent of all highway travel and 75 percent of all commercial travel.

One of the most compelling reasons for this map and the NHS is the link it will provide for our rural communities. Listen carefully, Mr. President. I am fascinated with this statement: Ninety percent of all households in America will now be located within 5 miles of an NHS road system.

Mr. President, this conference report is the product of compromise on many issues. "Compromise" is not a word that is in great favor these days on

Capitol Hill, but it certainly was utilized in bringing together this conference report. I am proud of the modest achievement that I had in participating. I am pleased that both sides wanted this legislation to reduce regulatory burdens on our State transportation partners. This conference report repeals the requirement to use crumb rubber in asphalt, to convert transportation signs to metric measurements, and to implement management systems. Again, this is a transfer of power from the Federal Government to the State governments.

In responding to the need to increase State flexibility in using these transportation funds, the conference report did, among other things, the following:

It allows States to use NHS funds on intermodal connectors.

It establishes a pilot program for State infrastructure banks.

It adopts all of the Senate provisions on innovative financing to attract private resources to transportation projects.

It addresses the budget shortfall resulting from section 1003 of ISTEA. States can spend unobligated balances as a means of offsetting reductions that will occur from this provision.

The conference report does not provide any funding for new demonstration projects.

I would like to digress a moment on that, Mr. President.

One of the distinguished Members of this body came to me, in a very polite way, and was quite critical. He felt we had put a lot of pork in this bill. I would like to state my view of what this bill has and has not. First, when I initiated the hearings on the Senate side, I took a stance that we would, in the Senate, try to resist pork and any new projects. This is in contrast to the 1994 House-passed NHS bill—last year's bill. That bill was stopped by the Senate. But in that bill, the House had 283 new demonstration projects. I think that was the reason that bill never saw signature from the President. And then, in 1991, ISTEA, that bill provided $6.2 billion in contract authority for 539 projects. I repeat, 539 projects, Mr. President.

That highway trust fund money is distributed to those projects before States receive transportation funds, based on the formula calculation. ISTEA also provided for $8.9 billion in general fund authorization for 41 projects. This is not funded from the Highway Trust Fund.

Now, Mr. President, we changed that. We did quite a different thing in this bill.

Mr. President, I repeat, the conference report does not provide any new funding for demonstration projects. We did accept the House provisions that redefine some previously authorized projects to permit States to use existing funds for revised priorities.

For example, Mr. President, in ISTEA, I will hold this chart up. I will not burden the RECORD with it. But this is how, in a very complicated formula, we allocated all of those funds in ISTEA. But a State got an allocation, and the conference felt that since a State had gotten it under ISTEA and had made a number of plans for expenditure of those funds, we should allow them the flexibility—each State—to retain those funds, which can no longer be applied to a specific project in that State, but could be transferred to another project, clearly identified with their highway system. I think that is a proper flexibility given to the Governors. But, again, there is no new money in this bill.

On the matter of outdoor advertising on State-designated scenic byways, the House provision was significantly modified. It was my view that it was appropriate for the conference to simply codify the current policies and procedures now being implemented and through the intervening years since ISTEA, through today, by the Federal Highway Administration. Since ISTEA, in 1991, States have been permitted to designate noncontiguous scenic byways.

Those segments of a scenic byway that are not designated must be based on a State's criteria. The effect of this provision will be that States are allowed discretion in segmenting these routes, but the Federal Government's authority to protect truly scenic byways is preserved.

I think I can characterize that as follows: This was a highly contentious issue between the House and the Senate. I respect the views of those on both sides.

That issue, in my judgment, most properly should be addressed next year in 1996 when the Congress again exercises oversight and indeed perhaps other authority with respect to ISTEA. That is the time to readdress the issue of the billboards.

Therefore, my challenge was to draw a provision in this bill which left the compass, so to speak, at point zero. It does not move one degree toward more billboards or one degree toward less billboards. It leaves both sides in status quo, preserving the right for both sides in the context of hearings on ISTEA in 1996 to bring forth the witnesses and state their case for or against a change in the current billboard policy as it relates to the scenic highways.

I think that was fairness. I regard it as a major achievement by the Senate conferees.

The conference report also reflects the will of both bodies on the speed limit issue. While the Senate maintained the Federal speed limit on commercial vehicles, this conference report fully repeals the national maximum speed limit law. States now have the choice and the responsibility to set a speed limit that responds to their specific highway conditions.

This is an area in which I personally disagreed, but again it was the will of both Chambers and therefore it was not, in a technical sense, a conferenceable item.

I remain concerned, personally, speaking for myself, deeply concerned about changing the 55-miles-per-hour speed limit and strongly urge our States to recognize the 20 years of safety benefits that we have received from a responsible speed limit. I want to thank a number of outside organizations that intervened on this issue. I join in expressing my disappointment that we were not able to continue in certain areas Federal supervision over the safety measures as it relates to speed, helmets, safety belts, and other issues.

I am pleased to report that a provision is included requiring States to enact a zero alcohol tolerance level for persons under the age of 21 driving a motor vehicle. Mr. President, that has not received much attention as of yet. I urge Senators to look at that provision. Day after day there are news reports of young persons involved in tragic, senseless traffic fatalities caused by alcohol and speed. Lowering the blood alcohol content for driving-while-intoxicated offenses is a small but a constructive step we must take.

Mr. President, the goal of the NHS is to leave a legacy for the next generation. That legacy is an intermodal transportation system, a system that is not fragmented into separate parts, but rather one that works in sync to serve the many diverse interests of Americans.

I yield the floor.

Mr. WARNER. This matter is under a time limitation. The chairman has returned to the floor. There is a Member seeking recognition.

Parliamentary inquiry; how much time remains under the chairman of the committee?

The PRESIDING OFFICER. The chairman's time has expired.

Mr. BAUCUS. Mr. President, I yield 5 minutes of our time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. GORTON. Mr. President, while I believe this bill to be extraordinarily progressive from the point of view of engineering and the designation of highways and the degree of flexibility allowed the States in construction projects, I nevertheless am constrained to vote against the bill by reason of a number of its other provisions.

First, again, while the Senator from Virginia particularly is to be congratulated on at least severely limiting the damage to billboard control contained in the bill, it is ironic that while there is a provision in this bill to grant States greater flexibility to get out from under billboard controls, nothing is done in this bill to allow States to enforce their own laws with respect to billboard controls if they wish to do it in a different way than present Federal law requires.

Mr. President, a great deal has been said about the delegation of responsibility to the States, but the bill denies States the right to use their trust funds to support Amtrak, to support rail transportation as an alternative if they wish to do so.

Neither of these provisions, however, Mr. President, would be sufficient to vote against the bill, but the safety provisions are. The collection of provisions relating to safety in this bill are simply going to kill hundreds or thousands of Americans over the next few years. The combination of the removal of any Federal control whatever over speed limits, the removal of any Federal requirement with respect to motorcyclists' helmets, the easing of restrictions on certain trucks, in combination, Mr. President, are going to make our highways less safe to drive on. It is just as simple as that.

The 55-mile-per-hour speed limit is, of course, an anachronism. It is not abided by 80 or 90 percent of the drivers on our highways and not enforced by State patrols, but that does not mean that some control over speeds on highways which are interstate or Federal in nature are not appropriate. Far too many States will set either no speed limits at all or speed limits that are far too high.

The society is going to end up paying an increased set of health care costs as a result of the absence of motorcycle helmets. We may also lose people and lose time as a result of some of the truck safety provisions in this bill.

In short, Mr. President, more people will be killed, more people will be injured, health care costs will be greater, all in the guise of delegating responsibilities to the States where in certain other areas, appropriate delegation has not taken place.

I regret this. I believe the Senate conferees did a wonderful job, the best job they possibly could have under the circumstances, but overall this is an unsafe bill.

Mr. CHAFEE. Mr. President, I ask unanimous consent for 4 minutes.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Rhode Island.

Mr. CHAFEE. I ask the distinguished Senator from Washington—first, I concur in everything he said about the speed limit. As he remembers, I fought to preserve those speed limits on the floor here. There were overwhelming votes against this, as the Senator recalls—I think something like 66-32. We got nowhere.

I would just like to, if I might, ascertain from the Senator what he was saying about weakening billboard controls. I did not quite understand that.

Mr. GORTON. The billboard provisions are relatively minor, but for some reason or other caused a great deal of discussion on this floor a little earlier with appropriate congratulations to the Senator from Virginia for at least subverting some of the House provisions which really would have gutted the billboard control.

I simply wish to point out that while most of that damage was contained, if, in fact, it is appropriate to delegate responsibilities to the States as in some minor way this does, why was not the proposition to delegate to the States the right to set billboard controls without having to pay for that billboard controls approach? It seems to me we have a very selective view in this Congress of what powers ought to be delegated to States.

I heard, I believe, the Senator from Virginia say he hopes the subject will be taken up next year. I must say I fear they will take it up next year and we will have further weakening rather than any strengthening of those rules.

Mr. CHAFEE. Mr. President, I say to the distinguished Senator from Washington that he is right, there is a selectivity about flexibility in the States, and the Senator wisely pointed that out. Flexibility is wanted as far as speed limits and helmets go and all that, but when it comes to flexibility and spending funds for Amtrak, State funds, that flexibility cannot be granted. But those are what we run into, even though we had, on Amtrak, a very favorable vote here on the Senate floor.

But on the billboard matter, I would like to stress that the billboard section solely dealt with scenic byways, not the overall billboard control. And, second, we feel confident, and we spent a lot of time on this—I personally spent more time on this part than anything else in the conference—we feel that we have not given away anything in connection with the billboard control and that what we have codified is the exact practice that the highway administration is currently following.

So I think we came out well on the thing, particularly in the final line in the conference report which I read earlier, which stated that "The Secretary of Transportation has the authority to prevent actions that evade Federal requirements."

So I am satisfied with how we came out.

Mr. GORTON. I thank the Senator from Rhode Island for his explanation, and I wish him good luck.

Mr. CHAFEE. I thank my colleague.

The PRESIDING OFFICER. The Senator from Montana continues to control the time.

Mr. WARNER. Mr. President, I understand that the time on this side of the aisle, so to speak, even though the distinguished ranking Member and I are both proponents of the bill, has expired. I ask unanimous consent 15 minutes could be added to the time allocated to the Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I say to my good friend from Washington, I voted vigorously against the raising of the speed limit. But I bring to my colleague's attention, the Senate voted 65 to 35. That is nearly two-thirds of the Senate. Therefore, there was really no issue before the conferees that we could go back and readdress such a powerful vote. The vote in the House was basically just as strong.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAIG). Who yields time?

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I ask, what is the situation with respect to time? I believe I have an hour available.

The PRESIDING OFFICER. The Senator is correct, he has 1 hour.

Mr. LAUTENBERG. What is the time constraint or the structure right now?

The PRESIDING OFFICER. There is 14 minutes and 33 seconds left with the majority and 14 minutes and 29 seconds left with the Senator from Montana.

The Senator from Ohio has 15 minutes.

Mr. LAUTENBERG. Could the Chair tell me whether the Senator from Delaware, Senator BIDEN, is scheduled for some time?

Mr. WARNER. He was to have time.

Mr. BAUCUS. It is in the order.

The PRESIDING OFFICER. The Senator from Delaware has 30 minutes, if he chooses to make a motion to recommit.

Mr. LAUTENBERG. Mr. President, I find myself in a kind of awkward position, because I really believe we ought to make the investment in highways that is called for in this bill. I will talk in some detail about that. But I have some very serious concerns about the abandonment of safety in the interests of getting from here to there.

That is what I see happening with this bill. It is kind of a "safety be damned, go ahead with the Toronados," and whatever the names of the other vehicles are. So, therefore, Mr. President, I rise in opposition to the conference report on the National Highway System bill.

As one of the Senate's primary advocates for infrastructure investment, I strongly support passage of legislation to designate the National Highway System. In fact, I was an original cosponsor of legislation in both the 103d and 104th Congresses to accomplish this. This $6.5 billion for the fiscal 1996 year that this conference report authorizes, is sorely needed. If we need any proof of that, just consider these few grim facts.

Almost one-fourth of our highways are in poor or mediocre condition. This, in our wealthy, great country, America. One-fourth of our highways are in poor or mediocre condition, while another 36 percent are rated only fair. That is a total of 61 percent between the two that are fair or poor. One in five of the Nation's bridges is structurally deficient, meaning that weight restrictions have been set to limit truck traffic. On urban interstate highways, the percentage of peak-hour travel approaching gridlock conditions increased from 55 percent in 1983 to 70 percent in 1991. The cost to the economy for that is $39 billion.

Experts indicate that an additional investment of $32 billion is needed to bring our highway and bridge infrastructure up to standard. Failure to make these investments increases costs in both the short and the long term. For example, failure to invest $1 today in needed highway resurfacing can mean up to $4 in highway reconstruction costs 2 years hence.

The ability of our country to sustain higher productivity is the key to economic growth and a higher standard of living. Higher productivity is in part a function of public and private investment. That is not just my view. Over 400 of our Nation's leading economists have urged Government to increase public investment.

These economists have urged us to remember that public investment in our people and in our infrastructure is essential to future economic growth, and clearly the National Highway System is a critical element of our public infrastructure. It is essential that we maintain that investment and increase our commitment in this area.

Unfortunately, as much as I support the provisions in this legislation that would designate the NHS, I feel compelled to vote against this conference report. I do so for one simple reason, and that is that this bill undermines public safety.

The bill will cost thousands of people their lives. It will mean that thousands of others will suffer serious injuries. It will mean that countless citizens will lose loved family members, be they their wife, mother, husband, father, son, daughter, brother, or sister—someone close, where the pain is extensive.

There is no question that this bill will, unfortunately, end some lives and ruin others. I do not want the blood and the pain of these innocent Americans on our hands.

I am concerned about what I see as a sense of complacency about highway safety in this Congress. It is disturbing. Maybe it is understandable. Maybe we have lost a sense of urgency about safety because we have made really good progress in the past. For 20 years, the motor vehicle death rate decreased steadily from a high in 1972 of 56,000 to 41,000 in 1992, a significant decline in that 20-year period. It is roughly 16,000 persons. That happened while the population of vehicles grew by 50 million. So we have done a good job.

Unfortunately, according to a recent report by the National Safety Council, the 20-year trend of improvements has now been reversed. In 1993, traffic deaths rose to 42,200, and we learned that 43,000 died on our highways in 1994. This translates into a 5-percent increase over a mere 2-year period.

Where is the increase in deaths occurring?

A recently released DOT study showed that during fiscal year 1993, the latest year of the study, fatalities on roads posted at 55 miles an hour fell while fatalities on roads posted at 65 miles per hour rose. The study substantiates what we learned in 1974; that is, that speed kills. If we set reasonable speed limits, we will save lives.

Mr. President, I heard one of our colleagues before say that nobody is obeying—or few are obeying—the speed limit laws. I do not quite know what that means in terms of this debate. Does it mean that people do not obey the law at 55, assuming, of course, that therefore enforcement is weak, and they therefore will obey the law at 75 miles an hour?

That is a little hard to understand. I believe that if they go 65 when it is 55, they will go 85 when it is 75, thereby increasing the risk to life and limb. That is why I am so concerned about the provisions in this conference report that would eliminate entirely all Federal speed limits.

Mr. President, whether it is one of my children or one of the children of others in this Chamber, if you live in New Jersey and your kids or your grandchild is in a car traveling in Montana or Colorado, or what have you, I would like to know that family member of mine and of others here and of people across this country are protected to the fullest extent possible. That is why, when we say let the States decide when there is Federal money being put into these systems, that I think the Federal Government has an obligation. We are responsible for the lives and well-being of our citizens.

One-third of all traffic accidents are caused by excessive speed. So common sense tells us that increased speed will lead to more fatalities. But, Mr. President, the magnitude of this increase is greater than many realize.

According to the National Highway Traffic Safety Administration—known as NHTSA—total repeal of Federal speed limit requirements will lead to the deaths of an estimated 6,400 Americans each year. That is 6,400 more each year. Think about that for a second: 6,400 Americans will die each year because of the provisions in this bill that lift the Federal speed limits. These Americans will have typically family members left behind. It could be small children without a parent, or wives or husbands left to live their lives alone.

Mr. President, those 6,400 Americans do not even include the thousands of others who will suffer disabling injuries in highway accidents. It does not include the people who will never again be able to walk or who will never again be able to work.

Then, beyond these human costs, there are the financial costs. Lifting Federal speed limit restrictions will cost taxpayers over $19 billion annually in lost productivity, taxes, and increased health care costs. This loss is on top of the $24 billion that we already lose as a result of motor vehicle accidents caused by excessive speed.

To give you an idea about what that $19 billion in additional costs would mean for some States, consider this. For taxpayers in California, the additional cost would be $2 billion. For taxpayers in Texas, the cost would be $1.7 billion. These are additional costs as a result of the additional deaths and injuries that will occur.

Mr. President, the same arguments about safety apply to the helmet provisions in this bill. More than 80 percent of all motorcycle crashes result in injury or death to the motorcyclists. Head injury is the leading cause of death in motorcycle crashes. Compared to a helmeted rider, an unhelmeted rider is 40 percent more likely to incur a fatal head injury. That is enormous difference—40 percent. That is one reason why NHTSA estimates that the use of helmets saved $5.9 billion between 1984 and 1992.

Mr. President, repeal of mandatory helmet requirements is projected to lead to an additional 390 deaths every year, and it will also increase the annual cost to society by about $390 million.

So, Mr. President, when you combine the effects of the speed limit removal and the motorcycle helmet provisions in this conference report, the legislation is likely to cause 6,800 deaths every year. That will mean more than 50,000 innocent people, men, women and children will lose their lives in traffic accidents in 1996.

Mr. President, 50,000 deaths are simply unacceptable. The Nation was in mourning for many years after the close of the Vietnam war when we lost over 50,000 of our young, brave soldiers. Many of these deaths would have been preventable.

Mr. President, I know that many of my colleagues believe strongly in the principle of States rights, and I respect their commitment to that view. But surely all of us believe in protecting innocent lives wherever possible. Who among us would intentionally withhold a cure for a young person dying of cancer, or AIDS, or some other terminal illness? Who could stand by a bedside and say, "No, we can cure your condition, but we are not going to be able to give it to you. We are going to let you die." It would be unthinkable. Yet, in effect, Mr. President, that is exactly what we would be doing to thousands of Americans if we insist on weakening our highway safety laws.

We will not know the faces of the innocent people who will die because of this conference report. But we know that there will be thousands and thousands of them. And I would suggest to my colleagues to look around at your constituents, at the people you know. Many of these, maybe some of these nameless and faceless casualties are even near us today. But we will not know it until it is too late.

The vote that you cast in favor of increasing speed can cause excruciating pain and grief for families and friends that come from one's hometown or one's State.

Mr. President, next time my colleagues are back home I encourage them to visit a trauma hospital. I have done it. It is an unfortunate, memorable experience. It is a terrible sight. The result of a serious accident often leaves a person in the condition that perhaps death might be a better outcome. Many cannot be recognized, or recognize their visitors.

About a year ago, Mr. President, three young men in the State of New Jersey, ages 15 to 17, were waiting to make a turn off a road. The car they were driving was struck by a car from the rear. The force of the accident pushed this car into the oncoming traffic, where it was struck by a vehicle going in the other direction. Two of these young men died at the scene, and the third was rushed to the hospital in critical condition.

That weekend I went to the hospital to visit the boy and his family, who are people I know. It was a terrible experience. This young man—his name was Kenneth Agler—was in bed in a coma. His family did not know whether he would ever wake up again and, if he did, doctors were not sure what permanent damage he might have sustained. I held his hand, and I looked in his eyes, and he stared right through me. His body was there but his soul, his mind, his vitality were absent.

Kenneth did eventually come out of his coma, but he has many years of tough, painful, and expensive physical therapy ahead of him. At the time of the accident Ken and his friends were obeying the law. They were doing everything they were supposed to in that situation. However, they were in what could be called the right place at the wrong time, and it was the car that came upon them moving at a high rate of speed that did the damage.

Mr. President, we have a cure for this pain. The question is, do we have the will to use it? And we will not have if we refuse to set reasonable speed limit laws, and we will not if we refuse to encourage States to enact motorcycle helmet laws.

We have had votes in this body on both of these issues, and in both cases, unfortunately, we lost. The vote on speed limits was 36 for maintaining them, 64 against. That was, I believe, a regrettable outcome. I fought hard to get the legislation passed.

The debate for helmets was similarly decided. I do not know what the exact vote count was there, but the majority prevailed and helmets were no longer required.

I will say, Mr. President, at this point that this conference report does have a prosafety provision which I support, and that provision establishes a zero tolerance policy for young people who drive after drinking under the age of 21 particularly. This provision is a positive step, and I commend our distinguished colleague, Senator BYRD, and the managers of the bill for including it.

I authored the bill that set the drinking age at 21 across this country back in 1984, and it is believed that we have saved over 10,000 young people from dying on the highways—10,000 families that did not have to mourn, 10,000 families that were exempted from the grief of losing a young family member. So this is a positive thing.

Unfortunately, the benefits of this provision are far outweighed by other provisions that undermine highway safety. As a matter of fact, in this bill, we exempted a particular truck, a single-unit truck that weighs between 10,000 and 26,000 pounds gross weight, from routine inspections that are now required.

That is terrible news. There are about 3.25 million of these vehicles. There are some horrible "factoids" that accompany this exemption. Single-unit truck crash fatalities have risen nearly 50 percent in 4 years. Nearly 40 percent of all truck crashes involve single-unit trucks which fall within the class of vehicle eligible for the exemption program. In 1994, single-unit trucks were responsible for nearly 1,400 deaths. Ninety percent of these deaths were to the occupants of small passenger vehicles and nearly half of these deaths involved trucks that fit in this weight category.

So we see another example of the abandonment of sensible safety rules included in this bill.

I ask unanimous consent that a Washington Post editorial dated October 12, 1995 be printed in the RECORD. It is entitled "Trucks Amok," and it talks about the risk that is posed by the exemption of these trucks from routine safety inspection.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRUCKS AMOK

Congress is doing a bang-up job of making this country's highways more lethal than ever. It's all done in the name of states' rights—on the grounds that 51 different sets of laws, complete with higher speed limits and fewer incentives for motorcycle helmet requirements—are the way to go. But before the law-looseners send their big bill rolling down the fast lane from Capitol Hill, there's one singularly terrifying proposal that House and Senate conferees should reject outright. It's a real killer, approved by the House without a split-second of public debate or even a day of public hearing: It could exempt a whole category of trucks—about 4.75 million of them—from all federal motor carrier safety regulations of drivers, vehicles and equipment.

This reckless provision is brought to you by your friendly neighborhood fleets from Frito-Lay, U-Haul, FedEx, Pepsi-Cola, Kraft Foods, Eagle Snacks and other groups with single-unit trucks under 26,000 pounds. It just so happens that this category of trucks is already exempted from requirements for federal commercial drivers' licenses as well as from drug and alcohol testing. The newest proposal makes it pretty simple: This category of trucks would not be covered by federal safety regulations *of any kind*.

Why worry? Just don't think about the facts—that from 1991 to 1994, deaths involving single-unit trucks rose nearly 50 percent; or that their involvement in fatal crashes last year resulted in 1,400 deaths, only 164 of them occupants of the trucks. After all, new regulations can always be added if found to be necessary for public safety. Or the states can worry about it and set different standards for the same truck—and different odds on your chances of living when you're with them on the roads.

Federal one-size-fits-all regulations may not make sense in certain fields, but highways are killing fields as it is. Conferees with consciences should see to it that the truck exemption is rejected.

Mr. LAUTENBERG. Mr. President, this conference report authorizes $6.5 billion in infrastructure investments which we need, but while it gives on the one hand, it takes with the other. The antisafety provisions of this legislation will add almost $20 billion in additional costs on our society, so it is $6.5 billion in infrastructure investment more than offset in fact by three times with the extra $20 billion in additional costs on our society.

The difference is that one is perceptible, can be seen, $6.5 billion in grant money from the Federal Government, as contrasted to people contributing in all areas of life, whether it is business or families or emergency medical and health care services—$6.5 billion in and $20 billion out and with that 6,800 lives annually. So if one judges only from a financial perspective, this legislation is clearly counterproductive. But more important than the money, I repeat, will be the lives lost and the lives ruined as a result of the drawing of this legislation—6,800 lives annually at stake, tens of thousands more injuries, $20 billion in lost productivity, increased health care, and other economic problems.

Opponents of the speed limit and motorcycle helmet laws argued that decisions in these areas should be the responsibility of the States, and while I am not against giving States more flexibility in using their Federal transportation dollars, I do not, frankly, understand how this decision is abandoned by the Federal Government.

We made that decision here again. So I support the concept of more flexibility in ISTEA, again, in the debate over allowing States to use their highway funding to support inner-city rail service. Unfortunately, I understand that that provision was taken out in conference as it applies to Amtrak, which I believe is a serious error as well.

Simply put, Mr. President, saving human lives ought to be our top priority. And while I support the provisions in the bill that would facilitate investment in our highway system on the zero tolerance provision, overall I see the bill as a major step backward, and I cannot support it.

I would like for a moment, Mr. President, to talk about what we show here on this chart about what higher speed limits mean. It shows 6,400 deaths here, plus those that result from removing the helmet requirements, amount to 6,800 deaths a year, $20 billion roughly in higher costs. And it shows the distribution of costs as it occurs through the country.

In a State like California, almost $2 billion; a State like Texas, $1.7 billion; in the State of Virginia, $480 million. That is all lost as a result of the increases in speed limits. That is not a very positive decision, certainly not from the standpoint of the lives lost and the extra dollars involved. That is just one example.

Mr. President, the best demonstration of what happened with our change in speed limits goes back some years—1974, to be precise, 20 years ago. These were the State speed limits that existed prior to 1974, and they scattered around the country. Montana had no speed limit at all; many were 70 miles an hour or over.

From what we hear on the floor, what we hear constantly is that people do not obey these laws anyway, and you can add 10 miles an hour to that or 15 miles an hour to that. So if there is a 75-mile-an-hour speed limit, woe be to that person driving on that highway at 55 miles an hour, because they are concerned about their safety to handle a vehicle when someone comes behind them going 85 miles an hour. One does not have to be a physicist to know of the result of the contact between those vehicles.

So we are kind of abandoning ship at this point without the traditional lifeboats available, and saying, "Go, go as fast as you want." The automobile companies are—you see it subtly advertised: "more power," "get from there to here in 30 seconds," "you can get there faster if you buy brand X or brand Y," "for 60 seconds maybe you are better off with brand A or brand B or C." So there is an effort to go faster to get someplace, and maybe pay for that luxury with one's life or the life of one's loved one.

So that is the situation, Mr. President. I think that I am probably a lonely minority on this matter. I just cannot, in good conscience, vote for legislation that will cause the kind of injury and pain that this bill will cause. I am going to vote no and strongly encourage my colleagues to do the same. And, Mr. President, I repeat once more, that I am for the investments in our infrastructure.

I do not think that there have been stronger advocates than this Senator from New Jersey. I was chairman of the Transportation Subcommittee in Appropriations for some years and was always looking for ways to increase investment in infrastructure, get rid of the congestion on our highways, help clean the air that we breathe, invest in all types of transportation systems, rail and aviation and highways, to try and help our country be more efficient, improve the productivity in this very competitive world in which we live. But I could never, never participate in decisions that say, "OK, perhaps we'll get there faster, perhaps we'll be able to move our missions from one city to another in a little more rapid fashion. There may be some life and limb lost along the way, but we'll get there faster." That is not, in my view, the way to make progress.

I yield the floor, Mr. President.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to say to our distinguished colleague that I am very sympathetic to many of the points he expressed here today. As I said earlier on the floor, I was not in favor of the speed limit provision. Indeed, at each juncture I feel that I cast my vote on the side of safety. But, of course, as the manager of the conference I feel the bill has many vital provisions for the United States transportation system. I must go forward as vigorously as I can and support it. And I am sure my colleague understands that.

But, Mr. President, I thank the distinguished Senator from New Jersey for taking his time here to come over and really address these issues very carefully, very thoroughly.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I want to say to my friend and colleague from Virginia, few have the respect that he engenders in this body because he is very serious about the things that he does. I really enjoy working with him on so many issues. Here we simply have a kind of a divergence, if I might use the expression, of the road because, while I agree it is a good bill, it has many, many advantages to it in terms of the size of investment in our infrastructure, in terms of making certain that there are conditions met in the engineering and the construction of these roads that help achieve some measure of safety, of improving our bridges and the infrastructure of our vehicle transportation system—and I know very well that the Senator from Virginia has no less a concern about life and safety than do I. It is perhaps a change in perspective.

I remember so vividly that horrible accident that took place with an intoxicated driver, a little girl and her mother waiting for a school bus not too long ago in Virginia. I know we have had his cooperation on all measures related to driving while intoxicated, getting rid of the drunk driver, getting them off the road. So we differ here, but we differ with respect to an evaluation that each of us has to make. And I thank the Senator for his ever-abiding cooperation on matters that we work on together, serving on the same committee.

Mr. WARNER. I thank the distinguished Senator from New Jersey. Indeed, it is a matter of grave concern to this Senator as well as others. The simple fact of the matter is, 65 Members of the U.S. Senate voted to make a decision as to the 55-mile speed limit. Many of them—for example, the Presiding Officer comes from a State which has vast, vast distances with a very low habitation rate on those routes, very low traffic. Indeed, I think his State is one that can fairly argue in favor of some flexibility for Governors as it relates to speed limits.

I hope the Senator from New Jersey would join me in making an appeal to the Governors to take into consideration all aspects very seriously as they begin to make the adjustments in the several States.

Mr. LAUTENBERG. I say to my friend from Virginia, who knows this country so very well, I know he has traveled through and to New Jersey on occasion, the most densely populated State in the country, my precious home, and also has a major north-south highway called the New Jersey Turnpike.

I am pleased to note that our Governor has made a statement that she intends to continue having the speed limits generally in the area that they are, given the need to make a choice. But anyone on that highway who sees these giant trucks bearing down on them, I do not care how steely one's nerves are, the fact of the matter is that it is not pleasant to be caught in the wind tunnel that these trucks make sometimes as they pass at 75, 80 miles an hour.

So, whether it is in Wyoming with its beautiful mountains and spaciousness, or the State of New Jersey, the fact is that speed is something that concerns us all, whether it is marginally higher in the State of Wyoming—I note here it has a higher level of speed on its highways—the fact of the matter is, whether it is a far western sparsely populated State, they treasure lives just as much as any of us in the more crowded, densest parts of our country.

But we are in a situation now where we are making a decision about a bill. I am not unrealistic when I look at the vote count that took place and saw that we lost the vote on this by 64 to 36. You might call me a sore loser in this case, but I believe in the fight that I took up and I hope we can do something about it. This is, after all, a conference bill. This was a meeting of the House and Senate conferees and they agreed to the policy that exists in the bill.

Perhaps the Senator from Virginia offers a point of some salvation here in that he urges Governors to be as mindful of safety as they can be as they review their speed limits on their roads.

Mr. WARNER. Mr. President, I thank our distinguished colleague and member of the Environment Committee, and I take note he is the ranking member on the Transportation Subcommittee of Appropriations. As such, he has invested a great deal of his Senate career in the area of transportation and can speak with considerable authority on this matter.

We do, indeed, urge Governors, and I repeat again and again, the need for senior citizens' concerns to be taken into consideration when these highway issues are decided by the several Governors.

I would like to turn to another matter now. Yesterday's Washington Post carried a report about this bill, and in the last paragraph, there was reference to the Woodrow Wilson Bridge.

Mr. President, I wish to provide a clarification, which I think is needed for that report yesterday. And that is this conference report response to the urgent Federal—may I underline Federal—need to move forward on a replacement facility for the Woodrow Wilson Memorial Bridge.

That bridge links Virginia and Maryland. It is the only bridge—and I repeat, only bridge—in the United States of America, so far as I know, absent a military facility or other Federal property, owned by the Federal Government. It is an absolute essential connector between the two States, and particularly as it relates to that connector facilitating commercial traffic. An enormous number of trucks pass over that bridge every day.

I cannot emphasize too strongly the importance to this entire region to have that bridge in first-class operating condition and safety otherwise, because if for any reason that bridge became unusable prior to its projected lifespan—and I will address that momentarily—it would cause gridlock, traffic jams in the Washington metropolitan area unlike anything we have ever seen before.

So that is why this Senator took it upon himself to work towards laying a foundation to solve the problems associated with that bridge. It certainly should not be put in any category of pork. As a matter of fact, I carefully put it in the bill so that what funds would be available come from another source rather than any specific earmarking of funds in this bill.

The proposal that I drafted and placed in the conference report puts forward and accomplishes three major objectives. First, it offers an opportunity for the Federal Government to transfer ownership of the bridge to a regional authority established by Virginia, Maryland, and the District of Columbia, thereby relieving the Federal Government of sole responsibility for this facility in future years.

Second, it provides a framework that will stimulate additional financing to facilitate the construction of the alternative identified in an environmental impact statement which is still in the process of being worked on.

Third, with less than 10 years of useful life remaining on the existing bridge, this approach addresses the need to provide for the safety of the traveling public and for the efficient flow of commercial traffic.

Now, I said 10 years. I have knowledge of an engineering report that is now being reviewed in the Department of Transportation, and that engineering report may, once it passes its final review and made public, it may have an impact to reduce those 10 years. That is of grave concern.

Further, this conference gives authority to the Federal highways to use existing administrative funds to continue rehabilitation of the existing bridge. That was absolutely essential, Mr. President, for parts of the bridge which from time to time become unworkable, and to complete the environmental work preparing for decisions which will eventually result in a new bridge or a tunnel or whatever the experts come up with.

As I said, recent safety inspections reveal conditions of the bridge are much more severe than the earlier reports. We will await the public disclosure of that engineering study and safety study which is working its way through the Department of Transportation at this time.

Mr. President, I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I ask that such time as the distinguished Senator may require—I see 5 minutes—be drawn equally from that time under the control of the distinguished Senator from Montana and the Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair, and I particularly thank my good friend and colleague from Virginia. On February 16 of this year, I joined with Senator WARNER, my distinguished colleague, with Senator BAUCUS, Senator CHAFEE, and others in introducing S. 440, the National Highway System Designation Act of 1995.

From my standpoint, the NHS is a key component of the changes for which we fought so hard in the Intermodal Surface Transportation Efficiency Act. The NHS will demonstrate our commitment to a modern national system of high quality interconnected highways, the step beyond interstates, the next phase, the future for transportation in America.

The good thing about NHS is that it was developed from the bottom up. It was developed with input from those agencies at the State and local level who best know the traffic needs in their area. In my case, obviously, the State of Missouri, that was the Missouri Highway and Transportation Department. They coordinated with metropolitan planning organizations, regional planning agencies, highway groups and local officials to determine the highway priorities of the State.

Mr. President, if you have ever followed the process of determining where a highway should go, telling one city that it will get it and two other cities they will not get that particular highway, you know how much work that is. But it is work best done by the State and the locally responsible agencies. Frankly, it saves the Federal Government a lot of headache and keeps them out of a job that they probably do not know how to do as well as the Federal Government and cannot do as well.

I think this is a great example of cooperation between Federal, State, and local governments. We ought to encourage and continue this priority.

There are also some things that we have in the measure that are very important, I think, to all Americans who are concerned about good transportation—the intermodal connections. And we will be presenting a colloquy on the floor. It is vitally important, if we have these wonderful new highway systems, that they be able to plug into the airports, the ports, the rail facilities. Let us make sure that our entire transportation system works together.

Now, as you take a look, on a State-by-State basis, I am sure that every Member who has any kind of highway transportation—and this is almost all States—some have more, some have less. In Missouri, we have great need for highways, as do other States like ours. It is particularly important because Missouri and Missourians need access for every community of any size to a modern, safe highway designed for high-volume traffic. We need high-quality roads that connect communities within our State in a grid and connect up similar roads in States adjacent to us, all the way to the markets which others now dominate because they already enjoy such access.

For my State, the National Highway System is about 4,500 miles of our most economically important roads, which carry almost half of all motor vehicle traffic and the vast majority of heavy truck traffic. It is our map to future economic development. On its signing into law, this measure will bring an estimated $156 million for Missouri in this fiscal year—a first step in building for the future, and a vitally important economic development project in and of itself.

I extend my very special and most sincere thanks to Senator WARNER, Senator CHAFEE, Senator BAUCUS, and their staffs, who have worked with my office very closely, and with me, not only providing leadership on this whole measure, but providing a response to particular needs that we have identified—and I mentioned intermodal connectors, inspection and maintenance, and designating I-35 as a high priority corridor. The assistance of these leaders of the Senate and their staffs was invaluable.

Now we ought to urge the President to sign this legislation as soon as possible, so that my State, Missouri, and other States will no longer have to wonder about their highway funding. Senator WARNER and I have fought for a long time to make certain that everyone understands the importance of highways. The legislation that he championed and which he has brought to the floor today will be the backbone of the national transportation network in the 21st century. It will affect every American, directly and indirectly, by increased economic growth, job creation, and reduction in congestion levels. I offer my sincerest congratulations to you for not only meeting the obstacles you confronted in accomplishing this legislation, but in overcoming successfully those obstacles.

Mr. President, I reserve the remainder of my time, and I yield the floor.

Mr. WARNER. I thank the distinguished Senator from Missouri. I think those of us that serve with him on the Environment and Public Works Committee, where he is a very valued member, recognize that he is the foremost expert on intermodal connectors—a subject that defies a lot of our imaginations as to how some of these things are laid out and work. But they are very essential, Mr. President, to the modern highway system. He has taken the time to become an expert.

Mr. President, I also note the presence on the Senate floor of the distinguished chairman of the House committee, Mr. SHUSTER from Pennsylvania, who was my working partner throughout the conference. As I said earlier, neither of us blinked. We both worked in a very constructive way to reach a compromise, which was essential between the two Chambers. I am confident that, in a fair and objective view of this conference report, it will be regarded as a step forward in the interest of this country.

Mr. SIMPSON. Mr. President, I wish to make a few remarks about the Highway Bill conference report we are considering today. The Highway Bill is so very critical for my State of Wyoming. We need to complete action on this legislation very soon in order that funds can be released for badly needed projects in all the States.

In the west our highways have become more and more important as we have observed the effects of airline deregulation and the reduction in rail service in our rural States. Airline deregulation has led to a dramatic decrease in the number of carriers and flights into Wyoming and we have nearly lost all Amtrak service. So the interstate and State Highways System was and is—and always will be our great lifeline.

Because highways are so very important to us the State of Wyoming has proposed to add three significant road segments to the National Highway System in order to link several other primary and secondary highways. The Wyoming delegation has contacted the Federal Highway Administrator regarding this proposal and we trust he will give it every proper consideration.

When people travel in Wyoming, for the most part they drive—and they usually drive for long distances. We have highways that stretch for miles with no habitation at all in between. It is understandable that we are so "put off" by a national speed limit. I am so pleased to see that the conference agreement repeals the national speed limit. I think that the individual States are quite able to set speed limits that provide for a safe speed given local conditions. The same holds true for seat belt laws and helmet laws. I believe the States are able to determine on their own if they want these laws and how they should be administered without the intrusion of the Federal Government and the threat of Federal sanctions.

I trust we will swiftly pass this legislation and get it onto the President's desk so that we can get about the business of maintaining our present National Highway System and constructing the additional mileage as we require it. Those of us from the western States of high altitude and low multitude understand the real necessity of passing this important legislation and I would urge my colleagues to support it.

Mr. HOLLINGS. Mr. President, I support the purposes of this bill, but oppose the unnecessary provisions not connected to its purpose.

This bill is intended to designate a National Highway System map, and it does that. So far, so good.

Particularly, it makes a necessary designation of a route for I-73 and I-74 in South Carolina. I am very glad that we were able to work this out, and thank, my colleagues from Virginia, North Carolina, and Senator THURMOND for their cooperation on this point.

However, there are unwise provisions in this conference report that have nothing to do with designating a map and everything to do with the safety of citizens using the roads. It is neither necessary nor wise to pass these provisions in order to do the basic designation jobs we need to do, and I will therefore vote against the conference report.

First, this conference report creates a new pilot program that actually encourages trucking companies and companies that use trucks to deliver their goods to seek exemptions from Federal safety standards. These standards guarantee that drivers get enough rest, that basic equipment such as brakes and lights are functional, and that trucks are prepared with safety equipment like fire extinguishers. Senators may not realize that the page-one story on the most recent issue of "Transport Topics" is the major contribution of driver fatigue to transportation accidents. In this environment, rolling back truck safety regulation is extremely unadvisable.

Second, this bill invites States to roll back national speed limits. I understand that State officials are conscientious with regard to safety. I understand that speed limits are not always popular. However, we are sticking our heads in the sand if we think lifting Federal protections in this area will not kill people. Admittedly, we did not implement national standards with safety foremost in mind. Congress implemented a 55 mile per hour national speed limit in order to save fuel during the energy crisis. However, the record shows that death rates fell 16 percent. When we voted to raise speed limits in some areas to 65 miles per hour, death rates rose significantly. How much more experience do we need to determine whether lives are at stake? Again, we don't need a provision to roll back speed limits to designate a map, which is the purpose of this bill. It is an extraneous provision, and probably a popular one, except for those families that will end up getting a call from the emergency room due to our vote today.

Mr. WELLSTONE. Mr. President, I speak today in support of the conference report for S. 440, the National Highway System (NHS) Designation Act. With passage of this legislation over $95 million will be made available to the State of Minnesota for much needed highway renovation and construction work on the State's NHS roads.

Many rural and urban intermodal routes are included in Minnesota's nearly 4,000 miles of NHS roads. Highway 2 runs from East Grand Forks on the North Dakota border to the port city of Duluth. Highway 53 runs from International Falls on the Canadian border to Cloquet, MN. Highway 52 runs from Rochester to the Twin Cities. These are just some of the routes that will be eligible for funding under NHS. These are important trade and commerce routes throughout the State.

Some of my colleagues have voiced their opposition to this bill because of its motorcycle helmet language. I was pleased to support the amendment to eliminate the penalties on States like Minnesota that do not require the use of motorcycle helmets that passed during consideration of S. 440 in June. The State of Minnesota has not had a helmet law for the last 10 years. However, since the inception of Minnesota's Rider Education and Public Awareness Program, motorcycle fatalities have actually decreased. This motorcycle safety education program has been essential in my State.

I do have reservations about the language in this bill that eliminates a national speed limit. However, this is a conference report and in this body we are sometimes faced with taking some provisions we don't like in order to pass a bill that on the whole is a good one. The NHS bill is a good bill. It will free up funding that is greatly needed for roads all over our country.

Mr. KERRY. Mr. President, the National Highway System (NHS) that would be designated by the conference report before us today is an important piece of our Nation's highway transportation system. I wholeheartedly support enactment of legislation to designate the National Highway System as directed by the Intermodal Surface Transportation Efficiency Act (ISTAE). The $6.5 billion authorized by this legislation is a needed investment in our Nation's transportation infrastructure. Just look around. There is a clear and pressing need for maintaining and upgrading our roads. In Massachusetts, for example, two-thirds of our bridges need replacement or repair.

But as important as this investment is, it has been overshadowed in this legislation by other policy changes. The final product has strayed too far from the bill I supported when it passed the Senate, and it is therefore with regret that I am unable to support the conference report.

One of the most important components of the bill that passed the Senate was the so-called Roth-Biden provision relating to our Nation's passenger rail system. Without the funding necessary to sustain Amtrak and without giving States the flexibility to spend their NHS funds to maintain passenger rail service, it is almost certain that many critical passenger rail routes—routes that offer important environmental, energy and traffic congestion benefits—will be eliminated permanently. The conferees did not include this provision in the report.

Another provision that was included in the conference report but was not in the Senate bill relates to billboards. This matter was not considered in the Senate and reflects the worst type of special interest lobbying. It has no place in this bill.

Yet another provision included in the conference report that was not part of the Senate's bill is the exemption for some three and one-quarter million so-called "unit trucks" and their drivers from all Federal motor carrier safety regulations. The regulations cover activities ranging from driver hours-of-service restrictions and driver medical qualifications to safety equipment and maintenance requirements and roadside driver and equipment safety inspections. An exemption from safety regulations for these trucks, which are used frequently for delivery services, will seriously threaten safety on our roads. This class of truck is involved every year in 15,000 injury-producing accidents, and in 1994, was responsible for nearly 700 deaths. I fear we will witness more accidents as a result of the changes proposed in the conference report.

Of equal concern is the repeal of the nationwide maximum speed limit, and the elimination of the Senate provision that sought to retain the limit for trucks. The National Highway Traffic Safety Administration expects this action will increase the number of Americans killed on our highways by about 4,750 each year, and cost taxpayers $17 billion annually in lost productivity, taxes and added health care costs. Maximum speed limits also produce important environmental benefits and savings in fuel consumption.

There are several other provisions that concern me, including the repeal of the requirement that Federal highway contractors pay their workers the prevailing local wage. While some reasonable reform of the Davis-Bacon requirement should be explored, this legislation is not the appropriate venue.

Mr. President, it is not clear whether the President will accept or reject this legislation. It is my hope that the President will allow us to revisit the designation of the National Highway System so that we may proceed with a simple designation that many members support and eliminate the controversial provisions that detract from the significance of this legislation.

I am aware that the conference report is the product of many long hours of negotiation and I want to recognize the effort put into developing this legislation by Chairman CHAFEE and Senator BAUCUS, who serves as the ranking minority member on the Environment and Public Works Committee. I appreciate the hard work they put into this legislation and would hope we have a chance to reconsider the Conference Report so that I might support it.

Mr. PELL. Mr. President, I reluctantly opposed the Conference Report on the National Highway System Act, S. 440.

Back in February, I was pleased to join as an original cosponsor of S.440 since it would designate a National Highway System [NHS] to improve the Nation's key roads, comprising some 159,000 miles. The tenets of this bill were exemplary. In addition to providing some $6 billion in highway funding to the States, S. 440 was intended to improve safety through our highway system, as well as increase mobility and economic productivity. As for my State of Rhode Island, this measure would bring more than $31 million in Federal highway funding to help upgrade 267 miles of key roadways, including all 70 miles of interstate highways.

When the Senate debated S. 440 earlier this summer, I was pleased to strongly support the amendment offered by my colleagues from Delaware which would have enabled States to provide a small portion of their funds to assist passenger rail services. I am disturbed that that amendment, which was overwhelmingly approved by the Senate by a 64–36 margin, did not emerge from the Conference Committee.

I am also deeply disturbed, Mr. President, by the fact that the Senate provision to require a national maximum speed limit for trucks and buses was also dropped from the conference report. As an original cosponsor of S. 440, I am further disturbed that the final version which emerged from conference repeals Federal regulations on motorcycle helmet laws, while also allowing States to erect new billboards on scenic highways.

Mr. President, I am aware that this was an exceptionally contentious conference with the House and do not in any way criticize the actions of my Senate colleagues. Indeed, Senators CHAFEE and WARNER, longtime champions of highway safety provisions, fought hard to negotiate a fair compromise between the two divergent bills. I commend them for their tenacity and huge efforts to craft a good bill which would enhance our safety standards.

I fully recognize the overall importance of this bill and the need to get the necessary funding back to the States. However, given the substantive changes that occurred in conference, my earlier enthusiasm has waned as my concern about safety provisions increased. Mr. President, my preference would have been for a leaner, cleaner NHS bill, something we in this Chamber supported with vigor. I am certain that we will attempt again to deal with the issues important to the Senate such as the Amtrak trust fund, speed limits on trucks and buses, and other motor vehicular safety laws.

Mr. President, I ask unanimous consent that my statement appear in the RECORD prior to the vote on S. 440.

• Mr. McCAIN. Mr. President, I want to express my strong disagreement with this conference report. Although the bill does much good and is certainly necessary, it unfortunately contains numerous earmarks.

While I understand that this is an authorization bill, the practical effect of these earmarks is to mandate spending on certain specific projects. It is as wrong here as it is when similar earmarks appear in appropriations legislation.

I want to bring special attention to section 335, the innovative projects section of the bill. This section appears to be rife with earmarks.

What are innovative projects? Well, Mr. President, they are nothing more than demonstration projects with a new—more innovative—name. The name, I would venture, has been changed because passing demonstration projects is no longer considered appropriate. I have introduced many amendments in this body to end all highway demonstration projects. Most recently, I offered an amendment that would ban any future demonstration projects. That amendment overwhelmingly passed the Senate.

Mr. President, this section entitled "Corrections to Innovative Projects" would change existing law regarding numerous demonstration projects so that money can continue to be spent on projects in a certain select few States. For far too long, tax dollars sent to Washington by the citizens of most States are not returning to those States, but instead going to fund pet projects in other States. That is wrong, it is not fair, and it must be stopped.

The problems associated with diverting highway trust fund money to pay for congressionally earmarked highway projects are well documented and have been debated before. I do not intend to belabor this point again now, except to note, however, that the practice continues.

Mr. President, I would like to know what these so-called technical corrections actually entail. The report that accompanies this bill states the following:

> Senate Bill: The Senate bill makes a technical correction to an innovative project in ISTEA.
>
> House Amendment: This provision makes a series of technical amendments to innovative projects in ISTEA.
>
> Conference Substitute: The conference adopts the House provision with additional modifications.

Mr. President, to this Senator—someone who is not an expert in these programs, but who is expected to vote on this matter—this clarification is not sufficient.

Mr. President, again I want to repeat, this is an important bill and I am sure passing it is vital. But what is more vital is balancing the budget and paying down the debt, and continuing the practice of earmarking demonstration projects is exactly the wrong thing to do at this time.

In Reinventing Government, Vice President GORE stated:

> GAO also discovered that 10 projects—worth $31 million in demonstration funds—were for local roads not even entitled to receive federal highway funding. In other words, many highway demonstration projects are little more than federal pork.

The Reinventing Government report went on to say:

> Looking specifically at the $1.3 billion authorized to fund 152 projects under the 1987 Surface Transportation and Uniform Relocation and Assistance Act, GAO found that "most of the projects . . . did not respond to States' and regions' most critical federal aid needs.

Unfortunately this bill demonstrates that the Congress continues to find innovative ways to promote its most favored projects.

If a project has merit, it should be a priority under the individual State's transportation plan. Highway funding should be distributed fairly according to establish formulas so that taxpayer's dollars can be spent according to the priorities established with such great care and expertise by those best qualified to do so—the individual States.

Mr. President, I hope that we will end the practice of earmarking money for demonstration projects or innovative projects or any other similarly earmarked projects. The time has come to change our ways.

I thank my colleagues for their indulgence.•

Ms. MIKULSKI. Mr. President, I rise in support of the conference report accompanying the National Highway System bill but I do so with reservations. While I support the need to move forward with badly needed construction funds for our Nation's highways including the Woodrow Wilson Bridge, I am greatly disturbed by the weakening of highway safety laws.

Our Nation's highways are absolutely vital to our infrastructure. This legislation will release approximately $100 million in badly needed highway funds for my own State of Maryland. These funds have already been factored into Maryland's highway program and need to be released in order to avoid slowdowns in construction. These funds will create construction jobs and help States meet the increasing costs of maintaining our highways.

This legislation also authorizes the creation of a new interstate authority for the Woodrow Wilson Bridge and authorizes funding for ongoing maintenance of the bridge. As a major artery serving Maryland and the entire National Capital region, the maintenance and eventual replacement of the Wilson Bridge must proceed without delay.

However, I fail to see the justification for weakening highway safety laws, including motorcycle helmet laws. I believe that the Government's primary responsibility is to protect public health and safety. Delegating this responsibility to the States is not consistent with the Federal Government's role in regulating interstate highways or protecting public safety. How else can we guarantee that Marylanders will be safe driving in other States? The Federal Government should maintain its role in public safety matters, not delegate it to the States.

While I am disappointed with the decision to weaken safety laws, I believe that we must move forward with the construction funds that Maryland and other States need to maintain and improve our highways. A reliable and well maintained infrastructure is a vital element in our ability to sustain economic growth and job creation into the next century. So, I will vote in favor of this legislation despite my opposition to weakening highway safety laws.

Mrs. FEINSTEIN. Mr. President, I rise today in opposition to the conference report on the National Highway Systems bill. As my colleagues know, I am a strong supporter of infrastructure development, and am an especially strong supporter of the transportation infrastructure provided for in this bill which is so vital to my State. I appreciate the hard work of the Senators from Virginia, Rhode Island, and Montana, and I want to thank them and their staffs for their work in the difficult crafting of this legislation.

This conference report will provide California with $569 million in much needed and long overdue Federal highway funding for essential transportation projects. Unfortunately, however, the public safety measures included in the legislation compel me to oppose this conference report.

My specific concerns are with the repeal of the 55 miles per hour speed limit for automobiles, the lack of a national speed limit for trucks, and the repeal of Federal motorcycle helmet laws.

REPEAL OF NATIONAL SPEED LIMIT

According to the National Highway Traffic Safety Administration, one third of all fatal crashes are speed related, and 1,000 people are killed every month in speed-related crashes.

The National Highway Traffic Safety Administration predicts elimination of the national speed limit on nonrural interstates and noninterstate roads will increase deaths by 4,750 annually at a cost of $15–$19 billion in additional insurance costs. This amounts to an increase of $2 billion per year in California.

Almost 25 percent of all accidents in California are speed related. In California, the Highway Patrol reports that in 1994 there were 436 fatal accidents and 48,877 injuries that were speed related.

SPEED LIMIT FOR TRUCKS

During initial consideration of this bill, Senator REID offered an amendment to retain a national speed limit on trucks. I supported this amendment because, according to the California Highway Patrol, the State of California has seen a steady reduction in the number accidents, injuries and fatalities relating to accidents involving trucks since 1989.

In 1989, 647 people lost their lives and 17,703 people were injured in California as a result of 12,159 truck-related accidents.

By 1994, 451 people were killed and 13,512 injured in California as a result of 9,225 truck-related accidents.

I look forward to working with the administration and my colleagues in the Senate to address the growing problems associated with making these big rigs safe.

MOTORCYCLE HELMET REPEAL

Since enactment of California's motorcycle helmet law in 1992, the California Highway Patrol estimates that motorcycle fatalities have decreased by 41 percent and motorcycle injuries have decreased by 35 percent. I believe helmets save lives, and our Nation's highways will be a little less safe for all of us without their use.

In closing, let me say that I cannot support legislation that will very likely put greater numbers of traveling public at risk. Were this only an infrastructure bill, it would very likely have my support. Only time can tell if my concerns will be realized. If they are, I hope this body will take immediate action to remediate some of the changes this bill makes.

Mrs. MURRAY. Mr. President, I rise today to support the National Highway System Designation Act. I add my support to this conference report though, with serious concerns. Concerns over the safety provisions I originally voted for in the Senate legislation have now been replaced by changes to the bill that could threaten the safety of our Nation's highways.

Of foremost concern is the Senate provision to require a national maximum speed limit for trucks and buses. This important mandate was dropped from the conference report and will not only increase speeds for the oversized vehicles, but also increase their stopping distances.

I am also concerned over a House provision that could exempt trucks weighing 10,000 to 26,000 pounds gross vehicle weight rating from Federal safety rules including driver hours-of-service restrictions, driver medical qualifications, safety equipment and maintenance requirements, and roadside driver and equipment safety inspections.

Mr. President, I am hopeful that our State legislatures will step up and seek solutions to these shortcomings in an otherwise well intentioned piece of legislation. I was hesitant to support a conference report that retreats on issues of safety such as these, however the passage of this national highway system designation is essential to our Nation's very livelihood. A delay of implementation of this act will begin to cost my State of Washington approximately $120 million over 2 years.

The time to move this bill is long overdue. We can not lose this valuable opportunity to support 4 percent for the Nation's four million miles of public roads. This National Highway System will carry 40 percent of the Nation's highway traffic and 70 percent of the truck freight traffic. One behalf of my State's Governor and secretary of transportation, I urge my colleagues to pass this conference report and continue our Nation's strong commitment to interstate commerce and mobility.

FLEXIBILITY FOR AMTRAK

Mr. HATFIELD. Mr. President, it is unfortunate that the National Highway System conference report does not include the Senate-passed Amtrak passenger rail provision, which provided States the flexibility to use their Federal transportation dollars for passenger rail service. This proposal would have given States the ability to decide what transportation system best meets their needs and allocate their transportation funds accordingly. In a time of severe budget constraints at all levels of government, this provision would have empowered State and local officials to make the best use of the Federal resources provided to them.

Sixty-four Senators supported the Amtrak passenger rail amendment when S. 440, the National Highway System designation bill, was debated on the Senate floor. Sixty-four Senators—from both sides of the aisle, representing both very rural States and congested urban States; chairmen of the committees who oversee aviation, highways, and mass transit—supported the provision, recognizing that States need more flexibility in the use of their transportation funds.

The State of Oregon is currently involved in a situation requiring ample flexibility to retain an important element of Oregon's transportation infrastructure system. Governor Kitzhaber, Secretary Peña, Amtrak president Downs and I are working together to develop a plan to keep the *Cascadia* train, which runs between Portland and Eugene, operating. The *Cascadia* has been an extremely successful passenger rail provider for Oregon and, unfortunately, it is scheduled to be terminated on December 31, 1995. Innovative proposals, such as the Amtrak passenger rail provision, would be extremely helpful in allowing Oregon and other States to meet their respective transportation needs.

According to the most recently compiled U.S. Department of Transportation statistics, more than $15,800,000 in CMAQ funds were subject to lapse at the end of fiscal year 1995. It makes absolute sense to make these lapsed funds available to States for the operation of intercity passenger rail. Many other Federal programs that provide State allocations pool all unobligated funds at some point during the fiscal year and redistribute them to States who have projects cleared and awaiting funding. This would provide a solution to transportation challenges in many States and it is consistent with the Intermodal Surface Transportation Efficiency Act (ISTEA) funding priorities.

The CMAQ program, created in ISTEA, provides an incentive to focus on transportation alternatives that reduce traffic congestion, improve air quality, and lower fuel consumption. These funds can be used on transportation programs, projects, strategies, or methods which will contribute to the attainment of a national ambient air quality standard, whether through the reduction of vehicle miles traveled, the reduction of fuel consumption, or other means. Amtrak passenger rail service clearly meets this definition, and should be deemed an eligible use of CMAQ funds.

Mr. President, although I am disappointed that the NHS designation conference report came back without the Amtrak passenger rail provision, I do not support a potential motion to recommit this conference report. However, I do want to express my sincere regret that the conference agreement does not include this important provision that would provide my State, and many others, with the needed flexibility to use their Federal transportation dollars in the most effective way possible.

Mrs. BOXER. Mr. President, I support final passage of S. 440, the National Highway Designation Act. This legislation includes provisions that I had requested to help my State in the area of traffic congestion relief, air quality, and international trade.

I wish to thank my chairman, Senator CHAFEE, our subcommittee chairman, Senator WARNER, and our ranking minority member, Senator BAUCUS, for preserving the California provisions that I requested in the Senate bill.

The most significant provision is the assistance provided for the Alameda transportation corridor, a project to consolidate three rail lines into a single 20-mile high-capacity highway and rail corridor serving the ports of Los Angeles and Long Beach. The project is expected to generate 10,500 direct construction jobs. Today, more than 25 percent of all U.S. waterborne, international trade depends on the ports of Los Angeles and Long Beach to reach its market.

The National Highway System Act will provide the Alameda transportation corridor the financing tools it needs to become southern California's linchpin to increased Pacific rim trade.

Once the House passes this NHS bill, as expected, for the first time Congress will have recognized the corridor not as a series of individual intersection improvements, but as a single, high priority infrastructure project. The Alameda project will speed cargo along a corridor of uninterrupted rail and highway traffic between our national transportation network to the ports of Los Angeles and Long Beach.

Federal highway funds can now be spent on a single program to eliminate 200 street and rail intersections.

The NHS bill also designates the corridor as a high priority corridor under the Intermodal Surface Transportation and Efficiency Act [ISTEA]. That will make the project eligible for guaranteed Federal loans or other innovative financing options available to the Secretary of Transportation.

Secretary Peña wrote to me last month, acknowledging that the Alameda corridor "is an extremely important project that will benefit the entire Nation" and committing to work with us "to make the Alameda transportation corridor a reality."

Now that we have made the project eligible for the Secretary's revolving loan program, we are working closely with the administration to obtain seed money in the President's fiscal year 1997 budget in order to initiate this innovative financing program.

This bill also ensures that California will continue to receive its share of transportation funds used to enhance air quality under the Congestion Mitigation and Air Quality Program, despite the improvements to air quality in the San Francisco Bay area.

The San Francisco Bay area was recently upgraded from a non-attainment area to a maintenance area for its air quality. Although the improvement is welcome news, under current law the area and the State would lose its CMAQ funding. The program provides funding to the States for local traffic improvements to relieve congestion and reduce air pollution in urban areas with poor air quality.

I believe we should not penalize communities that improve air quality by eliminating much-needed funding. The air quality funds provide $15 million each for BART rail car rehabilitation and Santa Clara County's light rail construction in the Tasman corridor, among other projects to reduce traffic emissions.

Another part of the bill that I requested would assist the seismic retrofit project for the Golden Gate Bridge. This language allows the Golden Gate Bridge, Highway and Transportation District to begin spending local funds now for the $175 million project to protect the famous bridge from earthquakes. When Federal funding is available in the future, the Federal Highway Administration will apply those funds spent now toward the 20 percent local match required for Federal funding.

The NHS bill also includes two provisions that would redirect previously authorized spending for high-cost projects in Los Angeles and Long Beach to more practical projects that can be completed sooner.

The first measure would help alleviate the gridlock that has occurred along Sepulveda Boulevard near the Los Angeles International Airport. In 1991, Congress authorized $8.95 million to develop alternative approaches to expanding the Sepulveda Boulevard Tunnel that runs underneath the airport. However, an analysis completed last year indicated expansion of the tunnel would require considerable more funding. Less costly, short-term measures were sought to reduce the commuter and airport traffic using the tunnel.

The final conference agreement includes my provision to redesignate the funds for the following projects: $3.5 million for the airport's central terminal ramp access project, $3.5 million for Aviation Boulevard widening south of Imperial Highway, $1 million for Aviation Boulevard widening north of Imperial Highway and $950,000 for transportation systems management improvements near the tunnel.

A second provision would use $7.4 million previously authorized to construct carpool lanes on Interstate 710 in Long Beach for downtown Long Beach access ramps to separate city traffic from the heavy trucks carrying port cargo. This project will enhance safety at the terminus of I–710.

There are provisions in this final bill that I do object to. I am very concerned and disappointed that this bill rolls back gains we have made in this Nation to curb the carnage on our highways. The bill ends the maximum national speed limit for all vehicles. After the national maximum speed limit was established in 1974, we saved 9,000 lives.

The final bill also would effectively exempt small to mid-sized trucks from safety regulations, a House provision on which the Senate never held a hearing.

Finally, the bill was stripped of the Senate amendment to grant to States the option of using its flexible category of highway funds for Amtrak operations. I am surprised at the House opposition to this amendment to grant States more flexibility in funding transportation programs. These funds already can be used for mass transit and bike paths. Including Amtrak only makes sense and at a time when Amtrak service cutbacks are leaving commuters and intercity passengers stranded on station platforms. This modest assistance could be nothing but helpful.

I have a long record in support of strong transportation safety measures, from highways to runways. However, realistically, a vote opposing final passage of the NHS would not change the outcome. I know Senator CHAFEE shared my concern about the safety provisions and the loss of the Amtrak amendment. About two-thirds of the Senate had voted to eliminate the national speed limit, and if Senator CHAFEE could not win on the Amtrak amendment in conference, then it could not be saved.

Nevertheless, despite these flaws, passage of the National Highway System Designation Act is crucial. About $6.5 billion in highway have been withheld from the States since October 1. California will receive $569 million once this act is passed. This money is urgently needed to help relieve our backlog in road maintenance projects.

We will be reauthorizing the highway bill in 2 years. At that time, I hope we can reconsider these issues important to preserving the safety of our traveling public.

Mr. NICKLES addressed the Chair.

Mr. WARNER. Mr. President, I yield such time to the distinguished Senator from Oklahoma as he may require, drawing it jointly from that under the control of the Senator from Montana and myself.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I wish to thank my colleague from Virginia, as well as my colleague and friend from Montana, for their leadership in bringing this bill to the floor.

Mr. WARNER. If the Senator will yield for a moment, I wish to advise the Senator from Delaware and the Senator from Ohio that, in all likelihood, following the remarks by the one or two Senators now joining us on the floor, we will turn to those allocations of time under the time agreement. In their absence, a quorum call would have to be charged against those time periods.

I yield back to the Senator from Oklahoma.

Mr. NICKLES. Again, I thank my friends and colleagues from Virginia and Montana for bringing this important bill to the floor. I hope our colleagues will strongly support it and that the President will sign it. It will mean jobs in our States. It will help rebuild our national road infrastructure. I compliment them.

The reason I come to the floor today is to speak specifically on the issue on speed limits, because I have heard some of our colleagues imply that this bill increases speed limits. It does not do that. What this bill does do is insert a provision that myself, Senator BURNS, and others, support. It would eliminate the Federal penalty mandating a national limit. It does not say we eliminate speed limits.

I happen to favor speed limits. But I favor States setting them instead of the Federal Government. Some people assume that we are automatically going to have higher speed limits all across the country. I do not know that that will be the case. Undoubtedly, in many cases, you will have increased speed limits, if the State legislatures, working with their Governors, make that decision.

So it is really not a question of whether or not we are going to have speed limits or what the speed limits will be. It is a question of who defines what the speed limits will be. What many of us are saying, and what this legislation says, is we are going to repeal the Federal penalty. This Federal penalty says if you do not comply with the national speed limit, we are going to withhold some of a State's funds—funds which rightly belong to the State.

I am amazed sometimes that some people think the Federal Government knows best, so the Federal Government is going to set speed limits. I disagree. The Federal Government is going to set other criteria. What we are saying in this legislation is that the proper body or electorate to make this decision is at the State level. We have heard a few people talk about the 10th amendment, but the 10th amendment states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

That is exactly what we are doing in this legislation—reserving to the States the power to set the speed limits in their States. The appropriate speed limits in Oklahoma or Montana may be quite different than the speed limits in Delaware or Rhode Island. So it makes sense if the elected representatives of those individual States would set those speed limits. They know the road conditions better than we do on the Federal level. And 55 may be too fast. That is the national speed limit. It may be too fast, or it may be too high in some areas. The State should have the authority to set it. Maybe 55 is not high enough in some other areas. Let the States decide.

Some of my colleagues assert that it is going to result in a large increase in fatalities. That, I think, misses the question. I think the States, and the elected officials in the States, are just as concerned about the safety and health of their constituents—maybe more than we are on the Federal level. They are concerned. They know those stretches of roads that have a higher number of fatalities, and they are the ones responsible for fixing them. It may be that, on a rural interstate, 55, 65, or 70 miles an hour may be safe. But it may have some winding areas that maybe should be set at 40 miles an hour. The State should know that, and they should make that determination.

We should not have a Federal law that says nowhere in the country can it exceed 55. We passed a law in 1987—and I was a sponsor—that on rural interstates limits could go to 65 miles an hour. Even when we passed that, my argument was, really, it should not be set by the Federal Government. It should be set by the State governments. This is an area where, really, State and local governments should have priority.

Again, I want to take issue with the fact that some people say there are going to be thousands of more deaths or fatalities if this bill passes as it is. I take issue with that. One, I believe they are looking at a study that assumes that all roads that are now 55 will be going to 65 or 70. I do not think that is the case. You have a lot of States that probably had higher speed limits that now are at lower speed limits. They may leave them there. That is fine. I could really care less. I think it should be their responsibility, the State's responsibility. And to assume that all of the highways in the country that are now at 55 will be increasing to 65 or 70 would be a mistaken assumption. But the States should be the ones that would have that responsibility. I just happen to believe that Governors and legislators in those States are just as concerned, maybe even more than we are for their constituents' safety.

I think they will keep safety in mind when they make those decisions. They are the duly elected body of the people from that State and hopefully will be responsive to their wishes and to their safety needs.

I am delighted that this legislation finally takes away this Federal mandate, this Federal law that says if you do not comply with "Government-knows-best, Washington, DC," we will withhold some of your money.

I am delighted we finally have repeal of the Federal mandate. We did not repeal speed limits, we had the repeal of the national Federal speed limit, and now we will be returning speed limit decisions to the rightful level of Government, and that is to State and local authorities.

Again, I compliment my friends and colleague, and I wish to compliment the Senator from Rhode Island for his leadership in passing this bill as well. I am delighted it is on the floor. I hope the President will sign it.

Mr. WARNER. Mr. President, I thank the participation of the able Senator from Oklahoma. We may have some differences of view on this particular subject, but we hope that the accident rates do not dictate the Federal Congress will once again have to intervene and readdress this issue.

The Senator from Wyoming, a distinguished member of our committee, seeks recognition, and at such time as he gains the floor Senator BAUCUS and myself yield such time as the Senator from Wyoming may require.

The PRESIDING OFFICER. The Senator from Virginia and the Senator from Montana jointly have 9 minutes remaining.

Mr. WARNER. I thank you for that advisory.

For those Senators during the course of the vote that might wish to acquaint themselves with the national highway map, we have arranged for it to be placed in the Vice President's office just off the Chamber. I urge Senators to take a look.

I yield such time to the distinguished Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I listened carefully to what the distinguished Senator from Oklahoma had to say. He has been a long battler for the States being able to set these speed limits. He prevailed overwhelmingly on the floor of this Chamber.

I did not agree with him, but the vote was clearly in his favor. I just hope he is right. I hope he proves the rest of us to be absolutely wrong. I hope that the speed limits will be monitored carefully by the States.

I think there is a lot in what he says in that the States are concerned about highway deaths. I know when I was Governor, every year I paid a great deal of attention to the deaths on our highways and sought to bring it down. Whether all the Governors spend time on matters like that, as I did, I do not know. I just hope he is right. I hope a year from now we can say to the Senator from Oklahoma, "You were right and we were wrong." If so, I would be very, very pleased. Here is a case where I would be glad to be proven wrong.

Mr. WARNER. Mr. President, I join the distinguished chairman in his observation.

I think, in fairness, we should put in context here that the Federal highway limits were put on as a consequence of a very severe energy crisis that faced the United States. It was viewed then as an energy conservation measure.

Once they were placed as a matter of law, we did see, fortunately, a very rapid reduction in accident rates across America. So that was an unanticipated fallout of this.

I see the distinguished Senator from Wyoming and yield such time as he may require, bearing in mind that the managers have about 7 minutes left.

The PRESIDING OFFICER. The time of the Senator from Virginia is up and the Senator from Montana has 7 minutes remaining.

Mr. LAUTENBERG. I wonder if I might just take a couple minutes off my time while the time allocation for the Senator from Wyoming is being considered.

Would the Senator from Wyoming indulge us?

Mr. THOMAS. I am happy to. I am not sure we have any time.

Mr. WARNER. Mr. President, we will find the time for the Senator from Wyoming if he would be gracious enough to indulge the Senator.

Could I inquire how much time the Senator from New Jersey has remaining?

The PRESIDING OFFICER. There are 22 minutes remaining.

Mr. WARNER. Would the Senator from New Jersey be willing to take from his time and allocate 5 minutes to the Senator from Wyoming?

Mr. LAUTENBERG. I would not object to the unanimous consent to allow an extra 5 minutes.

Mr. WARNER. I will place that in the form of a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I just wanted to respond to some of the comments that have recently in the last little while been made. I do not want to be harsh. I think we know around here despite the fact that occasionally this does look like fantasy land, wishing never makes it so. Law makes it so, votes make it so.

That is what happens. Reality takes over. Thus, when we talk about no assurances that the States will rush to bump up their speed limits the minute they have this permission, I point out something to those who would believe it, that there are several States—nine in particular—that have already in law a requirement that once the Federal speed limits are removed, and I address this to my distinguished colleague, the chairman of the Environment and Public Works Committee, Senator CHAFEE, once the law is removed, the Federal speed limit is removed, there are nine States that immediately bump up by virtue of existing statutes.

I am pleased to name them. It does not matter. Just for edification, I will: Montana, Kansas, Nevada, Wyoming, Oklahoma, South Dakota, Missouri, Texas, and California. These are States that already committed that once the rules are off from the Federal Government, they immediately move up. There are 28 other States that are States that have bypassed actions, indicate that they are anxious to get the speed limits moved up. They are States which increase the maximum speed limit on rural interstates within 6 months of the 1987 congressional enactment allowing 65 miles an hour.

It is fairly easy to recognize, Mr. President, because the States that are outlined in blue, it is a fair number, and when combined with the nine States, gives us a total of 37 States that are likely to move ahead with their speed limit increases.

I just put that in the RECORD, Mr. President, to indicate that as much as we hope, as much as we wish, we would like to see constraints on speed limits, it "ain't" going to happen, to put it crudely. So the mayhem that will follow that I projected—and I do not want to be the forecaster of gloom and doom around here, but I want to be realistic about what is going to happen when this bill becomes law.

I yield the floor.

Mr. THOMAS. Mr. President, I am particularly pleased that the Senate today is considering the conference report on Senate 440, a bill that will designate the highway system. The States have been waiting for a good long time now, waiting since October 1, for this bill to pass, so that the $6.5 million in highway funds—which, of course, belongs to the States—can be distributed and used for the purpose for which the drivers and purchasers have paid.

I particularly want to recognize Senators WARNER, CHAFEE, BAUCUS, and others who have worked very hard to bring this bill to the floor. I appreciate their leadership and appreciate the opportunity to have served on that committee.

I support this bill for a number of reasons. Not only is the bill important, of course, to all of us in our highway systems, but particularly important from the economic and job creation perspective. It also, it seems to me, sets a direction for the transportation needs of our country and does so well into the next century.

In addition, I am pleased with some of the philosophical changes that are found in this bill. This proposal increases State flexibility in a number of areas.

Let me just say, philosophically I agreed with that and I find it difficult to hear people constantly talk about the fact that we really ought to run it from here because we do not trust those rascals in the State. I do not understand that. I have a hard time with that.

This bill permits a State to increase the transfer of funds from bridge accounts to the National Highway System and Surface Transportation Program categories, eliminates the Federal mandates that the States adopt Federal management systems, repeals some of the Federal mandates requiring the use of crumbed rubber asphalt—I happen to favor the idea—and to transfer to the State the question of mandatory helmet laws and certainly the maximum speed limit.

I come from a large rural State, quite different from New Jersey, quite different from Rhode Island, in terms of our obligations to provide for transportation. I also served in the Wyoming legislature, and I have great confidence in that body's ability to determine and have as much interest in the safety of Wyoming drivers and others who drive through our State as does this body. That is really what it is all about. It is not a question of doing away with speed limits. It is a question of having the opportunity to tailor needs to different kinds of places, the opportunities to deal with the differences in the needs of New Jersey and the needs of Wyoming.

So, there is a principle involved here. Obviously, our 100,000-square mile State with 450,000 people is quite different from New York, quite different from Connecticut. So we need to have the flexibility, in a union of this kind, to do that. This is a clear step away from the Washington-knows-best approach and I strongly endorse it. State leaders in Departments of Transportation do not need this constant oversight that we have had here.

So, this is a good bill and one that needs to be passed in a timely fashion. It deserves strong support. It has had a great deal of input, a great deal of conversation from States, a great deal of communication with State Highway Departments and others. So I encourage all my colleagues to vote for the bill. I hope the President will sign it promptly so that the States can finally receive the money that does, indeed, belong to them.

Mr. President, I urge quick passage of this bill and its quick movement through the White House and I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). Who yields time?

Mr. CHAFEE. Mr. President, we are ready for the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise to speak to the motion—I will withhold sending it to the desk at the moment—that I intended to offer.

Mr. President, I rise today to express my deep concern and, quite frankly, disappointment that this conference report comes back to us without an important Senate provision that enjoyed very strong, bipartisan support in the Senate.

On June 21, by a vote of 64 to 36, the Senate voted to give our State Governors the option to use some of their Federal highway funds on intercity rail, that is for Amtrak. It was a proposal that Senator ROTH and I introduced, along with Senators BOXER, CHAFEE, COHEN, JEFFORDS, KERRY, LAUTENBERG, LEAHY, MOYNIHAN, MURRAY, SPECTER, PELL, SNOWE, and D'AMATO.

I point out to my colleagues that these are States with varying degrees of Amtrak service. As a matter of fact, the Governors of those States which have a limited amount of Amtrak service, have the greatest concern about being given this additional flexibility. The bottom line here is Amtrak has, as the distinguished chairman of the committee knows, out of necessity made some significant cuts in its operations over the last couple of years, in a sense downsized the number of trains it runs as well as the number of personnel that it has. The result of that has not affected, much, the Northeast corridor, where people have significant access to rail. But it has affected States like Montana, it has affected States like Vermont, it has affected States like Mississippi, because they have lost trains because we could not justify their cost based on these new, incredible restrictions placed upon Amtrak.

I might note, by the way, although the reigning expert is on the floor—the Senator from Rhode Island—that I do not know of any national rail system in the world, as a passenger rail system, that runs on operating costs, on the money that it takes in. Everybody comes over and my conservative and liberal colleagues—there are not many liberals left—but my conservative colleagues come back from Japan and Germany or Europe and they say, "Boy, we rode on these trains and they were something else. Why do we not have trains like that?"

They subsidize them, like we do the airlines. They subsidize them, like we do the highways. None of them make it based on the fare everyone pays. There would not be any airlines running, we could not afford any ticket, if the fare we paid did not cover the air traffic controllers, covered the runways, covered the towers, covered the places we land. They are subsidized. But, somehow—I am not speaking to anybody on the floor here in particular, because I know the Senator from Rhode Island is a champion of rail as well as highways—somehow, we look at the Amtrak ticket and say, "Boy, they are really subsidized," because we have a direct appropriation and everybody can see it.

At any rate, what happened was in a number of States, like the State of Montana, officials said, "Look, there are one or two trains that run across Montana, that go across the Northwest to the State of the Presiding Officer, and we cannot justify, based on passenger load, keeping that train going." Or the Vermonter, that goes up into Vermont, or the Crescent, that goes down to New Orleans and goes through Mississippi. It is kind of hard when you say you have to go out and cut—they are the ones which are cut.

So all of a sudden Republican and Democratic Governors, like the Republican Governor from Pennsylvania, Governor Ridge, a former Congressman, said, "Wait a minute, we need these trains going across. Not the ones going to Harrisburg and Pittsburgh and so on and so forth," the Governors of these other, various States agreed. So what we did was we came along with nothing particularly radical here. The amendment I am talking about, the flexibility amendment, was not designed to fix every problem that Amtrak has. It was not designed to make Amtrak solvent. It was not designed to solve any intercity rail problem that is going to exist because there are larger problems and there are larger costs. But, by providing the States some flexibility in allocating their Federal transportation funds, although not intended to be a final solution to Amtrak's problems, it was a partial solution to the problems the States had, the Governors had. So, increasing the State flexibility was an important goal.

By the way, under the leadership of Senator CHAFEE and Senator MOYNIHAN and the votes of the vast majority of Members here, we made a significant departure, a necessary but significant departure a couple of years ago when we passed the new highway bill, the so-called ISTEA.

What that said was basically this. If, in a State, you decide to abate the air quality problems you have, or to deal with congestion, or to deal with rural transportation problems, out of your Highway Trust Fund moneys that you get you can go out and you can, instead of building a new lane of a highway, you can subsidize a bus or you can subsidize a bus route from Dover, DE, to Dagsboro, DE, instead of building a new highway. It is cheaper and makes more sense.

The leaders on this have been Senators CHAFEE and MOYNIHAN. They said it does not make any sense to insist that States have to pour more concrete. They can say, "OK, we want to put a bike path in. We can spend money for that, or for buses, if it is going to improve the air quality, instead of more lanes for cars."

It gave flexibility to the States. It was only a portion of the highway money they received. So all this amendment did, and I think the reason why it enjoyed such wide support, was to just logically extend that flexibility. The goal of the Senate amendment, which was dropped in conference, was not to shift the burden of passenger rail services in the States. It was to allow the States to have another alternative to deal with their problems.

For some, this means a small portion of their highway money—I say that because to use the vernacular the cement and asphalt guys out there said, "Oh, my. They are going to be able to spend money on something other than laying concrete or laying down asphalt." They can still lay billions of dollars worth of concrete and asphalt across this Nation under the flexibility amendment.

This is not a backdoor to do away with the highways. This is a provision to give flexibility to the States. And it does not require an additional penny. It just says the States can use some of it. Instead of building a bicycle path, they can say in Vermont, we want to keep that train that comes up into Vermont from the Northeast corridor, and brings us millions of dollars worth of skiers every year, improves our economy, and has a significant impact on health of our State. We want to use some of our highway money to pay Amtrak to say, "Look, put that train back on. We will pay for it. The rails are already there. We will pay for it."

Because they understand this, the Governors of our States are actively seeking to keep Amtrak running. The Republican Governors from Wisconsin, Michigan, and Pennsylvania, and the Democratic Governors, also, feel very strongly about this.

The Senate language dropped in conference would have provided those Governors the means, if they chose, to support Amtrak routes important to their States. Specifically, it would have made Amtrak an eligible use for funds from two areas—the so-called STP fund, Surface Transportation Program, which is known as STP around here; funds to be used for most kinds of roads and highways, as well as capital costs for bus terminals, car pool projects, bicycle and pedestrian facilities, hike and bike trails. Right now, under the Surface Transportation Program, you can expend money, if you are Governor, from your highway trust fund to build a bus terminal. You can spend your money from the highway trust fund to build a bike or hike trail, a bicycle path, or a pedestrian path. You can do all of that. You can even spend the money for promoting car pooling, all of which makes sense.

But the one thing you cannot do is you cannot say—even though you have a railroad track running through your State where you want it to go—Amtrak, if you can put an extra train on there, we will pay you for that. Why? It makes no sense.

So the Senate language added intercity rail—translated, Amtrak—to that list of things that Governors can do consistent with the aims of the program to support and fully fund an integrated transportation system. Integrated means highways. It means buses. It means subways. It means Amtrak, if this were to prevail. It gives them flexibility.

The second thing the Governors could do, in addition to going to the so-called STP fund—is go to the congestion mitigation and air quality fund, or, the so-called CMAQ fund. CMAQ is an innovative program designed by Senators MOYNIHAN and CHAFEE which supposed to help urban areas come into compliance with the Clean Air Act.

Mr. President, we all know in most of our States where we are told that, if the air quality is not particularly good, the Governor is told to take the necessary steps in order to meet the Clean Air Act standards. This gives the Governor an opportunity when managing a growing State, a growing community and a growing urban area, to say, OK, one of the ways I can deal with increased congestion is, instead of putting more cars on the highway, to increase intercity rail.

Let us imagine what would happen if we shut down Amtrak in the Northeast corridor? Those of you, the tourists here today, traveling I-95 from here up to Boston through the States of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, can you imagine? How many more lanes can we add on to I-95 in order to just transport people up and down? How many more airplanes can we add? We are having problems with airports. There is so much traffic on the east coast they are talking about the State of Delaware and the Wilmington airport becoming an overflow facility for the Philadelphia airport.

Mr. LAUTENBERG. Mr. President, will the Senator yield for a question?

Mr. BIDEN. Sure. I am delighted to.

Mr. LAUTENBERG. The Senator mentions aviation and the problems, if we did not have Amtrak operating. The projection is that, if Amtrak were not operating, we would have 10,000 DC-9 flights a year more to accommodate the traffic that would come off of Amtrak.

Mr. BIDEN. I say to my friend from New Jersey, Mr. President, that statistic makes the point. Two of the three people who know most about the transportation problems in this country are right here in the Chamber now, and the Senator from New Jersey is one of them. Ten thousand additional flights. We are having trouble keeping airports open during certain hours so people cannot have them interfere with their living standard and the quality of life. Where are they going to go, and why are we doing this? Why are we failing to make this small change in flexibility?

I never impugn the motive of anybody on this floor. But I must tell you in my 23 years here I have not run across many lobbies that are more powerful than the highway lobby, than the cement folks and the asphalt folks. There is nothing bad about them. But I think they are being incredibly shortsighted here in terms of not allowing this flexibility. I think in the long run, in 2 years, or 10 years, the public is going to say, "Enough, I do not want a 17-lane highway running by my house."

To combat this growing concern, Mr. President, these CMAQ funds, that the States receive as part of their highway funds, could be used for Amtrak, at the discretion of the Governors, if they chose to mitigate congestion and to carry the same number of people with less pollution and cars on the highways. Surely, this would be an appropriate use of those funds, a use currently denied the States.

In addition to those provisions, Mr. President, this amendment would permit States to enter into interstate compacts to support the Amtrak services. For example, the Presiding Officer is from the great State of Washington. You cannot very well get a train to go to Washington coming from Chicago unless you get the folks in the Dakotas, Montana, and Idaho to let it get there. There is no other way to get it there. If they do not have the ability to come up with the funds to provide for that train coming through, then it is a problem.

So it allows, if they so choose, the States in the Northwest to enter into a compact if they want those trains to move from Chicago to the State of Washington with more frequency. States come up with their own money, come up with the money they want out of their highway funds, if they decide to do so.

In the long run the answer to Amtrak's financial problems are not solved by this amendment. It will come from clearly defined, dedicated sources of funds supporting capital means. That is the only way out for Amtrak.

I must say that I am pleased to note that Senator ROTH has taken an amendment that he and I supported, and has drafted just such a bill which has come out of the Finance Committee which he chairs. I look forward to working with him, and dealing with that bill on another occasion in the near future. It has to do with setting up a trust fund, a very small one, so that Amtrak will have the funds it needs for necessary capital improvements. The Senator from Montana supports that as well.

But, Mr. President, this flexibility proposal was taken out I think for very shortsighted reasons—not for lack of support of Senator CHAFEE, who stood his ground as long as he could in this conference. It was dropped because the House was adamant in refusing to give the States the needed flexibility to manage their transportation needs the way they should do best. As a matter of fact, the chairman in the House on this committee, a gentleman from Pennsylvania, a very, very tenacious, very good Congressman, works very hard, even resisted to consent to the entreaties of his Governor telling them he needed this. And so I in no way am suggesting that the Senate did not try its best to hold this provision.

The House just adamantly refused to give the States flexibility. So much for the revolution. So much for the devolution of power away from Washington to the States. Here we have an example on the limits of revolutionary fervor; it ends when the committee is threatened with a tiny, marginal loss of authority or it ends where important interests to the highway community decide they want it to end.

The Senate language that was dropped would not spend one dime of additional State or Federal money—not one dime of additional money. It would not require the States to spend any funds on Amtrak, not a single penny, if they did not want to. It would not change any formula for distributing or allocating transportation funds among the States. It would not affect the amount of annual Federal transportation funds States now receive individually or in total.

The bottom line is the Senate amendment simply permitted States to use funds they already qualify for in a way that is not currently permitted. Current restrictions on the use of Federal transportation funds would be removed and Governors around the country would be able to use those funds as they see fit, including in support of intercity rail services provided by Amtrak, if this amendment were to prevail. In very congested areas, particularly in urban corridors along the east and west coasts, but in other areas as well, adding more highways in certain areas is simply not an economic or environmental option. Keeping an Amtrak route open on existing rail right-of-way, which is much more cost effective and safer and cleaner than buying land to construct even one more lane on a major interstate highway, is the way to go. The increasing flexibility provided by the Senate amendment is fully consistent with the major goals of the national highway safety bill before us today and with ISTEA, the landmark legislation that calls for a National Highway System designation.

The need for enhanced State flexibility is clear. I find it fascinating that my colleagues, some of whom spoke today, colleagues who I have great respect for from wide open spaces of the West, from Montana and Wyoming, talk about the need for us to consider their specific needs and afford them flexibility, allowing them to have a highway speed limit higher than might be appropriate in the middle of Philadelphia County in Philadelphia, PA, or in the middle of Newark, NJ.

I understand that and appreciate that, but I have always found it difficult to understand how they cannot appreciate the problems of urban States where it makes much less sense for us to go out and build additional highways than it does for us to allow the States to have flexibility to use some of those moneys, designated portions of them, for the purpose of making sure we meet air quality standards, safety standards, and the transportation needs of the people of our State.

Let States decide. Let States decide. This is the mandate set out in both the House and Senate budget resolutions which we are going to hear a lot about today. Let the devolution of power occur; send it back to the States.

This whole thing is also a mandate that sets out for Amtrak authorizing legislation that we are going to take up very soon.

The first stage of this new authorizing legislation for Amtrak was announced last December with major routes elimination taking place effective in April, frequency reductions in the selection of routes throughout the country that will be completed this coming October.

The bottom line is more States will have less service in areas that they need and that they could very well be willing to use highway funds to keep. As a result, many communities across the country find themselves with little or no interstate rail service, and the Governors of those States know that intercity rail is an important option for small towns without air service as well as for congested commuter corridors. They know that intercity rail supports commerce and is an important component of the modern national transportation system.

Last June, I entered into the RECORD a letter from Governor Dean of Vermont, Governor Thompson of Wisconsin, Governor Engler of Michigan, Governor Carper of Delaware, and subsequently Governor Ridge of Pennsylvania, Democrats and Republicans alike, asking for this flexibility.

Among the authors of that letter were Governors who had already committed their own State general revenues to support intercity rail routes and at the same time they had surpluses in their Federal transportation program that they are prohibited from using, that is, money that went back to the States they could not use because they did not want to build more highways. I said, "Can't we use that for this?" They said, "No, you can't." So they are required to go into the general funds of their States. That seems to me to be counterproductive. Many States have confirmed the importance of Amtrak.

Today, Mr. President, I have a letter from those same Governors, joined by Governor Allen of Virginia, another Republican, along with additional letters from Governor Whitman of New Jersey, reinforcing their support for the Roth-Biden amendment in the Senate version of the National Highway System bill. These letters were sent in October, unfortunately to no avail. They were sent to Congressman SHUSTER, chair of the House Transportation Committee and leader of the House conferees. I ask unanimous consent these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OCTOBER 20, 1995.

Hon. BUD SHUSTER,
Chairman, House Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR CHAIRMAN SHUSTER: As you continue to work with the Senate towards completion of the National Highway System bill, we want you to be aware our strong support for the right of states to use their federal transportation funds for rail passenger service. The so called "Roth-Biden" provision which was included in S. 440 by a vote of 64–36 has our full and enthusiastic support, and we urge you to support its inclusion in the final NHS bill.

As you are aware, under present law, we are not able to make use of our federal highway or transit funds for rail passenger service. Enactment of this provision will provide states with the ability to decide what transportation system best meets their needs and to allocate their federal funds accordingly. In this time of severe budget constraints at all levels of government, it is essential that we empower state and local officials to make the best use of scarce federal resources.

We view this inclusion of the Both/Biden provision in the final version of the NHS bill as an extremely positive step in the direction of achieving a higher level of state choice and a more balanced transportation system. We look forward to working with you to ensure this result.

Sincerely,

GOV. HOWARD DEAN.
GOV. GEORGE ALLEN.
GOV. GASTON CAPERTON.
GOV. JOHN ENGLER.
GOV. TOM CARPER.

STATE OF NEW JERSEY,
Trenton, NJ, October 20, 1995.

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The inclusion of the Both/Biden provision in the final version of the NHS bill is an extremely positive step in the direction of achieving a higher level of state choice, and a more balanced transportation system. I look forward to working with you to ensure this result.

Yours sincerely,

CHRISTINE TODD WHITMAN,
Governor.

Mr. BIDEN. Mr. President, because the support is still out there and because the need for Amtrak services must still be met by the States and because the principle of increased State flexibility is still valid, I will continue to fight for this Senate language that has been dropped from the conference report. But because I do not want to waste more time on this proposal and tie up my friend, the chairman of the committee, who I again thank for his dogged support of this proposition at a time when so much of our legislative business is yet to be done, I will not introduce this motion to recommit. But I consider the loss of important Senate language a clear reason for me to vote against this conference report.

I also want my colleagues to know that I will seek another means by which to accomplish the goals of the Roth-Biden amendment, and I will continue to fight to get it put into law.

To put it to you very bluntly, Mr. President, the reason I am not going to pursue this right now is if this prevails and gets sent back to committee, these States that are looking for the flexibility will also in the meantime have additional moneys tied up. They will not be able to get moneys that are in this bill that they need now. So I am in kind of a catch-22 position. My purpose here is to help Amtrak and to give Governors of States flexibility to decide what their transportation network should look like. But if I succeed, it goes back to the House again and goes back into conference, and I am not at all sure, to be very blunt about it, whether or not my friend from Rhode Island, notwithstanding his Herculean efforts, would be able to prevail were we to send him back. So that is why I am withholding this motion. So I will yield.

I saw my colleague from Delaware, who is the lead sponsor on this amendment. I do not know whether he wishes to speak on this right now. But for the time being—is there any time under the control of the Senator from Delaware?

The PRESIDING OFFICER. The Senator from Delaware has 3 minutes 40 seconds.

Mr. BIDEN. Mr. President, I will reserve the remainder of my time and yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I believe that I have some time remaining.

The PRESIDING OFFICER. The Senator from New Jersey has 18 minutes 40 seconds remaining.

Mr. LAUTENBERG. Eighteen?

The PRESIDING OFFICER. Eighteen minutes forty seconds left.

Mr. LAUTENBERG. Thank you, Mr. President.

I just want to stand up and announce my support of the comments and the program that the distinguished Senator from Delaware outlined in terms of where he would like to see things go for Amtrak. I, too, am an active proponent of Amtrak because its part in our intermodal transportation system is so significant.

I note, Mr. President, that when I was chairman of the Transportation Subcommittee of Appropriations—and that was the situation until the beginning of this year—that whenever there was an opportunity to review another transportation bill, invariably colleagues would come and plead with me for continued service by Amtrak to their States, even those States that had a couple of trains a week going through there.

They all loved the notion that Amtrak, the intercity rail system, the national passenger rail service, was going to continue providing service. Well, we have seen cutback after cutback, narrowing this thing down. And in these days of spare resources, I think it made sense to review very closely what was taking place there and to avoid as much as possible the continued costs for the operations of Amtrak.

However, Amtrak stands alone in terms of the percentage of the fare box that is received among railroads across the world. Amtrak has the highest share of revenues per fare box of any railroad in any country on Earth.

So, I fight very hard to protect the ability of Amtrak to function. And I know that is true of my colleagues from Rhode Island, including the distinguished chairman of the Environment and Public Works Committee, as well as other colleagues who see the value of Amtrak as part of the transportation system and who look at the possibilities that might exist if Amtrak was not functioning.

The distinguished Senator from Delaware talked about aviation. I point out that we would need 10,000 flights a year, additional flights a year, DC–9 size, just to service the volume of traffic that Amtrak now handles. If Amtrak can improve its service, get higher speed service, make the capital investments to bring that system up to the level that it ought to be, it would carry even more passengers. A computer permutation shows exactly that.

Here we are, when we have a chance, when we give the Governors—we talk about States' rights, and we talk about giving the States the chance to make their own decisions. Here we have a chance to do it. When it was supported in the Senate by a vote of 64–36, we lose it in conference. Frankly, I think that is a terrible condition. I was disappointed that it was believed that we could maintain the integrity of the highway trust fund by receding from the Senate position on Amtrak flexibility.

Simply, this provision would have allowed the States the discretion to use a small portion of their highway formula funds for Amtrak expenses. I sponsored this same amendment when ISTEA was being developed and when it passed the Senate. So, when it comes to Amtrak, when it comes to motorcycles—when it comes to Amtrak, we do not say that the States know best. We say Washington knows best. And that is an anomaly that, frankly, I do not understand.

Mr. President, I feel that we have lost an excellent opportunity here. I hope that we will be able to recapture it along the way with other legislation, as indicated by the Senator from Delaware. As the ranking member of the Transportation Appropriations Subcommittee, I can tell my colleagues that the appropriations bill that the President signed the other night included a 25-percent cut in Amtrak's operating subsidy; $137 million in a single year will be cut.

Without having to be a rocket scientist, it is obvious these cuts will cause another round of service cuts, another round of layoffs. Amtrak just completed the largest round of service cuts and layoffs in its history. Now we are going to look again at another round of service cuts, another round of layoffs.

This NHS bill was held to be minimizing these cuts, to allow the Nation's Governors to use their discretion, to enter into cost-sharing agreements with Amtrak and keep certain of these trains running. I am sure that those Members that insist that we deny the Governors this form of flexibility will be the same persons who complain when they endure additional losses in Amtrak service and additional losses in Amtrak employment.

Mr. President, while I have the floor, I just want to reiterate—and I will not be long in deference to my colleagues who are waiting for the floor—that I think the NHS bill is a very positive piece of legislation in general, that it provides additional investments in infrastructure, which I repeat that I strongly support, but as we look at the abandonment of safety, we have to also consider what happens in terms of not only the loss of limb and life, but the additional financial costs that are associated with it. We also have to look at the fact that we will help create more air pollution as we load up further highway travel. We will be looking at depending more on imported oil from the Middle East. That is a tragic situation for us.

More danger to law enforcement people. Put a patrol car out there having to enforce the law with someone going 90 miles an hour. I assure you that no policeman's family is going to like that assignment. But here we are. We are abandoning all other good judgment to save minutes a day. It is a regrettable thing, again, because this is tagged onto a good piece of legislation. But those who believe that safety is not a significant factor have abandoned that at this juncture. And I sincerely regret it.

Mr. LEAHY. Mr. President, I was deeply disappointed that the conferees dropped the provision that would have let States invest limited amounts of highway funds for intercity passenger rail service. This reasonable amendment would have given States like Vermont some flexibility to start or continue Amtrak service.

Last December, Amtrak made the painful decision to terminate the Montrealer, Vermont's only passenger rail service. Over the ensuing months, a unique partnership developed between the State of Vermont and Amtrak that resulted in an improved, cost-effective train, the Vermonter. The Vermonter has become a success story for Vermont and for Amtrak. Ridership has dramatically increased since its inception, a new baggage car has made the train more attractive to skiers and bicyclists, and the train operates at less than half the cost of the Montrealer.

The Vermonter's existence is largely due to the State of Vermont, which agreed last spring to pay up to $750,000 to subsidize the route for 1 year. This subsidy represents a heavy commitment for my small State. As the Congress continues to cut Amtrak's budget, reallocated Amtrak costs are going to be passed on to Vermont in the form of a higher subsidy, which could well make the Vermonter unaffordable for Vermont.

This is why this amendment was so important for Vermont and other States. We subsidize highway construction with billions of taxpayer dollars every year. This modest provision would have allowed States some flexibility to use a small portion of those funds for Amtrak service. I am disappointed that the Senate conferees allowed this provision to be dropped in conference.

Mr. LAUTENBERG. Mr. President, I ask how much time I have left?

The PRESIDING OFFICER. The Senator has 9 minutes 55 seconds.

Mr. LAUTENBERG. I thank the Chair, and I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I see the distinguished Democratic Senator from Delaware here. I want to say everything he said was exactly right. It was an overwhelming vote on the floor to permit the States to give money to Amtrak, that this was the ultimate of flexibility, which is the big war cry around this place. But we have discovered when it comes to flexibility, there is a great deal of flexibility in interpreting what is flexible. There was no movement in the House on this. It was very, very—they were adamant.

All I can say is I think what this country needs is a transportation trust fund, not a highway trust fund. I know that the distinguished chairman of the Finance Committee is going to speak in a few minutes, and I believe he has thoughts in the same manner.

But clearly we have to do something about Amtrak. We cannot just make the cuts that the distinguished Senator from New Jersey was talking about, $137 million. As the Senator from Delaware said, every railroad transportation system in the world is subsidized, and for us to think that we can get away without subsidizing Amtrak is nonsense. However, we would not have a bill here today if we hung to our position that was voted here on the floor.

Mr. BOND. Mr. President, I thank Senator WARNER, Congressman SHUSTER, and the other conferees for agreeing to include a provision in the National Highway System bill ensuring that public highways connecting the NHS to ports, airports, and other intermodal transportation facilities will be eligible for NHS funds without further delay.

One of the main reasons for creating the NHS was to establish intermodal facility connections. But few of the connectors are included on the current NHS map and the Department of Transportation is not expected to have a list of additional connectors ready until after enactment of this legislation. To ensure that NHS funding for the connectors on DOT's list is not further delayed, the bill makes them eligible for such assistance on an interim basis. While I would have preferred the Senate passed bill language, this provision represents a reasonable compromise and should achieve the same results.

There is one matter dealing with the interim eligibility provision on which I would appreciate the chairman's clarification, however. The provision refers to a project to construct a connector to an intermodal transportation facility. It is my understanding that the word "construct" is to be read very broadly to include not only construction and reconstruction projects, but also ones involving resurfacing, restoration, rehabilitation, and operational improvements, such as the installation of traffic surveillance and control equipment and computerized signal systems.

Mr. CHAFEE. The understanding of the Senator from Missouri is correct. The word "construct" is to be read very broadly to include the types of projects the Senator has just described.

Mr. BOND. I thank the chairman for this clarification.

UNANIMOUS-CONSENT AGREEMENT

Mr. CHAFEE. Mr. President, this has been cleared with the Democratic leader. I ask unanimous consent that the vote on the adoption of the conference report to accompany S. 440 occur at 1:15 p.m. today, with paragraph 4 of rule XII waived; and further, that immediately following that vote, notwithstanding receipt of the conference report to accompany H.R. 2491, that the time consumed then be counted against the statutory time limit provided for in the conference report and each statement only occur as time is yielded by the managers or their designees.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. LAUTENBERG. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. I ask the question again—I am sorry—are the yeas and nays ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. LAUTENBERG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I yield 7 minutes to the distinguished Senator from Delaware.

The PRESIDING OFFICER. The Senator from Rhode Island does not have 7 minutes.

Mr. CHAFEE. I was wondering if the Senator from New Jersey would give me a bit of his time.

Mr. LAUTENBERG. How much time do I have?

The PRESIDING OFFICER. Nine minutes fifty-two seconds.

Mr. LAUTENBERG. I wanted to offer 2 minutes to the distinguished Senator from Arkansas. I will be happy to yield 7 minutes from my time to the distinguished Senator from Delaware.

Mr. CHAFEE. I have 5 minutes. Why do we not give him——

The PRESIDING OFFICER. Four minutes remain for the Senator from Rhode Island.

Mr. CHAFEE. Three from you.

Mr. BUMPERS. I wonder if the senior Senator from Delaware will allow me 2 minutes to ask the manager a question.

Mr. CHAFEE. And the Senator has the time.

Mr. BUMPERS. This morning, I heard the Senator from Rhode Island talking about the provision in the bill that changes the law that prohibits States from putting new billboards on scenic highways. I was adamantly opposed to the section of the bill that would turn this authority back to the States. We have a magnificent highway in my State. When complete, it is going to be one of the most beautiful—if not the most beautiful—scenic highways in America.

I am not sure what the distinguished floor manager said this morning on that provision about the Secretary's right to override the States on this. Could the Senator clarify that for me?

Mr. CHAFEE. Here is the situation. As the Senator knows, I very strongly supported the provision that we have in the law that says on scenic byways—and by the way, a scenic byway is designated by the State. It is not Big Brother from the Federal Government that designates them. The States designate the scenic byways, and then the Federal Government gives some moneys to help them.

By the way, the provision we have is no new billboards on scenic byways, no new billboards. The question came up on segmentation. You could have a 40-mile scenic byway, then a commercial section of 2 miles maybe, and then 30 more miles of scenic byway. The question was, could you segment these things?

The answer was, we included a provision that you could segment it without getting ridiculous; in other words, having a 2-mile stretch and then 4 miles of billboards and then another 2-mile stretch. So we believe that what we came up with protects the existing situation.

The words that the Senator was referring to was permitting the Secretary of Transportation to have the authority to prevent actions by the State that overrode the Federal requirements that prevented billboards. In other words, this was something to ensure that these States cannot set claim it is a scenic byway and instead it is a billboard alley.

Mr. BUMPERS. Does the Senator from Rhode Island feel that this sufficiently protects existing law?

Mr. CHAFEE. I do. We spent a lot of time with the highway administrator and with his folks. We believe that what we have written into the law now is exactly the way the situation is interpreted currently.

Mr. BUMPERS. I thank the Senator very much, and I thank the Senator from Delaware for allowing me to speak.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, as the author of the Amtrak amendment, I cannot overemphasize my extreme disappointment that the National Highway System conference report does not include this amendment. This amendment passed overwhelmingly in the Senate by a vote of 64 to 36. In April, when I introduced the Intercity Rail Investment Act with 13 cosponsors, I thought I had an approach that would be acceptable to all parties. I find it difficult to understand the objection to this proposal. As others have pointed out, in other countries, a viable rail system has always depended upon Government aid.

Frankly, when I offered the Roth-Biden amendment to the National Highway System bill, it was overwhelmingly approved, as I thought it would be. While my amendment received strong support in this body, it, unfortunately, ran into difficulty on the House side in the conference.

Mr. President, my amendment would have given States the flexibility to use a portion of their Federal transportation dollars for passenger rail service, and it would have provided States with the ability to decide what transportation system would best meet their needs and allow them to allocate their Federal funds accordingly.

In a time of budget constraints, my amendment would have empowered State and local officials to make the best use of their Federal resources and, as has been pointed out, one of the things that we have been seeking to do in bringing about change in Government is to provide flexibility to State and local officials to make the best use of the Federal resources that they have available.

Sixty-four Senators agreed with me and voted in favor of my amendment. Sixty-four Senators went on record for State choice, for a more balanced transportation system. These Members know that Amtrak is a vital and absolutely essential part of America's transportation network. While the Senate position did not prevail in conference, I know that Senator CHAFEE and other Members worked hard to convince the House how important this legislation is to our State Governors and to the intermodal transportation system. I want to express my appreciation to Senator CHAFEE, and others, for what they did.

I appreciate their strong support for my amendment and we shall be back. We shall be back until we provide this kind of flexibility to our State officials.

Mr. President, the need for passenger rail service is clear. All one has to do is look at our congested areas, particularly in the urban corridors along the east and west coast. Adding more highways simply is not an economic or viable option. In this part of the country, the Northeast corridor alone, annual Amtrak ridership between New York and Washington, DC, is the equivalent of 7,500 fully booked 757's, or 10,000 fully booked DC-9's.

If Amtrak were to shut down, adding more highways simply would not be a viable option. Just in the last year, Delaware alone had 607,000 riders.

We simply cannot have another system with that kind of capacity without adversely affecting our air quality and our land resources.

Mr. President, I know that my amendment would not have solved Amtrak's financial problems. Amtrak will need to continue to do its own internal restructuring. It will also need a dedicated trust fund to support capital needs the way we provide capital for highways and airports.

As chairman of the Finance Committee, I recently reported out a bill that would dedicate a half cent from the mass transit fund to Amtrak. This measure would dedicate over $2 billion to Amtrak. As with the Roth-Biden Amtrak amendment, I am also eager to see this legislation enacted this year.

While I had hoped that my amendment would have been included in the conference report, I understand, having experienced some of them myself, the constraints that Members must operate under in conference.

Mr. President, I will conclude by saying that if Congress hopes to privatize Amtrak in the next 5 years, and if we support continued intercity passenger rail service—service that is vital to both rural and urban areas—we will vote in favor of a dedicated trust fund for Amtrak and for flexibility for State transportation spending on passenger rail service.

Mr. President, I am eager to work with my colleagues in the House and Senate to achieve this goal. Again, I thank Senator CHAFEE for his cooperation.

Mr. CHAFEE. Mr. President, I have the remainder of Senator LAUTENBERG's time.

The PRESIDING OFFICER. The Senator has 2½ minutes.

Mr. CHAFEE. Mr. President, I want to say to the distinguished Senator from Delaware, the chairman of the Finance Committee, that I agree with everything he said. I think that it was terribly unfortunate that we could not get the House to budge. This was an absolute immovable position that they had. I hope that we can set up this Amtrak trust fund.

Frankly, as I said before, I would like to see a national transportation fund instead of a highway trust fund. Amtrak deserves every bit of support we can give, for all the reasons that the distinguished Senator from Delaware so ably set forth.

Mr. President, we are going to vote at 1:15.

I suggest the absence of a quorum at this time.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, the hour of 1:15 having arrived, I believe, according to the prior agreement, we commence the vote on the National Highway System conference report. Am I correct?

The PRESIDING OFFICER. The question occurs on agreeing to the conference report to S. 440. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Arizona [Mr. MCCAIN], and the Senator from New Hampshire [Mr. SMITH] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 80, nays 16, as follows:

[Rollcall Vote No. 582 Leg.]

YEAS—80

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Ford
Frist
Glenn
Graham
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kohl
Kyl
Levin
Lott
Lugar
Mack
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nickles
Nunn
Pressler
Pryor
Reid
Robb
Rockefeller
Santorum
Sarbanes
Shelby
Simpson
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—16

Akaka
Biden
Bradley
DeWine
Dodd
Feinstein
Gorton
Hollings
Kerry
Lautenberg
Leahy
Lieberman
Moseley-Braun
Pell
Roth
Simon

NOT VOTING—3

Gramm
McCain
Smith

So the conference report was agreed to.

Mr. CHAFEE. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE 7-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

The PRESIDING OFFICER. Under the previous order, there will now be a period of debate on the conference report to accompany H.R. 2491, the Balanced Budget Act of 1995. Debate consumed during this period will be counted against the 10-hour statutory time limit under the Congressional Budget Act.

Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I can indicate to our colleagues what the program is for today. We have a consent agreement that the time, as of 5 minutes ago, the 10-hour statutory time on the conference report on the Balanced Budget Act of 1995 started to run. We will not receive that from the House until about 3 o'clock. In any event, the time has started running, and if we use all the time, we will vote about sometime after 11 o'clock tonight. If we do not use all the time, obviously, we will vote at an earlier time.

Anybody who would like to debate this particular subject, now is a good time to start. If there is no indication of debate, why, we can be in recess subject to call of the Chair, whatever.

And on tomorrow, it will be HUD–VA, if available, and there may be another CR tomorrow coming from the House, which will be a narrow CR dealing with Social Security, veterans, and Medicare, those three topics. But we have to have consent over here before we can bring that up. If we put in a lot of amendments, we will not get it passed. These are subjects the President mentioned in his statement yesterday. That will probably come over tomorrow.

I am somewhat doubtful the HUD-VA is going to make it. I do not think they will finish in the House in time. That is sort of where we are. I hope we can have some resolution of the continuing resolution. I understand there are different people talking to different people about different things.

[Laughter.]

I do not know whether they are going to get it resolved or not. Mr. President, I ask the minority leader if he has anything to add?

Mr. DASCHLE. Mr. President, I share the majority leader's view that this is a good time to begin the debate on the reconciliation bill. I know a number of our colleagues have expressed an interest in beginning the debate and have statements to make. I think we can proceed with that and try to give them an update from time to time on what, if anything, the negotiations may be producing with regard to an agreement on the CR.

Mr. DOLE. The time will be under the control of the Senator from New Mexico and the Senator from Nebraska, or their designees.

Mr. LEAHY. Will the leader yield for a question?

Mr. DOLE. Sure.

Mr. LEAHY. Mr. President, the Senator from Kansas [Mrs. KASSEBAUM] and I were going to introduce legislation, Kassebaum-Leahy legislation. I wonder at what point it will be an appropriate time.

Mr. DOLE. Right now.

Mr. LEAHY. I cannot speak for the Senator from Kansas on how much time she needs, but I know I only need about 4 or 5 minutes.

Mrs. KASSEBAUM. Mr. President, I do not need any longer, maybe even less than that. It is just to introduce some legislation.

Mr. DOLE. As far as I know, if there is no objection by the managers, it can be done right now.

Mr. EXON. I will be pleased to yield whatever time is necessary equally off the 10 hours.

Mrs. KASSEBAUM. I thank the Chair.

(The remarks of Mrs. KASSEBAUM, Mr. LEAHY, and Mr. FEINGOLD pertaining to the introduction of S. 1419 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. GREGG). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this is a historic day, in my opinion, in the life of our country. While we do not have the resolution, a balanced budget amendment of 1995, over here from the House, yet I am holding the text of it in my hand.

Essentially today, in my opinion, we have finally cast aside years of irresponsibility. Today, we will keep our word to the American people. Today, for the first time in 25 years, the Congress of the United States will approve the first balanced budget in more than 25 years.

Today, we will act like adults and give this Nation the grown-up leadership needed to protect its future and allow our children to prosper.

Leaders, it has been said, are the custodians of a nation, of its ideals, its values, its hopes, and its aspirations—those things which bind a nation and make it more than a mere aggregation of individuals. By governing for today, it is obvious that it is much easier to just govern for today than leading for the future. It does not take a great deal of talent or courage to solve an immediate need. It is a lot harder to pave the pathway for the future.

Yet, we who serve in public office and those of us who do have a high responsibility to protect a great nation's future, we must work on behalf of those who will follow us, our children and our grandchildren. When the facts are clear, we must act in their behalf or we are not leaders. We are the trustees of the future and of their future, of their legacy, of their opportunities. Leadership requires courage. It requires boldness and foresight to safeguard a nation's ambitions and comfort and to confront its challenges.

We have tried to provide the leadership needed to throttle runaway Federal spending and give the American people the first balanced budget in more than a quarter century. That might not be much in the life of this Nation, but essentially what we have rung up on the credit card is now approaching $5 trillion.

So during that 25 years since we last had a balanced budget, we have mortgaged our future in a rather almost irreparable way. We better fix it, and fix it now.

So, for many of us who have thought this was the biggest socioeconomic issue that our Nation has, this is a red-letter day. It is a day of great pride.

Now, there is no use kidding ourselves. What we have done is controversial and difficult. Obviously, the President says he will veto it. But it is also obvious that with that veto pen comes a high responsibility. The shoulders of the President will have a very heavy load on them as he exercises that veto pen, because the question will be: When will we get a balanced budget, Mr. President? The question will be: What is our legacy going to be to our children once we have placed this in the hands of the President?

For it will now be up to him, sometime this evening or tomorrow when we finish, it will be up to him, not us. But we will pass it here in the Senate as it will pass in the U.S. House.

It has not been an easy road for scores of Senators. It has been a difficult job politically for many Members on our side of the aisle. Yes, we are getting beat about the head and shoulders. It has not been easy, perhaps, for today more people think we are not doing the right thing than think we are doing the right thing. But I believe when you do great things and difficult things you have to take a little bit of the heat for a while until it all sinks in, in terms of what you really have accomplished.

Again, I repeat: Since we have accomplished it, it will be on the shoulders of the President; then, once it is vetoed, to accomplish something of equal value and of equal legacy for our people.

We knew from the beginning this would be difficult. We knew it would require determination and endurance, but we had promised the American people that we would balance this budget and put an end to persistent deficit spending that has been bleeding our Nation dry and leaving our children with less of a future than we had, which is not a good thought, not one we relish very much as adult leaders in the world's greatest democracy and the world's greatest capitalist system, which has produced more goods and wealth for our people and for the world than any group of people living under any kind of government forever.

A deficit that is growing by $482 million a day, $335,000 a minute, $5,500 every second, and growing—our deficit spending is heaping mountains of debt upon our children. It will drag them down. We are irresponsible in shackling our children with our bills. If this pattern is left unchanged, they will be the first generation of Americans to suffer a lower standard of living and less opportunity than their parents.

Yes, if we pass this budget, our budget, we can reverse that tide. We can restore our Nation's fiscal equilibrium, and preserve America as a land of opportunity, not just for the "now" generation, but for future generations of children yet unborn.

Our budget reflects a commitment to responsibility, to generating economic growth, creating family-wage jobs, and protecting the American dream for all our citizens, young and old. A balanced budget does not just mean a better future for our children. It will put more money in the pockets of working Americans today. It will mean lower interest rates, cheaper mortgages, and lower car payments. With our budget in place, working Americans will have an easier time sending their children to school or buying their first home.

Economists predict a balanced budget will result in a 2 point drop in interest rates. That is a yearly $200 saving on a typical 10-year loan of $10,000, or $2,000. Over the life of a loan, a family will save $2,500 a year on a $100,000 mortgage on their home if this budget is balanced. We owe it to the American people, and to those who live in our houses and make them their homes, to make it a little easier for them to live in that style.

Studies conclude that a balanced budget will boost an average family's income. Others say it will create 2½ million new jobs. And, even as we move toward a balanced budget in 2002, under our budget, Federal spending will continue to grow.

We will spend $12 trillion over the next 7 years; a number that is almost unfathomable to most American citizens, and to many of us. That is only $890 billion less than we would have otherwise spent—around $900 billion less.

Also, we balance this budget without touching Social Security. The budget shrinks the Federal bureaucracy, eliminating many Federal agencies and departments and programs. And, over time, to meet the targets even more will have to be changed.

We move money and power out of Washington and back to citizens in their States and communities. This budget reform will also take care of an old, an ancient welfare system, for it, too, will be reformed. But, yet, we will maintain a safety net for those in true need, especially children.

It preserves and improves Medicare and it protects Medicare. In fact, the way it is written in this document, we make the Medicare system solvent for anywhere from 14 to 17 years instead of until the next election, or just a few years.

I want to say to my colleagues who may not agree with every item in this package, there may be some portions you would like to change. That may happen. But I also want to remind you that this is an honest and straightforward balanced budget. In the vernacular of past budget debates, you may disagree but there is no smoke and no mirrors, no rosy scenarios, no cooking the books, just balancing the books. The President says he will veto this budget. As I said a few moments ago, I wish he would not. But I think I understand the game and I think I understand what the White House is up to. He says he is kinder and gentler and he is going to have a kinder and gentler budget, that somehow magically gets to balance while spending about $300 billion more in domestic programs. He says he can get to balance by spending more and cutting less. It sounds a little bit phony. That is because the President's so-called budget hides about $475 billion in the smoke and mirrors of different economic assumptions from those of the Congressional Budget Office, which dictates our economic assumptions and our costs of programming.

The President's document, in my opinion, is a political one, hastily thrown together last June in response to a Republican determined effort and our passage of the budget resolution which set the path for a balanced budget. Yet, I understand sooner rather than later we will have to work with our President to get a balanced budget. But I think it behooves us here, today, to make sure that the American people understand that we had a real balanced budget and when you look at it in its entirety, it is a pretty fair document. When you look at it, as to what it has accomplished that the people want, it preserves and protects Medicare without any question. And for those who come to the floor talking about increases in the costs, I remind them that even the President has recommended increased costs in Medicare. In fact, some of our experts will take to the floor and will bring to the people of the country the realization that most of the President's talk in the last 4 or 5 days about Medicare and not reducing and not cutting Medicare and not increasing the fees that have to be paid by seniors—that, in fact, the President has already recommended that we do that. Last year he recommended it. This year he recommended it. I think there is only a couple of dollars difference between his recommendations and ours.

So, I understand. We might have made a tactical mistake, assuming that the President would not play politics with Medicare when we sent down our last continuing resolution. But we set that aside for now. We will take that up at another date, if in fact we are able to get to the table with the President, if he makes sufficient commitment in advance so we know we are going to get there. For, obviously, we will not give until the President agrees to accept a continuing resolution that assures us we are going to go to the table, negotiating about a balanced budget at a given time that we can all live with. We believe that time is 7 years.

The reality is that throughout the debate we have had to drag along the White House toward a balanced budget. I will not belabor it, but clearly the President produced a budget earlier this year that ignored the deficit totally. Only after we had our determined effort of many months did he put together a balanced budget—allegedly a balanced budget—put together very short shrift, a 21-page document, nine of which are graphs.

So, now the time is clear and it is right ahead of us. Sometime tonight or early tomorrow we will pass a historic document. It will already have passed the House. And then the President of the United States will have it firmly and squarely on his shoulders. I believe there is hope. I am ready to meet with budget leaders at the White House any time, so they might join with us in fashioning a budget that gets to balance in 7 years. I am ready to do it any time. But I believe it is far more important that, during the next 24 hours, we pass this one, which is our marker, our marker for this year and for the future. And I think just getting this budget passed will forever change the way we handle our citizens' tax dollars.

I believe we will have shown that excuses for a balanced budget are not justified. Excuses merely mean we do not have the guts to do it, or the courage to do it. But it can be done and it should be done. It may set the pattern for decades to come, that we do not spend—that we do not go in deficit in good economic times, that we pay our bills in good economic times so somebody else does not have to pay them, some other American who did not even vote on any of this because they were not around, or they were too little, or too young, or not born yet.

So with this background, I believe we have before us a real important event in American history. Later on, we will talk in more detail about what we actually did in Medicare and Medicaid and tax cuts. I will rely on others to give their versions of it, but clearly I will be here during the next 12 hours or so to give my version. Since I have tried as hard as I could to learn as much as I could about this, it is important to me that we get our message across and get it across well. I believe we will.

It is a pleasure working with Senator EXON. We do not agree on a lot of things, but I guarantee you, if Senator EXON and I were locked in a room and told to come out with a balanced budget that was good, we might shock some people. It might be right. For now, we are on other sides of the ledger, and I understand that.

Let me at the end of my remarks insert in the RECORD a document that I was anxious about the last 3 weeks. As we went through our conference and had to change a lot of things, I was very anxious that we get this one document from the authenticator of budgets, the Congressional Budget Office, headed by Dr. June O'Neill, and this was directed to me dated November 16: "Dear Mr. Chairman." In essence, it says this budget reaches a balance in 2002 and has a surplus of $4 billion. That is the story.

I ask unanimous consent that the letter confirming and ratifying that be made a part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 16, 1995.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the conference report on H.R. 2491, the Balanced Budget Act of 1995, and has projected the deficits that would result if the bill is enacted. These projections use the economic and technical assumptions underlying the budget resolution for fiscal year 1996 (H. Con. Res. 67), assume the level of discretionary spending indicated in the budget resolution, and include changes in outlays and revenues estimated to result from the economic impact of balancing the budget by fiscal year 2002 as estimated by CBO in its April 1995 report, *An Analysis of the President's Budgetary Proposals for Fiscal Year 1996*. On that basis, CBO projects that enactment of the reconciliation legislation recommended by the conferees would produce a small budget surplus in 2002. The estimated federal spending, revenues and deficits that would occur if the proposal is enacted are shown in Table 1. The resulting differences from CBO's April 1995 baseline are summarized in Table 2, which includes the adjustments to the baseline assumed by the budget resolution. The estimated savings from changes in direct spending and revenues that would result from enactment of each title of the bill are summarized in Table 3 and described in more detail in an attachment.

Sincerely,

JUNE E. O'NEILL.

TABLE 1.—CONFERENCE OUTLAYS, REVENUES, AND DEFICITS

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Outlays: Discretionary	534	524	518	516	520	516	515
Mandatory:							
Medicare[1]	196	210	217	226	248	267	289
Medicaid	97	104	109	113	118	122	127
Other	506	529	555	586	618	642	676
Subtotal	799	843	881	925	984	1,031	1,093
Net interest	257	262	261	262	260	254	249
Total outlays	1,590	1,629	1,660	1,703	1,764	1,801	1,857
Revenues	1,412	1,440	1,514	1,585	1,665	1,756	1,861
Deficit	178	189	146	118	100	46	–4

[1] Medicare benefit payments only. Excludes Medicare premiums.

Source: Congressional Budget Office.

Notes.—The fiscal dividend expected to result from balancing the budget is reflected in these figures. Numbers may not add to totals because of rounding.

Mr. DOMENICI. I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. Mr. President, I have listened with great interest to my friend and colleague giving his opening remarks in the debate. I would simply thank him for his kind comments, and I agree that we have worked together as friends, not always agreeing on all of the issues but at least we will continue in the future to work together, and eventually that relationship might be the basis for some kind of a workable compromise that obviously is going to have to come about, hopefully sooner than later.

Mr. President, since this budget was unveiled last spring—and we are just now looking at the final details of it that were presented to us for the first time last night as numbers were concerned—we happen to feel that the Republicans are asking the American people a question that was once made famous by Groucho Marx. Groucho said, "Are you going to believe what you see or what I'm telling you?" The American people see a budget that is unfair. They see a budget that showers tax breaks for those living on Easy Street but punishes those slogging it out on Main Street. They see a budget that bestows bucks to the wealthy but passes the buck to working Americans. They see the Republicans pledge to their Contract With America but break the promise of Medicare made to American seniors 30 years ago. They see a budget totally out of tune with the values of fairness and reasonableness that they hold so very dear.

But to this day the Republicans keep trying to spin this budget, blurring its hard edges and test marketing its language as if it were a new brand of cereal. But the American people can see through it all. The American people see that the Republicans have gone too far, too fast, and the American people are right.

I have spent as much time as any Senator arguing for a balanced budget and working for one. It has been an article of faith with this Senator. It has been an article of faith with this Senator and many others on this side of the aisle who are in general agreement with many Senators on the opposite side of the aisle in this regard.

I must say, though, that one of my biggest disappointments has been our inability to pass a balanced budget amendment to the Constitution. But there is a way, Mr. President, there is a right way to do it and there is a wrong way to balance the budget. Regardless of where it originates, it must be fair, and it must have shared sacrifice. This Republican budget falls flat in that regard.

The ugly truth about this extremist Republican budget is that it has no semblance of balance. The overwhelming majority of the mandatory reductions come from only two areas—the first are the means-tested programs that serve primarily low- and moderate-income Americans. The second is Medicare, where three-fourths of the beneficiaries have incomes under $25,000 a year.

Under this budget, ordinary Americans will pay more through higher premiums in Medicare, through higher student loan fees, through higher contributions for the GI bill benefits, and through cuts of a major magnitude, through cuts of a major magnitude in the earned-income tax credit. The Republicans keep turning the screws tighter and tighter and tighter on the ordinary Americans while opening the spigot of tax breaks for the wealthy.

The $270 billion in Medicare reductions are extreme. It is far more, far more than the $89 billion needed to retain solvency of the trust fund as recommended by the trustees. Obviously, when the Republicans had to make a choice between doing right for our parents and doing right for the rich, they, unfortunately, decided to sock it to our seniors to the benefit of the wealthiest of Americans. That is one of the main points that we are most concerned about with regard to this budget rescission that will be vetoed, fortunately, by the President.

The same is true with approximately $165 billion in Medicare reductions. How many of our most vulnerable neighbors will lose all of their health insurance? No one knows for sure but estimates have run as high as 12 million Americans will lose.

Rural America's fragile health care system could be shattered through the combined Medicare and Medicaid reductions.

Yes, the fix is in for distribution of the tax breaks. If you are making under $30,000 a year, your taxes are going to go up. The events of the past week are an absolute disgrace and do not bode well, unfortunately, for the future. The extremists have obviously hijacked the Republican Party, especially in the House, where there is no semblance of reason, fairness, or proportion. The House Republicans bared their fangs and they also bared their souls. No wonder the American people believe that Republicans have gone too far and way too fast. What our Nation needed was a simple extension, just this last week, a simple extension of the continuing resolution and the debt limit, a short-term bridge, one might say. What we got from the House were two bills loaded with so much junk that they looked like a truck from the Beverly Hillbillies. So what happened? The Government, unfortunately, is shutting down and default looms. The Republican majority seemed ready to turn Uncle Sam into a deadbeat dad.

What the Republicans did not tell the American public is that their very own budget reconciliation bill will require that the debt ceiling be raised from the present $4.9 to $6.7 trillion by the year 2002. And one of the biggest reasons for jacking up the national debt by $1.8 trillion is to help pay for the $245 billion break in taxes for the wealthy.

Every dollar, every dollar for tax breaks, will have to be borrowed or found from some other source, and the American people will have to cover the ever-increasing cost resulting from it in the form of interest.

Since the Republicans clearly need the debt ceiling to be raised to accommodate their budget, why, oh, why, then, did we have to go through this charade of the last week? The answer is an old one. Unfortunately, it is politics. The Republicans are trying to twist the arm of the President of the United States into accepting an unacceptable budget, which the President will not do. They are willing to push this country over the edge just to gain better purchase in upcoming negotiations. That is unacceptable also to this Senator. And I believe unacceptable to the American people.

In spite of all this acrimony over the past month, I still am not without hope. The essayist C.S. Lewis once said that "Our friends are not necessarily people who agree with us, they are people asking the same questions." I feel that way about many of my friends on the other side of the aisle, especially my friend and colleague for so many, many years, the distinguished chairman of the Budget Committee, Senator DOMENICI. For many years we have been asking the same questions about how to balance the budget.

Our time on the Budget Committee goes way back to those days when I first came here, when Senator Muskie of Maine was here and Senator Henry Bellmon was the ranking Republican on the Budget Committee. And I must say that I think looking back to those days, we both had great respect for Senator Muskie and for Senator Bellmon. And I think by and large during our tenure as the leaders of our two parties on the Budget Committee, Senator DOMENICI and I, with our differences, have had to try and carry on that bipartisan spirit as best we could.

For many years then, we, Senator DOMENICI and I, have been asking the same questions about how to balance the budget. This time we came to different answers. But in the weeks ahead we may come to an agreement because I say to all once again, when all the dust clears, and when all the rhetoric is over, then we are going to have to do the true heavy lifting by getting a budget that can pass the House and the Senate and a budget that will not be vetoed and will be happily signed by the President of the United States. That is going to be an enormous task under the obvious difficulties that face us. But in the weeks ahead, I suggest we must come to agreement.

In closing, Mr. President, we should not view compromise as a weakness. I have always viewed it as a sign of leadership and a sign of maturity. And I believe that is the way the American people understand it. We know this bill will be vetoed by the President. And in spite of the bullying and in spite of the ultimatums, there is no way the President will sign it. To this Senator the first compromise is clear, and it is compelling. The need is there.

We must get together and respond as quickly as we can. Both sides can continue this trench warfare as long as they want, leaving a scorched and desolate landscape. But in the end the heavy lifting, the compromise, mutual understandings are going to have to be reached, and I will be a part of that. If we do not do that, Mr. President, we are going to continue the chaos that we see in America today with the close down of the Government.

Mr. President, I will do all that I can, everything in my power, to help facilitate that process. And I am standing ready once again to do whatever I can to bring a measure of understanding to this body and hopefully in the other body to get on with the budget that is not going to be perfect, but a budget that could be workable and a budget that I feel can be formulated to balance the income and the outgo of the Federal Government in 7 years, as the chairman of the committee has so often stated is a necessity.

Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. GORTON. Mr. President, I yield myself such time as I may use.

Mr. President, in the eloquent and impassioned remarks by my friend, the Senator from Nebraska, outlining his reasons and those of the President of the United States for rejecting this historic proposal, the first proposal which offers to balance the budget in almost 30 years, one two-word phrase stood out, and I believe fairly summarizes his position and that of the President of the United States. That phrase was—and I quote—"simple extension."

Why would not the Republican Party grant to the President, the Democratic Party, a simple extension of what we have already been doing, a simple extension of the policies of the last 30 years, a simple extension of policies which promise us $200 billion deficits as far as the eye can see, a simple extension of a policy which was phrased elegantly in yesterday's Washington Post as "paying not just for the government we have, but for the government we had and did not pay for earlier?"

The policy of the President, the policy of the minority party in this body is to do just that, not to pay for the Government we have, not to pay for the Government we want, but to consume all of these societal goods and send the bill to someone else, in this case, to our children and to our grandchildren.

George Will put it in his column yesterday:

> Having sought in 1992 a mandate for an empty idea—"change"—he [that is to say, President Clinton] has come to the arguable conclusion that serious change is more trouble than it is worth. Never a martyr to candor, he will not make that argument. [But] still, he does represent a discernible notion of what the Federal Government ought to do—approximately what it is doing.

And between that idea. simple change, that the Government ought to continue to do approximately what it is doing, and the ideas presented in this budget, there is, Mr. President, a great gulf fixed. We do not stand for a simple extension. We do not stand for a Government which continues to do what it has been doing. We stand for a Government which provides no more in services than it is willing to pay for.

The road to that conclusion, seemingly too radical for our administration or our friends on the other side of the aisle, is, according to them, fraught with great difficulty. But, in fact, of course, Mr. President, it does not mean that we must cut the budget. The budget of the United States will increase by 3 percent in each and every year from now until the budget is balanced. It does not mean that we will cut Medicare. Medicare will grow at almost 8 percent a year—interestingly enough, at a slightly greater rate than it would have grown had we adopted the President's proposals for Medicare that were a part of his health care bill just one short year ago. Yet, this course of action is denounced as inhuman, as impossible, as literally throwing millions of Americans into poverty, principally, I suspect, because to argue its specific content would be to show the shallowness of the opposition to this set of ideas.

Now, is the proposal which has been laid before us by our wonderfully distinguished friend and colleague, the senior Senator from New Mexico, in pursuit of nothing other than some form of ideology that says it is nice to have two columns of figures balanced against one another? If that were the case, arguments against it might have some fairly considerable validity. But that is not the case.

It is this business as usual, this simple extension that caused every American, no matter what his or her age last year, to pay an average of some $800 in taxes just to cover interest on the national debt; it is this simple extension which causes an American born today to inherit an average debt of some $187,000 during his or her lifetime just to cover interest on our national debt; it is this simple extension, this love for the status quo that, according to the Concord Coalition, headed by two former Members of this body, one from each party, to report the debt and deficit spending has lowered the income of American families by an average of $15,000 per year—$15,000 per year, Mr. President; and it is the fact that the proposal that is before us today is believed, by a very conservative Congressional Budget Office, to have such a positive impact on our economy that the Government of the United States itself will be $170 billion better off by the year 2002 than it will be if we grant a simple extension.

That $170 billion is a small figure compared to the half trillion dollars or more by which the American people will be better off because of better job and career opportunities, higher incomes, lower interest rates on the homes and the automobiles, and the other goods and services that they buy on a time-payment basis.

Those are the reasons, Mr. President, that this proposal is before you. Those are the reasons that this proposal represents such a dramatic change in course, as the Senator from New Mexico reported earlier. In fact, it is perhaps even a greater change in course than he expressed.

He reported, as we have frequently, that the last time the budget was balanced was the year 1969. But balancing the budget in 1969 required only modest changes from budget deficits of the previous years. This deficit and this simple extension does require a degree of political courage and a change of course that has not been matched in the memory of any Member of either House of the Congress of the United States; not matched by my party in the early 1980's; not matched by the other party ever, as far as we can tell.

We are told that this is too much too fast, and the fundamental rationale behind that conclusion is that while a balanced budget may be a good idea in the abstract, not now, not on our watch.

Mr. President, I dredge up into my memory some of my reading in college about St. Augustine, who was reported to have written, and I paraphrase, "Grant me repentance and a new life, O Lord, but not now." That, I think, is the view of those on the other side. The President now, for today at least, holds the belief that maybe we can balance the budget in 10 years, a period of time at least 5 years beyond the end of any term which he could constitutionally hold as President of the United States.

"Lord, let me repent and grant me a new life, but not now, let someone else do it at some later time." That is the difference between the positions represented by this responsible budget which offers a dividend to the American people and their Government of almost a trillion dollars and the course of action advocated by my friend from Nebraska, and I quote, "simple extension." We are not for a simple extension; we are for a new and better course of action.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from California.

Mr. DOMENICI. I wonder if the Senator will permit me 30 seconds.

Mrs. BOXER. Absolutely.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me comment for Republican Senators, we are trying to accommodate everybody who wants to speak. If you could send down your names and give us some idea when you might be available in the next 3 or 4 hours, we very much would like to accommodate you because we do want people to express themselves. We have a lot of time. If you can do that, bring it down to the manager's desk and we will try to work it out to everybody's convenience.

I thank the Senator from California.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. Thank you very much, Mr. President. I am glad as a member of the Budget Committee that we have finally gotten to this point where we have the reconciliation bill before us, because if ever there was a difference between the two parties, this is the time and the place for all America to see it. And those people who say there is no difference between the parties ought to listen to this debate, because there is a huge difference between the two parties. Both want to balance the budget. The question is, how do you do it? That is the issue. That is why our President has taken such a firm stand and has not blinked and has not wavered, and has said, in fact, that he could not possibly be President of the United States if these values of the Republicans—these radical priorities of the Republicans—prevail.

It is a tough fight. We are all tired. Many of us are very tired. There are a lot of workers today, American workers, who are not getting paid because of this fight. Of course, every one of the Senators is getting paid. Essential workers, who are working, are not getting their paychecks now. But every Senator is getting a paycheck. This Senate voted twice for the Boxer bill—the no budget-no pay bill. It passed unanimously. But Speaker GINGRICH is stopping it from coming up in the House, and now we are having trouble right here in this Chamber. Senator SNOWE, a Republican Senator from Maine, has a very important bill to treat us like every other Federal employee. She is being blocked from bringing it up, for whatever reason. Senator SNOWE and I are going to continue to try to bring it up because it is very interesting that people around here can dish out the pain, but their families do not have to worry. I heard one colleague say, "I cannot do that, I have a mortgage to pay." That is right. So does every other Federal employee out there. The ones who were told to go home wanted to work. They have kids that they love and they are not getting paid. So, yes, this is a very painful fight. It is painful for a lot of people. I know that every single Senator in the U.S. Senate, be he or she Republican or Democrat, has stated in speeches that America is "the greatest country in the world."

This is the greatest country in the world. Why? Because of the genius of the American people, because of the strength of the people who would lay their lives down for this country, because of our great democracy, which is the envy of the world. But also because of our Constitution.

I am going to read the preamble to the Constitution. When we get elected to this office, be we Republicans or Democrats, we raise our right hands to uphold this Constitution. I want to read the preamble, which is the reason for our Government:

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

That is our guidance. That is what we are supposed to do—provide for the common defense, establish justice, insure domestic tranquility, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity. That is why we are the greatest Nation in the world because, all through the years, in a bipartisan way, we have worked to ensure those words.

Now, I believe in my heart of hearts—and I do not know whether it is popular or whether it is unpopular—that this budget that is before us—and I tried as a member of the Budget Committee to make it better, along with my ranking member, JIM EXON, and the other colleagues on that committee—is a radical departure from many years of bipartisanship. This budget is a radical departure from bipartisanship. It destroys, in my view, what has made us the greatest country in the world—values. Values, where we say it is, in fact, important to invest in our children and their education; that it is important to invest in environmental protection. Just look at Eastern Europe when they tore down those walls. It was so polluted, they could not have economic development. But, in a bipartisan way, we passed environmental legislation.

This budget guts education, guts environmental protection, guts protecting our senior citizens. I have been on this floor and debated this with my colleagues, and the script that they have over on that side of the aisle is very clever. "We are not reducing Medicare, we are saving it." Well, the senior citizens know better. I ask you, who do you believe? Speaker GINGRICH, who said Medicare should "wither on the vine"? The Republican majority leader, who said, proudly, a month ago, "I led the fight against Medicare?"

If people in this country believe that the Republican Party, by cutting Medicare by $270 billion when the trustees tell us you have to cut $89 billion—if the people of the United States believe that is the party that is going to protect Medicare, then I say: Read history—not ancient history. Go back to the sixties when this program was formed. It was the idea of Harry Truman. It passed during Lyndon Johnson's days.

You know what? The last time we had a surplus was when Lyndon Johnson was President. When the Republicans took over from Jimmy Carter in 1980, I remember when President Reagan turned to Jimmy Carter in a debate and said, "There you go again." He said, "I am going to balance the budget in 4 years." They added more to the debt under the years of Ronald Reagan and George Bush than in all the years from George Washington up to Jimmy Carter. They would have you believe that they are the ones who have always been fiscally responsible.

Ask them why they increased military spending $30 billion more than the Pentagon asked for. Suddenly, their credentials for cutting budgets fly out the window. When it comes to Star Wars, go, go, go—even though the cold war is over. The weapons systems that were drawn up by the Pentagon so we would be prepared to fight with the Soviet Union are not going away, they are coming back.

Fiscally responsible people. When it comes to gutting Medicare, oh, yes, they are fiscally responsible. They gut it. When it comes to cutting Medicaid, education, the environment, oh, we are tough. But not when it comes to the Pentagon.

When it comes to raising taxes on the people who make under $30,000, they are tough. We will get more money from those people. That is what they do in this budget. If you earn over $350,000, you get back $5,600 a year. What is the matter with this picture?

David Gergen, a Republican, says this Republican budget is harsh. Why does he say that? Because 80 percent of the cuts go to the bottom 20 percent of Americans and 80 percent of the benefit goes to the top 20 percent of Americans.

That is the vote we are going to cast here on this reconciliation bill.

Speaker GINGRICH says it was his intuition—I am quoting him—that led him to a 7-year balanced budget. The President says if we go to 8 years, 9 years, we can soften the cuts.

I hope once this bill is vetoed that there will be some compromise. We were sent here to keep the Government going, to pass a budget. We have to get down to doing just that.

Let me give, in closing, because I see other colleagues have come over to the floor, in very quick version, the top 10 outrageous aspects of this GOP reconciliation conference report.

First, the GOP uses about $270 billion cuts in Medicare to pay for a $245 billion tax cut for the wealthy. They are taking the Medicare fund, they are gutting it, and taking the money and giving it to the wealthiest of members. That is probably the top outrage.

Second, the GOP increases taxes on working families by $32 billion. Outrage No. 2. In other words, a majority of people under $30,000 a year get a tax increase in this budget.

Third, the GOP drastically cuts the corporate alternative minimum tax. Do you remember the 1980's when we had lists of corporations that paid no taxes? We fixed it by writing the alternative minimum tax. Some of these corporations actually got refunds—got refunds. We fixed it. This budget reconciliation package takes us back to those bad old days.

Next, the GOP permits corporate raids on pension funds. Can you imagine, you save for your retirement, and in this bill corporations can go in and essentially take your money. The money that you put away every month, and you look at it, how is it growing, how is it going, how is it doing—they can go in there and take that money. That should be disallowed. So we outlawed that. It is back.

While giving tax breaks to the wealthy, the GOP cuts child nutrition.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Massachusetts.

Mr. KENNEDY. Will the Senator yield?

Mrs. BOXER. I am happy to yield to the Senator.

Mr. KENNEDY. Does the Senator find it somewhat amazing that on many of these issues like billionaires' tax cut, over 90 Members of the Senate, Republican and Democrat alike, voted to change that particular provision, and then when it goes over to the closed doors and closets of the Republican conference it comes back in?

Does the Senator remember when we voted 94–5 not to permit the corporate raiders to rob the pensions? We passed that, Republican and Democrat. It goes over to the conference and it comes right back again. We did that on the discounts for drugs for Medicaid and for public hospitals. It went over and came right back again.

Double billing—to try and collect for seniors who are on Medicare from being charged again. Struck out in conference. Our conferees retained the current law. We passed it, it goes over there, and it comes back again.

Does the Senator reach the conclusion with me that our Republican friends, when it is out in the sunlight they respond to the public interest, and when they are behind the closed doors they have the private and special interests? That is what we are dealing with.

Mrs. BOXER. The Senator is exactly right. When it comes to the corporate raids on pension funds he is right. We voted in a bipartisan way to stop that. Guess what happened? In this conference report, corporations would withdraw as much as $20 billion from pension funds—up to $20 billion. These provisions were avidly sought by corporate lobbyists, but many pension experts warn it could endanger the security of the pension funds.

In the light of day they all walk the walk and talk the talk but get behind close doors, there it goes. Everything we fought for on this side goes out the window.

I say to say my friend from Massachusetts who fought hard on this, and my friend from Minnesota, these are issues they brought here.

That is why I am reading these 10 outrages because suddenly things we fixed are back here again. There are 10 reasons—there are many more than that—but these are the 10 outrages in this reconciliation bill.

Here is another one. While giving tax breaks to the wealthiest among us, the GOP cuts child nutrition programs, including school lunches, by $6 billion. Is it no wonder that this President is taking such a strong stand?

Next, while giving tax breaks to the wealthy, the GOP cut student loan program by $5 billion, including rolling back direct student loan program to 10 percent of the loan.

My friend from Massachusetts has stood up here on his feet hour after hour, making the point that the direct loan program means more dollars for the students and cutting out the middle man, if you will. It is very important that we not shut down the direct loan program. They keep it going only for 10 percent of the loans. All the hard work my friend put into this is out the window.

Next, in its Medicaid repeal provision, the GOP eliminates the guarantees of nursing home care for seniors who have exhausted their assets. Imagine such a thing—imagine such a thing.

Of course, there is more on that. We know they have weakened nursing home standards as well.

In its Medicaid repeal provision, the GOP eliminates the guarantee of help with Medicare premiums for low-income seniors.

Next, the GOP protects physician fees under Medicare from any actual reductions while at the same time doubling seniors Medicare premiums. We saw that happen. Suddenly the AMA says, "We will back the plan," because they cut a deal at the expense of seniors. Their fees are going to be just fine, but Medicare premiums are going to double.

How about this: The GOP opens the Arctic National Wildlife Refuge to drilling in this bill. Imagine drilling for oil in a wildlife refuge. It is an unbelievable thought. Why is it a refuge if you are going to allow drilling in it? It makes no sense. But it is in this bill.

I just add, as a California Senator, what else is in this bill? They slipped through a provision—follow this one, my friends—that would allow for the transfer of 1,100 acres of land to Pete Wilson in California, the Governor of California, who is going to take it for $500,000. Mr. President, 1,100 acres of land, what a giveaway, for a nuclear waste dump, and it is slipped into this bill. What an outrage that is, and what another reason for this President to veto this.

While they transfer the land, they say, "Waive all environmental laws. No environmental laws will apply." So imagine, I say to the American people who may be watching this, you wake up one day and the next day you have a nuclear waste dump next door to you and all the environmental laws have been waived on it. You cannot even go to court. That is another outrage, a particular California outrage that is in this bill.

So, let me say, if ever people wonder why there is a difference between the two parties, it is synthesized in this budget. And I pray the President will have the continued strength to take the heat.

The Speaker of the House said one of the reasons you got such a tough time here is because the President did not talk to me on Air Force One. Unfortunately for the Speaker, there are pictures that show that not only did the President go back there—here is the picture—but he was intently listening to Speaker GINGRICH. And at another time, the same way.

This is Speaker GINGRICH clearly holding court on Air Force One. He complains he was treated unfairly. I say to Speaker GINGRICH and the people who follow his lead around here, you ought to start thinking of the American people, not the fact that you wanted to spend 3 hours with the President instead of an hour and a half, or you went out of another door. You are not the President of the United States of America.

Mr. LEAHY. Will my colleague yield for a question?

Mrs. BOXER. I will be happy to yield to my friend.

Mr. LEAHY. If I might, just for 3 minutes, and I have spoken to the Senator from Minnesota here who I know wishes to speak, but I would ask this question. When I look at this, I look at this vote as being one of the most significant I will cast in the U.S. Senate. Would my colleague not agree, this is a bill that will punish Vermonters?

It will punish the Vermont economy for years to come. It imposes a radical agenda on the American people that will squeeze the middle class, hurt the poor, and reward the rich.

In my State, I would say, we want a balanced budget. I want a balanced budget. Most Vermonters—Republicans, Democrats, Independents—want a balanced budget. Vermonters want a balanced budget, but they do not want it under an agenda that wipes out most of them. They want an agenda that speaks to all of them.

But this balanced budget is NEWT GINGRICH's agenda. It is not Vermont's agenda.

Would the Senator from California agree with that?

Mrs. BOXER. Clearly, it is his agenda. A lot of it is based on intuition, is what he told the press.

Mr. LEAHY. Will the Senator agree this extreme measure forces working Vermonters to pay more in taxes, makes it a lot harder for them to send their children to college, makes it harder for them to have a safe nursing home for their parents, and that average Vermonters will be making these sacrifices, not to balance the budget, but to pay for tax breaks for the rich because it will give the wealthy $245 million in new tax money? Will the Senator from California agree with that?

Mrs. BOXER. My friend is so right. He has a small State. I come from a large State, more than 30 million people. So, I say to my friend, imagine, if you took Vermont and put it into California, and you had many Vermonts to make up all of California, that is what this Senator is feeling. Because for each Vermonter that gets hurt, many more Californians get hurt. So I totally agree with my friend.

Mr. LEAHY. Mr. President, I would say I ask this question to the Senator from California because she represents the largest State in the Union while I represent the second smallest in population. The distinguished Presiding Officer, of course, represents the smallest in population, although one that in land area encompasses our State many times over.

I would also say, if I might, I have traveled many times in the State represented by the distinguished Presiding Officer. It is one of the most beautiful places. Were I to live somewhere other than Vermont, it would appeal to me.

I raise these questions because we have a 2,000-page bill and, whether you are from a large State or a small State, you have to ask what it does. The bill will cut Medicare by $271 billion over the next 7 years; it will cut payment rates to providers and hospitals; it will make seniors pay higher premiums; it will increase deductibles.

In Vermont, 73 percent of our elderly population have incomes of less than $15,000. These are things—in a small State like ours, I do not know how we could possibly handle it.

Average Vermonters must make these sacrifices not to balance the budget, but to pay for tax breaks for the rich. This bill gives the wealthy $245 billion in new tax breaks. The wealthy do not need these tax breaks and we cannot afford them.

The bill's unnecessary cuts in Medicaid, Medicare, student loans, and school lunches will send the Vermont economy reeling. This is the wrong way to balance the budget.

At a time when many working Vermonters are struggling to make ends meet, this budget would hike Federal taxes on low- and moderate-income working families by cutting $32 billion from the earned income tax credit—a program the rewards work and compensates for low wages.

This Federal tax increase also would raise State taxes in seven States, including Vermont, that have a State earned income tax credit. As a result, 27,000 Vermont working families earning less than $30,000 a year would be forced to pay higher taxes. This is a double whammy for working families.

This budget bill would leave my home State in an economic crisis for years to come.

I would say, as I have been saying since June or July on this floor, let us come together, Democrats and Republicans. Let us forge a bipartisan consensus that will balance the budget but gives educational opportunities to our children, allows us to have safe nursing homes for parents, gives opportunity for working people.

I thank the Senator from California for doing me the courtesy of making these points. I appreciate it.

Mrs. BOXER. I thank the Senator for his questions, and I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I yield such time as the Senator from Mississippi requires.

Mr. LOTT. I thank the distinguished Senator from Washington State.

Mr. President, first, I would like to express my sincere appreciation for the great work that has been done on this very important legislation, the Balanced Budget Act of 1995, by the chairman of the Senate Budget Committee, the Senator from New Mexico. Senator DOMENICI has been prepared for this moment by many trials of fire. He has been through the budget battles for 15 years at least now. They have always been tough, but none have been as tough or as important as this one. There is no question, without his experience and without his dynamic leadership, without Senator DOMENICI we would not be here today. I want the record to reflect my sincere appreciation for his work, and also for the outstanding work done by Senator ROTH, who is the new chairman of the Finance Committee. He moved into that chairmanship at a very critical time. He quickly got on top of the issues and has provided genuine leadership in producing a big chunk of what is in this balanced budget bill.

Of course, I want to recognize the majority leader. Senator DOLE has put many, many hours into this effort. As the negotiations on the conference report went forward, he was there and met with the conferees and subgroups and spent literally hours making this possible. So I commend those three gentlemen for their outstanding work.

Many staff people have been involved in it too, and many Members on both sides of the aisle have worked in good faith to try to come up with a genuine balanced budget.

Finally, we are getting to what this whole year has been about. Finally, after missing the target many times, the Washington Post this morning got it right. The Washington Post reported, "Clinton reiterated his opposition on the grounds that it cuts spending too deeply and commits him to balancing the budget in seven years." That sums it up. That is what we have been going through here for the last few days—in fact, all year. The President wants spending increases in almost every program, and he does not really want a balanced budget.

With this bill he is going to get the balanced budget he doesn't want. He will get an opportunity to sign it and confirm that he in fact means what he says when he says he is for a balanced budget, for changes in Medicare, for welfare reform and even for tax cuts. He has advocated those, too, on occasion. Or, if he vetoes it, then we will have to wonder, what does he really mean when he says he supports those goals?

But, in the end he is going to have to sit down together and talk. We are going to have to come together, and we are going to have to come to an agreement. The agreement will be that we are going to have a balanced budget in 7 years. I think that, finally, Republicans and Democrats alike now acknowledge that is what we are going to do.

The question is: how do we get there? I am sure the priorities will be argued over as we go forward, but we are setting our priorities here today. We are setting out in this Balanced Budget Act of 1995 what needs to be done. I am very proud that we have stepped up to the task, and we are going to achieve it in a responsible, honest and fair manner.

This balanced budget is accomplished by controlling the rate of growth of spending. How many times will we hear from the other side that this program is being cut, that program is being slashed? They keep missing the fact that, in getting the budget under control, what we are really doing is not cutting and slashing programs; what we are doing is controlling the rate of growth.

Mr. KERRY. Will the Senator yield?

Mr. LOTT. The American people would be shocked to find out, as a matter of fact, even with this balanced budget, there will still be an annual growth of 3 percent in Government spending.

Let me say that again. Federal spending will grow at an annual rate of 3 percent.

So how do you call it a cut when you have a growth, even at a time when we are moving toward a balanced budget?

Let me ask the Senator to let me continue. I waited a long time, and I have a meeting I am supposed to attend in just 10 minutes. Let me continue for a few minutes, and I will be glad to yield, get in a dialog with the Senator from Massachusetts, unless he just wants to ask a unanimous-consent request or something.

Mr. KERRY. Mr. President, I did want to ask the Senator a question, but I appreciate that.

Mr. LOTT. Let me continue for a few minutes. We have a time agreement and we want to make sure we keep it even. We are a little bit behind time. Let me go ahead, and I will yield in a few minutes, if the Senator would not mind. I would be glad to get into a discussion with the Senator from Massachusetts because I know he is interested in this, and I know he wants to help find a way to get to a balanced budget.

But let me make some points we have not heard yet in speeches that have been given. And I think it is important we get them on the record.

This is where you put up or you shut up. My friends, this is it. Now, are you for a balanced budget or not? A dozen or more Senators on the Democratic side have voted for a constitutional amendment for a balanced budget. You voted for it. Not all of them this year, but some this year and some in previous years. Maybe they were for it some years and not this year. And every Republican has voted for balanced budget constitutional amendments.

Also, this very week the former chairman, now the ranking Democrat member of the House Budget Committee, stood up and said he was for a balanced budget in 7 years. Many of our colleagues over here on both sides of the aisle have said they are for a balanced budget. Well, when and how? What we hear over and over again is, oh, yes, we are for a balanced budget but not here, not there, not somewhere else.

My friends on the other side of the aisle, you cannot get there unless you are willing to step up to the task of controlling the rate of growth of spending or by raising taxes. Oh, and you have demonstrated that you know how to raise taxes. This is where you get a chance to vote for real spending control that will get us to a balanced budget.

Where is your plan? No, you do not have a plan. All you say is you cannot do it here; you cannot do it there. A few of you did try an alternative. It got, I think, 19 votes in the Senate—19 votes. In the House there were a few remaining Democrats that said, hey, we have to have some alternative. Congressman STENHOLM from Texas and I think maybe even the former chairman of the Budget Committee over there, Congressman SABO, did have a package that got 80 votes. And they had some good proposals in there. At least they had a proposal.

Mr. CONRAD. Will the Senator yield for a question?

Mr. LOTT. Just for a brief comment. As I said earlier, if I start yielding, I am never going to get to make my remarks. I listened patiently while the Senator from California, Senator BOXER, went on at great length.

Let me make my remarks, and then I will be glad to yield.

I believe the Senator is one of the Senators who did have a proposal. I think it got around 19 votes.

Mr. CONRAD. Mr. President, I would just say that we had two proposals. One got 39.

Mr. LOTT. Thirty-seven.

Mr. CONRAD. Thirty-nine out of forty-six Democrats for a balanced budget.

Mr. LOTT. Good. I would like to hear you at least say how you would get there. And, of course, what they always say is, "Cut defense, cut defense, cut defense." We have been cutting defense. It is going to take a little more than that. So I think maybe it is important I get to the details of how we achieve a balanced budget.

It is achieved by controlling the rate of growth throughout the Government. Every committee in the Senate has had to face up to this task, and it is never easy. Every committee, from the Commerce Committee to the Interior Committee to the Defense Committee, has had to come up with its allocated savings, and we have done it. So it is throughout the Government. We will have a decreased rate of growth in spending on interior, defense, agriculture—something I do not particularly like, but, yes, agriculture had to ante up, come up to the table and kick in a little bit—energy. Everybody has had to participate.

Now, let me talk about education. So many bits of misinformation are being put out in that area. Education is not being gutted. In fact, the Senate language was accepted in this conference report. That language was accepted with an amendment on a bipartisan vote, as I recall. That language prevailed. I wish to emphasize this, too. There will be no direct student impact. Now, some banks will be impacted, maybe some institutions, but not the students. Who are my friends on the other side of the aisle really standing up for? The students will not be impacted.

We do control the rate of growth in Medicare. It needs to be done. You cannot have a program that grows 10 percent or more every year over the previous year. I wonder, is maybe a growth each year of 7.7 percent enough? I wish to emphasize that. Under the MedicarePlus Program in this bill, Medicare will grow at a rate of 7.7 percent. That is an increase in case "grow" is not clear enough. It will go up.

It was alleged a while ago that deductibles will go up. That is inaccurate. Deductibles are not touched in this package. What we do is control the rate of growth.

As a matter of fact, the individual per capita Medicare will increase from $4,800 today to over $7,200 in the year 2002. Now, you can only demagog Medicare and scare elderly people so long. But they understand that there are some improvements that need to be made in the program. We must step up to the needs of Medicare so it will not be insolvent or eventually bankrupt. We have to make some decisions that will allow more choice in the Medicare Plus Program, and that is what we have done in this bill.

We have dealt with Medicare's problems; we have preserved it; and in fact, we sincerely believe we have improved it.

With regard to the MediGrant Program, previously referred to as Medicaid, that, too, will grow. As a matter of fact, the MediGrant Program will grow from $90 billion this year to over $127 billion in the year 2002—a 5.2-percent average annual increase.

Now, how can you scream and holler that we are cutting the program when in fact it is going to grow from $90 to $127 billion—5.2-percent average annual increase. And the same is true with programs serving the needy. Those programs will grow over the period of this balanced budget effort from $98.2 billion to $132 billion—a 34-percent increase in the next 7 years for programs serving the needy.

My friends, we are making tough choices, but we are making sure that the Medicare Program is going to be there and will grow to serve the people like my mother and my family, my children I hope. The same is true with Medicare and the programs serving the needy.

Let me talk about another Medicare issue, something that I am sure is going to get neglected. I have seen statistics—and I believe it is true—that as much of the money that we spend for the Medicare Program, as much as 10 percent of it may actually be wasted through fraud and abuse. We all know there is a problem with that. And there is an effort in this exercise to deal with that problem. That is a significant amount of money that we can save or redistribute to the elderly that really need the help.

All through the day I am sure the bulk of the debate will be about the balanced budget effort, and it should be, but there will be a lot of effort to distort—distort—what we are trying to do with giving some tax relief to the working people of America.

It is a novel idea, I know, letting the people who work and earn the taxes keep a little bit of their money. Novel, but it is something that I would like to see happen. There are those who say, "Well, that won't benefit the poor." If you are not working and paying taxes, how can you get a little tax relief? That is what we have the needy programs for, for those who are in that category. But I am worried about the shipyard worker and the paper mill worker and the farmer, the young businessman, young entrepreneur who wants to make a little money and create some jobs; give them a little incentive. But I wish to go down the list and talk about what is really in this bill.

First of all, even with the $245 billion tax relief in this package, Federal taxes will still increase from $1.4 trillion to $1.9 trillion. So we give a little tax fairness, a little tax relief and yet Federal taxes will still grow dramatically, way too much, in my opinion.

I do not guess you talk to the same constituents I do. When I go home, people hammer me and complain about how hard they work and how much they are paying for taxes. They want a little relief.

It is easy to say, "Oh, yes, we can't have these terrible tax cuts, you know, for the wealthy." But let me ask my colleagues on the other side of the aisle, which one of these programs it is you are really against. You indict it en bloc. But look at the specifics in the bill and tell me what it is you do not like.

Do you not like giving some relief from the marriage penalty? How many of us stood up over the years in the House and the Senate and said, "The marriage penalty, how unfair. How can it possibly be?" You get penalized if you get married. Do you want marriage penalized or not? Are you opposed to that? I do not think you will stand up and say that, not a single one of you.

How about a spousal IRA? Why should the homemakers working in the home be able to have an IRA like everybody else in America? We are all for that. "Oh, yes, we're all for that." Sure. OK. So, we will accept that.

Are you opposed to the adoption credit? Would you not like to give people a little incentive, a little help in adopting children? Oh, yeah, you would like that. How about the deduction for custodial care? You probably like that, too. Do you think that individual retirement accounts are a good idea as a whole, especially if it is the super-IRA that allows you to use, without tax penalty, your IRA for your first home mortgage, for education, or medical expenses? I will bet you like that. And also, by the way, it is limited to the middle-income people, not to the wealthy.

I would like to see everybody entitled to have more IRA's. They encourage something we need in America. It is called more savings. We go over to meetings with parliamentarians from other parts of the world, and one of the things we hear about our problems from economists, and everybody else, is Americans do not save enough. It is because you get penalized in America if you try to save. So we have some additional consideration for individual retirement accounts.

We have in this bill a deduction for student loan interest. Anybody want to stand up and oppose the deduction for student loan interest? No. Even the President wants more than that. He wants us to be able to deduct all of the expenses for education. Frankly, I like that idea.

But as you go down this list, and this tax cut, what we are talking about is putting some fairness back in the code, getting rid of some of these things, like the marriage penalty, and creating some incentives to encourage savings.

And the capital gains rate. If we cut the capital gains tax rate—and we are going to do it in this bill—it will have a tremendous impact on growth in the economy. So many of us now get so deep into argument over spending and the balanced budget that we forget to talk about, how do we get some continued growth in the economy? How do we create jobs? It is great to talk about welfare reform with work required at the end, but what can we do to help ensure that there are jobs being created? The capital gains rate cut is a little relief by cutting that capital gains rate down to 18.9 percent.

The President says he is for that. And that is not hearsay. He has told this Senator, personally, "Yes. I like the capital gains tax cut." And I believe he still thinks that. Maybe we will not know for sure until later. But if you want to complain about a capital gains rate cut that might go to some people that are making use of it, including people that just maybe want to sell their home and are entitled to a little break there, I do not believe you want to really stand up and oppose that.

We provide some relief in estate taxes. I have never understood how we got into the process of taxing death. Why should a couple that works all their lives when they die have their estate taken away because of ridiculous, excessive, in my opinion, estate taxes that should not exist at all? We provide a little estate tax relief for family-owned businesses and farms.

So if you go through this whole tax cut package, we have a special low-income housing tax credit that is included in this package. Medical savings accounts—I think this is a great idea. Give people some incentive, a little encouragement, to have a medical savings account on their own.

This is a good package. And it is going to provide more fairness to the Tax Code and going to create growth in the economy. It is an important component of this whole package. I really do frankly think that the growth estimates that we are dealing with are low. I think we are going to have more growth.

I think the package is going to contribute to an explosion of activity in the economy. I think there is going to be more growth than we are now projecting. But I do not want to spend it before we get it. Let us see what happens. If we get down the road a couple years and everything is doing great, because we had the courage to pass a real tax incentive package, then we can have maybe another unusual idea—let the people who pay the taxes get a little bit more of their money back.

So my colleagues, I think a good job has been done here. I think it is time to quit whining and growling and pointing fingers. We have been through all of that.

This is a good and balanced package. Let us get it through. Let us go ahead and pass it as we are going to do tonight, and I hope with some Democrat support. I think maybe we will. And let us see what we can do to get it signed into law and have, for the first time in my 23 years in Congress, a balanced budget proposal that will actually get us to a balanced budget in a reasonable period of time, 7 years.

Mr. President, I would be glad to yield to the Senator from Massachusetts at this point. I would like to ask, at the suggestion of the floor leader, at this time that it count against the other side's time so we can keep a balance. Under these rules, we only have 5 hours each. So, would the Senator from Nebraska yield a little time to the Senator from Massachusetts, if he would like to ask questions?

Mr. EXON. I would not object to yielding. I would simply say that this is a very difficult position that I am in. We have plenty of time, but we have an awful lot of Senators wanting to make a speech that I think is very, very important. Therefore, I do not believe I would be interested in yielding any significant amount of time because there have been several Senators that I have stacked up waiting now.

How much time would it take to ask the question of the Senator from Massachusetts?

Mr. KERRY. One minute.

Mr. EXON. I am pleased to yield 1 minute.

Mr. LOTT. I will be glad to respond.

Mr. KERRY. I simply would like to ask my colleague, how he can persist in the myth that there is not a cut, when you unilaterally take a certain amount of money that is available for a fixed set of benefits and you cut that amount of money, even if it still is only a reduction in the rate of growth? How is it not a cut, if the growth in the population of people expecting those benefits continues at a rate that exceeds what is provided in your budget? How is that not a cut?

Mr. LOTT. The Senator said it himself, "even in those areas of growth." It goes from $4,800 to $7,200 over the 7 years. In the Medicare-Plus program that is a growth any way you slice it. But also we are not just dealing with numbers. We are also making programmatic changes.

We are trying to give incentives for people to find ways to maybe get Medicare at less cost. That is the idea behind the medical savings account. And that is the idea behind encouraging people to take advantage of whatever it is, the physicians services organizations, HMO's. A whole variety of new ideas can be pursued through this legislation. And also we believe we can just—and in a bipartisan way—have a process to get at the fraud and abuse. That is 10 percent of the cost of this program that we can then use to help the people that need the help in the Medicare area.

Mr. KERRY. I wish we had time to pursue it. I do not now, but I will when I speak.

Mr. LOTT. I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, I would like to get some order now if we could. We have plenty of time, but we are having difficulty meeting the schedules of the individual Senators. At 3:15 we had this list in their order of appearance on the floor: Senator WELLSTONE, Senator BOB KERREY, Senator KENNEDY, Senator DORGAN, Senator CONRAD, Senator John KERRY and Senator PRYOR.

Senator WELLSTONE will be first. He has indicated to me that he would like 10 minutes. May I inquire of the other Senators about how much time they would take when I yield, so the other Senators would have some idea of time.

Mr. KENNEDY. Fifteen minutes.

Mr. EXON. Fifteen. All right.

Mr. CONRAD. I would like 15 as well.

Mr. EXON. Fifteen.

Senator DORGAN, 15?

Mr. DORGAN. Yes.

Mr. EXON. Does Senator CONRAD ask for 15?

Mr. CONRAD. Yes.

Mr. EXON. Senator JOHN KERRY, 15?

Mr. KERRY. Yes.

Mr. EXON. Senator PRYOR?

Mr. PRYOR. Fifteen.

Mr. WELLSTONE. Can I say to the Senator from Nebraska, I will try to do 10. If I go a little over—why not put 15? Put 15 and I will try to do 10.

Mr. EXON. You bid first. I ask unanimous consent at this particular time, upon recognition from the Chair, that the following Senators be recognized in this order charged to our time: Senator WELLSTONE, 10 minutes; the following Senators 15 minutes each: Senator BOB KERREY, Senator KENNEDY, Senator DORGAN, Senator JOHN KERRY and Senator PRYOR.

Mr. WELLSTONE. Mr. President, true, I was here waiting for a long time. I would like 15.

Mr. EXON. I correct the RECORD. The only change is the Senator from Minnesota gets 15 minutes instead of 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair. Mr. President, as I listened to my colleague from Mississippi—and I am really sorry he is not here, and the reason he is not here, he has other work to do. We speak and we leave. He is not here because he is unwilling to be engaged in debate. He certainly is.

In many ways, I think this debate goes way beyond the whole question of a balanced budget, since I think all Senators believe we ought to pay the interest off on our debt. But I am reminded of David Stockman's book in the early 1980's, and I think this Gingrich agenda is not really about balancing the budget. I think it is about overturning 60 years of people's history, because if it was about balancing the budget, there would be some standard of fairness.

If it was about balancing the budget, you would have military contractors that would be asked to sacrifice and would be asked to tighten their belt.

If it was about balancing the budget, you would not have all of these tax giveaways which disproportionately flow to those people at the top of the income ladder.

If this was about balancing the budget, we would have everything on the table and all of those tax loopholes and tax breaks and tax giveaways that the Pulitzer prize-winning journalists Bartlett and Steele talk about in their book "America: Who Really Pays Their Taxes," all of that would be on the table.

I do not even think this is about balancing the budget, because if it was about balancing the budget, we would be looking at all of those areas, and we would be asking all of the citizens of our country to be willing to be a part of the sacrifice, because they are more than willing to do so.

This is not about balancing the budget. This is about overturning 60 years of people's history, and there is going to be one heck of a debate on the floor of the Senate, but most important of all, there is going to be a huge debate in this country, and let me give but a few examples.

Mr. President, in 1965, we passed the Medicare and the Medical Assistance Program. There was a reason we passed those programs. They did not represent Heaven on Earth, but they made life a lot better for people who were elderly and also low-income people. There are imperfections. We can do better.

But I want to just say to my colleagues that this Gingrich agenda—I have called it very reckless with the lives of the people in our country—let me just tell you that it will have a very serious and a very negative impact on the lives of Minnesotans.

I said it before when I was debating Haley Barbour the other day on a show, he was talking about this agenda—and I will not put words into his mouth, he is not here to debate me; that is not fair—but I kept coming back to him and saying, "You don't know my State: In my State, we have already kept the costs down and now you are penalizing us for keeping costs down?"

I said, "You don't know my State: In greater Minnesota, in rural Minnesota, many of our caregivers, our hospitals, our doctors, our clinics have a patient payment mix where it is 60, 70 percent Medicare."

"You don't know my State." I went on to say, "You don't know my State: Seventy thousand senior citizens in Minnesota are poor. Stop talking about the elderly as if they are affluent."

"You don't know my State: The median income for elderly people is $17,000 a year and, on the average, every year they pay $2,500 out of pocket."

"You don't know my State: Many of them can't afford prescription drug costs."

"You don't know my State: My mother and father are no longer alive. They both had Parkinson's disease. Without Medicare coverage—they never had any money—they would have gone under."

I just feel as if the people who designed this agenda do not know my State. I think they have moved way beyond the goodness of people in America. It is too extreme and it is too harsh.

"You don't know my State: 300,000 children are covered by medical assistance. We have done a great job in Minnesota using that program as a safety net for children."

"You don't know my State: Many families are able to keep a severely disabled child at home because of medical assistance and now they worry that they may not be able to do that."

"You don't know my State: Two-thirds of the people in the nursing homes receive medical assistance, and we are trying to figure out who makes up that gap."

Mr. President, I heard my colleague from Mississippi say it is about values. He is right, it is about values. And I will tell you something right now. I am confident that Minnesotans believe it is far more important to invest in health care and the health and intellect and character of young people—education—and also to provide children with a chance than it is to give away all these tax breaks to large corporations, to have these tax giveaways, $245 billion mainly going to people on the top, to have a Pentagon budget that is over what the Pentagon asked. You better believe it is all about choices. That is exactly what it is about.

But this Gingrich agenda is not an agenda to balance the budget. It is an agenda to move our country not into the 21st century but back into the 19th century.

Mr. President, we did not get it right in the last 60 years, but we made gains for people. We developed a safety net. It did not mean that every child had it so good. But at least we made it better for children. We had a safety net that at least gave us some assurance that children would not be so impoverished that they, in fact, would go hungry.

I argue, if we are going to talk about values that I believe as a Senator from Minnesota, I believe as the son of a Jewish immigrant from Russia, I believe as a former college teacher, I believe as a father, and I believe as a grandfather that every infant, regardless of gender and regardless of race and regardless of income and regardless of rural or urban, should have the same chance to fully develop his potential or her potential.

Now we have a safety net program for low-income children slashed by $82 billion, $17 billion more than the Senate "welfare reform" bill. Now we have the School Lunch Program cut by $6 billion.

We have had two studies, one of them by Health and Human Services and one of them by the Office of Management and Budget, and those studies told us something we did not want to know, or at least some of my colleagues do not want to know, which is that these cuts in these programs will mean that there will be more impoverished children in America and more children will go hungry in America.

This is all about values, that is for certain, but it is not about balancing the budget.

I brought to the floor of the Senate an amendment, and it says we could cut $70 billion by just having some tax fairness. We have a Tax Code for regular people; we have a Tax Code for privileged people. I looked at a number of different areas. I looked at the minimum tax, retaining the minimum tax for large multinational corporations in this budget bill; that is no longer there. I looked at subsidies for oil companies and coal companies. I looked at subsidies for pharmaceutical companies, and the list could go on and on.

Mr. President, what my colleagues do not tell you about are these tax giveaways, all the cuts in capital gains tax, all the cuts in rapid depreciation allowances, you name it. People in this country do not believe that we ought to at this time of tight budgets, at this time of deficit reduction be doing this in such a way that we ask the citizens to tighten their belts who cannot tighten their belts; that we target the elderly, we target people with disabilities, we target children, for God's sake, we target working families, families with incomes under $27,000 a year. But, at the same time, we have tax giveaways for the wealthy. We do not take on any of the corporate welfare. We let all these large companies continue with all of their tax loopholes and all of their tax breaks, and the military contractors have it just fine.

Mr. President, this is not about balancing the budget. This is an effort on the part of my colleagues to essentially say that they do not believe in a country where we focus so much on education, and equality of opportunity, and adequate health care for people, health care that is delivered in a humane and dignified way; they do not think the public sector should be involved in this area. As a matter of fact, they think when it comes to some of the most pressing problems of people's lives, there is nothing the Government can or should do.

That is a great philosophy if you own your own large corporation. But if you do not, if you are in the majority in this country, what we are talking about right here is an assault on what is the dearest principle of this country, which is equality of opportunity.

Mr. President, this is not a debate about balancing the budget. This is a debate about what this country stands for. This is a debate about the very values people hold dear.

I will tell you right now, Mr. President, people in this country do not believe in the harshness of this Gingrich budget. They believe it is mean-spirited, they believe it is extreme, they believe it goes too far. And the more people come to understand what is in this budget proposal, the less they are going to like it.

As a Senator from Minnesota, I am very proud to speak on the floor of the Senate on behalf of what I consider to be the vast majority of people in my State. I am proud to speak against this budget proposal. I do not believe that this proposal is good for this Nation. I do not believe that this proposal brings this Nation forward. I think it turns the clock backward. I think most people in the country believe that.

I think the President, without a doubt, will veto this, and we will have a debate again, based upon substantive work, based upon what I hope will be a set of proposals that will make this Nation all that this Nation can be.

This budget ought not to be accepted. This budget should not pass. It will. This budget will be vetoed by the President. He should do so. As far as I am concerned, we can have a debate about the values. We can have a debate about choices, and we can have a debate about priorities for America, and we can take it right to the 1996 election.

I will be proud to say to Minnesotans that I am the children's Senator and that I fight hard for senior citizens. I will be proud to say to Minnesotans that I am a health care Senator. I will be proud to say to Minnesotans that I am an education Senator. I will be proud to say to Minnesotans that I think some of the heavy hitters and large special interests ought to also be asked to tighten their belts. I will be proud to say to Minnesotans that my vote, my debate, my words, and what I do as a U.S. Senator is based upon a Minnesota sense of fairness. That is lacking in this budget. It should be defeated.

I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Mr. President, I yield myself such time as I may need. I will be very brief.

Mr. President, I guess two people can look at the same bill and see different things. I have a hard time looking at our Balanced Budget Act of 1995 and seeing the kind of recklessness in values and concerns the Senator has just spoken of. I see a whole different picture in front of America if we do not pass this act.

What I see as reckless is spending the country into the debt we are headed toward, in which children, in their lifetime, will pay $187,000 just in interest on the Federal debt that will grow during their lifetime if we do not bring this under control. That is the kind of unfairness to children in America we are here to end today. When we are talking about values, I can think of no values more important than the long-sustaining values of this country, and that we pass on to the next generation more than we inherited, not less. Yet, that is the direction in which we would head if we do not balance the budget and pass this act today.

To expand more on that, I now yield 15 minutes to the Senator from Missouri, Senator ASHCROFT.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, I thank the Senator from Michigan for yielding time to me.

It is true that different people can look at the same thing and see different things. As the Senator from Michigan has aptly stated, some look at this package and view spending $4,800 in 1996 per recipient to $7,000 in 2002 per recipient as a cut. I think you have to be a very substantial pessimist to call an increase of $2,200 over a base of $4,800 a cut—but that is how some people are choosing to view it.

I personally do not think it is nor do I see it as a cut. I see it as an increase. It is this precise inability to come to the same conclusion from viewing the same set of facts that sometimes confuses us. However, sometimes—as a single individual—you can look at the same thing—time and time again—and see something different all the time.

For instance, you can look at the President of the United States and try and find out whether he wants a balanced budget at all, or whether he wants a balanced budget in 7 years, or whether he wants a balanced budget in 10 years. You could look at the President of the United States and try and find out whether he wants to use the figures of the Office of Management and Budget, which is the political arm of the Presidency, or whether he wants to balance the budget according to the nonpartisan Congressional Budget Office.

Depending on when you look at our President, you get a different reading. You and I know that he said, when he was a candidate, that he wanted a balanced budget in 5 years. Later on, he came to us with a budget that would never balance. Then he came with one that would balance in 10 years, but only if you use the partisan figures of his Office of Management and Budget. In between times, he said 7 to 9 years.

So looking even at the same President, you might see far different things. It is, in part, because the President has not been firm. He has not reflected the kind of dedication and commitment to a balanced budget that indicates that he has a plan for one. As a matter of fact, the President has not had a budget at all. Well, he did send a budget up here, and it was so unrealistic that it lost 0-99. His second budget, the so-called balanced budget, was voted down 0-96. Not a single Member of the minority party voted in favor of either budget.

As we have been trying to find ways for the President to maintain the operation of Government in the last several days, we have seen the same President, but we have seen something vastly different every time we have seen him. At first, he says it is the Medicare problem. He cannot bear to have spending increased only from $4,800 to $7,000 per Medicare recipient per year over the next 5 or 6 or 7 years. That is not a big enough increase.

The truth of the matter is that the provision we are going to send him in the Balanced Budget Act of 1995 has bigger increases in Medicare than he originally requested. He asked for 7.1 percent, I think, and we are sending a budget that has a 7.7 percent. He threatened to veto our proposals due to both his effectiveness and willingness to scare people over Medicare.

Medicare also was his main concern when trying to pass the continuing resolution. Therefore, we decided to send him a continuing resolution without a Medicare provision. When we ripped off the Medicare mask, what did we see? We saw a President concerned about regulatory reform. He said "I would not want to sign something that has regulatory reform associated with it." I said to myself, is this the same President that, in the past, has said, "We want and need regulatory reform, and we need to free this economy, and we need to unshackle the economy so we can have more jobs, growth and opportunity"? Apparently, not at the moment, because he said, "If you have regulatory reform or the criminal justice system reform in the package***" —oh, about 20 years ago, the President and I had the privilege of each being an attorney general. We all know the way in which the criminal element manipulates the criminal appeals, and how the habeas corpus laws are abused. We saw them operate as attorneys general. We saw them operate as Governors. We see them operate now.

I believe he really knows that we need to reform the criminal appeals process, but he said he did not want to sign a continuing resolution containing criminal appeals reform. So we took the criminal appeals and regulatory reform out. We even took the provisions strengthening, protecting and preserving Medicare out of the continuing resolution and sent it to the President. It became clear, after ripping off all the masks—the Medicare, the regulatory reform and the habeas corpus reform masks—the real reason for his veto. His real reason for vetoing the continuing resolution can rest only on the single condition that now attends the continuing resolution, and that is the condition of a balanced budget in 7 years, with honest CBO figures.

A balanced budget is important. It is important that we understand that a balanced budget is not a sacrifice for this country—it is a substantial investment in this country.

We talk about cuts and we use the phony language of Washington to make it a cut. When you have an increase from $4,800 per year per capita to over $7,000 per year per capita, only in Washington, DC, does a $2,200 increase on a $4,800 base per capita result in the ability of some individuals to call it a cut.

Not only do we not cut spending, we make substantial improvements and give substantial opportunities to the American people.

The benefits have been quantified. The econometric studies have been conducted. The ideas have been distilled. The forecasts have been made. Here is the forecast: Nearly $11 billion more to our gross domestic product will result from a balanced budget. That is real growth. That is real increase. An additional $32 billion in real disposable income to American families will be realized in the time period covered.

More than 100,000 additional new houses will be built over the next 7 years. More than 600,000 new cars will be sold in America over the next 7 years as a result of the discipline, as a result of the priority setting, as a result of this country doing what every family has to do on a regular basis. That is—sit around and say what can we afford, what can we not afford, how can we structure what we are doing—how can we achieve prosperity rather than continuing our decline.

That prosperity is important and it will make a big difference to people who are buying houses. They say $10,000 less for payments for people on a $100,000 home loan—a $10,000 bonus for a family in addition to the tax relief for families in the bill. You consider other areas where the family is borrowing money, such as car loans and student loans. The impact on our culture is not an impact of shared sacrifice. This is an impact of enjoyed benefit.

We balance the budget. Not only are there more jobs, 100,000 new houses, 600,000 more new cars in the country in the next 7 years, but also we have this vitality in the economy that gives us all great opportunity.

Our President, though, is unwilling to make a commitment to join us, to join us in the necessary discipline to balance the budget.

I am afraid we have found ourselves backed into a political corner. He is saying he cannot do it because of Medicare. He is saying he wanted to increase Medicare by 7.1 percent, and this bill increases Medicare by 7.7 percent. This proposal significantly exceeds his own proposal. Yet he holds up Medicare as an attempt to scare the American people.

Not only do we spend substantially more for Medicare but we are going to provide ways for people to use what we spend to be much more effective. All the marketing, all the revolution in the health care professions to restrain costs and to expand service and to improve the product available to the American people and the private sector really has not been available in the public sector. That is why the public sector's costs have soared.

Well, in the private sector for medical costs we have seen a leveling off of those costs, the HMO's, the PPO's, the ability of physicians to join together in order to offer services. All of those things are part of the program in addition to moving people from $4,800 a year to over $7,000 a year. That is not just a gross number but a per capita number, taking into account the demographic projections that seem to frighten our colleagues on the other side of the aisle so dramatically.

It is time for us to understand this is a great opportunity. We have come to a crossroads in American history. We are at a turning point. It is a turning point that we need to recognize and understand.

It is whether or not we will conduct business as usual, whether we are just going to go merrily down the beaten path of massaging the old hot button of acquiescence in the demands of this or that special interest group, and continue to run the printing press which publishes the debt of the United States. It is whether we are going to generate at higher and higher volumes to the detriment of our children, or whether we will make some important decisions about allocating our resources.

There are tough decisions, but they are not impossible by any stretch of the imagination. There are a few areas where there are real cuts, but frankly there are many more areas where we just restrain the growth. We bring Government under control.

This is a question about Government control, whether we will control Government or whether Government—out of control—now will spend so much of the next generation's money that it will control everything that they do.

If kids who are born this year are going to have to spend $187,000 just to cover the interest costs on the national debt during their lifetimes, their spending will be controlled. They will not have the opportunity to decide to do other things. They will have an obligation which will simply lock them into paying for the excesses of our consumption. We can turn that around, and we can turn it around now. We have not done so since 1969. We have not had the encouragement. We have not had the integrity. We have not had the tenacity.

In 1994, last fall about this time, the American people said "stiffen your spine. Resolve to make a difference. Do something different. Change the way." That is why we are at a turning point. This is about control. We want the future generations to be able to control their own environment and their own communities. We want the future generations to have the control to spend their money on their own priorities, not to have to just pay off the debt which we have been paying.

We must act now if we want to stop this potential of eroding the ability of the next generation, undermining the ability of your children and mine. Hopefully someday I will have grandchildren—and I do not want to shift to them the responsibility to pay for the things that I have done. I want them to have the opportunity to do what every American should have the opportunity to do—that is to exercise the freedom of shaping a Government and spending your own resources the way you choose. It is as fundamental as the beginning of the American Republic.

Mr. President, 200 years ago Thomas Payne said it best, I think: "We have it within our power to make the world over again." That is basically a statement that free people can govern themselves and they can devote their resources to things that they choose to devote their resources to.

We keep spending in debt—further and further in debt—stacking it up to where it is now about $19,000 per person, every man, woman and child. Mr. President, it is $76,000 for a family of four, and we are not paying off the debt, we are just paying interest on it.

Now if we keep stacking up that kind of debt we simply will not allow the next generation to make any choices on their own. They are just going to have to spend all they have to pay foreign creditors, pay all kinds of other individuals.

Talk about big business. They talk about we sure do not want to do anything that would help business. We want the little guy to prosper. Who do you think holds this debt? The people that own the securities of the United States—a lot is held in the hands of foreign people and governments.

Do you want the people who command what your children and grandchildren do to be people overseas—people who have the ability to call the debt and demand that the payments be made. Then the only thing that those who follow us have the opportunity to decide will be to decide to pay the guys who hold the debt? We owe them much more than that. We owe them much more than that.

Our country came into existence as a result of taxation without representation. I am afraid unless we stand up for the children right now and say we are now going to continue spending their money without their representation, we are not going to continue spending their resources and displacing to them the costs of doing our business—they would have every right to revolt against us—just as we did to establish this country in the first instance.

It is time for accountability. The American people want a Government which pays its debts. They sense that we can do it. When the different masks were being displayed by the President—about we cannot do this because it is the Medicare thing, there was a lot of confusion. Then the Medicare mask was taken off and we sent a continuing resolution without the Medicare provision and another mask was pulled out. Finally all the masks are gone.

The only thing that is left is the balanced budget. We come down to the question, Mr. President—I ask for an additional minute.

Mr. ABRAHAM. I yield 1 minute to the Senator.

Mr. ASHCROFT. So, now the President has before him an ability to continue the operation of the Government, coupled with a golden opportunity to commit this Government to responsibility and integrity. He can do that in signing a continuing resolution and he can do that in embracing a historic achievement for his administration or any other, the Balanced Budget Act of 1995.

This is a golden opportunity. It is not an opportunity that will make that much difference to you and me, but it will make a great difference to the generations that follow.

It is time for us to share with them the benefits of an ordered, priority-setting development of a budget that is structured and responsible and respects our future.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. COCHRAN). Who yields time?

The Senator from Nebraska, under an earlier order, is recognized for 15 minutes.

Mr. KERREY. I thank the Chair.

Mr. President, this reconciliation bill conference report is going to pass. It is going to be sent to the President and he is going to veto it. The question will be, in the aftermath, can Republicans and Democrats get together, can we pass something that is veto proof? I hope in fact we can.

I must say at the beginning, I praise the Republican leadership for attacking this problem. It is very difficult, almost always guaranteed to produce a considerable amount of controversy. It is rarely popular when you take something away from somebody who has an expectation they are going to get it and you always set yourself up for exaggerated claims, regardless of whether they are coming from this side of the aisle or coming from out in the community. I have done it as Governor. I voted for it as a Senator in 1990 and 1993. It always happens. It is very seldom the sort of thing that gets you a round of applause, when you do what I consider to be a very important and responsible thing.

So I begin my analysis of this conference report by thanking the Republican leadership for tackling this problem. I believe we do need to balance our budget. I do not in fact buy into the argument that our debt is rising at an unacceptable level. As a percent of GDP, it is actually going down. Relative to where we were after World War II, it looks fairly good. As a matter of fact, if you look at the markets and what the market is doing right now, it seems to me we ought to be careful as we examine this argument about whether or not our debt is where it ought to be or should it be higher or should it be lower. It seems to me it is heading in the right direction.

Nonetheless, it is important, in my judgment, for the Federal Government to have its budget in balance. So, again, I praise the Republican leadership for setting before this body a proposal that will accomplish that. I hope, after this proposal is vetoed, that some of the comments I have made might give Republican leadership some ideas of where I, at least, as one Democrat, want to see some change.

To begin with, I do think it has to be fair. It has to pass some test of fairness. This proposal left no impact upon me. It will have absolutely no impact upon me. Before I got here, and after I leave, and right now, my income is high enough it does not have any impact upon me. I do not receive a great deal of Government services, and as a consequence I can stand here courageously and say, "Go ahead and do the deal." I have some stocks and bonds, so maybe I will have a gain on the capital gains tax reduction. It seems to me some standard of fairness needs to be applied.

Second, one of the things I think we urgently need to do as a body is answer the question, what kind of safety net does the Federal Government need to provide? If we want to have a market economy, and I think most of us understand we need to have a market economy in order to create jobs, and I think most of us support the idea of creating tax and regulatory environments so that people will want to make investments so our economy will grow, we need a safety net of some kind. All of us understand that. That is one of the most encouraging things in this debate, is Republicans saying they want to preserve and protect Medicare. Medicare is a safety net provided for people over the age of 65. When they leave the work force they have been and are able to purchase health insurance. It has worked. Nobody over the age of 65 is uninsured. Mr. President, 100 percent of the people over the age of 65 are insured.

The problem is, the economy has changed substantially since 1965 and all you have to do is pick up the newspaper and read about record mergers and read about companies laying folks off, or go home and talk to somebody who is 50 years of age, man or woman, who has worked in a company for 30 years, who finds himself or herself unable to purchase health care, finds himself or herself struggling with retirement questions, struggling with how do I retrain myself.

We have a radically different economy, and if we want a market economy, it seems to me, the question we ought to be wrestling with is what kind of safety net should be built? This proposal, as I see it, moves us away from a safety net, particularly as regards to health care. And particularly, especially the block granting of Medicaid back to the States, as I see it, will erode and move us away from that kind of—at least that kind—of a safety net.

I have a number of objections to this proposal that cause me to have to vote no. I had to vote no earlier and vote no again on the conference report. First and foremost are the reductions in Medicare and Medicaid over the next 7 years, in exchange, it seems to be, for tax cuts. Or at least the exchange is occurring somewhere. There is $270 billion in Medicare, $180 in Medicaid, $245 billion for the tax cuts.

Condition No. 1 for me, as a Democrat, is let us drop the tax cut. Again, if we are going to ask people to sacrifice and take less in their Government, take less in the way of income from their Government, it seems to me one of the ways, one of the actions we need take to restore fairness, is drop the idea of providing a tax cut which will benefit less than half of the American homes. More than half of the American homes will not even be impacted by this tax cut proposal. It seems to me that it is reasonable for us to say, at the beginning, let us drop that tax cut proposal.

I, as a Democrat, am willing, in exchange for that, to vote for some things that I also think need to be included. I think the CPI does need to be adjusted, the Consumer Price Index that is used to adjust transfer payments and used to adjust as well our Tax Code. It seems to me at least a half a point adjustment is reasonable. If you drop the tax cut and you drop the CPI, we will still be reducing the growth of Medicare and the growth of Medicaid. But we will be able to do it in a fashion, it seems to me, Mr. President, that is much more fair, much more reasonable, and much more likely that, in a bipartisan fashion, we can sell what will be nonetheless a difficult proposal to the American people.

I, for one, as well, happen to believe if you are going to really reform our Medicare system and our entitlement system, that you do have to adjust the age. In the Entitlement Commission recommendation, Senator DANFORTH and I recommended, and Senator SIMPSON and I have a proposal on Social Security that phases in an adjustment of eligibility age for Social Security. I would propose to do the same thing in Medicare. Not for current beneficiaries, not for anybody who is currently in the program, but for future beneficiaries.

The longer we wait to do that the more difficult, it seems to me, it is going to be to break the news that when the baby boomers retire we have this promise laying on the table we are simply not going to be able to keep.

I say to my Republican colleagues, I am willing to vote to drop the CPI by at least a half a point. I am willing to do the same thing on eligibility age. I have no difficulty adjusting the premium for part B. It is fair, it is reasonable, it ought to be done. It seems to me, at the very least we should say no more than a 70 percent subsidy for part B Medicare. I am willing to vote for that.

But I do not want a tax cut proposal on there because I cannot sell it as fair. I cannot explain it as being necessary, because it is not necessary. There are other ways for us to do this, to generate the savings needed to balance the budget in 7 years and get us to that objective.

The next thing I want to spend a little more time on is talking about this idea of building a safety net. I listen to people talk, both at home and as I watch the news and read the newspaper. Increasingly, people are saying this debate has provoked their concern once again about whether or not they are going to be able to have health care. Why? Mr. President, in the State of Texas, 50 percent of all babies are paid for by Medicaid. These are working families out there. These are people who are earning the minimum wage or slightly above, that cannot afford to buy health insurance. If you want to preserve and protect Medicare, if you have ever come to this floor and said let us preserve and protect Medicare, the fundamental premise of that program is that at some point the market does not work, that we have to collectively look for some way to provide for health care for people who either are not going to be able to afford to buy it or might be excluded as a consequence of some physical condition on their part.

We need a safety net that guarantees health insurance to every single American. No one should be left off the hook of having to pay. The payment ought to be based upon our capacity to pay.

Not only do I support a means testing, an affluence testing of Medicare, but I would love to see us change the eligibility and allow every single American or every legal resident—once you pass those two tests, you know with certainty you have it. You can go out and work. You can go out and pay attention to your education and do the sorts of things you need to do to lift your earning power and do not worry that you are going to lose health insurance.

I think we need a safety net in changing our retirement laws. I think we need a safety net as well in education. The work force today places a very heavy premium on those with skills. It seems to me one of the worst things about this proposal is that we are not increasing the amount of money that families need to be able to send their children to college. It seems to me we are moving in the opposite direction in trying to build the kind of safety net that we need for an active, vibrant market economy.

Finally, Mr. President, I would like to talk about something I have talked about ad nauseam on this floor a time or two before, and that is this question of entitlements as a percent of our budget and what this does to our ability to invest in education, transportation, research, those things that either will improve the quality of our lives like parks or helping those who are mentally retarded. Whatever it is we decide we want to do to strengthen our conscience, we are decreasing our ability to do it as entitlements as a percent of our budget grow. This year, it is 34.5 percent for domestic spending. At the end of this budget proposal it is 26.5 percent.

Now, percentages do not mean much to us typically, so let me try to convert that. If you think this year's budget is tough on appropriations, wait until 2002. I do not think we can do the things that are required in this budget proposal. If you think you can, do not try to construct a budget with these numbers.

Mr. President, 27.5 percent gives you $435 billion for defense and nondefense spending. Let us presume we spend $263 billion on defense, which we did this year. I think we can spend slightly less than that. No matter what you do, you are going to spend $255 to $265 billion on defense. So let us take $263 billion out, which is this year's spending, which I presume most, if not all, of the Republicans believe ought to occur. That leaves you $172 billion.

I know the occupant of the chair, who is on the Appropriations Committee, probably is familiar with this, but let me just show you what I have done. I take $18.7 billion for law enforcement, for drug efforts, for the FBI, for Border Patrol, for the U.S. attorneys; I take $17 billion for international affairs—I did not really pull these because they are my priorities; I just pulled some numbers—$17 billion, slightly more than 1 percent of our entire budget; $20 billion appropriated for veterans—that is veterans' pensions that are only appropriated accounts; $10 billion for community efforts such as the CDBG efforts; $17 billion for science and space; $38 billion for transportation; $53 billion for all of education and training.

Mr. President, that is $174 billion. Right there you have $174 billion. So I ask those who say: Well, that is fine, what are you going to do about the NIH? What are you going to do about all environmental protection, all of housing, the management of our national parks, disaster relief, natural resources management? The list goes on and on and on.

The answer is you cannot do it. There is not a single Member of this body, I suggest to my colleagues, who could come to the floor and tell me, make a proposal that would show how we are going to in the year 2002 allocate defense and nondefense with only $435 billion. It is not possible.

It is not desirable either, I might point out, for us to be heading in that direction. If you think that is bad in 2002, just look a little beyond that when my generation starts to retire. Instead of a 1-percent erosion of operations, which is about $15 billion a year, it will double in the year 2008, and then it is too late. Then the kinds of changes that we have to put in place, the kinds of changes that we have to put in place will cut current beneficiaries of Social Security and Medicare. It will cut current beneficiaries substantially or we are going to have to say to our young people in the work force: We have to have a substantial increase in your payroll taxes in order to be able to cover the bills.

I am here to say again I appreciate the work that the Republicans have done in trying to tackle this problem. There are other problems that need to be addressed that are left unaddressed in this proposal. It is going to be vetoed by the President. It is going to be sent back here, and it will be up to the Republican leadership. Do we embrace the ranking Democrat on the Budget Committee, who is one of the most fiscally conservative Members of this body. For gosh sakes, if he and the chairman cannot put together a balanced budget, I do not know who else can.

The question will occur, when the Republican leadership package is vetoed and sent back, not can you not find Democrats who will support it, but will you make an active effort to recruit and bring us into the process and say, what are your standards of fairness? What are the things you want before you will support this proposal? I think there is the will to balance the budget, but there is a desire to do an awful lot more than that. I hope that after this bill is vetoed and after it is sent back to us and after we have unsuccessfully attempted to override it, that those who want to balance the budget will join those of us on this side who want to balance the budget as well. I hope you will turn to us and give us an opportunity to participate.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. At this time I yield 20 minutes to the Senator from Delaware, the chairman of the Finance Committee.

The PRESIDING OFFICER. The distinguished Senator from Delaware is recognized.

Mr. ROTH. Mr. President, today we are closer than ever to meeting four fundamental promises we made to the American people when we promised to balance the budget. This legislation offers a balanced budget. We promised to save Medicare, a critical program for our elderly. This legislation preserves and strengthens Medicare. We promised to reform welfare, to end the perverse incentives that have found us spending more and more money only to find more and more children living under the poverty level. We have provided in this legislation real reforms. And, finally, we promised to cut taxes on Americans everywhere, to reverse the record-setting Clinton increases that even the President admits were too high. And with this important balanced budget package we have done just that.

I am encouraged by all that this legislative package offers—the Balanced Budget Act of 1995. I am concerned that certain political dynamics that have overtaken this debate are obscuring the real importance of what we are offering today.

On its most fundamental level, this legislation is about change, real change in Government. It is the beginning of a new era, a redesigning of the way Washington does business. Certainly, given the monumental issues this package addresses, we can understand why President Clinton has forced us to an impasse. Make no mistake, this legislation is revolutionary. It begins to make changes in the way Government has done business over the last 50 years. It takes the large, overbearing, income-eating, inefficient Federal monolith, a government that was designed for the industrial age, and it prepares it for the 21st century.

Making this kind of change is not easy. Institutions resist modernization. They even resist improvements. For this reason, many once mighty civilizations have fallen. On the other hand, growth and opportunity come from change. As the philosophers say, "The mixture which is not shaken decomposes. Progress lies in changing things that are."

Our Government needs to change. We need to balance the budget. This is not only the responsible thing to do, it is necessary for a strong, vibrant economy. A balanced budget will lower rates. It will create jobs. Some forecast that over 6 million jobs would be created if the budget were balanced.

A balanced budget would also provide a higher standard of living for all Americans. A balanced budget will reduce the burden of debt on future generations. Again, this is a moral responsibility. As Thomas Paine argued, "* * * no parent, or master, nor all the authority of parliament * * * can bind or control the personal freedom of their posterity." But that is exactly what our Government, with 50 years of tax and spend policies, has done. A child born today owes more than $185,000 in interest alone on the Federal debt.

If he or she were to pay the debt, it would literally conscript him or her to a lifetime tax rate of 84 percent. Now, we have the responsibility to do something about this, and the package before us today is the beginning of a real and lasting solution. President Clinton in his first State of the Union address maintained that any economic forecasting should be performed by the nonpartisan Congressional Budget Office.

Mr. President, the CBO maintains that our program balanced the budget in 7 years. To balance the budget, of course, we must control the growth of Government, and controlling growth does not mean cutting or abolishing important programs. It simply means that we must bring spending into line with reality. It means getting back within our budget, within our ability to pay for necessary programs and making these programs as efficient and cost effective as possible, and that is what we accomplish with this legislation.

I understand that there are basic philosophical differences at play in this current debate. There are honorable representatives and arguments on both sides of the issue, each promoting a vision of Government. Now, those who argue for the status quo believe in the status quo. They have faith in big Government. They trust big Government. And they see it as the solution to very real concerns. Others—and I count myself among this latter group—believe Government needs to be reformed and that growth in Government spending needs to be slowed down.

We look at welfare and see that, despite the fact that Government has spent more than $5 trillion—let me repeat—has spent more than $5 trillion over the last 30 years, the program is a catastrophe. We see that in 1965 some 15.6 percent of all families with children under the age of 18 lived below the poverty level. By 1993, that number had grown to 18.5 percent. In other words, we see that despite the fact that Government has thrown trillions and trillions of dollars at the problem, the problem has only become worse.

Likewise, the pathologies associated with welfare—crime, illegitimacy, drug abuse, child neglect, and others—have increased to alarming proportions. And we see that between 1965 and 1992, the number of children receiving AFDC has grown by nearly 200 percent, even while the entire population of children under the age of 18 declined by 5.5 percent during this same period of time.

Mr. President, big Government has not worked. In Medicare, big Government has created a program rife with waste, fraud, and abuse. Big Government has literally run the system to the point of bankruptcy. We all know what President Clinton's own commission has said.

And I quote:

> The Hospital Insurance Trust Fund (part A) continues to be severely out of financial balance and is projected to be exhausted in about seven years. The SMI Trust Fund (part B), while in balance on an annual basis, shows a rate of growth of costs which is clearly unsustainable.

Again, I am repeating what President Clinton's own commissioners had to say.

> Moreover, [they continue] this fund is projected to be 75 percent or more financed by general revenues, so that given the general budget deficit problem, it is a major contributor to the larger fiscal problems of the nation. The Medicare program is clearly unsustainable in its present form.

Again, this analysis of Medicare's current crisis comes from the administration's own trustees. And what we propose today is a solution.

Mr. President, we also propose real tax relief. Big Government has successfully pilfered the taxpayer's pocket. Real Federal taxes per household now top $12,000 a year. Total Government taxes, Federal, State, local, reach $18,500 per household. The Federal regulatory burden, which can also be considered a tax, exceeds $6,000 a year. These numbers have been constantly rising, even as the Government has fallen deeper and deeper into debt.

For example, Federal taxes now take nearly 25 percent of our median household income every year, up from about 16 percent in 1970. This incessant increase in taxes has stifled economic growth. It is engendered irresponsibility in Government spending, even perverse incentives where programs grow based on their inefficiencies and wasteful practices. And all this has to stop.

Let this legislation serve as the catalyst for real reform. It successfully balances the budget in 7 years by controlling the growth of spending while promoting economic growth. It preserves and strengthens Medicare by allowing the program to grow at about twice the rate of inflation and by introducing choice in the system. In this way, seniors are guaranteed continued coverage as well as the ability to choose those plans and health care providers that best meet their needs.

In this bill, Medicare spending increases from $178 billion in 1995 to $286 billion in 2002. Average spending per beneficiary grows 7.7 percent per year, or from $4,800 to $7,100. Remember, President Clinton himself said, "Medicare [is] going up three times the rate of inflation. We propose to let it go up at two times the rate of inflation. This is not a Medicare . . . cut." That is a quote of President Clinton himself.

Our proposal controls runaway costs by introducing choice into the system. It gives our seniors the ability to remain in the current fee-for-service plan, if that is what they want. There is no change, no cut in any of the medical services available today.

But, in addition, we also offer them an unlimited number of health care plan options that they may choose to better meet their needs. Our plan also aggressively attacks fraud and abuse in the Medicare Program. The GAO estimates the loss to Medicare from fraud and abuse equals some 10 percent of the program's total spending, and law enforcement officials claim that the majority of Medicare fraud goes undetected.

Our proposal directs the Secretary of HHS and the Attorney General to establish a national health care fraud and abuse control program to coordinate Federal, State and local law enforcement efforts in this area. We earmark some $150 million in the first year to use specifically for investigations and prosecutions of health care fraud.

We also offer a number of new tools to assist investigators and prosecutors in attacking this problem. The CBO has estimated that our provisions in this area will save the program more than $3.5 billion over 7 years.

Mr. President, these are the kinds of reforms we must make to preserve and to strengthen important programs. In welfare reform, we must reverse perverse incentives that have sapped the spirit of so many Americans, perverse incentives that have engendered dependency on Government and contributed to decay and even moral decline within our cities.

We must give Americans, as I say, tax relief. President Clinton, by his recent admission that he raised taxes too high, recognizes that our families are stretched beyond reasonable limits. High taxes kill savings, risk taking, incentive and economic opportunity. High taxes undermine job creation.

We offer Americans $245 billion in tax relief over 7 years. This includes a $500 per child credit, relief from the marriage penalty and tax credits for adoptions and deductions for student loans. This relief gives our families incentives to save. That President Clinton has elected to shut down the Government rather than work with us towards achieving these objectives is, indeed, a mystery.

Again, he once proposed a child tax credit, a credit of up to $800. Now, as with Medicare and welfare and even balancing the budget, he is backing away from his promises. Not only this, some are even attempting to make political hay out of the tax relief we are offering, trying to tie it to our efforts to slow the runaway growth in Medicare.

Let me say again that tax relief does not come at the expense of Medicare. As the Washington Post points out:

"The Democrats have fabricated the Medicare-tax cut connection because it is useful politically."

In an earlier editorial, the Post stated that "the Democrats are engaged in demagoguery, big time. And it's wrong. * * *"

It goes on to say:

> [the Republicans] have a plan. Enough is known about it to say it's credible; it's gutsy and in some respects inventive—and it addresses a genuine problem that is only going to get worse. What Democrats have on the other hand is a lot of expostulation, TV ads and scare talk.

We must get beyond the scare talks. We must get beyond the political posturing that has brought the greatest Government on Earth to a standstill. The American people deserve better. They deserve a Government that works, a Government that works for them.

This, of course, is not the first time Government has been shut down. Ronald Reagan shut the Government down because during his tenure, Congress wanted to spend too much. Today, Clinton has shut it down because he wants to spend too much.

Look at the numbers, Mr. President. We cannot afford the waste, growth and inefficiency of the last 50 years, but what we can afford are the well-conceived, workable reforms contained in this Balanced Budget Act of 1995. I stand behind it, and I urge the President to sign it.

Mr. President, I yield back the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Under an earlier order, the Senator from Massachusetts [Mr. KENNEDY], is recognized for 15 minutes.

Mr. KENNEDY. I thank the Chair. Mr. President, I always welcome the opportunity to hear our Republican friends talk about reducing the deficit. I remember in 1980 when President Reagan was elected, we had about a $465 billion deficit, and all during that period of time of President Reagan and President Bush, we went up to $4.7 trillion, all run up during that period of time. It is always interesting to me, President Reagan requested higher budgets than were actually approved by the Democratic Congress.

Then we had President Clinton's program that went into effect that reduced the deficit by $600 billion. It is useful, as we examine what I consider an extreme resolution that is before us and budget before us, to put in some context exactly which party and who has been trying to do something about the deficit and basically who have been talking about it. Of course, as history points out, we did not get one single Republican vote when we put in place the deficit reduction program.

As was mentioned by other Members, by those Senators on the other side, this really is an issue of priority. I welcome the opportunity to compare the priorities. It is now clear to the whole country that this is not a conflict about a balanced budget, it is a dispute about fundamental American values and priorities.

The Republican budget plan is a program to sacrifice senior citizens, students and children and working families in order to pay for lavish tax breaks for the wealthiest individuals and corporations in America. It is a program to destroy Medicare, to benefit the rich. It is a program to slash aid to education and trash the environment. It raids private pension funds, closes the door of colleges and universities to the sons and daughters of working families, dumps over a million more children into poverty in a misguided version of welfare reform.

In page after page of this legislation, Republicans offer an open hand to powerful special interests and the back of their hand to everyone else.

Republicans pretend their continuing resolution is not about raising Medicare premiums, but their reconciliation bill certainly is—$52 billion in additional premiums over the next 7 years, an additional $2,500 in premiums for every elderly couple. That is only the tip of the iceberg.

The overall Republican cuts in Medicare total $270 billion. The trustees said what was necessary was $87 billion; their cut $270 billion. Compare that to the $245 billion in Republican tax breaks for the wealthy. You do not have to be a rocket scientist to understand that shameful arithmetic.

The Republican Medicare plan is also carefully constructed to force senior citizens to give up their own doctors and join HMO's and other private insurance plans. That means billions of dollars in higher profits for the insurance firms at the expense of elderly Americans.

Why are all the insurance companies supporting this particular proposal? Because they recognize it opens the opportunities for billions and billions in profits.

The Republican Medicare plan may be Heaven for the health insurance industry, but it is hell on senior citizens.

Senior citizens also depend on Medicaid for nursing home care and other services Medicare does not cover. Medicaid provides the health care for one-fifth of the Nation's children and for millions of American families with family members with disabilities.

It is interesting, 18 million children are on Medicaid; 94 percent of those children's parents work; 65 percent of them work full time. These are sons and daughters of hard-working Americans that are going to be cast adrift under this proposal that is before us.

The Republicans do not care about their health care. They cut Medicaid by $180 billion. By the year 2002, it will be slashed by one-third. Effectively, with the program for 7 years, they are taking 2 years of the payment out. They are taking that out of the program and giving it back to the States and saying, "Provide better services for them."

Millions of our needy citizens will lose. Last year, the Republicans blocked health reform that would have guaranteed coverage for all this year. They are taking away the coverage from those who now have it.

The giveaways go on. The weakening of the nursing home standards was defeated in the Senate by 95 to 1, but the weakened standards are back in the final Republican bill; liens on the homes of nursing home residents, defeated on the floor of the U.S. Senate, but the liens are back in the bill; permission for doctors to charge more than Medicare will pay, defeated in the Senate, back in the bill; weakened antifraud standards, defeated in the Senate, back in the bill. The casualty list for senior citizens goes on and on.

We have distributed a fact sheet laying out some of these back-room deals in more detail. On education, the Republican budget is a triumph of special interests over student interests. It is rigged to funnel over $100 billion in new business to banks and money lenders at the expense of colleges and students. It is hard to find a more vivid or disgraceful example of the prostitution of Republican principles. When profits are at stake, Republicans are more willing to sell out the free market competition and replace it with the heavy hand of Government-guaranteed monopoly.

The Republican budget also drastically cuts education. It slashes Federal aid by a third. It cuts aid for school reform. It cuts college student assistance by $5 billion. It caps the direct lending program at the ridiculously low level of 10 percent. Twelve-hundred colleges and universities will be forced out of this program they want for their students. Why? So the banks and guaranteed agencies can profit to the tune of $103 billion in new business over the next 7 years, and the best estimate is that it will be $7 to $9 billion in profits that ought to be used to lower the cost of education for the children of this country.

For children, this bill is a nightmare. There is a right way and a wrong way to reform welfare. Punishing children is the wrong way. Denying job training and work opportunities is the wrong way. Leaving States holding the bag is the wrong way. This bill takes a bad Senate bill and makes it worse. The Senate bill eliminated 60 years of a good-faith national commitment to protect all needy children. This conference report adds insult to injury by guaranteeing increased suffering for millions of children and families.

The Senate bill cuts food stamps for 14 million children, SSI benefits for 225,000 disabled children and protection for 100,000 abused children. This conference report slashes these essential programs by $82 billion—$17 billion more than the Senate bill. Nutrition programs, disability benefits, and antichild abuse programs will suffer heavily.

If the conference report becomes law, children born to parents on welfare will be punished in every State. Victims of domestic violence will lose their special protection. Food stamps for the unemployed will be further restricted. Family preservation and child abuse programs will be block granted. Family hardship exemptions and State investment requirements will be reduced. All this is above and beyond the Senate bill. Even the modest child care provisions added to the Republican "home alone" bill in the Senate have been rolled back.

This bill cuts essential child care funding and eliminates essential protections for children and child care. As a result, many more children will be left home alone, and countless others will find themselves in unsafe conditions. The bill cuts more than a billion dollars from the Senate-passed welfare bill by stretching out the $3 billion in new funds over 7 years and capping the child care development block grant for low-income working families. It eliminates any real requirements for States to ensure adequate health and safety protection for children in child care. It repeals the requirements for States to adopt minimal health and safety provisions for immunizations, building safety, and appropriate health and safety training for anyone receiving Federal funds.

These provisions were negotiated by Senator HATCH and the Bush administration, and they have had broad bipartisan support—until now. In addition, the Republicans have cut more than 50 percent of the funds set aside to improve the quality of child care. Report after report documents the shocking poor quality of child care in far too many child care settings. These funds are making a measurable difference in the development and growth of low-income children.

What is happening is the standards, which were established by Senator HATCH and Senator DODD, signed by President Bush, have been significantly weakened. It is so interesting that we are prepared to give real standards of protection for the child care in the military, and we deny them to the civilian workers of this country. Any man or woman in this body can go out and visit a child care center on any military base, and they will find it is up to standards. There were only six votes in this body against those kind of standards when we did it for the military. But when you are talking about dealing with poor people, you take those standards and safety net away. You know what is going to happen? In another 1 or 2 years, there will be a study and it will talk about how all of these programs have deteriorated and people will say that is what happens when you have a Federal program, and there will be pressure to provide less and less support for those poor children, and more and more tax giveaways for the wealthy in this country. It is wrong.

If this bill passes, the Senate will be turning its back on needy children, on poor mothers struggling to make ends meet—millions of our fellow citizens who need help the most.

The Republican priorities are clear: For millionaires they will move mountains; for poor children, they will not even lift a finger. We all want to balance the budget, but it cannot and should not be done on the backs of America's children. Enough is enough. Enough of the back room deals with high-paid corporate lobbyists. Enough of dismantling commitments to children and families in need.

In the end, this is a battle for the heart and soul of this Nation. It is a simple question of priorities. Are we going to leave millions of low-income children behind in order to give huge tax breaks to the rich?

This bill is legislative child abuse at its worst.

A further outrageous provision in the reconciliation is the hunting license it gives corporations to raid employee pension plans and divert billions of dollars in retirement funds to other purposes.

Despite the overwhelming 94–5 vote by the Senate 3 weeks ago to strip the indefensible pension raid from the Senate bill, the Republican majority persist in their reckless scheme to turn private pension plans into piggy banks for corporate raiders and greedy executives at the expense of the retirement security of millions of Americans.

One other decision by the Republican conferees vividly demonstrates what this debate is about. All year, Democrats have tried to close the so-called billionaires' tax loophole, which lets wealthy Americans renounce their American citizenship to evade their fair share of taxes on the massive wealth they have accumulated in America. Have we heard any Member of that side defend that provision? The silence is deafening. It is difficult to imagine a more obscene loophole. Every time we have raised it in the Senate, no one tries to defend it. Once again, behind closed doors, the Republicans have saved it. The billionaires' loophole is alive and well in this bill. Shame on the Republican Ways and Means Committee. I doubt if they have ever sunk lower.

The Republicans claim that their plan provides a balanced budget, but it is profoundly out of balance. It tilts the scales heavily to the wealthy and the powerful at the expense of ordinary Americans. The Republicans know that President Clinton will never sign this bill. They know that Congress will never override his veto. The question is: How long this shut-down-the-Government tantrum will go on before they realize the American people are not buying what the Republicans are selling and never will.

I yield to the Senator from Maryland.

Mr. SARBANES. I listened very carefully to the Senator from Massachusetts with respect to the impact of this reconciliation bill on children. Is it not the case that if the tax break provisions of this reconciliation were not in this package—in other words, this $250 billion worth of tax breaks for the very wealthy—these drastic cuts with respect to these programs for children would not have to be made, is that not correct?

Mr. KENNEDY. Well, the Senator is absolutely correct. And to further add to the Senator's point, the Senator understands that for every dollar that you cut, both in education and in child care, you increase the cost to society by 3 or 4 more dollars. So if you are looking at this, either from a bottom-line point of view about what the costs are going to be over any period of time, or looking at it—I think all of us would like to think that the way we are looking at it is caring for the child. It makes absolutely no sense, what they have done.

Mr. SARBANES. The costs accumulate. But the fact is—and people must understand this—that in order to give tax breaks to very wealthy people, draconian cuts are being made in these programs to help children. So there is a direct tradeoff that has to be understood. In other words, these cuts are happening to child care, to feeding programs, education programs, and others, in order to accumulate a pot of money with which to give tax breaks to wealthy people. If you did not give the tax breaks, you would not have to make the cuts, is that not correct?

Mr. KENNEDY. The Senator is absolutely correct.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ABRAHAM. Mr. President, I yield myself such time as I may consume.

Mr. President, I say very briefly there is once again information on the floor that must be corrected: the argument that the tax cuts included in the Balanced Budget Act of 1995 are going to the very wealthy in our country. In fact, Mr. President, 65 percent of all the tax cuts that are being provided for in this legislation go to people who are making less than $75,000 a year, 80 percent goes to people making less than $100,000.

If you are in those categories, according to what we have just heard, you are rich. In my State of Michigan, people making less than $75,000 a year are not the wealthiest people in America, and I do not think they are the wealthiest people in America or any other State.

The other claim, Mr. President, with respect to children, I think it is hard to argue that the policies which we are changing with this legislation are going to be worse for children than what we have seen under the policies that have been in existence for so many years.

Today, more children and more people are in poverty than when the war on poverty began. Today, children in America born this year are faced with huge debts that we have been running up on the Federal Government's unlimited credit card. There can be no greater punishment for the children in America today than to let the spending spree in Washington continue. That will continue if we do not pass the Balanced Budget Act which we are dealing with right now.

I yield 11 minutes to the Senator from Rhode Island, of the 15 we have allotted, and then 5 minutes to the Senator from Alaska.

Mr. CHAFEE. Mr. President, first I want to say I listened to the Members of the Democratic side speak this afternoon and, with the exception of the Senator from Nebraska, I have not heard one of them step up to the plate and try to do something about the deficits the country is facing.

Yes, they attack everything we have done, every proposal we have, but they have not offered a single proposal of their own to address what I believe is the most serious domestic problem facing this Nation of ours, which is the continuing deficits.

True, there is a lot of mileage in being against it and they are experts at it. The word "shame" was used by the Senator from Massachusetts about the approach we have taken. I say shame to those on that side who criticize but offer no alternatives.

With few exceptions, there is little willingness on that side of the aisle to tangle with this desperate problem that our country faces.

Mr. President, I believe that we truly do face a historic choice: to put our Nation on a path to a balanced budget by passing this Balanced Budget Act, or to continue business as usual, borrowing from our children and grandchildren to meet current Federal obligations.

This is the first time, Mr. President, in my 19 years in the Senate that we have had the opportunity to vote on a balanced budget. Yes, we have made attempts in the past to reduce the deficit. We had the Gramm-Rudman plan, firewalls, all kinds of approaches, but never have we had the political courage in both branches to make the tough choices to produce a balanced budget.

Whether one agrees with this legislation or not, it clearly represents a bold and a decisive step. Those courageous enough to vote for it deserve kudos, particularly in the House of Representatives, where they face the voters every 2 years.

As a Senator, as a parent, as a grandparent and as a concerned citizen, Mr. President, I have come to believe, as I mentioned before, that the deficit is the most pressing domestic problem our Nation faces. We cannot continue on this reckless course of spending more than we take in. Individuals and families, obviously, have to live within their budgets. So should our national Government.

Now, the Federal deficit is literally snowballing downhill, totally out of control. In 1980, we had a national debt of $1 trillion. This amount was amassed over a period of 200 years, from the inception of the Republic. Yet from 1980 to the present—just 15 years, we have run up $4 trillion more—four times what it took us 200 years to accumulate. So now our national debt has reached almost $5 trillion.

Absent decisive action, we are looking at annual deficits continuing out into the future of $200 billion a year. In other words, every 5 years we will add another $1 trillion of debt to the bill we are sending to future generations of Americans to pay.

Interest alone, never mind paying down that principal, is the third largest expenditure in the Federal budget. The largest is Social Security, the second largest is defense, the third largest is interest on the debt.

Mr. President, $235 billion a year. That is nearly a quarter of a trillion dollars that will not be available for better education, better schools, more help to college students, disease prevention, improved health, better housing, and more environmental protection. This staggering debt burden prevents us from making those expenditures, and obviously the $235 billion this year will go up every year.

Thus, I am committed to reaching a balanced budget within a specified time period, and the Balanced Budget Act will accomplish that objective within 7 years, by the year 2002.

Whether one agrees with all of the provisions of this or not, there is another very important reason to vote for the Balanced Budget Act. It will get us beyond the current budget impasse and on to direct negotiations with the President.

As far as I am concerned, the sooner we get to the negotiating table with the administration, the better. We need to get beyond the finger pointing and on to negotiations. We must get past this veto—which everyone agrees is going to take place—and on to constructive, bipartisan dialog with the White House, and congressional Democrats, to balance this Federal budget within 7 years.

Now, a new forecast was conducted at the University of Rhode Island indicating that my State is still languishing in the doldrums of a protracted recession. At best, the recovery we have experienced over the past several years has been uneven and anemic. This continued stagnation is sapping the vitality of my State and dashing the hopes of many of its citizens.

We need to get this entire economy moving—from one end of the country to the other—and balancing the budget is the single most important step we can take to make this country prosper. This is not me saying this. This is the Chairman of the Federal Reserve, Dr. Alan Greenspan, and a host of economists that testified before the Finance Committee earlier this year.

The very action of enacting legislation to put us on the path to a balanced budget, with annual deficits on a downward trend, would provide an almost immediate reduction in short and long-term interest rates. This, in turn, would do several things. It would free up capital to fuel growth, increase demand for goods and services, and increase employment in our country.

For consumers, the cost of financing a college education for their children, buying an automobile, or financing a home, would all come down in response to falling interest rates. For businesses, the cost of borrowing capital would become more affordable, enabling them to expand, and to create new jobs.

Now, Mr. President, I do not agree with every aspect of this massive bill. I say without hesitation or regret that I fought the good fight on a number of issues about which I care deeply, with some success and some failures.

However, when the goal is as important as securing the economic future of our Nation, as I believe it is, one works to advance the process despite any misgivings one might have.

That said, I would like to offer a few of my own thoughts to those who will have the difficult task of negotiating a final agreement with the administration once this bill is vetoed. When the negotiations convene in early December, I am confident an agreement can be reached if both sides come to the table in good faith.

Here are my suggestions for them.

At a time when we are trying to balance the budget, I believe tax cuts are difficult to justify. I, personally, am against any the tax cuts. However, if we are to have some tax reductions, they should not become effective until substantial progress has been made toward reaching our goal of a balanced budget by the year 2002.

Both sides have proposed tax cuts. The administration rails against our tax cut proposal but, indeed, the President has also proposed tax cuts totaling more than $100 billion. I believe both sides should defer the implementation of any tax cuts.

Second, congressional Republicans are exactly right in taking significant steps to control the future growth of Medicare. The long-term financial problems facing this program must be addressed in a forthright manner. The President and congressional Democrats must step up to the plate on this issue.

By the way, I hope everybody saw the editorial in yesterday's Washington Post, hardly a mouthpiece for the Republican Party, which excoriated the Democrats for their failure to face up to this issue of Medicare. The President and the congressional Democrats are equally to blame for failing to offer real solutions to the problems confronting the Medicare program. We Republicans believe in income-testing, requiring wealthier citizens to pay more for Medicare, as well as other entitlement programs. In addition, steps must be taken to conform Medicare administration and management with modern insurance practices. Moreover, we should give seniors more choices, such as choosing an HMO, or Preferred Provider Organization. I strongly believe we should not reduce Part B premiums because doing so would require additional tax dollars, further increasing the deficit of our Nation. In this regard, the Republican budget plan keeps the premiums at exactly the same percentage that they are today, 31.5 percent.

Republicans are right in insisting upon a fixed timetable of 7 years to reach a balanced budget. We have repeatedly promised fiscal discipline and repeatedly failed to deliver it. So, when people suggest, oh, you can do it in 9 years, in 10 years, or 15 years—beware. Let us set an early date. I believe 7 years is a reasonable one. That is not tomorrow, that is not the year after next. Within 7 years—by 2002—we ought to be able to deliver a balanced budget. We are in peacetime. There is no war. There is relative prosperity. We ought to be able to balance the budget in 7 years.

Severing the individual entitlement and turning the Medicaid program over to the States as a block grant causes me grave concerns, and could end up costing our health care system a lot more than the present program. A per capita cap on the Federal entitlement and much greater State flexibility are the appropriate solutions to the problems confronting this program. I also question the wisdom of trying to find such a high level of savings from Medicaid.

Next, the Senate welfare reform bill was a sound package which won significant bipartisan support, and I hope the result which emerges from negotiations——

The PRESIDING OFFICER. The 11 minutes of the Senator have expired.

Mr. CHAFEE. If I might have 1 more minute?

Mr. ABRAHAM. I yield the Senator an additional minute.

Mr. CHAFEE. I hope the result which emerges from negotiations on the welfare part of the Balanced Budget Act will be closer to the Senate bill. The conference agreement appears to depart significantly from the Senate bill in areas such as foster care and children's Supplemental Security Income, for example. In addition, it is unreasonably restrictive with respect to the treatment of legal immigrants, which I find quite troubling and unacceptable.

We should bite the bullet and correct the Consumer Price Index, which is a measure of inflation used to compute cost-of-living adjustments for Social Security benefits, as well as to conform Federal tax brackets with inflationary changes. There is growing bipartisan consensus within Congress, and among economists, that the CPI overstates inflation. Even a modest correction of five-tenths of 1 percent would reduce outlays by about $122 billion over 7 years, affecting only a $4 or $5 reduction in the increase the average beneficiary would receive.

The approaches I have outlined will help the respective parties reach an agreement to balance the budget by providing the flexibility needed to reduce the reliance on savings from Medicaid and other programs serving the needy, particularly those serving poor children.

Mr. President, in conclusion, this legislation presents us with a tremendous opportunity to fulfill our responsibilities to put our fiscal house in order. I urge passage of this legislation so that we can move on to direct negotiations with the White House toward a final budget agreement. I thank the Chair and the manager.

Mr. ABRAHAM. Mr. President, I yield 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I do support this Balanced Budget Act of 1995. I want to make a few comments about the continuing resolution that is going to go to the President and its relationship to this bill.

I was deeply disturbed when the President vetoed the second continuing resolution. This will be the third one, because, you know, we did have one from October 1 to November 13. I do hope the messages are getting through to the President. I have been heartened every morning when I come into the office and review the logging-in of the public opinion messages that come to my Alaska offices and here in Washington. I want to tell the Senate, of all the calls we have received during this period, about 15 percent of those calls agree with the President; 4 percent rightly urge us to get together and settle this problem; but over 80 percent of all the calls we received so far tell me to stay the course and balance the budget. They tell me to continue this fight that we have, to try to bring about some restoration of, really, the fiscal solvency of the country and to realign our laws so they make sense.

Alaskans, really, who have sent us here, tell us a balanced budget is worth fighting for. It is time we dealt with this issue. I just managed the defense bill. Most people realize how large that defense bill is, and we were criticized on reporting it because it was so large.

I wonder how many people realize that the interest on the national debt this year is the same as the amount of money we are spending for national defense. The difficulty is, the debt is rising now at an astounding rate of $335,000 a minute, $20 million an hour, $482 million a day. We have a deficit already standing at $176 billion, and it is projected to remain roughly at that level through the end of the century—almost $200 billion a year through the end of the century.

Alaskans realize we cannot use the Federal credit card to get out of this debt. We have to find some way to meet it. We also have to find some way to provide the services that we need.

It will be the small States that are squeezed out if these interest payments continue to rise, and we know that. We rely on things like the Coast Guard and the FBI and FAA and so many groups that are involved in our livelihood, the fisheries and forestry programs of NOAA. All of that is discretionary spending that is wiped out as interest rates go up. The reason we are committed to reducing this deficit and trying to balance the budget is to preserve the kind of services that small States need.

We could commit ourselves to just reducing the rate of growth to 3 percent across the board or 5 percent across the board. Instead, we have a very complicated bill before us. It is a bill that makes sense. The year 2002 makes a lot of sense to me. That is the first midterm election following the election that will take place in the year 2000. It gives the American public a chance to really react if Congress has failed to meet its commitment.

I really have come to the floor today to say I just do not believe the President can reject this continuing resolution that we have sent to him. In my judgment, he has campaigned for a 5-year balanced budget during his campaign in 1992. He has accepted the 7-year period on several occasions. We are asking for no more than he himself has pledged in the past to the American public. And in the State of the Union Message, when he came before us in 1993, he urged us to use the Congressional Budget Office, not the political appointees of the Office of Management and Budget, to determine whether the bills that Congress sends him would meet the goals of balancing the budget.

I think that we need to have this bill which is before us passed. There is no question about that. But I say to the President, I urge you to sign the continuing resolution. We are seeing the collision between the two massive entities of our Federal Government—the executive branch and the legislative branch—one under the control of one and the other under the control of the other, and there is no way for them to get together unless we have some time. This continuing resolution would give us that time and keep the commitment not only to balanced budget by 2002, but to do so using sensible economics as delineated by the Congressional Budget Office.

I thank the Chair.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, under a previous agreement I am allowed 15 minutes, as I understand it.

Mr. President, let me begin doing what someone recently alleged on the other side of the aisle that no one has done.

Let me compliment the Republicans of the majority party. I think some of what they have done in this reconciliation bill makes a lot of sense. Some of the proposals are courageous proposals. Some of them move us in the right direction.

I am not going to support this bill. I think there are some terrible ideas in here as well. But let me say all of us have to work together to find common ground. Some of the proposals make a lot of sense. There are a good number of the proposals that I do support.

Mr. President, the debate is not about whether we balance the budget in 7 years. Frankly, if we could get the Federal Reserve Board to take its foot off the brake and get a little economic growth, we ought to be able to balance the budget in 5 years. The Federal Reserve Board cranks up interest rates because they say our economy is growing too fast. Let us get the Fed to get its foot off the brake, get some growth, and we can do it before 7 years. That is not the debate, 7 years, 5 years, 8 years.

Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DORGAN. Mr. President, the budget reconciliation bill that we are now debating should have come to the floor of the Senate by June 15. That is what the law requires. Now we are 5 months later and we have a bill.

Of course, no one in this Chamber has read it—no one. Not one Member of the Senate, in my judgment, has read this entire bill. It just came yesterday. It was put in the Congressional RECORD in legislative language of I guess probably 1900 pages long. But I wanted to explain to my colleagues some of what is in this bill. I think some of what I will explain is not understood by anybody in the Senate. It is just there.

We are told now that this bill is going to balance the budget, this plan must be adopted, this plan or no plan, this is the plan that will save America, and this is the plan that will solve the fiscal policy problems. Well, there are other ways to do the same thing and to do it the right way. So let me go through some of the things that I think can be changed and must be changed in this plan.

If you go through this plan in some detail, what you will see is the choices that are made on spending cuts and the choices that are made on tax cuts seem always to be overweighed in terms of helping those who have money with additional blessings of tax cuts and hurting those who do not have much with the added burdens of budget cuts.

Let me show my colleagues something that I will bet no one in the Senate understands is there. In fact, let me do it by talking about cows, if the Senate will permit me to do that.

Section 1240, chapter 4, "livestock and environmental assistance," which is a fancy way of saying—it is called LEA, "livestock and environmental assistance." It includes something called "manure management." I will bet not many can visit with me about this. You do not know it is in there—LEA, manure management.

Who gets the money under manure management? If you have up to 10,000 beef cows, or a big herd, you are eligible for $50,000 in manure management.

But what if you have a small herd? Not beef cows, but dairy cows. If you have a small herd of dairy cows, and you have more than 55, you are eligible for zero. Big herd of cows, you get $50,000 for manure management. But a cow with spots, 56 of them, zero.

Look, this is a cow that wakes up at 5 in the morning and offers herself to give milk. This is a working cow.

With these cows, if you have 10,000 and they are in a feed lot, they sit around, eat all day and belch a lot. They do not shift much. So you have a big herd, small herd; big interests, little interests; big folks, little folks.

The entire bill does exactly what it does to cows. Tax cuts? The big interests can smile. They get a lot. Little guys, little folks? There is not much there. Spending cuts? The little folks, they bear the burden. Big folks, no problem.

I have not had an opportunity to have the analysts look at this, but they were able to look at the Senate's version of this bill, and here is what they said. And let me talk about this in terms of people, because that's what our country is all about.

Let us take a roomful of people, just a roomful the size of my hometown of 400 people, and set up chairs so they are all seated. You say, "By the way, let's figure out who in here has what money. Let's take the 20 percent in here with the lowest income, and you all move your chairs over to this side of the room." So we have all of you with the lowest income, 20 percent of you sitting over there. Now we are going to tell you about your spending cuts. The folks with the 20 percent of the lowest incomes in this room, we will give you 80 percent of the burden of the spending cuts.

The news is not all bad, however. You folks with the 20 percent of the highest incomes, move your chairs over to this side of the room because we have some awfully good news for you. We are going to cut taxes, and you folks, you 20 percent that have the highest incomes in this room, you get 80 percent of the tax cuts.

Let me repeat that. Under this bill, the 20 percent with the least income get hit with 80 percent of the burden of the budget cuts or spending cuts. And the 20 percent with the highest incomes get 80 percent of the rewards of the tax cuts.

Some of us think that is not a fair way to apportion the burden of spending cuts and the blessings of tax cuts.

Let me talk about some other provisions that are in this bill. I will bet there are not 1 or 2 percent of the Senate who understand what they are. A couple of people put them in here, so they probably know.

Go to page H 12680 of the RECORD, which is where this bill was placed last evening, and you find "Repeal of inclusion of certain earnings invested in excess passive assets." It reads, "Paragraph 1 of section 951(a) relating to amounts included in gross income of U.S. shareholders" et cetera, "Repeal of inclusion amount, Section 956(a) is repealed."

What does that mean? I will bet there is not anyone on the floor who knows what that means. Not one person, I will bet, knows what that means.

I will tell you what it means, Mr. President. It means several hundreds of millions of dollars is given to the largest corporations around, who move their jobs overseas, earn income overseas, and under today's law must repatriate that income and pay taxes on it to this country.

But this bill on this page says we are of a different mind. We would like in this bill to put a bow and some wrapping and a little package which we want to give those companies to encourage them to continue to keep their jobs outside of this country—several hundred millions of dollars in a tax cut to encourage companies to stay out of this country with their jobs. That is one.

How about page 12638, "corporate alternative minimum tax reform"? Not many will know what this means, except in the old days you would read a story that said XYZ corporation made $2 billion in income and paid zero in income taxes. So the Congress said that is not very fair. So let us have an alternative minimum tax so that we do not have to read stories like that.

The House of Representatives wanted to repeal this alternative minimum tax completely. This conference report agreement would in effect repeal the alternative minimum tax with respect to depreciation.

What does that mean? It means 2,000 corporations in America will get a $7 million tax cut each, on average—$7 million apiece for 2,000 corporations buried on page 12638.

Is this what we are supposed to vote for? If we do not vote for this, are we somehow thickheaded? Or is this a gift?

Is this one of those special little prizes like the ones that go to the big herd for manure management, one of those little prizes that goes to the big interests that we are not supposed to see and we are not supposed to debate?

Maybe this would come to the floor under normal circumstances and we could debate the wisdom of such a policy at a time when we say to 55,000 kids on Head Start: We do not have enough money for you. You are going to get kicked off the Head Start program; you kids going to college, you are going to pay more to go to college. We do not have enough money for student financial aid; you folks on Medicare pay more and get less for your health care; you people on Medicaid, we will block grant that money to the States and maybe they will have money for your health care, or maybe not.

But we say we have plenty of money to give a tax break to companies that move their jobs overseas, and we have plenty of money to virtually repeal the alternative minimum tax.

Some of us think that is not a priority that makes much sense.

Mr. President, how much time is remaining?

The PRESIDING OFFICER (Mr. FRIST). About 5 minutes.

Mr. DORGAN. Mr. President, yesterday, I spoke in the Chamber about priorities and choices. Let me in the middle of my remarks again compliment the Republicans, the majority party. Their desire for a balanced budget is commendable. I compliment them genuinely for it. The desire ought to be universally shared on this floor.

The question of how you achieve that goal, the choices and the priorities you make, are important. They are important to a lot of people.

I was in the Chamber yesterday talking about a little program called Star Schools, a tiny little program. It tries to create Star Schools in math and sciences, at an annual cost of $25 million. This bill would cut Star Schools by 40 percent—40 percent in a tiny little program.

There's another program called star wars. That one is increased 100 percent. The majority's priority is star wars, which is not ordered, not needed, not wanted. In the defense spending bill they boosted the Pentagon's star wars program by 100 percent. Supposedly we have plenty of money, hundreds of millions of dollars, for that program because the sky is the limit. We are all loaded when it comes to the star wars program, but a 40 percent cut in a tiny program called Star Schools.

Nowhere is there a better example of warped priorities, in my judgment.

Tax cuts. I would like to see tax cuts for every American, but I would say this. I offered an amendment in this Chamber saying let us at least limit the tax cuts to those who make $250,000 a year or less and use the savings from that limitation to reduce the hit on Medicare. Of course, that did not pass. Everybody here knows that every dollar of tax cut in this bill is borrowed. No one can deny that. The facts demonstrate it. Every single dollar that is given in a tax cut is going to be borrowed. Every dollar of tax cuts will increase the Federal debt by a dollar.

Balanced budget. We are told this is the balanced budget. Well, again, let me commend the Republicans because I think there needs to be a greater and more energetic effort to try to balance the budget, but this budget is not balanced.

The Director of the Congressional Budget Office says it is not a balanced budget. It will have a $108 billion deficit in the year 2002. I can read the letter if you want. She wrote it on October 19.

You can call it a balanced budget if you misuse $110 billion in Social Security funds in the year 2002, but, of course, that would be dishonest, and it would also violate the law.

This is not a balanced budget. It has a $108 billion deficit in 2002. In fact, the very budget bill that was brought to the floor that was described as the Balanced Budget Act has on page 3 under the category "Deficits," $108 billion in deficits in the year 2002. So it is not a balanced budget.

We are not talking about the facts when people assert that it is a balanced budget.

There are many ways to create a balanced budget. There are many competing interests in this country. There are almost unlimited needs, and there are limited resources. We would do this country a favor in my judgment by creating a fiscal policy that balances the budget the right way. As we do it, let us still continue to invest in the things that make America great; let us continue to make our promises.

What makes America great? Investment in education and investment in our children advance this country's economic interests.

You have all heard the admonition: if you are worried about a year, plant rice; if you are worried about 10 years, plant some trees; if you are worried about a century, educate your children. Education advances this country's interests. That is an investment. We do this country no favor by deciding that the way to balance the Federal budget is cut education and build star wars. The choices, it seems to me, are difficult, but they are not choices in which we have to reach the wrong result time after time after time.

There are many things, as I said when I started, in this proposal for which we should commend the Republicans, but there can be a much better approach to balancing the budget, fairer to all Americans if we could get together and understand the consequences of these choices on all of the interests, big interests and little interests, big folks and little folks and all Americans.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, at this time I would yield 10 minutes to the Senator from Iowa.

Mr. GRASSLEY. Mr. President, at the close of Tuesday's first budget meeting with White House officials, I expressed to Chief of Staff Leon Panetta and Treasury Secretary Rubin my disappointment with their inflexible posture.

I told Mr. Panetta, and these are my exact words:

> Don't assume the President isn't going to change his position. He's changed his mind before.

Mr. Panetta did not respond and just walked off.

It was suggested to me that this may have been taken as a slap at or insult to the President.

Let me assure you that I meant no malice, nor did I intend it as a partisan swipe at the President.

I was simply making a statement of fact.

And the fact is, the President changes his mind quite frequently.

And if the President refuses to negotiate in person with congressional leaders, then those he sends must fully appreciate the fact that the President changes his mind a lot and that they as White House negotiators must be more flexible and open-minded.

The fact that the President changes his mind frequently may not be well known by the public at large, but it is something that those of us who work with him know very well.

The House Appropriations ranking Democrat, Congressman DAVID OBEY understands this.

In June Mr. OBEY told the Associated Press:

> I think most of us learned sometime ago that if you don't like the President's position on a particular issue, you simply need to wait a few weeks.

Again, that was an observation, a simple statement of fact, from a Democratic congressional leader, that President Clinton changes his mind quite frequently.

President Clinton has changed his mind frequently on the question of a balanced budget. On January 8, President Clinton promised to "present a 5-year plan to balance the budget."

On May 20, he said he thought balancing the budget "clearly can be done in less than 10 years." So you see, he changed his mind again.

He changed his mind again on June 13, when he said, "It took decades to run up this deficit; it's going to take a decade to wipe it out * * *."

On October 19, President Clinton changed his mind again about balancing the budget. He stated "Well, I think we could reach it in seven years * * *"

So you see, Mr. President, my point to Mr. Panetta was that if he and the other White House negotiators would be a bit more flexible, we could quickly resolve this impasse that has shut down the Government.

I am sure Mr. Panetta is persuasive enough to convince the President to change his mind again * * * to do the right thing by committing to supporting a CBO certified? Well, CBO has long been recognized as the reliable, unbiased, nonpartisan budget scorer.

Unfortunately, on this point, President Clinton has also changed his mind again.

In 1993, President Clinton touted CBO as the independent and more accurate budget scorer.

But then he changed his mind. He now is trying to convince Americans that OMB, which is controlled by President Clinton, is the reliable, unbiased, and nonpartisan budget scorer.

President Clinton offered what he claimed was a 10-year balanced budget plan that was cooked up by the OMB that he controls.

Even the chairman of the Democratic Senatorial Campaign Committee, Senator BOB KERREY, criticized the President's so-called 10-year balanced budget plan by stating:

> They cooked the numbers . . . He needs to get back to the CBO numbers.

And, of course, as we all know, CBO's analysis exposes the fact that the President's budget does not balance, not in 5 years, 7 years, 10 years or ever.

Instead, CBO shows that it would compound the burden of our children and grandchildren by increasing the deficit to the tune of over $200 billion each of those 10 years.

This is why President Clinton's budget was defeated in the Senate by a vote of 96 to 0. Not one Democrat voted for President Clinton's budget, not one Republican.

President Clinton has changed his mind on taxes. He campaigned promising a large tax cut.

Once elected President, he changed his mind. He instead pushed for and signed into law the largest tax increase in our Nation's history—$251 billion. It was a tax increase that hit our elderly and young people alike.

Recently, he changed his mind again about his 1993 tax increase. He told people in Houston that, and I quote:

> Probably there are people in this room still mad at me at that budget because you think I raised your taxes too much. It might surprise you to know that I think I raised them too much, too.

I do not suppose it is any more than a mere coincidence that he had that particular change of mind during his Presidential campaign fundraiser in Texas.

President Clinton has changed his mind on Medicare spending a good number of times as well.

At the AARP Presidential Forum in 1993, President Clinton proposed to restrain the growth of Medicare spending to two times the rate of inflation. He said, and I quote:

> Today. . . . Medicare (is) going up at three times the rate of inflation. We propose to let it go up at two times the rate of inflation. That is not a Medicare—cut . . .

Mr. President, guess what? President Clinton has changed his mind again—on two different counts here.

The Republican plan to save Medicare allows Medicare spending to go up—now listen carefully—two times the rate of inflation.

That is exactly what President Clinton proposed in 1993, but now he attacks Republicans for proposing the same.

Furthermore, whereas in 1993 he argued before AARP that doing this was not a cut, now that the Republicans are recommending this, President Clinton says that it is a cut.

Mr. President, we could go on and on and on, if we attempted to list every time President Clinton changed his mind, but I will not suffer my colleagues through such an ordeal.

But the point should be clear to White House negotiators such as Mr. Panetta, that the President does change his mind often, and thus, they should not be so closed-minded and entrenched in our negotiations.

Almost everything we Republicans and Americans want, and that remarkably has led to this unfortunate juncture, the President has at one time or another, has said that he supports as well.

There is no justified reason for him to disagree with us now.

He said we could balance the budget in 7 years, so let us do it.

If he can come up with a plan to do it in 5 years as he said he would, then let us consider that instead.

He said CBO is the most reliable budget scorer, so let us use their numbers, instead of those rosy numbers cooked up by his OMB.

He said he wanted to restrain the growth of Medicare spending to two times inflation like we Republicans are currently proposing, so let us do it.

He promised Americans a major tax cut, so he should join us Republicans and just do it.

It is time President Clinton quit listening to his Democrat campaign consultants who brag about subscribing to terror to make people hate, and start listening to some sound advice that is good for the country, class warfare and generational/warfare tactics.

Mr. President, it is time to do the right thing.

There is no reason President Clinton cannot change his mind one more time—one more time to do what is right.

As the ad campaign says, "Just Do It."

President Clinton, Just Do It.

I yield the floor, and I reserve the remainder of my time for the rest of the speakers.

Mr. ABRAHAM. I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. First, Mr. President, I would like to compliment my colleague and friend from Iowa, Senator GRASSLEY, for an excellent speech. Also, I would like to compliment Senator DOMENICI for his leadership in bringing this budget package to the floor, as well as Senator DOLE and Senator ROTH, and Senator ABRAHAM, who is managing the floor, and I think doing an exceptional job.

Mr. President, in my opinion, this is probably the most important vote that we will cast in my 15 years in the Senate. We had historic votes during President Reagan's term and President Bush's. But we really never really had a vote to balance the budget. We never had a vote that would enact into law changes necessary to balance the budget.

Tonight we are going to have that vote. And I understand that our colleagues on the Democrat side of the aisle and the President will not support us. I think that is unfortunate. I hope that after this vote maybe they will work with us to enact a balanced budget.

For the first time in history, we are going to have the courage to do what is right and actually balance the budget. Such action by Congress has not happened in decades. You would have to go back to 1969 to find the last time we balanced the budget.

I think it is important, too, that we use facts. I have several charts I am going to put in the RECORD to back up some of the comments I am going to make.

One, I want to refute some of the statements that President Clinton has made. He said, his 1993 budget reduced deficits by $500 billion. I heard him say that as recently as yesterday.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart that shows the CBO baseline in January 1993, which had very high deficit projections, and the CBO baseline in August of 1995, which had significantly lower deficits. This chart shows why those deficits are lower. I ask unanimous consent to have that chart and others printed in the RECORD at this time.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

SOURCE OF DEFICIT DECLINE SINCE PRESIDENT CLINTON TOOK OFFICE

	Clinton term				Out Years		Total
	103d Congress		104th Congress		105th Congress		
	1993	1994	1995	1996	1997	1998	
CBO deficit baseline (January 1993)	310	291	284	287	319	357	1,848
Tax and fee increases	0	(28)	(47)	(54)	(65)	(64)	(259)
Spending increase/(cuts)	4	9	3	(18)	(39)	(56)	(98)
Technical, economic, and debt service	(59)	(69)	(79)	(24)	2	(7)	(236)
CBO deficit baseline (August 1995)	255	203	161	189	218	229	1,255

Source: Congressional Budget Office reports.
Amounts which reduce the deficit are shown in (parenthesis). Details may not add due to rounding.

MEDICARE SPENDING COMPARISONS

[Gross mandatory outlays in billions]

	1995	1996	1997	1998	1999	2000	2001	2002	7 year total	7 year average
Balanced Budget Act	178	196	211	217	228	250	270	293	1,664	
Growth over 1995		18	33	39	50	72	92	115	417	
Percent growth		10	8	3	5	10	8	8	64	7.4
President II	174	192	208	223	239	254	271	289	1,676	
Growth over 1995		18	34	49	65	80	97	115	458	
Percent growth		10	8	7	7	6	7	7	66	7.5

Sources: SBC Majority & OMB data. Includes GME outlays.

BUDGET PLAN COMPARISON

	1995	1996	1997	1998	1999	2000	2001	2002	Sum 1996–2002	Compared to a freeze
Balanced Budget Act (CBO scoring):										
Outlays	1,518	1,590	1,629	1,660	1,703	1,764	1,801	1,857	12,004	1,378
Revenues	1,357	1,412	1,440	1,514	1,585	1,665	1,756	1,861	11,233	607
(Deficit)/surplus	(161)	(178)	(189)	(146)	(118)	(100)	(46)	4	(773)	
Clinton budget (OMB scoring):										
Outlays	1,518	1,579	1,655	1,713	1,777	1,847	1,903	1,966	12,440	1,814
Revenues	1,357	1,415	1,474	1,549	1,628	1,716	1,817	1,903	11,492	1,993
(Deficit)/surplus	(161)	(163)	(179)	(161)	(146)	(125)	(91)	(58)	(923)	
Clinton budget (CBO scoring):										
Outlays	1,518	1,611	1,680	1,737	1,822	1,904	1,983	2,073	12,810	2,184
Revenues	1,357	1,416	1,467	1,538	1,608	1,684	1,772	1,864	11,349	1,850
(Deficit)/surplus	(161)	(196)	(212)	(199)	(213)	(220)	(211)	(210)	(1,461)	

Sources: CBO and OMB.

EARNED INCOME CREDIT

Year	Maximum credit	Minimum income for maximum credit	Maximum income for maximum credit	Phaseout income
Two or more children				
Historical				
1976	$400	$4,000	$4,000	$8,000
1977	400	4,000	4,000	8,000
1978	400	4,000	4,000	8,000
1979	500	5,000	6,000	10,000

EARNED INCOME CREDIT—Continued

Year	Maximum credit	Minimum income for maximum credit	Maximum income for maximum credit	Phaseout income
1980	500	5,000	6,000	10,000
1981	500	5,000	6,000	10,000
1982	500	5,000	6,000	10,000
1983	500	5,000	6,000	10,000
1984	500	5,000	6,000	10,000
1985	550	5,000	6,500	11,000
1986	550	5,000	6,500	11,000
1987	851	6,080	6,920	15,432
1988	874	6,240	9,840	18,576
1989	910	6,500	10,204	19,340
1990	953	6,810	10,730	20,264
1991	1,235	7,140	11,250	21,250
1992	1,384	7,520	11,840	22,370
1993	1,511	7,750	12,200	23,049
1994	2,528	8,425	11,000	25,296
1995	3,110	8,640	11,290	26,673
Clinton expansion				
1996	3,564	8,910	11,630	28,553
1997	3,680	9,200	12,010	29,484
1998	3,804	9,510	12,420	30,483
1999	3,932	9,830	12,840	31,510
2000	4,058	10,140	13,240	32,499
2001	4,184	10,460	13,660	33,527
2002	4,320	10,800	14,100	34,613
Balanced Budget Act				
1996	3,564	8,910	11,630	25,425
1997	3,680	9,200	12,010	26,254
1998	3,804	9,510	12,420	27,145
1999	3,932	9,830	12,840	28,059
2000	4,058	10,140	13,320	28,940
2001	4,184	10,460	13,660	29,856
2002	4,320	10,800	14,100	30,821
One child Historical				
1976	400	4,000	4,000	8,000
1977	400	4,000	4,000	8,000
1978	400	4,000	4,000	8,000
1979	500	5,000	6,000	10,000
1980	500	5,000	6,000	10,000
1981	500	5,000	6,000	10,000
1982	500	5,000	6,000	10,000
1983	500	5,000	6,000	10,000
1984	500	5,000	6,000	10,000
1985	550	5,000	6,500	11,000
1986	550	5,000	6,500	11,000
1987	851	6,080	6,920	15,432
1988	874	6,240	9,840	18,576
1989	910	6,500	10,240	19,340
1990	953	6,810	10,730	20,264
1991	1,192	7,140	11,250	21,250
1992	1,324	7,520	11,840	22,370
1993	1,434	7,750	12,200	23,054
1994	2,038	7,750	11,000	23,755
1995	2,094	6,160	11,290	24,396
Clinton expansion				
1996	2,156	6,340	11,630	25,119
1997	2,227	6,550	12,010	25,946
1998	2,305	6,780	12,420	26,846
1999	2,380	7,000	12,840	27,734
2000	2,455	7,220	13,240	28,602
2001	2,533	7,450	13,660	29,511
2002	2,615	7,690	14,100	30,462
Balanced Budget Act				
1996	2,156	6,340	11,630	23,055
1997	2,227	6,550	12,010	23,814
1998	2,305	6,780	12,420	24,637
1999	2,380	7,000	12,840	25,454
2000	2,455	7,220	13,240	26,252
2001	2,533	7,450	13,660	27,085
2002	2,615	7,690	14,100	27,957
1976	(1)	(1)	(1)	(1)
1977	(1)	(1)	(1)	(1)
1978	(1)	(1)	(1)	(1)
1979	(1)	(1)	(1)	(1)
1980	(1)	(1)	(1)	(1)
1981	(1)	(1)	(1)	(1)
1982	(1)	(1)	(1)	(1)
1983	(1)	(1)	(1)	(1)
1984	(1)	(1)	(1)	(1)
1985	(1)	(1)	(1)	(1)
1986	(1)	(1)	(1)	(1)
1987	(1)	(1)	(1)	(1)
1988	(1)	(1)	(1)	(1)
1989	(1)	(1)	(1)	(1)
1990	(1)	(1)	(1)	(1)
1991	(1)	(1)	(1)	(1)
1992	(1)	(1)	(1)	(1)
1993	(1)	(1)	(1)	(1)
1994	306	4,000	5,000	9,000
1995	314	4,100	5,130	9,230
Clinton expansion				
1996	324	4,230	5,290	9,520
1997	334	4,370	5,460	9,830
1998	346	4,520	5,650	10,170
1999	357	4,670	5,830	10,500
2000	369	4,820	6,020	10,840
2001	380	4,970	6,210	11,180
2002	392	5,130	6,410	11,540

EARNED INCOME CREDIT—Continued

Year	Maximum credit	Minimum income for maximum credit	Maximum income for maximum credit	Phaseout income
Balanced Budget Act				
1996	0	(1)	(1)	(1)
1997	0	(1)	(1)	(1)
1998	0	(1)	(1)	(1)
1999	0	(1)	(1)	(1)
2000	0	(1)	(1)	(1)
2001	0	(1)	(1)	(1)
2002	0	(1)	(1)	(1)

Source: Joint Committee on Taxation.

EARNED INCOME CREDIT—REDUCING PROGRAM COSTS

[Fiscal year, billions of dollars]

Fiscal year	Outlay cost	Revenue cost	Total cost
Historical			
1985	1.179	0.482	1.661
1986	1.498	0.586	2.084
1987	1.552	0.553	2.105
1988	2.996	1.033	4.029
1989	4.276	1.655	5.931
1990	4.669	1.943	6.612
1991	5.430	1.681	7.111
1992	7.955	2.756	10.711
1993	10.062	3.091	13.153
1994	12.254	3,489	15.743
1995	16.730	3.117	19.847
Clinton expansion			
1996	20.257	3.505	23.762
1997	22.039	3,831	25.870
1998	22.922	4.025	26.947
1999	23.893	4.184	28.077
2000	24.938	4,400	29.338
2001	25.897	4.639	30.536
2002	26.912	4.823	31.735
Balanced Budget Act			
1996	20.094	3.445	23.539
1997	18.771	2.648	21.419
1998	19.409	2.731	22.140
1999	20.137	2.793	22.930
2000	20.893	2.907	23.800
2001	21.607	3.012	24.619
2002	22.453	2.978	25.431

Source: Joint Committee on Taxation.

Mr. NICKLES. Mr. President, what this chart shows is that the President did not make any spending cuts in his first 3 years whatsoever, none. He did have significant tax increases, actually, the largest tax increase in history. But the bulk of the so-called deficit reduction was technical changes, economic changes and debt service savings, in other words, reductions that were not the result of his policies.

But I wanted to note, of that $500 billion in so-called deficit reduction, in the first 3 years there were no spending cuts. Actually, spending increased over the CBO baseline $4 billion in 1993, $9 billion in 1994, $3 billion in 1995. So now, those facts are in the record. Also, we heard the President say in one press conference that he wanted to balance the budget. He mentioned the word "balanced budget" 16 times in a recent short press conference. As a matter of fact, he has mentioned several times about his desire to balance the budget.

As a candidate in 1992, he said that he would submit a 5-year plan to balance the budget. On May 20 of this year he said, "I think balancing the budget clearly can be done in less than 10 years." In June he said, "It's going to take a decade to wipe out the deficit." In October he said that "We could reach it," balancing the budget, "in 7 years." Also, in October he said, "We can do it in 8 years." Also, in October he said, "We can do it in 9 years." The President has been all over the lot on how long it would take to balance the budget.

The point is, Republicans actually have a bill—not a statement—we have a bill before us which, if enacted, will balance the budget in 7 years. I think that is real. It is significant. It is substantive.

Now, I heard some of my colleagues on the floor say, "Well, if we enact your plan, it is going to devastate Medicare, it is going to devastate Medicaid, and it is going to give all these wealthy people big tax cuts. They say that we are going to cut these programs and transfer more wealth to the wealthy."

That is totally, completely, irrefutably false. And I will put the facts in the record to prove it. But first, I want to talk about these cuts for a second.

For example, Medicare spending rises under our plan. This year it is $178 billion. In the year 2002, it is $293 billion. That happens to be a 65-percent increase. Not a decrease, an increase. Medicaid spending rises from $89 billion to $122 billion. That is a 37-percent increase. Overall mandatory spending increases from $739 billion to over $1.93 trillion. That is a 48-percent increase.

Maybe we did not cut spending enough. Those are big increases. Today we are spending about $1.5 trillion. In 7 years, we are going to spend $1.85 trillion. In other words, spending increases every single year.

Do we slow the growth of spending down? Yes. Do we make these programs grow at more affordable rates? Yes. Do we offer some tax relief for middle-income Americans? Yes. Should we make apologies for that? I say definitely not.

I think this package that we have put together is a fair package. I think it is a good package.

Also, I have to say, Mr. President, we have to compare it to the President's budget. What has he submitted as his plan? In January 1995, he submitted a budget that never came into balance. His budget actually had deficits rising substantially.

He submitted a revised budget in June. According to CBO, the deficits in his new budget go up as well. Let me give you his deficit figures. This year, the deficit was $164 billion. Under the President's plan, it rises to $210 billion in the year 2002.

Our budget has a surplus in the year 2002 of $4 billion. We actually balance the budget in 7 years. The President's budget deficits continue to escalate to over $200 billion for as far as the eye can see. That is the difference in our visions for the future.

Those are the only two proposals on the table. I might mention, the President's proposal was about 20 pages on a fax machine. Not a significant, substantive document. It was more a theoretical document. We have a real budget that says if we curb these entitlement programs and make other spending cuts, we are going to have a balanced budget.

Republicans are going to change budget laws. We did not balance the budget under President Reagan, and I love President Reagan. We did not do it under President Bush, and I think very highly of President Bush. But we never had the votes or the courage to curtail the growth of entitlement programs.

Some of these programs are exploding in cost. Over the last several years Medicaid grew at 28, 29, 30, 31 percent. The earned-income credit grew from $2 billion in 1985 to $23 billion in 1994. That is an unbelievable growth rate, 11 times what it was just 9 years ago. In other words, we had a lot of entitlement programs just exploding in cost.

Now, for the first time, we are curtailing the growth of those programs. Some people say we are slashing those programs. I take issue with that.

Medicare is probably the one issue that has been demagogued by opponents of this package more than any other. I mention, in our budget, that in 1995 in Medicare we spend $178 billion. By the year 2002, we spend $293 billion. That is a 65 percent increase.

Mr. President, what is shocking—I hope my colleagues on the other side of the aisle will look at this chart—as I compare the spending that we propose in Medicare every year to the spending proposed in the President's June budget—and I find very, very little difference. Under our proposal, Medicare grows at an annual rate of 7.4 percent. Under the President's proposal, Medicare grows at 7.5 percent.

Under our proposal, for which we are being lambasted so much—I heard people say we are killing Medicare and we are being unfair to senior citizens—actually, our budget proposes spending more in the year 2002 than the President's proposal in Medicare. That is kind of surprising.

My point is, these cuts are not draconian, they are not drastic. Somebody said, "The Republicans are trying to cut Medicare $270 billion and the President is only trying to cut $124 billion."

The President uses different economic assumptions. He assumes the health care costs are going to grow at a slower rate than we do on the Republican side.

Our point is that we are using the Congressional Budget Office. I might mention, President Clinton originally said that he would use the Congressional Budget Office. It does make a difference. Over a 10-year span, the President's budget comes to balance by assuming a more favorable economic situation that equals $475 billion more that he would like to spend.

But the President, in his State of the Union Address in 1993, explained to Congress why he used CBO numbers to score his budget proposal. He said:

> I did this so that we could argue about priorities with the same set of numbers. I did this so that no one could say I was estimating my way out of this difficulty. I did this because if we can agree together on the most prudent revenues we're likely to get if the recovery stays and we do the right things economically, then it will turn out better for the American people than we say.

The President was right: We should use the same numbers. But unfortunately, now he is trying to estimate his way out of difficulty.

We need to balance the budget. We need to make difficult decisions. It is not always easy to do, but I think we have a very balanced proposal, one that does not inflict undue paid. Somebody said, "Oh, look at all the pain." I do not see pain in this proposal. I see us doing what we should do.

Let us look at Medicare. My Democrat colleagues on the Finance Committee offered to cut Medicare part A, the hospital portion, by $89 billion. They offered that as an amendment on the floor too. So we basically agree on the amount of cuts on hospitals.

Then they said, "Republicans are trying to raise premiums on part B beneficiaries, the doctor portion." What do we really do? We keep the premium rate at 31.5 percent of program costs. That is what the beneficiaries pay today. That is fair; that is reasonable. The program started out at 50 percent. Keeping it at 31.5 percent, I think, is fair.

Do premium costs increase? Yes, but they increase under the President's proposal too. As a matter of fact, the President's increase in part B premiums follow right along with ours. There is only, I think, a $5 difference in the year 2002 in premiums. What he did not tell people is, "Present law goes down to 25 percent, and I am going to take credit for that and really lambaste and demagog the Republicans."

The fact is, keeping premium levels at 31.5 percent is fair. We also say wealthier people should pay a little more. We should not be asking everybody who is making $20,000 to be subsidizing wealthier people on their part B premium.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. We also made some tax changes that are fair to American families. I have heard a lot of colleagues say, "Well, that's not fair." The heck it is not. We are giving tax relief to individuals and families who have kids, a $500 per child tax credit. Somebody says that does not mean very much. Well, I disagree. I only have one child now who would qualify, because they have to be under the age of 18. I used to have four kids who would qualify.

A lot of American families need help. Four kids is $2,000 in tax relief. That is targeted toward the American family. That will help. An individual or couple who has two kids gets $1,000. That is $1,000 that they get to spend on themselves instead of sending it to Washington, DC, to have politicians spend on a multitude of items.

It is the idea that they can choose. They may want to spend it on education or a home or transportation or to buy food or pay utilities. We want to let families make that decision, not the Government.

We have targeted the bulk of tax relief to American families. We did it with the inheritance tax; we did it with the child credit; we did it with IRA savings accounts; we did it with medical savings accounts.

Mr. President, I think this is a balanced package, it is a good package, and it is the only package we have before us that will balance the budget.

We said we were going to do it. We are going to do it. I think what we are doing is vitally important. I thank the manager of the bill and I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Nebraska.

Mr. EXON. Mr. President, I yield 15 minutes to the Senator from Massachusetts.

Mr. KERRY. I thank the Chair and the distinguished minority manager of the bill.

Mr. President, I just heard one speaker say that this will be the most important vote in the Senate in 15 years. I respectfully disagree. I think the most important vote in the Senate in 15 years will be the vote when we return with a reconciliation package that has been negotiated and which fairly reflects the administration, the minority and the majority in the Senate, as an expression of all of our desires to balance the budget. That will be the most important vote. But I do not want to quibble or deny the notion that this is not an important statement.

I would like to say that, from at least this Senator's perspective, our colleagues on the other side of the aisle deserve credit. I think it is appropriate for us to talk more honestly about what is at stake here and, perhaps, depart from some of the partisan rhetoric, though it is hard because of the circumstances.

The fact is that the majority is proving what many of us said as we opposed the balanced budget amendment. What we said was that we do not need an amendment, we simply need legislators with the courage to balance the budget. And indeed, the Republicans have picked up that challenge and they deserve credit for having returned to the floor with a budget that, in their view, expresses their values and their direction for the country.

So they are offering a balanced budget. Regrettably, their choices, which are more unilateral than most of us would have hoped we would arrive at because in effect it represents exclusively the Republican House and Republican Senate to the exclusion of most of the efforts of the rest of us. Theirs is a statement of values. Their budget sets forth the Gingrich-Republican view of how America ought to be. And the fact that some of us oppose that view does not mean that we oppose coming to the floor and voting for a balanced budget.

I will vote "no" on this view of America, with the hopes that after the President has vetoed it we will return with a more compromised, centrist, and hopefully more diverse, shared view of where this country should go in this important statement of a budget.

It is my hope that many of us who want to balance the budget and do it responsibly, with a fair reflection of the values of this country, will have an opportunity to do so after the real negotiations take place.

Mr. President, I have already voted for a balanced budget. It was the so-called CONRAD plan. It was a plan that I did not agree with every part of, but I think it was far more fair than the plan or any other plan that we have had on the floor. It was a plan that gave tax breaks to middle-class working families. It closed tax loopholes, reduced corporate welfare. But instead, in this plan we are now confronted with, contrary to the fairness that we tried to achieve previously, the Republicans are raising $32 billion worth of taxes from Americans earning less than $30,000 a year.

I voted for a balanced budget plan that was honest about the need to do something about Medicare. I agree with my colleagues. There has been a lot of heightened rhetoric about it. The truth is that we have to restrain the growth on entitlements generally, and we have to retain the growth particularly in Medicare and Medicaid the fastest-growing portions of the budget.

I voted for a budget, Mr. President, that was fair in what it asked seniors to do in sharing that burden. It saved the Medicare plan without cutting twice as much as we need to, twice as much as is currently reflected in this budget. I voted for a commonsense reduction in Medicare to save the system. The Republicans are essentially, in order to give a tax cut, taking the heart out of Medicare with the $270 billion reduction.

I voted, Mr. President, for a balanced budget that would preserve access to health care for those people with disabilities, for pregnant women, and for children. While we reduced—in our budget—Medicaid by about $125 billion, the Republicans have come to the floor with a budget that reduces it by $182 billion over 7 years.

I voted for a balanced budget that invested in our children's education. It saved educational access, vital for job growth and competitiveness. But the Republicans now want to cut student loan programs by more than $5 billion, at a time when it is harder and harder for average Americans to send their kids to college. They also are going to wind up taking 1.8 million kids off of student loan rolls, and reducing by 1,250 the number of colleges that can participate in a direct lending plan. That is good for banks, Mr. President, but it is not good for students or for our colleges.

I voted for a balanced budget that would feed hungry children in this country, and it added back more than half of the funds for food and for children. But instead the Republicans are going to slash $46 billion over the next 7 years that would leave literally millions of children hungry in this country.

I voted for a balanced budget that would honor the service of veterans, not leave them scot-free, because we did in our budget reduce veterans' payments by about $5 billion, but the Republicans want to recklessly cut those programs in a way that may close 35 of 170 hospitals, and certainly five next year.

Mr. President, this budget process is the truest statement about any party's priorities or any individual's sense of what is fair. The bottom line is that this budget is about people. With this Republican budget tonight, they reverse some 60 years of a certainty that was built into the fabric of the American political structure—a certainty that our senior citizens would not grow old and be left with nothing—a certainty that families would be part of a community and that we would care for people, even if they were in the street, even if they were suffering or in need of help.

I wonder whether this budget is really representative of what America has become in 1995, because if it is, then I think this Senate will long be remembered as the Senate that took away the good part of the certainty of American life, not the bad part, not the part that we know with respect to welfare and other programs has distorted values. I am talking about the good part, the part that allowed people to lift themselves up by their bootstraps, that allowed people in a nursing home to not have to get rid of every cent they had in order to stay there, the part that guaranteed that we are not going to suddenly have seniors strapped into wheelchairs again because nursing home standards are lifted. Those were certainties that we built into American life.

This budget takes away those certainties, Mr. President. With this budget, thousands and thousands of women and children, our fellow citizens, thousands of families, thousands of seniors, who are struggling to pay for food or pay for health care, or simply meet the rent or save something for the future, they will be hurt. As my friend from North Dakota pointed out, they will be hurt in juxtaposition to countless millions of people who do not need that help, who will be helped.

This budget violates everybody's fundamental sense of fairness, Mr. President. And that is something that we ought to care about as we care about the fabric of values and of life in this country.

There will, as a result of this budget, no longer be a certainty in America that children will not go hungry. There will no longer be a certainty that an elderly widow in a Massachusetts hospital will not lose everything that she has. There is no longer a certainty that their children, who are already struggling, getting more and more behind, will be able to pay for her care without jeopardizing their future.

There is no certainty in this budget that American children will get a better shot at a decent education or a better shot at a job, and there is no certainty that a pregnant mother or a disabled veteran will get the helping hand that we have always promised.

There is not even the certainty that our drinking water will get cleaner or our wilderness will be protected or that toxic waste will be cleaned up or that we will hand down to our children a better country, Mr. President.

I think the least we can do in a budget is express our responsibility to protect the certainties that those who came to this floor before us fought for.

I can only say to my colleagues who tell us this budget is a sure thing that in the words of Robert Burns, "There is no such uncertainty as a sure thing."

This budget will create uncertainties, uncertainties with respect to the environment, uncertainties with respect to people's capacity to strive to make the best of their own opportunities to get an education, to try to touch the new marketplace.

Mr. President, there is an enormous giveaway to mining companies in this budget. There is oil drilling in the Arctic National Wildlife Refuge. There are water subsidies to America's largest agricultural corporations. There is a royalty exemption from oil leases in the Gulf of Mexico. There are lots of little goodies in this budget which do not speak to the issue of fairness in this country.

I might just say, Mr. President, with respect to some of the most important things we hear talked about on the Senate floor, values with respect to children, this budget is not friendly.

We have heard a lot of talk about the number of children who are born out of wedlock, the number of kids who desperately need an opportunity through Head Start, or who desperately need a hot lunch. This budget creates an enormous shift of wealth from those who are at the lower end struggling to make ends meet and working families, not people on welfare but working families, and it takes that wealth from those struggling and gives it to people at the upper end who do not need it.

Mr. President, in the name of fairness, I am pleased that the President has said he will veto this budget. The most important vote will be the vote that occurs after we have the negotiations that will take place in the next weeks, and I hope it will not take longer than weeks. It is my fervent plea in the course of that process more voices of America be heard and reflected in our budget.

Again, I say, Mr. President, there are many on this side of the aisle who looked forward to the ability to be able to help shape that process. It is our hope we will join together around reasonable figures, perhaps some combination of CBO or OMB—figures that are reasonably arrived at and reflect the future economic growth of this country, and that we will use those figures to come up with an intelligent budget that all of us can take to America as we ask people to share the sacrifices necessary to balance the budget.

It is my hope that day will come soon. That will be the most important vote in the U.S. Senate. I yield back my remaining time to the Senator from North Dakota.

Mr. CONRAD. Mr. President, this is a critically important debate. It ought to be informed, I think, by fact and reason and by law.

Mr. President, we have heard a lot of talk that what we have before us is a balanced budget. The fact is, the law says something different. The law says we do not have a balanced budget before the Senate.

That is because if you look at subtitle C of Social Security, the off-budget status of Social Security trust funds, it makes very clear that Social Security surpluses are not to be included in any calculation of the deficit.

The only way the Republican plan achieves balance is to use every penny of Social Security surplus generated between now and the year 2002—$636 billion of Social Security surplus funds will be raided so that the Republicans can claim their plan is balanced.

Mr. President, this is not just my view. This is, in fact, the certification from the Congressional Budget Office. We have been through this debate before, and on October 20, Senator DORGAN and I asked the head of the CBO, if we follow the law, a law that 98 Senators voted for, and excluded Social Security surpluses, what would the deficit look like in 2002 under the Republican plan?

The head of the CBO responded by saying the deficit in 2002 under the plan presented would be $105 billion.

In the conference committee that number has grown. We now have a deficit in the year 2002 under this plan, if we obey the law, of $111 billion. I think it is important to make that point for the record.

This chart shows the looting of the Social Security trust fund that will go on during this period, from 1996 to 2002. These are the yearly totals that will be taken of Social Security surplus funds. This is the total over the 7-year period—$636 billion.

Mr. President, we have heard from the other side assertions that the Democrats have no alternative balanced budget plan. It makes me wonder where some of our colleagues have been. We have had a series of alternatives offered on the floor of the Senate.

The one I was most deeply involved in was the Fair Share balanced budget plan we offered during the budget resolution. It was an honest balanced budget plan but with a substantially different set of priorities than those contained in the Republican plan.

Let me talk about some of the differences. The Fair Share Plan balanced the budget, without counting Social Security surpluses, by the year 2004—9 years without counting any Social Security surpluses. It produces more deficit reduction in 2002 than the Republican plan.

In fact, the Fair Share Plan that 39 Democrats in this body voted for had $100 billion more in deficit reduction than the Republican plan.

At the same time, it had a substantially different set of priorities than the Republican balanced budget plan. The Democratic balanced budget plan restored $100 billion of the $270 cut in Medicare.

I know many on the other side of the aisle have said they are not cutting Medicare. I ask them this simple question: If they are not cutting Medicare, how is it that they have achieved $270 billion of savings from what current law provides in Medicare? How can it be, if they have not cut anything, that they have saved $270 billion over the next 7 years? Of course they have cut. They have cut in quality and service what our seniors will receive through that program.

Some say, "I hear the Republicans saying they are spending more money on Medicare." Yes, that is true. They are spending more money. Of course they are spending more money. There is 7 years of medical inflation that has to be covered. Medical inflation is growing at three times the rate of normal inflation.

In addition, there are 5 million new people who are going to be eligible for Medicare during this 7-year period. So of course they have to spend more.

But the fact is, they are not spending as much more as would be required in order to provide the same level of quality and services as the current program provides. That is why they have $270 billion of savings out of the Medicare Program. But those savings are going to mean less quality, less service to seniors than the services and quality of service they receive now.

In addition, the draconian changes that the Republicans have proposed for Medicare are going to mean we are going to have rural hospitals all across America forced to close. In my own State, the hospital association tells me 26 of the 30 rural hospitals are going to negative margins on their Medicare-eligible patients. Of course, most of their patients are Medicare eligible. That means many of those hospitals will be forced to close. That is the harsh reality of what is being proposed here.

Do we need to generate savings out of Medicare in order to balance the budget over 7 years? Absolutely. But $270 billion of reductions is too much. It is draconian. It is extreme. It will have severe consequences.

The plan that 39 Democrats voted for restored $100 billion of the $270 billion of cuts in the Republican plan. In addition, we restored about $40 billion of the cuts to Medicaid. Let me just indicate, we now have a new analysis from Consumers Union that indicates we are going to see 12 million people lose their medical coverage because of the serious reductions to the Medicaid Program provided for in this Republican plan.

Education? The plan that 39 Senate Democrats voted for did not cut education. We did not have a dime of cuts in education because we believe education is the future. If there is one place that should not be cut it is those funds that make it more possible for people to develop their full potential through education and all of the opportunities that education creates, not only for the individual but for all of the rest of us who benefit from what people are able to achieve who have gotten as much education as they possibly can.

Nutrition and agriculture? We restored $24 billion in order to have less of a cut to food programs and to agriculture programs. Let me just say with respect to agriculture, the Republican program is to indicate they are going to kill all agriculture programs after 7 years. They have now come forward and admitted what their plan really is. We will not have an agriculture program after 7 years. They are destroying the foundation of the agriculture programs of this country by ending the authorization that exists in law that has been there since 1938.

Let me just say, the Republican plan for agriculture is not a plan for American farmers. It is a plan for the French farmer. It is a plan for the German farmer. It is a plan for the farmers of every country with whom we compete, because that is who is going to benefit from the Republican farm plan.

One of the ways we were able to have a balanced budget that 39 Democrats voted for and to be able to restore some of the draconian spending cuts contained in the Republican plan, was to eliminate tax cuts. We did not have any tax cuts. Because under the Republican plan, disproportionately those tax reductions go to the wealthiest among us.

I just do not think it makes much sense to say to somebody who is in the top 1 percent of income earners in this country, you get a $10,000 tax reduction, but if you are somebody who is earning less than $30,000 a year who qualifies for earned-income tax credit, you are going to get a tax increase.

Mr. President, 7.7 million families in America under the Republican plan are going to get a tax increase. Those who are at the top of the income ladder, the top 1 percent on average are going to get a $10,000 tax cut. I do not know how they justify it. It is not my idea of targeted tax relief. But that is in this plan.

Finally, in the Fair Share Plan that 39 Senate Democrats voted for, we asked the wealthiest among us to participate in this battle to reduce the budget deficit. We asked them to curtail the growth of the tax entitlements that they primarily benefit from. If we are going to reduce the growth of the spending entitlements, and we must, then why not reduce the growth of the tax entitlements, $4 trillion of tax entitlements? It is the biggest single pot of money in the whole Federal budget.

This chart shows entitlement spending from 1996 to 2002. Tax entitlements, $4 trillion—much bigger than the next biggest entitlement, Social Security. That is nearly $3 trillion over the next 7 years. Medicare is $2 trillion over the next 7 years, and Medicaid is about $1 trillion. But the biggest one of all is the tax entitlements, the tax preferences, the tax loopholes.

We say if we are going to reduce the rate of growth of the spending entitlements, let us reduce the rate of growth of the tax entitlements as well. Let us reduce that growth to inflation plus 1 percent.

Our friends on the other side say there is no tax entitlement, no tax preference, no tax loophole that we want to close. We want to keep them all. We think they are all valid. We think they are all essential.

We, on our side of the aisle, do not.

Mr. President, these are critical issues that will be decided for the first time tonight. But I think we should all remember, the President is going to veto this bill, as he should, and then the real debate is going to begin. Then the real discussion, the real negotiation will start.

One of the key issues will be, should we really be providing a tax cut when we are adding $1.8 trillion to the debt under this Republican plan? That is what is going to happen. We have $5 trillion of debt now. Under this plan, we are going to add another $1.8 trillion, which means every penny of this tax cut is going to have to be borrowed money.

Does that make sense to anybody in this country? We have to borrow money in order to give a tax cut? Give a tax cut when we are adding $1.8 trillion to the debt? I thought the idea was to eliminate the growth of the debt, to reduce the growth of the debt. Why do we add to it?

Mr. President, I think one of the things we have to start focusing on is what is happening to the distribution of wealth in America, because what we have seen is a dramatic change. In 1969, the top 1 percent of households in America held about 20 percent of the wealth. In 1979, the top 1 percent had increased their share of the wealth of America to 30 percent. In 1989, the top 1 percent of the income earners in this country held nearly 40 percent of the wealth of this country.

The other side accuses those of us on this side of wanting to redistribute the wealth. Let me just say, our friends on the other side of the aisle are the champions at wealth redistribution. But their idea is to redistribute the wealth upwards, upwards in our society. The history of that kind of concentration of wealth is very clear. It leads to political instability and it leads to trouble. We should not allow that to occur.

U.S. News, in this quote from David Gergen, says:

> U.S. News & World Report reported last week . . . that the lowest 20 percent of the population would lose more income under these spending cuts than the rest of the population combined. At the other end, the highest 20 percent would gain more from the tax cuts than everyone else combined.

He goes on to say:

> [N]o one disputes the basic contention that the burdens and benefits are lopsided. In a nation divided dangerously into haves and have-nots, this is neither wise nor justified.

Mr. President, David Gergen has it right, but he is not alone in this observation.

I will share with you the final part of my presentation, the observation of Kevin Phillips, Republican political analyst, who said:

> If the budget deficit were really a national crisis instead of a pretext for fiscal favoritism and finagling, we'd be talking about shared sacrifice, with business, all industry and the rich, people who have the big money, making the biggest sacrifice. Instead, it's the senior citizens, it's the poor, students, and ordinary Americans who'll see programs they depend on gutted while business, finance, and the richest 1 or 2 percent, far from making sacrifices, actually get new benefits, and tax reductions.

The PRESIDING OFFICER. The Chair advises the Senator that his time has expired.

Mr. CONRAD. I thank the Chair. I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Michigan is recognized.

Mr. ABRAHAM. Mr. President, I yield 7 minutes to the Senator from Georgia.

Mr. COVERDELL. I thank the Senator from Michigan.

Mr. President, if I might, I would like to pause for just a minute to comment on this historic moment and the opportunity to vote for the first balanced budget concept in over three decades and to outline the predicament, or the situation, that has prompted these actions on the part of the majority in the 104th Congress.

The bipartisan Entitlement Commission reported to the Congress and the President earlier this year that, without change, without modification, the totality of all U.S. resources will be exhausted by but five programs. Those five programs are Social Security, Medicare, Medicaid, Federal retirement, and the interest on our debt. And by the year 2006, which is not long—less than 10 years—there will not be enough resources to debate many of these programs we are responsible for in America. We will not be debating the School Lunch Program. There will not be one.

Five programs take all U.S. revenues, and in but 10 years—Social Security, Medicare, Medicaid, Federal retirement, and just the interest on our debt—and there is nothing left to fulfill the responsibilities of this great democracy to its own citizens and to the world.

The solution to avoid that predicament is to move to balanced budgets. All America knows this. It just seems that people in Washington are late arriving at the conclusion.

These balanced budgets that have been fashioned by the Budget Committee and the Finance Committee are absolutely mandatory to avert the disaster that is but 10 years away. The balanced budget deals with all but one of these problems. It, obviously, by balancing itself, quits adding debt and, therefore, lowers the interest payments. It begins to restructure Medicaid and send it to the States for more efficient management. It takes Medicare, which is destined to go bankrupt in but 6 years according to the President's own trustees, and restructures it in a way to guarantee solvency for a quarter of a century.

What a relief that must be to all the beneficiaries of Medicare to understand that these changes will give them more choices, but, more importantly, give them a program that is solvent for a quarter of a century.

It begins to deal with the subject of Federal retirement. And Social Security is not dealt with directly, but I would say indirectly it is, because it has engaged the Nation in the discussion of entitlements and their solvency and their future.

Mr. President, what are the benefits if the Nation seizes the responsibility of managing its financial affairs? They are just stunning. The average family in America will see the interest payment on its mortgage drop dramatically. It would save the average family which makes about $40,000 a year $1,000 a year on their mortgage. It would save the average family $180 a year on the car payment interest payments. It will save the average family another $200 a year because of all the other debt that they carry. If the average family has two children, it will have $1,000 removed of tax liability.

The bottom line here, Mr. President, is that the average family in America will have $2,000 to $3,000 of new disposable income in their hands instead of Washington's so that they can make choices about education, housing, and the health of their own families.

I have mentioned Ozzie and Harriet more than once here. When Ozzie was the quintessential family, he sent 2 cents of every dollar to Washington. If he were here today, he would be sending 24 cents of every dollar to Washington. We have marginalized the average family because of the tax pressures and tax burden. The most important thing we can do is lighten that financial burden on those families, give them options, and give them the opportunity to deal with the responsibility.

As I have listened to the debate, my good friend, the Senator from Nebraska, seems to feel that it is best for Ozzie to send the money here, and for us to decide what is good or not for their family. Wrong. Wrong. They want the opportunity to make the decisions about what is best for their families.

Under this proposal, the families of 51 million American children, or 28 million tax-paying families, are eligible for the $500 per child tax cut. Under this proposal, 3½ million families will have over $2.2 billion in tax relief. Millions of American families will be taken off the tax rolls altogether.

What is the President's response about balancing the budget? First and foremost, he opposed the balanced budget amendment. Secondarily, he said he would balance the budget in 5 years when he ran for President. That is a long-forgotten promise. Then he said he would send us a balanced budget in 10 years. And by everybody's estimate, that budget never balances. And when it was put to a vote in this Senate, it failed 100 to nothing. How much more discredited could a budget proposal be?

Mr. President, I yield the floor with this conclusion. This whole battle is about balancing the budget. This new Congress wants to do it. The President does not. America should tell the President now is the time to balance our budget.

I yield the floor.

Mr. EXON. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

Mr. PELL. Last week, the National Goals Panel issued an extensive report on the progress American schools are making towards meeting the national goals. That report was a mixed one. We have made gains in areas such as mathematics achievement and making sure that our children enter school ready to learn. In other areas, such as reading achievement and teacher preparation, we are only holding our own. And in some areas, most notably safe and drug free schools, our problems appear to be growing.

In my opinion, there is a clear conclusion we can draw from this report. This is not the time to either relax or diminish the small, but critical Federal role in education. Quite to the contrary, it is time to strengthen our commitment if we are to sustain the gains we have made, move off of dead center in other areas, and reverse the decline in still others.

Most clearly, this is not the time to have the largest education cut in our history. It is not the time to risk a 30-percent cut in Federal education spending over the next 7 years. It is not the time to freeze the title I program and halt progress in basic skills achievement. It is not the time to cut spending on education reform. And, it is definitely not the time to reduce our commitment to safe and drug free schools.

With respect to higher education, I believe deeply that we should not put our student aid programs at risk. Yet, that is precisely what the Republican budget does. If we cut education by more than 30 percent over the next 7 years, it is clear that every education program will be in harm's way. We have already engaged in a hard-fought battle to protect students and their families from cuts in the guaranteed student loan program, and I am pleased that in large part, we have been successful.

While I had reservations about the Direct Loan Program when it was originally proposed, I am encouraged by how well the program has operated in its initial stages. Students are getting their loans more quickly and with less problems. The competition between direct lending and the regular guaranteed loan programs has also produced dramatic improvements in the private sector program. Because of this, I believe it unwise to move back and place a 10 percent cap on direct lending. This would mean that between two-thirds and three-fourths of current direct lending schools would be dropped from the program, and to my mind, that would be most unfortunate.

I also fear that we will face difficult battles with respect to our other student aid programs, and that Pell grants, supplemental grants, Perkins loans, college work study, and the TRIO programs could well be placed on the chopping block.

Mr. President, education is a capital investment in our future. The climb up the economic ladder for American after American is directly related to their level of educational achievement. Every study we know shows a correlation between an educational attainment and an increase in income. If we pull back on education, we pull back on the American people. That is not the direction in which we should be moving.

I agree wholeheartedly with President Clinton when he says that, today, we face both a budget deficit and an education deficit, and that both must be addressed.

I favor reducing the budget deficit. I do not favor doing it on the backs of senior citizens, the unfortunate in our society, our children who need a good, solid general education, or our students and families who are already hard-pressed to make ends meet in paying for a college education.

In my view, one of the best ways we can reduce the budget deficit is through a strong and vibrant economy driven by a well-educated, well-trained work force. It is time that we increased our investment in education. It is not a time for retreat.

Mr. President, it is time to calm the shrill voices of partisanship that have echoed through our Chamber. It is time to move away from the abyss of brinkmanship. It is time for all parties to come together, and to fashion a budget that enjoys wide bipartisan support. For comity to be practiced. And most of all, it is time that we got on with governing in a way that the American people can respect.

STUDENT LOAN PROVISION

Mr. President, I want to call to my colleagues' attention and call into question an important student loan provision included in the budget reconciliation conference agreement reached by the majority without the involvement of the minority.

This provision with which I am concerned requires State guaranty agencies to use 50 percent of their reserves to purchase defaulted loans. Once purchased, the agency has 180 days before it can submit claims for reimbursement. The idea is that this will allow additional time to bring defaulters into repayment, thus decreasing the total amount of claims for reimbursement.

There are at least two problems with this provision. First, it appears to assume that these reserves are the property of the State guaranty agency and not the Federal Government. If that is the case, we may well be relinquishing any claim for almost $1 billion in outstanding and quite possibly excess reserves that are Federal property and could be returned to the Federal Government to produce savings in the guaranteed student loan program.

If we assume they are not the property of the State guaranty agency, then we are simply permitting Federal funds to be used to purchase defaulted loans guaranteed by the Federal Government in the first place. If this is the case, we will be engaging in a shell game that produces illusory savings.

Second, the provision allows defaulted loans that are purchased with these funds to be considered reserves. This diminishes the required reserve ratio, also reduced in this legislation, used to help determine whether or not an agency is strong and solvent. It would quite possibly allow an otherwise bankrupt agency to use defaulted loans as assets to meet the decreased reserve ratio. To my mind, this is not good public policy.

Further, in my view, it is difficult, under any circumstance, to see how a defaulted loan can be construed as an asset. This is potentially bad paper. We may never be able to collect the debt, and yet under this provision, Federal law would decree that a defaulted loan, a debt, is an asset.

Requiring agencies to purchase defaulted loans with reserves that may or may not be their property is a roll of the dice. They may well be bad investments with minimal chance of collection. To say that they should be considered assets is, to my mind, very unwise. And, to take the chance that they also take reserves out of the reach of the Federal Government is equally imprudent.

Also, I am concerned that during the 180-day period that State guaranty agencies hold the defaulted loans, the Federal Government may well continue to pay special allowance and other interest payments on these loans. I wonder whether or not this produces an unwarranted windfall for these agencies by giving them income on a defaulted loan.

Finally, I would point out that had we had the opportunity to be involved in the budget reconciliation negotiations between the House and Senate, this would have been pointed out at the staff level. Unfortunately, for the first time in seven reconciliation and budget reduction conferences involving the guaranteed student loan program, the minority was not permitted to come to the table and make its case. This is an unfortunate departure from the bipartisanship that has been the traditional practice in education, and in this instance, I am afraid it has resulted in a highly questionable provision.

SUBMITTING CHANGES TO THE BUDGET RESOLUTION REVENUE ALLOCATIONS

Mr. DOMENICI. Mr. President, upon the submission of a conference report on a reconciliation bill, section 205(b) of House Concurrent Resolution 67 requires the chairman of the Senate Budget Committee to appropriately revise the budgetary allocations and aggregates to accommodate the revenue reductions in the reconciliation bill conference report.

Pursuant to section 205(b) of House Concurrent Resolution 67, the 1996 budget resolution, I hereby submit revisions to the first- and five-year revenue aggregates contained in House Concurrent Resolution 67 for the purpose of consideration of H.R. 2491, the Balanced Budget Act of 1995, and ask unanimous consent that the revisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	1996	1996–2000
Current revenue aggregates	$1,042,500,000,000	$5,691,500,000,000
Revised revenue aggregates	1,036,780,000,000	5,543,726,000,000

The Congressional Budget Office has reviewed the conference report on H.R. 2491, and has certified that the enactment of the Balanced Budget Act of 1995 would produce a small budget surplus in 2002.

Mr. EXON. Mr. President, I believe that the majority's desire to include tax breaks in this bill has caused two points of order to lie against this bill.

It has long been my belief that the tax breaks have been the tail that has wagged this dog of a budget. They have driven the majority to make extreme cuts in Medicare and education.

And their desire for tax breaks for the wealthy has also driven the majority to jump through some pretty high procedural hoops. I hope to demonstrate over the next few minutes that the majority has abused the budget reconciliation process and violated the conditions of the budget resolution to pave the way for these misguided tax breaks.

The budget resolution that created this budget reconciliation bill provided that the majority could cut taxes if and only if two conditions were met: One, they had to balance the budget in 2002. And, two, the reconciliation legislation had to "compl[y] with the sum of the reconciliation directives for the period of fiscal years 1996 through 2002" in the budget resolution. These two conditions are plainly spelled out in section 205 of the budget resolution. I ask unanimous consent that the full text of section 205 of the budget resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. 205. BUDGET SURPLUS ALLOWANCE.

(a) CBO CERTIFICATION OF LEGISLATIVE SUBMISSIONS.—

(1) SUBMISSION OF LEGISLATION.—Upon the submission of legislative recommendations pursuant to section 105(a) and prior to the submission of a conference report on legislation reported pursuant to section 105, the chairman of the Committee on the Budget of the Senate and the House of Representatives (as the case may be) shall submit such recommendations to the Congressional Budget Office.

(2) BASIS OF ESTIMATES.—For the purposes of preparing an estimate pursuant to this subsection, the Congressional Budget Office shall include the budgetary impact of all legislation enacted to date, use the economic and technical assumptions underlying this resolution, and assume compliance with the total discretionary spending levels assumed in this resolution unless superseded by law.

(3) ESTIMATE OF LEGISLATION.—The Congressional Budget Office shall provide an estimate to the Chairman of the Budget Committee of the Senate and the House of Representatives (as the case may be) and certify whether the legislative recommendations would balance the total budget by fiscal year 2002.

(4) CERTIFICATION.—If the Congressional Budget Office certifies that such legislative recommendations would balance the total budget by fiscal year 2002, the Chairman shall submit such certification in his respective House.

(b) PROCEDURE IN THE SENATE.—

(1) ADJUSTMENTS.—For the purposes of points of order under the Congressional Budget Act of 1974 and this concurrent resolution on the budget, the appropriate budgetary allocations and aggregates shall be revised to be consistent with the instructions set forth in section 105(b) for legislation that reduces revenues by providing family tax relief and incentives to stimulate savings, investment, job creation, and economic growth.

(2) REVISED AGGREGATES.—Upon the reporting of legislation pursuant to section 105(b) and again upon the submission of a conference report on such legislation, the Chairman of the Committee on the Budget of the Senate shall submit appropriately revised budgetary allocations and aggregates.

(3) EFFECT OF REVISED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates submitted under paragraph (2) shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) CONTINGENCIES.—This section shall not apply unless the reconciliation legislation—

(1) complies with the sum of the reconciliation directives for the period of fiscal years 1996 through 2002 provided in section 105(a); and

(2) would balance the total budget for fiscal year 2002 and the period of fiscal years 2002 through 2005.

Mr. EXON. Section 205 of the budget resolution gives the majority the authority to lower the revenue floor in the budget resolution. Without section 205, the majority would violate the revenue floor in the budget resolution by including tax cuts in this bill.

But the facts are that the conference report before us today fails to meet the two conditions in section 205 for including tax cuts. The budget resolution directed committees to come up with $632 billion in deficit reduction over the next 7 years in order to be allowed to include tax cuts in this bill. The bill before us includes only $577 billion in spending cuts, plus $3.7 billion in revenue increases in the jurisdiction of a committee with instructions to increase revenues, for a net of $581 billion in deficit reduction.

That is $51 billion short of the amount committees were instructed to achieve by the budget resolution. The bill is thus $51 billion short of the amount necessary to allow the chairman of the Budget Committee to lower the budget resolution's revenue floor to allow for the tax breaks.

As a consequence, the tax cuts cause this bill to violate the budget resolution's revenue floor.

Therefore, Mr. President, a point of order should lie against this conference report because it violates section 311(a) of the Congressional Budget Act of 1974.

Mr. President, I ask unanimous consent that the full text of the CBO cost estimate on this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 16, 1995.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the conference report on H.R. 2491, the Balanced Budget Act of 1995, and has projected the deficits that would result if the bill is enacted. These projections use the economic and technical assumptions underlying the budget resolution for fiscal year 1996 (H. Con. Res. 67), assume the level of discretionary spending indicated in the budget resolution, and include changes in outlays and revenues estimated to result from the economic impact of balancing the budget by fiscal year 2002 as estimated by CBO in its April 1995 report, An Analysis of the President's Budgetary Proposals for Fiscal Year 1996. On that basis, CBO projects that enactment of the reconciliation legislation recommended by the conferees would produce a small budget surplus in 2002. The estimated federal spending, revenues and deficits that would occur if the proposal is enacted are shown in Table 1. The resulting differences from CBO's April 1995 baseline are summarized in Table 2, which includes the adjustments to the baseline assumed by the budget resolution. The estimated savings from changes in direct spending and revenues that would result from enactment of each title of the bill are summarized in Table 3 and described in more detail in an attachment.

Sincerely,

JUNE E. O'NEILL,
Director.

TABLE 1.—CONFERENCE OUTLAYS, REVENUES, AND DEFICITS

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Outlays: Discretionary	534	524	518	516	520	516	515
Mandatory:							
Medicare [1]	196	210	217	226	248	267	289
Medicaid	97	104	109	113	118	122	127
Other	506	529	555	586	618	642	676
Subtotal	799	843	881	925	984	1,031	1,093
Net interest	257	262	261	262	260	254	249
Total outlays	1,590	1,629	1,660	1,703	1,764	1,801	1,857
Revenues	1,412	1,440	1,514	1,585	1,665	1,756	1,861
Deficit	178	189	146	118	100	46	−4

[1] Medicare benefit payments only. Excludes medicare premiums.

[2] Notes.—The fiscal dividend expected to result from balancing the budget is reflected in these figures. Numbers may not add to totals because of rounding.

[3] Source.—Congressional Budget Office.

TABLE 2.—CONFERENCE BUDGETARY CHANGES FROM CBO'S APRIL BASELINE

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	Total 1996–2002
CBO April baseline deficit [1]	210	230	232	266	299	316	349	*
Baseline adjustments: [2]								
CPI rebenchmarking [3]	0	0	0	−1	−3	−6	−9	−18
Other adjustments [4]	1	1	1	2	2	1	1	10
Subtotal	1	1	1	1	−1	−4	−8	−9
Policy changes:								
Outlays: Discretionary [5]								
Freeze [6]	−8	−9	−12	−35	−55	−75	−96	−289
Additional savings	−10	−21	−27	−24	−20	−24	−25	−151
Subtotal	−18	−29	−39	−59	−75	−99	−121	−440
Mandatory:								
Medicare	−7	−14	−27	−42	−49	−60	−71	−270
Medicaid	−2	−6	−13	−21	−30	−40	−50	−163
Other	−8	−18	−20	−24	−25	−24	−25	−144
Subtotal	−17	−38	−60	−87	−104	−125	−146	−577
Net interest	−1	−4	−8	−15	−25	−39	−58	−150
Total outlays	−36	−71	−107	−161	−203	−263	−325	−1,167
Revenues [7]	6	36	34	35	36	38	30	215
Total policy changes	−31	−35	−73	−126	−167	−225	−295	−952
Adjustment for fiscal dividend [8]	−3	−7	−14	−23	−32	−41	−50	−170
Total adjustments and policy changes	−33	−41	−86	−148	−200	−271	−353	−1,131
Conference policy	178	189	146	118	100	46	−4	*

[1] Projections assume that discretionary spending is equal to the spending limits that are in effect through 1998 and will increase with inflation after 1998.

[2] The budget resolution was based on CBO's April 1995 baseline projections of mandatory spending and revenues, except for a limited number of adjustments.

[3] The budget resolution baseline assumed that the 1998 rebenchmarking of the CPI by the Bureau of Labor Statistics will result in 0.2 percentage point reduction in the CPI compared with CBO's December 1994 economic projections.

[4] The budget resolution baseline made adjustments related to revised accounting of direct student loan costs, expiration of excise taxes dedicated to the Superfund trust fund as provided under current law, the effects of enacted legislation, and technical corrections.

[5] Discretionary spending specified in the Concurrent Resolution on the Budget for Fiscal Year 1996 (H. Con. Res. 67).

[6] Savings from Freezing 1996–2002 appropriations at the nominal level appropriated for 1995.

[7] Revenue decreases are shown with a positive sign because they increase the deficit.

[8] CBO has estimated that balancing the budget by 2002 would result in lower interest rates and slightly higher real growth that could lower federal interest payments and increase revenues by $170 billion over the fiscal year 1996–2002 period. See Appendix B of CBO's April 1995 report, "An Analysis of the President's Budgetary Proposals for Fiscal Year 1996."

Notes.—*=not applicable; CPI=consumer price index.

Source.—Congressional Budget Office.

TABLE 3.—RECONCILIATION CONFERENCE SAVINGS BY TITLE

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	1996–2002
I—Agriculture: Outlays	−1.3	−1.6	−1.5	−1.5	−1.6	−2.5	−2.4	−12.3
II—Banking and Housing: Outlays	−5.2	−0.1	0.2	0.1	(1)	(1)	(1)	−4.9
III—Communication and spectrum allocation: Outlays	−0.2	−1.8	−2.7	−3.6	−3.1	−2.7	−1.4	−15.3
IV—Education: Outlays	−1.0	−0.5	−0.5	−0.7	−0.8	−0.8	−0.8	−5.0
V—Energy and Natural Resources: Outlays	−0.6	−2.3	−0.4	−1.1	−0.7	−0.6	−0.5	−6.2
VI—Federal retirement:								
Outlays	−0.5	−1.1	−1.0	−1.6	−1.1	−1.1	−1.1	−7.5
Revenues [2]	−0.2	−0.4	−0.6	−0.6	−0.6	−0.6	−0.7	−3.7
Deficit	−0.7	−1.5	−1.6	−2.2	−1.7	−1.7	−1.7	−11.1
VII—Medicaid: Outlays	−2.2	−5.7	−13.4	−21.5	−30.0	−40.3	−50.4	−163.4
VIII—Medicare: Outlays	−6.8	−14.3	−27.2	−42.0	−49.0	−59.8	−70.9	−270.0
IX—Transportation: Outlays	−0.1	−0.2	−0.1	−0.1	−0.1	−0.1	−0.1	−0.8
X—Veterans: Outlays	−0.3	−0.4	−0.5	−1.3	−1.4	−1.3	−1.5	−6.7
XI—Revenues:								
Outlays	0.0	0.0	0.0	(1)	(1)	(1)	−0.1	−0.1
Revenues [2]	5.9	37.3	35.6	37.4	38.6	39.9	32.4	227.1

TABLE 3.—RECONCILIATION CONFERENCE SAVINGS BY TITLE—Continued

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	1996–2002
Deficit	5.9	37.3	35.6	37.4	38.6	39.8	32.4	227.0
XII—Teaching hospitals, asset sales, and welfare:								
Outlays	0.6	−10.3	−13.1	−14.1	−15.7	−15.4	−17.2	−85.1
Revenues [2]	−0.1	−1.2	−1.3	−1.4	−1.5	−1.6	−1.8	−8.9
Deficit	0.5	−11.5	−14.4	−15.4	−17.2	−17.0	−19.0	−94.0
Interactive effects: Outlays	0.0	0.0	0.0	(1)	(1)	(1)	0.1	0.1
Total Outlays	−17.4	−38.1	−60.1	−87.2	−103.5	−124.6	−146.2	−577.2
Total Revenues [1]	5.7	35.7	33.7	35.5	36.5	37.6	29.9	214.5
Total Deficit	−11.7	−2.4	−26.4	−51.8	−67.0	−87.0	−116.3	−362.6

[1] Less than $50 million.

[2] Revenue increases are shown with a negative sign because they reduce the deficit.

Sources.—Congressional Budget Office; Joint Committee on Taxation.

ATTACHMENT

DIRECT SPENDING AND REVENUE EFFECTS BY TITLE OF THE CONFERENCE REPORT ON H.R. 2491, THE BALANCED BUDGET ACT OF 1995, CONGRESSIONAL BUDGET OFFICE, NOVEMBER 16, 1995

ESTIMATED BUDGETARY EFFECTS OF TITLE I: AGRICULTURE AND RELATED PROVISIONS

[In millions of dollars, by fiscal year]

	1996	1997	1998	1990	2000	2001	2002	1996–2002 total
Changes in direct spending								
Freedom to Far contracts in lieu of deficiency payments:								
Estimated budget authority	−874	−804	−804	−937	−1,194	−1,998	−1,989	−8,600
Estimated outlays	−874	−804	−804	−937	−1,194	−1,998	−1,989	−8,600
Cap crop price-support loan rates:								
Estimated budget authority	−16	−85	35	−70	−49	−55	−38	−108
Estimated outlays	−16	−85	35	−70	−49	−55	−38	−108
Cap 7-year cotton step-2 payments at $701 million:								
Estimated budget authority	....	1	2	2	2	−69	−116	−178
Estimated outlays	....	1	2	2	2	−69	−116	−178
End cotton 8-month loan extension:								
Estimated budget authority	....	−55	−5	−5	−5	−2	0	−72
Estimated outlays	....	−55	−5	−5	−5	−2	0	−72
$40,000 payment limit per "person":								
Estimated budget authority	−21	−41	−45	−43	−39	−32	−31	−252
Estimated outlays	−21	−41	−45	−43	−39	−32	−31	−252
Reform peanut program:								
Estimated budget authority	....	−95	−69	−69	−67	−68	−66	−434
Estimated outlays	....	−95	−69	−69	−67	−68	−66	−434
Reform sugar program (increased assessments):								
Estimated budget authority	....	−8	−8	−8	−9	−9	−9	−51
Estimated outlays	....	−8	−8	−8	−9	−9	−9	−51
End emergency feed assistance programs:								
Estimated budget authority	−60	−80	−80	−80	−80	−80	−80	−540
Estimated outlays	−60	−80	−80	−80	−80	−80	−80	−540
End honey program:								
Estimated budget authority	....	....	....	−1	−2	....	....	−3
Estimated outlays	....	....	....	−1	−2	....	....	−3
End farmer-owned reserve:								
Estimated budget authority	....	−18	−18	−18	−18	−18	−18	−108
Estimated outlays	....	−18	−18	−18	−18	−18	−18	−108
Livestock Environmental Assistance Program:								
Estimated budget authority	100	100	100	100	100	100	100	700
Estimated outlays	48	88	91	94	96	98	99	614
Limit CRP to 36.4 million acres:								
Estimated budget authority	....	−41	−118	−109	−102	−100	−99	−569
Estimated outlays	....	−41	−118	−109	−102	−100	−99	−569
Cap WRP acreage and limit easements:								
Estimated budget authority	−24	−66	−66	−66	−66	54	54	−180
Estimated outlays	−3	−47	−90	−94	−92	−74	13	−387
Reduce Market Promotion Program spending:								
Estimated budget authority	−1	−8	−10	−10	−10	−10	−10	−59
Estimated outlays	−1	−8	−10	−10	−10	−10	−10	−59
Cap Export Enhancement Program spending:								
Estimated budget authority	−329	−532	−281	−130	0	0	0	−1,272
Estimated outlays	−329	−532	−281	−130	0	0	0	−1,272
End mandatory crop insurance catastrophic coverage:								
Estimated budget authority	−27	−27	−28	−28	−29	−29	−29	−197
Estimated outlays	−10	−27	−28	−28	−29	−29	−29	−180
Provide disaster assistance for seed crops:								
Estimated budget authority	7	7	7	7	7	7	7	49
Estimated outlays	3	7	7	7	7	7	7	45
Direct access to Agriculture Quarantine Inspection Fund:								
Estimated budget authority	8	9	10	10	13	17	21	88
Estimated outlays	8	9	10	10	13	17	21	88
Increase CCC commodity loan interest rate:								
Estimated budget authority	−20	−40	−40	−40	−40	−40	−40	−260
Estimated outlays	−20	−40	−40	−40	−40	−40	−40	−260
Total changes in direct spending:								
Estimated budget authority	−1,257	−1,613	−1,418	−1,495	−1,588	−2,332	−2,343	−12,046
Estimated outlays	−1,275	−1,606	−1,451	−1,529	−1,618	−2,462	−2,385	−12,326

ESTIMATED BUDGETARY EFFECTS OF TITLE II: BANKING, HOUSING AND RELATED PROGRAMS

[In millions of dollars, by fiscal year]

	1996	1997	1998	1999	2000	2001	2002	1996–2002 total
Changes in direct spending								
Deposit insurance funds:								
Estimated budget authority								
Estimated outlays	−5,000	400	800	800	700	700	700	−900
Limit staff of RTC oversight board:								
Estimated budget authority								
Estimated outlays	(1)							(1)
FHA single-family assignment program:								
Estimated budget authority	−119	−216	−234	−268	−308	−317	−317	−1,779
Estimated outlays	−119	−216	−234	−268	−308	−317	−317	−1,779
Assisted housing rent adjustments for operating costs:								
Estimated budget authority								
Estimated outlays	−18	−66	−126	−177	−210	−229	−249	−1,075
One-percent reduction in assisted housing rent adjustments:[2]								
Estimated budget authority								
Estimated outlays	−42	−170	−216	−211	−198	−182	−170	−1,189
Total estimated changes in direct spending:								
Estimated budget authority	−119	−216	−234	−268	−308	−317	−317	−1,779
Estimated outlays	−5,179	−52	224	144	−16	−28	−36	−4,943
Changes in spending subject to appropriations								
Rent adjustments for section 8 housing:								
Estimated authorization level	30	50	85	90	95	120	130	600
Estimated outlays	1	13	37	64	83	102	118	418

[1] Less than $500,000.

[2] If the VA/HUD appropriations bill is enacted before this provision, and if it includes a similar provision applying only to fiscal year 1996, the reconciliation provision would produce no savings in 1996 and lower savings in subsequent years.

ESTIMATED BUDGETARY EFFECTS OF TITLE III: COMMUNICATIONS AND SPECTRUM ALLOCATION PROVISIONS

[In millions of dollars, by fiscal year]

	1996	1997	1998	1999	2000	2001	2002	1996–2002 total
Changes in direct spending								
Spectrum auctions:								
Estimated budget authority	−150	−1,800	−2,650	−3,550	−3,100	−2,650	−1,400	−15,300
Estimated outlays	−150	−1,800	−2,650	−3,550	−3,100	−2,650	−1,400	−15,300

ESTIMATED BUDGETARY EFFECTS OF THE CONFERENCE AGREEMENT TITLE IV, EDUCATION AND RELATED PROVISIONS

[In millions of dollars, by fiscal year]

	1996	1997	1998	1999	2000	2001	2002	1996–2002 total
Asset sale receipts[1]								
Sale of Connie Lee stock:								
Estimated budget authority	−7							−7
Estimated outlays	−7							−7
Changes in direct spending								
Changes in student loans:								
Estimated budget authority	−1,144	−429	−550	−763	−756	−791	−831	−5,264
Estimated outlays	−955	−464	−496	−678	−754	−784	−817	−4,948
Total: Mandatory spending (asset sales plus direct spending changes):								
Estimated budget authority	−1,151	−429	−550	−763	−756	−791	−831	−5,271
Estimated outlays	−962	−464	−496	−678	−754	−784	−817	−4,955

[1] Under the 1996 budget resolution, proceeds from asset sales are counted in budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

ESTIMATED BUDGETARY EFFECTS OF TITLE V: ENERGY AND NATURAL RESOURCES

[In millions of dollars, by fiscal year]

	1996	1997	1998	1999	2000	2001	2002	1996–2002 total
Asset sale receipts[1]								
U.S. Enrichment Corporation:								
Estimated budget authority	−500	−1,100	−21	−54	−55	−46	−47	−1,823
Estimated outlays	−500	−1,100	−21	−54	−55	−46	−47	−1,823
Sale of DOE assets:								
Estimated budget authority	−20	−15	−15	−15	−15	−15	−15	−110
Estimated outlays	−20	−15	−15	−15	−15	−15	−15	−110
Sale of Weeks Island oil:[2]								
Estimated budget authority	−100	−188	−182					−470
Estimated outlays	−100	−188	−182					−470
California land sale:								
Estimated budget authority	−1							−1
Estimated outlays	−1							−1
Sale of helium reserves:								
Estimated budget authority		−3	−8	−9	−9	−9	−9	−47
Estimated outlays		−3	−8	−9	−9	−9	−9	−47
Arctic National Wildlife Refuge:								
Estimated budget authority		−1,601	−1	−1,001	−1	−1	−1	−2,606
Estimated outlays		−1,601	−1	−1,001	−1	−1	−1	−2,606
Collbran Project:								
Estimated budget authority					−13			−13
Estimated outlays					−13			−13
Sly Park:								
Estimated budget authority		−4						−4
Estimated outlays		−4						−4
Sale of DOI assets:								
Estimated budget authority	−1	−3	−3					−7

ESTIMATED BUDGETARY EFFECTS OF TITLE V: ENERGY AND NATURAL RESOURCES—Continued

[In millions of dollars, by fiscal year]

	1996	1997	1998	1999	2000	2001	2002	1996–2002 total
Estimated outlays	−1	−3	−3					−7
Alaska PMA sale:[3] [4]								
Estimated budget authority	−77							−77
Estimated outlays	−77							−77
Outer continental shelf:[4]								
Estimated budget authority	−15	−25	−20	−20	−20	−20	−20	−140
Estimated outlays	−15	−25	−20	−20	−20	−20	−20	−140
Subtotal, asset sales:								
Estimated budget authority	−714	−2,939	−250	−1,099	−113	−91	−92	−5,298
Estimated outlays	−714	−2,939	−250	−1,099	−113	−91	−92	−5,298
Changes in direct spending								
NRC fees:								
Estimated budget authority				−330	−330	−330	−330	−1,320
Estimated outlays				−330	−330	−330	−330	−1,320
U.S. Enrichment Corporation:								
Estimated budget authority								0
Estimated outlays	306	8	−10	−88	−159	−80	−20	−3
Lease of excess SPR capacity:								
Estimated budget authority			−24	−37	−64	−49	−67	−241
Estimated outlays			−24	−37	−64	−59	−71	−255
Arctic National Wildlife Refuge:								
Estimated budget authority		800	5	560	6	6	6	1,403
Estimated outlays		800	1	502	12	43	28	1,386
Prepayment of construction charges:								
Estimated budget authority	−166	−17	4	29	29	29	29	−63
Estimated outlays	−166	−17	4	29	29	29	29	−63
Hetch Hetchy fees:								
Estimated budget authority	−2	−2	−2	−2	−2	−2	−2	−14
Estimated outlays	−2	−2	−2	−2	−2	−2	−2	−14
Collbran Project:								
Estimated budget authority					1	3	2	6
Estimated outlays					1	3	2	6
Sly Park:								
Estimated budget authority			([5])	([5])	([5])	([5])	([5])	1
Estimated outlays			([5])	([5])	([5])	([5])	([5])	1
Central Utah prepayment:								
Estimated budget authority		−67	−127	2	2	−31	2	−219
Estimated outlays		−67	−127	2	2	−31	2	−219
Federal oil and gas royalties:								
Estimated budget authority	−6	−12	−8	−7	−7	−6	−5	−51
Estimated outlays	−6	−12	−8	−7	−7	−6	−5	−51
Hardrock mining:								
Estimated budget authority	2	1	1	−40	−40	−40	−41	−157
Estimated outlays	2	1	1	−40	−40	−40	−41	−157
Bonneville Power refinancing:								
Estimated budget authority	−16	−14	−15	−13	−12	−25	−25	−120
Estimated outlays	−16	−14	−15	−13	−12	−25	−25	−120
Alaska PMA sale:[3] [4]								
Estimated budget authority	4	11	11	11	11	11	11	70
Estimated outlays	4	11	11	11	11	11	11	70
Outer continental shelf:[4]								
Estimated budget authority						3	7	10
Estimated outlays						3	7	10
Exports of Alaskan oil:[4]								
Estimated budget authority	−5	−14	−10	−7	−6			−42
Estimated outlays	−5	−14	−10	−7	−6			−42
Ski area permit charges:								
Estimated budget authority	e	−1	−1	e	e	e	e	−1
Estimated outlays	e	−1	−1	e	e	e	e	−1
Park fees:								
Estimated budget authority	−7	−11	−11	−8	−12	−7	−13	−69
Estimated outlays	−7	−13	−14	−11	−14	−10	−14	−83
Concession reform:								
Estimated budget authority			−5	−11	−16	−22	−28	−82
Estimated outlays			−5	−11	−16	−22	−28	−82
Subtotal: Direct spending:								
Estimated budget authority	−196	674	−182	167	−440	−460	−454	−889
Estimated outlays	110	680	−199	−2	−595	−516	−417	−937
Total: Mandatory spending (asset sales plus direct spending changes):								
Estimated budget authority	−910	−2,265	−432	−932	−553	−551	−546	−6,187
Estimated outlays	−604	−2,259	−449	−1,101	−708	−607	−509	−6,235

[1] Under the 1996 budget resolution, proceeds from asset sales are counted in budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

[2] This estimate for sale of oil from the Weeks Island facility reflects changes to current law; but if the appropriations bill for interior and Related Agencies is enacted prior to enactment of this title, the savings for this title would be reduced by $100 million.

[3] The sale of the Alaska PMA is contingent upon provisions in Title XI providing tax-exempt financing for certain projects.

[4] Similar provisions regarding sale of the Alaska PMA, OCS leasing, and exports of Alaskan oil are also contained in S. 395, which was recently cleared by the Congress.

[5] Less than $500,000.

Note.—This title would also affect spending that is subject to appropriations action, but CBO has not completed an estimate of the potential changes in discretionary spending that might result from enacting this title.

ESTIMATED BUDGETARY EFFECTS OF TITLE VI: FEDERAL RETIREMENT AND RELATED PROVISIONS

[In millions of dollars, by fiscal year]

	1996	1997	1998	1999	2000	2001	2002	1996–2002 total
Asset sale receipts[1]								
Sale of Governors Island NY:								
Estimated budget authority				−500				−500
Estimated outlays				−500				−500
Sale of Union Station air rights:								
Estimated budget authority		−40						−40
Estimated outlays		−40						−40
Repeal of title V of McKinney Act:								
Estimated budget authority	−3	−3	−3	−3	−3	−3	−3	−21
Estimated outlays	−3	−3	−3	−3	−3	−3	−3	−21

ESTIMATED BUDGETARY EFFECTS OF TITLE VI: FEDERAL RETIREMENT AND RELATED PROVISIONS—Continued

[In millions of dollars, by fiscal year]

	1996	1997	1998	1999	2000	2001	2002	1996–2002 total
Changes in direct spending [2]								
Civilian retirement COLA delay:								
Estimated budget authority	0	−337	−353	−347	−362	−380	−396	−2175
Estimated outlays	0	−337	−353	−347	−362	−380	−396	−2175
Agency contributions for civilian retirement:								
Estimated budget authority	−513	−667	−642	−614	−560	−539	−513	−4046
Estimated outlays	−513	−667	−642	−614	−560	−539	−513	−4046
Congressional retirement benefits:								
Estimated budget authority	−*	−*	−1	−1	−2	−2	−3	−9
Estimated outlays	−*	−*	−1	−1	−2	−2	−3	−9
USPS transitional appropriations:								
Estimated budget authority	0	−9	−37	−37	−36	−36	−36	−191
Estimated outlays	0	−9	−37	−37	−36	−36	−36	−191
PTO surcharge fees:								
Estimated budget authority	....	....	....	−119	−119	−119	−119	−476
Estimated outlays	....	....	....	−119	−119	−119	−119	−476
Total mandatory spending (asset sales plus direct spending):								
Estimated budget authority	−516	−1056	−1036	−1621	−1082	−1079	−1070	−7458
Estimated outlays	−516	−1056	−1036	−1621	−1082	−1079	−1070	−7458
Revenues								
Employee contributions for civilian retirement:								
Estimated revenues	204	409	551	597	612	640	670	3681
Authorizations of appropriations								
Agency contributions for civilian retirement:								
Estimated authorization level	529	688	662	632	577	555	529	4172
Estimated outlays	513	667	642	614	560	539	513	4046
Repeal of title V of McKinney Act:								
Estimated authorization level	0	3	3	3	3	3	3	18
Estimated outlays	0	1	3	3	3	3	3	16
Total authorizations of appropriations:								
Estimated authorization level	529	691	665	635	580	558	532	4190
Estimated outlays	513	668	645	617	563	542	516	4062

[1] Under the 1996 budget resolution, proceeds from asset sales are counted in budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirements.

[2] Civilian retirement includes the Civil Service Retirement System, the Federal Employees Retirement System, the Foreign Service Retirement and Disability System, and the Foreign Service Pension System.

[3] Less than $500,000.

Note.—Components may not add to totals due to rounding.

TITLE VII—MEDICAID

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	7-year total
CBO Baseline	99.292	110.021	122.060	134.830	148.116	162.631	177.805	....
Proposed law:								
Outlays from Title XIX	24.624	0	0	0	0	0	0	....
Section 2121(a)—Transitional Correction	0	0.200	0	0	0	0	0	....
Section 2121(b)—Pool Amounts	71.762	103.234	107.908	112.644	117.360	122.284	127.418	....
Section 2121(c)—Special Rule	0.090	0.233	0.090	0	0	0	0	....
Section 2121(f)—Supplemental Allotment	0.627	0.673	0.702	0.733	0.764	0	0	....
Total Outlays	97.103	104.340	108.700	113.377	118.124	122.284	127.418	....
Reductions in Outlays	−2.189	−5.681	−13.360	−21.453	−29.992	−40.347	−50.387	−163.409

Note: Assumes enactment date of November 15, 1995.

TITLE VIII—MEDICARE

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	Total
CHANGE IN DIRECT SPENDING								
Subtitle A—MedicarePlus Program [1]	−0.1	−0.5	−1.2	−2.6	−5.0	−7.3	−10.2	−26.9
Subtitle B—Preventing Fraud and Abuse:								
Payment Safeguards and enforcement	0.3	−0.2	−0.5	−0.8	−0.9	−0.7	−0.8	−3.5
New and increased Civil Monetary Penalties	−0.0	−0.0	−0.0	−0.1	−0.1	−0.1	−0.1	−0.4
Additional Exclusion Authorities	−0.0	−0.0	−0.0	−0.1	−0.1	−0.1	−0.1	−0.3
Criminal Provisions	−0.0	0.0	0.0	0.1	0.2	0.2	0.2	0.7
Other Items	−0.0	−0.0	−0.0	−0.0	−0.0	−0.0	−0.0	−0.1
Subtotal, Subtitle B	0.3	−0.2	−0.6	−0.8	−0.8	−0.7	−0.7	−3.5
Subtitle C—Regulatory Relief:								
Physician Ownership referral	0.0	0.0	0.0	0.0	0.0	0.1	0.1	0.3
Subtotal, Subtitle C	0.0	0.0	0.0	0.0	0.0	0.1	0.1	0.3
Subtitle D—Graduate Medical Education:								
Indirect Medical Education Payments	−0.4	−0.8	−0.8	−1.1	−1.3	−1.5	−1.7	−7.6
Direct Medical Education	0.0	−0.1	−0.1	−0.1	−0.2	−0.3	−0.4	−1.4
Subtotal, Subtitle D	−0.4	−0.9	−1.0	−1.2	−1.5	−1.9	−2.1	−9.0
Subtitle E—Medicare Part A:								
Chapter 1—General provisions Relating to Part A								
PPS MB–2.5 in FY 96, −2.0 thereafter	−0.2	−1.1	−2.4	−3.8	−5.4	−7.2	−9.0	−29.1
PPS Exempt Update Reduction	−0.0	−0.1	−0.2	−0.3	−0.4	−0.5	−0.6	−2.0
Targets for Rehabilitation and LTC Hospitals	−0.0	−0.1	−0.2	−0.4	−0.5	−0.7	−0.7	−2.7
Rebasing for Certain LTC Hospitals	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
LTC Hospitals Within Other Hospitals	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2

TITLE VIII—MEDICARE—Continued

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	Total
Reduce nonPPS capital by 10%	−0.1	−0.1	−0.1	−0.1	−0.2	−0.2	−0.2	−0.9
Reduce DSH payments	−0.1	−0.3	−0.6	−0.9	−1.1	−1.2	−1.2	−5.4
Reduce PPS Capital by 15%	−1.0	−1.2	−1.3	−1.3	−1.4	−1.4	−1.5	−9.0
Rebase PPS Capital Payment Rates	−0.3	−0.4	−0.4	−0.4	−0.4	−0.4	−0.4	−2.7
Reduce Payments for Hospital Bad Debt	−0.1	−0.1	−0.2	−0.2	−0.2	−0.2	−0.2	−1.1
Preferential Update for Certain MDH Hospitals	0.0	0.1	0.1	0.1	0.1	0.1	0.1	0.6
Chapter 2—Skilled Nursing Facilities: Skilled Nursing Facilities	−0.2	−0.6	−1.1	−1.6	−1.9	−2.2	−2.4	−10.0
Chapter 3—Other Provisions Related to Part A:								
Hemophilia Pass-Through Extension	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Hospice	−0.0	−0.0	−0.1	−0.1	−0.1	−0.1	−0.1	−0.5
Subtotal, Subtitle E	−2.0	−3.8	−6.2	−8.9	−11.4	−13.9	−16.2	−62.5
Subtitle F—Medicare Part B:								
Part 1—Payment Reforms								
Reduce payments for physicians's services	−0.4	−1.3	−2.3	−3.2	−4.1	−5.1	−6.2	−22.6
Eliminate formula driven overpayment	−0.9	−1.2	−1.5	−2.0	−2.5	−3.3	−4.5	−15.9
Reduce updates for durable medical equipment	−0.1	−0.3	−0.4	−0.6	−0.7	−0.9	−1.1	−4.1
Reduce updates for clinical labs	−0.1	−0.4	−0.7	−0.9	−1.1	−1.3	−1.6	−6.0
Extend outpatient capital reduction	0.0	0.0	0.0	−0.1	−0.1	−0.2	−0.2	−0.6
Extend outpatient payment reduction	0.0	0.0	0.0	−0.3	−0.3	−0.4	−0.4	−1.4
Freeze payments for ASC services	−0.0	−0.1	−0.1	−0.2	−0.2	−0.3	−0.4	−1.3
Anesthesia Payment Allocation	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Separate physician fee schedule for Wisconsin	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Limit payments for ambulance services	−0.0	−0.0	−0.1	−0.1	−0.1	−0.2	−0.3	−0.8
Direct payment to PAs and NPs[2]	0.0	0.0	0.0	0.0	0.1	0.1	0.1	−0.3
Payments to primary care MDs in shortage areas[2]	0.0	0.1	0.1	0.1	0.1	0.1	0.1	0.5
Part 2—Part B Premium								
Increase Part B premium	−3.3	−4.3	−4.1	−5.2	−7.9	−10.4	−13.5	−48.6
Income-related reduction in medicare subsidy	0.0	−0.4	−0.9	−1.3	−1.7	−2.0	−2.3	−8.5
Subtotal, Subtitle F	−4.7	−7.7	−9.9	−13.7	−18.7	−24.0	−30.3	−109.1
Subtitle G—Medicare Parts A and B:								
Payment for home health services	0.0	−1.3	−2.3	−2.7	−3.1	−3.6	−4.0	−17.0
Medicare second payer improvements	0.0	0.0	0.0	−1.3	−1.5	−1.7	−1.9	−6.5
Coverage of Oral Breast Cancer Drug	0.1	0.0	−0.0	−0.0	−0.0	−0.0	−0.0	−0.1
Subtotal, Subtitle G	0.1	−1.3	−2.3	−4.1	−4.7	−5.3	−6.0	−23.5
Subtitle H—Rural Areas:								
Medicare-Dependent payment Extension	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2
Critical Access Hospitals	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.3
Establish REACH Program	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2
Classification of Rural Referral Centers	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1
Expand Access to Nurse Aide Training[3]	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Subtotal, Subtitle H	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.7
Change in net Mandatory Medicare Outlays before Failsafe	−6.8	−14.3	−21.1	−31.2	−42.0	−52.8	−65.3	−233.5
Additional Outlay Reductions Required by Failsafe, Net of Premiums	0.0	0.0	−6.2	−10.8	−7.1	−7.0	−5.6	−36.6
Total, Medicare	−6.8	−14.3	−27.2	−42.0	−49.0	−59.8	−70.9	−270.0
MEMORANDUM: Monthly Part B premium (By calendar year):								
Estimated premium under proposal	$53.70	$57.00	$59.30	64.10	$73.10	$80.10	$88.90	....
Estimated premium under current law	$42.50	$48.20	$53.20	$55.00	$56.80	$58.60	$60.50	....

[1] Estimate includes medical savings accounts provision.

[2] These items are included in Subtitle H (Rural Areas).

[3] CBO estimates that this provision would cost less than $50 million over seven years.

Notes.—Details may not sum to totals because of rounding. The estimates assume an enactment date of November 15, 1995. The estimates do not incorporate changes in discretionary spending for administration.

ESTIMATED BUDGETARY EFFECTS OF TITLE IX: TRANSPORTATION AND RELATED PROVISIONS

[Millions of dollars, by fiscal year]

	1996	1997	1998	1999	2000	2001	2002	1996–2002 Total
CHANGES IN DIRECT SPENDING								
Highway Minimum Allocation:								
Estimated Budget Authority	–536	....	....	....	....	....	....	–536
Estimated Outlays	–42	–220	–128	–59	–32	–18	–13	–512
Vessel Tonnage Duties:								
Estimated Budget Authority	–	–	–	–49	–49	–49	–49	–196
Estimated Outlays	–	–	–	–49	–49	–49	–49	–196
FEMA Fees:[a]								
Estimated Budget Authority	–12	–12	–12	–12	–12	–12	–12	–84
Estimated Outlays	–12	–12	–12	–12	–12	–12	–12	–84
Total: Mandatory Spending:								
Estimated Budget Authority	–548	–12	–12	–61	–61	–61	–61	–816
Estimated Outlays	–54	–232	–140	–120	–93	–79	–74	–792

[a] The table reflects changes to current law, if the VA/HUD aopropriations bill is enacted before this provision and extends the collection of $12 million of fees for radiological emergency preparedness in 1996, this provision would not produce any savings in 1996.

ESTIMATED BUDGETARY EFFECTS OF TITLE X: COMMITTEE ON VETERANS AFFAIRS

[Millions of dollars, by fiscal year]

	1996	1997	1998	1999	2000	2001	2002	1996–2000 Total
CHANGES IN DIRECT SPENDING								
Health Care Per Diems and Prescription Copayments:								
Estimated Budget Authority	0	0	0	−58	−62	−65	−70	−255
Estimated Outlays	0	0	0	−58	−62	−65	−70	−255
Medical Care Cost Recovery:								
Estimated Budget Authority	0	0	0	−197	−208	−219	−231	−855
Estimated Outlays	0	0	0	−197	−208	−219	−231	−855
Verify Income for Pension Purposes:								
Estimated Budget Authority	0	0	0	−10	−20	−30	−40	−100

ESTIMATED BUDGETARY EFFECTS OF TITLE X: COMMITTEE ON VETERANS AFFAIRS—Continued

[Millions of dollars, by fiscal year]

	1996	1997	1998	1999	2000	2001	2002	1996–2000 Total
Estimated Outlays	0	0	0	−10	−20	−30	−40	−100
Verify Income for Medical Care:								
Estimated Budget Authority	0	0	0	−4	−8	−12	−16	−40
Estimated Outlays	0	0	0	−4	−8	−12	−16	−40
Pension Limitation—Nursing Home Vets:								
Estimated Budget Authority	0	0	0	−198	−204	−211	−218	−831
Estimated Outlays	0	0	0	−197	−240	−173	−217	−827
Fees on Original Loans:								
Estimated Budget Authority	0	0	0	−100	−102	−102	−102	−406
Estimated Outlays	0	0	0	−100	−102	−102	−102	−406
Fees on Later Loans:								
Estimated Budget Authority	0	0	0	−43	−44	−44	−44	−175
Estimated Outlays	0	0	0	−43	−44	−44	−44	−175
Resale Losses:								
Estimated Budget Authority	0	0	0	−4	−4	−4	−4	−16
Estimated Outlays	0	0	0	−4	−4	−4	−4	−16
Increase Prescription Copayments to $4, Tighten Collection Procedures. Exempt POW's from Copay:								
Estimated Budget Authority	−74	−98	−102	−108	−114	−120	−126	−742
Estimated Outlays	−74	−98	−102	−108	−114	−120	−126	−742
Round Down Comp COLAs:[a]								
Estimated Budget Authority	−19	−46	−66	−90	−115	−145	−169	−650
Estimated Outlays	−17	−43	−64	−88	−121	−133	−168	−634
Repeal Gardner Decision:								
Estimated Budget Authority	−97	−222	−341	−467	−476	−469	−463	−2,535
Estimated Outlays	−89	−212	−331	−457	−512	−433	−464	−2,498
Enhanced Loan Asset Sale Authority:								
Estimated Budget Authority	−5	−5	−5	−5	−5	−5	−5	−35
Estimated Outlays	−5	−5	−5	−5	−5	−5	−5	−35
Withholding of Payments and Benefits:								
Estimated Budget Authority	−90	0	0	0	0	0	0	−90
Estimated Outlays	−90	0	0	0	0	0	0	−90
Total-Direct Spending:								
Estimated Budget Authority	−285	−371	−514	−1,284	−1,362	−1,462	−1,488	−6,730
Estimated Outlays	−275	−358	−502	−1,271	−1,440	−1,340	−1,487	−6,673

[a] Similar provisions were included in H.R. 2394, the Veterans' Compensation Cost-of-Living Adjustment Act of 1995. Congressional action on the bill was completed on November 10, 1995. H.R. 2394 rounds down the COLA for 1996 only; the provisions in Title X would round down the COLAs through 2002, and make other adjustments to COLAs for surviving spouses.

ESTIMATED BUDGETARY EFFECTS OF TITLE XI: REVENUE PROVISIONS

[In millions of dollars, by fiscal year]

	1996	1997	1998	1999	2000	2001	2002	1996–2002 Total
CHANGES IN DIRECT SPENDING								
Tax Information Sharing:								
Estimated Budget Authority	....	....	....	−14	−28	−42	−56	−140
Estimated Outlays	....	....	....	−14	−28	−42	−56	−140
Total: Direct Spending:								
Estimated Budget Authority	0	0	0	−14	−28	−42	−56	−140
Estimated Outlays	0	0	0	−14	−28	−42	−56	−140
CHANGES IN REVENUES								
Family Tax Relief Act: Estimated Revenues	−4,740	−29,381	−23,846	−24,319	−25,087	−25,784	−26,268	−159,425
Savings and Retirement Incentives: Estimated Revenues	67	−7,674	−12,049	−13,371	−13,762	−14,471	−6,315	−67575
Health Related Provisions: Estimated Revenues	−988	−834	−1,060	−1,337	−1,590	−1,879	−2,197	−9,885
Estate and Gift Provisions: Estimated Revenues	0	−867	−1,291	−1,753	−2,261	−2,808	−3,311	−12,291
Extension of Expiring Provisions: Estimated Revenues	−2,000	−1,585	−491	−73	400	997	1,421	−1,331
Taxpayer Bill of Rights 2 Provisions: Estimated Revenues	−6	−11	−12	−12	−12	−13	−13	−79
Casualty and Involuntary Conversion Provisions: Estimated Revenues	−1	−9	−1	4	11	20	31	55
Exempt Organizations and Charitable Reforms Estimated Revenues:	0	−2	−2	−2	−2	−2	−2	−12
Tax Reform and Other Provisions: Estimated Revenues	2,288	3,258	3,403	3,824	4,018	4,370	4,657	25,818
Tax Simplification: Estimated Revenues	0	−14	−58	−194	−487	−550	−632	−1,935
Miscellaneous Provisions: Estimated Revenues	−28	−98	−160	−205	178	264	199	150
Generalized System of Preferences: Estimated Revenues	−532	−82	0	0	0	0	0	−614
Increase in the Public Debt Limit: Estimated Revenues	0	0	0	0	0	0	0	0
Total: Revenues: Estimated Revenues	−5,940	−37,299	−35,567	−37,438	−38,594	−39,856	−32,430	−227,124

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI) [1]

[Fiscal years 1996–2002, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	1996–2000	1996–2002
CONTRACT WITH AMERICA PROVISIONS										
I. Family tax relief provisions:										
1. $500 tax credit for children under age 18—Senate amendment ($75,000/$110,000 phaseout with no indexing).	10/1/95	−4,449	−28,355	−22,529	−22,761	−22,996	−23,169	−23,343	−101,090	−147,602
2. Reduce the marriage penalty	tyba 12/31/95	−137	−474	−739	−952	−1,458	−1,970	−2,270	−3,760	−8,000
3. $5,000 credit for adoption expenses—Senate amendment, but phase out beginning at $75,000 AGI; require finalized adoption only for foreign adoptions; special needs adoptions—House bill.	tyba 12/31/95	−28	−285	−302	−320	−336	−337	−337	−1,271	−1,945
4. $1,000 deduction (with residency and support tests) for custodial care of certain elderly dependents in taxpayer's home.	tyba 12/31/95	−74	−115	−119	−124	−129	−134	−138	−561	−833
II. Savings and investment provisions:										
1. Provisions relating to individual Retirement Arrangements—(a) deductible IRAs—Senate amendment, except increase phaseout range for joint filers in $2,500 increments; Homemakers eligible for full IRA deduction—both House bill and Senate amendment; (b) back-end IRAa—House bill with coordination of contribution limits; (c) definition of special purpose withdrawals—Senate amendment; (d) penalty free withdrawals from deductible IRAs—Senate amendment.	tyba 12/31/95	−221	−487	−100	−990	−1,817	−3,332	−4,807	−3,615	−11,755
2. Capital gains reforms: (a) individual capital gains—House bill; (b) small business stock—14% maximum rate for individuals, reduced corporate rate; (c) indexing of capital gains—House bill, with 6-year delay of effective date; (d) corporate capital gains—Senate amendment; and (e) capital loss deducation for sale of principal residence—House bill:										
a. Corporate	tyea 12/31/94	−1,009	−893	−912	−945	−971	−1,024	−1,129	−4,730	−6,883
b. Individual	tyea 12/31/94	2,857	−2,677	−6,757	−7,546	−8,191	−7,990	−1,450	−22,314	−28,854
3. Alternative minimum tax (AMT) Reform—Senate amendment, except conform depreciation lives and methods under AMT and, with respect to certain minimum tax credits, substitute 7 years for 5 years.	ppisa & tyba 12/31/95	−1,290	−3,149	−3,722	−3,248	−2,141	−1,487	−1,252	−13,550	−16,291

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI) [1]—Continued

[Fiscal years 1996–2002, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	1996–2000	1996–2002
III. Health care provisions:										
1. Treatment of long-term care insurance—House bill, but adopt Senate provision providing no cap on indemnity policies, permit penalty-free (not tax-free) 401(k) and IRA withdrawals, $175 per day cap on per diem benefits, and adopt Senate consumer protections.	1/1/96	−860	−556	−659	−751	−846	−951	−1,061	−3,672	−5,684
2. Tax treatment of accelerated death benefits under life insurance contracts—House bill, but adopt Senate rule relating to NAIC guidelines.	1/1/95	−6	−67	−107	−166	−214	−265	−316	−560	−1,141
3. Health insurance organizations eligible for benefits of section 833—Senate amendment.	tyea 10/13/95	−1	−1	−1	−1	−1	−1	−1	−5	−8
4. Increase tax-free death benefit limit on burial insurance polices—Senate amendment.	ceia 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
IV. Estate and gift tax provisions:										
1. Phase up unified credit to $750,000—House bill with 6-year phase in with indexing thereafter; index $10,000 annual gift tax exclusion; $750,000 special use valuation; generation-skipping tax; and indexing of $1 million value of closely held businesses under section 6601j.	dda/gma 12/31/95		−333	−663	−1,020	−1,401	−1,805	−2,154	−3,417	−7,376
2. Reduction in estate taxes for qualified businesses after unified credit increase—Senate amendment, but change thresholds to $1 million/$1.5 million and coordinate with section 2032A and section 6166.	dda 12/31/95		−490	−579	−680	−798	−934	−1,081	−2,547	−4,562
3. Provide a 40% exclusion from estate taxes for property donated subject to a conservation easement (within 25 miles of a metropolitan statistical area or a national park or wilderness area; or within 10 miles of an Urban National Forest).	dda 12/31/95		−42	−47	−51	−60	−67	−74	−200	−340
4. Clarify cash leases under section 2032A—Senate amendment	cla 12/31/95		−2	−2	−2	−2	−2	−2	−8	−12
V. Job creation and wage enhancement provisions:										
1. Leasehold improvements provision—House bill	llda 3/13/95	−34	−230	−17	−15	−12	−9	−6	−98	−114
2. Small business incentives—House bill, but modify increase in expensing limitation for small businesses to $19,000 for 1996, $20,000 for 1997, $21,000 for 1998, $22,000 for 1999, $23,000 for 2000, $24,000 for 2001, and $25,000 for 2002 and thereafter.	pplsa 12/31/95	−191	−379	−470	−553	−554	−550	−489	−2,147	−3,186
Subtotal: Contract With America related provisions		−5,443	−38,325	−37,725	−40,125	−41,927	−44,027	−37,010	−163,545	−244,586
VI. Expiring provisions:										
1. Provisions extended through 12/31/96:										
a. Work opportunity tax credit—Senate amendment, with modifications [3]	1/1/96	−64	−107	−65	−25	−10	−2		−271	−274
b. Employer-provided educational assistance; applies to undergraduate education only after 1995.	1/1/95	−611	−288						−899	−899
c. R&E credit—House bill	7/1/95	−1,322	−842	−387	−275	−165	−42		−2,991	−3,033
d. Orphan drug tax credit—Senate amendment	1/1/95	−35	−10	−2	−1	−1	(2)	(2)	−49	−50
e. Contribution of appreciated stock to private foundations	1/1/95	−107	−18	−6					−130	−130
2. Commercial aviation fuel: extend 4.3 cents/gallon exemption through 9/30/97; but conditional on extension of Airport and Airway Trust Fund taxes.	10/1/95	−417	−439	−6					−863	−863
3. Extend all Airport and Airway Trust Fund excise taxes through 9/30/96—House bill [4].	1/1/96	No Revenue Effect								
4. Extend IRS user fees through 9/30/02 [5]—Senate amendment	10/1/00						35	35		70
5. Sunset the low-income housing tax credit after 12/31/97; sunset national pool after 12/31/95—House bill.	DOE	−24	−29	64	333	674	1,046	1,431	1,018	3,494
6. Superfund and oil spill liability taxes:										
a. Extend Superfund excise taxes through 9/30/96; receipts go to general revenues after 7/31/96.	DOE	319	16						335	335
b. Extend Superfund AMt through 12/31/96 [6]	DOE	290	193						483	483
c. Extend oil spill tax through 9/30/02—Senate amendment	1/1/96						60	60		120
7. Extend excise tax refund authority for alcohol fuels blenders—Senate amendment.	DOE	Negligible Revenue Effect								
8. Extend section 29 binding contract date 6 months from date of enactment and placed-in-service date to 12/3/97 for biomass and coal.	DOE		−30	−81	−97	−93	−96	−101	−301	−499
9. Exempt from diesel dyeing requirement any States exempt from Clean Air Act dyeing requirement (permanent).	fcqa DOE	(2)	−1	−1	−1	−1	−1	−1	−3	−4
10. Suspend tax on diesel fuel for recreational boats—Senate amendment (through 6/30/97).	1/1/96	−24	−27	−4	−4	−1			−60	−61
11. Permanent extension of FUTA exemption for alien agricultural workers [5]—House bill.	1/1/95	−5	−3	−3	−3	−3	−3	−3	−17	−23
12. Information Sharing Provision: Extension of disclosure of return Information to Department of Veterans Affairs (outlay reduction) [5]—House bill, except extend through 9/30/02 only.	DOE				14	28	42	56	42	140
VII. Medical savings accounts:										
1. Medical Savings Accounts—House bill, except follow the Senate amendment with respect to (a) maximum contribution limit ($2,000 single and $4,000 family); (b) tax-free build up of earnings; (c) definition of qualified medical expenses; (d) post-death distribution rules; and (e) clarification relating to capitalization of policy acquisition costs.	tyba 12/31/95	−122	−211	−258	−307	−362	−391	−421	−1,260	−2,072
VIII. Taxpayer bill of rights 2:										
1. Expansion of authority to abate interest	DOE	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(8)
2. Extension of interest-free period for payment of tax—House bill	6/30/96	−2	−7	−8	−8	−8	−9	−9	−10	−51
3. Joint return may be made after separate returns without full payment of tax	tyba DOE	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(8)
4. Increase levy exemption [9]	lia 12/31/95	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(10)
5. Offers-in-compromise—Senate amendment	DOE	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(8)
6. Increased limit on attorney fees—House bill	DOE	−1	−1	−1	−1	−1	−1	−1	−5	−7
7. Award of litigation costs permitted in declaratory judgment proceedings	pca DOE	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(8)
8. Increase in limit on recovery of civil damages—House bill	DOE	−3	−3	−3	−3	−3	−3	−3	−15	−21
9. Enrolled agents included as third-party recordkeepers	sla DOE	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(8)
10. Annual reminders to taxpayers with delinquent accounts	1/1/96	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(12)	(12)
IX. Casualty and involuntary conversion provision:										
1. Changes involuntary conversion rules for Presidentially declared disaster areas—Senate amendment.	DDA 12/31/94	−6	−14	−10	−10	−10	−10	−10	−50	−70
X. Exempt and charitable organizations provisions:										
1. Provide tax-exempt status to common investment funds—Senate amendment	tyea 12/31/95	−4	−6	−6	−7	−7	−7	−8	−30	−45
2. Exclusion from UBIT for certain corporate sponsorship payments—Senate amendment.	pra 12/31/95	Negligible Revenue Effect								
3. Intermediate sanctions for certain tax-exempt organizations—House bill, with technical modifications.	9/14/95 1/1/96	4	4	4	5	5	5	6	22	33
XI. Corporate and other reforms:										
1. Reform the tax treatment of certain corporate stock reemptions—House bill	da 5/3/95	−83	−100	−17	84	209	343	437	93	873
2. Require corporate tax shelter reporting; modify recipient notice to 90 days	aloIRSg	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(13)	(13)
3. Disallow interest deduction for corporate-owned life insurnce policy loans—Senate amendment, but phase out disallowance (90% in 1996, 80% in 1997, and 70% in 1998; cap borrowing at 20,000 lives); cap interest rate (with special rules for grandfathered plans); exception for key person policies with 10 lives; limit borrowing in 1996 to policies purchased in 1994 and 1995.	ipoaa 10/31/95	220	579	883	1,369	1,749	1,856	1,895	4,800	8.551
4. Phase out preferential tax deferral for certain large farm corporations required to use accrual accounting.	(15)	26	37	38	39	40	41	42	179	261
5. Phase-in repeal of section 936; Wage credit companies—6 years of present law and then House bill with modified base period; income companies—2 years of present law and then House bill with modified base period; QPSII—repealed 1/1/96.	tyba 12/3/95	255	605	552	596	498	516	746	2,506	3,766
6. Corporate accounting—reform of income forecast method—Senate amendment	ppisa 9/13/95	32	69	29	13	14	16	19	157	192

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI)[1]—Continued

[Fiscal years 1996–2002, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	1996–2000	1996–2002
7. Permit transfers of excess pension assets—House bill but (a) require asset cushion equal to the greater of (i) 125% of termination liability (using PBGC assumptions) and (ii) the plan's accrued liability; (b) permit withdrawals only for ERISA-covered benefits; (c) prohibit transfers when company in bankruptcy; (d) no excise tax; (e) extend for 1 additional year; and (f) conform present-law section 420 asset cushion.	ta DOE	1,439	1,375	958	554	195	151	−19	4,521	4,651
8. Modify exclusion of damages received on account of personal injury or sickness—Senate amendment, with technical clarifications.	ama 12/31/95	34	51	55	59	61	64	68	260	392
9. Require tax reporting for payments to attorneys; delay effective date for 1 year	pma 12/31/96		(12)	(12)	(12)	(12)	(12)	(12)	(13)	(13)
10. Expatriation tax provisions—House bill	2/6/95	64	97	146	199	254	289	304	760	1,353
11. Remove business exclusion for energy subsidies provided by public utilties—House bill, but modify effective date.	ara 12/31/95	30	96	100	104	107	109	111	437	657
12. Modify basis adjustment rules under section 1033	ica 9/13/95	2	4	6	9	14	20	29	35	84
13. Modify the exception to the related party rule of section 1033 for individuals to only provide an exception for de minimis amounts ($100,000).	ica 9/13/95	1	2	4	6	8	11	13	21	45
14. Disallow rollover under section 1034 to extent of previously claimed depreciation for home office or other depreciable use of residence.	tyea 12/31/95	1	3	4	5	6	8	9	19	35
15. Provide that rollover of gain on sale of a principal residence cannot be elected unless the replacement property purchased is located within the United States (limit to resident aliens who terminate residence within 2 years).	sea 12/31/95	(16)	(16)	(16)	(16)	(16)	(16)	(16)	(16)	(16)
16. Repeal exemption for withholding on gambling winnings from bingo and keno where proceeds exceed $5,000.	1/1/96	20	6	6	6	6	7	7	44	58
17. Repeal tax credit for contributions to special Community Development Corporations.	DOE	1	1	2	2	2	2	2	8	12
18. Repeal advance refunds of diesel fuel tax for diesel cars and light trucks	1/1/96	8	19	19	19	19	19	19	84	122
19. Apply failure to pay penalty to substitute returns	DOE	1	3	29	30	32	33	35	95	163
20. Allow conversion of scholarship funding corporation to taxable corporation—House bill.	DOE	3	4	6	8	10	10	9	31	48
21. Apply look-through rule for purposes of characterizing certain subpart F insurance income as UBIT—House bill.	gira 12/31/95	7	23	24	27	30	32	34	111	177
22. Repeal 50% Interest Income exclusion for financial institution loans to ESOPs—Senate amendment.	ima 10/13/95	27	69	109	149	187	224	261	541	1,026
23. Modify the ozone depleting chemicals tax for imported recycled halons—Senate amendment.	DOE	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(10)	(17)
24. Modify two county tax-exempt bond rule for local furnishers of electricity or gas—Senate amendment.	DOE	(16)	1	2	3	4	5	6	10	22
25. Provide tax-exempt bonds status for Alaska Power Administration sale—Senate amendment.	bia DOE	(2)	−1	−1	−1	−1	−1	−1	−4	−8
26. Modify treatment of foreign trusts—Senate amendment	(18)	93	162	171	180	188	197	206	794	1,197
27. Provide for flow through treatment for Financial Asset Securitization Investment Trusts (FASITs)—Senate amendment.	DOE	34	18	10	5	2		−2	69	67
28. Tax-free treatment of contributions in aid of construction for water utilities; change depreciation for water utilities—Senate amendment.	(19)	−16	−26	−12	4	19	32	43	−31	43
29. Provide 3-year amortization of intrastate operating rights of truckers—Senate amendment.	tyeo/a 1/1/95	−11	−14	−8	−4				−37	−37
30. A life insurance company may elect to treat 20% of capital losses as ordinary income, spread over 10 years; the taxpayer has the option to change the treatment of these losses in the future—Senate amendment, with modifications.	tyba 12/31/94	1	(16)	(2)	−1	(2)	(16)	(16)	(16)	1
31. Clarify that newspaper carriers and distributors are independent contractors—Senate amendment.	spa 12/31/95	Negligible Revenue Effect								
32. Allow for tax-free conversion of common trust funds to mutual funds—Senate amendment.	ta 12/31/95	−4	−9	−8	−8	−8	−8	−8	−37	−52
33. Eliminate interest allocation exception for certain nonfinancial corporations—Senate amendment.	tyba 12/31/95	41	93	107	123	141	163	187	505	855
34. Modify depreciation for small motor fuel/convenience store outlets—Senate amendment.	ppiso/a/b DOE	−1	−4	−23	−26	−29	−16	−19	−83	−118
35. Repeal of section 593 with residential loan test for 1996 and 1997	tyba 12/31/95	63	95	216	280	277	272	260	931	1,462
36. Phase out and extend luxury automobile excise tax through 12/31/02	1/1/96	−41	−97	−159	−204	179	265	200	−322	143
XII. Technical correction provision: Luxury Excise Tax Indexing	DOE	14							14	14
XIII. Simplification provisions relating to individuals:										
1. Rollover of gain on sale of principal residence:										
a. Multiple sales within rollover period—House bill	sa DOE	−1	−2	−2	−2	−2	−2	−3	−9	−14
b. Rules in case of divorce—House bill	sa DOE	−2	−2	−2	−2	−3	−3	−3	−11	−17
2. One-time exclusion on the sale of a principal residence by an individual who has attained age 55 (allow additional exclusion for married couples under certain conditions where one spouse has claimed an exclusion prior to their marriage)—House bill.	sa 9/13/95	−10	−19	−20	−21	−22	−23	−24	−92	−139
3. Treatment of certain reimbursed expenses of rural mail carriers—House bill	tyba 12/31/95	(2)	−1	−1	−1	−1	−1	−1	−5	−6
4. Travel expenses of Federal employee participating in a Federal criminal investigation—House bill.	tyba DOE	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1	−1
5. Treatment of storage of product samples—House bill	tyba 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−2
XIV. Pension simplification provision:										
A. Simplified Distribution Rules:										
1. Sunset of 5-year income averaging for lump-sum distributions—Senate amendment.	tyba 12/31/98	24	74	63	109	80	42	17	350	409
2. Repeal of $5,000 exclusion of employees' death benefits	tyba 12/31/95	16	16	49	52	54	55	55	217	328
3. Simplified method for taxing annuity distributions under certain employer plans—Senate amendment.	asda 12/31/95	10	28	28	28	29	29	29	123	182
4. Minimum required distribution	yba 12/31/95	−1	−4	−4	−4	−4	−4	−4	−17	−25
B. Increased Access to Pension Plans—Tax-exempt organizations eligible under section 401(k)—Senate amendment, but permit all tax exempts and Indian tribes to have 401(k) plans.	yba 12/31/96		−8	−22	−24	−25	−26	−28	−79	−133
C. Nondiscrimination Provisions:										
1. Simplified definition of highly compensated employees—House bill, with modifications.	yba 12/31/95	Considered in Other Provisions								
2. Repeal of family aggregation rules	yba 12/31/95	Considered in Other Provisions								
3. Modification of additional participation requirements	yba 12/31/95	Negligible Revenue Effect								
4. Safe-harbor nondiscrimination rules for qualified cash or deferred arrangements and matching contributions[20]—Senate amendment, with modification.	yba 12/31/98				−42	−162	−167	−171	−294	−541
D. Miscellaneous Pension Simplification:										
1. Treatment of leased employees—Senate amendment	yba 12/31/95	Negligible Revenue Effect								
2. Plans covering self-employed individuals	yba 12/31/95	Negligible Revenue Effect								
3. Elimination of special vesting rule for multiemployer plans	yba 12/31/95	(2)	−1	−1	−1	−1	−1	−1	−4	−6
4. Distributions under rural cooperative plans—Senate amendment, with modifications.	DOE	Negligible Revenue Effect								
5. Treatment of governmental plans under section 415—House bill, with Senate effective date.	tybo/a DOE	Negligible Revenue Effect								
6. Uniform retirement age	1/1/96	Considered in Other Provisions								
7. Contributions on behalf of disabled employees	yba 12/31/95	Negligible Revenue Effect								
8. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations—House bill, with modification.	tyba 12/31/95	(2)	−1	−1	−1	−1	−2	−2	−4	−8
9. Require Individual ownership of section 457 plan assets—House bill, with effective date change (i.e., to the end of the first legislative session after enactment).	DOE	−6	−18	−21	−24	−25	−25	−26	−94	−145
10. Correction of GATT interest and mortality rate provisions in the Retirement Protection Act—House bill, with modifications.	eall GATT	−4	−4	−4	−4				−16	−16

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI) [1]—Continued

[Fiscal years 1996–2002, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	1996–2000	1996–2002
11. Multiple salary reduction agreements permitted under section 403(b)	tyba 12/31/95	Negligible Revenue Effect								
12. Repeal of combined plan limit—House bill, with Senate effective date	yba 12/31/98	....	....	....	−70	−189	−195	−201	−259	−654
13. Modify notice required of right to qualified joint and survivor annuity—House bill.	pyba 12/31/95	Negligible Revenue Effect								
14. 3-year waiver of excess distribution tax—Senate amendment	1/1/96	38	40	43	3	....	....	....	124	124
15. Definition of compensation for section 415 purposes—Senate amendment.	yba 12/31/97	....	....	−1	−1	−2	−2	−2	−4	−8
16. Increase section 4975 excise tax on prohibited transactions from 5% to 10%—Senate amendment.	ptoo/a 1/1/96	1	4	4	4	4	4	4	17	24
17. Treatment of Indian tribal governments under section 403(b)—Senate amendment provision and permit rollover to 401(k).	pybb 1/1/95	Negligible Revenue Effect								
18. Application of elective deferral limit to section 403(b) plans—Senate amendment, with modifications.	tyba 12/31/95	Negligible Revenue Effect								
19. Establish SIMPLE pension plan—Senate amendment, but repeal SEPs	yba 12/31/95	−45	−69	−71	−74	−76	−79	−82	−335	−497
20. Increase the self-employed health insurance deduction (35% in 1998 and 1999; 40% in 2000 and 2001; and 50% in 2002 and thereafter).	tyba 12/31/97	....	....	−36	−113	−168	−272	−399	−317	−988
XV. Partnership simplification provisions:										
1. Simplified reporting to partners—House bill, but elective	tyba 12/31/95	5	6	6	7	7	7	7	31	45
2. Returns required on magnetic media for partnerships with 100 partners or more—House bill.	tyba 12/31/95	Negligible Revenue Effect								
XVI. Foreign tax simplification provisions:										
A. Modification of Passive Foreign Investment Company Provisions to Eliminate Overlap with Subpart F and to Allow Mark-to-Market Election—House bill.	tyba 12/31/95	−7	−18	−20	−21	−22	−24	−25	−88	−137
B. Modifications to Provisions Affecting Controlled Foreign Corporations:										
1. General provisions—House bill	....	−1	−2	−2	−3	−3	−3	−3	−11	−17
2. Repeal of excess passive assets provision (section 956A)—House bill	tyba 9/30/95	−17	−26	−29	−35	−41	−45	−51	−148	−244
XVII. Other income tax simplification provisions:										
A. Subchapter S Corporations:										
1. Increase number of eligible shareholders—House bill	tyba 12/31/95	−7	−12	−14	−16	−20	−22	−25	−69	−116
2. Permit certain trusts to hold stock in S corporations—House bill	tyba 12/31/95	−1	−2	−2	−2	−2	−2	−2	−9	−13
3. Extend holding period for certain trusts—House bill	tyba 12/31/95	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
4. Financial Institutions permitted to hold safe-harbor debt—House bill	tyba 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1
5. Authority to validate certain invalid elections—House bill	tyba 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1
6. Allow Interim losing of the books	tyba 12/31/95	Negligible Revenue Effect								
7. Expand post-termination period and amend subchapter S audit procedures—House bill.	tyba 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1
8. S corporations permitted to hold S or C subsidiaries—House bill	tyba 12/31/95	−3	−7	−9	−11	−13	−15	−17	−43	−75
9. Treatment of distributions during loss years—House bill	tyba 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1
10. Treatment of S corporations as shareholders in C corporations—House bill.	tyba 12/31/95	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
11. Elimination of certain earnings and profits of S corporations—House bill	tyba 12/31/95	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
12. Treatment of certain losses carried over under at-risk rules—House bill	tyba 12/31/95	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
13. Adjustments to basis of Inherited S stock—House bill	dda DOE	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)
14. Treatment of certain real estate held by an S corporation—House bill	tyba 12/31/95	(2)	−1	−1	−2	−2	−2	−2	−6	−10
15. Transition rule for elections after termination—House bill	tyba 12/31/95	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
16. Interaction of subchapter S changes—House bill	....	−3	−10	−26	−32	−37	−38	39	−108	−185
B. Regulated Investment Companies (RICs)—Repeal of 30% gross income limitation for RICs—House bill.	tyea DOE	−9	−17	−20	−24	−28	−32	−35	−98	−164
C. Accounting Provisions:										
1. Modifications to look-back method for long-term contracts—House bill	cc/tyea/E	−2	−3	−3	−3	−4	−4	−4	−15	−23
2. Allow traders to adopt mark-to-market accounting for securities—House bill.	DOE	Negligible Revenue Effect								
3. Modification of Treasury ruling requirement for nuclear decommissioning funds—House bill.	tyba DOE	−4	−4	−5	−5	−5	−5	−5	−23	−33
4. Provide that a taxpayer may elect to include in income crop insurance proceeds and disaster payments in the year of the disaster or in the following year—Senate amendment.	pra/cdoa 12/31/92	2	−1	−1	−1	−1	−1	−1	−2	−4
D. Tax-Exempt Bond Provision—Repeal of debt service-based limitation on investment in certain non-purpose investments—House bill.	bla DOE	Negligible Revenue Effect								
E. Insurance Provisions:										
1. Treatment of certain insurance contracts on retired lives	tyba 12/31/95	6	−4	5	4	4	12	−7	15	21
2. Treatment of modified guaranteed contracts	tyba 12/31/95	−1	2	4	1	2	1	−1	8	8
F. Other Provisions:										
1. Closing of partnership taxable year with respect to deceased partner—House bill.	tyba 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1
2. Modifications to the FICA tip credit—House bill	eaii OBRA '93	Negligible Revenue Effect								
3. Conform due date for first quarter estimated tax by private foundations—House bill.	1/1/96	Negligible Revenue Effect								
4. Treatment of dues paid to agricultural or horticultural organizations	tyba 12/31/94	Negligible Revenue Effect								
Student loan interest deduction ($2,500 above-the-line deduction; phaseout $45,000–$65,000 singles/$65,000–$85,000 joint).	polda 12/31/95	−52	−152	−157	−162	−168	−174	−180	−691	−1,046
XVIII. Estate, gift, and trust tax provisions:										
A. Estate and Trust Income Tax Provisions:										
1. Certain revocable trusts treated as part of estate—House bill	DOE	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(21)	(21)
2. Distributions during first 65 days of taxable year of estate—House bill	DOE	Negligible Revenue Effect								
3. Separate share rules available to estates—House bill	DOE	Negligible Revenue Effect								
4. Executor of estate and beneficiaries treated as related persons for disallowance of losses—House bill.	DOE	Negligible Revenue Effect								
5. Limitation on taxable year of estate—House bill	DOE	Negligible Revenue Effect								
6. Simplified taxation of earnings of pre-need funeral trusts—House bill, with $7,000 limit.	tyba DOE	(11)	(11)	(11)	(11)	(12)	(12)	(12)	(12)	8
B. Estate and Gift Tax Provisions:										
1. Clarification of waiver of certain rights of recovery—House bill	DOE	Negligible Revenue Effect								
2. Adjustments for gifts within 3 years of decedent's death—House bill	DOE	....	−6	−6	−7	−7	−7	−7	−26	−40
3. Clarification of qualified terminable interest rules—House bill	DOE	Negligible Revenue Effect								
4. Transitional rule under section 2056A—House bill	eali OBRA '90	Negligible Revenue Effect								
5. Opportunity to correct certain failures under section 2032A—House bill	DOE	Negligible Revenue Effect								
6. Gifts may not be revalued for estate tax purposes after expiration of statute of limitations—House bill.	ga DOE	....	−15	−16	−16	−18	−21	−26	−65	−112
7. Clarifications relating to disclaimers—House bill	DOE	....	−2	−2	−2	−2	−3	−3	−8	−14
8. Clarify relationship between community property rights and retirement benefits—House bill.	DOE	....	−3	−4	−4	−4	−4	−4	−15	−23
9. Treatment under qualified domestic trust rules of forms of ownership which are not trusts—House bill.	DOE	Negligible Revenue Effect								
C. Generation-Skipping Tax Provisions:										
1. Taxable termination not to include direct skips—House bill	DOE	Negligible Revenue Effect								
2. Modification of generation-skipping transfer tax for transfers to individuals with deceased parents—Senate amendment.	gsta 12/31/94	−3	−4	−4	−4	−4	−4	−4	−19	−27
XIX. Excise tax simplification provisions:										
A. Distilled Spirits, Wines, and Beer:										
1. Credit or refund for imported bottled distilled spirits returned to bonded premises—House bill.	fcq DOE+180 days	Negligible Revenue Effect								
2. Fermented material from any brewery may be received at a distilled spirits plant—House bill.	fcq DOE+180 days	Negligible Revenue Effect								
3. Refund of tax on wine returned to bond not limited to unmerchantable wine—House bill.	fcq DOE+180 days	Negligible Revenue Effect								

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI) [1]—Continued

[Fiscal years 1996–2002, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	1996–2000	1996–2002
4. Beer may be withdrawn free of tax for destruction—House bill	fcq DOE+180 days					Negligible Revenue Effect				
5. Transfer to brewery of beer imported in bulk without payment of tax—House bill.	fcq DOE+180 days					Negligible Revenue Effect				
B. Consolidate Imposition of Aviation Gasoline Excise Tax—House bill	1/1/96	(16)							(16)	(16)
C. Other Excise Tax Provision—Clarify present law for retail truck excise tax (certain activities do not constitute remanufacture)—House bill.	DOE					Negligible Revenue Effect				
XX. Administrative simplification provision:										
A. General Provision—Certain notices disregarded under provision increasing interest rate on large corporate underpayments—House bill.	1/1/96	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1
XXI. Increase in public debt limit										
Total of revenue provisions		−5,408	−37,217	−35,567	−37,438	−38,594	−39,856	−32,430	−154,155	−226,450
Total of outlay provisions					14	28	42	56	42	140

[1] The Earned Income Credit provisions are included in Title XII of the conference agreement; the budget effects are shown in a separate table.
[2] Loss of less than $500,000.
[3] Credit rate at 35% on first $6,000 of income, eligible workers expanded to include welfare cash recipients and veteran foodstamp recipients; 500 hour work requirement.
[4] Section 257(b)(2)(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Enforcement Act of 1990, indicates that "excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates". Since the revenues from these taxes are dedicated to the Airport and Airway Trust Fund, an extension of the taxes is scored as having no revenue effect.
[5] Estimates provided by the Congressional Budget Office (CBO).
[6] Estimates presented after interaction with Alternative Minimum tax provisions and are shown net of offset with the corporate income tax.
[7] Loss of less than $1 million.
[8] Loss of less than $2 million.
[9] Increase exemption for books and tools of trade to $1,250.
[10] Loss of less than $5 million.
[11] Gain of less than $1 million.
[12] Gain of less than $5 million.
[13] Gain of less than $25 million.
[14] Gain of less than $30 million.
[15] No new suspense accounts could be established in taxable years ending after 9/13/95. The income in existing suspense accounts would be recognized in equal installments over a 20-years period beginning with the first taxable year beginning after 9/13/95.
[16] Gain of less than $500,000.
[17] Loss of less than $10 million.
[18] Various effective dates depending on provisions.
[19] Effective for amounts received after date of enactment and property placed in service after date of enactment with the exception of certain property subject to a binding contract on the date of enactment.
[20] This provision considers interaction effects of SIMPLE retirement plan provisions.
[21] Loss of less than $25 million.

Legend for "Effective" column: ama=awards made after; ara=amounts received after; asda=annuity starting date after; aloIRSg=after Issuance of Internal Revenue Service guidance, bia DOE=bonds issued after date of enactment; cc/tyea/E=contracts completed in taxable years ending after date of enactment; cela=contracts entered into after; cla=cash leases after; da=distributions after; dda=decedents dying after; DDA=disasters declared after; dda DOE=decedents dying after date of enactment; dda/gma=decedents dying after and gifts made after; DOE=date of enactment; eall GATT=effective as if included in GATT; eall OBRA'90=effective as if included in the Omnibus Budget Reconciliation Act of 1990; eall OBRA'93=effective as if included in the Omnibus Budget Reconciliation Act of 1993; fcqa DOE=first calendar quarter after date of enactment; fcq DOE+180 days=beginning of first calendar quarter that starts at least 180 days after date of enactment; ga DOE=gifts after date of enactment; gira=gross income received after; gsta=generation skipping transfers after; ica=involuntary conversion after; Ipoaa=interest paid or accrued after; lia=levies issued after; lida=leasehold improvements disposed of after; lma=loans made after; lyba=limitation years beginning after; pca DOE=proceeding commenced after date of enactment; pma=payments made after; polda=payments on interest due after; ppisa=property placed in service after; pplso/a/b DOE=property placed in service on, after, or before date of enactment; pra=payments received after; pra/cdoa=payments received after, for crop damage occurring after; ptoo/a=prohibited transactions occurring on or after; pyba=plan years beginning after; pybb=plan years beginning before; sa=sales after; sea=sales and exchanges after; sla DOE=summonses issued after date of enactment; spa=services performed after; ta=transfers after; ta DOE=transfers after date of enactment; tyba=taxable years beginning after; tyba DOE=taxable years beginning after date of enactment; tybo/a DOE=taxable years beginning on or after date of enactment; tyea=taxable years ending after; tyea DOE=taxable years ending after date of enactment; tyeo/a=taxable years ending on or after; yba=years beginning after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

ESTIMATED BUDGETARY EFFECTS OF THE CONFERENCE AGREEMENT TO THE BALANCED BUDGET RECONCILIATION ACT OF 1995—TITLE XII, TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION; ASSET SALES; WELFARE; AND OTHER PROVISIONS

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	7 year Total
ASSET SALES [a]								
Subtitle F: National Defense Stockpile:								
Budget Authority	−21	−79	−79	−79	−80	−155	−156	−649
Outlays	−21	−79	−79	−79	−80	−155	−156	−649
DIRECT SPENDING								
Subtitle A: Block Grants for Temporary Assistance for Needy Families:								
Budget Authority	−164	−1,223	−1,489	−1,826	−2,215	−2,117	−2,394	−11,428
Outlays	−690	−993	−1,224	−1,521	−2,080	−2,062	−2,359	−10,929
Subtitle B: Supplemental Security Income:								
Budget Authority	−51	−1,258	−1,896	−2,457	−3,029	−2,805	−3,290	−14,766
Outlays	13	−1,168	−1,916	−2,398	−2,988	−2,784	−3,270	−14,511
Subtitle C: Child Support:								
Budget Authority	104	−36	75	51	4	43	−124	117
Outlays	104	−36	75	51	4	43	−124	117
Subtitle D: Restricting Welfare and Public Benefits for Legal Aliens:								
Budget Authority	−125	−2,800	−3,645	−3,615	−3,815	−3,345	−3,640	−20,985
Outlays	−125	−2,800	−3,640	−3,610	−3,815	−3,340	−3,640	−20,970
Subtitle E: Teaching Hospitals and Graduate Medical Education Trust Fund:								
Budget Authority	0	1,100	1,300	2,000	2,600	3,100	3,400	13,500
Outlays	0	1,100	1,300	2,000	2,600	3,100	3,400	13,500
Subtitle G: Child Protection Block Grant Programs and Foster Care and Adoption Assistance:								
Budget Authority	1,399	−329	−373	−424	−470	−521	−559	−1,277
Outlays	1,610	−176	−349	−403	−449	−493	−537	−797
Subtitle H: Child Care:								
Budget Authority	1,026	1,240	1,320	1,400	1,500	1,625	1,745	9,856
Outlays	909	1,219	1,312	1,392	1,490	1,613	1,733	9,668
Subtitle I: Child Care Nutrition Programs:								
Budget Authority	−124	−634	−749	−843	−904	−1,004	−1,114	−5,372
Outlays	−110	−583	−730	−828	−891	−990	−1,095	−5,207
Subtitle J: Food Stamps and Commodity Distribution:								
Budget Authority	−918	−3,023	−3,739	−4,315	−4,860	−5,437	−6,060	−28,352
Outlays	−918	−3,023	−3,739	−4,315	−4,860	−5,437	−6,060	−28,352
Subtitle K: Miscellaneous:								
Budget Authority	−20	−580	−580	−585	−585	−585	−585	−3,520
Outlays	−20	−524	−580	−585	−585	−585	−585	−3,464
Subtitle L: Reform of the Earned Income Credit:								
Budget Authority	−163	−3,268	−3,513	−3,756	−4,045	−4,290	−4,459	−23,494
Outlays	−163	−3,268	−3,513	−3,756	−4,045	−4,290	−4,459	−23,494
Subtitle M: Clinical Laboratories:								
Budget Authority	[b]	[b]	[b]	[b]	[b]	[b]	[b]	[b]
Outlays	[b]	[b]	[b]	[b]	[b]	[b]	[b]	[b]
Subtotal, Direct Spending:								
Budget Authority	964	−10,811	−13,279	−14,370	−15,809	−15,336	−17,080	−85,721
Outlays	610	−10,232	13,004	−13,973	−15,619	−15,225	−16,996	−84,439
Total Mandatory Spending (Asset Sales plus Direct Spending):								
Estimated Budget Authority	943	−10,890	−13,358	−14,449	−15,889	−15,491	−17,236	−86,370

ESTIMATED BUDGETARY EFFECTS OF THE CONFERENCE AGREEMENT TO THE BALANCED BUDGET RECONCILIATION ACT OF 1995—TITLE XII, TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION; ASSET SALES; WELFARE; AND OTHER PROVISIONS—Continued

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	7 year Total
Estimated Outlays	589	−10,311	−13,083	−14,052	−15,699	−15,380	−17,152	−85,088
REVENUES								
Subtitle L: Reform of the Earned Income Credit: Revenues	60	1,183	1,294	1,391	1,493	1,627	1,845	8,893

[a] Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

[b] CBO cannot estimate whether this proposal would, on balance, increase or decrease spending for Medicare.

Mr. EXON. Turning to the second point of order.

If my colleagues consider the issue fairly, I believe they will agree that the tax title violates section 313(b)(1)(E) of the Budget Act. That subparagraph prohibits provisions that balloon the deficit in the out-years, unless the loss is offset by out-year savings from other provisions contained in the same title. I ask unanimous consent that the text and legislative history of section 313(b)(1)(E) of the Budget Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(E)[1] a provision shall be considered to be extraneous if it increases, or would increase, net outlays,[2] or if it decreases, or would decrease, revenues during a fiscal year after the fiscal years covered by such reconciliation bill or reconciliation resolution,[3] and such increases or decreases are greater[4] than outlay reductions or revenue increases resulting from other provisions in such title[5] in such year;[6]

FOOTNOTES

[1] Section 205(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 added subparagraph (E). Pub. L. No. 100–119, §205(b), 101 Stat. 754, 784–85 (1987).

[2] Section 3(1) defines "outlays."

[3] Section 310(b) defines "reconciliation resolution."

[4] The Congressional Budget Act makes no exception for violations of negligible amounts.

[5] This basis of extraneousness depends on the balance of the title in which the drafters locate a provision. Consequently, attentive drafters can avoid this violation by combining or rearranging the contents of titles so as to ensure that no title worsens the deficit in any out-year.

[6] Section 205(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 added subparagraph (E). Pub. L. No. 100–119, §205(b), 101 Stat. 754, 784–85 (1987). The joint statement of managers in the conference report on that bill stated with regard to subparagraph (E):

6. Extraneous Provisions in Reconciliation Legislation

Current Law:

Title XX of the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99–272), as amended by Section 7006 of the Omnibus Budget Reconciliation Act of 1986 (P.L. 99–509), established a temporary rule in the Senate—referred to as the "Byrd Rule"—to exclude extraneous matter from reconciliation legislation. The rule specifies the types of provisions considered to be extraneous, provides for a point of order against the inclusion of extraneous matter in reconciliation measures, and requires a three-fifths vote of the Senate to waive or appeal the point of order. The rule expires on January 2, 1988.

Senate Amendment:

The Senate amendment (Section 228) amends the Byrd Rule (which applies only in the Senate) to include in the definition of extraneous matter provisions which increase net outlays or decrease revenues during a fiscal year beyond those fiscal years covered by the reconciliation measure and which result in a net increase in the deficit for that fiscal year. The Senate amendment also extends the expiration date of the Byrd Rule to September 30, 1992.

Conference Agreement:

The House recedes and concurs in the Senate amendment. This rule applies only in the Senate.

It is the intent of the conferees that expiration after the reconciliation period of a revenue increase or extension provided for in a reconciliation bill would not, of itself, be considered a revenue decrease for purposes of this provision. It could, however, contribute to a finding that a spending increase or a positive revenue decrease in that legislation violated this rule.

H.R. CONF. REP. No. 100–313, 100th Cong., 1st Sess. 65 (1987), reprinted in 1987 U.S.C.C.A.N. 739, 765.

Mr. EXON. And I say to my colleagues that the tax title in the reconciliation conference report creates enormous loses in the out-years. Just look at the capital gains provisions, for example, which lose nearly $12 billion in 2002, over $13 billion in 2003, and nearly $16 billion in 2004. And these numbers are from the Joint Committee on Taxation, which understates the losses from capital gains relative to the estimates of the Treasury Department.

In total, the tax breaks in this bill worsen the deficit by over $47 billion in 2003, over $51 billion in 2004, and nearly $57 billion in 2005. These tax cuts continue in the out-years to dig us into a deeper and deeper hole. Over 10 years, the Republican tax cuts worsen the deficit by nearly $382 billion.

Mr. President, I ask unanimous consent that a table prepared by the Joint Committee on Taxation displaying the 10-year effects of these tax breaks be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI)[1]

[Fiscal years 1996–2005, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996–2000	1996–2002	1996–2005
CONTRACT WITH AMERICA PROVISIONS														
I. Family tax relief provisions:														
1. $500 tax credit for children under age 18—Senate amendment ($75,000/$110,000 phase-out with no indexing).	10/1/95	−4,449	−28,355	−22,529	−22,761	−22,996	−23,169	−23,343	−20,519	−23,697	−23,875	−101,090	−147,602	−218,693
2. Reduce the marriage penalty	tyba 12/31/95	−137	−474	−739	−952	−1,458	−1,970	−2,270	−3,838	−5,074	−6,866	−3,760	−8,000	−23,778
3. $5,000 credit for adoption expenses—Senate amendment, but phase out beginning at $75,000 AGI; require finalized adoption only for foreign adoptions; special needs adoptions—House bill.	tyba 12/31/95	−28	−285	−302	−320	−336	−337	−337	−337	−339	−339	−1,271	−1,945	−2,960
4. $1,000 deduction (with residency and support tests) for custodial care of certain elderly dependents in taxpayer's home.	tyba 12/31/95	−74	−115	−119	−124	−129	−134	−138	−142	−146	−151	−561	−833	−1,271
II. Savings and investment provisions:														
1. Provisions relating to individual Retirement Arrangements—(a) deductible IRAs—Senate amendment, except increase phaseout range for joint filers in $2,500 increments; Homemakers eligible for full IRA deduction—both House bill and Senate amendment; (b) back-end IRAa—House bill with coordination of contribution limits; (c) definition of special purpose withdrawals—Senate amendment; (d) penalty free withdrawals from deductible IRAs—Senate amendment.	tyba 12/31/95	−221	−487	−100	−990	−1,817	−3,332	−4,807	−5,770	−6,860	8,164	−3,615	−11,755	−32,549

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI) [1]—Continued

[Fiscal years 1996–2005, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996–2000	1996–2002	1996–2005
2. Capital gains reforms: (a) individual capital gains—House bill; (b) small business stock—14% maximum rate for individuals, reduced corporate rate; (c) indexing of capital gains—House bill, with 6-year delay of effective date; (d) corporate capital gains—Senate amendment; and (e) capital loss deducation for sale of principal residence—House bill:														
a. Corporate	tyea 12/31/94	−1,009	−893	−912	−945	−971	−1,024	−1,129	−1,188	−1,246	−1,307	−4,730	−6,883	−10,624
b. Individual	tyea 12/31/94	2,857	−2,677	−6,757	−7,546	−8,191	−7,990	−1,450	−10,483	−12,166	−14,483	−22,314	−28,854	−65,986
3. Alternative minimum tax (AMT) Reform—Senate amendment, except conform depreciation lives and methods under AMT and, with respect to certain minimum tax credits, substitute 7 years for 5 years.	ppisa & tyba 12/31/95	−1,290	−3,149	−3,722	−3,248	−2,141	−1,487	−1,252	−1,015	−985	−1,000	−13,550	−16,291	−19,291
III. Health care provisions:														
1. Treatment of long-term care insurance—House bill, but adopt Senate provision providing no cap on indemnity policies, permit penalty-free (not tax-free) 401(k) and IRA withdrawals, $175 per day cap on per diem benefits, and adopt Senate consumer protections.	1/1/96	−860	−556	−659	−751	−846	−951	−1,061	−1,166	−1,289	−1,401	−3,672	−5,684	−9,540
2. Tax treatment of accelerated death benefits under life insurance contracts—House bill, but adopt Senate rule relating to NAIC guidelines.	1/1/96	−6	−67	−107	−166	−214	−265	−316	−376	−446	−481	−560	−1,141	−2,442
3. Health insurance organizations eligible for benefits of section 833—Senate amendment.	tyea 10/13/95	−1	−1	−1	−1	−1	−1	−1	−1	−1	−1	−5	−8	−12
4. Increase tax-free death benefit limit on burial insurance polices—Senate amendment.	ceia 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
IV. Estate and gift tax provisions:														
1. Phase up unified credit to $750,000—House bill with 6-year phase in with indexing thereafter; index $10,000 annual gift tax exclusion; $750,000 special use valuation; generation-skipping tax; and indexing of $1 million value of closely held businesses under section 6601j.	dda/gma 12/31/95	....	−333	−663	−1,020	−1,401	−1,805	−2,154	−2,379	−2,864	−3,136	−3,417	−7,376	−15,755
2. Reduction in estate taxes for qualified businesses after unified credit increase—Senate amendment, but change thresholds to $1 million/$1.5 million and coordinate with section 2032A and section 6166.	dda 12/31/95	....	−490	−579	−680	−798	−934	−1,081	−1,295	−1,513	−1,766	−2,547	−4,562	−9,136
3. Provide a 40% exclusion from estate taxes for property donated subject to a conservation easement (within 25 miles of a metropolitan statistical area or a national park or wilderness area; or within 10 miles of an Urban National Forest).	dda 12/31/95	....	−42	−47	−51	−60	−67	−74	−81	−90	−99	−200	−340	−610
4. Clarify cash leases under section 2032A—Senate amendment.	cla 12/31/95	....	−2	−2	−2	−2	−2	−2	−2	−2	−2	−8	−12	−18
V. Job creation and wage enhancement provisions:														
1. Leasehold improvements provision—House bill.	llda 3/13/95	−34	−230	−17	−15	−12	−9	−6	−3	-	−3	−98	−114	−114
2. Small business incentives—House bill, but modify increase in expensing limitation for small businesses to $19,000 for 1996, $20,000 for 1997, $21,000 for 1998, $22,000 for 1999, $23,000 for 2000, $24,000 for 2001, and $25,000 for 2002 and thereafter.	ppisa 12/31/95	−191	−379	−470	−553	−554	−550	−489	−360	−240	−150	−2,147	−3,186	−3,936
Subtotal: Contract With America related provisions.		−5,443	−38,325	−37,725	−40,125	−41,927	−44,027	−37,010	−51,955	−56,958	−63,218	−163,545	−244,586	−416,715
VI. Expiring provisions:														
1. Provisions extended through 12/31/96:														
a. Work opportunity tax credit—Senate amendment, with modifications [3].	1/1/96	−64	−107	−65	−25	−10	−2	....	....	....	....	−271	−274	−274
b. Employer-provided educational assistance; applies to undergraduate education only after 1995.	1/1/95	−611	−288	....	....	....	....	....	....	....	....	−899	−899	−899
c. R&E credit—House bill	7/1/95	−1,322	−842	−387	−275	−165	−42	....	....	....	....	−2,991	−3,033	−3,033
d. Orphan drug tax credit—Senate amendment.	1/1/95	−35	−10	−2	−1	−1	(2)	(2)	(2)	(2)	(2)	−49	−50	−51
e. Contribution of appreciated stock to private foundations.	1/1/95	−107	−18	−6	....	....	....	....	....	....	....	−130	−130	−130
2. Commercial aviation fuel: extend 4.3 cents/gallon exemption through 9/30/97; but conditional on extension of Airport and Airway Trust Fund taxes.	10/1/95	−417	−439	−6	....	....	....	....	....	....	....	−863	−863	−863

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI)[1]—Continued

[Fiscal years 1996–2005, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996–2000	1996–2002	1996–2005
3. Extend all Airport and Airway Trust Fund excise taxes through 9/30/96—House bill[4].	1/1/96	No revenue effect												
4. Extend IRS user fees through 9/30/02[5]—Senate amendment.	10/1/00	....	....	....	....	....	35	35	....	....	....	....	70	70
5. Sunset the low-income housing tax credit after 12/31/97; sunset national pool after 12/31/95—House bill.	DOE	−24	−29	64	333	674	1,046	1,431	1,822	2,218	2,617	1,018	3,494	10,152
6. Superfund and oil spill liability taxes:														
a. Extend Superfund excise taxes through 9/30/96; receipts go to general revenues after 7/31/96.	DOE	319	16	....	....	....	....	....	....	....	....	335	335	335
b. Extend Superfund AMT through 12/31/96[6].	DOE	290	193	....	....	....	....	....	....	....	....	483	483	483
c. Extend oil spill tax through 9/30/02—Senate amendment.	1/1/96	....	....	....	....	....	60	60	....	....	....	....	120	120
7. Extend excise tax refund authority for alcohol fuels blenders—Senate amendment.	DOE	Negligible revenue effect												
8. Extend section 29 binding contract date 6 months from date of enactment and placed-in-service date to 12/3/97 for biomass and coal.	DOE	....	−30	−81	−97	−93	−96	−101	−106	−111	−117	−301	−499	−833
9. Exempt from diesel dyeing requirement any States exempt from Clean Air Act dyeing requirement (permanent).	fcqa DOE	(2)	−1	−1	−1	−1	−1	−1	−1	−1	−1	−3	−4	−6
10. Suspend tax on diesel fuel for recreational boats—Senate amendment (through 6/30/97).	1/1/96	−24	−27	−4	−4	−1	....	....	....	....	....	−60	−61	−61
11. Permanent extension of FUTA exemption for alien agricultural workers[5]—House bill.	1/1/95	−5	−3	−3	−3	−3	−3	−3	−3	−3	−3	−17	−23	−32
12. Information Sharing Provision: Extension of disclosure of return Information to Department of Veterans Affairs (outlay reduction)[5]—House bill, except extend through 9/30/02 only.	DOE	....	....	....	14	28	42	56	....	....	....	42	140	140
VII. Medical savings accounts:														
1. Medical Savings Accounts—House bill, except follow the Senate amendment with respect to (a) maximum contribution limit ($2,000 single and $4,000 family); (b) tax-free build up of earnings; (c) definition of qualified medical expenses; (d) post-death distribution rules; and (e) clarification relating to capitalization of policy acquisition costs.	tyba 12/31/95	−122	−211	−258	−307	−362	−391	−421	−451	−483	−515	−1,260	−2,072	−3,522
VIII. Taxpayer bill of rights 2:														
1. Expansion of authority to abate interest.	DOE	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(8)	(8)
2. Extension of interest-free period for payment of tax—House bill.	6/30/96	−2	−7	−8	−8	−8	−9	−9	−9	−10	−10	−10	−51	−80
3. Joint return may be made after separate returns without full payment of tax.	tyba DOE	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(8)	(8)
4. Increase levy exemption[9]	lia 12/31/95	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(10)	(8)
5. Offers-in-compromise—Senate amendment.	DOE	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(8)	(8)
6. Increased limit on attorney fees—House bill.	DOE	−1	−1	−1	−1	−1	−1	−1	−1	−1	−1	−5	−7	−10
7. Award of litigation costs permitted in declaratory judgment proceedings.	pca DOE	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(8)	(8)
8. Increase in limit on recovery of civil damages—House bill.	DOE	−3	−3	−3	−3	−3	−3	−3	−3	−3	−3	−15	−21	−30
9. Enrolled agents included as third-party recordkeepers.	sla DOE	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(8)	(8)
10. Annual reminders to taxpayers with delinquent accounts.	1/1/96	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(12)	(12)	(12)
IX. Casualty and involuntary conversion provision:														
1. Change involuntary conversion rules for Presidentially declared disaster areas—Senate amendment.	DDA 12/31/94	−6	−14	−10	−10	−10	−10	−10	−10	−10	−10	−50	−70	−100
X. Exempt and charitable organizations provisions:														
1. Provide tax-exempt status to common investment funds—Senate amendment.	tyea 12/31/95	−4	−6	−6	−7	−7	−7	−8	−8	−8	−9	−30	−45	−70
2. Exclusion from UBIT for certain corporate sponsorship payments—Senate amendment.	pra 12/31/95	Negligible revenue effect												
3. Intermediate sanctions for certain tax-exempt organizations—House bill, with technical modifications.	9/14/95 1/1/96	4	4	4	5	5	5	6	6	6	7	22	33	52
XI. Corporate and other reforms:														
1. Reform the tax treatment of certain corporate stock reemptions—House bill.	da 5/3/95	−83	−100	−17	84	209	343	437	475	514	582	93	873	2,444
2. Require corporate tax shelter reporting; modify recipient notice to 90 days.	aiolRSg	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(13)	(13)	(14)

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI)[1]—Continued

[Fiscal years 1996–2005, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996–2000	1996–2002	1996–2005
3. Disallow interest deduction for corporate-owned life insurnce policy loans—Senate amendment, but phase out disallowance (90% in 1996, 80% in 1997, and 70% in 1998; cap borrowing at 20,000 lives); cap interest rate (with special rules for grandfathered plans); exception for key person policies with 10 lives; limit borrowing in 1996 to policies purchased in 1994 and 1995.	ipoaa 10/31/95	220	579	883	1,369	1,749	1,856	1,895	1,901	1,924	1,940	4,800	8.551	14,316
4. Phase out preferential tax deferral for certain large farm corporations required to use accrual accounting.	(15)	26	37	38	39	40	41	42	43	44	44	179	261	392
5. Phase-in repeal of section 936; Wage credit companies—6 years of present law and then House bill with modified base period; income companies—2 years of present law and then House bill with modified base period; QPSII—repealed 1/1/96.	tyba 12/3/95	255	605	552	596	498	516	746	1,116	1,390	1,681	2,506	3,766	7,953
6. Corporate accounting—reform of income forecast method—Senate amendment.	ppisa 9/13/95	32	69	29	13	14	16	19	22	28	31	157	192	273
7. Permit transfers of excess pension assets—House bill but (a) require asset cushion equal to the greater of (i) 125% of termination liability (using PBGC assumptions) and (ii) the plan's accrued liability; (b) permit withdrawals only for ERISA-covered benefits; (c) prohibit transfers when company in bankruptcy; (d) no excise tax; (e) extend for 1 additional year; and (f) conform present-law section 420 asset cushion.	ta DOE	1,439	1,375	958	554	195	151	−19	−13	−20	−27	4,521	4,651	4,591
8. Modify exclusion of damages received on account of personal injury or sickness—Senate amendment, with technical clarifications.	ama 12/31/95	34	51	55	59	61	64	68	71	74	77	260	392	614
9. Require tax reporting for payments to attorneys; delay effective date for 1 year.	pma 12/31/96	....	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(13)	(13)	(14)
10. Expatriation tax provisions—House bill.	2/6/95	64	97	146	199	254	289	304	319	335	351	760	1,353	2,358
11. Remove business exclusion for energy subsidies provided by public utilties—House bill, but modify effective date.	ara 12/31/95	30	96	100	104	107	109	111	113	115	116	437	657	1,000
12. Modify basis adjustment rules under section 1033.	ica 9/13/95	2	4	6	9	14	20	29	37	46	56	35	84	223
13. Modify the exception to the related party rule of section 1033 for individuals to only provide an exception for de minimis amounts ($100,000).	ica 9/13/95	1	2	4	6	8	11	13	15	17	19	21	45	96
14. Disallow rollover under section 1034 to extent of previously claimed depreciation for home office or other depreciable use of residence.	tyea 12/31/95	1	3	4	5	6	8	9	10	11	13	19	35	69
15. Provide that rollover of gain on sale of a principal residence cannot be elected unless the replacement property purchased is located within the United States (limit to resident aliens who terminate residence within 2 years).	sea 12/31/95	(16)	(16)	(16)	(16)	(16)	(16)	(16)	(16)	(16)	(16)	(16)	(16)	(16)
16. Repeal exemption for withholding on gambling winnings from bingo and keno where proceeds exceed $5,000.	1/1/96	20	6	6	6	6	7	7	7	7	8	44	58	80
17. Repeal tax credit for contributions to special Community Development Corporations.	DOE	1	1	2	2	2	2	2	2	2	2	8	12	18
18. Repeal advance refunds of diesel fuel tax for diesel cars and light trucks.	1/1/96	8	19	19	19	19	19	19	19	19	19	84	122	179
19. Apply failure to pay penalty to substitute returns.	DOE	1	3	29	30	32	33	35	37	38	40	95	163	278
20. Allow conversion of scholarship funding corporation to taxable corporation—House bill.	DOE	3	4	6	8	10	10	9	7	6	5	31	48	67
21. Apply look-through rule for purposes of characterizing certain subpart F insurance income as UBIT—House bill.	gira 12/31/95	7	23	24	27	30	32	34	37	40	44	111	177	298
22. Repeal 50% Interest Income exclusion for financial institution loans to ESOPs—Senate amendment.	ima 10/13/95	27	69	109	149	187	224	261	295	331	365	541	1,026	2,019
23. Modify the ozone depleting chemicals tax for imported recycled halons—Senate amendment.	DOE	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(10)	(17)	(7)
24. Modify two county tax-exempt bond rule for local furnishers of electricity or gas—Senate amendment.	DOE	(16)	1	2	3	4	5	6	8	9	10	10	22	49

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI) [1]—Continued

[Fiscal years 1996–2005, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996–2000	1996–2002	1996–2005
25. Provide tax-exempt bonds status for Alaska Power Administration sale—Senate amendment.	bia DOE	(2)	−1	−1	−1	−1	−1	−1	−1	−1	−1	−4	−8	−12
26. Modify treatment of foreign trusts—Senate amendment.	(18)	93	162	171	180	188	197	206	214	223	245	794	1,197	1,879
27. Provide for flow through treatment for Financial Asset Securitization Investment Trusts (FASITs)—Senate amendment.	DOE	34	18	10	5	2	....	−2	−4	−6	−8	69	67	49
28. Tax-free treatment of contributions in aid of construction for water utilities; change depreciation for water utilities—Senate amendment.	(19)	−16	−26	−12	4	19	32	43	51	61	71	−31	43	226
29. Provide 3-year amortization of intrastate operating rights of truckers—Senate amendment.	tyeo/a 1/1/95	−11	−14	−8	−4	....	....	....	....	....	....	−37	−37	−37
30. A life insurance company may elect to treat 20% of capital losses as ordinary income, spread over 10 years; the taxpayer has the option to change the treatment of these losses in the future—Senate amendment, with modifications.	tyba 12/31/94	1	(16)	(2)	−1	(2)	(16)	(16)	(16)	(2)	−2	(16)	1	−2
31. Clarify that newspaper carriers and distributors are independent contractors—Senate amendment.	spa 12/31/95	Negligible revenue effect												
32. Allow for tax-free conversion of common trust funds to mutual funds—Senate amendment.	ta 12/31/95	−4	−9	−8	−8	−8	−8	−8	−8	−9	−9	−37	−52	−78
33. Eliminate interest allocation exception for certain nonfinancial corporations—Senate amendment.	tyba 12/31/95	41	93	107	123	141	163	187	201	215	228	505	855	1,499
34. Modify depreciation for small motor fuel/convenience store outlets—Senate amendment.	ppiso/a/b DOE	−1	−4	−23	−26	−29	−16	−19	−22	−24	−27	−83	−118	−191
35. Repeal of section 593 with residential loan test for 1996 and 1997.	tyba 12/31/95	63	95	216	280	277	272	260	250	243	236	931	1,462	2,192
36. Phase out and extend luxury automobile excise tax through 12/31/02.	1/1/96	−41	−97	−159	−204	179	265	200	46	....	....	−322	143	188
XII. Technical correction provision: Luxury Excise Tax Indexing.	DOE	14	....	....	....	....	....	....	....	....	....	14	14	14
XIII. Simplification provisions relating to individuals:														
1. Rollover of gain on sale of principal residence:														
a. Multiple sales within rollover period—House bill.	sa DOE	−1	−2	−2	−2	−2	−2	−3	−3	−3	−3	−9	−14	−23
b. Rules in case of divorce—House bill.	sa DOE	−2	−2	−2	−2	−3	−3	−3	−4	−4	−4	−11	−17	−29
2. One-time exclusion on the sale of a principal residence by an individual who has attained age 55 (allow additional exclusion for married couples under certain conditions where one spouse has claimed an exclusion prior to their marriage)—House bill.	sa 9/13/95	−10	−19	−20	−21	−22	−23	−24	−25	−26	−27	−92	−139	−217
3. Treatment of certain reimbursed expenses of rural mail carriers—House bill.	tyba 12/31/95	(2)	−1	−1	−1	−1	−1	−1	−1	−1	−1	−5	−6	−11
4. Travel expenses of Federal employee participating in a Federal criminal investigation—House bill.	tyea DOE	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1	−1	−2
5. Treatment of storage of product samples—House bill.	tyba 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−2	−3
XIV. Pension simplification provisions:														
A. Simplified Distribution Rules:														
1. Sunset of 5-year income averaging for lump-sum distributions—Senate amendment.	tyba 12/31/98	24	74	63	109	80	42	17	16	....	....	350	409	425
2. Repeal of $5,000 exclusion of employees' death benefits.	tyba 12/31/95	16	46	49	52	54	55	55	56	57	57	217	328	498
3. Simplified method for taxing annuity distributions under certain employer plans—Senate amendment.	asda 12/31/95	10	28	28	28	29	29	29	30	30	31	123	182	273
4. Minimum required distribution.	yba 12/31/95	−1	−4	−4	−4	−4	−4	−4	−4	−4	−4	−17	−25	−37
B. Increased Access to Pension Plans—Tax-exempt organizations eligible under section 401(k)—Senate amendment, but permit all tax exempts and Indian tribes to have 401(k) plans.	yba 12/31/96	....	−8	−22	−24	−25	−26	−28	−29	−30	−31	−79	−133	−223
C. Nondiscrimination Provisions:														
1. Simplified definition of highly compensated employees—House bill, with modifications.	yba 12/31/95	Considered in other provisions												
2. Repeal of family aggregation rules.	yba 12/31/95	Considered in other provisions												
3. Modification of additional participation requirements.	yba 12/31/95	Negligible revenue effect												

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI) [1]—Continued

[Fiscal years 1996–2005, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996–2000	1996–2002	1996–2005
4. Safe-harbor nondiscrimination rules for qualified cash or deferred arrangements and matching contributions [20]—Senate amendment, with modification.	yba 12/31/98	....	....	....	−42	−162	−167	−171	−176	−182	−187	−204	−541	−1,085
D. Miscellaneous pension simplification:														
1. Treatment of leased employees—Senate amendment.	yba 12/31/95	Negligible revenue effect												
2. Plans covering self-employed individuals.	yba 12/31/95	Negligible revenue effect												
3. Elimination of special vesting rule for multiemployer plans.	yba 12/31/95	(2)	−1	−1	−1	−1	−1	−1	−1	−1	−1	−4	−6	−9
4. Distributions under rural cooperative plans—Senate amendment, with modifications.	DOE	Negligible revenue effect												
5. Treatment of governmental plans under section 415—House bill, with Senate effective date.	tybo/a DOE	Negligible revenue effect												
6. Uniform retirement age	1/1/96	Considered in other provisions												
7. Contributions on behalf of disabled employees.	yba 12/31/95	Negligible revenue effect												
8. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations—House bill, with modification.	tyba 12/31/95	(2)	−1	−1	−1	−1	−2	−2	−2	−2	−2	−4	−8	−14
9. Require Individual ownership of section 457 plan assets—House bill, with effective date change (i.e., to the end of the first legislative session after enactment).	DOE	−6	−18	−21	−24	−25	−25	−26	−27	−28	−29	−94	−145	−229
10. Correction of GATT interest and mortality rate provisions in the Retirement Protection Act—House bill, with modifications.	eall GATT	−4	−4	−4	−4	....	....	....	....	....	....	−16	−16	−16
11. Multiple salary reduction agreements permitted under section 403(b).	tyba 12/31/95	Negligible revenue effect												
12. Repeal of combined plan limit—House bill, with Senate effective date.	yba 12/31/98	....	....	....	−70	−189	−195	−201	−207	−213	−219	−259	−654	−1,293
13. Modify notice required of right to qualified joint and survivor annuity—House bill.	pyba 12/31/95	Negligible revenue effect												
14. 3-year waiver of excess distribution tax—Senate amendment.	1/1/96	38	40	43	3	....	....	....	....	....	....	124	124	124
15. Definition of compensation for section 415 purposes—Senate amendment.	yba 12/31/97	....	....	−1	−1	−2	−2	−2	−2	−2	−3	−4	−8	−15
16. Increase section 4975 excise tax on prohibited transactions from 5% to 10%—Senate amendment.	ptoo/a 1/1/96	1	4	4	4	4	4	4	4	4	4	17	24	36
17. Treatment of Indian tribal governments under section 403(b)—Senate amendment provision and permit rollover to 401(k).	pybb 1/1/95	Negligible revenue effect												
18. Application of elective deferral limit to section 403(b) plans—Senate amendment, with modifications.	tyba 12/31/95	Negligible revenue effect												
19. Establish SIMPLE pension plan—Senate amendment, but repeal SEPs.	yba 12/31/95	−45	−69	−71	−74	−76	−79	−82	−85	−88	−91	−335	−497	−761
20. Increase the self-employed health insurance deduction (35% in 1998 and 1999; 40% in 2000 and 2001; and 50% in 2002 and thereafter).	tyba 12/31/97	....	....	−36	−113	−168	−272	−399	−644	−694	−746	−317	−988	−3,072
XV. Partnership simplification provisions:														
1. Simplified reporting to partners—House bill, but elective.	tyba 12/31/95	5	6	6	7	7	7	7	8	8	8	31	45	69
2. Returns required on magnetic media for partnerships with 100 partners or more—House bill.	tyba 12/31/95	Negligible revenue effect												
XVI. Foreign tax simplification provisions:														
A. Modification of passive foreign investment company provisions to eliminate overlap with subpart F and to allow mark-to-market election—House bill.	tyba 12/31/95	−7	−18	−20	−21	−22	−24	−25	−26	−27	−29	−88	−137	−219
B. Modifications to provisions affecting controlled foreign corporations:														
1. General provisions—House bill.		−1	−2	−2	−3	−3	−3	−3	−4	−4	−4	−11	−17	−29
2. Repeal of excess passive assets provision (section 956A)—House bill.	tyba 9/30/95	−17	−26	−29	−35	−41	−45	−51	−57	−64	−68	−148	−244	−433

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI) [1]—Continued

[Fiscal years 1996–2005, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996–2000	1996–2002	1996–2005
XVII. Other income tax simplification provisions:														
A. Subchapter S corporations:														
1. Increase number of eligible shareholders—House bill.	tyba 12/31/95	−7	−12	−14	−16	−20	−22	−25	−28	−31	−35	−69	−116	−210
2. Permit certain trusts to hold stock in S corporations—House bill.	tyba 12/31/95	−1	−2	−2	−2	−2	−2	−2	−2	−3	−3	−9	−13	−21
3. Extend holding period for certain trusts—House bill.	tyba 12/31/95	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
4. Financial Institutions permitted to hold safe-harbor debt—House bill.	tyba 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1	−1
5. Authority to validate certain invalid elections—House bill.	tyba 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1	−1
6. Allow Interim closing of the books.	tyba 12/31/95	Negligible revenue effect												
7. Expand post-termination period and amend subchapter S audit procedures—House bill.	tyba 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1	−1
8. S corporations permitted to hold S or C subsidiaries—House bill.	tyba 12/31/95	−3	−7	−9	−11	−13	−15	−17	−20	−23	−26	−43	−75	−144
9. Treatment of distributions during loss years—House bill.	tyba 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1	−1
10. Treatment of S corporations as shareholders in C corporations—House bill.	tyba 12/31/95	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
11. Elimination of certain earnings and profits of S corporations—House bill.	tyba 12/31/95	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
12. Treatment of certain losses carried over under at-risk rules—House bill.	tyba 12/31/95	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
13. Adjustments to basis of Inherited S stock—House bill.	dda DOE	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)
14. Treatment of certain real estate held by an S corporation—House bill.	tyba 12/31/95	(2)	−1	−1	−2	−2	−2	−2	−2	−2	−2	−6	−10	−16
15. Transition rule for elections after termination—House bill.	tyba 12/31/95	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
16. Interaction of subchapter S changes—House bill.		−3	−10	−26	−32	−37	−38	39	−40	−40	−40	−108	−185	−305
B. Regulated Investment Companies (RICs)—Repeal of 30% gross income limitation for RICs—House bill.	tyea DOE	−9	−17	−20	−24	−28	−32	−35	−38	−41	−44	−98	−164	−287
C. Accounting Provisions:														
1. Modifications to look-back method for long-term contracts—House bill.	cc/tyea/E	−2	−3	−3	−3	−4	−4	−4	−4	−4	−4	−15	−23	−35
2. Allow traders to adopt mark-to-market accounting for securities—House bill.	DOE	Negligible revenue effect												
3. Modification of Treasury ruling requirement for nuclear decommissioning funds—House bill.	tyba DOE	−4	−4	−5	−5	−5	−5	−5	−4	−5	−6	−23	−33	−49
4. Provide that a taxpayer may elect to include in income crop insurance proceeds and disaster payments in the year of the disaster or in the following year—Senate amendment.	pra/cdoa 12/31/92	2	−1	−1	−1	−1	−1	−1	−1	−1	−1	−2	−4	−6
D. Tax-Exempt Bond Provision—Repeal of debt service-based limitation on investment in certain non-purpose investments—House bill.	bla DOE	Negligible revenue effect												
E. Insurance Provisions:														
1. Treatment of certain insurance contracts on retired lives.	tyba 12/31/95	6	−4	5	4	4	12	−7	−16	−4	−1	15	21	−19
2. Treatment of modified guaranteed contracts.	tyba 12/31/95	−1	2	4	1	2	1	−1	−1	−1	−1	8	8	−7
F. Other Provisions:														
1. Closing of partnership taxable year with respect to deceased partner—House bill.	tyba 12/31/95	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1	−1
2. Modifications to the FICA tip credit—House bill.	eaii OBRA '93	Negligible revenue effect												
3. Conform due date for first quarter estimated tax by private foundations—House bill.	1/1/96	Negligible revenue effect												
4. Treatment of dues paid to agricultural or horticultural organizations.	tyba 12/31/94	Negligible revenue effect												
5. Student loan interest deduction ($2,500 above-the-line deduction; phaseout $45,000–$65,000 singles/ $65,000–$85,000 joint).	polda 12/31/95	−52	−152	−157	−162	−168	−174	−180	−186	−193	−200	−691	−1,046	−1,624

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF REVENUE RECONCILIATION AND TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 (TITLE XI) [1]—Continued

[Fiscal years 1996–2005, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996–2000	1996–2002	1996–2005
XVIII. Estate, gift, and trust tax provisions:														
A. Estate and Trust Income Tax Provisions:														
1. Certain revocable trusts treated as part of estate—House bill.	DOE	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(10)	(21)	(21)	(21)
2. Distributions during first 65 days of taxable year of estate—House bill.	DOE	Negligible revenue effect												
3. Separate share rules available to estates—House bill.	DOE	Negligible revenue effect												
4. Executor of estate and beneficiaries treated as related persons for disallowance of losses—House bill.	DOE	Negligible revenue effect												
5. Limitation on taxable year of estates—House bill.	DOE	Negligible revenue effect												
6. Simplified taxation of earnings of pre-need funeral trusts—House bill, with $7,000 limit.	tyba DOE	(11)	(11)	(11)	(11)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	8	12
B. Estate and gift tax provisions:														
1. Clarification of waiver of certain rights of recovery—House bill.	DOE	Negligible revenue effect												
2. Adjustments for gifts within 3 years of decedent's death—House bill.	DOE	....	−6	−6	−7	−7	−7	−7	−7	−7	−7	−26	−40	−61
3. Clarification of qualified terminable interest rules—House bill.	DOE	Negligible revenue effect												
4. Transitional rule under section 2056A—House bill.	eaii OBRA '90	Negligible revenue effect												
5. Opportunity to correct certain failures under section 2032A—House bill.	DOE	Negligible revenue effect												
6. Gifts may not be revalued for estate tax purposes after expiration of statute of limitations—House bill.	ga DOE	....	−15	−16	−16	−18	−21	−26	−32	−38	−45	−65	−112	−227
7. Clarifications relating to disclaimers—House bill.	DOE	....	−2	−2	−2	−2	−3	−3	−3	−3	−3	−8	−14	−23
8. Clarify relationship between community property rights and retirement benefits—House bill.	DOE	....	−3	−4	−4	−4	−4	−4	−4	−5	−5	−15	−23	−37
9. Treatment under qualified domestic trust rules of forms of ownership which are not trusts—House bill.	DOE	Negligible revenue effect												
C. Generation-skipping tax provisions:														
1. Taxable termination not to include direct skips—House bill.	DOE	Negligible revenue effect												
2. Modification of generation-skipping transfer tax for transfers to individuals with deceased parents—Senate amendment.	gsta 12/31/94	−3	−4	−4	−4	−4	−4	−4	−4	−4	−5	−19	−27	−40
XIX. Excise tax simplification provisions:														
A. Distilled spirits, wines, and beer:														
1. Credit or refund for imported bottled distilled spirits returned to bonded premises—House bill.	fcq DOE+180 days	Negligible revenue effect												
2. Fermented material from any brewery may be received at a distilled spirits plant—House bill.	fcq DOE+180 days	Negligible revenue effect												
3. Refund of tax on wine returned to bond not limited to unmerchantable wine—House bill.	fcq DOE+180 days	Negligible revenue effect												
4. Beer may be withdrawn free of tax for destruction—House bill.	fcq DOE+180 days	Negligible revenue effect												
5. Transfer to brewery of beer imported in bulk without payment of tax—House bill.	fcq DOE+180 days	Negligible revenue effect												
B. Consolidate imposition of aviation gasoline excise tax—House bill.	1/1/96	(16)	....	....	....	....	....	....	....	....	....	(16)	(16)	(16)
C. Other excise tax provision—Clarify present law for retail truck excise tax (certain activities do not constitute remanufacture)—House bill.	DOE	Negligible revenue effect												
XX. Administrative simplification provision:														
A. General provision—Certain notices disregarded under provision increasing interest rate on large corporate underpayments—House bill.	1/1/96	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	−1	−1
XXI. Increase in public debt limit		....	....	....	....	....	....	....	....	....	....	....	....	....
Total of revenue provisions		−5,408	−37,217	−35,567	−37,438	−38,594	−39,856	−32,430	−47,042	−51,423	−56,939	−154,155	−226,450	−381,795
Total of outlay provisions		....	....	....	14	28	42	56	....	....	....	42	140	140

[1] The Earned Income Credit provisions are included in Title XII of the conference agreement; the budget effects are shown in a separate table.

[2] Loss of less than $500,000.

[3] Credit rate at 35% on first $6,000 of income, eligible workers expanded to include welfare cash recipients and veteran foodstamp recipients; 500 hour work requirement.

[4] Section 257(b)(2)(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Enforcement Act of 1990, indicates that "excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates". Since the revenues from these taxes are dedicated to the Airport and Airway Trust Fund, an extension of the taxes is scored as having no revenue effect.

[5] Estimates provided by the Congressional Budget Office (CBO).

[6] Estimates presented after interaction with Alternative Minimum tax provisions and are shown net of offset with the corporate income tax.

[7] Loss of less than $1 million.

[8] Loss of less than $2 million.

[9] Increase exemption for books and tools of trade to $1,250.

[10] Loss of less than $5 million.

[11] Gain of less than $1 million.

[12] Gain of less than $5 million.

[13] Gain of less than $25 million.

[14] Gain of less than $30 million.

[15] No new suspense accounts could be established in taxable years ending after 9/13/95. The income in existing suspense accounts would be recognized in equal installments over a 20-year period beginning with the first taxable year beginning after 9/13/95.

[16] Gain of less than $500,000.

[17] Loss of less than $10 million.

[18] Various effective dates depending on provisions.

[19] Effective for amounts received after date of enactment and property placed in service after date of enactment with the exception of certain property subject to a binding contract on the date of enactment.

[20] This provision considers interaction effects of SIMPLE retirement plan provisions.

[21] Loss of less than $25 million.

Legend for "Effective" column: ama=awards made after; ara=amounts received after; asda=annuity starting date after; aiolRSg=after Issuance of Internal Revenue Service guidance; bia DOE=bonds issued after date of enactment; cc/tyea/E=contracts completed in taxable years ending after date of enactment; celia=contracts entered into after; cla=cash leases after; da=distributions after; dda=decedents dying after; DDA=disasters declared after; dda DOE=decedents dying after date of enactment; dda/gma=decedents dying after and gifts made after; DOE=date of enactment; eaii GATT=effective as if included in GATT; eaii OBRA'90=effective as if included in the Omnibus Budget Reconciliation Act of 1990; eail OBRA'93=effective as if included in the Omnibus Budget Reconciliation Act of 1993; fcqa DOE=first calendar quarter after date of enactment; fcq DOE+180 days=beginning of first calendar quarter that starts at least 180 days after date of enactment; ga DOE=gifts after date of enactment; gira=gross income received after; gsta=generation skipping transfers after; ica=involuntary conversion after; lpoaa=interest paid or accrued after; lia=levies issued after; lida=leasehold improvements disposed of after; lma=loans made after; lyba=limitation years beginning after; pca DOE=proceeding commenced after date of enactment; pma=payments made after; poida=payments on interest due after; ppisa=property placed in service after; pplso/a/b DOE=property placed in service on, after, or before date of enactment; pra=payments received after; pra/cdoa=payments received after, for crop damage occurring after; ptoo/a=prohibited transactions occurring on or after; pyba=plan years beginning after; pybb=plan years beginning before; sa=sales after; sea=sales and exchanges after; sia DOE=summonses issued after date of enactment; spa=services performed after; ta=transfers after; ta DOE=transfers after date of enactment; tyba=taxable years beginning after; tyba DOE=taxable years beginning after date of enactment; tybo/a DOE=taxable years beginning on or after date of enactment; tyea=taxable years ending after;tyea DOE=taxable years ending after date of enactment; tyeo/a=taxable years ending on or after; yba=years beginning after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

CONFERENCE AGREEMENT—ESTIMATED BUDGET EFFECTS OF EARNED INCOME CREDIT ("EIC") PROVISIONS OF H.R. 2491 (TITLE XII)

[Fiscal years 1996–2002, in millions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996–2000	1996–2002	1996–2005
EIC Reforms														
1. Modify AGI for the purpose of the EIC phaseout nontaxable social security benefits: nontaxable pension, IRA, and annuity distributions; tax-exempt interest; and child support payments in excess of $6,000:														
a. Revenue	tyba 12/31/95	11	217	231	236	216	265	288	301	317	335	911	1,464	2,417
b. Outlay reductions	tyba 12/31/95	59	1,193	1,265	1,326	1,431	1,452	1,454	1,528	1,593	1,660	5,275	8,182	12,962
2. Modify AGI for the purpose of the EIC phaseout by adding back losses from Schedule C, Schedule D, Schedule E, Schedule F, and NOLs:														
a. Revenue	tyba 12/31/95	1	26	30	33	35	40	48	53	58	64	124	212	388
b. Outlay reductions	tyba 12/31/95	10	207	219	231	237	243	246	247	255	263	904	1,393	2,159
3. Include net passive income in disqualified income:														
a. Revenue	tyba 12/31/95	....	....	1	2	2	2	2	2	2	2	5	9	14
b. Outlay reductions	tyba 12/31/95	1	11	11	14	17	18	20	20	21	22	54	91	154
4. Restrict EIC eligibility to taxpayers with qualifying children:														
a. Revenue	tyba 12/31/95	4	89	93	97	100	107	112	117	123	129	383	601	970
b. Outlay reductions	tyba 12/31/95	27	535	557	583	610	631	658	686	715	745	2,313	3,602	5,747
5. Two-stage phaseout of the EIC. The second stage of the phaseout begins at $14,850 for households with one child and $17,750 for households with two or more children:														
a. Revenue	tyba 12/31/95	36	712	751	781	785	871	967	1,021	1,084	1,150	3,065	4,903	8,158
b. Outlay reductions	tyba 12/31/95	19	371	390	412	468	459	479	503	530	557	1,660	2,598	4,188
6. Set the maximum credit rate for taxpayers with multiple children at 36%:														
a. Revenue	tyba 12/31/95	13	259	258	365	343	406	433	508	540	574	1,239	2,078	3,701
b. Outlay reductions	tyba 12/31/95	82	1,641	1,723	1,697	1,812	1,836	1,882	1,901	1,966	2,033	6,955	10,673	16,572
7. Require Social Security numbers for primary and secondary taxpayers and treat omission of a correct Social Security number and underpayment of SECA as a math error and other compliance proposals[1]:														
a. Revenue	tyba 12/31/95	1	29	31	31	32	32	32	21	21	22	124	188	251
b. Outlay reductions	tyba 12/31/95	11	224	233	237	243	246	252	270	277	284	948	1,446	2,277
8. Apply an enhancement factor to the earned income of households with two or more qualifying children for the purpose of calculating the EIC:														
a. Revenue	tyba 12/31/95	....	−1	−1	−1	−2	−1	−1	−2	−2	−2	−4	−6	−12
b. Outlay reductions	tyba 12/31/95	−57	−1,147	−1,188	−1,233	−1,281	−1,322	−1,329	−1,375	−1,417	−1,461	−4,907	−7,559	−11,812
Total of EIC revenue[2]		60	1,183	1,294	1,391	1,493	1,627	1,845	1,985	2,158	2,346	5,421	8,894	15,383
Total of EIC outlay reductions[2]		153	3,268	3,513	3,756	4,045	4,290	4,459	4,748	5,044	5,359	14,745	23,494	38,645

[1] Includes doubling of civil penalties for tax preparers.

[2] Due to interaction between the provisions, items do not sum to total package.

Legend for "Effective" column: tyba = taxable years beginning after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

Mr. EXON. The majority could have prevented this drain on the Treasury in the out-years by sunsetting the tax provisions. I read in the press that, at one time, they were actively considering such a notion. But they did not. The tax cuts continue to add to the debt year after year.

It is this Senator's view that it is self-evident from the Joint Tax table that the tax title does indeed worsen the deficit in years beyond the 7 years covered by this reconciliation bill. It is thus this Senator's view that the violation of section 313(b)(1)(E) is plain.

Some may argue that I am setting an impossible standard for ever enacting tax cuts. Quite to the contrary, my colleagues on the other side could have avoided this point of order in a number of ways. I am not here to give free parliamentary advice, but they could have sunsetted the tax breaks, as I noted earlier. They could have included the tax breaks in the same title as the Medicare spending cuts. Or, during consideration of the budget resolution reconciliation instructions, they could have specified that section 313(b)(1)(E) would not apply to the tax breaks. Any one of these three steps would have prevented a violation of the point of order. But they didn't do any of them.

Therefore, Mr. President, I believe a point of order should lie against subtitles A through D of title XI of this conference report because they violate section 313(b)(1)(E) of the Congressional Budget Act of 1974.

Mr. President, I understand that the parliamentarian has advised that he will not agree that these 2 points of order lie against the bill. Everyone should have known that the fix is in for these tax breaks. If there had been any doubt, that doubt has now been set aside. The majority has demonstrated that it will do whatever it needs to do—including bend and stretch the rule—to protect its cherished tax breaks for the wealthy.

Mr. ABRAHAM. Mr. President, I yield 5 minutes to the Senator from Florida.

Mr. MACK. Mr. President, thank you.

Mr. President, this is a moment, frankly, for which I have been waiting since I made the decision to run for Congress in October 1981 just over 14 years ago. I left a career in the financial market to become a member of Congress. I came here with the idea that we absolutely had to get control of the growth of Federal Government and its spending. So, to me, this is a historic moment. Now I want to respond to Senator PELL's comment a moment ago about the shrill partisanship—and I know that from time to time there are some extreme expressions of feeling with respect to what we are doing—but I would just like to remind each of us in the Senate that the reason there may be shrillness in this debate, is because we are finally at the moment when we are debating what fundamentally divides us.

Those on the left absolutely believe that the answers to America's problems come from more Government. And frankly, Republicans reject that. We think that America's future is based on the individual, that the our limitation is the one we place on our own imagination. And the Government, in fact, is a great player in that limitation. So the reason that we are having such a strong debate is because we are arguing over the principles that divide us. And, frankly, I am thankful that this moment finally has arrived.

Maybe it is because my son called me the other night and told me that he just got engaged. Twenty-eight years old, and I could not be prouder of a son. But, I think about the future in which Connie will live, and I think about my daughter, who is in her thirties, with three grandsons—the cutest little guys in the world—I think about their futures. And so, I ask you to excuse me if I become passionate about what I have to say and the things I believe, because I honestly believe that the direction we have been headed will destroy this Nation. And that is why I feel so passionately about the items that we have been discussing.

There is something fundamental that has happened over the last few days, though. And I think it is important for people to recognize it. For 3 years journalists, writers, and TV commentators have been trying to figure out just who is Bill Clinton. What does he stand for? When is he going to stand up and fight for what he believes in?

And, I find it interesting that Bill Clinton has chosen this time and this issue to finally draw the line in the sand. You know what Bill Clinton is saying, "I am opposed to balancing the budget in the next 7 years." I am glad that he finally has made this statement and made this stand. Bill Clinton has now finally told the people in this country what he stands for, what he believes in. It is more Government, more taxes, and more Federal spending. He has drawn the line in the sand and he has told the people of this country, through his actions in the last few days, that he is in opposition to balancing the budget in the next 7 years.

The second point I would like to raise has to do with a very fundamental part of what we are doing. And, yes, we are cutting the rate on capital gains. And you know why we are doing it? Because we believe that growth will take place as a result of this cut. And as a result of that growth, those little grandchildren that I talked about and my son are going to have a greater opportunity in the future, and with opportunity comes hope.

That is what we are trying to do for the American people. That is why we are making this commitment. Do you know today that there is over $1.5 trillion locked up in the stock market because of high capital gains tax rates? It is time to unlock that capital. It is time to allow that capital to flow into the new technologies that will develop America's future.

Oh, it is very popular to take the position of going after the wealthy. If you look at the record, you will find that when the wealthy invest America, everyone is better off.

The other issue my friends on the other side of the aisle like to mention is Medicare. In fact, I heard one of the earlier speakers refer to the Medicare issue by saying the budget provision was going to rip the heart out of Medicare. Well, frankly, I am at a loss over how you can rip the heart out of Medicare while allowing it to grow from $4,800 a year to $6,700 a year.

Mr. President, I yield back my time.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I yield at least 8 minutes—no more than 10 minutes—to my colleague from Arkansas.

Mr. PRYOR. Mr. President, I thank the Chair, and thank my friend from Nebraska.

I spent most of today looking through the Republican package, specifically with respect to the so-called nursing home standards that have been included in this legislation before us tonight.

Mr. President, I cannot say strongly enough how deeply offended I am by the extraordinary means that have been used to undermine the progress made in the most basic nursing home protections that have been won over the past 3 decades. I think that these Republican assaults on nursing home safeguards are no less than callous—I hate to say that—and will open the door to a litany of further abuses that we have attempted to cure since the 1960's. The Republican leadership, through this attack, is saying basically "too old, too sick, too bad" to residents of nursing home facilities across our country.

Mr. President, before I touch on some of the most glaring offenses of this package, I want to tell my colleagues that the law which this budget package is completely undermining, the 1987 nursing home quality standards law, was developed on a bipartisan basis, was agreed to by all interested groups, including the nursing home industry, nursing home advocates, care providers, unions, States, and finally, yes, the Congress of the United States. It followed literally years of discussions and came about because the record of the States in preventing nursing home abuse was appalling.

In 1986 the report by the National Academy of Sciences, which was commissioned by the Congress, found shocking evidence of deficient care and inadequate enforcement. The study found that Government regulations of nursing homes, which was then conducted by the States, was totally unsatisfactory because it allowed too many marginal or substandard nursing homes to continue in operation.

Mr. President, that was how it was during a time when lack of money was not all that much of a problem. Now, at this critical moment, as we prepare to severely reduce Medicaid funding to the States, the Republican budget also abdicates nearly all Federal responsibility to our most vulnerable citizens, the disabled and the infirm elderly in our nursing homes across our land.

What we have before us, Mr. President, in this basic conference report that we will be voting on in a short time—this conference report includes what I declare as an abdication of our Federal role, an abdication of our responsibility to the 2 million nursing home residents in our country today.

In this Republican budget we find that their version of what constitutes nursing home standards, in my opinion, is a warped version of the current law. Some very crafty legislative drafters have spent long hours in their attempts to totally and completely undercut the basic progress that we have made over the past years in protecting the nursing home residents from abuse.

Let me try to explain exactly what this means:

Where current law allows for Federal standards for nurse aide training, they are eliminated.

Where current law allows for Federal guidance with respect to transfers and discharges, the Republican proposal eliminates all guidance in that area.

Where current law, Mr. President, prohibits discrimination against Medicaid residents and prohibits facilities from charging residents, their families or friends to guarantee admission to the facility, those Federal protections by the Republicans are totally removed from this bill.

Where current law requires Federal guidelines to qualify as a facility administrator, these guidelines are totally removed, Mr. President. They are now left to the States.

Where current law requires that facilities meet Federal standards with respect to protecting residents' personal funds, these protections are totally stricken and left up to the States and to the nursing home owners.

Where current law imposes requirements for sound administration of a facility, these guarantees are totally expunged from the record.

To add insult to injury, in addition to abdicating so many Federal responsibilities to these vulnerable individuals and dumping these requirements on the States, the Republican plan now before us would also eliminate any required date by which the States must be sure to meet its responsibility that had formerly been handled by the Secretary of HHS.

So we are now saying that States must meet these requirements whenever, but not at a specific time. This is unconscionable, Mr. President. How can we in less than a decade abandon these nursing home residents? How can we, by a vote of 51 to 48 in this body, say we want the strongest standards, and again just a few days ago by a vote of 95 to 1 on Monday of this week, and now walk away from all of those standards and say we are abdicating our responsibilities? What in the world is going on?

What we are about to do is basically to begin a program of warehousing the elderly population of our country. We have identified at least 11 basic nursing home standards that have been abolished under this plan. I know that there are many more.

This plan allows homes to extort money in return for a guarantee of admission to a facility. Under present law, Mr. President, this is prohibited. Now we are abolishing that prohibition.

The Republican plan allows facilities to commingle residents' individual savings accounts.

It allows homes to keep the interest on resident savings accounts below $250.

And it goes on and on and on. In fact, it kills Senator John Danforth's self-determination provision on living wills so that residents will have all of the information about making and what constitutes a valid living will.

Mr. President, further, what other quality assurance protection does the budget package eliminate? It cuts down the fines from $10,000 to $5,000 per nursing home. The budget plan eliminates the uniform assessment tool which has been hailed universally by providers, States, surveyors, and residents alike, and by those people who service ombudsman nursing home patients and the residents.

All of these changes are bad enough. This legislation allows private entities to certify that facilities have met the quality standards, further reducing accountability of the State and the facilities to meet the Federal guidelines of the Government.

The PRESIDING OFFICER. If the Senator will suspend for one moment while the Chair gets order. Those Members and staff members in the back who are having conversations, please take your conversations to the Cloakroom.

Mr. PRYOR. May I inquire as to how much time remains?

The PRESIDING OFFICER. The Senator has used 7 minutes, 36 seconds.

Mr. PRYOR. I thank the Chair for maintaining order.

Mr. President, I do not have time to complete my statement. Let me just say that the National Citizens' Coalition for Nursing Home Reform has written me today urging that we look very carefully at passing this legislation. The AARP, in their press release this afternoon, expressed their concern about the enforcement of nursing home quality standards and implies that they are further weakened in this particular conference report.

The Nursing Home National Seniors Center, run by Toby Edelman, has done a memorandum that I am going to ask be printed in the RECORD, and other documents, Mr. President.

I also have a letter from Service Employees. These four documents I ask unanimous consent to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CITIZENS' COALITION FOR
NURSING HOME REFORM,
Washington, DC, November 17, 1995.
Hon. DAVID PRYOR,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRYOR: The National Citizens' Coalition for Nursing Home Reform (NCCNHR) has grave concerns about the language regarding nursing home standards contained in the report from the Conference Committee. We are extremely disappointed by the disconcerting language accepted by the Committee members. Although the Conference language resembles the current Nursing Home Reform Act, it serves to significantly weaken and undermine the current standards, to the dangerous detriment of residents of nursing homes.

Our preliminary review of the conference language has identified the following areas of concern:

Elimination of the requirement for facilities to provide care and services to allow each resident to attain or maintain his or her "highest practicable level of physical, mental, and psychosocial functioning."

Elimination of the right to quality care and quality of life for each resident. Instead, the conference language speaks to "residents" collectively.

Elimination of the requirement of federal standards for conducting a resident assessment using a national uniform minimum data set.

Loss of protections against discrimination based on source of payment and duration of stay contracts upon admission.

Elimination of federal standards for nurse aide training—including elimination of required 75 hours of training.

Elimination of the requirement for facilities with 120+ beds to employ a qualified social worker.

Substantial watering down of transfer and discharge protections.

Significant weakening of survey and certification requirements, including:

A two-year survey cycle (changed from 9–15 months).

Elimination of comprehensive training for state and federal surveyors.

Less frequent federal validation surveys—from yearly to every 3 years.

Public disclosure of survey results—"within a reasonable time," instead of the current, within 14 days.

Significant weakening of enforcement provisions, including:

Elimination of language requiring application of remedies in such a way as to minimize the time between the identification of violations and the final imposition of remedies.

Elimination of language calling for incrementally more severe fines for repeated or uncorrected deficiencies.

Elimination of retroactive civil money penalties for past noncompliance.

Reduction of highest civil money penalty from $10,000 to $5,000.

Provision allowing for deemed status to accrediting agencies.

This weakening of the federal standards is unwarranted and unconscionable. Based on a review of proposals submitted by the American Health Care Association, it is clear that the nursing home industry played a major role in the drafting of these provisions—a fact that again highlights the leverage this industry has at the state and national level.

We strongly urge you, and your colleagues, to oppose this language. It can only serve to destroy the progress brought by the 1987

Nursing Home Reform Act—a law passed with bipartisan support by a previous Congress.

Sincerely,

ELMA L. HOLDER,
Executive Director.

[From the AARP News, Nov. 16, 1995]

AARP STATEMENT ON THE BUDGET RECONCILIATION ACT OF 1995

The American Association of Retired Persons (AARP) remains very concerned about the magnitude of reductions to Medicare and Medicaid contained in the conference report to the Budget Reconciliation Act. While the report includes some further improvements, Congress still has a long way to go.

The Association is pleased that the Medicare Part-B deductible remains at $100 a year, as in the House bill. But the total cuts to Medicare and Medicaid over seven years are still too much, too fast, and enforcement of nursing home quality standards has been further weakened in the report.

Four hundred billion dollars in cuts from these two major health care programs that serve older and low-income Americans do not meet the fairness test. Reductions in Medicare called for in the conference report are much more than is necessary to keep the program solvent into the next decade.

Millions of American families depend on Medicare and Medicaid for their basic health care coverage, for protection against the high cost of long-term care and for financial security. These protections, for Americans of all ages, are now at risk.

Cutting $164 billion from Medicaid over the next seven years is far more than the program can shoulder. Frail, older Americans, most of whom are single, elderly women who have worked hard all of their lives, and children from low-income families would be the hardest hit by such drastic cuts.

At this juncture in the budget debate, it's a shame that a veto is necessary, but unfortunately, there is no other alternative. AARP will continue to work with Congress and the Administration to get fair legislation that ensures future Medicare solvency and reduces the federal budget deficit.

Memorandum.
To: Interested people.
From: Toby Eldeman.
Re conference committee language on nursing home reform.
Date: November 16, 1995.

I've just gotten the conference committee language and have gone very quickly through it to compare it with the current law and with the proposals made by the American Health Care Association.

The language represents a dramatic step backwards in all respects: the standards facilities would be required to meet, the survey and certification process, and the enforcement system. On my first quick reading, I think the most serious problems are:

1. Standards for facilities:

A. Loss of the entitlement to high quality of care for each individual resident; the language speaks of care to "residents."

B. Loss of language "highest practicable physical, mental, and psychosocial well-being" as description of required services.

C. Loss of protections against Medicaid discrimination in admission.

D. Loss of federal standards for nurse aid training, transfer and discharge, resident assessment. States would have sole authority to determine standards.

E. Loss of Secretary's duty and responsibility for standards, enforcement and federal money.

F. Substantial watering down of protections in transfer and discharge.

G. Financial issues: loss of rules specifying what care and services are covered by Medicaid and what care and services are not; protection for Medicaid residents who pay the entire Medicaid rate as their share of cost.

2. Survey and certification

A. Two year survey cycle.

B. Loss of comprehensive training for surveyors by Secretary.

C. Reduced federal validation surveys; from annual to every 3 years.

D. Public disclosure of survey results—from within 14 calendar days of providing to facility to "within a reasonable time."

3. Enforcement

A. Deemed status to accrediting agencies (very serious issue).

B. Loss of language for both states and Secretary requiring enforcement systems that minimize the time between identification of deficiencies and imposition of remedies; more severe penalties for more serious or uncorrected deficiencies.

C. Loss of retroactive civil money penalties.

D. Reduction of highest civil money penalty to $5000.

It looks to me as if, generally, the conferees listened to AHCA on the Requirements for facilities and to the Governors on survey, certification, and enforcement.

Section of bill—What the change is and why the change is a problem. Whether AHCA proposed the change.

2137(b)(1)(A)—Quality of life: adds the word "reasonably" before promotes," thus qualifying the requirement.—Yes

2137(b)(2)—Scope of services and activities under plan of care: deletes current language "to attain and maintain the highest practicable physical, mental, and psychosocial well-being" after services and activities: the new language requires facilities "to provide services and activities in accordance with a written plan of care."—Yes

2137(b)(3)(A)(ii)—Resident assessment: says the instrument is specified by the state; deletes the requirement that the assessment be based on minimum data set specified by the Secretary.—No

2137(b)(3)(E)—Resident assessment: requires facility to notify state mental health authority or mental retardation or developmental disability authority, as applicable, of change in physical or mental condition of a resident who is mentally ill or mentally retarded. New requirement.—No

Deletes preadmission screening and annual resident review (PASARR). We don't disagree with this deletion.—Yes

2137(b)(4)(A)(i)—Provision of services and activities: deletes "to attain and maintain the highest practicable physical, mental, and psychosocial well-being" after "nursing and related services and specialized rehabilitative services.".—Yes

2137(b)(4)(A)—Provision of services: changes language from providing services to "each resident" to "residents" for social services (2137(b)(4)(A)(ii)); pharmaceutical services (2137(b)(4)(A)(iii)); dietary services (2137(b)(4)(A)(iv)); activities (2137(b)(4)(A)(v)); dental services (2137(b)(4)(A)(v)).—Yes

2137(b)(4)(A)—Provision of services: deletes mental health services for mentally ill and mentally retarded residents.—Yes

2137(B)(5)(F)(iii)—Nurse aid training: Adds a new exclusion from definition of nurse aide; excludes a person "who is trained, whether compensated or not, to perform a task-specific function which assists residents in their daily activities." The industry has wanted this language to hire people to feed residents and do other tasks, but not to train them as nurse aides.—Yes

Excludes current language requiring facilities with more than 120 beds from having at least one social worker with at least a bachelor's degree in social work or similar professional qualifications. 1396r(b)(7).—No

2137(c)(1)(A)(v)—Residents rights: accommodation of needs; adds language after the right to receive notice before room or roommate is changed to say "unless a delay in changing the room or roommate while notice is given would endanger the resident or others." The industry has not liked giving notice.—Yes

Excludes current language giving residents the right to refuse certain transfers (transfers facilities make to get coverage under a payment program). 1396r(c)(1)(A)(x).—Yes

2137(c)(2)(B)(ii)(V)—Transfer and discharge: adds a new reason not to have to give a 30 day notice: "a case where the provision of a 30-day notice would be impossible or impracticable." This language essentially eliminate the 30-day notice requirement; facilities would always claim it was impossible or impracticable to give 30 day notice.—Yes

2137(c)(2)(B)(iv)—Transfer and discharge: adds a new "exception" statement; "This subparagraph shall not apply to a voluntary transfer or discharge necessitated by a medical emergency." Since there is no definition of "voluntary," we would see many transfers and discharges called voluntary.—Yes

2137(c)(2)(C)—Orientation for transfer and discharge: changes the language to require just "reasonable" preparation and orientation; and instead of requiring, as current law does, that preparation and orientation "ensure safe and orderly transfer or discharge," the new language requires only that preparation and orientation "promote" safe and orderly transfer or discharge.—Yes

2137(c)(2)(D)(iii)—Bed reserve: adds language to confirm that a resident is not entitled to the next available bed if it is a private room.—Yes

Deletes current language requiring facilities to give information to residents about advance directives. 1396r(c)(2)(E).—No

2137(c)(3)(C)—Access and visitation rights: adds new qualification to visits by saying there is immediate access "unless such access would endanger the health or safety of the resident or others in the facility." Denying access to family members who complain is common. This language would strengthen facilities' ability to deny access to visitors. Notice that the language does not include this qualification for any other category of visitor.—Yes

Deletes current language prohibiting discrimination in admission. 1396r(c)(2)(5).—Yes

2137(c)(5)(B)(i)—Protection of residents funds: raises the amount that must be deposited in an interest bearing account to $250. Note that the personal needs allowance is $35 per month (although states may allow more).—Yes

2137(c)(5)(B)(ii)—Protection of resident funds: deletes a word from the current language, which I think is "separate." If that's the deletion, the language would no longer require separate accountings of residents' funds.—Yes

Deletes current language requiring facilities to notify residents when their balances are $200 less than the amount that would make them lose Medicaid eligibility.—No

2137(c)(5)(B)(iii)—Protection of resident funds: conveyance upon death: adds language "All other personal property, including medical records, shall be considered part of the resident's estate and shall only be released to the administrator of the estate." This language would appear to allow facilities to keep residents' property and release it only to the administrator of the estate. It would also enable facilities to deny medical records to family members unless they were appointed administrator.—Yes

Deletes current language which defines as a Medicaid person an individual whose share of cost equals the entire Medicaid rate. These people currently are considered Medicaid residents and cannot be charged more than the Medicaid rate. 1396r(c)(7)(B).—Yes

2137(d)(1)(C)—Nursing facility administrator: adds language to require administrators of all facilities, whether freestanding or hospital-based, to meet the Secretary's standards. The industry has been interested in making hospital-based facilities meet nursing facility standards. This is one way to make it difficult for hospital-based facilities to be nursing facilities.—Yes

2137(d)(4)(A)—Miscellaneous administrative issues: compliance with federal, state, and local laws and professional standards: applies this language to hospital-based facilities. Same reasoning as above.—Yes

2137(e)(1)—State requirements; specification and review of nurse aide training; deletes current requirements that state nurse aide training program meet federal standards.—No

2137(e)(3)—State requirements; state appeals process for transfers and discharges; deletes current requirement that states meet federal standards on appeals process.—No

2137(e)(4)—State requirements; nursing facility administrator standards; adds requirement that hospital-based administrators meet administrator standards. Same reasoning as other issues where hospital-based facilities must meet same requirements as free-standing.—No

2137(e)(5)—State requirements; specification of resident assessment instrument; deletes current requirement that state choose a resident assessment instrument designated by the Secretary or approved by the Secretary as being consistent with the minimum data set.—No

2137(e)(7)—State requirements; keeps preadmission screening but deletes annual resident review. AHCA wanted PASARR deleted.

2137(f)(1)—In current law, this establishes the Secretary's duties. The new language makes this a state duty. So current federal law which now says: "It is the duty and responsibility of the Secretary to assure that requirements which govern the provision of care in nursing facilities . . . and the enforcement of such requirements are adequate to protect the health, safety, welfare, and rights of residents and to promote the effective and efficient use of public money." Is now changed to say "It is the duty and responsibility of a State with a MediGrant plan . . . ."

2137(f)(2)—Requirements for nurse aid training and competency evaluation programs: This is Section (f), but it is only a state duty under the new language. Specific language from current law is deleted, as requested as AHCA, but I can't read the language on my copy tonight.

Deletes federal requirements for transfer and discharge and does not place the duty on states. 1396r(f)(3).

2137(f)(3)—Qualifications of administrators: adds language to require hospital-based administrators to meet federal standards.—Yes

Deletes current rules for Criteria for Administration, which required the Secretary to establish rules for administration in such areas as disaster preparedness, direction of medical care by a physician, clinical records. 1396r(f)(5).—No

Deletes current rules for Criteria for Administration, which required the Secretary to establish rules for administration in such areas as disaster preparedness, direction of medical care by a physician, clinical records. 1396r(f)(5).—No

Deletes List of items and services furnished in nursing facilities not chargeable to the personal funds of a resident. 1396r(f)(7). This language required the Secretary to establish by rules which items and services are covered by Medicaid and which items and services could be charged to residents. As 1396r(f)(7)(A) explicitly says, Congress first told the Secretary to publish such rules in 1977 as part of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977. HCFA finally published these rules in 1992 or so. I can get the exact date.—No

Deletes current language on PASARR. 1396r(f)(8).—Yes

Deletes current requirement re federal criteria for monitor state waivers of nurse staffing requirements. 1396r(f)(9).—No

2137(g)(1)(A)—Survey and certification: deletes prohibition against states determining compliance with state facilities.—Yes

Survey and certification: deletes requirement for educational program for staff and residents and their representatives. 1396r(g)(1)(B).—No

2137(g)(2)(A)(iii)(I)—Annual surveys: extends the time to 24 months (from 12 months) unless the facility has been subjected to an extended survey. In that case, 12 months.—No

2137(g)(2)(A)(iii)(II)—Special surveys following change in ownership, administration, management: changes time to 4 months (I can't read what the current time period is.)—Yes

2137(g)(2)(C)(i)—Survey protocol: says protocol that the Secretary has developed, tested, and validated "as of the date of the enactment of this title." Current law says as of Jan. 1, 1990.—No

2137(g)(2)(C)(ii)—Survey protocol: says surveyors must meet minimum qualifications established by the State. Current law says Secretary.—No

Deletes current requirement that Secretary provides for comprehensive training of state and federal surveyors. 1396r(g)(2)(E)(iii).—No

2137(g)(3)(B)—Validation surveys: Requires Secretary to conduct validation surveys at least every 3 years of 5% of facilities in the state, but at least 5 per state. Current law requires these numbers of validation surveys annually. 1396r(g)(3)(B).—No

Deletes Reductions in Administrative Costs for Substandard Performance, current language which allows the Secretary to penalize states that fail to perform survey and certification activities adequately. 1396r(g)(3)(C).—No

Deletes current language that permits states to maintain and utilize a specialized survey team. 1396r(g)(4) [This is part of Investigation of Complaints and Monitoring Nursing Facility Compliance]—No

2137(g)(5)(A)—Disclosure of Results of Inspections and Activities; Public Information: new language requires public disclosure of survey information "within a reasonable time," current law says within 14 calendar days after such information is provided to facility.—No

2137(h)(1)—Enforcement: adds new (A) saying state must require facility to correct deficiency.—No

Deletes current language at end of 1396r(h)(1) authorizing retroactive civil money penalties.—Yes

Deletes current language about use of civil money penalties that are collected to protect health or property of residents. 1396r(h)(2)(A)(ii).—No

Deletes current language at the end of 1396r(h)(2)(A) saying that state criteria must minimize the time between identification of deficiencies and imposition of remedies and provide for incrementally more severe fines for repeated or uncorrected deficiencies; and that states may provide for other specified remedies, such as directed plans of correction.—Yes

Deletes current language about deadline and guidance on enforcement. 1396r(h)(2)(B).

2137(h)(2)(C)—Assuring prompt compliance: Changes mandatory imposition of denial of payment if a facility fails to come into compliance within 3 months; changes mandatory into permissive—state "may" impose the remedy.—Yes

Deletes language about funding for temporary management other remedies. 1396r(h)(2)(E).—No

Deletes Incentives for High Quality Care. 1396r(h)(2)(F).—No

2137(h)(3)(B)—Secretarial authority: substantially revised. New language requires Secretary to notify state of deficiency it finds in a facility; must give state reasonable period of time to take enforcement action. If state doesn't act or if the deficiency remains uncorrected, the Secretary can take enforcement action.—No

Deletes language permitting Secretary to impose retroactive civil money penalty. 1396r(h)(3).—Yes

2137(h)(3)(C)—Civil money penalty: Reduces maximum penalty to $5000 (from $10,000).—Yes

Deletes language (as for the state) requiring criteria to minimize the time between identifying deficiencies and imposing sanctions, etc. 1396r(h)(4).—No

2137(h)(4)—Special Rules Regarding Payments to Facilities; Continuation of Payments Pending Remediation: revises the language to permit payment to facilities for 6 months; no requirement of states repaying Secretary if the facility does not come into compliance.—No

Deletes current language about immediate termination of participation for facility where state or Secretary finds noncompliance and immediate jeopardy, 1396r(h)(5); Special Rules where State and Secretary do not agree on finding of noncompliance, 1396r(h)(6); special rules for timing of termination of participation where remedies overlap, 1396r(h)(7).

New language about sharing of information between states and Secretary. 2137(h)(6).

New language, Construction, about Medicare Requirements. 2137(l)(1).

New language, Construction, permitting accreditation at option of state of Secretary. 2137(i)(2).

SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL–CIO, CLC,
Washington, DC, November 17, 1995.

DEAR SENATOR: On behalf of the 1.1 million members of the Service Employees International Union, I urge you to vote against the conference report on Budget Reconciliation. Among the damaging provisions included in the bill are amendments to the Nursing Home Reform Act which would cripple the Act, endanger nursing homes residents, and impoverish their families.

The amendments in the Conference Report are merely another tactic pursued by opponents of the nursing home reform act to repeal those provisions. To place this effort in context, I would remind you that as passed by the House and introduced in the Senate, the reconciliation bills repealed the federal standards. At introduction, the extreme proposals repealed even protections against use of physical and chemical restraints, spousal impoverishment, and training of nurse aides. Only when the Senate voted to retain the Nursing Home Reform Act, were the opponents of the protections for nursing home residents turned aside in their effort to repeal the standard.

In their new tactic, opponents of federal nursing homes standards are attempting to repeal the standards by enacting gutting amendments. For example, on quality of care, where the current statute states that "a nursing facility must provide services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well being of each resident in accordance with a written plan", the opponents have crafted an amendment in the conference agreement that restates this provision to read "a nursing facility must provide services and activities in accordance with a written plan".

On training, current statutes require that workers providing nursing or nursing related services be trained and receive in-service education. The opponents' amendment would allow all nursing facilities, regardless of the number of civil penalties, deficiency reports, and demonstrated substandard care incidents at the facility, to perpetuate those problems by running their own nurse aide training programs. In addition, the opponents' amendment excludes from the training requirement "any individual who is trained, whether compensated or not, to perform a task-specific function which assists residents in their daily activities". The opponents' amendment does not set standards for the training, does not require continuing education, and does not even require that the "task-specific function" performed by the individual be the task for which they receive the undefined training.

On spousal impoverishment, the opponents of federal standards have scored one of their most tragic successes. They have included a repeal of the provision that stated that a "nursing facility must not require a third party guarantee of payment to the facility as a condition of admission (or expedited admission) to, or continued stay in the facility". With this provision repealed, spouses and children can be coerced by nursing homes to pay nursing home bills that average $38,000 a year.

Finally, were any facility to be so incompetent that it manages to violate the few shreds of remaining federal standards, they will be saved from their own incompetency by toothless enforcement provisions. The opponents of federal standards have included verbatim amendments drafted by the American Health Care Association. The nursing home industry's amendments, as would be expected, strike language that allows a state to "provide for a civil money penalty for the days in which it finds that the facility was not in compliance with such requirements," which "shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiences" and on and on and on.

We know from experience what happens when the Federal government pulls out of nursing home regulation. Federal regulation was minimal during the 1960s, '70s, and early '80s, and the results were disastrous: Disabilities, permanent injuries, and even premature death to nursing home residents. The 1986 report of a national study commission found that: "In the past 15 years, many studies of nursing home care have identified both grossly inadequate care and abuse of residents." The Gingrich troops often talk as if they are conducting an important experiment on the power of free markets. When it comes to nursing homes, we've tried this experiment before, and the tragic findings are burned in our memory.

The Federal government jumped into nursing home regulation because of abuses in the industry. Incredibly, the Republicans propose to abandon oversight activities at the same time that they begin squeezing nursing home operators in a financial vise. About half of nursing home revenues come from Medicaid, the program Speaker Gingrich proposes to cut by over $160 billion. Nursing home workers know well how corners are cut and how patient care suffers when executives focus on cost reduction. Who will protect patients and who will safeguard quality as nursing home operators scramble to cope with massive revenue losses?

Future trends will also transform the type of care delivered by nursing homes. Nursing homes will be caring for people with more serious medical needs. A common strategy to control health care costs involves moving patients out of hospitals and into nursing homes—during surgical recovery, for instance. One reason that nursing homes have been trusted with such work is the Federal training standards for nursing staff. Our workers tell us that this training has substantially improved nursing home operations. The training requirements must not be junked at a time when the home population is getting sicker and requires more sophisticated care.

Federal regulations are the lifeline protecting quality of care for nursing home residents. Federal oversight helped rescue us from a grim past. We must not ask nursing home residents to give up that lifeline as we sail into a stormy future.

Very truly yours,

JOHN J. SWEENEY,
International President.

Mr. PRYOR. Mr. President, finally, I never thought I would see the day of such an attempted emasculation of nursing home standards which we fought so hard to protect. I never thought I would see it; never thought it would happen. I do not know why it is happening, but it is unbelievable that this Nation, the greatest Nation on the face of the Earth, with the full force and effect of the Republican-controlled Senate and the House, our Federal Government is about to wash its hands of the responsibility toward protecting 2 million seniors who today reside in American nursing homes.

While we have the basic safeguards of 1987, we are today basically walking away from those safeguards and saying to that nursing home resident, "We want no more to do with you. We are going to cut you adrift, and we are going to let you basically fend for yourself."

Over Thanksgiving, I challenge my colleagues on the other side of the aisle, or anyone who supports obliterating these standards, to go back to a nursing home in your State, to look those residents in the eye and to tell them how proud you are to have voted to compromise their safety and well-being and quality of life and walk away from the commitment that we have had for almost a decade to protect their livelihood.

Mr. President, I thank the Chair, and I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mrs. HUTCHISON. Thank you, Mr. President, and I thank the Senator from Michigan.

This afternoon late, a Mr. Don Shelby called our office. He was calling from the St. Vincent de Paul Hospice in Austin, TX. He told me that he had voted for me in the last election and that he would not be alive long enough to vote for me again, but he and the people in the hospice with him were so concerned about what is going on in Washington that they collected $8 in change to go to a pay phone and call my office.

And the message was this: "Stick to your guns. I will not be around, but I want to know when I die that my children are going to have a future."

I want to say to Mr. Shelby and the people who contributed the $8 to make that call, we will not let you down. We will not. We will stick to our guns. We will do what is right for this country, as hard as it may be. We will do the right thing.

The people of this country have been promised for 25 years that the politicians in Washington would balance the budget. Twenty-five years, and we have failed every year. This is our opportunity. This is our chance.

Always before people said, "They'll never do it. The entitlements, it's too hard; they'll never do it." But we are doing it.

I have heard speeches on this floor all afternoon. "Those radical Republicans." Radical? Is it radical to keep a promise you made? Is it radical to run for an election in 1994 and promise the people that you will balance the budget, that you will make the tough choices, no matter the consequences and then keep that promise? I do not think so. It is unusual, because people have been promised so many times in the past and the promises have not been kept. It is unusual to keep a promise, but I do not think it is radical, and I do not think the American people do either.

We are going to pass tonight the Balanced Budget Act of 1995. It will be the first time that the politicians in this country in 25 years have kept their promise. The President keeps talking about a balanced budget, but he is doing what politicians have done for 25 years, and when it comes time to sign the dotted line, he is demurring, he is walking away from his promise that he made in the election of 1992 and he is saying, "Oh, well, of course, I want a balanced budget, and I'm going to talk about it, but when it's presented to me, I'm not going to sign on."

The people are not stupid. They do understand a promise kept, and that is what is going to happen tonight. We are going to keep our promise to the homemakers of this country that they will have security and they will be able to contribute to IRA's just like those of us who work outside the home can do, so that the one-income-earner couple that sacrifices so that the homemaker can stay home and raise children will have the same retirement opportunities as if there had been two incomes earned for their families.

We are going to have welfare reform, and we are going to say to the people who are out there working to make ends meet that it is worth it to work, because if able-bodied people can work but choose not to, they will not be on the welfare wagon more than 5 years in their lifetime. For the first time, we will put a lifetime limitation on able-bodied welfare recipients.

And we are going to reform Medicaid. We are going to give it to the States where they can run it more efficiently. We are going to save Medicare. We are going to save Medicare for our elderly. We are going to increase spending in Medicare over 7 percent per year. And we are going to slow that rate of growth from 10 percent so that we can save the system—so that Mr. Shelby will know that it will be there for his children.

Mr. President, we may make a few mistakes. This is a big bill. We may not do everything right. But there is one mistake that we cannot afford to make and that is to do nothing so that our children will inherit this debt of $5 trillion.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, on behalf of Senator EXON, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. REID. Mr. President, it is interesting to note that since yesterday the name of this bill has changed. It is no longer the reconciliation bill. It is called something like the Balanced Budget Act of 1995. I am certain that the spin masters have said: All you good Republicans, do not refer to this as reconciliation because the American people do not like what they have heard.

I think rather than change the name to the Balanced Budget Act of 1995, a more appropriate name would be maybe something like the End of Rural Hospitals Act, or maybe you could come up with something like the Get Old People Act of 1995, or maybe Ruin the Environment Act of 1995, or maybe Destroy Education Act of 1995, or Punish the Veterans Act of 1995, or maybe something even simpler like Save the Big Sugar Interests of the United States Act of 1995.

Mr. President, it is not all or nothing. You see, on this side of the aisle, there are many people that believe in a balanced budget. In fact, most people do believe in a balanced budget amendment. The former chairman of the Budget Committee, the ranking member, the senior Senator from Nebraska, knows what balanced budgets are all about. He started talking about balanced budgets a long time ago when he was Governor of the State of Nebraska. We have many people who believe in balanced budgets, but they believe in doing it in a fair way that does not hurt seniors, rural hospitals, the environment, damage education, or punish veterans.

Mr. President, I think that we should recognize that the reason the name was changed overnight from "reconciliation" to the "balanced budget act of 1995," I repeat, is because the American public does not like what they have heard in this reconciliation bill—this thousand-page bill we received a few minutes ago.

So this, Mr. President, is what the American people deserve, and that is a fair bill to balance the budget, which we want to do, also.

Mr. President, on anything that I have said to this point, the Senator from New Hampshire, Senator GREGG, I am sure would disassociate himself with me. But what I am going to say now, he would associate himself with me, and he has given me permission to do so. We have a point of order that would lie against this bill, but we are not going to offer it. It is the Byrd rule point of order against the so-called trigger provisions contained in a section of the act dealing with the sugar program. It is on the basis—on many bases, but there is no change in outlays or revenues. We are not going to do that. But everyone should be aware that the Senator from Nevada and the Senator from New Hampshire are going to go after these sugar interests, which I believe, Mr. President, is one of the most damaging things that is in this piece of legislation.

This legislation does nothing to help the family farmer. It hurts the family farmer. But what it does do is make a sweet deal for big sugar growers. As I said, this does not help the small family farmer. Seventeen cane growers get 58 percent of the benefits that come to all cane growers. One received more than $65 million—one person—in 1-year; 33 growers received benefits of over a million dollars apiece a year; in Florida, the number one State in sugar production, two growers account for 75 percent of production.

So the U.S. Senate and the Congress should be advised that the Senator from Nevada and the Senator from New Hampshire are going to make sure that the sugar program in the future is treated fairly, which it should be. The real losers in the sugar program that we have is the American consumer, who pays a huge amount for their sugar and they should not have to.

I yield the remainder of my time.

Mr. ABRAHAM. Mr. President, I yield 5 minutes to the Senator from Montana.

Mr. BURNS. Mr. President, I thank my friend from Michigan.

This is probably a historical time for this body. The first time in many years that we have had the opportunity to balance the budget, to put us on the trail to do something responsible. I remember the speeches from the last 6 years and people saying, "We believe in a balanced budget, but look at all the pain; maybe we can do it next year." Well, that next year has gone on for about 40 years and we kind of find ourselves in a pickle.

I had a wonderful woman that used to work in our office. She has since transferred to Minneapolis with her husband, where he found a job opportunity, and they just had a brand-new baby. That is what this debate is all about. It is about this young one in this picture, 3-days old, born 10/7/95, 7½ pounds, 21¼ inches long. That is what it is all about, folks. To do anything different jeopardizes the future of this young woman, this young lady right here in the picture. And it is because there are some of us who care to stand for maybe some very unpopular things right now, and take the responsibility, because we do care for this young woman. We want to hand her a nation that is strong economically and also strong politically.

This debate has gone on a long time. Everybody says, "Well, you have to quit wrangling up there on the Hill. We do not like to be furloughed."

I just got a letter from a young woman in Winston, MT. It says: "Stop the talking, do something different. I want to have a nice Thanksgiving and a Christmas." It is signed, "Amanda Baum, Winston, Montana."

Well, Amanda, it is a two-way street. We offered a continuing resolution that would let your father go back to work as soon as possible. But, you know, there is a person on the other end of Pennsylvania Avenue that said, no, I do not like that, so I am not going to sign it. So you are on furlough. But it takes two people. I say change the message and call the House at the other end of Pennsylvania Avenue.

In this Balanced Budget Act of 1995, there is a $500 per child tax credit. What does that mean to your individual States? I will tell you what it means in Montana. The total number of returns eligible for a tax credit will be around 66,000 people. There are only 800,000 people in my whole State, but 66,000 returns will qualify for this $500 per child tax credit. It will cover the amount of dependents of around 98,000 people, and the value to the State of Montana is around $46 million. That is money in families' pockets. That is money that can be put in a savings account to buy a home. It is money that can be put in a savings account that can pay for education for our young ones coming along, and for those folks who want the responsibility of managing their own money.

So in this Balanced Budget Act, let us talk about some real things, like capital gains that help us all.

No, we did not get all the AMT tax we wanted. Nonetheless, it does do something about depreciation—depreciation that creates jobs and expands job opportunities. That is what is in this package. That is what we need. We have to expand job opportunities.

Economic development—my goodness, just the presence of the Government in your neighborhood is not economic development. We must produce real growth, either manufacturing or the development of natural resources that provides natural wealth. It just does not start here in Washington.

I was taken aback a while ago when I saw the former Governor of Arkansas worrying about the nursing home regulations. What is the matter? Is this town the only one that has a conscience? He has no faith in the State governments to regulate their nursing homes to the benefit of our elderly?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BURNS. I am in complete support of this package. I yield the floor.

Mr. EXON. I yield 5 minutes to the Senator from West Virginia.

Mr. ROCKEFELLER. I thank the distinguished Senator from Nebraska.

Mr. President, I am stunned that we still have to come to the floor to defend Medicare from the largest, most dangerous, most serious cut ever to surface since it was signed into law by President Johnson exactly 30 years ago.

Yes, this nightmare is not a dream. The budget plan on the Senate floor this very minute aims its fire at Medicare for $270 billion in cuts over the 7 years. Guess what also survived the conference? A kitty of $245 billion of new tax breaks, new tax cuts, new tax relief that go to the wealthiest Americans and all kinds of corporations.

That is right. To the 30 million senior citizens counting on Medicare, to the disabled citizens counting on Medicare, it is still the piggy bank for a whole lot of things that have nothing to do with Medicare and much more to do with tax breaks for the wealthy, tax increases for working families, cuts in education, and the other features of this budget plan now on the Senate for a final vote.

You do not need a graduate degree in mathematics to do the basic arithmetic. Start with the proposition made by the Republican side of the aisle—that Medicare must be cut to save the program, preserve it, keep it solvent. But that is when you hit the brick wall. The trustees of the Medicare Part A Hospital Trust Fund say that $89 billion are needed to extend the Fund's solvency until the year 2006. Not $270 billion, $89 billion. That is a difference of $181 billion.

Why won't the Republicans listen to Medicare's trustees, and limit Medicare cuts to $89 billion so the program is solvent for 10 full years? Because they're listening to the tune whistled on the steps of the Capitol over a year ago, when the Contract for America was unfurled and $245 billion of tax breaks were promised.

Of course, none will admit that Medicare is being raided to pay for tax breaks for the rich. Who in their right mind would make that kind of confession?

But we do not need a confession. The mountain of evidence is right here in this stack of paper that is the Republican budget plan called reconciliation. Medicare cuts of $270 billion or even more. Tax breaks of $245 billion. Case closed.

This $270 billion sounds like a huge cut because it is a huge cut. You don't get $270 billion out of Medicare with a few nips here and a few tucks there. Squeezing that much money out of Medicare means increasing expenses for senior citizens, shrinking payments for hospitals and other providers, weakening Medicare's role in protecting against shoddy health care, and resorting to cheaper ways to pretend seniors will still get reliable health insurance. Make no mistake about it, $270 billion in Medicare cuts will hurt and will be noticed.

In fact, let us take an up-close look at just how the Republicans came up with $270 billion in Medicare cuts to pay for tax breaks.

But first, maybe I need to start by reminding some people around here just how important Medicare is to a vast portion of the American population. No wonder Americans are more likely to say about Congress they are scared to death than just angry.

It is Medicare that the phrase, crown jewels, should be reserved for. The enactment of Medicare, as part of Social Security, was one of America's great triumphs. When the country said its older and disabled citizens would have health security for the first time in America's history, we took one of our greatest leaps as a nation. Before its enactment, less than half of this country's senior citizens had any kind of health insurance. An illness or accident or health problem would immediately crush someone in their 60's or 70's or 80's, or wipe out his or her children and grandchildren.

That is why Medicare was created, fought over, and ultimately enacted. And it has worked. The 97 percent of America's seniors—30 million people—now can wake up every morning, knowing Medicare is there. It has lifted seniors out of the poverty that the crushing costs of health care used to bear down on them. It has given them the peace of mind that they are not an overwhelming burden to their children and grandchildren. It has given them the dignity to live the later years without the terror of what will happen to them if they fall or need surgery.

Mr. President, we are talking about 30 million senior citizens whose average income is less than $17,000. We are talking about 330,115 senior citizens in West Virginia whose average income is around $10,000. We are talking about older Americans who already spend one-fifth of these meager incomes on health care expenses that are not covered by Medicare—which include Medicare premiums and deductibles, prescription drugs, eyeglasses, certain tests, home care, and the list goes on.

And we are not just talking about Medicare's meaning for senior citizens in West Virginia or Massachusetts or California. It is the same for seniors in Kansas, in Texas, name your State. We are talking about people with average incomes of $24,000 pay a fifth of their incomes on health care already, who are about the only Americans that have health care protection that cannot be taken away.

Until today. Until we see this incredible budget plan that still takes $270 billion from Medicare, not to mention the $170 or $180 billion from Medicare. Not to save Medicare, but to come up with $245 billion in tax breaks for people with incomes far, far higher than $24,000 a year.

Now it is time to talk about just exactly how this budget gets $270 billion out of Medicare.

It starts with a plan the whole country got a special education in this week—because it was even attached to the bill that is only supposed to ensure the Federal Government can operate.

It starts with a plan the whole country got a special education in this week—because it was even attached to the bill that is only supposed to ensure the Federal Government can operate.

I am talking about a Medicare premium increase. It may have been stripped from the continuing resolution, but it is back. This budget increases Part B premiums for seniors by $11 a month—adding up to an extra $1,240 for individual seniors over the next 7 years and an extra $2,480 per couple on Medicare. That is on top of everything else they are already spending on health care.

There is plenty more.

Remember the BELT idea when we had the Senate reconciliation bill on the floor a few weeks ago? It is gone in name, but not in spirit.

Obviously, $270 billion in cuts means a lot less money for payments to doctors, hospitals, labs, and other health care services. But what happens if the targets in this budget are missed? Well, before, the BELT was whipped out, and it was actually called that in the Senate bill. Now it has been given a more subtle name, but it's still plenty lethal. It is called the lookback—this budget tells the Secretary of Health and Human Services that he or she will have to make last-minute, extra, surprise cuts in Medicare payments if for some reason all the cuts made before didn't go deep enough. This budget has to have this kind of last-minute Medicare guillotine built in. This budget has to get $270 billion out of Medicare, no matter what, or there won't be $245 billion to dole out in tax breaks.

It goes on and on, Mr. President. Changes, cuts, setbacks, weakening of standards—it is all here to cut Medicare by $270 billion.

In this budget, senior citizens are supposed to fend for themselves. Before this budget, they were protected from balance billing when they brought private insurance plans. But in this Republican budget, the price gouging can start again.

Before this budget, there were Federal standards to make sure tests done in the labs located in the doctors' office were accurate and reliable. But in the Republican budget, the salespitches will start exploding. Medicare vouchers for managed care will be waved around, luring seniors into managed care and locking them in for 1 year. I can hear the telemarketers and advertisers writing the scripts, the jingles, and hiding the fine print—because here we come, Medical Savings Accounts. With this Republican budget, Medical Savings Accounts will be targeted, you can count on it, at the healthier seniors, driving up costs for everyone else and for the Medicare Program, and driving doctors away from accepting seniors.

Mr. President, there are consequences to $270 billion of Medicare cuts. Ask the hospitals of your State. Listen to the senior citizens whose premiums and deductibles will go up.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter that denounces the Republican plan.

There being no objection, the material was ordered to be printed in the RECORD as follows:

AMERICA'S HOSPITALS AND HEALTH SYSTEMS

NOVEMBER 17, 1995.

Hon. JOHN D. ROCKEFELLER IV,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR ROCKEFELLER: The undersigned national, state and metropolitan organizations, representing more than 5,000 hospitals and health systems nationwide, cannot support the conference report on H.R. 2491, the budget reconciliation bill. Our reason is straightforward: as it stands, this legislation, viewed in its entirety, is not in the best interest of patients, communities and the men and women who care for them.

Hospitals and health systems support the stated goals of the conference report—a balanced budget, a strengthened Medicare trust fund and restructured, more efficient Medicare and Medicaid programs. In fact, we have offered several concrete and reasonable alternatives to achieve these goals without significantly reducing the quality or availability of patient care. For the most part, these alternatives were rejected.

In this long budget debate, America's hospitals and health systems have been guided by principles based on ensuring good patient care now and in the future:

The health care protection for our nation's most vulnerable populations—the elderly, the poor, the disabled and millions of children—is inadequate.

The tools which could enable hospitals and health systems to continue to provide high quality care to beneficiaries in the new Medicare marketplace are insufficient. The necessary tools were included in the House-passed Medicare Preservation Act, but were significantly diluted during the conference process.

We have consistently stated that the budget reductions in Medicaid and Medicare remain too deep and happen too fast. Hospitals and health systems are willing to shoulder a fair share of the reductions needed for a balanced budget. But the reductions in the conference report will jeopardize the ability of hospitals and health systems to deliver quality care, not just to those who rely on Medicare and Medicaid, but to all Americans.

Although we cannot support the conference report, we stand ready to work with Congress and the Administration on a fair approach to reducing spending, balancing the budget and protecting the availability and quality of patient care.

Sincerely,

Signed by 84 hospital plans.

Mr. ABRAHAM. Mr. President, I yield 5 minutes to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I rise to strongly support the legislation before us, the Balanced Budget Act of 1995, because I think it reflects sound budget and policy priorities that will be of enormous benefit to this Nation through the next century.

This is really what it is about, trying to lay out a roadmap that is going to provide change, provide flexibility, provide initiative, that can give us a strong program to carry us through the years and for the next generation to come and generations after that.

There may be some concerns about this turn or that turn. It is an enormous package of very important initiatives. I have great confidence, Mr. President, that we can make it work, and it will require the best efforts of all on both sides of the aisle and working with our State legislatures and our communities to see it is accomplished.

I would like to speak briefly about two parts of this package that I have been most directly involved in. One is student loans. This legislation includes $4.955 billion in savings in Federal student loan programs over the 7 years. Earlier today, the ranking member of the Labor and Human Resources Committee and colleague from Massachusetts, Senator KENNEDY, said these provisions would help banks and guaranty agencies at the expense of students.

I just point out, indeed, that is not the case. Seventy percent of the savings are achieved by reducing subsidies to or imposing new fees on banks and guaranty agencies. None of the savings are achieved by increasing costs to students or their parents.

It is very important that this is understood in the public where a message has been put out that is totally erroneous about the effects on students. The remaining 30 percent of savings are achieved by capping the direct loan program at 10 percent of loan volume. This would not change the level of the loan or the amount of the loan. A direct lending program may mean the students may get their loan money more quickly, but it does not have any effect on the amount or interest rates of those loans.

In addition, the bill makes income-contingent repayment of student loans available to all students, not just those participating in the direct loan program. I remain concerned about the risk that the direct loan program poses to taxpayers. That is why I believe Congress is being fiscally responsible by demanding to see how it works before expanding it.

I do not believe the Department of Education should become the third largest consumer lender in the country. That, indeed, is where it is headed if we go to a full, direct lending program on student loans, consequences which I think need to be carefully thought out and reviewed.

Mr. President, I also wish to speak about the child care provisions in this bill. I am pleased that we have, I think, some very strong child care provisions. The bill combines $10 billion in mandatory spending and $7 billion in discretionary spending into a consolidated system for providing child care for children from low-income families, including those working their way off welfare.

This is over 7 years. Again, I think when we recognize that 70 percent of the mandatory funds are to be used for families making the transition from welfare to work and for those at risk of going on welfare, and a substantial portion of the remaining funds must be used to help low-income working families who are not and have not been on welfare to meet their child care needs as they are, indeed, struggling to stabilize themselves in the workplace.

Equally important, the bill recognizes we cannot ask parents to leave children home alone as a condition of receiving welfare. Therefore, welfare families with a demonstrated need for child care may not be sanctioned for failing to meet work requirements in States that do not offer child care assistance.

We need to break a cycle of dependency on welfare, but we need to do it by protecting children and having children have the stability of knowing they are cared for, are wanted and loved in an environment that will help them succeed. I believe we do that by strong child care provisions which really help families begin to move off the welfare rolls.

I think there are some very positive provisions. I urge colleagues' support for this legislation and thank all those who played a major role in drafting and working on this legislation.

I yield the floor.

Mr. EXON. Mr. President, I yield 5 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 5 minutes.

Mr. SARBANES. Mr. President, first, I commend the distinguished Senator from Nebraska, the ranking member on the Budget Committee, for his very fine leadership throughout this budget debate. We are deeply appreciative to him for his extraordinary efforts.

Mr. President, the basic fact is that drastic cuts are being made in Medicare, Medicaid, basic health programs, in nutrition programs to nourish our young people, school lunch, school breakfast, food stamps, in educational programs which make it possible for young people to go to college, and in environmental programs to protect clean air and clean water. These deep cuts are necessitated by the burning mania on the part of the Republicans, as part of the budget package, to give tax breaks to wealthy people. Make no mistake about it, that is the connection. If the tax breaks were not in this package, these drastic cuts would be ameliorated to a significant degree. Then you could argue about reducing the deficit and how you go about doing it in terms of spending cuts. But the problem is compounded in this package because there is a burning mania on the other side to give tax breaks to wealthy people.

Kevin Phillips, 2 days ago, in an interview on the radio said:

> Under the camouflage of deficit reduction and cuts like those in Medicare and Medicaid, the new budget includes dozens of new and enlarged tax breaks, loopholes, and corporate welfare programs. The tax cuts for ordinary Americans are peanuts, but the special deals are big stuff.

And he goes on to say:

> It is doubly impolitic to drive the budget deficit down to zero by cutting medical, educational, and entitlement programs while corporate and upper-bracket tax breaks continue to soar.

That is what is happening here. We are hearing talk about, "Oh, we are going to protect the next generation and our children." What about the children today, who are going to be sent into the next generation stunted because the nutrition programs have been cut, the health programs have been cut, the education programs have been cut? What about young men and women who will not get the chance for a college education because of the cutbacks contained in this package, at the very same time that people at the upper-income brackets are getting large and significant tax breaks?

There is obviously a hidden agenda contained in this budget package. The Speaker of the House let it out of the bag a few days ago when, speaking to a group, he said:

> Now let me talk about Medicare. We don't get rid of it in round 1, because we don't think that would be politically smart.
>
> We don't get rid of it in round 1, because we don't think that would be politically smart.

So, it is going to come in round 2 and in round 3. They assert they are protecting Medicare and right here is evidence that it is the beginning of the end of Medicare. We have Republican leaders who boast about the fact that they opposed Medicare when it was put into place, and then they try to make us believe they are out to protect Medicare. Medicare is being cut deeply, again to give these tax breaks.

The fact of the matter is—and this is my judgment—part of this hidden agenda is a major shift of benefits, economic benefits in this country, from ordinary people, from middle-income people to the very wealthy. If you assert this the other side says, "Oh, it is class warfare." The class warfare is being waged by those who are reaping the benefits disproportionately in this society.

They say, "Oh, don't do class warfare." In the meantime, the statistics show—and listen to these statistics——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SARBANES. Will the ranking member yield me 2 additional minutes?

Mr. EXON. I yield my colleague 1 additional minute.

Mr. SARBANES. Listen to these statistics.

Federal Reserve figures from 1989, the most recently available, show that the richest 1 percent of American households, with net worth of at least $2.3 million each, have nearly 40 percent of the Nation's wealth—1 percent of American households, 40 percent of the Nation's wealth. The top 20 percent of American households worth $180,000 or more, have 80 percent of the country's wealth—80 percent.

The income statistics are equally skewed. The lowest-earning 20 percent of Americans earn 5.7 percent of the after-tax income. The top 20 percent of American households have 55 percent of the after-tax income.

The United States is now the most unequal industrialized country, in terms of income and wealth, and we are growing more unequal faster than the other industrialized countries. And this package is going to intensify that trend.

Make no mistake about it, that is what this package will do. It is shifting benefits from lower-income and working people to the upper end of the scale.

People on Medicare, earning $15,000 a year, are going to suffer in order to give a tax break to the very wealthy.

I urge the rejection of this package.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Michigan.

Mr. ABRAHAM. I yield myself such time as I need briefly, and then I will yield to the Senator from Minnesota.

As I said several times here today, apparently in some parts of this country people making less than $75,000 a year are "the most wealthy Americans." In my State that is not the case. Mr. President, 65 percent of the tax cuts contained in this package will go to people and families making less than $75,000 a year. Mr. President, 80 percent will go to people whose families make less than $100,000 a year. In Michigan, those people are not wealthy people. Maybe they are in other parts of America, but people making less than $75,000 are not wealthy people in my State.

As to the so-called tax cuts for wealthy, I point out as I have already numerous times in relationship to this bill, there are $26 billion in loophole closings contained in this legislation, closing loopholes on these so-called wealthiest Americans, individuals and corporations, which largely offsets whatever tax cuts might benefit people in those categories.

Finally, with regard to students, we should point out to the students watching that, as Senator KASSEBAUM indicated earlier, regarding the student loan program insofar as it affects students, the volume of loans remain unabated, at levels that have always been out there, and there are no changes in the cost of loans to students. Moreover, there are further provisions in the bill that will actually provide students with student loans with the opportunity to deduct interest they pay on those loans. In fact, it places people in a stronger position.

That said, Mr. President, at this time, I yield five minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, I rise with great pride today in support of the Balanced Budget Act of 1995.

I hear a lot of talk from the other side of the aisle about cuts. The major cuts are going to be in Washington's ability to take more of the taxpayers' money. The hidden agenda is a balanced budget and a brighter future.

And, if there has been a growing gap of wealth, it has occurred under Democratic programs, and it is time to change that.

This bill, more than anything else, is about promises—making promises, and keeping promises.

The American people have every reason to be cynical about political promises.

Yet something resonated with the voters when we went to the people last November and promised we would take this country in a better direction if they elected a new majority to Congress.

We laid out a plan for the Nation's future unlike anything the people had been promised over the last 40 years.

The legislation before us today is proof that there is a better way—and the vision it reflects is based on two fundamental promises we made to the voters: First, we promised we would balance the budget in 7 years. And second, we promised we would cut taxes for working-class families.

Mr. President, the centerpiece of the legislation before us is our promise to balance the budget by the year 2002.

If you want to know why 83 percent of the American public say balancing the budget should be the top priority of this Congress, these statistics speak volumes: Every year, the Federal Government is spending billions and billions more than it takes in. As a result of four decades of fiscal insanity, the national debt today stands at nearly $5 trillion. Every child born today in the United States of America comes into this world already saddled with more than $19,000 in debt.

So the first, most important result of a balanced budget would be to free our children and grandchildren from the economic burden they will inherit from this generation—a burden they did not ask for, and certainly do not deserve.

Ask an economist about the other benefits of a balanced budget, and they will reel off an impressive list of reasons why we ought to move forward.

By the time 7 years have passed and the budget is brought into balance: GDP will grow by an additional $10.8 billion; interest rates will drop, and Americans will boost their spending power through an additional $32.1 billion in disposable income; the buyers of a $100,000 home would save more than $10,000 over the life of a 30-year mortgage; an additional 104,000 family homes would be built and 600,000 more automobiles would be sold; and businesses would be empowered to create new and higher paying jobs—as many as an additional 6.1 million new jobs, by some estimates.

Impressive statistics, but what does all this really mean on Main Street?

Well, for an average American family with two kids, a mortgage payment, car and student loans, a dog and a cat and lot of monthly bills, a balanced Federal budget would put at least $1,800 a year back into the family bank account.

That is a pretty good incentive for passing a balanced budget in 1995: save money and get a tax break, because we have also promised to cut taxes for middle-class families—another promise we are keeping with this legislation.

This Congress is no longer willing to let the Government gamble away the taxpayers' hard-earned dollars as if they belonged to Washington. In fact, we are going to keep those dollars out of the Government's hands in the first place.

The centerpiece of our $245-billion tax relief package is the $500 per-child tax credit, and I am proud that my colleagues stood with my good friend, Senator ABRAHAM, and I to ensure that this desperately needed provision remains at the heart of our balanced budget plan.

The tax credit alone will allow 28 million taxpaying households to keep $23 billion of their own money each year.

In my home State of Minnesota, the tax credit would return $477 million annually to families who work hard, pay their bills, and struggle every day to care for their children without relying on the Government.

In addition, 3.5 million households nationwide will find that the $500 per-child tax credit has completely eliminated their tax liability.

With our Balanced Budget Act, this Congress has kept the solemn promises we made to the American people. Yet without even waiting for the bill to arrive at his desk, President Clinton is promising to veto it and stop the balanced budget in its tracks.

The President says he wants a balanced budget—wants it wholeheartedly, he claims. Balancing the budget was one of the central themes of his 1992 campaign, and I remember when he said: "I'll tell you why you should vote for me. I know how to balance a budget. I've balanced 11 budgets as Governor of Arkansas. One of the first things I'll do when I get to Washington is send Congress a balanced budget."

Of course, that turned out to be a pie-crust promise—easily made, easily broken.

Since taking office nearly 3 years ago, Bill Clinton has never presented Congress with a budget that balances—or comes anywhere close, for that matter.

In the last two plans he has dropped on the Capitol doorstep, the deficit hovers around $200 billion every year, far, far into the future.

And we voted on both of those plans here on the floor of the U.S. Senate. Both failed 99 to zero, and these are the plans that the President brags about.

Mr. President, Congress is going to balance the budget because we promised the American people we would.

We are going to cut taxes because we promised the American people we would.

We are going to turn this Government around and start putting it to work on behalf of the taxpayers because we promised the American people we would.

"The Man from Hope" is quickly earning the reputation around here as "the Man from Hope Not." He says he wants a balanced budget, but he secretly hopes he'll never have to sign one.

Mr. President, Bill Clinton cannot continue to say in public that he supports a balanced budget, tax cuts, and welfare reform, and then return to the private confines of the Oval Office to veto every piece of legislation that would bring the budget into balance, cut taxes, and reform welfare.

My colleagues and I have great dreams for this Nation and its children, Mr. President, and the American people are counting on us to heed the words of the great Winston Churchill and "never, never, never give up."

With a balanced budget at stake and the future of this Nation at stake along with it, this Congress has no intention of giving up and turning our backs on this moment in history.

That is a promise.

Thank you, Mr. President. I yield the floor.

Mr. EXON. Mr. President, I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President.

TEN THANKSGIVING STORIES

Mrs. MURRAY. Mr. President, next Thursday, families from Forks, WA to Fort Lauderdale, FL will be coming together to enjoy each other's company and to celebrate a holiday unique to the history and heritage of our country.

The tables will be heaped with food, prepared in many kitchens and brought together at the house of one family. For some families in our country, who do not necessarily have all that much to be thankful for, this may be the best meal of the year.

If your family is at all like mine, there will be turkey and gravy and some kind of Jello salad. At dinner, there will be a card table for the little kids, and a couple of bigger kids who will not want to sit with them.

After dinner, there will be games of Pinochle. There will be teenagers standing around, wishing something exciting would happen. There will be people in the living room, just starting to get sleepy. The television will be on, and the Detroit Lions will be losing again. And best of all, throughout the day, there will be many stories.

The people in my life tell stories about many things. Stories about family members who could not come this year or family members who have died. Stories about war. Stories about work or friends or sports. Stories about a new birth, or an impending marriage. In most years, there is not much talk about government—unless something really bad is about to happen.

I have a feeling I am going to hear a lot of talk about government this year. Right now, I can almost hear 10 stories that might be told around the tables at Thanksgiving this year, across this great land. Ten things people wish they did not have to talk about, but they will:

First, there will be the story about Medicare. The elders always tell stories best, remember the bad times clearest, and complain about the Government loudest. Next Thursday, after grace has been said, an old man is going to pause, with the mashed potato spoon still in his hand, and say "You hear what they're going to do to Medicare?"

This story, like the rest, is a sad one. The man knows that the budget needs to be balanced for the generations he can see around the table. He has heard that there has been fraud and abuse in Medicare billing. He knows that he is going to have to sacrifice for the betterment of the country. He just is not going to understand why Congress is going to take more money out of his Social Security check to give a tax break to people who do not need it.

Second, there will be the story about Medicaid. The family is together, but they have to arrange to visit grandma at the nursing home. The family will go visit, but they will now have to worry about whether Congress is going to allow States to gut nursing home standards that protect grandma's health, safety, and financial security.

They will have to worry about whether grandma will be the lucky one to get Medicaid funding when their State has to choose between paying for pregnant women, children, the elderly, or the disabled, because Congress gave them less money to meet the growing needs they face.

Third, there will be the story of the adult children in the family, who never before had to worry about being held responsible for the costs of grandma's nursing home care, but now will. They have worked hard to raise their own family, save money for their kid's education, and for their own retirement. Now they will have to deal with extra costs from every angle.

If they are working but low income, they will not get the $500 per child tax credit that the Congress is touting, because they will not pay enough taxes to get the deduction. If they do not have children yet, they will face the fact that Congress will be taking away the earned income tax credit they have counted on.

If they do have kids, and do get the tax credit, they are going to need the money. Because when grandma cannot stay in the nursing home because Congress cut Medicaid, the family is going to have to build a new room onto the house.

Fourth, there will be the college-age students and their story. They want to prepare themselves for a world where they know they will have to be qualified to compete. They are willing to swallow their pride and ask their parents for help; they are willing to work; and they are willing to pay off loans after college. But none of that will matter.

The Congress is going to take $5 billion out of their student loan programs, and give it to the banks. Congress is going to decimate the Direct Lending Program, which gives students their money more efficiently, and eliminates bureaucracy and the middle man. In addition the budget eliminates Perkins loan funding and drops 280,000 students from Pell grants.

Fifth, there will be the story of the younger students, who need to have a relevant public education to get them ready to go on to college, into some other form of training, or directly into work. For these students, the Congress is going to cut almost $4 billion from discretionary but vital education programs, including title I basic skills instruction for 500,000 additional students, State student incentive grants, school reform, Head Start, and AmeriCorps.

Sixth, there will be one of the most tragic stories of all—the story of what will happen to all the children in the great country of ours. Services to help children, from Medicaid to pay their medical bills, to school lunch and daycare nutrition programs, to childhood immunizations are all going under the ax in what the majority party is painting as some kind of epic and heroic moment in American history.

These cuts will certainly be historic. This is probably the first time in history that the American Government declared war on its own children, when it knew better. If the Congress wants to balance the budget, American families are all for it. But Americans are pretty steadfast when their own family is threatened, and this is a battle that the majority party in Congress should lose.

Seventh, there will be the story of the welfare mom. This member of the family may not be sitting at your table this year, but she comes to many homes for Thanksgiving, and her sisters may one day come to your table or mine. Her story is one of tragedy piled on top of tragedy.

Maybe she came from an abusive marriage, where she took beating after beating, and only got out after her abuser started hitting her kids. She probably did not have the benefit of education and training. She most likely had all kinds of things stacked against her. Invest in her life now, with child care and training, and she'll be a tax-paying citizen for years to come.

But this Congress is going to cut child care, nutrition services, and kick this woman off public assistance as fast as possible, without the support that would allow her to join the work force. She does not have much to be thankful for with the passage of this budget.

Eighth, there will be a story about the environment. A 12-year-old may ask why the Government wants to sell her heritage to big companies. She wonders about the polar bears and caribou that now live in the Arctic National Wildlife Refuge.

She asks whether the Native people she has read about, or whether her family, if she happens to be a member of Gwich'n tribe, will be able to continue to live where they have lived for 20,000 years—on the lands they love, subsisting on a now-abundant supply of wildlife. She sighs and asks her elders not to sell America's lands, our national forests, our national refugees, our national treasures—her heritage.

Ninth, there will be the story of the family farm. The wheat farmer from eastern Washington, who has seen congressional Republicans adopt a Freedom to Farm Proposal that couldn't even be approved by the House or the Senate. The wheat farmer, who has seen the safety net for farmers eliminated, the safety net that has existed for almost 60 years.

Farmers do not need this safety net when prices are good, but when prices are bad, these farmers, who supply the staple foods of our society, need our support. They deserve our support. The family farmer, who works to grow the food that provides the bounty for Thanksgiving dinners for families across our Nation—this farmer is forgotten in the Republican budget.

Tenth, the last story, will be a story of real thanks. After all these other stories, after the eyes roll skyward, after the anger, after the frustration, they will all join hands and give thanks. The members of this family will thank their God that they are all together for the holiday. They will be thankful for the good food and warmth of family, but mostly, they will be very thankful that the Members of Congress are also home with their families, and not doing more damage from the floors of the House and Senate.

Mr. President, I continue to worry about the priorities in this budget. We all know this budget will be vetoed; for that I am thankful. When it is returned, I intend to work very hard with my colleagues to ensure we will then pass a budget that is good for our children, our families, and our future.

Mr. ABRAHAM. Mr. President, I yield 5 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 5 minutes.

Mr. FRIST. Mr. President, I rise in support of the Balanced Budget Act of 1995.

The American people have been watching the debate over the continuing resolution this week, and based on the calls that have come into my office, they recognize that this debate is about one thing: whether or not we will have a balanced budget.

After President Clinton was elected, he used his promise to balance the budget as an excuse to raise taxes. Today, all Americans have higher taxes, but they still do not have a balance budget.

Contrary to what he says, the President has never proposed a balanced budget of his own. His latest plan, which he says will balance the budget in 9 or 10 years, would actually result in deficits of more than $200 billion as far as the eye can see—including a deficit of $209 billion in 2005, the year President Clinton claims he would eliminate the deficit.

The President's budget is so phony that no Democrat in Congress would even introduce it for a vote in the House or Senate. When a Republican Senator introduced it, it was defeated 96–0.

While Clinton talks about a balanced budget, Republicans have done the heavy lifting, and made the hard decisions necessary to get it done. Our plan is certified by the nonpartisan Congressional Budget Office, which President Clinton himself has said is the sole authority on budget authenticity.

With the continuing resolution passed yesterday and the plan before the Senate today, Republicans continue to show their unwavering commitment to a balanced budget. The President as a candidate promised to balance the budget in 5 years. All we are asking for is 7 years. Republicans honestly believed, and some of us are holding out hope, that President Clinton will show some leadership and help us balance the budget.

He has promised to balance the budget in 5 years, then 10 years, then 9 years, then 8 years, and as recently as October 19, the President said that he thought we could reach a balanced budget in 7 years. But he rejected yesterday's continuing resolution, and he will likely veto this bill. The President is not committed to balancing the budget. He is committed to increasing spending and an ever growing Federal Government.

The plan before us today fulfills our promises to the American people. It will:

Balance the budget in 7 years,

End welfare as we know it,

Save and strengthen Medicare, and,

Reduce taxes in a way that provides relief to families with children, stimulates growth, and generates jobs.

The bottom line is this: the future of our Nation depends upon whether we have the courage to balance the budget.

Our current path—if we do nothing—leads to:

Uncontrolled federal spending and borrowing, and skyrocketing annual deficits—$200 to $300 billion by the year 2000, and higher deficits thereafter.

In fact the deficit increases $335,000 every minute—which means that it has increased roughly $1 million in just the amount of time that I have been speaking on the Senate floor.

Another $1.2 trillion added to our national debt between now and the year 2000—which will bring the total surging past $6.7 trillion by the turn of the century;

A Medicare program that goes broke; a Medicaid program that doubles in size;

An enormous and unsustainable tax burden on young workers who will be forced to pay 82-percent of their wages in taxes to support prolific federal spending; and

The first generation of Americans in our Nation's history to have fewer opportunities than their parents.

And yet, if we do balance the budget, if we are able to impose fiscal discipline on the massive federal bureaucracy, the benefits are very real, and the possibilities are endless for our prosperity as a Nation.

According to the Joint Economic Committee, a family with a $75,000 car loan and an $11,000 student loan could save $1,771 a year if interest rates drop another percentage point under the Republican plan, and $2,828 a year if interest rates return to the levels of the 1950s.

According to the economic forecasting firm of DRI McGraw-Hill, if we balance the budget by the year 2002, the gross domestic product will be $170 billion higher than without a balanced budget. That represents a 2.5 percent increase in productivity for businesses, and about $1,000 per household higher standard of living for families.

And even Wall Street is responding positively to the current situation, closing at a record 4969, while the 30 year Treasury bill rate fell to 6.23%. If Congress fails to pass a balanced budget plan, then the American people should be scared, because the markets will lose faith in the U.S. government.

All this is possible by only slowing the growth of federal spending. Under the Republican plan, spending on Medicare, Medicaid, welfare, food stamps, the Earned Income Tax Credit, student loans, you name it, will continue to grow, only at a slower rate.

As James Glassman said in a recent editorial in the Washington Post:

> If Congress' budget becomes law, the social compact will actually be strengthened. Not only will the government keep its commitments to the elderly and the poor on health care, it will also meet an even more important obligation to the public that is abrogated 30 years ago—to spend no more than it takes in.

The Republican plan is a credible, reasonable and truly historic plan to reverse the excessive spending of the past, while continuing to provide a sturdy safety net for the poorest Americans. The plan will save and strengthen Medicare, transform the Medicaid and Welfare programs and produce unprecedented economic growth for generations to come. I strongly support the Balanced Budget Act of 1995 and urge its passage.

I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. On behalf of the Democratic manager, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. ROBB. Mr. President, I rise to oppose the budget reconciliation bill before the Senate. I do not oppose the Republican budget because it is projected to balance the unified budget by 2002, because I believe we can and should balance the budget over that time period. I oppose this budget because I believe it is the wrong way to reconcile spending and revenues.

Instead of a bipartisan consensus, it reflects a too narrow, ideological agenda that does not represent the best long-term interests of the country. And I know that the leadership on both sides of the aisle, at least in this body, can and would like to do better.

I have no doubt that my good friend and colleague, Senator DOMENICI, if not constrained by some Members of his own party, mostly in the other body, would develop a more responsible, more bipartisan budget. As a Democrat who supported both the original Senate budget resolution last May and the continuing resolution last night that committed us to a balanced budget by 2002, using CBO numbers, which we may revisit shortly, I have always been ready to work with Presidents of both parties and in Congresses having both Democratic and Republican majorities on a bipartisan basis to solve the long-term fiscal challenges facing our Nation.

Unfortunately, this year's budget process has evidenced more partisan politics and political expediency than fiscal responsibility. As my colleagues will recall, the original Senate budget resolution required us to enact legislation projected to actually balance the budget before we could proceed to consideration of a tax cut.

When the resolution came back from the conference with the House, however, tax cuts had been added up front, and the deep spending reductions had been moved into the next century. The message that this budget reconciliation bill sends by maintaining this approach is that we should begin handing out new benefits today and count on future Congresses and future Presidents to make the most difficult choices to actually reach a balanced budget. It only increases the likelihood that the budget will become even more unbalanced, hardly a legacy we want to leave to our children and our grandchildren. That will not do anything to reassure the international financial markets, much less address the increasing cynicism our citizens feel toward our Government and its elected officials.

In order to pay for a huge tax break, half of which would go to those making $100,000 a year, programs affecting health care for the elderly, the disabled and the poor, programs affecting the environment and education, programs affecting some of our most vulnerable citizens who will be cut more drastically than would otherwise be necessary is not fair.

My message to my colleagues and the President today is that there is a better way to balance the budget, a way which I believe can be supported by Members on both sides of the aisle, as well as the President and the American people. That way is to postpone a large tax cut until we achieve balance and spread the burden of deficit reduction more fairly and evenly across the Federal budget. Only if we demonstrate to the American people that a plan is fair and equitable will we be able to maintain the road to balance.

As the Virginia voters showed just 10 days ago, those who toil at the ideological extremes proceed at their own peril. It is true that the vast majority of the American people want to balance the Federal budget, as I do. But the events of the last few months reflect the fact that they want to do it in a way that reflects a broad consensus. Mr. President, I stand ready to work with both Republicans and Democrats to find that consensus.

Mr. President, I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I yield 4 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 4 minutes.

Mr. INHOFE. I thank the Senator for yielding.

I probably will not take that much time. But, Mr. President, I have been sitting here and listening and watching. And it has been really enlightening to me to see what is going on and how the debate has been going.

When I go back to Oklahoma and we have townhall meetings and I talk to people back there, the ones I have been chastised about for referring to as the "real people of America," they ask the question over and over again, "Senator, why don't you just do it? All this talk about balancing the budget. Why don't you just do it? We have to do it. We have to live with a balanced budget. Why not do it?" Because every big spender around, every liberal in Congress says he or she wants to balance the budget, and yet when it comes down to getting the opportunity to actually do it, we do not do it.

I hope those people who ask that question at the townhall meetings are watching carefully tonight, because now you know why it is so difficult to do something that seems so easy back home.

The second thing is listening to some of these speeches—I do not mean this in a demeaning way or insulting way to anyone, but I really feel that so many people right now are trying to hold onto the past with white knuckles. Those individuals who rejoiced back in the 1960's when Government took greater control of our lives cannot believe that times are changing and that the people are no longer going to tolerate that.

If you stop and analyze the elections of 1994, it is an overwhelming revolution at the polls.

And who was defeated? All you have to do is get the ratings. You know, people know who the big spenders are and who they are not. The National Taxpayers Union, many others, have ratings. Those individuals who lost at the polls in 1994 were the ones who were the big spenders.

This revolution started, really, back in 1980 with the election of Ronald Reagan. Of course, he did not have the support of Congress, so he could not get the things done he wanted to. I will always remember looking at television on the Wednesday morning after the election, that landslide election when Ronald Reagan won in 1980, and it was the defeated person who had run against him. He was on the "Today Show," and he made a statement I will always remember. He said, this is a quote, "I cannot believe the people of America have so overwhelmingly repudiated classic liberalism."

And that is exactly what happened. But the problem is we never were able to carry out those programs, because we had a hostile and a liberal Congress.

That is changed now. That is all changed. For all those of you are who sitting around here wringing your hands saying all these bad things are going to happen, all these people are going to be cut when, in fact, they are not going to be cut, all these horrible things we have been listening to tonight, just stop and think of it in this context:

In 1993, we passed—at that time, President Clinton had control of both the House and the Senate—and we passed the largest single tax increase in the history of public finance in America or anyplace in the world. Those are not the words of conservative Republican JIM INHOFE; those are the words of the Democrat leader of the Senate Finance Committee, the chairman at that time.

So I suggest that if anyone was opposed to that great tax increase that even now President Bill Clinton says was too great of a tax increase, if you are opposed to it, then you should be for these tax reductions now. For all practical purposes, all we are doing is repealing part of the damage we did to the American people in 1993.

So I wind up—my colleague, who I respect so much, from Minnesota, Senator GRAMS, made a talk and he ended up quoting Winston Churchill, and I think I will do the same. I can tell you folks on the other side of the aisle that the people of America know better. They do not want the patterns of the past. They realize we have to do something. Winston Churchill said: "Truth is incontrovertible, panic may resent it, ignorance may deride it, malice may destroy it, but there it is." And that is what we are going to learn tonight. I yield the floor.

THE NEED FOR PRIVACY PROTECTION

Mr. LEAHY. In the few hours I have had to review the Republicans' conference report on budget reconciliation, I have come upon another major change in law that is being enacted without study, review or open debate that can adversely affect the health care privacy of all of us.

For the past several years I have been working on legislation to improve piracy protection for health care information. This session Senator BENNETT and I have joined with a number of our colleagues from both sides of the aisle to sponsor the Medical Record Confidentiality Act, S. 1360. Just this week Senator KASSEBAUM chaired a hearing on the bill before the Labor and Human Resources Committee. That hearing brought home the fears that many have of the computerization of our medical files. That development is already underway and is part of our motivation for seeking to enact strong and effective privacy protection.

Upon seeing the conference report, I find that the Republican-dominated conference has added to the bill provisions that require the Secretary of Health and Human Services to adopt standards and data elements to make information related to health care "available to be exchanged electronically." This new section requiring the development and use of data networks is buried in section 8001 of title VIII of the budget reconciliation bill and proposes a new section 1858 to the Social Security Act.

I object to the inclusion of these provisions at this time in this manner in this bill on which debate is so drastically restricted and to which amendments are not in order. I do so because the provisions fail to provide strong and effective privacy protections.

Our colleagues from Missouri and Connecticut have introduced the Health Information Modernization and Security Act, S. 897, that seeks to legislate in this area of standardization of electronic data elements. When Senator LIEBERMAN introduced that bill he acknowledge the need to establish standards not just for accomplishing electronic transactions, but also for the security and privacy of the medical information. Similarly Senator BOND, the other original sponsor, noted in his introductory remarks that "most importantly, legislation is needed to protect the privacy and confidentiality of patient data." Their pending Senate bill references the need for privacy standards for health information to be established by regulation, and lists four principles to govern such standards.

The conference report includes no privacy protection. Privacy is never mentioned in the entire new proposed section. Business interests are protected. Trade secrets are expressly protected. The security, integrity, and confidentiality of the data is protected. But personal privacy is not. Indeed, although the section contains a definition for purposes of the section of "individually identifiable MedicarePlus and medicare enrollment information," it is never employed in the section.

What is needed before we proceed to computerize personal health care information is the enactment of strong and effective privacy protections. That is what the Medical Records Confidentiality Act, S. 1360, is intended to provide—strong and effective protections with strong criminal, civil, and administrative sanctions against those who violate our medical privacy.

The privacy interests of the American people are being disserved. Those participating in Medicare are entitled to have their privacy protected, as are we all. I urge my colleagues from both parties and both Houses to join with me and reject this effort to proceed without the necessary protections for individual privacy. This is the wrong way to proceed.

Mr. GRASSLEY. Mr. President, I rise in support of the Balanced Budget Act of 1995. Just as many thought they would never see the Berlin Wall fall, this is a day that I never thought I would see—the U.S. Congress passing a balanced budget that uses realistic economic assumptions, not rosy scenarios.

Over a year ago, Republicans campaigned to balance the budget and cut taxes. The American people have become justifiably cynical about politicians making promises to get elected. Well, this budget can be summed up in one phrase: promise made, promise kept.

The Balanced Budget Act keeps our commitment to the American people; we do balance the budget. And only after the nonpartisan Congressional Budget Office certified that the Republican plan achieves a balanced budget did we turn to providing working families tax relief.

And let's be clear, in 1996, 88 percent of the tax cuts will go to families earning under $100,000, 72 percent to families earning under $75,000.

These tax cuts are targeted to help families with a $500 per child tax credit, a tax credit to help families meet the costs of adoption and relief from the marriage penalty.

These tax cuts will also help family farms and small businesses by reducing the estate tax and lowering capital gains.

Republicans promised tax relief for working families and we have delivered.

Mr. President, while Republicans have kept their promises to the voters, President Clinton seems to want to forget the promises he made. His alternative is to "just say no." He stated that he would balance the budget in 5 years, then he said 7 years, then 10 years. He has done more flips and flops than a flapjack.

Now President Clinton is going to veto the continuing resolution that simply states that the Congress and the President should agree to reach a balanced budget in 7 years based on realistic economic assumptions. It doesn't say how that should be reached, just that a balanced budget should be the goal.

I should note that several Democrats in both the House and the Senate voted for this commonsense continuing resolution calling for a balanced budget in 7 years. They are sincere in wanting a balanced budget. My hope is that more conscientious Democrats will join this bipartisan effort for a balanced budget.

However, my concern is that still too many of my colleagues are like the old man who says: "How do I know what I think, until I've heard what I've said." Likewise, many in Congress don't know how to vote until they hear from the White House. I encourage my colleagues to put the people of this country first, before the shortsighted partisan politics practiced by the White House.

Mr. President, the American people are beginning to realize the White House is engaging in gamesmanship instead of statesmanship. The great Republican President, Abraham Lincoln was certainly right, "You can't fool all the people all the time." This administration is going to learn this lesson the hard way.

My mail is now running four-to-one in favor of Republicans standing firm to their commitments for a balanced budget and tax relief for working families. The phone calls are overwhelmingly in favor of the Republicans effort to preserve Medicare and reform the current disastrous Great Society Welfare programs—both part of this Balanced Budget Act of 1995.

In talking to my colleagues they are finding the same reaction. The American people are listening and considering what is being done here in Washington. And they are supporting Republican efforts to keep the promises made to the voters last fall.

And why is public opinion shifting? The sad truth is becoming clear to Americans—President Clinton has no interest in balancing the budget. President Clinton's top interest is appeasing the special interests that still control the Democratic Party.

And what do these special interests want? They want to spend more, more, and more of the taxpayers' money. The special interests don't want a balanced budget and tax cuts for working families, that would mean less money for them to spend.

It seems the White House is completely captive to the special interests. They still believe that big government should dictate how to spend the taxpayers' money instead of families making the decisions. I thought President Clinton said he got the message from the November elections. Unfortunately, it appears he was listening to the special interests instead of the public interest.

Mr. President, this is a momentous vote. This is a vote for a real future for our children and grandchildren. For a stronger more productive economy. It is a vote to preserve Medicare and reform welfare.

I urge all my colleagues to stop listening to pollsters and the special interests who are running the White House and instead of listening to the American people who want us to keep our promises, to not break faith, and to pass the Balanced Budget Act of 1995.

Mr. President, I now want to briefly highlight a few specific provisions that I am particularly pleased are incorporated in the 1995 Balanced Budget Act.

First, is the new student loan interest deduction. I have long fought for the appropriate national investment in education. Once again the United States is investing in the minds of its people in addition to the fixed assets of its businesses.

Mr. President, we also promised more choices in health care for Medicare beneficiaries. The Medicare reforms contained in this bill are going to make that possible. It is also going to be good for my State of Iowa.

Medicare is now going to reimburse for health care services much more fairly in Iowa than has been the case in the past. We have greatly increased the Medicare per capita payments that will be made in Iowa in the coming years.

This action is going to give our Medicare beneficiaries in Iowa more health care choices than is presently the case. We have also narrowed the variation in Medicare's reimbursement from one area of the country to another, so that there will be greater equity in the use of our hard-earned tax and premium dollars.

I also want to point out that we have secured a number of very important health provisions which are going to help preserve the rural health infrastructure in Iowa:

The bill includes legislation I introduced earlier this year to restart the Medicare Dependent Hospital Program. This is going to provide greater financial support for at least 29 small rural hospitals around Iowa.

In addition, this bill includes my legislation to reform the Medicare reimbursement for physician assistants and nurse practitioners which will also help improve access to primary care services in rural Iowa.

These are just a few examples of the many good provisions in the Balanced Budget Act of 1995, and underscore the importance of passing this historic legislation.

REGARDING ENVIRONMENTAL ISSUES

Mr. WELLSTONE. Mr. President, the reconciliation bill now before us contains a number of provisions that are poor policy, that are unfair to those least able to defend themselves and that consider only short-term gain and not long-term loss. This is very clear from reading the Energy and Natural Resources provisions. As a member of that committee I can tell you that this reconciliation bill contains many provisions that are just plain poor energy policy, poor environmental policy, and cynical politicking.

Opening the Arctic Refuge to drillings is one such provision. The Arctic Refuge is one of the last pristine wilderness areas left in America. It contains the Nation's most significant polar bear denning habitat on land, and supports 300,000 snow geese, migratory birds from six continents—some of those birds even make it to my State of Minnesota—and a concentrated porcupine caribou calving ground.

Despite our uncertainty about the effects oil drilling would have on the animals, there are those who continue to push for oil drilling without an updated environmental impact statement [EIS] as required by current law. An EIS has not been done since 1987 and even that one was not sufficient back then. We just don't know what drilling would to the Arctic Refuge, and barreling ahead with drilling is just poor environmental policy.

Further, the Gwich'in people have relied on those porcupine caribou for thousands of years to provide their food and meet their spiritual needs. I have heard them speak very eloquently and directly about what oil drilling in the Arctic Refuge would do to their way of life. People like the Gwich'in want to save the environment. But they are not the big oil companies. They do not have the money. They do not have the lobbyists, and they do not have the lawyers here every day. In today's Washington environment, that seems to mean that their concerns are less important than the concerns of big industry.

Even if whatever amount of revenue gained were somehow worth destroying this unique land and the lives of the Gwich'in, there are a number of questions regarding whether the Arctic Refuge has oil, how much it has and what the cost would be to retrieve it. Estimates are broad and disagreements are rampant. Even I, a nonscientist, know one thing for certain: there is no way to tell how much revenue can be gained from drilling in the Arctic Refuge. New information, however, suggests previous figures overestimated possible revenue.

A second example of poor policy and a huge giveaway to oil and gas companies is the royalty holiday for oil and gas drilling in the Outer Continental Shelf. Oil and gas companies lease drilling rights in the Gulf of Mexico from the Federal Government. Companies pay for the leases and must also pay royalties on their production because the oil and gas is a public resource. The reconciliation bill contains a provision that would give companies a holiday from paying those royalties. Because the leases will be considered more valuable by companies if they don't have to pay royalties on the production, the CBO says that the Government will be able to sell the leases at a higher price and thus the royalty holiday will make money.

That is all smoke and mirrors. Friends of the oil and gas industry in Congress have taken advantage of the fact that the budget process looks only at whether provisions make money in the first 7 years. The royalty holiday is expected to save the Federal Government $130 million in the first 7 years. This short-term savings allows us to say that we have taken a step toward balancing the budget.

But when the short-term election year politicking ends, the other shoe will drop and it will drop hard. In the long-term, the Congressional Budget Office estimates that this royalty holiday will cost $550 million in lost receipts over 25 years. Thus, while the royalty holiday means short-term gain, it also means long-term pain.

The royalty holiday is a clear example of corporate welfare at the expense of the Federal budget. In these times of belt-tightening and difficult choices about priorities, we can and must do better.

Some have said that the royalty holiday is needed to help persuade an ailing industry to take part in a risky venture. However, an article in the October 24, 1995, Wall Street Journal reports that oil companies, "* * * registered robust third-quarter earnings," and "* * * reported a surprising gush of profits." Further, an October 30 Business Week article states that new technologies, "* * * cut the cost of deep-sea production."

I cannot stand by and watch the destruction of safety nets that protect our elderly, our children, and our most needy while at the same time providing a huge giveaway for an industry that just doesn't need it. The provisions I have mentioned are but two examples of the incredibly irresponsible environmental policy in this reconciliation bill.

Our natural resources are among the most important things we can leave to these future generations. Our children and our grandchildren deserve more than what this bad energy policy, bad environmental policy, and shortsighted politicking would leave them. I will continue to speak for all Minnesotans, for their sense of fairness and equity and for their love and concern for the environment. I urge my colleagues to join me.

Mr. McCAIN. Mr. President, I want to commend the hard work of all my colleagues in producing this legislation. Although there are parts that do concern me, in general I strongly support this bill and the goal of balancing the budget in 7 years.

As one of the Senate Commerce Committee members who drafted title IV of the Senate bill and served as a conferee for this section of this legislation, I want to clarify for the RECORD what I believe is intended by this bill regarding spectrum auctions.

Under the bill, the Federal Communications Commission [FCC] is mandated to identify and make available for public auction 100 Mhz of spectrum. I believe that auctioning this and other spectrum is the fairest, most equitable manner in which to allocate spectrum. I would hope that the Commission would understand this fact and become spectrum auction proponents. The auctioning of spectrum in an orderly manner—done so that the public interest is served both by maximizing revenue to the Treasury and ensuring that services that use the spectrum continue in a manner that benefits the public—should be a goal of all FCC proceedings regarding the spectrum.

The bill before the Senate contains several criteria that the FCC should use in selecting which blocks of spectrum to auction. I want to emphasize for the RECORD that the inclusion of any particular criteria for the FCC to consider should not be viewed as limiting the Commission's authority to make a determination under its overall public interest standard of what existing spectrum uses may need to be continued, or from considering in making its decision the impact on any existing users of having to move to other frequencies or from requiring, as a condition of any move, that the costs of relocation be paid by new users.

Most importantly, I urge the Commission to examine all the spectrum referenced in this act and make determinations as to its allocation that are fair, equitable, and that do not unduly hurt or burden any one group or industry.

Mr. President, I hope this clarification helps guide the FCC as it moves toward auctions as mandated by this bill.

TAX CUTS IN RECONCILIATION CONFERENCE REPORT

Mr. FEINGOLD. Mr. President, I rise to express my opposition to the conference agreement on the reconciliation package, and to take particular exception to the tax cuts in that package.

Mr. President, there is a great deal to dislike in the agreement, especially with respect to Medicare and Medicaid.

The majority of the debate surrounding the reconciliation has concerned these two programs, and the cuts to those programs certainly merit the attention they have received.

Much has been said already about the Medicare and Medicaid cuts: cuts that put the most vulnerable in our society at risk; cuts that are unnecessary to balance the Federal budget deficit.

But there is little doubt that these cuts were made as a direct result of the need to fund the $245 billion tax cut.

Mr. President, the advocates of the reconciliation measure call the tax cut the crown jewel of the Contract With America.

Indeed, it is the $245 billion tax cut that drives the entire reconciliation package.

The assurances of health care coverage for the low-income, frail, elderly, disabled, pregnant women, and children—both now and in the future—has been mortgaged to pay for tax cuts.

Mr. President, though I am persuaded that the nearly half a trillion dollars in cuts to Medicare and Medicaid have been made in order to fund the tax cut, some of our colleagues may take issue with that characterization.

They maintain that there are other reasons to take nearly half a trillion dollars out of our health care system.

And, some who make that argument may even believe it.

But, Mr. President, for those who do believe that argument, there is still no defense for the fiscally irresponsible tax cuts that are included in the reconciliation agreement.

Indeed, if one believes that these massive cuts are necessary in order to achieve a balanced budget, then there is no justification for supporting the $245 billion tax cut that risks achieving that balance.

Mr. President, I have argued on a number of occasions that the budget plan outlined in the reconciliation measure is unsustainable.

In part, this comes from the refusal to deal honestly with the American people, arguing, for example, that the $270 billion in cuts to Medicare are necessary to keep the Medicare trust fund solvent.

Of course, that is nonsense.

But the architects of this tax cut felt it necessary to spin this story in order to produce the cuts needed to fund the tax cut.

Regrettably, the failure to be straight with the American people does more than undercut this extreme proposal.

This deception will make it much more difficult for those of us who are willing to support some reasonable reforms to make our case to the Nation that we need to make changes to Medicare not only to keep the program solvent, but also as a matter of deficit reduction.

Mr. President, beyond the issue of deceiving the public, this budget plan is also unsustainable because its priorities are unbalanced.

A budget plan that increases Defense spending, allows special interest loopholes to continue to grow unchecked, cuts taxes by $245 billion, and does all of that while gutting our health care protections is a budget plan that does not reflect anything close to the mainstream view of the Nation.

The priorities reflected in this budget are extremist, and the Nation simply will not support their ongoing implementation over the next several years.

This plan will not survive its full 7-year lifetime.

And I suspect, Mr. President, that it is not intended to survive those 7 years.

The biggest cuts come in the latter years, sufficiently far off to allow panicked State governments to lobby for the overturn of the brutal cuts that are scheduled to descend in 2002—25 percent of the total cuts in the Senate passed bill occur in that year alone, 46 percent in the last 2 years.

Mr. President, some who support this measure may believe in the brave new world it conceives.

But there are others who support this measure who do not hold that view.

They understand that this budget is unsustainable over the full 7 years.

They may even hope that someone or something will rescue us from that last years of this budget.

But if their goal is not the dawning of a new order, what is their purpose in supporting this measure?

Mr. President, their goal is not a balanced budget.

Their goal is a fiscally irresponsible tax cut.

How else can this bill be explained?

How else can one explain a $245 billion tax cut in a bill that provides for annual deficits that add $700 billion to our Federal debt?

If balancing the budget were their highest priority, there would not be a $245 billion tax cut in the reconciliation package.

Mr. President, supporters of the reconciliation measure had the opportunity to demonstrate that balancing the Federal books was a higher priority than providing a $245 billion tax cut.

The senior Senator from West Virginia [Mr. BYRD] and I offered an amendment to the reconciliation bill during our limited debate that did nothing but strike the tax cut, lowering the bill's cumulative deficits by $245 billion.

Mr. President, the change to the bill by that amendment alone would have balanced the Federal books in 2001, a year before the underlying measure.

Only two of the Members who supported the reconciliation package also supported that amendment.

Balanced budget, Mr. President?

If supporters of the reconciliation measure really wanted to balance the budget, they would have supported that amendment.

Their failure to do so is clear evidence that the $245 billion tax cut, not a balanced budget, is their highest priority.

If the $245 billion tax cut were not the priority of the reconciliation bill, we would not see the $450 billion cuts to Medicare and Medicaid.

If the $245 billion tax cut were not the priority of the reconciliation bill, we would not have seen the tortured, and even dangerous precedents set on this floor during the reconciliation debate through rulings from the Chair on what can only be called highly questionable parliamentary interpretations of budget points of order with respect to Social Security.

Senate rules prevent a fuller discussion of those events.

It is enough to say that the question need never have come up.

We need never have risked damage to the integrity of our rules had there been a willingness to pare back this unjustifiable tax cut to 95 percent of its proposed level.

The $12 billion raid on the Social Security trust fund, and the carefully scripted parliamentary exchange used to subvert our budget rules, was made necessary because of an unwillingness to lower the tax cut by so little as 5 percent.

Mr. President, I understand that the conference committee found a different source of funding, making the raid on the Social Security trust fund unnecessary.

But the damage is done.

In an effort to protect the tax cut at all costs, a critical budget rule has been weakened.

Though the $12 billion may have been restored to the trust fund, the integrity of the Senate's budget rules has been compromised.

This is not the first assault on our budget rules in the name of cutting taxes.

I am reminded in particular of the so-called dynamic scoring debate, a back-door attempt to circumvent our budget procedures—again, done in the name of cutting taxes.

Mr. President, in the name of cutting taxes, the extremists will deceive the public, compromise our budget rules, slash health care protections for the most vulnerable in society, and forsake efforts to balance the Federal budget.

Mr. President, this budget is extreme.

And the driving force behind its excess is the $245 billion tax cut—a tax cut that apparently is timed to be mailed out only days before the 1996 elections.

Those who want to understand this reconciliation package need look no further than the tax cuts.

All other provisions flow from the assumed tax cuts.

All the actions surrounding the measure flow from the assumed tax cuts.

As I have noted, some who support this budget may actually endorse the measure's extremism.

Others support it in spite of its extremism.

But make no mistake.

Those who endorse the extreme provisions in reconciliation and those who back the measure in spite of them, support the bill primarily as a vehicle to cut $245 billion in taxes.

The fiscally irresponsible tax cut is the essence of this measure and it infects the entire package.

I urge the President to veto this measure, so we can begin putting together a budget plan that will balance our Federal books by 2002 or sooner.

A budget plan that will have enough public support to ensure that it will be sustained for the full duration.

A budget plan that includes cuts to Medicare and Medicaid, but a plan that cuts smart, not one that cuts mean.

A budget plan that distributes the burden of reducing the deficit fairly.

One that includes the defense budget as well as our health care budget.

One that includes one of the most rapidly growing areas of our Federal budget—tax expenditures.

A budget plan that does not include the fiscally reckless $245 billion tax cut that jeopardizes our most important economic goal, a balanced Federal budget.

Mr. President, I yield the floor.

CHAPTER 4—FEDERAL OIL AND GAS ROYALTIES

Mr. MURKOWSKI. Mr. President, the Federal oil and gas royalty chapter in the Balanced Budget Act is the only legislative initiative taken in the last 13 years to cost-effectively increase the Nation's third largest source of revenue—mineral royalties from Federal lands, more specifically, oil and gas royalties. This legislation would establish a comprehensive statutory plan to increase the collection of royalty receipts due the United States. These mineral receipts will help reduce our budget deficit. Without this legislation, an ineffective and costly royalty collection system will continue, perpetuating long delays and uncollected royalties.

Let me make absolutely clear, Mr. President, that this legislation does not apply to Indian lands. It applies only to royalties from oil and gas production on Federal lands.

This is historic legislation, Mr. President, in that it would empower States to perform oil and gas royalty management functions, such as auditing and collecting, that are essential to bringing additional receipts to the Treasury and the States within a 6-year limitation period established by this legislation. By expanding the States' role in performing Federal oil and gas royalty management functions consistent with Federal law and regulation, States are provided a great economic incentive that also benefits the Federal Treasury. The more aggressive States are in performing delegated functions, the greater their share of net receipts under the Mineral Leasing Act. That act requires 50 percent of all royalties from Federal onshore oil and gas production to be shared with producing States.

Chapter 4 establishes a framework for the Federal oil and gas royalty collection program that will bring in an additional $51 million in revenues to the U.S. Treasury and provide an additional $33 million to the States over 7 years. These additional receipts result primarily from: First, Requiring the Secretary of the Interior and delegated States to timely collect all claims within 6 years rather than allow the claims to become stale and uncollectible; second, requiring early resolution and collection of disputed claims before their value diminishes; third, requiring Federal and State resources to be used in a manner that maximizes receipts through more aggressive collection activities; and fourth, increasing production on Federal lands by creating economic and regulatory incentives. Without the statutory framework of this legislation, the Nation's third largest revenue source—the Interior Department's Minerals Management Service is the third largest source of revenue behind the IRS and Customs Service—will continue to be subject to greatly delayed collections and the risk of reduced receipts due to noncollection over time.

To achieve the goal of maximizing collections through more timely and aggressive collection efforts, this legislation would do the following specific things. It would require the Secretary, delegated States, and lessees to take action respecting an obligation within 6 years from the date that obligation became due. The provisions require that judicial proceedings or demands—for example, orders to pay—be commenced or issued within 6 years of the date when the obligation became due or be barred. Use of legal authority other than that provided in this section—for example, the Debt Collection Act—is not precluded so long as judicial proceedings or demands are commenced or issued within the 6-year period. It is not intended that such other legal authority be used as a substitute for, or to circumvent, emasculate or otherwise frustrate, the 6-year limitation period. Lessees would be required to maintain their records during the 6-year period in order to verify production volumes.

The legislation would expedite the administrative appeals process at the Interior Department by establishing a 30-month limitation on appeals. Presently, over $450 million in disputed claims languish in a bureaucratic appeals process and continue to lose value. By speeding up the appeals process, the Secretary would increase the value of these obligations and collections to the Treasury.

The legislation also would level the playing field for royalty payors by authorizing the payment of interest on overpayments. Present law requires lessees to pay interest on late payments and underpayments as a disincentive for being tardy or underpaying royalties, but does not compensate lessees who overpay royalties and who lose the time value of that money through some legitimate error. This legislation would provide for payment of interest on overpayments without regard to the amount of the overpayment.

And finally, Mr. President, the legislation would authorize the Secretary to allow prepayment of royalties and to provide other regulatory relief for marginal properties, and require that adjustments or requests for refunds for underpayments or overpayments be pursued within a 5-year window coinciding with the 6-year limitation period.

Mr. President, CBO estimates that chapter 4 provisions will procure savings of $6 million in fiscal year 1996, $40 million in 5 years, $51 million in 7 years, and $66 million in 10 years. We believe this legislation will do more than simply bring receipts to the Government earlier than they would arrive under the present system, Mr. President. We believe a more efficient, effective, and aggressive program, combined with some of the economic incentives and regulatory relief, will bring new savings to the Treasury and the States. Because of these savings, the provisions in chapter 4 are an important part of the Balanced Budget Act of 1995.

SECTION 1107

Mr. CRAIG. Mr. President, I rise to engage in a colloquy with Senator LUGAR, the distinguished chairman of the Committee on Agriculture, Nutrition and Forestry, regarding section 1107 of the bill.

Mr. LUGAR. I would be pleased to engage the Senator from Idaho in a colloquy.

Mr. CRAIG. Is it your understanding that section 1107 of the bill reforms the Federal Sugar Program by imposing a forfeiture penalty which effectively reduces the loan level for sugar by 1 cent per pound, eliminating domestic sugar allotments that control supply, conditionally authorizing the use of recourse sugar program loans, and increasing the contributions of sugar producers toward deficit reduction by increasing the assessments on sugar marketings by 25 percent?

Mr. LUGAR. The gentleman is correct, the reforms in section 1107 will result in more competitive sugar prices, enhanced Government revenues, and the potential for increased sugar imports.

Mr. CRAIG. Mr. Chairman, as a conferee for the Senate on section 1107 of the bill, it is my understanding that the conferees have agreed to include language in subsection (d) of section 1107 that will reform the Sugar Program by authorizing, for the first time, the Secretary of Agriculture to administer the program through the use of recourse loans, subject to specific conditions. If implemented, the use of recourse loans is a major reform from the nonrecourse loans that have been used to support the prices of all basic farm program commodities in this century. The conferees authorized the use of recourse loans for the Sugar Program only subject to specific conditions outlined in section 1107(d) of the bill. Is this your understanding as well?

Mr. LUGAR. The gentleman is correct. Section 1107 conditionally authorizes the Secretary to depart from current practice and use recourse loans to administer the Sugar Program. Section 1107(d)(2) conditions the use of recourse loans on the requirement that the Secretary provide nonrecourse loans in the event that the tariff rate quota for imports of sugar into the United States is established at, or increased to, a level in excess of 1.5 million short tons of sugar in any year. It is the clear intent of the conferees that if the subsection (d) conditional authorization for the use of recourse loans to administer the Sugar Program, or the restrictive conditions on the use of such authority in paragraphs (2) and (3) of subsection (d), is removed from the bill, the Secretary of Agriculture shall continue to administer the Sugar Program through the use of nonrecourse loans authorized under subsections (a) and (b).

MEDICAID PAYMENTS TO INDIAN HEALTH SERVICE FACILITIES

Mr. PRESSLER. Mr. President, I would like to discuss several important Medicaid provisions in the Balanced Budget Act that will have an impact on my home State of South Dakota.

The Medicaid reform proposal, as contained within the Balanced Budget Reconciliation Act, would maintain current law that requires the States to pass through to Indian Health Service facilities funding from the State's federal Migrant allotment. For a State such as South Dakota—with 37 percent of its Medicaid beneficiaries being Native Americans—this creates a highly problematic situation. Let me explain. Presently, the IHS budget is funded at an amount less than actual need. To deal with this shortfall, Federal funds have been made available through State Medicaid programs. As my colleagues know, the proposed Medicaid reform provisions would cap Federal Medicaid funds to the States. As a result, States with IHS and significant Native American populations facilities would be forced to use limited Federal funds to supplement the intentional shortfalls in the IHS budget, which could limit Medicaid service availability to Medicaid eligible Native and non-Native Americans. To compensate, States may need to limit payments to IHS facilities to conserve Federal dollars, or utilize limited State resources to make up shortfalls for non-Indian people. In short, the Medicaid reform proposal would unfairly single out those States—37 in all—with a significant Indian population.

The majority leader has requested from me and the Governor of my State suggestions as to how we may rectify this situation. I believe three possible solutions exist: First, the creation of a separate tribal allocation equal to ½ of 1 percent of the budget for the new Medicaid Program that would assure reimbursement for services to Native Americans through their Indian health programs. This allocation could be provided either through a direct billing mechanism between the tribes and the Federal Government, or through the current pass-through structure. Second, a repeal of the current Federal statute that requires States to serve as a pass through for IHS Medicaid funds. This would release States of what I believe to be an improper involvement in the special relationship that exists between the Federal Government, the Indian Health Service and Native American citizens. This repeal would require the establishment of a direct billing mechanism to satisfy existing requirements of 100 percent Federal reimbursement; or third, to satisfy those States desirous of maintaining current law, a structure that would allow States the option to either continue serving as a pass through, or to insist on a direct Federal-tribal relationship.

Mr. President, at issue is the increased flexibility we promised our Nation's Governors in return for their acceptance of a revised Medicaid funding formula. Obviously, maintenance of the current system would severely hamper the flexibility of States with significant Native American populations. Two factors are involved: A capped Medicaid grant, and a 100-percent Federal reimbursement requirement for Medicaid eligible Native Americans. Without additional Federal funds under the current system, or a direct Federal-tribal billing system, the result will be added pressure on States to use its own funds to maintain services for Medicaid eligible non-Indians. The majority leader has indicated his interest and support for finding an appropriate solution. Unfortunately, this issue was left unresolved prior to the completion of conference. On behalf of the numerous Senators and Governors who have contacted the majority leader on this issue, it is my hope we will find a fair solution once the President vetoes this legislation.

Mr. President, I see the senior Senator from Alaska on the floor. I know my colleague shares my concerns regarding the current Medicaid reform proposals and would yield to him to make any comments on this subject.

Mr. STEVENS. I thank my friend from South Dakota. Mr. President, I share Senator PRESSLER's concerns regarding funding for Medicaid services provided to Indians and to Native Alaskans. In Alaska, approximately 35 to 40 percent of Medicaid recipients are Native Alaskans.

In the past, the Federal Government has paid 100 percent of the costs of Medicaid services delivered to Alaska Natives in Indian Health Service facilities. The State of Alaska acted only as a conduit for these funds. I understand that the proposed MediGrant Program would continue to require that health services provided to eligible Alaska Natives in IHS facilities as well as tribally owned or operated facilities be paid 100 percent by the Federal Government. In light of funding shortfalls for the Indian Health Service, IHS facilities in Alaska depend on these third-party payments from the Medicaid Program to meet their expenses.

However, under a capped MediGrant Program, Alaska may be faced with a Hobson's Choice of either cutting back on payments to Native facilities or being forced to cut back on payments for services to poor non-Native Alaskans. This could easily lead to racial tensions in Alaska which we all work very hard to avoid.

I would like to add my voice to that of my colleague from South Dakota in urging your continued cooperation in finding an equitable solution to this problem.

Mr. PRESSLER. Mr. President, I see the distinguished majority leader on the floor and I would like to yield to him to make a brief statement regarding Medicaid payments made to Native American health programs serving Medicaid eligible native Americans.

Mr. DOLE. Mr. President, I recognize the importance of this issue to South Dakota, Alaska, and other States with significant native American populations. I have had a number of recent conversations with my colleagues from South Dakota and Alaska. I also heard from the Governor of South Dakota. They have made me aware of the impact this issue may have upon their

States. The Senators from South Dakota and Alaska have my assurance that I will continue working with them to find a solution to this complex issue.

Mr. PRESSLER. Mr. President, I thank the majority leader and my friend from Alaska. I appreciate the majority leader's consideration of our request and look forward to working with him on this matter of great importance to South Dakota, Alaska, and all other States with significant native American populations.

DAIRY PROVISIONS IN RECONCILIATION REVEAL HYPOCRISY

Mr. FEINGOLD. Mr. President, during this budget debate, it became quite clear that Republican's rhetoric about less Government, less regulation, less spending, and the end of business as usual, cannot stem their rush to pass this particular budget package, regardless of the contents of the package. The hypocrisy of that rhetoric was revealed during these debates, when Republicans began abandoning not only their own rhetoric, but also members of their own party in an effort to pass a budget.

Mr. President, I am talking about the sequence of events that have occurred both in this Chamber and the House of Representatives on dairy policy. Actions of the Republican leadership are more significant for what they didn't do than for what they did do on dairy policy. What does this budget reconciliation bill before us do on dairy policy? Nothing, Mr. President, absolutely nothing. No savings, no reform, and clearly no courage to make the tough calls.

This is inexcusable during a year in which this budget bill represents the vehicle for major reform of all agricultural programs. Dairy policy, and specifically, the Federal milk marketing order system is badly in need of reform. Federal milk marketing orders are an antiquated, overly regulatory system of setting milk prices throughout the country and determining where, when, and how milk should be shipped. The system sets minimum milk prices artificially high in many parts of the country at a significant cost to both taxpayers and consumers, and to the extreme disadvantage of dairy farmers in Wisconsin and throughout the Upper Midwest, where fluid milk prices are the lowest by law. The system has distorted the market resulting in perverse economic incentives for overproduction in a sector for which the slightest oversupply can send farm-level prices plummeting.

This budget bill presented an ideal and unique opportunity to both reform Federal milk marketing orders, reduce regulation and save millions in taxpayer dollars. Eliminating Federal orders while leaving a basic support system in place would have saved $669 million over 5 years, which is only about $100 million shy of the conference committee target for dairy. Instead of taking the route of terminating this system and letting the market work, the Republicans dropped the $800 million in savings the conference committee was to achieve from dairy.

But, Mr. President, nothing was done, no changes were made. We are left with the status quo—the status quo that the leaders of the so-called revolution had made a commitment to end. "We are going to end business as usual"—that is what the Republicans told the American people.

Well, it is business as usual, Mr. President.

That was pretty clear when the Senate took up dairy late last month. The Senate version of reconciliation not only did nothing to eliminate the inequities and regulatory burdens of Federal milk marketing orders, but actually provided for more Government regulation, more market distortion and more regional inequities. During floor action, Senators approved legislation imposing a hidden tax on dairy farmers throughout the Nation for the benefit of a few west coast States—known as class IV pooling. The Senate also approved the northeast dairy compact which was astonishing in this political climate. Some of the very Members of this body who have been decrying the consumer costs and excessive Government intervention imposed by the sugar and peanut programs, not only voted to impose a milk tax on New England consumers but also to allow six States to set minimum milk prices well above that allowed under current law.

The House, after seeking some reform compromise on Federal orders, ultimately voted to eliminate them. That was certainly the wiser of the two courses, and an approach, which I ultimately endorsed following the Senate's ill-conceived actions. The Upper Midwest is harmed so badly by Federal orders, that in the absence of reform, they prefer a completely unregulated market to an overregulated one.

Despite the efforts of those of us from the Upper Midwest to reform Federal orders and despite the months of effort by Congressman GUNDERSON, a Republican and chairman of the House Subcommittee on Dairy Policy, to terminate the program when reform efforts failed, the Republican majority took a walk on dairy policy. Congressman GUNDERSON worked hard to set dairy policy right. Unfortunately, in the end when it counted, Speaker GINGRICH decided that political expediency was more important than supporting his chairman's package. The Republicans have abrogated their responsibilities on a tough issue.

House Speaker NEWT GINGRICH indicated that reform of Federal Orders would be high on the Republican agenda following Thanksgiving. However, given that Speaker GINGRICH was willing to forgo $800 million in budget savings in order to avoid a fight in his own party on dairy policy, I am highly skeptical that his commitment to reform is terribly strong.

Mr. President, I have always said there are three avenues to restoring fairness to Wisconsin farmers: judicially—by bringing legal actions against the Department of Agriculture; legislatively—which now seems unrealistic; and administratively—through the Secretary of Agriculture's vast rulemaking authority.

Several months ago, Secretary of Agriculture Dan Glickman accepted my invitation to participate in a barn meeting with dairy farmers in Greenleaf, WI. Having spent an hour and a half listening to dairy farmers, Secretary Glickman conceded that indeed Federal orders discriminate against the Upper Midwest to the benefit of dairy farmers in other parts of the country and that fluid milk prices set too high in some regions encouraged overproduction.

While I have long been skeptical of the ability of the Department of Agriculture to do the right thing with respect to orders, I think the dairy farmers of Wisconsin have in Dan Glickman a Secretary who has at least been willing to admit our farmers have been justified in their cries of "foul." Previous Secretaries have failed in their duties in that respect.

So, today I am calling on Dan Glickman to do what Congress apparently cannot—make the changes to this antiquated program that the farmers of Wisconsin so deserve. I hope, and feel confident, that Dan Glickman has the courage that the Republican leadership lacks on this matter.

I would put my colleagues on notice, however, that I am not willing to give up the fight in this Chamber. This battle for fairness is not over. And, Mr. President, if Members are not willing to compromise to achieve reform, I will seek the termination of Federal milk marketing orders.

Mr. SMITH. Mr. President, it is now or never time in the economic history of our country. At the end of this year, our national debt will exceed $5 trillion. We are adding to the debt at the astonishing rate of $9,600 per second. As I speak, every man, woman, and child in America is more than $18,000 in debt. There is little doubt that a crisis is at hand. The only question remaining is: Will the Congress and the President of the United States step up to the plate and solve the problem?

The Balanced Budget Act of 1995 before the Senate today is the congressional answer to our crushing debt problem. It may not be the final answer, it may not be the perfect answer, but it is the only answer put forth thus far. President Clinton has never submitted a balanced budget to Congress, and has made it clear that he never will. In fact, as the ongoing Government shutdown shows, the President would rather close the Federal Government than agree to balance the budget. Clearly, President Clinton does not have his priorities straight.

Over the past several weeks, we have heard vicious attacks on the balanced budget bill that is before the Senate today. The Republican balanced budget has been called "immoral" and "irresponsible." The American people have been warned of "devastating" cuts in spending. To the casual observer, it might appear that the sky is about to fall. The truth, however, is quite different. In fact, the budget before the Senate today is the only chance to save our country from an immoral, irresponsible, and devastating future.

Mr. President, if there was an easy solution to our fiscal problems, you can rest assured that Congress would have found it long ago. I do not agree with every provision in the bill before the Senate. If I could pick and choose, there are many priorities that I would change. On the balance, however, I think the product is a good one because it gets the job done. There are no smoke and mirrors, just a solid balanced budget using solid economic assumptions. I would like to commend Senator DOMENICI for his leadership and hard work on this bill.

The bill before the Senate will balance the Federal budget in 7 years. That fact has been certified by the Congressional Budget Office. The budget will save Medicare from bankruptcy, and strengthen and protect the program for future generations. The legislation completely overhauls our broken welfare system. It transfers power away from Washington bureaucrats and returns it to State and local officials.

The benefits of a balanced budget far outweigh any temporary pain. The Congressional Budget Office estimates that a balanced budget will result in a reduction of long term interest rates of approximately 2 percent. On a typical student loan, that reduction would save American students $8,885. On a typical car loan, it would save the consumer $676. On a 30 year, $80,000 mortgage, lower interest rates would save the homeowner $38,653 over the life of the mortgage.

Mr. President, the Senate bill also provides significant tax relief to American families. I know that many of my colleagues have expressed disdain at the idea of cutting taxes. Apparently, they find it offensive to let American taxpayers keep more of their hard-earned money. I would ask, is it offensive to provide a $500 per child tax credit? Is it offensive to create a tax credit for adoption expenses? Is it offensive to provide a tax credit for interest paid on a student loan?

I certainly do not think so?

The critics of tax cuts think Members of Congress can spend money better than a family of four in Berlin, NH, or Cleveland, OH, or Atlanta, GA. I would respectfully disagree. The only way to limit the size and scope of the Federal Government is to limit its source of energy. The Federal Government is fueled by taxes. Simply put, the more Uncle Sam collects in taxes, the more Uncle Sam will spend. In 1993, President Clinton raised taxes on the American people by $250 billion. He wanted to expand the Government. In 1995, the Republican Congress proposes to reduce taxes by $245 billion. We want to shrink the Government.

Mr. President, I have held a good many town meetings in New Hampshire to talk about the budget, taxes, welfare reform, and Medicare. Often, when I say that Congress intends to balance the budget in 7 years, my constituents ask why we are waiting that long! It is a difficult question to answer. There is no danger in going too far, too fast, as many would have us believe. The real risk to all Americans is the risk that we will not get the job done.

I have waited 10 years for the opportunity to vote for a balanced budget. The time for waiting is over and the time for acting is now. This budget is bold; it is real, and it stands alone as the only solution to our Nation's fiscal problems. I urge my colleagues to support the Balanced Budget Act of 1995, and I urge the President to sign the bill into law.

"MIDNIGHT IN AMERICA" AND BUDGET PRIORITIES

Mr. KENNEDY. Mr. President, I rise today to call the attention of my colleagues to an excellent recent opinion column by Jamie Stiehm distributed by New America News Service/New York Times Special Features. The column, entitled "Midnight in America," describes the Senate passage of the Budget Reconciliation bill last month, and is especially timely now as the Senate continues to debate the Republican budget plan. As the column makes clear, the true debate is about fundamental American priorities and the kind of country America will be in the years ahead. I believe Ms. Stiehm's column will be of interest to all of us in Congress, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

"MIDNIGHT IN AMERICA"

(By Jamie Stiehm)

[From the New America News Service/New York Times Special Features]

Now that the O.J. Simpson trial and the World Series are over, maybe America can pay attention to another show—and what a show it is on the floors of the House and the Senate.

Not all revolutions have to happen in the streets. Nor do all revolutionaries look like Lenin. The one we're having right now is something we can see on C-SPAN and arose largely as a result of apathy, not action, on the part of the American electorate, most of whom forgot to vote last fall.

So what we have here is a character named Newt changing the course of a perfectly nice country, while most of its citizens weren't even watching.

Make no mistake, this is no budget business as usual. The manner, means and contents of the enormous budget bill passed by Congress—just as the clock struck midnight on the Senate side—are like nothing its members have seen, done or dreamt before.

First, the idea of allowing 30 seconds of debate on both sides of some amendments might seem strange in the greatest deliberative body in the world. But the Senate needed no more time than that to pass amendments like the one allowing 19 million acres of Alaskan wilderness to be opened to oil drilling. Don't ask what that has to do with a balanced budget, because I don't know. What I do know is that the Senate rejected the same idea of drilling in the Arctic preserve after a long floor fight a few years ago—just one way the times have changed.

Another is the sheer refusal to deal across the aisle. Traditionally, politics is about the art of the possible, the search for a compromise that makes the greatest number of people happy. But not this time. The only bargaining and concessions made were between Republicans themselves, with moderate Republicans able to make a small difference to the final outcome. For example, they persuaded Majority Leader Bob Dole (R-Kan.) not to knock out all federal nursing home standards. Again, don't ask me what that particular issue has to do with a balanced budget.

As far as Republicans were concerned, though, Democrats were just making so much noise about tax cuts and Medicare cuts. The two figures are suspiciously similar, with Republicans proposing to cut taxes by $245 billion and Medicare by $270 billion over the next seven years. That's what Democratic senators such as Edward Kennedy (D-Mass.) were roaring about all week, the unseemliness of changing the tax code at the expense of health care for senior citizens. Not to mention the fact tax cut helps the rich and hurts the poor. Those earning under $30,000 will actually pay higher taxes under the new budget plan brought to us.

Makes a whole heap of sense, doesn't it? Especially when the latest poll reveals that most voters, including registered Republicans, don't even want that tax cut.

Finally, please don't ask me why the Pentagon didn't lose a penny under this budget—in fact, it got a few billion dollars more than it asked for, though there are no wars, cold or hot, in sight.

Yet plainly embedded between the lines and numbers of this latest Capitol Hill budget are values that go counterclockwise to American history. Throughout most of this century, since the Progressive Era and the New Deal, the direction of social legislation has been to make the federal government a friend, not an enemy, for most American citizens and families. Social Security and the G.I. bill are the classic examples of this trend, of course, but there are countless others, such as the 1964 Civil Rights Act.

But now the new thing is "devolution," a word heard almost every day on the Hill. That translates to sending money, power and responsibility from the federal government to the states to take care of public assistance for the aged, sick and poor. The ways and means to this end is through another new buzz word, "block grants."

Since when have states suddenly become beacons of wisdom and enlightenment in political dialogue? The last time states were regarded with such reverence by politicians in Congress was right before the Civil War. But believe me, I'd rather have the federal government watching over social welfare and equal justice than any one of the 50 states. That, if nothing else, is a painful lesson from our history.

There was a good reason why the Founding Fathers decided we are the United States, not simply the States. America stands for something more than the sum of its parts.

"The people have bread, but they want circuses," said a wise member of the Senate as he walked onto the floor to vote.

Change channels, America. Watch Newt Gingrich try to lead the latest American revolution—or should I say devolution—and see if that's the country you want to wake up to the morning after midnight.

Mr. COATS. Mr. President, there are a number of compelling economic reasons to support a balanced budget: Lower interest rates: Higher economic growth. Others have drawn those implications in detail.

But these economic facts do not fully explain the urgency of this issue in the minds of many Americans. There is a moral aspect to this debate, and a moral imperative we must understand. Many of us are convinced that endless deficits are not only unwise, but unprincipled. They are not just a drag on our economy, they are a burden on our national conscience.

Thomas Jefferson defined this moral aspect, arguing that:

> The question of whether one generation has the right to bend another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of Government. We should consider ourselves unauthorized to saddle posterity with our debts, and be morally bound to pay them ourselves.

We are debating one of the fundamental principles of government, and one of the basic moral commitments between generations. It has always been one of the highest moral traditions for parents to sacrifice for the sake of their children. It is the depth of selfishness to call on children to sacrifice for the sake of their parents. Mr. President, if we continue on the current path, we will violate this trust between generations, and earn the contempt of the future.

Every child born in America now inherits nearly $19,000 in public debt. This is the destructive legacy of a Government without courage. While decades of deficit spending has caused a budgetary crisis, it has done more than that—it has betrayed a moral responsibility because when Americans view our actions, they see past the numbers to a set of principles. They see more than a matter of right and left, they see a matter of right and wrong.

Make no mistake, this Balanced Budge Act makes good economic sense. But it also makes us consistent with our highest ideals.

That is the moral imperative of this economic debate—the reality beyond the bottom line. But there is, as always, a political imperative that pushes in the opposite direction.

Deficit spending has always made political sense. It allows government to please people in the present by placing burdens on the future. The future, significantly, has no vote in the next election.

Both the President and Congress have built their power on the ability to buy constituent support with cash funded from debt. Republicans and some Democrats in Congress prepared to part with that destructive power. The President, it seems obvious, is less willing to surrender it—even in this budget crisis, even when the views of most Americans are clear, even when so much is at stake.

These two imperatives—the moral imperative and the political imperative—are struggling against each other at this moment. Never in my career has the choice been more stark or more important.

On one side are false numbers and false promises. The President says he favors a balanced budget, but he is willing to shut down the Government rather than commit to hard deadlines and hard numbers. His commitment during the campaign was a balanced budget in 5 years. Now he refuses to accept 7. And, in reality, because he will not use reliable budget numbers, he rejects any balanced budget at all.

With this balanced budget act, we have called the President's bluff. At one point he said he could only accept Congressional Budget Office numbers. His exact quote? "Let's at least argue about the same set of numbers so the American people will think we're shooting straight with them." That is precisely the Republican point: All our talk of a balanced budget is meaningless if we are simply twisting numbers, not making cuts. This is the exceptional achievement of the Balanced Budget Act—it is based on facts, not on hope.

The President has already admitted that a balanced budget is possible in 7 years. His exact quote? "There's a way for me to meet the stated objectives, which is a balanced budget in 7 years, with a family tax . . ." But now—faced with a bill that meets this goal—he says that 7 years is too soon.

This is the same old political imperative at work—preserve the ability to buy votes by robbing the future, promise benefits to every special interest in the country, the most special of all interest, the children, with no thought for the next generation. That political imperative has won every budget debate since the late 1960's. But this Republican budget finally has the courage to confront the political imperative—the courage to say that our generation has a moral duty to the next.

The Balanced Budget Act is a practical, serious, responsible expression of that moral imperative. It allows us to care for the needs of our own society, without adding to the burdens of the future. Even the Washington Post has observed, "It's gusty and in some respects inventive—and it addresses a genuine problem that is only going to get worse."

Mr. President, this is a historic piece of legislation—and not just for economic reasons. It allows us in the Congress to leave some legacy to the future other than monumental debt—a legacy of moral courage and responsibility. We have waited a long time to make a vote like this—a vote to keep our word and keep faith with the next generation.

Mr. EXON. Mr. President, I ask unanimous consent to have printed in the RECORD a list of Byrd rule violations contained in the reconciliation conference report.

This list has been prepared by the Democratic staff of the Senate Budget Committee.

It is my opinion that each of these provisions violates section 313 of the Congressional Budget Act of 1974.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXTRANEOUS PROVISIONS, RECONCILIATION 1995

Subtitle and section	Subject	Budget Act violation	Explanation
Title I—Agriculture			
Section 1109(a)(2)	Strikes sections listed as "omitted law" in the code. Purely housekeeping in nature.	313(b)(1)(A)	No budget impact.
Section 1109(b)(2)	Strikes Agricultural Act of 1949	313(b)(1)(D)	Outlay changes are merely incidental.
Title IV—Education and Related Provisions			
Subtitle A	Higher Education	313(b)(1)(A)	Only recovery of reserves scores.
Sec. 4004	Amendments Affecting Guaranty Agencies		The cost estimate includes a line showing this provision as having no budgetary effect.
(e)	Reserve Fund Reforms		
(1)	Strengthening and Stabilizing Guaranty Agencies.		
Subtitle A	Higher Education	313(b)(1)(A)	Only recovery of reserves scores. The cost estimate includes a line showing this provision as having no budgetary effect.
Sec. 4004	Amendments Affecting Guaranty Agencies		
(g)	Reserve Ratios		
Subtitle B	Provisions Relating to ERISA '74	313(b)(1)(D)	The waiver would slightly speed distribution.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and section	Subject	Budget Act violation	Explanation
Sec. 4101	Waiver of Minimum Period for Joint and Survivor Annuity Explanation Before Annuity Starting Date.		The JCT estimates "negligible effect revenue effects," therefore the budgetary effect of this provision is merely incidental.
Title V—Subtitle C: Natural Resources			
Subchapter A—California Directed Land Sale:			
5301	Conveyance of Property	313(b)(1)(D)	Merely incidental, budget savings incidental to broader policy of transferring Federal land (Ward Valley) to the State of California for the purpose of developing a low-level radioactive waste site.
Subchapter B—Helium Reserves:			
5317	Land Conveyance in Potter County, TX	313(b)(1)(A)(D)	Non-budgetary and merely incidental, requires the Secretary of the Interior to transfer land to a girl scout group for $1.
Chapter 2—ANWR:			
5333(c)	Compatibility	313(b)(1)(A)	Non-budgetary.
5333(h)	Conveyance	313(b)(1)(A)	Non-budgetary, authorizes the Secretary to convey land to the Kaktovik Inupiat Corporation.
5338(19)	Employment and Contracting	313(b)(1)(A)	Non-budgetary, requires best effort to assure that the lessee provides a fair share of employment for Alaska Natives.
5341	Expedited Judicial Review	313(b)(1)(A)	Non-budgetary, limits time period for filing compliant seeking judicial review, and exempts actions of Secretary to judicial review in any civil or criminal proceeding for enforcement.
5342	Rights-Of-Way Across the Coastal Plain	313(b)(1)(A)	Non-budgetary, overrides existing law (ANILCA's title X1) which delineates procedures for transportation rights of way within the Alaska refuges, including ANWR.
Chapter 5—Mining:			
5378	Eligible Area	313(b)(1)(A)	Non-budgetary, sets up eligibility criteria for reclamation activities funded by the States.
Chapter 7, Subchapter A—Bonneville Power Administration Refinancing:			
5409	Contract Provisions	313(b)(1)(A)	Non-budgetary, requires the BPA to offer its customers contractual commitments that will not assess any additional charges in the future, beyond the changes included in this section.
Chapter 12—Concession Reform:			
5464(b)(6)	Hiring Preference	313(b)(1)(A)	Non-budgetary, intent of section is to require a hiring preference for residents of the State of Alaska with respect to concession operations in that state.
5467	Rates and Charges to the Public	313(b)(1)(A)	Non-budgetary, authorizes the concessioner to set rates charged for service to the public, unless there is no nearby competition.
5472(b)(5)	Preferential Right of Renewal for Existing Concessionaries	313(b)(1)(A)	Non-budgetary, allows incumbent Concessionaries to receive a 5 percent bonus in the reissuance of a previous concession authorization which expires over the next 5 years.
Title VI—Federal Retirement and Related Provisions			
6023	Availability of Surplus Property for Homeless Assistance	313(b)(1)(D)	Extraneous; savings merely incidental to policy change. Repeals Title V of the McKinney Homeless Act.
Title VII—Medicaid			
The following Sections refer to amendments to the Social Security Act as amended by Section 7001 of the bill:			
"2100"	Purpose	313(b)(1)(A)	Extraneous; no budgetary impact.
"2105(a)(4)"	Advisory Committees	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to provide for consultation with one or more advisory committees established and maintained by the State.
"2112(f)"	Exceptions to Minimum Set-Asides	313(b)(1)(A)	Extraneous; no budgetary impact. Provides for States to opt out of set-aside requirements.
"2114"	Description of Process for Developing Capitation Payment Rates	313(b)(1)(A)	Extraneous; no budgetary impact. Not required for other services provided under the plan.
"2135(g)"	Estate Recoveries, Liens Permitted	313(b)(1)(A)	Extraneous; no budgetary impact. Reverses current law by allowing States to recovery resources from an individual or an individual's estate for any amount paid as medical assistance.
"2137"	Quality Assurance Requirements for Nursing Facilities	313(b)(1)(A)	Extraneous; no budgetary impact.
"2154(e)(1)" "Only the Secretary . . . under this subsection."	Judicial Review	313(b)(1)(A)	Extraneous; no budgetary impact. Prohibits cause of action against a State for failure to comply within the law or its plan. Only the Secretary may compel a State to comply with this Title.
"2171(a)(8)" from "only if such drugs . . ." to end	Prescription drugs	313(b)(1)(A)	Extraneous; no budgetary impact. Provides only drugs not used or assisted suicide.
"2171(a)(19)" from "only if necessary . . ." to end	Abortion	313(b)(1)(A)	Extraneous; no budgetary impact. Provides for abortion services only in the case involving rape, incest, and when the life of the mother is jeopardized.
Sec. 13301	Exemption of Physician Office Laboratories	313(b)(1)(A)	No budget impact.
Sec. 1853(f) of the Social Security Act as added by Section 8001 of the bill.	Application of Antitrust Rule of Reason to Provider-Sponsored Organizations.	313(b)(1)(A)	No budget impact.
Sec. 1856(a)(6) of the Social Security Act as added by Section 8001 of the bill.	Establishment of Standards; relation to State Laws	313(b)(1)(A)	No budget impact.
Sec. 1858(d) (1) and (2) of the Social Security Act as added by Section 8001 of the bill.	Adoption of Standards for Data Elements	313(b)(1)(A)	No budget impact.
Sec. 1882(d)(3)(i), (iii), (iv), (v), (vi) of the Social Security Act as added by Section 8002(a)(1) of the bill and Section 1882(d)(3) (B), (C), and (D) of the Social Security Act as added by Section 8002(a)(2) of the bill and Section 1882(u)(1) of the Social Security Act as added by Section 8002(b) of this bill.	Duplication and Coordination of Medicare-Related Plans	313(b)(1)(A)	No budget impact.
Sec. 8021	Medicare Payment Review Commission	313(b)(1)(A)	No budget impact.
Sec. 8116	Additional Exception to anti-Kickback Penalties for Discounting Managed Care Arangements.	313(b)(1)(D)	Merely incidental budget impact.
Sec. 8132	Clarificaton of Level of Intent Required for Imposition of Sanctions	313(b)(1)(D)	Merely incidental budget impact.
Sec. 8151	State Health Care Fraud Control Units	313(b)(1)(A)	No budget impact.
Sec. 8201	Repeal of Physician Ownership Referral Prohibitions Based on Compensation Arrangements.	313(b)(1)(D)	Merely incidental budget impact.
Sec. 8416	Medical Review Process	313(b)(1)(A)	No budget impact.
Sec. 8417	Report by Medicare Payment	313(b)(1)(A)	No budget impact.
Sec. 1839(e)(1)(C)(ii) of the Social Security Act as added in Section 8511 of this bill.	Lock Box Provision	313(b)(1)(A)	No budget impact.
Sec. 1839(h)(6)(A) of the Social Security Act as added in Section 8512 of this bill.	Lock-Box Provision	313(b)(1)(A)	No budget impact.
Sec. 1894(g) of the Social Security Act as added in Section 8601 of this bill.	Report by Medicare Payment Commission	313(b)(1)(A)	No budget impact.
Title X—Veterans Affairs			
Subtitle B. Sec. 10021—Exemption for former POWs:			
(a)(3)(C)	Exempts former POWs from paying prescription copays	313(b)(1)(A)	This provision will not generate changes in revenues or outlays. If anything, it would decrease revenue to the Government.
Title XI—Ways and Means—Finance			
Retirement savings incentives:			
Section 11018(d)	SIMPLE savings plans. Part (d) exempts plans from ERISA standards.	313(b)(1)(a)	No budgetary impact.
Health care provisions:			
Section 11053	Preemption of state insurance regulation	313(b)(1)(d)	Merely incidental. Not a necessary term or condition.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and section	Subject	Budget Act violation	Explanation
Expiring provisions:			
Section 11141	Extension of ethanol blender refunds	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11131(b)	Extension of hazardous superfund taxes. Part b directs the revenues to the general fund after August 1, 1996.	313(b)(1)(a)	No budgetary impact.
Exempt and charitable organizations:			
Section 11217	Exclusion from unrelated business taxable income certain sponsorship payments.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11278	Treatment of certain dues paid to agricultural organizations	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Corporate and other reforms:			
Section 11380	Clarification that newspaper distributors are independent contractors.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Pension simplification provisions:			
Section 11442	Modification of additional participation requirements	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11464	Treatment of leased employees	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11451	Plans covering self employed individuals	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11453	Distributions under rural cooperative plans	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11454	Treatment of government plans under Section 415	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11456	Contributions on behalf of disabled employees	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11460	Modifications to Section 403(b)	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11461	Modify notice required of right to qualified joint and survivor annuity.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Partnership simplification provisions:			
Section 11472	Returns required on magnetic media for partnerships with 100 partners.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Other tax simplification provisions:			
Section 11506	Subchapter S—Allow interim closing of the books	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11552	Regulated Investment Companies—allow traders to adopt mark-to-market accounting for securities.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11561	Tax Exempt Bond Provision—Repeal of debt service-based limitation of investment in certain non-purpose investments.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11582	Modifications to FICA tip credit	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11583	Conform due date for first quarter estimated tax by private foundations.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Estate, gift, and trust tax provisions:			
Section 11602	Distributions during first 65 days of taxable year of estate	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11603	Separate share rules available to estates	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11604	Executor of estate and beneficiaries treated as related persons for disallowance of losses.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11605	Limitation on taxable year of estates	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11611	Clarification of waiver of certain rights of recovery	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11613	Clarification of qualified terminable interest rules	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11614	Transitional rule under section 2056A	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11615	Opportunity to correct certain failures under section 2032A	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11619	Treatment under qualified domestic trusts rules of forms of ownership which are not trusts.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11631	Taxable termination not to include direct skips	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Excise tax simplification provisions			
Distilled spirits, wines and beer:			
Section 11641	Credit or refund for imported bottled distilled spirits returned to distilled spirits plant.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11652	Fermented material from any may be received at a distilled spirits plant.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11643	Refund of tax on wine returned to bond not limited to unmerchantable wine.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11644	Beer may be withdrawn free of tax for destruction	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Section 11645	Transfer to brewery of beer imported in bulk without payment of tax.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Other excise tax provisions:			
Section 11661	Other Excise Tax Provision—clarify present law for retail truck excise tax.	313(b)(1)(d)	Merely incidental. Joint Tax scores negligible revenue effect.
Title XII—Teaching Hospitals, GME, Asset Sales, Welfare and Other			
The following sections refer to amendments to the Social Security Act as added by Section 12101 of the bill:			
"402(c)(1)"	Condition of Grant	313(b)(1)(A)	Extraneous; no budgetary impact. Five-year limit on assistance.
"403(c)"	Authority to Use Portion of Grant for Other Purposes	313(b)(1)(A)	Extraneous; no budgetary impact.
"405"	Fed. Loans for State Welfare Programs	313(b)(1)(A)	Extraneous; no budgetary impact.
"406(c)(3)"	Limit on Vocational Ed Activities Counted as Work	313(b)(1)(A)	Extraneous; no budgetary impact.
"407(a)(5)"	No assistance for teenage parents who do not attend high school or equivalent program.	313(b)(1)(A)	Extraneous; no budgetary impact.
"407(a)(6)"	No assistance for teenage parents no living in adult-supervised setting.	313(b)(1)(A)	Extraneous; no budgetary impact.
"408(a)(7)(C)(i)-(ii)"	Scoring of State Performance	313(b)(1)(A)	Extraneous; no budgetary impact.
"412(d)"	Annual Ranking of States and Review of Most and Least Successful Work Programs.	313(b)(1)(A)	Extraneous; no budgetary impact.
"412(e)"	Annual Ranking of States and Review of Issues Relating to Out-of-wedlock births.	313(b)(1)(A)	Extraneous; no budgetary impact.
12102	Report on Data Processing	313(b)(1)(A)	Extraneous; no budgetary impact.
The following sections amend Title IV of the Social Security Act in Section 12302 of the bill:			
"457(a)(4)"	Study and Report	313(b)(1)(A)	Extraneous; no budgetary impact.
"436"	Data Collection, Reporting	313(b)(1)(A)	Extraneous; no budgetary impact.
12802(a)	Authorization of Appropriations	313(b)(1)(A)	Extraneous; no budgetary impact. Authorizes discretionary spending.
12804(2):			
(D)	Consumer Education Information	313(b)(1)(A)	Extraneous; no budgetary impact.
(E)	Compliance with State Licensing Requirements	313(b)(1)(A)	Extraneous; no budgetary impact. This section deletes all health and safety standards from current law
12907(e)(3)	Provision of Data to Family or Group Day Care Home Sponsoring Organizations.	313(b)(1)(A)	Extraneous; no budgetary impact.
12907(l)	Study of Impact of Amendments on Program Participation and Family Day Care Licensing.	313(b)(1)(A)	Extraneous; no budgetary impact.
12908	Pilot Projects	313(b)(1)(A)	Extraneous; no budgetary impact.
12926(b)	NET Authorization of Appropriations	313(b)(1)(A)	Extraneous; no budgetary impact.
13011	Definition of Certification Period	313(b)(1)(A)	Extraneous; no budgetary impact.
13012	Definition of Coupon	313(b)(1)(A)	Extraneous; no budgetary impact.
13017	State Option for Eligibility	313(b)(1)(A)	Extraneous; no budgetary impact.
13026	Caretaker Exemption	313(b)(1)(A)	Extraneous; no budgetary impact.
13027	Employment and Training	313(b)(1)(A)	Extraneous; no budgetary impact.
13040	Condition Precedent for Approval of Retail Food Stores and Wholesale Food Concerns.	313(b)(1)(A)	Extraneous; no budgetary impact.
13041	Authority to Establish Authorization Periods	313(b)(1)(A)	Extraneous; no budgetary impact.
13042	Information for Verifying Eligibility for Authorization	313(b)(1)(A)	Extraneous; no budgetary impact.
13043	Waiting Period for Stores That Fail to Meet Authorization Criteria	313(b)(1)(A)	Extraneous; no budgetary impact.
13944	Expedited Coupon Service	313(b)(1)(A)	Extraneous; no budgetary impact.
13045	Withdrawing Fair Hearing Requests	313(b)(1)(A)	Extraneous; no budgetary impact.
13049	Authority to Suspend Stores Violating Program Requirements Pending Administrative and Judicial Review.	313(b)(1)(A)	Extraneous; no budgetary impact.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and section	Subject	Budget Act violation	Explanation
13052	Authorization of Pilot Projects	313(b)(1)(A)	Extraneous; no budgetary impact.

Mr. SIMPSON. Mr. President, I did not want to speak directly to previous remarks made by my colleague from Nebraska, Senator BOB KERREY. I want to highlight them because of the very constructive things that he has said—even, unfortunately, in opposition.

Unlike Senator KERREY, I am very willing and eager to vote for the balanced budget plan before us as it currently stands. This plan represents the result of months of work and negotiation. It is not necessarily the plan that I would have designed working alone, but we do not have the luxury of working alone. This is the plan before us that has the support of a majority of both Houses of Congress, it's an honest plan, it will do the job, and it is right now our only realistic hope of getting the job done, and reducing the debt burden that is being piled high on the backs of our kids.

I do want the Senate to mark what Senator KERREY has said, because as always, he diagnoses accurately much of what ails us, in the fiscal sense. And I am fully sympathetic with many of the choices he would make to bring our fiscal house back into order. That is why I am pleased to work with him on drafting legislation that will help save our country from insolvency in the long run. He and I see eye to eye on this.

I do fervently wish that it were possible to make all the reforms suggested by Senator KERREY in the context of this budget plan. But the existing rules do not work in our favor. For example, the Byrd rule forbids any changes in Social Security, even good and necessary ones. I fully agree with Senator KERREY that a five-tenths-of-1-percent correction in the CPI is necessary and appropriate. To my mind, it is a "no brainer"—a simple "technical correction." It makes no sense to perpetuate an error which we all know exists. The Senator from Nebraska is so absolutely right about that.

But my attempts to include the CPI correction were frustrated by the fact that it would affect Social Security, and thus violate the Byrd rule. I do not like it, I think we should change it, but that's the way it is. We should, in my view, change the rules to permit such reforms in the future. But for now, we have to work within the rules as they are.

Similarly, we ought to address the problem of population aging. We ought to make further shifts upward in eligibility ages for Social Security and Medicare, and for all programs which give benefits to the elderly. But under our current rules, long-term reforms that only produce savings outside the 7-year "budget window" are considered extraneous. I do not like it, I think it's wrong, but those are the limitations in the current budget process.

I mention these things not so simply express disappointment and to "howl into the wind" in the manner of King Lear, but to point out to my colleagues that this is something we can and should change—in the future. Senator KERREY and I have a bill to require 30-year budgeting, estimates of the 30-year effects of legislative changes. In my view, we have to be able to plan further down the road when we are dealing with retirement programs, "safety-net" rules that might affect how people plan for their own time in retirement. In order to be fair, changes must be announced well in advance. The fact that we only deal with the short-term truly handicaps us as we attempt to make policy that is fair and reasoned.

I do hope my colleagues will listen closely to Senator KERREY and to me as we discuss the need for "30-year budgeting." Because, the rules under which we operate very much determine the results. I believe that this budget is perhaps the best attainable given the existing budgetary rules. But I also believe that we must consider changing the rules to force us to look further down the road—and to examine Social Security solvency, and to stop fooling our countrymen and women.

This budget before us is hardly "harsh" or "severe." This is a sparrow belch in a typhoon. If we cannot get this done, we will never do anything.

Mr. MURKOWSKI. Mr. President, this is an historic day. For the first time in 26 years, the American public will witness the adoption of the first real balanced budget.

And we are going to pass this legislation despite the fact that the President of the United States has done nothing, I repeat, nothing, to make this task bipartisan. In fact, he has fanned the flames of fear-mongering simply to gain what he sees as a political advantage.

Just look at his actions and the actions of his Secretary of Treasury in the past 10 days. He indicated that he would not sign a continuing resolution to reopen the Government because it would have committed him to balancing the budget in 7 years.

And Treasury Secretary Rubin last week spooked the global markets by scaring investors into believing that the United States was facing an imminent default on our debt. There was no default; in fact there was no chance of a default, and Secretary Rubin knew that.

Yet he deceived the American people into believing default would happen if the Republicans did not accept the President's demand that we not go forward with our 7-year balanced budget plan. His actions are reprehensible.

Emboldened by polls that show many Americans blame Republicans for the Government shutdown, the President would rather maximize political advantage than exercise fiscal leadership. The President mimics leadership by standing up to the Republicans and refusing to seek a balanced budget in 7 years.

That is not leadership.

In fact, it is quite the opposite.

When viewed through the lens of history, the President's behavior will be viewed for what it is.

A waffle.

A retreat.

A repudiation of the promise of a balanced budget.

What we are offering the President is the first serious effort in two and a half decades to put our fiscal house in order.

And the President is slamming the door in our face.

It is that simple.

We are on a pathway to reduce the growth in Federal spending by a trillion dollars—to accomplish what the American people asked us to do.

We are doing it without smoke and mirrors.

We are doing it with the CBO budget estimates that the President himself asked that we use.

We are delivering on a promise made to voters. The President promised a balanced budget in 5 years; but that's just one of so many campaign promises the President abandoned when he walked in the White House.

But in keeping our promise, we are attacking the cancer of cynicism that undermines the confidence that Americans have in their leadership, and their Government.

We are so close to achieving our objectives.

Sadly, the President would rather be an instrument of the status quo than a positive force for change.

The President would rather flame the fears of older Americans with frightening tales of impending woe than lead us along the path to fiscal sanity for the sake of our children.

In what I believe is a political miscalculation, the President is deluded by a short term poll that will mean nothing when we are held accountable to the people for the end result of our efforts today.

Most Americans do not believe we will keep our promise and balance the budget in 7 years.

The President apparently wants to prove them right and thus deepen the cynicism that embitters Americans toward their government.

And that, Mr. President, endangers far more than our fiscal stability.

Mr. President, ever since the Republicans unveiled their balanced budget legislative plan during this Spring, the President has been out campaigning against the plan, instilling fear into our most fragile citizens—the elderly.

Over and over and over again, there's one message the President has been drumming into the American people. And that message is that we are cutting Medicare.

Mr. President, nothing could be further from the truth. And I think it's time for the President to stop his demagogic language about Medicare.

Over the next 7 years Medicare spending will increase from $178 billion to $294 billion—a 65-percent increase, Mr. President. That is NOT a cut.

Put another way, spending for each beneficiary will increase from $4,800 this year to $7,100 in 2002.

Mr. President, let members end the scare tactics on Medicare. Let us face the fact that if we do nothing, if we maintain this endless borrowing spree, we will bankrupt our children and grandchildren and ensure that Medicare will go broke in 7 years.

I call upon my colleagues and the President.

Let us surprise America today.

Let us prove that we can balance the budget in 7 years, save Medicare, and begin to lift this crippling debt from the shoulders of our children and grandchildren.

Ms. MIKULSKI. Mr. President, Tonight we are choosing between two paths for our country. We are defining what kind of country we want to be, and how we are going to meet the challenges of the 21st century.

The bill before us offers one type of choice. This bill offers us a future where we say: No to opportunity in the United States of America. No to economic security for our seniors. No to educational opportunities for young people. No to an opportunity structure for working families.

Mr. President, I reject that choice. I want a future where we give help to those who practice self help. I want a future in which senior citizens can have economic security and peace of mind in their retirement years. I want a future where young people can get an education that leads to a job and real economic opportunity. I want a future where we give a helping hand to working Americans who are doing their best to provide for their families.

Let me tell you why I oppose this bill. Yes, I support a balanced budget. But to achieve that we have to put politics and partisanship aside, and work together to find what I will call the sensible center. And this bill does not allow for that.

This legislation attacks economic security for senior citizens through cuts in their health care. We need to make Medicare solvent. But this bill would cut Medicare by $270 billion over the next 7 years. Only $90 billion is needed to preserve the solvency of the Medicare system.

What are the rest of the cuts for? They are to pay for tax breaks for the wealthiest of Americans. I reject that.

I say let us do what we need to do to make Medicare solvent. But let us put tax cuts on hold for a year. We have made so many reductions in federal programs this year. Let us take the time to evaluate the impact of those changes. Let us see where we are in 1 year. Then we can take a look at whether we can afford to provide tax cuts. And if in a year we do decide we can provide tax cuts, let's provide them for America's working families. Not for the truly wealthy.

I oppose this legislation because it denies educational opportunity to young people and an opportunity structure to working families. I believe we must keep the doors of opportunity open—not slam them shut.

Education is the key to a better life. The federal student loan program has opened the door of opportunity to millions of Americans. Education must be a national priority. It is with me. Unfortunately, it is not a priority in this legislation. Under this legislation, the student loan program will be cut by $5 billion. This is unacceptable to me.

I oppose this legislation because it increases taxes on working families. By cutting the Earned Income Tax Credit, the bill denies help to those who practice self help. It seems to me that if we are serious about moving people from public assistance to private employment, the first step is to make work pay. The EITC makes work pay. It ensures that work is more beneficial for a family than welfare. I will not support this bills cuts in the EITC program, which amounts to tax increases for working families.

Mr. President, make no mistake. We must balance the budget. But we must do it based on principles that preserve economic security for senior citizens, that provide opportunity for young people, and that ensure opportunity for working families.

I cannot and will not support any legislation that abandons these principles. Therefore, I will vote against this legislation.

Mr. COHEN. Mr. President, the moral imperative for balancing the budget is to stop Congress from passing on a mountain of debt to future generations. Thomas Jefferson reminded us that a generation that spends money while taxing another "squanders futurity on a massive scale."

Persistent budget deficits reduce the pool of savings necessary for critical investments in new research, plants and equipment. Virtually every economist agrees that without these investments, standards of living cannot rise. Our collective sin has been the amoral indifference with which we have demanded that our children pay for our extravagances, while robbing them of their ability to provide for their own subsistence. This is tantamount to fiscal child abuse, a crime for which there has been no punishment and, perversely, one for which politicians have long been rewarded.

Our constituents, in 1994, urged us to stop the pain. Republicans proposed to do precisely that. Despite the defeat earlier this year of a constitutional amendment that would have mandated a balanced budget, my Republican colleagues have passed the first plan in 26 years that produces bottom line equilibrium within a seven-year time frame.

I take no issue with the need for deep spending reductions, but I am skeptical that we can achieve our goal while cutting taxes simultaneously. It strikes me that this approach rivals driving with one foot on the gas pedal while the other is on the brake.

The Federal Government currently expends far more money than it collects, so that a tax cut can be paid for only by borrowing additional money. Paying for tax cuts with borrowed money is contradictory and self-defeating.

Balancing the budget is itself an effective tax cut. Interest on the national debt costs the average household over $800 a year. Balancing the budget more quickly and forgoing a tax cut paid for with borrowed money would ease the burden of these hidden taxes. Balancing the budget more quickly would also lower interest costs for mortgages and student loans—saving families thousands of dollars.

I cannot support this conference report because, like the budget plan considered by the Senate on October 27, it proposes to borrow $245 billion to pay for a tax cut that we cannot now afford. I strongly support balancing the budget in seven years and realize that this cannot be achieved without undertaking some difficult spending cuts. It is my hope that Congress and the President can work together on a bipartisan balanced budget plan.

Mr. SIMON. Mr. President, when nearly 500 college and university presidents speak on an issue, Congress should stop and listen. Yesterday, 472 presidents contacted President Clinton and the congressional leadership to urge that competition be maintained in the student loan programs. We should listen.

Colleges should be able to choose whether to participate in the direct student loan program or the guarantee program. The bill we are considering this evening does the opposite, forcing 1250 colleges out of the direct loan program, and preventing hundreds of others who want in from getting in.

As my colleagues will see from the list of presidents signing the letter, free choice is not only the desire of colleges in the direct loan program, but many in the guarantee program as well.

It is unfortunate that this issue has become so partisan that some of my colleagues have turned against principles of competition, market forces, and the elimination of red tape, and turned toward granting monopolies and entitlements for bankers and middlemen—at the expense of students, colleges, and taxpayers.

The letter from the college and university presidents speaks for itself, and I ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMON. Mr. President, I would also like to respond to a statement made earlier by my colleague from Kansas, who chairs the Labor and Human Resources Committee. She made the statement that the bill we are considering today makes income-contingent repayment available to all students.

My colleague is mistaken. The bill gives this option to banks, not to students. Section 4003(d) of the bill states clearly that this option is offered "at the discretion of the lender." In fact, few banks are likely to use this discretion because of the difficulty of confirming borrowers' incomes accurately. They also will no longer face the competition from direct lending, which has caused lenders to be more flexible in offering repayment options to borrowers. The reconciliation bill not only eliminates schools from direct lending, it also places several new obstacles in the way of these borrowers who, under current law, can get into direct lending in order to get access to income-contingent repayment.

For these reasons, it is likely that fewer borrowers will have access to this important repayment option, rather than more borrowers.

Mr. President, for these and many other reasons, I urge my colleagues to oppose the conference report.

EXHIBIT 1

AMERICAN COUNCIL ON EDUCATION,
Washington, DC, November 16, 1995.

Hon. WILLIAM JEFFERSON CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: In the coming weeks, you and the Congress will decide the fate of one of the most innovative federal student aid programs: the Federal Direct Student Loan Program. We are very concerned about efforts in Congress to limit direct lending, which currently provides about 40 percent of all student loans. We oppose any provision that would arbitrarily limit the ability of schools to participate in direct lending, as we would oppose any effort to force schools into direct lending against their wishes. We ask that in your deliberations with the Congress about the future of federal student loans, you retain institutional choice with regard to the participation of colleges and universities in either the direct student loan or the guaranteed student loan (Federal Family Educational Loan) program.

We write as presidents and chancellors of colleges and universities that are currently participating, or plan to participate, in direct lending, as well as those that intend to continue their participation in the guaranteed student loan program. Maintaining the availability of both direct and guaranteed loans is a sound policy that should be preserved, because schools' ability to join either of the two programs has improved the student loan process for all students and schools, regardless of whether or not they participate in direct lending.

Those of us who represent colleges and universities already in direct lending can attest to the improvements it has brought about for our institutions. We can report first-hand on the benefits of direct lending for our students: the simplicity of application, the speed of delivery of funds, the disappearance of lines of students waiting to endorse their checks at registration time, the precipitous drop in the number of emergency loans issued to students waiting to hear about their loans from banks and guarantors, and fewer visits to financial aid offices. Students often borrow less under direct lending because they know they can adjust their loan amounts without repeating the entire application process, and therefore only borrow what they believe they need, not the maximum for which they are eligible. Students will also reap the benefits of the income-contingent repayment option, which is only possible through direct leading. At the institutional level, direct lending has eliminated redundant paperwork, reduced staff time allocated to dealing with thousands of lenders and dozens of guarantors and other intermediaries, and vastly improved our overall aid delivery processes because it seamlessly integrates with other federal aid programs.

Those of us who represent institutions that are satisfied with the guaranteed student loan program also support the continued availability of the direct loan program to institutions. The competition created by direct lending has induced banks and guarantors to improve the efficiency of their delivery process, and has, for the first time, provided the student loan industry with market-based incentives to provide better service. The guaranteed student loan system has improved more since the phase-in of direct lending two years ago than it did over the more than two decades of its existence prior to 1993. These improvements were brought about by the fact that schools can now select the student loan program that provides them with the best service. Capping or otherwise limiting the direct loan program would undermine the market-based incentives that have so dramatically improved the guaranteed student loan system. The student loan system needs more competition, not less.

The current direct lending legislation was enacted as a bipartisan compromise a mere two years ago. Some 1,400 schools, relying in good faith upon what was presented to them as a major federal initiative, have invested substantial institutional resources to implement a program that they believed would better meet the needs of their students. These same schools, and several hundred others that have been planning to join the program in its third year, now confront the prospect of massive disruptions to their financial aid operations and their institutional planning. If direct lending is capped, many of these schools would be required to commit new institutional resources to pay for yet another overhaul of their loan delivery system.

Schools now have the option of participating in direct lending or the guaranteed student loan program based on their assessment of which program works best for their students. This has provided a strong incentive to both the Department of Education and to the student loan industry to improve the quality of their service to borrowers and schools. This is precisely the outcome that the bipartisan architects of current direct lending law intended in reforming the student loan system two years ago. We urge you to allow the forces of competition to continue to determine what percentage of the student loan market each program captures by retaining the current direct lending law.

Sincerely,

Submitted on behalf of the following colleges and universities:

ALABAMA

Alabama Agricultural & Mechanical University, Virginia A. Caples, Interim President.

Alabama State University, William H. Harris, President.

Auburn University, William V. Muse, President.

Auburn University at Montgomery, Guin Nance, President.

Jacksonville State University, Harold J. McGee, President.

Jefferson State Community College, Judy M. Merritt, President.

Stillman College, Cordell Wynn, President.

Tuskegee University, Benjamin Payton, President.

University of North Alabama, Robert L. Potts, President.

Wallace Community College-Selma, Julius R. Brown, President.

ARIZONA

Arizona State University, Lattie F. Coor, President.

Chandler Gilbert Community College Center, Margaret P. Hogan, Acting President.

Devry Institute of Technology-Phoenix, James A. Dugan, President.

Paradise Valley Community College, Raul Cardenas, President.

ARKANSAS

Hendrix College, Ann H. Die, President.

Philander Smith College, Myer L. Titus, President.

Red River Technical College, Johnny Rapert, President.

University of Central Arkansas, Winfred L. Thompson, President.

Williams Baptist College, Jerol Swaim, President.

CALIFORNIA

California Academy of Merchandising, Art, & Design, Gary D. Kerber, President.

California State Polytechnic University, Pomona, Bob H. Suzuki, President.

California State University, Bakersfield, Tomas A. Arciniega, President.

California State University, Chico, Manuel A. Esteban, President.

California State University, Fresno, John D. Welty, President.

California State University, Fullerton, Milton A. Gordon, President.

California State University, Sacramento, Donald Gerth, President.

California State University, Stanislaus, Marvalene Hughes, President.

Coast Community College District, William M. Vega, Chancellor.

College of Alamenda, George Herring, President.

Contra Costa College, D. Candy Rose, President.

Cypress College, Christine Johnson, President.

Fresno City College, Brice W. Harris, President.

Fullerton College, Vera M. Martinez, President.

Los Angeles City College, Jose Robledo, President.

Los Angeles Mission College, William E. Norlund, President.

Merced College, E. Jan Moser, Superintendent and President.

Napa Valley College, Diane E. Carey, Superintendent and President.

National University, Jerry C. Lee, President.

Pasadena City College, Jack Scott, President.

San Diego City College, Larry J. Brown, Acting President.

San Francisco State University, Robert Corrigan, President.

Santa Barbara City College, Peter MacDougall, President.

Santa Clara University, Rev. Paul Locatelli, S.J., President.

Sonoma State University, Ruben Arminana, President.

Southwestern College, Joseph M. Conte, Superintendent and President.

University of California, Berkeley, Chang-Lin Tien, Chancellor.

University of California, Davis, Larry N. Vanderhoef, Chancellor.

University of California, Irvine, Laurel L. Wilkening, Chancellor.

University of California, Los Angeles, Winston C. Body, Vice Chancellor.

University of California, Riverside, Raymond L. Orbach, Chancellor.

University of California, San Francisco, Joseph B. Martin, Chancellor.

University of California, Santa Barbara, Henry T. Yang, Chancellor.

University of California, Santa Cruz, Karl S. Pister, Chancellor.

University of San Francisco, Rev. John Schlegel, S.J., President.

West Hills Community College, Frank P. Gornick, President.

West Los Angeles College, Evelyn Wong, President.

COLORADO

Colorado State University, Albert C. Yates, President.

Community College of Denver, Byron McClenney, President.

Iliff School of Theology, Donald E. Messer, President.

Regis University, Rev. Michael J. Sheeran, S.J., President.

University of Colorado at Boulder, Roderic B. Park, Chancellor.

CONNECTICUT

Central Connecticut State University, Merle W. Harris, Interim President.

Western Connecticut State University, James R. Roach, President.

DELAWARE

Delaware State University, William B. DeLauder, President.

Delaware Technical & Community College System, Orlando George, Jr., President.

University of Delaware, David Roselle, President.

DISTRICT OF COLUMBIA

American University, Benjamin Ladner, President.

Catholic University of America, Brother Patrick Ellis, FSC, President.

University of The District of Columbia, Tilden Lemelle, President.

FLORIDA

Barry University, Sister Jeanne O'Laughlin, O.P., President.

Bethune-Cookman College, Oswald P. Bronson, Sr., President.

Central Florida Community College, William Campion, President.

Edward Waters College, Jesse Burns, President.

Keiser College of Technology, Arthur Keiser, President.

Palm Beach Atlantic College, Paul Corts, President.

Rollins College, Rita Bornstein, President.

Santa Fe Community College, Lawrence Tyree, President.

Southern College, Daniel F. Moore, President.

University of Florida, John V. Lombardi, President.

University of South Florida, Betty Castor, President.

University of West Florida, Morris L. Marx, President.

GEORGIA

Atlanta Christian College, R. Edwin Groover, President.

Bauder College, Gary Kerber, President.

Clark Atlanta University, Thomas W. Cole, Jr., President.

DeKalb College, Jacquelyn M. Belcher, President.

Devry Institute of Technology, Ronald Bush, President.

Fort Valley State College, Oscar L. Prater, President.

Georgia College, Edwin Speir, President.

Georgia Southern University, Nicholas Henry, President.

Interdenominational Technological Center, James Costen, President.

Mercer University Main, R. Kirby Godsey, President.

Morris Brown College, Samuel D. Jolly, Jr., President.

Savannah State College, John T. Wolfe, Jr., President.

Southern College of Technology, Stephen R. Cheshier, President.

Spelman College, Johnnetta B. Cole, President.

Valdosta State College, Hugh C. Bailey, President.

Wesleyan College, Robert Ackerman, President.

HAWAII

University of Hawaii at Hilo, Kenneth L. Perrin, Chancellor.

University of Hawaii Kauai Community College, David Iha, Provost.

IDAHO

Boise State University, Charles P. Ruch, President.

College of Southern Idaho, Gerald R. Meyerhoeffer, President.

University of Idaho, Thomas O. Bell, Interim President.

ILLINOIS

Bradley University, John R. Brazil, President.

College of St. Francis, James Doppke, President.

Columbia College, John B. Duff, President.

DeVry Institute of Technology-Chicago, E. Arthur Stunard, President.

DeVry Institute of Technology-Addison, Jerry R. Dill, President.

Eastern Illinois University, David Jorns, President.

Greenville College, Robert E. Smith, President.

Highland Community College, Ruth Mercedes Smith, President.

Illinois Central College, Thomas K. Thomas, President.

Illinois Valley Community College, Alfred Wisgoski, President.

Lincoln College, Jack D. Nutt, President.

Loyola University Chicago, Rev. John J. Piderit, S.J., President.

Morrison Institute of Technology, Richard C. Parkinson, President.

Northwestern Business College, Lawrence Schumacher, President.

Parkland College, Zelma M. Harris, President.

Southern Illinois University, Ted Sanders, Chancellor.

Southern Illinois University at Edwardsville, Nancy Belck, President.

St Joseph College of Nursing, Virginia Keck, President.

University of Chicago, Hugo F. Sonnenschein, President.

University of Illinois, James J. Stukel, President.

University of Illinois at Springfield, Naomi B. Lynn, Chancellor.

University of Illinois at Chicago, David C. Broski, Interim Chancellor.

Wilbur Wright College, Raymond Le Fevour, President.

William Rainey Harper College, Paul N. Thompson, President.

INDIANA

Ball State University, John E. Worthen, President.

Commonwealth Business College, Steven C. Smith, President.

Earlham College, Richard J. Wood, President.

Goshen College, Victor Stolozfus, President.

Indiana University at Bloomington, Kenneth R.R. Gros Louis, Vice President and Chancellor.

Indiana University at South Bend, Lester C. Lamon, Acting Chancellor.

Indiana University System, Myles Brand, President.

Manchester College, Parker G. Marden, President.

Rose-Hulman Institute of Technology, Samuel F. Hulbert, President.

Saint Francis College, Sister M. Elise Kriss, OSF, President.

Saint Meinrad College, Rev. Eugene Hensell, O.S.B., President-Rector.

Valparaiso University, Alan Harre, President.

IOWA

Graceland College, William Higdon, President.

Iowa State University, Martin C. Jischke, President.

Luther College, David J. Roslien, Interim President.

Marshalltown Community College, William M. Simpson, Dean of the Dean.

Mount Mercy College, Thomas Feld, President.

North Iowa Area Community College, David L. Buettner, President.

Northeast Iowa Community College, Don Roby, President.

University of Iowa, Peter Nathan, Acting President.

University of Northern Iowa, Robert D. Koob, President.

KANSAS

Cloud County Community College, James D. Ihrig, President.

Highland Community College, Elizabeth E. Stevens, President.

Kansas Wesleyan University, Marshall P. Stanton, President.

McPherson College, Paul W. Hoffman, President.

Southwestern College, Carl Martin, President.

University of Kansas, Edward Meyen, Executive Vice Chancellor.

KENTUCKY

Kentucky State University, Mary L. Smith, President.

Morehead State University, Ronald Eaglin, President.

Sullivan College, A.R. Sullivan, President.

University of Kentucky, Charles Wethington, Jr., President.

Western Kentucky University, Thomas Meredith, President.

LOUISIANA

Elaine P. Nunez Community College, Carol S. Hopson, President.

Southern University and A & M College, Marvin Yates, Chancellor.

Xavier University of Louisiana, Norma C. Francis, President.

MAINE

Bates College, Donald W. Harward, President.

Colby College, William Cotter, President.

Thomas College, George R. Spann, President.

University of Maine System, Robert L. Woodbury, Chancellor.

University of Maine Presque Isle, W. Michael Easton, President.

University of Southern Maine, Richard L. Pattenaude, President.

MARYLAND

Bowie State University, Nathaniel Pollard Jr., President.

Coppin State College, Calvin Burnett, President.

Frostburg State College, Catherine R. Gira, President.

Garrett Community College, Stephen Herman, President.

Hood College, Shirley, D. Peterson, President.

Johns Hopkins University, Daniel Nathans, President.

Loyola College in Maryland, Rev. Harold Ridley, S.J., President.

Salisbury State College, William Bellavance, President.

Towson State University, Hoke L. Smith, President.

University of Maryland System, Don Langenberg, Chancellor.

University of Maryland Eastern Shore, William P. Hytche, President.

University of Maryland University College, T. Benjamin Massey, President.

MASSACHUSETTS

Amherst College, Tom Gerety, President.

Berklee College of Music, Lee Eliot Berk, President.

Boston University, John R. Silber, President.

Brandeis University, Jehuda Reinharz, President.

Bridgewater State College, Adrian Tinsley, President.

College of the Holy Cross, Rev. Gerard Reedy, S.J., President.

Emerson College, Jacqueline Liebergott, President.

Fitchburg State College, Michael Riccards, President.

Franklin Institute of Boston, Richard D'Onofrio, President.

Harvard University, Neil, Rudenstine, President.

Holyoke Community College, David M. Bartley, President.

Massachusetts College of Art, William O'Neil, President.

Massachusetts Institute of Technology, Charles M. Vest, President.

Massachusetts Maritime Academy, Peter M. Mitchell, President.

Mount Ida College, Bryan Carlson, President.

Mt. Holyoke College, Peter Berek, President.

New England College of Optometry, Larry R. Clausen, President.

North Adams State College, Thomas Aceto, President.

Quinsigamond Community College, Sandra L. Kurtinitis, President.

Smith College, Ruth J. Simmons, President.

Stonehill College, Rev. Bartley MacPhaidin, C.S.C., President.

Tufts University, John DiBiaggio, President.

University of Massachusetts Lowell, William T. Hogan, Chancellor.

University of Massachusetts System, Sherry H. Penny, President.

Westfield State College, Ronald L. Applbaum, President.

Wheaton College, Dale Rogers Marshall, President.

Williams College, Harry C. Payne, President.

MICHIGAN

Alma College, Alan Stone, President.

Alpena Community College, Donald L. Newport, President.

Andrews University, Niels-Erik Andreasen, President.

Baker College of Auburn Hills, Sandra Kay Krug, President.

Baker College of Jackson, Jack Bunce, President.

Baker College of Mount Clemens, Rodolfo Morales, Jr., President.

Baker College of Muskegon, Rick E. Amidon, President.

Baker College of Owosso, Denise A. Bannon, President.

Baker College of Port Huron, Donald Torline, President.

Baker College System, Edward Kurtz, President.

Calvin College, Gaylen J. Byker, President.

Central Michigan University, Leonard Plachta, President.

Ferris State University, William A. Sederburg, President.

Grand Valley State University, Arend D. Lubbers, President.

Henry Ford Community College, Andrew A. Mazzara, President.

Hope College, John H. Jacobson, President.

Kalamazoo College, Lawrence D. Bryan, President.

Kellogg Community College, Paul R. Ohm, President.

Lake Superior State University, Robert Arbuckle, President.

Lansing Community College, Abel B. Sykes, President.

Lawrence Institute of Technology, Charles M. Chambers, President.

Michigan State University, M. Peter McPherson, President.

Michigan Technological University, Curtis J. Tompkins, President.

Northen Michigan University, William E. Vandament, President.

Oakland University, Gary D. Russi, Interim President.

University of Michigan-Ann Arbor, James Duderstadt, President.

University of Michigan-Dearborn, James C. Renick, Chancellor.

University of Michigan-Flint, Charles Nelms, Chancellor.

Wayne State University, David Adamany, President.

Western Michigan University, Diether H. Haenicke, President.

MINNESOTA

Bemidji State University, James Bensen, President.

Gustavus Adolphus College, Axel D. Steuer, President.

Hamline University, Larry G. Osnes, President.

Minnesota State Colleges and Universities System, Judith S. Eaton, Chancellor.

Rasmussen College-St. Cloud, Kathleen Rau Szczech, President.

University of Minnesota-Crookston, Donald Sargeant, Chancellor.

University of Minnesota-Duluth, Kathryn A. Martin, Chancellor.

University of Minnesota-Twin Cities, Nils Hasselmo, President.

MISSISSIPPI

Alcorn State University, Clinton Bristow, Jr., President.

Delta State University, Kent Wyatt, President.

Mary Homes College, Sammie Potts, President.

Mississippi University for Women, Clyda S. Rent, President.

Mississippi Valley State University, William W. Sutton, President.

Tougaloo College, Joe A. Lee, President.

MISSOURI

Central Missouri State University, Ed Elliott, President.

Culver-Stockton College, Edwin B. Strong, Jr., President.

Deaconess College of Nursing, Elizabeth Krekorian, President.

Lincoln University, Wendell G. Rayburn, Sr., President.

Maryville University of Saint Louis, Keith Lovin, President.

Missouri Southern State College, Julio Leon, President.

Northwest Missouri State University, Dean L. Hubbard, President.

Rockhurst College, Rev. Thomas J. Savage, S.J., President.

Saint Louis University, Rev. Lawrence Biondi, S.J., President.

St. Louis Community College, Gwendolyn W. Stephenson, President.

University of Missouri-Columbia, Charles Kiesler, Chancellor.

Vatterott College, John C. Vatterott, President.

William Jewell College, W. Christian Sizemore, President.

MONTANA

Carroll College, Matthew J. Quinn, President.

Montana State University, Michael Malone, President.

University of Montana, George A. Dennison, President.

NEBRASKA

Chadron State College, Samuel H. Rankin, President.

Dana College, Myrvin F. Christopherson, President.

Midland Lutheran College, Carl Hansen, President.

University of Nebraska-Lincoln, Joan R. Leitzel, Interim Chancellor.

NEVADA

University of Nevada Las Vegas, Carol C. Harter, President.

NEW HAMPSHIRE

Daniel Webster College, Hannah McCarthy, President.

McIntosh College, Robert DeColfmacker, President.

NEW JERSEY

Berkeley College of Business Garret Mount, Kevin L. Luing, President.

Burlington County College, Robert C. Messina, Jr., President.

Camden County College, Phyllis Della Vecchia, President.

Jersey City State College, Carlos Hernandez, President.

Monmouth University, Rebecca Stafford, President.

New Jersey Institute of Technology, Saul Fenster, President.

Ramapo College of New Jersey, Robert Scott, President.

Richard Stockton College of New Jersey, Vera King Farris, President.

Rowan College of New Jersey, Herman D. James, President.

Rutgers, State University of New Jersey, Francis Lawrence, President.

Saint Peter's College, Rev. James N. Loughran, S.J., President.

Seton Hall University, Rev. Thomas R. Peterson, O.P., Chancellor.

Trenton State College, Harold W. Eickhoff, President.

William Paterson College of New Jersey, Arnold Speert, President.

NEW MEXICO

New Mexico Junior College, Charles D. Hays, President.

University of New Mexico, Richard Peck, President.

NEW YORK

Bank Street College of Education, Augusta Kappner, President.

Berkeley College, Rose Mary Healy, President.

Berkeley College of New York City, Robert J. Hurd, President.

Clarkson University, Dennis G. Brown, President.

College of New Rochelle, Sister Dorothy Ann Kelly, O.S.U., President.

Cornell University, Hunter R. Rawlings III, President.

City University of New York, W. Ann Reynolds, Chancellor.

CUNY Borough of Manhattan Community College, Antonio Perez, President.

CUNY Brooklyn College, Vernon Lattin, President.

CUNY City College, Yolanda T. Moses, President.

CUNY College of Staten Island, Marlene Springer, President.

CUNY Graduate School & University Center, Frances Degen Horowitz, President.

CUNY Herbert H. Lehman College, Ricardo Fernandez, President.

CUNY Medgar Evers College, Edison Jackson, President.

CUNY New York City Technical College, Charles W. Merideth, President.

CUNY Queens College, Allen Lee Sessoms, President.

CUNY York College, Thomas K. Minter, President.

Dowling College, Victor P. Meskill, President.

Fordham University, Rev. Joseph A. O'Hare, S.J., President.

LeMoyne College, Rev. Robert A. Mitchell, S.J., President.

Long Island University, David Steinberg, President.

Marymount College, Sister Brigid Driscoll, R.S.H.M., President.

New York College of Podiatric Medicine, Louis L. Levine, President.

Onondaga Community College, Bruce H. Leslie, President.

Pace University New York Campus, Patricia O' Donnell Ewers, President.

Pace University Pleasantville-Briarcliff Campus, Patricia O'Donnell Ewers, President.

Rensselaer Polytechnic Institute, R. Byron Pipes, President.

Roberts Wesleyan College, William C. Crothers, President.

Rochester Institute of Technology, Albert J. Simone, President.

Schenectady County Community College, Gabriel Basil, President.

St. Lawrence University, Patti McGill Peterson, President.

SUNY at Binghamton, Lois B. DeFleur, President.

SUNY at Buffalo, William R. Greiner, President.

SUNY College at Brockport, John Van de Wetering, President.

SUNY College at Cortland, Judson H. Taylor, President.

SUNY College at Plattsburgh, Horace Judson, President.

SUNY College at Potsdam, William C. Merwin, President.

SUNY College of Agriculture & Technology at Morrisville, Frederick W. Woodward, President.

SUNY College of Technology at Canton, Joseph L. Kennedy, President.

SUNY Herkimer County Community College, Ronald F. Williams, President.

SUNY Hudson Valley Community College, Joseph Balmer, President.

SUNY Institute of Technology At Utica Rome, Peter J. Cayan, President.

SUNY Institute of Technology At Delhi, Mary Ellen Duncan, President.

SUNY Monroe Community College, Peter A. Spina, President.

Teachers College, Columbia University, Arthur Levine, President.

University of Rochester, Thomas H. Jackson, President.

NORTH CAROLINA

Applachian State University, Francis T. Borkowski, Chancellor.

Belmont Abbey College, Robert A. Preston, President.

Fayetteville State University, Donna J. Benson, Interim Chancellor.

Elizabeth City State University, M.L. Burnim, Interim Chancellor.

Livingstone College, Roy D. Hudson, Interim President.

North Carolina Agricultural & Technical State University, Edward Fort, Chancellor.

North Carolina School of The Arts, Alexander Ewing, Chancellor.

Saint Augustine's College, Bernard W. Franklin, President.

University of North Carolina at Asheville, Patsy B. Reed, Chancellor.

University of North Carolina Charlotte, James H. Woodward, Chancellor.

Western Carolina University, John W. Bardo, Chancellor.

Winston-Salem State University, Gerald McCants, Interim Chancellor.

OHIO

Ashland University, G. William Benz, President.

Bowling Green State University, Sidney A. Ribeau, President.

Case Western Reserve University, Agnar Pytte, President.

Cleveland Institute of Music, David Cerone, President.

College of Wooster, R. Stanton Hales, President.

Cuyahoga Community College, Jerry Sue Thornton, President.

Denison University, Michelle Myers, President.

Devry Institute of Technology, Galen H. Graham, Acting President.

Hiram College, G. Benjamin Oliver, President.

Kent State University, Carol Cartwright, President.

Miami University, Paul G. Risser, President.

Ohio University, Robert Glidden, President.

Ohio Wesleyan University, Thomas B. Courtice, President.

Southeastern Business College, Robert Shirey, President.

Southern State Community College, Lawrence N. Dukes, President.

University of Findlay, Kenneth E. Zirkle, President.

University of Rio Grande, Barry M. Dorsey, President.

University of Toledo, Frank E. Horton, President.

Xavier University of Ohio, Rev. James E. Hoff, S.J., President.

OKLAHOMA

Langston University, Ernest L. Holloway, President.

Oklahoma State University, Harry Birdwell, Vice President, Business & External Relations.

St. Gregory's College, Frank Pfaff, President.

OREGON

Eastern Oregon State College, David Gilbert, President.

George Fox College, Edward Stevens, President.

Portland Community College, Daniel F. Moriarty, President.

Southern Oregon State College, Stephen J. Reno, President.

University of Oregon, Dave Frohnmayer, President.

Western Oregon State College, Betty J. Youngblood, President.

PENNSYLVANIA

Beaver College, Bette E. Landman, President.

Carnegie Mellon University, Robert Mehrabian, President.

Cheyney University of Pennslyvania, Donald L. Mullen, President.

CHI Institute, Joseph F. Colyar, President.

Franklin and Marshall College, Richard Kneedler, President.

ICM School of Business, Gary Kerber, President.

Lebanon Valley College, John Synodinos, President.

Lehigh Carbon Community College, James R. Davis, President.

Lincoln University, Niara Sudarkasa, President.

Northampton Community College, Robert Kopecek, President.

Philadelphia College of Pharmacy & Science, Philip Gerbino, President.

Robert Morris College, Edward A. Nicholson, President.

PUERTO RICO

Inter American University of Puerto Rico, Jose R. Gonzalez, President.

Pontifical Catholic University of Puerto Rico, Rev. Tosello Giangiacomo, C.S.Sp., President.

University of Puerto Rico Humacao, Roberto Marrero-Corletto, Chancellor.

University of Puerto Rico System, Norman Maldonado, President.

University of The Sacred Heart, Jose Jaime Rivera, President.

RHODE ISLAND

Brown University, Vartan Gregorian, President.

Community College of Rhode Island, Edward J. Liston, President.

Rhode Island School of Design, Roger Mandle, President.

University of Rhode Island, Bob Roth, Special Assistant to the President.

SOUTH CAROLINA

Benedict College, David H. Swinton, President.

Claflin College, Henry Tisdale, President.

College of Charleston, Alexander M. Sanders, Jr., President.

Greenville Technical College, Thomas E. Barton, President.

Morris College, Luns C. Richardson, President.

South Carolina State University, Leroy Davis, Interim President.

The Citadel, Claudius Watts, President.

Trident Technical College, Mary Thornley, President.

Winthrop University, Anthony J. DiGiorgio, President.

SOUTH DAKOTA

National College, Jerry L. Gallentine, President.

TENNESSEE

Crichton College, Larry R. Brooks, President.

Fisk University, Henry Ponder, President.

LeMoyne-Owen College, Earl Vinson, Senior Vice President.

Middle Tennessee State University, James Walker, President.

Motlow State Community College, A. Frank Glass, President.

Tennessee State University, James A. Hefner, President.

Tennessee Technological University, Angelo A. Volpe, President.

The University of Tennessee at Chattanooga, Frederick W. Obear, Chancellor.

TEXAS

Austin College, Oscar Page, President.

Brookhaven College, Walter G. Bumphus, President.

Del Mar College, Terry L. Dicianna, President.

Devry Institute of Technology, Francis V. Cannon, President.

East Texas State University, Jerry P. Morris, President.

Houston Baptist University, E.D. Hodo, President.

Palo Alto College, Joel E. Vela, President.

Prairie View A & M University, Charles Hines, President.

Richland College, Stephen K. Mittelstet, President.

Southwest Texas State University, Jerome H. Supple, President.

Tarrant County Junior College District, C. A. Roberson, Chancellor.

University of North Texas, Alfred F. Hurley, Chancellor.

University of North Texas Health Science Center, Alfred F. Hurley, Chancellor.

University of Texas at Dallas, Franklyn G. Jenifer, President.

VERMONT

Castleton State College, Martha K. Farmer, President.

Community College of Vermont, Barbara Murphy, Interim President.

Johnson State College, Robert Hahn, President.

Lyndon State College, Peggy Williams, President.

Middlebury College, John M. McCardell, Jr., President.

University of Vermont, Thomas P. Salmon, President.

Vermont State College System, Charles I. Bunting, Chancellor.

Vermont Technical College, Robert Clarke, President.

VIRGINIA

Central Virginia Community College, Belle S. Wheelan, President.

Hampton University, William R. Harvey, President.

Hollins College, Jane Margaret O'Brien, President.

Norfolk State University, Harrison B. Wilson, President.

Northern Virginia Community College, Richard Ernst, President.

Old Dominion University, Jo Ann Gora, Acting President.

Virginia Commonwealth University, Eugene P. Trani, President.

Virginia State University, Eddie N. Moore, President.

Wytheville Community College, William Snyder, President.

WASHINGTON

Central Washington University, Ivory V. Nelson, President.

City University, Michael Pastore, President.

Spokane Community College, James H. Williams, President.

University of Washington, Richard L. McCormick, President.

Washington State University, Samuel H. Smith, President.

Western Washington University, Karen W. Morse, President.

WEST VIRGINIA

Alderson Broaddus College, Stephen E. Markwood, President.

Bluefield State College, Robert E. Moore, President.

Fairmont State College, Robert J. Dillman, President.

Marshall University, J. Wade Gilley, President.

State College System of West Virginia, Clifford M. Trump, Chancellor.

West Liberty State College, Donald C. Darnton, Interim President.

West Virginia State College, Hazo W. Carter, Jr., President.

West Virginia University, David C. Hardesty, Jr., President.

Wheeling Jesuit College, Rev. Thomas Acker, S.J., President.

WISCONSIN

Lakeland College, David Black, President.

Lawrence University, Richard Warch, President.

Marquette University, Rev. Albert DiUlio, S.J., President.

Northland College, Robert Rue Parsonage, President.

Ripon College, Paul B. Ranslow, President.

St. Norbert College, Thomas A. Manion, President.

University of Wisconsin System, Katharine Lyall, President.

University of Wisconsin-Eau Claire, Larry Schnack, Chancellor.

University of Wisconsin-La Crosse, Judith L. Kuipers, Chancellor.

University of Wisconsin-Milwaukee, John H. Schroeder, Chancellor.

University of Wisconsin-Stout, Charles W. Sorenson, Chancellor.

University of Wisconsin-Superior, Jan G. Womack, Chancellor.

Mr. PRESSLER. Mr. President, the Balanced Budget Act of 1995 extends the FCC's auction authority for the first time to any situation in which the FCC must choose between mutually exclusive applications—including applications for broadcast facilities. For this reason, Mr. President, I want to take just a moment to explain the actions and intentions of the Committee on Commerce, Science, and Transportation. I want all my colleagues to understand the auction authority extends only to mutually exclusive applications for new facilities not already pending at the FCC.

Applications for renewal, modification, or upgrade of existing facilities are not covered under this provision. Similarly, the committee does not intend—in cases in which an application has already been accepted by the FCC—that auctions be used to resolve that proceeding. I understand that, as the result of a court decision, the FCC has not technically accepted certain applications.

The committee's intention is that if any application in a proceeding has been accepted, the proceeding will be resolved under the provisions of existing law.

Mr. LAUTENBERG. Mr. President, when the roll is called on this budget reconciliation conference report, I will be voting yes. But not for this bill.

Instead, I will be voting yes for our seniors—yes for our students—and yes for the middle class.

And I will be voting no on the conference report.

I will be voting no on massive Medicare cuts to finance tax breaks for the wealthy.

I will be voting no on huge tax breaks for the rich and the special interests.

I will be voting no on devastating cuts in nursing home care for seniors and the disabled.

I will be voting no on increased taxes for working people.

I will be voting no on ending the safety net for children.

I will be voting no on the basic thrust of this legislation—that we must balance the budget on the backs of working families and senior citizens, while handing out billions in tax breaks for the rich and powerful.

This bill represents the extremes of the Republican membership.

Mr. President, when you get right down to it, this bill forces all of us to answer a simple question: "Whose side are you on?"

Are you on the side of middle-class Americans? Are you on the side of our senior citizens, of middle-class families struggling to send their children to college, and of lower income working families?

Or are you on the side of the wealthy and the special interests?

The Republican reconciliation bill is paydirt for the rich and the special interests and senior citizens and working class families get stuck footing the bills.

This is an outrage—and we Democrats are going to fight it as a basic matter of principle.

We saw what happened with the continuing resolution when the public caught on to the scheme. Under the spotlight, the Republicans blinked, they retreated, they ran. They wanted to escape the public wrath and quickly abandoned their deep principles for political cover.

This bill makes the biggest cuts in the history of Medicare.

And the Republicans build their case around a false premise.

They argue that in order to save Medicare, we must destroy its fundamental mission. This is simply not true.

And they ought to be honest with the American people about the two major Republican falsehoods.

The first false statement that the Republicans make is that we need $270 billion to save Medicare. This is simply untrue.

The Republicans are using this $270 billion to finance their $245 billion in tax breaks for the rich folk.

It is no coincidence that the Medicare cuts are $270 billion and the tax breaks for the wealthy total $245 billion.

These figures are remarkably similar because one is being used to finance the other. They are taking from our senior citizens who paid the bills, signed the contract, and weathered the storms. And they're giving it back to the wealthy and the special interests.

The second Republican falsehood is that we need to cut $270 billion to make Medicare solvent. Not true. The chief HHS Medicare actuary has stated that we only need $89 billion in savings to make Medicare solvent until the end of 2006.

Mr. President, let me just give you some examples of what kind of tax breaks these Medicare cuts are paying for:

Under this bill, approximately 2,000 large corporations will get a tax break of $2 million each because of changes in the alternative minimum tax. This is outrageous.

In addition, this bill contains hundreds of millions of dollars in giveaways to oil companies.

Finally, the capital gains tax cut included in this bill is a tax break for the super rich. Anyone can claim this tax break. Even millionaires and billionaires can get this tax break.

Mr. President, I tried to draw a line on the tax breaks and put the money back into Medicare and Medicaid. I offered an amendment to the reconciliation bill that would have precluded the tax breaks from going to those who make over $1 million per year. That's the top one-tenth of one percent of all taxpayers.

I thought this amendment would pass unanimously. I thought that we all could agree that millionaires and billionaires do not need a tax break when we are cutting Medicare—especially when 75 percent of all Medicare recipients earn under $25,000 per year.

But no—52 of the 53 Republican Senators voted against my amendment. In essence, they voted to cut Medicare to provide tax breaks for millionaires and billionaires.

Mr. President, Medicare is not just a health insurance program. Medicare is a commitment that we have made to our citizens. It is a promise—for those who work hard their entire lives—that your medical needs will be taken care of when you retire.

But this Republican budget uses the Medicare Program as a slush fund for the tax breaks for the wealthy.

I urge my colleagues to say no to Medicare cuts to pay for tax breaks for the rich.

Let's reject the Republican budget reconciliation bill—let's start over.

We can put together a compromise bill that moves toward a balanced budget but does not destroy our Medicare Program. But this is not such a bill.

Unfortunately, this is a bill that sticks it to ordinary Americans, and lavishes huge breaks for the rich and the special interests. I think that's wrong.

I say: It's time, for once, to put the middle class first and defeat this bill.

I yield the floor.

Mrs. HUTCHISON. Mr. President, for the information of the Senate, I would like to discuss with the chairman of the Committee on Energy and Natural Resources, Mr. MURKOWSKI, the provisions of the Budget Reconciliation Conference Report that relate to the sale of oil from the Weeks Island Strategic Petroleum Reserve storage facility. This facility is located in Louisiana.

I say to Chairman MURKOWSKI, a provision of the conference report requires the sale by the Department of Energy of oil from the Weeks Island facility. It is my understanding that the Weeks Island facility has suffered irreparable damage from one and perhaps two fractures, and that oil within this facility is in danger of leaking into Louisiana's underground aquifer. It is also my understanding that as a result of these fractures, the oil contained in Weeks Islands must be removed and the facility decomissioned. Is that correct?

Mr. MURKOWSKI. Mr. President, the Senator from Texas is correct. The leaks she refers to require the oil contained in the Weeks Island facility to be removed, and the facility to be decommissioned. There is no choice, and the Department of Energy already has that process underway. It is only with the greatest hesitancy that we are requiring the sale of any oil from the Strategic Petroleum Reserve. As the Senator from Texas knows, the Strategic Petroleum Reserve is essential for the protection of our energy security in the event of oil supply interruption, such as the ones we suffered through in 1973 and 1979. That is why the conference report contains provisions which provide funding for the replacement of this oil in the Strategic Petroleum Reserve.

Mrs. HUTCHISON. I thank the Chairman for that response. I would also like to know if the conference report contains any language to assure domestic oil producers, particularly independents located in the State of Texas, that the sale of this oil will not be done by the Department of Energy in such a manner as to disrupt the oil market or to adversely affect oil prices?

Mr. MURKOWSKI. Mr. President, the answer to the Senator's question is yes. When the oil is sold from the Weeks Island facility, which is located in Louisiana, the Department of Energy is directed to so do in a manner that does not disrupt the marketplace or have any noticeable impact on prices. Perhaps the best thing to do is to quote from the statutory language contained in conference report: "The Secretary shall, to the greatest extent practical, sell oil from the reserve in a manner that minimizes the impact of such sales upon supply levels and market forces.".

Mrs. HUTCHISON. Mr. President, I thank Senator MURKOWSKI.

Mr. WARNER. Mr. President, I have been listening with a great deal of interest to the speakers on both sides of the aisle as the Balanced Budget Act of 1995 has been discussed. Although the President has indicated that he will veto this conference report when he receives it, I am proud to support this document which follows through on our commitment to balance the Nation's budget by the year 2002, protect Social Security, and save Medicare from threatened bankruptcy. America has not had a balanced budget in over a quarter century.

While we are apparently debating a bill that has no future, there will be successor after successor with the same basic goals until we win. Yes, this will get a veto from the President, but at the same time, it will signal the beginning of a final dialog with the administration on a final Balanced Budget Act of 1995.

America's financial markets have reflected the approval of the Republican efforts during the past week. The phone calls and fax messages from my constituents statewide have overwhelmingly supported the position taken by Republicans and reflected in this package. As I indicated when the

Senate considered this bill, this is not just a budget for another year. This is not a package of routine legislative changes. This is a historic commitment to America that deficit spending is about to come to an end, no later than the year 2002, and it has been brought about during the first year of the Republican majority in the Congress.

The net result of a balanced budget will be lower interest rates for years to come, and as many as 6 million new jobs. The reforms in this bill will give the States more control over critical entitlement programs. I strongly support these initiatives which will let the States decide how best to serve their own citizens. What is best for my State of Virginia is not necessarily the same as what is best for another State, and this balanced budget act will move power and money out of Washington, back to State governments and local communities where it belongs.

When this balanced budget act is finally signed into law, and it will be, we will have identified the path, but each year we will have to make spending decisions that will keep us on the road that is being defined here today. If emergencies occur, we will have to offset their costs with spending reductions. Those budget decisions will be as difficult in the year 2000 as they are this year, but this conference report is a commitment by the Republicans, and eventually, by the entire Congress, that we will stay the course.

This is a momentous vote, and I urge my colleagues to roll up your sleeves, get ready for hard work, and pass this balanced budget act. The Republican train is here, and it is time to get aboard for a trip to fiscal responsibility. We have made the commitment to America and we will carry through on it.

NURSING HOME STANDARDS

Mr. COHEN. Mr. President, I rise to comment on the need to strengthen our commitment to strong nursing home standards in the budget reconciliation bill before us. The conference report on the budget bill has come a long way toward restoring current Federal nursing home standards and strong Federal and State enforcement of protections for nursing home residents. It represents a considerable improvement over the House bill that retreated from Federal standards and enforcement and reflects much of the Senate position on nursing home standards, but we are not there yet.

Many patient advocacy groups and colleagues from the other side of the aisle have come forward to assail the nursing home provisions included in this bill, but I would ask them to pause for a moment to recognize that significant headway we have made in the debate over Federal nursing home standards. The debate is no longer over the need for national standards and Federal oversight of nursing homes, but over what national standards are necessary to be maintained. I remain cautious of several of the changes made in conference agreement which could undermine the improvements nursing home residents and their families have witnessed since the enactment of the OBRA 87 regulations, but I recognize the substantial progress that has been made.

Specifically, I am concerned about provisions of the bill allowing nursing homes to be accredited by private sector organizations as a way of meeting State certification requirements. In the past, private accreditation has been perceived as a loophole for facilities to avoid oversight. In order for accreditation to be acceptable, we must be sure that the Federal and State governments retain full authority to monitor facilities and that standards and residents' rights are not compromised.

I also have reservations about several changes that have been made to current law. For example the bill eliminates current regulations that restrict a nursing home from placing extra requirements on Medicaid patients as a condition of admission, such as denying a Medicaid bed unless a gift, payment, or donation is given to the facility. Without the current admission policy limitations, patients and their family members will no longer be protected against discrimination based on source of payment and duration of stay contracts.

It also removes the requirement that facilities provide care and services to allow each resident to attain or maintain his or her highest practicable level of physical mental, and psychosocial functioning. While this standard may sound a bit abstract, it was a key phrase negotiated in the OBRA 87 requirements to encourage nursing facilities to provide the best possible to nursing home residents.

It reduces the frequency of required inspections of nursing homes from every year to every 2 years unless the facility has been found to have substandard care; eliminates the requirement for comprehensive training for State and Federal surveyors; removes requirement that resident assessments be conducted using a national uniform data set in order to monitor patient outcomes and consistency in patient care; relaxes protections against unfair transfers and discharge of nursing home residents; reduces some minimum training and staffing requirements for nursing homes—including elimination of 75 hours of training for nurse aides and the requirement that facilities with more than 120 beds employ a qualified social worker.

Also, it reduces the frequency of mandated Federal validation surveys on 5 per cent every year to 5 per cent every 3 years; removes requirement directing surveyors to reduce the time between identification of standards violations and the final imposition of remedies; eliminates language calling for incrementally more severe fines for repeated or uncorrected deficiencies; reduces maximum civil monetary penalty imposed on nursing homes that are out of compliance from $10,000 to $5,000; and eliminates language requiring retroactive civil monetary penalties for past noncompliance.

The conference agreement on nursing home protections has come a long way toward restoring the goal of full protections for millions of nursing home residents nationwide, but certain critical issues remain unresolved. I will continue to evaluate the changes proposed by the conferees and will work with the leadership and consumer groups to guarantee adequate protection for elderly and disabled nursing home residents.

Mr. THURMOND. Mr. President, I rise today in support of the Balanced Budget Act of 1995, which, for the first time in many years, proposes a budget that controls entitlement spending, restrains the growth of Government, and eliminates annual deficits.

For years I have made speeches in this great Chamber, and cast my vote in support of a balanced budget. I have introduced balanced budget amendments in numerous sessions of Congress, including the 104th Congress. On July 12, 1982, a balanced budget amendment was brought to the floor. As Chairman of the Judiciary Committee, I was pleased to sponsor and guide that important measure to passage. On August 4, 1982, 69 Senators voted in favor of the resolution. While a majority supported it in the House, if failed to receive the necessary two-thirds vote. In March 1986, the Senate voted on another balanced budget amendment. It was unfortunate that the resolution failed by one vote. Earlier this year, the balanced budget amendment again failed by one vote. However, I am confident that we will yet pass the balanced budget amendment during the 104th Congress.

With or without a constitutional amendment, this balanced budget act proves that the Congress can enact a budget which protects the health and safety of our Nation, provides quality Government services, and eliminates harmful deficits.

This is a refreshing contrast to the unbalanced budgets proposed by the President. His budgets contain no plan to balance the budget, significantly increase the national debt, fail to restrain growth in nondefense Government spending, and propose dangerous reductions in national defense spending. Mr. President, such budgets are not acceptable alternatives.

The Balanced Budget Act of 1996 reverses direction on those policies which are stifling our economy and burdening all Americans with an overwhelming national debt. It puts the Nation on track to reduce Government spending, eliminate annual deficits, and permits us to begin to reduce the national debt, which is now nearly $5 trillion.

First, this bill controls the growth rate of Government spending. Federal spending continues to increase over the 7-year budget period, from $1.5 trillion in 1995 to nearly $1.9 trillion in fiscal year 2002. However, this spending growth is at a slower, more affordable rate, and below the growth rate of Federal revenues. By 2002, revenues will exceed spending.

One would think, listening to this debate, that this budget drastically reduces or eliminates all Federal programs. For example, it has been argued by some that proposed reductions would destroy Medicare and Medicaid. This simply is not the case. Both programs grow at healthy annual rates. Without the proposed reforms, these programs would grow at unsustainable rates, resulting in dangerous consequences, even threatening the solvency of the Medicare part A trust fund.

Second, Mr. President, the balanced budget act reduces and eventually eliminates annual deficits, which is the amount Government outlays exceed Government revenues. Without this bill, annual deficits will continue to increase, exceeding $200 billion per year. By enacting this measure, annual deficits will begin a downward path and will be eliminated within the 7-year budget period. The Congressional Budget Office estimates a surplus by 2002, allowing us to begin reducing the national debt.

The results of this deficit reduction, Mr. President, have been estimated to stimulate economic growth, reduce interest rates, increase employment opportunities, and result in a higher standard of living for all Americans.

Mr. President, in addition to controlling Government spending, this balanced budget act addresses Government revenues. Under this bill, Government revenues will continue to increase. However, in contrast to the 1993 Budget Reconciliation Act which enacted the largest tax increase in history, the balanced budget act will let American families keep more of what they earn.

Let me emphasize, Mr. President, this bill provides tax relief for the middle class. Over four-fifths of the tax reductions of this proposal will go to those making under $100,000; nearly two-thirds go to those making under $75,000. Furthermore, after considering all the reforms of the earned income tax credit, the marriage penalty, and the child tax credit, working families with children will see their taxes decrease next year.

The centerpiece of the revenue provision is the family tax credit, offering a $500 per child tax credit, for children under the age of 18. This credit is phased out for individuals with adjusted gross income over $75,000, or for married couples with an income over $110,000. In my State of South Carolina, this means that over 400,000 tax returns will be eligible to claim this credit, at a value of over $320 million. This is money directly in the hands of parents to spend for their priorities—child care, housing, and education—not sent to Washington to fund its bloated bureaucracy.

Other provisions provide direct relief to America's families, including a $5000 adoption tax credit; marriage penalty relief; and a credit for student loan interest.

The bill also contains revenue provisions which will increase savings and investment. The expansion of the individual retirement account will permit more Americans to save more money for their retirement years. The capital gains reduction will unlock existing capital assets, allowing capital to be reinvested. This will result in more jobs, higher wages, more benefits, and a more vibrant economy.

Let me address the argument that the capital gains tax cut will go primarily to the rich. A study by the U.S. Treasury showed that nearly one-half of all capital gains were realized by taxpayers with wage and salary income of less than $50,000. Three-fourths of all returns with capital gains in 1995 are estimated to be reported by taxpayers with wage and salary income of $50,000 or less. Mr. President, let me reemphasize this point—capital gains tax relief will benefit all Americans.

Mr. President, there are many other important and favorable provisions in the Balanced Budget Act. The act reforms welfare by emphasizing work and responsibility. It preserves, protects and improves Medicare. It protects veterans' benefits and safeguards affordable education.

Mr. President, I support the Balanced Budget Act of 1995. I vote "yes" for reducing the deficit; I vote "yes" for controlling the growth of Government spending; I vote "yes" for our families by reducing their tax burden; I vote "yes" for restoring the economic future of our Nation. Therefore, I will vote "yes" for this bill and encourage my colleagues to do likewise. I yield the floor.

Mr. MURKOWSKI. Mr. President. The Committee on Energy and Natural Resources met and exceeded its targets for the conference. I want to express my appreciation to Chairman YOUNG of the House Resources Committee and to Chairman BLILEY of the House Commerce Committee for their cooperation, and the hard work of their staff, that enabled us to conclude our negotiations quickly and in an amicable fashion.

When the President submitted his budget earlier this year, he proposed to sell the Power Marketing Administrations, except for Bonneville, to the present customers at the discounted value of the repayment obligations. That proposal was not particularly well thought out as our hearings in committee demonstrated. Nonetheless, the revenue assumptions underlying that sale became part of the target and instructions given to our committee. While the members of our committee recognize that serious attention needs to be given to the future of the PMA's, especially in light of declining budgets for the agencies that currently manage the generating and marketing of power from Federal facilities, we also are in agreement that responsible solutions are simply not possible within the time frame of Reconciliation. The Committee was faced with a Herculean task of finding other options to achieve the savings scored to our committee. The magnitude of the task is best illustrated by a comment from one of the staff on the Budget Committee that if they had known of other options, we would have been scored with them as well.

As I stated, the committee has met and exceeded its instructions. I want to express my appreciation to our ranking Minority Member, Senator JOHNSTON, for his cooperation and the assistance from his staff in helping us. Our committee has always prided itself on its bipartisan professional approach to legislation, and that is demonstrated in our product.

The conference agreement includes the sale of certain lands in California contained in the House measure as well as the sale of the helium reserves contained in both the Senate and the House.

The agreement also contains the leasing authority for the Coastal Plain in Alaska that was contained in both the Senate and House versions and which was a specific assumption in our instructions. The conferees made several minor changes to make the program work more efficiently and resolved uncertainties in allotments due Alaskan natives within the Coastal Plain. I know that some opponents of the program have suggested that the Federal Government will never see the revenues estimated from leasing on the Coastal Plain due to the provision in the Mineral Leasing Act made by the Alaska Statehood Act that provides 90 percent of all revenues to the State. The statement of managers is explicit on this subject. We are not in any manner altering the provisions in the Alaska Statehood Act nor the Mineral Leasing Act. Those provisions continue to apply in Alaska outside the Coastal Plain. When Congress set aside the Coastal Plain, it reserved to itself the decision on whether the area should be opened to leasing or not, and if so, under what terms and conditions.

The decision has been that the area should be leased, but that it should be leased under very specific conditions tailored to the unique characteristics of the Coastal Plain. Suggestions that development will have adverse environmental effects are wrong and the result of either misinformation, misunderstanding, or deliberate mischaracterization. Our committee has spent several years crafting very specific language to ensure that development will occur in an environmentally sensitive manner, and that language is incorporated in the conference agreement. In developing a separate leasing program for the Coastal Plain, the committee decided to adopt a 50–50 revenue sharing formula. The conference language is absolutely clear that the program set forth is the sole authority for the leasing program, not the Mineral Leasing Act.

I will have more to say about this leasing program, but for the moment I simply want to say that I sincerely hope that the President would stop listening to the ideological fanatics that prowl the White House and the Federal agencies and examine the realities of this leasing program. This Nation is once again over 50 percent dependent on foreign oil supplies. That doesn't seem to bother the President, but it should. The President should reexamine his position on this issue. His opposition is wrong from the standpoint of our energy security, it is wrong from the standpoint of the economy, it is wrong from the standpoint of the environment, it is wrong from a budget standpoint, it is wrong from the standpoint of domestic employment, it is wrong from the standpoint of our responsibilities for Native Alaskans—his opposition is simply wrong.

The conference agreement also includes various reclamation and water provisions. The agreement retains the Senate language repealing a prohibition in current law that prevents irrigation districts from prepaying their outstanding debt. The legislation also provides for the transfer of the Collbran Project in Colorado, and Senator CAMPBELL deserves the credit for working out the problems with that provision. The agreement also includes a modification to the Raker Act that would increase the payment by San Francisco for the use of a portion of Yosemite National Park from $30,000 to $2 million. The charge has not been changed in over half a century. The House had set the charge at $8 million while the Senate had adopted a formula used by FERC with a floor of $597,000. The Agreement also includes two provisions of the House version—the transfer of Sly Park and authorization for prepayment of Central Utah Project debt—with minor modifications.

After considerable discussion with the House, we also were able to come to agreement on amendments dealing with Federal oil and gas royalties and hardrock mining. The reforms will increase Federal receipts and provide a fair and workable system that will increase collections from oil and gas operations and completely reform the federal hardrock mining program. I fully understand that the provisions dealing with hardrock mining will not satisfy those whose prime motivation is the elimination of any domestic mining industry, but that was not our objective. The provisions of the Conference Agreement recognize private property rights, provide for fair market value with a reverter for patents, and impose a royalty on future production.

The conference agreement includes the Senate provisions dealing with privatization of Department of the Interior aircraft services, with certain modifications as well as the sale of the Alaska Power Administration, refinancing of the Bonneville Power Administration, export of Alaska oil, and OCS deepwater royalty relief, all of which were included in the conference agreement on S. 295 which both the Senate and House have approved and the President supports.

After considerable work, the conferees were able to agree on provisions dealing with ski area permits, National Park Service concessions, and recreation fees at areas administered by the National Park Service, Bureau of Land Management, and the Forest Service. We were able to retain the Senate provision that would return 80 percent of all new receipts to the collecting agency for direct use for visitor services and facilities.

The conferees also agreed to the language that markedly improves the climate for the privatization of the U.S. Enrichment Corporation. We also included language providing for the disposal of surplus property by the Department of Energy and for the lease of excess storage capacity within the Strategic Petroleum Reserve. As a result of problems at the Weeks Island site, the reserves need to be drawn down and relocated. The conferees agreed that 32 million barrels of the reserve should be sold, but that 50 percent of the revenues from the lease of excess capacity should be made available for additional purchases to complete the reserve beginning in 2002.

Mr. President, none of this could have been accomplished without long hours and hard work by the professional staff of the committee. I want to express my appreciation to them. Howard Useem worked on the Alaska Power Administration sale and the Bonneville refinancing as well as the Strategic Petroleum Reserve language. Brian Malnak worked on the Interior asset sales, Mike Poling worked on the oil and gas royalty and OCS provisions, and Jim O'Toole worked on the National Park Service fees and concessions language. Jonathan Schneeweiss made major contributions in trying to keep our provisions straight, and I want to especially express my gratitude to the support staff, Camille Heninger, Betty Nevitt, Jo Meuse, Kelly Fischer, Judy Brown, Julia Gustafson, and Gerry Gentry—who really did all the work.

I also want to thank the minority staff who demonstrated the high level of professional commitment that has always characterized our staff. During the last reconciliation measure, they sought to involve us and we tried to be helpful. We are grateful for their assistance this time around. Ben Cooper, Tom Williams, David Brooks, Shirley Neff, Bob Simon and Cliff Sikora all made important contributions. I especially want to thank Sam Fowler for his assistance and ready recourse to humour during tense moments. In addition to his overall responsibilities for the entire package, his work on the U.S. Enrichment Corporation was invaluable.

Although all the staff performed well, some made extraordinary contributions. I want to acknowledge Karen Hunsicker, who shepherded the conference with the House Commerce Committee to an early and successful conclusion, especially on the U.S. Enrichment Corporation and DOE asset sales. David Garman did outstanding work on the U.S. Enrichment Corporation and Andrew Lundquist has labored long and hard on both the Alaska export provisions and the leasing program for the Coastal Plain of the Arctic Refuge. Michael Flannigan made the hardrock mining negotiations as exciting as possible and kept a degree of uncertainty up to the very last moment. Kayci Cook, the Committee's Bevinetto Fellow, demonstrated competence, patience, and professional judgment in working on concessions and park fees.

Finally, I want to express my appreciation to the senior staff of the Committee—Gregg Renkes, our Staff Director, Gary Ellsworth, our Chief Counsel, and Jim Beirne, our Senior Counsel. Not only have they handled individual portions of the package with their usual professional expertise, but they have also had the pleasure of dealing with the Budget Committee, the Congressional Budget Office, the Parliamentarian, Legislative Counsel, and their House counterparts, as well as various Senators and staff. They handled the floor procedures, and made certain that all the members of the Committee were covered, and are responsible for the successful completion of the conference.

Mr. CRAIG. Mr. President, yesterday, on his birthday, a young member of my staff went to the dentist for a root canal. He understood that long-term health and comfort was more than worth the short-term discomfort.

Ironically, the same day, I received a fax from a concerned taxpayer who pointed out that a dentist's "polling numbers" aren't too good while the cavity is being drilled. But once the cavity is filled, "the horrible toothache is gone forever—and the patient is grateful."

For many of us in Congress, for Government employees, for many Idahoans, and for many folks watching us around the Nation, the current budget impasse may be producing a feeling like that of hearing the dentist's drill.

So, it's important for us to remember why we're here, what's at stake here, and why we are fighting so hard to pass a balanced budget.

$200 billion annual deficits, a $5 trillion debt, are more than a toothache—they are a cancer on the economy and threaten the living standards and economic security of every American.

This would be the first balanced budget since 1969 and only the second since 1960. It's sobering to remember that a majority of Americans living today have seen the Government balance its books either once or never.

Back at the beginning of this year, we got 66 of the 67 votes we needed to pass the Balanced Budget Amendment to the Constitution. The critics, the defenders of the status quo cried out, "Where's your plan?" Well, at least for those of us on this side of the aisle, here's our plan.

With passage today of the Balanced Budget Act, the first Republican Congress in 40 years is on the verge of passing a detailed plan to balance the Federal budget by the year 2002—for the first time since 1969 and only the second time since 1960. In fact, a majority of all Americans living today have seen the Government balance its books only once or never. However, the President has threatened a veto and the debate has been heated and, often, confusing or misleading. The following information should help folks construct the true picture of the current debate and what's at stake.

Democrats say Republicans in Congress want to slash spending. But total spending under the Balanced Budget Plan will go from $1.5 trillion in 1995 to almost $1.9 trillion in 2002—a 22 percent increase.

Under the status quo, spending would go to $2.1 trillion in 2002—almost a 40 percent increase.

The Democrats say the Republican budget is all pain, no gain. But real people will enjoy real benefits from balancing the budget by 2002 under the Republican plan. Because of lower interest rates, a typical family would save $2,388 a year on a $75,000 mortgage; $1,026 over the life of a 4-year, $15,000 car loan; and $1,891 over the life of a 10-year, $11,000 student loan.

Balancing the budget means more investment, more economic growth, and 2.5 million new jobs by 2002. By 2020, this growth means our children would have a 7 percent to 36 percent higher standard of living.

In contrast: The Concord Coalition estimates that Federal debts and deficits already have lowered the average family's income by $15,000 a year. The President's 1995 budget estimated that future generations face a lifetime tax rate of 82 percent at all levels, under current trends in the public debt. The status quo is the least tolerable course.

President Clinton says he has submitted a balanced budget. Not according to the nonpartisan, objective Congressional Budget Office, which said the "10-year balanced budget plan" he offered this summer actually would produce $200 billion deficits a year throughout the next decade. By his own admission, the budget the President first proposed in February would have produced similar $200 billion deficits. In both cases, he used unrealistic economic assumptions.

Democrats say the Congressional budget plan will drastically reduce Medicare protection for the elderly. But, if we do nothing, Medicare will run a deficit in the coming year for the first time ever, and its trust funds will be completely drained of their accumulated reserve by 2002. The official Medicare Trustees—including three of President Clinton's own Cabinet Secretaries—have said so.

The balanced budget plan will extend the financial solvency of Medicare at least until 2009, protecting seniors. Budget savings would come from increasing consumer choice and making the system more efficient. Even after savings, Medicare spending per beneficiary would increase from $4,800 in 1995 to $6,700 in 2002—a 40-percent increase.

Democrats say Republicans want to cut Medicare to pay for tax cuts. But, the same magnitude of reforms are necessary to save and preserve Medicare, no matter what happens with the rest of the budget. The Balanced Budget Act includes a lockbox provision making it illegal to use Medicare funds for other purposes.

Democrats say the Republican plan won't really balance the budget—it will look like it by raiding the Social Security trust funds. But, the balanced budget plan will balance the unified budget (including Social Security surpluses in the total) by 2002. It will balance the budget without counting Social Security by 2005. The Government will remain under a legal obligation to pay out to Social Security beneficiaries every dollar ever deposited into the Social Security trust funds, with interest.

The growing national debt is the real threat to Social Security and every other important Government program. We already are paying $300 billion in interest every year on that debt—about one-fifth of it going to foreigners—which crowds out other budget priorities.

Democrats say the Congressional budget is full of tax cuts for the rich. But, every time someone suggests cutting taxes for everyone, liberal demagogues make it sound like the rich are getting a special deal. It just ain't so in the balanced budget plan.

Almost three-quarters of the tax package in the budget goes for family tax relief, including a $500 per-child credit, adoption credit, marriage penalty relief, a deduction for custodial care for the elderly, and a student loan interest deduction. Savings and investment incentives will boost the entire economy, create jobs, and guarantee that small businesses and family farms won't have to be sold at the owner's death just to pay taxes. Closing corporate loopholes will raise $18 billion in revenues over the next 7 years.

Democrats say the Republican budget raises taxes on lower-income people. This accusation is a misrepresentation about the Earned Income Tax Credit [EITC]. The EITC is the fastest-growing item in the budget. It is part tax credit and part spending program for lower-income workers. In his 1993 budget, President Clinton drastically expanded who's eligible and the amount of benefits.

The Balanced Budget Act would preserve currently-scheduled EITC increases for needy families with children. Coordinating the EITC with the $500 per-child credit will still give EITC families earning more than $18,000 a net tax cut. Other reforms target fraud, which would cost $37 billion over the next 5 years under current law. The only actual benefit reductions would affect childless taxpayers (who, before 1993, were never eligible for the EITC), illegal aliens, tax cheats, and affluent taxpayers (who never should have received EITC benefits).

Democrats say Republicans want to cut benefits to the poor and needy. But Medicaid (health care insurance for the needy) spending in the Balanced Budget Act would go from $89 billion in 1995 to $127 billion in 2002—a 43-percent increase.

Mr. President, here is some rhetoric versus the truth.

Mr. SIMPSON. Mr. President, what an extraordinary and remarkable day. We are all somewhat weary—and, yes, greatly frustrated—from events of the past few days. But we should not let our fatigue—or our frustration from dealing with politicos at the other end of Pennsylvania Avenue—diminish the importance of the moment.

At the close of this debate, we will be privileged to vote on a budget which—get this, for the very first time in my 17 years here—actually balances the budget on a date certain. No more smoke and mirrors! No tricks. No more "accept short term expedients now—with the understanding that necessary trimming will follow later." We have finally learned better; finally, we do understand. And, finally, we are actually going to do it! We are going to balance this budget! A good day!

Everyone in this chamber knows my views on the subject of a balanced budget. Everyone knows that I passionately believe that the one way—the only way—to get to a balanced budget is to gain control over this so-called entitlement spending. That's a belief borne of very careful study—study which Senator BOB KERRY and I undertook in service on the Entitlement Reform Commission.

But the view that we must gain control over entitlement spending in order to balance the budget is not merely a belief. At this point, I think all Senators might agree that, as a matter of absolute fact, entitlement spending reform is the only way we can get from here to there. The fact that all now seem to agree on that point—and on the point that we must stop borrowing indefinitely from future generations—shows how far we, and the American people, have come in just a few years. I wish this consensus might have arrived sooner, but I'm surely pleased it is here now.

In light of the relative consensus on the "big picture," and in view of the limited time available for us to debate this historic Balanced Budget Act, I will not talk long on the overarching issues. But I will say this: we are taking an action today which comes closer than anything we could ever do—short of voting on a war resolution—to determining the day-to-day quality of life of future generations of Americans. This is not hyperbole or overstatement. This is not hype or hoorah! Without the action we take today, our grandchildren, and their children, face a future of bankruptcy, hyperinflation, and financial and fiscal chaos. By taking some relatively painless steps today—and, please, let's be honest on this point: the savings we will approve today are relatively painless when you consider the magnitude of the deficit and debt confronting us—we deflect away that otherwise certain, and bleak, future.

The savings measures we will approve today are relatively painless—so much so that it is amazing, and so regrettable, that we have waited so long to act. To illustrate, let me outline for you what the Committee on Veterans Affairs—the Committee I am honored to Chair—has approved. I think you will agree that the route to a balanced budget that the Veterans Committee was able to reach imposes no great hardship on the Nation's veterans.

Title X of the bill—entitled "Veterans and Related Provisions"—defines what veterans must contribute to help us achieve a balanced budget. The measures we have approved can be viewed in three clusters:

First, we would reenact a number of money-saving provisions that have previously been approved in prior Omnibus Budget Reconciliation Acts—

We would continue, for example, to require that *some, but only some,* veterans pay small per diems for hospital and outpatient care, and small added co-payments for prescription medications dispensed for the treatment of non-service-connected disabilities; veterans with profound service-connected disabilities, and low income veterans, would continue to be exempted.

We would continue, with respect to VA-treated veterans who have health insurance, to authorize VA to collect fees from those insurance carriers for non-service-connected treatment.

We would continue to allow VA to "verify," through access to IRS and Social Security records, the incomes of veterans who apply for means-tested VA benefits.

We would continue to limit means-tested VA payments to veterans who are in Medicaid-financed nursing home care while still assuring completely that the real benefit paid to, and retained by, the veteran is not diminished.

We would continue to require that veterans who receive the benefits of VA mortgage loan guarantees pay reasonable fees.

Finally, we would continue to allow VA to take reasonable steps to minimize its losses when the home loans it guarantees go into default.

These provisions, as a group, would allow VA to save $2.799 billion over the next 7 years. 2.799 billion bucks simply from extending the effect of provisions that have previously been enacted. These provisions, I daresay, would not harm veterans.

I can say, Mr. President, that no veteran would be harmed by these measures based on our experience on the Veterans Committee. For what is left unsaid in the context of continuing previously-approved OBRA provisions is as important as what is said. The OBRA provisions that we would extend today are ones which experience has already shown are relatively painless to the Nation's veterans and which have, therefore, achieved good bipartisan consensus within the Veterans Committee. They are even accepted by the Nations's veterans service organizations—organizations that are not always easily pleased, I would remind! Provisions in prior Budget Reconciliation Acts that were more controversial—for example, a provision setting a ceiling on benefits paid to an incompetent veteran who has no dependents and whose assets exceed $25,000—are not in the package before the Senate today.

Second, this package of veterans-related measures would adopt two new provisions that are relatively non-controversial, but which are highly significant in terms of the savings to be gained.

Title X would reimpose a common sense legal standard for compensation to VA patients who are injured in VA hospitals. What standard would we impose? The very same standard which applies, insofar as we have been able to determine, at *every other* hospital in America. We would require that a patient show that any harm that was visited upon him or her in a VA hospital was the result of VA fault. Recovery would be allowed only if that fault could be shown.

In addition, we would require VA to "round down" the compensation and survivors' benefits which are adjusted annually to account for increases in the cost of living. What do I mean by this? Traditionally, when VA recomputed benefits amounts—which are paid in whole dollar amounts—it rounded up when the recomputed benefit equaled a fractional dollar amount of 50 cents or more, and it rounded down when that amount was 49 cents or less. The bill before the Senate today would require that VA "round down" in all cases.

These two non-controversial provisions—which are hardly onerous to any veteran—would save almost $3 billion over a 7-year period. Hear that: $3 billion bucks! When viewed along with the non-controversial extensions of previously-approved OBRA provisions which we propose, we are talking about savings of almost $6 billion over 7 years. $6 billion! And none of these measures is truly controversial or confrontational. In fact, they have all been suggested by the Clinton administration itself!

It was only when the Veterans Committee had to get to the last 10 percent of the savings we needed in order to achieve our savings target that controversy arose—and did it arise! The Senate Committee, Mr. President, would have shaved ever so slightly—and ever so reasonably—the net benefits to all Montgomery GI bill participants by increasing slightly the contributions to be paid from military pay that all participating service members "pay in" to the program. And it would have limited the cost-of-living increases in Montgomery GI bill benefits to one-half of the Consumer Price Index.

I approved of these provisions—championed by my friend, Senator JAY ROCKEFELLER, the committee's ranking member—when they were before the committee. They were then—and they are now—wholly reasonable mechanisms for saving almost $1 billion over a 7-year period. Indeed, in my view, they are preferable to the alternative measures adopted by the House.

But they simply were not acceptable to the chairman of the House Veterans' Affairs Committee, Congressman BOB STUMP, or to the ranking member of that committee, Congressman G.V. "SONNY" MONTGOMERY, for whom the Montgomery GI bill is named. My respect, admiration, and regard for SONNY MONTGOMERY—who will retire after the 104th Congress and who will be deeply missed by all—impelled me to recommend that the Senate conferees recede to the House view on this matter if we could "make up the difference" in other ways. We did.

In place of the Montgomery GI bill provisions, the conferees accepted two House-approved provisions which, collectively, will save almost the full necessary $1 billion. First, we would raise the prescription drug co-payment amount—currently set at $2 per prescription per month for drugs dispensed by VA outpatient clinics for the treatment of non-service-connected conditions—to $4.

Second, we would provide the same *dollar amount* Cost of Living Allowance [COLA] to all recipients of VA Dependency and Indemnity Compensation. This latter provision is, to some, particularly sensitive since it applies to deceased veterans' survivors—in most cases, male veterans' surviving widows. It needs to be clearly emphasized that all widows would receive the same *dollar amount* of COLA under this provision, though they would not receive the same *percentage* amount of COLA. I think, though, that this compromise is fundamentally fair since the widows who will receive a smaller *percentage* of COLA are the ones who are now receiving—*and who will continue to receive*—the *highest monthly benefit amount from VA* due to their deceased husband's rank and date of death.

Mr. President, those who hear these comments may infer that I am not fully pleased with each and every aspect of the veterans' provisions in this bill. If they infer that, they will be correct. I particularly regret the provision relating to survivors' COLAs—though I do not think it is patently unfair. It is regrettable, but not unfair. As we all know, however, rarely is a given piece of legislation pleasing in all respects.

This legislation is, however, almost without precedent in its importance. And it is not—it is not—unfair to the Nation's veterans, or to their widows, orphans or families. No—veterans, their widows, and their families will benefit, as will all Americans, from deficit control—and from the jobs, low interest rates, low inflation, and future prosperity which hinge on deficit control.

We are doing no less today than trying to save this great country as we know it. We veterans fought for that very cause. I know all veterans will join now—as we all did when we were called to arms—in defense of the Nation, and to assure peace, prosperity, and stability for our children and grandchildren.

Mr. President, I appreciate the time I have been afforded to address these critical issues, and I yield back the balance of my time.

VETERANS' RECONCILIATION: MORE THAN THEIR FAIR SHARE

Mr. ROCKEFELLER. Mr. President, I oppose the provisions of title 10 of the conference report—relating to veterans' programs—because they are a bad deal for veterans. These provisions were crafted behind closed doors. They must be brought out into the light of day so that the public can understand just how bad they are.

First, the overall amount saved is too high. The two Veterans' Affairs chairmen accepted, with no action by either body, an increase of $300 million over the seven years in the overall savings that the Veterans' Affairs Committees generated, from $6.4 billion to $6.7 billion. There is no reason that our Committees should have done this. This increase translates directly into more cuts in veterans' benefits. I regret very much that there was a willingness to make veterans do more than their fair share.

The provisions provide less than a full cost-of-living adjustment to certain widows of veterans who died in service or later from conditions related to their service. This diminished COLA is directly contrary to a promise made by the Congress in 1992 when the survivors benefit program was revised, and should not be agreed to. I oppose it strongly. It is wrongheaded and mean spirited. There were other ways to find the savings required.

The package includes a 100-percent increase in the amount poor veterans are charged for a 30-day supply of prescription drugs, raising the amount to $4 from the current $2. Our Committee avoided increasing this copayment. The House Committee had voted a $1 increase, to $3. The increase in the bill is an even greater increase than originally passed the House. It is being included in this package because of the Chairmen's agreement to accept a higher overall savings target for our Committees than is set forth in the Budget Resolution.

The bill expressly repeals the Secretary's existing authority to waive veterans' indebtedness in connection with receiving prescription drugs. Under current law, the Secretary can waive this and other indebtedness. However, in an action designed to generate even more savings from poor veterans, the waiver authority as to veterans who have received prescription drugs will be repealed. Frankly, I am not at all sure what is intended by this change but if I understand it, the only way to enforce the no-waiver authority will be to refuse to provide prescriptions to veterans who previously received medications but were unable to pay for them. That strikes me as a particularly unfortunate change in law and policy.

The final compromise includes a provision that would repeal a protection in current law for veterans who are found by VA to owe money in connection with a home loan default, even a default that occurs years after the veteran has sold the home to a buyer who then defaults on the loan, a not uncommon event. Under current law, a veteran who is found by VA to owe money in connection with a loan default is protected from having his or her income tax offset or federal pay garnished until VA gets a court decision affirming the indebtedness. The final compromise will include a House-passed provision that substitutes simple notice to the veteran for this protection.

Mr. President, I must note my deep disappointment that the House refused to consider any changes in Montgomery GI bill issues as part of our effort to find the mandated savings. The Senate package achieved savings in two ways from the MGIB—by providing for a one-half COLA over the seven years and by increasing the contribution that servicemembers make who do not opt out of the MGIB. The House's refusal to achieve savings from healthy, employed recruits and students, at the expense of widows of veterans who died from service-related causes, and of veterans needing prescription drugs, is simply not acceptable to me. I do not understand their priorities.

Finally, Mr. President, as I noted at the outset, this compromise was crafted behind closed doors. I was denied any opportunity to participate in the conference. I asked for a public meeting of the sub-conference on a number of occasions in order to give us the opportunity to discuss the differences between the House and Senate provisions in a public forum. The only response I received was an invitation to a private meeting in Senator SIMPSON's office after the final agreement had been reached. That's just not good enough. The American people deserve better. America's veterans deserve better. We should conduct our business in the open, not behind closed doors. This package was developed with no input whatsoever from Senate Democrats. That is not how our Committee has functioned in the past. I regret that we are now taking that approach.

Mr. President, this package is a bad deal for veterans. It cuts too deeply and in wrong areas. As the Ranking Democrat on the Veterans' Affairs Committee, I see my role as looking out for our Nation's veterans, as making certain that our promises made to those who gave of themselves in our common defense are kept. This package does not do that. That is why I must oppose it.

CUT TAXES: BALANCE THE BUDGET

Mr. PRESSLER. Mr. President, the American people want and deserve an end to shameless, wasteful spending programs. They want a reduction in taxes for working middle-class families and a balanced budget so we finally live within our means—as people in my home state of South Dakota do every day. I feel passionately that we must give the dream of America back to our children. That is why I support the Balanced Budget Act of 1995.

The working men and women in America are fed up with politics as usual in Washington. They have spoken loudly that they want us to cut wasteful spending, reduce taxes for working middle-class families, and finally balance the budget. The Republicans in Congress have heard this call for change. We, too, are tired of business as usual. That is why we have proposed tax relief for working, middle-class Americans so they can keep more of what they earn, rather than leave it in the hands of Washington bureaucrats.

Recently, an editorial in the Rapid City Journal praised the current Republican tax plan. This editorial is right on target. Mr. President, I ask unanimous consent to place this editorial in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Why do middle-class, working Americans want us to cut spending and provide tax relief? The reason is obvious. The Federal Government wastes billions of their tax dollars every year on more and more programs that do less and less to meet the needs of average Americans. Working Americans are paying more and more for less and less. Now we have the opportunity to cut taxes and in the process make government more efficient and effective, smaller and smarter. It is time to give the American people what they want—a balanced budget, an end to wasteful spending, and a reduction of taxes for wage-earning, middle-class working families.

EXHIBIT 1

WIDE APPEAL IN TAX BREAKS

THE TAX BREAKS INCLUDED IN CONGRESSIONAL BUDGET PROPOSALS WILL BENEFIT MIDDLE-INCOME AMERICANS MOST

In the great budget debate of 1995, congressional Democrats and President Clinton have continually argued that Republicans are targeting the poor and elderly with spending cuts to pay for tax breaks for the wealthy.

Hmmm. Tax breaks for the wealthy?

There are flaws in this argument.

For one thing, the $500-per-child tax credit under the expected budget compromise would go to families with incomes under about $100,000. That means the wealthiest Americans—those with taxable incomes over $100,000—wouldn't qualify for it. And it means most families that pay taxes would pay lower taxes.

A second tax break included in both the House and Senate budget bills would reduce the top capital gains tax rate from 28 percent to 19.8 percent. Although this tax break would result in wealthy taxpayers paying a lower rate, it could very well mean their total tax bills would be higher. The lower tax rate likely would motivate sales of investment assets that otherwise wouldn't be sold and thus wouldn't generate any tax revenue.

Plus, the increased economic activity that a lower capital gains tax rate would generate would result in increased capital for job-creating small businesses and a healthier economy that produces more tax revenue.

Besides, a cut in the capital gains tax rate doesn't apply only to wealthy individuals. It applies to everyone who increases their taxable income by selling a home or some other investment. In today's economy, that takes in a lot of people. One study showed that in 1990, when the top capital gains tax rate was lowered from 33 percent to its current 28 percent, 70 percent of the tax returns reporting capital gains were from people with taxable incomes below $75,000.

So, while it may be correct that House and Senate budget proposals include some benefit for the wealthy, it's the middle income taxpayers that benefit most.

On the other side of the budget's impact on taxpayers are proposed reductions in the Earned Income Tax Credit, a tax break for workers with low incomes. The House bill proposes decreasing planned EITC spending by $23 billion over the next seven years, while the Senate bill proposes $43 billion.

Some of this reduction is justified. EITC eligibility requirements need to be tightened so people with low taxable incomes but high nontaxable incomes, from sources such as tax-free annuities, don't qualify. And in a program with a high rate of fraud—the Internal Revenue Service estimates up to 40 percent of the tax returns claiming the EITC contain errors or fraudulent claims—the plan to double penalties for fraudulent EITC claims is justified.

But because the EITC program is, in effect, a reward for people who work rather than rely on welfare assistance, the budget proposals should be scaled back so as not to affect the people the EITC is intended to help.

Of course, these changes in tax credits and tax rates would increase the complexity of a federal tax code that is already too complicated. We should really be going in the opposite direction, toward a simpler tax code.

And on the other side of the budget proposals, the decreases in proposed spending, there is room to argue whether the decreases are targeted fairly.

But the tax breaks included in Republican budget proposals aren't as hideous as they've been made out to be.

A lot of hard-working, middle-income Americans would benefit.

THE 7-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995—CONFERENCE REPORT

The PRESIDING OFFICER. The Chair announces that the Senate has received the conference report from the House, and the clerk will now state the report.

The assisted legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

Thereupon, the Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 16, 1995.)

The PRESIDING OFFICER. The Senator from Nebraska.

POINT OF ORDER

Mr. EXON. Mr. President, I raise a point of order that the sections designated on the list that I now send to the desk violate the Byrd rule, sections 313(b)(1)(A) and (D) of the Congressional Budget Act.

The list follows:

EXTRANEOUS PROVISIONS IN H.R. 2491

Subtitle and section	Subject	Budget act violation	Explanation
Subtitle M Sec. 13301.	Exemption of physician office laboratories.	313(b)(1)(A)	No deficit impact
Sec. 1853(f) of the Social Security Act as added by Section 8001 of the bill.	Application of antitrust rule of reason to provider-sponsored organization.	313(b)(1)(A) .... 313(b)(1)(D)	No deficit impact Merely incidental

Mr. ABRAHAM. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the point of order for consideration of the antitrust provisions that have been raised in this point of order.

The PRESIDING OFFICER. Under the Budget Act, there is now debate on the motion. Who yields time? The Senator from New Mexico.

Mr. DOMENICI. On behalf of the majority leader, I ask unanimous consent that at 8:15, the Senate proceed to a vote on the motion to waive, without any further action or debate, and that the time be equally divided between now and 8:15 between the proponents of the point of order and the proponents of the waiver.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. I object.

Mr. BRADLEY. Reserving the right to object.

The PRESIDING OFFICER. Objection has been heard. Who yields time?

Mr. KYL. If the Senator from New Jersey wishes to speak, I will reserve the right, but I intend to object until Senator HATCH arrives.

The PRESIDING OFFICER. There is an hour for debate. Who yields time?

Mr. EXON. Mr. President, was there an objection?

The PRESIDING OFFICER. The Chair heard an objection from the Senator from Arizona.

Mr. DOMENICI. Mr. President, I would like to assign, from the standpoint of the majority, the privilege of debating the opposition to the point of order to be led by Senator KYL, and he can direct the time to whomever he desires in reference to our time on this side. If he will reserve me a minute or two, I would like to join him in the argument.

Mr. BUMPERS. Parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. He has requested a parliamentary inquiry, which I do not think requires a yielding of time.

Mr. BUMPERS. Parliamentary inquiry. Is this a point of order? Are we going to be voting on a motion to waive the point of order and will that require 60 votes, Mr. President?

The PRESIDING OFFICER. The vote does require 60 votes. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I yield myself 5 minutes off the time that I have under my control, and will the Chair advise me how much time the Senator from Nebraska controls?

The PRESIDING OFFICER. The Senator from Nebraska controls 30 minutes.

Mr. EXON. Mr. President, I have been fascinated and horrified by the press reports about the horse trading that went on to win the support for the Republican budget. I am not speaking about wooing recalcitrant Republicans who strayed from the party line. No, I am looking at some of the sweeteners that were loaded into this bill to keep the medical establishment at bay and to pay the American Medical Association for their support of the Republican budget.

This conference report is groaning with extraneous giveaways to the medical establishment. They do not only violate the Byrd rule, but they violate every sense of decency and fair play. The conference report exempts physicians' offices and laboratories from the Clinical Laboratory and Improvement Act of 1988.

It is clear that this is a violation of the Budget Act. It is extraneous, in addition to being bad policy. Antitrust regulations are turned on their heads in this conference report just to boost physicians' salaries. The conference report exempts certain groups of health care providers from the most basic antitrust violations against price fixing. This is also a violation of the Budget Act and is likely to impair competition and raise costs for non-Medicare health care purchasers.

It is appalling that when our seniors, our poor, our disabled, and our children are being asked to sacrifice basic health care, the Republicans are trying to enlarge special interest giveaways to the Nation's physicians.

The provisions do not belong in this fast-track reconciliation bill and are a violation of the Byrd rule. I urge my colleagues to vote against the motion to waive this well-founded point of order.

Madam President, at this time, I ask for the yeas and nays.

The PRESIDING OFFICER (Mrs. HUTCHISON). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Madam President, since there are no other Members seeking recognition at this time, I yield 5 minutes of my time to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. BUMPERS. Madam President, it is not unusual when I go home and visit with some of my wealthy friends—and I do have some wealthy friends—they say, "The only objection I have to you Democrats is you are constantly engaging in class warfare. You are always talking about the wealthy."

I repudiate that idea, but I would like for my colleagues to look at this chart for just a minute. This is a quote from David Gergen—one of Ronald Reagan's right-hand men when he was President—from an op-ed piece that he wrote in this week's U.S. News and World Report. Without straining your eyes, I will tell you what he said about this bill we are debating tonight. Eighty percent of the tax breaks in this bill go to the wealthiest 20 percent of Americans. Eighty percent of the spending cut burden goes to the poorest 20 percent. Now, you talk about class warfare. There is class warfare. It violates every principle I ever learned as a Methodist Sunday school boy. It violates every principle I have ever held dear, and the very reason I came to the U.S. Senate. Madam President, let me say something about the wealthy people of this country. They do not like this. Seventy percent of the people of this country say they do not want a tax cut until the budget is balanced. Why are we going against what 70 percent of the people say?

Last fall, when people were voting, Madam President, most did not have a clue what was in the Contract With America. And I can assure you they were not voting for this. They were not voting to penalize the poorest 20 percent of the people in America. They were not in favor of depriving a million children in this country of an education. They were not voting to put another million people in poverty, which this bill does. They were not voting to cut school lunches, which is the only decent meal an awful lot of children in this country get. They were not voting to savage Medicare and make the elderly people of this country pay it. They were not voting to savage Medicaid. In my State, Medicaid will be cut 33 percent, Madam President. We will not have a Medicaid program.

The people of America were not voting to slash the Earned Income Tax Credit for people who are trying to work and stay off welfare. What are we doing? We are cutting that $32 billion.

So I remind my colleagues on the other side of the aisle, when the American family gathers around the dinner table in the evening, what do they talk about? What do they say they love? Not the Mercedes in the driveway. Not that posh office downtown or that magnificent farm out back. They love their children. That is who they want us to protect. What are we doing? We are savaging the children of this country. For what? So that the biggest corporations in America get a break. I yield the floor.

Mr. HATCH. Madam President, we are trying to accommodate Members around here. And there is no use kidding, I am very upset about this point of order. This is not going to be the last time we mention it either. But I want to accommodate everybody around here. We ought to have at least a 2-hour debate on the thing because it is not easy to explain, but it is easy to understand. I have to tell you that I think even my colleagues on the other side might understand. But the fact of the matter is that this point of order is wrong. I personally feel very badly about it because what we are doing here is we are allowing the rule of reason in some areas and not allowing it in others. It is very unfair, it does not work right. We are happy to enhance bureaucracy but we are not happy to enhance individuality. I think we can clarify it for anybody in just a few minutes. But we want to accommodate those who want to get out of here and, frankly, I think we can put a lot of what we have to say into the RECORD.

Let me address this point of order against antitrust rules relating to provider-sponsored organizations—PSO's, if you will—and health care groups that contract with them to provide Medicare services. These provisions would grant antitrust relief to these two different entities by subjecting their conduct to the rule of reason, rather than the per se illegal rule.

Let me be clear about what this language would do. This is not an antitrust exemption. Under the rule of reason, the conduct of the PSO's and their subcontracting health care groups will not be legal if it is designed to fix prices, divide markets, or exclude competitors. Instead, their conduct will be illegal if it is anticompetitive, but if it is competitive, leads to efficiency, and produces lower prices for health care, it will survive antitrust challenge, as it should.

This provision that we are about to strike out of here is one of the few that really saves an awful lot of money in health care and flies in the face of bureaucratizing the process, which I thought we defeated last year. We believe that this reform—which is necessary only because the Department of Justice and the Federal Trade Commission have overzealously enforced the antitrust laws—is central to the savings we anticipate in our Medicare reforms. Right now, because of these enforcement policies, groups of doctors cannot form, decide on a fee schedule, and negotiate with anyone over providing health care services, if this is knocked out. This knocks out of the market a potentially new class of competitors with low overhead and little or no bureaucracy, who can make these other groups bring prices down.

The Congressional Budget Office scored the savings to be generated by the House and Senate Medicare reform bills at between $34.2 billion and $50.4 billion over 7 years.

CBO did not break out how much of this savings was attributable to the creation of health care provider groups that could contract with PSO's, and the importance of the antitrust reform needed to encourage the groups to form. The CBO noted the creation of PSO's in these groups would have an impact on Medicare outlays and that is all that is needed to meet the express language of the Byrd rule.

Further, since this bill is creating two whole new classes of competitors in the Medicare market, and the antitrust provisions are critical to encouraging their formation, it is clear that these provisions are critical to producing the billions of dollars in savings we are counting on for innovation and competition. I do not think that anyone can seriously contend that these provisions have no budgetary impact.

The second argument that one might raise against these provisions is that they are somehow incidental to reconciliation. This aspect of the Byrd rule is designed to prevent the addition of provisions that have nothing to do with the budget. The antitrust provisions clearly satisfy the Byrd rule. The rule has nothing to do with the larger changes in all antitrust law.

In fact, it does not change antitrust law at all, only the administration's enforcement. More importantly, the antitrust provisions are expressly limited only to conduct that is necessary to provide health care services under Medicare contract or plan. It has no application outside of the Medicare context, and any attempt to use information gained in Medicare context beyond the limits of that program—what some people call a leakage or seepage problem—would be illegal. Any conduct occurring in the Medicare context that is just a sham for price fixing or boycotting would still be illegal under the rule of reason.

I suggest that those who would use the Byrd rule to stop these provisions are not concerned, Madam President, about budgetary impact or incidental provisions. Instead, they are interested in suppressing competition in the health care market and reducing Medicare costs.

We should be frank. The status quo helps large hospitals and insurance companies and HMO's. These antitrust provisions that are in this bill that they are trying to rule out of order may cut down on their profit margins by introducing whole new classes of health care providers into the marketplace. New market actors will spur competition efficiency and lower costs.

When we are fighting to find ways to reduce Government costs and the Government's tax burden, why turn away an attractive mechanism to make the markets work better and to reduce the budget?

The fact is per se illegal activity will still be illegal. These entities would have to live within the rule of reason. If they do not and they do not increase competition, increase efficiency, and reduce costs, then they are not going to be able to function, and they should not be.

The fact of the matter is that this point of order is wrong, and I hope that we will vote to waive the point of order.

Mr. EXON. Mr. President, I yield 3 minutes to the Senator from Florida.

Mr. GRAHAM. Thank you, Madam President.

As I read the front cover of the document which has just been presented to us, Balanced Budget Act of 1995, Part 1 of 2—Part 2 apparently has not yet arrived—the question arises, why will I vote against this proposition?

It is not, Madam President, because I am opposed to a balanced budget. I am, in fact, strongly supportive of a balanced budget, and every occasion I have had an opportunity to advance that cause I have done so.

I frankly commend the Republicans for having presented us an alternative which purports to achieve that goal of balanced budget because it will provide a significant point of debate and dialog as to how to achieve that goal.

However, Madam President, I do not feel that this legislation presented tonight will accomplish the objective of balanced budget for two primary reasons. One, just as in foreign policy, I do not believe this Nation can achieve an important long-term domestic policy goal unless that goal is broadly shared, unless there is bipartisan support.

The fact is, there is no bipartisan support for this provision. There has been no attempt to secure bipartisan support. No Democrats were sanctioned into the conferences which led to the production of this legislation. No Democratic ideas were solicited for inclusion.

Second, this will not achieve the goal of a balanced budget over the next 7 years because it is fundamentally unfair and will soon be seen to be unfair by the American people and rejected.

I am going to concentrate my comments on fairness on only one section of this multihundred-page bill, Part 1 of 2, goes to 966 pages. That is the sections that relate to Medicaid.

First, the statement is made that this legislation reduces Medicaid spending by $163 billion over the next 7 years. Madam President, that is not true. In fact, this legislation reduces Medicaid spending by almost $400 billion over the next 7 years.

What is the difference? The difference is because this legislation removes virtually all of the current requirements on States to make a significant contribution towards the health of their poor, their disabled and their frail elderly.

Second, this allows for future manipulation of the Medicaid Program. We worked hard in this Senate to eliminate the abuses that had become so rampant in the disproportionate share hospital program. This legislation allows all those abuses to return. This legislation, in fact, rewards those very States that have been the principal abusers of the disproportionate share program.

Madam President, for those and many other reasons that we will find in these 966 pages, this proposal fails to meet the duel test of bipartisanship and fairness necessary for its sustained achievement of the goal of the balanced budget.

Madam President, we are here debating a bill that nobody has received. Even for those who may have a copy, it would be impossible for them to have possibly read the legislation from cover to cover.

And yet, this is one of the most significant bills to come before the Congress. This is a bill that makes up to $1 trillion in reductions to our Nation's budget—including $256 billion in Medicare reductions and $163.5 billion in Medicaid reductions—over the next 7 years.

I rise today to speak to the best of my knowledge about some of the provisions in this bill. Of course, the "best of my knowledge" is limited by the amount of information we have managed to obtain, some of which our office has had to get from lobbyists who always seem to get such materials before the rest of the Congress.

Due to time limitations, I will focus on the massive reductions or $420 billion in Federal cuts that will be made in this bill to our Nation's Medicare and Medicaid programs which are integral parts of our Nation's health infrastructure.

MEDICAID CUTS EVEN HIGHER DUE TO STATE-FEDERAL COMBINATION

The first point that has been neglected about this budget deal are that the real Medicaid reductions are more in the neighborhood of $400 billion over the next 7 years. Part of this figure comes from the $163.5 billion in Federal reductions to Medicaid. However, an often overlooked but just as significant provision is the language in the bill that guts the matching rate requirements of States.

This reduction will have the effect of reducing another $200-plus billion in State funding over the next 7 years to the Medicaid program.

How does this work? At present, States such as New York have to match a Federal Medicaid dollar with a State Medicaid dollar. No longer. According to the revised State matching requirements, New York would be allowed to match a Federal Medicaid dollar with just 67 cents—a 33-percent reduction.

The effect of the change to the matching rates across the Nation will be a $200-plus billion reduction in State funding to Medicaid.

Moreover, the conference agreement eliminates two provisions in the Senate bill that were agreed to unanimously in the Senate Finance Committee. These amendments would have continued to prohibit the gaming of the Medicaid System through the use of provider taxes and prohibited States from supplanting current State health expenditures with Medicaid dollars.

The conference committee agreement encourages States to go back to the days of fictitious accounting and gaming that in the past effectively raided the Medicaid Program.

The effect of this policy under a block grant is not to raid the Federal treasury but to make the State matching rate illusory at best. In fact, the conference report effectively makes Medicaid a general revenue sharing program.

It is no wonder that some of our Nation's Governors are clamoring and cheerleading the destruction of the Medicaid Program. I have a warning for them, or more accurately, a proverb for them. The proverb goes as follows: "Fish see the worm not the hook."

The Governors who are anxious to gobble up these block grants and illusory matching rates will feel took in the future when their economies stumble, when an epidemic strikes, when a nature disaster hits, when inflation creeps up again, or when their populations grow.

NATION'S LOW-INCOME ELDERLY AT RISK

Another often misunderstood provision of this legislation is the impact that it will have on our Nation's low-income elderly.

Let me emphasize that the Republican bill repeals the current law guarantee of payment of the Medicare Part B premiums on behalf of elderly Americans with income below the poverty level—$622 per month for an individual.

Although the Speaker of the House claims the bill "provides that senior citizens at the poverty level and below have all of their Part B premium paid for by the taxpayers—100 percent," the fact is that, no poor senior citizen has a guarantee to any coverage or assistance whatsoever.

States would be asked to set aside a certain percentage of their program spending each year to pay for Medicare premiums, deductibles, and coinsurance on behalf of low-income elderly. However, this set-aside will be sufficient to cover only about 44 percent of the costs of Part B premiums for those now eligible by the year 2002.

NURSING HOME—LIENS OF FAMILY HOMES

Another provision that was unanimously agreed to in the Senate Finance Committee was a provision that protected spouses having liens placed against their home or family farm. Incredibly, this provision was also dropped by the conference committee.

As a result, the conference agreement repeals current law protections against the use of liens and expressly authorizes States to impose liens on the home or family farm of a beneficiary, even when the spouse is still living in it.

UNFAIRNESS OF MEDICAID CUTS AND FORMULA

Finally, I want to raise some policy questions that the bill creates. First what is the policy justification for $163.5 billion in Medicaid reductions? This provides for just a 1.9 percent increase in Medicaid spending per person over the seven year period and is far less than the 7.1 percent the Congressional Budget Office projects private sector spending to increase.

Second, what is the policy justification for arriving at the Medicaid formula in the bill? Can anybody possibly explain how the fiscal year 1996 State-by-State allocations are arrived at? Dollar figures are stated in law. How were those numbers arrived at?

Clearly, one impact is to reward those States that have extremely high share of disproportionate share in the past. Some of those States abused the Medicaid Program and will be rewarded for that abuse in the new Medicaid formula.

At one point, the Senate Finance Committee staff had proposed that States with excessive disproportionate share payments would lose those excess payments. The Senate Finance Committee voted to cap those payments at 12 percent.

That provision was deleted, and instead, States are now rewarded for their excesses and—in some cases—their abuse.

These States will have those funds permanently cemented in their base allocation and allowed to increase them well into the future. What is the policy rationale for this?

Whatever the rationale, the effect is to apportion funding in a manner that is fundamentally unfair to those States that did not scam the Medicaid disproportionate share program, those States that are growing and those States that have been efficient in the past.

In Florida's case, we have a larger population than either Pennsylvania and Ohio and an elderly population that is 40.7 percent greater than Pennsylvania and 79.2 percent greater than Ohio, yet will receive less money over the next 7 years from Medicaid than either of those two States.

Florida has 5.4 percent of the Nation's population, 8 percent of the Nation's elderly population but will receive just 4.2 percent of the overall Federal Medicaid allocation between fiscal year 1996 and 2002.

If Florida were to just receive its population share of money, it would receive $42.7 billion instead of the $33.0 billion allowed in this bill, a $9.7 billion disparity or loss to Florida over the 7-year period.

OTHER PROBLEMS

For all these reasons and for numerous others—such as the conference committee's level of Medicare cuts on our Nation's elderly and the danger and exposure that Medicare beneficiaries will be subjected to due to watered down emergency care managed care standards, I cannot and will not support this legislation.

I would like to turn the Senate's attention from Medicaid and Medicare for a moment to another important issue before the Senate tonight.

Madam President, when the Senate votes on the reconciliation bill shortly, there will be one important issue which risks being lost in the enormity of the Medicare cutting, Medicaid gutting, tax cutting, and budget balancing package.

That issue is welfare reform.

The effrontery of burying such a monumentally important matter in the middle of a massive Medicare, Medicaid, Tax Code, and budget overhaul speaks for itself.

The welfare reform component of this reconciliation bill deserves strict scrutiny instead of token consideration.

My support for sweeping change in our Nation's welfare system is a matter of record, and as recently as September 19, 1995, I joined with 86 of my colleagues in supporting the Work Opportunity Act of 1995, Senate bill 1120.

I voted in support of this bill, even though I had serious reservations, in order to keep the welfare reform effort in this Congress alive.

Unfortunately, the conference agreement moves welfare reform in the opposite direction. The pending legislation is worse than what we had to consider 2 months ago.

Madam President, I support welfare reform. I want to see Congress pass a welfare reform measure, and I want to see the President sign welfare reform legislation. But this bill deserves neither.

Welfare reform, when it is done well, works and works well.

Florida boasts of two very successful welfare pilot projects, the largest in America in instituting a "time limited benefit." Florida, in fact, has been one of the pioneers in the "two years and you are out" approach that is mirrored in the pending legislation.

But, Madam President, these pilots are succeeding because there is a front-end investment in the lives of those affected by the program change.

Whether it is day care, job training, temporary transportation assistance, or health care, the welfare recipient is given a hand up instead of a hand out.

I visited the program in Pensacola, FL. Earlier this year President Clinton met some of the participants that I met, and he touted the program.

Madam President, the conference agreement before the Senate, as it pertains to welfare reform, is a mixture of good news and bad news.

The good news is that the conference agreement no longer treat education as welfare. We have Congressman CLAY SHAW and others to thank for that improvement.

Thankfully, the welfare reform legislation no longer kicks legal immigrants who pay taxes and are eligible for Federal student loans or grants, out of school.

This change assures 21,000 students in universities, colleges, and community colleges in Florida that they can continue to study and train in order to provide for their families and enhance our Nation's productivity.

Further, the conference agreement renounces the previous position of the Senate where deeming would occur past the date of citizenship. That provision appeared unconstitutional on its face, and fortunately, it was dropped.

But, Madam President, I am sorry to report that there is an overwhelming amount of bad news emerging from the conference on welfare reform.

First, the formula to allocate funds to the States continues welfare as we knew it. It treats poor children differently, depending upon which State they live in.

The conference formula says that if your State spent a lot in the old days, and thus built incentives to keep people on welfare, you will be given a leg up on every other State under block grants.

That is how it is possible, for example, that the State of Michigan would be given $217 million more, each year, than the State of Florida, which has a population that is 4.5 million greater than Michigan's population.

The conclusion is simple: the formula adopted by the conferees is flawed, if not rigged.

The conferees had an option: adopt a fair share allocation which treats children the same regardless of their ZIP codes. I offered such an amendment 2 months ago.

Instead, the conferees chose to reward the big spenders who got us in this mess in the first place.

If parents rewarded bad behavior of their children like this, we would be a nation of reform schools.

Madam President, another glaring disappointment in the conference agreement before the Senate is the retreat on a commitment to funding child care.

The Senate voted for a $3 billion increase over 5 years and now we see that the conference agreement proposes $3 billion over 7 years.

That may sound like an innocuous accounting change until you look at the impact on the States.

That change means for Florida less child care money next year, I repeat, less money next year, than it had this year.

Keep in mind that Florida is expected to more than double in one year its population of welfare recipients in the work force.

The conference agreement shortchanges Florida $18 million in child care funds from the amount that passed the Senate in September. That is movement backward, not forward.

When you take the faulty funding formula for the block grants, and combine them with the paltry child care allocations, you get the growing sense that Florida has been set up to fail.

Madam President, it did not have to be this way. If government were run like a business, you would have had by now a debate about a business plan.

In effect, you would have identified outcomes to be achieved, and then identified the means necessary to achieve those outcomes.

Just in the area of child care alone, in order to meet the job requirements of the conference agreement for the first 5 years after enactment, Florida would need approximately $800 million in child care funding. The conference agreement gives Florida $509 million.

That $291 million shortfall means that tens of thousands of children can not get child care, and therefore, their mothers or fathers can't go to work.

But the Congress wasn't interested in outcome and resource analysis. The Congress didn't want to do a business plan.

The Congress wanted to cut tens of billions of dollars out of welfare and shift those burdens to the States.

I will highlight a few more disappointments.

The Senate placed $878 million in a growth fund to assist States which experience caseload increases, and thus, cost increases. The conference agreement reduces that about 10 percent.

I mentioned earlier that there was good news in the conference agreement as it pertains to legal immigrants and access to Federal assistance to higher educational programs.

But even that good news has a new catch. The conferees have set up a new class system now in the Stafford loans program. Now legal immigrant applicants must have a sponsor or other citizen cosign the loans.

No debate on this change. No hearings. A brand new provision written in conference.

So I am left to believe that the conferees felt that only the better off of the legal immigrant communities are eligible for a Federal loan program, even though they all pay taxes like citizens pay taxes. So much for the American dream.

The city of Miami had more legal immigrants admitted last year than 20 States combined did. Thus the prohibitions and timetables on certain benefits will shift to Miami costs that once were shared or born by the Federal Government.

The State of Florida does not set immigration policy. The State of Florida did not negotiate a 20,000 legal immigrants per year agreement between Cuba and the United States.

But the State of Florida is now being told the following: first, we are going to cheat you on the block grant, and give States like New York more than four times what you get.

Second, we are going to cut child care for your State, and leave you $300 million below what you need to achieve the work participation rates that we intend to grade you on.

Finally, we are going to stick you with hundreds of millions of dollars in costs for legal and illegal immigration, even though you have no control over those policies.

How is that for fairness? How is that for reasonableness?

Madam President, I am disappointed with the direction the welfare reform measure went after it left the Senate. It has taken a turn for the worse. For the State of Florida, a State which did not have a high welfare benefit check and thus did not contribute as greatly to the welfare culture as those States who now reap windfalls for having created the problem, the conference agreement is not acceptable.

I urge the President to veto this bill and for both sides to begin to work together immediately toward reaching a consensus plan on balancing the Nation's budget. There is another way.

Mr. KYL. Madam President, let me get back to the issue before us, which is the objection to the point of order that has been made to certain provisions of this bill.

Madam President, we ought not to waive this provision. We should not have to waive the provision because there is nothing violative of the Byrd rule in the antitrust provisions of the Medicare part of the Balanced Budget Act of 1995.

Let me go back a little bit to set the stage here. The whole theory of our Medicare reform, how we are beginning to strengthen Medicare and save it from bankruptcy, is to create more choices in the marketplace so that competition will drive costs down while also ensuring quality of care.

Now, in order to create those choices, we allowed for the creation of a couple of new products in this legislation. One of the products is the medical savings account whereby people would have an incentive not to spend all of the deductible amount that they did not have to spend, and we provided that tax free.

As a result of a Byrd problem on that provision, the inside buildup—that is to say, the part that you do not spend—is now going to be taxed.

One of the products is not going to be nearly as attractive as it was when we wrote our bill.

The other new product is the hospital and physician organization, a new type of entity, somewhat similar to an HMO, but not really the same because here instead of having an insurance company or some kind of administrative organization that runs the whole program you simply have physicians and hospitals in a community getting together to offer their services on a capitated basis for the people who would be eligible for Medicare benefits.

It is believed the creation of these organizations by cutting out the middleman and creating a new product would, in fact, create that kind of choice and therefore the competition in the marketplace would cause costs to be reduced.

The two products, together, along with existing Medicare and the HMO option that currently exists would therefore create lower costs, thus allowing us to save the $270 billion over the 7 years that is needed in order to prevent the bankruptcy of the system.

Madam President, as I said, the medical savings account part of this is now jeopardized because of the Byrd rule. If we also cripple the physician-hospital organizations because of the Byrd rule, we will have largely failed to create the two new products and therefore the competition, the choice, and the competition in this, and I fear, Madam President, that our entire Medicare reform will fail. And the commitment that we have made to our seniors, as a result of the Democrats raising the objection here, will cause our Medicare reform to fail.

Madam President, I will say this as clearly as I can. If and when that happens, the American people, and in particular the seniors of this country, ought to know precisely where the blame lies. Because we have an opportunity this evening to save the Medicare system. But if people do not vote down this point of order, it is in serious jeopardy of going bankrupt because our system will not have within it the two key products that would be created to create this competition and choice.

What exactly happens here? Why are we so concerned about this? For the doctors and the hospitals to get together to create this kind of organization, they have to talk to each other and they have to talk about prices and how they are going to treat patients. When that happens, lawyers are going to say, you are violating the antitrust laws. Under a per se rule, which means "in and of itself," that would be true. The mere fact that you sit down and talk about it violates the law.

So we have said in here, let us substitute the rule of reason, a rule of antitrust law that says we will consider it under the circumstances. If what they did is really wrong and violative of the antitrust laws, then we are still going to prosecute them. But if, under the circumstances of creating this new product, and only for the purpose of contracting with Medicare, they get together and talk about these things, things such as prices, then it would be OK. But the Justice Department, FTC, still would look at this under a rule of reason, as Senator HATCH pointed out.

There are two main points, and this is what I will close on. The CBO allegedly has not scored this—excuse me, has said it would have no budgetary effect. That is not true. The CBO has never said that, so that basis for a parliamentary ruling would simply be in error. Quite the opposite is true with respect to the physician-hospital networks.

Second, the conclusion is that the antitrust provisions are merely incidental. In this regard, two contradictory arguments are made. One, that this is such a big deal that all kinds of doctors are going to get together and fix prices and it is going to affect the market far beyond the Medicare market. The other is that it is merely incidental.

Both cannot be true. The fact of the matter is, the antitrust provisions are critical to the creation of this product. It is going to be very hard for them to work without the antitrust exemption. So it is not merely incidental. It is there for the sole purpose of enabling these organizations to operate.

If they cannot operate, then the cost savings are not there because they cannot compete in the marketplace, and our system is destined to fail. It is only for Medicare contracts.

Madam President, I will conclude it this way. If this provision comes out, if these antitrust modifications, just to the rule of reason, come out of the bill, then I am going to predict that this could easily fail. If it does, the people who vote against this this evening are the ones who should be held responsible.

I hope that Democrats and Republicans alike will join us in defeating this objection and in sustaining the waiver to the budget point of order.

Ms. MIKULSKI. Mr. President, I rise to support Senator EXON's Point of Order that the Clinical Laboratory Improvement Amendments [CLIA] repealed in this budget reconciliation bill violates the Byrd Rule.

The Senate Parliamentarian has ruled that repealing CLIA violates the Byrd Rule because it produces changes or outlays that are merely incidental to the nonbudgetary components of the provision. That is a violation of the Byrd Rule.

Let me explain briefly to my colleagues what CLIA is, and why it is so important to me and to millions of Americans.

CLIA 1988 set for the first time uniform quality standards for all clinical labs. I am proud that this law, which I authored, was passed with broad bipartisan support.

CLIA was passed in 1988 and implemented in 1992 to address serious and life-threatening conditions in clinical labs.

To now even suggest we turn back the clock to pre-1988 will have devastating results. Do we really want to:

Turn back to a time when tests were misread and diseases misdiagnosed.

Turn back to the bad old days of misdiagnosis of the HIV/AIDS virus.

When doctors were using inferior methods of reading slides.

When people with the virus went undetected because the virus was mutating and was recognized by physicians.

Or turn back to a time when the lab technicians were overworked and undersupervised.

When slides were taken home.

When dirty labs were tolerated.

When lab technicians had little or no formal training, resulting in many diseases going undetected.

My colleagues, CLIA works, CLIA saves lives. Reconciliation is not the place to make such changes. I urge you to sustain this point of order.

Mr. BIDEN. Mr. President, we are being asked to vote on the antitrust provisions of this conference report. As I understand it, these provisions would allow doctors to form Medicare provider networks—similar to existing managed care networks that are run by insurance companies—without running afoul of the per se standards of antitrust law.

This provision violates the Byrd law. It is extraneous. It has no effect on the deficit, and therefore it does not belong in the budget reconciliation bill.

Furthermore, Madam President, this issue has just now been brought before the Senate. There was no similar provision in the Senate version of the reconciliation bill. There have not been hearings before the Judiciary Committee. And, we have not had a chance to examine the effects of this change in anti-trust law.

But, let me say that as ranking member of the Judiciary Committee, I would be happy to give this matter full consideration. We should find out whether the change proposed here would really create more competition in the health care sector of the economy—and we should examine whether this would be a benefit to rural areas of the country.

And, frankly, in this new health care climate, with the emphasis on big insurance companies running managed care plans like HMO's, doctors need some protection. I have told physicians in Delaware that I am willing to help find ways to ensure that doctors can be doctors. I think that if doctors ran the managed care networks, we might all be better off. If that means that we must provide anti-trust relief, then I am willing to look closely at it.

But, I cannot support doing it here—doing it now—on a bill that is supposed to reduce the deficit. Therefore, I will support stripping this provision from the bill, and I will vote against the motion to waive the rules for physician anti-trust relief.

I hope, however, that we will look at this more closely, in a more rational way, on another day.

Mr. EXON. I yield 8 minutes to the Senator from Vermont.

Mr. LEAHY. Madam President, the argument we have heard, unfortunately, is somewhat like the trial in "Alice in Wonderland." First you have the sentence and then you have the trial afterward. In this case—and this shows the very reason for the Byrd rule—we have special antitrust rules that are embedded in the reconciliation bill on behalf of the doctors' lobby. They are significant matters. They propose changes in antitrust law, in the policy that competition provides the best protection for consumers. I have said when you have the sentence first and you have the trial after: You would think that if you were going to make these major antitrust rules changes—I do not know, Madam President, if I am disturbing this conversation in front of me or not.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. It is a fascinating conversation, and I will probably pause long enough to listen to it myself.

The PRESIDING OFFICER. If the Senators will come to order, so we can hear the Senator from Vermont.

Mr. LEAHY. As I was saying, we are being required to make these major antitrust changes without any proceedings, hearings or debate. We are being required to do it without any vote. All we hear from is, apparently, the back room somewhere. Here some highly-paid lobby comes in and says, "Whisper, whisper, whisper," and what comes out of that? We end up with a special provision in a budget reconciliation bill. We have a reconciliation bill and tucked in there are major changes in the antitrust law.

Mr. KYL. Will the Senator yield a moment?

Mr. LEAHY. I tried not to interrupt the Senator from Arizona before. Let me finish, and then I will be happy to yield for a question.

Mr. KYL. Thank you.

Mr. LEAHY. The Senate budget reconciliation bill that the Senate passed contained no such provision of which I am aware. The House originally had two. Then they end up with one. An unnecessary and dangerous antitrust law change is in the conference report on budget reconciliation.

Again, I do not know where it came from. It did not come from hearings or debate, and it certainly did not come from any votes on the Senate floor. I am not aware that it came from any votes on the House floor.

Yet in proposed new subsection (f), of proposed new section 1853 to the Social Security Act, as contained in section 8001 of title 8 of the Budget Reconciliation Conference Report, in a special antitrust rule and change in our antitrust policy.

What it does is this: It exempts certain groups of doctors and other health care providers from the so-called per se rule against price fixing in our antitrust laws.

The conference report does omit the heading "Special Antitrust Rule For Provider Service Networks"—originally the House-passed bill actually had a heading and flagged the change—they took the heading out, but they left a rewrite of the section in. Maybe because this reconciliation bill is so long and filled with so many special interest gimmicks and gimmies and giveaways, maybe they thought that if you take the headings off, people will not know they are there. But it is still there as a subsection.

It attempts to enact a special antitrust rule for groups of health care providers. It provides that the conduct of members of a group of health care providers, such as doctors, in "negotiating, making, and performing a contract—including the establishment and modification of fee schedule—" with a provider-sponsored organization for services under a MedicarePlus plan cannot be subject to the per se rule against price fixing.

Basically, it says, go ahead and agree on whatever you want because we will make it harder for anyone to prove that you are violating the antitrust laws. You are on your own.

Instead of the per se rule that is usually applied to stop price fixing, the only antitrust rule that can be applied is to consider and test the conduct based on its "reasonableness, taking into account all relevant factors affecting competition, in properly defined markets".

This is changing one of the most basic rules of antitrust law, changing it in a little special gimmie or giveaway provision, tucked in the reconciliation bill for whatever special interest wrote it. It changes the rule from the one that applies to competitors throughout the rest of the economy and that works to protect competition and consumers.

The antitrust law treats a very limited category of conduct as per se unlawful. That is reserved for naked restraints, that is, those that are inherently harmful to competition without conferring offsetting benefits. The classic example, Madam President, I say to my colleagues, is an agreement among competitors to fix the price of the products or services they sell when the agreement is not reasonably necessary to the operation of an efficiency-enhancing joint venture.

In fact, seeing my friend from Arizona on the floor, I would refer to the Supreme Court decision *Arizona* v. *Maricopa County Medical Society*, 457 U.S. 332 (1982). In that case, the Supreme Court held that a group of competing doctors who agreed on the maximum price at which they would sell their services to insurers without substantially integrating, that is, without becoming partners or joint venturers that share financial risk, was engaged in per se illegal price fixing.

Madam President, I am advised the leadership would like to make an unanimous consent request, and I yield for that.

The PRESIDING OFFICER. The Senator from Arizona.

UNANIMOUS-CONSENT AGREEMENT

Mr. KYL. Madam President, I ask unanimous consent that Senator DOMENICI have 30 seconds to close, and the Senate then proceed to vote on the motion to waive without further action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, 30 seconds to close after I finish or right now?

Mr. KYL. Right now.

I am sorry—

Mr. DASCHLE. I understand Senator LEAHY was going to complete his speech and then that would take place.

Mr. KYL. At the conclusion of his remarks.

Mr. LEAHY. Instead of giving the full amount, I will take about another half minute, and then I have no objection. I enjoy hearing——

Mr. KYL. I amend the unanimous consent request.

The PRESIDING OFFICER. If the Senator from Arizona would finish his request?

Mr. KYL. The request is that at the conclusion of Senator LEAHY's remarks, Senator DOMENICI have 30 seconds to close and we then proceed without any further debate to a vote on the motion to waive.

Mr. GRAHAM. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEAHY. Madam President, I understand Members may be trying to restate the question by the Senator from Arizona. I will assure the Senator from Arizona and the Democratic leader that when they are getting close to that I will yield immediately for them to make the request again.

Basically the point is a very serious point. I do not want to make motions on this or other reconciliation bills. I do so only reluctantly. But this is such a major change in the antitrust law to be tucked in here absent hearings, absent debate, and absent votes. I think is wrong.

For those Members of the Senate who are here, when we talked about the Byrd rule in the first place, it was specifically for this. We are talking about a reconciliation bill that goes past the normal debate rules of the Senate. I see the distinguished senior Senator from West Virginia on the floor. I think he would be the first to agree regarding this reconciliation.

The budget reconciliation conference report would cast aside the per se rule, and override the Maricopa decision for provider groups and provider-sponsored organizations or PSOs. Members of provider groups, such as doctors, would not be required to share financial risk in order to avoid per se treatment when they collectively set fees at which they provide services. Instead, these loose-knit groups would merely have to meet a checklist of criteria to qualify for the special treatment.

None of the group requirements is a substitute for the antitrust law's requirement of meaningful, shared risk. Under the language of the conference report the members need only be part of a group that "is funded in part by capital contributions made by the members." This is no substitute for the shared risk required of a joint venture under antitrust law.

Nor would members of PSOs be required to share financial risk under currently governing law in order to avoid per se treatment under traditional analysis. Instead, they are provided their own special antitrust rule in subsection (e) by which "affiliated" providers need share, "directly or indirectly," barely a majority financial interest in the PSO. So long as the providers, who would otherwise be competitors, meet the indirect affiliation provisions of the bill, they will be allowed to exchange information "relating to costs, sales, profitability, marketing, prices, or fees for any health care product or service."

These provisions each require the antitrust enforcement agencies to conduct a resource-intensive analysis of the "properly defined market" in order to challenge conduct that normally would be swiftly condemned as price fixing. Given limited enforcement resources, this change in law inevitably would mean that some anticompetitive activities will go unprosecuted. Could it be that this explains the doctors' lobby's insistence on inclusion of this provision in the conference report?

The provisions regarding the provider groups admittedly have to revenue or savings effect for deficit reduction purposes. The provisions regarding the PSOs did not have a score until, miraculously, just before this debate was about to being.

Neither set of special rules is integral to Medicare reform. Although defended as a means to encourage provider-sponsored health plans as an alternative to insurers, no such special antitrust treatment is needed to promote Medicare reform.

Provider networks already exist without any special antitrust rule. According to industry statistics, 20 percent of all PPOs and 15 percent of all HMOs are provider-owned. A survey by Modern Healthcare showed that in 1994, without a special antitrust rule, over 9 million people were enrolled in provider-owned PPOs. In addition, many other provider-sponsored managed care plans are being developed or planned without the enactment of a special antitrust rule. The Physician Payment Review Commission concluded in its 1995 Report to Congress that the available information did not indicate a significant problem of antitrust laws impeding the development of provider-sponsored managed care plans. The PPRC Report noted press accounts indicating that many physician-sponsored networks are in the process or formation and that "three-fourths of state medical societies are either contemplating or are actually in the process of establishing physician-sponsored networks."

Finally, in the past 2 years the Federal Trade Commission and the Department of Justice have issued literally dozens of staff advisory opinions approving the proposed development of provider-sponsored networks.

The Senate bill contains no such provisions. In debate on our bill, Senator FRIST expressly noted the absence of a Senate provision like proposed section 1853(f). Senator HATCH spoke to the "creative tension" in the health care delivery system involving providers and insurers, and noted Senate consideration of the "antitrust requirements in current law." He concluded that the Senate bill, which had no such special antitrust rule, met the goals of providing real health care choices while making sure that there is accountability. Thus, no special antitrust rule was considered necessary when the Senate debated its Medicare reform package in its budget reconciliation bill a short time ago.

These provisions threaten significant injury to competition outside the Medicare program. By allowing competing providers to share information about "costs, sales, profitability, marketing, prices, or fees" and to agree on prices in the context of MedicarePlus, the exemption is likely to have the effect of dampening competition among those same providers for non-MedicarePlus business. For this reason among others, special antitrust rules of this type are opposed by the U.S. Chamber of Commerce, the National Business Coalition on Health, the National Manufacturers Association, the ERISA Industry Committee, the Business Roundtable, the APPWP—The Benefits Association, and the National Association of Attorneys General.

No language—and certainly not the fig leaf provided in proposed section 1853(f)(1)(B)(ii), which purports to limit the information exchanged among providers affiliated with a PSO to having not been used for any other purpose than to establish the PSO—can effectively prevent against this spillover effect.

Once putative competitors are authorized by statute to share information about "costs, sales, profitability, marketing, prices" and fees and to agree on prices for MedicarePlus, they cannot and will not be able to ignore that knowledge they already possess when it comes to setting their prices for others.

Providers who agree on prices to be demanded from PSOs or as PSOs may implicitly agree to adhere to similar prices with respect to other activities or moderate their competitive behavior based on the knowledge gained thereby. Once competing providers have met to negotiate their fees, the information they have exchanged and the understandings they have reached would likely spill over into their other dealings and into non-MedicarePlus areas in which health care services ought to be governed by competitive forces.

Thus, Gail R. Wilensky, Ph.D., the Chair of the Physician Payment Review Commission, recently testified on September 22, 1995, before the House Ways and Means Committee on Medicare Reform that "even if a change (in the antitrust laws) applies only to the Medicare market, it may be difficult to keep potentially anticompetitive practices from spilling into other markets served by the networks."

We do not need to enact such provisions and certainly should not do so as part of budget reconciliation. I object and trust my colleagues will not approve such changes in our antitrust laws without proper analysis, justification, study or debate.

Mr. DASCHLE. Madam President, will the Senator from Vermont yield?

Mr. LEAHY. Certainly.

Mr. DASCHLE. I apologize for the second time for interrupting the distinguished Senator from Vermont. We want to accommodate a number of schedules, and the clock is ticking. I am trying to see if we can accommodate all Senators and arrive at a unanimous consent agreement that will allow us to vote. The distinguished Senator from Florida had some questions.

If we could have the unanimous consent request again propounded with the understanding that, in addition to the 30 seconds for the Senator from New Mexico, the Senator from Florida could have 1 minute to ask some questions, and I would ask unanimous consent that be included, and pose the motion at this time.

The PRESIDING OFFICER. Is there objection? If not, the Chair understands that there will be 30 seconds for the Senator from New Mexico, and the Senator from Vermont would have 30 seconds.

Mr. LEAHY. No, the Senator from Vermont would complete his statement at which point I understand that the Senator from Florida would have a minute, the Senator from New Mexico would have 30 seconds, and then we would have the vote that was discussed before.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KYL. Madam President, I further ask unanimous consent that, if the motion to waive is not agreed to and the point of order is sustained, that the Senate proceed immediately to vote on the motion to concur with the Senate amendment to the House amendment with no further action or debate, other than 5 minutes for each leader or manager, and that the vote be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, I thought I was going to get 5 minutes also.

Mr. KYL. For each leader and manager, I will amend the request. I am sorry. I misread that—each leader and manager.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEAHY. Madam President, to accommodate those Senators who have schedules and other debates, I will wrap up with this.

The Byrd rule was put here by the distinguished senior Senator from West Virginia because this reconciliation process changes the normal procedures of the Senate. It changes the normal unlimited debate. It was done to handle these fiscal matters, and not to allow a whole lot of things to come in without the debate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEAHY. No. Madam President. That was not the unanimous consent request, I say to the Chair. The unanimous consent request was that at the conclusion of my time we would have a minute for the Senator from Florida, and 30 seconds for the Senator from New Mexico.

The PRESIDING OFFICER. The time of the Senator from Vermont has expired. He had 8 minutes, and the time has expired.

Mr. LEAHY. The Chair is correct in that.

I ask unanimous consent that the material of the Chamber of Commerce, the National Business Coalition, Health, the National Association of Attorneys General and others, who objected to this provision be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL TRADE COMMISSION,
DEPARTMENT OF JUSTICE,
Washington, DC, October 31, 1995.

Hon. PATRICK J. LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: The Federal Trade Commission and the Department of Justice (the "Agencies") are writing in response to your letters of October 26, 1995, requesting the Agencies' comments on two antitrust provisions in H.R. 2425, the Medicare Preservation Act of 1995. The Administration supports the increased availability of provider networks to promote competition and expand competitive choices for consumers. Further, the Administration believes that legislative reforms, which include appropriate consumer protection safeguards, are necessary to achieve this goal. The Federal Trade Commission has taken no position on aspects of Medicare reform other than the comments in this letter on the two antitrust provisions of H.R. 2425.

However, the two antitrust provisions of H.R. 2425—one a broad exemption for medical self-regulatory entities and the other a relaxation of antitrust rules for provider service networks—are unnecessary and could seriously undermine the cost containment goals of Medicare reform efforts. Moreover, these provisions would deprive all consumers—not only Medicare beneficiaries—of the benefits of competition in health care markets. The Agencies urge that Congress not enact these provisions.

ANTITRUST EXEMPTION FOR MEDICAL SELF-REGULATORY ENTITIES

Section 15221 of H.R. 2425, "Exemptions from Antitrust Laws for Certain Activities of Medical Self-Regulatory Entities," would create a special antitrust exemption for medical groups' setting or enforcing of "standards" that are "designed to promote quality of health care services." If enacted, it would provide broad antitrust immunity for anticompetitive activities that purport to improve the quality of care, but in fact raise health care costs and deprive consumers of choices in the marketplace, by anticompetitively excluding other economic participants from health care markets.

Antitrust enforcement actions have stopped physicians, acting through medical societies and hospital medical staffs under the guise of quality concerns, from engaging in boycotts, price fixing, and other conduct harmful to consumers. These enforcement actions have been instrumental in enabling competitive alternatives to traditional fee-for-service medicine to enter health care markets in the face of provider opposition. For example, the Agencies enforcement actions have challenged: medical societies' standards that banned procompetitive alternatives to traditional fee-for-service medicine—including physicians' employment by HMOs and affiliation with non-physicians; hospital medical staff boycotts, coercion of hospitals, and abuse of the credentialling process, to block the development of innovative forms of health care delivery, such as health maintenance organizations; and medical societies' boycotts of insurers to force them to pay higher fees to the societies' members.

The unfortunate fact is that self-regulatory bodies sometimes act to obstruct competition, and when they do so their actions are often couched in quality-of-care terms. This kind of conduct is not a thing of the past. Continued antitrust enforcement against such anticompetitive activities is essential if competitive forces are to play a role in containing health care costs.

Encouraging industry self-regulation that is aimed at improving quality is a laudable goal, but legitimate self-regulatory activity is already permitted under current antitrust law. The Federal Trade Commission and the Department of Justice have not brought suits against such legitimate conduct. In fact, they have repeatedly spread the message that such conduct is lawful.

The Report of the House Committee on Ways and Means on H.R. 2425 indicates that the exemption for medical self-regulation is intended to address concerns about private lawsuits challenging peer review. The Report states that the Health Care Quality Improvement Act of 1986, 42 U.S.C. §11101, which eliminated private damage actions for good faith peer review that is undertaken with certain procedural safeguards, has been beneficial, but that antitrust suits have continued. Even if some unjustified suits continue to be brought, concerns about possible imperfections in that statute's limitations on private damage actions would not justify H.R. 2425's broad exemption from all antitrust enforcement, particularly including actions by the government.

The potential harm from the broadly worded exemption is not significantly limited by Section 15221(b)(2)'s exclusion from immunity where conduct is undertaken "for purposes of financial gain." As noted above, quality of care is typically offered as a justification for anticompetitive conduct by health care providers, sometimes based on the sincere—but erroneous—belief that competition is inappropriate in the health care industry. Moreover, making the availability of immunity turn on defendants' intent, rather than on the objective market consequences of the challenged behavior, offers no real protection for consumers. The absence of a motive for personal financial gain does not lessen the injury to consumers that occurs when competitors engage in conduct that is unreasonably anticompetitive.

The Congressional Budget Office concluded that this provision would *increase* federal spending, rather than promote the cost containment goals of H.R. 2425. And the impact would not be limited to the Medicare program. Granting private medical organizations the power to adopt and enforce standards without the check against abuses that antitrust law provides is likely to stifle innovation, unnecessarily limit consumer choice, and frustrate health care cost containment efforts.

SPECIAL ANTITRUST TREATMENT FOR PROVIDER SERVICE NETWORKS

Section 15021 of Subtitle A of H.R. 2425, "Special Antitrust Rule for Provider Service Networks," would exempt certain groups of health care providers from the per se rule against price-fixing that applies throughout the rest of the economy. This provision is not necessary for the development of the provider-sponsored entities that the Medicare reform bills seek to encourage. It could, however, both undercut H.R. 2425's reliance on competition to provide more cost-effective services to Medicare beneficiaries, and impair non-Medicare competition as well.

Like the Senate Medicare bill, H.R. 2425 would permit certain provider organizations to contract directly with the Medicare program to provide all covered services in return for a monthly capitation payment. These organizations are called "provider service networks" in the Senate bill and "provider-sponsored organizations" (PSOs) in H.R. 2425. "Provider service networks" (PSNs) under H.R. 2425 are groups of providers that may contract with a PSO—in essence as subcontractors—to provide services to Medicare beneficiaries.

Section 15021(a) provides that the conduct of a PSN or its members in fixing prices would be evaluated only under the "rule of reason" antitrust analysis, rather than under the "per se" rule usually applicable to price fixing by competitors. Legitimate provider joint ventures already receive "rule of reason" treatment, for example, where their members share substantial financial risk. This is because risk-sharing among members of such a group gives each member the incentive to assure that the group as a whole provides services in a cost-effective manner, achieving efficiencies and cost-savings that competition is intended to secure. Under Section 15021(a), however, members of a PSN who do not share any financial risk, and thus do not have those same incentives for cost-savings, would be able to set fees collectively for services provided through a PSO without regard to the usual "per se" rule against price fixing.

No special antitrust rule is necessary to allow providers to form groups or networks, develop fee schedules for participating providers, or set up providers panels, so long as the providers share financial risk. In fact, risk-sharing among providers in a group appears integral to the purposes of the legislation: PSOs and other entities offering Medicare products are required to assume full financial risk for the provision of all covered services, in exchange for a predetermined capitation payment. Under existing antitrust law, such groups already receive rule of reason treatment, and any other provider group that similarly shares financial risks would receive the same antitrust treatment. H.R. 2425 would allow PSNs that do not involve risk-sharing to qualify for special antitrust treatment by meeting certain criteria. However, none of these criteria is a substitute for the incentives created by substantial financial risk-sharing.

The goal of promoting more cost-effective delivery of Medicare services would not be furthered by allowing groups of competing providers in a PSN to agree on the prices they would demand from the PSO for treating patients under a Medicare PSO contract, bargain collectively with the PSO, and threaten a boycott if the PSO did not accept the providers' terms. In such a case, even though the anticompetitive effect of the conduct is clear and no countervailing efficiencies are produced, the bill would require the antitrust agencies to conduct a resource-intensive analysis of the market under the rule of reason. Given the constraints on federal antitrust enforcement resources, this can only mean that some plainly anticompetitive activities will go unprosecuted.

The impact of the exemption could also extend beyond PSOs to all managed care organizations operating in a particular market. By allowing competing providers to agree on prices in the context of bargaining to provide services to a Medicare PSO, the exemption could have the unintended effect of dampening competition among those same providers for non-PSO business. Providers who agree on prices to be demanded of PSOs may implicitly agree to adhere to similar demands when dealing with other plans. Even absent bad intentions, once competing providers have met to negotiate their fees for PSO business, the information they have exchanged and the understandings they have reached would likely spill over into their dealings not only with other MedicarePlus organizations, but also with the various organizations that provide health care benefits to non-Medicare patients.

In sum, the antitrust provision in H.R. 2425 would harm consumers and would run counter to the cost-reduction goals of Medicare reform efforts.

The Department of Justice has be advised by the Office of Management and Budget that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

ANNE K. BINGAMAN,
Assistant Attorney General.

By direction of the Commission.

ROBERT PITOFSKY,
Chairman.

September 26, 1995.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
Washington, DC.

DEAR MR. CHAIRMAN: We are a coalition of physician group practices, non-physician providers, employers, managed care networks and insurers who are opposed to including special antitrust preferences for physicians as part of Medicare reform legislation.

Physicians are not alone in feeling the pressure of increased competition. All of us doing business in the health care market are facing increased competition. Yet, we do not believe that competitive pressures warrant special antitrust preferences for physicians or any other provider. Such preferences are unnecessary and harmful to competition and consumer choice in the marketplace. If the goal is to apply the successes of the private health care market to reforming the Medicare program, then weakening the antitrust laws for physicians is truly misguided. Senior citizens and all consumers should have health plan choices—but choices that are indeed competitive.

The attached Washington Post article underscores the need to maintain strong antitrust enforcement in order to ensure that consumers, not competitors, determine the range and prices of goods and services offered in the health care marketplace.

Unfortunately, the American Medical Association (AMA) is seeking special treatment under the antitrust laws. Under the AMA's proposal, physicians would be allowed to agree on the prices they will charge and collectively negotiate with lawyers while essentially remaining individual competitors. In other words, little substantial risk-sharing on the part of physicians would be required, effectively reducing incentives to compete on cost, quality and efficiency. In addition, physician networks would be subject to more lenient enforcement of the law than all other providers.

Advocates of changes to the law contend that current antitrust laws and enforcement must be relaxed to allow physicians to compete on a "level playing field" with other network organizers such as hospitals. HMOs and insurers. While this argument may appear reasonable at a glance, a closer examination of the issue reveals quite the opposite. The antitrust changes that the AMA seeks to include as part of Medicare reform are little more than well-disguised attempts to side-step the strong free market protections afforded by current law.

The following briefing paper tells the real story.

Sincerely,

American Group Practice Association, American Association of Nurse Anesthetists, Academy of Nurse Practitioners, American Nurses Association, AETNA, American Managed Care and Review Association, American College of Nurse Mid-wives, Association of Private Pension and Welfare Plans, American Speech-Language-Hearing Association, Blue Cross & Blue Shield Association, CIGNA, FHP Health Care, Group Health Association of America, Health Care Compare, Corp., Health Insurance Association of America, Kaiser Permanente, Kansas City Blue Cross & Blue Shield, Metrahealth, National Association of Manufacturers, National Capital PPO, Nat's Assoc. of Nurse Practitioners in Reproductive Health, Opticians Association of America, Sierra Health Services, The Erisa Industry Committee, The Principal Financial Group, The Prudential, U.S. Healthcare, Inc., Wausau Insurance Companies.

[From the Washington Post, Sept. 14, 1995]

DOCTORS, HOSPITALS SUED ON MONOPOLY CHARGES

The Justice Department yesterday charged doctors and hospitals in two states with using monopoly power to block lower-priced managed health care systems from competing—in one case for almost a decade.

It was the first time the agency's antitrust division filed price-fixing lawsuits accusing hospitals of scheming with doctors to ensure their own higher profits while health care costs rise.

Both groups—in Danbury, Conn., and St. Joseph, Mo.—denied the charges. But both also agreed to consent decrees in which they promised to change the way they do business.

The complaint said that beginning in May 1994 and continuing through August, Danbury Hospital, the only acutecare facility in the area, forced patients to use its outpatient facilities, joined with "virtually all of the doctors on its medical staff" to raise fees, and purposely limited the size and mix of its medical staff to reduce competition among local doctors.

In Missouri, the Justice Department said, the price-fixing conspiracy occurred from April 1986 through June 1995. The complaint said about 85 percent of the doctors in Buchanan County formed a group in 1986 "to prevent or delay the development of managed care in the area."

In 1990, the group then joined with the only local hospital, Heartland, to form Health Choice to further lock up the medical services and profits in the area, the lawsuit said.

SPECIAL ANTITRUST PREFERENCES FOR PHYSICIANS LIMIT COMPETITION, CHOICE AND INNOVATION IN THE HEALTH CARE MARKET

Current antitrust law does allow for the formation of physician-sponsored networks.

Physicians can join together and agree on price and other terms of business so long as they "integrate" by sharing financial risk. Risk-sharing can be achieved in a variety of ways and is critical to ensure that physicians do not come together to simply fix prices while remaining separate competitors. Numerous physician networks have successfully "integrated" and are now competing in virtually every market in the country. Some of the most notable examples are the Mayo

Clinic in Minnesota and the Cleveland Clinic in Ohio. These multi-specialty physician group practices were formed under existing antitrust laws, without special preferences.

Alternatively physicians can also join together to form Preferred Provider Organizations (PPOs) and negotiate fees with HMOs and other third-party payers without integrating their practices. These more loosely organized groups can perform many of the same functions as their fully integrated counterparts, including quality assurance, utilization review, and administrative services. Guidelines issued by the Department of Justice (DOJ) and the Federal Trade Commission (FTC) make this clear.

Loosening integration requirements is harmful to consumers because it reduces the incentive for providers to compete. Current integration requirements are not barriers to the formation physician-sponsored plans. They are barriers to price-fixing, boycotts and other forms of anti-market activities. Ultimately, substantial financial integration is what drives competition on quality, efficiency and cost.

Physicians are not disadvantaged with respect to other providers under the antitrust laws.

The purpose of strong antitrust enforcement policies is to protect consumers, not competitors. The notion that physicians need special antitrust preferences because the antitrust laws are biased against physicians is inaccurate and misleading. Joint ventures arranged by like competitors in every other industry are subject to essentially the same level of scrutiny as physician-sponsored networks.

Similarly, insurers and other providers are not exempt from antitrust enforcement. If insurers either agreed among themselves on payment levels or tried to wield market power by driving prices down, they too would run afoul of the antitrust laws.

In its 1995 Report to Congress, the Physician Payment Review Commission (PPRC) concluded that "the available evidence of problems is not sufficient to warrant creating safe harbors or other exemptions from the antitrust laws for physician-sponsored networks at this time. Amending the antitrust laws is a serious step that should be undertaken only in the face of compelling evidence that change is required. The limited available factual evidence, however, does not currently suggest the widespread existence of problems."

Consequently, what the AMA is really asking for is the ability to compete outside the free market principles that every other competitor must abide by.

Special antitrust treatment for physicians, such as loose integration requirements and substitution of the rule of reason for the per se rule would diminish consumer power in the marketplace.

A number of changes to the antitrust laws have been advocated by the AMA, ranging from outright exemptions to relaxing risk-sharing requirements and elimination of the per se rule. The per se rule has allowed the courts and enforcement agencies to efficiently call a halt to activities that are blatantly harmful to consumers. It reflects a determination that some conduct—such as price-fixing and group boycotts—is so likely to harm consumers that it should be found unlawful in all circumstances. It is a rule that applies to all providers and all industries.

The rule of reason, in contrast, requires a balancing of the competitive harm arising from particular conduct against the possible economic benefits it produces. However, it is also more difficult under this rule to challenge anticompetitive conduct because many more creative defenses and justifications can be raised. If antitrust enforcement agencies could only prosecute antitrust violations by provider physician-sponsored networks under the rule of reason, they would be forced to utilize greater resources and face a reduced likelihood of success. If rule of reason treatment was extended to provider-sponsored networks, but not to other types of health care networks, provider organizations would enjoy distinct advantages that would not be shared by other health plans. This would put those plans at a competitive disadvantage.

History is replete with examples of physician group boycotts and efforts to keep other physician group practices and non-physicians, such as nurse mid-wives and nurse anesthetists, from offering consumers choice. One of the best examples of this is the experience of the physician-owned Cleveland Clinic. In 1991, the Federal Trade Commission (FTC) put a halt to physician boycotts aimed at preventing Cleveland Clinic doctors from establishing a practice in Florida. This case was brought under the per se rule—the very rule from which AMA seeks an exemption. Similarly, prior to 1979, the AMA bound its members to rules that prevented physicians from contracting with HMOs. These rules effectively prevented price competition among doctors and hindered the development of new, innovative health care delivery systems, such as HMOs and PPOs. The Supreme Court agreed and forced the AMA to drop its anticompetitive rules.

The DOJ and FTC have provided substantial guidance to health care providers to address their concerns.

In response to concerns raised by providers, the Department of Justice (DOJ) and the Federal Trade Commission (FTC) jointly issued the Statements of Antitrust Enforcement Policy in the Health Care Area. These statements, or guidelines, provide a detailed road map of the analysis that the federal enforcement agencies will apply to the most significant issues facing the health care industry. The guidelines include "safety zones" clarifying what types of mergers, joint ventures, and other activities would be considered lawful. The DOJ/FTC have made a special effort to address physician networks and rural health care markets.

For physicians and other providers who have questions about forming integrated networks, the agencies offer opportunities for more specific advice through their business review and advisory opinion letter process. The agencies' business review and advisory opinion procedures allow parties to obtain a statement of the agencies' enforcement intentions before the transaction is implemented. The agencies have committed to providing expedited 90-day reviews. The agencies have also committed to continued monitoring of evolving health care markets so they can respond to changes on an ongoing basis. To date, virtually every physician-sponsored network has been approved.

The health care industry has responded enthusiastically to these initiatives. According to a January 1995 Bureau of National Affairs (BNA) survey of counselors advising providers, the "almost blanket clearances by the Justice Department and FTC of proposals to create managed care networks is assuaging health care industry concerns about the impact of antitrust law . . ."

BUSINESS FOR MEDICARE REFORM:
APPWP—THE BENEFITS ASSOCIATION; THE BUSINESS ROUNDTABLE;
THE ERISA INDUSTRY COMMITTEE;
NATIONAL ASSOCIATION OF MANUFACTURERS; NATIONAL BUSINESS
COALITION ON HEALTH; U.S. CHAMBER OF COMMERCE,

October 17, 1995.

Hon. NEWT GINGRICH,
Hon. WILLIAM ARCHER,
Hon. MICHAEL BILIRAKIS,
Hon. THOMAS BLILEY,
Hon. DENNIS HASTERT,
Hon. GERALD SOLOMON,
Hon. WILLIAM THOMAS.

DEAR REPRESENTATIVES: We are writing as representatives of small and large businesses who have been supportive of your efforts to save Medicare by passing the Medicare Preservation Act. We have been gratified by the commitment you have made to fundamentally restructuring Medicare by drawing on the successful health care reform strategies pioneered by private employers. Moreover, employers have been willing to accept considerable costs in order to save Medicare.

Just a very few years ago, most health care policymakers and analysts believed that the private sector could not contain health care costs. Employers have proved this wrong, by using their purchasing power to create more competitive markets and demanding better care at lower cost. Based on our knowledge of what it took to get this job done, we have important reservations about a limited number of the Medicare Preservation Act's provisions. We are concerned that these provisions would undermine the very strategies that (a) employers have used to control costs and improve quality and (b) the Act uses as the foundation for a new and sustainable Medicare program. We urge you to reconsider these provisions.

Our most important concerns are as follows:

Antitrust Changes for Health Care Providers. We are extremely concerned by the antitrust law changes included in Sections 15021 and 15221 of the Act, which would affect employer-sponsored health plans as well as MedicarePlus plans. We ask that they be stricken.

Unfortunately, organized medicine has a long history of attempting to suppress alternative health care delivery systems. Antitrust enforcement has been an important tool in overcoming this opposition to innovative ways of delivering higher quality care at lower cost. Section 15221's changes to antitrust law would allow organized medicine to engage in a much higher level of anticompetitive activity, thereby increasing costs and reducing the quality of care. In contrast, employers have created the new, competitive health care market and better ways to measure and improve quality under current antitrust law, which also leaves broad leeway for health care providers to collaborate in legitimate self-regulatory activity.

Employers have been able to control costs and improve quality by using their purchasing power to create competitive health care markets. The antitrust law changes in Section 15021 would shift the balance between health care providers and purchasers in favor of providers, undermining employers' ability to be effective purchasers and jeopardizing their hard won victories over health care cost inflation and poor quality care. Putting purchasers at a disadvantage by changing antitrust law risks a return to health care hyperinflation and unaccountability for quality.

Medical Liability Reforms. Employers have long supported medical liability reform, including changes to the collateral source rule. However, the version of collateral source rule reform in the Act eliminates employers' right of subrogation. This shifts the cost of treating injuries caused by a negligent provider from the provider who caused the injury to employers. We urge that you revise the Act to provide for a different version of collateral source rule reform that appropriately prevents double recovery by plaintiffs without inappropriately shifting responsibility for injuries caused by negligent providers to employers.

Medicare Secondary Payer Expansions. The Act expands employers' Medicare secondary payer liability. This does nothing to improve health care efficiency or quality. Rather, it simply shifts costs to private sector payers. Small employers in particular are vulnerable to this kind of cost-shifting. We urge that the expansions of Medicare secondary payer liability be eliminated.

As you know, managed care plans able to efficiently deliver high quality care have played a key role in employers' market-based health reform strategy. No aspect of the Medicare Preservation Act is more important to employers than its treatment of managed care plans. We are gratified that the Act as introduced by Chairman Archer and Chairman Bliley did not include antimanaged care rules. Including antimanaged care rules in the Act would increase costs and reduce quality. Moreover, including antimanaged care rules would directly and adversely affect employer-sponsored health plans as well as MedicarePlus plans, since the same networks will serve Medicare beneficiaries and employer-sponsored plans.

It is our understanding that most of the antimanaged care rules adopted in committee as amendments to the Act have been stricken. (These amendments included restrictions on (1) the criteria health plans may use when selecting providers, (2) efforts to eliminate medically inappropriate emergency room treatment and (3) denial of care that is not medically necessary.) We applaud this result. We urge you to strike the remaining antimanaged care amendment (restricting permissible contractual relationships between health plans and providers) and to continue adhering to the policy of avoiding antimanaged care rules as the Medicare Preservation Act moves through the legislative process.

It also is our understanding that a technical error in the medical liability reforms that would have inadvertently expanded employers' liability by interfering with current grievance procedures provided for under the Employee Retirement Income Security Act has been resolved. We appreciate your efforts to resolve this matter, which is vitally important to employers who voluntarily sponsor health benefits for their employees.

Again, we strongly support your efforts to save Medicare. It is essential that they succeed. However, as representatives of the businesses that originated the strategies that the Medicare Preservation Act is built on, we urge adoption of a few technical changes that would greatly strengthen the Act's ability to achieve its goals. These changes also would eliminate our concerns about the Act's effects on businesses that voluntarily offer health benefits to their employees.

We would be pleased to further discuss these issues with you at your convenience.

U.S. CHAMBER OF COMMERCE,
BUSINESS FOR MEDICARE REFORM,
October 23, 1995.

Hon. WILLIAM V. ROTH, JR.,
Chairman, Finance Committee,
Washington, DC.

DEAR CHAIRMAN ROTH: We are writing as representatives of small and large businesses that are working hard to control health care costs and improve quality. We have been gratified by the Finance Committee's decision to fundamentally improve Medicare by drawing on the successful health reform strategies pioneered by private employers.

Just a few years ago, most health care policymakers believed that the private sector could not contain health care costs. Employers have proved this wrong, by using their purchasing power to create more competitive markets, demanding better care at lower costs, measuring outcomes and consumer satisfaction, and developing networks through selective contracting with the best providers. Based on our knowledge of what it took to get this job done, we are concerned that potential floor amendments to the Finance Committee bill would undermine the very strategies that (a) employers have used to control costs and improve quality and (b) the bill uses as the foundation for a new and sustainable Medicare program. These potential amendments include antitrust exemptions for health care providers and mandated point-of-service coverage by network-based plans. We strongly oppose these potential amendments to the Finance Committee bill.

The damage that would be caused by adding these amendments to Medicare reform legislation would not be limited to higher Medicare costs and lower quality. Because Medicare is such a large factors in health care markets and because Medicare and employer-sponsored health plans will use the same provider networks, antitrust exceptions for providers and antimanaged care rules would directly harm employer-sponsored plans. Working Americans and their families would face higher costs, reduced coverage and lower quality.

OPPOSITION TO ANTITRUST EXEMPTIONS

One potential amendment would grant an antitrust exemption to medical self-regulatory organizations. Unfortunately, organized medicine has a long history of attempting to suppress coordinated health care delivery systems. Antitrust enforcement has been an important tool in overcoming this opposition to innovative ways of delivering higher quality care at lower cost. An antitrust exemption for medical self-regulatory organizations would allow organized medicine to engage in a much higher level of anticompetitive activity, thereby increasing costs and reducing the quality of care. Notably, current antitrust law leaves broad leeway for health care providers to collaborate in legitimate self-regulatory activity.

Employer-led efforts to improve accountability and quality in the health care system by making data available to health care consumers has been a leading cause of the positive changes in the health care market. This data has become available—often in the face of provider resistance—only because private employees took the initiative to develop it and demand that providers supply it. Granting providers an antitrust exemption, thereby permitting them to monopolize the quality standard-setting process, will seriously erode accountability for quality and value.

Another potential antitrust amendment would grant an exemption to provider-sponsored organizations. Employers have been able to control costs and improve quality by using their purchasing power to create competitive health care markets. An antitrust exemption for provider-sponsored organizations would shift the balance between health care providers and purchasers in favor of providers, undermining employers' ability to be effective purchasers. Putting purchasers at a disadvantage by changing antitrust law risks a return to health care hyperinflation and unaccountability for quality.

OPPOSITION TO POINT-OF-SERVICE MANDATE

A recent Lewin-VHI study found that a point-of-service mandate would add even more to the nation's health care bill than an "any willing provider" mandate. Experience confirms a point-of-service mandate's high cost. A study of Florida employers' 1993 health crisis found that point-of-service plans cost over 20 percent more than HMOs. Prohibiting closed-panel plans from participating in Medicare would force even those Medicare beneficiaries who want to enroll in a closed-panel plan—such as the 3 million seniors who already have chosen such plans over the traditional Medicare system—to pay higher premiums.

A point-of-service mandate undermines the entire purpose of Medicare reform. Because the traditional Medicare program is unsustainable, the Finance Committee bill encourages beneficiaries to shift to private health plans. A point-of-service mandate would drive up private plans' costs, encouraging continued enrollment in the government-run system. As a result, Medicare reform would fail to produce a modernized, more efficient Medicare.

Both point-of-service plans and closed panel plans have earned an important place in the market—based on consumers' choices, not government mandates. In fact, employers have found that employee enrollment in closed panel HMOs increased at the same time that point-of-service plan availability and enrollment increased. Market forces rather than government microregulation should determine point-of-service plans' role in Medicare. Certainly, the federal government should not deny consumers the freedom to choose and the savings of private health plans that only contract with selected providers. Moreover, the Finance Committee bill requires all plans that only contract with selected providers, like every other private plan (but not the traditional government-run Medicare program), to meet quality standards.

The Finance Committee made the right choice by keeping antitrust exemptions for organized medicine and a point-of-service mandate out of its Medicare reform bill. We urge you to oppose any floor amendments that would add these provisions, or any other antimanaged care rules, to the Finance Committee's Medicare bill.

NATIONAL ASSOCIATION OF
ATTORNEYS GENERAL,
Washington, DC, October 26, 1995.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives,
Washington, DC.

DEAR SPEAKER GINGRICH: As Chair and Vice-Chair of the Antitrust Committee and Chair and Vice-Chair of the Health Care Task Force of the National Association of Attorneys General (NAAG), we are writing to express our concern about two antitrust provisions included in H.R. 2425, the Medicare Preservation Act of 1995. These provisions, sections 15021 and 15221 of the Act, are unnecessary and could frustrate the cost-containment goals of the Medicare legislation. We urge that these provisions not be included in the final Medicare reform package.

The Attorneys General, as chief law officers of their states, are the primary enforcers of the states' antitrust law, and also represent their states and the citizens of their states in federal antitrust litigation. As chief legal officers, the Attorneys General have had and continue to have an important role in the development of national competition policy. We know first-hand that the antitrust laws benefit consumers by protecting competition and promoting efficiency, innovation, low prices, better management and greater consumer choice. Although the Attorneys General as a group have not had an opportunity to consider this legislation, past NAAG policy positions have consistently opposed both new antitrust exemptions and the weakening of antitrust enforcement standards for specific industries.

Section 15221 of the Act provides an exemption from both state and federal antitrust laws for activity relating to medical self-regulation. We believe that inclusion of this provision is inadvisable. Unfortunately, state Attorneys General have had experience with physicians and other health care providers who have engaged in anticompetitive activities, including physicians' attempts to eliminate competition from HMOs, PPOs and allied health care professionals. For this reason, in a 1993 Resolution, the Attorneys General stated their belief that exempting health care providers from the antitrust laws is undesirable. Nor is the exemption contained in section 15221 necessary. Current antitrust law permits collaborative activities, including standard-setting activities, that benefit the public and do not injure competition.

Section 15021 of the Act provides that certain actions of a provider service network or an individual member of that network shall not be deemed illegal *per se* under either federal or state antitrust law, but shall instead be judged under the "rule of reason." We are concerned that this relaxation of antitrust standards could lead to higher prices and fewer choices for consumers. Under current law, *per se* treatment is reserved for the most anticompetitive conduct, including horizontal price-fixing. As stated in a 1986 NAAG Resolution, the Attorneys General oppose new industry-specific antitrust standards because present antitrust standards adequately protect the interests of businesses, as well as consumers, by preventing activities that have no pro-competitive justification. More specifically, in the health care area, the Attorneys General believe that competition promotes more affordable health care, development of innovative new delivery systems, and increased information for health care consumers.

Finally, we are concerned about the broad preemption of state antitrust enforcement, particularly in section 15221, which is not limited to protection of activities within the Medicare program. In a 1994 Resolution, the Attorneys General opposed preemption of state antitrust enforcement in the health care area because such preemption erodes state sovereignty and threatens the system of federalism established by the Constitution. Health care is predominately a local industry that varies significantly from state to state. The Attorneys General, as chief law enforcement officers, should continue to be able to prevent anticompetitive behavior within each state.

If you have any questions about our views, please feel free to contact us or Emily Myers, NAAG Counsel for Antitrust and Health at (202) 434-8015.

Very truly yours,

J. JOSEPH CURRAN, JR.,
Attorney General of Maryland, Chair, NAAG Antitrust Committee.

TOM MILLER,
Attorney General of Iowa, Vice-Chair, NAAG Antitrust Committee.

PAMELA FANNING CARTER,
Attorney General of Indiana, Chair, NAAG Health Care Task Force.

JEFFREY L. AMESTOY,
Attorney General of Vermont, Vice-Chair, NAAG Health Care Task Force.

NOVEMBER 17, 1995.

DEAR SENATOR: It is our understanding that the reconciliation bill before the Senate includes a number of anti-consumer provisions which may violate the Byrd rule. Those provisions include antitrust exemptions for provider service networks, elimination of laboratory testing standards for most tests performed in physician offices, preemption of state authority to implement consumer protection standards for managed care plans and physician self-referral.

On behalf of the following organizations, we strongly ask that you support every effort to remove these harmful provisions from the reconciliation bill. Inclusion of the items listed above will drive up costs, threaten patient safety and reduce the quality of health care for all Americans.

Sincerely,

AIDS Action Council, American Public Health Association, Church Women United, Citizen Action, Consumer Federation of America, Consumers Union, National Association of Social Workers, National Farmers Union, National Council of Senior Citizens, Neighbor To Neighbor, Public Citizen's Congress Watch, Service Employees International Union.

The PRESIDING OFFICER. The Senator from Florida is recognized for a minute.

Mr. GRAHAM. Madam President, I would like to ask if the Senator from Arizona would please respond to a question. I hope they could be answered "yes" or "no".

Mr. KYL. If I can.

Mr. GRAHAM. Does this provision relate exclusively to the Federal, or does it apply to State antitrust law?

Mr. KYL. My understanding is that it applies to both Federal and State.

Mr. GRAHAM. Please refer to the bottom line, page 17, No. 2. Does this provision relate exclusively to Medicaid, or does it apply to other forms of health care?

Mr. KYL. It refers only to the Medicare contracts, and the organizations pursuant to obtaining the Medicare contract.

Mr. GRAHAM. I would ask the Senator to refer to 318, paragraph B.

Thank you, Madam President.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the Byrd rule was put into effect—not that it would rule all the time but that it would be waived.

I submit that anybody in this body that wants the Medicare law to work in rural areas, if you talked to anybody in rural areas, they will tell you one of the most important things pending before us, to see that we get delivery in rural areas, is this provision which is being dropped, if we make it subject to the Byrd rule. Because, without it in rural areas there will be no ability for doctors and hospitals in the rural areas to get together and have new units to deliver health care. There will be no competition and no service except for monster HMOs in the rural areas.

We really ought to waive the Byrd rule in this instance.

I yield the floor.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to waive the Congressional Budget Act with respect to the antitrust provision. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 54, nays 45, as follows:

[Rollcall Vote No. 583 Leg.]

YEAS—54

Abraham
Ashcroft
Baucus
Bennett
Bond
Breaux
Brown
Burns
Campbell
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—45

Akaka
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Chafee
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The Chair is prepared to rule on the points of order made by the Senator from Nebraska.

The Chair sustains both points of order.

The question before the Senate is whether the Senate shall recede from its amendment to H.R. 2491 and concur therein with a further amendment. Pursuant to the Budget Act, that amendment is the text of the conference report (House Report 104-350) excluding the provisions stricken on the points of order.

According to the previous order, each leader and each manager have 5 minutes for debate.

Who seeks recognition? Who seeks recognition under the previous order? Under the previous order, each leader and each manager has 5 minutes.

The Senator from Nebraska is recognized for 5 minutes.

(Mr. GORTON assumed the chair.)

Mr. EXON. Mr. President, in a few minutes, the Senate will unfortunately adopt this conference report to the reconciliation bill.

Although I will not vote for the legislation, I certainly want to congratulate Chairman DOMENICI for his leadership and for the many months of yeoman labor that he put in on this piece of legislation. He made the hard choices, some good and, in my opinion, many bad, but he was a true leader of great merit, and I congratulate him.

Mr. President, my colleagues on the other side of the aisle will savor their victory, but I must also say to all Senators that it is time to move on. With victory short lived and the fate of this bill certain, it will soon take its place in veto history.

Mr. President, where do we go from here? In my 17 years in the Senate, I have never seen such a poisonous atmosphere as the one that hangs thick over the Nation's Capitol. The nervous truce that existed in January has collapsed. We are, in the words of President Lincoln, "a house divided against itself." I still nurture the hope that we will find a way out of this morass and that our leaders—especially those in the other body—will set aside pettiness, vanity, and rigid ideology for the good of the Nation. There is no honor in the dishonor that has been brought about by the actions of the last few days and the last few hours.

I firmly believe, with every fiber in my body, that we should balance the budget. So do the American people. It is the stark route that the Republican majority took, however, that cleaves our ranks.

I tell my Republican friends that if we ever can come to an agreement on a balanced budget, we cannot adhere to the current formulas that exist in the conference report. It hobbles any hope that we can redeem our differences in a constructive alliance to balance the budget. But we must keep trying.

I yield my remaining time.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, fellow Senators, I have a lot of people to thank for this evening. While the Senators on that side do not think it is a very joyous or auspicious occasion, Senators on this side do, and I do. I have waited a long time, as a U.S. Senator, to see this evening arrive. It is truly a historic opportunity for politicians because, as I see it, this was the one chance we have to vote for the future. We have an opportunity every day to vote for something for today, a program for today, something to give to people today. But, essentially, what we are voting on this evening is a vote for the future of this country and for children not yet born and for those who are not yet receiving anything from the Federal Government, but who want an opportunity and have a dream.

We are saying the one thing that makes that more and more difficult is 25 years of fiscal policy that has the United States borrowing as if no one else needed any money, as if those that work, those that need investment did not need money, just the Federal Government needed it. And it was like we were a money tree, America was a money tree, and the money all went to Washington. And when we did not have enough, we borrowed it from foreigners—from Japan, from our banks, from our people. The question is: Who will pay the piper?

We have decided here tonight that the piper will not be our children and grandchildren, but rather in due course, the adults who live today will pay for what we give to our people today and provide a future for our children and grandchildren.

Now, I understand that the President is going to veto this bill, and I have a word for the President. Since he has told us in advance, I would like to tell him in advance. As he sits down with his veto pen, I hope he feels heavy, because on his shoulders is our future and our children's future. As he signs with that left hand of his, he better have something pretty good in mind for our children in the future, because he is throwing away a real legacy of opportunity, and he better be prepared to tell us and tell the American people and tell our senior citizens what he has in mind, because I have not seen anything yet that he has in mind that comes anywhere close to what we are giving to our children and grandchildren here tonight when we vote "aye" on this measure.

For those who have voted these many times—58 votes on the budget resolution, and I do not know how many different times—I say to each one of them, your vote was not in vain. And if those on the other side and in the White House think they will use this against us, just think what we are going to use against them if this President vetoes this and we end up with nothing.

For those who are against that, there is a real chance that we will get nothing, except $200 billion in deficits for as far as the eye can see. I also say to those who voted for it, and will vote for it again tonight, you have changed the course of fiscal policy and the way we spend our people's money forever, because no longer will a Budget Committee in the future have its hearings and hear "there is no way we can cut spending, and we cannot do this and we cannot cut that."

Well, we have shown that, in a very fair way, we can do what is necessary to get a balanced budget. So we have changed forever the profligacy of a great Nation, and we ought to be proud of it and thankful for it.

To all the chairmen who worked so hard, thank you. I want to close and say to our leader, Senator DOLE, thank you for all the confidence you placed in me. When I had to get things done, you told me "do them." When I needed tough decisions and I could not get the votes, you said, "Bring them in my office." And last, I thank the budgeteers. You have a tough job; you do not get to pass anything except this crazy resolution that cuts everything, but I thank you for your unity and your support. It has been a privilege being your chairman. Thank you very much.

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized for a period of not to exceed 5 minutes.

Mr. DASCHLE. Mr. President, I yield 2 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, this reconciliation bill, from top to bottom, is intoxicated with the fantasy that it is abandoning the welfare state. Mr. President, we do not have a welfare state, we have a safety net for a few poor people. This drives big holes in that safety net. Welfare reform—block grants replace welfare. What it does is take money from Federal pols and give it to State pols. The theory is, if you do not like Washington, you are going to love Lansing, or Trenton, or the State capital. Hardly. What this does is, in the Federal commitment to poor children, 1.2 million more children will be plunged into poverty because of this. The Medicaid block grant. Send it all back to the States. Do not say who is eligible, and do not say what the benefits will be, or how the providers will provide the benefits. Just send the money back.

The only thing we know is that when we pass this bill, 12 million Americans will be uninsured. Uninsured. I predict that, 5 years from now, there will be Medicaid scandals in States where Governors are putting in a health care program that will help their constituencies.

Why are State governments different? They are not. For what purpose? The purpose is that we are giving a gigantic break to wealthy Americans. On the other side, they say, "Oh, no, only 35 percent of the cut goes to people above $75,000." Yes, but they only represent 13 percent of the people. And embedded in this bill for estates of $2.5 million is an $800,000 tax cut. At the same time, we are ripping holes in the safety net, we are giving estates of $2.5 million an $800,000 tax cut. We should say "no."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DASCHLE. Mr. President, I want to commend the distinguished ranking member for the excellent job he has done in representing our caucus and commend all of the Members who have played a role in on our side, as we have debated this bill.

I believe that this is the most dangerous document in America. I believe it is one of the most extreme documents that we have had before this Congress in the time that I have served here. When the lowest 20 percent of the people in this country lose more than all the other 80 percent combined, that is extreme. When the upper 20 percent gain more than all the other 80 percent combined, that is extreme.

When you see the biggest shift in income from the middle class to the top brackets in history—Mr. President, there is no other word to describe it but extreme. When it represents the biggest cut in health care benefits in history, Mr. President, this document belongs in the Guinness Book of World Records.

The American people did not vote to see the kind of change this document represents. No one in this country voted to gut Medicare $270 billion to provide tax breaks for those who do not need them. No one voted to cut Medicaid $163 billion to provide tax breaks for those who do not need them.

The distinguished Senator from New Mexico talked about protecting our children. How in Heaven's name do we protect our children when we cut the legs out from under them in education, in student loans, in nutrition programs, in housing, in virtually every single area of opportunity this country has provided them—how do we do that? How in the name of children can we stand up and support this document?

Mr. President, we can do better than this. The American people now by more than a 2 to 1 margin believe—demand—we do better than this. The President will veto it, and he has good reason to veto it.

We need to sit down together and take the extreme measures out of this document. We need to work to govern better. We need to send a better message to the American people.

We will not gut the investments in people that we have committed to for a long, long time. The most dangerous document in America needs to be vetoed and, indeed, it will be.

The PRESIDING OFFICER. Under the previous order the majority leader is recognized for 5 minutes.

Mr. DOLE. Mr. President, I think probably the most extreme thing that has happened in the last 2 or 3 years is the $265 billion tax increase passed by this Congress without a single Republican vote. You talk about extremism—that is a good example, particularly when the initiator confesses that he raised taxes too much, the President of the United States.

I believe we have a good package here. We have had a lot of work, and I want to thank, first of all, Senator DOMENICI and the entire Budget Committee, but everyone else on this side of the aisle who have been working the past several weeks to bring us to this moment.

I really believe, and I am sitting here thinking I have cast a lot of votes in the U.S. Senate. I think this is probably the most important one that I will cast, knowing it is not bipartisan. I would like to have it bipartisan. But it is a very important vote. It is a fundamental change in America. It is a fundamental change in direction in this country. I think it is probably the most important vote I have cast in my years in the Senate.

I have never been so certain that we are doing something right—yes, right—for our children, as the Senator from New Mexico pointed out, for our grandchildren, and for everybody else.

It is right for States. Yes, we are giving some power back to the Governors. We are following the admonition of the 10th amendment of the Constitution, part of the Bill of Rights, 28 words in length, that says, in effect, if the power is not reserved to the Federal Government it belongs to the States and to the people. We believe when the people gave us a majority last November, they wanted us to give power back to the States and back to the people.

This bill is right for senior citizens. We will save, preserve, and strengthen Medicare. It will still grow at a rate of 6.4 percent. We believe that is a step in the right direction.

But looking at other beneficiaries, somebody who buys a home will save a lot of money because interest rates will come down. If you buy a car, if you are going to buy farm machinery, if you take out a loan to send your child to college, or if you are trapped in a failed welfare system—not anyone in this body would say we do not have a failed welfare system.

It seems to me that if we are going to promise to end business as usual, we have to start putting up or shutting up. We cannot do all of the things that my colleagues on the other side say—keep spending more money, spending more money, more taxes, more regulations, more government—and ever make a fundamental shift in America.

I hope, again, knowing the bill is going to be vetoed, but I hope the American people know that we are not going to mortgage their future with this bill; that we are going to cut taxes for families with children; we are going to encourage savings and investment and economic growth. We have kept our promise. We kept our promise to shift power out of Washington, DC, to the States, and we have kept our promise there.

I just conclude, because I know there are some of us going to another debate, and some are getting nervous, which is all right with me, but I simply ask the President of the United States to take another look at this product. This is a good product, Mr. President. You ought to sign it. You ought to make up for all the things you have done wrong in the past 3 years and sign this bill. Then you would be right on target again. You would be that new Democrat you wanted to be or thought you were or might have been.

Mr. President, we are doing the right thing. We are doing it because we stuck together, because we kept our promise, and because we love America.

Mr. President, soon after my election to the Kansas State House of Representatives, a reporter asked me whether I had a legislative agenda. And I replied that my agenda was simple—it was to stand up for what I thought was right.

And I have tried to follow that philosophy throughout my career.

In just a few minutes I will vote to approve the Balanced Budget Act of 1995.

I believe the vote is one of the most historic votes ever taken in this Chamber—and certainly the most important one I have cast in my years in the Senate.

And as I cast my vote to approve this landmark legislation, I can say that I have never been so certain that I am standing up for what's right.

I have never been so certain that the U.S. Senate is standing up for what is right.

Mr. President, the Balanced Budget Amendment Act of 1995 is right for America's future.

It is right for the American people.

It is right for our children and grandchildren.

It is right for our States, our cities, and our neighborhoods.

It is right for our senior citizens.

It is right for every American who is saving to buy a home.

It is right for every American who is buying a car.

It is right for every American who takes out a loan to send a child to college.

It is right for those trapped in our failed welfare system.

Mr. President, last fall, Republicans asked voters to give us a majority on Capitol Hill. And we left absolutely no doubt about what we would do if we got that majority.

We promised we would put an end to business as usual. Tonight, Americans know that we have kept our promise.

We promised to stop the mortgaging of our children's and grandchildren's future, and to put America on a path to a balanced budget. Tonight, Americans know that we have kept our promise.

We promised to replace our failed welfare system with one based on the principles of work, family, and personal responsibility. Tonight, Americans know that we have kept our promise.

We promised to cut taxes for America's families, and to encourage savings, investment, and economic growth. Tonight, Americans know that we have kept our promise.

We promised to shift power out of Washington, DC, and to return it to where it belongs—our States, our cities, and our people. And tonight Americans know that we have kept our promise.

A balanced budget. True welfare reform. Lower taxes. More freedom and power for our States, our cities, and our people. That's what Republicans are all about. And that's what this bill is all about.

President Clinton has said that he will veto this bill. He will, as is his habit, stand in the way of change. And I would simply say to the President to take another look at this bill.

We are told that the President's pollsters are advising him that the American people have concluded that his actions don't match his words. By signing this bill, President Clinton would prove that his actions do match his words on a number of issues.

President Clinton has told the American people many, many times that he is for a balanced budget.

He said on June 4, 1992, he would balance the budget in 5 years.

He said on May 20, 1995, he could balance the budget in less than 10 years.

He said on June 13, 1995, he would take 10 years.

And on October 19, 1995, he said he could balance it in either 7 years, 8 years, or 9 years.

Despite these claims, President Clinton did everything he could to defeat a balanced budget amendment, and the Congressional Budget Office—which the President has previously endorsed as an honest scorekeeper—has said that the budgets the President did propose left us with $200 million in deficits far into the next century.

President Clinton said in 1992 that he would end welfare as we know it. Yet, he admitted recently that the only welfare bill he proposed was a disappointment.

The President promised in 1992 that he would give middle-class Americans a tax cut. Yet, in 1993 he gave America the largest tax increase in history.

The President said that he wants to prevent Medicare from going bankrupt, as three of his Cabinet members have projected it will do within 7 years. Yet, he has refused to work in a bi-partisan manner with Republicans to save Medicare. Instead, according to a remarkable editorial in the Washington Post, the President has "shamelessly used the Medicare issue * * * demagogued on it * * * and taken to the airwaves with a slick scare program."

So, Americans have every reason to be confused. Just where does the President stand on balancing the budget? Where does he stand on reforming welfare? Where does he stand on cutting taxes for America's families? Where does he stand on saving Medicare?

The President's decision on this bill will, once and for all, clear up all confusion. Because by signing this bill, the President will finally allow his actions to match his words. But by vetoing it, he will make very clear that he is against a balanced budget, and the benefits it will bring. He is against welfare reform. He is against tax reduction. He is against saving Medicare.

And by vetoing this bill, the President will be against many other provisions. He will be against a capital gains tax cut. He will be against putting an end to the marriage penalty tax. He will be against medical savings accounts. He will be against adoption tax credits. He will be against helping Americans who provide care to their parents.

Now, when President Clinton vetoes this bill, he will shake his head, and he will say what many of his liberal allies have said today. He will say that he would like to sign this bill, but it's just too harsh. He will say that we are cutting spending on programs for the less fortunate among us. He will say we are cutting Medicare. He will say our tax cuts favor the business community.

He will say all that again and again. And he will be wrong every time he says it.

He will be wrong because this bill does not cut overall Federal spending—it allows it to grow by 22 percent over the next 7 years.

He will be wrong because this bill does not cut Medicare. In fact, Medicare will continue to grow at a rate of 7.7 percent a year.

He will be wrong because this bill does not cut programs to the needy—it allows 34 percent growth over the next 7 years.

He will be wrong because total funding for student loans will be increased by nearly 50 percent over the next 7 years.

He will be wrong because 73 percent of the tax cuts in this bill will help families throughout their lives.

Those are the facts. The President will try his best to obscure these facts with emotional rhetoric. In fact, the Democrat National Committee already has a television commercial on the air trumpeting the President's so-called balanced budget proposal, and saying that the Republican plan will cut Medicare.

It's a nice commercial with catchy music, but not a word of it is true. As I have said, the President has never submitted a budget anywhere near balance. And the Republican plan increases Medicare spending.

Mr. President, I'm from a farm State, and I want to say to the farmers of Kansas and the farmers of America that this bill is also important to them.

Since the days of Franklin Roosevelt, the Government has been in the business of telling farmers how to farm. Under this bill, that will end, and beginning in 1996, farmers will be planting for the market place.

Under this bill, farmers will have full planting flexibility, elimination of set-asides, program simplicity, and a farm policy that transitions farmers into the next century without disrupting the farm economy or land values.

While I am concerned about farmers receiving payments in good years, I am pleased we were able to cap the entitlement spending of agriculture programs. We accomplish this goal through a declining transition payment which is guaranteed to the farmer. In exchange, farmers will be required to maintain their land conservation efforts in both good and bad years. And this bill also protects family farms by providing some much needed estate tax relief.

Mr. President, let me conclude by saying that I know that the American people have wondered about the events taking place in Washington this week. They have wondered why the Government was shut down. They have wondered why Congress and the White House aren't talking to each other.

Well, as I have said many times this week, I wonder why we haven't spent more time talking to each other. And I remain ready to talk with the President any time to put all Federal employees back to work.

But I also would tell Americans that if ever there was a debate you wanted your elected Representatives to have, this is it. This is it. Because we are debating your future. We are debating the future of your children and grandchildren. We are debating the future of America.

I speak for all Republicans in saying that, as we approach Thanksgiving, we are thankful to have the opportunity to stand for something.

We are thankful to have the opportunity to stand for fundamental change.

We are thankful to have the opportunity to stand for a better future for the next generation of Americans.

And let me close by saying—and I know I speak for all Members of the Senate—that we are thankful that we have the opportunity to serve with a Senator as courageous and committed as PETE DOMENICI, and I salute him for his many years of leadership in support of a balanced budget.

Mr. President, let's do the right thing for America's future. Let's pass the Balanced Budget Act of 1995.

The PRESIDING OFFICER. The majority leader is informed the yeas and nays have not been ordered.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to recede from the Senate amendment to H.R. 2491 and concur thereto with an amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 584 Leg.]

YEAS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

So the motion was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER Mr. President, I will make a unanimous-consent request to the Republican side. I anticipate, as they did last night, they will once more object.

I would ask that there be order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order. The Senator from California was propounding a unanimous-consent request but no one could hear.

The Senator from California.

Mrs. BOXER. Mr. President, in about 3 minutes I will offer my unanimous-consent request. But I do appreciate your getting order in the Chamber so that I can make a comment very briefly for a minute on another matter, and then talk about my unanimous-consent request.

THE OKINAWA RAPE

Mrs. BOXER. Mr. President, I think many of us were shocked to read today that the commander of U.S. forces in the Pacific called the recent rape of a 12-year-old Okinawan girl "absolutely stupid," and said Friday the incident could have been avoided if the U.S. servicemen had simply paid for sex. The commander of the Pacific fleet in essence said, if they had taken the money that they spent to buy a van, they could have bought a girl.

Mr. President, that is a sickening statement, and I want to commend my colleague from California, Senator FEINSTEIN, for responding very quickly when she heard of this. And what she said is very important. What she said is that rape is not about sex, and it is not about money. It is a violent act.

I am very pleased that on the floor this evening is the author of the Violence Against Women Act, Senator BIDEN of Delaware. I was so honored when I was in the House to be coauthor and carried the bill on that side, and after many years the bill became law.

But I say to my colleagues that until this attitude changes, until people view rape as a violent act—it is about power, it is about the abuse of power—then we are never going to make any progress.

For the commander of the Pacific fleet to have said this—and he did apologize, I am happy to say—it is extraordinary. I only hope that the Secretary of Defense will take proper action in this matter.

Mr. President, I know others will speak about this tonight. But I am going to shift very briefly to another subject.

NO BUDGET-NO PAY

Mrs. BOXER. Mr. President, we are in day 4 of the partial shutdown of the Federal Government. It is causing harm to many people in this country who require and need the services of the Federal Government, be they veteran, be they the elderly, or be they the business community. One example is someone desperately needed a passport in order to conduct some very important business for a small business, was denied it, and missed a chance maybe at the American dream. So we are dealing with a very serious circumstance.

There is no Federal employee who is getting paid during this period. They are all getting docked except for the Members of the Senate and the Members of the House.

I took to the floor last night with Senator SNOWE and Senator HARKIN to protest this situation. Where we stand is that the bill, the no budget-no pay bill, is stuck in the DC conference. And who knows? It may never emerge because the Speaker of the House is not pushing the no budget-no pay bill.

Senator SNOWE and I authored another bill, and we have been trying to get it before this body. The Republican side of the aisle has objected. Maybe they will not object tonight. Last night, the excuse was, gee, everyone had to go home. We cannot take it up. Well, what about today? We waited. Senator SNOWE was working hard to get it through. We could not get it.

Some of my colleagues are making charitable contributions. Some are leaving their money in escrow. Some are giving it back. And that is noble. But this is not about the good guys doing something; this is about institutional failure.

In case, my colleague, you want to know what people think about this, look at the poll in the San Francisco Examiner. They put out a telephone poll, and it came back today. Eighty-nine percent say we should not get our pay during the shutdown. By the way, they included the President, which our bill includes, and 11 percent say we should. That 11 percent maybe is our relatives.

But I have to tell you. This is a total and complete outrage. We should be treated like every other Federal employee. Our staffs are working into the night, and they are being docked. But not us.

So I ask unanimous consent that the Senate immediately proceed tonight to the Snowe-Boxer bill. I make that request.

Mr. LOTT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. Further, since it has been objected to, I ask unanimous consent that we go to the Snowe-Boxer bill the first thing in the morning.

Mr. LOTT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. Let me just say, is the time mine, Mr. President?

The PRESIDING OFFICER. There is no time. The Senator from California has the floor.

Mrs. BOXER. Thank you very much. I want to express my disappointment and my despair of this. We should not treat ourselves better than our own staff. We should not treat ourselves better than the good people who work for the Federal Government. I think now that we finally have seen the light here. There was an objection yesterday, there is an objection today, there is an objection for tomorrow, and I will be back in the morning making the same unanimous-consent request.

I am sad to say—I thought the Senate was bipartisan on this. Senator SNOWE has 27 Members in a bipartisan way on this bill, but you hear objection from the leadership, the Republican leadership, of the Senate. And I hope people let them know that they are wrong, that this is wrong.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I will be brief. I know the Republican whip wants to speak.

Mr. President, I do not want to repeat what I said last night. I agree with Senator BOXER, Senator SNOWE, and Senator HARKIN about the fact that we should not be getting paid. I will not elaborate. I think it speaks for itself. It is clear.

THE OKINAWA RAPE

Mr. BIDEN. Mr. President, I want to speak very briefly to something that was called to my attention only an hour or 2 hours ago. That is, according to the wire services, Admiral Macke said, and I quote, with regard to the case where two Marines and a Navy seaman are on trial in Okinawa on charges that they abducted a 12-year-old girl on September 4 in a rental car, drove her to a secluded sugar cane field where one of the persons, Seaman Marcus D. Gill, admitted in court that he had raped the girl.

In response to that incident, which has international consequences for us, it is probably the most significant disagreement we have had with Japan, including trade agreements, caused as much of a stir and outrage, and understandable stir and outrage, on the part of the Japanese.

This admiral, probably one of the two or three most visible people known by name in Japan, because he is head of the Pacific Fleet, instead of him getting off of his ship, getting in a car and going to wherever the hell that family or the relatives of that child lived, and begging the forgiveness on the part of this Nation for something in the nature that occurred back when Attila the Hun came down into Japan and raped and pillaged centuries ago, instead of doing that, this fellow says—if this is true, this guy should be disciplined. If any one of us said this, it would be enough, in my view, for the voters to never vote for us again. If it were a Cabinet Member, we would probably dismiss them. We have had Cabinet Members dismissed for less insensitive things than this.

He says—if this is true, because what the press says is not always true; so that is the one caveat that I will make—but if he said, "I think that it was absolutely stupid, I've said several times," Macke said, "for the price they paid to rent the car they could have had a girl."

I realize I am accused, rightfully so, by my colleagues on occasion of being a little too emotional, but I want to tell you, if that were my daughter and that admiral said that, I would go find the son—I would go find him. I would look for him. I would—it would not be right; I would be wrong; it would be a violation of law—but I would find him and rip his ears off, if I could, or get killed in trying.

Mr. McCAIN. Will the Senator yield?

Mr. BIDEN. I will yield to my friend from Arizona.

Mr. McCAIN. I share my friend's anger. Where was this—how was this report carried?

Mr. BIDEN. Mr. President, it is carried by the AP Wire Service. Date: The 17th, today, 19:22 hours, Eastern Standard Time, Copyright 1995. All rights reserved, AM——

Mr. McCAIN. I thank my friend. The AP.

Mr. BIDEN. Again, I will publicly apologize—I want to make this caveat. If he did not say this, then this is unwarranted, what I am saying. But I just do not think that after all the time and all the effort we have made here, the men in the Senate—not just the women in the Senate—the men in the Senate, the people on this floor, to deal with the Violence Against Women Act, which is all about changing attitudes—and my friend, the Senator from the State of Arizona, I know how he feels about these things. I know how he votes on these things. I know how the Senator from Mississippi and the Senator from Iowa feel about this. We have tried very hard to change attitudes, attitudes about women and whether or not women are property, whether or not women are "our woman," whether or not we men have a right to ever touch them. That has been a central debate in this Nation.

And to have one of the highest ranking military officers of the United States of America saying—in command of thousands of young, impressionable men—that his response to this tragedy, instead of being an instinctive gut-wrenching anger and empathy, is, "They could have gotten a girl." Why would he do this? That is simple. Unfortunately, we know a fair number of people think like this. "This is kind of dumb. If they wanted sex, they could have gotten and bought it in Okinawa for the price they rented the car. That is a reasonable calculation, is it not?"

And until recently, the last decade or so, that was kind of an accepted notion. "We should think of these things logically." Well, my God, it is absolutely—I mean, all the debates that we have had on the floor, all the times—and, Mr. President, if there is anyone who is guilty of "hoof in mouth" disease, if there is anyone who has stuck his foot in his mouth more than this Senator, if there is anybody that has made more verbal faux pas than me, I do not know.

I challenge anyone to think, in 23 years, of any time I have gotten up on the floor and criticized someone like this for misspeaking, because I am a champion at it, I have made a career of it, unfortunately, but, thank God, never on something like this, never on something that has affected someone, affected the representation of the philosophy of a Nation.

Mr. HARKIN. Will the Senator yield?

Mr. BIDEN. I will be glad to yield.

Mr. HARKIN. I thank the Senate for bringing this to my attention. I never heard of this, like the Senator from Arizona. I can say, as someone who spent 4 years in the Navy ROTC, 5 years as a Navy pilot on active duty, 3 more years in the Active Reserve flying for the Navy—that adds up to a lot of time in the Navy—I have an instinctive pride in the Navy. We all do, those of us who served. And I love the Navy. I love its rich history. But I must say to the Senator from Delaware, that if this is true—I just heard this; I went over and read the AP wire report that the Senator had—I say, if this is true, if this is what Admiral Macke said, I would go the Senator one better. It is not that he should be disciplined. Our Commander in Chief, the Commander in Chief of the Armed Forces of the United States, which is the President of the United States, ought to bring him to Washington and publicly strip him of his rank and take away his commission in the U.S. Navy.

The Commander in Chief of the Armed Forces, the President of the United States, has the power to do that. And I call upon President Clinton, if this is true—and I share the Senator's thought—I want to make sure that he actually said that. If Admiral Macke said that, I call upon President Clinton to bring Admiral Macke to Washington, strip him of his rank, take away his commission, and deny him all the benefits that he has accrued as a naval officer to send a signal to every other naval officer that this kind of action, this kind of attitude, will never be tolerated again in the United States Navy.

I thank the Senator for bringing this to our attention. It is a sad day for those of us who so dearly love the United States Navy.

Mr. BIDEN. Mr. President, I will not take any more time—I see the Republican leader—except to say it was not—I cannot take credit or blame for bringing this to the attention of the Senate. It was the Senator from California. But let me just say, to look at it the other way around, let us assume that Japanese troops—let me give it an analogy. When the Prime Minister of Japan made a reference several years ago that the reason why we were not productive is because of race relations with our black population, this country, understandably, was in a furor. And it ended up being one of the elements to bring down that Prime Minister in his own country.

Let me just ask the rhetorical question—and I will yield the floor after I do—what do we think we would do if a 12-year-old girl was driven to a cornfield in any one of our States by three Japanese servicemen stationed in the United States of America, was brutally raped, and one of the Japanese sailors saying, "I did it," in open court, and then the commander of the Japanese fleet, sitting off of San Diego, said in an interview with American reporters, that "This was stupid on the part of the Japanese sailors. All they had to do was, for the money they had to rent a car in San Diego, they could have went and gotten a girl and had her"?

Can you imagine the indignation of this Nation? There would be every other Senator on the floor of this Nation demanding a public apology and action taken against that admiral. I just think sometimes we do not understand that what is good for the goose is good for the gander. We do not understand how people feel. We never put ourselves in their shoes.

And I will say, if we had a problem with United States-Japanese relations before, as a consequence of this rape, just what are they now? Purely in terms of the United States naked self-interest in the relations with Japan, what has this guy done, if this is true?

I think it is deplorable. I do not know—I am not as certain as my friend from Iowa what the appropriate action is—but I just think as a Nation, we should be publicly apologizing to the people of Japan and we should be publicly vilifying anyone who says things like this.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, on that evening in 1972 when I first was elected to the Senate, I made a commitment to myself that I would never fail to see a young person, or a group of young people, who wanted to see me.

It has proved enormously beneficial to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the nearly 23 years I have been in the Senate.

Most of them have been concerned about the total Federal debt which is slightly in excess of $11 billion shy of $5 trillion (which will be exceeded later this year). Of course, Congress is responsible for creating this monstrosity for which the coming generations will have to pay.

The young people and I almost always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 25, 1992. I wanted to make a matter of daily record the precise size of the Federal debt which, at the close of business yesterday, Thursday, November 16, stood at $4,989,792,104,452.15 or $18,941.34 for every man, woman, and child in America on a per capita basis.

The increase in the national debt since my report yesterday (which identified the total Federal debt as of close of business on Wednesday, November 15, 1995) shows an increase of $1,452,054,077.58. That increase is equivalent to the amount of money needed by 215,311 students to pay their college tuitions for 4 years.

THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

Mr. KEMPTHORNE. Mr. President, I rise to voice my support for the National Highway System Designation Act of 1995.

It shows Congress' continued commitment to returning authority to our partners in State governments. On March 22, President Clinton signed into law Senate Bill 1, a bill to stop unfunded Federal mandates on State and local governments. At that time, this country's elected leaders affirmed their belief in the 10th Amendment.

The National Highway System bill continues that commitment by stopping not only future mandates, but by addressing current mandates. In fact, section 205, "Relief from Mandates," speaks clearly to that concern.

The No. 1 issue for the Idaho Department of Transportation in this bill is the suspension of the Management Systems provision that burdens them with onerous paperwork requirements. They're spending valuable time and resources on federally-mandated paperwork instead of doing the work on roads, bridges and other needed projects. This bill frees the States from excessive Federal bureaucracy.

S. 440 removes the federally-mandated crumb rubber asphalt requirement. In some States, like Idaho, crumb rubber in road surfaces just doesn't work. The climatic conditions aren't right. That's not to say crumb rubber won't work somewhere else. In this bill we turn the mandate into a grant program to encourage pilot projects so any State that wants to utilize recycled tires in their road projects may do so. But the key is, the States will have that option. I need to congratulate Chairman CHAFEE for developing this innovative grant program.

This legislation also allows States to set their own maximum speed limits. Some will argue that this is a threat to public safety. I say this is not anti-safety, it's pro-States rights. We have 50 Governors, State legislatures, and law enforcement agencies that can determine what is the best and safest for their citizens. They care just as much as those of us in Washington, DC do about safety. But there are parts of Idaho where conditions may permit a different speed limit. Congress must let those local authorities decide what's best.

Another mandate we eliminate is the penalties for non-compliance of motorcycle helmet laws. Now I'm not one to advocate unsafe usage of any motor vehicle, but I think it's wrong to blackmail a State by threatening to withhold Federal highway funds if they don't strictly enforce a Federal helmet law. Once again, State police authorities and lawmakers in each of our 50 States knows what's the best for their residents.

S. 440 establishes designation of thousands of miles of highways under the Federal system, making them eligible for Federal funding—$6.5 billion in highway funds will be released to States as soon as this bill is signed into law. Under this bill, States will be able to address their most pressing highway and bridge repair and construction projects. Nearly 90 percent of all American residents will live within five miles of an NHS route. That is good for rural States like my home State of Idaho. Improved and efficient road systems will speed up commerce and trade and will be an economic boon for our cities, counties and businesses.

Another benefit for the motoring public is the public-private partnership for safety. S. 440 allows public companies to install emergency roadside telephone call boxes. I'm pleased that the conferees accepted my amendment requiring at least 20 percent of those call boxes be installed in rural areas. My State of Idaho has hundreds of miles of isolated highways. In many of these areas, a phone could be a lifesaver for a stranded motorist. I would like to see more of these partnerships utilized by this Congress to meet important needs.

Finally, Mr. President, I'm proud that this bill finally provides funding for the National Recreational Trails Act. I take great pride in completing the task begun by my good friend and predecessor, Steve Symms, who is the author of the Recreational Trails Act. Unfortunately, Congress has been collecting money from off-road vehicle gasoline taxes for this program, but has not made it available for trails. This bill provides $30 million over the next 2 years for States to build, repair, and maintain hiking, biking, snowmobile, equestrian, and off road vehicle trails. States will also have the money too for recreational trails that are accessible to our disabled citizens.

I hope the President signs this bill. It is a winner for all Americans. And, it does not raise one dime in taxes. This bill utilizes the funds already collected from our Nation's motorists and deposited in the highway trust fund. We need to get those dollars out of the bank and into the States where they can do the most good.

A TRIBUTE TO TERI ELLIS

Mr. PRESSLER. Mr. President, I rise today to extend my congratulations to Teri Ellis, an exceptional South Dakotan. President Bill Clinton recently named Teri the travel and tourism employee of the year.

Teri is executive director of the Sioux Falls Convention and Visitors Bureau. I am not at all surprised that Teri has been chosen for the award. Teri has shown extraordinary dedication and service in promoting the South Dakota tourism industry. Teri also has been a tireless promoter of the convention center currently being built in Sioux Falls, SD. She believes that the tourism industry must remain competitive, convenient, and have a thorough marketing plan. She is absolutely right.

The tourism industry plays a vital role in the economic development of South Dakota. Tourism has been very important to my State in the past and will continue to be in the future. I can say with confidence that South Dakota tourism will thrive for years to come because Teri Ellis will continue to be a strong force in a thriving and productive tourism industry for South Dakota and the Nation. I thank Teri for her great work on behalf of South Dakota tourism and wish her continued success.

Mr. President, I ask unanimous consent that an article be printed in the RECORD from the Sioux Falls Argus Leader acknowledging Teri Ellis' recent award.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Sioux Falls Argus Leader, Oct. 31, 1995]

PROMOTER NAMED TOP EMPLOYEE BY CLINTON

(By Brenda Wade Schmidt)

A Sioux Falls promoter was named travel and tourism employee of the year Monday by President Bill Clinton.

Teri Ellis, executive director of the Sioux Falls Convention & Visitors Bureau, was in Washington, D.C., at the White House Conference on Travel and Tourism, the first for the Clinton administration. Fourteen people from South Dakota attended the convention of 1,700 delegates.

Ellis, 42, was chosen for the award for her dedication, service and performance in promoting the industry.

Clinton spoke to the group about the value of the tourism industry in the United States, Ellis said. "There was an acute awareness of what the industry is all about," she said of the speech.

Clinton spoke about creating a stronger national marketing plan for travel and tourism, she said. At the end of the conference today, the delegates will use a computerized survey to vote on priorities for the country, she said.

Ellis, who has been a tireless promoter of the convention center being built in Sioux Falls, said three areas are important to tourism success.

Be competitive. Travelers want convenience. Have a thorough marketing plan. "Those three things are what I just keep hearing over and over again," she said.

AMBASSADOR JOSEPH VERNER-REED—STATESMAN AND U.N. HISTORIAN

Mr. PRESSLER. Mr. President, as the United Nations celebrates 50 years in operation, I am reminded of the rich history of the international organization—a history filled with challenges, criticism, and hope for many war-torn areas of the world. As my colleagues know, I have been a supporter of the U.N. as well as an outspoken critic of its wasteful and abusive management practices. While waste, fraud, and abuse still run rampant within the world body, these mismanagement practices should not overshadow the valiant efforts of dedicated public servants to do the right thing at the United Nations.

Ambassador Joseph Verner-Reed, U.N. Under-Secretary-General for Public Affairs, is one such committed public servant. Throughout his many years at the United Nations, he has worked tirelessly to promote peace and stability in our chaotic world.

During his service to the United Nations, the Ambassador has compiled a wealth of knowledge about the United Nations and its history. In response to the golden anniversary of the United Nations, Greenwich Magazine talked with Ambassador Reed about what he viewed to be the most notable events of the U.N.'s past 50 years. The Greenwich Magazine recently published the Ambassador's rich, detailed account of U.N. history. For example, Reed describes the famous 1960 Khrushchev shoe-banging incident and the time in 1994 when the United Nations monitored the historic, peaceful elections in South Africa following the end of Apartheid.

I can think of few others who could offer a better account of historical events at the United Nations than Joseph Verner-Reed. He is a devoted man, who cares deeply about the United Nations and the people it serves around the globe. Mr. President, in tribute to my friend, Ambassador Reed, I ask unanimous consent to place Tanya Hochschild's article, "Highlights of U.N. History" from the Greenwich Magazine in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Greenwich Magazine, May 1995]

HIGHLIGHTS OF U.N. HISTORY

(By Tanya Hochschild)

Television brings the world's wars into our living rooms and we witness the horror. In the last five years, we have watched a brutal war in Bosnia, been with our troops as they landed on the beach in Somalia, seen the hell of Rwanda and Liberia, the crises in the Middle East and in Haiti. These images remind us we live in an unstable world, a world of violence, of human abuses and inhumanity.

In the eye of these international storms is the United Nations, monitoring, intervening, trying to keep the peace. This year the world organization celebrates its golden jubilee. Yet many who have seen the slaughter have less than an enthusiastic response to the efficacy of the U.N. during the past fifty years. These are not the sentiments, however, of Ambassador Joseph Verner Reed, under-secretary-general for Public Affairs at the United Nations and one of the highest ranking American officials at the world organization. (The ambassador had served as under-secretary-general for Political and General Assembly Affairs and Secretariat Services from 1986 to 1988, when he was asked to be chief of protocol by President George Bush. He had previously served President Reagan as ambassador to Morocco.)

Relaxing at his home, Denbigh Farm in backcountry Greenwich, Ambassador Reed talked about some memorable moments in the history of the United Nations. He considers himself a citizen of the world, with his first allegiance to the world organization. "I want to be very clear. I will always serve as an international civil servant, so my optic is different from that of a U.S. national."

On the occasion of the fiftieth anniversary of the United Nations, Ambassador Reed found it both difficult and easy to limit his reflections to only a few highlights in its history. Difficult, because he is so unabashedly a proud and enthusiastic U.N. man—and has such a fund of stories, whose telling remind him of ten others. Easy, because he is a consummate diplomat, courteous, elegant, knowledgeable. A man whose acuity and aplomb enables him to communicate succinctly all he wants you to hear. Nevertheless, when pinned down, he mentioned eight significant dates:

December 10, 1948.—The General Assembly adopts the Universal Declaration of Human Rights.

The United Nations has helped enact agreements on political, civil, economic, social and cultural rights. Complaints of human rights abuses are investigated and the U.N. Human Rights Commission has focused the world's attention on cases of torture and arbitrary detention.

"That document is a benchmark of success, one of the great pieces of high thinking for our planet," said Ambassador Reed. "It set a standard for other declarations such as the one on women's rights, which improves the quality of life for women in over 100 countries. Programs helped raise the female literacy rate in developing countries from thirty-six percent in 1970 to fifty-six percent in 1990."

October 24, 1949.—Cornerstone laid for United Nations headquarters in New York City.

While Ambassador Joseph Verner Reed is a dedicated international civil servant, he expresses sentiments about his own country that leave the listener in no doubt as to his feelings about the United States.

"Every American, man, woman and child should be very proud of the incredible contribution the United States has made to the

United Nations. Our country, the host country, has played a pivotal role in the management of the world organization, not the least of which has been assuming obligation for twenty-five percent of the regular budget. In 1948 Congress approved an interest-free loan of sixty-five million dollars for the headquarters building. The site is a gift (tax deductible, yes) from the Rockefellers."

November 6, 1956.—The first U.N. peacekeeping force established.

"Obviously peace keeping is an extraordinary success, and an ongoing attempt to meet the challenges of a troubled world," the ambassador said. "We have thirty-five peacekeeping observer missions and seventeen peace missions currently active around the world, made up of 80,000 people, the most there has ever been."

The ambassador spoke of his concern in conveying to the general public the importance of the U.N.'s peace-keeping accomplishments—in Kashmir, the Congo, Cyprus. He recalled a "wonderful" response of Boutros Boutros-Ghali to a question on Cyprus: "Whatever it has cost [in terms of peace keeping], it's a great deal cheaper than if Turkey and Cyprus and Greece had gone to war."

"There are certainly problems—in Somalia and Bosnia," the ambassador said. "Yugoslavia is a nightmare, but you have to view the tough points, tough years, tough arenas and tough skirmishes along with the successes. Golan Heights, El Salvador were great successes."

The U.N.'s peace-keeping budget is an indication of both the magnitude of the problem and the efforts to solve conflicts. Two years ago, he pointed out, the budget was $280 million. This year it is $3.5 billion.

In an interesting aside, the Greenwich resident also noted that eighty percent of the media's coverage of the work of the United Nations is on peace-keeping forces and only twenty percent on its efforts in economic and social development. "One could argue slightly on the percentage points, but I will say categorically that twenty percent of the work of the U.N. is peace keeping and eighty percent, economic and social development. I think the world's views are guided by CNN."

In recognition of its accomplishments, the United Nations Peace-keeping Force was awarded the Nobel Peace Prize in 1988, joining the ranks of other Nobel Prize winners: the Office of the United Nations High Commissioner for Refugees; the United Nations Children's Fund; and U.N. individuals Ralph Bunche, Lester Pearson, Dag Hammerskjöld and others.

September 1960.—Seventeen newly independent states, sixteen of them African, join the United Nations, the biggest increase in membership in any one year.

"The key number one success of the U.N. has been as the midwife of history." Ambassador Reed said.

"Take Africa as an example, Ethiopia, South Africa, Liberia and Egypt (included on the continent) signed the original charter in 1945—only four African countries—and now we have fifty-one member nations from Africa. That's an amazing statement right there! The independence! The bursting of sovereign states!"

October 12, 1960.—Khrushchev bangs shoe on desk—media reaction ecstatic. As proof positive, Ambassador Reed pointed out that a photograph of that occasion is one of the most sought-after pictures in the world, and almost impossible to get.

Truculence was Khrushchev's style, which proved to be more atmosphere than substantive. Most people recall the incident as the behavior of a reckless peasant in an establishment priding itself on restraint and decorum.

Ambassador Reed considers it an unfortunate reaction flashed around the world, one that makes for good anecdotes in a course on public diplomacy. "From a protocolary point of view, I think the world was aghast."

October 25, 1971.—General Assembly seats representatives of the People's Republic of China.

"The Republic of China, commonly known as Taiwan, was voted out of the General Assembly and replaced by the People's Republic of China (mainland China). This was a major event for the United Nations and a turning point for the world organization. I do remember as a young international banker saying over and over again that some formula has to be worked out here to recognize this behemoth."

April 27, 1994.—Apartheid ends in South Africa. U.N. monitors peaceful elections.

Two world maps hanging in the hall at the United Nations graphically illustrate how the United Nations has enabled people in over forty-five countries to participate in free and fair elections. It has provided electoral advice, assistance and monitoring of results.

December 15, 1994.—The island of Palau, in the Pacific Ocean, is the latest member nation to be admitted. Once a colony of Japan, it is the last of U.N. territories to achieve independence.

"Today, less than two million people live under colonial rule," the ambassador said. "Decolonization has got to have been the high mark of the world organization. I maintain it is the mark of success—there has been an explosion from fifty-one members to one hundred and eighty-five. The very first step an infant nation takes to achieve sovereignty is to apply for membership in the United Nations."

Ambassador Joseph Verner Reed understands public diplomacy. His world is a world of protocol and motorcades, representing, as he does, Boutros Boutros-Ghali at state funerals, inauguration ceremonies and commonwealth conferences.

Being a participant in the "House"—whether it be in the "super dome of the world diplomacy" as he refers to the General Assembly Hall, or striding its corridors with fleet-foot compassion—enables him to foster harmony through understanding. He believes this is the principal mission of the United Nations. And he points to the number of treaties that have effectively prevented the spread of nuclear weapons around the world.

The circular study in his home at Denbigh Farm reflects a career peppered with pomp and majesty. Numerous pictures of him with world dignitaries cover the wall. He was in this manor born and he has furnished the room with a needlepoint carpet made by his mother; bronze American eagles; flags from the U.S. services; "and that one over there is George Washington's flag, isn't that great?" There are boxes of memorabilia and copies of speeches and letters—a note from Barbara Bush. "Know you were a large part of the happy times"; a plaque of wood that President Truman stood on at the dedication of the United Nations and on which he later wrote, "It was quite a day! Harry S. Truman."

The continued financial support of member countries is of great concern to Ambassador Joseph Verner Reed. He terms the situation "donor fatigue" and views the new Republican Congress's push to lower contributions from the United States to the regular U.N. budget as a cause for alarm.

Yet he is confident and tireless in his dedication to seeing to it that the job is well done. The job at hand right now is the golden jubilee and its theme is particularly poignant: "We the people—United for a better world."

TRIBUTE TO JAMES ROTHSTEIN

Mr. PRESSLER. Mr. President, today I pay tribute to a great South Dakotan—James Rothstein. I was saddened to receive word that James passed away recently. He was my friend, and I will miss him.

James spent his life in the Midwest. Though born in Eden Valley, MN, and a high school student in Haynes, ND, James Rothstein spent most of his life in Mobridge, SD. He played a vital role in his community, where he served on many local and State boards. He dedicated his life to the development of his State and community. Indeed, James Rothstein was a leader who cared deeply about the people of South Dakota.

For years, James served in the South Dakota House of Representatives. He was a vocal member of the South Dakota legislature. In fact, he served as majority leader of the State House from 1969 until 1973.

James worked hard all his life. He devoted his time to building the economy in Mobridge. He helped the city grow, develop, and prosper. I am privileged to have known James. His leadership, good will, and service have inspired me in my own life. He will be missed.

Mr. President, the Sioux Falls, SD, Argus Leader newspaper recently printed an article praising James Rothstein's life-long accomplishments. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Sioux Falls, SD, Argus Leader, Nov. 11, 1995]

JAMES ROTHSTEIN DIES AT 81; FROM POLITICS TO SALES, HE FIT IN

(By Denise D. Tucker)

MOBRIDGE—James Leland Rothstein maintained relationships with people from all walks of life. Rubbing elbows with farmers or governors, he fit in.

"He was a distinguished gentleman," said Rothstein's son, John of Mobridge.

Rothstein, 81, died Tuesday, Nov. 14, 1995, at the Mobridge Regional Hospital.

Rothstein, described by his son as a humble man, enjoyed being with people.

"He was in the insurance business and he liked it because it put him in front of lots and lots of people," said John Rothstein.

Through his volunteer efforts, Rothstein was able to help and influence a number of lives. He volunteered for civic organizations and served in political office.

He was a member, past president and director of the Mobridge Chamber of Commerce; was past president and director of the Mobridge Community Hospital Association; was the cochairman of the Mobridge Community Hospital fund drive; was past president and board member of the Mobridge School district; chairman of the Walworth County School Board; past president, director and member of the Mobridge Rotary Club; founding member, past secretary and director of the Mobridge Rodeo Association; fund drive chairman for the Boy Scouts; chairman of the Walworth County Cancer Society; member of the Oahe Sportsman Club; past president and director of the Mobridge Country Club; and the Walworth County director for Radio Free Europe.

"He had a huge capacity for taking on chores," said Rothstein's son. "He was a multidimensional person."

Rothstein's political contributions included serving in the state Legislature from 1963 until 1974. He was voted outstanding freshman legislator in 1965. He served on various committees and was majority leader from 1969 to 1973 in the House of Representatives. He also served on the Transportation Department board from 1979 until 1992. He was inducted into the South Dakota Transportation Hall of Fame in 1993.

John Rothstein said his father decided young age that he wanted to do something that would make him a distinguished man. He was able to do so through his contributions.

Rothstein was born April 10, 1914, at Eden Valley, Minn. He moved with his family to Haynes N.D., and graduated from Haynes High School. He later moved to Bismarck, N.D., where he was employed by Liggett & Myers Tobacco Co. as a salesman. In 1936, he moved to Aberdeen, where he was employed by Griggs-Cooper Co. as a salesman.

He married Lucille Adkins on July 20, 1938, in Aberdeen. They made their home there. In June 1940 he was transferred to Mobridge. In 1943, he resigned from the Griggs-Cooper Co. and began a career in insurance.

From April 26, 1944, until Dec. 10, 1945, he served in the U.S. Navy, during World War II. After his discharge, he began his association with Provident Life which lasted more than 50 years.

He was a member of St. Joseph's Catholic Church, Knights of Columbus, VFW and the Parker-Browder American Legion Post of Mobridge.

He was also a member of the Life Underwriters of South Dakota, Aberdeen Association and has received the National Quality Award for more than 35 years. He was honored as Boss of the Year by the Mobridge Jaycees in 1958. He became a charter member of the Provident Life Insurance Hall of Fame in 1976.

THE NATURAL DISASTER PROTECTION AND INSURANCE ACT

Mr. PRESSLER. Mr. President, I am pleased to cosponsor S. 1043, the Natural Disaster Insurance and Protection Act.

Our country's present method of addressing natural disasters makes no sense. Natural disaster relief has cost taxpayers $45 billion over the past 6 years. Too much of our Federal efforts are spent on dealing with damage after it has occurred rather than undertaking mitigation efforts to prevent as much damage as we can. The only way to reduce the total social cost of natural disasters is mitigation undertaken before natural disasters occur. The Natural Disaster Insurance and Protection Act is designed to foster these mitigation efforts.

Presently, when a natural disaster occurs, relief efforts often are a political game: especially when the disaster impacts populous, politically important States. In addition, some areas of the country are particularly prone to natural disasters. Taxpayers from the rest of the country end up subsidizing residents of those disaster-prone areas through ever-increasing disaster relief payments. This subsidy must be reduced. Taxpayers simply should not be asked to continue to bear such high relief costs.

The need for natural disaster relief funds can be reduced if individuals in disaster prone areas are properly insured. S. 1043 seeks to establish a mechanism to assure both that insurance is available in disaster-prone areas and to encourage individuals to purchase that insurance.

The Committee on Commerce, Science, and Transportation, which I chair, has already held one hearing on this bill. At that hearing some raised concerns about the insurance entity the bill establishes. This is a complex and important bill. It will be further examined by Commerce Committee. As that examination proceeds, we need to make certain the insurance entity functions as intended. The insurance entity established should place private capital at risk and use market-based methods to achieve appropriate pricing of the insurance offered. Furthermore, that insurance entity should not need, or in any way obligate, the infusion of Federal funds to maintain solvency.

This bill attempts to put our policy on better footing. The Commerce Committee will continue its work on this legislation and it is my hope we can address the concerns raised and pass a bill that will establish a program to help victims of disaster recover while limiting the exposure of other taxpayers to pay for a Federal bailout every time disaster strikes.

MESSAGES FROM THE HOUSE

At 3:47 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1600. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation for the Federal Crop Insurance title of the 1995 Farm Bill; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1601. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding transactions involving exports to Trinidad and Tobago; to the Committee on Banking, Housing, and Urban Affairs.

EC-1602. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-1603. A communication from the Secretary of Energy, transmitting, pursuant to law, two technical and policy analyses regarding replace fuels and alternative fuels vehicles; to the Committee on Energy and Natural Resources.

EC-1604. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled, "Energy Policy Act Transportation Study: Interim Report on Natural Gas Flows and Rates"; to the Committee on Energy and Natural Resources.

EC-1605. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled, "Energy Policy Act Transportation Rate Study: Interim Report on Coal Transportation"; to the Committee on Energy and Natural Resources.

EC-1606. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the biennial report regarding implementation of section 1135 of the Water Resources Development Act of 1986; to Committee on the Environment and Public Works.

EC-1607. A communication from the Secretary of Labor, transmitting, pursuant to law, the quarterly report on the expenditure and need for worker adjustment assistance training funds; to the Committee on Finance.

EC-1608. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on data necessary to review and revise the Medicare Geographic Practice Cost Index (GPCI); to the Committee on Finance.

EC-1609. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the report on the establishment and operation of Radio Free Asia; to the Committee on Foreign Relations.

EC-1610. A communication from the Lieutenant General of the Defense Security Assistance Agency, transmitting, pursuant to law, a notice concerning delivery of defense articles to Jamaica relative to Presidential Determination 94-41; to the Committee on Foreign Relations.

EC-1611. A communication from the Vice Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations governing Public Financing of Presidential Primary and General Election Candidates; to the Committee on Rules and Administration.

EC-1612. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the annual report on audit and investigative activities; to the Committee on Governmental Affairs.

EC-1613. A communication from the Director of Human Resources, the Western Farm Credit Bank, transmitting, pursuant to law, the annual report on audited financial statements; to the Committee on Governmental Affairs.

EC–1614. A communication from the Chief Financial Officer of the Export-Import Bank, transmitting, pursuant to law, the annual management report for 1995; to the Committee on Governmental Affairs.

EC–1615. A communication from the President of the United States Institute of Peace, transmitting, pursuant to law, the report on financial statements and additional information; to the Committee on Governmental Affairs.

EC–1616. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the report on internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1617. A communication from the Chairman of the United States Merit Systems Protection Board, transmitting, pursuant to law, the report entitled, "Sexual Harassment in the Federal Workplace: Trends, Progress, and Continuing Challenges"; to the Committee on Governmental Affairs.

EC–1618. A communication from the National Commander of the American Ex-Prisoners of War, transmitting, pursuant to law, the 1995 audit report as of August 31, 1995; to the Committee on the Judiciary.

EC–1619. A communication from the Chairman of the Administrative Conference of the United States, transmitting, pursuant to law, the annual report of the Conference under the Equal Access to Justice Act; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 755. A bill to amend the Atomic Energy Act of 1954 to provide for the privatization of the United States Enrichment Corporation (Rept. No. 104–173).

By Mr. MCCAIN, from the Committee on Indian Affairs, with amendments:

S. 1341. A bill to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, and for other purposes (Rept. No. 104–174).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRESSLER:

S. 1418. A bill to provide for the more effective implementation of the prohibition against the payment to prisoners of supplemental security income benefits under title XVI of the Social Security Act or monthly benefits under title II of such Act, and to deny such supplemental security income benefits for 10 years to a person found to have fraudulently obtained such benefits while in prison; to the Committee on Finance.

By Mrs. KASSEBAUM (for herself, Mr. LEAHY, Mr. FEINGOLD, Mr. JEFFORDS, Mr. SIMON, Mr. WELLSTONE, Mr. PELL, Mr. MCCAIN, and Mr. GREGG):

S. 1419. A bill to impose sanctions against Nigeria; to the Committee on Foreign Relations.

By Mr. STEVENS (for himself, Mr. BREAUX, Mr. CHAFEE, Mr. JOHNSTON, and Mr. MURKOWSKI):

S. 1420. A bill to amend the Marine Mammal Protection Act of 1972 to support International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 1421. A bill to amend the Internal Revenue Code of 1986 to treat as a zone business an otherwise qualified business dissected by a census tract boundary line of a designated empowerment zone or enterprise community; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1422. A bill to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, New York, for inclusion in the Amagansett National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GREGG (for himself, Mrs. KASSEBAUM, Mr. NUNN, Mr. JEFFORDS, and Mr. GORTON):

S. 1423. A bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER:

S. 1418. A bill to provide for the more effective implementation of the prohibition against the payment to prisoners of supplemental security income benefits under title XVI of the Social Security Act or monthly benefits under title II of such Act, and to deny such supplemental security income benefits for 10 years to a person found to have fraudulently obtained such benefits while in prison; to the Committee on Finance.

THE PRISONER FRAUD PREVENTION ACT

Mr. PRESSLER. Mr. President, today I am introducing the Prisoner Fraud Prevention Act. This legislation would crack down on prisoners who continue to commit crime from behind bars by cheating American taxpayers and our welfare system. Recently the Senate passed H.R. 4, comprehensive welfare reform legislation. This bill would go a long way toward reducing fraud and abuse in the Supplemental Security Income (SSI) program. The legislation I am introducing today would take our anti-fraud efforts one step further.

Under current law, it is illegal for prisoners to receive SSI payments while incarcerated. To carry out this mandate, the Social Security Administration enters into agreements with federal and state prisons to collect the names of inmates. However, these agreements do not completely prevent inmates from fraudulently receiving benefits, because about one-third of prisoners in the U.S. are held in county jails. Unbeknownst to the Social Security Administration, these local prisoners often continue to receive SSI payments.

The legislation I am introducing today would offer local sheriffs an incentive to work with the Social Security Administration to stop payment of these fraudulent benefits. The bill would reward sheriffs who voluntarily turn inmate lists over to the Social Security Administration by allowing them to keep one-half of the value of the first checks that are intercepted. This would speed up the process of removing prisoners from SSI rolls as well as catch those prisoners who slipped through the system. This is a money saver for American taxpayers. In fact, the Congressional Budget Office (CBO) estimated that this proposal would save $127 million over five years.

Additionally, this legislation would bar anyone who received SSI fraudulently while in prison from receiving benefits for the next ten years.

By allowing sheriffs to collect a "bounty", we can do a number of positive things: we can provide some seed money for local law enforcement and help put an end to the abuse for which the SSI program unfortunately has become famous. This type of abuse is an insult both to hard-working taxpayers who struggle daily without government assistance as well as families on assistance who play by the rules. Congress must take a no-tolerance stance toward fraud and abuse of public assistance. This bill establishes the get-tough approach we need.

I am pleased that the National Sheriffs Association has endorsed this legislation. I hope my colleagues will join me in sponsoring it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This bill may be cited as the "Prisoner Fraud Prevention Act".

SEC. 2. IMPLEMENTATION OF PROHIBITION AGAINST PAYMENT OF BENEFITS TO PRISONERS.

(a) SSI BENEFITS.—Section 1611(e)(1) of the Social Security Act (42 U.S.C. 1382(e)(1)) is amended by adding at the end the following:

"(I) The Commissioner shall enter into a contract with any interested State or local institution referred to in subparagraph (A), under which—

"(i) the institution shall provide to the Commissioner, on a monthly basis, the names of, and other identifying information about, the inmates of the institution; and

"(ii) the Commissioner shall pay to the institution, with respect to each inmate of the institution who, by reason of this paragraph, is ineligible for a benefit under this title, and who is found by the Commissioner to have been erroneously paid a benefit under this title while such an inmate, an amount equal to 50 percent of the monthly amount most recently erroneously so paid to the inmate.".

(b) OASDI BENEFITS.—Section 202(x)(3) of such Act (42 U.S.C. 402(x)(3)) is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following:

"(B) The Commissioner shall enter into a contract with any interested State or local institution described in clause (i) or (ii) of paragraph (1)(A) the primary purpose of which is to confine individuals as described in paragraph (1)(A), under which—

"(i) the institution shall provide to the Commissioner, on a monthly basis, the names of, and other identifying information about, the individuals so confined in the institution; and

"(ii) the Commissioner shall pay to any such institution, with respect to each individual found by the Commissioner to have been erroneously paid a benefit under this title while so confined in the institution, an amount equal to 50 percent of the monthly amount most recently erroneously so paid to the individual.".

SEC. 3. DENIAL OF SSI BENEFITS FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY OBTAINED SSI BENEFITS WHILE IN PRISON.

Section 1611(e)(1) of the Social Security Act (42 U.S.C. 1382(e)(1)), as amended by section 1 of this Act, is amended by adding at the end the following:

"(J) A person shall not be an eligible individual or eligible spouse for purposes of this title if—

"(i) the Commissioner finds that the person has made a fraudulent statement or representation in order to obtain benefits under this title while serving a prison sentence; and

"(ii) the 10-year period that begins with the date the person has completed the sentence has not expired.".

By Mrs. KASSEBAUM (for herself, Mr. LEAHY, Mr. FEINGOLD, Mr. JEFFORDS, Mr. SIMON, Mr. WELLSTONE, Mr. PELL, Mr. GREGG, and Mr. MCCAIN):

S. 1419. A bill to impose sanctions against Nigeria; to the Committee on Foreign Relations.

THE NIGERIA DEMOCRACY ACT

Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation on behalf of myself, Senators LEAHY, FEINGOLD, and others, imposing sanctions against the Government of Nigeria.

Before I explain a bit about this legislation, let me just say I very much appreciate being able to introduce it at this point, because I know we are anxious to begin the debate on the Balanced Budget Act of 1995, a very important piece of legislation, but there has been a tragic occurrence and an escalation of events in Nigeria which I think needs to be addressed.

Last week, the Nigerian military regime, led by General Sani Abacha, executed nine Nigerian political activists, including Ken Saro-Wiwa, following a seriously flawed judicial proceeding. This action, in the face of international pleas for clemency, is the latest in a series of very tragic, tragic, outrageous actions by the Nigerian military government.

Until this last atrocity, the international community had engaged in a policy of limited sanctions and diplomatic engagement. In Congress, we sent letters expressing our concern. We engaged the Nigerian Ambassador. We held hearings. But the situation has reached the point where we simply must respond in a forceful and clear manner.

Nigeria is a country heading for collapse, Mr. President. Its economic system has deteriorated dramatically. Political repression continues to grow. Ethnic tensions have increased.

General Abacha and Nigerian military leadership must understand that their isolation will only increase unless they move toward respecting human rights and a civilian democratic government.

Nigeria is a country that has enormous potential, enormous resources to call upon, and it can only be a real tragedy for the African Continent and the rest of the world to see this collapse into such a very tragic situation.

The legislation that we are introducing today imposes a series of sanctions against the Nigerian Government. It codifies the number of sanctions already imposed by the administration, including a ban on foreign aid, military sales and export financing; a termination of air flights between Nigeria and the United States; an end to U.S. support for Nigeria at the World Bank, IMF and other international financial institutions; and a visa ban on any Nigerian who formulates, implements or benefits from policies which hinder Nigeria's transition to democracy.

The legislation also imposes several new tough sanctions. It bans all new United States investment in Nigeria, including in the energy sector. While some may argue that this step may hurt U.S. businesses, there can be no doubt that the Nigerian regime profits from American investment. Several large projects under consideration personally benefit the top Nigerian leadership.

It also freezes the personal assets of the top officials of the Nigerian regime. If these leaders pull the country into a downward spiral of repression and economic decline, there will be a personal cost to them.

It expresses a sense of Congress that the international community should consider suspending Nigeria from international sports competitions. South Africa recently expelled Nigeria from a soccer tournament. We should consider following their example in other fora.

In addition, recognizing the importance of multilateral action, the legislation urges the President to build international support for other actions, including a U.N. arms embargo, a multilateral oil embargo and a U.N. Human Rights Commission condemnation.

It is critical that the United States work closely with other members of the international community, particularly Great Britain and South Africa, in this effort to promote democratic change in Nigeria.

Finally, the legislation makes clear our intent to pursue even tougher sanctions if the Nigerian regime continues its brutal and lawless ways.

I am one who believes we must be very cautious in applying sanctions against foreign governments, but I believe the situation in Nigeria has reached the point where we must send an unambiguous and tough signal to General Abacha. We will not stand by idle as he drags his country into chaos. If General Abacha would move toward respecting human rights and instituting a new civilian regime, the sanctions would be lifted and we would welcome Nigeria back as a partner and friend in the international community. If he continues to move in the wrong direction, the isolation will grow and the economic price will be high.

Mr. President, I know that Senator LEAHY has long been interested and concerned about this situation, as has Senator FEINGOLD. I welcome the opportunity to have them speak to this issue as well. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator from Kansas. I note that this is introduced on behalf of her, myself and cosponsored by the Senator from Wisconsin, Mr. FEINGOLD. I ask unanimous consent that when it is introduced, also added after us as a cosponsor be the Senator from Minnesota, Mr. WELLSTONE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I am proud to join with Senator KASSEBAUM on this. I am sad that it is necessary that we do this. Last week, people around the world were horrified to learn that Ken Saro-Wiwa, who was a respected Nigerian writer, a human rights activist, known not only throughout Nigeria but around the world, was executed, along with others, after a flagrantly unfair trial by a military court.

The legislation we introduce today is a tribute to Mr. Saro-Wiwa and to other Nigerians who have given their lives—and there are others—or languish in prison because of the pursuit of democracy and a better life for the Nigerian people.

On November 10, Mr. Saro-Wiwa, who was a member of the Ogoni Tribe who live in poverty in the rich, oil-producing delta region of southern Nigeria, was hanged with eight of his colleagues. They had been accused of inciting the murder of four other Ogoni leaders.

Ken Saro-Wiwa and his colleagues were the latest casualties of one of the most brutal military regimes in the world. Gen. Sani Abacha, who seized power in a 1993 coup, has mimicked the tyrannical rule of his African neighbor, President Mobutu of Zaire, who plundered his country and killed or imprisoned anyone who dared to oppose him.

President Mobutu will go down as one of the great tyrants of this century, one of the greatest robbers of this century, and General Abacha seems to be trying to catch up.

Like Mobutu, General Abacha has become a multimillionaire, while Nigeria, a country with enormous human and economic potential, the most populous country in sub-Saharan Africa, has been brutalized and impoverished. Saro-Wiwa's execution is part of a countrywide repression of utter brutality, marked by arbitrary arrests, detention without trial, kangaroo courts when trials do take place, and prisons so appalling that death might be preferable.

Despite claims that he is leading Nigeria to democracy and civilian government, there is absolutely no reason to believe that General Abacha will ever willingly give up power. His hands are too bloody to risk the restoration of the rule of law in Nigeria.

Today in Ogoniland, armed troops encircle the cemetery where Saro-Wiwa is buried to prevent access by the public, and anyone caught with a photograph of him is arrested. The Washington Post reports today that there may be even more executions in the coming days.

Mr. President, along with others, I sought clemency for Ken Saro-Wiwa for more than 1 year. I wrote to the Nigerian Foreign Minister, the Nigerian Ambassador, the Secretary of State, and have even appealed to other African leaders on his behalf. All to no avail. While I was not privy to the evidence against Mr. Saro-Wiwa, I believed strongly, like so many others, that the Nigerian Government should have either released him or tried him in a civil court in accordance with due process.

There is no doubt that General Abacha wanted to silence Ken Saro-Wiwa. He had led a popular campaign against the oil companies that have ravaged and poisoned the land of his people. Oil accounts for 90 percent of Nigeria's export earnings, and whoever controls it controls the country's wealth, and controls the Nigerian Army. General Abacha apparently decided that he was better off with Saro-Wiwa dead, rather than as a continuing champion of Ogoni resistance. He probably figured that the rest of the world would forget him.

The world will not soon forget Ken Saro-Wiwa. He was a champion of the rights of his people, and a world leader in the struggle to protect the environment. While our efforts to save his life ultimately failed, his memory inspires us to support the cause for which he and others gave their lives.

This bill aims to support and strenthen the measures already taken by the administration, both before and since Mr. Saro-Wiwa's execution. In addition, it prohibits new United States investment in Nigeria, including investment in a liquefied natural gas project that the International Finance Corporation has refused to finance, and which General Abacha reportedly has a personal interest in.

It also freezes the assets of Nigerians who are responsible for or benefit from policies which hinder Nigeria's transition to democracy. The Nigerian Government should think long and hard before it retaliates against American assets in Nigeria, because there is far more that we can do.

Of particular importance, the legislation calls on the President to actively seek multilateral support for these sanctions in the United Nations. We are already hearing of similar steps by the European community, but frankly the response of the international community has been shamefully timid. The United States has even run into resistance at the United Nations to a resolution condemning Nigeria for executing Saro-Wiwa. And Shell Oil, which derives a seventh of its global production of oil from Nigeria, seems to care about nothing but its own profits.

These and other sanctions are modeled on the sanctions we imposed against South Africa in the 1980's. They may be waived by the President if the Nigerian Government releases political prisoners, and demonstrates a commitment to human rights and an unequivocal commitment to democratic government.

We also provide a waiver if the President determines it is important to the national interest. This was included, in part, to encourage the Nigerian Government to increase its cooperation in counternarcotics. Nigeria is a center of drug trafficking and money laundering, and the United States has a strong interest in obtaining the Nigerian Government's cooperation to curtail it.

But the real trigger in this legislation is General Abacha himself. If he continues to imprison and murder his political opponents, the sanctions will get even stronger. We will consider everything including an oil embargo. Nigeria will become even further isolated, and General Abacha will eventually go the way of other African tyrants—forced from power and either shot or imprisoned, or sent into exile overturned in a coup. If, on the other hand, he decides to respect the rights of his people, the sanctions will end.

I am not so naive to believe that General Abacha will comply with the conditions in this legislation. His decision to execute Ken Saro-Wiwa was a sign that he would rather be branded an international pariah, than save his country from ruin. But the choice is his.

Mr. President, I also want to mention the oil companies who were the focus of Ken Saro-Wiwa's campaign. Had it not been for the environmental damage they have caused in Ogoniland, I suspect Ken Saro-Wiwa would be alive today.

We have not included sanctions against the oil companies in this legislation, but we expressly reserve the right to do so if the situation does not improve in Nigeria. Only 10 percent of our oil comes from Nigeria, but that 10 percent comprises 40 percent of Nigeria's total oil exports.

I strongly urge those companies, whether they are American companies or foreign companies, to reconsider their activities in Nigeria. They are responsible for propping up an extraordinarily brutal and corrupt regime, and for destroying the livelihoods of many of the poorest people in Nigeria, the people who Ken Saro-Wiwa gave his life for. Private business has a responsibility to the betterment of society, not only to accruing profits. If there ever were a place to apply that principle it is in Nigeria today.

Mr. President, we cannot bring Ken Saro-Wiwa back to life, but as he said before he was executed, his words will live on. This legislation aims to carry on the campaign he gave his life for.

Mr. President, I ask unanimous consent that an article in today's New York Times on the recent arrest of nine Nigerian human rights activists, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 17, 1995]

RIGHTS GROUP SAYS NIGERIA SEIZED 9 TO THWART PROTEST OF HANGINGS

LAGOS, NIGERIA, November 16.—A Nigerian human rights organization said today that nine of its members had been arrested because the military Government feared they were about to protest publicly against the execution of nine Government critics last week.

Jiti Ogunye, secretary general of the Committee for the Defense of Human Rights, said two student union leaders in the university in Benin were arrested on Wednesday and the other members of the group were arrested here last week. "All of them are detained in the Lagos police headquarters but we have been denied access to them," he said.

There was no official confirmation of the arrests.

Nigeria's military rulers provoked international outrage on Friday after the hanging of Ken Saro-Wiwa, a prominent Nigerian author, and eight other campaigners for minority rights. They were sentenced by a tribunal for the murder of four pro-Government chiefs in the oil-rich Ogoniland region. They had been campaigning for compensation for the Ogoni tribe in the southeast for oil produced there for decades by multinational corporations, principally the Anglo-Dutch oil giant Shell.

Gen. Sani Abacha, Nigeria's ruler, in his first reaction to the international furor over the hanging of the rights activists, accused foreign powers of interference, local newspapers reported.

Several nations have recalled their ambassadors to protest the executions. Nigeria has recalled its own envoys in retaliation.

> The United States and Britain—Nigeria's former colonial ruler—imposed an arms embargo on Lagos and the European Union froze development aid.
>
> In Strasbourg today, the European Parliament urged the European Union to impose an oil embargo on Nigeria, but a European Union diplomat in Brussels said an effective embargo could only be carried out through the United Nations Security Council, "and I don't think the votes are there."

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I am proud to join with my colleagues in introducing the Nigeria Democracy Act. I appreciate the statements of the Senator from Kansas and the Senator from Vermont. This tough sanctions measure comes on the heels of the chilling execution of 9 human rights activists, including renowned playwright Mr. Ken Saro Wiwa, in Nigeria on Friday, and at a time when the regime of General Sani Abacha has intensified its crackdown against its own people.

The bill we are introducing today is intended to ratchet up the pressure on this brutal military regime, and improve the protection of basic human rights in Nigeria and indeed the whole region. Let this measure be a warning that if the human rights situation deteriorates—that is, if any more political prisoners are executed, or more decrees violating basic human rights are enacted—the United States will respond with yet harsher measures, and will actively seek multilateral support from our friends and allies. The reported arrest of 9 more human rights activists peacefully protesting last week's executions is not a good sign.

Mr. President, Nigeria has the potential to become a major world trading partner, and an influential member of the international community. Yet General Abacha is squandering his country with rampant corruption; brutal policies of repression and execution; and severe economic mismanagement.

Some observers will say that General Abacha is simply trying to maintain the integrity of Nigeria while the country adjusts to a drastic political change. I am wholly unconvinced, however, that the murder, assault, and suppression that Abacha has engaged in will hold the country together; in fact, I believe that as a consequence of the repression, Nigeria is more likely to break out in civil war.

Mr. President, I applaud the steps the administration has taken thus far on Nigeria. But I think we should take an even tougher stand with General Abacha at this point. Engagement has not worked, as witnessed in last Friday's executions. International pleas to commute the death sentences and to re-try the defendants were ignored. Faxes and phone calls from several of us introducing this bill today to Nigerian officials were never returned. I am not persuaded that engagement and dialog with Abacha has been terribly effective.

The Nigeria Democracy Act will codify the sanctions already ordered by the President, and would impose further sanctions on Nigeria as well. Many of the measures suggested in this bill come from the Comprehensive Anti-Apartheid Act, which was quite successful in helping to secure democratic transition in South Africa. In fact, it was Nigeria, ironically, that led the world in sanctioning South Africa for its human rights abuses under apartheid.

As the Chair has indicated, one of the toughest measures in this bill is a prohibition on new investment in Nigeria, including banning United States firms from investing in Shell Oil's ill-timed, $3.8 billion project in Bonny, Nigeria, which was reported yesterday.

While I believe there are moral and strategic benefits in the United States acting unilaterally, of course, it would be better and I would prefer to see these sanctions to be applied multilaterally. Thus, our bill also directs the President to urge actively other countries to join our sanctions effort in order to promote human rights and democracy in Nigeria.

Mr. President, as the Senator from Vermont suggests, perhaps we should also take a look at an oil embargo, either unilateral or multilateral, at this time.

Since over 90 percent of Nigeria's foreign exchange income comes from its oil industry—and since Abacha personally benefits from most of these sales through corruption—it makes sense that an oil embargo would hit the regime hard. I am also deeply disappointed in how Shell Oil has conducted itself in the midst of this turmoil. However, there are other considerations to look at seriously as well, and over the next few weeks I will be carefully considering the intricacies and complexities of such an oil embargo proposal.

For the moment, though, let me conclude by saying I believe the bill we are introducing takes a responsible approach in urging the President to build support for a multilateral oil embargo. Grassroots support for such an initiative seems to be growing. South African President Nelson Mandela, who before the executions was advocating diplomatic engagement with the Nigerians, came out yesterday in support of an oil embargo against the Abacha regime. If the situation deteriorates, we must prepare for such an action.

Let me congratulate the Chair of the subcommittee, Senator KASSEBAUM, on her initiative. I look forward to working with my colleagues on this bill in the coming months.

Our bill will not bring back Ken Saro-Wiwa and the other executed activists. But perhaps it will help create an environment in which oppression and brutality like that already exhibited will no longer be tolerated.

Mr. FEINGOLD. I ask unanimous consent that Senator MCCAIN and Senator PELL be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. STEVENS (for himself, Mr. BREAUX, Mr. CHAFEE, Mr. JOHNSTON, and Mr. MURKOWSKI):

S. 1420. A bill to amend the Marine Mammal Protection Act of 1972 to support International Dolphin Conservation Program in the eastern tropical Pacific Ocean,and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM ACT

Mr. STEVENS. Mr. President, today I am introducing legislation to allow for the domestic implementation of an international agreement relating to the protection of dolphins and harvest of tuna in the eastern tropical Pacific Ocean (ETP).

Senators BREAUX, CHAFEE, JOHNSTON, and MURKOWSKI join me as original cosponsors of this legislation.

On October 4, 1995, twelve nations agreed in the "Declaration of Panama" in Panama City, Panama, to seek to create a legally binding instrument to reduce dolphin mortality in the ETP.

The instrument is to be based on the La Jolla Agreement, a multilateral nonbinding agreement adopted in 1992, which included annual and per-vessel limits on dolphin mortality and observer coverage standards for tuna vessels. It will be called the "International Dolphin Conservation Program" (IDCP).

In addition to strengthening the La Jolla provisions and continuing the La Jolla goal of reducing and eventually eliminating dolphin mortality in the ETP, this new binding agreement will: first, improve conservation and management measures for tuna stocks and other living marine resources in the ETP; second, reduce the bycatch of juvenile yellowfin tuna and nontarget species; and third, establish a system of incentives to vessel captains to continue to reduce dolphin mortality.

Under existing U.S. law (16 U.S.C. 307(a)), tuna that is caught using a purse seine net intentionally deployed on or to encircle dolphin cannot be labeled as "dolphin safe" and is prohibited (since June 1, 1994) from being sold in the United States.

The successful adoption of the binding agreement envisioned in the Declaration of Panama is contingent upon a change in U.S. law to allow "dolphin safe" to mean tuna that is caught by a vessel in a set in which no dolphin mortality occurred. This would mean that tuna caught in a purse seine net intentionally deployed to encircle dolphins could be labeled as "dolphin safe" and imported into the United States, as long as no dolphin mortality occurred during the set.

The legislation we are introducing today would make this change to the Marine Mammal Protection Act (MMPA). Since the passage of the MMPA in 1972, dolphin mortality in the ETP has been reduced from over 400,000 per year, to below 5,000 in 1994.

The countries that have continued to fish for tuna by encircling dolphins have shown that it can be done without killing dolphins.

We've learned from our own fishermen that alternative methods, such as setting on logs, can result in substantial bycatch of nontarget species and juvenile tuna.

The IDCP would make binding an ETP mortality limit of 5,000 dolphins and allow encirclement to continue, but would maintain the goal of eliminating dolphin mortality altogether in the ETP. The IDCP would, for the first time, provide international species-specific mortality limits that will help guarantee the recovery of individual dolphin species. The IDCP and legislation we are proposing today will give U.S. consumers a guarantee that no dolphin mortality occurred when the tuna they bought was caught.

It will allow U.S. fishermen to encircle dolphins in the course of tuna fishing, but require them to comply with the dolphin mortality caps and provisions of the IDCP to reduce mortality, and will prohibit them from selling tuna in the United States if dolphin were killed when the tuna was caught.

Specifically, the bill we are proposing would implement the IDCP through changes to the MMPA that would: prohibit the importation of yellowfin tuna caught with purse seine nets in the ETP unless the tuna was caught by the vessel of a nation participating in, and in compliance with, the IDCP; prohibit tuna caught in the ETP from being labeled as "dolphin safe" unless both the captain of the vessel and an observer approved under the IDCP have certified that no dolphins were killed during the set in which the tuna was caught; direct the Secretary of Commerce to implement regulations for U.S. tuna vessels fishing in the ETP under the IDCP, including regulations to require observers on each vessel; give the Secretary of Commerce emergency regulatory authority to reduce mortality and injury of dolphins; require research on (among other things) the effect of the encirclement on dolphins by purse seine nets; implement a new permitting system, which includes permit sanctions, to allow U.S. vessels to fish for tuna in the ETP; make it unlawful to sell or ship tuna in the United States unless it is dolphin safe or has been harvested in compliance with the IDCP; and create a general advisory committee and scientific advisory committee to assist the U.S. section to the IDCP.

These changes to the MMPA would take effect once the Secretary of State has certified that the legally binding instrument establishing the IDCP has been adopted.

This legislation supports the goals of La Jolla Agreement and the Declaration of Panama, and will set a strong example for other nations to follow in joining and implementing the IDCP.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "International Dolphin Conservation Program Act".

(b) REFERENCES TO MARINE MAMMAL PROTECTION ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

SEC. 2. PURPOSE AND FINDINGS.

(a) PURPOSE.—The purpose of this Act is to give effect to the Declaration of Panama, signed October 4, 1995, by the Governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, the United States of America, Vanuatu and Venezuela, including the establishment of the International Dolphin Conservation Program, relating to the protection of dolphins and other species, and the conservation and management of tuna in the eastern tropical Pacific Ocean.

(b) FINDINGS.—The Congress finds that twelve nations, including the United States, agreed in the Declaration of Panama to, among other things—

(1) require that the total annual dolphin mortality in the purse seine fishery for yellowfish tuna in the eastern tropical Pacific Ocean not exceed 5,000, with the commitment and objective to progressively reduce dolphin mortality to levels approaching zero through the setting of annual limits;

(2) establish a per-stock per-year mortality limit up to the year 2001 of between 0.2 percent and 0.1 percent of the minimum population estimate;

(3) starting with the year 2001, require that the per-stock per-year mortality of dolphin not exceed 0.1 percent of the minimum population estimate;

(4) require that in the event that the mortality limits in paragraphs (1), (2), or (3) are exceeded, all sets on dolphins in the case of paragraph (1), or sets on such stock and any mixed schools containing members of such stock in the case of paragraph (2) or (3), shall cease for that fishing year; in the case of paragraph (2), to conduct a scientific review and assessment in 1998 of progress toward the year 2000 objective and consider recommendations as appropriate; and, in the case of paragraph (3), to conduct a scientific review and assessment regarding that stock or those stocks and consider further recommendations;

(5) establish a per-vessel maximum annual dolphin mortality limit consistent with the established per-year mortality caps; and

(6) provide a system of incentives to vessel captains to continue to reduce dolphin mortality, with the goal of eliminating dolphin mortality.

SEC. 3. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended by adding at the end the following new paragraphs:

"(28) The term 'International Dolphin Conservation Program' means the international program established by the agreement signed in La Jolla, California, in June 1992, as formalized, modified, and enhanced in accordance with the Declaration of Panama.

"(29) The term 'Declaration of Panama' means the declaration signed in Panama City, Republic of Panama, on October 4, 1995.".

SEC. 4. AMENDMENT TO TITLE I.

(a) Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is amended—

(1) by inserting in the first sentence ", and authorizations may be granted under Title III with respect to the yellowfin tuna fishery of the eastern tropical Pacific Ocean, subject to regulations prescribed under that title by the Secretary without regard to section 103" before the period; and

(2) by striking the semicolon in the second sentence and all that follows through "practicable".

(b) Section 101(a)(2)(B) (16 U.S.C. 1371(a)(2)(B)) is amended to read as follows:

"(B) in the case of yellowfin tuna harvested with purse seine nets in the eastern tropical Pacific Ocean, and products therefrom, to be exported to the United States, shall require that the government of the exporting nation provide documentary evidence that—

"(i) the tuna or products therefrom were not banned from importation under section 101(a)(2) before the effective date of this section; or

"(ii) the tuna or products therefrom were harvested after the effective date of this section by vessels of a nation which participates in the International Dolphin Conservation Program, and such harvesting nation is either a member of the Inter-American Tropical Tuna Commission or has initiated steps, in accordance with Article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission, to become a member of that organization,

except that the Secretary shall not accept such documentary evidence as satisfactory proof for purposes of this paragraph if—

"(I) the government of the harvesting nation does not authorize the Inter-American Tropical Tuna Commission to release sufficient information to the Secretary to allow a determination of compliance with the International Dolphin Conservation Program; or

"(II) after taking into consideration this information, findings of the Inter-American Tropical Tuna Commission, and any other relevant information, including but not limited to information that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the International Dolphin Conservation Program, the Secretary, in consultation with the Secretary of State, finds that the harvesting nation is not in compliance with the International Dolphin Conservation Program.".

(c) Section 101 (16 U.S.C. 1371) is amended by adding at the end the following new subsection:

"(d) The provisions of this Act shall not apply to a citizen of the United States when such citizen incidentally takes any marine mammal during fishing operations outside the U.S. exclusive economic zone when employed on a foreign fishing vessel of a harvesting nation which is in compliance with the International Dolphin Conservation Program.".

(d) Section 104(h) is amended to read as follows:

"(h)(1) Consistent with the regulations prescribed pursuant to section 103 of this title and to the requirements of section 101 of this title, the Secretary may issue an annual permit to a U.S. vessel for the taking of such marine mammals, together with regulations to cover the use of any such annual permits.

"(2) Such annual permits for the incidental taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean shall be governed by section 304, subject to the regulations issued pursuant to section 302.".

(e) Section 110 (16 U.S.C. 1380) is amended—

(1) by redesignating subsection (a)(1) as subsection (a); and

(2) by striking subsection (a)(2).

(f) Subsection (d)(1) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)(1)) is amended to read as follows:

"(1) It is a violation of section 5 of the Federal Trade Commission Act for any producer, importer, exporter, distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term "Dolphin Safe" or any other term or symbol that falsely claims or suggests that the tuna contained in the product was harvested using a method of fishing that is not harmful to dolphins if the product contains—

"(A) tuna harvested on the high seas by a vessel engaged in driftnet fishing;

"(B) tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements of being considered dolphin safe under paragraph (2); or

"(C) tuna harvested outside the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not met the requirements for being considered dolphin safe under paragraph (3)."

(g) Subsection (d)(2) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)(2)) is amended to read as follows:

"(2) For purposes of paragraph (1)(B), a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

"(A) the vessel is of a type and size that the Secretary has determined, consistent with the International Dolphin Conservation Program, is not capable of deploying its purse seine nets on or to encircle dolphins; or

"(B)(i) the product is accompanied by a written statement executed by the captain of the vessel which harvested the tuna certifying that no dolphins were killed during the sets in which the tuna were caught; and

"(ii) the product is accompanied by a written statement executed by—

"(I) the Secretary or the Secretary's designee;

"(II) a representative of the Inter-American Tropical Tuna Commission; or

"(III) an authorized representative of a participating nation whose national program meets the requirements of the International Dolphin Conservation Program,

which states that there was an observer approved by the International Dolphin Conservation Program on board the vessel during the entire trip and documents that no dolphins were killed during the sets in which the tuna in the tuna product were caught; and

"(iii) the statements referred to in clauses (i) and (ii) are endorsed in writing by each exporter, importer, and processor of the product; and

"(C) the written statements and endorsements referred to in subparagraph (B) comply with regulations promulgated by the Secretary which would provide for the verification of tuna products as dolphin safe.".

(h) Subsection (d) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)) is amended further by adding the following new paragraphs:

"(3) For purposes of paragraph (1)(C), tuna or a tuna product that contains tuna harvested outside the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

"(A) it is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or to encircle dolphins during the particular voyage on which the tuna was harvested; or

"(B) in any fishery in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, it is accompanied by a written statement executed by the captain of the vessel and an observer, certifying that no purse seine net was intentionally deployed on or to encircle marine mammals during the particular voyage on which the tuna was harvested.

"(4) No tuna product may be labeled with any reference to dolphins, porpoises, or marine mammals, except as dolphin safe in accordance with this subsection.".

(i) Subsection (f) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)) is amended to read as follows:

"(f) The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than three months after the effective date of this section, including, but not limited to, regulations addressing the use of weight calculation and well location, and which require that tuna products are labeled in accordance with subsection (d).".

SEC. 5. AMENDMENTS TO TITLE III.

(a) The heading of Title III is amended to read as follows:

"TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM".

(b) Section 301 (16 U.S.C. 1411) is amended—

(1) in subsection (a), by striking paragraph (4) and inserting in lieu thereof:

"(4) Nations harvesting yellowfin tuna in the eastern tropical Pacific Ocean have demonstrated their willingness to participate in appropriate multilateral agreements to reduce, with the goal of eliminating, dolphin mortality in that fishery. Recognition of the International Dolphin Conservation Program will assure that the existing trend of reduced dolphin mortality continues; that individual stocks of dolphins are adequately protected; and that the goal of eliminating all dolphin mortality continues to be a priority."; and

(2) in subsection (b), by striking paragraphs (2) and (3) and inserting in lieu thereof:

"(2) support the International Dolphin Conservation Program and efforts within the Program to reduce, with the goal of eliminating, the mortality referred to in paragraph (1);

"(3) ensure that the market of the United States does not act as an incentive to the harvest of tuna caught with driftnets or caught by purse seine vessels in the eastern tropical Pacific Ocean not operating in compliance with the International Dolphin Conservation Program;".

(c) Section 302 (16 U.S.C. 1412) is amended to read as follows:

"SEC. 302. AUTHORITY OF THE SECRETARY.

"(a) REGULATIONS.—The Secretary shall issue regulations to implement the International Dolphin Conservation Program.

"(2)(A) Not later than three months after the effective date of this section, the Secretary shall issue regulations to authorize and govern the incidental taking of marine mammals in the eastern tropical Pacific Ocean, including any species of marine mammal designated as depleted under this Act but not listed as endangered or threatened under the Endangered Species Act (16 U.S.C. 1531 et seq.), by vessels of the United States participating in the International Dolphin Conservation Program.

(B) Regulations issued under this section shall include provisions—

(i) requiring observers on each vessel;

(ii) requiring use of the backdown procedure or other procedures equally or more effective in avoiding mortality of marine mammals in fishing operations;

(iii) prohibiting international sets on stocks and schools in accordance with the International Dolphin Conservation Program;

(iv) requiring the use of special equipment, including, but not limited to, dolphin safety panels in nets, operable rafts, speedboats with towing bridles, floodlight in operable condition, and diving masks and snorkels;

(v) ensuring that the backdown procedure during sets of purse seine net on marine mammals is completed and rolling of the net to sack up has begun no later than thirty (30) minutes after sundown;

(vi) banning the use of explosive devices in all purse seine operations;

(vii) establishing per vessel maximum annual dolphin mortality limits, total dolphin mortality limits and per-stock per-year mortality limits in accordance with the International Dolphin Conservation Program;

(viii) preventing the making of international sets on dolphins after reaching either the vessel maximum annual dolphin mortality limits, total dolphin mortality limits or per-stock per-year mortality limits;

(ix) preventing the fishing on dolphins by a vessel without an assigned vessel dolphin mortality limit;

(x) allowing for the authorization and conduct of experimental fishing operations, under such terms and conditions as the Secretary may prescribe, for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce or eliminate dolphin mortality or do not require the encirclement of dolphins in the course of commercial yellowfin tuna fishing; and

(xi) containing such other restrictions and requirements as the Secretary determines are necessary to implement the International Dolphin Conservation Program with respect to vessels of the United States; except that the Secretary may make such adjustments as may be appropriate to provisions that pertain to fishing gear and fishing practice requirements in order to carry out the International Dolphin Conservation Program.

"(b) CONSULTATION.—In developing any regulation under this section, the Secretary shall consult with the Secretary of State, the Marine Mammal Commission and the United States Commissioners to the Inter-American Tropical Tuna Commission appointed under section 3 of the Tuna Conventions Act of 1950 (16 U.S.C. 952).

"(c) EMERGENCY REGULATIONS.—(1) If the Secretary determines, on the basis of the best scientific information available (including that obtained under the International Dolphin Conservation Program) that the incidental mortality and serious injury of marine mammals authorized under this title is having, or is likely to have, a significant adverse effect on a marine mammal stock or species, the Secretary shall take actions as follows—

"(A) notify the Inter-American Tropical Tuna Commission of his or her findings, along with recommendations to the Commission as to actions necessary to reduce incidental mortality and serious injury and mitigate such adverse impact; and

"(B) prescribe emergency regulations to reduce incidental mortality and serious injury and mitigate such adverse impact.

"(2) Prior to taking action under paragraph (1) (A) or (B), the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission.

"(3) Emergency regulations prescribed under this subsection—

"(A) shall be published in the Federal Register, together with an explanation thereof;

"(B) shall remain in effect for the duration of the applicable fishing year; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for the emergency action no longer exist.

"(4) If the Secretary finds that the incidental mortality and serious injury of marine mammals in the yellowfin tuna fishery in the eastern tropical Pacific Ocean is continuing to have a significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for such additional periods as may be necessary."

"(d) RESEARCH.—The Secretary shall, in cooperation with the nations participating in the International Dolphin Conservation Program and with the Inter-American Tropical Tuna Commission, undertake or support appropriate scientific research to further the goals of the International Dolphin Conservation Program, including, but not limited to—

(1) devising cost-effective fishing methods and gear so as to reduce, with the goal of eliminating, the incidental mortality and serious injury of marine mammals in connection with commercial purse seine fishing in the eastern tropical Pacific Ocean;

(2) developing cost-effective methods of fishing for mature yellowfin tuna without setting nets on dolphins or other marine mammals;

(3) carrying out a scientific research program as described in section 117 for those marine mammal species and stocks taken in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean, including species or stocks not within waters under the jurisdiction of the United States; and

(4) studying the effect of chase and encirclement on the health and biology of dolphin and dolphin populations incidentally taken in the course of purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

The Secretary shall include a description of the annual results of research carried out under this subsection in the report required under section 303.".

(d) Section 303 (16 U.S.C. 1413) is hereby repealed.

(3) Section 304 (16 U.S.C. 1414) is hereby redesignated as section 303, and amended to read as follows:

"SEC. 303. REPORTS BY THE SECRETARY.—Notwithstanding section 103(f), the Secretary shall submit annual reports to the Congress which include—

"(1) results of research conducted pursuant to section 302;

"(2) a description of the status and trends of stocks of tuna;

"(3) a description of the efforts to assess, avoid, reduce, and minimize the bycatch of juvenile yellowfin tuna and bycatch of nontarget species;

"(4) a description of the activities of the International Dolphin Conservation Program and of the efforts of the United States in support of the Program's goals and objectives, including the protection of dolphin populations in the eastern tropical Pacific Ocean, and an assessment of the effectiveness of the Program;

"(5) actions taken by the Secretary under section 101(a)(2)(B)(iii)(I) and (II);

"(6) copies of any relevant resolutions and decisions of the Inter-American Tropical Tuna Commission, and any regulations promulgated by the Secretary under this title; and

"(7) any other information deemed relevant by the Secretary.".

(f) Section 305 (16 U.S.C. 1415) is hereby repealed.

(g) Section 306 (16 U.S.C. 1416) is hereby redesignated as section 304, and amended to read as follows:

"SEC. 304. PERMITS.

"(a) IN GENERAL.—(1) Consistent with the regulations issued pursuant to section 302, the Secretary shall issue a permit to a vessel of the United States authorizing participation in the International Dolphin Conservation Program and may require a permit for the person actually in charge of and controlling the fishing operation of the vessel. The Secretary shall prescribe such procedures as are necessary to carry out this subsection, including, but not limited to, requiring the submission of—

"(A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof; and

"(B) the tonnage, hold capacity, speed, processing equipment, and type and quantity of gear, including an inventory of special equipment required under section 302, with respect to each vessel.

"(2) The Secretary is authorized to charge a fee for granting an authorization and issuing a permit under this section. The level of fees charged under this paragraph may not exceed the administrative cost incurred in granting an authorization and issuing a permit. Fees collected under this paragraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in granting authorizations and issuing permits under this section.

"(3) After the effective date of this section, no vessel of the United States shall operate in the yellowfin tuna fishery in the eastern tropical Pacific Ocean without a valid permit issued under this section.

"(b) PERMIT SANCTIONS.—(1) In any case in which

"(A) a vessel for which a permit has been issued under this section has been used in the commission of an act prohibited under section 305;

"(B) the owner or operator of any such vessel or any other person who has applied for or been issued a permit under this section has acted in violation of section 305; or

"(C) any civil penalty or criminal fine imposed on a vessel, owner or operator of a vessel, or other person who has applied for or been issued a permit under this section has not been paid or is overdue, the Secretary may—

"(i) revoke any permit with respect to such vessel, with or without prejudice to the issuance of subsequent permits;

"(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

"(iii) deny such permit; or

"(iv) impose additional conditions or restrictions on any permit issued to, or applied for by, any such vessel or person under this section.

"(2) In imposing a sanction under this subsection, the Secretary shall take into account—

"(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

"(B) with respect to the violator, the degree of culpability, any history of prior offenses, and other such matters as justice requires.

"(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of transfer.

"(4) In the case of any permit that is suspended for the failure to pay a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

"(5) No sanctions shall be imposed under this section unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this title or otherwise.".

(h) Section 307 (16 U.S.C. 1417) is hereby redesignated as section 305, and amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) for any person to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product unless the tuna or tuna product is either dolphin safe or has been harvested in compliance with the International Dolphin Conservation Program by a country that is a member of the Inter-American Tropical Tuna Commission or has initiated steps, in accordance with Article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission, to become a member of that organization;";

(B) by striking paragraphs (2) and inserting in lieu thereof the following:

"(2) except as provided for in subsection 101(d), for any person or vessel subject to the jurisdiction of the United States intentionally to set a purse seine net on or to encircle any marine mammal in the course of tuna fishing operations in the eastern tropical Pacific Ocean except in accordance with this title and regulations issued under pursuant to this title;"; and

(C) by amending paragraph (3) to read as follows:

"(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 101(a)(2);'';

(2) in subsection (b)(2), by inserting ''(a)(5) and'' before ''(a)(6)''; and

(3) by deleting subsection (d).

(i) Section 308 (17 U.S.C. 1418) is redesignated as section 306, and amended by striking ''303'' and inserting in lieu thereof ''302(d)''.

(j) CLERICAL AMENDMENTS.—The table of contents in the first section of the Marine Mammal Protection Act of 1972 is amended by striking the items relating to title III and inserting in lieu thereof the following:

''TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

Sec. 301. Findings and policy.
Sec. 302. Authority of the Secretary.
Sec. 303. Reports by the Secretary.
Sec. 304. Permits.
Sec. 305. Prohibitions.
Sec. 306. Authorization of appropriations.''.

SEC. 6. AMENDMENTS TO THE TUNA CONVENTIONS ACT.

(a) Section 3(c) of the Tuna Conventions Act (16 U.S.C. 952 (c)) is amended to read as follows:

''(c) at least one shall be either the Director, or an appropriate regional director, of the National Marine Fisheries Service; and''.

(b) Section 4 of the Tuna Conventions Act (16 U.S.C. 953) is amended to read as follows:

''SEC. 4. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC ADVISORY SUBCOMMITTEE.

The Secretary, in consultation with the United States Commissioners, shall—

(1) appoint a General Advisory Committee which shall be composed of not less than five nor more than fifteen persons with balanced representation from the various groups participating in the fisheries included under the conventions, and from nongovernmental conservation organizations. The General Advisory Committee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and shall be given full opportunity to examine and to be heard on all proposed programs of investigations, reports, recommendations, and regulations of the commission. The General Advisory Committee may attend all meetings of the international commissions to which they are invited by such commissions; and

(2) appoint a Scientific Advisory Subcommittee which shall be composed of not less than five nor more than fifteen qualified scientists with balanced representation from the public and private sectors, including nongovernmental conservation organizations. The Scientific Advisory Subcommittee shall advise the General Advisory Committee and the Commissioners on matters including the conservation of ecosystems; the sustainable uses of living marine resources related to the tuna fishery in the eastern Pacific Ocean; and the long-term conservation and management of stocks of living marine resources in the eastern tropical Pacific Ocean. In addition, the Scientific Advisory Subcommittee shall, as requested by the General Advisory Committee, the U.S. Commissioners or the Secretary, perform functions and provide assistance required by formal agreements entered into by the United States for this fishery, including the International Dolphin Conservation Program. These functions may include: (1) the review of data from the Program, including data received from the Inter-American Tropical Tuna Commission; (2) recommendations on research needs, including ecosystems, fishing practices, and gear technology research, including the development and use of selective, environmentally safe and cost-effective fishing gear, and on the coordination and facilitation of such research; (3) recommendations concerning scientific reviews and assessments required under the Program and engaging, as appropriate, in such reviews and assessments; (4) consulting with other experts as needed; and (5) recommending measures to assure the regular and timely full exchange of data among the parties to the Program and each nation's National Scientific Advisory Committee (or equivalent); and

(3) establish procedures to provide for appropriate public participation and public meetings and to provide for the confidentiality of confidential business data. The Scientific Advisory Subcommittee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and the General Advisory Subcommittee and shall be given full opportunity to examine and to be heard on all proposed programs of scientific investigation, scientific reports, and scientific recommendations of the commission. Representatives of the Scientific Advisory Subcommittee may attend meetings of the Inter-American Tropical Tuna Commission in accordance with the rules of such Commission; and

(4) fix the terms of office of the members of the General Advisory Committee and Scientific Advisory Subcommittee, who shall receive no compensation for their services as such members.''.

SEC. 7. EFFECTIVE DATE.

Sections 3 through 6 of this Act shall become effective upon certification by the Secretary of State to Congress that a binding resolution of the Inter-American Tropical Tuna Commission or other legally binding instrument establishing the International Dolphin Conservation Program has been adopted and is in effect.

• Mr. BREAUX. Mr. President, today, along with Senator STEVENS and others, I am introducing legislation that will implement the Panama Declaration on the protection of dolphins in the tuna fishery of the eastern tropical Pacific Ocean. The United States signed the Panama Declaration on October 4, 1995, along with the Governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, Vanutatu, and Venezuela. By agreeing to the Panama Declaration, these countries have demonstrated their commitment to the conservation of ecosystems and the sustainable use of living resources related to the tuna fishery in the eastern tropical Pacific.

By implementing the Panama Declaration, we will strengthen the Inter-American Tropical Tuna Commission [IATTC] which has proven to be an extremely effective international resource management organization. In conjunction with strengthening the IATTC, we will ensure the reduction of dolphin mortalities associated with tuna fishing in the eastern tropical Pacific Ocean. In addition, we will enable American tuna fishermen to re-enter that tuna fishery on the same footing as foreign fishermen.

Since 1949, the IATTC has served as the regional fishery management organization for the tuna fishery of the eastern tropical Pacific Ocean, managing that fishery in an exemplary manner. One of the fishery issues addressed under IATTC auspices is that of dolphin mortality associated with the yellowfin tuna fishery of the eastern tropical Pacific Ocean. In that fishery, tuna fishermen use dolphins to locate schools of mature yellowfin tuna which, for unknown reasons, associate with schools of dolphin. Once the tuna have been located, the fishermen use purse seine nets to encircle schools of dolphin with the objective of catching the tuna swimming below the dolphins and then safely releasing the encircled dolphins.

In recent years, there has been some concern about these fishing practices which, in the past, have resulted in excessive incidental mortality to dolphins. In 1992, in an effort to address this problem, 10 nations with tuna vessels operating in the eastern tropical Pacific signed an agreement known as the La Jolla Agreement. The La Jolla Agreement established the International Dolphin Conservation Program, or IDCP, which is administered by the IATTC.

The regional objective of the IDCP is to reduce dolphin mortalities to insignificant levels approaching zero, with a goal of eliminating them entirely. Pursuant to that program, the number of dolphins killed accidentally in the tuna fishery has been reduced to less than 4,000 annually from a previous average of over 300,000 killed annually. The current dolphin mortality represents approximately four one-hundredths of one percent of the 9.5 million dolphins of the eastern tropical Pacific. Thus, the IDCP has been remarkably successful in achieving its goal of reducing unintended dolphin mortalities to biologically insignificant levels approaching zero.

This legislation will implement the Panama Declaration, formalizing the 1992 La Jolla Agreement and making it a legal agreement binding on the member countries of the IATTC as soon as it is formally adopted. The Panama Declaration strengthens the IDCP and furthers its goals by placing a cap of 5,000 per year on dolphin mortalities.

Although U.S. fishermen developed the techniques now used in capturing tuna and safely releasing dolphins, they effectively have been foreclosed from fishing in the eastern tropical Pacific since the 1992 amendments to the Marine Mammal Protection Act, which prohibit the encirclement of dolphins. The legislation to implement the Panama Declaration will eliminate the inequitable treatment of United States tuna fishermen and enable them to re-enter this important fishery on an equal footing with foreign fishermen.

The 1992 ban on encirclement of dolphins has required fishermen to turn to alternative fishing practices, the use of which causes excessive bycatch of endangered sea turtles, sharks, billfish, and great numbers of immature tuna and other fish species. This legislation will result in a reduction of this bycatch problem, as well, as it will permit fishermen to encircle dolphins as long as they comply with the stringent regulations imposed by the IATTC.

The purpose of this bill is to improve and solidify efforts to protect dolphins in the eastern tropical Pacific Ocean, as well as to eliminate the bycatch problems caused by alternative fishing methods. The Panama Declaration establishes a common environmental standard for all countries fishing in the region. By formalizing the La Jolla Agreement, U.S. and foreign fishermen in the eastern tropical Pacific will be subject to the most stringent fishery regulations in the world. The Panama Declaration represents a tremendous environmental achievement, and it enjoys support from such diverse interests as environmental groups, the U.S. tuna fishing fleet, the Clinton administration, and other countries whose fishermen operate in the eastern tropical Pacific. I encourage my colleagues to join me in supporting this legislation in order that we may implement this important international agreement.•

• Mr. CHAFEE. Mr. President, I am pleased to join as an original cosponsor of legislation introduced by Senators STEVENS and BREAUX to implement the Panama Declaration. A dozen countries, several major environmental organizations, the administration, and Senators on both sides of the aisle have come together in support of this effort.

If we are going to sustain our renewable resources, and particularly our marine resources, we need to take a comprehensive ecosystem approach toward resource use. After all, management of a single species does not always produce benefits for the entire ecosystem. It is important that we seek to reduce bycatch of other marine species, such as sharks, sea turtles, and billfish, while we minimize our impact on dolphins. That is why this bill is about more than just tuna and dolphins. This bill includes changes in current law that will have a positive impact on numerous species in the marine environment.

The Declaration that this bill would implement will commit the United States and a number of cosignatory nations to conserving the valuable marine life in the eastern Pacific. Moreover, by doing so on a multilateral basis, many of the ongoing international disputes over tuna may effectively be resolved. Such strong and sound international efforts are therefore welcome.

This legislation represents an important opportunity for all parties interested in marine resources to work together toward our common goal: effective conservation of dolphin and other marine species in the eastern Pacific ecosystem. I urge my colleagues to take the time to examine this legislation, and offer comments and suggestions. We have the chance to fashion a long-term solution to the question of marine mammal conservation, and it is my hope that this bill will serve as the vehicle toward that end.•

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1422. A bill to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, NY, for inclusion in the Amagansett National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

SHADMOOR ACQUISITION LEGISLATION

• Mr. MOYNIHAN. Mr. President, I offer legislation with my esteemed colleague Senator D'AMATO that would allow the Secretary of the Interior to acquire a parcel of land on Long Island known as Shadmoor. The land would be added to the Amagansett National Wildlife Refuge. Shadmoor supports one of the largest populations of New York State's most endangered plant, the sandplain gerardia. The gerardia lives in only 12 places in the world, 6 of which are on Long Island.

The privately owned land was targeted by the Fish and Wildlife Service for acquisition in 1991, but no money has been available. Meanwhile, the possibility of development on the parcel has increased dramatically. New York has received little of the already scarce Federal money for the acquisition of land to protect endangered plants. This is clearly an opportunity to begin to rectify that.

Shadmoor has other significance. It contains six other rare plants. It has bunkers built during World War II. The dramatic coastline has 70-foot cliffs eroded by wind and surf. In all, it would be a tremendous addition to the Amagansett Refuge.

Mr. President, the sandplain gerardia is a part of our natural heritage that could easily disappear forever. This is our chance to preserve one of its last strongholds. I ask my colleagues to support this authorization.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ACQUIRE PROPERTY FOR INCLUSION IN THE AMAGANSETT NATIONAL WILDLIFE REFUGE.

(a) AUTHORITY TO ACQUIRE PROPERTY.—The Secretary of the Interior may acquire, for inclusion in the Amagansett National Wildlife Refuge, the area known as the "Shadmoor Parcel", consisting of approximately 98 acres (as determined by the Secretary) located along the Atlantic Ocean adjacent to municipal park land in the town of East Hampton, Suffolk County, New York.

(b) MANAGEMENT OF ACQUIRED INTERESTS.—Land and interests in land acquired by the United States under this section shall be managed by the Secretary of the Interior as part of the Amagansett National Wildlife Refuge.•

By Mr. GREGG (for himself, Mrs. KASSEBAUM, Mr. NUNN, Mr. JEFFORDS, and Mr. GORTON):

S. 1423. A bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes; to the Committee on Labor and Human Resources.

THE OCCUPATIONAL SAFETY AND HEALTH REFORM AND REINVENTION ACT

• Mr. GREGG. Mr. President, I am pleased to be joined by Senators KASSEBAUM, NUNN, GORTON, and JEFFORDS in introducing the Occupational Safety and Health Reform and Reinvention Act. Let me say at the outset that in proposing and considering OSHA reform, worker safety was our first concern. I am firmly committed to ensuring a safe and healthy workplace and will not support legislation which puts that in jeopardy. I believe in this bill that we have accomplished true OSHA reform without compromising the safety of our workers in any way.

Throughout my career in public office, I have worked to make Government more efficient and more user and consumer friendly. Federal Government agencies have grown so large and become so bureaucratic that they are often not providing the kinds of services and proper oversight that was originally intended when they were created. Too often Government carries a heavy stick, but no carrot, when it interacts with individual citizens and businesses throughout our country.

I believe that it is high time we take a close look at how we can improve the way Government works and, at the same time, provide incentives for the private sector to act more responsibly. Americans will be better served in a climate where people in Government, and in business, can work together to solve problems in a spirit of cooperation, rather than in an atmosphere strictly of threats, intimidation, and punitive measures.

When OSHA was enacted, its intended purpose was to make the workplace free from "recognized hazards that are causing, or likely to cause death or serious physical harm to . . . employees." As is the case with many programs established by Congress over the years, OSHA has developed a well-earned reputation for over-regulation. OSHA has moved from its original purpose of protecting workers to hindering businesses with excessive mandates.

While I feel that much of the problem within OSHA is of a cultural nature, the bill we are introducing today will concentrate on relieving OSHA's oppressive and burdensome regulations, thereby removing a feeling among American employers and employees that OSHA is the "bad cop." Our legislation puts in place partnerships for assuring safety and health in the workplace.

This balanced approach will include a consultation program, voluntary compliance and third-party certification, employee involvement, warnings in lieu of citations for nonserious violations, and reduced penalties for nonserious violations. This legislation will use incentives, rather than penalties to enhance workplace safety. It will allow companies with "clean" safety records to implement their own health and safety programs.

In closing, I would like to thank Senator KASSEBAUM on her leadership as chairman of the Labor and Human Resources Committee. Without her dedication and hard work this legislation would not be possible. I would also like to thank Senator NUNN, Senator JEFFORDS, and Senator GORTON. They both have been instrumental in the drafting of this important legislation. I look forward to working with them and the members of the Labor Committee on continuing to bring this legislation to fruition.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Occupational Safety and Health Reform and Reinvention Act".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 2. EMPLOYEE PARTICIPATION.

Section 4 (29 U.S.C. 653) is amended by adding at the end the following new subsection:

"(c) In order to carry out the purpose of this Act to encourage employers and employees in their efforts to reduce the number of occupational safety and health hazards, an employee participation program—

"(1) in which employees participate;

"(2) which exists for the purpose, in whole or in part, of dealing with employees concerning safe and healthful working conditions; and

"(3) which does not have, claim, or seek authority to negotiate or enter into collective bargaining agreements with the employer or to amend existing collective bargaining agreements between the employer and any labor organization,

shall not constitute a 'labor organization' for purposes of section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) or a representative for purposes of sections 1 and 2 of the Railway Labor Act (45 U.S.C. 151 and 151a). Nothing in this section shall be construed to affect employer obligations under section 8(a)(5) of the National Labor Relations Act (29 U.S.C. 158(a)(5)) to deal with a certified or recognized employee representative with respect to health and safety matters to the extent otherwise required by law.".

SEC. 3. INSPECTIONS.

(a) TRAINING AND AUTHORITY OF SECRETARY.—Section 8 (29 U.S.C. 657) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by adding after subsection (f) the following new subsection:

"(g)(1) Except as provided in paragraph (2), the Secretary shall not conduct routine inspections of, or enforce any standard, rule, regulation, or order under this Act with respect to—

"(A) any person who is engaged in a farming operation that does not maintain a temporary labor camp and that employs 10 or fewer employees; or

"(B) any employer of not more than 10 employees if such employer is included within a category of employers having an occupational injury or a lost workday case rate (determined under the Standard Industrial Classification Code for which such data are published) that is less than the national average rate as most recently published by the Secretary acting through the Bureau of Labor Statistics under section 24.

"(2) In the case of persons who are not engaged in farming operations, paragraph (1) shall not be construed to prevent the Secretary from—

"(A) providing consultations, technical assistance, and educational and training services and conducting surveys and studies under this Act;

"(B) conducting inspections or investigations in response to complaints of employees, issuing citations for violations of this Act found during such inspections, and assessing a penalty for violations that are not corrected within a reasonable abatement period;

"(C) taking any action authorized by this Act with respect to imminent dangers;

"(D) taking any action authorized by this Act with respect to a report of an employment accident that is fatal to at least one employee or that results in the hospitalization of at least three employees, and taking any action pursuant to an investigation conducted with respect to such report; and

"(E) taking any action authorized by this Act with respect to complaints of discrimination against employees for exercising their rights under this Act.".

(b) INSPECTIONS BASED ON EMPLOYEE COMPLAINTS.—Section 8(f) (29 U.S.C. 657(f)) is amended to read as follows:

"(f)(1)(A) An employee or representative of an employee who believes that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by providing notice of the violation or danger to the Secretary or an authorized representative of the Secretary.

"(B) Notice under subparagraph (A) shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall state whether the alleged violation or danger has been brought to the attention of the employer and if so, whether the employer has refused to take any action to correct the alleged violation or danger.

"(C)(i) The notice under subparagraph (A) shall be signed by the employees or representative of employees and a copy shall be provided to the employer or the agent of the employer not later than the time of arrival of an occupational safety and health agency inspector to conduct the inspection.

"(ii) Upon the request of the person providing the notice under subparagraph (A), the name of the person and the names of individual employees referred to in the notice shall not appear in the copy of the notice or on any record published, released, or made available pursuant to subsection (i), except that the Secretary may disclose this information during prehearing discovery in a contested case.

"(D) The Secretary may only make an inspection under this section if such an inspection is requested by an employee or a representative of employees.

"(E)(i) If, upon receipt of the notice under subparagraph (A), the Secretary determines that there are reasonable grounds to believe the violation or danger exists, the Secretary may conduct a special inspection in accordance with this section as soon as practicable. Except as provided in clause (ii), the special inspection shall be conducted for the limited purpose of determining whether the violation or danger exists.

"(ii) During a special inspection described in clause (i), the Secretary may take appropriate actions with respect to health and safety violations that are not within the scope of the inspection and that are observed by the Secretary or an authorized representative of the Secretary during the inspection.

"(2) If the Secretary determines either before, or as a result of, an inspection that there are not reasonable grounds to believe a violation or danger exists, the Secretary shall notify the complaining employee or employee representative of the determination and, upon request by the employee or employee representative, shall provide a written statement of the reasons for the Secretary's final disposition of the case.

"(3) The Secretary or an authorized representative of the Secretary may, as a method of investigating an alleged violation or danger under this section, attempt, if feasible, to contact an employer by telephone, facsimile, or other appropriate methods to determine whether—

"(A) the employer has taken corrective actions with respect to the alleged violation or danger; or

"(B) there are reasonable grounds to believe that a hazard exists.

"(4) The Secretary is not required to conduct a special inspection under this subsection if the Secretary determines that a request for a special inspection was made for reasons other than the safety and health of the employees of an employer or that the employees of an employer are not at risk.".

SEC. 4. WORKSITE-BASED INITIATIVES.

(a) PROGRAM.—The Act (29 U.S.C. 651 et seq.) is amended by inserting after section 8 the following new section:

"SEC. 8A. HEALTH AND SAFETY REINVENTION INITIATIVES.

"(a) IN GENERAL.—The Secretary shall establish a program to encourage voluntary employer and employee efforts to provide safe and healthful working conditions.

"(b) EXEMPTION.—In establishing a program under subsection (a), the Secretary shall, in accordance with subsection (c), provide an exemption from all safety and health inspections and investigations for a place of employment maintained by an employer participating in such program, except that this subsection shall not apply to inspections and investigations conducted for the purpose of—

"(1) determining the cause of a workplace accident that resulted in the death of one or more employees or the hospitalization of three or more employees; or

"(2) responding to a request for an inspection pursuant to section 8(f)(1).

"(c) EXEMPTION REQUIREMENTS.—To qualify for an exemption under subsection (b), an employer shall provide to the Secretary evidence that, with respect to the employer—

"(1) during the preceding year, the place of employment or conditions of employment have been reviewed or inspected under—

"(A) a consultation program provided by recipients of grants under section 7(c)(1) or 23(g);

"(B) a certification or consultation program provided by an insurance carrier or other private business entity pursuant to a State program, law, or regulation if the person conducting the review or inspection meets standards established by, and is certified by, the Secretary; or

"(C) a workplace consultation program provided by a qualified person certified by the Secretary for purposes of providing such consultations,

that includes a means of ensuring that serious hazards identified in the consultation are corrected within an appropriate time and that, where applicable, permits an employee (of the employer) who is a representative of a health and safety employee participation program to accompany a consultant during a workplace inspection; or

"(2) the place of employment has an exemplary safety and health record and the employer maintains a safety and health program for the workplace that includes—

"(A) procedures for assessing hazards to the employer's employees that are inherent to the employer's operations or business;

"(B) procedures for correcting or controlling such hazards in a timely manner based upon the severity of the hazard; and

"(C) an employee participation program that, at a minimum—

"(i) includes regular consultation between the employer and nonsupervisory employees regarding safety and health issues;

"(ii) includes the opportunity for nonsupervisory employees to make recommendations regarding hazards in the workplace and to receive responses or to implement improvements in response to such recommendations; and

"(iii) ensures that participating nonsupervisory employees have training or expertise on safety and health issues consistent with the responsibilities of such employees.

"(d) MODEL PROGRAM.—The Secretary shall publish and make available to employers a model safety and health program that if completed by the employer shall be considered to meet the requirements for an exemption under this section.

"(e) CERTIFICATION.—The Secretary may require that, to claim the exemption under subsection (b), an employer provide certification to the Secretary and notice to the employer's employees of such eligibility. The Secretary may conduct random audits of the records of employers to ensure against falsification of the records by the employers.

"(f) RECORDS.—Records of a safety and health inspection, audit, or review that is conducted by an employer and that is not conducted under a program described in subsection (a) shall not be required to be disclosed to the Secretary unless—

"(1) the Secretary is conducting an investigation involving a fatality or a serious injury of an employee of such employer; or

"(2) such employer has not taken measures to address serious hazards in the workplace of the employer identified during such inspection, audit, or review.".

(b) DEFINITION.—Section 3 (29 U.S.C. 652) is amended by adding at the end the following new paragraph:

"(15) The term 'exemplary safety and health record' means such record as the Secretary shall annually determine for each industry. Such record shall include employers that have had, in the most recent reporting period, no employee death caused by occupational injury and fewer lost workdays due to occupational injury and illness than the average for the industry of which the employer is a part.".

SEC. 5. EMPLOYER DEFENSES.

Section 9 (29 U.S.C. 658) is amended by adding at the end the following new subsections:

"(d) No citation may be issued under subsection (a) to an employer unless the employer knew, or with the exercise of reasonable diligence would have known, of the presence of the alleged violation. No citation shall be issued under subsection (a) to an employer for an alleged violation of section 5, any standard, rule, or order promulgated pursuant to section 6, any other regulation promulgated under this Act, or any other occupational safety and health standard, if such employer demonstrates that—

"(1) employees of such employer have been provided with the proper training and equipment to prevent such a violation;

"(2) work rules designed to prevent such a violation have been established and adequately communicated to employees by such employer and the employer has taken reasonable measures to discipline employees when violations of such work rules have been discovered;

"(3) the failure of employees to observe work rules led to the violation; and

"(4) reasonable steps have been taken by such employer to discover any such violation.

"(e) A citation issued under subsection (a) to an employer who violates the requirements of section 5, of any standard, rule, or order promulgated pursuant to section 6, or any other regulation promulgated under this Act shall be vacated if such employer demonstrates that employees of such employer were protected by alternative methods equally or more protective of the employee's safety and health than those required by such standard, rule, order, or regulation in the factual circumstances underlying the citation.

"(f) Subsections (d) and (e) shall not be construed to eliminate or modify other defenses that may exist to any citation.".

SEC. 6. INSPECTION QUOTAS.

Section 9 (29 U.S.C. 658), as amended by section 5, is further amended by adding at the end thereof the following new subsection:

"(g) The Secretary shall not establish any quota for any subordinate within the Occupational Safety and Health Administration (including any regional director, area director, supervisor, or inspector) with respect to the number of inspections conducted, citations issued, or penalties collected.".

SEC. 7. WARNINGS IN LIEU OF CITATIONS.

Subsection (a) of section 9 (29 U.S.C. 658(a)) is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), if, upon inspection or investigation, the Secretary or an authorized representative of the Secretary believes that an employer has violated a requirement of section 5, of any regulation, rule, or order promulgated pursuant to section 6, or of any regulations prescribed pursuant to this Act, the Secretary may with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, regulation, rule, or order alleged to have been violated. The citation shall fix a reasonable time for the abatement of the violation.

"(2) The Secretary or the authorized representative of the Secretary—

"(A) may issue a warning in lieu of a citation with respect to a violation that has no significant relationship to employee safety or health; and

"(B) may issue a warning in lieu of a citation in cases in which an employer in good faith acts promptly to abate a violation if the violation is not a willful or repeat violation.

"(3) Nothing in this Act shall be construed as prohibiting the Secretary or the authorized representative of the Secretary from providing technical or compliance assistance to an employer in correcting a violation discovered during an inspection or investigation under this Act without issuing a citation.".

SEC. 8. REDUCED PENALTIES FOR NONSERIOUS VIOLATIONS AND MITIGATING CIRCUMSTANCES.

Section 17 (29 U.S.C. 666) is amended—

(1) in subsection (c), by striking "up to $7,000" and inserting "not more than $100";

(2) in subsection (i), to read as follows:

"(i) Any employer who violates any of the posting or paperwork requirements other than serious or fraudulent reporting requirement deficiencies, prescribed under this Act shall not be assessed a civil penalty for such violation unless it is determined that the employer has violated subsection (a) or (d) with respect to such posting or paperwork requirements."; and

(3) in subsection (j), to read as follows:

"(j)(1) The Commission shall have authority to assess all civil penalties under this section. In assessing a penalty under this section, the Commission shall give due consideration to the appropriateness of the penalty with respect to—

"(A) the size of the employer;

"(B) the number of employees exposed to the violation;

"(C) the likely severity of any injuries directly resulting from such violation;

"(D) the probability that the violation could result in injury or illness;

"(E) the employer's good faith in correcting the violation after the violation has been identified;

"(F) the extent to which employee misconduct was responsible for the violation;

"(G) the effect of the penalty on the employer's ability to stay in business;

"(H) the history of previous violations; and

"(I) whether the violation is the sole result of the failure to meet a requirement, under this Act or prescribed by regulation, with respect to the posting of notices, the preparation or maintenance of occupational safety and health records, or the preparation, maintenance, or submission of any written information.

"(2)(A) A penalty assessed under this section shall be reduced by at least 25 percent in any case in which the employer—

"(i) maintains a safety and health program described in section 8A(a) for the worksite at which the violation (for which the penalty was assessed) took place; or "(ii) demonstrates that the worksite at which the violation (for which the penalty was assessed) took place has an exemplary safety record.

If the employer maintains a program described in clause (i) and has the record described in clause (ii), the penalty shall be reduced by at least 50 percent.

"(B) A penalty assessed against an employer for a violation other than a violation that—

"(i) has been previously cited by the Secretary;

"(ii) creates an imminent danger;

"(iii) has caused death; or

"(iv) has caused a serious incident,

shall be reduced by at least 75 percent if the worksite at which such violation occurred has been reviewed or inspected under a program described in section 8A(c)(1) during the 1-year period before the date of the citation for such violation, and such employer has complied with recommendations to bring such employer into compliance within a reasonable period of time.".

SEC. 9. CONSULTATION SERVICES.

Section 21(c) (29 U.S.C. 671(c)) is amended—

(1) by striking "(c) The" and inserting "(c)(1) The"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall, through the authority granted under section 7(c) and paragraph (1), enter into cooperative agreements with States for the provision of consultation services by such States to employers concerning the provision of safe and healthful working conditions. A State that has a plan approved under section 18 shall be eligible to enter into a cooperative agreement under this paragraph only if such plan does not include provisions for federally funded consultation to employers.

"(B)(i) Except as provided in clause (ii), the Secretary shall reimburse a State that enters into a cooperative agreement under subparagraph (A) in an amount that equals 90 percent of the costs incurred by the State under such agreement.

"(ii) A State shall be fully reimbursed by the Secretary for—

"(I) training approved by the Secretary for State staff operating under a cooperative agreement; and

"(II) specified out-of-State travel expenses incurred by such staff.

"(iii) A reimbursement paid to a State under this subparagraph shall be limited to costs incurred by such State for the provision of consultation services under this paragraph and the costs described in clause (ii).

"(C) Notwithstanding any other provision of law, at least 15 percent of the total amount of funds appropriated for the Occupational Safety and Health Administration for a fiscal year shall be used for education, consultation, and outreach efforts.".

SEC. 10. VOLUNTARY PROTECTION PROGRAMS.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Labor shall establish cooperative agreements to encourage the establishment of comprehensive safety and health management systems that include—

(1) requirements for systematic assessment of hazards;

(2) comprehensive hazard prevention, mitigation, and control programs;

(3) active and meaningful management and employee participation in the voluntary program described in subsection (b); and

(4) employee safety and health training.

(b) VOLUNTARY PROTECTION PROGRAM.—The Secretary of Labor shall establish a voluntary protection program to encourage the achievement of excellence in both the technical and managerial protection of employees from occupational hazards as follows:

(1) APPLICATION.—Volunteers for the program shall be required to submit an application to the Secretary of Labor demonstrating that the worksite with respect to which the application is made meets such qualifications as the Secretary of Labor may prescribe for participation in the program.

(2) ONSITE EVALUATIONS.—There shall be onsite evaluations by representatives of the Secretary of Labor to ensure a high level of protection of employees. The onsite visits shall not result in enforcement citations under the Occupational Safety and Health Act of 1970, as amended, unless representatives of the Secretary of Labor observe hazards for which no agreement can be made to abate the hazards in a reasonable amount of time.

(3) INFORMATION.—Volunteers who are approved for participation by the Secretary of Labor shall assure the Secretary of Labor that information about their safety and health program shall be made readily available to the Secretary of Labor to share with employers.

(4) REEVALUATIONS.—Continued participation in the program shall require periodic reevaluations by the Secretary of Labor.

(5) EXEMPTIONS.—A site with respect to which a program has been approved shall during participation in the program be exempt from inspections and certain paperwork requirements to be determined by the Secretary of Labor, except inspections or investigations arising from employee complaints, fatalities, catastrophes, or significant toxic releases.

(c) ANNUAL FEE.—The Secretary of Labor may charge an annual fee to participants in a voluntary protection program described in subsection (b). The fee shall be in an amount determined by the Secretary of Labor, and amounts collected shall be deposited in the general treasury of the United States.•

• Mrs. KASSEBAUM. Mr. President, I join my colleagues, Senators GREGG, NUNN, JEFFORDS, and GORTON, in introducing the Occupational Safety and Health Reform and Reinvention Act of 1995. Senator GREGG has been instrumental in crafting this legislation, which is an important step toward revitalizing a troubled agency.

As chairman of the Committee on Labor and Human Resources, I frequently hear that OSHA focuses too much on paperwork and is too quick to issue citations in spite of good faith compliance efforts. Despite these criticisms, I remain committed to a strong OSHA program and will not compromise workplace safety.

Mr. President, as committed as I am to this issue, we also must recognize that a great deal has changed since Congress first enacted the Occupational Safety and Health [OSH] Act in 1970. We have learned that although strong enforcement is important, we do not need a one-size-fits-all OSHA enforcement policy. Most employers agree that safety makes good business sense, so we should not treat all employers the same way. We also have watched the Labor Department become preoccupied with paperwork rather than real safety hazards, and that needs to be changed.

Mr. President, this OSHA reform bill will refocus OSHA on its primary mission, which is to improve the health and safety of American workers. It also requires OSHA to differentiate among employers based on their commitment to workplace safety.

The legislation we introduce today provides positive incentives for employers to comply with the law. As a result, OSHA's limited resources will focus on the most dangerous work sites. Rather than offering more mandates and punitive sanctions, this bill rewards employers that establish effective health and safety programs or that utilize certified, private sector safety and health professionals by exempting these employers from regular, programmed OSHA inspections.

In this way, OSHA may concentrate its efforts on the most dangerous workplaces. OSHA must use its resources efficiently.

In addition, the bill reduces penalties for paperwork and other nonserious violations. OSHA must concentrate on serious hazards and not on posting requirements and paperwork.

Mr. President, the administration has already endorsed many of the reforms in this proposal in their Reinventing Government report. I applaud those efforts and will assist the Labor Department as we move toward our common goal of improved safety.

Mr. President, this legislation is long overdue, and I urge my colleagues to support it.•

• Mr. NUNN. Mr. President, I would like to join my colleagues Senators KASSEBAUM, GREGG, and GORTON in introducing legislation to reform the Occupational Safety and Health Administration [OSHA].

As my colleagues know, OSHA is one of the most frequently criticized agencies in the Federal Government. Recent polls show that OSHA ties with the Internal Revenue Service as the Federal agency which causes the most dissatisfaction among Americans. While everyone agrees that Government has a responsibility to help ensure safe and healthy workplaces, OSHA's reputation in this area is one of inefficient methods of promoting workplace safety that often alienate businesses and workers alike.

I understand that some in Congress favor abolishing the agency entirely in order to remove the expensive and bureaucratic compliance burdens from business. Others favor maintaining the status quo or would have OSHA impose stiffer penalties and more specific requirements on businesses in order to coerce greater levels of workplace safety. I do not agree with any of these approaches. Instead, I am pleased to join my colleagues in crafting a commonsense approach which addresses past problems and keeps OSHA as a viable agency that is more responsive to the needs of business and more efficient in protecting workers.

The bill has two main thrusts. The first is to rebalance the focus of OSHA away from solely the "stick" method of ensuring compliance which consists of stiff fines and to-the-letter enforcement of rules. Instead, we attempt to codify and extend OSHA's ongoing efforts to shift toward the "carrot" method, which rewards companies making successful, good-faith efforts at maintaining and improving safety in the workplace. The enforcement authority available to OSHA would still remain, however OSHA would be able to utilize other tools to improve workplace safety.

The second thrust of the bill is to make OSHA's operations more efficient. Studies have shown that many sites of serious workplace accidents have not been inspected by federal OSHA inspectors for several years prior to the accident. The studies showed that this problem is due in part to a shortage of inspectors and a mandate that OSHA follow up all complaints, no matter how minor. This proposed legislation would allow OSHA greater flexibility in allocating its resources so it can give the most serious workplace problems its highest priority.

Mr. President, this bill, like all other legislative proposals, needs careful examination and can be approved. I am confident, however, that this proposal represents a good start to addressing the problems that affect this agency. I look forward to working with my colleague from Kansas, Senator KASSEBAUM, my colleague from New Hampshire, Senator GREGG, and my colleague from Washington, Senator GORTON at perfecting the measure, and I encourage our other Senate Colleagues to join with us in this process.●

ADDITIONAL COSPONSORS

S. 327

At the request of Mr. HATCH, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 704

At the request of Mr. SIMON, the names of the Senator from Indiana [Mr. COATS] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Mississippi [Mr. COCHRAN], the Senator from Washington [Mr. GORTON], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 978

At the request of Mrs. HUTCHISON, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Virginia [Mr. WARNER], and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

S. 1043

At the request of Mr. PRESSLER, his name was added as a cosponsor of S. 1043, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1353

At the request of Mr. DORGAN, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1353, a bill to amend title 23, United States Code, to require the transfer of certain Federal highway funds to a State highway safety program if a State fails to prohibit open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles, and for other purposes.

S. 1401

At the request of Mr. BENNETT, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1401, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations, and for other purposes.

AMENDMENTS SUBMITTED

THE COAST GUARD AUTHORIZATION ACT OF 1995

STEVENS AMENDMENT NO. 3058

Mr. LOTT (for Mr. STEVENS, for himself, Mr. PRESSLER, Mr. HOLLINGS, Mr. KERRY, Ms. SNOWE, Mrs. HUTCHISON, and Mr. BREAUX) proposed an amendment to bill (S. 1004) to authorize appropriations for the U.S. Coast Guard, and for other purposes; as follows:

On page 77, beginning with line 3, strike through line 16 on page 79.

On page 79, line 17, strike "(b)" and insert "(a)".

On page 81, strike lines 3 through 6 and insert the following:

ation Program—

(A) $16,200,000, to remain available until expended, of which up to $14,200,000 may be made available under section 104(e) of title 49, United States Code; and

(B) for fiscal year 1995, $12,880,000, which may be made available under that section.

On page 81, line 12, strike "(c)" and insert "(b)".

On page 82, beginning with line 3, strike through line 5 on page 83 and insert the following:

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 38,400 as of September 30, 1996. The authorized strength does not include members of the Ready Reserve called to active duty for special emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) AUTHROZED LEVEL OF MILITARY TRAINING.—The Coast Guard is authorized average military training study loads for fiscal year 1996 as follows:

(1) For recruit and special training, 1,604 student years.

(2) For flight training, 85 student years.

(3) For professional training in military and civilian institutions, 330 student years.

(4) For officer acquisition, 874 student years.

On page 91, between lines 13 and 14, insert the following:

SEC. 208. ACCESS TO NATIONAL DRIVER REGISTER INFORMATION ON CERTAIN COAST GUARD PERSONNEL.

(a) AMENDMENT TO TITLE 14.—Section 93 of title 14, United States Code, as amended by section 203, is further amended—

(1) by striking "and" after the semicolon at the end of paragraph (u);

(2) by striking the period at the end of paragraph (v) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(w) require that any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to the Commandant under section 30305(a) of title 49, may receive that information, and upon receipt, shall make the information available to the individual.".

(b) AMENDMENT TO TITLE 49.—Section 30305(b) of title 49, United States Code, is amended by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following new paragraph:

"(7) an individual who is an officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive the information and shall make the information available to the individual. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.".

SEC. 209. COAST GUARD HOUSING AUTHORITIES.

(a) IN GENERAL.—Part I of title 14, United States Code, is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—COAST GUARD HOUSING AUTHORITIES

"SUBCHAPTER A

"Section
"671. Definitions.
"672. General Authority.
"673. Direct loans and loan guarantees.
"674. Leasing of housing to be constructed.
"675. Investments in nongovernmental entities.
"676. Rental guarantees.
"677. Differential lease payments.
"678. Conveyance or lease of existing property and facilities.
"679. Interim leases.
"680. Unit size and type.
"681. Support facilities.
"682. Assignment of members of the armed forces to housing units.
"683. Coast Guard Housing Improvement Fund.
"684. Reports.
"685. Expiration of authority.

"SUBCHAPTER B

"691. Conveyance of damaged or deteriorated military family housing; use of proceeds.
"692. Limited partnerships with private developers of housing.

"SUBCHAPTER A

"§ 671. Definitions

"In this subchapter the term 'support facilities' means facilities relating to military housing units, including child care centers, day care centers, community centers, housing offices, maintenance complexes, dining facilities, unit offices, fitness centers, parks, and other similar facilities for the support of military housing.

"§ 672. General authority

"In addition to any other authority provided for the acquisition, construction, or improvement of military family housing or military unaccompanied housing, the Secretary may exercise any authority or any combination of authorities provided under this subchapter in order to provide for the acquisition, construction, improvement or rehabilitation by private persons of the following:

"(1) Family housing units on or near Coast Guard installations within the United States and its territories and possessions.

"(2) Unaccompanied housing units on or near such Coast Guard installations.

"§ 673. Direct loans and loans guarantees

"(a) DIRECT LOANS.—(1) Subject to subsection (c), the Secretary may make direct loans to persons in the private sector in order to provide funds to such persons for the acquisition, construction, improvement, or rehabilitation of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

"(2) The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.

"(b) LOAN GUARANTEES.—(1) Subject to subsection (c), the Secretary may guarantee a loan made to any person in the private sector if the proceeds of the loan are to be used by the person to acquire, construct, improve, or rehabilitate housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

"(2) The amount of a guarantee on a loan that may be provided under paragraph (1) may not exceed the amount equal to the lesser of—

"(A) the amount equal to 80 percent of the value of the project; or

"(B) the amount of the outstanding principal of the loan.

"(3) The Secretary shall establish such terms and conditions with respect to guarantees of loans under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the rights and obligations of obligors of such loans and the rights and obligations of the United States with respect to such guarantees.

"(c) LIMITATION ON DIRECT LOAN AND GUARANTEE AUTHORITY.—Direct loans and loan guarantees may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) are made in advance, or authority is otherwise provided in appropriations Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (2 U.S.C. 661a(7)) which shall be available for the disbursement of direct loans or payment of claims for payment on loan guarantees under this section and for all other cash flows to and from the Government as a result of direct loans and guarantees made under this section.

"§ 674. Leasing of housing to be constructed

"(a) BUILD AND LEASE AUTHORIZED.—The Secretary may enter into contracts for the lease of family housing units or unaccompanied housing units to be constructed, improved, or rehabilitated under this subchapter.

"(b) LEASE TERMS.—A contract under this section may be for any period that the Secretary determines appropriate.

"§ 675. Investments in nongovernmental entities

"(a) INVESTMENTS AUTHORIZED.—The Secretary may make investments in nongovernmental entities carrying out projects for the acquisition, construction, improvement, or rehabilitation of housing units suitable for use as military family housing or as military unaccompanied housing.

"(b) FORMS OF INVESTMENT.—An investment under this section may take the form of a direct investment by the United States, an acquisition of a limited partnership interest by the United States, a purchase of stock or other equity instruments by the United States, a purchase of bonds or other debt instruments by the United States, or any combination of such forms of investment.

"(c) LIMITATION ON VALUE OF INVESTMENT.—(1) The cash amount of an investment under this section in a nongovernmental entity may not exceed an amount equal to 35 percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.

"(2) If the Secretary conveys land or facilities to a nongovernmental entity as all or part of an investment in the entity under this section, the total value of the investment by the Secretary under this section may not exceed an amount equal to 45 percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.

"(3) In this subsection, the term 'capital cost', with respect to a project for the acquisition, construction, improvement, or rehabilitation of housing, means the total amount of the costs included in the basis of the housing for Federal income tax purposes.

"(d) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary may enter into collateral incentive agreements with nongovernmental entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.

"§ 676. Rental guarantees

"The Secretary may enter into agreements with private persons that acquire, construct, improve, or rehabilitate family housing units or unaccompanied housing units under this subchapter in order to assure—

"(1) the occupancy of such units at levels specified in the agreements; or

"(2) rental income derived from rental of such units at levels specified in the agreements.

"§ 677. Differential lease payments

"The Secretary, pursuant to an agreement entered into by the Secretary and a private lessor of family housing or unaccompanied housing to members of the armed forces, may pay the lessor an amount in addition to the rental payments for the housing made by the members as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as family housing or as unaccompanied housing.

"§ 678. Conveyance or lease of existing property and facilities

"(a) CONVEYANCE OR LEASE AUTHORIZED.—The Secretary may convey or lease property or facilities (including support facilities) to private persons for purposes of using the proceeds of such conveyance or lease to carry out activities under this subchapter.

"(b) TERMS AND CONDITIONS.—(1) The conveyance or lease of property or facilities under this section shall be for such consideration and upon such terms and conditions as the Secretary considers appropriate for the purposes of this subchapter and to protect the interests of the United States.

"(2) As part or all of the consideration for a conveyance or lease under this section, the purchaser or lessor (as the case may be) may enter into an agreement with the Secretary to ensure that a suitable preference will be afforded members of the armed forces in the lease or sublease of a reasonable number of the housing units covered by the conveyance or lease, as the case may be, or in the lease of other suitable housing units made available by the purchaser or lessee.

"(c) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—The conveyance or lease of property or facilities under this section shall not be subject to the following provisions of law:

"(1) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(2) Section 321 of the Act of June 30, 1932 (commonly known as the Economy Act) (47 Stat. 412, chapter 314; 40 U.S.C. 303b).

"(3) The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

"§ 679. Interim leases

"Pending completion of a project to acquire, construct, improve, or rehabilitate family housing units or unaccompanied housing units under this subchapter, the Secretary may provide for the interim lease of such units of the project as are complete. The term of a lease under this section may not extend beyond the date of the completion of the project concerned.

"§ 680. Unit size and type

"The Secretary shall ensure that the room patterns and floor areas of family housing units and unaccompanied housing units acquired, constructed, improved, or rehabilitated under this subchapter are generally comparable to the room patterns and floor areas of similar housing units in the locality concerned.

"§ 681. Support facilities

"Any project for the acquisition, construction, improvement, or rehabilitation of family housing units or unaccompanied housing units under this subchapter may include the acquisition, construction, or improvement of support facilities for the housing units concerned.

"§ 682. Assignment of members of the Armed Forces to housing units

"(a) IN GENERAL.—The Secretary may assign members of the armed forces to housing units acquired, constructed, improved, or rehabilitated under this subchapter.

"(b) EFFECT OF CERTAIN ASSIGNMENTS ON ENTITLEMENT TO HOUSING ALLOWANCES.—(1) Except as provided in paragraph (2), housing referred to in subsection (a) shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403(b) of title 37.

"(2) A member of the armed forces who is assigned in accordance with subsection (a) to a housing unit not owned or leased by the United States shall be entitled to a basic allowance for quarters under section 403 of title 37 and, if in a high housing cost area, a variable housing allowance under section 403a of that title.

"(c) LEASE PAYMENTS THROUGH PAY ALLOTMENTS.—The Secretary may require members of the armed forces who lease housing in housing units acquired, constructed, improved, or rehabilitated under this subchapter to make lease payments for such housing pursuant to allotments of the pay of such members under section 701 of title 37.

"§ 683. Coast Guard Housing Improvement Fund

"(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the Coast Guard Housing Improvement Fund (in this section referred to as the 'Fund').

"(b) CREDITS TO FUND.—There shall be credited to the Fund the following:

"(1) Funds appropriated to the Fund.

"(2) Any funds that the Secretary may, to the extent provided in appropriation Acts, transfer to the Fund from funds appropriated to the Department of Transportation or Coast Guard for family housing, except that such funds may be transferred only after the Secretary transmits written notice of, and justification for, such transfer to the appropriate committees of Congress.

"(3) Any funds that the Secretary may, to the extent provided in appropriations Acts, transfer to the Fund from funds appropriated to the Department of Transportation or Coast Guard for military unaccompanied housing or for the operation and maintenance of military unaccompanied housing, except that such funds may be transferred only after the Secretary transmits written notice of, and justification for, such transfer to the appropriate committees of Congress.

"(4) Proceeds from the conveyance or lease of property or facilities under section 678 of this title.

"(5) Income from any activities under this subchapter, including interest on loans made under section 673 of this title, income and gains realized from investments under section 675 of this title, and any return of capital invested as part of such investments.

"(c) USE OF FUNDS.—(1) To the extent provided in appropriations Acts and except as provided in paragraphs (2) and (3), the Secretary may use amounts in the Fund to carry out activities under this subchapter (including activities required in connection with the planning, execution, and administration of contracts or agreements entered into under the authority of this subchapter).

"(2)(A) Funds in the Fund that are derived from appropriations or transfers of funds for military family housing, or from income from activities under this subchapter with respect to such housing, may be used in accordance with paragraph (1) only to carry out activities under this subchapter with respect to military family housing.

"(B) Funds in the Fund that are derived from appropriations or transfers of funds for military unaccompanied housing, or from income from activities under this subchapter with respect to such housing, may be used in accordance with paragraph (1) only to carry out activities under this subchapter with respect to military unaccompanied housing.

"(3) The Secretary may not enter into a contract or agreement to carry out activities under this subchapter unless the Fund contains sufficient amounts, as of the time the contract or agreement is entered into, to satisfy the total obligations to be incurred by the United States under the contract or agreement.

"(d) LIMITATION ON AMOUNT OF BUDGET AUTHORITY.—The total value in budget authority of all contracts, agreements, and investments undertaken using the authorities provided in this subchapter shall not exceed $60,000,000.

"§ 684. Reports

The Secretary shall include each year in the materials the Secretary submits to the Congress in support of the budget submitted by the President pursuant to section 1105 of title 31, United States Code, the following:

"(1) A report on the amount and nature of the deposits into, and the expenditures from, the Coast Guard Housing Improvement Fund established under section 683 of this title during the preceding fiscal year.

"(2) A report on each contract or agreement for a project for the acquisition, construction, improvement, or rehabilitation of family housing units or unaccompanied housing units that the Secretary proposes to solicit under this subchapter, describing the project and the method of participation of the United States in the project and providing justification of such method of participation.

"(3) A methodology for evaluating the extent and effectiveness of the use of the authorities under this subchapter during such preceding fiscal year.

"(4) A description of the objectives of the Department of Transportation for providing military family housing and military unaccompanied housing for members of the Coast Guard.

"§ 685. Expiration of authority

"The authority to enter into a transaction under this subchapter shall expire 5 years after the date of the enactment of the Coast Guard Authorization Act of 1995.

"SUBCHAPTER B

"§ 691. Conveyance of damaged or deteriorated military family housing; use of proceeds

"(a) AUTHORITY TO CONVEY.—

"(1) Subject to paragraph (2), the Secretary may convey any family housing facility that, due to damage or deterioration, is in a condition that is uneconomical to repair. Any conveyance of a family housing facility under this section may include a conveyance of the real property associated with the facility conveyed.

"(2) The aggregate total value of the family housing facilities conveyed by the Secretary under the authority in this subsection in any fiscal year may not exceed $5,000,000.

"(3) For purposes of this subsection, a family housing facility is in a condition that is uneconomical to repair if the cost of the necessary repairs for the facility would exceed the amount equal to 70 percent of the cost of constructing a family housing facility to replace such a facility.

"(b) CONSIDERATION.—

"(1) As consideration for the conveyance of a family housing facility under subsection (a), the person to whom the facility is conveyed shall pay the United States an amount equal to the fair market value of the facility conveyed, including any real property conveyed along with the facility.

"(2) The Secretary shall determine the fair market value of any family housing facility and associated real property that is conveyed under subsection (a). Such determinations shall be final.

"(c) NOTICE AND WAIT REQUIREMENTS.—The Secretary may not enter into an agreement to convey a family housing facility under this section until—

"(1) the Secretary submits to the appropriate committees of Congress, in writing, a justification for the conveyance under the agreement, including—

"(A) an estimate of the consideration to be provided the United States under the agreement;

"(B) an estimate of the cost of repairing the family housing facility to be conveyed; and

"(C) an estimate of the cost of replacing the family housing facility to be conveyed; and

"(2) a period of 21 calendar days has elapsed after the date on which the justification is received by the committees.

"(d) INAPPLICABILITY OF CERTAIN PROPERTY DISPOSAL LAWS.—The following provisions of law do not apply to the conveyance of a family housing facility under this section:

"(1) The provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(2) The provisions of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

"(e) USE OF PROCEEDS.—(1) The proceeds of any conveyance of a family housing facility under this section shall be credited to the Coast Guard Housing Improvement Fund

(Fund) established under sexton 683 of this title and available for the purposes described in paragraph (2).

"(2) The proceeds of a conveyance of a family housing facility under this section may be used for the following purposes.

"(A) To construct family housing units to replace the family housing facility conveyed under this section, but only to the extent that the number of units constructed with such proceeds does not exceed the number of units of military family housing of the facility conveyed.

"(B) To repair or restore existing military family housing.

"(C) To reimburse the Secretary for the costs incurred by the Secretary in conveying the family housing facility.

"(3) Notwithstanding section 683(c) of this title, proceeds in the account under this subsection shall be available under paragraph (1) for purposes described in paragraph (2) without any further appropriation.

"(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any family housing facility conveyed under this section, including any real property associated with such facility, shall be determined by such means as the Secretary considers satisfactory, including by survey in the case of real property.

"(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance of family housing facilities under this section as the Secretary considers appropriate to protect the interests of the United States.

"§692. Limited partnerships with private developers of housing

"(a) LIMITED PARTNERSHIPS.—(1) In order to meet the housing requirements of members of the Coast Guard, and the dependents of such members, at a military installation described in paragraph (2), the Secretary of Transportation may enter into a limited partnership with one or more private developers to encourage the construction of housing and accessory structures within commuting distance of the installation. The Secretary may contribute not more than 35 percent of the development costs under a limited partnership.

"(2) Paragraph (1) applies to a military installation under the jurisdiction of the Secretary at which there is a shortage of suitable housing to meet the requirements of members and dependents referred to in such paragraph.

"(b) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary may also enter into collateral incentive agreements with private developers who enter into a limited partnership under subsection (a) to ensure that, where appropriate—

"(1) a suitable preference will be afforded members of the Coast Guard in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the limited partnership; or

"(2) the rental rates or sale prices, as the case may be, for some or all of such units will be affordable for such members.

"(c) SELECTION OF INVESTMENT OPPORTUNITIES.—

"(1) The Secretary shall use publicly advertised, competitively bid or competitively negotiated, contracting procedures, as provided in chapter 137 of title 10, United States Code, to enter into limited partnerships under subsection (a).

(2) When a decision is made to enter into a limited partnership under subsection (a), the Secretary shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include the justification for the limited partnership, the terms and conditions of the limited partnership, a description of the development costs for projects under the limited partnership, and a description of the share of such costs to be incurred by the Secretary. The Secretary may then enter into the limited partnership only after the end of the 21-day period beginning on the date the report is received by such committees.

"(d) FUNDS.—(1) Any proceeds received by the Secretary from the repayment of investments or profits on investments of the Secretary under subsection (a) shall be deposited into the Coast Guard Housing Improvement Fund established under section 683 of this title.

"(2) From such amounts as is provided in advance in appropriation Acts, funds in the Coast Guard Housing Improvement Fund shall be available to the Secretary for contracts, investments, and expenses necessary for the implementation of this section.

"(3) The Secretary may not enter into a contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) unless a sufficient amount of the unobligated balance of the funds in the Coast Guard Housing Improvement Fund is available to the Secretary, as of the time the contract is entered into, to satisfy the total obligations to be incurred by the United States under the contract.

"(e) TRANSFER OF LANDS PROHIBITED.—Nothing in this section shall be construed to permit the Secretary, as part of a limited partnership entered into under this section, to transfer the right, title, or interest of the United States in any real property under the jurisdiction of the Secretary.

"(f) EXPIRATION AND TERMINATION OF AUTHORITIES.—The authority to enter into a transaction under this section shall expire 5 years after the date of the enactment of the Coast Guard Authorization Act of 1995.".

(b) FINAL REPORT.—Not later than March 1, 2000, the Secretary shall submit to Congress a report on the use by the Secretary of the authorities provided by subchapter A of chapter 18 of title 14, United States Code, as added by subsection (a) of this section. The report shall assess the effectiveness of such authority in providing for the construction and improvement of military family housing and military unaccompanied housing.

(c) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 14, is amended by inserting after the item relating to chapter 17 the following:

"18. Coast Guard Housing Authorities 671.".

SEC. 210. BOARD FOR CORRECTION OF MILITARY RECORDS DEADLINE.

(a) REMEDIES DEEMED EXHAUSTED.—Ten months after a complete application for correction of military records is received by the Board for Correction of Military Records of the Coast Guard, administrative remedies are deemed to have been exhausted, and—

(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the Department of Transportation; or

(2) if the Board has not rendered a recommended decision, agency action is deemed to have been unreasonably delayed or withheld and the applicant is entitled to—

(A) an order under section 706(1) of title 5, United States Code, directing final action be taken within 30 days from the date the order is entered; and

(B) from amounts appropriated to the Department of Transportation, the costs of obtaining the order, including a reasonable attorney's fee.

(b) EXISTING DEADLINE MANDATORY.—The 10-month deadline established in section 212 of the Coast Guard Authorization Act of 1989 (Public Law 101-225; 103 Stat. 1914) is mandatory.

(c) SPECIAL RIGHT OF APPLICATIONS UNDER THIS SECTION.—This section applies to any applicant who had an application filed with or pending before the Board or the Secretary of Transportation on or after June 12, 1990, who files with the board an application for relief under this section. If a recommended decision was modified or reversed on review with final agency action occurring after expiration of the 10-month deadline, an applicant who so requests shall have the order in the final decision vacated and receive the relief granted in the recommended decision if the Coast Guard has the legal authority to grant such relief. The recommended decision shall otherwise have no effect as precedent.

On page 93, strike lines 18 through 24 and insert the following:

SEC. 302. NONDISCLOSURE OF PORT SECURITY PLANS.

Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226), is amended by adding at the end the following new subsection (c):

"(c) NONDISCLOSURE OF PORT SECURITY PLANS.—Notwithstanding any other provision of law, information related to security plans, procedures, or programs for passenger vessels or passenger terminals authorized under this Act is not required to be disclosed to the public.".

On page 98, beginning with line 1, strike through line 24 on page 99 and insert the following:

SEC. 309. RESTRICTIONS ON CLOSURE OF SMALL BOAT STATIONS.

(a) PROHIBITION.—The Secretary of Transportation (hereinafter in this section referred to as the "Secretary") shall not close any Coast Guard multimission small boat station or subunit before October 1, 1996.

(b) CLOSURE REQUIREMENTS.—After October 1, 1996, the Secretary shall not close any Coast Guard multi-mission small boat station or subunit unless the following requirements have been met:

(1) The Secretary shall determine that—

(A) adequate search-and-rescue capabilities will maintain the safety of the maritime public in the area of the station or subunit; and

(B) the closure will not result in degradation of services (including but not limited to search and rescue, enforcement of fisheries and other laws and treaties, recreational boating safety, port safety and security, aids to navigation, and military readiness) that would cause significant increased threat to life, property, environment, public safety or national security.

(2) In making the decision to close a station or subunit, the Secretary shall assess—

(A) the benefit of the station or subunit in deterring or preventing violations of applicable laws and regulations;

(B) unique regional or local prevailing weather and marine conditions including water temperature and unusual tide and current conditions; and

(C) other Federal, State, and local government capabilities which could fully or partially substitute for services provided by such station or subunit.

(4) The Secretary shall develop a transition plan for the area affected by the closure to ensure the Coast Guard service needs of the area continue to be met.

(5) The Secretary shall implement a process to—

(A) notify the public of the intended closure;

(B) make available to the public information used in making the determination and assessment under this section; and

(C) provide an opportunity for public participation, including public meetings and the submission of and summary response to written comments, with regard to the decision to close the station or subunit and the development of a transition plan.

(c) NOTIFICATION.—If, after the requirements of subsection (b) are met and after consideration of public comment, the Secretary decides to close a small-boat station or subunit, the Secretary shall provide notification of that decision, at least 60 days before the closure is effected, to the public, the committee on Commerce, Science and Transportation of the Senate and the Committee on Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) OPERATIONAL FLEXIBILITY.—Notwithstanding the requirements of this section, the Secretary may implement any management efficiencies within the small boat system, such as modifying the operational posture of units or reallocating resources as necessary to ensure the safety of the maritime public nationwide, provided that no stations or subunits are closed.

On page 101, after the item relating to section 96 between lines 3 and 4, insert the following:

SEC. 312. WITHHOLDING VESSEL CLEARANCE FOR VIOLATION OF CERTAIN ACTS.

(a) TITLE 49, UNITED STATES CODE.—Section 5122 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(c) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a civil penalty under section 5132 of this title or for a fine under section 5124 of this title, or if reasonable cause exists to believe that such owner, operator, or person in charge may be subject to such a civil penalty or fine, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon the filing of a bond or other surety satisfactory to the Secretary.".

(b) PORT OF WATERWAYS SAFETY ACT.—Section 13(f) of the Ports and Waterways Safety Act (33 U.S.C. 1232(f)) is amended to read as follows:

"(f) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a civil penalty under this section, or if reasonable cause exists to believe that such owner, operator, or person in charge may be subject a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

(c) INLAND NAVIGATION RULES ACT OF 1980.—Section 4(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2072(d)) is amended to read as follows:

"(d) Withholding of Clearance.—(1) If any owner, operator, or person in charge of a vessel is liable for a penalty under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

(d) TITLE 46 UNITED STATES CODE.—Section 3718(e) of title 46, United States Code, is amended to read as follows:

"(e)(1) If any owner, operator, or person in charge of a vessel is liable for any penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to any penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

On page 113, line 12, strike "(b)" and insert "(d)".

On page 126, line 15, strike "and" the second place it appears.

On page 126, between lines 15 and 16, insert the following:

(3) by striking "Bureau" in subsection (a), as redesignated, and inserting "American Bureau of Shipping"; and

On page 126, line 16, strike "(3)" and insert "(4)".

On page 130, line 18, after the period insert the following: "Any such regulation shall be considered to be an interpretive regulation for purposes of section 553 of title 5.".

On page 147, line 11, strike "and".

On page 147, line 16, strike the period and insert a semicolon and "and".

On page 147, between lines 16 and 17, insert the following:

(6) by inserting "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title" after "200 gross tons" in subsection (e)(3).

On page 161, line 17, insert "knowingly" before "fail".

On page 162, line 1, insert ", and circumstances under" after "means by".

On page 162, line 3, insert after the period the following new sentences: "Such regulations shall ensure that any such order is clearly communicated in accordance with applicable international standards. Further, such regulations shall establish guidelines based on observed conduct, prior information, or other circumstances for determining when an officer may use the authority granted under paragraph (1)."

On page 162, line 6, insert "knowingly" before "fail".

On page 162, strike lines 12 through 17 and insert the following:

"(A) forcibly assault, resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or"

On page 162, line 18, strike "(C)" and insert "(B)".

On page 162, line 22, strike "or has reason to know".

On page 165, line 1, strike "5" and insert "1".

On page 165, strike the sentence that begins on line 4 and insert the following: "An aircraft that is used in violation of this section may be seized and forfeited. A vessel that is used in violation of subsection (b)(1) or subsection (b)(2)(A) my be seized and forfeited."

On page 166, line 6, insert "knowing" before "failure".

On page 167, line 8, insert "knowingly" before "failed".

On page 167, line 12, strike "or had reason to know".

On page 168, lines 9 and 10, strike "as defined in" and insert "in accordance with".

On page 169, line 1, insert "knowingly" before "fails".

On page 169, lines 2 through 4, strike "relating to the boarding of a vessel or landing of an aircraft issued".

On page 169, line 7, insert ", in the case of a vessel," after "or".

On page 169, line 8, strike "in any".

On page 169, strike the sentence beginning on line 11.

On page 169, line 13, insert "knowingly" before "violate".

On page 170, line 26, insert "knowingly" before "fails".

On page 171, lines 5 through 8, strike "or according to any applicable, internationally recognized standards, or in any other manner reasonably calculated to be received and understood,".

On page 171, strike the sentence beginning on line 9.

On page 171, line 12, insert "knowingly" before "violate".

On page 177, between lines 14 and 15, insert the following:

(DD) Nash Island Light.

(EE) Manana Island Fog Signal Station.

On page 177, beginning in line 16, strike "place, if at all," and insert "place".

On page 188, beginning in line 22, strike "exact acreage and".

On page 191, line 17, after "Incorporated," insert "or any successor or assign,".

On page 192, line 10, after "Incorporated," insert "or any successor or assign,".

On page 192, line 14, after "Incorporated," insert "or any successor or assign,".

On page 193, line 1, after "Incorporated," insert "or any successor or assign,".

On page 193, line 10, insert "(in this section referred to as the 'Secretary')" after "Transportation".

On page 195, line 3, after "signal," insert "electronic navigation equipment,".

On page 195, line 9, after "Association" insert ", or any successor or assign,".

On page 196, line 5, after "Association" insert ", or any successor or assign,".

On page 196, line 10, after "Association" insert ", or any successor or assign,".

On page 196, line 16, after "Association" insert ", or any successor or assign,".

On page 197, line 5, insert "of Transportation (referred to in this section as the 'Secretary')" after "Secretary".

On page 197, beginning on line 7, strike "of Transportation"

On page 199, line 23, after "Inc.," insert "or any successor or assign,".

On page 200, line 4, after "Inc.," insert "or any successor or assign,".

On page 200, strike lines 17 through 25 and insert the following:

(c) POINT ARENA LIGHT STATION DEFINED.—For purposes of this section, the term "Point

Arena Light Station" means the Coast Guard property and improvements located at Point Arena, California, including the light tower building, fog signal building, 2 small shelters, 4 residential quarters, and a restroom facility.

On page 201, line 4, insert "(referred to in this section as the 'Secretary')" after "Transportation".

On page 201, beginning with line 14, strike through line 4 on page 202 and insert the following:

(b) IDENTIFICATION OF PROPERTY.—The Secretary shall identify, describe, and determine the property to be conveyed pursuant to this section.

On page 202, strike lines 5 through 11 and insert the following:

(c) REVERSIONARY INTEREST.—The conveyance of property described in subsection (b) shall be subject to the condition that such property, and all right, title and interest in such property, shall transfer to the City of Ketchikan if, within 18 months of the date of enactment of this Act, the Ketchikan Indian Corporation has not completed design and construction plans for a health and social services facility and received approval from the City of Ketchikan for such plans or the written consent of the City to exceed this period.

(d) In the event that the property described in subsection (b) is transferred to the City of Ketchikan under subsection (c), the transfer shall be subject to the condition that all right, title, and interest in and to the property shall immediately revert to the United States if the property ceases to be used by the City of Ketchikan.

On page 202, beginning with line 22, strike through line 19 on page 203 and insert the following:

(b) IDENTIFICATION OF PROPERTY.—The Secretary shall identify, describe, and determine the property to be conveyed pursuant to this section.

On page 204, line 19, strike "shall expeditiously" and insert "may".

On page 205, line 19, insert "of Transportation (referred to in this section as the 'Secretary')" after "Secretary".

On page 206, line 25, strike "States:" and insert "States—".

On page 207, line 1, strike "If" and insert "if".

On page 207, line 4, insert "or" after the semicolon.

On page 207, line 24, insert "(referred to in this section as the 'Secretary')" after "Transportation".

On page 209, between lines 15 and 16, insert the following:

SEC. 1011. CONVEYANCE OF EQUIPMENT.

The Secretary of Transportation may convey any unneeded equipment from other vessels in the National Defense Reserve Fleet to the JOHN W. BROWN and other qualified United States memorial ships in order to maintain their operating condition.

SEC. 1012. PROPERTY EXCHANGE.

(a) PROPERTY ACQUISITION.—The Secretary may, by means of an exchange of property, acceptance as a gift, or other means that does not require the use of appropriated funds, acquire all right, title, and interest in and to a parcel or parcels of real property and any improvements thereto located within the limits of the City and Borough of Juneau, Alaska.

(b) ACQUISITION THROUGH EXCHANGE.—For the purposes of acquiring property under subsection (a) by means of an exchange, the Secretary may convey all rights, title, and interest of the United States in and to a parcel or parcels of real property and any improvements thereto located within the limits of the City and Borough of Juneau, Alaska and in the control of the Coast Guard if the Secretary determines that the exchange is in the best interest of the Coast Guard.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

On page 210, beginning on line 4, strike "(a) ADVISORY BOARD AND EXECUTIVE COMMITTEE.—Section" and insert "Section".

On page 210, line 15, strike "14" and insert "16".

On page 210, strike lines 16 through 19 and insert the following:

(5) by striking ", Natural Resources, and Commerce and Economic Development" in subsection (c)(2)(A) and inserting a comma and "and Natural Resources";

On page 211, line 4, insert ", Interior," after "Commerce".

On page 212, line 5, strike "communities" and insert "communities".

On page 212, line 16, strike "EVALUATION" and insert "SCIENTIFIC REVIEW".

On page 212, line 16, strike "will" and insert "may".

On page 212, line 19, strike "will perform the review" and insert "shall perform the review, if requested,".

On page 213, strike lines 1 and 2 and insert the following:

(12) by striking ", Advisory Board," in the second sentence of subsection (e);

On page 215, line 5, insert "documented under chapter 121 of title 46, United States Code, that was" after "vessel".

On page 215, line 6, strike "or".

On page 215, line 7, strike "1,200" and insert "1,500".

On page 215, line 12, strike the period and insert a semicolon and "or".

On page 215, between lines 12 and 13, insert the following:

(3) a vessel in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744).

On page 220, line 1, strike "CONSOLIDATION OR".

On page 220, beginning on line 4, strike "consolidate or".

On page 220, line 6, after the period insert the following: "Nothing in this section prevents the consolidation of management functions of these Coast Guard authorities.".

On page 220, line 14, strike "Except as".

On page 222, line 13, insert "a semicolon and" after "inserting".

On page 222, line 21, insert "a semicolon and" after "inserting".

On page 223, beginning with line 1, strike through line 4 on page 224 and insert the following:

(c) LEASING.—Section 12106 of title 46, United States Code, is amended by adding at the end of the following:

"(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

"(A) the person that owns the vessel, a parent entity of that person, or a subsidiary of a parent entity of that person, is primarily engaged in leasing or other financing transactions;

"(B) the vessel is under a demise charter to a person qualifying as a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916, and it is certified that there are no other agreements, arrangements, or understandings between the vessel owner and the demise charterer with respect to the operation or management of the vessel;

"(C) the demise charter—

"(i) is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary; and

"(ii) charter hire is not significantly greater than that prevailing in the commercial market; and under section 12102.

"(D) the vessel is otherwise eligible for documentation

"(2) The demise charter and any amendments to that charter shall be filed with the certificate required by this subsection, or within 10 days following the filing of an amendment to the charter, and such charter and amendments shall be made available to the public.

"(3) Upon default by a demise charterer required under paragraph (1)(C), the coastwise endorsement of the vessel may, in the sole discretion of the Secretary, be continued after the termination for default of the demise charter for a period not to exceed 6 months on such terms and conditions as the Secretary may prescribe.

"(4) For purposes of section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection is deemed to be owned exclusively by citizens of the United States.

"(5) A vessel eligible for documentation or to be endorsed with a coastwise endorsement under this subsection is not eligible for a fishery endorsement under section 12108.".

On page 226, line 18, insert "transferred to or placed under a foreign registry or" after "be".

On page 227, after line 10, add the following:

(7) LAKE CHARLES (United States official number 619531).

(8) LOUISIANA (United States official number 619532).

(9) GAMMA (United States official number 598730).

SEC. 1117. USE OF CANADIAN OIL SPILL RESPONSE AND RECOVERY VESSELS.

Notwithstanding any other provision of law, oil spill response and recovery vessels of Canadian registry may operate in waters of the United States adjacent to the border between Canada and the State of Maine, on an emergency and temporary basis, for the purpose of recovering, transporting, and unloading in a United States port oil discharged as a result of an oil spill in or near such waters, if an adequate number and type of oil spill response and recovery vessels documented under the laws of the United States cannot be engaged to recover oil from an oil spill in or near those waters in a timely manner, as determined by the Federal On-Scene Coordinator for a discharge or threat of a discharge of oil.

SEC. 1118. JUDICIAL SALE OF CERTAIN DOCUMENTED VESSELS TO ALIENS.

Section 31329 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(f) This section does not apply to a documented vessel that has been operated only for pleasure.".

SEC. 1119. IMPROVED AUTHORITY TO SELL RECYCLABLE MATERIAL.

Section 641(c)(2) of title 14, United States Code, is amended by inserting before the period the following: ", except that the Commandant may conduct sales of materials for which the proceeds of sale will not exceed $5,000 under regulations prescribed by the Commandant".

SEC. 1120. DOCUMENTATION OF CERTAIN VESSELS.

(a) GENERAL CERTIFICATES.—Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) ALPHA TANGO (United States official number 945782).

(2) AURA (United States official number 1027807).

(3) BABS (United States official number 1030028).

(4) BAGGER (State of Hawaii number HA1809E).

(5) BILLY BUCK (United States official number 939064).

(6) CAPTAIN DARYL (United States official number 580125).

(7) CHRISSY (State of Main registration number 4778B).

(8) CONSORTIUM (United States official number 303328).

(9) DRAGONESSA (United States official number 646512).

(10) EMERALD AYES (United States official number 986099).

(11) ENDEAVOUR (United States official number 947869).

(12) EVENING STAR (Hull identification number HA2833700774 and State of Hawaii registration number HA8337D).

(13) EXPLORER (United States official number 918080).

(14) FOCUS (United States official number 909293).

(15) FREJA VIKING (Danish registration number A395).

(16) GLEAM (United States official number 921594).

(17) GOD'S GRACE II (State of Alaska registration number AK5916B).

(18) HALCYON (United States official number 690219).

(19) IDUN VIKING (Danish registration number A433).

(20) INTREPID (United States official number 508185).

(21) ISABELLE (United States official number 600655).

(22) JAJO (Hull identification number R1Z200207H280 and State of Rhode Island registration number 388133).

(23) LADY HAWK (United States official number 961095).

(24) LIV VIKING (Danish registration number A394).

(25) MAGIC CARPET (United States official number 278971).

(26) MARANTHA (United States official number 638787).

(27) OLD HAT (United States official number 508299).

(28) ONRUST (United States official number 515058).

(29) PERSEVERANCE (Serial number 77NS8901).

(30) PRIME TIME (United States official number 660944).

(31) QUIETLY (United States official number 658315).

(32) RESOLUTION (Serial number 77NS8701).

(33) ROYAL AFFAIRE (United States official number 649292).

(34) SARAH-CHRISTEN (United States official number 542195).

(35) SEA MISTRESS (United States official number 696806).

(36) SERENITY (United States official number 1021393).

(37) SHAMROCK V (United States official number 900936).

(38) SHOOTER (United States official number 623333).

(39) SISU (United States official number 293648).

(40) SUNRISE (United States official number 950381).

(41) TOO MUCH FUN (United States official number 936565).

(42) TRIAD (United States official number 988602).

(43) WEST FJORD (Hull identification number X-53-109).

(44) WHY NOT (United States official number 688570).

(45) WOLF GANG II (United States official number 984934).

(46) YES DEAR (United States official number 578550).

(47) 14 former United States Army hovercraft with serial numbers (LACV-30-04, LACV-30-05, LACV-30-07, LACV-30-09, LACV-30-10, LACV-30-13, LACV-30-14, LACV-30-15, LACV-30-16, LACV-30-22, LACV-30-23, LACV-30-24, LACV-30-25, and LACV-30-26.

(b) M/V TWIN DRILL.—Section 601(d) of the Coast Guard Authorization Act of 1993 (Public Law 103-206, 107 Stat. 2445) is amended—

(1) by striking "June 30, 1995" in paragraph (3) and inserting "June 30, 1996"; and

(2) by striking "12 months" in paragraph (4) and inserting "24 months".

(c) CERTIFICATES OF DOCUMENTATION FOR GALLANT LADY.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883, section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and section 12106 of title 46, United States Code, and subject to paragraph (2), the Secretary of Transportation may issue a certificate of documentation with an appropriate endorsement for employment in coastwise trade for each of the following vessels:

(A) GALLANT LADY (Feadship hull number 645, approximately 130 feet in length).

(B) GALLANT LADY (Feadship hull number 651, approximately 172 feet in length).

(2) LIMITATION ON OPERATION.—Coastwise trade authorized under a certificate of documentation issued for a vessel under this section shall be limited to the carriage of passengers in association with contributions to charitable organizations no portion of which is received, directly or indirectly, by the owner of the vessel.

(3) CONDITION.—The Secretary may not issue a certificate of documentation for a vessel under paragraph (1) unless, not later than 90 days after the date of enactment of this Act, the owner of the vessel referred to in paragraph (1)(B) submits to the Secretary a letter expressing the intent of the owner to, before April 1, 1997, enter into a contract for the construction in the United States of a passenger vessel of at least 130 feet in length.

(4) EFFECTIVE DATE OF CERTIFICATES.—A certificate of documentation issued under paragraph (1) shall take effect—

(A) for the vessel referred to in paragraph (1)(A), on the date of the issuance of the certificate; and

(B) for the vessel referred to in paragraph (1)(B), on the date of delivery of the vessel to the owner.

(5) TERMINATION OF EFFECTIVENESS OF CERTIFICATES.—A certificate of documentation issued for a vessel under paragraph (1) shall expire—

(A) on the date of the sale of the vessel by the owner;

(B) on April 1, 1997, if the owner of the vessel referred to in paragraph (1)(B) has not entered into a contract for construction of a vessel in accordance with the letter of intent submitted to the Secretary under paragraph (3); or

(C) on such date as a contract referred to in paragraph (2) is breached, rescinded, or terminated (other than for completion of performance of the contract) by the owner of the vessel referred to in paragraph (1)(B).

(d) CERTIFICATES OF DOCUMENTATION FOR ENCHANTED ISLE AND ENCHANTED SEAS.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Act of June 19, 1886 (46 U.S.C. App. 289), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1156), and any agreement with the United States Government, the Secretary of Transportation may issue certificates of documentation with a coastwise endorsement for the vessels ENCHANTED ISLES (Panamanian official number 14087-84B and ENCHANTED SEAS (Panamanian official number 14064-84D), except that the vessels may not operate between or among islands in the State of Hawaii.

SEC. 1121. VESSEL DEEMED TO BE A RECREATIONAL VESSEL.

The vessel, an approximately 96 meter twin screw motor yacht for which construction commenced in October, 1993, and which has been assigned the builder's number 13583 (to be named the LIMITLESS), is deemed for all purposes, including title 46, United States Code, and all regulations thereunder, to be a recreational vessel of less than 300 gross tons if it does not—

(1) carry cargo or passengers for hire; or

(2) engage in commercial fisheries or oceanographic research.

SEC. 1122. SMALL PASSENGER VESSEL PILOT INSPECTION PROGRAM WITH THE STATE OF MINNESOTA.

(a) IN GENERAL.—The Secretary may enter into an agreement with the State under which the State may inspect small passenger vessels operating in waters of that State designated by the Secretary, if—

(1) the State plan for the inspection of small passenger vessels meets such requirements as the Secretary may require to ensure the safety and operation of such vessels in accordance with the standards that would apply if the Coast Guard were inspecting such vessels; and

(2) the State will provide such information obtained through the inspection program to the Secretary annually in such form and in such detail as the Secretary may require.

(b) FEES.—The Secretary may adjust or waive the user fee imposed under section 3317 or title 46, United States Code, for the inspection of small passenger vessels inspected under the State program.

(c) TERMINATION.—The authority provided by subsection (a) terminates on December 31, 1998.

(d) DEFINITIONS.—For purposes of this section—

(1) SECRETARY.—The term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(2) STATE.—The term "State" means the State of Minnesota.

(3) SMALL PASSENGER VESSEL.—The term "small passenger vessel" means a small passenger vessel (as defined in section 2101(35) of title 46, United States Code) of not more than 40 feet overall in length.

SEC. 1123. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS FISHING.

Section 8103(i)(1) of title 46, Untied States Code, is amended—

(1) by striking "or" in subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(D) an alien allowed to be employed under the immigration laws of the Commonwealth of the Northern Mariana Islands if the vessel is permanently stationed at a port within the Commonwealth and the vessel engaged in the fisheries within the exclusive economic zone surrounding the Commonwealth or another United States territory or possession.".

SEC. 1124. AVAILABILITY OF EXTRAJUDICIAL REMEDIES FOR DEFAULT ON PREFERRED MORTGAGE LIENS ON VESSELS.

(a) Availability of Extrajudicial Remedies.—Section 31325(b) of title 46, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking "mortgage may" and inserting "mortgagee may";

(2) in paragraph (1) by—

(A) striking "perferred" and inserting "preferred"; and

(B) striking "; and" and inserting a semicolon; and

(3) by adding at the end the following:

"(3) enforce the preferred mortgage lien or a claim for the outstanding indebtedness secured by the mortgaged vessel, or both, by exercising any other remedy (including an extrajudicial remedy) against a documented vessel, a vessel for which an application for documentation is filed under chapter 121 of this title, a foreign vessel, or a mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness, if—

"(A) the remedy is allowed under applicable law; and

"(B) the exercise of the remedy will not result in a violation of section 9 or 37 of the Shipping Act, 1916 (46 U.S.C. App. 808, 835).".

(b) Notice.—Section 31325 of title 46, United States Code, is further amended by adding at the end the following:

"(f)(1) Before title to the documented vessel or vessel for which an application for documentation is filed under chapter 121 is transferred by an extrajudicial remedy, the person exercising the remedy shall give notice of the proposed transfer to the Secretary, to the mortgagee of any mortgage on the vessel filed in substantial compliance with section 31321 of this title before notice of the proposed transfer is given to the Secretary, and to any person that recorded a notice of a claim of a undischarged lien on the vessel under section 31343(a) or (d) of this title before notice of the proposed transfer is given to the Secretary.

"(2) Failure to give notice as required by this subsection shall not affect the transfer of title to a vessel. However, the rights of any holder of a maritime lien or a preferred mortgage on the vessel shall not be affected by a transfer of title by an extrajudicial remedy exercised under this section, regardless of whether notice is required by this subsection or given.

"(3) The Secretary shall prescribe regulations establishing the time and manner for providing notice under this subsection.".

(c) Rule of Construction.—The amendments made by subsections (a) and (b) may not be construed to imply that remedies other than judicial remedies were not available before the date of enactment of this section to enforce claims for outstanding indebtedness secured by mortgaged vessels.

Amend the table of sections as follows:

After the item relating to section 207, insert the following:

Sec. 208. Access to National Driver Register information on certain Coast Guard personnel.
Sec. 209. Coast Guard housing authorities.
Sec. 210. Board for correction of military records deadline.

Strike the item relating to section 302 and insert the following:

Sec. 302. Nondisclosure of port security plans.

After the item relating to section 311, insert the following:

Sec. 312. Withholding vessel clearance for violation of certain acts.

After the item relating to section 1010, insert the following:

Sec. 1011. Conveyance of equipment.
Sec. 1012. Property exchange.

Strike "consolidation or" in the time relating to section 1109.

After the item relating to section 1116, insert the following:

Sec. 1117. Use of Canadian oil spill response and recovery vessels.
Sec. 1118. Judicial sale of certain documented vessels to aliens.
Sec. 1119. Improved authority to sell recyclable material.
Sec. 1120. Documentation of certain vessels.
Sec. 1121. Vessel deemed to be a recreational vessel.
Sec. 1122. Small passenger vessel pilot inspection program with the State of Minnesota.
Sec. 1123. Commonwealth of the Northern Mariana Islands fishing.
Sec. 1124. Availability of extrajudicial remedies for default on preferred mortgage liens on vessels.

STEVENS (AND OTHERS) AMENDMENT NO. 3059

Mr. LOTT (for Mr. Stevens, for himself, Mr. Chafee, Mr. Breaux, and Ms. Snowe) proposed an amendment to the bill, S. 1004, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . OFFSHORE FACILITY FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) Amount of Financial Responsibility.—Section 1016(c)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2716(c)(1)) is amended to read as follows:

"(1) In general.——

"(A) Evidence of financial responsibility required.—Except as provided in paragraph (2), a responsible party with respect to an offshore facility that.——

"(i)(I) is located seaward of the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters; or

"(II) is located in inland waters, such as coastal bays or estuaries, seaward of the line of ordinary low water along that portion of the coast that is not in direct contact with the open sea;

"(ii) is used for exploring for, drilling for, or producing oil, or for transporting oil from facilities engaged in oil exploration, drilling, or production; and

"(iii) has a worst-case oil spill discharge potential of more than 1,000 barrels of oil (or a lesser amount if the President determines that the risks posed by such facility justify it),

shall establish and maintain evidence of financial responsibility in the amount required under subparagraph (B) or (C), as applicable.

"(B) Amount required generally.—Except as provided in subparagraph (C), the amount of financial responsibility for offshore facilities that meet the criteria in subparagraph (A) is——

"(i) $35,000,000 for offshore facilities located seaward of the seaward boundary of a State; or

"(ii) $10,000,000 for offshore facilities located landward of the seaward boundary of a State.

"(C) Greater amount.—If the President determines that an amount of financial responsibility for a responsible party greater than the amount required by subparagraphs (B) and (D) is justified by the relative operational, environmental, human health, and other risks posed by the quantity or quality of oil that is explored for, drilled for, produced, stored, handled, transferred, processed or transported by the responsible party, the evidence of financial responsibility required shall be for an amount determined by the President not exceeding $150,000,000.

"(D) Multiple facilities.—In the case in which a person is a responsible party for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the amount applicable to the facility having the greatest financial responsibility requirement under this subsection.

"(E) State jurisdiction.—The requirements of this paragraph shall not apply if an offshore facility located landward of the seaward boundary of a State is required by such State to establish and maintain evidence of financial responsibility in a manner comparable to, and in an amount equal to or greater than, the requirements of this paragraph.

"(F) Definition.—For the purpose of this paragraph, the phrase "seaward boundary of a state" shall mean the boundaries described in section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)).".

KERRY AMENDMENT NO. 3060

Mr. LOTT (for Mr. Kerry) proposed an amendment to the bill, S. 1004, supra; as follows:

At the appropriate place insert the following:

SEC. . DEAUTHORIZATION OF NAVIGATION PROJECT, COHASSET HARBOR, MASSACHUSETTS.

The following portions of the project for navigation, Cohasset Harbor, Massachusetts, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 12), or carried out pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), are deauthorized: A 7-foot deep anchorage and a 6-foot deep anchorage; beginning at site 1, starting at a point N453510.15, E792664.63, thence running south 53 degrees 07 minutes 05.4 seconds west 307.00 feet to a point N453325.90, E792419.07, thence running north 57 degrees 56 minutes 36.8 seconds west 201.00 feet to a point N453432.58, E792248.72, thence running south 88 degrees 57 minutes 25.6 seconds west 50.00 feet to a point N453431.67, E792198.73, thence running north 01 degree 02 minutes 52.3 seconds west 66.71 feet to a point N453498.37, E792197.51, thence running north 69 degrees 12 minutes 52.3 seconds east 332.32 feet to a point N453616.30, E792508.20, thence running south 55 degrees 50 minutes 24.1 seconds east 189.05 feet to point of origin; then site 2, starting at a point, N452886.64, E791287.83, thence running south 00 degrees 00 minutes 00.0 seconds west 56.04 feet to a point, N452830.60, E791287.83, thence running north 90 degrees 00 minutes 00.0 seconds west 101.92 feet to a point, N452830.60, E791185.91, thence running north 52 degrees 12 minutes 49.7 seconds east 89.42 feet to point, N452885.39, E791256.58, thence running north 87 degrees 42 minutes 33.8 seconds east 31.28 feet to point of origin; and site 3, starting at a point, N452261.08, E792040.24, thence running north 89 degrees 07 minutes 19.5 seconds east 118.78 feet to a point, N452262.90, E792159.01, thence running south 43 degrees 39 minutes 06.8 seconds west 40.27 feet to a point, N452233.76, E792131.21, thence running north 74 degrees 33 minutes 29.1 seconds west 99.42 feet to a point, N452258.90, E792040.20, thence running north 01 degree 03 minutes 04.3 seconds east 2.18 feet to point of origin.

Amend the table of sections by inserting at the appropriate place the following:

Sec.——.Deauthorization of navigation project, Cohasset Harbor, Massachusetts.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON THE JUDICIARY

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, November 17, 1995, at 9 a.m. to hold a hearing on H.R. 1833, the Partial-Birth Abortion Ban Act of 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through November 15, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1996 concurrent resolution on the budget (H. Con. Res. 67), show that current level spending is below the budget resolution by $389.4 billion in budget authority and above the budget resolution by $224.8 billion in outlays. Current level is $5.7 billion above the revenue floor in 1996 and $147 billion above the revenue floor over the 5 years 1996–2000. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $20.8 billion, $230.5 billion below the maximum deficit amount for 1996 of $251.3 billion.

Since my last report, dated November 8, 1995, Congress cleared and the President signed the Perishable Agricultural Commodities Act Amendments of 1995 (H.R. 1103). The President has also signed the Energy and Water Development Appropriations Act (H.R. 1905) and the Transportation and Related Agencies Appropriations Act (H.R. 2002). Congress also cleared for the President's signature the Treasury, Postal Service and General Government Appropriations Act (H.R. 2020) and the Alaska Power Administration Sale Act. (S. 395). These actions, and the expiration of continuing resolution authority on November 13, 1995, changed the current level of budget authority and outlays and revenues. In addition, the revenue aggregates have been revised pursuant to section 205(b)(2) of House Concurrent Resolution 67.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 16, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1996 shows the effects of Congressional action on the 1996 budget and is current through November 15, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1996 Concurrent Resolution on the Budget (H. Con. Res. 67). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated November 8, 1995, Congress cleared and the President signed the Perishable Agricultural Commodities Act Amendments of 1995 (H.R. 1103). The President has also signed the Energy and Water Development Appropriations Act (H.R. 1905) and the Transportation and Related Agencies Appropriations Act (H.R. 2002). Congress also cleared for the President's signature the Treasury, Postal Service and General Government Appropriations Act (H.R. 2020) and the Alaska Power Administration Sale Act (S. 395). These actions, and the expiration of continuing resolution authority on November 13, 1995, changed the current level of budget authority, outlays and revenues. In addition, at the request of the Senate Committee on the Budget, the revenue estimates for the concurrent resolution have been revised, pursuant to Section 205(b)(2) of H. Con. Res. 67.

Sincerely,

JUNE E. O'NEILL.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1996, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS NOVEMBER 15, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 67)	Current level [1]	Current level over/ under resolution
ON-BUDGET			
Budget authority	1,285.5	896.1	−389.4
Outlays	1,288.1	1,063.3	−224.8
Revenues: [2]			
1996	1,036.8	1,042.5	5.7
1996–2000	5,543.7	5,690.8	147.0
Deficit	251.3	20.8	−230.5
Debt subject to limit	5,210.7	4,898.9	−311.8
OFF-BUDGET			
Social Security outlays:			
1996	299.4	299.4	0
1996–2000	1,626.5	1,626.5	0
Social Security revenues:			
1996	374.7	374.7	0
1996–2000	2,061.0	2,061.0	0

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The revised revenue aggregate for the Budget Resolution is effective for the purposes of consideration of H.R. 2491, the Balanced Budget Act of 1995.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996 AS OF CLOSE OF BUSINESS NOVEMBER 15, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,042,557
Permanents and other spending legislation	830,272	798,924	
Appropriation legislation		242,052	
Offsetting receipts	(200,017)	(200,017)	
Total previously enacted	630,254	840,958	1,042,557
ENACTED THIS SESSION			
Appropriation bills:			
1995 Rescissions and Department of Defense Emergency Supplementals Act (P.L. 104–6)	(100)	(885)	
1995 Rescissions and Emergency Supplementals for Disaster Assistance	22	(3,149)	
Agriculture (P.L. 104–37)	62,602	45,620	
Energy and Water (H.R. 1905)	19,336	11,502	
Military Construction (P.L. 104–32)	11,177	3,110	
Transportation (H.R. 2002)	12,682	11,899	
Authorization bills:			
Alaska Native Claims Settlement Act (P.L. 104–42)	1	1	
Fishermen's Protective Act Amendments of 1995 (P.L. 104–43)		(*)	
Perishable Agricultural Commodities Act Amendments of 1995 (H.R. 1103)	1	(*)	1
Self-Employed Health Insurance Act (P.L. 104–7)	(18)	(18)	(101)
Total enacted this session	105,704	68,080	(100)
PENDING SIGNATURE			
Appropriations bills:			
Legislative Branch (H.R. 2492)	2,125	1,977	
Treasury, Postal Service, General Government (H.R. 2020)	23,026	20,530	
Authorization bills:			
Alaska Power Administration Sale Act (S. 395)	(20)	(20)	
Total pending signature	25,132	22,488	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	135,049	131,736	
Total Current Level [1]	896,139	1,063,262	1,042,457
Total Budget Resolution	1,285,500	1,288,100	1,036,780
Amount remaining:			
Under Budget Resolution	389,361	224,838	

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996 AS OF CLOSE OF BUSINESS NOVEMBER 15, 1995—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Over Budget Resolution	....	....	5,677

* Less than $500,000.

[1] In accordance with the Budget Enforcement Act, the total does not include $3,400 million in budget authority and $1,590 million in outlays for funding of emergencies that have been designated as such by the President and the Congress.

Notes: Detail may not add due to rounding. Numbers in parentheses are negative.•

HOUSE GIFT BAN ACTION

• Mr. FEINGOLD. Mr. President, I want to take a few moments to comment on what happened last night in the other body with respect to the issue of banning gifts to Members of Congress.

As my colleagues will recall, we had a very spirited and very contentious debate on this issue just a few short months ago. We started with a proposal from the previous Congress, which would have banned gifts and meals from lobbyists and allowed some gifts from non-lobbyists.

As a counterproposal, the distinguished Senator from Kentucky [Mr. McCONNELL] offered a set of rules on gifts, that most of us recognized as being not much of a reform effort. That proposal, in fact, would have allowed a Senator to accept an unlimited number of gifts under $100. By my math, if a Senator accepted a $100 gift from a single lobbyist every day of the year, that proposal would have allowed a Senator to accept $36,500 worth of gifts, at least, from a single lobbyist.

Recognizing how far apart the two sides were, my friend, the distinguished Senator from Arizona [Mr. McCAIN] stepped forward with a thoughtful compromise, which essentially applied the executive branch gift rules to the U.S. Senate. The Senator from Arizona argued that what was good for the Secretary of State was good for a U.S. Senator, and of course, he was right.

After much good-faith negotiating, we ended up with a set of new gift rules that passed this body by a vote of 98 to nothing. It was a tough, fair and bipartisan compromise. Those new rules, effective this January 1, will do the following:

First, Senators will be prohibited from accepting any gift with a value of more than $50. Moreover, Senators may not accept from any single source—lobbyists or non-lobbyists—more than $100 total in gifts under $50. Gifts under $10 will not count towards this $100 annual cap. We have also banned all travel that is substantially recreational in nature, including these so-called charity trips that often double as expense-paid vacations for Members and their spouses.

But the key, Mr. President, to what we did in July, was that for the first time there is an aggregate cap on how many gifts Senators can accept from a single source. They cannot accept $36,500 in gifts from a single lobbyist and they cannot be wined and dined by the same lobbyist more than a couple times a year.

Last night, I am pleased to report, the House of Representatives took on the issue of banning gifts, and successfully passed legislation that on a strong bipartisan vote that will essentially ban gifts to Members of the House.

Interestingly, the debate in the House was not all that different to the debate we had here in the Senate. The House began with the Senate-passed language—that was the underlying language. But much like what happened here in the Senate, there was an effort by the Gentleman from Indiana [Mr. BURTON] to gut the Senate-passed language and merely provide for phantom reform.

Had the Burton amendment passed, the House would have passed something that its supporters would have liked to have called a gift ban, but what in reality would have been an enshrinement of the outrageous degree of gift giving that takes place in this city.

Current House rules allow Members to accept up to $250 worth of gifts from a single source. However, gifts under $100 do not count against that aggregate limit. The Burton amendment would have continued the current $250 cap, but would have now stated that gifts under $50 would not count against the cap.

So instead of being allowed to accept at least $36,500 worth of gifts from a single lobbyist per year, a Member could have accepted at least $18,250 worth of gifts from a single lobbyist per year. For the proponents of the Burton amendment, that was their idea of reform.

It would have said to the American people that it is perfectly acceptable for Members of the House to accept an unlimited number of gifts from lobbyists. Thankfully, Mr. President, the Burton amendment met the same fate as the original McConnell proposal. The Burton amendment was, in fact, obliterated on the House floor by a vote of 276–154.

Republicans and Democrats alike in the House stood up and said that they were not going to continue the status quo, they were not going to snub their noses at the American people, and they were going to finally give the American people the kind of gift reform they have been asking for some time now.

The House, in fact, went on to pass a watertight gift ban, one very similar to the rule of the Wisconsin State Legislature which essentially prohibits legislators from accepting anything of value. By an overwhelming bipartisan vote of 422–6, the House passed a new gift rule that is essentially a zero-tolerance rule. It prohibits the acceptance of free gifts, meals and recreational trips.

There is no $10 de minimis. There is no $50 limit on single gifts and there is no $100 limit on aggregate gifts. The House, beginning January 1, will simply prohibit the acceptance of any gifts, other than those of little intrinsic value.

For 20 years, Mr. President, the Wisconsin State Legislature has lived under such a zero-tolerance policy and has achieved a national reputation for its sense of ethics and integrity government. Since I came to the U.S. Senate, my office has lived under these Wisconsin rules, and we have essentially created a gift-free zone in our Senate office building. It has been our experience that it is not all that difficult to say "no thanks" to the lobbyists.

Though long overdue, this represents another step on the road to meaningful reform of our political process, and I offer my strongest praise and commendation for the actions taken by our colleagues in the House last night.

As I have said countless times since I first set foot in Washington nearly 3 years ago, it is my preference that the Senate also abide by these Wisconsin-style rules. No gifts, no trips, no free meals. Those are the rules my office lives by and those are the rules that the Wisconsin Legislature has had in place for 20 years.

If the Senate rules can one day be changed so we are on equal ground with the House, I will be the first to stand up and fight for such a change. But the Senate rules are tough, they are fair, and they will have a profound impact on changing the culture of special interest influence that has pervaded this institution for so many years.

I want to briefly acknowledge some of my colleagues in the other body, from both sides of the aisle, who fought the good fight and were instrumental in the House's successful effort. I want to thank Congressman JOHN BRYANT for his longstanding leadership on this issue, as well as Representatives CHRIS SHAYS and TOM BARRETT, who recognized how important bipartisan cooperation and compromise is to this process.

Mr. President, the fight to reform the ways of Washington is far from over. The gift ban is just the first skirmish. We will insist on passage of lobbying reform legislation. We will insist that the Congress take up legislation to shut down the revolving door between public service and special access lobbying. And most important, we will insist that the Congress take up meaningful and comprehensive campaign finance reform.

Like the gift rules that have now passed both the House and Senate, none of these efforts will be successful without bipartisan leadership. Reforming this institution, and working to restore the faith and trust of the American people should not be a partisan issue. It does not make you a good Democrat, or a good Republican—it simply makes you a good American.•

TIME TO BALANCE THE BUDGET

• Mr. KYL. Mr. President, I made a pledge to the people of my State last year that I would fight hard in the U.S. Senate to limit Government spending, reduce taxes, and cut the size of Government. I did not say that just to get elected. I did not say it just to compromise once I got to Washington. I meant what I said.

Mr. President, our Government has been spending the Nation into bankruptcy. It has been taxing our people into mediocrity. By trying to do too much for all of us, it has—in the words of former Education Secretary Bill Bennett, "created inefficiency, sapped individual responsibility, and intruded on personal liberty."

The people of Arizona—the people of the United States—did not send us here to split the difference with the President when it comes to limiting spending, cutting taxes, or balancing the budget. In fact, they tossed out the Members of Congress whose only solution was the President's solution: to tax more, spend more, and expand Government. They did not send us here for more of the same.

The American people sent us here to make the difficult decisions to put our Nation's fiscal house in order, and they expect us to do it. As of this morning, calls and faxes to my office were running 10-to-1 in support of our staying the course. The great majority know this is crunch time; that it is no time for weak knees and hand-wringing.

Mr. President, this is the fourth day of the Government's partial shutdown, and do you know what? The sky has not fallen. The economy has not collapsed. People have not stopped sending their kids to school, volunteering in their communities, or doing their part to clean up the environment. I suspect that many people haven't even noticed that the Government has been shut down.

Now I know the shutdown has caused hardship and anxiety for many Federal employees. We did not ask for that to happen. Congress passed legislation earlier this week to keep them on the job and keep them paid. The President vetoed that bill and sent them home.

We passed a second bill yesterday to try to get Federal employees back to work—to process Social Security claims and VA widows' benefits, to pay our military, and fund educational and environmental clean-up activities. The bill will ensure that these employees are paid before the holidays, but the President has said that he will veto it, too. In fact, President Clinton is threatening to keep parts of the Government shut down, "even if it is 90 days, 120 days or 180 days." Talk about blackmail: it is the President who is holding the Government hostage until Congress gives him more of the American people's money to spend.

If President Clinton is so bound and determined to prolong this suspension, maybe we should ask ourselves why he thinks he can get away with it. The President's own Office of Management and Budget has determined that 67 percent of the Commerce Department's staff was "non-essential" and sent them home. OMB determined that 99 percent—that is right, 99 percent—of the staff at the Department of Housing and Urban Development was non-essential. It determined that 89 percent of the Education Department's staff was non-essential. That is according to President Clinton's own Office of Management and Budget.

If the President makes good on his pledge to keep the Government shut down for 90 to 180 days, I guess the Nation will have a chance to see if he is right that the great majority of his own Commerce, HUD and Education workers are non-essential. Maybe we do not need all of those people after all. Maybe the President is on to something. We will have a chance to examine that later.

Mr. President, what can it be, though, that the administration objects to in the latest spending? President Clinton said he would accept no riders. There are none in this bill. There is nothing in here about tax cuts, nothing about Medicare, nothing about the environment. This is a clean bill that represents a good-faith effort to get Government operating in the short term. Yet, he still says he will veto it.

I will tell you this, Mr. President. For me, this measure represents my bottom line. In return for giving President Clinton the money to reopen the Government, we are asking for one simple thing: for the President to commit to a balanced budget in 7 years using real numbers.

That should be easy. It is something he says he wants anyway. Just Tuesday of this week, he said: "Let me be clear: we must balance the budget."

In 1992, he pledged to balance the budget in just 5 years. Since then, he has said he could support a plan to balance the budget in 10 years, 9 years, 8 years and 7. So, if he really means what he says, he should be able to support a balanced budget in 7 years, as we are proposing.

In his State of the Union message in 1993, he promised to judge the scope of the problem by the very same criteria that Congress uses, so that together we can find viable solutions. Here is what he told the American people on February 17, 1993 in his State of the Union message:

> Well, you can laugh, my fellow Republicans, but I will point out that the Congressional Budget Office was normally more conservative in what was going to happen and closer to right than previous presidents have been.

He went on to say:

> In the last 12 years, because there were differences over the revenue estimates, you and I know that both parties were given greater elbow room for irresponsibility. This [that is, using CBO numbers] is tightening the rein on the Democrats as well as the Republicans. Let us at least argue about the same set of numbers so the American people will think we are shooting straight with them.

I hope the President will remember his words and how important it is to use credible numbers to get to a balanced budget. It is important because, according to a recent Wall Street Journal report, his own Treasury Department just "tweaked" its economic forecasts to show $475 billion more in Government revenue by the year 2000.

Mr. President, tweaks will not get us to a balanced budget. That is the same irresponsible approach that has kept the deficit in the range of $200 billion for so many years. And it is why the Congressional Budget Office projects that President Clinton's so-called "balanced budget", a budget the Senate unanimously rejected on two separate occasions this year—will result in $200 billion deficits for the foreseeable future. Let me say that again, President Clinton's budget did not get the vote of any Senator, even from his own party.

Even our Democrat colleague from North Dakota, Senator DORGAN, candidly said in this Chamber on October 24 that: "The President did not propose a budget that calls for a balanced budget." So, there is nothing partisan in recognizing that President Clinton has never proposed—never sent to Congress—the balanced budget he claims he wants.

Two days ago, President Clinton appeared on a news program and talked about how he would veto the balanced budget because he knows what is best for the country. Well, that is the problem, Mr. President. The American people do not want Washington—they do not trust Washington—to decide what is best for them. In a poll just conducted by the Behavior Research Center in Arizona, 58 percent of people said that they put their trust in the people of their own communities. Only 10 percent indicated their confidence in the Federal Government.

The American people know what is best for them. They do not need a national nanny in the White House to make every decision for them—to decide how to spend the money they work hard to earn. This balanced budget is about empowering American families to make their own decisions about how to lead their lives and make their communities better places.

A balanced budget will save the average family of four an estimated $2,791 per year. It means lower mortgage payments, less money paid out on car loans and student loans. It means more jobs. It means that our children and grandchildren will have an opportunity to do more than just work hard to pay the interest on the debt we are accumulating today.

So this is the bottom line. I supported this latest short-term spending bill. But I will not support any further stop-gap measures that do not, at a minimum, commit to a balanced budget in 7 years using real numbers.

We can compromise on how to get there, but I will not compromise on the fundamental principle of a balanced budget. The Nation's economic security is too important to delay any more.

LA COLLINE RESTAURANT

• Mr. HEFLIN. Mr. President, for several years, La Colline restaurant has been designated by Washingtonian magazine as one of the area's best eating establishments. To those of us on Capitol Hill, it has become somewhat of an institution.

Last month, the magazine Report on Business designated our own La Colline as one of the world's 20 best restaurants for business, reflecting a national, even international, following.

On behalf of the Senate, I congratulate my friends at La Colline for receiving this honor, and ask that the Report on Business article on La Colline be printed in the RECORD.

The article follows:

[From Report on Business, October 1995]

"I KNOW A PLACE"

The largest media merger in U.S. history was set in motion by a chat, over dinner, between Disney chairman Michael Eisner and Capital Cities chairman Thomas Murphy. It's not important that we know exactly what the two men ate, or whether the chef is now entertaining bids for the movie rights to the menu. What's important is that $19 billion (U.S.) eventually changed hands because something about the style, the personality, the rightness of the setting allowed two executives to get friendly over food. No one says the outcome of a working lunch hinges on the amount of lemongrass deployed in the scallop ravioli. But when you're dealing while you dine, selecting the right restaurant matters. At home, you know what works, which place fits the tenor and times of your business. You may even know the name of the maitre d', and so you get the right table, and Marco brings the S. Pellegrino with lime without you even having to ask. When you're out in the world, on someone else's turf, selecting the ideal spot for Tuesday's get-to-know-session gets trickier. One wants to be au courant (nothing could be deadlier than appearing drastically out of date), but one wants not to be brushing chairs with the latest grunge music phenoms. Once you sit down, applying the rules that work at home can be disastrous—every city's corporate style is different. Many Atlantans like to brandish a smoking stogie the first chance they get. Try that in Toronto and waiters will pull back your thumbs until you cry. To help you avoid the pitfalls among the profiteroles, we've enlisted writers familiar with the current attitudes and idiosyncracies of the corporate communities in 18 of the world's most important cities. Their job: To find the restaurants that work best, because they reflect the times and tastes of the places where Canadians go to do business. The only safer choice is not even an option, because when the firm wants you out there, you can't order in.

LA COLLINE

(By Colin MacKenzie)

In Washington restaurants of a certain pretension, there is a practice that is as unnerving as it is universal. As each new patron arrives in the dining room, eyes rise, flick across the newcomer, and return to the conservation at hand. If you're Newt Gingrich, the lunch-hour chatter will stop. But since you're not, it won't.

This rite of tribal life in status-obsessed Washington, D.C., has been taking place for more than 13 years at La Colline, the definitive establishment restaurant on Capitol Hill. Two blocks of lawn from the senate side of the Capitol Building, La Colline is one of the closest restaurants to the legislative centre. Under the guidance of co-owner and executive chef Robert Gréault, La Colline has kept its large green-carpeted dining room filled by sticking to the Escoffier basics in a town that, whatever the politics of the moment, remains a bastion of cultural conservatism. It was (modestly) revolutionary last year when Gréault decided to institute seasonal menus. But regulars—lobbists, lawyers and other congressional congregants—didn't have to worry. Along with such new arrivals as blackened tuna and a few pasta dishes, survive the old standbys: vichyssoise, lobster bisque, steak and fries, medallions of pork and eggs Benedict.

Because Washingtonians tend to work through dinner, lunch is when to join the local crowd. You have to be fast, though. The efficient and attentive service is designed to meet the Washington rule of the 45-minute lunch. Like the restaurant, the wine list is conventional and not exorbitantly priced. If, however, you wish to emulate the denizens, iced tea or sparkling water are your drink of choice.•

DESPITE LEGAL ISSUES, VIRTUAL DICE ARE ROLLING

• Mr. LUGAR. Mr. President, I ask that the following article be printed in the RECORD.

[From USA Today, Nov. 17, 1995]

DESPITE LEGAL ISSUES, VIRTUAL DICE ARE ROLLING

(By Linda Kanamine)

Forget Las Vegas. Skip Atlantic City.

In an instant, on-line card games, slots, roulette, keno, craps and sports betting could be available to everyone with a computer and a phone.

Everyone is ready—the games, the virtual casinos, even a new way to pay.

Billions of dollars are riding on just one more thing, the government's OK.

But so far, law officials are saying "No dice." The technology may be fine, but there's no protection for bettors.

"People are literally being asked to send money to somebody 4,000 miles away, who is not regulated and not controlled," says Minnesota Deputy Attorney General Tom Pursell. "Just give him your credit card number and trust him to tell you when you've won. Now, what's wrong with this picture?"

Even as law enforcement balks at virtual casinos, the vast, unregulated Internet computer network has about 200 gambling-related sites.

While most are how-to-play tutorials or ads for future games, a handful are defiantly taking wagers.

"The vice watchers are really taking a look at this," says Jeff Frentzen, who follows Internet trends for PC Week magazine. "The Internet is insecure. It's become a major hot-button issue and there will be many attempts to put controls on it."

But how to control it?

Upstart operators already are in business in the Caribbean and Liechtenstein as they capitalize on the appeal of gaming.

Players, propelled by a new electronic cash system that replaces credit cards, already can click their computer mice on a handful of on-line sites and place their bets.

Most of those still look like a kid's video game. Blackjack? Your cards come up under the dealers' hand, you choose "hit" or "stay," the computer adds up your cards for you. Roulette? The wheel turns on screen as you click your "red" or "black," "even" or "odd" numbers.

Some are clearly adults-only. Sex World, for instance, features topless female dealers.

Still, it's hardly the $10 billion bonanza that gambling afficionados predicted would explode across the Internet six months ago. Gambling enthusiasts remain worried about ripoffs.

The first court challenge comes in December when Minnesota Attorney General Hubert "Skip" Humphrey Jr. tries to stop Las Vegas-based Granite Gate Resorts Inc. from offering on-line gambling.

Humphrey says simply advertising a future service is consumer fraud because federal and state laws bar betting over communications wires or with credit cards.

"We're trying to raise the issue before the cat's out of the bag with this," says Pursell, his deputy. "This sets a precedent on dealing with the Internet in general."

Policing computer users could ultimately affect cyberspace, from chat rooms and shopping to pornography and, of course, gambling. But blocking computer gambling may be tougher than hitting a royal flush.

A recent study found nearly 37 million people in the USA and Canada now have access to the Internet.

And polls have found at least 65% of adults have gambled, from lotteries and office pools to illegal sports bets. Wagering on legal games (casinos, lotteries and racetracks) has skyrocketed from $17 billion in 1976 to $480 billion last year and more than $500 billion this year.

Last month, St. Louis' Mark Twain Bank opened the first electronic-cash accounts. The bank turns account dollars into e-cash credits, which the customer spends on-line. The customer sends an encrypted code to the bank, which approves the payment.

"I absolutely believe there will be billion-dollar companies 10 years from now doing interactive gambling," says Colleen Anderson, president of IWN Inc. in Carlsbad, Calif., which develops interactive gambling programs.

"The potential is phenomenal. But we've got big hurdles to get over, like the regulations to say it's legal," she adds.

Meanwhile, entrepreneurs have headed offshore to take advantage of lax regulations abroad and the distance from U.S. law enforcement officials.

Many, like 34-year-old Toronto businessman Warren Eugene, are betting that U.S. agents will be too busy to bother with at-home gamblers.

His Internet Casinos is run from the Caribbean islands of Turks and Caicos. Click onto the site's home page and an eye-patched pirate runs a hand through coins and jewels overflowing a treasure chest at this "Caribbean Casino."

Registered players with passwords choose from 18 games, including Asian favorites, and casino themes ranging from the cowboys-in-leather West World to the topless Sex World.

In five months, he claims 25,000 have registered to play; 2,800 from Canada, Europe and especially Asia bet regularly. Casino jackpots have paid up to $1,400 and a football bet "well over $100,000."

With 22% of the gross going to the company—far higher than Las Vegas casinos, which hold about 8%—and no sizeable overhead costs, Eugene predicts "huge, huge, huge profits, almost obscene profits."

He says he doesn't accept U.S. gamblers unless they have an offshore bank account and even warns Americans on the home page to stay away.

There's no such warning on one of the newest gambling sites, a weekly Lotto run by the government of tiny Liechtenstein. Launched Oct. 7, it promises a minimum weekly jackpot of $1 million.

Justice Department officials concede gambling isn't a top priority. "The Internet, we have no set policy," says spokesman John Russell. "It's a very exciting time to be in law enforcement looking at these issues. The scope is so obviously huge."

Yet most law enforcement agents insist that gambling is so stigmatized by links with organized crime, scandals and fraud that it must be regulated.

Critics say virtual casinos will increased debt and social angst. "People will get involved over their heads," says Ed Looney of the Council on Compulsive Gambling in New Jersey.

"On-line hits a bunch of people who are the shut-ins, who will now have access to a casino," he says.

And many will be underage wagering behind the anonymity of a modem and their parents' credit cards.

So where is all this going?

"There isn't a lot of activity yet. I think there's a wait-and-see attitude while the martyrs go out and . . . make the mistakes," says PC Week's Frentzen. "The Internet is a free system. It was never intended to be used for commercial purposes. The biggest hurdle will be consumer confidence, is this safe?"•

WALTER J. BROWN: A TRUE FRIEND

• Mr. HOLLINGS. Mr. President, it is with great sadness that I rise today to pay tribute to one of my dearest friends, Walter J. Brown of Spartanburg, who passed away this morning at the age of 92. My personal sense of loss is compounded as the city of Spartanburg and the entire State of South Carolina also will miss Walter's warmth, service, generosity, and integrity.

Mr. President, Walter Brown was a pioneer in television and the communications industry in South Carolina. As founder in 1940 of the Spartan Radiocasting Co., now Spartan Communications, Inc., Walter built WSPA into a broadcasting powerhouse. His WSPA-AM was South Carolina's first radio station. Similarly, WSPA-FM was the State's first FM station and the first to broadcast in stereo in the Southeast.

But Walter Brown's crowning achievement is how he built WSPA-TV into a CBS stronghold in the Piedmont area. First on the air in 1956, WSPA-TV is known throughout South Carolina and the South as a premier broadcaster that reports the news, but also works to better the community.

Mr. President, Walter Brown was born in Bowman, GA. He was educated at Georgia Tech and the University of Georgia's Henry W. Grady School of Journalism. After managing his own news bureau in Washington, DC, he moved to Spartanburg to continue his career in journalism.

During World War II, Mr. Brown returned to Washington to serve as a special assistant to James F. Byrnes—before and during the times when he was Secretary of State. Later, after he had returned to Spartanburg, he wrote a book that remembered all that Senator Byrnes had done for the Nation.

Mr. President, in the years since I was Lieutenant Governor in the 1950s, Walter Brown was my close friend and adviser. I will miss the wise counsel that Walter provided—not only politically but on the full range of communications issues. He was fair, insightful, and visionary. Our loss is the Nation's loss.

Mr. President, as we mourn the loss of Walter Brown, let's remember how he made South Carolina a better place. Our prayers are with his family during this difficult time.•

STAMPING OUT THE LITTLE GUYS

Mr. SIMON. Mr. President, Victor Navasky, publisher of the Nation and many years ago an aide to Senator Ed Muskie, recently had an item in the Washington Post that we ought to be paying attention to; and I hope the Postal Rate Commission will look at carefully.

What the Postal Service should be doing is encouraging the free flow of ideas.

We talk about the melting pot strength of America sometimes as if it were a breeding process. The Italians marry the Germans and the Germans marry the Chinese and so forth. In fact the melting pot strength of America is the cross-fertilization of ideas. And anything that weakens that flow of ideas weakens America.

Journals like the Nation and their counterparts on the conservative side render a huge public service.

It is of interest to me to note that as you look at the rise in the rate of delivering packages containing everything from diapers to cashews, the increase in the rate of growth of sending these through the Postal Service has not been as great as the increase in sending ideas through the mail.

Frankly, Federal Express and United Postal Service and all their counterparts can deliver diapers and cashews just as well as the postal service. But the Postal Service provides the ideas that are important to the Nation.

One other item that I frankly was not aware of until I read Victor Navasky's column op-ed piece was that "periodicals heavy in editorial content * * * will for the first time be charged postage by the mile."

If that is accurate, and I am asking my staff to check that out right now, that is a great disservice. People in Alaska or Hawaii or the remotest U.S. territory should have the opportunity for ideas as much as people that live in Chicago or New York City or Washington, DC.

I ask that the Victor Navasky op-ed piece be printed in the RECORD and I urge my colleagues to read it.

The material follows:

STAMPING OUT THE LITTLE GUYS—DON'T LET POSTAL RATE REFORM CRUSH US SMALL OPINION MAGAZINES

(By Victor Navasky)

The Founding Fathers saw the circulation of opinion and intelligence as a condition of self-governance, and a postal service as the circulatory system of democracy. That is why, among other reasons, Benjamin Franklin agreed to serve as postmaster general. That is why Thomas Jefferson sought to persuade President Washington to appoint Thomas Paine as postmaster general. That is why Washington himself believed that all newspapers—which in those days were frequently partisan, radical and rabblerousing—should be delivered free of charge.

And that is why (not to put myself in such illustrious company) I agreed to add my two pence to the 17,000 pages of testimony accumulated by the Postal Rate Commission, which is considering a proposal that would undermine the postal principle deemed by the Founding Fathers to be essential to the enlightenment of the Republic. Namely, preferential treatment for carriers of information and opinion.

While we have heard too much about how Time Warner's rap records have contributed to the degradation of public discourse, we have heard too little about how lawyer-lobbyists for Time Warner and Dow Jones are pushing a proposed postal "reform." Its main consequence would be to reward advertising-crammed mass magazines and newspapers and penalize small periodicals. It would especially hurt those with the highest percentage of editorial content, such as the journal of opinion whose financially precarious business it is to carry on the policy debate that democracy requires. To German philosopher Juergen Habermas, such journals are house organs to the public sphere and their role is nothing less than "to set the standard for reasoned argumentation."

One would have thought that the Magazine Publishers of America, which in theory represents all magazines large and small, would sound the alarm. But no, that job has been left to the American Business Press, which represents mostly smaller publications. Whether or not it is because a minority of its members, including Time Warner, pay a majority of its dues, MPA, along with the Postal Service, has been aggressively promoting a reclassification scheme whose consequence will be a de facto transfer of expense from magazines with a circulation in the millions, like People, to magazines with comparatively small circulations, among them the Nation.

On the surface, the reclassification proposal makes free-market sense. The plan would divide what is now second-class mail into two sub-classes and reward those periodicals that save the Postal Service sorting time and shipping costs by giving them a lower rate. The catch, however, is that for the most part, only the nation's largest magazines will qualify for the lower rate. Periodicals that do not have 24 or more subscribers in 90 percent of the relevant ZIP codes need not apply. Magazines too small to print regional editions and hire private trucks to deliver them to regional post offices will suffer. So will periodicals heavy in editorial content (which will for the first time be charged postage by the mile, reversing nearly two centuries of postal policy favoring editorial content over advertising). And so too will those without the technology to do what is quaintly known as "pre-sortation" (sorting in advance by ZIP code, which the Nation does but some of our smaller siblings can't).

Time Warner and other biggies will save millions on their postal rates; journals of opinion and most magazines with circulations under 100,000 will pay at least 17 percent more. No wonder, then, that the Postal Rate Commission's own Office of the Consumer Advocate denounced the plan because it would offer "deeper discounts only to the largest and most technologically sophisticated mailers."

So the Postal Service would turn the historic mission of second-class mail on its head. Until now, the independent Postal Rate Commission has barred the door against those who would drive the public-interest factor out of the rate-making process. It would be a tragedy if, at a time of unprecedented media concentration, one of the few remaining institutions dedicated to the propagation, circulation and testing of new policy ideas—the journal of opinion—were the casualty of lobbying by the very forces making it more important than ever that the independent voice be heard—whether the Nation, the New Republic or the new Weekly Standard.

The Postal Service is chartered as a public service and, as economist Robert Nathan testified on behalf of the American Business Press, it cannot and should not adopt, "in the guise of abstract economics, the profit-maximizing strategies of private enterprise."

In September, Loren Smith, "chief marketing officer" of the Postal Service, sent a form letter extolling the reform proposals on cost-saving grounds, conceding that some magazines would get hit with higher costs but suggesting that even these might achieve savings through "co-mailing."

Thus, when I appeared before the Postal Rate Commission in October to make the case I have outlined above, I was not surprised to be asked why the Nation couldn't qualify for the lower rate category either by co-mailing with other weeklies (time and logistics would make that impractical) or by cutting isolated subscribers from our rolls (business and social policy considerations would make that invidious).

What I didn't expect was to be cross-examined (on colonial history, yet) by counsel from both Time Warner and Dow Jones. They made much of the fact that in the 1790s Congress had singled out newspapers but not magazines for preferred treatment. That is a neat debater's point, but as historian Donald Stewart has documented, by far the greatest number of newspapers in those days were weeklies, the line between newspapers and magazines was murky at best (both were called journals), and the highly partisan colonial press was the equivalent of today's journal of opinion.

When asked, inter alia, the source for my assertion that Jefferson had nominated Paine for postmaster general, I happily cited a Jan. 31, 1974, editorial commentary by Arthur Schlesinger Jr. from the Wall Street Journal's editorial page. This perhaps is what prompted counsel to ask, in the three-and-a-half-hour colloquy's most esoteric query: Could I name any job from which citizen Paine had not been fired? I thought the question a non sequitur, but it did occur to me that these too are times that try men's souls.

CLARIFICATION OF VA AUTHORITY

• Mr. ROCKEFELLER. Mr. President, earlier this week, I heard the Senator from Texas [Mrs. HUTCHISON], both on the floor and elsewhere, express her view that VA has existing authority to pay veterans' benefits during this time of the shutdown of the Federal Government. In some of those statements, she indicated that she had received legal opinions, including from the Congressional Research Service, which supported this position.

Because I was vitally interested in this issue, I asked Veterans' Affairs Committee staff to acquire copies of these opinions and advise me of their content. Initial inquiries found that CRS had not issued any opinion on this issue. However, today, an opinion, authored by Morton Rosenberg, Specialist in American Public Law in the American Law Division of CRS, was issued. In the most relevant passage, the opinion states—

> Veterans' benefits are entitlements, but since they are entitlements that require annual appropriations, the absence of spending authority, either through an appropriations measure or a continuing resolution, appears to preclude the scheduled payments by VA or by the Treasury Department through the tapping of a trust fund.

This certainly seems clear to me and should resolve any lingering confusion over VA's authority to pay benefits during this period when there is no appropriation in effect.

Mr. President, I ask that the full text of the opinion be printed in the RECORD.

The material follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, November 17, 1995.

Subject: Necessity of Appropriations Legislation to Pay Compensation and Pension Benefits By The Department of Veterans' Affairs on December 1, 1995.

Author: Morton Rosenberg, Specialist in American Public Law.

The Department of Veterans Affairs (VA) has advised that if a continuing resolution is not enacted into law by November 22, 1995, compensation and benefit checks scheduled to be mailed on December 1 would be delayed. Two questions are raised. First, are veterans' compensation and premium benefits entitlements? Second, if they are entitlements, isn't the government obligated to pay them on time, even if appropriations for the payments have not been passed, such as by tapping the civil service retirement fund?

Veterans' benefits are entitlements, but since they are entitlements that require annual appropriations, the absence of spending authority, either through an appropriations measure or a continuing resolution, appears to preclude the scheduled payments by VA or by the Treasury Department through the tapping of a trust fund.

Both the Constitution and federal statutory law place specific limits on what government entities may do in the absence of appropriated funds. The Constitution prohibits the withdrawal of any money from the Treasury "but in Consequence of Appropriations made by the Law," U.S. Constit. art. I, sec. 9, cl. 7. By the terms of this clause, government entities may continue to obligate funds during a temporary lapse in appropriations, but they may not pay out any monies. This gap has been closed by the Antideficiency Act which prohibits the obligation of funds under such circumstances. Under that Act, it is a crime for an official or employee of the United States Government or of the District of Columbia to make expenditures in excess of appropriations or involve the Government "in a contract or obligation for the payment of money before an appropriation is made unless authorized by law." 31 U.S.C. 1341(a)(1) (1988). The Act also prohibits any officer from accepting "voluntary services," or "employ[ing] personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of Property". 31 U.S.C. 1342. The exceptions clause was amended in 1990 to specifically preclude "ongoing, regular functions of the government the suspension of which would not imminently threaten the safety of human life or the protection of property." *Id.* Thus on its face the Act appears to leave little room for the continuance of most government functions in advance of appropriations.

It is clear that veterans' compensation and pension benefits are "entitlements". *See, e.g.,* 38 U.S.C. 310. However, there are two types of entitlements: (1) Those that have permanent appropriations contained in authorizing legislation. These do not require funding through annual appropriation acts. The leading example is social security legislation and its trust funds mechanism. See 42 U.S.C. 401. (2) Also, there are those entitlements authorized in basic legislation for which funding is provided in annual appropriations acts. Veterans' compensation and pension benefits fall within this latter category. See Departments of Veterans' Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Pub. L. 103-327. As a consequence, the congressional failure to enact an annual appropriation act or a further continuing resolution constrains the VA's authority to spend, both with respect to the benefits themselves and the personnel necessary to administer the programs. VA therefore appears to be acting within the parameters of the Department of Justice and Office of Management and Budget guidelines for funding lapses. There are no "no-year or multi-year or other funds available". However, if funding legislation is passed, even after November 22, VA would then be properly authorized to issue checks and personnel necessary to issue them would be available.

The coincidence of the current debt limit situation provides no additional option for payment of the benefits. Reaching the debt limit and the failure to provide appropriations are distinctly different problems that are accompanied by different consequences and solutions. By law the total amount of government debt that may be outstanding is limited to $4.9 trillion. 31 U.S.C. 3101(b). When that limit is reached, if Congress has not increased it, the government must rely on taxes and miscellaneous receipts such as loan deposits and fees to replenish its operating balances. In essence, it must go on a cash basis. The statutory debt ceiling, therefore, limits the *ability* of government agencies to exercise spending authority that they have received in a appropriations measure because the Treasury will, at some point, not take in sufficient receipts to pay for all appropriated actions.

In contrast, a funding lapse involves the *authority* of agencies to spend money. Thus appropriations lapses and reaching the debt ceiling limit present distinct budgetary and legal issues for VA. The Department's decision to delay payments rests upon its lack of spending authority in the first place. There is no question of inability to pay. Indeed, in the absence of appropriations we are not aware of any legal basis for making the benefits payments by tapping, for instance, the civil service retirement fund for such an *unfunded* purpose. Stated differently, the lack of VA spending authority leaves Treasury without any apparent legal authority to use retirement trust fund resources or any other available monies for activities which have not been authorized "in Consequence of Appropriations made by the Law". What the Treasury is doing now is paying obligations that have come due either by using current revenues or by tapping the civil service retirement fund or the G fund, as authorized by statutes governing those funds. These obligations—unlike the VA entitlements—arise from activities for which appropriations have been enacted.●

UNANIMOUS-CONSENT REQUEST—H.R. 2127

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2127, the Labor-HHS appropriations bill, and that the language on page 21, lines 3 to 10, relating to striker replacement, be stricken; that all other committee amendments be agreed to en bloc; that the bill be read a third time and passed; and that the motion to reconsider be laid upon the table, with the above occurring without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Mr. President, I object to that at this point.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I will not take much time. I knew that would be objected to. I just want to say we had hot lined this on our side and hot lined it on the Republican side.

I just want the RECORD to show that there are no objections to this unanimous consent request on the Democratic side.

I will also state for the RECORD, I repeat from the RECORD of September 29, 1995, in a colloquy among this Senator, Senator SPECTER and Senator DOLE, the majority leader, when we tried to bring up the Labor-HHS appropriations bill.

Senator DOLE, the Senate majority leader, said and I quote from the RECORD of September 29, 1995:

> I agree with the Senator from Pennsylvania and the Senator from Iowa that we ought to pass that bill on a voice vote. We cannot get cloture. There are two votes, 54-46 party line votes.

And he is referring here to the striker replacement votes.

> So my view is we ought to do it, pass it and find out what happens after the veto in the next round.

Mr. President, I just want to point out that these riders that we have on the Labor-HHS bill can be dropped. For example, this week the Republicans have dropped their effort to attach the Istook antilobbying rider to the Treasury-Postal conference agreement, thereby clearing the bill for congressional approval.

They agreed to a compromise to the abortion rider on the defense appropriations conference agreement, also clearing it for approval in both Houses. And they dropped all 17 House-approved EPA riders on the HUD-VA conference agreement.

So this unanimous-consent request that I propounded—and I also want to state, Mr. President, that I had checked with the chairman of the Appropriations subcommittee, Senator SPECTER. I am the ranking member on that. I used to be chairman and he was ranking member. I checked with him earlier. He is in favor of this unanimous-consent request, and I asked if I could have his permission to so state that for the RECORD, and he said yes.

Again, Mr. President, I want to point out, on this side of the aisle, we have no objections to bringing up Labor-HHS and simply passing it on a voice vote if these riders are dropped, just as I pointed out riders were dropped from other bills, clearing them for action.

With that I thank the Senator from Mississippi.

PRIVATE SECURITIES LITIGATION REFORM

Mr. LOTT. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1058, a bill to reform Federal securities litigation, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 1058) entitled "An Act to reform Federal securities litigation, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. Bliley, Mr. Tauzin, Mr. Fields of Texas, Mr. Cox of California, Mr. White, Mr. Dingell, Mr. Markey, Mr. Bryant of Texas, and Ms. Eshoo.

As additional conferees from the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. Hyde, Mr. McCollum, and Mr. Conyers.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate insist on its amendments and agree to the request for a conference and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, the Presiding Officer (Mr. GORTON) appointed Mr. D'AMATO, Mr. GRAMM, Mr. BENNETT, Mr. GRAMS, Mr. DOMENICI, Mr. SARBANES, Mr. DODD, Mr. KERRY and Mr. BRYAN conferees on the part of the Senate.

COAST GUARD AUTHORIZATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 210, S. 1004.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1004) to authorize appropriations for the United States Coast Guard, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.

Sec. 102. Authorized levels of military strength and training.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

Sec. 201. Provision of child development services.

Sec. 202. Hurricane Andrew relief.

Sec. 203. Dissemination of results of 0-6 continuation boards.

Sec. 204. Exclude certain reserves from end-of-year strength.

Sec. 205. Officer retention until retirement eligible.

Sec. 206. Contracts for health care services.

Sec. 207. Recruiting.

TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

Sec. 301. Increased penalties for documentation violations.

Sec. 302. Clerical amendment.

Sec. 303. Maritime Drug and Alcohol Testing Program Civil Penalty.

Sec. 304. Renewal of the Navigation Safety Advisory Council.

Sec. 305. Renewal of the Commercial Fishing Industry Vessel Advisory Committee.

Sec. 306. Renewal of Towing Safety Advisory Committee.

Sec. 307. Electronic filing of commercial instruments.

Sec. 308. Civil penalties.

TITLE IV—COAST GUARD AUXILIARY AMENDMENTS

Sec. 401. Administration of the Coast Guard Auxiliary.

Sec. 402. Purpose of the Coast Guard Auxiliary.

Sec. 403. Members of the Auxiliary; Status.

Sec. 404. Assignment and Performance of Duties.

Sec. 405. Cooperation with other Agencies, States, Territories, and Political Subdivisions.

Sec. 406. Vessel Deemed Public Vessel.

Sec. 407. Aircraft Deemed Public Aircraft.

Sec. 408. Disposal of Certain Material.

TITLE V—RECREATIONAL BOATING SAFETY IMPROVEMENT

Sec. 501. State recreational boating safety grants.

Sec. 502. Boating access.

TITLE VI—COAST GUARD REGULATORY REFORM

Sec. 601. Short title.

Sec. 602. Safety management.

Sec. 603. Use of reports, documents, records, and examinations of other persons.

Sec. 604. Equipment approval.

Sec. 605. Frequency of inspection.

Sec. 606. Certificate of inspection.

Sec. 607. Delegation of authority of Secretary to classification societies.

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS.

Sec. 701. Amendment of inland navigation rules.

Sec. 702. Measurement of vessels.

Sec. 703. Longshore and harbor workers compensation.

Sec. 704. Radiotelephone requirements.

Sec. 705. Vessel operating requirements.

Sec. 706. Merchant Marine Act, 1920.

Sec. 707. Merchant Marine Act, 1956.

Sec. 708. Maritime education and training.

Sec. 709. General definitions.

Sec. 710. Authority to exempt certain vessels.

Sec. 711. Inspection of vessels.

Sec. 712. Regulations.

Sec. 713. Penalties—inspection of vessels.

Sec. 714. Application—tank vessels.

Sec. 715. Tank vessel construction standards.

Sec. 716. Tanker minimum standards.

Sec. 717. Self-propelled tank vessel minimum standards.

Sec. 718. Definition—abandonment of barges.

Sec. 719. Application—load lines.

Sec. 720. Licensing of individuals.

Sec. 721. Able seamen-limited.

Sec. 722. Able seamen—offshore supply vessels.

Sec. 723. Scale of employment—able seamen.

Sec. 724. General requirements—engine department.

Sec. 725. Complement of inspected vessels.

Sec. 726. Watchmen.

Sec. 727. Citizenship and naval reserve requirements.

Sec. 728. Watches.

Sec. 729. Minimum number of licensed individuals.

Sec. 730. Officers' competency certificates convention.

Sec. 731. Merchant mariners' documents required.

Sec. 732. Certain crew requirements.

Sec. 733. Freight vessels.

Sec. 734. Exemptions.

Sec. 735. United States registered pilot service.

Sec. 736. Definitions—merchant seamen protection.

Sec. 737. Application—foreign and intercoastal voyages.

Sec. 738. Application—coastwise voyages.

Sec. 739. Fishing agreements.

Sec. 740. Accomodations for seamen.

Sec. 741. Medicine chests.

Sec. 742. Logbook and entry requirements.

Sec. 743. Coastwise endorsements.

Sec. 744. Fishery endorsements.

Sec. 745. Convention tonnage for licenses, certificates, and documents.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1995.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1995, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,630,505,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $439,200,000, to re main available until expended, of which $32,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $20,310,000, to remain available until expended, of which $3,150,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $562,585,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $12,880,000, to remain available until expended, which may be made available under section 104(e) of title 49, United States Code.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $25,000,000, to remain available until expended.

(b) FISCAL YEAR 1996.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1996, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,618,316,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $428,200,000, to remain available until expended, of which $32,500,000 shall be derived from the Oil Spill Liability Trust fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,500,000, to remain available until expended, of which $3,150,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $582,022,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $16,200,000, to remain available until expended, of which up to $14,200,000 may be made available under section 104(e) of title 49, United States Code.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $25,000,000, to remain available until expended.

(c) AMOUNTS FROM THE DISCRETIONARY BRIDGE PROGRAM.—Section 104 of title 49, United States Code, is amended by adding at the end thereof the following:

"(e) Notwithstanding the provisions of sections 101(d) and 144 of title 23, highway bridges determined to be unreasonable obstructions to navigation under the Truman-Hobbs Act may be funded from amounts set aside from the discretionary bridge program. The Secretary shall transfer these allocations and the responsibility for administration of these funds to the United States Coast Guard.".

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an end-of-year strength for active duty personnel of—

(1) 39,000 as of September 30, 1995.

(2) 38,400 as of September 30, 1996.

The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) AUTHORIZED LEVEL OF MILITARY TRAINING.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training—

(A) 2,000 student years for fiscal year 1995; and

(B) 1,604 student years for fiscal year 1996.

(2) For flight training—

(A) 133 student years for fiscal year 1995; and

(B) 85 student years for fiscal year 1996.

(3) For professional training in military and civilian institutions—

(A) 344 student years for fiscal year 1995; and

(B) 330 student years for fiscal year 1996.

(4) For officer acquisition—

(A) 955 student years for fiscal year 1995; and

(B) 874 student years for fiscal year 1996.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. PROVISION OF CHILD DEVELOPMENT SERVICES.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 514 the following new section:

"§515. Child development services

"(a) The Commandant may make child development services available for members and civilian employees of the Coast Guard, and thereafter as space is available for members of the Armed Forces and Federal civilian employees. Child development service benefits provided under the authority of this section shall be in addition to benefits provided under other laws.

"(b)(1) Except as provided in paragraph (2), the Commandant may require that amounts received as fees for the provision of services under this section at Coast Guard child development centers be used only for compensation of employees at those centers who are directly involved in providing child care.

"(2) If the Commandant determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of such fee receipts, the Commandant may (to the extent that such compliance would be uneconomical and inefficient) use such receipts—

"(A) for the purchase of consumable or disposable items for Coast Guard child development centers; and

"(B) if the requirements of such centers for consumable or disposable items for a given fiscal year have been met, for other expenses of those centers.

"(c) The Commandant shall provide for regular and unannounced inspections of each child development center under this section and may use Department of Defense or other training programs to ensure that all child development center employees under this section meet minimum standards of training with respect to early childhood development, activities and disciplinary techniques appropriate to children of different ages, child abuse prevention and detection, and appropriate emergency medical procedures.

"(d) Of the amounts available to the Coast Guard each fiscal year for operating expenses (and in addition to amounts received as fees), the Secretary shall use for child development services under this section an amount equal to the total amount the Commandant estimates will be received by the Coast Guard in the fiscal year as fees for the provision of those services.

"(e) The Commandant may use appropriated funds available to the Coast Guard to provide assistance to family home day care providers so that family home day care services can be provided to uniformed service members and civilian employees of the Coast Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.

"(f) The Secretary shall promulgate regulations to implement this section. The regulations shall establish fees to be charged for child development services provided under this section which take into consideration total family income.

"(g) For purposes of this section, the term 'child development center' does not include a child care services facility for which space is allotted under section 616 of the Act of December 22, 1987 (40 U.S.A. 490b).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item related to section 514 the following:

"515. Child development services.".

SEC. 202. HURRICANE ANDREW RELIEF.

Section 2856 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102-484) applies to the military personnel of the Coast Guard who were assigned to, or employed at or in connection with, any Federal facility or installation in the vicinity of Homestead Air Force Base, Florida, including the areas of Broward, Collier, Dade, and Monroe Counties, on or before August 24, 1992, except that funds available to the Coast Guard, not to exceed $25,000, shall be used. The Secretary of Transportation shall administer the provisions of section 2856 for the Coast Guard.

SEC. 203. DISSEMINATION OF RESULTS OF 0-6 CONTINUATION BOARDS.

Section 289(f) of title 14, United States Code, is amended by striking "Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall be promptly disseminated to the service at large.".

SEC. 204. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH.

Section 712 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(d) Members ordered to active duty under this section shall not be counted in computing authorized strength in members on active duty or members in grade under this title or under any other law.".

SEC. 205. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE.

Section 283(b) of title 14, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking the last sentence; and

(3) by adding at the end the following:

"(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

"(A) except as provided in subparagraph (B), be honorably discharged with severance pay computed under section 286 of this title;

"(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

"(C) if eligible for retirement under any law, be retired.".

SEC. 206. CONTRACTS FOR HEALTH CARE SERVICES.

(a) Chapter 17 of title 14, United States Code, is amended by inserting after section 644 the following new section:

"§ 644a. Contracts for health care services

"(a) Subject to the availability of appropriations for this purpose; the Commandant may enter into personal services and other contracts to carry out health care responsibilities pursuant to section 93 of this title and other applicable provisions of law pertaining to the provision of health care services to Coast Guard personnel and covered beneficiaries. The authority provided in this subsection is in addition to any other contract authorities of the Commandant provided by law or as delegated to the Commandant from time to time by the Secretary, including but not limited to authority relating to the management of health care facilities and furnishing of health care services pursuant to title 10 and this title.

"(b) The total amount of compensation paid to an individual in any year under a personal services contract entered into under subsection (a) shall not exceed the amount of annual compensation (excluding allowances for expenses) allowable for such contracts entered into by the Secretary of Defense pursuant to section 1091 of title 10.

"(c)(1) The Secretary shall promulgate regulations to assure—

"(A) the provision of adequate notice of contract opportunities to individuals residing in the area of a medical treatment facility involved; and

"(B) consideration of interested individuals solely on the basis of the qualifications established for the contract and the proposed contract price.

"(2) Upon establishment of the procedures under paragraph (1), the Secretary may exempt personal services contracts covered by this section from the competitive contracting requirements specified in section 2304 of title 10, or any other similar requirements of law.

"(d) The procedures and exemptions provided under subsection (c) shall not apply to personal services contracts entered into under subsection (a) with entities other than individuals or to any contract that is not an authorized personal services contract under subsection (a).".

(b) The table of sections for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 644 the following:

"644a. Contracts for health care services.".

(c) The amendments made by this section shall take effect on the date of enactment of this Act. Any personal services contract entered into on behalf of the Coast Guard in reliance upon the authority of section 1091 of title 10 before that date is confirmed and ratified and shall remain in effect in accordance with the terms of the contract.

TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

SEC. 301. INCREASED PENALTIES FOR DOCUMENTATION VIOLATIONS.

(a) CIVIL PENALTY.— Section 12122(a) of title 46, United States Code, is amended by striking "$500" and inserting "$10,000."

(b) SEIZURE AND FORFEITURE.—

(1) IN GENERAL.— Section 12122(b) of title 46, United States Code, is amended to read as follows:

"(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government —

"(1) when the owner of a vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation about the documentation or when applying for documentation of the vessel;

"(2) when a certificate of documentation is knowingly and fraudulently used for a vessel;

"(3) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

"(4) when a vessel is employed in a trade without an appropriate trade endorsement;

"(5) when a documented vessel with only a recreational endorsement is operated other than for pleasure; or

"(6) when a documented vessel, other than a vessel with only a recreational endorsement operating within the territorial waters of the United States, is placed under the command of a person not a citizen of the United States.".

(2) CONFORMING AMENDMENT.—Section 12122(c) of title 46, United States Code, is repealed.

(c) LIMITATION ON OPERATION OF VESSEL WITH ONLY RECREATIONAL ENDORSEMENT.—Section 12110(c) of title 46, United States Code, is amended to read as follows:

"(c) A vessel with only a recreational endorsement may not be operated other than for pleasure.".

(d) TERMINATION OF RESTRICTION ON COMMAND OF RECREATIONAL VESSELS.—

(1) TERMINATION OF RESTRICTION.—Subsection (d) of section 12110 of title 46, United States Code, is amended by inserting ", other than a vessel with only a recreational endorsement operating within the territorial waters of the United States," after "A documented vessel"; and

(2) CONFORMING AMENDMENT.—Section 12111(a)(2) of title 46, United States Code, is amended by inserting before the period the following: "in violation of section 12110(d) of this title".

SEC. 302. CLERICAL AMENDMENT.

Chapter 121 of title 46, United States Code, is amended—

(1) by striking the first section 12123; and

(2) in the table of sections at the beginning of the chapter by striking the first item relating to section 12123.

SEC. 303. MARITIME DRUG AND ALCOHOL TESTING PROGRAM CIVIL PENALTY.

(a) IN GENERAL.—Chapter 21 of title 46, United States Code, is amended by adding at the end a new section 2115 to read as follows:

"§2115. Civil penalty to enforce alcohol and dangerous drug testing

"Any person who fails to implement or conduct, or who otherwise fails to comply with the requirements prescribed by the Secretary for, chemical testing for dangerous drugs or for evidence of alcohol use, as prescribed under this subtitle or a regulation prescribed by the Secretary to carry out the provisions of this subtitle, is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each day of a continuing violation shall constitute a separate violation.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 21 of title 46, United States Code, is amended by inserting after the item relating to section 2114 the following:

"2115. Civil penalty to enforce alcohol and dangerous drug testing."

SEC. 304. RENEWAL OF THE NAVIGATION SAFETY ADVISORY COUNCIL.

Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

SEC. 305. RENEWAL OF THE COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

Subsection (e)(1) of section 4508 of title 46, United States Code, is amended by striking "September 30, 1994" and inserting "September 30, 2000".

SEC. 306. RENEWAL OF TOWING SAFETY ADVISORY COMMITTEE.

Subsection (e) of the Act to Establish A Towing Safety Advisory Committee in the Department of Transportation (33 U.S.C. 1231a(e) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

SEC. 307. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS.

Section 31321(a) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

"(B) A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.".

SEC. 308. CIVIL PENALTIES.

(a) PENALTY FOR FAILURE TO REPORT A CASUALTY.—Section 6103(a) of title 46, United States Code is amended by striking "$1,000" and inserting "not more than $25,000".

(b) OPERATION OF UNINSPECTED TOWING VESSEL IN VIOLATION OF MANNING REQUIREMENTS.—Section 8906 of title 46, United States Code, is amended by striking "$1,000" and inserting "not more than $25,000".

TITLE IV—COAST GUARD AUXILIARY

SEC. 401. ADMINISTRATION OF THE COAST GUARD AUXILIARY.

(a) Section 821, title 14, United States Code, is amended to read as follows:

"(a) The Coast Guard Auxiliary is a non-military organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (Auxiliary headquarters unit), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

"(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the Federal Tort Claims Act (28 U.S.C. 2671, et seq.), the Military Claims Act (10 U.S.C. 2733), the Public Vessels Act (46 U.S.C. App. 781-790), the Suits in Admiralty Act (46 U.S.C. App. 741-752), the Admiralty Extension Act (46 U.S.C. App. 740), and for other noncontractual civil liability purposes.

"(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law, provided that the formation of such a corporation is in accordance with policies established by the Commandant.".

(b) The section heading for section 821 of title 14, United States Code, is amended after "Administration" by inserting "of the Coast Guard Auxiliary".

(c) The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended in the item relating to section 821, after "Administration" by inserting "of the Coast Guard Auxiliary".

SEC. 402. PURPOSE OF THE COAST GUARD AUXILIARY.

(a) Section 822 of title 14, United States Code, is amended by striking the entire text and inserting:

"The purpose of the Auxiliary is to assist the Coast Guard, as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.".

(b) The section heading for section 822 of title 14, United States Code, is amended after "Purpose" by inserting "of the Coast Guard Auxiliary".

(c) The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended in the item relating to section 822, after "Purpose" by inserting "of the Coast Guard Auxiliary".

SEC. 403. MEMBERS OF THE AUXILIARY; STATUS.

(a) Title 14, United States Code, is amended by inserting after section 823 the following new section:

"§823a. Members of the Auxiliary; status

"(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be deemed to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

"(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

"(1) the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), the Military Claims Act (10 U.S.C. 2733), the Public Vessels Act (46 U.S.C. App. 781-790), the Suits in Admiralty Act (46 U.S.C. App. 741-752), the Admiralty Extension Act (46 U.S.C. App. 740), and for other noncontractual civil liability purposes;

"(2) compensation for work injuries under chapter 81 of title 5, United States Code; and

"(3) the resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).

"(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28, United States Code.".

(b) The table of sections for chapter 23 of title 14, United States Code, is amended by inserting the following new item after the item relating to section 823:

"823a. Members of the Auxiliary; status.".

SEC. 404. ASSIGNMENT AND PERFORMANCE OF DUTIES.

Title 14, United States Code, is amended by striking "specific" each place it appears in sections 830, 831, and 832.

SEC. 405. COOPERATION WITH OTHER AGENCIES, STATES, TERRITORIES, AND POLITICAL SUBDIVISIONS.

(a) Section 141 of title 14, United States Code, is amended —

(1) by striking "General" in the section caption and inserting "Cooperation with other agencies, States, Territories, and political subdivisions";

(2) by inserting "(which include members of the Auxiliary and facilities governed under chapter 23)" after "personnel and facilities" in the first sentence of subsection (a); and

(3) by adding at the end of subsection (a) the following: "The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.".

(b) The table of sections for chapter 7 of title 14, United States Code, is amended by striking "General" in the item relating to section 141 and inserting "Cooperation with other agencies, States, Territories, and political subdivisions.".

SEC. 406. VESSEL DEEMED PUBLIC VESSEL.

The text of section 827 of title 14, United States Code, is amended to read as follows:

"While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.".

SEC. 407. AIRCRAFT DEEMED PUBLIC AIRCRAFT.

The text of section 828 of title 14, United States Code, is amended to read as follows:

"While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilots shall be deemed to be Coast Guard pilots.".

SEC. 408. DISPOSAL OF CERTAIN MATERIAL.

Section 641(a) of title 14, United States Code, is amended—

(1) by inserting "to the Coast Guard Auxiliary, including any incorporated unit thereof," after "with or without charge,"; and

(2) by striking "to any incorporated unit of the Coast Guard Auxiliary," after "America,".

TITLE V—RECREATIONAL BOATING SAFETY IMPROVEMENT

SEC. 501. STATE RECREATIONAL BOATING SAFETY GRANTS.—

(a) TRANSFER OF AMOUNTS FOR STATE BOATING SAFETY PROGRAMS.—

(1) TRANSFERS.—Section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b); commonly referred to as the "Dingell-Johnson Sport Fish Restoration Act") is amended to read as follows:

"(b)(1) Of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $15,000,000 for fiscal year 1995, $40,000,000 for fiscal year 1996, $55,000,000 for fiscal year 1997, and $69,000,000 for each of fiscal years 1998 and 1999, shall, subject to paragraph (2), be used as follows:

"(A) A sum equal to $7,500,000 of the amount available for fiscal year 1995, and a sum equal to $10,000,000 of the amount available for each of fiscal years 1996 and 1997, shall be available for use by the Secretary of the Interior for grants under section 5604(c) of the Clean Vessel Act of 1992. Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(B) A sum equal to $7,500,000 of the amount available for fiscal year 1995, $30,000,000 of the amount available for fiscal year 1996, $45,000,000 of the amount available for fiscal year 1997, and $59,000,000 of the amount available for each of fiscal years 1998 and 1999, shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for recreational boating safety programs under section 13106 of title 46, United States Code.

"(C) A sum equal to $10,000,000 of the amount available for each of fiscal years 1998 and 1999 shall be available for use by the Secretary of the Interior for—

"(i) grants under section 502(e) of the Coast Guard Authorization Act of 1995; and

"(ii) grants under section 5604(c) of the Clean Vessel Act of 1992.

Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(2)(A) Beginning with fiscal year 1996, the amount transferred under paragraph (1)(B) for a fiscal year shall be reduced by the lesser of—

"(i) the amount appropriated for that fiscal year from the Boat Safety Account in the Aquatic Resources Trust Fund established under section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106 of title 46, United States Code; or

"(ii) $35,000,000.

"(iii) for fiscal year 1996 only, $30,000,000.

"(B) The amount of any reduction under subparagraph (A) shall be apportioned among the several States under subsection (d) of this section by the Secretary of the Interior.".

(2) CONFORMING AMENDMENT.—Section 5604(c)(1) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended by striking "section 4(b)(2) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(2), as amended by this Act)" and inserting "section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1))".

(b) EXPENDITURE OF AMOUNTS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.—Section 13106 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (a)(1) and inserting the following: "Subject to paragraph (2), the Secretary shall expend under contracts with States under this chapter in each fiscal year for State recreational boating safety programs an amount equal to the sum of the amount appropriated from the Boat Safety Account for that fiscal year plus the amount transferred to the Secretary under section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1)) for that fiscal year."; and

(2) by amending subsection (c) to read as follows:

"(c) For expenditure under this chapter for State recreational boating safety programs there are authorized to be appropriated to the Secretary of Transportation from the Boat Safety Account established under section 9504 of the Internal Revenue Code of 1986 (26 U.S.C. 9504) not more than $35,000,000 each fiscal year.".

(c) EXCESS FY 1995 BOAT SAFETY ACCOUNT FUNDS TRANSFER.—Notwithstanding any other provision of law, $20,000,000 of the annual appropriation from the Sport Fish Restoration Account in fiscal year 1996 made in accordance with the provisions of section 3 of the Act of August 9, 1950 (16 U.S.C. 777b) shall be excluded from the calculation of amounts to be distributed under section 4(a) of such Act (16 U.S.C. 777c(a)).

SEC. 502. BOATING ACCESS.

(a) FINDINGS.—The Congress makes the following findings:

(1) Nontrailerable recreational motorboats contribute 15 percent of the gasoline taxes deposited in the Aquatic Resources Trust Fund while constituting less than 5 percent of the recreational vessels in the United States.

(2) The majority of recreational vessel access facilities constructed with Aquatic Resources Trust Fund moneys benefit trailerable recreational vessels.

(3) More Aquatic Resources Trust Fund moneys should be spent on recreational vessel access facilities that benefit recreational vessels that are nontrailerable vessels.

(b) PURPOSE.—The purpose of this section is to provide funds to States for the development of public facilities for transient nontrailerable vessels.

(c) SURVEY.—Within 18 months after the date of the enactment of this Act, any State may complete and submit to the Secretary of the Interior a survey which identifies—

(1) the number and location in the State of all public facilities for transient nontrailerable vessels; and

(2) the number and areas of operation in the State of all nontrailerable vessels that operate on navigable waters in the State.

(d) PLAN.—Within 6 months after submitting a survey to the Secretary of the Interior in accordance with subsection (c), an eligible State may develop and submit to the Secretary of the Interior a plan for the construction and renovation of public facilities for transient nontrailerable vessels to meet the needs of nontrailerable vessels operating on navigable waters in the State.

(e) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior shall obligate not less than one-half of the amount made available for each of fiscal years 1998 and 1999 under section 4(b)(1)(C) of the Act of August 9, 1950, as amended by section 501(a)(1) of this Act, to make grants to any eligible State to pay not more than 75 percent of the cost of constructing or renovating public facilities for transient nontrailerable vessels.

(2) PRIORITY.—

(A) IN GENERAL.—In awarding grants under this subsection, the Secretary of the Interior shall give priority to projects that consist of the construction or renovation of public facilities for transient nontrailerable vessels in accordance with a plan submitted by a State submitted under subsection (b).

(B) WITHIN STATE.—In awarding grants under this subsection for projects in a particular State, the Secretary of the Interior shall give priority to projects that are likely to serve the greatest number of nontrailerable vessels.

(f) DEFINITIONS.—For the purpose of this section and section 501 of this Act the term—

(1) "Act of August 9, 1950" means the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes", approved August 9, 1950 (16 U.S.C. 777a et seq.);

(2) "nontrailerable vessel" means a recreational vessel greater than 26 feet in length;

(3) "public facilities for transient nontrailerable vessels" means mooring buoys, day-docks, seasonal slips or similar structures located on navigable waters, that are available to the general public and designed for temporary use by nontrailerable vessels;

(4) "recreational vessel" means a vessel—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure; and

(5) "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Marianas.

TITLE VI—COAST GUARD REGULATORY REFORM

SEC. 601. SHORT TITLE.

This title may be cited as the "Coast Guard Regulatory Reform Act of 1995".

SEC. 602. SAFETY MANAGEMENT.

(a) MANAGEMENT OF VESSELS.—Title 46, United States Code, is amended by adding after chapter 31 the following new chapter:

"CHAPTER 32—MANAGEMENT OF VESSELS

"Sec.
"3201. Definitions.
"3202. Application.
"3203. Safety management system.
"3204. Implementation of safety management system.
"3205. Certification.

"§3201. Definitions

"In this chapter—

"(1) 'International Safety Management Code' has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;

"(2) 'responsible person' means—

"(A) the owner of a vessel to which this chapter applies; or

"(B) any other person that has—

"(i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and

"(ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter.

"(3) 'vessel engaged on a foreign voyage' means a vessel to which this chapter applies—

"(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

"(B) making a voyage between places outside the United States; or

"(C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

"§3202. Application

"(a) MANDATORY APPLICATION.—This chapter applies to the following vessels engaged on a foreign voyage:

"(1) Beginning July 1, 1998—

"(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

"(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

"(2) Beginning July 1, 2002, a freight vessel and a mobile offshore drilling unit of at least 500 gross tons.

"(b) VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

"(c) EXCEPTION.—Except as provided in subsection (b) of this section, this chapter does not apply to—

"(1) a barge;

"(2) a recreational vessel not engaged in commercial service;

"(3) a fishing vessel;

"(4) a vessel operating on the Great Lakes or its tributary and connecting waters; or

"(5) a public vessel.

"§3203. Safety management system

"(a) IN GENERAL.—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

"(1) a safety and environmental protection policy;

"(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

"(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

"(4) procedures for reporting accidents and nonconformities with this chapter;

"(5) procedures for preparing for and responding to emergency situations; and

"(6) procedures for internal audits and management reviews of the system.

"(b) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

"§3204. Implementation of safety management system

"(a) SAFETY MANAGEMENT PLAN.—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

"(b) APPROVAL.—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

"(c) PROHIBITION ON VESSEL OPERATION.—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

"§3205. Certification

"(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

"(b) MAINTENANCE OF CERTIFICATE AND DOCUMENT.—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

"(c) VERIFICATION OF COMPLIANCE.—The Secretary shall—

"(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

"(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

"(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 U.S.C. App. 91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 31 the following:

"32. Management of vessels .... 3201".

(c) STUDY.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall conduct, in cooperation with the owners, charterers, and managing operators of vessels documented under chapter 121 of title 46, United States Code, and other interested persons, a study of the methods that may be used to implement and enforce the International Management Code for the Safe Operation of Ships and for Pollution Prevention under chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974.

(2) REPORT.—The Secretary shall submit to the Congress a report of the results of the study required under paragraph (1) before the earlier of—

(A) the date that final regulations are prescribed under section 3203 of title 46, United States Code (as enacted by subsection (a); or

(B) the date that is 1 year after the date of enactment of this Act.

SEC. 603. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS.

(a) REPORTS, DOCUMENTS, AND RECORDS.—Chapter 31 of title 46, United States Code, is amended by adding the following new section:

"§3103. Use of reports, documents, and records

"The Secretary may rely, as evidence of compliance with this subtitle, on—

"(1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and

"(2) other methods the Secretary has determined to be reliable.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 46, United States Code, is amended by adding at the end the following:

"3103. Use of reports, documents, and records.".

(c) EXAMINATIONS.—Section 3308 of title 46, United States Code, is amended by inserting "or have examined" after "examine".

SEC. 604. EQUIPMENT APPROVAL.

(a) IN GENERAL.—Section 3306(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

"(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—

"(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

"(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

"(C) for lifesaving equipment, the foreign government—

"(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

"(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.".

(b) FOREIGN APPROVALS.—The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels.

(c) TECHNICAL AMENDMENT.—Section 3306(a)(4) of title 46, United States Code, is amended by striking "clauses (1)-(3)" and inserting "paragraphs (1), (2), and (3)".

SEC. 605. FREQUENCY OF INSPECTION.

(a) FREQUENCY OF INSPECTION, GENERALLY.—Section 3307 of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "nautical school vessel" and inserting ", nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage"; and

(B) by adding "and" after the semicolon at the end;

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking "2 years" and inserting "5 years".

(b) CONFORMING AMENDMENT.—Section 3710(b) of title 46, United States Code, is amended by striking "24 months" and inserting "5 years".

SEC. 606. CERTIFICATE OF INSPECTION.

Section 3309(c) of title 46, United States Code, is amended by striking "(but not more than 60 days)".

SEC. 607. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES.

(a) AUTHORITY TO DELEGATE.—Section 3316 of title 46, United States Code, is amended—

(1) by striking subsections (a) and (d);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b), as so redesignated, by—

(A) redesignating paragraph (2) as paragraph (3); and

(B) striking so much of the subsection as precedes paragraph (3), as so redesignated, and inserting the following:

"(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

"(A) review and approve plans required for issuing a certificate of inspection required by this part;

"(B) conduct inspections and examinations; and

"(C) issue a certificate of inspection required by this part and other related documents.

"(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

"(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

"(B) if the foreign classification society has offices and maintains records in the United States.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 3316 of title 46, United States Code, is amended to read as follows:

"§3316. Classification societies".

(2) The table of sections for chapter 33 of title 46, United States Code, is amended by striking the item relating to section 3316 and inserting the following:

"3316. Classification societies.".

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 701. AMENDMENT OF INLAND NAVIGATION RULES.

Section 2 of the Inland Navigational Rules Act of 1980 is amended—

(1) by amending Rule 9(e)(i) (33 U.S.C. 2009(e)(i)) to read as follows:

"(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound the same signal and may, if specifically agreed to take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d).";

(2) in Rule 15(b) (33 U.S.C. 2015(b)) by inserting "power-driven" after "Secretary, a";

(3) in Rule 23(a)(i) (33 U.S.C. 2023(a)(i)) after "masthead light forward"; by striking "except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;";

(4) by amending Rule 24(f) (33 U.S.C. 2024(f)) to read as follows:

"(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (iii)—

"(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;

"(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

"(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.";

(5) in Rule 26 (33 U.S.C 2026)—

(A) in each of subsections (b)(i) and (c)(i) by striking "a vessel of less than 20 meters in length may instead of this shape exhibit a basket;"; and

(B) by amending subsection (d) to read as follows:

"(d) The additional signals described in Annex II to these Rules apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing."; and

(6) by amending Rule 34(h) (33 U.S.C. 2034) to read as follows:

"(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.".

SEC. 702. MEASUREMENT OF VESSELS.

Section 14104 of title 46, United States Code, is amended by redesignating the existing text after the section heading as subsection (a) and by adding at the end the following new subsection:

"(b) If a statute allows for an alternate tonnage to be prescribed under this section, the Secretary may prescribe it by regulation. Until an alternate tonnage is prescribed, the statutorily established tonnage shall apply to vessels measured under chapter 143 or chapter 145 of this title.".

SEC. 703. LONGSHORE AND HARBOR WORKERS COMPENSATION.

Section 3(d)(3)(B) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3)(B)) is amended by inserting after "1,600 tons gross" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 704. RADIOTELEPHONE REQUIREMENTS.

Section 4(a)(2) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(a)(2)) is amended by inserting after "one hundred gross tons" the following "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 705. VESSEL OPERATING REQUIREMENTS.

Section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3)) is amended by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 706. MERCHANT MARINE ACT, 1920.

Section 27A of the Merchant Marine Act, 1920 (46 U.S.C. App. 883–1), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 707. MERCHANT MARINE ACT, 1956.

Section 2 of the Act of June 14, 1956 (46 U.S.C. App. 883a), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 708. MARITIME EDUCATION AND TRAINING.

Section 1302(4)(A) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295a(4)(a)) is amended by inserting after "1,000 gross tons or more" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 709. GENERAL DEFINITIONS.

Section 2101 of title 46, United States Code, is amended—

(1) in paragraph (13), by inserting after "15 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in paragraph (13a), by inserting after "3,500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in paragraph (19), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in paragraph (22), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in paragraph (30)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(6) in paragraph (32), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(7) in paragraph (33), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(8) in paragraph (35), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(9) in paragraph (42), by inserting after "100 gross tons" each place it appears, the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 710. AUTHORITY TO EXEMPT CERTAIN VESSELS.

Section 2113 of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in paragraph (5), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 711. INSPECTION OF VESSELS.

Section 3302 of title 46, United States Code, is amended—

(1) in subsection (c)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (c)(3), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (c)(4)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in subsection (d)(1), by inserting after "150 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(6) in subsection (i)(1)(A), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(7) in subsection (j), by inserting after "15 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 712. REGULATIONS.

Section 3306 of title 46, United States Code, is amended—

(1) in subsection (h), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (i), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 713. PENALTIES—INSPECTION OF VESSELS.

Section 3318 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (j)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 714. APPLICATION—TANK VESSELS.

Section 3702 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(3) in subsection (d), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 715. TANK VESSEL CONSTRUCTION STANDARDS.

Section 3703a of title 46, United States Code, is amended—

(1) in subsection (b)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c)(2), by inserting after "5,000 gross tons" each place it appears the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (c)(3)(A), by inserting after "15,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (c)(3)(B), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(5) in subsection (c)(3)(C), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 716. TANKER MINIMUM STANDARDS.

Section 3707 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (b), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 717. SELF-PROPELLED TANK VESSEL MINIMUM STANDARDS.

Section 3708 of title 46, United States Code, is amended by inserting after "10,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 718. DEFINITION—ABANDONMENT OF BARGES.

Section 4701(1) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 719. APPLICATION—LOAD LINES.

Section 5102(b) of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in paragraph (5), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(3) in paragraph (10), by inserting after "150 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 720. LICENSING OF INDIVIDUALS.

Section 7101(e)(3) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 721. ABLE SEAMEN—LIMITED.

Section 7308 of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 722. ABLE SEAMEN—OFFSHORE SUPPLY VESSELS.

Section 7310 of title 46, United States Code, is amended by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 723. SCALE OF EMPLOYMENT—ABLE SEAMEN.

Section 7312 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 cf that title";

(2) in subsection (c)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (d), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (f)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under

section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(5) in subsection (f)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 724. GENERAL REQUIREMENTS—ENGINE DEPARTMENT.

Section 7313(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 725. COMPLEMENT OF INSPECTED VESSELS.

Section 8101(h) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 726. WATCHMEN.

Section 8102(b) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 727. CITIZENSHIP AND NAVAL RESERVE REQUIREMENTS.

Section 8103(b)(3)(A) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 728. WATCHES.

Section 8104 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (d), by inserting after "100 gross tons" and after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (l)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (m)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in subsection (o)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(6) in subsection (o)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 729. MINIMUM NUMBER OF LICENSED INDIVIDUALS.

Section 8301 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by inserting after "1,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (a)(3), by inserting after "at least 200 gross tons but less than 1,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (a)(4), by inserting after "at least 100 gross tons but less than 200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (a)(5), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(5) in subsection (b), by inserting after "200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 730. OFFICERS' COMPETENCY CERTIFICATES CONVENTION.

Section 8304(b)(4) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 731. MERCHANT MARINERS' DOCUMENTS REQUIRED.

Section 8701 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 732. CERTAIN CREW REQUIREMENTS.

Section 8702 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 733. FREIGHT VESSELS.

Section 8901 of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 734. EXEMPTIONS.

Section 8905(b) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 735. UNITED STATES REGISTERED PILOT SERVICE.

Section 9303(a)(2) of title 46, United States Code, is amended by inserting after "4,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 736. DEFINITIONS—MERCHANT SEAMEN PROTECTION.

Section 10101(4)(B) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 737. APPLICATION—FOREIGN AND INTERCOASTAL VOYAGES.

Section 10301(a)(2) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 738. APPLICATION—COASTWISE VOYAGES.

Section 10501(a) of title 46, United States Code, is amended by inserting after "50 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 739. FISHING AGREEMENTS.

Section 10601(a)(1) of title 46, United States Code, is amended by inserting after "20 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 740. ACCOMMODATIONS FOR SEAMEN.

Section 11101(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 741. MEDICINE CHESTS.

Section 11102(a) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 742. LOGBOOK AND ENTRY REQUIREMENTS.

Section 11301(a)(2) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 743. COASTWISE ENDORSEMENTS.

Section 12106(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 744. FISHERY ENDORSEMENTS.

Section 12108(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 745. CONVENTION TONNAGE FOR LICENSES, CERTIFICATES, AND DOCUMENTS.

(a) AUTHORITY TO USE CONVENTION TONNAGE.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"§7506. Convention tonnage for licenses, certificates, and documents

"Notwithstanding any provision of section 14302(c) or 14305 of this title, the Secretary may—

"(1) evaluate the service of an individual who is applying for a license, a certificate of registry, or a merchant mariner's document by using the tonnage as measured under chapter 143 of this title for the vessels on which that service was acquired, and

"(2) issue the license, certificate, or document based on that service.".

(b) CLERICAL AMENDMENT.—The analysis to chapter 75 of title 46, United States Code, is amended by adding a new item as follows:

"7506. Convention tonnage for licenses, certificates, and documents.".

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1995".

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TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1995.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1995, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,630,505,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $439,200,000, to remain available until expended, of which—

(A) $32,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990; and

(B) $880,000 is authorized to carry out design and engineering work on the John F. Limehouse Memorial Bridge.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $20,310,000, to remain available until expended, of which $3,150,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $562,585,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $12,880,000, to remain available until expended, which may be made available under section 104(e) of title 49, United States Code.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $25,000,000, to remain available until expended.

(b) FISCAL YEAR 1996.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1996, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,618,316,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $428,200,000, to remain available until expended, of which $32,500,000 shall be derived from the Oil Spill Liability Trust fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,500,000, to remain available until expended, of which $3,150,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $582,022,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $16,200,000, to remain available until expended, of which up to $14,200,000 may be made available under section 104(e) of title 49, United States Code.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $25,000,000, to remain available until expended.

(c) AMOUNTS FROM THE DISCRETIONARY BRIDGE PROGRAM.—Section 104 of title 49, United States Code, is amended by adding at the end thereof the following:

"(e) Notwithstanding the provisions of sections 101(d) and 144 of title 23, highway bridges determined to be unreasonable obstructions to navigation under the Truman-Hobbs Act may be funded from amounts set aside from the discretionary bridge program. The Secretary shall transfer these allocations and the responsibility for administration of these funds to the United States Coast Guard.".

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an end-of-year strength for active duty personnel of—

(1) 39,000 as of September 30, 1995.

(2) 38,400 as of September 30, 1996.

The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) AUTHORIZED LEVEL OF MILITARY TRAINING.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training—

(A) 2,000 student years for fiscal year 1995; and

(B) 1,604 student years for fiscal year 1996.

(2) For flight training—

(A) 133 student years for fiscal year 1995; and

(B) 85 student years for fiscal year 1996.

(3) For professional training in military and civilian institutions—

(A) 344 student years for fiscal year 1995; and

(B) 330 student years for fiscal year 1996.

(4) For officer acquisition—

(A) 955 student years for fiscal year 1995; and

(B) 874 student years for fiscal year 1996.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. PROVISION OF CHILD DEVELOPMENT SERVICES.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 514 the following new section:

"§515. Child development services

"(a) The Commandant may make child development services available for members and civilian employees of the Coast Guard, and thereafter as space is available for members of the Armed Forces and Federal civilian employees. Child development service benefits provided under the authority of this section shall be in addition to benefits provided under other laws.

"(b)(1) Except as provided in paragraph (2), the Commandant may require that amounts received as fees for the provision of services under this section at Coast Guard child development centers be used only for compensation of employees at those centers who are directly involved in providing child care.

"(2) If the Commandant determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of such fee receipts, the Commandant may (to the extent that such compliance would be uneconomical and inefficient) use such receipts—

"(A) for the purchase of consumable or disposable items for Coast Guard child development centers; and

"(B) if the requirements of such centers for consumable or disposable items for a given fiscal year have been met, for other expenses of those centers.

"(c) The Commandant shall provide for regular and unannounced inspections of each child development center under this section and may use Department of Defense or other training programs to ensure that all child development center employees under this section meet minimum standards of training with respect to early childhood development, activities and disciplinary techniques appropriate to children of different ages, child abuse prevention and detection,and appropriate emergency medical procedures.

"(d) Of the amounts available to the Coast Guard each fiscal year for operating expenses (and in addition to amounts received as fees), the Secretary may use for child development services under this section an amount not to exceed the total amount the Commandant estimates will be received by the Coast Guard in the fiscal year as fees for the provision of those services.

"(e) The Commandant may use appropriated funds available to the Coast Guard to provide assistance to family home day care providers so that family home day care services can be provided to uniformed service members and civilian employees of the Coast Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.

"(f) The Secretary shall promulgate regulations to implement this section. The regulations shall establish fees to be charged for child development services provided under this section which take into consideration total family income.

"(g) For purposes of this section, the term 'child development center' does not include a child care services facility for which space is allotted under section 616 of the Act of December 22, 1987 (40 U.S.C. 490b).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item related to section 514 the following:

"515. Child development services.".

SEC. 202. HURRICANE ANDREW RELIEF.

Section 2856 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102–484) applies to the military personnel of the Coast Guard who were assigned to, or employed at or in connection with, any Federal facility or installation in the vicinity of Homestead Air Force Base, Florida, including the areas of Broward, Collier, Dade, and Monroe Counties, on or before August 24, 1992, except that funds available to the Coast Guard, not to exceed $25,000, shall be used. The Secretary of Transportation shall administer the provisions of section 2856 for the Coast Guard.

SEC. 203. DISSEMINATION OF RESULTS OF 0–6 CONTINUATION BOARDS.

Section 289(f) of title 14, United States Code, is amended by striking "Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall be promptly disseminated to the service at large.".

SEC. 204. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH.

Section 712 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(d) Members ordered to active duty under this section shall not be counted in computing authorized strength in members on active duty or members in grade under this title or under any other law.".

SEC. 205. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE.

Section 283(b) of title 14, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking the last sentence; and

(3) by adding at the end the following:

"(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

"(A) except as provided in subparagraph (B), be honorably discharged with severance pay computed under section 286 of this title;

"(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

"(C) if, on the date specified for the officer's discharge under this section, the officer has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date.".

SEC. 206. CONTRACTS FOR HEALTH CARE SERVICES.

(a) Chapter 17 of title 14, United States Code, is amended by inserting after section 644 the following new section:

"§644a. Contracts for health care services

"(a) Subject to the availability of appropriations for this purpose; the Commandant may enter into personal services and other contracts to carry out health care responsibilities pursuant to section 93 of this title and other applicable provisions of law pertaining to the provision of health care services to Coast Guard personnel and covered beneficiaries. The authority provided in this subsection is in addition to any other contract authorities of the Commandant provided by law or as delegated to the Commandant from time to time by the Secretary, including but not limited to authority relating to the management of health care facilities and furnishing of health care services pursuant to title 10 and this title.

"(b) The total amount of compensation paid to an individual in any year under a personal services contract entered into under subsection (a) shall not exceed the amount of annual compensation (excluding allowances for expenses) allowable for such contracts entered into by the Secretary of Defense pursuant to section 1091 of title 10.

"(c)(1) The Secretary shall promulgate regulations to assure—

"(A) the provision of adequate notice of contract opportunities to individuals residing in the area of a medical treatment facility involved; and

"(B) consideration of interested individuals solely on the basis of the qualifications established for the contract and the proposed contract price.

"(2) Upon establishment of the procedures under paragraph (1), the Secretary may exempt personal services contracts covered by this section from the competitive contracting requirements specified in section 2304 of title 10, or any other similar requirements of law.

"(d) The procedures and exemptions provided under subsection (c) shall not apply to personal services contracts entered into under subsection (a) with entities other than individuals or to any contract that is not an authorized personal services contract under subsection (a).".

(b) The table of sections for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 644 the following:

"644a. Contracts for health care services.".

(c) The amendments made by this section shall take effect on the date of enactment of this Act. Any personal services contract entered into on behalf of the Coast Guard in reliance upon the authority of section 1091 of title 10 before that date is confirmed and ratified and shall remain in effect in accordance with the terms of the contract.

SEC. 207. RECRUITING.

(a) CAMPUS RECRUITING.—Section 558 of the National Defense Authorization Act for Fiscal Year 1995 (108 Stat. 2776) is amended—

(1) by inserting "or the Department of Transportation" in subsection (a)(1) after "the Department of Defense";

(2) by inserting "or the Secretary of Transportation" after "the Secretary of Defense" in subsection (a)(1); and

(3) by inserting "and the Secretary of Transportation" after "the Secretary of Education" in subsection (b).

(b) FUNDS FOR RECRUITING.—The text of section 468 of title 14, United States Code, is amended to read as follows:

"The Coast Guard may expend operating expense funds for recruiting activities, including but not limited to advertising and entertainment, in order to—

"(1) obtain recruits for the Service and cadet applicants; and

"(2) gain support of recruiting objectives from those who may assist in the recruiting effort.".

(c) SPECIAL RECRUITING AUTHORITY.—Section 93 of title 14, United States Code, is amended

(1) by striking "and" at the end of paragraph (t);

(2) by striking the period at the end of paragraph (u) and inserting a semicolon and the word "and"; and

(3) by adding at the end the following:

"(v) employ special recruiting programs, including, subject to appropriations Acts, the provision of financial assistance by grant, cooperative agreement, or contract to public or private associations, organizations, and individuals (including academic scholarships for individuals), to meet identified personnel resource requirements.".

TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

SEC. 301. INCREASED PENALTIES FOR DOCUMENTATION VIOLATIONS.

(a) CIVIL PENALTY.— Section 12122(a) of title 46, United States Code, is amended by striking "$500" and inserting "$10,000."

(b) SEIZURE AND FORFEITURE.—

(1) IN GENERAL.— Section 12122(b) of title 46, United States Code, is amended to read as follows:

"(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government —

"(1) when the owner of a vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation about the documentation or when applying for documentation of the vessel;

"(2) when a certificate of documentation is knowingly and fraudulently used for a vessel;

"(3) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

"(4) when a vessel is employed in a trade without an appropriate trade endorsement;

"(5) when a documented vessel with only a recreational endorsement is operated other than for pleasure; or

"(6) when a documented vessel, other than a vessel with only a recreational endorsement operating within the territorial waters of the United States, is placed under the command of a person not a citizen of the United States.".

(2) CONFORMING AMENDMENT.—Section 12122(c) of title 46, United States Code, is repealed.

(c) LIMITATION ON OPERATION OF VESSEL WITH ONLY RECREATIONAL ENDORSEMENT.—Section 12110(c) of title 46, United States Code, is amended to read as follows:

"(c) A vessel with only a recreational endorsement may not be operated other than for pleasure.".

(d) TERMINATION OF RESTRICTION ON COMMAND OF RECREATIONAL VESSELS.—

(1) TERMINATION OF RESTRICTION.—Subsection (d) of section 12110 of title 46, United States Code, is amended by inserting ", other than a vessel with only a recreational endorsement operating within the territorial waters of the United States," after "A documented vessel"; and

(2) CONFORMING AMENDMENT.—Section 12111(a)(2) of title 46, United States Code, is amended by inserting before the period the following: "in violation of section 12110(d) of this title".

SEC. 302. CLERICAL AMENDMENT.

Chapter 121 of title 46, United States Code, is amended—

(1) by striking the first section 12123; and

(2) in the table of sections at the beginning of the chapter by striking the first item relating to section 12123.

SEC. 303. MARITIME DRUG AND ALCOHOL TESTING PROGRAM CIVIL PENALTY.

(a) IN GENERAL.—Chapter 21 of title 46, United States Code, is amended by adding at the end a new section 2115 to read as follows:

"§2115. Civil penalty to enforce alcohol and dangerous drug testing

"Any person who fails to implement or conduct, or who otherwise fails to comply with the requirements prescribed by the Secretary for, chemical testing for dangerous drugs or for evidence of alcohol use, as prescribed under this subtitle or a regulation prescribed by the Secretary to carry out the provisions of this subtitle, is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each day of a continuing violation shall constitute a separate violation.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 21 of title 46, United States Code, is amended by inserting after the item relating to section 2114 the following:

"2115. Civil penalty to enforce alcohol and dangerous drug testing."

SEC. 304. RENEWAL OF ADVISORY GROUPS.

(a) NAVIGATION SAFETY ADVISORY COUNCIL.—Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

(b) COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.—Subsection (e)(1) of section 4508 of title 46, United States Code, is amended by striking "September 30, 1994" and inserting "September 30, 2000".

(c) TOWING SAFETY ADVISORY COMMITTEE.—Subsection (e) of the Act to Establish A Towing Safety Advisory Committee in the Department of Transportation (33 U.S.C. 1231a(e)) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

(d) HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.—The Coast Guard Authorization Act of 1991 (Public Law 102–241, 105 Stat. 2208–2235) is amended by adding at the end of section 18 the following:

"(h) The Committee shall terminate on September 30, 2000.".

(e) LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.—The Coast Guard Authorization Act of 1991 (Public Law 102–241, 105 Stat. 2208–2235) is amended by adding at the end of section 19 the following:

"(g) The Committee shall terminate on September 30, 2000.".

SEC. 305. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS.

Section 31321(a) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

"(B) A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.".

SEC. 306. CIVIL PENALTIES.

(a) Penalty for Failure to Report a Casualty.—Section 6103(a) of title 46, United States Code is amended by striking "$1,000" and inserting "not more than $25,000".

(b) Operation of Uninspected Towing Vessel in Violation of Manning Requirements.—Section 8906 of title 46, United States Code, is amended by striking "$1,000" and inserting "not more than $25,000".

SEC. 307. AMENDMENT TO REQUIRE EPIRBS ON THE GREAT LAKES.

Paragraph (7) of section 4502(a) of title 46, United States Code, is amended by inserting "or beyond three nautical miles from the coastline of the Great Lakes" after "high seas".

SEC. 308. REPORT ON LORAN-C REQUIREMENTS.

Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation, in cooperation with the Secretary of Commerce, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan prepared in consultation with users of the LORAN-C radionavigation system defining the future use of and funding for operations, maintenance, and upgrades of the LORAN-C radionavigation system. The plan shall provide for—

(1) mechanisms to make full use of compatible satellite and LORAN-C technology by all modes of transportation, the telecommunications industry, and the National Weather Service;

(2) an appropriate timetable for transition from ground-based radionavigation technology after it is determined that satellite-based technology is available as a sole means of safe and efficient navigation and taking into consideration the need to ensure that LORAN-C technology purchased by the public before the year 2000 has a useful economic life; and

(3) agencies in the Department of Transportation and other relevant Federal agencies to share the Federal government's costs related to LORAN-C technology.

SEC. 309. RESTRICTIONS ON CLOSURE OF SMALL BOAT STATIONS.

(a) Certification.—The Secretary of Transportation shall not close, consolidate, or reduce to seasonal status any Coast Guard multi-mission small boat station unless the Secretary has certified that such action will not result in degradation of services that would cause significant increased threat to life, property, environment, public safety or national security. The certification shall include—

(1) a description of regional or local weather and marine conditions that could affect the need for Coast Guard Services including water temperature, prevailing weather conditions, and unusual tide and current conditions;

(2) an evaluation of the level and type of waterborne activities, including activities involving recreational boaters, commercial vessels, and commercial fishermen which was considered in reaching the conclusion that such action will not result in degradation of services that would cause a significant increased threat to life, property, environment, public safety, or national security;

(3) a detailed comparison of the services provided within the service area and the services to be provided after such action, including but not limited to services related to search and rescue, recreational boating safety, enforcement of laws and treaties, marine environmental safety, port safety and security, aids to navigation, and military readiness; and

(4) a transition plan, developed in consultation with State and local officials and members of the public for the areas affected by the closure to ensure that the Coast Guard service needs of the area, and the two-hour standard of the Coast Guard for responding to search and rescue requests, continue to be met.

(b) Public Review.—Each certification decision shall be preceded by—

(1) publication in the Federal Register of a proposed certification; and

(2) a 60-day period after such publication during which the public may provide comments to the Secretary on the proposed certification.

(c) Final Decision.—If after consideration of the public comment received under subsection (b) the Secretary decides to close, consolidate, or reduce to seasonal status any such small-boat station, the Secretary shall publish a final certification in the Federal Register and submit the certification to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 310. PENALTY FOR ALTERATION OF MARINE SAFETY EQUIPMENT.

Section 3318(b) of title 46, United States Code, is amended—

(1) by inserting "(1)" before "A person"; and

(2) by adding at the end thereof the following:

"(2) A person that knowingly alters lifesaving, fire safety, or any other equipment subject to this part, so that the equipment altered is so defective as to be insufficient to accomplish the purpose for which it is intended, commits a class D felony.".

SEC. 311. PROHIBITION ON OVERHAUL, REPAIR, AND MAINTENANCE OF COAST GUARD VESSELS IN FOREIGN SHIPYARDS.

(a) Prohibition.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"§96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards

"A Coast Guard vessel may not be overhauled, repaired, or maintained in any shipyard located outside the United States, except that this section does not apply to emergency repairs.".

(b) Clerical Amendment.—The chapter analysis for chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards.".

TITLE IV—COAST GUARD AUXILIARY

SEC. 401. ADMINISTRATION OF THE COAST GUARD AUXILIARY.

(a) Section 821, title 14, United States Code, is amended to read as follows:

"(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (Auxiliary headquarters unit), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

"(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the Federal Tort Claims Act (28 U.S.C. 2671, et seq.), the Military Claims Act (10 U.S.C. 2733), the Public Vessels Act (46 U.S.C. App. 781–790), the Suits in Admiralty Act (46 U.S.C. App. 741–752), the Admiralty Extension Act (46 U.S.C. App. 740), and for other noncontractual civil liability purposes.

"(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law, provided that the formation of such a corporation is in accordance with policies established by the Commandant.".

(b) The section heading for section 821 of title 14, United States Code, is amended after "Administration" by inserting "of the Coast Guard Auxiliary".

(c) The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended in the item relating to section 821, after "Administration" by inserting "of the Coast Guard Auxiliary".

SEC. 402. PURPOSE OF THE COAST GUARD AUXILIARY.

(a) Section 822 of title 14, United States Code, is amended by striking the entire text and inserting:

"The purpose of the Auxiliary is to assist the Coast Guard, as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.".

(b) The section heading for section 822 of title 14, United States Code, is amended after "Purpose" by inserting "of the Coast Guard Auxiliary".

(c) The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended in the item relating to section 822, after "Purpose" by inserting "of the Coast Guard Auxiliary".

SEC. 403. MEMBERS OF THE AUXILIARY; STATUS.

(a) Title 14, United States Code, is amended by inserting after section 823 the following new section:

"§823a. Members of the Auxiliary; status

"(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be deemed to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

"(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

"(1) the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), the Military Claims Act (10 U.S.C. 2733), the Public Vessels Act (46 U.S.C. App. 781–790), the Suits in Admiralty Act (46 U.S.C. App. 741–752), the Admiralty Extension Act (46 U.S.C. App. 740), and for other noncontractual civil liability purposes;

"(2) compensation for work injuries under chapter 81 of title 5, United States Code; and

"(3) the resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).

"(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28, United States Code.".

(b) The table of sections for chapter 23 of title 14, United States Code, is amended by inserting *the following new item after the item relating to section 823:*

"823a. Members of the Auxiliary; status.".

SEC. 404. ASSIGNMENT AND PERFORMANCE OF DUTIES.

Title 14, United States Code, is amended by striking "specific" each place it appears in sections 830, 831, and 832.

SEC. 405. COOPERATION WITH OTHER AGENCIES, STATES, TERRITORIES, AND POLITICAL SUBDIVISIONS.

(a) Section 141 of title 14, United States Code, is amended —

(1) by striking "General" in the section caption and inserting "Cooperation with other agencies, States, Territories, and political subdivisions";

(2) by inserting "(which include members of the Auxiliary and facilities governed under chapter 23)" after "personnel and facilities" in the first sentence of subsection (a); and

(3) by adding at the end of subsection (a) the following: "The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.".

(b) The table of sections for chapter 7 of title 14, United States Code, is amended by striking "General" in the item relating to section 141 and inserting "Cooperation with other agencies, States, Territories, and political subdivisions.".

SEC. 406. VESSEL DEEMED PUBLIC VESSEL.

The text of section 827 of title 14, United States Code, is amended to read as follows:

"While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.".

SEC. 407. AIRCRAFT DEEMED PUBLIC AIRCRAFT.

The text of section 828 of title 14, United States Code, is amended to read as follows:

"While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilots shall be deemed to be Coast Guard pilots.".

SEC. 408. DISPOSAL OF CERTAIN MATERIAL.

Section 641(a) of title 14, United States Code, is amended—

(1) by inserting "to the Coast Guard Auxiliary, including any incorporated unit thereof," after "with or without charge,"; and

(2) by striking "to any incorporated unit of the Coast Guard Auxiliary," after "America,".

TITLE V—RECREATIONAL BOATING SAFETY IMPROVEMENT

SEC. 501. STATE RECREATIONAL BOATING SAFETY GRANTS.

(a) TRANSFER OF AMOUNTS FOR STATE BOATING SAFETY PROGRAMS.—

(1) TRANSFERS.—Section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b); commonly referred to as the "Dingell-Johnson Sport Fish Restoration Act") is amended to read as follows:

"(b)(1) Of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $15,000,000 for fiscal year 1995, $40,000,000 for fiscal year 1996, $55,000,000 for fiscal year 1997, and $69,000,000 for each of fiscal years 1998 and 1999, shall, subject to paragraph (2), be used as follows:

"(A) A sum equal to $7,500,000 of the amount available for fiscal year 1995, and a sum equal to $10,000,000 of the amount available for each of fiscal years 1996 and 1997, shall be available for use by the Secretary of the Interior for grants under section 5604(c) of the Clean Vessel Act of 1992. Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(B) A sum equal to $7,500,000 of the amount available for fiscal year 1995, $30,000,000 of the amount available for fiscal year 1996, $45,000,000 of the amount available for fiscal year 1997, and $59,000,000 of the amount available for each of fiscal years 1998 and 1999, shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for recreational boating safety programs under section 13106 of title 46, United States Code.

"(C) A sum equal to $10,000,000 of the amount available for each of fiscal years 1998 and 1999 shall be available for use by the Secretary of the Interior for—

"(i) grants under section 502(e) of the Coast Guard Authorization Act of 1995; and

"(ii) grants under section 5604(c) of the Clean Vessel Act of 1992.

Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(2)(A) Beginning with fiscal year 1996, the amount transferred under paragraph (1)(B) for a fiscal year shall be reduced by the lesser of—

"(i) the amount appropriated for that fiscal year from the Boat Safety Account in the Aquatic Resources Trust Fund established under section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106 of title 46, United States Code; or

"(ii) $35,000,000.

"(iii) for fiscal year 1996 only, $30,000,000.

"(B) The amount of any reduction under subparagraph (A) shall be apportioned among the several States under subsection (d) of this section by the Secretary of the Interior.".

(2) CONFORMING AMENDMENT.—Section 5604(c)(1) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended by striking "section 4(b)(2) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(2), as amended by this Act)" and inserting "section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1))".

(b) EXPENDITURE OF AMOUNTS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.—Section 13106 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (a)(1) and inserting the following: "Subject to paragraph (2), the Secretary shall expend under contracts with States under this chapter in each fiscal year for State recreational boating safety programs an amount equal to the sum of the amount appropriated from the Boat Safety Account for that fiscal year plus the amount transferred to the Secretary under section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1)) for that fiscal year."; and

(2) by amending subsection (c) to read as follows:

"(c) For expenditure under this chapter for State recreational boating safety programs there are authorized to be appropriated to the Secretary of Transportation from the Boat Safety Account established under section 9504 of the Internal Revenue Code of 1986 (26 U.S.C. 9504) not more than $35,000,000 each fiscal year.".

(c) EXCESS FY 1995 BOAT SAFETY ACCOUNT FUNDS TRANSFER.—Notwithstanding any other provision of law, $20,000,000 of the annual appropriation from the Sport Fish Restoration Account in fiscal year 1996 made in accordance with the provisions of section 3 of the Act of August 9, 1950 (16 U.S.C. 777b) shall be excluded from the calculation of amounts to be distributed under section 4(a) of such Act (16 U.S.C. 777c(a)).

SEC. 502. BOATING ACCESS.

(a) FINDINGS.—The Congress makes the following findings:

(1) Nontrailerable recreational motorboats contribute 15 percent of the gasoline taxes deposited in the Aquatic Resources Trust Fund while constituting less than 5 percent of the recreational vessels in the United States.

(2) The majority of recreational vessel access facilities constructed with Aquatic Resources Trust Fund moneys benefit trailerable recreational vessels.

(3) More Aquatic Resources Trust Fund moneys should be spent on recreational vessel access facilities that benefit recreational vessels that are nontrailerable vessels.

(b) PURPOSE.—The purpose of this section is to provide funds to States for the development of public facilities for transient nontrailerable vessels.

(c) SURVEY.—Within 18 months after the date of the enactment of this Act, any State may complete and submit to the Secretary of the Interior a survey which identifies—

(1) the number and location in the State of all public facilities for transient nontrailerable vessels; and

(2) the number and areas of operation in the State of all nontrailerable vessels that operate on navigable waters in the State.

(d) PLAN.—Within 6 months after submitting a survey to the Secretary of the Interior in accordance with subsection (c), an eligible State may develop and submit to the Secretary of the Interior a plan for the construction and renovation of public facilities for transient nontrailerable vessels to meet the needs of nontrailerable vessels operating on navigable waters in the State.

(e) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior shall obligate not less than one-half of the amount made available for each of fiscal years 1998 and 1999 under section 4(b)(1)(C) of the Act of August 9, 1950, as amended by section 501(a)(1) of this Act, to make grants to any eligible State to pay not more than 75 percent of the cost of constructing or renovating public facilities for transient nontrailerable vessels.

(2) PRIORITY.—

(A) IN GENERAL.—In awarding grants under this subsection, the Secretary of the Interior shall give priority to projects that consist of the construction or renovation of public facilities for transient nontrailerable vessels in accordance with a plan submitted by a State submitted under subsection (b).

(B) WITHIN STATE.—In awarding grants under this subsection for projects in a particular State, the Secretary of the Interior shall give priority to projects that are likely to serve the greatest number of nontrailerable vessels.

(f) DEFINITIONS.—For the purpose of this section and section 501 of this Act the term—

(1) "Act of August 9, 1950" means the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes", approved August 9, 1950 (16 U.S.C. 777a et seq.);

(2) "nontrailerable vessel" means a recreational vessel greater than 26 feet in length;

(3) "public facilities for transient nontrailerable vessels" means mooring buoys, day-docks, seasonal slips or similar structures located on navigable waters, that are available to the general public and designed for temporary use by nontrailerable vessels;

(4) ''recreational vessel'' means a vessel—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure; and

(5) ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Marianas.

SEC. 503. PERSONAL FLOTATION DEVICES REQUIRED FOR CHILDREN.

(a) PROHIBITION.—Section 4307(a) of title 46, United States Code, is amended—

(1) by striking ''or'' after the semicolon in paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon and ''or''; and

(3) by adding at the end the following:

''(4) operate a recreational vessel under 26 feet in length unless each individual 6 years of age or younger wears a Coast Guard approved personal flotation device when the individual is on an open deck of the vessel.''.

(b) STATE AUTHORITY PRESERVED.—Section 4307 of title 46, United States Code, is amended by adding at the end thereof the following:

''(c) Subsection (a)(4) shall not be construed to limit the authority of a State to establish requirements relating to the wearing of personal flotation devices on recreational vessels that are more stringent than the requirements of that subsection.''.

(c) PENALTY.—Section 4311 of title 46, United States Code, is amended by adding at the end the following new subsection:

''(h) Notwithstanding any other provision of this section, in the case of a person violating section 4307(a)(4) of this title—

''(1) the maximum penalty assessable under subsection (a) is a fine of $100 with no imprisonment; and

''(2) the maximum civil penalty assessable under subsection (c) is $100.''.

SEC. 504. MARINE CASUALTY REPORTING.

(a) SUBMISSION OF PLAN.—Not later than one year after enactment of this Act, the Secretary of Transportation shall, in consultation with appropriate State agencies, submit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to increase reporting of vessel accidents to appropriate State law enforcement officials.

(b) PENALTIES FOR VIOLATING REPORTING REQUIREMENTS.—Section 6103(a) of title 46, United States Code, is amended by inserting ''or 6102'' after ''6101'' the second place it appears.

TITLE VI—COAST GUARD REGULATORY REFORM

SEC. 601. SHORT TITLE.

This title may be cited as the ''Coast Guard Regulatory Reform Act of 1995''.

SEC. 602. SAFETY MANAGEMENT.

(a) MANAGEMENT OF VESSELS.—Title 46, United States Code, is amended by adding after chapter 31 the following new chapter:

''CHAPTER 32—MANAGEMENT OF VESSELS

''Sec.

''3201. Definitions.
''3202. Application.
''3203. Safety management system.
''3204. Implementation of safety management system.
''3205. Certification.

''§3201. Definitions

''In this chapter—

''(1) 'International Safety Management Code' has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;

''(2) 'responsible person' means—

''(A) the owner of a vessel to which this chapter applies; or

''(B) any other person that has—

''(i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and

''(ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter.

''(3) 'vessel engaged on a foreign voyage' means a vessel to which this chapter applies—

''(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

''(B) making a voyage between places outside the United States; or

''(C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

''§3202. Application

''(a) MANDATORY APPLICATION.—This chapter applies to the following vessels engaged on a foreign voyage:

''(1) Beginning July 1, 1998—

''(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

''(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

''(2) Beginning July 1, 2002, a freight vessel and a self-propelled mobile offshore drilling unit of at least 500 gross tons.

''(b) VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

''(c) EXCEPTION.—Except as provided in subsection (b) of this section, this chapter does not apply to—

''(1) a barge;

''(2) a recreational vessel not engaged in commercial service;

''(3) a fishing vessel;

''(4) a vessel operating on the Great Lakes or its tributary and connecting waters; or

''(5) a public vessel.

''§3203. Safety management system

''(a) IN GENERAL.—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

''(1) a safety and environmental protection policy;

''(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

''(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

''(4) procedures for reporting accidents and nonconformities with this chapter;

''(5) procedures for preparing for and responding to emergency situations; and

''(6) procedures for internal audits and management reviews of the system.

''(b) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

''§3204. Implementation of safety management system

''(a) SAFETY MANAGEMENT PLAN.—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

''(b) APPROVAL.—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

''(c) PROHIBITION ON VESSEL OPERATION.—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

''§3205. Certification

''(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

''(b) MAINTENANCE OF CERTIFICATE AND DOCUMENT.—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

''(c) VERIFICATION OF COMPLIANCE.—The Secretary shall—

''(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

''(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

''(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 U.S.C. App. 91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 31 the following:

''32. Management of vessels .... 3201''.

(c) STUDY.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall conduct, in cooperation with the owners, charterers, and managing operators of vessels documented under chapter 121 of title 46, United States Code, and other interested persons, a study of the methods that may be used to implement and enforce the International Management Code for the Safe Operation of Ships and for Pollution Prevention under chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974.

(2) REPORT.—The Secretary shall submit to the Congress a report of the results of the study required under paragraph (1) before the earlier of—

(A) the date that final regulations are prescribed under section 3203 of title 46, United States Code (as enacted by subsection (a); or

(B) the date that is 1 year after the date of enactment of this Act.

SEC. 603. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS.

(a) REPORTS, DOCUMENTS, AND RECORDS.—Chapter 31 of title 46, United States Code, is amended by adding the following new section:

"§3103. Use of reports, documents, and records

"The Secretary may rely, as evidence of compliance with this subtitle, on—

"(1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and

"(2) other methods the Secretary has determined to be reliable.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 46, United States Code, is amended by adding at the end the following:

"3103. Use of reports, documents, and records.".

(c) EXAMINATIONS.—Section 3308 of title 46, United States Code, is amended by inserting "or have examined" after "examine".

SEC. 604. EQUIPMENT APPROVAL.

(a) IN GENERAL.—Section 3306(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

"(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—

"(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

"(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

"(C) for lifesaving equipment, the foreign government—

"(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

"(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.".

(b) FOREIGN APPROVALS.—The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels.

(c) TECHNICAL AMENDMENT.—Section 3306(a)(4) of title 46, United States Code, is amended by striking "clauses (1)-(3)" and inserting "paragraphs (1), (2), and (3)".

SEC. 605. FREQUENCY OF INSPECTION.

(a) FREQUENCY OF INSPECTION, GENERALLY.—Section 3307 of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "nautical school vessel" and inserting ", nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage"; and

(B) by adding "and" after the semicolon at the end;

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking "2 years" and inserting "5 years".

(b) CONFORMING AMENDMENT.—Section 3710(b) of title 46, United States Code, is amended by striking "24 months" and inserting "5 years".

SEC. 606. CERTIFICATE OF INSPECTION.

Section 3309(c) of title 46, United States Code, is amended by striking "(but not more than 60 days)".

SEC. 607. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES.

(a) AUTHORITY TO DELEGATE.—Section 3316 of title 46, United States Code, is amended—

(1) by striking subsections (a) and (d);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b), as so redesignated, by—

(A) redesignating paragraph (2) as paragraph (3); and

(B) striking so much of the subsection as precedes paragraph (3), as so redesignated, and inserting the following:

"(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

"(A) review and approve plans required for issuing a certificate of inspection required by this part;

"(B) conduct inspections and examinations; and

"(C) issue a certificate of inspection required by this part and other related documents.

"(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

"(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

"(B) if the foreign classification society has offices and maintains records in the United States.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 3316 of title 46, United States Code, is amended to read as follows:

"§3316. Classification societies".

(2) The table of sections for chapter 33 of title 46, United States Code, is amended by striking the item relating to section 3316 and inserting the following:

"3316. Classification societies.".

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 701. AMENDMENT OF INLAND NAVIGATION RULES.

Section 2 of the Inland Navigational Rules Act of 1980 is amended—

(1) by amending Rule 9(e)(i) (33 U.S.C. 2009(e)(i)) to read as follows:

"(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound the same signal and may, if specifically agreed to take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d).";

(2) in Rule 15(b) (33 U.S.C. 2015(b)) by inserting "power-driven" after "Secretary, a";

(3) in Rule 23(a)(i) (33 U.S.C. 2023(a)(i)) after "masthead light forward"; by striking "except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;";

(4) by amending Rule 24(f) (33 U.S.C. 2024(f)) to read as follows:

"(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (iii)—

"(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;

"(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

"(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.";

(5) in Rule 26 (33 U.S.C. 2026)—

(A) in each of subsections (b)(i) and (c)(i) by striking "a vessel of less than 20 meters in length may instead of this shape exhibit a basket;"; and

(B) by amending subsection (d) to read as follows:

"(d) The additional signals described in Annex II to these Rules apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing."; and

(6) by amending Rule 34(h) (33 U.S.C. 2034) to read as follows:

"(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.".

SEC. 702. MEASUREMENT OF VESSELS.

Section 14104 of title 46, United States Code, is amended by redesignating the existing text after the section heading as subsection (a) and by adding at the end the following new subsection:

"(b) If a statute allows for an alternate tonnage to be prescribed under this section, the Secretary may prescribe it by regulation. Until an alternate tonnage is prescribed, the statutorily established tonnage shall apply to vessels measured under chapter 143 or chapter 145 of this title.".

SEC. 703. LONGSHORE AND HARBOR WORKERS COMPENSATION.

Section 3(d)(3)(B) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3)(B)) is amended by inserting after "1,600 tons gross" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 704. RADIOTELEPHONE REQUIREMENTS.

Section 4(a)(2) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(a)(2)) is amended by inserting after "one hundred gross tons" the following "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 705. VESSEL OPERATING REQUIREMENTS.

Section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3)) is amended by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 706. MERCHANT MARINE ACT, 1920.

Section 27A of the Merchant Marine Act, 1920 (46 U.S.C. App. 883-1), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 707. MERCHANT MARINE ACT, 1956.

Section 2 of the Act of June 14, 1956 (46 U.S.C. App. 883a), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 708. MARITIME EDUCATION AND TRAINING.

Section 1302(4)(A) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295a(4)(a)) is amended by inserting after "1,000 gross tons or more" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 709. GENERAL DEFINITIONS.

Section 2101 of title 46, United States Code, is amended—

(1) in paragraph (13), by inserting after "15 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in paragraph (13a), by inserting after "3,500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in paragraph (19), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in paragraph (22), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(5) in paragraph (30)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(6) in paragraph (32), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(7) in paragraph (33), by inserting after "300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(8) in paragraph (35), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(9) in paragraph (42), by inserting after "100 gross tons" each place it appears, the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 710. AUTHORITY TO EXEMPT CERTAIN VESSELS.

Section 2113 of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in paragraph (5), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 711. INSPECTION OF VESSELS.

Section 3302 of title 46, United States Code, is amended—

(1) in subsection (c)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (c)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (c)(3), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (c)(4)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(5) in subsection (d)(1), by inserting after "150 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(6) in subsection (i)(1)(A), by inserting after "300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(7) in subsection (j), by inserting after "15 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 712. REGULATIONS.

Section 3306 of title 46, United States Code, is amended—

(1) in subsection (h), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (i), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 713. PENALTIES—INSPECTION OF VESSELS.

Section 3318 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (j)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 714. APPLICATION—TANK VESSELS.

Section 3702 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (c), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(3) in subsection (d), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 715. TANK VESSEL CONSTRUCTION STANDARDS.

Section 3703a of title 46, United States Code, is amended—

(1) in subsection (b)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (c)(2), by inserting after "5,000 gross tons" each place it appears the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (c)(3)(A), by inserting after "15,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (c)(3)(B), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(5) in subsection (c)(3)(C), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 716. TANKER MINIMUM STANDARDS.

Section 3707 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (b), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 717. SELF-PROPELLED TANK VESSEL MINIMUM STANDARDS.

Section 3708 of title 46, United States Code, is amended by inserting after "10,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 718. DEFINITION—ABANDONMENT OF BARGES.

Section 4701(1) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 719. APPLICATION—LOAD LINES.

Section 5102(b) of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in paragraph (5), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(3) in paragraph (10), by inserting after "150 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 720. LICENSING OF INDIVIDUALS.

Section 7101(e)(3) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 721. ABLE SEAMEN—LIMITED.

Section 7308 of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 722. ABLE SEAMEN—OFFSHORE SUPPLY VESSELS.

Section 7310 of title 46, United States Code, is amended by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 723. SCALE OF EMPLOYMENT—ABLE SEAMEN.

Section 7312 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (c)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (d), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (f)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(5) in subsection (f)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 724. GENERAL REQUIREMENTS—ENGINE DEPARTMENT.

Section 7313(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 725. COMPLEMENT OF INSPECTED VESSELS.

Section 8101(h) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 726. WATCHMEN.

Section 8102(b) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 727. CITIZENSHIP AND NAVAL RESERVE REQUIREMENTS.

Section 8103(b)(3)(A) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 728. WATCHES.

Section 8104 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (d), by inserting after "100 gross tons" and after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (l)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (m)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(5) in subsection (o)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(6) in subsection (o)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 729. MINIMUM NUMBER OF LICENSED INDIVIDUALS.

Section 8301 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by inserting after "1,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (a)(3), by inserting after "at least 200 gross tons but less than 1,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (a)(4), by inserting after "at least 100 gross tons but less than 200 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (a)(5), by inserting after "300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(5) in subsection (b), by inserting after "200 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 730. OFFICERS' COMPETENCY CERTIFICATES CONVENTION.

Section 8304(b)(4) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 731. MERCHANT MARINERS' DOCUMENTS REQUIRED.

Section 8701 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 732. CERTAIN CREW REQUIREMENTS.

Section 8702 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 733. FREIGHT VESSELS.

Section 8901 of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 734. EXEMPTIONS.

Section 8905(b) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 735. UNITED STATES REGISTERED PILOT SERVICE.

Section 9303(a)(2) of title 46, United States Code, is amended by inserting after "4,000 gross tons" the following: "as measured under section

14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 736. DEFINITIONS—MERCHANT SEAMEN PROTECTION.

Section 10101(4)(B) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 737. APPLICATION—FOREIGN AND INTERCOASTAL VOYAGES.

Section 10301(a)(2) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 738. APPLICATION—COASTWISE VOYAGES.

Section 10501(a) of title 46, United States Code, is amended by inserting after "50 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 739. FISHING AGREEMENTS.

Section 10601(a)(1) of title 46, United States Code, is amended by inserting after "20 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 740. ACCOMMODATIONS FOR SEAMEN.

Section 11101(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 741. MEDICINE CHESTS.

Section 11102(a) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 742. LOGBOOK AND ENTRY REQUIREMENTS.

Section 11301(a)(2) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 743. COASTWISE ENDORSEMENTS.

Section 12106(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 744. FISHERY ENDORSEMENTS.

Section 12108(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 745. CONVENTION TONNAGE FOR LICENSES, CERTIFICATES, AND DOCUMENTS.

(a) AUTHORITY TO USE CONVENTION TONNAGE.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"§7506. Convention tonnage for licenses, certificates, and documents

"Notwithstanding any provision of section 14302(c) or 14305 of this title, the Secretary may—

"(1) evaluate the service of an individual who is applying for a license, a certificate of registry, or a merchant mariner's document by using the tonnage as measured under chapter 143 of this title for the vessels on which that service was acquired, and

"(2) issue the license, certificate, or document based on that service.".

(b) CLERICAL AMENDMENT.—The analysis to chapter 75 of title 46, United States Code, is amended by adding a new item as follows:

"7506. Convention tonnage for licenses, certificates, and documents.".

SEC. 746. TECHNICAL CORRECTIONS.

(a) Title 46, United States Code, is amended—

(1) by striking the first section 12123 in chapter 121;

(2) by striking the first item relating to section 12123 in the table of sections for such chapter 121;

(3) by striking "proceeding" in section 13108(a)(1) and inserting "preceding"; and

(4) by striking "Secertary" in section 13108(a)(1) and inserting "Secretary".

(b) Section 645 of title 14, United States Code, is amended by redesignating the second subsection (d) and subsections (e) through (h) as subsection (e) and subsections (f) through (i), respectively.

TITLE VIII—POLLUTION FROM SHIPS

SEC. 801. PREVENTION OF POLLUTION FROM SHIPS.

(a) IN GENERAL.—Section 6 of the Act to Prevent Pollution From Ships (33 U.S.C. 1905) is amended—

(1) by striking "(2) If" in subsection (c)(2) and inserting "(2)(A) Subject to subparagraph (B), if"; and

(2) by adding at the end of subsection (c)(2) the following:

"(B) The Secretary may not issue a certificate attesting to the adequacy of reception facilities under this paragraph unless, prior to the issuance of the certificate, the Secretary conducts an inspection of the reception facilities of the port or terminal that is the subject of the certificate.

"(C) The Secretary may, with respect to certificates issued under this paragraph prior to the date of enactment of the Coast Guard Authorization Act of 1995, prescribe by regulation differing periods of validity for such certificates.";

(3) by striking subsection (c)(3)(A) and inserting the following:

"(A) is valid for the 5-year period beginning on the date of issuance of the certificate, except that if—

"(i) the charge for operation of the port or terminal is transferred to a person or entity other than the person or entity that is the operator on the date of issuance of the certificate—

"(I) the certificate shall expire on the date that is 30 days after the date of the transfer; and

"(II) the new operator shall be required to submit an application for a certificate before a certificate may be issued for the port or terminal; or

"(ii) the certificate is suspended or revoked by the Secretary, the certificate shall cease to be valid; and"; and

(4) by striking subsection (d) and inserting the following:

"(d)(1) The Secretary shall maintain a list of ports or terminals with respect to which a certificate issued under this section—

"(A) is in effect; or

"(B) has been revoked or suspended.

"(2) The Secretary shall make the list referred to in paragraph (1) available to the general public."

(b) RECEPTION FACILITY PLACARDS.—Section 6(f) of the Act to Prevent Pollution From Ships (33 U.S.C. 1905(f)) is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Not later than 18 months after the date of enactment of the Coast Guard Authorization Act of 1995, the Secretary shall promulgate regulations that require the operator of each port or terminal that is subject to any requirement of the MARPOL Protocol relating to reception facilities to post a placard in a location that can easily be seen by port and terminal users. The placard shall state, at a minimum, that a user of a reception facility of the port or terminal should report to the Secretary any inadequacy of the reception facility.".

SEC. 802. MARINE PLASTIC POLLUTION RESEARCH AND CONTROL.

(a) COMPLIANCE REPORTS.—Section 2201(a) of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1902 note) is amended—

(1) by striking "for a period of 6 years"; and

(2) by inserting before the period at the end the following: "and, not later than 1 year after the date of enactment of the Coast Guard Authorization Act of 1995, and annually thereafter, shall publish in the Federal Register a list of the enforcement actions taken against any domestic or foreign ship (including any commercial or recreational ship) pursuant to the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.)".

(b) COORDINATION.—Section 2203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2803) is amended to read as follows:

"SEC. 2203. COORDINATION.

"(a) ESTABLISHMENT OF MARINE DEBRIS COORDINATING COMMITTEE.—The Secretary of Commerce shall establish a Marine Debris Coordinating Committee.

"(b) MEMBERSHIP.—The Committee shall include a senior official from—

"(1) the National Oceanic and Atmospheric Administration, who shall serve as the Chairperson of the Committee;

"(2) the Environmental Protection Agency,;

"(3) the United States Coast Guard;

"(4) the United States Navy; and

"(5) such other Federal agencies that have an interest in ocean issues or water pollution prevention and control as the Secretary of Commerce determines appropriate.

"(c) MEETINGS.—The Committee shall meet at least twice a year to provide a forum to ensure the coordination of national and international research, monitoring, education, and regulatory actions addressing the persistent marine debris problem.

"(d) MONITORING.—The Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, in cooperation with the Administrator of the Environmental Protection Agency, shall utilize the marine debris data derived under title V of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.) to assist—

"(1) the Committee in ensuring coordination of research, monitoring, education and regulatory actions; and

"(2) the United States Coast Guard in assessing the effectiveness of this Act and the Act to Prevent Pollution from Ships in ensuring compliance under section 2201.".

(c) PUBLIC OUTREACH PROGRAM.—Section 2204(a) of the Marine Plastic Pollution Research and Control Act (42 U.S.C. 6981 note) is amended—

(1) by striking "for a period of at least 3 years," in the matter preceding paragraph (1)(A)—

(2) by striking "and" at the end of paragraph (1)(C);

(3) by striking the period at the end of subparagraph (1)(D) and inserting "; and";

(4) by adding at the end of paragraph (1) the following:

"(E) the requirements under this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) with respect to ships and ports, and the authority of citizens to report violations of this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.)."; and

(5) by striking paragraph (2) and inserting the following:

"(2) AUTHORIZED ACTIVITIES.—

"(A) PUBLIC OUTREACH PROGRAM.—A public outreach program under paragraph (1) may include—

"(i) developing and implementing a voluntary boaters' pledge program;

"(ii) workshops with interested groups;

"(iii) public service announcements;

"(iv) distribution of leaflets and posters; and

"(v) any other means appropriate to educating the public.

"(B) GRANTS AND COOPERATIVE AGREEMENTS.—To carry out this section, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency are authorized to award grants, enter into cooperative agreements with appropriate officials of other Federal agencies and agencies of States and political subdivisions of States and with public and private entities, and provide other financial assistance to eligible recipients.

"(C) CONSULTATION.—In developing outreach initiatives for groups that are subject to the requirements of this title and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, and the Administrator of the Environmental Protection Agency, shall consult with—

"(i) the heads of State agencies responsible for implementing State boating laws; and

"(ii) the heads of other enforcement agencies that regulate boaters or commercial fishermen.".

TITLE IX—LAW ENFORCEMENT ENHANCEMENT

SEC. 901. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO; SANCTIONS FOR OBSTRUCTION OF BOARDING AND PROVIDING FALSE INFORMATION.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end new section 2237 to read as follows:

"§2237. Sanctions for failure to land or to bring to; sanctions for obstruction of boarding and providing false information

"(a)(1) It shall be unlawful for the pilot, operator, or person in charge of an aircraft which has crossed the border of the United States, or an aircraft subject to the jurisdiction of the United States operating outside the United States, to fail to obey an order to land by an authorized Federal law enforcement officer who is enforcing the laws of the United States relating to controlled substances, as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), or relating to money laundering (sections 1956–57 of this title).

"(2) The Administrator of the Federal Aviation Administration, in consultation with the Commissioner of Customs and the Attorney General, shall prescribe regulations governing the means by which a Federal law enforcement officer may communicate an order to land to a pilot, operator, or person in charge of an aircraft.

"(b)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States, to fail to obey an order to bring to that vessel on being ordered to do so by an authorized Federal law enforcement officer.

"(2) It shall be unlawful for any person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States to—

"(A) fail to comply with an order of an authorized Federal law enforcement officer in connection with the boarding of the vessel;

"(B) impede or obstruct a boarding or arrest, or other law enforcement action authorized by any Federal law; or

"(C) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows or has reason to know is false.

"(c) This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(d) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

"(e) For purposes of this section—

"(1) A 'vessel of the United States' and a 'vessel subject to the jurisdiction of the United States' have the meaning set forth for these terms in the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903);

"(2) an aircraft 'subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the enforcement of United States law by the United States;

"(3) an aircraft 'without nationality' includes—

"(A) an aircraft aboard which the pilot, operator, or person in charge makes a claim of registry, which claim is denied by the nation whose registry is claimed; and

"(B) an aircraft aboard which the pilot, operator, or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of registry for that aircraft.

"(4) the term 'bring to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

"(5) the term 'Federal law enforcement officer' has the meaning set forth in section 115 of this title.

"(f) Any person who intentionally violates the provisions of this section shall be subject to—

"(1) imprisonment for not more than 5 years; and

"(2) a fine as provided in this title.

"(g) An aircraft or vessel that is used in violation of this section may be seized and forfeited. The laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures undertaken, or alleged to have been undertaken, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. A vessel or aircraft that is used in violation of this section is also liable in rem for any fine or civil penalty imposed under this section.".

(b) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 109, title 18, United States Code, is amended by inserting the following new item after the item for section 2236:

"2237. Sanctions for failure to land or to bring to; sanctions for obstruction of boarding or providing false information.".

SEC. 902. FAA SUMMARY REVOCATION AUTHORITY.

(a) Title 49, United States Code, is amended by adding after section 44106 the following new section:

"§44106a. Summary revocation of aircraft certificate

"(a) The registration of an aircraft shall be immediately revoked upon the failure of the pilot, operator, or person in charge of the aircraft to follow the order of a Federal law enforcement officer to land an aircraft, as provided in section 2237 of title 18, United States Code. The Administrator shall as soon as possible notify the owner of the aircraft that the owner no longer holds United States registration for that aircraft.

"(b) The Administrator shall establish procedures for the owner of the aircraft to show cause—

"(1) why the registration was not revoked, as a matter of law, by operation of subsection (a); or

"(2) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subsection (a), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subsection (a).".

(b) The table of sections at the beginning of chapter 441 of title 49, United States Code, is amended by inserting after the item relating to section 44106 the following:

"44106a. Summary revocation of aircraft certificate."

(c) Title 49, United States Code, is amended by adding after section 44710 the following new section:

"§44710a. Failure to follow order to land aircraft

"(a) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that—

"(1) such person, while acting as the pilot, operator, or person in charge of an aircraft failed to follow the order of a Federal law enforcement *officer to land the aircraft as provided in section 2237 of title 18, United States Code, and*

"(2) such person knew or had reason to know that he had been ordered to land the aircraft.

"(b) If the Administrator determines that extenuating circumstances existed, such as safety of flight, which justified a deviation by the airman from the order to land, the provisions of subsection (a) of this section shall not apply.

"(c) The provisions of subsections (c) and (d) of section 44710 shall apply to any revocation of the airman certificate of any person for failing to follow the order of a Federal law enforcement officer to land an aircraft.".

(d) The table of sections at the beginning of chapter 447 of title 49, United States Code, is amended by inserting after the item relating to section 44710 the following:

"44710a. Failure to follow order to land aircraft."

SEC. 903. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§96. Air interdiction authority

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft subject to the jurisdiction of the United States as defined in section 2237 of title 18, United States Code. Any order issued under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18, United States Code.".

(b) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 5 of title 14, United States Code, is amended by adding at the end the following new item:

"96. Air interdiction authority.".

SEC. 904. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§673. Civil penalty for failure to comply with a lawful boarding, order to land, obstruction of boarding, or providing false information

"(a) The master, operator, or person in charge of a vessel, or the pilot, operator, or person in charge of an aircraft who fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft issued under the authority of section 2237 of title 18, United States Code, or section 96 of this title, and communicated according to regulations promulgated under section 2237 of title 18, United States Code, or according to any applicable, internationally recognized standards, or in any other manner reasonably calculated to be received and understood, shall be liable for a civil penalty of not more than $15,000. For intentional violations of this section, a civil penalty of not more than $25,000 shall be assessed.

"(b) A vessel or aircraft used to violate an order relating to the boarding of a vessel or landing of an aircraft issued under the authority of section 2237 of title 18, United States Code, or Section 96 of this Title, is also liable in rem and may be seized, forfeited, and sold in accordance with Customs law, specifically section 1594 of Title 19, United States Code.".

(b) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"673. Civil penalty for failure to comply with a lawful boarding, order to land, obstruction of boarding, or providing false information.".

SEC. 905. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end the following new subsection:

"(i) As used in this section, the term 'authorized place' includes —

"(1) with respect to a vehicle, a location in a foreign country at which United States customs officers are permitted to conduct inspections, examinations, or searches; and

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act (19 U.S.C. 1644), or regulations issued thereunder, or section 2237 of title 18, United States Code, any location outside of the United States, including a foreign country at which United States customs officers are permitted to conduct inspections, examinations, or searches.".

SEC. 906. CUSTOMS CIVIL PENALTY PROVISIONS.

Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding a new section 591 (19 U.S.C. 1591) as follows:

"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER TO LAND.

"(a) The pilot, operator, or person in charge of an aircraft who fails to comply with an order of an authorized Federal law enforcement officer relating to the landing of an aircraft issued under the authority of section 581 of this Act, or section 2237 of title 18, United States Code, and communicated according to regulations promulgated under section 2237 of title 18, United States Code, or according to any applicable, internationally recognized standards, or in any other manner reasonably calculated to be received and understood, shall be liable for a civil penalty of not more than $15,000. For intentional violations of this section, a civil penalty of not more than $25,000 shall be assessed.

"(b) An aircraft used to violate an order relating to the landing of an aircraft issued under the authority of section 581 of this Act, or section 2237 of title 18, United States Code, is also liable in rem and may be seized, forfeited, and sold in accordance with Customs law, specifically section 1594 of Title 19, United States Code.".

TITLE X—CONVEYANCES

SEC. 1001. CONVEYANCE OF PROPERTY IN MASSACHUSETTS.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the properties described in paragraph (3) to the persons to whom each such property is to be conveyed under that paragraph.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine each property to be conveyed pursuant to this subsection.

(3) PROPERTIES CONVEYED.—

(A) CAPE ANN LIGHTHOUSE.—The Secretary shall convey to the town of Rockport, Massachusetts, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the property comprising the Cape Ann Lighthouse, located on Thacher Island, Massachusetts.

(B) COAST GUARD PROPERTY IN GOSNOLD, MASSACHUSETTS.—The Secretary may convey to the town of Gosnold, Massachusetts, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the "United States Coast Guard Cuttyhunk Boathouse and Wharf" located in the town of Gosnold, Massachusetts.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (3), (4), and (5) and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the property conveyed shall immediately revert to the United States if the property, or any part of the property

(A) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(B) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the person to which the property is conveyed may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The person to which the property is conveyed is not required to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(5) MAINTENANCE OF PROPERTY.—The person to which the property is conveyed shall maintain the property in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "Cape Ann Lighthouse" means the Coast Guard property located on Thacher Island, Massachusetts, except any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance;

(2) the term "United States Coast Guard Cuttyhunk Boathouse and Wharf" means real property located in the town of Gosnold, Massachusetts (including all buildings, structures, equipment, and other improvements), as determined by the Secretary of Transportation; and

(3) the term "Secretary" means the Secretary of Transportation.

SEC. 1002. CONVEYANCE OF CERTAIN LIGHTHOUSES LOCATED IN MAINE.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation (in this section referred to as the "Secretary") may convey to the Island Institute, Rockland, Maine, (in this section referred to as the "Institute"), by an appropriate means of conveyance, all right, title, and interest of the United States in and to any of the facilities and real property and improvements described in paragraph (2).

(2) IDENTIFICATION OF PROPERTIES.—Paragraph (1) applies to lighthouses, together with any real property and other improvements associated therewith, located in the State of Maine as follows:

(A) Whitehead Island Light.

(B) Deer Island Thorofare (Mark Island) Light.

(C) Burnt Island Light.

(D) Rockland Harbor Breakwater Light.

(E) Monhegan Island Light.

(F) Eagle Island Light.

(G) Curtis Island Light.

(H) Moose Peak Light.

(I) Great Duck Island Light.

(J) Goose Rocks Light.

(K) Isle au Haut Light.

(L) Goat Island Light.

(M) Wood Island Light.

(N) Doubling Point Light.

(O) Doubling Point Front Range Light.

(P) Doubling Point Rear Range Light.

(Q) Little River Light.

(R) Spring Point Ledge Light.

(S) Ram Island Light (Boothbay).

(T) Seguin Island Light.

(U) Marshall Point Light.

(V) Fort Point Light.

(W) West Quoddy Head Light.

(X) Brown's Head Light.

(Y) Cape Neddick Light.

(Z) Halfway Rock Light.

(AA) Ram Island Ledge Light.

(BB) Mount Desert Rock Light.

(CC) Whitlock's Mill Light.

(3) DEADLINE FOR CONVEYANCE.—The conveyances authorized by this subsection shall take place, if at all, not later than 5 years after the date of the enactment of this Act.

(4) ADDITIONAL CONVEYANCES TO UNITED STATES FISH AND WILDLIFE SERVICE.—The Secretary may transfer, in accordance with the terms and conditions of subsection (b), the following lighthouses, together with any real property and improvements associated therewith, directly to the United States Fish and Wildlife Service:

(A) Two Bush Island Light.

(B) Egg Rock Light.

(C) Libby Island Light.

(D) Matinicus Rock Light.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (2) and (3) and other terms and conditions the Secretary may consider appropriate.

(2) MAINTENANCE OF NAVIGATION FUNCTION.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Institute, the United States Fish and Wildlife Service, and an entity to which property is conveyed under this section may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to property conveyed under this section as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter property conveyed under this section without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to property conveyed under this section for the purpose of maintaining the aids to navigation in use on the property.

(3) OBLIGATION LIMITATION.—The Institute, or any entity to which the Institute conveys a lighthouse under subsection (d), is not required to maintain any active aid to navigation equipment on a property conveyed under this section.

(4) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(A) such property or any part of such property ceases to be used for educational, historic, recreational, cultural, and wildlife conservation programs for the general public and for such other uses as the Secretary determines to be not inconsistent or incompatible with such uses;

(B) such property or any part of such property ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation;

(C) such property or any part of such property ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.); or

(D) the Secretary determines that—

(i) the Institute is unable to identify an entity eligible for the conveyance of the lighthouse under subsection (d) within the 3-year period beginning on the date of the conveyance of the lighthouse to the Institute under subsection (a); or

(ii) in the event that the Institute identifies an entity eligible for the conveyance within that period—

(I) the entity is unable or unwilling to accept the conveyance and the Institute is unable to identify another entity eligible for the conveyance within that period; or

(II) the Maine Lighthouse Selection Committee established under subsection (d)(3)(A) disapproves of the entity identified by the Institute and the Institute is unable to identify another entity eligible for the conveyance within that period.

(c) INSPECTION.—The State Historic Preservation Officer of the State of Maine may inspect any lighthouse, and any real property and improvements associated therewith, that is conveyed under this section at any time, without notice, for purposes of ensuring that the lighthouse is being maintained in the manner required under subsection (b). The Institute, and any subsequent conveyee of the Institute under subsection (d), shall cooperate with the official referred to in the preceding sentence in the inspections of that official under this subsection.

(d) SUBSEQUENT CONVEYANCE.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Institute shall convey, without consideration, all right, title, and interest of the Institute in and to the lighthouses conveyed to the Institute under subsection (a), together with any real property and improvements associated therewith, to one or more entities identified under paragraph (2) and approved by the committee established under paragraph (3) in accordance with the provisions of such paragraph (3).

(B) EXCEPTION.—The Institute, with the concurrence of the Maine Lighthouse Selection Committee and in accordance with the terms and conditions of subsection (b), may retain right, title, and interest in and to the following lighthouses conveyed to the Institute:

(i) Whitehead Island Light.

(ii) Deer Island Thorofare (Mark Island) Light.

(2) IDENTIFICATION OF ELIGIBLE ENTITIES.—

(A) IN GENERAL.—Subject to subparagraph (B), the Institute shall identify entities eligible for the conveyance of a lighthouse under this subsection. Such entities shall include any department or agency of the Federal Government, any department or agency of the Government of the State of Maine, any local government in that State, or any nonprofit corporation, educational agency, or community development organization that—

(i) is financially able to maintain the lighthouse (and any real property and improvements conveyed therewith) in accordance with the conditions set forth in subsection (b);

(ii) has agreed to permit the inspections referred to in subsection (c); and

(iii) has agreed to comply with the conditions set forth in subsection (b); and to have such conditions recorded with the deed of title to the lighthouse and any real property and improvements that may be conveyed therewith.

(B) ORDER OF PRIORITY.—In identifying entities eligible for the conveyance of a lighthouse under this paragraph, the Institute shall give priority to entities in the following order, which are also the exclusive entities eligible for the conveyance of a lighthouse under this section:

(i) Agencies of the Federal Government.

(ii) Entities of the Government of the State of Maine.

(iii) Entities of local governments in the State of Maine.

(iv) Nonprofit corporations, educational agencies, and community development organizations.

(3) SELECTION OF CONVEYEES AMONG ELIGIBLE ENTITIES.—

(A) COMMITTEE.—

(i) IN GENERAL.—There is hereby established a committee to be known as the Maine Lighthouse Selection Committee (in this paragraph referred to as the "Committee").

(ii) MEMBERSHIP.—The Committee shall consist of five members appointed by the Secretary as follows:

(I) One member, who shall serve as the Chairman of the Committee, shall be appointed from among individuals recommended by the Governor of the State of Maine.

(II) One member shall be the State Historic Preservation Officer of the State of Maine, with the consent of that official, or a designee of that official.

(III) One member shall be appointed from among individuals recommended by State and local organizations in the State of Maine that are concerned with lighthouse preservation or maritime heritage matters.

(IV) One member shall be appointed from among individuals recommended by officials of local governments of the municipalities in which the lighthouses are located.

(V) One member shall be appointed from among individuals recommended by the Secretary of the Interior.

(iii) APPOINTMENT DEADLINE.—The Secretary shall appoint the members of the Committee not later than 90 days after the date of the enactment of this Act.

(iv) MEMBERSHIP TERM.—

(I) Members of the Committee shall serve for such terms not longer than 3 years as the Secretary shall provide. The Secretary may stagger the terms of initial members of the Committee in order to ensure continuous activity by the Committee.

(II) Any member of the Committee may serve after the expiration of the term of the member until a successor to the member is appointed. A vacancy in the Committee shall be filled in the same manner in which the original appointment was made.

(v) VOTING.—The Committee shall act by an affirmative vote of a majority of the members of the Committee.

(B) RESPONSIBILITIES.—

(i) IN GENERAL.—The Committee shall—

(I) review the entities identified by the Institute under paragraph (2) as entities eligible for the conveyance of a lighthouse; and

(II) approve one such entity, or disapprove all such entities, as entities to which the Institute may make the conveyance of the lighthouse under this subsection.

(ii) APPROVAL.—If the Committee approves an entity for the conveyance of a lighthouse, the Committee shall notify the Institute of such approval.

(iii) DISAPPROVAL.—If the Committee disapproves of the entities, the Committee shall notify the Institute and, subject to subsection (b)(4)(D)(ii), the Institute shall identify other entities eligible for the conveyance of the lighthouse under paragraph (2). The Committee shall review and approve or disapprove entities identified pursuant to the preceding sentence in accordance with this subparagraph and the criteria set forth in subsection (b).

(C) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee, however, all meetings of the Committee shall be open to the public and preceded by appropriate public notice.

(D) TERMINATION.—The Committee shall terminate 8 years from the date of the enactment of this Act.

(4) CONVEYANCE.—Upon notification under paragraph (3)(B)(ii) of the approval of an identified entity for conveyance of a lighthouse under this subsection, the Institute shall, with the consent of the entity, convey the lighthouse to the entity.

(5) RESPONSIBILITIES OF CONVEYEES.—Each entity to which the Institute conveys a lighthouse under this subsection, or any successor or assign of such entity in perpetuity, shall—

(A) use and maintain the lighthouse in accordance with subsection (b) and have such terms and conditions recorded with the deed of title to the lighthouse and any real property conveyed therewith; and

(B) permit the inspections referred to in subsection (c).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any lighthouse, and any real property and improvements associated therewith, conveyed under subsection (a) shall be determined by the Secretary. The Secretary shall retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the lighthouses conveyed under this subsection, whether located at the lighthouse or elsewhere. The Secretary shall identify any equipment, system, or object covered by this paragraph.

(f) REPORT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for the next 7 years, the Secretary shall submit to Congress a report on the conveyance of lighthouses under this section. The report shall include a description of the implementation of the provisions of this section, and the requirements arising under such provisions, in—

(1) providing for the use and maintenance of the lighthouses conveyed under this section in accordance with subsection (b);

(2) providing for public access to such lighthouses; and

(3) achieving the conveyance of lighthouses to appropriate entities under subsection (d).

SEC. 1003. CONVEYANCE OF SQUIRREL POINT LIGHT.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation (in this section referred to as the "Secretary") shall convey to Squirrel Point Associates, Incorporated, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the property comprising the Squirrel Point Light, located in the town of Arrowsic, Maine.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this subsection.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (3) and (4) and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the Squirrel Point Light shall immediately revert to the United States if the Squirrel Point Light, or any part of the property—

(A) ceases to be used as a nonprofit center for the interpretation and preservation of maritime history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) MAINTENANCE OF NAVIGATION FUNCTION.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) Squirrel Point Associates, Incorporated, may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the Squirrel Point Light as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The Squirrel Point Associates, Incorporated, is not required to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(5) MAINTENANCE OF PROPERTY.—The Squirrel Point Associates, Incorporated, shall maintain the Squirrel Point Light in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

(c) DEFINITIONS.—For purposes of this section, the term "Squirrel Point Light" means the Coast Guard light station located in the town of Arrowsic, Sagadahoc County, Maine—

(1) including the light tower, dwelling, boat house, oil house, barn, any other ancillary buildings and such land as may be necessary to enable Squirrel Point Associates, Incorporated, to operate a non-profit center for public benefit; and

(2) except any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance.

SEC. 1004. CONVEYANCE OF MONTAUK LIGHT STATION, NEW YORK.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation shall convey to the Montauk Historical Association in Montauk, New York, by an appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising Montauk Light Station, located at Montauk, New York.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to the conditions required by paragraphs (3) and (4) and such other terms and conditions as the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising the Montauk Light Station pursuant to subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be maintained as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard, the maritime history of Montauk, New York, and Native American and colonial history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the Montauk Historical Association may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to replace, or add any aids to navigation, or make any changes to the Montauk Light Station as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the property conveyed without notice for the purpose of maintaining navigation aids;

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property; and

(F) the Montauk Light Station shall revert to the United States at the end of the 30-day period beginning on any date on which the Secretary of Transportation provides written notice to the Montauk Historical Association that the Montauk Light Station is needed for national security purposes.

(4) MAINTENANCE OF PROPERTY.—Any conveyance of property under this section shall be subject to the condition that the Montauk Historical Association shall maintain the Montauk Light Station in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(5) OBLIGATION LIMITATION.—The Montauk Historical Association shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) MONTAUK LIGHT STATION DEFINED.—For purposes of this section, the term "Montauk Light Station" means the Coast Guard light station known as Light Station Montauk Point, located at Montauk, New York, including the lighthouse, the keeper's dwellings, adjacent Coast Guard rights of way, the World War II submarine spotting tower, the lighthouse tower, and the paint locker, except any historical artifact, including any lens or lantern, located on the property at or before the time of conveyance.

SEC. 1005. CONVEYANCE OF POINT ARENA LIGHT STATION.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—At such time as the Secretary determines the Point Arena Light Station to be excess to the needs of the Coast Guard, the Secretary of Transportation shall convey to the Point Arena Lighthouse Keepers, Inc., by an appropriate means of conveyance, all right, title, and interest of the United States in and to The Point Arena Lighthouse, located in Mendocino County, California, except that the Coast Guard shall retain all right, title, and interest in any historical artifact, including any lens or lantern, on the property conveyed pursuant to this section, or belonging to the property, whether located on the property or elsewhere, except that such lens must be retained within the boundary of the State of California.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising the Point Arena Light Station pursuant to subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof ceases to be maintained as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Point Arena, California.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the Point Arena Lighthouse Keepers, Inc., or any successors or assigns, may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation, or make any changes to the Point Arena Light Station as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the property conveyed without notice for the purpose of maintaining navigation aids;

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property; and

(F) the Point Arena Light Station shall revert to the United States at the end of the 30-day period beginning on any date on which the Secretary of Transportation provides written notice to the Point Arena Lighthouse Keepers, Inc., that the Point Arena Light Station is needed for national security purposes.

(4) MAINTENANCE OF PROPERTY.—Any conveyance of property under this section shall be subject to the condition that the Point Arena Lighthouse Keepers, Inc., shall maintain the Point Arena Light Station in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(5) OBLIGATION LIMITATION.—The Point Arena Lighthouse Keepers, Inc., or any successors or assigns, shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) MAINTENANCE STANDARD.—The Point Arena Lighthouse Keepers, Inc., or any successor or assign, at its own cost and expense, shall maintain, in a proper, substantial and workmanlike manner, all properties conveyed.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "Point Arena Light Station" means the Coast Guard property and improvements located at Point Arena, California, including the light tower building, fog signal building, 2 small shelters, 4 residential quarters, and a restroom facility; and

(2) the term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 1006. CONVEYANCE OF PROPERTY IN KETCHIKAN, ALASKA.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation, in cooperation with the Administrator of the General Services Administration, shall convey to the Ketchikan Indian Corporation in Ketchikan, Alaska, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the "Former Marine Safety Detachment" as identified in Report of Excess Number CG–689 (GSA Control Number 9–U–AK–0747) and described in subsection (b), for use as a health or social services facility.

(b) IDENTIFICATION OF PROPERTY.—The property referred to in subsection (a) is real property located in the city of Ketchikan, Township 75 south, range 90 east, Copper River Meridian, First Judicial District, State of Alaska, and commencing at corner numbered 10, United States Survey numbered 1079, the true point of beginning for this description: Thence north 24 degrees 04 minutes east, along the 10–11 line of said survey a distance of 89.76 feet to corner numbered 1 of lot 5B; thence south 65 degrees 56 minutes east a distance of 345.18 feet to corner numbered 2 of lot 5B; thence south 24 degrees 04 minutes west a distance of 101.64 feet to corner numbered 3 of lot 5B; thence north 64 degrees 01 minute west a distance of 346.47 feet to corner numbered 10 of said survey, to the true point of beginning, consisting of 0.76 acres (more or less), and all improvements located on that property, including buildings, structures, and equipment.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a health or social services facility.

SEC. 1007. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) shall expeditiously convey to the Traverse City Area Public School District in Traverse City, Michigan, without consideration, all right, title, and interest of the United States in and to the property described in subsection (b), subject to all easements and other interests in the property held by any other person.

(b) IDENTIFICATION OF PROPERTY.—The property referred to in subsection (a) is real property located in the city of Traverse City, Grand Traverse County, Michigan, and consisting of that part of the southeast 1/4 of Section 12, Township 27 North, Range 11 West, described as: Commencing at the southeast 1/4 corner of said Section 12, thence north 03 degrees 05 minutes 25 seconds east along the East line of said Section, 1074.04 feet, thence north 86 degrees 36 minutes 50 seconds west 207.66 feet, thence north 03 degrees 06 minutes 00 seconds east 572.83 feet to the point of beginning, thence north 86 degrees 54 minutes 00 seconds west 1,751.04 feet, thence north 03 degrees 02 minutes 38 seconds east 330.09 feet, thence north 24 degrees 04 minutes 40 seconds east 439.86 feet, thence south 86 degrees 56 minutes 15 seconds east 116.62 feet, thence north 03 degrees 08 minutes 45 seconds east 200.00 feet, thence south 87 degrees 08 minutes 20 seconds east 68.52 feet, to the southerly right-of-way of the C & O Railroad, thence south 65 degrees 54 minutes 20 seconds east along said right-of-way 1508.75 feet, thence south 03 degrees 06 minutes 00 seconds west 400.61 to the point of beginning, consisting of 27.10 acres of land, and all improvements located on that property including buildings, structures, and equipment.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a) or (d), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Traverse City Area Public School District.

(d) TERMS OF CONVEYANCE.—The conveyance of property under this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(1) the pump room located on the property shall continue to be operated and maintained by the United States for as long as it is needed for this purpose;

(2) the United States shall have an easement of access to the property for the purpose of operating and maintaining the pump room; and

(3) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating and maintaining the pump room.

SEC. 1008. TRANSFER OF COAST GUARD PROPERTY IN NEW SHOREHAM, RHODE ISLAND.

(a) REQUIREMENT.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) shall expeditiously convey to the town of New Shoreham, Rhode Island, without consideration, all right, title, and interest of the United States in and to the property known as the United States Coast Guard Station Block Island, as described in subsection (b), subject to all easements and other interest in the property held by any other person.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property (including buildings and improvements) located on the west side of Block Island, Rhode Island, at the entrance to the Great Salt Pond and referred to in the books of the Tax Assessor of the town of New Shoreham, Rhode Island, as lots 10 and 12, comprising approximately 10.7 acres.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property under subsection (a) shall be subject to the condition that all right, title, and interest in and to

the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the town of New Shoreham, Rhode Island.

SEC. 1009. CONVEYANCE OF PROPERTY IN SANTA CRUZ, CALIFORNIA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary may convey to the Santa Cruz Port District by an appropriate means of conveyance, all right, title, and interest of the United States in and to the property described in paragraph (2).

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) CONSIDERATION.—Any conveyance of property pursuant to this section shall be made without payment of consideration.

(c) CONDITION.—The conveyance provided for in subsection (a) may be made contingent upon agreement by the Port District that—

(1) the utility systems, building spaces, and facilities or any alternate, suitable facilities and buildings on the harbor premises would be available for joint use by the Port District and the Coast Guard when deemed necessary by the Coast Guard; and

(2) the Port District would be responsible for paying the cost of maintaining, operating, and replacing (as necessary) the utility systems and any buildings and facilities located on the property as described in subsection (a) or on any alternate, suitable property on the harbor premises set aside for use by the Coast Guard.

(d) REVERSIONARY INTEREST.—Any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in Subunit Santa Cruz shall immediately revert to the United States:

(1) If Subunit Santa Cruz ceases to be maintained as a nonprofit center for education, training, administration, and other public service to include use by the Coast Guard;

(2) at the end of the thirty day period beginning on any date on which the Secretary provides written notice to the Santa Cruz Port District that Subunit Santa Cruz is needed for national security purposes.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(f) DEFINITIONS.—For purposes of this section—

(1) "Subunit Santa Cruz" means the Coast Guard property and improvements located at Santa Cruz, California;

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating; and

(3) "Port District" means the Santa Cruz Port District, or any successor or assign.

SEC. 1010. CONVEYANCE OF VESSEL S/S RED OAK VICTORY.

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in and to the vessel S/S RED OAK VICTORY (Victory Ship VCS–AP2; United States Navy Hull No. AK235) to the City of Richmond Museum Association, Inc., located in Richmond, California (in this section referred to as "the recipient"), if—

(1) the recipient agrees to use the vessel for the purposes of a monument to the wartime accomplishments of the City of Richmond;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government if the Secretary requires use of the vessel by the Government for war or a national emergency;

(4) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3); and

(5) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(b) DELIVERY OF VESSEL.—If a conveyance is made under this section, the Secretary shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient any unneeded equipment from other vessels in the National Defense Reserve Fleet for use to restore the S/S RED OAK VICTORY to museum quality.

(d) RETENTION OF VESSEL IN NDRF.—The Secretary shall retain in the National Defense Reserve Fleet the vessel authorized to be conveyed under subsection (a), until the earlier of—

(1) 2 years after the date of the enactment of this Act; or

(2) the date of conveyance of the vessel under subsection (a).

TITLE XI—MISCELLANEOUS

SEC. 1101. FLORIDA AVENUE BRIDGE.

For purposes of the alteration of the Florida Avenue Bridge (located approximately 1.63 miles east of the Mississippi River on the Gulf Intracoastal Waterway in Orleans Parish, Louisiana) ordered by the Secretary of Transportation under the Act of June 21, 1940 (33 U.S.C. 511 et seq.), the Secretary shall treat the drainage siphon that is adjacent to the bridge as an appurtenance of the bridge, including with respect to apportionment and payment of costs for the removal of the drainage siphon in accordance with that Act.

SEC. 1102. OIL SPILL RECOVERY INSTITUTE.

(a) ADVISORY BOARD AND EXECUTIVE COMMITTEE.—Section 5001 of the Oil Pollution Act of 1990 (33 U.S.C. 2731) is amended—

(1) by striking "to be administered by the Secretary of Commerce" in subsection (a);

(2) by striking "and located" in subsection (a) and inserting "located";

(3) by striking "the EXXON VALDEZ oil spill" each place it appears in subsection (b)(2) and inserting "Arctic or Subarctic oil spills";

(4) by striking "18" in subsection (c)(1) and inserting "14";

(5) by striking "Game, and Environmental Conservation, Natural Resources, and Commerce and Economic Development" in subsection (c)(1)(A) and inserting "Game and Economic Development";

(6) by striking subsection (c)(1) (B), (C), and (D);

(7) by redesignating subparagraphs (E) and (F) of subsection (c)(1) as subparagraphs (G) and (H), respectively;

(8) by inserting after subparagraph (A) of subsection (c)(1) the following:

"(B) One representative appointed by each of the Secretaries of Commerce and Transportation, who shall be Federal employees.

"(C) Two representatives from the fishing industry appointed by the Governor of the State of Alaska from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill, who shall serve terms of 2 years each. Interested organizations from within the fishing industry may submit the names of qualified individuals for consideration by the Governor.

"(D) Two Alaska Natives who represent Native entities affected by the EXXON VALDEZ oil spill, at least one of whom represents an entity located in Prince William Sound, appointed by the Governor of Alaska from a list of 4 qualified individuals submitted by the Alaska Federation of Natives, who shall serve terms of 2 years each.

"(E) Two representatives from the oil and gas industry to be appointed by the Governor of the State of Alaska who shall serve terms of 2 years each. Interested organizations from within the oil and gas industry may submit the names of qualified individuals for consideration by the Governor.

"(F) Two at-large representatives from among residents of cummunities in Alaska that were affected by the EXXON VALDEZ oil spill who are knowledgeable about the marine environment and wildlife within Prince William Sound, and who shall serve terms of 2 years each, appointed by the remaining members of the Advisory Board. Interested parties may submit the names of qualified individuals for consideration by the Advisory Board.";

(9) adding at the end of subsection (c) the following:

"(4) EVALUATION.—The Advisory Board will request a scientific review of the research program every five years by the National Academy of Sciences which will perform the review as part of its responsibilities under Section 7001(b)(2).";

(10) by striking "the EXXON VALDEZ oil spill" in subsection (d)(2) and inserting "Arctic or Subarctic oil spills";

(11) by striking "Secretary of Commerce" in subsection (e) and inserting "Advisory Board";

(12) by striking "the Advisory Board," in subsection (e);

(13) by striking "Secretary's" in subsection (e) and inserting "Advisory Board's";

(14) by inserting "authorization in section 5006(b) providing funding for the" in subsection (i) after "The";

(15) by striking "this Act" in subsection (i) and inserting "the Coast Guard Authorization Act of 1995"; and

(16) by inserting "The Advisory Board may compensate its Federal representatives for their reasonable travel costs." in subsection (j) after "Institute.".

(b) FUNDING.—Section 5006 of the Oil Pollution Act of 1990 (33 U.S.C. 2736) is amended by—

(1) striking subsection (a), redesignating subsection (b) as subsection "(a)";

(2) striking "5003" in the caption of subsection (a), as redesignated, and inserting "5001, 5003,";

(3) inserting "to carry out section 5001 in the amount as determined in section 5006(b), and" after "limitation," in the text of subsection (a), as redesignated; and

(4) adding at the end thereof the following:

"(b) USE OF INTEREST ONLY.—The amount of funding to be made available annually to carry out section 5001 shall be the interest produced by the Fund's investment of the $22,500,000 remaining funding authorized for the Prince William Sound Oil Spill Recovery Institute and currently deposited in the Fund and invested by the Secretary of the Treasury in income producing securities along with other funds comprising the Fund.

"(c) USE FOR SECTION 1012.—Beginning with the eleventh year following the date of enactment of the Coast Guard Authorization Act of 1995, the funding authorized for the Prince William Sound Oil Spill Recovery Institute and deposited in the Fund shall thereafter be made available for purposes of section 1012 in Alaska.".

(c) CONFORMING AMENDMENTS.—

(1) Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by striking "5006(b)" and inserting "5006".

(2) Section 7001(c)(9) the Oil Pollution Act of 1990 (33 U.S.C. 2761(c)(9)) is amended by striking the period at the end thereof and inserting

"until the authorization for funding under section 5006(b) expires".

SEC. 1103. LIMITED DOUBLE HULL EXEMPTIONS.

(a) IN GENERAL.—The double hull construction requirements of section 3703a of title 46, United States Code, do not apply to—

(1) a vessel equipped with a double hull before August 12, 1992; or

(2) a barge of less than 1,200 gross tons carrying refined petroleum product in bulk as cargo in or adjacent to waters of the Bering Sea, Chukchi Sea, and Arctic Ocean and waters tributary thereto and in the waters of the Aleutian Islands and the Alaskan Peninsula west of 155 degrees west longitude.

(b) AUTHORITY OF THE SECRETARY OF TRANSPORTATION.—

(1) OPERATION OF BARGES IN OTHER WATERS.—The operation of barges described in subsection (a)(2) outside waters described in that subsection shall be on such conditions as the Secretary of Transportation may require.

(2) NO EFFECT ON OTHER AUTHORITY OF THE SECRETARY.—Except as provided in subsection (a), nothing in this section affects the authority of the Secretary of Transportation to regulate the construction, operation, or manning of barges and vessels in accordance with applicable laws and regulations.

(c) BARGE DEFINED.—For purposes of this section, the term "barge" has the meaning given that term in section 2101 of title 46, United States Code.

SEC. 1104. OIL SPILL RESPONSE VESSELS.

(a) DESCRIPTION.—Section 2101 of title 46, United States Code, is amended—

(1) by redesignating paragraph (20a) as (20b); and

(2) by inserting after paragraph (20) the following new paragraph:

"(20a) 'oil spill response vessel' means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.".

(b) EXEMPTION FROM LIQUID BULK CARRIAGE REQUIREMENTS.—Section 3702 of title 46, United States Code, is amended by adding at the end thereof the following:

"(f) This chapter does not apply to an oil spill response vessel if—

"(1) the vessel is used only in response-related activities; or

"(2) the vessel is—

"(A) not more than 500 gross tons;

"(B) designated in its certificate of inspection as an oil spill response vessel; and

"(C) engaged in response-related activities.".

(c) MANNING.—Section 8104(p) of title 46, United States Code, is amended to read as follows:

"(p) The Secretary may prescribe the watchstanding and work hours requirements for an oil spill response vessel.".

(d) MINIMUM NUMBER OF LICENSED INDIVIDUALS.—Section 8301(e) of title 46, United States Code, is amended to read as follows:

"(e) The Secretary may prescribe the minimum number of licensed individuals for an oil spill response vessel.".

(e) MERCHANT MARINER DOCUMENT REQUIREMENTS.—Section 8701(a) of title 46, United States Code, is amended—

(1) by striking "and" after the semicolon at the end of paragraph (7),

(2) by striking the period at the end of paragraph (8) and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) the Secretary may prescribe the individuals required to hold a merchant mariner's document serving onboard an oil spill response vessel.".

(f) EXEMPTION FROM TOWING VESSEL REQUIREMENT.—Section 8905 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(c) Section 8904 of this title does not apply to an oil spill response vessel while engaged in oil spill response or training activities.".

(g) INSPECTION REQUIREMENT.—Section 3301 of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(14) oil spill response vessels.".

SEC. 1105. SENSE OF THE CONGRESS REGARDING PASSENGERS ABOARD COMMERCIAL VESSELS.

It is the sense of the Congress that section 521(a)(1) of Public Law 103–182 (19 U.S.C. 58c(a)(5)) was intended to require the collection and remission of a fee from each passenger only one time in the course of a single voyage aboard a commercial vessel.

SEC. 1106. CALIFORNIA CRUISE INDUSTRY REVITALIZATION.

Section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(2)), commonly referred to as the "Johnson Act", is amended by adding at the end thereof the following:

"(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if it includes or consists of a segment—

"(i) that begins and ends in the same State;

"(ii) that is part of a voyage to another State or to a foreign country; and

"(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which it begins.".

SEC. 1107. LOWER COLUMBIA RIVER MARINE FIRE AND SAFETY ACTIVITIES.

The Secretary of Transportation is authorized to expend out of the amounts appropriated for the Coast Guard for fiscal year 1996 not more than $491,000 for lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Marine Fire and Safety Association.

SEC. 1108. OIL POLLUTION RESEARCH TRAINING.

Section 7001(c)(2)(D) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(c)(2)(D)) is amended by striking "Texas;" and inserting "Texas, and the Center for Marine Training and Safety in Galveston, Texas;".

SEC. 1109. LIMITATION ON CONSOLIDATION OR RELOCATION OF HOUSTON AND GALVESTON MARINE SAFETY OFFICES.

The Secretary of Transportation may not consolidate or relocate the Coast Guard Marine Safety Offices in Galveston, Texas, and Houston, Texas.

SEC. 1110. UNINSPECTED FISH TENDER VESSELS.

Section 3302 of Title 46, United States Code, is amended in subsection (c)(3)(A) by adding "(including fishery-related products)" after the word "cargo".

SEC. 1111. FOREIGN PASSENGER VESSEL USER FEES.

Section 3303 of title 46, United States Code, is amended—

(1) by striking "(a) Except as" in subsection (a); and

(2) by striking subsection (b).

SEC. 1112. COAST GUARD USER FEES.

(a) FINDINGS.—The Congress finds the following:

(1) The Secretary of Transportation is authorized under subsection 10401(g) of the Omnibus Budget Reconciliation Act of 1990 (46 U.S.C. 2110(g)) to exempt persons from the requirement to pay Coast Guard inspection user fees if it is in the public interest to do so.

(2) Publicly-owned ferries serve the public interest by providing necessary, and in many cases, the only available, transportation between locations divided by bodies of water.

(3) Small passenger vessels serve the public interest by providing vital small business opportunities in virtually every coastal city of the United States and by providing important passenger vessels services.

(4) During the Coast Guard inspection user fee rulemaking process, small passenger vessel operators informed the Coast Guard that proposed user fees were excessive and would force small passenger operators out of business, leaving many areas without small passenger vessel services required by the public.

(5) The Secretary of Transportation failed to adequately protect the public interest and failed to follow Congressional intent by establishing Coast Guard inspection user fees for small passenger vessels which exceed the ability of these small businesses to pay the fees and by establishing Coast Guard inspection user fees for publicly-owned ferries.

(b) LIMITS ON USER FEES.—Section 10401(g) of the Omnibus Budget Reconciliation Act of 1990 (46 U.S.C. 2110(a)(2)) is amended by adding after "annually." the following: "The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a small passenger vessel under this title that is more than $300 annually for such vessels under 65 feet in length, or more than $600 annually for such vessels 65 feet in length and greater. The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination under this title for any publicly-owned ferry.".

SEC. 1113. VESSEL FINANCING.

(a) DOCUMENTATION CITIZEN ELIGIBLE MORTGAGEE.—Section 31322(a)(1)(D) of title 46, United States Code, is amended—

(1) by striking "or" at the end of clause (v);

(2) by striking the period at the end of clause (vi) and inserting "or"; and

(3) by adding at the end the following:

"(vii) a person eligible to own a documented vessel under chapter 121 of this title.".

(b) AMENDMENT TO TRUSTEE RESTRICTIONS.—Section 31328(a) of title 46, United States Code, is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "or"; and

(3) by adding at the end the following:

"(5) is a person eligible to own a documented vessel under chapter 121 of this title.".

(c) LEASING.—Section 12106 of title 46, United States Code, is amended by adding at the end the following:

"(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

"(A) the vessel is eligible for documentation under section 12102;

"(B) the person that owns the vessel, a parent entity of that person, or a subsidiary of a parent entity of that person, is engaged in leasing;

"(C) the vessel is under a demise charter to a person qualifying as a citizen of the Untied States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916;

"(D) the demise charter is for—

"(i) a period of at least 3 years; or

"(ii) a shorter period as may be prescribed by the Secretary; and

"(E) the vessel is otherwise qualified under this section to be employed in the coastwise trade.

"(2) Upon default by a bareboat charterer of a demise charter required under paragraph (1)(D), the coastwise endorsement of the vessel may, in the sole discretion of the Secretary, be continued after the termination for default of the demise charter for a period not to exceed 6 months on terms and conditions as the Secretary may prescribe.

"(3) For purposes of section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of subsection is deemed to be owned exclusively by citizens of the United States.".

(d) CONFORMING AMENDMENT.—Section 9(c) of the Shipping Act, 1916, as amended (46 U.S.C. App. 808(c)) is amended by striking "sections 31322(a)(1)(D)" and inserting "sections 12106(e), 31322(a)(1)(D),".

SEC. 1114. MANNING AND WATCH REQUIREMENTS ON TOWING VESSELS ON THE GREAT LAKES.

(a) Section 8104(c) of title 46, United States Code, is amended—

(1) by striking "or permitted"; and

(2) by inserting after "day" the following: "or permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period".

(b) Section 8104(e) of title 46, United States Code, is amended by striking "subsections (c) and (d)" and inserting "subsection (d)".

(c) Section 8104(g) of title 46, United States Code, is amended by striking "(except a vessel to which subsection (c) of this section applies)".

SEC. 1115. REPEAL OF GREAT LAKES ENDORSEMENTS.

(a) REPEAL.—Section 12107 of title 46, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) The analysis at the beginning of chapter 121 of title 46, United States Code, is amended by striking the item relating to section 12107.

(2) Section 12101(b)(3) of title 46, United States Code, is repealed.

(3) Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by striking "or 12107".

(4) Section 2793 of the Revised Statutes of the United States (46 App. U.S.C. 111, 123) is amended—

(A) by striking "coastwise, Great Lakes endorsement" and all that follows through "foreign ports," and inserting "registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada,"; and

(B) by striking ", as if from or to foreign ports".

(5) Section 9302(a)(1) of title 46, United States Code, is amended by striking "subsections (d) and (e)" and inserting "subsections (d), (e) and (f)".

(6) Section 9302(e) of title 46, United States Code, is amended by striking "subsections (a) and (b)" and inserting "subsection (a)".

(7) Section 9302 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(f) A United States vessel operating between ports on the Great Lakes or between ports on the Great Lakes and the St. Lawrence River carrying no cargo obtained from a foreign port outside of the Great Lakes or carrying no cargo bound for a foreign port outside of the Great Lakes, is exempt from the requirements of subsection (a) of this section.".

SEC. 1116. RELIEF FROM U.S. DOCUMENTATION REQUIREMENTS.

(a) IN GENERAL.—Notwithstanding any other law or any agreement with the United States Government, a vessel described in subsection (b) may be sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) RAINBOW HOPE (United States official number 622178).

(2) IOWA TRADER (United States official number 642934).

(3) KANSAS TRADER (United States official number 634621).

(4) MV PLATTE (United States official number number 653210).

(5) SOUTHERN (United States official number 591902).

(6) ARZEW (United States official number 598727).

Mr. STEVENS. Mr. President, the Coast Guard Authorization Act of 1995 (S. 1004) is bipartisan legislation to reauthorize the activities of the U.S. Coast Guard for fiscal year 1996.

On March 15, 1995, the Committee on Commerce, Science, and Transportation held a hearing to review the administration's request for this bill.

Senators PRESSLER, HOLLINGS, KERRY, and BREAUX joined me as cosponsors of the legislation, which I introduced in June 1995.

The Commerce Committee reported my bill on July 20, 1995 and filed its report on October 19, 1995.

The manager's amendment I am offering improves on the reported bill and adds several new provisions that were requested by the Coast Guard or Members of the Senate, or that were included in the House-passed Coast Guard bill.

Senators PRESSLER, HOLLINGS, KERRY, SNOWE, and HUTCHISON join me as cosponsors of the amendment.

The bill authorizes a total of $3.69 billion for the Coast Guard in fiscal 1996, including $2.6 million for operations and maintenance, $428 million for acquisition and construction, and $582 million for retired pay.

It authorizes an end-of-year military strength for Coast Guard active duty personnel at 38,400 for fiscal year 1996.

I cannot emphasize enough how important the Coast Guard is in protecting the lives of Americans along the coasts.

On the average day, the Coast Guard will save 14 lives in the United States alone, and assist 328 people.

On the average day, the Coast Guard will save $2.5 million in property, and will seize almost 400 pounds of marijuana and cocaine.

On the average day, the Coast Guard will interdict 176 illegal immigrants, and conduct 191 search and rescue missions.

In 1 year—in Alaska alone—the Coast Guard will save approximately 200 lives.

I cannot emphasize enough how much the Coast Guard means to Alaskans and to Americans who work out on the ocean or use our waterways for recreation.

I want like to take this opportunity to thank Admiral Kramek, the Commandant of the Coast Guard, and to specifically thank the Commander of the 17th District, Admiral Ernest Riutta, and all of the Coast Guard personnel in Alaska for their dedication to the protection of Alaskans.

The Coast Guard is an integral part of our coastal communities in Alaska, and we are grateful for their presence.

I also want to note that 2 days ago the President signed the Transportation appropriations bill we passed for the next fiscal year, so the Coast Guard was only temporarily affected by the current government shutdown.

I am offering a separate amendment (cosponsored by Senators CHAFEE, SNOWE, and BREAUX) to fix a problem in the Oil Pollution Act of 1990 [OPA] relating to financial responsibility requirements for offshore facilities.

The section of OPA we are fixing is under the jurisdiction of the Environment and Public Works Committee. My summary contains an explanation of the changes we are making.

An amendment Senator KERRY is offering would modify the existing coordinates of an Army Corps of Engineers dredging project in Cohasset Harbor.

This provision, too, is under the jurisdiction of the Environment and Public Works Committee.

I further request that my summary of the bill be printed in the RECORD.

Before I conclude, I want to thank the Commerce Committee staff who helped us prepare this legislation: Tom Melius, Jim Sartucci, and Trevor McCabe on the majority side and Penny Dalton, Lila Helms and Carl Bentzel on the minority side.

I also want to thank Admiral Kramek and the Coast Guard for their help with the bill. We've particularly appreciated the assistance of Coast Guard Congressional Liaison personnel: Captain Guy Goodwin (Chief of Congressional Affairs), Commander John Jaskot (Senate Liaison Officer), and Commander Larry Kiern (Counsel for Congressional Affairs).

I know of no opposition to the bill or amendments we are offering today.

There being no objection, the summary was ordered to be printed in the RECORD; as follows:

SUMMARY OF S. 1004

The reported bill authorizes appropriations for the Coast Guard in the amount of 3.69 billion dollars for fiscal year 1996. It authorizes end of year military strengths for active duty personnel of 38,400 for fiscal year 1996 and authorizes several personnel management improvements requested by the Coast Guard.

In the area of marine safety and waterway services management, the bill imposes a new civil penalty for alcohol and dangerous drug testing violations, increases existing civil penalties for documentation, marine casualty reporting, and uninspected vessel manning violations, and enables the Coast Guard to collect foreign passenger vessel inspection user fees.

The bill renews several advisory committees that provide the Coast Guard with key private sector input, authorizes the electronic filing of certain vessel commercial instruments, and establishes a new regulatory system for oil spill response vessels. It amends certain document endorsement and towing vessel manning requirements to improve the competitiveness of Great Lakes vessels.

The bill improves the management of the Coast Guard Auxiliary, a 36,000 member volunteer organization that provides the Coast

Guard with low-cost assistance with its boating safety mission. It defines the status of and provides protection for Auxiliary members while performing official Coast Guard duties. It also improves their ability to cooperate with State authorities and obtain excess Coast Guard resources.

The bill improves recreational boating safety by restructuring the process for providing states with recreational boating safety grants, stimulating non-trailerable vessel facility construction, requiring young children to wear a Coast Guard approved personal flotation device under certain circumstances, and requiring a plan to increase the reporting of vessel accidents.

A key provision of the bill reduces the regulatory burden on U.S. commercial vessel operators by shifting away from excessive U.S. vessel standards towards accepted international standards. This title also authorizes the use of third party and self inspection programs as alternatives to Coast Guard inspections and extends U.S. vessel inspection intervals. These changes are supported by the Coast Guard, and will enable Coast Guard inspectors to focus more on the problem of substandard foreign vessels calling on U.S. ports. The bill also includes numerous technical changes to authorize the establishment of alternate international vessel measurement system requirements for existing statutes that contain U.S. vessel measurement thresholds. These alternate tonnages will enable U.S. vessel designers and operators to be competitive in the international vessel market.

The bill strengthens statutes intended to reduce pollution from ships, establishes a Marine Debris Coordinating Committee to improve the effectiveness of marine pollution statutes, and continues and improves an existing pollution prevention public outreach program.

The bill includes a number of provisions to strengthen the Coast Guard's authority to combat drug smuggling by sea and air, and to protect Coast Guard personnel during boardings at sea.

The bill provides for the conveyances of several pieces of Coast Guard property which the Coast Guard no longer needs, as well as several miscellaneous provisions.

SUMMARY OF STEVENS AMENDMENT

The amendment makes a number of technical corrections to the bill. Among its substantive provisions, the amendment: (1) enhances the federal government's ability to collect fines and penalties from owners and operators of foreign vessels that call on U.S. ports; (2) authorizes the conveyance of unneeded National Defense Reserve Fleet equipment to museum ships; (3) provides new authority for the Coast Guard, similar to the authority that has been included in the Defense authorization bill for other branches, to obtain family housing units, unaccompanied housing units and support facilities; (4) authorizes the Coast Guard to exchange its dock and facilities in downtown Juneau, Alaska for other property it determines suitable; (5) establishes a nonjudicial alternative to Federal court action for marine lenders in cases of vessel defaults; (6) authorizes the use of Canadian oil spill response and recovery vessels in the U.S. waters adjacent to Canada at the Maine border in emergencies when no suitable U.S. vessels are available; (7) facilitates the sale by courts of recreational vessels to non-U.S. citizens; (8) improves the Coast Guard's authority to sell recyclable material; (9) authorizes waivers to the Jones Act for several vessels; and (10) authorizes an experimental vessel inspection program in the State of Minnesota.

The amendment also makes certain changes to section 1113 of the reported bill to ensure that the section is not used to circumvent U.S. coastwise laws. The purpose of the section is to eliminate technical impediments to certain financing techniques for vessels in the domestic trade.

Section 1113 adds a new subsection ("(e)") to section 12106 of title 46, United States Code, to permit coastwise endorsements for vessels owned by non-U.S. citizens where: 1) the owner is primarily engaged in the financing of the vessel; and 2) where the owner has transferred, through a bona fide demise charter of at least three years, full possession, control and command of the vessel to a person qualifying as a citizen of the United States, so that the demise charterer is considered the owner pro hac vice during the charter term. The amendment ensures that the demise charter is bona fide by requiring a certification that no other agreements, arrangements or understandings (other than the demise charter) exist between the owner and charterer, and a requirement that the charter hire not be significantly greater than that prevailing in the commercial market. The latter requirement is intended to ensure that the "owner" under the demise charter is a bona fide lessor.

The Secretary of Transportation establish the necessary regulations to administer the new subsection, including providing for the filing of demise charters and amendments to such demise charters for vessels issued coastwise endorsements under the new subsection, as part of the vessel documentation procedures administered by the Coast Guard, or its successor. Provisions will also be made so that interested persons can register their concerns with respect to any lease finance transaction which may not be bona fide. Section 1113 prohibits vessels which receive documentation or a coastwise endorsement under the new subsection 12106(e) from receiving a fishery endorsement under section 12108 of title 46, United States Code.

SUMMARY OF STEVENS/CHAFEE AMENDMENT

Section 1016 of the Oil Pollution Act of 1990 (OPA) requires a "responsible party with respect to an offshore facility" to "establish and maintain evidence of financial responsibility in the amount of $150,000,000." "Offshore facility" is defined in OPA as "any facility of any kind located in, on, or under the navigable waters of the United States," and "facility" under OPA is defined to include even motor vehicles. Further, the definition of "navigable waters" under the Clean Water Act is quite broad, encompassing wetlands and other areas. The Minerals Management Service (MMS) has concluded that it cannot issue regulations for this section of OPA because the $150 million financial responsibility requirement would apply too broadly, and the statute does not provide the agency with flexibility.

The amendment limits the application of the financial responsibility requirement to responsible parties with respect to offshore facilities that are: 1) seaward of the line of ordinary low water (i.e. seaward of the line of low tide and actually in the ocean, including inland bays and estuaries); 2) used for exploring for, drilling for, or producing oil, or for transporting oil from facilities engaged in exploration, drilling, or production; and 3) that have a worst case discharge potential of 1,000 barrels of oil or more. This narrows the broad meaning of section 1016 to include only the offshore facilities Congress intended in 1990. The President would have the discretionary authority to require evidence of financial responsibility for offshore facilities with a worst case discharge of less than 1,000 barrels if the facility poses risks necessary to justify such evidence.

In addition, the language lowers the amount of financial responsibility for responsible parties with respect to offshore facilities from $150 million down to $35 million for facilities outside of three miles, and to $10 million for facilities inside the State three-mile limits. The provision allows the President to increase the amount (back up to $150 million) if the facility is determined to pose a risk requiring a higher amount, based on a risk assessment of a number of variables. If a State has financial responsibility requirements that are equal to or greater than the federal requirements, the federal requirements will not apply. This will help to eliminate duplicative reporting requirements for responsible parties in demonstrating evidence of financial responsibility for offshore facilities.

The amendment eliminates the problem under OPA as passed which would require even small and low-risk offshore facilities to have evidence of $150 million in oil spill liability coverage. The amendment will further prevent responsible parties with respect to marinas and other facilities which are not involved in exploration, drilling or the production of oil from having to satisfy financial responsibility requirements intended to apply to traditional offshore facilities engaged in these activities. Nothing in the provision affects the liability of responsible parties for oil spills under OPA, just the amount of financial responsibility they must show with respect to offshore facilities.

Mr. PRESSLER. Mr. President, I am pleased that today the Senate is considering S. 1004, the Coast Guard Authorization Act of 1995, along with a manager's amendment to the bill.

The Coast Guard has broad ranging responsibilities—from enforcing America's maritime laws to ensuring the safety of recreational boaters.

Like other Federal agencies, the Coast Guard faces the challenge of continuing to provide better government at less cost. It is clear the American taxpayers are demanding a smaller, more accountable Federal Government. At the same time, the demand for certain government services, including those provided by the Coast Guard, continues to be great. The Commandant of the Coast Guard, Adm. Robert E. Kramek, recently announced his national plan for streamlining the Coast Guard, which will save, on a cumulative basis, nearly $1 billion by the year 2005 and make available over $1 billion in property for other uses. Despite cuts of this magnitude, the Coast Guard will continue to perform all its current missions. I am pleased the Coast Guard is making a serious effort to improve it's efficiency while maintaining its effectiveness.

The bill before us authorizes appropriations for the Coast Guard for fiscal year 1996 and authorizes several management improvements requested by the Coast Guard. Many members on both sides of the aisle have expressed interest in this bill and we have addressed their requests as best we could. The bill and amendment have broad bipartisan support.

Mr. President, I would now like to make special mention of certain portions of the bill and amendment.

The bill improves the management of the Coast Guard Auxiliary, a 36,000 member volunteer organization that provides the Coast Guard with low-cost assistance with its boating safety mission. The bill also improves recreational boating safety by restructuring the process for providing States with recreational boating safety grants and stimulating nontrailerable vessel facility construction. These provisions will help ensure the safety of recreational boaters throughout the Nation, including places like Lewis and Clark Lake in my home State of South Dakota.

Mr. President, I believe the Coast Guard is up to the challenge of maintaining its status as the world's premier maritime organization despite the intense budget pressure. It is my belief this authorization bill provides the Coast Guard with the support it needs to meet that challenge.

Let me take this opportunity to thank the very capable Senator STEVENS, who is Chairman of our Oceans and Fisheries Subcommittee, for his leadership in developing this bill and amendment.

I would also like to recognize Senator HOLLINGS, the ranking Democratic member on the full committee for his bipartisanship throughout this process.

And finally, I wish to thank my colleagues for their contributions and support and I urge the adoption of the manager's amendment and passage of S. 1004.

Mr. HOLLINGS. Mr. President, in recent weeks there have been numerous battles on the Senate floor over efforts to take a budgetary meat ax to the Federal Government, eliminating agencies and slashing funding. Today, I am pleased to join with my Commerce Committee colleagues in supporting legislation to authorize the activities of one Federal agency, the U.S. Coast Guard, which has been spared by the budget hackers. The reason for this success is simple—there is bipartisan recognition that the Coast Guard has an important job and does it well. Indeed, the widespread support for the Coast Guard budget reflects the breadth and complexity of its missions—from protecting our maritime boundaries and the safety of life at sea to preserving the ocean environment and enforcing maritime laws and treaties. On an average day in 1994, the Coast Guard saved 14 lives, assisted 328 people, responded to 34 oil or hazardous chemical spills, inspected 64 commercial vessels, seized 379 pounds of illegal drugs, serviced 150 aids to navigation, and interdicted 174 illegal aliens.

Over the years, we have continued to ask the Coast Guard to do more with less. In typical fashion, the Coast Guard has responded with a streamlining plan that will trim $400 million from the budget by 1998 and allow personnel reductions of 4,000 people. As an example of the pragmatic approach the Coast Guard has taken in this plan, next summer we will welcome the Coast Guard high endurance cutters, *Dallas* and *Gallatin*, to their new homeport at the Charleston Navy Base. By relocating Coast Guard assets from expensive locales like Governors Island to areas where the quality of life is high and the cost of living is reasonable, everyone benefits. Coast Guard is better able to meet both its budgetary bottom line and its personnel needs.

Today, the Senate is considering S. 1004, the Coast Guard Authorization Act of 1995. The bill authorizes a Coast Guard budget of $3.7 billion in fiscal year 1996, covering six appropriations accounts: First, operating expenses; second, acquisition, construction, and improvement of equipment and facilities; third, research and development; fourth, retired pay; fifth, alteration and removal of bridges; and sixth, environmental compliance and restoration. The authorization levels are consistent with the administration's budget request for fiscal year 1996.

S. 1004 also provides for end-of-year military strength and training loads and addresses a backlog of Coast Guard-related administrative and policy issues. Among such issues, the bill provides for: Personnel administrative reforms requested by the administration, marine safety and waterways management improvements, updated authority for the Coast Guard Auxiliary, funding for State recreational boating safety grants, regulatory reforms for the U.S. maritime industry, tougher controls to reduce marine plastic pollution, and law enforcement enhancements to reduce drug smuggling and money laundering. At this point, I would like to highlight some key provisions of the legislation.

ALTERATION OF BRIDGES

Under the Truman-Hobbs Bridge Act, the Federal Government shares with the States the cost of altering publicly owned bridges that obstruct the free movement of marine traffic. The administration requested no funding for this account in fiscal year 1995, initiating a new policy under which the Coast Guard no longer will seek direct funding for alteration of highway bridges. Instead, the administration proposes that the Federal share of such projects be financed from the discretionary bridge program funds of the Federal Highway Administration, under the continuing program direction of the Coast Guard. This new policy would not apply to railroad bridges. S. 1004 provides the Secretary of Transportation—Secretary—with the discretionary authority to implement the administration policy.

BOAT SAFETY ACCOUNT

Similar to legislation approved by the committee last Congress, S. 1004 would ensure that States receive financial assistance for the development and implementation of a coordinated national recreational boating safety program. The State grants are not funded from general revenues, but rather from motorboat fuel tax revenues that are deposited in the Boat Safety Account of the Aquatic Resources Trust Fund—Wallop-Breaux Fund. The Wallop-Breaux Fund also supports State grant programs administered by the Department of the Interior [DOI]. Unlike the DOI programs, however, the Coast Guard grant program is scored against agency operating expenses and competes directly with other Coast Guard missions for funding priority. S. 1004 would continue State boating safety grants and allow the budget scoring to be patterned after DOI programs under the Wallop-Breaux fund by increasing the funding available under the Clean Vessel Act of 1992. Under the bill, authorized funding for State boating programs would increase from $45 million in fiscal year 1995 to $59 million by fiscal year 1999. S. 1004 also would improve recreational boating safety by requiring children age 6 and younger to wear lifejackets and calling for plans to be developed to improve reporting of vessel accidents.

COAST GUARD REGULATORY REFORM.

Last year, Coast Guard worked with the maritime industry in developing a package of amendments to existing marine safety laws that would allow their implementation in a more cost-effective and efficient manner, reduce the regulatory burden on the industry, and provide greater flexibility in making safety decisions. The amendments contained in the bill before us today specifically would: Implement the International Safety Management Code for U.S. vessels engaged in foreign commerce; allow qualified third parties such as the American Bureau of Shipping to conduct vessel safety inspections; allow greater use of foreign manufactured safety equipment; and extend the validity of Coast Guard certificates of inspection from 2 to 5 years, allowing earlier scheduling of annual inspections. The changes will help U.S.-flag vessels to become more competitive in international trade and reflect the Cost Guard's commitment to harmonize U.S. regulations with international requirements.

POPULATION FROM SHIPS

S. 1004 also includes a provision developed in cooperation with Senator LAUTENBERG that would amend the act to prevent pollution from ships [APPS] to strengthen requirements that ports maintain reception facilities to off load plastic wastes generated by vessels at sea. The bill calls for the Secretary to inspect and maintain a list of such facilities and for port operators to post placards encouraging reporting of any inadequacies. S. 1004 also amends the Marine Plastic Pollution Research and

Control Act to: Continue the Secretary's biannual reporting to Congress on compliance with APPS; add a requirement to publish an annual list of APPS violators; establish a Marine Debris Coordinating Committee; and continue and expand the Federal Public Outreach Program to include the use of grants.

LAW ENFORCEMENT ENHANCEMENT

In 1970, Secretary of the Treasury Alexander Hamilton ordered the construction of revenue cutters to stop smuggling and enforce tariffs. Today, the Coast Guard continues that mission, facing and increasingly sophisticated threat from illegal drug smugglers. Proving new authority to deal with an old problem, S. 1004 contains administration-requested measures to enhance law enforcement. These measures establish sanctions—including seizure and forefeiture—for failure to land an aircraft at the order of a Federal officer enforcing drug or money-laundering laws, and for obstructing boarding of a vessel by a Federal law enforcement officer. These measurers provide for Federal Aviation Administration [FAA] revocation of aircraft or airman certificates for such a violation, establish Coast Guard and Customs Service air interdiction authority, and set civil penalties of $15,000 for violations of that authority. In addition, the managers' amendment would revise these provisions to require that FAA establish conditions, based on observed conduct or prior information, for ordering a plan to land. These provisions are not intended to restrict or affect in any way the Federal Government's current broad authority to conduct boarder searches. I am optimistic that the bill strikes an appropriate balance with the need to assure innocent citizens that they will not be forced to land.

CRUISE SHIP TORT REFORM

Before closing, Mr. President, there is one matter I would like to address regarding the House-passed Coast Guard authorization bill. The House bill, H.R. 1361, contains tort reform proposals regarding foreign cruiseline companies. The provisions, which I strongly oppose, would alter U.S. tort law in three significant areas: First, medical malpractice claims by passengers on U.S. cruiselines; second, emotional distress claims by U.S. passengers; and third, physical injury suits by foreign cruise ship employees.

First, in medical malpractice suits against foreign cruise shiplines brought by American passengers, the legislation would permit the cruiselines arbitrarily to select the State law that governs the action. This right of selection would apply regardless of the State where the plaintiff resides, or where the suit is brought. The legislation would, for the first time under American tort law, permit the law of one State to govern actions in another State, merely at the self-interested discretion of foreign companies.

Second, with respect to limitations on pain and suffering damages, the legislation would allow foreign companies to use the fine print of ticket sales to absolve themselves of liability for pain and suffering damages. Foreign cruiselines would be permitted to limit their liability for such damages to cases involving substantial physical injury. The legislation would allow the companies to use the fine print on tickets to determine what constitutes a substantial physical injury. This is unfair, particularly considering that most passengers often are unaware of such limitations when purchasing tickets.

Third, the House-passed bill would ban suits in U.S. courts by foreign cruise ship workers for injuries or death, if the employee purportedly is part of a collective-bargaining agreement providing for a dispute forum, or redress is available in their home countries. The provision would be applicable even if there is evidence that such cruiselines substantially use U.S. ports and resources or transport U.S. passengers. I am concerned that this provision will permit foreign cruiselines to exploit foreign employees, who often have no adequate redress available in their country of origin. The provision also will encourage the hiring of foreign workers as cheap and exploitable labor, at the expense of U.S. workers.

Mr. President, I am pleased that the bill we are considering today does not include these questionable provisions. They have not had the benefit of hearings or other close scrutiny by the Senate Commerce Committee and are inappropriate for inclusion within a bill to authorize appropriations for the U.S. Coast Guard.

Over the past two centuries, the U.S. Coast Guard has built an enduring reputation throughout the world for its maritime safety, environmental protection, humanitarian, and lifesaving efforts. We have all watched the valiant and often heroic work of Coast Guard seamen and officers as they rescue desperate refugees who have taken to the seas in crowded and makeshift boats. Even in the remote regions of the world, the Coast Guard is present, actively engaged in the enforcement of United Nations' embargoes against countries like the former Republic of Yugoslavia and Iraq. The men and women of the Coast Guard respond with equal dedication during times of war and peace. I ask my colleagues to recognize this service by joining me in supporting S. 1004.

Mr. KERRY: Mr. President, I am pleased to join my distinguished colleagues, Senators STEVENS, HOLLINGS, PRESSLER, and BREAUX in cosponsoring the bill before us today to authorize the programs and activities of the U.S. Coast Guard for fiscal year 1996.

In this time of draconian budget cuts and dramatic changes in our society and our Government, it is unusual to find an agency which everyone agrees is a good investment. But that is true of the U.S. Coast Guard.

Mr. President, Massachusetts with its hundreds of miles of coastline, unforgiving storms, active maritime and fishing industries, and thriving recreational boating population, needs the Coast Guard at full strength. So does the rest of the nation.

The Coast Guard is essential to the safety and well-being of citizens in every coastal State and in every State with navigable waters. Today, over 50 percent of the U.S. population lives within coastal areas and directly benefits from the services the Coast Guard provides.

But, indirectly, the Coast Guard, in the performance of its mission, protects every American. In fact, more than two-thirds of the total budget for the Coast Guard goes to operating expenses to protect public safety and the marine environment, to enforce fishery and other laws and treaties, maintain aids to navigation, prevent illegal drug trafficking and illegal immigration, and preserve defense readiness.

The Coast Guard is the oldest continuous seagoing service. As a military service it has fought in almost every war since the Constitution became the law of the land in 1789, and it has performed its myriad of peacetime missions during the intervening years. It has proven that it is a multi-mission service flexible enough to adjust to the needs of the nation in peacetime as well as wartime.

Since its origins as the Revenue Cutter Service, enforcing tariff laws of the young nation for Treasury Secretary Alexander Hamilton the Coast Guard has expanded its missions to include saving lives, enforcing U.S. laws and treaties, ensuring maritime safety and defense, maintaining safe navigation and protecting the environment. Given this legacy of service and the degree to which Americans depend on it for their vital services, I believe it is our responsibility to ensure that the Coast Guard has adequate resources for its missions as it prepares for the next century. Our actions should ensure that the Coast Guard is capable of meeting its existing mandates and recognize the Coast Guard's ever-expanding role and missions in our coastal waters and beyond.

The Commonwealth of Massachusetts has a long and storied involvement with the sea and the Coast Guard. One of Alexander Hamilton's ten original revenue cutters was built in the City of Newburyport and was named the *Massachusetts*. The successors of the *Massachusetts*—today's Coast Guard cutters—are stationed in the ports of Boston, Gloucester, Woods Hole and New Bedford. The first lighthouse built in the United States was Boston Light in 1716. Today, Boston Light stands as the only manned lighthouse still in operation in the United States. The people of Massachusetts love the ocean. Over 145,000 recreational boats are registered in Massachusetts. Many rely on the sea for their livelihood. The men and women of the Coast Guard keep watch over the fishing fleets, the maritime industry, and recreational boaters. While Massachusetts has a long and close relationship with the Coast Guard, many other States can demonstrate similar ties.

We all know that the Coast Guard's mission does not end at our shore. It protects our interests throughout the world in times of war and peace. From supporting U.S. peacekeepers in Haiti, to responding to oil spills in the Persian Gulf, to supporting drug interdiction efforts in South and Central America the Coast Guard has been there.

Its work has been exemplary, but it seems that we continually ask the Coast Guard to do more with less and have been doing this for a long time. The Coast Guard is now in the process of a 4-year downsizing and streamlining which ultimately will reduce the service by 4,000 people and $400 million—a 12 percent reduction. We must eventually acknowledge the finite limitations on Coast Guard capabilities and resources and I am concerned about some of the choices it will be forced to make.

The bill before us today assists the Coast Guard in facing these dilemmas, allowing it to do its job more effectively and efficiently. I'll describe some of the ways it will do this.

The bill includes provisions that would ensure continued funding for state boating safety grants by changing the funding mechanisms—expanding the existing boating safety grant program that was established by the Clean Vessel Act of 1992 and ensuring access to funds from the Boat Safety Account of the Aquatic Resources Trust Fund, or the Wallop Breaux fund as it is known.

Long awaited by the maritime industry, the Coast Guard regulatory reform provisions of the bill will eliminate unnecessary and burdensome regulations on American shipping companies in order to make them more competitive in the world market. These reforms will save precious resources while also removing an unnecessary burden from a struggling industry.

The bill enhances protection of the ocean and coastal environment by amending the act to prevent pollution from ships, strengthening Coast Guard capability to enforce regulations to minimize pollution from plastics. It includes provisions to ensure that adequate waste reception facilities for plastics are available at ports and terminals and to encourage development and implementation of public education programs about the harm of plastics in the environment.

To increase the weapons in our arsenal for the war on drugs, the bill adds new authority for Federal law enforcement officials by providing sanctions for aircraft and vessel operators suspected of smuggling drugs or laundering money, who intentionally disobey the orders of a Federal law enforcement officer to land or halt their aircraft or vessel. These operators will face criminal and civil penalties of imprisonment of up to a year, fines up to $15,000, seizure of the aircraft or vessel and forfeiture of the aircraft's registration.

The bill instructs the Coast Guard to develop a plan for making the transition from the current ground-based radionavigation system [LORAN–C] to a satellite-based technology—global positioning system or GPS—after it is determined that GPS is ready to serve as the sole means of safe and efficient navigation. The plan must take into consideration the need to ensure that LORAN–C technology purchased by the public before the year 2000 has a useful economic life.

As part of the response to the *Exxon Valdez* oil spill, the Oil Pollution Act of 1990 (or OPA 90), required that offshore facilities demonstrate the ability to pay certain costs of oil cleanup and damages up to $150 million that could result from an oil spill. The Minerals Management Service of the Department of the Interior recently determined that the present language of the law extends the financial responsibility requirement over an unnecessarily large group of facilities that includes traditional inshore facilities such as marinas and oil terminals, some of which may be located far inland. There appears to be consensus that the intent of the law was to require demonstration of financial responsibility for offshore drilling rigs and production platforms, not inshore facilities. Applying these same financial requirements to the thousands of inshore facilities in Massachusetts and throughout the country which pose a much smaller oil spill risk, would impose potentially severe financial burdens. Therefore, amendment to the bill will be offered to clarify the statutory requirements for financial responsibility as they apply to facilities traditionally located in inshore areas and facilities traditionally located in offshore areas. The bill also amends the financial responsibility requirements so that responsibility is proportional to the oil spill risk posed by the facility. Although I generally do not support letting potential oil polluters off the hook financially, these provisions allow us to maintain protection of the marine environment and prevent requiring unreasonable levels of financial responsibility requirements for facilities that do not pose a substantial risk of a oil spill risk.

I would also like to mention another and highly controversial provision relating to OPA that is contained in the House-passed Coast Guard authorization bill but which has been omitted—properly—from the Senate bill. The House provision would eliminate "direct action" authority which has been in U.S. law since 1970 relating to cleanups and damage claims from oil spills. "Direct action" entitles a claimant to proceed directly against the responsible party's financial responsibility provider, usually an insurer, in order to obtain compensation for loss associated with a pollution incident.

Direct action enhances prompt payment by a spiller by assuring that governments and other claimants do not get caught in the middle of arguments concerning reasons why insurers do not have to pay those they insure. Direct action in connection with oil spill liability is not an OPA creation. Direct action is a key component of the "polluter pays" mandate of Congress which makes potential spillers act more responsibly and has been an underpinning of oil pollution financial responsibility laws, both national and international, for 25 years.

The oil industry has voiced a concern that no insurer will provide insurance guarantees under the OPA regime, with its direct action component. Apparently some insurers fear they will be exposed to unlimited liability because the courts will circumvent OPA's explicit provisions limiting a guarantor's liability. I believe this fear is without practical basis, however, because insurers currently provide direct action guarantees for facilities located on the outer continental shelf under a regime that is almost identical to that established under OPA. Furthermore, I am deeply concerned about the precedent that rolling back the direct action provisions applying to offshore facilities will have. I believe that these provisions would undermine an important tenet in marine environmental protection, and I therefore strongly oppose their inclusion in the final legislation.

Given the fiscal constraints being imposed on the Coast Guard as the Congress moves to balance the Federal budget, the service's efforts to downsize and streamline have been demonstrated admirable seriousness. In general, I support the Coast Guard's goals of streamlining and consolidating operations where possible. I applaud its recently announced plans to streamline without closing or consolidating any frontline operating units while reducing personnel slots by 1,000 and overhead expenses by $100 million. However, I am very concerned by the administration's budget proposal to close 23 Coast Guard small boat stations as a cost-cutting effort to save $6 million.

I have looked closely at the criteria used by the Coast Guard to develop the closure and station modification lists and was surprised to find absent from the criteria any consideration of local and regional factors, including water temperature and unusual tidal or current conditions. The Coast Guard uses a one size fits all approach to determining response time for their small boat stations. I do not believe this is appropriate because severe weather and ocean patterns in some regions can slow down the average response time and colder water temperatures necessitate a quicker response to prevent death and serious physical injury.

Alexander Hamilton, the Secretary of the Treasury and Coast Guard founding father, was the first to acknowledge such differences when he allowed additional funding in 1789 for the construction of two larger revenue cutters in order to handle the harsh winters off the New England coast. These conditions have not changed and still require that special local and regional needs be addressed in any Coast Guard decision process. This is not a parochial Massachusetts issue. Similar conditions exist in throughout the country—in the Great Lakes and the Northwest Pacific.

The Coast Guard criteria also appear to exclude consideration of vital Coast Guard missions besides search and rescue—including marine environmental protection, boating safety, and enforcement of drug, illegal alien, and fisheries laws. In the consideration of whether or not to close a station, I believe all the services provided by the station should be taken into account.

When, after consideration, the Coast Guard concludes a station should be closed, it must take steps to ensure that necessary services will continue to be available in the station's area.

The provisions in the bill establish a more detailed and public process that addresses these issues and those voiced by the Senate Appropriations Subcommittee on Transportation and Infrastructure and set forth in the conference report on the Transportation appropriations bill.

The conference committee in resolving the differences between the House and Senate versions of the Transportation appropriations bill voted to preclude the Coast Guard from closing any small boat stations during Fiscal year 1996. The authorization bill incorporates the appropriators' prohibition against closure of any small boat stations in fiscal year 1996 and sets forth more detailed criteria for making such decisions in subsequent years. Such criteria would include unique weather conditions as I have noted, a station's deterrent effect on crime, and its role in protecting life, property, the environment, public safety or national security. Coastal communities most impacted by the closure of a station will be able to submit comments on their concerns before that final decision is made.

While we take these steps to increase the probability that significant damage will not result from station closures, I realize that the process may make station closures more cumbersome, consequently, the bill allows the Secretary of Transportation to implement management efficiencies within the small boat system, such as modifying the operational posture of units or reallocating resources as necessary to ensure the safety of the maritime public nationwide.

I believe that this provision gives the Coast Guard the flexibility to make the operational changes needed to make for streamlining services but ensures that coastal communities and the environment are not put at undue risk by closing of a station.

In closing, I also want to express my concerns about three highly controversial provisions relating to foreign cruise ship liability that are contained in the House version of the Coast Guard authorization bill. No hearings have been held in either house on this matter, and the issue of the liability of foreign-flag cruise vessels is not germane to the legislation before us. I am pleased none of these provisions has been included in the Senate bill.

The House provisions in question appear solely to benefit the foreign-flag cruise line industry. If enacted, they would jeopardize the health and safety of American passengers traveling on foreign cruise ships, and would deal a tremendous blow to the economic well-being of American workers and American businesses which are in competition for American tourist dollars with the foreign-flag cruise line industry.

The first provision would allow foreign cruise ship owners to use the fine print on the back of tickets to deny liability for emotional distress claims brought by passengers, unless the passengers also suffered substantial physical injuries. A number of women's groups and organizations across the country, including the Women's Legal Defense Fund, the Women's Law Center, and the NOW Legal Defense Fund, have expressed strong opposition to this provision. They are rightfully concerned that it could make it more difficult for victims of rape on foreign-flag cruise vessels, who suffer tremendous emotional scars but sometimes only minor physical injuries, to bring civil lawsuits against the cruise lines that bear responsibility for their trauma. I am in agreement with their concern and would strongly oppose inclusion of this provision as drafted by the House in the final bill.

The second provision would allow foreign cruise vessel owners to take advantage of any statutory limitation on liability for medical malpractice available to any doctor or medical facility wherever a foreign cruise ship passenger is taken ashore for treatment. This language should send chills through anyone who is thinking about taking a cruise. A very broad measure, it all but sets the stage for U.S. citizens to lose their right to sue for medical malpractice if they are taken for medical treatment to a remote foreign island where doctors or hospitals are not held accountable for malpractice. I would not want to place U.S. citizens in such jeopardy.

Finally, the most egregious provision relates to foreign seamen's rights. This provision would undermine the competitiveness of U.S. maritime labor and further disadvantage U.S. businesses that compete with the foreign-flag cruise line industry. It would overturn centuries of maritime law by taking away the basic right of seamen—without regard to nationality—to maintain cases against their cruise line employers in U.S. courts for wages and necessary medical care, so long as current "long-arm" jurisdiction exists. The U.S. Supreme Court, as well as our treaties with foreign nations, have long provided that such suits are proper if there exists a sufficient "nexus" with this country, and that such suits are necessary to maintain a competitive balance between foreign and U.S. labor, because U.S. seamen have such rights. Foreign interests should not be granted a special "exception" from the established long-arm jurisdiction of the U.S. justice system, nor should we be granting foreign-flag vessels additional economic advantage over the interests of American workers and businesses. American maritime labor is certainly justified in its strong opposition to this provision.

Mr. President, these provisions would directly benefit the narrow interests of foreign cruise line owners while threatening the health and safety of American passengers. They have no place in the Coast Guard authorization legislation, and I will strongly oppose their inclusion in the final legislation.

This bill is the culmination of almost 2 years of effort, and I would like to thank the Chairman of the Subcommittee, Senator STEVENS, the Chairman of the Commerce Committee, Senator PRESSLER, and the Committee's ranking Democrat, Senator HOLLINGS for their hard work in preparing this bipartisan bill and bringing it to the floor.

I also would like to acknowledge the hard work and long hours invested by staff on both sides, including Penny Dalton and Lila Helms on the Commerce Committee minority staff and on the majority side, Tom Melius, Trevor McCabe, and Jim Sartucci. I would like to acknowledge the work of Kate English and Carole Grunberg of my staff and Steve Metruck, a congressional fellow in my office. I urge my colleagues to support this bill.

Mr. LAUTENBERG. Mr. President, I rise today in support of the Coast Guard authorization bill. The Coast Guard plays a critical role in protecting lives, property and the environment, and it deserves the strong support and admiration of this Congress.

In addition to funding the mission of the Coast Guard, Mr. President, this bill will help keep plastics and other garbage off our beaches by improving implementation of the 1987 Marine Plastic Pollution Research and Control Act. I have been pursuing these improvements for the last 3 years and it is gratifying to see those efforts come to fruition in this bill.

Mr. President, our marine waters are an essential national resource. They perform important ecological functions by providing habitat, nursery grounds and a source for a great diversity of plants, and fish, birds and other species. The resources in these waters support commercial and recreational fishing, tourism, recreation, and related opportunities. They result in annual expenditures of tens of billions of dollars and unquantifiable enjoyment for our citizens.

In New Jersey, the lure of the Shore is a major element of the State's $18 billion tourism sector, our second largest revenue-producing industry. In 1991, 8.8 million people stayed overnight at the Shore and an additional 59 million made day trips to New Jersey's beaches. Furthermore, 353,000 people serviced these visitors in some capacity, making the tourism industry the number one employer in the State.

Mr. President, this critical industry is jeopardized every time a person visits the beach and finds it littered with bottles, cans and other garbage. And so it is essential that our beaches are kept free from waste. I have participated in nationally sponsored beach cleanup events in New Jersey, and with other volunteers, have collected the trash that washes up on our shores.

Mr. President, during their 1991 beach cleanup, the Center for Marine Conservation found nearly 90,000 pieces of plastic rope, 40,000 plastic trash bags, 33,000 plastic gallon jugs, and many other plastic items which originate aboard commercial vessels. There is likely to be far more ship-generated waste that is not documented because it is impossible to determine the origins of most beach trash.

Furthermore, not all of the plastic that is discharged by vessels ever reaches the beach. Often, plastic fishing lines and other materials are ingested by marine mammals, which mistake them for food. Sometimes marine organisms wash up on the shore entangled in plastic.

In 1987, I sponsored legislation that prohibited ships from discharging plastic and restricted other types of waste discharge into the sea. There has been substantial improvement as a result of my legislation. More, however, remains to be done.

The Environmental Protection Agency's 1990 National Water Quality Inventory revealed that more than 8,500 square miles of the Nation's estuarine waters fail to meet water quality standards. In New Jersey alone, 141 square miles of estuarine waters are failing to meet water quality standards.

The Office of Technology Assessment, in a 1987 report, concluded that the overall health of our coastal waters is "declining or threatened," and that in "the absence of additional measures, new or continued degradation will occur in many estuaries and some coastal waters around the country." OTA also determined that contamination of the marine environment has a wide range of adverse effects on birds and manuals, finfish and shellfish, aquatic vegetation and other organisms. In addition, OTA concluded that existing programs, even if fully implemented, are not adequate to maintain and improve our coastal waters.

Since the Marine Plastic Pollution Research and Control Act was passed in 1987, I have worked with the Coast Guard to monitor and improve the law's enforcement. As past Chairman of the Transportation Appropriations Committee, I saw to it that the Coast Guard received more resources to implement this Act than it requested. Yet an oversight hearing that I conducted highlighted numerous deficiencies in the Coast Guard's enforcement of this Act.

To address these deficiencies I introduced the Marine Plastic Pollution Research and Control Act Amendments of 1993 which has been included in the Coast Guard Reauthorization Act of 1995. This addition will provide the Coast Guard with additional authority and impose stricter requirements on it, all aimed at improving enforcement of waste disposal practices aboard vessels and at ports.

One of the most difficult enforcement problems associated with Annex V of the international MARPOL Convention, which the 1987 legislation ratified, is determining whether garbage or plastics were dumped at sea.

The MARPOL section of the bill before us today addresses the ocean dumping problem by requiring adequate waste reception facilities at all ports and terminals. It provides that adequacy can only be determined through on-site inspections by the Coast Guard, at which time a certificate can be issued. In order to insure that facilities are maintained, the certificate must be renewed every 5 years, or sooner if there is a transfer of ownership or responsibility for operation.

At a Transportation Appropriations Subcommittee hearing I chaired about 2 years ago on the Coast Guard Budget, I questioned then-Admiral Kime about my proposals. Admiral Kime expressed strong support for this legislation, indicating that it is badly needed and goes a long way toward overcoming problems in inadequate enforcement.

Mr. President, I encourage my colleagues to support the Coast Guard Reauthorization Act of 1995 that supports the Coast Guard and improves enforcement of waste disposal practices aboard vessels and at ports. This bill takes a significant step toward ensuring that oceangoing vessels take responsibility for properly disposing of their waste, instead of putting their trash onto our beaches or into the bellies of marine life.

Mr. WELLSTONE. Mr. President, I support this bill. It contains a number of improvements in Coast Guard policy, and I commend the Committee for its work.

I appreciate that the managers were able to include in their amendment a provision that is important to my state. And I am very pleased that the provision is in the bill. The provision will allow the State of Minnesota and the Coast Guard to cooperate in conducting a pilot project that will allow the State in some cases to undertake the safety inspection of small commercial vessels on certain navigable waters of the U.S.

There is no more important mission of the Coast Guard than to protect the safety of citizens on U.S. waters. I certainly hope we in Congress will not act to diminish that mission or the Coast Guard's ability to perform it. I believe the provision which the managers have included to allow a pilot project in Minnesota can help demonstrate an innovative way under some circumstances to fulfill that mission completely, efficiently, cost-effectively and consistent with common sense.

The provision allows the Secretary of the Department in which the Coast Guard is operating to enter into an agreement with the State of Minnesota. Under the agreement, the State may inspect small commercial passenger vessels 40 feet in length or less operating in some navigable waters in Minnesota. Minnesota, through its Department of Labor and Industry, already operates a safety inspection program for such boats on thousands of non-Federal bodies of water. The State has fully demonstrated its competence in this program and its ability to protect the public. Indeed the State's program is closely modeled already after the Coast Guard's inspection program.

Under the provision, the State would be required to perform inspections that will ensure the safety and operation of the vessels in accord with standards that would apply if the Coast Guard itself were conducting the inspections. And it would require the State to report annually to the Secretary on the inspection program. The provision also allows the Secretary to adjust or waive the user fee which Congress has required the Coast Guard to collect from owners of inspected vessels when the State takes over their inspection.

It is my hope that the success of this model of limited decentralization over the course of a 3-year pilot project can show the way for an appropriate sharing of responsibilities between Federal and State authorities in this area of public policy. At the same time, the provision in no way is meant to allow any erosion or circumvention of safety standards in Minnesota or in any other State. There may be other areas in the country where it will make sense and be completely consistent with the public interest for additional States to undertake similar responsibilities. I expect that this pilot project can demonstrate that possibility. But this provision itself implies no future expansion of the sharing of authority. It certainly should not be interpreted to mean that consistent, uniform standards of safety and operation on navigable waters are unnecessary. It is necessary to have consistent and uniform standards. As the provision makes explicit, all vessels will continue to be required to be inspected, and those inspections will be in accord with standards that would apply if the Coast Guard were conducting the inspections.

Mr. President, with the Omnibus Budget Reconciliation Act of 1990, Congress began to require that the Coast Guard collect fees from owners of vessels it inspects to offset the government cost of those inspections. That made sense. Unfortunately, however, the fees established have seemed very high to many who are being asked to pay them, even onerous. That is why I support the cap on such fees which this bill establishes for the inspection of small commercial vessels. A $300 feecap is reasonable for small vessels.

Additionally, though, the collection of fees revealed a certain inefficiency in the current inspection program—a method of operating which does not make common sense. There are certain lakes in the interior of Minnesota, for example, which are designated navigable waters of the U.S. because the Mississippi River, in its formative stage, runs through it. One of the lakes most affected by this issue is Lake Winnibigoshish. At the Northwest end of Lake Winnibigoshish, where the Mississippi River enters the lake, the river is very narrow. I believe a number of Senators could very easily swim across it at that point. There is a dam at the other end of the lake, where the river leaves it, so there is no river traffic or commerce that uses the lake for transport.

Lake Winnibigoshish, incidentally, Mr. President, is a large lake in Northern Minnesota. It is located in the beautiful Chippewa National Forest, and also on the Leech Lake Indian Reservation. It is an excellent lake for catching walleye, our state fish, although some also fish there for Northern Pike and even for Muskies. In the winter a number of people drag small houses out onto the lake behind their cars or snowmobiles, and usually leave them there through the season, so they can fish through the ice. I mention these things to give Senators a flavor of the area of Minnesota I am discussing. Neither the cars nor the fishhouses are subject to Coast Guard authority out on the ice.

During summer months on Lake Winnibigoshish, to continue that example, there are a number of small businesses which operate what the Federal Government considers small commercial passenger vessels. These in most cases are resort owners who operate fishing-guide businesses that take anglers out on the lake on boats which are generally under 30 feet long.

Until last year, Coast Guard inspectors drove once each year from Duluth, about 100 miles away, and inspected these boats for free. Obviously, that was no problem for the owners. But suddenly last year, the Coast Guard informed the boat owners that it would cost $545 or $670 per boat for the inspections, depending on the boats' length. This would be an annual fee for the inspection of these small boats that are used for an open-water fishing season which is effectively only four or five months long.

Now, the resort owners have acknowledged that collection of a fee is appropriate. They understand the value and importance of the inspections. But they object that the fees now being assessed are burdensome and out of line. Some of the resorts reportedly have stopped offering their fishing-guide services for groups of more than six passengers. The requirement does not apply when there are fewer passengers. But this means that they are foregoing business, which is not fair and is not convenient for the visitors. Furthermore, it is highly irritating to some of the resort owners, who point out that the State of Minnesota is conducting equivalent inspections of virtually identical boats on neighboring lakes for under $100.

Mr. President, that is the type of situation that this provision is meant to address. We want to protect the public and uphold safety standards in every way. The State of Minnesota is fully capable of doing that and I am sure will demonstrate so through this pilot project. And these small businesses will not suffer unnecessarily burdensome fees. It is an example of how we can make appropriate regulation work in common-sense fashion by adjusting the current cookie-cutter, one-size-fits-all federal approach.

I point out that it is my understanding that the State of Minnesota is not interested in taking over any Coast Guard inspection duties on bodies of water such as Lake Superior or the Mississippi, which carry substantial interstate commerce. And I repeat that the State will inspect only small commercial vessels under 40 feet in length on bodies of water agreed upon by the State and by the Secretary.

I thank the managers for including the provision. And I thank the State of Minnesota and the Coast Guard for their cooperation during the drafting process. Mr. President, I ask unanimous consent that a letter of support for the provision signed by Minnesota's Commissioner of Labor and Industry be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MINNEAPOLIS DEPARTMENT OF
LABOR AND INDUSTRY,
November 8, 1995.

Hon. PAUL WELLSTONE,
U.S. Senate,
Washington, DC.

DEAR SENATOR WELLSTONE: I write in support of the Small Passenger Vessel Pilot Inspection program as included in S. 1004, the Coast Guard Reauthorization Act of 1995. As Commissioner of the Minnesota Department of Labor and Industry, I oversee the state boat inspection program. I look forward to working with the United States Coast Guard to expand on the efficiency of the state boat inspection safety program in order to better meet the needs of the citizens of Minnesota.

Thank you for your efforts in developing this pilot project.

Yours truly,

GARY W. BASTIAN,
Commissioner.

AMENDMENT NO. 3058

(Purpose: To make technical minor changes in the bill as reported, and for other purposes)

Mr. LOTT. Mr. President, I send an amendment to the desk on behalf of Senator STEVENS.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. STEVENS, for himself, Mr. PRESSLER, Mr. HOLLINGS, Mr. KERRY, Ms. SNOWE, Mrs. HUTCHISON, and Mr. BREAUX proposes an amendment numbered 3058.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Ms. SNOWE. Mr. President, I rise as a cosponsor of the Stevens manager's amendment, and I urge my colleagues to support this amendment, along with the Chafee amendment and the underlying bill, S. 1004.

S. 1004 renews the authorization for the U.S. Coast Guard—an agency of special importance to a State like Maine which has over 3,000 miles of coastline and many commercial and sport fishermen, sailing enthusiasts, and merchant mariners. The Commerce Committee has reported a good, bipartisan bill, and I believe that it deserves unanimous approval in the Senate.

Among the provisions contained in this bill and in the manager's amendment are several that I had the pleasure to author or coauthor with other Senators, and that I wanted to mention here on the floor.

One of the longest lasting legacies of this bill will be the preservation of 35 lighthouses on the coast of Maine. I introduced this provision as a stand-alone bill earlier in the year, S. 685, and I am very pleased that we were able to include it in the Commerce Committee's version of S. 1004.

This provision will create the Maine lights program to transfer these historically and environmentally important lighthouses to new owners who will agree to maintain them, preserve their historic character, preserve ecological resources on adjacent property like seabird nesting habitat, and provide access to the public. In short, this legislation provides a way to protect these lighthouses well into the future at no cost to the Federal Government. Long after this bill passes, Mr. President, when our grandchildren or their children visit the Maine coast and admire the lighthouses, they will have this Congress to thank for its vision and its commitment to preserving such a valuable piece of the Nation's coastal heritage.

Lighthouses no longer play the crucial role in ensuring maritime safety that they once did, and, in fact, the original designers of the lighthouses could never have imagined the impressive array of technological resources that today's Coast Guard brings to the critical job of protecting the maritime public. But despite the new hardware and technology, the heart of the Coast Guard's mission is still the human emergency response, the rescues at sea. It is critical that the Coast Guard maintain this capability to respond promptly and professionally to all accidents in American waters, even while we are engaged in the necessary process to balance the budget and protect the fiscal health of the Nation.

Senator KERRY and I authored an amendment in the Commerce Committee that will prevent the Coast Guard from closing any of its boat stations unless the Secretary first certifies that the closure will not result in a degradation of services that threatens life, property, the environment, or public safety. Language that I included in this amendment provides, in particular, that a proposed station closure will not hamper the Coast Guard's ability to meet its 2-hour standard for responding to search-and-rescue requests.

Both of these provisions have been included in S. 1004, and they enjoy broad bipartisan support.

Mr. President, while S. 1004 is a good bill and deserves this body's support, the manager's amendment offered by Senator STEVENS makes a number of constructive changes to S. 1004 that will improve it further. Among these is a provision that I sponsored to facilitate a timely and effective response in the event of an oil spill in Passamaquoddy Bay on Maine's border with Canada.

Passamaquoddy Bay is a large, virtually pristine bay and estuary system that is internationally recognized as a staging area for migratory waterfowl and shorebirds. In addition, the bay area has substantial economic value, hosting major aquaculture and commercial fishing operations, a vibrant tourism industry that depends on the health of the bay, and one of Maine's three major cargo ports.

Unfortunately, this important resource would be relatively unprotected in the event of a major oil spill. The State of Maine does not have an adequate number and type of oil spill response vessels in the vicinity of Passamaquoddy Bay. There are some Canadian-registered vessels north of the bay that could do the job, but current Federal law prevents these vessels from operating in U.S. waters.

To address this problem, I drafted a provision that has been included in the manager's amendment which will allow Canadian-registered vessels to be used in U.S. waters near the Maine-Canada border in the event of an oil spill. The authority only applies on a temporary and emergency basis, however, and it only applies as long as U.S.-documented response-and-recovery vessels are not available to respond in a timely manner. This provision will help to ensure that Passamaquoddy Bay receives the maximum amount of protection from an oil spill, while giving U.S. recovery vessels priority consideration for doing the work if they are available.

Finally, I wanted to reference Senator CHAFEE's amendment on financial responsibility under the Oil Pollution Act. I offered an amendment in the Commerce Committee that addressed the aspect of this issue dealing with marinas and onshore fuel terminals. Under some current interpretations of OPA, these facilities could have been subjected to the act's extremely expensive financial responsibility requirements, even though the act was intended to cover offshore drilling platforms and other large production facilities that could be involved in large oil spills.

Mr. President, the language in the Chafee amendment reflects a compromise that Senators on the Commerce and EPW Committees were able to reach on this issue. Among other things, it simply clarifies that marinas and onshore fuel terminals are not subject to OPA's financial responsibility requirements. This legislation will benefit many small businesses, boaters, commercial fishermen, oil distributors, and fuel consumers across the country without jeopardizing important environmental protections.

These amendments will strengthen an already good bill, and I hope that my colleagues will support them, and support S. 1004 on final passage.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 3058) was agreed to.

AMENDMENT NO. 3059

(Purpose: To amend the Oil Pollution Act of 1990 to clarify the financial responsibility requirements for offshore facilities)

Mr. LOTT. Mr. President, I send a second amendment to the desk on behalf of Senator STEVENS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. STEVENS, for himself, Mr. CHAFEE, Mr. BREAUX, and Ms. SNOWE, proposes an amendment numbered 3059.

Mr. LOTT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . OFFSHORE FACILITY FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) AMOUNT OF FINANCIAL RESPONSIBILITY.—Section 1016(c)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2716(c)(1)) is amended to read as follows:

"(1) IN GENERAL.—

"(A) EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED.—Except as provided in paragraph (2), a responsible party with respect to an offshore facility that—

"(i)(I) is located seaward of the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters; or

"(II) is located in inland waters, such as coastal bays or estuaries, seaward of the line of ordinary low water along that portion of the coast that is not in direct contact with the open sea;

"(ii) is used for exploring for, drilling for, or producing oil, or for transporting oil from facilities engaged in oil exploration, drilling, or production; and

"(iii) has a worst-case oil spill discharge potential of more than 1,000 barrels of oil (or a lesser amount if the President determines that the risks posed by such facility justify it),

shall establish and maintain evidence of financial responsibility in the amount required under subparagraph (B) or (C), as applicable.

"(B) AMOUNT REQUIRED GENERALLY.—Except as provided in subparagraph (C), the amount of financial responsibility for offshore facilities that meet the criteria in subparagraph (A) is—

"(i) $35,000,000 for offshore facilities located seaward of the seaward boundary of a State; or

"(ii) $10,000,000 for offshore facilities located landward of the seaward boundary of a State.

"(C) GREATER AMOUNT.—If the President determines that an amount of financial responsibility for a responsible party greater than the amount required by subparagraphs (B) and (D) is justified by the relative operational, environmental, human health, and other risks posed by the quantity or quality of oil that is explored for, drilled for, produced, stored, handled, transferred, processed or transported by the responsible party, the evidence of financial responsibility required shall be for an amount determined by the President not exceeding $150,000,000.

"(D) MULTIPLE FACILITIES.—In the case in which a person is a responsible party for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the amount applicable to the facility having the greatest financial responsibility requirement under this subsection.

"(E) STATE JURISDICTION.—The requirements of this paragraph shall not apply if an offshore facility located landward of the seaward boundary of a State is required by such State to establish and maintain evidence of financial responsibility in a manner comparable to, and in an amount equal to or greater than, the requirements of this paragraph.

"(F) DEFINITION.—For the purpose of this paragraph, the phrase "seaward boundary of a state" shall mean the boundaries described in section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)).".

REGARDING OPA–90 AMENDMENT TO S. 1004

Mr. CHAFEE. Mr. President, I rise as a cosponsor in support of the pending amendment to the Coast Guard reauthorization bill, S. 1004. The amendment would modify the financial responsibility requirements for offshore facilities under the Oil Pollution Act of 1990.

These requirements mandate that offshore oil-related facilities demonstrate evidence of access to resources sufficient to cover the likely costs of clean-up and damages arising from an oilspill. The important purpose served by these requirements is to ensure that the polluter—not the United States taxpayer—bears the financial burdens resulting from oil pollution.

The Environment and Public Works Committee, of which I am chairman, has jurisdiction over the issues addressed in the pending amendment. In recognition that jurisdiction, the primary sponsor of the amendment and manager of the bill, Senator STEVENS, and the Chairman PRESSLER of the Commerce Committee, which reported S. 1004, asked for my assistance in crafting the amendment.

I am pleased to report that we were able to work together to fashion an amendment that will bring the financial responsibility requirements of the Act more into line with common sense and the original intent of Congress. It will allow us to avoid imposing undue and unintended economic burdens while also ensuring that the act's important environmental purposes will continue to be served.

In particular, the amendment would do three things.

First, it would correct an unjustifiably broad interpretation of the act by the Department of the Interior. The interpretation would apply the financial responsibility requirements for offshore facilities to traditional onshore facilities like land-based oil terminals and marinas.

We have many such onshore facilities in my State of Rhode Island. They were never intended to be subject to the Act's financial responsibility requirements for offshore facilities, even if they have certain appurtenances that extend onto submerged land. This amendment serves to make our original intent unmistakably clear.

Second, the amendment would exempt from financial responsibilities requirements small offshore operators who, even under a worst-case scenario, lack the capacity to cause a major oil spill. This de minimis exemption removes the potential for imposing an unjustifiably heavy financial burden on small businesses that pose only minimal environmental risk.

Importantly, however, the amendment does not affect the liability of a facility that actually engages in a spill. Moreover, the President retains the discretion to require even a small offshore facility to demonstrate evidence of financial responsibility if the risk justifies doing so.

Third, the amendment would allow for some flexibility in the amount of financial responsibility to be required of non de minimis offshore facilities. The Act currently directs the promulgation of regulations that would require all offshore facilities to meet financial responsibility requirements at a $150 million level.

The amendment, on the other hand, calls for use of the current $35 million requirement in the Outer Continental Shelf Lands Act for facilities in Federal waters, while giving the President discretion to increase the requirement on the basis of risk. A similar approach is taken with respect to offshore facilities in State waters, except that the minimum financial responsibility requirement is $10 million given that many Coastal States impose their own such requirements.

In sum, this amendment will remove the potential for unnecessary and inefficient economic burdens while preserving the act's fundamental purpose of ensuring that oilspill polluters pay for their pollution. It also preserves the act's important safeguards and deterrents against oil pollution in the first instance.

This amendment reflects a thoughtful and carefully tailored approach to specific issues of concern about operation of an environmental statute. I want to thank Senators STEVENS and PRESSLER again for their cooperation and fine work on the amendment.

Mr. BREAUX. Mr. President, I want to start by thanking the distinguished managers of the bill, the Senator from Alaska, Senator STEVENS, and the Senator from South Carolina, Senator HOLLINGS, and the Senator from Rhode Island, Senator CHAFEE, the distinguished chair of the Environment and Public Works Committee, for all the work they have put into helping to craft this amendment. It retains many of the features of S. 33, which I introduced in January of this year. I believe that it is an amendment that all of our colleagues should support.

This amendment addresses a serious concern—the shutting down of onshore and offshore oil and gas producers because they cannot meet onerous Federal financial responsibility standards mandated by the Oil Pollution Act of 1990. This amendment gives the Secretary of the Interior the flexibility to adjust Federal financial responsibility requirements to reflect the risks actually posed. Unless, this flexibility is provided for offshore facilities, the Oil Pollution Act's financial requirements will freeze out small and independent companies that drill most of the wells offshore.

Congress passed the Oil Pollution Act of 1990 in response to the *Exxon Valdez* oilspill. It was designed to prevent oilspills and if oilspills do occur to make sure sufficient financial resources are available to clean up those spills. The statute establishes liability limits and requirements of financial responsibility to meet those limits. However, recent interpretation of the statute by the Department of the Interior indicates that legislative changes are needed to meet congressional intent concerning financial responsibility for onshore facilities and to correct the overly burensome financial responsibility requirements for offshore facilities that threaten the viability of many offshore producers.

When the Congress adopted the Oil Pollution Act, it clearly intended that onshore facilities would not have to show evidence of financial responsibility. However, a recent Interior Department solicitor's opinion indicates that due to the interrelationship of several definitions in the act, that they interpret the statute to require financial responsibility be shown by onshore facilities. Mr. President, clearly, Congress did not and does not want to require small marina operators or other onshore facilities to show $150 million of financial responsibility. This legislation clarifies the congressional intent on the law with respect to financial responsibility for onshore facilities.

Also, this amendment gives the Minerals Management Service the authority to require evidence of financial responsibility between $35 and $150 million based on the environmental risk posed by the facility. Current law is inflexible on this point, all offshore facilities must provide evidence of $150 million regardless of how much oil they handle, their history of oilspills, or other factors that would determine the true risk of an oilspill. In addition, this amendment provides that any producer that handles less than 1,000 barrels of oil at any one time would be exempt from the financial responsibility requirement. Both the $35 million financial responsibility level and the 1,000 barrels were included in prior law—the Outer Continental Shelf Lands Act.

This approach preserves OPA's oilspill prevention, response and environmental safeguards and liability standards, while setting reasonable financial responsibility requirements for offshore facilities. It also recognizes the low level of risk of oilspills associated with the offshore industry generally, and the fact that no spill on the Federal Gulf of Mexico offshore has exceeded the $35 million of financial responsibility in force before OPA. I look forward to working to further revise this legislation. This legislation is one step that can be accomplished now to help maintain a viable domestic energy industry.

We know that oil imports continue to rise, while the domestic energy industry continues to decline.

In 1973—at the time of the Arab oil embargo—domestic U.S. crude oil production was 9.2 million barrels per day (mbd). By 1977, that figure had fallen to 8.1 mdb, before increasing as Alaska production flowed through the Trans-Alaska Pipeline System. By 1985, domestic crude production had climbed to a post-embargo high of 9.0 mbd. Now, 10 years later, domestic crude oil output runs at 6.6 mbd.

In 1973, the U.S. imported about 35 percent of its daily oil consumption. Now, we import almost half our total oil needs—8.1 mbd out of a daily consumption of about 18 mbd.

This nation would never allow us to import more than 50 percent of our food supply—Is our energy supply any less important? Let us not forget the oil shocks of the seventies and let us not forget that just a few years ago we sent young Americans to the Persian Gulf to protect our strategic interest in the oil there.

Thousands of oil industry workers have been laid off and it looks like many more may become unemployed in the future. More than 400,000 jobs have been lost in the oil and gas industry in the last 10 years. By some estimates, 40,000 to 50,000 may have been lost in 1992 alone.

The jobs in the oil industry today are very different from those of yesterday. The reserves that are fast and easy to recover through simple hard labor are no more. Increasingly, extraction of oil and gas requires very sophisticated technology that requires a highly-skilled, highly educated work force. The energy industry of today creates the kinds of jobs we want for tomorrow—high technology, high paying jobs.

Our national security depends on access to dependable domestic energy reserves. Unfortunately, our domestic oil and gas industry cannot turn on a dime. No magic spigot can be turned on when the need for secure domestic oil reserves become acute. The expertise needed to develop oil and gas is highly-specialized, particularly now that the remaining domestic reserves are increasingly difficult to recover.

This is not just an oil and gas state interest—this is a national interest. Energy fuels our cars, heats our homes, runs our factories in every part of the country. Also, let us not forget the thousands of jobs created in non-energy related sectors to service the energy industry: computers, metals, transportation, financial and other service industries. When domestic oil and gas producing increases so do the jobs created in all these sectors.

Unless we take steps to help preserve a viable domestic industry, the next energy crisis may be chronic and very damaging to our economy. Unless we act to preserve a core of talent and capital in the United States, the domestic industry may not be able to deploy the necessary capital investment and trained labor necessary to quickly add large increments to our overall domestic supply of oil and petroleum products.

We can change politics as usual—the politics of crisis management—and we can work now to avert an energy crisis in the future. Mr. President, I believe that this amendment is a good starting point. It does not address some issues that I believe need to be addressed, but I look forward to continuing to work with my colleagues to make changes to the Oil Pollution Act that I believe are necessary to maintain our domestic energy security.

Again, I thank Senator STEVENS, Senator HOLLINGS and Senator CHAFEE, for their involvement, their assistance and their encouragement in this effort. And, I urge my colleagues to join me in supporting this important legislation.

AN AMENDMENT TO S. 1004, THE COAST GUARD AUTHORIZATION ACT OF 1995

Mr. CHAFEE. The pending amendment to the Coast Guard reauthorization bill clarifies the financial responsibility requirements for offshore facilities under the Oil Pollution Act of 1990, or "OPA-90." Issues related to such requirements lie within the exclusive jurisdiction of the Senate Committee on Environment and Public Works. As Chairman of that Committee, I join Senator STEVENS as a co-sponsor of the amendment. I also want to take a moment to provide the background of the amendment and to explain the understanding on which it is based.

Earlier this year Senator BREAUX introduced a bill, S. 33, that addresses the matters contained in this amendment and was referred to the Committee on Environment and Public Works.

Although we did not hold a formal hearing on the bill, efforts to amend OPA-90 to clarify its offshore facility financial responsibility requirements have been ongoing for several months. The House included such an amendment in its version of the Coast Guard reauthorization bill, H.R. 1361.

Upon being received in the Senate, H.R. 1361 was referred to the Committee on Commerce, Science, and Transportation. Recognizing and respecting the fact that OPA-90's financial responsibility requirements are within the jurisdiction of the Environment and Public Works Committee, the Committee on Commerce, Science, and Transportation declined to include an amendment to such requirements in the Coast Guard reauthorization bill it reported, S. 1004.

Instead, the chairman of the full Committee, Senator PRESSLER, and the Chairman of the Subcommittee on Oceans and Fisheries, Senator STEVENS, wrote to ask for my cooperation and assistance in crafting an offshore OPA-90 amendment that could be offered upon consideration of S. 1004 on the Senate floor. Seventeen Senators, including four members of the Environment and Public Works Committee, also sent me a letter urging me to work with the Committee on Commerce, Science, and Transportation to achieve the same result.

In response, I agreed to work with the leadership of the Committee on Commerce, Science, and Transportation in an effort to forge an amendment that would accommodate the request of my colleagues. All work was done in consultation with the ranking member of the Committee on Environment and Public Works, Senator BAUCUS. The product of that cooperative labor is the amendment before the Senate at this time.

Also resulting from our negotiations with the Committee on Commerce, Science, and Transportation is an agreement that will ensure continued recognition of the jurisdiction of the Committee on Environment and Public Works as S. 1004 and H.R. 1361 move forward. It is especially important given the abbreviated process that I have agreed to follow with respect to the OPA-90 amendment.

Our agreement provides that, upon passage of S. 1004 and H.R. 1361 by the Senate, the Committee on Environment and Public Works will conduct any negotiations or discussions with the House of Representatives on any OPA-90 issues within the Committee's jurisdiction, including all issues addressed in the pending Senate amendment. If these negotiations or discussions fail to resolve any differences that may exist between the two Chambers on such issues, the Committee on Environment and Public Works will be the source of conferees on all OPA-90 issues under the Committee's jurisdiction, including all issues addressed in the pending Senate amendment. In the spirit in which the pending amendment was developed, members of the Committee on Environment and Public Works engaged in any such negotiations or conference will consult with members of the Committee on Commerce, Science, and Transportation.

In conclusion, I simply would ask my good friend, the chairman of the Committee on Commerce, Science, and

Transportation, if what I have just stated comports with his understanding of our agreement.

Mr. PRESSLER. Yes, it does in all respects. As chairman of the Committee on Commerce, Science, and Transportation, I recognize that the issues addressed in the OPA-90 amendment clearly fall under the jurisdiction of the Committee on Environment and Public Works. I have appreciated the willingness of the chairman of that Committee to work with the Committee on Commerce, Science, and Transportation so this amendment could be added to the Coast Guard reauthorization bill.

Mr. CHAFEE. I thank the chairman of the Committee on Commerce, Science, and Transportation. Let me add that I have appreciated the cooperative manner in which we have been able to work together on this amendment and I commend him, as well as Senator STEVENS, for their fine work on the amendment.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 3059) was agreed to.

AMENDMENT NO. 3060

(Purpose: To provide for the deauthorization of a navigation project in Cohasset Harbor, MA)

Mr. LOTT. Mr. President, I now send an amendment to the desk on behalf of Senator KERRY of Massachusetts.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. KERRY, proposes an amendment numbered 3060.

Mr. LOTT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . DEAUTHORIZATION OF NAVIGATION PROJECT, COHASSET HARBOR, MASSACHUSETTS.

The following portions of the project for navigation, Cohasset Harbor, Massachusetts, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 12), or carried out pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), are deauthorized: A 7-foot deep anchorage and a 6-foot deep anchorage; beginning at site 1, starting at a point N45310.15, E792664.63, thence running south 53 degrees 07 minutes 05.4 seconds west 307.00 feet to a point N453325.90, E792419.07, thence running north 57 degrees 56 minutes 36.8 seconds west 201.00 feet to a point N453432.58, E792248.72, thence running south 88 degrees 57 minutes 25.6 seconds west 50.00 feet to a point N453431.67, E792198.73, thence running north 01 degree 02 minutes 52.3 seconds west 66.71 feet to a point N453498.37, E792197.51, thence running north 69 degrees 12 minutes 52.3 seconds east 332.32 feet to a point N453616.30, E 792508.20, thence running south 55 degrees 50 minutes 24.1 seconds east 189.05 feet to point of origin; then site 2, starting at a point, N452886.64, E791287.83, thence running south 00 degrees 00 minutes 00.0 seconds west 56.04 feet to a point, N452830.60, E791287.83, thence running north 90 degrees 00 minutes 00.0 seconds west 101.92 feet to a point, N452830.60, E791185.91, thence running north 52 degrees 12 minutes 49.7 seconds east 89.42 feet to a point, N452885.39, E791256.58, thence running north 87 degrees 42 minutes 33.8 seconds east 31.28 feet to point of origin; and site 3, starting at a point, N452261.08, E792040.24, thence running north 89 degrees 07 minutes 19.5 seconds east 118.78 feet to a point, N452262.90, E792159.01, thence running south 43 degrees 39 minutes 06.8 seconds west 40.27 feet to a point, N452233.76, E792131.21, thence running north 74 degrees 33 minutes 29.1 seconds west 94.42 feet to a point, N452258.90, E792040.20, thence running north 01 degree 03 minutes 04.3 seconds east 2.18 feet to point of origin.

Amend the table of sections by inserting at the appropriate place the following:

Sec. . Deauthorization of navigation project, Cohasset Harbor, Massachusetts.

COHASSET DREDGING PROJECT

Mr. KERRY. Mr. President, I wish to engage the distinguished Chairman of the Committee on Environment and Public Works, Senator CHAFEE, in a colloquy. The colloquy relates to a freestanding amendment that I have offered which would deauthorize portions of a navigation project at Cohasset Harbor, MA. This deauthorization provision is clearly and wholly within the jurisdiction of the Committee on Environment and Public Works. I recognize that it would most appropriately be dealt with as an amendment to the 1995 Water Resources Development Act. However, this deauthorization is a purely technical action which requires no expenditure of funds. In addition, I have recently been informed that the necessary dredging of Cohasset Harbor, which cannot proceed without this deauthorization, will lose an existing appropriation of funds if this technical action is not approved by the Congress expeditiously. The amendment simply provides for a modification to the existing coordinates of the U.S. Army Corps of Engineers' Cohasset Harbor dredging project.

Mr. CHAFEE. I have carefully reviewed the proposed amendment and concur that it is a purely technical project deauthorization which involves no expenditure of funds. As such, I give my consent to the request of the Senator from Massachusetts [Mr. KERRY]. I would ask, however, that if any changes are made to this amendment, I be consulted before any final action is taken in a conference with the House.

Mr. STEVENS. As the manager of the Coast Guard authorization bill, I concur with the views expressed here by my colleagues.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 3060) was agreed to.

Mr. LOTT. Mr. President, I further ask unanimous consent that the committee amendment be agreed to, as amended; that the bill be considered read for a third time and passed; that the motion to reconsider be laid upon the table; and that a number of colloquies and statements appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the committee amendment, as amended, was agreed.

So the bill (S. 1004), as amended, was deemed read the third time and passed.

The bill, as passed, is as follows:

S. 1004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

Sec. 201. Provision of child development services.
Sec. 202. Hurricane Andrew relief.
Sec. 203. Dissemination of results of 0-6 continuation boards.
Sec. 204. Exclude certain reserves from end-of-year strength.
Sec. 205. Officer retention until retirement eligible.
Sec. 206. Contracts for health care services.
Sec. 207. Recruiting.
Sec. 208. Access to National Driver Register information on certain Coast Guard personnel.
Sec. 209. Coast Guard housing authorities.
Sec. 210. Board for correction of military records deadline.

TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

Sec. 301. Increased penalties for documentation violations.
Sec. 302. Nondisclosure of port security plans.
Sec. 303. Maritime drug and alcohol testing program civil penalty.
Sec. 304. Renewal of advisory groups.
Sec. 305. Electronic filing of commercial instruments.
Sec. 306. Civil penalties.
Sec. 307. Amendment to require EPIRBS on the Great Lakes.
Sec. 308. Report on Loran-C requirements.
Sec. 309. Restrictions on closure of small boat stations.
Sec. 310. Penalty for alteration of marine safety equipment.
Sec. 311. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards.

Sec. 312. Withholding vessel clearance for violation of certain Acts.

TITLE IV—COAST GUARD AUXILIARY

Sec. 401. Administration of the Coast Guard Auxiliary.
Sec. 402. Purpose of the Coast Guard Auxiliary.
Sec. 403. Members of the auxiliary; status.
Sec. 404. Assignment and performance of duties.
Sec. 405. Cooperation with other agencies, States, Territories, and political subdivisions.
Sec. 406. Vessel deemed public vessel.
Sec. 407. Aircraft deemed public aircraft.
Sec. 408. Disposal of certain material.

TITLE V—RECREATIONAL BOATING SAFETY IMPROVEMENT

Sec. 501. State recreational boating safety grants.
Sec. 502. Boating access.
Sec. 503. Personal flotation devices required for children.
Sec. 504. Marine Casualty Reporting.

TITLE VI—COAST GUARD REGULATORY REFORM

Sec. 601. Short title.
Sec. 602. Safety management.
Sec. 603. Use of reports, documents, records, and examinations of other persons.
Sec. 604. Equipment approval.
Sec. 605. Frequency of inspection.
Sec. 606. Certificate of inspection.
Sec. 607. Delegation of authority of Secretary to classification societies.

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

Sec. 701. Amendment of inland navigation rules.
Sec. 702. Measurement of vessels.
Sec. 703. Longshore and harbor workers compensation.
Sec. 704. Radiotelephone requirements.
Sec. 705. Vessel operating requirements.
Sec. 706. Merchant Marine Act, 1920.
Sec. 707. Merchant Marine Act, 1956.
Sec. 708. Maritime education and training.
Sec. 709. General definitions.
Sec. 710. Authority to exempt certain vessels.
Sec. 711. Inspection of vessels.
Sec. 712. Regulations.
Sec. 713. Penalties—inspection of vessels.
Sec. 714. Application—tank vessels.
Sec. 715. Tank vessel construction standards.
Sec. 716. Tanker minimum standards.
Sec. 717. Self-propelled tank vessel minimum standards.
Sec. 718. Definition—abandonment of barges.
Sec. 719. Application—load lines.
Sec. 720. Licensing of individuals.
Sec. 721. Able seamen—limited.
Sec. 722. Able seamen—offshore supply vessels.
Sec. 723. Scale of employment—able seamen.
Sec. 724. General requirements—engine department.
Sec. 725. Complement of inspected vessels.
Sec. 726. Watchmen.
Sec. 727. Citizenship and naval reserve requirements.
Sec. 728. Watches.
Sec. 729. Minimum number of licensed individuals.
Sec. 730. Officers' competency certificates convention.
Sec. 731. Merchant mariners' documents required.
Sec. 732. Certain crew requirements.
Sec. 733. Freight vessels.
Sec. 734. Exemptions.
Sec. 735. United States registered pilot service.
Sec. 736. Definitions—merchant seamen protection.
Sec. 737. Application—foreign and intercoastal voyages.
Sec. 738. Application—coastwise voyages.
Sec. 739. Fishing agreements.
Sec. 740. Accommodations for seamen.
Sec. 741. Medicine chests.
Sec. 742. Logbook and entry requirements.
Sec. 743. Coastwise endorsements.
Sec. 744. Fishery endorsements.
Sec. 745. Convention tonnage for licenses, certificates, and documents.
Sec. 746. Technical corrections.

TITLE VIII—POLLUTION FROM SHIPS

Sec. 801. Prevention of pollution from ships.
Sec. 802. Marine plastic pollution research and control.

TITLE IX—LAW ENFORCEMENT ENHANCEMENT

Sec. 901. Sanctions for failure to land or to bring to; sanctions for obstruction of boarding and providing false information.
Sec. 902. FAA summary revocation authority.
Sec. 903. Coast Guard air interdiction authority.
Sec. 904. Coast Guard civil penalty provisions.
Sec. 905. Customs orders.
Sec. 906. Customs civil penalty provisions.

TITLE X—CONVEYANCES

Sec. 1001. Conveyance of property in Massachusetts.
Sec. 1002. Conveyance of certain lighthouses located in Maine.
Sec. 1003. Conveyance of Squirrel Point Light.
Sec. 1004. Conveyance of Montauk Light Station, New York.
Sec. 1005. Conveyance of Point Arena Light Station.
Sec. 1006. Conveyance of property in Ketchikan, Alaska.
Sec. 1007. Conveyance of property in Traverse City, Michigan.
Sec. 1008. Transfer of Coast Guard property in New Shoreham, Rhode Island.
Sec. 1009. Conveyance of property in Santa Cruz, California.
Sec. 1010. Conveyance of vessel S/S RED OAK VICTORY.
Sec. 1011. Conveyance of equipment.
Sec. 1012. Property exchange.

TITLE XI—MISCELLANEOUS

Sec. 1101. Florida Avenue bridge.
Sec. 1102. Oil Spill Recovery Institute.
Sec. 1103. Limited double hull exemptions.
Sec. 1104. Oil spill response vessels.
Sec. 1105. Sense of the Congress regarding passengers aboard commercial vessels.
Sec. 1106. California cruise industry revitalization.
Sec. 1107. Lower Columbia River marine fire and safety activities.
Sec. 1108. Oil pollution research and training.
Sec. 1109. Limitation on relocation of Houston and Galveston Marine Safety Offices.
Sec. 1110. Uninspected fish-tender vessels.
Sec. 1111. Foreign passenger vessel user fees.
Sec. 1112. Coast Guard user fees.
Sec. 1113. Vessel financing.
Sec. 1114. Manning and watch requirements on towing vessels on the Great Lakes.
Sec. 1115. Repeal of Great Lakes endorsements.
Sec. 1116. Relief from United States documentation requirements.
Sec. 1117. Use of Canadian oil spill response and recovery vessels.
Sec. 1118. Judicial sale of certain documented vessels to aliens.
Sec. 1119. Improved authority to sell recyclable material.
Sec. 1120. Documentation of certain vessels.
Sec. 1121. Vessel deemed to be a recreational vessel.
Sec. 1122. Small passenger vessel pilot inspection program with the State of Minnesota.
Sec. 1123. Commonwealth of the Northern Mariana Islands fishing.
Sec. 1124. Availability of extrajudicial remedies for default on preferred mortgage liens on vessels.
Sec. 1125. Offshore facility financial responsibility requirements.
Sec. 1126. Deauthorization of navigation project, Cohasset Harbor, Massachusetts. .

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1996.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1996, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,618,316,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $428,200,000, to remain available until expended, of which $32,500,000 shall be derived from the Oil Spill Liability Trust fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,500,000, to remain available until expended, of which $3,150,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $582,022,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program—

(A) $16,200,000, to remain available until expended, of which up to $14,200,000 may be made available under section 104(e) of title 49, United States Code; and

(B) for fiscal year 1995, $12,880,000, which may be made available under that section.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $25,000,000, to remain available until expended.

(b) AMOUNTS FROM THE DISCRETIONARY BRIDGE PROGRAM.—Section 104 of title 49, United States Code, is amended by adding at the end thereof the following:

"(e) Notwithstanding the provisions of sections 101(d) and 144 of title 23, highway bridges determined to be unreasonable obstructions to navigation under the Truman-Hobbs Act may be funded from amounts set aside from the discretionary bridge program. The Secretary shall transfer these allocations and the responsibility for administration of these funds to the United States Coast Guard.".

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 38,400 as of September 30, 1996. The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) AUTHORIZED LEVEL OF MILITARY TRAINING.—The Coast Guard is authorized average military training study loads for fiscal year 1996 as follows:

(1) For recruit and special training, 1,604 student years.

(2) For flight training, 85 student years.

(3) For professional training in military and civilian institutions, 330 student years.

(4) For officer acquisition, 874 student years.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. PROVISION OF CHILD DEVELOPMENT SERVICES.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 514 the following new section:

"§ 515. Child development services

"(a) The Commandant may make child development services available for members and civilian employees of the Coast Guard, and thereafter as space is available for members of the Armed Forces and Federal civilian employees. Child development service benefits provided under the authority of this section shall be in addition to benefits provided under other laws.

"(b)(1) Except as provided in paragraph (2), the Commandant may require that amounts received as fees for the provision of services under this section at Coast Guard child development centers be used only for compensation of employees at those centers who are directly involved in providing child care.

"(2) If the Commandant determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of such fee receipts, the Commandant may (to the extent that such compliance would be uneconomical and inefficient) use such receipts—

"(A) for the purchase of consumable or disposable items for Coast Guard child development centers; and

"(B) if the requirements of such centers for consumable or disposable items for a given fiscal year have been met, for other expenses of those centers.

"(c) The Commandant shall provide for regular and unannounced inspections of each child development center under this section and may use Department of Defense or other training programs to ensure that all child development center employees under this section meet minimum standards of training with respect to early childhood development, activities and disciplinary techniques appropriate to children of different ages, child abuse prevention and detection, and appropriate emergency medical procedures.

"(d) Of the amounts available to the Coast Guard each fiscal year for operating expenses (and in addition to amounts received as fees), the Secretary may use for child development services under this section an amount not to exceed the total amount the Commandant estimates will be received by the Coast Guard in the fiscal year as fees for the provision of those services.

"(e) The Commandant may use appropriated funds available to the Coast Guard to provide assistance to family home day care providers so that family home day care services can be provided to uniformed service members and civilian employees of the Coast Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.

"(f) The Secretary shall promulgate regulations to implement this section. The regulations shall establish fees to be charged for child development services provided under this section which take into consideration total family income.

"(g) For purposes of this section, the term 'child development center' does not include a child care services facility for which space is allotted under section 616 of the Act of December 22, 1987 (40 U.S.C. 490b).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item related to section 514 the following:

"515. Child development services.".

SEC. 202. HURRICANE ANDREW RELIEF.

Section 2856 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102-484) applies to the military personnel of the Coast Guard who were assigned to, or employed at or in connection with, any Federal facility or installation in the vicinity of Homestead Air Force Base, Florida, including the areas of Broward, Collier, Dade, and Monroe Counties, on or before August 24, 1992, except that funds available to the Coast Guard, not to exceed $25,000, shall be used. The Secretary of Transportation shall administer the provisions of section 2856 for the Coast Guard.

SEC. 203. DISSEMINATION OF RESULTS OF 0-6 CONTINUATION BOARDS.

Section 289(f) of title 14, United States Code, is amended by striking "Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall be promptly disseminated to the service at large.".

SEC. 204. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH.

Section 712 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(d) Members ordered to active duty under this section shall not be counted in computing authorized strength in members on active duty or members in grade under this title or under any other law.".

SEC. 205. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE.

Section 283(b) of title 14, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking the last sentence; and

(3) by adding at the end the following:

"(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

"(A) except as provided in subparagraph (B), be honorably discharged with severance pay computed under section 286 of this title;

"(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

"(C) if, on the date specified for the officer's discharge under this section, the officer has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date.".

SEC. 206. CONTRACTS FOR HEALTH CARE SERVICES.

(a) Chapter 17 of title 14, United States Code, is amended by inserting after section 644 the following new section:

"§ 644a. Contracts for health care services

"(a) Subject to the availability of appropriations for this purpose; the Commandant may enter into personal services and other contracts to carry out health care responsibilities pursuant to section 93 of this title and other applicable provisions of law pertaining to the provision of health care services to Coast Guard personnel and covered beneficiaries. The authority provided in this subsection is in addition to any other contract authorities of the Commandant provided by law or as delegated to the Commandant from time to time by the Secretary, including but not limited to authority relating to the management of health care facilities and furnishing of health care services pursuant to title 10 and this title.

"(b) The total amount of compensation paid to an individual in any year under a personal services contract entered into under subsection (a) shall not exceed the amount of annual compensation (excluding allowances for expenses) allowable for such contracts entered into by the Secretary of Defense pursuant to section 1091 of title 10.

"(c)(1) The Secretary shall promulgate regulations to assure—

"(A) the provision of adequate notice of contract opportunities to individuals residing in the area of a medical treatment facility involved; and

"(B) consideration of interested individuals solely on the basis of the qualifications established for the contract and the proposed contract price.

"(2) Upon establishment of the procedures under paragraph (1), the Secretary may exempt personal services contracts covered by this section from the competitive contracting requirements specified in section 2304 of title 10, or any other similar requirements of law.

"(d) The procedures and exemptions provided under subsection (c) shall not apply to personal services contracts entered into under subsection (a) with entities other than individuals or to any contract that is not an authorized personal services contract under subsection (a).".

(b) The table of sections for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 644 the following:

"644a. Contracts for health care services.".

(c) The amendments made by this section shall take effect on the date of enactment of this Act. Any personal services contract entered into on behalf of the Coast Guard in reliance upon the authority of section 1091 of title 10 before that date is confirmed and ratified and shall remain in effect in accordance with the terms of the contract.

SEC. 207. RECRUITING.

(a) CAMPUS RECRUITING.—Section 558 of the National Defense Authorization Act for Fiscal Year 1995 (108 Stat. 2776) is amended—

(1) by inserting "or the Department of Transportation" in subsection (a)(1) after "the Department of Defense";

(2) by inserting "or the Secretary of Transportation" after "the Secretary of Defense" in subsection (a)(1); and

(3) by inserting "and the Secretary of Transportation" after "the Secretary of Education" in subsection (b).

(b) FUNDS FOR RECRUITING.—The text of section 468 of title 14, United States Code, is amended to read as follows:

"The Coast Guard may expend operating expense funds for recruiting activities, including but not limited to advertising and entertainment, in order to—

"(1) obtain recruits for the Service and cadet applicants; and

"(2) gain support of recruiting objectives from those who may assist in the recruiting effort.".

(c) SPECIAL RECRUITING AUTHORITY.—Section 93 of title 14, United States Code, is amended—

(1) by striking "and" at the end of paragraph (t);

(2) by striking the period at the end of paragraph (u) and inserting a semicolon and the word "and"; and

(3) by adding at the end the following:

"(v) employ special recruiting programs, including, subject to appropriations Acts, the provision of financial assistance by grant, cooperative agreement, or contract to public or private associations, organizations, and individuals (including academic scholarships for individuals), to meet identified personnel resource requirements.".

SEC. 208. ACCESS TO NATIONAL DRIVER REGISTER INFORMATION ON CERTAIN COAST GUARD PERSONNEL.

(a) AMENDMENT TO TITLE 14.—Section 93 of title 14, United States Code, as amended by section 203, is further amended—

(1) by striking "and" after the semicolon at the end of paragraph (u);

(2) by striking the period at the end of paragraph (v) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(w) require that any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to the Commandant under section 30305(a) of title 49, may receive that information, and upon receipt, shall make the information available to the individual.".

(b) AMENDMENT TO TITLE 49.—Section 30305(b) of title 49, United States Code, is amended by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following new paragraph:

"(7) An individual who is an officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive the information and shall make the information available to the individual. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.".

SEC. 209. COAST GUARD HOUSING AUTHORITIES.

(a) IN GENERAL.—Part I of title 14, United States Code, is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—COAST GUARD HOUSING AUTHORITIES

"SUBCHAPTER A

"Section
"671. Definitions.
"672. General Authority.
"673. Direct loans and loan guarantees.
"674. Leasing of housing to be constructed.
"675. Investments in nongovernmental entities.
"676. Rental guarantees.
"677. Differential lease payments.
"678. Conveyance or lease of existing property and facilities.
"679. Interim leases.
"680. Unit size and type.
"681. Support facilities.
"682. Assignment of members of the armed forces to housing units.
"683. Coast Guard Housing Improvement Fund.
"684. Reports.
"685. Expiration of authority.

"SUBCHAPTER B

"691. Conveyance of damaged or deteriorated military family housing; use of proceeds.
"692. Limited partnerships with private developers of housing.

"SUBCHAPTER A

"§ 671. Definitions

"In this subchapter the term 'support facilities' means facilities relating to military housing units, including child care centers, day care centers, community centers, housing offices, maintenance complexes, dining facilities, unit offices, fitness centers, parks, and other similar facilities for the support of military housing.

"§ 672. General authority

"In addition to any other authority provided for the acquisition, construction, or improvement of military family housing or military unaccompanied housing, the Secretary may exercise any authority or any combination of authorities provided under this subchapter in order to provide for the acquisition, construction, improvement or rehabilitation by private persons of the following:

"(1) Family housing units on or near Coast Guard installations within the United States and its territories and possessions.

"(2) Unaccompanied housing units on or near such Coast Guard installations.

"§ 673. Direct loans and loan guarantees

"(a) DIRECT LOANS.—(1) Subject to subsection (c), the Secretary may make direct loans to persons in the private sector in order to provide funds to such persons for the acquisition, construction, improvement, or rehabilitation of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

"(2) The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.

"(b) LOAN GUARANTEES.—(1) Subject to subsection (c), the Secretary may guarantee a loan made to any person in the private sector if the proceeds of the loan are to be used by the person to acquire, construct, improve, or rehabilitate housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

"(2) The amount of a guarantee on a loan that may be provided under paragraph (1) may not exceed the amount equal to the lesser of—

"(A) the amount equal to 80 percent of the value of the project; or

"(B) the amount of the outstanding principal of the loan.

"(3) The Secretary shall establish such terms and conditions with respect to guarantees of loans under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the rights and obligations of obligors of such loans and the rights and obligations of the United States with respect to such guarantees.

"(c) LIMITATION ON DIRECT LOAN AND GUARANTEE AUTHORITY.—Direct loans and loan guarantees may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) are made in advance, or authority is otherwise provided in appropriations Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (2 U.S.C. 661a(7)) which shall be available for the disbursement of direct loans or payment of claims for payment on loan guarantees under this section and for all other cash flows to and from the Government as a result of direct loans and guarantees made under this section.

"§ 674. Leasing of housing to be constructed

"(a) BUILD AND LEASE AUTHORIZED.—The Secretary may enter into contracts for the lease of family housing units or unaccompanied housing units to be constructed, improved, or rehabilitated under this subchapter.

"(b) LEASE TERMS.—A contract under this section may be for any period that the Secretary determines appropriate.

"§ 675. Investments in nongovernmental entities

"(a) INVESTMENTS AUTHORIZED.—The Secretary may make investments in nongovernmental entities carrying out projects for the acquisition, construction, improvement, or rehabilitation of housing units suitable for use as military family housing or as military unaccompanied housing.

"(b) FORMS OF INVESTMENT.—An investment under this section may take the form of a direct investment by the United States, an acquisition of a limited partnership interest by the United States, a purchase of stock or other equity instruments by the United States, a purchase of bonds or other debt instruments by the United States, or any combination of such forms of investment.

"(c) LIMITATION ON VALUE OF INVESTMENT.—(1) The cash amount of an investment under this section in a nongovernmental entity may not exceed an amount equal to 35 percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.

"(2) If the Secretary conveys land or facilities to a nongovernmental entity as all or part of an investment in the entity under this section, the total value of the investment by the Secretary under this section may not exceed an amount equal to 45 percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.

"(3) In this subsection, the term 'capital cost', with respect to a project for the acquisition, construction, improvement, or rehabilitation of housing, means the total amount of the costs included in the basis of the housing for Federal income tax purposes.

"(d) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary may enter into collateral incentive agreements with nongovernmental entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.

"§ 676. Rental guarantees

"The Secretary may enter into agreements with private persons that acquire, construct, improve, or rehabilitate family housing units or unaccompanied housing units under this subchapter in order to assure—

"(1) the occupancy of such units at levels specified in the agreements; or

"(2) rental income derived from rental of such units at levels specified in the agreements.

"§ 677. Differential lease payments

"The Secretary, pursuant to an agreement entered into by the Secretary and a private lessor of family housing or unaccompanied housing to members of the armed forces, may pay the lessor an amount in addition to the rental payments for the housing made by the members as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as family housing or as unaccompanied housing.

"§ 678. Conveyance or lease of existing property and facilities

"(a) CONVEYANCE OR LEASE AUTHORIZED.—The Secretary may convey or lease property or facilities (including support facilities) to private persons for purposes of using the proceeds of such conveyance or lease to carry out activities under this subchapter.

"(b) TERMS AND CONDITIONS.—(1) The conveyance or lease of property or facilities under this section shall be for such consideration and upon such terms and conditions as the Secretary considers appropriate for the purposes of this subchapter and to protect the interests of the United States.

"(2) As part or all of the consideration for a conveyance or lease under this section, the purchaser or lessor (as the case may be) may enter into an agreement with the Secretary to ensure that a suitable preference will be afforded members of the armed forces in the lease or sublease of a reasonable number of the housing units covered by the conveyance or lease, as the case may be, or in the lease of other suitable housing units made available by the purchaser or lessee.

"(c) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—The conveyance or lease of property or facilities under this section shall not be subject to the following provisions of law:

"(1) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(2) Section 321 of the Act of June 30, 1932 (commonly known as the Economy Act) (47 Stat. 412, chapter 314; 40 U.S.C. 303b).

"(3) The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

"§ 679. Interim leases

"Pending completion of a project to acquire, construct, improve, or rehabilitate family housing units or unaccompanied housing units under this subchapter, the Secretary may provide for the interim lease of such units of the project as are complete. The term of a lease under this section may not extend beyond the date of the completion of the project concerned.

"§ 680. Unit size and type

"The Secretary shall ensure that the room patterns and floor areas of family housing units and unaccompanied housing units acquired, constructed, improved, or rehabilitated under this subchapter are generally comparable to the room patterns and floor areas of similar housing units in the locality concerned.

"§ 681. Support facilities

"Any project for the acquisition, construction, improvement, or rehabilitation of family housing units or unaccompanied housing units under this subchapter may include the acquisition, construction, or improvement of support facilities for the housing units concerned.

"§ 682. Assignment of members of the armed forces to housing units

"(a) IN GENERAL.—The Secretary may assign members of the armed forces to housing units acquired, constructed, improved, or rehabilitated under this subchapter.

"(b) EFFECT OF CERTAIN ASSIGNMENTS ON ENTITLEMENT TO HOUSING ALLOWANCES.—(1) Except as provided in paragraph (2), housing referred to in subsection (a) shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403(b) of title 37.

"(2) A member of the armed forces who is assigned in accordance with subsection (a) to a housing unit not owned or leased by the United States shall be entitled to a basic allowance for quarters under section 403 of title 37 and, if in a high housing cost area, a variable housing allowance under section 403a of that title.

"(c) LEASE PAYMENTS THROUGH PAY ALLOTMENTS.—The Secretary may require members of the armed forces who lease housing in housing units acquired, constructed, improved, or rehabilitated under this subchapter to make lease payments for such housing pursuant to allotments of the pay of such members under section 701 of title 37.

"§ 683. Coast Guard Housing Improvement Fund

"(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the Coast Guard Housing Improvement Fund (in this section referred to as the 'Fund').

"(b) CREDITS TO FUND.—There shall be credited to the Fund the following:

"(1) Funds appropriated to the Fund.

"(2) Any funds that the Secretary may, to the extent provided in appropriation Acts, transfer to the Fund from funds appropriated to the Department of Transportation or Coast Guard for family housing, except that such funds may be transferred only after the Secretary transmits written notice of, and justification for, such transfer to the appropriate committees of Congress.

"(3) Any funds that the Secretary may, to the extent provided in appropriations Acts, transfer to the Fund from funds appropriated to the Department of Transportation or Coast Guard for military unaccompanied housing or for the operation and maintenance of military unaccompanied housing, except that such funds may be transferred only after the Secretary transmits written notice of, and justification for, such transfer to the appropriate committees of Congress.

"(4) Proceeds from the conveyance or lease of property or facilities under section 678 of this title.

"(5) Income from any activities under this subchapter, including interest on loans made under section 673 of this title, income and gains realized from investments under section 675 of this title, and any return of capital invested as part of such investments.

"(c) USE OF FUNDS.—(1) To the extent provided in appropriations Acts and except as provided in paragraphs (2) and (3), the Secretary may use amounts in the Fund to carry out activities under this subchapter (including activities required in connection with the planning, execution, and administration of contracts or agreements entered into under the authority of this subchapter).

"(2)(A) Funds in the Fund that are derived from appropriations or transfers of funds for military family housing, or from income from activities under this subchapter with respect to such housing, may be used in accordance with paragraph (1) only to carry out activities under this subchapter with respect to military family housing.

"(B) Funds in the Fund that are derived from appropriations or transfers of funds for military unaccompanied housing, or from income from activities under this subchapter with respect to such housing, may be used in accordance with paragraph (1) only to carry out activities under this subchapter with respect to military unaccompanied housing.

"(3) The Secretary may not enter into a contract or agreement to carry out activities under this subchapter unless the Fund contains sufficient amounts, as of the time the contract or agreement is entered into, to satisfy the total obligations to be incurred by the United States under the contract or agreement.

"(d) LIMITATION ON AMOUNT OF BUDGET AUTHORITY.—The total value in budget authority of all contracts, agreements, and investments undertaken using the authorities provided in this subchapter shall not exceed $60,000,000.

"§ 684. Reports

The Secretary shall include each year in the materials the Secretary submits to the Congress in support of the budget submitted by the President pursuant to section 1105 of title 31, United States Code, the following:

"(1) A report on the amount and nature of the deposits into, and the expenditures from, the Coast Guard Housing Improvement Fund established under section 683 of this title during the preceding fiscal year.

"(2) A report on each contract or agreement for a project for the acquisition, construction, improvement, or rehabilitation of family housing units or unaccompanied housing units that the Secretary proposes to solicit under this subchapter, describing the project and the method of participation of the United States in the project and providing justification of such method of participation.

"(3) A methodology for evaluating the extent and effectiveness of the use of the authorities under this subchapter during such preceding fiscal year.

"(4) A description of the objectives of the Department of Transportation for providing military family housing and military unaccompanied housing for members of the Coast Guard.

"§ 685. Expiration of authority

"The authority to enter into a transaction under this subchapter shall expire 5 years after the date of the enactment of the Coast Guard Authorization Act of 1995.

"SUBCHAPTER B

"§ 691. Conveyance of damaged or deteriorated military family housing; use of proceeds

"(a) AUTHORITY TO CONVEY.—

"(1) Subject to paragraph (2), the Secretary may convey any family housing facility that, due to damage or deterioration, is in a condition that is uneconomical to repair. Any conveyance of a family housing facility under this section may include a conveyance of the real property associated with the facility conveyed.

"(2) The aggregate total value of the family housing facilities conveyed by the Secretary under the authority in this subsection in any fiscal year may not exceed $5,000,000.

"(3) For purposes of this subsection, a family housing facility is in a condition that is uneconomical to repair if the cost of the necessary repairs for the facility would exceed the amount equal to 70 percent of the cost of constructing a family housing facility to replace such a facility.

"(b) CONSIDERATION.—

"(1) As consideration for the conveyance of a family housing facility under subsection (a), the person to whom the facility is conveyed shall pay the United States an amount equal to the fair market value of the facility conveyed, including any real property conveyed along with the facility.

"(2) The Secretary shall determine the fair market value of any family housing facility and associated real property that is conveyed under subsection (a). Such determinations shall be final.

"(c) NOTICE AND WAIT REQUIREMENTS.—The Secretary may not enter into an agreement to convey a family housing facility under this section until—

"(1) the Secretary submits to the appropriate committees of Congress, in writing, a justification for the conveyance under the agreement, including—

"(A) an estimate of the consideration to be provided the United States under the agreement;

"(B) an estimate of the cost of repairing the family housing facility to be conveyed; and

"(C) an estimate of the cost of replacing the family housing facility to be conveyed; and

"(2) a period of 21 calendar days has elapsed after the date on which the justification is received by the committees.

"(d) INAPPLICABILITY OF CERTAIN PROPERTY DISPOSAL LAWS.—The following provisions of law do not apply to the conveyance of a family housing facility under this section:

"(1) The provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(2) The provisions of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

"(e) USE OF PROCEEDS.—(1) The proceeds of any conveyance of a family housing facility under this section shall be credited to the Coast Guard Housing Improvement Fund (Fund) established under section 683 of this title and available for the purposes described in paragraph (2).

"(2) The proceeds of a conveyance of a family housing facility under this section may be used for the following purposes:

"(A) To construct family housing units to replace the family housing facility conveyed under this section, but only to the extent that the number of units constructed with such proceeds does not exceed the number of units of military family housing of the facility conveyed.

"(B) To repair or restore existing military family housing.

"(C) To reimburse the Secretary for the costs incurred by the Secretary in conveying the family housing facility.

"(3) Notwithstanding section 683(c) of this title, proceeds in the account under this subsection shall be available under paragraph (1) for purposes described in paragraph (2) without any further appropriation.

"(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any family housing facility conveyed under this section, including any real property associated with such facility, shall be determined by such means as the Secretary considers satisfactory, including by survey in the case of real property.

"(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance of family housing facilities under this section as the Secretary considers appropriate to protect the interests of the United States.

"§ 692. Limited partnerships with private developers of housing

"(a) LIMITED PARTNERSHIPS.—(1) In order to meet the housing requirements of members of the Coast Guard, and the dependents of such members, at a military installation described in paragraph (2), the Secretary of Transportation may enter into a limited partnership with one or more private developers to encourage the construction of housing and accessory structures within commuting distance of the installation. The Secretary may contribute not more than 35 percent of the development costs under a limited partnership.

"(2) Paragraph (1) applies to a military installation under the jurisdiction of the Secretary at which there is a shortage of suitable housing to meet the requirements of members and dependents referred to in such paragraph.

"(b) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary may also enter into collateral incentive agreements with private developers who enter into a limited partnership under subsection (a) to ensure that, where appropriate—

"(1) a suitable preference will be afforded members of the Coast Guard in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the limited partnership; or

"(2) the rental rates or sale prices, as the case may be, for some or all of such units will be affordable for such members.

"(c) SELECTION OF INVESTMENT OPPORTUNITIES.—

"(1) The Secretary shall use publicly advertised, competitively bid or competitively negotiated, contracting procedures, as provided in chapter 137 of title 10, United States Code, to enter into limited partnerships under subsection (a).

"(2) When a decision is made to enter into a limited partnership under subsection (a), the Secretary shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include the justification for the limited partnership, the terms and conditions of the limited partnership, a description of the development costs for projects under the limited partnership, and a description of the share of such costs to be incurred by the Secretary. The Secretary may then enter into the limited partnership only after the end of the 21-day period beginning on the date the report is received by such committees.

"(d) FUNDS.—(1) Any proceeds received by the Secretary from the repayment of investments or profits on investments of the Secretary under subsection (a) shall be deposited into the Coast Guard Housing Improvement Fund established under section 683 of this title.

"(2) From such amounts as is provided in advance in appropriation Acts, funds in the Coast Guard Housing Improvement Fund shall be available to the Secretary for contracts, investments, and expenses necessary for the implementation of this section.

"(3) The Secretary may not enter into a contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) unless a sufficient amount of the unobligated balance of the funds in the Coast Guard Housing Improvement Fund is available to the Secretary, as of the time the contract is entered into, to satisfy the total obligations to be incurred by the United States under the contract.

"(e) TRANSFER OF LANDS PROHIBITED.—Nothing in this section shall be construed to permit the Secretary, as part of a limited partnership entered into under this section, to transfer the right, title, or interest of the United States in any real property under the jurisdiction of the Secretary.

"(f) EXPIRATION AND TERMINATION OF AUTHORITIES.—The authority to enter into a transaction under this section shall expire 5 years after the date of the enactment of the Coast Guard Authorization Act of 1995.".

(b) FINAL REPORT.—Not later than March 1, 2000, the Secretary shall submit to Congress a report on the use by the Secretary of the authorities provided by subchapter A of chapter 18 of title 14, United States Code, as added by subsection (a) of this section. The report shall assess the effectiveness of such authority in providing for the construction and improvement of military family housing and military unaccompanied housing.

(c) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 14, is amended by inserting after the item relating to chapter 17 the following:

"18. Coast Guard Housing Authorities .... 671.".

SEC. 210. BOARD FOR CORRECTION OF MILITARY RECORDS DEADLINE.

(a) REMEDIES DEEMED EXHAUSTED.—Ten months after a complete application for correction of military records is received by the Board for Correction of Military Records of the Coast Guard, administrative remedies are deemed to have been exhausted, and—

(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the Department of Transportation; or

(2) if the Board has not rendered a recommended decision, agency action is deemed to have been unreasonably delayed or withheld and the applicant is entitled to—

(A) an order under section 706(1) of title 5, United States Code, directing final action be taken within 30 days from the date the order is entered; and

(B) from amounts appropriated to the Department of Transportation, the costs of obtaining the order, including a reasonable attorney's fee.

(b) EXISTING DEADLINE MANDATORY.—The 10-month deadline established in section 212 of the Coast Guard Authorization Act of 1989 (Public Law 101-225; 103 Stat. 1914) is mandatory.

(c) SPECIAL RIGHT OF APPLICATIONS UNDER THIS SECTION.—This section applies to any applicant who had an application filed with or pending before the Board or the Secretary of Transportation on or after June 12, 1990, who files with the board an application for relief under this section. If a recommended decision was modified or reversed on review with final agency action occurring after expiration of the 10-month deadline, an applicant who so requests shall have the order in the final decision vacated and receive the relief granted in the recommended decision if the Coast Guard has the legal authority to grant such relief. The recommended decision shall otherwise have no effect as precedent.

TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

SEC. 301. INCREASED PENALTIES FOR DOCUMENTATION VIOLATIONS.

(a) CIVIL PENALTY.—Section 12122(a) of title 46, United States Code, is amended by striking "$500" and inserting "$10,000".

(b) SEIZURE AND FORFEITURE.—

(1) IN GENERAL.— Section 12122(b) of title 46, United States Code, is amended to read as follows:

"(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government—

"(1) when the owner of a vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation about the documentation or when applying for documentation of the vessel;

"(2) when a certificate of documentation is knowingly and fraudulently used for a vessel;

"(3) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

"(4) when a vessel is employed in a trade without an appropriate trade endorsement;

"(5) when a documented vessel with only a recreational endorsement is operated other than for pleasure; or

"(6) when a documented vessel, other than a vessel with only a recreational endorsement operating within the territorial waters of the United States, is placed under the command of a person not a citizen of the United States.".

(2) CONFORMING AMENDMENT.—Section 12122(c) of title 46, United States Code, is repealed.

(c) LIMITATION ON OPERATION OF VESSEL WITH ONLY RECREATIONAL ENDORSEMENT.—Section 12110(c) of title 46, United States Code, is amended to read as follows:

"(c) A vessel with only a recreational endorsement may not be operated other than for pleasure.".

(d) TERMINATION OF RESTRICTION ON COMMAND OF RECREATIONAL VESSELS.—

(1) TERMINATION OF RESTRICTION.—Subsection (d) of section 12110 of title 46, United States Code, is amended by inserting ", other than a vessel with only a recreational endorsement operating within the territorial waters of the United States," after "A documented vessel"; and

(2) CONFORMING AMENDMENT.—Section 12111(a)(2) of title 46, United States Code, is amended by inserting before the period the following: "in violation of section 12110(d) of this title".

SEC. 302. NONDISCLOSURE OF PORT SECURITY PLANS.

Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226), is amended by adding at the end the following new subsection (c):

"(c) NONDISCLOSURE OF PORT SECURITY PLANS.—Notwithstanding any other provision of law, information related to security plans, procedures, or programs for passenger vessels or passenger terminals authorized under this Act is not required to be disclosed to the public.".

SEC. 303. MARITIME DRUG AND ALCOHOL TESTING PROGRAM CIVIL PENALTY.

(a) IN GENERAL.—Chapter 21 of title 46, United States Code, is amended by adding at the end a new section 2115 to read as follows:

"§ 2115. Civil penalty to enforce alcohol and dangerous drug testing

"Any person who fails to implement or conduct, or who otherwise fails to comply with the requirements prescribed by the Secretary for, chemical testing for dangerous drugs or for evidence of alcohol use, as prescribed under this subtitle or a regulation prescribed by the Secretary to carry out the provisions of this subtitle, is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each day of a continuing violation shall constitute a separate violation.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 21 of title 46, United States Code, is amended by inserting after the item relating to section 2114 the following:

"2115. Civil penalty to enforce alcohol and dangerous drug testing.".

SEC. 304. RENEWAL OF ADVISORY GROUPS.

(a) NAVIGATION SAFETY ADVISORY COUNCIL.—Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

(b) COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.—Subsection (e)(1) of section 4508 of title 46, United States Code, is amended by striking "September 30, 1994" and inserting "September 30, 2000".

(c) TOWING SAFETY ADVISORY COMMITTEE.—Subsection (e) of the Act to Establish A Towing Safety Advisory Committee in the Department of Transportation (33 U.S.C. 1231a(e)) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

(d) HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.—The Coast Guard Authorization Act of 1991 (Public Law 102-241, 105 Stat. 2208-2235) is amended by adding at the end of section 18 the following:

"(h) The Committee shall terminate on September 30, 2000.".

(e) LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.—The Coast Guard Authorization Act of 1991 (Public Law 102-241, 105 Stat. 2208-2235) is amended by adding at the end of section 19 the following:

"(g) The Committee shall terminate on September 30, 2000.".

SEC. 305. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS.

Section 31321(a) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

"(B) A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.".

SEC. 306. CIVIL PENALTIES.

(a) PENALTY FOR FAILURE TO REPORT A CASUALTY.—Section 6103(a) of title 46, United States Code is amended by striking "$1,000" and inserting "not more than $25,000".

(b) OPERATION OF UNINSPECTED TOWING VESSEL IN VIOLATION OF MANNING REQUIREMENTS.—Section 8906 of title 46, United States Code, is amended by striking "$1,000" and inserting "not more than $25,000".

SEC. 307. AMENDMENT TO REQUIRE EPIRBS ON THE GREAT LAKES.

Paragraph (7) of section 4502(a) of title 46, United States Code, is amended by inserting "or beyond three nautical miles from the coastline of the Great Lakes" after "high seas".

SEC. 308. REPORT ON LORAN-C REQUIREMENTS.

Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation, in cooperation with the Secretary of Commerce, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan prepared in consultation with users of the LORAN-C radionavigation system defining the future use of and funding for operations, maintenance, and upgrades of the LORAN-C radionavigation system. The plan shall provide for—

(1) mechanisms to make full use of compatible satellite and LORAN-C technology by all modes of transportation, the telecommunications industry, and the National Weather Service;

(2) an appropriate timetable for transition from ground-based radionavigation technology after it is determined that satellite-based technology is available as a sole means of safe and efficient navigation and taking into consideration the need to ensure that LORAN-C technology purchased by the public before the year 2000 has a useful economic life; and

(3) agencies in the Department of Transportation and other relevant Federal agencies to share the Federal government's costs related to LORAN-C technology.

SEC. 309. RESTRICTIONS ON CLOSURE OF SMALL BOAT STATIONS.

(a) PROHIBITION.—The Secretary of Transportation (hereinafter in this section referred to as the "Secretary") shall not close any Coast Guard multi-mission small boat station or subunit before October 1, 1996.

(b) CLOSURE REQUIREMENTS.—After October 1, 1996, the Secretary shall not close any Coast Guard multi-mission small boat station or subunit unless the following requirements have been met:

(1) The Secretary shall determine that—

(A) adequate search-and-rescue capabilities will maintain the safety of the maritime public in the area of the station or subunit; and

(B) the closure will not result in degradation of services (including but not limited to search and rescue, enforcement of fisheries and other laws and treaties, recreational boating safety, port safety and security, aids to navigation, and military readiness) that would cause significant increased threat to life, property, environment, public safety or national security.

(2) In making the decision to close a station or subunit, the Secretary shall assess—

(A) the benefit of the station or subunit in deterring or preventing violations of applicable laws and regulations;

(B) unique regional or local prevailing weather and marine conditions including water temperature and unusual tide and current conditions; and

(C) other Federal, State, and local government capabilities which could fully or partially substitute for services provided by such station or subunit.

(4) The Secretary shall develop a transition plan for the area affected by the closure to ensure the Coast Guard service needs of the area continue to be met.

(5) The Secretary shall implement a process to—

(A) notify the public of the intended closure;

(B) make available to the public information used in making the determination and assessment under this section; and

(C) provide an opportunity for public participation, including public meetings and the submission of and summary response to written comments, with regard to the decision to close the station or subunit and the development of a transition plan.

(c) NOTIFICATION.—If, after the requirements of subsection (b) are met and after consideration of public comment, the Secretary decides to close a small-boat station or subunit, the Secretary shall provide notification of that decision, at least 60 days before the closure is effected, to the public, the Committee on Commerce, Science and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) OPERATIONAL FLEXIBILITY.—Notwithstanding the requirements of this section, the Secretary may implement any management efficiencies within the small boat system, such as modifying the operational posture of units or reallocating resources as necessary to ensure the safety of the maritime public nationwide, provided that no stations or subunits are closed.

SEC. 310. PENALTY FOR ALTERATION OF MARINE SAFETY EQUIPMENT.

Section 3318(b) of title 46, United States Code, is amended—

(1) by inserting "(1)" before "A person"; and

(2) by adding at the end thereof the following:

"(2) A person that knowingly alters lifesaving, fire safety, or any other equipment subject to this part, so that the equipment altered is so defective as to be insufficient to accomplish the purpose for which it is intended, commits a class D felony.".

SEC. 311. PROHIBITION ON OVERHAUL, REPAIR, AND MAINTENANCE OF COAST GUARD VESSELS IN FOREIGN SHIPYARDS.

(a) PROHIBITION.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"§96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards

"A Coast Guard vessel may not be overhauled, repaired, or maintained in any shipyard located outside the United States, except that this section does not apply to emergency repairs.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards.".

SEC. 312. WITHHOLDING VESSEL CLEARANCE FOR VIOLATION OF CERTAIN ACTS.

(a) TITLE 49, UNITED STATES CODE.—Section 5122 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(c) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a civil penalty under section 5123 of this title or for a fine under section 5124 of this title, or if reasonable cause exists to believe that such owner, operator, or person in charge may be subject to such a civil penalty or fine, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon the filing of a bond or other surety satisfactory to the Secretary.".

(b) PORT AND WATERWAYS SAFETY ACT.—Section 13(f) of the Ports and Waterways Safety Act (33 U.S.C. 1232(f)) is amended to read as follows:

"(f) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

(c) INLAND NAVIGATION RULES ACT OF 1980.—Section 4(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2072(d)) is amended to read as follows:

"(d) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a penalty under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

(d) TITLE 46, UNITED STATES CODE.—Section 3718(e) of title 46, United States Code, is amended to read as follows:

"(e)(1) If any owner, operator, or person in charge of a vessel is liable for any penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to any penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

TITLE IV—COAST GUARD AUXILIARY

SEC. 401. ADMINISTRATION OF THE COAST GUARD AUXILIARY.

(a) Section 821, title 14, United States Code, is amended to read as follows:

"(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (Auxiliary headquarters unit), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

"(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the Federal Tort Claims Act (28 U.S.C. 2671, et seq.), the Military Claims Act (10 U.S.C. 2733), the Public Vessels Act (46 U.S.C. App. 781–790), the Suits in Admiralty Act (46 U.S.C. App. 741–752), the Admiralty Extension Act (46 U.S.C. App. 740), and for other noncontractual civil liability purposes.

"(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law, provided that the formation of such a corporation is in accordance with policies established by the Commandant.".

(b) The section heading for section 821 of title 14, United States Code, is amended after "Administration" by inserting "of the Coast Guard Auxiliary".

(c) The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended in the item relating to section 821, after "Administration" by inserting "of the Coast Guard Auxiliary".

SEC. 402. PURPOSE OF THE COAST GUARD AUXILIARY.

(a) Section 822 of title 14, United States Code, is amended by striking the entire text and inserting:

"The purpose of the Auxiliary is to assist the Coast Guard, as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.".

(b) The section heading for section 822 of title 14, United States Code, is amended after "Purpose" by inserting "of the Coast Guard Auxiliary".

(c) The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended in the item relating to section 822, after "Purpose" by inserting "of the Coast Guard Auxiliary".

SEC. 403. MEMBERS OF THE AUXILIARY; STATUS.

(a) Title 14, United States Code, is amended by inserting after section 823 the following new section:

"§823a. Members of the Auxiliary; status

"(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be deemed to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

"(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

"(1) the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), the Military Claims Act (10 U.S.C. 2733), the Public Vessels Act (46 U.S.C. App. 781–790), the Suits in Admiralty Act (46 U.S.C. App. 741–752), the Admiralty Extension Act (46 U.S.C. App. 740), and for other noncontractual civil liability purposes;

"(2) compensation for work injuries under chapter 81 of title 5, United States Code; and

"(3) the resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).

"(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28, United States Code.".

(b) The table of sections for chapter 23 of title 14, United States Code, is amended by inserting the following new item after the item relating to section 823:

"823a. Members of the Auxiliary; status.".

SEC. 404. ASSIGNMENT AND PERFORMANCE OF DUTIES.

Title 14, United States Code, is amended by striking "specific" each place it appears in sections 830, 831, and 832.

SEC. 405. COOPERATION WITH OTHER AGENCIES, STATES, TERRITORIES, AND POLITICAL SUBDIVISIONS.

(a) Section 141 of title 14, United States Code, is amended—

(1) by striking "General" in the section caption and inserting "Cooperation with other agencies, States, Territories, and political subdivisions";

(2) by inserting "(which include members of the Auxiliary and facilities governed under chapter 23)" after "personnel and facilities" in the first sentence of subsection (a); and

(3) by adding at the end of subsection (a) the following: "The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.".

(b) The table of sections for chapter 7 of title 14, United States Code, is amended by striking "General" in the item relating to section 141 and inserting "Cooperation with other agencies, States, Territories, and political subdivisions.".

SEC. 406. VESSEL DEEMED PUBLIC VESSEL.

The text of section 827 of title 14, United States Code, is amended to read as follows:

"While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.".

SEC. 407. AIRCRAFT DEEMED PUBLIC AIRCRAFT.

The text of section 828 of title 14, United States Code, is amended to read as follows:

"While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilots shall be deemed to be Coast Guard pilots.".

SEC. 408. DISPOSAL OF CERTAIN MATERIAL.

Section 641(a) of title 14, United States Code, is amended—

(1) by inserting "to the Coast Guard Auxiliary, including any incorporated unit thereof," after "with or without charge,"; and

(2) by striking "to any incorporated unit of the Coast Guard Auxiliary," after "America,".

TITLE V—RECREATIONAL BOATING SAFETY IMPROVEMENT

SEC. 501. STATE RECREATIONAL BOATING SAFETY GRANTS.

(a) TRANSFER OF AMOUNTS FOR STATE BOATING SAFETY PROGRAMS.—

(1) TRANSFERS.—Section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b); commonly referred to as the "Dingell-Johnson Sport Fish Restoration Act") is amended to read as follows:

"(b)(1) Of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $15,000,000 for fiscal year 1995, $40,000,000 for fiscal year 1996, $55,000,000 for fiscal year 1997, and $69,000,000 for each of fiscal years 1998 and 1999, shall, subject to paragraph (2), be used as follows:

"(A) A sum equal to $7,500,000 of the amount available for fiscal year 1995, and a sum equal to $10,000,000 of the amount available for each of fiscal years 1996 and 1997, shall be available for use by the Secretary of the Interior for grants under section 5604(c) of the Clean Vessel Act of 1992. Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(B) A sum equal to $7,500,000 of the amount available for fiscal year 1995, $30,000,000 of the amount available for fiscal year 1996, $45,000,000 of the amount available for fiscal year 1997, and $59,000,000 of the amount available for each of fiscal years 1998 and 1999, shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for recreational boating safety programs under section 13106 of title 46, United States Code.

"(C) A sum equal to $10,000,000 of the amount available for each of fiscal years 1998 and 1999 shall be available for use by the Secretary of the Interior for—

"(i) grants under section 502(e) of the Coast Guard Authorization Act of 1995; and

"(ii) grants under section 5604(c) of the Clean Vessel Act of 1992.

Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(2)(A) Beginning with fiscal year 1996, the amount transferred under paragraph (1)(B) for a fiscal year shall be reduced by the lesser of—

"(i) the amount appropriated for that fiscal year from the Boat Safety Account in the Aquatic Resources Trust Fund established under section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106 of title 46, United States Code; or

"(ii) $35,000,000.

"(iii) for fiscal year 1996 only, $30,000,000.

"(B) The amount of any reduction under subparagraph (A) shall be apportioned among the several States under subsection (d) of this section by the Secretary of the Interior.".

(2) CONFORMING AMENDMENT.—Section 5604(c)(1) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended by striking "section 4(b)(2) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(2), as amended by this Act)" and inserting "section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1))".

(b) EXPENDITURE OF AMOUNTS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.—Section 13106 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (a)(1) and inserting the following: "Subject to paragraph (2), the Secretary shall expend under contracts with States under this chapter in each fiscal year for State recreational boating safety programs an amount equal to the sum of the amount appropriated from the Boat Safety Account for that fiscal year plus the amount transferred to the Secretary under section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1)) for that fiscal year."; and

(2) by amending subsection (c) to read as follows:

"(c) For expenditure under this chapter for State recreational boating safety programs there are authorized to be appropriated to the Secretary of Transportation from the Boat Safety Account established under section 9504 of the Internal Revenue Code of 1986 (26 U.S.C. 9504) not more than $35,000,000 each fiscal year.".

(c) EXCESS FY 1995 BOAT SAFETY ACCOUNT FUNDS TRANSFER.—Notwithstanding any other provision of law, $20,000,000 of the annual appropriation from the Sport Fish Restoration Account in fiscal year 1996 made in accordance with the provisions of section 3 of the Act of August 9, 1950 (16 U.S.C. 777b) shall be excluded from the calculation of amounts to be distributed under section 4(a) of such Act (16 U.S.C. 777c(a)).

SEC. 502. BOATING ACCESS.

(a) FINDINGS.—The Congress makes the following findings:

(1) Nontrailerable recreational motorboats contribute 15 percent of the gasoline taxes deposited in the Aquatic Resources Trust Fund while constituting less than 5 percent of the recreational vessels in the United States.

(2) The majority of recreational vessel access facilities constructed with Aquatic Resources Trust Fund moneys benefit trailerable recreational vessels.

(3) More Aquatic Resources Trust Fund moneys should be spent on recreational vessel access facilities that benefit recreational vessels that are nontrailerable vessels.

(b) PURPOSE.—The purpose of this section is to provide funds to States for the development of public facilities for transient nontrailerable vessels.

(c) SURVEY.—Within 18 months after the date of the enactment of this Act, any State may complete and submit to the Secretary of the Interior a survey which identifies—

(1) the number and location in the State of all public facilities for transient nontrailerable vessels; and

(2) the number and areas of operation in the State of all nontrailerable vessels that operate on navigable waters in the State.

(d) PLAN.—Within 6 months after submitting a survey to the Secretary of the Interior in accordance with subsection (c), an eligible State may develop and submit to the Secretary of the Interior a plan for the construction and renovation of public facilities for transient nontrailerable vessels to meet the needs of nontrailerable vessels operating on navigable waters in the State.

(e) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior shall obligate not less than one-half of the amount made available for each of fiscal years 1998 and 1999 under section 4(b)(1)(C) of the Act of August 9, 1950, as amended by section 501(a)(1) of this Act, to make grants to any eligible State to pay not more than 75 percent of the cost of constructing or renovating public facilities for transient nontrailerable vessels.

(2) PRIORITY.—

(A) IN GENERAL.—In awarding grants under this subsection, the Secretary of the Interior shall give priority to projects that consist of the construction or renovation of public facilities for transient nontrailerable vessels in accordance with a plan submitted by a State submitted under subsection (d).

(B) WITHIN STATE.—In awarding grants under this subsection for projects in a particular State, the Secretary of the Interior shall give priority to projects that are likely to serve the greatest number of nontrailerable vessels.

(f) DEFINITIONS.—For the purpose of this section and section 501 of this Act the term—

(1) "Act of August 9, 1950" means the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes", approved August 9, 1950 (16 U.S.C. 777a et seq.);

(2) "nontrailerable vessel" means a recreational vessel greater than 26 feet in length;

(3) "public facilities for transient nontrailerable vessels" means mooring buoys, day-docks, seasonal slips or similar structures located on navigable waters, that are available to the general public and designed for temporary use by nontrailerable vessels;

(4) "recreational vessel" means a vessel—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure; and

(5) "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Marianas.

SEC. 503. PERSONAL FLOTATION DEVICES REQUIRED FOR CHILDREN.

(a) PROHIBITION.—Section 4307(a) of title 46, United States Code, is amended—

(1) by striking "or" after the semicolon in paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon and "or"; and

(3) by adding at the end the following:

"(4) operate a recreational vessel under 26 feet in length unless each individual 6 years of age or younger wears a Coast Guard approved personal flotation device when the individual is on an open deck of the vessel.".

(b) STATE AUTHORITY PRESERVED.—Section 4307 of title 46, United States Code, is amended by adding at the end thereof the following:

"(c) Subsection (a)(4) shall not be construed to limit the authority of a State to establish requirements relating to the wearing of personal flotation devices on recreational vessels that are more stringent than the requirements of that subsection.".

(c) PENALTY.—Section 4311 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of this section, in the case of a person violating section 4307(a)(4) of this title—

"(1) the maximum penalty assessable under subsection (a) is a fine of $100 with no imprisonment; and

"(2) the maximum civil penalty assessable under subsection (c) is $100.".

SEC. 504. MARINE CASUALTY REPORTING.

(a) SUBMISSION OF PLAN.—Not later than one year after enactment of this Act, the Secretary of Transportation shall, in consultation with appropriate State agencies, submit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to increase reporting of vessel accidents to appropriate State law enforcement officials.

(b) PENALTIES FOR VIOLATING REPORTING REQUIREMENTS.—Section 6103(a) of title 46, United States Code, is amended by inserting "or 6102" after "6101" the second place it appears.

TITLE VI—COAST GUARD REGULATORY REFORM

SEC. 601. SHORT TITLE.

This title may be cited as the "Coast Guard Regulatory Reform Act of 1995".

SEC. 602. SAFETY MANAGEMENT.

(a) MANAGEMENT OF VESSELS.—Title 46, United States Code, is amended by adding after chapter 31 the following new chapter:

"CHAPTER 32—MANAGEMENT OF VESSELS

"Sec.
"3201. Definitions.
"3202. Application.
"3203. Safety management system.
"3204. Implementation of safety management system.
"3205. Certification.

"§ 3201. Definitions

"In this chapter—

"(1) 'International Safety Management Code' has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;

"(2) 'responsible person' means—

"(A) the owner of a vessel to which this chapter applies; or

"(B) any other person that has—

"(i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and

"(ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter.

"(3) 'vessel engaged on a foreign voyage' means a vessel to which this chapter applies—

"(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

"(B) making a voyage between places outside the United States; or

"(C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

"§ 3202. Application

"(a) MANDATORY APPLICATION.—This chapter applies to the following vessels engaged on a foreign voyage:

"(1) Beginning July 1, 1998—

"(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

"(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

"(2) Beginning July 1, 2002, a freight vessel and a self-propelled mobile offshore drilling unit of at least 500 gross tons.

"(b) VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

"(c) EXCEPTION.—Except as provided in subsection (b) of this section, this chapter does not apply to—

"(1) a barge;

"(2) a recreational vessel not engaged in commercial service;

"(3) a fishing vessel;

"(4) a vessel operating on the Great Lakes or its tributary and connecting waters; or

"(5) a public vessel.

"§ 3203. Safety management system

"(a) IN GENERAL.—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

"(1) a safety and environmental protection policy;

"(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

"(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

"(4) procedures for reporting accidents and nonconformities with this chapter;

"(5) procedures for preparing for and responding to emergency situations; and

"(6) procedures for internal audits and management reviews of the system.

"(b) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

"§ 3204. Implementation of safety management system

"(a) SAFETY MANAGEMENT PLAN.—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

"(b) APPROVAL.—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

"(c) PROHIBITION ON VESSEL OPERATION.—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

"§ 3205. Certification

"(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

"(b) MAINTENANCE OF CERTIFICATE AND DOCUMENT.—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

"(c) VERIFICATION OF COMPLIANCE.—The Secretary shall—

"(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

"(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

"(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 U.S.C. App. 91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 31 the following:

"32. Management of vessels ...... 3201".

(c) STUDY.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall conduct, in cooperation with the owners, charterers, and managing operators of vessels documented under chapter 121 of title 46, United States Code, and other interested persons, a study of the methods that may be used to implement and enforce the International Management Code for the Safe Operation of Ships and for Pollution Prevention under chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974.

(2) REPORT.—The Secretary shall submit to the Congress a report of the results of the study required under paragraph (1) before the earlier of—

(A) the date that final regulations are prescribed under section 3203 of title 46, United States Code (as enacted by subsection (a); or

(B) the date that is 1 year after the date of enactment of this Act.

SEC. 603. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS.

(a) REPORTS, DOCUMENTS, AND RECORDS.—Chapter 31 of title 46, United States Code, is amended by adding the following new section:

"§ 3103. Use of reports, documents, and records

"The Secretary may rely, as evidence of compliance with this subtitle, on—

"(1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and

"(2) other methods the Secretary has determined to be reliable.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 46, United States Code, is amended by adding at the end the following:

"3103. Use of reports, documents, and records.".

(c) EXAMINATIONS.—Section 3308 of title 46, United States Code, is amended by inserting "or have examined" after "examine".

SEC. 604. EQUIPMENT APPROVAL.

(a) IN GENERAL.—Section 3306(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

"(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—

"(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

"(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

"(C) for lifesaving equipment, the foreign government—

"(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

"(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.".

(b) FOREIGN APPROVALS.—The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels.

(c) TECHNICAL AMENDMENT.—Section 3306(a)(4) of title 46, United States Code, is amended by striking "clauses (1)–(3)" and inserting "paragraphs (1), (2), and (3)".

SEC. 605. FREQUENCY OF INSPECTION.

(a) FREQUENCY OF INSPECTION, GENERALLY.—Section 3307 of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "nautical school vessel" and inserting ", nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage"; and

(B) by adding "and" after the semicolon at the end;

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking "2 years" and inserting "5 years".

(b) CONFORMING AMENDMENT.—Section 3710(b) of title 46, United States Code, is amended by striking "24 months" and inserting "5 years".

SEC. 606. CERTIFICATE OF INSPECTION.

Section 3309(c) of title 46, United States Code, is amended by striking "(but not more than 60 days)".

SEC. 607. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES.

(a) AUTHORITY TO DELEGATE.—Section 3316 of title 46, United States Code, is amended—

(1) by striking subsections (a) and (d);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(3) by striking "Bureau" in subsection (a), as redesignated, and inserting "American Bureau of Shipping"; and

(4) in subsection (b), as so redesignated, by—

(A) redesignating paragraph (2) as paragraph (3); and

(B) striking so much of the subsection as precedes paragraph (3), as so redesignated, and inserting the following:

"(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

"(A) review and approve plans required for issuing a certificate of inspection required by this part;

"(B) conduct inspections and examinations; and

"(C) issue a certificate of inspection required by this part and other related documents.

"(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

"(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

"(B) if the foreign classification society has offices and maintains records in the United States.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 3316 of title 46, United States Code, is amended to read as follows:

"§ 3316. Classification societies".

(2) The table of sections for chapter 33 of title 46, United States Code, is amended by striking the item relating to section 3316 and inserting the following:

"3316. Classification societies.".

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 701. AMENDMENT OF INLAND NAVIGATION RULES.

Section 2 of the Inland Navigational Rules Act of 1980 is amended—

(1) by amending Rule 9(e)(i) (33 U.S.C. 2009(e)(i)) to read as follows:

"(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound the same signal and may, if specifically agreed to take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d).";

(2) in Rule 15(b) (33 U.S.C. 2015(b)) by inserting "power-driven" after "Secretary, a";

(3) in Rule 23(a)(i) (33 U.S.C. 2023(a)(i)) after "masthead light forward"; by striking "except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;";

(4) by amending Rule 24(f) (33 U.S.C. 2024(f)) to read as follows:

"(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (iii)—

"(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;

"(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

"(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.";

(5) in Rule 26 (33 U.S.C. 2026)—

(A) in each of subsections (b)(i) and (c)(i) by striking "a vessel of less than 20 meters in length may instead of this shape exhibit a basket;"; and

(B) by amending subsection (d) to read as follows:

"(d) The additional signals described in Annex II to these Rules apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing."; and

(6) by amending Rule 34(h) (33 U.S.C. 2034) to read as follows:

"(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.".

SEC. 702. MEASUREMENT OF VESSELS.

Section 14104 of title 46, United States Code, is amended by redesignating the existing text after the section heading as subsection (a) and by adding at the end the following new subsection:

"(b) If a statute allows for an alternate tonnage to be prescribed under this section, the Secretary may prescribe it by regulation. Any such regulation shall be considered to be an interpretive regulation for purposes of section 553 of title 5. Until an alternate tonnage is prescribed, the statutorily established tonnage shall apply to vessels measured under chapter 143 or chapter 145 of this title.".

SEC. 703. LONGSHORE AND HARBOR WORKERS COMPENSATION.

Section 3(d)(3)(B) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3)(B)) is amended by inserting after "1,600 tons gross" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 704. RADIOTELEPHONE REQUIREMENTS.

Section 4(a)(2) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(a)(2)) is amended by inserting after "one hundred gross tons" the following "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 705. VESSEL OPERATING REQUIREMENTS.

Section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3)) is amended by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 706. MERCHANT MARINE ACT, 1920.

Section 27A of the Merchant Marine Act, 1920 (46 U.S.C. App. 883-1), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 707. MERCHANT MARINE ACT, 1956.

Section 2 of the Act of June 14, 1956 (46 U.S.C. App. 883a), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 708. MARITIME EDUCATION AND TRAINING.

Section 1302(4)(A) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295a(4)(a)) is amended by inserting after "1,000 gross tons or more" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 709. GENERAL DEFINITIONS.

Section 2101 of title 46, United States Code, is amended—

(1) in paragraph (13), by inserting after "15 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in paragraph (13a), by inserting after "3,500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in paragraph (19), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in paragraph (22), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(5) in paragraph (30)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(6) in paragraph (32), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(7) in paragraph (33), by inserting after "300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(8) in paragraph (35), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(9) in paragraph (42), by inserting after "100 gross tons" each place it appears, the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 710. AUTHORITY TO EXEMPT CERTAIN VESSELS.

Section 2113 of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in paragraph (5), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 711. INSPECTION OF VESSELS.

Section 3302 of title 46, United States Code, is amended—

(1) in subsection (c)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (c)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (c)(3), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (c)(4)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(5) in subsection (d)(1), by inserting after "150 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(6) in subsection (i)(1)(A), by inserting after "300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(7) in subsection (j), by inserting after "15 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 712. REGULATIONS.

Section 3306 of title 46, United States Code, is amended—

(1) in subsection (h), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (i), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 713. PENALTIES—INSPECTION OF VESSELS.

Section 3318 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (j)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 714. APPLICATION—TANK VESSELS.

Section 3702 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of

this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (c), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(3) in subsection (d), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 715. TANK VESSEL CONSTRUCTION STANDARDS.

Section 3703a of title 46, United States Code, is amended—

(1) in subsection (b)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (c)(2), by inserting after "5,000 gross tons" each place it appears the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (c)(3)(A), by inserting after "15,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (c)(3)(B), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(5) in subsection (c)(3)(C), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 716. TANKER MINIMUM STANDARDS.

Section 3707 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (b), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 717. SELF-PROPELLED TANK VESSEL MINIMUM STANDARDS.

Section 3708 of title 46, United States Code, is amended by inserting after "10,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 718. DEFINITION—ABANDONMENT OF BARGES.

Section 4701(1) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 719. APPLICATION—LOAD LINES.

Section 5102(b) of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in paragraph (5), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(3) in paragraph (10), by inserting after "150 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 720. LICENSING OF INDIVIDUALS.

Section 7101(e)(3) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 721. ABLE SEAMEN—LIMITED.

Section 7308 of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 722. ABLE SEAMEN—OFFSHORE SUPPLY VESSELS.

Section 7310 of title 46, United States Code, is amended by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 723. SCALE OF EMPLOYMENT—ABLE SEAMEN.

Section 7312 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (c)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (d), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (f)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(5) in subsection (f)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 724. GENERAL REQUIREMENTS—ENGINE DEPARTMENT.

Section 7313(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 725. COMPLEMENT OF INSPECTED VESSELS.

Section 8101(h) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 726. WATCHMEN.

Section 8102(b) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 727. CITIZENSHIP AND NAVAL RESERVE REQUIREMENTS.

Section 8103(b)(3)(A) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 728. WATCHES.

Section 8104 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (d), by inserting after "100 gross tons" and after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (l)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (m)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(5) in subsection (o)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(6) in subsection (o)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 729. MINIMUM NUMBER OF LICENSED INDIVIDUALS.

Section 8301 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by inserting after "1,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (a)(3), by inserting after "at least 200 gross tons but less than 1,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (a)(4), by inserting after "at least 100 gross tons but less than 200 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (a)(5), by inserting after "300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(5) in subsection (b), by inserting after "200 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(6) by inserting "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title" after "200 gross tons" in subsection (e)(3).

SEC. 730. OFFICERS' COMPETENCY CERTIFICATES CONVENTION.

Section 8304(b)(4) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 731. MERCHANT MARINERS' DOCUMENTS REQUIRED.

Section 8701 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 732. CERTAIN CREW REQUIREMENTS.

Section 8702 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 733. FREIGHT VESSELS.

Section 8901 of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 734. EXEMPTIONS.

Section 8905(b) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 735. UNITED STATES REGISTERED PILOT SERVICE.

Section 9303(a)(2) of title 46, United States Code, is amended by inserting after "4,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 736. DEFINITIONS—MERCHANT SEAMEN PROTECTION.

Section 10101(4)(B) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 737. APPLICATION—FOREIGN AND INTERCOASTAL VOYAGES.

Section 10301(a)(2) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 738. APPLICATION—COASTWISE VOYAGES.

Section 10501(a) of title 46, United States Code, is amended by inserting after "50 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 739. FISHING AGREEMENTS.

Section 10601(a)(1) of title 46, United States Code, is amended by inserting after "20 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 740. ACCOMMODATIONS FOR SEAMEN.

Section 11101(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 741. MEDICINE CHESTS.

Section 11102(a) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 742. LOGBOOK AND ENTRY REQUIREMENTS.

Section 11301(a)(2) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 743. COASTWISE ENDORSEMENTS.

Section 12106(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 744. FISHERY ENDORSEMENTS.

Section 12108(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 745. CONVENTION TONNAGE FOR LICENSES, CERTIFICATES, AND DOCUMENTS.

(a) AUTHORITY TO USE CONVENTION TONNAGE.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"§ 7506. Convention tonnage for licenses, certificates, and documents

"Notwithstanding any provision of section 14302(c) or 14305 of this title, the Secretary may—

"(1) evaluate the service of an individual who is applying for a license, a certificate of registry, or a merchant mariner's document by using the tonnage as measured under chapter 143 of this title for the vessels on which that service was acquired, and

"(2) issue the license, certificate, or document based on that service.".

(b) CLERICAL AMENDMENT.—The analysis to chapter 75 of title 46, United States Code, is amended by adding a new item as follows:

"7506. Convention tonnage for licenses, certificates, and documents.".

SEC. 746. TECHNICAL CORRECTIONS.

(a) Title 46, United States Code, is amended—

(1) by striking the first section 12123 in chapter 121;

(2) by striking the first item relating to section 12123 in the table of sections for such chapter 121;

(3) by striking "proceeding" in section 13108(a)(1) and inserting "preceding"; and

(4) by striking "Secretary" in section 13108(a)(1) and inserting "Secretary".

(b) Section 645 of title 14, United States Code, is amended by redesignating the second subsection (d) and subsections (e) through (h) as subsection (e) and subsections (f) through (i), respectively.

TITLE VIII—POLLUTION FROM SHIPS

SEC. 801. PREVENTION OF POLLUTION FROM SHIPS.

(a) IN GENERAL.—Section 6 of the Act to Prevent Pollution From Ships (33 U.S.C. 1905) is amended—

(1) by striking "(2) If" in subsection (c)(2) and inserting "(2)(A) Subject to subparagraph (B), if"; and

(2) by adding at the end of subsection (c)(2) the following:

"(B) The Secretary may not issue a certificate attesting to the adequacy of reception facilities under this paragraph unless, prior to the issuance of the certificate, the Secretary conducts an inspection of the reception facilities of the port or terminal that is the subject of the certificate.

"(C) The Secretary may, with respect to certificates issued under this paragraph prior to the date of enactment of the Coast Guard Authorization Act of 1995, prescribe by regulation differing periods of validity for such certificates.";

(3) by striking subsection (c)(3)(A) and inserting the following:

"(A) is valid for the 5-year period beginning on the date of issuance of the certificate, except that if—

"(i) the charge for operation of the port or terminal is transferred to a person or entity other than the person or entity that is the operator on the date of issuance of the certificate—

"(I) the certificate shall expire on the date that is 30 days after the date of the transfer; and

"(II) the new operator shall be required to submit an application for a certificate before a certificate may be issued for the port or terminal; or

"(ii) the certificate is suspended or revoked by the Secretary, the certificate shall cease to be valid; and"; and

(4) by striking subsection (d) and inserting the following:

"(d)(1) The Secretary shall maintain a list of ports or terminals with respect to which a certificate issued under this section—

"(A) is in effect; or

"(B) has been revoked or suspended.

"(2) The Secretary shall make the list referred to in paragraph (1) available to the general public.".

(b) RECEPTION FACILITY PLACARDS.—Section 6(f) of the Act to Prevent Pollution From Ships (33 U.S.C. 1905(f)) is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Not later than 18 months after the date of enactment of the Coast Guard Authorization Act of 1995, the Secretary shall promulgate regulations that require the operator of each port or terminal that is subject to any requirement of the MARPOL Protocol relating to reception facilities to post a placard in a location that can easily be seen by port and terminal users. The placard shall state, at a minimum, that a user of a reception facility of the port or terminal should report to the Secretary any inadequacy of the reception facility.".

SEC. 802. MARINE PLASTIC POLLUTION RESEARCH AND CONTROL.

(a) COMPLIANCE REPORTS.—Section 2201(a) of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1902 note) is amended—

(1) by striking "for a period of 6 years"; and

(2) by inserting before the period at the end the following: "and, not later than 1 year after the date of enactment of the Coast Guard Authorization Act of 1995, and annually thereafter, shall publish in the Federal Register a list of the enforcement actions taken against any domestic or foreign ship (including any commercial or recreational ship) pursuant to the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.)".

(b) COORDINATION.—Section 2203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2803) is amended to read as follows:

"SEC. 2203. COORDINATION.

"(a) ESTABLISHMENT OF MARINE DEBRIS COORDINATING COMMITTEE.—The Secretary of Commerce shall establish a Marine Debris Coordinating Committee.

"(b) MEMBERSHIP.—The Committee shall include a senior official from—

"(1) the National Oceanic and Atmospheric Administration, who shall serve as the Chairperson of the Committee;

"(2) the Environmental Protection Agency;

"(3) the United States Coast Guard;

"(4) the United States Navy; and

"(5) such other Federal agencies that have an interest in ocean issues or water pollution prevention and control as the Secretary of Commerce determines appropriate.

"(c) MEETINGS.—The Committee shall meet at least twice a year to provide a forum to ensure the coordination of national and international research, monitoring, education, and regulatory actions addressing the persistent marine debris problem.

"(d) MONITORING.—The Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, in cooperation with the Administrator of the Environmental Protection Agency, shall utilize the marine debris data derived under title V of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.) to assist—

"(1) the Committee in ensuring coordination of research, monitoring, education and regulatory actions; and

"(2) the United States Coast Guard in assessing the effectiveness of this Act and the Act to Prevent Pollution from Ships in ensuring compliance under section 2201.".

(c) PUBLIC OUTREACH PROGRAM.—Section 2204(a) of the Marine Plastic Pollution Research and Control Act (42 U.S.C. 6981 note) is amended—

(1) by striking "for a period of at least 3 years," in the matter preceding paragraph (1)(A)—

(2) by striking "and" at the end of paragraph (1)(C);

(3) by striking the period at the end of subparagraph (1)(D) and inserting "; and";

(4) by adding at the end of paragraph (1) the following:

"(E) the requirements under this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) with respect to ships and ports, and the authority of citizens to report violations of this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.)."; and

(5) by striking paragraph (2) and inserting the following:

"(2) AUTHORIZED ACTIVITIES.—

"(A) PUBLIC OUTREACH PROGRAM.—A public outreach program under paragraph (1) may include—

"(i) developing and implementing a voluntary boaters' pledge program;

"(ii) workshops with interested groups;

"(iii) public service announcements;

"(iv) distribution of leaflets and posters; and

"(v) any other means appropriate to educating the public.

"(B) GRANTS AND COOPERATIVE AGREEMENTS.—To carry out this section, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency are authorized to award grants, enter into cooperative agreements with appropriate officials of other Federal agencies and agencies of States and political subdivisions of States and with public and private entities, and provide other financial assistance to eligible recipients.

"(C) CONSULTATION.—In developing outreach initiatives for groups that are subject to the requirements of this title and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, and the Administrator of the Environmental Protection Agency, shall consult with—

"(i) the heads of State agencies responsible for implementing State boating laws; and

"(ii) the heads of other enforcement agencies that regulate boaters or commercial fishermen.".

TITLE IX—LAW ENFORCEMENT ENHANCEMENT

SEC. 901. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO; SANCTIONS FOR OBSTRUCTION OF BOARDING AND PROVIDING FALSE INFORMATION.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end new section 2237 to read as follows:

"§ 2237. Sanctions for failure to land or to bring to; sanctions for obstruction of boarding and providing false information

"(a)(1) It shall be unlawful for the pilot, operator, or person in charge of an aircraft which has crossed the border of the United States, or an aircraft subject to the jurisdiction of the United States operating outside the United States, to knowingly fail to obey an order to land by an authorized Federal law enforcement officer who is enforcing the laws of the United States relating to controlled substances, as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), or relating to money laundering (sections 1956–57 of this title).

"(2) The Administrator of the Federal Aviation Administration, in consultation with the Commissioner of Customs and the Attorney General, shall prescribe regulations governing the means by, and circumstances under which a Federal law enforcement officer may communicate an order to land to a pilot, operator, or person in charge of an aircraft. Such regulations shall ensure that any such order is clearly communicated in accordance with applicable international standards. Further, such regulations shall establish guidelines based on observed conduct, prior information, or other circumstances for determining when an officer may use the authority granted under paragraph (1).

"(b)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order to bring to that vessel on being ordered to do so by an authorized Federal law enforcement officer.

"(2) It shall be unlawful for any person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States to—

"(A) forcibly assault, resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or

"(B) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is false.

"(c) This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(d) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

"(e) For purposes of this section—

"(1) A 'vessel of the United States' and a 'vessel subject to the jurisdiction of the United States' have the meaning set forth for these terms in the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903);

"(2) an aircraft 'subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the enforcement of United States law by the United States;

"(3) an aircraft 'without nationality' includes—

"(A) an aircraft aboard which the pilot, operator, or person in charge makes a claim of registry, which claim is denied by the nation whose registry is claimed; and

"(B) an aircraft aboard which the pilot, operator, or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of registry for that aircraft.

"(4) the term 'bring to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

"(5) the term 'Federal law enforcement officer' has the meaning set forth in section 115 of this title.

"(f) Any person who intentionally violates the provisions of this section shall be subject to—

"(1) imprisonment for not more than 1 year; and

"(2) a fine as provided in this title.

"(g) An aircraft that is used in violation of this section may be seized and forfeited. A vessel that is used in violation of subsection (b)(1) or subsection (b)(2)(A) may be seized and forfeited. The laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures undertaken, or alleged to have been undertaken, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. A vessel or aircraft that is used in violation of this section is also liable in rem for any fine or civil penalty imposed under this section.".

(b) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 109, title 18, United States Code, is amended by inserting the following new item after the item for section 2236:

"2237. Sanctions for failure to land or to bring to; sanctions for obstruction of boarding or providing false information.".

SEC. 902. FAA SUMMARY REVOCATION AUTHORITY.

(a) Title 49, United States Code, is amended by adding after section 44106 the following new section:

"§ 44106a. Summary revocation of aircraft certificate

"(a) The registration of an aircraft shall be immediately revoked upon the knowing failure of the pilot, operator, or person in charge of the aircraft to follow the order of a Federal law enforcement officer to land an aircraft, as provided in section 2237 of title 18, United States Code. The Administrator shall as soon as possible notify the owner of the aircraft that the owner no longer holds United States registration for that aircraft.

"(b) The Administrator shall establish procedures for the owner of the aircraft to show cause—

"(1) why the registration was not revoked, as a matter of law, by operation of subsection (a); or

"(2) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subsection (a), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subsection (a).".

(b) The table of sections at the beginning of chapter 441 of title 49, United States Code, is amended by inserting after the item relating to section 44106 the following:

"44106a. Summary revocation of aircraft certificate.".

(c) Title 49, United States Code, is amended by adding after section 44710 the following new section:

"§ 44710a. Failure to follow order to land aircraft

"(a) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that—

"(1) such person, while acting as the pilot, operator, or person in charge of an aircraft knowingly failed to follow the order of a Federal law enforcement officer to land the aircraft as provided in section 2237 of title 18, United States Code, and

"(2) such person knew that he had been ordered to land the aircraft.

"(b) If the Administrator determines that extenuating circumstances existed, such as safety of flight, which justified a deviation by the airman from the order to land, the provisions of subsection (a) of this section shall not apply.

"(c) The provisions of subsections (c) and (d) of section 44710 shall apply to any revocation of the airman certificate of any person for failing to follow the order of a Federal law enforcement officer to land an aircraft.".

(d) The table of sections at the beginning of chapter 447 of title 49, United States Code, is amended by inserting after the item relating to section 44710 the following:

"44710a. Failure to follow order to land aircraft.".

SEC. 903. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 96. Air interdiction authority

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft subject to the jurisdiction of the United States in accordance with section 2237 of title 18, United States Code. Any order issued under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18, United States Code.".

(b) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 5 of title 14, United States Code, is amended by adding at the end the following new item:

"96. Air interdiction authority.".

SEC. 904. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 673. Civil penalty for failure to comply with a lawful boarding, order to land, obstruction of boarding, or providing false information

"(a) The master, operator, or person in charge of a vessel, or the pilot, operator, or person in charge of an aircraft who knowingly fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer under the authority of section 2237 of title 18, United States Code, or section 96 of this title, and communicated according to regulations promulgated under section 2237 of title 18, United States Code, or, in the case of a vessel, according to any applicable, internationally recognized standards, or other manner reasonably calculated to be received and understood, shall be liable for a civil penalty of not more than $15,000.

"(b) A vessel or aircraft used to knowingly violate an order relating to the boarding of a vessel or landing of an aircraft issued under the authority of section 2237 of title 18, United States Code, or Section 96 of this Title, is also liable in rem and may be seized, forfeited, and sold in accordance with Customs law, specifically section 1594 of Title 19, United States Code.".

(b) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"673. Civil penalty for failure to comply with a lawful boarding, order to land, obstruction of boarding, or providing false information.".

SEC. 905. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end the following new subsection:

"(i) As used in this section, the term 'authorized place' includes —

"(1) with respect to a vehicle, a location in a foreign country at which United States customs officers are permitted to conduct inspections, examinations, or searches; and

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act (19 U.S.C. 1644), or regulations issued thereunder, or section 2237 of title 18, United States Code, any location outside of the United States, including a foreign country at which United States customs officers are permitted to conduct inspections, examinations, or searches.".

SEC. 906. CUSTOMS CIVIL PENALTY PROVISIONS.

Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding a new section 591 (19 U.S.C. 1591) as follows:

"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER TO LAND.

"(a) The pilot, operator, or person in charge of an aircraft who knowingly fails to comply with an order of an authorized Federal law enforcement officer relating to the landing of an aircraft issued under the authority of section 581 of this Act, or section 2237 of title 18, United States Code, and communicated according to regulations promulgated under section 2237 of title 18, United States Code, shall be liable for a civil penalty of not more than $15,000.

"(b) An aircraft used to knowingly violate an order relating to the landing of an aircraft issued under the authority of section 581 of this Act, or section 2237 of title 18, United States Code, is also liable in rem and may be seized, forfeited, and sold in accordance with Customs law, specifically section 1594 of Title 19, United States Code.".

TITLE X—CONVEYANCES

SEC. 1001. CONVEYANCE OF PROPERTY IN MASSACHUSETTS.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the properties described in paragraph (3) to the persons to whom each such property is to be conveyed under that paragraph.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine

each property to be conveyed pursuant to this subsection.

(3) PROPERTIES CONVEYED.—

(A) CAPE ANN LIGHTHOUSE.—The Secretary shall convey to the town of Rockport, Massachusetts, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the property comprising the Cape Ann Lighthouse, located on Thacher Island, Massachusetts.

(B) COAST GUARD PROPERTY IN GOSNOLD, MASSACHUSETTS.—The Secretary may convey to the town of Gosnold, Massachusetts, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the "United States Coast Guard Cuttyhunk Boathouse and Wharf" located in the town of Gosnold, Massachusetts.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (3), (4), and (5) and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the property conveyed shall immediately revert to the United States if the property, or any part of the property

(A) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(B) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the person to which the property is conveyed may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The person to which the property is conveyed is not required to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(5) MAINTENANCE OF PROPERTY.—The person to which the property is conveyed shall maintain the property in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "Cape Ann Lighthouse" means the Coast Guard property located on Thacher Island, Massachusetts, except any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance;

(2) the term "United States Coast Guard Cuttyhunk Boathouse and Wharf" means real property located in the town of Gosnold, Massachusetts (including all buildings, structures, equipment, and other improvements), as determined by the Secretary of Transportation; and

(3) the term "Secretary" means the Secretary of Transportation.

SEC. 1002. CONVEYANCE OF CERTAIN LIGHTHOUSES LOCATED IN MAINE.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation (in this section referred to as the "Secretary") may convey to the Island Institute, Rockland, Maine, (in this section referred to as the "Institute"), by an appropriate means of conveyance, all right, title, and interest of the United States in and to any of the facilities and real property and improvements described in paragraph (2).

(2) IDENTIFICATION OF PROPERTIES.—Paragraph (1) applies to lighthouses, together with any real property and other improvements associated therewith, located in the State of Maine as follows:

(A) Whitehead Island Light.

(B) Deer Island Thorofare (Mark Island) Light.

(C) Burnt Island Light.

(D) Rockland Harbor Breakwater Light.

(E) Monhegan Island Light.

(F) Eagle Island Light.

(G) Curtis Island Light.

(H) Moose Peak Light.

(I) Great Duck Island Light.

(J) Goose Rocks Light.

(K) Isle au Haut Light.

(L) Goat Island Light.

(M) Wood Island Light.

(N) Doubling Point Light.

(O) Doubling Point Front Range Light.

(P) Doubling Point Rear Range Light.

(Q) Little River Light.

(R) Spring Point Ledge Light.

(S) Ram Island Light (Boothbay).

(T) Seguin Island Light.

(U) Marshall Point Light.

(V) Fort Point Light.

(W) West Quoddy Head Light.

(X) Brown's Head Light.

(Y) Cape Neddick Light.

(Z) Halfway Rock Light.

(AA) Ram Island Ledge Light.

(BB) Mount Desert Rock Light.

(CC) Whitlock's Mill Light.

(DD) Nash Island Light.

(EE) Manana Island Fog Signal Station.

(3) DEADLINE FOR CONVEYANCE.—The conveyances authorized by this subsection shall take place not later than 5 years after the date of the enactment of this Act.

(4) ADDITIONAL CONVEYANCES TO UNITED STATES FISH AND WILDLIFE SERVICE.—The Secretary may transfer, in accordance with the terms and conditions of subsection (b), the following lighthouses, together with any real property and improvements associated therewith, directly to the United States Fish and Wildlife Service:

(A) Two Bush Island Light.

(B) Egg Rock Light.

(C) Libby Island Light.

(D) Matinicus Rock Light.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (2) and (3) and other terms and conditions the Secretary may consider appropriate.

(2) MAINTENANCE OF NAVIGATION FUNCTION.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Institute, the United States Fish and Wildlife Service, and an entity to which property is conveyed under this section may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to property conveyed under this section as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter property conveyed under this section without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to property conveyed under this section for the purpose of maintaining the aids to navigation in use on the property.

(3) OBLIGATION LIMITATION.—The Institute, or any entity to which the Institute conveys a lighthouse under subsection (d), is not required to maintain any active aid to navigation equipment on a property conveyed under this section.

(4) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(A) such property or any part of such property ceases to be used for educational, historic, recreational, cultural, and wildlife conservation programs for the general public and for such other uses as the Secretary determines to be not inconsistent or incompatible with such uses;

(B) such property or any part of such property ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation;

(C) such property or any part of such property ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.); or

(D) the Secretary determines that—

(i) the Institute is unable to identify an entity eligible for the conveyance of the lighthouse under subsection (d) within the 3-year period beginning on the date of the conveyance of the lighthouse to the Institute under subsection (a); or

(ii) in the event that the Institute identifies an entity eligible for the conveyance within that period—

(I) the entity is unable or unwilling to accept the conveyance and the Institute is unable to identify another entity eligible for the conveyance within that period; or

(II) the Maine Lighthouse Selection Committee established under subsection (d)(3)(A) disapproves of the entity identified by the Institute and the Institute is unable to identify another entity eligible for the conveyance within that period.

(c) INSPECTION.—The State Historic Preservation Officer of the State of Maine may inspect any lighthouse, and any real property and improvements associated therewith, that is conveyed under this section at any time, without notice, for purposes of ensuring that the lighthouse is being maintained in the manner required under subsection (b). The Institute, and any subsequent conveyee of the Institute under subsection (d), shall cooperate with the official referred to in the preceding sentence in the inspections of that official under this subsection.

(d) SUBSEQUENT CONVEYANCE.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Institute shall convey, without consideration, all right, title, and interest of the Institute in and to the lighthouses conveyed to the Institute under subsection (a), together with any real property and improvements associated therewith, to one or more entities identified under paragraph (2) and approved by the committee established under paragraph (3) in accordance with the provisions of such paragraph (3).

(B) EXCEPTION.—The Institute, with the concurrence of the Maine Lighthouse Selection Committee and in accordance with the terms and conditions of subsection (b), may retain right, title, and interest in and to the following lighthouses conveyed to the Institute:

(i) Whitehead Island Light.

(ii) Deer Island Thorofare (Mark Island) Light.

(2) IDENTIFICATION OF ELIGIBLE ENTITIES.—

(A) IN GENERAL.—Subject to subparagraph (B), the Institute shall identify entities eligible for the conveyance of a lighthouse under this subsection. Such entities shall include any department or agency of the Federal Government, any department or agency of the Government of the State of Maine, any local government in that State, or any nonprofit corporation, educational agency, or community development organization that—

(i) is financially able to maintain the lighthouse (and any real property and improvements conveyed therewith) in accordance with the conditions set forth in subsection (b);

(ii) has agreed to permit the inspections referred to in subsection (c); and

(iii) has agreed to comply with the conditions set forth in subsection (b); and to have such conditions recorded with the deed of title to the lighthouse and any real property and improvements that may be conveyed therewith.

(B) ORDER OF PRIORITY.—In identifying entities eligible for the conveyance of a lighthouse under this paragraph, the Institute shall give priority to entities in the following order, which are also the exclusive entities eligible for the conveyance of a lighthouse under this section:

(i) Agencies of the Federal Government.

(ii) Entities of the Government of the State of Maine.

(iii) Entities of local governments in the State of Maine.

(iv) Nonprofit corporations, educational agencies, and community development organizations.

(3) SELECTION OF CONVEYEES AMONG ELIGIBLE ENTITIES.—

(A) COMMITTEE.—

(i) IN GENERAL.—There is hereby established a committee to be known as the Maine Lighthouse Selection Committee (in this paragraph referred to as the "Committee").

(ii) MEMBERSHIP.—The Committee shall consist of five members appointed by the Secretary as follows:

(I) One member, who shall serve as the Chairman of the Committee, shall be appointed from among individuals recommended by the Governor of the State of Maine.

(II) One member shall be the State Historic Preservation Officer of the State of Maine, with the consent of that official, or a designee of that official.

(III) One member shall be appointed from among individuals recommended by State and local organizations in the State of Maine that are concerned with lighthouse preservation or maritime heritage matters.

(IV) One member shall be appointed from among individuals recommended by officials of local governments of the municipalities in which the lighthouses are located.

(V) One member shall be appointed from among individuals recommended by the Secretary of the Interior.

(iii) APPOINTMENT DEADLINE.—The Secretary shall appoint the members of the Committee not later than 90 days after the date of the enactment of this Act.

(iv) MEMBERSHIP TERM.—

(I) Members of the Committee shall serve for such terms not longer than 3 years as the Secretary shall provide. The Secretary may stagger the terms of initial members of the Committee in order to ensure continuous activity by the Committee.

(II) Any member of the Committee may serve after the expiration of the term of the member until a successor to the member is appointed. A vacancy in the Committee shall be filled in the same manner in which the original appointment was made.

(v) VOTING.—The Committee shall act by an affirmative vote of a majority of the members of the Committee.

(B) RESPONSIBILITIES.—

(i) IN GENERAL.—The Committee shall—

(I) review the entities identified by the Institute under paragraph (2) as entities eligible for the conveyance of a lighthouse; and

(II) approve one such entity, or disapprove all such entities, as entities to which the Institute may make the conveyance of the lighthouse under this subsection.

(ii) APPROVAL.—If the Committee approves an entity for the conveyance of a lighthouse, the Committee shall notify the Institute of such approval.

(iii) DISAPPROVAL.—If the Committee disapproves of the entities, the Committee shall notify the Institute and, subject to subsection (b)(4)(D)(ii), the Institute shall identify other entities eligible for the conveyance of the lighthouse under paragraph (2). The Committee shall review and approve or disapprove entities identified pursuant to the preceding sentence in accordance with this subparagraph and the criteria set forth in subsection (b).

(C) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee, however, all meetings of the Committee shall be open to the public and preceded by appropriate public notice.

(D) TERMINATION.—The Committee shall terminate 8 years from the date of the enactment of this Act.

(4) CONVEYANCE.—Upon notification under paragraph (3)(B)(ii) of the approval of an identified entity for conveyance of a lighthouse under this subsection, the Institute shall, with the consent of the entity, convey the lighthouse to the entity.

(5) RESPONSIBILITIES OF CONVEYEES.—Each entity to which the Institute conveys a lighthouse under this subsection, or any successor or assign of such entity in perpetuity, shall—

(A) use and maintain the lighthouse in accordance with subsection (b) and have such terms and conditions recorded with the deed of title to the lighthouse and any real property conveyed therewith; and

(B) permit the inspections referred to in subsection (c).

(e) DESCRIPTION OF PROPERTY.—The legal description of any lighthouse, and any real property and improvements associated therewith, conveyed under subsection (a) shall be determined by the Secretary. The Secretary shall retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the lighthouses conveyed under this subsection, whether located at the lighthouse or elsewhere. The Secretary shall identify any equipment, system, or object covered by this paragraph.

(f) REPORT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for the next 7 years, the Secretary shall submit to Congress a report on the conveyance of lighthouses under this section. The report shall include a description of the implementation of the provisions of this section, and the requirements arising under such provisions, in—

(1) providing for the use and maintenance of the lighthouses conveyed under this section in accordance with subsection (b);

(2) providing for public access to such lighthouses; and

(3) achieving the conveyance of lighthouses to appropriate entities under subsection (d).

SEC. 1003. CONVEYANCE OF SQUIRREL POINT LIGHT.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation (in this section referred to as the "Secretary") shall convey to Squirrel Point Associates, Incorporated, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the property comprising the Squirrel Point Light, located in the town of Arrowsic, Maine.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this subsection.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (3) and (4) and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the Squirrel Point Light shall immediately revert to the United States if the Squirrel Point Light, or any part of the property—

(A) ceases to be used as a nonprofit center for the interpretation and preservation of maritime history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) MAINTENANCE OF NAVIGATION FUNCTION.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) Squirrel Point Associates, Incorporated, or any successor or assign, may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the Squirrel Point Light as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to the property for the purpose of maintaining the aids to navigation in use on the property.

(4) Obligation limitation.—The Squirrel Point Associates, Incorporated, or any successor or assign, is not required to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(5) Maintenance of property.—The Squirrel Point Associates, Incorporated, or any successor or assign, shall maintain the Squirrel Point Light in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

(c) Definitions.—For purposes of this section, the term "Squirrel Point Light" means the Coast Guard light station located in the town of Arrowsic, Sagadahoc County, Maine—

(1) including the light tower, dwelling, boat house, oil house, barn, any other ancillary buildings and such land as may be necessary to enable Squirrel Point Associates, Incorporated, or any successor or assign, to operate a non-profit center for public benefit; and

(2) except any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance.

SEC. 1004. CONVEYANCE OF MONTAUK LIGHT STATION, NEW YORK.

(a) Authority to Convey.—

(1) In general.—The Secretary of Transportation (in this section referred to as the "Secretary") shall convey to the Montauk Historical Association in Montauk, New York, by an appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising Montauk Light Station, located at Montauk, New York.

(2) Identification of property.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) Terms of Conveyance.—

(1) In general.—A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to the conditions required by paragraphs (3) and (4) and such other terms and conditions as the Secretary may consider appropriate.

(2) Reversionary interest.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising the Montauk Light Station pursuant to subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be maintained as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard, the maritime history of Montauk, New York, and Native American and colonial history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(3) Maintenance of navigation functions.—Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, electronic navigation equipment, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the Montauk Historical Association, or any successor or assign, may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to replace, or add any aids to navigation, or make any changes to the Montauk Light Station as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the property conveyed without notice for the purpose of maintaining navigation aids;

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property; and

(F) the Montauk Light Station shall revert to the United States at the end of the 30-day period beginning on any date on which the Secretary of Transportation provides written notice to the Montauk Historical Association, or any successor or assign, that the Montauk Light Station is needed for national security purposes.

(4) Maintenance of property.—Any conveyance of property under this section shall be subject to the condition that the Montauk Historical Association, or any successor or assign, shall maintain the Montauk Light Station in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(5) Obligation limitation.—The Montauk Historical Association, or any successor or assign, shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) Montauk Light Station Defined.—For purposes of this section, the term "Montauk Light Station" means the Coast Guard light station known as Light Station Montauk Point, located at Montauk, New York, including the lighthouse, the keeper's dwellings, adjacent Coast Guard rights of way, the World War II submarine spotting tower, the lighthouse tower, and the paint locker, except any historical artifact, including any lens or lantern, located on the property at or before the time of conveyance.

SEC. 1005. CONVEYANCE OF POINT ARENA LIGHT STATION.

(a) Authority to Convey.—

(1) In general.—At such time as the Secretary of Transportation (referred to in this section as the "Secretary") determines the Point Arena Light Station to be excess to the needs of the Coast Guard, the Secretary shall convey to the Point Arena Lighthouse Keepers, Inc., by an appropriate means of conveyance, all right, title, and interest of the United States in and to The Point Arena Lighthouse, located in Mendocino County, California, except that the Coast Guard shall retain all right, title, and interest in any historical artifact, including any lens or lantern, on the property conveyed pursuant to this section, or belonging to the property, whether located on the property or elsewhere, except that such lens must be retained within the boundary of the State of California.

(2) Identification of property.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) Terms of Conveyance.—

(1) In general.—A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) Reversionary interest.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising the Point Arena Light Station pursuant to subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof ceases to be maintained as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Point Arena, California.

(3) Maintenance of navigation functions.—Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the Point Arena Lighthouse Keepers, Inc., or any successors or assigns, may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation, or make any changes to the Point Arena Light Station as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the property conveyed without notice for the purpose of maintaining navigation aids;

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property; and

(F) the Point Arena Light Station shall revert to the United States at the end of the 30-day period beginning on any date on which the Secretary of Transportation provides written notice to the Point Arena Lighthouse Keepers, Inc., or any successor or assign, that the Point Arena Light Station is needed for national security purposes.

(4) Maintenance of property.—Any conveyance of property under this section shall be subject to the condition that the Point Arena Lighthouse Keepers, Inc., or any successor or assign, shall maintain the Point Arena Light Station in accordance with the

provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(5) OBLIGATION LIMITATION.—The Point Arena Lighthouse Keepers, Inc., or any successors or assigns, shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) MAINTENANCE STANDARD.—The Point Arena Lighthouse Keepers, Inc., or any successor or assign, at its own cost and expense, shall maintain, in a proper, substantial and workmanlike manner, all properties conveyed.

(d) POINT ARENA LIGHT STATION DEFINED.—For purposes of this section, the term "Point Arena Light Station" means the Coast Guard property and improvements located at Point Arena, California, including the light tower building, fog signal building, 2 small shelters, 4 residential quarters, and a restroom facility.

SEC. 1006. CONVEYANCE OF PROPERTY IN KETCHIKAN, ALASKA.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation (referred to in this section as the "Secretary"), in cooperation with the Administrator of the General Services Administration, shall convey to the Ketchikan Indian Corporation in Ketchikan, Alaska, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the "Former Marine Safety Detachment" as identified in Report of Excess Number CG–689 (GSA Control Number 9–U–AK–0747) and described in subsection (b), for use as a health or social services facility.

(b) IDENTIFICATION OF PROPERTY.—The Secretary shall identify, describe, and determine the property to be conveyed pursuant to this section.

(c) REVERSIONARY INTEREST.—The conveyance of property described in subsection (b) shall be subject to the condition that such property, and all right, title and interest in such property, shall transfer to the City of Ketchikan if, within 18 months of the date of enactment of this Act, the Ketchikan Indian Corporation has not completed design and construction plans for a health and social services facility and received approval from the City of Ketchikan for such plans or the written consent of the City to exceed this period.

(d) In the event that the property described in subsection (b) is transferred to the City of Ketchikan under subsection (c), the transfer shall be subject to the condition that all right, title, and interest in and to the property shall immediately revert to the United States if the property ceases to be used by the City of Ketchikan.

SEC. 1007. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) shall expeditiously convey to the Traverse City Area Public School District in Traverse City, Michigan, without consideration, all right, title, and interest of the United States in and to the property described in subsection (b), subject to all easements and other interests in the property held by any other person.

(b) IDENTIFICATION OF PROPERTY.—The Secretary shall identify, describe, and determine the property to be conveyed pursuant to this section.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a) or (d), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Traverse City Area Public School District.

(d) TERMS OF CONVEYANCE.—The conveyance of property under this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(1) the pump room located on the property shall continue to be operated and maintained by the United States for as long as it is needed for this purpose;

(2) the United States shall have an easement of access to the property for the purpose of operating and maintaining the pump room; and

(3) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating and maintaining the pump room.

SEC. 1008. TRANSFER OF COAST GUARD PROPERTY IN NEW SHOREHAM, RHODE ISLAND.

(a) REQUIREMENT.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) may convey to the town of New Shoreham, Rhode Island, without consideration, all right, title, and interest of the United States in and to the property known as the United States Coast Guard Station Block Island, as described in subsection (b), subject to all easements and other interest in the property held by any other person.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property (including buildings and improvements) located on the west side of Block Island, Rhode Island, at the entrance to the Great Salt Pond and referred to in the books of the Tax Assessor of the town of New Shoreham, Rhode Island, as lots 10 and 12, comprising approximately 10.7 acres.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property under subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the town of New Shoreham, Rhode Island.

SEC. 1009. CONVEYANCE OF PROPERTY IN SANTA CRUZ, CALIFORNIA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation (referred to in this section as the "Secretary") may convey to the Santa Cruz Port District by an appropriate means of conveyance, all right, title, and interest of the United States in and to the property described in paragraph (2).

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) CONSIDERATION.—Any conveyance of property pursuant to this section shall be made without payment of consideration.

(c) CONDITION.—The conveyance provided for in subsection (a) may be made contingent upon agreement by the Port District that—

(1) the utility systems, building spaces, and facilities or any alternate, suitable facilities and buildings on the harbor premises would be available for joint use by the Port District and the Coast Guard when deemed necessary by the Coast Guard; and

(2) the Port District would be responsible for paying the cost of maintaining, operating, and replacing (as necessary) the utility systems and any buildings and facilities located on the property as described in subsection (a) or on any alternate, suitable property on the harbor premises set aside for use by the Coast Guard.

(d) REVERSIONARY INTEREST.—Any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in Subunit Santa Cruz shall immediately revert to the United States—

(1) if Subunit Santa Cruz ceases to be maintained as a nonprofit center for education, training, administration, and other public service to include use by the Coast Guard; or

(2) at the end of the thirty day period beginning on any date on which the Secretary provides written notice to the Santa Cruz Port District that Subunit Santa Cruz is needed for national security purposes.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(f) DEFINITIONS.—For purposes of this section—

(1) "Subunit Santa Cruz" means the Coast Guard property and improvements located at Santa Cruz, California;

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating; and

(3) "Port District" means the Santa Cruz Port District, or any successor or assign.

SEC. 1010. CONVEYANCE OF VESSEL S/S RED OAK VICTORY.

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation (referred to in this section as the "Secretary") may convey the right, title, and interest of the United States Government in and to the vessel S/S RED OAK VICTORY (Victory Ship VCS–AP2; United States Navy Hull No. AK235) to the City of Richmond Museum Association, Inc., located in Richmond, California (in this section referred to as "the recipient"), if—

(1) the recipient agrees to use the vessel for the purposes of a monument to the wartime accomplishments of the City of Richmond;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government if the Secretary requires use of the vessel by the Government for war or a national emergency;

(4) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3); and

(5) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(b) DELIVERY OF VESSEL.—If a conveyance is made under this section, the Secretary shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient any unneeded equipment from other vessels in the National Defense Reserve Fleet for use to restore the S/S RED OAK VICTORY to museum quality.

(d) RETENTION OF VESSEL IN NDRF.—The Secretary shall retain in the National Defense Reserve Fleet the vessel authorized to be conveyed under subsection (a), until the earlier of—

(1) 2 years after the date of the enactment of this Act; or

(2) the date of conveyance of the vessel under subsection (a).

SEC. 1011. CONVEYANCE OF EQUIPMENT.

The Secretary of Transportation may convey any unneeded equipment from other vessels in the National Defense Reserve Fleet to the JOHN W. BROWN and other qualified United States memorial ships in order to maintain their operating condition.

SEC. 1012. PROPERTY EXCHANGE.

(a) PROPERTY ACQUISITION.—The Secretary may, by means of an exchange of property, acceptance as a gift, or other means that does not require the use of appropriated funds, acquire all right, title, and interest in and to a parcel or parcels of real property and any improvements thereto located within the limits of the City and Borough of Juneau, Alaska.

(b) ACQUISITION THROUGH EXCHANGE.—For the purposes of acquiring property under subsection (a) by means of an exchange, the Secretary may convey all right, title, and interest of the United States in and to a parcel or parcels of real property and any improvements thereto located within the limits of the City and Borough of Juneau, Alaska and in the control of the Coast Guard if the Secretary determines that the exchange is in the best interest of the Coast Guard.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

TITLE XI—MISCELLANEOUS

SEC. 1101. FLORIDA AVENUE BRIDGE.

For purposes of the alteration of the Florida Avenue Bridge (located approximately 1.63 miles east of the Mississippi River on the Gulf Intracoastal Waterway in Orleans Parish, Louisiana) ordered by the Secretary of Transportation under the Act of June 21, 1940 (33 U.S.C. 511 et seq.), the Secretary shall treat the drainage siphon that is adjacent to the bridge as an appurtenance of the bridge, including with respect to apportionment and payment of costs for the removal of the drainage siphon in accordance with that Act.

SEC. 1102. OIL SPILL RECOVERY INSTITUTE.

(a) ADVISORY BOARD AND EXECUTIVE COMMITTEE.—Section 5001 of the Oil Pollution Act of 1990 (33 U.S.C. 2731) is amended—

(1) by striking "to be administered by the Secretary of Commerce" in subsection (a);

(2) by striking "and located" in subsection (a) and inserting "located";

(3) by striking "the EXXON VALDEZ oil spill" each place it appears in subsection (b)(2) and inserting "Arctic or Subarctic oil spills";

(4) by striking "18" in subsection (c)(1) and inserting "16";

(5) by striking ", Natural Resources, and Commerce and Economic Development" in subsection (c)(2)(A) and inserting a comma and "and Natural Resources";

(6) by striking subsection (c)(1) (B), (C), and (D);

(7) by redesignating subparagraphs (E) and (F) of subsection (c)(1) as subparagraphs (G) and (H), respectively;

(8) by inserting after subparagraph (A) of subsection (c)(1) the following:

"(B) One representative appointed by each of the Secretaries of Commerce, the Interior, and Transportation, who shall be Federal employees.

"(C) Two representatives from the fishing industry appointed by the Governor of the State of Alaska from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill, who shall serve terms of 2 years each. Interested organizations from within the fishing industry may submit the names of qualified individuals for consideration by the Governor.

"(D) Two Alaska Natives who represent Native entities affected by the EXXON VALDEZ oil spill, at least one of whom represents an entity located in Prince William Sound, appointed by the Governor of Alaska from a list of 4 qualified individuals submitted by the Alaska Federation of Natives, who shall serve terms of 2 years each.

"(E) Two representatives from the oil and gas industry to be appointed by the Governor of the State of Alaska who shall serve terms of 2 years each. Interested organizations from within the oil and gas industry may submit the names of qualified individuals for consideration by the Governor.

"(F) Two at-large representatives from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill who are knowledgeable about the marine environment and wildlife within Prince William Sound, and who shall serve terms of 2 years each, appointed by the remaining members of the Advisory Board. Interested parties may submit the names of qualified individuals for consideration by the Advisory Board.";

(9) adding at the end of subsection (c) the following:

"(4) SCIENTIFIC REVIEW.—The Advisory Board may request a scientific review of the research program every five years by the National Academy of Sciences which shall perform the review, if requested, as part of its responsibilities under section 7001(b)(2).";

(10) by striking "the EXXON VALDEZ oil spill" in subsection (d)(2) and inserting "Arctic or Subarctic oil spills";

(11) by striking "Secretary of Commerce" in subsection (e) and inserting "Advisory Board";

(12) by striking ", the Advisory Board," in the second sentence of subsection (e);

(13) by striking "Secretary's" in subsection (e) and inserting "Advisory Board's";

(14) by inserting "authorization in section 5006(b) providing funding for the" in subsection (i) after "The";

(15) by striking "this Act" in subsection (i) and inserting "the Coast Guard Authorization Act of 1995"; and

(16) by inserting "The Advisory Board may compensate its Federal representatives for their reasonable travel costs." in subsection (j) after "Institute.".

(b) FUNDING.—Section 5006 of the Oil Pollution Act of 1990 (33 U.S.C. 2736) is amended by—

(1) striking subsection (a), redesignating subsection (b) as subsection "(a)";

(2) striking "5003" in the caption of subsection (a), as redesignated, and inserting "5001, 5003,";

(3) inserting "to carry out section 5001 in the amount as determined in section 5006(b), and" after "limitation," in the text of subsection (a), as redesignated; and

(4) adding at the end thereof the following:

"(b) USE OF INTEREST ONLY.—The amount of funding to be made available annually to carry out section 5001 shall be the interest produced by the Fund's investment of the $22,500,000 remaining funding authorized for the Prince William Sound Oil Spill Recovery Institute and currently deposited in the Fund and invested by the Secretary of the Treasury in income producing securities along with other funds comprising the Fund.

"(c) USE FOR SECTION 1012.—Beginning with the eleventh year following the date of enactment of the Coast Guard Authorization Act of 1995, the funding authorized for the Prince William Sound Oil Spill Recovery Institute and deposited in the Fund shall thereafter be made available for purposes of section 1012 in Alaska.".

(c) CONFORMING AMENDMENTS.—

(1) Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by striking "5006(b)" and inserting "5006".

(2) Section 7001(c)(9) the Oil Pollution Act of 1990 (33 U.S.C. 2761(c)(9)) is amended by striking the period at the end thereof and inserting "until the authorization for funding under section 5006(b) expires".

SEC. 1103. LIMITED DOUBLE HULL EXEMPTIONS.

(a) IN GENERAL.—The double hull construction requirements of section 3703a of title 46, United States Code, do not apply to—

(1) a vessel documented under chapter 121 of title 46, United States Code, that was equipped with a double hull before August 12, 1992;

(2) a barge of less than 1,500 gross tons carrying refined petroleum product in bulk as cargo in or adjacent to waters of the Bering Sea, Chukchi Sea, and Arctic Ocean and waters tributary thereto and in the waters of the Aleutian Islands and the Alaskan Peninsula west of 155 degrees west longitude; or

(3) a vessel in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744).

(b) AUTHORITY OF THE SECRETARY OF TRANSPORTATION.—

(1) OPERATION OF BARGES IN OTHER WATERS.—The operation of barges described in subsection (a)(2) outside waters described in that subsection shall be on such conditions as the Secretary of Transportation may require.

(2) NO EFFECT ON OTHER AUTHORITY OF THE SECRETARY.—Except as provided in subsection (a), nothing in this section affects the authority of the Secretary of Transportation to regulate the construction, operation, or manning of barges and vessels in accordance with applicable laws and regulations.

(c) BARGE DEFINED.—For purposes of this section, the term "barge" has the meaning given that term in section 2101 of title 46, United States Code.

SEC. 1104. OIL SPILL RESPONSE VESSELS.

(a) DESCRIPTION.—Section 2101 of title 46, United States Code, is amended—

(1) by redesignating paragraph (20a) as (20b); and

(2) by inserting after paragraph (20) the following new paragraph:

"(20a) 'oil spill response vessel' means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.".

(b) EXEMPTION FROM LIQUID BULK CARRIAGE REQUIREMENTS.—Section 3702 of title 46, United States Code, is amended by adding at the end thereof the following:

"(f) This chapter does not apply to an oil spill response vessel if—

"(1) the vessel is used only in response-related activities; or

"(2) the vessel is—

"(A) not more than 500 gross tons;

"(B) designated in its certificate of inspection as an oil spill response vessel; and

"(C) engaged in response-related activities.".

(c) MANNING.—Section 8104(p) of title 46, United States Code, is amended to read as follows:

"(p) The Secretary may prescribe the watchstanding and work hours requirements for an oil spill response vessel.".

(d) MINIMUM NUMBER OF LICENSED INDIVIDUALS.—Section 8301(e) of title 46, United States Code, is amended to read as follows:

"(e) The Secretary may prescribe the minimum number of licensed individuals for an oil spill response vessel.".

(e) MERCHANT MARINER DOCUMENT REQUIREMENTS.—Section 8701(a) of title 46, United States Code, is amended—

(1) by striking "and" after the semicolon at the end of paragraph (7),

(2) by striking the period at the end of paragraph (8) and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) the Secretary may prescribe the individuals required to hold a merchant mariner's document serving onboard an oil spill response vessel.".

(f) EXEMPTION FROM TOWING VESSEL REQUIREMENT.—Section 8905 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(c) Section 8904 of this title does not apply to an oil spill response vessel while engaged in oil spill response or training activities.".

(g) INSPECTION REQUIREMENT.—Section 3301 of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(14) oil spill response vessels.".

SEC. 1105. SENSE OF THE CONGRESS REGARDING PASSENGERS ABOARD COMMERCIAL VESSELS.

It is the sense of the Congress that section 521(a)(1) of Public Law 103–182 (19 U.S.C. 58c(a)(5)) was intended to require the collection and remission of a fee from each passenger only one time in the course of a single voyage aboard a commercial vessel.

SEC. 1106. CALIFORNIA CRUISE INDUSTRY REVITALIZATION.

Section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(2)), commonly referred to as the "Johnson Act", is amended by adding at the end thereof the following:

"(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if it includes or consists of a segment—

"(i) that begins and ends in the same State;

"(ii) that is part of a voyage to another State or to a foreign country; and

"(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which it begins.".

SEC. 1107. LOWER COLUMBIA RIVER MARINE FIRE AND SAFETY ACTIVITIES.

The Secretary of Transportation is authorized to expend out of the amounts appropriated for the Coast Guard for fiscal year 1996 not more than $491,000 for lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Marine Fire and Safety Association.

SEC. 1108. OIL POLLUTION RESEARCH TRAINING.

Section 7001(c)(2)(D) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(c)(2)(D)) is amended by striking "Texas;" and inserting "Texas, and the Center for Marine Training and Safety in Galveston, Texas;".

SEC. 1109. LIMITATION ON RELOCATION OF HOUSTON AND GALVESTON MARINE SAFETY OFFICES.

The Secretary of Transportation may not relocate the Coast Guard Marine Safety Offices in Galveston, Texas, and Houston, Texas. Nothing in this section prevents the consolidation of management functions of these Coast Guard authorities.

SEC. 1110. UNINSPECTED FISH TENDER VESSELS.

Section 3302 of Title 46, United States Code, is amended in subsection (c)(3)(A) by adding "(including fishery-related products)" after the word "cargo".

SEC. 1111. FOREIGN PASSENGER VESSEL USER FEES.

Section 3303 of title 46, United States Code, is amended—

(1) by striking "(a)" in subsection (a); and

(2) by striking subsection (b).

SEC. 1112. COAST GUARD USER FEES.

(a) FINDINGS.—The Congress finds the following:

(1) The Secretary of Transportation is authorized under subsection 10401(g) of the Omnibus Budget Reconciliation Act of 1990 (46 U.S.C. 2110(g)) to exempt persons from the requirement to pay Coast Guard inspection user fees if it is in the public interest to do so.

(2) Publicly-owned ferries serve the public interest by providing necessary, and in many cases, the only available, transportation between locations divided by bodies of water.

(3) Small passenger vessels serve the public interest by providing vital small business opportunities in virtually every coastal city of the United States and by providing important passenger vessels services.

(4) During the Coast Guard inspection user fee rulemaking process, small passenger vessel operators informed the Coast Guard that proposed user fees were excessive and would force small passenger operators out of business, leaving many areas without small passenger vessel services required by the public.

(5) The Secretary of Transportation failed to adequately protect the public interest and failed to follow Congressional intent by establishing Coast Guard inspection user fees for small passenger vessels which exceed the ability of these small businesses to pay the fees and by establishing Coast Guard inspection user fees for publicly-owned ferries.

(b) LIMITS ON USER FEES.—Section 10401(g) of the Omnibus Budget Reconciliation Act of 1990 (46 U.S.C. 2110(a)(2)) is amended by adding after "annually." the following: "The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a small passenger vessel under this title that is more than $300 annually for such vessels under 65 feet in length, or more than $600 annually for such vessels 65 feet in length and greater. The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination under this title for any publicly-owned ferry.".

SEC. 1113. VESSEL FINANCING.

(a) DOCUMENTATION CITIZEN ELIGIBLE MORTGAGEE.—Section 31322(a)(1)(D) of title 46, United States Code, is amended—

(1) by striking "or" at the end of clause (v);

(2) by striking the period at the end of clause (vi) and inserting "; or"; and

(3) by adding at the end the following:

"(vii) a person eligible to own a documented vessel under chapter 121 of this title.".

(b) AMENDMENT TO TRUSTEE RESTRICTIONS.—Section 31328(a) of title 46, United States Code, is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; or"; and

(3) by adding at the end the following:

"(5) is a person eligible to own a documented vessel under chapter 121 of this title.".

(c) LEASING.—Section 12106 of title 46, United States Code, is amended by adding at the end the following:

"(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

"(A) the person that owns the vessel, a parent entity of that person, or a subsidiary of a parent entity of that person, is primarily engaged in leasing or other financing transactions;

"(B) the vessel is under a demise charter to a person qualifying as a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916, and it is certified that there are no other agreements, arrangements, or understandings between the vessel owner and the demise charterer with respect to the operation or management of the vessel;

"(C) the demise charter—

"(i) is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary; and

"(ii) charter hire is not significantly greater than that prevailing in the commercial market; and

"(D) the vessel is otherwise eligible for documentation under section 12102.

"(2) The demise charter and any amendments to that charter shall be filed with the certificate required by this subsection, or within 10 days following the filing of an amendment to the charter, and such charter and amendments shall be made available to the public.

"(3) Upon default by a demise charterer required under paragraph (1)(C), the coastwise endorsement of the vessel may, in the sole discretion of the Secretary, be continued after the termination for default of the demise charter for a period not to exceed 6 months on such terms and conditions as the Secretary may prescribe.

"(4) For purposes of section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection is deemed to be owned exclusively by citizens of the United States.

"(5) A vessel eligible for documentation or to be endorsed with a coastwise endorsement under this subsection is not eligible for a fishery endorsement under section 12108.".

(d) CONFORMING AMENDMENT.—Section 9(c) of the Shipping Act, 1916, as amended (46 U.S.C. App. 808(c)) is amended by striking "sections 31322(a)(1)(D)" and inserting "sections 12106(e), 31322(a)(1)(D),".

SEC. 1114. MANNING AND WATCH REQUIREMENTS ON TOWING VESSELS ON THE GREAT LAKES.

(a) Section 8104(c) of title 46, United States Code, is amended—

(1) by striking "or permitted"; and

(2) by inserting after "day" the following: "or permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period".

(b) Section 8104(e) of title 46, United States Code, is amended by striking "subsections (c) and (d)" and inserting "subsection (d)".

(c) Section 8104(g) of title 46, United States Code, is amended by striking "(except a vessel to which subsection (c) of this section applies)".

SEC. 1115. REPEAL OF GREAT LAKES ENDORSEMENTS.

(a) REPEAL.—Section 12107 of title 46, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) The analysis at the beginning of chapter 121 of title 46, United States Code, is amended by striking the item relating to section 12107.

(2) Section 12101(b)(3) of title 46, United States Code, is repealed.

(3) Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by striking "or 12107".

(4) Section 2793 of the Revised Statutes of the United States (46 App. U.S.C. 111, 123) is amended—

(A) by striking "coastwise, Great Lakes endorsement" and all that follows through "foreign ports," and inserting "registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada,"; and

(B) by striking ", as if from or to foreign ports".

(5) Section 9302(a)(1) of title 46, United States Code, is amended by striking "subsections (d) and (e)" and inserting "subsections (d), (e) and (f)".

(6) Section 9302(e) of title 46, United States Code, is amended by striking "subsections (a) and (b)" and inserting "subsection (a)".

(7) Section 9302 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(f) A United States vessel operating between ports on the Great Lakes or between ports on the Great Lakes and the St. Lawrence River carrying no cargo obtained from a foreign port outside of the Great Lakes or carrying no cargo bound for a foreign port outside of the Great Lakes, is exempt from the requirements of subsection (a) of this section.".

SEC. 1116. RELIEF FROM UNITED STATES DOCUMENTATION REQUIREMENTS.

(a) IN GENERAL.—Notwithstanding any other law or any agreement with the United States Government, a vessel described in subsection (b) may be transferred to or placed under a foreign registry or sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) RAINBOW HOPE (United States official number 622178).

(2) IOWA TRADER (United States official number 642934).

(3) KANSAS TRADER (United States official number 634621).

(4) MV PLATTE (United States official number number 653210).

(5) SOUTHERN (United States official number 591902).

(6) ARZEW (United States official number 598727).

(7) LAKE CHARLES (United States official number 619531).

(8) LOUISIANA (United States official number 619532).

(9) GAMMA (United States official number 598730).

SEC. 1117. USE OF CANADIAN OIL SPILL RESPONSE AND RECOVERY VESSELS.

Notwithstanding any other provision of law, oil spill response and recovery vessels of Canadian registry may operate in waters of the United States adjacent to the border between Canada and the State of Maine, on an emergency and temporary basis, for the purpose of recovering, transporting, and unloading in a United States port oil discharged as a result of an oil spill in or near such waters, if an adequate number and type of oil spill response and recovery vessels documented under the laws of the United States cannot be engaged to recover oil from an oil spill in or near those waters in a timely manner, as determined by the Federal On-Scene Coordinator for a discharge or threat of a discharge of oil.

SEC. 1118. JUDICIAL SALE OF CERTAIN DOCUMENTED VESSELS TO ALIENS.

Section 31329 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(f) This section does not apply to a documented vessel that has been operated only for pleasure.".

SEC. 1119. IMPROVED AUTHORITY TO SELL RECYCLABLE MATERIAL.

Section 641(c)(2) of title 14, United States Code, is amended by inserting before the period the following: ", except that the Commandant may conduct sales of materials for which the proceeds of sale will not exceed $5,000 under regulations prescribed by the Commandant".

SEC. 1120. DOCUMENTATION OF CERTAIN VESSELS.

(a) GENERAL CERTIFICATES.—Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) ALPHA TANGO (United States official number 945782).

(2) AURA (United States official number 1027807).

(3) BABS (United States official number 1030028).

(4) BAGGER (State of Hawaii registration number HA1809E).

(5) BILLY BUCK (United States official number 939064).

(6) CAPTAIN DARYL (United States official number 580125).

(7) CHRISSY (State of Maine registration number 4778B).

(8) CONSORTIUM (United States official number 303328).

(9) DRAGONESSA (United States official number 646512).

(10) EMERALD AYES (United States official number 986099).

(11) ENDEAVOUR (United States official number 947869).

(12) EVENING STAR (Hull identification number HA2833700774 and State of Hawaii registration number HA8337D).

(13) EXPLORER (United States official number 918080).

(14) FOCUS (United States official number 909293).

(15) FREJA VIKING (Danish registration number A395).

(16) GLEAM (United States official number 921594).

(17) GOD'S GRACE II (State of Alaska registration number AK5916B).

(18) HALCYON (United States official number 690219).

(19) IDUN VIKING (Danish registration number A433).

(20) INTREPID (United States official number 508185).

(21) ISABELLE (United States official number 600655).

(22) JAJO (Hull identification number R1Z200207H280 and State of Rhode Island registration number 388133).

(23) LADY HAWK (United States official number 961095).

(24) LIV VIKING (Danish registration number A394).

(25) MAGIC CARPET (United States official number 278971).

(26) MARANTHA (United States official number 638787).

(27) OLD HAT (United States official number 508299).

(28) ONRUST (United States official number 515058).

(29) PERSEVERANCE (Serial number 77NS8901).

(30) PRIME TIME (United States official number 660944).

(31) QUIETLY (United States official number 658315).

(32) RESOLUTION (Serial number 77NS8701).

(33) ROYAL AFFAIRE (United States official number 649292).

(34) SARAH-CHRISTEN (United States official number 542195).

(35) SEA MISTRESS (United States official number 696806).

(36) SERENITY (United States official number 1021393).

(37) SHAMROCK V (United States official number 900936).

(38) SHOOTER (United States official number 623333).

(39) SISU (United States official number 293648).

(40) SUNRISE (United States official number 950381).

(41) TOO MUCH FUN (United States official number 936565).

(42) TRIAD (United States official number 988602).

(43) WEST FJORD (Hull identification number X-53-109).

(44) WHY NOT (United States official number 688570).

(45) WOLF GANG II (United States official number 984934).

(46) YES DEAR (United States official number 578550).

(47) 14 former United States Army hovercraft with serial numbers LACV-30-04, LACV-30-05, LACV 30-07, LACV-30-09, LACV-30-10, LACV-30-13, LACV-30-14, LACV-30-15, LACV-30-16, LACV-30-22, LACV-30-23, LACV-30-24, LACV-30-25, and LACV-30-26.

(b) M/V TWIN DRILL.—Section 601(d) of the Coast Guard Authorization Act of 1993 (Public Law 103-206, 107 Stat. 2445) is amended—

(1) by striking "June 30, 1995" in paragraph (3) and inserting "June 30, 1996"; and

(2) by striking "12 months" in paragraph (4) and inserting "24 months".

(c) CERTIFICATES OF DOCUMENTATION FOR GALLANT LADY.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and section 12106 of title 46, United States Code, and subject to paragraph (2), the Secretary of Transportation may issue a certificate of documentation with an appropriate endorsement for employment in coastwise trade for each of the following vessels:

(A) GALLANT LADY (Feadship hull number 645, approximately 130 feet in length).

(B) GALLANT LADY (Feadship hull number 651, approximately 172 feet in length).

(2) LIMITATION ON OPERATION.—Coastwise trade authorized under a certificate of documentation issued for a vessel under this section shall be limited to the carriage of passengers in association with contributions to charitable organizations no portion of which

is received, directly or indirectly, by the owner of the vessel.

(3) CONDITION.—The Secretary may not issue a certificate of documentation for a vessel under paragraph (1) unless, not later than 90 days after the date of enactment of this Act, the owner of the vessel referred to in paragraph (1)(B) submits to the Secretary a letter expressing the intent of the owner to, before April 1, 1997, enter into a contract for the construction in the United States of a passenger vessel of at least 130 feet in length.

(4) EFFECTIVE DATE OF CERTIFICATES.—A certificate of documentation issued under paragraph (1) shall take effect—

(A) for the vessel referred to in paragraph (1)(A), on the date of the issuance of the certificate; and

(B) for the vessel referred to in paragraph (1)(B), on the date of delivery of the vessel to the owner.

(5) TERMINATION OF EFFECTIVENESS OF CERTIFICATES.—A certificate of documentation issued for a vessel under paragraph (1) shall expire—

(A) on the date of the sale of the vessel by the owner;

(B) on April 1, 1997, if the owner of the vessel referred to in paragraph (1)(B) has not entered into a contract for construction of a vessel in accordance with the letter of intent submitted to the Secretary under paragraph (3); or

(C) on such date as a contract referred to in paragraph (2) is breached, rescinded, or terminated (other than for completion of performance of the contract) by the owner of the vessel referred to in paragraph (1)(B).

(d) CERTIFICATES OF DOCUMENTATION FOR ENCHANTED ISLE AND ENCHANTED SEAS.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Act of June 19, 1886 (46 U.S.C. App. 289), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1156), and any agreement with the United States Government, the Secretary of Transportation may issue certificates of documentation with a coastwise endorsement for the vessels ENCHANTED ISLES (Panamanian official number 14087-84B) and ENCHANTED SEAS (Panamanian official number 14064-84D), except that the vessels may not operate between or among islands in the State of Hawaii.

SEC. 1121. VESSEL DEEMED TO BE A RECREATIONAL VESSEL.

The vessel, an approximately 96 meter twin screw motor yacht for which construction commenced in October, 1993, and which has been assigned the builder's number 13583 (to be named the LIMITLESS), is deemed for all purposes, including title 46, United States Code, and all regulations thereunder, to be a recreational vessel of less than 300 gross tons if it does not—

(1) carry cargo or passengers for hire; or

(2) engage in commercial fisheries or oceanographic research.

SEC. 1122. SMALL PASSENGER VESSEL PILOT INSPECTION PROGRAM WITH THE STATE OF MINNESOTA.

(a) IN GENERAL.—The Secretary may enter into an agreement with the State under which the State may inspect small passenger vessels operating in waters of that State designated by the Secretary, if—

(1) the State plan for the inspection of small passenger vessels meets such requirements as the Secretary may require to ensure the safety and operation of such vessels in accordance with the standards that would apply if the Coast Guard were inspecting such vessels; and

(2) the State will provide such information obtained through the inspection program to the Secretary annually in such form and in such detail as the Secretary may require.

(b) FEES.—The Secretary may adjust or waive the user fee imposed under section 3317 of title 46, United States Code, for the inspection of small passenger vessels inspected under the State program.

(c) TERMINATION.—The authority provided by subsection (a) terminates on December 31, 1998.

(d) DEFINITIONS.—For purposes of this section—

(1) SECRETARY.—The term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(2) STATE.—The term "State" means the State of Minnesota.

(3) SMALL PASSENGER VESSEL.—The term "small passenger vessel" means a small passenger vessel (as defined in section 2101(35) of title 46, United States Code) of not more than 40 feet overall in length.

SEC. 1123. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS FISHING.

Section 8103(i)(1) of title 46, United States Code, is amended—

(1) by striking "or" in subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(D) an alien allowed to be employed under the immigration laws of the Commonwealth of the Northern Mariana Islands if the vessel is permanently stationed at a port within the Commonwealth and the vessel is engaged in the fisheries within the exclusive economic zone surrounding the Commonwealth or another United States territory or possession.

SEC. 1124. AVAILABILITY OF EXTRAJUDICIAL REMEDIES FOR DEFAULT ON PREFERRED MORTGAGE LIENS ON VESSELS.

(a) AVAILABILITY OF EXTRAJUDICIAL REMEDIES.—Section 31325(b) of title 46, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking "mortgage may" and inserting "mortgagee may";

(2) in paragraph (1) by—

(A) striking "perferred" and inserting "preferred"; and

(B) striking "; and" and inserting a semicolon; and

(3) by adding at the end the following:

"(3) enforce the preferred mortgage lien or a claim for the outstanding indebtedness secured by the mortgaged vessel, or both, by exercising any other remedy (including an extrajudicial remedy) against a documented vessel, a vessel for which an application for documentation is filed under chapter 121 of this title, a foreign vessel, or a mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness, if—

"(A) the remedy is allowed under applicable law; and

"(B) the exercise of the remedy will not result in a violation of section 9 or 37 of the Shipping Act, 1916 (46 U.S.C. App. 808, 835).".

(b) NOTICE.—Section 31325 of title 46, United States Code, is further amended by adding at the end the following:

"(f)(1) Before title to the documented vessel or vessel for which an application for documentation is filed under chapter 121 is transferred by an extrajudicial remedy, the person exercising the remedy shall give notice of the proposed transfer to the Secretary, to the mortgagee of any mortgage on the vessel filed in substantial compliance with section 31321 of this title before notice of the proposed transfer is given to the Secretary, and to any person that recorded a notice of a claim of an undischarged lien on the vessel under section 31343(a) or (d) of this title before notice of the proposed transfer is given to the Secretary.

"(2) Failure to give notice as required by this subsection shall not affect the transfer of title to a vessel. However, the rights of any holder of a maritime lien or a preferred mortgage on the vessel shall not be affected by a transfer of title by an extrajudicial remedy exercised under this section, regardless of whether notice is required by this subsection or given.

"(3) The Secretary shall prescribe regulations establishing the time and manner for providing notice under this subsection.".

(c) RULE OF CONSTRUCTION.—The amendments made by subsections (a) and (b) may not be construed to imply that remedies other than judicial remedies were not available before the date of enactment of this section to enforce claims for outstanding indebtedness secured by mortgaged vessels.

SEC. 1125. OFFSHORE FACILITY FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) AMOUNT OF FINANCIAL RESPONSIBILITY.—Section 1016(c)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2716(c)(1)) is amended to read as follows:

"(1) IN GENERAL.—

"(A) EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED.—Except as provided in paragraph (2), a responsible party with respect to an offshore facility that—

"(i)(I) is located seaward of the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters; or

"(II) is located in inland waters, such as coastal bays or estuaries, seaward of the line of ordinary low water along that portion of the coast that is not in direct contact with the open sea;

"(ii) is used for exploring for, drilling for, or producing oil, or for transporting oil from facilities engaged in oil exploration, drilling, or production; and

"(iii) has a worst-case oil spill discharge potential of more than 1,000 barrels of oil (or a lesser amount if the President determines that the risks posed by such facility justify it),

shall establish and maintain evidence of financial responsibility in the amount required under subparagraph (B) or (C), as applicable.

"(B) AMOUNT REQUIRED GENERALLY.—Except as provided in subparagraph (C), the amount of financial responsibility for offshore facilities that meet the criteria in subparagraph (A) is—

"(i) $35,000,000 for offshore facilities located seaward of the seaward boundary of a State; or

"(ii) $10,000,000 for offshore facilities located landward of the seaward boundary of a State.

"(C) GREATER AMOUNT.—If the President determines that an amount of financial responsibility for a responsible party greater than the amount required by subparagraphs (B) and (D) is justified by the relative operational, environmental, human health, and other risks posed by the quantity or quality of oil that is explored for, drilled for, produced, stored, handled, transferred, processed or transported by the responsible party, the evidence of financial responsibility required shall be for an amount determined by the President not exceeding $150,000,000.

"(D) MULTIPLE FACILITIES.—In the case in which a person is a responsible party for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the amount applicable to the facility having the greatest financial responsibility requirement under this subsection.

"(E) STATE JURISDICTION.—The requirements of this paragraph shall not apply if an offshore facility located landward of the seaward boundary of a State is required by such State to establish and maintain evidence of financial responsibility in a manner comparable to, and in an amount equal to or greater than, the requirements of this paragraph.

"(F) DEFINITION.—For the purpose of this paragraph, the phrase "seaward boundary of a State" shall mean the boundaries described in section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)).".

SEC. 1126. DEAUTHORIZATION OF NAVIGATION PROJECT, COHASSET HARBOR, MASSACHUSETTS.

The following portions of the project for navigation, Cohasset Harbor, Massachusetts, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 12), or carried out pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), are deauthorized: A 7-foot deep anchorage and a 6-foot deep anchorage; beginning at site 1, starting at a point N453510.15, E792664.63, thence running south 53 degrees 07 minutes 05.4 seconds west 307.00 feet to a point N453325.90, E792419.07, thence running north 57 degrees 56 minutes 36.8 seconds west 201.00 feet to a point N453432.58, E792248.72, thence running south 88 degrees 57 minutes 25.6 seconds west 50.00 feet to a point N453431.67, E792198.73, thence running north 01 degree 02 minutes 52.3 seconds west 66.71 feet to a point N453498.37, E792197.51, thence running north 69 degrees 12 minutes 52.3 seconds east 332.32 feet to a point N453616.30, E792508.20, thence running south 55 degrees 50 minutes 24.1 seconds east 189.05 feet to point of origin; then site 2, starting at a point, N452886.64, E791287.83, thence running south 00 degrees 00 minutes 00.0 seconds west 56.04 feet to a point, N452830.60, E791287.83, thence running north 90 degrees 00 minutes 00.0 seconds west 101.92 feet to a point, N452830.60, E791185.91, thence running north 52 degrees 12 minutes 49.7 seconds east 89.42 feet to a point, N452885.39, E791256.58, thence running north 87 degrees 42 minutes 33.8 seconds east 31.28 feet to point of origin; and site 3, starting at a point, N452261.08, E792040.24, thence running north 89 degrees 07 minutes 19.5 seconds east 118.78 feet to a point, N452262.90, E792159.01, thence running south 43 degrees 39 minutes 06.8 seconds west 40.27 feet to a point, N452233.76, E792131.21, thence running north 74 degrees 33 minutes 29.1 seconds west 94.42 feet to a point, N452258.90, E792040.20, thence running north 01 degree 03 minutes 04.3 seconds east 2.18 feet to point of origin.

NATIONAL FAMILY WEEK

Mr. LOTT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 146, relating to the National Family Week, and that the Senate then proceed to its immediate consideration; that the resolution and preamble be agreed to, en bloc; that the motions to reconsider be laid upon the table, en bloc; and that any statements appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 146) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 146

Whereas the family is the basic strength of any free and orderly society;

Whereas it is appropriate to honor the family as a unit essential to the continued well-being of the United States; and

Whereas it is fitting that official recognition be given to the importance of family loyalties and ties: Now, therefore, be it

Resolved, That the Senate designates the week beginning on November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week". The Senate requests the President to issue a proclamation calling on the people of the United States to observe each week with appropriate ceremonies and activities.

ORDERS FOR SATURDAY, NOVEMBER 18, 1995

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. on Saturday, November 18, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, negotiations will continue tomorrow on the continuing resolution and balanced budget language. Therefore, rollcall votes are possible during Saturday's session of the Senate.

ORDER FOR RECESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate stand in recess following the remarks of the Senator from Virginia, Senator WARNER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Since the Senator from Virginia is not here at this moment, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATUS OF THE GOVERNMENT SHUTDOWN

Mr. WARNER. Mr. President, throughout the day, I have been in consultation with Members of the House of Representatives representing northern Virginia and other regions, as well as many other of the Senators here, including my distinguished colleague, Senator LOTT.

On behalf of many Senators, I say to our distinguished whip—at the moment, the acting majority leader—there is a strong desire to put the Government back to work, but doing it only once we reach an agreement on this CR. It had been my hope and expectation today that, assuming the President agrees to not more than 7 years for the decision to reach and get a balanced budget—that is the keystone of the architecture on which to build a compromise, given that we can reach a level of expenditures which would enable the Government to function between now and, say, the middle of December. That leaves the middle ground of the important method by which the economic assumptions are made, which assumptions lay out the course to reach a balanced budget by no later than 2002. And I will be a part of the meetings tomorrow on this CR with the distinguished acting majority leader. But I hope that you can provide some encouragement that this area of the economic assumptions will be examined in terms of some measure of compromise.

Mr. LOTT. If the Senator will yield for a response, Mr. President, I do want to take note of the fact that there have been discussions underway today between the majority leadership and the White House representatives. I know the Senator from Virginia has been following that very closely. I know he and the majority leader and the Members of Congress would like to see this matter resolved so that we could get an agreement on the level of the continuing spending resolution; but, more importantly, that we also get a commitment to this 7-year balanced budget; the two are linked together. They are very important, and we believe that an agreement should be reached so that the Federal workers in this area, and around the country, should and can go back to work.

We feel that the President should commit to that 7-year balanced budget by the year 2002. We think there must be honest numbers in how that is achieved. It cannot be done by some of the smoke and mirrors we have seen in the past. But the efforts will continue Saturday morning, as the Senator noted. I know he will be here on duty working to try to achieve that goal. I think it is possible, and I certainly hope it can be done. And if it is done, then we can go forward with serious negotiations to reach an agreement to achieve a balanced budget for all of the people of this country.

Mr. WARNER. Mr. President, I thank the distinguished leader. Just a concluding observation. Assuming that we can get a CR—and I strongly believe if we can reach some form of understanding on the manner in which we establish the economic assumptions, we could have a very strong participation from the Democratic side; and given that bipartisanship, it is this Senator's belief that we could then hope to have an equally strong bipartisan and serious address of this important act we just passed, the balanced budget act of 1995.

Mr. LOTT. To respond, I certainly hope so. Again, I want to emphasize that it is important that it be very carefully worded, carefully crafted. We cannot agree to wording that would not achieve the goals that were voted on just a short time ago here in this body of a balanced budget in 7 years. We faced the tough decisions, we have made them, we voted for it, and it is passed.

But if we can get the agreement along the lines we talked about, I think it would have very strong bipartisan support. As a matter of fact, I know that there is growing support on both sides of the aisle to make this commitment to a balanced budget. We did not get any votes from the other side of the aisle just a few minutes ago, but I know there is a growing discomfort because three-fourths of the American people fully believe we should have a balanced budget. They want that commitment. And what the President has been saying, quite frankly, is he wants more spending, and he does not want a balanced budget. That is beginning to have a negative impact on him. So I think there is movement, and there should be. We should work this out. We should do the people's business. The President vetoed the continuing resolution that provided for more spending. He shut down the Government. But everybody has made their points now, and we need to get serious about reaching an agreement. I think that it is possible.

Mr. WARNER. I thank the distinguished acting majority leader, and particularly for his invaluable service as a liaison with the House on this, in bringing to bear his experience there as whip. I hope tomorrow we can make further progress on this matter. I thank the leader.

Mr. President, I anticipate the order in process will now put the Senate into recess.

RECESS UNTIL 9:15 A.M TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:15 a.m. tomorrow.

Thereupon, the Senate, at 10:07 p.m., recessed until Saturday, November 18, 1995, at 9:15 a.m.

HOUSE OF REPRESENTATIVES—*Friday, November 17, 1995*

The House met at 9:30 a.m. and was called to order by the Speaker.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we naturally look to our own needs, wishes, and petitions, help us to discern, O God, that our faith is not limited only to ourselves and our own concerns, but we are enrolled in the human family and we accept our responsibility in that family. So we should pray for each other, encourage and forgive one another, and live together in a spirit of respect and appreciation. May our prayers bring us a greater awareness of the human family, may our mutual concerns help us grow beyond our own boundaries, and may Your spirit lead us in the paths of peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance?

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair announces there will be fifteen 1-minute speeches on each side.

WHO IS RUNNING THE GOVERNMENT?

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, we have been in a real quandary here. The President asked for a clean continuing resolution; we gave it to him. The President said he wanted to balance the budget; we gave him a commitment, a 7-year commitment to balancing the budget with exactly the scoring from CBO that he asked for.

So we have to ask the question about who is running things? Well, we found out. "I am running the country." We heard this yesterday. Clearly, that must have been the President. Well, maybe the Vice President. Was it Alexander Haig? Could it have been Socks? No.

It was Dick Morris, the President's guru, the President's consultant.

No wonder we give the President exactly what he wants: Put the Federal workers back to work, end this silliness, and we find out it is Dick Morris all along.

TYPICAL TRICKLE-DOWN ECONOMICS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, day four of the Gingrich gridlock; 800,000 Federal workers sent home without pay while Mr. GINGRICH, the Republican leadership, and Members of Congress continue to draw their own paychecks. That is why we need No Budget, No Pay, a proposal which I put on the books in September which says that if the Government shuts down, Members of Congress stop receiving their paychecks.

Now the Gingrich Republicans want us to take the weekend off, leave Saturday evening, be home on Sunday, come back late on Monday, while the Government is shut down. Frankly, this is a terrible idea. We should stay here and do our work and get this Government running.

Today on the floor you are going to hear what this debate is all about. The Gingrich budget comes up with deep cuts in Medicare to pay for a tax break for the wealthiest people in America.

Listen to this. If you happen to make $600,000 in income, pay close attention; Mr. GINGRICH wants to give you a $14,000 tax cut. If you happen to be in the lower 20 percent of Americans making around $6,000, guess what? You are going to pay more. Typical trickle-down economics.

A GIFT FOR VIRGIL

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Mr. Speaker, my good friend Virgil Aryers is in the hospital back home, and I have him on my mind today. He is in my thoughts and in my prayers, but I am excited about today for him, because we are going to be able to give him a little present. I know that Virgil is on Medicare, and I know that he wants us to save that program, and he wants us to improve it and make it better, and today we do just that.

For 2 years Virgil has been asking me to balance the budget. Well, today we are going to do that in a 7-year time period with no gimmicks, no tricks, plain balance this budget.

Mr. Speaker, Virgil wants to do that because of his children. He realizes those children must have a good 21st century in which to live and one in which they do not have $6 trillion worth of debt. I know how hard Virgil's children work, and they are very pleased that we are going to allow them to keep some of their own money.

Mr. Speaker, we are going to do what we said and balance this budget over 7 years, for our children.

LET US STOP BUSINESS AS USUAL

(Mr. LUTHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUTHER. Mr. Speaker, I came here to change the way Washington operates, to balance the budget and to do so in a common sense way that invests in America's values and future.

My biggest disappointment is how business as usual seems to continue in Washington, pork barrel spending, partisan speech making, and now the actual shutdown of Government itself. Only in Washington could Congress exempt itself from this situation, with staff staying on and typing more speeches and more press releases.

Fellow Members, I closed my offices and furloughed my entire staff, because that is how the real world operates. In the real world, when you do not do your job, tomorrow is not business as usual. When there is no money in your account, you do not keep your door open and your employees on.

As a new Democrat here, I ask both new Democrats and new Republicans to join me in stopping business as usual in Washington. Let us set down and work together for the good of our country.

AMERICANS SEEING HOPE FOR THE FUTURE

(Mr. TIAHRT asked and was given permission to address the House for 1

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, the Senate joined with the House and 80 percent of Americans and said, let us balance the budget in 7 years; let us get the show on the road.

This balanced budget increases Medicare, goes from $4,800 to $6,700, it increases student loans, it does not repeal one environmental law, and it includes tax breaks for families, for middle-income workers. That allows the President to overcome the mistake he made in 1993 by raising our taxes.

Now the stock market is up; the bond market is up. Why? Because finally Americans are seeing hope for the future in the form of a balanced budget. To quote someone quite important, "If not now, when? If not us, who?"

Mr. President, let us do it.

TIJUANA HOOTERS?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, since 1991 4.5 million Americans have lost their livable-wage jobs; 4.5 million. It has gotten so bad that men have filed a complaint with the Equal Employment Opportunity Commission so that they can wear tank tops and panty hose and work at Hooters Restaurant.

Mr. Speaker, do you want to hear what is really crazy? The Government said they are right. I say to my colleagues, something is wrong when men are willing to wear brassieres and panty hose around here to get a job in America. What is next? Tijuana Hooters?

While we are talking about this type of garbage around here, both parties had a 7-year budget plan, and to tell you the truth, neither one of them is going to work. And the Democrats even want a line-item veto. Beam me up, Mr. Speaker. I do not want to be employed by Tijuana Hooters.

BUSYBODY BUREAUCRATS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute.)

Mr. KINGSTON. Mr. Speaker, I want to follow up on my friend from Ohio's comments. Talk about nonessential employees. The EEOC has come in and told Hooters, as the gentleman said, to hire men who look like that to work in their restaurants and then, among other things, from the crowd who brought you the $435 hammer, they are saying that Hooters needs to teach employees to be more sensitive to men's needs.

They are sensitive to men's needs. That is why they are making millions of dollars. There is nothing that men like more than an abundance of Buffalo wings and breasts. Think about it. That is what Jay Leno said last night.

The Federal Government is $4.9 trillion in debt, Hooters is making millions of dollars, and they are coming in and telling Hooters how to run their business. These busybody bureaucrats are defining what it is to be a nonessential employee, and they are making the case for shutting down the Government.

Let us balance the budget and get rid of the busybody bureaucrats, so that if you go in to have a good meal, you will not have to look at that, Mr. Speaker.

MORE TAX CUTS FOR THE WEALTHY

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, after several weeks now of secret negotiations with the Republicans in the House and Senate, we finally get the Gingrich budget today, and it is the same thing as what we expected, it hurts seniors to provide tax breaks for the wealthy.

Essentially, seniors are going to be asked to pay more to get less; their part B Medicare premiums are going to double, hospitals and health care providers are squeezed so much that we will see hospitals close and the quality of care they provide reduced, and seniors will lose their choice of doctors because they will be pushed into HMO's where they do not have a choice of doctors.

It is not fair to America; it is not fair to the average American. It means that the quality of health care goes down, all to pay for more tax breaks for the wealthy and for the corporations.

Mr. Speaker, I would urge my colleagues, we have to defeat this budget. The President has to veto it so we can get back to do something that balances the budget and at the same time protects Americans and does not hurt American seniors.

TRIANGULATION BECOMING BIANGULATION

(Mr. GANSKE asked and was given permission to address the House for 1 minute.)

Mr. GANSKE. Mr. Speaker, everyone is now familiar with the infamous White House strategy of triangulation.

This describes President Clinton's strategy of distancing himself from the Republicans in Congress and the Democrats in Congress. It was devised by his political guru Dick Morris, the same man who yesterday said, "I run the government."

Well, both the Senate and the House have passed a continuing resolution that would keep the Government open and stipulates only one additional thing—that President Clinton agree to negotiate a 7-year balanced budget with honest numbers.

And, I am pleased to say, 49 Democrats voted with the Republicans in the House and 7 Democrats voted with the Republicans in the Senate for the proposal.

It seems that this triangulation strategy is fast becoming a biangulation strategy—those who support a balanced budget against those who do not.

Mr. Speaker, I urge President Clinton to stop with the political games and get down to serious governing. I urge President Clinton to sign the continuing resolution, open up the Government and commit himself to a 7-year balanced budget.

TAX CUTS FOR THE RICH

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, the whole Nation is waiting for us to settle this dispute. The difficulty is that in order to negotiate, you have to make certain that both sides have an open mind.

The major problem that our Republican friends have is that they decided a long time ago that they had to have this crown jewel of a $245 billion tax cut. Where did the figure come from? Why is it so important? Only God and NEWT GINGRICH know how they got that.

Another problem they have is that they said, let us talk about it, but they have decided it is 7 years. Well, at least the Speaker is honest enough to say he just made it up; it just sounded good to him.

Mr. Speaker, the third and the most vicious thing I think one of the leading candidates for President from the other body said, and that is that they have been voting against Medicare ever since it has been enacted. The record is abundantly clear that they want to get rid of Medicare and they want to give tax cuts to the rich.

POLITICAL SHOW TRIAL

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, it read like a bad movie, except it's true. This is the story of a career government employee, Billy Dale, a man now 58 years old who had worked for the last seven Presidents helping with travel reservations. But in 1993, the new President and his wife decided to fire the veterans in that office and replace them with relatives and cronies. Billy Dale was fired and the cronies were hired and the Travelgate scandal was born. It became so serious that it was at the center of the note found after Vince Foster's death.

But that was not the end of it for Billy Dale. Apparently, to justify the firing the White House had him investigated by the FBI for more than 2 years. They poured over every aspect of his life and then prosecuted him for supposed embezzlement. From all appearances, Billy Dale and his family were caught up in a political show trial. Yesterday, it took a jury only 2 hours to find him not guilty. This is not supposed to happen in America. But it did.

NO BALANCE IN BUDGET BILL

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today, the Gingrich budget comes to the floor. The Republicans like to call it the balanced budget plan but there is nothing balanced about Speaker GINGRICH'S bill.

There is nothing balanced about raiding Medicare to pay for a tax cut to the wealthy.

There is nothing balanced about slashing education while eliminating the corporate minimum tax.

There is nothing balanced about gutting environmental protection in order to placate corporate polluters.

There is nothing balanced about raising taxes on people making under $30,000 a year while cutting taxes for people making $500,000.

There is nothing balanced about the Gingrich budget, it takes from our most vulnerable citizens to lavish gifts upon the most well to do. to quote an old song, if the Republicans want the President to sign their budget: Try a little tenderness.

□ 0945

WORKING TOGETHER TO PASS A BALANCED BUDGET

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, options, options, options. That is all the President is left with these days. We all know he does not have any solutions of his own.

He chose one of those options. He shut down the Government. He chose poorly.

He did not want to talk about it, but let me outline what his other option was. He could have agreed, in principle, to the idea that we should balance the budget in 7 years. He could have sat down and worked with Republicans to pass a balanced budget.

But the President chose a different option. He chose to shut down the Government, because it made him look decisive—something that has not happened during his entire tenure as President.

Mr. Speaker, Republicans are simply trying to do what the American people have asked us to do—balance the budget. I wish the President would join us and end the Democrat legacy of passing the buck on to future generations.

GINGRICH PLAN CUTS SOCIAL PROGRAMS TO GIVE TAX BREAKS TO WEALTHY

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, the Speaker says one thing and does another. He said he wants to save Medicare, yet Speaker GINGRICH speaking to a group of insurance executives said he wants to let Medicare wither on the vine. He says he wants a balanced budget yet the Gingrich plan cuts $270 billion from Medicare to give tax breaks to the wealthiest people in this country. The Speaker said he wants opportunity for future generations. Yet the Gingrich plan cuts billions in student loans for working families. He said he wants to give a tax break to the middle class. Yet the Gingrich plan raises taxes on 13 million working families.

Sure, Mr. Speaker, listen to what the Speaker says, but more important pay attention to the Gingrich plan. It cuts Medicare, it cuts student loans to middle-class families, it raises taxes on working families, all to give a tax break to the richest people in this country.

REPUBLICANS COMMITTED TO BALANCED BUDGET

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Day four of the Clinton shutdown of the Government. Why? Because he cannot even agree in principle that we should balance the budget in 7 years. Let me say that again. The President will not even agree in principle that we should balance the budget in 7 years. We are not talking about specifics here. All we want the President to agree to is the concept that we should pass a plan based on independent, honest Congressional Budget Office numbers that balances the budget in 7 years. Period. But the President will not agree to a 7-year plan to balance the budget. Why? Because right now his pollsters and campaign advisers have told him that he needs to appear decisive. So the President is willing to keep the Government shut down.

Mr. Speaker, no more excuses, no more Washington gimmicks. Republicans are committed to a balanced budget. It is time for the President, not Dick Morris who evidently is running the country, to join in that commitment.

DEMOCRATS ASK FOR FAIRNESS

(Mr. BRYANT of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRYANT of Texas. The last speech, Mr. Speaker, has got to top all of them this morning for turning the facts on their head. The fact of the matter is it is the obligation of the Congress to pass a budget. We are 45 days late. It was supposed to be passed by October 1, and no budget has been sent to the President. That is why the Government is shut down. The President himself of course has not done it.

The fact of the matter is that the Republicans want to send him a budget, although they have not done it yet, that relies upon drastic cuts in the Medicare insurance program for elderly people and big tax breaks for the wealthy to get to what they call a balanced budget.

Everybody wants a balanced budget, but the top 1 percent have an average income of $600,000 a year. They get a tax cut under this Republican plan of $15,000 while the bottom 20 percent with an average income of $6,000 a year either get no tax cut or many of them get a tax increase of $173 a year. That is not fair, and until it is fair, Democrats will continue to vote "no."

THE BUDGET SHOWDOWN

(Ms. DUNN of Washington asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN of Washington. Mr. Speaker, 5 years ago candidate Clinton promised that he would present and support a 5-year balanced budget plan. He never followed through. Later he said we could balance the budget in 10 years, and then 9 years and then 7 years. Of the two budgets he did introduce to Congress this year, neither of them brings the deficit down at all. In fact in 2005 under President Clinton's budget, the deficit will be over $200 billion.

Mr. Speaker, this whole budget showdown really goes to the issue of credibility. Does anybody really doubt what would happen if the other side were still in charge? Is there any doubt they would raise our taxes, make government bigger, deficits worse and that they will do it all in the name of compassion? I do not think so.

Mr. Speaker, I challenge the President to break with the past and keep at least one of the promises he made as a candidate. Come to the table, Mr. President. Help us balance this budget.

NOT THIS TURKEY ON THANKSGIVING

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, Speaker GINGRICH is bringing his budget to serve to America's families at their Thanksgiving table. The Gingrich budget stands family values as we know them on their head. It means if this passes that the wealthiest families at your Thanksgiving table will get more, the working families at your Thanksgiving table will pay more. The poor will have great trouble. They will never get to the table. The elderly will have great trouble with health care. The young will not be able to get their lunches as easily and the students will not be able to get their loans as easily.

This is not about how long it takes to balance the budget. This is who you stick your fork in as you balance the budget. The only thing standing between Speaker GINGRICH's values and America's values is the President. The President must stand firm and say these are not America's traditional values and spare the American family being served this turkey on Thanksgiving.

THE PRESIDENT SHOULD SIGN THIS BILL

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, here is candidate Bill Clinton live on the "Larry King Show" in 1992 and I quote: "I would present a 5-year plan to balance the budget."

Here is what the President said on August 1 of this year and I quote: "I mean, I think that it's wrong to say you're going to do something and not do it."

Mr. Speaker, this week we passed with bipartisan support a plan that would reopen Government. We had only one stipulation: He had to agree to balance the budget using legitimate numbers in less than 7 years. No specifics, a simple question. Mr. President, do you want to balance the budget?

We want to work with him on this plan to achieve that goal. Unfortunately, the President has said, "No, I don't want to balance the budget."

Mr. President, if you meant what you said, then sign this bill. And, Mr. Morris, if you are really running the country, get the President to sign this bill.

DAY LATE AND A DOLLAR SHORT

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, a day late and a dollar short. I wish it were only that big a problem. In fact, our Republican colleagues are about 6 weeks late in getting a budget to President Clinton. We will finally take it up for consideration to go to the President today. They are more than a dollar short. In fact, this week NEWT GINGRICH will be paying out millions of dollars eventually, millions of dollars to Federal workers who have now been off work for 4 days and NEWT GINGRICH will pay them for not working. That is the policy of fiscal responsibility that our Republican colleagues are imposing on America. They say they will have a balanced budget today but for seniors who will pay more and get less for Medicare, there is not much balance in it. For working families who will pay more taxes under this budget and get less, there is not much in it. For students who will pay more and get less education, there is not much in it. And for those who care about the environment and who will just get less in this budget, there is not much in it.

CALL FOR BIPARTISANSHIP IN BUDGET BATTLE

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, the national debt is over $4.9 trillion. Yesterday Bill Clinton distanced himself from balancing the budget. Is that not sad? We have an almost $5 trillion debt and the President of the United States does not want to address the problem.

Last night Congress acted in good faith to reopen the parts of Government that are shut down. Many Democrats joined with Republicans to say that we want to end the budget crisis and balance the budget. The President says he will veto our efforts.

Bill Clinton would rather make excuses and play word games with the American people. All the while our national debt piles up and our families suffer the burden of our debt.

Mr. Speaker, the President should end the games and help us balance the budget.

A TWO-HEADED TURKEY

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, the Republican Party are handing the American people a two-headed turkey for Thanksgiving. On the eve of this Thanksgiving, 3,484,947 people are being hurt by this Government shutdown.

I have in my hand a letter to Speaker NEWT GINGRICH which says I join in with my colleagues to keep this Congress working all through the weekend. I am sorry I have not heard from him and he has not heard us. I am here to work.

It seems that intuition is the only basis upon which we have a budget that will hurt Texans all over the map. Forty-one schools in Texas will be closed out of the direct loan program, approximately 57,000 students will lose access to direct loans in Texas. Thirty-three percent of our children under 18 will get absolutely nothing out of the $245 billion tax cut for the wealthy across this Nation, and $32 billion will be cut out of the earned income tax for 13 million families earning under $30,000. They will get absolutely nothing.

I want a real commonsense budget. I voted for a balanced budget, but this Republican budget as presently proposed is nothing but a two-headed turkey for Americans. Who do you think deserves the honor? Who is a turkey here?

COMMITTING OUR TROOPS IN BOSNIA

(Mr. METCALF asked and was given permission to address the House for 1 minute.)

Mr. METCALF. Mr. Speaker, we all want peace in Bosnia, but there is rumor that there is an agreement based on United States troops in Bosnia that has been arrived at. It is beyond belief that the President would agree to an agreement in defiance of a vote of almost three-quarters of the House specifically saying do not base any agreement on United States troops in Bosnia.

We have all learned through sad experience that it is easy to rush in troops, it is extremely difficult to solve the problems when they are there, and it is even more difficult to get out in a timely and an honorable way.

It is the Presidential constitutional responsibility to deploy troops. It is the duty of Congress to either approve or deny funding the troops once they are there. Congress must not fund United States troops in Bosnia until we know exactly what United States interests are threatened and how the troops will protect those interest.

READ YOUR LIPS

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, Members of Congress, I ask my Republican colleagues to read your lips. Balance the budget before you cut $245 billion in taxes, before you cut $270 billion in Medicare, before you cut educational funding.

Let us work bipartisanly on a balanced budget, but not by cutting Medicare and Medicaid, not by cutting and raising premium costs for seniors and limiting seniors' ability to choose their own physician. We can work bipartisanly on a balanced budget but not by cutting Medicare and education.

Read your own lips. Balance the budget without cutting $245 billion in taxes.

WHAT A BALANCED BUDGET WILL MEAN

(Mr. BAKER of California asked and was given permission to address the House for 1 minute.)

Mr. BAKER of California. Mr. Speaker, Republicans are moving forward with the first balanced budget in a generation. Our Balanced Budget Act will provide the American family with budget bonuses for their own checkbook.

A balanced budget means that interest rates will drop, allowing families to save thousands on home mortgages, car loans, and student loans. A balanced budget means an additional $32.1 billion in real disposable income over the next 7 years. A balanced budget means an additional $88.2 billion in capital investment over the next 7 years. And a balanced budget means a stronger economy and more job opportunities for all.

With all the benefits a balanced budget will bring to the American people, I do not understand why the Clinton Democrats support maintaining the status quo. Balance the budget now. Our children's generation depends on it.

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ARE REPUBLICANS SERIOUS ABOUT BALANCING THE BUDGET?

(Mr. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORD. Mr. Speaker, I wonder whether the Republicans are serious when they talk about balancing a budget. What we are really talking about today and will be talking about later today, rather, is that $32 billion for low-income working families will be wiped completely out on their taxes, and also student loans will be just cut drastically because of what the Republicans will bring to this House floor today.

The $270 billion out of the Medicare Program, these are drastic cuts that are going to be made today by the Republicans just to give the wealthy and the rich of this country a $245 billion tax cut.

We think that is wrong. We ought to seriously be about the business of the American people today and not try to fool the American people with this balanced budget talk.

THOSE STUBBORN FACTS

(Mr. WELDON of Pennsylvania asked and was given permission to address the House for 1 minute.)

Mr. WELDON of Pennsylvania. Mr. Speaker, facts are stubborn things.

Bill Clinton was elected with a minority of voters, 43 percent, fewer votes than Michael Dukakis got when he lost to George Bush in a rout.

Bill Clinton had his policies overwhelmingly rejected nationwide 2 years later when both the House and Senate went Republican for the first time in 40 years.

Bill Clinton has been rejected by over 150 elected officials, elected with a minority of 150 of voters, officials, including six Members of Congress who have left his own party since he has taken office.

Bill Clinton has said publicly in a variety of occasions that he would balance the Federal budget in 5, 7, 8, 9, and 10 years.

Bill Clinton, in his first State of the Union Address, pointedly chided House Republicans by saying he would force truth in budgeting by using CBO scoring numbers.

Now he would have us and the people of this country believe and trust him and believe that he represents what the people of America want.

Absolutely amazing.

A SORRY SPECTACLE

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, my constituents who are Federal employees are watching more C–SPAN now than ever, and they are being treated to a sorry spectacle, a bunch of opinionated stuffed shirts sitting around bickering while they are getting paid, while peoples' lives are being disrupted, and while Federal employees are losing their paychecks. Yes, I am in that group.

But it is a sorry spectacle. My colleagues on the right like to say we ought to run this place like a business. Let me tell you, Mr. Speaker, no globally competitively business treats its employees this way. We have broken faith with Federal employees. We have jeopardized their families and undermined their confidence in their employer. That is us.

We have also lost a lot. We have lost their loyalty and willingness to go the extra yard.

We ought to put Federal workers back to work. We ought to pay essential employees on time. We ought to pay all employees retroactively.

On this budget, I will make a deal with my Republican colleagues. I signed on the other night to a 7-year balanced budget. You get rid of the tax break for the rich, and we can work this thing out. But as long as Republicans want to pay off their rich friends, we cannot have a balanced budget.

ALL WE ASK

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, 1,262 days ago, President Bill Clinton promised a 5-year plan to balance the budget. Two unbalanced budgets later, the President still has presented no balanced budget plan.

Today, much of the Federal Government is shut down because the President will not keep his promise. He has closed the Government because he opposes any plan to balance the budget over 7 years.

We do not ask the President to adopt our Balanced Budget Act of 1995. We do not ask the President to accept our proposal to save Medicare from bankruptcy. We do not ask the President to support our plan to make regulations more cost-effective.

We do not ask the President to approve our plan to return some of his huge tax increase to the American families who earned the money in the first place. We do not ask the President to adopt a single provision of our balanced budget plan.

All we ask is that the President kept his word. We ask the President to commit to balance the budget in 7 years using honest numbers. That is all. And that is not too much to ask for the American people.

REPUBLICAN CONFERENCE REPORT ON THE RECONCILIATION BILL

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, today we will consider the Republican conference report of the reconciliation bill, not the conference report but the Republican conference report. I say that purposely to say that the Democratic conferees have had very little input in what now will be presented to the House.

Yes, this is a time we should discuss our values and our priorities. I say the Republicans should understand we will reject this.

Why? Not because we are fiscally irresponsible, but because we are compassionate, because we are responsible to all America, not just a few in America. We understand what it means to have senior citizens not to have health care.

The $200 billion taken away for Medicare will mean senior citizens will suffer. The large amount of moneys that will be cut from student loans will mean a lot of students will not have a future in America. This is wrong.

This budget is the wrong direction to go. The Republicans know it is wrong.

We must reject it because it is wrong for America.

PERMISSION FOR COMMITTEE ON COMMERCE AND ITS SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the Committee on Commerce and its subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule.

It is my understanding that the minority has been consulted and that there is no objection to this request.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING CORRECTION IN CONFERENCE REPORT AND WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2491, SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 272 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 272

Resolved, That the proceedings of the legislative day of November 15, 1995, by which the conference report to accompany the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996 was presented to the House and ordered printed, are hereby vacated, to the end that the managers on the part of the House may immediately present the conference report in the form actually ordered reported to the House as a product of the meeting and signatures of the committee of conference and actually to be presented in the Senate, in pertinent corrected part as depicted in section 3 of this resolution. The existing signatures of the committee of conference shall remain valid as authorizing the presentation of the conference report to the House in corrected form.

SEC. 2. Upon adoption of this resolution it shall be in order to consider the conference report presented to the House pursuant to the first section of this resolution. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The conference report shall be debatable for two hours equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. After such debate the previous question shall be considered as ordered on the conference report to final adoption without intervening motion except one motion to recommit, which may not contain instructions and on which the previous question shall be considered as ordered. After disposition of the conference report, no further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

SEC. 3. The correction described in section 2 of this resolution is to insert between subtitles J and L of title XII a subtitle K (as depicted in the table of contents) as follows:

"Subtitle K—Miscellaneous

"SEC. 13101. FOOD STAMP ELIGIBILITY.

"Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)) is amended by striking the third sentence and inserting the following: 'The State agency shall, at its option, consider either all income and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or such income, less a pro rata share, and the financial resources of the ineligible individual, to determine the eligibility and the value of the allotment of the household of which such individual is a member.'

"SEC. 13102. REDUCTION IN BLOCK GRANTS FOR SOCIAL SERVICES.

"Section 2003(c) of the Social Security Act (42 U.S.C. 1397b) is amended—

"(1) by striking 'and' at the end of paragraph (4); and

"(2) by striking paragraph (5) and inserting the following:

'(5) $2,800,000,000 for each of the fiscal years 1990 through 1996; and

'(6) $2,240,000,000 for each fiscal year after fiscal year 1996.' ".

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my good friend, the gentleman from Woodland Hills, CA [Mr. BEILENSON], pending which I yield myself such time as I may consume.

Mr. Speaker, due to a technical error committed during the filing of the conference report on H.R. 2491, this rule vacates the proceedings by which the conference report on H.R. 2491, the Seven-Year Balanced Budget Act, was filed. The rule authorizes the managers to immediately refile the report in the form actually signed and ordered reported, with the corrected part printed in section 3 of the rule. The rule further provides that the existing signatures of the conferees shall remain valid as authorizing the presentation of the conference report to the House in its corrected form.

The rule then provides for the consideration of the newly filed conference report to accompany H.R. 2491. The rule waives all points of order against the conference report and against its consideration. The rule provides for two hours of debate equally divided and controlled by the chairman and ranking member of the Budget Committee.

The rule provides for one motion to recommit the conference report which may not contain instructions. Finally, the rule provides that following disposition of the conference report, no further action on the bill is in order except by subsequent order of the House.

Mr. Speaker, this is it. We are beginning, over the next 3 hours, the debate on the most important change in decades.

Mr. Speaker, while democracy in action can be loud, most people in a free society are too busy living their lives to listen closely, to the casual observer, we can sound as irritating as static on a radio. However, the more the volume is turned up, the more people will notice that while Washington might sound like it always does, this is not business as usual. Instead, the majority in Congress is carrying out truly history change—actually balancing the budget for the first time in decades.

At the heart of our agenda for change are four fundamental goals that Americans from all regions and income groups recognize are vital to our future as a prosperous and secure nation.

One, we must balance the Federal budget as quickly as possible in order to stop the massive increase in debt that is mortgaging our children's future.

Two, we must reform the welfare system that is trapping honest families in a cycle of dependency and poverty.

Three, we must fundamentally improve the Medicare system so that we provide health care security to a generation of retirees by averting the system's bankruptcy and keeping it from destabilizing the Federal budget; and

Four, we must provide some tax relief that strengthens families and spurs private sector job creation and rising worker wages.

These are not partisan goals. They incorporate the basic aspirations of families throughout this great and massive Nation. That is why it was not just the new majority in Congress that was elected after calling for these changes. Back in 1992, the President called for a balanced budget, ending welfare as we know it, and providing a middle class tax cut. Now that he has the chance to work with a Congress that shares those same goals that he has outlined, he can follow through on his promises. We are going to give him that opportunity.

Mr. Speaker, the Balanced Budget Act conference report accomplishes these four foundation pillars of the effort to change the Federal Government so that it serves America's families, rather than families serving the Federal Government.

This bill is not a flimsy outline of talking points that can be pawned off as a balanced budget. It is a specific plan, warts and all, that turns around three decades of deficit spending and balances the budget in 7 years. And it meets that goal using conservative forecasts of economic growth so that we do not see hundreds of billions in new debt 7 years from now and say to our children—"Oops, I guess we weren't as lucky as we had hoped we would be."

This bill cuts taxes. I will not apologize for that. It cuts taxes less than the President raised taxes 2 years ago. Americans would have more of their own hard earned money if neither the 1993 tax increase, nor his tax cut, were ever enacted. A full 60 percent of all tax benefits in the bill go to families with children and incomes less than

$110,000. Those are the people who are the heart and soul of this Nation, the people rising our future.

I would also note the incentives to promote savings and investment, especially the capital gains tax cut, are critical in regions of this country in need of greater economic growth.

I am privileged to represent California. In California, the capital gains tax rate reduction and the extension of the research tax credit are two tax proposals that translate directly into more jobs in the private sector companies that are at the heart of our economic recovery, creating the transition from a defense-based to an export-based economy.

California also appreciates that while we balance the budget, we do not ignore clear Federal priorities. At the forefront is the Federal responsibility to control our borders and provide funding for the cost of failed immigration policies.

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The $3.5 billion in Medicaid funds to assist States for the cost of health care to illegal immigrants providing multimillion dollar relief to California taxpayers is a critical new effort which is addressed in this bill.

Mr. Speaker, the Balanced Budget Act is an agreement between the majorities in the House and Senate encompassing the views of Representatives with varied views on Government and its role in our society.

Mr. Speaker, this is not a radical plan. It spends $12.1 trillion over 7 years. If we stick to the current deficit spending plan, we would spend $13.3 trillion over that time. Despite the "sky is falling" rhetoric of some, all we are proposing is that the Government live on just about $1 trillion less over 7 years. There is still $12.1 trillion to go around.

Mr. Speaker, this real balanced budget is doable. It is reasonable. It has heart. Medicare spending goes up a lot. Medicaid, school lunches, and student loans all go up by billions of dollars. Families keep a little more of the money that they earn.

There likely remains a way to go in this process. Despite addressing a number of his Presidential campaign promises, after 3 years in Washington the President may have forgotten why he was elected and he might choose to veto this bill. However, I hope we can all agree that by the end of this year, we will agree on a balanced budget that means is 2002 the first American babies born in nearly 40 years, our high school class of 2020, will be born in a country where their parents and grandparents are not putting the bills on the backs of those children.

Mr. Speaker, this rule permits us to enact a balanced budget. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman from California [Mr. DREIER] for yielding me the customary half hour of debate time.

Mr. Speaker, we strongly oppose this rule and the legislation it makes in order, the conference report on the 1995 Budget Reconciliation Act.

By waiving all points of order against the conference report and against its consideration, this rule enables the Republican leadership to bring this measure to the floor without worrying about whether or not it violates any of our standing House rules. One rule that this legislation most certainly violates is the 3-day layover rule, the rule designed to give Members 3 days to review legislation before having to vote on it. It is the layover that protects the very basic right of Members to have a sufficient opportunity to evaluate legislation before voting on it.

It is also very likely the conference report violates the rule against exceeding the scope of the conference, preventing conferees from inserting legislation in the conference report that was not passed by either the House or the Senate.

We are concerned about these two potential violations because while we are all familiar with the broad outlines of this legislation, very few of us know much about its details. In facts, Mr. Speaker, when the Committee on Rules took testimony on this bill last night, we were dismayed to find that even the chairman of the Committee on the Budget, the Member of this House who has been most closely involved with this legislation, was unable to answer many of our very basic questions about the contents of this measure. The ranking minority members of the Committees on the Budget and Ways and Means, members who certainly ought to have been given sufficient information on the conference report by that point, were just as much in the dark about its contents as we were.

To make matters worse, the rule before us provides for only 2 hours of debate. Thus, not only does this rule rush this conference report to the floor before Members have had a chance to find out what is in it, but it also severely restricts the amount of time we will have discuss and question and understand just what it is we will be voting on.

At our Committee on Rules meeting, in response to the clear need for more information on this measure, we offered an amendment to extend general debate time from 2 to 4 hours. Unfortunately, our totally reasonable request was opposed by nearly all the majority members. In doing so, we believe they did a real disservice to the Members of this Chamber and to the American public.

We also object to this rule's denial of a motion to recommit with instructions. As our Republican friends always and vigorously argued when they were in the minority, that motion to recommit is virtually meaningless if it cannot be used to amend a measure. Disallowing instructions on a motion to recommit tramples on one of the most important rights the minority party has under the rules of the House of Representatives.

Mr. Speaker, we understand the Republican leadership's desire to move forward with this legislation as quickly as possible, particularly in light of the fact that the President intends to veto it and Congress will again have to consider reconciliation legislation later in this session. But when we are faced with a piece of legislation so massive and so far reaching as this is, so historic as our Republican friends called it last night, Members ought to have sufficient time to find out what is in it and to debate it for a reasonable amount of time before we are asked to vote on final passage.

Now that it is apparent the House will be in session for several more days as we try to reach an agreement on funding for Federal agencies, there is no valid reason whatsoever why we cannot wait another day or two to consider this measure and then a few more hours to debate it so we can do so in a more thoughtful and reasonable manner than is going to be allowed.

The only reason for rushing this conference report through the House today is to keep Members and the public from learning what is in this package, because the more Members learn about this conference report, the less eager they will be to vote for it. This is a bill that makes far-reaching changes in Medicare and Medicaid, in tax policy, in support for low income Americans, in farm programs, the student loan program, the Federal retirement system, and in laws governing the use of much of our Nation's natural resources, including revisions to the 1872 mining law which this House has signaled its disapproval of through numerous votes earlier this year.

It is true that the conference report predicts a balanced budget in 7 years, which is something the American people and we support. But they do not support reaching that goal in the manner provided for by this legislation. It will soon become evident, if it is not already, that the reason this legislation contains such extreme cuts in Medicare and in programs that help moderate income Americans, is those cuts are needed to help finance the bill's $245 billion tax cut that most Americans believe should not be our first priority and should be postponed until such time as we have actually balanced the Federal budget.

In fact, as more of the details of this measure are revealed, the American people will see the greatest significance of this measure is not its role in producing a balanced budget, but rather its monumental shift of resources from poor and middle income Americans to the wealthiest Americans. They will see that it is a cruel, mean-spirited, and misguided measure that will reward well-to-do Americans and special interests and punish the rest.

While we think it is a move in the right direction that the $500-per-child tax credit will not be available to families with incomes over $110,000 a year, we think it is wrong that the tax credit will not be available to low income working families either. Low income families in fact will pay higher taxes under this bill because of the decrease in the earned income tax credit.

We are extremely concerned that the legislation will pull the rug out from under working families by cutting not only the earned income tax credit, but also Medicaid, food stamps, child care assistance, the support that parents working in low wage jobs need to stay off welfare.

We are particularly concerned that the legislation will raise the cost of student loans, the primary means available to moderate income families to give their children a leg up in life, that it will reduce the alternative minimum tax that ensures profitable corporations are not able to use multiple tax loopholes to escape paying taxes; and that it will encourage corporations to raid the pension funds, and thus jeopardize the retirement security of millions of American workers.

Mr. Speaker, this is a rule that sets the stage for a vote on a far-reaching conference report before we know what is in it, a rule that makes it easy for the Republican leadership to sweep through the House a very bad package of legislation. I urge Members to vote "no" on the rule, and "no" on the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to my very good friend, the gentleman from Glens Falls, NY [Mr. SOLOMON], a former Marine platoon leader and chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Claremont, CA, for yielding me time.

Mr. Speaker, I probably should not be here in the well, because I am so excited, because I thought this day would never come. It is a day that I have waited for for 17 years. To think we are on a glidepath that is irreversible to a balanced budget, how exciting that is to the American people.

Today this House is going to consider what is arguably the single most important piece of legislation this Congress will consider this year or any other year, again, because it is irreversible, on a guaranteed glidepath to a balanced budget.

Mr. Speaker, the American people have said it in poll after poll after poll: They want a balanced budget, and this is our chance to do it. They want this Congress to be fiscally responsible, the way they are.

This proposal is much different from the one put together by President Clinton. This one is in real legislative language. It shows exactly how the hard choices have to be made. It is specific. This Balanced Budget Act, when scored by realistic budget projections of the Congressional Budget Office, leads to a budget surplus at the end of 7 years, something we have not had around here in over 26 years. The Clinton proposal, when scored by the same realistic budget projections of the Congressional Budget Office, never leads to a balanced budget, for as far as the eye can see.

For example, in the year 2002, the deficit level of the Clinton budget is higher than it is today. Can you imagine? Instead of a glidepath down, we are on a glidepath up. Over $250 billion at the year 2002 will be the yearly deficit that year, and it would add another $1 trillion to the already unconscionable debt that has turned this country of ours into a debtor nation, drowning our children and our grandchildren in a sea of red ink. That is terrible.

Now President Clinton claims his budget leads to a balanced budget in 10 years. But the only way to reach that conclusion is to use unrealistic, rosy economic assumptions. It is this kind of overly optimistic scoring that has caused Democrat-controlled Congresses over the years to produce these huge budgetary deficits.

Mr. Speaker, I know that some Democrats will try to say that because there was a Republican President during some of those years, that they were not responsible. Well, let us get the record straight right now. If you read the Constitution of the United States, you will find that it is this Congress which has the responsibility to control the purse strings. No President can spend a dime; only we in this body can spend that dime. The Constitution specifically provides that only the House of Representatives can initiate new revenue measures, and by long custom, only the House of Representatives initiates spending measures, period. This body, not even the Senate. We cannot even blame the Senate. We blame ourselves.

Now, for the first time in 40 years, Republicans are responsible for control of the purse strings, and no matter what, my friends, we are going to balance this budget, and you can count on it.

Mr. Speaker, as we have tried to make these tough choices necessary to protect future generations, there are those who have attacked us as being mean-spirited, and we are going to hear it this morning. But what is really mean-spirited about piling this kind of debt on our children and our grandchildren? Let me tell Members, that is not compassionate, that is a shame. Mr. Speaker, there is no excuse for this generation not to be paying its own bills. That means you and me.

Mr. Speaker, today we will hear from those that will want to balance the budget, but they are going to come up here and they are going to say on this floor they want to do it a different way. In a package of this size, there is bound to be something that each of us do not like. I am sure if you read the 3,000-page document, you are going to find things you do not like. But, Mr. Speaker, in a large and diverse Nation like this, each of us cannot say "my way or no way." At some point, we would have to consider the long-term good of this Nation, and we need to stop trying to figure out how much we can take from our Nation's taxpayers, how much we can take, "give me, give me, give me; more, more, more."

It was a Democrat President that said, "Ask not what your country can do for you; ask what you can do for your country." You know something, I was proud to be a John F. Kennedy Democrat at the time when he spoke those words, and I might still be a Democrat, my friends, if my party had taken a more responsible approach to running this Nation over those years.

But what I see on the other side of the aisle now are too many people asking how much they can get, and too few being concerned about the consequences of dumping this kind of debt on my children and your children, and my grandchildren and your grandchildren.

If this package prevails, my friends, future generations will win. Keep that in mind. But if this package loses, future generations lose, and it may be irretrievable, the damage we do to them. Please come over and support this rule and vote for this bill. It is the right thing to do for this country, and for our children and grandchildren.

□ 1030

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. MOAKLEY], our ranking member of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from California for yielding time to me.

Mr. Speaker, I was very happy to hear the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules, saying that we should read the bill. This is the bill, Mr. Speaker, that was placed on our desk 5 minutes before the Committee on Rules met last night.

We asked for 2 hours of extra time just to go through it, and they said they did not have the time. So they ask us to read the bill, but then do not give us the time to read the bill.

Mr. Speaker, today is our last chance to stop this horrible bill before it goes to the President. Today is our last chance to vote against cutting Medicare to pay for tax breaks for the very rich. And we should.

Mr. Speaker we should not cut Medicare $270 billion to pay for $245 billion in tax cuts for the rich.

We should not even think about cutting child nutrition programs, like school lunches by $6 billion.

We should not cut student loans by $5 billion.

And we should not increase the taxes on working families by $32 billion. But, today my Republican colleagues probably will.

Now maybe someone can think of a reason to cut these critical programs, but I cannot. I think it is horrible to even consider these cuts in order to give more money to the people who do not need it.

But it is true, Mr. Speaker, these cuts are to lower the taxes on the very rich, and to lower the taxes on big corporations. And that is wrong.

This bill takes from the mouths of babes, from the health care of seniors, from the education of students, and gives to the pockets of the rich.

What makes this whole idea even worse is that my Republican colleagues, the people responsible for writing this bill, cannot even tell us exactly what is in this bill.

So we asked for more debate time, more time to ask questions, but they said no.

They said no to finding out the details. They said no to Medicare recipients. They said no to children who need school lunches and they said no to students needing loans.

The only people who are getting a yes these days are the richest Americans and the biggest corporations.

Mr. Speaker, this is a horrible rule for a horrible bill, and I urge my colleagues to defeat it.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Speaker, this is an unusual situation going on around here in Washington. Employees are furloughed, Government is shut down. I am a Democrat that is not against cutting taxes. I voted to cut taxes.

In fact, I voted for the last continuing resolution. I believe the Republican continuing resolution was better than the motion to recommit by the Democrats. The Democrats had a line-item veto in it.

Mr. Speaker, I ask, do my colleagues want to protect Medicare and Social Security? It is not done by passing a line-item veto. There may be a President some day that just might target it.

Let me say this. I want to cut taxes. I do not demean the motives of the Republican Party. The Republican Party is courageous, they have outfoxed us. The major difference in this House is five votes on a gun ban and the biggest tax increase in American history, and we are being suckered in once again. Their courage may cost them, the majority, next year.

Mr. Speaker, I want a tax cut. I am a Democrat that wants a tax cut. I support a tax cut. I do not believe that where it is coming from is in the best interests of the country.

I voted for that 7-year continuing resolution, 7 years the Democrats offered so that the President could sit down and say, look, maybe let us bring it down for more working families, let us set Medicare aside, treat it better, but let us work together.

The truth is, both parties are in lockstep. This is Presidential politics. And beware, Democrats. No one is talking about the trade issue, and without Democrats, there would be no GATT, there would be no NAFTA, and now Democrats are going to give the President a line-item veto.

The President will spend every damn dime. There is no program. There is no program. I admire your courage, but I do not believe it is going to work, and I will not support it.

I am saying to the Democrats, we do not have a program. I am going to vote no on this rule; I am going to vote no on this reconciliation.

Let me say this, while everybody is lockstepping with these party leaders, we were not set here to be lemmings. Think for your damn self.

Our country screwed up. Mr. Speaker, 43,000 Americans have lost their jobs since 1941. We have men trying to get jobs in Hooters Restaurant, for God's sake.

Mr. Speaker, if we want to balance the budget, we will not balance it the way we are going. Let us take a look at these unrealistic trade programs. Let us take a look at the loss of jobs going overseas, good-paying jobs, and the Republicans are not dealing with that yet.

With that, Mr. Speaker, I will make one last statement. The country would not be in the condition it is in today if it were not for Democrats, GATT, and NAFTA. The Democratic Party supports line-item veto, yet does not support American workers.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood). The Chair would advise Members that the use of profanity is against the House rules.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Sanibel, FL [Mr. Goss], the chairman of the Subcommittee on Legislative and Budget Process of the Committee on Rules, who as chairman of the subcommittee understands what it is going to take for us to balance the budget.

Mr. GOSS. Mr. Speaker, Congress has been working long days and late hours to find a positive solution to the budget crisis. We have moved appropriations bills, put together the Balanced Budget Act conference report, and passed two continuing resolutions to reopen the Government. The latest one is under a veto threat because it contains a simple statement of commitment to balance the budget in 7 years.

Mr. Speaker, it is in this context that the President said, when asked why he was refusing to negotiate with Congress, that, quote, "Somebody has to do the right thing," end quote. It surprises me, and it will surprise many Americans, that the President seems to have an exclusive take on the right thing, one that leads him to refuse steps to reopen the Government. Only President Clinton knows what is right, so says President Clinton. Wrong. Given the $5 trillion debt we have built up and will leave to our children and grandhcildren, I think that a commitment to a balanced budget in 7 years is the right thing. Even better is a specific outline to eliminate the deficit and get us there.

Saving Medicare from bankruptcy is the right thing. Allowing Americans to keep more of the money in their paychecks, that is the right thing. The child tax credit, that is the right thing. Phase out of the marriage penalty, the right thing. And a reduction in the capital gains rate is the right thing.

This rule provides for ample time to debate this historic balanced budget; it allows us to send the President the balanced budget the American people have demanded.

It is up to us to pass this rule, support the Balanced Budget Act of 1995, and once again urge the President to do the right thing.

We will not be playing any golf this weekend. I hope the President will not be either. The right thing to do is to sit down and sign the Balanced Budget Act.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. Sanders].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is not a good rule because it does not allow for a motion to recommit and debate over a serious and real alternative. The question is not whether we should move toward a balanced budget; the question is how we should move toward a balanced budget.

Mr. Speaker, the economic reality in this country today is that the richest people are becoming richer, the middle class is shrinking, and today, with great shame, we have by far the highest rate of childhood poverty in the industrialized world.

Given that reality, how in God's name can anyone talk about moving toward a balanced budget by giving huge tax breaks to the rich, by creating a situation in which the largest corporations will pay no taxes, by building more B-2 bombers that the Pentagon does not want at $1.5 billion a plane, by putting more money into star wars, by spending $100 billion a year defending Europe and Asia against a nonexistent enemy?

How do we talk about balancing a budget when we continue to spend $125 billion a year on corporate welfare, but we are going to slash Medicare, slash Medicaid, slash veterans' programs, eliminate LIHEAP, and do devastation to middle-income working people and the poor?

Mr. Speaker, I ask my colleagues, if they want to balance the budget, what about going after foreign corporations with subsidiaries in America like Toyota and Nissan, which underpay their U.S. taxes by $25 billion?

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Columbus, OH [Ms. PRYCE], my very good friend and a hard-working member of the Committee on Rules.

Ms. PRYCE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the nay-sayers said it could not be done, but they told Lindberg the same thing.

Well, nobody is saying it was easy, but through the years of hard work and dedication of the gentleman from Ohio [Mr. KASICH] and many others on both sides of the aisle, we have done it. We have produced a balanced budget in 7 years.

So, Mr. Speaker, as the old saying goes, "the proof is in the pudding," and the proof is in the conference report which we are about to consider under the terms of this rule.

Today, as the national debt soars to nearly $5 trillion, we have learned a painful lesson that our short-term fixes have become long-term burdens for our children and grandchildren.

I would ask my colleagues who might be thinking of voting against this rule and the underlying legislation to consider the children of our country.

They are the Nation's most precious resource, and without a balanced budget, we will surely be robbing them of the kind of prosperous, productive, and financially secure future which we have enjoyed and which surely they deserve.

Unfortunately, the nay-sayers will be at it again, telling us that we are going too far, too fast.

But this conference report offers solutions no more complicated or profound than those used every day by hardworking taxpayers and their families who play by the rules, who work to pay the bills, and who watch their spending in order to make ends meet.

We cannot go on blaming others for the fiscal mess we face when we have the golden opportunity today to vote for a plan that will make the American dream a reality for so many.

The choice is ours, Mr. Speaker. We can either vote "yes" for the dream of a brighter future, or "no" for a long, painful slide into third world economic status.

Adopt this rule for our kids.

Mr. Speaker, I urge the adoption of this sensible and completely appropriate rule so that we may begin to build a better future for the children and grandchildren of this great country.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in opposition to the rule and the budget reconciliation and the conference report.

Today we are considering a bill with all of the wrong priorities. It includes cuts in education, investment in our future, deep cuts in programs for seniors, especially Medicare. The Republican majority cuts $270 billion in Medicare, while enacting a $245 billion tax cut.

We can balance the budget and make Medicare solvent without deep cuts in senior citizen health care and without these tax breaks.

The Republicans' $270 billion cut is three times larger than what the Medicare trustees requested. In fact, there is a $36 billion hole in this budget that is a line item that just says fail-safe. That is the amount that will be cut from hospitals and providers if these other reforms do not work.

☐ 1045

If the Republicans left out their tax cuts, they would not need the budget gimmicks like this fail-safe to make their numbers up. We need to oppose the rule, the conference committee report and let us balance the budget, whether it is in 7 years or not, without cuts in Medicare, and without cuts in taxes.

Mr. DREIER. Mr. Speaker, I would simply like to say that over 80 percent of this tax cut goes to people who are earning less than $100,000 a year.

With that I yield 1 minute to the gentleman from Harrisburg, PA [Mr. GEKAS], the chairman of the Subcommittee on Commercial and Administrative Law.

Mr. GEKAS. Mr. Speaker, I support the rule which is the first step towards the balanced budget for which we all yearn.

Mr. Speaker, if we do nothing more throughout the balance of the 7 years that we are discussing here today, we will be spending $13 trillion. If we arrive at the balanced budget which we seek, we will be spending only $12 trillion. So the balanced budget would save us $1 trillion throughout the course of the 7 years.

Is this important? One thousand billion dollars which we would have to borrow because we do not have a balanced budget, to borrow more, to pay more interest on the debt, to pay nothing on the principal of a multitrillion-dollar national debt.

Is that what the country wants? Or does it want us to reach that balanced budget and start taking the money that we would be paying for interest on the debt, paying that back to our citizens by way of development and community work?

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, we are going to debate a 7-year balanced budget for the United States of America in 3 hours. We spent 4 hours on shrimp-turtle excluder devices, yet they cannot give us another hour or two to debate a balanced budget for the United States of America.

I am a balanced budget Democrat, but this party would have us believe there is only one path. They do not allow any alternative. They are giving us a bigger and better business-as-usual budget. More money for the Pentagon, more weapons we do not need, B-2 bombers that do not work, more tax cuts for the wealthy.

There is another way to balance the budget, but you are going to go after the Pentagon, get rid of cold war weapons that we do not need, that do not work, challenge corporations to give up welfare, do away with agriculture subsidies, even cut back on foreign aid, and maybe charge royalties for mining on Federal land.

But that takes on the rich and the powerful who have been running this city for a quarter of a century, and that party does not have the guts to do it, and they will not even let us offer one alternative. Not even one alternative on the floor of the House.

A balanced budget, yes. Seven years, yes. Let us have an alternative. Let us have a balanced budget.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, we will consider the rule that is a bad rule. Why is it a bad rule? It is a rule that does not allow for the full opportunity nor opportunity to perfect this bad bill that is coming before us.

Why is it bad? It is bad because it has gotten worse as the Republican conferees have looked at it. To give an example, in the Committee on Agriculture as we were considering food stamps for the poor, we are now requiring them to work 20 hours a month below the minimum wage, just for food stamps. An amendment offered by me in the Committee on Agriculture, a bipartisan amendment, approved, taken out in the rule. Because why? You want to make people suffer.

Why do you need to balance the budget on the backs of the poor? Why do you today balance the budget on the backs of senior citizens? Why do you need to balance the budget on the backs of children? Taking food from them in school lunches, making this extreme budget.

We say you are going too far. It is too far to expect that you should be compassionate? It is extreme to deny poor people an opportunity live? This is a bad rule, a bad bill. We should reject it because we want to reject it for America.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, it is 11 a.m., almost, on November 17, 1995, and the American people are confronted with the last dirty details of a barbaric plot to murder Medicaid. Medicaid and Medicare are 30 years old. The plot is on to destroy 30 years of compassionate policy which promotes the general welfare.

Yes, there is some phony, used car salesmen language in the bill which talks about eligibility for pregnant women and children, but why trade an entitlement for Medicaid for some phony talk about eligibility administered by the States? It was the States that gave us the sick and ill with no protection before, and now we cannot trust the States to take it up after the entitlement is gone.

American voters, put your common sense to work. Do not trade an entitlement for some used car salesman language about maybe the States will enforce some kind of eligibility and keep health care. We do not want to go backward 30 years. We have Medicaid entitlement now. Let us keep the Medicaid entitlement.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Egan, IL [Mr. MANZULLO], chairman of the Subcommittee on Small Business Procurement, Exports, and Business Opportunities.

Mr. MANZULLO. Mr. Speaker, we have heard incredible words today. Cruel, inhumane, barbaric.

I will tell you what is cruel, I will tell you what is inhumane. If we look at the President's budget last year, there was a chapter called Generational Forecasts. That states because of the $5 trillion debt, that children born after 1993, if there are no policy changes, by the time they enter the work force, will have an effective local, State and Federal tax rate of between 84 and 94 percent. This country is going to collapse under the tremendous burden of debt. That is cruel. That is inhumane. That leaves our children no future.

If you want to give our children a future, pass the rule, pass the Balanced Budget Act of 1995, and allow our children not to live under a system that takes away all of the money they want to earn.

Mr. Speaker, the American dream is at stake today. This is an opportunity to balance the budget. Let us do it for our children.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I oppose the rule. The Republicans met in secret the last few weeks and they hammered out this budget deal without Democratic participation, and what happened is that a bad budget bill got even worse.

The Gingrich Republican budget reconciliation conference report cuts Medicare by $270 billion in order to pay for a $245 billion tax break for the wealthy, despite the fact that the Medicare cuts are 3 times greater than what the trustees recommended in order to make Medicare solvent.

The Medicare premiums for seniors are doubled. At the same time the wealthy are being given huge tax breaks, working Americans will get a tax increase, that is a tax increase for working Americans, of $32.2 billion cut in the earned income tax credit, $9 billion more than the House-passed bill. And upon the date of enactment of this legislation, Medicaid is repealed and 36 million Americans will lose guaranteed health insurance and long-term care.

The worst part of it in my opinion is this Republican bill repeals the current law guarantee of payment for those widows. They will not have their Medicare part B premiums paid.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Morris, IL [Mr. WELLER], a very eloquent new Member of Congress.

Mr. WELLER. Mr. Speaker, I stand in support of the rule. Is this not why we are here? Is this not why we were sent to the Congress, to balance the budget, just like every American family? Republicans and moderate and conservative Democrats agree. Only the tax-and-spend liberals stand in the way.

We have a plan to balance the budget in 7 years. We increase spending for Medicare 50 percent over the next 7 years, we reform welfare, we provide tax relief for working families, and the calls and letters that are coming in are overwhelmingly in favor of the Republican plan.

My calls and my letters are 5 to 1 in favor of balancing the budget. Let me share the following:

Bill Lincoln, Morris, IL, says "There are many interest groups that will resist any changes. They speak for a select group but our decision must be based on what's best for America."

Thirty-one employees of a shopping center, a retailer in Calumet City, River Oaks Shopping Center, point out that each of us now carries an $18,000 responsibility for the national debt and pay hundreds of dollars in additional taxes every year just to finance that interest.

The people ask us to balance the budget. Let us do what our job is. We have a plan. Let us adopt it.

Mr. Speaker, I include the letter from Mr. Lincoln for the RECORD:

OCTOBER 30, 1995.

Hon. JERRY WELLER,
Longworth Building,
Washington, DC.

DEAR REPRESENTATIVE WELLER: I hope that Congress continues to pursue and is able to pass a balanced budget agreement. We cannot continue to take in more money each year and then increase the deficit by spending more than we take in. There are many expenses that must be investigated including foreign aid, farm subsidies, non-profit organizations, welfare etc. There are many interest groups that will resist any changes, they speak for a select group, but our decision must be based on what's best for America.

I'm glad to see that Medicare reform is underway. Many seniors, including myself, recognize that something must be done. There is no way the program can support itself with the low premiums being paid into the system. There is nothing available anywhere with the coverage provided at these rates. You can't secure anything worthwhile for nothing, and those receiving the benefits can't expect someone else to pick up the tab. And that seems to be what is happening.

The present Congress has or is in the process of passing much needed legislation and I hope will continue with the reform process and get things back where they belong.

Thank you for allowing me to express my concerns.

Yours truly,

WILLIAM P. LINCOLN.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, the chairman of the Committee on Rules is right, Republicans have been waiting for this day for a very, very long time. This bill is precisely what the Gingrich Republicans are all about.

What it does, the Gingrich plan provides a massive tax break for big corporations and rich people, paid for at the expense of seniors' health, education for our children and protection of our environment. The Gingrich budget plan is an unconscionable assault on the future of middle-class Americans.

It raids $270 billion from Medicare to finance a lavish $245 billion tax break for people who do not need it. It slashes investments in education, guts environmental protection, exposes pension funds to corporate raiders, and raises taxes on working families, and it pays off Gingrich Republicans' high roller political supporters. They will talk to you today and will make pious speeches about this budget for our children. This is the worst assault on this Nation's children probably in the history of this country.

Vote against the rule, vote against this awful bill.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise against this rule and against the bill. Against the rule because it unnecessarily restricts the amount of time on this debate and it unnecessarily restricts our ability to deal with it in a responsible manner, to propose an alternative. It is a bad rule for those reasons.

Why? Why are they doing that? They are doing that simply because they do not want the American people to understand what is in this bill. How it will take away from those who need it and give to those who do not need it?

First of all, it cuts Medicare by $270 billion, doubles the premiums of Medicare to senior citizens, at the same time giving a tax cut of $245 billion. Most of it will go to people who do not need it and for the most part have the good sense not to want it.

We have a responsibility in this House to provide for the best economic conditions possible for the American people, to provide for a growing economy and for growing economic opportunity. This bill does precisely the opposite. It will shrink the economy and will shrink economic opportunity. It slashes away at student loans, making it much more difficult for children to get a decent education and for families to better themselves.

This is a bad bill. It is a bad bill for all of those reasons. It is bad for the economy, it is bad for opportunity, it is bad for health care. It will have a major impact on the Nation's hospitals, forcing perhaps 25 percent of them to close. Furthermore, it will transfer spending responsibility from the Federal Government to the local governments.

So while Members of Congress can brag about cutting people's taxes, local taxes will go up, State taxes will increase, and real property taxes will increase to make up for the deficit that is being created by this bad piece of legislation.

□ 1100

So once again, those who can least afford it will be asked to bear a larger burden of the responsibility of this society to care for the needs at the local level. That means higher real property taxes, and it is a retrogressive piece of legislation.

Vote against the rule, vote against the bill.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Scottsdale, AZ [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, my colleagues in the House, we have a simple choice today: Do we want to continue to shackle the American public with ever-rising taxes, with suffocating regulation, with more and more taken from their paychecks? Do we want to continue to enslave future generations to a debt that is simply unconscionable? Or are we willing to vote yes on the rule, yes to a balanced budget?

I do it for all the children of the Sixth District of Arizona, for all the children of America, and especially for John Micah, who in 2 weeks will be 2 years of age and who, if we do nothing to stop this unconscionable, continual slide into the abyss, will pay over $185,000 in taxes during the course of his lifetime just to service this gross national debt, which basically is a crime against future generations.

My colleagues, vote for the rule, precisely for the people you champion. Vote for the rule to empower those who need better economic opportunities. Vote for the rule to empower future generations and current American citizens. Vote yes on the rule and yes on a balanced budget.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, I thank the gentleman for yielding.

This is a bad rule supporting a bad bill. The Republicans tell you that the balanced budget is the most important thing before Congress today. So I ask you, why do they only give us 2 hours to debate it? They said when they talked about the continuing resolution, if you want to debate the balanced budget, we will have that debate. Some debate, 2 hours.

Now, look, I am willing to buy into a balanced budget. I voted for the continuing resolution, so I am on record, but not their balanced budget. Their balanced budget does grave harm to our country.

I cannot accept giving $245 billion to the wealthy people in this country. I cannot accept cutting $270 billion out of Medicare that serves our seniors. I cannot accept cutting funds in education, and I cannot accept cutting student loans.

We can have a balanced budget. Let us end corporate welfare. Let us end unnecessary spending. We do not need all of those B-2 bombers. The Defense Department did not ask for them.

We can have a balanced budget. We cannot have their balanced budget.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Winter Park, FL [Mr. MICA], the chairman of the Subcommittee on Civil Service.

Mr. MICA. Mr. Speaker and my colleagues, I am really appalled at what we hear here on the floor about what we are doing.

When all else fails, I always say read the bill. I rise in support of the rule. The rule and the bill, in fact, provide student loans, which are currently at $24 billion to go to $36 billion in 2002; Medicaid to go from $89 billion currently to $124 billion, Medicare from $178 billion to $273 billion. And they call these cuts?

It does not matter in education if students cannot read. It does not matter if in Medicaid we force, in my State, the institutionalization of senior citizens with no alternatives. And it does not matter in Medicare, in Florida, if we have a billion dollars' worth of waste, fraud, and abuse, and we give seniors no other choice.

I urge the passage of this rule.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. Mr. Speaker, I reluctantly rise today to oppose the rule and the bill, and I say to my friends on the other side of the aisle that we in the Coalition, as you know, strongly support balancing the budget in 7 years. We have done it. We have put a budget together that gets to balance in 7 years, borrowing less money than you do. We do it in a different way, we think, in a more sustainable and humane way.

I think the most encouraging thing that has happened is we heard the Speaker say a day or two ago that everything is on the table. And we just want to say to you that we are ready, willing, and able to work with you to get this job done. We voted with you the other night on the continuing resolution, and once this veto is over with and we get down to negotiating, we are looking forward to sitting down with you and working this out.

We are disturbed that we were frozen out of things such as the agriculture changes and some of these other areas. We are hoping we can get past this current situation and sit down and work out a balanced budget that will be good for the American people.

Mr. DREIER. Mr. Speaker, I yield 1 minute to our very able colleague, the gentleman from Tupelo, MS [Mr. WICKER], the president of the historic freshman Republican class of the 104th Congress.

Mr. WICKER. Mr. Speaker, this is indeed a momentous day for this House of Representatives.

For the first time in 26 years we are going to do what Congress should have done every year—pass a balanced budget.

I know the debate is going to focus on some shared sacrifice, and certainly Americans have always been willing to do their part. But I also hope during the 2 hours of general debate we will talk about the benefits to every American of balancing the Federal budget.

The Federal Reserve Chairman has made it clear that interest rates will drop significantly if we will just come to grips with the budget deficit. That means lower house payments, lower car payments, and reduced tuition loan costs for families all across America. That translates into more disposable incomes in the pocketbooks of every American.

Mr. Speaker, I believe in bipartisanship, and I am thankful for the 72 Democrats who earlier this year voted for a balanced budget amendment. I thank heaven for the 48 Democrats who voted for a balanced budget using CBO scoring on the continuing resolution.

I call on my colleagues to debate this bill today as Americans. Let's do it for the future of our country. Let's do it for every child in America. Let's balance the budget.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, the Republicans say that this bill is the culmination of a revolution. I agree. But let me tell you what I know about a revolution. A revolution kills, and this bill kills old people and those on Medicare. It kills poor people and the middle class. It kills young people. It kills sick people. It kills students, and it kills the priorities of this Nation. That is what this revolution does.

The second thing I know about a revolution is that you never have a debate about it, and this rule gives us no opportunity to debate it; 2 hours and we are out of here.

We have spent more time yesterday talking about who would take us to lunch than we are talking about this revolution today. This is an abomination, and we ought to be ashamed of ourselves.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from him Albuquerque, NM [Mr. SCHIFF], who was a conferee on this historic balanced budget and conference committee.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the rule and in support of the bill.

But I want to say right now that, given the fact that the President of the United States has already threatened to veto this bill if it arrives on his desk, that I am willing to negotiate every specific detail in it with the President of the United States on only one condition, and that is that the President of the United States also offer a budget in the same framework, meaning using Congressional Budget Office figures for Government income projections and on a 7-year time basis.

The President of the United States has previously agreed to both of those terms. But without those terms, then there is no way to do a side-by-side comparison.

If the President or anyone else is going to suggest that we raise spending in any of these categories, they should show where that spending is going to come from.

That is why I urge the President to sign the continuing resolution, agree to a 7 year balanced budget, and put his spending priorities before us so we can do a specific side-by-side comparison.

Mr. BEILSENSON. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Speaker, we have heard a long, complicated, detailed explanation of this budget at the beginning of this discussion just today. But let me tell you why you will hear all of these mind-numbing details. You will hear that for one simple reason: to take attention away from the bottom line of this budget, and the bottom line of this budget is $245 billion in tax breaks, over half of which goes to the top 12 percent of income earners in America, a budget which, in fact, increases tax payments for the lowest-income people in America.

Let me repeat that: Over half of the tax breaks go to the top 12 percent of American income earners; at the same time there are increases in tax payments because of the earned income tax credit, something that is very hard to explain but it is a fact.

What that causes is increased tax payments by the lowest of our income earners. That is why you hear all of these details: to avoid the real issue.

Mr. DREIER. Mr. Speaker, I yield for the first time 1 minute to the gentleman from Thibodaux, LA [Mr. TAUZIN], my friend who has joined the party with which he has been in agreement for many, many years.

Mr. TAUZIN. Mr. Speaker, I rise in support of the rule.

I want to pose a hypothet for you. Suppose today banks in America were lending money to parents who want to spend more than their income to have a good time tonight, and they were lending it to them with a mortgage on their children's income, children yet unborn. You and I would rush to the floor with a bill to make that illegal. We would not allow the banks in America to loan money to parents based upon a mortgage on their children's income.

Yet your country does it day in and day out every time we pass a budget, and that ought to be made illegal.

This rule begins the process of saying it is illegal for America to spend our children's money in advance of them even earning it for us to have a good time today.

It is a good rule. We need to pass it. For those of you who oppose it because you are afraid of a tax cut for Americans in this bill, the blue dog Democrats offered us an alternative budget earlier this year with no tax cut. It got only 60-something votes. That calls into question the commitment of people in this House.

Are we intent on making that practice illegal or not?

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS], the distinguished ranking member of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for yielding, for his generous allocation of time.

Two minutes is not much time when you are getting up to talk about $1 trillion. This, my friends, is $1 trillion stacked up right here on unnumbered pages in very small print, smaller than usual, and held together by rubber bands.

Now, I have seen in my 33 years here some pretty atrocious legislating, but this tops it all by unforeseen margins or unmeasurable margins.

I last saw this last night stacked up in the Committee on Rules at about 9 o'clock at night. Nobody, no human being, has ever read all of this. Let me repeat that. If anybody can challenge me, get some time from the gentleman from California [Mr. DREIER] and you can answer me. No human being has ever read all of this.

I do not know exactly what is in it. Nobody knows exactly what is in it. We can only suspicion what is in all of this.

The question is not about what we are doing or when we are doing it, but how we are doing it.

□ 1115

All of us agree the budget ought to be balanced. All of us agree that it ought to be balanced as soon as possible without damaging the economy. The question is how do you do it?

The Republican strategy has been to balance it on the backs of the sick, let me repeat that, the sick, whether you are young or old, whether you are middle age, but balance it on the back of the sick, the old, infants and children, and the working poor, and to give a handout to those who do not need it of a $250 billion tax cut. That is the wrong way to do it. That is what is wrong with all of this.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Mount Holly, NJ [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, in light of significant changes that were made to this provision in the conference, I am able to rise in strong support today of this rule and the underlying legislation.

Mr. Speaker, I rise today in full support of this rule and of the Balanced Budget Act of 1995. This historic legislation will place this Government on a path to a balanced budget in 7 years. If passed this bill will cut taxes for every middle-class working family. In fact it will remove 3.5 million working families from today's tax rolls altogether. This bill also ensures that Medicare and Medicaid will be secure for many years to come.

Over the last 4 weeks I have cast votes to show my concern on how the Medicare legislation in this bill treated Medicare dependent hospitals. I am happy to say, that after many days of discussions, the bill has been modified so Medicare dependent hospitals are not longer treated unfairly. This development has allowed me to vote for passage of this landmark bill.

Let me touch for a minute on why the passage of this legislation is paramount to all Americans.

The boost to our economy when we pass this balanced budget bill will be extraordinary. I know this from my work on the legislation. Over the last year I have been one of the architects of the historic economic growth provisions in this bill. Along with the majority whip, TOM DELAY, I co-chaired the task force on economic growth and regulation reforms. If passed, this bill will energize our economy. Mortgage and car interest rates will be lower, hundreds-of-thousands of jobs will be created and income will increase for all working Americans.

Mr. Speaker, today we have the opportunity to send a message to future generations. When the time came for tough choices and leadership, we in Congress stepped forward and did the right thing.

Mr. DREIER. Mr. Speaker, I yield 30 seconds to my good friend, the gentleman from Windsor, CA [Mr. RIGGS], a valued member of the Committee on the Budget and vice chairman of the California delegation.

Mr. RIGGS. Mr. Speaker, I want to correct a misimpression left by my good friend from California [Mr. BEILENSON] earlier, who I know has a very clear regard for the truth. The fact is the President's budget, when put to a vote in the Senate, lost 96 to 0. Sixty-eight Democrats out of 199 voted for their own version of a balanced budget plan on this floor. Forty-eight Democrats voted for the continuing resolution, committing all of us to work toward a balanced budget in 7 years.

Unfortunately, I would say to the gentleman from California [Mr. BEILENSON], the Democrat Party seems to be more interested in passing along to America more debt, rather than the American dream to our children.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to my friend from California, I have not made any such assertions. I think his remarks were referred to someone else.

Mr. DREIER. Mr. Speaker, I am very happy to yield such time as he may consume to my friend, the gentleman from Bentonville, AR [Mr. HUTCHINSON], a member who came from the State of Arkansas and plans to keep his promise.

Mr. HUTCHINSON. Mr. Speaker, families are important, and this Balanced Budget Act recognizes that. The $500-per-child tax credit for middle income Americans is a deserved dividend from our budget balancing effort. Families deserve a rebate on that huge 1993 tax increase that we imposed upon them, and this bill gives it to them.

If it is a family with two children making $30,000 a year, this Balanced Budget Act will cut their Federal tax liability in half. If they are a family with two children making $25,000 a year, this Balanced Budget Act will eliminate their Federal tax liability.

So if you do not think families are as important as they were a generation ago, then oppose this rule and oppose this budget. But if you believe that families are the foundation of society, if you believe that middle class families are squeezed to the breaking point, if you believe that parents are better custodians of their resources than politicians, then vote for this rule and vote for this Balanced Budget Act of 1995. It is pro-family, and the families of America deserve it.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Pine Bluff, AR [Mr. DICKEY], another Arkansan who is going to keep his promise to balance the budget.

Mr. DICKEY. Mr. Speaker, a plywood worker in Bearden, AR, works 45 hours a week. He does not make enough money, so he gets a maintenance job at the same plant and works 10 hours on the weekends. His wife works, his daughter works at a 7-Eleven, and his son has a paper route. He makes $500 a week, and he looks down when he sees what he gets. He gets $245.

We are forgetting this person in this discussion. The balanced budget amendment is for that person, for his incentive, for him to sit and say my tax dollars are not going to the proper use, they are going to illegal aliens, they are going to criminals, they are going to people who do not work. They are going to people who have children and get paid for having children. We are going to lose these people in the process if we do not balance the budget.

Mr. Speaker, I plead with my colleagues and with the American people and the voters, that we pay attention to the middle class worker.

Mr. BEILENSON. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from New York Mr. RANGEL, a member of the Committee on Ways and Means.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from New York is recognized for 1½ minutes.

Mr. RANGEL. Mr. Speaker, on the other side of the aisle some of the most decent people in America have decided to register and to be active as Republicans. But even for those people, things can happen in the middle of the night that they do not know. Right here in this bill that was drafted and went before the Committee on Rules last evening, there is a provision in here that takes $32 billion away from working poor folks.

I would hate to believe that you are so in love with balancing the budget and the $245 billion tax cut that you got to take away $32 billion from people who despise welfare, who reject getting on the public dole, but want to work each and every day.

The earned income tax credit was put into law by Republicans and Democrats and expanded by President Clinton, and nobody takes issue with the fact that it encourages people to work, it gives incentives for people to work, and allows them to say that not on my watch would my family have to go on welfare.

This bill goes beyond that. It makes an appeal to the senior citizens who have to work that make under $9,000, for the young people that are just starting out, and these people have to be under the poverty line.

What more can we ask if you are talking about keeping kids out of drugs, out of crime, keeping them working, except to give them the incentive. Turn back the rule, turn back this, and let these people work without having to think about going on welfare. Shame on you.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from California is recognized for 1 minute.

Mr. DREIER. Mr. Speaker, we are hoping very much we will have the opportunity to make Bill Clinton a better President. I would respond to my pal, the gentleman from New York [Mr. CHARLES RANGEL], by saying if you look at the EITC, we have an increase from $19 to $28 billion, and the $32 billion to which he referred is actually less than what the General Accounting Office said was fraud in general.

But let us look at some other facts right here. Contrary to a lot of the rhetoric we have been hearing, this measure will see us spend $12.1 trillion over the next 7 years. It increases spending in Medicare, Medicaid, school lunches and student loans, contrary to what the President has said when he claims it brings about cuts.

This package is not, is not, a massive tax cut for the rich. Eighty percent of the benefits go to people who earn less than $100,000 a year, and we truly can in fact bring about a Government which is compassionate.

But, Mr. Speaker, the greatest compassion of all is to ensure that we are not passing onto the backs of future generations the responsibility of paying for the pattern of profligate spending.

Mr. Speaker, I urge an aye vote on this rule and the package, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 193, not voting 9, as follows:

[Roll No. 810]

YEAS—230

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—193

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—9

Becerra
Brewster
Collins (IL)
Fields (LA)
Harman
McDermott
Neumann
Talent
Tucker

□ 1143

Mr. BOUCHER and Mr. GORDON changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BECERRA. Mr. Speaker, I was unavoidably detained during rollcall vote No. 810, the vote on the rule to H.R. 2491, the Balanced Budget Act. I would like the record to reflect that I would have voted "no"

□ 1145

CONFERENCE REPORT ON H.R. 2491, SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. KASICH submitted the following conference report and statement on the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996:

(For conference report and statement see proceedings of the House of November 15, 1995, as corrected by the following:)

SEC. 3. The correction described in section 2 of this resolution is to insert between subtitles J and L of title XII a subtitle K (as depicted in the table of contents) as follows:

"Subtitle K—Miscellaneous

"SEC. 13101. FOOD STAMP ELIGIBILITY.

"Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f) is amended by striking the third sentence and inserting the following: "The State agency shall, at its option, consider either all income and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or such income, less a pro rata share, and the financial resources of the ineligible individual, to determine the eligibility and the value of the allotment of the household of which such individual is a member."

"SEC. 13102. REDUCTION IN BLOCK GRANTS FOR SOCIAL SERVICES.

"Section 2003(c) of the Social Security Act (42 U.S.C. 1397b) is amended—

"(1) by striking 'and' at the end of paragraph (4); and

"(2) by striking paragraph (5) and inserting the following:

'(5) $2,800,000,000 for each of the fiscal years 1990 through 1996; and

'(6) $2,240,000,000 for each fiscal year after fiscal year 1996.' ".

Mr. KASICH. Mr. Speaker, pursuant to House Resolution 272, I call up the conference report on the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 15, 1995, at page H12509 and prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. SABO] each will be recognized for 1 hour.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from New York [Ms. MOLINARI], a member of the Committee on the Budget.

Ms. MOLINARI. Mr. Speaker, there comes a time for every family in America where parents pass on, leaving their children with hopefully some lessons learned, maybe a house, at least some prayers and love. Imagine, however if you could, that once you leave this Earth and your children and your grandchildren are called to the reading of the will, they are told the unimaginable news that the parents who claimed to have loved them so very much left them nothing but a mountain of bills and debt, and that in fact these children and grandchildren will have to work the rest of their lives to pay off the uncontrolled spending habits of their parents.

None of us in this Nation would ever dream to do this. Yet this is just what we have done for the last 30 years. Today we say no more, no more to a child born today having to spend close to $200,000 over the course of their lifetime in taxes to just pay interest on the debt. Every American deserves a better future.

Mr. Speaker, a balanced budget is the right thing to do now, not after the next Presidential election.

Mr. SABO. Mr. Speaker, I yield myself 5 minutes.

Mr. SABO. Mr. Speaker, may I first again congratulate my friend from Ohio in successfully bringing to this House his vision and the vision of the majority, a budget for the next several years. I know it is not easy. It involves lots of tough decisions. I do not agree with your product, but I respect your ability to bring this product before us today. However, I must say to the majority, I think the fact that we are only spending 2 hours debating a bill of this magnitude is really a disgrace to this institution.

Mr. Speaker, throughout this year, Congress has been locked in a profound debate over two competing visions of America's future and what those visions mean for American families, workers and the most vulnerable among us.

Today with this budget we have a clear statement of what the Republican vision for America is all about. This budget is their answer to complex questions about the role of Government and about the best way to balance the Federal budget.

It is an answer that affluent Americans will welcome. It is an answer the wealthiest and most powerful interests in our society will receive with open arms, because they will be enriched by the policies this budget represents.

For millions of Americans, this budget is no answer at all. For them it does not represent the best of American values. Instead, it represents a one-sided attack on lower and middle-income citizens who will see the doors of opportunity close as chances to better themselves disappear.

Under this budget, millions of low-income families will see the safety net that ensures them adequate food, shelter and medical care shredded.

So I say to my Republican colleagues, you must now justify your budget to the American people. You must tell them why $245 billion in tax breaks is fair when you impose new taxes on low-income workers. You must explain to them how making it difficult if not impossible for millions of our citizens to obtain adequate health care is the type policy that will renew America.

Americans will also want to know how your extreme cuts in nutrition, education, job training, transportation and research will move this country forward when we have many years of evidence that these investments enhance our economic future and the well-being of our society. And you must explain how eliminating work incentives and reducing work opportunities will assist us in our efforts to move people from welfare to work.

I find the answers you have provided in this budget are not only inadequate, but also mean-spirited and destructive of our society.

Mr. Speaker, one of the most troubling aspects of the Republican budget is that it will escalate the 20-year trend that has pushed income inequality in this country to its highest level ever. Clearly we can do better for our families, our workers and our economy.

I urge my colleagues to reject this Republican budget and to begin to work together to forge a balanced budget that is fair to all Americans and that strengthens our Nation's economy and America's future.

Mr. Speaker, I reserve the balance of my time.

Mr. KASICH. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I almost hesitate to come to the floor because I do not want to be perceived as crowing. But I would commend to everybody in this Chamber and everybody across these great United States to try to get yourself a copy of the Washington Post editorial from yesterday. It talks about the fact that we have an obligation and a responsibility, and let me just read one little paragraph here, one little snippet:

"The Democrats led by the President chose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that's where the votes are and the way to derail the Republican proposals generally."

□ 1200

They further go on to say that there is a need to deal responsibly with middle-class entitlement programs, and they say at the bottom of the editorial, "To do otherwise is to hide, to lull the public, and to perpetuate the budget problem they profess to be trying to solve. Let us say it again: If that is what happens, it will be real default."

This editorial lays out the challenge not just to the Democrats but to the Republicans as well the need to restrain ourselves as we approach Federal spending.

Folks, let me just have you take a look here. We have $9.5 trillion in Federal spending over the last 7 years in this country, $9.5 trillion. If you started a business at the time of Christ, if you lost $1 million a day 7 days a week, you would have to lose $1 million a day 7 days a week for the next 700 years to get to $1 trillion.

The national debt is $5 trillion, and over the last 7 years we have spent $9.5 trillion. Over the next 7 years, under the plan on the floor today, by slowing the growth in Medicare, slowing the growth in welfare, slowing the growth in education, all of them growing, just not growing as fast, we are going to go from $9.5 trillion to $12 trillion, a $2.5 trillion increase in Federal spending.

The question is, ladies and gentlemen, can we preserve the extra trillion? That is fundamentally the question. And to bring it down to the family, when you set $100 aside out of your paycheck for your kids' college education, when we set that $100 aside in that savings account for our children's future, we would not try to figure out every gimmick and every explanation we can use to spend that $100, because that is the hundred bucks we are setting aside for our children, because we think setting it aside is going to give our children an opportunity.

As consumers today, of the Federal spending that goes on, we will be able to consume $2.5 trillion more than what we consumed over the last 7 years. The question is just like we set that $100 aside in that little kitty for your children's education, can we set that $1 trillion aside for our children's future so they will have decent jobs and a decent chance at a college education and a decent home? If we do, they are going to have success. If we do not, they are going to have success. If we do not, they are going to live in one-room shacks, and they are going to pay a fortune for it, and they are going to have trouble getting jobs.

We must pass this Balanced Budget Act bill today. Preserve the future of America. Consume slightly less and guarantee something for our children.

Mr. SABO. Mr. Speaker, I yield 5 minutes to my friend the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, unlike some Members on the other side of the aisle who spoke of this being the day they have waited for years to see, I feel like the young boy who waited for Christmas only to find lumps of coal in his stocking.

How I would love to celebrate a common sense, compassionate, honest, fair balanced budget. I would have loved having an opportunity to participate in the conference which produced this budget. Even though I was one of the overall conferees, I got my first glimpse of the package this morning, first from some lobbyists who evidently had first dibs at the information and then finally summary information compiled by my ranking member.

I would love to celebrate a budget that speaks to the need for reaching balance before using more borrowed money to allow for tax cuts.

I would love to celebrate a balanced budget that takes seriously the impact which this level of Medicaid savings will have on the underserved in rural and inner city America. I make reference to the letter I received just this morning from the Texas Hospital Association urging all Members of the Texas delegation to vote against this conference report because "the various health care provisions in this legislation are not in the best interest of patients, communities, and those who provide their care."

I would love to celebrate a balanced budget that holds harmless the most vulnerable in our society: seniors in nursing homes, lower income working families trying to stay off of welfare, disabled individuals.

The other party has implied that unless Members support this reconciliation bill, one opposes a balanced budget. That's simply not true. We presented hard evidence here on the House floor that that is not true. We presented a CBO-scored 7-year balanced budget which didn't destroy Medicare, Medicaid, EITC, student loans, children's nutrition, and so many other programs. Our budget would require shared sacrifice, but not at the expense of compassion.

I do commend Chairman KASICH for the incredibly hard work he has done in putting together a package. I offer tremendous praise for the way he has moved the debate in this country toward a balanced budget. But this is not the balanced budget we need.

President Clinton has stated clearly that he intends to veto this reconciliation bill and I support him in that decision. But just as strongly, I will follow by urging him to work toward finding the middle ground which protects some of his priorities and principles, remaining within the framework of a time-certain balanced budget. I support every Member of this body, Democrat or Republican, who refuses to accept defeat in finding a commonsense resolution of our disagreements, rolls up their sleeves, and moves toward a balanced budget.

I will vote "no" today but this campaign is far from over today. I hope that the next time we come to the floor for this debate, I will have the privilege of standing shoulder to shoulder with both my chairman and my ranking Member in supporting a balanced budget solution that we all can be proud of.

Mr. ORTON. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Utah.

Mr. ORTON. Mr. Speaker, I thank the ranking member and also my colleague, the gentleman from Texas [Mr. STENHOLM], for yielding to me.

I would like to associate myself with each of the points that the gentleman from Texas [Mr. STENHOLM] has made.

I, too, will vote "no" on this particular budget reconciliation, not because I am opposed to a balanced budget but because we have not sat down as a bipartisan group in this country in this body with the President to talk and listen to one another and identify the people's priorities.

I agree that we must balance the budget, that we must do it within a time certain. The budget which we have proposed on the floor of the House, in fact, would take us to balance in 7 years under CBO scoring, and I urge the President to come to the table on those issues.

But also let me just say the country is looking at us today with amazement because we are not even talking or listening to one another. We are not talking to the President. We are not talking, Democrats and Republicans, and the people out there are fed up.

I also commend Chairman KASICH. He has worked with me and others on the committee over the years in the minority and also in the majority. But it is time today to set aside partisan bickering. It is time today to stop arguing between the President and the Congress. It is time today, and I offer to Republicans, to Democrats, to the administration, anyone who wants to come in and sit down. The budget which we put forward on this floor 10 days ago is where we are all going to have to come in the end game anyway.

Let us sit down and start agreeing on where we agree, identify where we disagree, and come to agreement. That is what the public wants. That is what I urge.

I hold out the hand in offering to any of the Republicans, and we have been meeting with several on both the sides of the aisle, let us start identifying those things, let us get it done. Let us get the Government back working and solve these problems.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise and associate myself with the remarks of the gentleman from Texas and the gentleman from Utah and congratulate them on their efforts.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CAMP], a member of the Committee on Ways and Means.

Mr. CAMP. Mr. Speaker, let's drop the rhetoric. Let's instead focus on what we are accomplishing today.

We are balancing the budget for the first time in 26 years. We promised the American people a balanced budget and the Balanced Budget Act is about keeping that promise.

Consider this: A balanced Federal budget means as much as 2 percent lower interest rates.

Families will save over $37,000 in interest on the average home mortgage; $900 on the average car loan; and $2,167 on the average student loan.

Our opponents call us cruel. But what is truly cruel is sticking every child born this year with a lifetime bill of $187,000 just to pay the interest on that monster that is our national debt.

All Americans will benefit from a balanced budget.

If we accomplish this task, we will provide a brighter future and a better America for our children, our seniors, employers, veterans, and every American.

Mr. Speaker, we have kept our promises for America's families, for America's future.

Mr. SABO. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California [Ms. WOOLSEY], a member of our committee.

Ms. WOOLSEY. Mr. Speaker, no wonder the majority is only allowing 2 hours to debate this conference report. They don't want the American people to hear the harmful things their budget will do to education; to seniors and their families; and to middle-income workers. But I am going to tell you, my friends, about the part of this bill that I know best—welfare reform. As the only Member of this body who has actually been a single, working mother on welfare, I know that the welfare provisions in this bill will not work. I have lived it.

This bill does nothing, absolutely nothing, to get families off welfare and into jobs that pay a liveable wage. There is no education, no job training, and not nearly enough child care and health care.

Mr. Speaker, the choice comes down to this. We either punish poor children, as this conference report does, or, we invest in families so they can get off welfare permanently. Let's do what is right for our children. Vote against this conference report.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the very distinguished gentleman from Oklahoma [Mr. LARGENT].

Mr. LARGENT. Mr. Speaker, for 40 years we have wandered in the desert, and today we find ourselves at the River Jordan, and it is time to cross.

For too long, we said we were going to balance the budget, and yet we have not done it. Today is the time we make a historic first step in that direction.

I have had the opportunity over the last 20 years to talk to America's young people all across the country, and sadly I am here to report that this is the first generation of young people, when asked on a survey, do you think in your lifetime that you will ever be better off than your parents are, this is the first generation of young people who say, "No, I do not think I will be."

Our young people today have lost their hope. They have lost their future. It is time to address that. That is really what this debate is about, is about providing for a vision, a future and a hope.

What we see today is a collision of visions for what America will look like for the next generation. What will America look like with a balanced budget? How about in the words of Alan Greenspan, a 2-percentage-point drop in the inflation rate?

Mr. Speaker, I would just urge my colleagues to vote "yes" on this Balanced Budget Act of 1995 for our children, for our future, for the next generation.

Mr. SABO. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, let me thank my friend for yielding me this time.

I oppose this budget. It is based upon the wrong premises. It is based upon a large tax cut for the wealthy while we are wallowing in debt, asking our seniors to pay more for their health care and get less, and extreme cuts in education and the environment.

There is a better way. The Coalition budget would balance the budget in 7 years with less borrowing and debt, with reasonable appropriations for Medicare and for education programs.

I ask my colleagues to reject this Republican budget. Let us truly work together in a bipartisan way and support a budget that will balance the budget in 7 years with less extreme cuts. We can do it if we were only willing to work together in a bipartisan way.

Vote against this Republican budget.

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Mr. KASICH. Mr. Speaker, I yield 1 minute to the very distinguished gentleman from Ohio [Mr. PORTMAN], a member of the Committee on Ways and Means.

Mr. PORTMAN. Mr. Speaker, I thank the budget chairman for giving me time.

Mr. Speaker, one of my local papers, the Cincinnati Post, put it well in a recent editorial: "Now is our best chance to bring fiscal sanity to Washington."

Mr. Speaker, if we do not roll up our sleeves and get to work on getting this budget under control, I think we will not only have missed a chance to save the next generation, I think we will have perhaps missed the last best chance. If we continue to ignore the problem, the debt in this country is going to grow from about $4.9 trillion today to almost $7 trillion 7 years from now.

If, on the other hand, we can get our act together and get this budget under control, if we grasp the historic opportunity before us, we can give our kids and grandkids the same shot at the American dream that we have had and our parents had. Specifically, we are going to see lower interest rates, we are going to see higher productivity, we are going to see lower inflation, and we are going to see higher take-home pay. That is what this is all about, giving them the same chances we have had.

Let us grasp this opportunity. We have a plan here today to do it. Let us do it.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentleman from new York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Speaker, I came here in 1987. I was worried about the slide into bankruptcy. I have been in business. When you are in business, you have a problem; you get at it, fix it, and move on to the next one. But we did not do it, and I blame myself as much as I blame anyone else here.

But my worry now is we are going to get tangled up in partisanship and personalities and be thumbing our nose at one another and not get the job done. You cannot look at the economic and budget outlook report of the Congressional Budget Office, you cannot look at the Bipartisan Commission on Entitlement and Tax Reform, and not realize we are really in bad shape, because now we should be building a surplus. And why? Because of the baby boomers.

We have everything working for us. We have the demographics, we have the Depression babies, we have the peace dividend, we have got the economy. But we are not doing it. We are borrowing, at the very time we should be building a surplus.

Some will say there is a better way, and I am sure there is a better way. But there has always been a better way. That has been our problem. I think we ought to get at this, and I do not think we should duck the issue. Why not now?

Mr. HOBSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING of Kentucky. Mr. Speaker, I rise in strong support of the Balanced Budget Act of 1995.

Mr. Speaker, I am glad to have an opportunity to speak today in favor of our balanced budget bill. It is a decisive step forward on the road to getting the country's finances back in order.

This budget represents our commitment to the future and the economic well-being of America's children and grandchildren. Our budget will save the Medicare Program for bankruptcy; end welfare as we know it; and return a few dollars to the pockets of those who earned them.

As chairman of the Social Security Subcommittee, I have focused on the way our balanced budget will affect both the young and the elderly. We are providing a $500 per child tax credit for middle-class families. As a father and grandfather, I know how important this credit is.

But, we did not forget the elderly and the infirm in this budget either. Part of our original Contract With America was the Senior Citizen's Equity Act. We have been successful in getting part of that into this bill.

I wish that we could have included the increase in the Social Security earnings limit in the balanced budget bill. We passed it in the House but the other body has different rules and for technical reasons it did not make it into this bill.

Nonetheless, we are committed to increasing the earnings limit and I have a separate bill which the leadership has committed to bringing to the floor before we end this session of Congress. We will raise it.

Our budget is a well considered plan to help all Americans. It is not the extremist nightmare that Mr. Clinton wants everyone to think that it is.

The bill before us contains a very important provision to help those who are terminally ill or chronically ill. It allows them to sell their life insurance policy and receive the proceeds tax free.

Allowing the terminally ill to have access to their insurance proceeds prior to their death lets them spend the rest of their life in dignity. Mr. Speaker, that is not extremism; that is compassion.

Mr. Clinton likes to talk about extremism. Well, I don't think that it is extremism to give a $1,000 above-the-line deduction for custodial care of elderly relatives in a taxpayer's home; that is compassion.

Our bill provides capital gains tax relief which benefits the young and old alike. Encouraging and rewarding investment in our country is not extremism in my book; that is wise policy.

Our bill expands the availability of IRA's which allows the young to plan for their senior years. Planning ahead to take care of yourself and your family is not extremism; that is smart thinking.

The only ones who will find this balanced budget extreme are those addicted to doing things the same old way. To the far left, I am certain that it is their worst fear and they will say anything to kill it.

To the rest of us, this is a smart budget filled with good policies and it sets this Government on the right path. I urge my colleagues to support this balanced budget for all Americans.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, there is one reason and one reason only that we are here today. Whether some in this Chamber recognize it or can admit it, one reason brings us here today: Unless we have the courage to pass this balanced budget, all too soon we will have no revenue to fund the good programs our Nation needs.

We all want America to remain the strongest country in the world. We want our children to grow up healthy, well educated, drug free, and prosperous.

We just can't achieve these goals without first addressing the deficit. Otherwise, we, our Nation and our children's future will be strangled by runaway deficits.

Former Democratic Senator Paul Tsongas made this clear when he noted that "The Bipartisan Commission on Entitlement and Tax Reform shocked even cynical inside-the-beltway types by pointing out that, on the current path, entitlement programs plus interest will cost more than all Federal revenues by the year 2012."

All of the rhetoric, the acrimony, and the accusations that have been aired here in the past few weeks—even this Government shutdown—will be a small price to pay if we balance this budget, if we have the foresight to look beyond the obstacles of today and secure the future for our children and their children.

We must pass this landmark legislation to balance our Federal budget and begin to honestly address our Nation's problems.

Support his bill.

Mr. SABO. Mr. Speaker, I yield 3 minutes to the gentleman from Florida, Mr. SAM GIBBONS, the distinguished ranking member of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Speaker, I never picked up $1 trillion or even $1 million in my life, but this bill represents a $1 trillion change, and none of us in here know it. This is the biggest monument to mismanagement of legislative times I have ever seen.

This debate, instead of taking a total of 2 hours, should have been finished in July, had not the Speaker mismanaged this place over a much-extended period of time.

It is impossible to read this. I first saw it last night about 9 o'clock. It is unnumbered pages printed in extra small print, not the normal size print. The pages are unnumbered. As you can see, it is held together with rubber bands.

This is their glorified piece of legislation. We know very little about it except we know that their priorities are wrong. Their first priority is to give a crown jewel to everyone, which is a $250 billion tax cut. They tell us, but they produce no evidence, that it goes to middle-class people. There is no evidence available to any Member of Congress to sustain that allegation. I do not believe it is true.

One of the principal things in here is a family credit, but 33 percent of all the families in America with children, who qualify on demographics and everything else, do not get one penny out of that, because they do not pay the right kind of taxes. They pay taxes, but they just do not pay the kind the Republicans define as being the right kind to pay. So 33 percent, and they happen to be in the lowest income category, do not get anything out of that so-called crown jewel.

Now, I do not know what all the hidden things are in here. It will take years to search those out with a microscope. But I assume they are in here. They have always been in here. That same virus has infected every piece of legislation that I have ever seen in this House, and I am sure they are in here. But it will be years before anybody is ever able to search it all out, except the lobbyists who got them put in here.

Now, it is not when we balance the budget, or whether we balance the budget; it is how we balance the budget. The Republican priorities lay the burden upon the sick, the old sick, the young sick, and the middle-aged sick. They lay the burden upon the poor. They lay the burden upon the working poor. That is not the right way or how to balance the budget.

Mr. Speaker, the House and Senate Republicans have been meeting in secret for almost a month now to resolve the differences between two horrible bills, trying to arrive at a single version of this budget reconciliation bill that will be acceptable to Republicans in both bodies. They have come up with a bill that they should be ashamed of. This Republican budget bill that Speaker GINGRICH controlled so tightly represents a heartless attempt to balance the budget on the backs of our Nation's infants and children, our sick, our elderly, and the working poor. That is not what I was elected to this honorable body to do. It is not what the American people need or want us to do on their behalf. I strenuously oppose this budget bill. I urge all Democrats to reject it soundly.

Now that the Republicans have come out of their secret meetings on this budget, we are able to see just how extensive the damage is to ordinary Americans: cuts totaling $561 billion in programs designed to ease the burdens and miseries of the poor, the aged, the young, and the struggling. The Republican budget wreaks havoc all across the board: cuts totaling $82 billion in sustenance income for families with children through the welfare program, including cuts of $40 billion in food for women and children through food stamp and other nutrition programs; cuts of $165 billion in health care for the elderly through the Medicare Program; cuts of $32 billion in rewards to work effort for low-wage earners through the earned income tax credit; and excessive cuts in student loans and veterans' benefits.

I am a strong proponent of reducing the deficit. As a grandfather, I want to protect this country's legacy to future generations. But our legacy should include a large heart and a helping hand for those most in need.

The greatest injustice of all is that these budget cuts are much deeper than they would need to be if the Gingrich Republicans were simply acting to shrink the size of Government, as they disingenuously describe their actions to the American people. These cuts are much deeper because the Republicans have used this budget as an opportunity to bestow generous tax cuts totaling $245 billion disproportionately benefiting their already-well-off constituencies and Republican special interests. This excessive tax cut is unnecessary. It is an insult to the spirit of decency and fair play that ordinary Americans know to be one of our best characteristics as a people.

It is a cruel irony that all this suffering and injustice is unlikely to accomplish the goal the Republicans are claiming: a balanced budget by the year 2002. The Republicans' claims are based on a foundation of sand. Many of their savings are based on assumptions, rather than actual legislative changes. Most of these assumptions will not come true, in reality. One of the assumptions that they make much of in this Republican budget is that enacting a balanced budget will have very salutary effects on the economy, such as lower interest rates and higher economic growth. However, the Federal Reserve, the Nation's ultimate arbiter of interest rates, doesn't see it that way. Although Federal Reserve Chairman Greenspan strongly favors greater budget discipline, Fed officials were described in the Washington Post earlier this seek as being "unhapp[y] * * * with widespread anticipation that a deal to balance the budget, even 7 years down the road, will be rewarded by a cut in the Fed's * * * interest rates." A Fed official was quoted as saying "Monetary policy should certainly not respond now to the mere possibility that the budget will be balanced in the next century." Republican claims that their senseless budget will result in a healthier economy are hokum. Why would the economy be reassured and energized by these Republicans who cannot get their business done in a timely manner, who will not keep the Government running efficiently, and who play a game of Russian roulette with the good name and pristine reputation of our very Nation by scoffing at the idea of financial default?

Children will suffer the most under this Gingrich Republican budget. Of the total cuts of $561 billion in the programs that serve the vulnerable populations listed above, $284 billion cut from programs that primarily benefit children. Most of those benefiting from the nutrition programs are children. Almost half of those served by Medicaid are children. Seventy percent of all Americans on welfare are children. Eighty percent of those receiving an earned income tax credit are families with children. Treating children this way is inhuman.

WELFARE

Between one and two million American children will be pushed into poverty by the hard-hearted welfare policies contained in this conference agreement. And those children who are already poor will have their lives made more miserable. These cuts are too deep. This bill is simply too tough—too cruel—to children.

It leaves the safety net we have built for our children in tatters, replacing the safe haven we have provided with the luck of the draw. New, poorly defined "block grants" are created. The money is capped, and guaranteed. Guaranteed—not to the children—but to the States. The Federal Government promises to give those poor, needy States a big pot of money. And what do we ask in return? Not much.

States get to spend the money for a set of purposes that are broad enough to drive a truck through. And, mark my words, before long, we'll learn that they have figured out how to finance highways with these block grants. The Gingrich Republicans call it "flexibility." I call if "irresponsibility." Americans will call it cruel.

Of course, there are a few rules. But only those favored by the extreme Gingrich Republicans who want to impose their view of morality on everyone. Then, ironically, we can no longer trust the States to do what is right. We have to micromanage them or, at the very least, give them a series of complicated hoops to jump through before they get to make their own decisions. And, along the way, we have completely lost sight of what should be our basic goal—protecting children.

Here's one example that demonstrates my point. After much pushing and prodding by

Democrats, the Republicans finally agreed to leave foster care payments for abused children intact. They wanted to take away this safety net for abused and neglected children. Under this conference agreement, we keep them safe from physical harm but there is no guarantee that we can offer them anything else. No child in foster care will be assured of the services they need to make returning home safe or adoption a reality. States will help them if they can. If they run out of money, kids may be left in limbo. Year, after year. That's cruel.

This conference agreement cuts more than $80 billion out of programs serving poor families with children. At the same time, the taxes of these families are increased by more than $32 billion. This is an unfair double whammy for the poor and working poor families in this country. Yes, the budget needs to be balanced. Thanks to the leadership of a decade of Republican Presidents this country has mired itself in a sea of deficits. The American people want change. But they do not except America's children to be first in line to pull us out of the mud.

That would be cruel. I won't be a part of it.

MEDICARE AND MEDICAID

The aged and the sick are also among those who will suffer as a result of this Republican budget. Millions of seniors who have contributed to this society for decades will pay more for or receive less health care or both because the Republicans are bludgeoning the Medicare Program. Those who receive their health care through the Medicaid Program, either in the emergency rooms of hospitals that serve the poor or in nursing homes all across this country are at risk of receiving no health care at all as a result of this Republican budget.

Medicare beneficiaries' premiums will be increased under this Republican plan. Beneficiaries will have only tough choices—as the Republican plan makes traditional Medicare more expensive and doctors less assessable. Making traditional Medicare "wither on the vine" as the Speaker has said the Republicans want, will not make life easier for our Nation's seniors.

The Republican bill is full of additional outrages. It provides antitrust exemptions for physician groups which put beneficiaries at risk for even higher costs. Their bill guts critical protections against physicians referring patients to entities with which they have an ownership or employment relationship. The bill makes it harder to impose fines on those who submit fraudulent claims to Medicare. On top of all this, the Republicans want to squeeze payments to hospitals and doctors so hard that rural and inner-city hospitals will close, and doctors will stop taking care of Medicare patients.

Too many bad provisions to enumerate add up to an even worse bill.

TAX ISSUES

Working Americans who earn little enough to be eligible for the earned income tax credit are admonished by the Republicans to stay in the work force, to work longer and harder, to take personal responsibility; but the cuts in the earned income tax credit deliver a different message. Their message is that the rewards to work are diminished, the return for one's effort is considerably smaller. Is that any way to encourage the very actions that one promotes? The Republican conundrum—or one of them—appears to be that economic incentives to be productive matter if you are a wealthy taxpayer or corporation that needs capital gains or special industry tax relief, but not if you are an ordinary wage-earner who benefits from the earned income tax credit.

The reduction of $32 billion in the earned income tax credit [EITC] will result in tax increases on 13 million families of workers who earn less than $28,500 a year. At least 4 million of them earn less than $10,000 a year.

This tax increase reduces the incentive to work for low-income people who are working and struggling hard to stay in the work force—the very thing Republicans have said they want those people to do. It makes no sense. Nor does it make any sense at all to have families who make less than $28,500 foot the bill so that wealthy families can receive tax break that may be almost as large as the annual salaries of some of those targeted families.

The Republicans claim that 73 percent of their crown jewel tax cuts will go to families with incomes of $100,000 or less. That is obfuscation on the Republicans' part. They claim this because they ignore these deep cuts in the earned income tax credit—just as they ignore the plight of those Americans who receive these credits. Distorting the facts like this is unworthy of their role as legislators and national leaders.

Also, I am deeply disturbed that the conference agreement includes a provision which allows companies to take billions of dollars out of their workers' pension funds. The provision included in the conference report is a slightly modified version of a proposal that was defeated by a vote of 94 to 5 on the Senate floor. I would have thought that this overwhelming and bipartisan vote of disapproval would have been sufficient to ensure that this unwise proposal would not be included in the conference report.

Based on revenue estimates of the conference report provision, it appears that the Joint Committee on Taxation anticipated that as much as $20 billion will be removed from pension plan funds by employers under this proposal. The Pension Benefit Guaranty Corporation has estimated that as much as $100 billion could potentially be withdrawn under the proposal. The benefit of this provision will be enjoyed by corporate America—the risks will be borne by employees and the American taxpayers.

As in the case of the pension reversion proposal, the Republican conferees would have been wise to adopt the Senate provision on expatriates. The Senate proposal was adopted on an overwhelming and bipartisan basis. It is deeply disturbing that the conference did not take this opportunity to stop a few wealthy Americans from gaining tax benefits through the act of renouncing their allegiance to a country whose economic system benefited them extraordinarily.

One of the troubling aspects about the congressional consideration of the expatriate legislation involves the revenue estimates of the Joint Committee on Taxation. Most outside tax experts have considered the expatriate provisions included in the Senate version of the reconciliation bill as being a far more effective answer to the problem of tax abuse through expatriation than the provisions adopted by the House. The Treasury Department consistently has estimated that provisions similar to those included in the Senate bill would raise several times more revenue than the provisions included in the House reconciliation bill. However, the Joint Committee has estimated that the far more effective Senate provision will raise little more than half the revenue raised by the House bill.

I am also concerned that the Republican budget agreement would repeal the low-income housing tax credit at the close of 1997. The low-income housing tax credit has helped more than 800,000 poor families afford a decent place to live. It encourages investment in residential housing. It has helped to revitalize urban and rural neighborhoods and boosted local economic activity. The National Governors' Association has urged Congress to retain the credit as a permanent incentive for the reliable and efficient construction of low-income housing units. The Republicans have not explained adequately why they think this credit is corporate welfare that should be cut. And those hundreds of thousands of families know otherwise. The credit merely has provided a helping hand to those who need it. How can this be characterized as a benefit to corporate America? Repealing an incentive for investment in housing for the poorest among us is nothing more than a hit-them-when-they're-down attack on America's needy.

I have always believed that we must be particularly sensitive to the needs of Puerto Rico and our other possessions because they do not have voting representation in the Congress. It has always been my position that any changes to the section 936 credit should maintain, to the maximum extent possible, real incentives for economic development in Puerto Rico. I believe that a credit focused on economic activity in Puerto Rico would accomplish that purpose. The conference report provisions phasing out the section 936 credit are not designed to maximize economic development in Puerto Rico. By not focusing the credit on economic activity in Puerto Rico, the conference report only benefits companies such as the pharmaceutical companies and soft drink companies which claim large credits under section 936 because of their income from intangibles, but often have relatively little employment in Puerto Rico.

As I have stated earlier, the Republican conference report provides substantial reductions in programs designed to protect the poor and defenseless in our society. I believe that it is inappropriate in such a bill to include tax reductions such as those promised in the Contract With America that disproportionately benefit the wealthy and powerful in our society. I also believe that it is shocking that the Republicans also have used this bill as a vehicle to do special interest amendments. They have included a variety of narrowly targeted provisions.

TRADE ISSUES

On trade provisions, I am disappointed that the conference agreement does not include an extension of the trade adjustment assistance programs for workers and firms for an additional 2 years through the fiscal year 2000, as adopted on a bipartisan basis in the Committee on Ways and Means. I am also dismayed that House Republican conferees reduced the extension of the Generalized System of Preferences program for 2½ years as provided in the House bill to an extension for only 1½ years.

Mr. HOBSON. Mr. Speaker, I do not think there are any telephone numbers in there of the previous staffers, as there was in the Democratic budget.

Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this is it. This is the moment of reckoning. The entire Nation is focused on Congress, and the taxpayers of America expect us to balance the budget now.

No more excuses. No more gimmicks. No more playing the Medicare card.

As the Washington Post's lead editorial put it yesterday, "If the Democrats play the Medicare card and win, they will have set back for years—for the worst of political reasons—the very cause of rational government in behalf of which they profess to be behaving.

"The question is whether the President and the Democrats will meet or flee their obligations," continued the Post's editorial.

Let's be straight with the American people. The question is very clear: "Do you support a balanced budget in 7 years?" Yes or no.

In other words, do you think the Federal Government can get by with increasing spending $12 trillion over the next 7 years instead of a $13 trillion increase?

Is there anybody here who really believes that we must spend $13 trillion more instead of $12 trillion?

Defenders of the status quo say we're mean spirited because we're only increasing spending by $12 trillion.

Let me tell you what's really mean spirited.

What's really mean spirited is to continue mortgaging our children's and grandchildren's futures.

What's really mean spirited is to continue spending more money than we take in—which has jeopardized the financial future of our great Nation.

What's really mean spirited is to promise more than we can deliver, simply for political gain.

Let's pass the Balanced Budget Act of 1995.

The people of America and our children and grandchildren deserve nothing less.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, this Nation badly needs welfare reform, a system that moves the parent from welfare to work without punishing the child. The interdependency is indeed so vital for the parent and for their dependent children. This goal is so vital that it must be shaped essentially by what will make a new system really work, not overwhelmingly by what will save money in the short term in order to plug a big number into an overall budget package. It is so vital that it must become law, meaning sufficient bipartisan support to be enacted and signed by the President.

These welfare provisions fail in both regards. Absolutely failing to even consult, let alone work on a bipartisan basis, the majority has crafted a bill with provisions too weak on getting people off welfare into work and are very potent in hurting kids. Instead of moving toward the Senate bill and improving on it in several important areas, it embraces House provisions that will hurt kids more than putting their parents to work.

This bill, among other things, would cut food stamps by $34 billion, substantially cut payments to 500,000 needy families with seriously handicapped kids, weaken even further than the Senate bill, State maintenance of effort provisions, thereby reducing the likelihood of moving people into productive work. It would prohibit payments to even very elderly, needy legal immigrants and school lunches to kids of such immigrants, and leave working families out in the cold in times of recession.

It is time to work on a bipartisan basis. House Democrats showed their commitment to welfare reform when we voted unanimously for a bill that was strong in getting people off of welfare into work, with clear time limits for people to do so without punishing their children. It provided for broad State flexibility as to how to carry out the national interests in moving parents off welfare into work.

The legislation that we pass must reflect the values and beliefs of the American people. We can and must do better. We must put together a bill that will reform our broken welfare system.

Mr. HOBSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of the Balanced Budget Act of 1995. It is time we balance the budget for everyone in this country and our children and grandchildren.

Mr. Speaker, today is a historic day for America. It is a historic day because today we are keeping our promise to the people of this great Nation for a better future.

This Balanced Budget Act brings more change to the way Washington operates than any other legislation in the last half century. It eliminates deficits over the next 7 years and does so honestly and fairly. And in doing so, we ease the crushing burden of Federal debt on our children.

A balanced budget will not only keep the national debt from going higher and higher, it means help for folks right now. Balancing the budget will lower interest rates which will mean lower mortgage rates, lower car loans costs, lower rates on student loans, and more jobs.

For instance, according to DRI-McGraw/Hill, an independent economic consulting firm, fixed rate mortgages would drop by 2.7 percentage points and adjustable rate mortgages would drop by 1.7 percentage points by 2002. This would boost home values by 8 percent, existing home sales by 11.5 percent, and housing starts 65,000 each year.

This bill keeps other promises as well, including our promise to preserve, protect, and strengthen Medicare. It saves Medicare from bankruptcy while still substantially increasing spending on this important health care program. It is security for our seniors who have planned for their retirements with the hope that Medicare will be there. And it is security for baby-boomers who know we are committed to a sound Medicare system when they retire.

We deliver on our promise of tax relief for America's families and a cut in the capital gains tax to spur job creation and economic growth. According to the congressional Joint Economic Committee, a $500 per-child family tax credit means families with children earning less than $25,000 will see their entire Federal income tax liability eliminated. Families with incomes of $30,000 will have 48 percent of their Federal income tax liability eliminated.

And capital gains tax relief means jobs and economic growth. Investment will not happen without capital, and capital will not be freed up without tax relief. Economic growth and more jobs means more tax revenue.

Despite what our critics say, we can balance the budget and still give relief to our hardworking and overburdened taxpayers. And one thing we know for sure, increasing taxes has not produced balanced budgets.

The American people want a smaller, more efficient government, but Washington has failed to deliver. However, with this bill we begin slimming an overweight Federal bureaucracy including eliminating an entire Cabinet level agency—the Commerce Department.

Mr. Speaker, the Balanced Budget Act is the right thing for America and America's families. We must keep our word to balance the budget. Most important, we must keep alive the American dream for the sake of our children. I urge my colleagues to vote for this historic bill.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Speaker, all we hear from the other side are distortions. The President would have you believe that our budget is draconian, that we are going to have massive spending cuts.

Wrong. Stop the scare tactics. Tell the truth. Under the Balanced Budget Act the Federal Government will spend $12.2 trillion. That's a lot of money.

Now, you know how much we spent the last 7 years? $9.5 trillion. We are going to spend almost $3 trillion more over the next 7 years than we did the last seven.

The MediScare crowd keeps talking about Medicare cuts. Again the scare tactics. Tell the truth.

Today we spend $4,800 for every senior on Medicare. In 7 years we will spend $6,700. That's a $1,900 per person increase. There are no cuts.

The fact is this is a fair budget. It's a huge budget. But, we show some fiscal restraint. We have kept our promises for America's families—for America's future.

Ms. ROYBAL-ALLARD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I would like to talk just for a moment about the Medicare issue. It has been suggested we do not need to fix Medicare. Actually, that would not be such a bad idea, because if we did not fix Medicare, 26 million more uninsured would not lose their insurance as they will under the Republican bill.

Twenty-six million Americans will become uninsured as a result of this $270 billion. Marie Antoinette would have called it a decapitation; you want to call it a cut. It is a reduction. Twenty-six million people are going to lose their insurance. Nine million people get 80 percent of the tax cuts you are giving them. So you are giving 9 million of the richest people $250 billion, and you are taking insurance away from 26 million.

Thirty-seven million people will pay more in part B, and the doctors will be able to balance their bill, which means you take the lid off. Doctors can charge the Medicare beneficiaries whatever the traffic will bear. The referral fees that the doctors can get are no longer limited, so the doctors can own labs, x-ray labs and physical therapy labs, and they can sell their patients like pork belly options to get referral fees and kickbacks.

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The most unethical practice that was denied some years ago is being reinstated by the Republican bill.

The Republicans are destroying the fee-for-service medical system and the choice, and they are destroying the nursing homes for so many, and the ability through the Medicaid cuts for so many of the lower-income seniors who need nursing home care in their dwindling years. This is what they are doing with their fix.

If the Republicans think that the Democrats want to fix the system that works well, they are wrong. They are wrong to cut $270 billion for the tax cuts for the rich.

Mr. HOBSON. Mr. Speaker, I yield 30 seconds to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I want to correct one thing the last speaker said. I am sure it was an inadvertent error on his part when he talked about all the benefits of the tax changes going to the rich. This chart makes it very clear. Sixty-five percent of the tax relief benefits go to people with incomes below $75,000. Sixty-five percent of the tax relief goes to those working Americans.

We know that rich people, middle-income people, and poor people all have children, and it is all of them that will get the bulk of this tax relief, because most of the tax reductions go to people that have children. So the tax relief goes to middle-income families. And let us not be fooled by anything else that says it goes to the rich. It does not. It goes to middle Americans.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, the gentleman is also incorrect about what we are doing with Medicare. We are spending more. We are spending 40 percent per beneficiary and 54 percent more in total. In fact, we are going to spend over $674 billion more in the next 7 years than we did in the last 7 years.

Only in Washington when we spend so much more money do people call it a cut. The earned income tax credit will go from $19.8 to $25.4 billion. The School Lunch Program is going from $6.3 to $7.8 billion. The Student Loan Program is going from $24 to $36 billion. The Medicare Program is going from $178 to $289.

Mr. Speaker, only in Washington when we spend so much more money do people call it a cut.

Ms. ROYBAL-ALLARD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, I thank the gentlewoman from California for yielding me time.

Mr. Speaker, I want to point out to the last speaker there, that, yes, seniors will get more money. They are going to get about $6,600 per capita per year on their health care benefits under this proposal. The problem is that for those people that have private insurance, they are going to have a massive increase as well.

In fact, we will be spending, in the year 2002, $6,600 on that senior citizen, 75, 85, 90 years old, but we will be spending $7,700, $1,100 more, on somebody 30 years old. What do you think will happen to senior citizens? They will be given second class health care at a time when they need it.

The gentleman from Ohio referred to a telephone number in a budget. That was in 1981. I was thinking, that was the last time the Republicans had effective control of the House on a budget. That was the year when they said in 1984 they would balance the budget, increase defense and cut taxes. Look what happened. We have budget deficits that are running $200 to $300 billion a year mainly because of the extremism on that side of the aisle.

Mr. Speaker, let me tell my colleagues about these special interest provisions that have gotten into this budget. There is a pension provision in this budget. This pension provision is going to affect 13 million workers and retired people over the next 7 years. It is going to allow major corporations to take out billions and billions of dollars. By their own estimate, $20 billion, in order to pay for increases and bonuses to management employees, limousines if they want, leverage buyouts.

That is what this bill is really all about. It is a special interest bill that takes from senior citizens, middle-income people and gives to the very, very wealthy. This bill is an outrage to the American public and there will be a price to pay for it in 1996.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I wanted to ask the last speaker why, if the Medicare figures are not cuts, why does the Congressional Budget Office score them as 280 billion dollars' worth of cuts? It is their budget office that scores them as cuts.

Mr. HOBSON. Mr. Speaker, I yield myself such time as I may consume to respond to the previous speaker that I believe in the previous Congress he was talking about, Tip O'Neill was the Speaker.

Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I rise in support of the Balanced Budget Act of 1995. And I say to the gentleman from Florida [Mr. GIBBONS], and I am going to say it very clearly, because I think this will be the final answer the gentleman has needed for all these months on this debate. There has been a concerted effort over the last few weeks to frighten our senior citizens by making them believe they would lose Medicare benefits. We all know this is absolutely false.

The difference between the President's plan, if Members will look at this chart, and the Republicans' plan is $4 a month. That is right. Under our proposal the Medicare premium would rise to $87 a month by the year 2002; at the same time the President's proposal would have seniors paying $83. Four dollars difference. Where is the beef? There is no argument here. Four dollars difference between the President and our plan.

Now, Mr. Speaker, if Members will look at the next chart, I call their attention to this chart because Medicare has risen from $15 in 1986, the premiums that is, to $46.10 in 1995. The whole idea that we are raising premiums is a red herring being used solely for the purpose of scaring seniors. Mr. Speaker, it is triple, though, under Democratic rule.

So I rise in support. We have kept our promises for America's families and America's future and for senior citizens.

Ms. ROYBAL-ALLARD. Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore. The gentlewoman from California [Ms. ROYBAL-ALLARD] has 40 minutes remaining, and the gentleman from Ohio [Mr. HOBSON] has 45½ minutes remaining.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Speaker, let us talk about fraud and abuse in the Medicare Program. This bill takes a four-pronged approach to reducing fraud and abuse.

First, it greatly increases beneficiary and provider participation in identifying problems. Second, through computerization and other preventive measures, it greatly increases Medicare's ability to prevent payments for fraudulent, abusive, or erroneous claims and to identify billing schemes early in order to avoid large losses.

Third, it greatly increases enforcement efforts by establishing mandatory funding for coordinated efforts of the Office of Inspector General, state fraud control units, and the FBI.

Finally, it increases deterrence by strengthening civil and criminal penalties for defrauding Federal health care programs.

This bill, Mr. Speaker, makes Medicare fraud less of a possibility in the future. Everybody knows that there is massive fraud in the Medicare Program. This bill gives us the tools to get rid of it, saving billions of taxpayer dollars.

Mr. HOBSON. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, it is a pleasure to rise today and finally provide specific numbers certified by the Congressional Budget Office. Completely worked out. Here is the plan.

Currently, Clinton's trustees say the part A Medicare trust fund is going broke next year. It is going bankrupt in 2002. The Democratic folks chuckle about that. They say that is no problem we have solved it in the past. Yes, the way they solved it in the past was to increase the payroll tax. They have taken it from young people to give to seniors. Generational shift.

We say we are not going to do that anymore. We will look at a program that was created in the 1960's and bring it up to date. We talk about opening it up, through choice by seniors, to new exciting programs, like the provider-sponsored organization. Local doctors, local hospitals, coming together. Not some outside the area operation, but local doctors and local hospitals creating community-based managed care.

That is what we do. We preserve, we protect and we strengthen Medicare.

The Democratic plan that was sponsored in the Committee on Ways and Means and lost, creates an enormous negative $300 billion right at the time we have to deal with the baby-boomers coming on board. This plan, certified by CBO, carries us beyond 2010 in a positive position. That is part A.

Everybody knows we hold the part B premium at 31½ percent, the amount they pay today. We said, yes, we think that is a reasonable contribution on the part of the seniors. Hold the line. The President's plan, as Members can see, marching down looking at the numbers in 2002, shows $83. CBO certified our part B premium will be $88.90; $5 is all we ask. The 40 million seniors who will be in Medicare at the time are asked for $5 each. And what that does, Mr. Speaker, is create a program that creates a balanced budget in 7 years.

What do we do with the various institutions under our plan? Hospitals get $652 billion over the next 7 years. Home health, $151 billion. That is up almost 9 percent. Skilled nursing facilities get $91 billion. That is up over 8 percent. The physicians, the doctors, they get $315 billion over the next 7 years. That is an 8 percent increase. Outpatient hospitals get $111 billion. That is an 11-percent increase. Direct medical education to our teaching institutions, $32 billion. That is up 12 percent. Clinical labs get $47 billion. That is up 9 percent.

Those are increases. Those are hundreds of billions of dollars that go into Medicare to help our seniors. By opening up part A to choice and by asking our seniors to hold the line $5 apiece in 2002, we preserve, we protect and we strengthen Medicare and we balance the budget. Those are real numbers. Those are numbers certified by CBO. Support the plan.

Ms. ROYBAL-ALLARD. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, yes, let us talk about the payroll tax. We know that hurts working families, and that is why we have the earned income tax credit.

I am told by the other side of the aisle that reducing this worker wage credit will not cause any pain. I have worked on this program for many years and I know that you cannot reduce $32 billion out of a program, 15 percent out of a program, literally 1 year of payments out of a program and not have pain.

Who are these families? They are 13 million families in America, and if my colleagues can believe it, they are families with high health costs, they are families with more than two children, they are widows with children and single heads of households that are dependent on child support enforcement.

This part of the bill is very bad because it increases the discrimination about wages against hard-working families. This is something that is happening in this country, the distribution of income is becoming more and more unfair. This increases it. It should not happen. This should not be in this reconciliation bill.

Mr. Speaker, I keep hearing from the other side of the aisle that no one gets hurt if you reduce the tax credit for working Americans by $32 billion. This is impossible. You cannot reduce a $225 billion program by $32 billion—a 15-percent cut—a full year of payments—without hurting 13 million families who are in effect getting a tax increase if this happens. These are families with three or more children; families with high medical expenses; widows with children; families dependent on child support; Why are these families being hurt? They are being hurt to pay for tax reductions for the very well off. This is another step toward wage discrimination for working Americans. This continues to widen the gap in wage distribution. This part of the bill is very harmful for the future of America and its hard working families.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I want to follow up on the remarks from the gentleman from California. As a physician, I am very concerned that seniors get the facts straight. This year the average monthly Social Security benefit is $702. Next year the average monthly Social Security benefit will be $720. That is an increase of $18.

So even if Medicare premiums go up $7 per month, next year they will obtain $10 more in benefits. That is an increase by any definition. By maintaining the same share seniors currently pay for their premiums, not increasing their share, their premiums will go from $46.10 to $87 in the year 2002. But, Mr. Speaker, their Social Security benefits will increase from $702 a month to $965 a month.

Today, after paying their premiums, seniors have $656 to spend. In 2002, they will have $878. Mr. Speaker, that is the fact.

Ms. ROYBAL-ALLARD. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California, [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise in strong opposition to the Republican budget plan, which is an assault on American families.

Mr. Speaker, I rise in strong opposition to the Gingrich budget bill. This bill does not reflect the values of the American people.

A budget is a statement of values; the way we spend our money demonstrates our priorities. This Gingrich budget cuts Medicare by $270 billion to finance a $245 billion tax break for corporations and the wealthiest Americans. The budget bill coupled with the Republican appropriations bills slashes funding for education, guts environmental protection and declares war on the American worker. These are not American values.

California families would be hard hit by $72 billion in cuts over the next 7 years in Medicare, Medicaid, earned income tax credit, food assistance, and student loans. The magnitude of these cuts can be grasped by comparing the reductions to the budget of the State of California which is $57 billion this year. These extreme cuts are equivalent to wiping out all State spending for the next 15 months.

The Gingrich budget slashes Medicare funds to California by $36 billion over 7 years. Such dramatic cutbacks in Medicare funding would inflict excessive new premiums on 3.6 million California beneficiaries, and force low-income seniors into managed care. The cut of over $8 billion to California hospitals would decimate vital safety-net and teaching hospitals.

The Gingrich budget repeals the Medicaid program which provides health security to low-income Americans, 5 million of whom live in California. Half of the beneficiaries are children, 15 percent are people with disabilities, and 12 percent are elderly. Medicaid currently covers 26 percent of children in California and pays for more than half of all nursing home care.

The Medicaid program is replaced by a block grant program where States would determine eligibility requirements and the types of benefits to be provided. Federal payments to States would be cut by $170 billion or 30 percent from projected spending under current law.

Consumers Union estimates that the Medicaid provisions in this budget will result in 12 million Americans losing health insurance coverage. Because public hospitals and trauma centers are dependent on the Medicaid program, all Americans would suffer a loss of essential health care when they need it most, while experiencing a serious, medical emergency.

The last Congress engaged in an intensive debate on how to provide universal health care coverage. Unfortunately, due to the complexity of the issue and the partisan nature of much of the opposition, no legislation was adopted.

Nonetheless, there was a shared goal by most Members of Congress to expand health care coverage. Now, the Gingrich budget is about to take the most dramatic step backwards for guaranteed health coverage in American history.

In California, over 2 million low-income, working taxpayers will have their taxes raised by the Republican budget through cuts in the earned income tax credit. Let me emphasize that these are working families. In fact, under this budget, taxes go up for families with incomes below $30,000. It is wrong to raise taxes on working families to finance tax breaks for businesses and the wealthiest 5 percent of Americans.

This budget has a devastating impact on children. Indeed, nearly 2 million children in California will have food stamp benefits cut. Over half of the disabled children in the State will lose Supplemental Security Income [SSI] benefits. Funds for foster care and adoption services are also slashed. These cuts are mean-spirited and cheat children out of good health, good nutrition, and a bright future.

Student loans for higher education are also threatened by the Gingrich budget. The highly successful direct lending program would be severely limited. In fact, only 6 of California's 183 colleges and universities would be allowed to participate in this important program. Higher education for thousands of young people will no longer be affordable.

This budget threatens the health, welfare, and education of California's working families. These cuts simply go too far.

Mr. Speaker, the Federal budget is a statement of our national values. This Gingrich budget is extreme and does not meet the test of fairness demanded by the American people. It reaffirms the Republican Party as the party of wealth, power, and privilege. I urge my colleagues to reject this Gingrich budget.

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Ms. ROYBAL-ALLARD. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, we should, should help families who work hard and play by the rules for this reason. For this reason, I oppose the Republican proposal.

This Republican plan raises taxes on 32 million hard-working American families and gives a tax break to the richest people in America. It is Robin Hood in reverse.

The Republicans cut school lunches, student loans, and environment. About this, there can be no doubt.

Republicans attack Medicare. The elderly may have to choose between paying their doctors and paying their rent.

Why do the Republicans steal from our children, the elderly, and the poor? They say they want to help families, and then they raise taxes on 32 million working American families and give a tax break to their wealthy friends. This is extreme, this is radical; this is mean, just plain mean.

Where is the decency? Where is the sense of right and wrong? Where is the morality? This proposal is mean-spirited. It is just plain wrong.

Vote no on this mean, extreme proposal.

Mr. HOBSON. Mr. Speaker, I yield such time as he may consume to the gentleman from New Hampshire [Mr. BASS].

Mr. BASS. Mr. Speaker, I rise in strong support of the Balanced Budget Act of 1995.

Mr. Speaker, I come here to urge those who support balancing the budget to vote for the Balanced Budget Act of 1995.

First, those who oppose balancing the Federal budget want us to believe that balancing a budget means cutting funds for child nutrition programs.

This is false. In fact, under the Balanced Budget Act of 1995, Federal spending will increase for school lunch programs—from $4.509 billion in 1995 to $6.406 billion in 2002.

Second, those who oppose balancing the Federal budget want us to believe that balancing a budget means cutting funds for seniors health care.

This is false. In fact, under the Balanced Budget Act of 1995, Federal spending will increase for Medicare—from $178 billion in 1995 to $289 billion in 2002.

Third, those who oppose balancing the Federal budget want us to believe that balancing a budget means hurting the poor.

This is false. In fact, under the Balanced Budget Act of 1995, Federal spending will increase for Medicaid from $89.2 billion in 1995 to $127 billion in 2002.

Fourth, the Balanced Budget Act of 1995 balances the budget in 7 years, protects our children's future, protects our seniors, and still provides a safety net for the poor and needy. Please support the Balanced Budget Act of 1995, for the future of this country and the future of our children. Under the GOP budget, Federal spending will increase from $1.514 trillion this year to $1.857 trillion in 2002.

Fifth, I would like to take a minute and share with you some of the comments from just a few of my constituents who called in support of balancing the budget in 7 years with honest numbers and to get this Government running again.

Ernest H. Bridge, East Unity.—Today is the second day of the "Shutdown" and I've heard many radio reports which indicate that people are upset and blame Congress for "not doing its job"; however, nobody I've talked with expressed anything but satisfaction that you've stood up to the White House on this issue. I encourage you to stand firm on this issue and I believe there are far more of us who believe in the importance of the issue than there are who buy into the President's pandering for re-election votes.

Richard and Marilyn Horton, Grantham.—Please hang tough on the budget resolution. Don't give into the President. As members of AARP and other senior citizens we do not agree with the President and support the Republican budget plan. Shut it down for a while.

Steven S. Hall, North Woodstock.—Please continue to hold the line with the White House and President Clinton on the budget. Please do not blink.

William Thompson, Litchfield.—I support the Republicans budget plan, and hope you will not give in to the President on reducing the deficit in seven years.

This battle will go down in history and I hope we the people win. Do not give in to the President in this fight for the future of our country.

Ruth Becker, Nashua.—Stand tall and firm and do not give in.

John Elliot, Weare.—The sooner you get the Federal Budget balanced, the better it will be for all your constituents as well as all Americans.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, today's debate is about whether we will put an end to something for nothing Government.

Something for nothing Government continues liberal spending programs today but forces our children to pay for them tomorrow. Candidate Clinton promised an end to something for nothing, a 5-year plan to balance the budget. Three-quarters through his term, President Clinton has no balanced budget plan, just $200 billion deficits as far as the eye can see.

The President would continue 25 years of larger Federal budgets and smaller family budgets, rising red ink and declining private investment.

This Congress will end something-for-nothing Government by passing the

Balanced Budget Act of 1995. It put the Federal Government on a modest diet so that our children can have a future of plenty.

Support this balanced budget and, for the first time since Neil Armstrong walked on the Moon, we will put deficits behind us.

Make this balanced budget the law of the land and we will reduce what the Government spends to increase what the family keeps.

Support the Balanced Budget Act of 1995: Keep our promises to America's families, to America's future.

Ms. ROYBAL-ALLARD. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I thank my colleague from California for yielding me this time.

Mr. Speaker, I want to commend my Republican colleagues for bringing to this floor a budget that is balanced in 7 years. This is a goal that I strongly support, and it is one that is essential for our Nation's economy.

However, Mr. Speaker, the problem is that there is something very wrong with this bill, $245 billion in tax cuts at the very time that we have a $200 billion deficit, meaning we have to borrow more money to pay for these tax cuts. This is business as usual here in Washington, doing something that is popular today and letting our children and grandchildren pay the bill.

Further, these tax cuts force us to risk the Nation's entire health system by reducing the rate of growth of Medicare and Medicaid below that which it can sustain. One of the consequences of this in rural areas such as mine is that rural hospitals may close and without these hospitals, it will be increasingly difficult to live and prosper in rural areas.

Mr. Speaker, I agree that we should balance the budget in 7 years. I have voted for the coalition budget that does that, but this is the wrong way to achieve that goal. I urge my colleagues to vote "no."

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Speaker, I thank the gentleman from Ohio [Mr. HOBSON], for yielding time to me.

Mr. Speaker, it boils down to politics. That is all it is about at this point. It is amazing just how well and how perfectly the Washington Post got it on November 16.

They said, quote:

> The Republicans stepped up to Medicare as part of their proposal to balance the budget. It took guts to propose that. But Bill Clinton and the congressional Democrats were handed an unusual chance to deal constructively with the effect of Medicare on the deficit, and they blew it. Led by the President, the Democrats chose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, they have demagogued on it, because they think that is where the votes are and the way to derail the Republican proposals generally.

Let us talk about what is at stake for a moment, and this is where the Post has really gotten it right. They say, quote, "We have said some of this before, but it gets a lot more serious. If the Democrats play the Medicare card and win, they will set back for years for the worst of political reasons the very cause of rational government that they profess to believe in."

Ms. ROYBAL-ALLARD. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, a lot has been said this afternoon about this mean-spirited proposal. That really shocks me as to why there are not more Americans that are just outraged in believing that we can get a $245 billion tax cut, balance the budget, and no one is hurt. They will come to this well and have us believe that this thing is just painless because there are no cuts involved, they are merely reducing the rate of growth.

There is an old saying that figures do not lie. But they also say that liars sure know how to figure. If we do not believe that the $270 billion cuts in Medicare are going to hurt, why do we not go to the old folks and ask them? We do not have to listen to the politicians, the Republicans and the Democrats. If there is some senior citizen going to a doctor under Medicare part B, go to that doctor and ask, what do they intend to do with the reimbursements? If you know somebody that is working and they work day in and day out and they still cannot get above the poverty line, ask them, what does the earned income tax credit mean to them and what does stealing $32 billion in tax relief mean to them.

If we really want to believe that it does not hurt, ask, why are we cutting $146 billion out of Medicaid? Go to the hospitals that serve these people, the ones that are on the brink of closing, the last place that a poor person can go for health care, and ask them.

But finally, go to the churches. Go to the synagogues, go to the places of worship, as we find Catholic Charities attempting to provide these services for our sick, for our aged, for our disabled. Go to the Protestant Council where they provide the services for these people that have these things. Ask the priests, ask the ministers, ask the nuns.

It is wrong, we know it is wrong, and I hope that our consciences bother us.

Mr. HOBSON. Mr. Speaker, I yield 1 minutes to the gentleman from Kansas [Mr. BROWNBACK].

Mr. BROWNBACK. Mr. Speaker, I went to those places during the campaign. I am a freshman in this body of Congress, and I will say, one place I went to is Lyndon, KS. It was a grade school, and I was asking the grade school students there how much each of them owes here, how much each of those children owes of the Federal debt.

They would say, I do not know. I said, it is over $18,000.

A little fourth-grader held his hand up. He held his hand up and he said, "How do I owe $18,000? I have not spent anything." And he had not. We have.

That is what is cruel, that is what is immoral, and that is what we are trying to stop today, continuing adding to that poor little fourth-grader's debt.

The President says he balances this budget; this is his plan, about 25 pages of press release to balance the budget. We support balancing the budget. Here is a real document, a real plan.

I say, it is time to stop arguing about this, it is time to get down to the specifics of balancing a budget in 7 years with CBO scoring.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, the current trend in deficit spending cannot be sustained. Without the Balanced Budget Act of 1995, Americans will experience increased interest rates, higher taxes and a lower standard of living for our children and grandchildren. Past spending has left a $5 trillion legacy of debt to future generations. For example, a child born today will pay $187,000 in taxes just to pay for interest on the debt and a 21-year-old faces a bill of $115,000 in taxes.

Mr. Speaker, the time has come to say "no" to fiscal irresponsibility and say "yes" to an economically sound and rejuvenated America. It is our moral imperative to vote for this, the first balanced budget in 26 years. Mr. Speaker, we have kept our promises for America's families, for America's future.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Yes, Mr. Speaker, let us move forward to balance the budget, but not through savage cuts in Medicare, Medicaid, veterans' needs, children's needs, education, and environmental protection.

Yes, let us move forward to balance the budget, but not by giving huge tax breaks to the rich, building more B-2 bombers that the Pentagon does not want and by continuing to spend $125 billion a year on corporate welfare.

Yes, we can balance the budget, but not on the backs of the weakest and most vulnerable people in our society.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, can anybody look at a 1,754-page bill that finally brings fiscal responsibility to Washington, DC and say, there is only one way to write that bill? Well, that is what the Republican majority is telling us. No Democratic alternative will be allowed.

I have a plan to balance the budget in 7 years. I just happen to have very different priorities than the majority. I do not want to give more tax breaks to large corporations and repeal the corporate alternative minimum tax; and I do not think most Americans think that is the way to balance the budget.

I do not believe we have done so well at the top that we should give them tax breaks. I do not believe we should continue agriculture subsidies. I do not believe that we should continue to give away Federal minerals for free.

I believe we should begin to assess royalties. There are responsible ways to get us to a balanced budget in 7 years without cutting student loans, without cutting Medicare, without cutting veterans' benefits.

I have produced such a plan. I voted on a similar plan when we brought the budget to the floor, but that vote will not be allowed today. They are saying there is only one way, their way, which is business as usual, serving the same powerful interests that have run this country for 25 years.

Mr. HOBSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN of Washington. Mr. Speaker, I rise in support of this measure, the first serious measure in decades to balance the Federal budget.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, suppose I told you Congress could take action today that would save the middle-class family $37,000 every time they buy a home. Suppose I told you today that Congress could take action that would save middle-class families $900 every time they buy a new car. Suppose I told you Congress could take action today that would save middle-class families $10,000 every time they pay back a student loan.

If I told you that we could do that in the Congress in one bill, I would guess that most middle-class families would think that they got a pretty good deal.

Well, I can tell you just that. Pass the Balanced Budget Act and every middle-class American family will begin benefiting now and will benefit well into the future.

The President cannot say the same. He has decided to take what may be the very first firm stand in his entire political career, and that stand is against a balanced budget.

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The President has never given us a balanced budget. He has never balanced the Federal budget. He is doing everything he can to stop a balanced budget.

If we win our balanced budget today, families will get $37,000 in mortgage savings. With the President you lose. If we win, every family buys a new car for $900 less. With the President, you lose. If we win, every family finances a college education for $10,000 less. With the President, you lose. Support the balanced budget.

Mr. SABO. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, we all believe in achieving a balanced budget. But, oh, the sins that we can hide under that framework.

Mr. Speaker, this bill imposes a $32 billion tax increase on low-income working Americans earning $18,000 to $20,000 a year, while giving a $14,000 tax break to someone earning $350,000. The bill eliminates home heating assistance for low-income people while providing funds for nuclear weapons testing. It eliminates the assurance that will help people pay for the cost of nursing homes for grandma and college loans for their students, but the rich will get a lot richer. That is what this Republican budget is all about.

Mr. SABO. Mr. Speaker, I yield 45 seconds to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, this so-called reconciliation is not about balancing the budget, it is about rewarding those who finance the Republican Party. If that weren't true, then why were there no cuts to the hundreds of billions of dollars in corporate welfare?

For decades, the insurance industry has wanted to sink its teeth into Medicare, and if this plan passes, you can bet your grandma's bed-pan they'll get their wish.

The Republican leadership is proud to have opposed Medicare in 1965. What makes you think they want to save it in 1995?

Mr. KASICH. Mr. Speaker, I yield 1 minute to the very distinguished gentleman from New York [Mr. LAZIO], a member of the Committee on the Budget and one of our leading experts on housing.

Mr. LAZIO of New York. Mr. Speaker, the last few days in this Chamber have been difficult for us. We have clashed in increasingly bitter tones that obscure the crispness of the question before us. And that, Mr. Speaker, is: Are we prepared to promise a higher standard of living for our children and grandchildren? That question is at the heart of the debate about what the Balanced Budget Act is really all about.

I think of my two young daughters, Molly and Kelsey, and the future they face. There are two clear paths before them. If we stay on this path and deliver a future of unsustainable spending, crushing debt, and huge increases in taxes, their hopes and dreams may never materialize. In the end, that path leads America to fewer opportunities and a lower quality of life for the smallest among us.

Or we can take another path; a brighter path filled with hope and opportunity. It promises an America where our children can live better lives than we, the dream of every parent.

Let's keep our promise to do the right thing, the moral thing. Let's balance the budget and grow hope for all of America's children and America's future.

Despite the tough choices we have had to make to balance the Federal budget, I am proud to say that we have kept our commitment of service to the American people. When asked, the House Banking Committee was able to more than double its contribution to deficit reduction. But rather than cut housing programs, the committee went the extra mile and gave much-needed outlays to the Appropriation Committee to put more money into those critical programs that provide crucial housing assistance for America's seniors and disabled, as well as the Nation's homeless and vulnerable populations. We have proven that we can do what is right for our children by balancing the Federal budget—and still do what is right for our parents and grandparents by providing them with access to clean, affordable, and healthy homes.

Mr. SABO. Mr. Speaker, I yield 45 seconds to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Speaker, I rise in strong opposition to this mean-spirited Republican budget.

Mr. Speaker, what we have before us today is the naked shift of wealth at its very worst. We are robbing working class Americans to pay for tax breaks for the wealthy. Yes, $245 billion for the wealthiest families in this country. While the Republicans are lecturing us on welfare reform, they are destroying programs like the earned income tax credit, the low income housing tax credit, education, job training, programs that help get people off welfare.

Today's vote marks the end of an era. Gone will be the world in which mothers and fathers hoped and dreamed that their children's lives would be better than their own. Today with this vote that dream will cease to exist. I urge a vote against this attack on working men and women.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. MYRICK].

Mrs. MYRICK. Mr. Speaker, as the debate rages over our moral obligation to balance the budget in 7 years, we need to remember to whom we owe this obligation.

It is our children, grandchildren, parents, and millions of hardworking Americans who simply cannot bear the burden of debt any longer.

These are real people, not statistics or public opinion polls. Real people like George Sigmon, a senior citizen from my hometown of Charlotte who called yesterday to urge us to stand firm and let me know that he is behind us 110 percent; retired Navy veteran Charles Peterson of Bessemer City, NC; Donny Loftis of Gastonia, a furloughed Federal employee; Betty Stiles of

Cramerton, who wants us to stand our ground; Abraham Ruff of Kings Mountain, a disabled veteran who supports our efforts so much that he has decided to switch his party affiliation from Democrat to Republican; and Marion Harris of Charlotte, an 80-year-old woman who supports the GOP effort to balance the budget in 7 years and urged us to help save Medicare for her 50-year-old son.

These people are depending on us to do what we were sent here to do, balance the budget in 7 years.

Let us not let them down.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. CRANE], the chairman of the Subcommittee on Trade and leader in the House.

Mr. CRANE. I thank the gentleman for yielding me the time.

Mr. Speaker, I would like to read a letter to Members that I received today, but it is representative of many that I have received in the past 48 hours:

> DEAR REPRESENTATIVE CRANE: I am writing to thank you for standing up for the future of America. My wife and I have twin sons that are waiting to be born any day now. I just want you to know that because of your strong stand in this budget battle with the White House, my boys will have a bright future. They won't have to worry about using their most productive days to pay off the nation's debt. Instead, they can use their talents and abilities to build a stronger country.
>
> In the coming days the temptation to compromise will be great, but please don't give in. Know that what you are doing is right. Regardless of the media hype and the opinion polls, the truth that you stand for will be vindicated. Neither my boys nor the rest of their generation will ever get a chance to thank you, but they will surely owe you a debt of gratitude. Someday they will read in their history texts about the Second American Revolution, the Congress of 1995 and I will be proud to say that my Congressman, Phil Crane played a key role in it.
>
> Thank you for being our congressman and having the courage of your convictions. Our thoughts and prayers are with you during these trying times.
>
> Sincerely,
>
> CHRIS AND DANNA HERDEN
>
> MUNDELEIN, ILLINOIS

Mr. Speaker, because of debate time constraints, I wish to extend my remarks in strong support of the conference report for H.R. 2491, the Balanced Budget Act.

Unlike many of our friends on the other side of the aisle and the current occupant of the White House, both of whom have shifted the blame and offered excuses for not balancing the budget, we Republicans today are implementing legislation which will eliminate the Nation's budget deficit in 7 years. Over the last couple of years the President has announced publicly that he supports a balanced budget in 5, 7, 8, 9, and 10 years. Not only does the President continually change his mind on the number of years we should take to balance the budget, but he has not yet agreed to any plan which actually balances the budget in any length of time.

In contrast, Republicans have been willing to make the tough choices, knowing that some sacrifices must be made to get our Nation's finances in order. Before today, Congress quite literally has been mortgaging the future of our children and grandchildren, and this insane practice must stop.

I recognize that the bill now before the House is not perfect. Like any piece of legislation crafted by a committee of men and women and containing hundreds of provisions, any one of us would construct this bill differently to suit the needs of our own constituents.

For example, while some have objected to the tax cuts in the bill, I believe that we owe Americans a reprieve from the tax increase President Clinton and the Democrats in Congress imposed on the American people in 1993. In fact, the tax relief portions of this bill come $100 billion short of repealing that largest of tax increases in history. Over the 7 years of this budget, the $245 billion in tax relief amounts to only $35 billion per annum. As vice chairman of the Ways and Means Committee, I can unequivocally state that our $5 trillion debt came as a result of Congress spending too much money, not because Americans have been taxed too little.

While it is not as much as I would like, H.R. 2491 does in fact provide significant assistance for Americans most in need of tax relief. The bulk of the tax cuts, 61 percent to be precise, will go to Americans earning between $30,000 and $75,000. I feel particularly proud that H.R. 6, the American Dream Restoration Act, which I sponsored, is part of the tax relief portion of this reconciliation bill. This legislation will provide working parents with a $125 per child credit for parents this year and a $500 credit for each of their children beginning in the 1996 tax year. Furthermore, the bill offers some mitigation of the marriage tax penalty. In addition, the bill offers the opportunity for Americans to establish American Dream Savings IRA-type accounts to save for their retirement, purchase a first home, pay for health expenses, provide for periods of unemployment, or pay for education expenses.

H.R. 2491 also offers other significant and important tax cuts. Too often, politicians think tax dollars belong to Congress, not to the American people. This bill allows Americans to keep more of their own money to spend or save as they wish. For example, under this bill capital gains taxes on individuals will be cut in half. This will free up capital for entrepreneurs to create small businesses and more jobs, thus creating more taxpayers, which means more dollars for the U.S. Treasury. However, I would like to add that my principal concern is job creation, not ensuring more money for the Treasury.

On balance, H.R. 2491 is a well-crafted, long overdue piece of legislation. The bill recognizes the necessity for balancing the budget, and it does so by placing the onus on Congress to prioritize and reduce Federal spending, rather than by increasing the burden on overtaxed working Americans.

Many of our Democrat colleagues have alleged that we are delivering draconian budget cuts which will impoverish millions of Americans. Only in Washington can spending increases be labeled as cuts—Federal spending under this plan will actually increase by 27 percent over the next 7 years. This budget act will, however, begin making necessary cuts in unnecessary Federal spending.

Balancing the Federal budget offers significant economic benefits for all Americans in the form of lower interest rates. According to a study by the National Association of Realtors, the average 30-year, $50,000 home mortgage financed at 8.23 percent will drop by 2.7 percentage points, saving homeowners $1,081 annually and $32,430 over the life of the loan. Lower interest rates will also make car loans more affordable and will lower the cost of student loans.

For all of these reasons, I believe it is incumbent on me and all of my colleagues to pass H.R. 2491. We must keep the promise to our children and grandchildren to stop billing them for our extravagant spending. Therefore, I urge all of my colleagues to vote in favor of the Balanced Budget Act conference report.

Mr. SABO. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California [Ms. ROYBAL-ALLARD], a member of our committee.

Ms. ROYBAL-ALLARD. Mr. Speaker, today we are taking final action on a budget that forces us to abandon a vital American principle of fair play. Instead of pursuing the goal of "shared sacrifice", the majority rips gaping holes in key social safety net programs—imposing new burdens on children, seniors, and the poor, while granting a $245 billion tax break for the wealthy.

This budget is grossly unfair because it takes $165 billion from Medicaid in order to eliminate the minimum tax on corporations. This could cause over 2 million seniors to lose their Medicaid coverage for long-term care.

It is unfair because it enlarges corporate tax deductions, while taking away $82 billion from welfare, pushing over 1.2 million children into poverty and denying Federal benefits to elderly legal immigrants.

And, it is unfair because it gives families earning $350,000 a $14,000 tax cut, while increasing taxes for low-income working Americans by cutting the EITC by $32 billion, affecting 60,000 working families in my district alone.

I urge a "NO" note on this budget "wreck-conciliation."

Mr. KASICH. Mr. Speaker, I yield 1 minute to the very distinguished gentleman from California [Mr. RIGGS].

Mr. RIGGS. I thank the gentleman for yielding me the time.

Mr. Speaker, I simply wanted to make the point to my colleagues because we have heard a lot of discussion about the impact of the Balanced Budget Act on families. In fact, the President has gone so far as to claim that the Balanced Budget Act will negatively impact the lowest income people in America. In fact, he has claimed that it actually constitutes a tax increase.

I want everyone to know that because of the efforts on this side of the aisle, we were able to insert language in the conference report that makes sure that no American family is worse off as a result of the Balanced Budget Act and almost every American family is better off through the combination of the earned income tax credit, which goes to the poorest families in America, and our new $500 per child tax credit.

Just a final thought for the family with an income of $30,000 a year, whether it be a single parent or two-parent family, with two dependent children. That $500 per child tax credit constitutes a $1,000 tax break for that family each and every year until those children reach the age of 18. That is real tax relief for American families.

Mr. SABO. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Florida [Mrs. MEEK], a member of our committee.

Mrs. MEEK of Florida. Mr. Speaker, I would like to respond to the statement made by my colleague just a moment ago involving the earned income tax credit. Most of the people in my district do not make $17,000 a year, so they will not even be qualified or eligible for any savings through that particular method.

I think that this whole argument on the budget is driven by two things: One has to do with the fact that some people feel in their minds that $245 billion is just a pittance for someone to give as a tax cut. It is not a pittance, because you are using it to cut the good things that government has been able to do over the years for the poor, the elderly and the disadvantaged. I think that as a group we must be sure that we do not let this happen.

I do not want to support this reconciliation budget. It is not reconciling anything. This has been in the figment of one or two men's minds in this Congress. Why do we have to have 7 years? I am in favor of balancing the budget, but why does it only have to be on the intuitive meanness of one or two people?

Mr. Speaker, I strongly support balancing the Federal budget. Last spring I voted for a budget that would do so in 7 years.

But I strongly oppose the so-called Balanced Budget Act that we are considering today. The fundamental problem with this bill is that it pays for a $245 billion tax cut at the expense of the most vulnerable in our society, the sick, the elderly, the working poor, and our children.

Let me give some examples of how my constituents are being forced to pay for this tax cut. I believe in this entire balanced budget 7-year frenzy cut.

The Republican budget cuts Medicare by $270 billion and Medicaid by $163 billion over 7 years. To the majority, a cut of $443 billion in simply an abstraction. Let me translate it for you. These Republican cuts mean a cut of about $200 million for the hospitals in the Miami area—including Jackson Memorial Hospital, one of the best public hospitals in the Nation. These Republican cuts mean that next year our senior citizens will be paying $8 a month more for part B Medicare premiums than they are paying this year. By the year 2002 they could be paying $90 a month—$47 a month more than they are paying now. While these increases may not seem like a lot of money to the wealthy Americans who are getting the big tax cut, they are a lot of money to retirees living on fixed incomes.

The Republican budget also cuts Federal loans for college students by $5 billion over 7 years. This translates into higher costs for 7,700 students in my congressional district.

The major tax increase in the Republican budget is a $23 billion change in the earned income tax credit. The EITC was signed into law by President Ford in 1975 in order to help people move from welfare to work. This $23 billion tax increase translates into higher taxes for 46,000 hard-working low income families in my congressional district.

The Republican budget cuts off food stamps and other public benefits for legal United States residents in order to save $21 billion. There are tens of thousands of legal United States residents in my district who work hard and pay taxes. They should not be penalized in order to pay for a tax cut for the wealthy.

In order to save $82 billion over 7 years, the Republican welfare bill will stop all assistance to families after 5 years. It will require adults to work after receiving welfare for 2 years. The majority doesn't say what will happen to these people when their time is up. The United States Catholic Conference has the answer. It says the welfare provisions will increase poverty, punish legal immigrants, and encourage poor people to have abortions.

Mr. Speaker, we can work together to balance the budget. But we cannot work together to have the elderly and the poor pay for a $245 billion tax cut.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise in strong support of the Balanced Budget Act.

We can no longer, as a nation, afford to turn our back on the moral imperative of balancing the Federal budget. Today our Nation is $4.9 trillion in debt, and that amount is rising. By 1997, the interest on our debt alone will total $270 billion a year—a full 17 percent of the Government's tax revenues.

We can continue business as usual, as some of my colleagues apparently desire. We can continue to reject responsibility for dealing with this monumental problem, as the President seems to want. We can continue to foist our Nation's debt off on our children and grandchildren, and wash our hands of this sorry state of affairs.

The alternative is to take responsibility, to make the hard decisions, and to come up with solutions. The Balanced Budget Act of 1995 does that, responsibility, over a 7-year period.

Mr. Speaker, we can no longer hide our heads in the sand. I intend to do what is right for America's families and for America's future, and support this landmark legislation.

Mr. SABO. Mr. Speaker, I yield 1½ minutes to the gentleman from Missouri [Mr. CLAY], the ranking member of the Committee on Economic and Educational Opportunities.

Mr. CLAY. I thank the gentleman for yielding me the time.

Mr. Speaker, this conference agreement is a cruel and heartless charade, agreed to behind closed doors, that places the burden of financing tax cuts for the rich squarely on the backs of children, the poor, the elderly, and students.

From child care, to school lunch, to protections against child abuse, to access to higher education, the details of this agreement are illogical and unconscionable.

Republicans all but eliminate a cost-effective student loan program for one simple reason: Big banks don't like the competition.

The direct loan program is better; it's cheaper for the taxpayers; it's simpler for students; and it's easier for schools to administer. The Republican giveaway will mean $8 billion in windfall profits for special interests.

While banks get a statutory monopoly, students get a statutory mugging.

Over 1,200 schools and 1 million students will be thrown out of the program.

This legislation is not about balancing the budget, as the Republicans claim. It is about hijacking the U.S. Treasury to finance tax cuts for the rich.

Finally, Mr. Speaker, this legislation steals more than $100 billion from programs designed to protect our Nation's most vulnerable citizens from poverty, hunger, child abuse, and joblessness. The cut that angers me the most is the $6 billion that the Republicans steal from child nutrition to finance their tax cut for the rich.

I urge my colleagues to oppose this ugly bill.

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Mr. KASICH. Mr. Speaker, I yield 1 minute to my dear friend, the very distinguished gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, the past three decades the Congress has been a sloppy steward of tax dollars. Our country has been spent into the poor house, and we have mortgaged children's futures.

But old habits die hard, Mr. Speaker. Many in this House resist change, so they attack the Republican plan by using fear tactics, laced with deception and half-truths and cleverly direct this message to vulnerable senior citizens: Tell Americans Republicans are cutting Medicare; tell Americans Republicans are eliminating school lunches; tell Americans Republicans will contaminate air and water; tell them anything that will frighten them even if you have to distort the truth.

Mr. Speaker, the time has come for us to exercise discipline as we go about cleaning up this fiscal mess. If we fail to pass the Balanced Budget Act, there will be no Medicare, no school lunches, no water to drink. We have had an extended dance, Mr. Speaker. The fiddler must be paid.

Mrs. MEEK of Florida. Mr. Speaker, I yield 10 seconds to my colleague, the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I just would like to say to my colleague, the gentleman from North Carolina, it is not scare tactics. It is the truth. That is what scares our senior citizens all over this country. It is the truth. That is what is scary.

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute and 20 seconds to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I believe that balancing the budget in 7 years is right and necessary. I think this is absolutely the wrong way to do it.

Under this plan, senior citizens will pay more for their health insurance. There will be fewer reading tutors in our school systems. There will be fewer people inspecting the quality of our air and water. That is what is going to happen.

Now, is it necessary? I do not think so. And one of the most egregious examples of where we could cut but are not cutting in this plan is through the Republican abolition of the direct lending program.

Understand this, ladies and gentlemen, abrogation of direct lending is nothing more than a $6 billion giveaway to the banking industry of this country. In the next couple days or weeks we are going to come back here and we are going to pass a 7-year balanced budget. One of the ways that we will do it, and should do it, is to say no $6 billion giveaway to the banking industry of this country. Put the reading tutors back in the schools. Put the pollution inspectors back in the helicopters back over the ocean and do not raise taxes on janitors to give $6 billion away to banks.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GOODLING], chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Speaker, I want to make very sure everybody understands that we had a different target in conference. We had a $10 billion savings before we went to conference. We only had to come up with $4.9 billion after we went to conference.

What does that mean? That means that not one student or one parent will pay 1 cent more for a student loan under this bill. Where do we get our savings? From where the gentleman just said we were going to give it to them; we are taking it from them. As a matter of fact, we get 70 percent of our savings from the guarantee agencies, from the secondary market, from the banks. We do that by increasing their share of the risk when students default.

Then there are people who say, oh, well, we, should continue this. We ought to say thank God that we are going to stop this nonsense because what we are doing, if we continue according to CBO, is costing the taxpayers another $1.5 billion in direct lending. And who pays for that? Of course, the taxpayer. Because there is no one out there to collect, no one out there to service, and so we will change that and save money. And also in child care and in nutrition programs, there will be a 4 percent increase every year. As a matter of fact, when we get to the year 2000, it is 5.4 percent.

With a significantly lower budget target of $4.9 billion we were able to put together a package of savings proposals which do not increase costs in any way for students or parents. Not one student or one parent will pay 1 cent more for a student loan under this bill than they pay today.

Seventy percent of the savings under this agreement come from the banks, guaranty agencies, and secondary markets participating in the guaranteed loan program. We achieve these savings by increasing their share of the risk when students default on their loans, by increasing the fees these parties pay the Federal Government and by reducing the funds they receive for administrative purposes.

The minority are concerned that 1.9 million direct loans will not be made next year. We should all be saying, thank God. That means the Department of Education will not lend $10 billion next year and not increase the Federal debt by $10 billion. Instead, banks across the country who know how to make and collect loans will make the 1.9 million loans. And if any of those students default on their loans, instead of the Federal Government being on the hook for 100 percent of the loss, the Federal Government will only pay out 91 cents, 81 cents, or 71 cents on the dollar depending on the circumstances. I continue to be amazed that the President and the minority prefer the Federal Government to assume 100 percent of the risk on loan defaults rather than letting the private sector share the loss.

I hope that it is obvious to everyone—except maybe those of you who believe that Federal aid should keep up with college tuition which has been growing at a rate surpassing inflation for well over a decade—that this reconciliation package does not spell disaster for postsecondary education in this country. Congress will continue to provide billions of dollars in aid for needy college students who wish to pursue a postsecondary education.

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, this bill is a real turkey, and the American people should beware. The Republicans are about to serve the public a turkey left outside for special interests to pick on, and because of reckless, last-minute closed-door deals, this turkey was not cooked long enough. If you buy this turkey, it will make you sick.

It cuts Medicare by $270 billion to pay for a tax break for the rich. It increases taxes on working families by $32 billion. It drastically cuts corporate taxes and permits corporate raids of pension plans. It cuts child nutrition. It cuts school lunches. It cuts student loans. It cuts nursing home care, doubles seniors' Medicare premiums, kills the environment.

We should move toward a balanced budget. But who says that 7 years is so special? Seven years is an arbitrary time.

If it is going to cause so much pain, we ought to abandon it.

This bill is typical Republican nonsense. If you are rich, you win. If you are a senior citizen, a student, a middle-class person, a poor person, a working poor, or the rest of America, you lose.

It should be defeated.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. WATTS].

Mr. WATTS of Oklahoma. Mr. Speaker, the last time we had a balanced budget and the Federal Government operated the way we all have to in our personal financial lives, the way 90 percent of the States have to—with a balanced budget—I was 12 years old. I do not want my 10-year-old daughter to come to me 25 years down the road and say she remembers when we could have balanced the budget and we blew it.

Friends, in our budget we are spending almost $3 trillion more in the next 7 years than we have over the last 7 years. This is not about Medicare. It is not about student loans. It is not about welfare. It is about getting this administration and the Democrats to come to the table and commit to a budget that will balance in 7 years, scored by the Congressional Budget Office.

What is the fear of them not wanting to do that? The fear they do not have taxpayers' dollars to spread around for political gain the way they have over the last 30 years, the fear they will have to distance themselves, they will not be able to tax and spend and borrow. It is amazing, if you do not have a plan, all the trick plays and all the deception and all the lies that are used trying to cover up for weakness. The other side's weakness is they do not have a plan. They have not had one in the last 25 years.

I ask for bipartisan support of this balanced budget.

Mrs. MEEK of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I rise in opposition to this murder of Medicaid.

Mr. Speaker, we must defeat this bill and stop the murder of Medicaid. Today Medicaid guarantees 9 million children and adults with disabilities the health and related services they need to lead healthy, productive, and independent lives. That guarantee is wiped out by this legislation. Each State would decide whether and the extent to which they provide services to persons with disabilities. The savage, $165 billion cut this bill imposes on the program makes it certain that hundreds of thousands of persons with disabilities will lose all coverage and millions more will lose some of the health services and benefits they now receive. Many persons with severe disabilities who are now living independently in the community will be forced back into institutions and isolation.

The impact these cuts will have on families is severe. Consider Dee and Zack Klyman of Nevada. They have adopted three children with severe disabilities, Michael, Markeeta, and Shiniri. Each of these children was disabled as a result of abuse and neglect; the Klymans took them in and gave them a loving home. Medicaid now pays for all of the extensive medical services these children need. On their own, the Klymans could not afford these services. If the Republican butchery of Medicaid succeeds, the well-being of this family will be threatened. How will they cope with the thousands of dollars of medical bills their children generate every month? Will the family survive? What will happen to these three children?

The States cannot be trusted to take care of the people with disabilities that they refused to care for before Medicaid was created.

We must stop this destruction of service to people with disabilities. We must stop this murder of Medicaid. We must defeat this monstrous legislation.

Mrs. MEEK of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. MINGE].

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in opposition to this extreme reconciliation budget. Like my colleague, the gentleman from Oklahoma, I would like to have a balanced budget in 7 years, but we need to talk about it without the $245 billion tax cut, and without the extreme cuts to Medicare and education.

The Republican budget has its investment strategy backwards. It pushes tax cuts more than it pushes the balanced budget effort. It sets priorities wrong. We need to support a balanced budget, but not to the extent of the cuts in education.

In the Republican budget, and my chairman of the committee was right, we are only cutting student loans $4.9 billion over the next 7 years. That is too much. We need to not take away from our future. Education is our future.

If we cut education funding, then we are taking away the future of our Nation.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield 1 minute to the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, you know, last January we voted on the balanced budget amendment, which passed in this body by 300 to 123, including 72 then-Democrats who supported the plan.

It is interesting to me that just barely 2 days ago 48 of those supported the clean continuing resolution, but 20 did not, and not only of the 20 who did not support the continuing resolution, another 127 who in January said all we needed to do was muster the political will to make the tough decisions, could not make the tough decisions when it came to coming to the issue that we are now confronting.

The Democratic Party has not offered a substitute. All you are doing is whining about how much we need to spend here and there. You have not offered any specifics other than the fact you want to spend more.

When we look at the last 3 years, we have gone into deficit another $800 billion, and now we are looking at deficit indefinitely. I think it is incumbent on the moniority party to start talking with action instead of complaining about what we have done. We have done the heavy lifting. We have made the tough decisions. We are going to get this country on the track to a balanced Federal budget.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the Committee on Government Reform and Oversight.

Mr. CLINGER. Mr. Speaker, the madness has gone on too long. Enough is enough.

We need to stay focused in this debate on the goal that we are all trying to achieve, and that is a balanced budget within the next 7 years.

Each year since 1969, the Federal Government has failed to live within its means, spending more money than it collects in taxes and borrowing to make up the difference. For 26 years we have piled more and more on to the national debt, which now stands at an unfathomable $4.9 trillion. In Washington, this is business as usual. In the real world it is a lousy business.

Our budget is a looming fiscal crisis. Everybody agrees with that on both sides of the aisle, and balancing it is a necessity, not a luxury.

Interest on the debt is $235 billion, or 17 percent of the budget. That is outrageous, and it is growing. In 1997 we will spend more on interest payments than national defense. Only Social Security will receive more money. That is terrifying.

Every tax dollar obviously that we are forced to spend on the old debt is a dollar we cannot spend to fight crime, battle poverty, conduct research on disease, protect the environment, or defend the Nation. If we do not begin to rein in the growth of Government, spending on entitlements and interest will consume all tax revenues in just 17 years.

Anyone can see that this rate of spending is absolutely unsustainable. Furthermore Mr. Speaker, the deficit and the mounting national debt is an albatross around the neck of our economy. The Government's dependence on borrowing crowds out private investment, stifles job creation, and limits economic growth and opportunity.

Balancing the budget will significantly boost our economy and is going to unlock vast opportunities by reducing long-term interest rates by at least 2 percent. Families will pay less for mortgages, for student loans, for car loans, and credit card payments. Businesses will be able to expand, create jobs, and improve their international competitiveness. These are all enormous pluses that will be achieved by this balanced budget.

A balanced budget is going to create 6.1 million additional jobs and increase per capita income an extra 16 percent over the next 10 years. That is worth fighting for. That is worth voting for.

No Government program, or all of them put together, can provide the American people as much in benefits as a balanced budget can.

Finally, and most importantly, Mr. Speaker, we have got to budget, as has been said here, because our current spending practices are compromising the standard of living and the future of our children and our grandchildren. Long after we are gone, future generations are going to be left holding this enormous bag.

We have an obligation to preserve the legacy of the dream for them, a dream that says our children will live better than we do, a dream that says America's best days are ahead of us, not behind us.

Our commitment to balancing the budget and saving our children is reflected in the legislation we have right here today to vote on, the Balanced Budget Act of 1995. This bill is going to balance the budget by 2002, not by slashing Government as our Democratic colleagues charge, but by slowing the Government's rate of growth from 5 percent to 3 percent a year.

The President claims he, too, wants to balance the budget and he has his own plan which will accomplish it in 10 years instead of 7. It is just not true, Mr. Speaker. According to CBO, the President's plan leaves us with $200 billion in deficits as far as the eye can see, according to the CBO numbers. The President insists his plan is more reasonable, less harsh, but if it never gets to a balanced budget, he can avoid making the tough decisions needed to control spending. Congress cannot have an honest discussion or negotiate with the President until he truly commits to balancing the budget and offers a credible plan that gets the deficit to zero.

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Mr. Speaker, this is a defining moment in this Nation's long history and our long experiment in democracy. It is a defining moment that we cannot now falter and fail.

Mr. SABO. Mr. Speaker, I yield 15 seconds to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, in comment to my last two Republican colleagues, No. 1, the coalition did have a plan to balance the budget with less debt than the Republican plan. Unfortunately, under the rules of debate today, approved by the majority, you did not allow it to be considered.

Mr. SABO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I do believe we can achieve a sensible balanced budget that does not deny access to direct student loans to 41 schools in Texas or penalize 13 million working families by devastating the earned income tax credit.

Mr. Speaker, we have before us for consideration today the budget reconciliation conference report. This legislation has been heralded by the majority as a miracle remedy for the many ailments afflicting our Nation's Government. However, I stand before you this morning to bring to your attention the truth about this so-called miracle; it is a fiscal fiasco for many citizens of our country.

The Medicare reform provisions within the bill are very similar to that which was passed by this body in October; $270 billion is still cut, premiums still rise, and hospitals, doctors, and other health care professionals still get the shaft. The fraud and abuse provisions are weak—far weaker than they should be and far weaker than they could be. Although substantial new criminal penalties are imposed, the legislation actually makes it harder for the Federal Government to prove fraud for the purposes of imposing civil monetary penalties. In fact, in many ways, this language is more heinous than the earlier version. This entire reform plan has gone from bad idea to terrible legislation, to horrible reality and it is a nightmare that many seniors will have to live through, for they have no other choice.

The Republican Party declares itself, sometimes, to be the party of working Americans, but many items within this bill strongly contradict that assertion. A prime example is the earned income tax credit or EITC. The cuts in the EITC will raise taxes on 13 million working families. It is suggested by Republicans that the family tax credit that the bill provides will more than make up for the tax increases stemming from the EITC cut. How can this be the case when 8 million families will be net losers? Families with three or more children lose. Hard working taxpayers with large medical expenses lose. Widows with children who receive Social Security benefits lose. And finally, why should childless workers be penalized? They lose too. So I ask again, is this the party of the middle class? To pay for numerous tax cuts for wealthy Americans and corporations, the Republican revolution has revolted against the Americans, working and middle class Americans, and raised taxes on those families and individuals who make less than $28,500 per year. Further, 41 schools in Texas will be denied access to direct student loans and 57,118 students will lose access to direct student loans.

I am someone not easily disturbed, but the Speaker's statements earlier this week have troubled me greatly. As a backdrop to this debate is the almost complete shutdown of the Federal Government, affecting the lives of thousands of good, trusting, and hard working Government employees. There are many reasons for this predicament, but evidently the Speaker's hurt feelings are one of the primary reasons. Because he felt slighted by the President, he is willing to hold the entire country—the budget and the lives of thousands of people—hostage. Right now we know that over 3 million Americans are being hurt because of this Government shutdown.

In the end, the truth is irrefutable—the Republican budget cuts Medicare by increasing premiums, and raises taxes on working families to pay for tax breaks for the wealthy. The President has promised to take his pen and veto this legislation. Common sense tells us we can balance the budget but with the right priorities: education, Medicare, and the keeping of the earned income tax credit for working Americans. I call upon my colleagues to stand firm, declare that the values within this reconciliation bill are not America's, and vote against this budget and for a real balanced budget with the right priorities.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Mr. Speaker, I support a balanced budget, but not the Republican balanced budget. While I object to this unfair and unjust budget plan for many reasons, nothing is more objectionable than the way it treats farmers.

They called it "Freedom to Farm."

But for millions of America's farm families, this extreme new policy will be known as the "Freedom-to-go-broke" act.

It abandons the Government's historic policy of helping promote a stable farm marketplace. It puts U.S. farmers at a disadvantage in competing against subsidized foreign producers. While it may give a windfall to a few big food manufacturers, it threatens the very survival of many food producers.

The Budget Reconciliation Act is really a confused mixture of agriculture proposals. It continues a peanut program, but it slashes the support price too deeply. It does nothing for the dairy program, which remains under attack. And it kills the programs for cotton, corn, wheat, and rice.

We need to reform our national farm policy, not destroy it. But that's exactly what this bill does. Defeat it. It is unfair and unjust to America's farmers.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield 6 minutes to the gentleman from Texas [Mr. ARCHER], the chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, on January 1, 1971, I was sworn in as a Member of Congress, and on that same day I introduced my first piece of legislation, and that was a constitutional amendment to mandate a balanced budget. That is why I ran for Congress. I feel it is the most important contribution that we can make to our children's future, and now to my 11 grandchildren that have come since then. We can do no less, and today we have that opportunity, after 25 years.

The Balanced Budget Act recognizes that tax dollars belong to hard working American people. They do not belong to the Government, and, as we reduce the size of Government, it is appropriate that we give a dividend to these working Americans. They deserve it. They have been overly taxed, and even the President admitted in my hometown of Houston, TX, that his tax increases in 1993 were too much.

Seventy-three percent of our tax reduction package goes directly to American families, and the balance of it goes to increasing jobs to improve the economy. Our tax relief package benefits middle income families the most. Sixty-five percent of it goes to families earning under $75,000, and 80 percent goes to families that have a combined income of under $100,000.

The Balanced Budget Act saves Medicare from bankruptcy and gives seniors voluntary new choices so they, not the Government, can control their important health care decisions.

The Balanced Budget Act fundamentally reforms welfare by stressing personal responsibility and work, and removing the dependency trap that has enslaved generation after generation of Americans.

This country, through Government, has spent over $5 trillion in the last 30 years on the war against poverty, only to lose the war and be in worse shape today than ever before. That must change, and we do change it.

While it is easy to talk about balancing the budget and to profess to support one, of course, for many of my colleagues over here, it is never the right one, and it will never be the right one, we, the Republicans, are the ones who are willing to make the tough decisions and do what we are doing today.

Sadly, this is because the President and his party still believe that an ever-expanding Federal Government is the best hope that we have to solve our problems. The President, who resists balancing the budget by refusing to begin the work required to get to one, clings to the notion that the Government must take more tax dollars from its citizens so it can spend them on more and more Government programs. And when you cut through the inflammatory rhetoric that we have heard on the floor, when you cut through the misinformation and the excuses and the class warfare, it becomes very clear that the Democrats just are not serious about reducing Government spending.

Oh, yes, they talk about the rich in their class warfare rhetoric, and how we help the rich. Mr. Speaker, it takes $280,000 to create one job on average in the United States, and I guarantee you that those Democrat colleagues of mine who are against the rich would like to take all of that away from someone who has $280,000 and destroy a job.

Yes, there are many Democrats who voted to support a balanced budget in this Chamber, and I commend them. This is not a Republican or a Democrat issue, it is about the future of America.

And do we have a perfect plan? No. There will never be a perfect plan. But it is a real plan, yes, scored by CBO numbers, the numbers the President stood right here in February of 1993 and said are the only real numbers.

Is it politically dictated? No. It involves tough choices to turn 30 years of the thrust of government around and move it in another direction. Had it been politically easy, it would have been done by previous Congresses. It would be in place today. But it is the right thing to do.

Let me read to you from the Washington Post editorial of yesterday, and the Washington Post normally is not on the side of Republicans, on the deficit:

> The budget deficit is the central problem of the Federal Government and one from which many of the country's other, most difficult problems flow. The deficit is largely driven in turn by the cost of the great entitlements that go not to small special classes of rich or poor but across the board to almost all Americans in time."
>
> "You'll hear the argument from some that this is a phony issue; they contend that the deficit isn't that great a problem. The people who make this argument are whistling past a graveyard that they themselves most likely helped to dig.

Mr. Speaker, I say to my colleagues, our leadership is committed to see this through to the very end. And, yes, all Americans will bear a part of this fair share as we move to a balanced budget. But we will step directly or indirectly on the toes of every American. It cannot be done without it. The question is, will you be with us to the very end?

Mr. SABO. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, this debate really is not about a balanced budget, because the majority of our colleagues on both sides now have said they are for a balanced budget, and I also support a balanced budget, but I support the Democratic alternative.

This debate is about how we balance the budget, who pays and who gains; who will bear the pain, who will bear the cost, and who will benefit from that. This is really about making hard choices, but also it is about making fair choices.

When you consider rural America, you must understand this budget is not fair to rural America. Consider $13.5 billion coming out of the budget just out of agriculture alone, an area that is already suffering from reduction in prior years. That is not fair to rural America. It is not fair to farmers, who indeed are the bread basket for this country, allowing us to have affordable food, good food, and a variety of food. We are pulling the security from farmers away. Also, consider that more poor people are indeed in rural areas.

Mr. Speaker, this is not a fair budget. It certainly does a disadvantage to rural America. We should reject this bill, because it is unfair to all America, and particularly rural America.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in strong opposition to the conference report. On the basis of the flawed natural resources provisions in title XIII alone, Members should reject this misguided legislation.

This is not a serious effort to balance the Federal budget. The conferees have both ignored opportunities to raise real revenues by reducing wasteful subsidies, and missed a chance to improve the management of our public resources.

Instead, this conference report resorts to sacrificing a national wildlife refuge to oil exploitation, sanctioning the continued giveaway of mineral-rich public lands at a fraction of their fair-market value, and providing even more corporate welfare for subsidized irrigators. This bill undermines serious efforts at reform, such as those that have passed the House on a bipartisan basis in recent years, by providing inconsequential revenues to qualify their proindustry, antienvironmental policies for the sound efforts at modernizing resource management and saving the taxpayers billions of dollars.

The President has remained firm in his commitment to veto any budget reconciliation bill which would open the Arctic National Wildlife Refuge to oil and gas development. To include ANWR in this bill not only denies Members an opportunity to full debate and amendments under an open rule, but is an exercise in futility.

The majority of the revenues in this title are assumed to come from oil and gas leasing of ANWR. But don't bank on it. There's a phoney bait and switch going on here.

To start with, don't believe the accuracy of CBO's assumption of $1.3 billion in Federal revenues from ANWR. Those estimates were based on old projections of $40 a barrel oil, currently less than half that price. By contrast, the administration projects just $850 million in Federal revenues, assuming a 50-percent share goes to the State of Alaska.

What the conference report doesn't tell you is that the State of Alaska currently is entitled to a 90-percent share under the Statehood Act of 1958, and Congress may not be able to change that entitlement unilaterally to 50 percent as the conference report proposes. If an all-but-guaranteed lawsuit reduces the Federal share to only 10 percent—a lawsuit predicted by the senior Senator from Alaska as well as the chairman of the House Resources Committee, among others—the Treasury would receive only $260 million instead of the estimated $1.3 billion, using CBO's estimates.

And if the administration's lower estimates are correct, then the Treasury will only receive $170 million. That's one-tenth the amount purported to be in the reconciliation bill.

The conference report further resorts to trickery in the sections of the bill addressing mining law. The conferees pretend this is real mining reform and that the taxpayers will finally get a fair return from those who have profited royalty-free from public minerals for the past 123 years.

But on Wednesday of this week, 230 Members voted to recommit the interior Appropriations Conference Report in part because the mining provisions in the budget bill were deficient. Now, these very same provisions that Members have rejected are back before us today—insulated from amendment.

The mining language purports to abolish the patenting of public lands for pennies. What the conference report really does is to grandfather both the existing patent applications and many existing claim holders, exempting them from any royalties. Patent holders would only have to pay for the public's resources based on the surface value of the land, which is like selling Fort Knox for the value of the roof.

The few mining companies that don't make it through the patenting loophole don't need to worry much either. They would pay only the surface value for the mineral-rich land. The 5-percent net royalty is so riddled with deductions that payments would be just $12 million over 7 years according to CBO. Twelve million dollars for billions of dollars in gold, silver, and other valuable minerals. By contrast, in 1993 the House passed a comprehensive mining reform bill that would have collected $90 million annually according to CBO.

The conference report also includes more corporate welfare for western irrigators. It approves a prepayment proposal that will allow water districts to prepay at a discounted rate the highly subsidized debt that they owe the treasury for reclamation projects, thereby exempting themselves from the requirements of Federal reclamation law. That means that these farmers, who have grown rich on the subsidies provided by the taxpayers of this Nation that were intended for small farmers, would be relieved from paying the unsubsidized cost for Federal water that is delivered to more than 960 acres of irrigable land.

By allowing prepayment at a discounted rate, the notorious irrigation subsidies will be locked in place forever. Only the largest wealthiest irrigation districts will be able to participate in this program.

This bill also contains a very harmful and unwise decision to transfer land from the Bureau of land Management to the State of California for use as the Ward Valley low-level radioactive waste disposal facility. This issue has been under intense debate and scientific scrutiny for some time. The National Academy of Sciences review panel raised some concerns about the safety of the site and recommended additional tests before moving forward with the construction of the facility.

Secretary Babbitt was involved in final negotiations with the State of California, but those talks broke apart when the State inexplicably refused to provide assurances that the safety tests would, in fact, be conducted by the State prior to construction. And since those talks broke off last month, additional scientists have admitted concealing information about radioactive seepage at another facility run by the Ward Valley contractors in Nevada.

This provision is wholly inappropriate to the reconciliation bill because the tiny amount of funding involved—$500,000—is insignificant in budgetary terms. This is a fig leaf being used to drag through a major policy decision that could have serious safety implications for million of Americans. The Senate version of this amendment was removed for procedural reasons, but it has sneaked back into this reconciliation bill. It is yet another example of the Republican majority trampling over sound science and environmental concerns to do the bidding of private industry.

It is instructive to note is what is not in this legislation. We could have ended double subsidies to farmers who receive federally subsidized water to grow surplus crops that we are paying other farmers not to grow. We could have eliminated below-cost national forest timber sales that cost more to administer than they raise in revenue. I offered these amendments and others in the Rules Committee which would have raised over $1.5 billion in 7 years—more than even the illusory revenues that the conference report assumes from ANWR.

Simply put, the natural resource provisions of this legislation are an outrageous abuse of the public trust. The President will be fully justified in vetoing the conference report.

Mr. SABO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY]

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to this conference report.

Mr. Speaker, I am deeply troubled by what the Gingrich budget will mean for Americans across the country. As a member of the New York delegation, I am alarmed by its impact on New York.

New York hospitals are the best in the world. Our hospitals are the city's crown jewels and the Gingrich budget plan smashes them to bits.

The Gingrich budget will also mean hardship for the elderly who depend upon Medicaid for nursing home care. Under this budget, low-income seniors who must look to Medicaid for assistance will have no guarantee of help from the Federal Government.

This budget hurts seniors in other ways. I tried to offer an amendment this spring to repeal the 1993 tax increase on Social Security benefits. I urged the Republican leadership to offset the cost of this repeal by keeping the corporate minimum tax. Last year, the GOP promised to repeal it. Today, the truth comes out—under the Gingrich budget, tax relief for seniors is jettisoned so that multimillion dollar corporations can avoid paying any taxes at all.

My colleagues, the Gingrich budget also hurts women and children—across America and across New York. Hundreds of thousands of children in New York will receive less assistance for food, medical care and other basic needs. Under this budget, many disabled, abused and neglected children will no longer be able to count on the Government for help.

This budget does not reflect the priorities of the American people. The more they learn about the Gingrich budget, the less they like it. The American people have a sense of fairness and so do I. I urge my colleagues to vote against this unfair budget plan.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Speaker, I rise in strong objection to this conference report, and particularly those pertaining to agriculture, on which I was a conferee.

Mr. Speaker, this reconciliation bill is a flawed piece of legislation. It was flawed when it left the House, the conference process was flawed, and thus the final product is flawed. To best illustrate this point, I would like to discuss the agriculture portions of this bill.

I have served on the House Agriculture Committee for 22 years and have participated in four farm bills during that time. I served as a subcommittee chairman on the committee during much of the 1980's. During my service there, I have been impressed by the open, deliberative process that we have used when considering legislation. In fact, the deliberative process has been so thorough that at times I have complained about the painfully slow progress we made.

My service on the House Agriculture Committee has also been marked by a spirit of bipartisan deliberations. We have been bipartisan because, beyond our party affiliations, we all serve on the Agriculture Committee because we are concerned about the food and agriculture needs of our country. As a result, even in the midst of partisan turmoil elsewhere in the House, we on the House Agriculture Committee have been able to find common ground in the service of our constituents.

Now all of that has changed. The Agriculture Committee was split at the start of our deliberations on our portion of the reconciliation bill and we were split at the end. We were unable to find common ground and did not report out any legislation. Then, without notice and without public hearings, a new agriculture reconciliation proposal was included in the reconciliation bill. We did not have time to adequately examine it ourselves, let alone get informed analysis done on the proposals.

We passed that bill with assurances from the Speaker that any problems could be worked out in conference. Well, I was appointed as a conferee on the Agriculture title of the reconciliation bill and I can tell you that nothing was worked out because we never met on this title. Instead, a group of Republican staff, Republican Members and Senators, and Lord knows which special interest representatives, met in secret and produced the provisions that are before the House in the conference report on the reconciliation bill.

Mr. Speaker, we don't know what is in this bill nor do we know what the impacts of these provisions are. I would like to illustrate this point with one provision I found in the conference report.

This legislation allows a farmer to get payments on 85 percent of a farm's contract acreage. Then it changes current law and allows a farmer to plant any crop on the remaining 15 percent of his or her land without any loss of payments, in effect, providing Federal payments for farmers who want to expand into growing other crops, such as fruits and vegetables. Now this may not seem like a problem, unless you are from California, Arizona, Texas, Florida, or any other State with significant fruit and vegetable production. For fruit and vegetable producers in those States, this change is unfair because it subsidizes farmers who want to get into this market while providing no support for those who already grow fruits and vegetables full time.

We debated this provision in the 1990 farm bill and looked carefully at the impact that it had on fruit and vegetable production. In the end, we decided that this provision penalizes fruit and vegetable producers by creating Government subsidized competition that would destabilize the fruit and vegetable market. We viewed it as a one-way subsidy for farmers of program crops: they got a base payment from the support programs while fruit and vegetable producers, with no program crop history, could not qualify for payments.

In the 1990 farm bill, we decided that if a producer moved to fruit and vegetable production on his or her program crop acreage, they had to forego Federal payments on that acreage. We made a clear policy statement that as long as fruit and vegetable production was unsubsidized, we wouldn't subsidize program crop producers seeking to enter that market.

Now, without any hearings, nor any testimony as to the need for the change, the reconciliation conference report reverses the decision we made in 1990, a decision made after long deliberation and thought. The agriculture provisions in this bill are wrong, as this example points out, and are the natural result of a close and secretive process. Any of my colleagues who have fruit and vegetable production in their districts should oppose this provision and this bill. And the rest of you should take note and beware of other secret provisions that have been slipped into this bill.

My colleagues should also note those agriculture provisions that have been slipped out of this bill. Specifically we should note that the contentious provisions to reform the dairy program were mysteriously dropped somewhere along the way because the Republicans could not solve their differences. I was willing to roll up my sleeves and try to find a compromise on this program. I support deregulation of the dairy industry in a reasoned way that protects producers from sudden changes and transitions in our dairy production to a free market approach. I have worked for years to balance the diverse interests of the dairy and dairy products industry in my State and looked forward to working on this long-overdue reform of Federal dairy programs.

But I was denied that opportunity, the dairy producers in my State have been left in limbo with no clear indication of where they should be going. The Speaker promised we would work these differences out in conference. Now we are being told we will work them out sometime next year. Worst of all, the projected savings from deregulating the dairy program, nearly $1 billion, had to be made up elsewhere, out of child feeding and nutrition programs.

I regret having to come to the floor of the House and complain about the content and process of this bill. These problems would have been avoidable if we had followed tradition and taken this bill up under the orderly, deliberative process that I have been a part of during my service on the House Agriculture Committee. I regret that I will have to oppose this bill because of these problems.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I rise in opposition to this Republican plan, which sets the wrong priorities for our Nation and irresponsibly puts cutting taxes ahead of balancing the Federal budget.

The real debate is not about whether we balance the budget, but about how we do it. We must be fair, we must be responsible, and we must preserve our Nation's commitment to the elderly, families, and young people.

I'm proud to have voted for a balanced budget plan—the Orton/Stenholm plan—that reflects these priorities and values. This plan would balance the budget without cutting or raising taxes; restores funding to Medicare and Medicaid, and fully funds vital investments such as education and medical research. This plan includes tough cuts in government and real welfare reform.

This plan we are voting on today fails the test of fairness. It fails the test of priorities and values.

It is unfair to America's senior citizens to target Medicare and Medicaid for more than half the cuts needed to balance the budget and cut taxes by $245 billion. It is irresponsible to cut student loans and other education funding when education is more critical than ever to succeeding in the new information-age economy. And it is wrong to raise taxes on families earning $25,500 or less, while reducing taxes for higher income earners.

I am especially concerned about the impact of the proposed Medicare, Medicaid, and National Institutes of Health cuts on the quality of the health care we receive in this country. These cuts would devastate medical education and research, reduce the availability of specialized care for all Americans and any care at all for some people, and increase costs for all of us through higher insurance costs and local property taxes.

In my district alone, this budget will result in the loss of $1 billion or more to Texas Medical Center hospitals such as Hermann, St. Luke's, Ben Taub, M.D. Anderson, Methodist, and Texas Children's Hospital. These world-class facilities are critical to training our future doctors and to conducting research into diseases such as cancer, heart disease, Alzheimer's, and AIDS.

There is no doubt that medical education will suffer under this Republican plan. This plan would cut $9 billion total from indirect and direct medical education funding, the costs associated with training our new physicians. Indirect medical education would be reduced from 7.7 to 5.0 percent in 2002. Direct medical education would be reduced by capping the number of medical students and reducing reimbursements for subspecialty training, such as cardiology. There would no longer be any adjustments for expanding the number of medical students. As our population ages, it is likely we will need more physicians. This bill takes us in the opposite direction.

The Republican plan would create a new medical education trust fund totaling $13.5 billion. I support the concept of an all-payer trust fund for medical education. However, I am concerned about the structure of this trust fund. The Republican plan would reimburse medical schools according to a complex formula. Fifty percent of their reimbursement would be based upon the number of MedicarePlus enrollees treated at their hospitals. If a hospital does not treat a sufficient number of managed care MedicarePlus patients, they would lose money. This is a backdoor effort to reduce patient choice by coercing hospitals into treating Medicare patients only through managed care. Managed care enrollment should be voluntary, not coerced. The other 50 percent for medical education would be based upon the past spending on IME and DME funding. Again, this formula does not provide for any changes in medical education programs, so any new programs would not receive Federal funding.

This bill not only harms Medicare and medical education but it may destroy Medicaid. It completely repeals the entitlement of health care to poor women, children, and the disabled as well as long term care for senior citizens. It replaces it with a block grant formula which punishes high growth states such as Texas by some $5 billion, at the expense of New York and Pennsylvania. I am deeply concerned about the Medigrant program that would replace Medicaid. For those hospitals that treat a large number of Medicaid patients, there will no longer be guaranteed payments for carrying for these patients. The necessary safety net for the elderly, children, and the disabled will be eliminated. Current law provides guaranteed coverage for pregnant women, children, elderly, and the disabled up to 185 percent of the federal poverty line. The net effect of these Medicaid cuts will be to reduce coverage for our most vulnerable families. For Texas Children's Hospital, where 50 percent of their patients are enrolled in Medicaid, this plan would reduce reimbursement by $100 million. Texas Children's Hospital will continue to treat uninsured patients, but they will no longer be reimbursed by the federal/state Medicaid program for these costs. As a result, local property taxes and private employers will pay more to pay for this uncompensated care. More working families will seek services, with no funding to pay for their necessary care.

I am not alone in my opposition to these Medicare and Medicaid cuts. Today, I received letters from the American Hospital Association and the Texas Hospital Association in opposition to this Republican plan. Texas hospitals are extremely concerned about the $36 billion budget gimmick, the "failsafe" provision, in the Republican plan. Under this provision, the Secretary of Health and Human Service would retroactively reduce reimbursements to health care providers. If a global budget is exceeded, all providers would be subject to more cuts. Hospitals would no longer be guaranteed sufficient revenues to treat Medicare and Medicaid patients. In the changing health care marketplace, there will be no ability to recoup these costs from private insurance payers. As a result, jobs at Texas Medical Center are at risk. I believe the net result will be hospitals closures and health care layoffs.

I urge my colleagues to oppose this budget. I urge the President to veto this budget. And then I hope we can work together in a bipartisan fashion to balance the budget fairly and responsibly.

Mr. BENTSEN. Mr. Speaker, I rise in strong opposition to this conference report, particularly the cuts in Medicare and Medicaid and what it will do to the Texas Medical Center.

Mr. SABO. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Speaker, as one of the 68 Democrats that did support a 7-year balanced budget, I rise in strong opposition to this.

We just heard the gentleman from Texas [Mr. ARCHER], one of the leading Republicans, say this was not a perfect bill. I want to spend some time talking about one of the most imperfect parts of it, and that is what relates to the agriculture section.

All of us know we need to make some reforms in our agriculture programs. We have to define what is the appropriate role of government in farm policy. Most of us would agree it is to provide a safety belt, it is to try to expand trade, it is to try to provide for additional research. But the Republicans have come to the conclusion that the appropriate role of government in farm policy is to have taxpayers write checks for $36 billion over the next 7 years.

This $36 billion is going to be paid to landowners for no other purpose than they have farmed a program crop in one out of the last 7 years. This $36 billion is not going to farmers based on need, it is not going to farmers in those years of low commodity prices. It is only going just simply because they have enrolled in a program in the last 7 years.

Mr. Speaker, this is bad policy.

Mr. SABO. Mr. Speaker, I yield 1 minute to the distinguished gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, rural America should never forget what treatment has been given to agriculture in this budget. The act before us repeals what has been farm policy for nearly 50 years, and it does so with a proposal that has never had a single hearing or even received a passing vote in any committee of this Congress.

Rural America does not yet know what is coming at it in this proposal, but three consequences are immediately clear: It is a transitional plan to the complete elimination of farm programs; it removes the safety net for family farmers when market prices collapse; and it cuts the support for our agricultural exports to an amount way, way below what our international competitors will be using to support their exports.

It is clear what the results over the long haul will be: Loss of export markets for our products, lower prices for farm commodities, and family farmers forced off the land by the thousands all across this country.

We can and we must do better than this. After the veto, I look forward to working with friends on both sides of the aisle to build a farm program that will work for rural America.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA], the distinguished ranking member of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, at the outset I want to make it clear that today's debate is not about balancing the budget: I support balancing the Federal budget. Today's debate is about the priorities we set in going about achieving a balanced budget.

Mr. Speaker, it is because of the priorities that are established in this reconciliation bill that I sadly must oppose this conference agreement even though it achieves a goal I have long desired of this Congress—that of achieving a balanced budget. The process itself under which this bill has been considered has inevitably cost it its ability to be signed into law. It is a travesty that when the very thing Americans want most—responsibility in Federal fiscal affairs—that objective is being compromised by backroom deals orchestrated by Speaker GINGRICH and the Republican leadership.

Mr. Speaker, the Republican budget approved this year was bad. It called for a huge tax cut to be paid for through drastic reductions in health care and major cuts in food and farm programs. That terrible budget yielded an even worse result in the package we have before us: It slashes health care for our seniors, devastates programs that provide assistance for children in poverty, and totally eliminates the farm programs that have so successfully safeguarded our Nation's food security. And it is easy to see how the Republican leadership took it from bad to worse.

All Americans know that at its very core, our form of government depends on openness. Good policy development requires a fair opportunity for all sides to be heard. We have this terrible bill before us because that basic principle has been abandoned.

In this agriculture deal—engineered by Speaker GINGRICH and Mr. ARMEY—there are a shocking number of instances where Democratic principles were cast aside:

There has not been one hearing on this proposal in either the House Agriculture Committee or the Senate Agriculture Committee and it eliminates farm programs.

Not one subcommittee has had the opportunity to consider this bill's provisions: and it eliminates farm programs.

Only the full House Agriculture Committee has debated this plan—and a bipartisan majority of the committee defeated it.

Nevertheless, agricultural policy experts GINGRICH and ARMEY took what was defeated in the Agriculture Committee, made their own modifications in the plan—and forced it into the reconciliation bill.

The one proposal a bipartisan majority of the Agriculture Committee did adopt—one to help ease the burden on rural communities by making additional infrastructure improvement loans available—was arbitrarily stripped out by Gingrich leadership.

Subsequently, conferees were appointed in the traditional way—Members from the majority and the minority.

But the agreement was reached and Democratic conferees were completely shut out of the negotiations. Not only that—even the Republican conferees never once met until after the Speaker cut his deal: and what does this deal do? It completely eliminates farm programs; without debate; in the dark of night; behind closed doors; a deal manufactured by the Gingrich-Armey leadership.

Mr. Speaker, there are no provisions related to the dairy program in this bill. The way that happened is a case study in how wrong things can go when we attempt to develop national policy without any input from the American people. From the start, the dairy farmers themselves knew and understood that all farmers would have to bear some of the burden of the cuts. They made several different proposals toward that end. Normally, then, what we would do is convene our subcommittees and our committee, we would have hearings to talk about the pros and cons of the different proposals; we would debate; we would argue; and we would vote. But this year: We did not have any hearings related to the specific proposals, the members of the Dairy Subcommittee, did not meet and did not consider any alternatives; the full committee only had the 1 day of markup and that was to discuss all farm program issues; and the members of the conference committee were never once convened to discuss how dairy policy should be addressed. As a result, the current dairy program will become extinct even sooner than programs for other commodities, all for the lack of a fair, honest, and open debate.

Mr. Speaker, all of the shortcuts the leadership has taken in order to be in a position to ram their priorities through Congress have gotten us very lost. By making its policies in the dark—by rejecting the most basic values of our deliberative system—the Gingrich leadership has imperiled our Nation's food production system, endangered seniors and children in poverty, and compromised the very trust of the people who put them in office.

Mr. Speaker, for nearly an entire year, the Republican leadership in this Congress has neglected the Nation's business, precipitated a crisis of unprecedented proportions, and completely ignored the will of the American people. The American people do not want this bill, and that is why the President will veto it. Let us hope that when the Republican leadership gets a second chance, it will act to earn back the trust of the people in their Congress.

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Mr. SABO. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, this Republican reconciliation conference is a complete abdication of our responsibility to the majority of citizens of this Nation. The underlying legislation represents the most fundamental shift of priorities from poor and working Americans in two generations.

Mr. Speaker, today at Howard University there is an African-American leadership summit, where African-American leaders are gathered to talk about how they can turn their communities around, how they can get young people working, how they can get them in school, how they can grow their communities and create businesses. But guess what? This budget goes in the opposite direction. It thumbs its nose at those who are trying to do something about poverty and children. It thumbs its nose at senior citizens and those who want to do something about medical care in this country.

Mr. Speaker, this budget needs to be rejected. It probably will not, because the Republicans are on this mission to cut no matter what the consequences are. I ask the Members of this House to reject this conference report.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding me time, and I came back to speak because I was here a few minutes ago and made a reference to this bill being a killer bill and got a rash of phone calls from the American people saying that they objected to my use of the word killer.

I want the American people and my colleagues to understand that this is a killer bill. The truth cannot be avoided. This bill will kill elderly people by depriving them of medical care. It will kill young people by forcing them into poverty and denying them food. It will kill the priorities of our country, which I understand to be compassion. It will kill student loans.

This is an outrage and we ought to reject it for that very reason.

Mr. SABO. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I have heard a Member of the Republican Party say that no family would be hurt by the $32 billion in EITC cuts when combined with the child credit. I want everybody to know that is simply not true.

Hurt would be, for example, families with more than two children; families who receive Social Security; and also would be hurt would be childless workers earning less than $9,500. Treasury said there would be 8 million net losers under their bill. Workers. The truth is the Republican plan hurts working people, period.

Mr. SABO. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am opposed to this bill because it makes crippling cuts in vital programs like Medicare, Medicaid, student loans and the earned income tax credit. The bill goes too far, too fast because it is driven by numbers not by policy. This budget is about political objectives, not about the health and well being of American citizens.

I have attempted to offer specific, constructive amendments that would have improved this bill. But, like other Members, I was locked out of the process. The conference report deals with issues that disproportionately impact Florida.

But they have ignored me because they are afraid of the truth about what these cuts will do to the elderly, the working poor, and children.

It is my job as a Representative of Florida to consider what will happen to real people as a result of all of this number crunching. And I am going to do my job.

Real people will suffer. Florida has a significantly larger elderly population than Pennsylvania and Ohio, yet in this conference report, we will get fewer Medicaid dollars than either of these two States.

Mr. SABO. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I rise in opposition to this conference report. I want to address the two health care programs that I think are going to be very adversely affected by this legislation; Medicare and Medicaid.

In both of these programs we will see deep cuts in the Federal payments without any assurance that there will be sufficient amount to actually deal with the high cost of health care, especially for those people to whom we promised protection for health care costs; the elderly and the poor.

The proposal may destroy Medicare as we know it, where the elderly have a choice of their own doctor at the present time. They also have a choice now of an HMO or other managed care plan, if they want it. What I hate to see is the lack of a choice because people will be forced only into an HMO whether they want it or not because they cannot afford anything else.

In the Medicaid Program deep cuts are going to be very devastating to the poor, who have nowhere else to turn. They are very vulnerable and the safety net is going to be cut out from under them. I urge a "no" vote on this conference report.

Mr. HOBSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. LINDER].

Mr. LINDER. Mr. Speaker, this is the reason I came to Congress, to help get our economic House in order. And on behalf of my grandson, Thomas, I am proud to support the Balanced Budget Act of 1995.

Mr. HOBSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I rise in strong support of the Balanced Budget Act.

In the early 1950's, Adlai Stevenson quipped that Republicans, in general, had to be dragged screaming into the 20th Century. Judging by the opposition of the President to even a minimal balanced budget plan by the year 2002, it appears Mr. Clinton will have to be dragged screaming into the next century, for surely a balanced budget by the year 2002 is not asking too much.

I came to Congress in 1985. The national debt was then $1.4 trillion. For 10 years I toiled in a Democrat-controlled House. The national debt grew to $5 trillion. Gross interest incurred on that debt for fiscal year 1995 was $335 billion and is estimated by CBO to be just under one-half trillion in 2002. The share of that debt for every man, woman, and child in America is now $19,063. For 25 years in a row, this Congress has steadfastly refused to balance its budget.

Mr. Speaker, this Balanced Budget Act is deemed revolutionary by some. But that is only because it must be compared with such an odious budget performances of past Congresses. As our colleague, Mr. KASICH, has pointed out, this budget plan is relatively mild. It calls for $12.1 trillion of spending over the next 7 years, a $2.6 trillion increase in spending over the previous 7-year period. If we keep up our previous pace of spending we would spend $13.3 trillion. So we are decreasing increases of spending by $1.1 trillion over 7 years.

That is hardly draconian. In fact, under this bill Congress must add another 6 consecutive years of deficit financing before finally coming to a zero deficit in the year 2002, not counting money borrowed from trust funds. The national debt 7 years from now—even with this 7-year balanced budget plan—will swell to approximately $6.6 trillion.

Of course, this bill is not perfect. And whenever budget cuts are suggested, anecdotal stories of course abound of predicted suffering to be inflicted upon vulnerable people. The chant we now here from the Democrats is that we are for a balanced budget but of course not at the expense of agriculture, or children, or the elderly, or the middle class, or education, or the environment, or defense, or the infrastructure, ad infinitum. It's time, however, to finally pass a balanced budget plan and to remember that all of the debt and interest on the debt will have to be paid by our children and grandchildren. There's nothing anecdotal about that. It's a fact.

Mr. Speaker, this debate is not about brinkmanship. It is not about who has more power, or the bigger ego. And, believe me, it is not about who sat where on Air Force One.

This historic struggle between the Congress and the President is about one thing, and one thing only: whether we are going to balance the Federal budget. It is about whether we are going to saddle our children with additional trillions of dollars to the national debt. It is about how much government we want, how much in taxes we want to pay.

This is the essence of the revolution in Washington. It is, indeed, revolutionary that Congress would pass a specific plan to balance the budget in 7 years. That has never happened in the three decades that Washington has run up deficit after deficit, and trillions of dollars in debt.

Voters sent a message last November that they wanted change. Clearly, they wanted Congress to change business as usual and stop the flow of red ink. Well, now the Congress is delivering the biggest change of all: a balanced budget. It is delivering on what it promised on the Capitol steps in September 1994. We are serious about balancing the budget. We are serious about not doing it by raising your taxes. And we are serious about curtailing the growth of Federal spending. That is causing quite a fracas in a town that is built on unrestrained spending and red-ink and borrowing as far as the eye can see.

The die was cast for the current showdown when we made that promise and were given the votes in Congress to do it.

Balancing the budget isn't just about keeping our promises, however. It's about leaving a better life for our children. Consider: A child born today will pay $187,000 in taxes just to pay their share of interest on the debt. A 21-year-old faces a bill of $115,000. Our children and grandchildren will face lifetime tax rates of over 80 percent to pay our debts.

Balancing the budget isn't just about accounting and tidy books. Budget deficits sap private investment, drive up interest rates, and debt service costs the average taxpayer nearly $800 a year in taxes. Ending these deficits is the most important economic program Congress can enact.

Economists predict balancing the budget would lower interest rates up to 2 percent. Families, farmers, small businesses—everyone—will see a tremendous benefit from balancing the budget. A 2 percent drop in interest rates would mean a family with a $75,000 mortgage would save $37,000 in interest over the life of the loan. A student with a $11,000 student loan would save $2,160 in interest. A family buying a $15,000 car would save $225 per year in interest.

One of the frustrations of being involved in this debate is seeing the disconnect between what Congress is actually doing versus how the battle is being reported in much of the major media. But, eventually, I trust that the American people will come to understand what the real issue is. The facts and the truth have a way of getting out.

Let me try to speed up that process.

First, Congress will today pass a specific 7-year plan to balance the budget, and send it to the President for signature. It is revolutionary that Congress is passing such a plan; but it does not take revolutionary changes or draconian cuts to achieve such a balanced budget. In most cases, it takes allowing the rate of growth only.

Most Federal social spending—including Medicare (up 6.2 percent per year) and Medicaid—will continue to rise sharply. Overall, Federal spending will rise 3 percent per year, slightly above inflation. Even with the tax cuts—most of which will be for families with incomes under $100,000—tax revenues to the Government will rise automatically 41 percent over the next 7 years due to economic growth. Is it not reasonable to ask that Government get along with 41 percent more revenue over the next 7 years? I think so.

Is the 7-year plan perfect? No. I don't agree with every provision. But there is no such plan detailing $1.1 trillion in savings that could be perfect in anyone's eyes.

Second, Congress is not shutting down the Government. Congress passed a funding bill that would keep the Government operating until well into December. The President says he will veto it because of unreasonable riders on the bill. What are they?

You be the judge as to whether they are unreasonable conditions: (1) we want the President to agree—in principle, not necessarily on the specifics—that we should balance the budget in 7 years; (2) that we should use real numbers set by the nonpartisan Congressional Budget Office, not phony, smoke and mirrors numbers; and (3) that about 10 of the Federal Governments 1,200 programs that Congress wants to eventually terminate should receive 60 percent of their normal funding for the next 20 days. Apparently, the President won't sign the bill to keep the Government going at full speed in objection to all three.

Now this really is curious. On October 19, 1995, the President said:

> I think there's a way for me to meet their stated objectives which is a balanced budget in seven years * * * That's what I hope will happen, and I'm going to leave the door open for that.

That would seem to put him in complete agreement with the 7-year balanced budget goal. With respect to using Congressional Budget Office [CBO] real numbers, the President himself has said he thinks we should use CBO numbers. On February 17, 1993 he said:

> This budget plan * * * [uses] the independent numbers of the Congressional Budget Office. Well, you can laugh, my fellow Republicans, but I will point out that the CBO is normally more conservative on what was going to happen and closer to right than previous presidents. I did this so that we could argue about priorities with the same set of numbers. I did this so no one could say I was estimating my way out of this difficulty.

You may wonder why it is important to use real numbers. The difference between the CBO estimates and the President's in determining how much spending must be curtailed to balance the budget is over $800 billion over 7 years. Our entire plan to balance the budget saves about $1,100 billion dollars. Thus, by using rosy economic assumptions, the President could claim he could virtually balance the budget without making any changes in the growth of Federal spending.

Mr. Speaker, I think columnist George Will summed it up best:

> For years, the public has pounded its milk cup on its high-chair tray, demanding "change" and an end to "politics as usual" * * * Now both are occurring, and the public is * * * not recognizing that this is what politics looks like when the stakes are high and serious politicians take them seriously * * * It concerns how much government we want.

I urge my colleagues to support the Balanced Budget Act.

Mr. HOBSON. Mr. Speaker, I yield 3½ minutes to the gentleman from Texas [Mr. DELAY], the very honorable majority whip.

Mr. DELAY. Mr. Speaker, I hope the American people are watching this vital debate, and if they are they will understand why we are so frustrated and have been so frustrated over all these years.

The American people have heard from the other side of the aisle, the President and his party, stand before them time and time again, all day long, claiming that they are for a balanced budget. Yet for 40 years, the 40 years that they have been in control, they have yet to balance the budget.

Mr. Speaker, they are not for balancing the budget, and Americans will hear what they are saying. They are for more spending. They are against what we are doing because they want more spending. They want to be able to raid the bank accounts of American families to pay for their agenda. That is what this is all about. That is what this debate is all about.

This conference report signals a new era for the Federal Government, an era of fiscal responsibility, of lower taxes, and of healthier economic growth. As a Nation, we are poised to enter a new century. The choice the Congress makes today is very simple. We can enter the 21st century with a more efficient Federal Government, with a secure Medicare system, with a reformed welfare system, and with a Tax Code that actually favors families; or we can enter the 21st century with a government hobbled by waste and fraud, a Medicare system on the verge of bankruptcy, a welfare system in a state of moral decay, and a tax system that hits families the hardest.

Mr. Speaker, by the year 2002, we can have a Federal Government with a balanced budget; or we can continue down the present path towards total fiscal catastrophe.

Mr. Speaker, the President has chosen to shut the Government down rather than negotiate with us about a real 7-year balanced budget. That is an unfortunate choice, because even the President recognizes the virtue of fiscal responsibility.

But in shutting down the Government, the President has unwittingly helped the American people understand what this fight is all about.

According to the Office of Management and Budget, much of the Federal bureaucracy is not essential; 99 percent of the HUD Department, 96 percent of the EPA, 89 percent of the Department of Education and 99 percent of the National Archives have been declared nonessential.

Many taxpayers across the country wonder: "If these folks are not essential, why do we have to pay them?"

Frankly, that is the question we have been grappling with in our efforts to balance the budget. If the administration itself agrees that most of the bureaucrats it hires are not essential to making the Government run, why shouldn't we make some efforts to cut Government spending?

The President can say no to cuts all he wants, but to get to a balanced budget, cutting nonessential Federal spending must be part of the equation.

Let me address the most important aspect of this legislation; the tax cuts. The Democratic coalition's budget does not have tax cuts in it. I wonder if the American people know why? Because they want to spend more money. They want to spend more money and take it away from the American people and the American family.

Much has been said about our tax relief for families, but little of it has been true. Here are the facts. Seventy-three percent of our tax cuts are aimed at families. These tax cuts include a $500-per-child tax credit. They include a $5,000-per-child credit for families that seek to adopt. They also include a $1,000 deduction for families who care for their ill parents at home.

Clearly, Mr. Speaker, clearly, despite the rhetoric, this is tax relief for middle-class families. Many people ask why do we need these tax cuts? Well, my answer is very simple. If we are to rely on the family to be the backbone of our civilization, we cannot continue to tax it out of existence. The American family deserves a break today.

Mr. Speaker, I commend my colleagues for their hard work on this historic balanced budget. When our children and our grandchildren look back on this day, they will salute us for making their debt load lighter, their standard of living higher, and their future brighter. I just urge my colleagues to vote for the balanced budget so we can keep our promises for America's families, for America's children and for America's future.

Mr. Speaker, I commend my colleagues for their hard work on this historic balanced budget.

When our children and grandchildren look back on this day, they will salute you for making their debt load lighter, their standard of living higher and their future brighter.

I urge my colleagues to vote for the Balanced Budget Act of 1995, so we can keep our promises for America's families, for America's children, for America's future.

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I thank the gentlewoman for yielding me time.

Today the debate is how to reach a balanced budget over the next few years in a manner that is reasonable, humane, and efficient. The bill before us today is neither reasonable nor humane nor efficient.

The new majority's road map to a Federal balanced budget takes America to a lot of places we do not want to go and a lot of places we should not even want to visit. These detours leave behind the poor, the elderly, and the disabled. These detours ensure that there will be a lot more wasteful military boondoggles. These detours ensure that there will be a lot more sweet days for the polluters. My colleagues, that is not right.

Let us vote for a balanced budget that brings money home that we are now spending defending the Germans and the Japanese. Let us make the polluters pay their fair share. That is the way to balance the budget.

Mr. HOBSON. Mr. Speaker, may I inquire about the time on each side?

The SPEAKER pro tempore (Mr. BOEHNER). The gentleman from Ohio [Mr. HOBSON] has 13 minutes remaining, and the gentlewoman from Florida [Mrs. MEEK] has 15 minutes and 35 seconds remaining.

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, we are all getting frustrated with these games. And a lot of Federal workers, a lot of Americans, are being unfairly inconvenienced and victimized by this stalemate. The world is watching and laughing at us. The President cannot even travel to negotiate with Asian leaders because of this madness.

Many of us have voted for a balanced budget many times, including 7 years, but this conference report is an excellent example why we do not want to support this type of balanced budget: Excessive Medicare and Medicaid cuts, tax increase on working families, gutting the environment, massive cuts in education, excessive hits on rural areas. All for what? To pay for this tax cut of $245 billion.

□ 1400

This is why many of us are frustrated right now. How can we support a balanced budget in 7 years, if this is what it is going to be? How about another balanced budget? The coalition budget or other alternatives? A bipartisan alternative? What is happening here is frustration, and a lot of people are paying for this frustration.

Mr. Speaker, somewhere in this Chamber there lies a lot of common ground that Members from both sides can agree on.

We all want to balance the budget.

Members know that reaching a balanced budget—without the tax cuts—will strengthen the economy by lowering interest rates and allowing Americans to refinance their homes, pay off debt quicker, and increase the savings rate that is so critical to long-term growth.

Members agree that the Medicare Program is in danger—but we know it can be saved from insolvency with moderate changes.

Members on both sides of the aisle, including myself, have voted for a balanced budget that saves Medicare without the burden of huge tax cuts.

Members agree that there is common ground from last year's health care debate that will lower the cost of Medicare without raising premiums.

Mr. Speaker, some people may want a crown jewel, but Americans need steady jobs, affordable homes, better health care, and a promising future.

Let us vote down this conference report—take out the tax breaks—and craft a bipartisan balanced budget plan that the American people support.

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, the Gingrich budget severely hurts seniors in order to provide hefty tax breaks for the wealthy. Seniors are asked to pay more to get less. The bill is bad for America. It is also bad for New Jersey.

My four Republican colleagues who voted "no" on this budget before should still vote "no" today. As the gentleman from New Jersey [Mr. SMITH] said in today's papers in New Jersey, our State will lose $12 billion, half in Medicare and half in Medicaid, over the next 7 years. Hospitals will close. Seniors will be forced into HMO's where they lose their choice of doctors, many seniors will simply have no health care coverage because of the doubling of part B premiums, and low-income seniors, those that Speaker GINGRICH promised on the floor previously will have their part B premiums paid for, they have no guarantees under this budget bill that that part B premium will be paid for.

Mr. Speaker, this bill is about promises broken. The promise that we made 30 years ago in Medicare will no longer exist. I urge my colleagues, vote "no," and I urge President Clinton, veto, veto, veto.

Mr. HOBSON. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, several speakers for the other side have indicated that farmers and ranchers of America want more of the same of our existing agricultural policy. Well, I am a farmer and I will tell my colleagues that farmers do not want more of the same ag policies that have held prices down in this country.

If we can compete, if farmers and ranchers compete, we have got the most efficient, effective ag industry in the world. Farmers want a fair return at the marketplace. They do not want the kind of policy that puts on limited prices, embargoes, and holds down the price that they would otherwise get.

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute to my colleague, the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, this budget is not balanced. It has a $63 billion increase in defense and a $245 billion handout to the wealthy, but it is balanced if you think about the cuts, cuts for children. Just look at the cuts. Over $170 billion in Medicaid, that is going to hurt children. Food stamp cuts, $34 billion, that is going to hurt children. The low-income housing credit cut by $3 billion, that hurts children.

And look at the savings, savings. Well, the savings include $5 billion cuts in student loans. Those are our children. And the earned income tax credit, that helps low-income families and those low-income families, many of them, have children. It is cut.

It is cut and it is cut and it is cut when it comes to children. But it is up, up, up, when it comes to defense and wealthy families.

Mr. Speaker, I urge my colleagues to vote for the children of America.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, many of you have visited me down to the Potomac, and it is a mystery about the sea when you see a sail boat, one sailing one way and another, another with the same prevailing wind. A poet once wrote: "One ship sails east, another west, with the selfsame winds that blow. 'Tis the set of the sail, not the gale, that determines which way we go."

With this measure today we set the sails in a direction of a balanced budget in the year 2002, in the direction of a solvent Medicare Program, in the direction of a smaller Government.

So, Mr. Speaker, let me urge my colleagues to join with us today in setting this directional sail toward a shore that means prosperity and a better America for all.

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I thank the gentlewoman from Florida for yielding me time.

Mr. Speaker, as we talk about budgets, we are not just talking about numbers. No matter how wide and how large the Federal budget is, and one can go through the thousands of pages, at the end of the day it is a statement of our values as a people.

I voted for a balanced 7-year budget. I do not think that is the issue, but I think the issue truly today is how we bring balance to our Nation. What kind of America do we want to see? Do we want to bind the generations together? Do we want to apply some morality to these figures, to these numbers? Do we speak to those who are in the autumn of their lives and say, yes, you count, and we are not going to count you out? Do we say to our Nation's children that we bring morality to them? Why would any Member of Congress rob two out of five children of this great Nation of ours of their own means of health insurance? Why would we rob our future by cutting student loans?

So today, America, what kind of a budget do we want, one that binds us together or tears us apart?

Mr. HOBSON. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. ARMEY], the distinguished majority leader.

Mr. ARMEY. Mr. Speaker, I would like to just take a moment to thank the members of the Committee on the Budget, on both sides of the aisle, and, indeed, the members from both sides of the aisle on all of our committees. To put together a Balanced Budget Act that is this comprehensive is not an easy balance. We have all worked hard, and we have worked hard all year on the matter.

There are differences of opinion. There are differences of expectations of what the outcome will be in the lives of the American people, and it is recognized on both sides as big change. Most of us on my side of the aisle think that this is big change for the better, a new direction, a new beginning, a revitalization of the American spirit and the American economy and the American people. Many people on the other side of the aisle are concerned that it might be something other than that and would prefer to stay with Government growing and Government governing as it has done in the past.

Mr. Speaker, in any event, as we have watched this work done by the Congress of the United States, we must recognize beyond a doubt this is serious business. This is hard, serious work with enormous consequences in the lives of Americans for generations to come and, yes, it should be taken seriously.

Mr. Speaker, I guess it is for that reason that I have to say I regret the extent to which the public rhetoric regarding this work has been so often hyperbolized, full of misrepresentations and exaggerations and, frankly, all too often language that has been designed purposely to scare very real Americans.

We have worked hard and we have worked together and we have worked seriously to provide here a Balanced Budget Act that will give us in the next 7 years a steady, consistent movement to balance, to stop this awful, debilitating growth in the debt of the U.S. Government that is strangling the American economy, and we think we will get there.

We have in this process enacted tax cuts to encourage growth for jobs for the real American citizens, particularly our youngsters when they finish college, and to give tax relief to the American family, and we know it is real and we know it is fair and we know it is equitable.

We have, in fact, accepted the challenge to fix Medicare, to save it for another generation, and to be prepared in the year 2002, at the time its trust fund is broke, to have an economy and a Federal Government budget that can handle the new stress that will follow.

We have given real welfare reform to inspire greater growth in families, greater commitment and opportunity for work, greater chances for self-sufficiency for families and people that have for too many years been, quite frankly, victimized by this.

Will it work? How will it work? There can be different notions, different ideas, different concerns, and different projections on that. But let nobody doubt for a moment that this is our best effort to do what we see as the right and necessary thing to do. We have been governed by our best motives, our hardest work, our best effort and, quite frankly, our most sincere prayers.

We know this is the right thing to do, we know it must be done now, and we know we cannot run away from it. So if Members are faint of heart or devoted to a vision that most of us think has failed, they are free to vote no at this historic moment. But if Members believe in the American people and believe in the future of the American people and a Nation where they are made more free to control their own destiny by a Government that has had the ability to recognize their goodness and the decency to respect it, I ask them to vote yes today and change this Government so it can be back in step with America.

Mrs. MEEK of Florida. Mr. Speaker, I would like to ask, how much time do we have remaining?

The SPEAKER pro tempore (Mr. BOEHNER). The gentleman from Ohio [Mr. HOBSON] has 7½ minutes remaining, and the gentleman from Minnesota [Mr. SABO] has 11 minutes and 35 seconds remaining.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentlewoman from Arkansas [Mrs. LINCOLN].

Mrs. LINCOLN. Mr. Speaker, I think we can certainly make it clear that the issue here is not about balancing the budget. The majority of the people in this body, and I think the American people, have stated that they want the assurance of the future and through that they want to see a balanced budget.

Mr. Speaker, this debate here today is about fairness. It is about a plan of priorities that are fair and common sense in the approach about balancing the budget of this Nation.

The Republican plan is fundamentally unfair, making unnecessary reductions. They are not needed in order to balance the budget of this Nation. There is, however, an alternative plan that was offered; one that is very fair, common sense, and reasonable: The coalition plan. That plan places deficit reduction as a top priority, while protecting all Americans, especially rural Americans in the State of Arkansas.

The Republican plan is unfair. It is unfair to rural health care. It is unfair to agriculture. It is unfair to education and to veterans. We need to come together, put aside the pettiness of partisan politics, and come up with something that is fair and common sense for the American people.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, I want to focus that 1 minute on Medicare in this budget and go through three things very clearly.

No. 1, the Republicans continue to say it is unprecedented, Medicare is going to go bankrupt in 7 years. The chart right here points out the fact, and a lot of times my colleagues on the other side do not like to listen to facts, but the fact is in 12 of the last 30 years that Medicare has existed in actuarial life was less than 7 years. It is not unprecedented. We have done things to deal with the actuarial change.

No. 2, is $270 billion in cuts. Where did that come from? That number has nothing to do with the actuarial soundness of Medicare. It is a derived number from the budget deficit that they need. And in fact if it had anything to do with Medicare, it would stay in the Medicare trust fund, which it does not do in the Medicare proposals in the reconciliation bill.

Mr. Speaker, the third and final thing is that the truth of this program, the bottom line, I think I will let the Speaker speak for himself: "We don't get rid of Medicare in round one because we don't think that's politically smart, and we don't think that's the right way to go through a transition period, but we believe it's going to wither on the vine because we think people are going to voluntarily leave it."

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY].

□ 1415

Mr. MARKEY. Mr. Speaker, Winston Churchill once said, in a tribute to the Royal Air Force, "Never in the field of human conflict has so much been owed by so many to so few."

Under the Gingrich budget, it can only be said that the reverse is true. Never have so many given so much for such a privileged few.

The Republicans are giving huge tax breaks to the wealthy while hard-working, low-income individuals and families get hit with a $32 billion tax increase. They are repealing the alternative minimum tax, returning us to the days when some of America's most profitable corporations paid no taxes whatsoever. They are going to allow employers to treat their workers' pension funds like corporate checking accounts. They would blacken the soul of the land of opportunity by cutting funding for child nutrition programs and student loans. How are you supposed to get a job in the 21st century when you cannot get a decent education or a decent meal in the last decade of the 20th century?

They would slash nearly a half trillion dollars from Medicare and Medicaid, putting the health of millions of seniors and poor children and disabled Americans at risk. They would nearly double Medicare premiums and eliminate those current law guarantees that the poorest seniors get help paying those premiums.

Millions of seniors in poverty, many of them widows, depend on Medicaid to pay for their Medicare premiums, deductibles, and copayments. The last time I pointed that out on the floor in this budget, that it would clobber poor seniors, the Speaker ran to the floor and said that I was either ignorant or misinformed. Well, guess what, I was right and he was flat wrong. And when I challenged him to fix it, he turned his back on the seniors of this country.

Well, Mr. Speaker, this "my way or the highway" galloping Gingrichism is going to have a commonsense answer. You are wrong, Mr. Speaker. Stop it or America's seniors and working families will stop it for you.

Mr. SABO. Mr. Speaker, I yield 45 seconds to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, as you know, earlier this year we had to fight off the high one provision that would have taken away what we promised to our veterans. I am inquiring, I would like to inquire and will yield to the Committee on the Budget spokesperson, as to whether or not it is true, as Congressional Quarterly is now reporting, that the cost of living increases for military retirees for 1996, 1997, and 1998 have been removed from this budget?

Is it a fact, and I will yield to anyone on the Republican side who represents the committee, is it not a fact, as Congressional Quarterly is now reporting, that they are taking away the equity payments of cost-of-living for our military retirees starting this year, after promising they would have it because civilians had it?

Mr. Speaker, has there been an answer to my question?

So we may take it that military retirees will not get their cost of living adjustment.

Mr. HOBSON. Mr. Speaker, I yield 15 seconds to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, the COLA's will be there. I am on the Committee on National Security. The COLA's will be there. We must not put out anymore misinformation.

Mr. SABO. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Speaker, a defining moment for the new Republican majority, to have a balanced, a fiscally balanced budget that is morally bankrupt is not the result of the work that I think the good intentions, perhaps, they started out with. I rise to oppose the Budget Reconciliation Act.

Mr. SABO. Mr. Speaker, I yield myself 15 seconds, and I yield to the gentleman from California [Mr. DORNAN] for the answer to the question of whether the military COLA's are back to April or not?

Mr. DORNAN. Mr. Speaker, because of the accursed, the dreaded and the hated Byrd rule, the COLA's were taken out in reconciliation. But in our authorization bill on the Committee on National Security, formerly the Committee on Armed Services, they will be there. It will happen. Some of us will fight to the political death to make sure that they are there.

CALL OF THE HOUSE

Mr. HOBSON. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore (Mr. BOEHNER). Without objection, a call of the House is ordered.

There was no objection.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 811]

ANSWERED "PRESENT"—409

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 1440

The SPEAKER pro tempore. On this rollcall, 409 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in opposition to this reckless restructuring of our priorities.

Mr. Speaker, I rise in strong opposition to this extreme Republican budget reconciliation conference report. The bill represents a reckless restructuring of national priorities which advocates a shift of resources and commitment away from working American families and granted to the most affluent segments of our society. This Republican Gingrich reconciliation bill abandons the goal of equality of social, health, education, and economic responsibility for members of our American society.

I have supported in the past and will continue to support responsible deficit reduction policies. I voted for the alternative coalition budget, a difficult vote but appropriate, which would reach a budget surplus in 7 years, end corporate subsidies, and permit higher spending on crucial national investment priorities without lavishing tax breaks on the wealthy. I supported the 1993 reconciliation measure which has to date exceeded its targets; with 3 straight years of deficit reduction resulting in the lowest annual deficit as a percent of GDP since the late 1970's. I certainly do not support the Republican reconciliation bill, which slashes proven programs that ensure economic and health security for working Americans, families, and seniors in order to finance tax breaks principally for investors, corporations, and affluent individuals. The legislation includes deep cuts and new fees for student loans, and deep cuts in Medicaid and Medicare. Further, it includes provisions to put American pensions at risk and promote environmental degradation. This measure disassembles the Federal commitment and structure that has built and empowered our Nation to unprecedented economic and social achievement.

At the same time this reconciliation measure cuts deeply $270 billion from Medicare, the bill gives $245 billion in tax breaks to the wealthiest members of our society and corporate America. In fact, the wealthiest 12 percent of American families, those with an income over $100,000, will get 45 percent of the tax break benefits, over $110 billion in tax breaks. The Republicans continue to insist on a cut in the capital gains tax rate for big investors, a reduction of the alternative minimum tax for corporations, and a limited child tax credit which is actually denied to 33 percent of kids because they are low income. In addition, the Republican Gingrich reconciliation bill cuts the existing earned income tax credit by over $32 billion, thereby producing a tax increase for the working poor. In fact, the Joint Committee on Taxation reported that families with under $30,000 in income will actually pay more in taxes—that's right, pay more under the Republican Gingrich tax break measure. Some break—it's more on the backs of hard-working families.

Policymakers who are serious about deficit reduction do not push a package which includes $245 billion in tax breaks, skewed to the wealthiest in our society. Not only is it unwise to reduce revenues in this time of fiscal constraints, but it is unfair to dole out benefits to the well-heeled when everyone else in society is being told they must sacrifice.

The new Republican Gingrich majority in the House has made the Medicare and Medicaid Programs its target for nearly 50 percent of the total spending cuts contained in the Republican reconciliation package. Medicare is one of our Nation's most successful programs. It was established over 30 years ago as a national commitment to assure seniors health care coverage. The Republican Gingrich scheme is going to threaten the integrity of this program and make seniors pay more for less health care coverage. With $270 billion in cuts, overall Medicare spending will be cut by a cumulative $6,795 per senior over the next 7 years, meaning that in 2002 there will be $1,700 less in Medicare dollars per senior in that year alone. Even the trustees of the Medicare trust fund strongly oppose the Republican plan because the extensive cuts go far beyond program reform or trust fund stability. The Republican plan is not designed to save Medicare, it is a scheme to let Medicare wither on the vine.

In the name of balancing the budget, the Republican reconciliation bill not only creates a social deficit in our Nation, but also creates a serious environmental deficit. This legislation amounts to a wholesale degradation of America's natural resource legacy, evoking the tradition of 19th century robber barons who exploited the West. We see the imprint of special interests, including the mining, oil, and gas industries, throughout the Republican reconciliation measure. In particular, the decision to destroy forever the Arctic National Wildlife Refuge [ANWR] by permitting oil and gas exploration and drilling demonstrates the true spirit of the Republican majority. ANWR is the last great piece of American wilderness and opening the refuge area to drilling will assure destruction of this pristine wilderness. Folding this measure into this bill is a sleight of hand way to circumvent the process and force this wholesale policy change upon the American public without open debate on its merits.

The question really is about the direction our Nation should be heading and what values we want to cultivate to enhance our future. This Republican Gingrich reconciliation bill reveals a significant change in national priorities and values under the GOP leadership. Republicans' misplaced priorities are to pull back from proven, albeit not perfect, policies for health care, housing, education, and the environment in order to give tax breaks to the wealthy and placate special interests. We in Congress should do better, surely we should know better. A balanced budget mantra does not disguise the true intent or effect of the Republican reconciliation bill, which polarizes and balkanizes our society, reneging on the basic social contract and abandoning families and the very programs that have permitted us to take care of those who are vulnerable and in need, in essence to take care of one another when we face crisis in our lives.

Apparently the GOP thinks that if they claim to balance the budget, anything goes, but they are wrong—the American people care. The American people do not want an abandonment of valued principles and policies which allow the most vulnerable in our society to live with dignity. They also do not want a redistribution of wealth which makes it more difficult for working American families to get ahead while giving special benefits to corporations and special interests. This Republican reconciliation bill is an affront to all who believe in the concept of community and the commitment of the Federal Government to protect Americans' health, environment, and economic security. I urge my colleagues to vote against this bill.

Mr. KASICH. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I rise in support of this bill.

It's difficult leading a majority. People pay attention to the promises you make—and they expect you to keep them.

The promise to balance the Federal budget has been perhaps the hardest political promise to keep. The President hasn't been able to do it. And Congress hasn't been able to do it in 26 years. To be fair, past Democrat and Republican leaders backed away from the challenge.

Despite repeated promises, the loud and convincing voice of special interests always have carried the day. But today we are looking toward the future. We are listening to the quieter voices of our children, and hearing what we have always known: That this generation has a responsibility to the next.

We began working toward this moment in 1992—the year President Clinton was supposedly elected as an agent of change. Although the President was unable to fulfill his promise to balance the budget in 5 years—or at all—JOHN KASICH was working behind the scenes on a balanced budget called cutting spending first. By 1994, the call for change had grown, and voters elected a new, Republican majority to Congress.

From that majority came extraordinary leadership. Our budget chairman drives this process with eagerness and integrity. Our Speaker provides a clarity of vision and purpose that unites moderates and conservatives in a single agenda for our American future.

Today our agenda is clear. I look forward to joining the majority of you in fulfilling our responsibility—and our promise—to the American people.

Vote "yes" on the Balanced Budget Act.

Mr. KASICH. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Speaker, I stand in strong support of this bill.

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Mr. KASICH. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in strong support of the balanced budget proposition before the House.

Mr. SABO. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, I rise today in opposition to the Omnibus Budget Reconciliation Act of 1995.

Change is needed in the Federal Government. Many programs need to be modernized.

But we need fair change. And there is nothing fair about this budget.

Simply put, the painful cuts in this budget disproportionately hurt the old, the sick, the poor, the disabled, low-income children and, to an extreme degree, urban areas.

During my first term in Congress, I sat on the Banking, Finance, and Urban Affairs Committee. I sit on that same committee now. Only now it's called Banking and Financial Services. It's as if urban areas are no longer a part of America. And this budget reflects that attitude. No place in the country will be hit harder by this budget than New York City.

Make no mistake: if the Medicare and Medicaid plans in this bill were signed into law, health care for the poor and the elderly will be severely affected.

The Medicare trust fund needs $90 billion to remain solvent for the next 10 years. But this budget tries to solve a $90 billion problem with a $270 billion solution. It will double premiums over the next 7 years for some seniors, and sextuple them for others.

Recently, Speaker GINGRICH told a group of insurance lobbyists that he expects Medicare to "wither on the vine," and said he wouldn't try to "get rid of it" right now because it wasn't "politically smart."

Senate Majority Leader DOLE bragged in a recent campaign speech that he voted against creating Medicare in 1965 because he knew it wouldn't work.

The views of the leaders of the House and Senate are way out of the mainstream. So, too, are their draconian solutions to what ails Medicare.

This budget also cuts $170 billion from Medicaid. Tragically, this budget seeks to end the guarantee of universal health care for our poorest citizens. And one out of every four children in the United States is born into poverty.

The economic consequences for New York City of the Medicare and Medicaid cuts are catastrophic. Over the next 7 years, Medicare and Medicaid cuts alone will cost the city of New York more than $24 billion. Mount Sinai and Beth Israel Medical Centers will, combined, lose $1 billion in Medicare and Medicaid funding. New York City could lose up to 140,000 jobs. Our local economy simply cannot absorb cuts of that magnitude.

New York City's most vulnerable children will also be drastically impacted by cuts to nutrition and protection programs which help them survive extreme poverty, neglect, abuse, and deprivation. The extremely successful School Lunch Program will be among the programs cut. So will the earned income tax credit, which will be reduced under this budget to effectively raise taxes by $400 dollars on the working poor.

All tolled, cuts to programs assisting New York City's children will be impacted by a staggering $25 billion over 7 years.

These cuts might be more palatable if they were absolutely necessary to balance the budget in 7 years, which is a sincere and honorable objective. But they are not necessary. They are reflections of the new majority's skewed priorities.

They're making these cuts because they are increasing defense spending by $8 billion more than even the Pentagon requested.

They're making these cuts because they refuse to cut $30 billion in corporate welfare that even the Republican House Budget Committee chairman says do not help the economy.

And they're making these cuts because they want a $245 billion tax cut that this country simply cannot afford right now. Only the working poor will be asked to pay more in taxes.

Mr. Speaker, there has been much rhetoric in this debate about balancing the budget for our children and grandchildren. But you cannot save children in the future by abandoning children in the present. This budget disinvests in all the things that prepare our children for a better future: nutrition, education, health care and protection from abuse and neglect.

This is not a thoughtful budget; it is a reckless budget. It is not a budget that fairly distributes the pain; it is a budget which punishes those least capable of absorbing the pain.

Mr. Speaker, I favor and have voted for reform and restructuring of our Government. But the restructuring in this bill is shortsighted, unfair, and unwise.

America did not become the greatest country on earth by deserting seniors in their time of need. Or by disinvesting in our children's education. Or by raising taxes on people who don't have two dimes to rub together. Or by denying health care and nutrition to our neediest citizens, especially our innocent children.

The American people believe in fairness. They will not suffer this budget lightly. Because there is nothing fair about this budget.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, I rise in opposition to this mean-spirited notion of a budget.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. OLVER], a committee member.

Mr. OLVER. Mr. Speaker, I rise in opposition to the reconciliation legislation.

Mr. Speaker, the United States has the widest gap in the industrialized world between those who can readily afford housing, education, health care, and retirement security and those who must struggle every day to get by.

And the gap is growing faster in the United States than in any of the other G–7 countries.

Into this scenario, step congressional Republicans and the President with competing approaches to balance the budget—approaches which have a diametrically opposed set of priorities.

Republicans are for B–2 bombers and ballistic missile defense systems we don't need; in total, $33 billion in increased defense spending over what the Pentagon says it needs to defend the nation.

Republicans are also for big tax breaks to those earning over $100,000 a year; $245 billion in tax breaks in all.

The Republicans can only fit these tax breaks into their budget plan by taking away housing, nutrition, health care, and educational and economic opportunities from the very Americans who are struggling to build a better life for themselves.

To begin with, their budget takes over $400 billion in health care away from seniors and poor families by draconian cuts in Medicare and Medicaid, cuts that are not part of any kind of constructive reform of the Health care system which would allow it to accommodate reductions of this magnitude.

Other harmful cuts to families come in a variety of critical areas: $30 billion to veterans' benefits, including veterans' health care; nearly $20 billion in child nutrition; $15 billion in Federal workers' pensions; over $10 billion in agriculture support; $10 billion in student loans; $10 billion in winter heat assistance for elders and the poor; $10 billion in vocational and adult education; $3 billion in mass transit assistance; and $3 billion to keep our children's schools safe and drug-free—just to name a few.

Republicans also want to scale back the earned income tax credit [EITC] to the working poor by close to $32 billion, pushing low-wage earning families, who shouldn't be paying taxes in the first place, back into poverty, ensuring that they will no longer be able to make it on their own.

The President, on the other hand, in outlining his balanced-budget plan, has made it abundantly clear that he stands for a different set of priorities—priorities that lie 180 degrees from where Republicans stand.

The President is for student loans, safe schools, school lunches, health care for veterans, job opportunities for young adults, and income and health security for our Nation's elders.

We Democrats think these things are more important than giveaways to the wealthiest 10 percent of Americans, so we would not give big tax cuts, and we would hold down defense spending.

We believe in helping low-income, working families gain back some ground on their slipping standards of living.

But the Republicans don't care about that. They're not the least bit concerned about the growing gap between the haves and the have nots. They would make the gap much worse, taking us in the opposite direction from where we should be going.

Thus, for its terribly misplaced priorities, I oppose this reconciliation bill. For our future's sake, we should all oppose it.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BONIOR], the distinguished minority whip.

Mr. BONIOR. Mr. Speaker, this debate is not about who got to sit in the front or the back of the plane. It's not even about whether we balance the budget in 7 years, 8 years, or 10 years. The American people think this numbers debate is petty.

This debate is about the values we believe in . . . and the values we uphold . . . as we work to get to a balanced budget.

There's a reason why 75 percent of the American people oppose this budget today.

They don't want to cut Medicare to pay for tax breaks for the wealthy. They don't want to let Medicare whither on the vine.

They don't want to take college loans from kids . . . roll back 25 years of progress on the environment . . . or raise taxes on working families. But *that* is the price this budget asks us to pay.

This budget is so extreme that Speaker Gingrich had to manufacture a crisis . . . and shut down government . . . to try to force the President to accept it. Well, we know the President won't sign this budget.

Mr. KASICH. Mr. Speaker, point of order. Mr. Speaker, I would ask my colleagues to show the gentleman respect, let him make his talk, and show each other a little respect here. Let him finish.

Mr. SABO. I thank the gentleman from Ohio.

Mr. BONIOR. I would make a similar request when the gentleman from this side of the aisle speak; that we, in addition, show them the respect to have their arguments made in this Chamber.

The SPEAKER pro tempore (Mr. BOEHNER). The gentleman from Michigan [Mr. BONIOR] may proceed.

Mr. BONIOR. Mr. Speaker, I would ask the Chair, do I have any time remaining?

The SPEAKER pro tempore. The gentleman from Michigan has 1½ minutes remaining.

Mr. BONIOR. Mr. Speaker, the President won't sign a budget that dismantles Medicare. And he won't sign a budget that takes opportunity away from our kids.

The American people oppose the Gingrich budget because it does not reflect our values.

Six days from now, America will celebrate Thanksgiving. And we'll all give thanks that we live in a nation where our parents don't have to beg to see a doctor, where every child has the chance to go to school, and where we care enough about the environment to protect it. And we should not undermine that progress here today. We all know it's not easy to balance the budget.

But we reject the idea that we have to ask seniors to sacrifice their health care—and kids to sacrifice their opportunity—just so we can give a tax break to people who don't really need one.

Mr. Speaker, we must work to balance the budget. But the Gingrich budget is too extreme, too short-sighted, and too out of step with the values of the American people. And I urge my colleagues to reject it.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY], the very distinguished majority leader.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I had not anticipated that I would speak twice on this subject. Earlier I made the point this is big change. It is serious business. It is very important, and yes, in fact, it will make a big difference in the lives of the American people for generations to come.

When we face a change of this size it can be unnerving, and yes, there are those of us committed to this change that are concerned that perhaps the public might not understand, but the fact is that there are others who are equally concerned that the public will understand. That is why we are getting all this mean-spirited, extreme political rhetoric.

The time has come for us to get serious about the vote we are about to make, put aside any concerns we might have about the political rhetoric, understand the public does understand. To illustrate that point, let me read a note that was passed to a congressional aide on the Amtrak train this morning by a woman who had overheard a concerned conversation regarding how grave this moment is in the lives of America.

This woman said: "Dear sir: I am a Federal employee. Please tell the Republicans to stick to their guns. We need a balanced budget." Put aside your concerns. The public knows and the public appreciates what we are daring to do on behalf of their children. Do not be bothered by the extreme, mean-spirited, personal political rhetoric."

Mr. SABO. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri [Mr. GEPHARDT], the distinguished minority leader.

Mr. GEPHARDT. Mr. Speaker, it should come as no surprise that I oppose this budget. I think that when we take one bad budget and reconcile it with another bad budget, we wind up with a bad budget.

The Republicans say that this bill is about balancing the budget for our children and our grandchildren, but the question we have to ask today and in the days ahead is not whether we have balanced the budget in 5 or 6 or 8 years. The question is whether we have the right balanced priorities in the way that we have balanced the budget: Is it fair? Is it just/ Does it create a sense of equity and justice in our country, so that the people who live with the consequences of the budget will accept our decision?

In my view, this budget is not that. It asks too much, in my view, of people in the middle class and people trying to get into the middle class, the people that are really struggling in this country to get ahead, people who have almost given up on the American dream. It does too much to give privileges and breaks to people, frankly, who have done well, and in most cases are not even asking, are not even asking today to be advantaged.

I know my friends on this side will disagree, but in our view and lots of people's views, these cuts are deeply damaging to the health care system in this country, but more importantly, damaging to people. We believe that if the cuts go through as they are in the budget now in Medicaid and Medicare, that one-fourth of the hospitals in this country will close. They will close in the wrong places, the places we can least afford to have them close. Almost all of the hospital associations in the country have today said these cuts are too deep.

We think the increase in the premiums and the other changes in Medicare are unfair to senior citizens. We can say a lot of seniors have a lot of money, but a lot of them do not. Millions of widows live on their Social Security alone.

I met woman in Michigan who told us at one of the events there that she lives on $9,000 a year she gets from her Social Security, and that a doubling of her premium would devastate her monthly situation. We have to think about that person. There are flesh-and-blood human beings at the other end of this budget.

I have a family in my district whose son, in repairing the roof at age 15, fell off the roof, broke his neck. Now he lives in a wheelchair. He has to be fed by his parents. They both work. They did not have medical insurance. They came to our office so they could get him onto Medicaid, so he could be put for long periods of time in a nursing home, so he could be taken care of.

If the program was block granted and we put this choice in front of State legislatures and cut it by a third, do we take care of the seniors? Do we take care of the disabled? Do we take care of the children? It is an impossible choice, and one that we should not be putting on the States.

School lunches. I know it has been changed and hopefully made better. I sat with a woman in Ohio and she told me how she has had three children on school lunches while she could go back to school. She said, "I am about now to go back to work." She said, "When I get that job, because I could go to school and I had the school lunch program to help me, now I am going to be able to get my kids off of school lunch and be able to have it for somebody else."

So I guess when we say we are balancing this for our children and our grandchildren, we have to ask an additional question: Are we balancing this budget in a way that is good for our children and our grandchildren?

When it comes to taxes, as I have said here on the floor before, this budget takes my breath away. How in the name of common sense and decency can we say to someone who is earning $25,000 a year, who is struggling to get off of welfare and into the work force, that their taxes will go up by, about, we think $300 a year on average, while we are giving a $15,000 tax break to somebody who is earning $300,000 or $500,000 a year? It is unfair.

In conclusion, Mr. Speaker, this budget is unbalanced in its priorities. It is unfair to the people in the middle class and people trying to get into the middle class. Ultimately the economic estimates that are on, and we have had this raging debate the last few days about 7 years and the economic estimates, but in truth we all know this is a 1-year budget. The estimates of what will happen in 7 years depends upon the fairness and the equity and the decency of what we do in this budget.

The President will veto this budget. Then we must come back. After that veto, the real work must begin. Then we must sit down together, as Americans who are all interested in the future of this country. We must work overtime, and as hard as humanly possible, to come up with an agreement. This Government runs by agreement and by consensus, not by dictation. We must come to an agreement.

I hope and pray that it will be a budget that does not overly damage important programs like Medicare and Medicaid, does not damage the education of our children through too severely cutting student loans and school lunches, and finally, that will be fair to the middle class more than it is fair to the people who have it made at the top.

If at the end of that we can say we have done that, then, truly, we will leave balanced this budget for our children and our grandchildren. Vote no on this budget today.

Mr. HOBSON. Mr. Speaker, a lot of people promised they would balance the budget. Nobody believed that it could be done, but one person believed and one person persevered. He persevered for the future of our children.

Mr. Speaker, I yield the balance of our time to the gentleman from Ohio, JOHN KASICH, my fellow Buckeye, and the chairman of the Committee on the Budget.

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Mr. KASICH. Mr. Speaker, let me say, I am glad I do not have to ask for unanimous consent to use these charts, because I think there would be more objection over here than there would be over there. I do not know, I say to the gentleman from Missouri [Mr. GEPHARDT], if you have this problem. Our people feel so passionately, they have all written my speech in big pieces, coming down and telling me how they feel. It has been a good debate. We keep saluting one another.

The gentleman from Minnesota [Mr. SABO], cannot help himself but to do right. He is a good man, and he deserves to be complimented because, at the end of the day, he cannot help himself. He has to do the right thing for our country, and I think he is a great guy.

Well, we have the gentleman from New York [Mr. SOLOMON], the gentleman from Texas [Mr. ARCHER], left the floor, and I do not know where my buddy, the gentleman from Louisiana [Mr. LIVINGSTON] is, and right here is the gentleman from Illinois [Mr. HYDE], and I can go on and on.

This stays for them, the warriors who never thought this day would come. These gentlemen, and the gentleman from Florida [Mr. YOUNG], it is a little present for all of them, what we are going to do here today.

They were the ones that were out there first, and they deserve an awful lot of credit for their hard work.

Mr. Speaker, the American people are watching this debate while the Government is closing down, and they were out in California and they stopped a guy on a bicycle, and they said, "Did you know the Government closed down?" He said, "Look, I am riding my bike; do not bother me." He says, "It is just those politicians."

I think that both sides would agree with this. This is not business as usual. Frankly, both sides are fighting today, last week, and probably tomorrow, on deeply held principles. I mean, frankly, what the public does not like is when the politicians compromise their fundamental principles and then it becomes business as usual.

I deeply respect the passion with which you hold your views. I do not have any doubt that you are sincere in believing that you need to stand up for some folks. We are the same way. So, to the American people, understand this debate over principle is good. It is not business as usual; it is good because, for the first time in my lifetime, we are trying to make sure that this country realizes its destiny.

Now, folks, in the history of America, in the very beginning, 1776, all the way until now, guess what? We have had these fights over principles consistently. The North fought the South; it was about principles. We know about the Vietnam war. The fights in this Chamber were about principles.

However, I would inquire of my colleagues if they know what the bottom line has always been. At the end of the day, the people of this House, as Tip O'Neill said, were good people; the people of the country were good at the end of the day. We were able to stand on principle and at the end of the day reach some agreement and move the country forward, and we will at some point do it again.

Mr. Speaker, to the American people, this is what you sent us to do here, to stand up for our heartfelt beliefs.

To my colleagues on the Republican side, the Committee on the Budget members, you started it. My colleagues started it back last December. God bless them all for that they did. For my colleagues here, who have gone home, who had to walk across hot coals, the Washington Post was written for you. Read it. Send it to your wife, send it to your husband, send it to your children; because it is about principle, and they understand that we are making hard decisions that need to be made.

Now, our plan is described as extreme. Look, going from $443 billion on Medicaid to $791 billion, that is not extreme; that is a significant increase. Medicare going from $926 billion to $1.6 trillion, that is not extreme; that is an increase. Going from $492 billion in welfare to $878 billion, an increase over the next 7 years, that is not extreme; that is an increase.

The total Federal spending going from $9.5 trillion over the last 7 years to $12 trillion, a $2.5 trillion increase in spending, that is not extreme. In fact, many Americans are going to say, why is it going up so much?

Let me say to my colleagues, we are going to have a lot of debate here, and I want to say to my colleagues on the Democratic side, Mr. Panetta asked me the other day, why? Why are you doing this? I said, because, Mr. Panetta, we think this is the last best chance to do it.

We look into the future, 15 years down the road, and we wonder, if the country continues to slide economically, as the newspaper pointed out, when children buy a home, adult parents buy a home in 15 years, what are they going to buy, a shack? Or are they going to be able to buy what we bought? Are they going to be able to afford a college education? Are there going to be decent jobs left within the boundaries of this country?

Mr. Speaker, I say to my colleagues, we are sincerely convinced that if we do not forgo that extra $1 trillion in spending, we will collapse the country. We believe the country will melt down economically. And as I have said before, in good times, the rich get richer; in bad times, the rich get richer.

The only time the poor get rich is when the economy grows. That is our sincere conviction.

This is not about politics, this is not about the Republican Party, it is not about NEWT, it is not about me, it is not about GEPHARDT, it is not about the President. It is about all of us standing on principle to deliver what we believe is right for the United States of America, and at the end of the day, as we have through all of these terrific and tremendous arguments over principle, we will figure it out. We will figure it out.

I have one last chart I have to show you, because this one touched me. I was in Illinois, and a group of high school kids came to see me on a Saturday afternoon. There was a miracle going on. Northwestern was winning another football game.

This is a check. It is a little check, and I want to read it. It is 1996, U.S. Treasury, and it is written from the young people of America, pay to the order of the U.S. House of Representatives.

The amount? Thank you.

The memo? Our future is looking brighter.

Mr. Speaker, my favorite memo, my favorite little note of these young people who I am told stood in their classroom and applauded when they heard the balanced budget amendment passed in this House, my favorite one here says, "Thanks, Bro." That is my favorite notation.

Look, we are going to struggle a little bit longer, we are going to fight a little bit more. I went to the Senate conference, and I said that single women with children are the most vulnerable people in our society, and we walk out of there with our earned income tax credit so that nobody will do worse, no one will do worse than the current law as we go into 1996. Why? Because we are compassionate in the treatment of people as well.

We think balancing this budget and slowing the growth of Federal spending is the key to making sure that, in fact, these young people's future continues to look brighter.

Mr. Speaker, God bless us all; let us pass the Balanced Budget Act of 1995.

Mr. MARTINI. Mr. Speaker, I rise today to share with my colleagues what a rare honor it is indeed to be able to vote today on such an historic piece of legislation. In fact, it is the embodiment of the principles I campaigned on just 12 months ago. The Balanced Budget Act of 1995 represents the very essence of what I believe in: a fiscally sound and responsible Federal Government that passes on a better America to its future generations. This truly is a defining moment in our Nation's history.

The Balanced Budget Act is not a smoke and mirrors sham attempt to fool the electorate. This budget is a real, honest plan that offers the people we serve the first balanced Federal budget in a quarter of a century. This bill is right for New Jersey, and more importantly, right for America. I am proud to cast my vote in favor of it.

All of this year we have been witnessing a debate between two competing visions. On one side there are the advocates of the status quo, and on the other, a group of legislators committed to offering real solutions to real problems.

Sadly, the advocates of the status quo have only been able to offer us echoes of the very sentiments that put our country in the red to begin with. Their answers to the very real questions we must face are, disappointingly, more of the same. They believe more spending, more taxes, and more debt are the answer to our budget ills. Well, they are wrong.

The taxpayers deserve better than that, Mr. Speaker. I am the last person to turn this debate into a rabidly partisan issue. Saving the future of our country should be above such partisanship. But regrettably, that is what our President and the Members of the other party have responded with. They insist on fueling the fires of skepticism and despair, choosing to resort to demagoguery and doomsday scenarios at a time when our constituents deserve more.

I suppose this reaction could be expected at such an historic time of change. As we stand on the threshold of truly monumental reform, it is only natural to experience a certain amount of anxiety about what comes next. But real leadership demands that the response to this anxiety be hard work and commitment, not homage to the failed policies of the past.

The defenders of the status quo serve as a very important and stark contrast to the Members of Congress who are about to cast their votes to solve our fiscal problems. I am ready to work in a serious, bipartisan fashion to obtain the real solutions we owe the people we represent.

I want to offer the residents of New Jersey's Eighth Congressional District the much-needed change they voted for in 1992, but have so far been refused. They were told they would get a balanced budget, the end of welfare as we know it, and tax relief for middle class families. They have received none of them to date. I, however, am ready to deliver where others have failed.

I want to balance the budget in order to relieve our children and our children's children of a crushing debt. I want to foster an opportunity society that creates jobs, lowers interest rates, and keeps the economy growing. On behalf of our constituents I want to knock $37,000 off of the price of a new home, $900 off the price of a new car, and $2,160 off of the price of a college education. Balancing the budget is not only a moral imperative, but good economic policy and we should do it now.

By voting "aye" today, I will also be working to reduce the tax burden on the American middle class. The size and scope of this tax cut has been and will continue to be a matter over which we can negotiate. But what a difference 2 years make, for it was only last Congress that the largest tax increase in American history was imposed after the people in power had campaigned on a tax cut for the middle class. That was disingenuous. The American family deserves to be allowed to spend more of their own money, Mr. Speaker. Passage of this tax cut represents more than a promise fulfilled, it is the right thing to do.

Similarly, the people are tired of watching our misguided welfare system trap more and more families into a vicious cycle of poverty and illegitimacy. Since 1965 we have made no dent in the Nation's poverty rate and have watched the illegitimacy rate quadruple. Campaigning on a platform of changing this dismal system is not enough. After $5 trillion and 30 years, enough is enough: we have no choice but to bring necessary reform to a system that needs an overhaul.

And finally we come to the subject of Medicare. We have proposed a fair and reasonable plan to address a very real problem: the bankruptcy of the Medicare trust fund. Creating a plan to save this program was not easy. It was done in an effort to maximize the effectiveness of its provisions and minimize the impact on current beneficiaries. At all times during the developmental process of the bill, the goal of its authors was to save a Government program that serves an important and often very vulnerable population, not just for tomorrow, but well into the next century.

The Medicare Preservation Act accomplishes this goal, yet we have still not seen any recognition of that fact from the other side. The November 16 edition of the Washington Post said it best, Mr. Speaker, when it said, "The Democrats, led by the president, chose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that's where the votes are and the way to derail the Republican plans generally." Sadly I must agree. In defense of the status quo, we have seen only politics, not leadership.

Like many of my colleagues in this body, I have had the privilege of spending a lot of time recently with a group of men and women whom I deeply respect and admire, the veterans of our armed forces. I never cease to be impressed at how courageous and committed these people were in the face of such clear and dangerous crises to our Nation's safety. They fought bravely on our behalf, and were prepared to pay the ultimate price to keep our country safe and prosperous. They were successful in battle, and kept us safe from a dangerous world.

But history has shown us that great civilizations fall victim to the crises from within just as often as they fall prey to the threats from without. Sometimes these threats are much less visible. They might not be tangible or have a face or a name readily associated with it. But that makes these threats no less real, and perhaps even more dangerous.

The debate today is a perfect example of a very serious and deadly internal threat. Though it may not be apparent to Americans in their everyday lives, the effects of deficit spending and out of control growth in the Federal Government pose a very real and dangerous problem. We in Congress are charged with the duty of dealing with these problems, and this is what the debate today concerns. The inability of our Federal Government to get our fiscal house in order is the crisis, and the discipline to make the difficult but important choices that must be made to avert financial ruin is the only solution.

We must rise to this occasion and meet the challenge before us. This may be our last chance to do it. If we fail to carry out our vital mission, if we allow the misinformation and distortions to defeat our efforts, no Congress is the near future will have the courage to try what we are trying. On the contrary they will cower in fear of the political ramifications surrounding the process of setting reasonable spending priorities, much to the detriment of the people they supposedly should be serving. I take my obligations to govern more seriously, and refuse to back down at this important juncture.

Mr. Speaker, it is not difficult to figure out what the people want and deserve. Our constituents want a fiscally sound and responsible Federal Government. They don't want any more gimmicks or Washington doubletalk. They don't want us to look back. They just want to pass along to their children a future filled with prosperity and hope, not debt and despair. This Balanced Budget Act is the very reason I serve in Congress, and I will not let the President, my Democratic colleagues, or any of the naysayers around here deter me from the all-important goal of balancing our budget. I will stand firm on my principles.

Vote in favor of future generations, vote for this defining piece of legislation.

Mrs. MINK of Hawaii. Mr. Speaker, the compromise budget reconciliation bill agreed to by House and Senate Republicans fails the fairness test. While Republicans argue that their reconciliation bill maintains the "glide path to a balanced budget by the year 2002," they conveniently gloss over the fact that this glide path descends from a $245 billion tax break for the rich to a deeper-than-necessary scale back in programs that benefit the poor, the middle-class, and the elderly.

TAXES

The gulf separating the richest from the poorest Americans has widened considerably over the past 20 years. While social historians, economists, and politicians cannot agree on the cause of this disparity, they do agree that the incomes and assets of the richest Americans grew considerably during the 1980's and early 1990's as the incomes and assets of poor and middle-class Americans stagnated. Yet, the Republicans direct much of the benefits of their $245 billion package of tax cuts to the rich—not to the poor of the middle-class.

The budget reconciliation bill includes a $16 billion 7-year reduction in the alternative minimum tax [AMT] which mainly benefits corporations and their stockholders. The bill refunds any AMTs that have to be paid temporarily.

The Budget Reconciliation Bill also includes a $500 per child tax credit for the years after 1995 and a $125 retroactive child tax credit for 1995. The bill phases out the credit for single parents with adjusted gross incomes of $75,000 and married couples with adjusted gross incomes of $110,000.

Unlike the AMT, the $500 per child credit is not refundable. Accordingly, the credit is of little or no benefit to moderate- or low-income families with minimal adjusted gross incomes. For example, a family with 3 children and a $1000 tax obligation can claim over $1000 in child tax credits, since the credit is not refundable. Yet, another family with 3 children but with a higher adjusted gross income and a tax obligation of, say, $5,000 can claim all $1,500 in child tax credits and reduce its tax obligation to $3,500.

As the previous example illustrates, Republicans are being disingenuous when they claim the child tax credit will benefit mostly middle class taxpayers. The Republican claim is true only to the extent that most taxpayers are middle class. What the Republican claim conveniently glosses over is the fact that most of the benefits of the child tax credit will go to the affluent.

With respect to the tax on capital gains, the reconciliation bill includes a 50 percent exclusion and inflation-indexing for individuals. The bill also lowers the corporate capital gains rate.

While I realize that it is not just the rich and affluent who report capital gains, the fact remains that by and large, capital remain concentrated in the hands of the very affluent. For example, Internal Revenue Service data for 1988 indicates that 87 percent of dollar capital gains were reported by taxpayers with incomes of over $100,000. And, these were not one-time capital gains. IRS data over a 10-year period indicates the most affluent 4 percent of taxpayers account for 70 percent of capital gains. Accordingly, the capital gains modifications in the reconciliation bill must be considered tax breaks for the rich.

As the reconciliation bill provides tax breaks for the affluent, it imposes a de facto tax increase on the working poor by scaling back $32.4 billion worth of the Earned Income Tax Credit [EITC] over 7 years. This scale back of the EITC is accomplished by rescinding a provision that provides the EITC to families without children, broadening the definition of what constitutes income for purposes of determining eligibility for the EITC, and reducing the maximum income at which families can receive the EITC.

When all is said and done, the benefits of the $245 billion package of tax cuts that lies at the heart of the Republican Budget Reconciliation Bill are tilted to the affluent. For example, the most affluent 10 percent of taxpayers get 40 percent of the tax package's benefits while the most affluent 12 percent gets 45 percent of the benefits. And, because of the scaling back of the EITC and the nonrefundable nature of the $500 per child tax credit, the taxes of the lowest-income earners will go up.

The concept of fairness and shared sacrifice is lacking in the budget reconciliation bill. This is underscored by the following:

WELFARE

The welfare reform compromise included in this budget bill is a package containing provisions far more brutal than provisions in either the House- or Senate-passed welfare plans. The net effect will add millions of children to the 14 million already living in poverty in this country.

Most egregious in this proposal is the elimination of entitlement status basic to the safety net of Federal programs supporting low-income families, and the conversion of these programs into State block grants. This decimates a system of support that has been in place since FDR, which had the approval of Presidents Reagan and Bush.

Regarding child care and cash assistance block grants, the proposal's further reductions to 75 percent from the Senate-passed 80 percent requirement in State "maintenance-of-effort" provisions allow States to withdraw an additional $3 billion without jeopardizing these block grants. The proposal also threatens State block grants with a mandate that States put at least half of their welfare caseload in jobs or work programs by 2003.

Revisions and cuts in the Supplemental Security Income [SSI] program by 2002 would deny or severely curb assistance to 300,000 or 80 percent of the low-income disabled children who would qualify for SSI under current eligibility rules, according to the Congressional Budget Office. The Republican proposal would save billions of dollars on the backs of children who are only allowed to be classified as "moderately disabled"—including children with cerebral palsy, Down syndrome, muscular dystrophy, cystic fibrosis or AIDS.

Across-the-board reduction in the Food Stamp Program would reduce assistance by about one-fifth, the same as decreasing average benefits of 78 cents per person per meal to a mere 62 cents per meal. The proposal would increase homelessness among families with children, repealing a measure soon to take effect that would prevent these families from choosing between feeding and housing themselves. Another change makes benefits contingent on tougher work standards that would terminate Food Stamps for many low-income individuals. In addition, the work program funding in the proposal is only sufficient to provide a handful of work slots to allow these people to maintain their eligibility.

Finally, legal, taxpaying immigrants are penalized with provisions to deny eligibility to SSI and Food Stamps and increase deeming periods for immigrant sponsors. States are given the option to cut legal immigrants for Medicaid, AFDC and Title XX Services. Immigrant children would be restricted from receiving school lunch and WIC benefits; WIC would also be denied to pregnant immigrants whose children would be born as Americans. These immigrants, by playing by our rules, rightfully deserve the assistance they need from the Federal government.

CHILD NUTRITION

This bill preys upon the most basic needs of children, by cutting $6 billion from child nutrition programs, including the school lunch and breakfast programs. What could be more basic than assuring that our children do not go hungry. The Republicans have found it more important to give tax cuts to the rich and reach a zero budget deficit than to feed poor children in our Nation.

Under the Republican plan states will have the option of running the school lunch program as a block grant, eliminating the individual entitlement of low-income children to a free or reduced-price lunch. The bottom line is that cuts in this program will mean fewer children will receive fewer meals.

MEDICAID

This bill eliminates the guarantee to basic health care for the most needy children in our nation. For decades our national Government has upheld this commitment on the grounds that every child no matter how rich or poor deserves the chance to be healthy and survive in this world. The Republican plan rejects this commitment and replaces the national guarantee with a state block grant and cuts the funds to the states by $167 billion over seven years.

By terminating this guarantee for needy children and families, the Republican Medicaid proposal jeopardizes the health care of 36 million individuals, most of whom are children. Republicans claim that they have protected children in poverty, yet under their plan while states are required to provide health services to women and children up to 100 percent of poverty it leaves it up to states the kinds of health services to be provided. With less money states will have no choice but to reduce services or limit eligibility.

In my State of Hawaii we will receive 27 percent less Medicaid funds in the year 2002, 10 percent less over the 7 year period. Can we make up the costs. The simple answer is no. Hawaii has taken the lead in implementing an innovative Medicaid program, which covers not only the Medicaid eligible population, but other who do not have health insurance. Instead of encouraging and rewarding states for such innovation, the Republican proposal will cut funds, and jeopardize the viability of our program.

Like the cuts in Medicare, the Republican proposal singles out the elderly and their families to assume the greatest burden of the budget cuts. Medicaid is the primary funding source for long-term care in this nation. Some 52 percent of nursing home bills are paid for by the Medicaid program. Under current law, seniors are guaranteed Medicaid coverage of their nursing home bills once they have exhausted their own financial resources. However, the Republican bill terminates this guarantee of coverage and under the state block grant scheme, states are under no obligation to continue paying for long-term care services. Nursing home residents are at great risk of losing their funding source for long-term care, and their families will have to sacrifice everything to pick up the costs which average over $40,000 per year. The bill also allows states to place liens on the home, family farm or other real property of the nursing home resident and their spouse to recover nursing home costs.

MEDICARE

The Medicare Program continues to be targeted in the Republican's budget reconciliation bill in order to pay for tax breaks for the wealthy. The GOP is determined to carry out Medicare cuts of $270 billion to compensate for the revenues lost to the tax breaks. This is all with complete knowledge of the fact that the proposed Medicare cuts are $180 billion more than what the Medicare Trustees estimate is necessary to insure solvency until 2006.

The Republican Medicare Plan will put the traditional Medicare fee-for-service system at a distinct disadvantage. The Republican plan is designed to cause the Medicare system to, as one of my distinguished colleagues put it, "whither on the vine." The Republicans admit that it attempts to encourage beneficiaries to move to managed care plans. What they conveniently neglect to say is that the youngest and healthiest will transfer to other plans while the oldest, most sickly and most costly to care for will be left in Medicare. This is certain to drive up cost-per-beneficiary in the Medicare system and later could become the base for Republican claims that the Medicare system is a failure. This Republican Plan will send the Medicare system into a downward spiral.

Republicans promote Medicare cuts by claiming that beneficiaries will have more choice. They claim that MedicarePlus plans would be required to offer at least the same benefits as the traditional Medicare program. The impression that health plans would be prevented from charging beneficiaries additional premiums for basic Medicare benefits is erroneous, however. It has been indicated, and the GOP has not denied, that the bill is intended to allow health plans to charge an additional premium if the price of benefits exceed Medicare's contribution.

The failsafe mechanism will also result in disadvantages for Medicare. The failsafe mechanism will automatically reduce payments to providers in the traditional Medicare fee-for-service sector but not from the managed care sector should spending limits fail to be met. Lower Medicare payments will discourage physicians from accepting Medicare patients thus encouraging beneficiaries to transfer to a managed care plan. I believe it is logical to infer that providers would be reluctant to accept Medicare beneficiaries should the payments not adequately compensate for the costs.

A horde of reductions will cripple various segments of the health industry. Payments to hospitals with a disproportionate share of low-income patients will be cut by 5 percent in fiscal year 1996, and will continue to be reduced until it is thirty percent below current levels in fiscal year 2000. Additionally, a single conversion factor will be used to determine the fee schedule for surgical services, primary care services and all other services. The current system of three conversion factors is intelligent because specialized and complicated services require more training and are more costly to perform.

Overall average annual growth in the Medicare program will be reduced from ten percent to about five percent. This is below even what the private sector calculates will be necessary. Hospital payment updates will be reduced by 2 percentage points in each of the next 7 years. The Indirect Medical Education adjustment will be reduced from 10 percentage points to 5 percentage points between 1996 and 2001. Payments for clinical laboratory services, ambulatory surgery, ambulance services and durable medical equipment—including oxygen—would be frozen for 7 years. This "slowing of growth" will prevent Medicare from keeping up with inflation and an increasing population.

This bill relaxes regulations that were created to prevent fraud and abuse. The Budget Reconciliation bill removes all prohibitions against physicians referring patients to entities in which they have a financial arrangement. It also makes it more difficult for the Federal Government to prove fraud for the purposes of imposing civil monetary penalties.

Additionally the quality of services provided would be threatened. Office labs would be exempt, for most services, from performance standards set by the Department of Health and Human Services. The bill grants States the power to establish regulations and standards for managed care organizations but it would waive these standards and regulations if a State failed to act on an application within 90 days or the Health and Human Services Department determined that the state imposed standards are unreasonable.

Finally, the GOP plan panders to powerful special interest groups, providing protections for physician fees under Medicare from any actual reductions from 1995 levels. Additionally the bill contains anti-trust exemptions for physician groups leaving beneficiaries susceptible to higher costs. Meanwhile Seniors, unprotected by such a powerful lobbying organization, will see their premiums double in 7 years.

The excessive detrimental effects of these cuts to Medicare alone should be enough to cause any compassionate Member of Congress to oppose this bill. Even more so when bundled together with all of the other appalling cuts.

STUDENT LOANS

Cutting $5 billion from the student loan program is another example of the Republican's backward investment strategy in which providing tax cuts to the wealthy is more important than investing in the education and training of our nation's young people. Over the next 7 years the student loan program, the largest college aid program, will be squeezed to produce $5 billion of the funds necessary to meet the balanced budget target and provide tax cuts to the rich.

The result for students and parents will be reduced access to loans, which has helped educate 2 generations of students. The Republican plan caps the new Direct Student loan program, in which students get their loans directly from the Federal Government rather than through a bank, at 10 percent of the total student loan volume. While at the same time they eliminate current financial incentives for banks and other lending institutions to participate in the traditional student loan program. Imposing increased fees on banks and guaranty agencies will only weaken the traditional student loan program and could cause institutions to leave the program, limiting access to student aid. And because the Direct Loan program is capped students many students will be turned away and nowhere else to go for aid.

HOUSING

The Budget Reconciliation Bill would attack the poor, elderly and disabled who depend on housing assistance. The bill reduces the annual subsidy increase provided to low income housing projects receiving Section 8 rental assistance. The Federal Housing Administration's [FHA] mortgage assignment and foreclosure relief would be reduced from 3 years to 1 year. Additionally, the bill would repeal the low-income housing credit after 1997.

ALASKA PROVISIONS

Our country's precious natural resources in Alaska are being doomed to decimation under another provision in the budget legislation before us. This bill includes language to open the 1.5 million acre Coastal Plain of the Arctic National Wildlife Refuge [ANWR] to oil and gas leasing. I strongly oppose this provision in its attempt to relax environmental restrictions on ANWR—the last remaining lands in America home to a rich mixture of wildlife: caribou, polar bears, grizzly bears, wolves and several migratory birds. Habitat for these endangered and threatened species must be conserved and managed as wilderness to save them from extinction.

This devastating attack on Alaska's natural resources seeks to provide fewer environmental safeguards than those supported in the past by Presidents Bush and Reagan. The language exempts ANWR leasing from basic environmental laws and laws governing gas and oil leasing. This effort by the new Majority to exploit ANWR's supposedly tremendous petroleum find is furthermore based on erroneous assessment—the U.S. Geological Survey recently reported that previous estimates were logged too high. This ANWR provision displays a lack of foresight and denial of understanding about the tragic oil and gas leasing would bring about.

Mr. CASTLE. Mr. Speaker, I strongly support the conference report to H.R. 2491. It is comprehensive legislation to finally balance the Federal budget. I believe it is the single most important thing we can do for the American taxpayer and the Nation. This bill begins a true effort to end deficit spending and ultimately reduce the mountain of debt that threatens our children's economic future.

This legislation completes the effort to reconcile mandatory spending with the Budget resolution's requirement to balance the budget by fiscal year 2002. It overhauls nearly every major Federal program except Social Security, and incorporates compromise versions of legislation passed earlier this year by the House, including welfare reform, Medicare reform, and tax relief for American families and businesses. Today's conference report vote is the culmination of Republican efforts to end the cycle of debt, deficit spending, and constantly growing Government that has come to epitomize the out-of-control practices of past Congresses. Republicans have shown that they can promote growth, strengthen defense, save, preserve and protect Medicare, provide working families with tax cuts, and advance personal responsibility unlike any other Democratically-controlled Congress in 40 years. Today, this new congressional majority delivers on this commitment to Americans.

Unfortunately, the President and most Democrats in Congress have not participated in this historic challenge because they have no plan and no desire to turn back the tide of yearly deficit spending that has continued since man walked on the moon. Contrary to what he has publicly stated, the President does not have a detailed plan that balances the budget, and has thus been AWOL—absent without leadership on our Nation's No. 1 mandated top priority. Not only has he not been present, he has not been willing to negotiate with Congress on a 7-year balanced budget. It is fine to fight over the priorities, but we must agree on the principle. Our plan is not perfect. In fact, there will never be a perfect plan. But our plan is a real plan toward balance, with real numbers, contrary to the President's. We have accepted the challenge, unlike the President and the Democrats in Congress.

The Balanced Budget Act of 1995 contains no draconian cuts. We are simply limiting the growth of Federal spending to a level we can afford. Over the next 7 years total Federal spending will increase by $3 trillion. During the 7 years from 1989 to 1995, Federal spending totaled $9.5 trillion. During the next 7 years, the Balanced Budget Act of 1995 calls for spending $12.1 billion. The Congressional Budget Office [CBO] has estimated that if Congress did not make any changes to the budget, spending would rise by 37 percent and revenues by 44 percent. Under the plan we are to vote on today, spending will rise by about 25 percent and tax revenues by 41 percent. Stop and think about these numbers. They seem to represent a reasonable path toward an objective that most all Americans share: a zero deficit. By contrast, the Congressional Budget Office reported that the general budget outline, the President offered as a balanced budget proposal would leave $200 billion deficits as far as the eye can see. Not even one Senate Democrat recognized President Clinton's plan as a legitimate budget and the Senate defeated it 96 to 0.

In 1995 Federal spending was $1.5 trillion. If current irresponsible spending policies were to continue, spending, according to the CBO, would be $2.1 trillion in 2002. That is an increase of $600 billion, or 40 percent. Under this legislation, spending will rise between 1995 and 2002 by $358 billion, or about 25 percent. This is slightly ahead of inflation if it increases 3 percent annually. Only in Washington would a $358 billion increase be called a cut.

The real question for voters assessing this 7-year balanced budget is where the additional $358 billion in Federal spending in 2002 is going. The answer is entitlements: Social Security will cost $146 billion more in 2002 than in 1995, Medicare—for the elderly—will cost $86 billion more and Medicaid—for the poor—will cost $35 billion more. Miscellaneous entitlements—food stamps, the earned income tax credit, military retirement and so forth will rise $63 billion. Add interest on the national debt, and the total additional spending exceeds $358 billion. By deciding to preserve and increase these entitlements, Congress had nothing left for increasing the discretionary side of the budget, where outlays will total $515 billion in 2002, down from $548 billion in 1995.

Defense comprises most of discretionary spending, and it will be flat at roughly $270 billion. Transportation spending will fall from $39 billion to $32 billion; education and training will drop from $39 billion to $35 billion; foreign aid and other spending on international affairs from $21 billion to $15 billion.

Of course, I have differed on some of the spending priorities, and have worked to include a greater priority and more Federal funding for education and training, the environment, housing, tax cuts for those families who earn below $95,000, and health care. We will continue to debate these priorities. But once we decided to balance the budget, keep Social Security intact and pare back expected tax revenues slightly, the choices are fairly limited. But we have agreed on the principle.

Consider Medicare. Medicare spending per beneficiary increases for $4,800 today to $6,700 in 2002. Today, the Federal Government spends $178 billion on Medicare. In 2002, the Federal Government will spend $274 billion—$86 billion higher than in 1995, an increase of more than 6 percent annually. Republicans are also making it more affordable for seniors to purchase long-term care insurance, and are providing families caring for a dependent elderly parent a $1,000 tax deduction.

The President's Medicare trustees have concluded that Medicare will be insolvent by 2002 if we postpone reform. The trustees report states that the Medicare hospital insurance [HI] program is "severely out of financial balance and is unsustainable in its present form." In addition, Medicare part B, the supplemental medical insurance [SMI] program, must be reformed to ensure it can meet the needs of older Americans. The public trustees "urge prompt, effective and decisive action" to ensure the long-term financing of Medicare SMI.

Medicare part B may not be going bankrupt, because the Federal Government picks up 68.5 percent of the cost of Medicare part B premiums, and as long as the Federal Government is solvent, Medicare part B is technically solvent. On the other hand, costs in Medicare part B are increasing at a completely unsustainable rate, and the rate of growth simply must be slowed. It is growing at a rate our country cannot afford. It has grown at an average of 15 percent per year over the last 20 years. Medicare part B spending grew from $38.3 billion in 1989 to $58.6 billion in 1994. It is disingenuous for anyone to suggest that changes do not need to be made to Medicare part B.

The Republican budget plan recently passed by the House would save Medicare from bankruptcy by increasing spending $1,600 over 7 years for each beneficiary without threatening the program or adding debt for our children to pay. No one—not Democrats, not Republicans—invented Medicare's financial crisis. The program has been heading toward bankruptcy for years. During the last Congress, President Clinton created a bipartisan Commission on Entitlement and Tax Reform, on which I was selected to serve, to try to transcend politics and address entitlement programs in a responsible, bipartisan manner.

In forming the Commission, President Clinton said "This Commission will be asked to grapple with real issue of entitlement reforms * * * Many regard this as a thankless task. It will not be thankless if it gives us a strong and secure and healthy American economy and society moving into the 21st Century." While the final report did not endorse specific proposals, it stated, "We must act promptly to address this imbalance between the Government's promises and its ability to pay." However, neither the Democratic leadership in Congress or the President took further action. In contrast, congressional Republicans have bravely confronted the issue, recognizing that we simply must control the program's spiraling growth rate to guarantee the program well into the future. Republicans held 38 public hearings on Medicare and invited seniors' organizations, provider groups, and health care experts to submit their recommendations on how best to solve Medicare's fiscal crisis.

The Republican plan maintains the present beneficiary part B premium percentage at 31.5 percent of total premium cost. When enacted in 1966, Medicare part B participants paid for approximately 50 percent of the program costs through their monthly premiums. Its premium was set at 25 percent in 1982. Then in the 1990's, Congress spelled out specific dollar figures in law; the current $46.1 per month covers 31.5 percent of costs. The Balanced Budget Act would keep the percentage at 31.5 percent, and does not raise copayments or deductibles.

Medicare would be restructured to allow beneficiaries to purchase a private health plan with the Government paying the premium. This will allow Medicare beneficiaries to stay in the current system or to choose from a range of HMO's, PPO's, and MSA's, without a change in copayments or deductibles. Also, the plan generates savings by rewarding beneficiaries who report incidences of waste, fraud, and abuse and imposes significant penalties on anyone who defrauds Medicare. To ensure that Medicare savings are used only to strengthen Medicare, the Balanced Budget Act contains a lockbox. This provides additional legislative assurance that Medicare savings will be used only to save and strengthen Medicare.

In its entirety, the Balanced Budget Act is realistic, sensible and fair. It saves Medicare from bankruptcy and dramatically reforms the program.

The Balanced Budget Act also reforms Medicaid, the joint Federal-State matching entitlement program that pays for medical assistance for low-income persons who are aged, blind, disabled, members of families with dependent children, and certain other pregnant women and children. Within Federal guidelines, each State designs and administers its own program. The program meets an important need for a safety net, and the Balanced Budget Act recognizes this.

In fiscal year 1995, total Medicaid spending was $155 billion. The Federal Government spent $89 billion, and States contributed $66 billion. The Congressional Budget Office projects that 38.4 million persons will be enrolled in Medicaid in fiscal year 1966. Under current law, Medicaid costs are expected to grow at an average of about 10 percent per year over the next 7 years. CBO has projected that Federal Medicaid expenditures in fiscal year 2002 will be $178 billion. Based on current trends projected over the next 7 years, CBO estimates that the Federal Government will spend $954.7 billion on Medicaid.

This cannot be sustained. Both Congress and States are interested in curbing growth because the program is consuming increasing shares of the Federal and State budgets. This conference report addresses this issue by ending the open-ended entitlement nature of Medicaid and block granting funds to the States. States have considerable flexibility to meet the health care needs of their low income citizens. Under the Conference Report, States will be required to maintain spending on poor, pregnant women and children, nursing home residents, senior citizens who cannot afford to pay their monthly part B Medicare premiums, and the disabled. In addition, States are required to pay immunization costs for poor children. The Balanced Budget Act also combats fraud and waste by instituting routine audits and State fraud units to investigate fraud and abuse.

I am particularly pleased that the conference report has made significant changes to the House-passed funding formula, which was originally disadvantageous to States in the Northeast, including Delaware. Those States were only allowed to grow 2 percent a year, while other States were allowed to grow from 6 percent to 9 percent a year. Using 1994 as a base year also had a detrimental impact on these States. The conference report, however, is substantially more fair to the Northeast and I thank the leadership for being so willing to address the concerns voiced by myself and my colleagues from the so-called 2 percent States.

And with regard to education, this package recognizes that education should be one of our Nation's top priorities. The productivity and performance of our economy is inextricably entwined with the investments in education that we individually, and collectively, make as a Nation. According to a study by the Brookings Institution, over the last 60 hears, education and advancements in knowledge have accounted for 37 percent of our Nation's economic growth. Higher education is the surest ticket to a better future for our Nation's citizens, as it opens their horizons and increases their earning potential. Clearly, higher education is a valuable commodity and it behooves us to make it readily available to our young people, our veterans, and to all Americans.

For much of the 104th Congress, the debate on access to higher education has focused on Federal financial aid. I submit that this is an important component in making higher education accessible to students, but not the only component. I find it curious one of the most important determinants of student access, college tuition, is given so little attention. It is an indisputable fact that tuition costs are rapidly rising. I realize that over the last 3 years, tuition costs have been rising at roughly 6 percent, which is a vast improvement over prior years. Nevertheless, years of unchecked growth not entirely necessary growth, are bound to have left a legacy of inefficiency in our colleges and universities which ultimately needs to be addressed.

Financial aid programs do play an important role in making higher education accessible for many Americans. The Balanced Budget Act actually increases the volume of student loans by 50 percent over the next 7 years. Eligibility and access does not change; more loans will be available next year than ever in the history of the program. This package reforms the student loan program thereby saving $4.9 billion. Students, however, are not affected by the reform—their interest subsidies continue, their grace period remains intact, and origination fees are not increased. The package reduces subsidies for leaders, thereby requiring them to streamline and become more efficient. The package also preserves direct lending, in spite of its costliness to the Federal Government. However, the benefits from the competition in student loans will hopefully outweigh costs in the long run.

This conference report recognizes and preserves a national investment in higher education, while moving us toward the important goal of balancing our Nation's Federal budget. A highly educated and flexible work force, combined with a balanced budget, will ensure U.S. prosperity as we enter a new century of economic growth and competitiveness.

Each year that we continue to finance the Government with debt, we essentially steal from the economic prosperity of future generations, or more concretely, from our children, our students, and our grandchildren. This is wrong. It is wrong for us to send our bills to future generations simply because we lack the will or the desire to reduce spending. So we are here today with an important task.

Congressional Republicans believe that strong American families form the soul of our Nation, shaping our values while building our future. That is why this report targets the lion's share of tax relief—73 percent—to strengthen families through the most important moments of life: marriage, birth, education, illness, and the twilight for our elderly. The tax package provides good benefits to middle-income families so that overtaxed middle-income families don't have to wait for their share of the balanced budget bonus. I am pleased this report includes an income threshold for the $500 per-child tax credit for those individuals who earn $75,000 and those joint filers who earn $110,000. Twenty-nine million Americans will benefit from this credit.

Tax laws should not penalize people whose filing status changes because they fell in love and married. Married couples who claim the standard deduction—generally those with average incomes of $50,000—will receive 8 billion dollars' worth of relief from the marriage tax penalty, equating to about $217 of annual tax relief for 23 million taxpayers. More than 3 million self-employed Americans will receive a phased-in deduction of 50 percent of their health insurance costs.

Republicans also know that strong families need good jobs. That's why this report provides targeted tax relief aimed at the engine of economic growth—our private sector. Unlike the 1993 Democrat plan which raised taxes in the name of economic growth, the Balanced Budget Act of 1995 provides tax cuts so the private sector can create more high-paying jobs. This includes a 50 percent capital gains deduction, with a maximum capital gains tax rate of 19.8 percent for individuals. Six million of the nine million will have incomes less than $100,000 a year.

This historic legislation also makes a number of beneficial changes to the Personal Responsibility Act, the welfare reform bill that passed the House. The conference report increases to $800 million over 5 years the amount of funding for supplemental grants to States for population increases—the House-passed bill contained $500 million.—The report, as one of my recommendations requires States, in order to receive the full temporary assistance block grant, to spend at least 75 percent of the amount they spent in fiscal year 1995 for the first 4 years—the House passed bill contained no such requirement.—It also establishes an $800 million contingency fund to provide matching grants to States with unemployment rates above specified levels—the House contained no such provision.

This report also includes modifications I supported and forwarded as recommendations to the House-passed prohibitions on cash aid under the family assistance block grant. It permits States to deny aid, rather than strictly prohibiting as in the House bill, to children who are born to an individual or family either currently receiving family assistance benefits or who received benefits at any point during the 10-month period leading up to the birth of the child. It also permits States to exempt up to 15 percent—up from 10 percent in the House bill—of their caseload for reasons of hardship from the 5-year limit on receiving cash benefits, a recommendation I forwarded to the welfare reform conferees as well.

Thus, there are beneficial changes that have been made as a result of this conference report. President Clinton has stated that he will not let balancing the budget serve as a cover for destroying the social compact. The truth is, if the Balanced Budget Act of 1995 becomes law, the social compact will actually be strengthened. Not only will we keep our commitment to the elderly and the poor on health care, we will also meet an even more important obligation to the public that was abrogated 30 years ago—to spend no more than we take in. This legislation demonstrates that Republicans are steadfast in our determination to do the most important thing we will ever do: balance the budget. I urge passage of the conference report and I respectfully urge President Clinton to join this effort and negotiate with Congress to enact legislation to balance the budget.

Ms. FURSE. Mr. Speaker, I would like to submit to the CONGRESSIONAL RECORD the following article written by Dr. Lawrence Korb, Assistant Secretary of Defense during the Reagan administration and current senior fellow in foreign policy studies at the Brookings Institution.

At this moment when we are attempting to balance our Federal budget, we cannot ignore the Pentagon budget. Dr. Korb provides excellent guidelines as to how we can responsibly achieve some savings there. His article appears in the November-December 1995 issue of Foreign Affairs.

OUR OVERSTUFFED ARMED FORCES

(By Lawrence F. Korb)

REASONS TO CUT MORE

Despite their differences, President Clinton and the Republican-controlled Congress have agreed on two things. The first is that the federal deficit should be eliminated by slashing federal spending rather than increasing taxes; indeed, both sides want to cut taxes. They have also agreed that projected levels of defense spending will not be part of any deficit reduction package. In fact, both the administration and Congress have called for increases for defense for the rest of the decade. In 1996 and 1997 alone Congress wants to add $20 billion to what the Pentagon requested, and it has established firewalls between defense and nondefense areas of the budget so that funds cannot be shifted to cushion cuts in social programs. Under the terms of the joint budget resolution Congress adopted in June, between 1995 and 2002 domestic discretionary funding will fall from $248 billion to $218 billion while military expenditures will rise from $262 billion to $281 billion.

With the demise of the Soviet threat and the emerging consensus on the need to deal with the deficit, one might have expected defense spending to bear some portion of the reductions, or at least not be increased. In the budget reduction plans of 1990 and 1993—both of which were much less severe than the current version—defense cuts played a major role. Moreover, by about a 2-to-1 margin Americans support reducing defense to bring down the deficit and oppose the Clinton-Republican plan to boost spending on the armed forces.

Proponents of a larger defense budget are quick to point out that military spending has declined for a decade and is now about 35 percent lower in real terms than in 1985. Or that the share of GDP consumed by defense (4.0 percent) is at a 70-year low. Or that the proportion of the federal budget that goes to defense is at its lowest level since Pearl Harbor. Or that the active force is smaller than at any time since the eve of the Korean War.

While all these statements are true and historically interesting, they are meaningless as a guide for policy. Defense spending should be measured against the efforts of potential adversaries and allies, not past U.S. administrations. According to figures from the International Institute for Strategic Studies, the United States will spend on national security this year more than three times what any other country on the face of the earth spends, and more than all its prospective enemies and neutral nations combined. Its $262 billion defense budget accounts for about 37 percent of global military expenditures; its NATO allies, along with Japan, Israel, and South Korea, account for 30 percent. The 15 other NATO nations will spend some $150 billion on defense in 1995. Russia, the second-biggest spender, will lay out about $80 billion, Japan about $42 billion, and China about $7 billion (though this last is subject to more than the usual debate over defense figures). The world's six rogue states—Iran, Iraq, Libya, Syria, North Korea, and Cuba—have a combined annual military budget of $15 billion.

Speaking at the National Policy Forum in May, Ronald Reagan's secretary of defense, Caspar Weinberger, illustrated just how distorted the debate has become. While acknowledging that the United States need not spend as it did during the Cold War, Weinberger maintained that Clinton was virtually disarming. But the United States will pay $15 billion more for defense this year, in inflation-adjusted dollars, than it did in 1980 at the height of the Cold War.

What accounts for this state of affairs? The military advocates and politicians who back an excessive defense budget stress three strategic and operational arguments: the new and multiple threats to U.S. interests that have arisen with the collapse of the Cold War order; what they claim is a crisis in military readiness; and a supposedly severe underfunding of agreed-on programs. All three arguments are flawed.

TWO WARS AT ONCE

The threat against which U.S. forces would be deployed has been vastly exaggerated. The Clinton military strategy, developed in the Pentagon's 1993 Bottom-Up Review of post-Cold War defense needs, postulates armed services capable of fighting and winning two major regional conflicts at the same time, one in southwest Asia and the other on the Korean peninsula. Even if one accepts the somewhat dubious proposition that two such wars will occur simultaneously, the number of U.S. troops said to be necessary to fight them is drastically inflated.

Since its unveiling, the Bottom-Up force structure has been criticized by many as inadequate to fight two major regional contingencies. These critics include highly placed politicians like Senate Majority Leader Bob Dole (R-Kan.) and South Carolina Republicans Strom Thurmond, chairman of the Senate Armed Services Committee, and Floyd Spence, chairman of the House National Security Committee. They argue that in a future Persian Gulf crisis the United States would have to send about as many divisions, tactical aircraft, and ships to the Gulf as it did in 1990–91. This assumes that the Iraqi military is as strong as it was when it invaded Kuwait and that the United States would once more stand by and let Saddam Hussein conquer his neighbor, then go in alone to oppose him. But if, for example, the United States reinforced its troops on duty in the Gulf, as it did in October 1994 when some Iraqi army units again moved toward Kuwait, 200,000 troops would be more than enough. Indeed, in October 1994 the dispatch of 13,000 additional troops to the Gulf was enough to stop Saddam's military buildup. Adding forces from Middle Eastern and European allies would provide an extra cushion.

These same critics of the Bottom-Up force structure take at face value the Pentagon's assumption that the United States would need 400,000 troops to roll back a North Korean invasion of South Korea. This is a startling number—more people than the United States deployed in the Korean War. At the outset of that so-called Forgotten War there was no South Korean military to speak of, and four months into the conflict the Chinese sent in one million men. Today South Korea has 650,000 well-equipped and well-trained troops, and it is difficult to conceive of China sending any troops to support a North Korean attack.

In an interview published in the October 1994 issue of Naval Institute Proceedings, then-Secretary of Defense Les Aspin, who conducted the Bottom-Up Review, said the Joint Chiefs arrived at the 400,000 figure by postulating that a South Korean soldier is 70 percent as effective as an American but that a North Korean is equally effective. A more reasonable calculation would be that the average North Korean soldier, less well trained and using older weapons, is half as effective as an American and somewhat less effective than a South Korean. That would drop the demand for U.S. troops in Korea to fewer than 200,000.

Thus even if two wars were to occur simultaneously, the United States would have to deploy only 400,000 troops to both theaters—about 16 percent of the current total force of 2.5 million active duty and reserve personnel, far less than the 30 percent most strategists would deem sound. Moreover, since no enemies of the United States took advantage of American involvement in the Korean, Vietnam, or Persian Gulf conflicts to launch an attack, one can question the validity of planning for two wars in the first place.

READY OR NOT?

Another reason for the unwillingness to consider reducing the Clinton defense program is the trumped-up crisis in military readiness, or the ability of units to perform as expected. Ever since the late 1970s, when the armed forces suffered a real readiness crisis because they had been allowed to become hollow—undermined by significant numbers of unqualified and poorly trained people in the ranks—political leaders have lived in fear of appearing soft on the subject. Every secretary of defense since 1980 has said on taking office that readiness was his highest priority. Anytime President Clinton speaks about military issues, he too recites the readiness mantra.

Since March 1993, when Clinton reduced Bush administration defense-spending projections by less than two percent per year, the president's Republican critics have been warning about the looming crisis in readiness and the imminent return to the hollow military. Representative Floyd Spence argued in mid-1994 that readiness was already in a downward spiral; at about the same time John McCain (R-Ariz.) a member of the Senate Armed Services Committee, issued a report titled "Going Hollow" based on testimony by the military chiefs of the four services. Dick Cheney, Bush's defense secretary, was also writing and traveling around giving speeches about the hollow force.

Members of the Clinton administration inadvertently fanned the flames of the readiness fire. After receiving anecdotal reports of problems, new defense secretary Aspin in 1993 appointed a group of high-ranking retired officers to a readiness panel. After the November 1994 Republican congressional victory, the army leaked the news that three of its twelve divisions were not ready, and Secretary of Defense William Perry failed to note that the three were late-deploying divisions, that two of them were in the process of being disbanded, and that the problem occurred only because about $100 million in training funds had been diverted from these stateside units to support the invasion of Haiti.

Many alarmed by this fictitious crisis are unaware of what readiness means to the Pentagon, how it is measured by the military, and what caused the crisis of the late 1970s. Readiness is not a synonym for military preparedness or capability. Rather, it is only one of four components of military capability, and not necessarily the most important. Compared with the other three—force structure, modernization, and sustainability—it is the most arbitrary, subjective, transient, and easily manipulated. Thus a unit can be very ready but not capable if it is too small, too old, or unable to fight very long; the French military of 1939, among the most ready in the world, was easily overrun by the more capable German army. Readiness often lies in the eyes of the beholder: the rating officer. Finally, readiness can decline rapidly, at least on paper. For example, an army division that is fully manned and has all its equipment in good working order can be rated not ready if even one brigade misses or postpones a required training exercise.

The readiness crisis of the 1970s resulted from the poor quality of entering recruits, low retention rates, and lack of funding in the readiness account. Today the quality of recruits is high (96 percent are high school graduates, compared with 68 percent in 1980), and retention rates are so good that the Pentagon is forcing people to leave the service before they wish. Moreover, spending on readiness is not only 50 percent higher per military person that in the late 1970s, but higher than during the Reagan and bush years, when readiness indicators hit all-time highs. In 1995 the Clinton administration will spend $4 billion more on readiness than the Bush administration had projected.

Arriving at the final major argument for increasing military spending, some assert that Clinton's $1.3 trillion five-year defense program, unlike its predecessors, has been severely underfunded. Estimates of the shortfall range up to $150 billion in a report by the General Accounting Office, while the Pentagon admits to about $25 billion. But even if the higher figure is correct, this is not a new problem for defense planners; for example, a decade ago the Reagan-Weinbeger five-year defense program was underfunded by about $500 billion. Moreover, the figure is a technical estimate based on assumptions about inflation and projected costs overruns, and Clinton has pledged to make up the difference if his inflation estimates prove overly optimistic. In December of 1993 and 1994 he did just that, adding some $36 billion to his defense plan. If today's weapons systems face costs overruns, the Defense Department will adjust as it always has, by buying smaller quantities or stretching out the purchasing period. And it is difficult to believe, for instance, that the program for the current transport aircraft, the C–17, will experience more overruns than its infamous predecessor, the C–5, which cost so much more than expected that its maker, Lockheed, needed a federally guaranteed loan to avoid bankruptcy.

OVERWEIGHT BAGGAGE

Perhaps the most important reason defense has not been subjected to the same scrutiny as other federal programs is the political baggage the White House and many members of the Republican Congress carry. While there has always been a certain amount of politics and parochialism in the defense debate, they have rarely reached their present levels.

Clinton's widely publicized avoidance of military service during the war in Vietnam and his lack of foreign policy experience made him reluctant to confront the military on money matters or other major policy issues, or to risk being perceived as weak on defense. His unwillingness to stand firm on gays in the ranks or American involvement in Bosnia set the tone early for White House dealings with the Pentagon defense spending. In his original defense program, included in his March 1993 economic package, the president called for spending about $1.3 trillion on defense for 1994–98, or roughly $260 billion a year. But in the Bottom-Up Review the Pentagon argued that it could not meet its new objective of winning two simultaneous major regional wars with a mere $1.3 trillion. Rather than challenging the assumptions of the review or asking why $260 billion a year was not enough to oppose the rouge states that might start a conflict, Clinton promised to make up the shortfall.

In December 1993 the president added $11 billion to his defense program, and in his first State of the Union address in January 1994 he announced that there would be no further reductions in this plan. Shortly after the Republican victory in last year's congressional elections he called a press conference to reveal that he was adding another $25 billion to his defense program. Clinton's politically inept handling of the issue and his appointees' refusal to take any heat for him on it have compounded the problem.

The president's critics have made much of the fact that Clinton's $120 billion in defense cuts in the March 1993 plan were double what he promised during the campaign. But neither Clinton nor his supporters retorted that the critics were comparing apples and oranges. The campaign promises referred to defense programs through 1997, while Clinton's economic package ran through 1998, which accounted for $40 billion of the lowered figure for defense; the new administration's readjustment of the Bush program to reflect different assumptions about pay and inflation accounted for the final $20 billion. Nor did Clinton and his advisers advance the obvious comparison to the defense spending of America's friends and foes or point out that their plan kept military outlays at 85 percent of the average Cold War level, allocating more for defense in 1995 than Richard Nixon had for 1975. Finally, they did not mention that Bush shrank the five-year defense program he inherited from the Reagan administration by more than $300 billion and reduced his projected levels of defense spending each of his four years in office.

The Republicans too are victims of their own rhetoric and history. In their Contract with America—a major factor in their electoral triumph—the G.O.P. promised to restore the portions of national security funding they deemed essential to strengthening defense and maintaining America's credibility around the world, and pledged to reinstate a national missile defense system to protect against a limited or accidental nuclear attack. Because of this plank in their contract, and because they perceive Clinton as vulnerable on defense, Republicans were determined to jack up whatever number the president named for defense spending. The Republican plan sees Clinton's proposed $25 billion increase and raises him another $25 billion over the next seven years. Like Clinton, the Republicans upped the ante without specifying what programs needed to be funded or how the increase would affect national security.

One area on which Republicans seem determined to spend additional funds is the revival of the Strategic Defense Initiative, now known as National Missile Defense. Support for strategic defense has become a litmus test of loyalty to the Reagan legacy; for Republicans, National Missile Defense is the foreign policy equivalent of abortion. Thus, almost in lockstep, Republicans in Congress are voting to double the amount currently spent on defending the United States against a missile attack and to deploy the new system early in the next century. Republicans want to throw some $40 billion or $50 billion at a multi-site continental defense system although there are serious doubts about necessity and cost effectiveness and although such a system would violate the 1972 Antiballistic Missile Treaty, negotiated by a Republican president. Even Colin Powell, former chairman of the Joint Chiefs of Staff and potential Republican presidential contender, who has been a strong supporter of the Strategic Defense Initiative, has told Republicans that a national missile defense is entirely unnecessary.

GUNS AND JOBS

Yet another political reason for not cutting military spending is that both the administration and Congress increasingly view defense as a federal jobs program. Weapons programs like the B–2 bomber, the Seawolf submarine, and the V–22 Osprey, designed to combat the Soviet threat, live on because of the temporary economic problems that taking them out of production would cause. The two sides in the debate over whether to build a system are no longer hawks and doves but those who have defense contractors in their district and those who do not.

Clinton set the tone in the spring 1992 Connecticut primary. In a futile attempt to win that contest, he endorsed the $13 billion Seawolf submarine program based in Groton, Connecticut, which President Bush was trying to cancel. The program has been kept alive on Capitol Hill primarily by the largely liberal Democratic delegation from New England, despite the strenuous efforts of Republican hawks like John McCain of Arizona. When Bob Dole became a presidential candidate he too discovered the merits of this Cold War relic.

Four years ago two members of the House Armed Services Committee, liberal Ron Dellums (R-Calif.) and conservative John Kasich (R-Ohio), brokered a compromise on the B–2 strategic bomber, which had been developed to penetrate the highly sophisticated air defenses of the Soviet Union and drop nuclear bombs. Rather than kill the program outright because the Soviet threat was defunct, Congress would authorize production of 20 of the bombers at a cost of $44 billion so that the country could recoup its investment in research and development. Even the Air Force accepted this as reasonable. But as the production lien wound down the California delegation sprang into action, led by senior senator Dianne Feinstein, who inadvertently declared on the floor of the Senate that the B–2 should be saved because it delivered a heavy payroll (corrected the next day to "payload"). Congress ordered Defense to study whether the department needed 20 more of the planes to prosecute its two-war scenario. The Institute for Defense Analysis, directed by General Larry Welch, a former head of Strategic Air Command and Air Force chief of staff, concluded that the answer was no. Kasich wrote an excellent piece, published in The Washington Post, making the case against continued production of the bomber. Nonetheless, in a close vote the House decided to proceed with the next 20 bombers, at a cost of at least $30 billion. Putting the bill over the top were 17 members of the Congressional Black Caucus concerned primarily about jobs in their districts.

HARDLY STREAMLINED

Again, it is largely politics that has kept cutbacks in the Pentagon's overhead lagging behind those in its force structure. A decade ago the Defense Department had enough bases to support a total force of 12 million people. Through the efforts of the Base Realignment and Closure Commission, which met in 1988, 1991, and 1993, the number of major excess bases was halved, from 140 to 70. This year the Defense Department was supposed to close the remaining 70 bases; as its comptroller noted, it cannot live without the projected savings from the last round of closures. But with one eye on the political calendar, the Clinton administration proposed shutting only 32. When the commission added two bases in politically crucial California and Texas to the administration's list, Clinton accused the commissioners, whom he had appointed, of political motives, and directed the Pentagon not even to begin phasing out McClellan Air Force Base in California and Kelly Air Force Base in Texas for five years and then to privatize the jobs. This will make it difficult to have another round of base closures or even to achieve the full savings from the current round. The Pentagon spends about $5 billion annually on unnecessary bases.

At about the same time the administration was playing politics with base closures, it missed another opportunity to streamline military operations. Early last year, under pressure from Congress, the Pentagon established a commission to analyze the roles and missions of the armed forces, essentially unaltered since 1948. Even though the nature of the threat and the nature of warfare have changed significantly in the last half century, the commission, headed by Deputy Secretary of Defense John White, found no duplication or overlap in the four armed services in such areas as close air support, space warfare, air strikes deep behind enemy lines, and defense against enemy aircraft and missiles. General Merrill McPeak, then the Air Force chief of staff, told the commission in the fall of 1994 that the division of roles and missions among the services was outdated and that the current defense program had more than enough money if the Defense Department would only organize itself rationally. But his fellow chiefs dug in their heels against major changes, and even McPeak's successor declined to support his position. The commission members, apparently not wanting to challenge the chiefs, contented themselves with a few bromides on privatization and jointness.

Finally, there are the unneeded units in the Army National Guard, which Clinton and Congress have conspired to retain. When the Cold War ended in 1990 the Bush administration wanted to cut the Army National Guard by roughly the same proportion as the active army, but the National Guard Association mounted a furious lobbying campaign on the Hill to forestall the cuts. During the 1992 campaign Clinton endorsed the association's position, and his Pentagon has maintained 42 combat brigades in the guard even though the Joint Chiefs' war plans, which formed the basis for the Bottom-Up force structure, call for only 15. The extra 27 brigades and 100,000 people cost about $3 billion annually.

HOW TO SAVE $40 BILLION A YEAR

In this year's debate over the size of defense appropriations, Speaker of the House Newt Gingrich (R-Ga.) stated that the present military budget is far above what is necessary to defend the nation. But, Gingrich says, the excess is a premium the United States pays to carry out its role as a world leader. The question then is how much above defense needs that premium should be.

The Clinton defense program, which will cost about $260 billion a year, calls for maintaining a total force of 2.5 million people, 1.5 million active and 1 million reserve. There will be 19 ground divisions, 12 carrier battle groups with 346 ships, 20 air wings, and 184 bombers. This conventional force will be backed by 3,500 strategic nuclear weapons.

This is the force considered necessary to win two major regional conflicts. However, taking a more realistic view of the threats in the Persian Gulf and Korea, the total force can safely be reduced to 2 million (1.3 active and 700,000 selected reservists), which could support 15 ground divisions, 9 carrier battle groups with 300 ships, 20 tactical air wings, and 150 bombers. In addition, the United States should lower the number of strategic nuclear weapons in its arsenal to 1,000. These manpower and force structure reductions alone would save about $15 billion a year. Readiness spending per military person can be pared down from Cold War levels because there is no longer danger of a sudden massive attack on U.S. forces. These two changes could save about $10 billion a year.

Spending on modernization can also be reduced. Given the technological edge of current U.S. weapons systems, there is no real need to procure larger numbers of next-generation weapons like tactical aircraft. For example, because the military can perform its mission of maintaining air superiority with upgrades of existing planes, instead of buying all 400 F-22 Stealth fighters for $72 billion as currently proposed, the United States should produce only 50 to 75 of the planes. This will enable the Pentagon to remain on the cutting edge of technology, and the planes will be available for sophisticated missions, as were the 55 F-117s bought in the 1980s and used so successfully in the gulf war. Similarly, since the Seawolf will be built, the United States can delay the follow-on Centurion-class submarines and keep the Los Angeles-class submarines in service to the end of their useful life. Finally, National Missile Defense can be retained as a research program, and if proliferation of nuclear weapons and ballistic missile technology makes deployment necessary, a $5 billion single-site system augmented by space-based sensors will be more than sufficient. These measures would save at least another $5 billion annually.

Completing the base closure process, rationalizing the roles and missions of the four services, and taking such commonsense steps as privatizing two-thirds of the maintenance work at the Pentagon instead of the current one-third could easily save another $10 billion.

Together these actions could lower defense spending by some $40 billion a year, bringing the annual defense budget down to about $220–$225 billion. It would take time to get there from here, so the savings would not come all at once. But if the nation reduced defense spending by $20 billion a year from its projected levels, the savings over seven years would be enormous. This would also free up funds to buy more airlift and sealift as well as more minesweepers and to invest in new concepts like missile-firing ships.

An annual defense budget of about $225 billion would be in keeping with the American public's preferences and the need for deficit reduction. It would also give the United States the wherewithal not only to defend itself but to play the role of world leader envisioned by Speaker Gingrich. It is not a dearth of money or forces, after all, that keeps the United States out of messy conflicts like the Balkans, but lack of leadership and will.

Mr. CONYERS. Mr. Speaker, this bill continues to constitute an unbridled attempt to bribe doctors by offering them legal goodies which have little to do with the underlying legislation and have no positive budget impact. The process has also been abhorrent—we only today received a several-thousand page bill, without any prior opportunity to review or debate its provisions in conference.

The bill continues to include a new antitrust exemption which protects physician networks from the usual per se rule against price fixing.

As the "New York Times" recently wrote, easing the rules for PSN's would "invite doctors to engage in blatant anti-competitive behavior [and] allow doctors who have no intention of going into business together to conspire among themselves to impose high fees and needlessly expensive treatment practices on health plans using their services." This antitrust loophole is strongly opposed by both the Department of Justice and the Federal Trade Commission. Amazingly, the provision was included without any review, hearing, or consideration by the Judiciary Committee in either the House or the Senate, even though it constitutes one of the most far reaching antitrust changes adopted in the last 20 years.

The bill also continues to be weak on white collar fraud committed by doctors and other health care providers. Among other things, the legislation includes a shameful provision that changes the law to prevent private citizens form bringing "whistle blower" suits against health care organizations that fraudulently receive funds from Medicare or Medicaid programs.

Considering the amount of money saved by these suits, it is difficult to understand why we are eliminating them. To date, the government has recovered nearly $1 billion dollars through these so-called "qui tam" actions. Moreover, some of the biggest health care fraud recoveries began as whistleblower suits. For example, a total of $139.8 million dollars was recovered from qui tam actions filed against National Health Laboratories, Metpath, and Metwest based on allegations that the Medicare program was overcharged for unnecessary laboratory tests.

This Republican reconciliation bill has been bought and paid for through a series of backroom legal concessions granted to powerful health care interests. If we adopt these provisions, Congress will be sending the special interests a message that any objections they may have to controversial legislation can be overcome by unrelated legal concessions. The ultimate victim will be the American public.

Mr. REED. Mr. Speaker, this Republican budget represents a set of values and priorities that are extreme, short-sighted, and out of touch with the direction in which Rhode Islanders and the American people want our country to move.

MEDICARE/MEDICAID

Perhaps the most glaring examples of the extreme provisions in this bill are the massive cuts in the Medicare and Medicaid programs. This bill represents nothing less than a reversal of a generation of guaranteed health care for our most vulnerable citizens. For more than 30 years, the Medicare and Medicaid programs have exemplified our national commitment to care for seniors, disabled Americans, and low-income Americans. In essence, it is the tangible evidence that, in the most affluent and productive country in the world, we would not let millions of Americans suffer because they were too old, too poor, or too ill to fend for themselves.

The cuts to the Medicare Program represent the most sweeping changes to the program since its establishment in 1965. And what makes these cuts so objectionable is that they are not about reforming Medicare, they are about providing tax cuts for the rich. These cuts are three times what is needed to keep Medicare solvent.

Republicans claim that this budget enables Medicare to grow at a healthy rate. The truth is that this bill reduces Medicare growth by 33 percent below that of private sector health-spending growth. What kind of health care can the elderly purchase at these below-market rates when we all know that their health needs are much greater than those of the working-age population?

This bill also eliminates Medicaid. No longer will the 18 million children who currently qualify for Medicaid be guaranteed health care coverage. No longer will seniors who have entered nursing homes and exhausted their resources be guaranteed that they will be able to remain there. Republicans have substituted this guarantee with a block grant to States that cuts Federal spending by an average of 18 percent over the next 7 years. The State of Rhode Island will be faced with attempting to continue access to vital health care services with a 37-percent reduction in Federal Medicaid dollars—clearly a daunting, if not impossible, task.

EDUCATION/DIRECT LENDING

This bill also represents another example of accounting gimmicks used by Republicans to deliver on their promise of reaching their arbitrary budget targets. Republicans have created a special budget scoring rule for direct student loans. It is no wonder that the public has become so disenchanted with Congress—only Congress could change accounting rules so that a program that saved money last year is miraculously deemed to "cost" money this year.

The proposal to cap the direct loan program at 10 percent of total loan volume was not chosen because the program is not working; this program has achieved high grades from students, parents, and participating colleges and universities. Students and parents should know that the Republicans have chosen to reward banks instead of supporting the direct loan program which offers better service and more flexible repayment terms for students, simplified administration for schools, and greater accountability for taxpayers.

The proposal to cap direct loans at 10 percent of total loan volume eliminates the current choice that colleges and universities have between participation in the direct student loan program or the guaranteed student loan program. This year, 40 percent of student loans are direct loans—with 1,350 schools and approximately 2.5 million students participating in the program. In Rhode Island alone, there are 8 direct lending schools and 17,855 direct loans have been made. We must be clear—under this package, many colleges and universities that prefer the direct loan program would no longer be able to offer it to their students. It has been estimated that, as a result of this proposal, over 13,000 direct loans would be lost in Rhode Island. This cap denies colleges and universities the right to choose what is best for their students and undercuts free competition.

WELFARE

President Clinton and a majority of Democrats, including myself, have indicated a willingness to support meaningful welfare reform. But instead, Republicans have opted for a welfare reform plan that is just plain mean to women and children. I supported a welfare reform bill that was tough on work and fair to children. I supported a welfare reform bill that has work at its heart and did not shred the safety net for children.

Mr. Speaker, I urge my colleagues to reject this bill so that we may continue to work toward a balanced budget that reflects the priorities and values of the American people.

Mr. STOKES. Mr. Speaker, I rise in opposition to the conference report on H.R. 2491. This bill—is the $270-billion cut in Medicare, and—the $163-billion cut in Medicaid—measure that the Republican majority has been trying to force down seniors' throats. And, this is the Republican bill that will result in gutting billions of dollars from "quality of life programs and services" from education to school lunches.

Yes, this is the Republican budget that the majority leader proudly referred to, in January, when he said, "The fact of the matter is once Members of Congress know exactly the pain the Government will live with in order to get to a balanced budget the knees will buckle."

Let me assure my colleagues, the American peoples' knees will buckle as they see the Republicans' budget taking the food out of the mouths of hungry children; taking critical prenatal care away from pregnant women; taking health care coverage away from children; taking critical health care services away from seniors; and taking financial aid away from college students.

Mr. Speaker, I know the backs of seniors, children, and hard-working families in my district will weaken as the Republicans' budget buckle their knees. I know the knees of Ohio's seniors will buckle—as the Republicans' budget doubles their health care premiums. I know the knees of Ohio's children will buckle—as the Republicans' budget takes away their school lunches. I know the knees of Ohio's hard-working families will buckle—as the Republicans' budget increases their taxes.

It is a shame—that the Republicans will break the backs of seniors, children, and hard-working families just to give a tax cut to the rich. The Republican budget is bad for children, bad for seniors, bad for families, and bad for the country. Ramming a bad bill through the Congress is not only wrong, it is an insult to the American people.

Mr. Speaker, there is no tantrum big enough to justify the Republicans' shutting down the Government. There is no smoke and mirrors big enough to hide or disguise the pain, suffering, and hurt that would result from passage of the Republicans' budget. And, there is no Republican sound bit slick enough to hide the Republicans' tax break for the rich.

Mr. Speaker, there is no balance in the Republicans' budget. I strongly urge my colleagues to stand up for children, and to stand up for seniors. Vote "no" on the conference report to H.R. 2491.

Mr. TOWNS. Mr. Speaker, we should make no mistake, this reconciliation package removes the basic health safety net for America's neediest citizens, women, children, and the disabled for example, the conference report does not retain the Senate language which would have retained authority for CDC to continue the purchase of a discounted price of some of the vaccines necessary to immunize Medicaid children.

This agreement not only allows States to define how is "disabled," this agreement also repeals the current law which guarantees payment of Medicare part B premiums on behalf of elderly. As a Medicaid conferee, I am truly dismayed that the American people will face a tremendous setback in the quality of their health care delivery systems. I urge the President to uphold his commitment to veto this package in hopes that we can provide something better for those who are "the least of these."

Mr. HOYER. Mr. Speaker, I want to express my strong opposition to this omnibus bill. As a supporter of the Balanced Budget Amendment to the Constitution, I like the title but not the contents.

As the details of this plan are made available to the American people, I believe they will join resoundingly with President Clinton in rejecting this extreme package.

I remain committed to insuring our Nation's fiscal integrity. As I have said before, our obligation to our future and our children demands decisive action to affect a disciplined conduct of the fiscal business of this country.

But this Republican package is not the answer. It is quite simply an attack on the middle class and poor Americans.

It cuts $270 billion from Medicare over 7 years and would force seniors to pay higher part B premiums.

The bill cuts $170 billion from the Medicaid program. This, combined with a cut in the earned income tax credit that is even more severe than in the original House bill, would have dramatic consequences for less-fortunate Marylanders.

The Republican plan for welfare reform, included in this bill, is tougher on kids than it is on deadbeat dads. Their plan is weak on work provisions and ought to be rejected.

The bill before us places a cap on direct student loans and makes major cuts in farm programs.

An especially disturbing provision of this Republican bill is its attack on hard-working Federal employees. The measure saves more than $10 billion from increased taxes on Federal employees and other provisions that will dramatically decrease their benefit packages.

I want to balance the budget and I believe we can do it in 7 years. The Orton-Stenholm substitute which we offered on this floor would have achieved a balanced budget without devastating America's working people. That alternative would have provided more than $850 billion in deficit reduction over seven years through real spending reductions.

Most importantly, the Democratic alternative did not cut funding for seniors and for our children. It was a realistic bill that used honest numbers, shared sacrifice, sound priorities, and common sense to get us to a balanced budget in 2002.

In my view Thomas Jefferson was right when he said:

> The question whether one generation has the right to bind another by the deficit it

imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves.

Balancing the budget is the responsible and the essential thing to do. But the American people should not be fooled that the Republican plan is the best way, the only way, or even an acceptable way to do that.

The Republican measure before us is so severe because of the additional cuts necessary to fund $245 billion in tax breaks. I believe the appropriate time to consider tax reductions is when we have balanced the budget. And, most importantly, I believe those reductions should benefit working Americans, not the wealthiest of Americans.

Mr. Speaker, we have only 2 hours of debate on a measure that, if enacted, would be a major step backwards for our Nation. I am glad the President has committed to vetoing it and I hope that we will defeat it here in the House.

Mr. LAZIO of New York. Mr. Speaker, I am proud to support the Balanced Budget Act of 1995. We have proven that we can do what's right for our children, our parents, and our grandparents—and balance the budget. However, as chairman of the Housing and Community Opportunity Subcommittee, I am concerned that the Low Income Housing Tax Credit [LIHTC] is not part of the reconciliation package.

As chairman of the Subcommittee on Housing and Community Opportunity, I am troubled by the sunsetting of the Low Income Housing Tax Credit Program. This sunsetting will impact America's ability to provide safe, affordable housing for our working families. My hope is that there will be an opportunity in the not-too-distant future to reinstate the LIHTC Program.

Congress created the LIHTC Program to provide an effective, efficient mechanism for encouraging private investment in badly needed housing. The program leverages a small amount of Federal support into successful housing development for low-income, working families. Almost half of the rental housing produced and virtually all of the housing currently being built for low-income families is a result of the Tax Credit Program. In addition, the LIHTC Program generates nearly 100,000 jobs and 3.1 billion in construction wages annually.

The LIHTC Program is not a corporate welfare program. The program, in fact, is a terrific example of incentives—long-term incentives—that work. The sunsetting of the LIHTC Program may very well inhibit investor enthusiasm just as businesses have begun to invest personal and financial resources in the program. Over the past 2 years, businesses like USAA, San Diego Gas and Electric, IBM, and Chevron have begun to take an active role in building affordable housing for low-income families. The LIHTC Program is the catalyst. Sunsetting the program at this time may have the effect of weakening the confidence of business in the overall private-public partnership that is central to many of this Congress' actions.

The effect of sunsetting this program on the long-term, low-income housing industry and availability of affordable housing, is also problematic. Because housing providers require substantial time to put together a financing and development package and to work with State authorities, sunsetting the program might limit the scope of developments in the pipeline.

The LIHTC Program is vital to housing in this country. I strongly urge this House to consider the need for, and effectiveness of, the LIHTC Program in future deliberations. I plan to hold hearings on the LIHTC Program early next year. Chairman ARCHER, for whose judgment I have the highest regard, has indicated a willingness to work with me on this issue. I recognize we must balance the need for affordable housing with the need for tax revenue. However, I am hopeful that we can work together and give the LIHTC Program a new birth.

Mr. GUNDERSON. Mr. Speaker, today as the House considers the conference report on the Seven-Year Balanced Act of 1995, we move one step closer to a goal I have supported for a long while. The first bill I cosponsored as a freshman Representative in 1981 amended the U.S. Constitution to require a balanced Federal budget. At that time, I firmly believed it was time to get our fiscal house in order, when the deficit was $79 billion and the national debt stood at $994 billion.

Fifteen years later, the deficit has grown to $206 billion—nearly 3 times of what it was in 1981. The national debt was jumped to $4.9 trillion or nearly 5 times the 1981 level. Further, in fiscal year 1995, we spent $234 billion on interest on the national debt alone. That's 17 percent of the Federal budget. It also represents more than we spent on education, job training, child nutrition, and public works projects combined.

Unless we balance the budget, interest on the debt will continue to eat into spending on other worthwhile Federal programs. Just look at how interest on the debt dwarfs our spending on certain vital human resources programs: In fiscal year 1995, we spent 66 times more on interest on the national debt than we did on the Head Start Program. We spent 32 times more on interest on the national debt than we did on the title I programs which benefit disadvantaged grade-school kids. We spent 149 times more on interest on the national debt than we spent on all elementary and secondary school improvement programs. We spent 158 times more on interest on the national debt that we did on Federal aid to vocational education, 180 times more than on the JOBS Program to get people off welfare, and 212 times more than on Job Corps. Clearly this is a distorted sense of priorities.

If we continue our spending priorities for the next 7 years, the deficit would balloon from $210 billion in fiscal year 1996 to $349 billion. That's a 66 percent increase. The national debt would increase by $1.7 trillion during that same period.

Just as increased debt interest threatens programs, the lack of balance between our coveted entitlement programs and discretionary programs is alarming. Entitlement programs such as Social Security, Medicare and Medicaid make up 64 percent of the Federal budget. Discretionary programs, such as defense, education and job training make up only 36 percent. This disparity is growing and without significant changes in spending priorities, by 2012 entitlement spending will consume the entire budget.

THE SEVEN YEAR BALANCED BUDGET ACT OF 1995

I believe that we have made the right choices to put this country on a path toward a balanced budget. Back in June, the House approved the budget blueprint that laid the foundation for this change. Today, we actually implement the changes necessary to slow the rate of Federal spending over the next 7 years.

Over the next 7 years we will reduce spending growth and reduce the Federal deficit by a total of $1.2 trillion. But it is important to note that slowing the rate of growth in spending is not a cut. The numbers amply demonstrate this assertion.

Over the last 7 years, between 1989 and 1995, we spent a total of $9.5 trillion. Over the next 7 years, while balancing the budget, we will spend $13.3 trillion. That's 2.6 trillion more than in the past 7 years. If we do nothing, we would spend $13.3 trillion over 7 years. We are not cutting the budget, but are finally putting our own house in order within a reasonable time frame.

A comparison between spending levels in fiscal year 1995 and levels in fiscal year 2002 shows the effect of imposing fiscal discipline. Under current assumptions, spending would increase by $600 billion or 40 percent. Under the assumption of a balanced budget, spending would increase by $358 billion or 24 percent. Only in Washington would a $358 billion increase be called a cut.

A LOOK AT KEY AREAS FOR THE THIRD DISTRICT

A quick review of the provisions of the Seven Year Balanced Budget Act reveals challenging but acceptable changes in Medicare, student loan funding and tax policy. It also reveals a glaring deficiency—the failure to reform Federal dairy programs.

MEDICARE

The Medicare Program has continued to grow exceedingly fast in recent years. The Medicare trustees reported earlier this year that without strengthening the system, Medicare will go broke by 2002. I believe that the budget package maintains the vital commitment to health care for seniors while ensuring that the program will be around far into the future.

Under the budget package, average per beneficiary spending would increase from $4,800 to $6,700 over the next 7 years, or a $1,900 increase per retiree. Most importantly, premiums would remain at 31.5 percent of part B costs. Just as they have since the program was started, premiums would increase slightly every year.

STUDENT LOAN REFORM

The student loan program has provided essential opportunities to those who wish to further their education. But in order to preserve those opportunities far into the future, the House and Senate agreed to reduce the costs of the student loan program by $4.9 billion over 7 years.

Perhaps what is most important about the House-Senate agreement is that it does not increase costs to students or parents. The plan does not eliminate the in-school interest subsidy for undergraduate or graduate students. It does not eliminate the 6-month grace period for students leaving school to begin repaying their loan. It does not modify eligibility or access to student loans, not does it increase the origination loan fee paid for by students.

Now, let's look at what the plan would do. The budget package would cap the administration's direct student loan program at its current 10 percent level of the student loan volume. As many know, I do not believe the Government should become banker to students. At a time when Congress is trying to refocus the role of the Federal Government toward functions that it does well, the direct loan program heads in the wrong direction.

The budget package would also gain savings from banks, secondary markets and guaranty agencies by lowering reimbursement fees for defaulted loans and other technical changes. Finally, the package would limit certain administrative expenses borne by the Department of Education. I am confident that the budget package does the most to help the budget at the least cost to students, parents and schools.

PRO-GROWTH TAX POLICY

The budget package agreement between the House and Senate provides for $245 billion in tax cuts over 7 years, just 2 percent of the Federal budget. Like many of us, I was genuinely leery of providing tax cuts at the very time we are trying to balance the budget. However, as we are limiting the growth in Federal programs, we still need to promote economic growth in the private sector. The tax package accomplishes this in a reasonable fashion.

The conference agreement would impose a 50-percent capital gains tax cut for individuals and a 25-percent reduction for corporations retroactive to January 1, 1995. There is a misperception that a capital gains tax is important only to rich people, but actually most capital gains deductions are taken by middle class families. In 1993, the last year for which we have data, 60 percent of the tax returns claiming capital gains had adjusted gross incomes below $50,000, and 77 percent had adjusted gross incomes of below $75,000.

Many in western Wisconsin will benefit from the reduction in the capital gains taxes. Most important among these is the retiring farmer that wants to sell his farm and rely on the proceeds for retirement income. At the present time, he must pay a 38-percent tax. Homeowners and small businesses—the businesses that create the most jobs—will also benefit from this middle-class initiative.

The package before us will also benefit western Wisconsin because it includes expanded individual retirement accounts to spur savings. People would be able to contribute taxable amounts to the account, and then after 5 years would be able to withdraw money taxfree for certain purchases, including first-time home, long-term care expenses, post-secondary needs, and retirement income. This account is pro-savings, pro-investment and pro-growth.

The package also includes a tax credit of $500 per child under 18 years for all individuals with income below $75,000 a year and all people filing joint returns with incomes below $110,000. Although uneasy with the House-passed version which allowed tax cuts for families with incomes of up to $200,000, I find the reduced income limit is much more acceptable.

REFORM OF FEDERAL DAIRY PROGRAM

What is most troubling about the package brought to us today is that it is devoid of any reform whatsoever in Federal dairy programs. The Congressional Budget Office has consistently estimated that artificial incentives to produce fluid milk in Federal milk marketing orders, the so-called class I differentials, cost taxpayers over $100 million in additional spending on the dairy price support program and the Dairy Export Incentive Program [DEIP] annually.

Obviously, class I differentials which are set by statute without regard to class I utilization also increase the cost of milk in grocery stores to consumers and the cost of the Federal WIC and special milk programs by millions of dollars annually. Their only purpose today is to provide additional revenue to dairy producers in a couple of areas of the country at the expense of producers in other areas as well as taxpayers and consumers around the country.

Simply stated, there is no single Federal program more in need of substantial reform than Federal milk marketing orders. Even the most ardent advocates of the order system acknowledge that fact. That's why our country and our constituents cannot afford to let a small minority of Members forestall these reforms when the time comes to put a second balanced budget package together.

In sum, today we are one step closer to our central goal of balancing the budget. A balanced budget will ensure sustained growth for the future, more opportunity for education, job growth and a better competitive position in the world market. I look forward to the day when we can say that we took the high road toward fiscal responsibility and put our national fiscal house in order.

Mr. HASTINGS of Washington. Mr. Speaker, I rise in strong support of this package.

Balancing the Federal budget is not about keeping tidy books, it is about saving our children's future. A child born today will pay $187,000 in taxes, just to pay their share of interest on the debt. According to the President's own budget, our children and grandchildren will face lifetime tax rates of over 80 percent to pay our bills.

Budget deficits sap private investment and drive up interest rates. Debt service costs the average taxpayer nearly $800 a year in taxes. Ending these deficits is the most important economic program this Congress can pass.

Under our plan, the budget is balanced not through cuts as some have alleged but through reductions in the rate of spending growth. Under our plan, revenues continue to climb even after our tax relief is enacted and even using conservative economic growth estimates. There are no smoke and mirrors here. If this plan is enacted, we will reach a balanced budget in the year 2002.

A balanced budget will lower interest rates by as much as 2 percent. Families, farmers, small businesses, students, anyone who buys a home or finances a car will benefit from this legislation. A family with an average mortgage of $75,000 will save $37,000 in interest over the life of the loan, an annual savings of $1,200. A student with an average loan of $11,000—over 10 years—will save $2,160 in interest over the life of the student loan, an annual savings of $216. A family buying a $15,000 car will save $900 in interest over the life of the car loan, an annual savings of $225.

What is more, balancing the budget will allow us to finally start reigning in the ballooning Federal debt and reducing the huge sums we spend on interest—$227 billion this year alone—on the debt.

This is a historic day. We are going to pass the first balanced budget in more than a quarter century. This blueprint will give American families the right to keep more of their hard earned money, lead to lower interest rates and security for our seniors.

Mr. Speaker, in 1994, the American people spoke loudly and clearly about changing the direction of Government—away from unending deficits, away from out-of-control spending and soaring debt, and away from big Government policies that waste taxpayers' dollars. I am proud of this Congress—the first Congress in years to truly keep its word with the American people.

Mr. SCHAEFER. Mr. Speaker. I rise today in strong support of the conference report to accompany H.R. 2491, the Seven-Year Balanced Budget Act of 1995.

As my colleagues know, I was the House sponsor of the Balanced Budget Amendment to the U.S. Constitution, which overwhelmingly passed the House earlier this year. Though this effort subsequently stalled in the Senate by just one vote, its large margin of victory in the House showed that the 104th Congress is serious about carrying out the mandate given to it by the American people last November.

Mr. Speaker, I want to congratulate Mr. ARCHER and all the House and Senate conferees who put together this conference report. They have done an outstanding job in crafting this budget plan—one which guides us toward a balanced budget by the year 2002. Our children and grandchildren should be especially thankful, for with each step we take toward a balanced budget, we lighten the future financial burden they will have to bear. I do not want our grandchildren to be saddled with the bill for the carefee spending of this generation.

I would like to express my particular appreciation to Mr. ARCHER and to the conferees for heeding the call of 85 Members of Congress representing 31 States who joined me in a letter calling for the retention of the wind and closed-loop biomass energy production tax credit. This tax credit, as you know, was supported by a large majority of Members as part of the Energy Policy Act of 1992 and was scheduled to expire in 1999. It is estimated that the repeal of the tax credit would have raised less than $20 million per year.

We supported the retention of this tax credit because wind and biomass energy are becoming increasingly competitive providers of electricity to American consumers. In reliance of the tax credit, the wind and biomass industries have spent over $100 million on technology development, marketing and product development. I believe its repeal would have jeopardized the many small, entrepreneurial firms around the country which had placed faith in the tax credit running its full term.

Mr. Speaker, someday our grandchildren will thank us for balancing the budget. Today's vote on the conference report to accompany H.R. 2491 is an important vote for a balanced budget.

And someday, Mr. Speaker, when fossil fuels become scarcer and more expensive, I believe our grandchildren will also thank us for having the foresight to lay the groundwork for the development of important renewable energy sources such as wind and biomass.

Thank you, Mr. Speaker.

Mrs. MORELLA. Mr. Speaker, the Balanced Budget Act is an important step toward achieving a balanced budget. This debate, however, is far from over. I have been involved in negotiating changes from the original House version, and this budget represents a substantial improvement.

After voting against the House Reconciliation bill, I lobbied for specific improvements, and a significant number of important changes were made. This bill continues the higher education direct lending program, restores the grace period for interest payments on student loans for the first 6 months, and provides a tax deduction for interest on student loans. The package improves Maryland's Medicaid funding formula, restores Federal nursing home standards, increases funding for welfare reform block grants and the school lunch program, and lowers the income level at which the $500 per child tax credit is phased out to $75,000 for single parents and $110,000 for married couples.

This budget is a good first start—but we still have more work to do. I am committed to finding common ground with the President and Congressional leaders to further improve this package. Further improvements are needed to insure an adequate safety net for our low-income families and elderly, and the provision to open up the Arctic National Wildlife Refuge to oil drilling must be removed. I still have deep concerns about enacting a tax cut before the budget is balanced. The lower threshold for the child tax credit in this package is an improvement, and the size of the tax cut and the tax relief for lower-income Americans will be an important component of any compromise.

Balancing the budget is one of the most important actions Congress can take to improve the Nation's economy. We are saddling our children with our debt, and that's not fair. Unless we rein in spending, children born today will pay $187,000 in taxes just to pay for their share of interest on the debt. A balanced budget would mean less Government borrowing and lower interest rates for consumers.

Congress has attempted to lower the deficit and failed several times. During the 1980's, Congress enacted Gramm-Rudman-Hollings I and II, and in 1990 we enacted the Budget Enforcement Act. These measures were passed to control deficit spending, yet we still face deficits that are spiraling out of control and a $4.9 trillion debt.

Up until now, Congress has avoided tough votes on the programs that comprise over half of the budget: entitlements. Entitlements, along with interest on the debt, are the fastest growing parts of our budget. Medicare constitutes 11 percent of the budget, and its costs rise approximately 10 percent annually. This budget limits the growth of Medicare, and responds to the Medicare Trustees Report that stated that the Medicare part A Trust Fund will be bankrupt by 2002. In fiscal year 1995, interest on the debt encompassed 15.3 percent of the Federal budget and it continues to grow. The same year, we spent only 16.5 percent of the budget on all science, education, transportation, housing, urban development and other non-entitlement domestic programs combined. Do we really want to be spending important resources on interest on the debt instead of making investments in our future? These are tough decisions, but the consequences of doing nothing are much more severe.

This vote moves the process forward toward a balanced budget. I commend the Conference Committee for the improvements that have been made, and I look forward to working on a bipartisan basis with the President to finalize a package that achieves our common goal while also protecting our most vulnerable populations.

Mr. LEACH. Mr. Speaker, I rise to express concern with the "Medi-goguery" and "Mega-social splintering" involved in debate of the week on the House floor.

With regard to Medicare, credible arguments can be made for holding the program at current levels of spending, increasing it somewhat, or increasing it substantially. The Republican option is one of taking an approach in between the last two alternatives—that is, increasing spending at over double the projected inflation rate for the next 7 years, and in this process reforming the system so that rural counties, which now get one third the reimbursement of many urban areas, will receive an annual Medicare reimbursement increase three to six times the inflation rate. For these rural areas the Republican approach is substantially more generous than the status quo endorsed by the President.

While politically attractive in the short run, the President's Medicare approach would lead to early insolvency in the system itself. The Republican approach may be more controversial, but it is thoroughly irresponsible to suggest, as has been done on the House floor, that a plan that increases per-recipient Medicare spending from $4,800 to $6,700 in 7 years implies "gutting" the program. Those who make this kind of fear-inducing claim should be held to account by the American public.

With regard to the socially divisive argument employed by liberals in the balanced-budget debate, it is credible to make a case against a tax cut at this time or to oppose particular ingredients of the Republican tax cut approach. But when senior leadership of the Democratic party describe it as a "tax cut for the rich," they are misleading the American people.

It is true that the capital-gains reduction, which is designed to unlock assets and spur economic growth, disproportionately benefits high-income individuals, but it is a very small part of the Republican tax-cut package. The main ingredients are the following:

A $500 per child per family tax credit for families with annual incomes under $110,000. According to the Tax Foundation, those earning below $75,000 will receive almost $87.5 percent of the Family Tax Credit;

A tax credit of up to $145 to married couples who file joint tax returns to offset the current "marriage tax penalty";

The deductibility of up to $2,000 in IRA contributions for each spouse, including homemakers;

Repeal of the 1993 tax increase on Social Security benefits;

The provision of tax incentives for the purchase of long-term health care insurance;

The provision of a refundable tax credit of up to $5,000 for families adopting a child; and

An increase over five years in the earnings limit for those receiving Social Security benefits to $30,000.

The brunt of these tax cuts are clearly aimed at the middle-class.

With regard to the tax cut package, two perspectives should be kept in mind: First, the Republican approach rolls back only 30 to 40 percent of the total tax increases put in place by President Clinton in 1993 and leaves untouched the increases in the top rates established by the Democrats; second, while $245 billion may seem a large sum for a tax cut, it should be seen in the context of the 7 years over which it will be spread. During this period the GNP will be in the $50 trillion range. The tax package is thus more modest and more middle-class directed than the rhetorical imagery suggested on the House floor.

As for other priorities, I am convinced that the Republican approach of restricting spending increases to 3 percent a year—an inflation adjusted freeze—makes sense, although I might prefer some of the programmatic numbers to be shifted, particularly in the area of education.

Whereas the rhetoric of the President's party is to accentuate age group division and thus socially divide the country, it is impressive that the changes Congress has in mind for programs like Medicare do not precipitate generational division.

The argument that the young and the old have a vested interest in Democratic deficits is open to question. It is the young, after all, who will be spending their working lives paying for past legislative excesses. It is they who will benefit most from lower interest rates; they who would prefer to save for a home and to provide for their kids' education than pay taxes to legislators to take care of interest on the national debt.

As for the baby-boom generation—those 40 to 55—they deserve a solvent Medicare system upon retirement. And the elderly deserve to be protected from the ravages of inflation, which so capriciously robs them of their savings.

Mr. Speaker, as I have repeatedly stressed, no age group in America, young or old, has a vested interest in fiscal profligacy.

But working Americans' of all ages have a stake in establishing a more responsible fiscal policy. It is simply incontrovertible that the economy will create more jobs for more people with lower interest rates made possible by lower deficits.

In one sense, the difference between the parties does not appear great, with the Republicans advocating a 3 percent a year growth in spending and the Democrats 5½ percent. But since the 2½ percent differential is accumulative, the approximate $30 billion deficit difference in the first year grows to approximately a $200 billion difference in the seventh year. Over the full 7 years, the Democratic approach thus adds over $800 billion more to the deficit than the Republican alternative and leaves a gap at the end of the period comparable to the one at the beginning, whereas the Republican approach leads to a balanced budget.

Finally, it would appear that the national spotlight is on the personality and ambition aspects of the issues, whereas the historic point is that the Congress is attempting to reestablish fiscal discipline. This personality interplay underscores the difficulties of hubris in the American political process.

The President, for instance, appears to have made a mistake in the middle of negotiations with Congress to accede to an interview with Dan Rather in which Rather pinned him down on whether he could accept a "clean" continuing resolution—precisely as the President requested that the Republicans give him—with the only stipulation being a 7 year balanced budget—which from time to time the President has endorsed.

Once he encapsulated his veto intention into a firm sound-bite, rational reconsideration became impossible. The pride of utterance preceded the capacity to review quietly and thoughtfully what was on the table and the best interests of the Government and average American citizen took a back seat to prideful exclamation.

Likewise, Republicans should be cautioned about expressing putsch-like intentions which misunderstand the nature of the constitutional process whereby, however weak a particular legislator may perceive this President, the Presidency itself is a profoundly important institution that should not be eviscerated.

Republicans may be right that a re-ordering of fiscal priorities is in order, but there is no call for delegitimizing government. The American national interest requires respect for process as well as outcome.

Ms. DUNN of Washington. Mr. Speaker, today we take a historic step in reducing the size of the Federal Government, providing families and employers with badly needed tax relief, and providing for a balanced budget in 7 years. We are building a path to the future that restores both hope and opportunity for all Americans—now and in the future.

We are dramatically changing the fiscal direction of our country. From a path of out-of-control growth of Government to a path of sustained expansion of the economy and job creation. Achieving a balanced budget will produce lower interest rates, higher productivity, improved purchasing power for all Americans, more exports and accelerated long-term growth. That will revive the American dream.

In addition to reducing Government spending and eliminating the deficit, we are providing incentives for growth of our economy. Two years ago, the Clinton administration imposed the largest tax increase in the history of our Nation, placed squarely on the backs of the American people. Those tax increases took real money out of the pockets of real American families.

This budget resolution unlocks the door to a prosperous, deficit-free future. Real incomes will grow faster, long-term interest rates will fall significantly, and Americans can once again look forward to their children doing better than they.

Our balanced budget is about more than just accounting and tidy bookkeeping. Budget deficits sap private investment, drive up interest rates, and debt service costs the average taxpayer nearly $800 a year in taxes. Ending these deficits is the most important economic program this Congress can enact. In my district, a family from Eatonville with an average mortgage of $75,000 will save $37,000 in interest over the life of the loan—an annual savings of $1,200. A University of Washington student with an average loan of $11,000—over 10 years—will save $2,160 in interest over the life of the student loan—an annual savings of $216. A Issaquah family buying a $15,000 car will save $900 in interest over the life of the car loan—an annual savings of $225.

Mr. Speaker, our Nation is at a crossroads. There are two competing visions of America's future. We can either adhere to the status quo as the President suggests—which means higher taxes on families, more spending, more debt, fewer jobs, and less opportunity for our children—or we can embark on a new responsible course by balancing our Nation's budget, cutting taxes, and restoring hope, confidence, opportunity, and prosperity.

It has not been easy making the tough choices needed to reach a balanced budget, but they are decisions that we have been willing to confront. They have been decisions that we had no choice but to confront—to do anything less would have been to neglect our responsibility as elected representatives. I cannot and will not turn my back on my country's future. I urge my colleagues to support the Balanced Budget Act of 1995.

Mr. FRELINGHUYSEN. Mr. Speaker, today, November 17, Congress will approve a historic plan which balances the Federal budget in 7 years. This is the critical debate about the future of the United States—are we going to balance the budget or aren't we?

I am as frustrated as anyone over the temporary shutdown of some Federal agencies. Indeed, this gridlock adds yet another reason for good citizens to lose faith in government. Nonetheless, I was elected to keep a number of promises, the most important being balancing the budget. We are actually doing this, not just talking about it. The way to restore faith in our system of government is to keep promises—especially this one.

America has a clear choice: we can continue to spend beyond our means, borrow from our children's futures, and run up the public debt over $5 trillion. Or, we can balance the budget with reasonable changes in programs, slow exploding costs of various entitlements, root out waste, fraud, and abuse, and yes, determine whether government must do everything for everyone.

Having listened to thousands of people in our area and answered more than 25,000 letters, I think I know the answer: balance the budget, carefully and with compassion.

When the rhetorical fog lifts, America will see an accurate and complete picture of our vision for this country. We are making fundamental changes to the Federal Government. We will balance the budget, reform welfare, and preserve Medicare and Medicaid, all the time spending more, not less. That's right, despite all the talk about cuts, the Government will spend $300 billion more over the next 7 years and still balance the budget by the year 2002. There is nothing extreme about keeping the public trust.

I am here in Washington, keeping my promises to the people of the 11th Congressional District who have written and called in saying "hang tough," "hold your ground," balance the budget.

Our children and grandchildren deserve nothing less.

Mr. SERRANO. Mr. Speaker, I rise in emphatic opposition to the Republican conference report on budget reconciliation that is before the House today.

The House passed a bad bill, and Republicans in conference have made it much, much worse. Thank goodness Democrats don't have to answer for that mess. The only bright spot is that, after the President vetoes this horror, we will be able to step back and, hopefully on a bipartisan basis, do a better job.

All thinking Members agree that we must bring the Federal deficit under control, but reaching balance in 7 years requires the kind of mindless slashing the Republicans propose rather than thoughtful changes over a longer period. But the Republicans insist on 7 years and on their misguided priorities and won't even permit our side to offer an alternative.

It is ridiculous that the Republicans' crown jewel is a $245 billion tax cut favoring corporations and the wealthy when they say balancing the budget is so important. It only makes tax increases for working families and deeper cuts in spending necessary.

But the moral flaws in this bill are more fundamental.

For decades, we have recognized a national commitment to the most vulnerable among us—children, families, the elderly, immigrants, the working poor, the sick and disabled. The Republicans end that commitment and make people in desperate circumstances the subjects of State-run experiments. No longer will children and families in dire straits be guaranteed some modest assistance. It will be up to the States to decide who is eligible and for what. This is not just bad public policy, it is immoral.

Republicans say this bill is necessary to save future generations from debt, but in this bill they punish the children who are our future, unless their parents are already well-off.

Far from encouraging work and supporting efforts to attain self-sufficiency, the Republicans pull the safety net out from under the working poor and raise taxes on 13 million working families. They cut health care coverage, child care, school nutrition, food stamps, and other supports, provide no resources for jobs and job training, threaten the viability of pension funds, and make it far more expensive for the children to improve their futures through higher education.

The Republicans continue the ongoing immigrant-bashing that began with H.R. 4, denying public assistance on the basis of legal immigration status, even denying immigrant children school breakfasts and lunches. This is outrageous. We know immigrants don't come here for public assistance; they come to join family members and to provide a better life for their children. They work, they pay taxes, they participate in community life, and they play by the rules. Why should they be treated as second-class citizens?

The Republicans make huge, untested changes in our health care system, threatening the health of our population as well as the ability of our urban and rural hospitals to survive. Unless States are willing to invest substantial amounts of their own funds, millions of low-income people, from the youngest children to the oldest seniors, will lose coverage for health care and long-term care. Seniors could even be thrown out of nursing homes if they run out of money, and that's after their spouses are evicted from their homes and their adult children are forced to divert all their resources from their own families.

Many of the national programs the Republicans are gutting were created because some States were unable or unwilling to provide the most basic safety net for their vulnerable populations without Federal support. Now, the Republicans undo that by dumping huge new responsibilities on the States with no time to plan, establish new programs and bureaucracies, or hire and train State employees.

Who knows how quickly—even whether—States can rise to meet these new challenges.

Mr. Speaker, there is a great deal more to condemn about this bill, but I am out of time. In closing, I strongly urge my colleagues to reject this terrible conference report.

Mr. BORSKI. Mr. Speaker, I rise today in opposition to the House-Senate conference report on H.R. 2491, the Republican Budget Reconciliation Act. This legislation cuts from the heart of the programs and benefits that matter most to working and retired Americans in order to give huge tax breaks to wealthy individuals. The House should defeat this disgraceful bill and instead consider a reasonable budget plan that reduces the deficit in a fair and equitable manner.

Despite the outcry from Americans—young and old—across the country, the bill we have before us today has not changed much since it was first approved by the House. H.R. 2491 still cuts Medicare by $270 billion and Medicaid by $165 billion in order to lavish $245 billion in tax breaks to wealthy Americans. It still raises taxes on working Americans who benefit from the earned income tax credit—the best incentive we have for rewarding work and discouraging welfare. And it still slams the door on the future of our Nation's children by cutting student loans.

Since Speaker GINGRICH unveiled his budget, my office has been deluged with letters and phone calls from concerned senior citizens in my congressional district—the 20th oldest in the Nation. Approximately 100,000 of my constituents rely on Medicare. They are not fooled, Mr. Speaker, by the claims that this budget will reform Medicare and Medicaid and give them more choices in the health care. They know quite well that the opposite is true: The Republican budget will require them to pay more—for fewer choices and lower quality care.

A large portion of the Medicare cuts included in H.R. 2491 come directly out of the pockets of senior citizens. The bill will double the premiums currently paid by seniors for Medicare coverage, from $46 to about $90 per month. For the average senior citizen, whose annual income is only $13,000 a year, this is hardly small change. For seniors at or below the poverty line, the Federal law which pays for their Medicare out-of-pocket expenses will be repealed.

Under H.R. 2491, seniors will pay more, but receive far, far less in quality care and choice of service. In Philadelphia, our health care system and entire economy will be endangered by these insidious cuts. Many hospitals in my district, whose beneficiaries are predominantly Medicare and Medicaid patients, may have no alternative but to shut their doors. Health care workers—as many as 25,000 in Philadelphia and up to 6,000 in my district—will be at risk of losing their jobs. The hospitals that do survive will be forced to shift their costs to their customers who have private insurance.

As their out-of-pocket costs rise, and hospitals close, senior citizens will have fewer places to turn for their health care needs. Doctors will flee the traditional Medicare system to join the MedicarePlus Program created under the bill, under which insurance plans could charge seniors additional fees above and beyond what Medicare pays for. Those seniors who do not join MedicarePlus will be susceptible to the $36 billion unspecified fail safe Medicare cuts that are included in H.R. 2491. These cuts will automatically reduce payments to providers in the fee-for-service sector—but not in the MedicarePlus plans.

Senior citizens—and their children and grandchildren—will take an equally harsh hit by the Medicaid cuts included in H.R. 2491. In Pennsylvania, 65 percent of all long-term care costs are paid for by Medicaid. After our seniors have exhausted their lifetime savings, they rely on Medicaid to pay for the nursing home care they so desperately need. With the costs for a modest nursing home averaging about $4,000 a month, it is easy to understand how typical Philadelphia seniors could easily drain their savings in a short time.

Under the majority's budget, that safety net that Medicaid provides is eliminated. H.R. 2491 repeals the Federal guarantee that Medicaid will pay for nursing home care for seniors who have exhausted all their assets. As a result, seniors will need to seek other sources to pay for their long-term care. Inevitably, this burden will fall on the shoulders of their children and grandchildren.

While H.R. 2491 strips away the guarantees that Medicare and Medicaid provide to seniors, it also threatens the ability of their children and grandchildren to fulfill the American dream. The Republican budget disinvests the tools that American families need to work for a living, maintain self-sufficiency, and provide for a better future for their children.

H.R. 2491 actually increases the taxes on the earned income of more than 14 million working American families—including 21,000 in my congressional district. The budget increases taxes for these families through a series of reductions in the highly successful earned income tax cuts [EITC] program. This program provides a refundable tax credit to lower income, working Americans in order to keep them off welfare and in the work force.

H.R. 2491 also unfairly targets middle-income American families by cutting Federal student aid and child nutrition programs. It forces up to 1,000 colleges and universities across the country out of the Federal Direct Student Loan Program, cutting the number of direct loans available by about 1.9 million. It also cuts child nutrition programs, including school lunches and breakfasts, which allow our children to start each day well-nourished and ready to learn.

The majority in Congress claims that all of this pain for our Nation's working and retired families is needed to balance the budget in 7 years. Ironically, by 2002, this budget will still borrow money—$115 billion from the Social Security trust funds. According to the Congressional Budget Office, this budget runs a $105 billion deficit if you exclude the trust funds surplus. How can you call a budget balanced if it still relies on borrowing?

This raid of the Social Security trust funds adds insult to injury for the working families in my district who work longer and longer hours for less pay. While H.R. 2491 cuts the benefits and raises the taxes of these families, it borrows their hard-earned Social Security retirement benefits—and then gives billions of those dollars to those who have contributed the lowest percentage of their income into the Social Security trust funds.

Mr. Speaker, H.R. 2491 is not a balance budget measure. It is an attempt to redistribute the wealth of this Nation—from hard-working, middle-income Americans to the wealthiest individuals and corporations of this country. The very wealthiest American families—those earning over $350,000—will receive a tax windfall of $14,050 a year, while families with incomes under $50,000 will see a $648 loss.

H.R. 2491 achieves this huge transfer of wealth by enacting the Speaker's crown jewel—the $245 billion tax breaks for wealthy Americans. More than 52 percent of the tax benefits go to families with incomes over $100,000 per year, and 28 percent go to families with income over $200,000. H.R. 2491 also weakens the alternative minimum tax, which will result in a $16 billion windfall for large corporations.

Mr. Speaker, I do not believe it is fair to slash vital programs like Medicare, Medicaid, and student loans, while at the same time giving big tax give-aways to the highest paid individuals. Working Americans and senior citizens did not cause the budgetary program we now face. Our deficits resulted from the failed trickle-down policies of the eighties, which benefited the rich at the expense of the rest. Any serious and fair deficit reduction measure should seek to reverse those policies—not repeat them.

Mr. EVANS. Mr. Speaker, this Republican budget will destroy economic opportunity for millions of hard working men and women. They have made a choice to balance the budget on the backs of seniors, students, veterans, and the working poor.

They speak of sacrifice and responsibility, yet they are forcing low- and middle-income Americans to shoulder this burden while they give the wealthy and corporate America over $245 billion in tax breaks.

I have introduced legislation that would reduce the deficit by closing loopholes that the wealthy and corporate America use to dodge their responsibility of paying taxes and reducing the deficit.

While my bill eliminates more than $6 billion in tax loopholes that allow corporations to manipulate the foreign tax credit system, the Republicans choose to rob our children by slashing school lunch programs by the same $6 billion.

While my bill closes more than $1.6 billion in tax loopholes that give foreign investors complete capital gains exemptions and interest-free bonds, the majority cheats students of a college education by slashing direct lending for student loans by $1.6 billion.

While my bill closes more than $23 billion in tax breaks that allow multinationals to increase profits by decreasing their U.S. tax liability, the majority slashes the same amount from the earned income tax credit, seizing any opportunity from working families to stay off welfare.

We need balanced judgment in cutting spending wisely. But we cannot do that when the only choice before us is to leave loopholes for multinationals virtually untouched and economic opportunity for millions of Americans out of reach.

Mr. MILLER of California. Mr. Speaker, I rise in strong opposition to the conference report. On the basis of the flawed natural resources provisions in title V alone, Members should reject this misguided legislation.

This is not a serious effort to balance the Federal budget. The conferees have both ignored opportunities to raise real revenues by reducing wasteful subsidies, and missed a chance to improve the management of our public resources.

Instead, this conference report resorts to sacrificing a national wildlife refuge to oil exploitation, sanctioning the continued giveaway of miner-rich public lands at a fraction of their fair market value, and providing even more corporate welfare for subsidized irrigators. This bill undermines serious efforts at reform, such as those that have passed the House on a bipartisan basis in recent years, by providing inconsequential revenues to qualify their proindustry, antienvironmental policies for the sound efforts at modernizing resource management and saving the taxpayers billions of dollars.

The President has remained firm in his commitment to veto any budget reconciliation bill which would open the Arctic National Wildlife Refuge to oil and gas development. To include ANWR in this bill not only denies Members an opportunity to full debate and amendments under an open rule, but is an exercise in futility.

The majority of the revenues in this title are assumed to come from oil and gas leasing of ANWR. But don't bank on it, There's a phony bait and switch going on here.

To start with, don't believe the accuracy of CBO's assumption of $1.3 billion in Federal revenues from ANWR. Those estimates were based on old projections of $40 a barrel oil, currently less than half that price. By contrast, the administration projects just $850 million in Federal revenues, assuming a 50-percent share goes to the State of Alaska.

What the conference report doesn't tell you is that the State of Alaska currently is entitled to a 90-percent share under the Statehood Act of 1958, and Congress may not be able to change that entitlement unilaterally to 50 percent as the conference report proposes. If an all-but-guaranteed lawsuit reduces the Federal share to only 10 percent—a lawsuit predicted by the senior Senator from Alaska as well as the chairman of the House Resources Committee, among others—the Treasury would receive only $260 million instead of the estimated $1.3 billion, using CBO's estimates.

And if the administration's lower estimates are correct, then the Treasury will only receive $170 million. That's one-tenth the amount purported to be in this reconciliation bill.

The conference report further resorts to trickery in the sections of the bill addressing mining law. The Conferees pretend this is real mining reform and that the taxpayers will finally get a fair return from those who have profited royalty free from public minerals for the last 123 years.

But on Wednesday of this week, 230 Members voted to recommit the Interior appropriations conference report in part because the mining provisions in the budget bill were deficient. Now, these very same provisions that Members have rejected are back before us today, insulated from amendment.

The mining language purports to abolish the patenting of public lands for pennies. What the Conference Report really does is to grandfather both the existing patent applications and many existing claim holders, exempting them from any royalties. Patent holders would only have to pay for the public's resources based on the surface value of the land, which is like selling Fort Knox for the value of the roof.

The few mining companies that don't make it through the patenting loophole don't need to worry much either. They would pay only the surface value for the mineral-rich land. The 5 percent net royalty is so riddled with deductions that payments would be just $12 million over 7 years according to CBO. Twelve million dollars for billions of dollars in gold, silver and other valuable minerals. By contrast, in 1993 the House passed a comprehensive mining reform bill that would have collected $90 million annually according to CBO.

The conference report also includes more corporate welfare for western irrigators. It approves a prepayment proposal that will allow water districts to prepay at a discounted rate the highly subsidized debt that they owe the Treasury for reclamation projects, thereby exempting themselves from the requirements of Federal reclamation law. That means that these farmers, who have grown rich on the subsidies provided by the taxpayers of this Nation that were intended for small farmers, would be relieved from paying the unsubsidized cost for Federal water that is delivered to more than 960 acres of irrigable land.

By allowing prepayment at a discounted rate, the notorious irrigation subsidies will be locked in place forever. Only the largest and wealthiest irrigation districts will be able to participate in this program.

This bill also contains a very harmful and unwise decision to transfer land from the Bureau of Land Management to the State of California for use as the Ward Valley low level radioactive waste disposal facility. This issue has been under intense debate and scientific scrutiny for some time. The National Academy of Sciences review panel raised some concerns about the safety of the site and recommended additional tests before moving forward with the construction of the facility.

Secretary Babbitt was involved in final negotiations with the State of California, but those talks broke apart when the State inexplicably refused to provide assurances that the safety tests would, in fact, be conducted by the State prior to construction. And since those talks broke off last month, additional scientists have admitted concealing information about radioactive seepage at another facility run by the Ward Valley contractors in Nevada.

This provision is wholly inappropriate to the reconciliation bill because the tiny amount of funding involved—$500,000—is insignificant in budgetary terms. This is a fig leaf being used to drag through a major policy decision that could have serious safety implications for millions of Americans. The Senate version of this amendment was removed for procedural reasons, but it has sneaked back into this reconciliation bill. It is yet another example of the Republican majority trampling over sound science and environmental concerns to do the bidding of private industry.

It is instructive to note what is not in this legislation. We could have ended double subsidies to farmers who receive federally subsidized water to grow surplus crops that we are paying other farmers not to grow. We could have eliminated below-cost national forest timber sales that cost more to administer than they raise in revenue. I offered these amendments and others in the Rules Committee which would have raised over $1.5 billion in 7 years—more than even the illusory revenues that the conference report assumes from ANWR.

Simply put, the natural resource provisions of this legislation are an outrageous abuse of the public trust. The President will be fully justified in vetoing the conference report.

Mr. BUYER. Mr. Speaker, Winston Churchill once observed that sometimes doing our best is not enough. Sometimes we have to do what is required. The fundamental issue at stake between the Clinton administration and Congress is not just about balancing the budget but about our future as a nation, as a people. In passing the Balanced Budget Act, we will have done our best—we have done what is required.

The President has been talking about balancing the budget for 1,261 days, yet we see nothing. He sent two budget bills to the Congress this year, neither balancing the budget. In fact, the second would create a deficit of $210 billion in 2002, the same year our budget is projected to reach zero.

While the supporters of this plan to balance the budget are fighting for change, the President is fighting for the status quo. We want to cut spending; the President wants to keep spending. Before the year is out, America's debt could top the $5 trillion mark. Every Hoosier child born today will pay a whopping

$187,000 in taxes just to underwrite their share of the public debt, a debt to which they were not a party.

This Balanced Budget Act takes a giant step in a new direction and the middle class is the big winner. It leaves more money with the people who earned it, rather than with a Washington bureaucracy that spends it. As a result of this legislation, a fifth district family will pay $2,400 less a year on a $75,000 home mortgage, $1,000 less over the 4-year period on a new car loan, and almost $2,000 less on a student loan.

President Clinton wants to spend more of our money, borrow more from our children, have more bureaucrats in Washington, and have more power over our lives. This is the fight. Morally, we cannot continue to spend money that we simply do not have and continue to hand the bill to our children and grandchildren.

This is a historic moment for America. I support this measure because it is vitally important to put our country on sound fiscal ground. We can assure the American Dream for all families, but most importantly ensure that our children have a future. Balancing the Federal budget is the most important issue that faces our country. The Balanced Budget Act puts America on the path to a balanced budget and America will be all the better because of it.

Mr. METCALF. Mr. Speaker, I rise to express my support for the low-income housing tax credit. A week ago, I presented the Speaker with a list of 129 Members who signed my letter supporting maintaining the permanent status of this vital program. I ask that this letter with the signatures be submitted into the RECORD after my remarks.

The low-income housing tax credit is a market driven program which provides affordable housing for many disadvantaged families. Ending the permanent status would make it difficult for local government, investors, and developers to make appropriate long-term planning decisions. Consequently, this would undermine the effectiveness of this program and reduce the number of participants willing to build affordable housing.

The Balanced Budget Act we are debating today will sunset this program. I am disappointed that the conferees did not accept the Senate version. However, I believe that we will find a resolution to this issue in the future. We must continue to provide affordable housing to the families and communities most in need.

I would like to thank all the Members who signed my letter.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 30, 1995.

HON. NEWT GINGRICH,
Speaker of the House,
Capitol, Washington, DC.

DEAR SPEAKER GINGRICH: We are writing to express our concerns regarding the elimination of the permanent status of the Low-Income Housing Tax Credit (LIHTC) in the Reconciliation bill and the possibility of sunsetting this program at the end of 1997.

Since its inception in 1986, the LIHTC has been successful at attracting private investment for affordable rental housing. Both nonprofit and for-profit developers compete for these credits to construct or renovate affordable housing for low income individuals. According to the National Association of Home Buildings, this program creates approximately 90,000 jobs a year, resulting in $2.8 billion in wages and $1.3 billion in tax revenue.

The LIHTC is a decentralized program administered by states according to their specific housing needs. The LIHTC is successful because it is a market driven program, free of interference from Washington. Investors exercise strict business discipline over the operation and development of this housing. As you know, building housing requires a great amount of time. A developer or builder needs adequate time to obtain the appropriate forms and meet building codes before constructing or renovating a unit. Ending LIHTC permanent status would make it difficult for state and local governments, investors and developers to make appropriate long-term planning decisions. Consequently, this would hinder the effectiveness of this program and reduce the number of participants willing to invest in, and build affordable housing.

We would like an opportunity to review all tax credits next year. However, we see no reason why we can't achieve this task while maintaining the permanent status of LIHTC. Once the GAO reports its recommendations, we can make administrative changes to safeguard this program.

We are asking you to please restore the permanent status of the Low-Income Housing Tax Credit. This credit is a form of a tax block grant which provides state and local governments with the resources to meet housing needs. The Low-Income Housing Tax Credit is a valuable program and critical in providing affordable housing for our citizens.

Sincerely,

JACK METCALF.
RICK LAZIO.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 10, 1995.

HON. NEWT GINGRICH,
Speaker of the House,
Capitol Bldg., Washington, DC.

DEAR MR. SPEAKER: On Tuesday, November 7, 1995, my colleagues and I sent you a letter of support for maintaining the permanent status of the Low-Income Housing Tax Credit. Since then, additional members have asked to be included on this letter. Please add the signees below to the original 116 members who support the LIHTC.

I plan to submit the original letter with the updates signess into the record. Thank you for your attention to this important matter.

Sincerely,

JACK METCALF.

LOW INCOME HOUSING TAX CREDIT, MEMBERS SIGNING MR. METCALF'S LETTER TO SPEAKER GINGRICH

Member, Republicans: Mr. Lazio, Mr. Young (AK), Ms. Johnson (CT), Mr. McCrery, Mr. Nethercutt, Mr. English, Mr. Camp, Mr. Chrysler, Mr. Baker (LA), Mr. Fox, Mr. LoBiondo, Mr. Smith (NJ), Mr. Bereuter, Mr. Calvert, Ms. Roukema, Ms. Chenoweth, Mr. Ney, Mr. Hayworth, Mr. Klug, Mr. Torkildsen, Ms. Kelly, Mr. Blute, Mr. Hoke, Mr. Whitfield, Mr. Foley, Mr. Bunn, Mr. Walsh, Mr. Barrett (NE), Mr. Salmon, Mr. Taylor (NC), Mr. Castle, Mr. Bono, Mr. King, Mr. Jones (NC), Mr. Horn, Mr. Weller, Mr. Bateman, Mr. Davis, Mr. Knollenberg, Mr. Longley (ME), Mr. Bilbray, Mr. Tate, Ms. Morella, Mr. Cunningham, Mr. Gilman, Mr. Forbes, Mr. Bartlett (MD), Mr. Heineman (NC), Ms. Seastrand, Mr. Shays, Mr. Upton, Mr. Rogers, Mr. Boehlert, Mr. Bachus, Mr. Quinn, Mr. Funderburk, Mr. Flanagan, Mr. Colbe, Mr. Lewis (KY), Mr. Moorhead, Mr. Doolittle, Mr. Hobson, Mr. Bryant, Mr. Diaz-Balart, Mr. Dickey, Mr. Ehlers, Mr. Canady, Mr. Bonilla, Mr. White, and Mr. Crapo.

Additions: Mr. Cooley, Mr. Gilchrest, Mr. Hutchinson, Mr. Gunderson, Mr. Lewis (CA), Mr. McHugh, and Mr. Callahan.

Member, Democrats: Mr. Matsui, Ms. Kennelly, Mr. Barrett (WI), Mr. Luther, Mr. Holden, Mr. Pomeroy, Mr. Baldacci, Mr. Berman, Mr. Rush, Ms. Lofgren, Mr. Fattah, Ms. Meek (FL), Mr. DeFazio, Mr. Oberstar, Mr. Evans, Mr. Johnson (SD), Mr. Dicks, Mr. Costello, Mr. Williams, Mr. Bentsen, Mr. Barcia, Mr. Vento, Mr. Minge, Ms. DeLauro, Mr. Lantos, Mr. Frank (MA), Mr. Wyden, Mr. Menendez (NJ), Mr. Stupak, Mr. Frost, Mr. Meehan, Mr. Clay (MO), Mr. Markey, Mr. Lewis (GA), Mr. Reed, Mr. L.F. Payne, Mr. Farr, Mr. Mascara, Mr. Browder, Mr. Mfume, Mr. Abercrombie, Mr. Hilliard, Mr. Deutsch, Mr. Gutierrez, Mr. Torricelli, and Mr. Conyers.

Additions: Mr. Wynn, Ms. Woolsey, Mr. Ford, Ms. Eshoo, and Mr. Hinchey.

Member, Delegate: Mr. Victor O. Frazer.

Mr. LATOURETTE. Mr. Speaker, the primary focus of the 104th Congress has been to tackle the immoral and ever-growing Federal debt. This Congress has embarked on a historic plan to balance the budget in 7 years, or by 2002.

For far too long, the Congress has thought only of today, with little thought of tomorrow. For decades, the Congress has irresponsibly continued to pour truckloads of money into programs that provide marginal results at best, programs which overlap services, and programs which provide services no longer needed.

America recognizes that what we are doing in Washington—scaling back government, reversing decades of fiscal irresponsibility, is a revolutionary process, and one that is often painful. All I have asked in this budget process is that we go about it fairly, that we level with the American people and refrain from the monkey business of the past.

Recently, I was 1 of 10 Republicans in the House to vote against the House-authored version of the budget. While I wholeheartedly agree with the necessity of balancing the budget in 7 years, I could not in good conscience support that version of the budget because it contained numerous favors to special interests. I promised my constituents that if a majority of my concerns were addressed and corrected, I would support final passage of the budget plan.

No legislation is perfect, and the Balanced Budget Act of 1995 is no exception. On the whole, however, I feel this is a budget plan that is fair; it is based on real numbers and it enables us to reach our goal of balancing the budget in 7 years. Furthermore, many of my concerns have been addressed and corrected. Nursing home standards have been restored; problems with the Medicaid funding formula have been fixed, including a spousal impoverishment clause; several environmental areas of concern are now addressed, and greater protections have been added to the pension provisions area.

We could wrangle over the details for years to come, but the clock is ticking and we must address our country's horrific debt now. In the coming 7 years, the lives of all Americans will be changed as a result of having a balanced budget. Economists agree a balanced budget will lead to falling trade deficits, rising productivity and a higher standard of living for Americans. Reductions in interest rates will be substantial. For example, the 30-year Treasury bond, now at 6.4 percent, could decrease by as many as 2 percentage points.

Lowered borrowing costs will be tremendous for business investment and other areas of the economy sensitive to changes in interest, including housing and the automotive industry—something vital to the economy of northeast Ohio. Also, a balanced budget is expected to free up billions of dollars for our States and cities. A Senate Budget Committee study shows that $919 million will be freed up for Ohio, and $56 million for Cleveland.

What will a balanced budget mean to you on a personal level? How will it impact your daily lives? Here are some of the highlights:

Interest on home loans for the average 30-year mortgage will drop as much as 2.7 percentage points, according to a National Association of Realtors study. With a 30-year $50,000 mortgage at 8.23 percent, families would save more than $1,000 annually, or more than $32,400 over the life of the loan.

Interest on car loans will drop by as much as 2 percentage points, according to a Joint Economic Committee study. Hence, if you take out a 5-year $15,000 loan at 9.7 percent, you will see an extra $900 in savings for your family budget. Meanwhile, interest on student loans also will drop as many as 2 percentage points, according to an Economic and Educational Opportunities Committee study. If your son or daughter borrows $11,000 at 8 percent interest, they will pay $2,167 less for schooling.

When our goal of a balanced budget is realized in 2002, the changes in our economy will be significant. Companies will be able to invest in new equipment and productivity will rise; this will lead to higher wages and better living standards. Best of all, a balanced budget will help create an estimated 6.1 million new jobs, according to a Joint Economic Committee study. These jobs will benefit the middle-class, welfare recipients, and high school and college graduates.

It is time we, as Americans, return to a life of fiscal responsibility; the Federal Government should and can be a role model. Americans are conditioned to believe Washington only does what is right for itself, not for America. This Congress is different. This Congress is committed to putting the needs of America and its financial future first, above all else, including our own re-elections. I am proud to vote for the Balanced Budget Act of 1995, a vote for the future of America.

With a balanced budget, we can return to an America we can all be proud of, one where every American has an opportunity to succeed, and one where all Americans can provide for their families and save for their futures. A balanced budget is truly our last, best hope to restore the American dream.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in strong opposition both to the pending budget reconciliation bill and to the parliamentary rules under which it is being considered.

It is wrong to consider this wide-ranging legislation without the opportunity for any amendment or even for an alternative bill or recommittal motion. While I am a strong supporter of balancing the Federal budget, I will not permit myself to be forced by these rigid rules to support the outrageous budget priorities contained within this bill.

By spending $245 billion in tax favors, this legislation creates a situation where it has become necessary to cut deep into Medicare, Medicaid, education, and even to kill the entire farm program altogether. These are radical budget priorities that do not make sense to South Dakota families. It is particularly offensive to me that this legislation substantially increases income tax liabilities for families making less than $30,000 per year but provides a tax cut bonanza for millionaires.

There is no doubt in my mind that President Clinton will veto this budget reconciliation bill, and it is my hope that we can then begin a serious bipartisan effort at balancing the Federal budget in a manner which is fair to middle class and working families, the elderly, veterans, and rural America.

Mr. POSHARD. Mr. Speaker, I rise in opposition to the budget before us today and in strong support of the more reasonable alternative which I cosponsor along with many of my moderate Democratic colleagues.

We are at a momentous time in our Nation's history. It does appear the will exists to put this country on stable financial ground and balance our Federal budget.

There is no alternative. Our country cannot manage a debt of $5 trillion and billions of dollars in red ink in our annual budgets. Unless we act, shortly after the turn of the century our tax dollars will go entirely to entitlement programs and interest on the national debt. There will be no money for environmental protection, transportation, law enforcement, education, medical research, or any of the other functions of government upon which people rely.

But I reject the notion that there is only one way to accomplish this goal—the option before us today. There is a better way—the coalition budget which I support.

Our budget restores the fiscal integrity to the Medicare trust fund and controls spending in that program by $170 billion to help us reach a balanced budget. That is in stark contrast to the $270 billion in Medicare controls in the Republican plan. That is $100 billion more than necessary to maintain the program, $100 billion which will be used to pay for tax cuts for wealthy Americans. This will be a tremendous burden on Medicare beneficiaries and will put hospitals in my district out of business. This is the most substantial argument against the Republican plan, and I will not vote for a budget which takes so much from the Medicare Program and gives it away in tax cuts.

The changes in the earned income tax credit hits the 19th District harder than any district in the State of Illinois. The list of concerns is long.

I've voted for a balanced budget amendment and now cosponsor a bill which will get us to balance in 7 years, as scored by the Congressional Budget Office. It is better for the American people in health care, education, agriculture, and the host of domestic needs which are important to our people. And it represents the broad middle ground where most Americans live their daily lives.

I will vote against this budget today because I know we can do better. I urge the President to work with us to balance the budget in 7 years. If we are to have a tax cut, I urge the Republicans to lower the income limits and let us target those breaks to the working people of this country.

We can reach an agreement that respects our obligation to care for our people and, at the same time, rid this nation of its burdensome debt. We are not there yet. I am voting against this bill today in the hope that we will get there with a better bill.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in strong opposition of the Republicans' Balanced Budget Act for fiscal year 1996. The Republican budget is a noncaring budget, it has no compassion for the American people and is one that the American people cannot be proud of. It not only balances the budget on the back of the disenfranchised, the measure is nonresponsive to the housing, health, education, environment, and employment training needs of the American people.

The Republicans' budget reconciliation holds our elderly hostage to their compromised health care condition and economic status, we need a budget that treats the elderly with the dignity and respect that they not only deserve—but have earned. We need adequate funding that provides for the older Americans' programs including essential nutrition programs, low-income home-energy assistance, and assisted housing. And of course we must ensure that Medicare is preserved.

The lives of more than 2 million Medicare seniors in Texas would be dramatically impacted, and by the year 2002 each Medicare senior in Texas would be asked to pay an additional $1,122 out-of-pocket expenses. Each would be forced to pay $4,000 more for fiscal years 1996 through 2002 to make up for the cuts. We want the future to be free but not on the backs of seniors and those most vulnerable.

The Republicans' budget proposal which forces our elderly to choose between food and heat, does not improve their quality of life. We need a budget that is kind to our Nation's children including those yet to be born. And one that provides adequate funding for healthy start, child care, and Head Start. Our children are our future. They have placed their future in our hands, we cannot sacrifice the trust.

In addition, we need a budget that strengthens support for higher education, student aid, trio, education for the disadvantaged, school reform, biomedical research, and community infrastructure. I have heard the voice of the American people and they want us to respond with a sound budget that is fair, responsible, and overturns the Republicans' assault on our Nation's most vulnerable citizens—the children, the elderly, the veterans, and hard-working families.

Mr. ALLARD. Mr. Speaker, when I ran for Congress in 1990, I made one principle commitment to the people of Colorado, I would do everything I could to balance the Federal budget. That is why I am so proud to stand here today.

The process of balancing the budget began last fall with the Contract With America. Despite intense criticism from the media and the liberals, the voters liked our contract, and they elected the first Republican Congress in 40 years.

After we won our majority, we did something really shocking: we kept our contract. The pundits said we never would. They said we couldn't actually balance the budget. They were wrong.

Immediately after the election, those of us on the Budget Committee set to work on a massive 6-year plan to restore fiscal discipline to our Government. We worked through the spring under the enthusiastic leadership of our Chairman JOHN KASICH. We never gave up.

This plan was then endorsed by our full conference and implemented by the Appropriations Committee and the authorizing committees. It was a monumental achievement. It is the proudest achievement that I have been part of in my 5 years in Congress.

Today, we will make history, we will balance the Federal budget for the first time in 33 years.

This new Congress has kept its commitment to our children and grandchildren. We said we would balance the budget, and we did it. The only remaining obstacle to a balanced budget is President Clinton. He has stated time and time again that he supports a balanced budget. Again, the truth will come out this weekend when he is presented with this plan. He has no intention of balancing the budget.

Judging by the rhetoric of those who oppose this plan one might get the impression that it contains devastating cuts. This charge indicates how far removed from reality the defenders of deficits have drifted. This budget does not cut spending at all, it simply slows the rate of increase.

Let me review some very important numbers. Over the last 7 years Federal spending totaled $9.5 trillion. Over the 7 years of this balanced budget plan, 1996–2002, the Federal Government will spend a total of over $12 trillion. Where I come from that is an increase, and it is a very substantial one.

Even the Washington Post has recognized the courage of our budget, particularly in the area of Medicare. We have made very modest changes in Medicare, and in the process we have saved the program from bankruptcy. Spending per beneficiary will rise from the current $4,800 to $6,700 per year. Let me quote from today's Post editorial:

> If the Democrats play the Medicare card and win, they will have set back for years, for the worst of political reasons, the very cause of rational government in behalf of which they profess to be behaving.

Mr. Speaker, we know the Democrats have already played the Medicare card, let's just hope they don't win. We want to save Medicare, our opponents want to postpone the tough choices for another day. By then it may be too late.

It is important to keep in mind why we must balance the budget. This endeavor is about much more than numbers. It is about the future standard of living for our children.

I have been particularly gratified by the large number of letters I have received from constituents who say "just do it." They realize that some sacrifice will be required of them, but they want the budget balanced.

Last year, we made a Contract With America. This balanced budget represents the very essence of that contract—a Federal Government that will be smaller, less intrusive, and more efficient.

We have kept our contract, and this has restored faith in our form of government. It proves that Promises Made—Promises Kept was much more than just another campaign slogan.

Mr. DOYLE, Mr. Speaker, when I came to Congress last January the people sent me here with instructions to stop the partisan bickering and work toward solutions. The people of western Pennsylvania continue to tell me that they want a balanced Federal budget. Well this Democrat supported a Balanced Budget Amendment which the other body did not pass. This Democrat supported a plan to balance the budget in 7 years which did not include a $245 billion tax cut when we can least afford one. The Gingrich budget is not fair and is not one I can support. People in western Pennsylvania do not understand why one-half of the burden is placed on senior citizens and students, while one-half of those who benefit from the tax cuts have annual incomes or more than $100,000. The American people are willing to share the sacrifice for as many years as it takes to balance the budget, but they will not support a budget that unfairly targets senior citizens, students, and low-income families, to award a tax cut for those with upper incomes. Let's stop the partisan grandstanding and work together to find a fair budget that can win the long-term support of the American people. Mr. Speaker, I urge my colleagues to defeat the Gingrich budget.

Mr. COYNE. Mr. Speaker, I rise today to oppose this conference report on the budget reconciliation bill.

The core provisions of the bill are still the same as the bill passed by the House. The conferees cut Medicare, Medicaid, antipoverty programs, and the earned income tax credit deeply in order to pay for tax cuts that primarily benefit the well-to-do. This legislation makes life more difficult for the most vulnerable members of our society in order to provide benefits to people who need help the least. Consequently, this bill is still completely unacceptable.

The conference report on reconciliation contains $80 billion in cuts in welfare and $30 billion in cuts in the earned income tax credit. The low-income housing tax credit is eliminated after 1997. Most low-income working families will not be helped by the bill's much-touted family tax credit. That is no way to make work pay. Republicans used to say "a hand-up, not a hand-out". Now that they have won control of Congress and they do not have to worry about additional handouts, it appears that they want to withdraw the hand-up as well.

The new majority wants to make $170 billion in cuts in Medicaid as well. Is there any doubt that the health of poor children, impoverished senior citizens, and disabled Americans will suffer as a result? Does anyone really believe that health care services in poor neighborhoods will improve after these changes are enacted? Does anyone really think that emergency rooms in inner cities will remain open when they lose money as a result of these cutbacks? These cuts are simply irresponsible.

The Republicans in Congress want to make $270 billion in cuts in Medicare as well. These premium increases would be hard for many low-income seniors to meet. Seven dollars a month does not sound like much to many people, but to someone living on a couple of hundred dollars a month, that premium increase would be a real hardship. Moreover, the shift to managed care that is encouraged—or should I say imposed—by the bill will compel many senior citizens to give up their choice of doctor in order to keep their medical bills from going up. They may also find it more difficult or expensive to see the specialist they need—or to get the most effective treatment for a particular ailment.

In addition, I have deep concerns that the shift to managed care will actually end up costing the taxpayer money in the long run—rather than saving money. The proposed Medicare-plus system has the potential to create a real problem with adverse selection. Healthy individuals can be expected to take advantage of private managed care plans, leaving the older, sicker Medicare beneficiaries in the fee-for-service plan. The sickest 10 percent of Medicare beneficiaries account for 70 percent of total program costs. It is unlikely that any of these beneficiaries would switch to managed care plans, or to medical savings accounts linked to high-deductible insurance plans. The cost to Government of providing insurance to the sickest people will increase as the risk pool shrinks to the most expensive cases.

In short, Mr. Speaker, this is no way to balance the budget. It is shortsighted, unwise, and inequitable. If this bill is adopted by Congress—and I anticipate that it will be—I hope that President Clinton will veto it. Then we can get down to the tough but necessary job of working out a fair, thoughtful, responsible budget plan.

Mr. KIM. Mr. Speaker, I rise today in strong support of H.R. 2491, the Balanced Budget Act.

The bill we are considering today is truly historic. For too many years, politicians have promised to balance the budget without achieving results to back up their rhetoric. The reason for this is simple: It is easy to promise to balance the budget, but it is incredibly hard to actually make the spending cuts needed to do so.

But this year is different. Last November, the American people said enough to empty promises and hollow rhetoric and elected a Republican Congress committed to balancing the budget. And Republicans have put our money where our mouths are. We have brought to the floor today a bill that makes real spending cuts that the Congressional Budget Office has certified will balance the budget by 2002.

Let me say that it hasn't been easy to get to this point. Almost every special interest group in this city that has a place at the Federal trough has tried to stop us. Since last January when Republicans took control, the media said it couldn't be done. And, most important, my Democratic colleagues have pulled out all the stops to protect the big government empire that they have built over the last 40 years.

But we have persevered, and we are here today with a bill that does exactly what we said we would do: Balance the budget by 2002.

You don't have to take my word for it though—let's look at what the Balanced Budget Act really does:

The Balanced Budget Act saves $900 billion—nearly a trillion dollars—over 7 years by reducing the rate of growth of—not cut—Federal spending. That's because we don't actually have to cut Federal spending to reduce the deficit. All we have to do is let Government spending grow slower than tax revenues and we can balance the budget.

And that's exactly what the Balanced Budget Act does. Under our plan, Federal spending will still grow—but by $900 billion less than it would if Congress did nothing. The result is a balanced budget in 2002.

Much of these savings are achieved by reducing the rate of growth of entitlement programs. As my colleagues know, much of the reason for the current budget crisis has been the inability of Congress to address the exploding cost of entitlement programs. Spending on such programs as Medicare and Medicaid makes up over two-thirds of the Federal budget and will soon consume the entire budget if Congress does not act.

The Balanced Budget Act finally addresses this problem. The bill fulfills our promise to leave Social Security alone but reforms all other entitlement programs.

The most important reforms occur in Medicare and Medicaid. Under the bill, Medicare spending growth will be reduced from its current 10 percent growth rate to about 6 percent a year. Medicaid spending growth will be reduced from 11 percent to 7 percent a year. By reducing the rate of growth in this way, we will save $270 billion in the Medicare Program and $160 billion in Medicaid.

More important, by slowing the growth of Medicare, the Balanced Act saves the Medicare Program from bankruptcy. As many of my colleagues are aware, the Medicare trustees, three of whom were appointed by President Clinton, recently warned that the Medicare trust fund would be bankrupt by 2002 if Congress did not act.

In response to this dire situation, Republicans have proposed a plan to save Medicare from bankruptcy. By attacking waste and fraud, giving seniors the option of joint a private health insurance plan, and slowing the growth of payments to doctors and hospitals, the Balanced Budget Act keeps Medicare solvent until 2011—the year the baby boomers start to retire. In doing so, the Balanced Act ensures that Medicare will continue to be available for current and future generations of seniors.

But make no mistake about it: Even with these growth reductions, spending will still grow considerably in Medicare. Per-person spending in Medicare will increase from $4,800 today to $6,700 in 2002—a 43-percent increase. Total spending on the Medicare Program will increase from $160 billion today to $247 billion in 2002. The fact is, under the Republican budget, Medicare will remain one of the fastest growing programs in the Federal budget.

In short, the Balanced Budget Act imposes much needed restraint on the growth of Federal spending—while still allowing vital programs to grow substantially. In addition, the bill provides a reasonable and fair plan to protect Medicare from the financial disaster.

But this bill does more than just reduce Federal spending and save Medicare: The Balanced Budget Act also provides much-needed tax relief for the middle class.

As my colleagues know, this bill provides $245 billion in tax cuts targeted toward middle class families making less than $110,000 per year. This tax credit will provide $147 billion in tax relief for middle class families, making up 60 percent of the tax cuts in the bill. The bill also provides tax credits to help for health care expenses, establishes tax incentives to help small businesses, and makes needed reforms to estate tax rules. Finally, the bill substantially reduces capital gains taxes—which are taxes on job-creating savings and investment.

These tax cuts are reasonable and fair. Predictably, however, our opponents are trying to gain political advantage by accusing us of providing a tax cut for the rich. Let me assure you that nothing could be farther from the truth. Under our bill, 65 percent of the tax cuts will go to families making less than $75,000 per year. Much of the rest of the tax cuts go toward helping small businesses or establishing incentives for the creation of middle class jobs.

Finally, let's keep these tax cuts in perspective. While they are important for middle class families, they are not massive: The tax cuts in the Balanced Budget Act represent less than 2 percent of Federal revenues over the next 7 years.

In short, the bill provides badly needed tax reductions that will help average Americans—particularly working families—make ends meet. These tax cuts are not a giveaway. They are a rebate to working Americans of some of the cost that liberal big government policies have imposed on them over the last 40 years.

In sum, Mr. Chairman, the Balanced Budget Act is a reasonable and fair approach to balancing the Federal budget for the first time in a generation. The bill reduces the rate of growth of Federal spending while still preserving funding for vital programs. The bill provides much needed tax relief for the middle class, who for too long have shouldered too much of the cost of big government. and, most important, the bill keeps our promise to balance the budget by 2002.

Finally, let me finish by saying a few words about why we are undertaking this massive and politically risky project. The fact is, if we do not get Federal spending under control, we risk leaving our children and grandchildren with a mountain of Federal debt that will never be able to be repaid. If we do nothing, our children will face a country with higher interest rates, lower economic growth and fewer jobs than there would be under a balanced budget. If we do nothing, the safety net that supports the poor, the elderly, and the disadvantaged will collapse under the sheer weight of Government debt.

My Democratic colleagues accuse us of lacking compassion, but I say to them: How compassionate is it to borrow from our children and leave them to pay the bills? How compassionate is it to duck the hard choices, just to make things more difficult for those who come after us?

Mr. Chairman, it is time to face the music. Balancing the budget will not be easy or painless, but it must be done. The Balanced Budget Act is the way to do it. I urge my colleagues to support the bill.

Mrs. VUCANOVICH. Mr. Speaker, I rise in strong support of the conference report to H.R. 2491, the Seven-Year Balanced Budget Act.

We are balancing the budget today, Mr. Chairman, and instead of fear mongering and scare tactics, we have solutions. We have solutions to preserving and protecting Medicare, we have solutions to reducing the overwhelming tax burden on every American, we have solutions to returning government back to the States where it serves the people best, and, most important, we have solutions to eliminating this crushing debt our generation is in danger of leaving our children and grandchildren.

Mr. Chairman, in balancing the budget, we have listened to the pleas of the Clinton Medicare Board of Trustees and we save Medicare from bankruptcy. Seniors can breathe easy knowing that Medicare will be there for them and their children when they need it. Seniors will get increased benefits and will have more choice of how to obtain health care services.

On a personal note, Mr. Speaker, this bill provides Medicare coverage for oral cancer drugs for breast cancer patients, something the President has vetoed twice in the past week. As a breast cancer survivor, I am thankful that we are giving women another chance at life.

A good life is what we are trying to give all of our citizens. That is why the biggest falsehood of all is that this bill will hurt our children and our poor. The welfare and Medicaid provisions ensure that Federal funding goes to people who need it, rather than endless bureaucracies. States can finally put their ideas to the test while ensuring the health and welfare of low income children, seniors, and the disabled. And the taxpayer can feel good about providing a hand up, not a handout.

This is a historic vote, Mr. Chairman, because this vote will decide whether we leave our children the American dream or hand them the American debt. The choice is simple. Support this bill. Thank you Mr. Chairman.

Mr. SKAGGS. Mr. Speaker, I support balancing the budget. But I support doing it the right way. So, I cannot support this conference report.

Last month, when the House debated this bill, I voted to balance the budget the right way. I voted for the Democratic alternative. That alternative provided for balancing the budget in 7 years, without tax cuts we can't now afford, without undue cuts in Medicare and Medicaid, without raising taxes on lower income workers, and while making possible investments we need to keep our country strong in the future.

This is sharp contrast to this Republican bill, which I oppose. Under the Republican plan, the budget would be balanced in 7 years, but there the similarity ends. It includes a tax cut we cannot afford, most of which goes to the wealthy who least need it. And it sacrifices important parts of our future—including the future of our young people and priceless natural resources—for short-term savings.

To pay for their tax cuts, the Republicans' bill cuts Medicare and Medicaid more than necessary, with over half of the total spending cuts coming from those important programs. It also actually raises taxes on lower income workers, by revising the earned income tax credit. This will hurt 4 million low-income childless workers. It will also mean that some surviving spouses, who get Social Security, will lose EITC dollars, as will some older people with dependents—including some grandparents who care for dependent grandchildren. Remember, the earned income tax credit goes only to working people with low incomes—it helps keep people on the job, not on welfare.

The Republican bill also makes deep cuts in student loans, by nearly $10 billion over the next 7 years. In other words, it reduces our investment in America's future and makes it more difficult for our young people to get the education and training that they will need to get good jobs in an increasingly competitive marketplace.

And the Republican bill would sacrifice the wilderness and wildlife values of the Arctic National Wildlife Refuge's coastal plain, by opening it to oil and gas drilling—hoping for a gusher of oil company cash and hoping that the State of Alaska will accept a smaller share of that gusher than is now provided for by law.

Compared to this Republican bill, the substitute I supported would have cut about $100 billion less in Medicare, $100 billion less—that is, less than half as much—in Medicaid, $40 billion less in direct assistance to individuals, $10 billion less in student loans, $9 billion less in agriculture, and about $80 billion less in other discretionary spending. It would not have opened the Arctic refuge's coastal plain. And it still would have balanced the budget in 7 years.

Some may ask, how could that be possible? Mr. Speaker, it is possible. It's possible if we refuse to dig the hole of Federal debt deeper—that is, by refusing to cut taxes before we can afford to. And by ending billions of dollars' worth of particularly ill-advised subsidies to corporations.

That's the right way. That's the way that reflects better priorities and wiser policies than the Republican bill. That's what we should do.

We should maintain the earned income tax credit, which used to enjoy strong bipartisan support as an effective, nonbureaucratic way to enable lower income people to work their way into the middle class. We should close tax loopholes that let multinational corporations manipulate their books to avoid paying their fair share of U.S. taxes and end other corporate welfare.

We should protect Medicare and Medicaid, and not—like the Republicans—be driven to cut them deeper than necessary in order to pay for a misguided tax cut.

We should provide adequate resources for nutrition, education, transportation, research, and crime control. We should make real welfare reforms, with flexibility for States, a crackdown on fraud, and enough funding for day care, training, and the other needs of people moving off welfare and into jobs. We should maintain funding for student loans, while protecting the benefits of Federal retirees and veterans' compensation.

We should protect the wilderness and wildlife of America's last untouched stretch of Arctic coastline, the coastal plain of the Arctic National Wildlife Refuge, and we should put an end to corporate welfare, including bargain-basement sales of the gold, silver, and other hardrock mineral resources of our public lands. The Republican bill goes the wrong way here.

So, Mr. Speaker, while this Republican bill is called a reconciliation measure, I can't be reconciled into thinking that it's anything but bad for the country. We can do better—in fact, we have a duty to do better. We should reject this Republican bill and instead do what should be done—balance the budget, but the right way.

Mr. PORTER. Mr. Speaker, this is a defining moment in our Nation's history, a moment when we say goodbye to the irresponsibilities of the past and hello to living within our means, to smaller, more efficient government, to spending targeted at achieving results, and ultimately to lower taxes.

We have had a welfare system that doesn't work, and this bill aims to reform it. We have had student financial assistance that leaves the taxpayers holding the bag on millions of dollars of loan defaults, and this bill aims to fix that.

We have had a Medicare system that while providing the best health care in the world has done so at an unsustainable cost that we know we must change to protect the integrity of the system, and this bill aims to provide increases in Medicare funding but at a slower rate and choices for seniors in health care delivery that will help to drive down costs. We have had a Medicaid system whose costs have spiraled out of control leaving many of our States' budgets in shambles, and this bill leaves the States essentially in charge of how best to serve their poor but with substantial Federal help.

But, most of all, this legislation defines a change from serving each special interest in our country regardless of the cost and asking our children and grandchildren to pay the bills to being responsible for the bottom line and paying ourselves for the benefits we receive. America's private sector has largely reinvented itself in the wake of the cold war victory of freedom over communism. Now, government must do the same thing. It will mean higher standards of personal responsibility for each of our people, higher standards that will change our society and make certain that we remain the strongest economy on Earth and preserve the compact that each succeeding generation will live better than the last.

Many, unfortunately our President among them, apparently will have to be carried kicking and screaming into this future and find it extremely difficult to give up the special interest politics that has dominated America for so long a time. They refuse to understand that with rights go responsibilities and with all the rights and privileges enjoyed by the American people, all of us have responsibility for the Nation as a whole. All of us must give something of ourselves to make our society work. That's what this debate is all about. A balanced budget, yes, but more, a profound change in personal accountability for every person in our country that, in the end, will make it better and ensure the opportunities and mobility which are the genius of our system.

Mr. GUNDERSON. Mr. Speaker, today as the House considers the conference report on the Seven-Year Balanced Budget Act of 1995, we move one step closer to a goal I have supported for a long while. The first bill I cosponsored as a freshman Representative in 1981 amended the U.S. Constitution to require a balanced Federal budget. At that time, I firmly believed it was time to get our fiscal house in order, when the deficit was $79 billion and the national debt stood at $994 billion.

Fifteen years later, the deficit has grown to $206 billion—nearly three times of what it was in 1981. The national debt has jumped to $4.9 trillion or nearly five times the 1981 level. Further, in fiscal year 1995, we spent $234 billion on interest on the national debt alone. That's 17 percent of the Federal budget. It also represents more than we spent on education, job training, child nutrition and public works projects combined.

Unless we balance the budget, interest on the debt will continue to eat into spending on other worthwhile Federal programs. Just look at how interest on the debt dwarfs our spending on certain vital human resources programs: In fiscal year 1995, we spent 66 times more on interest on the national debt than we did on the Head Start Program. We spent 32 times more on interest on the national debt than we did on the title I program which benefits disadvantaged grade-school kids. We spent 149 times more on interest on the national debt than we spent on all elementary and secondary school improvement programs. We spent 158 times more on interest on the national debt than we did on Federal aid to vocational education, 180 times more than on the JOBS program to get people off welfare, and 212 times more than on Jobs Corps. Clearly this is a distorted sense of priorities.

If we continue our spending priorities for the next 7 years, the deficit would balloon from $210 billion in fiscal year 1996 to $349 billion. That's a 66-percent increase. The national debt would increase by $1.7 trillion during that same period.

Just as increased debt interest threatens programs, the lack of balance between our coveted entitlement programs and discretionary programs is alarming. Entitlement programs such as Social Security, Medicare, and Medicaid make up 64 percent of the Federal budget. Discretionary programs, such as defense, education, and job training make up only 36 percent. This disparity is growing and without significant changes in spending priorities, by 2012 entitlement spending will consume the entire budget.

THE SEVEN-YEAR BALANCED BUDGET ACT OF 1995

I believe that we have made the right choices to put this country on a path toward a balanced budget. Back in June, the House approved the budget blueprint that laid the foundation for this change. Today, we actually implement the changes necessary to slow the rate of Federal spending over the next 7 years.

Over the next 7 years we will reduce spending growth and reduce the Federal deficit by a total of $1.2 trillion. But it is important to note that slowing the rate of growth in spending is not a cut. The numbers amply demonstrate this assertion.

Over the last 7 years, between 1989 and 1995, we spent a total of $9.5 trillion. Over the next 7 years, while balancing the budget, we will spend $13.3 trillion. That's $2.6 trillion more than in the past 7 years. If we do nothing, we would spend $13.3 trillion over 7 years. We are not cutting the budget, but are finally putting our own house in order within a reasonable timeframe.

A comparison between spending levels in fiscal year 1995 and levels in fiscal year 2002 shows the effect of imposing fiscal discipline. Under current assumptions, spending would increase by $600 billion or 40 percent. Under the assumption of a balanced budget, spending would increase by $358 billion or 24 percent. Only in Washington would a $358 billion increase be called a cut.

A LOOK AT KEY AREAS FOR THE THIRD DISTRICT

A quick review of the provisions of the Seven-Year Balanced Budget Act reveals challenging but acceptable changes in Medicare, student loan funding, and tax policy. It also reveals a glaring deficiency—the failure to reform Federal dairy programs.

MEDICARE

The Medicare Program has continued to grow exceedingly fast in recent years. The Medicare trustees reported earlier this year that without strengthening the system, Medicare will go broke by 2002. I believe that the budget package maintains the vital commitment to health care for seniors while ensuring that the program will be around far into the future.

Under the budget package, average per beneficiary spending would increase from $4,800 to $6,700 over the next 7 years, or a $1,900 increase per retiree. Most importantly, premiums would remain at 31.5 percent of part B costs. Just as they have since the program was started, premiums would increase slightly every year.

STUDENT LOAN REFORM

The student loan program has provided essential opportunities to those who wish to further their education. But in order to preserve those opportunities far into the future, the House and Senate agreed to reduce the costs of the student loan program by $4.9 billion over 7 years.

Perhaps what is most important about the House-Senate agreement is that it does not increase costs to students or parents. The plan does not eliminate the in-school interest subsidy for undergraduate or graduate students. It does not eliminate the 6-month grace period for students leaving school to begin repaying their loan. It does not modify eligibility or access to student loans, nor does it increase the origination loan fee paid for by students.

Now, let's look at what the plan would do. The budget package would cap the administration's direct student loan program at its current 10 percent level of the student loan volume. As many know, I do not believe the Government should become banker to students. At a time when Congress is trying to refocus the role of the Federal Government toward functions that it does well, the direct loan program heads in the wrong direction.

The budget package would also gain savings banks, secondary markets and guaranty agencies by lowering reimbursement fees for defaulted loans and other technical changes. Finally, the package would limit certain administrative expenses borne by the Department of Education. I am confident that the budget package does the most to help the budget at the least cost to students, parents and schools.

PRO-GROWTH TAX POLICY

The budget package agreement between the House and Senate provides for $245 billion in tax cuts over 7 years, just 2 percent of the Federal budget. Like many of us, I was genuinely leery of providing tax cuts at the very time we are trying to balance the budget. However, as we are limiting the growth in Federal programs, we still need to promote economic growth in the private sector. The tax package accomplishes this in a reasonable fashion.

The conference agreement would impose a 50 percent capital gains tax cut for individuals and a 25 percent reduction for corporations retroactive to January 1, 1995. There is a misperception that a capital gains tax is important only to rich people, but actually most capital gains deductions are taken by middle class families. In 1993, the last year for which we have data, 60 percent of the tax returns claiming capital gains had adjusted gross incomes below $50,000, and 77 percent had adjusted gross incomes of below $75,000.

Many in western Wisconsin will benefit from the reduction in the capital gains taxes. Most important among these is the retiring farmer that wants to sell his farm and rely on the proceeds for retirement income. At the present time, he must pay a 38 percent tax. Homeowners and small businesses—the businesses that create the most jobs—will also benefit from this middle-class initiative.

The package before us will also benefit western Wisconsin because it includes expanded individual retirement account to spur savings. People would be able to contribute taxable amounts to the account, and then after 5 years would be able to withdraw money tax-free for certain purchases, including first-time home, long-term care expenses, post-secondary education needs, and retirement income. This account is pro-savings, pro-investment and pro-growth.

The package also includes a tax credit of $500 per child under 18 years for all individuals with income below $75,000 a year and all people filing joint returns with incomes below $110,000. Although uneasy with the House-passed version which allowed tax cuts for families with incomes of up to $200,000, I find the reduced income limit is much more acceptable.

REFORM OF FEDERAL DAIRY PROGRAM

What is most troubling about the package brought to us today is that it is devoid of any reform whatsoever in Federal dairy programs. The Congressional Budget Office has consistently estimated that artificial incentives to produce fluid milk in Federal milk marketing orders, the so-called class I differentials, cost taxpayers over $100 million in additional spending on the dairy price support program and the Dairy Export Incentive Program [DEIP] annually.

Obviously, class I differentials which are set by statute without regard to class I utilization also increase the cost of milk in grocery stores to consumers and the cost of the Federal WIC and special milk programs by millions of dollars annually. Their only purpose today is to provide additional revenue to dairy producers in a couple of areas of the country at the expense of producers in other areas as well as taxpayers and consumers around the country.

Simply stated, there is no single Federal program more in need of substantial reform than Federal milk marketing orders. Even the most ardent advocates of the order system acknowledge that fact. That's why our country and our constituents cannot afford to let a small minority of Members forestall these reforms when the time comes to put a second balanced budget package together.

In sum, today we are one step closer to our central goal of balancing the budget. A balanced budget will ensure sustained growth for the future, more opportunity for education, job growth and a better competitive position in the world market. I look forward to the day when we can say that we took the high road toward fiscal responsibility and put our national fiscal house in order.

The SPEAKER pro tempore (Mr. BOEHNER). Pursuant to House Resolution 272, the previous question is ordered on the conference report.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to House Resolution 245, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 237, nays 189, not voting 7, as follows:

[Roll No. 812]

YEAS—237

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo

Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—189

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—7

Brewster
Collins (IL)
Fields (LA)
Harman
McDermott
Neumann
Tucker

□ 1528

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1530

GENERAL LEAVE

Mr. KASICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the conference report on H.R. 2491, just considered.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Ohio?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 440) "An Act to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.".

PROVIDING FOR CONSIDERATION OF H.R. 2606, PROHIBITION ON FUNDS FOR BOSNIA DEPLOYMENT

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 273 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 273

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2606) to prohibit the use of funds appropriated to the Department of Defense from being used for the deployment on the ground of United States Armed Forces in the Republic of Bosnia and Herzegovina as part of any peacekeeping operation, or as part of any implementation force, unless funds for such deployment are specifically appropriated by law. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, which shall be equally divided and controlled by the chairman and ranking minority member of the Committee on National Security; (2) one motion to amend by the minority leader or his designee, which shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit, which may include instructions only if offered by the minority leader or his designee.

SEC. 2. Notwithstanding any other provision of this resolution, if the minority leader or his designee announces that an amendment will not be offered, there shall be an additional period of one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on National Security.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the distinguished gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for debate purposes only.

Mr. Speaker, House Resolution 273 is a modified closed rule providing for consideration of the bill H.R. 2606, a bill prohibiting the use of funds to deploy United States ground troops in Bosnia and Herzegovina unless specifically appropriated by law.

The rule provides for consideration of the bill in the House, instead of the Committee of the Whole, without intervening point of order. The previous question is considered as ordered on the passage of the bill without intervening motion except as follows:

First, 1 hour of debate is provided, equally divided and controlled by the chairman and ranking minority member of the Committee on National Security.

Second, one minority substitute is allowed if offered by the minority leader or his designee—debatable for 1 hour; and

Third, one motion to recommit is permitted which, if containing instructions, may only be offered by the minority leader or his designee.

Finally, the rule provides that if the minority substitute is not offered, there shall be an additional hour of debate on the bill, equally divided between the chairman and ranking minority member of the National Security Committee.

Mr. Speaker, let me conclude this procedural discussion of the rule by thanking the ranking minority member, Mr. MOAKLEY, for suggesting the option of an additional hour of debate if the minority chooses not to offer a substitute.

I thought, as did my majority committee colleagues, that this was an excellent idea because it will allow this House to have the kind of serious debate that this issue deserves, regardless of whether there is any alternative proposal from the minority side.

Moreover, I would point out that the right of the minority to offer a further amendment in the motion to recommit with instructions is still preserved by this rule. That would be debatable for the usual 10 minutes.

On the bill itself, Mr. Speaker, I would like to express my complete support for Mr. HEFLEY's responsible attempt to induce the President of the United States to consult Congress before he sends American ground troops into Bosnia.

Let me be clear: this legislation does not bar the President from sending troops to Bosnia. What it does is assert the constitutional prerogative of the Congress when it comes to the power of the purse.

This legislation requires the President to come to Congress, make his case for the mission, and gain favorable approval of the appropriation of funds for the mission.

Mr. Speaker, this is not only constitutional, but it is wise policy.

We need more debate here in Congress on the vital issue of Bosnia, because once again, (as has been the case several times since this administration took over) we stand on the verge of putting our young men and women in harm's way in a civil war where America has no vital national interest.

Mr. Speaker, American soldiers should only be deployed to zones of conflict when and if vital American national interests are at stake.

Mr. Speaker, American foreign policy has always been to come to the defense of sovereign democratic allies that came under external military attack. Bosnia does not meet this test.

Despite instigation and support from Serbia & Russia, the Bosnian tragedy is essentially a civil conflict.

And Members of this House, we should not get directly involved in a civil conflict—especially one that is so complicated and ancient as the one in Bosnia—and which occurs in a place where America has no vital interests such as oil supply lines or shipping lanes.

As heart-wrenching as this tragedy has been, and as despicable as the Serb aggression and tactics have been, this conflict does not justify the loss of American lives, not even one.

It is certainly not something I can justify to my constituents, who have sons and daughters that may not come home.

Mr. Speaker, the answer to this conflict today, is the same as it has always been: to lift the arms embargo, and let the Bosnian victims defend themselves against the Serb aggression.

The problem since 1991 has been a military imbalance of power in favor of the Serbs.

Mr. Speaker, the arms embargo froze the balance in favor of the aggressor.

This was a strategic and moral blunder.

Only when the Serbs are confronted by an equally capable armed force will they negotiate in good faith. Then, the Bosnians, Serbs, and Croatians will work out their own deal.

And in fact, both the Bosnians and the Croatians have proved of late that this is the correct strategy.

Both Bosnia and Croatia have recently scored impressive gains on the ground, made possible by weapons they have received through holes in the embargo, when we looked the other way, proving that they can take care of themselves, if we let them.

But what does the President want to do? Rather than following this scenario to its logical conclusion, and enabling the Bosnians to score even more gains, this administration now seeks to rein in the Bosnians, lock in the current status quo, which still favors the Serbs, and send young Americans to enforce an unjust and inherently unstable "peace."

And American men and women will be in the middle of this hornet's nest, courtesy of the Clinton administration.

Mr. Speaker, peace could be near in Bosnia. The Bosnians, with a little outside support in the form of lifting the embargo, could be a match for the Serbs, whose strength has been massively overestimated.

Let us allow the Bosnian people to do the job that they want to do and can do better than we can.

There is a lot at stake here. If we intervene in this kind of affair, what will stop us from doing it again in places like Chechnya, in places like even Northern Ireland?

Ladies and gentlemen, American foreign policy, I will repeat one more time, has always been to encourage, support and defend our democratic treaty allies around this world against outside military aggression. That is what we need to continue to do and not get into this business of Nation building and country building. We have no business risking American lives doing that.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of November 17, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	54	65
Modified Closed[3]	49	47	20	24
Closed[4]	9	9	9	11
Total	104	100	83	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of November 16, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		HJ. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of November 16, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	0	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	0	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	0	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	0	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	0	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	0	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	0	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	0	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	0	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	0	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	0	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	0	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	0	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	0	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	0	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	0	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	0	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	0	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	0	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	0	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	0	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	0	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	0	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	0	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	0	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	0	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	0	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	0	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	0	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	0	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	0	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	0	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 272 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 273 is a modified closed rule which will allow consideration of H.R. 2606, a bill to prohibit funds appropriated to the Department of Defense from being used to deploy United States ground forces in Bosnia and Herzegovina for peacekeeping operations.

As my colleague from New York, the chairman of the Rules Committee, Mr. SOLOMON, described, this rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on National Security.

Under this modified closed rule, the minority leader or his designee may offer one motion to amend, debatable for 1 hour.

Mr. Speaker, this is more than a vote on sending troops overseas. It is a vote on whether this Nation stands behind a peace process that has a chance to stop the terrible war in Bosnia which has raged for 4 years.

Now is not the time to take up this issue. As we speak, the leaders of Croatia, Bosnia, and Serbia are engaged in peace talks at Wright-Patterson Air Force Base outside Dayton, OH. These talks, under the sponsorship of the U.S. Government, are the best and last chance for peace in the Balkans.

This bill, coming at this time, will seriously undermine the peace negotiations in Dayton and could lead to renewed bloodshed in Bosnia.

Securing peace in Bosnia is in the national interest. The conflict in this region represents the most dangerous military threat to Europe in the last 50 years. Two world wars during this century were the result of failing to secure the peace in Europe and we must take every reasonable step to prevent this from happening again for the sake of our own national security.

Earlier this year, I traveled to Bosnia and Herzegovina and saw first hand the savage war that is tearing that region apart. I met women and children who were forced out of their homes and who were petrified that their missing fathers, husbands, and sons had ended up in some mass grave. I saw pain, suffering, and tragedy. That trip convinced me more than ever the importance of establishing peace in the region and the possibility of the United States serving as an essential link in the peace process.

It also convinced me that the United States can play a pivotal role in establishing humanitarian assistance to the people of this region as part of a negotiated peace settlement.

Nobody denies that Congress has a critical role in approving use of United States Armed Forces for peacekeeping in the Balkans. We have found from experience that a successful U.S. military action requires the approval of the American people and their representatives in Congress.

The President shares this view. In a November 13, 1995, letter to Speaker GINGRICH, the President promised that he will ask Congress for an expression of support for United States participation in a NATO-led implementation force in Bosnia promptly if and when the parties have initialed a genuine peace agreement. After initializing an agreement, he assured us and I quote:

> There will be a timely opportunity for Congress to consider and act upon my request for support before American forces are deployed in Bosnia.

During my term as a House Member, one of the great moments in this Chamber was the debate over sending U.S. troops to participate in the Gulf war. After lengthy and sincere debate, the House supported President Bush's request.

The House action came in response to a specific request by President Bush for congressional approval after the President had developed his objectives in the Gulf. Congress didn't jump the gun by forcing a vote before the President was ready.

Congress did not even take up the issue until President Bush had already deployed a half million U.S. troops to the Persian Gulf. Congress waited. Congress gave the President a chance. Congress even let the President send a half million troops, ready to fight a war, and then and only then did Congress debate the issue. We waited because we didn't want to tie the President's hands.

By contrast, President Clinton has promised Congress that he will come back to us before any troops are deployed.

We need to wait until the President has had time to reach a peace agreement. Then and only then can we carry out the kind of serious debate of which this body is capable.

I have faith in the President and his negotiating team led by Assistant Secretary Richard Holbrooke. I believe that a peace agreement can be reached. But that won't happen if Congress gets in the way too early.

Passage of this bill will hurt the peace process. If we pass this bill now, we will tie the President's hands and reduce his ability to negotiate a peace with the warring factions.

My community of Dayton, OH, has a special interest in this process. I represent a portion of Wright-Patterson Air Force Base, which is the site of the proximity talks between the Balkan leaders.

We are honored that the State Department chose our community as the site of the talks. We have a great deal of pride in hosting the talks. We would like the Dayton talks to be remembered as a pivotal moment in world peace, not a footnote to the history of warfare in this turbulent region.

Mr. Speaker, the modified closed rule sets fair conditions for debating this critical issue of war and peace. My objection is directed toward the bill and its consideration at this time.

We must vote to give peace a chance. We must not jeopardize the opportunity to end the fighting. Vote against the bill, against the suffering and tragedy in Bosnia.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. ***RULE AMENDED***.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332). cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min) If adopted, it is considered as base text; Pre-printing gets priority.	N/A
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (3⁄5 requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (3⁄5 requirement on votes raising taxes).	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A

*Contract Bills, 67% restrictive; 33% open. **All legislation, 56% restrictive; 44% open. ***Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

☐ 1545

Mr. HALL of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GOSS], an outstanding Member, who has not only served with the Central Intelligence Agency in a former career, but has also been an important Member in intelligence matters in this House.

Mr. GOSS. Mr. Speaker, I thank the distinguished chairman of the Committee on Rules from Glens Falls, NY, Mr. SOLOMON, for yielding me this time, and for his very strong leadership on this issue.

Mr. Speaker, today we have seen history made when Congress voted to balance the budget for the first time since the first year of the Nixon Presidency. However, as extraordinary as that is, H.R. 2606 is perhaps more immediately important. I say that because this legislation directly concerns the lives of 25,000 Americans, their families, and friends.

More than any other issue that has come before this Congress, the question of whether or not we send troops to Bosnia has evoked a spontaneous and heartfelt response across America and from my district in southwest Florida. The message is clear, and the message is, "Do not send our young men and women to Bosnia," and I agree strongly.

This Member has not forgotten that just over 1 year ago the administration brought us to the brink of war in Haiti, a tiny, friendly Caribbean neighbor, before cooler heads outside the administration prevailed. And while I now applaud the efforts to reach a diplomatic solution to the war in Bosnia, I wish the President had learned from his earlier disaster in Somalia and near disaster in Haiti, you cannot put troops in harm's way in a foreign country without a clear, achievable objective and a clearly defined exit strategy. It is a recipe for disaster. We certainly cannot put those lives on the line without an American chain of command in a European country whose intense internal feuds date back to before our country was even founded.

The former Secretary General of NATO, Willie Class, has not been replaced since his indictment, in part because of some clumsy diplomacy on our part, I believe.

Last night in the Committee on Rules we heard testimony further on what some would call the Michael New issue or the chain of command issue, concerning the uniform to be worn by American soldiers serving in missions overseas. I agree that this is part of our no-foreign-chain-of-command issue that needs to be debated and needs attention, but I do not think today is the day for it.

Mr. Speaker, we have a good rule before us, it is fair. We have a mightily important subject before us, and I urge support for the rule and support for the very important bill behind it.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I have serious doubts, and many of us have serious doubts, about sending troops to Bosnia. But I do not want to do anything to get in the way of peace. And this bill would certainly do just that.

After years of conflict and atrocities, it is hard to see how the parties to the Bosnian war find the ground for an enforceable peace. Any agreement coming out of the Dayton talks will require careful scrutiny and debate before we make the decision about sending troops.

But this is not the day for that debate or decision. We will have that day, if and when there is an agreement. The President has made it clear there will be a vote.

The President deserves a chance now to move ahead on the road toward peace. This proposal is nothing but a transparent effort to embarrass the President in that effort and to make political points, while putting the peace talks at grave risk.

Defeat the rule, defeat the bill.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from San Diego, CA [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, there are almost as many African-Americans murdered on the streets of the United States as are being killed in Bosnia today. That does not make it less of a problem. But I would ask and the real question is, Would it be more harmful for this body to vote today or tomorrow?

I contend that it would be much worse. Do I want this President to be President? Absolutely not. But I think it would be more harmful for this country and for the President if we waited. If we vote today, I would tell my friend that it would send a message to Ohio that the agreement should not include Americans troops. It does not mean that they cannot still have an agreement. But if we wait until after, or if an agreement is signed, then can you imagine how it would embarrass the President and the leadership prestige of this country?

I think it would be devastating, and I do not think most Members of this House would be willing to do that. We would have to do. that. Why? It would cost, and it has been given in testimony, over $3 billion for 1 year. We just talked on this floor about a balanced budget, Mr. Speaker. We would, and General McKenzie and General Boyd, who are in charge of forces over there, said we will lose troops.

I take a look at what our history has been. Look at Somalia, look at Haiti. Those are small areas. This area since 600 years ago in the time of Yugo, and then look at World War II, when the Chetniks were controlled by Maholovich and the partisan with Tito and the Ustasa with Nazi Germany.

This is a question about nationalism, and if you take a look, since the beginning of this time, Belgrade had all the cards. That has changed a little bit, in the fact that most of the fundamentalist Moslem groups like Iran and Pakistan, and so forth, have been funneling arms into that portion of the world. That allowed them to execute the latest offensive. Belgrade knows it is going to get a bloody nose if it engages. It would bring them closer to the peace table.

I ask for the vote today, Mr. Speaker. I think it is very important for this country and the lives of our men and women.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I am going to vote against the Hefley proposition. It is not a vote to send troops, it is a vote to let the parties in Dayton develop a peace agreement, if they can, and then we will take a look.

I voted to lift the arms embargo. I voted twice, as I remember, maybe it was three times. I felt, like those who voted to lift the arms embargo, deeply about what was happening there, not to send American troops, but to take steps that we could to try to help end the conflict there.

I do not understand really how people could vote for lifting the embargo and now vote for Hefley. If we had succeeded at that point and arms had been sent there, no one thought that it was likely that the Moslems would overcome and win on an unconditional basis.

We thought there would be a negotiation eventually if the Moslems could defend themselves, and if we had succeeded and there had been a negotiation, then they probably would have said to NATO, we need somebody to enforce it, and they would have said, "Look, you sent us arms. Now help us enforce it." We would not have been a neutral party then under those circumstances. We are not one now.

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So, look, my colleagues, let us give negotiations a chance and then take a look. Do not pull the rug out from under those negotiations.

We have been on this floor talking about the tragedy, the tragedy of Bosnia, and that it is. Do not make that tragedy worse.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I do not think I take a back seat to anybody in this Chamber for speaking out against the introduction of United States troops in Bosnia. I voted to lift the arms embargo. I voted for the resolution 2 weeks ago putting the President on notice that this Congress would not automatically presume to sent troops whatever the outcome of peace talks. I have written letters to the White House, and two times in the last 2 days I have talked directly to White House and State Department officials raising my objections.

But, Mr. Speaker, I oppose this resolution. I oppose it because today there are delicate negotiations in Dayton, OH, that may bring peace. To go further in this unprecedented matter pulls the rug out from under those negotiations. I am not aware of previous attempts in the history of this body to so bind a President's hands.

Furthermore, the President of the United States has pledged in writing to every Member of Congress and the Speaker of the House that before he will commit troops to Bosnia he will come to this House to seek approval. This Congress will have a chance to have its final say.

I did not vote in any way to undercut President Reagan in delicate negotiations such as this; I did not vote in any way to undercut President Bush in delicate negotiations such as this; and I will not vote to undercut President Clinton in delicate negotiations such as this.

Two weeks ago this House sent a powerful message to the President of the United States and to the warring parties negotiating saying do not presume there will be troops. We cannot get much louder than that. It was an overwhelming majority. The President of the United States has pledged that he will come to this House to seek approval before he commits troops.

Mr. Speaker, I would just urge the warring parties are doing the talking right now. That is who should be doing the talking today and not the Congress of the United States. We have enough to be talking about in the well of this House.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Speaker, the gentleman is making a good statement but it is completely off the mark. The President did not say he will come to Congress and ask for a vote.

Mr. WISE. Mr. Speaker, reclaiming my time, the President has written and said exactly that.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, we have a real opportunity for a peace settlement. These peace talks in Dayton, OH, are a major breakthrough for all of us.

I know all of us have had the opportunity to watch TV at night and see the atrocities and see the children and the families and the civilians being destroyed. So many people in my district and all over the United States have said what can we do to help; how can we help? What can we do to really make a difference? Well, we can make a difference by supporting our President and by supporting the peace policy.

We are not declaring war. We are not going through the process of what we did in World War I and World War II. What we are saying is we want peace to have an opportunity to work. I do not think that is too much for our President to ask. All he is saying to us is that let us give these peace talks an opportunity. Do not interfere with the process prematurely.

We have already voted once and we should not have voted then, and now we are having to walk the plank once again. I hope all of us, whether we be Democrat or Republican, will vote no on the Hefley amendment. It serves no useful purpose, it complicates the process, and it surely does not bring about peace in the area.

We want peace. Sure, these people have been fighting for thousands of years and maybe they want to fight that much longer, but maybe not. I think a lot of the leaders that are meeting in Dayton, OH, have realized maybe we have gone too far, maybe we have seen too much, maybe this is an opportunity for peace once and for all. So when we vote in just a little while, I hope we will all consider all those factors before we vote for the Hefley amendment.

Give the peace process a chance because the President has already said we will have another opportunity to participate and vote once and for all.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER], a member of the Committee on International Relations, someone who has served on the Committee on National Security for many years, and who is one of the most knowledgeable Members of this House.

Mr. ROHRABACHER. Mr. Speaker, the Bosnians are not asking for the deployment of American troops. They never have asked for the deployment of American troops. The Croatians are not asking for the deployment of American troops. They have never asked for if deployment of American troops. Whose nutty idea is this to send 25,000 Americans into a meat grinder down in the Balkans? It is the same global strategists who formulated our failed policy that has turned the Balkans problem into a holocaust of historic signifiance and a nightmare to the people of Bosnia. Their policy was an arms embargo which left the victims totally at the mercy of a heavily armed aggressor.

This body voted, and we have spoken time and again and pleaded to lift the arms embargo because it does nothing but hurt the victim. Those people that turned down our request, turned a blind ear to our cries as well as the cries for help in Bosnia, are now telling us we are going to send 25,000 Americans there. That is our only option. Baloney. And we should not let it happen. It is a sin against our own people and it is not even what the Bosnians and the Croatians want.

Do not tell me give peace a chance. We are playing a game, a cruel game with those people in Dayton if we are letting them move forward on their negotiations based on the idea that 25,000 American young people are going to be deployed there. We should make it clear right now to those people that they should negotiate, they should do whatever they can to bring peace, but in an atmosphere of reality.

What if somebody was telling us that the peace plan depends on $250,000 grants to each and every citizen of the Balkans from the people of the United States? Would we be pulling the rug out from under peace negotaitions by saying we are not going to give those grants? Well, we are not going to give those grants and we are not sending those young people there. And we are the ones for reality and peace in the world.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, those in this chamber who claim that there can be no peace in the Balkans have clearly been in isolation over the last year and a half. At the White House Yasser Arafat and Yitzhak Rabin shook hands over a chasm that lasted for 5,000 years, speaking of peace and having the courage to take a step forward.

It takes some courage here today as well, because, yes, there is a risk out there, Mr. Speaker. Casualties are very tough, tough on the families, tough on the politics of America. None of us want to take that risk. On our side we have always been resistant to the use of force. But to take this action today is an outrage. It is not about the politics of the Presidency, it is not about whether this President succeeds or not, it is about what happens in the Balkans.

Now, for a moment there is not a lot of fighting going on there. Some of the graves of children are now being uncovered. Let me tell my colleagues what happened to my family as the world debated about whether this was a regional problem or an international problem. This is the story of my father's village in World War II. This paragraph was written by a Nazi, not by some pacifist sympathizer or those who were victims.

> Early the next morning we suddenly heard the ghetto was surrounded by the SS. The Jews were herded together, forced out of the ghetto into an open area. There they had to take off their shoes, their coats and their jackets. They began to weep loudly. A boy of 14 tried to run away but was shot immediately. In response, a Jewish man became extremely angry and rebuked the SS. However, he was brutally beaten on the spot so that he had to be transported in a vehicle. The men of the village were forced to dig a large hole. Everyone, children and women, young and old, had to lie face down. Among these miserable creatures there was a woman who had only the day before given birth to a child. That woman was the first who had to stand up and go to her grave and the grave of all. I saw how this woman tottered and reeled, clutching her almost naked infant and crying bitterly, asking for her life. She was pushed brutally into a hole and then shot.

For one moment, the killing has stopped. To give the President and the peace process the patience of several weeks is not too much to ask. To end this brutality that has killed children and women is not too much to ask. Give this peace process some time. The solution is not to rearm people and start the fighting on an even keel so more children and more women will die.

This is a simple request. The President has assured the Speaker he will give him a vote before he asks Americans to risk their lives. Have the courage to give him some time, I would say to the gentleman from New York [Mr. SOLOMON], have the courage to give this President time to achieve peace.

Mr. Speaker, I include the document I quoted from for the RECORD.

CHAPTER 9—SMALL HILLS COVERED WITH TREES

Rudolf answers my ad in the local newspaper: "Children whose parents witnessed or took part in the persecution or extermination of Jews and/or Gypsies and who are willing to participate in a research project by an Israeli psychologist at the local university, please . . ." He calls and says he will speak only to the Israeli interviewer. We set up a time for the interview, and I agree to meet him at the bus station.

Compared to the interviewees I seek out, about whose parents, and their role during the war, I have detailed information, the ad respondents are a mystery to me until they tell their stories. I usually reach the meeting place a few minutes ahead of time in order to see the person arriving—how he approaches the station, what he looks like, if he seems troubled or at ease, if his expression changes when he recognizes me. But Rudolf is already waiting, glancing impatiently at his watch (although I am not late). He is tall and looks like a manager in some local firm. A strong handshake. I can sense his excitement. He starts talking immediately, but I steer him into small talk because I want to reach my office, where the tape recorder is set up. When we finally reach my room and I invite him to sit down, he pulls a yellowed sheaf of papers from his briefcase.

R: I was born April 4, 1930, in Wuppertal, the son of an unemployed textile worker. My father was out of work at the time. Before he lost his job, he was employed as a master craftsman in a textile plant. But there was a great deal of unemployment in the area, and he was laid off too.

B: Are you the only son?

R: I was the only son until 1940, when my brother was born. He's still alive. He was born on January 14, 1941, in Wuppertal. I spent those very early years more or less pleasantly until my dad found work again. He found a job later, I'm not sure exactly when. We were living in quite a primitive little house. Although he was out of a job, my father built himself a small house in a garden. He was very enterprising, but the thing about him—right up until he died he was a very pious and believing Christian. And that has accompanied me through my entire life—Christianity, being a Christian. At home we would pray—have a Bible hour and sing together. There were also others who'd come over to our place in order to read the word of God together.

I experienced National Socialism right from the start. OK, not from the very beginning, the years before 1930, but after Hitler came to power in 1933 it began to be a reality for me. For me it was something I was born into, I couldn't question it. It was something quite normal. When I'd see the soldiers marching outside, the Hitler Youth marching past, for me that was something: I wanted to march too. My mother would say to me, "Just wait, see what happens, you don't know . . ." "Mama, I'd like to be in the Hitler Youth too!" "Just wait and see first." Well, I joined the Hitler Youth in 1940. The war had already begun. I advanced through the ranks very quickly, went to a leadership school, and became a squad leader (Jungenscharführer). Later I became a platoon leader with a group of thirty boys under my command. That's one side of it. I experienced all that directly and with a feeling of joy. Now I finally had what I'd been longing for. Now I was a leader, I was able to command, although I was still just a child.

There is something very theatrical in his way of talking. I wonder if this is his usual manner or if it is due to his excitement in recalling and relating the events of the past.

B: How old were you then?

R: I was only eleven when I went to the course where young leaders were trained. I was twelve when I became a squad leader and thirteen or fourteen when I made platoon commander. In any event, something very peculiar happened at that time . . . well, not peculiar, but something that had a powerful formative influence on me. My father had found work again even before that, but he wasn't happy. He tried to find a position that was more challenging. So he went to work with the railroad. It was called the Reichsbahn then. He laid track at first, then he was a station conductor, and later on he worked with the signal box. He always felt attracted to the track gang, the guys who laid track, but he was also preaching sermons as a member of a Protestant congregation of the Free Church, a congregation that was independent but still Protestant. So he was a preacher. The railroad was his job and being a preacher his love. And his family—his children—were his pride and joy, his great love. He did a lot of Sunday school lessons with small children, taught them about the Bible. Actually he lived just for the family, for his congregation.

Naturally he had to work, and he had this enormous garden. My father was a very believing and religious person, as I said, and he was filled with a great deal of love. I felt protected in his love. Whatever my father said was right. Then the day came when my father was approached by the Nazi Party, by the National Socialist German Workers' Party. He was already a member of the NSV, the National Socialist Welfare Association. He collected money for the Party and distributed ration cards—those cards were quite common at that time. So he was already active in the NSV and was asked to join the Party. I can recall that this had been discussed once at home. I had listened and thought about it. I myself was in the Hitler Youth and my view was "Dad, you have to join the Party!" First he resisted. Then he thought that maybe it would be a good idea after all if he joined up: maybe he could advance more quickly, make headway in his profession and—just maybe—be in a position to shield his congregation. At that time, they didn't want such Christian congregations—I think it was a passing phase for National Socialism at the time. After the war they would have done away with the church congregations anyhow. I oscillated back and forth between the Hitler Youth and the congregation. I was undecided and psychologically unfulfilled. I loved the Hitler Youth more and more. Religion became more and more unimportant to me. I felt invigorated and full of life. They knew how to do that. The Hitler Youth leaders were good at animating young people, motivating and preparing them psychologically for tasks they would carry out later on. It went without question in my eyes that what the Führer said and did, that was the truth. He was almost more of a god for me than the real God . . .

B: Could you give an example of how the leaders did that?

R: We used to have evening get-togethers when all the boys would sit in a large room. The room had black wallpaper, completely black. The benches were dark red. Up front there was a picture on the wall, not of the Führer but of a famous Germanic king, along with two lamps that shed a dim light on the picture. It was quite dark in the room. Then we were told stories about the ancient Germans, our Germanic forefathers. The Aryan race, which has the sole right to lead. We would sing songs in a minor key. It penetrated very deeply into our souls. We felt this very deeply. We believed everything, and we were very proud to be members of this Germanic race and leaders to boot. Young leaders, tribal leaders within this race, this new Germanic race. Young people who were not setting out to rule the world—they really wanted to rule the world. So for us what was predominant was what engaged our feelings. That wasn't the only thing though, not just such evening gatherings. Marching out on the street, marching like soldiers . . . we youngsters already felt like grown-up soldiers. The music that accompanied us, played by the Hitler Youth, with flags and drums through the streets—everyone had to salute our flags, and we were proud to be full members! The fact that we were children was used to prepare us for what was to come. I say for what was to come, but what was that going to be? We were as yet unable to grasp what "later on" might be. We didn't know what was really involved. Who had told us? No one spoke about it.

[Sighs] But now I have to return to the subject of my father. My father was inducted as a railroad man and sent to Russia, to Poland. To be more precise, my father was sent to Parafianovo.[1] That's between Vilna and Smolensk. He worked as—what they called during the war an adjunct work-squad leader. He had a section of track to take care of. It was between Parafianovo and Smolensk, maybe three hundred to five hundred kilometers. I can't give you a definite figure. It was his job to maintain this section of track, which was frequently attacked by partisans. They blew up the tracks so the trains would be derailed. But the most important thing, the thing that had such a formative influence on him—which is why I'm here—and on me, was an experience he told me about after he returned. He came back earlier than expected. There was a Jewish ghetto in Parafianovo. A lot of Jews had been brought together and concentrated there in one area, where they were allowed to live. These Jews also worked for the German railroad. A large number were used to help maintain the tracks. For example, there was—I just can't forget their names—there was Aaron Katz, Maria, and the cook for the men my father worked with. This cook was Jewish. I can't recall her name. I think Dolla was her first name, or people called her that. My father could go into the ghetto and speak with the Jews there.

Since he was a convinced and religious Christian, he also spoke with them about the Talmud and the Scriptures, our Holy Bible. And they saw that they both believed in a common God, except that, for the Jews, Jesus is a kind of strange chapter inserted in between. In any event, they understood that they were equal. And basically, we Germans are also a tribe of Israelites. If you assume that certain tribes developed up north and that the Germanic tribes, the so-called Germanic tribes, are a conglomerate of many peoples, they are also a tribe of Israelites. Not that this is important, it's something secondary. [Very agitated] Well, the day arrived when the ghetto was surrounded by the SS. They asked my father, "How many do you need?" And he told them, "I need all of them." "No, I need a few heads," the officer said, "they're all to be shot." So now you have this Christian, with a soft and childlike heart. He stands there and can do nothing! What should he say, "Shoot me too"? He had children and a wife of his own . . . What was he to do? [almost shouting at me] He didn't have such great courage. He couldn't resist. He was unable to save his Jews—after all, they were his brothers, he had lived with them. First, a woman was shot. She had given birth the day before. She was tossed down into the grave. [Crying] Whether they also shot the baby, he doesn't know, he didn't know that. Then he ran away and cried bitterly. And a young SS soldier ran after him and said, "I can't go on either! I've killed so many, I just can't go on!"

In any case, he was criticized after that. I could read you a letter written by my father to make things clearer, a letter he wrote right after the end of the war. He became very ill and was released from service too, following this experience. He wrote the letter only after the war because he was afraid to put anything at all down in writing during the war, during the National Socialist period. Let me show you. It's an old letter, and here is also the confirmation that my father was in the east and had been given an early release.

His hands shaking, Rudolf hands me the two documents he has brought with him. He is sweating. I can see that the documents are old and have been carefully kept in a nylon bag. I can also see that they are written in an old-fashioned hand and that on one, the words Our Guilt appear at the top. I offer Rudolf a glass of water and suggest that he read the documents to me himself, since I would have difficulty with his father's handwriting. He starts with the one that carries the swastika, a former certificate of the Nazi railroad authority. Then he reads his father's letter, dated May 16, 1945.

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[1] Placenames appear in their Russian form; these are small villages in Belorussia, between Vilna and Smolensk.

OUR GUILT

Finally now, after many weeks of a serious illness that almost robbed me of my senses, I find myself able to commit to writing those things that (so soon) made me ill and have so completely shattered my nerves. I intend to narrate events one after the other in the course of writing and to present a reason for having chosen the above title.

Until 1941 I had been active for many years as the director of a Sunday school for children. Our parish served in external and internal missionary activities in China. It was my favorite task to be involved in service to children. Since I generally had a great many friends (through my work with the children), the Party believed it had found the right man for its National Socialist Welfare Program (NS-Volkswohlfahrt, NSV) activities. At the same time I was working for the National Railways (Reichsbahn) and had a very low income. On the basis of my work as block chairman of the NSV and as an employee of the Reichsbahn, I became a member of the National Socialist German Workers' Party on June 1, 1941.

I was also promised that I could retain my faith, but shortly after I became a member of the Party, I was forbidden to hold Sunday school classes. That was the first blow. I had to keep silent and put aside my favorite activity.

I was transferred to the town of Parafianovo in Poland to work as head of an auxiliary work squad on February 9, 1942. Among others, there were also some 247 Jews—men, women, and children—living in the town. The Jews were put to work at all kinds of jobs but generally lived in a closed ghetto. We Germans (four men) were assigned a Jewish cook by the name of Dolla, a sweet young girl with red hair, who was very, very clean. My fellow soldiers did not treat her with much respect, since she was, after all, Jewish. But she soon noticed that there was someone there who treated her with love, and we became friends, though no one was supposed to notice. I became sick one week, a bad cold, and Dolla called the Jewish pharmacist Belzik, who procured excellent medicines for me. My fellow soldiers began to taunt me about this friendship with a Jew, and even started to criticize and complain. When I regained my health, I visited the ghetto for the first time. Visiting the ghetto was forbidden and a punishable offense. Due to my illness, I was allowed to go to the pharmacy that was located in the ghetto.

So I visited the pharmacist in the ghetto for the first time, and I was pleased to meet several wonderful human beings: the Jewish women Maria (Mr. Belzik's daughter), Rita (a teacher), and Lilli (a piano teacher), as well as the Aaron K. family. These people proceeded to tell me all their cares and worries. I was confronted with one tale of woe after another. These Jews, whether young or old, were each given a ration of three hundred grams of bread week after week, this and nothing else, month after month. The great misery among these poor people now became evident to me. I then tried in every possible way to help them, and since I knew that they were God's own people, I began to beseech him and to help where I could.

I was very happy when we were joined by a new fellow soldier who shared my view, Mr. S. from Munich, who faithfully pitched in, helping these poor people wherever help was needed. We had to go about it very cautiously and could only pay visits to people late in the evening, though each time, the Jews were overjoyed when we came. I noticed, however, that their troubles were growing from day to day, because everywhere there was talk about Jews being shot. Their questions became ever more pressing and urgent: What will become of us? I tried then to explain to them that the living Lord would not abandon them, and at home, in my room, I myself engaged in a fervent struggle with God and asked him for help. Yes, in my distress I said, "Lord, I will serve you faithfully forever, but please let these people live." As a result of this terrible distress and misery, our relationship became very, very close. It went so far that we even knelt down together to ask our Father for strength in all these matters. One evening, when I was visiting them again and we were all sitting together, I quietly sang the song "Gutten Abend, gut, Nacht" [Brahms's Lullaby], accompanied on the guitar. When we came to the words "Tomorrow, God willing, you'll be awakened once again . . .," Rita broke out in sobs and said, "I feel so strange." The rest of what she said was lost in sobbing. That was the last night of her young life.

Rudolf is crying and searches desperately for his handkerchief while continuing to read.

Early the next morning, we suddenly heard that the ghetto was surrounded by the SS. The Jews were herded together and forced out of the ghetto into an open area. There they had to take off their shoes, coats, and jackets, and they began to weep loudly. A boy of about fourteen tried to run away but was shot immediately. In response, a Jewish man became extremely angry and began to rebuke the SS; however, he was brutally beaten on the spot, so that he had to be transported in a vehicle. The men of the village were forced to dig a large hole, and everyone—children and women, young and old—had to lie down face to the ground. Among these miserable creatures there was a woman who only the day before had given birth to a child. That woman was the first who had to stand up and go to her grave (and the grave of all). I saw how this woman tottered and reeled, clutching her almost naked infant and crying bitterly, asking for her life. She was pushed brutally into the hole and then shot.

Rudolf is unable to go on reading and sobs heavily. I am stunned, distressed, and wait until he regains enough control over his tears to continue.

I went as fast as I could to my room, heard shots again and again, and collapsed at the foot of my bed. Now I lost everything. I had followed the Lord faithfully for twenty-eight years, and now this horrible thing occurred. I had believed right to the last hour that the Lord would preserve these people as a result of my prayer, but then I cursed God and all men.

Rudolf stops again, bursting into tears.

I wanted total oblivion (ich wollte von nichts mehr wissen). Apparently abandoned by God and all of humankind, I carried out my duties in total apathy and hardly knew in subsequent days what was happening.

My fellow soldiers—except for S.—called me a coward and a "lover of Jews." Jews were being shot everywhere, in Glubokoe, Dokshitsy, Vileika, Budslav, and Krulevshchyzna. I had one small consolation when I came to Dokshitsy ten or twelve days later and met the captain. His first question was, "Where is Maria?" (Maria was the pharmacist's daughter in Parafianovo, liked everywhere as a result of her universally respected love for human beings.) I said, "Maria is dead." The captain began to cry. He grabbed my hand and said, "It's a rotten shame!" (Schweinerei). I didn't see him again after that, but I knew that his heart was also bleeding with grief. Eighteen hundred Jews had been shot in this village. There was great commotion and shouting. I ran over to see what was happening, and to my horror I saw Jews emerging from subterranean caves, some eighty to a hundred people, a terrible picture of misery and suffering. They were crying for water, emaciated, their faces white as chalk. Hardly able to utter a sentence, they dropped to their knees and begged for their lives. Without receiving anything, they were pushed and herded into a barn. I watched as a girl about the age of ten, who had hidden herself in a hay shed and was now almost completely emaciated, was carried past me. This poor girl looked more like a pile of bones than a human being, and this bundle of misery and agony, it too was carried into the barn. As long as I live, come what may, I will never forget this horrible sight. I can't help myself. It was just too horrible and made me sick for the rest of my life. I just can't comprehend how human beings can be such beasts. These images haunted me day and night.

After a few weeks I was sent to a field hospital in Vileika because of hypertension. But then I collapsed completely, since I was not allowed to tell anyone of my suffering. And this suffering became even more intense when I realized that I was a member of such a band of murderers and criminals, a band that would not have spared my life if I had objected. So I got sicker and sicker and was sent to Vilna. There, for the first time, I had fainting spells and mental disturbances. They didn't know the cause, and they asked me all kinds of questions, but I didn't tell them a thing, since I couldn't trust anyone, including the doctors. After that I was released and sent home to Germany accompanied by a soldier. Back home my condition got worse, to the point that I could hardly walk without someone to accompany me, since I was suffering from the enormous weight of the events I had experienced. After some time, I was reproached by the local section of the Party for not having (as they saw it) a National Socialist outlook on things. My general outlook was more religious in orientation than anything else. When I subsequently wanted to talk about my experiences, I had to be so careful and cautious (pretending as if I thought this and not that) that I became very sick and Dr. D. considered it advisable for me to be placed in an institution. I was afraid they were going to get rid of me there. Shortly after this, I had to enter City Hospital for observation. It was there that I revealed all my suffering to Dr. L. and explained everything to him. Dr. L. did not belong to the Party. He understood me completely and advised me to try to forget things—something that was, and is, impossible.

On April 14, 1945, I was suddenly approached by a man in the street, who came up to me and said, "We know who you are. You've been undermining the work of the Party now for some time. You're a dirty saboteur and that's going to cost you your life!" I did't know what was happening. What had I done? I took a few steps and must have collapsed on the spot. Witnesses say I was going on about "common murderers, brown bandits, and shootings of Jews." People thought I was insane. I remained in this condition for several days. I had, in any case, been sick and unable to work since December 17, 1944, but now I was completely finished. Dr. G. and Dr. S. were at my bedside. When I regained my senses a bit, I asked myself, "What have I done!"

I had confided in several families and told them about this crime in Russia. Whether they remained silent I don't know. In addition, I had also not given away the presence of a man who had been living away from his unit for a year and a half, about whom I was often questioned. I covered for him whenever I could. I couldn't allow him—someone who quite early on had seen through all the lies—to fall into the hands of that pack, who wanted to build a so-called "workers' paradise" on the blood and bones of the dead.

I can't understand that there are those who wish to kill me because of this, since anyone who has a fairly just view of things must admit that if we had won the war, then there couldn't be a just God in heaven, one who could give his blessing to such bloody deeds.

On May 3 or 4 when he visited me I told Dr. S. about everything, particularly about Russia. And I can say that he cried bitterly and was ashamed of his * * * [document illegible]. When I asked him, "Can God * * *" [document illegible], he replied resolutely and with determination: "Never!"

I doubted God in Parafianovo, but ask him today for forgiveness. He was not on the side of those who perpetrated such injustices, and he expiated those bloody deeds.

R: So that is the end of the letter. That was the experience. And let me tell you that this man suffered right up until the end, until he died, and if you want to know when that was, I can tell you. He's been dead now some eight years. He wasn't able * * * and was given early retirement. He was a bit absentminded. But you must understand: the thing that shaped and molded me, what influenced me, was that I was unable to comprehend what my father was talking about. I had been so fanatic about this idea of National Socialism * * * But when he returned from Poland and told me these things—I was able to understand various things by this time—I was unable to go on believing in it. A cause I was ready to sacrifice my life for—these people had done such a thing? First I accused him of being a deserter! I did not believe his story, I could not believe it. [Agitated] So then I was bothered by doubts. What should I do? I was a leader in the Hitler Youth, but what should I do? I lived in a constant state of inner tension. I didn't know what I should do. Though I must say that in the course of time, that feeling disappeared, it dissipated. My father spoke less and less about it, he withdrew more and more into himself. More and more, the only person he spoke to was my mother. He turned away from me, because I was unwilling to take off that uniform. He turned away from me, and I could see that he was extremely ill, seriously so, because of it. Yet I couldn't follow in his direction. But then there was an experience that actually opened up once again the wound he caused in me by what he'd said.

B: What was that?

R: Well, it was in '43 or '44 I think. They showed the movie Jud Süss. It was a film against the Jews, but I didn't recognize it as an inflammatory film. For me it was a simple fact: that's how Jews are. The film portrayed them as the dregs of humanity. So there was this contradiction in my mind. There was "Jud Süss," this carefully polished character in this horror film—that's the expression you could use today—which destroyed young people spiritually and prepared them to * * * something they could never vindicate: to pass judgment on a people I had never experienced directly or seen. [Gets up and walks around restlessly] OK, I had seen some Jews with yellow stars. For me they were just people wearing a yellow star—the Poles had a P and the Ukrainians a U—for me these were second-class people. And I used to hear remarks, during those years you could hear again and again shouts of "Jew!" "Lousy Jew!" "Criminals!" "Vultures!" "Bloodsuckers!" Or "The Jews are responsible for the war!" The Jews were guilty of everything. There was nothing the Jews weren't responsible for. Then this film Jud Süss was made.

I forgot one thing: Kristallnacht in 1938. I hadn't been a witness to that. I didn't see what happened, I only heard about it. I heard them talking about a shoe store, a Jewish shoe store—I think it was called Rosenthal's—and that it had been smashed and shoes were lying all over the street. They carried out a child wrapped in a lamp shade. Everything was gone, the Jews were gone. But those events occurred on the periphery of things as far as I was concerned. At that time, for me the Jew was someone so small and inconsequential * * * They weren't an independent people, didn't have an independent state. Jews were nothing, just nothing.

Once my father came to me and said, "Rudolf, Rudolf, listen." He noticed that we were drifting farther and farther apart. I was also aware that we were growing more and more distant. Then he said, "Rudolf, we have to sit down and have a serious talk." That was during the war, but at times he had very clear, sane moments (lichte Momente). "We've talked so often about the Bible. You've read the Bible yourself, and I've read both the Old and New Testaments. You know that the Jewish people are in fact a people in their own right, God's chosen people. It is so and will remain that way. You can't, we can't deny that. No matter how many Christians curse them, the Jews are the chosen people. The Jew is the hand on the clock of history: whatever happens to him, from that you can read the course of history and time. Just remember one thing: if you lift a finger against the Jews, you can cut off that finger because you are going to lose it! Never attack a Jew. Be careful, cautious, and have respect for the Jews." Then he told me a few more things from Jewish history, from the Old Testament. After that I was filled with a sense of fear. He said to me, "Do you believe in Jesus?" I said, "Yes, Dad, I do believe in Jesus Christ." "But you know who he was, don't you?" and I said, "Yes, he was a Jew, right?" "OK, so do you believe in Jews now?" and I said, "Yes, Dad, I do. I'm sorry." And then I started to cry. I cried a lot. I was so sorry that I had been so blinded by this idea, that I had been led astray, led astray again and again. But even what my father said to me—said to me in tears, and I noticed that he was sick—even what he said to me, I didn't believe, so profound was the influence of the National Socialists, of their propaganda.

A long pause. Rudolf sits down and wipes his forehead with a handkerchief.

And then I was apprenticed in 1944, I got an apprenticeship in the railroad, the Reichsbahn. I wanted to be a locomotive engineer and in '44, I was sent as an apprentice to a plant where locomotives were rapaired. This plant had its own fire brigade, since such plants were often attacked and bombed during the war. Now because I was the only one who had been in a leadership position in the youth movement—I was the only Hitler Youth leader among the sixty apprenticed trainees—I was given the job of getting them to assemble in formation in the early morning; I had leadership status once again. I also had to join the fire brigade at the same time and went out with this brigade a few times after heavy air raids.

I was involved during the last big raid—it was the end of '44 or the beginning of '45, I can't remember. There was a raid and we were called out to see what we could save. The buildings were on fire. And then I saw something. As a young man, I was a runner, a messenger—we didn't have any radio equipment. I had to supervise the inspection of hoses, make sure the hoses were laid properly and weren't leaking. And I noticed that under a hose lying on top of some debris, there was something dark red, shining there underneath. I said, "Mr. B."—he was the chief at the time—"Mr. B., there's something over there!" He had the debris cleared away and I could see a woman lying there. She had run downstairs and out the front door, and a bomb had exploded right in front of her. Shrapnel and a lot of debris went flying, and this woman was killed. They lifted her out, and then I felt sick; her lower body was ripped open, and everything inside came tumbling out. Now I had seen a great many dead people those months, but this was the worst thing I'd witnessed. I started to feel sick, and Mr. B. said to me, "OK, go on home." Well, that was the end of my activity in the fire brigade. That was shortly before the end of the war. What I did after that was . . . But I was no longer filled with such conviction. Now I understood what my father had told me at the end: you can't justify and accept it.

During the last half hour, Rudolf has been very agitiated, and I actually start to worry. But he wants to go on, as if a hidden volcano has finally erupted.

R: Though I must admit that I felt split and divided. After the Americans marched in, people said, "Now the Hitler Youth is finished." I felt a certain sadness, not because of the fact that the Hitler Youth was done for, but because I was no longer able to meet all my friends. That camaraderie was something I missed.

Those were actually the main experiences. I wanted to tell you that, well, that a family can be destroyed during a war by these things. My father passed away, but before he died, he lived in a kind of twilight, a constant twilight, psychological and mental. He would only work with clay. He used to have this clay brought in and . . . Now I want to mention something that once again concerns those two religions, where you can see the schizophrenia . . . He had a board, and on this board he fashioned and shaped mountains and small hills covered with trees. Down below, at the foot, he made a crèche with Jesus lying there inside, and there was a path that led up to a synagogue above. So he wanted to make this connection (in his unconscious) between Christianity and the Jews. He was unable to cope with the notion that a Christian had been able to do such things against a Jew. In his state of mental twilight, he wanted to restore this connection. And he died with that. He didn't die as a Christian or as a Jew: He was something in between.

In front of me I see the son of an exceptional father, the only person I've heard of who lost his mind because he could not go on living a normal life after he witnessed the massacre of Jews. I hug Rudolf and thank him for talking with me. As we walk out, he says that he has never told anyone about it before, but when he was the ad in the newspaper, he knew the time had come to bring his father's letter out into the open, to tell his father's story—which is now his own.

We arrange to meet again a few days later. Rudolf arrives with two heavy folders in which he has carefully collected the songs from his days in the Hitler Youth. He looks more relaxed, ready to go on.

R: I had certain other experiences in the Hitler Youth that were especially memorable and important for me—for example, when I was promoted. Those were moments when my soul was lifted up again. They'd make a campfire in the evening, although it was prohibited on account of the air raids, but they would let us know: OK, no enemy aircraft in sight. Promotions were usually announced on Hitler's birthday, April 20, and on November 9.[2] It was all done in a very military atmosphere, with torches and songs . . . [Singing] "Holy Fatherland in danger, your sons gather in around you . . ." And this was sung in a minor key, which makes you feel a bit melancholy, and it would rouse our spirits. Then they would announce the promotion: Comrade so-and-so is now promoted to the rank of squad leader, effective as of such-and-such a date. They would pin on the special ribbon, and you'd go home through the streets swelling with pride. You already felt like a young representative of National Socialism.

Later on—I have to say, not at that time but later on—I had this thought: What would have happened if my generation had been sent to carry out these murderous acts? OK, people were killed during air raids, but we never killed, we didn't get that far, thank God. But just imagine, what if this generation, which had been psychologically trained and geared up for it, what if this generation had been let loose on mankind? Then what occurred with the Jews, why it would pale in comparison—it would have been nothing. So that's what I have to tell you: we would have been worse. We could have done it without any doubts whatsoever. [Agitated] We were trained to hate from a very early age.

B: Did you have any friends at school who were Jewish, or were there any Jews in your school?

R: No, no, none. Wait a second, there was one: she was half-Jewish. I started school in 1936, and there was a girl—we didn't know this at first—who was half-Jewish. She told me after the war that they had—I was no longer at that school then—that the other children had stripped her naked in the street, because they heard she was half-Jewish. Even young children had been indoctrinated to the point where they could pull the clothes off a classmate and shout, "Jew! Jew! Jew!" She told me this after the war. She still lives here. She's married to an Englishman. She said she wouldn't want to marry a German.

And there was something here in town, not very long ago, at the zoo. I don't know whether you heard about it. There's a large hall at the zoo where meetings are held, and it was hired out by the police. The police had a celebration there, and a police officer, who was functioning as a kind of master of ceremonies, said, "What do you answer to 'Sieg'?" And a few young men shouted, "'Heil'!" That was the salute the Nazis used to use. The policeman really didn't mean any harm by it, I know that. They had all been drinking a little . . . But this Jewish woman was there and she filed a complaint against the policeman. He was temporarily suspended from service, and then there was some sort of punishment. I don't know exactly how it turned out. Anyhow, it was in the paper. She was a classmate of mine. Her brother and father—or her brother and mother, one of them died before that—were murdered in the camps. Aside from that, I had no other Jewish classmates. There weren't any left. It is astonishing, but I didn't actually have any direct experience of Jews being sent to concentration camps. I didn't know about it. I only knew that Jews had to wear a yellow star—I knew that later on—a yellow star. They were marked and singled out so that you could recognize them as Jews. Though I must emphasize again and again, it was also true for the Poles, the Ukrainians . . . it wasn't anything . . .

B: After your father told you his story, did you ever discuss it with friends?

R: I wasn't able to discuss it with my friends. That would have endangered my father.

B: What happened between you and your friends after your father came back?

R: Actually, there was no break, no rupture between me and my friends. I think you have to view it in this way: the overriding, all-embracing concept was the Hitler Youth. National Socialism was a phenomenon that accompanied this organization. Only in a subconscious way was all this hammered into us: National Socialism and Adolf Hitler. Basically, in terms of our behavior, we remained young children, only that, via our subconscious, they attempted to prepare us for the later phase. After all, we were still immature, still under the age of eighteen. You couldn't get rid of our childlike character. That was something that remained.

Maybe I should tell you about one more experience. I told you that I was a trainee with the Reichsbahn, and that I was a youth leader there. I wasn't all that good as a student, and I wasn't the best among the apprentices, but I was the leader. So we young guys—you can see from this just how young we still were—we got up on a hill during recess and started throwing stones, as boys sometimes like to do, a kind of game. There were two sides, two groups, and we were throwing stones at each other. The winner was supposed to get a bottle of soda water or something. So I heaved a heavy stone and hit a boy right in the stomach. He got really angry, and he shouted, "You goddamn Nazi pig!" And that was during the war! I ran over to him and said, "What did you say?" "You goddamn Nazi pig!" Whammo, I gave him a left and right to the nose, and he dropped to the ground. Then I told him, "Just you wait. I won't forget this." I told this kid, "You watch out!" Now what comes is like the seed that has been sown in a child and begins sprouting unconsciously . . . [Stands up and walks around the room waving his arms] I threw a stone at him and hurt him, he felt pain and shouted at me, "You Nazi pig!" His father had been in a concentration camp as a Communist, and he always stressed the fact that he wasn't a Nazi. He said this spontaneously, even though the Nazis were in power. And I told him, "Just you wait, I won't forget this!" Now that tiny seed began to sprout. It was still very small. But if it had grown, I probably would have turned out to be one of those who could have killed someone for saying such a thing . . .

[Sits down again, trying to calm himself] I recall that when I was a leader in the Hitler Youth, I . . . in Germany we have people who, as you would say in slang, are "brown noses," people who want to make trouble. Well, I loved to go around dressed in my uniform. I even went to school in uniform, to work—I was very proud. And at that time Russian civilian laborers weren't allowed to drink any alcohol. Then an incident occurred that I have to tell you about. There was this Russian civilian laborer. I was out with a lot of boys, and this drunken Russian laborer came along. I asked him, "Where are you coming from?" Me, just a child. And he stammered something in his drunken stupor. I said, "Do you want to have a fight?" He said, "Yeah." So I slugged him. He smashed his face into the big window of a grocery store. There was a pointed grille covering it, and his whole face was cut and scratched. No one did anything to me, though. After all, they couldn't hit me. If anyone had done such a thing to me while I was wearing that uniform, he'd have ended up in concentration camp. Terrible, right? Anyhow, my father found out about this incident and he gave me the worst spanking I ever had. He really walloped me! It was the right punishment. But, as I said before, the small seed had started to germinate, to grow and sprout: "I won't forget that, you'll see!" "You Russian, listen, you're not worth a damn thing! I can do something to you, even though I'm much smaller, and you can't defend yourself, you can't do anything!"

Rudolf is in a kind of trance. He is staring at the ceiling, trying to bring out the memories that have plagued his conscience all these years. I listen carefully, wishing I had a camera to film this interview. The stories continue to pour forth, however disjointedly, one after another.

R: Then there was this Frenchman . . . My uncle lived between Brandenburg and Berlin, and he had a fruit farm—he made a living growing strawberries, apples, and tomatoes—and a Russian, a Pole, a Serb, a Frenchman . . . these were the people who had to work for him. Early in the morning there was the "funeral procession." That's what we called it. There was this old German soldier who could hardly stand on his legs, and he led the French POWs off to the various fruit farms. And when they would pass a farm where one of them worked, he'd leave the group and go on in. They walked very slowly, took a lot of time, this German soldier and that French POW. Once I spoke with the Frenchman, whose German was rather good. I was actually quite surprised that I didn't react differently. We were sitting together between the rows of strawberries, and he told me something about his attitude toward the German people and National Socialism. I let him talk and didn't react at all, although I was very bothered by what that Frenchman was saying. He said, "Pay attention to your own history, the history of Germany. Don't always go on carping about the Jews, the French (because the French had been our archenemies). Just take a long, sober look at your own history, without rose-colored glasses. Take your history as it really is, what really happened, and then form an opinion. How much hatred do you Germans have in yourselves? How far do you expect to go with it? How many more do you plan to exterminate in the name of this hatred?"

So, as you can see, that idea stayed with me, what he said, though I myself was deeply indoctrinated. OK, if you place all these little piles of impressions one next to the other, you can understand my reaction—the way I experienced it later on, the way I reacted to myelf. I almost felt like Judas in the Bible, that disciple who committed suicide. Yes, well, more than that I . . . I have such a modest heart, wouldn't harm a fly

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[2] November 9 marked the anniversary of the failed 1923 Munich Putsch; it was a sacred day on the National Socialist calendar.

. . . But they had swelled up my heart. They were able to deform a person's heart.

Then the war ended. If it hadn't ended, I don't know, I'm not sure I would have forgotten all that. I mean, it's especially easy to manipulate children at that age, and where you can get at the children, that's where—at least this is what I think—that's the history of the people. If you can drill the notion into their heads: you are from a tribe, a race that is especially valuable. And then you tell them something about the Germanic tribes, their loyalty, their battles, how Germanic women let themselves be hitched up to carts to fight against the Romans. You, you're a child of this race, a people that dealt the Romans a destructive blow in the year 9 A.D., all that sort of thing. Then there were the songs. I'm especially affected by songs. When they would sing those songs glorifying the deeds of the Germanic tribes, such as [singing] "The sons of the people ride on silvery stallions, born from a divine multitude, warrior of the Nordic people, they ride in silence to the far fields of the Northern lights, on secret paths they greet elves at the shore of the pounding sea." Or "Holy Fatherland, your sons crowd in around you." How does it go on? "What we swear is written in the stars, he who directs the stars will hear our voice . . . before the foreigner robs you of your crown, O Germany, we would prefer to fall side by side." Or "The flag is dearer than death." Death was nothing. The flag, the people—they were everything. You are nothing, your people everything. Yes, that's how children were brought up, that's how you can manipulate a child . . .

He is singing, talking, and crying, shifting back and forth between one memory and another.

We meet again a year later. Rudolf is willing to be interviewed on videotape: he will do it for me, for the research; for humanity. When he reads his father's letter during the filming at the studio, he cries again, and this time too, he does not seem able to find his handkerchief.

We walk out together when the taping session is over, and I thank him for coming. He tells me that his own children did not want him to come. They do not want to have anything to do with this chapter of the family's past. Their motto is "past is past." They want a life of their own. Outside the studio, we shake hands warmly, and Rudolf walks slowly away into the darkness. I suddenly realize how lonely he must be, carrying his father's letter: "Our Guilt."

Mr. SOLOMON. Mr. Speaker, I yield myself 15 seconds to say, yes, there are many tragic stories and our hearts go out to people. If we had not put the embargo there in the first place, none of this would have happened. Lift the embargo and let those people protect themselves and they will do it. That is what they want.

Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Colorado [Mr. HEFLEY], a member of the Committee on National Security, who is the sponsor of this legislation.

Mr. HEFLEY. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] and commend the President on getting these combatants together to talk about this and to try to strike a deal. That is important and that is his role. That is the role that the President of the United States should play.

But the President should not commit U.S. forces without Congress' approval, except in unusual circumstances. And what are those unusual circumstances? They are circumstances where we need secrecy, for instance. Or they are circumstances where there is an emergency. And this is neither of those. The President committed these forces 2 years ago, in an offhand manner. Committed these forces without knowing what kind of peace agreement there would be. Just offered 25,000 troops 2 years ago.

We had Ambassador Kirkpatrick before our Committee on National Security a few days ago, and let me quote from her statement on page 5. She said when asked if we should send 25,000 troops there, she said, "Not unless President Clinton makes a persuasive case for this deployment." She further went on to say, "Bill Clinton should make his case to the people and take his case to the Congress."

Now, there will be a lot of people today talking about the fact that the President said he will come to the Congress. Just moments ago, on the telephone in the Cloakroom, when I asked the President if we postpone this vote and he brings his case to the Congress, will he abide by the will of the Congress, he said, no, no, I would not give up the prerogative that I have.

I do not know that I blame him for telling me that answer, but I just want to put it in perspective that, yes, he will bring the case to the Congress, but the further along we go down the road, the more difficult it will be, if we decide to say no. We do not know we will say no. Maybe he will make a persuasive case, as the Ambassador said. Telling the President that we want and need careful consideration before we take action that will cost American lives seems intimately reasonable to me. We want answers.

Mr. Speaker, we tried the soft approach. We gave the resolution that says do not make troops a part of the agreement. The next day Secretary Christopher was saying we do not care what Congress says, we are going to do it anyway.

So this says to the President to include us in this situation before the fact and not after the fact, if he really wants the Congress and the American people behind him on this. This is an important thing. We should be a part of it up front not after the fact.

Mr. Speaker, I want to thank the gentleman from New York [Mr. SOLOMON] once again, and the Committee on Rules for this rule. This is something that I think all of us feel on both sides very passionately about, and I appreciate the amount of time that they allotted for this very important debate this afternoon.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, let me read the language of this provision. "It will prohibit the use of funds appropriated to the Department of Defense from being used for the deployment on the ground of United States forces in Bosnia as part of any peacekeeping operation, unless such funds or such deployment are specifically appropriated by law."

Do my colleagues know what this means? This means no support for the peace process. It means no money and it means no troops. But this is not a vote about troops. This is a vote that signals the end of bipartisanship in our foreign policy.

Mr. Speaker, this weekend there may be a peace agreement in Dayton, yet here we are taking a vote like this that could totally derail that effort. It is as if Begin and Sadat were at Camp David, and the weekend that they are negotiating a peace agreement, the Congress passes an initiative saying, "No matter what you do, we are not going to support you." We never did that under Presidents Reagan and Bush, yet precisely 1 day before a potential peace agreement, we are taking this action.

If I were Milosevic, Izetbegovic or Tudjman, I would say, "What gives? Is the United States behind us?"

Mr. Speaker, this is irresponsible. It is a destructive amendment. We should vote it down on a bipartisan basis.

There is a lot to be determined in these peace talks. The status of Sarajevo, the composition of the government, access to the sea for landlocked Bosnians, the width of the corridor connecting Serb-held territories, the removal of the leadership of Milosevic and Karadzic, possibly training the Bosnians, refugees, and a massive number of human rights issues.

Mr. Speaker, I am convinced that the reason we are here a few days before a peace agreement is that there are some who do not want to see the President of the United States succeed in a foreign policy initiative.

Two months ago, this policy was not working. Two months ago, this policy was not working, and the President and his negotiators came up with a plan, and this plan may work. This President is not going to commit any U.S. troop unless there is a peace agreement. Let us give him a chance to have a peace agreement. Let us wait and see what this peace agreement says.

The President, in a letter to the Speaker, has stated that he will come to the Congress for an expression of support. Why do we have to have this vote today? Why can it not be a day after, if there is such urgency for a peace agreement?

Mr. Speaker, the news out of Dayton makes this the absolutely wrong time to vote on this bill.

Reports coming out of Dayton indicate that an agreement could be reached as early as this weekend.

Congress should not undercut the administration at this sensitive stage. Within the next few days opportunities exist for progress in some of the most difficult areas of negotiation. The warring parties have indicated they will not sign a peace agreement unless they believe the United States will help implement it. If this bill passes, the negotiations could break down and this real opportunity for peace would be lost.

Congress should wait until it is asked to appropriate money before it prohibits the appropriation of money. Congress should not interfere in the peace talks at this critical juncture. The time to vote on sending troops to Bosnia is after a peace agreement has been reached.

If this bill passes, the peace talks could fail. That would be a tragic occurrence since the Dayton peace talks represent the best opportunity to achieve peace in nearly 4 years of war.

Several of you who support this bill have been critical of the administration in the past for not taking action on Bosnia. Now that it has taken decisive action, we should not tie the hands of the administration as it works to find a solution to this nightmare.

We should give the administration our support to negotiate peace. Presidential politics should never jeopardize the future of stability in Europe.

Many say that the United States does not have a vital national security interest in Bosnia. I disagree. The United States has seen the consequences of turning its back on Europe twice this century with tragic consequences for the United States. The future security of the United States depends on a NATO that continues to remain strong and unified. If the United States does not act with its NATO allies to enforce a peace in Bosnia, the NATO alliance itself is placed in jeopardy, and consequently the security of the United States.

Let me stress this most important point: The United States will not commit troops to Bosnia unless and until there is a strong commitment to peace by all the warring sides. Once a peace agreement is reached, President Clinton has said he will come to Congress to request an expression of support.

There has already been significant progress at the peace talks. The leaders of Croatia and Serbia have reached an agreement on the contentious issue of control of Eastern Slavonia. Further the Federation between Bosnian Moslems and Bosnian Croats has been implemented. Both of these occurrences are major steps along the way to a full peace.

Passage of this bill seriously undermines the ability of the administration to work with the parties involved. It says that the United States is not prepared to be a leader in the peace process or in NATO. This is the wrong time to be considering this legislation.

Mr. Speaker, I oppose this bill because it is premature and seriously undermines the ability of the President to carry out foreign policy.

Mr. Speaker, I submit the following for the RECORD:

[From the Washington Times, Nov. 17, 1995]

BOSNIA: A VOTE TOO FAR

If ever there was a need for Solomonic wisdom, it would have to be in Dayton, Ohio. Negotiations are not going smoothly, nor would one expect them to after the horrors of four years of warfare. It is doubtful that Secretary of State Warren Christopher, who is rushing back from Japan and will likely be monumentally jet-lagged, will be able to resolve the current impasse. And what will surely not make the negotiations any easier are the votes coming up in Congress today on troop deployment.

What's more, with delicate negotiations on-going, with most of official Washington in the grips of a massive migraine headache and general pique over the federal budget battle, and with relations between Capitol Hill and the White House as poisonous as can be, this is simply the wrong time and the wrong way to make decisions about the most pressing foreign policy issue of the day.

The Republicans used to know this. From Richard Nixon to Ronald Reagan, they complained bitterly about Democratic interference with the prerogatives of the president as commander in chief. Principled Republicans tried earlier this year (but failed) to repeal the unconstitutional War Powers Act. A more responsible course would have been for the Republican leadership to hold off this vote until there was actually something like a Bosnian peace plan that could be judged on its merits. There is, after all, a great deal more at stake here than one-upmanship.

Two bills will come up for vote today. The House bill, introduced by Rep. Joel Hefley, could not be more unambiguous and straightforward. It will "prohibit the use of funds appropriated to the Department of Defense from being used for the deployment on the ground of United States Armed Forces in the Republic of Bosnia and Herzegovina as part of any peacekeeping operation, unless funds for such deployment are specifically appropriated by law." No support, no money, no troops—that is what this boils down to. Chances are that this bill will pass and be promptly vetoed by the president.

The other bill will be offered in the Senate by Majority Leader Bob Dole, and will apparently take a less drastic approach. The Dole bill instead will contain a set of conditions to be met before Congress approves funding for troop deployment. At least this bill provides a way for Republicans to influence the process and the decision made in the White House.

Now, there are very good reasons to be skeptical that anything viable will come out of Dayton, no matter how much pressure is applied by Assistant Secretary of State Richard Holbrooke, a man who may himself be driven by the biggest migraine of them all. The differences over issues are daunting—the status of Sarajevo, the composition of the government, access to the sea for the landlocked Bosnians, the width of the corridor connecting Serb-held territories, the removal from leadership and prosecution of Serbian war criminals Ratko Mladic and Radovan Karadzic, etc., etc. It is by no means a foregone conclusion that the end result is something that the American Congress will want to support. Nor should President Clinton expect Congress to follow blindly in any direction he chooses to march.

Nonetheless, to vote preemptively, before there is even something to vote on, is inappropriate. The fact is that the United States, which is bigger than this administration, has committed its prestige to an effort to halt the Balkan tragedy. Abandoning that commitment in this way will have repercussions among our allies, our foes and our trading partners. The Republicans should ask themselves, is that really what they want?

Mr. SOLOMON. Mr. Speaker, I yield myself 15 seconds to say it once. No one on this side of the aisle is accusing the President of partisan politics, but we have heard now two speakers from the other side of the aisle make that claim. That does not improve this debate.

Let us keep it the way we had it during the Persian Gulf, and I would admonish the gentleman from New Mexico who happens to be a friend of mine, to let us keep it on the issue.

Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, in 1993, as a Reserve Air Force officer, I served at Aviano Air Base for a number of days on a reserve assignment. It is in northern Italy next to Bosnia and Herzegovina. It is where our military action started from against the Serbs recently.

I want to say, I rise in support of the rule and the bill. I am not an isolationist. European events can affect Americans; in fact, they already have. But, although I support logistical support for allies, there is no justification at all for thousands of U.S. ground troops to be placed on the ground in Bosnia.

There is no reason why the Europeans cannot provide themselves all of the ground troops we need, and I believe it is a mistake to let the negotiations proceed without putting the negotiators on notice about our feelings in regard in this effect. Saying that we are a superpower should not make us a superpatsy to do the Europeans' job for them.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I rise in opposition to the Hefley amendment. The most charitable thing I can say about this amendment is that it is ill-timed.

Mr. Speaker, today we are hosting the peace negotiators from the various factions in the United States. Because of diplomatic activities, and these peace negotiations, we have seen the level of violence in the former Yugoslavia decrease immensely. Now is not the time to derail that process or to take up these issues.

Now, there are significant issues to be debated prior to the commitment of American forces in the former Yugoslavia. I have visited Yugoslavia, Sarajevo, the Krajina, Macedonia. There are difficult issues we must address. The first issue is whether any agreement that is reached in Dayton is worthy of enforcement. We will not know that until the details have been hammered out and announced.

The second issue is whether or not our participation with NATO requires the commitment of American ground forces. Is there some other significant contribution we can make that will aid NATO without committing ground forces?

These are all legitimate questions. These are questions that should be debated, but now is not the time nor is this resolution the appropriate vehicle to do that.

Mr. Speaker, we have to, I think, give the negotiators a chance to reach an agreement and then consider our participation.

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, I ask the gentleman, is it better for these negotiators that we are trying to protect, and I will assume that the gentleman is absolutely sincere when he says he wants these negotiations to succeed, is it better to have them negotiating on grounds that have nothing to do with reality?

Mr. Speaker, if the American people are not willing to send 25,000 troops, does it not hurt the peace process for them to go on and on talking about an agreement predicated on that?

Mr. REED. Mr. Speaker, reclaiming my time, I think the most critical aspect of this vote today is that it would derail that process, because the interpretation of the negotiators would be not that there will be fair consideration of our involvement, but that this Congress peremptorily shut down the negotiations. I think that would be wrong.

Mr. HALL of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I agree with the Chairman of the Committee on Rules. This is not a partisan debate. In fact, the Washington Times today, which is not known as a partisan advocate of the President's position, said in an editorial today, "A vote too far." They said about this bill that is before us, "This is simply the wrong time and the wrong way to make decisions about the most pressing foreign policy issue of the day." They then went on to say, "The Republicans used to know this."

Mr. Speaker, this is a nonpartisan debate. Jeane Kirkpatrick testified before the Committee on National Security, and at page 36 of the Reuters transcript, so that all of my colleagues will not think I selectively quote, in answer to a question by the gentleman from Pennsylvania [Mr. MCHALE], Jeane Kirkpatrick, in the Reagan administration our ambassador to the United Nations, an advocate, with me, of lifting the arms embargo said this: "I guess I think that the President's initiative, or his response in this letter," referring to the November 13 letter to the Speaker, "makes it unwise for the Congress to pass a binding resolution in advance of the completion of an agreement."

In a bipartisan way, I ask my colleagues to reject this rule, so that we do not debate the substance of this, but say that this rule ought to be rejected because the timing is not now, as the Washington Times so aptly stated.

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I say in response to the gentleman from Maryland [Mr. HOYER], I was there to listen to Jeane Kirkpatrick in her testimony, and the gentleman is accurate when he quotes her as saying that it was not wise for us to move prior to a product.

She was also then went on in the testimony, and I do not know how much of it the gentleman has there, but she went on to say, "I cannot believe I am saying that." She said she could not believe she was saying that, because she knows what the end product is going to be, that this body voted overwhelmingly, 315 to 103, to say, do not use troops as the precondition. We know what the product is going to be.

Mr. Speaker, I just wanted to share that with the gentleman.

Mr. HOYER. Mr. Speaker, if the gentleman would yield, but the quote was accurate. Am I correct?

Mr. BUYER. Mr. Speaker, the quote was accurate; I just wanted to give "the rest of the story."

Mr. HOYER. Thank you, "Paul."

Mr. SOLOMON. Mr. Speaker, how did Paul Harvey get into this?

Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Ms. MOLINARI], one of the very, very distinguished Members of this body. We all greatly admire and respect her, because the gentlewoman is one of the most level-headed people that I know in this body.

Ms. MOLINARI. Mr. Speaker, I rise today in support of the rule and in support of the amendment. Up until this week, I was going to oppose it. I have always questioned ground troops used as peacekeepers in this region, but I, too, did not want to be accused of jeopardizing peace talks. These peace talks are moving in a dangerous direction and they are revealing just how tenuous this pending agreement may be.

Mr. Speaker, let me begin at the beginning. I have been to the region twice, and I do not believe this is a civil war. I believe it is, and has been, a war of terror and of land-grabbing and undocumented atrocities. I have historically advocated air strikes against the Serbian guerrillas and believe that we still have the need to end the arms embargo against the Bosnians and the Croatians. I believe we have a moral obligation to stop the Nazi-like reign of terror that has occurred to innocent victims.

But, Mr. Speaker, the question is: Does sending peacekeepers do this? Right now, today, the answer appears to be no. The peacekeepers cannot erase the pain of torture and of concentration camps and killings and rapes. Peacekeepers cannot keep the peace currently being discussed at Dayton.

President Milosevic of Serbia has asked as a precondition of peace that General Mladic and Radovan Karadzic be allowed to leave office through the electoral process. Mladic and Karadzic have been indicted as war criminals, criminals who authorized mass executions and mass rapes, buried people alive, and killed children before their mothers, and forced a grandfather, reported by The New York Times, to eat the liver of his own grandson.

Milosevic, a party at the peace table, refuses to turn these men in. Peace in the region is important, but peace without justice is impossible. Maybe I am wrong; maybe justice will be served at Dayton, but I must be convinced first. I must be educated first. I must be so sure that I can look a parent in the eye and promise them that their children are fighting for a noble cause and not justifying a 3-year reign of terror, not protecting boundaries drawn with the blood of innocent children.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Mr. Speaker, I rise in opposition to the Hefley amendment. The question is: Why now? Why now?

Mr. Speaker, I am not convinced that we need to send troops to Bosnia. I do not think the case has been made for that yet. But I think we are going down an interstate right now and we are getting off at the wrong exit.

Mr. Speaker, we do not have all of the signs yet. We do not know what this peace process is going to give us. We have already had success in the peace talks. East Slovenia has been solved, and we may not actually have hostilities there. They are making progress.

But one thing is certain. We should not be doing anything in this body to destabilize those peace talks. It does not make any sense. What do we get out of it? What is constructive about it? What is the end product? What is the message?

Mr. Speaker, let us give peace a chance. Let us gamble. Let us gamble on peace. Is there any cost to that? Absolutely not.

Mr. Speaker, we have before us today a resolution whose time has not come. There will be a time. Let the President, let the administration, let our negotiators, let them work for peace.

Mr. Speaker, I have been in combat. I know the alternative here. I did not fight for war. I fought for peace.

☐ 1630

Let us let those negotiators fight for peace. Let us not derail this process. Vote no on this rule. Vote no on this resolution.

Mr. HALL of Ohio. Mr. Speaker, I yield 2½ minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, there is an old saying, the more emotion the less reason. Today I call for reason and I call for defeating this rule and put an end to the discussion of a very difficult issue whose time has not come.

I do not speak today of sending troops. I am not yet convinced that that is the case. I have serious reservations. As a matter of fact, I have told the administration that I have eight specific conditions before I would even consider it, not the least of which is whether there will be training of the Moslems and equipment and ammunition given to them.

What we are doing today is completely out of context. It is untimely. It is premature. Let us look at the history of this body.

This body, when it comes to foreign affairs, matters of national security, other countries, we have stopped at the water's edge and spoken through the administration, whoever the President may be. Both sides of the aisle have spoken together, worked with the administration and said to all people from other countries, we are Americans. We believe in cooperation; we believe in working together. We speak with one voice.

I was here. I had the first 2 hours of the debate in my control on the resolution to send the troops to the gulf. That was a bipartisan effort. As a matter of fact, the President, at that time a Republican, requested of this Democratic-controlled Congress that we not take up the issue prematurely. We did not.

This rule should be voted down so we may not prematurely take this issue up. We must do this in reasoned manner and in a timely manner. Let us not rush to judgment. Let us do what is right for our country. Let us do what is right for foreign affairs. Let us do what is right for the Americans.

Mr. SOLOMON. Mr. Speaker, when I came here 17 years ago, I came with this next speaker. He is from Green Bay, WI. He is an outstanding member of the Committee on International Relations for many years.

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding time to me.

The question comes up repeatedly, why now? Let me tell my colleagues why now. This is the last chance we have, all of us in this body, to vote on whether we want to send troops into Bosnia. Why? Because we have all read this letter from the President, a nine-page letter to the Speaker. I want to read to my colleagues just two sentences, because we have to read this carefully.

The President says, "There will be timely opportunity for Congress to consider and act upon the request to send troops into Bosnia."

But, listen to this next sentence: "However, there is a requirement for some early prepositioning of small amounts of communication and other support personnel."

The news media tells us it is 2,000 people. My friends, my friend from Florida, the next time you come into this well and this is up for a vote, it is not whether you want to send troops to Bosnia. It is whether you are going to support the 2,000 troops that are there. That is the issue.

Read this letter and read this carefully, because that is the issue. Today you are going to vote whether you are going to send troops to Bosnia or not. This is the Gulf of Tonkin resolution here in this particular war.

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from West Virginia.

Mr. WISE. Mr. Speaker, is the gentleman aware that during the Persian Gulf lead-up that we prepositioned 500,000 troops before that took place?

Mr. ROTH. Mr. Speaker, the point is that we are voting today on whether we are going to put troops into Bosnia.

Santayana said those who cannot remember the past are condemned to repeat it. When President Clinton sent Christopher to Capitol Hill, he said there are four questions that have to be answered before we send troops overseas. The first question: Is there a clear mission?

I want to ask my colleagues, is there a clear mission in Bosnia? If there is, I would like to hear about it. I hear all these emotional speeches about the peace process in Dayton. We are not stopping them from having a peace process in Dayton.

There are four questions, and those are the questions we have to consider today.

Mr. HALL of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. GILCHREST], a former marine and a great Congressman.

Mr. GILCHREST. Mr. Speaker, I rise in support of the rule and the Hefley resolution.

Does the United States have a responsibility in the international arena? The answer is yes. Does the United States have a role to play, a significant role to play in the Bosnia crisis? The answer is yes. Do the warring parties in Bosnia have a responsibility to come to a peaceful resolution? The answer is yes.

Can and should the United States with NATO forces bring to an abrupt end the butchery that we have witnessed over the past so many years? Should we support the peace process? We must.

But consider, was Congress fully informed of the consequences of the Tonkin Gulf resolution in 1964, of Somalia, of Haiti, et cetera, et cetera, et cetera? Should we commit troops before we are fully informed? The answer is no.

I urge support of the rule.

Mr. SOLOMON. Mr. Speaker, there are a lot of good Democrats. I used to be one. One of those is GENE TAYLOR.

Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, when I was a Mississippi State Senator, our secretary of the senate was a former Congressman by the name of Charlie Griffin who served up here during the Vietnam years. And I remember asking Charlie, how could you serve up there during the whole Vietnam war and there was never an effort made to declare it a war? How can you send kids off to what you know will be a war and not vote on war?

Charlie's in heaven. And Charlie, I want you to know that I remember that conversation. I want you to know that we are getting ready to send kids into what is clearly a war. I am going to demand that we vote on it, because that is our job. Read the Constitution. It is not the President's. It is our job. We cannot run away from it.

If you think we ought to do it, vote for it. I think we should not do it. I am going to vote against it.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. KINGSTON], another outstanding Member of this body.

Mr. KINGSTON. Mr. Speaker, the folks back in my district do not understand all the history of the Balkans. They do not understand everything that is going on in Dayton, and they do not understand all the boundaries and all the players. But they do understand the many questions that we have to answer to them, and I think the gentleman from Wisconsin [Mr. ROTH] alluded to these.

Is there a clear peril, an American peril? Is there a clear mission? Is there a clear plan to achieve it? How will we accomplish it? Who will help us with it and to what extent? Who are our allies, who will be in the foxhole with your sons and daughters? What will determine when the mission is accomplished? How will we withdraw once that mission is accomplished? And what will we do to keep a lasting peace?

Winston Churchill said nothing that ever starts in the Balkans ever ends there. Bismarch said, there is nothing that could happen in the Balkans that is worth one drop of German blood. That was before World War I.

This is not a peace process. This is a war process. I do not think at this time we should send our sons and daughters to Bosnia, and I am going to support the rule and vote no on sending troops there.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BUYER], an outstanding member of the Committee on National Security, a veteran of the gulf war.

Mr. BUYER. Mr. Speaker, most of us here today are in agreement. Three weeks ago 315 of my colleagues joined in a bipartisan manner to urge the

President not to send ground troops to Bosnia. Ground troops were a bad idea then, and it is a bad idea today. Some of my colleagues disagree with this next step that we have here right now to cut off the funds for a troop deployment to Bosnia before a peace agreement is in fact signed. I can understand that. I think we should probably perhaps wait to see what the President's product is. But let us not kid ourselves. We know what that product is.

Based on all of the hearings and all of the meetings that I have attended, those of us that have taken interest in this issue have attended, the troops, it is down range. It is happening. It is in a plan of action. Do not kid yourself. If you are going to just sit back here today and wait, and say, well, I just want to see the product, I am going to vote against this today but I do not want to send troops, you are only kidding yourself. The troops are going. It is a serious and valid question, though, and I believe we should ask it.

Significant questions though remain about the purpose and execution of the President's plan. That is the clear and concise mission? What is the desired end state? How do we define success? What is our exit strategy, based on that definition of success? How can we maintain our neutrality while we arm and equip and train Bosnian Moslems? What are the vital national security interests? Are they at stake?

If we are going to go in because of vital national security interests, do not say we will only be there for a year because a date certain is not an exit strategy. If you have vital national security interests to go in, then they must match your success. And that depends on how long you stay.

Mr. President, you should not hide from the tough questions for fear of the answers. Mr. President, the only thing I ask is, please remove the blinders and listen and see what you will see and what you will hear is that the American people, through this Congress, disagree that U.S. ground troops should be used as a precondition or a predicate to a peace agreement.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Speaker, I rise against sending troops to Bosnia without congressional approval and against requiring our military to wear U.N. insignia.

Mr. Speaker, I rise today in support of this rule, however, I am very disappointed that the Rules Committee did not make my amendment in order. Today, this House will vote on whether or not we send young American men and women as ground soldiers in Bosnia. While I do not believe the President has made a sufficient case for us to send our troops into harm's way, I do believe there is another side issue which needs to be addressed and that this bill is the proper vehicle.

No doubt you have heard the story of our brave soldier, Army Specialist Michael New. Specialist New is an Army medic serving his country while stationed in Germany. He was recently told that his unit would be ordered to serve as part of the U.N. operation in Bosnia and would be required to wear blue berets and a U.N. insignia on their uniforms. As I am sure you are aware, Specialist New has refused to wear a U.N. uniform and is now awaiting court martial for disobeying an order.

I fully understand that Specialist New will face the charges because he disobeyed an order. I do not mean to imply that soldiers should be free to disobey their commanders. But there is an overriding issue: Specialist New believes this order was unlawful.

Specialist New as well as a large number of Members of this body believe that our young men and women who serve our country take an oath to honor and defend the Constitution of the United States. They do not take an oath to defend the Charter of the United Nations, and they believe that when they wear the insignia of the U.N. that they transfer their allegiance to the U.N. Charter.

The amendment that I intend to offer today is of great importance and is very timely. If this House is going to debate whether to send troops to Bosnia, we must raise the issue of whether U.S. troops should be required to wear a uniform that signifies allegiance to the United Nations.

My amendment is very simple. It would not have prevented the U.S. military from participating in U.N. activities but it would have prohibited the requirement of the Armed Forces to wear the uniform or any insignia of the United Nations. This amendment will in no way affect Specialist New's case because it only applies to the future wearing of such uniforms. The language of my amendment is identical to H.R. 2540 which was introduced by the House majority whip, TOM DELAY.

The timing of this issue could not be any more appropriate. Specialist New will be arraigned today for his court martial. This House should send the message that it will not tolerate our soldiers being given which may be unlawful orders. It is my sincere hope that this House will bring H.R. 2540 to the floor in the very near future.

Mr. HALL of Ohio. Mr. Speaker, I yield the remaining 3 minutes to the gentleman from California [Mr. DELLUMS], former chairman of the Committee on Armed Services.

Mr. DELLUMS. Mr. Speaker, there are those rare moments in this body that require the best of us, that require that we rise above our ideological perspectives, beyond partisanship, that lift us to a very high place. I think this is one of those moments.

Mr. Speaker, before he died, Prime Minister Rabin said to a number of us on the Committee on National Security that peace is a very difficult proposition. You do not have to make peace with your friends. Peace is difficult. The context of this debate is going forward in an era that has now been referred to as the post-cold war era, where I believe the enemy is war itself and the great challenge of the post-cold war is indeed peace.

☐ 1645

Mr. Speaker, Members of the House, just a few short months ago many of my colleagues in the highly charged debate, with a great deal of hand wringing, suggested that the slaughter and the ethnic cleansing, the savagery that was taking place in former Yugoslavia needed to end, and there was a great deal of frustration, and people decided that the moral thing to do was to lift the arms embargo and put more arms into that part of the world and allow the savagery, the death and the destruction to continue on moral grounds.

But now we find that this moment, Mr. Speaker and Members of this House, that that was not the only option. People are now at this very moment, in a Herculean effort, moving from the bloodiness of the battlefield of Bosnia to the negotiating table in the United States, trying to achieve that difficult thing called peace.

Now whether one is for or against the American involvement and implementing such a peace plan is a legitimate question; and we should, because I stand second to no one in this institution, jealously guarding the prerogatives of the Congress of the United States when it comes to the deployment of troops overseas. I went to the courts of the United States to take that stance. So we have a right to debate that, should be involved as a practical, political, moral and philosophical issue.

But this is not that moment. We must be rational, intelligent, and responsible human beings. There is a time and a moment for everything. This is not such a moment. To make a decision before we see a plan is absurd, ludicrous, ridiculous, premature, and I would suggest to my colleagues, Mr. Speaker, potentially devastating. What then becomes the moral implications of our action if based on this prematurity that the peace talks fall apart, and the ethnic cleansing, the death, the destruction and the savagery go forward? We then have unclean hands.

I would suggest, Mr. Speaker, that we rise to this lofty moment. At the end of the day, whether one is for or against the President, take that stance, but do not perpetuate this kind of effort that would prematurely deal with this issue. I underscore the challenge of the post cold war. The challenge is one of peace.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of the time and say there are three issues at stake here. One is cost. We cannot drain our military of billions of dollars annually which causes massive layoffs of our military personnel. That is not right.

Second, American foreign policy has always been to defend our treaty allies against outside military aggression. That is not the case here. We cannot now begin to participate in a NATO event that is going to go out of area, go away from this concept and start trying to settle internal issues of civil strife. We must not do that; that is wrong.

Third and most importantly, my colleagues say, "Why do it today?" Because it may be our last chance to save the lives of American soldiers and Marines that might have to go in there and lose their lives in a place they have no reason being.

Lift the embargo, give them money, give them weapons, and let them defend themselves without putting an American serviceman in harm's way.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 239, nays 181, not voting 12, as follows:

[Roll No. 813]

YEAS—239

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—181

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Callahan
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gunderson
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—12

Brewster
Collins (IL)
Fields (LA)
Harman
Hefner
Hyde
Largent
McDermott
Neumann
Smith (MI)
Tucker
Volkmer

☐ 1708

Ms. KAPTUR changed her vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. HARMAN. Mr. Speaker, I was on an official excused absence earlier today to attend a funeral, and would like to indicate at the proper points in the RECORD how I would have voted on the earlier recorded rollcall.

On rollcall 810, I would have voted "no." On rollcall 811, I would have voted "present." On rollcall 812, I would have voted "no." And on rollcall 813, I would have voted "no."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 528

Mr. BARRETT of Nebraska. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 528.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

PROHIBITION ON FUNDS FOR BOSNIA DEPLOYMENT

Mr. SPENCE. Mr. Speaker, pursuant to House Resolution 273, I call up the bill (H.R. 2606) to prohibit the use of funds appropriated to the Department of Defense from being used for the deployment on the ground of United States Armed Forces in the Republic of Bosnia and Herzegovina as part of any peacekeeping operation, or as part of any implementation force, unless funds for such deployment are specifically appropriated by law, and ask for its immediate consideration.

The clerk read the title of the bill.

The text of H.R. 2606 is as follows:

H.R. 2606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF USE ON DEPARTMENT OF DEFENSE FUNDS FOR DEPLOYMENT ON THE GROUND OF UNITED STATES ARMED FORCES IN THE REPUBLIC OF BOSNIA AND HERZEGOVINA AS PART OF ANY PEACEKEEPING OPERATION OR IMPLEMENTATION FORCE.

None of the funds appropriated or otherwise available to the Department of Defense may be obligated or expended for the deployment on the ground of United States Armed Forces in the Republic of Bosnia and Herzegovina as part of any peacekeeping operation, or as part of any implementation force, unless funds for such deployment have been specifically appropriated by a law enacted after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to House Resolution 273, the gentleman from South Carolina [Mr. SPENCE] will be recognized for 30 minutes, and the gentleman from California [Mr. DELLUMS] will be recognized for 30 minutes.

For what purpose does the gentleman from California [Mr. DELLUMS] rise?

Mr. DELLUMS. Mr. Speaker, as I understand the rules under which we are operating, there is 1 hour of general debate on the Hefley provision and 1 hour in the event there is a substitute to be offered. May I ask the Chair, is that correct?

The SPEAKER pro tempore. The gentleman is correct.

Mr. DELLUMS. At this time I will inform the Chair and my colleagues on the other side that we have no intention to offer a substitute, and as I understand it, the 1 hour of debate on the potential amendment would then be rolled into general debate on the Hefley provision, is that correct?

The SPEAKER pro tempore. The Chair would tell the gentleman that pursuant to section 3 of House Resolution 273, the gentleman from South Carolina [Mr. SPENCE] and the gentleman from California [Mr. DELLUMS] will each control 60 minutes.

The chair recognizes the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for the past couple of weeks, proximity peace talks have been taking place in Ohio between leaders of the warring parties in Bosnia. Reports indicate that a political agreement may be near, with the hope of moderating, at least, this latest chapter in the violent history of the Balkans. Yet the issues being discussed by the parties remain unclear to many Americans.

In order to bring these issues into sharper focus, the House National Security Committee has held a number of hearings over the past few weeks. I believe these hearings have helped many members on the committee to deepen their understanding of this complex conflict.

Although a peace agreement has yet to be finalized, the Clinton administration has, nevertheless, committed to deploy up to 25,000 U.S. ground troops in Bosnia as part of a larger NATO peace implementation force. This prospective deployment has raised questions about what the nature, scope, role, duration, and, most importantly, purpose of any American military presence on the ground in Bosnia would be.

It is with these questions in mind that the National Security Committee has sought to shed some light on the administration's plan and its potential impact on the readiness of our Armed Forces, the credibility of our alliance commitments, and the wisdom of placing American soldiers in harm's way for what remain ambiguously defined U.S. national security interests.

To date, we have heard the assessment of the United States intelligence community about the current situation in Bosnia. Regional experts, experienced military officers—both active and retired—seasoned strategists and veteran diplomats have also testified regarding various aspects of the Bosnian problem. And the administration has also been before us to present its case.

In presenting its case to the committee, the administration has raised more questions than it has answered. What we have learned so far is troubling. Moreover, from all I have heard, it appears that the American people find the administration's arguments unconvincing as well.

The committee was told that a United States military presence on the ground in Bosnia is necessary because our NATO allies want us there. This is hardly a sufficient rationale for deploying 25,000 Americans to Bosnia. Without American troops, we are told, neither a meaningful peace agreement nor an effective force to implement it are possible. One can only wonder how meaningful a peace agreement is that requires 60,000 foreign troops, including up to 25,000 Americans, to enforce it. Peacekeeping has worked in the Sinai because both sides are committed to making peace work. I don't believe the same can be said about the numerous factions involved in the Bosnian conflict.

Neither Secretary Perry nor General Shalikashvili identified any military tasks that only U.S. forces could fulfill. In fact, General Shalikashvili stated that from a strictly military perspective, the task of implementing a peace accord in Bosnia could be accomplished solely by European forces. The United States can and probably should bring some unique support capabilities to any peacekeeping operation, but these would not require the on-the-ground presence of up to 25,000 U.S. combat troops.

We were told that America must play a role on the ground because the United States is the leader of NATO and that Alliance solidarity would crumble if we did not. But to argue that the future credibility and effectiveness of NATO rest upon committing American forces to an ill-defined peacekeeping mission is suspect. In fact, the strains of a prolonged military deployment, in support of ambiguous objectives could do more to pull the alliance apart in the long run than to solidify it.

Further, we were told that failure to participate with troops on the ground would make peace impossible and therefore might lead to a wider conflict that would engulf all of Europe. Yet, for the first time in this conflict, the warring parties have attained a rough military balance on the ground. More than any other factor, it is this rough parity that has paved the way for the peace talks in Dayton. Since the Dayton talks have commenced, even the New York Times has recognized that "the possibility of the Bosnian war spreading has been eliminated." What matters now is how committed the warring parties are to making peace, not whether U.S. troops will be on the ground to enforce it.

What we have learned is that the administration has a strategy for putting United States troops into Bosnia, but not for getting them out. The President has said that troop deployments will begin within days of completion of a formal peace agreement. And while the administration has promised to withdraw forces after 1 year, this deadline for withdrawal is arbitrary. Well troops be withdrawn regardless of the situation on the ground? What if the peace collapses prior to our withdrawal? Would we cut and run? Would we damage NATO credibility more by bugging out when the going gets tough? Who, if anyone, will be left to fill the void if the United States were to withdraw? These are just some of the many questions that remain unanswered.

On a broader point, I remind my colleagues that the first rule of peacekeeping is to take no sides and make no enemies. Yet the United States has already violated that cardinal rule through the application of airpower over the past several months. Consequently, how can Americans be seen as neutral after having crossed the line of impartiality through the use of force? Moreover, it strains credibility to believe that U.S. neutrality can be maintained at the same time that we are indicating our intention to arm and train one party to the conflict. As a result, Americans are likely to become targets in a conflict where peacekeepers already have been killed. American peacekeepers were tragically killed in both Lebanon and Somalia after the mission changed, which, in turn, changed the perception of one or more of the warring parties. If Americans are not neutral, which they will not be perceived as in Bosnia, we will be a target.

Finally, the nature of the mission itself remains an open question, as is the yardstick by which we are to measure its success. Any decision to place American fighting men and women in harm's way must not be taken lightly. There should be a clear U.S. National interest at stake and a well-defined mission—neither of which have been articulated, in my opinion, to date.

Mr. Speaker, in May 1993 Secretary Christopher himself advanced appropriate criteria to guide United States participation in any Bosnia mission. At that time he claimed that any such mission should have military goals that are clear and understandable to the American people, that the chances for success must be high, that support of the American people must be assured, and that the administration must have an exit strategy. These, it seems to me, are the essential minimum preconditions for congressional support.

To date, the Clinton administration has not satisfied these conditions. Therefore, I would agree with the conclusion of General Lewis MacKenzie, the first UNPROFOR commander in Sarajevo. A few weeks ago, he told the committee, and I quote, "Don't touch this with a ten-foot pole." Over the past weeks of hearings, I have heard nothing to change that recommendation.

Mr. Speaker, I ask unanimous consent to have Mr. HEFLEY, a senior member of the National Security Committee and author of the legislation before us today, manage time on this side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

□ 1715

Mr. SPENCE. Mr. Speaker, I reserve the balance of my time.

Mr. DELLUMS. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. HAMILTON] the ranking member of the Committee on International Relations.

Mr. HAMILTON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to the bill. I think we should vote against it for several reasons. The first reason is that this bill ties the hands of the President. It tells the commander in chief that he cannot deploy troops to Bosnia, period. When you are the commander in chief, you have the power to deploy troops. That is fundamental, and this bill takes away that power.

Now, the authors of the bill say that Congress must assert its constitutional right to decide whether to allocate funds for the commitment of troops. That is correct. We do have that constitutional authority and responsibility, but may I point out to my friends that this bill goes far beyond that. It simply prohibits the President from action as commander in chief.

Second, I think this bill does jeopardize the peace process. This is the make-or-brake weekend in Dayton. The Secretary of State is on his way back; the parties have completed a number of preliminary agreements, and we are told that they could be close to a final settlement. At this very delicate and fragile moment, the Congress of the United States ought not to take any step which would undermine these talks. The parties in Dayton expect the United States to help implement this agreement. They are insisting upon it. The bill states that we will not do it.

Secretary Christopher put it very bluntly to us. He said that at a time when parties must make difficult decisions for peace, a House vote on this bill could be misinterpreted and give the parties reason for delay and hesitation. Why take that risk? Why take that risk at this very hour?

The Bosnian peace talks should be given every chance to succeed and we should take no action that might kill the negotiations and send the parties back to war.

Third, I believe that this bill is unnecessary because Congress will have a chance to vote later on troop deployments. I know there are many people in this Chamber who want that right, and I think they should have it. We should vote on the question of sending troops to Bosnia. I think it is our constitutional duty to do so whenever the President puts U.S. troops in harm's way.

Mr. Speaker, I believe we will have that choice. The President has stated in a letter in writing to the Speaker that he will request a vote after an agreement has been reached in Dayton and before the troops are deployed. I think he will honor that commitment.

There is no need to vote tonight, because there is no agreement yet. We have no request in this Congress to send troops. There is no plan before us on the details of United States deployment in Bosnia. The President cannot submit the plan until the parties have reached an agreement. He cannot submit the plan until our military has drawn up its recommendations.

Finally, Mr. Speaker, I think it is a mistake to pass this bill because I think a vote against the bill is that the stakes are too high to act prematurely. The stakes are too high in Bosnia. NATO and European security and stability are on the line in Bosnia.

We all know that we are at a decisive moment in Bosnia. We all know it could tip towards peace or war. We cannot get peace in Bosnia unless NATO enforces it.

The President made a commitment 2 years ago that we would participate in any NATO force implementing an agreement. Our NATO partners in Bosnia will not enforce a peace agreement without us. The people of Bosnia and all of the parties to the agreement in Dayton want our participation and they are dependent upon it. They know that without U.S. participation and leadership, there will be no peace. If we rule out now a United States role, and that is what this bill does, before we see the details of a peace agreement or an implementation plan, we risk the collapse of the peace efforts in Bosnia and a wider war.

□ 1730

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume.

Let me say it is very important that we debate this measure now. This is not a trivial matter. I know the gentleman from California [Mr. DELLUMS] shares my deep conviction about that. I would hope that everybody who speaks on this will not put it in the context of politics, Democrat, Republican, conservative, liberal, presidential, Congress. That is not what we want to talk about here today. We want to talk about American lives and American families. For many American families, this is the most important vote that the 104th Congress will nake and make no mistake about it.

As the gentleman from Wisconsin [Mr. ROTH] said earlier, this is the vote on Bosnia. This is the vote on Bosnia. Do not think you can go home and say, "Well, I didn't really approve of sending troops to Bosnia but we ought to do it, the timing was just bad." That is not the way it is going to work. If we want a meaningful vote, it has to be right now.

This bill does one thing: It requires specific appropriation of money prior to ground troops being inserted in Bosnia. That is all it does. It does not infringe on the rights of the Commander in Chief. It does not tell him what he can and cannot do. It simply says, do not do it until you have Congress and the American people behind you. How much stronger the effort will be if we have the President and Congress and the American people all together signing off the shame sheet.

Mr. Speaker, I reserve the balance of my time.

Mr. DELLUMS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. MCHALE].

Mr. MCHALE. Mr. Speaker, the Washington Times, November 17, 1995. I would urge Members, particularly those on the other side of the aisle, listen to these words:

"Bosnia, a Vote Too Far.

If ever there was a need for Solomonic wisdom, it would have to be in Dayton, OH. Negotiations are not going well and what will surely not make the negotiations any easier are the votes coming up in the Congress today on troop deployment. With relations between Capitol Hill and the White House as poisonous as they can be, this is simply the wrong time and the wrong way to make decisions about the most pressing foreign policy issue of the day."

The Washington Times.

"To vote preemptively before there is even something to vote on is inappropriate. The Republicans—again, the

Washington Times—the Republicans should ask themselves, is that really what they want."

Mr. Speaker, I believe that there are two issues that must be considered by the House. The first is the issue of the wisdom, dubious though I think it may be, of deploying ground troops in Bosnia.

I stood here in the House 2 weeks ago in a bipartisan effort prior to the commencement of the negotiations in an attempt with my good friend the gentleman from Indiana [Mr. BUYER] to send a clear, unequivocal message to the President of the United States that we do not want ground troops in Bosnia. My views have not changed one bit. Three hundred-fifteen of us said to the President of the United States, do not send ground troops.

The issue before the House today is not the wisdom or lack thereof in sending troops. The issue before the House today is the timing of the congressional role. When do we exercise our constitutional responsibility?

The President of the United States in response to a request that several here in this Chamber made to him and contrary to the assertions previously made by some Members on this floor has said in unequivocal language that upon the conclusion of the negotiations, there will be a vote requested in this House.

Let me assure my Republican friends, if the President does not heed the will of the American people, if he does not correct the mistaken analysis of those who are advising him on the military issues, no one will stand on this floor and fight him more firmly with the full power of the law given us under the Constitution in order to avoid the deployment of ground forces. But today that issue ought not be before the House.

Mr. Speaker, I believe that it is constitutionally irresponsible for this Congress, or any Congress, to statutorily cripple the President, any President, in the conduct of foreign policy during a delicate stage of diplomatic negotiations.

If we pass this bill today, future Republican Presidents and future Congresses of the United States will regret the precedent. To stop this President, we need not weaken the presidency.

I urge a negative vote.

Mr. HEFLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I rise in support of H.R. 2606.

The resolution simply states that none of the Department of Defense funds may be used to deploy United States ground troops to Bosnia unless specifically authorized by the Congress.

I have been very concerned about Mr. Clinton's unwillingness to consult with the Congress and seek congressional approval for other endeavors. Mr. Clinton failed to get congressional approval prior to spending tens of billions of dollars in taxpayer money to bail out the Mexican economy.

Additionally, during the recent debate on the Federal budget impasse and the debt limit, Mr. Clinton has by-passed the requirement that the Congress pass legislation enabling the Federal Government to incur a debt in excess of $4.9 trillion.

This President has consistently demonstrated a willful disregard for the legislative process and Congress. In spite of Mr. Clinton's statements, I have no reason to believe that his actions with regard to Bosnia will be any different. Besides, if the President has said he would seek congressional approval before sending United States troops to Bosnia, he should have no problem signing this bill.

I am very concerned about President Clinton's plans to send United States troops to Bosnia, and I believe it would be wrong for the President or his administration to make promises of United States troops to Bosnia.

I welcome all efforts to reach a settlement in the region, but oppose any increased U.S. military role in this volatile area. I do not believe United States military intervention in Bosnia will bring a lasting peace. Even a minimal military involvement holds the very real potential of miring the United States in a prolonged and unwinnable struggle. The last thing we need is to get tangled up in another Vietnam-like war with the loss of many American lives.

Before taking another ill-conceived step, President Clinton needs to define our policy and objectives in the region. What are the specific objectives of U.S. military involvement? Why must the United States shoulder so much of this burden in Europe's own backyard? Why is Europe itself hesitating to use troops? What will be the next step if limited military engagement fails? These questions remain unanswered. At this point, the Clinton administration's policy seems to be driven by shifting winds instead of sound military strategy.

Unlike Kuwait, Bosnia is not a well-established State and is under attack from its own people. The civil war there results from resurgent nationalism, conflicting territorial claims, and past historic grudges that are centuries old.

The cold war may be over, but Mr. Clinton and his foreign policy advisors have not yet learned how to deal with regional conflicts that affect international security. The administration's vacillation in Somalia, Bosnia, and Haiti has eroded United States credibility abroad. In addition, defense down-sizing has reduced our ability to protect our own vital interests and the Clinton administration has asked for even deeper cuts.

Bosnia is not at peace. This centuries-old conflict is continuing. The Clinton administration is prepared to put our military men and women in the position of implementing the peace. I am not.

President Clinton has failed to demonstrate why United States troops should be sent to Bosnia and he should seek congressional approval before endangering the lives of our men and women in uniform by sending them to the Balkans.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY], the distinguished Republican whip.

Mr. DELAY. I thank the gentleman from Colorado [Mr. HEFLY] for bringing this resolution to the floor.

Mr. Speaker, no matter how nicely we try to tell him, President Clinton still has not gotten the message that the American people have strong reservations about sending our young men and women into an extremely dangerous situation in Bosnia when our national interests are not directly threatened.

I would like to just read a quote from Philip Merrill, former Assistant Secretary-General of NATO, which appeared this week in the Wall Street Journal:

> Our future policy seems to be to simultaneously threaten Serbs from the air, act as peacekeepers on the ground, train the Croation army, arm the Bosnian military, conduct peace negotiations, and indict Bosnian war criminals. Any one of these policies is defensible; taken together, they're incoherent. As flare-ups occur, these inherently conflicting policies will leave us powerless to act effectively.

This is not a situation into which I could justify sending our young Americans. If a peace agreement is reached, and I truly hope that one is, the United States has the responsibility to help implement it, but not with ground troops.

It is neither in the President's nor the country's best interests to forge ahead with a plan to send United States troops to Bosnia without the full support of the American people through their representatives. H.R. 2606 sends a clear message to the President that he has not sufficiently made his case and that he is going to have to work with Congress if he wants to follow this path.

I support the Hefley legislation and I urge my colleagues to support it. Congress has a duty to exercise its power of the purse when it feels the President is making a grave mistake.

Mr. DELLUMS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Speaker, whether or not U.S. forces should be put on the ground as peacekeepers is one of the most troubling questions facing this country today. I can say it is a personal problem for me. There are risks whatever we do. If we go in, we may place ourselves in the line of fire by those who choose not to abide by a peace agreement.

I have been returned to this House 7 times, almost 14 years now. One of the reasons that I consider I have been returned is that I try to do what most of my people that I represent want. I can say in all honesty, they do not want the troops to go into Bosnia. But there are times that I think that we have to rise above what our constituents read and hear, not trying to replace what they want, but I think we have to rise above that. That is why I am opposed to this.

This is a precarious situation. There is no easy answer, there is no certain outcome, and I hope the peace talks in Dayton make some of the questions easier to answer.

But the bottom line is that U.S. credibility, I believe, is on the line. Mind you, I did not say the prestige was on the line. I am not too concerned about prestige. But I think that our credibility is at risk.

The chairman of our committee mentioned General McKenzie. I want to just tell Members a little bit about me questioning General McKenzie and two of the brightest people in the Reagan administration in the Pentagon who testified before our committee. They were very simple questions that I asked.

I asked them, "Are you in favor of a unilateral lifting of the embargo?"

They said, "Absolutely." These are the two people, the former Pentagon secretaries.

I asked General McKenzie, I said, "General McKenzie, is it true that the British and the French would pull out if we unilaterally lifted the embargo?"

He bowed his head, and he said, "Yes."

I said, "Is it also true that the United States of America would have to extract the British and French with 50,000 troops under wartime conditions?"

And everybody—and those in that National Security meeting know what I am talking about—everybody ducked their head.

Because the truth of the matter is we are talking about not 25,000 troops, 20,000 troops, on the ground in peacekeeping. The other 50,000 troops if we lifted the embargo unilaterally would be at wartime risk. As members of the committee know, I never give up my time, and I said: "I yield back the rest of my time."

We cannot abdicate our responsibility, bury our head in the sand, and retreat into isolationism. That is a failed policy of the past and it will fail again if we try today.

Mr. HEFLEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from Colorado [Mr. HEFLEY] for yielding me the time and for bringing this matter before us at this time.

Mr. Speaker, it is most regrettable that we have come to this juncture on the question of whether United States armed forces should be deployed to Bosnia to help implement a peace agreement.

Ideally we would not be voting on this matter before an agreement has been reached. Ideally we would wait until an agreement was reached, carefully consider that agreement, assess the proposed mission of our forces, the likehood that our forces will be able to successfully accomplish that mission, and then, after careful deliberation, we would vote on whether to approve or disapprove the deployment of United States forces to Bosnia to help implement the agreement.

Regrettably, we are not in the ideal situation with regard to Bosnia. That is because the Clinton administration is apparently circumventing the Congress in its determination to deploy up to 20,000 of our armed forces to Bosnia.

The administration has kept us in the dark about the negotiations in Dayton. They have been evasive about what the precise mission of the U.S. forces would be, particularly the degree to which our forces will be called on to coerce the parties into complying with the agreement.

By refusing to talk about the degree to which the mission will be one of Somalia-style peace enforcement rather than Cyprus-style peacekeeping, they have precluded any serious consideration of the risk that this mission will turn out like the earlier United States operations in Somalia and Lebanon, where the United States became not a peacekeeper, but rather just another party to the conflict.

Most importantly, the administration has declined repeated invitations to commit that the Congress will have a reasonable period of time to consider whether to approve or disapprove the deployment before any United States forces are sent to Bosnia. They have, of course, hinted that Congress will have plenty of time to act. They have told us not to worry; the check is in the mail.

But, every assurance we have been given has been carefully hedged. Most recently, in the President's November 13 letter to the Speaker, the President told us there would be a timely opportunity for Congress to consider and act, but then he went on to say in the next sentence that: "However, there is a requirement for some early prepositioning of a small amount of communications and other support personnel."

We have tried to find out what that means. We have been told it means that as many as 4,000 NATO personnel may be deployed into Bosnia starting about 72 hours after an agreement is initialed in Dayton, up to half of whom may be Americans.

What it means, in other words, is that almost before the ink is dry in Dayton, thousands of American soldiers may be on their way to Bosnia.

Mr. Speaker, I include our exchange of letters with the President on this issue in the RECORD at this point:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 26, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We wish to reaffirm our conviction that it would be a grave mistake to introduce U.S. Armed Forces into Bosnia to enforce a peace agreement without the support of Congress and the American people. For this reason, we applaud the commitment set forth in your October 19th letter to Senator Byrd to "welcome, encourage and, at the appropriate time, request an expression of support by Congress promptly after a peace agreement is reached."

Last week's congressional testimony by Secretary of State Christopher, Secretary of Defense Perry, and Chairman of the Joint Chiefs Shalikashvili was a useful step in the dialogue that must take place between the Administration and Congress over this issue. At this time, however, we continue to have serious reservations about the introduction of U.S. Armed Forces into Bosnia.

In order for Congress to properly consider and act upon this issue, we will require considerably more information about the proposed deployment than has been made available to us to date. Further, we need some clarification of the sequence of steps leading up to the possible deployment of U.S. Armed Forces to Bosnia.

Accordingly, we are submitting to you the questions set forth below. These questions are submitted in the spirit of your October 19th letter and are designed to foster cooperation between our two branches in this important matter. We hope that the following questions will receive the immediate attention of your Administration and a prompt and complete response:

1. The Sequence: What steps must occur between the time a peace agreement is reached and the time that U.S. Armed Forces are first introduced into Bosnia? How much time is each of these steps likely to require? At what stage in this process do you intend to submit your request to Congress, and how much time will this likely afford Congress to act on your request prior to the introduction of U.S. Armed Forces into Bosnia?

2. U.N. Authorization: Do you intend to obtain a new resolution from the United Nations Security Council before deploying U.S. Armed Forces to Bosnia? If so, will your request to Congress be submitted before, simultaneous with, or after you go to the Security Council to obtain its approval? If such a Security Council resolution is vetoed, would you consider proceeding without such a resolution? How would the timeline for proposed congressional action be affected if the Security Council refused to authorize the operation?

3. U.S. Commitment: The Administration has argued repeatedly that the credibility of the United States and the solidarity of the North Atlantic Treaty Organization will suffer if Congress does not back up your commitment to deploy up to 25,000 U.S. troops into Bosnia to help enforce a peace agreement. Precisely when did you make this commitment, to whom did you make it, and what conditions, if any, were attached to it?

4. Consultation With Congress: Was there any consultation with Congress about this commitment before it was made? If there was such prior consultation, could you please provide the dates on which those consultations took place and the names of the Members who were consulted.

5. Mission of U.S. Forces: In making this commitment, did you specify the type of

mission the U.S. Armed Forces would be prepared to carry out? In particular, was the commitment limited to carrying out traditional peacekeeping operations—essentially acting as a neutral observer of the parties' compliance with the peace agreement—or did it extend to using armed force to coerce the parties into compliance with the agreement?

6. National Security Interests: What are the vital U.S. national security interests that require sending American ground forces to support a peace enforcement operation? What are the political and security objectives and military tasks to be accomplished in Bosnia? What is the measure of success for the operation? Why is the deployment of U.S. Armed Forces limited to one-year?

7. European Capabilities: In recent testimony before congressional committees, General Shalikashvili states that "strictly from a military point of view, [European] NATO forces are capable of carrying out this mission." If European forces have the capability to conduct this mission alone, why must U.S. ground forces be involved?

8. Arms Control: With regard to the Administration's plan to create a military balance in Bosnia through arms control, now and when will an arms control regime for Bosnia be established? Who will responsible for ensuring compliance with it? Is it possible that U.S. Armed Forces deployed to Bosnia will be asked to disarm Bosnian Serb or other forces in accordance with such an arms control regime?

9. Arming Bosnia: With regard to the Administrations's alternative plan to create a military balance in Bosnia by equipping and training Bosnian Federation military forces, is implementation of that plan conditioned on failure of efforts to create a military balance through arms control? If so, who will judge whether arms control has failed, and at that point will that judgment be made?

10. Lifting Arms Embargo: Will the U.N. arms embargo have to be lifted before equipment and training can be provided to the Bosnian Federation forces? Have Russia, France, and Britain agreed in principle to lift the arms embargo for this purpose? Will any lifting of the arms embargo on Bosnia necessarily require that the arms embargo on Serbia also be lifted? If so, what will prevent the Russians and others from arming the Serbs while we arm the Bosnians?

11. Maintaining Neutrality: What role will the Implementation Force, U.S. Armed Forces, or U.S. contractors, have in providing military equipment and training to the Bosnian Federation Forces? How does the United States remain a "neutral peacekeeper" if it is simultaneously providing, either directly or indirectly, military equipment and training to one of the parties to the conflict?

12. Coercing Compliance: What happens if it becomes apparent after U.S. Armed Forces are deployed in Bosnia that one or more of the parties to the conflict is not committed to peace? Would you withdraw our forces at that point, or would you seek to coerce the misbehaving party or parties into compliance with the agreement?

13. Survival of Muslim-Croat Federation: Is the Muslim-Croat Federation likely to survive a peace? In particular, are Croatia and Serbia committed to survival of the Federation, or are they just waiting to partition the country?

14. Role of Russian Troops: What role will Russian troops play in the Implementation Force and in the peace process? Will the United States be asked to underwrite directly or indirectly any portion of the cost of Russian participation? Under what command and control arrangements will Russian forces serve?

15. Costs: What are the estimated incremental costs for this operation and what plan are those estimates based upon? Are these costs based on the deployment of 20,000–25,000 forces for one full year, or do they assume a phased drawdown during that period? Beyond the deployment of U.S. ground forces, what are the cost estimates for total U.S. activities in Bosnia, including costs for air combat units, naval carrier groups, support staff, etc. What are the cost estimates for NATO for this operation, and what percentage of those costs will be billed to the United States? Are these costs in addition to incremental costs identified above?

16. Supplemental Appropriation: How does the Administration plan to pay for this operation? If a supplemental appropriation will be requested, when will that occur?

17. Effect on U.S. Readiness: Even though the U.S. troop contingent alone will be insufficient to police the extent of the planned American area of operations in Bosnia, this mission, in conjunction with the ongoing border monitoring mission in Macedonia, will effectively tie up most of U.S. Army Europe. What will be the effects of the overall U.S. activities in and around Bosnia on U.S. readiness in Europe and worldwide? What effects will the deployment have on the Defense Department's ability to execute its strategy for responding to two major regional contingencies?

18. Command and Control: What are the current command and control arrangements for this mission? What assurances can you give us that there will be no "dual key" arrangements? Please explain the military and political chains of command. What are the rules of engagement for U.S. forces?

19. Return of Refugees: What is the long term viability of a peace settlement if the displaced persons in Bosnia—who constitute half of the country's population—are unable to return to their homes? Will U.S. Armed Forces have any role in ensuring the right of return is respected for those who wish to exercise it? If so, how will our Forces perform this function?

20. Casualty Estimates: What is the estimate of U.S. casualties over the one year period of deployment in Bosnia?

21. Agreements With U.N.: Will you make available to us all documents and understandings between those residual U.N. peacekeeping forces and the Implementation Force, including any intelligence-sharing arrangements, Status of Forces Agreements, and understanding or commitments involving the use of U.S. troops to protect any residual U.N. forces or observers?

22. Reconstruction of Bosnia: We understand that at the upcoming London Conference the United States will make a substantial financial commitment for the relief and reconstruction of Bosnia. What is the size of that commitment, how will it be paid for, and what are the implications for FY 1996 program levels? What programs will suffer reductions to fund this effort?

Thank you for your consideration of these questions, and we look forward to your prompt response.

With best wishes,

Sincerely,

Newt Gingrich; Tom DeLay; Chris Cox; Bob Livingston; Dick Armey; John Boehner; Bill Paxon; John R. Kasich; —— ——; Barbara F. Vucanovich; Susan Molinari; Ben Gilman; Bob Walker; Bill Archer; J. Dennis Hastert; Floyd Spence.

THE WHITE HOUSE,
Washington, November 13, 1995.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In your letter of October 26, you and your colleagues posed a number of questions concerning current and future U.S. activities surrounding the Bosnian peace process. I welcome this opportunity to deepen the dialogue between the Congress and the Administration over the peace process and the U.S. role in it.

Your questions fell into several broad categories and for clarity of presentation, my responses are arranged to address each of those categories. I am providing the most current, definitive information available. As you know, however, negotiations in Dayton have been underway for less than two weeks. Many of the issues you raise are still under discussion by the parties themselves. The outcome of those discussions will significantly affect some of the questions you have posed. As I am sure you will understand, it is impossible to provide detailed information about aspects of a settlement that does not yet exist.

In addition, since some of the questions you raise concerning U.S. participation in implementing a Bosnian settlement depend on the terms of the agreement itself, you will understand that I must reserve my decisions until the actual details of the agreement are clear. There must first be an agreement among the parties to which they are seriously committed. I look forward to continued, close consultations with you and your colleagues as the peace process moves forward.

U.S. INTERESTS

This Administration, and that of previous Democratic and Republican Presidents, have been firmly committed to the principle that the security and stability of Europe is of fundamental interest to the United States. The conflict in Bosnia is the most dangerous threat to European security since World War II. If the negotiations fail and the war resumes, as it in all probability would, there is a very real risk that it could spread beyond Bosnia, and involve Europe's new democracies as well as our NATO allies. Twice this century, we paid a heavy price for turning our backs to conflict in Europe.

If the negotiations now taking place under U.S. leadership in Dayton are successful, we will have a real opportunity not only to end the dreadful humanitarian suffering and outrageous atrocities that we have seen in Bosnia, but also to advance our goal of an undivided, peaceful and democratic Europe—with benefits for our own security and prosperity. Such a result is clearly in our nation's interest.

This result, however, can only be achieved with U.S. leadership. The events of the past several months illustrate the importance of that leadership. Following the assaults on Srebrenica and Zepa by the Bosnian Serbs, the United States led the international community to take serious and effective steps to protect the remaining UN-mandated safe areas. We secured an agreement from our NATO allies to meet further assaults on the safe areas with a decisive military response. American pilots participated in the NATO bombing campaign following the shelling of a Sarajevo marketplace, demonstrating our resolve and helping to convince the parties to turn from the path of war to the path of negotiations and peace.

Finally, U.S. diplomatic leadership has seized the opportunity for peace that these developments created. In August, I directed my National Security Advisor, Anthony Lake, to present a new U.S. initiative to our Allies and the Russians. Since then, our negotiating team, directed by Secretary Christopher and led by Richard Holbrooke, has conducted tireless shuttle diplomacy throughout the region and Europe as a whole. Their remarkable progress over the past three months has resulted in a cease-fire and agreement on the basic principles of a settlement, laying the groundwork for the current negotiations in Dayton.

U.S. leadership has brought the parties within reach of a peaceful resolution of the conflict for the first time in years of terrible human tragedy. We must not abandon this process now. The parties, in particular the Bosnians, have made clear to us that U.S. leadership has created this opportunity for peace after years of bloodshed, and that NATO and U.S. participation is essential if they are to take decisive steps toward a peaceful future. In short, if our commitment to helping implement a peace is broken, there will be no peace in Bosnia. I would particularly emphasize the importance of U.S. involvement with regard to NATO. For almost 50 years, the Alliance has been the anchor of America's and Europe's common security. If we do not do our part in a NATO mission, we would weaken the Alliance and jeopardize American leadership in Europe.

SEQUENCING/TIMING

If an agreement is reached at the Dayton talks, a number of steps must be taken prior to the deployment of troops. While the precise details of such sequencing depend on the terms of the agreement, let me suggest the general outline.

When and if all substantive issues are resolved among the parties, they would initial the documents that would comprise the comprehensive peace agreement. Following the initialing of the accord, NATO must promptly complete its operational planning for an Implementation Force (IFOR) based upon the terms of the settlement. I would review the agreement and the final NATO plan and determine whether U.S. participation in the IFOR is warranted. There would be an international conference to discuss aspects of civilian implementation, a final peace conference of all the parties and, ultimately, a signing of the agreement by the parties. During this period, the North Atlantic Council also must approve the final operational plan for the IFOR.

I will submit a request for a Congressional expression of support for U.S. participation in a NATO-led Implementation Force in Bosnia promptly if and when the parties have initialed an agreement that I consider to be a genuine agreement and after I have reviewed the final NATO operational plan.

While expeditious IFOR deployment is desirable, after initialing of an agreement, there will be a timely opportunity for Congress to consider and act upon my request for support before American forces are deployed in Bosnia. However, there is a requirement for some early prepositioning of a small amount of communications and other support personnel.

As I have said previously, I believe Congressional support for U.S. participation is important and desirable, although as has been the case with prior Presidents, I must reserve my constitutional prerogatives in this area.

Once a final decision is reached and the peace agreement has been signed and has entered into force, IFOR would deploy rapidly to minimize the potential for renewed conflict. The final peace agreement would contain the parties' request and authority for IFOR deployment, thus IFOR's presence would be consensual. The UN Security Council may also approve a resolution endorsing the deployment.

Without an agreement in hand, it is impossible to set an exact timetable for the withdrawal of U.S. troops, but the IFOR operation should have a finite duration. Based on current planning by my military advisors, we believe that approximately 12 months would be adequate to accomplish the needed IFOR tasks and allow the peace to become self-sustaining, although we cannot make that final judgment until the terms of the agreement are defined.

IFOR MISSION/COMMAND AND CONTROL

Once deployed, IFOR would monitor and enforce compliance with the military aspects of the settlement in an evenhanded manner. The precise tasks depend on the terms of the agreement but would include maintaining the cease-fire and separation of forces. IFOR would be an active, robust force capable not only of implementing a peace agreement but also of defending itself vigorously under all circumstances.

Although the parties would have the primary responsibility for implementing the agreement, the parties have made clear that a strong international military presence would be needed to give them mutual confidence that commitments would be met and to provide them with a breathing space to begin rebuilding their country. NATO is the only force that offers the strength, effectiveness and credibility to provide the needed deterrent to renewed conflict. The United States, as the heart of NATO, must be an integral part of that enterprise. Though no details can be finalized prior to a settlement, we envisage that the United States would contribute approximately 20,000 ground troops in Bosnia to the force, with our Allies and non-NATO countries contributing approximately 40,000 more. Additional personnel stationed outside Bosnia would provide support for IFOR.

IFOR would not be a UN peacekeeping force. It would be a NATO-led peace implementation force, operating under clear and unified command and control, with robust rules of engagement. All political guidance would come from the North Atlantic Council to the Supreme Allied Commander in Europe, U.S. General George Joulwan. General Joulwan would, in turn, provide overall direction to the IFOR commander, Admiral Leighton Smith, the Commander of NATO's Southern Forces. NATO has learned the lesson of the problems associated with the "dual key" arrangement and there would be no return to that approach. This is an essential precondition for U.S. participation.

We expect that non-NATO countries, including Russia, would help implement the agreement. Secretary Perry and Russian Defense Minister Grachev agreed on November 8 to a military framework that would allow for the participation of a brigade of Russian troops in the Bosnia implementation force. They agreed on common principles for Russian participation. Russia would retain national command of its forces, as the United States would retain over U.S. forces. Operational control of the Russian contingent would come from General Joulwan, transmitted to them through a Russian deputy, and the Russian brigade would be under the tactical control of a U.S. division commander. While this arrangement would allow Russia to assert that their forces are not under NATO command, Russian forces would receive their missions and orders from U.S. officers who would report through the NATO chain of command, thus preserving the principle of unity of command.

The details for liaison arrangements with non-NATO nations have yet to be finalized. Let me make clear, however, that in no case would non-NATO nations or organizations have a veto over NAC instructions or authority over U.S. troops.

IFOR commanders would operate under operating procedures and rules of engagement that allow them great flexibility in determining the proper response to a violation of the agreement or a threat to IFOR. This would help ensure that violations are dealt with effectively and further violations deterred.

Violations of the military aspects of the settlement would be met with swift, decisive force if that is necessary. I would not ask American troops to implement a plan that cannot be enforced. In the event of a significant breakdown in compliance, the NAC would assess the situation in consultation with the NATO military authorities and authorize any necessary changes in operating procedures and the rules of engagement. Allies agree that if there were a total breakdown in compliance, IFOR would be withdrawn.

It is not possible to make meaningful casualty predictions, since casualty models for peace operations do not exist. Let me emphasize that our troops will not be deployed unless and until there is a genuine peace agreement. The parties must show that they are serious about peace. Given the size of the IFOR and its rules of engagement, as well as the high quality of U.S. and NATO troops, training, and equipment, we would have created conditions that would offer the minimum possible risks to our soldiers.

The signing of a peace agreement and the deployment of IFOR would mean the end of UNPROFOR's mandate. Some elements of UNPROFOR immediately would become part of IFOR under NATO command. The rest of the troops making up UNPROFOR would be withdrawn from Bosnia-Herzegovina under the command and control of the IFOR commander.

EFFECTS ON READINESS

U.S. participation in the IFOR would not seriously reduce the ability of U.S. forces to fight and win a regional conflict elsewhere. Combat forces most needed in the opening phase of a regional conflict would still be available to deploy on short notice. There would, of course, be some degradation in the preparedness of units deployed in Bosnia to engage in combat missions elsewhere. Units engaged in contingency operations sometimes lose the opportunity to conduct a full range of training.

I would note, however, that the need to withdraw combat forces from peace operations and redeploy them rapidly is likely to be required only in the event of two nearly simultaneous major regional conflicts. In such cases, we envision that most of the forces from the peace operation would be redeployed to fight and win during the later phases of the second major conflict. This being the case, we anticipate that time would be available to provide units with retraining, restocking, and other "readiness upgrades" prior to being redeployed and committed to operations in the second major conflict. Readiness degradation to critical support forces can be prevented by implementing a planned limited call-up of the reserve forces.

Finally, timely reimbursement in the form of supplemental appropriations is the surest way to avoid any adverse impact on service operations and maintenance for ongoing operation.

ARMS CONTROL/STABILIZATION

The objective of our participation in implementing a peace agreement is the creation of a lasting peace in the former Yugoslavia. To that end, we are pressing for the inclusion of arms control and confidence-building measures in the final settlement. Initial steps, beyond a separation of forces, could include sharing of military information between the parties, restrictions on exercises and deployment of heavy weapons, and notifications of military activities. We will also press for a commitment by the parties to a regime providing for a "build-down" of forces. OSCE has already begun planning and may eventually take the lead in trying to forge a lasting arms control regime in Bosnia.

One important factor in producing a stable environment will be a balance of forces between the parties. We are hopeful that arms control and the other confidence-building measures cited above would help bring this about. To the extent arms control measures are not sufficient to provide stability after a peace settlement, we are prepared to play a role in an international effort, separate from IFOR, to help equip and train the armed forces of the Bosnian Federation to ensure that they have an effective self-defense capability. To this end, we intend to move for a lifting of the UN arms embargo after a settlement is reached, allowing the Federation to arm itself consistent with legitimate requirements of self-defense.

THE FEDERATION

A strong and effectively functioning Bosnian Federation is an essential prerequisite to a durable peace in Bosnia. It has been a central U.S. objective since last year's Washington accords that ended the fighting between Bosnia's Muslims and Croats and established the Federation. Strengthening the Federation has been one of my highest priorities in every meeting I have had with Bosnian and Croatian leaders.

On November 10 in Dayton, Bosnian President Izetbegovic and Federation President Zubak signed an important agreement that brings the Federation and its institutions to life. The Dayton agreement, witnessed by Croatian President Tudjman and Secretary of State Christopher, provides for the political, economic and social integration of the Federation. It also defines the division of responsibilities between the Federation and the central government of the Republic of Bosnia-Herzegovina. By strengthening the Federation, the agreement should give additional impetus to negotiations with the Serbs on the constitutional arrangements for Bosnia as a whole.

As you know, the parties have already agreed, in the basic principles adopted in Geneva, to a single Bosnia-Herzegovina within its current borders, and to rule out any arrangements that are inconsistent with Bosnia's sovereignty and territorial integrity. As I have stressed in the past, the United States will not support any settlement that represents a partition of Bosnia. A major goal in the current negotiations is to assist the parties in reaching agreement on amendments to the constitution of Bosnia-Herzegovina that provide for effective central governing structures for the Bosnian state while defining the scope of autonomy to be provided to the two constituent entities. We expect the agreement would also contain provisions for elections throughout Bosnia-Herzegovina under the auspices of the OSCE.

CIVILIAN/HUMANITARIAN ISSUES AND RECONSTRUCTION

The conflict in Bosnia has taken a huge toll on the fabric of Bosnian life. The reprehensible practice of ethnic cleansing and the violence of war have uprooted millions of people from their homes. Atrocities unknown in Europe since the Second World War have occurred. The production and delivery of food and everyday necessities have been disrupted. Extraordinary damage has been done to economic enterprise and infrastructure.

We expect that as part of a settlement there would be a coordinated international effort to address these problems. These activities would not be part of the IFOR mission but would be undertaken by the entire international community under civilian coordination. We would not allow "mission creep" that could involve IFOR in such a nation-building role. The UN High Commissioner for Refugees would coordinate the return of refugees and displaced persons. The International Red Cross would deal with prisoners and missing persons. International aid agencies would help the people of Bosnia rebuild the immediate needs of survival. And an international police task force would work to monitor and retrain civilian police.

Separate from, but complementary to, the immediate humanitarian efforts would be an international reconstruction effort to repair the devastation brought about by years of war. The European Union has indicated a readiness to take the lead in these efforts in tandem with the international financial institutions. The nature and scope of what would need to be done in Bosnia, in terms of reconstruction and relief, is still under review, both within the Administration and with our allies. We do not yet have a complete analysis of Bosnian needs and have not made a commitment on the size of U.S. participation. For planning purposes, we are working with an estimated U.S. contribution of $500-600 million over a period of several years. We will be consulting with Congress on this issue in the coming weeks.

The British have proposed a conference in London to discuss and coordinate all aspects of peace implementation, including regional reconstruction. As the negotiations progress, we will work closely with the British to make the best use of their proposed conference, and, of course, consult closely with Congress on these issues.

COSTS

Obviously, the effort that I have described would involve costs, both for U.S. participation in IFOR and our contribution to reconstruction efforts.

The Administration's ability at this time to estimate the actual costs of a NATO deployment to Bosnia in support of a negotiated settlement is limited. This is because such an estimate is heavily dependent on the terms and conditions under which the force will be introduced. For example, factors such as force composition, scope and type of mission, operating environment, force sustainment and duration of assignment, among others, would all contribute to determining the ultimate costs that participants will have to pay. Additionally, the United States would seek equity and balance with European and other participants in any funding arrangement or material support we provide to such an operation. Our best estimate at this time is that it would cost approximately $1.5 billion to deploy U.S. forces for one year. Under any deployment plan, the Administration would share information with Congress on the terms, developments and support requirements affecting our commitment.

We will work closely with the Congress on funding U.S. participation in IFOR. No decision has been taken on seeking a supplemental appropriation to meet funding requirements associated with a Bosnian peace agreement. Until appropriations have been finalized for FY 1996, we will not be in a position to determine how best to fund this operation.

In terms of reconstruction and relief funding, we are studying a number of funding possibilities. For FY 1996, only a fraction of projected Bosnian reconstruction costs have been budgeted, and sources for reprogramming are likely to be severely limited.

As planning for economic reconstruction advances, a variety of funding options should be kept on the table, particularly given the large cuts already made to international affairs funding.

CONCLUSION

Unquestionably, there are costs and risks to all involved in making peace. But the costs and risks of failing to make peace are far greater. The human costs of continued war in Bosnia would be another cruel winter of starvation and suffering, followed by a spring of renewed, bloody conflict. The economic costs of continued war would be additional millions of dollars in humanitarian aid, in funds for ongoing sanctions and No-Fly Zone enforcement, and in the efforts of our Allies to accommodate hundreds of thousands of refugees throughout Europe. The security costs would involve the risk of wider and even more dangerous conflict, as well as serious damage to the credibility and effectiveness of NATO and U.S. leadership if the war resumes. Moreover, if the war resumes, NATO and the U.S. could be called upon to undertake a potentially dangerous mission involving the withdrawal of UNPROFOR under hostile circumstances.

Peace is the less risky alternative. But there will be no peace without America's engagement. If we turn our backs on this responsibility, the damage to America's ability to lead, not just in NATO but in pursuit around the world of our interests in peace and prosperity, would be profound. This truly is a decisive moment.

The meetings in Dayton offer the people of Bosnia and Europe a real opportunity for peace. The United States must stand by our principles and stand up for our interests. We must be leaders for peace. I hope you and your colleagues in the Congress will work with us in this effort.

Sincerely,

BILL CLINTON.

Mr. GILMAN. Mr. Speaker, it is simply unacceptable that thousands of Americans may be sent to Bosnia without proper consideration by the Congress. Recent history reminds us that deployments of U.S. Armed Forces into hostile situations are untenable without the strong support of Congress and the American people. This resolution does not rule out the deployment of United States forces to Bosnia, but it does make certain that the President come to the Congress first.

The Clinton administration has avoided doing the groundwork of trying to win the support of our Nation and the Congress with regard to our involvement in Bosnia. Accordingly, we have no alternative but to pass this resolution as a signal of our strong concern over the direction of administration policy and our determination to assert the prerogatives of the Congress in this matter.

□ 1745

Mr. DELLUMS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, after 4 long years of war in Bosnia, we have seen:

Over 250,000 people killed.

Over 16,000 children slaughtered.

Tens of thousands of women raped.

Tens of thousands of innocent people herded into camps.

And nearly three million people left homeless.

We have seen cease fires come and go.

And through it all, there has been very little reason to hope.

But finally, we see the possibility to end the bloodshed.

Finally, we see peace talks that mean something.

Finally, we have a chance to resolve this horrible conflict.

And we should do nothing to interfere with that.

But this resolution today drops an 800-pound weight on a peace process that is balancing like a house of cards.

If we pass this resolution today, it won't advance the peace talks in Ohio. It will undermine and undercut them.

Mr. Speaker, it took a long time to get this peace table. There are a lot of delicate issues that need to be worked through. We should not tie the hands of our negotiators at this crucial time. We should let them do their jobs.

It's not hard to understand the concern that underlies this bill. The decision to commit troops is the most difficult decision any of us will have to make. And none of us take it lightly.

But that is not the issue today.

The Washington Times is right: this is the wrong move at the wrong time.

The President has already said: Before troops are deployed, Congress will have a debate and Congress will have an up or down vote.

There is a time and place when Congress should and will be voting on this issue. But now is not that time.

Congress has enough to worry about right now with the budget negotiations. This is not the time to be rushing head-first into the very delicate negotiations on Bosnia.

I would hate to think that someday, historians will look back on this day and wonder why the House of Representatives intentionally disrupted the peace process before an agreement was reached. We can avoid that fate here today.

I urge my colleagues: Oppose this resolution. Let our negotiators do their jobs. And give the peace process a chance to work.

Mr. HEFLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I rise in strong support of this resolution.

I rise today in strong support of this bill which only reaffirms the Congress' constitutional right to control the way we spend the country's money and to participate in any decision to send large scale U.S. forces in harms way.

For me, and I think for most Americans, there are a few simple rules for peacekeeping.

First, if there is a real peace you don't need peacekeepers.

And second, that when there is no real peace, sending peacekeepers, and especially American peacekeepers is a recipe for disaster, as we have seen all too recently in Somalia.

When the two, or in this case three, sides decide it is in their own interests not to continue the war, peacekeepers, like the few Americans observing the Israeli-Egyptian peace, need only binoculars and tennis rackets.

Until there is a real peace, no American should become a target. When there is a real peace, supported by all sides in this tragic conflict, then and only then, American leadership may be necessary to help maintain that peace.

It is important that the Congress show that leadership now, and not blindly support the President's ill-conceived and arbitrary promise of 25,000 heavy armed American troops to police an agreement that does not yet exist.

This is too important for our Nation, and for the lives the brave young men and women who serve in uniform. The proper role for the United States is leader, not policeman. And the proper time for congressional action is before the decision is made, not after failure is guaranteed.

I urge all Members to support this bill and the President to include the Congress and the American people in this important debate.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Speaker, I rise in support of the many, many expressions of concern for the safety of our American forces should they be sent to Bosnia, that have been expressed by so many of our colleagues here today.

None of us can forget, will ever forget what happened to the American Marines in Beirut with more than 200 American Marines who were there as peacekeepers were murdered in their barracks. None of us will forget Somalia, where Americans went there on an honorable mission, in a humanitarian mission, but mission creep took us from that successful humanitarian mission to the disaster that became so-called peacekeeping when 18 American soldiers were gunned down in the streets of Mogadishu and their bodies dragged through the streets. They were there as peacekeepers.

The point that I would like to make, though, Mr. Speaker, is that on those missions and especially in the Somalia mission, I recall distinctly the fight that we had here in the House to get those who supported the mission creep to a peacekeeping mission refused to stand and vote for the appropriation to pay for it.

In the case of Bosnia, we have been told, we started out that the cost was going to be about a billion dollars. Then it went up to $1.2 billion, then up to $1.5 billion, now up to $2 billion. Now we are talking possibly about as much as $3 billion.

Again the point, where is the money coming from? The President's spokesman today at the White House, when asked about the defense appropriations bill that this House and Senate passed yesterday, indicated that the President would find it difficult to sign because maybe it included too much money. But where else would the President get the $2 billion to $3 billion to finance the deployment to Bosnia? He had better think twice about vetoing this defense appropriations bill because if it does not get signed, if it comes back here and should this resolution not pass today, I can almost assure you that the House will force us to put this same kind of binding language in the next defense appropriations bill.

I have an idea that the President and the administration should take the advice of this Congress, the advice of Secretary Perry and General Shalikashvili, and they should sign a good defense appropriations bill that will be sent to them shortly.

Mr. DELLUMS. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I oppose the Hefley bill, and not because I support the deployment of American troops in Bosnia. I voted for Buyer-McHale and, frankly, I remain skeptical.

But if checks and balances are part of our Constitution, so is comity, and the circumstances here demand it. This is not the time to bind the President's hands; not the time to doom the peace in Bosnia before we even know the terms of the peace agreement. During most of the years I have served here in the House, my party has been in the majority. And though we were often tempted, we never preempted President Bush or President Reagan in the way this bill would.

President Bush sent 500,000 troops to the Persian Gulf, and long before most of us decided that we would give him the power to take those troops to war, we cut him the slack he needed to stand up to Saddam Hussein, and to bring the Security Council and rest of the world around to our position. President Clinton deserves no less.

The Constitution gives Congress the power to decide when our troops will be dispatched in a foreign theater and put in harm's way. But history has taught us that we have to be practical; and as a practical matter, we cannot expect the President to huddle with Congress before calling every play in foreign policy. We have to and can send the President strong signals, as we did when we passed McHale-Buyer, 315-to-103. But this bill is more than a warning signal; it flat-out prohibits the President from sending any U.S. ground troops to Bosnia as part of any peacekeeping operation unless funds are specifically appropriated.

Several problems came to my mind, just as a result of the drafting. For example:

Hefley could prevent U.S. troops from being sent to pull out U.N. personnel, and NATO allies, should the talks falter and the fighting resume. You may say that this is not the intent of the language, but if not, why not explicitly say so?

Hefley does not bar United States airstrikes, it is true; but it might stop a significant number of United States troops from being brought into Bosnia to search for and rescue American fliers who get shot down.

And what happens if a peace agreement is agreed to, and embraced by all the parties, and a majority of Congress finds it to be a genuine peace, one we can implement and not one we have to impose; but then, the appropriation gets attached to a bitterly contentious bill—like an omnibus budget reconciliation act?

After all, nothing in Hefley says that this appropriation must be sent to the President clean, or stand-alone, so we could see a Bosnian peace agreement bound up with the resolution of totally unrelated disputes in the Congress.

I know that these problems may never come up. But eliminate them, and the biggest problem still remains, and that is timing. If this bill passes, at this time, it is bound to cast a pall on the peace talks.

I have yet to be persuaded that sending American troops to Bosnia is a good idea or a necessary move. But I am willing to reserve judgment; willing to give the President and the parties the chance to produce an agreement that is workable and worthy of our support. In the end, I may cast my vote against sending United States ground troops to Bosnia—I reserve that right. But with the peace talks moving forward, and an agreement coming together, now is not the time to pass this bill.

Mr. HEFLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON of Pennsylvania. Mr. Speaker, I am not here to use my vote to undermine our President. I am an ardent supporter of our military, and I am a strong supporter of humanitarian aid to the people in Bosnia.

For the past 3 years I have worked with the gentleman who is here in the room with us tonight, John Jordan, and a volunteer firefighter from Rhode Island, who went to Sarajevo to help provide emergency relief to the citizens of all factions, the Serbs, Croats, and Moslems. He spent 3 years, was recognized by ABC News as their person of the week because of his unselfish efforts on the part of peace. The United Nations eventually canceled their support of him after 2½ years, and our State Department refused to pick it up.

But we did provide that assistance, tons of relief, and John Jordan was key in that process. I am concerned like everyone else about the cost, but the key concern here is the troops, the boys and the girls, the men and the women, the sons and the daughters of America who are going to be sent to this region without the support of this Congress on the ground. I would support the use of aircraft, sealift, and air strikes, but we will not have that chance to vote on when the President comes back to us, because the decision will have already been made for us.

When I had to make up my mind this morning about what to do on this issue, I did not seek Warren Christopher and his armchair estimates or the President or any of my colleagues. I went to John Jordan. John Jordan was shot twice directly in Sarajevo. John Jordan has had concussions. In fact, he has been wounded by shrapnel, had his chest beaten in by the butt of a rifle trying to rescue citizens in Sarajevo.

In an AP interview, this is what John Jordan had to say, and I encourage every one of my colleagues on both sides to read this quote in its entirety. This is not someone from Washington sending our boys over there and our girls over there, and this is the only chance you are going to get to vote on this. Read what John Jordan had to say about the Serb commander saying to him, "I really wish the U.S., instead of the French, were running the airport," they said to him many times. "If we can just get enough of you in one place at one time, we can kill 200 or 300 of you. You will be out of this war forever, and you will not be a problem anymore. You will leave just like you left Beirut."

Mr. Speaker, that is what this is all about, and, my colleagues, you will not have a chance to vote on ground troops again, because the President will come back already committed to it.

I urge a "yes" vote on the Hefley amendment.

Mr. Speaker, I insert the following letter for the RECORD.

NOVEMBER 17, 1995.

Hon. CURT WELDON,
Washington, DC.

DEAR CONGRESSMAN WELDON: Congress and the President each have their own criteria regarding deployment of American troops to Bosnia. All these criteria ignore one important fact.

The war in Bosnia is not about Bosnia. It is in fact about one man, Slobodan Milosevic, turning neighbor on neighbor via his control of the media long before the first shot was fired.

To those of us who have fought fire and war in Bosnia, the thought of American troops sitting between victims and aggressors is a living nightmare. The picture of American troops deployed to ensure "only half" of Bosnia is stolen is too ugly to contemplate. Our troops will become casualties of both the aggressors and those who thought they were about to be saved.

Time and time again during my team's stay in Bosnia, we were warned by Serb commanders, "If we could just get enough Americans here and kill them, America would leave like they did in Beirut and Somalia." At that point, the Serbs believe they will be able to finish off Bosnia.

There is no peace process worth the paper it is printed on if it is signed by Mr. Milosevic. Our troops should not be deployed on the basis of goodwill with a mass murderer.

Speaking for myself and those who have fought to see that Bosnia was not exterminated, we would rather see no deployment at all, to the choice of seeing U.S. troops supervising an honorless plea-bargain with the perpetrators of genocide. I urge you to do all in your power to prevent this deployment from proceeding.

Sincerely,

JOHN JORDAN,
Chief, Global Operation Fire Rescue Services.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I rise in opposition to this bill. This is the wrong bill at the wrong time.

You know, many of us on this side of the aisle voted to support President Bush in the Persian Gulf war. It was not an easy vote, but we did it because we think it was right. When the temptation arose amongst some colleagues to do this kind of thing to undermine President Bush at this same time, when the President was trying to build a consensus, we said, "No; give the President a chance to put it together, and then let him come to Congress."

Well, President Clinton has said he will come to Congress. So I do not understand why we are not giving President Clinton the same courtesy we gave to President Bush. I do not see why we are undermining the President and undermining the peace talks going on now in Dayton, OH, with this bill.

The same people that are talking against this now are the same ones that said Haiti would never work. Haiti, by all means, has been a success. And where were these people when Republican Presidents did not come to

Congress and sent U.S. troops to Grenada, to Lebanon, and to Panama?

You know, my friends, we cannot afford to slip into a dangerous sense of isolationism. The NATO alliance is a very important alliance, and the United States has to be the leader of that alliance. We cannot undermine the NATO alliance and not participate and then at the same time say we are going to be the leader of the free world and at the same time say we are going to increase our defense spending.

One of our friends asked how are we going to pay for it. Well, let us kill two B-2 bombers. We will have $4 billion right there.

Some of us have been yelling for years to lift the arms embargo. Some of our friends on the other side of the aisle have been critical of this Administration. They say the President is not decisive, the President has done nothing, and now that the President has finally gotten the peace talks going and success seems to be right there, they are undermining the President.

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I cannot understand that, for the life of me. The President is saying that he feels this will be detrimental. Mr. Speaker, I would say to my colleagues, I beg you, in a few weeks we can have this debate. This is the wrong debate to have right now.

Mr. HEFLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, I have before me the vote, three votes actually, from January 12, 1991, a shining moment in this House, a dignified and yet passionate at the same time vote.

One of the votes that is most impressive to look back on, and we need a lot of corporate memory around here, is the one that was called roughly the Durbin-Bennett vote. Charlie Bennett, the great World War II hero is enjoying retirement, but the gentleman from Illinois [Mr. DURBIN] is still around.

I would like to say, the Democratic vote on that, where the gentleman from New Jersey [Mr. TORRICELLI], and our pal Steve Solarz, and 248 other people prevailed over all of the Democratic leadership and the one independent, for a total of 183. We won the vote, 250 to 183. But two votes before, after we crushed by the exact same numbers the Gephardt-Colin Powell vote to just use sanctions, and we would still be there today, Kuwaitis would still be tortured, here is the first vote demanding that George Bush come to the Congress of the United States before we crossed the line into deadly combat. Two hundred eighty Democrats said "Come here, Mr. President," and five Democrats said no.

This is a good debate, and it is not ludicrous, ridiculous or premature. It is right on target.

I want to thank the gentleman from Michigan [Mr. UPTON] for getting these votes for me. The gentleman has a good corporate memory.

Mr. UPTON. Mr. Speaker, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Michigan.

Mr. UPTON. Mr. Speaker, actually it was 260, not 280, Democrats that voted for it. But the outcome was the same.

As we go back home to our districts, people ask us, "Why don't you take some action? What is going on?" This is exactly the same vote in essence of what we did with the Durbin-Bennett vote on the gulf war, and, that is, Congress ought to have a say in what goes on. It does not say whether we will approve it or not, but Congress ought to have a say. And this vote, of which your side of the aisle voted 260 to 5, ought to reflect that on this resolution, which does virtually exactly the same thing.

Mr. DORNAN. Mr. Speaker, reclaiming my time, absolutely. Here is the chain of command supposedly the way it is worked out now in what will be in Bosnia. Here is the chain of command from Somalia. This got 18 Americans killed, or 19. Three days later, Matt Rearson. Five men, including two Medal of Honor winners, were dragged through the streets, without one of the six fighting vehicles in Waco 6 months before to come and rescue them, without the gun ships they trained with for 3 months.

Please read those commandments, particularly the last one, and tell me if anyone can tell the parents of any man or woman killed in Bosnia why they went in harm's way.

Mr. DELLUMS. Mr. Speaker, I yield three minutes to my distinguished colleague, the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Speaker, I thank my good friend, the ranking member of the Committee on National Security, for yielding.

Mr. Speaker, I rise today to express my strong opposition to H.R. 2606.

The only hope we have for the former Yugoslavia is the fragile peace talks which are currently underway in Dayton. We arranged these talks, we invited the participants, and we are guiding them, hopefully, toward a satisfactory resolution which participants say might come as early as this weekend. Yet we consider today legislation which, if it passes, will show to the parties involved that we really have no intention of following through on our demands for peace. We bring the parties to the table, squeeze an agreement out of them, and then say "Good that you came to an agreement, but don't expect us to help you implement it." This is not right.

Would we do this with other enemies who are trying to resolve their conflicts? Would we initiate peace talks to resolve a prolonged conflict and then bail out just before the matter is resolved?

Mr. Speaker, the real issue is this: Does the U.S. Congress want the United States to remain the last superpower? Because if the answer is yes, with superpower status comes superpower responsibilities. And this means carrying through on the commitments we made when we accepted the superpower mantle. A strong, stable Europe is in our best interest. Europeans will buy American products during peace, not during war. And a strong, stable NATO is also in our best interest because it lessens the chance that we will ever have to act unilaterally again.

As a superpower and a NATO member we have a vested interest in bringing stability to Europe. And if we fail in this responsibility the war will surely spread, and we will have lost our moral authority as well as the respect and trust of our allies around the world who depend on us to do the right thing.

We made war in the Persian Gulf to protect our oil supply. President Clinton is asking us to make peace in Bosnia to protect people. There are certainly risks involved. I am worried about our soldiers, I am worried about landmines threaded throughout the area, and I am worried that it may be impossible to negotiate through the region in the dead of winter. But we must take risks for peace. And I do not believe that saving the life of a Moslem person in Bosnia is any less valuable than a drop of oil in Saudi Arabia or Kuwait.

This is not the right time for this resolution. President Clinton has said quite clearly that he would, although he does not have to, seek the approval of Congress before sending Americans to the region. And I think he should. This conflict may be resolved within a few days. Would it not be smarter if we were to wait to see how this conflict is resolved before we decide how we will respond? I think a good chess player would say, don't declare checkmate before focusing your chess piece on the king.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER], the distinguished chairman of our delegation to the North Atlantic Assembly.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support for H.R. 2606, and commends the distinguished gentleman from Colorado [Mr. HEFLEY] for his leadership on this vitally important question of national security.

Mr. Speaker, when I was trained as an infantry platoon leader, I was prepared to take those 40 men up any hill and accomplish any mission, because, first of all, it was a duty. Second, I had the conviction that the people in the military and civilian command structure in the Pentagon, the White House and Congress would make responsible decisions. Now, 30 years later, I am here, one of 535 people in the Congress and I think it is imperative that we not send ground troops to Bosnia—not send ground troops.

Mr. Speaker, read the President's letter of November 13. It says, "After initialing of a peace agreement communications and supply troops will be sent almost immediately to Bosnia." We are talking about the dispatch of a minimum of 1,000 or 2,000 American troops immediately, and that is upon initialing. Then the President's letter repeatedly mentions expression of support being welcome by the Congress.

Well, my colleagues that is what we are facing. Therefore, this is the right time to take on this issue. To do otherwise is irresponsible.

Mr. Speaker, in the very short time available, this Member wishes to make three points regarding the President's announced intention to unilaterally deploy 20,000 American ground groups to Bosnia. First, the mission lacks clear achievable objectives. Second, there is no exit strategy worthy of the name. And, third, legislative actions to halt the deployment of U.S. ground forces will not, contrary to the Clinton administration's allegations, will not undermine U.S. leadership role in NATO or the world. In fact, a failed NATO mission to preserve a Bosnian Government will damage the United States global leadership role and NATO.

First, look at the question of whether the proposed mission has clear objectives. The Clinton administration repeatedly has stated that NATO's mission would be to enforce an end of the hostilities that have plagued Bosnia for centuries. We would be injecting our troops between heavily armed factions that tragically seem incapable of living in peace. Presumably we are to serve as neutral honest brokers to prevent the three sides and the paramilitary groups from killing one another. This Member would note that this is a peace enforcement mission, practically an impossible one, and not a peacekeeping mission.

Mr. Speaker, we have been informed by the administration that American troops also will train Bosnian forces and try to bring about a parity of weaponry so that the Bosnian state might survive after the year of NATO occupation is over. In contrast to the peace enforcement mission—which presumably is designed to avoid taking sides—the arming and training of Bosnian Moslem or Bosnia federation forces is taking sides. Arming the Bosnian federation is not the act of a neutral. This Member can appreciate the desire to level the playing field, but one can hardly expect the Bosnian Serbs to quietly sit back while our peace-enforcers are training and arming their declared ethnic enemy.

This Member would also say, as a former infantry officer, that it is almost inconceivable that rules of engagement can be crafted which will permit us to act as neutral peace enforcer at the same time that we are training and arming one specific faction. It is this type of dangerous, fuzzy logic and contradictory objectives that can lead to mission creep and, regrettably, the unnecessary loss of American lives.

Now let me turn to the notion of a proper exit strategy. The Clinton administration has announced that its exit strategy is to withdraw in a year. Out in "approximately 12 months" * * * that is the sum totality of their exit strategy. But this commitment is not linked to strategic objectives. Indeed, it seems that the only criteria in this exit strategy is the belief that 1 year is the extreme outer limit of American tolerance and beyond our next presidential election. They may be right about that, but specifying an exit time frame is a critical error, and probably a very tragic one.

Mr. Speaker, it has been suggested most importantly, by a range of military specialists, including some of NATO's leading planners and operations people, that this 1-year peace enforcement mission will at best provide the region with a brief, NATO-enforced respite during which time the Serbs and Croatians fine-tune plans for the ultimate dismemberment of Bosnia. Then, as soon as the United States and other NATO forces depart, war returns and the final vestiges of Bosnia will be divided up in violent warfare.

This body should say "no" right now to a mission that lacks strategic objectives, and to one that is likely, at best, to buy only a bloody lull in Balkan warfare. Unfortunately, American, British, French, Canadian, other allied lives surely will be lost in the process. This Member, for one, cannot justify this inevitable and ultimately futile loss of life.

Last, Mr. Speaker, this Member fails to see the clear United States national interest in deploying 20,000 American troops to Bosnia. Pointing to our role as an international leader and the critical role importance of preserving NATO misses the point. Does it serve our reputation and that of NATO to briefly restore order and then permit the violent dismemberment of Bosnia as soon as we depart? No, it most emphatically will have the opposite effect.

Of course this Member is aware of the charge that damage will be done to United States prestige in the event of a congressional failure to support the President's unilateral, hasty, and ill-advised decision to deploy American land troops to Bosnia. But I will tell my colleagues that it is the Clinton administration, through its ill-conceived proposal, and not the Congress, that will ultimately do the greatest damage to the U.S. international reputation as leader of NATO and as a superpower if we cannot deter it. The American people should be under no illusions—if damage is being done to NATO, it is occurring at the other end of Pennsylvania Avenue.

Mr. Speaker, this Member would urge support of H.R. 2606.

Mr. DELLUMS. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I hate to do this, but I have to wonder about the motivations of the timing of this resolution. There are some things we know for sure: For 2 years, at least a year and a half, the President has been saying he intends to deploy 20,000 to 25,000 peacekeepers if there is a peace agreement in Bosnia. He has said in a letter to the Speaker that he will submit a request for a congressional expression of support for U.S. participation, a vote of the Congress on this issue, before the peace agreement is signed and before he deploys these forces.

No one offered this amendment on the fiscal year 1995 defense appropriation. No one offered this amendment on H.R. 7, which sought in every other way to constrain the Commander in Chief from exercising his authorities in the peacekeeping operation as approved by the Security Council. No one put this on the fiscal year 1996 defense appropriation when it came through the House, or when it came back from conference.

All of a sudden, when the peace agreement looks possible, when the negotiations have gone a long way, when the ceasefire has held in place for a while, when it looks like the most dangerous cause of expansion of the war; that is, the question of whether the Serb military would resist a Croatian invasion of Eastern Slavonia looks like it might have been settled, when the siege of Sarajevo has been lifted, when the brutal killing has been stopped, all of a sudden we get this issue, even though the President has said "You will have a chance to vote on this before I deploy the troops."

It is as if you want to scuttle the peace agreement and a chance of the killing stopping for good because you do not want to have to deal with killing it after it has already happened, and I think that is grossly irresponsible.

There are so many good questions about whether or not we should do this. I have heard the gentleman from Indiana [Mr. BUYER], the gentleman from Nebraska [Mr. BEREUTER], and the gentlemen from Pennsylvania [Mr. WELDON], raise legitimate questions. But either do it when the President first announces it and do not raise these expectations and cause all the achievements to be scuttled, as they will be if you do this now, or do it when you see the full agreement and you can talk about exit strategies and can look at what is achieved in separation of forces and what the risks to our troops are, and you can weight the possibility that NATO will be emasculated or the war will spread, and balance them. We will have a chance to debate that. This is the time, before we got to Dayton. In the middle of Dayton is not the time.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Nebraska.

Mr. BEREUTER. The gentleman knows that this bill is going to be vetoed. Now is the time to try to impact the plan that is being prepared over there in Dayton.

Mr. BERMAN. Mr. Speaker, reclaiming my time, let me respond to that. This bill will never see the light of day. You are right. Therefore, it is designed, I say, to scuttle what is happening at Dayton because of the timing, rather than to look at the final agreement, make a decision at that time, weigh and answer all the good questions that are being raised against the plan.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might just point out this was in our appropriations bill, and it was in a resolution. I do not know how many messages we have sent to the President on this.

Mr. Speaker, I yield 1 minute to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I would like to thank the gentleman for yielding time.

Mr. Speaker, I believe we must pass H.R. 2606 now. Otherwise, I am deeply concerned that we will wake up one morning while Congress is out of the city, and discover that President Clinton has started sending American troops to Bosnia. The President has not said he will ask us for authorization. He said that he would request support, but that there would be a requirement for early pre-positioning of support personnel. When he asks for that support, those personnel will already be there.

There might be a case that could be made for sending Americans to Bosnia. It would have to involve a rock-solid peace agreement. We would have to know what objectives our troops would be expected to achieve and how they could achieve them. The President would have to convince us and the American people that he knew what had to be done that would allow our troops to leave Bosnia in a better condition than it was when they arrived. Until he manages to make that case, we should make sure that he cannot put us into a quagmire. What the President and the administration have told us so far has not made a convincing case with me, or with my constituents.

The decision to place the young men and women of America's military in harm's way is the toughest that any Member of Congress can make. I have had to make that decision before, to authorize the war against Iraq in 1991. Before I made that decision, I received a great deal of information from the Bush administration as to our objective, the threat our troops might face, and our ability to accomplish our goals with a minimum of casualties. The Clinton administration, on the other hand, has not provided comparable information about its plans for Bosnia.

The President wrote on November 13, that his military advisors believe that 12 months would be adequate to accomplish the needed tasks to make the peace self-sustaining. That one sentence has two serious problems. First, there has been no discussion as to what the needed tasks of the Implementation Force are. What would our troops have to do to accomplish these tasks? All that the administration says is that the force will keep the warring factions apart. Second, there is no such thing as a "self-sustaining" peace. Peace has to be kept by someone. Otherwise you get anarchy. So, the only way the IFOR would be able to leave would be if the various communities in Bosnia were able to keep the peace themselves. Does anyone here believe the Croats, Serbs, and Muslims will unlearn the hatred that has been incited that led them to commit such outrageous atrocities on each other in just 12 short months?

We need candid answers on how our troops would protect themselves while they are standing between the groups that hate each other so much, and would love to kill Americans and blame it on the other side. The President says that our troops would operate under robust NATO rules of engagement. Unfortunately, this begs the question, because nobody has any idea what those rules of engagement might be. NATO has never done this sort of mission before. The only rules of engagement NATO ground forces have ever had to operate under in the past, was what to do if Warsaw Pact forces crossed or fired into the territory of a member of the NATO alliance. Any deployment into Bosnia will be significantly different from defending the territorial integrity of one group of sovereign countries from the armed forces of other sovereign countries. NATO has no experience in settling this kind of conflict.

Finally, the administration has been patting itself on the back for getting the Russians to agree to a formula by which a Russian brigade will participate in the IFOR without being subordinate to NATO. The idea is that the deputy to General Joulwan will be a Russian general and the orders to the Russian troops will be transmitted through him. That Russian general will be Colonel General Leonty Shevtsov. His last assignment was chief-of-staff of Russian forces in Chechnya from December through April. That was when Russian forces were indiscriminately bombing and shelling Chechen towns, killing tens of thousands of civilians.

Congress must vote before we send 20,000 Americans on this doomed mission to Bosnia. Please join me in supporting H.R. 2606.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Speaker, I am not going to take long. All the arguments have been made. I will try to be brief, but let me just say this. I may be the only person on our side of the aisle who is speaking against this amendment. I do it because I feel very deeply about this issue.

Mr. Speaker, I understand all the worries that were incorporated here about signaling the use of American troops before there is more of a resolution of the problems being solved, and all the other horrible things; about extraction of our troops and who is in charge of the military.

But, Mr. Speaker, I am going to oppose this resolution; not that I disagree with the words. Frankly, I may even vote against the use of troops. I could very well do this. But If we could pick a horrible time to pull our hand in this particular negotiation, this would be it.

I have talked to Cy Vance and I have talked to Brent Scowcroft and I have talked to Larry Eagleburger and all those people who are very wise on issues like this. I think they come down and say two things. "It is a mess. We understand your worries. There is no question about this. It is not clear. But if you are going to do something do not do it now."

Mr. Speaker, it is a horrible time, and as a result I am going to oppose this particular motion.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from San Diego, CA [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I say to my colleagues, I support the Hefley prohibition because of what I call the leadership issue. This may very well intrude on the President's constitutional prerogatives to lead our troops, and I have to concede that with a different administration in the White House I might well vote the opposite way.

But, Mr. Speaker, I think we have to look at what happened in Somalia when American troops requested tanks, because they felt they were needed militarily. They were denied by the Clinton administration because of political reasons, admitted political reasons. We suffered because of that. When Mr. Aideed's troops butchered and dragged Americans through the streets in Mogadishu, we did not pursue Aideed.

Mr. Speaker, placing ground troops in this situation is going to require clear, decisive and tough American leadership, and I do not think we have it in the White House at this time.

Mr. Speaker, I will support the Hefley prohibition.

Mr. DELLUMS. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I stand in support of the legislation which would restrict deployment of United States troops to the former Yugoslavia pending congressional approval.

The language establishes an important requirement: no United States ground forces should be employed in Bosnia to enforce a future peace agreement until the Congress has approved such a deployment. This would give an important and necessary opportunity for Congress to debate introduction of United States troops to former Yugoslavia. Equally important, it articulates a clear decision by Congress to exercise its constitutional duty with regards to war.

However, I strongly object to the short time allocated for its debate. A constitutional question as important as whether Congress approves sending U.S. troops into harms way should receive more than a few hours of consideration. This congressional debate should not be construed as representing an adequate consideration before sending United States forces to the Bosnian—or any other—conflict.

For more than 40 years, Congress has allowed the executive to continuously broaden its authority to put U.S. troops into harm's way. Congress' exclusive constitutional authority to initiate war is routinely ignored by Congress and Presidents alike.

Unfortunately, the current War Powers Resolution implicitly grants broad authority to the President to engage in wars of any size without advance congressional authorization. It requires the President to come to Congress only after he has put the prestige of our Nation and the lives of its soldiers on the line.

I have introduced a joint resolution (H. J. Res. 95) that seeks to reform the War Powers Resolution. The House of Representatives to address the balance of Presidential and congressional authority to make war. Indeed, the Constitution demands the collective judgment of the President and Congress on the grave question of war. The time is ripe for a congressional debate on the need to restore the balance of powers between the executive and legislature as envisioned by the Framers of the Constitution.

I welcome and support this legislation. However, it is my hope that Congress will spend more fully debate this issue and adopt a more effective War Powers Resolution.

Mr. DELLUMS. Mr. Speaker, I yield 4 minutes and 30 seconds to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, as many on the floor of this House know, I have been one of the principal advocates of a policy not supported by the President of the United States, and that was lifting the arms embargo. I think that was a good debate to have and, frankly, I believe it has moved us towards peace.

In 1980, the dictator of Yugoslavia, the Communist leader, Tito, died, and since then Yugoslavia has been in the process of disintegration. As has unfortunately been the case so many times in history, hundreds of thousands of men, women, and children, not political, not combatants, not even evidencing any ethnic or national hatreds towards one another, have died, been raped, been removed from their homes in that phrase we euphemistically refer to as "ethnic cleansing."

Jeane Kirkpatrick was asked just the other day, "Does America have an interest?" She said, "Oh, yes, it does. America, as one, of if not the leader of the free world and of the civilized world, has a very direct interest when it sees genocide, when it sees the dehumanizing of human beings, for if it ignores that, it dehumanizes itself."

It is well that we remember why we are here. What is happening in Bosnia and in the Balkans; and what has happened through centuries? First of all, we are not here, as we were in January of 1991, to make war. We are here to make peace. Will peace be successful? None of us know. Is peace risk free? All of us know it is not. But the question we have before us is whether or not we are going to give our President, our Nation, unrelated to party, the chance to help those people make peace. The chance to retreat from carnage and genocide and rape and homelessness and refugee creation. That is what this is about.

Jeane Kirkpatrick, a member of the Reagan administration, a distinguished American. Yes, she is a Republican, but more than that, she is a distinguished American who thinks hard and tough on foreign policy issues. She said this. "The President's letter, directed to the Speaker November 13, must be taken very seriously. We all have a commitment also to coherent American government which enables us to deal responsibly with other governments and other powers, and we want our government to be effective in its dealing with other governments".

This is the key phrase Jeane Kirkpatrick said. "I guess I think that the President's initiative or his response in this letter makes it unwise for the Congress to pass a binding resolution in advance of the completion of that agreement".

That is what the Washington Times, no great supporter of this administration, said today itself. Why? For the same reason that Speaker Foley in September of 1990, September, October, November, and December of 1990 said, yes, President Bush, we will not have a vote on this floor while you negotiate and Secretary Baker negotiates to create that alliance which confronted Saddam Hussein.

There were many people in this House who asked for that vote. Tom Foley, the Speaker of this House, said, as an American, we will not have a vote, and we did not have a vote until 500,000 troops were deployed in harm's way to serve the interests of security in the Middle East. Let us act as bipartisanly for America today and reject the Hefley bill.

Mr. HEFLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I submit that any Member that would allow a White House veto pen to ultimately send troops to Bosnia learned nothing, nothing from Vietnam. I support peace in Bosnia. That is not the issue today. The issue is not partisan. The issue is will American troops be sent to Bosnia to enforce the peace, and we hope that happens. And, second of all, what is the jurisdictional authority for such deployment?

In that regard, Mr. Speaker, I want to perhaps pose a few questions. Does Congress give billions to NATO? Yes. Does Congress give billions to the United Nations for peacekeeping? Yes, Does Bosnia pose a national security threat to America? I say no. Does Europe have the military capability to provide the peacekeeping? Yes. And who is empowered by the Constitution with the jurisdictional authority? Who is empowered to commit those troops? The White House? I submit not. It is the Congress.

Now, with that in mind, I listened to everything. And no doubt we are the big superpower and we have responsibilities, but we are not the only power. I think it is time to ask the question here. Where is Great Britain? Where is France? Where is Spain? Where is Italy? The last I heard, the European nations were not considered a Third World military pushover.

I want to go on with my statement. I think it is bad enough over the years we have literally produced the world's policemen in Uncle Sam. And for some reason we are determined to make our military into a neighborhood crime watch after these issues seemed to be having some peaceful opportunities. I, for the life of me, cannot understand that.

I think we have gone to far, Mr. Speaker, I think it is bad policy and I will not support, I will not support surrendering any more congressional authority on this business of deployment of troops, surrendering it to the White House. That is our job; that is why we are elected.

And let me say this to my colleagues. This vote today is right on the point. I have listened to all the talk about the newspaper editorials, I have listened to all the talk about the newspapers saying it is not the time to discuss this issue. Ladies and gentleman of the Congress, this is the time because troops will be going to Bosnia.

Now, let us get real here. If the Congress does not act, we will find troops in Bosnia. That is not a decision, ladies and gentleman, for the President. This is a decision of the U.S. Congress and no troops should be deployed without an affirmative approval and corresponding vote by the Congress of the United States. That is what the American people want.

Mr. DELLUMS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I think there are five compelling reasons to reject this bill tonight. The first is that it is at least inconsistent, at worst hypocritical to make our foreign policy based upon the party affiliation of our Commander in Chief.

In other words, I do think this bill is politically suspect in its motivation. But, second, for nearly a year now, the President under secretary——

Mr. CUNNINGHAM. Mr. Speaker, I ask the gentleman's words to be taken down; . . . .

Mr. HOYER. Mr. Speaker, I ask the gentleman's words to be taken down.

The SPEAKER pro tempore. The gentleman will suspend. The gentleman will please take their seats and cease.

The Clerk will report the words of the gentleman from Virginia, Mr. [MORAN].

□ 1845

The Clerk read as follows:

I think there are 5 compelling reasons to reject this bill tonight. The first is that it is at lease inconsistent, at worst hypocritical, to make our foreign policy based upon the party affiliation of our commander in chief. In other words, I do think this bill is politically suspect in its motivation. But secondly, for nearly a year now our President under Secretary. . . .

The SPEAKER pro tempore. The Chair rules that the words of the gentleman from Virginia are not personal references to any Member or to the President. Therefore, they are in order.

PARLIAMENTARY INQUIRY

Mr. HOYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HOYER. Mr. Speaker, I realize the ruling on the comment of the gentleman from Virginia [Mr. MORAN] being in order and not violative of the rules. What is the general standard that would be violative of the rules?

The SPEAKER pro tempore. Under clause 1 of rule XIV, Members should refrain from personal references to other Members.

Mr. HOYER. Mr. Speaker, I thank the Chair.

Mr. CUNNINGHAM. Mr. Speaker, I ask unanimous consent to withdraw my words.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The Chair would take this opportunity to remind all Members that we should attempt to restrain ourselves in our debate and avoid personalities in debate and urges all Members to maintain a sense of civility with one another as we go through this very sensitive debate.

Mr. DELLUMS. Mr. Speaker, the Chair's points are well taken. Might I inquire as to the remaining amount of time of the gentleman from Virginia [Mr. MORAN]?

The SPEAKER pro tempore. The gentleman from Virginia [Mr. MORAN] has 2½ minutes remaining.

The Chair recognizes the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, let me share with my colleagues four reasons why we are to reject this bill.

The first of those four is that the President and Secretary of State have publicly and clearly stated for almost a year now that in the event a peace agreement is reached and only in that event we should be prepared to commit approximately 25,000 U.S. troops to that effort. This is a strange time to be questioning that publicly, clearly stated commitment.

The third issue is that this is as much about the viability and credibility of NATO as it is about the salvation of Bosnia. It is the United States that gave birth to and nurtured NATO, and it worked, as the billions of dollars and the thousands of troops we committed to NATO were worth it.

It is now our responsibility to continue to be a fully participating member of NATO. It is surely beneath this great Nation to back out of our international commitments when it requires more than words and dollars and the safe positioning of troops in a peaceful country.

The fourth reason is that there are over 2 million refugees scattered throughout Europe. They are a constant and serious threat to the long-term stability of our allies. That is a threat to our national security interest.

The fifth reason, my colleagues, is the toughest one to argue because in the cynically political context that influences many of our decisions, it is difficult to make a case for doing something purely out of principle, regardless of the political consequences. But every nation in the world respects our commitment to principle. For many of them, it is their vision and ideal. The people of Bosnia looked to America as soon as Serbia fired its first shot on them and as soon as it invaded its first village. And throughout the mass execution and the mass rapes, they have cried out to us, but they have cried out not because we invest more in our military than all other nations of Europe combined, which we do. It is because they believe that we are the same nation that rose above the seductive rhetoric of isolationism and selfish interests and saved Europe, not once but twice.

We who now control America's foreign policy and military actions must answer that cry and answer that question. With our vote tonight we will tell the world whether or not we are the same nation that they assume us to be. We owe it to our forefathers that risked and lost their lives in Europe for the cause of democracy, human rights, and religious and ethnic tolerance to continue to be that nation they fought and died for. That is why we must vote no tonight.

Mr. HEFLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. HOSTETTLER].

Mr. HOSTETTLER. Mr. Speaker, I rise in support of this bill.

I rise today in strong support of this bill.

It can be little doubted that proceeding in Bosnia is foolhardy. As I listened to members of this administration, there was no evidence that there is an imminent threat to any political economic institution of this country.

Accordingly, many have turned to the Constitution to justify a no vote. I contend that the Constitution will not support such a vote.

The Constitution has declared, and I quote from Article II, Sect. 2 that "The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into actual service of the United States."

However, Article I, Sec. 8, of the Constitution places upon the Congress the following duties:

"To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water"

"To raise and support armies . . ."

"To provide and maintain a navy . . ."

"To make rules for the government and regulation of the land and naval forces . . ."

My friends, how can we argue that to limit a planned endeavor of the armed forces is not within the powers granted to Congress. To do so is to give disregard to the express language of the Constitution in favor of an implied power that is largely the product of the Executive branch's own interpretations.

Providing forces to the Balkans is an unnecessary endeavor. It is our constitutional duty to address this issue today. We must make the rule, today, that our forces will not be in the Balkans without express congressional approval—it is not in our national interest. This is independent of the terms of whatever peace agreement that may be wrought between the warring parties.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Mr. Speaker, politics stop at the border. Each and every Member of Congress, each and every American, must always stand united in confronting any foreign foe.

When our troops are sent in harm's way they deserve our full support. They also deserve our measured judgement not to put their lives at risk in the first place unless the national security of the United States is at stake. We must respect the President's prerogatives as Commander-in-Chief, but not forget Congress' power of the purse. The President should feel confident that he can deploy our forces in a military emergency. But this, my colleagues, is not a military emergency. Sending U.S. combat troops to Bosnia has long been advocated by the administration as a political measure and linked to a flimsy, unrealized peace agreement.

We will be failing our troops, failing their families, and failing the American people if we fail to answer the following simple questions posed by the majority of Americans. Is there a national security interest in Bosnia? Do we have goals and objectives for our forces? Is there a strategy which would lead to the withdrawal of our forces? Will peace continue after we leave?

The answer to these questions is no, no, no.

No—we should not involve ourselves in an embattled country where we have no national interest, no clear objectives, and no exit strategy.

We owe it to our troops to vote for this resolution. We owe it to our troops to vote for no missions without objectives. We owe it to our troops to vote to keep our responsibility to declare war.

Each and every one of us was elected to fulfill these responsibilities. We owe it to the American people and to our troops to do no less.

There should only be two considerations when you vote today. The safety of our troops and the well-being of our republic. This legislation puts the lives of our troops and America's interest first.

Please join me in voting for this important resolution.

Mr. DELLUMS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, for a land where Olympic bleachers have been dismantled to create caskets for children, I vote to give peace a chance.

Mr. DELLUMS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I rise in opposition to this bill. I think it is premature that we do this at this time.

Mr. Speaker, I rise today in opposition to H.R. 2606.

Although I share many of my colleagues' grave concerns about the proposed interjection of American troops into Bosnia and I echo their misgivings, I can not in good conscience, vote in favor of a bill that will effectively tie the President's hands and remove his ability to bring about a negotiated and lasting peace in the former Yugoslavia.

However, Mr. Speaker, while I do not offer my opposition to the President's proposal, I do not believe we should offer the President our unconditional support.

Placing the lives of American soldiers at risk is not something that should be done lightly. The President has an obligation to go to the American people and convince them that this mission is just and that the cause is pure. Further the President has an obligation to come to Congress if he plans to commit American troops and seek out consultation. This he has promised he will do. His letter to the Speaker confirms this commitment. He must ensure that these American troops will not be used to militarily impose an American solution, but rather, that they will be welcomed by all the warring parties as custodians and guardians of a negotiated peace.

Through diplomatic pressure and NATO military coercion, the warring parties came to the negotiating table in Dayton, OH to pursue a peaceful settlement to the conflict in Bosnia.

At this point, Mr. Speaker, a vote in opposition to the proposed American participation in a peace-keeping force is premature and will weaken the President's ability to influence the warring parties, thereby removing any leverage that he may have in seeking to bring forth a negotiated peace to this war-torn region of the globe.

The bloody conflict in Bosnia has assaulted our sense of moral righteousness, it has shaken our firm belief in the strength of our Democratic ideals, and it has tested our leadership and vision for a world predicated upon the ideals of democracy.

This conflict must end.

The negotiations taking place in Dayton, OH are the world's best chance to end this bloody war that has caused the loss of hundreds of thousands of lives and left a stinging scar on the world's conscience.

Therefore, I cannot vote in favor of H.R. 2606, a bill that will in my opinion, bring to an end the best chance to bring this war to a negotiated settlement.

For our NATO allies, who look upon the United States for political, economic, and military leadership, such a vote will greatly diminish their faith and confidence in our ability to lead in a mutlipolar world. But, even more dangerously such a vote will embolden our enemies to aggressively pursue their own interests without regard for American interests or fear of reprisal.

I urge my colleagues to reject H.R. 2606.

Mr. DELLUMS. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, at the very end of the Bush administration, during the election, I went over to Bosnia for the first time. I flew into Sarajevo and was not able to get out of the airfield because the fighting was so heavy, the shelling, the mortar fire. As a matter of fact, only a few blocks away from where I stood two young children were killed in a bus. Members may remember the incident.

□ 1900

I have gone back four times since then, three times in Sarajevo. The second time I stood in the area, in the marketplace, where 35 or 40 people were killed by a mortar round. The last time I went into Sarajevo, every building had been damaged. I stood by the national library that had been destroyed by shell fire. The people were going to work, and dressed like they were going to work, and they were satisfied, that because the United States was involved, they were hopeful there would be a peace agreement.

Now I do not know why President Clinton suggested we put American troops in, but I believe he felt it was necessary in order to bring some sort of an agreement from a war that had been going on 3 years since this killing that had been going on. There is no one that has fought harder in this Chamber over the years to get a President to agree to authorization.

I do not think there is anyone in this Chamber that believes this fighting would have come to a halt if the United States had not gotten involved. I do not think there is anyone in this Chamber that believes if the President had not made a commitment of American troops, that the fighting would have come to a halt. But I also believe that he should have authorization; I believed in Saudi Arabia he should have had authorization.

Now this is not the time to ask for a vote. This is the weekend where we can come to agreement. The President in a meeting the other day said he would give us ample time to discuss and debate this issue. The President of the United States assured us that he would ask for authority to send troops, and I do not think he should send those troops unless he gets authority or authorization from Congress. I think it would be a mistake not to have the support of Congress and the American people to send troops to Bosnia.

But the point is they would not have stopped fighting and killing, and, if my colleagues stood there and looked at the blood on the ground, they would have understood how serious it was. They would not of stopped if it has not been for the intervention of the President of the United States.

Now the gentleman from California [Mr. DELLUMS] and I have been on opposite sides many, many times, but I remember one meeting at the White House last year where everybody was clamoring for the United States to get involved. All the big shots around here wanted the United States to bomb them to oblivion, to send troops to lift the embargo, do everything, get this thing settled because the killing was so great. As soon as the killing slowed down a little bit, as soon as there was an agreement, things quieted own.

Everybody thinks it is going to end peaceably? It will not without our involvement, and down at Dayton right now they are talking peace, they are trying to come to agreement. This is a delicate time. Anything could disrupt it. The President of the United States said to us the other day this could very well destroy the momentum of the peace talks. This could stop the peace talks from coming to a conclusion.

Now I would ask the gentleman who is sincere, because I have had the same thought in my mind; I have tried over and over again to get every President to ask authorization for whatever deployment of American troops. But I would ask the gentleman to think about at this very delicate time why it is necessary to ask for a vote on something as important as this when he will have plenty of time later on to pass a resolution like this, and the majority party, they will have every right to bring up a privileged resolution and pass that resolution.

Mr. Speaker, I feel very strongly that all of us realize the sensitivity of what is going on in Sarajevo and in Bosnia. All of us feel we would like to see this end without one American life being lost. I have been to all the war zones. Every time there is an outbreak, I have seen our American troops frustrated. I was in Vietnam for a year with the gentleman from California, and I know what it is like, and I know how difficult it is to come to a conclusion. I know how important American power is, and I know how we were stopped in Vietnam. I know how we may very well be here, but we will have an opportunity, and I say that unless this agreement is an adequate agreement I will not agree to support the President of the United States in deploying troops to Sarajevo, to Bosnia.

Mr. HEFLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, a lot of us have been working very hard on this bill, and I truly believe, if we can send a message to Ohio that we are not going to include in these peace talks 25,000 troops, and then we devise a peace plan with the backing of this body, with the backing of the American people and the backing of the President, and a peace plan comes out, it will be the most legitimate thing we could possibly do. If a peace plan comes out and the troops are in there in the minds of the people that are putting this peace plan together, and then we vote against it, in my humble opinion then we desperately taint this body, we taint the American President, and we taint the prestige of this country.

I apologize to the gentleman from Virginia. But I do not like the feeling that what I believe in to my bones, that it is politically motivated. I do not want these kids going to war and to be killed.

Mr. DELLUMS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in opposition to the legislation before us this afternoon which is ill-timed, overly broad, and unnecessary. But I wish to make it absolutely clear to my colleagues, to the President, and to my constituents the exact meaning of my vote today.

My vote against this bill today is a vote to endorse the peace process now underway to resolve the war in Bosnia.

My vote today is a vote in favor of peace.

But my vote against this bill is in no way a blanket endorsement for the President of the United States to send American troops to Bosnia at his discretion.

It is my hope that American troops will never be called to serve in Bosnia.

But should that ever become necessary, it will be the U.S. Congress, acting with the President, that will decide whether to approve their participation.

Mr. Speaker, the war in Bosnia is a tragedy. It is time for the parties to breach their differences and rebuild their society. The peace negotiations taking place in Dayton, OH, are critical to that effort and I support this effort. But the President should not misconstrue my vote as an endorsement for his discretionary use of American forces in Bosnia.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, I thank the gentleman from California for yielding this time to me.

I rise tonight in opposition to the Hefley bill. I think it is a well-intentioned measure, but I think it is ill-timed. It is premature.

Someone said this will be the only opportunity we will have to vote on whether we want to send troops into Bosnia. Not true. I carefully looked at the letter the President sent in which he made it very clear that he will come back to this body and seek our support before taking such momentous action.

As my colleagues know, Mr. Speaker, we become easily repulsed when we see pictures of the horrors of war, when we see dead bodies, when we see destruction, when we see evidence of rape. But when the time comes for action, sometimes we begin to pause, we become indecisive. We are a world leader. Moral indignation, rhetorical condemnation is not enough. We must act and act responsibly.

Now that is not to say that I am committed nor that I believe that we should send troops. But what I am saying is that we ought to treat our allies fairly. We ought to give the peace process a chance. We ought not undermine the process before it has reached a fair conclusion. We cannot preach multilateralism and preach burden sharing, and then before the issue is even brought to conclusion say we are not a part of this play. It does not work that way. We should not tie the President's hands.

People like to come down to the well and talk about how committed they are to peace. Mr. Speaker, there are some people in Dayton, OH, right now trying to fashion a peace after thousands of years of conflict. We ought to give them a chance. We ought not to send them a signal that we do not have confidence in what they are doing. We ought not send them a signal that we want no part of their efforts even if they come up with a lasting and significant peace process. We should not discourage the participants in this process before they have had a fair opportunity to complete their work.

It may be then in the final analysis, when the President brings his case before the Congress, we conclude that, no, we should not send U.S. troops into harm's way. We may, in fact, conclude that we may be helpful through other ways, through intelligence, through supplying materials and equipment, but that is not the decision today. We should not make a premature decision and handicap the peace process.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, on October 30, 315 Members of this House, Republicans and Democrats, sent a resounding message to President Clinton. The message was simple, and it could not have been more clear: Do not send American troops to Bosnia without first getting authorization from Congress. But make no mistake about it. The real vote on Bosnia is here, and it is now.

We have asked the administration for casualty estimates for weeks now, but all we have gotten is silence. Mr. President, answer our question. How many American lives are you prepared to sacrifice in Bosnia? Not one drop of American blood should be shed in Bosnia.

Mr. Speaker, enactment of this legislation could prevent a potential disaster from taking place, and therefore, I strongly urge its passage tonight.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, I want to read a letter I received today from a constituent:

> Jim, please do not send our young men and women to Bosnia. I was a combat corpsman in Viet Nam, I volunteered to go. The death and carnage which is caused by war can not be described. This is not our war. We are being used by small ego driven foreign leaders. They could care less about our young men and women. You and your fellow representatives must care.
>
> Jim, I packed many body bags with parts of what was left of young men. I held young men as they died in my arms and there was nothing to do. You can do everything to save these men and women . . . it is not our war . . . for the mothers and fathers, sisters and brothers, please do not allow our young people to be killed . . . Sincerely, Bill Wenmark.

Mr. Speaker, this letter says it all. Support the Hefley resolution.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I thank the gentleman from Colorado [Mr. HEFLEY] for yielding this time, and I hope that through the rest of our debate that our passions will be sufficiently curbed, that we can maintain civility with one another as we deal with this issue that all of us have obviously anguished over, and I have anguished with my colleagues.

I would like to make it clear that I am deeply opposed to the way the President has gone about the negotiations ongoing in Dayton, not that we are there. I am proud of him and of this country, that we have produced those negotiations. But it was, I think, extremely improvident, at best, for the President to have said in advance of a military mission being identified and defined that we will contribute 20 to 25,000 ground forces, more than a third of the total that has been talked about. I think it entirely improvident for those negotiations to proceed on the premise that we will arm the Bosnian Moslems.

The SPEAKER pro tempore (Mr. LAHOOD). The time of the gentleman from Virginia [Mr. BATEMAN] has expired.

Mr. DELLUMS. Mr. Speaker, I previously agreed to yield 1 minute to the gentleman from Virginia [Mr. Bateman], and I do so at this time.

Mr. BATEMAN. Mr. Speaker, I thank the distinguished ranking member for yielding the time to me.

I think it is extremely improvident for those negotiations to be cast in the context of our arming the Bosnian Muslims and training them when we are there in a capacity as a neutral peacekeeper. This is not a sound way to establish a peace.

□ 1915

There will come a day when we will have an opportunity to vote, and I cannot support that level of our participation. But we do have a role in Bosnia. There is a responsibility of the United States as the cardinal leader of NATO, and our interest of the stability on the continent of Europe, that dictates our participation. And that makes it in our national interest that we bring about a peace, but we must do it in a rational way, and on another day, on another time, I may well vote against dispatching American forces on the ground there.

For those reasons, tonight, and very reluctantly, because I am not opposed to the sense of what this bill would require, I would not be able to support it tonight.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise in strong support of this bill to prohibit the deployment of ground forces to Bosnia unless Congress specifically appropriates funding.

The United States does have an interest in resolving the war in the Balkans peacefully, and we have engaged in appropriate efforts, including active diplomacy and the provision of air, sea, logistical and intelligence support, to that end.

But I disagree strongly with the President on placing United States troops on the ground to keep the peace in Bosnia. We must not forget that U.S. airpower has already engaged in military action against one party to this conflict. I, for one, cannot countenance placing our soldiers on the ground under those circumstances, where they will be convenient targets.

For me, the bottom line is this: I simply could never look into the eyes of a mother or father or spouse or child of a soldier killed in Bosnia and say that American interests in Bosnia were worth their sacrifice.

This legislation properly assures that Congress has a say in this affair, as it should in virtually any instance where United States troops are put in harm's way. I urge its support.

Mr. HEFLEY. Mr Speaker, I yield 1 minute to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Speaker, let me pose one simple question: Why are United States soldiers being asked to flight the Bosnia's war? The Bosnians should fight their own war. The Bosnians should be arming and defending themselves. In fact, they have been asking us even since the war began in 1991. Yet, the administration has refused to allow the Bosnians a level playing field. It is unconscionable that President Clinton has refused to lift the Bosnian arms embargo, while making every effort to send 25,000 American troops to protect the very country he has worked to disarm.

This contradiction involves the proposed roles of the U.S. personnel in Bosnian. Can someone explain to me how some U.S. personnel can serve as neutral peacekeepers, while others serve as suppliers and instructors to the Bosnian government's army?

These contradictory jobs personify the conflict and confusion in the Clinton administration's Balkan policy. American soldiers will not be viewed as neutral, they will be viewed as Bosnian mercenaries. Therefore, we should vote for the resolution.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I rise in strong support of this legislation.

For more than 2 years President Clinton has failed to articulate a clear position in Bosnia. Now he tells us he will send up to 25,000 of our men and women to Bosnia to enforce a peace settlement that has yet to be agreed.

The President has failed to meet the clear objectives his own Secretary of State Warren Christopher laid out 2 years ago:

Our goals must be clear.

The chances of this mission's success must be high.

We must have a clear and established exit strategy for our troops before they are sent.

The American people must support this effort.

Clearly, none of these objectives have been met.

This administration is preparing to put our sons and daughters in harms way because of offhanded promises from a President that has had no clear policy in Bosnia for more than 2 years.

Mr. Speaker, President Clinton has amoral obligation to come before this body and explain what our national interests are in Bosnia and our clear objectives for this deployment. The clearest foreign policy lesson of the past 30 years is the President's obligation to build a public consensus before committing American forces to hazardous long-term mission. America should never commit its troops without first committing the Nation.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, people may be quick to forget that the first President who tried to get us involved in Bosnia was President Bush. When he did that, I was against it. I was against it because of a conversation I had with then-Chairman of the Joint Chiefs, Colin Powell, when I asked him repeatedly whether or not we should send ground troops into Yugoslavia. He being a good soldier said, "That is not my decision to make. I am going to do what I am told." Only after I cornered him and only after I asked him the question 5 or 10 times he said, "No, we should not put ground troops in Yugoslavia. If you recall, I said that in front of Secretary Baker, and then-Secretary of Defense Cheney, in the meeting at the time when President Bush was trying to get us involved broke up."

Folks, it did not make sense then. It does not make sense now. There is something worse than the sight of dead Yugoslavs. It is the sight of dead young Americans who were sent someplace with no clear-cut missions, who cannot tell the good guys from the bad guys, and who die in a needless cause.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, this is a difficult issue to address. In fact, this may be one of the most difficult issues that any one of us has had to address, certainly in my 10 months. I am not a supporter of putting American troops on the ground in Bosnia. I think it would be a terrible mistake. It is my intention to work as hard as I can to prevent it from taking place. I believe in the 10 months that I have been in office I have received more calls on this issue than on any other issue, and not a single call has been in favor of it; but nevertheless, I have to respect the authority of the Commander in Chief to conduct foreign policy.

I think the timing is not good. I think that there is information to which we may not be privy that could very well be instrumental in any decision that we might make. Again, we may be acting without knowing that information. We have to assume that the President does have that information and is prepared to exercise that constitutional authority.

Furthermore, Mr. Speaker, I think there is no greater threat to American lives than a Congress that attempts to micromanage foreign policy. I have told the President that I would respect his authority as Commander in Chief, and I would suggest, in all candor, Mr. Speaker, to the administration that they really have not consulted with the Congress. They have informed the Congress, but I know there are respected Members on both sides of the aisle whose opinions are valuable, who have a tremendous amount of experience, who have not truly been consulted on the development of this policy.

Mr. Speaker, I would also remind this Chamber that there is one other issue, an overriding issue that hangs over this Chamber. That is the question of the Federal budget. Here we are, debating one aspect of foreign policy at the very same time that 800,000 Federal employees have been furloughed. I would submit to the administration that under no circumstances could I see us deploying a single soldier anywhere in the world without resolving this issue.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Speaker, there are three important points to consider before American lives are committed to serve as ground troops in Bosnia. First, there must be a vital American interest before one life is risked on foreign soil. There is no NATO country in the region and no economic, political, or military justification for this risk.

Second, Bosnia, the patient, has died. First, the Serbs; now Croatia sought territorial advantage. No one cares about Bosnia and the Bosnian federation. Let us put this State Department fiction to rest.

Third, who will vote to pay $2 billion to $3 billion to deploy ground troops in Bosnia? Let those in Europe and the Middle East who have been arming the combatants enforce the peace. The liberal Democrats who have been demanding that we cut to the bone our military spending are now insisting that we involve American lives in yet another military action.

Vote yes on the Hefley amendment. Keep American troops out of Bosnia.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I rise in strong support of this legislation by the gentleman from Colorado, and I thank him for yielding me this time.

President Kennedy said in 1961:

> We must face the fact that the U.S. is neither omnipotent nor omniscient—that we are only 6% of the world's population—that we cannot impose our will upon the other 94%—that we cannot right every wrong or reverse each adversity—and that therefore there cannot be an American solution to every world problem.

This statement by President Kennedy is even more true today, because we are now less than 5 percent of the world population and especially because we now have a $5 trillion national debt.

We should never send young American men and women to fight and die on foreign battlefields unless there is a real threat to our national security or a vital U.S. interest at stake.

Neither of these is present in Bosnia.

B.J. Cutler, the Scripps-Howard foreign affairs columnist, recently wrote: "if guarding people from the savagery of their rules is America's duty, it would be fighting all over the world, squandering lives and bankrupting itself."

We cannot solve the situation in Bosnia even if we spend billions that we do not have and jeopardize our own future in the process.

Mr. DELLUMS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in opposition to this resolution. Mr. Speaker, we gave this courtesy to President Bush not to bring up the Persian Gulf resolution at a certain time. Mr. Speaker, I was part of that agreement.

Now this President, President Clinton, has asked the body to delay a resolution such as this, and President Clinton told me tonight, as he has told other Members, that before he commits total forces into the Bosnian area, he will come back to the Congress of the United States. I think this President is entitled to the same thing that we gave President Bush.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from Nevada [Mr. ENSIGN].

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Mr. ENSIGN. Mr. Speaker, on Veterans Day recently I was out in Boulder City, NV, at a veterans' memorial cemetery and I saw a woman who was obviously a mother kneeling over her son's grave weeping. I could tell the pain on this mother's face, and I thought about the pain of everyone who has lost a son or daughter in a military conflict in this country.

Mr. Speaker, the thought came up to me during that day, and during some of the conversations that I had on Veterans Day with so many who have sacrificed so much, would that woman that was kneeling over that grave that day, would she accept this mission that the President wants to send our young men into in Bosnia? Would this be a mission that she would consider in vital U.S. American interest? Would this be a mission that she thinks that threatens our allies or that threatens the very defense of our country?

Mr. Speaker, I think that that woman would say no, and I would agree with her. We should only be sending our troops where there is a vital U.S. American interest or a threat to the United States.

Mr. Speaker, I support this resolution.

Mr. DELLUMS. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, I take this time to rise in opposition to this bill, because several Members on the majority side have kept noting that on October 30, over 300 Members voted for House Resolution 247, which asked the President to consult the Congress before sending troops.

Mr. Speaker, I happen to be one of those individuals that voted for the resolution because, on principle, I deeply feel that the President has an obligation to come to consult with the Congress before taking such a major step. But, on this instance where the peace negotiations are in a position of just being concluded, the timing is absolutely wrong.

Mr. Speaker, if we vote on this bill today, and it should pass this House, I believe it will have untoward consequences in bringing together the parties in Dayton, OH. The cutoff of these funds today is absolutely premature. Passing this bill will seriously jeopardize the negotiations. In fact, it might even sabotage them altogether. I believe very deeply that the President must be given an opportunity to succeed, to bring peace to this area.

Mr. Speaker, I urge a "no" vote on this bill.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Speaker, I rise to express my strong support for the Hefley amendment. It has been stated there is no public support for a mission to Bosnia. There is no national security interest to send American soldiers to die in Bosnia.

Mr. Speaker, we in Congress have a responsibility. We have a responsibility to say no to the funding. We can help this President. We can prevent the President from making a mistake that will cost him more than a few points in the polls. It will cost the lives of young American men and women, our sons and daughters.

Some may argue—and the gentleman from Pennsylvania [Mr. MURTHA] did a tremendous job—that this is not the role of Congress to deny the President the ability to forge his own foreign policy. But the President has never told us why he believes that peace can be established in a war zone, a civil war, a mission impossible. He has never made his case.

Mr. Speaker, we have tried to show the White House our concerns and the problems with their policies. They have looked away. Therefore, we must stand up and shout with our only real power: the funding. There should be no funds for Americans to die in a war that is not ours.

Mr. DELLUMS. Mr. Speaker, might I inquire as to the remaining time?

The SPEAKER pro tempore (Mr. HOBSON). The gentleman from California [Mr. DELLUMS] has 14½ minutes remaining, and the gentleman from Colorado [Mr. HEFLEY] has 16 minutes remaining.

Mr. DELLUMS. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, as a Member of the Subcommittee on Foreign Operations of the Committee on Appropriations, I rise to join our chairman, the gentleman from Alabama [Mr. CALLAHAN], and our ranking member, the gentleman from Texas [Mr. WILSON], in opposition to the Hefley amendment.

Mr. Speaker, with all due respect for the intentions of the gentleman from

Colorado [Mr. HEFLEY], but in all opposition to the timing of the gentleman's resolution.

Mr. Speaker, it has taken too many years and cost too many lives to get the warring parties of the Bosnian conflict to the peace talks. They are finally there. They are talking, not shooting. Voting today to prohibit a possible deployment tomorrow gives impetus to the parties to lay aside their voices, to take up their arms, and renew a genocidal conflict that is a blot on the world's conscience.

Mr. Speaker, I do not think this body wants to be responsbile for the collapse of the peace process. My problem, I have said again, is in the timing of the Hefley resolution. I believe that this legislation at this time before us today risks the lives of hundreds of thousands of civilians in the former Yugoslavia.

Mr. Speaker, 50 years ago when the reality of the Holocaust came to light, people said, "Never again" to ethnic cleansing and genocide. These abhorrent actions continue, despite this promise. I believe the world can no longer turn a blind eye to Bosnia.

Mr. Speaker, I urge my colleagues to vote "no" on the Hefley anendment.

Mr. DELLUMS. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Maine [Mr. LONGLEY] to continue his earlier thoughts.

Mr. LONGLEY. Mr. Speaker, I would add to my earlier remarks that there is an overriding issue that hangs over this entire discussion, and that is the question of the Federal budget.

Mr. Speaker, I cannot conceive of a situation wherein this Congress could be approving any foreign policy decision without our resolving the issue that affects 250 million Americans and their future, and that is the need to balance the Federal budget.

Mr. HEFLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. CHAMBLISS].

Mr. CHAMBLISS. Mr. Speaker, while I have some reluctance about overriding the authority of the President given by this body, we have no choice in this case. Mr. Speaker, I rise in support of this amendment.

Mr. Speaker, I would like to take this opportunity to express my concern about the vote we are about to make tonight.

Scenes of the fighting in Bosnia have torn this country apart. The bloodshed is real, and the death is overwhelming. At this very hour, peace talks continue between the leaders of the warring parties, and there is reason to believe that a preliminary agreement is in the works.

Mr. Speaker, I was elected to this Congress with a commitment to the people I represent to seek a seat on the House National Security Committee. It is a responsibility I take very seriously because the decisions we make will impact the lives of every brave American who volunteers to defend this great Nation.

The threshold decision we must make, Mr. Speaker, is whether the war in Bosnia invokes a vital national security interest for the people of the United States. If such interest exists, we must act and act decisively.

However, a vital national interest does not exist. This Nation, together with NATO, has made a firm commitment over the past several months in the form of air strikes in defense of United Nations safe havens. It is a humanitarian commitment that is worthy of our involvement. But the introduction of U.S. ground troops, American sons and daughters, is another matter, entirely.

Having said this, Mr. Speaker, I must also express my grave reservations over the soundness of judgment exercised to this point by this particular President. His indecisiveness and lack of vision could prove lethal to the many men and women who would serve as the ground force.

I also find it to the height of hypocracy for this President to send to Congress inadequate defense budgets in light of this newfound commitment to the projection of American power.

It seems that this sentiment is shared widely among my colleagues in this Congress. In my judgment, it is better that the negotiations in Ohio proceed with this fact in mind, rather than congressional action of disapproval after a peace accord is signed.

While I have difficulty casting this vote in light of the powers specifically enumerated this President as Commander in Chief, the safety of the men and women in our Armed Services demand me to cast a vote in support of this binding action.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, observers are sickened by the strife and atrocities in Bosnia. The human reaction is to want to do whatever we can to restore peace. And as the only remaining superpower on the planet it seems to many that we have the power to accomplish this goal.

However, I agree with an observation offered by the columnist William Raspberry, "If righting manifest wrongs were the only consideration, we'd be endlessly at war."

History has shown that there is a limit on our ability to impose our will on other nations' internal problems. That limit is especially constricting when you add the problems caused if we place our soldiers under the command and control of an international organization.

Before our Government sends our most precious resource—young Americans—off to fight and die in a foreign land, we have to ask ourselves to support the Hefley amendment.

Mr. DELLUMS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Speaker, I rise in strong opposition to the Hefley resolution. President Clinton has exercised extraordinary leadership in bringing the warring parties in former Yugoslavia face to face for the first time to work toward a negotiated peace settlement. At last, peace might be close at hand.

Mr. Speaker, now some of my colleagues seem determined to pull the rug out from under these fragile peace negotiations at this very most critical time. After years of fierce fighting and senseless bloodshed, we are finally on the brink of creating a lasting peace in Bosnia, a peace which will prevent the further killing of innocent women and children.

However, by passing this resolution, we threaten to create a new leadership vacuum which will ignite renewed fighting and result in the death of more innocents. Furthermore, without decisive American leadership, this fight could easily engulf Albania and Macedonia, leading to a dangerous escalation of hostilities between our important NATO allies, Greece and Turkey. Also, it could be the end of NATO as we know it. This would be disastrous.

Mr. Speaker, let us not sabotage our best and maybe only chance to bring peace to Bosnia.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, why is President Clinton insisting on sending 25,000 American troops into Bosnia where a number of them will most certainly die? We cannot take this situation lightly. Submitting our young men and women into a battle region is a dangerous proposition at best, yet President Clinton has still failed to articulate just what U.S. interest is at stake that requires putting American combat troops in war-torn Bosnia.

Mr. Speaker, why should U.S. blood be spilled for a cause that is better handled within the European Community? What will we tell these brave soldiers' parents? What will we say their children died for?

Mr. Speaker, I do not believe President Clinton has answers to these questions. The administration should remember the lessons of Somalia and Beirut. When we commit U.S. troops to unstable regions of the world without a defined mission, Americans die.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. DELLUMS. Mr. Speaker, I yield 4 minutes to distinguished gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I have been listening to this debate for a couple of hours, and while listening to it I had an opportunity to read the CONGRESSIONAL RECORD of January 12, 1991.

Mr. Speaker, it is interesting to note that there is a difference this year from 1991, because the Republicans, with a Republican President, were saying the same things that the Democrats with a Democratic President are saying tonight. And the Democrats, with a Republican President, are saying the opposite of what they were saying in 1991.

Mr. Speaker, it would behoove all of my colleagues to get the CQ Almanac, the 46th annual edition of the almanac, and read the brief history of the entire debate on the Persian Gulf and the entire debate on whether or not the President of the United States has the authority to do what he is doing.

Mr. Speaker, this issue tonight is not over whether or not the President has the authority. It is over whether we ought to delay the vote on this for a few days until the peace negotiations end.

Mr. Speaker, in 1991, under a similar situation, a Republican President then called Speaker Foley and said, "Could you delay a vote," because of some strategic timing needs that the President was aware of. Mr. Foley, who ultimately voted against the resolution that we ultimately submitted, granted that to the President of the United States.

Now, the President has come to us today. I understand he called the Speaker of the House and he requested the Speaker, and I know he called the sponsor of this bill, and requested that they at least delay this vote until after this weekend, when they are optimistic that most of negotiations will be finished.

Mr. Speaker, this is not going to be the law of the land after tonight. This is not going to be the law of the land because we pass it tonight. The Senate more than likely will not pass it. If they do, the President is going to veto it. So, it is not going to be the law of the land.

Mr. Speaker, if my colleagues want an expression, then they should introduce a sense of Congress resolution and I will vote with them, because I do not believe that we ought to send troops to Bosnia either. Mr. Speaker, I have sent that message to the President. I have told the Secretary of State this. All of us have this same right to do this very same thing, to express our views to the President.

But for this body at this time, when it is meaningless because it will not become law, to insult the President, let me tell my colleagues, I am not here defending Bill Clinton. I am here defending President Clinton, and there is a big difference.

Mr. Speaker, the hardest message I ever gave on this floor was in 1991 when I stood here and supported President Bush in the Persian Gulf resolution. If it gets to that, the President has sent us a letter and he has said that before he takes action, he will bring that message to the Congress.

So, we can talk about constitutionality; we can talk about right or wrong; we can talk about history, but to deny the President of the United States, during the middle of peace negotiations which conceivably will stop this horrible bloodshed in Bosnia, is wrong.

Mr. Speaker, I know that all of my colleagues on my side of the aisle are going to disagree with me, and that is their prerogative. I am espousing my views. I am telling my colleagues that some of them, and I probably too, are hopeful that in 1996, that there will be a Republican President there. Mr. Speaker, I hope we are not in this type of situation. But if we are, I am going to protect that President, just as I am going to protect this President tonight.

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Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. THORNBERRY].

Mr. THORNBERRY. Mr. Speaker, voting to prevent the President of whatever party from sending troops somewhere should never be done lightly, but no Member of this body can ignore our responsibility to our soldiers and to our Nation as well.

The issue is not whether a peace treaty or a piece of paper gets signed in Ohio this weekend. That is not what we are after. What we are after is a peace that will stick, a peace that will be enforceable. It has to be based on solid ground. If they negotiate a treaty that assumes U.S. combat troops will be part of the peace enforcement, they are making a false assumption because the support is not there in the Congress or the country to do that. It is better they know the facts now and tonight rather than find out the hard way later.

The fact is the President promised to send in troops without consulting Congress and now he is asking us to back him up. Our job, on the other hand, is to ask whether there is a vital national security interest in Bosnia that justifies risking the lives of young men and women. I do not think there is. Risking their lives just to make good on a rash, premature promise by the President is flat wrong and we ought to stop it.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank my friend for yielding me time.

This is the key vote this evening, whether we send troops into Bosnia or not. And the reason for that is because the President point-blank tells us that he is going to preposition a number of troops into Bosnia.

We are going to be deploying some 4,000 NATO troops, either a third or a half of them U.S. troops. So the next time this issue comes up for a vote, it is not whether we are going to send troops into Bosnia. The issue will be whether we are going to support the troops that are already there, and that is why this vote this evening is such a crucial vote, and that is why this vote this evening is a historic vote.

Speaking of history, Mr. Speaker, sometimes I think the only thing we learn from history is that we do not learn from history. I see in the paper here we have Mr. McNamara, Secretary of Defense during the time of Vietnam, and what is he saying is, he said I knew we could not win the war. He said I did not believe in the war. But they kept on putting thousands, hundreds of thousands of boys over into Vietnam. 58,000 names we can see when we walk out of this building and walk down to The Mall.

But where is McNamara? He is a big hero over in Vietnam. He is selling his book all around the country. But there are 58,000 names we have on the plaque down here. Look at history. Let us learn from history this evening.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, we hear give peace a chance; do not disrupt the negotiations. That is the central argument being offered by this side for us not to act. And I will tell my colleagues that if we do not act and we send 25,000 Americans into the Balkans meat grinder, it will be because we bought that argument that some of our colleagues have presented to us. But that argument is nonsense. Total absolute nonsense.

If peace talks are predicated on deploying 25,000 American troops into the Balkans, what is going on in Ohio is not a peace process but a tragic game. We are doing no one a favor. We are not bringing peace 1-inch closer by having the parties of a negotiation in Ohio base their agreement on predicating that 25,000 American troops are going to be sent to the Balkans.

What is reality? That is not reality. Ignoring reality and wishful thinking will not bring peace to the Balkans or anywhere else in this world. All it will do is put 25,000 young Americans in harm's way and possibly bringing them back in body bags. What is reality? The American people do not support the deployment of these thousands of young Americans, our young defenders, into this bloody and confusing morass.

Mr. Speaker, I worked in the Reagan White House when he made his worst mistake, and that was deploying the Marines to Beirut. This has every smell of that same situation. We had very little chance of success. I ran all over the White House saying what are we doing? What are we trying to accomplish? They said, well, if this happens and that happens and this happens, we are eventually going to bring peace to the Middle East. I said, look, the chances of success are 1 in 10. The chances of this turning into a bloody failure are one in two. It makes no sense.

Well, that is exactly what we are doing tonight. The situation in Bosnia, our chances of success are maybe 1 in 10, maybe 1 in 100. The chances of a catastrophic failure and the death of many young Americans is very high. It is nonsense. This is a horrible policy. We must do everything we can not to let it happen.

Mr. HEFLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, earlier today I spoke in support of this resolution. Let me please urge Members to vote for this. It may be their last chance to stop these troops from going into this place called Bosnia where they have no place being.

Mr. Speaker, I rise in strong support of H.R. 2606 and commend Mr. HEFLEY for forcing this critical issue to the floor.

Mr. Speaker, I have been a member of the North Atlantic Assembly for 16 years and currently serve as chairman of the Political Committee.

I have been proud to be affiliated with what has been the greatest treaty of all time—NATO.

And for that matter, it has been the greatest peacekeeper of all time too.

NATO, with its laser-like focus on military deterrence and collective defense, kept the peace in Europe for over 40 years in the face of the Soviet threat.

But let me tell you what is going on in our allied European countries. There is a noticeable leftward drift, especially in terms of foreign policy.

More and more, NATO is being pushed by this leftward drift into out of area missions—missions that don't involve direct threats to NATO members, such as civil wars, ethnic conflicts, and the like.

Missions like Bosnia.

And the Clinton administration has been getting us sucked into this morass for 3 years.

After 3 years of doing nothing, after 3 years of subjecting the Bosnian victims to a cruel and strategically myopic arms embargo, the administration now says that if we don't send 20,000 young people into harm's way in this hornet's nest, we will destroy NATO.

Ladies and gentlemen, that's baloney.

This mission will destroy NATO. Let me tell you how.

The administration has a plan, folks. They have a plan to partition Bosnia, divide it into sectors, and insert United States, British, French, and yes, Russian troops in to enforce the partition.

What does that sound like? It sounds an awful lot like Berlin to me.

And another Berlin is exactly what NATO cannot withstand.

We can't afford another 40-year deployment, Mr. Speaker, especially in this place where there is no vital national interest.

And we can't afford to let the Russians snatch victory from the jaws of defeat by giving them a free pass into the Balkans.

To be blunt, they have a history of coming to a place and hanging around for a while. How are we going to get them out?

And how are we going to prevent them from arming and supplying the Serb aggressors?

We know they will do this.

And are American soldiers going to square off with the Russians if they do this, or are we going to turn a blind eye as the Serbs re-arm?

Either way, it is a fiasco for NATO.

Mr. Speaker, let's stop this mission from proceeding until the President comes to us and secures our approval.

This is what the Hefley bill will do and I urge a "yes" vote.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. METCALF], who has been so effective and so helpful in helping to bring this matter before us tonight.

Mr. METCALF. Mr. Speaker, I thank the gentleman for his kind words.

Mr. Speaker, American ground troops may soon be dispatched to Bosnia. These men and women are entering a combat zone plagued by centuries of conflict and three failed peace agreements in recent years. It is the duty, the constitutional duty of Congress to allocate funds or to deny funds for long-term troop deployments. We have learned through sad experience that it is easy to rush troops into a conflict, but it is extremely difficult to solve the problems once they get there, and even more difficult to get out in a timely and honorable way.

Mr. Speaker, the American people know that it is folly to send combat troops to Bosnia, and I ask Members to support them with their vote for this resolution.

Mr. HEFLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, November 17 is the 30th anniversary of the Ia Drang Valley. Three hundred two killed in action. Americans. Look where that led.

I rise again for this amendment.

I include the following for the RECORD.

IADRANG VALLEY BATTLE

About 1,200 troops of the U.S. First Cavalry Division (Airmobile) fought North Vietnamese regular troops Nov. 14–17 in the Iadrang Valley, between the Cambodian border and Pleime. The First Cavalry troops had been scouring the area in a search-and-destroy operation since the Communists had mounted an unsuccessful siege of a U.S. Special Forces camp at Pleime in late October. The Iadrang Valley clash was the operation's 4th contact with the Communist forces.

About 2,000 North Vietnamese of the 66th Regiment were reportedly involved in the Iadrang engagement. Before U.S. troops withdrew from the valley Nov. 17 a total of 890 North Vietnamese bodies were counted, according to a military spokesman in Saigon. Although First Cavalry losses were described as "moderate," they were believed to have been the heaviest sustained by U.S. troops in any single engagement of the war.

The North Vietnamese opened their attack Nov. 14 with a heavy 4-hour assault on U.S. positions. The Communists renewed the attack Nov. 15 against 4 U.S. companies of 750 men defending a clearing in the valley for a helicopter landing. The North Vietnamese then broke off the attack, pressed the assault again Nov. 16 but were thrown back in 3 separate drives. The U.S. troops repelled 2 similar Communist attacks later in the day. U.S. commanders decided Nov. 17 to withdraw the First Cavalry units from the valley since North Vietnamese had a tactical advantage by holding positions on high ground. About ½ of the U.S. troops were evacuated by helicopters; the remaining soldiers walked out of the valley.

(A U.S. military spokesman in Saigon had reported Nov. 5 that 5 regiments of North Vietnam's 325th Division were in operation in South Vietnam.)

VIETNAM WAR ALMANAC—BATTLE OF IA DRANG

(By Harry G. Summers, Jr., Colonel of Infantry)

Although it was not apparent at the time, the Battle of the Ia Drang Valley between elements of the U.S. Army's First Air Cavalry Division and regiments of the North Vietnamese Army was especially significant. It not only marked the first major engagement between American and North Vietnamese troops, it also presaged the final campaign almost 10 years later that would lead to the total collapse of South Vietnam.

In 1964 the North Vietnamese Politburo had made the decision to commit regular army units to the war in the south. After a buildup in supposedly neutral Cambodia, the North Vietnamese intended to attack across the Central Highlands and drive to the sea, splitting South Vietnam in two and ultimately seizing the entire country. They executed this plan on October 19, 1965 with an attack on the U.S. Special Forces camp at Plei Me, but they did not foresee the reaction to this attack. General William Westmoreland made the decision to commit the U.S. Army First Air Cavalry Division, just arrived from the United States, to the relief of Plei Me. The division's helicopters enabled it to fly over enemy roadblocks, and its firepower was instrumental in breaking the Plei Me siege. On October 26, South Vietnamese relief forces were able to break through to the camp. With this success, General Westmoreland ordered the U.S. First Air Cavalry Division to switch from defensive to offensive operations and its reconnaissance units began to seek out the fleeing enemy.

Unknown to the Americans, the North Vietnamese Army's 2,000-man 66th Regiment, joined by the 700 survivors of the 33rd Regiment that had laid siege to Plei Me, was regrouping in the Ia Drang Valley to the southwest. On November 14, the 430 men of the U.S. First Battalion, Seventh Cavalry were ordered to make a helicopter assault into what appeared to be an unoccupied landing zone in the Ia Drang Valley. As soon as they landed they came in contact with elements of the North Vietnamese Army 66th Regiment. Fighting was intense and one U.S. platoon was cut off from the main body. Reinforced by air by elements of the U.S. Second Battalion, Seventh Cavalry and supported by intense artillery and air support, including strikes by B–52 bombers, the First Battalion was able to hold on in the face of heavy odds. On November 15 it was further reinforced by the Second Battalion, Fifth Cavalry, which had moved by air to a landing zone some two and a half miles to the southeast and had marched overland to the sound of guns. Thus reinforced, the First Battalion, Seventh Cavalry was finally able to reestablish contact with its isolated platoon. The North Vietnamese broke contact, with some troops fleeing back across the border into Cambodia and others fleeing eastward into the jungles of the Ia Drang Valley.

Ten years later the North Vietnamese would launch their Final Offensive to conquer South Vietnam just a few miles south of Ia Drang Valley with their attack on Ban Me Thuot on March 10, 1975. They had tipped their hand to their long-range strategic objectives in 1965, but because the United States was so obsessed with the doctrines of counterinsurgency, it could not see that with the Battle of Ia Drang the entire nature of the war had changed. The North Vietnamese Army, not the Viet Cong, would prove to be the decisive military force in the war.

Mr. HEFLEY. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, as a member of the National Security Committee, I rise in strong support of the bill offered by my friend and colleague from Colorado.

Before this Congress offers its support for any commitment of troops, several critical questions must be answered.

What are United States interests in Bosnia? Are they solely humanitarian, or does the U.S. have other interests in the area as well?

What are United States objectives in Bosnia?

Can the commitment of U.S. troops protect these interests and achieve these objectives? If yes, how many Americans will be expected to give their lives to protect these interests and achieve these goals.

These are the questions that must be answered in advance of any congressional support to commit troops to this or any other area. I have voted in the past to give this President, and any President, the greatest possible leeway in setting the foreign policy of the United States.

But I cannot sit back and allow a President to commit troops to a part of the world when he has not defined U.S. interests, and has not identified what his objectives are.

Mr. Speaker, I reject the notion that this Chamber should withhold judgment on the critical issue of whether or not to commit troops while talks are underway in Dayton.

As we learned in Beirut and Somalia, once deployed, even for the most humanitarian and noblest of reasons, United States forces often become a target of aggression rather than a symbol of peace.

Peace may well be the objective, but the deployment of tens of thousands of American soldiers in Bosnia may escalate the conflict beyond anything this administration acknowledges.

I ask my colleagues to support this bill and require the Congress to be involved in any decision to commit troops in Bosnia.

Mr. HEFLEY. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. COX], chairman of our Republican Policy Committee.

Mr. COX of California. Mr. Speaker, this debate comes on a day when the hot news topics in Washington are the Government shutdown, the question of whether we will raise the debt ceiling, whether we will pass a Balanced Budget Act. But I think all of us, if we pause for a moment, recognize that 6 months from now that will not matter so much. That will be old news. The Government will be back operating again and we will have our Balanced Budget Act in place and the debt ceiling will have been raised.

The more important decision is the one we are voting on tonight. I venture to say it is the most important decision we will make in the 104th Congress. Six months from now, this decision will undoubtedly loom large. What we do or do not do tonight is irrevocable. We cannot take it back.

I support the peace process. I congratulate President Clinton for bringing the parties together. But if we fail to act now, while there is still time, then, yes, an agreement will proceed for Dayton, one built on the false premise that the United States will commit over 200,000 combat ground troops to Bosnia.

If we do nothing tonight, United States will have negligently sidled into the Balkans trying to be neutral just weeks after bombing the Serbs; treating war criminals like Slobodan Milosevic the same as victims of hideous ethnic cleansing; foolishly inviting Russian troops into Central Europe without any guaranty that they will not continue to side with the Serbs, without any guaranty that they will leave when we want them to; putting United States ground troops into the middle of a three-way crossfire with no military objective other than to be shot at.

If we do nothing tonight, make no mistake, it will be an irretrievable decision. While Congress could theoretically vote on this question after the commitment is made in Dayton, the reality is, as NPR has reported tonight, prepositioning troops will move into the Balkans from the United States within hours. Fourteen days later, when the final agreement is initialed, it will take, according to NPR, having been just briefed by the Pentagon, no more than 72 hours to get the bulk of the 20,000 United States troops on to the ground in Bosnia.

We will have no chance to turn back. And if we did, we would be voting to unravel the peace agreement. How responsible would that be? We would be voting to make seemingly worthless the executive commitment of the President of the United States in Dayton, OH. It is much more responsible to act now while there is still time.

Mr. Speaker, what is really at stake here is not the unquestioned power of the Commander-in-Chief to send troops anywhere he likes on the planet. He has the power. What is at stake here tonight is the power of the purse, because the Congress also has the power to pay for or not to pay for things over which we approve or disapprove.

The administration has made it clear they will send these troops. I have been down to the White House three times in the last few weeks. They have said so. If we fail to act tonight, we will be acquiescing to plans to divert funds from other vital and legitimate national security functions that will represent nothing less than an usurpation of this Congress' power of the purse.

I urge Members to vote yes on the Hefley bill, to act responsibly tonight and to say no while there is still time.

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Mr. DELLUMS. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, some Members rise with answers. I rise tonight with a question. What is wrong with us? What has become of this Chamber where for generations we have come together for common national purpose? Has our appetite for partisan differing made us lose our taste for national purpose? Is it not enough that the Government of our country has been paralyzed by bipartisan bickering that now, indeed, a desire to embarrass our President can make us lose a chance for a desperately needed peace?

Several hundred miles from here, in Dayton, OH, there is just a chance that the worst human carnage in a generation can be brought to a close, while in Bosnia the soil is still fresh from the mass graves of the victims. Children still seek to heal from their wounds. And yet there is an end in sight, just a chance that peace can be restored.

It is not right, it is not right that in a few moments from now we will have a vote and those negotiations will be interrupted by the passing of notes to those who came from peace and are told that the United States has lost the resolve. Our secretary of State has lost the credibility. Our President has been undermined.

Mr. Speaker, I do not come here tonight holding any brief for the President of the United States. I believed long ago we should have given the Bosnians the right to arm themselves. I come here for no administration but for the purpose of national unity at a time when we can give meaning to these peace negotiations.

Mr. Speaker, from Pearl Harbor to the Persian Gulf, Democrats and Republicans have come to this floor, to this Chamber and put aside partisanship for national purpose. Indeed, it has become a national axiom, a national division stops at the water's edge.

Tonight this President has asked for no troops. He has proposed no plan of military involvement. Indeed, he has pledged to come to the this floor and ask for Members' support before we take that national step.

Mr. Speaker, if this were the British parliament and this vote were to pass, this government would come down. We have a different system. Our government will endure, but it will not be the same.

American power does not rest on our armed forces alone. We are not respected simply because of our wealth. We are respected, indeed, the combatants tonight are in Dayton and not in Paris and not in London and not in Rome, because of the credibility of those who sat in these chairs before us, generations of Americans who came here and put their partisan affiliations beside.

Mr. Speaker, that credibility is at issue tonight. I ask that this resolution be defeated. I ask that we stand together. I ask that we give the peace of Bosnia a chance and stand with Bill Clinton just for these days.

Mr. HEFLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Speaker, I rise in strong support of this resolution.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BUYER], a gentleman who has invested an enormous amount of himself and his time in this effort.

Mr. BUYER. Mr. Speaker, this is not about scoring political points tonight. I have worked with many of my Democrat colleagues, the gentlewoman from California [Ms. HARMAN] and others, the gentleman from Indiana [Mr. ROEMER], on this issue, along with my Republican colleagues.

If this body does not want to send ground troops to Bosnia, when do we deliver that blow? Do we do it while the parties and the diplomats are at the table, or do we wait until the diplomats go home? I would say that we place a greater blow than once they go home.

Let me add something that is thought provoking. I have been sitting there watching many come to the well in argument, and the Gulf war has been referenced. I have watched many, this is very thought provoking, from the last vote that we had there are many who voted that said, yes, it is all right to send ground troops to Bosnia, but voted against use of force in the Gulf war. I think that is extremely thought provoking.

When vital national security interests are at stake, vote no. But vote yes to send troops in harm's way to an ill-conceived, poorly defined and highly dangerous mission.

I will share with Members that I stand here tonight with the soldiers who took an oath to give their life to protect freedoms, liberties and economic opportunities. Sending troops in harm's way is very serious. Some feel that it is the military's job and there is something glorious about flexing our might.

My colleagues, war may sound glorious in verse or prose, but in reality it is not, because it is the soldier, the sailor, the airman and marine who sees the face of death and witnesses the long dark shadows of horror. But glory is found in the new levels of courage and fear that erupt from the American character.

However, the strength of the American soldier's character is in her willingness or his willingness to give the ultimate sacrifice to protect United States vital security interests, not for an ill-conceived, poorly defined and highly dangerous proposal that places ground troops as a predicate to a peace agreement.

We can, the United States, and should participate in the peace process by providing our leadership in NATO, our air power and sea power, our airlift and sealift and our logistical support. But we must vote now, not later, now, while they are at the table.

I ask my colleagues to support the Hefley amendment and send that message.

Mr. DELLUMS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we are down to the last two speakers, the tail end of this debate. I would like to conclude this debate where my distinguished colleague, the gentleman from Colorado [Mr. HEFLEY] began this debate.

My friend and my colleague started this debate saying today is about American lives. With all due and profound respect to my colleague, I would dissent from that. Tonight is not about American lives. It is not about American lives because we all know that the predicate for deployment of American troops is a peace plan. There is no peace plan. Therefore, there is no request for the deployment of American troops. Therefore, this is not about American lives. The appropriate moment and the appropriate forum for that to take place is when the predicate becomes a reality.

So what is tonight about? Tonight is about the lives of people who are living in Bosnia-Herzegovina at this moment. It is not about American lives. It is about the lives of people over there, the lives that many of us came into this Chamber just a few months ago, with wringing hands about the murder, the slaughter, the rape and the pain of people.

I saw many of my colleagues on both sides of the aisle march into the well with anger and with pain and with raw emotion about how women were plundered and raped, children killed, 16,000 of them, thousands of people dying in the insanity of ethnic cleansing. And as a black man, I understand that.

I would like to have believed that I would have had the courage and the dignity, in the context of Nazi Germany, to stand up and rise above the notion of narrowly construed vital national interests to assume the moral responsibility to say that we have the responsibility to save human lives.

So tonight is not about American troops. That issue is somewhere else. It is about those lives you cared about.

Mr. Speaker, Members of Congress voted to unilaterally lift the arms embargo because they were angry and frustrated at the killing, the dying and the slaughter and the rape and the plunder. And you argued that point on moral grounds.

I came here 25 years to raise my voice as an advocate of peace and the moral argument. It defied logic for me because I could not understand what was moral about placing more weapons in the hands of people so they could continue to slaughter, maim and kill each other.

I believe, Mr. Speaker, that the human being has the capacity to rise beyond that level of cannibalism, beyond that level of caveman mentality. I believe that we can rise to a higher order of how we deal with each other. Tonight is not about American lives. It is about those lives we cared about. If we could raise the moral argument that the only thing left to do was to lift the arms embargo, why then are we now presented with a new option?

People now who were slaughtering and killing each other are sitting down around a negotiating table. That has been my greatest dream. My argument has been that peace is a superior idea and the table of diplomacy is the best battlefield, not out there in the hinterlands killing, slaughtering and maiming human beings.

If you believe that so strongly, if you care about those human lives, then why is this about American lives when that is not the issue? Care about those people you cared about when you wanted to lift the arms embargo. Assume the moral imperative to embrace the notion that peace is a superior idea.

I have given my life to that notion. Suddenly, I would say to my colleague from California, the world is turned around. It has turned around because we find ourselves in the context of the post-cold war era where war itself is the enemy, where the challenge is peace. Remember what Rabin said, he said, you do not have to make peace with your friends. You make it with your enemies. And that is tough going. But we should do nothing in these Chambers that would shake that fragile process called peace, where people are engaging in the Herculean task of moving from the field of blood to the negotiating table where they have a possibility for peace.

As I said earlier today, there are moments, folks, when we need to rise far beyond pedestrianism, rise above our partisanship, rise above all of these things to achieve a lofty place, that notion that what we do makes sense.

We will have the chance, whether you are for or against deployment of the troops, that is a proper question. You have the right to step up to it. I stand second to no one in these Chambers about Congress's prerogatives. I took the President to the court of the United States to guarantee constitutional prerogatives when many of my colleagues did not have the heart to do it. I did it, if I had to stand alone.

So I believe in the right and the responsibility. I believe the President of the United States, as a practical matter, needs to come here to the people's representatives any time you put people in harm's way.

I conclude, tonight is not about American lives. It is about the lives of the people in Bosnia, and I think we have a moral obligation to stand on the threshold of peace.

I urge my colleagues to defeat this proposition.

Mr. HEFLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. FLANAGAN].

Mr. FLANAGAN. Mr. Speaker, I rise in strong support of the measure.

Mr. HEFLEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the gentleman from California [Mr. DELLUMS], first of all, I would like to start by thanking him for the level of this debate. By and large I think the level of this debate was excellent, considering the emotional foundation of it, how strongly we feel. I respect the passion that the gentleman just expressed here on this House floor. I appreciate that tremendously.

The gentleman says that we predicate sending troops on a peace plan. Let me say to my friend that we should have predicated committing troops on a peace plan, cart before the horse. We should not have committed and then say, oh, you have got to back up the commitment, when we have not even seen a peace plan.

What we are saying by this legislation tonight is that we want to see the peace plan; we want the arguments made. We want the questions answered. And then we may say, OK, it is worth doing.

Most of the disagreement tonight is about time. Member after Member on that side went to the floor and said, I may vote against sending troops but the time is not right.

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Mr. Speaker, let me say to my colleagues that I think, if we do not do it tonight, in this time, and insist that the President bring this matter before this House before troops hit the ground over there, the time is lost, the time is gone. If this hurts the peace process, then the peace process is too fragile for us to risk lives in.

I do not think this will hurt the peace process. What we are saying to the President is to get us together, how much stronger the process would be if we are together, Congress, and the President, and the American people on this.

Mr. Speaker, I am sorry, but I have to personalize this a little bit. I had one of our Members, one of our colleagues, come to me before the debate started tonight and said, "Joel, I have an 18-year-old son that I do not want to go to Bosnia," and I think of that when I make these kinds of decisions. Have I been given the information necessary to say to my three daughters:

Janet, Bosnia is worth it; Laurie, go to Bosnia for your country; Julie, we need you to go to Bosnia.

And I would ask every Member in this Chamber to personalize it a little bit. Based on the evidence we have, would my colleagues say, yes, let us send our children, our fathers, our brothers, our sisters to Bosnia? Do my colleagues have the answer of "for what?" For a vague dream that it might create peace? Somalia. For What? Twenty-nine Americans lost. We sent some people, we did some good; but for what? Lebanon 241 lost. For What? Vietnam, 58,000 lost, and we look back on it today.

I talked to a Vietnam Veteran yesterday who said, "The reason the pain of Vietnam is still so in people's hearts is because they cannot answer the "for what?"

I sometimes go to Arlington Cemetery to help remind me what this country is based on. Started burying people there in 1863. Civil war; we could answer the for what. First World War; we could answer the for what. Second World War; the answers were there.

And all we are asking is that the President come down here and tell us, before he puts troops there, he tells us for what.

As my colleagues know, in the Book of Revelations the scripture tells us to beware of those who cry or shout peace peace when there is no peace, and I am afraid that is the situation we have here. Before our troops hit the ground, I want the answer for what.

I would encourage support of the Hefley bill.

Mr. KIM. Mr. Speaker, I rise in support of H.R. 2606, the pending legislation that would prohibit the unauthorized use of Defense Department funds for sending United States ground troops to Bosnia.

I realize that the situation in Bosnia is very complex and that the peace negotiations between the warring parties are at a very sensitive stage. I appreciate the concerns of some that every possible effort should be made to avoid adding further complications and questions to these peace talks. Therefore, given these circumstances, it is unfortunate that it has become necessary to consider and adopt H.R. 2606 today.

Approximately 2 years ago, President Clinton first stated that if a peace settlement in Bosnia was reached, he would commit United States troops to any larger NATO peacekeeping force. Clearly, the deployment of American military forces in as dangerous an environment as Bosnia should occur only after the Congress and the American people have been convinced that such action is absolutely necessary and that a comprehensive political and military plan for such action has been developed. Yet, up to the present time, these conditions have not been met—even in the most minimal of fashion.

As a member of the International Relations Committee, I have received many briefings from many different administration officials regarding Bosnia. In his own testimony before our committee, Secretary of State Warren Christopher laid out the four criteria that he said had to be met before the deployment of any U.S. forces: First, the goals must be clear and understandable to the American people. Second, the chances of success must be high. Third, the American people must support the effort. And, fourth, an exit strategy for getting the troops out must be established from the beginning. None of these criteria have yet been met, setting the stage for another Somalia debacle.

Despite these failures, it appears that the administration is blindly committed to sending substantial numbers of American ground forces into the Bosnian quagmire. The argument is made that modifying or conditioning this hastily-made commitment could jeopardize the Bosnia peace process. Everything seems to revolve around the purported overwhelming need for American military participation.

I understand the humanitarian motivation behind trying to end the bloodshed and suffering in Bosnia as soon as possible. However, Bosnian lives are not worth more than American lives. And, risking the lives of thousands—potentially tens of thousands—of American military personnel is a very, very serious matter. It must be treated as such.

Furthermore, I do not believe that a genuine, lasting peace in Bosnia is completely contingent on American ground forces. Consider the current paradox: if American troops and the military might they possess are required to stop the fighting in Bosnia, then it sounds to me like the warring factions really haven't reached a true peace settlement. They've really just been cowered into stopping their fighting by the overwhelming power of the United States military. Conversely, if the warring factions have truly found a way to live with and not kill each other, then why are American troops absolutely necessary? If neutral observers are needed to for peace monitoring purposes, why must they be American?

Because Congress is concerned about the administration's perceived indifference to these issues, on October 30, the House, with my "yes" vote, adopted H. Res. 247 urging the President to obtain Congressional approval before deploying any United States troops in Bosnia. While this was a non-binding resolution, its passage nonetheless should have sent a very strong message to the administration about the serious problems Congress and the American people have with its current Bosnia policy. Unfortunately, it seems to me that this important message was received by deaf ears.

Thus, I feel it has become necessary for Congress to assert its constitutional authority and require the administration to receive the approval of the American people—through their representatives in Congress—before any American ground forces go to Bosnian. This was the process used before committing to Operation Desert Storm during the Persian

Gulf War and it resulted in overwhelming success. Any future American military operations should try to duplicate the success of Desert Storm, not repeat the failure of Somalia. That is what H.R. 2606 is designed to do and I urge my colleagues to join me in supporting it today.

Mr. PAYNE of New Jersey. I oppose H.R. 2606 which prohibits the use of Defense Department funds for United States participation in a multi-national effort to implement a future peace agreement in Bosnia.

The national interest of the United States is at stake. United States foreign policy should be concerned with the security and stability of Europe.

Finally, we should support American participation in a NATO alliance with other countries. This is our job and responsibility to take a leadership role in ending the war. Without U.S. participation, NATO will be hard pressed to enforce a peace agreement.

There must be international military presence to give parties to the Bosnian conflict the confidence that they can lay down their arms and begin rebuilding their nation.

This bill that is before us will seriously derail the peace process and cause havoc in the entire region. The United States must not turn its eyes on the massive human rights violations.

I have been fighting for human rights for a long time. The bloody conflict of ethnic cleansing must end.

Democracy can be restored and democratic institutions of government at the regional and national levels will flourish if the United States keeps their promise to the peace efforts.

Also by limiting the President's authority as this bill will do, risks derailing the negotiating before any such settlement can be reached.

How can the United States work toward reaching a settlement with the Serbs and Croats when we are not willing to support the cause?

Let us defeat this measure. This undermines everything we have worked for in the name of peace. This is a crucial time.

Mr. EWING. Mr. Speaker, I rise in strong support of this legislation. I first want to thank the leadership in Congress for their quick movement and attention to this issue.

The President says that he wants to put 25,000 American men and women in Bosnia in order to facilitate a peace process. I think this action would be a mistake and has raised many questions not only in my mind, but in the minds of many Americans.

The President is asking Congress to blindly fund American involvement in an ethnic battle which represents no national security interest to America. The President has failed to explain to the American people what our goals and objectives are in Bosnia or what national security issues are at stake. While we are all deeply concerned about the terrible ethnic warfare in Bosnia, we cannot send American troops into a deadly situation without a clear mission, a timetable for their commitment, and a plan for getting them out. I do not think one American life is worth the President's misdirected, uncoordinated, loosely defined mission in Bosnia. I urge a "yes" vote on this legislation.

Mr. STOKES. Mr. Speaker, I rise in strong opposition to H.R. 2606, prohibiting the use of funds for the deployment of United States forces in Bosnia for peacekeeping operations. By interfering with the constitutional responsibilities of the President of the United States this bill retreats from our obligations as Americans and world citizens to establish peace throughout the world. As the recent tragedy of the atrocities in Rwanda and Bosnia clearly demonstrate, this is no time for America to retire from the world community.

The stated objective of H.R. 2606 is to prohibit the use of funds appropriated to the Department of Defense from being used for the deployment of United States ground forces in furtherance of the peace in Bosnia. This short-sighted and rushed legislation will reorder American foreign policy objectives by interfering with the peace negotiations taking place now in my home State of Ohio.

Bosnia has been torn by warring factions engulfed in a brutal civil war. The current level of tensions in Bosnia represent a real threat to world peace. On June 9, 1994, the House of Representatives voted 244 to 178 to unilaterally lift the arms embargo of Bosnia. I voted against this effort.

It has been and continues to be my position that the United States should exercise leadership on this issue and continue to work with the international community to restore peace to the region. This includes support for the peace process, permitting humanitarian aid to the citizens of Bosnia and enforcing international laws prohibiting genocide.

Just last week this house voted 315 to 103 to support a resolution that stated that no United States Armed Forces should be deployed in Bosnia to enforce the peace process. Sensitive to the wishes of Congress, the President stated that if the negotiations in Ohio are successful, he will seek Congress' support for any future deployment of ground forces in Bosnia. There is simply no need for H.R. 2606.

Mr. Speaker, H.R. 2606 will not only undermine the peace process in Bosnia, it also compromises the President's initiatives in foreign affairs. In a seven to one decision, the United States Supreme Court in *United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304(1936) held that because of "fundamental differences" in national power with respect to internal and external affairs, the President of the United States possesses additional prerogatives in the foreign affairs field that in my opinion this resolution compromises. This bill seeks to hamper the ability of the United States to follow through with its obligations to contribute to maintaining peace in Bosnia.

Contrary to the arguments that have been made by the supporters of H.R. 2606, President Clinton demonstrated admirable leadership in the quest for peace in Bosnia. Negotiations taking place in my home State of Ohio offer the best chance for peace in Bosnia since the war began nearly 4 years ago. Continued American leadership is vital if we are to seize that chance and do what is right for Bosnia, for Europe and for the United States.

Making peace will prevent a war we have managed to keep from spreading. Making peace in Bosnia will promote our goal of a peaceful, democratic and undivided Europe. A Europe at peace will make America more secure and more prosperous. We should not at this critical moment short circuit the peace process in Bosnia.

Mr. Speaker, there is no doubt that with the end of the cold war the United States now reigns supreme as the world's only superpower. Over the past 7 years, our foreign policy has undergone a massive undertaking to adjust to a post-cold war world which as allowed us to help promote peace throughout the world. I urge my colleagues to vote against the bill.

Mr. POMEROY. Mr. Speaker, as a Member of Congress, I feel strongly that no United States troops should be deployed as part of a peacekeeping force in Bosnia without prior congressional authorization.

That is why the November 13, 1995, correspondence from the President to the Speaker of the House is so important. In that letter, the President stated:

> I will submit a request for a Congressional expression of support for U.S. participation in a NATO-led Implementation Force in Bosnia promptly if and when the parties have initiated an agreement that I consider to be a genuine agreement and after I have reviewed the final NATO operational plan.
>
> After initialing of an agreement, there will be a timely opportunity for Congress to consider and act upon my request for support before American forces are deployed in Bosnia.

In light of this assurance, I cannot support the resolution before the House.

This resolution appears to be driven by a political motive to embarrass the President, irrespective of the peace negotiations underway between the warring parties in Dayton, Ohio.

The carnage and devastation in the Former Yugoslavia has been far too tragic to jeopardize the fragile hope of reaching a peace accord in any way by premature congressional action.

The President has said he will send no troops without a prior vote in Congress. If that event would occur, I will vote against sending troops unless a compelling case is made to justify the U.S. commitment.

I will reserve judgment on this important issue until all relevant facts are known, including the precise mission and objectives of U.S. forces, the number of troops, the length of the mission, the risk to U.S. troops, the probability of success, and the equity of our role relative to our NATO partners.

Congress—by the vote today—is callously jeopardizing vitally important peace talks. The memories of all the innocent men, women and children whose lies have been lost in this savage civil war deserve more responsible action by us sitting comfortably here in the House of Representatives this afternoon.

Mr. LAZIO of New York. Mr. Speaker, there is an old maxim that we ignore at our own peril when we consider sending United States troops to Bosnia: "Look before you leap."

Before we leap towards sending the young men and women of our Armed Forces to former Yugoslavia, we ought to know where they will go, what they will do when they get there and how they will get home.

Will our Armed Forces be assigned to keeping the peace or creating peace between the various warring factions? What will the rules of engagement be? Will our troops be able to adequately defend themselves? Will there be clearly defined and obtainable military objectives? Will there be a clear exit strategy and a finite time commitment? And will the mission have the full support of the American people?

Until we have clear, unambiguous answers to these questions, we should not be sending United States troops into harm's way, in Bosnia or anywhere else.

Recent history shows that well-intentioned peacekeeping missing sometimes end in disaster. Take the case of Somalia. This tragedy did not just result in the loss of young American lives, it led to the loss of American prestige and raised serious questions about American resolve among our friends and our foes.

The three sides involved in this conflict, Bosnians, Croats, and Serbs are meeting for peace talks at Wright-Patterson Air Force Base in Dayton, OH as we speak. On October 30, 1995, the House overwhelming approved a bipartisan resolution stating that there should be no presumption by the parties of any Bosnia peace negotiations that the enforcement of any peace agreement will involved the deployment of United States troops. We all pray that these talks will produce a lasting peace agreement on which all sides will agree. At the same time, I feel strongly that if the President wants to commit our nation to a military role in the former Yugoslavia, he should first make the case to the American people, and get the approval of Congress.

This bill prohibits the use of funds appropriated to the Department of Defense to pay for the deployment of United States ground forces, or any implementation force, in Bosnia, as part of a peacekeeping operation, unless such funds have been specifically appropriated by Congress for that purpose. Article I of the Constitution gives the legislative branch, the one that is closest to the people, the power of the purse, and the power to declare war. This measure simply fulfills our constitutional duty.

Without a doubt, the atrocities that the world has witnessed in Bosnia are reprehensible. That is why I supported lifting the United Nations arms embargo, so that the Bosnian victims of that embargo could defend themselves. But sending our sons and daughters who wear our country's uniform to Bosnia is quite a different matter.

We must look before we leap into a region that has been embroiled in conflict for generations. The stakes are far too high for precipitous action. Let's not give the President a free hand to send our troops to Bosnia without a full debate by this Congress. I urge my colleagues to vote for this proposal.

Mr. LIGHTFOOT. Mr. Speaker, I rise in strong support of this legislation to prohibit an unauthorized commitment of United States troops to Bosnia.

The war raging in Bosnia is one of the most terrible, unexpected results of the end of the cold war. No longer restrained by superpower rivalry, the ethnic and religious hatreds of Bosnian Serbs, Croats, and Moslems have been unleashed in an awful conflict. Sound evidence has recently come to light which shows Bosnian Serbs executed thousands of Moslems prisoners. There is also evidence of Croats shooting innocent Serbs and of Bosnian Moslems summarily executing Serbs. We should all pray for the success of the negotiations in Dayton.

However, President Clinton's desire to commit up to 25,000 American troops to Bosnia to enforce a peace agreement is another matter. One of the hallmarks of the Clinton administration is its propensity to commit American troops to dubious causes. We all remember the disastrous loss of American lives in Somalia when President Clinton elected to expand a humanitarian mission to one of "nation building." And while we are relieved the invasion of Haiti was accomplished without loss of life, at this point it appears we have only succeeded in replacing a right-wing military junta with a left-wing strongman. In neither case did President Clinton elect to seek the consent of Congress even though Congress was then controlled by his own party.

Bosnia is shaping up to be a similar situation. Approximately 2 years ago President Clinton pledged American troops as part of a NATO force to enforce a Bosnian peace agreement. Recently, the President has asked for an "expression of support" from Congress. But the President has also made clear that his deployment of American troops to Bosnia does not need the approval of Congress. If we take no action now, President Clinton may send troops to Bosnia over the holiday recess and then dare Congress to take the only action constitutionally left to its disposal, cutting off funds in the midst of deployment.

Mr. Speaker, at this point I simply see no national interest worthy of risking American lives in Bosnia. NATO was formed to defend Europe and the United States from communist aggression. It was not formed to act as referee to a centuries-old ethnic and religious conflict in the Balkans. If the parties truly want peace, an American presence is not necessary. This terrible situation's best hope for an enduring peace is in Dayton, OH, and on an agreement which is not based on American guns to enforce it.

I urge my colleagues strongly to support this bill.

Mr. DOOLITTLE. Mr. Speaker, I rise today in strong support of H.R 2606 to prohibit the unauthorized use of Defense Department funds for peacekeeping in Bosnia.

Although I supported the Buyer-McHale resolution last month, that resolution was nonbinding and does not have the effect of law. President Clinton said publicly that passage of the Buyer resolution will not have "any effect" on the current settlement negotiations in Dayton.

I had pushed to include binding language in the fiscal year 1996 Department of Defense appropriations conference report, but H.R. 2606, if passed, will achieve the same objective; it will prohibit troop deployment until Congress has authorized such a deployment.

The arguments against this bill and the timing of this vote are simply misguided:

This prohibition is not premature. We cannot wait. It would be more irresponsible to cut off funds after the troops are already committed.

Such action is not unconstitutional. The President does have the power as Commander-in-Chief to send troops abroad, but Congress has the constitutional authority to appropriate funds for the deployment of troops—or not appropriate funds.

This legislation will not hurt the peace process. Rather, it will prevent the President from making commitments the American people do not want to fulfill.

We are not tying the President's hands. If he makes a compelling case to the American people that 25,000 American service men and women are needed to enforce a peace agreement in Bosnia, Congress will authorize the funds for such a deployment.

Mr. Speaker, I welcome a debate on whether or not the United States should send ground troops to Bosnia. But until that debate occurs, and until I am convinced that sending American men and women to Bosnia is the proper course of action, I intend to do everything in my power to keep us out of that civil war.

I urge my colleagues to support H.R. 2606.

Mr. MARTINI. Mr. Speaker, I rise today in support of H.R. 2606 and ask unanimous consent to revise and extend my remarks.

The President of the United States is on the verge of committing our sons and daughters to a peacekeeping operation in Bosnia.

In May of this year, Secretary of State Warren Christopher, established very specific criteria that should be met prior to the commitment of American ground troops in Bosnia.

Mr. Speaker, in the opinion of this Member of Congress the President has not satisfied his own stipulations.

In view of this I firmly believe it is a reasonable request that the President should be required to gain approval from this Congress before one American life is placed in harms way.

The commitment of U.S. troops to foreign soil is the most awesome power that the President possess.

We owe it to the American people and to the brave men and women who proudly serve their country in uniform to pass H.R. 2606.

Let us send the President a message by passing his important legislation today.

Mr. FLANAGAN. Mr. Speaker, I rise in support of the bill offered by the gentleman from Colorado [Mr. HEFLEY].

Mr. Speaker, the administration has no discernable mission with regard to United States involvement in Bosnia and Herzegovina. Why should the administration—which has the events in Haiti and Somalia as its foreign operations record—delude anyone into believing that there are circumstances which would require American soldiers to fight and win in Bosnia? There are no such conceivable circumstances. The administration must define America's mission in Bosnia—including a detailed explanation of why it would serve our national security interest—before one soldier should be sent into that conflict. No such definition is forthcoming nor is it, in my opinion, likely to be forthcoming.

In my view, Mr. Speaker, the situation in Bosnia strikes me as being a lot like the situation preceding the Lebanon fiasco of the early 1980's where over 200 young Marines lost their lives in a hopeless crusade for peace when one of the chief belligerent of the conflict viewed the United States not as a peacemaker, but as an ally of another belligerent force. No, Mr. Speaker, the possibility of American troops in Bosnia is not good foreign policy, it's a recipe for disaster and we in Congress have an obligation to prevent it.

The war in Bosnia and Herzegovina is an 800-year-old struggle which is not ours. There is nothing going on in the Balkans that is worth losing one American life. I will never vote to send my neighbors' kids into that meat grinder. There is no discernable American interest, therefore there will be no American lives lost with my vote, so why let anyone at the Balkan peace talks in Dayton, OH think that there is any possibility of this happening.

Mr. Speaker, we should vote to adopt this bill tonight before the President makes a commitment to send United States troops to Bosnia. By passing H.R. 2606 the House will be exercising its article I power of the purse and ensuring that we have a say in whether the taxpayer will pay to have American troops thrown into the quagmire in Bosnia.

Opponents of this bill argue that passing it while negotiations are on going in Dayton, OH is inappropriate and could derail the peace process, thus diminishing American prestige around the world. I believe that our prestige will be weakened much more if young American men and women start coming home as fallen victims of a failed and poorly outlined foreign policy. Mr. Speaker, I ask colleagues on both sides of the aisle to pass H.R. 2606. Let's pass it tonight.

Mr. GEPHARDT. Mr. Speaker, I urge my colleagues to defeat this bill, which is nothing less than a dagger in the heart of the Bosnian peace process.

In fact, this bill is without historical precedent. Never before has Congress banned U.S. involvement in a peacekeeping effort—before peace was even secured. And this is no time to start.

There is no one who believes more strongly than I that Congress must have a vote on any deployment of United States troops in Bosnia. But that's not what this vote is about. The President has already promised us that vote—after a peace agreement is in place.

What this bill does is something more destructive. It undermines the very fragile—and until now, very successful—peace talks that are occurring in Dayton, OH.

Is there a single Member of this body who really wants to damage those talks? Who is willing to put his name on a bill that would pull the rug out from under our negotiators, and give both sides the incentive to continue the bloodshed, the killing, the age-old animosities?

Our Secretary of State has said that this vote: "could be misinterpreted and give the parties reason for delay and hesitation."

The Washington Times has urged the Republican Members of this House not to take this vote today, "before there is even something to vote on," because doing so would have "repercussions among our allies, our foes, and our trading partners." Is that what we want?

Do we want to tell the Serbs and the Moslems that our negotiators didn't have the support of the Congress, or the country? That we're ready to revoke their promises before they are even made?

Let's remember our ultimate goal in Bosnia: to finally stop the death and destruction. To end some of the worst atrocities since World War II. To stand up for peace throughout Europe.

It's right for America to do this, because if we don't lead the world, no one else will.

It is because of America's leadership that we have democracy in Russia. And racial equality in South Africa. And democracy in Haiti. Would we have wanted to bargain that away to make a poorly timed political point?

I urge you to vote no on the Hefley bill—so that peace talks can at least proceed, without the baggage this bill would impose. Then we can have our vote on the proper role of U.S. troops. And we will know that we first gave the peace process a real chance to succeed.

Defeat this bill.

The SPEAKER pro tempore (Mr. HOBSON). All time has expired.

Pursuant to the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DELLUMS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 243, noes 171, answered "present" 2, not voting 16, as follows:

[Roll No. 814]

AYES—243

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bono
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hunter
Hutchinson
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Lightfoot
Linder
Lipinski
LoBiondo
Lucas
Manton
Manzullo
Martini
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Porter
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—171

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Bateman
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bliley
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Callahan
Cardin
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
Davis
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Farr
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Houghton
Hoyer
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Klink
LaFalce
Lantos
Levin
Lewis (CA)
Lewis (GA)
Lincoln
Longley
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Portman
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
White
Williams
Wilson
Wise
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—2

Harman
Lofgren

NOT VOTING—16

Baker (LA)
Brewster
Collins (IL)
Fattah
Fields (LA)
Hyde
Largent
Livingston
McCrery
McDermott
Neumann
Smith (MI)
Stark
Tucker
Volkmer
Waxman

☐ 2038

The Clerk announced the following pair:

On this vote:

Mr. Stark for, with Mr. Waxman against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–351) on the resolution (H. Res. 275) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING PROVISIONS OF CLAUSE 4(B) OF RULE XI AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–352) on the resolution (H. Res. 276) waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules which was referred to the House Calendar and ordered to be printed.

PRIVILEGES OF THE HOUSE—REQUESTING REPORT FROM COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING ETHICS COMPLAINTS AGAINST SPEAKER NEWT GINGRICH

Mr. PETERSON of Florida. Mr. Speaker, I rise to a question of the privileges of the House, and pursuant to rule IX, I offer a resolution on behalf of myself and the gentleman from Florida [Mr. JOHNSTON] and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 277

Whereas the Committee on Standards of Official Conduct is currently considering several ethics complaints against Speaker Newt Gingrich;

Whereas the Committee has traditionally handled such cases by appointing an independent, non-partisan, outside counsel—a procedure which has been adopted in every major ethics case since the Committee was established;

Whereas, although complaints against Speaker Gingrich have been under consideration for more than 14 months, the Committee has failed to appoint an outside counsel;

Whereas the Committee has also deviated from other long-standing precedents and rules of procedure; including its failure to adopt a Resolution of Preliminary Inquiry before calling third-party witnesses and receiving sworn testimony;

Whereas these procedural irregularities-and the unusual delay in the appointment of an independent, outside counsel—have led to widespread concern that the Committee is making special exceptions for the Speaker of the House;

Whereas the integrity of the House depends on the confidence of the American people in the fairness and impartiality of the Committee on Standards of Official Conduct.

Therefore be it resolved that;

The Chairman and Ranking Member of the Committee on Standards of Official Conduct should report to the House, no later than November 28, 1995, concerning:

The status of the Committee's investigation of the complaints against Speaker Gingrich;

The Committee's disposition with regard to the appointment of a non-partisan outside counsel and the scope of the counsel's investigation:

A timetable for Committee action on the complaints.

The SPEAKER pro tempore. The Chair holds that the resolution gives rise to a question of the privileges of the House concerning the integrity of its proceedings.

PARLIAMENTARY INQUIRY

Mr. JOHNSTON of Florida. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. JOHNSON of Florida. Mr. Speaker, I understand that a motion to table will be made. In the event that the motion to table is passed, this would be an adverse disposition of the privileged resolution.

My inquiry, Mr. Speaker, is, with minor changes of the privileged resolution, would it be in order for the gentleman from Florida [Mr. PETERSON] and myself to file a similar resolution tomorrow and each business day from now to the conclusion of the 104th Congress?

☐ 2045

The SPEAKER pro tempore (Mr. LINDER). The Chair will note that proper questions of privilege may be renewed.

MOTION TO TABLE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, the rules of the House prohibit members of the Committee on Standards of Official Conduct from discussing ongoing business. Accordingly, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

Mr. ARMEY moves to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORD VOTE

Mr. PETERSON of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 177, answered "present" 10, not voting 26, as follows:

[Roll No. 815]

AYES—219

Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myrick
Nethercutt
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—177

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Vento
Visclosky
Ward
Waters
Watt (NC)
Williams
Wise
Woolsey
Wyden
Wynn

ANSWERED "PRESENT"—10

Borski
Cardin
Goss
Hayes
Hobson
Johnson (CT)
Myers
Pelosi
Sawyer
Schiff

NOT VOTING—26

Baker (LA)
Brewster
Clinger
Collins (IL)
Condit
Fattah
Fields (LA)
Gutierrez
Hyde
Kingston
Largent
Livingston
Manton
McCrery
McDermott
Neumann
Oxley
Peterson (MN)
Smith (MI)
Stark
Tucker
Velazquez
Volkmer
Waxman
Wilson
Yates

□ 2102

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TOMORROW

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow.

The SPEAKER pro tempore (Mr. LINDER). Is there objection to the request of the gentleman from Texas?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute.)

Mr. FAZIO of California. Mr. Speaker, I yield to the gentleman from Texas [Mr. ARMEY] so that he may announce the schedule.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from California for yielding.

Mr. Speaker, we have concluded legislative business for the evening. We will meet again tomorrow morning at 9 a.m. to consider the conference report for the Balanced Budget Act, if it is necessary after Senate action on the bill; a continuing resolution, which may be considered under suspension of the rules, and any appropriations conference reports that are ready for floor action.

Mr. Speaker, the House will not be in session on Sunday, November 19. On Monday, November 20, the House will meet at 12:30 p.m. for morning hour, and 2 p.m. for legislative business.

We plan on taking up one bill under suspension of the rules, H.R. 2361, a bill regarding commencement dates of certain temporary Federal judgeships. We will then complete consideration of H.R. 2564, the Lobbyist Disclosure Act of 1995, and act on any appropriation conference reports that are ready. There is also the possibility that a disposition of a veto message will be necessary.

Mr. Speaker, Members should be advised that there will be no recorded votes before 5 p.m. on Monday, November 20, although Members should be prepared to work late in the evening on that Monday.

I thank the gentleman for yielding.

Mr. FAZIO of California. Mr. Speaker, I want to ask the majority leader if 5 p.m. is a definite time on Monday? There are those who have asked for 6 p.m. on our side. Is there any possibility of that?

Mr. ARMEY. Mr. Speaker, I appreciate the gentleman's inquiry, and if I may say, on behalf of all the inquiries we have had from so many of the Members, these are very tough times for us and our families. The work must go on, we all accept that, but we must try our best.

We have done our best to accommodate them, but I cannot guarantee that votes will take place at any time other than after 5 p.m.

Mr. FAZIO of California. Mr. Speaker, I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding, and I would again address the question to the majority leader.

We are now, as I said last night, in the longest shutdown of Government by virtue of the inability of the President and the Congress to come to grips with funding the Government in the history of this Nation. We, apparently, are going to have a relatively short day tomorrow. Everybody is going to go home. Eight hundred thousand people across this land are going to worry about whether or not they have a job to go to on Monday, whether they are going to have a paycheck Thanksgiving week, or a couple weeks before Christmas.

I am concerned, Mr. Leader, that we are apparently having a short day tomorrow. We are not going to be here Sunday, and we are not coming back, essentially, apparently to vote, until after 5 p.m. on Monday. That means that we are most assuredly going to have at least another 24 hours on Monday of a Government shutdown.

I am wondering what kind of negotiations are ongoing to try to overcome this impasse between the Congress and the President so that Government can get back to work.

Mr. ARMEY. Mr. Speaker, if the gentleman would continue to yield.

Mr. FAZIO of California. I yield to my colleague from Texas.

Mr. ARMEY. The gentleman from Maryland is again quite right in his concern. As the gentleman knows, the President did veto a continuing resolution sent to him by the Congress, thus causing this shutdown. We have passed from this body, and the other body has worked on a second continuing resolution for the President, and the President has said again that he would veto that, thus continuing his shutdown of the Government.

We have spent a good deal of the time today talking with representatives of the White House. We expect to get that continuing resolution to the President for his signature so that perhaps we might be able to resolve the problem by his signing that CR over the weekend. In the meantime, we will continue talking to the White House to see what we can do.

I do appreciate the gentleman from Maryland's concern.

Mr. FAZIO of California. Mr. Speaker, if the gentleman would further respond.

There is no question that folks on this side of the aisle are anxious to proceed in Washington, if possible, to complete whatever business is before us in hopes that we can not only return to our communities and to our families for Thanksgiving, but that we could also remove the burden, the pressure on all these Federal workers and those they serve.

Is there any way the gentleman can talk to us about what happens next week, in general? We are anxious, as the majority leader has heard from the gentleman from Maryland, to stay Saturday, Sunday, Monday. Now, what about Tuesday, Wednesday? When, if at all, does the gentleman anticipate people being reunited with their families and their districts?

Mr. ARMEY. I appreciate the gentleman's concern. We do all we can. We sent a second continuing resolution. We will send the Balanced Budget Act to the President as soon as the Senate is done acting. We will continue to move legislation. The appropriations bills are moving to the White House.

I fully expect that we will have a long evening Monday night. We will undoubtedly work late trying to get as much done as possible and waiting for responses from both the Senate and the White House.

We will work on Tuesday. It is our hope that by Tuesday, 2 p.m., we might be able to see Members get back to their districts or district work relationships and time with their families for Thanksgiving.

But as the President has so sternly said, he is prepared to sit here for 30, 60, 90 days, however, long it takes. We must, therefore, be prepared to do what we can at what time we can to move as much as possible forward, and then snatch those times with our families and our constituents as are available to us in the interim, while work that we have shipped to the White House is up there for Presidential decision.

Mr. FAZIO of California. Mr. Speaker, if the gentleman would respond further.

We really do have in this House the prerogative of placing before the body a CR that perhaps might satisfy the President. Is there any desire on the part of the majority to introduce another CR, should this one, as the President has indicated, not meet his expectations?

Is there any willingness on the part of the majority to find a way to keep the Government functioning during the Thanksgiving period and beyond?

Mr. ARMEY. The majority is, of course, as the gentleman knows, committed to the historic event of passing a Balanced Budget Act and having it signed into law, and we are working with the White House in every way we know toward that end.

Mr. FAZIO of California. We have already heard that is likely to be vetoed, but that, of course, is still not before the President.

I am hopeful the gentleman will help us find a way to once again offer the President another opportunity, because this body has some of the responsibility as well.

Mr. ARMEY. If I may again remind the gentleman, the second CR, the second effort to pass a second CR to the White House to be signed, will be, if not already, soon be on the President's desk. He will have the opportunity to sign that short-term continuing spending resolution and reopen the various offices of the Government.

The SPEAKER pro tempore. The Chair would like to note that he is being as lenient as possible with this 1 minute, but it is probably not the place to debate policy.

Mr. FAZIO of California. Mr. Speaker, I yield to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, if the majority leader would respond, there are a lot of us that are here for the first time, and we are very interested in working every day that people are not working and feel very uncomfortable going back and forth at a time when people are not working.

I have introduced a piece of legislation trying to keep us going on Sunday and not losing that opportunity that we could work and working together to resolve the situation. I was wondering, would the gentleman be opposed if a majority of the Members in your caucus and our caucus were interested in working through the weekend?

Mr. ARMEY. Mr. Speaker, if the gentleman from California, who controls the time, would yield.

Mr. FAZIO of California. Mr. Speaker, I yield to the gentleman from Texas for a response.

Mr. ARMEY. Mr. Speaker, again I say we have completed our work on the short-term continuing resolution. We have sent and will soon finish tomorrow, after the other body acts, the balanced budget. We are moving to the White House for their careful consideration and signature everything we can as fast as we can.

I believe the Nation is aware of the fact that, given the grueling hours we are working, that it is perfectly reasonable for us, as well as all or most other people in the Nation, to have Sunday with our families.

Mr. FAZIO of California. Mr. Speaker, I yield to the gentleman from Michigan [Mr. STUPAK] for a query to the majority leader.

Mr. STUPAK. Mr. Speaker, I appreciate the majority leader's concern to move this legislation expeditiously. Since the Senate has not yet pushed that second CR to the President, if the Senate still has an opportunity to amend that CR before it goes to the President, if they could reach an agreement with the White House on the second CR, which may be different from what the House has passed, can we have assurances from the majority leader that he would forthwith bring up a new CR that came over from the Senate, which may be different from the one we voted on Wednesday night?

Mr. ARMEY. Well, if the gentleman will continue to yield for a response.

Mr. FAZIO of California. I yield to the gentleman from Texas for his response.

Mr. ARMEY. A continuing resolution cannot originate in the Senate.

Mr. STUPAK. No, but they can amend it or make changes to the one they received from the House of Representatives before it goes to the White House, and then it would come back to this body for further consideration.

I am asking if the distinguished majority leader would then bring it forth to the floor as soon as possible?

Mr. ARMEY. I believe the Senate passed that 60 to 37 already, so it is not possible.

Mr. STUPAK. That is correct, Mr. Majority Leader, but it has not gone to the White House, so no veto has taken place. Therefore, they can revisit the issue before it goes to the White House; is that not correct?

Mr. ARMEY. The Senate is a mysterious place and it may be possible in that body. I would consider it highly irregular.

Mr. FAZIO of California. Mr. Speaker, I yield one more time to the gentleman from Maryland for questions about the appropriations bills.

Mr. HOYER. Mr. Speaker, I thank the gentleman. I realize this has gone longer, but we do not have a crisis of this type very often.

The majority leader has indicated we were sending bills down as quickly as we could to the President for consideration to move beyond this present crisis. The Treasury-Postal bill was passed on Wednesday. The legislative bill is also ready to go to the President. I am wondering if we have sent those down or we are expecting to send those down to the White House.

□ 2115

I know we seem to be inconveniencing the gentleman from Ohio. I am really sorry that, the 800,000 people that twist in the wind. But I would like to know whether or not the bills are going to be sent down?

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, I fear we have tried the patience of some of our colleagues.

The Treasury-Postal bill is, in fact, available for the President and these discussions we have been having with the President, this is one of the topics. Again, we would hope that the President would find a way to agree to sign legislation that could get us by this impasse. We continue talking to the White House.

Mr. HOYER. Mr. Speaker, I will urge the President to sign both the Treasury-Postal and the legislative bill, if they are sent down there. They have not been sent down there. As I said at the Committee on Rules, I do not blame your side any more than my side, because I think it has been sort of mutually agreed. But my point is, there are 200,000 people affected by those two bills, over 200,000.

Mr. ARMEY. Mr. Speaker, I appreciate the gentleman's point. I truly do. We will continue working.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BARR). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Mr. WARD. Mr. Speaker, I ask unanimous consent to proceed out of order in place of the gentlewoman from Ohio [Ms. KAPTUR].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

BUDGET CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. WARD] is recognized for 5 minutes.

Mr. WARD. Mr. Speaker, I seek recognition this evening to say that in about 30 minutes there is going to be a very important discussion on this floor. It is going to be a discussion led by and participated in by the freshman Members of the Democratic Party. There are not many of us, but we feel that this is worth taking extra moments to talk about. That is, the need for us to stay here to work out this budget impasse.

We fell that as freshmen we have been elected and sent here to make sure that we move forward the process of government.

We feel that it is clear that with a 2-hour, 3-hour session on Saturday and nothing on Sunday, not until late in the afternoon on Monday, we are making a mistake.

It is not a question of how we spend time with our families or how we worship. We have the opportunity to worship at many fine houses of worship within walking distance of this building. We have the opportunity, those of us in Chamber who worship on Saturday, to worship close by in this building.

But remember, what I am saying, Mr. Speaker, is that we have hundreds of thousands of Federal employees across this country who are uncertain. I have spoken to people in my district who work for the Federal Government who are uncertain, people in my district office who are on furlough, who do not know if they will be able to make their mortgage payment, who do not know if they will be able to pay their rent with the check that is delivered to them for their month's work for November.

Mr. Speaker, I think when we face a problem like this, that we should stay in until we get it done.

I want to spend time with my family, who are home in Louisville this minute, just as much as anyone in this body, just as much. But I think we owe it to the American people to stay at this job to get it done. If it takes staying here until we get tired of looking at each other to the point that we resolved our differences, that is what it will take.

So in about 30 minutes, you will see a discussion on this floor led by the freshman Members of the Democratic Party who will say in no uncertain terms that we stand unified in our commitment to keep this body working throughout the weekend, on through to make sure that we resolve these differences. We owe the people of this country nothing more and nothing less.

BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROYCE] is recognized for 5 minutes.

Mr. ROYCE. Mr. Speaker, this is a historic debate that we are having about balancing the budget, however I am disappointed by the words from the White House today that there will be no commitment to balance the budget in 7 years and that our attempt to continue funding for the Government will be vetoed even though it received bipartisan support.

That we have come this far in putting forward a plan to balance the budget is a great achievement, but we must not let up. The future of our children and grandchildren is literally at stake in the actions that this Congress and the President take in the interest of bringing fiscal responsibility to Washington.

The citizens of my district and I'm sure many others recognize this and they have been calling in record numbers to tell us not to back down. These folks recognize that the Balanced Budget Act of 1995 is the single most important piece of legislation that we will work on this session.

They know this because the benefits of getting the Government out of the red are painfully obvious—lower interest rates, greater savings—we have a negative savings rate—and by lessening the burden that we pass along to our future generations. But the President says he won't budge—he says he won't work to balance this budget in 7 years—and he won't accept what the Congressional Budget Office says is a real and viable plan to balance the budget. So what do we do?

We listen to the people back home and we stay here to work to deliver a balanced budget. We don't listen to some phony, half-baked platitudes about the advantages of deficit spending. Not when the calls are coming in from the districts, 9-1 in favor of saving America's future. Americans are asking us to do what is right for the country and their children.

They know that the interest in the 5 trillion dollar debt will cost every baby born today over one hundred and eighty thousand dollars and if we continue along this path the country we leave behind won't even be recognizable as the America that we inherited from our parents.

So we've got to start taking some initial, honest steps to bring fiscal sanity to Washington. The Balanced Budget Act of 1995 does just that. With this budget plan we eliminate the budget deficit in 7 years—we do not leave our country with chronic $200 billion deficits per year, with no end in sight, as the President's out of balance budget does.

We save Medicare from bankruptcy and increase, yes Mr. President increase, what each Medicare beneficiary receives from $4,800 to $6,700 while allowing for more choice in the types of health care people receive. But saving Medicare isn't the only benefit we get from balancing the budget.

In fact, all Americans will benefit in the form of lower interest rates—this will save individuals and families hundreds of dollars per month in home mortgage payments and car loans. With lower interest rates this will result in more money being put into our economy to drive production and create over six million new American jobs.

That's right—a balanced budget will create over six-million new jobs here in America.

Mr. Speaker, the future of the country is at a crossroads. We can take the path that Americans historically have when there is a crisis—they look the problem in the eye and tackle it head on. Or we can succumb to the demagoguery, half written budgets and phoney numbers that the White House is peddling and continue to plunge the country deeper into debt.

The American people have spoken to us—they want a balanced budget and they want it now. For their sake and our children's sake—we should override a Presidential veto of a 7-year balanced budget.

Mr. TALENT. Mr. Speaker, will the gentleman yield?

Mr. ROYCE. I yield to the gentleman from Missouri.

Mr. TALENT. Mr. Speaker, I want to ask the gentleman a question. There has been a lot of discussion about the government shutdown. My understanding is that the minute the President agrees to balance the budget in 7 years according to the reasonable numbers of the Congressional Budget Office, a strong bipartisan majority of this body and the Senate will send him a continuing resolution and open up the government. Is that not your understanding?

Mr. ROYCE. Mr. Speaker, that is correct, as I recall, the vote on this floor was 277 to 151.

Mr. TALENT. All the President has to do is indicate he will agree to a balanced budget in 7 years according to the budget numbers of the Congressional Budget Office.

Mr. ROYCE. That is correct.

GOVERNMENT SHUTDOWN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I just want to address some of the issues that were raised by the previous speaker.

First of all, with regard to the government shutdown and with regard to what some of the freshman Democrats have said, I am very much in favor of their position. I think that we should stay here. We should not be going out of session. We should stay here through Sunday, obviously, in order to see what we can do to work out an agreement so that the Government does not have to continue to be shut down or slowed down as it is right now. I have a lot of Government employees in my district, and I think that is the only right thing for us to do.

The other thing I wanted to mention with regard to the previous speaker is, I do not really think the issue here is a balanced budget because most of the Members in this body on both sides of the aisle feel that we should have a balanced budget. Obviously the President feels that we should have a balanced budget. But what is happening here is that Speaker GINGRICH and the Republican leadership are essentially holding the government hostage to their view or their ideology with regard to a particular type of balanced budget.

□ 2130

Mr. Speaker, that is not fair, and that is certainly not what has happened here in the past. That is the major difference, if you will, about what is happening in Washington right now as opposed to previous years. In previous years, when there were disagreements about the budget between the two parties or between the President and the Congress, they allowed the Government to continue, they allowed operations to continue, so Americans were not hurt in any way while they argued over their differences about the budget. That should be allowed to occur here now, that is what President Clinton has been saying, that is what most of the Democrats are saying, but that is not what happens because basically Speaker GINGRICH wants to hold the Government shut down, if you will, hostage to his particular ideology about the budget. It is not fair.

I wanted to speak a little bit, if I could, about this, about this budget that was considered today which I was very much opposed to. What I would like to say basically is that the budget that was adopted today and which I did not support, essentially what it does is it takes a huge amount of money from the Medicare Program, from the Medicaid Program, and essentially hurts seniors and those people on low incomes who receive Medicaid right now, and it cuts those programs and really hurts the people that take advantage of those programs in order to provide these hefty tax breaks primarily for the wealthy. If we were to eliminate the tax breaks for the wealthy, we would not have to cut Medicare or Medicaid as much as is being proposed, and at the same time, and even worse, we are asking seniors to even pay more for essentially less health care coverage.

I just like to give some examples of how this plays out in a little more detail, if I could, in the time that I have left. First of all, we have information that shows that the average tax cut for those in the top 1 percent of taxpayers who get a tax cut would be about $15,000, but for 99.7 percent of all taxpayers in the bottom fifth, they would actually have a tax increase or see no change at all. For those in this group who have a tax increase, their taxes would go up by an average of $173 a year, so this is only a tax cut for wealthy Americans, it is actually a tax increase for a lot of the taxpayers at the bottommost part who are also working and paying taxes.

With regard to the Medicare Program, because you are taking so much out of the Medicare Program, what essentially happens is that the reimbursement rate to hospitals, to doctors, to health care providers, becomes so much lower in overall terms that it causes them to cut back. Hospitals will close, particularly in my home State, because so many of them are Medicare and Medicaid dependents. A lot of doctors just will not take Medicare any more because of the reimbursement rates, and even more importantly, what they do with the Medicare Program, what the Republican budget does with the Medicare program, is that it changes the emphasis on the dollars towards HMO's and managed care and against the traditional fee-for-service system where the senior had the opportunity to go and choose their own doctor. It does that in a very insidious way, by saying that the growth that is allowed, if you will, in funding is more in the HMO or managed care side and less on the traditional fee-for-service side where you choose your own doctor, and then, even worse, if you look at this conference agreement on the budget, it says that if they cannot save the $270 billion in cuts that are proposed in what they propose by moving so many seniors into managed care, then what they do is they have what they call a fail-safe mechanism that basically makes even more cuts again in the traditional fee-for-service system. So what you are going to have is a lot of seniors that cannot find a doctor of their choice.

THAT IS BILL CLINTON SPEAKING, NOT NEWT GINGRICH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, it is very timely for me to speak at this point particularly regarding the issue of Medicare. As a physician I previously took care of many seniors in the Medicare plan. Before I get into some of the comments that have been made today about the Medicare issue, I do want to just stress to all my colleagues that we can get out of here if the President will sign our continuing resolution that simply calls for a 7-year balanced budget with CBO numbers.

Mr. Speaker, the President himself has said that we should balance the budget in 5 years, not 7 years, and the President himself has said that CBO numbers are the more accurate numbers, and to stay here, and stay here, and legislate, and legislate when the problem is at the White House, I think is fully inappropriate, and I really want to talk about this Medicare issue because there has been in my opinion—well, let me just say this. Let me quote from the New York or Washington Post which I think said it very well, what is going on with our colleagues on the other side of the aisle as well as with the President?

The Washington Post said, Bill Clinton and the congressional Democrats were handed an unusual chance this year to deal constructively with the effect of Medicare on the deficit, and they blew it. The Democrats, led by the President, choose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, just as we have seen tonight, and demagogued on it because they think that is where the votes are and the way to derail the Republican proposals generally.

Now I would like to go back in time about 2 years, to a day in April 1993 when President Clinton was addressing a meeting of the AARP, and he said the following. He said today Medicare, Medicaid, and Medicare, are going up at three times the rate of inflation. We propose, and this is the President and the Democrats in the House saying we propose to let it go up at two times the rate of inflation. That is not a Medicare or Medicaid cut, so when you hear all this business about cuts, and we have heard the cut word used just now tonight, let me caution you that this is not what is going on. It is a reduction in the rate of growth.

Mr. HOKE. Mr. Speaker, if the gentleman would yield; this is what Republicans are saying? Right? Your are quoting a Republican that must have said that.

Mr. WELDON of Florida. No, I am actually quoting the President of the United States.

Mr. HOKE. President Clinton said that these are not cuts.

Mr. WELDON of Florida. That is right.

Mr. HOKE. I thank the gentleman from Florida.

Mr. WELDON of Florida. When I came here, I met with the Speaker, I met with the Republican leadership, I met with the chairmen of the Committee on Commerce and the subcommittees, and I felt very strongly that this was extremely important, that we save Medicare. It was announced by the trustees of the Medicare plan, three of whom are Clinton administration Cabinet officials, that the Medicare plan was going to be insolvent, and I felt very strongly that it was extremely important that we maintain the solvency of the program, and the plan, and the proposal that has been put forth, and our budget proposal that we passed today calls for reducing the rate of growth of Medicare to about double the inflation rate. It is going to increase and increase dramatically. Essentially what we are doing is what the Democrats said needed to be done 2 years ago, but now today they are shamelessly, as the Washington Post has admitted, a paper that does not traditionally endorse Republicans, they have said that this is shameless demagoguery.

Let me go on. I will quote President Clinton on a CBS morning show interview March 3, 1994, that is just last year. It is not necessary for us to have a huge tax increase if employers and employees do their part, if we can slow the rate of growth in Medicare and Medicaid to just two times the inflation, just slow it down where it is only increasing twice as much as regular prices.

My colleagues, that is exactly what the Republicans do in their budget proposal.

Again on October 5, 1993, Clinton said in a White House press conference only in Washington do people believe that no one can get by on twice the rate of inflation. So when you hear all this business about cuts, let me caution you that is not what is going on. That is Bill Clinton speaking, not NEWT GINGRICH.

WHAT DO THE AMERICAN PEOPLE WANT US TO DO?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. TIAHRT] is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, I believe most Americans are puzzled why we are at an impasse here in Washington, DC. All the bickering about these alleged cuts, and the Speaker in plane rides and the parliamentary procedure is all really distracting us from the main issue, and that is the business at hand, and that is carrying out the will of the people. So let us take a minute just to talk about what the American people would like us to do.

Now I have a chart here that is the marching orders that the people of America have been giving Congress, and this is based on polling data, and all of it runs about 60 to 80 percent. The top one is balance the budget in 7 years, and we will talk more about that later, but basically this is what 80 percent of America wants us to do.

Next is save Medicare from bankruptcy this year, reform welfare, another 80 percent issue, and the third is provide tax relief for families and for job creation. But I want to spend time tonight talking about the balanced budget issue. Let us concentrate on that because that is really what is pending now.

The reason we have 800,000 Government workers off now is because the President is refusing to sign a continuing resolution that has been stripped from all the controversial issues except one, and that is the balanced budget, and the reason I say that is not controversial is because 80 percent of the Americans want a balanced budget. So what the Republicans are proposing is to balance it in 7 years, which is not unreasonable, but the President has already threatened a veto, and now he said many things about the balanced budget. He says he supports a balanced budget. During the campaign he was going to do it in 5 years, and then he said, well, we will do it in 10 years. Then he said, well, 7 may be OK, but it could be 8 or 9. Are you clear on that yet?

Well, I do know one thing, that he did send us a balanced budget, and I can show that to you. This is how it was scored. This is his budget, and you can see from 1996 through 2005 it runs about an average of $200 billion a year deficit, $200 billion a year deficit, and, by the way, it did go to the Senate, and it received a "no" vote, or they voted it down 96 to zero. Not one person in the U.S. Senate supported the President's budget. But that is what he has proposed.

This is the problem. The American people want to see a balanced budget.

Now Alan Greenspan, the Chairman of the Federal Reserve, says it is very important that we balance the budget, and he has a vision of what would happen if we could balance the budget. Let us just look at Mr. Greenspan's vision because he is very knowledgeable about these financial matters. He said our children will have a higher standard of living, that improvement in the purchasing power of incomes would occur, that there would be a rise in productivity, that there would be a reduction of inflation, that strengthening of financial markets, which we have already seen incidentally just from the hope of a balanced budget, the stock market is up nearly to 5,000 points. The bond market is up, all in the hope of balancing the budget for the first time in 26 years, and acceleration of long-term economic growth and significant drop in long-term interest rates.

Well, now what would that drop in interest rates do? Well, it would help each one of us. A drop in interest rates would effect every individual in America and every family. A 2-percent drop in interest rates—and incidentally I just did not pick 2 percent arbitrarily. That is a number that came from Alan Greenspan, the Chairman of the Federal Reserve Board. It came from Alan Greenspan himself.

He said that a 2-percent drop in interest rates would, on a 30-year mortgage of $75,000, save $37,000 over the life of that mortgage. On a college loan, a 10-year loan at $11,000 would save $2,160. For a 4-year car loan for $15,000, it would save $900. A significant savings for each family of approximately $2,300 per year.

So why is this a problem? Well, I think it is a problem because the President just does not think he can balance the budget, and the reason is he has members in his Cabinet who are really unable to control their own budget.

For example, we have Secretary O'Leary at the Department of Energy. Now first it started out with the GAO report that said it was an ineffective agency. Then there was Vice President Gore in his national performance review that said she was 20 percent behind in her milestones, missing one out of five projects, she was 40 percent inefficient, it was going to cost us $70 billion over the next 30 years. Well, then we found out that she travels extensively. She is the most expensive member in the whole Cabinet.

□ 2145

Then she spent $46,500 to hire a private investigative firm to find out who her unfavorables were, unfavorable people, so she could work on them a little.

Mr. HAYWORTH. Could you repeat that?

Mr. TIAHRT. She spent $46,500 a year to hire a private investigative firm to find out who the unfavorables were.

Mr. Speaker, with people like that, it is going to be difficult for the President to balance the budget.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BARR). Before the next speaker begins, the Chair wishes to apologize for having misread its list of speakers. The Chair will attempt to be as fair as possible and rotate between the majority and the minority, but the Chair apologizes for the mix-up.

TRIBUTE TO HERB KENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. RUSH] is recognized for 5 minutes.

Mr. RUSH. Mr. Speaker, it is with great pleasure that I rise tonight to pay tribute to a great Chicagoan, a personal friend, and a good friend to many, Chicago radio personality Herbert Rogers Kent—"the Cool Gent"—on the occasion of his induction into the Radio Hall of Fame and on the celebration of his 50 years of dedicated entertainment and service to Chicago and the surrounding communities.

Herb's many innovative and outstanding accomplishments include the development of varied fictional radio characters such as "The Waahoo Man," "the Grunchuns," "the Gym Shoe Creeper," "Rodney Roach," "the Electric Crazy People," "the ever cunning, Cadillac-driving Rudolph," and many others. Herb is also credited with coining the phrase "Dusty Records".

Throughout the 1960's and 1970's, Herb was a fixture at virtually every high school hop in the city of Chicago. The popularity of these hops extended to colleges and universities throughout the State of Illinois. While at radio station WVON, Herb broadcast live from a different high school each Friday night. The records he played would race to the top of the charts.

The Cool Gent's talents extend for beyond spinning LP's at clubs and radio stations. With his own unique flair, Herb has demonstrated a genuine commitment to his community by orchestrating a number of successful public service campaigns. Among these was the "Stay in School Campaign." For 15 minutes each day in the 1960's, Herb would speak directly to his young listeners. "If you don't stay in school," he told them, "you're cutting your own throat." When Dr. Martin Luther King made what was to be his last appearance in Chicago, Herb Kent joined Stevie Wonder the master of ceremony at the event in Soldier's Field.

Herb Kent "The Cool Gent" holds a special place in the small circle of this country's radio luminaries that include Wolfman Jack, Dick Clark, and Casey Kasem.

Herb's latest honor follows a career filled with recognition for his good work from such esteemed organizations as the Chicago Urban League and the Midwest Radio Association.

Mr. Speaker, I want to commend Herb Kent for sharing his gift with all of us. I am pleased to enter these words of tribute and congratulations into the RECORD.

Mr. Speaker, I yield the balance of my time to the gentleman from Maine [Mr. BALDACCI].

The SPEAKER pro tempore. The gentleman from Maine [Mr. BALDACCI] is recognized for 2 minutes.

AN UNNECESSARY SHUTDOWN OF THE FEDERAL GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine [Mr. BALDACCI] is recognized for 5 minutes.

Mr. BALDACCI. Mr. Speaker, today is the fourth day that the Federal Government of the United States has been shut down because this Congress has failed to complete its work in a timely manner. Our national economy is suffering as a result, the dollar is down against every other national currency and nearly 3.5 million Americans have been adversely affected by our failure to act. That does not include the number of Federal employees who have been furloughed or asked to work without knowing when they will be paid next.

I have introduced a resolution to require the House to work this coming Sunday instead of taking a vacation day. We should stay here in session, and we should be doing our voting, and a clean continuing resolution passed so that the American people do not have to start another work week with the Federal Government closed.

Mr. HAYWORTH. Mr. Chairman, will the gentleman yield?

Mr. BALDACCI. I yield to the gentleman from California.

Mr. HAYWORTH. Just one question, Mr. Speaker. I would like to inquire of my friend, the gentleman from Maine, is it not true that the President could end this right now with a stroke of his pen on the continuing resolutions that have been sent, instead of vetoing those resolutions?

Mr. BALDACCI. I think the President does not have the second continuing resolution, but my understanding is that the resolution that has been set forth is still in the Senate. That is my understanding.

Mr. HAYWORTH. If the gentleman will continue to yield, is it not also true that this Government would still be in operation had the President not wielded the veto pen earlier this week?

Mr. BALDACCI. Mr. Speaker, I believe it was that the President constitutionally has the authority to veto measures. That is his constitutional provision. To hold the President hostage unless he accepts your scheme in order to balance the budget and provide large tax breaks, is to hold the President hostage and the rest of the Government hostage to the scheme that you are trying to put forth on this country.

Mr. HAYWORTH. If the gentleman will continue to yield, I can assure the gentleman personally there is no scheme. We are simply trying to balance the budget for our children and for future generations and to assure Medicare and prosperity for seniors.

Mr. BALDACCI. I would just like to ask a question. Is there a $245 billion tax break over 7 years in your budget, your 7-year budget?

Mr. HAYWORTH. Yes, for children primarily for a $500 tax break per child.

Mr. BALDACCI. It is not just children.

Mr. HAYWORTH. I would also point out it goes to 80 percent of the American people, not to the wealthy.

FACTS AND NUMBERS OF THE REPUBLICAN BUDGET BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. KIM] is recognized for 5 minutes.

Mr. KIM. Mr. Speaker, we have been hearing this argument about huge tax cuts, huge tax breaks to super-rich people at the expenses of the poor. I would like to present to you, I would like to give this chart to the people in California. They all know me. I was an engineer prior to becoming a Congressman. I know how to deal with the facts and numbers, because numbers do not lie. You will be shocked to find out what I am about to say tonight.

Let us take a look at this. Rich people are not paying their share. Let us take a look at this. The top 50 percent of income earners of the American people have paid more than 95 percent of the entire national income tax. The bottom 50 percent only pay 4.8 percent, hardly anything.

Look at the share of income. The income share is only 85 percent, but their tax burden is much higher. Here, it is the exact opposite. The bottom 50 percent do not pay any tax at all, practically, no taxes. Only the top 50 percent are paying taxes. Do not tell me that people are not paying their fair share.

Who is rich? Here it is. Here are people that are all rich. In the definition of our liberal friends, rich is anybody who makes more than $21,000 a year, is considered rich. Anybody who has a job is considered rich. Is this shocking to you?

Let me go to the next one. Let us take a look at what happened in the last 10 years. Back 10 years ago, the top 50 percent, they only paid that much. Look at what happens now. Their tax share has gone up every year for the last 10 years. Look at the bottom 50 percent. Their tax share has actually declined.

In other words, these folks are paying less and less taxes each year, and the top 50 percent are paying more and more tax each year. If this trend continues, then what is going to happen? Right now it is almost a 2 to 1 ratio.

Let us take a look at these folks down here. These people have truly needed some help. I understand that. But I cannot believe that half of the population of this country really need some help. I cannot believe that half of the population in this country really need some government help. It is hard for me to believe.

Who are these folks up here? They are the ones having children, trying to send their kids to school, support their families, having a little house and condominium, plus they have to pay for all this national defense, 2½ million fellow employees, all this, plus they have to support one more family down here. You have to support your family plus one more family down here. Do you think that is fair?

Mr. Speaker, right now it is almost a 1 point ratio, and the bottom is growing, growing, each year. Now, let us take a look at this. They are talking about a huge tax credit. What is it? A $500 tax credit per child. That is what we are talking about, a huge tax credit to the super rich. Let me tell you who they are. The $500 tax credit stops at incomes of $75,000. If you make more than $75,000 a year, you do not even get a $500 tax credit for your child. Your child is not worth $500. The only folks who get the $500 credit will be right here, these folks.

Our liberal friends are screaming it is unfair, it is a huge tax credit to the rich people, because they are forgetting what is a tax credit. A tax credit means you have to pay a tax to get a credit. These people do not pay any taxes. Therefore, we cannot give them a tax credit. Do you think we should pay them $500 in cash instead?

Second, as I mentioned earlier, the super rich. If you make $75,000 a year you are super rich. I have been hearing this time after time, that we give a huge tax break to those folks who do not need the money. You mean they do not need the money? Why are we doing this $500 tax credit? Because by doing it, by doing this, it can save money; by doing this, the billionaires can borrow money, create more jobs, so these folks can go up. That is the idea of the $500 credit.

We cannot go on with this. The last 30 years, it does not work. We have to create more jobs to help these folks, so these people can go up to being the taxpaying group, instead of the tax-consuming group.

AN INJUSTICE CENTERED ON SILENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DOGGETT] is recognized for 5 minutes.

Mr. DOGGETT. Mr. Speaker, we can have a legitimate dispute over matters such as that which we just heard, knowing a different perspective on some of these issues, knowing that the whole idea of middle class to at least one of our Republican colleagues was that those who earned even as much as $183,000 were lower middle class, but there are some issues that ought to go beyond partisanship. They ought to go beyond differences in philosophy. I think we have seen one of those issues presented in this House tonight.

Of the many injustices that have occurred on the floor of this House this year, none, certainly, is any greater than that which we saw tonight. I refer to an injustice not based on what was said here on the floor of this House, but on what was not said.

Usually when people on one side or the other complain about an injustice, they are talking about a vote that was taken and many speeches and debate, as we have had here today. But this was the muzzling of debate. This was the gagging of debate. This was an injustice that centered on silence, not on anything that was said. This injustice related to the handling of a privileged resolution that was presented here on the floor of the House tonight, presented by the gentleman from Florida, Mr. HARRY JOHNSTON and Mr. PETERSON. It concerned a very important matter, that being the ethical standards that prevail in this House or do not prevail in this House.

The timing of the consideration of this resolution was interesting, at the end of a long day of debate. The timing of this resolution seemed to be designed, along with the motion to table that immediately cut off consideration of this measure, immediately cut it off without any presentation of the kind of debate that we are seeing here tonight on matters concerning the budget, and yet, which go to the core of the operation of this Congress; that is, the confidence of the American people in the integrity of this body.

Let me just read to you, since it was done so hurriedly, and without any opportunity for debate, from this resolution:

"Whereas the Committee on Standards of Official Conduct is currently considering several ethics complaints against Speaker NEWT GINGRICH"—and indeed, they are, there have been a number of such complaints—"and whereas the committee has traditionally handled such cases by appointing an independent nonpartisan outside counsel," a procedure which has been adopted in every major ethics case since the committee was established, and, indeed, that is also accurate; in fact, on at least nine occasions, including Speaker Jim Wright, an independent counsel was appointed—"and whereas, although complaints against Speaker GINGRICH have been under consideration for more than 14 months," for 14 months, for every day of this great revolutionary new Congress those complaints have been pending and nothing has happened, "this committee has failed to appoint an outside counsel, and whereas the committee has also deviated from other longstanding precedents and rules of procedure, including its failure to adopt a resolution of preliminary inquiry before calling third-party witnesses and receiving sworn testimony,"—and in the section of the resolution, of course, referring to the rules of the Committee on Standards of Official Conduct which, based on the news reports, have not been complied with.

Mr. HOKE. Mr. Speaker, I wonder if the gentleman would yield for a moment.

Mr. DOGGETT. For a question, certainly.

Mr. HOKE. Mr. Speaker, is it not correct that each one of these complaints that has been brought against the Speaker of the House has been brought by a Member of the opposite party, the Democratic Party, the minority party?

Mr. DOGGETT. Mr. Speaker, reclaiming my time, it is correct that we have yet had an opportunity to discuss these complaints, and, yes, they have. And the whole thrust of this resolution is to have someone who is neither Democrat nor Republican participate in an independent consideration of those complaints to find out if they have been partisan or nonpartisan. And, as the resolution so indicates, whereas these procedural irregularities and the unusual delay in the appointment of an independent outside counsel have led to widespread concern that the committee is making special exceptions for the Speaker of the House; and, whereas the integrity of the House depends on the confidence of the American people, and the fairness and impartiality of the Committee on Standards of Official Conduct; therefore, be it resolved that the chairman and ranking member of the Committee on Standards of Official Conduct should report to the House no later than November 28, 1995, concerning first, the status of the committee's investigation of the complaints against Speaker GINGRICH; the committee's disposition with regard to the appointment of a nonpartisan outside counsel and the scope of the counsel's investigation; and, finally, a timetable for committee action on the complaints.

That is to say, that the resolution did not go so far as to actually demand the immediate appointment of an outside counsel, but only that the committee come forward and report on what it has been doing throughout this year. Yet, Mr. Speaker, every Republican who voted refused to have even an investigation reported to this House on this critical ethical matter.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. BARR). The gentleman will state it.

Mr. WALKER. Mr. Speaker, is it not the longstanding tradition and, in fact, the rules of the House that no Member is to discuss the workings of the Committee on Standards of Official Conduct? Are these not rules that were adopted under previous Democratic Congresses, and it is not legitimate for Members to discuss the internal workings of the Committee on Standards of

Official Conduct on the floor of the House?

The SPEAKER pro tempore. The gentleman is correct and the Chair will read from page 526 of the House Rules manual under rule number XIV:

> Members should refrain from references in debate to the official conduct of other Members where such conduct is not under consideration in the House by way of a report of the Committee on Standards of Official Conduct or a question of privilege of the House.

The gentleman is correct.

Mr. OBEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. OBEY. Mr. Speaker, what in the rules prevents a Member of this House from discussing an action that has taken place on the House floor? The gentleman from Texas [Mr. DOGGETT] is not discussing what is occurring in the Committee on Standards of Official Conduct. The gentleman is discussing what is happening on the House Floor.

The SPEAKER pro tempore. The discussion of the pendency of matters before the Standards committee is not in order.

Mr. OBEY. Mr. Speaker, is the Chair suggesting that it is out of order to discuss a matter which occurred on the House floor? Because that is the action to which the gentleman's remarks were referring.

The SPEAKER pro tempore. The gentleman from Wisconsin is placing words in the Chair's mouth. That was not the Chair's response. The response was that the statements that the gentleman from Texas was making referring to matters currently before the Committee on Standards of Official Conduct are not in order.

All the Chair is stating at this point is that for further purposes of discussion this evening, if a point of order is raised, there should be no further such discussion as the gentleman from Texas raised.

Mr. DOGGETT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DOGGETT. Mr. Speaker, then is it the ruling of the Chair that the resolution that the House just voted to table on the floor of this House concerning the desire for a report from the committee, the Committee on Standards of Official Conduct, is improper and cannot be discussed even during special orders?

The SPEAKER pro tempore. The Chair is simply stating that in response to the parliamentary inquiry from the gentleman from Pennsylvania, that the references that the gentleman from Texas made in discussing that resolution went beyond reciting its consideration. That is the very limited extent of the Chair's response.

Mr. DOGGETT. Mr. Speaker, so, the Chair is not saying that the resolution itself, which I read from throughout the course of my remarks, would not be the proper subject of debate here in the course of special orders?

The SPEAKER pro tempore. The resolution was considered as a question of the privileges of the House——

Mr. DOGGETT. And so it is a proper subject.

The SPEAKER pro tempore. And is no longer at this time under consideration by the House, based on the action of the House previously today.

Mr. OBEY. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. OBEY. Mr. Speaker, is the gentleman from Texas entitled to discuss action which took place on the House floor? Is there any action that takes place on the House floor that any Member of this House is not allowed to refer to?

The SPEAKER pro tempore. Would the gentleman from Wisconsin begin again, the Chair was preoccupied looking up the rule in the manual.

Mr. OBEY. Mr. Speaker, I am simply asking if the gentleman from Texas is within the rules of the House if he continues to discuss a matter which occurred on the House Floor.

The SPEAKER pro tempore. The Chair will not issue anticipatory rulings. The Chair simply responded to the parliamentary inquiry from the gentleman from Pennsylvania.

The 5 minutes of the gentleman from Texas having expired, there is no longer anything before the Chair to consider, and the Chair will not and cannot issue anticipatory rulings.

Mr. DOGGETT. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DOGGETT. Mr. Speaker, because the Chair has ruled, if I understand it, in response to the parliamentary inquiry that certain remarks would not conform with the rules of the Chair, and since all of my remarks centered on reading a privileged resolution that the House had just tabled, is it the ruling of the Chair that because the resolution was tabled, it is not proper for consideration here since it dealt with the Committee on Standards of Official Conduct and pending business?

The SPEAKER pro tempore. Only to the extent that the gentleman's remarks went beyond that.

Mr. DOGGETT. So, reading the resolution would be within the rules of the House?

The SPEAKER pro tempore. The resolution has, in fact been tabled——

Mr. DOGGETT. Mr. Speaker, I am well aware of the fact that it has been tabled. That is what I have been talking about the last 5 minutes. My inquiry, Mr. Speaker, is whether or not a discussion of the action in tabling that resolution, and my reading of the resolution that was tabled, would be within the rules of the House, because your previous response to the parliamentary inquiry of the gentleman from Pennsylvania suggests otherwise.

The SPEAKER pro tempore. The content of the resolution is not the proper subject for debate in this House when it is no longer pending, and it is no longer pending.

Mr. HOKE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HOKE. Mr. Speaker, is it proper to read verbatim, without any commentary whatsoever, a resolution which has been tabled by the House, in a special order after regular business has ended?

The SPEAKER pro tempore. Not if the text of the resolution itself involves official conduct.

Mr. HOKE. So, Mr. Speaker, reading the text verbatim of a resolution which has been tabled pertaining to a matter before the Committee on Standards of Official Conduct is, in fact, out of order after it has been tabled?

The SPEAKER pro tempore. The gentleman is correct.

Mr. OBEY. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. OBEY. Mr. Speaker, the Chair is not, however, ruling that it is out of order for any Member of this House to address any action taken by the House on this floor, is the Chair?

The SPEAKER pro tempore. The Chair is making no global rulings.

Mr. OBEY. Mr. Speaker, I think what the Chair is saying is that the gentleman can proceed if he is not discussing the committee, but discussing floor action.

THE BALANCED BUDGET ACT: A HISTORIC VOTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. MARTINI] is recognized for 5 minutes.

Mr. MARTINI. Mr. Speaker, this afternoon, in listening to the closing debate by our very able chairman of the Committee on the Budget, I was struck by his comments acknowledging the many people who have been working for so many years to enact or to present to this floor for a vote, finally, a Balanced Budget Act.

In listening to Chairman KASICH's comments, it struck me at this very moment how rare of an honor it is indeed for me to be here today to have cast a vote on such a historic piece of legislation. In fact, it is this very legislation which embodies the very principles that I campaigned on just 12 months ago.

The Balanced Budget Act of 1995 represents the essence of what I believe in:

a fiscally sound and responsible Federal Government that passes on a better America to its future generations. This truly for me is a defining moment in our Nation's history.

The Balanced Budget Act is not a smoke-and-mirrors sham in an attempt to fool the electorate. This budget is a real, honest plan that offers the people we serve the first balanced budget in a quarter of a century. This bill is, in my opinion, right for New Jersey, but more importantly, right for America.

Throughout the debate leading up to today's historic vote we have witnessed a debate between two competing visions. On the one side are the advocates of the status quo, and on the other a group of legislators committed to offering real solutions to real problems.

Sadly, the advocates of the status quo have only been able to offer us echoes of the very sentiments that put our country in the red to begin with. Their answers to the very real questions and problems we are faced with are disappointingly and simply more of the same.

They believe that more spending, more taxes, and more debt are the answer to our budget ills. Most regrettably, during this debate the supporters of the status quo have fueled the fires of skepticism and despair, choosing to resort to demagoguery and doomsday scenarios at a time when our constituents deserve more.

As we stand on the threshold of truly monumental reform, it is only natural to experience a certain amount of anxiety about what comes next. But real leadership demands, in my opinion, that the response to that anxiety be hard work and commitment, not homage to the failed policies of the past.

Mr. Speaker, today we delivered where others have failed. Only in 1992, our non-President and then-candidate promised a balanced budget, the end of welfare as we know it, and a middle-class tax cut. We have been denied every one of these by the President and his Congress.

Today, we represent the very opposite. Today we will balance, and did balance, the budget for the sake of our children and their future. We have offered real, credible welfare reform and we will deliver a middle-class tax cut.

In short, today in passing the Balanced Budget Act of 1995, we are offering the President, by signing this bill, the opportunity to fulfill his major campaign pledges in one fell swoop. And sadly, again, he appears once more to be poised to reject his own campaign promises.

Finally, I would like to comment for a moment about the subject of Medicare. Unquestionably, in my opinion, the politics of this issue were best explained in the November 16 edition of the Washington Post editorial when it said the following: "The Democrats, led by the President, choose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that's where the votes are and the way to derail the Republican plans generally."

Sadly, I must agree with those comments. In defense of the status quo, we have seen only politics and not leadership.

Mr. Speaker, in the past several weeks I visited the veterans in my district and over that time I have been repeatedly reminded of how impressed I am each time with their courage in the face of real adversity and dangerous crises as those that they have faced.

They were successful in their battles and kept America safe from a dangerous world, but history has shown as that great civilizations fall victims to the crisis from within just as often as they fall prey to the threats from without. The threats from within might not be tangible or have a face or a name readily associated with them, but they do, in fact, exist.

Mr. Speaker, the deficit is just such a threat. Through it may not be apparent to Americans in their everyday lives, the effects of the deficit spending and out-of-control growth in the Federal Government pose a real, real danger for America. We in Congress are charged with the duty of dealing with these problems, which is what the debate was about today.

Mr. Speaker, it is not difficult to figure out what the people want and deserve. They do not want us to blink. They want us to go forward. They do want us to pass along to their children a future filled with prosperity and hope, not debt and despair.

Mr. Speaker, I was pleased and humbled to be a part of this historic vote today, after only 11 months ago coming to this House.

BUDGET RECONCILIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the budget bill we just passed gives a hand and a handout to the well-connected and well-off and uses a fist and brute force against the poor and many of those who work in America.

It provides for drastic and extreme changes in the lives of our citizens, and it does so through a process that was not open—a process that evolved in the dark shadows of smoke-filled, back rooms.

The Republicans would have us accept that Secret Report so that they can glide to a balanced budget in 7 years—But, "to balance" means "to equalize". And, we will not equalize, when we give a $245 billion tax break to the wealthy while Student loans are cut, nutrition and child care are compromised, farm programs are thrown out the window, spending for needed housing programs is reduced, and Medicare and Medicaid are slashed.

We can and we should balance the budget. But, we do not need a budget that is a war without bullets.

The issue is not about balancing the budget—it is about balancing our priorities.

I voted for a 7-year balanced budget plan offered in the coalition alternative budget. But, as we glide towards a balanced budget, we should not slide through the cracks and crevices of Congress, creating a clandestine, trillion dollar spending package that helps the rich among us and hurts the rest among us.

All Americans are created equal. We must not forget that fundamental premise of our Government as we shape a basic budget for the United States.

Let's give a hand to all Americans, a handout to those who need it and use a fist on real enemies. Americans who earn $28,000 dollars or less a year are no different than those who earn $100,000 dollars a year.

Why can't we balance the budget by giving some tax relief to the low earners and taking back some tax relief from the high earners. That is what balancing means.

Why can't we balance the budget by helping our senior citizens, who have labored a lifetime, instead of helping those who already have money to get more money—that is what balancing means.

The Republicans have established in this Congress—a record that supports the wealthy and neglects those most in need.

This budget plan—a plan that takes from the poor and gives to the rich will succeed, if we do nothing.

They want to spend money on the wealthy and call it an investment, while taking money from school children, pregnant women, infants, farmers, the poor, students and seniors and call it savings.

Our priorities seem out of order.

They have gone too far in cutting school lunches—They have gone too far in shutting off heating assistance for senior citizens—They have gone too far in eliminating scholarships and in cutting loans for college students—They have gone too far in eliminating summer jobs—and, they have gone too far in denying baby formula to infants.

Huddled beneath the dim street lamps, in the counties and towns and cities of this state, and across the Nation, are people who are outside.

They are the sick, the frail, the disabled, the poor, the weak, the old, our children—the least among us. This Budget Reconciliation Bill will keep them on the outside. And, toiling on the farms and in the factories and in small and medium sized businesses, are the people who are also outside—outside of the bounty of this Nation, despite their hard work. This Budget Reconciliation Bill will keep them on the outside.

I urge my colleagues both Democrats and Republicans who want to give a hand to the majority of our citizens—to the poor and to average, hard-working, taxpaying Americans—and who want to find a fist to crush this unrevealed conference report for a select few—I urge you to join me in supporting the President's veto of this report.

This Reconciliation Bill is a war without bullets because—while there are no weapons nor bloodshed—it does the same kind of harm to the lives of millions of Americans.

This Reconciliation Bill is a war without Bullets because—while there are no war torn streets and bombs echoing in the air—it will, if it stands, leave a stinging scar on the hearts and in the minds of our citizens.

Let's pass a budget reconciliation bill that serves all of our citizens.

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Mr. HAYWORTH. Mr. Speaker, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I would simply ask the gentlewoman in the wake of her statement that the tax breaks are allegedly going to the wealthy if the gentlewoman considers 80 percent of American families wealthy?

Mrs. CLAYTON. Mr. Speaker, I urge my colleagues to join with me, Republicans and Democrats, when we get a chance to support the President when he vetoes this because this is a bad budget for Americans.

HOUSE SHOULD REMAIN IN SESSION THROUGH SUNDAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. DOYLE] is recognized for 5 minutes.

Mr. DOYLE. Mr. Speaker, as one of the new members of Congress this year, I am pleased to say that I think we have made some positive changes in this 104th Congress. There has been some things that I have been proud to support, reforms that have been made. I have been proud to reach across the other side of the aisle with some of my colleagues in the Republican Party to support some of those changes. People back in western Pennsylvania told me when I was running for office that good ideas come on both sides of the aisle. When something benefits western Pennsylvania and our country, I do not care if it is a Republican idea or a Democratic idea, we should support that. I have been happy to do that.

But, Mr. Speaker, the unsettling fact is that partisan wrangling and political staging are starting to delay the appropriations process. We are behind on paying the Nation's bills. Of the 13 appropriation bills, we have only completed work on 4 of them so far. And 800,000 Federal workers were furloughed on Tuesday and remain off their jobs and wondering if or when they will be able to pay their bills.

Millions of Americans are seeing an unprecedented Federal Government shutdown that, if it persists, will cripple the ability for the American people to move forward, to prosper, to be proud of the service that they receive from their government.

Americans, what they are starting to see here, they do not like on either side of the aisle. They see disagreements on the budget, but our disagreements are not on whether or not to balance the Federal budget. They are on budget priorities. They see petty fights about state funerals, about which adding machine will get used, who gets credit in the public opinion polls, who gets blamed or the stories of the mere childishness in this institution. And they are seeing it taken to extremes.

The American people want to see us be serious about facing the problems in front of us. This Congress, not the President, has an obligation to keep the government in business. Yesterday I visited with 70 students from western Pennsylvania, from Brentwood High School. They were here to visit the Nation's Capitol and see some of the Nation's treasures that we have to offer. They were not able to see a lot of those treasures because we are in a shutdown right now. That fault lies with the American Congress, with the Congress here, Democrats and Republicans, because we need to get our work done. We need to do our job because we hold the purse strings.

I would like nothing better than to be home this week with my wife Susan and my four children. I think every Member in this House would like to be home with their families. But there are thousands of families nationwide who rely on the sole providers who work in this government and they, too, deserve to have the knowledge of whether or not they are going to receive a paycheck. And there are millions of families throughout the country who rely on the services that the government employees provide.

I would just like to talk a minute about the balanced budget because we hear a lot of talk about the balanced budget. I am a Democrat who voted for the balanced budget amendment. I am a Democrat that supported the Stenholm budget resolution. There were over 300 of us that agree that we should balance the Federal budget. This is not a question about whether or not to do it. The argument is going to be about how we do it. It is going to be about priorities. It is going to be about whether we have tax cuts or whether we mitigate some of the pain in Medicare and Medicaid. I think we should have that discussion.

I respect Members on this side of the aisle that feel deeply held convictions that there should be a $245 billion tax cut and what they are doing in Medicaid and Medicare. I happen not to agree with these gentlemen and I hold those convictions sincerely. That is what we should be talking about over these next months.

Let us get this CR behind us. Let us get the government running again and then let us sit down and have the great debate that the American people want us to have on what our priorities should be for Federal dollars. Let us get on with our work.

ORDER OF BUSINESS

Mr. LONGLEY. Mr. Speaker, I ask unanimous consent to proceed in place of the gentleman from Florida [Mr. SCARBOROUGH].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maine?

There was no objection.

BUDGET IMPASSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine [Mr. LONGLEY] is recognized for 5 minutes.

Mr. LONGLEY. Mr. Speaker, it is amazing to me to listen to the discussion on the floor this evening, particularly the suggestion that we might work over the weekend to do something, I am not quite sure. I have to confess that this is day 4 of the President's decision to shut down the Federal Government. But I would emphasize that it is the President's decision. Basically, I want to try to simplify things for Members to understand exactly what the issues are that we are now confronting.

Last Wednesday was a defining moment. It was a defining moment for the administration and it was a defining moment for the Congress. It was a defining moment for the administration because finally the administration made it clear that they are not in support of a balanced budget, period. And it was a defining moment for the Congress because 277 Members, including 48 Democrats, made it clear that we were in fact in favor of a balanced budget along the lines of the 7-year time frame.

For those who might be confused about exactly what is happening, Wednesday, when the President indicated that he was going to veto a clean continuing resolution, I realize that is Washington talk, what a clean continuing resolution means is a clean continuing resolution.

What is a continuing resolution? It is a resolution of the Congress that will allow spending to continue until early December. It had one requirement built into the resolution, that was that if the President accepted the agreement that he would in effect work with us to achieve a balanced Federal budget over the next 7 years.

There was no other requirement in that resolution. There were no tax cuts in that resolution. There were no adjustments in Medicare spending or Medicaid or any one of the hundreds of programs that we have worked our way through over the last 6 or 10 months. It was a clean continuing resolution; that is, it was unornamented. There was nothing complex about it.

We gave the President the opportunity to continue the operations of Government just based on one caveat; that was that we are going to balance the Federal budget.

Today we did something.

Mr. HOKE. Mr. Speaker, will the gentleman yield?

Mr. LONGLEY. I yield to the gentleman from Ohio.

Mr. HOKE. Mr. Speaker, did the sentence requiring a balanced budget by the year 2002, did it say anything about tax cuts?

Mr. LONGLEY. It said nothing about tax cuts. It said nothing about spending cuts. All it said was that we, the Congress of the United States, will work with the administration to develop a balanced Federal budget, scored by the Congressional Budget Office over the next 7 years.

Mr. HOKE. So when you clear it all away, it boils down to the President very clearly saying, I will not balance the budget in 7 years?

Mr. LONGLEY. That is exactly the issue.

We have also got a second item.

Mr. DOGGETT. Mr. Speaker, now that the gentleman has reached the point in his presentation where he is taking questions, will the gentleman yield?

Mr. LONGLEY. Mr. Speaker, I will yield for a question to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, why has not the continuing resolution, if the gentleman is so eager for the President to act on it, why is he holding it up?

Mr. LONGLEY. Reclaiming my time, I think that the President's indication that he was going to veto it before it was even passed resulted in it going through the Senate and it has been passed yesterday, I am advised by the Senate. I am sure that by tonight or tomorrow, it will be working its way on to the White House.

But at the same time, we have now added a second act of legislation that will be finalized by the House tomorrow morning, which is that, and remember what I said, that Wednesday we are giving the President, we voted on a clean continuing resolution. No ifs, ands, or buts, just we are going to agree to balance the budget. No adjustments in spending, no cuts, nothing.

Tomorrow morning we are going to vote on a budget, a 7-year budget. So we are going to give the President two choices. If he wants to work with us to develop a balanced Federal budget over the next 7 years, we are going to start from scratch. But by the same token, if he wants us to do the heavy lifting, we have already done it, worked our way through the budget, and we have come up with a package that we think is pretty strong. So he has got plan A and plan B. So as far as the work that needs to be done in this House, I might also add that the President's decision on Wednesday to indicate that he had no intention whatsoever of balancing the Federal budget has also thrown us into a little bit of a quandary, because if the President is going to interfere with what we thought was his objective, which we thought was the objective of all Members of this Chamber to work toward a balanced Federal budget, and he has decided not to do that, well then now we have got to go through more programs and more adjustments and deal with the appropriations knowing they are going to be vetoed.

□ 2230

WE SHOULD STAY AND DO OUR WORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BENTSEN] is recognized for 5 minutes.

Mr. BENTSEN. Mr. Speaker, is as obvious, I think, to all of us in this House and has been for the 10 months that I have been here, as have many of my colleagues who are on the floor tonight, we disagree, and reasonable people often disagree. But I think there is one thing that we cannot disagree upon and one thing that the American people will not disagree with, and that is simply that we should stay and do our work.

The fact of the matter is that we are still getting paid when a lot of people are not getting paid, and the fact of the matter is that we get paid a lot as compared to the majority of the American people, and I think the American people want action, not talk, and most of all I think the American people would rather see us stay in Washington and try and work out our differences on this budget, get us to a balanced budget, rather than adjourn and go home. That is what we get paid to do, and we ought to stay and do it.

Now tonight I join with my colleague, the gentleman from the great State of Maine [Mr. BALDACCI], and my other colleagues in the freshman Democrat class to introduce a resolution which will say that we will stay in session until we get this issue resolved.

Now we can talk about the issues of clean CR's, and time frames, and CBO, and OMB, and all other acronyms which make Washington tick, but the fact of the matter is that they are all irrelevant unless we are willing to sit here, work out our differences and get on with our business. To basically take our bat and ball and go home because we are mad and not do our work puts us in about the same league as major league baseball players who were out making $4 million or $5 million a year and decided they did not want to play baseball because they are not making enough money. American people feel we make too much money, and sometimes I think they are right, if we are to willing to sit down, try and find common ground and address these issues.

Mr. Speaker, we can all dig in our heels, we can all say we will not give an inch, but that is not what we were sent here to do, that is not what this democracy is all about.

Now I will tell my colleagues that I think that, if we decide to leave, without finishing our business, we will have a lot to pay, and quite frankly it will be deserved, so I think our colleagues on both sides of the aisle would be well served to join with us and join with us in this resolution. Let us tell the leadership, let us tell the Speaker, that we wish to stay.

Now let me, let me just make a couple of points of clarification since I have been sitting on this floor listening to my good friends from all over the country, and I want to make two points that I think the gentleman from Kansas spoke with earlier. He made the point about the Speaker's airplane problems, and I just want to make a point to remind him, and the way that I read it in all of the newspapers, was that it was the Speaker who brought up the issue of the airplane and why as a result of his personal offense that he took he decided to make the CR harder so it would not pass. In fact I heard a tape of that last night on the nightly news. It was the Speaker who said I am just doing this for point of clarification.

Let me also make another point to my colleagues because this is something that I just have an interest in. When we talk about interest rates, and he was talking about Chairman Greenspan of the Federal Reserve, an unelected position, but certainly an expert in the area of macroeconomics, he talks about lowering interest rates, but I might point out that when the Congress threatened to default for the first time in our history as a Nation to destroy our creditworthiness, interest rates actually went up because the market reacted to that. This goes to say any time you play around with the creditworthiness of a nation, you will pay more in interest rates.

So that brings me back to where we are. Let us sit down at the table, and let us get our work done. Let us not go home. Let us not go home because we are mad. We get paid to work. Other people are not getting paid, and let us get to work. So I ask my colleagues to join me in the resolution.

BALANCING THE BUDGET IS NOT A POPULARITY CONTEST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. WAMP] is recognized for 5 minutes.

Mr. WAMP. Mr. Speaker, I yield to the gentleman from Ohio.

Mr. HOKE. I appreciate that. I just wanted to say to the gentleman from Texas [Mr. BENTSEN] that, you know, all this talk about working, and we could work, and we should have this resolution to work. The fact is this House agreed, we agreed, on a continuing resolution that is clean. We did that. We make it clean, and we voted on it.

You may have even voted for it, Mr. BENTSEN. Forty-eight of your colleagues did.

Mr. WAMP. Reclaiming my time, I am happy to yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I was fascinated to hear a minute ago when we heard about interest rates rise. Interest rates are rising because we have the Secretary of the Treasury that is down looting the pension funds of the country, and guess what? The markets are beginning to respond to the looting action taking place by the Secretary of the Treasury. I mean it is absolutely fascinating to hear these people come out defending what is going on in the administration when what we have is a looting of the retirement funds—

Mr. HOKE. Mr. Speaker, I wonder if the gentleman would yield for 1 moment, and I would just point out that the stock market is now—

Mr. WAMP. Mr. HOKE, let me reclaim my time and make my point, if I could, please.

You know, this has been a long and difficult year. It has been 11 months nearly now, and a lot of people are tired in this Chamber, and I can tell it on the floor today, and I can tell it with people's tempers, and what I would just respectfully come and say to our Members from both sides of the aisle is try not to be so disingenuous with your comments and your positions. This business of coming to the floor tonight and saying we should somehow stay on Sunday when on Sunday there is probably not going to be anything to vote on.

Let me tell you that beginning in 1991 I began running for the U.S. Congress, and I decided early on that I was not going to sacrifice my commitment to my wife and my children by entering the public arena, and I said I will not campaign, I will not do anything on Sunday, except go to my church, worship the God that I serve, and spend that day every week with my family, with my wife and my children, and I have not backed down on that commitment in 4 years.

In the first race the incumbent said we will debate you if you want to debate. She had a tremendous advantage. She said we will debate you on Sunday night, and I turned down that network-televised debate because I was not going to back down on a commitment that I made to live a balanced life of mind, body, and spirit, and I think it is very disingenuous for Members to down here and talk about us staying. We are staying tomorrow, we are staying Saturday.

Mr. Speaker, I have been here. I left home at 6:30 Monday morning, and we are staying Saturday. We are staying Saturday, and we are working, and we are going to go home for one day so I can go to my church with my children and spend a day with my family that I love.

There is a problem with the continuing resolution, there is a problem here, we all know it. All week long we have heard about policy and popularity. Well, let me just say this, please. It is popular, and it has been popular for years, to overpromise and overspend, and even if it is not popular today to do what we have got to do to save this country from the train wreck that we are destined to have if we do not turn around, even if it is unpopular, I am willing to do it, and many of my colleagues are willing to do it.

This should not be a popularity contest. This country has got to quit worrying about polls, and how they run them, and what the results are.

Thankfully my district did respond this week. It was four to one all week in favor of what we are doing in standing tough, standing firm, on a balanced budget. One day it was six to one.

But what really bothers me is that we are the only generation in the history of this great Nation that is going to leave this place in worse shape than we found it. I would like to retire when I am 75 or 80 years old, and I would like to sit there with my grandkids and know that we did the right thing in 1995, that we stood in the gap for their future, that we made some tough decisions, that we did not back down when it all of a sudden got a little hot, like they done since 1969, said they were going to do it, got there, and we had a little pressure, and they had to back away from it, and the conservative Democrats over here, my hats are off to you. Forty-eight of you joined me, defected from President Clinton's commitment not to balance the budget, and joined us, and there are more every hour coming over. Why? Because it only makes sense.

Mr. Speaker, we have a reasonable proposal. We have stripped it down to the bare essentials of the 7-year balanced budget. It is time to move. It is time to do it. If not now, when? If not now, when are we going to do it?

I want to stay until the budget is balanced; that is what I came here for. We have got to take a step and come forward. I did not come here to play games. This is not a Republican-Democrat thing; it is a liberal and conservative thing, and we need to come together.

A CONGRESS THAT PRAYS TOGETHER CAN FINISH ITS BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. LOFGREN] is recognized for 5 minutes.

Ms. LOFGREN. Mr. Speaker, as the Speaker knows and, I think, the American people know, we are not here doing actual business tonight. This is a time after our colleagues have gone home where those of us who want to stay until 11 or midnight can stand here and kind of pop off, and speak our minds, and I do not usually do that, but I did want to do it tonight because I feel strongly about something.

Mr. Speaker, I was interested in the civic lessons from the gentleman from Maine [Mr. LONGLEY] on how we got here, and I think it is important that we did that because the public, they do not know what a CR is, and most people do not, and I did not before I got elected and took office this year. But he stopped short of the civic lesson because the real reason why we need this emergency measure to keep the Government open is the fact that we have not done our job. We have to pass 13 appropriations bills, and we have only gotten three to the President's desk, and because of what we have to have these emergency measures.

Now I think it was my friend, the gentleman from Pennsylvania [Mr. DOYLE], who mentioned that there are very serious disagreements on what we should do in this budget. I think there is general agreement that we need to have a balanced budget. There is very strong disagreement over how we should do that, what the spending priorities should be, whether it should be 7 years or 10 years. All of those things need to be resolved, and we should have debates over them, but they should not in my opinion be resolved in a crisis mode. We should do that in the ordinary budget process, and that is why I came here at a quarter to 11 tonight, to pop off because I think that we ought to stay through the weekend and keep working.

Now I remember when the gentleman from Texas [Mr. ARMEY], the majority leader, mentioned this. He was asked about this a few days ago, and he said, well, Sunday is the Sabbath, and we need to go to church, and I looked up, and there was our Chaplain, Reverend Ford, and I thought we got a chaplain. Maybe we should take our chaplain and go out on the front lawn of the Capitol and have our service, put on our coats and have our service out there, and maybe, if we prayed together, we would have an easier time of coming to grips with the disagreements that we have.

I would like to say another thing. For some of our Members the Sabbath is Saturday, and there has been very little concern given to those individuals, and their religious beliefs, and their sacred day, and I think that that is a problem as well.

As my colleagues know, I have a 10-year-old son, and a couple days ago he said, "Now, Mommy, I do not understand this. Two weeks ago you didn't work on the—the Congress did not meet on Monday, and you didn't meet on Tuesday, and you started at 5 o'clock on Wednesday, and then you were out on Friday, and Saturday, and Sunday, and then you started in at 5 on Monday, and now the government shut down," and, you know, I did not quite know what to tell my 10-year-old son because he knows when he has not done his homework he does not get to go to the movies, when he has not cleaned up his room, he does not get to turn on the TV set. You keep working until you get your task done.

□ 2245

We have not done that. So I am here today, popping off at this special order time, because the Democrat freshman class had what we thought could be a privileged resolution. We are newcomers, we did not know you could not set the schedule with a privileged resolution, but we wanted to ask this House to go ahead and say, "Let's just meet. Let's start early tomorrow. Let's not give up at 1, like we said. Let's go to 8 or 9 or 10 at night and let's start again. Let's meet out in the front lawn with our chaplain at 8, let us pray together, and then let us come back in here and let's work all day Sunday until we get the job down, and Monday," Because we have got thousands and thousands of Americans who are waiting for this crisis to be resolved, waiting for us to pass these appropriations bills. We have got thousands of Americans who may not get a veterans check soon.

My father, who is a disabled veteran from World War II, is one of those people. Now, luckily, my fathers life is not gong to crumble if his disability check does not come, but he has friends from World War II, and if their check does not come, they are in tough shape, so I think we need to resolve this issue. We need to keep working.

I know that my colleagues on both sides of the aisle are diligent people. They do not want to goof off, either. But I think we just ought to insist that we stay here, and we keep working until we have all 13 appropriations bills passed.

STAND FIRM: BALANCE THE BUDGET

The SPEAKER pro tempore (Mr. BARR). Under a previous order of the House, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to the comments of the gentlewoman from California [Ms. LOFGREN], and indeed, would say that on one point we can agree. The gentlewoman from California suggested that it would be appropriate for this body to meet collectively in prayer, recognizing that we may worship God according to the dictates of our own conscience, and do so in different fashions. I would respectfully ask that our colleagues on the Democratic side join us. Indeed, the gentleman from Kansas [Mr. BROWNBACK] is proposing a national day of fasting and prayer, and if not this Sunday, then sometime in the future, and perhaps that is an element upon which we may agree.

The great thing, Mr. Speaker, as I have mentioned many times standing in the well of this House, debating many contentious issues, is this: Good people may disagree. It is championed throughout this constitutional Republic. Disagreement in itself is not unhealthy. Debating these issues is vitally important, especially at this juncture in our history.

In the wake of the historic moment at which we find ourselves, Mr. Speaker, I thought it important to bring comments from my constituents, those who have written to me during this week. In direct contradiction of what the public opinion polls are showing us, faxes and letters to my office are running 12 to 1 in support of the majority's budget plan.

From a gentleman in Scottsdale: "Keep the faith. Don't give in. Continue to fight for a balanced budget, lower taxes, and a downsizing of the bloated Federal Government."

From a gentleman in Glendale, Arizona: "I have worked hard all my life to try to get ahead, only to have more and more of my income forcibly taken away and given to others. Some of my money even goes to pay the salaries of the very people, the IRS, et cetera, whose job it is to take my money."

From a gentleman in Chandler, Arizona: "My house is behind you completely. For those of you who disagree with a balanced budget in 7 years, well, get a grip and hold on, because that is what the American people really want." This gentleman adds, "I don't care what the polls say." In his opinion, he says, "The truth is, they are rigged to show the President's way of thinking. After all, look at who takes all those polls."

From a family in Paradise Valley, Arizona: "Please hold firm. Closing the government down for a while will not hurt the country as much as continuing the current course of overspending."

Unless there is a mistaking of the comments here, the people who wrote this letter do not rejoice in the fact that Government employees are out of work, but what they are saying has been echoed by many constituents and others who have written me from across this country. What we face right now will not hurt the country as much as the current course of overspending.

My colleague, the gentleman from Tennessee, put it quite eloquently: It is time to do the right thing. My good friend, the gentleman from Pennsylvania on the other side of the aisle, who has a difference on how to get there and whose differences I respect, said the same thing: The time has come to balance the budget. We should have that debate.

We may disagree as to some of the methodology, we may disagree as to some of the tactics, but the fact remains, that time is now to balance the budget.

From a gentleman in Mesa: "Most all the people I talk to support the Republicans on the budget issue. Don't cave in to the news media or to the Democrats. We hope that our representatives will do the right thing this time."

Again, my good friend, the gentleman from Tennessee, pointed it out, how previous Congresses, in the wake of the last balanced budget in 1969, how previous Congresses had abdicated their responsibility. Perhaps the pressures of history and the unique time in which they served in this body forced them into another course of action. But at this time, for this House, for this country, Mr. Speaker, the choice is clear. It is time to get on a glide path to a balanced budget in 7 years.

I have noted before when I have come to the well of this House that candidate Clinton in 1992 talked about a balanced budget. In an appearance on Larry King Live, he pledged to "balance the budget in 5 years."

Then, Mr. Speaker, as I stand here in the well of this House, surrounded by the echoes of history, and here at this podium, where so many chief executives have addressed this Nation, we can also recall the words of President Clinton in his first State of the Union message, and these are the words of President Clinton. "I will point out that the Congressional Budget Office was normally more conservative about what was going to happen and closer to right than previous Presidents have been. I did this so that we could argue about priorities with the same set of numbers."

Friends, let us use the same set of honest numbers. Let us balance the budget. I thank the Speaker and all my colleagues for joining me here tonight.

SUPPORT THE RESOLUTION TO KEEP THE CONGRESS IN SESSION ON SUNDAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. MASCARA] is recognized for 5 minutes.

Mr. MASCARA. Mr. Speaker, the people of the 20th Congressional District sent me here to serve, not to give up and go home. That is why I am pleased to stand with my fellow Democratic freshmen Members and support the resolution seeking to keep the Congress in session on Sunday; that is, after attending Mass.

While my wife, Dolores, and I enjoy returning to our district to be with our family and friends, and especially with my Aunt Jennie and Uncle Frank Flora, both of whom are seniors and who depend on Medicare and Social Security, while we know that is important, we cannot go home when 28,000 seniors per day cannot file for Social Security or disability benefits, or when 200,000 people per day call the Social Security 800 number and get no answer. We cannot go home when almost 8,000 veterans per day, those who stood for this country and served it in times of war, file claims for service-connected disability benefits, pensions, or the Montgomery G.I. Bill educational benefits.

Mr. Speaker, the situation is very serious. Eight hundred thousand Federal workers all across this country have been furloughed. They are nervous and anxious, and beginning to wonder if they are going to be able to meet their next mortgage payment, or a car payment. It is hardly fair that Members of Congress, whose pay is secure, go home for the weekend and leave these workers hanging out to dry.

Mr. Speaker, as a story in this morning's Washington Post clearly pointed out, "The shutdown is beginning to have a ripple effect." That is throughout the country. "Government contractors have not been paid, and they are beginning to lay off workers. None of the national museums are open here in Washington, DC, and the national parks across the country are losing millions of dollars in tourist trades every day as this drags on."

We must, we must settle this budget dispute, and we have to do it in a bipartisan fashion. We are never going to sit down and work out a fair, balanced agreement if we just throw our marbles into the pot and go home. That is not right. That is not right. We need to stay, and we need to stay until we can get the job done.

I know there are freshman Democrats and freshman Republicans, both of whom, behind the scenes, have tried to put together some language that would be acceptable to both sides, but we need, we need to settle this matter at once.

Mr. Speaker, I yield the balance of my time to the gentleman from Maine [Mr. BALDACCI].

The SPEAKER pro tempore. The gentleman from Maine is recognized for 1½ minutes.

THE DEMOCRAT-SPONSORED RESOLUTION; CONGRESS SHOULD STAY IN SESSION UNTIL IT COMPLETES ITS WORK

Mr. BALDACCI. Mr. Speaker, I thank the good gentleman from Pennsylvania [Mr. MASCARA], for yielding to me.

Mr. Speaker, we are trying to say as a group that we were elected to serve the public. We were elected to serve all of the public, Republican, Democrat, and Independent, and there are people who are out of work. There are veterans with disability payments that need to have their eligibility reviewed. There are people who are trying to visit Acadia National Park in Maine and many other national treasures that are told that it is closed.

This Government is shut down, people are laid off, and we feel that we should be working here because people are not working because of the actions of this body and the entire Congress, so we feel very strongly that we would rather keep working to try to bring about a resolution than trying to go back and forth, and trying to resolve this problem once and for all.

That is in the interests of all the people, whatever their ideologies are, to work together for that resolution, because every day we miss it seems like it is just that much further behind that we get. I think that is really what we are trying to achieve here.

Mr. HOKE. Mr. Chairman, will the gentleman yield?

Mr. BALDACCI. I yield to the gentleman from Ohio.

Mr. HOKE. Mr. Speaker, I do not understand this. We passed a continuing resolution in the House. Obviously, the House spoke. The gentleman did not vote for it, as I understand that, but 48 of your colleagues did. We passed it. The Senate has passed it. What more work is there to do? The President has said he is going to veto it. What else is there to do with that? We have done our work.

Mr. BALDACCI. We will continue that maybe a little bit later.

EXCHANGE OF SPECIAL ORDER TIME

Mr. BRYANT of Tennessee. Mr. Speaker, I ask unanimous consent to speak in place of the gentleman from Florida [Mr. GOSS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

TAKING A HARD LOOK AT THE SIZE AND SCOPE OF GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. BRYANT] is recognized for 5 minutes.

Mr. BRYANT of Tennessee. Mr. Speaker, the rhetoric has runneth over ever since the Federal Government shut down 3 days ago, but the truth is in the numbers. Today's Washington Times newspaper ran the headlines on its front page: "Dow Surges Towards 5000 as Wall Street Ignores Impasse."

The truth is, Mr. Speaker, that since 800,000 so-called nonessential Federal workers were placed out of the 2 million Federal work force last Tuesday, the stock market has surged. The stock market has set its consecutive record highest yesterday, Wednesday and today. One can only wonder what the market would do if we would quite stonewalling the cut in the capital gains tax rate. How high would it go if we simply eliminated the capital gains tax, just like most other industrialized nations? How much stronger would the market grow if we could cut out inheritance taxes or the marriage penalty, or reform our tax code? What if we took a hard look at the size and scope of government?

Maybe this country could survive with only 1.2 million Federal employees. Quite possibly we could get along with fewer. The American people might soon discover that they actually like not having such a huge, intrusive government. It certainly would cost less.

My office has received hundreds of telephone calls this week, as have other congressional offices. I think we have heard about a lot of those tonight. I think the overwhelming message we are all receiving is that the people we represent want us to stand firm on balancing the budget, getting this continuing resolution adopted within the 7-year period of time, and with real good numbers through the Congressional Budget Office.

Mr. Speaker, I truly understand the turmoil that this standoff between Congress and the President is causing in the lives of Federal employees. We empathize with them with respect to the uncertainty they face personally. I believe that it is completely unfair to the furloughed Federal workers for the President to hold them hostage, when in the past, and I stress this, when in the past, he has agreed that the budget can be balanced in 7 years. It is also unfair of the President to hold them hostage so that his newest political consultant, Dick Morris, can boast that he is running the country.

According to the Washington Post, Mr. Morris was at his doctor's office not too long ago to get a flu shot. He was on his cellular telephone. He was overheard to have said, "I am running the country," into the phone. Who is running the country? Did we vote for Dick Morris to run the country or did we vote for President Clinton to be the President? One has to wonder when Mr.

Morris is making these types of comments as a political consultant for President.

We as Members of Congress were elected to do hard things here. Especially we, as Republican Members of the freshman class, feel a very strong mandate from last November to come to Washington and to restore responsible government. Probably the cornerstone of restoring responsible government is to achieve a balanced budget within this 7-year period of time, which is a reasonable period of time to do this.

□ 2300

And to do so with good, real numbers that, as the President admits, the Congressional Budget Office affords.

Mr. Speaker, in closing I would urge the President to join with us, the elected representatives of the American people, and get away from his political gurus like Mr. Morris, and take this as most serious business.

Mr. Speaker, I am concerned that he chose to reject, to go out and say publicly that he would veto this continuing resolution, even before we had an opportunity to send it down Pennsylvania Avenue. I think we must all rise to this occasion. It is not a time for blaming. It is not a time to talk about blinking or who is going to cave in. These are not important matters at this point.

Mr. Speaker, I think what is most urgent, what those people on furlough would like to most see, what our people back home would like to most see, is not who blinks first, not who caves in, not who looks at the politics of this thing, but who works in a responsible fashion to join with us, as he has promised he could do in the past, to balance the budget.

Mr. Speaker, he said, no question about it, that he can do it in 7 years. He said he wants to use CBO numbers, because they are the most accurate. We have that continuing resolution out there now. The Senate has passed it, but he has chosen to veto it.

I would call upon the President tonight to extend that arm, as we extend our continuing resolution, and join us halfway and meet us to sign this continuing resolution for the good of the country. Let us not get caught up in the politicizing of this budgetary process any longer.

At this point, Mr. Speaker, I would urge my colleagues to join with us on both sides of the aisle and help get this Government back up and running and at the appropriate time that we can begin to negotiate where we have legitimate disagreements.

THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, I appreciate joining my colleague from Maine and the freshman Democrats who have come to this House floor seeking not only a mere opportunity for collegiality, but fairness for the American people.

I come this evening because this is an important matter before the House. I come in the name of my son, Jason, age 10, who has a Thanksgiving feast this Monday, my daughter Erica, age 15, who has a basketball tournament this weekend, and my husband.

Thanksgiving happens to be a time when most families would like to have time together. I take issue with the gentleman on the floor about this regular Sunday dates with his family. We all would like to be with our family. I would imagine that the 28,000 individuals who are applying for Social Security benefits probably need to have the Government operating, because they are in dire need.

Mr. Speaker, I would think the 10,000 claims for veterans benefits are important to those people who have given their service to this country; and, the 10,000 applications for Medicare that are not being processed also impacts seniors who have come now to a time in their life when they need medical care; and the 2,500 home mortgage applications that are not being processed.

Mr. Speaker, it happens to be very interesting, I have heard myriad comments made by my Republican friends. I think the American people need to know the facts. The Republicans are in the majority. They are the ones who are in control and they came into this Congress, along with those of us who are freshman Democrats, on January 4, 1995.

We have had now some 11 months to pass the appropriation bills that should have been passed as of October 1. Interestingly enough, we were willing in the first 100 days to do things like dismantle the crime bill. We were willing to dismantle the welfare reform package that most of us thought we could agree with, and put some million children off the rolls in order to allow for them to be unfed and hungry. A million children that would not be able to have the benefits that they need on a welfare reform package.

They were willing to tack on the appropriation bills the elimination of affirmative action; all kinds of unrelated activities were taking up the time of Republicans, when we should have been dealing with the appropriation bills for this country.

So it amuses me, and saddens me as well, when I hear our Republican colleagues come to the House floor with such piousness. They are in the majority in this House and they have not done their jobs and the American people need to know that. They need to know when little children picket the White House because they are not able to go to the museums of this Nation that belong to them that the Republicans simply have not done their job.

If further amuses me for them to say we do not need to work this weekend. Yes, we do, because there are people in this country who will come on Monday and face another day of being unsalaried and not being able to work. Frankly, let me tell my colleagues that this continuing resolution is not at the President's desk. It is still over in the Senate. It has not gotten to his desk.

If it has not gotten to his desk, we will have Saturday and we need to be here Sunday to resolve the matter. I wish we would come down to the bare facts of what the truth actually is. We have a schism here.

We do not have a reconciliation bill. We have a bill that actually divides this country. It divides this country because it eliminates the low income house tax credit, something that helps inner cities develop affordable housing for their citizens. It reduces payments to hospitals and causes urban and rural hospitals to close.

Mr. Speaker, it increases the Medicare premium upwards of $10 for our citizens, one of whom I heard from tonight who said she gets $600 a month in her Social Security and she is 85 years old. I venture to say, Mr. Speaker, she cannot afford the extra $10.

In Texas, we will find that Medicaid has been reduced now to $5 billion, reduced down to $5 billion. We will see many of our urban hospitals, the Harris County Hospital District and the citizens that it takes care of, impacted drastically.

Then the Republicans talk about the investment for their children. They are good about talking about what is happening in the 21st century. Let me tell my colleagues the truth. They reduced R&D 35 percent. Research and development creates jobs for Americans. Then they decreased the student loans some $5 billion. They put a thousand schools out of the direct student loan program. This is the future that Republicans offer.

Mr. Speaker, I think we need to not only be here tomorrow; we need to be here Sunday. We need to be here maybe on Thanksgiving Day, so that we have truly reflect what America is all about and there would be a real Thanksgiving, and that is a budget that reflects the needs of all working Americans, not just the talented tenth and not just the wealthy who will be getting $245 billion in a tax cut.

Mr. Speaker, I am gratified to be amongst those freshman Democrats who are standing here to say we are prepared to work for the American people so the doors of this Government can be open on Monday and we can serve them in the manner that they should be served.

Mr. Speaker, I rise today to strongly urge my colleagues to work throughout this weekend to resolve this budget impasse. My Democratic freshman colleagues and I introduced a resolution today that recommends that the House complete action on a continuing resolution and debt ceiling to end this budget impasse. We urged the House Rules Committee to allow this resolution to proceed to the House floor.

This crisis is taking a toll on millions of Americans, particularly Federal employees and their families. Some 800,000 Federal employees have been furloughed. They are wondering whether they will get paid for this furlough period and be able to meet the economic needs of their families.

Each day that the Government is shut down, 28,000 applications for Social Security benefits are not being processed; 10,000 claims for veterans' benefits are not being processed; 10,000 applications for Medicare are not being processed; 2,500 home mortgage applications are not being processed; 22,000 passport applications are not being processed; and 60,000 young children are unable to attend Head Start programs.

This crisis is affecting business firms that have contracts with the Federal Government and affecting localities that depend upon Federal employment to stabilize their economies.

This impasse is causing America to lose its credibility with the rest of the world, particularly among the international capital markets.

The budget impasse is unacceptable. The Members of this House were elected to do a job, which is to appropriate funds to operate the Federal Government and carry out our oversight function over Government agencies. We have failed to exercise this responsibility because the House leadership spent valuable time during this session on the "Contract With America" proposals instead of moving the appropriations bills through the legislative process.

While millions of Americans are experiencing anxiety over this impasse, Members of Congress are still being paid. Since we are getting paid, let us remain here over the weekend and resolve this crisis by passing a clean continuing resolution or pass appropriations bills without extraneous legislative riders so that the Federal Government can conduct its business.

Most Members of this House want a balanced budget. Many of us have voted for balanced budget proposals during this session of Congress. However, the budget must not be balanced on the backs of those Americans that can least afford it. There is an appropriate way to achieve this goal. We must not hold the American people, particularly Federal employees, hostage in the process.

This is not the time for Members to focus on perceived slights by the President. This is not the time to focus on partisan politics. This is the time to act in a responsible manner and ensure that the Federal Government is up and running to serve the American people.

BUDGET IMPASSE

Mr. TALENT. Mr. Speaker, I think it is important to focus on not just where we are now, but how we got here. Several days the House passed and sent over to the Senate a continuing resolution which would fund every part of the Government that is now shut down, and fund it at a level that I take it the President does not object to, because he has not objected to that part of the continuing resolution.

There was only one other condition attached to it: That the President agree to balance the budget of the United States in 7 years according to realistic numbers. The President has announced, before the bill was even passed the President announced that he would veto the legislation.

Why? Because the President would shut the Government down rather than balance the budget in 7 years, and the Congress would allow the Government to be shut down rather than prevent the budget from being balanced in 7 years. A number of Members on both sides of the aisle have talked about the schism, about the philosophical differences.

Mr. BALDACCI. Mr. Speaker, will the gentleman yield for a question?

Mr. TALENT. I yield to the gentleman from Maine.

Mr. BALDACCI. Mr. Speaker, I think that the American would say that everybody is in favor of balancing the budget, but does your proposal have a $245 billion tax break on top of balancing the budget?

Mr. TALENT. We provide family tax relief. Is the gentleman in favor of balancing the budget in 7 years?

Mr. BALDACCI. Yes.

Mr. TALENT. Did you vote that way?

Mr. BALDACCI. Yes.

Mr. TALENT. Did you vote for the balanced budget amendment?

Mr. BALDACCI. I voted for the Stenholm budget. I voted for the Orton budget.

Mr. TALENT. Did you vote for the continuing resolution?

□ 2310

Mr. BALDACCI. I support a 7-year balanced budget.

Mr. TALENT. Did you vote for the continuing resolution?

Mr. BALDACCI. Mr. Speaker, I want the gentleman to understand, our balanced budget did not have tax breaks in it. I think that the proposal that you put forward did.

Mr. TALENT. Reclaiming my time, Mr. Speaker, I yield to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Does the continuing resolution have a $240 billion tax cut in it?

Mr. TALENT. No, I appreciate the gentleman saying that. The President has complained and several Members of this body have complained about certain parts of our budget that they do not like this aspect of it, they do not like that aspects of it.

The continuing resolution does not say the President has to accept the congressional budget, does not say the President has to accept any budget. It says the President has to agree to balance the budget in 7 years. One of the problems we have in this Congress is that instead of debating the import of the matters before us, we keep making contrary assertions about what is before us. We cannot even agree on what we are talking about.

The continuing resolution says the Government will continue if the President will agree to balance the budget in 7 years. He does not like our budget. He can offer his own. In fact, he did offer his own budget. He did offer his own budget some months ago, I believe in the form of a 22- or 24-page press release, which he claimed balanced the budget in 10 years.

This is how the Congressional Budget Office scored it. Continued deficits through another 10 years at $200 billion. It was a budget that no Member of either party in this House would even offer on the House floor. It was offered on the Senate and it was rejected by a vote of 96 to 0.

The President is not opposed to the continuing resolution. He is not trying to get the Government to shut down because he does not like our budget. He is shutting down because he does not like our budget. He is shutting the Government down because he does not want to balance the budget in 7 years. Why does he not want to balance the budget in 7 years? About the only good thing about this controversy, Mr. Speaker, is that it does highlight the very major philosophical differences between the two parties here in Washington. The President of the United States and the leader of the Democratic Party believes basically that what is important about America is the Federal Government and its agencies and its instrumentalities, as if the United States was a pyramid with the Federal Government at the top of it. And the policies the President has followed and the national Democratic Party, not all Democrats to be sure, but the national Democratic Party have followed has sucked up that pyramid power and resources away from the American people for the last 30 years.

But our party believes in the people and what they have built, their families their communities, their neighborhoods, their local schools, serve and civil and charitable organizations. We want power and resources located in the people, and what built in their communities. And we do not want the Federal Government to bankrupt everything that the people of this country have built and have worked for for the last several hundred years.

Mr. Speaker, the President was against the balanced budget amendment. He is against the budget that we offered. He refuses to offer a serious budget of his own. And now he vetoes a continuing resolution that calls for him to do nothing except accept in principle that we will balance this budget within 7 years.

Mr. Speaker, if some family or some business in the United States was awash in red ink the way the Federal Government is and their deal with their creditors and the bank was, we will get our budget balanced in 7 years, not eliminate the debt, just eliminate the deficit in 7 years, people would laugh at them. That is all we are trying to do here. That is all we need to do to get this government open. The minute the President agrees to balance the budget in 7 years, according to reasonable numbers, this Government will open for business.

MORE ON THE BUDGET IMPASSE

The SPEAKER pro tempore (Mr. BARR). Under a previous order of the House, the gentleman from New Jersey [Mr. ANDREWS] is recognized for 5 minutes.

Mr. ANDREWS. Mr. Speaker, let me begin tonight by thanking the staff of the House of Representatives for staying so late and giving us a chance to address each other and our fellow countrymen. We appreciate it. It must be very scintillating for you to listen to all of us. We appreciate that you are here.

It is a great honor and a humbling experience to serve in this body. It is something I am very proud of. But frankly, we have not brought ourselves very much honor the last couple of days by what has gone on.

Tonight I would like to talk about a question and a challenge that I would offer to everyone on both sides of the aisle as we try to struggle through the next couple of days. It must be, Mr. Speaker, thoroughly exasperating to watch what we have done the last couple days or have not done the last couple days, when you consider the fact that there is a short-term question before the Congress and a long-term question before the Congress.

The short-term question is, what do we have to do to open up the doors of the Federal Government again and get these 800,000 people back to work? Virtually everyone from both parties that comes to the floor says they want to do that. And then they degenerate into why the other side has blocked them from doing that. And I find it inconceivable that 535 Members, including us and the other body and the President, cannot come up with a sensible solution in the next couple of days that would do that.

The longer term question is, do we want to balance the budget in 7 years? The answer is an overwhelming yes. Almost 300 Members of this institution have voted to do exactly that, not in symbol, not in political symbol, but have actually voted for a 7-year plan to balance the budget, numbers and details. And it must be equally exasperating to figure out why that has not happened, why 300 of us cannot get together and do that.

Let me offer a question and then the challenge that I talked about. The question is, I have to wonder whether the leaders of the Republican Party and frankly whether the leaders of my party at the White House really want to resolve this problem or whether they want to set themselves up for the 1996 election.

It is not too farfetched, Mr. Speaker, to think that here is what is going on. The Republican Party has had tremendous success in this country at all levels of politics by making the argument that they are the party of lower taxes and leaner Government and zero deficits, and the Democrats are the party of higher taxes and larger Government and higher deficits. They have done very well having that argument in elections. The thought occurs to me that maybe the Republican Party is better served by keeping that argument going through the 1996 election.

On the other hand, the Democrats have done well in the November 1995 elections and the public opinion polls would suggest are doing well right now with the argument that Republicans are callous to the needs of seniors and children and the environment and maybe the leaders of our party have decided that we would be doing well to keep that argument going through the 1996 election as well.

I pose the question tonight in all sincerity, without impugning the motive of any person in this House or any person in the Government, as to whether that is what is really going on, as to whether we are engaged in a huge choreographic exercise here that is simply designed to lead up to the 1996 campaign so we all have the right themes and the right sound bites. If that is the case, we are doing our country and this institution a tremendous disservice. Because there are two things at stake here that we may never again in our careers have a chance to address.

The first is the chance to reverse a 25-year flood of red ink that has put the children of this country at great risk. I believe sincerely that there will never again come in this century and maybe not for the next couple of decades an opportunity to truly balance the budget of the Federal Government. There are 300 of us here in this Chamber who are ready to do that. I do not know why we have not been able to get together and figure out a way to do that.

The other point that I would make to you, and I think is even greater significance, the credibility of politicians in general and this institution in particular was very low when this all began, and it is much lower as we stand here tonight. And I believe that what is at stake is not simply our ability to put the fiscal house of this country in order, it is also maybe our last chance in a long time to make people believe that the political system works for them again.

I stand here tonight, 11:20, after a long day, frankly, wondering what is going on.

Mr. Speaker, I would be happy to yield to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding. We are friends and classmates from the 102d Congress.

I want to respond to the gentleman's question, because I think he raises more than a rhetorical question. He makes a valid point. I have wondered what it would take to forge a bipartisan compromise on a long-term agreement to balance the Federal budget.

The SPEAKER pro tempore. The time of the gentleman from New Jersey [Mr. ANDREWS] has expired.

ON THE CONTINUING RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I yield to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, to return to the colloquy with the gentleman from New Jersey, I simply want to point out that one of the concerns, one of the frustrations that I have had is that the closer we have gotten to the actual moment of truth, the moment of truth being that time which actually came today, when we voted on the final version of a 7-year plan to balance the Federal budget using honest numbers, this is an agreement scored by the nonpartisan Congressional Budget Office, it balances the Federal budget in 7 years by limiting the growth, the increase in Federal spending to 3 percent per year, the closer we have gotten to that moment of truth, the fewer Members on your side of the aisle who have been willing to stand up and cast that tough vote.

□ 2320

Now let me point out that the gentleman is the exception to the rule. The gentleman from New Jersey not only voted for the Democratic alternative, the substitute version offered by the Democrats to balance the Federal budget, he also voted for the continuing resolution a couple of nights ago, but let me point out, because I have here in my hot little hands, as they would say, the three rollcall votes that I consider most pivotal.

First is the vote the gentleman referred to as the vote earlier this year, in the first quarter of the year, on the balanced budget amendment, which was part of the Contract With America; that was rollcall vote 51 in the House of Representatives. Voting yes were 228

Republicans and 72 Democrats, including the gentleman from New Jersey.

And later, rollcall vote number 741, this was on the so-called coalition budget, the version of a balanced budget offered by the more moderate conservative Democrats which was officially offered on this floor as the Democrat substitute or the Democrat alternative on a balanced budget. Out of 199 Democrats, 68 voted for the concept and the plan for balancing the budget at that time; 131 Democrats were opposed.

And then just 2 nights ago in rollcall vote, and I have got it as well, rollcall vote number 8002 in the House of Representatives, only 48 Democrats, again including the gentleman from New Jersey, voted for the continuing appropriations which stipulated only that we would be committed, in passing that bill into law, to the concept of balancing the Federal budget in 7 years using honest CBS numbers.

Mr. FOX of Pennsylvania. Reclaiming my time, Mr. Speaker, the fact is this does show bipartisan support, that the gentleman from New Jersey [Mr. ANDREWS] has well established himself as someone who is going to work with the Republican majority to, in fact, pass a balanced budget. What we need is enough of those Democrats on the other side of the aisle to talk to the President, and the fact is we would not have these furloughs, we would not have these agencies not funded, we would not have programs stopped now, if the President would only sign a balanced budget that the said on no less than six occasions that he would sign.

Mr. ANDREWS. If the gentleman would yield, I will be very succinct. I do not want to intrude on his time.

Frankly let me try to answer your question. Here is how I think we can get the 300 votes, and everyone has their own version of this. The tax cut will be smaller, the money taken from the tax cut will be put back into Medicare. There will be a little bit more taken out of agriculture and energy, put back into the environment and education, and there is your 300 votes, and it will take us 15 minutes.

Mr. FOX of Pennsylvania. Reclaiming my time, I yield to the gentleman from Ohio.

Mr. HOKE. I would like to engage you just a little bit longer on this because I think the questions you raised are more than rhetorical, and I really appreciate your sincerity, and I have to say that I reject your conclusions. I mean, cause you know you have clearly been absolutely consistent, and I looked at the votes earlier, just like FRANK did, and I think that this is not about policy—well, it is ultimately about policy, but I really do believe that it is about politics and that politics is about power, and I do not know how else you can explain the voting patterns.

You know, one of the things that I saw by looking at this is that there were 24 Members of your side who voted for the balanced budget amendment on January 26, an amendment to the Constitution, who voted against the continuing resolution 2 nights ago. Forty-eight Members voted for it, but 24 of the ones that had voted for the BBA back in January voted against this continuing resolution. I mean how do you explain that?

Mr. FOX of Pennsylvania. Reclaiming the time, I appreciate the comments of my colleague.

The fact of the matter is a balanced budget is going to help everyone in every region of the country, all ages, and the fact is by decreasing the cost of mortgage payments for the balanced budget, decreasing costs for car payments, decreasing costs of college tuition, we are going to do what every other government is required to do, school government, local government, and families.

So the balanced budget is an idea whose time has arrived. We need to have the political will to make sure we talk to the White House, that we have more of both sides of the aisle working together.

Mr. HOKE. Well, we clearly have the political will, and the gentleman from New Jersey [Mr. ANDREWS] clearly has the political will, but you are trying to get to the question of what is really going on, and you are saying, if we reduce some of the tax cuts, reduce some of the tax cuts and tinker a little bit with the environment and some of these educational things—I do not know who else has time here.

WE HAVE TO LEARN TO WORK TOGETHER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine [Mr. BALDACCI] is recognized for five minutes.

Mr. BALDACCI. Mr. Speaker, Members of the House, the resolution that I put forward is a resolution so that the Congress could continue to work on Sunday, that we not take the day off, that we continue to do our work.

There are thousands of seniors who are qualifying for disability, veterans disability. There are many people who are trying to visit our national parks at Acadia and other national treasures who have been told that it is closed, and we have our work to do because we have not yet been able to open the Government back up again.

We put this together as members of the freshman Democratic Party, but we reached out in a bipartisan way to continue working, to do what is in the public interest, not in the party interest.

Mr. Speaker, as we argue the balanced budget and as we argue the balanced budget over 7 years, I stand before you as somebody who has supported a balanced budget over 7 years and supported the particulars of that balanced budget over 7 years. I voted for it twice.

The problem with what is being offered in the Congress is, is a balanced budget that incorporates $245 billion in tax cuts. People who are earning over $200,000 are going to get a check for $14,000. You are going to have to make deeper cuts in Medicare and Medicaid. You eliminate a disproportionate share from hospitals that serve communities where the poorer people are being taken care of. It eliminates and annihilates a lot of rural hospitals throughout our country. In my State of Maine we lose $187 million over 2 years. The senior Senator from the State of Maine did not vote for the budget that was put forward by the Republicans, voted for a balanced budget that did not have tax breaks. That is the responsible approach, but that approach is not being put forward by the majority.

So do not ask us to support a balanced budget that has $245 billion in tax breaks over 7 years. It is causing too much pain and suffering on the seniors. It causes too much pain and suffering for children. You are cutting student aid deeper than you have to.

When we put forward the balanced budget over 7 years, we took $100 billion of the $245 billion, put it back into Medicare, we put it back into Medicaid, student financial aid, and veterans benefits, and we did it over 7 years. So we were able to come up with a framework that got us to a balanced budget, but that did not do it with as much pain and suffering on the seniors, on health care, on kids and on people with disabilities as much as what is being proposed by the majority.

I do think that we can reach a compromise on this particular issue, I do not think we are that far apart, and I truly believe, as the gentleman has stated here before, that we can work together in that regard. There is significant support in both Chambers for that. But I think we have to work together at it. It cannot be your way or the highway. In the same way on our side it cannot be this is it or else. We truly have to communicate regularly because we have to understand that the Congress is being controlled by the majority and that the administration being controlled by the President, and they are going to have to learn to work together in the public interest.

□ 2330

We really need to force those lines of communication to open up and to continue, but I really have to tell you, the budget that has been put forth is not a good budget for America. It rolls back environmental standards. I believe that what the majority is proposing, and what I have seen people talking about, is going backwards. We want to go forward, not backward. We do not represent Government as it is, but we represent environmental standards and an easier way to get to it. We represent a student financial aid program that does not have as much regulation to it, but that gets resources out there.

Mr. HOKE. Mr. Speaker, will the gentleman yield?

Mr. BALDACCI. I yield to the gentleman from Ohio.

Mr. HOKE. Mr. Speaker, if the gentleman will yield for a question, I think what the gentleman is saying is absolutely right. We have very honest differences about these things. Maybe some of the differences get exaggerated for political effect on both sides. What I do not understand is why you would be opposed to the continuing resolution that very clearly clarifies the only difference is in committing to a 7-year balanced budget scored by CBO. Why not that?

Mr. BALDACCI. Just to complete the question, the problem is that you take a continuing resolution, which is really, because Congress has not finished its work, and, how, I have not been here before, and they have had continuing resolutions; but because we did not finish the work, you added these items to it, which were like you were trying to do your budget approach through reconciliation and a continuing resolution. That is what made it very difficult to support that methodology. I think that had more to do with that.

WHY WILL THE PRESIDENT NOT SIGN THE CONTINUING RESOLUTION?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

Mr. HOKE. Mr. Speaker, I would continue my question to the gentleman. My question is simple. What makes this complex, to simply cast a "yes" vote, an "aye" vote on the CR? It is a clean CR as the President asked for, with one sentence. I read that sentence. It is a short sentence. It is a benign sentence. It says that the President and the Congress will honestly and sincerely work together to come up with, that they will be committed to balancing the budget in fiscal year 2002 under the scoring of CBO.

Mr. BALDACCI. Mr. Speaker, if the gentleman will yield, all I am saying to him is that I do not think we are that far apart. The problem we have is that in a continuing resolution, which is because the work was not finished on time, we needed to pass it for a couple of more weeks. A lot of things, including that, were added into it, and it really was not the proper vehicle.

We have the reconciliation budget, which we voted on today, which really is the proper vehicle. That needs to go through the process, and then we should demand that the President, the Speaker, and the majority leader negotiate that budget reconciliation and work out those differences over that budget and then come back to the Congress.

Mr. HOKE. Reclaiming my time, I do not necessarily disagree with the gentleman, but you cannot have it both ways, then, and then blame the shutdown of the Government on the Republicans because, in fact, it is the President's veto that is shutting down the Government. And he has vetoed it, he said he has vetoed it, strictly because it has this 7-year balanced budget language in it.

Mr. BALDACCI. Mr. Speaker, I just want the gentleman to understand, I am not blaming anybody for the shutdown. I am blaming all of us. The resolution was to keep working together. It was not making any claims about the Republicans or the Democrats, but it was stating we should work together to get through this.

Mr. ANDREWS. Mr. Chairman, will the gentleman yield?

Mr. HOKE. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, if I could offer my own observation as to why we are at this point of stalemate, in all candor, I think the first continuing resolution failed because your party chose, for whatever reason, to attach issues regarding environmental regulation and Federal criminal appeal habeas corpus review, and some other things.

Mr. HOKE. It had the Medicare Part B premium. I thought that was the one the President really hung his hat on.

Mr. ANDREWS. He did, but the party chose to put veto bait on the bill.

The failure of the second resolution is the fault of our party, frankly, because I think the President chose to send a political signal to his democratic base that he would not buy into your 7-year number because that was an important symbol for his base, so strike one on you, strike two on us, so here we are with nothing.

It just occurs to me that if the five or six of us here at 11:35 tonight had the power to make this decision, I think we would make a decision that would be fair and reasonable and probably get the people back to work by Monday. I do not see why we cannot do that.

Mr. HOKE. Reclaiming my time, I think what you have said is quite fair and correct, but I really do think that ultimately it boils down to the President not being able to live with a 7-year balanced budget and maintain his political base, and that is really what is going on. What we are talking about is $800 billion of difference. That, really, is finally what it boils down to.

Mr. ANDREWS. If the gentleman will continue to yield, Mr. Speaker, I agree with the gentleman that there is a philosophical divide here that has to be dealt with. I think the proper place to deal with that is on the debate over the reconciliation bill. I think we ought to have that debate while the Government is running.

Mr. HOKE. Exactly. I totally agree with that.

Mr. ANDREWS. And we should make that resolution. Between now and Monday, and I hope we can for family reasons finish by then, but we ought to make it our mission to get that done by Monday, and I think the 300 of us who want to see a 7-year balanced budget will win, which is as it ought to be.

Mr. BALDACCI. If the gentleman will continue to yield, I do not think the President opposes a balanced budget over that period of time.

Mr. HOKE. Why do you say that?

Mr. BALDACCI. Let me just say, I do not think he does. When you start adding tax breaks to it——

Mr. HOKE. That is not in there. It is not in the CR.

Mr. BALDACCI. You know it is in the budget reconciliation.

Mr. HOKE. It does not go to the details, it does not say how. It just says that we will.

Mr. BALDACCI. Let me say honestly to you, so we can cut down to the chase, when you add the tax breaks to it, even among us, it makes it so that you push it so it would have to be 8 years, because you really cannot do any more in 7 years and balance the budget and make the cuts. We have through it with the gentleman from Texas [Mr. STENHOLM] and others, and it cannot be done.

Mr. HOKE. Mr. Speaker, reclaiming my time, I do not doubt that we disagree about these things, profoundly, and that they could be real problems. Maybe that means the President will veto this and we will never come to an agreement, and we will just have to keep running the budget or the Government by a CR, but the fact is that the CR does not say that. It does not say how you get there. It just says that you are committed to it. The President refused to sign that, or he says he is going to veto it. He has made it very clear.

THE BUDGET AND THE MEDICARE PRESERVATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. GANSKE] is recognized for 5 minutes.

Mr. GANSKE. Mr. Speaker, I was proud to vote for the Balanced Budget Act today, which included the Medicare Preservation Act. I do not want to sound like a broken record, but this bill does not cut a dime of spending on Medicare or Medicaid. In fact, both programs, in both programs, spending increases every year. Medicare spending will increase by 45 percent over the next 7 years. That is more than twice the rate of inflation. Medicare spending in the last 7 years was $926 billion. Over the next 7 years, we will spend $1.6 trillion on Medicare. I defy any of my colleagues to explain to the American people how that is a cut.

The same is true for Medicaid, which has grown an astronomical 11,000 percent in the last 30 years. Medicaid spending over the last 30 years was $443 billion. Over the next 7, we will spend almost double that amount, $785 billion. I renew my challenge to the other side: Tell the American people how that is a cut.

Mr. Speaker, in April the six Medicare trustees, concluded that Medicare is going broke. The trustees included three Members of the President's Cabinet: Donna Shalala, Secretary of Health and Human Services; Robert Rubin, Secretary of Treasury; and Robert Reich, Secretary of Labor, and the President's appointed head of Medicare, Bruce Vladic, they all concluded that Medicare is going bankrupt in the year 2002.

Now, what does the Medicare Preservation Act do and what does it not do? Mr. Speaker, the Medicare Preservation Act will not raise Medicare copayments and deductibles, other than an increase in premiums for the very wealthy. It will not reduce services or benefits in the Medicare program. It will not force anyone to join an HMO.

The Medicare Preservation Act will retain the current fee-for-service plan, which means that beneficiaries can retain their choice of health providers and not be forced into an HMO. It will insure the solvency of Medicare, until at least the year 2010. It will increase the average annual spending per beneficiary, from $4,800 this year to $6,700 in the year 2002. It will require Part B beneficiary premiums to cover 31.5 percent of the program costs, the same that it is doing today. It does ensure that core benefits in the current Medicare program will be retained and must be offered to all beneficiaries, regardless of health status or age.

□ 2340

It will increase the amount to be spent over the next 7 years by $659 billion over that spent in the last 7 years, and it will attack fraud and abuse in tough new programs that have criminal penalties.

The Medicare Preservation Act will provide new and attractive choices for beneficiaries, provider-sponsored networks, medical savings accounts, but, Mr. Speaker, the plan will provide for significant patient and consumer protections.

Many have raised questions regarding increases in their Medicare Part B premiums. In 1988, Medicare Part B premiums were $24.80 per month. This year the premium is $46.10 per month. Premiums have doubled in the last 7 years, and if nothing is done, they will increase to $87 in the year 2002. But, Mr. Speaker, let me also add that monthly Social Security benefits for retired workers will increase from $702 a month today to $965 a month in the same program in the same period.

Mr. Speaker, a top priority of this bill is combating Medicare fraud and abuse. I am on the Subcommittee on Health and the Environment and we held several hearings on this subject. The General Accounting Office has estimated that we can save possibly 5 or 10 percent in Medicare spending. From now on seniors will have the right to review their Medicare bills and if they discover fraud, they can receive a portion of the savings.

Mr. Speaker, by providing seniors with added choices, while not increasing their share of the percent of the premiums, the Medicare Preservation Act will be good for senior citizens, and for taxpayers.

REPUBLICANS MEET BUDGET CHALLENGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. LEWIS] is recognized for 5 minutes.

Mr. LEWIS of Kentucky. Mr. Speaker, today, November 17, this House passed a balanced budget, the 1995 Balanced Budget Act. Twenty-six years it has taken to reach this day. Mr. Speaker, 26 years of spending, and spending, and taxing, and spending. Today we met the challenge, we stood up for the American people, and we have decided that we are going to bring the fiscal policies of this country into order.

Mr. Speaker, 40 years, though, this House has been controlled by one party, 40 years. What do we hear when we now are trying to do what the American people sent us here to do, and that is to balance the budget? We hear the status quo being preached from the other side; that we are going to ruin this country; that we are going to hurt our senior citizens; that we are going to hurt children; that we are going to do harm to this great country.

Mr. Speaker, why is it after 40 years, why is it after 30 years of the war on poverty and the design for the Great Society that was initiated in 1965, why is it that we have the highest crime rate in the world? Why is it that illiteracy is growing and SAT scores are going down? Teenage pregnancy, illegitimacy is growing at an alarming rate. Drugs are out of control. Poverty is going up. Medicare is going bankrupt. Taxes for the average family are 40 percent.

Mr. Speaker, 38 percent of our gross domestic product is consumed by the public sector. We are $5 trillion in debt, and we hear from our colleagues across the aisle that we are going to ruin this country.

Mr. Speaker, I submit tonight that the Great Society that was started in 1965 is a failure. The Great Society that was started in 1965, promised to win the war on poverty. As I said a minute ago, there are more in poverty today than when that started. The Great Society has taken us down the primrose lane to a society that is in trouble today. $5 trillion. $5 trillion was spent to win the war on poverty. The tragedy today is that we lost that war, and we are $5 trillion in debt.

Today, I think we have started down the right road to a new future, to a truly new Great Society, a society that is going to depend on personal responsibility, on community responsibility, on State responsibility. We have started down a road where we are going to lower the taxes on middle-income families. We are going to give back to mothers and fathers and children their own money that they can spend it the way that they see fit. We are going to save Medicare for our senior citizens. We are going to turn the welfare problem around. We are going to reform it.

Mr. Speaker, that is what I was sent here to do, and the reason that I wanted to come here, to try to solve these problems. I have a 13-year-old daughter. I have a 24-year-old son, and they have no future unless we do something. I think we started to do it today.

Mr. Speaker, if I look down through the years, and if we do not solve these problems, my daughter, sometime midway through her work career and through her life, she will be seeing a $4 trillion deficit for one year of spending for this government in the year 2030. We cannot go down that road. I think we are doing the right thing as we started down the right road today.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2491) "An Act to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996," fails.

The message also announced that the Senate recedes from its amendment to the bill from the House (H.R. 2491) "An Act to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996," and concur to the above entitled bill with an amendment.

THE BALANCED BUDGET ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Connecticut [Mr. SHAYS] is recognized until midnight as the designee of the majority leader.

Mr. SHAYS. Mr. Speaker, I guess I have 12 more minutes, and I am delighted that you are willing to stay and allow me to have this special order with my friend from Kentucky. I would just like to express extraordinary gratitude for the opportunity I have, and my colleagues have, to serve in this House at this historic moment in the history of our country.

For the last 30 years, our national debt has gone up from $375 billion to over $4,900 billion, a 13-fold increase. During a good part of that time, I served in the State House and I wondered how Congress could do such a thing to its children. I could not comprehend how they could do it. The White House as well, of both parties.

We have seen this incredible deficit increase, continue every year adding to the national debt 13-fold and this Congress has decided to put an end to it. Today, we passed the Balanced Budget Act of 1996, which gets us on a glidepath to a balanced budget in 7 years.

□ 2350

When we first started out last election, we had a Contract With America and a number of people said that will cause the defeat of moderate Republicans in particular and that it was not a very wise thing to have done politically.

I remember being asked by one of my editorial boards how I could have signed it. I asked this question, what do you think of the Contract With America that the majority party at that time has? And there was deafening silence because they did not have any program in the opening day for reforms.

They did not have 10 major reforms during the first 100 days. They had nothing. I wondered why people would be critical of a contract that did not criticize the President of the United States, did not criticize the Democrats in Congress, but was a positive plan for what we wanted to accomplish.

After we got elected with no incumbent Republican losing, fighting for a very positive program, people said, well, you used it to get elected but you will not implement it.

We started to implement it. And then they said, well, you are not going to be able to, moderates, of which I think I am one, pretty much more in the center, and I think my colleague from Kentucky would probably consider himself more to the right and more conservative, they said, you all will not get along well together.

We get along tremendously, because there is so much common ground that binds us in wanting to save this country from bankruptcy and to do two other things. We want to get our financial house in order and balance our Federal budget. We want to save our trust funds, particularly Medicare. And the third thing we want to do is we want to change and transform this care-taking social and corporate welfare state into what I would call a caring opportunity society, a word that we would hear conservatives use more than a moderate. But that is what we want. We want opportunity in this country. So we started to implement this plan and getting along well with each other for a common purpose.

Then they said, well, you will not get along with the Senate. Frankly, we get along quite well with the Senate, as I think my colleague will agree. Then they said, well, you voted for a balanced budget amendment but you would not be so foolish as to try to pass a balanced budget in 7 years and take on all the special interests in the process. And we proceeded to do that.

If someone wants to know the determination we have, I would describe it this way: We left the old world and we traveled by ship to the new world and we got to the new world. We set out to conquer this new world, knowing that we would never go back to the old world. We burned our ships. There is no retreat. We do not want to go back to the old world. We want to save this country from bankruptcy and transform this corporate and welfare state into an opportunity society.

Before yielding to my colleague in just a few seconds here, a few minutes, we proceeded to take on every special interest in the process.

I want to express gratitude to the Washington Post, which in a sense has been watching us for the past nine months and has been critical of certain things we have done. But they had an editorial yesterday entitled, The Real Default. And I just will read what they said about what we have attempted to do.

They started, "The budget deficit is the central problem of the Federal Government and one from which many of the country's other, most difficult problems flow. The deficit is largely driven in turn by the cost of the great entitlements that go not to small special classes of rich and poor but across the board to almost all Americans in time."

Then it goes on to say, "Bill Clinton and the congressional Democrats were handed an unusual chance this year to deal constructively with the effect of Medicare on the deficit and they blew it. The chance came in the form of the congressional Republican plan to balance the budget over 7 years."

Then they said, finally, "Some other aspects of the plan deserve to be resisted, but the Republican proposal to get at the deficit partly by confronting the cost of Medicare deserves support."

The Washington Post grades us pretty tough. They have given us an A plus. I just want to express my gratitude to the people at the Post for recognizing that there has been incredible courage on the part of all Republicans, conservatives and moderates, to save this country from bankruptcy.

Mr. Speaker, I yield to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Speaker, it is absolutely true. We are unified in this effort. We realize that we have this historic opportunity and now is the time. We have a window of opportunity. I believe with all my heart if we do not do it now, that we are not going to have the opportunity. I do not know when we draw the line and say, after this there is no hope. But we are going to reach a time when the debt is going to get out of control. The interest will be out of control. We will not be able to solve the problem.

I would like to ask the gentleman, do you not feel that this is it, this is our chance? This is our opportunity.

Mr. SHAYS. This is truly an historic moment for all of us and an opportunity that I think my colleague from Kentucky would agree has presented itself after a tremendous amount of work. We want to seize this opportunity. When we talk about getting our financial house in order and balancing our budget, we are doing it by still allowing government to grow but in many cases we are slowing the growth of government. In some cases we are eliminating programs, cutting back in others, consolidating departments, eliminating some units within departments. Having real cuts, spending less the next year, eliminating the Department of Commerce as one of our first steps in consolidation.

In other cases, with entitlements, we are allowing them to grow. Medicare and Medicaid will grow significantly. We have had talk about the earned income tax credit and talk on the other side that we were cutting this program, when in fact it is going to go from $19 billion to $27 billion, excuse me, $25 billion, an increase of 28 percent, not a cut. Only in Washington, when you spend so much more, do people call it a cut. The school lunch program is going to go from $6.3 billion to $7.8 billion, an increase. The student loan program is going to go from $24 billion to $36 billion.

I do not know how my colleagues on the other side of the aisle can say it with a straight face and say we are cutting the student loan program when it is going to grow, 6.7 million students, it is going to grow to 8.4 million. Medicaid is going to grow from $89 billion to $127 billion. Medicare from $178 billion to $289 billion. We are cutting programs. We are slowing the growth of others. But these programs have significant increases. Yet our colleagues call it a cut.

Ultimately in 7 years, we will have slowed the growth of spending so it will intersect with revenue and we will have no more deficits. That is an important element of this. But another important element of it is, in the process of reducing our government, we are also going to transform it from a welfare state, both on social programs and even on corporate programs.

We are going to transform it into an opportunity society. We are going to teach people how to grow the seeds instead of just giving them the food.

Mr. LEWIS of Kentucky. Mr. Speaker, that is exactly what we are doing. We will not ever forsake those who truly need help. We are going to help those. There is always going to be that social safety net for those who cannot help themselves. But we want to be a helping hand up and out of poverty, not keeping them in poverty with the welfare system that holds people down and keeps them dependent upon the government.

We want to free people. We want to allow them to achieve all the God-given gifts that they have to be the best that they can be in this wonderful country that we have. I think to be criticized and to be called mean-spirited and other words that have been applied to us for trying to save this country by balancing the budget is truly wrong. We are doing what we feel and what the American people have asked us to do. It will save this country.

Mr. SHAYS. Mr. Speaker, the bottom line is, we are going to get our financial house in order. We are going to save our trust funds in the process. We are going to transform this welfare state into an opportunity society. And in the process, we are going to save America.

Mr. Speaker, I include for the RECORD the editorial to which I referred.

[From the Washington Post, Nov. 16, 1995]

THE REAL DEFAULT

The budget deficit is the central problem of the federal government and one from which many of the country's other, most difficult problems flow. The deficit is largely driven in turn by the cost of the great entitlements that go not to small special classes of rich or poor but across the board to almost all Americans in time. The most important of these are the principal social insurance programs for the elderly, Social Security and Medicare. In fiscal terms, Medicare is currently the greatest threat and chief offender.

Bill Clinton and the congressional Democrats were handed an unusual chance this year to deal constructively with the effect of Medicare on the deficit, and they blew it. The chance came in the form of the congressional Republican plan to balance the budget over seven years. Some other aspects of that plan deserved to be resisted, but the Republican proposal to get at the deficit partly by confronting the cost of Medicare deserved support. The Democrats, led by the president, chose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that's where the votes are and the way to derail the Republican proposals generally. The president was still doing it this week; a Republican proposal to increase Medicare premiums was one of the reasons he alleged for the veto that has shut down the government—and never mind that he himself, in his own budget, would countenance a similar increase.

We've said some of this before; it gets more serious. If the Democrats play the Medicare card and win, they will have set back for years, for the worst of political reasons, the very cause of rational government in behalf of which they profess to be behaving. Politically, they will have helped to lock in place the enormous financial pressure that they themselves are first to deplore on so many other federal programs, not least the programs for the poor. That's the real default that could occur this year. In the end, the Treasury will meet its financial obligations. You can be pretty sure of that. The question is whether the president and the Democrats will meet or flee their obligations of a different kind. On the strength of the record so far, you'd have to bet on flight.

You'll hear the argument from some that this is a phony issue; they contend that the deficit isn't that great a problem. The people who make this argument are whistling past a graveyard that they themselves most likely helped to dig. The national debt in 1980 was less than $1 trillion. That was the sum of all the deficits the government had previously incurred—the whole two centuries' worth. The debt now, a fun-filled 15 years later, is five times that and rising at a rate approaching $1 trillion a presidential term. Interest costs are a seventh of the budget, by themselves now a quarter of a trillion dollars a year and rising; we are paying not just for the government we have but for the government we had and didn't pay for earlier.

The blamesters, or some of them, will tell you Ronald Reagan did it, and his low-tax credit-card philosophy of government surely played its part. The Democratic Congresses that ratified his budgets and often went him one better on tax cuts and spending increases played their part as well. Various sections of the budget are also favorite punching bags, depending who is doing the punching. You will hear it said that someone's taxes ought to be higher (generally someone else's), or that defense should be cut, or welfare, or farm price supports or the cost of the bureaucracy. But even Draconian cuts in any or all of these areas would be insufficient to the problem and, because dwelling on them is a way of pretending the real deficit-generating costs don't exist, beside the point as well.

What you don't hear said in all this talk of which programs should take the hit, since the subject is so much harder politically to confront, is that the principal business of the federal government has become elder-care. Aid to the elderly, principally through Social Security and Medicare, is now a third of all spending and half of all for other than interest on the debt and defense. That aid is one of the major social accomplishments of the past 30 years; the poverty rate for elderly is now, famously, well below the rate for the society as a whole. It is also an enormous and perhaps unsustainable cost that can only become more so as the baby-boomers shortly begin to retire. how does the society deal with it?

The Republicans stepped up to this as part of their proposal to balance the budget. About a fourth of their spending cuts would come from Medicare. It took guts to propose that. You may remember the time, not that many months ago, when the village wisdom was that, whatever else they proposed, they'd never take on Medicare this way. There were too many votes at stake. We don't mean to suggest by this that their proposal with regard to Medicare is perfect—it most emphatically is not, as we ourselves have said as much at some length in this space. So they ought to be argued with, and ways should be found to take the good of their ideas while rejecting the bad.

But that's not what the President and congressional Democrats have done. They've trashed the whole proposal as destructive, taken to the air waves with a slick scare program about it, championing themselves as noble defenders of those about to be victimized. They—the Republicans—want to take away your Medicare; that's the insistent PR message the Democrats have been drumming into the elderly and the children of the elderly all year. The Democrats used to complain that the Republicans used wedge issues; this is the super wedge. And it's wrong. In the long run, if it succeeds, the tactic will make it harder to achieve not just the right fiscal result but the right social result. The lesson to future politicians will be that you reach out to restructure Medicare at your peril. The result will be to crowd out of the budget other programs for less popular or powerful constituencies—we have in mind the poor—that the Democrats claim they are committed to protect.

There's ways to get the deficit down without doing enormous social harm. It isn't rocket science. You spread the burden as widely as possible. Among much else, that means including the broad and, in some respects, inflated middle-class entitlements in the cuts. That's the direction in which the President ought to be leading and the congressional Democrats following. To do otherwise is to hide, to lull the public and to perpetuate the budget problem they profess to be trying to solve. Let us say it again: If that's what happens, it will be the real default.

CONFERENCE REPORT ON H.R. 2099, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1996

Mr. LEWIS of California submitted the following conference report and statement on the bill (H.R. 2099), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–353)

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2099) "making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 5, 12, 14, 20, 24, 43, 62, 67, 75, 82, 86, 87, 89, 90, 91, 92, 98, 111, 112, and 116.

That the House recede from its disagreement to the amendments of the Senate numbered 6, 7, 10, 11, 17, 19, 21, 22, 26, 27, 28, 29, 30, 34, 35, 38, 39, 30, 42, 44, 45, 46, 47, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 61, 64, 69, 73, 78, 79, 84, 85, 88, 93, 95, 96, 97, 99, 100, 101, 103, 106, 107, 108, 113, and 115, and agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$16,564,000,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$848,143,000: Provided, That of the amount appropriated and any other funds made available from any other source for activities funded under this heading, except reimbursements, not to exceed $214,109,000 shall be available for General Administration; including not to exceed (1) $2,450,000 for personal compensation and benefits and $50,000 for travel in the Office of the Secretary, (2) $4,392,000 for personnel compensation and benefits and $75,000 for travel in the Office of the Assistant Secretary for Policy and Planning, (3) $1,980,000 for personnel compensation and benefits and $33,000 for travel in the Office of the Assistant Secretary for Congressional Affairs, and (4) $3,500,000 for personnel compensation and benefits and $100,000 for travel in the Office of the Assistant Secretary for Public and Intergovernmental Affairs: Provided further, That during fiscal year 1996, notwithstanding any other provision of law, the number of individuals employed by the Department of Veterans Affairs (1) in other than "career appointee" positions in the Senior Executive Service shall not exceed 6, and (2) in schedule C positions shall not exceed 11: Provided further, That not to exceed $6,000,000 of the amount appropriated shall be available for administrative expenses to carry out the direct and guaranteed loan program under the Loan Guaranty Program Account*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$136,155,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

Delete the matter proposed by said amendment and on page 16 of the House engrossed bill, H.R. 2099, delete the language on lines 9–18; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment, insert: *$4,500,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $10,155,795,000, to remain available until expended: Provided, That of the total amount provided under this head, $160,000,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb): Provided further, That of the total amount provided under this head, $2,500,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including up to $20,000,000 for the inspection of public housing units, contract expertise, and training and technical assistance, directly or indirectly, under grants, contracts, or cooperative agreements, to assist in the oversight and management of public and Indian housing (whether or not the housing is being modernized with assistance under this proviso) or tenant-based assistance, including, but not limited to, an annual resident survey, data collection and analysis, training and technical assistance by or to officials and employees of the Department and of public housing agencies and to residents in connection with the public and Indian housing program: Provided further, That of the total amount provided under this head, $400,000,000 shall be for rental subsidy contracts under the section 8 existing housing certificate program and the housing voucher program under section 8 of the Act, except that such amounts shall be used only for units necessary to provide housing assistance for residents to be relocated from existing federally subsidized or assisted housing, for replacement housing for units demolished or disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the public housing inventory, for funds related to litigation settlements, for the conversion of section 23 projects to assistance under section 8, for public housing agencies to implement allocation plans approved by the Secretary for designated housing, for funds to carry out the family unification program, and for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency: Provided further, That of the total amount provided under this head, $4,350,862,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) for use in connection with expiring or terminating section 8 subsidy contracts, such amount shall be merged with all remaining obligated and unobligated balances heretofore appropriated under the heading "Renewal of expiring section 8 subsidy contracts": Provided further, That notwithstanding any other provision of law, assistance reserved under the two preceding provisos may be used in connection with any provision of Federal law enacted in this Act or after the enactment of this Act that authorizes the use of rental assistance amounts in connection with such terminated or expired contracts: Provided further, That the Secretary may determine not to apply section 8(o)(6)(B) of the Act to renewals of housing vouchers during fiscal year 1996: Provided further, That of the total amount provided under this head, $610,575,000 shall be for amendments to secton 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended; and $261,000,000 shall be for section 8 assistance and rehabilitation grants for property disposition: Provided further, That during fiscal year 1996, the Secretary of Housing and Urban Development may manage and dispose of multifamily properties owned by the Secretary and multifamily mortgages held by the Secretary without regard to any other provision of law: Provided further, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section: Provided further, That of the total amount provided under this head, $171,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act; and $65,000,000 shall be for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992: Provided further, That the Secretary may make up to $5,000,000 of any amount recaptured in this account available for the development of performance and financial systems.

Of the total amount provided under this head, $624,000,000, plus amounts recaptured from interest reduction payment contracts for section 236 projects whose owners prepay their mortgages during fiscal year 1996 (which amounts shall be transferred and merged with this account), shall be for use in conjunction with properties that are eligible for assistance under the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low-Income Housing Preservation Act of 1987 (ELIHPA): Provided, That prior to July 1, 1996, funding to carry out plans of action shall be limited to sales of projects to nonprofit organizations, tenant-sponsored organizations, and other priority purchasers: Provided further, That of the amount made available by this paragraph, up to $10,000,000 shall be available for preservation technical assistance grants pursuant to section 253 of the Housing and Community Development Act of 1987, as amended: Provided further, That with respect to amounts made available by this paragraph, after July 1, 1996, if the Secretary determines that the demand for funding may exceed amounts available for such funding, the Secretary (1) may determine priorities for distributing available funds, including giving priority funding to tenants displaced due to mortgage prepayment and to projects that have not yet been funded but which have approved plans of action; and (2) may impose a temporary moratorium on applications by potential recipients of such funding: Provided further, That an owner of eligible low-income housing may prepay the mortgage or request voluntary termination of a mortgage insurance contract, so long as said owner agrees not to raise rents for sixty days after such prepayment: Provided further, That an owner of eligible low-income housing who has not timely filed a second notice under section 216(d) prior to the effective date of this Act may file such notice by March 1, 1996: Provided further, That such developments have been determined to have preservation equity at least equal to the lesser of $5,000 per unit or $500,000 per project or the equivalent of eight times the most recently published fair market rent for the area in which the project is located as the appropriate unit size for all of the units in the eligible project: Provided further, That the Secretary may modify the regulatory agreement to permit owners and priority purchasers to retain rental income in excess of the basic rental *charge in projects assisted under section 236 of the National Housing Act, for the purpose of preserving the low and moderate income character of the housing: Provided further, That the Secretary may give priority to funding and processing the following projects provided that the funding is obligated not later than August 1, 1996: (1) projects with approved plans of action to retain the housing that file a modified plan of action no later than July 1, 1996 to transfer the housing; (2) projects with approved plans of action that are subject to a repayment or settlement that was executed between the owner and the Secretary prior to September 1, 1995; (3) projects for which submissions were delayed as a result of their location in areas that were designated as a federal disaster area in a Presidential Disaster Declaration; and (4) projects whose processing was, in fact or in practical effect, suspended, deferred, or interrupted for a period of twelve months or more because of differing interpretations, by the Secretary and an owner or by the Secretary and a state or local rent regulatory agency, concerning the timing of filing eligibility or the effect of a presumptively applicable state or local rent control law or regulation on the determination of preservation value under section 213 of LIHPRHA, as amended, if the owner of such project filed notice of intent to extend the low-income affordability restrictions of the housing, or transfer to a qualified purchaser who would extend such restrictions, on or before November 1, 1993: Provided further, That eligible low-income housing shall include properties meeting the requirements of this paragraph with mortgages that are held by a State agency as a result of a sale by the Secretary without insurance, which immediately before the sale would have been eligible low-income housing under LIHPRHA: Provided further, That notwithstanding any other provision of law, subject to the availability of appropriated funds, each unassisted low-income family residing in the housing on the date of prepayment or voluntary termination, and whose rent, as a result of a rent increase occurring no later than one year after the date of the prepayment, exceeds 30 percent of adjusted income, shall be offered tenant-based assistance in accordance with section 8 or any successor program, under which the family shall pay no less for rent than it paid on such date: Provided further, That any family receiving tenant-based assistance under the preceding proviso may elect (1) to remain in the unit of the housing and if the rent exceeds the fair market rent or payment standard, as applicable, the rent shall be deemed to be the applicable standard, so long as the administering public housing agency finds that the rent is reasonable in comparison with rents charged for comparable unassisted housing units in the market or (2) to move from the housing and the rent will be subject to the fair market rent of the payment standard, as applicable, under existing program rules and procedures: Provided further, That up to $10,000,000 of the amount made available by this paragraph may be used at the discretion of the Secretary to reimburse owners of eligible properties for which plans of action were submitted prior to the effective date of this Act, but were not executed for lack of available funds, with such reimbursement available only for documented costs directly applicable to the preparation of the plan of action as determined by the Secretary, and shall be made available on terms and conditions to be established by the Secretary: Provided further, That, notwithstanding any other provision of law, effective October 1, 1996, the Secretary shall suspend further processing of preservation applications which do not have approved plans of action.*

Of the total amount provided under this head, $780,190,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959; and $233,168,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act; and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act: Provided, That the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of the Cranston-Gonzalez National Affordable Housing Act for tenant-based assistance, as authorized under that section which is five-years in duration: Provided further, That the Secretary may waive any provision of section 202 of the Housing Act of 1959 and section 811 of the National Affordable Housing Act (including the provisions governing the terms and conditions of project rental assistance) that the Secretary determines is not necessary to achieve the objectives of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate.

PUBLIC HOUSING DEMOLITION, SITE REVITALIZATION, AND REPLACEMENT HOUSING GRANTS

For grants to public housing agencies for the purposes of enabling the demolition of obsolete public housing projects or portions thereof, the revitalization (where appropriate) of sites (including remaining public housing units) on which such projects are located, replacement housing which will avoid or lessen concentrations of very low-income families, and tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937 for the purpose of providing replacement housing and assisting tenants to be displaced by the demolition, $280,000,000, to remain available until expended: Provided, That the Secretary of Housing and Urban Development shall award such funds to public housing agencies by a competition which includes among other relevant criteria the local and national impact of the proposed demolition and revitalization activities and the extent to which the public housing agency could undertake such activities without the additional assistance to be provided hereunder: Provided further, That eligible expenditures hereunder shall be those expenditures eligible under section 8 and section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437f and l): Provided further, That the Secretary may impose such conditions and requirements as the Secretary deems appropriate to effectuate the purposes of this paragraph: Provided further, That the Secretary may require an agency selected to receive funding to make arrangements satisfactory to the Secretary for use of an entity other than the agency to carry out this program where the Secretary determines that such action will help to effectuate the purpose of this paragraph: Provided further, That in the event an agency selected to receive funding does not proceed expeditiously as determined by the Secretary, the Secretary shall withdraw any funding made available pursuant to this paragraph and that has not been obligated by the agency and distribute such funds to one or more other eligible agencies, or to other entities capable of proceeding expeditiously in the same locality with the original program: Provided further, That of the foregoing $280,000,000, the Secretary may use up to .67 per centum for technical assistance, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies and to residents: Provided further, That any replacement housing provided with assistance under this head shall be subject to section 18(f) of the United States Housing Act of 1937, as amended by section 201(b)(2) of this Act.

And the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public and Indian housing agencies for use in eliminating crime in public housing projects authorized by 42 U.S.C. 11901–11908, for grants for federally assisted low-income housing authorized by 42 U.S.C. 11909, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $290,000,000, to remain available until expended, of which $10,000,000 shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training) and of which $2,500,000 shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home program administered by the Inspector General of the Department of Housing and Urban Development: Provided, That the term "drug-related crime", as defined in 42 U.S.C. 11905(2), shall also include other types of crime as determined by the Secretary.

And the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$823,000,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$50,000,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

Of the amount provided under this heading, the Secretary of Housing and Urban Development may use up to $53,000,000 for grants to public housing agencies (including Indian housing authorities), nonprofit corporations, and other appropriate entities for a supportive services program to assist residents of public and assisted housing, former residents of such housing receiving tenant-based assistance under section 8 of such Act (42 U.S.C. 1437f), and other low-income families and individuals to become self-sufficient: Provided, That the program shall provide supportive services, principally for the benefit of public housing residents, to the elderly and the disabled, and to families with children where the head of household would benefit *from the receipt of supportive services and is working, seeking work, or is preparing for work by participating in job training or educational programs: Provided further, That the supportive services shall include congregate services for the elderly and disabled, service coordinators, and coordinated educational, training, and other supportive services, including academic skills training, job search assistance, assistance related to retaining employment, vocational and entrepreneurship development and support programs, transportation, and child care: Provided further, That the Secretary shall require applications to demonstrate firm commitments of funding or services from other sources: Provided further, That the Secretary shall select public and Indian housing agencies to receive assistance under this head on a competitive basis, taking into account the quality of the proposed program (including any innovative approaches), the extent of the proposed coordination of supportive services, the extent of commitments of funding or services from other sources, the extent which the proposed program includes reasonably achievable, quantifiable goals for measuring performance under the program over a three-year period, the extent of success an agency has had in carrying out other comparable initiatives, and other appropriate criteria established by the Secretary.*

Of the amount made available under this heading, notwithstanding any other provision of law, $12,000,000 shall be available for contracts, grants, and other assistance, other than loans, not otherwise provided for, for providing counseling and advice to tenants and homeowners both current and prospective, with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106 of the Housing and Urban Development Act of 1968, as amended, notwithstanding section 106(c)(9) and section 106(d)(13) of such Act.

Of the amount made available under this heading, notwithstanding any other provision of law, $15,000,000 shall be available for the tenant opportunity program.

Of the amount made available under this heading, notwithstanding any other provision of law, $20,000,000 shall be available for youthbuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and shall be an eligible activity with respect to any funds made available under this heading.

And the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$31,750,000*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$1,500,000,000: Provided further, That the Secretary of Housing and Urban Development may make guarantees not to exceed the immediately foregoing amount notwithstanding the aggregate limitation on guarantees set forth in section 108(k) of the Housing and Community Development Act of 1974*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and for contracts with qualified fair housing enforcement organizations, as authorized by section 561 of the Housing and Community Development Act of 1987, as amended by the Housing and Community Development Act of 1992, $30,000,000, to remain available until September 30, 1997.

And the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$962,558,000*; and the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$47,850,000*; and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z-3 and 1735c), including the cost of modifying such loans, $85,000,000, to remain available until expended: Provided, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 201. EXTEND ADMINISTRATIVE PROVISIONS FROM THE RESCISSION ACT.

(a) PUBLIC AND INDIAN HOUSING MODERNIZATION.—

(1) EXPANSION OF USE OF MODERNIZATION FUNDING.—Subsection 14(q) of the United States Housing Act of 1937 is amended to read as follows:

"(q)(1) In addition to the purposes enumerated in subsections (a) and (b), a public housing agency may use modernization assistance provided under section 14, and development assistance provided under section 5(a) that was not allocated, as determined by the secretary, for priority replacement housing, for any eligible activity authorized by this section, by section 5, or by applicable Appropriations Acts for a public housing agency, including the demolition, rehabilitation, revitalization, and replacement of existing units and projects and, for up to 10 percent of its allocation of such funds in any fiscal year, for any operating subsidy purpose authorized in section 9. Except for assistance used for operating subsidy purposes under the preceding sentence, assistance provided to a public housing agency under this section shall principally be used for the physical improvement or replacement of public housing and for associated management improvements, except as otherwise approved by the Secretary. Public housing units assisted under this paragraph shall be eligible for operating subsidies, unless the Secretary determines that such units or projects have not received sufficient assistance under this Act or do not meet other requirements of this Act.

"(2) A public housing agency may provide assistance to developments that include units for other than very low-income families ('mixed income developments') in the form of a grant, loan, operating assistance, or other form of investment which may be made to—

(A) a partnership, a limited liability company, or other legal entity in which the public housing agency or its affiliate is a general partner, managing member, or otherwise participates in the activities of such entity; or

(B) any entity which grants to the public housing agency the option to purchase the development within 20 years after initial occupancy in accordance with section 42(i)(7) of the Internal Revenue Code of 1986, as amended. Units shall be made available in such developments for periods of not less than 20 years, by master contract or by individual lease, for occupancy by low-income families referred from time to time by the public housing agency. The number of such units shall be:

(i) in the same proportion to the total number of units in such development that the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the development, or

(ii) not be less than the number of units that could have been developed under the conventional public housing program with the assistance involved, or

(iii) as may otherwise be approved by the Secretary.

"(3) A mixed income development may elect to have all units subject only to the applicable local real estate taxes, notwithstanding that the low-income units assisted by public housing funds would otherwise be subject to section 6(d) of the Housing Act of 1937.

"(4) If any entity that owns or operates a mixed-income project under this subsection enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this Act for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 9, or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this Act regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units, to the maximum extent practicable.".

(2) Extension of authority.—Section 1001(b) of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-Terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995 (109 Stat. 235), is amended to read as follows:

"(b) APPLICABILITY.—Section 14(q) of the United States Housing Act of 1937, as added by subsection (a) of this section, shall be effective only with respect to assistance provided from funds made available for fiscal year 1996 or any preceding fiscal year.".

(3) APPLICABILITY.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendment made by this subsection shall apply to public housing developed or operated pursuant to contract between the Secretary of Housing and Urban Development and an Indian housing authority.

(b) ONE-FOR-ONE REPLACEMENT OF PUBLIC AND INDIAN HOUSING.—

(1) EXTENDED AUTHORITY.—Section 1002(d) of Public Law 104–19 is amended to read as follows:

"(d) Subsections (a), (b), and (c) shall be effective for applicants for the demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken, on, before, or after September 30, 1995 and before September 30, 1996.".

(2) Section 18(f) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence:

"No one may rely on the preceding sentence as the basis for reconsidering a final order of a court issued, or a settlement approved by, a court.".

(3) APPLICABILITY.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subsection and by sections 1002 (a), (b), and (c) of Public Law 104–19 shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

SEC. 202. PUBLIC AND ASSISTED HOUSING RENTS, INCOME ADJUSTMENTS, AND PREFERENCES.

(a) MINIMUM RENTS.—Notwithstanding sections 3(a) and 8(o)(2) of the United States Housing Act of 1937, as amended, effective for fiscal year 1996 and no later than October 30, 1995—

(1) public housing agencies shall require each family who is assisted under the certificate or moderate rehabilitation program under section 8 of such Act to pay a minimum monthly rent of not less than $25, and may require a minimum monthly rent of up to $50;

(2) public housing agencies shall reduce the monthly assistance payment on behalf of each family who is assisted under the voucher program under section 8 of such Act so that the family pays a minimum monthly rent of not less than $25, and may require a minimum monthly rent of up to $50;

(3) owners of housing assisted under other programs for rental assistance under section 8 of such Act shall require each family who is assisted under such program to pay a minimum monthly rent of not less than $25 for the unit, and may require a minimum monthly rent of up to $50; and

(4) public housing agencies shall require each family who is assisted under the public housing program (including public housing for Indian families) of such Act to pay a minimum monthly rent of not less than $25, and may require a minimum monthly rent of up to $50.

(b) ESTABLISHMENT OF CEILING RENTS.—

(1) Section 3(a)(2) of the United States Housing Act of 1937 is amended to read as follows:

"(2) Notwithstanding paragraph (1), a public housing agency may—

"(A) adopt ceiling rents that reflect the reasonable market value of the housing, but that are not less than the monthly costs—

"(i) operate the housing of the agency; and

"(ii) to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

"(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by the family under paragraph (1).".

(2) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out section 3(a)(2)(A) of the United States Housing Act of 1937, as amended by paragraph (1).

(B) TRANSITION RULE.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents, which shall be not less than the monthly costs to operate the housing of the agency and—

(i) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937, as that section existed on the day before enactment of this Act;

(ii) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same public housing project or a group of comparable projects totaling 50 units or more; or

(iii) equal to the fair market rent for the area in which the unit is located.

(c) DEFINITION OF ADJUSTED INCOME.—Section 3(b) of the United States Housing Act of 1937 is amended—

(1) at the end of subparagraph (F), by striking "and";

(2) at the end of subparagraph (G), by striking the period and inserting "; and"; and

(3) by inserting after subparagraph (G) the following:

"(H) for public housing, any other adjustments to earned income established by the public housing agency. If a public housing agency adopts other adjustments to income pursuant to subparagraph (H), the Secretary shall not take into account any reduction of or increase in the public housing agency's per unit dwelling rental income resulting from those adjustments when calculating the contributions under section 9 for the public housing agency for the operation of the public housing.".

(d) REPEAL OF FEDERAL PREFERENCES.—

(1) PUBLIC HOUSING.—

Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended to read as follows:

"(A) the establishment, after public notice and an opportunity for public comment, of a written system of preferences for admission to public housing, if any, that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;".

(2) SECTION 8 EXISTING AND MODERATE REHABILITATION.—

Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

"(A) the selection of tenants shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that for the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;".

(3) SECTION 8 VOUCHER PROGRAM.—Section 8(o)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(B)) is amended to read as follows:

"(B) For the purpose of selecting families to be assisted under this subsection, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act.".

(4) SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.—

(A) REPEAL.—Section 545(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is amended to read as follows:

"(c) [Reserved.]".

(B) PROHIBITION.—Notwithstanding any other provision of law, no Federal tenant selection preferences shall apply with respect to—

(i) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 (as such section existed on the day before October 1, 1983); or

(ii) projects financed under section 202 of the Housing Act of 1959 (as such section existed on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act).

(5) RENT SUPPLEMENTS.—Section 101(k) of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(k)) is amended to read as follows:

"(k) [Reserved.]".

(8) CONFORMING AMENDMENTS.—

(A) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1537 et seq.) is amended—

(i) in section 6(o), by striking "preference rules specified in" and inserting "written system of preferences for selection established pursuant to";

(ii) in section 7(a)(2), by striking "according to the preferences for occupancy under" and inserting "in accordance with the written system of preferences for selection established pursuant to";

(iii) in section 8(d)(2)(A), by striking the last sentence;

(iv) in section 8(d)(2)(H), by striking "Notwithstanding subsection (d)(1)(A)(i), an" and inserting "An";

(v) in section 16(c), in the second sentence, by striking "the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)" and inserting "the written system of preferences for selection established by the public housing agency pursuant to section 6(c)(4)(A)"; and

(vi) in section 24(e)—

(I) by striking "(e) Exceptions" and all that follows through "The Secretary may" and inserting the following:

"(e) EXCEPTION TO GENERAL PROGRAM REQUIREMENTS.—The Secretary may"; and

(II) by striking paragraph (2).

(B) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 522(f)(6)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704 et seq.) is amended by striking "any preferences for such assistance under section 8(d)(1)(A)(i)" and inserting "the written system of preferences for selection established pursuant to section 8(d)(1)(A)".

(C) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 655 of the Housing and Community Development Act of 1992 (42 U.S.C. 13615) is amended by striking "the preferences" and all that follows through the period at the end and inserting "any preferences".

(D) REFERENCES IN OTHER LAW.—Any reference in any Federal law other than any provision of any law amended by paragraphs (1) through (5) of this subsection to the preferences for assistance under section 6(c)(4)(A)(i), 8(d)(1)(A)(i), or 8(o)(3)(B) of the United States Housing Act of 1937 (as such sections existed on the day before the date of enactment of this Act) shall be considered to refer to the written system of preferences for selection established pursuant to section 6(c)(4)(A), 8(d)(1)(A), or 8(o)(3)(B), respectively, of the United States Housing Act of 1937, as amended by this section.

(e) APPLICABILITY.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by subsections (a), (b), (c), and (d) of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

(f) This section shall be effective upon the enactment of this Act and only for fiscal year 1996.

SEC. 203. CONVERSION OF CERTAIN PUBLIC HOUSING TO VOUCHERS.

(a) IDENTIFICATION OF UNITS.—

(1) Each public housing agency shall identify any public housing developments—

(A) that are on the same or contiguous sites;

(B) that total more than—

(i) 300 dwelling units; or

(ii) in the case of high-rise family buildings or substantially vacant buildings, 300 dwelling units;

(C) that have a vacancy rate of at least 10 percent for dwelling units not in funded, on-schedule modernization programs;

(D) identified as distressed housing that the public housing agency cannot assure the long-term viability as public housing through revitalization, density reduction, or achievement of a broader range of household income; and

(E) for which the estimated cost of continued operation and modernization of the developments as public housing exceeds the cost of providing tenant-based assistance under section 8 of the United States Housing Act of 1937 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development cost required for modernization).

(b) IMPLEMENTATION AND ENFORCEMENT.—

(1) STANDARDS FOR IMPLEMENTATION.—The Secretary shall establish standards to permit implementation of this section in fiscal year 1996.

(2) CONSULTATION.—Each public housing agency shall consult with the applicable public housing tenants and the unit of general local government in identifying any public housing developments under subsection (a).

(3) FAILURE OF PHA'S TO COMPLY WITH SUBSECTION (a).—Where the Secretary determines that—

(A) a public housing agency has failed under subsection (a) to identify public housing developments for removal from the inventory of the agency in a timely manner;

(B) a public housing agency has failed to identify one or more public housing developments which the Secretary determines should have been identified under subsection (a); or

(C) one or more of the developments identified by the public housing agency pursuant to subsection (a) should not, in the determination of the Secretary, have been identified under that subsection;

the Secretary may designate the developments to be removed from the inventory of the public housing agency pursuant to this section.

(c) REMOVAL OF UNITS FROM THE INVENTORIES OF PUBLIC HOUSING AGENCIES.—

(1) Each public housing agency shall develop and carry out a plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) or subsection (b)(3), over a period of up to five years, from the inventory of the public housing agency and the annual contributions contract. The plan shall be approved by the relevant local official as not inconsistent with the Comprehensive Housing Affordability Strategy under title I of the Housing and Community Development Act of 1992, including a description of any disposition and demolition plan for the public housing units.

(2) The Secretary may extend the deadline in paragraph (1) for up to an additional five years where the Secretary makes a determination that the deadline is impracticable.

(3) The Secretary shall take appropriate actions to ensure removal of developments identified under subsection (a) or subsection (b)(3) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under paragraph (1), or fails to adequately implement such plan in accordance with the terms of the plan.

(4) To the extent approved in appropriations, the Secretary may establish requirements and provide funding under the Urban Revitalization Demonstration program for demolition and disposition of public housing under this section.

(5) Notwithstanding any other provision of law, if a development is removed from the inventory of a public housing agency and the annual contributions contract pursuant to paragraph (1), the Secretary may authorize or direct the transfer of—

(A) in the case of an agency receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such development pursuant to section 14 of the United States Housing Act of 1937;

(B) in the case of an agency receiving public and Indian housing modernization assistance by formula pursuant to section 14 of the United States Housing Act of 1937, any amounts provided to the agency which are attributable pursuant to the formula for allocating such assistance to the development removed from the inventory of that agency; and

(C) in the case of an agency receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of the development pursuant to section 5 of such Act,

to the tenant-based assistance program or appropriate site revitalization of such agency.

(6) CESSATION OF UNNECESSARY SPENDING.—Notwithstanding any other provision of law, if, in the determination of the Secretary, a development meets or is likely to meet the criteria set forth in subsection (a), the Secretary may direct the public housing agency to cease additional spending in connection with the development, except to the extent that additional spending is necessary to ensure decent, safe, and sanitary housing until the Secretary determines or approves an appropriate course of action with respect to such development under this section.

(d) CONVERSION TO TENANT-BASED ASSISTANCE.—

(1) The Secretary shall make authority available to a public housing agency to provide tenant-based assistance pursuant to section 8 to families residing in any development that is removed from the inventory of the public housing agency and the annual contributions contract pursuant to subsection (b).

(2) Each conversion plan under subsection (c) shall—

(A) require the agency to notify families residing in the development, consistent with any guidelines issued by the Secretary governing such notifications, that the development shall be removed from the inventory of the public housing agency and the families shall receive tenant-based or project-based assistance, and to provide any necessary counseling for families; and

(B) ensure that all tenants affected by a determination under this section that a development shall be removed from the inventory of a public housing agency shall be offered tenant-based or project-based assistance and shall be relocated, as necessary, to other decent, safe, sanitary, and affordable housing which is, to the maximum extent practicable, housing of their choice.

(e) IN GENERAL.—

(1) The Secretary may require a public housing agency to provide such information as the Secretary considers necessary for the administration of this section.

(2) As used in this section, the term "development" shall refer to a project or projects, or to portions of a project or projects, as appropriate.

(3) Section 18 of the United States Housing Act of 1937 shall not apply to the demolition of developments removed from the inventory of the public housing agency under this section.

SEC. 204. STREAMLINING SECTION 8 TENANT-BASED ASSISTANCE.

(a) "TAKE-ONE, TAKE-ALL".—Section 8(t) of the United States Housing Act of 1937 is hereby repealed.

(b) EXEMPTION FROM NOTICE REQUIREMENTS FOR THE CERTIFICATE AND VOUCHER PROGRAMS.—Section 8(c) of such Act is amended—

(1) in paragraph (8), by inserting after "section" the following: "(other than a contract for assistance under the certificate or voucher program)";

(2) in the first sentence of paragraph (9), by strike "(but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o))" and inserting", other than a contract under the certificate or voucher program".

(c) ENDLESS LEASE.—Section 8(d)(1)(B) of such Act is amended—

(1) in clause (ii), by inserting "during the term of the lease," after "(ii)"; and

(2) in clause (iii), by striking "provide that" and inserting "during the term of the lease,".

(d) APPLICABILITY.—The provisions of this section shall be effective for fiscal year 1996 only.

SEC. 205. SECTION 8 FAIR MARKET RENTALS, ADMINISTRATIVE FEES, AND DELAY IN REISSUANCE.

(a) FAIR MARKET RENTALS.—The Secretary shall establish fair market rentals for purposes of section 8(c)(1) of the United States Housing Act of 1937, as amended, that shall be effective for fiscal year 1996 and shall be based on the 40th percentile rent of rental distributions of standard quality rental housing units. In establishing such fair market rentals, the Secretary shall consider only the rents for dwelling units occupied by recent movers and may not consider the rents for public housing dwelling units or newly constructed rental dwelling units.

(b) ADMINISTRATIVE FEES.—Notwithstanding the second sentence of section 8(q)(1) of the United States Housing Act of 1937, as amended, for fiscal year 1996, the portions of the fees for costs incurred by public housing agencies in administering the certificate, voucher, and moderate rehabilitation programs under section 8 shall not exceed 7.65 percent of the fair market rental established for a 2-bedroom existing rental dwelling unit in the market area of the public housing agency for the first 600 units administered by any such public housing agency, and 7.0 percent of the fair market rental established for a 2-bedroom existing rental dwelling unit in the market area of the public housing agency.

(c) DELAY REISSUANCE OF VOUCHERS AND CERTIFICATES.—Notwithstanding any other provision of law, a public housing agency administering certificate or voucher assistance provided under subsection (b) or (o) of section 8 of the United States Housing Act of 1937, as amended, shall delay for 3 months, the use of any amounts of such assistance (or the certificate or voucher representing assistance amounts) made available by the termination during fiscal year 1996 of such assistance on behalf of any family for any reason, but not later than October 1, 1996; with the exception of any certificate assigned or committed to project based assistance as permitted otherwise by the Act, accomplished prior to the effective date of this Act.

SEC. 206. PUBLIC HOUSING/SECTION 8 MOVING TO WORK DEMONSTRATION.

(a) PURPOSE.—The purpose of this demonstration is to give public housing agencies and the

Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that: reduce cost and achieve greater cost effectiveness in Federal expenditures: give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and increase housing choices for low-income families.

(b) PROGRAM AUTHORITY.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this section beginning in fiscal year 1996 under which up to 30 public housing agencies (including Indian housing authorities) administering the public or Indian housing program and the section 8 housing assistance payments program, administering a total number of public housing units not in excess of 25,000, may be selected by the Secretary to participate. The Secretary shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 15 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration. Under the demonstration, notwithstanding any provision of the United States Housing Act of 1937 except as provided in subsection (e), an agency may combine operating assistance provided under section 9 of the United States Housing Act of 1937, modernization assistance provided under section 14 of such Act, and assistance provided under section 8 of such Act for the certificate and voucher programs, to provide housing assistance for low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937, and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

(c) APPLICATION.—An application to participate in the demonstration—

(1) shall request authority to combine assistance under sections 8, 9, and 14 of the United States Housing Act of 1937;

(2) shall be submitted only after the public housing agency provides for citizen participation through a public hearing and, if appropriate, other means;

(3) shall include a plan developed by the agency that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

(A) families to be assisted, which shall require that at least 75 percent of the families assisted by participating demonstration public housing authorities shall be very low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937, and at least 50 percent of the families selected shall have incomes that do not exceed 30 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 30 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family income;

(B) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent;

(C) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;

(D) maintaining a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration; and

(E) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary; and

(4) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

(d) SELECTION.—In selection among applications, the Secretary shall take into account the potential of each agency to plan and carry out a program under the demonstration, the relative performance by an agency under the public housing management assessment program under section 6(j) of the United States Housing Act of 1937, and other appropriate factors as determined by the Secretary.

(e) APPLICABILITY OF 1937 ACT PROVISIONS.—

(1) Section 18 of the United States Housing Act of 1937 shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

(2) Section 12 of such Act shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

(f) EFFECT ON SECTION 18, OPERATING SUBSIDIES, AND COMPREHENSIVE GRANT PROGRAM ALLOCATIONS.—The amount of assistance received under section 8, section 9, or pursuant to section 14 by a public housing agency participating in the demonstration under this part shall not be diminished by its participation.

(g) RECORDS, REPORTS, AND AUDITS.—

(1) KEEPING OF RECORDS.—Each agency shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

(2) REPORTS.—Each agency shall submit to the Secretary a report, or series of reports, in a form and at a time specified by the Secretary. Each report shall—

(A) document the use of funds made available under this section;

(B) provide such data as the Secretary may request to assist the Secretary in assessing the demonstration; and

(C) describe and analyze the effect of assisted activities in addressing the objectives of this part.

(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(h) EVALUATION AND REPORT.—

(1) CONSULTATION WITH PHA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of public housing agencies and residents.

(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the demonstration. The report shall also include findings and recommendations for any appropriate legislative action.

(i) FUNDING FOR TECHNICAL ASSISTANCE AND EVALUATION.—From amounts appropriated for assistance under section 14 of the United States Housing Act of 1937 for fiscal years 1996, 1997, and 1998, the Secretary may use up to a total of $5,000,000—

(1) to provide, directly or by contract, training and technical assistance—

(A) to public housing agencies that express an interest to apply for training and technical assistance pursuant to subsection (c)(4), to assist them in designing programs to be proposed for the demonstration; and

(B) to up to 10 agencies selected to receive training and technical assistance pursuant to subsection (c)(4), to assist them in implementing the approved program; and

(2) to conduct detailed evaluations of the activities of the public housing agencies under paragraph (1)(B), directly or by contract.

SEC. 207. REPEAL OF PROVISIONS REGARDING INCOME DISREGARDS.

(a) MAXIMUM ANNUAL LIMITATION ON RENT INCREASES RESULTING FROM EMPLOYMENT.—Section 957 of the Cranston-Gonzales National Affordable Housing Act is hereby repealed, retroactive to November 28, 1990, and shall be of no effect.

(b) ECONOMIC INDEPENDENCE.—Section 923 of the Housing and Community Development Act of 1992 is hereby repealed, retroactive to October 28, 1992, and shall be of no effect.

SEC. 208. EXTENSION OF MULTIFAMILY HOUSING FINANCE PROGRAMS.

(a) The first sentence of section 542(b)(5) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not more than 15,000 units over fiscal years 1993 and 1994" and inserting "on not more than 7,500 units during fiscal year 1996".

(b) The first sentence of section 542(c)(4) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995" and inserting "on not more than 10,000 units during fiscal year 1996".

SEC. 209. FORECLOSURE OF HUD-HELD MORTGAGES THROUGH THIRD PARTIES.

During fiscal year 1996, the Secretary of Housing and Urban Development may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages held by the Secretary under the National Housing Act.

SEC. 210. RESTRUCTURING OF THE HUD MULTIFAMILY MORTGAGE PORTFOLIO THROUGH STATE HOUSING FINANCE AGENCIES.

During fiscal year 1996, the Secretary of Housing and Urban Development may sell or otherwise transfer multifamily mortgages held by the Secretary under the National Housing Act to a State housing finance agency in connection with a program authorized under section 542 (b) or (c) of the Housing and Community Development Act of 1992 without regard to the unit limitations in section 542(b)(5) or 542(c)(4) of such Act.

SEC. 211. TRANSFER OF SECTION 8 AUTHORITY.

(a) Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end:

"(bb) TRANSFER OF BUDGET AUTHORITY.—If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer

shall be under such terms as the Secretary may prescribe.".

SEC. 212. DOCUMENTATION OF MULTIFAMILY REFINANCINGS.

Notwithstanding the 16th paragraph under the item relating to "administrative provisions" in title II of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1995 (Public Law 103–327; 108 Stat. 2316), the amendments to section 223(a)(7) of the National Housing Act made by the 15th paragraph of such Act shall be effective during fiscal year 1996 and thereafter.

SEC. 213. FHA MULTIFAMILY DEMONSTRATION AUTHORITY.

(a) On and after October 1, 1995, and before October 1, 1997, the Secretary of Housing and Urban Development shall initiate a demonstration program with respect to multifamily projects whose owners agree to participate and whose mortgages are insured under the National Housing Act and that are assisted under section 8 of the United States Housing Act of 1937 and whose present section 8 rents are, in the aggregate, in excess of the fair market rent of the locality in which the project is located. These programs shall be designed to test the feasibility and desirability of the goal of ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported with or without mortgage insurance under the National Housing Act and with or without above-market rents and utilizing project-based assistance or, with the consent of the property owner, tenant based assistance, while taking into account the need for assistance of low and very low income families in such projects. In carrying out this demonstration, the Secretary may use arrangements with third parties, under which the Secretary may provide for the assumption by the third parties (by delegation, contract, or otherwise) of some or all of the functions, obligations, and benefits of the Secretary.

(1) GOALS.—The Secretary of Housing and Urban Development shall carry out the demonstration programs under this section in a manner that—

(A) will protect the financial interests of the Federal Government;

(B) will result in significant discretionary cost savings through debt restructuring and subsidy reduction; and

(C) will, in the least costly fashion, address the goals of—

(i) maintaining existing housing stock in a decent, safe, and sanitary condition;

(ii) minimizing the involuntary displacement of tenants;

(iii) restructuring the mortgages of such projects in a manner that is consistent with local housing market conditions;

(iv) supporting fair housing strategies;

(v) minimizing any adverse income tax impact on property owners; and

(vi) minimizing any adverse impact on residential neighborhoods.

In determining the manner in which a mortgage is to be restructured or the subsidy reduced, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(2) DEMONSTRATION APPROACHES.—In carrying out the demonstration programs, subject to the appropriation in subsection (f), the Secretary may use one or more of the following approaches:

(A) Joint venture arrangements with third parties, under which the Secretary may provide for the assumption by the third parties (by delegation, contract, or otherwise) of some or all of the functions, obligations, and benefits of the Secretary.

(B) Subsidization of the debt service of the project to a level that can be paid by an owner receiving an unsubsidized market rent.

(C) Renewal of existing project-based assistance contracts where the Secretary shall approve proposed initial rent levels that do not exceed the greater of 120 percent of fair market rents or comparable market rents for the relevant metropolitan market area or at rent levels under a budget-based approach.

(D) Nonrenewal of expiring existing project-based assistance contracts and providing tenant-based assistance to previously assisted households.

(b) For purposes of carrying out demonstration programs under subsection (a)—

(1) the Secretary may manage and dispose of multifamily properties owned by the Secretary as of October 1, 1995 and multifamily mortgages held by the Secretary as of October 1, 1995 for properties assisted under section 8 with rents above 110 percent of fair market rents without regard to any other provision of law; and

(2) the Secretary may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages held by the Secretary under the National Housing Act.

(c) For purposes of carrying out demonstration programs under subsection (a), subject to such third party consents (if any) as are necessary including but not limited to (i) consent by the Government National Mortgage Association where it owns a mortgage insured by the Secretary; (ii) consent by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders and the Association under such program; and (iii) parties to any contractual agreement which the Secretary proposes to modify or discontinue, and subject to the appropriation in subsection (c), the Secretary or one or more third parties designated by the Secretary may take the following actions:

(1) Notwithstanding any other provision of law, and subject to the agreement of the project owner, the Secretary or third party may remove, relinquish, extinguish, modify, or agree to the removal of any mortgage, regulatory agreement, project-based assistance contract, use agreement, or restriction that had been imposed or required by the Secretary, including restrictions on distributions of income which the Secretary or third party determines would interfere with the ability of the project to operate without above market rents. The Secretary or third party may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program to apply any accumulated residual receipts toward effecting the purposes of this section.

(2) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such insurance to third parties, on such terms and conditions as the Secretary may determine.

(3) The Secretary may offer project-based assistance with rents at or below fair market rents for the locality in which the project is located and may negotiate such other terms as are acceptable to the Secretary and the project owner.

(4) The Secretary may offer to pay all or a portion of the project's debt service, including payments monthly from the appropriate Insurance Fund, for the full remaining term of the insured mortgage.

(5) Notwithstanding any other provision of law, the Secretary may forgive and cancel any FHA-insured mortgage debt that a demonstration program property cannot carry at market rents while bearing full operating costs.

(6) For demonstration program properties that cannot carry full operating costs (excluding debt service) at market rents, the Secretary may approve project-based rents sufficient to carry such full operating costs and may offer to pay the full debt service in the manner provided in paragraph (4).

(d) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

(e) LIMITATION ON DEMONSTRATION AUTHORITY.—The Secretary may carry out demonstration programs under this section with respect to mortgages not to exceed 15,000 units. The demonstration authorized under this section shall not be expanded until the reports required under subsection (f) are submitted to the Congress.

(f) APPROPRIATION.—For the cost of modifying loans held or guaranteed by the Federal Housing Administration, as authorized by this subsection (a)(2) and subsection (c), $30,000,000, to remain available until September 30, 1997: Provided, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

(g) REPORT TO CONGRESS.—The Secretary shall submit to the Congress every six months after the date of enactment of this Act a report describing and assessing the programs carried out under the demonstrations. The Secretary shall also submit a final report to the Congress not later than six months after the end of the demonstrations. The reports shall include findings and recommendations for any legislative action appropriate. The reports shall also include a description of the status of each multifamily housing project selected for the demonstrations under this section. The final report may include—

(1) the size of the projects;

(2) the geographic locations of the projects, by State and region;

(3) the physical and financial condition of the projects;

(4) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

(5) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the transfer or sale of multifamily housing projects;

(6) a description of the extent to which the demonstrations under this section have displaced tenants of multifamily housings projects;

(7) a description of any of the functions performed in connection with this section that are transferred or contracted out to public or private entities or to States;

(8) a description of the impact to which the demonstrations under this section have affected the localities and communities where the selected multifamily housing projects are located; and

(9) a description of the extent to which the demonstrations under this section have affected the owners of multifamily housing projects.

SEC. 214. SECTION 8 CONTRACT RENEWALS.

(a) For fiscal year 1996 and henceforth, the Secretary of Housing and Urban Development may use amounts available for the renewal of assistance under section 8 of the United States Housing Act of 1937, upon termination or expiration of a contract for assistance under section 8 of such Act of 1937 (other than a contract for tenant-based assistance and notwithstanding *section 8(v) of such Act for loan management assistance), to provide assistance under section 8 of such Act, subject to the Section 8 Existing Fair Market Rents, for the eligible families assisted under the contracts at expiration or termination, which assistance shall be in accordance with terms and conditions prescribed by the Secretary.*

(b) Notwithstanding subsection (a) and except for projects assisted under section 8(e)(2) of the United States Housing Act of 1937 (as it existed immediately prior to October 1, 1991), at the request of the owner, the Secretary shall renew for a period of one year contracts for assistance under section 8 that expire or terminate during fiscal year 1996 at the current rent levels.

(c) Section 8(v) of the United States Housing Act of 1937 is amended to read as follows:

"The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.".

(d) Section 236(f) of the National Housing Act (12 U.S.C. 1715z–1(f)) is amended:

(1) by striking the second sentence in paragraph (1) and inserting in lieu thereof the following: "The rental charge for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the lower of (i) the fair market rental charge determined pursuant to this paragraph, or (ii) the fair market rental established under section 8(b) of the United States Housing Act of 1937 for the market area in which the housing is located, as represents 30 per centum of the tenant's adjusted income."; and

(2) by striking paragraph (6).".

SEC. 215. EXTENSION OF HOME EQUITY CONVERSION MORTGAGE PROGRAM.

Section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended—

(1) in the first sentence, by striking "September 30, 1995" and inserting "September 30, 1996"; and

(2) in the second sentence, by striking "25,000" and inserting "30,000".

SEC. 216. ASSESSMENT COLLECTION DATES FOR OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.

Section 1316(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 4516(b)) is amended by striking paragraph (2) and inserting the following new paragraph:

"(2) TIMING OF PAYMENT.—The annual assessment shall be payable semiannually for each fiscal year, on October 1st and April 1st.".

SEC. 217. MERGER LANGUAGE FOR ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS AND ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING.

All remaining obligated and unobligated balances in the Renewal of Expiring Section 8 Subsidy Contracts account on September 30, 1995, shall immediately thereafter be transferred to and merged with the obligated and unobligated balances, respectively, of the Armed Contributions for Assisted Housing account.

SEC. 218. DEBT FORGIVENESS.

(a) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Hubbard Hospital Authority of Hubbard, Texas, relating to the public facilities loan for Project Number PFL–TEX–215, issued under title II of the Housing Amendments of 1955. Such hospital authority is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

(b) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Groveton Texas Hospital Authority relating to the public facilities loan for Project Number TEX–41–PFL0162, issued under title II of the House Amendments of 1955. Such hospital authority is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

(c) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Hepzibah Public Service District of Hepzibah, West Virginia, relating to the public facilities loan for Project Number WV–46–PFL0031, issued under title II of the Housing Amendments of 1955. Such public service district if relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

SEC. 219. CLARIFICATIONS.

For purposes of Federal law, the Paul Mirabile Center in San Diego, California, including areas within such Center that are devoted to the delivery of supportive services, has been determined to satisfy the "continuum of care" requirements of the Department of Housing and Urban Development, and shall be treated as:

(a) consisting solely of residential units that (i) contain sleeping accommodations and kitchen and bathroom facilities, (ii) are located in a building that is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.W.C. 11302)) to independent living within 24 months, (iii) suitable for occupancy, with each cubicle constituting a separate bedroom and residential unit, (iv) are used on other than a transient basis, and (v) shall be originally placed in service on August 1, 1995; and

(b) property that is entirely residential rental property, namely, a project for residential rental property.

SEC. 220. EMPLOYMENT LIMITATIONS.

(a) By the end of fiscal year 1996 the Department of Housing and Urban Development shall enjoy no more than seven Assistant Secretaries, notwithstanding section 4(a) of the Department of Hosing and Urban Development Act.

(b) By the end of fiscal year 1996 the Department of Housing and Urban Development shall employ no more than 77 schedule C and 20 noncareer senior executive service employees.

SEC. 221. USE OF FUNDS.

(a) Of the $93,400,000 earmarked in Public Law 101–144 (103 Stat. 850), as amended by Public Law 101–302 (104 Stat 237), for special projects and purposes, any amounts remaining of the $500,000 made available to Bethlehem House in Highland, California, for site planning and land acquisition shall instead be made available to the County of San Bernardino in California to assist with the expansion of the Los Padrinos Gang Intervention Program and the Unity Home Domestic Violence Shelter.

(b) The amount made available for fiscal year 1995 for the removal of asbestos from an abandoned public school building in Toledo, Ohio shall be made available for the renovation and rehabilitation of an industrial building at the University of Toledo in Toledo, Ohio.

SEC. 222. LEAD-BASED PAINT ABATEMENT.

(a) SECTION 1011 OF TITLE X—Residential Lead-Based Paint Hazard Reduction Act of 1992 is amended as follows: Strike "priority housing" wherever it appears in said section and insert "housing".

(b) Section 1011(a) shall be amended as follows: At the end of the subsection after the period, insert:

"Grants shall only be made under this section to provide assistance for housing which meets the following criteria—

"(1) for grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years—

"(A) except that buildings with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level;

"(2) for grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with incomes at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting; and

"(3) notwithstanding paragraphs (1) and (2), Round II grantees who receive assistance under this section may use such assistance for priority housing.".

SEC. 223. EXTENSION PERIOD FOR SHARING UTILITY COST SAVINGS WITH PHAS.

Section 9(A)(3)(b)(i)(I) of the United States Housing Act of 1937 is amended by striking "for a period not to exceed 6 years".

SEC. 223A. MORTGAGE NOTE SALES.

The first sentence of section 221(g)(4)(C)(viii) of the National Housing Act is amended by striking "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 223B. REPEAL OF FROST-LELAND.

Section 415 of the Department of Housing and Urban Development-Indpendent Agencies Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329–213) is repealed.

SEC. 223C. FHA SINGLE-FAMILY ASSIGNMENT PROGRAM REFORM.

(a) FORECLOSURE AVOIDANCE.—The last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended by inserting before the period the following: "; And provided further, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee to recompense the mortgagee for its actions to provide an alternative to the foreclosure of a mortgage that is in default, which actions may include special foreclosure, loan modification, and deeds in lieu of foreclosure, all upon terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion, within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: And provided further, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review.".

(b) AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT.—Section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

"AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

"SEC. 230. (a) PAYMENT OF PARTIAL CLAIM—The Secretary may establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

"(1) the amount of the payment shall be in an amount determined by the Secretary, not to exceed an amount equivalent to 12 of the monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

"(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

"(b) ASSIGNMENT.—

(1) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

(2) PROGRAM REQUIREMENTS.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

"(A) the mortgage was in default;

"(B) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay, at interest rates not exceeding current market interest rates; and

"(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

"(3) PAYMENT OF INSURANCE BENEFITS.—Upon accepting assignment of a mortgage under a program established under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund, in an amount that the Secretary determines to be appropriate, not to exceed the amount necessary to compensate the mortgagee for the assignment and any losses and expenses resulting from the mortgage modification.

"(c) PROHIBITION OF JUDICIAL REVIEW.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.".

(c) SAVINGS PROVISION.—Any mortgage for which the mortgagor has applied to the Secretary, before the date of enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, for assignment pursuant to subsection (b) of this section as in effect before such date of enactment shall continue to be governed by the provisions of such section, as in effect immediately before such date of enactment.

(d) APPLICABILITY OF OTHER LAWS.—No provision of this Act, or any other law, shall be construed to require the Secretary of Housing and Urban Development to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under the National Housing Act, or to accept assignments of such mortgages.

(e) APPLICABILITY OF AMENDMENTS.—Except as provided in subsection (d), the amendments made by subsections (a) and (b) shall apply with respect to mortgages originated before fiscal year 1996.

(f) REGULATIONS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue interim regulations to implement this section and amendments made by this section.

(g) EFFECTIVENESS AND APPLICABILITY.—If this Act is enacted after the date of enactment of the Balanced Budget Act of 1995—

(1) subsections (a), (b), (c), (d), and (e) of this section shall not take effect; and

(2) section 2052(c) of the Balanced Budget Act of 1995 is amended by striking "that are originated on or after October 1, 1995" and inserting in lieu thereof" "to mortgages originated before, during, and after fiscal year 1996.".

SEC. 223D. SPENDING LIMITATIONS.

(a) None of the funds in this Act may be used by the Secretary to impose any sanction, or penalty because of the enactment of any State or local law or regulation declaring English as the official language.

(b) No part of any appropriation contained in this Act shall be used for lobbying activities as prohibited by law.

SEC. 223E. TRANSFER OF FUNCTIONS TO THE DEPARTMENT OF JUSTICE.

All functions, activities and responsibilities of the Secretary of Housing and Urban Development relating to title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and the Fair Housing Act, including any rights guaranteed under the Fair Housing Act (including any functions relating to the Fair Housing initiatives program under section 561 of the Housing and Community Development Act of 1987), are hereby transferred to the Attorney General of the United States effective April 1, 1997: Provided, That none of the aforementioned authority or responsibility for enforcement of the Fair Housing Act shall be transferred to the Attorney General until adequate personnel and resources allocated to such activity at the Department of Housing and Urban Development are transferred to the Department of Justice.

And the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel-expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation and renovation of facilities, not to exceed $75,000 per project; $525,000,000, which shall remain available until September 30, 1997.

And the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $1,550,300,000, which shall remain available until September 30, 1997: Provided, That, notwithstanding any other provision of law, for this fiscal year and hereafter, an industrial discharger that is a pharmaceutical manufacturing facility and discharged to the Kalamazoo Water Reclamation Plant (an advanced wastewater treatment plant with activated carbon) prior to the date of enactment of this Act may be exempted from categorical pretreatment standards under section 307(b) of the Federal Water Pollution Control Act, as amended, if the following conditions are met: (1) the owner or operator of the Kalamazoo Water Reclamation Plant applies to the State of Michigan for an exemption for such industrial discharger, (2) the State or Administrator, as applicable, approves such exemption request based upon a determination that the Kalamazoo Water Reclamation Plant will provide treatment and pollution removal equivalent to or better than that which would be required through a combination of pretreatment by such industrial discharger and treatment by the Kalamazoo Water Reclamation Plant in the absence of the exemption, and (3) compliance with paragraph (2) is addressed by the provisions and conditions of a permit issued to the Kalamazoo Water Reclamation Plant under section 402 of such Act, and there exists an operative financial contract between the City of Kalamazoo and the industrial user and an approved local pretreatment program, including a joint monitoring program and local controls to prevent against interference and pass through.

And the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$28,500,000*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *consisting of $913,400,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508*

On page 61, line 1, of the House engrossed bill, H.R. 2099, delete "$1,003,400,000" and insert "*$1,163,400,000*"; and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$11,000,000*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$59,000,000*; and the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That none of the funds made available under this heading may be used by the Environmental Protection Agency to propose for listing or to list any additional facilities on the National Priorities List established by section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended (42 U.S.C. 9605), unless the Administrator receives a written request to propose for listing or to list a facility from the Governor of the State in which the facility is located, or unless legislation to reauthorize CERCLA is enacted*; and the Senate agree to the same.

Amendment numbered 76:

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$7,000,000*; and the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$500,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for state revolving funds and performance partnership grants, $2,323,000,000, to remain available until expended, of which $1,400,000,000 shall be for making capitalization grants for State revolving funds to support water infrastructure financing; $100,000,000 for architectural, engineering, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $50,000,000 for grants to the State of Texas, which shall be matched by an equal amount of State funds from State resources, for the purpose of improving wastewater treatment for colonias; $15,000,000 for grants to the State of Alaska, subject to an appropriate cost share as determined by the Administrator, to address wastewater infrastructure needs of rural and Alaska Native villages; and $100,000,000 for making grants for the construction of wastewater treatment facilities and the development of groundwater in accordance with the terms and conditions specified for such grants in the conference report to accompany this Act (H.R. 2099): Provided, That beginning in fiscal year 1996 and each fiscal year thereafter, and notwithstanding any other provision of law, the Administrator is authorized to make grants annually from funds appropriated under this heading, subject to such terms and conditions as the Administrator shall establish, to any State or federally recognized Indian tribe for multimedia or single media pollution prevention, control and abatement and related environmental activities at the request of the Governor or other appropriate State official or the tribe: Provided further, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs: Provided further, That of the $1,400,000,000 for capitalization grants for State revolving funds to support water infrastructure financing, $275,000,000 shall be for drinking water State revolving funds, but if no drinking water State revolving fund legislation is enacted by June 1, 1996, these funds shall immediately be available for making capitalization grants under title VI of the Federal Water Pollution Control Act, as amended: Provided further, That of the funds made available in Public Law 103–327 and in Public Law 103–124 for capitalization grants for State revolving funds to support water infrastructure financing, $225,000,000 shall be made available for capitalization grants for State revolving funds under title VI of the Federal Water Pollution Control Act, as amended, if no drinking water State revolving fund legislation is enacted by June 1, 1996: Provided further, That of the funds made available under this heading for capitalization grants for State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, $50,000,000 shall be for wastewater treatment in impoverished communities pursuant to section 102(d) of H.R. 961 as approved by the United States House of Representatives on May 16, 1995: Provided further, That of the funds appropriated in the Construction Grants and Water Infrastructure/State Revolving Funds accounts since the appropriation for the fiscal year ending September 30, 1992, and hereafter, for making grants for wastewater treatment works construction projects, portions may be provided by the recipients to States for managing construction grant activities, on condition that the States agree to reimburse the recipients from State funding sources: Provided further, That the funds made available in Public Law 103–327 for a grant to the City of Mt. Arlington, New Jersey, in accordance with House Report 103–715, shall be available for a grant to that city for water and sewer improvements.

And the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *Administrative Provisions*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 301. None of the funds provided in this Act may be used within the Environmental Protection Agency for any final action by the Administrator or her delegate for signing and publishing for promulgation of a rule concerning any new standard for radon in drinking water.

; and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in the matter restored, insert: *$222,000,000*; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$5,456,600,000*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$5,845,900,000*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,502,200,000*; and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

Upon the determination by the Administrator that such action is necessary, the Administrator may, with the approval of the Office of Management and Budget, transfer not to exceed $50,000,000 of funds made available in this Act to the National Aeronautics and Space Administration between such appropriations or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen requirements, than those for which originally appropriated: Provided further: That the Administrator of the National Aeronautics and Space Administration shall notify the Congress promptly of all transfers made pursuant to this authority. ; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,274,000,000*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Sec. 519. In fiscal year 1996, the Director of the Federal Emergency Management Agency shall sell the disaster housing inventory of mobile homes and trailers, and the proceeds thereof shall be deposited in the Treasury. ; and the Senate agree to the same.

The committee of conference report in disagreement amendment numbered 63.

Managers on the Part of the House.

JERRY LEWIS,
TOM DELAY,
BARBARA F. VUCANOVICH,
JAMES T. WALSH,
DAVID L. HOBSON,
JOE KNOLLENBERG,
RODNEY P. FRELINGHUYSEN,
MARK W. NEUMANN,
BOB LIVINGSTON,

Managers on the Part of the Senate.

CHRISTOPHER S. BOND,
CONRAD BURNS,
TED STEVENS,
RICHARD C. SHELBY,
ROBERT F. BENNETT,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
BARBARA A. MIKULSKI,
PATRICK J. LEAHY,

J. BENNETT JOHNSTON,
J. ROBERT KERREY,
ROBERT C. BYRD,

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2099) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

Amendment No. 1: Earmarks not to exceed $25,180,000 of compensation and pensions funds for payments to the general operating expenses and medical care appropriations to implement savings provisions of authorizing legislative as proposed by the House, instead of $27,431,000 as proposed by the Senate. The additional administrative funds are not required as the limitation on compensation payments to certain incompetent veterans as deleted.

Amendment No. 2: Appropriates $1,345,300,000 for readjustment benefits as proposed by the House, instead of $1,352,180,000 as proposed by the Senate.

Amendment No. 3: Deletes language proposed by the Senate earmarking $6,880,000 of the readjustment benefits appropriations for funding costs of the Service Members Occupational Conversion and Training Program. The conferees note that language is included under the general operating expenses appropriation permitting the payment of administrative costs for the Service Members Occupational Conversion and Training Act in fiscal year 1996.

VETERANS HEALTH ADMINISTRATION

Amendment No. 4: Appropriations $16,564,000,000 for medical care, instead of $16,777,474,000 as proposed by the House and $16,450,000,000 as proposed by the Senate.

The conferees note that the amount provided for medical care represents an increase of appropriately $400,000,000 above the fiscal year 1995 level—and is the only appropriation in the bill with such a significant increase. While not the full amount requested, the increase provided will enable the Department to provide quality care to all veterans currently being served by the VA medical system. The conferees continue to be concerned about the Secretary's refusal to adopt systemic reforms and administrative improvements which would result in significant budgetary savings, without in any way compromising patient care. The Inspector General, the General Accounting Office, the Congressional Budget Office, and the service organization have suggested changes which, if implemented, would yield hundreds of millions of dollars in administrative savings. As part of the operating plan, the Secretary is to submit a plan to implement the improvements identified by these organizations and any other reforms which would result in administrative savings totaling a minimum of $400,000,000 for fiscal year 1996.

The conference agreement includes funding for the following:

+$500,000 for a Low Vision Center in Ophthalmology at the East Orange VA Medical Center.

+$500,000 for a geriatric patient care program at the Lyons VA Medical Center.

+$396,000 to provide outpatient care at the Grafton Development Center in Grafton, North Dakota.

+$300,000 to provide outpatient care in Williamsport, Pennsylvania.

+$1,500,000 to expand existing community-based outpatient clinics in Wood County and Tucker County, West Virginia.

+$1,600,000 to establish a primary care clinic in Liberal, Kansas.

The conference committee is aware of the difficulty in staffing several VA facilities in the southwest, particularly in El Paso, Texas. This situation is compounded by budgetary constraints the VA faces in allocating FTEE's among its facilities. The conferees urge that the VA, through the veterans integrated service networks, engage in intra-VISN FTEE transfers during the fiscal year for purposes of staffing as warranted by changing circumstances in VA medical facilities. The conferees also urge the Department to review the staffing situation in El Paso and to move personnel as necessary to meet the new service demands that will exist if veterans are not required to travel to other VA facilities for treatment.

The conferees commend the Department for its participation in an advanced coal technology project at the Lebanon, Pennsylvania VA Medical Center in which a fluidized bed boiler will co-fire coal and medical wastes to provide steam for the hospital. Given the potential cost savings for energy and hospital waste disposal, the conferees direct the Department to study the potential for using this technology at other VA facilities.

The conference committee strongly urges VA to develop a center to coordinate academic training programs for physical therapists at the Brooklyn VA hospital. The conferees are aware there is a shortage of physical therapists nationwide. A training center would provide the opportunity for students to complete research projects in physical therapy and rehabilitation. In view of the critical shortage of clinical training sites in the New York City area, the Brooklyn VA would provide an excellent location for such a training program.

The conferees note with considerable interest that the VA has used laser-imaging, non-silver, dry-medium technology to provide high resolution hard copy images for X-ray examinations in various hospitals around the country. This type of system produces faster diagnosis, with attendant cost savings, and is environmentally safe. Accordingly, the conferees strongly encourage the VA to expand the use of this type of technology in all of its facilities.

The VA plans to expand access to outpatient care. These access points are being considered in more than 180 locations. The conferees are concerned with associated policy, legal, and budgetary issues and expect the VA to address these matters before proceeding with such expansion plans.

The conferees understand that the Department expends approximately $212,000,000 annually on utility costs. Opportunities for creative private sector funding of energy efficiency programs exist through procurements sanctioned by the Department of Energy's Federal Energy Management Program. The VA is encouraged to explore such opportunities, and, where appropriate, to take advantage of them.

Questions have been raised concerning the expansion of the Los Angeles National Cemetery by utilizing open space at the West Los Angeles VA Medical Center. The conferees direct that no property disposal, leasing action or capital improvements be taken that would jeopardize the Government's title to any land at the West Los Angeles VA Medical Center until all options have been reviewed by the VA and the Congress.

Amendment No. 5: Deletes language proposed by the Senate enabling the VA to treat veterans eligible for hospital care or medical services in the most efficient manner. In deleting this language, the conferees wish to make clear that they support budget neutral eligibility reform. Current eligibility requirements for VA medical care are in need of simplification and reform. Such legislation will, within any given dollar amount, permit the medical treatment of a greater number of veterans on an outpatient basis, as compared to the current approach which emphasizes inpatient treatment.

Amendment No. 6: Appropriates $257,000,000 for medical and prosthetic research as proposed by the Senate, instead of $251,743,000 as proposed by the House. The conferees agree that the recommended amount includes $1,250,000 to establish an Office of Veterans Affairs Technology Transfer Center.

Amendment No. 7: Deletes language proposed by the House and stricken by the Senate appropriating $10,386,000 for the health professional scholarship program.

DEPARTMENTAL ADMINISTRATION

Amendment No. 8: Appropriates $848,143,000 for general operating expenses, instead of $821,487,000 as proposed by the House and $872,000,000 as proposed by the Senate. Language has been inserted to limit funding for General Administration activities, and the number of schedule C and non-career senior executive service positions. Language is also inserted to permit up to $6,000,000 of the appropriation to be used for administrative expenses of the housing loan guaranty programs.

The conference agreement includes the following changes from the budget estimate:

−$32,000,000 in the Veterans Benefits Administration as an offset to legislation carried in the VA administrative provisions which permits excess revenues in three insurance funds to be used for administrative expenses.

−$25,500,000 in the Veterans Benefits Administration as an offset to the provision carried under this heading permitting the $25,500,000 earmarked in the 1995 Appropriations Act for VBA's modernization program to be available for the general purposes of the account.

−$7,423,000 (as a minimum) to be taken from the $221,532,000 appropriation requested for General Administration activities. This will permit not to exceed $214,109,000, the 1995 level, for such activities. The conferees intend that to the maximum extent possible all reductions in General Administration and Veterans Benefits Administration be taken from central office activities.

−$2,577,000 as a general reduction in Veterans Benefits Administration activities, subject to normal reprogramming procedures. To continue improving the timeliness of claims, the conferees do not intend that any reduction in funding be applied to the compensation, pensions, and education program. The conferees further intend that VBA will utilize $1,000,000 for a study by the National Academy of Public Administration of the claims processing system. The conferees agree that the NAPA report should build upon and not duplicate any previous or ongoing evaluations of the Veterans Benefits Administration. NAPA is to coordinate with those entities which have conducted evaluations in the past and provide to the Department and the appropriate Committees of Congress a detailed and specific implementation plan for the recommendations it makes.

Language is included to limit to not to exceed $214,109,000 for General Administration costs, including not to exceed $2,450,000 for salaries and $50,000 for travel costs of the Office of the Secretary; $4,392,000 for salaries and $75,000 for travel costs of the Office of the Assistant Secretary for Policy and Planning; $1,980,000 for salaries and $33,000 for travel costs of the Office of the Assistant Secretary for Congressional Affairs; and $3,500,000 for salaries and $100,000 for travel costs of the Office of the Assistant Secretary for Public and Intergovernmental Affairs. The balance of the savings is to be taken at the discretion of the VA, subject to normal reprogramming procedures, from funds requested for the Office of the Assistant Secretary for Human Resources and Administration, the Office of General Counsel, and the Office of the Assistant Secretary for Acquisition and Facilities.

Language has also been included that would limit the number of schedule C employees to 11 and the number of non-career senior executive service positions to 6 in fiscal year 1996.

Language has also been included to permit up to $6,000,000 of general operating expenses funds to be used for administrative expenses of the loan guaranty and insured loans programs. The VA has requested this provision so as to avoid furloughs.

Amendment No. 9: Appropriates $136,155,000 for construction, major projects, instead of $183,455,000 as proposed by the House and $35,785,000 as proposed by the Senate.

The conference agreement includes the following changes from the budget estimate:

−$146,900,000 from the $145,700,000 requested for the new medical center and nursing home project in Brevard County, Florida. The balance of the request, $7,800,000, together with $17,200,000 appropriated in 1995, will provide $25,000,000 for the design and construction of a comprehensive medical outpatient clinic in Brevard County, Florida. The conferees expect the VA to commence construction of this project as soon as possible.

−$163,500,000 from the $188,500,000 requested for the VA/Air Force joint venture at Travis Air Force Base in Fairfield, California. The balance of the request, $25,000,000, is for the design and construction of an outpatient clinic project at Travis Air Force Base. The conferees recognize that the VA's preliminary cost estimate for this project is $39,500,000. The VA should evaluate the needs of the veterans in the area for outpatient services and report such findings to the Committees on Appropriations.

+$1,000,000 for design of a new national cemetery in the Albany, New York area.

+$5,000,000 for design of an ambulatory care addition, patient privacy and environmental improvements project at the Wilkes-Barre, Pennsylvania VA Medical Center.

+$4,000,000 for the relocation of medical school functions at the Mountain Home, Tennessee VA Medical Center.

+$1,500,000 for design of an ambulatory care addition project at the Asheville, North Carolina VA Medical Center.

+$1,400,000 for design of a new national cemetery in the Joliet, Illinois area.

−$9,000,000 for renovation of nursing units at the Lebanon, Pennsylvania VA Medical Center.

−$11,500,000 for environmental improvements at the Marion, Illinois VA Medical Center.

−$17,300,000 for replacement of psychiatric beds at the Marion, Indiana VA Medical Center.

−$15,100,000 for renovation of psychiatric wards at the Perry Point, Maryland VA Medical Center.

−$17,200,000 for environmental enhancements at the Salisbury, North Carolina VA Medical Center.

−$10,000,000 from the $17,500,000 requested for the advance planning fund.

The conferees have approved major construction funding only for those projects which do not require further authorization. While many of the projects requested in the budget are meritorious, without an authorization no funding can be obligated. The Department should utilize minor construction funds to meet life safety or code deficiencies and to ensure compliance with Joint Commission on Accreditation of Healthcare Organizations criteria.

The conferees believe that the Department must assemble a long-term plan for its infrastructure and construction needs, taking into consideration an increasingly constrained budgetary environment, a decline in the veteran population, shifting demographics, the need to provide more equitable access to veterans medical care systemwide, changes in health care delivery methods, and any policy changes the VA adopts with respect to access points. It is expected that the fiscal year 1997 budget request for major construction funding will be predicated on an analysis incorporating all such variables.

Amendment No. 10: Appropriates $190,000,000 for construction, minor projects, as proposed by the Senate, instead of $152,934,000 as proposed by the House. The conferees agree that this appropriation account should be used to meet any critical requirements, such as safety and fire code deficiencies, at facilities which were denied major construction funding in 1996.

ADMINISTRATIVE PROVISIONS

Amendment No. 11: Inserts language proposed by the Senate authorizing the VA to convey property to the Federal Highway Administration which is necessary for the modernization of U.S. Highway 54 in Wichita, Kansas.

Amendment No. 12: Deletes language proposed by the Senate authorizing the VA to use supply fund resources for an acquisition computer network.

Amendment No. 13: Deletes language proposed by the Senate regarding access to VA medical care for veterans in Hawaii, and deletes language in the administrative provisions which would limit compensation payments to certain incompetent veterans.

In deleting the Senate language, the conferees wish to make clear their concern that veterans in the State of Hawaii do not have access to veterans medical care comparable to that of veterans in the forty-eight contiguous states. Through sharing arrangements with the Tripler Army hospital and community facilities, and existing VA outpatient clinics, the Department is to ensure adequate and equitable access to care for Hawaii's veterans. Furthermore, VA should provide care within the State whenever possible rather than transferring patients to the West Coast for acute care services, which is extremely inconvenient for veterans and their families.

The conferees have agreed to delete language carried in sec. 107 of the VA's administrative provisions limiting compensation payments to certain incompetent veterans.

Amendment No. 14: Deletes language proposed by the Senate requiring the Secretary to develop a plan for the allocation of VA health care resources to remedy discrepancies in the allocation of funds to VA facilities across the country.

The conferees are concerned that VA's allocation of resources has not resulted in equal access to health care services for veterans nationally. Despite implementation of the resource planning and management system several years ago, VA has not shifted resources sufficiently to meet changing demand.

The conferees recognize the Veterans Health Administration recently reorganized into veterans integrated service networks and expect that the reorganization will result in a more equitable allocation of resources nationally. To ensure that this occurs, the conferees direct the Department to develop a plan to allocate resources in a manner that will result in equal access to medical care for veterans and will take into account projected changes in the workload of each facility. The plan should reflect the RPM system to account for forecasts in expected workload and should recognize facilities that provide cost-effective health care. The plan shall include procedures to identify reasons for variations in operating costs among similar facilities and ways to improve the allocation of resources so as to promote efficient use of resources and provision of high quality care.

Amendment No. 15: Inserts language permitting the transfer of not to exceed $4,500,000 of 1996 medical care funds to the medical administration and miscellaneous operating expenses account, instead of $5,700,000 as proposed by the Senate.

The conference agreement includes permissive transfer authority of up to $4,500,000 from the medical care account to the MAMOE account to help alleviate possible furloughs. The conferees wish to make clear, however, that any transfer is to occur only through the normal reprogramming procedures. It is expected that the central office medical staffing funded through this account will be reduced to 600 by the end of fiscal year 1996.

TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

Amendment No. 16: Appropriates $10,155,795,000 for annual contributions for assisted housing, instead of $10,182,359,000 as proposed by the House and $5,594,358,000 as proposed by the Senate. The conferees expect the Department and the Office of Management and Budget to adhere to the 1996 program detailed in the following table:

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING FISCAL YEAR 1996—GROSS RESERVATIONS

	Units	Cost	Term	Budget authority
New Authority	NA	NA	NA	$10,155,795,000
New Spending:				
Public Housing Modernization	NA	NA	NA	2,500,000,000

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING FISCAL YEAR 1996—GROSS RESERVATIONS—Continued

	Units	Cost	Term	Budget authority
Indian Housing	1,603	99,800	NA	160,000,000
Section 202 Elderly	9,654	[NA]	[NA]	780,190,000
Section 811 Disabled	2,915	[NA]	[NA]	233,168,000
HOPWA	6,400	[NA]	[NA]	171,000,000
Section 7 Replacement Assistance	35,398	5,650	2	400,000,000
[Witness Relocation]	NA	NA	NA	[2,500,000]
Preservation	NA	NA	NA	624,000,000
Property Disposition	NA	NA	NA	261,000,000
Lead-based Paint	NA	NA	NA	65,000,000
Family Self-Sufficiency	NA	NA	NA	
Section 8 Contract Renewals	435,028	5,680	[1]2	4,350,862,000
Section 8 Amendments	NA	NA	NA	610,575,000
Total	490,998	NA	NA	10,155,795,000

[1] Loan management setasides are renewed for one year.

Including these funding levels, the House and Senate agree to the resolution of the following issues:

Deletes language proposed by the House and stricken by the Senate to establish an outlay cap of $19,939,311,000 for the annual contributions for assisted housing account.

Provides $160,000,000 for Indian housing development, instead of $100,000,000 as proposed by the House and $200,000,000 as proposed by the Senate.

Provides $2,500,000,000 for public housing modernization as proposed by the House, instead of $2,510,000,000 as proposed by the Senate.

Deletes language proposed by the House and stricken by the Senate to provide the Secretary authority to direct any housing authority that receives modernization funds under this Act, or has yet to obligate rehabilitation funds from prior year appropriations Acts, to demolish, reconfigure, or reduce the density of any public housing project owned by the housing authority.

Deletes language proposed by the House and stricken by the Senate to provide $15,000,000 for the tenant opportunity program as a setaside from the public housing modernization program. Funding for this activity is provided as a separate setaside under the community development block grant program.

Inserts language proposed by the Senate to set aside funds from the public housing modernization program for technical assistance, but at a modified funding level of $20,000,000, instead of $30,000,000 as proposed.

Provides $400,000,000 for section 8 rental assistance, instead of $862,000,000 as proposed by the House and $240,000,000 as proposed by the Senate.

Inserts language proposed by the Senate to provide such section 8 rental assistance under only certain circumstances, including new language to allow funds to be used for witness relocation assistance in conjunction with the safe home initiative.

Restores language proposed by the House and stricken by the Senate to allow such section 8 rental assistance to be used in connection with subsequent authorizing legislation.

Deletes appropriations language establishing a special needs housing fund for multiple purposes as proposed by the House.

Provides $780,190,000 for section 202 elderly housing as proposed by the Senate, instead of an unspecified earmark as proposed by the House under the special needs housing appropriation. Such funding will assist 9,654 elderly households, the same number as provided for in fiscal year 1995.

Provides $233,168,000 for section 811 disabled housing as proposed by the Senate, instead of an unspecified earmark as proposed by the House under the special needs housing appropriation. Such funding will assist at least 2,915 disabled households, the number as provided for in fiscal year 1995. The figure is likely to be higher because language is added permitting the Secretary to use up to 25 percent of the funds provided to be used for section 8 vouchers to serve the same population. Such assistance must have a contract term of five years.

Provides $171,000,000 for the housing opportunities for person with AIDS program, instead of an unspecified earmark as proposed by the House under the special needs housing appropriation. Such funding will assist 6,400 households and matches the amount of funding provided for in fiscal year 1995.

Inserts language proposed by the House and agreed to by the Senate to allow the Secretary to waive any provision of the section 202 and 811 programs, including the terms and conditions of project rental assistance.

Deletes language proposed by the House and stricken by the Senate to allow the Secretary to use up to $200,000,000 of unobligated carryover balances of the annual contributions for assisted housing account to implement preservation legislation enacted subsequent to this Act.

Provides $624,000,000 for the Emergency Low Income Preservation Act of 1987, as amended, and the Low Income Housing Preservation and Resident Homeownership Act of 1990, as amended. Until July 1, 1996, such funding will be limited to sales of projects to non-profit organizations, tenant-sponsored organizations, and other priority purchasers. Up to $10,000,000 of this amount will be available for preservation technical assistance grants pursuant to section 253 of the Housing and Community Development Act of 1987, as amended. With respect to funds remaining available after July 1, 1996, the Secretary may determine priorities for distributing such funds, including giving priority to tenants displaced due to mortgage prepayment and to projects that have not yet been funded but which have approved plans of action, if the Secretary determines that demand for funding exceeds amounts remaining. In addition, the Secretary may impose a temporary moratorium on applications by potential recipients of such funding.

The legislation also provides owners the opportunity to prepay their mortgages or request voluntary termination of a mortgage insurance contract, as long as the owner agrees not to increase rents for 60 days after such prepayment. This condition is necessary in order to allow HUD time to make available rental assistance for eligible families who desire to stay or move.

As a condition of eligibility for preservation funds under this Act, the legislation establishes a threshold of the lesser of $5,000 per unit, $500,000 per project, or eight times the local fair market rent for each unit in preservation equity. This is intended to direct federal resources at those projects with the greatest likelihood of prepayment.

The Secretary also may modify the regulatory agreement to permit owners and priority purchasers to retain rental income in excess of the basic rental charge in projects assisted under section 236. In addition, the Secretary may give priority to funding obligated not later than August 1, 1996 for the following purposes: (1) projects with approved plans of action to retain the housing that file a modified plan of action not later than July 1, 1996 to transfer the housing; (2) projects with approved plans of action that are subject to a repayment or settlement agreement that was executed between the owner and the Secretary prior to September 1, 1995; (3) projects for which submissions were delayed as a result of their location in areas that were designated as a federal disaster area in a Presidential Disaster Declaration; and (4) projects that have submitted an appraisal to the New York State office.

Notwithstanding any other provision of law, subject to the availability of appropriated funds, each unassisted low-income family residing in the housing on the date of prepayment, and whose rent, as a result of prepayment exceeds 30 percent of adjusted income, shall be offered tenant-based assistance in accordance with section 8 or any successor program, under which the family shall pay rent not less than rent paid on such date. Any eligible family receiving such tenant-based assistance may elect to remain in the housing and if the rent is in excess of the fair market rent or payment standard, as applicable, the rent shall be deemed the applicable standard, so long as the administering public housing agency deems that the rent is reasonable in comparison to rents charged for comparable unassisted housing units in the market. In instances where eligible families move with such assistance to other private rental housing, the rent will be subject to the fair market rent or the payment standard, as applicable, under existing rules and procedures.

The resources provided by conferees under this Act for the preservation program ought not to be considered another payment in a long list of federal preservation program payments, but as the last payment for addressing preservation in this manner. Included in this section is a provision to effectively terminate the preservation program after October 1, 1996. Unless this program is substantially reformed, Congress will appropriate only rental assistance for eligible residents of projects where owners have decided to prepay. Such assistance will allow residents to stay in the same housing at the same cost or move to other private housing.

Provides $65,000,000 for lead-based paint activities, including abatement grants, instead of $10,000,000 as proposed by the House and $75,000,000 as proposed by the Senate.

Deletes $17,300,000 for family self-sufficiency coordinators as proposed by the

House and stricken by the Senate. Such activities are eligible under the public and assisted housing services setaside under the community development block grant program.

Provides $4,350,862,000 for the renewal of expiring section 8 contracts, instead of $4,641,589,000 as proposed by the House. The Senate had proposed $4,350,862,000 for section 8 contract renewals under a separate appropriations heading.

Restores language proposed by the House and stricken by the Senate to merge funds provided for section 8 contract renewals with annual contributions for assisted housing.

The following table identifies expected section 8 contract renewal costs for fiscal year 1996:

SECTION 8—RENEWAL OF EXPIRING CONTRACTS

[Dollars in thousands]

	Units	1996 Budget authority
Certificates	241,206	$2,993,597
Vouchers	58,798	729,739
LMSA	120,587	475,354
Property Disposition	4,464	35,194
Moderate Rehabilitation	8,916	99,486
New Construction/Substantial Rehabilitation	1,957	17,492
Total	435,028	4,350,862

Note: Totals may not add due to rounding.

Restores language proposed by the House and stricken by the Senate to allow the use of section 8 contract renewal funds with subsequently enacted legislation.

Inserts language to allow the Secretary to renew housing vouchers without regard to section 8(c)(6)(B) of the Housing Act of 1937, a provision requiring HUD to budget an additional 10 percent to cover long-term inflation adjustments for housing vouchers. The Senate had proposed identical language under its separate heading for section 8 contract renewals.

Provides $610,575,000 for section 8 contract amendments as proposed by the House, instead of $500,000,000 as proposed by the Senate.

Provides $261,000,000 for property disposition as proposed by the Senate, instead of no funding as proposed by the House.

Inserts language proposed by the Senate to allow the Secretary to manage and dispose of multifamily properties owned by HUD and multifamily mortgages held by HUD without regard to any other provision of law.

Inserts language proposed by the Senate to allow state housing finance agencies, local governments, or local housing agencies to keep 50 percent of the savings from refinancing housing projects, as specified under section 1012(a) of the Stewart B. McKinney Homeless Assistance Act of 1988. The other 50 percent of budget authority savings shall be rescinded, or in the case of cash, remitted to the U.S. Treasury.

Provides $280,000,000 for the public housing demolition, site revitalization, and replacement housing grants program. The Senate proposed $500,000,000 for this activity and the House nothing.

Inserts language identifying eligible uses of these funds, as proposed by the Senate. Conferees agree funds are needed to assist housing authorities in the demolition of obsolete public housing. However, the conferees are concerned about the Department's use of wavier authority under the Department's total development cost (TDC) controls. Upon waiving such controls, the conferees direct the Department to notify the appropriate committees of Congress.

Deletes separate appropriation for the assistance for the renewal of expiring section 8 subsidy contracts as proposed by the Senate and all other language under this heading.

Amendment No. 17: Appropriates $2,800,000,000 for payments for the operation of public housing projects as proposed by the Senate, instead of $2,500,000,000 as proposed by the House.

The conferees are concerned that the funding formula applied to Puerto Rico, which has always been excluded from the Performance Funding System (PFS) under the operating expense subsidy program of the U.S. Housing Act of 1937, may have led to the inequitable treatment for Puerto Rico as compared to the states, and even other non-PFS territories. Consistent with overall objectives of streamlining programs and funding, allowable expense levels (AELs) should be fairly and effectively allocated among all jurisdictions, both inside and outside the PFS system. The conferees encourage HUD to study the AEL formula for Puerto Rico to determine if it accurately reflects the actual costs to operate decent and affordable assisted housing in Puerto Rico.

Amendment No. 18: Appropriates $290,000,000 for Drug Elimination Grants for Low-Income Housing as proposed by the Senate, instead of the proposed consolidation of these functions into the public housing modernization program as proposed by the House. Of this amount, the conferees earmark $10,000,000 for technical assistance grants and $2,500,000 for the Safe Home initiative. In addition, the conferees agree to language in the Senate bill that would redefine "drug-related crime" as determined by the HUD Secretary.

In order to defer to the committees of jurisdiction, the conferees delete language proposed by the Senate to allow the Secretary to distribute Drug Elimination Grants funds through a formula allocation.

Amendment No. 19: Deletes language proposed by the House and stricken by the Senate to provide $12,000,000 for housing counseling under a separate appropriations heading. Instead, $12,000,000 is provided for identical housing counseling activities as an earmark under the Community Development Block Grants program.

Amendment No. 20: Deletes language proposed by the Senate on describing how homeless assistance funds will be distributed, including language permitting the Secretary to distribute homeless funds under a formula allocation.

Amendment No. 21: Inserts technical correction to the language as proposed by the Senate.

Amendment No. 22: Deletes language proposed by the House and stricken by the Senate to make eligible the Innovative Homeless Initiatives Demonstration program under Homeless Assistance Grants. The authorization for this initiative terminated the demonstration as of September 30, 1995.

Amendment No. 23: Appropriates $823,000,000 for Homeless Assistance Grants, instead of $676,000,000 as proposed by the House and $760,000,000 as proposed by the Senate. This amount is equivalent to a funding freeze for homeless programs instead of a reduction. In fiscal year 1994, the appropriations for HUD homeless programs totaled $823,000,000. In fiscal year 1995, Public Law 104–19 deferred the availability of $297,000,000 of the original appropriations of $1,120,000,000 until September 30, 1995, effectively reducing the fiscal year 1995 program level to $823,000,000.

The conferees remain concerned that HUD homeless programs put too much emphasis on short-term solutions instead of long-term comprehensive strategies. To the maximum extent practicable, the conferees direct the Department to allocate homeless assistance grants under the Shelter Plus Care program which requires a dollar-for-dollar match of services for HUD housing assistance. Homeless assistance of nearly $1,000,000,000 is small compared to the $120,000,000,000 of Federal service dollars that serve much of this same population. Homeless studies, such as the 1990 Annual Report of the Interagency Council on the Homeless, show that housing in combination with appropriate services is the most effective way of permanently reducing homelessness. The conferees recognize that a one-size-fits-all approach does not recognize the diversity among communities and the diverse needs of the homeless population.

Amendment No. 24: Deletes language proposed by the Senate to allow Homeless Assistance Grants to be distributed by formula in fiscal year 1996. The conferees defer to the authorizing committees to determine an adequate program formula over the coming months. Language is also deleted requiring the Secretary to complete a study on how to merge homeless assistance programs under the Stewart B. McKinney Homeless Assistance Act with the HOME program.

Amendment No. 25: Appropriates $50,000,000 for grants to Indian tribes instead of $46,000,000 as proposed by the House and $60,000,000 as proposed by the Senate.

Amendment No. 26: Inserts language proposed by the Senate to provide $2,000,000 for the Housing Assistance Council and $1,000,000 for the National American Indian Housing Council as setasides under the Community Development Block Grants program. The House had proposed funding these two councils at the same level as setasides under the HUD salaries and expenses account.

Amendment No. 27: Appropriates $27,000,000 for Section 107 grants as proposed by the Senate instead of $19,500,000 as proposed by the House. The conferees are in agreement that Section 107 funding includes $7,000,000 for insular areas, $6,000,000 for work study (including $3,000,000 for Hispanic-serving institutions), $6,500,000 for historically black colleges and universities (HBCUs), and $7,500,000 for the community outreach partnership program.

The conferees urge HUD to use community outreach partnership funds to support new and existing planning grants to universities located in and around urban areas with high minority populations, low standards of living and large numbers of empty or abandoned dwellings. Priority ought to be given to proposals that seek to address community problems comprehensively and in partnership with local government, and consideration should be made for projects which include HBCUs as local partners.

The conferees are aware of an innovative business development center proposal of Hofstra University which will coordinate and target educational and technical assistance activities designed to foster economic development and job creation on Long Island. This proposal mirrors the goals of the Community Outreach Partnership program and therefore the Department is urged to carefully review this proposal in connection with the funding recommended for this activity.

Amendment No. 28: Inserts technical correction to the language as proposed by the Senate.

Amendment No. 29: Inserts language proposed by the Senate to permanently extend homeownership activities as an eligible use of CDBG funds.

Amendment No. 30: Inserts language proposed by the Senate to extend for one year a setaside for Colonias of up to 10% of state CDBG allocations for the U.S. border states of Arizona, California, New Mexico, and Texas.

Amendment No. 31: Inserts language proposed by the Senate and amended by the House to provide $53,000,000 as a setaside from the CDBG program for pubic and assisted housing supportive services. The amended language also earmarks $15,000,000 for the Tenant Opportunity Program, $12,000,000 for Housing Counseling activities, and $20,000,000 for the Youthbuild program. With regard to the Tenant Opportunity Program, this setaside represents a 40 percent reduction from last year's funded level of $25,000,000. The conferees have been made aware of recent abuses in this program and direct the Department to eliminate such abuses if the program is to receive additional funding. Conferees agree this is the last year of appropriations funding for Youthbuild as a separate earmark and anticipate that Youthbuild will become an eligible activity under CDBG or another block grant in the coming year, to be determined by the appropriate authorizing committees. The conferees delete funding proposed by the Senate for Economic Development Initiatives at $80,000,000.

Amendment No. 32: Appropriates $31,750,000 for credit subsidies for the Section 108 loan guarantee program, instead of $15,750,000 as proposed by the Senate and $10,500,000 as proposed by the House.

Amendment No. 33: Establishes a loan limitation of $1,500,000,000 for the Section 108 loan guarantee program as proposed by the Senate, instead of $1,000,000,000 as proposed by the House and inserts language to waive the aggregate loan limitation.

Amendment No. 34: Appropriates $675,000 for administrative expenses of the Section 108 loan guarantee program as proposed by the Senate, instead of $225,000 as proposed by the House.

Amendment No. 35: Inserts language for the reuse of a grant for Buffalo, New York for the central terminal and other public facilities in Buffalo, New York.

Amendment No. 36: Appropriates $30,000,000 for fair housing activities to be operated by HUD, instead of providing $30,000,000 for these activities to be funded under the Department of Justice, as proposed by the Senate. Language is added to limit eligibility under the fair housing initiatives program (FHIP) to only qualified fair housing enforcement organizations, as proposed by the Senate. The House and Senate conferees strongly support the enforcement of fair housing laws, but are concerned that FHIP funds have been used by non-traditional fair housing groups in a manner that is inconsistent with the program's intent to enforce fair housing laws. The conferees direct the Department to provide the Committees on Appropriations an opportunity to review the new standard of qualified fair housing organizations prior to awarding fiscal year 1996 FHIP funds. The House had proposed $30,000,000 for fair housing activities, but only for the fair housing program (FHAP).

Amendment No. 37: Appropriates $962,558,000 for salaries and expenses, instead of $951,988,000 as proposed by the House and $980,777,000 as proposed by the Senate. The Department is to distribute the general reduction, subject to normal reprogramming guidelines. In addition, the conferees direct the Department to outline when and how future staffing reductions will occur to meet the Administration's goal of 7,500 HUD employees by fiscal year 2000. To the extent reductions are needed to take place in fiscal year 1996 to meet fiscal year 2000 staffing goals, the conferees urge the Department to utilize early in the fiscal year any resources needed to achieve such purpose.

Amendment No. 38: Authorizes the use of $532,782,000 for salaries and expenses from the various funds of the Federal Housing Administration as proposed by the Senate, instead of $505,745,000 as proposed by the House.

Amendment No. 39: Authorizes the use of $9,101,000 for salaries and expenses from the funds of the Government National Mortgage Association as proposed by the Senate, instead of $8,824,000 as proposed by the House.

Amendment No. 40: Authorizes the use of $675,000 for salaries and expenses from the Community Development Grants program account as proposed by the Senate, instead of $225,000 as proposed by the House.

Amendment No. 41: Appropriates $47,850,000 for salaries and expenses of the Office of Inspector General, instead of $47,388,000 as proposed by the House and $48,251,000 as proposed by the Senate.

Amendment No. 42: Authorizes the use of $11,283,000 for salaries and expenses of the Office of Inspector General from the various funds of the Federal Housing Administration as proposed by the Senate, instead of $10,961,000 as proposed by the House.

Amendment No. 43: Restores language proposed by the House and deleted by the Senate to appropriate $14,895,000 for the Office of Federal Housing Enterprise Oversight (OFHEO).

Amendment No. 44: Inserts language proposed by the Senate to allow the Secretary to sell up to $4,000,000,000 of assigned mortgage notes under the FHA Mutual Mortgage Insurance (FHA-MMI) program account and use any negative credit subsidy amounts from such sales during fiscal year 1996 for the disposition of properties or notes under the FHA-MMI program.

Amendment No. 45: Appropriates $341,595,000 for administrative expenses of the guaranteed and direct loan programs of the FHA-MMI program account as proposed by the Senate, instead of $308,846,000 as proposed by the House.

Amendment No. 46: Authorizes the transfer of $334,483,000 for departmental salaries and expenses from the FHA-MMI program account as proposed by the Senate, instead of $308,290,000 as proposed by the House.

Amendment No. 47: Authorizes the transfer of $7,112,000 for the Office of Inspector General from the FHA-MMI program account as proposed by the Senate, instead of $6,790,000 as proposed by the House.

Amendment No. 48: Appropriates $85,000,000 for credit subsidies under the FHA-General and Special Risk Insurance (FHA-GI/SRI) program account, as authorized by Sections 238 and 519 of the National Housing Act, instead of $100,000,000 as proposed by Senate. It is the understanding of the conferees that when these funds are combined with new statutory authority to use net asset sales proceeds for additional credit subsidies, the combined program level will exceed $100,000,000. Under a different proviso stricken by the Senate, the House proposed $69,620,000 for these activities.

Amendment No. 49: Inserts technical correction to the language as proposed by the Senate.

Amendment No. 50: Establishes guarantee loan limitation of $17,400,000,000 as proposed by the Senate, instead of $15,000,000,000 as proposed by the House.

Amendment No. 51: Inserts language proposed by the Senate to authorize the sale of up to $4,000,000,000 of assigned notes under the FHA-GI/SRI program account. Under a separate proviso stricken by the Senate, the House had proposed the sale of $2,400,000,000 of such notes. Also inserts language proposed by the Senate to allow the use of any negative credit subsidy from such sales to offset new FHA-GI/SRI guarantee activity. A separate House provision stricken by the Senate contained similar language on the reuse of negative credit subsidies.

Amendment No. 52: Inserts language proposed by the Senate to allow funds previously appropriated to remain available until expended if such funds have not been obligated. The House language stricken by the Senate extended the availability of such funds if they had not been previously made available for obligation.

Amendment No. 53: Deletes language proposed by the House and stricken by the Senate to reuse negative credit subsidies from the sale of FHA-MI/SRI assigned notes for new loan guarantee credit subsidies under the same account. Also deletes House language establishing a cap of $2,600,000,000 on the amount of such sales, a limitation on the availability of $52,000,000 of excess proceeds from such sales, and an appropriation of $69,620,000 for credit subsidies.

Amendment No. 54: Appropriates $202,470,000 for administrative expenses of the guaranteed and direct loan programs of the FHA-GI/SRI program account as proposed by the Senate, instead of $197,470,000 as proposed by the House.

Amendment No. 55: Authorizes the transfer of $198,299,000 for departmental salaries and expenses from the FHA-GI/SRI program account as proposed by the Senate, instead of $197,455,000 as proposed by the House.

Amendment No. 56: Appropriates $9,101,000 for administrative expenses of the Government National Mortgage Association (GNMA) guaranteed mortgage-backed securities program as proposed by the Senate, instead of $8,824,000 as proposed by the House.

Amendment No. 57: Authorizes the transfer of $9,101,000 for departmental salaries and expenses from the GNMA mortgage-backed securities guaranteed loan receipt account as proposed by the Senate, instead of $8,824,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS

Amendment No. 58: Inserts administrative provisions agreed to by the conferees. These provisions, identified by section number, are as follows:

SEC. 201. Extend Administrative Provisions from the Rescission Act. Inserts language proposed by the Senate to modify and extend the applicability of language affecting the public housing modernization program and the public housing one-for-one replacement requirement first enacted in Public Law 104–19. The House proposed similar language to suspend the one-for-one replacement requirement for fiscal year 1996.

SEC. 202. Public and Assisted Housing Rents, Income Adjustments, and Preferences. (a) Minimum Rent. Inserts language to establish minimum rents at $25 per month per household and up to $50 per month at the discretion of the public housing authority (PHA). (b) Ceiling Rents. Also establishes a second calculation of ceiling rents that reflect reasonable market value of the housing but are not less than the monthly operating costs and, at the discretion of the PHA, contribution to a replacement reserve. (c) Definition of Adjusted Income. Allows PHAs to adopt separate income adjustments from those currently established under the Housing Act of 1937. However, the Secretary shall not take into account any reduction of the per unit dwelling rental income when calculating federal subsidies under the public housing operating subsidies program. (d) Preferences. Suspends federal preferences for the public and assisted housing programs. (e) Applicability. Extends the applicability of subsections (a), (b), (c), and (d) to Indian housing programs. (f) Limits the application of this section to fiscal year 1996 only.

SEC. 203. Conversion of Certain Public Housing to Vouchers. Establishes criteria for identifying public housing to be converted to voucher assistance, rules for implementation and enforcement, and a process for removing units from the public housing inventory and converting federal assistance to vouchers. Section 18 of the Housing Act of 1937 shall not apply to the demolition of developments under this section.

SEC. 204. Streamlining Section 8 Tenant-Based Assistance. (a) Suspends for fiscal year 1996 the "take one, take all" requirement, section 8(t) of the Housing Act of 1937. (b) Suspends for fiscal year 1996 certain notice requirements for owners participating in the certificate and voucher programs. (c) In addition, this provision suspends for fiscal year 1996 the "endless lease" requirement under section 8(d)(1)(B).

SEC. 205. Section 8 Fair Market Rentals, Administrative Fees, and Delay in Reissuance. (a) Establishes fair market rentals at the 40th percentile of modest cost existing housing instead of the current 45th percentile calculation. (b) Modifies provision to provide administrative fees equivalent to 7.65 percent of the local FMR for up to 600 units of tenant-based assistance administered by a public housing agency and 7 percent of the local FMR for each additional unit. (c) Delays the reissuance of section 8 vouchers and certificates by three months. The Administration originally proposed similar proposals in its fiscal year 1996 budget. Both the House and Senate are in agreement on these new policy directions.

SEC. 206. Public Housing/Section 8 Moving to Work Demonstration. Establishes a demonstration of no more than 30 public housing authorities to reduce cost and achieve greater cost-effectiveness in federal expenditures, to provide incentives for heads of households to become economically self-sufficient, and to increase housing choices for lower-income families. The demonstration may include no more than 25,000 public housing units.

SEC. 207. Repeal of Provisions Regarding Income Disregards. Repeals section 957 of the Cranston-Gonzalez National Affordable Housing Act and section 923 of the Housing and Community Development Act of 1992.

SEC. 208. Extension of Multifamily Housing Finance Programs. Extends sections 542(b)(5) and 542(c)(4) as proposed by the House and Senate.

SEC. 209. Foreclosure of HUD-held Mortgages Through Third Parties. During fiscal year 1996, allows the Secretary to delegate some or all of the functions and responsibilities in connection with the foreclosure of mortgages held by HUD under the National Housing Act.

SEC. 210. Restructuring of the HUD Multifamily Mortgage Portfolio Through State Housing Finance Agencies. During fiscal year 1996, allows the Secretary to sell or transfer multifamily mortgages held by the Secretary under the National Housing Act to a State housing finance agency.

SEC. 211. Transfer of Section 8 Authority. Allows the Secretary to use section 8 budget authority that becomes available because of the termination of a project-based assistance contract to provide continued assistance to eligible families. Section 8 renewal assistance may be used for the same purpose at the time of contract expiration.

SEC. 212. Documentation of Multifamily Refinancings. Extends through fiscal year 1996 and thereafter, the amendments to section 223(a)(7) of the National Housing Act included in Public Law 103–327.

SEC. 213. FHA Multifamily Demonstration. Establishes a demonstration to review the feasibility and desirability of "marking-to-market" the debt service and operating expenses attributable to HUD multifamily projects which can be supported with or without mortgage insurance under the National Housing Act and with or without above-market rents utilizing project-based or tenant-based assistance. Such demonstration is limited to 15,000 units over fiscal years 1996 and 1997. The provision also appropriates $30,000,000 as a credit subsidy for such activities.

SEC. 214. Section 8 Contract Renewals. Inserts language to limit the cost of section 8 contract renewals to the fair market rent (FMR) for the area, similar to language proposed by the House. In addition, language is added to make clear that the Secretary shall, at the request of the owner, renew expiring section 8 contracts for one year under the same terms and conditions as the expiring contract during fiscal year 1996. On October 1, 1996, additional expiring contracts will be subject to the local FMR. This language clarifies existing law with respect to renewal of these project-based subsidy contracts, and highlights the urgency of affirmative action by the authorizing committees in enacting legislation necessary to avoid loss of affordable housing and potential displacement of residents next fiscal year.

This section also amends the provisions of law requiring renewal of loan management setaside contracts to provide the Secretary the discretion to renew only that portion of expiring contracts necessary to avoid displacement of residents who have been previously assisted. Budgetary constraints will make continuing these rental subsidy contracts very difficult over the next several years and it is highly advisable that project owners reduce dependence on such project-based subsidies as such assisted residents voluntarily leave these developments.

Finally, this section amends the rental payment standards applicable to housing projects under section 236 of the National Housing Act to encourage the retention of working families in these developments by preventing rental charges in these projects which may exceed actual market rates in certain localities.

SEC. 215. Extension of Home Equity Conversion Mortgage Program. Extends demonstration through fiscal year 1996, increasing the maximum number of units insured from 25,000 to 30,000.

SEC. 216. Assessment Collection Dates for Office of Federal Housing Enterprise Oversight (OFHEO). Modifies OFHEO assessment collection dates to allow revenues to match the timing of expenditures.

SEC. 217. Merger Language for Assistance for the Renewal of Expiring Section 8 Subsidy Contracts and Annual Contributions for Assisted Housing. Merges the section 8 renewal account with annual contributions for assisted housing, as proposed by the House. This will allow a more accurate assessment of the ongoing commitment to affordable housing by the 104th Congress. More than 400,000 families will be assisted with funds provided under the Annual Contributions for Assisted Housing account in fiscal year 1996. Altogether, 4.5 million households will receive HUD assistance in fiscal year 1996.

SEC. 218. Debt Forgiveness. Inserts language to forgive public facilities loans in Hubbard and Groveton, Texas and Hepzibah, West Virginia. These loans were previously written off as uncollectible and will not increase the federal debt. In addition, the conferees direct the Department of Housing and Urban Development to work with the Rend Lake Conservancy District, Illinois, to resolve its indebtedness under the Public Facilities Loan program.

SEC. 219. Clarifications. Inserts language to clarify "continuum of care" requirements as applied to the Paul Mirabile Center in San Diego, California.

SEC. 220. Employment Limitations. Limits the number of Assistant Secretaries at the Department to 7, the number of schedule C employees to 77, and the number of non-career Senior Executive Service positions to 20. Such limitations are to be met by the end of fiscal year 1996.

SEC. 221. Use of Funds. Allows previously appropriated funds for Highland, California, and Toledo, Ohio, to be used in their respective communities for other purposes.

SEC. 222. Lead-based Paint Abatement. Amends eligible housing criteria under section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

SEC. 223. Extension Period for Sharing Utility Cost Savings with PHAs. Eliminates time restriction for sharing utility cost savings under section 9(a)(3)(B)(i) of the Housing Act of 1937.

SEC. 223A. Mortgage Note Sales. Extends for fiscal year 1996 mortgage sales under section 221(g)(4)(C)(viii) of the National Housing Act.

SEC. 223B. Repeal of Frost-Leland. This provision repeals section 415 of the VA, HUD, and Independent Agencies Appropriations Act for fiscal year 1988. The Dallas Housing Authority and the Housing Authority of the City of Houston may proceed with demolitions and revitalization of George Loving Place and Allen Parkway Village, respectively. In addition, the conferees have learned that the demolition of Allen Parkway Village, a large densely organized public housing project in Houston, Texas, which has been substantially vacant for over a decade, is being delayed by the section 106 process under the National Historic Preservation Act of 1966. The conferees believe that preservation of historic buildings is an admirable goal. However, the conferees do not believe that it is good policy to require the preservation of buildings unsuitable for modern family life at the expense of low income families in dire need of safe, decent, and affordable housing.

SEC. 223C. FHA Single-Family Assignment Program Reform. Reforms the assignment process of the Federal Housing Administration to reflect cost-savings achieved in the private sector for working out delinquent loans to avoid foreclosure and minimizing losses to the mortgage insurer.

SEC. 223D. Spending Limitations. (1) Property Insurance. The conferees recognize that property insurance is essential to financing and insuring housing under the National Housing Act. The Department is in the process of promulgating regulations under the Fair Housing Act regarding discriminatory practices in property insurance activities. Certain courts have ruled upholding the application of the Fair Housing act to property insurance. However, significant questions have been raised relative to HUD's jurisdiction in this regard, especially in light of the McCarran-Ferguson Act, which reserves to the States authority to regulate insurance matters, and the Fair Housing Act, which makes no mention of discriminating in providing property insurance.

Given the uncertainty and controversy over this issue, it is the consensus that this important issue should be promptly addressed by the legislative committees of jurisdiction so that clear statutory basis of regulation can be provided, and effective anti-discrimination regulation of insurance activities enforced.

(2) PROHIBITION ON PENALTIES OR SANCTIONS AGAINST COMMUNITIES THAT ADOPT ENGLISH AS THE OFFICIAL LANGUAGE.—The conferees are concerned that communities across the United States feel it necessary to adopt State or local law or regulations to declare English the official language. While English ought to be an essential part of the American experience, the conferees do not oppose bilingual education and recognize the importance of such education efforts in order to met the needs of an increasing population of immigrants and others, who in too many cases, are economically disadvantaged. The real need for Americans is to communicate fully with one another. To the extent English is chosen in individual communities as the main language, HUD ought not to punish or impose sanctions because of this action.

(3) LOBBYING PROHIBITION.—Prohibits funds provided under this Act from being used for purposes not authorized by the Congress.

(4) RESPA.—The conference agreement does not include language prohibiting the expenditure of funds to promulgate regulations based upon the July 21, 1994 proposed rule on the Real Estate Settlement Procedures Act (RESPA). However, the conferees are concerned that HUD has been interpreting RESPA in a manner that may stifle competition and the development of innovative services in the settlement services industry. Before proceeding to finalize such rulemaking, the conferees urge the Department to seek additional guidance on this important issue from the appropriate authorizing committees.

(5) LAND USE REGULATIONS FOR RESIDENTIAL CARE.—Communities across the country have expressed serious concerns with fair housing law as it relates to their ability to review and implement land use regulations for residential care facilities. The conferees encourage the Department to work with the relevant authorizing committees to develop legislative remedies for these concerns as soon as possible.

SEC. 223E.—Transfer of functions to the Department of Justice.—Language is inserted to transfer fair housing activities to the Department of Justice effective April 1, 1997. A similar provision was proposed by the Senate in amendment numbered 111. This transfer would include all responsibilities for fair housing issues, including administering the Fair Housing Assistance Program (FHAP) and the Fair Housing Initiatives Program (FHIP). This 18-month transition would give the Department of Justice adequate time to ensure a smooth transfer of all functions. Congress would also have an opportunity to review key implementation issues.

The conferees emphasize that the intent of this provision is not to minimize the importance of addressing housing discrimination in this nation; instead, the Department of Justice with its own significant (and primary) responsibilities to address all forms of discrimination represents the appropriate place to consolidate and to provide consistency in policy direction for the federal government to combat discrimination, including discrimination with regard to housing issues.

While many members of Congress are advocating the elimination of HUD, the transfer of HUD's fair housing programs to the Department of Justice will allow HUD to refocus on its primary responsibilities of providing housing and community development assistance. The larger issue of determining the fate of HUD is better suited for the authorizing committees of the House and Senate.

Amendment No. 59: Inserts language proposed by the Senate to prohibit the expenditure of funds under this Act for the investigation or prosecution under the Fair Housing Act of any otherwise lawful activity, including the filing or maintaining of non-frivolous legal action, that is engaged in solely for the purposes of achieving or preventing action by a Government official, entity, or court of competent jurisdiction.

Amendment No. 60: Inserts language proposed by the Senate to prohibit the use of funds under this Act to take enforcement action under the Fair Housing Act on the basis of familial status and which involves an occupancy standard except under the occupancy standards established by the March 20, 1991 Memorandum from the General Counsel of HUD to all Regional Counsel, or until such time as HUD issues a final rule on occupancy standards in accordance with standard rulemaking.

Amendment No. 61: Inserts language proposed by the Senate to allow reconstruction or rehabilitation costs as eligible activities for the expenditure of Community Development Block Grant funds, not just reconstruction and rehabilitation costs in conjunction with acquisition costs.

Amendment No. 62: Deletes language proposed by the Senate requiring HUD to submit a report to Congress on the extent federal funds are used to facilitate the closing or substantial reduction of operations of a plant that result in the relocation or expansion of a plant from one state to another. Instead, conferees direct HUD to review available data on this issue and report to Congress the costs and benefits of establishing such a database.

TITLE III—INDEPENDENT AGENCIES

CONSUMER PRODUCT SAFETY COMMISSION

The conferees agree to provide $40,000,000 for the Consumer Product Safety Commission, a reduction of $4,000,000 from the budget request. The conferees direct the Commission to make the necessary reduction in expenditures from among operating expenses, including contract services, overhead accounts such as space, rent, telephone and travel and by delay in filling vacant positions.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Amendment No. 63: Reported in disagreement.

COURT OF VETERANS APPEALS

The bill provides $9,000,000 for the Court of Veterans Appeals. The funding level for this agency is not in conference because the recommended amount in the bill was identical as it passed both the House and the Senate. Because of concerns expressed with this level of funding, the conferees intend that the Committee on Appropriations review the benefits of the Court and how it can best operate in a constrained budget environment. It may be that the authorizing committees will also want to review these matters.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

Amendment No. 64: Appropriates $11,946,000 for salaries and expenses as proposed by the Senate, instead of $11,296,000 as proposed by the House.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

Amendment No. 65: Appropriates $525,000,000 for science and technology activities instead of $500,000,000 as proposed by the Senate and $384,052,000 under research and development as proposed by the House. The research and development account as proposed by the House and stricken by the Senate is deleted and a new science and technology account is adopted in lieu thereof.

The new science and technology account has been created to begin the consolidation of all research related activities at EPA, including appropriate personnel and laboratory costs. The conferees note that Environmental Service Division (ESD) labs have not been brought under this account at this time, however, the Agency is expected to provide an analysis of whether ESD labs, as well as other research related activities, should be included in this account in the fiscal year 1997 budget.

The conferees recognize that with the new account structure, EPA has additional flexibility to manage its resources. The conferees wish to make clear, however, that EPA is not to apply budgetary reductions disproportionately to contracts relative to the workforce. The agency must plan for further budgetary reductions anticipated in the outyears by gradually reducing its workforce, and the account structure is intended in part to ease the difficulties and disruption associated with downsizing the workforce. Any reprogramming of funds that become necessary throughout the fiscal year is to be made upon the notification and approval of the Committees on Appropriations.

The conferees are in agreement with the following changes to the budget request:

+$150,000,000 for research and development personnel costs transferred from the former program and research operations account.

+$35,000,000 for laboratory and facilities costs transferred from the former abatement, control, and compliance account.

+$500,000 for the National Urban Air Toxics Research Center.

+$2,500,000 for the Gulf Coast Hazardous Substance Research Center.

+$1,500,000 for the Water Environment Research Foundation.

+$2,500,000 for the American Water Works Association Research Foundation (AWWARF).

+$730,000 for continued study of livestock and agricultural pollution abatement.

+$1,000,000 for continuation of the San Joaquin Valley PM-10 study.

+$2,000,000 to continue research on urban waste management at the University of New Orleans.

+$1,500,000 for the Resource and Agricultural Policy Systems program at Iowa State University.

+$500,000 for oil spill remediation research at the Spill Remediation Research Center.

+$1,000,000 for research on the health effects of arsenic. In conducting this research, the Agency is strongly encouraged to contract with groups such as the AWWARF so that funds can be leveraged to maximize available research dollars.

+$1,000,000 for the Center for Air Toxics Metals.

+$1,000,000 for the EPSCOR program.

+$18,000,000 for research and development transferred from the hazardous substance superfund account, including $5,000,000 for the hazardous substance research center program. The conferees agree that most research being conducted under the Superfund account has application across media lines and thus should be carried forward in a manner consistent with all other Agency research and development activities. With this transfer, the conferees have included a total of $20,500,000 for Superfund research in the new science and technology account, including $2,500,000 for the Gulf Coast Hazardous Substance Research Center. This represents a further step in consolidating all agency research within this account. Should the amount provided for Superfund research be insufficient, the Committees on Appropriations would entertain an appropriate reprogramming request from the agency. The conferees expect EPA to conform its fiscal year 1997 budget submission to this account restructuring, including Superfund research.

−$69,200,000 from the Environmental Technology Initiative. Remaining funds in this program are to be used for technology verification activities, and the agency is expected to submit a spending plan for this activity as part of its annual operating plan.

−$31,645,700 from the Working Capital Fund included in the budget request. This new fund has not been approved for fiscal year 1996, however, the conferees are generally receptive in the philosophy behind the adoption of such a fund and expect to work closely with the agency throughout the fiscal year to develop a proposal for consideration for fiscal year 1997.

−$19,545,300 as a general reduction, subject to normal reprogramming guidelines.

The conferees have deleted Senate bill language contained in amendment number 92 related to EPA research and development activities and staffing. However, the conferees agree that EPA has not provided adequate information to the Congress regarding its new Science to Achieve Results (STAR) initiative including its purpose; the effects it might have on applied research needed to support the agency's regulatory activities; the impact on current staffing, cooperative agreements, grants, and support contracts; whether STAR will duplicate the work of other entities such as the National Science Foundation; and how STAR relates to the strategic plan of the Office of Research and Development. Therefore, the agency is directed to submit by January 1, 1996 a report to address these issues. The report also should identify the amount of funds to be spent on STAR, and a listing of any resource reductions below fiscal year 1995 funding levels, by laboratory, from federal staffing, cooperative agreements, grants, or support contracts as a result of funding for the STAR program. No funds should be obligated for the STAR program until the Committees are in receipt of the report.

The conferees direct EPA to discontinue any additional hiring under the contractor conversion program in the Office of Research and Development (ORD) and provide to the Committees by January 1, 1996, a staffing plan for ORD indicating the use of federal and contract employees.

As part of the peer review process of research activities, the conferees expect ORD to place more reliance on oversight and review of its ongoing research by the Science Advisory Board. The conferees agree that better use of the Board in such an oversight and review role will greatly enhance the credibility of the "science" conducted by EPA in support of program activities.

Finally, the conferees note that funds deleted by the House for the Gulf of Mexico Program (GMP) have been fully restored. While the conferees thus support its continuation for fiscal year 1996, there nevertheless remain concerns regarding the current scope, cost, and long term direction the agency has planned for this program. Precious little information is presented through budget justifications in support of the GMP, yet it has enjoyed financial support through the EPA, as well as significant contributions from numerous other federal and state sources. The conferees expect the agency to perform a thorough study and evaluation of this program and its total expenditures, from all sources, and include such information in the fiscal year 1997 budget support documents.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

Amendment No. 66: Appropriates $1,550,300,000 for environmental progams and management instead of $1,670,000,000 under program administration and management as proposed by the Senate and $1,881,614,000 under environmental programs and compliance as proposed by the House. The environmental programs and compliance account as proposed by the House and stricken by the Senate is deleted and a new account is adopted in lieu thereof.

The new account combines most of what were formerly the abatement, control, and compliance and program and research operations accounts, thus providing the Agency with increased flexibility to meet personnel and program requirements within the framework of reduced financial resources. As noted under the science and technology account, personnel and laboratory costs associated with research activities have been reduced from the budget request under the aforementioned two accounts. Additionally, state categorical grants proposed in the budget request under abatement, control, and compliance have been moved to the new state and tribal assistance grant account.

In addition to providing flexibility across program lines, the actions of the conferees in approving such structural changes also are due to the necessity of the agency to make substantial changes in the manner in which it carries out its mission. It must be recognized that there simply are not enough financial resources available to remedy every environmental problem that can be identified. Rather, EPA must develop serious priorities, using cost-benefit-risk analysis if appropriate, so that it can go about the task of accomplishing meaningful environmental goals in an orderly and systematic way. To this end, the old "command and control" approach must be dicarded—in the Regions as well as in headquarters—and replaced with new methods that promote facilitation, compliance assistance, and federal-state-business partnerships coupled with financial leveraging. The agency's Common Sense Initiative and Project XL are excellent examples of such new methods, and the conferees strongly urge the agency to be more deliberate and aggressive in its move to foster these new, flexible partnerships and relationships with the states and with business without compromising the environmental goals set by the Congress and carried out by the agency. The conferees stand ready to assist the agency in its move in this new direction.

The conferees strongly support the recommendations made by the National Academy of Public Administration in "Setting Priorities, Getting Results: A New Director for EPA" as outlined in both the House and Senate committee reports accompanying this bill. The conferees believe that monitoring the progress in implementing NAPA's recommendations, and evaluating the effectiveness of such initiatives as Project XL, performance partnerships, and the Common Sense Initiative to determine if these programs offer the country a significant improvement over traditional regulatory approaches is very important. The conferees direct EPA to propose to the Committees by February 15, 1996, how to evaluate these initiatives, the agency's progress in implementing NAPA's recommendations, and how changes in EPA's management systems and organizational structure encourage or inhibit these innovations. EPA should consider as part of its proposal a further involvement by NAPA or other outside parties in this evaluation.

The conferees are in agreement on the following changes to the budget request:

+$2,000,000 for the Southwest Center for Environmental Research and Policy.

+$1,600,000 for Clean Water Act sec. 104(g) wastewater operator training grants.

+$3350,000 for the Long Island Sound office.

+$1,000,000 for the Sacramento River Toxic Pollutant Control program, to be cost shared.

+$1,000,000 for continuing work on the water quality management plan for the Skaneatles, Owasco, and Otisco Lake watersheds.

+$300,000 for the Cortland County, New York aquifer protection plan.

+$8,500,000 for rural water technical assistance activities.

+$500,000 for continuation of the Small Public Water Systems Technical Assistance Center at Montana State University.

+$300,000 for a feasibility study for the delivery of water from the Tiber Reservior to Rocky Boy Reservation.

+$2,000,000 for the small grants program to communities disproportionately impacted by pollution.

+$1,000,000 for community/university partnership grants.

+$300,000 for the National Environmental Justice Advisory Council.

+$1,000,000 for ongoing Earthvision educational programs.

+$500,000 for ongoing programs of the Canaan Valley Institute.

+$900,000 for remediation of former and abandoned lead and zinc mining in Missouri.

+$250,000 for an evaluation of groundwater quality in Missouri where evidence exists of contamination associated with anthropological activities.

+$75,000 for the Rocky Mountain Regional Water Center's model watershed planning effort.

+$150,000 for the National Groundwater Foundation to continue ongoing programs.

+$500,000 to continue the methane energy and agricultural development demonstration project.

+$185,000 for the Columbia River Gorge Commission for monitoring activities.

+$1,000,000 for environmental review and basin planning for a sewer separation demonstration project for Tanner Creek.

+$300,000 to continue the Small Business Pollution Prevention Center managed by the Iowa Waste Reduction Center.

+$1,500,000 for the final year of the Alternative Fuels Vehicle Training program.

+$2,000,000 for the Adirondack Destruction Assessment program to assess the effects of acid deposition.

+$750,000 for the Lake Pontchartrain management conference.

+$750,000 to continue the solar aquatic waste water demonstration program in Vermont.

+$1,000,000 to continue the onsite waste water treatment demonstration through the small flows clearinghouse.

+$235,000 for a model program in the Cheney Reservoir to assess water quality improvement practices related to agricultural runoff.

+$500,000 to continue the coordinated model tribal water quality initiative in Washington State.

+$250,000 for the Ala Wai Canal watershed improvement project.

+$200,000 for the Sokaogon Cheppewa Community to continue to assess the environmental impacts of a proposed sulfide mine project.

+$2,000,000 for a demonstration program to remediate leaking above ground storage tanks in Alaska.

+$1,000,000 for the National Environmental Training Center for Small Communities.

+$500,000 for the Lake Champlain basin plan available for Vermont and New York.

+$31,645,700 for the Working Capital Fund transferred from the former research and development account. This fund has not been approved.

+$11,900,000 from low priority activities in the Office of Air and Radiation, except that no funds are to be reduced from the budget request for the WIPP compliance criteria or from the program activities associated with work at Yucca Mountain, Nevada.

+$2,600,000 from the Environmental Justice program, including the Partners in Protection Program.

+$47,000,000 from the Environmental Technology Initiative.

+$55,000,000 from Climate Change Action Plan programs. The conferees note that over $80,000,000 remains available for this program, an amount double that provided in fiscal year 1994. The agency is directed to terminate funding for programs which compete directly or indirectly with commercial business, including the Energy Star Homes Program.

+$12,000,000 from the Montreal Protocol Facilitation Fund.

+$405,000 from the Building Air Quality Alliance.

+$48,000,000 from low priority enforcement activities.

+$1,800,000 from low priority environmental education activities. The conferees urge the agency to ensure that other resources will be provided for the third and final year to carry out the environmental education grants program to minority institutions. In addition, the conferees expect the National Environmental Education and Training Foundation will be funded at the fiscal year 1995 level.

+$3,000,000 from low priority activities in the Office of International Activities.

+$350,000 from activities related to unauthorized research related to electromagnetic fields.

−$2,000,000 from the national service initiative.

−$1,000,000 from the GLOBE program.

−$25,000,000 from regional and state oversight activities.

−$81,474,300 from program office laboratory costs requested under the former abatement, control, and compliance and program and research operations accounts. As noted in the science and technology account, funds have been made available to continue funding these facilities under the new account structure agreed to by the conferees.

−$140,080,200 from Office of Research and Development personnel costs requested under the former program and research operations account. As noted in the science and technology account, funds have been made available to meet personnel requirements under the new account structure agreed to by the conferees.

−$683,466,200 from state and tribal categorical grants which have been transferred by the conferees from the former abatement, control, and compliance account to the new state and tribal assistance grants account.

−$166,786,000 as an undistributed general reduction throughout this restructured account, subject to the modified reprogramming procedures.

No legislative provisions as proposed by the House and stricken by the Senate have been included in this new account.

To provide the EPA with enhanced spending flexibility, the conferees have included language in the bill which makes funds available for expenditure for two years until September 30, 1997, and have agreed on reprogramming procedures for this account only, which permit reprogrammings below $500,000 without notice to the Committees, reprogrammings between $500,000 and $1,000,000 with notice to the Committees, and reprogrammings over $1,000,000 with approval of the Committees.

The conferees agree on the importance of the Environmental Finance Centers and expect that they be adequately supported. Similarly, the conferees direct that a grant for Sarasota County, Florida be provided from within funding for the National Estuary Program to support the implementation of the Sarasota Bay NEP Conservation and Management Plan. Finally, the conferees note that the Chesapeake Bay Program has been fully funded and expect that appropriate resources will be devoted to oyster reef construction in the Chesapeake.

The conferees urge EPA to work in a cooperative manner with the Commonwealth of Virginia to resolve issues concerning the state's proposed state implementation plan relative to title V of the Clean Air Act, and to receive the court's guidance before implementing section 502(b)(6) of the Act.

The conferees are in agreement that EPA should consider holding in abeyance the development of a proposed rule concerning a Sole Source Aquifer Designation for the Eastern Columbia Plateau Aquifer System in eastern Washington State, until all issues raised by the State are fully explored and resolved in a manner which meets the needs of all parties.

The conferees also remain concerned about reports filed earlier this year in Milwaukee, Wisconsin and other locations regarding illness alleged to be caused by the use of reformulated gasoline (RFG). While the conferees note that the scientific community has yet to make a direct link between such illness and the use of RFG, the conferees nevertheless expect the agency to continue its review of all available literature and data developed in response to this situation—including such information that may be developed during the winter of 1995–1996—and provide a determination of what additional studies or actions may be necessary to adequately monitor and address the situation.

The conferees are concerned about the interim policy statement on voluntary environmental self policing and self disclosure by the agency. The conferees believe that these state initiatives may prove to be valuable tools to increase compliance with environmental laws in their states. Therefore, the conferees urge EPA to work with the appropriate Committees of Congress to develop an appropriate policy concerning state environmental audit or self evaluation privilege or immunity laws.

As expressed in both House and Senate Committee reports accompanying H.R. 2099, there continues to be concern with EPA's proposed "cluster rule" for pulp and paper. The conferees urge EPA to appropriately address pollutants emitted at only de minimus levels, such as metals from pulping combustion sources, by using its existing authority to establish a de minimus exemption for such pollutants, or by establishing an emission threshold or level of applicability which would achieve a similar result.

Similarly, the conferees remain concerned about the direction taken by the agency with regard to the promulgation of a rule under TSCA to ban or regulate the use of acrylamide and n-methylolacrylamide (NMA) grouts. Such grouts are an important tool in the repair of sewer systems, and the loss of this tool would substantially impair the ability of municipalities to effect repairs of sewer systems without major and costly construction. The conferees strongly urge the agency to review its risk assessment and cost-benefit analysis and provide the appropriate committees of the Congress with all relevant updated information developed through this review, prior to moving forward in this matter.

The conferees agree that concerns raised by the House regarding the joint EPA/DOE Life Cycle Assessment program have been addressed adequately by the agency. Provided that the agency continues to coordinate the scope, application, and direction of the program with the private sector, the conferees do not object to the use of appropriations in the furtherance of this program.

The conferees are concerned with EPA's plans to expand the Toxics Release Inventory (TRI) to include toxics use data, despite the lack of specific authorization under the Emergency Planning and Community Right-to-Know Act. The conferees note that while the legislation establishing the TRI (42 U.S.C. 11032) directs EPA to publish a uniform toxics chemical release form providing for the submission of data on "the general category or category of use" of a chemical, and the Pollution Prevention Act (42 U.S.C. 13101–13109) expanded the TRI by requiring that facilities filing such a release form include a source reduction and recycling report, Congress has not granted EPA the specific authority to expand the TRI to require the reporting of any mass balance, materials accounting, or other data on amounts of chemicals used by a reporting facility. The conferees urge EPA not to take final action to create a Toxics Use Inventory until it seeks specific legislative authority to do so.

The conferees have agreed to delete a provision proposed by the House which prohibited the expenditure of funds to impose or enforce proposed rules under section 112(r) of the Clean Air Act and instead note their pleasure that EPA is considering amendments to the risk management plan list rule which address some of the concerns underlying the House amendment. The conferees remain concerned, however, that the status of natural gas processors may not be adequately addressed in these amendments. Arguments advanced to exempt exploration and production facilities from section 112(r) are equally applicable in the case of natural gas processing facilities, which are also remotely-located, uncomplicated, and often unmanned. Therefore, the conferees urge EPA to consider extending any clarification regarding exploration and production facilities to natural gas processors.

The conferees have also deleted language proposed by the House regarding the recently published maximum achievable control technology (MACT) rule for the petroleum refining industry. At both the House and Senate fiscal year 1996 budget hearings for the agency, held this spring, considerable testimony was taken on the issue of this refinery MACT. Although all parties agree that portions of this rule are acceptable and workable, testimony received at these hearings indicated that the agency drafted much of the rule relying on data that was as much as 15 years old, even when agency-acceptable three year old data was available. As the testimony itself revealed, drafting of MACT rules in this manner may not be consistent with the intent of the Congress in the passage of the Clean Air Act. In this regard, the conferees urge the agency to consider proposing appropriate amendments, using the latest data, to this rule so that the strongest, and fairest, MACT rule can be instituted.

Similarly, based on testimony received during the fiscal year 1996 budget hearings, the House had included bill language prohibiting the expenditure of funds to proceed with the so-called "combustion strategy" unless the agency followed its own regulatory guidelines. While the conferees have deleted this language they nevertheless remain concerned with the expenditure of funds by any agency in pursuit of a rulemaking which is in conflict with their own rules and procedures. In this instance, EPA has stated publicly that its use of applicable statutory authority must be accompanied by site-specific findings of risk in the administrative record supporting a permit and that any conditions are necessary to ensure protection of human health and the environment (56 Federal Register 7145). The conferees strongly urge the agency to fully comply with its own regulations in any invocation of omnibus permitting authority, and, in furtherance of their hearing records in this matter, direct EPA to report to the House and Senate Appropriations Committees as to how the agency intends to implement these requirements in connection with its "Combustion Strategy." In this regard, it should be noted that the National Academy of Sciences is conducting currently a study on the health effects of waste combustion scheduled for completion in September 1996. To ensure that policies are based on the best up-to-date science and to incorporate appropriate Academy findings, the conferees believe the sensible approach would be to await the results of the study before finalizing a rule addressing the combustion of hazardous waste.

Given the importance of maintaining an adequate and wholesome food supply to ensure good public health, the Office of Pesticide Programs (OPP) is encouraged to take steps to retain the same level of funding and FTEs as has been provided in fiscal year 1995.

It is the intention of the conferees that the EPA avoid unnecessary or redundant regulation and minimize burdens on beneficial research and development of genetically engineered plants. The conferees note that both the National Research Council of the National Academy of Sciences and the World Health Organization have concluded that the application of recombinant DNA technology does not pose any unique risk to food safety or the environment. While conferees acknowledge the basic regulatory requirements set forth under the Federal Insecticide, Fungicide and Rodenticide Act, the agency is urged to minimize the regulatory burden on the developers of products of such technology. Moreover, the agency should adopt risk based regulations or exemptions from regulations for small scale field testing of genetically engineered plants that are not dissimilar from those regulations set forth for the testing of other pesticides. The conferees expect EPA to report to the appropriate committees of the Congress by May 1, 1996 on any regulatory or trade burdens imposed by the agency through registration under the Federal Insecticide, Fungicide and Rodenticide Act on developers of genetically modified plants (including such burdens as have been identified by academic scientists performing research in the field, companies using biotechnology techniques, and others), as well as the agency's action to reduce those burdens to levels commensurate with the risks.

Language with regard to an exemption from section 307(b) of the Federal Water Pollution Control Act, as amended, for the Kalamazoo Water Reclamation Plant, has been included. The conferees slightly modified the language as proposed by the Senate to require that treatment and pollution removal is equivalent to or better than that which would be required through a combination of pretreatment by an industrial discharger and treatment by the Kalamazoo Water Reclamation Plant in the absence of the exemption.

The conferees expect the agency to promptly implement its partial response to a Citizen Petition filed September 11, 1992 regarding pesticide regulatory policies. Further, the conferees expect the agency promptly to complete its response to that Petition and another Citizen Petition filed July 10, 1995 in such a way as to minimize the unnecessary loss of pesticides that pose on more than a negligible risk to health or the environment.

Further, based on the possible risk to public health, EPA is strongly urged not to take action on the tolerance for ethylene oxide without first referring the results of the Ethylene Oxide Scientific Review Panel to the EPA Scientific Advisory Board. EPA shall then report to the Committees on the SAB's report and EPA's evaluation of that report.

Amendment No. 67: Deletes language proposed by the Senate making a technical change.

Amendment No. 68: Appropriates $28,500,000 for the Office of Inspector General instead of $28,542,000 as proposed by the House and $27,700,000 as proposed by the Senate. The conferees agree that the program level for the OIG will be $40,000,000, which includes transfers of $500,000 from the LUST trust fund and $11,000,000 from the hazardous substance superfund account.

Amendment No. 69: Appropriates $60,000,000 for buildings and facilities as proposed by the Senate instead of $28,820,000 as proposed by the House. Up to $33,000,000 of the amount made available is for completion of the Ft. Meade, Maryland/Region III lab facility. Remaining funds are for facility repair, maintenance and improvements, and for renovation of the new headquarters facility.

The conferees note that the lack of financial resources made it impossible to fund the first phase of new construction at Research Triangle Park. Nevertheless, the conferees acknowledge the demonstrated need for new or updated facilities consistent with the mission conducted at this important research facility. Prior to the submission of the fiscal year 1997 budget request, the agency is directed to provide a report to the Committees on Appropriations which includes realistic, cost-effective alternatives in addition to construction of a new facility.

HAZARDOUS SUBSTANCE SUPERFUND

Amendment No. 70: Deletes language proposed by the House and striken by the Senate which provides that all appropriations for the hazardous substance superfund be derived from general revenues, and inserts language proposed by the Senate in lieu thereof which provides that a specified portion of the appropriation for the hazardous substance superfund be derived from the superfund trust fund as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986, as amended by P.L. 101–508, and the remainder be derived from general revenues as authorized by section 517(b) of the Superfund Amendments and Reauthorization Act of 1986, as amended by P.L. 101–508. For the hazardous substance superfund, $913,400,000 shall be derived from the trust fund, instead of $753,400,000 as proposed by the Senate, and $250,000,000 shall be derived from general revenues, as proposed by the Senate.

In addition, language is inserted providing a total of $1,163,400,000 for Superfund.

Amendment No. 71: Provides $11,000,000 for transfer to the Office of Inspector General instead of $5,000,000 as proposed by the House and $11,700,000 as proposed by the Senate.

Amendment No. 72: Provides $59,000,000 for the Agency for Toxic Substances and Disease Registry instead of $62,000,000 as proposed by the House and $55,000,000 as proposed by the Senate.

Amendment No. 73: Deletes language proposed by the House and stricken by the Senate which makes no funds appropriated under this account available for expenditure after December 31, 1995 unless the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is reauthorized.

Amendment No. 74: Inserts language proposed by the Senate, with a modification, which prohibits the expenditure of funds for the proposing for listing or the listing of sites on the National Priorities List (NPL) established by section 105 of CERCLA, as amended, unless the Administrator of the EPA receives a written request to place the site on the NPL from the governor of the state in which the site is located, unless CERCLA, as amended, is reauthorized. The conferees note that this provision is consistent with the reduction in spending for Superfund pending reauthorization. Also, it reflects Congressional efforts to turn more responsibility for Superfund over to the States.

Amendment No. 75: Deletes langauge proposed by the Senate directing the funding of the Brownfields Economic Redevelopment Initiative at a level sufficient to complete the award of 50 cumulative Brownfields Pilots by the end of fiscal year 1996 and to carry out other elements of the Brownfields Action Agenda. The conferees are in agreement as to the importance of the Brownfields programs and direct the agency to provide financial assistance to local communities to expedite the assessment of brownfields sites in order to ensure early remediation of these properties in conjunction with local economic development goals. The Brownfields initiative is to be funded at no less than the current level.

For the hazardous substance superfund program, the conferees have provided $1,163,400,000, and direct that the agency prioritize resources, to the greatest extent possible, on NPL sites posing the greatest risk. The conferees note that, based on figures supplied by EPA, this appropriation is more than sufficient to continue all scheduled work (including the completion of one work phase and the movement to the next) on all sites currently on the NPL, as well as deal adequately and appropriately with all emergency response needs. While the authorizing committees proceed with the reauthorization and reform of the Superfund program, something that literally all stakeholders endorse, the conferees felt it was inappropriate to place new sites on the NPL. However, EPA is directed to move forward with real clean-up actions in an improved, aggressive manner while minimizing overhead, personnel and other administrative costs. Additionally, the agency is directed to submit a detailed report to the Committees on Appropriations, prior to their respective fiscal year 1997 budget hearings, on the demonstrated improvements, if any, on reducing such overhead, personnel and other administrative costs.

Included in the appropriated level are the following amounts:

$800,379,000 for hazardous substance superfund response actions.

$125,076,000 for management and support, including $11,000,000 transferred to the office of Inspector General and $3,076,000 for the Office of Air and Radiation.

$127,000,000 for enforcement.

$140,945,000 for interagency activities including $59,000,000 for ATSDR; $48,500,000 for NIEHS, of which $32,000,000 is for research and $16,500,000 is for worker training; $25,000,000 for the Department of Justice; $4,350,000 for the U.S. Coast Guard; $2,000,000 for NOAA; $1,100,000 for FEMA; $680,000 for the Department of the Interior; and $315,000 for OSHA.

The conferees have also agreed to an undistributed reduction of $30,000,000 from administrative costs and to a limit on administrative expenses of $275,000,000, subject to normal reprogramming procedures.

The conferees fully support the continuation of the ATSDR minority health professions cooperative agreement at the $4,000,000 funding level, as well as the continuation of adequate funding for the ATSDR health effects study on the consumption of Great Lakes fish. Similarly, the conferees note continued support for the Mine Waste Technology Program from within available funds at an FY 1996 level for $3,000,000.

As noted earlier, the authorizing committees are currently undertaking the reauthorization and reform of the Superfund program. While the conferees acknowledge that honest disagreements exist as to the shape such reform should take, there nevertheless are many things the agency can and should be doing now within the context of reform that amount to nothing more than good goverment.

One such area of concern to the conferees is that of proper notification by the agency of persons of potential liability for facilities on the NPL. Potentially responsible parties (PRPs) have a reasonable expectation to be notified by the EPA in a timely manner and within a time frame that permits participation in remedy selection and execution. In particular, it is inequitable and unconscionable for the agency to identify a PRP without the means to effectively participate in remedy selection and execution and then, after the remedy has been substantially completed, to attempt to identify other parties to pay for the remedial activity. PRP's should be identified as soon as practicable to allow all potentially interested parties to bring their individual expertise and resources to bear on a commonly identified remedy and to fully participate in the remediation of an NPL site if they are expected to bear the expense of the activity. The conferees expect the agency to review all of its activities to determine the extend to which situations have occurred and, in conjunction with the Department of Justice, make every effort to remedy such actions in a non-confrontational, non-litigious manner.

Amendment No. 76: Limits administrative expenses for the leaking underground storage tank trust fund to $7,000,000, instead of $5,285,000 as proposed by the House and $8,000,000 as proposed by the Senate.

Amendment No. 77: Provides $500,000 for transfer to the Office of Inspector General instead of $426,000 as proposed by the House and $600,000 as proposed by the Senate.

Amendment No. 78: Appropriates $15,000,000 for oil spill response as proposed by the Senate instead of $20,000,000 as proposed by the House.

Amendment No. 79: Limits administrative expenses for oil spill response to $8,000,000 as proposed by the Senate instead of $8,420,000 as proposed by the House.

STATE AND TRIBAL ASSISTANCE GRANTS

Amendment No. 80: Appropriates $2,323,000,000 for state and tribal assistance grants, instead of $2,340,000,000 as proposed under program and infrastructure assistance by the Senate, and instead of $1,500,175,000 as proposed under water infrastructure/state revolving funds by the House. The water infrastructure/state revolving fund account proposed by the House and stricken by the Senate and the program and infrastructure assistance account proposed by the Senate are deleted, and the new state and tribal assistance grant account is adopted in lieu thereof.

The conferees have agreed to the creation of this new account, within the structure proposed by the Senate, so as to enhance the Agency's ability to provide performance partnerships, or block grants, to the states and tribal governments. Language creating the performance partnership program and language permitting the Administrator to make nulti-media environmental grants to recognized tribal governments, has been included. Language which clarifies that the funds for a grant to the City of Mt. Arlington, New Jersey, appropriated in P.L. 103-327 in accordance with House Report 103-715, were intended for water and sewer improvements, has also been included. Finally, the conferees have included language proposed by the Senate which would allow a portion of the funds appropriated for the construction grants program in fiscal year 1992 and thereafter, under the Clean Water Act for construction grants and special projects, to be used by States for the purposes of administering the completion or closeout of any remaining projects. States will be required to reimburse the grant recipient from other State funds available to the State to support construction activities.

From within the appropriated level, the conferees agree to the following amounts:

$1,125,000,000 for wastewater capitalization grants.

$275,000,000 for safe drinking water capitalization grants, available only upon authorization and only if such authorization occurs by June 1, 1996. If no such legislation becomes law prior to June 1, 1996, appropriated funds immediately become available for wastewater capitalization grants to the states and tribal governments.

$225,000,000 for safe drinking water capitalization grants, made available from funds provided in P.L. 103-327 and P.L. 103-124, subject to authorization prior to June 1, 1996. If no such authorization for safe drinking water capitalization grants occurs prior to this date, such funds are to be available for wastewater capitalization grants.

$100,000,000 for architectural, engineering, design and construction related activities for high priority water and wastewater facilities near the United States-Mexico border.

$50,000,000 for cost shared grants to the State of Texas (Colonias).

$15,000,000 for grants to Alaska, subject to cost share requirements, for rural and Alaska Native Villages.

$658,000,000 for state and tribal categorical grants through traditional grants procedures as well as through the performance partnership program. The conferees note this is virtually identical to the fiscal year 1995 level. The conferees agree that such funds are available in unspecified amounts for the following specific programs:

Non-point source pollution grants under section 319 of the Federal Water Pollution Control Act (FWPCA), including appropriate activities under the Clean Lakes program; water quality cooperative agreements under section 104(b)(3) of FWPCA; public water system supervision grants under section 1443(a) of the Public Health Service Act; air resource assistance to State, local and tribal governments under section 105 of the Clean Air Act; radon state grants; control agency resource supplementation under section 106 of FWPCA; wetlands program implementation; underground injection control; pesticides program implementation; lead grants; hazardous waste financial assistance; pesticides enforcement grants; pollution prevention; toxic substances enforcement grants; Indians general assistance grants; and, underground storage tanks. The conferees expect the agency to consult with the Committees on Appropriations and with the states prior to the determination and reporting of the amounts allocated for each of these areas.

The conferees agree that Performance Partnership Grants are an important step to reducing the burden and increasing the flexibility that state and tribal governments need to manage and implement their environmental protection programs. This is an opportunity to use limited resources in the most effective manner, yet at the same time, produce the results-oriented environmental performance necessary to address the most pressing concerns while still achieving a clean environment. As part of the implementation of this program, the conferees agree that no reprogramming requests associated with States and Tribes applying for Performance Partnership Grants need to be submitted to the Committees on Appropriations for approval should the reprogrammings exceed the normal reprogramming limitations.

From within the amount appropriated for wastewater capitalization grants, $50,000,000 is to be made available for wastewater grants to impoverished communities pursuant to section 102(d) of H.R. 961 as approved by the House of Representatives on May 16, 1995. The conferees expect the Agency to closely monitor state compliance with this provision to assure that funds are obligated appropriately and in a timely manner. Unused funds allocated for this purpose are to be made available for other wastewater capitalization grants.

$100,000,000 for the following special assistance grants in the following amounts:

$39,500,000 for special projects as requested in the budget submission, including

$25,000,000 for Boston Harbor, $10,000,000 for the City of New Orleans, $3,000,000 for Fall River and $1,500,000 for New Bedford.

$5,000,000 for alternative water source projects in West Central Florida.

$1,750,000 for wastewater infrastructure improvements including $1,500,000 for Manns Choice, Bedford County, Pennsylvania, and $250,000 for Taylor Township, Blair County, Pennsylvania.

$11,625,000 for continuing clean water improvements at Onondaga Lake.

$11,625,000 for continuation of the Rouge River National Wet Weather project.

$22,000,000 for continuation of the Mojave Water Agency groundwater research project.

$2,500,000 for the refurbishment and construction of sanitary and storm sewer systems in Ogden, Utah.

$6,000,000 for wastewater facility improvements in the vicinities of Peter Creek, East Bernstadt/Pittsburg, and Vicco, Kentucky.

Amendment No. 81: Inserts a heading as proposed by the Senate and deletes language proposed by the Senate regarding the adoption or implementation of an inspection and maintenance program pursuant to section 182 of the Clean Air Act. The conferees note that this issue has recently been considered in a conference of authorization committees and therefore has become unnecessary to pursue in the context of this legislation.

Amendment No. 82: Deletes language proposed by the Senate regarding the limitation of funds available to impose or enforce trip reduction measures pursuant to the Clean Air Act. The conferees note that this issue recently has been considered in a conference of authorization committees and therefore has become unnecessary to pursue in the context of this legislation.

Amendment No. 83: Inserts language similar to that proposed by the Senate which prohibits the expenditure of funds for the signing or publishing for promulgation of a rule concerning new drinking water standards for radon only. The conferees note that this language is identical to that contained in this Act for each of the last two fiscal years.

Amendment No. 84: Inserts language proposed by the Senate which prohibits the expenditure of funds to sign, promulgate, implement, or enforce certain requirements regarding the regulation for a foreign refinery baseline for reformulated gasoline.

Amendment No. 85: Inserts language proposed by the Senate which prohibits the expenditure of funds to implement section 404(c) of the Federal Water Pollution Control Act, as amended, and which stipulates that no pending actions to implement section 404 (c) with respect to individual permits shall remain in effect after the date of enactment of this Act.

Amendment No. 86: Deletes language proposed by the Senate regarding an exemption of section 307(b) of the Federal Water Pollution Control Act, as amended, for the Kalamazoo Water Reclamation Plant. Similar language has been included under the environmental programs and management account in Amendment No. 66.

Amendment No. 87: Deletes language proposed by the Senate prohibiting the expenditure of funds to enforce section 211(m)(2) of the Clean Air Act in a nonattainment area in Alaska. Similar language is included in amendment number 88.

Amendment No. 88: Inserts language proposed by the Senate which prohibits the expenditure of funds to implement the requirements of section 186(b)(2), or section 187(b) or 211(m) of the Clean Air Act for any moderate nonattainment area for which the average daily winter temperature is below 0 degrees Fahrenheit.

Amendment No. 89: Deletes language proposed by the Senate which directs EPA to give priority assistance to small business concerns under section 3(a) of the Small Business Act in its Energy Efficiency and Supply programs, study the feasibility of establishing fees to recover the costs of such assistance, and provide a certain level of funding to support participation in the Montreal Protocol and climate change action plan programs.

The conferees note that the budget for EPA's "green programs" has grown substantially over the past several years. Such growth cannot be sustained within the confines of an increasingly constrained budget. There is no disagreement that the green programs have enabled many companies to improve their profitability by installing energy efficient technologies. While it may be appropriate for the federal government to provide technical assistance to organizations which would not otherwise have the resources to make appropriate investment decisions on energy efficient technologies, such as small businesses, large corporations can and should make such investment decisions without federal assistance. The conferees agree that EPA is to undertake a study to determine the feasibility of establishing fees to recover all reasonable costs incurred by EPA for assistance rendered businesses in its Energy Efficiency and Energy Supply program, as described in the Senate amendment.

Amendment No. 90: Deletes language proposed by the Senate which would prohibit final regulatory action under the Toxic Substances Control Act restricting the manufacturing, processing, distributing or use of lead, zinc, or brass fishing sinkers or lures, unless the risk to waterfowl cannot be addressed through alternative means. The conferees are extremely concerned that EPA continues to ignore the importance of allocating its budget to those activities which provide for the greatest reduction in risk. EPA has pursued activities which may have exceeded the agency's legal authority in the regulation of lead by seeking to regulate lead uses that pose no significant risks to human health or the environment, such as EPA's proposal to ban the manufacture and distribution of lead fishing sinkers. The agency's proposal presented little credible evidence to suggest that lead fishing sinkers are threatening to human health or waterfowl populations. The conferees expect EPA to engage in activities which maximize the use of its resources to achieve public health and environmental benefits, and therefore believe EPA should not pursue this rulemaking.

Amendment No. 91: Deletes language proposed by the Senate which directs the investigation and report on the scientific basis for EPA's public recommendations with respect to indoor radon and other naturally occurring radioactive materials. The conferees direct EPA to enter into an arrangement with the National Academy of Sciences to investigate and report on the scientific basis for EPA's recommendations relative to indoor radon and other naturally occurring radioactive materials (NORM). The Academy is to examine EPA's guidelines in light of the recommendations of the National Council on Radiation Protection and Measurements and other peer-reviewed research by the National Cancer Institute, the Centers for Disease Control, and others. The Academy shall summarize the principal areas of agreement and disagreement among these bodies and shall evaluate the scientific and technical basis for any differences that exist. EPA is to submit this report to the appropriate committees of Congress within 18 months of the date of enactment of this Act, and state its views on the need to revise the guidelines for radon and NORM in light of the Academy's evaluation. The agency also shall explain the technical and policy basis for such views.

Amendment No. 92: Deletes language proposed by the Senate regarding implementation of the Science to Achieve Results (STAR) program and restricting the hire of new staff positions under the contractor conversion program. The STAR and contractor conversion issues have been addressed under amendment number 65.

Amendment No. 93: Inserts language which provides necessary expenses to continue the functions of the Council on Environmental Quality and Office of Environmental Quality as proposed by the Senate, instead of language proposed by the House and stricken by the Senate to carry out the orderly termination of the CEQ.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Amendment No. 94: Appropriates $222,000,000 for disaster relief instead of $235,500,000 as proposed by the House and no funds as proposed by the Senate. The conferees note that the 1995 supplemental appropriation for disaster relief, totaling over $6,500,000,000, coupled with available unobligated appropriations, should be more than adequate to meet all current and expected disaster requirements. Should an FY 1996 supplemental be necessary, the conferees would expect to respond and make such appropriations available in a timely manner.

The conferees note that with the passing of the 1995 hurricane season, there is confusion surrounding FEMA's determination of whether beach erosion under different conditions is eligible for assistance under the Stafford Act. While the Code of Federal Regulations certainly provides clear understanding of the rules by which FEMA operates, there nevertheless exists questions as to the legal underpinnings of this regulation. To help clarify the issue and avoid future controversy, the agency is directed to report within 45 days of enactment of this Act on the legal basis for this regulation and on the possible alternatives that exist to maximize mitigation and assistance efforts within the constraints of available financial resources.

The conferees have been made aware of an unfortunate situation following the Northridge Earthquake whereby, based on assurances made by FEMA field agents, significant financial resources were spent or obligated to make appropriate repairs of buildings deemed eligible for assistance. Over a year following those assurances, a determination that such expenses were not eligible was received from FEMA headquarters, including a request for reimbursement of spent funds. As FEMA fully acknowledges that their erroneous assurance of assistance is the genesis of this problem, the conferees direct FEMA to make every effort to remedy this situation through appropriate administrative procedures.

Amendment No. 95: Appropriates $168,900,000 for salaries and expenses as proposed by the Senate instead of $162,000,000 as proposed by the House.

Amendment No. 96: Appropriates $4,673,000 for the Office of the Inspector General as proposed by the Senate instead of $4,400,000 as proposed by the House.

Amendment No. 97: Deletes reference to the Federal Civil Defense Act, as amended, with respect to activities under the emergency management planning and assistance account. This is a technical deletion as activities under this Act have been superseded by other Acts. The conferees have included language under amendment number 114 requested by FEMA in a budget amendment that would direct FEMA to sell its costly inventory of trailer/mobile homes which in the past have been used to meet temporary housing needs of some disaster victims. The costs of transporting these trailers to a disaster site, as well as the costs of necessary refurbishment upon return to inventory, far exceed the benefits provided by the trailers. More important, FEMA believes the important needs of emergency housing can be met in less expensive yet more appropriate ways. In making these sales, FEMA is directed to maximize receipts and minimize expenses to the greatest extent possible.

Within the overall appropriation, the conferees have included $950,000 for earthquake hazard research and mitigation activities at Metro and DOGAMI; $1,000,000 for a statewide and regional hurricane proof evacuation shelter directory for the states of Texas, Louisiana, Mississippi, Alabama, Florida, Arkansas, and Georgia; and $4,000,000 in additional funds for state emergency management assistance (EMA) grants. FEMA is expected to reduce its underground storage tank program to offset these additional EMA grants. The remaining funds necessary to meet these additional expenses should be proposed through normal reprogramming procedures.

The conferees note that FEMA has funded certain planning positions in State emergency management agencies at 100 percent during fiscal year 1995. The conferees direct the agency to continue funding these positions at this same level during 1996, but also expect the agency to make appropriate plans during the fiscal year, including notifying the States if necessary, to reduce the federal share to no more than 50 percent for fiscal year 1997 and beyond.

Amendment No. 98: Appropriates $100,000,000 for emergency food and shelter as proposed by the House instead of $114,173,000 as proposed by the Senate.

Amendment No. 99: Deletes language proposed by the House and stricken by the Senate which prohibits the expenditure of funds for any further work on effective Flood Insurance Rate Maps for certain areas in and around the City of Stockton and San Joaquin County, California. The conferees are aware that the City of Stockton and San Joaquin County, California are restoring existing levee systems that a FEMA flood hazard restudy has determined no longer meet FEMA's minimum flood protection standard. The conferees are also aware that the City and County have recently filed an appeal regarding the determination by that study and were thus satisfied that, just as with bill language, the duration of the appeal would provide the opportunity to fully and properly deal with this important matter. The conferees therefore direct FEMA to thoroughly analyze the appeal and develop alternatives that will lead to a resolution of this situation prior to the conclusion of the appeal process.

The Members of Congress, local officials, and private citizens who have addressed this issue all wish to achieve a result that will not hinder the economic development of the area while, at the same time, ensuring the safety and health of all residents. The conferees share this goal. The National Flood Insurance Program (NFIP), a community-participation program, has a history of cooperation with local governments that spans more than two decades. During this time, a great deal of development has taken place in mapped areas in thousands of communities across the country. Therefore, to assist the City and County in guiding new development, the conferees direct FEMA to first assist by approximating the study flood hazard areas identified on the preliminary Flood Insurance Rate Maps (FIRM's) based on FEMA's restudy. FEMA also is directed to consult with the City and County to ensure that the design and construction for the restored levees will satisfy the criteria for accrediting those structures on FIRMs that will become effective six months after all appeals are fully resolved. Further, the conferees direct FEMA to revise the FIRMs at the earliest date possible to reflect accredited improvements to the levee systems as they are completed.

The conferees note that no funds have been included to produce Flood Rate Insurance Directories (FRIDs) or to sell flood insurance directly to the public. While the conferees support FEMA's effort to increase the use of federal flood insurance, such sales should continue through normal private commercial activity. The conferees are also in agreement that FEMA should make no effort to suspend, revoke, or limit the participation of St. Charles County, Missouri in the National Flood Insurance program because of the permitting of levee improvements to publicly sponsored levee districts.

Finally, the conferees agree that FEMA should conduct a pilot project of a working capital fund during fiscal year 1996, and report on the outcome of the pilot periodically throughout the course of the fiscal year.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

Amendment No. 100: Provides for a change in the administrative expenses limitation to $2,602,000 as proposed by the Senate instead of $2,502,000 as proposed by the House.

The conferees agree to an increase in the administrative expenses limitation for the Consumer Information Center to reflect the increased responsibilities of the Center as it takes on efforts previously assigned to the Office of Consumer Affairs.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

Amendment No. 101: Appropriates no funding for the Office of Consumer Affairs, as proposed by the Senate instead of $1,811,000 as proposed by the House.

The conferees agree to the Senate position to delete all funding for the Office of Consumer Affairs. The conferees agree that the functions of producing the Consumer Resources Handbook and organizing the Constituent Resource Exposition are to be transferred to the Consumer Information Center. Language is included in the bill to facilitate the transfer of personnel and responsibilities associated with closure of this office.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

Amendment No. 102: Appropriates $5,456,600,000 for Human Space Flight, instead of $5,449,600,000 as proposed by the House and $5,337,600,000 as proposed by the Senate.

The conference agreement reflects the following change from the budget request:

A reduction of $53,000,000 to reflect savings which accrue from the closure of the Yellow Creek Facility at Iuka, Mississippi.

The conferees believe that savings are achievable in shuttle operations when the recommendations called for in the Kraft report on shuttle operations are implemented. The conferees are encouraged that NASA has begun to aggressively implement the recommendations and look forward to seeing the financial savings materialize while maintaining safe shuttle operations.

NASA INDUSTRIAL PLANT, DOWNEY

The conferees are aware of ongoing discussions between NASA, Rockwell International, and officials of the City of Downey, California, regarding possible disposition of NASA real property at the NASA Industrial Plant, Downey. The conferees understand that this planning effort could culminate in a proposal for disposition of NASA real property at the Downey site which may: consolidate Space Shuttle engineering activities, thereby reducing annual Government operations costs; possibly produce proceeds to the U.S. Treasury from transfer of portions of the NASA real property; and make available portions of the real property for commercial/industrial use. The conferees direct that NASA report to the Committees on Appropriations on progress in this disposition planning effort, including any potential economic benefits to the Government, by February 1, 1996.

TERMINATION LIABILITY

The conferees fully support deployment of the space station but recognize the funds appropriated by this Act for the development of the space station may not be adequate to cover all potential contractual commitments should the program be terminated for the convenience of the Government. Accordingly, if the space station is terminated for the convenience of the Government, additional appropriated funds may be necessary to cover such contractual commitments. In the event of such termination, it would be the intent of the conferees to provide such additional appropriations as may be necessary to provide fully for termination payments in a manner which avoids impacting the conduct of other ongoing NASA programs.

Amendment No. 103: Deletes House language delaying the availability of $390,000,000 for Space Station until August 1, 1996.

SCIENCE, AERONAUTICS AND TECHNOLOGY

Amendment No. 104: Appropriates $5,845,900,000 for Science, Aeronautics and Technology, instead of $5,588,000,000 as proposed by the House and $5,960,700,000 as proposed by the Senate.

The conference agreement reflects the following changes from the budget request:

A general reduction of $33,000,000 to be distributed in accordance with normal reprogramming procedures.

A reduction of $13,700,000 from the budget request for the Stratospheric Observatory for Infrared Astronomy (SOFIA). The reduction will leave $35,000,000 in fiscal year 1996 to begin this program to replace the Kuiper Airborne Observatory.

An increase of $51,500,000 for the Gravity Probe-B program which was not included in the budget request.

A decrease of $5,000,000 for the Space Infrared Telescope Facility, leaving $10,000,000 to begin this effort. NASA is directed to provide no additional funding for this effort unless specifically approved by the House and Senate Committees on Appropriations.

The conferees agree to provide $20,000,000 for initiation of the Solar-Terrestrial Probes program. The funding includes $15,000,000 to begin the TIMED mission and $5,000,000 for design studies of the inner magnetospheric imager.

The conference agreement includes an additional $3,000,000 for the university explorer program to develop small, inexpensive spacecraft for astronomy and space physics missions.

A general reduction of $20,000,000 for Life and Microgravity Science. The reduction is not to be taken against any space station programs. NASA should develop a plan that accommodates the budget decrease while minimizing its impact on the early scientific return from space station operations. This plan should emphasize how NASA will ensure the quality of the science it will conduct and maximize the value of the results it obtains from the early utilization of space station.

An increase of $4,500,000 is provided for space radiation research in accordance with direction contained in House report 104–201.

Within Mission to Planet Earth, the conference agreement contains a reduction of $6,000,000 for the Consortium for International Earth Sciences Information Network. The conferees agree that the Consortium and NASA are free to pursue programmatic options under existing contracts between CIESIN and NASA and the Consortium is not precluded from competing for future contracts with NASA. A further reduction of $75,000,000 is to be distributed in accordance with normal reprogramming guidelines. The conferees are in agreement on the following:

NASA should work with the Department of Agriculture to ensure that remote sensing data collected through this program will be better used for agriculture and resource management;

From within the funds for Mission to Planet Earth, NASA is urged to provide for continued development and refinement of visualization techniques and capabilities currently underway through the Jet Propulsion Laboratory to incorporate remotely sensed data and information into formal informational and educational programs;

From within the available funding, $5,000,000 should be used toward full development of a windsat mission;

Any restructuring of the Earth Observing System Data Information System which may result from the recently issued National Academy of Sciences report should be implemented in such a manner as to minimize counterproductive disruptions at the Marshall Space Flight Center.

A general reduction of $30,000,000 to the Aeronautical Research and Technology portion of the budget to be distributed in accordance with normal reprogramming guidelines. The conferees note that NASA and the FAA have recently established a mechanism to coordinate their efforts toward an advanced air traffic management system. While the House reduced the budget request by $20,000,000 because such an agreement had not yet been reached, the conferees believe some reduction in funding is still achievable and the program is not exempt from the general reduction. Likewise, the conferees do not intend that the entire reduction be applied against the High Performance Computing and Communications (HPCC) program, nor is the program exempt from reduction. The conferees recognize the national interest served by providing the public access to earth and space images and data through a national information infrastructure and strongly support funding to carry out such NASA educational and public outreach activities funded in the HPCC account.

Within the Space Access and Technology portion of the account, a reduction of $7,000,000 from the Clean Car program, a reduction of $21,300,000 for the Earth Applications Systems to return the program to the fiscal year 1995 funding level, an increase of $3,000,000 for commercial space activities to be used only as provided for in authorizing legislation, an increase of $4,500,000 for a rural state technology transfer center as provided for in authorizing legislation. The conference agreement deletes without prejudice the increase of $20,000,000 proposed by the Senate for development of the reusable launch vehicle (X–33). Nonetheless, the conferees have significant concerns over the current funding profile for this ambitious developmental effort in that amounts proposed for the initial years may not be adequate to resolve technical design and engineering issues necessary to support scheduled investment decisions by private industry. The conferees are very supportive of this innovative public-private partnership in developing a more efficient and commercially viable launch system and direct NASA to conduct a re-examination of the current funding profile, including amounts recommended for the remainder of fiscal year 1996. The conferees expect NASA to submit its findings and recommendations in this regard in a report to accompany its justifications for the fiscal year 1997 budget, and to request a reprogramming, if necessary, to optimize initial developmental efforts during the balance of the current year.

A general reduction of $20,000,000 for the mission communications program, to be distributed in accordance with established reprogramming procedures.

A general reduction of $16,500,000 for Academic Programs, leaving funding at the fiscal year 1995 level. The conferees urge NASA to consider funding the Discovery Center project and the Rural Teacher Resource Center. These projects are aimed at significantly enhancing science, educational, and outreach services for an underserved region of the country. The Oregon State System for Higher Education is developing a network infrastructure for advanced technology research and education utilizing high speed and high capacity communications systems with a prior year grant of funds from NASA under its academic programs activity. The conferees understand that this project has received substantial industry contributions, however, some additional federal support may be necessary to facilitate the acquisition of equipment and for space modifications. NASA is urged to give priority consideration to assisting in the prompt completion of this important initiative.

MISSION SUPPORT

Amendment No. 105: Appropriates $2,502,200,000 for Mission Support, instead of $2,618,200,000 as proposed by the House and $2,484,200,000 as proposed by the Senate.

The conference agreement reflects the following changes from the budget request:

A decrease of $125,000,000 in salaries and related expenses resulting from the voluntary retirement of individuals during fiscal year 1995 which had not been anticipated when the fiscal year 1996 budget was submitted.

A general reduction of $25,000,000 from research and operations support, subject to reprogramming guidelines.

A reduction of $50,000,000 from space communications, to be applied at the agency's discretion subject to reprogramming guidelines.

A reduction of $24,000,000 from construction of facilities. The conferees agree that NASA may use excess fiscal year 1994 funding, particularly identified excess planning and design funds, to satisfy fiscal year 1996 requirements.

Amendment No. 106: Deletes House administrative provision regarding leasing of contractor funded facilities where such lease would amortize the contractor investment unless specifically approved in an appropriations Act.

Amendment No. 107: Adds Senate language to the House administrative provision regarding transfer of facilities at Iuka, Mississippi. The new language will direct that any Federal entity having previous contact with the site will have responsibility for environmental remediation.

Amendment No. 108: Deletes House administrative provision directing a study of closing or re-structuring NASA flight operations and research centers. The conferees agree to the Senate report language requesting periodic progress reports on the implementation of recommendations contained in the NASA zero-based review.

Amendment No. 109: Deletes Senate administrative provision delaying the availability of $390,000,000 for Space Station until August 1, 1996. Adds an administrative provision providing up to $50,000,000 of transfer authority for use at the discretion of the Administrator.

The conferees have agreed to include an administrative provision providing transfer authority to the National Aeronautics and Space Administration to deal with unforeseen emergencies. To ensure that there is no adverse effect on any NASA program, the conferees have included general transfer authority of up to $50,000,000 to be used at the direction of the Administrator subject to the case-by-case approval by the House and Senate Appropriations Committees.

NATIONAL SCIENCE FOUNDATION

Amendment No. 110: Appropriates $2,274,000,000 for Research and Related Activities, instead of $2,254,000,000 as proposed by the House and $2,294,000,000 as proposed by the Senate.

The conferees agree that the reduction within the Research and Related Activities account should be allocated by the National Science Foundation in accordance with its internal procedures for resource allocation, subject to approval by the House and Senate Committees on Appropriations.

U.S. ANTARCTIC PROGRAM

The conferees agree with the Senate report language calling for a government-wide policy review of the U.S. presence in the Antarctic to be conducted by the National Science and Technology Council and reiterate that such a review must include all program participants, including the Department of Defense. The review should be completed and submitted to the Congress no later than March 31, 1996.

OPTICAL AND INFRARED ASTRONOMY

The conferees recognize the need for the National Science Foundation to support modernizing the research infrastructure in astronomy and other disciplines. The conferees are equally supportive of the flexible matching requirements employed by the Foundation in its Academic Research Infrastructure program and expect they will be continued in fiscal year 1996.

Amendment No. 111: Deletes language proposed by the Senate to fund fair housing activities under the Department of Justice. Language transferring such functions, with delayed implementation of April 1, 1997 is included under fair housing activities under title II of this Act.

Amendment No. 112: The Senate bill contained a provision moving the Office of Federal Housing Enterprise Oversight (OFHEO), which is the financial safety and soundness regulator of Fannie Mae and Freddie Mac (collectively, "GSEs"), from the Department of Housing and Urban Development to the Department of the Treasury. The conference agreement does not contain this provision. Nevertheless, the conferees want to emphasize the seriousness with which they view the underlying Senate provision.

In particular, the primary function of OFHEO is to issue risk-based capital standards to ensure the safety and soundness of the GSEs, and that these standards, as yet unissued, were to be finalized by November 28, 1994. The conferees urge OFHEO to refocus its emphasis from lower priority activities, such as participation in conferences and political forums, to financial examinations and the development of final risk-based capital standards.

TITLE V—GENERAL PROVISIONS

Amendment No. 113: Makes technical language change.

Amendment No. 114: Deletes language proposed by the House and stricken by the Senate regarding contractor conversions at the Environmental Protection Agency. Additional language relative to this matter is included in amendment numbered 65.

Inserts language directing FEMA to sell surplus mobile homes/trailers from its inventory. Additional information on this matter is discussed under amendment numbered 97.

Amendment No. 115: Inserts language proposed by the Senate which allows the use of other funds available to the Department of Health and Human Services to facilitate termination of the Office of Consumer Affairs. This matter is also mentioned in amendment numbered 101.

Amendment No. 116: Deletes language proposed by the Senate regarding energy savings at Federal facilities.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1996 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 amount, the 1996 budget estimates, and the House and Senate bills for 1996 follow:

New budget (obligational) authority, fiscal year 1995	$89,920,161,061
Budget estimates of new (obligational) authority, fiscal year 1996	89,869,762,093
House bill, fiscal year 1996	79,697,360,000
Senate bill, fiscal year 1996	81,009,212,000
Conference agreement, fiscal year 1996	80,591,927,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1995	−9,328,234,061
Budget estimates of new (obligational) authority fiscal year 1996	−9,277,835,093
House bill, fiscal year 1996	+894,567,000
Senate bill, fiscal year 1996	−417,285,000

Jerry Lewis,
Tom DeLay,
Barbara F. Vucanovich,
James T. Walsh,
David L. Hobson,
Joe Knollenberg,
Rodney P.
Frelinghuysen,
Mark W. Neumann,
Bob Livingston,
Managers on the Part of the House.

Christopher S. Bond,
Conrad Burns,
Ted Stevens,
Richard C. Shelby,
Robert F. Bennett,
Ben Nighthorse
Campbell,
Mark O. Hatfield,
Barbara A. Mikulski,
Patrick J. Leahy,
Bennett Johnston,
J. Robert Kerry,
Robert C. Byrd,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Pallone) to revise and extend their remarks and include extraneous material:)

Ms. Kaptur, for 5 minutes, today.
Mr. Pallone, for 5 minutes, today.
Mr. Ward, for 5 minutes, today.
Mr. Rush, for 5 minutes, today.
Mr. Doggett, for 5 minutes, today.
Mrs. Clayton, for 5 minutes, today.
Mr. Dole, for 5 minutes, today.
Ms. Jackson Lee, for 5 minutes, today.
Ms. Lofgren, for 5 minutes, today.
Mr. Luther, for 5 minutes, today.
Mr. Baldacci, for 60 minutes, today.
Ms. Kaptur, for 60 minutes, today.

(The following Members (at the request of Mr. Hayworth) to revise and extend their remarks and include extraneous material:)

Mr. Weldon of Florida, for 5 minutes, today.
Mr. Tiahrt, for 5 minutes, today.
Mr. Kim, for 5 minutes, today.
Mr. Martini, for 5 minutes, today.
Mr. Ramstad, for 5 minutes, today.
Mr. Scarborough, for 5 minutes, today.
Mr. Longley, for 5 minutes, today.
Mr. Dornan, for 5 minutes, today.
Mr. Goss, for 5 minutes each day, today and on November 20.
Mrs. Morella, for 5 minutes each day, today and on November 18.
Mr. Fox of Pennsylvania, for 5 minutes, today.
Mr. Bryant of Tennessee, for 5 minutes, today.
Mr. Gutknecht, for 5 minutes, today.
Mr. Hoke, for 5 minutes, today.
Mr. Hayworth, for 5 minutes, today.
Mr. Flanagan, for 5 minutes, today.
Mr. Wamp, for 5 minutes, today.
Mr. Lewis of Kentucky, for 5 minutes, today.
Mr. Riggs, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. Mascara, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. Talent, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. Andrews, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. Talent, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. Ganske, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. Baldacci, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Pallone) and to include extraneous matter:)

Mr. Evans.
Mr. Vento in two instances.
Mr. Reed.
Mr. Dixon.
Mr. Hilliard.
Mr. Kanjorski in two instances.
Ms. Roybal-Allard.
Mrs. Clayton.
Ms. Danner.
Mr. Richardson.
Mr. Waxman.
Mr. Jefferson.
Mr. Conyers.
Mr. Menendez in three instances.
Mrs. Mink of Hawaii.

(The following Members (at the request of Mr. Hayworth) and to include extraneous matter:)

Mr. Ramstad.
Mr. Dornan.
Ms. Ros-Lehtinen.
Mr. Hansen.
Mr. Taylor of North Carolina.
Mr. Bereuter in two instances.
Mr. Gilman in three instances.
Mr. Lightfoot.
Mr. Cunningham.
Mr. Frelinghuysen.
Mr. Bonilla.
Mr. Goodling.
Mr. LaTourette.
Mr. Schaefer.
Mr. Porter.
Mr. Gunderson.

(The following Members (at the request of Mr. Shays) and to include extraneous matter:)

Mr. Visclosky.
Mr. Martini.

ADJOURNMENT

Mr. SHAYS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 59 minutes p.m.), under its previous order, the House adjourned until Saturday, November 18, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1693. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Brazil (Transmittal No. 04-96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1694. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Germany (Transmittal No. 03-96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. McINNIS: Committee on Rules. House Resolution 275. Resolution providing for consideration of motions to suspend the rules (Rept. 104-351). Referred to the House Calendar.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 276. Resolution waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules. (Rept. 104-352). Referred to the House Calendar.

Mr. LEWIS of California: Committee of Conference. Conference report on H.R. 2099. A bill making appropriations for the Department of Veterans' Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for fiscal year ending September 30, 1996, and for other purposes (Rept. 104-353). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1816. Referral to the Committee on Commerce extended for a period ending not later than December 1, 1995.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. TAYLOR of North Carolina (for himself, Mr. ALLARD, Mr. ARCHER, Mr. ARMEY, Mr. BACHUS, Mr. BAKER of California, Mr. BAKER of Louisiana, Mr. BALLENGER, Mr. BARCIA of Michigan, Mr. BARR, Mr. BARRETT of Nebraska, Mr. BARRETT of Wisconsin, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BASS, Mr. BEREUTER, Mr. BEVILL, Mr. BILIRAKIS, Mr. BLILEY, Mr. BLUTE, Mr. BOEHLERT, Mr. BOEHNER, Mr. BONILLA, Mr. BONIOR, Mr. BONO, Mr. BREWSTER, Mr. BROWNBACK, Mr. BRYANT of Tennessee, Mr. BUNN of Oregon, Mr. BURR, Mr. BURTON of Indiana, Mr. BUYER, Mr. CHABOT, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMP, Mr. CANADY, Mr. CASTLE, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. CHRYSLER, Mr. CLINGER, Mr. COBLE, Mr. COLEMAN, Mr. COLLINS of Georgia, Mr. CONDIT, Mr. COOLEY, Mr. COX of California, Mr. CRAPO, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DAVIS, Mr. DEAL of Georgia, Ms. DELAURO, Mr. DELAY, Mr. DELLUMS, Mr. DICKEY, Mr. DIXON, Mr. DREIER, Mr. DUNCAN, Ms. DUNN OF WASHINGTON, Mr. EDWARDS, Mr. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. EVERETT, Mr. FARR, Mr. FAWELL, Mr. FIELDS of Texas, Mr. FORBES, Mrs. FOWLER, Mr. FOX, Mr. FRANKS of New Jersey, Mr. FRELINGHUYSEN, Mr. FRISA, Mr. FUNDERBURK, Mr. GALLEGLY, Mr. GANSKE, Mr. PETE GEREN of Texas, Mr. GILCHREST, Mr. GILMAN, Mr. GINGRICH, Mr. GOODLATTE, Mr. GOSS, Mr. GRAHAM, Mr. GENE GREEN of Texas, Mr. GREENWOOD, Mr. GUNDERSON, Mr. GUTKNECHT, Mr. HALL of Texas, Mr. HANSEN, Mr. HASTERT, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HEFLEY, Mr. HEFNER, Mr. HEINEMAN, Mr. HERGER, Mr. HILLEARY, Mr. HOBSON, Mr. HOEKSTRA, Mr. HOKE, Mr. HOUGHTON, Mr. HOYER, Mr. HYDE, Mr. INGLIS of South Carolina, Mr. JACOBS, Mr. SAM JOHNSON, Mr. JONES, Mr. KENNEDY of Massachusetts, Mr. KING, Mr. KINGSTON, Mr. KNOLLENBERG, Mr. KOLBE, Mrs. LINCOLN, Mr. LARGENT, Mr. LAUGHLIN, Mr. LAZIO of New York, Mr. LEACH, Mr. LEWIS of Georgia, Mr. LEWIS of Kentucky, Mr. LIGHTFOOT, Mr. LINDER, Mr. LIVINGSTON, Mr. LONGLEY, Mr. LUCAS, Mr. MANZULLO, Mr. MCCOLLUM, Mr. MCDADE, Mr. MCHUGH, Mr. MCINTOSH, Mr. MCKEON, Mr. MCNULTY, Mr. METCALF, Mrs. MEYERS of Kansas, Mr. MICA, Mr. MILLER of Florida, Mr. MINGE, Ms. MOLINARI, Mr. MONTGOMERY, Mr. MOORHEAD, Mr. MORAN, Mrs. MORELLA, Mrs. MYRICK, Mr. NETHERCUTT, Mr. NEUMANN, Mr. NEY, Mr. NORWOOD, Mr. OLVER, Mr. OXLEY, Mr. PACKARD, Mr. PARKER, Mr. PASTOR, Mr. PAXON, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PETRI, Mr. POMBO, Mr. POSHARD, Ms. PRYCE, Mr. QUILLEN, Mr. QUINN, Mr. RADANOVICH, Mr. RAMSTAD, Mr. RANGEL, Mr. REED, Mr. RIGGS, Mr. ROBERTS, Mr. ROEMER, Mr. ROGERS, Mr. ROHRABACHER, Mr. ROSE, Mr. ROTH, Mrs. ROUKEMA, Mr. ROYCE, Mr. SALMON, Mr. SANFORD, Mr. SAXTON, Mr. SCHAEFER, Mrs. SEASTRAND, Mr. SENSENBRENNER, Mr. SHADEGG, Mr. SHAW, Mr. SHAYS, Mr. SHUSTER, Mr. SKEEN, Mr. SKELTON, Mrs. SMITH of Washington, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. SOUDER, Mr. SPENCE, Mr. SPRATT, Mr. STEARNS, Mr. STENHOLM, Mr. STOCKMAN, Mr. STUMP, Mr. TALENT, Mr. TANNER, Mr. TATE, Mr. TAUZIN, Mr. TAYLOR of Mississippi, Mr. THOMAS, Mr. THORNBERRY, Mr. TIAHRT, Mr. TORKILDSEN, Mr. TOWNS, Mr. UPTON, Mrs. VUCANOVICH, Mr. WALKER, Mr. WALSH, Mr. WAMP, Mr. WATT of North Carolina, Mr. WATTS of Oklahoma, Mr. WELDON of Pennsylvania, Mr. WHITE, Mr. WHITFIELD, Mr. WILLIAMS, Mr. WOLF, Mr. YOUNG of Alaska, and Mr. ZELIFF):

H.R. 2657. A bill to award a congressional gold medal to Ruth and Billy Graham; to the Committee on Banking and Financial Services.

By Mr. CONYERS:

H.R. 2658. A bill to provide that Members of Congress shall not be paid during Federal Government shutdowns, and for other purposes; to the Committee on House Oversight.

By Mr. FRANK of Massachusetts:

H.R. 2659. A bill to cancel the participation of the United States in the space station program; to the Committee on Science.

By Mr. McCRERY:

H.R. 2660. A bill to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge; to the Committee on Resources.

By Ms. NORTON:

H.R. 2661. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to permit the District of Columbia to expend its own funds during any portion of a fiscal year for which Congress has not enacted the budget of the District of Columbia for the fiscal year, and to provide for the appropriation of monthly prorated portion of the annual Federal payment to the District of Columbia for such fiscal year during such portion of the year; to the Committee on Government Reform and Oversight.

By Mr. WOLF (for himself, Mr. BATEMAN, Mr. DAVIS, Mr. HOYER, Mr. MORAN, Mrs. MORELLA, and Mr. WYNN):

H.R. 2662. A bill to provide for the payment of Federal and District of Columbia employees during periods of a lapse in appropriations for fiscal year 1996; to the Committee on Government Reform and Oversight.

By Mr. LIVINGSTON:

H.J. Res. 123. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Ms. NORTON:

H.J. Res. 124. Joint resolution making further continuing appropriations for the District of Columbia for fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. GILMAN:

H. Con. Res. 114. Concurrent resolution to authorize the Newington-Cropsey Foundation to erect on the Capitol Grounds and present to Congress a Bill of Rights Eagle Monument dedicated to the Bill of Rights; to the Committee on Transportation and Infrastructure.

By Mr. YATES:

H. Con. Res. 115. Concurrent resolution expressing the sense of the Congress regarding the inadequacy of German reparations for Holocaust survivors living in the United States; to the Committee on International Relations.

By Mr. GILMAN (for himself, Mr. BEREUTER, Mr. SMITH of New Jersey, and Mr. BERMAN):

H. Res. 274. Resolution concerning Burma and the U.N. General Assembly; to the Committee on International Relations.

By Mr. PETERSON of Florida:

H. Res. 277. Resolution relating to a question of the privileges of the House; laid on the table.

By Mr. BALDACCI (for himself, Mr. GEPHARDT, Ms. JACKSON-LEE, Mr. BENTSEN, Mr. DOGGETT, Mr. DOYLE, Mr. FATTAH, Mr. KENNEDY of Rhode Island, Ms. LOFGREN, Mr. LUTHER, Mr. MASCARA, Ms. MCCARTHY, Ms. RIVERS, and Mr. WARD):

H. Res. 278. Resolution providing that when the House adjourns on the legislative day of Saturday, November 18, 1995, it shall stand adjourned until noon Sunday, November 19, 1995, to continue working to resolve the budget impasse; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. EVANS introduced a bill (H.R. 2663) to waive the time limitation specified by law for the award certain military decorations in order to allow the award of the Congressional Medal of Honor to Alfred Rascon for actions while a member of the United States Army during the Vietnam era; which was referred to the Committee on National Security.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. CLINGER.

H.R. 104: Mr. POSHARD, and Mr. GANSKE.

H.R. 325: Mr. PORTER and Mr. FRANKS of Connecticut.

H.R. 359: Mr. MYERS of Indiana.

H.R. 528: Mr. DELLUMS and Mr. BASS.

H.R. 1023: Mr. MARKEY and Mr. TORKILDSEN.

H.R. 1203: Mr. RICHARDSON and Mr. GOODLATTE.

H.R. 1305: Mr. OBERSTAR, Mr. KLECZKA, Mr. FROST, Mr. POSHARD, Ms. KAPTUR, Mr. BERMAN, and Mr. BARRETT of Wisconsin.

H.R. 1400: Mr. COLEMAN and Mr. TOWNS.

H.R. 1406: Mr. ZELIFF, Mr. BALDACCI, Mr. LUTHER, and Mr. MCHALE.

H.R. 1488: Mr. BURR, Mr. ROGERS, Mr. HILLIARD, and Mr. CRAPO.

H.R. 1516: Mr. KAPTUR.

H.R. 1711: Mr. WELLER.

H.R. 1746: Mr. ACKERMAN, Mr. FROST, Mr. LEWIS of Georgia, and Ms. MCKINNEY.

H.R. 1856: Mr. GREENWOOD and Mr. FRISA.

H.R. 1946: Mr. LINDER, Mr. SPENCE, Mr. LAHOOD, and Mr. CALLAHAN.

H.R. 1950: Ms. ROYBAL-ALLARD.

H.R. 1951: Mr. CRAPO.

H.R. 2027: Mr. STUMP.

H.R. 2167: Ms. FURSE.

H.R. 2178: Mr. FRANK of Massachusetts.

H.R. 2190: Mr. FUNDERBURK and Mr. ZELIFF.

H.R. 2244: Mr. NEUMANN.

H.R. 2351: Mr. CALVERT.

H.R. 2483: Mr. BILBRAY.

H.R. 2507: Mr. TORKILDSEN.

H.R. 2540: Mr. PARKER and Mr. HALL of Texas.

H.R. 2579: Mr. DE LA GARZA, Mr. STUPAK, and Ms. FURSE.

H.R. 2614: Mrs. MALONEY, Mr. METCALF, Mr. OLVER, Mr. FLAKE, Mr. NEY, Mr. FOX, and Mr. LUCAS.

H.R. 2618: Mr. BEILENSON.

H.R. 2622: Mr. SAWYER.

H.R. 2627: Mr. ACKERMAN, Mr. ARMEY, Mr. BAKER of Louisiana, Mr. BARCIA of Michigan, Mr. BARRETT of Nebraska, Mr. BLUTE, Mr. BONIOR, Mr. BORSKI, Mr. BREWSTER, Ms. BROWN of Florida, Mr. BRYANT of Texas, Mr. CALLAHAN, Mr. CANADY, Mr. CARDIN, Mr. CLAY, Mrs. CLAYTON, Mr. CLEMENT, Mr. CLINGER, Mr. CLYBURN, Mr. COLEMAN, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. COSTELLO, MR. COYNE, Mr. CRAMER, Mr. CREMEANS, Ms. DANNER, Mr. DAVIS, Mr. DELAY, Mr. DELLUMS, Mr. DICKEY, Mr. DICKS, Mr. DIXON, Mr. DUNCAN, Mr. DURBIN, Mr. EHLERS, Mr. EHRLICH, Mr. ENGEL, Mr. ENSIGN, Mr. FARR, Mr. FAZIO of California, Mr. FIELDS of Louisiana, Mr. FRANK of Massachusetts, Mr. FRAZER, Mr. FROST, Ms. FURSE, Mr. GIBBONS, Mr. GILLMOR, Mr. GEPHARDT, Mr. PETE GEREN of Texas, Mr. GILCHREST, Mr. GINGRICH, Mr. GOODLING, Mr. GORDON, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HAYES, Mr. HINCHEY, Mr. HOBSON, Mr. HOKE, Mr. HOLDEN, Mr. HORN, Mr. HOYER, Mr. HYDE, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JOHNSON of Connecticut, Mr. JOHNSON of South Dakota, Mrs. KENNELLY, Mr. LATOURETTE, Mr. LAUGHLIN, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. LIGHTFOOT, Mrs. LOWEY, Mr. MARTINEZ, Mr. MATSUI, Mr. MCDADE, Mr. MCDERMOTT, Mrs. MEEK of Florida, Mr. MILLER of California, Mr. MOAKLEY, Mr. MORAN, Mr. NADLER, Mr. NEAL of Massachusetts, Mr. NETHERCUTT, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. PACKARD, Mr. PALLONE, Mr. PASTOR, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PORTER, Mr. PORTMAN, Mr. POSHARD, Ms. PRYCE, Mr. RAHALL, Mr. RANGEL, Mr. REED, Mr. REGULA, Mr. RICHARDSON, Mr. ROGERS, Mr. ROMERO-BARCELO, Mr. SABO, Mr. SCHIFF, Mr. SCOTT, Mr. SERRANO, Mr. SKAGGS, Mr. SKEEN, Mr. SKELTON, Mr. SPRATT, Mr. STOKES, Mr. TAYLOR of Mississippi, Mr. TOWNS, Mr. TRAFICANT, Mr. TUCKER, Mr. VISCLOSKY, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. WALSH, Mr. WATT of North Carolina, Mr. WAXMAN, Mr. WOLF, Mr. WYNN, and Mr. YATES.

H.R. 2628: Mr. MCHALE, Mr. LUTHER, Mr. GENE GREEN of Texas, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. WARD, Mr. SPRATT, Mr. MANTON, Mr. BRYANT of Texas, and Mr. RICHARDSON.

H.R. 2632: Mr. TALENT, Mr. SCHAEFER, Mr. TATE, Mr. ROGERS, and Mrs. VUCANOVICH.

H.R. 2651: Mr. ABERCROMBIE, Mr. VISCLOSKY, Mr. MILLER of California, Mr. STARK, and Mr. STUPAK.

H.J. Res. 100: Mr. SCHAEFER and Mr. BEREUTER.

H. Con. Res. 50: Mr. CUNNINGHAM.

H. Con. Res. 102: Mr. LIPINSKI and Mr. PACKARD.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 528: Mr. BARRETT of Nebraska.

EXTENSIONS OF REMARKS

WHY DO PEOPLE SMOKE AND WHY THEY SHOULD QUIT: WINNERS OF THE SANTA ANA SOUTHWEST COMMUNITY CENTER ANNUAL ESSAY CONTEST

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. DORNAN. Mr. Speaker, I am proud to include in today's CONGRESSIONAL RECORD the winning essays in a recent local writing contest on smoking. I personally congratulate first place winner Alex Alvarado, second place winner Tiffany Dersam, third place winner Peter Nguyen, and all the other contestants for their outstanding essays.

I WANT MY MOTHER ALIVE

(By Alex Alvarado)

People should never begin to smoke. Parents need to think of their children. I know because I'm suffering myself having a mother who smokes. Many times I have asked my mother why she smokes. The answer is always she doesn't know, or she is nervous. That's why smokers should never start smoking. It destroys the smoker's health, and their family's too. One thing that makes me happy is doing this essay. I am dedicating it to my mother and all the people that smoke. I'm hoping I'll make her think of the family a little bit. Every night I pray that my mother will stop smoking.

I don't think cigarettes should have ever been invented. If I were President Clinton I'd remove cigarettes from the stores. My brain just can't understand why people smoke in the first place. My brothers, sisters, and I have made a promise to each other that we will never even begin to smoke. My dad is very happy about this essay, he loves my mother very much and also wishes that she would stop. Poor mother, I know I've hurt her feelings by writing this, but it's for her own good.

Smokers should quit so that they can live longer. People need to be able to breathe clean air. With so many smokers in the world, our air gets polluted. My personal opinion is that it's a bad example for the younger generation to see adults smoke. Instead of wasting their money on cigarettes, it would be better for them to buy books to read.

There are so many reasons to stop smoking, but the main one is to be able to continue to live. People are dying of smoking, that is bad. Also parents are dying and leaving children alone. On the news I've heard many things about why people should stop smoking. Today is the first time I can express my feelings on this matter.

My brother had a wonderful teacher who died from smoking. It makes me really sad because I'll never be able to have her as a teacher. I hope sharing this essay with my mother and all of you will make her and you realize that smoking is not good at all. May God bless all of us who are trying to help smokers quit. Good luck to the smokers of the world too. I may not win the contest, but if I've touched my mother's heart and she decides to quit, I'll be an even bigger winner.

WHY I THINK PEOPLE START TO SMOKE AND WHY I THINK THEY SHOULD QUIT

(By Tiffany Dersam)

I would like to share with you some of my ideas on why I think people start smoking and why I think they should quit. I think people start to smoke for many reasons and one is that they think it will make them look cool but it won't. People smoke because they think it will take their minds off of other things. The most common reason people start smoking is because of peer pressure.

I think people should stop smoking for many reasons. Smoking will give you yellow teeth, it will make you look stupid, and it can make you smell really bad. Smoking can cause you Lung Cancer and Heart Disease and not let your brain work the way it is supposed to.

Now I would like to share with you some personal experiences with smoking. My grandma started smoking when she was 19 and a half because every one at work was smoking.

In my family both my grandma and my dad smoke. My dad started smoking at the age of 17, and he has become very addicted to smoking. Anytime he pulls out his box of cigars, I get very annoyed. For awhile my sister would give my dad a pack of gum to try to stop him from smoking.

If you are a smoker, and you know it is bad for your health then . . . quit. It may be hard, but you can do it if you work hard and keep to it.

Here are some ways you might want to consider. #1 For example throw out all of your cigars and cigarettes and try not to smoke for as long as you can. If you don't smoke for two weeks or more then reward yourself, but remember the reward can not be a cigar or cigarette. Then do not smoke for three weeks, then four, then five and so on until you stop smoking. #2 Pub a rubberband around your wrist (make sure the rubberband fits loosely around your wrist but not too loose and not too tight.) every time you pull out your pack of cigars or cigarettes snap the rubberband on your wrist. After a while your wrist will hurt so much that you will never want to smoke again. #3 Tell your child(ren), if you have any that is, that everytime you light up that you will give them $1.50 and when you are gone have someone else write down how many times you do light up. Not only will you stop smoking but your child will think you're the best person in the world.

Good luck on quitting!

SMOKING

(By Peter Nguyen)

Smoking is an extremely hazardous thing to do. Smoking cigarettes is one of the most dangerous kinds of smoking. Pipes and cigars are also different kinds of smoking. They are just as dangerous as cigarettes. A long time ago, people used to smoke all the time. They did not know that smoking was harmful to their health. Today, people still smoke and children are starting to smoke, too!

Some people smoke because their friends smoke, and they think that it is cool. It is really difficult to say no to a friend. Some people smoke because they are bored and have nothing to do. Other people smoke because they have problems that they think smoking cigarettes will get rid of. But, smoking cigarettes is another problem they have to deal with. Some people smoke because they think smoking would take them to new places they have never been before. But, smoking ruins your life and destroys any chance you have of reaching new heights and exploring new places.

People who smoke cigarettes should quit, because smoking can destroy one's life. Smoking can make you sick or it can kill you! It also kills anyone who breathes around you! Smoking can damage your heart, too. It can also cause lung cancer. You can not breathe very well when you have lung cancer. Smoking cigarettes can be addictive. it sometimes makes you hurt someone else for one cigarette. If you stop smoking, you can save a lot of money and you can buy better things than a pack of cigarettes. For example, you can buy a brand new car.

Three years ago, I visited my uncle. He smoked cigarettes all the time. His house always smelled like smoke. He would smoke four to six packs a day! I always tried to hold my breath, so I would not breathe in any of that horrible smoke. His clothes always smelled of smoke. Now, it is hard for him to breathe because smoking made his lungs ill. So, he decided to quit.

If your friends try to get you to smoke, they are not really your friends. Just walk away from them. You can make up and excuse like, "I am late for class", or "I need to get to the bathroom." What ever you say, make sure you get away from them. The best way to stop smoking is to not smoke in the first place.

TRIBUTE TO MARC BELFORTTI

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Ms. ROYBAL-ALLARD. Mr. Speaker, it is my pleasure to pay tribute to an outstanding member of the 33d Congressional District, Mark Belfortti.

Mr. Belfortti's remarkable dedication to the community is exemplified by the time and expertise he gives to the Home Loan Counseling Center. This organization provides an invaluable service to our community by increasing the possibility of home ownership to members of the 33d Congressional District. The center has benefited from the countless hours of technical assistance volunteered by Mr. Belfortti, his help with homebuying fairs and empowerment seminars, and from his role as the center's liaison to many community associations. For his work, Mr. Belfortti has been named an honorary member of the Home Loan Counseling Center's Board of Directors.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In addition to his involvement with the Home Loan Counseling Center, Mr. Belfortti has been actively involved with other nonprofit community service agencies that provide homeownership, economic development, and social services to help empower residents. With his help, organizations such as William Mead Homes, Operation Hope, Inc., Valley Economic Development Center, and the County and City of Los Angeles' Housing Department have been able to service the needs of the Spanish speaking residents in my district through his translation skills and his technical assistance.

Mr. Speaker, Mark Belfortti's work exemplifies the commitment and dedication of all unsung heroes who give of their time selflessly to improve their community. Mr. Belfortti's involvement is invaluable for nonprofit organizations with scarce resources and for communities with critical needs. For these reasons, I urge my colleagues to join me in saluting Mark Belfortti for all his work.

THE INTERCULTURAL CANCER COUNCIL [ICC] OFFERS NEW HOPE FOR CANCER'S GREATEST VICTIMS

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. BONILLA. Mr. Speaker, I rise today to report an important step forward in cancer research and medical affairs. The newly formed Intercultural Cancer Council [ICC] will be a leader in helping the Nation find solutions to why some of our largest population groups suffer from cancer at much greater levels than others.

In the United States cancer will become the leading cause of death within the next several years. Partly because of the progress made against cardiovascular diseases; and partly because of the greater incidence of more than 200 different types of cancer. The ICC explains that by far the highest incidence and lowest survival rates from cancer are found in our minority and medically underserved populations.

For instance, while we can be thankful that breast cancer detection, treatment, and survival is now improving significantly for the Nation, for African-American women it has actually become worse. Among Hispanics and native Americans cervical cancer takes lives at a rate far above the national average. This for a disease that can often be cured on an outpatient basis—when detected early. Alaskan Americans and native Americans are the leading victims of lung cancer, which remains among the cancers most resistant to treatment. Prostate cancer is several times more common in African-American men compared to white men from the same socioeconomic group. We don't yet know why Asian Americans have such a high rate of liver cancer, or exactly why Asian-American women have an increasing rate of breast cancer.

The ICC was formed earlier this year to help explain the disparities in where and why these cancers strike, and what steps may be taken to save the lives that would otherwise be lost in the future.

As a Texan, I am particularly proud that the founders and cochairs of the ICC are department heads from two of my State's finest medical institutions. Lovell Jones, Ph.D. is from the M.D. Anderson Cancer Center at the University of Texas, and Armin Weinberg, Ph.D., who is also a cancer researcher, is from the equally prestigious Baylor College of Medicine. In addition the Dallas-based Susan G. Komen Breast Cancer Foundation is one of the original sustaining members of the ICC.

To this life affirming effort the ICC brings an impressive breadth of membership and expertise that crosses all racial and ethnic lines. The ICC includes institutions and advisers from the American Cancer Society, National Hispanic Leadership Initiative on Cancer, Howard University, American Indian Physicians Association, National Appalachian Leadership Initiative on Cancer, American Association for Cancer Research, the Kellogg Company, American Public Health Association, Bosom Buddies, YWCA, Harlem Hospital, Association of Asian Pacific Community Health Organizations, National Coalition for Cancer Survivorship, and the Institute of Medicine, among others.

The ICC will be a valuable asset to public education as well as to Congress and government agencies such as the National Institutes of Health, National Cancer Institute, and the Centers for Disease Control and Prevention. A major objective of the ICC is to help institutions develop prevention, treatment, and research policies so that American medicine free of racial tensions. The ICC believes that the practice of medicine can be a positive example for other institutions.

We must allocate select resources where the disease is most prevalent. For cancer this means special study on why specific populations are so much more vulnerable. Finding these answers is good medicine because it will allow us to more effectively prevent or cure cancer throughout our entire population. Besides being good science, this approach reflects the best in America by showing special compassion for the most vulnerable among us.

Many population groups face economic restraints in obtaining the early detection and successful treatment of cancer. This is only a minor part of the reason for cancer's disproportionate impacting these groups, though it is sometimes used an excuse not to do the critically needed research into the many genetic, cultural, and epidemiological causes of cancer.

Mr. Speaker, some of our House colleagues can testify on being cancer survivors. Others are thankful that they have a loved one with them today who a few years ago would have been lost because the best that science and medicine then had to offer would not have been enough. Unfortunately, everyone in our society does not benefit equally from this lifesaving progress. The significantly higher incidence of cancer, and lower survival rate among minorities, culturally diverse, and medically underserved communities is a human tragedy. It is also an unnecessary burden on the Nation since so many of these deaths, are avoidable.

There are many unknown reasons for these tragic imbalances. I am pleased that we now have the ICC to help us seek the answers to these life and death medical matters.

TRIBUTE TO KATIE C. LEWIS ELEMENTARY SCHOOL NATIONAL EDUCATION FUNDING SUPPORT DAY

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mrs. CLAYTON. Mr. Speaker, today I take great pride in paying tribute to a great educator, her staff and students. November 16, 1995, was National Education Funding Support Day, and I had the great pleasure of visiting the Katie C. Lewis Elementary School located at 300 Bryant Street in northwest Washington, DC.

Mr. Speaker, in this day and age of drastic educational budget cuts and the deluge of bad news about our education system, it was a great pleasure to spend time with students and faculty that are interested, motivated, and excited about education.

The principal, Joyce L. Thompson, showed great pride in her school, her students, faculty and their well-being. Although the school sits in the midst of a neighborhood that is plagued by drugs and violence, when you step inside the doors of Katie C. Lewis Elementary School you find a haven of caring and concern. The hallways are clean, the rooms are brightly decorated, and the children are happy to be at school and are engaged in the learning process.

The sight of so many bright-eyed students eager to absorb the lessons of the day and teachers who are enthusiastic about teaching is in stark contrast to the images we get of schools.

Mr. Speaker, I am delighted to have participated in such an important event as National Education Funding Support Day and even more delighted with the opportunity to spend time in the company of Principal Thompson and the staff and students of the Katie C. Lewis Elementary School.

TRIBUTE TO RETIRED ASSOCIATE JUSTICE ROSALIE WAHL

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. RAMSTAD. Mr. Speaker, I rise to pay tribute to retired Associate Justice Rosalie Wahl of the Minnesota Supreme Court, an outstanding jurist and an exceptional human being.

When Justice Rosalie Wahl was appointed to the Minnesota Supreme Court in 1977, she was the first woman to serve on Minnesota's highest court. Years later, she saw the court become the first in the Nation with a majority of women justices. And in the surest sign of progress, she retired last year in an era when a woman's appointment to the bench was no longer a big news story.

From the moment Rosalie Wahl became an associate justice, she hit the ground running and quickly earned a reputation as a tireless worker and a thoughtful, compassionate jurist. Justice Wahl faced a tough election battle less than a year after she took her seat, and Chief Justice Sheran offered to reduce her caseload. However, she declined because of her desire not to burden the other justices with extra cases.

Justice Wahl developed a strong work ethic long before she joined the supreme court. She was already the mother of four children upon entering law school at age 38. Justice Wahl had her fifth child during her second year of night classes. Following graduation, she served 6 years in the State public defender's office, then 4 years as a law professor at the William Mitchell College of Law. Her ability to juggle the competing demands of family, academics, and career prepared her well for challenges on the bench.

Rosalie Wahl's tenure as associate justice was important for women, and not just because her appointment ended the all-male history of the Minnesota Supreme Court. One of her most enduring legacies of Justice Wahl's work as chair of a task force on gender fairness in the legal system.

As a coauthor of the Violence Against Women Act, which Congress passed in 1994, I have a special appreciation for Rosalie Wahl's pioneering efforts. Her 1989 task force recommendations provided the basis for the Minnesota law to assist sexual assault and domestic abuse victims. In turn, the Minnesota statute helped shape the Federal law.

Justice Wahl also chaired a racial bias task force, which published recommendations in 1993. Her commitment to equal justice for all Americans is another lasting legacy.

Shortly before her retirement, Justice Wahl remarked, "I think the law should have a human face. Everything we do affects people; it doesn't become a dry bunch of words in books on the shelf."

Rosalie Wahl had a special affinity for the underprivileged and people in need, and she was always mindful of the human impact of court decisions. But Justice Wahl also tried to apply the law as it was written, even when she would have preferred a different result.

It has been said that the best judges have both a heart and a head for justice. The Minnesota Supreme Court was well served by Associate Justice Rosalie Wahl, who used her heart and her head on behalf of those who came seeking justice.

The State of Minnesota will always be grateful for Rosalie Wahl's years of service and sacrifice.

BALANCE THE BUDGET, STUPID

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. BEREUTER. Mr. Speaker, this Member highly commends to his colleagues this editorial which appeared in the Wayne Herald of Wayne, NE, on November 16, 1995.

[From the Wayne Herald, Nov. 16, 1995]

JUST BALANCE IT

Who should we believe in the current federal budget impasse between the legislative and executive branches of our Government?

On one hand we have a Republican Congressional leadership claiming their plan will put the nation on the road to fiscal solvency within seven years.

On the other hand we have the President telling us the GOP budget plan will ruin the country and millions of Social Security and Medicare recipients in the process.

We tend to be a little skeptical of both sides in this debate.

Congressional leaders of both parties have been trying to convince us for fifty years that they are working hard to balance the federal budget yet they keep approving pet projects and expenditures that mortgage the future of our children's children's children.

The President, when he was known to us as "Slick Willy", campaigned on a promise of bringing us a balanced budget in five years. Now, three years into his presidency, he's saying he still wants a balanced budget, but he can't accept the GOP seven year plan. He thinks it should be nine, or ten or twelve. And to win his argument with Congress he has used the despicable tactic of trying to scare the elderly by telling them their Medicare program will be ruined—a blatant falsehood.

The furlough of nonessential government workers has served to focus national attention on the debate, which is good. It should cause us all to demand an end to the political gamesmanship.

We hope the focus will cause the American public to stand, borrow a phrase from the Clinton campaign and shout with one voice. "Balance the budget, stupid."

FACE DEDICATED TO TRUTH AND FREEDOM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to inform the House that on next Tuesday, November 21, a very special event will be held by the organization Facts About Cuban Exiles [FACE].

FACE was established in 1982 to foster accuracy and understanding in the portrayal of the Cuban exile population. There are over a million Cubans who have been forced to flee the Castro dictatorship and FACE conducts research and provides information about the history and contributions of the Cuban exile population to the United States and other countries of exile.

The work of FACE is carried on under the leadership of Chairman José Cancela and his fellow officers: Secretary Xiomara Cassado, Vice Secretary Marián Prío-Odio and Treasurer Marilyn Borroto.

Speaking at the luncheon will be the internationally renowned scholar and author, Dr. Mark Falcoff, the author of many influential works on U.S.-Latin American relations, who will be speaking on the subject of "The Hispanic Community in the Lens of the American Media." Dr. Falcoff will be introduced by the former Secretary of Commerce of Florida, Jeb Bush.

FACE also casts light on the nature of the oppression that drove 10 percent of Cuba's population out of their homeland with special emphasis on the plight of Cuban political prisoners as part of the larger tragedy of Castro's oppression.

I wish the Facts About Cuban Exiles success its their larger goal of holding up the light of truth and freedom for the enslaved people of Cuba.

TRIBUTE TO THE EXCELSIOR SPRINGS JOB CORPS CENTER

HON. PAT DANNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Ms. DANNER. Mr. Speaker, I would like to recognize the outstanding accomplishment of the Excelsior Springs Job Corps Center students, who recently won the national Job Corps Academic Olympic competition in Washington, DC. The Academic Olympics recognize the emphasis on academic training in the Job Corps Program.

The members of the winning team included James Drury of Excelsior Springs; Aaron Baird of St. Joseph; Terry Whitt of Kidder, MO; Kristen Eck of Joplin, MO; and Tracy Ruland of Portland, OR. The team was coached by Tim Smaller and Teresa Underhill, instructors at the Jobs Corps center in Excelsior Springs.

Excelsior Springs Job Corps Director Bernard J. Fennell also deserves much credit for the team's strong performance in a competition that included a broad range of subjects, including language arts, social studies, mathematics, science, and current events.

Mr. Speaker, the people of the State of Missouri are extremely proud of the members of this fine team and their excellent showing in this competition.

BURMA AND THE UNITED NATIONS ASSEMBLY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. GILMAN. Mr. Speaker, today, I am introducing House Resolution 274, a resolution urging the administration to actively support and promote a resolution at the United Nations to call on the Government of Burma to restore civilian, democratic rule.

In July we all learned the good news that after 6 years confinement in her home in Rangoon, Aung Asn Suu Kyi was released. Although her release is supposedly "unconditional," due to the form of government in Rangoon, Suu Kyi and all of us know that she could be just as readily confined again as she was released. The ruling generals in Rangoon should not be rewarded for partially undoing something that they never should have done in the first place. Accordingly, while we are pleased about her new freedom, relations between Rangoon and Washington can not return to normal until there are some fundamental changes in Burma. The change that would be most significant to us would be that the individuals who were democratically elected in 1990 are released from prison and allowed to run the government.

Aung San Suu Kyi's arrest, detention and release is somewhat similar to the case of Harry Wu. In both instances totalitarian dictatorships under pressure from civilized nations for their egregious human rights abuses took a prominent individual hostage and then expected to be rewarded for their release. This convoluted logic may be acceptable to the inner circles of Rangoon and Beijing, but it is not transparent to democratic leaders around the world.

Our Nation has many important reasons to be concerned about what occurs in Burma. High on our priority is the illicit drug production that has had a devastating impact on our cities, families, and schools. In 1948 when Burma became independent, the annual production of opium was 30 tons. Burma was then a democracy, it exported rice to its neighbors and the world, and it enjoyed a free-market system. It was known as the "rice bowl" of Asia. Today, Burma is one of the poorest nations in the world and its opium production has increased some 8,000 percent to about 2,575 tons [1992–1993]. What is the reason for this massive increase? Bertil Litner, the Burma reporter for the Far East Economic Review, states in his book "Burma in Revolt," that Burmese drug production is—

> . . . The inevitable consequence of the decades-long Burmese tragedy; the inability of successive governments in Rangoon to come to terms with the country's ethnic minorities and the refusal of post-1962 military-dominated regimes to permit an open, pluralistic society.

The clear link between drug production and the military's intolerance for political pluralism became even more obvious when opium production more than doubled after Aung San Suu Kyi's arrest in 1989. This is directly linked to agreements made between the SLORC and the ethnic minorities that grow most of the opium and have been battling the Burmese central government rule for almost 50 years.

Individual Wa and Kokang farmers earn between $50 to $75 a year for their harvest. Their leaders, while they are not all angels, are not like Khun Sa who has tennis courts, swimming pools, and concubines. Their motivation to grow opium is that it enables them to continue to fund their armies so that they can keep Rangoon at bay. Unfortunately, they grow even more than does Khun Sa.

The administration has taken the position that there is a human rights problem in Burma but it must not be allowed to blind us to the drug problem. What the administration has failed to recognize is that the human rights problem is directly linked to the drug production. The administration has inadvertently created a false dichotomy between human rights and drug production. They have failed to understand that the drug production problem is a human rights problem. The majority of the opium grown in Burma is grown so that ethnic minorities can protect themselves. The underlying motivation behind much of the production is an economic one. It is very difficult to grow anything else in those regions and they need the money for arms. Until they feel confident that a representative form of government is established in Rangoon, they will continue to grow just like they have for the past 40 years. It is important that we bear in mind that when the SLORC annulled the results of the 1989 elections the Wa and the Kokang supported Aung San Suu Kyi's winning team.

Recently Aung San Suu Kyi called for a halt in investment in Burma and stated that Burma should not be admitted as a member of ASEAN until it had a democratically elected government. If we want to seriously declare war on Burmese drug production then we need to strongly support her efforts to peacefully bring about positive change. It is both the pragmatic and principled thing to do.

Accordingly, I urge my colleagues to support House Resolution 274.

H. RES. 274

Whereas the military government of Burma, as a member of the United Nations, is obligated to uphold the Universal Declaration of Human Rights and all other international human rights standards and conventions to which it is a signatory;

Whereas the ruling State Law and Order Restoration Council (hereinafter referred to as the "SLORC") in Burma has refused to recognize the results of the May 1990 elections, which the National League for Democracy, led by Aung San Suu Kyi, won by a landslide;

Whereas the United Nations Commission on Human Rights in March 1995 unanimously condemned the SLORC's refusal to "take all necessary steps towards democracy in light of those elections";

Whereas the United Nations Commission on Human Rights also expressed grave concern about violations of fundamental human rights in Burma, including torture, summary and arbitrary executions, massive use of forced labor including forced portering for the military, abuse of women, political arrests and detentions, restrictions on freedom of expression and association, and oppressive measures directed at ethnic and religious minorities;

Whereas the United Nations Commission on Human Rights noted that most of the 1,990 democratically elected representatives have been excluded from the SLORC's "National Convention" and concluded that the convention does not "appear to constitute the necessary step towards the restoration of democracy,";

Whereas Burma continues to be one of the world's leading sites of narcotics production and trafficking and, according to the United States State Department, production of heroin nearly tripled in Burma since the SLORC took power in a violent coup in 1988;

Whereas, according to the State Department's International Narcotics Control Strategy Report of March 1995, the SLORC's antinarcotics efforts last year "fell far short of the measures necessary to make serious progress against the drug trade," and in addition, the SLORC's lack of control over heroin-producing areas is due to the SLORC's allowing "wide-ranging, local autonomy (to ethnic armies) in exchange for halting their active insurgencies against Rangoon";

Whereas the peace agreements signed by the SLORC with ethnic insurgencies since 1989 were supposed to lead to both a decrease in opium production and economic development, but according to the State Department's report, "neither development nor a reduction in opium cultivation has occurred";

Whereas in 1948 when Burma became independent, the annual production of opium was 30 tons, Burma was then a democracy, it exported rice to its neighbors and the world, and it enjoyed a free-market system;

Whereas today Burma is one of the poorest nations in the world and its opium production has increased some 8,000 percent to about 2,575 tons (1992–1993);

Whereas the drug production increase is the consequence in large degree of the inability of the successive military governments in Rangoon to come to terms with the country's ethnic minorities and the refusal of post-1962 military-dominated regimes to permit an open pluralistic society;

Whereas it is primarily through a democratically elected civilian government in Burma, supported by the Burmese people including the ethnic minorities, that Burma can make significant progress in controlling narcotics production and trafficking;

Whereas on July 10, 1995, the SLORC responded to international pressure, including 5 resolutions by the United Nations General Assembly, by releasing Aung San Suu Kyi, who had been held under house arrest for 6 years;

Whereas 16 elected Members of Parliament remain in detention in Burma, along with thousands of other political prisoners, according to Human Rights Watch/Asia, Amnesty International, and other human rights monitoring groups;

Whereas in July 1995 the International Committee of the Red Cross (hereinafter referred to as the "ICRC") closed its office in Burma due to the SLORC's refusal to agree to allow the ICRC confidential regular access to prisoners;

Whereas the United States ambassador to the United Nations visited Burma in September 1995, met with Aung San Suu Kyi, and also met with leaders of the SLORC and urged them to "choose the path" of "democracy, rather than continued repression and dictatorial control," and declared that "fundamental change in the United States policy towards Burma would depend on fundamental change in the SLORC's treatment of the Burmese people; and

Whereas the United Nations Special Rapporteur on Burma, Professor Yozo Yokota, visited the country in October 1995 and will deliver a preliminary report of his findings to the current session of the United Nations General Assembly: Now, therefore, be it

Resolved, That the House of Representatives calls on—

(1) the Burmese Government to immediately begin a political dialogue with Aung San Suu Kyi, other democratic leaders, and representatives of the ethnic minorities to release immediately and unconditionally detained Members of Parliament and other political prisoners, to repeal repressive laws which prohibit freedom of association and expression and the right of citizens to participate freely in the political life of their country, to resume negotiations with the International Committee of the Red Cross on access to prisoners, and help control the massive flow of heroin from Burma; and

(2) the President, the Secretary of State, and the United States ambassador to the United Nations to actively support and promote a resolution at the upcoming session of the Third Committee of the United Nations General Assembly reiterating the grave concerns of the international community and calling on the SLORC to take concrete, significant steps to fulfill its obligations to guarantee respect to basic human rights and to restore civilian, democratic rule to the people of Burma.

WHAT'S MOST IMPORTANT—A TRIBUTE TO LAVONNE CICHOCKI

HON. STEVE C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. LATOURETTE. Mr. Speaker, while the Congress has been grappling, often in a partisan manner, with the task of balancing the Federal budget, I received word yesterday from home that quickly made me remember what's most important in life.

Fifteen years ago, I was a young, enthusiastic, idealistic, and probably obnoxious, public defender. Shortly after my arrival our office was joined by another young attorney, Chuck Cichocki. Chuck and I shared pretty much the same dreams and hopes. We both wanted to do our jobs well; we both wanted to build a family; and we both wanted to give our children the ability to share the American dream.

Both of us were pretty successful in realizing those goals. With his wife, LaVonne, Chuck's family welcomed three beautiful children into the world. Chuck and LaVonne enjoyed a model marriage, a nurturing family, a respect of their community and each other. Sadly, the news from home yesterday was that, after a long and courageous struggle with cancer, LaVonne passed away.

LaVonne Cichocki was a loving wife, a devoted mother and a great friend to all who knew her. Despite her pain, she remained active in her family's activities, her kids' school activities, and her participation in the events that helped shape the community in which they lived.

The world is certainly a better place today because of LaVonne's life, and, sadly the sun shines a little bit dimmer with her passing.

Mr. Speaker, our prayers must be with the Cichocki's today, and my most fervent hope is that we redouble our efforts and focus our attention more on helping families like Chuck and LaVonne's realize their dreams, and less time fighting for political points.

A TAX CREDIT AND BALANCED BUDGET

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. BEREUTER. Mr. Speaker, this Member highly commends to his colleagues the following two editorials which appeared in the Omaha World-Herald on November 16, 1995, and November 17, 1995.

[From the Omaha World-Herald, Nov. 16, 1995]

HOUSE-SENATE TAX CREDIT PACT HAS GOOD NEWS FOR MIDDLE CLASS

Republicans in the House and Senate have worked out of sensible compromise on the GOP's proposal for a family tax credit.

The compromise would permit families to reduce their federal income-tax payment by $500 for each child under age 18, sources said. The credits would be available for single parents with an annual income up to $75,000 and for two-parent families who earn up to $110,000 a year.

An earlier version passed by the House set the income-limit at $200,000. The income has been capped at a lower level to make the tax cut more palatable to moderate Republicans. Democrats had made it sound as if the majority of families with children were rich.

That, of course, is nonsense. The government already spends billions on welfare, food stamps, subsidized housing and income supplements for children in low-income families. But just above them are middle-class families in which one or two working partners earn a total of $30,000, $40,000, or $50,000, paying taxes, having Social Security contributions withheld and carrying the added responsibility of securing good child care.

Federal tax policy has for years been tinkered with to improve people's lives. But the benefits have not gone to households that looked like a traditional family. Married couples where the wife was not in the labor force saw their median income, in constant dollars, plateau at about $30,000 from 1967 to 1992. Meanwhile, couples where both partners worked for pay enjoyed a rise in median income from $38,500 in 1967 to $50,000 in 1992.

The value of the personal exemption, one of the main tax benefits for families with children, has declined. Sponsors of the 1995 Republican tax credit say the credit is designed to restore fairness.

Other provisions of the compromise tax package would reduce taxes on capital gains. Farmers and small-business owners would be able to pass more of their holdings to their heirs. The "marriage penalty," a tax quirk that discriminates against married couples, would be made less onerous.

The compromise version of the child tax credit was based on a plan approved by the Senate in which families with children would receive about 60 percent of the $245 billion total over the next seven years. Senate sponsors said this includes 29 million families with about three-fourths of the nation's 69 million children.

For the Democrats to portray this as a tax cut for the rich is to use the irresponsible rhetoric that increasingly makes their party's positions appear irrelevant.

[From the Omaha World-Herald, Nov. 17, 1995]

DEMOCRATS IGNORE KERREY'S WISE ADVICE

Congressional Democrats and President Clinton should have taken to heart the advice that a member of their party, Sen. Bob Kerrey of Nebraska, offered recently.

In the midst of rhetoric over emergency spending and borrowing legislation, a statement made Tuesday by Kerrey stood out: "Democrats need to accept the idea that we are going to balance the budget in seven years. Republicans have the majority, and they have won that argument."

Kerrey told an audience of moderate Democrats Monday that their party needs to lead by proving that it can make difficult decisions on spending and taxes. He said the party's leaders need to accept spending cuts, restructure government and decentralize government power.

As the world watches in amazement while a great country embarrasses itself, Clinton has dug in his heels and, as of late yesterday, was refusing to accept the GOP goal of balancing the budget in seven years. As Sen. Charles Grassley of Iowa put it, "everything else" in the Republicans' budget plan was negotiable. But the seven-year goal for reducing the deficit to zero is now the reason for Clinton's refusal to sign a temporary extension of the debt ceiling and spending authority.

Kerrey is chairman of the Democratic Senatorial Campaign Committee. He has a major role in next year's elections. Digging in left of center and shouting about Republicans "destroying" Medicare and showering "the rich" with windfall tax breaks at the expense of the elderly and working class has been the strategy for some party leaders.

That tactic is working, regrettably, in part because the baseless charges are seldom held up to examination by news organizations.

Kerrey has proposed a more honest approach—one that could make the 1996 campaign a genuine referendum on how far the government should go in the way of reform and how fast. Unfortunately, the president and other leading Democrats still are defying the Republican budget plan and behaving with a stubbornness which they hope will pull their poll numbers higher.

TRIBUTE TO PATRICIA McGARRY DRAKE

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. MARTINI. Mr. Speaker, I rise today to pay tribute to a very special member of the Eighth Congressional District of New Jersey.

Patricia McGarry Drake has recently decided to retire after an outstanding career in public service, where she is recognized Statewide for here expertise in administrative skills. In 1968, Pat began as a typist in the Essex County Clerk's Office, and in 1990, she was elected Essex County Clerk. Currently, she serves as president of the County Officer's Association of the State of New Jersey.

Pat is a life-long resident of Essex County, NJ, where, despite her busy schedule, she found the time to raise four children and two grandchildren. She is also a leading member of several civic and charitable organizations. One such organization, the Patricia McGarry Drake Civic Association, makes charitable donations to needy families.

Furthermore, Pat is very proud of her direct Irish heritage. Her father, Thomas, was born in County Roscommon, Ireland, and her mother, Kathleen, was born in County Sligo, Ireland. In recognition of her achievements, she was honored as Irishwoman of the year by the Friends of Brian Boru in 1986. She has also been honored by many other organizations throughout her career. Most recently, she was selected as Essex County Irish Woman of the Year in 1995.

Mr. Speaker, I ask you to help me salute Patricia McGarry Drake for her illustrious performance and sincere dedication as a public official in this county.

SHERIFF HOHERCHAK

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to my good friend Peter Hoherchak, sheriff of Carbon County, PA. Pete will retire from his post this year and is being honored by friends, colleagues, and family on November 18. I am proud to have been asked to participate in the tribute to him.

There are few public servants who will be missed as much as Pete, who is well-loved and respected by the people of Carbon County. He is the epitome of the ideal sheriff: wise, compassionate, and fair. His enforcement of the law has been exercised with a deep respect for the law, balanced with his respect for humanity.

Pete was one of eight children, born in 1930 in what is now Jim Thorpe, PA. Educated in local schools, he served with the 14th Division of the U.S. Army in Germany for 3 years. For 18 years Pete served as a business consultant, but turned his interests to law enforcement in the mid-1960's. He attended a local community college and studying criminal law and medical-legal investigation. Pete was appointed Justice of the Peace under Gov. William Scranton from 1968 to 1970.

In 1971, he became Chief Deputy Sheriff of Carbon County under Sheriff Louise D. Lisella. He was then elected sheriff in 1976 serving four consecutive terms in that capacity. Pete was the top vote-getter in each of his elections. During his tenure, Pete saw the need for a new correctional facility and worked hard to bring the idea to reality. In January 1995, the new facility was dedicated.

Pete's expertise and leadership was acknowledged by the Pennsylvania Sheriff's Association in the many positions he held on that board and finally as its president in 1986. He still serves on the board of trustees for the association.

Mr. Speaker, Sheriff Peter Hoherchak has been a dedicated public servant for almost 30 years. He not only serves his community in a professional capacity but also does valuable volunteer work for the community. He remains a leader in the Carbon County Democratic organization. He and his wife Claire are the proud parents of one son and four daughters and have six grandchildren. I am extremely proud of my long friendship with this outstanding public official. I join with the community in thanking Pete for a job well done and wish him many happy years of retirement.

IN HONOR OF ELEANOR TIEFENWERTH, A LEADER OF THE COMMUNITY WHO SERVES THE PEOPLE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today before the House of Representatives to pay tribute to Eleanor Tiefenwerth, a citizen who exhibits never-ending dedication to the community. She will be honored by the Bayonne Economic Opportunity Foundation at their 30th Annual Dinner Dance on November 17, 1995.

The Bayonne Economic Foundation is a social service agency in its 30th year. The foundation is dedicated to serving the people of the community through various outreach programs, including Head Start and Meals On Wheels. The foundation's slogan is "People Helping People". Mrs. Tiefenwerth exemplifies this motto.

Mrs. Tiefenwerth, a native of Bayonne, is a graduate of Jersey City State College. While a volunteer with the Bayonne Economic Opportunity Foundation, Mrs. Tiefenwerth developed the skills which she retains as its executive director. She has been instrumental in increasing the level of services the foundation offers to the community. These innovations include providing crosstown transportation for both senior citizens and the disabled.

In addition to her duties with the foundation, Mrs. Tiefenwerth also serves as a commissioner on the Bayonne Housing Authority, a member of the Community Education Advisory Council, and secretary to the Community Action Programs. In 1994, she spent 2 weeks in Russia with groups from People to People International and the Russian Ministry exchanging ideas on social issues affecting the world.

Mrs. Tiefenwerth has received numerous awards for her selfless service to the community, including the Jersey Journal Woman of Achievement, the Golden Recognition Award from Hudson County and the Distinguished and Caring Service Award from the Hudson County Director of Human Services. She is a volunteer with the Boy Scouts, Girl Scouts and Parent Teacher Associations at the municipal, county, and state levels.

I am proud to have such a dedicated woman serving the citizens of my district. I ask that my colleagues join me in honoring Eleanor Tiefenwerth for her service and dedication to the community.

THE MEDICARE PRESERVATION ACT OF 1995

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in support of passing this historic legislation to save Medicare from bankruptcy and preserve and protect the program for current and future beneficiaries.

There is no issue more important to elderly Americans than their health care security. Medicare gives beneficiaries peace of mind every time they go to the doctor or spend a few days in the hospital.

That is why, when I received the alarming news in April that Medicare was headed toward bankruptcy, I began meeting and corresponding with people throughout district 11.

I held 14 town meetings to listen to constituents, met with senior citizen clubs in 5 counties, reached out to our health care providers, met with hundreds of individuals in my office, and reviewed thousands of letters and telephone messages on this matter. .

Our dialog enabled me to work constructively over the past eight months with my colleagues to ensure that the citizens of New Jersey will only benefit from modernizing the 30-year-old, government-run program.

I am proud of what we have accomplished. The Medicare Preservation Act saves Medicare from bankruptcy and provides elderly Americans with the same choices as individuals in the private sector have to meet their health care needs. And make no mistake about it, spending on each beneficiaries will increase—from $4,800 today to $6,700 in 2002.

I have read in the newspaper and heard on television some disturbing and often erroneous reports about our Medicare Preservation Act.

I have been outraged by the tactics being employed by some politicians in Washington and by groups outside Washington that are funding their television and radio commercials. It is unconscionable that they would resort to distortions and half-truths in an attempt to frighten Medicare beneficiaries about the future of a program they have come to rely on to pay their doctor and hospital bills.

Mr. Speaker, Medicare is teetering on bankruptcy, and it is important that we act now to preserve, protect and strengthen this vital program.

Medicare costs have been soaring. Medicare alone now consumes 11 percent of the entire Federal budget and is increasing at the rate of 10.5 percent a year. That's more than three times the rate of inflation and seven time faster than the 65 and older population is growing.

They've been paying taxes all their entire life to support the Medicare program. But the fact is that retirees are collecting far more in benefits from Medicare than they actually paid in taxes to support the system. An individual who turns 65 this year will, on average, receive $129,000 more in benefits from Medicare than he or she contributed to the system. Although this imbalance is certainly not the beneficiary's fault, it helps to explain why Medicare is in dire financial condition.

Next year, for the first time in history, Medicare will pay out more money on seniors' hospital bills than it collected through payroll taxes.The reality is Medicare is teetering on bankruptcy.

Unless some action is taken now to control skyrocketing costs the Medicare hospital insurance trust fund, which pays hospital expenses for America's seniors, will be bankrupt in just 7 years. It's important to know that is not a prediction made by Congress, it is the conclusion reached by the trustees responsible for maintaining the financial stability of the Medicare program—including three members of President Clinton's cabinet.

And there is another, equally important crisis that must be addressed—the financial condition of Medicare part B, which covers doctor bills and lab tests.

Spending on this portion of Medicare has increased by 53 percent in just the past 5 year. If nothing is done, spending on part B will actually double over the next 7 years from $37 billion to $74 billion. The Medicare trustees have called this rate of growth in spending on part B "clearly unsustainable." Under our plan, part B spending still creases to $6,800, just a slower rate.

Against this threat of imminent bankruptcy, our opponents want you to believe that our plan to save Medicare is actually aimed at paying for tax cuts. They're wrong.

Enven if there were no plan in Congress to provide tax relief to middle-class families, the Medicare Board of Trustees confirm the need to take immediate action to preserve Medicare for today's seniors and those approaching retirement age.

Remember, the Medicare trust fund is financed exclusively through every worker's payroll tax. There is no plan, not even a suggestion, to cut the payroll tax and thereby reduce the money available to Medicare. But even leaving the payroll tax alone, Medicare will be bankrupt in just seven years.

As the Washington Post stated in a recent editorial:

> The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and duck responsibility, both at the same time. We think that's wrong.

And as for the tax cuts, they have already been paid for with savings achieved by reducing the bloated Federal bureaucracy, targeting waste and inefficiency, and transferring money and responsibility for programs back to the States.

While our opponents accuse us of cutting Medicare, the truth is Medicare spending will increase.

There will be no cut in Medicare spending. Under our plan, spending for each Medicare beneficiary will increase from $4,800 this year to $6,700 in 7 years. That's a 54-percent increase in Medicare spending! In total, we'll be spending $700 billion more on Medicare over the next 7 years than we did during the past 7 years.

Let me discuss the key elements in our plan to save Medicare and make it better.

Traditional Medicare will be preserved. Any beneficiary wishing to stay in the existing Medicare program can do so. There will be no increase in copayments and no increase in deductibles. They have an absolute right under this plan to stay in the existing Medicare program. That right cannot be taken away, and no beneficiary will be required to change their health care coverage. Most importantly, for those who choose to stay in traditional Medicare, they can continue to be able to choose any doctor and hospital they wish.

In addition to preserving the right to remain in traditional Medicare, our plan offers new, additional choices for elderly Americans. These options will include an opportunity to choose from a number of different coordinated care plans, ranging from health maintenance organizations to preferred provider organizations to medical savings accounts.

In New Jersey there are very few choices of health care plans for older people such as coordinated care plans. But in some States, coordinated care has become a popular alternative to traditional Medicare. In California, for example, fully 34 percent of seniors have chosen some form of coordinated care. These seniors have found that coordinated care greatly reduces their out-of-pocket expenses. Enrollment in one of these plans has enabled many retirees to stop purchasing expensive private MediGap insurance, which currently costs around $1,200 a year. In addition, coordinated care plans usually provide services not available under traditional Medicare including prescription drugs, dental care and eye glasses.

Let me emphasize that no one will be forced to join any of these coordinated care plans, but they will be available to those who prefer this kind of health care protection. Remember, the existing Medicare coverage beneficiaries now have, will continue to be available.

One question repeatedly raised at my town meetings was why not save Medicare by combating fraud and abuse. The Medicare Preservation Act contains strong measures in the fraud and abuse area, including stricter penalties on Medicare providers who defraud the system. Unfortunately, these savings alone are not enough to avert financial calamity.

Our plan aggressively attacks waste, fraud, and abuse, which is robbing the Medicare system of at least $18 billion a year. The beneficiaries of Medicare, are the best weapon we have in combatting this waste. But the current system makes it extremely difficult to uncover excessive or unnecessary hospital or medical charges. That's because right now there is no requirement that the beneficiary receive a detailed explanation of all the hospital, doctor and lab expenses billed to Medicare on your behalf. Under our plan, they will have a new tool to detect waste, fraud and abuse. Our plan requires every health care provider to give a copy of all bills they send to Medicare for payment. The beneficiaries will finally have a legal right to examine every doctor and hospital bill.

In addition, our plan offers a financial reward to any senior who uncovers any unnecessary or excessive Medicare charge. Finally, we will be imposing tough, new criminal penalties on anyone who defrauds the Medicare system.

Health care providers will also make a contribution. Our plan requires doctors and hospitals, as well as older people, to help us save and preserve Medicare. Doctors and hospitals will be asked to accept smaller increases in reimbursement for the services they provide to Medicare patients.

Opponents of our plan contend that reducing reimbursement rates for health care providers will lead to less quality care and hospital closings.

They are not telling the truth. We're not giving doctors or hospitals less money. Over the next 7 years, Medicare will be paying out $1.6 trillion to health care provides for the treatment of Medicare patients—a substantial increase. But we are putting the brakes on uncontrollable double-digit annual increases in health care costs under Medicare that are driving the program toward bankruptcy. Doctors and hospitals are already being forced to control costs for their patients covered by private health insurance, how they will have to do the same for their Medicare patients.

Finally, we are asking our wealthiest seniors—individuals with annual incomes over $60,000 and couples with yearly incomes of more than $90,000—to make a special contribution. Our plan calls for phasing out the government subsidy for Medicare part B that our most affluent seniors currently receive.

But the share of premium costs stay the same. Our critics have charged that there will be exorbitant increases in premiums, as much as $3,000 per year.

Once again, they are not telling the truth. Right now, premiums paid by seniors cover 31 percent of Medicare part B costs, while general tax revenues pay the remaining 69 percent. Our plan preserves the 31 percent commitment from seniors and the 69 percent commitment from the Federal Government.

Under the Medicare plan proposed by President Clinton, in 7 years seniors will be paying monthly premiums of $83. Under the House plan monthly premiums will be only $4 higher in seven years than under the President's proposal. And while the President's plan will keep Medicare part A financially secure for only an additional 3 years, our plan will save both Medicare part A and part B for the next 19 years.

Our plan to preserve, protect and strengthen Medicare is the result of months of study and hearings and listening to our constituents in town meetings in each of our districts. It is the only long-term plan that will guarantee that Medicare is preserved for current beneficiaries and those approaching retirement age, our children.

TRIBUTE TO DR. ARTHUR JOHNSON

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. CONYERS. Mr. Speaker, I want to take a few minutes to tell you about a man who has spent his life working as a healer but he is not a medical doctor. He has not repaired any broken bones or mended any human hearts. But he has devoted his life to healing the bitter and gaping rifts that separate the races in our country.

The man I am describing is Dr. Arthur Johnson, my longtime friend in the struggle for justice, who retired September 30, 1995, as Vice President for University Relations and Professor of Educational Sociology at Detroit's Wayne State University, which just happens to be my alma mater.

His title and his long list of degrees and commendations might lead some to believe he concentrated his civil rights work in the academic arena. That was not the case. His activism, which has spanned six decades, has taken him repeatedly into hostile and dangerous territory. In the 1950's, as executive director of the Detroit branch of the National Association for the Advancement of Colored People, he helped organize sit-ins at Detroit lunch counters that refused to serve African-Americans.

In the early 1960's, he was at the front of civil rights marches to protest unfair housing practices in Detroit suburbs. Almost 40 years later, these suburbs still hold the dubious distinction of being the most segregated in the Nation.

In the 1970's, he struggled to bring order out of the social chaos in the Detroit Public schools where militant young students disrupted classes and shut down schools to demand a curriculum that reflected their African heritage.

In the last two decades, Dr. Johnson has kept up his hectic pace and worked on numerous projects to increase understanding among the races. He has written passionately about the question of race which still divides this country.

As he recently said, "My experience kept me close to the issue of race and race oppression. The struggle is a part of me." But no matter how harsh the struggle, he never became embittered. He remained outwardly calm, refusing to let the enemy destroy him in anger. That enemy began testing him at an early age.

Born in Americus, GA, in 1925, he grew up in an atmosphere poisoned by hatred and supremacy. But instead of creating hatred in him, that environment made him a determined fighter against the evils of racism.

One incident in his youth helped shape his views. He was 13 years old and his family had moved to Birmingham. The memory of what happened is still vivid in his mind. One time he was walking in downtown Birmingham early in the evening with his uncle, who was about 20 years old. Suddenly they found themselves walking behind a white family—a father, a wife, and a little girl who was about 6 or 7. The girl was not paying attention to what she was doing, and she walked across young Arthur's path. He put his hand on her shoulder in a caring fashion to prevent her from stumbling. When her father saw that, he began to beat on Johnson as if he had lost his mind.

During the entire beating, Johnson's uncle stood frozen in fear. For years, his uncle's failure to respond troubled him. Only later, when he himself was a grown man, did he fully understand why his uncle just stood there. In that racist climate, the uncle would have been killed for challenging a white man on a public street.

Once he understood what had happened, he did not focus his anger on the specific individuals involved in that incident. Instead, he focused on a perverted system that filled whites with blind rage and blacks with terror. He knew that the ravenous monster called racism had to be attacked. His lifelong struggle began on that Birmingham street.

Johnson's parents were hard-working people who valued education. His mother was a domestic servant; and his father worked in the coal mines and the steel mills. After graduating from Birmingham's Parker High School, he attended college through the help of his grandmother, also a domestic servant. She used the little money she earned to help put him through Morehouse College in Atlanta.

During those Morehouse years, he was part of a class that included students who would alter the course of this Nation: The young Martin Luther King Jr., Ebony Magazine Publisher Robert Johnson, and noted historian Lerone Bennett whose work on African-American history has successfully linked generations of black Americans with their past.

Those young men studied in an atmosphere that was carefully crafted by the late Dr. Benjamin Mays, Morehouse president and one of the Nation's premier and dignified voices for social change. Dr. Mays' message was not lost on them. "Dr. Mays challenged us not to accept any measure of racial discrimination we did not have to," he once reflected. "Above all else, he told us to keep our minds free. He told us that nobody can enslave your mind unless you let them."

While on campus, Johnson organized the school's first chapter of the NAACP. Armed with an undergraduate degree in sociology from Atlanta University, Art Johnson moved to Detroit in the early 1950's to take a job as executive secretary for the Detroit branch of the NAACP. He planned to stay in Detroit 3 years so he could get the urge to change the world out of his system before returning to academia. Those 3 years turned into 40.

He remained at the helm of the NAACP for 14 years, guiding the organization through some of the most turbulent years in Detroit. In the 1950's, blacks were blatantly discriminated against in the job market, the housing market, and in hotels and restaurants. The NAACP led protest marches and sit-in demonstrations that battered the door of institutional racism and forced some change.

The group's activism attracted a record number of new members. The Detroit chapter grew from 5,000 members to 29,000 during his tenure. Detroit proudly claimed the title of the largest NAACP chapter in the United States.

Under his guidance, the Detroit chapter initiated the NAACP Freedom Fund Dinner which has become the most successful NAACP fund raiser in the country. Held each year, the event draws thousands of people and has been labeled the largest indoor dinner in the world.

Art Johnson took a struggling local organization and helped it develop into a major force in the local and national struggle for civil rights.

One reason for his success was his uncanny insight into society's problems. During a speech he gave some 35 years ago, he pinpointed six crucial issues facing African-Americans: voting rights, civil rights, segregated housing, inadequate medical care, job discrimination, and segregated schools. Despite some progress, those issues still remain at the top of our agenda.

In 1964, he left the NAACP to become Deputy Director of the newly created Michigan Civil Right Commission, the first such body in the Nation. The commission needed someone with proven skills. No one doubted that Art Johnson had them.

In one of his first official statements, he made it clear that he had not forgotten that 13-year-old boy who was beaten without cause years earlier. In his low-key, no-nonsense fashion, he said that the struggle for equity and fairness in jobs, housing, education, and police community relations would keep the commission busy.

He spent 2 years getting the commission on a solid footing, then he waded into one of the biggest challenges of his career. The Detroit Public Schools hired him as Deputy Superintendent for School Community Relations at the most turbulent time in the history of the school. The wrenching social upheavals in the streets during the 1960's registered in the classrooms as well. And Arthur Johnson was right in the middle of it all.

In July 1967, Detroit exploded in a civil disturbance that claimed 43 lives and destroyed hundreds of millions of dollars worth of property. Rather than watching the flames from the safety of his office, Johnson joined those who told the rioters to calm themselves and told the police to immediately cease their wanton and often deadly attacks on the citizens.

Conditions were tense in the classroom, too. Students wee riding a wave of militancy, and Detroit was at the crest of that wave. Young protestors shut down schools and disrupted board meetings to air their grievances about a curriculum that largely ignored African-American culture.

During one such protest, a group of determined young students "arrested" Johnson and held him captive for 2 hours in a school library to call attention to their demands.

When he was not caught up in the thick of debates with parents, students, and administrators, he was arguing with publishers whose text books failed to accurately and fairly reflect the experiences and contributions of African-Americans. More than once, he infuriated publishers by refusing to accept books that directly or indirectly fostered notions of black inferiority.

After that demanding stint in the public schools, most people would take it easy, but he did not.

In the early 1970's, he traded one group of protesting students for another when he left the public school system and joined Wayne State University, a hotbed of student activism.

As the Vice President for University Relations and as professor of educational psychology, he was right in the middle of the fray. Students demanded increased and immediate access to the decisionmaking process. They tried, as many good students do, to reshape the school in their image. Art was there, mediating, challenging, explaining and listening. Sometimes the volume of the debate was so high that it was nearly impossible to hear the words, but he persevered.

To me, the most amazing thing about Art Johnson is that he never lets problems trigger an emotional out burst in him. His studied calm has become his trademark.

He has used his intellect to reason with friends and foes. He has walked into hostile and dangerous territory to push for freedom. He has maintained has composure and his dedication despite numerous threats and insults.

When he suffered painful setbacks in the struggle for human rights, he never gave up hope or bowed to temporary defeat.

Throughout his life, he carried the words of his teacher with him. He never allowed anyone to shackle his mind. He has fought consistently and tirelessly against such efforts.

In 1988, he was working at the university, active in a number of community groups and deeply involved in the local NAACP chapter as president, a position he held from 1987 to 1993. During this period he also served a co-chair of the Race Relations Task Force for the Detroit Strategic Plan. As co-chair, he wrote and insightful commentary on race relations that was published in The Detroit News.

He wrote:

> When we freely examine racism for what it is—through our individual experiences and as exposed in the Race Relations Task Force report and other studies—it becomes clear that the problem of race and racism in its structural and institutional aspects—is in reality the form and practice of our own apartheid.

Because of his insight and his singular dedication to civil rights, Art has been awarded so many honors that it would take far too long to list them all. He wears his well-deserved praise with the humility of a man who realizes he is only doing what is just and right.

In 1979, Morehouse College awarded him the Honorary Degree of Doctor of Humane Letters in recognition of his scholarship in the field of sociology and his leadership in the battlefield of civil rights.

His other honors include the Distinguished Warrior Award from the Detroit Urban League, the Greater Detroit Interfaith Round Table National Human Relations Award, the Afro-Asian Institute of Histadrut Humanitarian Award, the Greater Detroit Chamber of Commerce Summit Award, and the Crystal Rose Award from the Hospice Foundation of Southeastern Michigan. The NAACP conferred five Thalheimer Awards upon for outstanding achievement.

Art is a member of a variety of community groups. He sits on the board of directors of the Detroit Science Center, the Detroit Symphony Orchestra, and the American Symphony Orchestra League. Like me, he has a love of music. He is also a trustee for the Founders Society of the Detroit Institutes of Arts and president emeritus of the University Cultural Center Association.

Art is the father of five children. He and his wife, Chacona Winters Johnson, a development executive for the University of Michigan, still live in Detroit.

Even though Art Johnson has retired, he is busier than ever. When it comes to the struggle for justice, he just can not pull himself from the front lines.

The Detroit community, and indeed the Nation, have benefited from his efforts to promote understanding and healing. It is with joy and sincerity that I thank Arthur Johnson. Because he never allowed anyone to shackle his mind, he made it possible for others to know the beauty of freedom.

RENA BAUMGARTNER

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to a personal friend of mine who has become one of northeastern Pennsylvania's most important and influential political and community leaders, Rena Baumgartner. I am proud to have been asked to participate in a tribute to Rena and to be able to tell my colleagues of her contributions and accomplishments.

As an active member of her community, Rena has participated in numerous clubs and organizations which work diligently to promote the betterment of and ensure safety to the general public. Rena has worked with the West End Ambulance and West End Fire Company Auxiliaries as well as the Polk Township Fire Company Auxiliary. She is a member of the Exchange Club of the Pocono Mountain. In addition to these organizations and others, Rena remains an active member in the United Effort Methodist Church.

Rena may be best known for her leadership positions within the Democratic Party organization. Since 1968 Rena has been active in the political arena, beginning as a Democratic township committee person. From that position, Rena graduated to become the Assistant Secretary of the Monroe County Democratic Committee and eventually the Chairperson of the Monroe County Democratic Committee, a position which she still holds today.

Rena's involvement in the Democratic Party was not limited to local politics. On the statewide level, Rena was appointed Deputy Chairperson of the Democratic State Party and in 1984 was made Vice-Chair of the party.

On the national level, her involvement in the Democratic Party is deserving of even more recognition. Rena has been a member of the Democratic National Committee since 1979 and has taken a leading role in every national election since becoming a member. During the last three presidential elections she served as a delegate to the Democratic National Conventions. She has served on the executive committee of the Democratic National Womens Caucus and has been the Treasurer and Secretary of the Democratic National Committee's Eastern Regional Caucus. Presently, Rena is helping to select the delegation which will be sent to the 1996 Democratic National Convention. No one can question Rena's commitment to the Democratic Party.

Certainly, an accomplishment that Rena can be extremely proud of is her family. With her husband William, Rena has raised two wonderful children, her daughter Robin and her son Bryan. In addition to having such a positive role on her own children, Rena is also able to play an active role in the upbringing of her two grandsons. Throughout all of her other undertakings Rena managed to keep her family at the center of her attention and in a position of importance above everything.

Mr. Speaker, my close friend Rena Baumgartner has been a caring mother and wife. She also has been a strong leader in her community and throughout Monroe County. Finally, Rena Baumgartner has been a true leader in the Democratic Party. I salute and thank Rena for everything she has contributed to the betterment of northeastern Pennsylvania and the Democratic Party.

HEALTHY CHOICE: BALANCING THE FEDERAL BUDGET AND IMPROVING MEDICARE

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. GUNDERSON. Mr. Speaker, within the past few weeks, Congress has taken historic steps to balance the Federal budget and improve the way the Federal Government provides and delivers health care services to the more than 36 million Medicare beneficiaries. The goal of this reform initiative has been to secure the future of Medicare for today and tomorrow while providing beneficiaries with better benefits, additional health care options, and lower out of pocket costs. All of this will be accomplished while slowing the overall growth of Federal Medicare spending. I commend the House and Senate Committees for their work to improve and preserve Medicare.

Many of the Medicare provisions in the Balanced Budget Act will benefit the ailing health care delivery system in many small communities in my western Wisconsin district and identical communities throughout rural America.

In terms of rural health care, I believe the most dynamic Medicare improvement was changing the adjusted average per capita cost [AAPCC] payment formula. As the cochair of the Rural Health Care Coalition, the dedication of the coalition enabled us to work with the leadership during House and conference committee deliberations to craft a new formula favorable to all beneficiaries regardless of where they live. In this endeavor, the Rural Health Care Coalition had the good fortune to receive outstanding technical assistance, counsel and support from the Fairness Coalition, representing a diverse group of hospital systems, hospital associations, managed care providers, and insurers.

What does an improved AAPCC payment formula mean for Medicare beneficiaries? The AAPCC is the total amount of Medicare fee-for-service dollars spent on doctors and hospitals annually in a county, divided by the number of Medicare beneficiaries in that county. It also represents the dollars available to beneficiaries to purchase health care choices under the new Medicare-plus program.

For Grandma Smith living in the Bronx, NY, her 1995 AAPCC payment is $679 a month and she can enroll in a health maintenance organization [HMO] providing the required Medicare services and additional benefits or traditional fee-for-service. Grandma Smith's brother living in Fall River County, SD, has a monthly payment of $177. Unfortunately, because of the low payment an HMO is not available to him, just the traditional fee-for-service. A low AAPCC payment has a devastating effect on the health care choices available to beneficiaries living in rural counties and in those counties with efficient health care markets. Why should there be a 367-percent payment difference between these two Medicare beneficiaries just because of where they live?

The situation facing Grandma Smith's brother is not unusual. Approximately 4 million beneficiaries live in counties that have access only to Medicare fee-for-service. My home State of Wisconsin, with 769,000 Medicare beneficiaries, is 1 of 15 States that currently do not have a Medicare HMO option available to them. It is difficult to understand how beneficiaries who paid into the Medicare trust funds at the same rate and pay the same part B premium now receive very different AAPCC payments. This is not equitable or fair. Improving the AAPCC payment formula is critically important to fulfill our legislative promise of providing health care choices as well as equity and fairness to all beneficiaries.

Why can some beneficiaries today choose to receive their Medicare services from the traditional fee-for-service or an HMO and others cannot? HMO's and hospital associations suggested that a monthly payment between $325 to $350 begins to provide them with the opportunity to offer Medicare managed care services. For this reason, it was necessary to craft an AAPCC payment formula that would support the establishment and operation of an HMO or the new options of a provider-sponsored organization [PSO] or medical savings accounts [MSA's].

The Balanced Budget Act improves the AAPCC payment formula by setting a payment floor of $350. This is extremely beneficial for counties in 43 States with below average payment rates between $177–$300 and offers hope to the more than 4 million beneficiaries in rural and efficient markets that they may soon have the choice to receive Medicare services through an HMO, PPO, MSA, or PSO. Other important rural health care provisions incorporated into the Balanced Budget Act only enhance the care and services available to rural America:

Clarifying the Medicare payments to essential access community hospitals/rural primary care hospitals.

Implementing a new Rural Emergency Access Care Hospital Program.

Increasing by 10 percent the Medicare bonus payment to 20 percent for rural, primary care physicians practicing in health personnel shortage areas.

Reinstating the Medicare Dependent Hospital Program for facilities with 100 or fewer beds and at least 60-percent Medicare patient discharges or days.

Establishing of a uniform reimbursement rate for physician assistants and nurse practitioners at 85 percent of the physician fee schedule payment for outpatient services.

Setting a floor for the area wage index used in determining prospective payments to hospitals.

Prohibiting the Medicare Geographic Reclassification Review Board from rejecting applications of rural referral centers on the basis of area wage index.

Extending the rural referral center classification for any hospital previously classified.

The health of rural health care and services to Medicare beneficiaries will only be improved with the enactment of these very important provisions in the Balanced Budget Act. I am pleased to lend my support to this legislation.

TRIBUTE TO COACH EDDIE G. ROBINSON

HON. WILLIAM J. JEFFERSON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. JEFFERSON. Mr. Speaker, we have honored many legends on this floor—men and women who are revered and who will be so revered for generations. I come to this historic floor today to add still another name to this long list of distinguished Americans who we can truly call a legend of out time—one whose singular contributions will separate him from everyone else who has toiled in his profession.

Our Nation has produced many, many great football coaches. Men like Paul "Bear" Bryant, Woody Hayes, Ara Parseghian, Joe Paterno, Knute Rockne, Amos Alonzo Stagg, Bud Wilkerson, to name a few But, today I rise to pay tribute to the historical accomplishments of Coach Eddie G. Robinson of Grambling State University—the winningest football coach of all time, the best that the game of football has to offer.

During a period spanning 55 years, Coach Robinson has led his Grambling State teams to more than 400 victories. No other coach has reached the 400 win milestone. Along the way, he has won 17 SWAC championships or cochampionships. Coach Robinson started modestly at Grambling. Nevertheless, he grew to a giant in his profession. Yes, he has become the greatest coach of all time, but his first priority always was the development of his players. Coach Robinson nurtured his athletes into competent, strong, professional players, not only in game of football but in game of life. He has touched our hearts, our very souls. His achievements will stand forever.

We are left to wonder what Grambling State University would have been like had Eddie Robinson not walked through the doors of the then Louisiana Negro Normal and Industrial Institute in 1941. Would there have been the mentoring, that steady hand guiding countless young athletes to exalted levels of achievement? Would such players as Paul "Tank" Younger, Willie Brown, Willie Davis, Buck Buchanan, Doug Williams, Charlie Joiner, Frank Lewis, Essex Johnson, Billy Newsome, John Mendenhall and over 200 other players have been able to leave their mark on the National Football League? No. A Grambling State University, indeed the American way of life, without the contributions of Coach Robinson is not imaginable.

Coach Robinson, served as a coach, father and tutor to thousands of students at Grambling who have gone on to make great contributions to this Nation. Through his tenacity and guidance, he influenced countless young men and women who crossed his path. For this and for all that Coach Robinson through his success has meant to our country, we in the Congress offer our most heartfelt congratulations to him. All Americans are extremely fortunate to have had the opportunity to experience the influence of this great man. Coach Eddie Robinson is a winner, and because he is, so are we all.

The Congress salutes Coach Robinson today not only for winning more football games than any other college coach, but for who he is.

IN HONOR OF MS. MALIN FALU, A RADIO HOST PERSONALITY WHO HAS ENTERTAINED AND SERVED THE HISPANIC COMMUNITY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Ms. Malin Falu, a Hispanic woman who has distinguished herself as a prominent radio personality. Ms. Falu will be honored today in a live broadcast on Radio WADO 1280 AM.

Ms. Malin Falu is the creator, producer, and commentator of the Hispanic radio program "Hablando con Malin," Speaking with Malin. This radio program is transmitted throughout the New York and New Jersey area. In her show, Ms. Falu discusses the important issues that affect the Hispanic community. She keeps them informed of events and issues that are notable and allows her listeners to participate and voice their opinions.

She has worked hard and strived to be one of the best commentators in Hispanic radio. Ms. Falu received her bachelor of arts degree from the University of Puerto Rico. She then went on to receive her masters of arts degree in media from the New School for Social Research. She has also studied theater in London, England. A well-accomplished woman, she now enjoys reaching out to the Hispanic community through the airwaves.

For the last 17 years, Ms. Falu's sweet voice has captured the hearts of all her listeners. Her show has been transmitted from all around the world, including Greece, Israel, and many countries in Latin America. With her charisma and dedication, Ms. Falu serves the community by exposing and finding solutions to the problems it faces.

She has inspired many to accomplish their goals and dreams. She has advised today's younger generation to enrich and develop their minds. She is a wonderful role model who has served her community with dedication and dignity. I ask that my colleagues join me in honoring this great woman, Malin Falu.

NORTH AMERICAN FREE TRADE AGREEMENT

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mrs. MINK of Hawaii. Mr. Speaker, today on the 2-year anniversary of the North American Free Trade Agreement, I rise to draw attention to NAFTA's failed promises. Two years ago I objected to the passage of NAFTA because of the thousands of American workers that would be displaced from their jobs and the lack of opportunities they would face in an uncertain market as a result of the trade agreement.

Due to the present political and economical instability of Canada and Mexico, I am even more concerned today about the adverse repercussions of agreeing to NAFTA. In 1994, the Department of Labor reported that 17,000 jobs were lost due to plant relocations to, or increased imports from Mexico or Canada. Last year, 152 companies filed petitions under NAFTA's Trade Adjustment Assistance [TAA], the program designed to assist U.S. workers who have lost their jobs as a result of the relocation of workers and plant facilities. These thousands of jobs may not sound to some as a significant number, however, one displaced American worker, I believe, is one unemployed person too many.

Prior to its passage, proponents estimated that NAFTA would result in 27,000 to 550,000 new jobs. Earlier this year the Department of Commerce estimated that 340,000 jobs would be created because of NAFTA. However, the Department of Commerce has yet to provide documented evidence that new jobs have been created because of NAFTA. Instead, the Department refers to the increase of United States exports to Mexico and Canada as evidence that American workers are employed in new jobs. As expected, overall trade between the United States and Mexico has expanded significantly, but contrary to the predictions of NAFTA supporters; imports increased at a faster rate than exports. Two years ago we had a $2 billion trade surplus with Mexico. Today, thanks to NAFTA, we have a $15 to $18 billion trade deficit with Mexico. What happened to the jobs that NAFTA proponents promised? I'll tell you where the jobs went, they went along with the businesses that moved to Mexico so corporations could take advantage of cheaper labor and generate more profits. All this, at the expense of the American worker.

The humane treatment of all citizens was and still is another concern I have about the North American Free Trade Agreement. Since the passage of NAFTA, numerous companies have been guilty of manufacturing goods produced by child labor. One report estimated that 10 million children under the age of 14 work illegally in Mexico's maquiladoras to supplement their families' incomes.

Unlike our labor laws that ensure worker protection and comparable wages, foreign workers do not have the power to form unions to protest against labor abuses. Consequently, this enables companies to terminate employees at will or without recourse. Unless these workers are guaranteed the right to organize, they will continue be taken advantage of.

According to the November 13, 1995 issue of Business Week, nearly a million people in Mexico have lost their jobs and they do not have any form of unemployment insurance. Adding to their misery is the inability of Mexico's bank to lend money to consumers and companies due to the astronomical interest rates brought on by the devaluation of the peso and the burden of bad loans. Facing this type of financial crisis, how can Mexico's standard of living rise as NAFTA supporters contend?

Just last month, Canada narrowly defeated an attempt by Quebec to become an independent country. Given the political and economical situations facing our trading partners, I believe we should re-evaluate the significance of the North American Free Trade Agreement.

As global warming increases, I believe the issue of the environment needs to be addressed in future trade agreements. Nevertheless, our existing trading partners need to understand that the quest for economic growth should not come at the expense of the environment. We must not allow low environmental standards and lax enforcement as an incentive for foreign countries to entice companies to move, consequently, stealing jobs from American workers.

As I have stated in previous years, I am not against a fair trade agreement with Canada and Mexico. However, I do believe that Mexico's workers should be given the right to organize and to bargain for better wages and if NAFTA is renegotiated to guarantee that U.S. workers have retraining and education so that they can get one of these high-tech jobs as NAFTA proponents have promised, then I would be willing to support it.

Trade parity cannot be obtained at the cost of our domestic industries and jobs, our environment, and the health and safety of American and Mexican workers. The existing NAFTA fails to secure justice for American and Mexican workers; it fails to make a commitment to democratic ideals; and it fails to cast off the chains of poverty for those most in need of help. If NAFTA's proponents truly believe freer and open trade will lead to more jobs and economic prosperity, then it is only right and proper that we work to improve the vast differences of workers' wages and standard of living among NAFTA's participants.

THE SPEAKER SHOULD RESIGN

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. HILLIARD. Mr. Speaker, African-Americans have had over 300 years of slavery, segregation, discrimination, and insults.

In most instances, these abuses have been sanctioned by law and today, we are still discriminated against and insulted.

We have walked in gullies, when whites walked on the sidewalk and we have gone in and out of millions of back doors.

We are still suffering from the lingering affects of slavery, segregation, discrimination and the back door policies of America, but we have never put this country at risk or in jeopardy because our feelings were hurt, because we were snubbed or because we had to go and come by the back door.

The position of the Speaker and what the Speaker is doing to this country, because of his hurt feelings while recently aboard Air Force One is un-American and I believe because of his actions, he should resign the office of Speaker.

TRIBUTE TO THE NORTHWEST INDIANA HISPANIC COORDINATING COUNCIL

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to rise today to once again commend the efforts of the Northwest Indiana Hispanic Coordinating Council for their numerous contributions to Northwest Indiana.

On November 18, 1995, the Coordinating Council will conduct its Seventh Annual Conference on Hispanic Issues. The theme of this year's conference is "Citizenship: Our Rights and Responsibilities."

Recognizing the importance of citizenship, the Hispanic Coordinating Council has dedicated its conference to focus on topics that will help the residents of Northwest Indiana become better citizens of this great Nation.

In order to make this event as successful as possible, the Hispanic Coordinating Council has called on various community leaders to address issues pertaining to this year's theme. I would like to recognize the following distinguished individuals, who will lend their expertise and help make this conference a memorable occasion: Dr. James Yackel, chancellor of Purdue University Calumet; Juan Andrade, Jr., president and executive director of the Midwest Northeast Voters Registration and Education Project; Dr. Samuel Betances, senior consultant, Souder, Betances and Associates; Victor DeMeyer, manager of NIPSCO's Corporate Consumer and Community Affairs Department; Louis Lopez, assistant State director for Senator Richard Lugar; Joseph Mark, chief executive officer, St. Catherine's Hospital; Philip Meyer, telecommunications specialist, Ameritech; Erin Austin Krasik, project director, Students for an Educated Democracy; Ruth Dorochoff, U.S. Department of Justice's Immigration and Naturalization Service; Joseph Medellin, manager human resources, Inland Steel Company; and William (Bill) Luna, president of William Luna and Associates Management Consultants.

Since the focus of this year's conference is citizenship, the Hispanic Coordinating Council is concluding the conference with the swearing-in of 135 new citizens. The swearing-in ceremony will be conducted by the Honorable Rudy Lozano, U.S. District Judge for the Northern District of Indiana, and Brian Perryman, Deputy District Director of the Immigration and Naturalization Service.

I commend the efforts of all of those individuals who were involved in making this annual event a reality. It is because of their dedication that this conference is possible.

Mr. Speaker, I ask you and my other colleagues to join me in applauding the participants of the Hispanic Coordinating Council's Conference on Hispanic Issues, as well as those distinguished individuals who will receive one of our Nation's greatest gifts, citizenship.

JUSTICE FOR ALIZA MARCUS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. PORTER. Mr. Speaker, I am pleased and relived that on November 9, Turkey's State Security Court voted unanimously to acquit American citizen Aliza Marcus. Justice has been served with this complete vindication.

Ms. Marcus never should have been arrested in the first place. She committed no crime. Ms. Marcus only was guilty of reporting the truth about the ongoing Turkish military campaign of forced evacuation and destruction of Kurdish villages. She was merely doing her job—and doing it well.

Ms. Marcus' acquittal is an encouraging indication that Turkey may be willing to reform its ways. However, this is one small step down a long road. Turkey's prosecution of speech, writing, and other peaceful expressions violates numerous international human rights commitments undertaken by Turkey. Change will truly be evident not when the Aliza Marcuses are acquitted, but when they are not arrested in the first place.

THE FAMILY—A PROCLAMATION TO THE WORLD

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. HANSEN. Mr. Speaker and colleagues, I rise today to pay tribute with my colleagues

Congressman RON PACKARD, Congressman WALLY HERGER, Congressman JOHN DOOLITTLE, Congressman HOWARD P. "BUCK" MCKEON, Congressman ERNEST J. ISTOOK, Congresswoman ENID GREEN WALDHOLTZ, Congressman MICHAEL D. CRAPO, and Congressman MATT SALMON and to enter into the CONGRESSIONAL RECORD a message from President Hinckley, president of the Church of Jesus Christ of Latter Day Saints (the Mormons).

On November 13, 1995 President Hinckley visited top leaders from the Federal Government and the community. During his visit, President Hinckley met with President Clinton. His message to President Clinton was to share with the world the importance of promoting measures that maintain and strengthen the family as the fundamental unit of society.

As members of the Mormon Church we extend this proclamation from the First Presidency and Council of the Twelve Apostles of the Church of Jesus Christ of Latter Day Saints to all people.

THE FAMILY—A PROCLAMATION TO THE WORLD

We, the first presidency and the Council of the Twelve Apostles of the Church of Jesus Christ of Latter-day Saints, solemnly proclaim that marriage between a man and a woman is ordained of God and that the family is central to the Creator's plan for the eternal destiny of His children.

All human beings—male and female—are created in the image of God. Each is a beloved spirit son or daughter of heavenly parents, and, as such, each has a divine nature and destiny. Gender is an essential characteristic of individual premortal, mortal, and eternal identity and purpose.

In the premortal realm, spirit sons and daughters knew and worshiped God as their Eternal Father and accepted His plan by which His children could obtain a physical body and gain earthly experience to progress toward perfection and ultimately realize his or her divine destiny as an heir of eternal life. The divine plan of happiness enables family relationships to be perpetuated beyond the grave. Sacred ordinances and covenants available in holy temples make it possible for individuals to return to the presence of God and for families to be united eternally.

The first commandment that God gave to Adam and Eve pertained to their potential for parenthood as husband and wife. We declare that God's commandment for His children to multiply and replenish the earth remains in force. We further declare that God has commanded that the sacred powers of procreation are to be employed only between man and woman, lawfully wedded as husband and wife.

We declare the means by which mortal life is created to be divinely appointed. We affirm the sanctity of life and of its importance in God's eternal plan.

Husband and wife have a solemn responsibility to love and care for each other and for their children. "Children are an heritage of the Lord" (Psalms 127:3). Parents have a sacred duty to rear their children in love and righteousness, to provide for their physical and spiritual needs, to teach them to love and serve one another, to observe the commandments of God and to be law-abiding citizens wherever they live. Husbands and wives—mothers and fathers—will be held accountable before God for discharge of these obligations.

The family is ordained of God. Marriage between man and woman is essential to His eternal plan. Children are entitled to birth within the bonds of matrimony, and to be reared by a father and a mother who honor marital vows with complete fidelity. Happiness in family life is most likely to be achieved when founded upon the teachings of the Lord Jesus Christ. Successful marriages and families are established and maintained on principles of faith, prayer, repentance, forgiveness, respect, love, compassion, work and wholesome recreational activities. By divine design, fathers are to preside over their families in love and righteousness and are responsible to provide the necessities of life and protection for their families. Mothers are primarily responsible for the nurture of their children. In these sacred responsibilities, fathers and mothers are obligated to help one another as equal partners. Disability, death, or other circumstances may necessitate individual adaptation. Extended families should lend support when needed.

We warn that individuals who violate covenants of chastity, who abuse spouse or offspring, or who fail to fulfill family responsibilities will one day stand accountable before God. Further, we warn that the disintegration of the family will bring upon individuals, communities, and nations the calamities foretold by ancient and modern prophets.

We call upon responsible citizens and officers of government everywhere to promote those measures designed to maintain and strengthen the family as the fundamental unit of society.

REMARKS HONORING YITZHAK RABIN DELIVERED TO COMMUNITY MEMORIAL SERVICE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. RICHARDSON. Mr. Speaker, Yitzhak Rabin, my friend, was as great in peace as he was in war. He was a son of Israel, who devoted his life to Israel.

When he needed to be a warrior he was one of the best. From his youth he was steadfastly committed to the idea of Israel. He spent 25 years of his life winning first the battle to establish the state of Israel and later the battles for the survival of Israel. Few, if any, have done more to secure Israel's existence through the force of arms.

However, it is as a peacemaker that Prime Minister Rabin did his greatest work for Israel. His willingness to seek an equitable solution to the problems plaguing the Middle East will be Yitzhak Rabin's lasting legacy. Prime Minister Rabin understood that it is through the peace process that Israel will gain lasting security.

After reluctantly shaking hands with Yassir Arafat, a man who had been his mortal enemy for much of his life, Prime Minister Rabin said the following words:

> We are destined to live together on the same soil in the same land. We, the soldiers who have returned from battles stained with blood; we who have seen our relatives and friends killed before our eyes . . . we who have fought against you, the Palestinians, we say to you in a loud clear voice: Enough of blood and tears. Enough!

These are the words of a true hero. This man was martyred for his commitment to the peace process. It is with great sadness that we say goodbye to him today.

Yitzhak Rabin was a friend of mine. I will miss him greatly. My heart, and the hearts of all New Mexicans, go out to his family, and to his country. The world has lost one of its greatest men.

IN HONOR OF JORGE RAMOS AND CHANNEL 47 SERVING THE HISPANIC COMMUNITY WITH PRIDE AND DEDICATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to honor a distinguished journalist and remarkable man, Jorge Ramos. I would also like to honor Channel 47 for promoting quality programming for the last 30 years. Mr. Ramos and Channel 47 will be honored on a live broadcast on Radio WADO 1280 AM today.

Mr. Jorge Ramos was born in San Juan, PR. He graduated from the College of Humanities of the University of Puerto Rico and thus began a long and illustrious career in broadcast journalism. Mr. Jorge Ramos is currently the news anchor with Noticiero 47, a Spanish-language news show serving the New York and New Jersey metropolitan area. He is also the host of "Enfoque 47" a community affairs program, which debates issues pertaining to the Hispanic community.

As a journalist and senior news anchor, Mr. Ramos has been a part of many important stories about the Hispanic community. This hands on experience has given him important insight into the challenges facing the Hispanic community. He deals with these issues in a sensitive and caring manner and this has won him acclaim in the community. For his hard work and dedication to his Hispanic audience, Mr. Ramos has received numerous awards including being named Best Television News Anchor by the New York City Entertainment Writers Association. His recent production of "Abriendo Caminos" was nominated for an Emmy Award for "Most Outstanding Cultural Programming".

Not only is Mr. Ramos an accomplished journalist, but he is also a dedicated humanitarian. Mr. Ramos has joined several efforts to help disadvantaged and handicapped children and victims of natural disasters across the continental U.S. and Latin America. In February of 1992, he flew to his native Puerto Rico to host the program "Hermano, Danos la Mano" [Brother Give Us A hand]. The program was a telethon to help survivors of the devastating floods on the islands. Mr. Ramos is a man who dedicates his time and talents to helping the community.

Channel 47 is celebrating 30 years of quality programming. For more than a quarter of a century, this Hispanic television station has entertained and informed millions of viewers nationwide. Channel 47 is a pioneer in Spanish broadcasting. It has distinguished itself for promoting Hispanic issues and concerns and as a preserver and promoter of the Hispanic culture.

I ask that my colleagues join me in honoring Jorge Ramos, a dedicated man, a kind humanitarian and an excellent broadcast journalist. Also, join me in honoring Channel 47, a television station that has championed Hispanic issues and concerns.

TRIBUTE TO MR. LANNIE B. MOTT

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. DIXON. Mr. Speaker, I rise today to recognize the 1995 president of the Los Angeles Association of Realtors [LAAR], Inc., Mr. Lannie B. Mott.

Mr. Mott has made important contributions to the Los Angeles community through his efforts on behalf of this association. He has worked to expand home ownership for lower income individuals in our community. Under his leadership, LAAR sponsored a free home ownership seminar in both English and Spanish which was designed to inform people about governmental programs that would assist low and moderate income families in buying their own homes. By providing this seminar, Mr. Mott has helped families enjoy the benefits of home ownership and realize the pride that comes from owning your own home.

Mr. Mott has also helped sick children through efforts to provide funds for the Childrens Hospital of Los Angeles. During his tenure, LAAR hosted two successful fundraisers for the hospital, raising over $5,000. His efforts to help needy children demonstrates his dedication to improving our community.

As president of the Los Angeles Association of Realtors, Mr. Mott has also worked actively to promote legislation of interest to the association.

I am pleased to commend Mr. Mott for his tireless efforts on behalf of the people of Los Angeles and his commitment to the real estate industry. Please join me in wishing him continued success in the future.

TRAVELERS EXPRESS WORKS WITH THE IRS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. VENTO. Mr. Speaker, few companies willingly invite the Internal Revenue Service to visit their facilities, and fewer yet receive money from the IRS, but recently a Minnesota company, Travelers Express, was called on by the IRS to accept a check for $100,000. This check was the result of Travelers Express' quick assistance in identifying and notifying the IRS about an international money-laundering operation.

Travelers Express is the Nation's largest money order company issuing more than 240 million money orders a year. These money orders are sold in over 42,000 retail and financial institution locations throughout the United States. Travelers Express has been working for a number of years on ways to detect suspicious money order transactions. Over a year ago, Travelers Express noticed a large number of money orders clearing through their Minnesota facility which appeared to be suspicious. These money orders were all made out to the same individual, cleared through a bank in Colombia, and all bore a yellow fluorescent symbol, such as a rabbit, a tall ship, or a box containing a face—these symbols are referred to as "smurf stamps" by law enforcement.

Once detecting these suspicious money orders, Travelers Express immediately contacted the local IRS, which began an investigation. The IRS found that over 1,300 money orders had been purchased at over 150 agent locations throughout New York City and New Jersey. The money orders, totaling over $650,000, had been purchased over a several month period and had been shipped to Colombia. They were deposited in a Colombian bank, and then presented for payment to a United States bank. The U.S. bank then presented them for payment to Travelers Express. Based upon the suspicious indicators and detailed conversations with the IRS and the U.S. Attorney's Office, Travelers Express decided to refuse payment on the items. The IRS was able to seize the money, which led to the $100,000 reward for Travelers Express.

This is an excellent example of Government and business working cooperatively together in order to stem the tide of money laundering. Travelers Express has been working for a number of years to improve its operations to prevent the use of money orders in money laundering schemes. While this case was a significant money laundering operation, the number of Travelers Express money orders involved was less than two-tenths of one percent of the money orders sold on any given day.

I'd like to commend Travelers Express for their diligence in the fight against money laundering and to congratulate them on their $100,000 reward. I hope that this example encourages other financial intermediaries and businesses to keep a watchful eye on possible money laundering schemes and to work in partnership with the Federal Government to crack down on the illicit use of money.

BABY SAFETY SHOWERS

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. WAXMAN. Mr. Speaker, no challenge we face in our lives is greater than raising our children. As a father, I know those challenges well. That is why I was so impressed by an event recently attended by the First Lady, and the contribution that event could make in the lives of new parents around the country.

Mrs. Clinton spoke at a Baby Safety Shower put on by the Consumer Product Safety Commission—a Federal agency responsible for keeping families safe in and around their homes. The CPSC knows that being a parent does not come with an instruction manual. Being a parent means on-the-job training.

The CPSC also knows that more children die from accidental injuries than from childhood diseases. So CPSC Chairman Ann Brown determined to get information to new parents about hidden safety hazards in the home that could present a danger to infants and toddlers. Her idea was to mount a national campaign to encourage day-care centers, community organizations, and families to give new mothers a baby shower with a twist—a shower incorporating critical safety information.

The first such shower was held here in Washington on October 25 at the Edward Mazique Parent Child Center, and Mrs. Clinton came to help host the shower. She made some outstanding remarks to the more than 80 mothers gathered there, and I would like to enter those remarks into the RECORD.

REMARKS BY FIRST LADY HILLARY RODHAM CLINTON AT THE U.S. CONSUMER PRODUCT SAFETY COMMISSION'S KICK-OFF OF "BABY SAFETY SHOWERS," WASHINGTON, DC

Mrs. CLINTON: Thank you very much. I'm delighted to be here. I think this is a very important event. I want to thank Gerber and everyone associated with Gerber foods for their commitment to this baby safety effort. I want to thank Ann Brown and everyone associated with the Commission for their leadership on all of these issues about how we keep our babies safe.

I'm pleased to be here at this child care center. The Mazique Center is well known around not only in this area, but throughout the country for its many years of superb care for the children of the District of Columbia.

Now there are some, I would guess who would think that talking about a baby safety shower is something that doesn't deserve a lot of attention. That it is a nice thing to do, but not as important as some of the really big issues of our time.

Well I can only say that there is nothing more important than our children and there is nothing more important to any parent than keeping our babies and our children safe and secure as much as we are able to do so.

I have found as I've travelled throughout the country talking with parents exactly what Ann said she had found. Many of us just don't know everything we need to know to keep our babies secure. And part of the reason I'm here today is to reinforce the message of this baby safety shower. To encourage people all over the country that when they have a pregnant friend, pregnant daughter, when they themselves are pregnant that they will think about safety issues.

It's always nice to get the cute little clothes that people give for a baby, but I think it's more important to give some of the kinds of products we saw demonstrated upstairs that will keep baby's little fingers out of outlets, will keep them from—I just learned lifting up the toilet bowl [lid] and drowning which can happen, keep them safe in their cribs, keep the little toys out of their mouths. Those kinds of gifts that we can give one another and that every parent would be glad to receive are what I hope will be flooding into all of the lives of parents in our country because of this initiative.

I know that it is very difficult for parents to feel that they can control everything that happens to their babies in today's world, because the world is complex, it is challenging, and in many respects more dangerous than it has been in the past. That's why trying to make our homes safe is something that is within our control. We can't control what happens on the street corner. We can't control whether or not our child will be safe all the time when he or she leaves our house. But to the best of our ability, we can try to make our child safe indoors, in our own homes.

I also think that the work that is being done here on the baby safety showers will very clearly point out that there is a need for all of us, together to cooperate to help parents raising children.

You know I'm finishing a book that I'm writing called "It Takes a Village to Raise a Child" which is after an old african proverb.

Some people have come to me and said, "Why are you writing that book?" "Parents know already what they're supposed to do!" And I said, "I didn't." I didn't get an instruction manual when my daughter was born. And much of it was trial by error and luckily I had family and friends and other people who were there for me telling me what I needed to do to keep my baby safe and healthy.

Other people have said, "Why are you saying it takes a village to raise a child? It's the family's responsibility." Well of course it's the family's responsibility. But the family does not exist in a vacuum today. The family exist in the greater world. The family needs commissions, and businesses, and child care centers and schools, and doctors and hospitals. The family needs a lot of support from "the village" in order for the family to do the best possible job it can do.

And that's what this baby safety shower is about. It's about people coming together to help parents do a good job. I've never met a parent who set out not to do a good job. I've met parents overwhelmed by the circumstances of their lives, facing difficult odds that I cannot even imagine. Having problems because of their own childhood or their own situations. But I have never met a parent that did not want to do the best job he or she could do as a father or a mother. And what we have to do is give parents and families the tools so they can be the best mothers and fathers. So it really does take a village. It takes the Consumer Product Safety Commission and Gerber Foods and the Mazique Child Care Center and a lot of other people to help parents and families because after all, we in our country give a lot of lip service to how important we think our children are—don't we? You can hear it everyday on the news. But too often we don't translate that into action. And some of the actions we need to take are very small ones. Like putting your baby on her back instead of on her stomach, making sure she can't get through the slats of the crib.

Some of them are a little bigger. Making sure that if you have child care needs they are met in a good place where your child will be stimulated and cared for while you're at work.

And some of them get a little bigger. Believing that the school that your child goes to is the right place and that teachers care about your child.

And some of them get then even bigger, trying to keep your neighborhood safe, getting rid of gangs, and drug dealers and the drive-by shooters. All of the dangers that exist in too many areas of communities or too many of our children.

And sometimes what we have to do to keep our baby safe is even bigger than that.

About the kind of values that we have as a country. Whether we really do care about parents and families. And that means keeping the social safety need in place. Making sure that people who need health care will get health care by keeping medicaid available for families who need it.

One in four of our children rely on Medicaid. We would not as a family say that one in four of our children didn't deserve health care. We would try to take care of all of them. So when we think about all that we can do as parents and all that everyone else should do to help us be the best possible parents, I believe we're on the right road to making sure all of us feel responsible not only for our own baby but for every baby.

Any baby that dies because of a product that did not have to cause that baby's death is not just a loss for that family, but it is a loss for all of us. So any baby we save because of these products is a baby that we save for everybody.

So I want to thank all the people who are focusing on this issue and I hope families all over America will have baby safety showers and talk to each other, educate each other about what we need to do to keep all of our babies safe and healthy.

RESOLVE GOVERNMENT SHUTDOWN

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. REED. Mr. Speaker, when I was a young cadet at West Point, I read the remarks of an officer describing an operation in Vietnam. He said "we had to destroy the village to save it." Looking back, that mind set left many destroyed villages but not a lot of salvation.

I fear this Republican leadership has the same mind set. They seem eager to destroy the Government to save it. This policy is clearly destructive and will not in any way serve the interests of the American people.

There is no need for this continued shutdown of the Government. It has resulted from the inability of the Congress to do its job in passing appropriations bills in a timely fashion. It continues because the Republican leadership persists in holding hostage the operation of the Government to its extreme budget plans.

However, it is incumbent that all parties, including the President, come to the table and make the good faith effort required to resolve the current shutdown. This situation is both unnecessary and unwise. Getting the Government back to work will not prejudice the Republicans from considering and, over my objections, passing their current reconciliation legislation. But, getting the Government back to work will aid seniors seeking to apply for Social Security, veterans needing assistance from the Veterans Administration, Americans needing to travel overseas on urgent business or family emergencies; in sum, all the people we were elected to serve.

It is time to end this gridlock.

A TRIBUTE TO STEPHEN SALMON

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. CUNNINGHAM. Mr. Speaker, it is with great honor that I rise today to congratulate a very fine young man in my district. Mr. Stephen Salmon received a perfect score of 1600 on his recent Scholastic Aptitude Test. Out of 208,000 students who took the April 1995 nationwide exam with Stephen, only 137 students earned this honor. Stephen's score places him in the 99-plus percentile, and I think my colleagues would agree that this is a proud achievement.

Stephen earned a perfect score as a junior at Scripps Ranch High School which is located in San Diego, CA. Stephen has already been accepted to the University of California at San Diego through the early admissions program. During his senior year, he will be taking courses at UCSD along with his courses at Scripps Ranch. He will also continue to be a member of the Academic League and the History Club at his high school.

Mr. Speaker, I would like to commend Stephen on his recent achievement and wish him the best of luck in his future collegiate career. His SAT scores show that he possesses a lot of talent and that he has the potential to accomplish many great things.

CONGRESSIONAL GOLD MEDAL FOR RUTH AND BILLY GRAHAM

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. TAYLOR of North Carolina. Mr. Speaker, today I am proud to introduce on behalf of 222 original cosponsors, legislation to honor Ruth and Billy Graham with a Congressional Gold Medal. William "Billy" Franklin Graham has been America's most revered evangelical leader for the past 45 years. He has helped the less fortunate and prescribed the need for a moral society. Graham, 76, has been spiritual adviser and confidant to 10 presidents. Over 100 million people have come to see a Billy Graham crusade and another 2 billion people have watched him on television. His character and strength have made him America's most admired man. He has used his immense popularity to confront major social problems such as racism, the homeless, and hunger. He continues trying to reverse the decline in our society's morals by emphasizing ethical and spiritual values.

Billy Graham was raised in Charlotte, NC, and upon finishing seminary school began preaching his message from a street corner in Tampa, FL. He has now preached to more people than anyone else in history. To extend the reach of his message he used television, magazines, and a weekly radio broadcast for which he was given a star on the Hollywood Walk of Fame. He has also spread his message through his daily newspaper column and 14 books. The Billy Graham Training Center in

Black Mountain, NC, and the Billy Graham Evangelical Association headquartered in Minneapolis, MN, have become beacons of spirituality for people from around the world. Billy Graham adheres to the principles of which he preached. He and his wife of 52 years, Ruth, live their lives with a commitment to their family, each other, and God.

The other side of Billy Graham is the humanitarian and champion of the disadvantaged. He has helped the flood victims of India rebuild their villages. He arranged for food and supplies to be flown to the earthquake victims of Guatemala and has aided refugees fleeing political oppression. Billy Graham was so deeply involved in the fight for racial equality in the South. Dr. Martin Luther King, Jr., declared, "that had it not been for the ministry of Billy Graham that he could not have done the work that he did." People with Billy Graham's strength and devotion are very rare. His duty to God led him to be the great man that he is today. It is fitting for this Congress to honor these great Americans with a Congressional Gold Medal.

Most recently, the Graham's have devoted themselves to the establishment of the Ruth and Billy Graham Children's Health Center at Memorial Mission Hospital in Asheville, NC. They share the vision of this new center in its effort to improve the health and well-being of the children in southern Appalachia and the world. Their goal is for the Ruth and Billy Graham Children's Center to become a new resource for ending the pain and suffering of children.

We hope that once this legislation is passed by the Congress, the Congressional Gold Medal will be presented to the Grahams at a joint meeting of the Congress.

GREG WYATT—BILL OF RIGHTS EAGLE SCULPTURE, HOUSE CONCURRENT RESOLUTION 114

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 17, 1995

Mr. GILMAN. Mr. Speaker, I rise today to recognize Greg Wyatt, the sculptor in residence at the Cathedral Church of St. John the Divine and director of the art academy at the Newington Cropsey Foundation. Mr. Wyatt has sculpted a Bill of Rights Eagle which he is donating to our Capitol Building. I urge my fellow colleagues to take the opportunity to view a replica of the Bill of Rights Eagle that is currently on display in room 2200 of the Rayburn Building.

Sculptor Wyatt's early training in the arts came from instruction with his father, a painting professor at the City College of New York. At an early age Mr. Wyatt's father instilled in him an appreciation for the cultural and artistic traditions of the Hudson River Valley of New York. Greg followed this tradition, earning a bachelor of arts degree in art history from Columbia College and a master of arts degree in ceramic arts from Columbia University. He continued his studies at the National Academy of Design focusing on classical sculpture, and later traveled to Italy as an instructor in renaissance figurative sculpture.

In addition, I am honored to represent the district that is home to the Newington Cropsey Foundation, an organization dedicated to preserving the work of the 19th century Hudson Valley artist Jasper Francis Cropsey and the culture of the Hudson River Valley. The exhibit of Mr. Wyatt's Bill of Rights Eagle was made possible by funding from the Newington Cropsey Foundation. The foundation has previously donated important Cropsey works to significant collections including the White House, the Metropolitan Museum of Art, the U.S. Department of State, and Princeton University.

Mr. Speaker, today I will introduce a House resolution to accept on behalf of the American people the Bill of Rights Eagle for display on the Grounds of the Capitol. The distinguished Senate majority whip, Trent Lott, will introduce companion legislation in the Senate. This gift by Mr. Wyatt and the Newington Cropsey Foundation, at no cost to the United States, is an appropriate tribute to a document that ensures the core of our democracy. Accordingly, Mr. Speaker, I urge our colleagues to support this measure to place this beautiful sculpture on permanent display in the U.S. Capitol.

H. CON. RES. 114

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION.

The Newington-Cropsey Foundation is authorized to erect on the Capitol Grounds and present to Congress a "Bill of Rights Eagle" monument (in this resolution referred to as the "monument") dedicated to the Bill of Rights. The monument shall be erected and presented without expense to the United States.

SEC. 2. APPROVAL.

The plans for the monument shall be subject to approval by the Architect of the Capitol. The monument shall be erected on a site to be determined by the Architect of the Capitol. Such determination shall be—

(1) subject to approval by the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate; and

(2) made in consultation with the Newington-Cropsey Foundation.

SEC. 3. ACCEPTANCE.

After completion of the monument according to the approved plans, the monument shall be accepted by the Congress on behalf of the people of the United States for permanent placement on the Capitol Grounds.

SENATE—*Saturday, November 18, 1995*

(Legislative day of Thursday, November 16, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Trust in the Lord with all your heart, and lean not on your own understanding; in all your ways acknowledge Him, and He will direct your paths.

Lord, we accept this admonition as both a prognosis and a prescription for our deepest need this morning. Trust in You is the only healing antidote to tension. We admit that the tension does grow as sessions of the Senate become longer and debate becomes more intense.

And here we are on a Saturday morning with the fresh memories of loss for some and victories for others over the vote on the budget last evening. Some are proud of their success and others feel their pride is wounded. Meanwhile, Government is shut down in the deadlock between the Congress and the President. We carefully tabulate the balance of criticism or confirmation from our constituencies, but the real question is what You think.

Individually and corporately we put our trust in You. We resist the habitual tendency to lean on our own understanding; we acknowledge our need for Your wisdom in our search for solutions we all can support. As an intentional act of will, we commit to You everything we think, say, and do today. Direct our paths as we give precedence to principle over party and loyalty to You over anything else. We need You, Father. Strengthen each one and strengthen our oneness. In the name of our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning there will be a period for morning business with Senators permitted to speak for up to 10 minutes each. I have been asked by the distinguished majority leader to advise that further negotiations on a continuing resolution during today's session will go forward. Therefore, rollcall votes are possible, but we will keep the Members informed if there are any further developments.

I yield the floor.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak therein for not to exceed 10 minutes each.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The distinguished Senator from Minnesota.

JESSE BROWN WILL NOT BE SILENCED

Mr. WELLSTONE. Mr. President, yesterday morning there was an article in the Washington Post. It dealt with some of the debate that is now taking place about the budget and veterans. We can agree to disagree, but there was one piece in this article that really captured my attention, as a Senator from Minnesota. This was:

> The conferees sent what they called a "strong message" of displeasure to Veterans Affairs Secretary Jesse Brown, in the form of sharp cuts in his office's staff and travel budget.

Mr. President, I would like to talk a little bit about Jesse Brown, Secretary of Veterans Affairs. Jesse Brown is one of our Nation's most able and outspoken veterans advocates. He is a man who is a Marine combat veteran, a Marine combat hero who served our country with honor and distinction. Mr. President, he is a disabled veteran who, long before he became Secretary of what he calls "For Veterans Affairs," was one of the most important voices and strongest voices for veterans, especially disabled veterans in the United States of America.

I would like to make it very clear, as a Senator from Minnesota, that I do not believe these kinds of attacks, petty attacks on his personal office travel budget, will silence Jesse Brown. My colleagues are sadly mistaken, they are profoundly mistaken, if they believe any form of retaliation will silence this Secretary, who is such a powerful advocate for veterans, based upon his own personal life, based upon his service for this country, and based upon his position.

Since taking office in 1993, let me just list a few of the impressive accomplishments of Secretary Jesse Brown, "Secretary for Veterans."

Agent orange—in 1993, a VA-sponsored review conducted by the National Academy of Sciences found that certain cancers and illnesses could be caused by agent orange exposure. The VA promptly responded by presuming service-connection for these diseases—long overdue.

Mr. President, homeless veterans convened the first National Summit on Homelessness Among Veterans. It is a scandal that such a large percentage of our street people and homeless people are veterans. This Secretary, Jesse Brown, will not be silenced.

Persian Gulf veterans fought hard to make sure Persian Gulf veterans were not forgotten, to compensate certain Persian Gulf veterans with undiagnosed illnesses. Mr. President, Secretary Jesse Brown will not be silenced.

Streamline and make the VA more responsive, a plan to decentralize the VA national health care system, which is now being implemented. Mr. President, Secretary Jesse Brown will not be silenced.

Women veterans: He implemented a series of health care initiatives for women, established eight women veterans Comprehensive Health Care Centers. Mr. President, Secretary Jesse Brown will not be silenced.

There are many more accomplishments that I could list, but I want to just end with one personal story, which I think tells a very large story about Secretary Jesse Brown.

Tim Gilmore fought for our country in the Vietnam war. He suffered from agent orange exposure, and he died of cancer. Toward the end of his life, Tim Gilmore was tormented by one fact. He knew he would not have long to live, but he had not received any compensation. By the rules that we operate under, if he did not receive any compensation before he passed away, there was a very real question whether his family would ever receive any compensation. He was tormented by this.

When Secretary Jesse Brown came to my State, this family made a personal appeal to him, the veterans community made a personal appeal to him to somehow, please, cut through the bureaucracy and please have some compassion and please be an advocate for Tim Gilmore and his family.

Mr. President, I made the same appeal. Time went by, Tim Gilmore became weaker, and it was very clear he was going to pass away soon. A very short period of time before Tim Gilmore passed away, Secretary Jesse

Brown made sure that he received compensation, made sure that his family would receive that compensation.

That family has never forgotten that. To Tim Gilmore, a Vietnam vet who died from agent orange exposure, that was one of the most important things before he passed away. I will be indebted, as a Senator from Minnesota, to Secretary Jesse Brown forever, for his compassion and his strength and commitment to people.

I will say to my colleagues, you can do whatever you want to his travel budget or personal budget, but you are not going to silence him. He is going to continue to talk about this budget and how it affects veterans.

I will mention one point I have been focused on, as a U.S. Senator, and I will be pleased to debate this with anyone. I think what we are doing here in the health care field puts way too many veterans in very serious jeopardy for the following reason: Our veterans population is also becoming an aging population. We all know that.

If you have reductions in Medicare—and we continue to go through this debate about whether it is lessening the rate of increase or a cut. I do not even want to get into the semantics. I want to tell you, there is only one way you look at it. Look at the year 2002; ask how many people are going to be 65 years of age or over, how many of them are going to be 85 years of age or over; you ask what kind of services they are going to require, and you ask whether or not you are investing the resources to make sure they get them. We are not.

If you have those reductions in Medicare and reductions in medical assistance, you are going to have more of the elderly people coming to the veterans health care system for health care. Then, if you have the reduction in the VA health care system as well, it becomes a triple whammy.

Secretary Jesse Brown is going to continue to be a strong advocate for veterans. I will say to my colleagues, he is going to continue to challenge your budget and he is going to continue to say, "Why don't you ask the oil companies to sacrifice a little bit, or the coal companies, or the tobacco companies, or the pharmaceutical companies? And how come you give all this money to military contractors, above and beyond what the Pentagon asked for? And how come you have all these rapid depreciation allowances and cuts in capital gains?"

I listened to my colleague from Mississippi speak with considerable intelligence the other day about this. He is a very able Senator. But this Secretary of Veterans Affairs is going to continue to challenge these priorities. He should.

We do not need any hate, I think all of us agree. But we will have the debate. It will be an important debate for this country. I believe Secretary Jesse Brown will be a very powerful voice in that debate. I come to the floor of the Senate to speak in his behalf today.

I yield the floor.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BALANCED BUDGET ACT OF 1995

Mr. DOLE. First, I want to thank all my colleagues for what has been happening over the past several months as far as putting together the Balanced Budget Act of 1995 is concerned. It was a massive undertaking. People said we could never do it, never make the hard decisions, but we did. We kept our word with the American people. And we have, I think, a product we can be proud of.

It may not be perfect—probably there are some things we can change, correct, modify—but it is a fundamental change in the direction this country has been headed for the past, at least, two or three decades. I know the President has indicated he is going to veto it. And if he does—as I assume he will—I hope he also will say he is seriously concerned about the problems we raise and try to correct them, that he will sit down with us in serious negotiations and have some budget that we can all hold up and all take credit for that will balance the budget in the 7 years, reform welfare as we know it, preserve and strengthen Medicare, provide tax cuts for families with children, and also tax cuts to stimulate the economy, a capital gains rate reduction, estate tax relief. There are hundreds of provisions in this bill.

I particularly, again, want to thank my colleague, Senator DOMENICI, from New Mexico, and members of the Budget Committee for their outstanding work. And I failed to mention Senator ROTH, the new chairman of the Finance Committee. About 80 percent of this heavy lifting was done by the Finance Committee under the chairmanship of Senator BILL ROTH from Delaware. He did an outstanding job. All the tax cuts, the Medicare and Medicaid provisions, all these very controversial areas were under the jurisdiction of the Finance Committee. Certainly Senator ROTH deserves our commendation too.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, we hope to continue to negotiate today and perhaps have some agreement on a continuing resolution by day's end, maybe not, but we will try. We have just sent the President the Defense appropriations bill. If he signs that, about 182,000 people will go back to work. That is almost one-quarter of the total.

We hope he will look at that carefully, particularly in light of the fact that he may be sending American troops to Bosnia. It would seem to me he would want to sign the Defense appropriations bill. I hope he does not send American troops to Bosnia without first coming to Congress, but in the event he does, either event, I think the appropriations bill is important.

I would like to announce, but I am not quite able to, that there will be no votes today. We will check on both sides of the aisle to see if we can reach an agreement on a continuing resolution and if anyone would require a rollcall vote. If not, then we could say no votes today. So, we will begin that process on both sides of the aisle. As soon as we have word, we will get back and make that announcement. I know some Members probably have other plans for the day.

What that would mean, if we had no votes, if we did reach an agreement, we could simply pass a continuing resolution by a voice vote, vitiate the final action taken on the CR we had a day or two ago, amend it, send it to the House and ask them to concur with the Senate amendment. So we could do that by voice vote.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

Mr. GORTON. Mr. President, what is the status of business?

The PRESIDING OFFICER. We are in morning business. Each Senator is allowed to talk for 10 minutes.

THE MOST SIGNIFICANT BILL PASSED BY THE CONGRESS

Mr. GORTON. Mr. President, last evening the Senate passed what the majority leader described as the most significant bill passed by the Congress during his long and distinguished tenure in this body. I should like to express my agreement with the majority leader's characterization.

That Balanced Budget Act of 1995, which will undoubtedly be passed by the House of Representatives today because of the minor changes made in the Senate, represents a degree of responsibility, of fiscal responsibility unmatched by that of any Congress, at least since the end of World War II.

That degree of fiscal responsibility, of course, has been required by the habit of huge multi-hundreds of billions of dollars in deficits over the course of the last several years, and, most particularly, it has been required because of the nature of the budget submissions of this President of the United States who, while he was a candidate for the Presidency, claimed that he could and would balance the budget in 5 years, but who, in January of this year, proposed a budget which would never, ever lead the United States to a budget deficit significantly lower than $200 billion.

The course of action since 1969, the last year in which there was a balanced budget in this country, has created a debt on our shoulders and on the shoulders of our children and grandchildren of almost $5 trillion. That means, Mr. President, that a child born today inherits a debt, or a bill, of some $187,000 during his or her life, simply to pay interest on the national debt. That statistic alone starkly illustrates not just the fiscal and financial necessity, but the moral necessity of a sharp change in direction.

This country can no longer go on providing goods and services for which it is unwilling to pay and sending the bill to our children and grandchildren. Such a change is significant. Such a change does demand dramatic changes in many of our financial priorities. But such a change carries with it great rewards.

The Congressional Budget Office tell us that simply by passing this bill, the Government of the United States will gain a fiscal dividend of $170 billion in more taxes and lower interest payments, a $170 billion dividend matched by a dividend of three or four times that size, more than half a trillion dollars to the people of the United States in the form of better jobs, higher wages, lower interest rates on their mortgages and on their car loans.

That is the tangible dividend for our having passed this bill if, and only if, the President of the United States signs it.

At this point, he has said he will not. At this point, he has said he will veto even the continuing resolution passed by this body two evenings ago which would allow all of the Government workers to go back to work, all of the activities of Government to continue until some time in December, merely in an exchange for a promise on the part of the President that he will agree to a budget that is balanced by the year 2002 by the honest figures and statistics of the Congressional Budget Office.

The President, in spite of his promise in 1993 to use just those figures, has refused, prefers to keep the Government out of operation to making that pledge.

Now, Mr. President, nothing in that pledge requires him to accept the precise numbers and priorities of our budget. He can insist on more in the way of taxes than we call for and more in the way of spending than we call for, or a different balance of spending. We may or may not agree, but that can be negotiated. What we will not negotiate, Mr. President, is the proposition that the budget will be balanced by the end of 7 years, with firm statutes in place that will assure that balance, and that the figures we will use to determine whether or not that balance is reached are honest figures, not figures cooked up in the White House.

At this point, we understand the President wants us simply to say we will have the goal of balancing the budget in 2002 and maybe the goal of using Congressional Budget Office figures. Well, Mr. President, that just does not work. We know, regrettably, that this White House has a different goal every day of the week.

In fact, this President has talked about a balanced budget in 5 years, 7 years, 8 years, 9 years, 10 years, and never, and he has used at least two different sources of statistics for each of those promises. So we have to nail down the proposition that the budget will be balanced in 7 years under honest statistics. That is all we ask for. But we can ask for no less because nothing less will result in the people of the United States having this wonderful fiscal dividend for them in the form of better job opportunities and higher wages and lower interest rates, and we will also say that we have been wrong in the past in spending what we would not pay for and sending the bill to someone else, and that we are not going to do it anymore.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Thank you, Mr. President.

A TURNING POINT IN THE HISTORY OF OUR COUNTRY

Mr. ASHCROFT. Mr. President, I commend the Senator from Washington for his clear statement about the kind of challenge that is before us. This is a turning point—a turning point in the history of our country. Will we decide to discontinue using the credit card of the next generation and then after racking up the charges, sending them the bill? That is the fundamental decision. It is a decision we have not had the courage to make for the last 26 years. Over a quarter of a century has passed since we last operated without sending this enormous credit card bill to our children and grandchildren.

This is an issue of freedom. Who will be free to make the decision on how the next generations resources will be spent? Will we be free to decide how their resources are spent? Or will they be free? It is not unlike the kind of decision that was made when this country came into existence. The British thought they could tax us and spend our resources without listening to us. We referred to it as taxation without representation. And spending our resources against our wishes was so offensive to us that we drew a proverbial line in the sand. The midnight ride of Paul Revere launched this Nation into a period of conflict to establish once and for all that one group does not spend the resources of another group against the other group's wishes and will.

I believe that this is a fundamental turning point in America. Who is going to control the destiny of the next generation? Will they, as free people, have the God-given right to shape the tomorrows in which they live by deploying their resources in ways in which they see fit? Or will they be slaves to the past? Will they be devoting their resources to pay for our excesses?

I think the Senator from Washington has stated the case rather clearly. He has pointed out that we have to live within our means, that we have to fashion a spending plan that is within the limits of the money that we will have. Now, that is always a little bit difficult to do in government. You have to project how much money you will have. You do not know exactly how much money you will have because you do not know how much will be paid in taxes and you do not know the level of business activity. So you have to make estimates. You have to have assumptions about the level of economic activity in society. You have to have forecasting.

Any time you have forecasting, you run into the same trouble that you run into if you are going on a picnic with your family. No family that I know of is so devoid of good sense as to turn the television or radio on to get the weather forecast and there is a 100-percent chance of rain and thunderstorms and then see it maybe on one or two channels and say, "There is a series of bad forecasts out there; we need to have our picnic. Let us go out on the street and find somebody else who might tell us that there is going to be sunshine."

The truth of the matter is that you have to use honest data in a forecast. You cannot go to somebody who does not know anything about the weather or somebody who has another agenda, who wants to sell you the hot dogs and say, "Are we going to have weather good enough for a picnic?" You have to have the right forecast. We have to have the right forecast if we really want to balance the budget.

That is really what this business is about when we talk about using honest numbers. Are we going to use numbers that are put together by nonpartisan individuals who are solely and totally devoted to the development of an honest forecast, or are we going to use figures put together by people who want to sell the hot dogs and send us on the picnic in the hopes that maybe there will be some miracle?

Well, that is where we are. We believe that using the nonpartisan Congressional Budget Office as the basis for the forecast—using their numbers and their forecast—is trusting the best source of prediction. This source of prediction is so well revered and so well honored as the independent and nonpartisan, accurate source, that the President of the United States, President Clinton, in 1993, in his State of the Union message, said we should stop using other groups like the Office of Management and Budget, which is subject to political pressures. This is true even if the forecasters are not overt or do not mean to develop distorted figures. Sometimes the real desire of people in politics to do what they want to do skews their judgment a little bit. They have too much of a stake in the fight to be the referee. The President said in his State of the Union Message in 1993, "Do not use other figures, use Congressional Budget Office figures." I think there is a real reason to use Congressional Budget Office figures, because they are bipartisan and they do not have a dog in this fight. They can go either way.

As a matter of fact, that is what the Congress has been insisting on. At least, that is what those of us on this side of the aisle have insisted on—that we use the bipartisan Congressional Budget Office forecasting.

I point out that using the Congressional Budget Office forecasting does not make balancing the budget easy. It makes it tough. It makes it hard because it is a realistic forecast. If we were to try to solve this problem by going and getting another forecast, by going to find some other economist that would tell us, "Do not worry about it, you are going to have lots and lots of money, so do not worry about how much you spend," I think we would be sticking our heads in the sand. Then we would suffer the consequences of not knowing when the real peril emerged to threaten the future of this country.

Let me just tell you that I am not totally comfortable with the CBO forecast. I am not a professional forecaster, and I am willing to accept their perspective. CBO has forecast that for the next 7 years we will have 2.4 percent growth every year.

I really cannot remember a 7-year period when we could have counted on that kind of growth before. Almost every time in a 7-year period you have some downturns.

Now, there are those folks who say, surely we will have growth of greater than 2.4 percent. I confess, I am willing to bet that we will. But I am terribly fearful of the fact there may be times when we are below the 2.4-percent growth line.

The idea we would leave CBO out of the equation and leave the leavening influence, the stabilizing influence, the ballast of this nonpartisan organization out of the settlement is an idea which is frightening indeed.

CBO, which has made a pretty aggressive estimate that we will have 2.4 percent growth—and that means overall we will have that kind of growth as if there is no upturn or downturn, that we will not ever slide below it enough to drag the average down, is pretty aggressive.

I think as we work with the President toward a balanced budget, and I am committed we will work long enough to get a balanced budget, to get the commitment—people have been calling me from home saying, "Do not weaken. Do not sell the future of America. Do not jeopardize our children and grandchildren one more time." We are at a turning point. Children born this year already will have, if we do not do something about the debt, $187,000 to pay in their lifetime in interest on the debt. "Please do not extend that," they are saying. I do not want to.

We will work together with the President to get something done here, but make sure we commit ourselves to 7 years and make sure we commit ourselves to reasonable estimates by nonpartisan professionals. Heaven knows, with a 2.4-percent 7-year presumption in the mix, to assume there will not be some downturn there somewhere would be whistling in the dark. It would be planning the picnic in the face of a tornado, but going to someone who knows nothing about the weather and saying, "Give me a better forecast. I want to go out in spite of the dark clouds that may be on the horizon."

Let me add just one other thing as I talk about these forecasts and about the Congressional Budget Office, the nonpartisan forecasting agency of Government. I know the CBO and OMB and all these letters are like alphabet soup, and I am sorry we have to use them.

If the President says he wants to balance the budget and he uses one set of figures, and the Congress says they want to balance the budget and we use another set of figures, the President can argue from one set of figures, we argue from the other set of figures, the twain shall never meet. We never really come to grips. We never have an honest debate. We never figure out what we will or will not spend because one debate is on the basis of one projected income and another debate is on the basis of a different amount of money as projected income. It does not provide for rational debate.

When the families of America balance the budgets around the kitchen tables, the husband does not come in and say we have this much money to spend and the wife comes in and says "no," we have this much money to spend. The first thing we do is agree on how much money we have to spend. Not only does that happen around my kitchen table, but it happens around virtually every kitchen table in America. It happens in corporate America, in businesses, in charitable institutions, in churches, and in civic organizations. The first thing you decide is how much money you have to spend, and until you agree upon that, you do not start the debate about how to spend.

In Government, we sadly had this position where one part of the Government comes in and says we will have this much to spend and another part of the Government says we will have this much to spend, and they all talk about their independent things, never coming together.

It is time for us to follow the suggestion of President Clinton in his 1993 address to the Congress where he said we ought to use the Congressional Budget Office figures. He said we ought to use them because they are most likely to be correct and they are more accurate than other figures.

The truth of the matter is we need to use them for another reason, and that is so we are all debating the same amount of money rather than one debating one set of facts and another debating a separate set of facts.

I had the privilege of serving as Governor of the State of Missouri for 8 years. We had this insane system of different sets of facts and different presumptions when I became Governor. We were able to work with the legislature to arrive at a single budgeting forecast so that we had what we called consensus revenue estimation. We would get together, figure out with an independent forecaster how much money we would be talking about, and then the debate meant something.

The President proposed that in 1993. It is, I believe, time for the President to agree to it now in 1995. It is his proposal.

I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. The President's proposal was that we use CBO figures. It was a good idea in 1993. It was a good because they are accurate. It is a good idea in 1995 because they are accurate, but it also is a good idea because it would give us a common basis for discussion.

More than anything else in politics we need to start with as much in common as we can. We all know that we have ideas and philosophy that tends to divide us, but when we start from a common basis of resource, we will at least have an intelligent means for discussing how that resource is to be divided, used, allocated, and spent for the benefit of the people of this country.

I yield the floor.

Mr. GREGG. Mr. President, I ask unanimous consent to address the House as in morning business.

The PRESIDING OFFICER. We are in morning business. The Senator can proceed for up to 10 minutes.

BALANCED BUDGET

Mr. GREGG. Mr. President, I want to address a couple of topics. First, I want to congratulate the Senator from Missouri for his cogent comments on how we get to a balanced budget, how we score the question of spending, and how we maintain some semblance of credibility to the numbers here in Congress.

I respect his leadership as a former Governor in this area and recognize that he understands, maybe more than many of us, the importance of having honest numbers because, of course, in his State they had to have a balanced budget—something, unfortunately, that we do not have to have at the Federal level. It would be nice if we did. When you have to live by a balanced budget, as he did as Governor of Missouri, the real numbers become very important.

It is not a gamesmanship exercise here in obtaining real numbers and his points are well-taken as we move forward to try to resolve this continuing resolution process issue, that we have to have hard numbers that are real numbers so that there can be true movement toward a balanced budget, not something done by mirrors or smoke.

I want to talk a little bit, also, about what the President has been saying about the balanced budget amendment which we passed yesterday, the balanced budget resolution. The President has once again in his radio address, as I understand it, misrepresented facts and the situation especially in the area of Medicare.

It is now extremely ironic that the administration should continue to attack the Republican membership for our bill to balance the budget, which bill, at the same time, puts the Medicare trust fund into solvency and gives the senior citizens of this country choices which they do not have today, choices which are similar to those that we have as Members of Congress.

It is ironic that the President and the Vice President and his minions should continue to attack us for putting forward a proposal like this, calling our proposals extremist, cuts, slashing of the Medicare system, when, in fact, the number agreed to and which was passed last night by this Senate and by the House and therefore by the Congress and sent down to the President for the rate of growth of Medicare which we have agreed to, which the Republicans have put forward, actually now exceeds the number that the President of the United States sent up as his rate of growth that he would like to see in the area of Medicare spending in his June budget.

To go over it in specifics, in his June budget the President said he wanted Medicare to grow at 7.1 percent. Why did he say that? Because his trustees of the trust fund had just come back—Secretary Rubin, Secretary Shalala, and Secretary Reich had just come back—and said if we did not slow the rate of growth in Medicare the trust fund would go bankrupt in the year 2002, and the rate of growth of the trust fund was 10 percent. In other words, every year we are spending 10 percent more on Medicare than we spent the year before. The reason we are doing that is because the system is broken.

So, the President understood this in his June submission and said, "We have to slow that rate of growth to 7.1 percent annually, down from 10 percent."

Then we put forward our proposal and we suggested the rate of growth, in our initial proposal, should be 6.4 percent. That is what the debate was about, the difference between 7.1 percent and 6.4 percent, or approximately 0.7 percent.

Now, after negotiating with the House and making some changes to try to address the concerns of some of the seniors in this country and their groups, we have come forward with a budget which allows Medicare to grow at 7.4 percent. That is what the Republican resolution, the Balanced Budget Act which we passed last night, has as a number: 7.4 percent. I think it is very important the press and the people of this country take note of that. Because we are now 0.3 percent higher in our rate of growth in Medicare than what the President had in his budget submission in June. So, if he is going to continue to say we are slashing, cutting, savaging the Medicare system, then he must have the integrity to say that his proposal exceeded our slashes, exceeded our cuts, exceeded our attacks on Medicare, if that is the case.

Of course, in fact, it is not the case. Actually what we have done is, rather than slash, cut, or in any other way negatively impact the Medicare system, we have actually created a new system which is going to strengthen the Medicare system. We are going to spend $349 billion more on Medicare over the next 7 years than we are spending if we were to just flat-fund it; a $349 billion increase in spending. Every senior in this country on Medicare today gets $4,900 in benefits, they are going to get $6,700 by the year 2002. They will not only get additional benefits in the way of dollars, but they will get additional benefits in the way of opportunities. They will be able to go out and try some other types of health care delivery systems, many of those systems which we now as Members of Congress have available to us but seniors do not have available to them. In the same process, we are not going to limit their ability to stay in their present Medicare system. We are actually going to let them expand that ability, if they desire to do so.

So, the President once again is being a bit disingenuous in his positions—to be kind. He is misrepresenting, not only his position but our position. What for? To pander to an electorate, to try to scare that electorate, to try to run for reelection rather than substantively address the issues which we have to address, which of course is that we need to balance this budget in order to make sure that our children have a chance for a prosperous lifestyle and our seniors have a Medicare trust fund that is solvent.

So we have put forward this balanced budget which makes a great deal of sense, because if we do not pass this balanced budget, we would be passing on to our children no opportunity for prosperity because we would be passing on to them a country which would be confronted with trillions of dollars of additional debt which our children will have to pay. A child born today will have to pay $186,000 in taxes just to pay the interest on the Federal debt. That is not right. It is not fair. Our generation is spending our children's future and it is not right.

So we passed this bill last night and it was a good bill. It had changes in basic programs which will be positive and which will make those programs deliver better services. But, as with all good bills that pass this Congress, when they are large bills sometimes something happens. Some little cadre of folks around here realizes those bills have a certain amount of momentum and they are going to pass because they are good bills and on balance everybody who is thoughtful about quality Government is probably going to vote for them and there will be a majority that will pass them.

So they sometimes sneak little provisions into these bills that are not that good. But because you have an up-or-down vote on the whole bill and you cannot get those provisions out, you end up with those provisions in. In this instance, that occurred, unfortunately, and I want to talk briefly about that; sort of the dark side of the reconciliation bill, if you will, because, unfortunately, there were some dark corners in the reconciliation bill.

The most egregious example of that was what happened with the sugar program. Let us first understand what the sugar program is in this country. It is basically a ripoff of the consumers of America to the tune of $1.4 billion every year. It is the last vestiges of a Marxist economic system in, probably, the world. Well, maybe they still have it in Cuba, a Marxist economic system. But the last real strong vestiges of it is right here in the United States in our sugar program.

What does the sugar program do? It basically, arbitrarily, without any relationship to the market forces of the economy, fixes the price of sugar at a price which is 50 percent higher—30 to 50 percent higher than what sugar should cost Americans. In the open market today you can buy sugar at 10 cents. Under our system of farm subsidy and price control, we pay 22 cents, 23 cents. This is an outrage, but it is a cartel in this country that has a grip on the economics of the issue of sugar and, unfortunately, on this Congress, because it uses vehicles like the reconciliation bill to abuse the process.

So, in this reconciliation bill there was not a 1-year, not 2-year, but a 7-year extension of this outrage, of this program which is the ultimate example of the former East European market approach to economics. It was extended because these folks were able to slip this in. And the irony of it, of course, is that it was put in by people who on most days are the greatest supporters of capitalism, and some of the strongest supporters of conservative thought on this floor. They slipped it in here, for whatever reasons I cannot imagine, because they could not justify it, I am sure, under any intellectual basis. But it got slipped in here for the purposes of raiding the pocketbooks of Americans, for the purposes of benefiting a very small group of people.

The GAO did a study of this and 17 farms—17 cane farmers in this country get 58 percent of the benefit, 58 percent of the benefit. That is a huge amount of dollars on a $1.4 billion subsidy. That is a huge amount of dollars to one small group of individuals in this country who happen to have the capacity to have put their idea into this reconciliation.

Now, there are many of us on our side—on both sides of the aisle, this is a bipartisan outrage at this—who find this to be an inexcusable event, who think the idea that an attempt to balance the budget should have in it a plan which essentially affronts the sensibilities of everything that Adam Smith ever stood for, and that the market economy ever stood for, that capitalism ever stood for, that our country's basic economic structure stands for—that that program should be in this bill is not only ironic, it is an outrage. However, due to the rules of this Senate, we were not able to remove it from this bill. But we all understand this bill, unfortunately, because it has a huge amount of good in it, unfortunately it will end up vetoed. It will come back to us.

I want to put folks on notice. When it comes back, in whatever form it comes back, this sugar debate is not going to be allowed to be shoved into the back corner. This sugar debate is going to be out there, it is going to be on the front burner. Because the American people can no longer be subject to this outrage of having $1.4 billion transferred out of their pockets into the pockets of a few cane growers and a few processors, simply because somebody used the parliamentary rules around here to protect a program that is absolutely indefensible under any other circumstances.

So, this issue shall be revisited when this bill is revisited and it shall be revisited with much more intensity than the last go-around. Because of the fact it was necessary, because of the overriding strength of this bill in the area of getting under control entitlement spending generally, on such things as Medicare, Medicaid, and welfare, and the overriding desire to address that, we had to unfortunately—we ended up, unfortunately, being gamed on the issue of sugar.

But in the next go-around, I simply put people on notice that game will be joined with much more intensity because the consumers of this country do not deserve to have to pay $1.4 billion simply because a bunch of cane growers want to make money.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

THE BUDGET CRISIS

Mr. EXON. Mr. President, we are having a rather unusual Saturday session today for the very obvious and specific reason that, indeed, the Government of the United States and the United States is in a crisis situation today because of the failure of the legislative and executive branches—regardless of their political affiliations and political attitudes—meaning simply that we have to come to some kind of an agreement, some kind of an understanding, some kind of a lowering of the testing of wills with regard to a compromise that can be reached at this time to at least establish the basis or the framework to get on with the more important and more difficult task down the road, and coming to an agreement to balance the budget as quickly as we can. But I think we should keep this all in perspective.

I would simply say, Mr. President, that heated rhetoric, charges, and countercharges of what this Senator will do or what that Senator will do, the pretense of standing up for what is right above everything else, of what I think is right regardless of what my colleagues on this side of the aisle and my colleagues on the other side of the aisle think might be a workable solution, a solution to the crisis that faces the United States today and toning down our rhetoric, toning down our demands, toning down our individual wills, is the only mixture that is going to provide a measure of success in the future that none of us individually might be totally satisfied with, but one that gets this Government moving and allows democracy to function as it has successfully functioned for many, many years.

THE SUGAR PROGRAM

Mr. EXON. Mr. President, I was absolutely astonished at the remarks made by my colleague from New Hampshire a few moments ago, when, if I heard him correctly, he said that the sugar program of the United States was Marxist in nature. I will with some restraint tone down my rhetoric on that, except to say that the Senator from New Hampshire is wrong.

Coming on the floor of the U.S. Senate at a time when very delicate negotiations are going on and assailing one part of the agricultural bill—in this instance, the sugar program—I think is not helpful. It is not constructive. It is not good Government, especially in that it would further impair the delicate negotiations that are now ongoing.

Let me speak a little bit about the sugar program. If we would follow the recommendations, as I understand it, that were just made on the Senate floor by the Senator from New Hampshire, we would in effect be eliminating the production of sugar in the United States of America for all time to come. The sugar program does not cost the taxpayers anything. It is true that it does prop up prices to a very reasonable level so that we can continue to have such a fundamental ingredient as sugar as a part of the American production system.

If we would follow the recommendations, as I understand them, from the Senator from New Hampshire, we would, in effect, eliminate the sugar program in the United States of America. All of our industries that rely on sugar as a key ingredient of our diet would go down the tube, and the United States of America would be totally reliant on imported sugar for as far as we can see into the future.

I would simply say to my colleague from New Hampshire that maybe we should follow that same program with regard to milk production. I do not know how much sugar production there is in New Hampshire, but there is a great deal of milk production. There is both sugar and milk production in my State of Nebraska. I would simply say that, if we are going to destroy the sugar program, it would only follow that we would destroy the milk program. If we are to logically follow the recommendations by the Senator from New Hampshire, I do not know what the milk producers in New Hampshire would think of that, but I would suspect that they might not be very much impressed.

Mr. GREGG. Will the Senator yield?

Mr. EXON. I will yield at an appropriate time.

I simply say to the President, and to the Senate, that if we are going to try to work things out here, I think it is not proper, and it is not accurate, to come to the floor of the U.S. Senate and indicate that the sugar program is Marxist in its concept when it clearly is not.

I happen to feel that if we could tone down our rhetoric, if we could recognize and realize that there are differing points of view from people who are basically well-intentioned, then we can come together. I happen to feel that the Republican plan on the farm bill that was originated in the House of Representatives is a total disaster for America. Not only is it a disaster for America in our food production industry, but I think it turns the farm program—good, bad, or indifferent —into a welfare program. And few understand that if we accept the agricultural program announced and endorsed by the House of Representatives, we would be turning the farm program into welfare.

Why do I say that? Mr. President, a key ingredient of the so-called Roberts farm plan is to pay farmers even if they do not plant anything. Can you imagine anything that smacks of ill-advised welfare, if we would start paying farmers for not doing anything or producing anything?

That part of the Roberts farm bill that I refer to as farm welfare pure and simple is so revolting and so illogical that I think it should be rejected out of hand. Yet, that program is alive and well today and was given editorial support this morning in the Washington Post.

The Washington Post has been historically against farm programs. That is well known, and that is very right. They are an Eastern newspaper that does not understand at all the needs of rural America and have had no pretense whatsoever of understanding the problems of rural America. I think their editorial writers down there in the Washington Post think that food is something that you go down to the supermarket and buy off the shelf.

I simply say in returning that I understood the arguments of the Senator from New Hampshire would be that we should junk the sugar program because it is Marxist. That would be another step down that road that we have gone a long distance in traveling with regard to nearly 60 percent of the fuel that we use in the United States today, oil-based fuels, comes from overseas.

We have been down that path before when we recognized that a few foreign oil cartels can literally, if they want to, get together and set the prices for oil. That is bad enough, and we are not taking enough steps, in the view of this Senator, to correct that. But to follow the same road by eliminating sugar production in the United States of America, which would surely come if we would follow the recommendations of the Senator from New Hampshire, we would simply say, in addition to being solely dependent in the future for the major part, if not all, of oil production, we would be also following down the line which would be even worse with regard to a basic part of our food supply and distribution system.

Mr. President, I simply say that this is a time for all of us to maybe control, rein in our rhetoric at a time when the leadership of both the Democrat and Republican Parties is at this very moment trying to institute some kind of a compromise and agreement, if you will, that will eliminate the crisis that we have today and have some kind of a framework understanding of what we are going to do in the future, to come to some agreement with regard to the future budget of the United States and how we are reasonably going to balance it.

With that, I yield the floor, and I certainly yield to my colleague from New Hampshire for any questions he would like to ask the Senator. If I did misinterpret his remarks, I would appreciate his explanation.

Mr. GREGG. Mr. President, I ask unanimous consent for an additional 5 minutes so we might have a colloquy between myself and the Senator from Nebraska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. No, the Senator did not misinterpret my remarks. Karl Marx was an economist first. He became affiliated with communism, of course, but his basic theory of economics was that you should essentially, through controlling the marketplace from the top down, move dollars from one segment to another as the state determined appropriate. That was the basic theme of Marxism, that the state should use the power of the state to move dollars from one group to another and manage the marketplace both through transfer of wealth through income-related activities and also transfer wealth through pricing activities. That was the basic theme of Marxism.

If you look at the sugar program, the open market price for sugar today is 10 cents a pound. That is what it was quoted at on CNBC just yesterday. The price support is set at 18 cents a pound, but the target price that is used, which is outrageous to begin with, the target price which is used by the Agriculture Department is somewhere around 21, 22, 23 cents a pound. I am not sure. It is right in that range. The basic reason, of course, being under the structure they do not want anybody to end up having to pay back their loan. So they make it possible for the price to be so much higher than even the support price that no loans ever end up going into default.

Maybe there is some other term you use for this that is appropriate, but when there is no market force of any nature involved in pricing the product, that is certainly not capitalism. It is certainly not an Adam Smith approach to managing a commodity. It is a management by the state of the price of the commodity to benefit the producers of the commodity, and in this case it happens to be that 42 percent of the benefit runs to sugar growers who represent 1 percent of all the sugar farmers, happening to be the cane growers in this instance, not the sugar beet growers, who would happen to be from Nebraska.

I happen to think we could restructure this program where your sugar beet growers have a much better opportunity to get some of that 42 percent of the benefit and not have the consumers pick up the $1.4 billion subsidy which is incurred as a result of setting the price arbitrarily at the number which has no relationship and which is almost 100 percent higher than at what the free market sets the price.

So did I use the term Marxist economics to characterize it? Yes, because it is a state-run, state-dominated, state-controlled price-setting mechanism, which is the classic definition of Marxist economics. If it were a free market or if it were a quasi-free market, you might use some other term. If it were a quasi-free market, I suppose you could characterize it as a farm subsidy program. But it is even beyond that. So that is why I used that term. I think it is an accurate characterization. I do not deem it pejorative in the sense it is inaccurate. It may be pejorative because that form of economics has been so rejected by the world now. But it is a fact that exists.

Now, as to the dairy program, I would be willing to make a deal right here with the Senator that we put all products on the basis of market economics, we have no subsidies underlying any commodities. I will vote for it. If you want to take the dairy program out of any subsidy program, I will vote for that, if it is part of a package to take everything out. In fact, I would probably vote for it if it were not a part of a package to take everything out. Dairy is an issue in which I am not a great defender of the price supports either.

I think the issue here that I raised with sugar is a legitimate issue and the characterization is accurate. So I yield to the Senator from Nebraska for his comment.

Mr. EXON. Mr. President, for clarification purposes, if I might ask my colleague from New Hampshire whether he would so characterize the dairy programs that we have in the United States as Marxist, as he has clearly indicated he feels the sugar programs also are?

Mr. GREGG. I do not think the dairy program is an egregious example of price controls, because the dairy prices are much closer to a market-driven event than the sugar prices. So I would say we are somewhere in between. It is clearly not a capitalist system. It is clearly not a market system that we have in dairy, which it should be, and I strongly support moving to a market system. But it is nowhere near the egregious price-support levels that we have in the sugar system.

So, no, I do not think I would say it is a purely state-dominated system, but it has clearly got too much state domination in it. I wish we would correct it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I appreciate the last discussion. Clearly the issue of sugar subsidy and maintaining the price that is substantially above the market price has been detrimental to consumers in this country. It is true it has no direct effect or impact on the Federal budget. That is simply because we have shifted the entire impact to the consumers of this country.

But that is not why I am here to speak. I think that subject has been adequately debated between the Senator from New Hampshire and the Senator from Nebraska.

THE BUDGET IMPASSE

Mr. COATS. Mr. President, I am here to talk about the current budget impasse in which we find ourselves. There clearly are a number of compelling reasons to support a balanced budget: lower interest rates, higher economic growth. These have all been discussed in detail on this floor over the last several days. But I do not believe that economic facts fully explain the urgency of the issue and why the lines have been drawn so sharply between these two competing philosophies.

There is a moral aspect to this debate, a moral imperative that I think is important we understand because those of us who are holding firm for a commitment to a balanced budget in a fixed amount of time with honest numbers are doing so because we are convinced that not only are the deficits imposed year after year after year on the American public unwise but they are unprincipled.

They are not just a drag on the economy, not just an impact on interest rates, but a burden on our national conscience. It was Thomas Jefferson who said nearly 200 years ago—in arguing the question of whether one generation has the right to impose on another generation a debt burden which is the obligation of those that are currently enacting that burden, currently supporting that spending—Jefferson said, "The question of whether one generation has the right to bend another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, and be morally bound to pay them ourselves."

So what we have been debating are not just the numbers to compromise between the White House and this Congress, what we have been debating is a fundamental principle of Government, and I think a fundamental principle of society. I doubt that there is anyone on this floor or a Member of the Senate that has not at some time in their life sat down with their children and explained the principle of deficit spending, and whether it deals with a $1 or $2 allowance or whether it deals with setting aside money necessary to pay expenses while they are away at college, the principle is the same, and, I think, what we all try to pass on to the next generation, that is, that we cannot keep spending more than we make.

If you spend more money than you earn, you are going to have only one of two recourses: You are going to quickly run yourself unto insolvency, or you are going to roll up a debt that will become such a burden in terms of payment of interest to maintain that debt that other items of expenditures, necessary expenditures, are going to be squeezed.

Many young people have learned the hard way through receipt, as soon as they are independent from their family, of a Visa, Master Card, or other credit card, how easy and how tempting it is to run to the mall and roll up and use that card to purchase items for the moment. And then the bills start rolling in, and they notice that they are paying a 17, 18 percent interest rate on the mounting debt.

What has happened on a national basis is that debt has been mounting at a staggering rate. It took more than 200 years to reach the first $1 trillion of debt. Now, in just the space of 15 years, we have quintupled that $1 trillion debt to the point where this Nation now stands at $4.9 trillion of national debt. It is a staggering burden. It is a burden that is imposed, I would suggest, on the next generation. And therefore, that moral tradition that we have held at the highest level in this country of sacrificing for the benefit of future generations so that our children might enjoy at least an equal but hopefully a better standard of living, better quality of life than we have been privileged to enjoy, which was transferred to us by the previous generation, this generation has become the first generation to violate that trust.

Every child born in America today inherits $19,000 in public debt, and it is going up at a staggering rate. That is a destructive legacy of a government without courage. True, it has caused a budgetary crisis, but it has done more than that. It has betrayed a moral responsibility.

Now, this moral imperative clashes with a political imperative. The political imperative says deficit spending makes sense because it allows elected officials and allows Government to please people in the present by placing burdens on the future. Interestingly enough, the future has no vote in the next election. And so the temptation has always been to fund for the moment, to spend for the moment, because it impacts positively on those who will go to the polls at the next election to perpetuate our existence in this elected body. That is the prime reason why I strongly believe in term limits, because term limits are the only device that I know of, as imperfect as they are, that changes the dynamic of the way we make decisions.

It is human nature to obviously want to keep your job. It is human nature to want to be reelected, to be favored by the people. And the political imperative, particularly over the last 30 or 40 years, has been to accomplish that purpose essentially by spending money but not having the courage to go forth and ask taxpayers to pay for that expenditure, but simply to float the debt and pass that payment on to a future generation, which, by the way, does not go to the polls at the next election.

So we see these two imperatives, the political imperative and the moral imperative, clashing against and struggling against each other. I believe the moment has come that that titanic struggle is at issue and needs to be decided, where the choice is clear before us. On one side, unfortunately, we are dealing with a President supported by many, not all, members of his party who seem to be pursuing the political imperative; and on the other, I believe we are seeing a commitment to the moral imperative.

The problem that we face is that we have defined a commitment to the principle of not imposing additional burdens on future generations through an act called the Balanced Budget Act of 1995, accomplished in a defined time period and accomplished with numbers on which we can both agree. After all, it was the President—it was the President—who called on us to agree on how these numbers would be determined and derived so that we would not be arguing over differing assumptions and differing sets of numbers.

Frankly, it was the President who essentially put in play the fixed period of time with which to reach the goal of a balanced budget. He campaigned on that basis. He said, "There's a way for me to meet the stated objectives, which is a balanced budget in 7 years, with a family tax cut * * *" That is exactly what Republicans have offered the President: a balanced budget in 7 years with a family tax cut. It is what the President called for. We responded to that. But now the President said, "No, those are not my priorities."

This Republican budget has the courage to confront the political imperative because we believe that we have a moral duty to the next generation.

Now, my concern, Mr. President, is that as the Senator from Nebraska has said, we have allowed rhetoric to get ahead of the facts of the situation. I am concerned that the American public is focusing on our rhetoric and not the facts.

Coming in this morning to the Senate, I listened to the President's weekend address, and the President was obviously putting the best light on his position on the acts of the Congress.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COATS. Mr. President, I ask unanimous consent for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. I thank the Chair and my colleague from Texas.

I was deeply concerned that the rhetoric of the President far exceeded the reality of the facts that we are dealing with. The President characterized, on about as many occasions as possible in a 5-minute speech, the Republican effort as an extreme effort.

Now, somewhere in the process here the President's pollsters, focus groups, so forth, have discovered that the American public has an emotional, visceral reaction to the word "extremism." So it seems everything Republicans are attempting to do all year, whether it is a defense bill or whether it is welfare reform or whether it is balancing the budget, is labeled as extremist. He used to say it was right-wing religious extremists. Then, they found out people of faith resented that and that did not go down too well, so now we are down just to the word "extremist."

The President and Vice President just incessantly use the word "extremist." You heard that from the minority leader's speech last evening. I think there must be a reward for those who can use the word more times within each minute of statement because it seems like it is almost every other word.

Now, I ask the American people and I ask my colleagues to examine the rhetoric, and in the light of the reality of the budget, because what Republicans are saying is that with this moral imperative and this staggering debt, we believe it is important to enact the principle of a balanced budget not this year, not next year, not 1999, not by the turn of the century, the new millennium, but by the year 2002.

Over a 7-year period of time, we believe we should make an orderly transition from where we now are to a position where we will not spend more than we take in. And if we do it over a 7-year period of time, it will allow spending to increase at a rate of 22 percent. It will increase over that period of time in expenditures such as Medicare at a rate of 65 percent; that the Medicare increases will go up at a rate of 7.4 percent annually.

One would think, listening to the President and listening to some of our colleagues who oppose that—because they use terms such as "cutting off at the knees," "throwing children out on the street," "denying aid to widows," "turning our backs on the disabled," "gutting the American social compact"—you would think that what Republicans are offering are drastic, drastic cuts in the amount of social welfare and the amount of expenditures on a whole number of programs.

Medicaid increases will go up 43 percent; welfare spending will increase by $100 billion over this time period.

Republicans find themselves in an unusual position, because a lot of people back home say, "Wait a minute, we thought you were going to do more than that. We thought you were going to cut back." Well, we are slowing the rate of growth, but in no sense can those be characterized as cuts from current expenditures. The spending will continue, but it will continue at a slower rate and over a 7-year period of time. As our economy grows and as expenditures decrease from the standpoint of a lower rate than before, those two lines will cross, and, as certified by the agency that the President asked us to use to certify those numbers, we will reach a balanced budget in 2002.

As I said, we do this not just because it makes good economic sense, but we do this because we believe we have a moral imperative to do so. This is a historic piece of legislation. It allows us in the Congress to leave some legacy to the future, other than monumental debt—a legacy of moral courage and a legacy of responsibility.

We have waited a long time to get to this point. It has been an unusual convergence of events that have led us to this moment. I do not know that we will have another opportunity to do this, and so a vote to keep our word and keep our faith with the next generation is a vote that I hope the President will exercise, as we exercised last evening.

The President, with one stroke of the pen, can address what I believe is the economic imperative but, more importantly, can address the moral imperative. The President can address the issue of whether or not we will keep faith with the next generation. He will address the question of whether or not this generation, this selfish generation, this me-first generation, will finally say, "We have run the course. It has been a disaster for the future of America."

The economic consequences are untold, and it is time that we drew a line and had the courage to do what I think every one of us instinctively knows is right.

Mr. President, I thank you and yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I appreciate the remarks of my colleague from Indiana. I think he laid out in a lofty and beautiful speech exactly why we are here.

I have read the quote from Thomas Jefferson as well. And, in fact, Thomas Jefferson had said he had really two problems with our Constitution, and it was nagging in the back of his mind.

One of those nagging concerns of Thomas Jefferson was that we did not have a mechanism that would keep Congress from going into debt, because he felt that public debt was not the right of any Congress to make.

The second thing that Thomas Jefferson was concerned about was that we did not have a system to assure rotation in office. Of course, term limitations are still a very powerful issue for us in this Congress over 200 years after the Constitution was ratified, and I think his nagging concerns were two very important ones that I wish he had been able to address.

But then when we look at what the founders of our country did in the Constitution, they are certainly to be commended for the foresight they had in so many areas.

THE BUDGET IMPASSE

Mrs. HUTCHISON. Mr. President, I would like to talk about this budget impasse, because there is no question that we are at a crossroads in our country. The impasse is over our President and this Congress and our differing views about what course this country should be on. The Congress promised the people a balanced budget, and we are producing on that balanced budget.

We have sent to the President a balanced budget for the first year of a 7-year plan. The President promised in his campaign a balanced budget in 5 years, actually. But when the time came to sign the dotted line to make the hard choices, the President has chosen instead to demur, to talk about politics instead of coming down to the bottom line and working with Congress on a budget that is balanced. He is holding our Government hostage.

Mr. President, why do we have this impasse? There are two things: The balanced budget which we have sent to the President and the resolution that would continue the operation of Government, which is why people are not working in our Government at full staff levels.

We passed a resolution that would continue Government from September

30, when the fiscal year ended, until this week. Now we are in the second resolution. The second resolution has the lower budget figures that are necessary if we are going to balance the budget.

So when we talk about this continuing resolution, it is crucial that we have the lower numbers because we are in the fiscal year. We are in the 1996 fiscal year. We must have the lower spending numbers if we are going to make our 7-year goal, and that is the crucial issue here. The President does not want the lower spending limits because, in fact, the President does not want the balanced budget in 7 years.

Now, he paid lipservice to a balanced budget in 7 years. He said publicly that he would agree to a balanced budget in 7 years, but he just will not do what is necessary to get us there, and he has yet to send us a budget that is balanced at all, not in 10 years, not in 9 years, not in 8 years and not in 7 years.

So because we have this impasse, the people of this country are certainly concerned. There are people who say, "Settle it. Pox on both your houses, settle it."

I just ask people who say, "settle it," do they want us to settle it at the cost of our future security, our future prosperity?

Do they want us to settle it at last year's spending rates so that we cannot possibly meet our goal of a 7-year balanced budget? Do they want us to settle it regardless of the promise that we made in 1994?

Mr. President, I ran on a platform, in 1994, of a balanced budget. I promised the people who voted for me, and I promised everyone whether they voted for me or not, that I would come up here to try to balance the budget, to try for a 7-year balanced budget. The President also, in his campaign, in 1992, promised the people that he would work for a balanced budget. The President made the promise, I made the promise. The difference is, I am keeping my promise.

I think that is the issue here. The people have been promised for 25 years a balanced budget in this country. But the politicians have always walked away from it. And the reason is, they did not have the guts to look at entitlements, and everybody knows entitlements are more than 50 percent of our budget, that they are the toughest of all things to work with. This Congress did something different. This Congress kept the promise by tackling entitlements, by saying that welfare is going on a budget, just like your family budget, just like your small business budget. Welfare is going on a budget.

So we have produced reform of a very important former entitlement. It is an entitlement today, but hopefully if we can do what is right for the long term of this country, it will not be an entitlement. It will be a budget item. And we will have limitations on welfare for able-bodied recipients for the first time in this country since we created the welfare system.

So it is very important that the people understand that we did reform welfare, that we did take on Medicaid entitlements, that we are going to give it to the States so that they can do it without Federal strings, in a more efficient way, that we are going to save the Medicare system from bankruptcy, so that it will be there for our future generations.

Mr. President, we are keeping a promise, and it is not an easy one. It would be more comfortable to just cave. Sure, I would like for everyone to go back to work in Government. I would like to take the easy way out. It would be much more comfortable. But, Mr. President, my constituents did not put their faith in me to take the comfortable, easy way out. My constituents elected me because they believed that I would keep my promise.

I am not going to mortgage the long-term security of this country for a short-term comfort rate. I am not going to do it because the people elected us to represent them, and they sent a powerful message in 1994. They want a balanced budget and they want people who are tough enough to do it.

So I did not get elected to come here and cave to the President, who made the same promise that I did, but is walking away from that promise. I am not going to walk away. I am going to stand here for a balanced budget in 7 years. We are doing it in a responsible way. In fact, a lot of people think we should do it in 5 years. But we are saying, no, we believe 7 years would keep the economy strong at the same time that we are doing what is right for the long term. So we are making the right decision for the short term and the right decision for the long term.

Mr. President, this is a crossroads for our country. As the great "philosopher" Yogi Berra once said, "When you come to a fork in the road, take it." Well, once again, we have a choice of which road to take. We have the choice. Mr. President, the Congress is going to stay on the road that will take this country back to prosperity and stability. We are going to bring back what made this country strong in the first place. Families, the spirit of entrepreneurship, the small businesses, a strong national defense built this country. We won the cold war because we were strong, not because we were weak. And we are going to do what is right, Mr. President, in the short term and the long term. We are not going to walk away from our promises, and I wish the President would do the same.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, apparently, the present occupant of the chair wanted to make some remarks; is that correct?

(Mrs. HUTCHISON assumed the chair.)

Mr. INHOFE. Yes, that is correct.

Mr. EXON. Madam President, we have been trying to go back and forth. As I understand it, my colleague from Oklahoma wishes to make some remarks. I would agree to that. I hope that the Chair will see fit to recognize the Senator from Nebraska after the Senator from Oklahoma has completed his remarks.

The PRESIDING OFFICER. The Chair will recognize the Senator from Nebraska, Senator EXON, following the remarks of the Senator from Oklahoma.

The Senator from Oklahoma is recognized.

SENDING TROOPS TO BOSNIA

Mr. INHOFE. Madam President, let me thank both Senators from Nebraska who have been kind enough to allow me to have a little time. I appreciate it very much. I will try to return the favor some time.

Madam President, I have a feeling that this is a historic moment right now, that we may not have any more votes, and we may be leaving all of this up here and going back, hopefully, for the Thanksgiving holidays, in which case I have a couple of comments I want to make. They are not really exactly on the focus of today, but I will also go back and wind up with some thoughts I have on this subject.

There have been some rumors—and I always hate to talk about rumors on the floor of the U.S. Senate—that have come from so many different unrelated sources, and I am concerned that during the period of time that we will be in the Thanksgiving recess, there may be some agreement reached and our troops may be deployed to Bosnia.

This concerns me very much, and this is not a very appropriate time to bring it up. But I do think that we need to get on the record and remind the President that this Senate passed, just 2 days ago, a strong sense-of-the-Senate amendment to the DOD appropriations bill which says that we, Mr. President, want you to come to the Senate and to the House of Representatives for authority to send troops into Bosnia.

It was a very similar situation that the President of the United States at that time, George Bush, faced back in the early nineties when he wanted to send troops to the Persian Gulf. He did not want to come to Congress. He felt it was necessary and that we had vital national interests in the Persian Gulf and we had to go. Yet, he did not want to do that and take a chance of being turned down. So we have a similar situation today.

I can remember talking to one of the generals training over at the 1st Armored Division in Germany. Those are the troops that were going to go to the Persian Gulf. Now he is training the troops that would go to Bosnia. He related to me an experience of sitting and listening to the radio, hoping, and praying that George Bush would take this to Congress to get authority. They did not want to be sending their troops into a hostile area without the American people behind them.

I see exactly the parallel situation here. I certainly hope that the President will come to Congress and not use an opportunity when we might be on recess to deploy troops to Bosnia. Not too long ago, before the Senate Armed Services Committee, we had Secretary Christopher, Secretary Perry, and General Shalikashvili. I asked them the question, after they defined the mission the United States has in Bosnia. The mission was twofold: First, to contain a civil war to the former Yugoslavia, and second, to protect our position in NATO and the integrity of NATO. I felt—and I think several other people who have spoken on this floor feel the same way—that those two missions are not worth the loss of one life.

Shortly before, General Rose—Michael Rose, who is the commanding general of the U.N. forces in Bosnia—had made a statement that if America gets involved and sends troops over to Bosnia, we will lose more lives than we lost in the Persian Gulf war, which was 390. I asked the question to all three of these top officials representing the President of the United States. I said, "Is that mission worth the loss of 400 or more American lives?" Secretary Perry said, "Yes." Secretary Christopher said, "Yes." General Shalikashvili said, "Yes."

I think there is the honest difference of opinion, and we need to see how that opinion is shared by the American people and by both Houses of Congress.

I certainly admonish the President if, during this period of time, if the temptation comes to deploy troops, to think of the troops going over there without the American people behind them.

A HISTORIC TIME

Mr. INHOFE. Mr. President, this is truly a historic time. Some of us have been working on this idea of balancing the budget for many, many years. When I look over and see the two very distinguished Senators from Nebraska, I want to remind them of another great Senator from Nebraska in years past. His name is Carl Curtis.

Carl Curtis, back in 1972, came to me as a member of the Oklahoma State Senate and he said we want to get a balanced budget amendment to the Constitution passed. He said, of course if that happens we have to have the States ratify it.

He had an idea. This came from the genius from the State of Nebraska, I say to the two Senators from Nebraska. He said we should preratify a balanced budget amendment. Go to the States and get two-thirds of the States or three-fourths of the States to preratify a balanced budget amendment to the Constitution.

I introduced a resolution in the Oklahoma State Senate. It passed. We became the first State to preratify a balanced budget amendment.

I remember the argument at that time. At that time the total national debt was $400 billion and there were radio and TV ads and they were stacking hundred-dollar bills up—at that time I believe the Empire State Building was the tallest building—and they were stacking $100 bills up and they said that is the size of the national debt.

Of course we know today that was just a drop in the bucket. That is how significant this thing is. That is how long many of us have been working on it. This is truly the opportunity that we have to do it.

The Senator from Indiana just a few minutes ago made a statement that rang a bell. He said this is a moral issue. I think we should look at what we are faced with and what the President is faced with, his temptation to veto this Balanced Budget Act of 1995, to look at it as a moral issue.

I had occasion to be at the national prayer breakfast where we had several foreign visitors coming in, and one from Moldavia, a former Soviet State, came in very proud. He was smiling. He said: "Senator INHOFE, how much in America do you get to keep?"

I said, "I am sorry, I do not understand what you are saying."

He said, "Well, how much in America do you have to give the Government so you can keep something?"

Then I knew what he was talking about. He was talking about how much do we pay in taxes. I gave an answer I would be embarrassed to share on the floor because I am not sure how accurate it is, because he said in all pride they have a system over there in Moldavia where they work for about 3 months and they have to pay the Government—he said, "We pay the government 80 percent of what we make," and then with the pride showing through in this new-found democracy and free economy he thought they had, he said, "We get to keep 20 percent."

We look at that in this country, how could they be so proud of being able to keep just 20 percent? But the fact remains that someone born today, such as my three grandchildren, if we do not do something to change this course, then that person is going to have to pay 82 percent of their lifetime income just to support Government.

Mr. President, I will conclude by sharing an exciting experience I had a year ago yesterday, November 17, 1994. I was sworn in as a Member of the U.S. Senate. That happened to be my 60th birthday. I thought a year ago, how in the world could I ever top this? What do you do for an encore? You are sworn in as a Member of the U.S. Senate on your 60th birthday.

I say, what are we going to do for the 61st birthday? Yet, something much more exciting happened on my 61st birthday yesterday. We passed the Balanced Budget Act of 1995. This is the act that is going to take our kids out of bondage.

As difficult as it is, and I heard it demagogued around this Chamber that we will be slashing programs. We know we will not slash programs. We know we will be increasing Medicare, for example, at a greater rate of growth than the President himself had suggested before.

I think clearly right now the ball is in the court of the President. We have passed it in the House. We have passed it in the Senate. It is now up to the American people, because we know one thing about our President, he does listen very carefully and watch the polls. If it becomes very evident to him that this is the last opportunity we have to commit ourselves in America to a balanced budget, as I believe this is our last chance, then, I think he may not be doing as he said, and will sign the Balanced Budget Act of 1995.

I thank the Senators from Nebraska for allowing me to move ahead.

I yield the floor.

Mr. EXON. Mr. President, I thank my colleague from Oklahoma for his history lesson on Nebraska politics. My colleague from Nebraska and I know a great deal about the history of politics in the State of Nebraska.

I simply say to him one of the great experiences of my lifetime has been service in the U.S. Senate with Henry Bellmon, two times elected Governor of his State. Some of the lessons that I have learned were at the knee of Henry Bellmon when I came here as a freshman after two terms, 8 years as Governor of the State of Nebraska, so I also know something about the political history of that State.

THE BALANCED BUDGET

Mr. EXON. Mr. President, I have been listening with great care to the speeches that have been made here. I noticed on two occasions my Republican colleagues have brought the name of Thomas Jefferson into the discussions.

It was somewhat amusing to me. I do not know what position Thomas Jefferson would take if he were on the floor of the U.S. Senate today, but as the founder of the Democratic Party I suspect that he might not appreciate too much the Republicans invoking his name in the support of the proposals that they are making.

Facetiously, it kind of reminded me, Mr. President, of my own dad. As a very young lad, brought up in a very traditional Democratic household with Franklin Roosevelt the new President of the United States, whom my mother and father and grandfather thought was an outstanding individual, and I was thoroughly brought up in the Democratic traditions.

After going to school one day, I came home and I told my dad we had studied a President by the name of Abraham Lincoln, and I asked my dad what he thought of Abraham Lincoln. I did not tell dad that I discovered that Abraham Lincoln was a Republican.

My dad said, "Jim, Abraham Lincoln was one of the greatest Presidents that this Nation ever had or probably ever will have. He was a truly outstanding American."

I said, "Yes, dad, but he was a Republican."

Dad paused for a moment, and he said, "Well, yes, Jim, but if Abraham Lincoln were alive today he would be a Democrat."

Now, maybe that is the reverse of what my Republican colleagues are arguing today. But at least I loved my dad and my dad said that to me in jest.

So when we start instituting the names of great leaders, Presidents, political leaders of the past, sometimes we take license that probably we are not entitled to.

Mr. President, there has been a lot of talk about balancing the budget here. I hear the Republican cry today and I think they are talking about saving the children and saving the grandchildren.

Mr. President, although there may be some that can top me, I have three children and I have eight grandchildren, and I am just as much concerned about their futures as any other Member in this body. But to indicate, by inference at least, that if I do not go along with their draconian budget proposals, that I think are unwise and unfair, I am not concerned about my children and grandchildren, is just a little bit too much for me to swallow.

I was Governor of Nebraska for 8 years. As Governor, I balanced the budget each and every year, as did my colleague, Senator KERREY, from Nebraska, who is on the floor, who followed me by a few years. He balanced the budget each and every year. So I simply say, probably, from the standpoint of history, I was balancing budgets in government before some people had ever been elected to public office.

I follow that up by saying I think the record of this Senator has been very clear. All the time I have served the public of Nebraska and all the time I have had the opportunity to serve the people of Nebraska and the people of the Nation as a whole as a U.S. Senator, I have put forth many, many efforts, of which the latest was to vote for the Republican-sponsored constitutional amendment to balance the budget in 7 years. While I agree with that principle, that does not mean, nor should anyone necessarily construe anything, just because I voted for a constitutional amendment to balance the budget that was primarily supported and advanced by the Republicans with the help of nearly enough Democrats to pass it. I think my credentials of being a dedicated conservative with regard to fiscal policy are well established.

I, too, listened with great interest to the remarks made by the President of the United States today. I did not, strangely enough, come away from listening to those remarks with the same conclusions as my friend and colleague from Indiana. I thought the President of the United States today laid it on the line. I may concede that possibly he may have gone a little too far in his rhetoric, but compared with some of the rhetoric I have heard from the other side of the aisle on the Senate floor in the last few days, I would excuse the President for any oversteps that he had made in that regard.

I think it is clear to say, though, that the President of the United States said today that during his term of office he has essentially cut the annual deficit in half. That is more than has been done for a long, long time. So, at least in our criticisms of the present President of the United States, for whatever reason, we should realize and recognize that, under his leadership, we have cut the deficit and not continued to raise it.

I would simply point out, I want to share and be one of the workhorses in cooperation, in full cooperation, when I can, with my colleagues on the Republican side of the aisle to do something about the skyrocketing national debt of the United States of America. I am fearful all too few of our citizens fully understand the difference between the annual deficit and the national debt, the latter being, of course, with additions each and every year, the shortfall we have been going through here, unfortunately, for a long, long time with regard to spending more than we take in.

In that regard, though, a little history might be in order. The last Democratic President of the United States that we had before the present occupant of that high office was former Governor Carter of the State of Georgia. I would cite—and I think the record will back me up—when President Carter left office the national debt of the United States was under $1 trillion.

What happened in the intervening years when we had Republican Presidents of the United States? From 1980, when President Carter left office and the debt was under $1 trillion, some 12 years later, when President Clinton took office, the national debt had skyrocketed fivefold, from under $1 trillion to $4.5 trillion.

Some would argue during most of that time there was Democratic control of both Houses of the Congress, and that is true. But the facts of the matter are, had those Republican Presidents in the years 1980 to 1992 stood up and exercised their veto, as this President has stood up strongly and said he will exercise his veto, the national debt would not have taken the jump and be as troublesome as it is today.

The problem we are in today is not all the responsibility of the Democrats or all the responsibility of the Republicans. Certainly, the Democrats, I think, are, by our traditions, by the record that we have established, as much concerned about the children of America in the future as anyone else. I happen to think you will see a growing portion of both Democrats and Republicans in the U.S. Senate—and hopefully in the House of Representatives—anxious to come to some workable understanding, some framework where we can, indeed, balance the Federal budget in 7 years.

I am continuing to work toward that end. Meanwhile, back at the ranch, I hope once again we can contain our rhetoric just a little bit and give the leadership of the House and Senate an opportunity to come to some resolution of the crisis which faces us today.

I yield the floor.

ANWR PROVISION OF THE RECONCILIATION BILL

Mr. MURKOWSKI. Mr. President, with the passage of the conference report on the reconciliation bill last night I thought there should be an explanation of the provision on the leasing of the coastal plain of the Arctic National Wildlife Refuge for oil and gas exploration and production. The Senate and the House versions of the budget reconciliation had responsible provisions for the leasing of the area. However, there was a substantial difference in the approach and language in the two measures. As chairman of the Energy and Natural Resources Committee I thought it would be important to outline the intent of the conferees on the ANWR provision. I ask unanimous consent that a section-by-section analysis which provides a detailed description of the ANWR provision, and other material, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANAYLSIS

Section 5312. Short Title.

This section adopts the chapter from section 5201 of the Senate bill. The purpose of this section is self-explanatory.

Section 5322. Definitions.

This section adopts the language of section 5203 of the Senate bill with minor modifications. The intent of this section is self-explanatory.

Section 5333. Leasing Program for Lands Within the Coastal Plain.

Subsection 5333(a). Authorization.

Subsection 5333(a) adopts the language in section 5204(a) of the Senate bill with minor modifications. This subsection directs the Secretary and other appropriate Federal officers and agencies to take such actions as are necessary to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain. In doing so, the Secretary is to ensure receipt of the fair market value of the mineral resources to be leased. The subsection requires the Secretary to ensure that activities will result in "no significant adverse effect on fish and wildlife, their habitat, and the environment." Operations on the Coastal Plain must also be conducted using the "best commercially available technology for oil and gas exploration, development and production."

This "environmental standard" is based on the provisions of Title VII of S. 1220, authored by Senator Johnston and reported by the Senate Energy and Natural Resources Committees on June 5, 1991. This is the strongest standard ever imposed on Federal oil and gas activities. The companion provision of the House bill was based on the 1981 oil and gas leasing authorization for the National Petroleum Reserve-Alaska. Oil and gas leases have been issued under this authorization and standard. It has worked well to protect the environment, land and fish and wildlife on the North Slope.

In making its decision to authorize and direct an oil and gas leasing program in the Coastal Plain, the Conferees find that oil and gas activities authorized and conducted on the Coastal Plain pursuant to the chapter so as to result in no significant adverse effect on fish and wildlife, their habitat, and the environment, are compatible with the major purposes for which the Arctic National Wildlife Refuge was established. No further findings, decisions or reviews are required to implement this Congressional authorization. The Conferees specifically find that no further determination of compatibility by the Secretary under the National Wildlife Refuge System Administration Act is necessary to implement this Congressional authorization and direction. The Conferees believe the provisions of the conference report in general are very clear on this point. Subsection (c) of this section again reiterates this policy and Congressional intent on this matter.

Subsection 5333(b). Repeal

Subsection 5333(b) adopts the language in section 5204(b) of the Senate bill and is substantially similar to section 9002(f) of the House bill. This subsection repeals the prohibitions and limitations on leasing and development of oil and gas resources on lands within the Coastal Plain set forth in section 1003 of the Alaska National Interest Lands Conservation Act of 1980, 16 U.S.C. §3143.

Subsection 5333(c). Compatibility

Subsection 5333(c) adopts the language in section 9002(c) of the House bill. This subsection provides that the oil and gas activities authorized by this chapter in the Coastal Plain are compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination. This subsection recognizes the wealth of study and review that has already occurred pursuant to environmental, natural resources, and other statutes. Based on these reports and on the concrete experience of environmental safety of on-shore development in neighboring Prudhoe Bay and other large, producing oil and gas fields on the North Slope of Alaska, the Conferees find that development of the 1002 area is consistent with the conservation purposes for which the Arctic National Wildlife Refuge was established. This subsection reflects the intent of the Conferees that the activities authorized in this chapter commence as soon as possible, without any intervening delay that might be occasioned by further findings or decisions. This provision is, of course, repetitive of the purposes of this chapter as expressed in other sections.

Subsection 5333(d). Sole authority

Subsection 5333(d) adopts the language of subsection 5204(c) of the Senate bill with modifications. This subsection provides that this chapter and the authorities referenced therein shall be the sole authority for oil and gas leasing on the Coastal Plain. This chapter directs a specific program of environmentally responsible leasing for the Coastal Plain. The Conferees intend that this program be carried forward and implemented in good faith by the Secretary and the Administration. The purposes and directives of this chapter are not to be frustrated or delayed by other provisions of existing law or the provisions of any treaty or international agreement to which the United States is a party. The subsection also explicitly provides that this chapter does not preempt State and local regulatory authority. The State of Alaska and the North Slope Borough (NSB) have a long record of competent and environmentally responsible regulation of oil and gas activities on the North Slope. It is the Conferees clear intent that the State and the NSB shall continue to exercise their existing regulatory responsibilities to ensure good land use planning, environmental protection, proper fish and wildlife management, and continuation of important subsistence activities.

Subsection 5333(e). Federal land

Subsection 5333(e) adopts the language of subsection 5204(d) of the Senate bill. This subsection provides that the Coastal Plain shall be considered "Federal land" for purposes of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA). As provided in section 304 of FOGRMA, 30 U.S.C. §1753, that Act applies only to the extent it is not inconsistent with this chapter. In particular, the penalty provisions of sections 109–112 of the Act, 30 U.S.C. §§1719–1722, are incorporated by reference by this subsection and apply to the activities authorized by this chapter.

Subsection 5333(f). Special areas

Subsection 5333(f) adopts the language of subsection 5207(d) of the Senate bill with modifications. This subsection permits the Secretary to close up to 45,000 acres of the Coastal Plain to leasing if, after consulting with the State of Alaska and the North Slope Borough, he determines that the areas to be closed require special management and regulatory protection due to unique character or interest. The Conference Committee contemplates that the Secretary may use this provision to provide any special protection needed for areas such as the Sadlerochit Hot Springs. The House bill authorized 30,000 acres and the Senate 60,000 acres. This provision is a compromise on the acreage. This subsection permits the Secretary to issue oil and gas leases in such Special Areas provided that the protection needed can be attained by limiting surface use and occupancy, but permitting the use of the very significant advances made in recent years in horizontal drilling technology.

Subsection 5333(g). Limitation on closed areas

Subsection 5333(g) adopts language from subsection 9002(g)(3)(B) of the House bill with minor modifications. This subsection provides that the Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this chapter. The language provides, and the Conferees intend, that only the provisions of the chapter may be used by the Secretary to close Coastal Plain lands to the activities authorized by this chapter. No other provision of law or international agreement may be used by the Secretary for this purpose.

Subsection 5333(h). Conveyance

Subsection 5333(h) adopts language from subsection 9002(j) of the House bill with minor modifications. The subsection directs the Secretary to convey certain surface interests in land to Kaktovik Inupiat Corporation in order to fulfill the corporation's outstanding legal entitlement under section 12 of the Alaska Native Claims Settlement Act (ANCSA). The Secretary must also convey the subsurface interests in these lands to Arctic Slope Regional Corporation in order to fulfill the August 9, 1983 agreement between Arctic Slope Regional Corporation and the United States of America. These lands have been previously identified and the United States has a legal obligation to complete the transfer of chapter in accordance with the provisions of ANCSA and the 1983 Agreement. The conveyance of these lands will remove clouds on title of lands and clarify land ownership patterns within the Coastal Plain, maximizing federal revenues by ensuring the availability of federal lands for leasing.

Section 5334. Rules and regulations

Subsection 5334(a). Promulgation.

Subsection 5334(a) adopts the language of section 5205(a) of the Senate bill. This subsection provides that the Secretary shall prescribe such rules and regulations as may be necessary to carry out the purposes and provisions of this chapter, including rules and regulations relating to protection of the environment and resources of the Coastal Plain. Such rules and regulations shall be promulgated within fourteen (14) months after the date of enactment of this chapter.

In the formulation and promulgation of rules and regulations under this chapter, the Conferees expect that the Secretary will request and give due consideration to the views of appropriate officials of the State of Alaska, the North Slope Borough, and the Village of Kaktovik, and, where consistent with this chapter and the laws and policy of the United States, the views of others who have legitimate interests in the activities authorized and the manner in which they are carried out.

The Conferees also expect that the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures in a manner designed to ensure that the activities undertaken in the Coastal Plain and authorized by the chapter are conducted in a manner consistent with the purposes and the environmental requirements of this chapter. In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this chapter, the Conferees recommend and expect that the Secretary will consider:

(1) the environmental protection standards which governed the initial Coastal Plain

seismic exploration program (50 C.F.R. §37.31–33);

(2) the land use stipulations for exploratory drilling on the KIC-ASRC private lands which are set forth in Appendix 2 of the August 9, 1983 Land Exchange Agreement between Arctic Slope Regional Corporation and the United States; and

(3) the operational stipulations for Koniag ANWR Interest lands contained in the draft Agreement between Koniag, Inc. and the United States of America on file with the Secretary of the Interior on December 1, 1987.

The Conferees further expect that the proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program authorized by this chapter will require compliance with applicable provisions of Federal, State and local environmental law and may also require compliance with:

(1) the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain;

(2) seasonal limitations on exploration, development and related activities, where reasonably necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning and migration;

(3) limitations on exploration activities, except for surface geological studies, to the period between approximately November 1 and May 1, and requirements that exploration activities will be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, but that such exploration activities may be permitted at other times if special circumstances exist necessitating that exploration activities be conducted at other times of the year and such exploration will have no significant adverse effect on fish and wildlife, their habitat, and the environment of the Coastal Plain;

(4) appropriate design safety and construction standards for pipelines and any access and service roads to avoid—

(A) adverse effects upon the passage of migratory species, including caribou; and

(B) adverse effects upon the flow of surface water by requiring the use of culverts, bridges and other structural devices;

(5) any reasonable prohibitions on public access and use on pipeline access and service roads;

(6) appropriate reclamation and rehabilitation requirements, consistent with the standards set forth in this chapter, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures and equipment upon completion of oil and gas production operations, but that the Secretary may exempt from these requirements those facilities, structures or equipment which the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and which are donated to the United States for that purpose;

(7) appropriate and reasonable restrictions on access by modes of transportation;

(8) appropriate and reasonable restrictions on necessary sand and gravel extraction;

(9) consolidation of facility siting;

(10) appropriate and reasonable restrictions on use of explosives;

(11) the avoidance, to the extent practicable, of springs, streams and river systems; protection of natural surface drainage patterns, wetlands, and riparian habitats; and reasonable regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling;

(12) appropriate and reasonable restrictions on air traffic-related activities which might disturb fish and wildlife;

(13) accepted industry standards for the treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, if any, and domestic wastewater, in accordance with applicable Federal and State environmental law;

(14) applicable fuel storage and oil spill contingency planning;

(15) reasonable research, monitoring and reporting requirements;

(16) appropriate field crew environmental briefings;

(17) avoidance of any reasonably anticipated significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users;

(18) applicable air and water quality standards;

(19) appropriate seasonal and safety zone designations around oil and gas well sites within which subsistence hunting and trapping would be limited;

(20) reasonable stipulations for protection of cultural and archeological resources; and

(21) other protective environmental stipulations, restrictions, terms, and conditions which are reasonably deemed necessary by the Secretary and based upon prior regulatory requirements.

The Conference Committee further expects that the regulations will also provide for appropriate plans to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources. Any such plans shall have the following objectives:

(1) avoiding unnecessary duplication of facilities and activities;

(2) encouraging consolidation of common facilities and activities;

(3) locating or confining facilities and activities to areas which will minimize impact on fish and wildlife, their habitat, and the environment;

(4) utilizing existing facilities wherever practicable; and

(5) enhancing compatibility between wildlife values and development activities.

Subsection 5334(b). Revision of regulations

Subsection 5334(b) adopts the language of subsection 5205(b) of the Senate bill. This subsection provides that the Secretary shall periodically review and, where and if appropriate, revise the rules and regulations to reflect new and significant data and information.

Section 5335. Adequacy of the Department of the Interior's legislative environmental impact statement

Section 5335 adopts language from section 5206 of the Senate bill with modifications. This section provides that the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain, prepared by the Department of the Interior pursuant to section 1002 of the ANILCA and section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), is found by the Congress to be adequate to satisfy the legal and procedural requirements under NEPA with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of the leasing program, to conduct the first lease sale authorized by the chapter, and, in addition, to grant all rights-of-way and easements to carry out the purposes of this chapter.

Except as provided in this section, nothing in this chapter shall be considered or construed as otherwise limiting or affecting in any way the applicability of section 102(2)(C) of the National Environmental Policy Act of 1969 to other phases of exploration, development and production and related activities conducted under or associated with the leasing program authorized by this chapter.

Section 5336. Lease sales

Subsection 5336(a). Lease sales

Subsection 5336(a) adopts language from section 5207(a) of the Senate bill. This subsection provides that lands in the Coastal Plain may be leased pursuant to the provisions of this chapter to any person who is qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act, as amended.

Subsection 5336(b). Procedures

Subsection 5336(b) adopts language from section 5207(b) of the Senate bill with modifications. This subsection provides that the Secretary shall, by regulation, establish procedures for nominating and designating areas to be included or excluded from the lease sale. In reviewing nominations and considering lands to be offered for leasing, the Secretary shall engage in periodic consultation with the State of Alaska, the North Slope Borough and other affected local governments in Alaska, prospective oil and gas lessees, and representatives of other individuals or organizations engaged in activity in or on the Coastal Plain, including those engaged in subsistence uses.

Subsection 5336(c). Lease sales on coastal plain

Subsection 5336(c) adopts language from section 5207(c) of the Senate bill with modifications based on the House bill. This subsection provides that the Secretary shall, by regulation, provide for oil and gas lease sales of the lands located within the Coastal Plain. For the first lease sale, the Secretary shall offer for lease those acres receiving the greatest number of nominations, but not less than 200,000 and no more than 300,000 acres shall be offered for sale by competitive bid. If the total acreage nominated is less than 200,000 acres, the Secretary shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than 300,000 acres of the Coastal Plain be offered in any such sale. Thereafter, no less than 200,000 acres of the Coastal Plain may be leased in any one lease sale. The initial lease sale shall be held within twenty (20) months of the date of enactment of this chapter. The second lease sale shall be held 24 months after the initial sale, with additional sales conducted no later than every twelve (12) months thereafter so long as sufficient interest in development exists to warrant the conduct of such competitive lease sales.

Section 5337. Grant of leases by the Secretary

Subsection 5337(a). In general

Subsection 5337(a) adopts language from subsection 5208(a) of the Senate bill. This subsection provides that the Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive cash bonus bid any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary and such royalty as contained in the lease. Royalties shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease.

Subsection 5337(b). Antitrust review

Subsection 5337(b) adopts language from subsection 5208(b) of the Senate bill. This subsection provides that following each notice of a proposed lease sale and before the acceptance of bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, 30 days to conduct an antitrust review of each lease sale.

Subsection 5337(c). Subsequent transfers

Subsection 5337(c) adopts language from subsection 5208(c) of the Senate bill. This subsection provides that no lease issued under the chapter may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

Subsection 5337(d). Immunity

Subsection 5337(d) adopts language from subsection 5208(d) of the Senate bill. This subsection provides that nothing in the chapter shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law. It is the intent of the conferees that the findings of any antitrust review shall not create any immunity or defenses in any private or government antitrust actions.

Subsection 5337(e). Definitions

Subsection 5337(e) adopts language from subsection 13106(e) of the Senate bill. This subsection sets forth definitions of "antitrust review" and "antitrust laws."

Section 5338. Lease terms and conditions

Section 5338 adopts language from section 5209 of the Senate bill with modifications based on the House bill. Paragraph (1) provides that lease tracts shall consist of a compact area not to exceed 5,760 acres, or 9 surveyed or protracted sections, whichever is larger.

Paragraph (2) provides that oil and gas leases shall be for an initial period of ten years and shall be extended for so long thereafter as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or for so long as drilling or reworking operations, in accordance with law and as approved by the Secretary, are conducted on the lease or unit area.

Paragraph (3) provides that leases shall require the payment of royalty of not less than 12½ per centum in amount or value of the production removed or sold from the lease or unit area.

Paragraph (4) provides that exploration activities pursuant to any lease issued or maintained under this chapter shall be conducted in accordance with an exploration plan or a revision of such plan approved by the Secretary. Prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this chapter, the holder of the lease will submit an exploration plan to the Secretary for approval. The Secretary shall act expeditiously in reviewing such plans. Such plan may apply to more than one lease held by a lessee in any region of the Coastal Plain, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if the Secretary finds that such plan is consistent with the provisions of this chapter and other applicable law.

Paragraph (5) requires that all development and production pursuant to a lease issued or maintained pursuant to a lease issued or maintained pursuant to this chapter shall be conducted in accordance with an approved development and production plan. Such plans may apply to more than one lease held by a lessee in any region of the Coastal Plain, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if the Secretary finds that such plan is consistent with the provisions of this chapter and other applicable law.

The Conferees further expect that the Secretary, in the regulations promulgated pursuant to the chapter, will require lessees to include in any exploration or development plans submitted, appropriate and relevant information concerning the plan.

The Conferees also expect that the Secretary will provide in the regulations for the expeditious consideration of any exploration or development plans submitted. After an exploration or development and production plan is submitted for approval, the regulations should provide that the Secretary shall promptly publish notice of the submission and availability of the text of the proposed plan in the Federal Register and a newspaper of general circulation in the State of Alaska and provide an opportunity for written public comment. The Conferees expect that, within one hundred twenty days after receiving an exploration or development and production plan, the Secretary will determine, after taking into account any comments received, whether the activities proposed in the plan are consistent with this chapter and other applicable provisions of Federal law. The Secretary, as a condition of approving any plan under this section may require modifications to the plan that the Secretary determines necessary to make the plan consistent with this chapter. The Secretary may assess reasonable fees or charges for the reimbursement of all necessary and reasonable costs associated with reviewing the plan and monitoring its implementation. The Secretary may also require such periodic reports regarding the carrying out of the drilling and related activities.

Paragraph (6) provides for the posting of bond by lessees as required by section 13108.

Paragraph (7) provides that the Secretary may close, on a limited seasonal basis, portions of the Coastal Plain to protect calving during years caribou and other species use such areas.

Paragraph (8) provides that an oil and gas lease shall contain such rental and other reasonable fees as the Secretary may prescribe at the time of offering the area for lease.

Paragraph (9) provides that the Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms of the chapter in the interest of conservation of the resource or where there is no available system to transport the resource. If such a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding any such suspension period thereto.

Paragraph (10) provides that whenever the owner of a nonproducing lease fails to comply with any of the provisions of the chapter, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this chapter, the lease may be canceled by the Secretary if the default continues for a period of more than thirty (30) days after mailing of notice by registered letter to the lease owner at the lease owner's record post office address.

Paragraph (11) provides that whenever the owner of any producing lease fails to comply with any of the provisions of the chapter, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this chapter, the lease may be forfeited and canceled by any appropriate proceeding brought by the Secretary in any United States district court having jurisdiction under the provisions of this chapter.

Paragraph (12) provides that cancellation of a lease under this chapter shall in no way release the owner of the lease from the obligation to provide for reclamation of the lease site or other area disturbed by the lessees activities.

Paragraph (13) provides that the lessee may, at the discretion of the Secretary, be permitted at any time to make written relinquishment of all rights under any lease issued pursuant to this chapter. The Secretary shall accept the relinquishment by the lessee of any lease issued under this chapter where there has not been surface disturbance on the lands covered by the lease.

Paragraph (14) provides that, for the purpose of conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof, and in order to avoid the unnecessary duplication of facilities, to protect the environment of the Coastal Plain, and to protect correlative rights, the Secretary shall require, to the greatest extent practicable, that lessee unite with each other in collectively adopting and operating under a cooperative or unit plan of development for operation of such pool, field, or like area, or any part thereof. The Secretary is also authorized and directed to enter into such agreements as are necessary or appropriate for the protection of the United States against drainage.

Paragraph (15) requires that the holder of a lease or leases on lands within the Coastal Plain shall be fully responsible and liable for the reclamation of any lands within the Coastal Plain and any other Federal lands adversely affected in connection with exploration, development, or transportation activities on a lease within the Coastal Plain by the holder of a lease or as a result of activities conducted on the lease by any of the leaseholder's subcontractors or agents.

Paragraph (16) provides that the holder of a lease may not delegate or convey, by contract or otherwise, this reclamation responsibility and liability to another party without the express written approval of the Secretary.

Paragraph (17) provides that the leases issued pursuant to this chapter shall include the standard of reclamation of lands required to be reclaimed under this chapter, to a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary. In the case of roads, drill pads and other gravel-foundation structures, reclamation and restoration shall be to a condition as closely approximating the original condition of such lands as is feasible using the best commercially available technology. Reclamation of lands shall be conducted in a manner that will not itself impair or cause significant adverse effects on fish or wildlife, their habitat, subsistence uses or the environment.

Paragraph (18) requires that the leases issued pursuant to this chapter contain terms and conditions relating to protection of fish and wildlife, their habitat, subsistence uses and the environment to avoid any significant adverse effects.

Paragraph (19) provides that the leaseholder, its agents, and its contractors use their best efforts to provide a fair share, as determined by the level of obligation described in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State.

The Conference Committee members are fully aware of the Department of the Interior's failure to monitor and enforce section 29 of the 1974 Right of Way Agreement for TAPS. The Committee intends that the Department as well as lessees use all best efforts to enforce and comply with this statutory provision and directed lease term and condition of leases and other Coastal Plain authorizations.

Paragraph (20) provides that the leases issued pursuant to this chapter shall contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this chapter and the regulations issued thereunder.

Section 5339. Bonding requirements to ensure financial responsibility of lessee and avoid federal liability

Subsection 5339(a). Requirement

Subsection 5339(a) adopts language from subsection 5210(a) of the Senate bill. This subsection sets forth the requirement for a bond, surety or other financial arrangement to ensure reclamation of the lease tract and restoration of any lands or surface waters adversely affected by lease operations. The provisions of the subsection are self-explanatory.

Subsection 5339(b). Amount

Subsection 5339(b) adopts language from subsection 5210(b) of the Senate bill. This subsection sets forth the requirements relating to the amount of the bond, surety, or other financial arrangement. The provisions of the subsection are self-explanatory.

Subsection 5339(c). Adjustment

Subsection 5339(c) adopts language from subsection 5210(c) of the Senate bill. This subsection provides that in the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond, surety or financial arrangement to conform to such modified plan.

Subsection 5339(d). Duration

Subsection 5339(d) adopts language from subsection 5210(d) of the Senate bill. This subsection provides that the responsibility and liability of the lessee and its surety under the bond, surety or other financial arrangement shall continue until such time as the Secretary determines that there has been compliance with the terms and conditions of the lease and all applicable law.

Subsection 5339(e). Termination

Subsection 5339(e) adopts language from subsection 13108(e) of the Senate bill. This subsection provides that within 60 days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary, after consultation with affected Federal and State agencies, shall notify the lessee that the period of liability under the bond, surety or financial arrangement has been terminated.

Section 5340. Oil and gas information

Section 5340 adopts language from section 5211 of the Senate bill. This section sets forth requirements relating to oil and gas information. The provisions of the section are self-explanatory.

Section 5341. Expedited judicial review

Section 5341 adopts language from section 5212 of the Senate bill. This section addresses judicial review. It requires that all challenges to this chapter or to any action of the Secretary under this chapter, including the promulgation of the regulations under this chapter, be brought in a timely manner and not be raised by a defendant for review during an enforcement proceeding. The remaining provisions of the section are self-explanatory.

Section 5342. Rights-of-way across the Coastal Plain

Section 5342 adopts language from section 5213 of the Senate bill. This section provides that, notwithstanding Title XI of ANILCA, the Secretary is authorized and directed to grant under section 28, subsections (c) through (t) and (v) through (y) of the Mineral Leasing Act of 1920, rights-of-way and easements across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, their habitat, subsistence resources and users and the environment of the Coastal Plain. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication for roads and pipelines. The comprehensive oil and gas leasing and development regulations issued pursuant to this chapter shall include provisions regarding the granting of rights-of-way across the Coastal Plain. Section 28 is not, of course, applicable to privately owned lands located within the Coastal Plain, which have a guaranteed right of access to private lands under section 1110 of ANILCA.

Section 5343. Enforcement of safety and environmental regulations to ensure compliance with terms and conditions of lease

Subsection 5343(a). Responsibility of the secretary

Subsection 5343(a) adopts language from section 5214(a) of the Senate bill. This subsection provides that the Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this chapter.

Subsection 5343(b). Responsibility of holders of lease

Subsection 5343(b) adopts language from section 5214(b) of the Senate bill. This subsection sets forth responsibilities of holders of a lease. The provisions of this subsection are self-explanatory.

Subsection 5343(c). On-site inspection

Subsection 5343(c) adopts language from section 5214(c) of the Senate bill. This subsection provides that the Secretary shall promulgate regulations to provide for on-site inspection of facilities. The provisions of this subsection are self-explanatory.

Section 5344. New revenues

Section 5344 adopts language from section 5215 of the Senate bill with modifications. Section 5344 provides that the distribution of new revenues (bonus bids, royalty and rental, but not corporate or other income tax) derived from leasing the oil and gas resources of the Coastal Plain shall be equally divided between the United States Treasury and the State of Alaska. Section 5344 provides that: "Fifty percent of all revenues . . . shall be paid by the Secretary of the Treasury semiannually to the State of Alaska. . . ." (Section 5344(a)(2)). There has been some concern expressed about the change in law regarding the distribution of revenues derived from oil and gas leases on Coastal Plain. The following provides information regarding the distribution of the revenues from the leasing of the Coastal Plain.

Following the issuance of the 1987 Department of the Interior Report and LEIS pursuant to which the then Secretary recommended opening the Coastal Plain to an environmentally responsible program of oil and gas leasing, some opponents of leasing have alleged that the State might receive 90 percent, rather than 50 percent, of such revenues. This allegation is based upon a provision of the 1958 Alaska Statehood Act which granted Alaska 90 percent of revenues derived from oil and gas resources located on public lands in Alaska. After this contention was first made, Senator Johnston, then Chairman of the Senate Energy and Natural Resources Committee, requested the Solicitor of the Department of the Interior to prepare a legal memorandum and opinion on the legal validity of this contention. The Solicitor's legal opinion, reprinted as Appendix A following this statement, was completed and transmitted to Senator Johnston and the Congress on November 4, 1987. The Solicitor's legal memorandum and opinion found that under the Property Clause of the United States Constitution, the Congress has full authority to determine the future distributions of revenues derived from oil and gas leases on public lands generally and on the Coastal Plain in particular.

Finally, when this contention was made again in recent weeks during this Congress, Governor Tony Knowles of Alaska submitted a letter to the Congress in which he volunteered to submit legislation to the State Legislature to amend the Statehood Compact to make clear that the State would agree to accept only 50 percent of Coastal Plain oil and gas lease revenues. Ms. Drue Pearce, President of Alaska State Senate, and Ms. Gail Phillips, Speaker of Alaska Legislature's House of Representatives, supported Governor Knowles' position and, again, in letters to the Congress pledged their best efforts to secure the Legislature's enactment of such legislation. Copies of these letters are attached as Appendix B.

Subsection 5344(a). Distribution of revenues

Paragraphs (1) and (2) of subsection 5344(a), similar to paragraph (1) of subsection 9002(I) of the House bill, provide that notwithstanding any other provision of law, all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, or interest derived from the leasing of oil and gas resources on Federal lands within the Arctic National Wildlife Refuge, Alaska shall be distributed to the U.S. Treasury, with 50 percent of such revenues to be distributed to the State of Alaska on a semiannual basis.

Subparagraph (3)(A) generally follows the last clause of subsection 5215(a) of the Senate bill. It requires that the Secretary of the Treasury monitor the total amount of bonus bid revenue deposited into the Treasury from oil and gas leases issued under the authority of this chapter. All monies deposited in the Treasury in excess of $2,600,000,000 shall be distributed as follows: 50 per centum to the State of Alaska and 50 per centum into a special fund established in the Treasury of the United States known as the "National Park, Refuge and Fish and Wildlife Renewal and

Protection Fund" ("Renewal Fund"). While the terminology for the Renewal Fund comes from subsection 5215(a) of the Senate bill, the Renewal Fund is also intended to incorporate the purposes of the National Endowment for Fish and Wildlife that would have been established under subsection 9002(n), paragraph (1) of the House bill.

Subparagraph (3)(B) is similar to subsection 9002(n), subparagraph (2)(B) of the House bill. It caps deposits into the Renewal Fund at $250,000,000. Subparagraph (2)(C) provides that deposits into the Renewal Fund shall remain available until expended and requires the Secretary to develop procedures for the use of the Fund to ensure accountability and demonstrable results.

Subsection 5344(b). Use of renewal fund

Subsection 5344(b) explains the purposes for which the Renewal Fund shall be used. These purposes are drawn from subsection 5215(b) of the Senate bill as well as subsection 9002(n)(4) of the House bill. While subsection 5344(b) would not establish a Fish and Wildlife Conservation Commission as provided for under subsection 9002(n)(3) of the House bill, the conferees intend that the Secretary would fulfill essentially the same fish and wildlife conservation purposes of the Commission under subsection 5344(b), as well as other purposes. Specifically, subsection 5344(b) provides for a distribution of Renewal Fund resources as follows: (1) 25 percent for the National Park System, similar to requirements of the Senate language; (2) 25 percent for the National Wildlife Refuge System, similar to requirements of the Senate language; (3) 25 percent for the acquisition of privately held habitat of threatened or endangered species, similar to requirements of the House language; and (4) 25 percent for wetlands projects under the North American Wetlands Conservation Act, similar to the House language.

Subsection 5344(c). Community assistance

Subsection 5344(c) mostly follows subsection 9002(l) of the House bill. This subsection would establish a Community Assistance Fund for distribution, upon application, of funds to organized boroughs, other municipal subdivisions of the State of Alaska, and recognized Indian Reorganization Act entities which are directly impacted by the exploration and production of oil and gas on the Coastal Plain authorized by this chapter. These organizations, in turn, shall use the funding to provide public and social services. The Secretary shall have at his or her disposal $30,000,000, and $5,000,000 or less may be distributed in grant form in any given year.

The Conferees anticipate that the services provided by local and Native organizations would likely bear some relation to the activities authorized by this chapter. However, the Conferees have chosen not to limit the purposes for which a local or Native organization may devote Fund proceeds. Thus, a local or Native organization could provide services such as a transportation shuttle, a job training and placement service, or a conservation program, which would be directly related to the activities authorized by this chapter. Nevertheless, out of deference to local decisionmakers, subsection 5344(c) would not prohibit a local or Native program addressing immunization, education, or another service less directly related to oil and gas leasing on the Coastal Plain.

Subsection 5344(c) allows funds to be distributed only to groups "directly" impacted by the activities authorized under this chapter. The choice of the word "directly" is a deliberate effort to provide funds only to those groups with a direct nexis to Coastal Plain activities. The subsection does not specify a bright-line test of physical proximity, dollar impact, or any other criterion, but any group seeking a grant from the Community Assistance fund must demonstrate an actual, "direct" impact. The conferees anticipate that demonstration of a "direct" impact would be similar to the demonstration necessary to obtain standing in a federal court—there must be an actual impact, clearly traceable to the activities authorized by this chapter.

The Conferees expect that funds will be distributed to communities and groups representing the Inupiat Eskimo people on Alaska's North Slope who will clearly be impacted by exploration and development activities in the Coastal Plain. The Conferees anticipate that funds may also be made available to communities or organizations representing the Gwich'in Indians in the event that these representatives demonstrate an impact from activities in the Coastal Plain.

APPENDIX A

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, DC, November 4, 1987.

M-36957.
CLC.SO.0001.
Memorandum to: Secretary.
From: Solicitor.
Subject: Division of Receipts from Oil and Gas Development from the Arctic National Wildlife Refuge.

You have asked whether the Alaska Statehood Act (ASA), Pub. L. 85-508, 72 Stat. 339 (1958), in any way limits Congress' ability to enact a revenue distribution scheme for oil and gas revenues from new leases in federal wildlife refuges that is different from the revenue distribution scheme set out in the Mineral Leasing Act of 1920 (MLA), 30 U.S.C. §181. Your question refers specifically to the Arctic National Wildlife Refuge (ANWR). The MLA formula provides for the distribution to Alaska (the State) of 90 percent of revenues received by the United States from oil and gas leasing on public lands within the State. For the reasons discussed below, we conclude that the ASA in no way restricts Congress to the distribution scheme set out in the MLA when it enacts legislation to provide for distribution of revenues from new mineral leases in federal wildlife refuges.

BACKGROUND

At issue is the authority of Congress to determine the distribution of revenues from oil and gas leases on public lands in Alaska, and, specifically, from lands that are part of the National Wildlife Refuge System. At present, a distinction is made between revenues from acquired lands and those from reserved public domain refuge lands. Federal oil and gas revenues from acquired lands within refuges are distributed according to a schedule set out in the Wildlife Refuge Revenue Sharing Act (WRRSA)[1] which allots 25 percent to the county in which the refuge is located and 75 percent to the Migratory Bird Conservation Fund, while federal revenues from reserved public domain lands within refuges are distributed in accordance with the Mineral Leasing Act,[2] which allots 50 percent to the states, except Alaska, in which the refuge is located, 40 percent to the Reclamation Fund, and 10 percent to miscellaneous receipts in the U.S. Treasury. Alaska receives 90 percent of MLA lease revenues derived from within the State. The remaining 10 percent goes to miscellaneous receipts in the U.S. Treasury. As the refuge currently at issue, ANWR, is on reserved public domain land, we will focus on the provisions of the Mineral Leasing Act in analyzing the issue presented to us.

The distribution system set out in the Mineral Leasing Act was extended to Alaska in section 28(b) of the Alaska Statehood Act, as follows:

(b) Section 35 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, shale, gas and sodium on the public domain", approved February 25, 1920, as amended (30 U.S.C. 191), is hereby amended by inserting immediately before the colon preceding the first proviso thereof the following:", and of those from Alaska 52½ per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof."

After amendment, section 35 of the Mineral Leasing Act read as follows:

All money received from sales, bonuses, royalties, and rentals of public lands under the provisions of sections 181-184, 185-188, 189-192, 193, 194, 201, 202-209, 211-214, 223, 224-226, 226d-229a, 241, 251, and 261-263 of this title shall be paid into the Treasury of the United States; *37½ per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after December 31 and June 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located;* said moneys to be used by such State or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct; and, excepting those from Alaska, 52½ per centum thereof shall be paid into, reserved and appropriated, as part of the reclamation fund created by sections 372, 373, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, and 498 of Title 43, *and of those from Alaska 52½ per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: Provided,* That all moneys which may accrue to the United States under the provisions of sections 181-184, 185-188, 189-192, 193, 194, 201, 202-209, 211-214, 223, 224-226, 226d-229a, 241, 251, and 261-263 of this title from lands within the naval petroleum reserves shall be deposited in the Treasury as "miscellaneous receipts", as provided by section 524 of Title 34. All moneys received under the provisions of sections 181-184, 185-188, 189-192, 193, 194, 201, 202-209, 211-214, 223, 224-226, 226d-229a, 241, 251, and 261-263 of this title not otherwise disposed of by this section shall be credited to miscellaneous receipts. (Feb. 25, 1920, ch. 85, §35, 41 Stat. 450; May 27, 1947, ch. 83, 61 Stat. 119; Aug. 3, 1950, ch. . . . 282; July 7, 1958, Pub. L. 85-508, §§6(k), 28(b), 72 Stat. 343, 351.)[3] (Emphasis added.)

The United States Senate is presently considering a bill, S. 735, that would change the distribution system as applied to revenues derived from oil and gas leasing within units of the National Wildlife Refuge System. Specifically, the bill provides that 50 percent of such revenues would go to the state, 25 percent to the Land and Water Conservation Fund and 25 percent to the federal government. If the bill passes, it will apply to all leases in any wildlife refuge issued after enactment, but it is expected that the refuge most immediately affected will be ANWR.

In recent testimony on S. 735 before the Senate Energy and Natural Resources Subcommittee on Public Lands, National Parks and Forests, and in documents submitted to us in connection with our consideration of this issue, representatives of the State of

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Footnotes at end of article.

Alaska have argued that Congress cannot legally enact a revenue distribution formula that provides Alaska less than 90 percent of mineral leasing revenues from the leasing of public lands in Alaska without the consent of the State.[4]

ANALYSIS

The enactment of legislation establishing a distribution formula for federal revenues obtained from the leasing of federally owned minerals falls within the power of Congress enumerated in the Property Clause of the Constitution:

> The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States. * * *
>
> U.S. Constitution, art. IV, §3, cl. 2.

The Mineral Leasing Act of 1920 is an example of the use of this power. Once having enacted such a system of mineral leasing, Congress has the authority under the Property Clause to change the distribution schedule set up with regard to the revenues resulting from those leases. As indicated in *United States* v. *Locke*, 471 U.S.S. 84, 104 (1985), "[t]he United States, as owner of the underlying fee title to the public domain, maintains broad powers over the terms and conditions upon which the public lands can be used, leased, and acquired," In the *Locke* case, the Supreme Court was called upon to determine the constitutionality of a legislative provision that subjected holders of unpatented mining claims to forfeiture of those claims if they failed to comply with the annual filing requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. §1701. In holding the regulation to be constitutional, the Supreme Court indicated that "[c]laimants thus must take their mineral interests with the knowledge that the Government retains substantial regulatory power over those interests." [The Court compared this holding to *Energy Resources Group, Inc.* v. *Kansas Power and Light Co.*, 459 U.S. 400 (1983), dealing with the impairment of contractual relations.] *Id. at* 105.[5]

Against this background, Alaska must sustain a heavy burden to show that Congress lacks the authority under the Property Clause to change the distribution system for federal revenues derived from oil and gas leases on federal lands, including wildlife refuges.

Alaska's primary[6] argument against Congress' power to enact a distribution formula for receipts from the lease of refugee minerals that is different from the formula set out in the MLA is that the MLA distribution scheme was incorporated into and made a part of the compact of statehood. According to that argument, the MLA was so incorporated by virtue of the inclusion in the Alaska Statehood Act of a section amending the MLA to apply it to Alaska. The State argues that Congress made the distribution formula part of the compact as a vehicle granting Alaska a permanent property interest in mineral revenues from public lands.[7] According to the argument, as a grant made to the State in the compact of statehood, the property interest may not be changed. Thus the State argues that the distribution system comes within the narrow confines of *Beecher* v. *Wetherby*, 95 U.S. (5 Otto) 517 (1877), a case holding that a grant made in a statehood act is an "unalterable condition of the admission [of the State into the Union], binding upon the United States."

We do not dispute that a grant made in a statehood act may be unalterable. However, we believe that in this instance, Alaska paints too broadly the compact of statehood. Rather than being a grant incorporated into that compact, the distribution system applied to Alaska in section 28(b) is nothing more than an exercise of Congress' powers under the Property Clause to dispose of and make needful rules for the public's property.

Judicial precedent instructs that not every provision in a statehood act is an irrevocable grant to the state. Thus, we must look carefully at the provisions of the ASA to ascertain what must be included within the terms of its statehood compact with the United States. The Supreme Court has had occasion to consider the different kinds of authority Congress may exercise in passing a statehood act and what provisions of a statehood act may properly be considered part of the compact entered into at statehood. In *Coyle* v. *Oklahoma*, 221 U.S. 559 (1911), the Court held that certain conditions contained in Oklahoma's statehood act were not part of the compact of statehood. The Supreme Court pointed out that in admitting a new state into the Union, Congress may simultaneously exercise other of its powers, such as the power to regulate commerce or the power "to make all needful rules and regulations respecting the territory of other property of the United States" (citing *Pollard's Lessee* v. *Hagan*, How. 212 (1845)). The Supreme Court concluded that provisions contained in a statehood act that are enacted under one of these other powers, "cannot operate as a contract between the parties, but are binding as law." *Coyle*, at 571. The Court then went on to say:

> It may well happen that Congress should embrace in an enactment introducing a new state into the Union legislation intended as a regulation of commerce among the states, or with Indian tribes situated within the limits of such new state, or regulations touching the sole care and disposition of the public lands or reservations therein, which might be upheld as legislation within the sphere of the plain power of Congress. But in every such case such legislation would derive its force not from any agreement or compact with the proposed new state, nor by reason of its acceptance of such enactment as a term of admission, but solely because the power of Congress extended to the subject.* * *
>
> Id, at 574.[8]

Section 28 of the ASA is just such an enactment. It is based on Congress' power under the Property Clause to administer federal property interests. The MLA itself was similarly based, and the amendment to it contained in the ASA cannot be used to alter its origins or elevate it to compact status so that it cannot be amended.

Section 28 of the ASA, on its face, does not purport to be either a part of the compact between the United States and to the State of Alaska or a permanent grant of mineral revenues to the State. In fact, section 28 did nothing more than amend a statute that had already been in existence for over 30 years before the ASA was enacted and had long been applied to federal lands in all other states.[9] Further, section 28 is but one of several sections added at the end of the ASA to amend existing law to apply it specifically to Alaska. Section 28(b) in particular was a necessary and timely expedient because Congress wanted to extend to and adapt for Alaska the revenue distribution system already in place in other states.

Futher, section 28(b) is very limited in that it is applicable only to lands leased under the MLA, not to other federally owned lands leased under other authority. For example, section 35 of the MLA gave Alaska no share of receipts from the navel petroleum reserves, and Naval Petroleum Reserve No. 4 (now NPR-A), constituting roughly 23 million acres in Alaska, was separately addressed in Section 11 of the ASA. This separate treatment indicates that Congress did not intend, as argued by the State, that the MLA be a vehicle for an irrevocable 90 percent interest in revenues from all federal mineral lands.[10] This point is further supported by a 1981 Supreme Court decision in which the Court found that a 1964 amendment to the Wildlife Refuge Revenue sharing Act, which included mineral revenues within its 75/25 distribution schedule, was properly applied to oil and gas leasing revenues from wildlife refuges on acquired federal lands in Alaska *Watt* v. *Alaska*, 451 U.S. 259 (1981).[11]

Further, section 28 of the ASA did not purport to grant Alaska a 90 percent royalty interest in the minerals themselves. Rather, the section amended an entirely separate statute, the MLA, which itself does not grant the state any interest in minerals, but merely prescribes a formula for the distribution of certain federal oil and gas revenues. We have previously considered the issue of what interest states have in federal oil and gas under the the MLA and concluded that they have no economic interest in the oil in place. As stated in Solicitor's Opinion M-36929, 87 I.D. 661, at 664, 665 (1980):

> States have no pecuniary or legal interest in federally owned oil until that oil is leased, extracted and the royalty payments are made to the federal government. In sum, sec. 35 simply provides for the disposition of federal royalty revenue; it does not confer on states an economic interest in the oil in place. * * *

Therefore, under the amendment of the MLA contained in the ASA, the State receives only a periodic distribution of 90 percent of the revenues produced each year from the leasing and production of minerals under the MLA. Alaska receives no revenues under the MLA unit such revenues are produced, and more importantly, receives its MLA royalty distribution only by virtue of the provisions of the MLA, not by virtue of the ASA.[12]

Our conclusion must be, then, that Congress was using the amendment to the MLA contained in section 38 not as a vehicle for granting the state a perpetual 90 percent interest in federal minerals in Alaska, but rather as an exercise of its authority under the Property Clause to dispose of and make needful rules for certain federal property, in this case, to set out the distribution scheme applicable to minerals leased under the MLA.

Our view that the MLA was not incorporated into the compact between the State and the federal government and that it does not amount to a permanent grant is supported by examples of cases in which Congress has exorcized its Property Clasuse powers to amend the MLA since Alaska gained statehood to the detriment of Alaska's 90 percent interest in revenues from mineral leases. For example, on December 18, 1971, Congress passed the Alaska Native Claims settlement Act (ANCSA), 43 U.S.C. §1601, et seq., amending the royalty distribution ratio of the MLA to reduce the State's share of royalties and pay a portion to Alaska Native corporations. Section 9 of ANCSA, 43 U.S.C. §1608, provided in part that a royalty of 2 per centum of the gross value of minerals and 2 per centum of all rentals and bonuses would be deducted from the mineral revenues from public lands and paid to the Alaska Native Fund. Prior to ANCSA, the standard royalty on oil and gas leased was 12.5 percent of production. This meant 1.25 percent went to the U.S. Treasury, and 11.25 percent went to the state of Alaska, whereas after ANCSA these percentages were 1.05 and 9.45, respectively.

Similarly, the Crude Oil Windfall Profit Tax of 1980, Pub. L. No. 96–223, 94 Stat. 229 (1980), exacts a tax on MLA revenues prior to the application of the revenue sharing formula *New Mexico* v. *U.S.* 11 CL. CT. 429 (1986), affirmed ——F.2d——, No. 87-1210 (1987), See also, Solicitor's Opinion M–36929 supra.

These examples clearly demonstrate Congress' continuing authority to change the distribution scheme for mineral revenues from federal land whenever it perceives a need to do so.

CONCLUSION

For the reasons stated, we must conclude that Congress has the authority under the Property Clause of the Constitution to alter the distribution formula set out in the Mineral Leasing Act for oil and gas revenues from the Arctic national Wildlife Refuge. The State of Alaska has not met the heavy burden of persuasion with respect to the argument that those Property Clause powers were terminated by the section in the Statehood Act amending the MLA to include Alaska in the act's revenue distribution formula. We can find no support in the Alaska Statehood Act for the proposition that the MLA was incorporated into the compact between the federal government and the State. In fact, opposite the proposition, we find other instances in which Congress has amended the MLA in a manner which adversely affected the State's interests.

RALPH W. TARR.

FOOTNOTES

[1] Section 401, 16 U.S.C. §715s(c); *Watt* v. *Alaska*, 451 U.S. 259 (1981).

[2] Section 35, as amended, 30 U.S.C. §191.

[3] The net effect of the amendment was to accord Alaska both the 37½ percent share enjoyed by all other states and the 52½ percent that would otherwise have gone to the Reclamation Fund, for a total of 90 percent. A succession of subsequent amendments to section 35, most recently in section 104(a) of the Federal Oil and Gas Royalty Management Act, 30 U.S.C. §1701, has changed these figures to 50 percent for states and 40 percent for the Reclamation Fund in states other than Alaska, and 90 percent for Alaska, to be distributed on a monthly basis.

[4] Alaska also raises a number of political and policy issues arising from the historic relationship between the federal government and the states and, specifically, federal government and * * *.

[5] The people of Alaska implicitly acknowledged the powers reserved to Congress under the Property Clause when they agreed in the Alaska State Constitution that:

> "The State of Alaska and its people forever disclaim all right and title or to any property belonging to the United States or subject to its disposition, and not granted or confirmed to the State or its political subdivisions, by or under the act admitting Alaska to the Union. The State and its people further disclaim all right or title in or to any property, including fishing rights, the right or title to which may be held by or for any Indian, Eskimo, or Aleut, or community thereof, as that right or title is defined in the act of admission. The State and its people agree that, unless otherwise provided by Congress, the property, as described in this section, shall remain subject to the absolute disposition of the United States. They further agree that no taxes will be imposed upon any such property, until otherwise provided by the Congress. This tax exemption shall not apply to property held by individuals in fee without restrictions on alienation." (Alaska Constitution, art. 12, §12.)

[6] Alaska also argues that a change in the distribution, such as that proposed in S. 735 would result in the State being treated differently than other states. Specifically, Alaska argues that it is the only state that has a refuge producing oil and gas revenues on reserved lands and, therefore, is the only state that will be impacted by a provision changing the distribution formula for reserved wildlife refuges. Although this appears to be primarily a policy issue, Alaska does suggest that the equal footing doctrine may be implicated by such unequal treatment. However, after reviewing this matter, we do not believe that it raises substantial legal questions. Factually, the proposed law would apply to all new leases on all wildlife refuges. As a factual matter, it is not clear that it would have an unequal impact in the long run. As a legal matter, even if there were an unequal impact, this impact would not constitute a violation of the equal footing doctrine. In *Nevada* v. *U.S.*, 512 F. Supp. 166 (D. Nev. 1981), a case in which the State of Nevada challenged a moratorium on the disposal of public lands under the equal footing doctrine, the court accurately summarized this doctrine as follows:

> "Federal regulation which is otherwise valid is not a violation of the 'equal footing' doctrine merely because its impact may differ between various states because of geographic or economic reasons. *Island Airlines, Inc.* v. *CAB*, 363 F.2d 120 (9th Cir. 1966). The doctrine applies only to political rights and sovereignty; it does not cover economic matters, for there never has been equality among the states in that sense, *U.S.* v. *Texasm*, 339 U.S. 707 (1950). Said case points out that, when they entered the Union, some states contained large tracts of land belonging to the federal government, whereas others has none. "The requirements of equal footing was designed not to wipe out these diversities but to create parity as respects political standing and sovereignty,' *Id.*, at 716. Accordingly, Congress may cede property to one state without a corresponding cession to all states. * * * the equal footing doctrine does not affect Congress' power to dispose of federal property. * * *"

[7] In documents submitted to us, the State cites several instances in the legislative history of ASA in which Members of Congress expressed an intent to provide Alaska with sufficient revenues to function as a state, and several other instances in which congressman or reports cited the 90/10 distribution system. However, these expressions of intent do not answer the question of whether the 90/10 distribution was to be a permanent grant of a property interest and whether, by setting out such a formula in 1958, Congress sought to terminate its Property Clause powers with regard to federal mineral revenues from federal lands forever. Our analysis of the statutes and judicial precedent compel a negative answer to both questions that is not changed by the suggestion a general intention to provide the new state with revenue.

[8] See also, *Nevada* v. *U.S.*, 512 F. Supp. at 171–172: "Regulations dealing with the care and disposition of public lands within the boundaries of a new state may properly be embraced in its act of admission, as within the sphere of the plain power of Congress." (Citing, *U.S.* v. *Sandoval*, 231 U.S. 28 (1913).

[9] All of the contiguous lower 48 states had already been admitted to the Union when the MLA was passed in 1920. The MLA was not "incorporated" into the statehood act of any other state.

[10] The State's argument implies that 90 percent of MLA revenues goes to all states, not just Alaska. This argument appears to be based on an interpretion of the MLA whereby the 40 percent of MLA revenues which is earmarked for the Reclamation Fund ultimately is returned to the states in the form of reclamation projects. This argument has several problems. The assertion that the 40 percent of MLA receipts from states other than Alaska is returned to the generating states if illusory. In fact, any such money that are returned to the states arrive there only through an express appropriation from Congress after competing with other appropriations proposals, and there is absolutely no guarantee that such moneys as are appropriated will be proportionately returned to the states from which they were generated. The 90 percent provided to Alaska, however, is distributed directly to the State, to be disposed of as the state legislature directs. To the extent Alaska argues that it has been treated the same as other states in receiving the 90 percent share of MLA revenues, it implicitly admits that equal treatment would allow Congress to change the MLA formula for Alaska, because Congress clearly has the power to amend the MLA to affect the royalty shares of the other states. *New Mexico* v. *U.S.*, 11 Cl. Ct. 429 (1986); affirmed,—F.2d—, 87–1210 (1987).

[11] The case cited in the text focused on section 401 of the Revenue Sharing Act, 16 U.S.C. §715s(c), which after the 1964 amendment provided that 25 percent of the receipts, including mineral receipts, generated by a refuge would go to the county in which the refuge was located and 75 percent to the Migratory Bird Conservation Fund. The Kenai Borough (the county in which the Kenai Moose Range is located), and the State of Alaska, each filed suit to challenge the federal interpretation that this formula applied to oil and gas revenues generated from the refuge. The U.S. District Court, District of Alaska, and the Ninth Circuit Court of appeals each found in favor of the state of Alaska, that is, that section 35 of the MLA and not section 401 of the WRRSA, controlled the distribution of receipts from Kenai Moose Range. The Supreme Court held that the 1964 amendment clearly covered oil and gas receipts, but also found that it has not been the intent of Congress to amend section 35 of the MLA. Therefore, the court ruled that the WRRSA applied to oil and gas receipts from acquired lands in wildlife refuges, but not to reserved public lands in wildlife refuges. *Watt* v. *Alaska*, U.S. 259 (1981). Even though the Court distinguished between acquired lands in refuges and public domain, this decision supports the proposition that Congress is not bound by the ASA to give Alaska 90 percent of oil and gas leasing revenues from all federally owned land.

[12] In contrast for example, the ASA explicitly granted Alaska 103,350,000 acres of land, which * * *.

DEPARTMENT OF JUSTICE, ENVIRONMENT AND NATURAL RESOURCES DIVISION
Washington, DC, May 8, 1991.

Re Artic National Wildlife Refuge.

Mr. PAUL SYMTH,
Acting Associate Solicitor, Energy and Resources, Department of the Interior, Washington, DC.

DEAR MR. SMYTH: I have reviewed Solicitor's Opinion M–36957 concerning the eventual division of oil and gas revenues from the Arctic National Wildlife as you recently requested. I concur in its conclusion that for ANWR Congress may alter the 90/10 distribution set out in the Mineral Leasing Act.

Although it may be premature to say that we would arrive at our conclusion through the same analysis followed in the Opinion, we are convinced that Congress may authorize the altered distribution and would certainly feel comfortable defending that conclusion in court.

Thank you for making us aware of this potential issue in advance of litigation. We would be interested in knowing what Congress ultimately decides.

Sincerely,

MYLES E. FLINT,
Deputy Assistant Attorney General.

APPENDIX B

STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
Juneau, AK, October 17, 1995.

Hon. FRANK MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURKOWSKI: During my recent visit to Washington, DC, it became clear to me that a central issue in the debate related to oil development in the Arctic National Wildlife Refuge (ANWR) is the allocation of the revenue between the State of Alaska and the federal government. Accordingly, I am writing to you to reiterate my position on this issue.

By your legislation, and that of Congressman Young, you have concluded that fifty percent of the revenues of ANWR should be used to reduce the Federal budget in order to accomplish Congressional approval.

The state is entitled to receive ninety percent of oil and gas revenues generated from federal lands in Alaska. According to your reports, Congressional action is highly unlikely unless Congress sees some direct benefit to the federal budget. In addition to all of the other strong arguments in support of opening ANWR, it has been made clear to us that a fifty-fifty split of the revenue is necessary to attain favorable Congressional action. I support your strategy to split the revenues evenly between the state and federal governments.

If there is federal enactment of the fifty-fifty revenue split, it would constitute an amendment of the Alaska Statehood Act. According to the Alaska Department of Law, an amendment to the Statehood Act requires state concurrence. This concurrence must occur through the enactment of a bill by the Alaska Legislature and approval by the Governor.

Therefore, I will introduce and pursue legislation to accept such a change if Congress adopts a fifty-fifty revenue split. In this way, Alaska's elected officials in Juneau will have a full opportunity to debate the merits of agreeing to any modification of the ninety-ten revenue formula.

I firmly believe any amendment of the ninety-ten revenue split should apply to ANWR only. I will continue to insist, by way of the statehood compact lawsuit, that Alaska receive its full entitlement on the development of other federal lands in Alaska.

The State of Alaska stands ready to assist you in attaining Congressional approval of opening ANWR.

Sincerely,

TONY KNOWLES,
Governor.

ALASKA STATE LEGISLATURE.
Juneau, AK, October 17, 1995.

Hon. NEWT GINGRICH,
Speaker of the House,
Washington, DC.

DEAR SPEAKER GINGRICH: On behalf of the Alaska State Legislature, we would like to thank you for taking the time to meet with us during our recent visits to Washington, D.C. and for your support of oil and gas leasing in ANWR.

As the Republican leaders of the state Senate and House, we would like to state our unqualified support for current congressional plans to allow oil and gas development on the coastal plain of ANWR and to share lease revenues 50-50 between the state and federal governments.

We are aware that some House Republicans have expressed concern about this revenue sharing in light of Alaska's right under its statehood compact to receive 90% of revenues from oil and gas leases on federal lands.

Governor Tony Knowles announced on September 28th before the National Press Club that he backs the 50-50 state-federal split of ANWR lease revenues as proposed in the budget reconciliation act. He is on record saying he will introduce legislation to change the statehood compact to provide a 50-50 revenue split for ANWR lease revenues.

As the U.S. House and Senate works to complete action on the budget reconciliation act, Members of Congress should know that we will do everything in our power to ensure that such a bill passes the Alaska State Legislature and becomes law.

Sincerely,

DRUE PEARCE,
Senate President.
GAIL PHILLIPS,
House Speaker.

MONTANA'S CENTER FOR WILDLIFE INFORMATION

Mr. BAUCUS. Mr. President, we all recognize general Norman Schwarzkopf as a great military leader. But what most Americans probably do not know is that he is also deeply devoted to the cause of conserving one of our most precious resources, our wildlife. In cooperation with a number of my constituents in Montana, General Schwarzkopf have been involved in a remarkable effort to increase public understanding and appreciation of the wildlife that help make Montana and America so special. As General Schwarzkopf has said:

> In traveling and living throughout all parts of our world, I have learned that we possess in this country of ours and in neighboring Canada one of the most marvelous arrays of wildlife and wildlands found anywhere.

Yet, as any Montanan can tell you, each year people are killed or injured and wildlife is lost unnecessarily because of conflicts that should have been avoided. So General Schwarzkopf and Chuck Bartlebaugh of Missoula, MT have decided to do something about it. The Center for Wildlife Information has been established in Missoula. By creating a series of public service announcements, seminars, conferences, and other public education activities, they are working successfully to increase public respect and understanding of our wildlife resources.

A project recently announced by the Center is particularly exciting. With the support of Plum Creek Timber Co., the Center for Wildlife Information and Columbia Falls Junior High, located close to the western gateway of Glacier National Park, are working to develop a bear-awareness and wildlife stewardship education program. Under the direction of Columbia Falls Junior High's principal Neal Wedum, students and teachers will write and design educational materials and teaching units on black bear and grizzly bear identification, techniques for safe hiking and camping in bear country, and techniques for viewing and photographing wildlife safely and responsibly. Students will also develop an educational unit about partnerships between corporations, communities, and wildlife management agencies in Montana's Seeley-Swan Grizzly Bear Corridor.

In closing, Mr. President, I commend everyone involved in this remarkable effort: Chuck Bartlebaugh, Kris Backes of Plum Creek, and Principal Wedum, to name just a few. Congratulations and good work.

THE BUDGET

Mr. COATS. Mr. President, the topic of the day, the topic of the week, the topic of the month, is clearly the budget, the fiscal crisis this country has been in for a lot longer period than we care to remember. There has been discussion on this this morning. Obviously, the decision now is in the President's hands.

Republicans have clearly defined what they attempt to do. It is anything but an extreme measure. The President, if he will simply follow his own admonitions to us, will find it very difficult to disagree and veto the Republican plan that is being sent to him.

The President called for a 7-year budget with real numbers. We gave him a 7-year budget with real numbers. We are asking him for a commitment to that; frankly, a commitment to simply negotiate how that is achieved in return for a resolution which would provide funding for the Government so Government workers can come back to work on Monday.

BOSNIA

Mr. COATS. Mr. President, I would like to divert from that just for a moment because, were it not for the overshadowing presence of the budget debate, which is appropriate, I suspect we may be on this floor debating an issue that is of great significance and great importance.

As we speak, the United States is leading an effort in Dayton, OH, to attempt to reach some kind of peace agreement between the warring factions in Bosnia. That has been an elusive goal, one which different parties and different factions have been attempting over nearly a 600-year period of time; in this latest conflict, 4 years of serious engagement with disastrous and tragic consequences for hundreds of thousands of people, if not millions of people, in that part of the world.

But, if we have learned anything, I think, from our recent history in terms of the United States involvement in conflicts abroad, it is that any kind of involvement, and particularly a long-term involvement, anything exceeding just a matter of days, ultimately cannot succeed without the support of the American people.

That support is expressed through their elected representatives. The President has said and Congress has said that it is appropriate for Congress to examine the conditions upon which any U.S. troops will be subject to deployment to a foreign land, particularly one in which potential conflict and potential threat to their health and safety and life exist.

At this point, hopefully, we are nearing a real peace agreement in Dayton. I have some very deep concerns about the nature of that agreement and whether it can even be accurately described as a peace agreement. But, unfortunately, the President of the United States for whatever reason some time ago, and on numerous occasions, has made commitments to deploy troops as soon as this agreement is reached.

There have been some recent indications that the President is willing to let Congress take a look at, examine, and analyze the peace agreement but no commitment that, even if we disagree, the troops will not be sent. In fact, there is pretty good indication that an advance party of up to 2,000 American troops will be sent there to sort of hold the line while the so-called 2-week "period of examination" passes. The President hopes for congressional support and authorization. He has not yet received it, nor will he unless he is able to go before the American people and go before this Congress and make a compelling case for use of United States troops on the ground in Bosnia. That case, I suggest, has not been made, and has not even been attempted to be presented to the American people a cogent, logical, understandable reason why 20,000 uniformed troops of the United States Armed Forces need to be inserted into the conflict in Bosnia. The President may intend to do that. I do not know. He has waited a dangerously long time.

The argument that the administration has made, feeble as it is, is that it is necessary for two reasons: One, to contain the spread of the conflict to other areas which involve other NATO allies which eventually will pull in all of Europe. There is little reason to suspect that will happen. It has not in a 4-year period of time.

What we have essentially looked at is a civil war within a confined border of three factions fighting for land which they have fought for for nearly 600 years—avenging tragedies, avenging killings, avenging land seizures and private property seizures which have taken place over a significant period of time. Even if spreading beyond the current borders were a real possibility, there are strategies, containment strategies, that NATO could employ which are far different and involve far less risk than inserting 20,000 American troops and 40,000 NATO troops for a total of 60,000 onto the ground in the middle of the conflict that currently exists in Bosnia.

The second reason the administration postulates is that our involvement with troops on the ground is necessary to maintain the integrity of NATO. I think that even that is a questionable proposition.

In a recent article in Time magazine by Charles Krauthammer he talks about that very point, saying, "Of course, the single most powerful argument in favor of deployment invokes NATO: to renege on this promise of American relief for our NATO allies already trapped in Bosnia in a fruitless 'peacekeeping' mission." He asserts that it "would be the worst blow Clinton has yet dealt"—I am quoting—"to NATO cohesion."

"Whatever the strategic policy of having our troops in Bosnia, the argument goes, our NATO allies want us to take the lead on the ground, and we promised that we would do that."

But, as Krauthammer goes on to explain, our recent history indicates that one of two things are going to probably happen. Either we will suffer a loss of life—either we will suffer a situation which is far different than what could be described as peace, and, therefore, without having gotten the commitment of the Congress, or the commitment of the American people, we will call for a withdrawal of those troops which would be a serious blow to the integrity of NATO—or it may result in a long-term deployment and commitment of those troops which we have not again made the case for, nor do I think we can begin to expect American support for, a long-term commitment to that.

Either one of those occurrences, one of which is likely to happen, could do great damage to the NATO alliance and, as Krauthammer argues, and I agree, actually do more damage than not providing troops on the ground.

The President has not defined our vital interests in that involvement. He has not defined what our objective and mission would be. He has not defined how we would exit from the situation other than to say we will be out of there within a year. I think what he means by that is that we will be out of there before the next election. It is politically not feasible, and untenable to think the troops would still be there and become an election issue. That in and of itself is a recipe for disaster given the nature of the warfare. And anybody who understands the enmity that exists between the parties, and the conflict over who owns what land, knows that the American troops being out longer than a year is likely to just promote and produce a situation in which the parties wait out the situation, and then would return to the status quo, which is obviously not something that any of us looks forward to.

There are a couple of other concerns that I have. One is the question of neutrality. It is one thing to send troops into a situation when those troops are viewed—and that nation sending the troops is viewed—as a truly neutral partner in the process. In this case, we have decidedly sided with one faction in this conflict—the Bosnian Moslems. While we have not seen the final details of the peace agreement, the United States has indicated that one of our objectives in this deployment will be to arm the Moslems, will be to bring them to "a level of parity" with the other factions. That may be comforting news to the Bosnian Moslems. I doubt that is very comforting to the other parties in the conflict, and certainly not the Serbs.

So what our goal should be is a disarming of all parties involved, to reduce the level of tension and reduce the level of potential conflict rather than build up the capacity of one of the parties but, in doing so, even if that were an agreed upon military strategy, I think that is a terrible political strategy because we will not be viewed as a neutral party. The United States, which is already by the very nature of its—I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. The United States which is already viewed by a number of countries as not necessarily a neutral entity, and which has become a target, unfortunately, over the years for terrorists and extremists and others that want to disrupt either the peace talks or simply make a point, I think would clearly be identified as a party which was not neutral in this conflict and clearly would be a potential target for terrorism.

I had the experience nearly a decade ago of traveling to Beirut visiting the marines that were encamped between warring factions, and witnessed the aftereffects of the tragic bombing of the marine barracks that cost the loss of several hundred lives. Those that perpetrated this incident wanted to make a point, and by making that point they felt that they could influence the course of that conflict. And they did. I think the very same something—maybe not the very same but something similar—happened in Somalia.

So we at great risk put our troops between the warring factions.

My final point is that I think we need to be very, very careful about what a peace agreement says and means that might come out of Dayton. Dayton could very well produce a "peace"—I put that word in quotation marks. Again, I am referring to the Krauthammer piece—a "peace" that is unstable and divisive, and largely unenforceable. It may be a peace imposed rather than a peace sought and agreed to by the warring factions; imposed by outside forces. If that is the case, we are likely to have a situation where, as Krauthammer says, this lowest common denominator peace plan commands three grudging, resentful signatures from unreconciled parties. That is a disaster for American troops on the ground. And particularly, if the President has not sought the support of the American people, the support of their elected representatives, and defined for the American people just why it is necessary to utilize American troops on the ground. We need to make sure.

I ask for one additional minute, and I promise to quit even if I am not finished.

The PRESIDING OFFICER. Without objection, it is so ordered.

We should make sure that we have an ironclad commitment from the three parties involved that they not only are seeking a true peace but they are willing to self-enforce a true peace; that they will do so with a builddown of forces instead of a buildup of forces; that they will do so with wide zones of separation between them; that the peace will be essentially self-enforcing; and that they will be committed to bringing about that cessation of hostility and conflict between them.

If that is the case, one has to ask themselves the question, why are 60,000 troops needed to enforce that? If that is not the case, I think we have a very serious question.

My time has expired, and I promised to quit, and even though I have more to say, I will say it later. I thank the Chair and the patience of my colleague from Nebraska.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Nebraska.

PEACE IN BOSNIA

Mr. KERREY. Mr. President, with additional time, I would love to discuss this situation with the Senator from Indiana. It is a very difficult situation. I was in the Krajina Valley a couple days after the Croatian Army had driven back the Croatian Serbs and several hundred thousand estimated, a couple hundred thousand civilians left that valley, and a day later 120 millimeter rockets came into a market in Sarajevo and killed another 40 civilians. And not long after that a President Clinton-led NATO engaged in airstrikes, and it was not long before you could fly into Sarajevo.

We see the makings of peace in the region. It is an unprecedented event with the United States leading in a diplomatic effort, Ambassador Holbrooke going around the clock with unimaginable stamina to try to negotiate a settlement.

I listened to the House debate last night on this subject, and I must say I hope our own words do not make it more difficult to get an agreement and we do not find ourselves right back in the soup. I think it is a long shot to get a peace agreement. No question it is going to be difficult to get, but I think in any evaluation of what has gone on in Bosnia in the last 60 days you almost have to begin and end with praise for President Clinton's ability to lead NATO and to lead to where we are today, which is a significant reduction of violence in that part of the world.

DEFICIT REDUCTION ACT

Mr. KERREY. Mr. President, as to the Deficit Reduction Act, I would like to make a few comments.

First, we need to sort of check our own rhetoric and ask ourselves why. A lot of people come down and say we have unprecedented debt mounting on top of record debt. We do not have record debt. Our percentage of debt to GDP is going down. A lot of people say we have to do what we did in the cold war. During World War II, we accumulated almost 130 GDP of debt and won the war as a consequence, did the Marshall plan after that, rebuilt our own country as a consequence of a willingness to go into debt, no matter how we used that debt. I will get to that later.

I am very much concerned that a growing portion of our outlays is going not to investments but going to current consumption. I think it is a significant problem. It is not a problem, by the way, caused by the poor. I voted against this proposal for a number of reasons. I do not think it is fair. I do not believe it asks people like myself with higher income to participate in deficit reduction, which I think is terribly important. I receive very little in the way of Government services. People with lower incomes do receive more in Government service. I am asking them to shoulder a disproportionate share of eliminating this deficit.

Second, not only does it rend the social safety net, but it does not start us on the road to evaluating what kind of safety net do we need. I think most of us in this body now believe that we have to have economic growth, that our tax policies, which I do not think encourage savings and investment, need to be written so that we get the kind of investment and economic growth the country needs; that we have regulatory policies that are mindful of the risks that people take when they invest money.

Most of us understand that we have to have an economy that is growing, but if you are going to have a vibrant market economy where people are making business and bottom line decisions, you also have to have some kind of safety net out there. We ought to be thinking about how do we take the next step of how do we get it universal rather than moving away as I see this proposal doing.

We ought to ask ourselves, as Senator SIMPSON and I did, how do we reform the Federal retirement program so that there is more flexibility, individuals get a higher rate of return, they have something they own and they can acquire wealth during the course of a working life that might not generate much opportunity for savings.

We need to be asking ourselves how do we construct the safety net that enables us to have a vibrant market economy instead. As I see it, we rend the social safety net and then we really do not acknowledge that there is an importance and value to having it there in place.

Again, perhaps as a result of our own orientation, the higher your income gets, there is a tendency to presume that everybody is living like you are and a presumption that, gee, everything is OK. Everything is not OK. You talk to people 50 years of age out there, men or women who tell you what it is like to get a pink slip in a downsizing operation after working 30 years on the job. They have a tough time getting health insurance. They have a tough time adjusting to not just the downsizing but the reduction in income that they face.

If you want to have a vibrant economy, not only do we need to change our tax and our regulatory structure, we also need to change the safety net, and this proposal moves us in the wrong direction.

Third, I talked at length about how it really does not solve the problem of growing entitlements at all. It postpones them. It says, well, we can deal with Social Security later. We can deal with Medicare later. Really, the long-term problems, we deal with them later.

Mr. President, time is not on our side. Every year you wait you really deepen the cut or increase the possibility that working people are going to have to pay more taxes as a consequence of our unwillingness to face the problem.

The next thing I did yesterday was go through a few things that I as a Democrat would be willing to support that would enable us, I think, to produce the savings needed to have more fairness in the proposal, to begin to consider what kind of safety net should we construct and would have us moving in the direction of controlling entitlements.

On my list is I think we should drop the tax cut. I will describe a little bit later a rather remarkable letter from the Congressional Budget Office Director, June O'Neill. We should drop the $245 billion tax cut, commit ourselves to set a course so that at the end of 1996 we can enact fundamental tax reform that does encourage savings and investment; we understand that the current income tax system needs to be adjusted; that working families are having trouble saving money.

Let us not do it piecemeal. Let us do it bigger. This tax cut proposal should be dropped because it enlarges the deficit in the short term. Again, I will discuss that later. I would be willing to vote to reduce the Consumer Price Index by half a point. The adjustment would save hundreds of billions of dollars. I would even go further than half a point, but half a point seems to be about where we are. I am just alerting my Republican colleagues there are ways for us to come up with additional savings that are needed to balance the budget but to do it in a fair way and the way that has us holding onto a safety net that we need in the market economy.

I would be prepared to vote to phase in an increase in the eligibility ages both for Social Security and Medicare. It would not affect current beneficiaries at all. In fact, it does not have to affect beneficiaries over the age of 50. But to phase that in gives everybody under 50 time to plan and produces tremendous future savings.

I would be prepared to vote for an affluence test on all Federal entitlement programs, including farm program payments, if it is fair. It generates tremendous savings in the short term. It seems to me easy for us to sell, and I consider it to be an attractive way again to preserve that safety net and keep fairness in this proposal.

Mr. President, I would like to just sort of insert one other objection that I have that I failed to note earlier in my discussion.

There is a so-called Freedom to Farm Act proposal that is tucked away in this reconciliation bill. You can imagine what the American people are going to say when they find out that somebody out there with a half section of land that they are not farming now—let us say they use it for pasture and they have a hobby farm going on out there. Maybe they raise horses, for all I know. Under this proposal, they are going to be encouraged to enroll. They are going to get paid whether they farm or not. They are going to get income whether they are producing any agriculture product or not. It converts a market based system to a welfare system I do not think the American taxpayers are going to like and I know American farmers are not going to like as well.

Mr. President, there is a document I would urge colleagues to read. I will put in the first two pages. I ask unanimous consent that the first two pages be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 16, 1995.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the conference report on H.R. 2491, the Balanced Budget Act of 1995, and has projected the deficits that would result if the bill is enacted. These projections use the economic and technical assumptions underlying the budget resolution for fiscal year 1996 (H. Con. Res. 67), assume the level of discretionary spending indicated in the budget resolution, and include changes in outlays and revenues estimated to result from the economic impact of balancing the budget by fiscal year 2002 as estimated by CBO in its April 1995 report, *An Analysis of the President's Budgetary Proposals for Fiscal Year 1996*. On that basis, CBO projects that enactment of the reconciliation legislation recommended by the conferees would produce a small budget surplus in 2002. The estimated federal spending, revenues and deficits that would occur if the proposal is enacted are shown in Table 1. The resulting differences from CBO's April 1995 baseline are summarized in Table 2, which includes the adjustments to the baseline assumed by the budget resolution. The estimated savings from changes in direct spending and revenues that would result from enactment of each title of the bill are summarized in Table 3 and described in more detail in an attachment.

Sincerely,

JUNE E. O'NEILL,
Director.

Attachment.

TABLE 1.—CONFERENCE OUTLAYS, REVENUES, AND DEFICITS

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Outlays: Discretionary ..	534	524	518	516	520	516	515
Mandatory:							
Medicare[1]	196	210	217	226	248	267	289
Medicaid ...	97	104	109	113	118	122	127
Other	506	529	555	586	618	642	676
Subtotal	799	843	881	925	984	1,031	1,093
Net Interest ...	257	262	261	262	260	254	249
Total outlays ..	1,590	1,629	1,660	1,703	1,764	1,801	1,857
Revenues	1,412	1,440	1,514	1,585	1,665	1,756	1,861
Deficit	178	189	146	118	100	46	−4

[1] Medicare benefit payments only. Excludes medicare premiums.

Notes.—The fiscal dividend expected to result from balancing the budget is reflected in these figures. Numbers may not add to totals because of rounding.

Source.—Congressional Budget Office.

Mr. KERREY. As you can see, Mr. President, it is from June O'Neill, Director of the Congressional Budget Office. The CBO has been cited a lot as we go through this continuing resolution debate. This is written to Chairman PETE DOMENICI, November 16, 1995, with copies sent to the ranking member, Senator EXON of Nebraska, along with the chairman and ranking member of the House Budget Committee, JOHN KASICH and Congressman SABO.

It is a remarkable document, Mr. President, and shows the folly of the tax cut. But it also shows that we really are postponing most of the difficult choices. No American should believe that because if we enact this reconciliation bill—let us say by some miracle the President changes his mind, which I do not believe he is going to do; I believe he is going to veto it. Let us say we enact this thing. All it does is commit it for a single year. Next year we come back and vote again.

The year after that we have to vote again. I say to Americans, examine the document. For gosh sakes, the deficit this year is $164 billion. It has been going down every year for the last 4 years. Next year the deficit goes to $178 billion, and the year after that it goes to $189 billion. I mean, this proposal increases the deficit next year and increases the deficit the year after that. This does not reduce deficits; it increases deficits.

And to exclude Social Security—there is another letter coming from June O'Neill that says that because you include Social Security income, you are actually reducing the size of the deficit by some $60 to $100 billion, depending on the year that you take. So we get an increase in the deficit, Mr. President, and we are postponing most of the difficult cuts.

In the year 2002 this Congress is going to be expected to cut $70 billion in a single year. Unlikely, Mr. President. If you look at the backdating of the difficult decisions, I think the American people begin to understand why this so-called revolution is a lot less than meets the eye, a lot less, and why they should insist, if they want to balance the budget and they want to do it in a fair way and in a fashion that enables us to have some kind of a reasonable safety net and vibrant market economy——

The PRESIDING OFFICER (Mr. DEWINE). The Senator's time has expired.

Mr. KERREY. Mr. President, I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. That we need a different reconciliation bill than the one that was passed by this body by 52 votes yesterday.

Again, I would urge colleagues to look as well at the growth of entitlement programs. These are not programs for the poor. These are middle-class entitlements and most difficult of all. Almost half of the growth of all spending in here is Social Security, which is not even on the table in this discussion.

So, look at the growth and then ask yourself, if you had $435 billion this year for defense and nondefense appropriations—which is what you have in the year 2002—construct the budget, build a budget with $435 billion, go home and tell your citizens, OK, we are going to use $263 billion for defense, and that gives me $174 billion for all other spending, you cannot do it, Mr. President. You are not going to be just closing down odds and ends; you are going to be shutting down NASA and shutting down the courts and significant functions of Government.

You cannot get there from here, Mr. President, unless we come as Democrats and Republicans and say we are willing to do something, drop the tax cut, adjust the CPI, phase in changes in the eligibility age, consider an affluence test, do something with part B premiums. Those kinds of changes, Mr. President, would not only enable us to balance the budget in 7 years, but do it in a fair fashion, do it in a way that enables us to build a new safety net and a vibrant market economy, and I think restore the confidence of the American people, who rightly have concluded, by the way, even if this is enacted, that we are not going to be balancing our budget.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Before my friend from Nebraska leaves the floor, I want to state to him, through the Chair, and to my friend who is the chairman of the Budget Committee, that the two Senators from Nebraska are people who have credentials to speak about balanced budgets. The ranking member, Senator EXON from Nebraska, of the Budget Committee, former chairman of the Budget Committee, has worked for years on balancing the budget. My friend from Nebraska, the junior Senator from Nebraska, chaired the entitlement commission and has spoken out, to his detriment politically, on many occasions of what he sees as the wrongs of what we are doing with entitlements.

So, the reason I mention that while he is here on the floor, the chairman of the entitlement commission, a Governor from the State of Nebraska, people who have credentials to talk about balancing the budget and who have actually done significant things to get us toward that direction, when you have the two Senators from Nebraska speaking out against the reconciliation bill that passed, I think the American public should be aware that it is not a good piece of legislation.

Mr. President, before my friend leaves, I would also like to ask him a question as a former Governor of the State of Nebraska. Would the Senator, based upon his experience and expertise, indicate in his words why he thinks it is wrong to have the executive bound by numbers given to him by the legislative branch?

Mr. KERREY. Mr. President, the Senator asks a question that I think is very relevant. I voted against the continuing revolution for precisely that reason. This Congress should not bind the President to use numbers that are developed by the Congress, just like I do not think we should be bound to accept carte blanche the numbers that are used by OMB. Indeed, when I came into office in 1983, there was a great political controversy that occurred as a result of nobody trusted the numbers. We actually created a statute, an independent agency, to produce the numbers that both sides trust. And a lot of the politics now has been taken out of it.

I think the Senator raises what I consider to be a fundamental defect in the continuing resolution that was passed and the President vetoed. This body should not bind the President to use congressional numbers, just as this body should not write into statute that we are always going to use OMB numbers.

Mr. NUNN. If my friend from Nevada would yield on that point, while the Senator from Nebraska is here.

Mr. REID. Certainly.

Mr. NUNN. I would like to make a few remarks on this very subject. I think the 7-year number for balancing the budget in 7 years is a reasonable goal. I would hope that the President would agree with that goal as we proceed to try to find a way to end this Government shutdown and pass a continuing resolution.

Mr. REID. I would say to my friend, though, is it not a fact that the President has basically agreed to that anyway?

Mr. NUNN. It is my understanding that is what is being talked about now. But the Congressional Budget Office [CBO], I happen to believe they have more conservative numbers and should be agreed to as the basis for the overall approach to get a balanced budget, because we have seen time and time again that we end up erring on the side of optimism, and we do not end up achieving the savings that were projected.

But, having said that, I think no President of the United States is going to accept the CBO numbers for a 7-year period and have that dictated to by Congress in law. It is one thing to agree to 1 year as an estimate; it is another thing to have the congressional branch tell the executive branch that it has to abide by those numbers. Congress passes those numbers, can use the CBO numbers, but Congress then has to send the bill to the President. The President has a right to veto it under the Constitution.

This business of shutting down Government if the President will not agree for a 7-year period to the congressional numbers is a way of trying to avoid the constitutional procedures that were set up by our Founding Fathers which have worked pretty darn well. Shutting down Government to prevent the President from using his veto is something that I think is a sad mistake and is going to hurt more and more people as time goes on.

I say that as one who watched Republican Presidents make virtually the same point. I do not believe President Reagan or President Bush would have accepted a dictate by a Democratic Congress that they use CBO numbers during their periods in office. I have talked to the former Directors of OMB under the previous Presidents, and they have confirmed that opinion.

I do not believe President DOLE or President GRAMM or President SPECTER or President LUGAR would allow the Congress to say, "You are going to use CBO numbers"—a Democratic Congress particularly, reversing the present scenario—"We are going to require you to use these numbers." Billions and billions of dollars are at stake, and also a separation of powers is at stake.

So while I favor using the CBO numbers, I do not favor putting into law and holding the President hostage in terms of a shutdown of Government if he does not agree to that, because if I were President of the United States I would not agree to it.

It does not have much to do with the question of the budget. It has a lot to do with the question of separation of powers. We are going to be visiting, as the Senator from Nebraska said, these issues every year, whatever the results of this compromise that I hope will emerge in negotiating a final reconciliation bill.

We will have to have a compromise. These are going to be estimates. We are going to make mistakes. The Medicare-Medicaid savings—I applaud the Republicans for taking on these entitlements; I think it is long overdue. I think those of us on the Democratic side need to muster up some courage to begin to take on the entitlements also. But I believe we are going to have to go back and have a lot of corrections made to the changes that are being made because all of these are estimates.

We do not know how much is going to be saved. That is one of the reasons I feel that going forward with a front-end tax cut is a mistake now because we are going to have to have some money to patch up the mistakes as we go along and we find out people are really being hurt in an unjustified way.

So I hope out of all of this, we will reach some compromise very soon that will have the President basically agree to the 7-year target and goal but not have Congress impose by law the CBO numbers. There are lots of ways to be able to do that, and I hope we will find a way before too many more hours go by.

I thank the Senator for yielding. I did want to comment on that one point.

Mr. REID. I appreciate my friend's statement. In addition to the two Senators from Nebraska, the Senator from Georgia has a record of many, many years of being frugal and always trying to do something about a balanced budget and entitlements. He and the senior Senator from New Mexico have worked together on this for many years, and when we hear of the Senator from Georgia speaking out about the problems with the present reconciliation bill, it says volumes.

Mr. President, I ask unanimous consent that I be allowed to proceed for 10 minutes.

The PRESIDING OFFICER. The Senator has consumed 7½ minutes. The Senator's request is to speak for a total of how long?

Mr. REID. I would like to speak for 10 minutes starting now, since my friends have used part of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

GROWING USE OF VIOLENCE TO SHOW DISAGREEMENT WITH THE GOVERNMENT

Mr. REID. Mr. President, like most everyone here who serves in the U.S. Senate, I have a home in my home State, Nevada, and a home here. I announce that because my wife, recently one night, presented to me something she received in the mail from our home here in Washington, and I want to refer to it.

In March 1993, I was the first Member of this body to come to the floor and renounce the senseless killing of Dr. David Gunn as he left his job at a health clinic in Pensacola, FL. I came to the floor again in 1994 and offered a sense-of-the-Senate resolution condemning the specific tactic of soliciting signatures on petitions that express support and justify the use of murderous violence against those who oppose the pro-life position.

I am prompted again today to come to the floor and address this issue after finding in our mailbox this despicable piece of literature. This flier is simply abdicating violence. It abdicates clearly an invasion of a person's privacy, who happens to be a physician who I do not know and do not want to know, as well as the man's family.

It is well known that I advocate a pro-life position, and during my years in the House and Senate have voted accordingly. Because of my affiliation with this position, I also feel it is my responsibility to stand up and condemn tactics such as this flier, which are used by fringe elements of the pro-life movement.

This is a piece of trash. The people who put this in my mailbox violated Federal law. They have no right to put this in my mailbox.

"Guilty of crimes against humanity." I am reading from the document—"The National Socialist Party in Germany made gassing gypsies, Poles and other non-Aryans legal."

They go on to insinuate this man, whose name, work, and home address are on this document—with phone numbers for both—is a Nazi. They direct me to call this doctor and his spouse, asking them to "end this slaughter, because they say he has no conscience."

They say, "In reality it is murder." This man, whose name I am not going to disclose, "should be tried for crimes against humanity."

They quote various pieces of Scripture from the Old Testament. They go on to say, "He so lacks conscience that slave owners would have used him to apprehend runaways."

"He is the equivalent of a slave trader."

"Don't allow your children to play with his."

"We will haunt him." I am skipping around on this document.

"In the meantime, organize to have his lease canceled," and it goes on and on.

Mr. President, this is wrong. This is wrong.

Two months ago, I came to the floor to express my outrage over the bombing of the family car of a Nevada forest ranger. This car was located 3 feet away from his family who was in their living room. I am concerned about the growing use of violence as a means of showing disagreement with the Government and with other individuals. It is this extremist mentality that is at the foot of devastating acts, such as the assassination of Prime Minister Rabin and, I believe, the Oklahoma bombing and, of course, the shooting of Dr. Gunn.

Extremists advocate violence as an alternative to meaningful debate and meaningful discussions. Individuals who carry out such violence or endorse it believe they are above the law.

As I have stated earlier, I am personally pro-life, but Roe v. Wade is the current law in our country, and I, as a citizen of this country, respect the law of the land. In fact, I personally disagree with the judgment rendered by a court, however, I believe in following the law.

This does not mean that those who disagree with the Supreme Court's decision cannot work within the legislative process to change the law. The debate over abortion elicits some of the strongest emotions that people feel.

However passionate and vigorous debates can be, they should be healthy and they should be speeches, comment, and discourse that are civil in nature, not statements like "crimes against humanity," "gassing gypsies," "don't play with their children."

Mr. President, when you arrive at a passionate, vigorous debate, I believe this represents what our democracy is all about, which is a participatory and functioning democracy at work. We have a responsibility to decry the violence and the advocacy of violence as a legitimate means to solve our differences. We cannot acquiesce to the violence through our silence, and I am not going to. It is incumbent upon this body, this Congress, this country to make it unmistakably clear that such tactics are shameful and are to be denounced.

Without quick condemnation of such tactics, as this flier in my mailbox, violence will continue.

I shed tears at the assassination of President Kennedy, at the assassination of Prime Minister Rabin, especially when his granddaughter cried pain of love for her grandfather. We cannot stand by and allow this to happen.

I hope we will all speak out against it and that the people who are spewing forth this filth will stop doing it, because it does not help the cause.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. REID. I yield back my time.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I ask unanimous consent that I be given 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DAYTIME TALK SHOWS

Mr. NUNN. Mr. President, last month, I joined my colleagues, Senator LIEBERMAN and former Secretary William Bennett, who was the former Secretary of Education, at a news conference in which they were shining a spotlight on what I believe is the problem that for too long has been ignored by television executives, corporate advertisers, the news media, as well as the American people. The problem is the content of some of our television programming and the corrosive effect this programming is having on our culture. Nowhere is this cultural erosion or "cultural rot," in the words of Secretary Bennett, more evident than in the content of many of today's daytime talk shows.

The news media are finally beginning to report on these issues, even though many Americans have been voicing their concern for a long time. I know that I have been speaking out on these matters for a number of years, as have a number of my colleagues, and as have Americans from all walks of life and all parts of the country. The media has not been listening until recently, but they are listening now, and I think that is having a real effect.

I would not be speaking out today, or in the past, if I believed television was not important. It is very important.

According to the World Almanac for 1995, Americans watch approximately 16½ hours of television per week; teenagers watch about 12 hours per week. I think the number is higher than that, but that is what this says. Our children watch approximately 13 hours per week. For adults, this amounts to two full 8-hour working days of television viewing per week. For children and teenagers, this amounts to 2 extra days of "television school." For children, this is far more time than they devote to homework. The second most widely circulated magazine in America is TV Guide, a magazine about television. Billions and billions of dollars are spent on television advertising. We all know that market forces would not pour that kind of money into television if it did not have a powerful impact on the people watching it. All of these statistics point to the fact that television has a powerful and profound affect on all of our lives.

Given the tremendous impact of television on American culture, the content of our television programming is important. To illustrate this point, I refer my colleagues to the June 1992 edition of the Journal of the American Medical Association, which reported on a study that concluded there was a direct relationship between the level of violence on television and the growth of violent crime in our society. The study—headed up by Dr. Brandon Centerwall, a Seattle, WA, psychiatrist—concludes: "The epidemiological evidence indicates that if, hypothetically, television technology had never been developed, there would today be 10,000 fewer homicides each year in the United States, 70,000 fewer rapes, and 700,000 fewer injurious assaults."

Neither I, nor Senator LIEBERMAN, nor former Secretary Bennett is talking about turning back our technological clock by 50 years. There are many good programs on television. There is much education on television in a positive sense. However, violent television programming is not a necessary part of television technology, and the logical conclusion from Dr. Centerwall's study, and numerous other such studies along this line, is that a reduction in the level of violence in television programming will, over the long term, lead to a reduction in violence in our society.

Nowhere is the content of television more depraved and more sensational, nowhere does television unapologetically appeal to people's most prurient interests and worst instincts than on daytime talk shows. These are shows that do not even pretend to excuse themselves under a disclaimer that they present fantasy or fiction. They pump up their ratings by portraying their contents as "real life." As a consequence, they demean and exploit real people. By implication, they tell their audiences that men, women, and children who have serious problems in life are an object of freak-show fascination. I doubt that many of the producers or sponsors of these shows will tell you that they are proud of what they do. If you asked them why they do it, in private, and if they were honest, I imagine they would confess they do it purely for money.

During the Lieberman-Bennett press conference last month, which I joined, some clips from these shows were shown to illustrate our point that much of this programming has gone far beyond the pale, and that we as citizens, as leaders, and as consumers should let television executives know and should let companies who advertise know that we believe it is unacceptable for those shows to continue to cultivate the seeds of cultural and moral decline in our Nation.

In subsequent responses to these comments we made at the news conference, and in an effort to defend this medium, some defenders of daytime talk shows suggested that we were out of line by speaking out against the content of these shows. They even raised the question of the first amendment. Some suggested that daytime talk shows were the victims of broad generalizations, perhaps suggesting that we found a few sensationalized, anomalous episodes and were holding those up as the standard daytime talk show fare.

To follow up on this issue, one member of my staff voluntarily conducted an unscientific survey of the topics of daytime talk shows. Every hour or so, he would scan the television on his desk and see what the day's topics were for the daytime talk shows. The results added to the concern that I already had.

The first day, one show was called, "Stop Pretending To Be a Girl" and featured young boys whose parents were upset that their sons dressed and acted like a girl. Another show offered a show entitled "Boys Who Only Have Sex With Virgins." Yet another show featured a girl dumping her boyfriend on national television and asking her new "significant other," another girl, to commit to her.

Mr. President, I thought that surely the next day's shows would pale in comparison to these. I was wrong. Subsequent days' reviews of these shows found titles such as "One-night Stand Reunions." Another show was entitled "I'm Ready To Have Sex With You Now." And another show was called, "I Cheat and I'm Proud of It." One show featured a woman who chose to tell her fiance on national television that she cheated on him with her sister's boyfriend and that she lied to him about a miscarriage which was actually an abortion. Another show reunited pornographic stars, strippers, and transvestites with their past lovers. Perhaps the most appropriately titled show of all was the one entitled "You Look Like a Freak."

Quoting again from Dr. Centerwall, babies "are born with an instinctive capacity and desire to imitate adult human behavior." Continuing the quote, "It is a most useful instinct, for the developing child must learn and master a vast repertoire of behavior in short order." The problem is that children do not possess an instinct for gauging a priori whether a behavior ought to be imitated.

Therein, Mr. President, lies the problem. We should not hesitate to speak out against things we feel are harmful to our children and to our society. The people that produce television and radio and newspapers have a first amendment right; no doubt about that. We all hold it sacred. But we also have a constitutional guarantee of free speech as citizens. We do not have to be Senators to have that right. Citizens have that right in America. While our guarantee under the first amendment allows programs such as these to exist, it also allows them to be criticized. Further, it allows us to encourage the corporations and businesses whose advertising dollars make these broadcasts possible to rethink their sponsorship. That is what I have been doing for at least the last 5 years. If they do not rethink their sponsorship of these programs, the first amendment and our marketplace allows us, as consumers, to no longer support the products of the corporations that fund programs that we find offensive. That is our right as citizens.

I believe that corporate executives need to pay attention to what their dollars are sponsoring, and I believe they need to rethink whether or not they want their firms associated with many of these shows. Indeed, the point is not whether such shows can be shown on television. They can be. We know that. The question is whether such shows should be on television. For too long, this second question has been ignored.

It appears that this question may finally be getting the attention it deserves. In recent days, the Wall Street Journal, the Washington Times, and NBC News have reported that companies, including Procter & Gamble, the Nation's largest television advertiser, are withdrawing their advertising support from some daytime talk shows because they do not meet company standards of quality and decency.

Mr. President, this is precisely the kind of corporate effort that can have a significant impact on the content of television programming. All of this is run by money, and if the money starts shifting, believe me, there will be a response. I applaud Procter & Gamble officials, and those in other companies, who are beginning to realize—too slowly in my view, but finally—that they have an obligation beyond getting rating points. They have a responsibility as citizens for the kind of America we live in and how we raise our children.

As a final note, the heavy sexual content in soap operas, the excessive gratuitous violence, profanity, and sex in prime time shows and, most importantly, the lack of parental supervision should not escape this debate over television. We all have our responsibilities. These are aspects of television that are just as important as the content of the daytime talk shows.

Mr. President, I have spoken out before against these negative aspects and I will have more to say in the months ahead.

Mr. CHAFEE. Mr. President, we are in morning business now and we can for a specific length of time, is that the way we are proceeding?

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

THE BALANCED BUDGET

Mr. CHAFEE. I thank the Chair. I want to return to the balanced budget amendment discussions that we have had here previously. I listened to some of the discourse that took place here. I thought there was a lot of common sense here on the floor.

The Senator from Georgia spoke, the Senator from Nevada, the two Senators from Nebraska, and others. I thought what was said here gives us ground for arriving at a very reasonable compromise in the days ahead.

Clearly, the President will veto the balanced budget amendment. We all accept that. The question is, where do we go from here? Mr. President, I want to continue on the discussion that took place here previously.

First of all, it seems to me to ask for the balanced budget in 7 years is a reasonable request. I think the Republicans and indeed all of us have a sound basis for saying, "Look, 7 years is not too early to balance this budget." So, I think it is quite proper for the Republicans to hang firm on that particular position. I heard the Senator from Georgia say that 7 years is reasonable.

What about the other side? I heard discussion on the tax cut. I think it is perfectly reasonable for others to say we have to back off that tax cut. Now, should we back off to zero tax cut? Perhaps that is going too far. Perhaps we could settle on something in the neighborhood of what the President himself has discussed. As I recall, that was something in the area of $107 billion, if I am not mistaken.

I am not in favor of the tax cut, period, never have been. Nonetheless, there are those, particularly in the other body, who feel very, very strongly about having a tax cut. So, perhaps a suitable compromise would be to back off to the area of the vicinity where the President himself discussed a tax cut.

What about some of the other areas? I certainly hope that those who have discussed Medicare here will recognize that the 31.5 percent premium that we are now requiring for part B is a fair requirement, and it seems to me those who are talking about going down to 25 percent must recognize that that has to be picked up by the general treasury. That is where the money comes from.

All of us have to use some common sense and reasonableness here, but I have great difficulty understanding those who would want to take the premium, in effect, have it dropped—have those who are receiving the benefits of Medicare, an entitlement that goes right across the board to everybody, rich or poor—to say that they are going to pay less for their part B premium. So I hope that we would agree on the 31.5 percent.

Now, I have not heard a dissenting voice that we should not go to the affluence testing. We can argue about that—whether it should be $50,000 for the individual and $100,000 for the married couple and phasing out—we can argue over that. Clearly, going to affluence testing makes a lot of sense.

Now, the CPI. I hope we will do the recomputation of the CPI. That is perfectly fair. If we are paying too much, we ought to recognize it.

Another area that I think the Republicans should give ground on is on the Medicaid and the reductions that are provided in that—reductions from rate of growth, yes; but I have grave concerns over whether in the Medicaid we are keeping a suitable safety net for those lower income individuals in our society.

Yes; we are protecting children up through the age of 12 at 100 percent of poverty or less. But is that enough? As you know, now it goes up every year so that we cover those at the age of 13, 14, and so forth up to the age of 18 by the year 2002.

I, personally, would hope we would go higher than the current category, which as I said is up to the age of 13 at 100 percent of poverty or less.

Mr. President, I think we have the ground here, from the discussions I have heard on the floor, for arriving at a reasonable compromise. To get any compromise, people have got to go in with a certain amount of flexibility.

If the Republicans say "Not a nickel reduction in the tax cut that we have provided," or if the Democrats say "Nothing doing on the year 2002; nothing doing there," if each of us get dug in, we will not get anywhere.

I think we have the basis here for a reasonable compromise. I hope the administration and the negotiators from the House and the Senate would pay attention to the suggestions made here on the floor today.

Mr. KERRY. Will the Senator yield?

Mr. CHAFEE. I am happy to yield to the Senator.

Mr. KERRY. I am delighted to hear our friend on the other side of the aisle talk common sense, which seems to have been lacking here in much of the dialog over the last days. Many of us over here feel very strongly that the issue of a tax cut in the face of this deficit is a morality question, but I think the Senator from Rhode Island has appropriately suggested, we all need some flexibility.

I ask the Senator, then, does he not think, if there ought to be some tax cut, if that is part of the gospel here, does the Senator not agree that at least that tax cut ought to be targeted toward those Americans who can most benefit from it and also most need it?

Mr. CHAFEE. There is no question that that is right.

I must say as we start on this, if I could use a word of caution, I hope that we would avoid the word "morality" here, that one side is moral and the other side is immoral. I do not want to pursue this too far, but I think all of us have to watch our rhetoric—me, us on this side, all of us in this Chamber—if we are going to arrive at a satisfactory resolution of these very difficult problems.

The answer to the question, have a tax cut to help those who most need it—sure. Of course, we recognize those who most need it are not paying much of a tax to start with, so how much a reduction would be of assistance to those individuals, I do not know.

I think we also have to recognize—as I said before, I am not for the tax cut. But there are those who feel very, very deeply about it, particularly in the other body. That does not mean that we cannot back off from the size of the tax cut that was proposed.

If the Senator from Massachusetts has some suggestions on how we could reduce the tax cut and make it directed more toward the group he was suggesting, I think that sounds sensible to me.

Mr. KERRY. Mr. President, I believe there was an effort on the floor to try to suggest that the tax cut ought to go to people—and I understand the Senator is absolutely correct, if you are talking about the folks under $30,000 with the earned-income tax credit, you are obviously talking about a group of people who also need an additional amount of money that comes in the form of a check at the lower end of that scale in order to make it meaningful.

That is not what we are talking about. There was a suggestion on the floor of the Senate that the tax cut ought to be limited to those people earning $100,000 or less, and that can certainly be framed in a combination of payroll credit-family credit or any combination thereof, but at least in terms of keeping faith with the notion of fairness there is a clear juxtaposition, is there not, between those earning $100,000 or less, a broad-based capital gains tax that might go to old investments versus new investments?

Or, for instance, an estate tax break that goes to people only with $600,000 or $700,000 of estate value. It seems those are difficult fairness issues to try to suggest to the American people that we are approaching this seriously.

Mr. CHAFEE. I agree with the Senator from Massachusetts that we want to look at these. We want to be careful we are not giving tax breaks to the very wealthy when we are trying to balance this budget.

One of the suggestions that has come up here as I understand is that we really concentrate more on rewarding those who save. How can we do it? Should the interest on savings accounts be tax-exempt? Or reinstate the IRA's for those who previously have been eclipsed because they had pension plans of some kind?

All of those I think are fruitful ideas. All I am saying is, I think we have the basis here for a resolution to this problem. Again, it will require all of us to back off from entrenched positions.

I hope that the Democrats would agree to the 7-year time schedule. I think that is a reasonable request. If we cannot do this by the year 2002, then we have real problems in this country.

We have no war. We are in peacetime. The country is relatively prosperous. Clearly, we ought to be able to pay our bills and have outgo match income in the year 2002.

Mr. KERRY. Will the Senator yield?

The PRESIDING OFFICER. The Chair will advise the Senator from Rhode Island his time has expired.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

BOSNIA

Mr. GLENN. Mr. President, earlier today Bosnia was discussed on the floor here. I wish to make a few remarks in that regard in the time allotted in morning business, because I think there is a great deal that is misunderstood about the peace process and our involvement in it and what our relationship is to the talks going on in Dayton.

When we talk about the House, they had a lot of discussion in the House, and, of course, they had their vote over there, against any involvement in this or against going in militarily. But what has to be agreed to before we even get involved in any way, what has to be agreed to, is a complete peace agreement. It has to be agreed to, and not only agreed to but the firing has to have stopped before we move in.

There are those who, apparently, assume we are going to have to fight our way in to establish peace and establish a peace as Tito did during the only period in modern history where there has been peace in Yugoslavia. That was a militarily imposed peace on the whole country.

That is not the kind of peace we are talking about. There have to be two conditions met. First, there has to be an agreement. It has to be airtight. It has to be extremely detailed. It has to define exactly what the borders are. It has to define exactly which town is in what sector and what they have agreed to and signed up and said will be the new formation of those cities, those newly emerging countries in that area. So that agreement they are trying to work out in Dayton right now has to be in that fine a detail. It cannot be just a peace agreement that says we will move in and we hope we can establish peace. "Yes, United States and NATO, you come and we know this will all work out." It is not that kind of agreement they are working toward. If I thought it was that kind of agreement, I would not be supporting this process whatsoever.

What they are talking about is a very, very detailed agreement—specific borders. Will this orchard be on this side? Whose territory will it be in? Will the next farm be in somebody else's territory? Will the road junction be in whose territory? That is the kind of detail they are trying to work out on huge maps out there in Dayton. I would say, it will be uphill at best that there will be any agreement coming out of that. I am still of the opinion that it is probably 60–40 against our ever being involved over there, because I doubt the parties will be able to come to that kind of definitive outline on a map as to who has what in their territory. It has to be that way or we should not get involved.

Second, the firing has to have stopped. The firing has to have ceased. Obviously, the next question is, then, if they have that kind of commitment to peace, which they say they have, and that is the reason they are in Dayton talking, and they have come to a definitive peace agreement and firing has stopped, why does anybody need to go in?

We were over there recently, just 1 month ago this weekend. Four weeks ago this weekend I was part of the Senator STEVENS' Codel over there. We were briefed by our military leadership and by our people and U.N. people in Zagreb and Croatia. We flew into Sarajevo for a period of time, along with 21,000 pounds of peas on a C–130, and out again. We spent about half a day, which does not make us experts in that area, but it was interesting to see it, anyway. Then we came back through Brussels and talked to our Ambassadors there.

But, when we were there, what we were so impressed with was there is a desire for peace. That is what has started this whole thing. The parties themselves say they are tired of war. The parties themselves say they want peace but are unable to get it. If we have the agreement and we have the cease-fire, why do we need to go? Here are the facts we were told while we were over there.

It is estimated that about 20 to 50 percent of the people involved in the fighting there are what they call the irregulars. They are not people who are part of a regular, organized military militia that accepts commands from above or from Belgrade or anyplace else. They are people who are the irregulars. They are the farmers who are out cutting hay one day. They go up to the lines, up to the next village where there is a battle going on, they take a rifle from someone, they are in the lines for 3 or 4 days while someone else goes back to cut their hay. They are the people who, in the 30-some cease-fires that there have been over there so far, they are the ones who have violated the cease-fire because they basically do not take orders from anyone in particular. So the firing starts again, it spreads, and we have had 30-some cease-fires that have not worked. The fighting starts again.

What is contemplated, and what our role would be over there—if we go in, if there is the airtight agreement, if the firing has stopped—then there would be zones set up between the parties along these borders, well-defined borders, where there would be 2- to 4-kilometer width areas in this that would be patrolled or would be monitored by the NATO forces, of which we would be about one-third of the total NATO force. I do not see that as being bad in that situation.

Now, if there is firing by these irregulars or anyone else, we would put it down immediately. We would hope, because of the massive show of force we are putting in there, there would be no firing. If there is, it would be put down and put down immediately. It would be by NATO rules of engagement, not the U.N. rules of engagement. They are more of a debating society than anything else. But NATO rules of engagement say if you are fired on, you can obliterate that source. I asked General Joulwan, would we be permitted to take out anybody who fired on any of the NATO forces? Absolutely.

That is key to the whole thing. Will there be any risk? I suppose there is. We have already had three people killed over there when we had Frasure, Kruzel, and Drew, who were in a vehicle that slid off the road and they were killed in the wreck. That is tragic. Our hearts go out to their families on this. I knew one of the gentlemen, Mr. Kruzel, in particular. It is a terrible thing that anybody is killed in a situation like this.

But will there be any danger of accidents like that, or maybe somebody getting killed? There might be. But I would also point out we do not withdraw the Peace Corps from overseas, and the Peace Corps in its history has had 224 people who have died overseas. I was surprised it was that high a number. I would have thought it would have been a very, very few, but the Peace Corps lost 224 people so far, to this date, since its inception.

Like the old saying in aviation, "How do you have complete, 100 percent aviation safety? You keep all the airplanes in the hangar. You do not risk them." Yet we know how much good we have done around the world by being involved to some extent. We have a Christian-Judeo heritage of helping people, alleviating suffering around the world. We supply food, we send out AID programs. Of course, we cannot solve all the world's problems, either with peaceful organizations or with the military. But I think an American leadership in the world has been such a force for good, I would hate to see us go back to trying to be an isolationist America.

I repeat once again, we have to have an agreement, airtight. The firing has to have stopped. Then we go in with minimal risk, with our NATO allies, to try to keep that peace that has been eluding them so far, basically because of the irregulars who do not honor these cease-fires.

Our leadership is important. We restored democracy in Haiti. In the process of doing that, of leading, we have been involved in bringing peace to the Middle East, working on it in Northern Ireland, we see Russian nuclear weapons are no longer aimed at our people. We secured the indefinite extension of a Nuclear Nonproliferation Treaty, which was a big step forward. We achieved real progress toward a Comprehensive Nuclear Test Ban Treaty. We reached an agreement with North Korea to end its nuclear weapons program. These are products of American leadership, and that is just a little, partial list. We have seen democracies growing in South America because of our involvement there.

I think the risk over there, in that Bosnian area, if it is done pursuant to a well-thought-out agreement and a cease-fire, and we go in with a preponderance of force that people understand is going to be used if they break the peace and if they fire—to me is well worth the risk.

Much has been made out of the fact that we want to provide leadership for NATO. I agree with that. I think our membership in NATO is very important. But that is not just the reason why we go in. That is pointed to, sometimes, as the reason we go in, in effect saying, "There go our NATO people. We better rush out and lead them, because we are the biggest factor in NATO."

I will not agree with that. NATO has to be right. Let us judge this on whether it is right to go in, or wrong to go in, and try to get peace in that area where peace has not taken root for so long, and where some of the actions that have happened there in the past have literally been the sparks that set off two world wars. So, if we can bring peace to that area, to me it is well worth the risk.

NATO leadership, I think, is, important, and NATO has been looked at by too many Americans, I believe, as just some sort of a remnant of the cold war, and let us forget it and move out of NATO. Is it still important? I do believe NATO is important. It is important. NATO leadership is what is moving us into the organization for security and cooperation in Europe working with the European Union. We have a Partnership for Peace, which is in its fledgling days but becoming more and more important. The North Atlantic Cooperation Council was formed in 1991. That is moving ahead, and really is a good force for peace in that part of the world. We are the biggest factor in NATO. I think it is important that we retain that. But I do not see our leadership of NATO as just being the only reason we should move into that particular area.

I know my time is up. Do not forget for 1 minute that we have to have an airtight agreement. We have to have a cease-fire, and on that basis we move in to try to give peace a chance in that very, very tough area of the world.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from North Dakota.

Mr. DORGAN. Mr. President, it is my understanding that we are in morning business under a 10-minute rule.

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. Mr. President I wanted to respond to the Senator from Rhode Island and some others today. I found his remarks to be particularly interesting and helpful, and, as is often the case, I find myself agreeing with a fair amount of what he says. He is sensible, and moderate, which is probably difficult for many these days. I saw a cartoon recently in which someone was pointing at someone else and saying "There is no room for moderates here." The fact is that there is a lot of room for moderates. There are moderates in both political parties who generally do not view things from the extremes and who want to solve problems. I hope we will find a way, using some common sense, to engage in an attempt to find solutions to some of the vexing problems we have in this country.

The Senator from Georgia was on the floor talking about trash television a few moments ago. My sense is that people in this country are concerned about two principal areas, and he hit on one of those. One is economic security. The fact is that many Americans are having more trouble finding a job, and many others are finding that their wages are declining. Sixty percent of American families are working harder for less money and are losing income. This means less economic security. I think people are very concerned about that.

They are also concerned about the diminution of values—the lowering of standards in this country. And part of that relates to trash television and violence on television. We can do something about some of these things, but not all of them. We must address some of the issues in the home and in the community. But some of these problems represent public policy areas as well.

In the area of economic security, one of the things that is often discussed—and one that I agree with—is that we have to put our fiscal house in order at some point. We cannot continue to run enormous debts year after year. We cannot spend money we do not have forever.

I would not have a problem if next year we spent $400 billion we did not have—and therefore incur a deficit next year of $400 billion—if with that $400 billion we cured cancer just like that. I would say that was a pretty good investment. You amortize that over the next 40, 50, 70 years, and it would be worth paying off the $400 billion deficit incurred to cure cancer.

But that is not what these deficits are about. These are systemic deficits in the operating budgets of this country. You cannot continue that. You must address it.

That is why I said last evening that I commend the majority party for a reconciliation bill that contains some things that are good. It contains some awful things as well, and I think some bad priorities. I am glad the President is going to veto it. I do not support it. But it has a good number of things that make a lot of sense. There are a good number of things in that reconciliation bill that both sides would agree to. But there are some major elements of the reconciliation bill that must be changed because, as we address the deficit in this country—and ultimately we must do it together—we must find a compromise. We should not ask the portion of the American people who have the least to bear the biggest burden of all the spending cuts, and then turn to the small portion of those who have the most and give them the largest share of the tax cuts. We have to try to fix some of those things.

With respect to where we are today, the shutdown ought to end. The reconciliation bill is passed. The President is going to veto it. Negotiations, in my judgment, ought to begin immediately to try to find a solution to the impasse and a solution to the reconciliation bill. The question ought not be whether we have a reconciliation bill. The question is not whether we address the budget deficit and lead to a balanced budget. The question is, how do we do that? Not whether, but how?

There is no good reason, in my judgment, to have a continued government shutdown. There is no juice left in that lemon for anybody—not for any political party, and not for any political leader. This shutdown does not make any sense.

I probably contribute to some of the concerns about the language that has been used during the shutdown. I read on the floor statements by the Speaker of the House, who in April said, "We are going to create a titanic standoff and shut down the Government." Those are the facts. However, I am not saying that only one party is at fault here. The fact is that there is lots of room for blame. There has been lots of language uttered in these past few days that has caused a lot of chaos in the political system. But we find ourselves in a circumstance where we have people who say it is either our way or it is no way. If you do not do it our way, we will shut the Government down. The fact is Government works by consent. This is a democracy. For 200 years we have had impasses over wars, over depressions, over dozens and dozens of vexing, troublesome issues. The way those impasses have been solved is that people with good will, with common sense, have come together and said, "Let us reason. Let us find a way to meet the goal, to work out this problem together."

I want to mention a couple of things that were in the reconciliation bill which causes a lot of problems.

Medicare—do we need to reduce the rate of growth in Medicare and Medicaid? Yes, we do. Not just in Medicare and Medicaid but in the price of health care generally for families, for businesses, for governments. The price of health care, the escalation of health care costs year after year somehow has to be addressed. But no one can any longer believe that what is in this reconciliation bill will address the price escalation in Medicare by saying to senior citizens you will have the same quality health care and you will not pay more for it. Everyone understands this approach means senior citizens will get less and pay more.

The tax cut—many of us feel very strongly that the facts show every dollar of this tax cut will be borrowed. I would love to have somebody come and explain why that is not true. Regrettably, it is true. Every dollar of the proposed $245 billion tax cut will be borrowed and will add to the national debt, which adds to the burden of those children we have been talking about.

On the car radio on the way in this morning, I heard a woman who had called the radio to talk about the shutdown. She said both of her parents, regrettably, have to go to a nursing home, one because of Alzheimer's and one who had a stroke. They have been there 5 years and started out with an asset base of $400,000 to $600,000. Now much of that is gone. She called and said, "My worry is for when their assets are gone—and I believe that their assets should be used to pay for their care—my parents will not have an entitlement to Medicaid." When their assets are gone, under this new proposal, they will not have guaranteed coverage under Medicaid. That will be up to the States. Maybe the States will decide that nursing home care is an entitlement for her parents. Maybe not. She was worried about that.

That is a significant change. That was in this budget reconciliation bill. I mentioned last evening the differences in spending priorities that have been talked about and for which the CR was fought over this weekend—cuts of 40 percent out of a little program called Star Schools; only $25 million is spent on Star Schools and that will be cut by 40 percent. The bill the Senate passed the other day, which I voted against, doubles the amount of money spent on star wars despite the fact that is was not requested by the Pentagon.

I think these priorities are wrong. I do not say that in a pejorative way. I say that in my judgment we can do a lot better for this country than those priorities.

I mentioned yesterday that in this thick reconciliation plan, there are two little things buried—among dozens and dozens—that I bet nobody in the Chamber knew about. One is a provision to repeal the alternative minimum tax provisions we put in place in 1986. That little thing that nobody knows about means that 2,000 corporations will receive $7 million each in tax cuts.

Let me say that again: 2,000 corporations will receive a tax cut of $7 million each.

Another little provision is labeled 956(A). I bet no one in the Chamber knows what it is. Well, it deals with the repeal of the circumstance of deferral with respect to income that is deferred for tax purposes by foreign subsidiaries of American corporations. They have the money over there. Now, we have certain passive rules that say you have to repatriate the money you pay taxes on. This little nugget in here says we are going to spend hundreds of millions of dollars to tell those companies that have moved jobs overseas, moved jobs out of this country: By the way, we are going to reward you even more for it.

Those things do not make any sense. We ought not vote for a bill that includes things like that.

I bet there is no one in the Senate who knew that provision was in that plan. I am talking about a couple little provisions—there are dozen and dozens and dozens of those little nuggets—that say to big interests, special interests: Guess what? It is time to smile. We are offering up to you an enormous reward at a time when we say to kids, we do not have room for you in the Head Start Program; at a time when we say to kids benefiting from the Star Schools Program that we are sorry, you are going to have to cut back.

My point is that this debate is about priorities and choices. All of us, it seems to me, in the coming days can do better. And I stand here as one who says let us balance the budget. Let us do it the right way. Let us all engage in debate about choices and agree. Seven years is just fine with me. In fact, we could do it within 5 if the Federal Reserve Board will take the boot off the neck of Americans and allow us a little economic growth. But let us discuss it together—the Senator from Rhode Island is absolutely right—use some common sense and do the right thing for this country.

Mr. President, I thank you for your indulgence. I yield the floor.

BUDGET PRIORITIES

Mr. KERRY. Mr. President, I would like to pick up, if I may, where the Senator from North Dakota leaves off. He talked about the dozens and dozens of nuggets that are in this bill. I know my colleague from Massachusetts is going to talk about some of those specific items. I would like to speak for a moment, if I may, about the word that the Senator from North Dakota kept using about priorities.

I wish to emphasize, as I think every Democrat wants to emphasize, this debate is not about whether to balance the budget. We keep hearing Republican friends come to the floor, and they keep saying we have to do this because this is the only way to balance the budget. If we do not do this, the Democrats will not balance the budget. They do not want to balance the budget.

Mr. President, this is not the only way to balance the budget. That is what this fight is about. And, indeed, the majority of Democrats have voted to balance the budget, balance it in 7 years—balance the budget. We voted for a 9-year balancing of the budget. The balancing of the budget is not what is at issue before America today. What is at issue is what choices will we make as we balance it.

Now, it is uncontested—every analysis of our economy shows—that those Americans we keep talking about, the Americans who work every day the hardest, the people who go and punch in a clock or the people who are the nitty-gritty of the production of goods in this country, are working harder, and they are making less money for their effort. They have less ability to purchase, less ability to buy the new car, less ability to send their kid to get a decent education. Those are the people we ought to be fighting for. That is the majority of Americans. But the majority of Americans do not make out in this bill that was passed as well as people at the upper end of our scale.

That is just not fair. I am at the upper end of the scale. Most of us in the Senate are at the upper end of the scale. The minute you get a U.S. Senator's salary, unsupplemented by anything else, you are up to the top tiny digits of wage earners in America. The truth is that we do better in this bill than the average American, and that is disgraceful. That is not what we were sent here to do. We ought to be able to go home and look people in the eye and say, "You are going to do as well or better." We cannot do that.

I know all the arguments are made, well, this is going to help people in the long term because it is going to reduce their income taxes, ultimately it is going to lower the interest rates.

I agree that it can do all that. Balancing the budget can do all that. But I do not know any American—nobody in Massachusetts has come up to me and said, "Senator, I want to live next to a Superfund site. I want to live next to a toxic waste site." But for some reason, in this budget the money to clean up those sites is reduced.

I do not know anybody who has come to me in any community in Massachusetts and said, "I don't think that people who have a drug addiction shouldn't get treatment." In fact, for all the rhetoric in the Senate about crime, 70 percent of the people in jail today are there on a drug-related offense or they are on drugs. If you want to deal with drugs in America, you are going to have to have drug treatment. And yet this budget cuts drug treatment.

This budget cuts safe schools and drug-free schools money. I do not understand that. I do not understand how you make those cuts and turn around and give somebody with a $5 million asset base over $1 million worth of tax break.

I used the word "moral" earlier. I do not want to offend anybody. It is not only my word. I have heard people like Pete Peterson, whom I respect enormously, former Commerce Secretary, Paul Tsongas, Warren Rudman of the Concord Coalition, they use that word, because if you have a $245 billion tax break, which you have, you are effectively borrowing $300 billion of money from future taxpayers and shifting it to current taxpayers.

That is the very thing that supposedly this budget is geared to address. The whole purpose of balancing the budget today is to stop borrowing, and yet we are going to borrow in order to give this tax break to the people who least need it.

This is a question of priorities. How do you explain to people in a nursing home, who are senior, that they are now going to have to become destitute and live under a whole new set of standards because in order to allow the nursing homes to meet the expectations of being able to reduce the cost, we are not going to do it in a sort of sensible, humane way; we are going to do it by changing the standards in nursing homes so that the people who own the nursing homes do not have to live up to the same standard of the provision of care so they can reduce the cost.

This is about priorities. It is about what do we care about.

One of the most egregious things that happens in America, has happened in the last 13 years, is that those people at the bottom end of the income scale, the bottom 20 percent saw their income go down over the last 13 years 17 percent. The next 20 percent of Americans saw their income go down 4 percent. The middle two percentiles of Americans stayed about the same. And the top quintile of Americans went up 105 percent in income.

In a country that is increasingly competing against a world marketplace where information is power, where skill comes through your education level, where the kind of job you can have and the kind of income you can earn comes through your access to education, to be making it harder for Americans to get that education is simply inexplicable.

But that is what this bill does. It is going to make about 1,200 of our educational institutions drop out of direct lending. About 1.8 million students are going to be dropped off of student loans. And many of us have been visited—the senior Senator from Massachusetts and I have been visited by our University of Massachusetts folks, who tell us that they are literally going to have kids drop out of school as a consequence of the increase in student loan costs because it is that marginal for them, their ability to be able to go to school in the first place.

So, Mr. President, I share the feeling of the Senator from Rhode Island. There is a middle ground here. I absolutely agree with him. We must reduce the rate of growth in entitlements. We cannot have it both ways. And we cannot talk out of both sides of our mouth. I voted for a bill that reduced Medicare and reduced Medicaid, but not three times what the trustees tell us we need.

I hope that my friend from Rhode Island and others on the Republican side would agree, look, there are 100 Senators here, you cannot come to the floor of the Senate and have 20 people decide, or 30 people, that it is just going to be their way. We have to have some compromise. We are prepared on our side, I know, to compromise on things that we do not necessarily agree with completely in the hopes that we will not wind up with such a lopsided, unfair, and, frankly, unwise approach to the problems of this country.

We need to raise the income of Americans. And we are going to have to train them and educate them to do that. I know there is nobody on the other side of the aisle more committed to doing that than the Senator from Rhode Island. I must say to my friend from Rhode Island, I would love to do it in 7 years. I am prepared to commit to 7 years, if we can find a reasonable agreement on what you base your numbers on. But if somebody comes to me and says, Senator, we could balance this budget in 8½ years or 8 years, we can balance it fairly, and we can also provide drug treatment to 50 percent more drug addicts and we can also send 2.5 million more kids to college, I will go for that. And I think a lot of people here would go for that.

I will tell you something. Most Americans would go for that. Americans want truth and common sense. They are tired of rigid intuition-ordained 7-year goals. They want this place to legislate on the basis of honesty and common sense. And my prayer is that in the next few hours we will get the Government of this country back to work and we will sit down like adults and come to an agreement about what the best interests of this Nation are.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

ORDER FOR RECESS UNTIL 4 P.M.

Mr. GORTON. Mr. President, I ask unanimous consent that following the conclusion of the remarks of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Minnesota [Mr. GRAMS], the Senate stand in recess until 4 p.m., today.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I listened carefully to the remarks of the Senator from Massachusetts and appreciate the thoughtfulness of his approach to this situation. It seems to me that while each side has to exercise some common sense in all of this, I really do think that there is an underlying thrust that we must not forget, and that is, that we feel very strongly on this side of the aisle that we have to reach a zero deficit situation.

We believe in the year 2002. And it seems to me, as I have stated before, that is a reasonable goal. And I have heard the Democratic senior Senator from Georgia say that is a reasonable goal. And I think we all ought to agree that the year 2002 is something that is attainable and that it is fair, that we all concur in that.

Now, on the other side of the aisle they feel strongly that there should not be a tax cut at all, or if there is going to be a tax cut, it should be of a far lower nature than we have proposed on this side. To me, that is fair for them to make that request. And I think we have to back off on this side on the size of the tax cut that we are seeking.

But I would hope this, Mr. President—I know there are going to be other speakers, and I know the senior Senator from Massachusetts has some charts prepared, and we are ready for all the evils, to hear about all the evils of the deficit reduction bill that we passed last evening. All right. We are used to that. But I would hope that whoever speaks on this floor will say how he or she is going to reach a zero deficit. It is all right to criticize what we have done. And I suppose you can come up with 35 items of how what we passed last evening was not correct. All right. That is fair game. But in return, I would hope that the critics come up with how they would do it, and in what year, and how and where the savings are going to come from.

Is it going to be a CPI adjustment, or is it going to be keeping the Medicare part B premium at 31.5 percent, or is it going to be a reduction in that, all of which costs money, if you change? How is that individual or those individuals proposing that we reach this zero deficit? I think that is a fair requirement for us to impose on the critics of the plan that we passed last evening.

I thank the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

BUDGET PRIORITIES

Mr. KENNEDY. I am very hopeful that we can reach a satisfactory compromise today on the legislation needed to end this indefensible shutdown of the Federal Government and move on to the real debate over what this controversy is all about.

We all agree on the need to balance the Federal budget. The fundamental issue is not whether or when to balance it, but how to balance it fairly.

President Clinton is right to take a strong stand against the Republican plan. That plan is based on the same old Republican trickle-down ideology of plums for the rich and crumbs for everyone else. The Republican plan is filled to overflowing with tax breaks for the wealthy and give-aways to powerful special interest groups. And to pay for all those give-aways, the Republican plan imposes heavy burdens on senior citizens, students, the needy, the environment, and working families struggling to make ends meet.

The American people did not vote for priorities like that in 1994, and they are not going to vote for priorities like that in 1996.

You cannot judge the Republican book by its title. They call it the Balanced Budget Act of 1995. That soothing title is a fraud. The Republican budget is a scorched-earth scheme that imposes unprecedented sacrifices on senior citizens, students, children, and working families in order to pay for lavish tax breaks for the wealthiest individuals and corporations in America. It is a program to bash Medicare, slash education, and trash the environment, and it eminently deserves the veto it is about to get.

The Republican budget raids private pension funds, and slams the door of colleges and universities on the sons and daughters of working families. It dumps over a million more children into poverty in the misguided Republican version of welfare reform.

It even raises taxes—yes, raises taxes—on those who can least afford it—the lowest income working Americans.

I hope all those Florida Republicans who are voting in their straw poll today will ask why Senator DOLE and Senator GRAMM want to raise taxes on working Americans. How very Republican—tax breaks for the wealthiest families, and tax increases for working families.

And for the wealthiest families of all, the Republicans leave no stone unturned. All year, Democrats have tried to close the most notorious tax loophole of all—the billionaire's tax loophole. That loophole lets wealthy Americans renounce their American citizenship and evade their fair share of taxes on the massive wealth they have accumulated in America.

It is difficult to imagine a more obscene or less justified loophole. Every time we have challenged it in the Senate, the Senate has voted almost unanimously to close it tight—no ifs, ands, or buts.

But once again, behind closed doors, the Republicans have quietly saved it. The billionaire's tax loophole is alive and well in this Republican bill. Shame on the Republicans for catering to billionaires and clobbering senior citizens on Medicare.

The Republican attack on Medicare is unprincipled and unconscionable. Nothing in their budget better illustrates the harsh and extreme approach the Republicans are taking to the needs of the elderly. Every senior citizen in Florida voting in the straw poll today should vote for "None of the Above" if they care about Medicare.

Under the Republican budget, Medicare is cut $270 billion over 7 years, three times the amount necessary to protect the Medicare trust fund, in order to finance $245 billion in new tax breaks for wealthy Americans.

Medicare part B premiums are raised by $52 billion over the next 7 years, compared to what they would be under current law. Premiums will rise from $553 this year to $1,068 by the year 2002. Every senior citizen will pay $2,240 more than under current law. Elderly couples will pay $4,480 more.

Senior citizens will be coerced into giving up their own doctor. They will be herded into HMO's or forced to join other private insurance plans. They will lose the current protection that prevents doctors from charging more than Medicare will pay—that change alone means additional costs to elderly patients of $5 billion a year.

The Medicare cuts are so deep that they will "jeopardize the ability of hospitals to deliver quality care, not just to those who rely on Medicare and Medicaid, but to all Americans," according to a statement by organizations representing 5,000 hospitals nationwide. Cuts in research and medical education will be devastating to the quality of health care in communities across the Nation.

Medicaid will bear a heavy burden too. It will be cut by $160 billion over 7 years. By 2002, Medicaid will be cut by a full one-third.

And 4.4 million children will lose coverage; 1.4 million disabled will lose coverage; 920,000 seniors will lose coverage. Guarantees of coverage and services will be eliminated.

Nursing home standards will be weakened, despite a 98 to 1 Senate vote to maintain them. Families will be forced into poverty by high nursing home costs. States will be allowed to recover the cost of nursing care from adult children with incomes in excess of $36,000 annually. States will be allowed to put liens on the homes of nursing home residents, even if spouses or children are living there, despite a vote by the Senate to eliminate these provisions.

In a shameful giveaway to the pharmaceutical industry, the bipartisan Medicaid drug rebate program is weakened, at a cost to taxpayers and patients of $1 billion a year, despite a vote by the Senate to preserve this program.

Federal clinical lab standards to ensure the accuracy of medical tests are eliminated.

On education, the Republican budget cuts the Federal investment in education by one third over 7 years. We should be investing more in education, not less. How can every Republican possibly justify an assault like that on education.

Student loans are cut by $4.9 billion, at a time when student financial need is greater than ever. College costs are rising faster than family income. Grants make up less than one quarter of Federal aid. Student debt is skyrocketing. The average student leaves college owing $9,000. Many graduate and professional students owe over $100,000 before they start their first job.

The Republican budget is a triumph of special interests over student interests. It is rigged to funnel over $100 billion in new business to banks and money-lenders at the expense of colleges and students.

It is hard to find a more vivid or disgraceful example of the prostitution of Republican principles. When profits are at stake, Republicans are more than willing to roll over and sell out free-market competition, and replace it with the heavy hand of a government-guaranteed monopoly.

Under the Republican bill, beginning next year, only 102 colleges will be allowed to participate in direct lending. 1,250 colleges and 1.8 million students already in the program will be forced out of direct lending against their will.

In Massachusetts alone, 32 colleges and universities and almost 100,000 students will be required by law to give up the advantages of direct lending. They will be required to return to the bureaucratic maze of the old guaranteed loan program, where 7,000 lenders and 41 guaranty agencies bury students in redtape. Students at Boston University, MIT Mount Holyoke, Springfield Technical and Community College, and many others, will be forced out of direct lending.

Colleges and universities across the country are outraged at being forced out of one of the most successful reforms in the history of Federal aid to education. And 472 colleges and universities across the country have written urging Congress to reject this arbitrary limit on their ability to choose the loan program that best serves their students.

Over 100 of the colleges that signed the letter are not in direct lending. But they recognize its benefit for their students too. As they put it:

> Those of us who represent institutions that are satisfied with the guaranteed student loan program also support the continued availability of the direct loan program to institutions. The competition created by direct lending has induced banks and guarantors to improve the efficiency of their delivery process, and has, for the first time, provided the student loan industry with market-based incentives to provide better service. The guaranteed student loan system has improved more since the phase-in of direct lending two years ago than it did over the more than two decades of existence prior to 1993.

The colleges in direct lending speak first-hand of its benefits for their students—simplified applications, the expedited receipt of funds, the disappearance of the endless lines of students waiting to endorse their checks at registration time, the welcome drop in the number of emergency loans issued to students waiting to hear about their regular loans from their banks, and fewer trips to the financial aid office to clean up redtape.

As these colleges write:

> Direct lending has eliminated redundant paperwork, reduced staff time allocated to dealing with thousands of lenders and dozens of guarantors and other intermediaries, and vastly improved our overall aid delivery processes because it seamlessly integrates with other federal aid programs.

The issue does not get much clearer. Colleges and universities across the country are unanimous. The student loan system needs more competition, not less. Banks and guaranty agencies do not deserve this protection. The guaranteed loan program is not a free market program to begin with. The banks and guaranty agencies reap all the profits and take none of the risks, because Uncle Sam is guaranteeing the loans.

Direct lending also saves money for the taxpayer if honest accounting is used. It is a measure of the special interests' power that they have even managed to corrupt the budget scoring process. They persuaded the Republican majority in Congress to include a provision in the budget resolution forcing the Congressional Budget Office to score this issue dishonestly, and thereby show savings to the Federal budget of $775 million over 7 years capping direct lending at 10 percent. An honest accounting would show that eliminating direct lending costs—costs the Federal Government almost $1.5 billion. Not only are the Republicans doing the wrong thing, they are actually increasing the deficit to do it. You cannot blame President Clinton for rejecting CBO scoring, when Republicans rig CBO scoring so shamelessly.

It is unconscionable for the Republican majority to use their majority power to undermine education and protect the profits of banks and guaranty agencies. Few issues in this budget debate more clearly demonstrate whose side Democrats are on, and whose side Republicans are on. Democrats are proud to stand with families struggling to educate their children. Republicans are content to cast their lot with the well-connected few, and thumb their nose at colleges and students.

On pensions, protections in current law are weakened to allow a raid of $20 billion on workers' pension funds by large corporations and corporate raiders. This provision was eliminated from the Senate bill by a 94 to 5 vote, but has now been restored behind Republican closed doors.

On children, the Republican budget slashes essential safety-net programs for low-income children and families by $82 billion.

The Republican budget slashes essential child care funding and eliminates health and safety protections for children in child care. Many more children will be left home alone and countless others will find themselves in danger.

The Republican budget slashes $6 billion from school lunch programs. It slashes $9 billion from benefits that allow one million children with disabilities to continue to live at home with their families.

In page after page of their legislation, Republicans offer an open hand to powerful special interests and the back of their hand to everyone else.

As people learn more and more about the Republicans' agenda, they like it less and less. They understand why this battle is so important. We are talking about fundamental principles and the kind of country we want to be in the years ahead.

It is wrong for the Republicans to slash Medicare in order to pay for tax breaks for the wealthy. It is wrong for Republicans to slash education and raid employee pension funds. It's wrong for Republicans to dismantle the basic bipartisan environmental protections we've enacted to keep the air clean, to keep the water clean, to keep our food safe.

The American people did not vote for priorities like that in 1994—and they will certainly be voting against priorities like that in 1996.

Mr. President, I have listened with great interest to my friend and colleague from Rhode Island talking about the state of the American economy and who is really serious in this Chamber and which political party has been serious about dealing with the budget of the United States. Of course, he understands very well that when the Republicans came into power in 1980 there was $460 billion in deficit, and when the Republicans left power in 1992 it was $4.4 trillion.

All during that period of time the moneys which were actually appropriated by Democratic Congresses was less than was requested by a Republican President. So, we are very glad that our Republican friends want to get serious about the deficit now. But I think as we are talking about this issue, and as we have listened to a President who says that he is committed to a balanced budget, we are also paying attention to a President who initiated a proposal that passed this body without a single vote from the Republicans that has paid off $600 billion of the deficit, something that has already been done, an achievement and accomplishment, not just particular rhetoric. And there was not a single Republican vote that was for it.

In the last few days we hear our Republican friends chide the President and say, "Well, he really didn't mean it now. And so we're going to try to take care of it." But I have yet to hear one Senator on that side of the aisle say that we wish that was repealed and how they would make up the $600 billion which has already been paid off on the deficit. They have not talked about that. They have not mentioned that.

All they do is continue along to try and reach the legitimate concerns that the American people have in trying to bring the economic house in order, and very little time is spent, quite frankly, in reviewing how they would do that. And that is basically the issue that is before this body. The Democrats have, under President Clinton, reduced the Federal deficit by $600 billion. The Republicans have talked about it. And now we have a President that is committed, and all of us are moving toward the balanced budget.

But I want to point out very clearly, Mr. President, that it certainly will not be this way. It certainly will not be this way. It will not be the way of cutting back on the Medicare opportunities for our senior citizens, the $270 billion that is going to be required to be paid by our senior citizens, with increased out-of-pocket costs for all of our seniors in this country over this period of time, and the $245 billion in tax breaks.

There is only one tax that has been increased, Mr. President, in this whole proposal, only one tax that has been increased, and it is the earned-income tax credit. And who does that apply to? Does that apply to the billionaires? Oh, no. The billionaires were taken care of. We voted in here to eliminate the billionaire's tax loophole. For those who do not understand it, it says, if you have been able to accumulate $3 million or $4 million or $5 million or $600 million, or up to even $1 billion, or even more, you can escape your payment into the Federal Treasury by renouncing your citizenship, renouncing your citizenship, escape payment, become a Benedict Arnold, escape payment and, what happened? This body went on record by over 92 or 93 Senators that said we ought to close that loophole, no ifs, ands, or buts. We had statements and comments by the members of the Finance Committee that it was going to be closed at the earliest opportunity. Many of us required a vote to make sure that that was going to be done, and members fell over themselves trying to go on record and say, "We are not going to permit that unseemly, unconscionable practice to continue."

And then what happens? You hardly get the doors closed over there in that conference committee, and what comes out? The billionaire's tax loophole; cuts in Medicare for our seniors and the billionaire's tax loophole that will take hundreds of millions, billions of dollars out of the Federal Treasury to benefit a handful of individuals, and you want us to just go behind the screen—"We're for the balanced budget and you're not."

Let us look at what this budget is. You are increasing the taxes on those individuals who are making less than $35,000, and a giveaway to the billionaires. That is in here—charging our senior citizens, elderly people who are unsure, wondering whether their health care coverage is really going to be there, wondering about all these statements that are being made about Social Security and seeing their cost-of-living adjustment eaten up next year by the premiums that will be advanced under this proposal; cutting back on Social Security, cutting back on the Medicare protections, cutting back on veterans' protections, moving many of our senior citizens out of the fee for service where they know their doctors into these plan programs.

This is a beauty, Mr. President. This is an absolute beauty. Under the current law, we prohibit double billing. What is double billing? Double billing says if the repayment is going to be a certain number of dollars under Medicare, that is what the doctor will take for that particular procedure, paid in full.

But you just look, there are a couple of lines in this Republican budget that says, "That isn't going to be the way it is anymore. That isn't the way it is going to be anymore, Mr. Senior Citizen," who has worked so hard to build this country and make it the great country it is. That is not the way it is going to be anymore. Those doctors can charge you in addition—in addition. We have 70 percent of the seniors at an income of $15,000 and 83 percent of them are below $25,000, who are paying more out of pocket now in terms of health care because we do not cover prescription drugs, we do not cover dental care, we do not cover foot care, we do not cover eye care.

Go into any senior citizen home in any part of the country and ask how many are paying $50 a month for prescription drugs and see half the hands in the hall go up. That is what is happening out there, eating away at scarce resources. And now those 35 million Americans who participate in Social Security and Medicare are wondering, "Look, they are squeezing me on Social Security; if I am a veteran, they squeeze those benefits; Medicare, they are squeezing benefits and if I get sick and lose all my money and go into a nursing home, they have done something wonderful as well." Instead of the payment in full for the nursing home, they say the nursing home can charge you in addition to that, too. First time. That is what is in this bill. That is what is behind this bill. Make no mistake, those are some of the offensive aspects of this bill. They will raise the funds on senior citizens who are poor to qualify for Medicaid and put a lien on their homes, take their homes away from them.

That is what is in this bill. Just a few words change, just a few sentences change. That is what is in their bill.

No wonder the seniors are frightened. We hear from the other side, "Don't frighten our senior citizens." They ought to know what is in here. That is the kind of assault on senior citizens that is unwarranted and unjustified and you do not have to balance this budget on the backs of the senior citizens. You do not have to.

You are frightening the whole framework of retirement and security of our senior citizens. That is what you are doing.

After a recognition over a long period of time and after Medicare being passed in the mid-1960's, a recognition that our elderly people earn less in their later years and health care needs go up more in their later years, that was true then, it is true now. That may be an old idea, but I daresay it is still a fundamental value for our society.

I would like to see those who want to offer and have the guts to offer an amendment to repeal either the Social Security or Medicare, even though we listened to the two leaders talk about their historic role in opposition to the Medicare programs and how they are hopeful that it will "wither on the vine." Then people say, "Well, you shouldn't scare our senior citizens." Well, you have had the two Republican leaders that have taken such pride in the achievement of this budget and have made that kind of commitment and statement. Of course, they ought to know about it.

Mr. President, there is one other area which I will talk about. You talk about those workers, you talk about the problem that those workers are facing.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Can I just have a final 5 minutes? I ask unanimous consent for 5 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I yield myself 4½ minutes, so I know when there are 30 seconds left.

Mr. President, those families working all that period of time now find they are going to have to pay more in taxes. They might have a number of children that may be getting some kind of health care covered under the Medicaid Program. Eighteen million children in that program; 4.5 million of them are going to be dropped from any kind of coverage under these Medicaid cuts. That is what we are talking about in this Republican bill: The raising of the Medicare premiums, the indifference in dropping children from health care coverage, dropping the fundamental commitment for day care for children, cutting even the existing program for day care for children of working families, and then, wonderfully, eliminating the regulations that provide health and safety protection for those children.

I was here when Senator DODD and Senator HATCH worked out that program, with President Bush. It was so interesting. We had strong requirements for protecting children in the bill that came out of our Human Resources Committee. Those strong requirements that had been worked out over a long period of time, in terms of making sure those children are going to be protected in child care, were watered down but still maintained the essential protections for children. That was agreed to in a bipartisan way and passed.

Four weeks later, I offered the same bill with the same standards to be applicable to the military, 94 to 6—94 to 6. We did not hear any question then about too much regulation, too much protection for the sons and daughters of those who are in the military. No, we went ahead and did it.

And now, if any Member of this body goes and visits a child care center on a military base in this country and compares it outside, they are going to find that the ones serving the sons and daughters of our servicemen and women are first rate, and those that are outside do not come up to par.

What is going to happen with the changes in this legislation is you are going to find a deterioration in the protection of children. I cannot wait to hear the first speech from some of those who have been indifferent to this problem say, "Look, that whole program that is supported by the Federal Government is a disaster." That is what is going to happen, and then there will be pressure to cut that back and give more tax breaks to the very wealthy.

Mr. President, I can look at the American worker today, as has been pointed out, and see how their real income has been going down, down, down, over a period of time. What they have done is put something away in terms of savings in their pensions, and then out of the Finance Committee came this ability for corporate raiders to raid pension funds, those pension funds paid in by the employees who sacrificed an increase in their wages, their health benefits so that they would have a secure retirement, and so we brought that up here on the floor of the U.S. Senate, a bipartisan amendment, Senator KASSEBAUM and myself, and others—and Senator MOYNIHAN has been a leader in this area—and we passed it 94 to 5, to prohibit the corporate raiders from plundering the pension funds. They could not even get the door closed over there in that conference, and they came right on back and opened it up again.

So every worker ought to understand that this is a threat to their own security. Why? Because, again, it is the tax breaks, the $240 billion tax breaks. So, Mr. President, these are some of the items that are troublesome to many of us. We can work out in a way to try and deal with some corporate welfare and some of the unreasonable increases in terms of our defense and in tightening belts on many of the different programs. I have cosponsored those with Senator MCCAIN and others.

We can get to a balanced budget, but not when you are going to have that kind of cut and slice on working families, parents and their children. That is not what the 1994 election was about, and the 1996 election will be about it. I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

THE PROMISES OF POWER

Mr. GRAMS. Mr. President, it is funny, I hear a lot of talk this morning on the floor about compromising with the President on our budget. I say it is funny because he has not officially even received it yet. He says he is going to veto it. But I say, let us give him the opportunity to do that. Let us give him the chance to veto this budget. Let him look in that camera and into the eyes of the American people and tell them he does not want this balanced budget, he does not think Americans deserve it and, what is more, he does not think they should have a tax cut to go along with it, and that money really belongs to Washington to spend.

I might just be a lowly freshman from Minnesota in this body, a plebe by the standards of some of the more senior Members. But I know why I am here: Because I told the people of Minnesota if they would elect me, I would come here and I would work to balance the budget, to reduce the size and the scope of this bloated bureaucracy that we call the Federal Government; and by doing that we would be able to allow them to keep a little bit more of their own money in the form of a tax cut.

I hear my colleagues on the other side saying how people do not have the money to spend anymore in this country. Well, that follows 30 years of Democratic programs—but, more importantly, 30 years of Democratic tax hikes that have taken that money from our families and sent it to Washington.

Really, what kind of deal has been talked about on the floor here this morning? What kind of deal are the Democrats and the White House talking about? Let me put some of this in perspective. Our budget plan talks about spending $12 trillion over the next 7 years. The White House and the liberal leadership of the Democrats in the Senate and House want to spend about $12.5 trillion, at a minimum. Some are willing to work out any kind of agreement today so that we can go home and have a long weekend.

How are we going to tell our taxpayers that we are willing to spend another $500 billion of their money, collapse on this very important issue, so that can have a long weekend? How do we tell the taxpayers that?

Our budget increases spending on all these programs. Our spending goes up every year. If you listen to those on the other side of the aisle, it is like we are gutting everything that this country has stood for, that somehow this country is going to collapse if we save 5 percent over the next 7 years. By the way, we are only about 1 percent apart on the Medicare, compared to the President's proposal and ours. In your own budgets, if you are making a dollar and they say you can have 99 cents, not a dollar, are you going to say, "I am going to collapse"? We cannot save that 1 percent?

Our budget increases spending on Medicare 64 percent, from $174 billion this year to nearly $289 billion in the year 2002—per capita. Everybody that will be on Medicare will be going from about $4,800 a year to $6,700 per person a year. That is not a cut. That is not a collapse. That is not solving all the problems or changing the way we do business here in Washington. My colleagues on the other side want to just throw more money at it and take more from the taxpayers and let Washington spend more. Should we agree to more of the same—programs that have failed—just to give them more money to spend?

Where do we get all this money? The Government does not produce any revenues. It only can collect them and dispense them. I am fighting for something that is fair; I am fighting for the taxpayers.

I have been listening to the statements on the floor all morning, and also reading some of the comments in the newspaper following last night's real historic vote on our balanced budget legislation. I found myself then thinking about Abraham Lincoln. This was a man who knew something about dealing with adversity. He was elected President to lead the Nation through some of the darkest hours. The Civil War had divided the country, pitting neighbor against neighbor, brother against brother. Yet, he found a way then to use the power of the Presidency to inspire the people—not with the harsh rhetoric of hate, but with a vision that something better lay ahead. His words gave people hope to continue fighting for what they believed so strongly was right.

So you know Abraham Lincoln was speaking from the heart, and drawing on the experiences of his own life, when he said, "Nearly all men can stand adversity * * * but if you want to test a man's character, give him power."

I am not one who is quick to edit the words of a President that I admire very much, but after nearly a year service in this Chamber, and especially after the antics we have been subjected to over the last month, I think Abraham Lincoln's words would ring equally true if you changed them slightly to read this way: Nearly all men can stand adversity, but if you want to test a man's character, take away his power.

Nearly every Republican here knows how tough it is to have that power taken away and be forced to serve in the minority. Many colleagues on this side of the aisle have been in the majority only to be shifted to the minority after the 1986 elections. It is tough, it is an adjustment, and it is not a lot of fun. But this year it has led to a lot of irresponsible politicking, and it has all been at the expense of truth and substantive debate.

Mr. President, what would you do if you were walking along and stepped into a pool of quicksand, and before you knew it, you were up to your waist, sinking quickly? At first, you would begin to do a lot of shouting, like we hear from the other side. You probably would not care too much about what you were saying, as long as you said it loudly and were attracting a lot of attention. It did not stop the sinking sensation, of course, but at least you felt like you were doing something.

Finally, a political consultant happens to come along—how convenient. They are brilliant at putting the right spin on things. Maybe they will figure a way out for you. "How convincingly can you say 'the Republicans are cutting Medicare and putting senior citizens at grave risk?'" asks the consultant. Well, you are willing to try anything at this point, since the only attention your shouting has gotten you so far were the services of a political consultant.

So you shout it—forget that it is not even close to the truth, and that you do not even really believe what you are saying, but you are fighting for your life here. Anything goes.

I just heard the Senator from Massachusetts say, "It will all depend on 1996. This will lead to the election of 1996." Republicans have an eye on an election, too, but it was the 1994 election. We are trying to do what the taxpayers, the American voters, sent us here to do, while the Democrats are looking to 1996 and trying to put up some kind of a hope of regaining this Chamber.

Pretty soon, this quicksand reaches up to your chin. "Any more brilliant ideas?" you ask the consultant. "How about shouting louder this time that the Republicans are hurting children and the poor. That has always worked before for me." You roll your eyes, but you are getting more desperate, and so you start yelling for all that you are worth that the Republicans in Congress are hurting children and hurting the poor.

Of course, it is getting harder to shout because the quicksand is brushing up to the corners of your mouth. Still, nobody is paying attention.

"All right, the old tricks are not working anymore, so it is time for desperate measures," says the consultant. "I guess I am going to have to throw you this vine, but you have to keep shouting while I get it over to you."

He tosses you the vine, and with your last breath, you scream, "I want a balanced budget—just not this one."

With a final "glug," you sink out of sight.

The political consultant would shake his head and say, "Gee," as he heads off searching for his next victim, "even I could have told you people were not gullible enough to swallow that line."

"We want a balanced budget, just not this one. We want a balanced budget, but we want to spend more money in order to balance the budget. We want to meet a compromise with our Republican friends, but it has to be our way; we want to spend more."

They are talking about coming to our senses. Ask the taxpayer if another $500 billion in spending is coming to your senses. Mr. President, the opposition is sinking in the quicksand of public opinion. Not even their high-paid consultants and political spin doctors can put a good spin on a bad message.

Instead of facing the financial and moral crises that are challenging this Nation, they want to ignore it and point fingers. If you are not right, you demagog it to death.

If you do not have a plan of your own, you blast the opposition's. If you are not ready to do the people's business, stall them. If your own leadership is afraid to lead, you can resort to name calling and personal attacks.

Well, Mr. President, the more I hear from my colleagues across the aisle, the more difficult it is to understand how they can actually believe their own desperate words.

They claim this is a dark poison over this Capitol. Poison? It is far from it. What I hear in this Chamber and in the other body is the voice of the people.

After years of darkness, the election finally ushered in some light and some truth and that truth is what we are hearing today. If my colleagues are seeing the truth, and it looks like poison to them, they need to take a hard look at just who they are representing because they are not representing the people who are calling my office.

They have lost the power, and it is scaring them silly, and as they grasp for the last vine, look what it's done to them.

Mr. President, yesterday we passed what I believe will become the defining piece of legislation of the 104th Congress.

For the first time in a quarter century, we have balanced the budget, and we are doing it for our children and our future.

We are cutting taxes for working class families.

Of course the Democrats say, "Not this balanced budget. We want a balanced budget." The President, in a 5-minute speech the other day said it 16 times, "We want a balanced budget, but give us more money to do it."

We are giving welfare recipients the opportunity to lift themselves out of a life of dependency and into society. We are preserving and strengthening the Medicare system for this generation and the next. We are doing all of this because we believe we must.

As Abraham Lincoln warned, our character has indeed been tested by the power with which this Congress has been entrusted—entrusted to us by people like Duane Bonneman who just sent me this fax here this morning, and let me read it quickly.

He said in the fax, "You are in difficult days. Be strong. Be courageous. Never give up. The prevention of the worst economic disaster in world history lies in your hands. Ignore the media. Ignore the polls. Do what you need to do to get it done. But please, don't give up."

Mr. President, I think the Democrats must be getting the same type of phone calls we are. I just want to say I am not here to give up.

Again, I say I know why I am here in the Senate. It is because the people of Minnesota sent me here to help balance the budget and cut taxes. I am not going to do anything short of that. I am not willing to compromise if it means taking more money from average families so that some bureaucrat in Washington can spend it.

I am willing to make sure that we have a fair and equitable budget, one that meets the needs and responsibilities of this Nation, but not one that robs our children's future.

I yield the floor.

Mr. THOMAS. Mr. President, I ask unanimous consent that I be allowed to proceed in morning business for 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGING THE COURSE

Mr. THOMAS. Mr. President, I have been listening all day, as most of us have. I suppose one could say that most everything has been said. Perhaps it has not been said by everyone, so it will go on. And it should.

We are talking, of course, about a difficult decision. I think the Senator who is presiding now said we are trustees here for the American people. That is really what we are—trustees.

We are faced with one of the most difficult decisions that has ever been made here, and that is taking a fundamentally different course with the Federal Government than we have had for the past 30 years.

We talk a lot about the cuts. Our friends talk a lot about the cuts. Let me share a couple of things with you. Social Security spending will increase each and every year from $336 billion in 1995 to $482 billion in 7 years, a 44-percent increase.

Mandatory Medicare spending will increase in each and every year from $178 to $289 billion, a 62-percent increase in 7 years.

Medicaid spending will increase each and every year from $89 to $122 billion, a 37-percent increase.

Mr. President, what we are seeking to do is to preserve these kinds of programs that we all believe in—health care programs for the elderly, health care programs for the poor. In order to preserve them, you have to have some kind of control on expenditures. Medicare expenditures have gone up three times as fast as inflation, twice as fast as health care in general.

So we can do some things about that and I am pleased, frankly, to hear our friends on the other side say that they are interested in cooperating in seeking a balanced budget. Frankly, there was not much evidence of that interest in balancing the budget prior to today. Most of the folks we listen to who decry the balanced budget and now embrace it have been here for 20 years. We have not balanced a budget one time in 30 years. Hopefully there now is some commitment to it.

I understand and I think as we listen to these things we should all understand that there are different philosophical political points of view about how you approach it.

There are people who genuinely believe that more Government is better, more spending is better, that you should, indeed, extract more money into the public pot so it can be spent that way. I happen not to agree with that.

I think that is not the majority view. But it is a view and I understand that.

It is also interesting to me, my friend from North Dakota and the Senator from Massachusetts get up at least several times daily and talk about how bad things are, therefore, we need to help, but are not willing to change the programs that have made things as bad as they are.

It seems to me there is a principle there. If you do not like the results of what has been happening, you ought not to continue to do the same thing. You ought not to continue to do the same thing and expect that the results will be different, because likely they will not.

I think, too, it is interesting that we ought to examine for a moment what it is we are seeking to do in this country. We are trying to provide an economy in a private enterprise system, in a free market economy, in a democracy, so that you and I can have jobs and earn a living for our families. That is the basis of this country.

I get a little weary, frankly, of constant talk about greedy business men and women because I do not understand where those folks think jobs come from. Jobs come from people willing to put capital—either theirs or someone else's—and risk that capital and create businesses, generally small businesses, to create jobs. That is what makes this country work.

It is sort of interesting, we are spending a great deal of energy, properly, in helping countries throughout the world change their form of government to a democracy, change their form of economy to a free-market economy, a private-sector economy and we constantly make it more and more difficult for us to succeed doing the very same thing.

It is always popular to talk about the rich and how the rich are getting the breaks. I frankly do not know as much about the rich, I suspect, as the Senator from Massachusetts does or others, but I do know a little bit about small business. I do know that it takes some incentive for you to put your money in there at risk.

I do know that it is awful easy to be regulated to the extent that you say, why should I fool with it at all? Why should I create jobs, because I am overregulated. You have to have some incentives to cause people to do that.

We ought to take just a little time and review, I suppose, what are our own values, what we think has made this country great, keeping in mind it is indeed the greatest country in the world.

I had a chance, with Senator GLENN, to go to Bosnia a while back and see other countries, a chance to go to the Balkans, a chance to go to Nicaragua several years ago, and I can tell you, as you know, this is the greatest country in the world. We have more freedom. We have more things than anyone else. We ought to examine what it is that has caused us to be able to have those. It has to do with freedom, with less Government rather than more. It has to do with personal responsibility that each of us must take in a democracy. It has to do with compassion for the helpless and the needy, but to help them get back to help themselves. It has to do with incentives to invest so that we can create jobs.

So this ought to be our goal, to preserve those personal freedoms, to help strengthen the economy so that we can have jobs, to maintain those programs that do help the needy. You cannot keep them going if you do not control the costs, with the possibility we are going to go broke in Medicare—we all know that. So we can cheat.

So I hope, Mr. President, each of us will challenge ourselves to perform during these next few months, indeed years, and take the tough role of leadership. It is fairly easy to poll. It is fairly easy to have little groups that you talk to, little focus groups, and sort of decide what is best for your political future. It is much tougher to decide what you think we need to do to be a leader. And it is uncomfortable, from time to time. And this is the time when we have the opportunity to stand up and express at least our heartfelt beliefs as to where to go.

Mr. President, I am just excited by the opportunity to do that. I think yesterday's vote was a fundamental change and the most important vote that any of us will make for a very long time.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 4 p.m. today.

Thereupon, at 2 p.m., the Senate recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GORTON].

The PRESIDING OFFICER. The Senator from Mississippi.

UNANIMOUS-CONSENT REQUEST—HOUSE JOINT RESOLUTION 123

Mr. LOTT. Mr. President, I believe the distinguished Democratic leader is going to be here momentarily because we do have some business pending.

Mr. President, I might just describe what we are going to do here momentarily while we wait on the Democratic leader to be here. We will ask for consent here momentarily to proceed to the consideration of House Joint Resolution 123, making continuing appropriations in order. This is the one that passed earlier this afternoon in the House of Representatives having to do with Social Security, veterans, and Medicare offices. And we will ask that we proceed to the consideration of that.

I understand the minority leader will be here for some comment or some action. We will proceed to that as soon as he arrives. But while we wait on him, does the Senator from Virginia wish to speak?

Mr. WARNER. Mr. President, I just wish to ask for a brief period in which to address the Senate following the distinguished Senator from Alaska, if that might be agreeable.

Mr. LOTT. If we could get an agreement when the minority leader arrives, we would then go ahead and take up this business. That would be fine.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

THE CONTINUING RESOLUTION

Mr. WARNER. Mr. President, I am happy to follow the senior Senator from Alaska, if he so desires. I wish to speak briefly. I have had the opportunity through the day, together with the distinguished acting majority leader, and others, to join the Speaker of the House in reference to the continuing resolution situation.

I specifically addressed at that time my deepest concern, which is shared by many, about the fate of those Government employees, those both defense and nondefense, who at this time have continuing uncertainty as to their status.

I am pleased to say, Mr. President, that the Speaker and those present gave me reassurances that the earlier representations by the Speaker and the distinguished majority leader of the Senate to members of the Virginia congressional delegation—indeed, others—that Government employees, defense and nondefense, will at some point in time be cared for in a separate manner, separate manner from the question of, and the very important question of, the balanced budget amendment, to which I swear my allegiance to the 7-year program. But it has to be done in a separate context.

With that assurance, I hope I can convey, not only to the colleagues here in the Congress who have an interest but also to those employees listening and learning this, that at some point in time this solution will be resolved, and hopefully very satisfactorily.

FURTHER CONTINUING RESOLUTION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of House Joint Resolution 123, making in order continuing appropriations, that the joint resolution be read a third time, passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, I ask unanimous consent that the Senator's request be modified to include passage of the continuing appropriations with an amendment to include the rest of the Government agencies that are not included in this joint resolution.

Mr. LOTT. Reserving the right to object, Mr. President, I believe that would be what would be considered, I guess, a clean continuing spending resolution to put all of the Federal employees back to work and to work out the resolution of the question of the balanced budget of 7 years. Is that correct?

Mr. DASCHLE. That is correct. It is my understanding that is what this resolution does as well.

Mr. LOTT. Mr. President, then I would object to that request.

The PRESIDING OFFICER. Is their objection to the original request by the Senator from Mississippi?

Mr. DASCHLE. I object.

The PRESIDING OFFICER. There is objection to both.

Objection is heard.

MEASURE PLACED ON THE CALENDAR—HOUSE JOINT RESOLUTION 123

Mr. LOTT. In light of the objection, I ask unanimous consent that the joint resolution be placed on the calendar.

The PRESIDING OFFICER. Is their objection? Without objection, it will be placed on the calendar.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished minority leader is recognized.

LIMITED CONTINUING RESOLUTION

Mr. DASCHLE. Mr. President, I just want to take a couple of minutes to discuss what many of us feel, that a limited continuing resolution is not an appropriate resolution of the situation before us.

This resolution does not cover the Federal Housing Administration, and, yet, the shutdown of the Federal Housing Administration has blocked home ownership for literally thousands each and every day. On an average day, the Federal Housing Administration processes 2,500 home purchases and refinancing applications totaling $200 million with the mortgage loans for moderate- and low-income working families.

This resolution would do nothing to ensure the resumption of the financing of small businesses. On an average day, over 260 small businesses receive the SBA guaranteed financing. Thus far, more than $40 million in loans have been delayed or forfeited as a result of the shutdown.

Another shutdown this resolution does not address—would not affect—is the shutdown on exports this country attempts to ship each and every day. On an average day over 30 export licenses valued at over $30 million are approved by the Bureau of Export Administration.

The resolution does not address Head Start. Yet, if the shutdown continues much longer, 60,000 Head Start children will lose services each day, and 11,000 Head Start staff will do without funding.

This resolution is a holiday for deadbeat dads. Those who are not living up to their responsibilities as fathers do not need to fear collection attempts, for the Federal Parent Locater Services which averaged 20,000 new cases a day is closed. The resolution does not affect that.

The resolution does not address the halt in tourism in and around national parks. Yet, on an average day, 726,000 people visit national park service facilities. With parks closed down, the public inconvenienced, business is lost in the surrounding communities.

The resolution offered today does not address the critical health care needs served by the National Institutes of Health, which provide advice to doctors and patients and the latest treatments available for serious illnesses. No new patients are being enrolled in research projects at the NIH Clinical Center. An average of 170 new patients per week were enrolled in these projects up until the time we saw the Government shut down.

The resolution does not allow for the pursuit of new medical fraud and abuse cases. On an average day, 100 calls from public sources reporting fraud and abuse are normally referred to the Office of Inspector General for further investigation. That has been completely shut down.

There has been a shutdown of projects and activities of the FBI, the Border Patrol, and other Federal law enforcement agencies. This resolution does not address that.

Finally, it does not address the shutdown of the Consumer Product Safety Commission work. Yet, in an average week, 20,000 toys are taken off the shelves because they are dangerous for children.

The point, Mr. President, is pretty simple. Obviously, we are concerned about the need to address all agencies of Government, all important services. We want to ensure that we are not balkanizing Government. Already, through the House's passage of this resolution and the refusal to pass a clean short-term budget, we are pitting one agency against another.

I think we have to come to an understanding that Government is important, and all these important services ought to be funded, not just some of them. We have been asked by the House to abandon that principle and provide funding for Government on a piecemeal basis. There is a regular appropriations process. Today, the President is going to sign the Treasury-Postal appropriations bill, and the legislative branch appropriations bill. The more appropriations bills we can send on to the President, the less we are going to need this balkanized approach to a continuing resolution.

Let us pass a straightforward continuing resolution. Let us take the riders off. Let us get the job done. Let us ensure that at some time in the not too distant future we can get on with dealing with the fundamental issue before this Congress, and that is a reconciliation bill: a comprehensive budget that balances the budget and reflects the true values and priorities of the American people—not the plan to devastate Medicare and Medicaid to pay for tax breaks for people who do not need them. Now that the reconciliation bill has passed, there is even less reason for a Government shutdown. The reconciliation bill should be sent to the President for its inevitable veto so we can get on with the real negotiations. I am hopeful that we can get to those essential negotiations and enact such a budget in the not too distant future.

I yield the floor.

Mr. LOTT. Mr. President, I would like to take a minute just to review the situation. First of all, there would be no shutdown of Government at all if the President had signed the continuing resolution that was sent to him last week, one that did include language for a balanced budget in 7 years, and by allowing this continued spending to go forward it would have opened the Government.

Second, there is another continuing resolution that has passed by a wide margin in the House and in the Senate—by 60 votes in the Senate, with some other Senators indicating they really would like to vote for it. We have that resolution ready to go to the President, but he said no, he will not sign that either.

That resolution is very simple, and it did not have any of the riders that had been objected to earlier. It says we will have a balanced budget in 7 years as certified by the Congressional Budget Office, which is what the President had called for in 1993, and it did allow for continuing of the spending at the lower of the House-Senate or current level and even the programs that had been zeroed by the Congress would be funded at 60 percent—more than a 50-50 split with the President.

So that has not been sent to the President yet because he indicated he would not sign it. But perhaps he will think better of it and indicate maybe later on today or tomorrow that he would sign it, and we could send that right down, he could sign that tomorrow afternoon or Monday morning and get the Government back to work, and we could get on to the serious business of the balanced budget that we are committed to, that this body voted for just last night and that we have been working on all year.

Now, I think also you need to emphasize here what was just objected to. This is a short or small continuing resolution that will allow the opening of Social Security, veterans and Medicare offices. Who is against that? The Senator just objected to us getting those very important offices open and working on Monday morning. Surely——

Mr. DASCHLE. Will the Senator yield?

Mr. LOTT. There would be no objection to it. Let me continue, if I could, and I will yield.

We could get those offices open, and then perhaps there are some other areas where we could pass some other continuing resolution that would perhaps address the concerns of the Defense Department. Hopefully, that will not be necessary because not only has the President been sent today from the Congress the Department of Treasury and Postal Service appropriations bills, which he indicated perhaps he will sign, I believe, and the legislative appropriations bill, which he indicated maybe he will sign, we also sent him a very important, very large Department of Defense appropriations bill. If he will sign that bill, then all of the Defense Department, our defense people can go back to work.

This is not an indication that this is all we should do or can do or will do. We are just saying that we would like for the Social Security offices, the veterans offices and the Medicare offices to be open. I do not think any Senator wants to object to that.

So we put it on the calendar, and we will have a chance, I am sure, to vote on it at some subsequent point. If I could just make one more point, and then I will yield to the Senator's response, if he feels so inclined.

What is really at stake here? There is a continuing effort by the President to get a continuing spending resolution. The President wants more spending available to him. What we are trying to get is a commitment to the balanced budget in 7 years with honest numbers. That is all we are trying to accomplish.

Now, discussions continue, are underway. There have been conversations today across the aisle with both sides of the Congress and with the White House. I am hopeful that something could be worked out where the President can agree to the 7-year balanced budget as certified by the Congressional Budget Office so we can make sure the numbers are allowed, and maybe that will happen. There are a number of ways that we can continue to work together and get the Government open. Certainly we should get these very important offices open on Monday. The House has already voted that way.

I would be glad to yield to the leader.

Mr. DASCHLE. I thank my friend for yielding. I would just ask the distinguished Senator from Mississippi, my friend, whether he is aware that the President has already made an announcement that all of those people will be going back to work on Monday, making the resolution as he has proposed it unnecessary?

The second question I would ask is, why, even if he thought it was necessary—perhaps he was not aware of the President's announcement—why would he feel the need to open the offices in Social Security and other branches and maintain closure of small business offices around the country, the Federal Housing Administration? Why would he see the need to keep the National Institutes of Health and a number of other Federal agencies that I would think he would view as equally important, closed down? What I tried to do in my subsequent unanimous consent agreement, to which the Senator objected, was to open those offices, too. How does the Senator draw the distinction?

Mr. LOTT. If the President as a matter of fact has been moving to open these offices, certainly it makes good sense to me that the Congress would concur and put that into law. But I might respond to the Senator, why did the President stop with these offices? Why did he not go further? Every one of these things cut both ways.

I think it is important to note that the other side of the aisle has objected to moving to this targeted continuing resolution. This bill would provide sufficient funding—until the relevant appropriations bills are signed into law, or if necessary, for the remainder of FY96—to allow HCFA to pay claims filed by Medicare contractors, the Social Security Administration to meet its administrative expenses, and the Department of Veterans Affairs to process and disburse veterans compensation, pensions, and dependency and indemnity compensation payments. The minority leader points out that the President has sent an Executive order sending many of these workers back to work; however, it is important to note that the President's Executive order does not provide funding for these employees. This, I believe, is a very important distinction.

I think what we need to do is quit arguing about what should be open and what should not be open, get an agreement to do that, and get a commitment to a 7-year balanced budget with honest numbers. That is what really is at stake, and we are hopefully very close.

The leader, I believe, has had indications by many Members on his side they want a 7-year balanced budget. The ranking member on the Budget Committee in the House indicated that he supports that. I think there is growing support in the Congress to get that commitment agreed to, go with honest numbers and pass a continuing resolution that will allow the spending to continue while we get a way to control the budget that has been out of control for 30 years.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader.

Mr. DASCHLE. Let me just respond, and I know others seek the floor, so I will not belabor this point. This issue is not about a 7-year balanced budget. The Senator from Mississippi knows it. This issue is about whether or not we can make Government function while we debate the critical issues behind the issue of a 7-year balanced budget. I think we could get broad-based support for a 7-year balanced budget if we could also get broad-based support for what that means—what the budgetary values priorities defining that budget are.

What does it mean? What so many on the other side seem to be arguing is that we have to come to the bottom line before we know what the components are. If the Senator will tell me exactly what the tax cut figure will be, exactly what the growth assumptions will be, exactly what all the cuts in entitlements will be, exactly what we can anticipate in terms of freezes on discretionary spending, then we can probably get some better appreciation of whether it is going to take 7 years or 8 years or what. Seven years is fine with most of us, 5 years, 4 years might work, depending on the assumptions and priorities entailed. but that is not the issue. We have to consider all the components of the budget as we debate this issue.

The real debate will begin almost immediately because the President will be vetoing the reconciliation bill that we passed last night. So we are left now with the realization that if we are serious about doing this the right and responsible way, we need to put the rhetoric aside and get down to making some very tough decisions about whether we can do all that everybody says they want to do in 7 years. We better start negotiating for real on that reconciliation bill. That is the issue. The continuing resolution debate ought to be behind us because that really should not be the issue any longer.

The issue is, can we seriously debate our goals in reconciliation. If we can do that, if we can sit down in a bipartisan way, then I believe we can accomplish our task. But the longer we debate this continuing resolution, the longer we decide we have yet another iteration, another alternative, another way to play political games with a document that ought to fund Government for whatever length of time it is going to take to get the real job done, the less the real job is a real possibility.

So I hope that we could both agree to that. I will agree with what the Senator said about the ongoing effort to try to resolve this matter.

I must really commend him and Senator DOMENICI, the distinguished Senator from New Mexico, the chair of the Budget Committee, and others who have been working diligently all day long in an effort to find some resolution. I think we are very close on our side. I wish I could say the same for those on the other side. But I do commend them for their work and their effort. I know it is still ongoing. And I hope, even though the odds seem to be diminishing, I hope at some point, even yet today, we could find some resolution. I yield the floor.

THE BALANCED BUDGET ACT

Mr. SANTORUM. Mr. President, I wanted to take a few minutes today to address a few specifics of the Balanced Budget Act passed yesterday by this Chamber. With the time available today, I wanted to offer a few specific thoughts on the agriculture provisions contained in the conference report.

As I have said on previous occasions during this debate, the balanced budget measure we approved yesterday is a historic moment. I feel strongly that this is among the most important votes that I will cast here, and I am proud that this Congress has the courage and conviction to enact a plan to achieve a true balanced budget.

This is a good plan, and in my estimation, it is a very fair plan; but it is not entirely a perfect plan. An area, for example, that I believe that this Congress has abdicated its responsibility is the reforms of the peanut program that are contained in this bill.

My desire to reform programs such as peanuts and sugar is certainly well known among my colleagues. It is my view that we must curb these subsidies for farmers and investors and bring these programs into line with other, more market-oriented agricultural commodities. As a member of the Senate Agriculture Committee, I have been fighting for reforms in both of these programs. I assure my colleagues that the provisions in this bill are not true reform.

The peanut industry is in a state of serious decline. Consumption and production are falling as a direct result of a failed Government policy that excessively inflates the price of U.S. peanuts to almost twice the world price. It is my goal to make the peanut program operate like other farm programs so peanut farmers will grow peanuts for the market, and not for the Federal Government. Under the current peanut program, artificially high-priced peanuts simply end up being forfeited to the Federal Government.

The peanut provisions contained in the budget reconciliation bill not only fail to reform the peanut quota system, but make a bad program worse by forcing the Secretary of Agriculture to further shrink national production to avoid Government forfeitures.

This summer I introduced S. 1188, a bill that provides for a phasedown of the excessive support price for quota peanuts in order to move the program toward a market orientation. In year 2000, my bill would end the quota system and replace it with a loan program, much like the program we have for soybeans.

The Agriculture Committee, however, chose to include the general commodity programs in the budget reconciliation bill rather than have a farm bill fully debated on the Senate floor. At the time of Agriculture Committee deliberations, I agreed not to oppose the package of peanut provision for inclusion in budget reconciliation in return for some minor reforms in the program.

One of the chief concessions I obtained in the Agriculture Committee reported bill, was a new provision for the release of additional peanuts when market prices for domestic edible peanuts exceeded 120 percent of the quota loan rate. This provision would have placed some cap on the price of peanuts when the Government creates an artificial shortage.

Unfortunately, this provision was ruled out of order under the Byrd rule, while other provisions, such as the extension of lease and transfer of quota, were allowed to be part of final legislative package on peanuts.

My other objective today is to point out the inconsistency in terms of how the Byrd rule was applied against my provisions to reform the peanut program. No one can deny that the Byrd rule was applied selectively to eliminate certain provisions, while other items, such as lease and transfer provisions were allowed to be attached to the budget reconciliation bill. Through procedural maneuvers to protect the peanut program from a floor vote, the Congress has effectively chosen to heavily subsidize a few thousand peanut quota holders at the expense of millions of consumers.

The peanut provisions contained in the bill serve to protect the status quo, while consumers have to pay even more for peanuts because the Secretary of Agriculture will be forced to short the market. In fact, it is estimated that the proposed modifications will effectively increase the cost of peanuts by as much as $100 per ton. Budget reconciliation provisions that increase the cost of peanut products at a time when the peanut industry is already losing market share are simply bad public policy.

I am disappointed in my colleagues' use of the legislative process to hide the peanut program from the light of public scrutiny. Working to deny floor consideration of peanut program reform has extended the life of this outrageous program for a while longer. Ultimately, I am afraid that the provisions in this bill do a disservice to supporters of the program by further pretending that there is no crisis in the peanut industry.

In stark contrast, some of the reforms that I have proposed would expand national production by allowing American peanut growers to produce for the market rather than the government. Real reform of the peanut program will not only benefit this Nation's consumers, but will help avoid the loss of manufacturing an jobs in my home State of Pennsylvania.

As a Representative of Pennsylvania, one of the largest states in terms of the number of employees related to peanut product manufacturing, I have good reason to be deeply concerned about the loss of jobs that will result from further Government imposed reductions in U.S. peanut production.

Mr. President, it is critical that we have an opportunity to vote for reform of the peanut program on the Senate floor. Consideration of the peanut program to date has been nothing short of denying public scrutiny of an unfair and outdated Government program.

TED STEVENS: A HEARTFELT BIRTHDAY WISH

Mr. MURKOWSKI. Mr. President, today is an especially happy day for Alaskans, as we join in wishing our senior Senator TED STEVENS a happy 72d birthday, November 18. TED, in his 27th year in the Senate, has set an example for how all of us should fight tirelessly for our home States, while still maintaining the wisdom to put the good of the Nation first.

While TED currently ranks eighth in the Senate in overall seniority, third among Republicans, and is just 1 of 109 Senators who have served in the body for 24 or more years—out of 1,815 members since 1789, he still can be found meeting every Alaskan Close-Up student group or talking with residents about health concerns.

His encyclopedic knowledge of Federal-Alaska State relations is legendary in Washington. In the Senate, which has lost much of its institutional memory, TED is able to offer insights on everything from passage of the Trans-Alaska Pipeline Act, to the Alaska Native Claims Settlement Act, from passage of the Magnuson Fisheries Conservation Act to the Alaska Lands Act.

His recollection of events is so extraordinary not only because he helped draft the Alaska Statehood Act while serving at the Department of Interior during the Eisenhower administration, but because he has had a hand in virtually every Federal issue affecting Alaska over the past three decades.

While TED served 8 years as assistant Republican leader, whip, handling key national issues, especially defense matters, he is respected as a fierce defender of Alaska interests. He especially has been willing to put aside personal ambition for the good of his State.

Many forget that TED sacrificed his seniority on the Commerce Committee to move to the Energy and Natural Resources Committee during the key fight over the Alaska Land Act. He then moved back to Commerce to represent Alaska fishermen—proof positive that TED always puts Alaska first. It is only justice that he is today chairman of the Committee on Governmental Affairs—the panel upon which he has labored for years to the great benefit of Alaskans.

Certainly no Alaskan has done more during his career then TED STEVENS. A Harvard Law School graduate, an Air Force veteran who saw service in China during WW II, the chief counsel to the United States Department of Interior, a member of the Alaska House of Representatives who served as speaker tempore and majority leader, and United States Senator. TED STEVENS is a model of public service to his State and Nation and an inspiration for all of us.

I, join with all Alaskans, to thank him for his skill, drive, and dedication during his years in Washington and offer him a heartfelt good wish for many, many more years of service to the State and Nation. Nancy joins me in congratulations to both TED, Catherine, and daughter Lilly. It's been great fun and a true privilege working with you my friend.

HAPPY BIRTHDAY SENATOR ROBERT BYRD

Mr. MURKOWSKI. Mr. President, if the Republican leadership is successful in negotiating an agreement with the President on a continuing resolution, it appears that the Senate may not be in session on Monday, November 20.

For that reason, today I would like to take a moment and wish the distinguished senior Senator from West Virginia, Senator ROBERT BYRD, an advance Happy Birthday. On Monday, Senator BYRD will celebrate his 78th birthday.

Mr. President, the public often views the Senate engaging in bitter partisan debate. Yes, we Republicans have our differences with the Democrats. But when the debates are over, and the votes have been cast, the public would be surprised to learn that we put aside our party labels and share friendships.

And so, the Republican Senator would like to reflect on the brilliant career of Senator BYRD. He has spent more than half of his life serving the people of West Virginia in the Congress. Six years in the House and 37 years in the Senate.

This year, he cast a record 14,000th vote; and just 3 weeks ago, on October 27, when the Senate set a 1-day record of 39 votes, it was Senator BYRD who offered the 35th amendment that broke the record.

But it is not just longevity that will provide Senator BYRD historical statute in the Senate. It is his record of service. He has served as majority whip as well as majority and minority leader. And he has served as President pro tempore and chairman of the Appropriations Committee.

What is even more remarkable is the Senator's in-depth scholarly knowledge of history. Our distinguished Republican leader, Senator DOLE, has often commented that students ought to receive college history credit simply by listening to the speeches of Senator BYRD.

Over a period of several years, Senator BYRD stood on the floor of the Senate and provided an oral history of this institution. These speeches ultimately were printed in two bound volumes and provide the best overview and understanding of the evolution of this 206 year old institution.

In 1993, Senator BYRD went to the floor on 14 separate occasions to speak on the history of the Roman Senate. These discourses were not designed solely for history students. Instead, they were intended to provide all of us with a perspective on the roots of American government and the extraordinary importance of maintaining unfettered congressional control over the power of the purpose.

On one occasion, Senator BYRD spoke for 6 hours on the floor and provided the Senate a broad overview of the evolution of parliamentary government in England and how evolution influenced our Founding Fathers in shaping this Government.

Mr. President, I could go on and on about Senator BYRD's history lessons. But what I want to do is suggest that when future historians are writing about the 20th century Senate, Senator ROBERT BYRD will surely be remembered as one of the giants who followed in the footsteps of Henry Clay and Daniel Webster.

In particular, I believe Senator BYRD should be commended for his passionate defense of the rights of the minority in this body and to unlimited debate. Many Americans are often frustrated with the slowness of the pace of the Senate. But Senator BYRD rightly notes that in permitting unlimited debate, the Senate stands as a bulwark against tyranny and the passion of the moment.

We all owe a debt of gratitude to Senator BYRD for his wisdom. I wish him a very happy birthday this coming Monday and my sincere regards to his lovely wife Erma.

ORDER FOR RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. LOTT. Mr. President, I ask unanimous consent that following the remarks of Senators STEVENS, EXON, WARNER, and CRAIG, the Senate stand in recess subject to the call of the Chair.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Before the acting leader retires, I hope that we can agree to take off this 5-minute limitation on comment to be made at this time in morning business. It is my understanding that the time limit is 5 minutes for each Member; is that correct?

The PRESIDING OFFICER. The Senator is correct, at this point.

Mr. STEVENS. Well, I have a longer statement I would like to make concerning the defense bill and this hiatus of funds. I would like to ask that that time be extended somewhat.

Mr. LOTT. Mr. President, could I inquire, how long does the——

Mr. STEVENS. Ten minutes for each one would be sufficient, in my judgment.

Mr. LOTT. I modify my request and ask unanimous consent that each Senator would be given 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I thank the distinguished acting leader.

THE FUNDING GAP

Mr. STEVENS. Mr. President, I have been researching today also what is happening here with regard to this funding gap, as it is called in Government circles. I find there have been 15 such funding gaps in a 19-year period since 1977. One went 17 days. And I am becoming disturbed because of the two functions I perform here in the Senate. One is chairman of the Governmental Affairs Committee with regard to the general civil service and Government employees, per se; and the other is pertaining to the Department of Defense.

At this time I want to speak primarily on the Department of Defense. If we are in session later today I do intend to speak about Government employees per se, because I think there is a strong feeling building here, for some reason, that those people who have been declared nonessential and are not reporting for work are somehow at fault in this, and they are not going to be paid when we finally reach a conclusion, which we must reach at some point.

But, Mr. President, I want to talk now about the Department of Defense bill because I had urged that bill be held up and not sent to the President because I did not want it caught in this current, very deep controversy. But it has now been sent to the President for his signature.

There is every indication the President will veto that bill, for several reasons. He, of course, has the prerogative to reach the conclusion that he has reached with regard to the funding levels in our defense bill. I am here right now to urge the Department of Defense to confer with the President and do their utmost to get this bill signed. As I noted during the debate here on the floor of the Senate on that bill, this is a bill that I think is of immediate concern to the Department of Defense and one that I believe the President must sign.

If he does not sign it, under the current hiatus in terms of this funding, we are going to be in real difficulty. Today 300,000 civilian employees in the Department of Defense have been furloughed. The Department of Defense depots, supply centers, training ranges, and people who are currently on route in personal moves have been stopped. They can no longer spend money.

Now, we have U.S. troops deployed abroad. I spoke at length on the floor the other night about that also. And 240,000 or more American citizens are deployed abroad as members of our armed services. They are in Macedonia, Haiti, Cuba, Southwest Asia, all over the world, and there are many afloat. We cannot afford any further interruption in defense fundings and programs if we are to maintain our responsibilities throughout the world as the world's last superpower.

I think this would be a sad time for Saddam Hussein or the North Koreans to misunderstand the will of the United States to provide the people and the material and money to fund the commitments we have made throughout the world.

As I said, I believe the President must sign this bill in the interests of our national security. We have a very strange situation facing the Department of Defense right now. Remember, there is no defense bill until he signs it. If he vetoes it, there is still no defense bill. There should have been a new defense bill on October 1. We were prepared to go to a defense bill, but we have been held up by an extraneous issue for a long period of time this year.

But today the Department of Defense responded as follows: With regard to civilian payroll, there are 780,000 workers that must be paid by November 24. There are no funds to make that payroll. On the military payroll, there are 1,600,000 people who must be paid by November 28. There are no funds to make that payroll.

Many people believe that the food and forage concept will allow the Department of Defense to meet those obligations. That is not true. The food and forage statute, which is an ancient statute, gives the Department the authority to write IOU's for food for people in the field. It does not impact payroll. There will be no money to meet the payroll under food and forage.

As I stated, with regard to the transportation of troops, there are troops in training centers that cannot return to their units. There are people en route home for the holidays that will not be able to return. There are no funds available for discretionary travel. All fuel—all fuel—for Department of Defense expenditure will expire on November 24.

For vehicles, aircraft, and ships, they are procured through the defense logistics agency, and we are informed that that agency will have no cash to procure fuel after November 24. The military services will have to draw down from existing supplies at bases or at sea, if necessary, in an emergency. And I assume they will be reserved for emergencies.

With regard to spare parts, we get spare parts under the defense business operations fund. That fund also is in the situation where it is critical already. There is money in the bill that was presented to the President. If it is not there, there is going to be a critical situation with regard to our stockpile of spare parts worldwide.

For those people who have States that are involved in the industrial production—my State is not—but just remember that all procurement is subject to appropriated funds. If this bill is vetoed and there is no continuing resolution covering defense, all of those contracts for production and procurement will have to cease because the inspector generals will have to notify all of those contractors that the Department of Defense cannot meet the payroll, cannot pay those contracts because of the clause in each of them that says they are subject to available funds.

With regard to overseas operations, Mr. President, we have many people out there in many dangerous jobs in counternarcotics operations, from those flying the so-called cap, the oversight function in Iraq, the no-fly zone in Bosnia, the naval blockade in the Adriatic, all of the work we are doing in Cuba, all of the containment operations on North Korea. All of them—all of them—are at risk if this bill is not signed.

Now, I urge the President to sign this bill, but in any event I urge the Senate and the House to recognize the problem if he does not. If the President does not meet his responsibility, that does not mean that I am going to shirk mine. I intend to object to the passage of this resolution unless it is amended to cover the Department of Defense. And furthermore, I intend to find some way to get before the Senate a resolution which will, in fact, cover the full spectrum of the problem that exists now.

We are coming close now to the record as far as the time that we will have people furloughed, sent home, people that want to work, and then later we will pay them. Now that is another matter I want to cover. I have had several Members of the Senate tell me, "Well, this time we're not going to pay them." Never in the history of the United States have we failed to pay the workers who have been sent home because of any hiatus in the availability of cash to pay them for their jobs.

Furthermore, Mr. President, we hire people by the year. Most employees of the Federal Government are hired under contract for a full year. Their salaries are stated by the year. There are very few that are under hourly or under temporary hiring contracts, which are short of that.

It is my position that the failure of the Congress and the President to come together to make available the funds does not amount to a cancellation of that contract. If it does, I think they could all sue us for breach of contract.

I heard today both in Maryland and in Colorado, Federal civilian employees are going to the State unemployment office to get money to live. I do not know about the rest of the Members of the Senate, but raising five children since I have been here, I have seen many days, I tell you, if my paycheck had been interrupted, there would have been severe trouble in my financial circumstance. People have car payments due, they have rent payments due, they have all sorts of problems that have to be met.

Mr. President, they cannot exist without this money. It is our job to stay in session until we get the job done. I am going to object to an adjournment resolution. I am going to object to any recess. I want the Senate to stay in session until we find a way to pay the people we have hired to do the work that we consider to be necessary. Having been temporarily determined to be nonessential does not mean they are not still employees of the United States. They deserve to be paid and paid when their money is due.

Thank you, Mr. President.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I pose a question to my distinguished colleague on my time. Senator STEVENS and I have met this afternoon on these questions.

First, I wish to join the Senator in the amendment, as we discussed earlier, to such measures that may be coming through here which can hopefully forestall this very serious list of DOD activities that would be curtailed as a consequence of the current funding problems.

But I address the first one to the Senator. We discussed that DOD, which faces a civilian payroll of 780,000 workers that must be processed on November 24, currently has no cash and likewise the military payroll of 1.6 million currently has no cash.

I hope that the Secretary of Defense will learn now, if he does not already know, about these problems and will immediately contact the Senator from Alaska this afternoon, because this message that the Senator from Alaska sends this afternoon, and in which I join, is going to cause incredible alarm not only in the United States but in our farflung military installations where our troops are serving throughout the world.

I think this requires immediate response from the Secretary of Defense. I congratulate my distinguished colleague for bringing that up.

Mr. STEVENS. Mr. President, I thank my friend from Virginia. I might say, I have conferred with the Secretary in the past. I believe he shares the opinion that the bill could be signed. I cannot speak for him. But it is my opinion that if the President decided he did not like the level of funding, he could send up rescissions to the Congress.

But again, that is all within the prerogative of the President. I think we have our prerogatives, too. I have reached the determination we must do everything we can to see to it that this funding continues in some way. If the President exercises his right to veto this bill, then we still have the duty to come forward with another bill. I remember one time when the Congress sent to one President about 21 different bills in the process of about a week trying to solve this problem. Today, we are holding them up. I do not criticize the leadership for that, but we have a bill still here that we can amend and try to find a common ground with the President.

The main thing is, in my opinion, the Nation's security is at jeopardy if we do not pay these people. The Nation's security is at jeopardy if we are going to run out of fuel, not have flying time, steaming time and the ability to move our forces by using fuel.

I thank the Senator.

Mr. WARNER. Mr. President, I join with my distinguished colleague. He is chairman of the Defense Subcommittee of the Appropriations Committee, as the Presiding Officer knows well. This is a subject he has dealt with in his distinguished career in the U.S. Senate. When we met this afternoon to go over these items I thought it imperative we bring it to the attention of the Senate indeed. I do not want to cause undue alarm to 780,000 workers on the civilian payroll and 1.6 million in uniform. Please, we say, Mr. Secretary of Defense, take this message immediately and provide us with such response or solution as the Secretary of Defense and the President may have.

I should also like to add, Mr. President, that the contractors who do work with the Department of Defense are likewise faced with the lack of funding. The Defense Contract Audit Agency apparently is going to shut down and thereby terminate the payment of contractors all across America that are performing defense work.

What happens at that point? What happens at that point is that there is a ripple effect. Their employees cannot be paid, and with the 800,000 now in the Federal Government not receiving pay, there could be another 800,000 of those employees not receiving their compensation through the Department of Defense as a consequence of the Defense Contract Audit Agency.

So I join with Senator STEVENS in calling on the Secretary of Defense to give us a specific reply to that problem, because this is becoming increasingly serious, for a lot of innocent—and I underline, Mr. President, "innocent"—people who are being caught up in this controversy between the President and the Congress.

I feel ever so strongly about the need for a 7-year balanced budget. I came to the Senate with my distinguished colleague, the acting minority leader, Senator EXON, some many years ago. I have great respect for him. But I say to my distinguished colleague, I think there should be unanimity of viewpoints that we can achieve a balanced budget in 7 years. That should not be a subject of disagreement. I just hope that we can, in the words of the acting majority leader, use "honest" economic assumptions which the Senator from Nebraska understands very clearly, having served on the Budget Committee throughout his career, use that type of data to bring about this balanced budget.

So I return to the question on the Defense Department and, incidentally, so far as I can determine, the Defense Contract Audit Agency is still dealing with 1995 fiscal year funds which are available and not subject to the current impasse on the budget. But if this report is true, that is very disturbing.

Further, Mr. President, I would like to have printed in today's RECORD an article that appeared in the Virginian-Pilot newspaper in my State which chronicles the impact of a defense contractor. I will read a few lines of that: "The Navy is unable to pay new bills from local shipyards because of the Federal shutdown and, as a result, many yards may soon be cutting back operations . . ." in the Tidewater region of the Commonwealth of Virginia.

We have the largest naval base in the world and a tremendous infrastructure of contractors which support those naval and maritime activities. This article depicts in a very colorful way, in an accurate way, the impact on the individual shipyard workers.

So I close my remarks, again, by saying that I continue to be concerned about these employees. We will achieve this 7-year balanced budget—I am confident of that—one way or another. But in the meantime, let us not bring further injury and further concern and emotional stress on so many innocent people who have offered to devote their careers either to Federal service as public servants or those who are performing the contracts for the Federal Government.

I was heartened by the meetings I had with the Speaker of the House and others earlier today that there is the assurance that eventually the Federal employees will be justly compensated for that period in time in which they were furloughed, but we cannot give that assurance, indeed, it is not the responsibility of Congress, to the employees of the contractors of the Federal Government. Their pay remains uncertain.

I should also like to have printed in this RECORD of today a letter to the Honorable TOM DAVIS, a Member of Congress from the Commonwealth of Virginia. A similar letter went to the Hon. FRANK WOLF, a Member of Congress from the Commonwealth of Virginia. The three of us are talking, on the average, three or four times a day about this problem and working together. It reflects the assurance of the leadership and the Congress, both the House and the Senate, to take care of the Federal employees.

I ask unanimous consent that this letter and this article from the Virginian-Pilot be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, November 10, 1995.

Hon. THOMAS DAVIS,
Cannon House Office Building, Washington, DC.

DEAR TOM: We will be sending soon to President Clinton a bill to continue funding for the federal government through December 1, 1995. Besides providing for government services, this bill also funds federal workers' salaries.

If the President decides to veto this legislation to keep government operating, the possibility exists that some federal workers may be furloughed. In the event that this takes place, it is our commitment that federal employees will not be punished as a direct result of the President's decision to veto funding for their salaries. Should this happen, we are committed to restoring any lost wages in a subsequent funding bill.

Again, we want to reassure you that if the President vetoes the continuing resolution and requires federal workers to be furloughed, we are committed to restoring any lost wages retroactively.

Sincerely,

NEWT GINGRICH,
Speaker of the House.
BOB DOLE,
Senate Majority Leader.

[From the Virginian-Pilot and the Ledger-Star, Norfolk, VA, Nov. 17, 1995]

AS NAVY STOPS MAKING PAYMENTS, LOCAL SHIPYARDS MAY SUFFER

(By Christopher Dinsmore)

The Navy is unable to pay new bills from local shipyards because of the federal shutdown and, as a result, many yards may soon begin cutting back operations.

One small Norfolk yard has started laying off workers. Norshipco, the largest private shipyard in South Hampton Roads, may also have to furlough "hundreds" of workers soon if the shutdown isn't resolved, shipyard executives said Thursday.

"It could be a grim Christmas if this stuff keeps up," said Jerry Miller, president of Earl Industries Inc., a Portsmouth-based ship repair firm that employs about 400 people.

As Washington politicians hunker down for a drawn-out budget battle that some threaten could last 90 days, executives at local shipyards fret that the shutdown could sink their businesses.

"What we're talking about is something that could happen if the government doesn't get its act together," said Jack L. Roper IV, executive vice president of operations for Norshipco, which employs 2,200 full-time workers at its two yards in Norfolk and 600 people part-time. "There's a lot of ifs here."

The Navy is paying pending bills that have been processed by the Navy's local contracting office, the Supervisor of Shipbuilding, Repair and Conversion in Portsmouth. Officers running that office are looking for a way to resume processing new bills so payments to the yards won't be interrupted.

"Obviously there is national security that comes into play at some point . . .," said Cmdr. David S. Hattich, the officer in charge of contracting in the Portsmouth office. "It's not in the government's interest to see (the shipyards) get to the point where their cash flow is so impacted that they can't perform."

Nearly 700 civilian workers were furloughed from the Navy's contracting offices in Portsmouth and Newport News. Without those workers, the Navy can't process bills from local shipyards.

"At some point I presume we'll have to bring some skeleton staff back in to work," Hattich said.

The contracts office also won't be awarding any new contracts for the duration of the shutdown.

The Norfolk Naval Shipyard in Portsmouth is not being affected by the shutdown.

Marine Hydraulics International Inc., which emerged from a bankruptcy reorganization in October, was determining Thursday how many of its 248 employees it would have to lay off immediately, said Vice President Gary Brandt.

The yard suspended activity on some recently negotiated, but not finalized, add-ons to its contract to repair the guided-missile frigate Clark at its Norfolk facility, Brandt said. MHI will continue already contracted work on the Clark as long as its financing holds out, Brandt said.

The extent of the impact depends a lot on how long government operations are suspended without some form of relief for the shipyards.

"If it's just a day or two, then it's no big deal," Hattich said. "If it lasts 90 days like some people are saying, then we have a problem."

"Thirty days is probably longer than we can stand," Norshipco's Roper said Thursday. "I'm not sure I can guarantee my work force can continue beyond tomorrow."

Norshipco does have some commercial jobs, but not nearly enough to sustain its work force, he said.

Moon Engineering Co. Inc. expects it could feel the pressure in two to four weeks, said James Thomas, the Portsmouth shipyard's executive vice president and general manager. "I really can't say when right now," Thomas said.

"We have a lot of government receivables out now," he said. "How soon (we're hurt) depends on whether they get paid."

Moon started a contract on the destroyer Peterson three weeks ago. The cruiser Ticonderoga arrived at the yard Thursday for repairs and maintenance.

"We've got about 250 to 300 employees here now and we're still working, but if push really came to shove, we're going to have to send people home," Thomas said.

Metro Machine Corp. has the resources to keep operating for now, said its president, Richard Goldbach. "I don't see it affecting us unless it lasts past a week or two," he said. "We'll worry about it then, but I think we'll have the resources even then to keep operating."

Other shipyards also could be unaffected by the shutdown. Newport News Shipbuilding doesn't expect any impact on its work force because of its financial condition, a spokeswoman said.

The giant Peninsula shipyard, which builds aircraft carriers for the Navy and employs nearly 19,000 people, is owned by a multi-billion dollar conglomerate that probably has the financial wherewithal to sustain the yard's operations.

Colonna's Shipyard Inc., a small Norfolk shipyard, expects to survive on its usual diet of commercial work, said Vice President Doug Forrest. "We don't have any Navy work in the yard now," he said.

THE GOVERNMENT SHUTDOWN

Mr. EXON. Mr. President, I want to thank my friend from Alaska, my friend from Virginia, and my friend, Senator LOTT, for their remarks on the matter at hand. I understand as a senior member of the Armed Services Committee, and I join and thank Senator STEVENS, Senator WARNER, and others for bringing up this matter. It is a very critical matter and we cannot pass over it. So whatever help I can be to you in this regard, I will be.

I simply point out that Senator WARNER and I came here together, and we have served on the Armed Services Committee ever since then. I have been disappointed, as he has, that we still have not reported out of the Armed Services Committee the authorizing legislation, which customarily should precede the appropriations that are handled so very ably, and have been for so many years, by my colleague from Alaska. You bring up a very good point. I think that, as important as that is, we should realize and recognize that people in other areas are just as surely affected adversely. That is why we have to move.

Thank you very much, my friend from Alaska, for saying we should stay here for however long it takes; there should be no recess. I was delighted, in case my colleague did not know it, that within the hour, the House of Representatives overwhelmingly rejected a move by Speaker GINGRICH to adjourn the House of Representatives. How in the world anybody who understands Government—including the Speaker of the House of Representatives, who evidently you have been in contact with regarding the dire circumstances coming on to the Defense Department—why in the world he would want to adjourn the House of Representatives is beyond me. I was delighted to see that it was overwhelmingly rejected. I do not know whether there has ever been a case before where a motion to adjourn has been overridden on the floor. I do not ever remember that happening, at least on this side, while I have been here.

I think maybe that message was sent very loud and clear to the Speaker of the House of Representatives that this is no time for us to be adjourning or recessing. We have to stay here regardless of how early we come in or how late we work every night, to show that we are trying to work out the problems on this. I suspect and say, without knowing it for sure, that if the Members on the floor of the Senate right now would have their way, we could probably sit down and resolve this matter very, very quickly. But politics on both sides, unfortunately, are being played.

I simply say that I was so pleased that the House of Representatives did not take the recommendations of their Speaker and adjourn. I thought it was rather interesting as I watched that vote, that early in the first 5 minutes of that vote, I believe there were 87 or 88 Republicans who had voted with their leader, Speaker GINGRICH, to adjourn the House of Representatives. But before the vote was over, when the Republicans saw what was happening, that 87 or 88 shrunk down to, I believe, about 32 at the end, as even the Republicans recognized that their leader was way, way off base by trying to adjourn with the dire circumstances that face our country today, including the ones brought forth and explained in great detail by my friend from Virginia and my friend from Alaska. I will be of whatever help I can.

Now, on the overall and underlying matter that was addressed by Senator LOTT, objected to by the minority leader, I think this points up the problem that we have today. Let me, as best I can, try to explain what is being overlooked in this discussion. Within the last few minutes, I have heard, I believe, the phrase "balance the budget in 7 years" about 17 times. Well, Mr. President, notwithstanding the fact that there is some dispute as to how we get there, this Senator has wanted to balance the budget in 7 years, if not sooner, for a long, long time.

In fact, I was one of those that had voted for the constitutional amendment that would have been referred to the States to accomplish that end. So my credentials, certainly, with regard to national defense and certainly with regard to fiscal responsibility, I think, are pretty well established, and most people even on that side of the aisle would agree.

I simply say that, when you throw around this phrase, a 7-year balanced budget—I have been for that for a long, long time, as have many people on this side of the aisle. I would like to advise all so that we can straighten that out—all that are hearing my voice at this time—that as late as last night when we thought we were very near reaching a compromise, we had as a part of that agreement that we would balance the budget in 7 years. That was put up not by the President, but by Leon Panetta and myself and others who were in on the negotiations. So when we throw around the term "balance the budget in 7 years," not everybody, but most people are for that. The President's Chief of Staff was here offering to enter into an agreement for a continuing resolution to accomplish that end.

Now, the holdup comes with regard to how we reach that balanced budget in 7 years. Therein lies the grave concerns. What the Republicans are saying, I believe, without emphasizing it, is that they want to tie the President's hands to a 7-year balanced budget on their terms. I simply say, Mr. President, that I think that is wrong for lots of reasons, and I will not be part of that.

When you ask the question, "What is at stake here?"—and that question is asked by Senator LOTT—well, what is at stake here is a great deal. What is at stake here are basic principles of Government, and most of us on this side of the aisle do not agree with the way those on that side of the aisle are coming up with their numbers, setting their priorities. We think they are mixed up. I said earlier today on the floor of the Senate and, therefore, I will try again at this time to keep my rhetoric within due bounds, because I do not believe expanded rhetoric of simply abuse is particularly constructive.

However, among other things that have been overlooked about what is at stake here, I interpret it as being a basic violation of constitutional principles that is at stake here. The Constitution guarantees the right of the President to veto a bill passed by the Congress. The Constitution does not say that he has a right to veto only after consultation with Congress. The Constitution does not say that the President, in balancing the budget, has to do it in a fashion and in a manner that the majority of the House or Senate propose. The Constitution guarantees, as a very important part of that document—and the Framers of the Constitution, in attempting to have balance of the three equal branches of Government to try to balance the judiciary, executive, and the legislative, gave the President that power.

What the Republicans are really doing, Mr. President, whether they realize it or not, is putting a gun to the head of the President of the United States, saying, "If you veto, which you have a right to do under the Constitution, we are going to take that away, or attempt to take it away by saying to you we are going to close down Government if you exercise your right, Mr. President."

We are going to violate the principles of the Constitution simply by putting that gun to your head and saying, "If you do that, we will close down Government because you, Mr. President, can't veto this bill or you will close down Government."

I think the President is standing up not only for himself but every other President that we are going to have in the years to come. If this President of the United States does not stand up and protect the prerogatives of the President of the United States, that are guaranteed in the Constitution, if he is going to set precedence here to some time in the future with some other Congress and some other President, they are going to look back and say "Well, the Republicans back there in 1995 took away the prerogatives of the President."

The PRESIDING OFFICER. The time allotted to the Senator from Nebraska has expired.

Mr. EXON. Mr. President, I ask unanimous consent since there are no other speakers on this side of the aisle that I be allowed to continue for an additional 3 minutes.

Mr. CRAIG. I will allow for another 3 minutes and then I will object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. So, Mr. President, I simply say, what is at stake here is the fact that we cannot get together.

What is at stake is the President of the United States and others who were negotiating last night said, "OK, 7 years. We will work for a 7-year balanced budget but we are not going to accept what I think is being tried to be dictated to by the Speaker of the House of Representatives."

We are in a very serious situation. I looked at the clippings from the newspapers back home today. One headline says "GOP Puts Wrapping on Budget Package;" "Return to Sender Seen as Response."

Here is another: "Gingrich's Remarks Fuel Democrats' Budget Fight." Down below that a headline, "Park Service to Evict Campers."

Then, of course, "Veto Expected As House OK's Defense Funds." That is what has been addressed here.

I simply say, Mr. President, that if we could have the continuing resolution that we have been pleading for, on a short-term basis, that has been continually rejected by the Republicans, primarily led, I suspect, by Speaker GINGRICH, we could have that continuing resolution, all of us know that all of these concerns that have just been addressed by the Senator from Alaska and others would fade. They just would not be there.

Why can we not be reasonable? Two other items and headlines: "Office of Aging Plans Furloughs, Service Cuts," and "21 Guard Drills Are Canceled As Budget Standoff Continues."

Let me read briefly from the "Office of Aging Plans":

> The Eastern Nebraska Office on Aging intends to furlough 74 of its 90 employees because of the federal budget dispute.
>
> Bob Whitmore, a spokesman for the Omaha-based agency, said the furloughs would take effect at 5 p.m. Wednesday. . ."

All this would not be necessary and we would not go through the silly charade if we could have, as we have had several times in the past, a short-term continuing resolution to December 5 or December 15.

All this could be set aside if it were not for the fact that the Republicans were trying to put that gun to the President's head to take away the constitutional right guaranteed to the President by saying "You are going to do it our way or none, or we will close down Government."

I hope we have an understanding between cooler heads in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia has 1 minute and 21 seconds remaining.

Mr. WARNER. I do hope that I could pick up on your final comments, I say to my good friend—that is, cool heads. I hope the Senator would rephrase some of his rhetoric about the gun to the head.

I kind of think that this matter needs a little cooling off in terms of rhetoric, Mr. President. I know that the meetings which I have attended today, it has been calmness, coolness, and very conscientious efforts on behalf of those in attendance to try to bring this to resolve.

I know the distinguished majority leader, Mr. DOLE, is going to be working through the early evening. I hope to work with him on this matter.

One last comment. The distinguished colleague, a member of the Armed Services Committee, mentioned the authorization bill. I say that Chairman THURMOND has been working through late last night and again this morning with the ranking member, Mr. NUNN, and other members of the committee.

I am pleased to say I think we are making some progress on that bill to bring it to a conclusion and soon, hopefully, present it to the Senate, the conference report.

I yield the floor.

BALANCE THE BUDGET

Mr. CRAIG. Mr. President, America is watching what we do here today, or more importantly, what we fail to do. I think they are watching with a much more critical eye than we are willing to give them credit for.

I say that because it was well over 20 years ago when another Senator from Virginia put legislation through this body, passed by law, to balance the Federal budget within a very short period of time. That was law. That was Federal law, Mr. President.

This Congress went by it so fast that it was not even the blur of a stop sign. Four times following that over the last two decades this Congress has passed laws, I tell you, to balance the Federal budget. Yet, of course, that never happened.

We are now nearly $5 trillion in debt. We have a $200 billion deficit. This President came forward last night and said, "Let's set a goal. Let's once again have a goal to achieve a federally balanced budget." Somehow that was worthy.

I know what the American people are saying at this moment. "Oh, no, you don't, Mr. President. We don't trust you nor do we trust the Congress. You no longer have any credibility in the area of spending because you have shown you cannot control your appetites."

That is why only by 1 vote out of 535 votes this year, 435 votes, did we miss sending out an amendment to the Constitution of this country to assure the citizens' right to decide on whether they want a balanced budget or not.

I know what folks in my State are saying right now. While they recognize the inconvenience of what we do at the moment, and while there are Federal employees in my State who are furloughed by phone calls pouring in to all of my State offices and my office here, on a 12–1 ratio, they are saying, "Don't blink. Don't blink. It is not a goal. It is no longer a concept. It is no longer an ideal."

They are saying, "Make it a reality, Mr. President. Balance the Federal budget and do it now. Put together what you promised us in last year's election that you would do." Are we once again going to be the traditional politician of Washington and tell the citizens one thing and then bow to the pressure to do something else? I say no, absolutely no. It is time we send a message to the American people that we mean exactly what we told them.

Mr. President, we have people out of work on the Federal payroll today because of you. You are the one who vetoed the bills. You are the one who is now saying you will veto the DOD appropriations bill.

Senator STEVENS from Alaska was in here very distressed, as he should be, that we have now done our work and tonight a bill that will put hundreds of thousands of men and women, both civilian and in uniform, back to work—this President says "No, I will veto it." Why? Because "It does not meet my goal."

Mr. President, check in the Constitution. Read the Constitution. Who budgets for our Government? We do. You execute the budget, Mr. President. That is what the Constitution says.

I have advocated giving the President more authority. In the balanced budget amendment that I helped craft it has been the No. 1 amendment here on the floor of the Senate and in the House for well over 5 years. We have given the President a right to become a full participant in the budget process but he does not have that right now.

Yes, he can veto. But when he vetoes, it is without question his responsibility for the people who are no longer employed by action of that veto.

So we crafted another continuing resolution and he said, "I will veto it. Don't send it down," and it has not gone down.

Last night we passed a balanced budget for 1995.

This President says he will veto it. Mr. President, this is one Senator who is not going to bow to that kind of pressure. I will not vote for a goal or a concept or an ideal. And I encourage all of my colleagues not to vote that way either. We will vote for a balanced budget in 7 years and we will vote for it based on legitimate, legal, responsible figures that tell the truth and show the American public exactly what we are spending and where we are spending it and where the revenue to spend is coming from. That is what this Government and that is what this Congress must do, without question or without doubt.

For, if we do not, the clock continues to tick. A $5 trillion debt, a $5.1 trillion, $5.2 trillion, a $5.3 trillion, and on and on and on. And the children of tomorrow are going to owe, not $15,000 or $16,000 or $17,000 of their earnings back to Government for the debt we created, it will be $20,000 or $25,000 or $30,000 or $40,000. The American people are smarter than that. How possibly can we continue to do that?

That is why we saw the greatest political realignment ever in the history of our country occur last November, because finally the American people said, "Enough is enough." Mr. President, hear me: I will not bow to the goal or the concept or the idea, because I know what you want. You have already indicated it. You want billions more to spend for programs that are questionable in their nature as to the services they provide.

The American people want a balanced budget. We have now labored nearly 11 months to craft a budget and bring it into that concept and into those parameters. It has not been just the Republicans that have done that; it is Republican and Democrat alike.

So I hope our leadership will not bend. I hope our leadership will listen to their people and listen to the phone calls. Adhere to a balanced budget. Adhere to the tough decisions. Say to this President, if you will not agree with us, then we will continue our work. We will not recess, as I have encouraged our leader not to do, and we will bring down the appropriations bills and we will fund a balanced budget.

I will tell you that is a gun to no one's head. That is simply what the American people want. The handwringing is over with. We have spent 30 years playing this game, and I sincerely believe the game is over. It is now time to realize we must do what the American people asked us to do and do so in a responsible fashion.

I yield the remainder of my time.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess, subject to the call of the Chair.

Thereupon, at 5:02 p.m., the Senate recessed until 6:47 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GORTON).

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on November 18, 1995, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R 2020. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1996, and for other purposes.

H.R. 2126. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes.

MESSAGES FROM THE HOUSE

At 4 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 123. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

At 6:49 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2606. An act to prohibit the use of funds appropriated to the Department of Defense from being used for the deployment on the ground of United States Armed Forces in the Republic of Bosnia and Herzegovina as part of any peacekeeping operation, or as part of any implementation force, unless funds for such deployment are specifically appropriated by law.

MEASURES REFERRED

The following bill was read the first and send times by unanimous consent and referred as indicated:

H.R. 2606. An act to prohibit the use of funds appropriated to the Department of Defense from being used for the deployment on the ground of United States Armed Forces in the Republic of Bosnia and Herzegovina as part of any peacekeeping operation, or as part of any implementation force, unless funds for such deployment are specifically appropriated by law; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1396. A bill to amend title 49, United States Code, to provide for the regulation of surface transportation.

ADDITIONAL STATEMENTS

BUDGET RECONCILIATION CONFERENCE REPORT

• Mr. LEVIN. Mr. President, yesterday, with the Senate's consideration of the Budget Reconciliation bill, the rubber really met the road. This is the real thing.

We have been warning for some time now that this bill would represent the extreme priorities set largely by the majority in the other House. The budget reconciliation bill which the conference set us—conference which effectively excluded Democrats—and which the Senate passed on near party lines, included a very large cut in Medicare. The $270 billion cut is three times what is necessary to stabilize the trust fund. These plus a cap on direct student loans, reductions in the earned Income tax credit for working Americans, all, in part, are to pay for a large tax break, the benefits of which will go mainly to the wealthiest among us. There are a number of other shortsighted changes in Federal programs including cuts in child nutrition programs.

Mr. President, for the past week we have seen the Speaker of the House and Republican majority irresponsibly shut down large parts of the Government and threaten the credit rating of the United States. This is a long-planned tactic to force the President to accept their extreme budget priorities. Now, those priorities are laid bare in this bill for all to see.

The issue isn't whether one favors a balanced budget. I do. I have voted for one on more than one occasion.

Let us look at balance, as the Republicans have defined it. On the one side, there are $247 billion in tax breaks, which mainly benefit the wealthiest of Americans. On the other side, for ordinary, middle-income Americans, there will be increases in Medicare premiums, increases in college loan costs, and for some working Americans with wages under $30,000 per year, a $32 billion tax increase. The tax increase on those receiving the earned income tax credit hurts America's most vulnerable workers, including more than 4 million workers who make less than $10,000. Overall, according to U.S. Treasury data, 12.6 million household would have their earned income tax credit reduced under this legislation. 7.7 million households would see a net increase in taxes.

These priorities are wrong. I have supported a balanced budget. I have supported a budget balanced in 7 years. But, I cannot accept, and I do not believe the President will sign a budget as skewed as the one which is before us today. The issue is not whether to balance the budget or when to balance the budget. The issue is how to balance the budget.

The Republicans have tried to strong arm the President into accepting these priorities. They planned this course months ago. It's bad enough that the majority is willing to shut down functions of the Government which many people rely upon and that they are willing to risk the credit rating of the United States. But, to add insult to injury, we have seen from their own statements that this is a long-planned tactic.

As long ago as April 3, the Washington Times reported that:

> House Speaker Newt Gingrich vowed yesterday to create a titanic legislative standoff with President Clinton by adding vetoed bills to must pass legislation increasing the national debt ceiling.

And in May, House Budget Committee Chairman JOHN KASICH said,

> We'll probably have a few train wrecks, but that's always helpful in a revolution.

In September, Speaker GINGRICH said,

> I don't care what the price is. I don't care if we have no executive offices and no bonds for 60 days—not this time.

It is clear again why the majority has been holding the Government hostage. They have a set of budget priorities which do not fare well in the light of day. They are bad for senior citizens, bad for children, bad for working Americans. So, let's get on with it. They can pass it, they have the votes. The President will veto it. And then, we can get on to the real business of resolving our differences. Negotiations need to go forward to reach a bipartisan agreement, so that we can reach a genuine balance budget with a time certain and with the right priorities. This is how our system works. Let us get reasonable people around the table. America is waiting.•

COAST GUARD AUTHORIZATION ACT OF 1995

Mrs. BOXER. Mr. President, late last night the Senate passed unanimously the Coast Guard Authorization Act of 1995, including my legislation, the California Cruise Industry Revitalization Act.

At long last, this legislation has left the dock, and once we work out differences with the House on other provisions, we will finally put my State's cruise industry back on track, providing jobs and tourist revenue for California.

I would like to express my appreciation to the bipartisan leadership of the Commerce, Science, and Transportation Committee for their work in moving this important authorization bill for the U.S. Coast Guard to the Senate floor for passage. I particularly wish to thank my Environment and Public Works Committee chairman, Senator CHAFEE, for his diligent effort to fashion a compromise on the difficult issues raised in the House version of this legislation that fall within his committee's jurisdiction.

This Coast Guard bill includes a provision that is critical to a key element of my State's economy, California tourism, particularly our cruise ship industry and the jobs that depend on it.

On the first day of the 104th Congress, I introduced legislation, the California Cruise Industry Revitalization Act, S. 138, to amend the law passed by the 102d Congress which allowed gambling on U.S.-flag cruise ships but that also allowed States to outlaw gambling on ships involved in intrastate cruises. My legislation would lift the ban on gaming on cruise ships traveling between consecutive California ports. The Commerce Committee this summer agreed to include my legislation as section 1106 in the Coast Guard Authorization Act of 1995.

Let me explain why this provision is so important to my State.

In 1992, subsequent to the congressional action, the California Legislature dealt the State's tourism industry a severe blow by passing a law prohibiting on-board gambling. However, it failed to distinguish between cruise ships making multiple ports of call in the State while on an interstate voyage, and the so-called cruises to nowhere whose only purpose is shipboard gambling.

Consequently, California's cruise ship industry, which had been growing at an average annual rate of 17 percent since 1989, began to run aground because cruise lines immediately revised their itineraries. The State's share of the global cruise ship business has dropped from 10 percent to 7 percent at the same time growth in the cruise ship business overall has climbed 10 percent a year.

My legislation is essential to restoring California's cruise ship industry which has lost hundreds of jobs and more than $250 million in tourist revenue since the State law's enactment. Many California cruise ship companies have bypassed second and third ports of call within California.

The law to prohibit gambling cruises to nowhere has had the effect of discouraging cruise ships from traveling between California ports, even if the voyage is part of an interstate or international journey. In effect, a cruise ship traveling from Los Angeles to San Diego could no longer open its casinos, even in international waters. But if the ship bypassed San Diego and sailed directly to a foreign port, it could open its casinos as soon as it was in international waters.

According to the Port of San Diego, that port alone has lost $78 million in economic impact, hundreds of jobs and over 300 cruise ship calls. That is more than two-thirds of its cruise ship business.

Los Angeles has lost business as well, with the projected loss of port revenue is $3 million, with 118 annual vessel calls at risk. Beyond the port, the economic impact to the city amounts to $14 million in tourism and $26 million in retail sales. The total impact estimated by the Port of Los Angeles is an estimated $159 million and 2,400 direct and indirect jobs.

Ports all along the coast from Humboldt Bay to San Diego have suffered economic losses. For a State still recovering from an economic recession, defense downsizing and back-to-back natural disasters, a blow to a major industry in the State—tourism—is unfathomable.

Section 1106 would resolve this problem by allowing a cruise ship with gambling devices to make multiple ports of call in one State and still be considered to be on an interstate or international voyage, if the ship reaches an out-of-State or foreign port within 3 days.

Gambling operations still would be permitted only in international waters. The effect would expand only the non-gambling aspects of cruise ship tourism by permitting more ports of call within the State. California is the only State affected by this bill.

Mr. President, former Congresswoman Lynn Schenk had labored tirelessly to include this legislation in the House Coast Guard bill. Unfortunately, the bill died in the Senate last year when the Coast Guard bill was lumped together with other maritime legislation that stalled.

The future of California's cruise industry rides on this provision. An identical provision is contained in the House version of the Coast Guard authorization bill. I urge my colleagues to swiftly resolve the other issues in conference and send the bill to the President for his signature.•

ANNIVERSARY OF LEBANON'S INDEPENDENCE

• Mr. LEVIN. Mr. President, this month we mark the 52d anniversary of the independence of Lebanon. Each year as we mark the anniversary, Lebanese-Americans and the friends of Lebanon reflect on Lebanon's past and look ahead as it rebuilds for the future.

Six years after World War I, Lebanon was declared a republic, though still under French mandate. When France's World War II Vichy government was forced to surrender to Allied forces in July 1941, the Free French officially declared Lebanon independent on November 26. Elections took place during the summer of 1943, and by November 1943, when the new government took over, the French mandate was effectively terminated.

In the same year, Christian and Moslem leaders in Lebanon negotiated an agreement called the National Pact, which defined Lebanon as a distinct, sovereign country. The agreement was based on the principle of equitable religious representation in government and administration. The country's Maronite Christian, Sunni Moslem, Shia Moslem, and Druze populations were all represented in Lebanon's new parliament.

Lebanon's new system of government functioned effectively until 1975, when the country was thrust into a civil war. Tragic domestic upheaval persisted until 1989, the year that the Taif Agreement ended the civil war. The Taif Agreement was intended to lead to full restoration of Lebanon's sovereignty, independence, and territorial integrity.

Of course, the Taif Agreement has not yet led to the fulfillment of these goals. However, it has been a stepping stone toward peace in Lebanon. Beirut is more tranquil and Lebanon's free-market economy continues to recover after the years of turmoil the civil war produced. Despite these successes, Lebanon continues to suffer the presence of foreign soldiers, further hindering the rebuilding of the country.

Peace within Lebanon depends greatly on peaceful relations with its neighbors. This peace cannot permanently take root in Lebanon until Lebanon is able to fully regain its national sovereignty and settle its differences with its neighbors in the region.

I believe it is important for the Lebanese people, as well as anyone who holds an interest in the region, to honor Lebanon's independence and to reflect on the spirit of the agreement on which modern Lebanon was founded. Lebanon has shown its great resilience. And, the Lebanese people, in all of their diversity, have shown their ability, in the past, to work together peacefully for a stronger Lebanon. We all hope that the future of Lebanon is bright, and that the people of Lebanon will come together to build on this land's rich heritage.•

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Thank you, Mr. President.

ORDERS FOR SUNDAY, NOVEMBER 19, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 2:30 p.m., Sunday, November 19, that following the prayer, the Journal of proceedings be approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, and the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be the period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, let me indicate, for the information of all Senators, that we have presented the Democratic leader with a counteroffer on how we can end this impasse as far as the partial shutdown of the Government is concerned. I know that Senator DOMENICI, chairman of the Budget Committee, and Congressman KASICH, chairman of the House Budget Committee, will be calling Leon Panetta, the President's Chief of Staff—may have called him by now or will be calling soon.

Hopefully, they can meet with Mr. Panetta tomorrow, early afternoon, about 1 o'clock. So it seems to me, in the event something should occur, that we should be at least prepared to act on it in the U.S. Senate. Sunday sessions are extraordinary, but in this circumstance I think it is very appropriate.

So we will come in at 2:30 in the afternoon. I hope we can resolve this matter tomorrow. The House also would be available, I think within a few hours, I am told by the Speaker, to assemble enough House Members to take action in the event that it is necessary tomorrow.

So, if we can, I would say to my colleagues, whose staff may be listening, or just for their information, if there should be a rollcall vote, we will give everybody adequate time to be here. So I would not be concerned about that. If we should reach an agreement, I hope that we could do it on a voice vote because some of our Members would have to come long distances.

Of course, if we should reach agreement tomorrow, we will not be in session next week. So we will convene tomorrow, hopefully to work out, or continue to work out, some agreement on the continuing resolution.

I yield the floor to the Senator from Virginia.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I express my appreciation to the majority leader. We started out early this morning and, indeed, worked through much of the day in very serious meetings, two of those meetings with the Speaker of the House. Throughout, the majority leader has expressed great compassion for those who have been furloughed.

Once again, both the leadership of the Senate and the House wish to confirm in one way or another that we are going to see that there will be no loss of pay, and we express our profound compassion for the stress and the strain brought upon families. Repeatedly in the most recent meeting of an hour ago with the Speaker, our distinguished leader said time and time again, he knows the great concern with these individuals and their families. So that will be done.

Of course, the proposition that we sent down to the President again preserves that 7-year balanced budget. That is, in my judgment, the keystone and the arch we hope to build to solve this between the executive and the legislative branches.

So, again, I express my appreciation to the leader.

Mr. DOLE. Mr. President, we do have a continuing resolution that has been passed by the House and the Senate which we will be pleased to send to the President if there is some indication the President will sign it. I think he has indicated to the contrary. So we will not, at least at this moment, send it to the President.

We did send, again for the information of all of our colleagues, three appropriations bills to the President today: Defense appropriations, a very important bill. If he would sign that bill, I am told by Senator STEVENS from Alaska, chairman of that subcommittee, 183,000 people could go back to work. That is a big, big bill. That is about a fourth of those presently furloughed.

So I hope the President will take a careful look at the defense appropriations bill. In addition, the White House has now received the legislative appropriations bill and the Treasury-Post Office appropriations bill. I understand that the President may sign those two pieces of legislation which, again, will take off some of the strain.

But I want to make the point, this is not just about people being furloughed. This is about a fundamental difference on how we achieve a balanced budget and whether we achieve it in 7 years, as the Republican Congress feels we can, or whether it is 8 years, 9 years, 10 years or maybe 7 years, if the President would agree.

So I hope we can continue to work. Most of us will be happy to meet later this evening if there is any opportunity to work out a successful agreement.

ADJOURNMENT UNTIL 2:30 P.M. TOMORROW

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:53 p.m., adjourned until Sunday, November 19, 1995, at 2:30 p.m.

HOUSE OF REPRESENTATIVES—*Saturday, November 18, 1995*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. GOODLATTE].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 18, 1995.

I hereby designate the Honorable BOB GOODLATTE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, You have made the heavens and the Earth and given to Your people the miracles of life. Now it is our prayer that we will use the gifts You have freely given by translating our good words and noble intent into actions that promote justice and respect one for another. We admit that it is easy to talk about Your blessings and yet we can neglect to see those blessings in another's work. Open our eyes to see the truth as best we can, open our ears to truly hear, and open our hands in the spirit of shared commitment and mutual concern. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. SOLOMON] come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that 1-minutes will be entertained at a later time.

WAIVING PROVISIONS OF CLAUSE 4(b), RULE XI, AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 276 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on or before the legislative day of November 23, 1995, providing for consideration or disposition of any of the following measures:

(1) The bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

(2) Any bill making general appropriations for the fiscal year ending September 30, 1996, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

The SPEAKER pro tempore. The gentleman from Florida [Mr. DIAZ-BALART] is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 276 waives clause 4(b) of rule XI, which requires a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee, against the same-day consideration of resolutions reported from the Committee on Rules, on or before the legislative day of November 23, 1995.

This resolution covers special rules that provide for the consideration or disposition of the bill, H.R. 2491, providing for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, any amendment, any conference report, or any amendment reported in disagreement from a conference report thereon; and, to the consideration or disposition of any measure making general appropriations for the fiscal year ending September 30, 1996.

Mr. Speaker, as mentioned when the House first considered the two-thirds waiver for the continuing appropriations resolution which the House passed on Thursday, November 16, House Resolution 276 is an expedited procedure to facilitate the same-day consideration of urgent legislative matters. Facilitating the passage of appropriations bills, and adopting a balance budget plan that will eliminate the Federal deficit in 7 years, are clearly urgent fiscal, legislative matters. The sooner we can pass the individual spending bills, the sooner Federal employees can be assured of a paycheck.

The House has now passed all 13 requisite appropriations bills, and 4 have now been signed into law: Military construction, Agriculture, Energy and Water, and Transportation. Soon, the President will have the opportunity to sign legislation to fund Treasury, postal, executive branch, and legislative branch employees, and I am hopeful that excessive partisanship will not keep him from signing this important legislation.

While spending priorities are continuing to be negotiated with both the Senate and the President, it is important that the House be able to act immediately on the floor to consider any rule that deals with balancing the Federal budget and with any measure providing funds for expired appropriations.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from Florida, [Mr. DIAZ-BALART], for yielding the customary 30 minutes of debate time to me.

Mr. Speaker, we do not object to this resolution.

When we were in the majority, our Republican colleagues generally supported our requests to waive the two-thirds rule requirement. We obviously want to support any reasonable request to expedite the business of the House.

We are, however, fully aware of the circumstances that require the House to approve this waiver of the rule that requires a two-thirds vote to consider a rule on the same day it is reported.

We really ought not to be in this situation, waiving standing rules of the House to wrap up major items on the legislative agenda in this rushed manner.

This particular resolution permits the House to take up the reconciliation bill as sent back to us by the Senate. It can certainly come as no surprise that several provisions, many of them very controversial, were removed from the

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

reconciliation conference report by the Senate because of the Byrd rule.

This resolution will enable us to take up later today the rule and the Senate amendment to the House-passed reconciliation bill. We do not understand why the conferees agreed to a conference report they knew would fall apart because of the Byrd rule, forcing us to meet today to clean up after them.

The resolution also permits the House to take up any general appropriations measure as well. We Democrats support moving as many of them as possible so that the Government can return to full operations.

We do not think it is inaccurate to say that any problems the Democrats have with the bills are not the reasons they are stuck in conference, or in the Senate, and have not been sent to the President.

It is the very controversial and major policy matters that have been added to appropriations bills by the majority, in violation of our rules, that are for the most part causing intractable disagreements between Republican members of the other body and Republican members of the House and that are delaying the enactment of most of the outstanding appropriations measures.

If we cannot pass each of the remaining appropriations bills, then we encourage our colleagues on the other side of the aisle to seriously consider passing a continuing appropriations measure that is clean and straightforward.

We think that is the right thing to do; that is the only way we can treat the citizens of this country and Federal employees fairly. We should not be voting on conference agreements that this rule will help us consider more quickly without having enough time to evaluate the contents as thoroughly as we should.

Mr. Speaker, we repeat we are not opposing this rule because we remain more than ready to expedite in a responsible manner the business of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. HOKE], my distinguished colleague.

Mr. HOKE. Mr. Speaker, I thank the gentleman for yielding time to me. I particularly thank the distinguished gentleman from Florida [Mr. DIAZ-BALART], who also is a distinguished graduate of a great law school in Cleveland, OH, Case Western.

Mr. Speaker, I think that The Washington Post tells it all this morning: "Talks on 7-year Balanced Budget 'Goal' Collapse." According to the report, the President's chief of staff, Leon Panetta, told reporters, "We have made what I believe is a reasonable offer," and their offer was, instead of using the words "firm commitment," which was what was in the continuing resolution, the President, the White House, will agree to using the word "goal."

Mr. Panetta goes on to say:

> The purpose was to get people back to work and present Members of Congress with an approach that preserves everyone's options.

It could not possibly be more clear. The one option, the only option that is unacceptable is that we do not balance the budget in 7 years, and apparently that is the one single option that the White House wants to maintain. They want it to be a goal; we want it to be a firm commitment. Nothing about how we get there, nothing about whether we raise taxes or lower taxes, what we do with Medicare part B premiums, what we do with Medicare part A trust funds, nothing about how we spend the money, how we do not spend the money; none of that is in the continuing resolution.

The only thing that our continuing resolution says that was passed by this Congress in a bipartisan manner with 48 Members among my friends from the other side, the only thing it says is that we are committed to balancing the budget. The President wants it to be a goal to balance the budget.

Now, I ask my colleagues, what does that say? Is it not obvious that if the wiggle-worm you want is that it is a goal rather than a commitment, you are clearly saying you do not want to balance the budget. That is what it boils down to. It is crystal-clear.

Mr. Speaker, I appreciate deeply Mr. Panetta making it more and more clear on a daily basis, so that the American people can see that the real difference here between the White House and the Congress is a genuine, absolute unqualified commitment to bringing prosperity, to bringing something that our children deserve, to bringing a balanced budget to the United States of America for the first time in 25 years.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY], the distinguished ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I had not intended at this early hour to begin rehashing this stuff again, but given the comments of the last speaker, I think I need to make a few observations.

Mr. Speaker, we are here on Saturday working on a weekend at the same time most Government workers are being prevented from working on weekdays because we have an impasse over the continuing resolution. The continuing resolution is necessitated by the fact that this Congress has not done its work.

We still have over 85 percent of the appropriations part of the Federal budget which has not yet been approved by the Congress; and because of that, we have to have a resolution continuing the financing of the Government. Our friends on the Republican side of the aisle, led by Mr. GINGRICH, are using the fact that Congress has not done its work to try to spill other issues into the continuing resolution; and they want to get a debate going before we even sit down in conference on the budget, and they want to get a debate going dealing with the issues involved in the 7-year budget.

Now, it just seems to me that there is no useful purpose to be served by continuing that linkage. The gentleman from Ohio [Mr. HOKE] just said that because the President is objecting to the language that the Speaker wanted with respect to 7 years, that somehow that means the President does not want to balance the budget.

□ 0915

That is nonsense. Let's simply stipulate facts.

The House, in dragging an extraneous issue into this discussion is saying that they want us to achieve a balanced budget in 7 years using the economic assumptions of the Congressional Budget Office. Period. And they want the White House to sign on to that statement. That is impossible for the White House to do, because that is not the White House position. It is perfectly reasonable for the Congress to state its own position in a continuing resolution. It is not reasonable for the Congress to expect that the President sign on to a statement that he does not believe in.

The issue is very simple. The President has indicated that he would like to see a balanced budget, but the timetable is going to be determined frankly by the size of the tax cut. Obviously if you are going to need $200 billion extra on the tax side, it is going to take you longer to reach a budget balance than if you are going to have zero dollars on the tax side.

The President also wants to remain flexible in terms of the timetable because that timetable is also determined to some extent by the way you measure the budget, whether the Congressional Budget Office measures it or somebody else. So basically the administration has wanted to go into these negotiations with no preconditions, and the majority party in this House seeks to impose preconditions before the negotiations ever start.

But you have two illegitimate approaches in my view. You first of all have an extraneous issue of what the timetable is going to be on another bill being debated in the process when all we need to do to solve this problem is to pass a simple, clean continuing resolution, and then in addition to that they want to drag in yet another extraneous condition demanding that the

President go into the negotiations with the same set of assumptions held by the Speaker of the House.

That simply is not factual to expect the President to buy those assumptions, and it seems to me the height of unreasonableness to drag the entire country through this debate simply because the Speaker wants the President to say: "I agree with every assumption held by Mr. GINGRICH." The fact is he does not, and whatever continuing resolution that is passed ought to simply admit that. It should not get into the issue at all, but if it insist, it ought to simply admit that there are differences between the parties as we go into negotiations.

I also want to take just a moment to express my concern about what this rule is going to do when coupled with the next rule coming out of the Committee on Rules. We are being told that there will be put on suspension one bill which allows the continuation of three additional functions in the Government, but evidently it has been determined that no other functions in the Government ought to be allowed to continue.

It seems to be that the very fact that that bill is going to be brought before us demonstrates that the majority party recognizes that it is illegitimate to be holding up the Government. And when that bill comes to the floor, we will face the question, well, if you are going to do it for certain aspects of the Social Security Administration or certain aspects of the Veterans' Administration, why should you not also allow people to continue their work if by doing so they can keep national parks open so that people do not have to spend a good deal of money to go on vacation only to find out the money has been wasted because of a silly spat in the Congress? Why should we not also expand it to provide for the continuation of all work necessary in the Justice Department to go after drug dealers? Why should we not also allow the Government to function in cases where, for instance, in the case of Gallaudet University, which is about to have to close because of this impasse, why should we not allow them to continue to operate? Why should we not allow all elderly nutrition activities at the Department of Health and Human Services to continue? Why should we not allow all civil rights and antidiscrimination law enforcement activities to continue?

There are a lot of other legitimate areas of activity. I have had a number of Republican Members of the House talk to me about concerns that they have about some of their constituents who cannot get passports and who have an immediate family crunch on their hands. But this is not going to allow that activity to continue.

It just seems to me that the previous speaker mentioned in a condemnatory tone the offer that Mr. Panetta made last night. Let me simply read the language that Mr. Panetta offered.

It says, "The goal of negotiations is to enact a budget agreement that balances the budget in 7 years under Congressional Budget Office economic assumptions, or in a timeframe and under economic assumptions agreed to by the negotiators."

I have a suggestion. If you do not like that as a goal, or as a commitment, put into the language whatever your commitment is and allow the President to put into the language whatever his commitment is, so that the two sides are simply stating the facts, without attacking each other, without trying to score points against each other. Just simply you state how you see the framing of the negotiations, and have the White House state how it sees the framing of the negotiations. Instead of debating each other, simply state the facts and move on.

What would be wrong with that? All the President is trying to convey is that the two sides are known to have an occasional disagreement on these issues, and I myself must say that I think you will find a lot of Members on this side of the aisle who are interested in a 7-year timetable to balance the budget provided that you are not providing huge tax cuts, especially to higher income people which force you to make deeper cuts in education, force you to make deeper cuts in Medicaid, for instance, than we think would be justifiable. If those tax cuts are smaller you can speed up the time frame for balancing the budget. That is simple logic. I do not see why we need to get involved in a long, protracted debate that keeps 800,000 Government workers out of their offices just because we want to continue on this resolution to pretend that everybody is in agreement when they are not. Not on this resolution but on the other resolution that at this point is in the other body.

Mr. Speaker, I would simply urge our friends on the other side of the aisle to simply quit belaboring the point, allow the process to continue. I will have a number of motions that I will be making today on subsequent legislation before this House to try to expand the number of activities which are allowed to proceed. To me, when I look at the next bill coming, my impression from reading that bill is that somebody had decided, "Well, let's move on the three items that we are taking the most political heat on so that we can continue to hold everybody else hostage."

They may be convenient politically but it is not the right thing to do on the merits, it is not practical thing to do. We have no objection to expanding or to opening up of Government for those functions, but we think we ought to go beyond that and stop this institutional temper tantrum.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

It is precisely because the President and Congress are known to occasionally have a disagreement that the President when he submitted his budget recommended that the Congressional Budget Office be utilized to score his budget. All we are saying is that within the next 7 years when we balance the budget, we should use the Congressional Budget Office. That is the entity, because of its seriousness and its history and its competence, the President recommended be used when he came before us here to submit his own budgets.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me time.

I do not know how we got off on to this. What we are considering here is a rule that is going to let us work today and expedite the work of the House. We all agree that we want to get the Government back running at 100 percent. We may disagree on how big we want the Government to be in the future. That does not have anything to do with this debate today. This rule if it is adopted is going to allow this Congress today to be able to take up bills like the Veterans and HUD appropriation bill that is terribly important that we get that to the President, the DC appropriations, that is very important, especially to people around the Washington, DC, area; the Interior appropriations bill, the Commerce-Justice-State bill.

But the point I want to make is that the House has been moving legislation. I just had a conversation with my good friend, the gentleman from Maryland [Mr. HOYER], saying that the President will sign the Treasury-Post Office appropriation bill and the legislative bill just as soon as we get it there. I think he is going to sign all of these bills.

Let me tell you what we have done so far. Right now signed into law we have the military construction bill. That is already signed by the President. We have the Agriculture appropriation bill signed by the President. We have Energy and Water appropriations signed by the President. We have Transportation appropriations, signed by the President. That takes in a good hunk of the entire Government. Plus we have cleared for the President the legislative branch, which I just mentioned. That will be on is way to the President as soon as he says he is going to sign it. The Treasury-Post Office, that takes in a great hunk of the Government. The President evidently has said he is going to sign that. We are going to send that over there this morning. The national security defense bill. Terribly important. That bill is ready to go and will probably go this morning.

You can go right down the line. On the Veterans and HUD bill, as soon as I get a quorum of the Committee on Rules, we are going to go upstairs to the Committee on Rules, and I am going to put out a rule bringing that to the floor as soon as we possibly can. We are doing everything we can to be cooperative. But when I hear my good friend, the gentleman from Wisconsin [Mr. OBEY], take the well and kind of stir things up again, let us today try to cooperate and do the business of the House and get the Government back to work. We can do it if we put aside this partisan bickering.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments, and I think he is correct. If we put aside this partisan bickering, we could in fact move forward. My friend knows we do have differences. He and I are good friends and we differ on issues. Both sides of the aisle differ on issues. What we are trying to do is move this forward.

One of the frustrations I have, as the gentleman knows, is that you are absolutely correct when you represent that there may be a difference in the size of Government, but there is not a difference in the fact that the size that we agree on should continue to operate effectively and efficiently. That could be accomplished, of course, by what we call a simple CR; that is, simply saying at such level as can be agreed upon Government will operate while we debate.

□ 0930

The problem we have, as all of us know, is that for the last eight or nine words as to whether or not we agree on a particular formulation to get to a balanced budget, which is not per se affected by the operations of Government, obviously the operations of Government and the size will be affected by the balanced budget, but not the other way around. I do not know whether we can get there. I would hope during today that we all work very diligently to try to come up with some sort of formula that will get the Government back to work on Monday while we debate the differences that we have, and I appreciate the gentleman's comments. I hope that is the direction we can go.

Mr. SOLOMON. As the gentleman knows, I have a great deal of respect for our Federal employees. You know there are a lot of good employees out there, and they work for less than the private sector. They are conscientious, and I do not like to see people up here nitpicking them.

I personally want to abolish certain departments and shrink the size of the Government, but again we have to keep that Government functioning and with the good employees that we do have here.

Again, I just hope we can move this legislation. As soon as we adopt this rule, we take up the second one. We will go right upstairs and we will get the VA-HUD bill out here so we can get the Government back working.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I am going to support the rule.

I would just like to make a few statements here. I did not vote for a constitutional amendment to balance the budget, nor did I vote for the Republican plan on reconciliation in the budget, 7 years. I did vote for the continuing resolution that says the President and the leaders of the Congress sit down and, in the time frame of 7 years with no mandates placed on how they reach that, to go ahead and balanced budget.

Every American wants a balanced budget. I do, too. Let us tell it like it is here today. The deficit is exactly what has been stated in the paper. The Congress says we commit to a 7-year budget. The White House is now saying our goal is 7 years or a mutually agreeable time frame that these negotiators would reach.

Let us get on with it. I have never heard of one President in the last 20 years that ran for office who did not make a commitment to balancing the budget. Now, the President made a commitment in the campaign for 5 years. When I voted for that CR, it did not say to the President how and what he must do. I had confidence the President would say, "Let's take care of Medicare." That is my concern too.

But I want to tell you something here on the House floor, the American people are confused. They are confused that people are not back to work and they are confused because they know, and what bothers me is we will not balance the budget with the trade numbers we have at record levels. Our balance of payments is negative, and each year continues to be negative, and we have a tax code that is destroying growth. There is nothing in here that changes that tax code, and I voted for the tax cut. I think we are overtaxed, overregulated. We are chasing jobs away, ladies and gentlemen.

Let me say this: If the difference that is keeping 800,000 workers home, shutting down our government, is the difference between goals and commitment, then beam me up here, Mr. Speaker, we have failed.

I am recommending here today that the Democrats and Republicans and the White House get together in a small room, turn up the heat, chili, baked beans hard-boiled eggs, close the doors and nobody leave the room until they work out the differences with some words.

All the Democrats, all the Republicans make all of these campaign promises. I did not even vote for the promises you make, but damn it, if you have a commitment when you are running, you should have a commitment once you are elected, and both parties should get on with the commitment to our Government.

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the distinguished new Member, the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Ohio who preceded me here in the well because I think he refocused the real issue here.

I listened with great interest to the distinguished ranking member on the minority side from appropriations when he offered the following construct. He said, if I can remember his words accurately, that what was going on here was an exercise essentially to get the President of the United States to agree with the goal of the Speaker. With all due respect to my good friend from Wisconsin, I am simply asking, and I think the majority of the Members of this House are simply asking, is for the President to finally come to agreement with himself.

The words are here from the State of the Union Address, February 17, 1993, the President's first State of the Union message, which I watched as a private citizen. Quoting the President now, "I will point out that the Congressional Budget Office was normally more conservative about what was going to happen and closer to right than previous Presidents have been. I did this so we could argue about priorities with the same set of numbers."

The President Clinton of 1993 stated it clearly. The President Clinton of 1995 takes a different view, and as my good friend from Wisconsin pointed out when he disagreed with the President even committing to the notion of a balanced budget, in the new incarnation from the President, over 10 years, he said words to the effect, if you do not agree with President Clinton wait around, his position is bound to change. I respect my good friend from Wisconsin for that observation as well.

So let our friends from the minority join with us in the majority again to renew our commitment to these honest numbers given us by the Congressional Budget Office, commit to the goal and the reality of a balanced budget within 7 years.

In the meantime, while the disagreements continue, in the meantime, as we work to get past this impasse, let us work today where we can make change, where we can restore the rightful job responsibilities and the activities of the Federal Government; therefore, let us move, let us move to say "yes" to the rule, and "yes" to the legislation at hand as we move in a reasonable, rational manner to restrain, yes, but also to restore the essential functions of government.

Mr. DIAZ-BALART. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, I rise in support of this rule and simply want to clarify even more some statements made by the gentleman from Arizona regarding what the President said in 1993.

The President said that those CBO numbers were the most accurate numbers because they had been the most conservative. But the fact of the matter is, even for the 12 years prior to the President's 1993 statements, those CBO numbers will be too optimistic, and we have seen administrations on both sides of the aisle, Republican administrations and Democratic administrations, use rosy scenarios that ended up causing crushing Federal debt and a crushing Federal deficit.

We have got to get serious on this, and we need to hold the President down. I have 25,000 Federal employees in my district. There is nobody who wants to see Federal employees go back to work more than I do.

But what is at stake here today and throughout this next week is making sure, when they go back, that we will finally have the President nailed down to a framework and a commitment to balance the budget. As the ranking member from Wisconsin said earlier this year, if you do not agree with what the President is saying, just wait around a couple weeks, he is sure to change his mind again. Well we cannot afford that anymore. This is a President who campaigned to balance the budget in 5 years. It is a President who earlier this year, as the Washington Post said this morning, sent a budget to the Senate that had no end to deficits in sight. It was voted down 99 to nothing. Then he came back earlier this year and said that he might want to balance the budget in 10 years. Then he came down to 7. Then he went back to 9. And now we finally have him folding and coming back to 7 years.

Now he says he wants to use OMB numbers, numbers that he himself criticized harshly 2 years ago.

So let us go ahead and pass this rule, get on with the business of the day, get this Government started back up, but do it in a way that will ensure financial sanity for future generations.

Mr. DIAZ-BALART. Mr. Speaker, I yield 2 minutes to the distinguished new Member, the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, this is day 5 of the President's decision to furlough nonessential Federal employees.

I was watching the debate in my office this morning, and I have to confess that at least there is one form of amusement that is still open in the city of Washington, and that is listening to the convoluted explanations of the minority party as to why the President does not need to balance the budget.

I would remind everyone that in his campaign in 1992, he said that he was going to balance the Federal budget in 5 years. We are now in the third year of his term, and, very frankly, I think a 7-year plan is a reasonable alternative. We are giving him 4 more years to do the job he said he could do than he has asked for. I think that that is an important issue.

It is also important that we understand that after this morning we are now going to have two choices on the President's desk. One is a clean continuing resolution. All that it asks for is a 7-year commitment to a balanced budget scored fairly by the Congressional Budget Office. And No. 2 is, if he does not want to do the heavy lifting and make the tough decisions that need to be made, we have also presented him with a 7-year plan.

Can we improve on it? You bet we can improve on it. We can improve on it if we could get an administration to work with us to make the tough decisions we need to make.

Mr. Speaker, I have one word for the House of Representatives: Just balance the budget.

Mr. BEILENSON. Mr. Speaker, I yield 7 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I understand what the gentleman from Maine just said, and we all know what is going on. The President is trying to make his point, and the Republicans are trying to make their point.

The gentleman from Maine, who is new here but, I am convinced, knows full well that if all the appropriation bills had been sent down and we had resolved the differences between the President and the House, which there are substantial differences, then we would not need a continuing resolution and Government would not be shut down.

The fact is, as the gentleman knows, that most of the appropriation bills have not been sent on to the President. As the gentleman also knows, there are substantial differences. As a matter of fact, there were substantial differences in your own party with reference to the Interior bill, which was recommitted with many votes from your side of the aisle.

Although we are going to move ahead, and I am not opposing this rule because I think we want to move ahead, everybody here knows there are substantive differences on the VA-HUD bill. There are substantive differences on the Commerce-State-Justice, both of which, in my opinion, will lead to the President's rejecting them on policy grounds.

The fact of the matter is you want to make your point, which is a political message point on the 7-year balanced budget. I understand that. But the fact of the matter is that sending messages, which is what you are doing, because, in my opinion, the CR for which I voted, as the gentleman probably knows, the last page, the 16th page, was a message page. It had no legal impact on either the Congress or the President. Ultimately, it was a message page trying to get him to sign on to something that he may then say, "Well, that is not exactly what I meant," and you would make the political point.

Mr. LONGLEY. If the gentleman will yield, why did he not just agree to it?

Mr. HOYER. For exactly the reason I just stated, I tell the gentleman from Maine. You are trying to send a message and put the President in a box which has nothing relating to the balanced budget. The question, the fact of the matter is, the balanced budget and bringing to balance within 7 years dealt with a bill that we passed yesterday and that I understand will be coming back from the Senate, the reconciliation bill.

□ 0945

That is the bill, as the gentleman must clearly know, on which we will debate this issue as to how to balance the budget, when to balance it, the time frame, and whether Medicare gets cut deeply while tax cuts for the wealthiest Americans are put in place. I do not want to get into partisan debate on those issues at this point in time, but it does not relate to the operations of Government on Monday, this coming week. The gentleman must know that.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, let me just say to the gentleman, you know, it could be political somewhat. But let me just tell the gentleman something. It does have bearing on these appropriation bills. You know my feeling. I have been one of the leaders in biting the bullet and introducing balanced budgets for years here that really were hard to take. It was hard to take back home, because this cuts my constituents $850 billion.

Mr. HOYER. Mr. Speaker, reclaiming my time, the point is in 1985 we passed, what was it, Gramm-Rudman, and put us on this glidepath to the balanced budget. You know what happened. By 1990, it had disappeared.

We cannot let that happen again. Each one of these appropriations bills, and let me just digress for a minute, the reason it happened was because in each succeeding year, we did not follow through, and those appropriation bills, as the gentleman knows, did not follow the balanced budget.

Mr. SOLOMON. Mr. Speaker, if the gentleman will continue to yield, my point is this is not politics. We do not want this to happen like it did before. We have to stay on that glidepath. The President, in good faith, needs to just affirm that he and we are going to work in that direction. That is all we are asking.

Mr. LONGLEY. Mr. Speaker, if the gentleman will yield, a very quick comment. Whether we balance the budget on a 3-year, 5-year, 7-year, 10-year or never basis makes a fundamental difference in the way this Chamber will approach the budget. The question is we have to have some type of agreement on the fundamental principal that the Federal Government will live within its limits. We think the 7-year limit is the way to do it. Wouldn't it be better if we could work together toward that objective?

Mr. HOYER. Mr. Speaker, reclaiming my time, the gentleman is clearly correct. However, let me comment on the comments of the chairman of the Committee on Rules, who is my friend and for whom I have a great deal of respect. Essentially with Gramm-Rudman, both I and II, the gentleman knows that, the Committee on Appropriations was within 602(b) requirements every year. That was not the reason we did not get to balance under Gramm-Rudman, period. The Committee on Appropriations in fact in every one of those years, maybe save one, was appropriating less than Presidents Reagan and Bush asked for.

Having said that, I believe very strongly we have to get to balance. I voted for an amendment to do so, I voted for budgets to do so, and I voted for the coalition budget which gets there faster than your alternative. It does not do some of the policy things that you think are right to do, that I think are wrong to do. We are going to argue about that. But I say again to my friend from Maine, the continuing resolution—this is not the continuing resolution, we are debating a rule—but the continuing resolution, we are debating a rule—but the continuing resolution is not the document that gets you to balance, period.

Now, there is a difference between the President and the Congress. We will have to work that out in the Democratic process, and we will work it out within the context of reconciliation bills. In point of fact, the appropriation bills, which you are passing, are within your 602(b)'s. They are within the framework of spending that you have allotted.

All of those bills, he will sign them within the 602(b)'s. Within those 602(b)'s, we have differences. The American public has differences. They say in polls they are a third for one person, Powell, a third for Clinton, and about 30 percent for DOLE in a three-way. Now Powell has withdrawn. But the American public has differences. They understand that. In their families they have to resolve differences. What they do not do in their families is shut off the heat, lock the house door and not let any of the family come in. They continue operations while they are trying to resolve their differences.

What you are trying to do, I suggest to the gentleman from Maine, is in effect lock the door, shut off the heat, and force the President to come to an agreement that he does not agree with.

In the past we have passed CR's which were relatively clean and that ultimately the President and the Congress agreed upon, because we never passed a CR over the President's veto, not once. Not once.

Did the gentleman hear me? The Democratic House and Senate never passed a CR over President Reagan or President Bush's veto. Not once, so that every agreement to carry out the operations of Government was done with an agreement ultimately between the President and the House and the Senate.

Mr. LONGLEY. Mr. Speaker, if the gentleman would yield further, I would just add, for the benefit of the gentleman's information, that during the Reagan years I was not a Republican, I was not a Democrat, I was an Independent. My presence in this body should not be interpreted as in any way sanctioning what took place in this Congress during the 1980's.

When the President on Wednesday evening fundamentally rescinded any commitment whatsoever to a 7-year balanced budget, he has irrevocably changed the dynamic of our discussions with the administration.

Mr. HOYER. Mr. Speaker, reclaiming my time, as my friend saw on the front page of the Washington Post, "Clinton drops objection to ending deficit in 7 years." In fact, he reached agreement, as I understand it, essentially with the Senate yesterday on language that would have gotten us off of this disagreement.

Mr. DIAZ-BALART. Mr. Speaker, I yield 5 minutes to the distinguished and experienced gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I appreciate getting this time.

Mr. Speaker, in listening to the debate and looking at the votes and the comments that have been made over the last week, one would think that the two things that we were debating were President Clinton and Speaker GINGRICH. We seem to be in the dialog talking by each other. I know my friend from Maryland, Mr. HOYER, said that he was committed to the 7-year budget, but he also said that he did not like our priorities. I can understand that. That is why we have two political parties, and that is why we have differences of opinion even within the parties.

Unfortunately, what has happened here is I think that there have been too many ultimatums thrown out that have prevented people from bargaining. Unfortunately, the Speaker and the President have become the issue. There is no question, and we all know that President Clinton made a commitment for a 5-year budget when he ran for President. He now has gone, and we have all seen the TV advertisement that is on, that has him saying everything from 5 to 10 years. But one thing is in all of those statements and one thing that is in the thought of I think every Member in this House: We have got to go forward for a balanced budget.

Now, if the President had gotten on to the balanced budget, 7-year, and adopted that 2-years ago, we would only have 5 years left from today. But with our 7 years, that would have given him 9 years to balance the budget by putting our 7 years on top of the 2 years that he has already been in office.

Unfortunately, the Congress and the President have not moved forward. As everyone talks a good talk, no one is walking the good walk. We have got to go forward to a balanced budget.

Now, where do we go from here? The gentleman from Maryland [Mr. HOYER] says we are sending messages. Yes, we are sending messages. We know the bill we are going to send over to the President is going to be vetoed. But let us have the President send a message back. The President says that he is willing to talk 7 years, but he is not willing to commit to 7 years, so we have a fundamental disagreement as to where you can get an honest count.

It is our position over here that what President Clinton agreed to early on of using the Congressional Budget Office is where we want to be and is where we want to stay, because we feel that is where we are going to get our honest count.

But, fine, instead of arguing over the scorekeeper, instead of arguing over all of these things and personalities, let the President send us a message back. Let him give us a 7-year budget, and let him use his scorekeepers, and we will have our scorekeepers score it. If we are anywhere close and if the thing can possibly be reconciled with the House budget, then, fine, let us negotiate that.

Let us get down to negotiating the specifics and quit throwing spears back and forth. The American people are fed up with it, it is time for this to stop, and we have got to move the agenda and move the debate to the facts and get on with the Government.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Maryland.

Mr. HOYER. One of the pieces of good news I think for the American public is

I think on the floor right now we have people, if we sat in a room we could resolve this frankly in about 10 minutes.

Mr. SHAW. Could we sell it to either one of our caucuses? That is the question.

Mr. HOYER. I appreciate the gentleman yielding further. Let me read three lines that were the offer of the President of the United States in substitution of the language that was in the CR, because I think it accomplishes what the gentleman from Florida just articulated.

> The goal of the negotiations is to enact a budget agreement that balances the budget in 7 years under Congressional Budget Office's economic assumptions, or in a timeframe and under economic assumptions agreed to by the negotiators.

Your side did not like the last phrase, because it did not bind the President to the CBO assumptions. As the gentleman knows, he believes the CBO assumptions are not correct. There are many private sector economic analysts who also believe they are more conservative in terms of growth and other statistics.

Having said that, this language says 7 years, CBO as a basis, and it does leave, yes, some options for the negotiators to go beyond that. Clearly, it is not exactly what you wanted. But I suggest to my friend, it was offered in good faith to try to get to where your side believes we ought to go, and that is 7 years. I agree with that.

Mr. SHAW. Mr. Speaker, reclaiming my time for a moment, that is just the point. That is exactly the point that I am making, is that we cannot agree on the scorekeeper. We want what is what we believe to be an honest scorekeeper, which is CBO. Fine, we cannot agree to that.

So that is what I am talking about. Let him go ahead and send us his balanced budget, and let us try to negotiate it, and then we will have it scored. He will use his scorekeeper; we will use ours. If we are going to get into an agreement on the CR, we feel very strongly we need to use the CBO figures, because the gentleman knows and I know, and we have been around here about the same length of time, if you adjust that interest rate or project an interest rate a quarter of a point, an eighth of a point, all of a sudden all of the economic assumptions change. This is what we call smoke and mirrors. You can develop an economic assumption so that anything would balance, even our current level of spending, if you come up with the right economic assumptions.

Mr. HOYER. If the gentleman will yield further, we do both agree, do we not, this will ultimately be incorporated in the reconciliation bill, any agreement?

Mr. SHAW. Eventually, it will have to be translated into that.

Mr. HOYER. That is what we ought to debate it on, and not hold hostage the operations of Government at whatever size, as the chairman says, we agreed on.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. SABO], the distinguished ranking member of the Committee on the Budget.

Mr. SABO. Mr. Speaker, I thank the gentleman for yielding time.

Mr. Speaker, I would just like to compliment the gentleman from Maryland [Mr. HOYER] for his thoughtful statement. We are in this incredible situation where we seem to be arguing how you get to the table, and it is fairly simple: Go. The reality is that we need to pass a continuing resolution because Congress has not passed appropriation bills.

Let us get that taken care of and pass the CR. The majority, to their credit, passed a bill reflecting their view of how the budget should be balanced yesterday. I think it is a bad bill. I hope and know the President will veto it. Then you have to negotiate. Let us hope we do not end up quarreling whether it is a square or round table. Let us just get people there. Go.

Some of this discussion of scorekeeping, people have to exercise good judgment. The ultimate scorekeeper is Congress and the people who negotiate. CBO is advisory to us. I think we should follow their judgment. But, if they are wrong, then we should look at the facts.

The reality is in lots of programs, how you structure them depends on what demographics are projected. CBO may be right, OMB may be right, someone else may be right. The goal of negotiators should be to be as accurate as possible.

We tend to say we have this judgment on different predictors. They are all honest, hard-working folks, making their best judgment. Let us hear from them, figure out what is accurate, and structure programs appropriately.

Amazingly, I look at revenue projections for 1996, and CBO and OMB come out to the exact dollar, using different assumptions, different methodology. This is all crazy stuff we are talking about here. Let us get our work done. Let us get on with negotiations so we can solve the problem.

□ 1100

I think that is what the gentleman from Maryland [Mr. HOYER] is saying.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, the frustration, I think, that the American public has is that they see us saying, yes, we want to get to a balanced budget. The President now says that he is prepared to negotiate to get there in 7 years. I think that is correct. Others differ, but I think that is correct.

The fact of the matter is, though, whatever CR we pass will not impact on it; it will be the reconciliation bill which has not yet passed this body. I understand it is coming back from the Senate today.

It will be on that bill that we will have to have this very substantive, sometimes contentious, but very important debate, because the gentleman is correct, those assumptions, as the chairman in exile of the Committee on the Budget points out, make a great deal of difference.

So I appreciate the comments of the gentleman from Minnesota [Mr. SABO]. I appreciate the work he has done. I would hope that we could get this CR behind us and get Government operating and then come to grips with a very important, and I agree with the Speaker, historic debate on how we get the finances of this country under control and in order, priorities with which I know the chairman and I agree, but with which everybody in the body may not agree.

Mr. Speaker, I thank the gentleman for yielding.

Mr. SABO. Mr. Speaker, reclaiming my time, I would just make this observation. I happen to think we can balance the budget in 7 years. I do not want to balance it in 7 years under the Republican budget. I suspect they do not want to balance it in 7 years in a plan that I would draft.

So there are conditions by all of us. So we must sit down and try to work out a very, very difficult, but very important problem.

Mr. DIAZ-BALART. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, we are now going to have this morning as a part of the rule the segment of the debate right now that deals with the rule to allow us to have legislation to be considered the same day that it comes out from the Committee on Rules.

What we have today before us, Mr. Speaker, is the Balanced Budget Act of 1995, which has been slightly changed by the Senate for the House to consider. It is my belief that we should adopt that legislation for all Americans. The benefits of a balanced budget amendment will accrue to all Americans in decreased mortgage payments, decreased car payments, decreased tuitions and, hopefully, even decreases of health care costs.

Mr. Speaker, every other government, whether it be school district, township, borough, city, county, all balance their budgets, as well as families balance their budgets.

The original bill had Medicare reforms in it. We sent back to the President legislation which removed that. In my opinion, and I think the opinion of most Members of this House, that should have been adopted by the President. If we have the gentleman from Minnesota [Mr. SABO] oversee the President with the 7-year commitment, I am sure we could adopt that, and we could have the President join us in it.

The balanced budget amendment should be something unanimous. There is no one in this Chamber who is for an unbalanced budget. So I hope we will follow the guidance of the gentleman from Florida [Mr. SHAW] when he says, let us get the President to the table, let us get it resolved, and for the benefit of all Americans, let us adopt the balanced budget amendment.

Mr. DIAZ-BALART. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. COX], the distinguished chairman of the Republican Policy Committee.

Mr. COX of California. Mr. Speaker, as has been pointed out several times in the course of this debate, the President came to the well of this House and told us in his 1993 message that it was time to stop relying on White House rosy estimates, and it was time to rely on the trustworthy estimates of the Congressional Budget Office. He got a standing ovation from the Democratic side of the aisle. We are asking him to keep that promise.

It has been pointed out by some, by one of our colleagues in debate yesterday that, well, that was when the Congressional Budget Office was on our Democratic payroll. However, we have to keep in mind that the Balanced Budget Act that we are going to be considering, one that we already voted on yesterday and that we hope comes back to us from the Senate, is based on the estimates of the Congressional Budget Office, made under the direction of Robert Reischauer, who was the Democrats' appointee to head the CBO. June O'Neill did not come on to run the CBO until afterward.

These are the Democratic staff estimates at the CBO. All that happened in the August update under June O'Neill was to move those estimates slightly closer to what the White House had, so the White House is not going to be complaining about that.

There is a videotape that some of my colleagues may have seen that collects all of President Clinton's statements on how long it should take to balance the budget, back to back to back to back, all of his statements, starting with his appearance on the "Larry King Show" when he said, I am going to present a plan to the American people to balance the budget in 5 years.

Then he says, 7 years is the right period of time. Then 9 years, most recently 10 years, and then back between 7 and 9. Then he said 10 years and presented a plan to balance the budget in 10 years that, in fact, according to CBO, did not.

It is time for the President, who most recently now has said he will veto any 7-year budget, then even later said, maybe we will talk about it, to decide this question.

Mr. TIAHRT. Mr. Speaker, I thank the gentleman from Florida for yielding time to me.

I think the American public is a little tired of the Government chasing its tail, and I think we have started debate a little early, but I think that is really what it is going to be about over the next 7 years as we come to struggle with what is going to be inside that budget in 7 years.

It is that one phrase that the gentleman from Maryland brought up, I think, that bothers the American public so much. The options to go beyond 7 years. I know that the freshman class that I am a member of is very hard and fast on 7 years.

How many votes have come up in the last 20 years about the balanced budget? How many times has this body voted on a balanced budget? Many, many times. The real issue is, can we do it? Do we have the discipline? Everybody wants to say, yes, we do.

Well, let us put it in writing. Let us live by it. Let us negotiate the terms, as the gentleman from Minnesota [Mr. SABO] said. Let us negotiate the terms of what is going to happen inside that balanced budget. But let us make a hard and fast rule, 7 years, let us draw a line and say, we can do it, and let us just argue about what is inside. I think that is what the American public wants, and I think that is certainly what the freshman class wants is a 7-year plan to balance the budget.

Mr. DIAZ-BLART. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. BOEHNER], the distinguished chairman of the Republican conference.

Mr. BOEHNER. Good morning to all my colleagues on this great Saturday morning, and I see the debate about balancing the budget continues to go on.

Yesterday, I think that the House and the Senate both proved to the American people that we can, in fact, balance the budget in 7 years. We did it. We brought the documents here, we laid them out, we had a great debate, and they passed on both Houses.

This issue over CBO numbers and OMB numbers, this is not just about numbers, it is about the fact that the President wants to spend $875 billion more over the next 7 years than what we want to spend.

Mr. Speaker, if we can balance the budget in 7 years, which we proved yesterday, it is all about whether we are going to spend more of our children's inheritance, whether we are going to snatch more of the American dream away from our children, or whether we are going to stick to real numbers, certified by CBO; or whether we are going to do the same thing the politicians in this town have done for 30 years. And that is, just kind of mush the numbers together, make them work, and sell out our children.

We are not going to do that.

Mr. DIAZ-BALART. Mr. Speaker, I yield the remainder of our time to the gentleman from Illinois [Mr. WELLER], a dynamic and distinguished new Member.

Mr. WELLER. Mr. Speaker, Members of the House, I stand in support of this rule, because this rule is exactly why we are here. We are here because the American people sent us to do what every American family does, and that is to live within our means and to balance the budget. Republicans and a growing number of moderate and conservative Democrats agree, it is time to balance the budget.

Who stands in the way? The limousine liberals, the tax-and-spend Democrats oppose a plan to balance the budget.

We have a plan to balance the budget in a responsible fashion over the next 7 years.

By the way, we increase spending on Medicare by 54 percent, $355 billion over the next 7 years. We reform welfare and emphasize work; we provide tax relief to working families.

Mr. Speaker, the telephone calls that I am receiving in my offices are nine-to-one in favor of balancing the budget and holding firm. Mike and Kay Shostic of Manhattan, IL, they say, hang tough. They have three kids who are counting on the Congress to balance the budget.

I say to my colleagues, it is time to get the job done. Let us balance the budget; let us work together.

Mr. DIAZ-BALART. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Laundregan, one of its clerks, announced that the Senate agrees to the report of the committee of further conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2126) "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes.".

The message also announced that the Senate insists upon its amendments to the bill (H.R. 1058) "An Act to reform Federal securities litigation, and for other purposes," disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. D'AMATO, Mr. GRAMM, Mr.

BENNETT, Mr. GRAMS, Mr. DOMENICI, Mr. SARBANES, Mr. DODD, Mr. KERRY, and Mr. BRYAN to be the conferees on the part of the Senate.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up H. Res. 275 and ask for its immediate consideration.

H. RES. 275

Resolved, That it shall be in order at any time on the legislative day of Saturday, November 18, 1995, for the Speaker to entertain motions that the House suspend the rules: *Provided*, That the object of any motion to suspend the rules is announced from the House floor at least one hour prior to its consideration. The Speaker, or his designee shall consult with the minority leader or his designee on any matter designated for consideration under this resolution.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. McINNIS] is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 275 is a straightforward resolution. The proposed rule merely provides that it shall be in order, any time today, for the Speaker to entertain motions that the House suspend the rules. The Committee on Rules agreed to an amendment offered by Mr. BEILENSON, which provides that the matters to be considered under suspension will be announced from the House floor at least 1 hour prior to consideration, and that the Speaker or his designee will consult with the minority leader or his designee on any suspension considered under this resolution. House Resolution 275 was reported out of the Committee on Rules by unanimous voice vote. Simply put, this resolution, will allow for a special suspension of the rules day for consideration of possible selective continuing resolutions to keep vital offices open.

By passing this resolution, we are attempting to speed up the legislative process so that we can reopen the Government as soon as possible while keeping our commitment to the American people to balance the Federal budget within 7 years.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank my colleague from Colorado for yielding me the customary half hour and I yield myself such time as I may consume.

Mr. Speaker, I am happy to see this rule come to the floor today.

This rule permits the majority to call up suspension measures with proper notice. I assume they will use this to call up a targeted continuing resolution. I hope it will also be used to call up a governmentwide continuing resolution that the President will sign.

This rule means that Federal employees can finally get back to work; it means that the U.S. Government will be open for business again as it should be.

It is a good rule, it is a good idea, it is just a shame it took so long; the American people expect more from their Congress and they are right.

The 84,000 American seniors and workers should have been able to apply for Social Security and disability benefits; 600,000 American seniors should have gotten answers from the 1–800 Social Security help line; 23,000 American veterans should have been able to apply for benefits.

This should not have happened and I am glad President Clinton has taken steps to stop it.

Yesterday, by Executive order, President Clinton reopened Federal offices providing services to veterans, Social Security recipients, and Medicare recipients.

He made sure that this ridiculous Government shutdown did not hurt any more than it absolutely had to and today's rule will allow congressional Republicans to tell President Clinton he had a good idea.

Given the partisan rancor around here these days, it is nice to see we still agree on some things.

I urge my colleagues to support this rule.

□ 1015

Mr. McINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking minority member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, this is such a silly situation, it is very difficult to know where to start. But let simply say that what this rule is going to do is to make it possible for the House leadership to bring up an additional continuing resolution today, and my understanding of what is going to happen is that that continuing resolution will allow three additional functions of Government to continue that are now closed down.

It will expand the ability of the Social Security Administration to meet and process its work, it will expand the ability of the folks running the Medicare Program to do the same thing; and it will expand the ability of the Veterans' Administration folks to do the same thing. There is nothing wrong with any of those three actions, and I would be surprised if we do not have a unanimous vote in support of them in the House.

But the problem is that those are not the only three functions which ought to be released from their hostage situation. So when we get to the bill which this rule will allow to come forward, a bill which is going to be unamenable because it is on the Suspension Calendar, I will be asking to make a number of unanimous-consent requests to try to expand the number of Government functions which will be allowed to open.

I do not see, for instance, why Gallaudet University, why that university for those kids, deaf kids, why they should be forced to close. But we have a letter indicating that they will if we do not let them out of the hostage box.

I do not see why we should not make certain that all research at the National Cancer Institute is allowed to proceed. I do not see why we should not make certain that the civilians can be brought back to work in the Pentagon so that all of the military checks can be provided on the 29th. There is some concern they will not be able to do that unless those civilian employees are brought back. I do not see why we should not open up our national parks so that American families who have spent a good deal of money on vacation plans do not have that money wasted because of this silly argument on the floor of the Congress of the United States.

So on the next bill that will be coming as a result of this rule, we will be trying to expand those functions of Government, or open up those functions of Government again. But I must say that I will be asking for a "no" vote on the previous question on the rule because I believe that what this rule ought to provide is for the continuation of another full blown CR which will allow all of the functions of Government to continue while the Congress and the President go to the table on the budget.

Again, I repeat, we have two separate problems here. We have a difference between the President and the majority in the Congress on what the outcome of those budget negotiations ought to be on the reconciliation bill that passed yesterday. The way to resolve that is to resolve it not to continue to talk about how you are going to resolve it, but simply go to the table and work out the disagreements. But the reason we need a continuing resolution is an entirely separate reason, and that is because this Congress has only passed at this point 4 of the 13 appropriation bills necessary to keep the Government open.

Mr. Panetta, the President's Chief of Staff, has just asked me by telephone to ask the Congress to send down to the White House the Legislative appropriations bill and the Treasury-Postal bill. They will sign them. That will make 6 bills out of the 13 that will have crossed the congressional finish line. But we still have the Interior bill, the Foreign Operations bill, the Veterans-

HUD bill, the Defense bill, the District of Columbia bill, the Commerce-Justice-State, and the Labor-HHS bill that have not gotten through the congressional process.

The President is not holding those up. The Congress is. In most instances, it is because there is an argument between Republican Members in the House and Republican Members in the Senate, who control both bodies, about what the content of those bills ought to be.

So I would suggest the simple way is for us to simply defeat the previous question on the rule, go back and get another rule, go back and send to us another continuing resolution on the House floor so that we can open up all of Government so that we do not continue to look like a bunch of silly children who are tying to dictate what the other's negotiating position ought to be.

Mr. McINNIS. Mr. Speaker, all the comments the preceding speaker made over 5 minutes, I can summarize it in less than a sentence. That is, we could have avoided it all if the President of the United States would agree to balance the budget of this country in 7 years.

With that, I yield 1 minute to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I know we are in a hurry, but I heard the gentleman from Massachusetts [Mr. MOAKLEY] say that in effect, all we are doing in this CR is to ratify what the President has already done. In fact, that is not the case. The President issued an Executive order, and I am particularly concerned in the area of the veterans, but all his Executive order did was to authorize the processing of new claims. He could not send out the checks, he argued.

We have checked with the Veterans' Administration. They argue that without this CR they cannot send out the veterans benefit checks. It is wrong for us to hold them hostage. It does not matter how much more should be done or what arguments we might make. This needs to be done on behalf of the veterans of this Nation.

It is in fact a legal dispute as to whether or not the President has the authority as a veterans entitlement to send those checks out without us doing a CR. That is a disputed point. Had I been the President, I would have opted in favor of the veteran and said, "Send those checks out, let's do it." In fact the Veterans' Administration has said, "No, we aren't going to do that without Congress authorizing it." Therefore, we have come back with this CR, which is very much needed for the veterans of our country.

Mr. MOAKLEY. Mr. Speaker, I yield 30 second to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Let me simply respond to the previous speaker by saying nobody objects to opening those functions. You are going to see virtually every single one of us for the opening of those functions. We want you to open more of them. We want you to let all of the Government workers go. We do not want you to continue to hold any hostages.

Mr. HUTCHINSON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Arkansas.

Mr. HUTCHINSON. I was responding to Mr. MOAKLEY's comment that the President has resolved the situation. He has not. This is necessary.

Mr. OBEY. But you said, Mr. Speaker, taking back my time, that we were continuing to try to hold these people hostage. We want you to let them go.

Mr. McINNIS. Mr. Speaker, I yield 30 seconds to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I would say again that if veterans are being held hostage, it is not this Congress that is doing it. We have checked with legal experts who say this is a disputed point as to whether or not the President has the authority to order this as a veteran entitlement and have the checks go out on time. He has opted not to do that. We are, therefore, going to solve the problem with this CR so that there is no question those checks will go out in a timely manner.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, I know that a lot of discussion has gone on in regards to balancing the budget. Everybody is for balancing the budget. Nobody is arguing that point. But what the American people really need to do is ask my colleagues on the other side, "Well, how are you balancing the budget?"

You are cutting Medicare by $270 billion over 7 years. You are cutting student financial aid by almost $10 billion over 7 years. You are cutting the Medicaid Program by $182 billion over 7 years. And you are providing tax breaks to people who are earning over $100,000; they are going to get a check back for $8,000 and people who are making under $30,000 will get a check back for $127.

That is how you are balancing the budget.

I supported a balanced budget amendment that the gentleman from West Virginia [Mr. WISE] had offered. I had supported Mr. STENHOLM's balanced budget in 7 years. I also supported the Coalition substitute budget for a balance in 7 years. But there were no tax breaks in that proposal.

What the American people need to know beyond the glitz of a balanced budget, for or against, is, "Well, how are you proposing to do it?"

I submit to the members of the American public that when you ask my colleagues on the other side, that is when you notice the questions and the responses will not be as loud as the rhetoric on "I support a balanced budget"——

Mr. HAYWORTH. Will the gentleman yield?

Mr. BALDACCI. Because what they are proposing to do is they are proposing to increase taxes on working people.

We have an earned income tax credit program where people who are the waiters and waitresses and the cooks and dishwashers who are working and struggling to stay off assistance are not going to have that earned income tax credit so that they can continue to stay working.

Mr. HAYWORTH. Will the gentleman yield for a question about working people?

Mr. BALDACCI. No, I will not. Thank you very much.

As we talk about moving people off welfare to work, we are taking away the tools from people to go to work.

When you talk about educational opportunities for the young people, when you are talking about the future and the computers and cyberspace, you are cutting student financial aid. There are 30,000 students in my State alone that depend upon guaranteed student financial aid so that they can go——

Mr. HAYWORTH. Will the gentleman yield for a question on financial aid?

Mr. BALDACCI. No. But if the Speaker would tell the gentleman to stop interrupting me, I would appreciate it.

Mr. Speaker, could I have order in the House, please?

The SPEAKER pro tempore (Mr. GOODLATTE). The question is correct. The House will be in order.

The gentleman from Maine is entitled to be heard.

The gentleman from Maine may proceed.

Mr. BALDACCI. Mr. Speaker, there are 30,000 young people in my State that their only opportunity is a college education. That is their only dream in the world, is to have that college education. But my colleagues on the other side are going to make it more difficult and more expensive for them to go to college.

□ 1030

It is not going to be 4 years to go to college, it is going to be 5 and 6 because they are going to have to work while they are in college. That is what we need to do. That is what we need to address."

So if the President of the United States is going to be blackmailed into supporting a continuing resolution that supports the scheme of balancing the budget on the backs of working people, on the backs of seniors, in my State alone there are people who are struggling for their prescription drugs. The seniors in my State have to cut the prescription drugs up because they cannot afford to take it all at one time.

What we are doing is we are cutting Medicaid because in my State that provides for the prescription drug program. So when you are hearing people on this floor talking about a balanced budget, I support a balanced budget, but I do not support it the way the majority wants to accomplish it.

That is what the President of the United States have been talking about. It hurts the seniors. It hurts the children. I hurts the people who are struggling. That is what this fight is about. This is not about government as usual.

My colleagues on the other side are trying to roll back the environmental standards. They are trying to roll back the educational opportunities. And they are trying to roll back the standards in nursing homes to protect our seniors.

I would submit to you that the President and the majority on this side are trying to move forward. They are trying to go forward into the future in providing a bright future for all of our young people and all of our seniors because we are not any stronger at all unless we all move forward together. That is what this country was founded on, and those are the responsibilities that we assumed when we swore to the oath as we were new Members of Congress. To allegiance to the country of the United States of America.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would certainly like the preceding speaker, he spoke for 5 minutes to go back to the mircophone. I would be happy to yield him 5 seconds to say to the American people that he has a balanced budget plan that will balance the budget in 7 years without raising taxes on the American people.

I would also like the gentleman, on his own time, to come back up to the American people while he talks about the 30,000 young people in his State, what about the Federal debt on those young people, what about the deficit this country is facing, what about the $30 million an hour that this Government spends more than it brings in, spends $30 million more?

Let me ask the gentleman, what about the child born today who faces $180,000 on their lifetime earnings just paying interest on the Federal debt? When is the gentleman going to help this country get out of this fiscal insanity? One-seventh of the Federal Government's budget goes to pay interest on the debt. So it is easy, very easy.

Mr. BALDACCI. Mr. Speaker, will the gentleman yield? Is the gentleman going to yield to me?

Mr. McINNIS. Mr. Speaker, I ask for order in the House.

The SPEAKER pro tempore. The gentleman is correct. The House will be in order. The gentleman from Colorado has the time and can decide whether or not to yield.

Mr. BALDACCI. The gentleman wanted to ask me a question.

Mr. McINNIS. Mr. Speaker, I ask for order in the House.

The SPEAKER pro tempore. The House will be in order. The gentleman from Maine will suspend. The gentleman from Colorado has the time and does not choose to yield.

Mr. McINNIS. Mr. Speaker, as we all know, this discussion today on the House floor at this point in time is on the rule. The gentleman from Maine decided to utilize this time to go through a 5-minute problem of what we face in this country, but the biggest problem that the gentleman from Maine failed to refer to is the deficit that this country faces.

We have a lot of people, and, frankly, we have people on both sides of the aisle who are committed, committed, not as a goal but committed to balancing this budget in a 7-year period of time.

Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank my good friend, the gentleman from Colorado.

PARLIAMENTARY INQUIRY

Mr. BALDACCI. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will suspend.

For what purpose does the gentleman from Maine rise?

Mr. BALDACCI. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BALDACCI. Mr. Speaker, I had thought the gentleman had asked me questions and was going to provide 5 seconds for me to respond.

The SPEAKER pro tempore. The gentleman does not state a proper parliamentary inquiry.

Mr. BALDACCI. My parliamentary inquiry is, if questions are posed to me, do I have an opportunity to respond to those?

The SPEAKER pro tempore. The gentleman from Colorado has control of the time. If he chooses not to yield, he does not need to do so.

Mr. BALDACCI. Did you yield me time to respond?

The SPEAKER pro tempore. The gentleman will suspend.

The Chair recognizes the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I would just like to make a few statements because I asked for time when someone else controlled it, and he was not willing to take on a couple of questions.

One of the preceding speakers talked about an antipathy, an animus toward letting the American people hang on to more of their hard-earned money. He did not degree with the notion of tax cuts. He said this new majority was cutting the earned income tax credit for working Americans, for those lower income Americans.

Mr. Speaker, as you know and as the facts reflect, the earned income tax credit funding increases by some 43 percent.

Then another speaker earlier said that this new majority was intent on cutting student loans. Mr. Speaker, the record reflects that the new majority is offering a $6 billion increase over the next 7 years in the student loan program.

Mr. Speaker, it is obvious that the rhetoric needs to square with the facts, and when we talk about working people, it is interesting that the President of the United States, in the State of the Union Message, stood at this podium and defined working Americans as those making under $70,000 a year. I do not know by what barometer working Americans have to make $70,000 a year or less. I find it very curious.

Mr. MOAKLEY. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, let us be clear about what is going on here. First of all, I would say to the prior speaker with regard to earned income tax credit, the earned income credit has been eliminated for families without children. Now, if you do not call that a cut for those folks, I do not know what you call a cut. So it has been eliminated, eliminated, done, finished, for families who do not have children. There is a cut in the earned income tax credit.

Mr. HOYER. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, the gentleman from Arizona says it is not a cut. Then how come in their budget they count money from the EITC toward balancing the budget? Is that Washington-speak reform?

Ms. DELAURO. Just one more sham.

Let me tell you what this is about. It is not about a balanced budget. That is not what the issue is about today. It is about holding the President of the United States hostage to a set of Republican budget assumptions which say that what we ought to do is to cut $270 billion in Medicare, throw senior citizens in this country in disarray and provide devastating cuts, increase their premiums, and deny them their choice of doctors. That is what they want to do. They want to cut Medicaid, which allows nursing home coverage. That is one issue, one area that this is about, and holding the President hostage.

The President is right. The President is absolutely right in saying "no" to

$270 billion in Medicare cuts, "no" no to the slashing of education benefits for our young people.

I do not know how all of you got to school. I went to school with student loans. We are about to cut student loans and deny working middle-class families in this country the opportunity to send their kids to school.

They would like to hold the President hostage on those assumptions. The President has said "no" to that. He is right to do it.

Mr. HEFNER. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, I just wanted to ask a question, and you are talking about the tax cuts of $270 billion. The gentleman here says that is not a tax cut. But it is strange to me.

What is strange to me under CBO scoring, if you do not get the $270 billion cuts in Medicare, you cannot have the $240 billion in tax cuts. So you have got to take it from somebody to give it to somebody else regardless of who you give it to. Whether they make $10,000 or $15,000 or $20,000 or $30,000 a year, it is a cut.

The bottom line is you are going to cut $270 billion from the most vulnerable people in this country and you are going to give it away. If you were going to do that, why not put it to the deficit?

Ms. DELAURO. That is a tax break for the wealthiest Americans in this country. That is what this budget is about.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume, and before I yield time to my colleague down here, I would like to just say, after hearing the preceding speaker, it is kind of, and I will give an example, it is like going to your employer. Let us say you make $5 an hour and you go to your employer and you say, "I would like a pay raise to $10." Your employer says, "Well, I am going to raise you $2. I am going to give a pay raise from $5 to $7 an hour." You say, "No. I want $10." He says, "No. I am going to get you to 7." You go out to your other employee and you say, "Hey, hey, I got a pay cut of $3 an hour."

We are not cutting Medicare. We are increasing Medicare. We are not cutting student loans. We are increasing student loans.

In regard to that, I will give you specific numbers. I will give you every reason in the book why this President should agree to balance the budget in this country within a 7-year period of time, why this President should agree to this budget.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I am listening to this debate, and I cannot stand it. I cannot stand when I hear someone say we all want to balance the budget. If we all wanted to balance the budget, the budget would be balanced.

When Members say we all want to balance the budget and then talk about all the cuts they do not want and do not talk where they are willing to make reductions to slow the growth in spending or to cut programs we do not need, I cannot stand it.

We are, in fact, allowing this budget to grow. When I heard Members on that side say we are cutting EITC, the earned income tax credit, it is going from $19 to $25.5 billion. Only in this place when you spend more money do people call it a cut.

When they say we are cutting the school lunch program and it is going from $6.3 to $7.8 billion, that is an increase, not a cut.

When I hear people particularly say we are cutting the student loan program, it is going from $24.4 to $36 billion. It is growing 50 percent. The number of students in the next 5 years is growing from 6.7 million students to 8.4 million students.

Only in this place, in this town, when you spend 50 percent more, do they call it a cut.

Medicaid, it is $89 billion today. It is growing to $127 billion. In this town, that is a cut? Only here.

Then, in Medicare, it is going from $178 to $289 billion. That is not a cut. It does not even come close to being a cut. That is a significant increase.

Get a life.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is especially important because it seems to me that during this discussion that we should be holding on the rule, that instead we are having some speakers up here who are trying to scare the senior citizens, who are trying to scare students out there about their student loans, who are trying to scare the general population. I think the scariest thing we have got out there is this Federal deficit which is accumulating at a rate of $30 million an hour.

I think the people in America are prepared to assist us in balancing this budget. I think the people in America understand that we are not cutting programs but that we are reducing the rate of growth there in programs.

I think the people of America want to preserve the economics of this country for the next generation and the next generation.

Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let us get the Government working again. We are not holding the President hostage to tax cut or Medicare cuts. Everything is on the table right now. Everything is on the table.

Medicare is not being cut. It goes up 6.3 percent annually, every year, under this proposal, from $4,800 a year per beneficiary to $6,700 a year per beneficiary over a 7-year period.

But if you do not like our plan, let us see your plan to balance the budget. If you do not like the tax cuts, let us do it without the tax cut, but let us work together. Work to balance the budget in 7 years, and let us get the CBO to score it. It has been nonpartisan for year.

Let us send the Treasury-Postal appropriations bill up the President and get 100,000 more people working again. We can do this today. We can have these people back to work by Monday.

The District of Columbia Government should not be shut down because of our inability to get this signed by the President.

We ought to do something for them and get them back with their own money. We should not hold them hostage. We ought to be ashamed of ourselves. Let us pass this rule. Let us move ahead.

□ 1045

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, let me say, my colleague from Virginia is right. There is a reason why we are in session today, and there is a reason why the Government is shut down, and it has a lot to do with the new majority that my freshman colleagues from the other side of the aisle talk about.

Here are the facts. First of all, this Congress, controlled by the Republican majority in both Houses, has only passed 4 of 13 appropriations bills. Those are the bills that are supposed to be passed by October 1. Had those bills been passed, sent to the White House, and signed into law, almost 2 months ago, we would not be doing this today. We would not be talking about a shutdown of Government. Because this is how Government is shut down. They are funded through the appropriations bills.

Second, the Republicans are holding up the continuing resolution. In fact, the continuing resolution that was adopted by this House the other day that we hear so much about, to my knowledge, is still sitting in the Senate and has not even been sent to the President for him to either sign or veto as he should choose.

The fact is the reason why you cannot pass a clean CR is because you want to put a 7-year requirement. We can sit down, like my colleague from Virginia said, and talk about whether we want to get to a 7-year balanced budget. I voted for one. There are differences. But it has nothing to do with the CR. What it has to do with is the bill that this House adopted yesterday, the reconciliation bill.

So why are you trying to put it in this bill when you have adopted another bill to do it? Is it because you are holding the Government hostage? Is it because it is either your way or no way?

Yes, that is what it is. It has nothing to do with appropriations. So you are muddling up an appropriations bill with what should be in a reconciliation bill. The facts are very, very clear.

Now, there is a bipartisan way to get there. Quite frankly, I do not think the new Republican majority wants to do it. They are in a bind. They are in a bind because they do not have the votes to pass their version. They do not want any other version. They want a version that cuts $270 billion out of Medicare, $140 out of Medicaid, and gives a $245 billion tax cut.

Mr. Speaker, that is the problem and that is why we are here.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume. I think the gentleman's inquiries deserve some type of response.

First of all, the question is why does the continuing resolution have such an onerous requirement that the President of the United States ought to commit to balancing the budget of the country within a 7-year period of time? I would suggest that the gentleman look at the TV commercial right now going on on at least five or eight different times. The President of this country has on each of those different occasions given a commitment, commitment, to the American people to balance the budget. The first time was when he was running for office, 5 years, then it went to 10 years, then back to 7 years, then to 8 years, and who knows what.

All we are asking for is a commitment in writing. Talk is cheap. The American people want a commitment in writing from us, which we just gave on the continuing resolution, and I say proudly it was bipartisan; 48 Democrats joined us in that. We gave our word in writing to this country we will balance the budget in 7 years.

I think it is fair, and I think it is appropriate, that we ask the President of the United States to give his commitment in writing that this country will have a budget balanced, not as a goal but as a commitment, within a 7-year period of time.

Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Kansas [Mr. TIAHRT].

Mr. TIAHRT. Mr. Speaker, briefly I would like to say that we have been doing our job here. We voted about 800 times last year; the entire Congress only voted 507 times. By trying to work with the President, we have been wasting our time, and that is why we have not been successful in getting our appropriations bills through.

We see the confusion of the American people when people talk about cuts in Medicare. When it goes from $4,800 to $6,700, that is not a cut. We are not balancing the budget on the backs of working people or senior citizens. That is what the Clinton tax burden did in 1993. It increased taxes on the working people through the gas tax and the poor. That is who pays the most for gas taxes. It increases taxes on Social Security. Mr. President did that.

But what we are trying to do here is relieve some of that burden. We are trying to reduce taxes on working people, on people with children, and we are also trying to preserve and protect Medicare. But the real fundamental issue here is can you balance the budget in 7 years.

We are tired of the dance. The music is playing. Let us dance to the music. The American public wants a balanced budget. I think this has been playing on for such a long time we are going to hear it over and over again. The real issue here is are you going to balance the budget in 7 years.

Now, there has been talk about a little leverage, play room, maybe not quite 7 years. For 26 years we have been hearing this about we cannot quite do it this time, we are going to have to do it some other way, we are going to have to wait awhile. The American people want us to draw a finite line, say we are going to balance the budget, and 7 years is an optimal time. It is the time when we can do it with the least amount of discomfort.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. TIAHRT. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I heard the gentleman complaining a while ago about the tax increases of 1993. Would you believe that none of those taxes are repealed in your tax bill this year. Not a single one. I do not know what you are bellyaching about.

Mr. TIAHRT. Mr. Speaker, reclaiming my time, what we are trying to do here is relieve people who have children, relieve seniors, trying to get them back to work, become actively involved. The President has failed to balance the budget in 7 years. He has even failed to agree to it. I support the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, we have been hearing roughly the same debate and good speeches now on both sides of the aisle for about 11 months. Where are we today, on a Saturday, about 45 days after we should have had a budget for the American people?

Well, we have the government shut down; we have hard working people throughout America that have saved all year long that are going on vacations, and the parks are closing; we have people working hard in my district making the HMMWV, one of the best Jeep vehicles for the military, and because the defense contracting agencies are shut down, they may start to be laid off next week.

Mr. Speaker, I think the American people are sending us the message that it is time for us to open the government up and to sit down and negotiate, to negotiate, and not talk about Air Force One, and who played hearts for how long, or what person was told to get off what exit of Air Force One.

Mr. Speaker, let us get off of personalities and get on to negotiations.

Mr. Speaker, the gentleman from Michigan [Mr. UPTON], a Republican from Michigan, and I have language to try to get this government moving in the right direction again. We have 90 Republicans and Democrats that are trying to move forward on a CR that will give us some negotiating room to get this government open again in a bipartisan way.

If the leadership will not talk to each other, maybe it takes the grassroots here to get government moving in the right direction again. But I think the American people are losing their patience for a government and a Congress that will not work together to solve the Nation's biggest problem, and that is trying to balance the budget.

Mr. Speaker, I encourage my colleagues to begin to work together in a bipartisan way. If Mr. Rabin could have talked to Mr. Arafat one year ago, I think that Republicans and Democrats can talk to each other in Washington, DC.

Mr. McINNIS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Colorado for yielding me time.

Mr. Speaker, you know, speech after speech today from the Democrat Party has one central theme: Not that of balancing the budget, but a theme of fear. Scare your grandmother, scare your child, scare your fellow Democrat; that if this fear mongering does not work, we will not be reelected.

Now, let us examine the low income housing credit which they claim to be champions of on behalf of the poor. What do they really use it for?

Now, Democrats, I want you all to watch this, because I think it might make you squirm a little bit in shame. Here is what you know you are doing on franked, taxpayer expenses. You send out this letter. And it says, and this is shocking to me, "Put some extra money in your pocket with the earned income tax credit. You may be eligible for as much as $2,258 a year back. Come clean, your money."

Then it goes on, "Even if you do not owe income taxes, you can get EIC."

I want to ask you Democrats, how many of you do not do this? Raise your hand.

Very few hands go up on the Democrat side. That is very interesting to me, very interesting. And I appreciate the honesty of the fact that only three or four of you are not doing this.

I would like us to say if we do restore the earned income tax credit, I would love your side to take a pledge that you will not be sending out such a shameless flyer on taxpayer expense. If you would take this pledge not to abuse the franking privilege in this way——

Mr. HASTINGS of Florida. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. Well, I guess I got your attention, and I will be glad to yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Are you saying every Democrat sent that out? I did not send it out.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman from Florida will suspend. The gentleman from Georgia has the time. The gentleman will suspend.

Mr. KINGSTON. Mr. Speaker, let me repeat, I asked the Democrats who were not doing this to raise their hands. Not many hands were raised.

The SPEAKER pro tempore. The gentleman from Georgia will suspend. The House will be in order. The House can conduct its business with better decorum than that. The gentleman from Georgia will suspend until the House is in order. The gentleman from North Carolina will suspend until the House is in order. The gentleman from Georgia has the floor.

The gentleman may proceed.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I will be glad to yield for a quick question to the gentleman from North Carolina.

Mr. HEFNER. Well, you know, sending out these flyers, what you have done, you have let the people who are going to get the big tax breaks sit in on the committee markups. Which is the worse?

Mr. KINGSTON. Mr. Speaker, reclaiming my time, my question was simple. How many of you all do this at taxpayer expense, and how many of you will pledge to stop doing it? That is all my question is. I think this is an abuse of the franking privilege. You can read that in the CONGRESSIONAL RECORD. I have already gone over it. But I say it is time we stop this.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are advised not to conduct straw polls in the House.

Mr. McINNIS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BONO].

Mr. BONO. Mr. Speaker, you know, I came here because I did not understand all this rhetoric that is going on. I still do not understand it. For one, you hear about education, "the backs of education." The very truth of the matter is simple: Education in this country stinks. It is that simple. Now, I do not understand why we would pour more money at a lousy educational system and get the results that we are getting. But we are saying we are taking education away.

We are not. I cannot send my kids to a public school. It is so lousy, I would not dare abuse my children. So that is just a bunch of nonsense. Education, they had better reform it. So we are not doing anything on the backs of education.

Now, see, as an average guy, I would say, why did the President come up here and why did I sit here and hear him say "Let's use CBO numbers?"

□ 1100

Why did he say that? Has anyone said why he said that? Why did he say use CBO numbers? I do not understand. He said that. I guess the kindest thing to say is he was not telling the truth when he said that.

Look, my colleagues, here is the issue. We have to balance this budget. Otherwise, we hit a wall going 180 miles an hour. It is not as complicated as all this rhetoric that we hear by these expert politicians. It is we must balance the budget.

Now, if they wanted to balance the budget, they had 40 years to balance the budget. We are now confronting that issue. We cannot back down from that.

Mr. McINNIS. Mr. Speaker, I ask for a report on time.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman from Colorado [Mr. McINNIS] has 12 minutes remaining and the gentleman from Massachusetts [Mr. MOAKLEY] has 11½ minutes remaining.

Mr. McINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I was in my office this morning watching the proceedings of the House, and it brought to mind a movie which I liked very much, called "Groundhog Day" with Bill Murray. Every time the clock radio went off in that movie, on would come the former speaker, Congressman BONO, singing "I Got You, Babe." No matter what morning came along, every morning the same song was playing on the clock radio.

That is what is going on on the House floor here. It strikes me that the political rhetoric in this debate is getting repetitive, tired, and sad. Members are getting short-tempered because we are making no progress whatsoever. The Republicans insist they are saving America. We Democrats think they are savaging America. Speaker GINGRICH thinks the idea of a 7-year balanced budget came to him in a dream. We think it could turn out to be an economic nightmare.

Frankly, what is in store for us here is to finally put aside some of this hot rhetoric, sit down, Democrats and Republicans, President and congressional leaders, and get this mess resolved.

Were we not sent to Washington to solve problems? I think we were. What we see here is a lot of pettiness, a lot of vitriol, and, frankly, very little progress.

The saddest part of it all is that there are some real victims in this political debate. Seven hundred thousand Federal employees as of Monday will still be on the streets without pay; 700,000 people being held hostage to this kind of political debate. That is outrageous.

It is nothing short of outrageous as well that while these people are on the streets without pay Members of Congress will still get their paychecks. How can we send these people home without pay while Members of Congress still get paid?

That is why I have introduced no budget, no pay. It says to Members of Congress, if we are serious about turning people out on the streets without a paycheck, cut off the machine that writes our paychecks. And Members know what will happen. We will not take this 48-hour adjournment recess the Republicans have proposed. We will stay here and do the job as we should. Get it done.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume to say to the gentleman there is nothing that prevents him from going ahead and doing the pilot project and not taking his check.

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. No; I will not.

Mr. DURBIN. Will the gentleman yield?

Mr. McINNIS. Regular order of the House, Mr. Speaker.

The SPEAKER pro tempore. The House will be in order. The gentleman from Colorado has the time, and he can choose whether or not to yield. He does not choose to yield.

The gentleman is recognized.

Mr. McINNIS. Mr. Speaker, the second thing I would ask the preceding speaker is to amend his bill so that it includes the President of the United States; and the third thing that I would mention to the previous speaker is he talks about 700,000 Federal employees, and my bet is that these people will, while they are furloughed, they will be paid for that period of time.

PARLIAMENTARY INQUIRY

Mr. DURBIN. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. Members will suspend. The Members are advised that the time used by the floor manager in commenting on the substance of the debate is counted against his time.

Mr. DURBIN. I thank the Speaker.

The SPEAKER pro tempore. The gentleman from Colorado may proceed.

Mr. McINNIS. Again, Mr. Speaker, to the previous speaker, the gentleman talks about 700,000 so-called hostages, Federal employees who will be paid while they are on this furlough, but he continually, every day that there is a speech by the gentleman, he continually fails to mention that 230 or 260 million people in this country are held hostage by the deficit, which is accumulating at $30 million an hour.

Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, we are really here to end the sham, the scam. If Members will recall when Bill Clinton, before he was President, I saw him with my own eyes. I have a little bit of nearsightedness, but I saw him, I heard him. I am not visually or hearing impaired, and I heard him. He was running for office, and he promised to balance, he would submit a plan to balance the budget in 5 years. We heard him.

Now, I am sure you have seen the recent commercial. We also have Bill Clinton saying, I think it can be done. Well, it can. First of all, it can be done in 7 years. That is May 1995. Then we heard 10 years, then we heard 9 years and 8 years. . . .

Mr. HOYER. Objection, Mr. Speaker.

Mr. MICA. We are going to nail down the balanced budget.

Mr. HOYER. Mr. Speaker, I ask the gentleman's words be taken down.

Mr. McINNIS. Regular order, Mr. Speaker.

Mr. HOYER. Under the rules, the gentleman cannot say any more.

The SPEAKER pro tempore. The gentleman from Florida will be seated.

□ 1110

Mr. MICA. Mr. Speaker, I would state for the RECORD that my words, in fact, were referring to the budget, and at no time would I refer to the President, and I ask unanimous consent that they be stricken.

Mr. HOYER. Mr. Speaker, the words of the gentleman have been taken down. I demand regular order.

The SPEAKER pro tempore (Mr. GOODLATTE). Does the gentleman ask unanimous consent to withdraw his words?

Mr. MICA. Yes, I do, I ask unanimous consent.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. HOYER. Mr. Speaker, I object.

Mr. MICA. Mr. Speaker, I would gladly apologize.

Mr. HOYER. Mr. Speaker, regular order.

Mr. OBEY. Mr. Speaker, the gentleman is supposed to sit down until the words have been taken down.

The SPEAKER pro tempore. That is correct. The Clerk will report the words objected to.

The Clerk read as follows:

> We heard him now, I am sure you have seen the recent commercial. We also have Bill Clinton saying, I think it can be done. Well, it can be done, first of all it can be done in 7 years. That is May 1995. Then we heard him in 10 years, then we heard 9 years, and 8 years. Well, my colleagues, we are here to nail the little bugger down, and that is the purpose of this.

The SPEAKER pro tempore. In the opinion of the Chair, there is an improper reference to the President of the United States and the remarks are not in order.

Without objection, the words are stricken from the RECORD.

There was no objection.

Without objection, the gentleman may proceed in order.

Mr. HOYER. We will object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

Mr. McINNIS. Mr. Speaker, I reclaim my time.

PARLIAMENTARY INQUIRY

Mr. SCHUMER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from New York will state it.

Mr. SCHUMER. If the gentleman from Florida's words are taken down, are not his privileges on the floor suspended for the day?

The SPEAKER pro tempore. The privilege of debate for the gentleman would be suspended unless the House permits the gentleman to proceed in order.

For what purpose does the gentleman from Texas rise?

Mr. DELAY. Mr. Speaker, I move that the House allow the gentleman to speak for the rest of the day.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DELAY] to allow the gentleman from Florida [Mr. MICA] to proceed in order.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. LINDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 199, nays 189, answered "present" 26, not voting 18, as follows:

[Roll No. 816]

YEAS—199

Allard
Archer
Armey
Baker (CA)
Ballenger
Barr
Barrett (NE)
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doggett
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoke
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lucas
Manzullo
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myrick
Norwood
Nussle
Packard
Paxon
Pombo
Porter
Portman
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Young (AK)
Young (FL)
Zeliff

NAYS—189

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Camp
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
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Gibbons
Gonzalez
Goodling
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman

Hastings (FL)
Hefner
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Hinchey
Hoekstra
Holden
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Hoyer
Jackson-Lee
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Neal
Nethercutt
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Ward
Waters
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

ANSWERED "PRESENT"—26

Bachus
Barrett (WI)
Bartlett
Blute
Burr
Castle
Davis
Dixon
Ehlers
Franks (NJ)
Frelinghuysen
Hobson
LaTourette
Leach
LoBiondo
Longley
Martini
Morella
Ney
Parker
Petri
Pryce
Rohrabacher
Wamp
Wicker
Wolf

NOT VOTING—18

Baker (LA)
Brewster
Dornan
Fields (LA)
Hayes
Jacobs
Jefferson
Livingston
McCrery
McDermott
Neumann
Oxley
Rose
Tucker
Volkmer
Waxman
Weldon (PA)
Wilson

☐ 1136

Mr. BONIOR, Mr. TORRES, and Ms. KAPTUR changed their vote from "yea" to "nay."

Messrs. HEFLEY, COSTELLO, and SHAYS changed their vote from "nay" to "yea."

Messrs. PETRI, PARKER, WAMP, LONGLEY, LOBIONDO, FRELINGHUYSEN, NEY, and BARRETT of Wisconsin changed their vote from "yea" to "present."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman from Florida [Mr. MICA] may proceed in order.

Mr. MICA. Mr. Speaker and my colleagues, first I want to apologize for the inconvenience that I have caused the House. I did ask unanimous consent to have my remarks withdrawn.

I hold the House in great honor and really consider it a tremendous privilege to serve here. As Members know, my family served on that side of the aisle. It is a great institution. I do nothing to shed any bad light on the House and apologize if any words that I, in fact, made were improper to each and every one of you personally, but I guess we get emotional in this.

I never went to law school and sometimes I come up here and say things I should not say. I probably should choose better words. But, like some of you, I missed my son's football game last night, I did not get a chance to get the house cleaned today with my wife for Thanksgiving.

You really think about the reason we are here is to balance our budget and to get our Government's finances in order.

I know everybody on this side wants to do that with compassion and care. That is the reason we are all here and to try and do a good job to get our country's finances in order and to be responsible as Representatives of the people.

Mr. McINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, quite frankly my constituents do not quite understand why we are behaving the way we are today, when it is my constituents, when it is the Federal worker, when it is the taxpayer, when it is the person who needs Federal services that has the right to be outraged and to lose their patience from what we are not doing in this Chamber.

Let me bring us back to the rule that is before us that will permit us to have a continuing resolution so that our veterans, Social Security benefits, and Medicare can be processed. That is a reasonable request, a continuing resolution for those purposes.

My constituents are asking why can we not have a continuing resolution for the other agencies of Government? If it is simple enough under suspension of the rules to pass authority to spend money for veterans, Social Security, and Medicare, why can we not do it for all of the appropriations where this House has not sent to the President an appropriation bill?

My constituents are being inconvenienced not just on Social Security and veterans' checks but on their inability to get a passport processed, on their inability to have other Government services performed. They are outraged because our agencies are closed, we are telling Federal workers to stay home and be paid for the services that are not being performed, we are in fiscal crisis, and we are doing that?

If we can pass a continuing resolution without holding the President hostage on these areas, then why can we not come together and pass a continuing resolution on all of the agencies of Federal Government?

Do not bring up the balanced budget or other issues. Many of us support balancing the budget in 7 years. We can debate that on the budget. Not on a continuing resolution.

You are showing willingness for veterans, Social Security, and Medicare, then show a way to do it for all of our agencies.

Yes, let us support this, but let us bring up a continuing resolution for all Government services.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is important at this stage of the rule debate that we focus on what this debate is about, and that is the rule. I would like to just repeat that House Resolution 275 is a straightforward resolution. The proposed rule merely provides that it shall be in order at any time today for the Speaker to entertain motions that the House suspend the rules. The Committee on Rules agreed to the amendment to the rule by the gentleman from California [Mr. BEILENSON] which provides that the matters being considered under suspension will be announced from the House floor at least 1 hour prior to consideration and that the Speaker or his designee will consult with the majority leader or his designee prior to consideration under this resolution.

This resolution, this rule, was taken out of the Committee on Rules by unanimous vote. I think it is especially important that the remaining speakers focus on the issue of the rule.

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By passing this resolution, we are attempting to speed up the process so we can reopen the Government as soon as possible while keeping the commitment to the American people to balance this budget within a 7-year period of time.

Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I would focus on the rule, except for 10 seconds ago I had talked about the balanced budget, so I am going to have to do that. It is a good rule.

I think my colleagues on the other side would agree this is a good rule, and we ask for their support.

Without looking at any blame, why do we need? I think, instead, of the Washington Post says we need a goal for a balanced budget, that the President is looking for a goal. And why do we need it hard and fast, without blame on any side?

In the 1970's we were going to balance the budget. We were going to reduce spending for every tax dollar that comes in by 3. It was not done. Then in the 1980's they had a foolproof, they came up with a foolproof way to balance the budget. It was called Gramm-Rudman. Again, for every tax dollar that came in, we were going to cut spending by 3, or at least reduce it. That was not enforceable.

Then the famous one, when George Bush moved his lips. We were all going to reduce spending. We did not there.

I think, my colleagues, when we try and reduce spending, those are called cuts.

You know, it does not serve any of us. We are trying to reduce, in a balanced way, to balance the budget. I think we need a hard, firm commitment out of this Congress because it is primarily with Congress that those come from, and with the President, that we need to balance the budget.

He said we could do it in 5. He also said we can do it in 7. And all we would like is a commitment to do it in 7.

I ask you to vote for the rule because I think it is a good rule.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding me this time.

Let us talk about this rule. Why do we need a rule now today that allows them to waive everything, run everything through here without notice, no layover, no anything? Why? Because it is now 59 days after the fiscal year came and went, and you have all seen the charts of the gentleman from Wisconsin.

The Gingrich Republicans did not get their work done. We have heard a lot this week about airplane rides and why they did not get it done and who felt bad and what the President did.

But, basically it is very interesting to me that the reason we are 59 days and still have not gotten the work done is there is a huge disagreement between Republicans in the Senate and Republicans in the House. So I do not really care whether they got to talk to the President or not.

I am amazed that the Leader DOLE and Speaker GINGRICH can sit next to each other for 25 hours on a plane, they still did not get it worked out. We still have not got the charts filled.

So now we have to have this rule to run everything through. Everybody is trying to be obscure by saying we are for a balanced budget, no, we are, we want 7 years, no, 5 years, 10 years, the President.

Here is the Republican balanced budget. It is simple. They have got more weapons and half the special interests. That is what it was, big corporate tax cuts, big corporate welfare and more for defense than the Joint Chiefs of Staff asked for.

You have got to pay for a balanced budget somehow. Many of us have already voted for a 7-year balanced budget. That is not really at issue. The issue is how you get to the balanced budget.

But that is not the issue today. The issue is how do you get the bills done? How do you get the work product done? We have failed in doing our work. But what we have done is throw other people out of work that want to do their work.

There is something nuts about this, and I must say to the other side it does not look efficient, and I am ashamed we have to be here on this rule today.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, in regards to the preceding speaker, it is her kind of math, frankly, we have gotten a problem with. It has been 49 days since the end of the fiscal year, not 59 days.

Second of all, Mr. speaker, I would like to finish my comments. The other comment I would like to make is, as I recall the previous Speaker's statements from earlier in the year, the criticism to this side of the aisle is we are going too fast, you are going too fast, slow it down. I think both sides of the aisle can work on this. Let us get it completed and get a commitment from the President to balance the budget within 7 years.

Mr. Speaker, I yield 1 minute to my friend, the gentleman from South Carolina [Mr. GRAHAM].

Mr. GRAHAM. Mr. Speaker, I thank the gentleman for yielding me this time.

Contrary to what many people may believe, this happens on occasion in our democracy where we come to an impasse. I think 7, 8, 9, 10 times since 1980 we have had debates about where to take the country. We have had to go past the end of the fiscal year.

This is probably the greatest debate I will ever engage in as a Member of Congress because the single issue is this: Is it not about time, American people, both Houses of Congress and the President joined together and commit to the principle of balancing the budget within 7 years, which is not too hard, which needs to be done?

Let me tell you why it needs to be done: We spent more money this year in interest payments than the entire Department of Defense budget. If we do not change our spending ways, in 17 years the entitlement portion of the budget and the interest portion of the budget will consume the entire revenue stream. If we do not do it now, when are we going to do it? Let some objective group, not Republicans or Democrats, look at the numbers. This can end in 30 seconds, not just for veterans and Social Security applicants but for the whole Nation. Let us end it right. Let us give the American people the best Christmas present they could ever have, and that is Congress and the President agree to get the Nation's financial house in order. Now is the time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, with today's continuing resolution, I am glad the Republican leadership has finally recognized what Democrats have felt.

By this resolution, I am glad the Republican leadership has recognized what we felt all along, and that is that it is wrong to use veterans and Medicare recipients and social security recipients as hostages, as innocent victims in this budget debate.

It is not what is in this continuing resolution today that bothers me. It is what is not in this continuing resolution that bothers me. The resolution we will vote on today does not allow us to ensure that the paychecks of the American military personnel will go out on time on December 1. Let me repeat that: The continuing resolution today will not ensure that American military paychecks will go out on time on December 1. As we sit in this comfortable, heated room, there are thousands of American soldiers serving in the freezing cold of Korea, and under our continuing resolution today, those soldiers' families may not get their paychecks on December 1 and they may not be able to pay their rent and their utility bills.

My friends, that is unconscionable, and we should not allow it to happen. I am honored and privileged to represent 45,000 soldiers at Fort Hood in Texas. They are patriotic young men and women doing their duty, doing what we have asked them to do to serve their country, and it is unfair and wrong. Under this resolution, even if it passes, we cannot tell them eye to eye that they are going to get their paychecks on time.

There is nothing wrong with having an honest budget debate about whether we balance the budget in 7 years, 8 years, 9 years.

There is nothing wrong about having that debate. It is wrong not to pay our military personnel on time.

Mr. McINNIS. Mr. Speaker, I yield 15 seconds to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Speaker, in response to the gentleman just in the well, I would like to report to him without any reference to Medicare, Medicaid, school lunches, tax increases, tax cuts, or anything else, the House and the Senate, in a strong bipartisan vote, have already passed the bill, the Defense appropriations bill, that would pay the salaries of the people in our military. All we need is a signature from the President, and that becomes law and they can go back to work and they can get paid.

Mr. McINNIS. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, we have heard this morning and we hear on the radio waves and in the newspapers people are sick and tired. They are tired of the quibbling. They are tired of the Government being shut down. They want us to do our business.

Let me just say to my colleagues and, through them, to the American people, yes, democracy is a messy business.

As George Will said the other day, there is no such tension, there is no such disagreement going on in Beijing and Havana, that none of us are envious of that. It is messy.

What we are doing is important because there is an underlying principle that is important here, and the underlying principle is a balanced budget.

As we have heard, this is a reasonable balanced budget. Medicare is up by 40 percent per individual over the next 7 years. Medicaid is up by nearly 50 percent; more student loans; the earned-income tax credit is up. If that is the case, what is this all about? It is about slowing the rate of government growth so we can just live within our means, and that will mean lower interest rates so everybody with a mortgage or a car loan or business loan can spend less money on that and have more money to spend and invest in their business and to spend on their family.

Yes, it is messy, but it is important, and we should balance the budget.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. OBEY. Mr. Speaker, will the gentleman yield to me?

Mr. WILLIAMS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, let me simply point out the gentleman from Florida is incorrect. The military pay raise cannot go into effect until the authorization level is passed, and that legislation is tied up between the two Houses. So the military personnel will not get their pay raise.

Mr. WILLIAMS. Mr. Speaker, my colleagues, do we all remember that game show, "Name That Tune"? I can name that tune in 10 notes, I can name that tune in 7 notes.

The American people think that is what we are doing here with this 7 years. I can balance that budget in 7 years, I can balance that budget in 5 years, I can balance that budget. The 7 years is arbitrary. A dozen Members on that side have told me the 7 years is arbitrary.

It is reported that, when asked publicly by the press how we arrived at 7 years, the Speaker of the House said it was our intuition.

This is not a game show. Name That Tune is not worth doubling the Medicare premiums on my senior citizens in Montana. Name That Tune is not worth cutting 600 little Montana kids out of Head Start. Name That Tune is not worth increasing the costs of college as much as $9,000 to my Montana students.

No wonder the American people do not support this fight. They understand that this thing was intuition. They understand that the 7 years is arbitrary.

What the American people support is moving toward a balanced budget in whatever number of years it takes to preserve the appropriate 50-year tradition of an equitable Federal partnership in their lives. There is no magic about 7 or 10. Let us get off of Name That Tune and start naming that balanced budget in a way that protects the American people as well as the American economy.

□ 1200

Mr. MCINNIS. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Arkansas [Mr. DICKEY].

Mr. DICKEY. Mr. Speaker, communications are very important in this discussion. We have got to remember communications, both now and after we finish with our work.

What I am talking about is the fact that we are spending so much time tearing away from tradition and tearing away from 30 years of practice and indulgence, spending that has been on in this Government to an excess. And, as we tear it away, we are also getting into a lot of arguments and discussions and so forth. But we have got to admit that the people who have been in control could give us more cooperation.

We have to admit that the information that we could get from the people who have been in authority for all these years would be very helpful. But right now they are not only not giving us that information, but they are causing us to have to withstand emotional arguments.

What I am pleading with you all to do is for us to keep the lines of communications going. We are going to make mistakes. In this environment we are going to make mistakes. We are trying to bring spending cuts to our country.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Speaker, this is the first Saturday that the 104th Congress has been in session. Last year at this time Congress was home with their families preparing for the Thanksgiving holidays, praying for peace in Bosnia and the Middle East. We had adopted all 13 appropriations bills, we had passed the budget, and we created a $500 billion deficit reduction package.

Look at this year. We have more days in session, more votes cast, and less done, than any time in recent history. The delay, the fight, is not necessary. Just in the beginning of October, this House passed a continuing resolution by a voice vote, so uncontroversial nobody even wanted to have to debate it.

You have the power, Mr. Speaker, you have the votes, Mr. Speaker, you have celebrated the expedience in which you could pass the Contract With America. You have made promises and less progress. You can bring the Federal workers back to their jobs and send Congress home to their families without any debate.

Pass a clean resolution. You have shown it could be done in October. It certainly should be done this late in November.

Mr. MCINNIS. Mr. Speaker, I yield 1 minute and 45 seconds to my good friend, the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise today in favor of the rule, and I also rise today to say enough. It is time for this House and the White House to stop the partisan bickering that has brought this city and this Nation to crisis.

This week, how many lives were altered in ways that we will never begin to know? This week, for example, how many scientists were kept from their labs at NIH, kept from their research on AIDS, cancer research, breast cancer research, prostate cancer research?

All across this region and country Federal employees who want to work have been furloughed. Those who have been working have been struggling to keep their agencies afloat and thousands of taxpayers have been locked out of services they need and deserve. Federal employees, Federal contractors, and the American people have become pawns and hostages in a showdown that can and must be resolved.

The situation, frankly, has become intolerable, and, quite frankly, shameful. I would like to include a letter from the suburban Maryland High Technology Council outlining the adverse effects and impact, because frankly, I know there is common ground for agreement and for ending this crisis, and we will agree we must make sacrifices to balance the budget. We are willing to do it, and we can sit down to do it.

I want to remind the President and this body that the Director of the Office of Management and Budget is the former director of the Congressional Budget Office. So why can we not come together?

I urge this body to be involved with the White House in prompt action. It is time to stop toying with the lives of the American people.

Mr. Speaker, I include the following for the RECORD:

SUBURBAN MARYLAND HIGH
TECHNOLOGY COUNCIL,
Rockville, MD, November 17, 1995.

Hon. CONSTANCE MORELLA,
Cannon House Office Building,
Washington, DC.

DEAR REPRESENTATIVE MORELLA: The Suburban Maryland High Technology Council has polled its member technology firms concerning the affects and impacts of the current Federal Government shutdown on their day to day operations.

I have assembled and categorized some of the responses into the points below to let you know how this action is affecting them.

BUSINESS LOSS

Several companies mentioned that they are losing business:

Unable to make sales.

Unable to take orders.

Cannot make deliveries.

Cannot bill the government for services and equipment ordered.

Delay on receiving payments from government agencies which affects cash flow.

Other companies comments:

Delay in shipments of perishable medical products to government facilities.

"Our firm handles government facilities and our business is definitely suffering."

"Our orders are down 80% from NIH."

CONTRACTS

New contracts are not being issued or processed.

Contracts are being delayed.

AGENCY ACCESS

Difficulty in contacting the Commerce Department, therefore difficulties in conducting international business.

Limited access to information at Federal Communications Commission.

Cannot use NIH Library—day or night.

COMPANY EMPLOYEES

Employees assigned to government facilities have no work and will have to be laid off if the shutdown continues.

Had to find alternative work within the company for several contract employees deemed "non-essential" by the government.

Furloughed 12 people on one contract, (80% of the contract staff). They represent 10% of the companies employees.

Ten people had to be furloughed. That is a loss of income for these employees and they will not be paid as government employees expected to be.

Will continue to keep our employees even if we must borrow money and pay interest on it. This will affect our revenues.

OTHER

Federal Government shutdown sends the wrong message to the world about the prowess of the United States of America.

Not only are the many government employees in our area impacted negatively by the shutdown of the federal government but our many government contractors are also feeling the drain. Unfortunately, there will be no provisions for retroactive compensation for the losses these firms are experiencing. Maryland has a large share of the nation's government contractors. Lack of income, contracts, employee layoffs will have an immediate effect on these firms. Additionally the lack of indirect and induced revenues generated by these firms will have an affect on State's economy.

We urge you to work diligently and quickly to solve this detrimental shutdown of our federal government.

Sincerely,

DYAN BRASINGTON,
President.

Mr. DAVIS. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Virginia.

Mr. DAVIS. Mr. Speaker, I would include for the RECORD an article by Eric Black of the Minneapolis-St. Paul Star Tribune. It is an explanation on the whole CBO-OMB controversy.

[Washington Times—Nov. 18, 1995]

'93 WORDS RETURN TO HAUNT CLINTON

(By Eric Black)

In four forgotten paragraphs of a 1993 speech, President Clinton delivered a devastating critique of the position he is defending today.

The Republican congressional leadership has insisted that, as part of a stopgap funding bill, Mr. Clinton must accept a set of economic projections developed by the Congressional Budget Office (CBO) as the common method of analyzing competing budget proposals.

Mr. Clinton insists on using more optimistic economic forecasts by his own Office of Management and Budget (OMB), a practice he derided in the 1993 speech, saying it provided both parties with "greater elbow room for irresponsibility."

In a joint session of Congress on Feb. 17, 1993, when he unveiled his first budget plan, Mr. Clinton made the following points:

Republicans and Democrats cannot have a clear debate about spending, taxing and deficit-reduction priorities unless they first agree on a common method for scoring the impact of their competing proposals on future deficits.

The CBO should be the source of that common method because it is "independent" and its estimates have been more conservative and more accurate than the OMB estimates, which often seemed to be tailored to the political needs of the president.

Mr. Clinton particularly wanted to avoid relying on more optimistic projections so that "no one could say I was estimating my way out of the difficulty."

The American people cannot follow the argument over spending priorities and will not "think we're shooting straight with them" unless the president and Congress agree on a common set of economic assumptions.

All four arguments are now being made by the Republican congressional leaders. Now, Mr. Clinton rejects the arguments that he made in 1993.

The Republicans are no models of consistency in this matter. When Mr. Clinton first boasted that his deficit projections were more credible because they were based on "the independent numbers of the Congressional Budget Office," the derisive laughter from the Republican side of the aisle was so loud it caused Mr. Clinton to depart from his text.

Then, of course, Congress had a Democratic majority and the CBO leaders were Democratic appointees. Speaker Newt Gingrich, who had often accused longtime CBO Director Robert Reischauer of pro-Democrat bias, insisted on changing CBO directors.

The argument over how to "score" budget proposals, while highly technical in nature, is also enormously important. To say what next year's federal deficit might be, even if all current policies were maintained, would require an accurate forecast of economic growth rate, unemployment, inflation, interest rates, wage trends, tax compliance and countless other figures.

If someone proposed a change, such as lower capital gains taxes or new HMO-type options for Medicare, the scorekeepers would have to estimate how many people would see long-held assets to take advantage of the lower tax rate, how many seniors would choose the HMO option and how much less it might cost the government to insure them that way.

Mr. Clinton was right in 1993 when he said that CBO projections had been more accurate than OMB projections during the Reagan and Bush years. The bad news is that even the more pessimistic CBO projections turned out to be overly optimistic for every one of those 12 years.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is very important, first of all, to remember that this rule came out of the Committee on Rules unanimously on a voice vote. There is no reason that we should not pass this rule here today.

Second of all, I think it is important we put it in its proper perspective. We think that it is especially important at this point in time in our history for the President of this country to go along with the U.S. Congress and commit to balancing the budget of this country in a seven-year period of time, using the CBO numbers.

We do not think that is too much to ask of the President, and the President should not think it is too much to ask of the Congress, and, frankly, the people of America are demanding we balance our budget.

The next thing I think is important to point out is at the beginning of this session when we are trying to change things, it has been 40 years, we were criticized for going too fast. Now, ironically, today we are being criticized for going too slow.

Finally, I would ask all the Members to keep in mind the President's budget that he submitted went down 99 to 0 in February. Not even one Democrat in the U.S. Senate supported that budget.

Mr. Speaker, I move the previous question.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 247, nays 169, not voting 16, as follows:

[Roll No. 817]

YEAS—247

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit

Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton

Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Orton
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard

Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—169

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)

Conyers
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)

Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur

Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Moran

Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott

Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—16

Baker (LA)
Brewster
Dornan
Fields (LA)
Hayes
Jacobs

McCrery
McDermott
Neumann
Oxley
Pryce
Tucker

Volkmer
Waxman
Weldon (PA)
Wilson

☐ 1226

Mr. ENGEL changed his vote from "yea" to "nay."

Mr. POSHARD, Ms. DANNER, Mr. LIPINSKI, and Mr. BROWDER changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 2491, 7-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–354) on the resolution (H. Res. 379) providing for the consideration of a Senate amendment to the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of concurrent resolution on the budget for fiscal year 1996, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 275, the Chair wishes to announce that today the Chair will entertain a motion to suspend the rules and pass House Joint Resolution 123.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2099, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1996

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–355) on the resolution (H. Res. 280) waiving points of order against the conference report to accompany the bill (H.R. 2099) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

☐ 1230

CONCURRING IN SENATE AMENDMENT TO H.R. 2491, SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 279 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 279

Resolved, That upon adoption of this resolution it shall be in order without intervention of any point of order to take from the Speaker's table the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, with a Senate amendment thereto, and to consider in the House a motion offered by the chairman of the Committee on the Budget or his designee to concur in the Senate amendment. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by proponent and an opponent. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. EMERSON). The gentleman will state it.

Mr. ABERCROMBIE. Mr. Speaker, my parliamentary inquiry is based on an inability to get an answer yesterday. Is the measure before the House the same measure which excludes the cost-of-living increases for military retirees for fiscal year 1996, 1997, and 1998, under the national security provisions?

The SPEAKER pro tempore. The Chair cannot respond to the content of a measure that the resolution before the House would make in order.

Mr. ABERCROMBIE. Mr. Speaker, further parliamentary inquiry. Would it be in order, Mr. Speaker, at a time when proponents and opponents of the measure have time, to ask the proponents to yield to such a question? Would that be in order?

The SPEAKER pro tempore. That would be in order.

Mr. DREIER. Mr. Speaker, for purposes of debate only I yield the customary 30 minutes to the gentleman from Woodland Hills, CA [Mr. BEILENSON], and pending that I yield myself such time as I may consume. All time yielded will be for the purposes of debate only.

Mr. Speaker, the rule provides for the consideration of a motion by the chairman of the Committee on the Budget to concur in the Senate amendment to the Balanced Budget Act. This rule is made necessary by the fact that two small provisions of the Balanced Budget Act were stricken from the legislation as a result of the so-called Byrd rule.

Mr. Speaker, business as usual in Washington is making promises, not keeping them. Business as usual is talking about a balanced budget, but not passing one. Business as usual is higher taxes on families and more spending on Government.

By each of these three criteria, Mr. Speaker, passing the Balanced Budget Act today and sending it to the President is not business as usual.

Instead, this is a truly historic day in congressional history, the day when Congress agrees on a budget plan that places children and tomorrow ahead of politicians. That day is today. This rule will permit us to vote on a real plan, a specific plan that balances the budget in 7 years. It may not be perfect, but it has the support of a majority in the House and Senate. It has the support of those who want larger tax cuts, and those who would rather increase spending a little more. It has supporters who want to balance the budget more rapidly and those who think 7 years is as fast as possible.

Mr. Speaker, because it is a real plan rather than some phony outline, crafting the Balanced Budget Act involved real choices and very tough decisions. The conventional wisdom was that a final package could not be put together. The majorities in the House and Senate would self-destruct, many had said. That was obviously not the case.

Along with tremendous leadership from a number of people in and out of Congress, those who support this bill have come together behind a belief that it is a moral imperative that we put children ahead of politics as usual.

Mr. Speaker, the American people know that balancing the budget is critical to improving standards of living. Lower interest rates from this bill alone are expected to create nearly 500,000 new jobs, private sector jobs in my State of California alone. Cutting the top rate on capital gains and extending the research tax credit will translate directly into more jobs in the companies that are at the heart of my State's transition from a defense-based to an export-based economy.

Mr. Speaker, I know the experience of these new jobs to families in California. I will not apologize for cutting taxes to create more private sector jobs. These growth incentives will also increase wage levels, addressing the problem of stagnant wages that has plagued the economic recovery during the past 3 years. While we balance the Federal budget, we must be sure that clear priorities are addressed. Past Congresses have ignored the cost of failed immigration policies. Billions of dollars in services to illegal immigrants have been left to State taxpayers. That is wrong. For the first time this bill will create a $3.5 billion Medicaid fund to assist States with the cost of emergency health care to illegal immigrants.

In tandem with the $500 million appropriated by the House to reimburse States for the cost of incarcerating illegal immigrant felons, this targeted Medicaid fund places Congress at the forefront of dealing with this very important issue of illegal immigration.

Mr. Speaker, we are approaching the time to put partisanship aside. We must unite behind a fundamental desire of families all across this country. We know we must balance the Federal budget. They elected the President and Congress both to accomplish that goal. The President said he was going to do it in 5 years when he ran in 1992, and this Congress, this new majority in the Congress said we would do it. The Balanced Budget Act embodies a number of the President's election promises. Along with that balanced budget, he promised to end welfare as we know it. That is exactly what happens in this bill. He promised a middle-class tax cut when he ran in 1992; that is exactly what we are doing in this bill.

We should come together. This rule will permit us to send a balanced budget to the President for the first time in three decades. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am glad my friend has stopped talking so we can come together.

Mr. Speaker, this rule allows for a motion to dispose of the Senate amendment to the budget reconciliation bill, and allows for 1 hour of debate on that motion. The Senate amendment consists of the reconciliation bill we did yesterday minus two items as the gentleman explained that were dropped in the other body yesterday afternoon. It waives all points of order against the motion.

The rule we are considering is a perfectly acceptable rule for an, unfortunately, unacceptable bill. Since the President has already said he will veto this bill, and we think he should, we think we ought to debate it quickly and get it to his desk as quickly as possible.

We do this body no justice by spending hours debating a bill that is sure to be vetoed. We believe we should concentrate our energies on working out a continuing resolution and a reconciliation bill that the President will sign.

Mr. Speaker, I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Appleton, WI [Mr. ROTH], my friend.

Mr. ROTH. Mr. Speaker, I just want to make a couple of short observations. Basically, when we hear debate that has been going on, not only this past couple of hours, but also yesterday and for the last number of days, it is basically the debate on this side of the aisle. As I see it, it is the debate about the old paradigm, the old liberal welfare state. If my colleagues analyze the debate basically coming from this side of the aisle, it is in the paradigm is that we are moving into an opportunity society.

Basically, what we are saying when we analyze it, is that the liberal welfare State is dead, that more and more government, more and more regulations are not the answer. What we are looking for in our society is that we are looking for less government, less regulation. Why? Because the jobs that are coming are not going to be produced by Government. The jobs that are coming are jobs that are being produced by entrepreneurs, and entrepreneurs cannot have a lot of regulation.

The world is moving ahead too fast. We have got to have less government so that the private sector can move and create the jobs that are needed today. So basically what we are debating here is really a very philosophical issue of where the country and were the world is heading.

We are saying basically that the liberal welfare state is dead and that it is being replaced by the Information Act, what we call the opportunity society.

That is why it is difficult to get these groups basically to see eye to eye. But the American people instinctively know that we cannot continue the liberal welfare state. That is basically why everyone is so much in favor of a balanced budget. It is not only the dollars that are involved, but it is the direction that our country is going in.

When we have our town hall meetings, people are always talking about let us balance the budget. Let us do what the American people are demanding. The American people are demanding a balanced budget. Basically what the American people really are saying is that our Government has gotten too big and our government costs too much.

□ 1245

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I urge an aye vote on this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore (Mr. EMERSON). Pursuant to clause 12 of rule I, the House will stand in recess subject to the call of the Chair or until approximately 1:30 p.m.

Accordingly (at 12 o'clock and 40 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1329

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. EMERSON] at 1 o'clock and 29 minutes p.m.

CONFERENCE REPORT ON S. 440, NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

Mr. SHUSTER. Mr. Speaker, on behalf of both the majority and the minority, I ask unanimous consent that the conference report to accompany the Senate bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes, be considered as agreed to.

The Clerk read the title of the Senate bill.

(For conference report and statement, see proceedings of the House of November 15, 1995, at page H12459.)

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. OBERSTAR. Reserving the right to object, Mr. Speaker, I do not object to the gentleman's request.

Mr. Speaker, I first want to take this opportunity to thank all of the conferees, particularly my good friend from Pennsylvania, Chairman SHUSTER, my distinguished colleague and friend from West Virginia, Mr. RAHALL, and the gentleman from Wisconsin, Mr. PETRI, and all of our committee members for their long, hard work on this important legislation. All have worked hard to make the necessary compromises to move this critical legislation forward on a bipartisan basis. The result of all of our efforts is a better conference report.

Mr. Speaker, most importantly, the conference report that we consider today designates the National Highway System, or NHS. The NHS is the backbone of our Nation's transportation system. It consists of 161,000 miles of Interstate highways and other heavily traveled roads. Although the NHS comprises only four percent of our Nation's total highway mileage, 9 out of 10 Americans live within 5 miles of an NHS road and it carries 40 percent of all highway travel and 75 percent of all trucking commerce.

With passage of this conference report and designation of the NHS, $5.4 billion of critical transportation funds will now be released to the States. In the next fiscal year, an additional $6.5 billion of NHS funds will be distributed nationwide. At a time when our infrastructure is crumbling, this legislation provides critical funds for badly needed transportation projects.

Mr. Speaker, the conference report also includes several other important changes to the landmark Intermodal Surface Transportation Efficiency Act and other transportation laws. It provides additional funding through rescissions to address the section 1003 budget problem, authorizes funds for the National Driver Register and the National Recreational Trails programs, and withholds funds from States that do not prohibit underage drinking and driving by adopting a zero-tolerance law.

While this Conference Report does take these positive steps and others, I nevertheless have grave reservations about several controversial anti-safety provisions also included in the legislation. These provisions eliminate important Federal safety standards, including speed limits and motorcycle helmet requirements.

I know that in the 104th Congress there is a strong desire to turn safety responsibilities over to the States; however, our highway system is a national system. The highways we fund for the National Highway System are widely used by drivers who do not live in the State in which the highway is located. We at the national level bear a substantial responsibility for what happens on America's highways. We impose the taxes that fund the construction of these highways and we set the conditions under which the National Highway System is constructed and operated. We should not step away from our responsibility of ensuring that those very same highways are safe.

Unfortunately the conference has decided to eliminate important Federal safety standards which have saved hundreds of thousands of lives.

Regrettably, the conference report repeals the national speed limit which the National Academy of Sciences estimates has saved 40,000 to 80,000 lives in the past two decades.

The conference report allows States to have no speed limit at all, if they so choose. In fact, in nine states the speed limit repealer will automatically result in higher speed limits, increasing in some States to 70 miles per hour, in others to 75, and in one State to no speed limit at all.

Although today's cars are much safer than those of 20 years ago, it is people, and not cars, who cause accidents, and no matter what is said, speed kills. Speed is already a contributing factor in one-third of all fatal highway crashes, killing about 1,000 Americans every month and costing the Nation a staggering $24 billion each year. This speed limit repealer will result in more Americans killed and taxpayer dollars wasted. The Department of Transportation estimates that the speed limit repeal included in this conference agreement will kill an additional 6,400 Americans each year, at an additional cost of nearly $20 billion annually.

This legislation also terminates an important safety program which encourages States to enact motorcycle helmet laws. Again, the data show that, without question, motorcycle helmets help prevent deaths and serious head injuries. Head injuries are the leading cause of death in motorcycle crashes, and an unhelmeted rider is 40 percent more likely to incur a fatal head injury than one who wears a helmet, and more than 80 percent of all motorcycle crashes result in injury or death to riders.

When 27 States previously repealed or weakened their helmet laws, the increase in motorcycle fatalities was four times the increased rate of motorcycle registrations. Those States that have helmet laws show 20 to 40 percent lower fatality rates than States that do not have helmet laws. That 20 to 40 percent lower fatality rate means that, in those States without helmet laws, we could have saved 350 to 700 lives. I strongly support continuation of a Federal law which can save that many lives.

I cannot accept the argument that if you wear a helmet, the helmet is likely to contribute to an accident. In 900 motorcycle accidents investigated in the city of Los Angeles, 40 percent of the riders were helmeted; in none of these cases did the helmet contribute to the accident by restricting the hearing or vision of the rider.

Helmets reduce injury severity; they reduce the likelihood of death. When you are pitched from a motorcycle or from a bicycle, the probability is that your head goes down first. I know; I have had an accident riding a bicycle. A car pulling illegally from a curb and headed in the wrong direction came toward my bike, smacked me at 20 miles an hour. I went right into the windshield of the automobile and shattered the windshield with my head, but I was wearing a helmet. It not only saved my life but saved me from severe, possibly disabling injury.

I think everybody who rides a motorcycle or a bicycle ought to, in the name of common sense, wear a helmet. More so, in the name of all those who love them, all those who are in their family, all those who are in their community, and all those who are going to pay the bills if they wind up a permanent disabled case.

I am also deeply concerned with those provisions of the conference report which depart from uniform commercial motor vehicle and driver safety standards by waiving key safety regulations for several groups. Under the conference report, weekly on-duty time limits are waived for drivers who transport water well drilling rigs, transport construction materials and equipment, operate utility service vehicles, or deliver home heating oil, the latter being a provision which was not in either bill. In addition, under the conference report, no maximum driving or on-duty time limits would apply to drivers who transport agricultural commodities or farm supplies during planting and harvesting seasons. Many snowplow operators would be exempt from the requirement to obtain a commercial driver's license for operating vehicles that weigh more than 26,000 pounds.

The conference report also creates a program encouraging DOT to waive additional safety regulations for commercial vehicles weighing less than 26,000 pounds.

Mr. Speaker, we need uniform safety standards, not waivers for special interests. This report opens floodgates that will not be easily closed. As soon as one group gets an exemption, other groups will argue that they should have similar exemptions.

Moreover, these waivers are a significant departure from the long-term effort to create uniform commercial motor vehicle and driver safety regulations. The public cares little about whether a truck transports agricultural supplies or home heating oil or any other commodity, intrastate or interstate. The public has consistently indicated that as far as they are concerned, a truck is a truck and all trucks should operate safely.

In addition, an administrative process already exists whereby DOT, the agency we created to ensure safety, may waive regulations, if such a waiver would be consistent with safety. The fact is that the groups that requested the waivers in the conference report could not convince DOT that they would be safe. That's why they came to Congress.

Finally, DOT is currently in the midst of millions of dollars of research on the very complex topic of driver fatigue. The bulk of the research will be complete by 1996. We should not grant blanket statutory waivers without considering the results of these studies.

Mr. Speaker, again, these provisions will seriously threaten our Nation's highway safety. While I endorse the conference report overall, there are numerous antisafety provisions in it which I cannot and will not support.

In that regard, I do want to call attention to a provision of this legislation which I developed to ensure that we will have the ability to oversee the effects of the safety cutbacks. Under my amendment, the Secretary of Transportation, in cooperation with any State that raises its speed limit, will study the costs to the State of death and injuries resulting from motor vehicle crashes, and the benefits, if any, associated with the repeal of the national speed limit.

The Secretary's report will include information on the costs of motor vehicle crashes both before and after any change in the speed limit. It will determine whether these crashes are caused by excess speed, the use of alcohol, or other safety factors, and whether seat belts and motorcycle helmets were used by those involved in the crashes. In this way, within 2 years, we can review what we've done. I hope that my fears of growing numbers of highway fatalities and injuries are unfounded. If they are not—and this study will address this—we can revisit these issues and make the changes needed to save American lives.

Again, although I am seriously troubled by the antisafety provisions of this legislation, I believe that this legislation to develop America's highways should go forward. I will vote in support of the conference report.

Mr. SHUSTER. Mr. Speaker, the passage of the National Highway System Designation Act of 1995 is one of the most important pieces of legislation in the 104th Congress. This legislation will directly affect the lives of generations of Americans to come.

The NHS is the centerpiece of the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA]. It will be to the 21st century what the interstate was to the 20th century: The backbone of our Nation's transportation system and the surface upon which goods and services are carried safely and efficiently across our country.

I would like to thank all the House and Senate Conferees for their efforts to bring this conference report to resolution. Special thanks go to TIM PETRI, the Surface Transportation Subcommittee chairman, JIM OBERSTAR, the committee's ranking Republican member, and NICK RAHALL, the ranking Republican member on the subcommittee, for their contributions. I would also like to thank my Senate colleagues, especially Senator WARNER, Senator CHAFEE, and Senator BAUCUS for their tireless efforts to produce this conference report.

I want to also commend the Department of Transportation and the Federal Highway Administration, especially Administrator Rodney Slater, for their excellent work in working with the States and proposing the NHS map we approve today.

This conference report is the result of a total bipartisan effort. The conference report is truly a compromise. There are provisions that I do not support, but in the spirit of compromise and to ensure the passage of the conference report I accepted these provisions.

The NHS bill passed the House by an overwhelming 419 to 7 vote on September 21.

The passage of the National Highway System Designation Act of 1995 will release $5.7 billion in fiscal year 1996 and $6.5 billion in fiscal year 1997 in national highway system and interstate maintenance funds to the States. It is important to emphasize that this money is not from any new taxes. This $12.2 billion is money already authorized from the highway trust fund.

The conference report will approve 160,955 miles on the National Highway System. These miles were identified through a comprehensive and cooperative process between States, localities, and the Secretary.

The NHS, made up of the Interstate System and the other most important highways in the country, is the backbone of the Nation's transportation system. While comprising only 4.1 percent of the Nation's total highway mileage, it will carry 40 percent of all highway travel, 75 percent of all trucking commerce, and 80 percent of all tourist travel.

America's reliance on its highways is at an all time high. The vast majority of personal trips are over highways. Seventy-eight percent of the value of all freight is transported by trucks over its roads. Over 75 percent of all the cities and towns in America rely exclusively on trucks for freight delivery.

The NHS will extend the benefits of the Interstate System to areas of the United States not currently served by interstate highways. Overall, the NHS will carry 42 percent of rural and 40 percent of all urban travel miles. Ninety-five of all U.S. businesses and 90 percent of all U.S. households will be located within 5 miles of an NHS route. While the Interstate System serves many urban areas with populations over 50,000 and most State capitals, the NHS will serve them all.

Let me review some of the highlights of the bill.

After enactment of this bill, modifications to the NHS will be made by the Secretary and the States. Intermodal connectors will be subject to a one-time congressional approval; however, those that meet FHWA criteria will be eligible for NHS funds in the interim period prior to congressional approval.

The NHS conference report also addresses the budget shortfall as a result of the application of 1003(C) of ISTEA. The conference report provides $513 million in funding to the States from rescissions of budget authority previously made available. These funds are distributed to all States based on the ISTEA formula. In addition, the conference report provides States with additional flexibility to access unobligated balances in order to move forward on their highest surface transportation priorities.

The conference report contains several provisions that provide the States relief from burdensome Federal mandates and penalties. The national maximum speed limit, crumb rubber use requirements and penalties, metric signage requirements, motorcycle helmet law requirements and penalties are repealed, and management systems requirements and penalties are suspended.

I voted against the repeal of the national maximum speed limit, but, both the House and Senate voted overwhelmingly to repeal the national maximum speed limit. However, I am pleased that the conference report modifies the provision by allowing for a 10-day grace period after enactment, before the Federal repeal takes effect. During this period, State legislatures that are in session on the date of enactment may take action to set appropriate speed limits for their States. In States where the legislature is not in session on the date of enactment, a Governor may extend the effective date of the repeal until 60 days after such time as the legislature has convened so that the State has sufficient time to consider the appropriate speed limits for its State. I trust that State legislatures will act thoughtfully and deliberately and make the right decision for their States; taking into consideration the demographics, landscape, and road design of their individual States.

The conference report provides new authority for States and the FHWA to build new partnerships with the private sector through innovative financing mechanisms. These include: Establishment of a 10-State pilot project for State infrastructure banks; modifications to the advance construction program to permit use of advance construction beyond the authorization period; eligibility of Federal funds for preventive maintenance activities; expansion of use of Federal funds for bond or debt financing costs; use of donated materials or services towards the non-Federal share; expansion of the toll loan program to projects with a dedicated revenue source; and increasing the Federal share of toll projects.

The conference report contains no new projects. Some previously authorized projects are corrected or redefined to permit States to use existing funds for revised priorities.

The conference report clarifies that in designating scenic byways, States may exclude from such designations segments of highway that are inconsistent with the State's criteria for designating scenic byways and may permit the erection of new billboards on those segments.

Scenic byways are State programs. It is appropriate that a State make the decision as to whether certain segments that are not consistent with its criteria should be excluded from its scenic byways designations, not the Federal Government. The authority of the FHWA is limited to determining whether the segmentation has a reasonable basis and that the State's action is not solely intended to evade Federal requirements.

The conference report contains a provision that allows signs, displays, and devices identifying and announcing free motorist aid call boxes and their sponsorship signs to be located on the call box and the call box post, in rights-of-way of NHS roads.

A FHWA memorandum dated November 14, 1995 states:

> There is no relationship between sections 131(f) and (i) and the proposed section 111(c) because the call box signs are a very specific type of informational sign created in a section of title 23 completely separate from the Highway Beautification Act. Statutory construction would require the FHWA to treat the call box signs created under section 111 as entirely separate from any provision of section 131. Thus, the new category of signs cannot be affected by the Highway Beautification Act or by FHWA's Highway Beautification Act regulations.

The conference report provides relief to States from the Clean Air Act's enhanced inspection and maintenance program and transportation conformity requirements.

I would like to recognize the efforts of the American Road and Transportation Builders Association in bringing the suit to address the conformity issue, the settlement of which will be ultimately accomplished in this conference report.

The conference report contains a safety provision to help deter drunk driving among minors. States are encouraged to enact laws which make the operation of a motor vehicle by an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater considered to be driving under the influence or driving while intoxicated, or risk loss of Federal-aid highway funds. This provision will help protect our youth, make our highways safer, and reduce fatalities.

The conference report provides for common sense motor carrier deregulation through establishment of a Commercial Motor Vehicle Regulatory Relief and Safety Pilot Program and exemptions from burdensome regulations on certain motor carriers.

The Small Delivery Truck Pilot Program has been significantly tightened since the passage by the House. The Secretary has been given greater latitude to set criteria for entry into the program, the carriers participating in the program must only use top drivers, the ability to terminate carriers participating in the program has been strengthened and the Secretary may set interim criteria for operating the program. These changes have been put into place after working with the Department, industry, safety groups, and consumer advocates. All sides have had a voice in crafting this provision.

The motor carrier hours of service exemptions for water well drillers, farmers, and construction and utility vehicles have been limited and the conference report has clarified that the States may continue to regulate intrastate commerce in these areas even more stringently than Federal requirements.

The conference report contains a provision to repeal the preemployment alcohol-testing requirement for all modes of transportation. Nothing in this provision is intended to limit the flexibility provided in the Federal motor carrier safety regulations that allow motor carriers to rely on postaccident drug or alcohol tests conducted by Government officials and obtained by the employer as a way to meet the motor carriers' testing requirement.

The Natcher Bridge, spanning the Ohio River between Owensboro, KY, and Indiana is a critical transportation project to the Second District of Kentucky. This bridge has been funded through appropriations and is not partially complete. It currently has approaches and piers but no roadway or structure. Completing this bridge is a priority.

This conference report makes $5.7 billion in fiscal year 1996 funds and $6.5 billion in fiscal year 1997 funds available to the States. It also provides additional allocations from rescissions and funding flexibility for States to fund high priority projects. For Kentucky, the bill makes $51.0 million in fiscal year 1996 and $58.2 million in fiscal year 1997 NHS funds available to Kentucky. Since the bridge is on the NHS, Kentucky may use all of these funds to complete the bridge.

This conference report also rescinds $513 million in highway program funds that are no longer viable or in priority programs. Kentucky will receive a distribution of $7.9 million from these funds, which may be used for any high-priority project such as the Natcher Bridge.

Finally, to permit States to fund high-priority projects despite a budget cut of 13 percent this year due to an obscure provision of law known as section 1003, this conference report provides flexibility to the States to reprogram old, unobligated balances of accrued funds. Kentucky can reprogram $27.4 million, all of which could be used on the bridge.

I would like to work with the gentleman from Kentucky over the next 2 years to ensure that high priority projects such as the Natcher Bridge are considered whenever Congress considers highway funding, including the reauthorization of ISTEA.

Lock and dam #4 is a critical transportation project in my district that requires $4 million in funding to complete the bridge. This conference report provides the State of Arkansas with $7 million total in additional funding from rescissions. These funds are on top of Arkansas' regular Federal highway funding. Arkansas may use the funds to complete any high priority project in the State, including completing lock and dam #4.

The 1994 Northridge, CA earthquake was centered in the 25th Congressional District and highlighted the transportation shortfalls evident in several communities in north Los Angeles County. Other than Northridge itself, the community which probably suffered the most was the city of Santa Clarita, which was flooded with traffic following the destruction of the freeway interchange between I–5 and State route 14. I understand that even in normal circumstances, existing highways in Santa Clarita are overcrowded since the system of roads currently in place was designed over 30 years ago. Since that time, Santa Clarita has been among the fastest growing cities in California and a major traffic problem in the area.

I hope that in the future, we may look to address two transportation needs in the area that have been brought to my attention, the interchanges around I–5 and Route 126. Both of these routes are on the NHS and if these two interchanges and adjacent roadways require major improvements and I hope to work with the gentleman from California to help him address these needs.

At this time, I would like to recognize a leader in the highway community for over 40 years, Les Lamm, who passed away on November 1. Les Lamm was elected president of the Highway Users Federation on March 1, 1986 and served in that capacity until January 15, 1995. Les was counselor to the president of the Highway Users Federation until his death. A civil engineering graduate of Norwich University in Vermont, he completed postgraduate studies at Harvard University, MIT, and the University of Maryland. Les came to the federation after a 31-year career with FHWA, and its forerunner, the U.S. Bureau of Public Roads. In 1973, he became FHWA's executive Director, the Agency's top career professional. In 1982, President Reagan appointed Mr. Lamm FHWA Deputy Administrator. Between 1973 and 1986, he worked with six U.S. Secretaries of Transportation, helping direct more than $100 billion in Federal aid to highway programs.

Les was an incorporator of the Intelligent Vehicle-Highway Society of America and served as its president.

He was a noted authority on highway transportation, and was a member of the board of governors of the International Public Works Federation; a member of the executive committee of the Transportation Research Board; a director of the International Road Federation; a director of the National Commission Against Drunk Driving; a director of the Travel Industry Association of America; a director of the Road Information Program; on the advisory board of the Northwestern University Traffic Institute; president of the Alumni Association of Norwich University; and was active in many other transportation-related professional organizations. He has received more than 50 awards for professional excellence from a wide range of private and public sector organizations.

We will all miss this fine gentleman. It is appropriate that we honor him today, for he would have been very proud to see the National Highway System, one of his greatest legacies, enacted into law.

I want to thank the superb staff on the Surface Transportation Subcommittee. They worked with great diligence and dedication to help produce this conference report. They are: Jack Schenendorf, Bob Bergman, Becky Weber, Roger Nober, Debbie Gebhardt, Peter-

Loughlin, Aadam Tsao and Linda Scott on the majority side, and David Heymsfeld, Sante Esposito, Ken House, Rosalyn Millman, Ward McCarragher, Dara Schlieker and Jim Zoia on the minority side.

I am pleased to bring this critical legislation to the House for approval and then promptly send it to the President for his signature. I urge all my colleagues to give them their full fledged support to this historic legislation.

Mr. PETRI. Mr. Speaker, I strongly support this conference report to accompany S. 440, the National Highway System Designation Act of 1995. I want to acknowledge the efforts and contributions of all the House and Senate conferees, as well as the critical assistance of Rodney Slater, the Federal Highway administrator, who was ready at all hours of the day to meet and give his advice and counsel as the conferees worked on this conference report these past several weeks.

S. 440 will designate 160,000 miles of our Nation's most important roads as the National Highway System. A dedicated source of Federal funds, authorized at $3.6 billion annually, is reserved for these roads. In addition, approval of this conference report will lead to the release of over $6 billion in National Highway System and Interstate maintenance funds which have been withheld from the States since October 1 of this year.

S. 440 also sets up a process for the designation and approval of intermodel connectors—roads connecting the NHS to ports, airports, rail yards and the like. Until these connectors can be initially approved by the Congress, interim eligibility provisions are included. The interim eligibility provision refers to a project to construct an intermodal connector. The definition of the word construct is already defined very broadly in title 23. It is our intention that the word construct in this section is to be read very broadly to include not only construction and reconstruction projects, but also projects involving resurfacing. Restoration, rehabilitation, and operational improvements, such as the installation of traffic surveillance and control equipment and computerized signal systems.

This conference report accomplishes much more than the designation of the National Highway System. Various Federal mandates and penalties are repealed, including the repeal of motorcycle helmet mandates and associated penalties, the repeal of the national maximum speed limit and associated penalties, and the repeal of the mandated use of crumb rubber in asphalt and associated penalties.

The conference report contains many other worthy provisions to improve our Nation's Federal highway program and to facilitate the construction of transportation projects across the country. The conference report, like the House bill which was passed in September, does not contain any new funding for any specific highway project.

Although I am generally pleased with this conference report, there is one major disappointment. The Senate refused to agree to the House provision which would have utilized over $500 million in excess and available budget authority in the minimum allocation program to restore funding reductions that every State will experience as a result of section 1003 of ISTEA.

Unfortunately, the Senate chose to offer up this budget authority as savings for the purposes of budget reconciliation. I believe the decision of the House to utilize this budget authority in a way that would not increase the deficit but would have benefited the highway program was a better course to take. I regret the Senate did not agree.

Nevertheless, this conference report is worthy of the support of every member of the house and I urge my colleagues to approve the conference report and approve the National Highway System.

Ms. BROWN of Florida. Mr. Speaker, I rise in support of the conference report for S. 440, the National Highway System Designation Act of 1995. This bill designates approximately 161,000 miles of highways in the United States as components of the National Highway System [NHS] and includes $6.5 billion for States to use for Federal highways. Under the bill's formula, Florida would receive approximately $234 million a year.

I want to thank Congressman RAHALL, Chairman SHUSTER, Congressman OBERSTAR, Congressman PETRI, as well as former Chairman Norman Mineta for helping us to find Federal funds to replace Jacksonville's Fuller Warren Bridge. These funds will be combined with State and local funds—this is truly a Federal-State partnership.

As many of my colleagues may know, I have been working on this project for 3 years. The need to replace the Fuller Warren Bridge has been recognized by local, State, and Federal transportation officials because its structural deficiencies have resulted in very serious safety and traffic congestion problems for a transportation edifice that is the gateway to our Nation's third largest State.

Built in 1954, the Fuller Warren Bridge is functionally obsolete, its lane widths are insufficient, and it lacks safety shoulders. Consequently, Florida's Department of Transportation has identified this segment of I–95 to be a high accident location. In the past five years, 604 accidents have occurred along this segment resulting in economic losses exceeding $16 million. Accidents occur frequently due to the sudden narrowing of I–95 from a six- to eight-lane roadway to a four-lane bridge. In addition, the bridge's serious structural deficiencies in the last few years led to the bridge being closed for 6 days in January 1992 when engineers found cracks in the counterweights. In 1993, the bridge was closed again when a 3-foot chunk of the bridge's roadway fell into the St. Johns River.

The new bridge will improve the substantial traffic congestion that exists for the traveling public strictly because of the existing Bridge's structural deficiencies. The severe traffic congestion caused by the Fuller Warren bridge is well known to both local and interstate travelers. Each bridge opening lasts approximately 5 minutes or more. These delays create significant problems that affect traffic flow long after the bridge reopens. These bridge openings lower the capacity and the level of traffic service on Interstate 95.

In addition to the frequent bridge openings of 15 to 20 times a day, the narrowing of I–95 from a six- to eight-lane roadway to a four-lane bridge adds to the problems encountered by traffic on the approach to the Fuller Warren Bridge. The resulting bottlenecks back up traffic for several miles on each side of St. Johns River delaying motorists for upwards of 30 to 45 minutes for each bridge opening. When the bridge fails mechanically because of the lift mechanism, any detour that is implemented winds through the downtown area. When the bridge's lift span failed in January, 1992, traffic had to be detoured for six-days and getting through Jacksonville was impossible as some motorists had to travel 60 miles to the west and utilize I–75. As a result of these delays, fuel consumption is increased and the city of Jacksonville experiences decreased air quality.

The Federal Highway Administration [FHWA] has determined that existing Bridge needs to be replaced with an eight-lane high rise fixed span structure. The replacement bridge will provide greater traffic capacity, needed safety refuge lanes, and the elimination of the frequent bridge openings and sufficiently address the safety and traffic congestion problems of the existing bridge structure.

The Fuller Warren Bridge replacement project is underway. Engineering, Final Design, and Right of Way Acquisition have already been funded. The parcels of land required have been acquired. Final design has been completed. Construction is scheduled to begin early in 1996.

However, the remaining $185 million construction cost is unfunded. Of this $185 million cost, about $37 million would be non-Federal contributions provided by the State of Florida and $148 million would be Federal highway funds, assuming an 80 percent Federal, 20 percent State split.

This past June, the Florida Department of Transportation [FDOT] developed a plan using local, State, and Federal funds to replace the Fuller Warren Bridge. The most important part of the plan is FDOT's decision to contribute $100 million of right-of-way bond funds, which are now available for bridge construction in the State, towards the construction costs of the Fuller Warren replacement bridge. The Jacksonville Transportation Authority [JTA] has stepped up to the plate and committed $25 million for the Fuller Warren Bridge. The final piece of the financial puzzle will come from S. 440, the National Highway System bill because it allows Florida's Transportation Department to use a sizeable portion of $97.5 million from a transportation project that has been terminated for the Fuller Warren Bridge. On behalf of the city of Jacksonville, I thank all of you.

Mr. Chairman, I would be remiss if I did not mention my concerns about the provisions in this bill which repeal our Nation's speed limit. Repeal of the national speed limit law endangers the safety of all Americans. Some State officials have already indicated their intent to immediately move to repeal safety laws if the Federal programs are eliminated. In several States, speed limits automatically go above 65 mph if the national maximum speed limit is repealed. If the national speed limit is repealed and we return to pre-1974 conditions, the Federal Transportation Department estimates that we will be faced with an additional 4,750 highway deaths each year, at a cost of $15 billion.

Who pays the price, if the speed limit is repealed? Taxpayers ultimately bear the cost for emergency medical and police response, medical treatment, days or years of lost productivity, disability compensation for the motor vehicle crashes that will result from higher speed limits.

We know that speed is a factor in nearly one-third of all traffic fatalities and that motor vehicle crashes already cost society more than $137 billion every year. The health care portion is approximately $14 billion—of which Medicare and Medicaid pay $3.7 billion or almost 30 percent.

I strongly believe that we will see a dramatic increase in highway death as a result of this bill. I hope that I will be proven wrong, but I think that the supporters of the repeal will realize their mistake and we will be back on the House floor to correct it.

Despite my concerns, I will support this conference report and ask President Clinton to sign S. 440 when it reaches his desk.

Mr. DINGELL. Mr. Speaker, I rise in support of the conference report on this important measure to continue the Nation's efforts to update and expand its infrastructure of national highways.

I would like to draw the House's attention to one provision that makes changes to the inspection and maintenance requirements in title I of the Clean Air Act Amendments of 1990. Effective inspection and maintenance of motor vehicles is a cornerstone of this Nation's efforts to reduce air pollution. It should remain so since it happens to be one of the most cost-effective ways of reducing emissions.

Having said that, I have long had concerns about the lack of flexibility exhibited by EPA in implementing the enhanced vehicle inspection and maintenance mandate. It should be remembered that the overly-prescriptive approach that EPA originally embarked upon was developed and implemented by the Bush administration. Administrator Browner has since attempted to create more flexibility for States. EPA has dropped the Bush administration's opposition to alternatives to centralized inspection and maintenance programs and will approve alternative approaches. It has also indicated in recent policy statements that there will be no automatic discount for States that bring in these alternatives.

While these are the proper positions, there remains some skepticism that the rank and file at EPA have truly open minds about letting alternative programs submitted by States receive the proper amount of credit. Because of that, this bill includes legislative language which essentially writes into law the flexibility that EPA has already indicated it will give States.

This new provision includes an opportunity for States to secure interim approval of alternative programs with EPA required to grant the State the full amount of the proposed credit during the interim period. This submission must be supported by efforts in the State to implement the program including developing regulations and securing legislative authorities.

As noted, EPA must approve the full amount of the credits claimed, where the credits reflect good faith estimates. By this, we are not asking EPA to consider the State's motives but rather asking EPA to ensure that the State's estimates are based on some basic technical assessment that includes appropriate technical and empirical data wherever possible. However, EPA should not mandate any presumptive discount and should review and consider any alternative programs on their individual merits.

With these additions, I am confident that the inspection and maintenance provisions of the Clean Air Act can provide economical emissions reductions vital to move the country toward the national goal of clean air.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I am pleased that the National Highway System is finally being approved. This bill will create for America in the 21st century what the interstate system has done for America in the 20th century.

As a Texan sitting on the Transportation and Infrastructure Committee, I am particularly supportive of this legislation because it recognizes the importance of Interstate 35 as a high-priority corridor. I–35 is the only interstate in our Nation that connects Canada, Mexico, and the United States. I–35 is particularly vital to my home of Dallas and the entire State of Texas because it serves as our main corridor of trade with Mexico.

With the passage of the North American Free-Trade Agreement [NAFTA] in 1993, trade with Mexico is expected to double by the end of the century and quadruple between the United States and Mexico within the next 25 years. The responsibility of Congress did not end with that historic vote. Passage of the NHS is a continuation of developing an infrastructure that maximizes the benefits of this agreement.

The NHS represents some of our Nation's most heavily traveled byways, containing 40 percent of total vehicle travel and 75 percent of heavy truck travel. More importantly to anyone who travels our roads, the NHS means safety for travelers. Improvement of shoulders, controlled access, and divided lanes will help reduce accidents and fatalities.

However, while the focus of this legislation is to designate the NHS, it also has many provisions with which I do not agree. Unfortunately, this bill would repeal the Federal speed limit and allow States to have no speed limit at all if they wished. It would effectively repeal the motorcycle helmet requirement for individuals under the age of 18. I believe that these provisions seriously threaten our Nation's highway safety.

I support this bill simply because it will bring the State of Texas approximately $455,792,000 and identifies 13,389 miles which will be the top priority miles for America as we move into the next century.

Mr. SHUSTER. Mr. Speaker, on behalf of myself, Surface Transportation Subcommittee Chairman TOM PETRI, and ranking minority member of the Surface Transportation Subcommittee NICK RAHALL, I submit the following statement for the RECORD.

Section 314 of the bill amends subsection (S) of title 23. Under this provision, it is clarified that States have the sole discretionary authority to determine whether to permit the construction and maintenance of new outdoor advertising structures within commercial and industrial segments of scenic byways. It has the further effect of modifying the standards under which section 1047 of ISTEA is implemented.

Scenic byway programs are created by States with their own unique criteria for designating scenic byways. The provision clarifies that if a State determines that a segment is inconsistent with a State's criteria for designating such roads, it may segment out those portions from the designation and may choose to erect new billboards on those segments.

The provision also clarifies that the Secretary of Transportation's authority is limited to assuring that a State has a reasonable basis for excluding a segment of an interstate or Federal-aid primary highway from scenic byways designation consistent with the State's scenic byway criteria, and that the State's action is not solely intended to evade Federal requirements regarding the prohibition of new billboards on scenic byways. Where a State exclusion is reasonable, that determination is controlling.

One of the Federal Highway Administration's very first actions after the enactment of ISTEA was to issue an advisory that construed the provisions of subsection (S) to prohibit the construction of all new billboards on any State-designated scenic byways, including commercial and industrial areas incorporated within the byway. The FHWA's preemption policy was wrong as a matter of law because it conflicted directly with the basic structure of the Highway Beautification Act that expressly preserves the authority of the States to control outdoor advertising in commercial and industrial areas adjacent to controlled highways. The policy was ill conceived as a practical matter as well. The FHWA interpretation forced the States against their will to extend scenic byways regulation to inherently nonscenic areas. It also compromised economic development along scenic byways by impairing the ability of travel and tourism businesses within those areas to advertise themselves to the users of the highway.

As the folly of this policy became clear, FHWA reversed its position and issued a segmentation policy in June 1993 that recognized State discretion to permit new billboards within the commercial and industrial segments that punctuate virtually every scenic byway. In a June 14, 1993 FHWA memorandum, it states:

> Scenic byways designated before, on, or after December 18, 1991, need not be continuous. A State may wish to exclude from existing or future scenic byway designation highway sections that have no scenic value, and which have been designated solely to preserve system continuity. We do not find that section 131(S) restricts a State from taking administrative action to remove from scenic byway designation any section lacking in scenic value which was included for continuity purposes. However, the exclusion of a highway section must have a reasonable basis. The Federal interest is in preventing action designed solely to evade Federal requirements.

Unfortunately, the FHWA implemented its revised segmentation policy in a sporadic manner. As a result, there is broad confusion among the States regarding the scope of FHWA's authority in this area. The FHWA failed to issue any specific guidance to the States on how to implement segmentation in a manner that it would not be seen solely as an effort to evade the requirements of section 131(S) that prohibit billboards in truly scenic, noncommercial areas.

Accordingly, the statement of manager's language emphasizes that the conference substitute codifies the current implementation of section 131(S) in order to specifically freeze in place a congressional finding that compliance with the methodology and procedures followed by Virginia are sufficient to establish that a State has a reasonable basis for excluding certain scenic byways segments in a manner consistent with that State's scenic byways criteria. In this regard, the Virginia Department of Transportation made its determination based on onsite inspection of individual byways and identified the existing and future commercial and industrial areas within those corridors that it determined to exclude from scenic designation.

The review of Virginia byway designation for the Lonesome Pine and Daniel Boone Heritage Trails is inserted in the RECORD as a specific example of sufficient State action necessary to show the State has a reasonable basis for excluding certain scenic byways segments in a manner consistent with that State's scenic byways criteria. The review is as follows:

REVIEW OF VIRGINIA BYWAY DESIGNATION LONESOME PINE AND DANIEL BOONE HERITAGE TRAILS

In July 1994, the Virginia Department of Transportation (VDOT) conducted a review of the portions of the highways within the federal-aid primary system of highways, as that system existed on June 1, 1991, which comprise the Trail of the Lonesome Pine and the Daniel Boon Heritage Trail designated as Virginia Byways by the General Assembly. The review was limited to adverse impacts the byway designation had due to restricted use of property zones commercial or industrial by the local governments and unzoned commercial or unzoned industrial areas defended by the Commonwealth Transportation Board, hereinafter, commercial or industrial areas, to comply with the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA).

It was determined that compliance with Section 1046(c) of the ISTEA amendments to Section 131(s) of Title 23 of the U.S.C. restricted 174 existing uses, 192 potential uses and 58 miles of commercial or industrial areas adjacent to the 247 miles of the Virginia Byways which are classified as federal-aid primary highways. The byways traverse to go through 13 cities or incorporated towns.

Subsequent to the designation of the trials as Virginia Byways, the Federal Highway Administration (FHWA) Deputy Chief Counsel issued a legal opinion on May 13, 1993 as to the meaning of 23 U.S.C. 131(s). The legal opinion, in part, included the statement "Under ISTEA, Congress left to a State's discretion the designation of a scenic byway under the State's scenic byway program. There was no limitation as to what highways a State could designate as scenic byways. If such highways pass through commercial and industrial areas, it is up to the State to determine if the scenic values of such areas merit protection as part of a scenic byway." On June 14, 1993, the FHWA Associate Administrator for Program Development issued on informational letter to this effect as well. A copy of the legal opinion and the informational letter are attached.

From its visual inspection of the sections of the commercial and industrial areas adjacent of federal-aid primary portions of the Virginia Byways comprising the trails referenced hereinbefore, VDOT has determined that such commercial and industrial areas do not have scenic values that merit protection as part of the Virginia Byways. Therefore, commensurate with the federal legal opinion and administration's clarification referenced hereinbefore, the General Assembly of Virginia can amend the Acts of Assembly, 1993 (H.R. 2068) to delete the Virginia Byway designation of portions of highways therein adjacent to commercial and industrial areas through enactment of a bill containing the attached language without impacting VDOT's ability to comply with ISTEA and other federal mandates a required to receive its full share of federal monies appropriated for transportation programs.

Moreover, the Virginia Byway and Trail signs are in place and can continue to be maintained if the commercial and industrial areas are excluded from the byway designation.

In contrast, the language in section 314, consistent with FHWA's current policy, does not permit categorical exclusions of commercial and industrial areas from State designated scenic byways without consideration of whether those areas are consistent or inconsistent with the State's own criteria. For example, the State of Louisiana proposed legislation to exclude commercial and industrial areas from scenic byway legislation. In a May 17, 1995, FHWA memorandum on the Louisiana legislation, FHWA stated:

The proposed language automatically excludes commercial and industrial areas from the Louisiana byways system without consideration of the intrinsic qualities contained in the Louisiana byways criteria within those areas. To exclude any commercial or industrial area from scenic byway designation it must be determined that there is an absence of these intrinsic qualities.

Section 314 of the conference report makes it clear that a State's determination to exempt specific scenic byways segments for new billboard construction is also dispositive in the implementation of any scenic byways program promulgated under section 1047 of ISTEA. In May 1995, the FHWA issued a national scenic byways program interim policy, FHWA Docket No. 95–15. Section 11 of that policy parallelled the provisions of 131(S) and prohibited new billboards on those segments of controlled highways that are State-designated scenic byways. However, section 11 further required the States to prohibit billboards on portions of the interstate and Federal-aid systems incorporated into the national scenic byways program even where those roads were not a State designated scenic byway. As such, this second provision in section 11 is completely inconsistent with section 131(S) which limits the scope of the prohibition on new billboards to State-designated scenic byways. Likewise, the provision undermines the FHWA's own segmentation policy because it eliminates a State's discretion to exclude portions of its roads from scenic byway regulations and has chilled the nomination process.

The conference report resolves these issues by making it clear that the authority of the State's discretion to exclude segments from scenic byways designation under 131(S) applies equally with respect to any action by the Secretary pursuant to section 1047. Accordingly, FHWA may not engage in rulemaking, or take any administrative action under either section 131(S) or section 1047, that has the effect of preempting or compromising the States' discretion. As a result, the Secretary does not have the authority to compel a State to seek the prior approval of the Secretary for its actions in this regard. Rather, the Secretary's authority is limited to a determination, after the fact, of whether a State had a reasonable basis for excluding a segment of a scenic byway consistent with its scenic byways standards to determine whether the States' action was intended solely to evade Federal protection of truly scenic noncommercial areas. In the event that the Secretary makes that determination, the State has the ability to revise or withdraw its exclusion determination.

The implementation of sections 131(S) and 1047 has been greatly complicated by the FHWA's overly expansive interpretations of its own authority. Through section 314 of the conference report, the Congress has made it clear that the discretion is vested with the States alone to exempt segments of scenic byways from the billboard prohibition and to make reasonable judgments regarding the location of billboards in those areas. The FHWA should immediately make appropriate revisions to its national scenic byway program interim policy and take other steps to reaffirm the broad authority of States' discretion under sections 131(S) and 1047.

Mr. RAHALL. Mr. Speaker, I rise in support of the conference agreement on this legislation to designate the National Highway System.

As I look back over the legislative process that brought us to finalizing this conference agreement, I can best describe it in the words of the Grateful Dead: "What a long strange trip it's been."

I say this because this body first passed NHS designation legislation last year.

We did it more than a full year before the October 1, 1995, deadline that caused the sequestration of $5.2 billion worth of Federal highway funds to the States. Yet, at the time, the Senate refused to conference with us.

And I say this because this year, after both bodies passed NHS bills, the conference lasted approximately 8 weeks, during which time we considered a number of strange and wondrous proposals advanced by the other body.

Meanwhile, the States have now been subjected to the loss of all Federal Interstate maintenance and NHS funds for a month and a half now.

It has been a long strange trip indeed, but that trip is now coming to an end.

We bring before the House this day a conference report that at least accomplishes the fundamental purpose of this whole exercise: the designation of a new National Highway System in this country that will be the centerpiece of the post-interstate era.

In effect, the crown jewels of America's highways.

That designation, despite the misgivings many of us have over other aspects of this legislation, is of overriding concern in terms of national need and public interest, and causes this gentleman from West Virginia to urge the speedy enactment of this legislation.

It is true that I am no fan of repealing the national speed limit. that repeal is included in the conference agreement.

And it is true that I am deeply concerned, and have grave misgivings, over the potential adverse safety consequences of provisions of this legislation aimed at minimizing Federal regulation of delivery trucks, as well as hours of service waivers for a number of trucking sectors.

These items would not be in a bill that I crafted.

Yet, it is the majority will of both the House and Senate that these provisions be contained in this legislation. We fought our battles over them, and we fought them fairly under an open committee process and under an open rule of the House floor.

And so, as I have noted, many of us have misgivings over this legislation but all in all, it is a must-pass bill because without the designation of the NHS, the States will continue to be denied $5.2 billion in Federal highway funds, and the Nation, as a whole, will suffer.

I commend this conference report to the House and urge its adoption.

Mr. NADLER. Mr. Speaker, the residents of the West Side of Manhattan, the local elected officials from New York City, the Council for Citizens Against Government Waste, the National Taxpayers Union, the Porkbusters Coalition, and now the House and Senate, for the second time, have made it clear; they do not want the Federal Government to pay $300 million to move a newly refurbished highway in my district so that the tenants of Donald Trump's proposed luxury high-rise Riverside South development will have an unobstructed view of the Hudson River.

As most of the Members of this body know by now I have been working for several years to kill the Trump-backed, $300 million Miller Highway relocation project in my own congressional district. I am pleased to say that because of the language in this NHS conference report, any plans to use taxpayer funds for this ill-conceived project are now defunct. The language in this report takes away all remaining ISTEA funding for this porkbarrel boondoggle. I want to take this opportunity to thank Chairman SHUSTER and Ranking Member OBERSTAR for their work in conference to ensure this project was not allowed to proceed. This is a victory for good government, but most of all, it is a victory for the American taxpayer who would have been asked to pay the bill.

Mr. SHUSTER. Mr. Speaker, I rise for the purpose of clarifying a statement I made during the floor consideration of the conference report of S. 440, the National Highway System Designation Act of 1995.

In my statement, I discussed that lock and dam No. 4 is a critical transportation project that requires $4 million in funding to complete the bridge. I inadvertently referred to lock and dam No. 4 as a project in my district. Lock and dam No. 4 is located in the Fourth District of Arkansas.

The NHS bill provides the State of Arkansas with $7 million total in additional funding from rescissions—from this fund. These funds are on top of Arkansas' regular Federal highway funding. Arkansas could use these funds to complete lock and dam No. 4.

Ms. VELÁZQUEZ. Mr. Speaker, I rise to thank you for your willingness to work with Ms. MOLINARI, Mr. TOWNS, and myself on the crisis surrounding the Gowanus Expressway. This legislation will begin to address the devastating effects that this project will have on the community.

While the proposed reconstruction of the Gowanus Expressway is one of the costliest highway projects in the State's history and will profoundly shape both west Brooklyn and regional transportation for decades to come, its planning and environmental review to date have been inadequate. The bill encourages the State to take a comprehensive new look at the project. This guarantees that the total cost and benefits of both the State's plan and other proposals effecting the surrounding communities and the region as a whole will be examined.

The provisions require that the State of New York mitigate the economic and social impacts this project will have on the neighboring communities. Congress has clarified this with accompanying report language that instructs the State to minimize long-term impairment of local businesses, appoint a community engineer, and undertake traffic calming studies.

As the State moves forward with reconstruction of the Gowanus Expressway, it must hold to a minimum the harmful effects to businesses, housing, quality of life, and maintain the citizens' ability of movement with their communities. I am especially concerned that steps are taken to protect the welfare of children, the aged and others vulnerable to the effects of heavy traffic, air, and noise pollution.

While there is still much that must be done before the Gowanus Expressway rehabilitation adequately protects the community, adopting this language is the first stop in insuring that this project is completed in an efficient manner, and with the safety and best interest of the surrounding community in mind.

Mr. GREENWOOD. Mr. Speaker, I rise today in support of the conference report to accompany S. 440, the National Highway System Designation Act of 1995. Certain provisions in this report are of particular importance to my constituents and to all of the citizens of the Commonwealth of Pennsylvania.

Existing regulations implementing the Clean Air Act would force Pennsylvania to accept a centralized, test-only auto emissions inspection and maintenance program in order to be deemed in compliance with that act. The test-only program would require citizens to bounce back and forth between test centers and auto repair garages and would leave auto technicians guessing about whether their work was successful in addressing their customer's problems. The citizens of Pennsylvania voiced their extreme dissatisfaction with such a program when it was proposed by our previous Governor, and the State legislature repealed the statute which provided for that program.

Provisions in this conference report eliminate the arbitrary automatic 50 percent penalty in emissions reductions credit that the regulations would impose on States that preferred a decentralized approach. While I was not a Member of Congress when the 1990 Clean Air Act amendments were enacted, I do not believe that Congress intended to require the one-size-fits all program that these regulations force on the States. The elimination of this penalty would restore to the States the flexibility that Congress intended that they have in creating programs that will make the most sense in their States. Additionally, under the provisions, States like Pennsylvania whose legislature has not yet passed enabling legislation will have 120 days to do so, as well as, to propose accompanying regulations. The Congress is aware of the burden imposed upon Pennsylvania by this timetable since it coincides with the time in which the Pennsylvania legislature must also develop a budget that must be enacted by June 30. The parties to the agreement are aware of Pennsylvania's concerns with the small window and intend to work with them. We also hope that EPA will be flexible in working with Pennsylvania as it develops its plan.

Pennsylvania's current Governor, Tom Ridge, has proposed a decentralized test-and-repair program that he believes can meet the goals of the Clean Air Act without visiting undue hardship and inconvenience on the motorists and auto repair businesses of Pennsylvania. The inspection and maintenance provisions in this conference report would allow Pennsylvania to complete the design and implementation of a program on this decentralized basis and would allow that program to be judged on its actual performance over an 18-month period, rather than by an arbitrary rule.

I believe that reducing ozone pollution and improving the quality of the air that we breathe is of great importance to my constituents and to the rest of the citizens of Pennsylvania. I also believe that the States know what will best work to achieve the goal and should have the latitude to design programs that make sense for their citizens. I believe that these provisions give that needed latitude to Pennsylvania and to other States that are currently wrestling with this problem, and I urge the adoption of the conference report.

Mr. BLILEY. Mr. Speaker, I rise in support of this legislation, and specifically the provision within this legislation addressing the Environmental Protection Agency's [EPA] implementation of the enhanced vehicle inspection and maintenance program [I&M] under sections 182, 184, and 187 of the Clean Air Act.

The 1990 Clean Air Act amendments required certain ozone and carbon monoxide nonattainment areas—as well as certain areas within ozone transport regions—to adopt enhanced vehicle inspection and maintenance programs. The act was intended to afford States maximum flexibility in designing their I&M programs. However, in several hearings conducted by the Commerce Committee's Oversight Subcommittee it has become apparent that EPA has taken the enhanced I&M program and attempted to force States into a one-size-fits-all approach. That approach, a centralized or test-only program that favors testing with IM240 equipment, has been resisted, and in some cases rejected, by States and by our constituents as too costly and too inconvenient. In addition, many States and outside experts question whether EPA's centralized approach is indeed more effective than a decentralized approach.

The amendments to the Clean Air Act contained in this bill are designed to require EPA to allow for more flexibility in the implementation of the enhanced I&M program. First, the provision prevents EPA from automatically assuming that decentralized or test-and-repair programs are approximately 50 percent less effective than centralized or test-only programs. Second, it would allow States an 18-month period in which States could configure their own I&M program, experimenting with various network and equipment types. Because it will be difficult to determine a priori exact emissions reductions achieved by such a program, requirements that States propose credits in good faith should be construed loosely. EPA would then be required to base emission reduction credits on the actual data from the I&M program, rather than basing credits on assumptions within a computer model. In developing this credit, the burden should be upon EPA to demonstrate that provisional credits proposed by the States are inappropriate. EPA is then required to adjust credits as appropriate as demonstrated by the program data, which could include actual emission tests results, remote sensing, or other relevant data.

The message of this legislation to EPA regarding the enhanced inspection and maintenance program is clear. Congress is not happy with the present course EPA has taken. This legislation should be viewed as a response to EPA's statements that it will continue to discount decentralized or test-and-repair I&M programs up to 50 percent based on model assumptions. Such statements run counter to the statutory language and intent of this provision which are to allow States, such as Virginia, an opportunity to demonstrate to EPA what credits for decentralized programs should be from actual program data.

Mr. BARTON of Texas. Mr. Speaker, I rise in support of this legislation. With its passage begins the resolution of years of questionable implementation of the inspection and maintenance [I&M] program by EPA, required by sections 182, 184, and 187 of the Clean Air Act. The controversy began with the finalization of the 1992 rule. Within that rule was an assumption that decentralized or test-and-repair I&M programs were approximately 50 percent less effective than centralized or test-only programs. In addition, the final rule removed a provision within the proposed rule which would have given States a 2-year period to demonstrate the effectiveness of enhanced decentralized programs. Three years later, EPA has yet to convince States that such a discount is appropriate, and the I&M issue is as yet unresolved. This legislation begins to resolve this dispute by restoring a demonstration period in which States will be permitted to demonstrate appropriate credits.

Earlier this year, the Oversight and Investigation Subcommittee of the House Commerce Committee, which I chair, held two hearings on the inspection and maintenance issue. Those hearings called into question the basis for the so called 50-percent discount. At the time of the hearing, EPA stated that it relied on 15 years of vehicle audit and tampering data to justify this discount. However, evidence produced by the California I/M Review Committee and Dr. Doug Lawson of Desert Research Institute called into question whether this data supported the discount.

At the hearing, and in follow-up questions, however, EPA stated that the basis for the discount was not audit and tampering data, but from two indepth studies conducted in California. These indepth studies of California's decentralized program indicated that reductions were 20 percent for hydrocarbons [HC], 15 percent for carbon monoxide [CO], and 7 percent for nitrogen oxides [Nox], about half what they were expected to be, according to EPA—hence the 50-percent discount. But EPA estimates credits for a decentralized program are appropriate 6.5-percent reductions in HC, 12.6 for CO, and 1.5 percent for Nox, much less than the reductions found in California.

Outside studies of "real world" data also called into question EPA's system of credits. Two engineering professors from the University of Minnesota found that a centralized I&M program recently adopted in the Minneapolis/St. Paul region was achieving only a 1-percent reduction in CO. EPA had originally predicted the program would reduce CO emissions by 30 percent. They later revised that estimate to 9-percent reductions. If centralized testing is so effective, why would the centralized program be expected to achieve only a 9-percent reduction in CO, when decentralized programs in general are predicted to achieve a 12.6 percent reduction in CO. Finally, "real world" evidence taken from hundreds of thousands of remote sensing readings further indicate that whether a program is centralized or decentralized was relatively unimportant to the effectiveness of the program.

The provision in this bill therefore, asks EPA to go back to the drawing board. By restoring flexibility to the States, it is hoped that States will experiment with various I&M configurations, such as remote sensing. EPA should use data from State programs to measure the performance of centralized verses decentralized programs, and both types should be examined relative to the performance standard. In particular, I am hopeful that States and EPA will use this opportunity to refocus I&M on that small minority of vehicles that cause most of the pollution. Data indicates that as few as 10 percent of the vehicles cause over 50 percent of the pollution. Therefore, techniques that screen out gross polluters such as remote sensing, should be seriously considered.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend remarks and include extraneous material on the conference report on the Senate bill, S. 440.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Without objection, the conference report is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 123), making further continuing appropriations for fiscal year 1996, and for other purposes.

The Clerk read as follows:

H.J. RES. 123

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Acts for the fiscal year 1995 for continuing the following projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1995:

(1) All projects and activities necessary to provide for the expenses of Medicare contractors under title XVIII of the Social Security Act under the account heading "Program management" under the Health Care Financing Administration in the Department of Health and Human Services.

(2) All projects and activities funded under the account heading "Limitation on administrative expenses" under the Social Security Administration.

(3) All projects and activities necessary to process and provide for veterans compensation, pension payments, dependency and indemnity compensation (DIC) payments, and to provide for veterans medical care under the Department of Veterans Affairs.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act which included funding for fiscal year 1996 for the projects and activities listed in this section as passed by the House as of October 1, 1995, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1995, the pertinent project or activity shall be continued at a rate for operations not exceeding the average of the rates permitted by the action of the House or the Senate under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act which included funding for fiscal year 1996 for the projects and activities listed in this section has been passed by only the House or only the Senate as of October 1, 1995, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 103. No appropriations or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 104. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 105. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1996, whichever first occurs.

SEC. 106. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 107. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 105(c) of this joint resolution.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

REQUEST TO AMEND HOUSE JOINT RESOLUTION 123

Mr. EDWARDS. Mr. Speaker, in order to ensure that all military paychecks go out on time on December 1, I ask unanimous consent that the motion be amended to include an amendment in the joint resolution on page 2, after line 19, by adding the following new paragraph.

Mr. LIVINGSTON. Mr. Speaker, I object.

Mr. DELAY. Mr. Speaker, reserving the right to object.

The SPEAKER pro tempore. Does the gentleman from Louisiana yield for the purpose of the unanimous-consent request?

Mr. LIVINGSTON. No; I do not at this time, Mr. Speaker.

The SPEAKER pro tempore. The gentleman does not yield.

REQUEST TO AMEND HOUSE JOINT RESOLUTION 123

Mr. MONTGOMERY. Mr. Speaker, 30,000 young veterans did not get their GI bill checks this week to go to college. Mr. Speaker, I ask unanimous consent that the motion be amended to include an amendment in the joint resolution.

The SPEAKER pro tempore. Does the gentleman from Louisiana yield for the purpose stated by the gentleman from Mississippi?

Mr. LIVINGSTON. Mr. Speaker, I do not yield at this time.

REQUEST TO AMEND HOUSE JOINT RESOLUTION 123

Mr. OBEY. I would appreciate it if the gentleman would at least let me explain what it is I am doing.

Mr. LIVINGSTON. Reserving the right to object, Mr. Speaker, I yield to the gentleman.

The SPEAKER pro tempore. First, the gentleman will state his unanimous-consent request.

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the motion be amended to include language which would insert in this bill, in its proper place, the agreement on an entire CR that was offered to the Republican leadership of the Congress last night by the President of the United States.

The SPEAKER pro tempore. Does the gentleman from Louisiana reserve the right to object?

Mr. LIVINGSTON. Mr. Speaker, at this point, I would object.

The SPEAKER pro tempore. The gentleman objects.

REQUEST TO AMEND HOUSE JOINT RESOLUTION 123

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the motion be amended in the joint resolution on page 2, after line 19, to permit all research projects and activities at the National Cancer Institute to continue.

The SPEAKER pro tempore. Does the gentleman from Louisiana yield for that purpose?

Mr. LIVINGSTON. Mr. Speaker, I maintain an objection for reasons which I will state shortly.

The SPEAKER pro tempore. The gentleman does not yield for that purpose.

REQUEST TO AMEND HOUSE JOINT RESOLUTION 123

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the motion be amended to include an amendment in the joint resolution on page 2, after line 19, allowing all nursing homes safety and standards enforcement activities to continue.

Mr. LIVINGSTON. Mr. Speaker, I maintain an objection for reasons which I will describe shortly.

The SPEAKER pro tempore. The gentleman does not yield for the purpose requested by the gentleman from Wisconsin.

REQUEST TO AMEND HOUSE JOINT RESOLUTION 123

Mr. WILLIAMS. Mr. Speaker, in order to assure that America's great national parks remain open, I ask unanimous consent that the motion be amended to include an amendment in the joint resolution on page 2, after line 19, by adding the following new paragraph: All activities necessary to operate the national parks and monuments.

The SPEAKER pro tempore. Does the gentleman from Louisiana yield for that purpose?

Mr. LIVINGSTON. Mr. Speaker, I maintain my objection for reasons which I will state shortly.

The SPEAKER pro tempore. The gentleman does not yield.

REQUEST TO AMEND HOUSE JOINT RESOLUTION 123

Mr. OBEY. Mr. Speaker, I would ask unanimous consent that the motion be amended to include an amendment in the joint resolution on page 2, after line 19, allowing for the Gallaudet University and the National Technical Institute for the Deaf to be funded so that they might not have to close in 10 days.

The SPEAKER pro tempore. Does the gentleman from Louisiana yield for the purpose requested by the gentleman from Wisconsin?

Mr. LIVINGSTON. Mr. Speaker, I maintain an objection for reasons which I will state shortly.

The SPEAKER pro tempore. The gentleman does not yield.

PARLIAMENTARY INQUIRIES

Mr. DELAY. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DELAY. Mr. Speaker, is it within the rules of the House to make a statement when we are making a unanimous-consent request? Is it regular order of the House?

The SPEAKER pro tempore. When regular order is demanded, the Chair will ask whether or not the gentleman objects or yields for that purpose.

Mr. DELAY. Parliamentary inquiry, Mr. Speaker. Am I allowed to ask for regular order on unanimous consent requests?

The SPEAKER pro tempore. That is correct. The gentleman is allowed to ask for regular order when there is a reservation.

Mr. EDWARDS. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. EDWARDS. Is a Member allowed to complete his or her unanimous-consent request before being cutoff by any other Member of the House?

The SPEAKER pro tempore. It is up to the gentleman making the motion to suspend the rules as to whether or not he yields for that request.

Mr. EDWARDS. Mr. Speaker, in the process of asking the unanimous-consent request, is it proper that a Member is cutoff before finishing the sentence, which is part of the unanimous consent request? When one is not making any editorial comment about the request, one is simply making the request, is it within the House rules to cut off Members from making that request?

The SPEAKER pro tempore. It is Mr. LIVINGSTON's motion, and it is his prerogative to yield or not yield. He has permitted all of these unanimous-consent requests to be stated and has then objected by refusing to yield. The gentleman is perfectly within his right.

Mr. EDWARDS. So they can be objected to before we finish asking the unanimous-consent request?

The SPEAKER pro tempore. The gentleman does not have to yield at all.

REQUEST TO AMEND HOUSE JOINT RESOLUTION 123

Mr. OBEY. Mr. Speaker, one last unanimous-consent request.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I ask unanimous consent that on page 2, after line 19, that the resolution may be amended to allow the continuation of all projects and activities of the FBI and the Border Patrol and unemployment compensation benefits activities.

The SPEAKER pro tempore. Does the gentleman from Louisiana yield for the purpose requested by the gentleman?

Mr. LIVINGSTON. Mr. Speaker, I maintain an objection for reasons which I will state shortly.

The SPEAKER pro tempore. The gentleman does not yield for that purpose.

Pursuant to the rule, the gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 20 minutes and the gentleman from Wisconsin [Mr. OBEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House this further continuing House Joint Resolution 123 that would provide spending authority for three important functions of our Government, while action on appropriations is proceeding.

I think that it is significant, as I am sure the gentlemen who authored the alternative motions might agree, that most of the Government has been shut down since last Tuesday; however, we are seeing significant progress. The military construction bill has been signed into law by the President. The Agriculture bill has been signed into law by the President. The Energy and water bill has been signed into law by the President. The Transportation appropriations bill has been signed into law by the President.

Today we have the agreement from the administration to sign the legislative branch appropriations bill and the Treasury-Postal Service appropriations bill.

Likewise, the House and the Senate have now sent the National Security bill down to the President for his signature or his veto, whichever comes first.

It is my great hope, Mr. Speaker, that he will sign that Defense bill, because I understand that the President has already indicated his intention to deploy as many as 25,000 troops to Bosnia.

This House went on record just yesterday saying that it has not been inclined to support that effort, yet the President says he is not only going to send those troops to Bosnia; he says that he thinks that the Congress has appropriated too much for the Defense Department.

Now, which is it, Mr. Speaker? Does the President intend to send troops to Bosnia, and if so, how does he intend to pay for them? If he does not intend to send the troops to Bosnia, how does he intend to pay for the Defense budget? And is he truly concerned about how the troops get paid?

One of the issues that has been raised by one of the gentleman who stood up at the well here a few minutes ago was his concern that the troops be paid. This Congress in both the House and the Senate has completed the National Security appropriations bill. Under that bill, all of our troops will be paid.

Now, if the President is concerned about the welfare of the troops that he intends be deployed into harm's way in Bosnia, he will sign that bill. He will sign that bill and our troops will be paid. As soon as he signs that bill, it will become law. However, if he vetoes that bill, he will be saying that not only does he intend to send troops to Bosnia to put them in harm's way, but he does not intend to pay them while they are there. Now, that is absolutely ludicrous.

So I appreciate one of the gentlemen who stood up and said that he was concerned about the welfare of the troops, but I would urge him not to waste time with motions here on the floor and go to the President of the United States and say, Mr. President, you should sign that bill, sign that national defense bill.

Now, Mr. Speaker, we all know how hard and how difficult this process has been in the last couple of weeks, but we also know how and why this has occurred. We also know that many activities of government can continue to operate under a determination that they are essential to maintaining the public health and safety, even though there is no funding authority for those activities which have not yet passed into law at this time.

This continuing resolution would remove the uncertainty of certain continued operations for several critical Government functions, and I might add, this is the first shot. This is the first rifle shot. If, in fact, the Congress and the President of the United States cannot reach an agreement in the days ahead, there will be others, there will be other attempts to address specific functions, many of which may have been approached or suggested by the gentlemen that preceded me with those motions.

Upon the enactment of this continuing resolution, however, these activities which I will describe shortly will be removed from any involvement in the ongoing budget situation. These activities will be able to maintain smooth, effective operations, and the people working on them will be able to be paid.

Mr. Speaker, this continuing resolution provides funding rates at the average levels of the House and Senate fiscal year 1996 regular bills until the end of the fiscal year or until the regular bill is signed into law, whichever is first, for the following items.

Let me say, the last CR that will be sent down to the President—in fact, the last two CR's that have been sent down to the President—called for a level at the lower of the House or Senate 1995 levels. This continuing resolution calls for the average of the House and Senate or the House and last year. So this is less restrictive than the continuing resolutions have been for these specific functions of Government.

First, all expenses of Medicare contractors to determine claims and to pay individuals and hospitals; second, all administrative expenses of the Social Security Administration to pay benefits and to process claims; third, all expenses to provide for veterans' compensation, pensions and medical care, including paying benefits and processing claims.

Mr. Speaker, several of these activities, the Social Security Administration and Medicare, are directly linked to trust fund activities for which the funding has already been collected, and the authority to administer these activities needs to be granted and to not involve appropriations from the general fund.

The other one, the veterans' compensation and pensions section, is an appropriated entitlement and, as such, these benefits are required by law.

These are all extremely important functions, as are some of the functions that have been detailed by the gentlemen that preceded me in their motions. These are very, very important, and they need to continue, even though we have currently found ourselves at a budget impasse.

Let me say, Mr. Speaker, that the budget impasse can be over today. The President could sign on to a 7-year balanced budget agreement whereby the scoring of the numbers would be performed by the Congressional Budget Office. He could sign on to that today and this impasse would be over.

He has even said that he was for a 5-year balanced budget, a 10-year balanced budget, a 9-year balanced budget, a 7-year balanced budget, an 8-year balanced budget; but of course he also said that he was not for a balanced budget at all. In fact, his most detailed presentation of a balanced budget, notwithstanding the incredibly high levy of taxes that he imposed on the American people 2 years ago, the most important detailed budget that he has provided to the people of America was last February when he gave us a budget that called for $200 billion in deficits, this year, next year, the year after that, the year after that and as far as the eye can see.

□ 1345

The President, of course, we know, has been on all sides of this issue.

We call on him to say, OK, focus your attention, Mr. President, on a balanced budget, within 7 years, gives you plenty of time.

Let us work together toward a balanced budget, within 7 years, let us agree on it today, and the rest of this budget impasse will be totally and absolutely irrelevant and unnecessary, because we can fund all of the functions of government, not just the emergency functions, not just the most essential, not just the most important, we can fund all of Government on a glide path toward a balanced budget by the year 2002.

Well, Mr. Speaker, we are here with this rifle shot on these very important issues because we are not so sure that is going to happen. We think the President just may not meet us halfway and may not see the opportunity to agree on a 7-year balanced budget. I cannot explain why not, because if it does not happen, we want these three functions of government funded.

When these other gentlemen stand up and talk about these other functions of government, we want them funded, too. We would like to get the whole Government funded, and the President has it within his hands and his opportunity to make sure that that happens. But if it does not happen, we will approach, we will consider each one of the other issues that were raised a little while ago.

But right now we want to handle these three issues. We want to make sure that these go into law and that the people who need the Medicare contractors to determine claims and pay individuals and hospitals, the administration expenses of the Social Security Administration to pay benefits and process claims, and the people that need veterans' compensation benefits and medical care, including benefits and processing of claims, the people that need those will get attended to without regard to this budget impasse.

I think that this is a good start toward resolving a temporary crisis in certain key areas of government. Let us pass this continuing resolution and go on to other things.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman from Wisconsin [Mr. OBEY] for yielding me the time.

Mr. Speaker, this resolution points up the politics of what we are doing. This resolution points up that we are playing a political game and 800,000 people are not working because of that game.

Hopefully we will pass 2 bills that will put 200,000 of them back and send it down to the White House. We have been hearing on this floor that the only reason that a resolution should be passed and signed by the President is to make sure that we have a balanced budget. That is the critical issue, that is the critical issue of the day.

Guess what? This resolution is a clean resolution. Very easy to do. We ought to do it for all of Government.

The chairman says he wants to see Government, the whole Government, funded. That is what the chairman just said. I quoted it and wrote it down. I am glad to hear that and I think he does.

If you read these pages, there is not one word in here about a balanced budget. Why? Because this is not the bill on which we will establish the balanced budget, any more than a continuing appropriation for the entire Government will be. That will be on the reconciliation bill.

And guess what? That bill was pulled today. That bill was taken off the calendar today. It was supposed to be considered. That is the bill that establishes.

Not only that, we hear on the CR that we will go to December 3. But, guess what? For these objectives, which I will support and are very important for our veterans, those receiving Medicare and Social Security, they, my friends, will go to the end of the year. Is that not a nice political decision?

But very frankly private contractors who are working for Government and whose employees are out in the street are not going to get paid next week, or maybe the week thereafter.

Guess what? This goes to the end of the year. We are not arguing about any date. And guess what even further, folks? We are talking about funding levels, the lower of this, the lower of that and that is why we cannot send a CR down that the President will sign? Average of the two.

Let me tell you, ladies and gentlemen, the American public knows we are playing games and they are blaming all of us.

If we pass this continuing resolution and said do all of Government under these terms, I guarantee you the President would sign this bill.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Mississippi [Mr. MONTGOMERY], the ranking Democrat on the Committee on Veterans' Affairs.

Mr. MONTGOMERY. I thank the gentleman from Wisconsin for yielding me this time.

Mr. Speaker, I am going to support this resolution. It protects the veterans' compensation and pension recipients so they will receive their checks on time, and that is 3 million veterans and survivors who have earned these checks. I wish this resolution would have included educational benefits for young veterans going to college.

Mr. Speaker, 30,000 veterans did not get their checks this last week. Thirty thousand will not get their checks next week.

I did not get the chance to even explain my unanimous-consent request; it was to protect these educational benefits so that 350,000 veterans can get their benefits for the rest of the year. They are not going to be able to stay in school, Mr. Speaker, if we do not provide funds so the VA can pay these benefits.

If there is another continuing appropriation, which I heard the chairman say may occur, I hope the GI bill checks will be included.

Also, Mr. Speaker, this resolution should have included insurance payments to survivors whose loved ones died. Three thousand five hundred of these checks were supposed to go to survivors of persons who had veterans' life insurance last week. Some of them gave a lot of their life to the service, and their survivors cannot get these benefits because the VA appropriation bill has not been signed. I hope that the next continuing appropriations will include these items.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. EDWARDS], a member of the Committee on National Security.

Mr. EDWARDS. Mr. Speaker, 11 words, 5 seconds. Eleven words, 5 seconds. Today with 11 words and 5 seconds this House could have sent a message to every military man and woman serving his or her country, whether they are in the United States or in the cold land of Korea that you will get your paycheck on December 1—five seconds it would have taken.

The words I was not allowed to say were simply to add with unanimous consent, that I had hoped would happen, all Department of Defense activities directly related to providing military pay.

That would have taken care of our military families on their December 1 paycheck.

The distinguished chairman of the Committee on Appropriations said, quote, we should not waste time on this unanimous-consent request today on the floor of the House.

I would suggest that 5 seconds is not too much to ask to send a clear message to our military families that they are going to get their paychecks on time on December 1.

The gentleman can make a point and point the finger at the President, that he should sign the appropriations bill. That is his right. I think the President should sign the bill.

But there are some important issues there. The B-2 bomber, the antiballistic missile defense system, issues that Republicans in this House fought over that the President has the right to consider.

All I am pleading with to the gentleman is that let us take 5 seconds today, let us not fingerpoint. I can point my finger at the Republicans, you can point your finger at the President. But I am not interested in pointing fingers. I am interested in paying the military families of this country on time on December 1.

Mr. LIVINGSTON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. YOUNG], the distinguished chairman of the Subcommittee on National Security.

Mr. Speaker, I would ask him to yield to me for one comment.

Mr. YOUNG of Florida. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I appreciate the gentleman yielding.

Mr. Speaker, I just want to say, I did not say that we did not have time. I just objected to the gentleman's motion because it was extraneous for the purpose for which we are here today.

Mr. YOUNG of Florida. I thank the chairman very much.

I would like to say, Mr. Speaker, the previous speaker said that 11 words could solve this problem and he and I both share the same goal. We want these people in uniform, their families, and the civilians that work for the Department of Defense as well as the other departments to get their paycheck, because a lot of them are not going to be able to make their mortgage payments and their car payments and their insurance payments and their credit card payments and their grocery bills. It is not fair that these innocent people are caught up in this. But I want to say in all sincerity to my distinguished friend who just spoke, there are two words that can solve this problem, and solve it today, and those two words are William Clinton. Sign that bill that provides the appropriations for the Department of Defense, that was passed by this House in a strong bipartisan vote, that was passed by the Senate in a strong bipartisan vote. President Clinton ought to sign this bill.

Here is something that maybe his advisers have not told him. That nearly half of the money in the Defense appropriations bill that he wants to veto, nearly half of that money goes for salaries and housing allowances and medical care, quality of life issues for the people that serve in the military and who work as civilians for the Department of Defense. It is not all big procurement and big spending on industry. It is for the people that are ready to risk their lives to protect freedom and to protect this Nation.

If there are things in the bill that the President does not like, listen to this closely, very closely. If the President thinks we funded items in this appropriations bill that he does not like, he can send us a rescission bill, or he can send us a reprogramming. He has plenty of room to work with the Congress, and we have tried to work with him in a bipartisan fashion on national defense.

There is nothing in this argument about Medicare or Medicaid, tax increases or tax reductions, balanced budgets or anything else other than providing for the national defense and the quality of life for those who serve in our military.

What are some of the things that the President did not ask for and he is unhappy because we included them, anyway? We gave him $647 million to pay for the contingency in Iraq that he decided to send American troops to. We provided the money to pay for that. What is wrong with that? That is up front, that is pay-as-you-go.

Barracks repair. We provided money to repair barracks that are in tragic condition. He did not ask for it. We provided it, anyway.

Training shortfalls because of other contingencies that the President spent money on around the world. We provided the money to replace that.

Breast cancer research, we added that. He did not ask for it. But if he does not like any of these, he can send us a rescission bill.

So two words, William Clinton, will solve this problem with everything relating to the national Defense Establishment.

Mr. OBEY. Mr. Speaker, I yield myself 20 seconds.

The fact is we have still not heard from that side of the aisle one reason why you could not have included these other items including military pay. The fact is you are insisting that in order for the military to be guaranteed they are going to be getting their pay that he ought to sign a bill which makes him spend $7 billion more than he wanted to, which makes him buy 40 B-2s rather than the 20 the Pentagon wanted, and you are holding him hostage for that. That is nonsense.

□ 1400

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I rise in strong support of this continuing resolution. It is critical for our Nation's veterans.

The chairman of the Subcommittee on Hospitals and Health Care and I are vitally interested in their welfare.

The 2.2 million veterans receiving compensation for service-connected disabilities will know their checks will arrive on time when we do this today. The 308,000 widows, children, and other survivors of veterans who have died of service-connected disabilities will receive their checks on time this December when we pass this continuing resolution. The 450,000 veterans who served during wartime receiving pensions will get their checks on time when we pass this resolution. It is very, very important.

It also provides that needed medical care and services will be available to our veterans and our veterans' hospitals.

I agree with the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished gentleman, I wish the GI bill had been included in this. I hope that can be taken care of quickly. Because that is not in here does not mean we should not go ahead and take care of these veterans.

One of the very sad chapters in this whole dispute over veterans has been the politicizing of the VA, Veterans' Administration, by the Secretary, I believe, in scaring veterans, in causing them to believe they are not going to get those checks.

There is a legal dispute as to whether or not the President could have done it. Let us make certain, let us reassure our veterans today this Congress cares about them and that we are going to ensure that they are protected.

Our veterans have already sacrificed. We need not ask them to sacrifice again. The President could have solved this easily with the stroke of his pen, I think, a very clean CR with only the commitment to the 7-year balanced budget with real numbers.

This is not a silly spat as some have suggested. This is a serious debate over serious issues confronting our country.

But let us not let those most vulnerable suffer the pain. Let us mitigate it where we can. We will do that by the passage of this CR today.

Mr. OBEY. Mr. Speaker, I yield myself 5 seconds.

If you want to guarantee that pay, accept the 11 words of the gentleman from Texas [Mr. EDWARDS]. That is the way to do it.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. MOLLOHAN], the ranking Democrat on the State-Justice-Commerce Appropriations Subcommittee.

Mr. MOLLOHAN. Mr. Speaker, I thank the ranking member of the Committee on Appropriations for yielding me this time.

Mr. Speaker, I have opposed the two recently passed continuing resolutions. I oppose them for fundamentally the same reason that the President is forced to be in opposition.

It is really very simple. They are not clean. Tacked on to them are requirements to negotiate upon terms that the gentleman from Georgia [Mr. GINGRICH] is proposing: a 7-year balanced budget period, along with offensive economic assumptions.

Mr. Speaker, the reason that is offensive to the President, the reason that that is offensive, is because it requires cutting too deeply programs that are particularly important to the President, like cuts in Medicare, Medicaid, education, and veterans.

With regard to the limited continuing resolution before us today, Mr. Speaker, several minutes ago the distinguished ranking minority member of the Committee on Appropriations moved a unanimous consent request that: All projects and activities of the Federal Bureau of Investigation and the Drug Enforcement Administration and the Border Patrol be included. Mr. Speaker, that unanimous consent request was not accepted.

Although law enforcement agencies have been granted a general exemption from the governmentwide furlough, there are a significant number of FBI and DEA agents who are not working. According to the Department of Justice, approximately 25 percent of the FBI and the DEA personnel have been furloughed. This equates to approximately 25,000 people, Mr. Speaker, who are not currently functioning in our front-line law enforcement agencies.

The granting of this request would have enabled these people to return to work and thereby ensure that 100 percent of our law enforcement personnel would be on this job at this time.

While I am not aware, as I have indicated earlier, Mr. Speaker, the law enforcement officials on the front line are not at work, we need a team out there, and it is too bad that the continuing resolution could not have included these critical functions.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding me this time.

Just a few minutes ago I attempted under a unanimous consent to offer a unanimous-consent amendment that would have, within this bill, opened America's national parks. Now, I did not do that to embarrass anybody. I did not do that to embarrass our colleagues and friends on the Republican side. I did it to open America's national parks.

Today there are hundreds of thousands of citizens on vacation. They wanted to go into one of our national parks facilities. On an average day in the United States, 726,000 Americans are visiting a national park facility. Those facilities are closed. If my simple unanimous-consent request had been honored, those facilities could be opened very soon.

Some people have said to me, "Well, PAT, you are from Montana. It's snowing out there. Your parks, like Yellowstone and Glacier are closed in the winter." No, they are not. They are winter wonderlands. Yellowstone is open. Many hundreds of thousands of people go to see Yellowstone in the winter. Large parts of Glacier are open.

But there is another point along with the tourists, and that is our national parks are in trouble, and the people that take care of them have been ruled to not be all that essential in the work force. For example, we just, the Federal Government, has just brought wolves into Yellowstone National Park. Those wolves are to be collared and monitored. That is not happening.

As Americans know, there is mineral development going on right on the perimeter of Yellowstone National Park. The National Park Service is working daily to try to protect the park. That is not happening now. These parks are threatened. They could have been included, the opening of them, in this resolution.

Again, I want to assure my colleagues I did not do it to embarrass anybody. I did it to get the national parks open, and I am sorry my Republican colleagues prevented me from opening the national parks.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 30 seconds. If the gentleman would remain at the podium, I would like to pose a question to him. The gentleman is aware that the Interior appropriations bill has been on the floor twice. May I inquire how the gentleman voted on the motion to recommit on both of those?

Mr. WILLIAMS. If the gentleman will yield, because I voted not to move the Interior bill through, I offered my unanimous-consent request today, and the gentleman objected to it.

Mr. LIVINGSTON. The gentleman has voted not to open the parks twice before today.

Mr. WILLIAMS. And you objected to my unanimous-consent request to do it.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, under this bill, veterans' checks, Social Security checks, Medicare checks will go out. That is fine.

But the important thing is this bill illustrates the game that is being played on the American public.

Because you see, this bill is what is called a clean continuing resolution. It has no conditions. It has no time limits. There is nothing but the ability to continue running these essential programs, and there is a reason for that, because they know that the outcry over these programs would be so great if those checks did not arrive that it would overwhelm them.

So, meanwhile, folks at NIH, National Institutes of Health, who are doing cancer research are not at work. Folks at NASA are not at work. The national parks are closed. The District of Columbia government is closed. The GI bill checks are not arriving, and FBI agents are not working. That is not fair. That is not right. And that is not necessary.

We should have a clean continuing resolution. The Republicans should stop playing this game, this silly charade. We can have a clean CR and put the entire Government back to work.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, could I ask the chairman of the committee to answer a question? Would the chairman of the committee, in a spirit of bipartisanship, join with me in a unanimous consent request that as of Monday morning we open up and continue the research at the National Cancer Institutes to look for cures for cancer and for AIDS? Will the gentleman agree to that unanimous-consent in this bill?

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. The gentleman will not agree to the unanimous-consent at this time. However, he may at some time in the future.

Mr. DURBIN. I hope it is soon. Think about that, ladies and gentlemen.

Can we possibly be debating whether researchers at the National Cancer Institute should be on the job Monday? You know, we can count the phone calls when people call and say they are upset because they did not get their Social Security checks, they did not get their veterans' checks. It is that kind of political pressure which has resulted in this very measure that we are considering.

How can we measure the loss to this Nation if the research, the medical research which we count on to find cures for diseases to alleviate the death and suffering in America is not taking place? That is what is at stake in this debate. That is why it goes far beyond whether the gentleman from Georgia [Mr. GINGRICH] gets an appropriate seat on Air Force One, whether or not the President has his exact language.

What we have at stake here are 700,000 Federal employees sitting home without pay while Members of Congress still receive their paychecks. That is an outrage.

What we need to hear are the voices of the American people who are sick and tired of this political charade. To think that we would even debate whether or not the researchers will come to work on Monday to proceed at the National Cancer Institute to look for cures for cancer, that is shameful.

I sincerely hope both political parties take a look in a mirror or at the image we are projecting to the United States. The political pettiness behind this debate has reached Olympic standards.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. WOLF], a member of the committee, the chairman of the Subcommittee on Transportation.

Mr. WOLF. I thank the gentleman.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I know the gentleman is aware that the Labor-Health and Human Services bill, in which cancer research is funded, has been stifled in the Senate by the preceding speaker's party member over in the Senate. It is being filibustered by the Democrat Party in the Senate. That is why the research bill has not gone through the House.

Mr. WOLF. Mr. Speaker, I rise in support of the resolution. I am for a balanced budget by the year 2002.

But let me bring it back to something that people are concerned about around the country, and that is the pay issue. I want to read a letter that I received from Speaker GINGRICH. I want to read it slowly and also from Majority Leader BOB DOLE.

He said: "Dear Frank," and my name is FRANK.

> We will be sending soon to President Clinton a bill to continue funding for the federal government through December 1, 1995. Besides providing for government services, this bill also funds federal workers' salaries.
>
> If the President decides to veto this vital legislation to keep government operating, the possibility exists that some federal works may be furloughed. In the event that this takes place, it is our commitment that federal employees will not be punished as a direct result of the President's decision to veto funding for their salaries. Should this happen, we are committed to restoring any lost wages in a subsequent funding bill.
>
> Again, we want to reassure you that if the President vetoes the continuing resolution and requires federal workers to be furloughed, we are committed to restoring any lost wages retroactively.

I want to say this: A promise made is a promise kept. There has been a promise made. There has been a commitment made. And we are obligated to keep it. I expect it to be kept.

I believe it will be kept because it must be kept.

Mr. OBEY. Mr. Speaker, I yield 30 seconds to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. What you have just read is a letter from Speaker GINGRICH saying that every one of these employees, including all the ones that Members on your side of the aisle have said probably were really nonessential truly anyway, you are going to pay every one of them every penny they would have earned had they been on the job. And so my only question to you is: If you are going to pay them anyway, the American taxpayer has to foot the bill, why will you not let them work?

Mr. WOLF. They should be back, and I will tell the gentleman, the administration's definition of essential and nonessential really does not make any sense.

Mr. DOGGETT. That begs the question. You are paying these people not to work when they ought to be working.

□ 1415

Mr. OBEY. Mr. Speaker, I yield one minute and five seconds to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, while you all were debating here all through this day, I was at my home taking care of my wife, but I was kind of following everything going on here. I heard some Members get in this well talk about compromise and say we need to work toward a compromise. I remember the gentleman from Indiana saying that.

But during one of the votes that we had here, CNN put on a little transposition of a press conference this morning that the leader from the Senate, from Kansas, and the Speaker of the House, NEWT GINGRICH, had this morning. And what did NEWT GINGRICH say about it, about the CR that we should be passing instead of this little one? No compromise. No compromise. No compromise. Those are his words, his language. That is just what he said. Senator DOLE differed a little bit. He said, "You are not speaking for me."

Mr. Speaker, there is no question that I know that why we are here today was a deliberative act on the Speaker's part to show down the government in order to try to get his budget through.

Mr. OBEY. Mr. Speaker, I yield 30 seconds to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, it has now been a week. I appreciate the fact that the Speaker has committed to pay everyone who is not working, but are we committed to pay $1 billion for no work performance? The most commonsense thing to do is to include everyone in this bill we are passing now. Put them back to work, because they are getting paid anyway. Then take the lowest of the House or the Senate or the President's budget. That is the most commonsense thing to do. We ought to start acting with commonsense.

Mr. LIVINGSTON. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, the gentleman from Illinois indicated that we should fund cancer research. I think the record should really show he voted against the CR and his President vetoed the CR that would have allowed cancer drugs for real cancer patients that are not now paid for by Medicare. It would have been breast tumors and it would have been prostate cancer. So everyone needs to understand his statements with cancer research were done for political reasons. He voted against drugs to help real research patients.

Mr. LIVINGSTON. Mr. Speaker, I yield 15 seconds to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, what Speaker GINGRICH said this morning on CNN, and I watched it very carefully, he said everything was on the table except one thing, and that was that we have to have a balanced budget in 7 years scored by CBO. That is it. He did not say there was no compromise.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, not only are Government workers affected, so are those in private industry. Last night I learned that nationwide inspectors of the Department of Defense had been pulled from various projects. That happens to include the C–17. Twenty-two world records are held by that Globemaster cargo plane.

Now, what this means is a setback in defense production. There is no question, if the President does not sign a commonsense resolution, 7 years to balance the budget and to use CBO, he will not only be putting out of work Government workers, who will be paid, he will be putting out of work union and nonunion workers who will not be paid.

Mr. Speaker, I suggest that the President wake up and start thinking about the implications of his lack to come to the table and deal with this issue.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. EMERSON). The gentleman from Wisconsin is recognized for 4½ minutes.

Mr. OBEY. Mr. Speaker, this proposition is what I would call the I-can't-take-the-heat amendment. What has happened, and I have turned this chart on its side so that people can see it from a little different perspective, what has happened is that so far four appropriation bills have been passed by the Congress. The White House has asked that the Congress send the additional two which are ready to be sent up to the White House up to the White House so they can sign them.

That will still leave over 80 percent of the Government unfunded on the appropriations side, not because the President did not sign any bills, but because the Congress has not sent them to him yet. I do not know how the

President can be expected to sign bills that have not gotten to him yet.

Then, because of this huge performance gap in this Congress, what the Speaker and his allies are doing is saying: OK, Mr. President, because we have not done our work, we are going to see to it that these hundreds of thousands of Federal workers do not report to their jobs until you agree to blackmail, and until you agree to take our negotiating position on another piece of legislation.

Mr. Speaker, it is obvious that Members on the Republican side of the aisle are feeling the heat, and so what they have done is produce what I consider to be essentially a political document. They say: Well, Social Security is a hot button, so, all right, we will let Social Security go. VA is a hot button, so we are going to let VA go. Medicare is a hot button, so we are going to let some of the activities in Medicare go.

That is, as the gentleman from Maryland [Mr. HOYER], has said, a good political decision. But the right substantive position is to let all of those programs go, and let the entire Government function while we work out our differences on the other piece of legislation which is not even supposed to be involved in this fight.

Now, last night the President's representatives made a reasonable offer to the Senate, and Mr. GINGRICH turned it down. Now Mr. GINGRICH and his allies are saying it is not negotiable; we must have a 7-year balanced budget, on CBO guidelines.

The President is simply saying: I would like to see a balanced budget. But if you fellows are going to insist on whacking Medicare, and if you are going to insist on whacking Medicaid, if you are going to insist on smashing opportunity for kids who are trying to go to college, and if you are going to insist on a huge tax cut, than you cannot responsibly get there in 7 years, and so we may have to talk about a different timeline.

Because of that rational difference, you are saying we are going to hold up the entire Federal Government. I think this performance has been absolutely, incredibly, incredibly disgraceful.

I would simply like to say this: When the American people voted to put you folks in charge in November, I think what they thought they were doing is that they were going to force both parties to work together. I think they thought they would end gridlock by putting both parties in charge of opposite branches of Government so that we had to work together.

Instead, what we are getting is a very different record. I will repeat what I said on the floor last week: When I chaired this committee last year, all 13 of these appropriation bills were passed on time, they were signed by the President, there was no need for a continuing resolution, not a single Government worker was held out of work.

Do you know why? Because I had a Speaker who allowed me to cross the aisle and talk to the ranking Republican and say "Let's work this out on a bipartisan basis." That is exactly what we did, and because we had a bipartisan, functioning House, we were able to get that done.

The reason that has not happened this year and we have this performance gap is that we have a different kind of Speaker. We are not going to have a different Speaker, but we had better get a different attitude out of him if this country is going to survive this petty food fight which he has started and insisted on keeping going.

Mr. LIVINGSTON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have witnessed an interesting spectacle today. It was our original intention to ensure that veterans, Social Security recipients and Medicare contractors get some relief in this bill.

Now we find that the same people who opposed the Defense bill all year want to pay defense salaries. We find the same people who voted twice against the Interior bill want to open the national parks. Now we find that the same people whose political party has filibustered the Labor-Health and Human Services bill in the Senate now want to pay for cancer research, even though they know full well that bill contains that cancer research.

I have a modest proposal here. There is no argument on the worthiness of these three items. Let us pass this bill, get these three items fully funded, and worry about the rest. If you vote against this bill, you are against putting all of these good people to work on these worthy programs.

Ms. JACKSON-LEE. Mr. Speaker, I rise in support of the continuing resolution before us this evening. I am deeply gratified that the majority leadership and the President were finally able to reach a mutually acceptable agreement and reopen the doors of Government. By returning Federal workers to their jobs, both sides have demonstrated their determination to put the good of the American people above both minor political and major philosophical differences. I applaud the work of the leadership, but now, we must roll up our sleeves and get down to work closing the gap between the priorities of both the Democratic and Republican Parties. And priorities is what this entire debate has been about. We on the Democratic side of the isle have said many times that we are in favor of a balanced budget and I personally have voted for one. However, along with this desire for a zero deficit, I also have a fundamental set of beliefs and principles which I can not abandon. Throughout, it has been above all else, for me, a question of getting the fairest budget possible for the working men and women of this country. It is imperative that we pass a plan that is both fiscally responsible and socially accountable. It must address the needs of those very families and individuals who voted for each and every Member of this House of Representatives. The immediate crisis has passed, but we can not rest for there is yet a long road to travel before our work is done and the President has signed all 13 appropriations bills. Only after that is done and the motor of the Federal Government returned to full throttle, should we contemplate resting. I look forward to working with my colleagues on both sides of the aisle to make our Federal Government more effective and efficient.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana [Mr. LIVINGSTON] that the House suspend the rules and pass the joint resolution, House Joint Resolution 123.

The question was taken.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 416, nays 0, now voting 16, as follows:

[Roll No. 818]

YEAS—416

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)

Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—16

Baker (LA)
Brewster
Callahan
Dornan
Fields (LA)
Hayes
Jacobs
McCrery
McDermott
Neumann
Oxley
Pryce
Tucker
Waxman
Weldon (PA)
Wilson

☐ 1444

So, (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO ADJOURN

Mr. LINDER. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. EMERSON). The question is on the motion offered by the gentleman from Georgia [Mr. LINDER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MORAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 32, nays 361, answered "present" 1, not voting 38, as follows:

[Roll No. 819]

YEAS—32

Barton
Bliley
Bunning
Burr
Clinger
Coble
Combest
Dreier
Ehrlich
Greenwood
Gutknecht
Hastert
Hostettler
Houghton
Knollenberg
Largent
Linder
Myers
Nussle
Packard
Porter
Radanovich
Roberts
Roth
Shuster
Smith (TX)
Souder
Talent
Thomas
Thornberry
Waldholtz
Young (AK)

NAYS—361

Abercrombie
Allard
Andrews
Archer
Armey
Baesler
Baker (CA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bishop
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Burton
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Duncan
Dunn
Durbin
Edwards
Ehlers
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hoyer
Hunter
Hutchinson
Hyde
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klink
Klug
Kolbe
LaFalce
LaHood
Lantos
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Norwood
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Quillen
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Buyer

NOT VOTING—38

Ackerman
Bachus
Baker (LA)
Bilirakis
Boehlert
Brewster
Callahan
Clay
Crane
Danner
Diaz-Balart
Dornan
Fields (LA)
Fowler
Gejdenson
Hayes
Inglis
Jacobs
Kingston
Laughlin
McCrery
McDermott
Moakley
Neumann
Oxley
Pryce
Quinn
Roukema
Sanders
Shaw
Solomon
Taylor (NC)

Tucker
Wamp
Waxman
Weldon (PA)
Wilson
Yates

□ 1513

Ms. ROS-LEHTINEN, Mrs. KELLY, Messrs. EVERETT, BRYANT of Tennessee, and BONILLA, Mrs. VUCANOVICH, Messrs. KASICH, SAXTON, LAHOOD, BURTON of Indiana, JONES, and STUMP, Mrs. JOHNSON of Connecticut, Messrs. FRANKS of Connecticut, SMITH of New Jersey, QUILLEN, DUNCAN, and HANSEN, Mrs. CUBIN, and Messrs. SENSENBRENNER, FAWELL, BARTLETT of Maryland, SHAYS, BARRETT of Nebraska, BASS, ZIMMER, ZELIFF, COOLEY, ROGERS, and FIELDS of Texas changed their vote from "yea" to "nay."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

RECESS

The SPEAKER pro tempore (Mr. EMERSON). Pursuant to clause 12 of rule I, the House will stand in recess, subject to the call of the Chair.

Accordingly (at 3 o'clock and 14 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GOSS) at 10 o'clock p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills during the recess today: H.R. 2020, H.R. 2126, and H.R. 2492.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly, (at 10 o'clock and 1 minute p.m.), the House stood in recess subject to the call of the Chair.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2020. An act making appropriations for the Treasury Department, for the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes;

H.R. 2126. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes; and

H.R. 2492. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 2020. An act making appropriations for the Treasury Department, for the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes;

H.R. 2126. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes; and

H.R. 2492. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports concerning the foreign currencies and U.S. dollars utilized by various committees of the U.S. House of Representatives during the third and fourth quarters of 1994 and the third quarter of 1995, as well as a report of foreign currencies and U.S. dollars utilized by a miscellaneous group, U.S. House of Representatives, in connection with official foreign travel, pursuant to Public Law 95–384, are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON NATIONAL SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]
Delegation expenses	8/28	8/31	Republic of China						3,611.80		3,611.80
Committee total									3,611.80		3,611.80

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FLOYD D. SPENCE,
Chairman, Oct. 30, 1995.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON NATIONAL SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]
Delegation expenses	11/19	11/21	Belgium				1,620.00		2,665.87		4,285.87
	11/24	11/27	Italy				3,018.13		779.12		3,797.25
Committee total							4,638.13		3,444.99		8,083.12

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FLOYD D. SPENCE,
Chairman, Oct. 30, 1995.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON NATIONAL SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]
Delegation expenses	2/17	2/20	Panama						37.25		37.25
Committee total									37.25		37.25

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FLOYD D. SPENCE,
Chairman, Oct. 30, 1995.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON NATIONAL SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APRIL 1 AND JUNE 30, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]
Delegation expenses	2/17	2/20	Panama						676.92		676.92
Thomas M. Donnelly	5/30	5/31	Haiti		200.00						200.00
Commercial airfare							648.95				648.95
Committee total					200.00		648.95		676.92		1,525.87

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FLOYD D. SPENCE,
Chairman, Oct. 30, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]
Hon. E. de la Garza	8/11	8/15	Russia		1,020.00		(3)				1,020.00
	8/15	8/17	Ukraine		630.00		(3)				630.00
	8/17	8/20	France		999.00		134.40				1,133.40
	8/20	8/21	Russia		162.00		(3)				162.00
	8/21	8/24	Korea		951.00		(3)				951.00
	8/24	8/26	Japan		932.00		179.65				1,111.65
Committee total					4,694.00		314.05				5,008.05

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

PAT ROBERTS,
Chairman, Oct. 25, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]
Hon. Tom Bevill	7/1	7/2	United States		167.00		(3)				167.00
	7/2	7/6	Vietnam		1,250.00		(3)				1,250.00
	7/6	7/7	Thailand		213.00		(3)				213.00
Hon. Tom Bevill	8/5	8/8	Great Britain		888.00		(3)				888.00
	8/8	8/10	France		666.00		(3)				666.00
	8/10	8/10	Macedonia				(3)				
	8/10	8/12	Greece		490.00		(3)				490.00
	8/12	8/15	Turkey		786.00		(3)				786.00
Hon. Jim Bunn	8/11	8/15	Russia		1,020.00		(3)				1,020.00
	8/15	8/17	Ukraine		630.00		(3)				630.00
	8/17	8/20	France		999.00		179.65				1,178.65
	8/20	8/21	Russia		162.00		(3)				162.00
	8/21	8/24	Korea		951.00		(3)				951.00
	8/24	8/26	Japan		932.00		179.65				1,111.65
Hon. Jim Chapman	8/11	8/15	Russia		1,020.00		(3)				1,020.00
	8/15	8/17	Ukraine		630.00		(3)				630.00
	8/17	8/20	France		999.00		134.40				1,133.40
	8/20	8/21	Russia		162.00		(3)				162.00
	8/21	8/24	Korea		951.00		(3)				951.00
	8/24	8/26	Japan		932.00		179.65				1,111.65
Hon. Thomas Foglietta	7/1	7/2	United States		167.00		(3)				167.00
	7/2	7/6	Vietnam		1,250.00		(3)				1,250.00
	7/6	7/8	S. Korea		634.00		(3)				634.00
Commercial airfare							3,345.95				3,345.95
Hon. Joe Knollenberg	8/11	8/15	Russia		1,020.00		(3)				1,020.00
	8/15	8/17	Ukraine		630.00		(3)				630.00
	8/17	8/20	France		999.00		134.40				1,133.40
	8/20	8/21	Russia		162.00		(3)				162.00
	8/21	8/24	Korea		951.00		(3)				951.00
	8/24	8/26	Japan		932.00		179.65				1,111.65
Hon. Dan Miller	8/11	8/15	Russia		1,020.00		(3)				1,020.00
	8/15	8/17	Ukraine		630.00		(3)				630.00
	8/17	8/20	France		999.00		134.40				1,133.40
	8/20	8/21	Russia		162.00		(3)				162.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995—Continued

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]
	8/21	8/24	Korea		951.00		(3)				951.00
	8/24	8/26	Japan		932.00		179.65				1,111.65
Hon. John Murtha	7/14	7/14	Germany				(3)				
	7/14	7/15	Croatia		60.00		(3)				60.00
	7/15	7/16	Belgium				(3)				
Commercial airfare							5,691.00				5,691.00
Hon. John Myers	8/11	8/15	Russia		1,020.00		(3)				1,020.00
	8/15	8/17	Ukraine		630.00		(3)				630.00
	8/17	8/20	France		999.00		134.40				1,133.40
	8/20	8/21	Russia		162.00		(3)				162.00
	8/21	8/24	Korea		951.00		(3)				951.00
	8/24	8/26	Japan		932.00		179.65				1,111.65
Hon. Ron Packard	8/5	8/8	Great Britain		888.00		(3)				888.00
	8/8	8/10	France		666.00		(3)				666.00
	8/10	8/10	Macedonia				(3)				
	8/10	8/12	Greece		490.00		(3)				490.00
	8/12	8/15	Turkey		786.00		(3)				786.00
Hon. Harold Rogers	8/5	8/8	Great Britain		888.00		(3)				888.00
	8/8	8/10	France		666.00		(3)				666.00
	8/10	8/10	Macedonia				(3)				
	8/10	8/12	Greece		490.00		(3)				490.00
	8/12	8/15	Turkey		786.00		(3)				786.00
Hon. Barbara Vucanovich	8/11	8/15	Russia		1,020.00		(3)				1,020.00
	8/15	8/17	Ukraine		630.00		(3)				630.00
	8/17	8/20	France		999.00		134.40				1,133.40
	8/20	8/21	Russia		162.00		(3)				162.00
	8/21	8/24	Korea		951.00		(3)				951.00
	8/24	8/26	Japan		932.00		179.65				1,111.65
Hon. Charles Wilson	8/30	9/2	Sweden		837.00						837.00
	9/2	9/6	Norway		1,088.00						1,088.00
Commercial airfare							1,931.05				1,931.05
Sally Chadbourne	8/5	8/8	Great Britain		888.00		(3)				888.00
	8/8	8/10	France		666.00		(3)				666.00
	8/10	8/10	Macedonia				(3)				
	8/10	8/12	Greece		490.00		(3)				490.00
	8/12	8/15	Turkey		786.00		(3)				786.00
Gregory Dahlberg	7/14	7/14	Germany								
	7/14	7/15	Bosnia		60.00						60.00
	7/15	7/16	Belgium								
Commercial airfare							3,180.75				3,180.75
William Inglee	9/8	9/10	Japan		786.00						786.00
	9/10	9/13	S. Korea		801.00						801.00
	9/13	9/16	Indonesia		771.00						771.00
Commercial airfare							4,663.95				4,663.95
James Kulikowski	8/5	8/8	Great Britain		888.00		(3)				888.00
	8/8	8/10	France		666.00		(3)				666.00
	8/10	8/10	Macedonia				(3)				
	8/10	8/12	Greece		490.00		(3)				490.00
	8/12	8/15	Turkey		786.00		(3)				786.00
Frederick G. Mohrman	8/11	8/15	Russia		1,020.00		(3)				1,020.00
	8/15	8/17	Ukraine		630.00		(3)				630.00
	8/17	8/20	France		999.00		134.40				1,133.40
	8/20	8/21	Russia		162.00		(3)				162.00
	8/21	8/24	Korea		951.00		(3)				951.00
	8/24	8/26	Japan		932.00		179.65				1,111.65
Henry E. Moore	8/28	8/30	Kuwait		680.00						680.00
	8/30	9/1	Qatar		450.00						450.00
	9/1	9/2	United Kingdom		296,00						296.00
Commercial airfare							5,242.45		150.00		5,392.45
Michelle Mrdeza	8/12	8/16	Italy		775.88				62.00		837.88
	8/16	8/19	Russia		864.00				4.00		868.00
	8/19	8/22	Hungary		549.00				277.60		826.60
Commercial airfare							3,505.15				3,505.15
Juliet Pacquing	8/27	8/29	United Kingdom		650.00						650.00
	8/29	9/1	Italy		650.00						650.00
Commercial airfare							4,109.00				4,109.00
John G. Plashal	7/14	7/14	Germany								
	7/14	7/15	Bosnia		60.00						60.00
	7/15	7/16	Belgium								
Commercial airfare							3,180.75				3,180.75
John G. Shank	8/22	8/28	Guatemala		631.48						631.48
	8/28	8/30	El Salvador		362.00						362.00
	8/30	9/1	Nicaragua								
Commercial airfare							1,415.95				1,415.95
Jeanne L. Wilson	8/11	8/15	Russia		1,020.00		(3)				1,020.00
	8/15	8/17	Ukraine		630.00		(3)				630.00
	8/17	8/20	France		999.00		134.40				1,133.40
	8/20	8/21	Russia		162.00		(3)				162.00
	8/21	8/24	Korea		951.00		(3)				951.00
	8/24	8/26	Japan		932.00		179.65				1,111.65
Committee total					65,754.36		38,823.65		493.60		105,071.61
Surveys and investigations staff:											
Theodore J. Booth	9/1	9/9	Korea		1,756.25		3,415.31		6.00		5,177.56
Roger T. Castonguay	9/17	9/23	England		1,060.25		4,041.45		274.79		5,376.49
	9/23	9/26	Germany		393.25						393.25
G. Norman Christensen	9/9	9/14	England		905.50		4,381.87		210.91		5,498.28
	9/14	9/19	Italy		733.00						733.00
Robert D. Green	9/9	9/15	Germany		868.75		3,637.81		52.94		4,559.50
Carroll L. Hauver	9/17	9/23	England		1,060.25		4,041.45		255.28		5,356.98
	9/23	9/26	Germany		393.25						393.25
William P. Haynes	9/9	9/14	England		938.25		3,283.25		77.05		4,298.55
	9/14	9/17	Austria		672.00						672.00
	9/17	9/19	Poland		456.00						456.00
	9/19	9/20	Switzerland		254.00						254.00
	9/20	9/23	Belgium		867.00						867.00
Dennis K. Lutz	9/9	9/14	England		905.50		4,671.86		211.14		5,788.50
	9/14	9/19	Italy		733.00						733.00
Henry P. McDonald	9/9	9/15	Germany		868.75		3,185.74		67.55		4,122.04

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995—Continued

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]
David T. Mitchell	9/9	9/15	Germany		685.85		3,269.45		43.60		3,998.90
John D. O'Shaughnessy	9/9	9/14	England		938.25		3,283.25		142.54		4,364.04
	9/14	9/17	Austria		672.00						672.00
	9/17	9/19	Poland		456.00						456.00
	9/19	9/20	Switzerland		254.00						254.00
	9/20	9/23	Belgium		867.00						867.00
Robert J. Reitwiesner	9/9	9/14	England		942.75		4,880.29		303.87		6,126.91
	9/14	9/17	Austria		594.00						594.00
	9/17	9/19	Poland		456.00						456.00
	9/19	9/23	England		813.00						813.00
	9/23	9/26	Germany		363.00						363.00
R.W. Vandergrift	9/14	9/20	Hong Kong		1,645.00		3,458.95		430.28		5,534.23
	9/20	9/25	Thailand		855.75						855.75
Thomas L. Van Derslice	9/9	9/15	Germany		686.75		3,269.45		42.00		3,998.20
Donald C. Witham	9/1	9/9	Korea		1,843.75		3,415.31		7.20		5,266.26
T. Peter Wyman	9/13	9/16	Korea		821.75		4,606.63		227.00		5,655.38
	9/16	9/20	Hong Kong		1,334.50						1,334.50
	9/20	9/25	Thailand		815.00						815.00
	9/25	9/28	Japan		1,199.00						1,199.00
	9/28	9/29	Okinawa		288.75						288.75
H.C. Young	9/13	9/16	Korea		821.75		4,606.63		257.91		5,686.29
	9/16	9/20	Hong Kong		1,334.50						1,334.50
	9/20	9/25	Thailand		815.00						815.00
	9/25	9/28	Japan		1,199.00						1,199.00
	9/28	9/29	Okinawa		288.75						288.75
Committee total					33,856.10		61,448.70		2,610.06		97,914.86

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BOB LIVINGSTON,
Chairman, Nov. 13, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]
Kathleen Holcombe	7/1	7/5	United Kingdom	Pound	984.00		971.75				1,955.75
	7/5	7/7	Belgium	Franc	556.00		(3)				556.00
John Cohrssen	7/1	7/5	United Kingdom	Pound	984.00		760.65				1,744.65
	7/5	7/7	Belgium	Franc	556.00		[3] 256.00				812.00
	7/7	7/8	France	Franc	283.00		92.78				375.78
Hon. John Dingell	8/12	8/15	Russia	Ruble	1,020.00		(4)				1,020.00
	8/15	8/17	Ukraine	Ruble	630.00		(4)				630.00
	8/17	8/20	France	Franc	999.00		134.40				1,133.40
	8/20	8/21	Russia	Ruble	162.00		(4)				162.00
	8/21	8/24	South Korea	Won	951.00		(4)				951.00
	8/24	8/26	Japan	Yen	932.00		179.65				1,111.65
Catherine Van Way	8/21	8/25	Switzerland	Franc	1,016.00		800.15				1,816.15
Robert Meyers	8/27	9/1	Switzerland	Franc	1,524.00		3,282.85				4,806.85
Committee total					10,597.00		6,478.23				17,075.23

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Included with reimbursement issued to John Cohrssen.
[4] Military air transportation.

TOM BLILEY,
Chairman, Oct. 19, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]
Hon. Constance Morella	9/2	9/8	China		6,351.00		4,163.95		449.54		10,964.49
Hon. Carolyn Maloney	9/2	9/8	China		6,351.00		4,404.95		449.55		11,205.50
Committee total					12,702.00		8,568.90		899.09		22,169.99

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amound expended.

BILL CLINGER,
Chairman, Oct. 31, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON NATIONAL SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]
Hon. Ike Skelton	8/07	8/08	Spain		564.00						564.00
	8/08	8/09	Gibraltar		0.00						0.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON NATIONAL SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995—Continued

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]
	8/09	8/10	Italy		197.00						197.00
	8/10	8/10	Macedonia		0.00						0.00
	8/10	8/13	Turkey		786.00						786.00
	8/13	8/16	England		912.00						912.00
	8/16	8/18	Belgium		432.00						432.00
Hon. Solomon P. Ortiz	8/07	8/08	Spain		564.00						564.00
	8/08	8/09	Gibraltar		0.00						0.00
	8/09	8/10	Italy		197.00						197.00
	8/10	8/10	Macedonia		0.00						0.00
	8/10	8/13	Turkey		786.00						786.00
	8/13	8/16	England		912.00						912.00
	8/16	8/18	Belgium		432.00						432.00
Hon. Chet Edwards	8/07	8/08	Spain		564.00						564.00
	8/08	8/09	Gibraltar		0.00						0.00
	8/09	8/10	Italy		197.00						197.00
	8/10	8/10	Macedonia		0.00						0.00
	8/10	8/13	Turkey		786.00						786.00
	8/13	8/16	England		912.00						912.00
	8/16	8/18	Belgium		432.00						432.00
John D. Chapla	8/07	8/08	Spain		564.00						564.00
	8/08	8/09	Gibraltar		0.00						0.00
	8/09	8/10	Italy		197.00						197.00
	8/10	8/10	Macedonia		0.00						0.00
	8/15	8/16	Slovakia		394.00						394.00
	8/16	8/18	Belgium		432.00						432.00
Commercial airfare							252.00				252.00
Delegation expenses	8/10	8/13	Turkey				1,040.01		42.16		1,082.17
Hon. Patrick J. Kennedy	8/10	8/13	Israel		749.00						749.00
	8/13	8/15	Greece		490.00				1,372.00		1,862.00
	8/15	8/18	Italy		1,175.00						1,175.00
	8/18	8/20	Portugal		250.00						250.00
Commercial airfare							4,251.25				4,251.25
Hon. Floyd D. Spence	8/18	8/23	Belgium		656.00						656.00
	8/23	8/25	Estonia		406.00						406.00
	8/25	8/27	Romania		488.00						488.00
	8/27	8/30	Norway		816.00						816.00
	8/30	9/1	Denmark		529.92						529.92
Hon. Solomon P. Ortiz	8/18	8/23	Belgium		656.00						656.00
	8/23	8/25	Estonia		406.00						406.00
	8/25	8/27	Romania		488.00						488.00
	8/27	8/30	Norway		816.00						816.00
	8/30	9/1	Denmark		529.92						529.92
Hon. Steve Buyer	8/18	8/23	Belgium		656.00						656.00
	8/23	8/25	Estonia		406.00						406.00
	8/25	8/27	Romania		488.00						488.00
	8/27	8/30	Norway		816.00						816.00
	8/30	9/1	Denmark		529.92						529.92
Peter M. Steffes	8/18	8/23	Belgium		656.00						656.00
	8/23	8/25	Estonia		406.00						406.00
	8/25	8/27	Romania		488.00						488.00
	8/27	8/30	Norway		816.00						816.00
	8/30	9/1	Denmark		529.92						529.92
Hon. Jane Harman	8/30	9/1	China		529.92						529.92
Commercial airfare							3,900.95				3,900.95
Hon. Paul McHale	8/29	8/30	Italy		150.00						150.00
	8/30	8/30	Macedonia		0.00						0.00
	8/30	9/2	Croatia		714.00						714.00
Commercial airfare							2,977.35				2,977.35
Committee total					25,901.60		12,421.56		1,414.16		39,737.32

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FLOYD SPENCE,
Chairman, Oct. 30, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]
Hon. Gary Ackerman	8/19	8/24	Taiwan		1,365.00						1,365.00
	8/24	8/27	South Korea		951.00				178.52		1,129.52
	8/27	8/29	France		666.00						666.00
Commercial airfare							7,233.35				7,233.35
Paul Behrends	7/10	7/11	Hong Kong		364.00						364.00
	7/11	7/13	Vietnam		(3) 620.00						620.00
	7/13	7/14	Thailand		213.00						213.00
	7/14	7/14	Burma		14.00						14.00
	7/14	7/15	Hong Kong		364.00						364.00
Commercial airfare							4,038.95				4,038.95
Hon. Doug Bereuter	8/25	8/30	South Korea		1,585.00						1,585.00
	8/30	9/2	China		(3) 914.00						914.00
Commercial airfare							3,848.95		214.11		4,063.06
Hon. Howard Berman	8/23	8/24	Japan		932.00						932.00
Paul Berkowitz	7/10	7/11	Hong Kong		364.00						364.00
	7/11	7/13	Vietnam		(3) 620.00						620.00
	7/13	7/14	Thailand		213.00						213.00
	7/14	7/14	Burma		14.00						14.00
	7/14	7/15	Hong Kong		364.00						364.00
Commercial airfare							4,038.95				4,038.95
Marian Chambers	8/12	8/16	Israel		1,009.00						1,009.00
	8/16	8/20	Syria		1,355.00						1,355.00
Commercial airfare							3,083.65				3,083.65

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995—Continued

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]
Michael Ennis	8/25	8/30	South Korea		1,585.00						1,585.00
	8/30	9/2	China		(3) 907.00						907.00
David Feltman	7/1	7/4	Morocco		1,028.00						1,028.00
	7/4	7/5	Tunisia		161.00						161.00
	7/5	7/7	Switzerland		590.00						590.00
Commercial airfare							4,310.55				4,310.55
David Feltman	8/16	8/24	Taiwan		2,184.00						2,184.00
	8/24	8/27	South Korea		951.00						951.00
	8/27	8/29	France		666.00						666.00
Commercial airfare							6,882.55				6,882.55
Victor Frazer	7/2	7/6	Vietnam		[3] 1,009.00		(4)				1,009.00
	7/6	7/7	Thailand		213.00		(4)				213.00
Mark Gage	8/27	9/2	Russia		[3] 2,750.00						2,750.00
Commercial airfare							3,024.95				3,024.95
Kristen Gilley	7/5	7/8	Canada		595.00						595.00
Commercial airfare							679.88				679.88
Kristen Gilley	9/3	9/7	China		1,752.00						1,752.00
	9/7	9/10	Czech Republic		740.00						740.00
Commercial airfare							5,444.35				5,444.35
David Gordon	8/24	8/29	Nigeria		561.00						561.00
Commercial airfare							3,911.00				3,911.00
Harry Johnston	8/5	8/8	Ethiopia		375.00						375.00
	8/8	8/10	Sudan		150.00						150.00
	8/10	8/13	Kenya		630.00				95.60		725.60
	8/13	8/14	London		290.00						290.00
John Mackey	7/5	7/8	Canada		595.00						595.00
Commercial airfare							679.88				679.88
John Mackey	8/12	8/16	Argentina		1,168.00				245.00		1,413.00
	8/16	8/19	Colombia		792.00						792.00
Commercial airfare							2,954.95				2,954.95
Christopher Madison	9/8	9/10	Czech Republic		510.00						510.00
Commercial airfare							1,925.45				1,925.45
Lester Munson	8/24	8/29	Nigeria		[3] 486.00						486.00
Commercial airfare							3,911.00				3,911.00
Lester Munson	7/1	7/4	Morocco		1,028.00						1,028.00
	7/4	7/5	Tunisia		161.00						161.00
	7/5	7/7	Switzerland		590.00						590.00
Commercial airfare							4,310.55				4,310.55
Roger Noriega	8/12	8/16	Argentina		1,168.00						1,168.00
	8/16	8/19	Colombia		792.00						792.00
Commercial airfare							2,954.95				2,954.95
Daniel Restrepo	8/14	8/16	Argentina		876.00						876.00
	8/16	8/19	Colombia		[3] 717.00						717.00
Commerial airfare							2,312.95				2,312.95
Frank Record	8/9	8/11	Macedonia		600.00						600.00
	8/11	8/12	Greece		249.00				652.00		901.00
	8/12	8/15	Israel		1,009.00						1,009.00
	8/16	8/20	Syria		[3] 1,180.00						1,180.00
Commercial airfare							3,944.45				3,944.45
Hon. Toby Roth	9/22	9/26	Germany		1,184.00						1,184.00
Commercial airfare							5,807.55				5,807.55
Mara Rudman	9/4	9/8	China		1,752.00						1,752.00
Commercial airfare							3,936.95				3,936.95
Committee total					43,921.00		83,084.76		1,385.23		128,390.99

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refund of unused per diem.
[4] Military air transportation.

BENJAMIN A. GILMAN,
Chairman, Oct. 30, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]
Pat Danner	8/5	8/8	Great Britain		888.00		(3)				888.00
	8/8	8/10	France		666.00		(3)				666.00
	8/10	8/10	Macedonia				(3)				
	8/10	8/12	Greece		490.00		(3)				490.00
	8/12	8/15	Turkey		786.00		(3)				786.00
Hon. Bob Borski	8/12	8/13	Great Britain		296.00						296.00
	8/14	8/21	India		1,632.00						1,632.00
Commercial airfare							5,448.95				5,448.95
Committee total					4,758.00		5,448.95				10,206.95

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BUD SHUSTER,
Chairman, Oct. 27, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]	Foreign currency[1]	U.S. dollar equivalent or U.S. currency[2]
Hon. Phil Crane	8/4	8/6	Costa Rica		406		(3)				406

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995—Continued

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Hon. Charles Rangel	8/4	8/6	Costa Rica		406		(3)				406
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Hon. L.F. Payne	8/4	8/5	Costa Rica		406		(3)				406
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Hon. William Thomas	8/4	8/6	Costa Rica		406		(3)				406
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Hon. Rob Portman	8/4	8/6	Costa Rica		406		(3)				406
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Hon. Jennifer Dunn	8/4	8/6	Costa Rica		406		(3)				406
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Hon. Sam Gibbons	8/4	8/6	Costa Rica		406		(3)				406
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Hon. Greg Laughlin	8/22	8/23	Italy		152		(3)				152
	8/23	8/24	Slovenia		334		(3)				334
	8/25	8/26	Croatia		376		(3)				376
	8/27	8/28	Macedonia		149		(3)				149
	8/28	8/29	Albania		105		(3)				105
	8/29	8/30	Italy		430		(3)				430
Commercial airfare							2,879.65				2,879.65
Thelma Askey	8/4	8/6	Costa Rica		406		(3)				406
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Frank Phifer	8/4	8/6	Costa Rica		406		(3)				406
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Meredith Broadbent	8/4	8/6	Costa Rica		406		(3)				406
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Bruce Wilson	8/4	8/6	Costa Rica		406		(3)				406
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Karen Humbel	8/4	8/6	Costa Rica		406		(3)				406
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Keith Jewell	8/4	8/6	Costa Rica		406		(3)				406
	8/6	8/9	Chile		765		(3)				765
	8/9	8/10	Argentina		292		(3)				292
Committee total					20,565.00		2,879.65				23,444.65

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

BILL ARCHER,
Chairman, Oct. 17, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]
Hon. Bill Richardson	7/14	7/18	Middle East		1,000.00						1,000.00
Commercial airfare							7,245.95				7,245.95
Calvin Humphrey	7/14	7/18	Middle East		1,000.00						1,000.00
Commercial airfare							7,245.95				7,245.95
Ken Kodama	8/12	8/23	Europe		2,826.00		218.00				3,044.00
Commercial airfare							4,005.15				4,005.15
Michael Sheehy	8/13	8/17	Europe		750.00		45.00				795.00
Commercial airfare							4,514.95				4,514.95
Hon. Bob Dornan	8/22	8/31	Europe		1,546.00						1,546.00
Commercial airfare							2,879.65				2,879.65
Michael Meermans	8/22	8/31	Europe		1,546.00						1,546.00
Commercial airfare							2,879.65				2,879.65
Committee total					8,668.00		29,034.30				37,702.30

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LARRY COMBEST,
Chairman, Oct. 23, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SECURITY AND COOPERATION IN EUROPE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]
Janice Helwig		8/24	United States				3,162.05				3,162.05
	8/25	9/30	Austria		5,305.69						5,305.69
Ronald McNamara		7/5	United States				[3]283.73				283.73
	7/5	7/6	CAnada		305.17						305.17

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SECURITY AND COOPERATION IN EUROPE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1995—Continued

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]
Michael Ochs		6/26	United States				4,399.65				4,399.65
	6/29	7/6	Armenia		1,012.00		500.00				1,512.00
	7/6	7/10	Georgia		852.00		110.00				962.00
	7/10	7/12	Azerbaijan		356.00						356.00
	7/12	7/13	Turkey		176.00						176.00
Samuel Wise		7/3	United States				559.20				559.20
	7/3	7/8	Canada		621.67				10.45		632.12
		9/15	United States				3,438.85				3,438.85
	9/16	9/20	Austria		792.00						792.00
Committee total					9,420.53		12,453.48		10.45		21,884.46

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial airfare in addition to military air transportation.

CHRIS SMITH,
Oct. 16, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, NORTH ATLANTIC ASSEMBLY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 4 AND OCT. 10, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]	Foreign currency [1]	U.S. dollar equivalent or U.S. currency [2]
Hon. Doug Bereuter	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Hon. Gerald Solomon	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Hon. Tom Bliley	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Hon. Ralph Regula	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Hon. Marge Roukema	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Hon. Sherwood Boehlert	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Hon. Jan Meyers	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Hon. Porter Goss	10/4	10/10	Italy		1,180.00		(3)				1,180.00
Hon. Vernon Ehlers	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Hon. Charlie Rose	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Hon. Cardiss Collins	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Hon. Nancy Pelosi	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Hon. Bobby Rush	10/4	10/10	Italy		1,192.00		(3)				1,192.00
John Herzberg	10/5	10/10	Italy		915.00		3,033.85				3,948.85
Ronald Lasch	10/5	10/10	Italy		915.00		3,033.85				3,948.85
Carol Doherty	10/5	10/10	Italy		915.00		3,033.85				3,948.85
Jo Weber	10/5	10/10	Italy		915.00		(3)				
Commercial airfare							2,037.00				2,952.00
Michael Ennis	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Jim Doran	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Linda Pedigo	10/4	10/10	Italy		1,192.00		(3)				1,192.00
Martin Sletzinger	10/4	10/10	Italy		1,192.00		(3)				1,192.00
David Hobbs	10/5	10/10	Italy		915.00		(3)				
Commercial airfare							2,037.00				2,952.00
Veronica Craig	10/5	10/10	Italy		915.00		(3)				
Commercial airfare							2,037.00				2,952.00
Committee total					25,642.00		15,212.55				40,854.55

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DOUGLAS BEREUTER,
Oct. 24, 1995.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of November 17, 1995]

Mr. KASICH: Committee of Conference. Conference report on H.R. 2491. A bill to provide for reconciliation pursuant to section 105 of the concurrent resolution the budget for fiscal year 1996 (Rept. 104–350). Ordered to be printed.

[Submitted November 18, 1995]

Mr. DREIER: Committee on Rules. House Resolution 279. Resolution providing for consideration of the Senate amendment to the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996 (Rept. 104–354). Referred to the House Calendar.

Mr. QUILLEN: Committee on Rules. House Resolution 280. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2099) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes (Rept. 140–355). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. YOUNG of Florida (for himself, Mr. ABERCROMBIE, Mr. BALLENGER, Mr. BATEMAN, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BONILLA, Mr. BONO, Mr. BRYANT of Tennessee, Mr. BUNN of Oregon, Mr. BURR, Mr. CALVERT, Mr. CHAMBLISS, Mr. CLINGER, Mr. COBURN, Mr. COLLINS of Georgia, Mrs. CUBIN, Mr. DAVIS, Mr. DIAZ-BALART, Mr. DICKEY, Mr. DOOLITTLE, Mr. DUNCAN, Ms. DUNN of Washington, Mr. EHLERS, Mr. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. FLANAGAN, Mr. FOLEY, Mrs. FOWLER, Mr. FOX, Mr. FRANKS of New Jersey, Mr. FRELINGHUYSEN, Mr. GALLEGLY, Mr. GILLMOR, Mr. GILMAN, Mr. GOODLATTE, Mr. GOODLING, Mr. GOSS, Mr. GRAHAM, Mr. GUNDERSON, Mr. HANSEN, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HEFLEY, Mr. HILLEARY, Mr. HOBSON, Mr. HOUGHTON, Mr. HUNTER, Mr. HYDE, Mr. ISTOOK, Mrs. JOHNSON of Connecticut, Mr. JONES, Mr. KINGSTON, Mr. KOLBE, Mr. LEACH, Mr. LEWIS of California, Mr. LEWIS of Kentucky, Mr. LIGHTFOOT, Mr. LINDER, Mr. LONGLEY, Mr. MCCOLLUM, Mr. MCDADE, Mr. MCHUGH, Mr. MCINNIS, Mr. METCALF, Mr. MICA, Ms. MOLINARI, Mr. MOORHEAD, Mr. MYERS of Indiana, Mrs. MYRICK, Mr. NETHERCUTT, Mr. PETRI, Mr. REGULA, Mr. ROHRABACHER, Mr. SALMON, Mr. SAXTON, Mr.

SCARBOROUGH, Mr. SENSENBRENNER, Mr. SKEEN, Mr. SOUDER, Mr. SPENCE, Mr. STEARNS, Mr. STUMP, Mr. TATE, Mr. TIAHRT, Mr. TAUZIN, Mrs. VUCANOVICH, Mr. WALSH, Mr. WAMP, Mr. WELDON of Florida, Mr. WHITE, Mr. WOLF, Mr. YOUNG of Alaska, Mr. ZELIFF, Mr. MURTHA, Mr. MONTGOMERY, Mr. HOYER, Mr. PETE GEREN of Texas, Mr. DE LA GARZA, Mr. DIXON, Mr. STOKES, Mr. JEFFERSON, Ms. PELOSI, Mrs. MINK of Hawaii, Mr. TRAFICANT, Mr. COLEMAN, Mr. MORAN, Mr. GIBBONS, Mr. RICHARDSON, Mr. BISHOP, Mr. WILLIAMS, Mr. DICKS, Mr. BEVILL, Mr. STUPAK, Mrs. THURMAN, Mr. PETERSON of Florida, Mr. KENNEDY of Rhode Island, Mr. NEAL of Massachusetts, Mr. COYNE, Mr. BONIOR, Mr. GEJDENSON, Mr. MILLER of California, Mr. MOLLOHAN, Mr. RAHALL, Mr. MARKEY, Mr. KANJORSKI, Mr. MCHALE, Mr. VISCLOSKY, Mr. LIVINGSTON, and Mr. HASTERT):

H.R. 2664. A bill to revise the effective date for military retiree cost-of-living adjustments for fiscal years 1996, 1997, and 1998; to the Committee on National Security.

By Mr. FOX (for himself, Ms. MOLINARI, Ms. ROS-LEHTINEN, Mr. FORBES, Mr. FRANKS of New Jersey, Mr. ZIMMER, Mr. ENGLISH of Pennsylvania, Mr. HEINEMAN, Mr. STEARNS, Mr. DAVIS, Mr. MCHALE, Mr. KLINK, Mr. PALLONE, Mr. LONGLEY, Mr. MARTINI, Ms. KAPTUR, Mr. KING, Mr. UPTON, Mr. FOLEY, and Mrs. ROUKEMA):

H.R. 2665. A bill to authorize the Secretary of Health and Human Services to award grants and contracts to establish domestic violence community response teams and a technical assistance center to address the development and support of such community response teams, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. CALLAHAN:

H.R. 2666. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes; to the Committee on Appropriations.

By Mr. OBEY:

H.J. Res. 125. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

H.J. Res. 126. Joint resolution making further continuing appropriations for fiscal year 1996, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 123: Mr. DELAY.

H.R. 303: Mr. WELDON of Florida.

H.R. 468: Mr. MASCARA and Mr. DOYLE.

H.R. 1791: Mr. HUTCHINSON and Mr. REED.

H.R. 1884: Mr. FLAKE.

H.R. 1993: Mrs. KELLY.

H.R. 2310: Mr. BOEHLERT, Mr. BONILLA, Mr. CLAY, Mr. CONDIT, Mr. DELLUMS, Mr. ENGEL, Mr. HINCHEY, Mr. KING, Mr. MCDADE, Mr. MILLER of California, Mr. MOORHEAD, Mr. PASTOR, Mr. RICHARDSON, Mr. TORRES, Mr. TRAFICANT, and Mr. MATSUI.

H.R. 2311: Mr. FRAZER, Mr. JEFFERSON, Mr. JOHNSTON of Florida, Mr. MFUME, Mr. RANGEL, Mr. SABO, Mr. TOWNS, and Ms. WOOLSEY.

H.R. 2508: Mr. SMITH of Texas and Mr. HUTCHINSON.

H.R. 2510: Mr. ABERCROMBIE.

H.R. 2599: Mr. CRAMER.

H.J. Res. 124: Mr. DAVIS.

H. Con. Res. 63: Mr. KLECZKA and Mr. ORTIZ.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 6 by Mr. BRYANT of Texas on House Resolution 240: Karen L. Thurman, John M. Spratt, Jr., Henry A. Waxman, Eddie Bernice Johnson, and Gene Taylor.

Petition 7 by Mr. KANJORSKI on House Resolution 246: Sam Gejdenson, Lynn N. Rivers, John Lewis, and Cynthia McKinney.

SENATE—*Sunday, November 19, 1995*

The Senate met at 2:30 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we come to You asking for a miracle of Your intervention. We claim Your promise given through Isaiah, "You shall hear a word behind you saying, 'This is the way, walk in it.' "—Isaiah 30:21. We humble ourselves and ask for that word of guidance today in the continuing deadlock over the budget and the shutdown of Government. Jesus' words in Mark 3:25 sound an alarm: "A house divided against itself cannot stand." We acknowledge that presently we are a divided government. Create in all of us a humble desire to find a solution. We all belong to You; we are here in leadership by Your appointment, and we believe that You will show us a way to bring resolution without a sacrifice of truth. If we all admit our need to turn to You at this crucial time, You will reveal a solution beyond our own wisdom. O God, bless us with Your guidance and grace. We pray specifically for our leaders BOB DOLE, TOM DASCHLE, TRENT LOTT, WENDELL FORD, NEWT GINGRICH, and President Clinton. Anoint their minds and hearts with Your inspiring and enlightening spirit. May we, along with them, listen to hear Your voice saying, "This is the way, walk in it * * * and walk in it together." In the name of our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

Mr. DOLE. Thank you, Mr. President.

SCHEDULE

Mr. DOLE. Mr. President, let me tell the staffs that we do not normally have Sunday sessions. In fact, I think the most recent Sunday session was a few years back. We do not have the exact date. I apologize. But I think we have, hopefully, very important business to resolve today. I hope, in accordance with the message from the Chaplain, that we can find a way to reach out to one another. That process is going on as we speak.

I understand that the President's Chief of Staff, Leon Panetta, is now meeting with the Democratic leadership, Senator DASCHLE and others. He will soon be meeting with Budget chairman, Senator DOMENICI, on this side, and the House Budget chairman, Mr. KASICH, in my office, room S-230. Following that meeting, hopefully, I will be able to visit with the Speaker. I just hope there can be some resolution of this matter today.

I am now advised that the last Sunday session was October 27, 1990. It has been a little over 5 years ago.

In my view, we made a good faith offer last night. I think it has been received as such by the President, or at least his representatives, and hopefully, if there is a small difference, we can resolve that.

We are prepared to act. We are prepared to stay here throughout the day, into the evening, if necessary. I know there is a human side to this, too. There are a lot of families out there who are very concerned and probably under a great deal of stress. I can assure them that, whatever happens, when they come back to work, they will be paid for the days they missed, because they were missed through no fault of their own. That we can assure them. So I hope they have that assurance.

So we will be working this afternoon and, hopefully, with everybody with the same mindset; that is, to see if we cannot come together.

I want to thank the Senator from Virginia, Senator WARNER, for his efforts throughout yesterday, and the other Senators on the floor, Senator COCHRAN, Senator GORTON, Senator COVERDELL, Senator SNOWE, and Senator HATFIELD, of course, the chairman of the committee. He would like to have us pass a continuing resolution. He would also like us to finish the other appropriations bills, and while I am at it, bring up the Labor-HHS appropriations bill and pass that, hopefully this afternoon, on a voice vote, so we can go to conference and have that one last appropriation bill disposed of if that is possible. Maybe we can accomplish that today.

We will have a period for morning business with Senators permitted to speak up to 10 minutes each. As I said last evening, if the rollcall vote is necessary, we will make certain that if we should reach some agreement, if a rollcall vote is necessary, we will notify all Members so nobody is disadvantaged. Hopefully, if we can reach agreement on both sides of the aisle, there would be no need for a record vote if we can do it by a voice vote. Some of our colleagues, on both sides of the aisle, are on business matters far from here. So we will try to accommodate their concerns.

If we are going to act before the next work week, we need to do it today so some of the workers will know they will be coming to work tomorrow or the next day.

So I thank my colleagues for their patience, and I thank everybody for their indulgence in this Sunday session. But, in my view, it is important and we should be here. We should be trying to resolve this controversy. On the other side, obviously, it is very important.

Everybody understands that the primary concern, at least on our side of the aisle, is that we have a 7-year balanced budget, a balanced budget by the year 2002. I guess I would say the major problem is who is going to do the scoring. This is sort of inside baseball, but the question is whether it will be the Congressional Budget Office, or the President's scoring apparatus known as the Office of Management and Budget.

So that is where we are. If we have any additional information, I will certainly pass it on to my colleagues as soon as it is received. After Members have spoken in morning business, then it would be my desire to have a recess subject to the call of the Chair, and we will see what develops in the next 30 or 40 minutes.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

Mr. WARNER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Virginia.

CONTINUING NEGOTIATIONS ON THE GOVERNMENT SHUTDOWN

Mr. WARNER. Mr. President, I thank the distinguished majority leader. He has been a tireless worker in this effort. We have another long day ahead of us today. Just addressing the issue that the distinguished majority leader raised, among the discussions that we had yesterday, again, he framed very accurately the fact that the 7-year balanced budget, that seems to be agreed upon really by both sides. The controversy that remains today to be negotiated is in the area of how you formulate the economic assumptions by which, over a period of the 7 years, the goal of a balanced budget is reached.

As the distinguished leader pointed out, the Congressional Budget Office primarily serves the Congress. The Office of Management and Budget serves

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the President of the United States. We feel very strongly, of course, that the CBO, Congressional Budget Office, will continue in the primary role of ascertaining those economic assumptions. Nevertheless, it seems, as the discussions went yesterday, there was certainly an offer on the side of the Congress to permit, for example, the unified balanced budget in subsection (a), which we talked about in this language shall be estimated by the Congressional Budget Office based on their most current economic and technical assumptions, following a thorough consultation and review with the Office of Management and Budget—again, involving the President and his principal advisers.

Incidentally, Mr. President, most importantly, "and other Government and private experts," which means that the Congress is not endeavoring to cloister itself simply with one set of economic factors. It simply is reaching out to the widest possible range to make the economic assumptions in a manner which, hopefully, would be acceptable to both the President and the Congress.

I am pleased to be here today with my colleagues to continue this most valuable work. I yield the floor.

THE CURRENT SITUATION

Mr. COCHRAN. First, let me compliment the distinguished majority leader, Senator DOLE, for the way in which he is keeping the interests of the Senate in negotiations that are taking place on this resolution, not only regarding the continuing resolution, but the effort to get some commitment from the administration to support the effort and be an actively engaged partner in the effort to achieve a balanced budget. That is really what is at the heart and soul of the dispute between the Congress and the administration at this time.

We know some innocent people are sort of caught in the crossfire. That is unfortunate. I think that the majority leader's assurance to those who are being disadvantaged and put at some financial risk as a result of this impasse ought to be reassured by the statements of the leader.

There has been a lot of speculation. I know the distinguished Senator from Virginia has voiced concerns about how we go about making amends, or making sure that there is not an unfair result for some of those who have been laid off or furloughed temporarily.

The fact is, I think there is some misunderstanding about the situation. There is a commitment, as the majority leader has stated, to help make sure that those problems are resolved and that they are resolved as a part of this negotiation. We hope that is the case.

Some people have said, and they have called in saying, "If people are not essential, if they are not necessary to the operation of the Government, why do you have them on the payroll to start with?" That is not the definition of this situation. That is, that there are some who are considered essential for the protection of life and property. That is the definition. I think that is why there is the misunderstanding, those whose presence and whose active involvement on the payroll or on the job is necessary for the protection of life and property are considered essential under this situation.

The President, however, has the obligation to make that definition in many cases. He has a good deal of leeway in making those decisions. I think people recognize that after the first furlough and first definitions, within the Departments there have been some changes. Some who were considered not necessary or essential for the protection of life and property have been summoned to come back to work, who were not first considered essential.

So, this is a situation that does not happen every day. It is very unusual. It is out of the ordinary. No wonder there is some wonderment or bewilderment, confusion, about this situation.

I think all can be assured that certainly this Senate is going to continue to look out for the interests not only for those who have been put at some financial disadvantage, but also the American people as a whole, and the interests of States. We are here representing State governments as well. That is one of the original roles of the U.S. Senate. We have two Senators per State so each State can be equally and fairly represented. So the interests of local governments are being taken into account in this process, too.

The point I am trying to make is that although there are some anxieties and although there is some confusion, no one should be confused about what the goal is. That is, to get this dispute resolved as quickly as we can and as fairly as we can and without compromising our commitment to achieve a balanced budget. That is the whole purpose of this.

We are sorry the dispute has turned into what some are characterizing as a political game or of one-upmanship, one trying to outdo the other with public rhetoric and news releases and the like.

There is some very serious and hard work going on, and all through the weekend, and has been going on the last several days. I hope we can resolve it today. Everyone here is paying a very serious commitment in that direction.

I yield the floor.

Mr. WARNER. Before the able Senator from Mississippi departs, yesterday you were present throughout the day and at a number of meetings, but repeatedly the majority leader of the Senate, Senator DOLE, expressed compassion for the people who are necessarily furloughed as a consequence of this problem. In the presence of the Speaker and others at various times there was never any doubt—never any doubt—that the Congress would take appropriate action, perhaps as a separate measure from a continuing resolution. But, nevertheless, the Congress would take appropriate legislative action to ensure that furloughed persons are made whole with respect to their salaries.

We cannot make them whole for the emotional loss and strain and the uncertainty, but certainly when it comes to the question of their just compensation, that will be done.

I thank the Senator and join him in recognizing the leadership provided by the distinguished Senator from Kansas, the majority leader, Senator DOLE.

Mr. COCHRAN. I thank the Senator for his leadership in this effort. He has been stalwart in always helping us resolve these difficult situations. That has certainly been the case in this instance, as well.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Georgia.

BALANCE THE BUDGET

Mr. COVERDELL. Mr. President, I, too, commend all the Members of the Senate and the House that have labored to try to resolve this dilemma, but I take just a moment, if I might, Mr. President, and step back from it.

I have just returned from Georgia, and many of the citizens I talked to are somewhat concerned. There is an anxiousness as to just what is happening here. I think it is very important that we remember that the ultimate issue that has driven all of these events for the last several days is whether or not the United States is going to balance its budget or not after 30 years of not doing so.

Just the other evening, in a very historic vote, 52 to 47, the U.S. Senate passed a balanced budget, the first one in 3 decades. The House has done the same.

The President has said he will veto this balanced budget, which is perplexing because, first of all, if any message came out of the last election it was that the American people want their budgets balanced. They deal with it in their family, they deal with it in their business, and they simply do not understand a Federal Government that cannot manage itself. They want the budgets balanced.

The President, in 1992, as he ran for President, promised the American people that he would balance the budget in 5 years. The proposal that he has been sent balances the budget in 7 years.

This Congress, the 104th Congress, came from the elections to balance the budgets. They have fulfilled that promise. It is time for the President to do the same. He has said repeatedly, as I said, in 1992 he was for a balanced budget in 5 years. He then said he would submit a balanced budget in 10 years. I think he has mentioned every number in between at one time or another.

The point is that he has never—never—submitted a budget in balance, which is, of course, why, when his budget came before the Senate, it was rejected, on one occasion, 99 to 0, and on the next, 96 to 0.

This is not just a contest or philosophies and the like, Mr. President. The Bipartisan Entitlement Commission appointed by the President, chaired by a member of his own party, Senator KERREY of Nebraska, cochaired by Senator DANFORTH of Missouri, told the Nation in the beginning of this year that within a decade—that is on all of our watch—within a decade all the vast resources of the United States will be consumed by only five of our programs.

It is almost difficult to imagine all the vast resources of the United States being consumed by just five programs, but they are. They are Social Security, Medicare, Medicaid, Federal retirement, and the interest on our debt—and then there is nothing else. That would be a travesty, for this generation to be the first generation of Americans that gave the country to the future crippled and unable to manage itself. How could we even imagine doing that to future generations, the children and grandchildren yet to come? No generation of Americans has ever willfully—willfully given the future a country crippled, stumbling into the next century.

As sober a message as that is, we need to be reminded that if we seize control of our destiny, if we manage these financial affairs as proposed in this balanced budget, we will enter the next century with more opportunity than one could even imagine or has ever known or seen before. We will be putting resources back in the American family because we will lower the devastating interest rates they pay on their home mortgage, on their car, on borrowing, on their student loans. We will dramatically shorten the lines for employment because we will have an expanding economy with vast new opportunities. And, I might say, we should remember that, as the world's greatest power, we will then enter the new century with the muscle to back it up. What would some of these world rogues rather see than the United States crippled economically, stumbling into that century? We should never give them that opportunity.

I saw a fact sheet just the other day and I have asked it be expanded. The balanced budget that we have submitted, if ratified, would save, over the next 7 years, my State of Georgia $333 million in debt service. It would save my capital city, in which I live, $121 million in debt service.

As I said a moment ago, it will save every Georgia family nearly $2,000 to $3,000. That means we, in effect, will have increased their disposable income between 10 percent and 20 percent. Who else is getting a raise like that? What a bonus we could give the American family by simply being responsible.

So, while we are talking about shutdown and the like, and the disputes and the meetings that are going on, let us just remember, this is about a Congress that is intent on balancing the budget of the United States so we can save the integrity of the Union for the future, for a new century.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

CONGRESSIONAL PAY

Ms. SNOWE. Mr. President, I rise today on an issue that is related to this shutdown, and that is the issue of pay. I want to express my very deep disappointment that we have not been able to bring up the legislation which I proposed that would treat the pay for Members of Congress and the President in the same manner the pay is being treated for Federal employees who are currently working and who will find their paycheck is suspended during this period of a shutdown.

I worked on this legislation in conjunction with the Senate majority leader, who supports it, and with Senator BOXER, who proposed similar legislation for future shutdowns. I wanted to be sure that this issue also applied to this current shutdown, so my legislation would make it retroactive.

I have 24 Members of the Senate who support this legislation, who have cosponsored it. Besides myself, the Senate majority leader, Senator BOXER, Senators THOMAS, WARNER, KEMPTHORNE, GRASSLEY, MCCAIN, COHEN, ABRAHAM, CHAFEE, JEFFORDS, PRESSLER, NICKLES, SIMPSON, SPECTER, HUTCHISON, DOMENICI, DEWINE, KASSEBAUM, BROWN, CRAIG, COATS, and HARKIN.

Here we stand today. We have had a session yesterday and we had a session today and we will have sessions tomorrow, hopefully, to resolve this shutdown.

In the meantime, there is a tremendous disparity between Federal employees who are working, like our staffs, and other Federal employees, and those, of course, who are furloughed, and Members of Congress and the President. You might ask, what is the disparity? The fact is, Members of Congress will not face any disruption in their pay, yet those Federal employees who are working are going to face a disruption. Their pay will lapse during this period of time.

You might ask, why such a discrepancy? That is a very good question. That is why I proposed this legislation. Unfortunately, we cannot reach a consensus among all Senators about bringing this legislation up for immediate consideration. I find it somewhat ironic, because at the beginning of this Congress, setting off in a new direction and a new course, the very first bill that this Senate and this House considered was the Congressional Accountability Act. That would require that the laws that apply to the rest of society would also apply to the U.S. Congress.

I cannot think of a greater example than right here, where we could put our money where our mouth is. Yet, unfortunately, we are back to the same old procedures and business as usual. We are still preserving the status quo when it comes to how Members of Congress are treated, and the President, vis-a-vis the rest of society. In this case, it happens to be Federal employees.

I would think every Senator would support this legislation. After all, hundreds of thousands of Federal employees and their families are going to face serious economic disruption, hardships, inconveniences. Yet Members of Congress will not. I do not see the equity in such an example. I do not see the fairness. I do not see the responsibility. Because each of us, individually and collectively, has a responsibility to this institution and to preserving the integrity of this institution.

The very thing we should be preserving is the public's confidence in the way we do business. Obviously, it has suffered during this current shutdown. But, at the very least, we can say yes, we are going to face similar problems, similar inconveniences as to those Federal employees who will find their paycheck has lapsed. Unfortunately, we are not going to find that unless this legislation is brought up for immediate consideration and ultimately passed.

Unfortunately, as I said, we have objections from others who do not support this approach. I find that remarkable, given the conversations I have had with Federal employees and even my own staff, in what they are going to be facing because they will not have the assurance of a steady paycheck.

There are many people who have to live paycheck to paycheck. I think at the very least we ought to be setting an example, and not setting ourselves apart as somehow isolated from the problems that are associated with this current Government shutdown.

As the Senator from Arizona was just saying, Senator MCCAIN, what about the businesses—the many businesses, the hotels and the restaurants that are associated, that depend on Federal employees working, whether it is here or the Grand Canyon? They will never recover their losses.

So what we are saying here is at least we ought to be experiencing some problems as a result of this shutdown, the same problems that others are experiencing, and certainly with respect to Federal employees. Tomorrow is another payday period. Again, there is a difference between how Members of the Congress and the President are being treated versus Federal employees. The difference will be that those Federal employees who are working currently will see a reduction in their pay, but Members of Congress and the President will not.

I hope, Mr. President, that we will find on our calendar this legislation because I think it is important to provide confidence in this institution, and the direction this country is taking, but also to restore the public's trust in its elected officials. And I hope that we will try to set an example by sharing in the same undue burdens that are being placed on Federal employees and their families. Those same burdens should be placed on Members of Congress and the President.

So I hope that every Member of this body will consent to providing for the consideration of this legislation on the calendar tomorrow.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Thank you, Mr. President.

MEMBERS' OBLIGATION TO BALANCE THE BUDGET

Mr. BROWN. Mr. President, I rise to share some thoughts with fellow Senators with regard to the nature of this problem. I do not think it is any mystery to most Members of the Senate why we are here.

Yet, as I hear this issue discussed in the national media, sometimes the real crux of the problem is missed. It can be summed up by taking a look at the reference in one of the documents provided in the last budget round. Interestingly enough, that document was provided by the President of the United States. Included in the information on the back page is this figure. It is an answer to a question of what the child born today would have to pay in the way of taxes to maintain the current programs that we have in place. Mr. President, that figure is calculated by a straightforward calculation that assumes there are absolutely no new programs added. That has never happened.

In the last quarter of century we have never had a time where we have not added new programs or expenditures. It assumes there are no emergencies. Even assuming no emergencies and no new programs, the child born today will pay 82 percent of everything they earn in their entire life in taxes simply to honor the current programs that are on the books.

Mr. President, let me repeat that, because I think that number must astound most people. It astounds me when I look at it. Eighty-two percent, according to the President's own numbers, will have to be paid in taxes simply to honor the existing programs we have.

The short answer of why that is true is simply because we have passed in prior years programs that are open-ended, that spend out automatically what are called entitlements that continue to increase automatically, and will take a larger and larger share of our gross domestic product.

We are here today because there is a crisis, and that crisis is that Congresses in the past have obligated future generations to a point where 82 percent of everything a child earns will have to be paid to the Federal Government just to honor existing programs.

Mr. President, there is no person, liberal or conservative, Democrat or Republican, who can look at that figure and imagine that America will be competitive with 82 percent of everything we produce being paid in taxes. It will destroy incentive. It will destroy our competitiveness in world markets. And anyone who comes to this floor and fails to recognize the desperate need for us to address these programs is simply not taking a look at the facts.

The facts also show we have the biggest deficit of any country in the world. We have the biggest debt of any country in the world—almost $5 trillion. We have the biggest trade deficit of any country in the world. We have one of the lowest savings rates of any major industrialized country on the face of the Earth.

Mr. President, when you look at the facts they are awesome. I hope Members of the Senate who have come to the floor and said no action is necessary will think again. If America is to remain strong, viable, competitive, and provide a future for our children other than 82 percent of everything they earn paid in taxes, we have to change. All the rhetoric cannot hide the fact that our future is dismal unless we change it. It is why I think there is such optimism in the country over the willingness of Congress to stand fast and insist on changes.

Mr. President, the distinguished Senator from Maine mentioned her bill which would place Members of Congress in the same circumstance as other Federal employees when we have a shutdown like this. I am proud to be a cosponsor of it. I very much hope it passes. When it comes to the floor for consideration, I want to add an additional amendment. I do not pretend that it will be popular. But I think it is along that same line, along the line we treat ourselves like everyone else; and, that is this:

For over a quarter of a century this Congress has passed budgets and ignored them. They have come up with phony estimates, and then they have overspent the budgets time and time again. Some of the Members who talk the loudest and the longest about balancing the budget happily turn around and then vote to exceed the budget each year. That is why we need an incentive. That is why we need the constitutional amendment to balance the budget recognizing the fact that Congress has been unable to face the reality that calls for difficult decisions.

I cannot imagine anyone in private thinking other than the fact that we have to have some discipline. And while some Members have shied away from a constitutional limitation—as the distinguished Presiding Officer recalls, we were one vote away from referring that constitutional amendment out to the States—I believe some discipline is possible. And it relates to the way private sectors are treated.

Mr. President, the proposal is going to be simply this: If we meet our budget targets in passing the budget this year, our pay stays the same. But, if we fail to meet them, for every $5 billion we realize in debt that is over that target, we would lose 1 percent of our pay. So if it is $10 billion over, we lose 10 percent. If we are $20 billion over, we would lose 4 percent. This would cap out at a 30-percent pay reduction.

Mr. President, this will provide the real incentive because it will provide that Members of Congress will pay a personal price when they do harm to the fiscal soundness of this Nation, and the future of our children. We will have a direct financial interest in seeing that we meet our budget targets. Is it dire action? Yes, possibly. Is it essential? Mr. President, I believe it is essential.

I do not know whether that measure is going to pass or not. But I do know that some discipline is essential, and in a way this treats us exactly like the private sector. You see, if a private business does not perform, the owners and the employees are penalized in what they can be paid and what they can earn. There is no reason to exempt this Congress of the United States from the real discipline of the marketplace. Our major responsibility is to get this country back on track.

I intend to offer an amendment to the measure of the distinguished Senator from Maine that would add that incentive for Members to honor their obligation to meet budget targets.

Mr. President, the controversy involves two major questions. I think some Americans may be surprised to focus on those because the national media have not focused on them perhaps the way we think they should. It involves commitment of this country to balance its budget in 7 years. And it involves honest real numbers. The President has said that he cannot live with the commitment to balance the budget in 7 years. The President has said he wants other than the Congressional Budget Office figures, ones from his administration, or perhaps others, to be the standard for the numbers.

Mr. President, I simply want to draw Members' attention to one fact. While the President now says he finds it unacceptable to be committed to a balanced budget in 7 years, when the President himself ran for office in 1992 he looked the American people in the eye and promised to balance it in 5 years.

Mr. President, he has never presented a budget that does that. Now, not only is he not willing to stand up for a 5-year commitment, he said he would veto a continuing resolution—he has, indeed, vetoed a previous one—if it insists on a commitment to a 7-year balanced budget.

Most Americans must be surprised at this. It runs directly contrary to his promise to the American people when he ran for office.

The President specifically promised a balanced budget in 5 years. Later he said a balanced budget in 7 years, and later in 8 years, and later 9 years, and later in 10 years. That is one of the major differences of two in the failure of the President to keep his commitment to try to balance the budget.

The second difference is over economic assumptions. I must say I find no item more important than realistic economic assumptions. The distinguished Democratic leader, for whom I have a great deal of respect, has come to this floor and noted for the record that we have had assumptions that were not optimistic enough in the last few years. It is quite true that prior assumptions in periods of economic upturn have proved sometimes too conservative. It is the nature of the assumptions. We have had assumptions in the past that follow a general rule. They are not optimistic enough when we have an economic recovery, and they are not pessimistic enough when we have an economic downturn.

I submit the judgment and the weight of long-range economic assumptions should not just be how they perform in the short term of an upswing or a downswing but how they perform over the long term. Here the record is very clear. No one should be mistaken about it. The assumptions we have used for the last quarter of a century, whether they be from the Executive Office or the Congressional Budget Office, have been wildly optimistic. They have overstated the revenue that would come and they have understated the outgo, the spending of the Federal Government. The reality is this has been one of the major places of gamesmanship. Economic assumptions have been used to mislead the American people.

All one need to do is take a look at the budgets for the last 25 years. Every single one of them except for the last couple years have suggested, while they would not balance the budget this year, they would balance the budget the following year or the year after that or the year after that. It used to be we would balance the budget 1 year out and then 2 years out and then 3 and then 4 and then 5. No one can honestly look at the economic assumptions that have been used in calculating our budget and not conclude that they were fraudulent. They have consistently overstated revenue and consistently understated expenditures. One need only look at the Social Security assumptions to see the fraud.

I do not want to overdo this point, but I think it is critical that people understand how important the economic assumptions argument is because it goes to the very integrity of the books, it goes to the very integrity of whether or not we achieve a balanced budget.

The President is suggesting that we cook the books. That is what this controversy is all about—his refusal to honor his commitment on balancing the budget and his unwillingness to live up to realistic estimates.

I do not know how many Members had a chance to look at the details of the President's proposal in terms of economic assumptions earlier this year. Dr. Laura Tyson defended them before the Budget Committee. One of the things I found so extreme in the President's proposal was literally the suggestion that they were going to use two rates of inflation, one rate of inflation when calculating income and another rate of inflation when calculating expenditures.

I understand how reasonable men and women can differ on the value and the content of economic assumptions. To assume different rates of inflation when you are calculating the income and expenditures is absurd. Could they be off slightly in the way we do the calculations? Of course. But there was a significant and is a significant difference in the way the President's people calculate inflation. It is absolutely fraudulent. There is no integrity in those numbers.

If we adopt economic assumptions that undercut the integrity of this budget process, we will have deceived the American people.

Men and women can honestly disagree, and we are going to negotiate over how much tax cut we should have, and we are going to negotiate how much spending we should have. And everyone understands there has to be a compromise in those areas.

There should be no compromise on the integrity of the budget process. Congress has compromised the integrity of the budget far too long. It is one of the core reasons why we find ourselves in the disaster situation that stands before us.

I hope there is an agreement reached today, but I for one cannot agree to destroy the integrity of the budget process. I for one think it would be a great mistake if included in that agreement is a willingness to accept phony numbers and phony assumptions and false claims. It is the road that has gotten us to this problem. It is the problem we must address honestly and straightforwardly. I believe, if we do, if we use honest numbers and realistic changes, this country's economy will blossom in the future as it has in the past.

I yield the floor, Mr. President.

Mr. McCAIN. Mr. President, I ask unanimous consent to proceed as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EFFECTS OF SHUTTING DOWN THE FEDERAL GOVERNMENT

Mr. McCAIN. Mr. President, I wish to share my views of appreciation for the remarks just made by the Senator from Colorado. I would also like to express my appreciation to the Senator from Maine [Ms. SNOWE], on the introduction of her legislation, and I urge the leadership on both sides of the aisle to take up that legislation and pass it.

As the Senator from Maine pointed out, there is a great credibility gap here in the Congress that we treat ourselves all too often differently from the American people. This is a glaring example of it. People who also work for the Federal Government are not receiving their pay and benefits, and we in the Congress continue to do so.

That is not a good message for us to send. I do believe that as in the past there is very little doubt we will compensate those who have been laid off as nonessential workers, although I would certainly hope we in the Congress would examine the impact or the lack of impact of the absence of some of those nonessential workers and perhaps over time we could use that as a guide to downsizing the size of Government. In the meantime, we in the Congress should not accept our paychecks when Federal workers are also not receiving them.

Mr. President, I wish to also point out that some of the actions taken in this downsizing or laying off of essential workers and providing what is deemed nonessential, cutting off what are deemed nonessential services to the American people has gone a little bit too far, and I speak specifically of the Grand Canyon.

For the first time in its history, the Grand Canyon has been closed down with a very few number of employees. Most of the services could have been provided to people who come from all over the world. I think it is just a disgrace and a bit of political demagoguery that the Grand Canyon is being shut down because of this crisis. The Federal Government, the Department of the Interior and, most of all, Secretary Babbitt should know that we could provide services to about 90 percent of the visitors with just a handful of employees. I urge the President and the Secretary of the Interior to reverse that decision.

I also point out that in our zeal—and it is well-founded zeal—to protect those who are Government workers who are not receiving their pay, let us remember that there are tens of thousands, if not hundreds of thousands, of Americans who are directly dependent upon places like the Grand Canyon—the hotel employees, the concessionaires, the people who supply all of the things that go into these provisions of Government services that will never be compensated. They will never be compensated. I appreciate very much what the Senator from Maine is trying to do for Government workers and what we will do, but let us not forget that there are a whole lot of people who are not Government employees but who are dependent upon Government for their economics and their livelihoods, and their families are dependent upon it, and they will have a very bleak Thanksgiving because they have already lost income which they can never regain.

That is what the tragedy of this whole confrontation and crisis is all about. I understand why many Americans say, as a commentator this morning on one of the talk shows said, it is a food fight and mothers would not approve of their sons behaving the way we have seen happen, especially wrestling matches in the Chamber of the House of Representatives and a great deal of disparagement of integrity and character and personal attacks that are being mounted on both sides.

But, Mr. President, I do not think we should let it distract us from the fact that there is an enormous amount at stake here. And that is really whether we are going to carry out the commitment that we made to the American people in the election of 1994. And for us to depart from the valid assumptions which have been supported by Members on the other side of the aisle, by the President of the United States, and all of us, and the Congressional Budget Office, as providing us the basis for economic assumptions, would be an absolute travesty.

Mr. President, I will not go through again the number of times the President of the United States has changed his view as to how many years it would take to balance the budget. But I do remember quite well in 1993 when in a rather raucous State of the Union message the President of the United States said—and I quote from his State of the Union Address, as he explained to Congress and the American people why he used CBO numbers to score his 1994 budget proposal.

He said:

> I did this so that we could argue about priorities with the same set of numbers. I did this so that no one could say I was estimating my way out of this difficulty. I did this because if we can agree together on the most prudent revenues we are likely to get if the recovery stays, and we do the right things economically, then it will turn out better for the American people than we say. In the last 12 years, because there were differences over revenue estimates, you and I know that both parties were given greater elbow room for irresponsibility. Let us at least argue about the same set of numbers so the American people will think we are shooting straight with them.

Mr. President, let us let the American people know that we are shooting straight with them. We can only do it with Congressional Budget Office numbers. I heard one of the President's advisers this morning going through the same routine that they have, that if we balance the budget in 7 years, if we stick to the CBO numbers, we will destroy the American's ability to receive welfare, education, student loans, et cetera, et cetera.

It is the same line we have been hearing for a long, long time. Clearly for quite awhile it has had resonance with the American people. There is a legitimate question that needs to be asked. If we do not balance the budget, what happens to all of those programs—education, Medicare, welfare, all of those programs if we do not stop this reckless spending? And I think the answer is obvious. None of those programs can be funded if we continue to amass this enormous debt that has laid $175,000 debt on every child born in America today, only to pay the interest on the debt that we have already accumulated.

Mr. President, I hear a lot of talk about a compromise, so do my colleagues. And compromise is the name of the business in Government. But if we compromise our 7-year commitment, and if we compromise the Congressional Budget Office numbers, then we will have done a great disservice not only to the overwhelming majority of the American people that told us they wanted the budget balanced in the last election but to future generations of Americans who, by us using irresponsible numbers and unrealistic figures, would do a great disservice to them.

Let me also point out one other thing, Mr. President. This is really all about how much money Government can spend. If we use the Office of Management and Budget numbers, they will provide different estimates which will then say less sacrifice is required to balance the budget thereby giving the executive branch and the other bureaucracies more money to spend.

The question is, are we going to let the American people keep that money and spend it themselves or are we going to send it to Washington and continue to fund many, many failed programs which have not only not helped the American people but in the view of many of us in the case of the failed welfare system, harmed the American people more than it has helped. So it is really about how much money is going to be spent.

I always enjoy it when my colleagues—I see my colleague from North Dakota who has been very active on this issue on the floor—say we want to balance the budget, too. Give us your plan over 7 years, and give us credible numbers, and we do not have a problem. We can start the Government back to work in a New York minute. But the question is whether there is going to be the commitment over 7 years and whether we are going to use realistic numbers.

Mr. President, this morning the Concord Coalition took out a full page ad in the Washington Post. I urge my colleagues to look at it. I do not agree with everything said here by the Concord Coalition, but I do think they make some very important and valid points.

We can either get an agreement here today or tomorrow or the next day or the next day or on Thanksgiving Day or afterward, but at some point we are going to have to agree and get the Government going again. I do not know when that will be. I hope it is today. But what we decide today or tomorrow, or when we make that agreement, it will directly impact the future of America. And those that call this a food fight, or whether somebody was snubbed on an airplane or not, are not cognizant of the fact this is really what the differing philosophies are all about, between this side of the aisle and that side of the aisle, whether the American people should keep their money and not send it to Washington, DC, or whether the Government spends the money that is their hard-earned money, which is now for an average family of four in America is $1 out of every $4. In 1950 that same average family of four sent $1 out of every $50 to Washington, DC, in the form of taxes. And I know of no one who believes that same family in 1995 is better off than that family in 1950.

Mr. President, I know my time has nearly expired. I urge my colleagues to agree rather than disagree, and regain the level of civility that is required for us in order to reach reasoned and mature decisions and judgments.

Mr. President, I yield the balance of my time.

Mr. LEAHY. Mr. President, I ask unanimous consent that the unanimous-consent request made earlier be amended so that I be allowed to continue in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. The Senator has that right.

Mr. REID. Parliamentary inquiry.

It is my understanding that the procedure now before the Senate is that we are in morning business, and that we are each allowed to speak up to 10 minutes. Is that true?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. I am sorry. I understood it was 5 minutes. That is why I requested 10 minutes.

I ask that I simply seek recognition under the normal order.

The PRESIDING OFFICER. The Senator is recognized.

WORKING TOGETHER

Mr. LEAHY. Mr. President, I know that the distinguished Democratic leader is going to speak here on the floor in a few minutes to describe the offer that was made and, apparently, rejected by the Republican leadership. And I would hope that Senators and the public would listen to it. I say this because I have a feeling in many, many ways that if we were left to the situation where the Democrats and Republicans in the Senate were able to work together on this, with the White House, we would have a solution to this impasse.

Certainly, we would have a solution that would put a lot of hard-working men and women back to work, people who cannot afford to miss paychecks and who want to be at work, people who have mortgages to pay, children to educate, parents to care for, have medical bills to pay, car payments to make, and can ill-afford to lose paychecks, especially when there are jobs that need to be done and people want to do them.

I say that I think we could work it out between the Senate and the White House. It appears to me, however, that the other body and its leadership do not feel it is possible and that they say there is nothing that can be done. I see this remarkable situation where the other body simply recessed even though appropriations and spending bills begin—spending bills by custom; revenue bills by Constitution—begin in the other body. They have left.

They have this fiction of waiting for the call of the Chair. But, in fact, their leadership has decided they would recess and that they would leave. They are shirking their duty. They are shirking their duty. They are being paid. They ought to stay. They ought to stay and work this out for those tens of thousands, hundreds of thousands of men and women who are not being paid, who are loyal Americans, who have given a great deal of their life and effort to this country and want to keep this country going.

We have a situation where we have become the laughing stock of the world. The President of the United States cannot go to a major economic summit in Japan at a time when perhaps a greater danger to this Nation is perhaps not the deficits we now face but our trade deficit. At least much of the deficit we owe to ourselves, but our trade deficit involves countries abroad who are eating our economic lunch.

Every time we have $1 billion more in our trade deficit, we lose tens of thousands of American jobs. The President was going to represent this country at a meeting in Japan where we could at least talk about that with the country that has the greatest trade imbalance with the United States, but he has to remain here. He is remaining here at work. The distinguished Presiding Officer is remaining here at work. I am here at work.

I wish the Republican leadership in the House would let the House come back to work, because, Mr. President, there is one thing that ought to be very evident to everybody: We are not going to pass a Gingrich budget. We are not going to pass a Clinton budget. We are not going to pass a Dole budget. We can pass a budget for the American people. We will pass a budget that reflects the views of both Republicans and Democrats of the House and of the Senate and of the President because, frankly, under the Constitution, under the laws and under the history of this great country, we are all in this together.

So I urge everybody to stop thinking there is going to be one party that is going to win everything in this. That may work in a game of marbles on a playground in kindergarten. That does not work here. This is not a playground, even though it may appear that way to some. It is not kindergarten, although it may appear that way to some. It is not a game of marbles, even though it may appear that way to some. This is the budget of the country, the most powerful, greatest Nation on Earth, the most significant democracy history has ever known, the largest economy in the world, and we are standing here because some feel they may have been slighted or some feel that they must make a point that will fit on a bumper sticker in next year's election, congressional or Presidential.

Mr. President, I am one Democrat who says let us have Democrats and Republicans sit down. Set aside short-term political gains and do what is best for this country. Stop thinking that we will have a Speaker Gingrich budget, or a leader Dole budget, or a President Clinton budget, but rather that we will have a budget that can take the best of the proposals of each of the three, and let us work at it.

We have had proposals here. The distinguished Senator from North Dakota and I have voted for a budget that would give us a balanced budget within the 7 years. We all want that. But before we balance a budget that intends, in large part, to slash very needy programs so that a tax break can be given to people at the highest level, let us ask if that is what the American public really want.

Do they want to see money for education cut so that the most wealthy in this country can have a tax break? I doubt it.

Do they want to see nutrition programs for the most needy in this country slashed so that the wealthiest can get another tax break? I doubt that the American people want that.

Do they want to see Medicare and Medicaid attacked so that the wealthiest in this Nation can have a tax break? I doubt that very much.

If we are going to be saving money, let us protect the most in need. And if there is extra money left over, let us apply it to the deficit. Let us apply it to the deficit, not to another tax break for the wealthiest who already pay less in taxes than any industrialized nation on Earth. We do not need to put it there. If we really want to do something for our children, rather than giving it as a tax break for the wealthiest, apply it to our national debt, apply it to our deficit.

In the deficits that grew up during the Reagan and Bush era, today we spend nearly $1 billion in interest—in interest alone —almost every day, $1 billion just in interest on the deficits and the increase in the national debt built up during the terms of only two Presidents, Ronald Reagan and George Bush.

Let us be honest about that. Some who were the greatest proponents of the Reagan deficits have stood in the last 2 days on the floor of this Senate and said, "We have to do something about this terrible deficit." Well, I tell them that virtually our whole deficit is caused just by what we pay in interest on those profligate days in the eighties where we made huge tax cuts and huge defense buildups and borrowed the money from the next generation to pay for it.

That is what happened then, Mr. President. What happens now, though, is what happens now. Today, we have hundreds of thousands of people out of work needlessly. We have hundreds and hundreds of thousands more who will be out of work because of the ripple effect, whether it is the people who want to get into our national parks, whether it is those who will not be able to borrow money for their mortgage, VA loan, or anything else, whether it is those who want to make new claims in Social Security.

Think of the hundreds of thousands, even millions of people who will be out of work because of the Government programs that have stopped, Government programs that all of us, Republicans and Democrats, have supported, whether it is in the VA or whether it is in our various mortgage programs or Social Security or anything else.

Let us say, OK, everybody has made their political point. They can use them in their ads next year. Let us sit down and remember, we are not going to have a Republican House or Republican Senate or a Democratic House or

Democratic Senate budget or Presidential budget, but together we can have one that serves the best of this country.

I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Michigan.

BALANCING THE BUDGET

Mr. ABRAHAM. Mr. President, I want to speak today on a couple of topics.

First of all, I would like to lend my voice of support for the proposal that was earlier discussed by the Senator from Maine, Senator SNOWE, in regard to legislation she introduced, legislation I am a cosponsor of, to treat the salaries and pay of the Members of Congress in the same fashion that other Federal employees are being treated during this period of Government shutdown.

I share the opinion the Senator from Maine expressed very effectively earlier that it is important for the public to understand that those of us in Congress are no different than anybody else and that we should live by the same sets of rules that govern the rest of the people of similar status as we; and that is, the laws of the country should apply to us the way they apply to the rest of the country.

We did that earlier this year. We ended a long period of time in which Congressmen and Senators were exempt from any laws which people back in our States were forced on a daily basis to adhere to. In the same vein as Federal employees ourselves, we should be required to be treated in the same fashion as the Federal employees whose families this week have been confronted with the issues surrounding the Government shutdown.

Also, I am intrigued by and likely to support the amendment that Senator BROWN discussed in his remarks. I have long felt, in fact, in my campaign I talked about the need for us to place some sort of incentive for the Members of Congress to bring about a balanced budget that they all campaigned on but went to Washington and somehow found very elusive.

The notion of in some way treating us like the officers of a corporation that is running in the red intrigues me a lot, and it is very appealing, I think, to citizens across this country. If the country keeps running big deficits, it hurts the country. If a business runs big deficits, it hurts the business. When the business runs those deficits and is hurt, it is its owners, its managers who ultimately pay a price, and normally that comes in the form of seeing their salaries reduced.

In the same vein, it strikes me perhaps we, as the Nation's stewards of our economy, should have the same kind of responsibility and the same sort of incentive that people running a company have to make sure that we do not run a deficit.

So I look forward to working with the Senator from Colorado to try to come up with a proposal or a program or an amendment that could address that set of incentives as well.

Finally, Mr. President, I would like to talk briefly about why at least those of us who supported the Balanced Budget Act Friday night, who have been so strongly keeping committed to the notion of balancing the budget in 7 years, adhere to this position, because I think those Americans who are watching us in Washington, probably from time to time are wondering why are the stakes so high, why is it so critical that this budget be balanced and the sooner the better, not in 10 years, 9 or 8 years, but in the 7 years we have talked about?

The answer is, a balanced budget means important things to virtually everybody in this country. To average working families, Mr. President, it means a chance to keep more of what they earn.

Most families in our country pay interest on something, some pay interest on car loans that they have taken out; some pay interest on home mortgages, some pay interest on student loans, some pay interest on all of the above. Of course, there are many other items that people borrow money from lending institutions for today, and these interest rates are a big price that they pay along the way.

Putting the Nation's budget into balance means those interest rates we pay are going to come down. It means average families who work hard in this country and want to keep more of what they earn will see rates come down and see more money in their own pockets, instead of sending those dollars along to the persons from whom they have borrowed the dollars. That means more money to pay for children's education, more money to spend on other family necessities. In short, average working families get to have more control over their destinies.

Putting the budget into balance also means a lot for young people in this country. I mentioned already the impact of the student loans and interest rates paid on those loans. Let us talk about a young person who is looking forward to getting out of school in the near future and going to work and earning their own living and addressing their own needs, starting their own families, and so on. Considering the current rate of our national spending growth and the deficits we have been generating and projecting that on into the future, without restraint, means that young people today are confronting a debt burden that is incredibly large.

Already, earlier the Senator from Arizona talked about the impact of these deficits on a child born in 1995. It is estimated that a child born this year, Mr. President, will, in their lifetime, pay $187,000 just to pay their share of interest on the national debt that already exists and will grow during their lifetime. That would mean, Mr. President, that if we do not bring this spending spree, this sort of unlimited credit card type of Government operation under control, we will pass on to the children of our country a lot less opportunity than we inherited. It seems to me that all of us have a responsibility to take care of our own bills—not to pass them on to the next generation.

The Senator from Vermont talked about these deficits, and I recognize that they are not just deficits that started today. They have been building over time. One of the reasons I ran for the Senate last year and I think a lot of the other people in the freshman class ran, was to come down here and end the way business had been conducted—no matter who was in the White House, no matter who controlled Congress, because our objective is to try and set the Nation on a new course.

So as we continue this discussion, as we continue to strive to find common ground with regard to starting the Government, we should not lose sight of the overall objective—the objective for this Senator, at least, is to bring the budget into balance in 7 years so the families of this country will be able to keep more of what they earn, so that the children of this country will not grow up with a huge debt burden confronting them and spend too much of their time working to send money to Washington and to pay for their parent's bills, so that our Nation can compete even more effectively in a new century in which global competition will dominate even more than it does today.

For those reasons, I am very proud of what we did Friday night, that for once, despite all the conversations and talk and claims, and so on, that have gone on for many years about balancing the budget, we actually did something about it. We ended the talk and put a bill before the House and before the House of Representatives which, if enacted, would balance the budget. I am proud to say I voted for that bill, and I am proud to say that the bill passed.

For once, Mr. President, on Friday night, we took a stand that was more than just rhetoric. It was a commitment to a specific piece of legislation that would accomplish the balanced budget we all talk about in Washington, and that people have talked about here for a quarter century. After 25 years of rhetoric, Friday night, we did something about it.

Mr. President, I am glad I was part of that effort.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

THE GOVERNMENT SHUTDOWN

Mr. DORGAN. Mr. President, I have not heard all of the presentations on the floor today, but I am sure I would agree with some of what has been said in the context of the shutdown of Government.

The shutdown of Government should not have happened. It should not continue even another minute. There is a lot of talk about who is to blame, and there is probably plenty of blame to go around. Yesterday, I said there is not any juice left in this lemon. It has been squeezed in a dozen different directions. The fact is that this shutdown ought to end.

The Speaker of the House, beginning last April, talked about creating a train wreck, creating a shutdown of Government, boasting about a titanic confrontation resulting in a shutdown. Well, so we have had a titanic confrontation and a shutdown. Regrettably, it hurts our country. It ought not last. We should have and will have, in my judgment, an aggressive debate about the priorities of this country. We will not have a debate and should not have a debate about whether the budget should be balanced. Of course, it should be balanced.

The debate is about how you balance the budget. I hope that negotiators, this afternoon, will decide quickly that the Government shutdown ends immediately, that the negotiations on a reconciliation bill to get to a balanced budget begin immediately, and that we balance the Federal budget.

There is, however, more at stake than just balancing the budget. We certainly should do that. But the plan to do that also represents the spending plan for the next 7 years, or, said differently, it represents the spending priorities of this country for the next 7 years. That is important. The Senator from Arizona, before he left the floor, referenced me and said that I have been active on this. He is correct. But then he said that the difference is, those on the other side of the aisle want the people to send more of their money to Government and those on his side of the aisle want the people to be able to keep more of their money. I am telling you that is not the case. There is not that difference between the two sides of this aisle. I want to demonstrate that there is not that kind of difference.

The difference is in what we would choose to spend the public's money for. I want to use a chart to demonstrate that. We recently had an appropriations bill on the floor, the Defense bill. The majority party, the Republicans, decided that the Pentagon was not asking for enough money. They said: You are not asking for enough, we demand that you take more. We insist that you accept $7 billion more in spending in this 1 year, over $30 billion more in the 7 years. We insist that you spend more money. We insist that you buy some B-2 bombers. You did not ask for them and we understand that. You asked to keep the production line open but not to buy more bombers. We insist you start buying more bombers. We have a plan and we insist you buy 20 more B-2 bombers that cost over $30 billion. We do not have enough money, they say, however, to keep the Head Start Program fully funded. We are short $533 million for that. So 50,000 kids, everyone of whom has a name, little boys and girls currently in the Head Start Program are going to be told we cannot afford you, we know the Head Start Program works. It is a wonderful program. A tremendous investment in young kids who come from homes of difficulty, low-income homes. It works. It makes a difference in young kids' lives.

We are told by this plan that we do not have enough money for 50,000 of those kids. But we put the almost identical amount of money into B-2 bombers that the Pentagon did not ask for, did not order, and does not want. The national missile defense, star wars—it is a fancy way of saying star wars. There is $375 million more stuck in the budget for star wars that the Defense Department did not ask for. And $1.3 billion is put in the budget for an assault ship, amphibious assault ship that the Pentagon did not ask for; $974 million is stuck in the budget for a second assault ship that the Pentagon did not ask for. In fact, most people thought the Pentagon does not want one, but Congress wants one, so Congress will decide which of these two it shall buy.

On that side of the aisle, they said, heck, as long as we have the public credit card, the sky is the limit, so buy them both. We have plenty of money. Buy both of those ships for $2 billion. Then we say for veterans health care, for those veterans who need outpatient visits, 46,000 fewer hospitalizations, and about a million fewer outpatient visits; we are going to save money on you, veterans, because we do not have the money. We spent it on ships the Pentagon did not ask for.

Low-income home energy assistance, 1.3 million households in the middle of the winter when it gets cold, get assistance for the home heating bill because they do not have the money. Well, they are sorry, they say we do not have the money.

But when it comes to F-15 and F-18 airplanes, they say, "By the way, let's buy more, the Pentagon is not right. We know they only asked for a certain amount but we insist they buy more."

I raise these points because when someone stands up and says, "We are the ones who want the taxpayers to keep their money and you on this side of the aisle, you are the ones who want to take it from them." I say baloney, what a bunch of nonsense. You all want to spend it on jet fighter planes and B-2 bombers and star wars. We want to spend it on Star Schools and nutrition programs and Head Start and education that invests in people.

It is not a question of how much we spend. It is a question of what we spend the money on.

I mentioned yesterday, there is probably no better metaphor for the difference in priorities—not the difference in the desire to balance the budget. We should, we must and we will balance the Federal budget.

Seven years, that is fine with me. Make it 5 if we can get Alan Greenspan and the Federal Reserve to get the boot off the public's neck. Every time we get any amount of economic growth at all, the Fed jumps up and raises interest rates to slow the economy down. We can get some decent economic growth in this country and we can balance the budget in 5 years. We do not need 7.

The metaphor that I think is the best on priorities is a little program called Star Schools. It is a $25 million program nationally, Star Schools. In the proposal given to us this past week, Star Schools is cut 40 percent; 40 percent of the funding for Star Schools is gone.

But star wars, national missile defense, ergo star wars, a 100-percent increase. The Pentagon does not ask for star wars funding. These folks say, "We want 100 percent increase in star wars funding." A little program, about one-twentieth the size, a 40-percent cut in Star Schools funding.

That represents a difference. These differences in priorities are not little issues for a lot of the American people.

A Republican, David Gergen, who also worked for Democratic administrations—he worked for the Clinton administration as well as Reagan and Bush, but he said recently in an article the following: The lowest 20 percent of the population," under the majority's party line, "Would lose more income under these spending cuts than the rest of the population combined. At the other end, the highest 20 percent would gain more from the tax cuts than everyone else combined."

That is a difference in priorities, a legitimate difference, one we ought to have an ambitious debate on. But we ought not, because of a continuing resolution and the intransigence of some, have the Government shut down while we debate that.

I am not convinced these days with what is going on in Congress and with the kind of extremism and the interest and, yes, even the appetite to create chaos and, as I said before, what one participant called a titanic confrontation, I am not convinced that the Congress could very easily approve the Ten Commandments. Surely they would find something wrong with them. Almost certainly it would provoke enormous debate. Should there be 11 commandments or maybe only 8? Should we combine six and seven?

The fact is, all of us represent the same interests in this country. Yes, we belong to different political parties. We may be conservatives and liberals. But I think the American public would like us to first of all end this shutdown, and second, turn our attention in a serious way to balance the Federal budget and then do much, much more because our lives are not just about balancing the budget.

That is important, and we should do that. That is not the only thing we can do in this country. There is much, much more to do to move this country ahead, to advance our economic interests, to compete with others around the world who are shrewd, tough international competitors, to help create more jobs, more opportunity, and more income for the American people. There is much, much more to be done on all of that.

I know there are some in the Congress who do not believe in much of anything that Government does. They do not like Government. But you know Government builds our schools, our roads. We create a police force. We do it together, in something called Government. We have done a lot of wonderful things in 50 years. We have made some mistakes, but we do it together.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DORGAN. I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. In this debate about priorities, what we need to do is decide—all of us, of every political persuasion—that we want the same goals for America. And then we debate, with the guidance of the American people, how we achieve those goals.

Do we, in fact, achieve those goals by doubling the funding for star wars and deciding star schools are unimportant? I do not think so. Some others may think so. If that is the case, we should have that debate and have the counsel of the American people, as we do, and make decisions.

Mr. President, 200 years of differing views in this country have required us in a democratic system to make decisions by compromise. This time is no different. Compromise is necessary now. I hope by the end of today we are over this hump, the Government shutdown has ended, and we get on to the serious business of balancing the Federal budget and making America better by the right investments in the future.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Nevada is recognized for 10 minutes.

Mr. REID. Mr. President I ask unanimous consent that the Chair advise the Senator from Nevada when there is 1 minute of the 10 minutes remaining.

BALANCED BUDGETS

Mr. REID. Mr. President, people in the audience, people in the State of Nevada, people all over this country, are wondering what this is all about.

Kevin Phillips, who is a Republican, did a piece on public radio this week that I think fairly well illustrates what the problems are between those on that side of the aisle and those of us over here, when he said:

> If the budget deficit were really a national crisis instead of a pretext for fiscal favoritism and finagling, we'd be talking about shared sacrifice with business, Wall Street, and the rich, the people who have the big money making the biggest sacrifice. Instead, it's senior citizens, the poor, the students, and ordinary Americans who will see programs they depend on gutted while business, finance, and the richest 1 or 2 percent, far from making sacrifice, actually get new benefits in tax reductions.

Mr. President, this is what it is all about. This is extremely inconvenient, extremely difficult for everyone in the country, especially States like Nevada where there is such a huge Federal presence, national parks, large recreation areas, the busiest recreation area in America, the biggest entity of the Park System. I should not say the largest—the most heavily visited in the entire Park System, Lake Mead Recreation Area. Almost 10 million people visit there each year, almost a million a month. They cannot get there. It is locked up.

A lot of sacrifices. But the principle, Mr. President, is important, as indicated by a Republican, Kevin Philips, when he said what is being done by the Republicans is something to benefit the rich, those people of position, and hurting the middle class and the poor. That says it all.

Mr. President, why are we in this situation we are in today? I see my friend from the State of California, the mayor previously of one of the most famous cities in America, the city of San Francisco, someone who recognizes crisis because she was thrown into the mayorship as a result of an assassination, an American who has spent her life trying to balance budgets, who has come to Congress and the Senate, talking about money, someone who has struggled with how to vote on these issues—because I have spent time with her—and who recognized she would not balance the budget on the back of senior citizens by virtue of her vote, earlier, when we excluded from the balanced budget amendment, Social Security. These are tough decisions, tough decisions for people who strongly believe in a balanced budget.

I resent, Mr. President, because it is not factual, that people on the other side of the aisle say those of us here do not believe in a balanced budget. I point to my friend from California as someone who has lived for balancing budgets.

Yesterday, when I was on this floor, I was between the two Senators from the State of Nebraska, former Governors, the former chairman of the Budget Committee, JIM EXON, and the former Governor of Nebraska, BOB KERREY, chairman of the Entitlement Commission. In a dialog they indicated how they had worked over their political lives for a balanced budget.

No, Mr. President, the balanced budget is not something that the Republicans hold the prize on. We have as many on this side of the aisle who have spent their entire lives talking about balanced budgets.

This is not a battle over a balanced budget. We all acknowledge there should be a balanced budget. It is a question of priorities. We all believe there should be a balanced budget. This Senator from Nevada believes there should be a balanced budget. But I, along with the Senator from California, did not feel it should be done using Social Security proceeds. I, like Kevin Phillips, Republican political analyst, do not believe the sacrifices should be made "by senior citizens, the poor, students, ordinary Americans who will see programs they depend on gutted, while business, finance, and the richest one or two percent, far from making sacrifices, actually get new benefits and tax reductions." This is not a Democrat who wrote this for a Democratic magazine. This is a Republican who gave an honest analysis on National Public Radio.

Why are we here? We are here because the Republican majorities in the House and the Senate have not passed the appropriations bills. It is as simple as that.

We could spend a lot of time discussing how is the best way to balance the budget, and I think it is appropriate that we do that. But we should do it in the context of real legislation, not contrived crises that we see develop here. If the appropriations bills had been passed on time, we would all be home today with our families.

We all have stories to tell. I will have my five children together for the first time in a long time, Thanksgiving. They are all now gathering in Nevada without the patriarch of the family. But that is OK, because I believe what we are doing here is important and I believe my five children also believe what I am doing here today is important, because what we are doing is a matter of principle.

People have called my office. They want this thing resolved. I do not blame them. They do not identify themselves as Democrats or Republicans. They are average Americans whose greatest expectation of Government is it operate to serve people's interests. They are the kind of people who pay their taxes, play by the rules, and vote for the person and not the party. They want to know why this standoff is occurring, and I have explained why the standoff is occurring. It would be easy for all of us to fold our tents. I would go home to Nevada to my five children and everybody would disperse throughout the United States, but it is not that easy.

We are stuck at an impasse because the bills that finance Government were simply not passed on time. Under the congressional budget process, the House Appropriations Committee is supposed to finish the last annual appropriations bill by June 10. Is it not interesting, we have 13 appropriations bills and none of them were finished on time. Commerce, State, and Justice, July 19, 6 weeks late; DC appropriations, October 19, 4 months late; Labor-HHS, July 24, 7 weeks late; Defense, July 25—on and on, and, simply, they could not do it. The Senate then had to follow suit. We did the best we could.

I have to hand it to the chairman of the Appropriations Committee, the senior Senator from Oregon, a fine, fair chairman who has done the best he can under very difficult circumstances.

There is no excuse for these bills not having passed. But I think it was part of a contrived program, established by the leaders in the House. I do not make this up. Why were these annual appropriations bills not passed on time? Because stuck inside most of these bills are controversial legislative proposals that otherwise would not be passed. Abortion, in many of the appropriations bills, has simply drawn them to a grinding halt.

Wiping out environmental protection—one bill had 17 environmental riders to, in effect, wipe out the ability of the Environmental Protection Agency to protect clean air, clean water. They stuck in things like grazing.

I am a western Senator and I have fought the good fight on grazing for many years. There is a time and a place for grazing. It should be in authorizing legislation, not on appropriations bills. The same as mining, same as drilling in ANWR, same as clear-cutting of trees in various parts of this country. Why do we not do these in the ordinary, regular procession of authorizing regulation? Why in appropriations bills?

Many of these appropriations bills read more like legislative wish lists. The majority knew these bills must be signed into law to keep the Government operating, and they viewed these bills from a gambler's perspective. They gambled, notwithstanding controversial legislation that they could not get passed in the ordinary process, that the President would sign them anyway.

They were wrong. Even if the President refused and the Government were to shut down, they would use the shutdown as a weapon, and that is what they have done. They would force the President to sign legislation that the majority of the American public opposed for the sake of keeping the Government operating. This was apparent as far back as April.

The PRESIDING OFFICER. The Senator is advised, at his request he was to be reminded when he had 1 minute remaining.

Mr. REID. Mr. President, I ask unanimous consent I be allowed to have 4 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. In April, House Speaker NEWT GINGRICH vowed to create a titanic standoff for President Clinton by adding vetoed bills to must-pass legislation increasing the national debt. This was reported in a number of places, including the Washington Times, on April 30. He boasted that "the President will veto a number of things and we will put them all in the debt ceiling, and then he will decide how big of a crisis he wants." Again, this is a quote from Speaker GINGRICH.

We learned, a couple of days ago, why the Speaker is allowing this standoff to continue and why, even from his own perspective, it is tougher than it would have been ordinarily. Do you know why? Because he had to leave Air Force One from a door that he did not feel was appropriate, and the President did not spend enough time with him on the airplane. This is going to the funeral of an assassinated Prime Minister of the State of Israel.

In the Washington Post, the Speaker is quoted as saying, because the President did not speak with him on the flight to Israel for Prime Minister Rabin's funeral, "that is part of the reason why you ended up with us sending down a tougher interim spending bill." The Speaker is also quoted as saying, "It is petty, but I think it is human."

I suggest, Mr. Speaker, that it is not human; it is just plain petty.

Let us talk about some facts. Fact No. 1: Speaker GINGRICH said, as early as April, that a Government shutdown and default were political tools he was likely to use as a lever to push his extreme agenda. That is a fact.

Fact No. 2: There are 12 appropriations bills necessary to fund the Government. Since this Government has been in session starting last January, the majority has simply failed to do this, and that is why we have the crisis we have today.

Fact: President Clinton favored a balanced budget and is fighting for one. The fight is over how to get there. The Republicans want to do it on the backs of seniors, the poor, students, and ordinary citizens. The Republicans want to do it in their own way.

We have now an economy that is great. We have the lowest inflation, the lowest unemployment in 50 years. We have the third year in a row where we have had declining deficits—certainly not enough, but the third year in a row for the first time in 50 years. We have 175,000 fewer Federal employees than we had 2½ years ago, the highest economic growth since the days of Johnson, the highest corporate profits in the history of the country. Why? Because the Democrats, a couple of years ago, passed a budget that cut $500 billion from the deficit. That is why the economy is so good.

Do you know we did not get a single Republican to vote with us? The Vice President had to come and break the tie.

Fact: Recent polling shows Americans do not want the extreme agenda pushed by the radical right in the GOP. That is why the Speaker is using the Government shutdown and the threat of default as a way to blackmail this Congress and this President.

Final fact: Since the Republicans cannot pass their ideologically extreme agenda through normal legislative channels, they are trying to force the President to agree to their demands to shut the Government down. That is not how the system should work.

Mr. President, the crisis has been planned by Professor GINGRICH. He knows how crises develop. He has studied it. We have one here. It is all of his own doing, and I say, people of good will, both Democrats and Republicans in the Senate, should stand up and say that is not the way to run a government.

Legislation is the art of compromise, and we should work this out. We all agree on a balanced budget. It is a question of priorities. Let us fight out the priorities on the floor of the Senate and the floor of the House the way we have done it for 200 years.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

ORDER FOR RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. GORTON. Mr. President, I am requested by the leadership to ask unanimous consent that at the conclusion of my remarks, those of the distinguished Senator from California [Mrs. FEINSTEIN], and those of the distinguished Democratic leader, the Senate stand in recess subject to the call of the Chair.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Washington is recognized.

THE CONTINUING RESOLUTION

Mr. GORTON. Mr. President, about 3 days ago when we began to debate a continuing resolution which would have caused the Government to go back to work while we attempted to reach a balanced budget, the leading member of the Democratic Party on the Budget Committee, the Senator from Nebraska, pleaded with us for what he called—and I quote him—a "simple extension."

Mr. President, this standoff is taking place because—between a "simple extension" and the dramatic change represented by the formal 7-year budget passed by this body 2 nights ago that would balance the budget by the year 2002—there is a great gulf fixed. This is not a petty difference. This is not a minor difference in opinion on a slight change in direction for the Government of the United States. It is reflected in what the majority leader said if that bill passed. That profound difference was reflected by the remarks of the majority leader to the effect that the vote that he cast to cause the budget to be balanced was probably the most important that he had cast in all of his many years in the U.S. Senate.

We on this side of the aisle wish to end the practice of spending $200 billion a year on programs which we like and support eloquently but refuse to pay for and, therefore, send the bills to our children and grandchildren. Members on the other side wish for a simple extension of the present course of action. They argue eloquently for the status quo. They like what Government is doing at the present time, and they are quite content to spend money and send the bills to someone else in some future generation.

We have been informed that, if we do in fact pass a set of laws that will balance the budget by the year 2002, the Federal Government itself will receive a dividend of $170 billion in lower interest rates on the debt and in higher tax collections because people are making higher incomes. The dividends to the people of the United States is some half a trillion dollars in lower interest rates on their homes, their automobiles, in better job opportunities, and in higher wages. We look to the future. They look to the present and to the past.

The President now in the present negotiations is willing to set a goal of a balanced budget, a dream of a balanced budget, the thought that the budget might be balanced sometime long after he ceases to be President, but he is unwilling to state it as a policy.

Even if we are to go to a balanced budget, there is another struggle which is not at all petty, Mr. President, between whose figures we will use, those of the Congressional Budget Office, the very Congressional Budget Office which the President himself said was the neutral arbiter just 2 years ago, and the figures that the President himself through his own office comes up with to suit his own purposes.

Many, including some otherwise thoughtful commentators on national television, say, "This is $1 million difference. Why are you quarreling over it?" Mr. President, we are quarreling over it because the difference in those estimates in the next 10 years is $1 trillion in spending. This President wants to use estimates that will allow him to spend $1 trillion more in the next 10 years, half a trillion dollars more in the next 7 years, the 7 which separate us in the debate on the balanced budget. That is not a modest difference, Mr. President—half a trillion dollars in the next 7 years.

What is the difference given the fact that neither side can be certain that it is right? If the White House is wrong and the Congressional Budget Office is right, and we adopt the White House figures, we will never have deficits lower than $150 billion or $200 billion even at the end of the 7 years. If, on the other hand, we are wrong, we are too conservative and they are right but our policies are adopted, what happens then? We balance the budget in 5 years rather than 7. We simply reach our goal more rapidly with a larger fiscal dividend.

Let us put it very straightforward. Two days ago this Congress passed a continuing resolution, one which would have put all Government employees back to work with the single requirement that we state that we would come up with a budget that would be balanced by the year 2002 using the honest and realistic figures of the Congressional Budget Office. It did not confine the President or the other party to any particular tax cut, to any particular defense budget, or to any particular reductions or slowing of growth in any program at all. It simply said that we would debate from the same set of figures, and we would reach the same desired end. That is all.

So this is an important difference. If you want to spend another half a trillion dollars in the course of the next 7 years, you should favor the President's course of action. That is what he wants to do. That is his budget. If you feel that it is immoral, as well as economically wrong, to spend money today and to bill your children and grandchildren for it, and you can accomplish those goals while still allowing spending in the U.S. Government to go up by an average of 3 percent a year, then you take our side of this debate, Mr. President.

The debate is an important one. It is a vital one. It is, as the majority leader said, at least the single most important debate in the last 10 years, if not longer. It is a debate between those who believe that the budget ought in fact to be in balance at the end of 7 years and those who have other and higher priorities and want to continue to spend money that they do not put up themselves but that they will bill to their children and their grandchildren.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair, Mr. President.

THE CONTINUING RESOLUTION

Mrs. FEINSTEIN. Mr. President, I would like to speak this afternoon as one of the seven Democrats who voted for the continuing resolution, House Joint Resolution 122, which passed the Senate on Friday.

Essentially, as has been stated, this resolution provided what we have all wanted, a clean continuing resolution. In its third title, it said the Congress and the President, "shall enact a balanced budget by the year 2002 which is balanced." I believe a balanced budget is something that a majority of this body supports—perhaps it draws more support on your side of the aisle, Mr. President, than on our side, but a balanced budget draws support from our side of the aisle as well.

It is my understanding this continuing resolution has not yet gone to the President—in fact, that it is still in the enrolling clerk's office of the Senate. It is my hope that this resolution would go to the President for his signature. I would like to take a few minutes and explain why I think it is important that he do the statesmanlike thing, and sign this resolution, put Government back to work, call the parties together, and begin to negotiate on what is really the heart of the debate—the reconciliation bill.

As long as we keep Government shutdown over the absence of a continuing resolution, essentially all we are doing is talking about the size and shape of the table.

Now, there are those who would say, oh, that is not correct because, inherent in the continuing resolution is a very important point. The Congressional Budget Office provides the economic and technical data which enables one to judge the revenues with which one would be able to balance the budget. In fact, many people believe that regardless of whether you use the Office of Management and Budget or the Congressional Budget Office estimates, both will in fact be off and perhaps by some significant amount. The differences could translate into billions of dollars, so it is a significant issue.

But we have to keep our eyes focused on the economy. I know in California, for the first time in several years, revenues have begun to move ahead, some $700 million, ahead of estimates in this quarter of the year for the State of California. That is a good omen. It means that perhaps the economy will move ahead at a higher level than has been anticipated. The CBO's estimates then could be amended.

For me, it is not a big difference because I think the economic projections will be amended, and they will be figured into the base of the future years as we move along. But I think what is important is that we put an end to what is taking place now because it has gone on now for 5 days and is in fact beginning to hurt people. There are small businesses in my State that are contractors with the EPA or with Defense that are now laying off employees. There are 60,000 Head Start youngsters that now may not be able to attend school.

I listened to Senator STEVENS quite eloquently outline on the floor of this body yesterday afternoon the impact that this shutdown is beginning to have on the military. He pointed out that in just a matter of a week, there will be no fuel. He pointed out that already people beginning to move on military leave to go home for Thanksgiving are being stopped; that there is no money being paid for many kinds of duties that the military must carry out.

We know what is happening with our national parks. The Senator from Arizona very eloquently stated the conditions at the Grand Canyon. At Yosemite National Park, I can tell you that $22,000 a day is unable to be taken in because it is closed.

We know that the Securities and Exchange Commission is unable to collect higher filing fees for stocks and bonds because we have no appropriation bill in place, and that has cost United States taxpayers about $10 million on the first day of this stalemate.

Then there are the hundreds of thousands of employees that have their house payments, their car payments and additional real facts of life that they have to be able to carry out to exist. This dispute has gone on long enough and we can simply put an end to it.

Another course is to bring back the earlier continuing resolution, move for its reconsideration, amend it, and then send it to the President. The President should be given the opportunity to sign a clean continuing resolution.

Let me tell you why I think it is important that the President of the United States make a statement agreeing with the 7-year balanced budget. Let me clarify, I do not believe I am alone on this side of the aisle. Each week, I have a group of constituents for breakfast, and I give them a small handout. It is not blown up and it is not fancy, but it is useful information and I would like to try to explain it here.

One pie chart represents 1969 Federal outlays, and the other represents 1995 Federal outlays. So there is a 26-year interval between the two charts.

In 1969, military outlays were 44.9 percent of all Federal outlays. Today, 26 years later, we see they are just 16.6 percent of all Federal outlays.

We see where discretionary spending in 1969 was 21 percent of all Federal outlays. Today, it has dropped to 17 percent.

Now I would like to turn to net interest on the debt, not gross interest, but net interest, which in 1969 represented 6.9 percent. Today, net interest is 14.5 percent of Federal outlays. So, in 26 years, net interest on the debt has doubled as a share of Federal outlays.

We also see the major problem. We see entitlements at 26.9 percent of all Federal outlays in 1969 now exceeding the military budget, to 51.8 percent. So that today, in 1995, in terms of Federal outlay dollars, 66 percent of those dollars comprise entitlements and net interest on the debt.

What has been predicted is that in the next 20 years, absent an effort to balance the budget, entitlements and net interest will absorb all of that, leaving a crushing burden of debt on those who follow us.

That is really the message of why a balanced budget is so important, and why a 7-year balanced budget, I believe can be reached.

In the reconciliation bill, once we get to it, we have to resolve conflicting priorities, and I think that is where there are differences on both sides of the aisle. But, I believe those differences can be met.

I listened to Senator CHAFEE, whom I greatly respect, speak yesterday afternoon on this floor on some of the changes that could be made in Medicare. I happen to agree with the Republican premium levels on Medicare. I also happen to strongly disagree with the Republicans on what they have done with quality care involving the poorest Medicare recipients and the abolition of the Medicaid Program that would allow the poorest seniors to be able to pay their Medicare premiums and copayments through Medicaid.

That is a point of difference. But I think reasonable people can sit down at the table and solve these problems, particularly if the majority is willing to delay a tax decrease.

Many of us find egregious the fact——

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has an additional 30 seconds.

Mrs. FEINSTEIN. Many of us find very egregious the fact that a $245 billion tax decrease essentially drives deeper cuts in what I view as very vital, safety-net programs. So I would be hopeful that we could end the debate on the size and shape of the continuing resolution, pass a clean continuing resolution, send this resolution to the President, and I would urge him to sign it.

I would then urge the parties to reach across the aisle and begin to discuss how we can resolve the differences in the reconciliation bill.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time in morning business is reserved for the Democratic leader.

The Chair notes the absence over a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent that, notwithstanding the previous order, I be permitted to speak for up to 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from South Dakota is recognized.

THE AMERICAN PEOPLE ARE WEARY

Mr. PRESSLER. Mr. President, we are engaged in an exercise of trying to balance the budget. That term has been on every Presidential candidate's lips since the 1970's. Indeed, in this Chamber, in my 21 years in Congress, we have had a number of speeches on proposals to balance the budget. We have had the Gramm-Rudman-Hollings legislation that was supposed to balance the budget. We had the Muskie rules back when Senator Muskie was here—he used to sit right over here, I remember—to balance the budget. Then we have had numerous votes on the debt ceiling. We have debt ceiling legislation that we are supposed to provide as a vehicle that would force a balanced budget. This has gone on and on and on, and the American people are weary.

Finally, today, we are faced with a situation where our Government is shutting down because we cannot reach an agreement on balancing the budget. I feel that there might be a better mechanical way of going about this. I would rather force the Congress to have a vote every hour and stay here, or I would rather that the President be forced to come and meet with the congressional leaders every 4 hours, something like they do in some of the railway labor negotiations where negotiations are forced rather than shutting down the Government.

I have been trying to find some way of sponsoring legislation so we have an alternative vehicle to bring this type of impasse to a climax. I think it is a poor way to do business, that we are shutting down some of our services and that we are going through this exercise that will probably be costly in the long run, as a way of forcing the issue. But, nevertheless, we are here. This is where we are as of this hour.

So where do we go from here? I hope our leaders do not compromise at this point on anything less than something that will really balance the budget with real numbers. If we come up with phony numbers and a more lengthy period of time, it will severely hurt the long-term bond market, in my opinion. It will mean that long-term interest rates will go up substantially. It will mean that mortgage interest rates will go up substantially. It will mean eventually that student loan interest rates will go up substantially. It will mean that farmers' and ranchers' interest rates will go up substantially. And it will mean that our economy will be subject to inflationary pressures with high interest rates. That would be very damaging to the prosperity that we enjoy.

Let me say that I feel passionately that balancing the budget is a moral issue, and I am not one to come to this floor with a lot of moralistic speeches. But it is moralistic because it is right. It is the right thing to do to pay our debts. It is also moralistic because we are shoving a responsibility off to someone else, our children and grandchildren or future generations. We are not taking responsibility for what we are spending during our watch. That is a moral issue.

It is also a moral issue because we are going to be robbing future middle-class wage earners and working people of part of their paychecks without consulting them. We are going to be robbing senior citizens of a standard of living that they have come to expect and enjoy in the future, and we are going to be robbing people who are poor, who expect to get Government benefits or jobs or whatever from an economy that is abundant.

Therefore, I look upon this as a moral issue, as much as anything else. So I feel passionately that we must carry through at this time and do what we have to do.

During this past year, I have voted for the Dole-Domenici budget in this Chamber. By that, I mean the Republican budget or the budget put forth by Senator DOMENICI and the Budget Committee of the Senate and Senator DOLE, our leader. On all the votes that have come along, there have been efforts to untangle that budget that have been apple-pie-and-motherhood votes to add this on or add that on.

I have voted with Senator DOMENICI to hold together that budget package because I feel it is the best budget we have had in my 21 years in Congress. It is the first time we have had a budget that has a vision to move us to a balanced budget by the year 2002. That does not say we are paying anything on the Federal debt. We are not. We still have that huge debt to deal with. It does not say anything that we are going to get into a balanced budget until 2002. We are still engaging in deficit spending until 2002.

What is the big fight about here in town? The President of the United States campaigned on a platform to balance the budget within 5 years. I remember Jimmy Carter's was he was going to balance the budget in 4 years during the time he was President. Ronald Reagan campaigned on a program to balance the budget. Every Member of this Senate has run for the Senate on a program to balance the budget.

The point is, it goes on and on and on, and there are excuses and there are phony numbers, there are CBO numbers, there are these numbers, that numbers. But the American people have said, enough is enough, get on with a plan. There are going to be some people in this segment of the economy angry, some people in that segment.

I think it just takes an across-the-board approach. I think the Domenici-Dole budget has some flaws in it. There are some things in it I disagree with but, generally speaking, it cuts the rate of increase. Some of these programs have been increasing at 12 percent a year. This reduces the rate of increase to between 5 and 7 percent.

With that rate of increase, we can absorb the increases and bring us to a balanced budget. So when we talk about cuts, for the most part, we are not talking about cuts at all. We are talking about increasing at a slower level, but still increasing probably at the rate of inflation. So at least let us get with it. At least let us do it. And I hope our leadership does not compromise away this work and these votes that we have cast this year. I hope we stick to our guns and stick to this plan that has been put forward, which I call the Domenici-Dole budget.

Mr. President, let me say something about middle-class working people. One way or another, they end up paying most of the taxes in this country. I think that is unfortunate. I am a member of the Finance Committee, and I have tried to change that. There are promises about a flat-rate tax in the future, and there are promises about a tax on consumption instead of income taxes in the future. But it will still end up that those families or those individuals who work hard, obey the law, they end up pulling the wagon. They are the ones paying for this nonsense, and they are the ones out there who helped elect this new Congress. In frustration, they are saying, "Let us do something about this."

Mr. President, I think it is time for us to do something. I hope to continue to be a part of that. I ask our leadership not to make compromises that are unnecessary, that go beyond the framework of the Domenici-Dole budget, that would leave us, once again, going away from here with the American people being promised that there is going to be a balanced budget and there is not. I hope that the President and the Congress will heed the American people.

I thank the Chair for this opportunity to speak.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. PRESSLER. Mr. President, I understand that the Democratic leader no longer wishes to speak at this time. Therefore, I ask unanimous consent that the Senate now stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 4:51 p.m., recessed subject to the call of the Chair; whereupon, the Senate reassembled at 5:19 p.m. when called to order by the Presiding Officer (Mr. MCCAIN).

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me first state, since I have told my colleagues I would inform them when we had any information, the negotiation is still ongoing as far as the continuing resolution is concerned. I think we made a lot of progress this afternoon. That is how I would characterize the exchange.

We have exchanged options. We have now given an option to Senator DASCHLE, who I understand will be discussing it with Mr. Panetta, the President's Chief of Staff, and Mr. GEPHARDT, the Democratic leader in the House. Hopefully, we can, as I said earlier, resolve this this evening.

If so, I think the process would be we would pass a 1-day continuing resolution, send it to the House, which they could act on tonight. Then we would hopefully pass the other agreed resolution in the Senate tonight, and they would take that up in the House tomorrow. Those are tentative indications of what would happen.

But I wanted to speak about another very important matter.

PEACE TALKS IN DAYTON

Mr. DOLE. Mr. President, there are news reporters indicating that the administration is trying to wrap up peace talks in Dayton, OH, by tomorrow morning.

No doubt about it, the administration has put a great deal of effort into this diplomatic process. A significant number of our diplomats have been working around the clock to get an agreement. Their hard work should be recognized.

However, I hope that in their understandable haste, our negotiators will not lose sight of the objective—which is not just to secure a peace, but to secure a just and lasting peace.

Most Members of Congress would agree that for an agreement to have a reasonable prospect of achieving a stable peace, it must include the following provisions:

First, a clear demarcation of defensible borders for Bosnia and Herzegovina and resolution of all territorial issues among the parties;

Second, clear lines of demarcation between the military forces of the parties to the agreement and procedures for separating the forces;

Third, concurrence by all parties and witnesses to the agreement to multilateral lifting of the arms embargo on Bosnia and Herzegovina upon entry into force of the agreement;

Fourth, acceptance by all parties and witnesses to the agreement to United States involvement in an effort to equip, arm, and train Bosnian Federation Forces;

Fifth, establishment of clear standards for violations of the agreement and the unrestricted use of force by NATO to include air power as necessary to respond to violations of the agreement which threaten not only the peace, but the security of our forces;

Sixth, an end to military intervention by the Governments of Croatia and Serbia and Montenegro in Bosnia and Herzegovina;

Seventh, the dismantlement of the integrated air defense network linkages between Serbia and Bosnian-Serb held areas of Bosnia and Herzegovina;

Eighth, full NATO implementation of the deny flight operation; and

Ninth, measures to ensure that indicted war criminals are not in positions of authority, including any elected office.

Mr. President, it seems to me that these are the minimum elements of a viable peace agreement. Without these elements, it is unlikely that a genuine peace will hold. Without these elements, it is unlikely that Bosnia will survive.

We should not mistake securing any peace agreement in Dayton with securing a stable peace. No matter how difficult the negotiations are, if they fail to achieve an agreement that secures the integrity and independence of Bosnia they will have been a waste of time.

Also essential to a stable peace is restoring public confidence and trust in the Government, institutions, and leaders of Bosnia. Absent justice, there will be no trust and no peace will endure. For the long-suffering Bosnian people, to believe in the peace, they must witness for themselves that justice will be done in Bosnia. Justice is the only comfort we can provide to mothers and fathers who have lost their children to war crimes. This will not be a just peace if war criminals remain at large and unaccountable for their heinous crimes.

Furthermore, Mr. President, any peace will be short-lived if it does not provide the Bosnians with the authority and the means to defend their territory and their people. Absent a stable military balance, those who have clearly been the aggressors in this conflict will seek to press their advantage again. Whatever agreement is initialed in Dayton, it must provide for lifting the arms embargo and for addressing the existing military imbalance. If it does not, it will serve no greater purpose than to delay an inevitable return to hostilities. It will simply be another invitation to future aggression.

Placing these important matters aside, foremost on the minds of the American people is whether or not young Americans should be ordered to enforce a peace agreement in Bosnia.

Mr. President, in my view, the deployment of American forces into harms' way requires very careful deliberation on the part of the administration and the Congress. The President has informed me that he will come to Congress for support. That is the right thing to do. It would be unwise to send American forces without the support of the Congress and the American people. Right now, I do not believe that the President has it.

He certainly will not have it, if a peace agreement does not include the provisions I have mentioned. But, he is also unlikely to receive our support if the implementation plan for our military forces does not, at the very least, include the following essential provisions:

First, well-defined and clearly stated mission objectives achievable through military means;

Second, robust rules of engagement allowing for disproportionate responses, as appropriate, to any attacks on United States and NATO forces and no restrictions or impediments on the ability of United States and NATO military forces to defend themselves;

Third, United States military forces will operate only under a unified NATO command whose orders and authority cannot be constrained, conditioned, blocked or vetoed by any other party including the United Nations;

Fourth, United States military forces shall use the authority granted in any annexes to the maximum extent consistent with their resources and shall act to deter, defeat or punish any violations from whatever source;

Fifth, clear criteria for measuring progress toward achieving the objectives of the operation, a detailed exit strategy, and adequate resources for achieving these objectives and effecting a safe exit for all United States forces from Bosnia;

Sixth, procedures for integrating appropriate UNPROFOR forces currently in Bosnia into a NATO-led implementation force and procedures for withdrawing any other UNPROFOR forces from Bosnia; and

Seventh, specific provisions to prevent conflict between United States and non-NATO Forces and members of the civilian population of Bosnia.

Mr. President, I believe that these criteria are very simple and very basic. I am not certain that Congress will go along with sending American Forces even if these provisions are included in a peace agreement and implementation plan. However, I am certain that without these elements, not only will Congress overwhelmingly disapprove of the peace agreement and the plan to send American Forces as peacekeepers, but that neither of these plans will have a chance of succeeding.

The administration says that NATO will collapse if the United States does not send Americans into Bosnia as peacekeepers, but what happens to NATO if Americans are used to keep a peace which cannot be kept? What happens if we send Americans without adequate authority and provision to protect themselves? NATO should remain strong and united, however, unity in failure is the worst possible outcome. How much worse off would NATO be if United States and other NATO Forces were deployed in Bosnia only to leave in failure?

Which brings me to my final question: Why this option? Why is sending 20,000 American troops to Bosnia the only option being considered by the Clinton administration? Why was no consideration given to using American air power and American supply lines for ground forces provided by our European allies?

Mr. President, many questions remain. The President has not yet made the case for American involvement in Bosnia on this massive scale. The Congress has clearly stated its view that the President should seek authorization for any deployment to Bosnia. The Congress has also clearly stated its preference for lifting the arms embargo on Bosnia so that Bosnians may defend themselves. And we have done this time after time on a bipartisan basis. Many of us who supported lifting the embargo, did so not just because of our support for Bosnia's inherent right to self-defense, because we hoped we could avoid sending thousands of Americans into Bosnia to defend Bosnians. But, the President chose not to do that—and now we are where we are.

Mr. President, we fully understand the constitutional authority of the President of the United States. We also understand the constitutional responsibility of the Congress. There is no greater responsibility for an elected representative than to prevent the needles shedding of American blood. We intend to exercise that responsibility with the utmost care.

Mr. President, I want to particularly thank the Presiding Officer for his efforts not only in helping me prepare this statement, but for his consistent support for the position that I have outlined here and for his leadership on the Senate floor and in the Senate negotiations on both sides of the aisle.

I appreciate very much his help.

Mr. WARNER. Mr. President, before the distinguished leader departs here momentarily, I would like to join in acknowledging the Presiding Officer's very active participation in this and a broad range of matters relating to the military. He served on the Armed Services Committee with great distinction.

THE APPROPRIATIONS BILLS

Mr. WARNER. Mr. President, I would like to bring up the subject of the appropriations bill. I addressed the distinguished majority leader earlier today. We had indications that the President might sign two of the three pending appropriations bills.

But at this hour there seems to be still some doubt as to whether or not he will sign the Defense appropriations bill which, as the majority leader recalls, the distinguished Senator from Alaska and the Senator from Hawaii, being chairman and ranking members of that committee, put through with a very strong vote.

It would seem to me inconsistent. It seems to me if the President were thinking about a further commitment, a commitment for which I still have serious reservation, of ground troops into that theater that you would need to have as a foundation the signing of the Defense appropriations bill.

There are $647 million in that bill for the specific purpose of contingency operations—not included in Bosnia but other operations, and should you put a further financial burden on the defense budget without the allocation of those funds for the ongoing, it seems to me to be just an inconsistent operation. I hope that this message would go to the White House at this moment.

Mr. DOLE. I appreciate the Senator's interest in the defense appropriations bill.

It has also been expressed by the chairman of the subcommittee, Senator STEVENS, I think in a conversation earlier today with Senator WARNER, a telephone conversation. I understand the President was going to sign legislative appropriations and Treasury, Postal appropriations about 5 o'clock today. I hope he has done that. That would mean, if we do not come together on a continuing resolution, which I think we will, that those people could be back at work.

But I would underscore what the Senator from Virginia has stated. If the President is thinking about—and I know he is thinking about it—any deployment in Bosnia, it seems to me he would be in a much stronger position—I leave that judgment to him because I have not made a judgment yet on that issue—if he signed the Defense appropriations bill and did it very quickly and sent the appropriate signal that he was not going to weaken our defense in any way.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Arizona.

Mr. McCAIN. Before the majority leader leaves the floor—and I know he is involved in very delicate negotiations in trying to get our Government running again—I express my appreciation for again what is clearly a balanced statement. It is one that clearly recognizes the constitutional authority of the President of the United States. But the majority leader's statement also clearly recognizes the constitutional responsibility of the Congress of the United States, and there is nothing in the majority leader's statement nor anything that has been done in this body that would be in abrogation of that constitutional authority the President has. But at the same time, as the majority leader said, we have no greater responsibility than to ensure that if our young men and women are sent into harm's way, we have exercised our responsibility in our role as those who provide the funding and the approval or disapproval.

I think also Senator DOLE's statement clearly sends a signal to the President of the United States that he can send troops, and he does have that constitutional authority, but without the approval of the Congress and the American people that exercise is doomed to failure. When we express our concern about the fragility or the permanence of NATO, nothing could be more damaging to NATO and the Atlantic Alliance than the dispatch of troops and some casualties taken by Americans because it was a peace agreement that did not meet the criteria just laid out in the majority leader's statement, and therefore the American people demand, as they did in Somalia and as they did in Beirut—only this time that crisis would be magnified by a thousandfold—that our American troops be withdrawn because it was a peace that could not be kept. Then I would suggest to our supporters of NATO—and the majority leader and I are members of that group—there is no greater damage that could be done to the Atlantic Alliance than that scenario. So before we send troops, I would hope there would be debate on this floor, debate and discussion, as there was concerning the Persian Gulf.

Again, I recognize how great are the responsibilities the majority leader has at this moment. They are intense and severe. But I think it is very important, since we may be going out of session for this week, that the majority leader make this statement. He reflects the views of the overwhelming majority, I believe, of Members of both sides of the aisle. This statement may be lost in the short term, but we will be balancing what agreement is made, if an agreement is made, with the majority leader's statement, the criteria and the provisions which were laid out which I think are not only unreasonable but a bare minimum as the criteria for any agreement and any possibility it may have of being permanent.

Again, I do not know exactly how to express the appreciation of lots of people for the role that the majority leader has played in this crisis, especially in his effort to lift the arms embargo. I do not believe we would have lost the tens of thousands of innocent lives if the arms embargo had been lifted at the time the majority leader first tried to achieve that goal, but now we are where we are. Now we are playing the hand we are dealt. I believe that if in the formulation of a peace agreement the criteria and provisions that the majority leader outlined are adhered to, we may have an opportunity to receive the approval of the Congress and the American people and prevent what could possibly be a very serious confrontation between the two branches of Government.

I yield the floor.

Mr. DOLE. Mr. President, again let me thank the Senator from Arizona for his constant assistance and leadership on this issue. I think he is correct. I think we speak for Senator LIEBERMAN and countless Senators on the other side of the aisle. If they were here at this point, they would be speaking out. So this is not a partisan issue. It never has been a partisan issue. It is about what steps should be taken before we decide to commit American forces anywhere under any condition. There are many concerned parents and grandparents around the country as well as young men and women themselves. I think we owe it to them and to their families and anybody in the future to make sure that certain criteria have been met. In my view, these are reasonable. I hope the President will find the criteria outlined in the statement to be reasonable. We will be furnishing a copy to Mr. Lake, the President's security adviser, within the next few moments.

(Mr. McCAIN assumed the chair.)

Mr. DOLE. We are still working on the agreement. We are very hopeful. So I think unless there is somebody wishing to speak, I would ask we stand—does the Senator from Virginia wish to be recognized?

Mr. WARNER. Yes.

Mr. DOLE. Then would the Senator then go into recess subject to call.

SIGNING OF APPROPRIATIONS BILLS

Mr. DOLE. Mr. President, I indicated earlier the President was about to sign legislative and Treasury. I am now informed he has signed the legislative appropriations bill and the Treasury, post office appropriations bill. So that brings it to a total of six that have been signed, two or three that are still in conference, and one still has not passed the Senate because of objections on the other side, the Labor-HHS bill.

Mr. WARNER. Mr. President, I assume, I say to the distinguished majority leader, if the message has come down those two bills have been signed, that still casts doubt as to the Defense appropriations bill, and both the majority leader and the distinguished Presiding Officer and the Senator from Virginia send this urgent message to the President to sign that key piece of legislation.

UNITED STATES TROOPS IN BOSNIA

Mr. WARNER. Mr. President, I just wish to supplement my remarks by once again commending the Presiding Officer and, indeed, the distinguished majority leader for their leadership on this issue throughout. But I do recall so vividly at the time that President Bush was dispatching our troops into the gulf region he specifically came to Congress. I recall the debate, a very thorough and careful debate went on for 2 days in the Senate, and the final vote was but five votes apart; by a bare margin of five votes the Senate gave its approval, I would say—under the Constitution, of course, the President has the right, but the Senate gave its approval of the President exercising his constitutional right to use the troops that were then already deployed in the gulf region in a role which could involve the use of force of arms.

That same type of resolution—very simple, very straightforward—should be employed in this case if it is the desire of the President to go forward. I am hopeful, as the distinguished majority leader said, that there could be other options. People should recognize that the United States is heavily involved in the air missions.

The PRESIDING OFFICER has given detailed accounts many times on the floor of the Senate of the involvement of the men and women of our air arm and the risks that they have taken. Likewise at sea, the United States is providing the principal naval units for the purpose of the enforcement of certain embargoes that are now in place. And likewise, we have on duty in the Adriatic often a carrier and often other ships supporting the helicopters that are needed for backup for rescue operations, should that be necessary. We saw that, of course, at the time the distinguished Air Force officer was shot down and then eventually rescued.

So, Mr. President, the United States is very heavily engaged at this time. Also, the American taxpayers have footed a bill that exceeds $1 billion, as we would want to do for humanitarian and medical and other types of humanitarian assistance to people of that war-torn region.

So, I hope tonight we urge upon the President to reflect very carefully before he makes a final decision, and that he regards it essential to come to the Congress, as did President Bush. And, lastly, once again, I am hopeful that he will sign the Defense appropriations bill. The distinguished Senator from Alaska, Mr. STEVENS, and I did talk earlier today. He has been very active with the White House in giving the reasons, together with Senator INOUYE of Hawaii, for the need for the signing of that bill.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. WARNER. Mr. President, seeing no other Senator present, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 5:41 p.m., the Senate recessed until 6:53 p.m.; whereupon, the Senate reassembled when called to order by the President pro tempore.

The PRESIDENT pro tempore. The able majority leader is recognized.

Mr. DOLE. Mr. President, I am going to propound two unanimous-consent requests. I think they have been cleared by everyone on each side. We have contacted everyone we thought might have questions. Then, I think, after we have reached the agreements, there may be Members who would like to make statements. I think first we would like to get the agreements.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to consideration of Calendar No. 246, House Joint Resolution 123.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 123) making further continuing appropriations for the fiscal year 1996, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 3061

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3061.

The text of the amendment is as follows:

Strike all after the resolving clause and insert the following:

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

TITLE I

CONTINUING APPROPRIATIONS

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 701 of the United States Information and Educational Exchange Act of 1948, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), and section 53 of the Arms Control and Disarmament Act;

The Department of Defense Appropriations Act, 1996, notwithstanding section 504(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1996;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Department of the Interior and Related Agencies Appropriations Act, 1996;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996;

The Legislative Branch Appropriations Act, 1996, H.R. 2492;

The Department of Transportation Appropriations Act, 1996;

The Treasury, Postal Service, and General Government Appropriations Act, 1996;

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996: *Provided*, That whenever the amount which would be made available or the authority which would be granted in these Acts is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided*, That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act listed in this section has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided*, That where an item is funded in the applicable appropriations Act for the fiscal year 1995 and not included in the version passed by the one House as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1995 or prior years, for the increase in production rates above those sustained with fiscal year 1995 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1995: *Provided*, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 105. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) November 20, 1995, whichever first occurs. For purposes of this resolution, the period of time covered by this resolution shall be considered to have begun on November 14, 1995.

SEC. 107. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. Notwithstanding any other provision of this joint resolution, except section 106, whenever an Act listed in section 101 as passed by both the House and Senate as of the date of enactment of this joint resolution, does not include funding for an ongoing project or activity for which there is a budget request, or whenever an Act listed in section 101 has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, and an item funded in fiscal year 1995 is not included in the version passed by the one House, or whenever the rate for operations for an ongoing project or activity provided by section 101 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 101 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366. For the purposes of the Act, the minimal level means a rate for operations that is reduced from the current rate by 25 percent.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 106, whenever the rate for operations for any continuing project or activity provided by section 101 or section 111 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366.

SEC. 113. Notwithstanding any other provision of this joint resolution, except sections 106, 111, and 112, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 114. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 115. The provisions of section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100–202, shall not apply for this joint resolution. Included in the apportionment for the Federal Payment to the District of Columbia shall be an additional $15,000,000 above the amount otherwise made available by this joint resolution, for purposes of certain capital construction loan repayments pursuant to Public Law 85–451, as amended.

SEC. 116. Notwithstanding any other provision of this joint resolution, except section 106, the authority and conditions for the application of appropriations for the Office of Technology Assessment as contained in the conference report on the Legislative Branch Appropriations Act, 1996, House Report 104–212, shall be followed when applying the funding made available by this joint resolution.

SEC. 117. Notwithstanding any other provision of this joint resolution, except section 106, any distribution of funding under the Rehabilitation Services and Disability Research account in the Department of Education may be made up to an amount that bears the same ratio to the rate for operation for this account provided by this joint resolution as the number of days covered by this resolution bears to 366.

SEC. 118. Notwithstanding any other provision of this joint resolution, except section 106, the authorities provided under subsection (a) of section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) shall remain in effect during the period of this joint resolution, notwithstanding paragraph (3) of said subsection.

SEC. 119. Notwithstanding any other provision of this joint resolution, except section 106, the amount made available to the Securities and Exchange Commission, under the heading Salaries and Expenses, shall include, in addition to direct appropriations, the amount it collects under the fee rate and offsetting collection authority contained in Public Law 103–352, which fee rate and offsetting collection authority shall remain in effect during the period of this joint resolution.

SEC. 120. Until enactment of legislation providing funding for the entire fiscal year ending September 30, 1996, for the Department of the Interior and Related Agencies, funds available for necessary expenses of the Bureau of Mines are for continuing limited health and safety and related research, materials partnerships, and minerals information activities; for mineral assessments in Alaska; and for terminating all other activities of the Bureau of Mines.

SEC. 121. Notwithstanding any other provision of this joint resolution, except section 106, funds for the Environmental Protection Agency shall be made available in the appropriation accounts which are provided in H.R. 2099 as reported on September 13, 1995.

SEC. 122. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations for projects and activities that would be funded under the heading "International Organizations and Conferences, Contributions to International

Organizations" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, shall be the amount provided by the provisions of sections 101, 111, and 112 multiplied by the ratio of the number of days covered by this resolution to 366 and multiplied further by 1.27.

SEC. 123. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations of the following projects or activities shall be only the minimum necessary to accomplish orderly termination:

Administrative Conference of the United States;

Advisory Commission on Intergovernmental Relations (except that activities to carry out the provisions of Public Law 104-4 may continue);

Interstate Commerce Commission;

Pennsylvania Avenue Development Corporation;

Land and Water Conservation Fund, State Assistance; and

Office of Surface Mining Reclamation and Enforcement, Rural Abandoned Mine Program.

TITLE II

SEC. 201. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING.

(a) WAIVER.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any of the following measures of the first session of the One Hundred Fourth Congress presented to the President after the enactment of this joint resolution:

(1) A continuing resolution.

(2) A debt limit extension measure.

(3) A reconciliation bill.

(b) CERTIFICATION BY COMMITTEE ON HOUSE OVERSIGHT.—The enrollment of a measure to which subsection (a) applies shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

SEC. 202. DEFINITIONS.

As used in this joint resolution:

(1) CONTINUING RESOLUTION.—The term "continuing resolution" means a bill or joint resolution that includes provisions making further continuing appropriations for fiscal year 1996.

(2) DEBT LIMIT EXTENSION MEASURE.—The term "debt limit extension measure" means a bill or joint resolution that includes provisions increasing or waiving (for a temporary period or otherwise) the public debt limit under section 3101(b) of title 31, United States Code.

(3) RECONCILIATION BILL.—The term "reconciliation bill" means a bill that is a reconciliation bill within the meaning of section 310 of the Congressional Budget Act of 1974.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 3061) was agreed to.

Mr. DOLE. I ask unanimous consent that the joint resolution be read a third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So, the joint resolution (H.J. Res. 123), as amended, was passed.

Mr. DOLE. I just say for the information of all of my colleagues, the amendment I just sent to the desk would extend the full continuing resolution for 1 day.

The Senate will now call up the comprehensive continuing resolution the Senate passed Thursday and modify that resolution with the so-called compromise language and pass that joint resolution. It is my understanding that the House of Representatives will pass the 1-day CR tonight and the comprehensive continuing resolution tomorrow.

I will be happy to yield to the Democratic leader. Does the Democratic leader want me to send up the other one?

Mr. DASCHLE. I think we can send up the second resolution.

VITIATION OF ACTION ON HOUSE JOINT RESOLUTION 122

Mr. DOLE. Mr. President, I now ask unanimous consent that third reading and final passage be vitiated with respect to House Joint Resolution 122.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1996

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now proceed to the joint resolution.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 122) making further continuing appropriations for the fiscal year 1996, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 3062

Mr. DOLE. I send an amendment to the desk modifying the text of the joint resolution and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3062.

The text of the amendment is as follows:

Strike all after the resolving clause and insert the following:

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

TITLE I

CONTINUING APPROPRIATIONS

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 701 of the United States Information and Educational Exchange Act of 1948, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), and section 53 of the Arms Control and Disarmament Act;

The Department of Defense Appropriations Act, 1996, notwithstanding section 504(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1996;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Department of the Interior and Related Agencies Appropriations Act, 1996;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996;

The Legislative Branch Appropriations Act, 1996, H.R. 2492;

The Department of Transportation Appropriations Act, 1996;

The Treasury, Postal Service, and General Government Appropriations Act, 1996;

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996: *Provided*, That whenever the amount which would be made available or the authority which would be granted in these Acts is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided*, That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act listed in this section has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided*, That where an item is funded in the applicable appropriations Act for the fiscal year 1995 and not included in the version passed by the one House as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1995 or prior years, for the increase in production rates above those sustained with fiscal year 1995 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1995: *Provided*, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 105. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) December 15, 1995, whichever first occurs.

SEC. 107. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. Notwithstanding any other provision of this joint resolution, except section 106, whenever an Act listed in section 101 as passed by both the House and Senate as of the date of enactment of this joint resolution, does not include funding for an ongoing project or activity for which there is a budget request, or whenever an Act listed in section 101 has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, and an item funded in fiscal year 1995 is not included in the version passed by the one House, or whenever the rate for operations for an ongoing project or activity provided by section 101 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 101 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366. For the purposes of the Act, the minimal level means a rate for operations that is reduced from the current rate by 25 percent.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 106, whenever the rate for operations for any continuing project or activity provided by section 101 or section 111 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366.

SEC. 113. Notwithstanding any other provision of this joint resolution, except sections 106, 111, and 112, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 114. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 115. The provisions of section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100–202, shall not apply for this joint resolution. Included in the apportionment for the Federal Payment to the District of Columbia shall be an additional $16,575,016 above the amount otherwise made available by this joint resolution, for reimbursement to the United States of funds loaned for certain capital improvement projects pursuant to Public Law 81–533, as amended; Public Law 83–364, as amended; Public Law 85–451, as amended; and Public Law 86–515, as amended, including interest as required thereby.

SEC. 116. Notwithstanding any other provision of this joint resolution, except section 106, the authority and conditions for the application of appropriations for the Office of Technology Assessment as contained in the conference report on the Legislative Branch Appropriations Act, 1996, House Report 104–212, shall be followed when applying the funding made available by this joint resolution.

SEC. 117. Notwithstanding any other provision of this joint resolution, except section 106, any distribution of funding under the Rehabilitation Services and Disability Research account in the Department of Education may be made up to an amount that bears the same ratio to the rate for operation for this account provided by this joint resolution as the number of days covered by this resolution bears to 366.

SEC. 118. Notwithstanding any other provision of this joint resolution, except section 106, the authorities provided under subsection (a) of section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) shall remain in effect during the period of this joint resolution, notwithstanding paragraph (3) of said subsection.

SEC. 119. Notwithstanding any other provision of this joint resolution, except section 106, the amount made available to the Securities and Exchange Commission, under the heading Salaries and Expenses, shall include, in addition to direct appropriations, the amount it collects under the fee rate and offsetting collection authority contained in Public Law 103–352, which fee rate and offsetting collection authority shall remain in effect during the period of this joint resolution.

SEC. 120. Until enactment of legislation providing funding for the entire fiscal year ending September 30, 1996, for the Department of the Interior and Related Agencies, funds available for necessary expenses of the Bureau of Mines are for continuing limited health and safety and related research, materials partnerships, and minerals information activities; for mineral assessments in Alaska; and for terminating all other activities of the Bureau of Mines.

SEC. 121. Notwithstanding any other provision of this joint resolution, except section 106, funds for the Environmental Protection Agency shall be made available in the appropriation accounts which are provided in H.R. 2099 as reported on September 13, 1995.

SEC. 122. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations for projects and activities that would be funded under the heading "International Organizations and Conferences, Contributions to International

Organizations" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, shall be the amount provided by the provisions of sections 101, 111, and 112 multiplied by the ratio of the number of days covered by this resolution to 366.

SEC. 123. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations of the following projects or activities shall be only the minimum necessary to accomplish orderly termination:

Administrative Conference of the United States;

Advisory Commission on Intergovernmental Relations (except that activities to carry out the provisions of Public Law 104-4 may continue);

Interstate Commerce Commission;

Pennsylvania Avenue Development Corporation;

Land and Water Conservation Fund, State Assistance; and

Office of Surface Mining Reclamation and Enforcement, Rural Abandoned Mine Program.

SEC. 124. COMPENSATION AND RATIFICATION OF AUTHORITY.—(a) Any Federal employees furloughed as a result of a lapse in appropriations, if any, after midnight November 13, 1995, until the enactment of this Act shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

(b) All obligations incurred in anticipation of the appropriations made and authority granted by this Act for the purposes of maintaining the essential level of activity to protect life and property and bring about orderly termination of government functions are hereby ratified and approved if otherwise in accord with the provisions of this Act.

TITLE II

SEC. 201. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING.

(a) WAIVER.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any of the following measures of the first session of the One Hundred Fourth Congress presented to the President after the enactment of this joint resolution:

(1) A continuing resolution.

(2) A debt limit extension measure.

(3) A reconciliation bill.

(b) CERTIFICATION BY COMMITTEE ON HOUSE OVERSIGHT.—The enrollment of a measure to which subsection (a) applies shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

SEC. 202. DEFINITIONS.

As used in this joint resolution:

(1) CONTINUING RESOLUTION.—The term "continuing resolution" means a bill or joint resolution that includes provisions making further continuing appropriations for fiscal year 1996.

(2) DEBT LIMIT EXTENSION MEASURE.—The term "debt limit extension measure" means a bill or joint resolution that includes provisions increasing or waiving (for a temporary period or otherwise) the public debt limit under section 3101(b) of title 31, United States Code.

(3) RECONCILIATION BILL.—The term "reconciliation bill" means a bill that is a reconciliation bill within the meaning of section 310 of the Congressional Budget Act of 1974.

SEC. . COMMITMENT TO A SEVEN-YEAR BALANCED BUDGET.

(a) The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office, and the President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment. Further, the balanced budget shall adopt tax policies to help working families and to stimulate future economic growth.

(b) The balanced budget agreement shall be estimated by the Congressional Budget Office based on its most recent current economic and technical assumptions, following a thorough consultation and review with the Office of Management and Budget, and other government and private experts.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 3062) was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the joint resolution be read a third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So, the joint resolution (H.J. Res. 122), as amended, was passed.

Mr. DOLE. Mr. President, that was the compromise language that would extend until December 15 the date agreed upon. In fact, I ask that a copy of the resolution—I might just read it quickly. This is the agreement reached. I want to thank my colleague, Senator DASCHLE, and thank Senator EXON. Also, of course, I want to thank my colleague, Senator DOMENICI, and the others who have been working on this throughout the day and throughout yesterday. There have been Members on each side. I know Senator WARNER has been involved, as have others. But what we have agreed to now, in a bipartisan, nonpartisan way, I think, is a very satisfactory conclusion to what has been a rather tense situation the past several days.

(a) The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office, and the President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment. Further, the balanced budget shall adopt tax policies to help working families and to stimulate future economic growth.

(b) The balanced budget agreement shall be estimated by the Congressional Budget Office based on its most recent current economic and technical assumptions, following a thorough consultation and review with the Office of Management and Budget, and other Government and private experts.

We also take care of back pay in this resolution. And the continuing resolution will be at 75 percent. I will ask the chairman of the Appropriation Committee to explain this in more detail. And it will extend until December 15.

I would be happy to yield to the distinguished Democratic leader.

The PRESIDENT pro tempore. The able minority leader is recognized.

Mr. DASCHLE. I thank the President pro tempore.

I want to commend the distinguished majority leader for his leadership in the effort he has made in the last 24 hours to achieve this agreement. I also commend the distinguished Senator from New Mexico, our chairman of the Budget Committee, for his effort. It was the Senator from New Mexico and the Senator from Nebraska, our ranking member, who have done a great deal of work in the last couple of days to get us to this point. I appreciate very much their efforts.

I have discussed this with the President. He fully supports it and will sign it. As the majority leader has indicated, this resolution will allow us to continue to fund the Government until the 15th of December at a level of 75 percent. It reopens the Government and gets people back to work. It reaffirms our commitment to balancing the budget, it spells out our commitment to protecting our priorities—Medicare and Medicaid, education, the environment, defense, agriculture, and veterans. There will be consultation on economic assumptions with the Congressional Budget Office and the Office of Management and Budget and private experts. It really presents the framework for negotiations.

Now that this is behind us, I think the time for us to negotiate the real balanced budget is at hand. This gives us that opportunity. I am very pleased that we were able to reach the agreement tonight.

Mr. DOLE. Mr. President, before I yield to the Senator from Oregon, Senator HATFIELD, chairman of the Appropriations Committee, let me also thank Senator LOTT who has been on the telephone the last hour or two checking with Members who had problems.

Also, Senator GORTON who helped us with some editorial comment and corrected a few things which were not quite accurate.

Senator MACK and Senator COCHRAN were there yesterday afternoon and again today helping us bring this together.

And, of course, Senator WARNER has been on the floor and in the meetings. We appreciate that very much. Coming from Virginia he has a number of concerns about Federal employees.

As I said earlier, the Senator from New Mexico deserves great credit. I think it is fair to say it indicates again if we can reach out we can come together.

I think we preserved a very important principle: a balanced budget in 7 years. That was very important to Members on this side and I think to a number of Members on the other side.

Also, obviously the Presiding Officer has been in the thick of this from the start. We appreciate the President pro tempore's discussions, and a number of other colleagues, Senator McCAIN, who is not on the floor, and Senator PRESSLER, who was there for a few hours this afternoon. We had a lot of people come and go and a lot of input.

I yield now to the chairman of the Appropriations Committee.

Mr. DASCHLE. Mr. President, will the distinguished Senator yield for 30 seconds?

I also think a number of staff people, including Bill Hoagland and John Hilley, deserve special commendation for the terrific work they have done. They and many other members of the staff have worked for the last couple of weeks to achieve this. I appreciate very much their effort and all the work they have done to make this happen.

On our side, Senator REID and Senator DORGAN and Members of our leadership have also been extremely helpful and demonstrated a significant level of leadership.

Let me also thank Leon Panetta and members of the White House for the cooperation and tremendous effort that they also made to make this happen tonight.

A number of people are responsible for the fact we are here tonight. I think it is fair to say we have shared in a great deal of effort to make it happen, and we are very pleased.

I yield the floor.

The PRESIDENT pro tempore. Senator HATFIELD is recognized.

Mr. HATFIELD. Mr. President, I, first, would like to add my word of congratulations to our leadership, Senator DOLE, Senator DASCHLE, the chairman and ranking member of the Budget Committee, and others who have been very much involved.

Let me just say, we now have 6 appropriations bills of the 13 signed. So this continuing resolution will cover the seven bills not signed. I think it is very important to note we have now extended until December 15. We must act upon these remaining bills in order to get agreement between the White House and the Congress. And the most important bill, in my view, is the Labor-HHS. That is the only appropriations bill the Senate has refused to consider, and we must move on that bill in order to get it covering the important programs of education, health and public services.

Also, for those programs that have been terminated by either the House or the Senate, this will fund those programs at 75 percent of level until that date. Also, it restores the back pay. That may be the best news of all for some of those who are getting down to the end of their resources and need this assurance they will be paid for those days they have been furloughed.

So I want to, again, say this is a great occasion to see this impasse brought to an end, and through the extraordinary bipartisan effort of both sides of the aisle and the White House, this achievement is very significant.

I thank the Chair.

Mr. DOMENICI addressed the Chair.

The PRESIDENT pro tempore. The able Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, this agreement will allow all Federal workers to return to their jobs tomorrow morning and all Government operations will return to normal. This is not a win for Republicans or Democrats, this is a win for the American people.

This will ensure the first balanced budget plan in more than a quarter century. Up until today, Republicans in Congress had passed and committed to a 7-year balanced budget, but after today, the President is now on board. He and his administration are now committed to achieving a balanced budget in 7 years using the nonpartisan Congressional Budget Office. While this is a giant first step, there is a lot of work to getting it done, and I pledge my full effort to try to get this done in the next 3 to 4 weeks.

I yield the floor.

• Mr. GRAMM. Mr. President, I am concerned that we are in the process of jimmying the numbers so that President Clinton can spend tens of billions of dollars that we do not have on programs that we cannot afford.

It appears that we are laying the predicate for assuming away the deficit problem.

I intend to oppose any budget which increases total spending above the level we set out in our budget.•

Mr. CONRAD addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I yield to the ranking member of the Budget Committee, Senator EXON, who is seeking to make a statement.

Mr. EXON. Mr. President, I thank my friend from North Dakota. I just want to add my voice of thanks for the true bipartisan effort that was made, especially over the last 2 days, certainly under the effective leadership of Senator DASCHLE, on this side, and Senator DOLE on the other, in cooperation with my friend and colleague, the chairman of the Budget Committee, Senator DOMENICI, the excellent staffs on both sides, Bill Hoagland on the Republican side and Bill Dauster over on our side, and all associated therewith. We came to many points on the cliff when I was not sure we were ever going to jump across, but we did on many, many occasions.

I am very pleased with the fact that, as Senator DOMENICI just said, it was a bipartisan effort. We were not trying to make political points, we were trying to reach an agreement to balance the budget in 7 years that this Senator has stood for for a long, long time and accommodate as many as we could.

The main thing, of course, is that finally, as I have been suggesting for the last few days, what we did was have a breakthrough today, finally, by extending the argument, if you will, to December 15. That means that everybody can go back to work, if we can get this passed in both the House and the Senate this evening, and the Government can return to full functioning by tomorrow morning. This has not been easy, but it has been rewarding, once again, that after a lot of effort and understanding among friends who sometimes have different views on how we get from point A to point B, we do get together and accomplish what we want to do.

Mr. President, I simply say and emphasize that while this is a good agreement, it really requires a lot of heavy lifting between now and the 15th day of December, because we have all of these contentious areas remaining with regard to how we do meet the 7-year balanced budget goal and the different parts of the budget and how we allocate the funds are going to be contentious.

I just hope that the bipartisan spirit that brought this short-term agreement together can be carried on to a considerable degree with the heavy lifting that we have yet to do.

I thank the Chair, and I yield the floor.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was ordered placed on the calendar on November 18, 1995:

H.J. Res. 123. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CAMPBELL:

S. 1424. A bill to redesignate the Black Canyon of the Gunnison National Monument as a national park, to establish the Gunnison Gorge National Conservation Area, to establish the Curecanti National Recreation Area, to establish the Black Canyon of the Gunnison National Park Complex, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 1424. A bill to redesignate the Black Canyon of the Gunnison National Monument as a national park, to establish the Gunnison Gorge National Conservation Area, to establish the Curecanti National Recreation Area, to establish the Black Canyon of the Gunnison National Park Complex, and for other purposes; to the Committee on Energy and Natural Resources.

THE BLACK CANYON NATIONAL PARK COMPLEX ACT OF 1996

• Mr. CAMPBELL. Madam President, I introduce a piece of legislation that has been a long time coming; to the State of Colorado and in particular, the western slope of my State, as well as to myself.

Today, I am introducing legislation to create the Black Canyon of the Gunnison National Park Complex. This represents, in my view, an innovative approach to protecting unique natural resources for future generations in the most fiscally responsible manner possible.

Madam President, this legislation does far more than simply create a new national park from what is now a national monument on the western slope of Colorado. This legislation establishes a cooperative approach to managing this natural resource and calls for all affected resource management agencies in the area, to play key collaborative roles.

Madam President, I want to stress that equally important to what this legislation does, is what it does not do: this legislation does not require additional Federal expenditures, it does not require additional land acquisitions, and the collective management approach that this legislation creates does not in any way require, imply, or contemplate an attempt by the Federal Government to usurp State water rights and State water law.

The Secretary of the Interior and the Secretary of Agriculture will manage the entire area as it should be managed—as a single, interrelated and inseparable unit, connected by the magnificence of the Gunnison River itself.

Establishment of the complex will afford the Secretaries the opportunity to share both fiscal and human resources in the administration and management of this unique resource. This legislation will eliminate duplicative management operations and form a coordinated, streamlined and fiscally responsible management structure.

Implementation of this act will cost next to nothing. It is good business. No land acquisitions will be needed, no new areas will be created and this will not be an additional burden to the taxpayer. In fact, implementation of this act will save money by enabling the agencies to cooperate and share resources to a much greater extent than the current management allows.

Beginning at the upper most reaches of the proposed complex, this legislation will create the Curecanti National Recreation Area. This area has a long history of being operated by the National Park Service and the Bureau of Reclamation as a widely popular recreation area. The new Curecanti National Recreation Area will encompass three lakes created by the three dams on the Gunnison River which form the heart of the area. Together, these lakes are a recreationalist's paradise and a fisherman's heaven, regardless of the season.

Within the recreation area will be created the Curecanti Archaeological District. This area contains prehistoric sites dating as far back as 10,000 years. These unique sites may provide dramatic information that will significantly augment our knowledge of early human occupation of the high mountain valleys in the mountains of Colorado. New chapters will be added to what is known about southwestern archaeology.

This legislation will also establish the Denver and Rio Grande National Historic Site at Cimarron, within the recreation area. This site is a monument to the talents of the early mountain railroad builders and is a focal point to illustrate the crucial role of the narrow gauge railroad in realizing the development of western Colorado and the entire west.

The Gunnison National Forest forms the other boundary of the national park complex. This forest offers a wide variety of recreational opportunities as well as incredible scenic views. Portions of the forest have been included within the complex and will be managed in concert with the other resources in this area.

What is now the Gunnison National Monument lies immediately upstream of the recreation area. Visitors to this wonderful site describe this resource with adjectives such as gorgeous, awesome, and spectacular. Everyone who has visited this 2,000 foot deep, nearly impenetrable canyon go on to say that those words are inadequate to describe the impact of this glorious national wonder. This area is clearly worthy of the designation "National Park," and all the protections and management policies that designation bring to it.

This legislation, when enacted, will designate the monument as the newest national park in the National Park System, again with practically no cost to the agency or the taxpayer. Visitors will be able to look over the side of the sheer canyon walls, hear the roar of the river, feel its strength, and view the canyon which, today, is no different than the day thousands of years ago when the first humans visiting the area failed to cross its chasm.

Upstream and adjacent to the new national park, the Bureau of Land Management will administer and manage the Gunnison Gorge National Conservation Area which would also be created by this act.

This 64,139-acre tract will be managed for the protection and visitor use of the canyon. Recreational opportunities from raft trips, to hunting, fishing, camping, and hiking offer a wealth of opportunities to enjoy the natural resources at their very best. This area clearly deserves increased protection for future generations, as well as for today's visitors.

The national park complex which will be created by this legislation, taken in its entirety, is a world class site. Managed cooperatively as an interagency project, it can only improve.

It is important to note, Madam President, that while all Americans will benefit by the creation of this national park complex, my constituents living in Gunnison, Montrose, and the other nearby communities, will be impacted most. For this reason, the legislation I am introducing today is not a finished product and I am looking forward to detailed hearings to receive the advice and counsel of all interested parties.

My subcommittee staff will immediately begin soliciting feedback on this legislation, and hearings in the early spring will follow. Following those comments and hearings, my staff and I will make the appropriate technical changes to this legislation and will work closely with leadership in the full committee, our leadership in the Senate and our colleagues in the House to promptly move this legislation and present it to the President for his signature.

Throughout this process, my staff and I are eager to listen to the views of all concerned and to fine-tune this legislation cooperatively and in good faith with all who wish to participate.

Finally, Madam President, I would take a moment to pay special tribute to three special—and new—members of my staff who have worked with special drive and determination on this legislation. Ms. Rhea Suh, of my personal staff, Ms. Kathryn "Kayci" Cook, and Jim O'Toole of the committee staff, have been invaluable to me in the process.

In previous years, I have introduced Black Canyon legislation that, quite simply, went nowhere. It was written in an attempt to be all things to all people and that, unfortunately, resulted in nothing more than printed chaos.

In the 104th Congress, we threw away all the old concepts and started, quite literally, from ground zero. It was only with the fresh, energetic, and creative minds of these fine professionals that, together, we were able to come up with an entirely new concept. This concept which I am introducing today, presents our Nation with the opportunity to provide the greatest protection of a unique resource through the least amount of bureaucracy and expenditure. Now, finally after all these years, I am introducing legislation which I am confident will meet with broad support and which will, finally, become the law of the land.

Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Black Canyon National Park Complex Act of 1996".

SEC. 2. ESTABLISHMENT OF BLACK CANYON OF THE GUNNISON NATIONAL PARK.

(a) There is hereby established the Black Canyon of the Gunnison National Park (hereinafter referred to as the "park") in the State of Colorado. The Black Canyon National Monument is abolished as such, and all lands and interest therein are hereby incorporated within and made part of the Black Canyon of the Gunnison National Park. Any reference to the Black Canyon of the Gunnison National Monument shall be deemed a reference to Black Canyon of the Gunnison National Park, and any funds available for the purposes of the monument shall be available for purposes of the park.

(b) The Secretary of the Interior (hereinafter referred to as the Secretary) acting through the Director of the National Park Service shall manage the park, subject to valid existing rights, in accordance with this Act and under the provisions of law generally applicable to units of the National Park System including but not limited to the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and other applicable provisions of law.

SEC. 3. ESTABLISHMENT OF THE GUNNISON GORGE NATIONAL CONSERVATION AREA.

(a) There is hereby established the Gunnison Gorge National Conservation Area (hereinafter referred to as the "conservation area") in the State of Colorado, consisting of approximately 64,139 acres as generally depicted on the map entitled "Black Canyon of the Gunnison National Park Complex—Map No. 2, dated 10/27/95" (hereinafter referred to as the "map").

(b) The Secretary, acting through the Director of the Bureau of Land Management, shall manage the conservation area, subject to valid existing rights, in accordance with this Act, the Federal Land Management and Policy Act of 1976, and other applicable provisions of law.

(c) In addition to the use of motorized vehicles on established roadways, the use of motorized vehicles in the conservation area shall be allowed to the extent compatible, in accordance with existing off-highway vehicle designations as described in the current, approved management plan, or as part of the management plan prepared pursuant to this Act.

(d) Within four years following the date of enactment of this Act, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Resources of the United States House of Representatives a comprehensive plan for the long-range protection and management of the conservation area. The plan shall describe the appropriate uses and management of the conservation area consistent with the provisions of this Act. The plan may incorporate appropriate decisions contained in any current management or activity plan for the area. The plan may also incorporate appropriate wildlife habitat management or other plans that have been prepared for the lands within or adjacent to the conservation area, and shall be prepared in close consultation with appropriate agencies of the State of Colorado and shall use information developed in previous studies of the lands within or adjacent to the conservation area.

SEC. 4. ESTABLISHMENT OF THE CURECANTI NATIONAL RECREATION AREA, AND THE DENVER AND RIO GRANDE RAILROAD NATIONAL HISTORIC SITE.

(a) There is hereby established, the Curecanti National Recreation Area (hereinafter referred to as the "recreation area" in the State of Colorado. The recreation area shall consist of the lands and waters within the area designated "Curecanti National Recreation Area" as depicted on the map.

(b) The Secretary, acting through the Director of the National Park Service shall manage the recreation area, subject to valid existing rights, in accordance with this Act and under provisions of law generally applicable to units of the National Park System including but not limited to the Act of August 25, 1916 (39 Stat. 535, 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and other applicable provisions of law, except as otherwise provided in this section.

(c) The establishment of the recreation area under subsection (a) shall not affect or interfere with the validity of withdrawals made before the date of enactment of this Act for reclamation or power purposes. Operation of improvements on and the management of lands occupied by dams, structures, or other facilities subject to the Colorado River Storage Project Act of 1956 (42 U.S.C. 620 et seq.) shall be the responsibility of the Secretary, acting through the Commissioner of the Bureau of Reclamation. Such lands shall be delineated through a joint agreement among the Bureau of Reclamation, the National Park Service, and all associated entities. The Secretary may enter into additional agreements which address sharing of jurisdiction and authorities on the delineated lands. All lands within the recreation area which have been withdrawn or acquired by the United States for reclamation purposes shall remain subject to the purposes and uses established under the Colorado River Storage Project Act of 1956 (42 U.S.C. 620 et seq.) The Secretary may exclude any area from the recreation area for reclamation or power purposes upon determining that it is in the national interest to do so.

(d) The Secretary shall administer the recreation area subject to all Public Laws, memoranda of interagency agreement, memoranda of agreement and or understanding, including cooperative agreements, licenses, permits, and contracts and right-of-way agreements currently in effect, and or referenced in the Curecanti National Recreation Area Statement for Management, dated November 1990.

(e) Within the Recreation Area there is hereby established, subject to the provisions of this section, the Denver and Rio Grande National Historic Site (hereinafter referred to as the "historic site") consisting of the Denver and Rio Grande rolling stock and train trestle at Cimarron, as depicted on the map. The Secretary may include those portions of the historic railroad bed within the boundaries of the historic site which would serve to enhance or contribute to the interpretation of the development of the railroad and its role in the development of western Colorado.

(f) Within the Recreation Area there is hereby established, subject to the provisions of this section, the Curecanti Archeological District (hereinafter referred to as the "District") as depicted on the map.

(g) Within one year after the enactment of this Act, the Secretary shall submit a comprehensive list of laws, rules, regulations, right-of-way permits and agreements, licensing agreements, special-use permits or other authorizing documents issued by the Bureau of Reclamation. the Bureau of Land Management, and the Forest Service, for the use of lands within the recreation area, to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Resources of the United States House of Representatives.

SEC. 5. THE ESTABLISHMENT OF THE BLACK CANYON OF THE GUNNISON NATIONAL PARK COMPLEX.

(a) There is hereby established the Black Canyon of the Gunnison National Park Complex (hereinafter referred to as the "complex") in the State of Colorado. The complex shall include the following lands as depicted on the map.

(1) The park,

(2) The conservation area,

(3) The recreation area, and

(4) Those portions of lands comprising the Gunnison National Forest as depicted on the map.

(b) The Secretary, acting through the Director of the National Park Service shall manage the park, recreation area, historic site and district; and acting through the Director of the Bureau of Land Management, shall manage the conservation area in accordance with this Act, and other applicable provisions of law.

(c) The Secretary of Agriculture, acting through the Chief of the Forest Service shall manage, subject to valid existing rights, those portions of the forest that have been included in the complex in accordance with the laws, rules, and regulations pertaining to the National Forest System and this Act.

(d) The Secretaries shall manage the areas under their jurisdiction within the complex in a consistent manner to the maximum extent practical. Wherever possible, regulations, permits, licenses, and other agreements should be issued jointly. The Secretaries shall ensure that, to the maximum extent practical, that personnel, equipment, and other resources are shared among the agencies and that the duplication of effort is reduced or eliminated.

SEC. 6. WATER RIGHTS.

Nothing in this Act, nor in any action taken pursuant thereto under any other act, shall constitute an express or implied reservation of water for any purpose. Nothing in this Act, nor any actions taken pursuant thereto shall affect any existing water rights, including, but not limited to, any water rights held by the United States prior to the date of enactment of this Act. Any water rights that the Secretary determines are necessary for the purposes of this Act shall be acquired under the procedural and substitutive requirements of the laws of the State of Colorado.

SEC. 7. RECREATIONAL AND MULTIPLE-USE ACTIVITIES.

(a) In carrying out this Act, in addition to other related activities that may be permitted pursuant to this Act, the Secretaries shall provide for general recreation and multiple use activities that are considered appropriate and compatible within the areas of their respective jurisdiction, including, but not limited to, swimming, fishing, boating, rafting, hiking, horseback riding, camping and picnicking. The Secretaries shall also provide for certain multiple use activities, subject to valid existing rights, including grazing and the harvesting of hay; the maintenance of roads, stock driveways, and utility rights-of-way. Within the boundaries of the recreation area the Secretary shall also provide for off-road vehicle use below high water levels, on frozen lake surfaces, and on related designated access routes; and other such uses as the Secretary may deem appropriate.

(b) The Secretaries shall permit hunting, fishing, noncommercial taking of freshwater crustaceans, and trapping on the lands and waters under the Secretaries jurisdiction in accordance with applicable laws and regulations of the United States and the State of Colorado, except that the Secretaries, after consultation with the Colorado Division of Wildlife, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Subject to valid existing rights, hunting and trapping will not be allowed within the boundaries of the park.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out this Act.•

ADDITIONAL COSPONSORS

S. 1220

At the request of Mr. REID, his name was added as a cosponsor of S. 1220, a bill to provide that Members of Congress shall not be paid during Federal Government shutdowns.

AMENDMENTS SUBMITTED

CONTINUING RESOLUTION FOR FISCAL YEAR 1996 JOINT RESOLUTION

DOLE AMENDMENT NO. 3061

Mr. DOLE proposed an amendment to the joint resolution (H.J. Res. 123) making further continuing appropriations for the fiscal year 1996, and for other proposes; as follows:

Strike all after the resolving clause and insert the following:

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

TITLE I

CONTINUING APPROPRIATIONS

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 701 of the United States Information and Educational Exchange Act of 1948, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 53 of the Arms Control and Disarmament Act;

The Department of Defense Appropriations Act, 1996, notwithstanding section 504(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1996;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, notwithstanding section 10 of Public Law 91–672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Department of the Interior and Related Agencies Appropriations Act, 1996;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996;

The Legislative Branch Appropriations Act, 1996, H.R. 2492;

The Department of Transportation Appropriations Act, 1996;

The Treasury, Postal Service, and General Government Appropriations Act, 1996;

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996:

Provided, That whenever the amount which would be made available or the authority which would be granted in these Acts is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided*, That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act listed in this section has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided*, That where an item is funded in the applicable appropriations Act for the fiscal year 1995 and not included in the version passed by the one House as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1995 or prior years, for the increase in production rates above those sustained with fiscal year 1995 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1995: *Provided*, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 105. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) November 20, 1995, whichever first occurs. For purposes of this resolution, the period of time covered by this resolution shall be considered to have begun on November 14, 1995.

SEC. 107. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. Notwithstanding any other provision of this joint resolution, except section 106, whenever an Act listed in section 101 as passed by both the House and Senate as of the date of enactment of this joint resolution, does not include funding for an ongoing project or activity for which there is a budget request, or whenever an Act listed in section 101 has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, and an item funded in fiscal year 1995 is not included in the version passed by the one House, or whenever the rate for operations for an ongoing project or activity provided by section 101 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 101 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366. For the purposes of the Act, the minimal level means a rate for operations that is reduced from the current rate by 25 percent.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 106, whenever the rate for operations for any continuing project or activity provided by section 101 or section 111 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366.

SEC. 113. Notwithstanding any other provision of this joint resolution, except sections 106, 111, and 112, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 114. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 115. The provisions of section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100-202, shall not apply for this joint resolution. Included in the apportionment for the Federal Payment to the District of Columbia shall be an additional $15,000,000 above the amount otherwise made available by this joint resolution, for purposes of certain capital construction loan repayments pursuant to Public Law 85-451, as amended.

SEC. 116. Notwithstanding any other provision of this joint resolution, except section 106, the authority and conditions for the application of appropriations for the Office of Technology Assessment as contained in the conference report on the Legislative Branch Appropriations Act, 1996, House Report 104-212, shall be followed when applying the funding made available by this joint resolution.

SEC. 117. Notwithstanding any other provision of this joint resolution, except section 106, any distribution of funding under the Rehabilitation Services and Disability Research account in the Department of Education may be made up to an amount that bears the same ratio to the rate for operation for this account provided by this joint resolution as the number of days covered by this resolution bears to 366.

SEC. 118. Notwithstanding any other provision of this joint resolution, except section 106, the authorities provided under subsection (a) of section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) shall remain in effect during the period of this joint resolution, notwithstanding paragraph (3) of said subsection.

SEC. 119. Notwithstanding any other provision of this joint resolution, except section 106, the amount made available to the Securities and Exchange Commission, under the heading Salaries and Expenses, shall include, in addition to direct appropriations, the amount it collects under the fee rate and offsetting collection authority contained in Public Law 103-352, which fee rate and offsetting collection authority shall remain in effect during the period of this joint resolution.

SEC. 120. Until enactment of legislation providing funding for the entire fiscal year ending September 30, 1996, for the Department of the Interior and Related Agencies, funds available for necessary expenses of the Bureau of Mines are for continuing limited health and safety and related research, materials partnerships, and minerals information activities; for mineral assessments in Alaska; and for terminating all other activities of the Bureau of Mines.

SEC. 121. Notwithstanding any other provision of this joint resolution, except section 106, funds for the Environmental Protection Agency shall be made available in the appropriation accounts which are provided in H.R. 2099 as reported on September 13, 1995.

SEC. 122. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations for projects and activities that would be funded under the heading "International Organizations and Conferences, Contributions to International Organizations" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, shall be the amount provided by the provisions of sections 101, 111, and 112 multiplied by the ratio of the number of days covered by this resolution to 366 and multiplied further by 1.27.

SEC. 123. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations of the following projects or activities shall be only the minimum necessary to accomplish orderly termination:

Administrative Conference of the United States;

Advisory Commission on Intergovernmental Relations (except that activities to carry out the provisions of Public Law 104-4 may continue);

Interstate Commerce Commission;

Pennsylvania Avenue Development Corporation;

Land and Water Conservation Fund, State Assistance; and

Office of Surface Mining Reclamation and Enforcement, Rural Abandoned Mine Program.

TITLE II

SEC. 201. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING.

(a) WAIVER.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any of the following measures of the first session of the One Hundred Fourth Congress presented to the President after the enactment of this joint resolution:

(1) A continuing resolution.

(2) A debt limit extension measure.

(3) A reconciliation bill.

(b) CERTIFICATION BY COMMITTEE ON HOUSE OVERSIGHT.—The enrollment of a measure to which subsection (a) applies shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

SEC. 202. DEFINITIONS.

As used in this joint resolution:

(1) CONTINUING RESOLUTION.—The term "continuing resolution" means a bill or joint resolution that includes provisions making further continuing appropriations for fiscal year 1996.

(2) DEBT LIMIT EXTENSION MEASURE.—The term "debt limit extension measure" means a bill or joint resolution that includes provisions increasing or waiving (for a temporary period or otherwise) the public debt limit under section 3101(b) of title 31, United States Code.

(3) RECONCILIATION BILL.—The term "reconciliation bill" means a bill that is a reconciliation bill within the meaning of section 310 of the Congressional Budget Act of 1974.

CONTINUING RESOLUTION FOR FISCAL YEAR 1996 JOINT RESOLUTION

DOLE AMENDMENT NO. 3062

Mr. DOLE proposed an amendment to the joint resolution (H.J. Res. 122) making further continuing appropriations for the fiscal year 1996, and for other purposes; as follows:

Strike all after the resolving clause and insert the following:

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

TITLE I

CONTINUING APPROPRIATIONS

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 701 of the United States Information and Educational Exchange Act of 1948, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 53 of the Arms Control and Disarmament Act;

The Department of Defense Appropriations Act, 1996, notwithstanding section 504(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1996;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, notwithstanding section 10 of Public Law 91–672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Department of the Interior and Related Agencies Appropriations Act, 1996;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996;

The Legislative Branch Appropriations Act, 1996, H.R. 2492;

The Department of Transportation Appropriations Act, 1996;

The Treasury, Postal Service, and General Government Appropriations Act, 1996;

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996:

Provided, That whenever the amount which would be made available or the authority which would be granted in these Acts is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided*, That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act listed in this section has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided*, That where an item is funded in the applicable appropriations Act for the fiscal year 1995 and not included in the version passed by the one House as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1995 or prior years, for the increase in production rates above those sustained with fiscal year 1995 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1995: *Provided*, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 105. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) December 15, 1995, whichever first occurs.

SEC. 107. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. Notwithstanding any other provision of this joint resolution, except section 106, whenever an Act listed in section 101 as passed by both the House and Senate as of the date of enactment of this joint resolution, does not include funding for an ongoing project or activity for which there is a budget request, or whenever an Act listed in section 101 has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, and an item funded in fiscal year 1995 is not included in the version passed by the one House, or whenever the rate for operations for an ongoing project or activity provided by section 101 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 101 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366. For the purposes of the Act, the minimal level means a rate for operations that is reduced from the current rate by 25 percent.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 106, whenever the rate for operations for any continuing project or activity provided by section 101 or section 111 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366.

SEC. 113. Notwithstanding any other provision of this joint resolution, except sections 106, 111, and 112, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 114. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 115. The provisions of section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100–202, shall not apply for this joint resolution. Included in the apportionment for the Federal Payment to the District of Columbia shall be an additional $16,575,016 above the amount otherwise made available by this joint resolution, for reimbursement to the United States of funds loaned for certain capital improvement projects pursuant to Public Law 81–533, as amended; Public Law 83–364, as amended; Public Law 85–451, as amended; and Public Law 86–515, as amended, including interest as required thereby.

SEC. 116. Notwithstanding any other provision of this joint resolution, except section 106, the authority and conditions for the application of appropriations for the Office of Technology Assessment as contained in the conference report on the Legislative Branch Appropriations Act, 1996, House Report 104–212, shall be followed when applying the funding made available by this joint resolution.

SEC. 117. Notwithstanding any other provision of this joint resolution, except section 106, any distribution of funding under the Rehabilitation Services and Disability Research account in the Department of Education may be made up to an amount that bears the same ratio to the rate for operation for this account provided by this joint resolution as the number of days covered by this resolution bears to 366.

SEC. 118. Notwithstanding any other provision of this joint resolution, except section 106, the authorities provided under subsection (a) of section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) shall remain in effect during the period of this joint resolution, notwithstanding paragraph (3) of said subsection.

SEC. 119. Notwithstanding any other provision of this joint resolution, except section 106, the amount made available to the Securities and Exchange Commission, under the heading Salaries and Expenses, shall include, in addition to direct appropriations, the amount it collects under the fee rate and offsetting collection authority contained in Public Law 103–352, which fee rate and offsetting collection authority shall remain in effect during the period of this joint resolution.

SEC. 120. Until enactment of legislation providing funding for the entire fiscal year ending September 30, 1996, for the Department of the Interior and Related Agencies, funds available for necessary expenses of the Bureau of Mines are for continuing limited health and safety and related research, materials partnerships, and minerals information activities; for mineral assessments in Alaska; and for terminating all other activities of the Bureau of Mines.

SEC. 121. Notwithstanding any other provision of this joint resolution, except section 106, funds for the Environmental Protection Agency shall be made available in the appropriation accounts which are provided in H.R. 2099 as reported on September 13, 1995.

SEC. 122. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations for projects and activities that would be funded under the heading "International Organizations and Conferences, Contributions to International Organizations" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, shall be the amount provided by the provisions of sections 101, 111, and 112 multiplied by the ratio of the number of days covered by this resolution to 366.

SEC. 123. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations of the following projects or activities shall be only the minimum necessary to accomplish orderly termination:

Administrative Conference of the United States;

Advisory Commission on Intergovernmental Relations (except that activities to carry out the provisions of Public Law 104–4 may continue);

Interstate Commerce Commission;

Pennsylvania Avenue Development Corporation;

Land and Water Conservation Fund, State Assistance; and

Office of Surface Mining Reclamation and Enforcement, Rural Abandoned Mine Program.

SEC. 124. COMPENSATION AND RATIFICATION OF AUTHORITY.—(a) Any Federal employees furloughed as a result of a lapse in appropriations, if any, after midnight November 13, 1995, until the enactment of this Act shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

(b) All obligations incurred in anticipation of the appropriations made and authority granted by this Act for the purposes of maintaining the essential level of activity to protect life and property and bring about orderly termination of government functions are hereby ratified and approved if otherwise in accord with the provisions of this Act.

TITLE II

SEC. 201. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING.

(a) WAIVER.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any of the following measures of the first session of the One Hundred Fourth Congress presented to the President after the enactment of this joint resolution:

(1) A continuing resolution.

(2) A debt limit extension measure.

(3) A reconciliation bill.

(b) CERTIFICATION BY COMMITTEE ON HOUSE OVERSIGHT.—The enrollment of a measure to which subsection (a) applies shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

SEC. 202. DEFINITIONS.

As used in this joint resolution:

(1) CONTINUING RESOLUTION.—The term "continuing resolution" means a bill or joint resolution that includes provisions making further continuing appropriations for fiscal year 1996.

(2) DEBT LIMIT EXTENSION MEASURE.—The term "debt limit extension measure" means a bill or joint resolution that includes provisions increasing or waiving (for a temporary period or otherwise) the public debt limit under section 3101(b) of title 31, United States Code.

(3) RECONCILIATION BILL.—The term "reconciliation bill" means a bill that is a reconciliation bill within the meaning of section 310 of the Congressional Budget Act of 1974.

SEC. . COMMITMENT TO A SEVEN-YEAR BALANCED BUDGET.

(a) The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office, and the President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans and the environment. Further, the balanced budget shall adopt tax policies to help working families and to stimulate future economic growth.

(b) The balanced budget agreement shall be estimated by the Congressional Budget Office based on its most recent current economic and technical assumptions, following a thorough consultation and review with the Office of Management and Budget, and other government and private experts.

ORDERS FOR MONDAY, NOVEMBER 20, 1995

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m., Monday, November 20; that following the prayer, the Journal of proceedings be deemed approved to date; that no resolutions come over under the rule; that the call of the calendar be dispensed with; that the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; and that there be a period for morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. GORTON. Mr. President, for the information of all Senators, the Senate will be in session tomorrow to adopt an adjournment resolution. It is also possible that the Senate may consider any legislative or executive business cleared for action during Monday's session.

ORDER FOR ADJOURNMENT

Mr. GORTON. Mr. President, after an opportunity has been given to speak for the Senator from North Dakota [Mr. CONRAD], the Senator from Nevada [Mr. REID], and the Senator from Alabama [Mr. HEFLIN], I ask unanimous consent that the Senate stand in adjournment under the previous order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CONRAD addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from North Dakota is recognized.

GOOD NEWS FOR THE GOVERNMENT

Mr. CONRAD. Mr. President, this is good news tonight. The impasse has been broken. It is certainly good news for the country, and good news for the hundreds of thousands of Federal workers who have been furloughed and who have been wondering if this Thanksgiving would be a happy one for their families. It is good news for citizens around the country who are wanting to have their Government back in action.

Mr. President, now that we have achieved this breakthrough tonight, in what was really an initial skirmish on a much larger issue about how we bring balance to the budget, and how we bring the fiscal affairs of this country into balance, I think now, perhaps, is the time to start looking ahead at how we could achieve the greater agreement, how we could balance the budget in a unified way over the next 7 years, and how we could do it within the constraints of this agreement.

I say to my colleagues that there are a number of ways that we could have a breakthrough on the larger debate that is underway. I urge my colleagues to look at CBO and OMB economic forecasts as one way out of the morass that we are headed into with respect to a long-term agreement.

Mr. President, we could settle this dispute, balance the budget on a unified basis by 2002, but do it in a balanced way, in a way that was fair to all interested parties. Just so my colleagues have something to think about over the week break that we are about to have, I am going to put in the RECORD one possible compromise. I stress that it is a compromise, because this is not a proposal that will find favor among every Democrat, it is not a proposal that will find favor among every Republican; but I think we have to remember that a Democrat controls the White House, the Republicans control the Congress, and the President can maintain a veto with the number of Democrats that are in the House and in the Senate.

So, ultimately, we are going to have to compromise between what the Republicans want to do and what the Democrats want to do. Both sides are moving from principle, both sides have strong views about what is in the best interest of the country. Ultimately, neither one is going to get everything they want. We are going to have to compromise. It will be a principled compromise when it is finally made, but I urge my colleagues to take a look at what I am going to outline this evening, as they take this break for Thanksgiving and see if it is not at least an outline of what we can achieve if we worked in good faith and sat down together and reasoned out a final agreement.

Mr. President, first of all, you take the 7-year goal. I think the vast majority of Members of Congress agree that 7 years is an appropriate goal to bring balance to the unified budget of the United States. I want to stress that that is not the end of the job, because to achieve real balance, we are going to have to balance without using Social Security trust fund surpluses. But the first step is to achieve unified balance, and to do that in 7 years is a good goal.

One of the great disputes we have had is whether we ought to use CBO economic forecasts or the OMB economic forecasts. I think a lot of people get lost and say: What is CBO? What is OMB? Simply, for those who are listening, CBO is the Congressional Budget Office; OMB is the Office of Management and Budget. The Office of Management and Budget is controlled by the President; the Congressional Budget Office is controlled by the two Houses of Congress. They have two different scenarios for what the economic growth is going to be in this country over the next 7 years. CBO says 2.3 percent; OMB says 2.5 percent. Interestingly enough, over the last 20 years, economic growth has averaged 2.5 percent. Interestingly enough, the Wall Street Journal, last week, endorsed the President's economic assumptions. But they said that both of them are too pessimistic.

Well, what would happen if we just compromised between the OMB and CBO economic forecast? That would provide an additional $225 billion that we could distribute over the next 7 years, if we used the OMB economic forecast. Again, the Wall Street Journal says it is too pessimistic. If we did that and we went down the large categories of spending that we have to decide on, if we are going to achieve a balanced budget on a unified basis by 2002, one can see the possibility of a compromise that would look something like this: In the Republican bill, in domestic discretionary spending, they have achieved savings or cuts, if you will, of $440 billion over the next 7 years.

In a potential compromise, we might have a hard freeze, and just freeze domestic discretionary spending for 7 years—freeze it. That would save $289 billion. We have had intense debates on this floor about Medicare. In the Republican proposal they have saved $270 billion out of Medicare. On a compromise that would balance on a unified basis in 7 years, we could have a savings of $140 billion. That would preserve and protect Medicaid. It would strengthen the program, and it would do what the trustees say is necessary. But it would not threaten to close rural hospitals in the same degree as the Republican plan. It would not put the same burden on beneficiaries as the Republican plan.

I suggested to my colleagues a potential compromise. On Medicaid, the Republican plan calls for $163 billion of savings, or cuts, if you will, over the next 7 years. A compromise might follow more closely the commonsense plan introduced by conservative Democrats in the House and Senate, an $80 billion savings out of Medicaid.

On agriculture, the Republican plan is to cut $12 billion. Here it is not restricting the rate of growth. Here it is a real cut—no question about it. It is $12 billion less in agriculture. An alternative would be the President's number of $4 billion.

Mr. President, the Republican plan goes too far. It goes too far. They eliminate the authorization for an agriculture program that has been in the law since 1938. They eliminate it. I think everybody recognizes agriculture needs some changes, but we should not be eliminating the farm program in this country. We certainly should not, when our competitors are already spending three or four times as much as we are on agriculture, and just waiting for us to wave the white flag of surrender. That does not make sense.

So I submit to my colleagues that perhaps a $4 billion reduction could be part of a final package that achieves balance on a unified basis by the year 2002.

Student loans. The Republican package calls for a $5 billion reduction. Mr. President, this is one area where I think most Members on our side—certainly, I think every Member on our side—would say we should not cut student loans by a nickel. That is not good for the future of America, to restrict people's ability to go to college. So let us eliminate that one area of cuts—the $5 billion that is in the Republican plan.

Welfare reform. The Republican plan has $107 billion.

An alternative would be a number, about $47 billion, again, close to what was in the commonsense plan offered by conservative Democrats in the House and the Senate.

I say to my colleagues, this difference is important because if we are serious about our rhetoric, if we really want people to go to work and not be on welfare rolls, we have to understand that will cost some money.

The Republican Governor of Wisconsin has reminded people if you really want to put people back to work, you have to have the child care that will allow them to go back to work. We know that means a savings of less than what is in the Republican plan.

In addition, in the Republican plan, they dramatically reduce the earned income tax credit. Ronald Reagan said the earned income tax credit was the best profamily, prowork program that ever came out of Congress.

Mr. President, I do not think we want to be cutting the earned income tax credit that will actually mean a tax increase for some 7 million families in America. We should not be increasing their taxes.

On veterans, the Republican plan calls for $7 billion of savings; the alternative, $5 billion.

Now, some people are beginning to wonder, where do you get this extra money? First of all, remember, we have adopted a compromise between the economic assumptions of CBO and OMB. When we do that, we have $225 billion of additional resources that can be used over the next 7 years.

I want to swiftly point out that every forecaster in the private sector has suggested that OMB is actually quite conservative with their economic forecasts. Most of the private-sector forecasts are more optimistic than either OMB or CBO.

Another way we get additional resources is by an adjustment in the Consumer Price Index. The Consumer Price Index is used to adjust Social Security payments. It is used to index the income tax system. The whole idea of the Consumer Price Index and using it has been that we are adjusting to the cost of living.

The experts are now telling us that the Consumer Price Index overadjusts for the cost of living. It is making too big an adjustment. In fact, we just had a commission that reported to the Finance Committee and said that we are overcorrecting from 0.7 of 1 percent to 2 percent a year in the Consumer Price Index.

If we would adopt just a half-a-point correction, 0.5 correction in the Consumer Price Index, that would save $139 billion over the next 7 years.

Other mandatory spending, the Republican plan, $16 billion of savings; this alternative that we propose, $58 billion.

Then we go to revenues. Loophole closures: In the Republican conference report they call for $18 billion of loophole closures. In the alternative, we double that and call for $37 billion in loophole closures.

I might just say to my colleagues, the biggest pot of money that we have are the tax entitlements. We have heard a lot of talk about reducing the spending entitlements—Medicare, Medicaid, a lot of talk that they are growing too fast. Indeed, they are. So we achieve savings in the spending entitlements of Medicare and Medicaid.

The tax entitlements are the biggest pot of money of all. We are going to have $4 trillion of tax entitlements over the next 7 years, compared to $3 trillion spent on Social Security, about $2 trillion spent on Medicare. So the biggest pot of money of all is the tax entitlements.

We could achieve $39 billion of savings out of a pool of $4 trillion without any heavy lifting around here. It ought to be done.

Mr. President, the Republican plan calls for $245 billion of additional tax preferences—tax cuts. Very frankly, a compromise would require something less than that. There are many of us that do not see the wisdom of reducing revenue when we are adding $1.8 trillion to the national debt that already stands at $5 trillion.

Why are we cutting taxes when we already have a debt of $5 trillion and we are adding $1.8 trillion to it over the next 7 years?

We will have to borrow every penny of that tax cut. So compromise might be to reduce that proposed tax cut in the Republican plan from $245 to $131 billion.

Then we get to the so-called fiscal dividends. In the Republican plan, the CBO says they get a fiscal dividend of $170 billion. Fiscal dividend, Mr. President, simply means that once we move toward balance, the markets in this country are going to adjust. They are going to lower interest rates. We are going to get greater economic growth, and that will produce a fiscal dividend of $170 billion. The alternative plan I am discussing tonight, that would be a fiscal dividend of $114 billion.

Then, of course, because we substantially reduce the deficit under the Republican plan, there would be $150 billion of debt-service savings. Under this alternative plan that I am discussing tonight, the debt-service savings would be $113 billion.

Then, of course, there is the difference in the economic assumptions that I mentioned at the beginning, the bridge between the Congressional Budget Office economic forecast and the Office of Management and Budget economic forecast. That is a difference of $225 billion.

The bottom line: deficit reduction in the Republican plan of $1.131 trillion over the next 7 years. In the Democratic plan —I will not label it a Democratic plan because really this would be a compromise. This would be a compromise between the Democratic alternatives that have been offered previously, the Democratic priorities and the Republican priorities. Maybe we ought to call it the American plan.

It would achieve deficit reduction of $1.121 trillion. It would achieve unified balance in the year 2002. We would have done it with much less in the way of cuts to Medicare and Medicaid, no cuts to education. We would have done it with much less in the way of cuts in reductions to food programs and agriculture. It would still be a tax reduction, but would not be as big as the Republicans have been calling for.

There would be more money for highways and bridges. There would be more money for research, which I think is critical to the future of this country.

Mr. President, I will ask that a table that outlines this potential compromise be printed in the RECORD. I hope my colleagues and the staffs of my colleagues would take a look at this over the break period, because at some point we will have to come together in the House and the Senate between the Congress and the White House. This is at least an outline, a suggestion, something to think about, about how we could bring the two sides together and achieve something great for America.

I ask unanimous consent to have the table printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF ALTERNATIVE BUDGET PACKAGES

(Changes from CBO baseline)

(7-year changes; in billions of dollars)

	Republican conference	Potential compromise
Discretionary: Discretionary savings	−440	−289
Mandatory:		
Medicare	−270	−140
Medicaid	−163	−80
Agriculture	−12	−4
Student loans	−5	0
Welfare reform (includes EITC, nutrition)	−107	−47
Veterans	−7	−5
CPI	−18	−139
Other mandatory	−16	−58
Revenues:		
Loophole closers	−18	−37
Tax cuts (shown as positive number b/c they increase the deficit)	245	131
Fiscal dividend	−170	−114
Debt service	−150	−113
CBO/OMB baseline bridge	0	−225
Total deficit reduction	−1,131	−1,121

Mr. REID. I advise the chairman that Senator HEFLIN does not wish to use his time. Therefore, I believe that all speakers have since departed the Chamber.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

The PRESIDENT pro tempore. Under the previous order, the Senate stands in adjournment until 10:30 a.m, Monday, November 20, 1995.

Thereupon, the Senate, at 7:28 p.m., adjourned until Monday, November 20, 1995, at 10:30 a.m.

HOUSE OF REPRESENTATIVES—*Sunday, November 19, 1995*

(Legislative day of Saturday, November 18, 1995)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GOSS) at 9 o'clock and 1 minute a.m.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 1 minute a.m.), the House stood in recess subject to the call of the Chair.

☐ 1600

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GOSS) at 4 o'clock p.m.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess, subject to the call of the Chair.

Accordingly (at 4 o'clock and 1 minute p.m.), the House stood in recess subject to the call of the Chair.

☐ 2040

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DAVIS) at 8 o'clock and 40 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment a joint resolution of the House of the following title:

H.J. RES. 123

Making further continuing appropriations for fiscal year 1996, and for other purposes.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that it be in order to take from the Speaker's table the joint resolution (H.J. Res. 123) making further continuing appropriations for the fiscal year 1996, and for other purposes, with the Senate amendment thereto, and to consider in the House a motion offered by the chairman of the Committee on Appropriations to dispose of the Senate amendment, that the Senate amendment and motion shall be considered as read, that the motion shall be debatable for 1 hour equally divided and controlled by the chairman and the ranking minority member of the Committee on Appropriations or their designees, and that the previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, pursuant to the order of the House of today, I call up the joint resolution (H.J. Res. 123) making further continuing appropriations for the fiscal year 1996, and for other purposes, and I offer a motion.

The Clerk read the title of the joint resolution.

The text of the Senate amendment is as follows:

Senate amendment:

Strike out all after the resolving clause and insert: *That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:*

TITLE I

CONTINUING APPROPRIATIONS

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 701 of the United States Information and Educational Exchange Act of 1948, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 53 of the Arms Control and Disarmament Act;

The Department of Defense Appropriations Act, 1996, notwithstanding section 504(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1996;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, notwithstanding section 10 of Public Law 91–672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Department of the Interior and Related Agencies Appropriations Act, 1996;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996;

The Legislative Branch Appropriations Act, 1996, H.R. 2492;

The Department of Transportation Appropriations Act, 1996;

The Treasury, Postal Service, and General Government Appropriations Act, 1996;

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996: Provided, That whenever the amount which would be made available or the authority which would be granted in these Acts is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: Provided, That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act listed in this section has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: Provided, That where an item is funded in the applicable appropriations Act for the fiscal year 1995 and not included in the version passed by the one House as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995

and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1995 or prior years, for the increase in production rates above those sustained with fiscal year 1995 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1995: Provided, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 105. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) November 20, 1995, whichever first occurs. For purposes of this resolution, the period of time covered by this resolution shall be considered to have begun on November 14, 1995.

SEC. 107. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. Notwithstanding any other provision of this joint resolution, except section 106, whenever an Act listed in section 101 as passed by both the House and Senate as of the date of enactment of this joint resolution, does not include funding for an ongoing project or activity for which there is a budget request, or whenever an Act listed in section 101 has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, and an item funded in fiscal year 1995 is not included in the version passed by the one House, or whenever the rate for operations for an ongoing project or activity provided by section 101 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 101 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366. For the purposes of the Act, the minimal level means a rate for operations that is reduced for the current rate by 25 percent.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 106, whenever the rate for operations for any continuing project or activity provided by section 101 or section 111 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366.

SEC. 113. Notwithstanding any other provision of this joint resolution, except sections 106, 111, and 112, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 114. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 115. The provisions of section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100–202, shall not apply for this joint resolution. Included in the apportionment for the Federal Payment to the District of Columbia shall be an additional $15,000,000 above the amount otherwise made available by this joint resolution, for purposes of certain capital construction loan repayments pursuant to Public Law 85–451, as amended.

SEC. 116. Notwithstanding any other provision of this joint resolution, except section 106, the authority and conditions for the application of appropriations for the Office of Technology Assessment as contained in the conference report on the Legislative Branch Appropriations Act, 1996, House Report 104–212, shall be followed when applying the funding made available by this joint resolution.

SEC. 117. Notwithstanding any other provision of this joint resolution, except section 106, any distribution of funding under the Rehabilitation Services and Disability Research account in the Department of Education may be made up to an amount that bears the same ratio to the rate for operation for this account provided by this joint resolution as the number of days covered by this resolution bears to 366.

SEC. 118. Notwithstanding any other provision of this joint resolution, except section 106, the authorities provided under subsection (a) of section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) shall remain in effect during the period of this joint resolution, notwithstanding paragraph (3) of said subsection.

SEC. 119. Notwithstanding any other provision of this joint resolution, except section 106, the amount made available to the Securities and Exchange Commission, under the heading Salaries and Expenses, shall include, in addition to direct appropriations, the amount it collects under the fee rate and offsetting collection authority contained in Public Law 103–352, which fee rate and offsetting collection authority shall remain in effect during the period of this joint resolution.

SEC. 120. Until enactment of legislation providing funding for the entire fiscal year ending September 30, 1996, for the Department of the Interior and Related Agencies, funds available for necessary expenses of the Bureau of Mines are for continuing limited health and safety and related research, materials, partnerships, and minerals information activities; for mineral assessments in Alaska; and for terminating all other activities of the Bureau of Mines.

SEC. 121. Notwithstanding any other provision of this joint resolution, except section 106, funds for the Environmental Protection Agency shall be made available in the appropriation accounts which are provided in H.R. 2099 as reported on September 13, 1995.

SEC. 122. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations for projects and activities that would be funded under the heading "International Organizations and Conferences, Contributions to International Organizations" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, shall be the amount provided by the provisions of sections 101, 111, and 112 multiplied by the ratio of the number of days covered by this resolution to 366 and multiplied further by 1.27.

SEC. 128. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations of the following projects or activities shall be only the minimum necessary to accomplish orderly termination:

Administrative Conference of the United States;

Advisory Commission on Intergovernmental Relations (except that activities to carry out the provisions of Public Law 104–4 may continue);

Interstate Commerce Commission;

Pennsylvania Avenue Development Corporation;

Land and Water Conservation Fund, State Assistance; and

Office of Surface Mining Reclamation and Enforcement, Rural Abandoned Mine Program.

TITLE II

SEC. 201. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING

(a) WAIVER.—The provisions of sections 106 and 107 of Title 1, United Stats Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any of the following measures of the first session of the One

Hundred Fourth Congress presented to the President after the enactment of this joint resolution:

(1) A continuing resolution.

(2) A debt limit extension measure.

(3) A reconciliation bill.

(b) CERTIFICATION BY COMMITTEE ON HOUSE OVERSIGHT.—The enrollment of a measure to which subsection (a) applies shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

SEC. 202. DEFINITIONS.

As used in this joint resolution:

(1) CONTINUING RESOLUTION.—The term "continuing resolution" means a bill or joint resolution that includes provisions making further continuing appropriations for fiscal year 1996.

(2) DEBT LIMIT EXTENSION MEASURE.—The term "debt limit extension measure" means a bill or joint resolution that includes provisions increasing or waiving (for a temporary period or otherwise) the public debt limit under section 3101(b) of Title 31, United States Code.

(3) RECONCILIATION BILL.—The term "reconciliation bill" means a bill that is a reconciliation bill within the meaning of section 310 of the Congressional Budget Act of 1974.

MOTION OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. LIVINGSTON moves that the House concur in the amendment of the Senate.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] each will be recognized for 5 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, the resolution before the House will enable all Federal workers to return to work tomorrow.

The Senate has amended House Joint Resolution 123, the rifleshot continuing resolution we did yesterday by inserting the text of House Joint Resolution 122 with three changes.

First, it changes the date to tomorrow at midnight.

Second, it changes the minimal funding level for all programs not covered by the Michel rule to 75 percent, and a technical change to apply that formula retroactively to November 14.

Finally, it drops any reference to the 7-year balanced budget.

Mr. Speaker, tomorrow we will pass another continuing resolution that will extend the date to December 15.

We will also include 7-year balanced budget language agreed to by the White House and the bipartisan bicameral leadership.

Mr. Speaker, the hour is late. We have worked long and hard. There is unanimous agreement to pass this simple extension. I am pleased that we have an agreement to go to work on passing appropriations bills and balancing the budget in 7 years with realistic numbers and CBO scoring and I know all Americans will be glad to see Federal workers return to work tomorrow.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time so we can pass this thing and put people back to work.

Mr. LIVINGSTON. Mr. Speaker, I look forward to people going back to work.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the previous question is ordered.

The question is on the motion offered by the gentleman from Louisiana [Mr. LIVINGSTON].

The motion was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on House Joint Resolution 123.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I yield to the gentleman from Ohio [Mr. KASICH], distinguished chairman of the Committee on the Budget, to ask about the schedule for tomorrow.

Mr. KASICH. Mr. Speaker, I thank the gentleman for yielding to me.

I think we are going to hear some groans across the country from our friends that are watching, but there will be no votes tomorrow before 5.

There will be a continuing resolution, through a vote on a continuing resolution, through December 15. We will also consider the Balanced Budget Act of 1995.

We will then bring up the VA–HUD conference report and then finally the Lobby Disclosure Act.

Mr. GEPHARDT. Mr. Speaker, does the gentleman know if there is any chance that we could finish our business for the week by tomorrow night?

Mr. KASICH. Mr. Speaker, if the gentleman will continue to yield, we would hope that by late tomorrow night we will finish our business and that Members would be able to go home early Tuesday morning.

I would doubt we would finish tomorrow night in time to get out, but they would be done tomorrow night, we hope, and then everybody would be free to go home Tuesday morning.

Mr. GEPHARDT. Mr. Speaker, and then we would be returning, I take it, on the Monday or Tuesday after Thanksgiving?

Mr. KASICH. Mr. Speaker, that is exactly right. We will be able to announce whether it will be the Monday following Thanksgiving or the Tuesday.

Mr. GEPHARDT. Mr. Speaker, to reiterate, Members who plan to leave Washington early Tuesday morning and get a plane to get home for the Thanksgiving holiday?

Mr. KASICH. Mr. Speaker, now that we have got a resolution of this crisis and people are going back to work, as the minority leader knows, we are going to have some intense and difficult negotiations, but we are over the biggest hurdle. I think it is just great news for the country.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for his hard work and all the others who were involved today.

HOUR OF MEETING ON TOMORROW

Mr. KASICH. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. tomorrow, Monday, November 20, 1995, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCDERMOTT (at the request of Mr. GEPHARDT), for November 17 and 18, on account of a family emergency.

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT), for November 17 and 18, on account of official business.

ADJOURNMENT

Mr. KASICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 45 minutes p.m.), under its previous order, the House adjourned until tomorrow, Monday, November 20, 1995, at 12:30 p.m.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Legislative day of Nov. 18, 1995]

By Mr. BARTON of Texas (for himself, Mr. DAVIS, Mrs. MORELLA, Mr. GILCHREST, Mr. GUTKNECHT, Mr. ENSIGN, and Mr. WOLF):

H.R. 2667. A bill to allow employees of the U.S. Government who are placed under furlough to volunteer to come to work to serve the needs of the people of the United States; to the Committee on Government Reform and Oversight.